UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS
FIRST SESSION

VOLUME 123—PART 2

JANUARY 18, 1977 TO JANUARY 28, 1977

(PAGES 1357 TO 2632)

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SENATE—*Tuesday, January 18, 1977*

The Senate met at 1:45 p.m. and was called to order by the Vice President.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, in whose keeping are the destinies of men and nations, we thank Thee for watching over this Nation from generation to generation. As we pray for those who assume the burdens of high office, we would now remember with gratitude those who relinquish their responsibilities. Especially do we thank Thee for Thy servant, NELSON ROCKEFELLER; for his service in business and philanthropy, in the government of a great State, in the foreign service of our Nation and now as its Vice President. For the sensitive conscience, the human compassion, the patriotic commitment which lifted public service above personal privilege, we give Thee thanks. For the depth of devotion and the dynamic leadership by which he helped move the world a bit forward in the wavs of righteousness and justice, we give Thee thanks. In the days yet to come grant him some periods of quiet reflection as well as hours of creative action.

Now rule over this body, O Lord, that here we may seek first Thy kingdom and that righteousness which exalts a nation in the knowledge that all other things will be added thereto.

In the Redeemer's name, we pray. Amen.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, January 14, 1977, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The VICE PRESIDENT. Without objection, it is so ordered.

SENATOR ROBERT C. BYRD FACES THE NATION

Mr. ROBERT C. BYRD. Mr. President, on January 9, 1977, I was the guest on the "Face the Nation" broadcast over the CBS Television Network and the CBS Radio Network. I ask unanimous consent that the transcript of that broadcast be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

FACE THE NATION

Guest: Senator Robert C. Byrd (W. Va.), Senate Majority Leader.

Reporters: George Herman, CBS News, Martha Angle, Syndicated Columnist, Phil Jones, CBS News.

Producer: Mary O. Yates.

Associate Producer: Joan Barone.

HERMAN. Senator Byrd, the reports coming out of Plains, Georgia, this past week seem to indicate that President Carter and the Congressional Democratic leadership have worked out a financial program for the United States. My question is, does Congress have a role in this? Have you agreed with the President to this, and can you deliver the majority of Congress he will need to effectuate it?

Senator BYRD. Congress has had a role, Congress will continue to have a role, and in my judgment, the program will be enacted, perhaps with some modifications.

ANNOUNCER. From CBS News, Washington, a spontaneous and unrehearsed news interview on Face the Nation, with Senator Robert C. Byrd, Senate Majority Leader. Senator Byrd will be questioned by CBS News Correspondent Phil Jones, by Syndicated Columnist Martha Angle, and by CBS News Correspondent George Herman.

HERMAN. Senator Byrd, as majority leader in the Senate, you have a job of building an invisible bridge, as I think somebody called it, between the White House and the Democrats in the Senate. You have some fairly opinionated or strongly-minded members of the Senate to deal with—Senator Muskie, head of the Budget Committee, or has been head of the Budget Committee; Senator Long on Finance—can you build enough of a bridge so that they will agree to President Carter's ideas of what should be done with the tax cut?

Senator BYRD. Both Mr. Muskie and Mr. Long were at Plains, Georgia, last week during the discussions. I'm confident that, while there will be differences of opinion, there will be a desire for a spirit of unity. Now that we've had eight years of confrontation and divided government, and government by veto, there is going to be a desire for a spirit of unity.

I think this President is leading the way in his efforts to bring about this spirit of unity. The leadership in the Senate will certainly meet him half way or more, and I believe that while there will be differing opinions, as there were in Plains, Georgia, the other day, and they were expressed, we'll have this give and take, and although a majority of the members of Congress are the same political party as is the President-elect, there are bound to be some differences from time to time, but they will be resolved.

ANGLE. Senator, who is going to be responsible for the initiative in developing a legislative agenda for the country this next four years? Will it be the White House—President Carter—or will it come from the Hill?

Senator BYRD. It will come from the Hill in cooperation with the White House. Naturally, the President will be sending up his programs, but there will be some congressional initiatives also, and the leadership in both Houses will be working with the President so that his programs, when they're expected up, will be given the earliest possible consideration, and I'm sure that the legislative agenda will be so prepared as to give his programs ample consideration, while giving the Congress its opportunities to modify and to change.

JONES. Senator, going back to a couple of things you've said—in your opening statement you said Mr. Carter's economic plan would probably be enacted with some modification. Then you have said that there were some differences of opinion down in Plains. Can you be specific? Where is the disagreement right now between the Congress and the President-elect?

Senator BYRD. I would not put it in that context. There was a difference of opinion at Plains with respect to the amount of money that should be spent for public works programs.

JONES. Specifically, what are we talking about?

Senator BYRD. Public works programs. I advanced the viewpoint that more money should be put into public works programs. Tip O'Neill felt the same way. Others felt the same way. The President listened. His people listened. We appreciated this kind of give and take opportunity, and as a result of this difference of opinion, I think the President said that we would likely have a $4 billion authorization for public works programs so that there would be an additional $2 billion over and above what had been contemplated, and which would be held in reserve and used based on the outcome and the results of the $2 billion that is in the program. So it's this kind of thing I have referred to.

JONES. How much more did you want to put into public works than what the President-elect was talking about?

Senator BYRD. Not a particular figure in mind, but I just thought there should have been more, and as a result of the discussion, as I say, I think there will be more.

HERMAN. Well, after all these years of confrontation with the Nixon White House, the Congress has now armed itself with some fairly strong weapons. You have an anti-impoundment bill, and if you want to vote the money the President has to spend it. Do you anticipate any of that?

Senator BYRD. I don't anticipate much of that, if any, but the Congress will operate under the Budget Reform Act. The Congress will fulfill its constitutional role in foreign and economic policy, and I believe that in view of the indications that we've had from Mr. Carter thus far, we're going to have a good working relationship. We'll differ from

time to time, but we'll work out our differences.

ANGLE. Senator, on another subject—President-elect Carter has already unveiled a fairly stiff code of ethics for officials of the executive branch, and Speaker O'Neill in the House is working toward a similar code there. Do you have any such plans for the Senate?

Senator BYRD. The Senate has, at least twice, passed a financial disclosure bill, which did not become law. It is my opinion that the need is here for such a public disclosure bill, for such a code of ethics, to use that term. I personally feel that all members who hold these offices of public trust should be willing to reveal their outside sources of income, if there be such; should be willing to forgo the honoraria, and should be willing to make full financial disclosure of income, of assets, of net worth, of debts and liabilities, so that the people we all serve will know that we're not using the public office, which should be used for the public good, but in reality is being used for personal gain.

ANGLE. Just last year the Senate approved a higher ceiling on the honoraria that its members could earn—it went from something like $15,000 to $25,000.

Senator BYRD. The Congress approved that. I'm saying that——

ANGLE. Do you say that honoraria should be eliminated?

Senator BYRD. Yes, I'm saying that. The Petersen Commission on Executive and Legislative and Judicial Salaries is proposing a higher salary for 2,496 senior federal officials.

ANGLE. Including Members of Congress?

Senator BYRD. Including Members of Congress. But along with that proposal is a requirement for a code of ethics which would eliminate honoraria entirely. So I think the time has come for this kind of legislation. I've discussed this with Mr. Cannon, the Chairman of the Rules Committee, and as I say, the Senate has twice passed strong public financial disclosure legislation, and I think we will pass it again.

HERMAN. You have two groups in connection with the Senate which have been working on this—there's a committee which has been headed by Senator Stevenson, the Select Committee of the Senate, and you have a commission which has been headed by former Senator Hughes. Do you propose yourself as the leader to put your weight behind either of the sets of recommendations that are being made?

Senator BYRD. Well, the two sets of recommendations to which you referred do not specifically deal, as we have now been talking, in the area of financial disclosure. I think that all three areas have to be pressed. The Stevenson proposal would bring about a restructuring of the committee system, so as to prevent overlapping of jurisdictions, and would reduce the number of committee and subcommittee assignments, which presently averages out to 18 committee and subcommittee assignments per Senator.

HERMAN. Do you support it?

Senator BYRD. I support it.

HERMAN. Will it succeed?

Senator BYRD. Not necessarily in its every detail, but I support the overall idea. Mr. Stevenson and his Committee have put in a tremendous amount of work; they've come in with a good proposal. Various Senators want to see it modified, to this or that degree, and there will be some modification, but I think it is imperative that legislation be passed to reduce the number of committees and subcommittees and bring about a resolution of the jurisdictional problems that we now have, so that members—the time of members will not be so fragmented and they can become more specialized in their particular Committee jurisdictions. As to the Hughes Commission, it has some good suggestions which I think the Senate certainly ought to consider, and in some instances, implement. As to the financial disclosure thing, this is in my judgment somewhat separate and apart and it ought to be done, especially if a salary increase is to be forthcoming, and even if such salary increase weren't forthcoming, there should be a code of ethics.

JONES. Along with this new image that you're trying to create, do you favor allowing television coverage of the Senate sessions?

Senator BYRD. I have proposed television coverage of Senate sessions on a selective basis. This is a very complex and difficult matter. I don't think there should be around-the-clock coverage of Senate sessions.

JONES. Why not?

Senator BYRD. Well, for example, if you have a group of demonstrators in the galleries, I don't think that we ought to have televised coverage of that because we would only intensify the likelihood of demonstrations in the galleries. I think that there should be a selective way that would be fair, that would be reasonable, and that would assure the public that Senate sessions will be televised when certain very important debates occur.

JONES. To be decided by the Senate and not by the press?

Senator BYRD. Well, I'm not saying how it should be decided. But there should be some reasonable way worked out to assure the public of some televised sessions of the Senate. For example, the inauguration of Vice President Rockefeller was televised, and I very much supported that. As I say, I've introduced legislation in the past, which would provide for televised sessions, but there are problems, and these ought to be worked out.

HERMAN. Well, just to clean that up, do you—will you propose a committee, or will some organization start working on this, or is it just going to be left in limbo for the time being?

Senator BYRD. Well, again, this is a part of the Hughes Commission——

HERMAN. So you will wait for their——

Senator BYRD. So that aspect of the recommendations I certainly favor.

HERMAN. Senator, to take you back to the money question, which you mentioned a moment ago—money seems to be inextricably linked with politics all the time; you were talking about forgoing honoraria and salaries and so forth. The question of surplus campaign funds—it's one that's arisen in connection with your own name. You have, I believe, something like 160,000 dollars in surplus campaign funds. First of all, what do you think about it in general, and secondly, what do you propose doing with the 160,000 dollars yourself?

Senator BYRD. I think the New York Times article raised a legitimate question about a legitimate concern. I think it depends, in each circumstance, on the particular individual who is involved, and on the circumstances surrounding the raising of his monies and the election itself. In my own case, for months prior to the last filing date in February of last year, it was speculated that Governor Moore, a very potent vote getter in the Republican Party, would perhaps run for the United States Senate. Now the fund-raising reception for my Senate campaign took place in October of 1975. The last filing date was to be February of 1976. Obviously, I couldn't wait until the last filing date and then begin to raise money; I knew that, come 1976, there would be 435 members of the House, at least a third of the Senate, and various other candidates for public office seeking to secure funds. I thought it best to try to raise the funds ahead of time, so that I could give my time last year to the operation of the Senate and to my presidential campaign.

Now, I must point this out—that in West Virginia, if no candidate files in the primary, as was the case in my own race—no candidate filed in either the Democratic or the Republican primary—under the law, the state Republican committee has up until 65 days—up until 65 days, I believe it is—prior to the general election in which to put a candidate on the ticket. And beyond that, if the state committee does not put a candidate on the ticket, the state Republican chairman has five days in which to put a candidate on the ticket.

HERMAN. Senator, I'm not questioning the raising of the money——

Senator BYRD. Which means——

HERMAN. I just want to know what's going to happen to it.

Senator BYRD. I am definitely going to answer your question.

HERMAN. I'm sorry.

Senator BYRD. Which means that in West Virginia, the Republican Party had up until 60 days to put a candidate on the ticket. Now I am sure you would not expect me to wait until 60 days before the general election to raise money for a campingn, especially in view of the possibility that Governor Moore might be the candidate. And so, the money was raised, and as it developed, Governor Moore did not run. Now what happened to my money? That money has been put into a trustee account which institutionalizes the management of it. It will be used only in accordance with Senate Rule 42, which means that it can only be used for future campaigns or for legitimate office expenses. That money, under this trustee account, can never be used by me, for my benefit, for my family, for my devisees, for my heirs; and the income from the trust can be used only for the purchase of U.S. Savings Bonds for valedictorians in West Virginia's parochial and public high schools. So there is a strict accounting; it can never benefit me; it can never be converted to my use; I can never use it for any other candidate, except my own campaign six years from now.

HERMAN. That's your choice. But for other members of Congress who have raised large funds without any opposition, there is no such compulsion on them. They can do anything they want with the money, including putting it to their own use—legally. Should there be some regulation on such?

Senator BYRD. Yes, there should, but let me say this. Under Senate Rule 42, no Senator can put that money to his own use legally.

ANGLE. The members of the House may.

HERMAN. Members of the House may.

Senator BYRD. Well, they may. But not in the Senate. A Senator can be expelled; he can be censured for the abuse of that rule.

ANGLE. Should Congress enact a law to provide public financing of its own elections and eliminate the private fund-raising?

Senator BYRD. I would like to see this done. I have been against public financing of congressional elections in the past; I supported public financing of presidential——

ANGLE. What's changed your mind?

Senator BYRD. Well, the thing that caused me to be against public financing of congressional elections was twofold. I thought we ought to wait and see how the presidential aspect of it worked out. Secondly, I thought that it would open the way for thousands of congressional candidates, and would result in an inordinate cost to the taxpayer. The problem with me now in this regard is that the Supreme Court of the United States has ruled that any candidate may spend any amount of his own money. Now I would like to see public financing of congressional elections if we can find some way in which a candidate—either the incumbent or the challenger—cannot spend millions of dollars on his own behalf, while the incumbent, or the challenger, as the case may be, is confined to the public financing method.

JONES. Senator, I'd like to change the sub-

ject a little bit and talk about the Carter cabinet. Senator McGovern said a couple of weeks ago that as he looked at it, it looked to me like just a cabinet with business as usual. What is your general observation of the Carter cabinet?

Senator BYRD. Good.

JONES. You disagree with Senator McGovern, then, that it's—it's something extraordinary? You believe it is extraordinary?

Senator BYRD. I think it's a good selection. After all, I believe that the President should be able to select his own team, and I think that the qualifications of the people who have been selected will certainly pass the judgment of the Senate.

JONES. How about—specifically on Griffin Bell, who has been nominated for the Attorney General's post, this nomination is running into all sorts of opposition, especially from civil rights groups. Do you feel that this is unjustified criticism of Mr. Bell?

Senator BYRD. I won't say it's unjustified, but I will say that the civil rights groups themselves are not unified on this. Griffin Bell has the support of many of the blacks, and I believe that his nomination will be confirmed by the Senate. As far as I know now, I expect to vote for his nomination.

HERMAN. Will—have you heard—will President Ford send up a bill to release—or send up his determination to release gas prices and free them?

Senator BYRD. I don't know whether he will or not. The indications thus far, in my judgment, are that he will not.

JONES. Can I go back to the cabinet on two specific names? Sorenson—Mr. Sorenson from the CIA—when President Ford nominated George Bush, the Democrats demanded that Mr. Bush and President Ford make a commitment that Bush would not be involved in any politics in the coming presidential election. Are you going to demand the same thing of Mr. Sorenson—that he remove himself from any political activity in 1980?

Senator BYRD. Well, the situation with Mr. George Bush was different.

JONES. In what way?

Senator BYRD. Well, in that the presidential election was to occur only the next year.

JONES. Well, it's still a presidential election. I mean, shouldn't he remove himself from this in order to keep politics out of the CIA?

Senator BYRD. That may be the judgment of some. I don't feel that way about it. We're looking at a presidential election now that's four years away.

JONES. So you think it would be unfair to demand that of Mr. Sorenson.

Senator BYRD. I don't see the necessity for it in this instance.

HERMAN. I don't get the implication. Are you saying that you don't think that Mr. Bush—Mr. Sorenson would still be head of the CIA in four years, when the 1980 election comes around?

Senator BYRD. I'm simply saying that in the case of Mr. George Bush, the presidential election was just around the corner.

JONES. Are you sure it's not a double standard?

Senator BYRD. No, I think the circumstances——

JONES. Just because the man is a Democrat?

Senator BYRD. I think the circumstances are different, as I stated.

JONES. How about Clarence Kelley? Do you think that President Carter should keep him as head of the FBI?

Senator BYRD. I think that President Carter should retain him, unless there are reasons—justifiable reasons—for dismissing him. The President has the constitutional prerogative of dismissing him, but unless there are reasons——

JONES. Have you recommended to Mr. Carter that he keep Kelley?

Senator BYRD. I have not.

ANGLE. Senator, the Senate last year passed and sent to the House legislation that would have created a permanent special prosecutor's office, in effect. Now that there is a Democrat in the White House and in charge of the Justice Department, do you expect that legislation to be pressed again?

Senator BYRD. It very may well be. I would support it if that's the case.

ANGLE. Would you attempt to initiate it in the Senate?

Senator BYRD. I would not attempt to initiate it. I didn't attempt to initiate it in the last instance.

HERMAN. Senator, your job as Majority Leader of the Democrats in the Senate, who are a very independent-minded group of people, is sometimes a very difficult one. Do you see yourself as a person who has an agenda, an idea, what he would like to see Senate Democrats come up with and pass, or will you let it come from the rank and file of the Democrats, who are fairly powerful——

Senator BYRD. The judgment of the Senate is not the judgment of one man. It's the judgment of one hundred men. I will have my input; I will expect Senators to have theirs. I will expect the chairmen of committees to be the advocates, but this does not mean that I will not be an advocate. I would expect that we would receive the President's recommendations, give them careful consideration, have our own input into them—after all, the Congress is a separate branch under our constitutional system of checks and balances, and it still remains an independent branch. I would expect that we would definitely want to see legislation dealing with the environment. I would expect it to be balanced; I would expect it to be the kind of guidelines that both the environmental groups and industry could live with. I would expect to see some kind of national health insurance. I think that in this country of ours, no family should be reduced to pauperism——

ANGLE. This year, national health insurance?

Senator BYRD. By virtue of its not having the money to secure surgical and medical services. I think we have to start out on a low scale, step by step, but I think we ought to move in that direction.

HERMAN. Will we do it this year?

Senator BYRD. Now these are just a few of the things that I think we have to do, and some of these will come about as congressional——

HERMAN. Will there be a start on national medical health?

Senator BYRD. There ought to be—a very, very slow start, at least this year or next.

HERMAN. Are you predicting there will be one?

Senator BYRD. I'm not predicting there will be, but one purpose of the overall Carter package is that we strengthen the economy so that we can look forward down the road to the social needs that will have to be met, and we'll be prepared at that time to meet them.

HERMAN. Thank you very much, Senator Byrd, for being our guest on Face the Nation today.

ANNOUNCER. Today on Face the Nation, Senator Robert C. Byrd, Senate Majority leader was interviewed by CBS News Correspondent Phil Jones, by syndicated columnist Martha Angle, and by CBS News Correspondent George Herman. Face The Nation will not be seen next week, so that CBS News may bring you a special 90-minute program, Meet The New Senators.

Mr. ROBERT C. BYRD. Mr. President, I temporarily reserve the remainder of my time.

The PRESIDING OFFICER (Mr. FORD). The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I reserve my time and yield 2 minutes to the distinguished Senator from Alaska.

A RECORD COLD WAVE—BUT NOT IN ANCHORAGE

Mr. STEVENS. Mr. President, in view of the fact that my State is generally regarded as the cold State of the Union, I would like to call the attention of the Senate to the fact that the sun is not yet up in Anchorage, and yet it is already 44°; that yesterday the high was 44 and the low was 33; and that if the President-elect is looking for a place to have his inauguration where there is no snow, no ice, the rivers are all flowing, and the anticipated temperature is about 47° to 50°, we would be happy to invite him to bring his whole celebration to the city of Anchorage, Alaska.

I ask unanimous consent to have printed in the RECORD an article published in today's Washington Post that indicates yesterday was "a cold day to remember," and to indicate, for all concerned, that Alaska had the highest anticipated temperature of any of the so-called colder States, and was not frigid like the Nation's Capital.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RECORD COLD CRIPPLES AREA; POWER CUT IN VIRGINIA

(By Thomas S. Grubisich and Athelia Knight)

Never has there been recorded such a cold Jan. 17 in Metropolitan Washington. It was so cold yesterday there was not only a record low temperature—2 degrees at National Airport—but a record low high—18 degrees.

Continuing frigid weather caused or led to an assortment of hardships and inconveniences here and throughout the Eastern half of the U.S., where at least 49 cities experienced record low temperatures.

In Northern Virginia, more than a third of Virginia Electric and Power Co.'s 300,000 customers had their electricity cut off for up to 2½ hours when a nuclear power station was shut down by ice floes and two conventional generating plants froze up.

Throughout the Washington area, Metro commuters were left stranded when buses were disabled, automobiles balked at starting, water mains and pipes froze and burst, and schools shut down or were forced to close when their mechanical systems were knocked out.

In Maryland, Gov. Marvin Mandel proclaimed a state of emergency in the partially ice-locked Chesapeake Bay region and asked President Ford to declare a disaster in the state so watermen and others who have been hard hit can apply for federal financial aid.

"I find that the situation is beyond the capabilities of the state and the affected local governments," Mandel said in a letter to the President.

In Virginia, Gov. Mills E. Godwin ordered all state agencies to reduce their thermostats to 65 degrees and curtail operations and the use of equipment requiring large amounts of fuel.

Godwin said he took such action because the state's natural gas supply "is approaching the critical stage, and . . . the fuel oil situation is little, if any, better."

While Godwin spoke of an impending "critical" natural gas shortage, an official of the State Corporation Commission said last week's Federal Power Commission decision permitting unregulated gas to flow into the state has alleviated the predicted crisis. The official said the added fuel would

head off any cutback of residential customers, who have priority over industries.

The Washington Gas Light Co. asked its customers to lower their thermostats to 65 degrees to help ease natural gas shortages.

A warming trend—though only relatively speaking—is expected for the next several days, according to the National Weather Service.

The forecast for today and Wednesday calls for a high between 18 and 24 degrees. On Thursday—Inaugural Day—it is expected to be 20 to 25 degrees. That means that while the temperature is expected to rise, it will remain below freezing.

Because of the continuing cold weather and associated road problems, public schools in Fairfax and Prince George's counties will start an hour late today.

The source of the numbing weather is the same northern Canadian air that meandering air currents have steered southward across the eastern half of the United States most of this month.

The currents always travel from the eastern Pacific across the continent. But rarely, according to National Weather Service officials, have they meandered so far north—where frigid air has been picked up—and have come so far south—where that same air has been deposited.

The persisting cold is having a devastating economic impact in some states. Energy shortages led General Motors and Chrysler corporations to shut down operations in Ohio, Michigan and New York yesterday idling 42,000 workers.

The thermometer plunged to 36 below zero in Roseau, Minn., 24 below in Cincinnati, 20 below in Indianapolis, 19 below in Chicago and 17 below in Pittsburgh—all readings that set or matched record lows.

Minds, like machines, did not always function with efficiency in the cold. A motorist in Rochester, Minn., tried to thaw out his car by setting a pan of burning charcoal under the oil pan. Instead he set fire to the engine's electrical system.

Vepco's problems, which forced temporary power cutoffs affecting about 325,000 of the utility's total of 1.1 million customers, were traced to three generating stations, two in Tidewater and one near Richmond.

The Surry nuclear station was shut down when ice floes choked up intake screens that funnel water from the James River to condensers that convert steam back to water.

The floes, deposited against the screens by the shifting morning tide, were finally broken up by a massive iron gate that was dropped from its suspended resting position. The gate is ordinarily used to shut off the water intake during repairs.

The Yorktown plant was crippled when the control system of its outside boiler unit froze up, and three of the six generating units at the Chesterfield station near Richmond failed to start up after being down for the weekend for repairs. Vepco officials blame the cold weather, which brought a minus 1-degree reading to Richmond.

Power was cut off in random sections of Vepco's service area for two to 2½-hour periods from 6 a.m. to 12:45 p.m. to compensate for the disabled power power stations. Altogether Vepco lost 4 million kilowatts of power of its normal 7-million kilowatt load produced in winter months. Emergency power was bought from other utilities during the morning, but not enough, according to Vepco officials, to forestall the temporary power cut-offs.

Power was cut off at random "from one end of Northern Virginia to another," a Vepco official said. Those power sub-stations serving hospitals, fire and police stations and other emergency centers were not cut off, the officials said.

The cut-off began in Northern Virginia shortly after the record low temperature of 2 degrees was recorded at National Airport at 6 a.m.

When Georgine Farish of Annandale woke up about 6 a.m. feeling chilly, although she had gone to sleep with her electric blanket turned on, she sensed that something in the house and gone awry.

Although Vepco said that power in most houses was shut off only an hour or two, Mrs. Farish said the electricity in her home wasn't turned on until 11 a.m. As a result, no one in the Farish family had breakfast yesterday.

Mrs. Farish's daughter, Vicki, a Fairfax County schoolteacher, arrived late for work—like many of the teachers in the system—because her electric alarm clock did not go off.

"But," said Mrs. Farish, "at least my husband and my daughter were able to take a hot shower this morning. There wasn't enough hot water left for me."

Some people coped by putting on extra clothing and building fires in their fireplaces.

People waited in line yesterday to buy winter clothing at Eddie Bauer's "Expedition Outfitter" store at 1800 M St. NW. The store, which carries cold-weather items like down-filled slippers, angora thermal underwear, and silk-insulating socks, was sold out of down-filled gloves and mittens and seal socks. Customer after customer was told there was little chance of the store getting any more.

One man was told the item he was looking for was out of stock and unlikely to be restocked soon, because the truck carrying the supplies was having a hard time traveling over the ice and snow.

Meanwhile, the phone lines were jammed at area plumbing companies with calls from residents whose pipes had frozen or burst.

"I've been here since 7 a.m. and that phone hasn't stopped ringing for five minutes once today," said Martin Saia of the Saia Heating and Plumbing Co., which serves the District, Maryland, and Virginia.

"The pipes are just not insulated thick enough for extremely cold weather," said Saia. "This area just wasn't built for weather like this," he said.

James Lee, director of maintenance for the Washington Suburban Sanitary Commission, which supplies water and sewer service to Montgomery and Prince George's counties, said the agency received 300 calls from homeowners reporting water in their houses from burst lines. Lee said 36 water mains burst over the weekend and 12 more yesterday.

Area fire and police officials also reported hundreds of burst water pipes.

Several schools in the metropolitan area were closed because of the power outage and the water main breaks.

Prince William County schools were closed four hours early and Fairfax County schools two hours early because of the Vepco power failures, according to school spokesmen. Five elementary schools in Alexandria were without heat for a couple of hours, but no schools were closed, a school spokesman said.

Three schools in Arlington—Wakefield High School, Williamsburg Jr. High School, and Abingdon Elementary School—were closed because of heating problems according to school officials.

In Prince George's County, Adelphi Elementary School was closed at noon because there was no heat, while Langley Park Elementary School was closed shortly after 9 a.m. because of no electricity, a school spokesman said.

Anacostia High School in the District was closed shortly after it opened yesterday because of a water main break, school officials said. No Montgomery County schools were closed, although eight classrooms in two schools were reported to have malfunctioning heaters.

Transportation was widely hindered by the cold weather.

An American Automobile Association spokesman said 2,570 motorists reported their cars wouldn't start. All were serviced by 6 p.m.

The spokesman said car batteries lose 35 percent of their normal power when temperatures outside fall below freezing.

He emphasized that in cold weather like the current spell, motorists should have their car batteries and spark plugs checked frequently. Also, accessories like lights and radios should be turned off to conserve a battery's limited power when the car is not being driven, he said.

A Metro spokesman said 201 of the 1,743 Metrobuses that normally operate during the morning rush hour periods were out of service yesterday, causing frequent delays for commuters. He said water froze in the air lines that provide pressure for the buses' brakes and open and close the doors of the buses.

The spokesman said the affected Metrobuses had to be taken inside one of the Metro system's eight repair barns and a blow torch used along the line to melt the ice.

However, he said many of the Metrobuses were still inoperative during the evening rush hour.

A Potomac Electric Power Co. spokesman said the utility reduced its power by 5 percent in order to help supply electricity to other electric companies affected by equipment failures to the south and west of Maryland, Pennsylvania and New Jersey.

He said the power reduction would not cause any noticeable impact on household appliances.

The spokesman said Pepco "has been fortunate" in that it has not had any equipment failures like the one experienced by Vepco. He said the company's heaviest demand for service is in the summer and that Pepco has an excess of capacity to generate power during the winter months.

A COLD DAY TO REMEMBER

	Record low temperatures set Jan. 17, 1977	Old record for Jan. 17 and year
Allentown, Pa.	−5	0 (1954/1957)
Asheville, N.C.	5	10 (1972)
Athens, Ga.	11	14 (1893)
Atlanta, Ga.	1	12 (1965)
Atlantic City, N.J.	−10	−8 (1965)
Augusta, Ga.	11	14 (1893)
Baton Rouge, La.	19	20 (1965)
Beckley, W. Va.	−16	−15 (1972)
Birmingham, Ala.	4	11 (1972)
Buffalo, N.Y.	−4	−3 (1965)
Burlington, Iowa	−23	−12 (1930)
Cairo, Ill.	−1	0 (1930)
Charleston, W. Va.	−10	−5 (1957)
Charlotte, N.C.	6	8 (1893)
Cincinnati	−24	−8 (1965)
Columbia, Mo.	−18	−14 (1930)
Columbia, S.C.	9	12 (1972)
Columbus, Ohio	−19	−11 (1965)
Columbus, Ga.	10	16 (1959)
Davenport, Iowa	−22	11 (1893)
Dayton, Ohio	−21	−7 (1965)
Des Moines, Iowa	−15	−13 (1893)
Detroit, Mich.	−10	−3 (1957/1976)
Erie, Pa.	−10	−5 (1957)
Evansville, Ind.	−21	−7 (1972)
Fort Wayne, Ind.	−15	−10 (1965)
Greenville, S.C.	9	10 (1959)
Harrisburg, Pa.	−3	0 (1957)
Indianapolis, Ind.	−20	−10 (1965)
Jefferson City, Mo.	−15	−2 (1930)
Louisville, Ky.	−13	0 (1916)
Lynchburg, Va.	−8	−6 (1893)
Meridian, Miss.	10	14 (1965)
Mobile, Ala.	15	18 (1965)
Montgomery, Ala.	13	17 (1965)
Nashville, Tenn.	−5	3 (1965)
New Orleans, La.	23	26 (1965)
New York, N.Y.	0	5 (1893)
Norfolk, Va.	5	6 (1893)
Ottumwa, Iowa	−15	−12 (1930)
Pensacola, Fla.	17	21 (1921)
Peoria, Ill.	−25	−16 (1930)
Philadelphia, Pa.	−4	5 (1965)
Pittsburgh, Pa.	−15	−8 (1965)
Raleigh-Durham, N.C.	−1	6 (1972)
Richmond, Va.	−1	3 (1965)
Roanoke, Va.	−4	5 (1972)
Rockford, Ill.	−16	−15 (1924)
Scranton, Pa.	−10	−5 (1965)
St. Louis, Mo.	−12	−9 (1940)
South Bend, Ind.	−16	−7 (1948/1957)
Springfield, Ill.	−21	−15 (1930)
Toledo, Ohio	−15	−9 (1965)
Washington (National Airport)	2	4 (1892)
Waterloo, Iowa	−28	−20 (1930)
Wilmington, Del.	−3	−1 (1957)

The PRESIDING OFFICER. Will the Senator spell "cold"?

Mr. STEVENS. It is spelled W-A-S-H-I-N-G-T-O-N, I think. [Laughter.]

ESTABLISHMENT OF SPECIAL COMMITTEE TO PROPOSE A CODE OF CONDUCT

Mr. ROBERT C. BYRD. Mr. President, I am submitting today, jointly with the minority leader, a resolution to establish a temporary special committee to recommend a code of conduct for Members, officers, and employees of the Senate.

Such a code of conduct must go hand in hand with the consideration by the Congress of the recommendations of the Peterson Commission submitted to the Congress yesterday with the support of President Ford, which would raise to appropriate levels the salaries for all the major officers of the Federal Government, except for the President.

There is no doubt that the time has come to raise these salary levels. The recommendations of the Commission are supported by the President, the President-elect, and the joint leadership in the House and the Senate.

In the last 8 years there has been only one 5-percent increase for the top officials of the Federal Government despite the fact that, in that time, the cost of living has increased more than 60 percent and compensation for private nonfarm employment has increased more than 70 percent.

Because of this salary lag, the Federal Government is losing some of its best people. In the last 3 years, 4 of the 11 Institute directorships at the National Institutes of Health have become, and remain, vacant—85 out of 87 outside candidates have refused the positions due to the low pay. The Social Security Administration lost 9 out of 19 of its most senior civil service employees at one time last year, and was unable to fill the position of Chief Actuary for more than a year, with 30 candidates refusing the job because of the low pay.

The legislative branch continuously loses some of its most able support personnel because of higher salaries available to them in the business community.

While some Members of Congress are more able than others to meet their commitments at the present salary level, younger Members especially find that the present salary level, incumbent on serving in Washington, D.C., caring for their families and the added financial burden of either maintaining two residences or moving their families to Washington, severely strains their budgets.

In the past, I have never voted for a congressional pay raise, but I believe the time has come to face hard facts.

But along with financial benefit must go financial discipline. The American people expect and deserve the Congress to place high standards on its Members, its officials and its top employees.

Without a code of conduct, the Congress cannot expect to give the Federal Government officials a pay raise without raising further institutional questions.

The resolution which Senator BAKER and I are introducing today would create a special committee to recommend a code of conduct for the Senate, under severe time limitations in order to assure Senate consideration of the recommendations by March 1, 1977.

The committee would be composed of eight Members of the majority, and seven Members of the minority, with a chairman from the majority, and a vice chairman from the minority. The committee would have legislative authority, until March 1, to report directly to the Senate their recommendations.

Under the resolution, the committee shall consider a broad range of areas, including, but not limited to:

First, full annual public disclosure of income, assets, debts, gifts, and other financial items;

Second, restrictions on, and the elimination of, outside income from honoraria, legal fees, gifts, and other sources of financial or in-kind remuneration;

Third, conflicts of interest arising out of investments and security commodities, real estate, or other sources;

Fourth, office accounts and expense allowances;

Fifth, Senate travel;

Sixth, separation of campaign funds from personal funds; and

Seventh, engaging in business or professional activities or employment, or other remunerative activities so as to avoid any conflict with the conscientious performance of official duties.

The resolution requires the special committee to report back to the Senate by March 1, 1977, and its recommendations are made the pending business in the Senate automatically. The resolution also includes time-agreement language designed to guarantee a vote in the Senate, without excessive delay. The resolution provides for 50 hours of debate, with 2-hour limitations on amendments, 1 hour limitations on amendments to amendments, motions, and appeals.

Nongermane amendments, motions to table or recommit would not be in order.

I hope that the Senate will act on this resolution immediately so that the special committee may begin work on the code of conduct as soon as possible.

The President yesterday submitted the pay raise and the Congress has 30 days during which time it can disapprove the recommendations of the Peterson Commission.

I believe it is imperative that the pay raise be tied to a legislative proposal to establish a code of conduct. If this resolution is agreed to, the apparatus would be placed in being which would guarantee study of necessary reforms, and would establish a time certain for Senate consideration and action on those recommendations.

Now is the appropriate time for the Senate to show down on these two important issues—and they should be resolved within the same general time frame since they are inherently tied together, as they should be, in the attitude of the general public toward our institution.

I yield to my distinguished Republican colleague.

Mr. BAKER. Mr. President, I thank the distinguished majority leader for yielding. I thoroughly concur in his analysis of the situation as it now exists, and I am proud to be a cosponsor of this resolution.

Mr. President, the question of salaries for its own membership and for other high-ranking Federal officials has long been one which the Congress has addressed timidly and with great reluctance. As a result, the problem of attracting and retaining the most competent possible persons for Federal service has grown steadily more troublesome. We have now reached the point, in my view, where strong measures must be taken to resolve the salary issue.

Over the past few years, more and more positions at the top levels of the Federal service have stayed vacant because qualified applicants are unable or unwilling to make the financial sacrifice necessary to leave their highly paid jobs in the private sector and move their families to Washington to face a high cost of living and a vastly lower salary. Federal judges have been forced to leave the bench and return to private practice in order to meet the cost of providing educations for their children.

At the same time, a lingering public distrust of government in general and of Congress in particular inspires resentment on the part of taxpayers to any increase in salaries for Government employees.

President Ford and President-elect Carter are in agreement that the recommendations of the Commission on Executive, Legislative, and Judicial Salaries should be approved. The Commission's recommendations of substantial pay increases for Members of Congress, the Cabinet, and the Supreme Court, and for other Federal judges and high-ranking officias are balanced by concurrent recommendations for the adoption of a strict code of ethics, as well as full financial disclosure and limitations on outside earnings.

I believe that adoption of these proposals will go a long way toward restoring public confidence in elected officials and appointed bureaucrats, while alleviating the difficulties of retaining competent executives who have had only one salary increase since 1969. By establishing top-level Government salaries at a more reasonable level, in view of salaries available in the private sector, we can expect that many more highly qualified persons in all fields will find Government service attractive.

The salary levels proposed by the Commission are those it considers to be the minimum necessary to attract and retain competent personnel. Unless we are willing to pay these minimum salaries, we will, as suggested in a recent editorial in the Los Angeles Times, "create a situation in which only the incompetent or the independently wealthy can accept senior government positions."

I intend, therefore, to support the recommendations of the Commission and to vote for salary increases and the adoption by the Senate of a code of ethics at the earliest possible time. My support is, however, tempered by my distaste for the inclusion of Members of

Congress in this salary increase and my view that the method by which Members set their own salaries is unfortunate as well as unacceptable to the Nation at large.

My colleagues may have heard me express many times my feeling that politics is our Nation's highest secular calling. Elected Members of the Senate and the House of Representatives hold, by virtue of their office, the power to determine the future course of the Nation and to affect the lives of every American. While it would be demeaning for the electorate to expect these men and women, in whom they have placed their trust, to be compensated inadequately, so it is unrealistic to expect them to judge their own worth from year to year in the shadow of political campaigns.

I would like to see more thought given in this and the other body to alternatives to the current haphazard system for consideration of congressional pay raises. Perhaps the Supreme Court could serve as a forum for hearing arguments and evidence on proposed salary increases upon petition of the Congress. While the Congress cannot and should not escape its constitutional responsibility to set its own salary, I think that the assistance of the equal and coordinate judiciary would be of great help to the Congress and would be welcomed by the public. I would be most grateful for the thoughts of my colleagues on this issue, and I am hopeful that the congressional salary dilemma will be a subject for consideration by the Congress during the next 2 years.

The increase in compensation for Members of Congress will, no doubt, be considered and voted upon in the very near future. It is imperative, therefore, that prompt attention be given to questions relating to ethical conduct and financial disclosure.

For this reason, the distinguished majority leader and I have agreed to propose the establishment of an ad hoc committee to study all questions relating to a Senate code of conduct. The committee will have 15 members, including a chairman and vice chairman, of which eight will be of the majority party and seven of the minority party. It will be instructed to study all matters relating to the standards and conduct of Members of the Senate and to make its report and recommendations no later than March 1.

In this manner, Mr. President, I believe that the Senate can proceed to adoption of an equitable code of conduct as quickly as possible and with the benefit of the ad hoc committee's report.

Mr. President, I thank the majority leader for conferring closely and coordinating carefully with the minority in the matter of trying to find a solution to this dilemma. I frankly think this is the time to move forward with a pay increase.

I am not sure that I can argue with those who are concerned that it will have serious domestic political consequences. It will. The great granddaddy conflict of interest of all time is that we have to set our own salaries. But that is what the Constitution says. Until we find a better way to do it, we have to face up to the fact that it is our responsibility.

We now have the recommendation of the Peterson Commission. We have the modifications recommended by the President of the United States. We have the concurrence of the President-elect of the United States. We have this matter now before the Congress.

If we cannot face this dilemma now we will never face it. We might as well think about fundamental changes in the way we pay Members of Congress. Maybe it ought to be a part-time job, but it is certainly part-time pay as the thing now stands.

Mr. President, I am going to support the increase, but I would not do that were it not for this resolution to provide for the immediate and effective consideration of a code of ethics, standards, and conduct for Senators.

I am pleased to join in the resolution, and I very much hope it will be agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Republican leader.

May I say the adoption of this resolution in itself commits no Senator to support the salary increase.

Mr. President, I send to the desk a resolution and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 36) establishing a special committee to propose a Code of Conduct for Members, officers, and employees of the Senate in the performance of their official duties.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution (S. Res. 36) was considered and agreed to, as follows:

S. RES. 36

Establishing a special committee to propose a Code of Conduct for Members, officers, and employees of the Senate in the performance of their official duties

Resolved, That (a) there is established a temporary special committee to be known as the Special Committee on Official Conduct (hereinafter referred to as the "special committee"). The special committee shall be composed of fifteen members appointed by the President pro tempore of the Senate, eight of whom shall be appointed upon recommendation of the majority leader and seven of whom shall be appointed upon recommendation of the minority leader.

(b) The chairman of the special committee shall be designated by the majority leader. The vice chairman shall be chosen by the minority members. Vacancies in the membership of the special committee shall not affect the authority of the remaining members to execute the functions of the special committee and shall be filled in the same manner as original appointments are made.

(c) A majority of the members of the special committee shall constitute a quorum for the transaction of business, except that the special committee may fix a lesser number as a quorum for the purpose of taking sworn testimony. The special committee shall adopt rules of procedure not inconsistent with the rules of the Senate governing standing committees of the Senate.

(d) Service of a Senator as a member or as chairman of the special committee shall not be taken into account for the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate.

SEC. 2. (a) It shall be the function and duty of the special committee to conduct a complete study of all matters relating to standards of conduct of Members, officers, and employees of the Senate in the performance of their official duties, and to recommend to the Senate a Code of Official Conduct for Members, officers, and employees of the Senate. Such study and recommended Code of Official Conduct shall include, but not be limited to, standards for—

(1) annual public disclosure of income, assets, debts, gifts, and other financial items,

(2) restrictions on, or the elimination of, outside income from honoraria, legal fees, gifts, and other sources of financial or in-kind remuneration,

(3) conflicts of interest arising out of investments in securities, commodities, real estate, or other sources,

(4) office accounts, and excess campaign contributions,

(5) Senate travel,

(6) engaging in business or professional activities or employment, or other remunerative activities, so as to avoid any conflict with the conscientious performance of official duties.

(b) The special committee shall report to the Senate, not later than March 1, 1977, a report of the results of the study conducted under subsection (a), together with a resolution setting forth, by way of proposed amendments to the Standing Rules of the Senate, a Code of Official Conduct for Members, officers, and employees of the Senate.

(c) After submission of the resolution and report pursuant to subsection (b), the special committee shall have no further jurisdiction or authority to report but it shall have thirty days to close its affairs, and on the expiration of such thirty-day period shall cease to exist.

SEC. 3. (a) On Tuesday, March 1, 1977, after the conclusion of routine morning business the resolution reported by the special committee under section 2(b) of this resolution shall become the pending order of business in the Senate. Debate on the resolution, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than fifty hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(b) Debate in the Senate on any amendment to the resolution shall be limited to two hours, to be equally divided between, and controlled by, the mover and the manager of the resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the resolution. No amendment that is not germane to the provisions of the resolution shall be received. The majority leader and the minority leader, or either of them, may, from the time under their control on the passage of the resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(c) A motion to further limit debate is not debatable. A motion to table or to recommit is not in order.

SEC. 4. (a). For the purposes of this resolution, the special committee is authorized, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to hold hearings, (4) to sit and act at any time or place during the sessions, nonlegislative periods, and adjourned periods of the Senate, (5) to require, by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (6) to take depositions and other testimony, (7) to

procure the services of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, as amended, and (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) With the consent of the chairman of any other committee of the Senate, the special committee may utilize the facilities and the services of the staff of such other committee of the Senate, or any subcommittee thereof whenever the chairman of the special committee determines that such action is necessary and appropriate.

(c) The chairman of the special committee or any member thereof may administer oaths to witnesses.

(d) Subpenas authorized by the special committee may be issued over the signature of the chairman or any member of the special committee designated by the chairman, and may be served by any person designated by the chairman or by the member signing the subpena.

SEC. 5. Expenses of the special committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the special committee, except that vouchers shall not be required for the disbursement of salaries of employees paid an annual rate.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I yield 3 minutes to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 3 minutes.

UNIONIZATION OF THE MILITARY—S. 274

Mr. THURMOND. Mr. President, I am today reintroducing a bill similar to the one I introduced in the 94th Congress. This bill would prohibit members of the Armed Forces from being members or soliciting any member of the Armed Forces to join any labor organization. It also prohibits anyone from enrolling any member of the Armed Forces in or soliciting any member of the Armed Forces to join any labor organization.

The time to act on this matter is now. The American Federation of Government Employees has already amended their constitution to allow military members to join. My information is that they are studying the matter now and will make a decision some time in February. There have been reports of efforts to sign up military members already in such places as Fort Dix, McGuire Air Force Base, and Fort Devens. It is imperative that action be taken now to prevent trade unions from entering the military forces area.

I want to reemphasize that this is not a bill against unions, but rather a bill for a strong, responsive defense force. In my opinion, there is no way we can have a unionized military and also an effective, responsive, well-motivated military. The loyalty of the individual military man must not be divided between his shop steward and his commander.

Joining me in sponsoring this bill are the following Senators: ALLEN, BAKER, BARTLETT, BELLMON, BENTSEN, HARRY F. BYRD, JR., CHILES, CURTIS, DANFORTH, DOLE, DOMENICI, EASTLAND, GARN, GOLDWATER, HANSEN, HATCH, HAYAKAWA, HELMS, HOLLINGS, LAXALT, LUGAR, MCCLELLAN, MCCLURE, MORGAN, NUNN, SCHMITT, SCOTT, STEVENS, STONE, TALMADGE, TOWER, WALLOP, YOUNG, and ZORINSKY.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD and appropriately referred at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 49 of title 10, United States Code is amended by adding at the end thereof a new section as follows:

"§ 975. Union organizing and membership prohibited

"(a) As used in this section—

"(1) 'Member of the armed forces' means a member of the armed forces who is (A) serving on active duty, (B) a member of a Reserve component, or (C) in a retired status.

"(2) 'Labor organizations' means any organization of any kind in which employees (including members of the armed forces) participate and which exists for the purpose, in whole or in part, of dealing with employers concerning conditions of work. Such term does not include any fraternal or professional organization unless such organization supports, advocates, or asserts the right of employees of the Government of the United States or members of the armed forces to strike against the Government of the United States.

"(3) 'Employer' includes the United States Government.

"(b) It shall be unlawful for any individual, group, association, organization, or other entity to enroll any member of the armed forces in, or to solicit or otherwise encourage any member of the armed forces to join, any labor organization.

"(c)(1) It shall be unalwful for any member of the armed forces to be a member of or to solicit or to otherwise encourage any other member of the armed forces to join any labor organization.

"(2) It shall be unlawful for any member of the armed forces to actively support any activity of any labor organization if such activity (1) is a protest against, is intended to focus public attention on, or is for the purpose of bringing about changes in, the working conditions of members of the armed forces, or (2) supports, advocates, or asserts the right of members of the armed forces to join or be represented by labor organizations.

"(d) The provisions of subsections (b) and (c) shall not apply in any case in which any individual, group, association, organization, or other entity enrolls any member of the armed forces in, or solicits or otherwise encourages any member of the armed forces to join, any labor organization, or in any case in which a member of the armed forces joins a labor organization or solicits or otherwise encourages another member of the armed forces to join a labor organization if the labor organization concerned does not represent, or purport or attempt to represent, the interests of members of the armed forces in any dealings or negotiations, or in any attempt to deal or negotiate, with the Government of the United States and does not advocate or assert the right of members of the armed forces to strike against the Government of the United States.

"(e)(1) Any individual violating subsection (b) or (c) shall be punished by imprisonment of not more than five years.

"(2) Any labor organization guilty of violating subsection (b) shall be punished by a fine of not less than $25,000 or more than $50,000.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following:

"975. Union organizing and membership prohibited.".

Mr. HELMS. Mr. President, I am proud to associate myself with the legislation proposed by the distinguished Senator from South Carolina opposing the unionization of the military. As this Senator sees the situation there are basically two key dangers:

The first danger is the threat to the command structure of the U.S. Armed Forces. We all know that in battle the line of command is essential to the effective and courageous functioning of the troops. Officers and enlisted men alike must have the assurance that their missions will not be hampered by second-guessing and bureaucratic criticism, or that the command structure itself is negotiable.

Although those who advocate the unionization of the military argue that the command structure will not be affected, we must face the fact that if an alternative authority is allowed to function, and to back up its demands by propaganda or mass refusal to follow proper orders, then that alternative force someday will become a threat to the functioning of our defense. Any organized group, which has a power outside of the line of command, could easily develop into an antagonistic power.

Such a development could come no matter what the present intentions of the leaders of unionization of the military. I have no doubt that there may be some well-intentioned union leaders who sincerely believe that the union structure can be confined to noncommand issues. Yet the military services are not just another bureaucratic agency. A military organization is an organization of men who, no matter what their peacetime duties, must some day face the possibility of death in the line of duty. In such a situation, the military cannot allow itself to get in the habit of negotiating and bargaining about the terms of working conditions or about the conditions of obedience to orders.

And this brings up the second danger; namely, that the military might of our Nation would find itself subtly undermined by the Armed Forces becoming transformed by the mentality of a bureaucracy.

We must, of course, face the fact that we are talking about a Military Estab-

lishment of over 2 million people—a force as large as the entire Federal civil service establishment. As any soldier knows, there is already an inevitable bureaucratizing of the military services. Yet, at the top, there still remains the ultimate sanction that an army has to be geared for defense and military operations. It is something entirely different.

This danger is especially noteworthy in the light of the fact that the organizers of military unions are aiming their membership drives at the lowest level of enlisted men—the new recruits, in particular. These are precisely the ranks that have the least understanding of the military mission, and that are the most easily aroused to feelings of injustice and grievances. It is among this group that the most damage could be done by promoting an atmosphere of constant questioning and resistance to proper orders.

Mr. President, the proposal is a dangerous one which could easily undermine the defense of this Nation and the future of our freedom. I am pleased to join with the able Senator from South Carolina in this measure.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia is recognized at 2 p.m. for not to exceed 15 minutes.

THE FOOD AND AGRICULTURE ACT OF 1977—S. 275

Mr. TALMADGE. Mr. President, to keep a promise I made last year, I am introducing today a bill to extend and revise the provisions of the Agriculture and Consumer Protection Act of 1973 which expires this year.

My bill would do the following:

Extend for 5 years, through 1982, the basic price support programs for cotton, wheat and feed grains.

Extend for the same period, along with a number of badly needed reforms, the Food Stamp Act of 1964.

Improve and extend legislative authority for our food for peace program under Public Law 480 for the same 5-year period.

Establish a new charter and new goals and directions for the Federal role in the most important area of agricultural research.

Extend for 3 years, through 1980, authorization for appropriations for the Environmental Protection Agency to regulate pesticides.

A FARM AND FOOD POLICY

Any legislation of this nature must be considered in the context of a total and comprehensive national food and agricultural policy. This is so because food is basic. It is so because our whole complex of agricultural law must have a basic purpose—the assurance to the consumers of this Nation of a continuous supply of food and fiber at a reasonable price, and some assurance to the producers that they won't be bankrupted in that process.

During the 1950's and 1960's we were plagued with surpluses of farm commodities which cost the Government billions of dollars. We no longer face that problem. But the basic issue facing us today is more difficult.

In recent years, the people of this Nation and of the world have seen these surpluses disappear. Now we are in an era of uncertainty, where supply and demand are in delicate balance, and where weather throughout the world has an enormous impact on production and price.

While the question may have shifted, the basic reasons for concern remain the same. The reasons for yesterday's farm programs are the reasons behind today's debate over a national farm and food policy.

Any discussion or consideration of a new program must recognize several principles:

First, farmers must have basic price and income assurance if they are to take the financial risk, both long and short term, of continued crop production.

Second, the program must be devised in such a manner that the market potential for our agricultural commodities can be fulfilled.

Third, the greatest possible farm-planning flexibility must be built into the programs.

Fourth, the interests of consumers and taxpayers must be fully protected.

Fifth, the program must be designed to help strengthen the Nation's economy.

Sixth, the program must be designed to permit and encourage the family farm to grow and prosper.

The need for a sound agricultural policy is probably greater today than ever. The demands placed on our farm production capacity in the last few years are unprecedented. And at the same time, production and marketing costs have risen drastically.

American agriculture, more than ever, has become a matter of national and international concern. As a nation, we cannot take the chance that there will be enough production to fulfill market demands. We must use our policymaking powers to assure that this is accomplished.

FARM PROGRAMS

As many of you will recall, the 1973 act originated in, and was developed by, the Senate Committee on Agriculture and Forestry.

Not only did we adopt a new system with payments to farmers if market prices fell below a target level, but more importantly, we adopted a program of more freedom and flexibility for farmers in planning their farm operations.

Thus, farmers were permitted to plant wheat, feed grains, and cotton in such amounts which resulted in the most effective and efficient use of farm resources. Farmers enjoyed this newly won freedom and flexibility. They support it fully.

Because of this acceptance, the bill I am introducing does not change these provisions which place decisionmaking in the hands of farmers. The bill also carries over those provisions of the 1973 act which authorize a set-aside of land if stocks of specified commodities become burdensome.

In fact, as it relates to farm commodities, the 1973 act has worked so well that I am not proposing any major changes except those that relate to target prices and loan levels.

Under the old act, target prices were set at $2.05 per bushel for wheat, $1.38 per bushel for corn and 38 cents per pound for cotton for both crop years 1974 and 1975. The target prices were revised in 1976 based on increases in the prices paid by farmers for production items, interest, taxes, and wage rates.

In this new bill, I am proposing that we move to actual "cost of production" as a basis for target prices. And loan levels would be related to the cost of production. My reasons for doing this are several. First, prices paid by farmers for things they use in producing crops have increased materially since 1972. However, the formula in the 1973 act did not become effective until 1976; therefore, full farm costs are not reflected in the present target prices.

Second, food is essential to the continued welfare of this Nation. And a strong and viable agriculture must be maintained if our food and fiber needs are to be met both for domestic use and for export.

Third, a truly productive agriculture is essential in any fight against inflation.

And four, many informed observers of agriculture, farmers, businessmen, and others feel that the cost of production approach is superior to the existing method or to the old system of tying support prices to the parity index.

Under the new approach, Mr. President, the 1978 target price for wheat would be $2.91 per bushel, for corn $2.28 per bushel, and for cotton 51.1 cents per pound.

Loan levels would be set at not less than 75 percent of the cost of production, but could be adjusted under special circumstances.

Such a formula would establish the following minimum loan levels; wheat at $2.18 per bushel, corn at $1.71 per bushel, and cotton at 38.83 cents per pound. These levels, I must emphasize, are minimum levels; they compare with $1.37 for wheat and $1.10 for corn in the current law.

The flexibility given the Secretary of Agriculture in devising program details, including the loan level, is essential if we are to remain competitive in world markets and prevent the buildup of excessive stocks at home.

The bill, as introduced, does not contain a section dealing with peanuts. In the last session of Congress, an effort was made to enact new peanut legislation. For a number of reasons, the effort did not succeed.

The peanut bill that was introduced and considered by the appropriate committees in the House and the Senate last

year was makeshift legislation at best. The outgoing administration of the Department of Agriculture exerted great pressures on the peanut farmers to get them to go along with a bill that virtually no one—including the Department—could support with any great enthusiasm.

In my view, and in the view of many others, the Department over the past few years has deliberately attempted to discredit the program in the eyes of the Congress and in the eyes of the Nation.

Certainly there are problems. But I am convinced that the majority of peanut farmers recognize this and realize that corrective measures must be taken. I, therefore, am calling upon peanut growers to work through their leaders with the incoming administration and with the new Congress in developing a reasonable, compromise solution to peanut program problems.

Emmett Reynolds, president of the Georgia Farm Bureau, headed up a group called the National Peanut Grower Group during the past year. I feel sure that he and the other grower leaders will be happy to work with the new administration. However, no action will be possible until we receive some clear signals as to the kind of peanut program the new administration wants.

It is my hope that the omnibus farm bill that ultimately is reported to the Senate by our committee will include a section on peanuts that will merit the support and approval of all.

FOOD STAMPS

The section of my bill dealing with food stamps is a restatement of the committee's position in the 94th Congress that meaningful food stamp reform is needed. Last year, the Senate passed S. 3136, the National Food Stamp Reform Act of 1976, but the House of Representatives was unable to complete action.

So while the food stamp issue remains unresolved, the need for meaningful reform remains undiminished. The objective of my proposal today is to restore credibility to the food stamp program.

This objective is achieved by eliminating those features that have allowed the nonneedy to participate, and by plowing back the savings into increased benefits for the truly needy.

By replacing the present allowable itemized deductions with a single standard deduction, many nonneedy will be eliminated from participation and the chance of error in the application process will be reduced significantly.

By enacting a net income ceiling at the official poverty level, the bill provides the American public with a commonly-accepted standard of need, a standard they can understand and appreciate.

A 30-day retrospective accounting period, with a speeded-up application process for those who suffer sudden job loss, will take the guesswork out of the application process.

Currently, applicants are asked to project what their income will be in the future. It should come as no surprise that projecting income leads to widespread error.

My bill would allow deductions from gross income for Federal, State and local income and social security taxes, to serve as a work incentive. The work incentive is further promoted by the institution of a meaningful work registration and job search program modeled along the lines of the WIN program. Those who can work and refuse to look for or accept work will be dropped from the program.

I believe in the work ethic and believe that most Americans do. Under this bill the needy will be given all the help we can give them to find and keep a job.

I am proud that I was the author of the "Talmadge Workfare Amendments" in 1971. These amendments put some teeth in the requirement that able-bodied welfare recipients accept work or training or lose their benefits. I also was successful in amending the tax laws to provide a 20-percent tax credit to employers who hire people off the welfare rolls. Despite the resistance of some States and the Federal bureaucracy, this work incentive program has begun to be successful. Presently over 200,000 welfare recipients annually are being taken from the welfare rolls and placed on the payrolls through this program.

Unfortunately the work incentive program has never been applied to food stamp recipients. My bill would apply a tough work registration requirement and would require that the Department of Labor and the Department of Agriculture work closely together to make the work incentive program an integral part of the food stamp program. The Secretary of Labor would provide manpower and supportive services to food stamp recipients.

This bill restores basic equity as an integral part of the food stamp program. Automatic eligibility for public assistance households is eliminated. Welfare households would be treated exactly the same as nonassistance households; they will have to satisfy the same eligibility criteria.

While the bill would limit eligibility, there remains the problem of opening access to the program for those who are eligible. This bill meets this problem head-on in a number of ways: by requiring Federal agencies that administer programs for the needy to make every reasonable attempt to inform their clientele—who are potentially eligible for the food stamp program)—of the existence of the program and its criteria for participation; continuing the required State outreach effort; allowing SSI recipients to apply for food stamps at Social Security Administration Offices, if agreed to by the Secretaries of Agriculture and Health, Education, and Welfare, mandating the use of multilingual personnel where necessary; and requiring the issuance of four authorization-to-purchase cards to each participating household at the beginning of each month.

While the food stamp title will produce some cost savings over present expenditures, the major objective is to restore the program's integrity. Program integrity can only be maintained and enhanced when the program serves only the needy, and when those responsible for administering the program at the State level are held responsible for their actions and are provided with an incentive for doing this. This bill attempts to accomplish this goal by providing additional penalties for poor administration and a financial incentive for investigation and prosecution of abuses.

This bill undoubtedly will serve as a mechanism for focusing on the important issues that must be faced. I am hopeful that the Senate will once again display its leadership in achieving food stamp reform and that 1977 will witness the enactment of legislation which removes the cloud of public criticism from this worthy program.

FOOD FOR PEACE

Over the years, the Committee on Agriculture and Forestry has taken an active role in reviewing the operations of Public Law 480 and in seeking ways to strengthen the program.

In this bill, I offer amendments which would, in addition to extending the program for 5 years, provide for several changes which would add to the effectiveness of serving market development as well as humanitarian objectives.

Last year, the Congress added a provision which required that three-quarters of title I commodities go to countries with a per capita gross national product of $300 or less. The necessity for this provision, I believe, was based upon a specific, very short supply situation which no longer prevails.

Continuation of this provision would only limit the effectiveness of Public Law 480 in meeting our market development needs. Furthermore, as world food supplies improve, this provision would only act against the humanitarian and development objectives of the act by compelling countries which do not need assistance to accept shipments of commodities which may only disrupt domestic markets and reduce indigenous production incentives.

My amendment would provide the President with authority to waive this limitation if the designated countries are unable to use effectively the quantity allocated to them.

Another amendment would permit the Secretary to provide foreign currency proceeds earned from Public Law 480 sales to be used to develop handling, storage and distribution facilities in developing countries.

Since the lack of such facilities often limits our ability to market in less developed countries, this amendment could be of significant benefit to American farm exports. This amendment would also help such countries balance their purchases and provide for greater food security for its citizens.

To restore reasonable title II program efforts after severe cuts in recent years, I propose a modest increase in the minimum volume of title II donations from 1.3 million metric tons to 1.5 million metric tons.

PESTICIDE REGULATION

My bill also would extend the appropriations authority for the Federal Insecticide, Fungicide and Rodenticide Act for 3 years and authorizes the appropriation of funds for fiscal 1978 of $65 million with $5 million increases in each subsequent year.

The pesticide program has been an extremely controversial program from its very inception, and there are still many divided opinions about how the effort should proceed. However, the greatest single problem facing EPA remains its implementation of the act.

One basic reason for this failure is the lack of fiscal support and inadequate staffing. Our committee recognized this last year when we recommended a pesticides budget of about $5 million more than the administration requested. We also called for increased staff to carry out the intent of Congress. Our recommendations were not followed and today we face the same problem, but at an even more intense level.

For this reason we are calling for funding and the time necessary to implement the act. We are not recommending basic changes in the law, because until implementation of existing law has been achieved, there is little basis for such actions.

AGRICULTURAL RESEARCH

This bill will be referred to frequently as an omnibus farm bill because of the breadth of the topics it seeks to treat. Necessarily, it deals with our basic agricultural commodity programs, with the very important domestic feeding programs, with our principal international food program, Public Law 480, and with many other important food and agricultural subjects.

However, most of these policy initiatives deal with the vagaries of the moment or respond to problems from the past. Another part of this bill looks forward—through improved agricultural research.

The ultimate goal of agricultural research is to develop the knowledge and technology to insure an abundance of high quality agricultural products, maintain a permanent and viable agriculture, improve the nutritional well-being of the American people, improve the management and use of the Nation's natural and renewable resources, and promote improved living standards in rural America.

Yet our record of support for agricultural research is not laudable. In 1967, Congress appropriated about $250 million for agricultural research; the agricultural research appropriation this year, in 1967 dollars, is about $250 million. This failure to expand agricultural research support comes in spite of the turnaround from agricultural surpluses to worldwide shortages. It occurs when most of our past scientific breakthroughs have been applied and our shelf is nearly bare.

It comes at a time when the world is becoming increasingly concerned about the adequacy of food supplies in the future.

This failure to support research occurred in spite of expanding demands upon our scientists to find solutions to the environmental problems and alternatives to the technologies that have contributed to these problems.

This inadequacy of support was without regard to the many unfulfilled charges that we had made in the past—human nutrition, animal health, aquaculture, and the entire spectrum of basic research have been pushed into the background because of too little support and the pressure of immediate problems.

The Committee on Agriculture and Forestry has repeatedly called for more support of our food and agricultural research effort. Our budget reports clearly state the need. The committee has taken the cause to the floor on several occasions. We have heard time after time that agricultural research is critical. Yet we have not been able to secure the support that is needed.

Mr. President, I instructed the committee staff last year to draft legislation that would achieve four points:

First, achieve adequate funding for agricultural research; ,

Second, fill the gaps in our overall research effort;

Third, assure continuity and maintain the strengths of our current systems, and

Fourth, achieve better coordination of the effort and therefore a more cost-effective agricultural research program.

To assure more reasonable funding, the bill specifies that food and agricultural research funding should equal at least one-half of 1 percent of domestic expenditures on food plus gross agricultural exports.

To fill the gaps, the bill reiterates the need for human nutrition research and provides new initiatives for basic research, aquaculture and animal health. To assure continuity, the bill strengthens the vital partnership between the States and the Federal Government that is represented by the State agricultural experiment stations, the cooperative extension service and the land grant colleges.

Finally, to assure better coordination and a more cost-effective research program, the bill designates USDA as the lead agency and creates coordination and advisory panels which will assure that Congress and the President know the needs of the people and the problems and priorities of our researchers, and that all segments are coordinated.

This is the underlying foundation of our proposal for agricultural research, but the ultimate objective is the welfare of the American people.

A COMPREHENSIVE BILL

Mr. President, there are many other provisions in this bill.

I fully expect that each of these provisions will be discussed fully in hearings before the Committee on Agriculture and Forestry and throughout the legislative process.

In addition, I anticipate full and complete cooperation from the Department of Agriculture and the new administration in the development of this legislation, and in return I offer the committee's complete cooperation to the new Secretary of Agriculture.

Last week, Secretary-designate BERGLAND appeared before our committee and won its unanimous endorsement. He told the committee he supported a multiple-year extension of farm programs, such as this bill proposes, and pledged to work with us in developing a final product.

It is important that everyone understand that the provisions of this bill are not written in concrete, that I offer this bill as a base from which the legislative process can go forward.

I hope strongly that, during the course of hearings, we receive constructive suggestions which will cause us to improve upon the bill I offer today.

All of us want what is best for our farm community, our consumers and our Nation. Our future depends on it.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a summary of the provisions of the Food and Agriculture Act of 1977, including a section-by-section analysis, and the full text of the bill.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food and Agriculture Act of 1977".

TITLE I—PAYMENT LIMITATION FOR WHEAT, FEED GRAINS, AND UPLAND COTTON

SEC. 101. Section 101(1) of the Agricultural Act of 1970, as amended, is amended by striking out "1974 through 1977" and inserting in lieu thereof "1974 through 1982".

TITLE II—DAIRY

DAIRY BASE PLANS

SEC. 201. Section 201(e) of the Agricultural Act of 1970, as amended, is amended by striking out "1977" and inserting in lieu thereof "1982", and by striking out "1980" and inserting in lieu thereof "1985".

TRANSFER OF DAIRY PRODUCTS TO THE MILITARY AND VETERANS HOSPITALS

SEC. 202. Section 203 of the Agricultural Act of 1970, as amended, is amended by striking out "1977" and inserting in lieu thereof "1982".

DAIRY INDEMNITY PROGRAM

SEC. 203. Section 204 of the Agricultural Act of 1970, as amended, is amended by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1982".

PRODUCER HANDLERS

SEC. 204. Section 206 of the Agricultural Act of 1970, as amended, is amended by inserting after "Agriculture and Consumer Protection Act of 1973" the following: "and the Food and Agriculture Act of 1977".

TITLE III—WOOL PROGRAM

SEC. 301. Section 301 of the Agricultural Act of 1970, as amended, is amended by striking out "1977" each place it occurs and inserting in lieu thereof "1982".

TITLE IV—WHEAT PROGRAM

LOAN RATE AND TARGET PRICE

SEC. 401. Effective beginning with the 1978 crop, section 401 of the Agricultural Act of 1970, as amended, is amended by striking out "1971 through 1977" and inserting in lieu thereof "1971 through 1982", and section 107 of the Agricultural Act of 1949, as it appears therein, is amended to read as follows:

"SEC. 107. Notwithstanding any other provision of law—

"(a) Loans and purchases on each crop of wheat shall be made available at not less than 75 per centum of the cost of production per bushel, except that if the loan rate so calculated is higher than the estimated average world price for wheat for the marketing year for which the loan determination is made, the Secretary is authorized to adjust the loan rate for wheat to not less than 90 per centum of the estimated average world price.

"(b) If a set-aside program is in effect for any crop of wheat under section 379b(c) of the Agricultural Adjustment Act of 1938, as amended, payments, loans and purchases shall be made available on such crop only to producers who comply with the provisions of such program.

"(c) Payments shall be made for each crop of wheat to the producers on each farm in an amount determined by multiplying (1) the amount by which the higher of—

"(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

"(2) the loan level determined under subsection (a) for such crop

is less than the cost of production per bushel, times in each case (ii) the allotment for the farm for such crop, times (iii) the projected yield established for the farm with such adjustments as the Secretary determines necessary to provide a fair and equitable yield. The cost of production per bushel for the 1978 crop of wheat is determined to be $2.91. For each of the 1979 through 1982 crops, the cost of production shall be determined by the Secretary in accordance with section 411 of the Agricultural Act of 1970. If the Secretary determines that the producers are prevented from planting any portion of the farm acreage allotment to wheat or other nonconserving crop, because of drought, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment on such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the cost of production. If the Secretary determines that, because of such a disaster or condition, the total quantity of wheat (or of cotton, corn, grain sorghums, or barley planted in lieu of wheat) which the producers are able to harvest on any farm is less than 66⅔ per centum of the farm acreage allotment times the projected yield of wheat (or of cotton, corn, grain sorghums, or barley planted in lieu of wheat) for the farm, the rate of payment for the deficiency in production below 100 per centum shall be the larger of (A) the foregoing rate, or (B) one-third of the cost of production. The Secretary shall provide for the sharing of payments made under this subsection for any farm among the producers on the farm on a fair and equitable basis.".

ALLOTMENT AND SET-ASIDE

SEC. 402. Section 402(b) of the Agricultural Act of 1970, as amended, is amended by—

(a) striking out "1974 through 1977" each place it occurs and inserting in lieu thereof "1974 through 1982"; and

(b) striking out "1971 through 1977" and inserting in lieu thereof "1971 through 1982".

NONAPPLICABILITY OF PROCESSOR CERTIFICATE REQUIREMENT

SEC. 403. Section 403(b) of the Agricultural Act of 1970, as amended, is amended by striking out "July 1, 1973 through June 30, 1978" and inserting in lieu thereof "July 1, 1973, through June 30, 1983".

SUSPENSION OF MARKETING QUOTAS; CONFORMING AMENDMENTS

SEC. 404. Section 404 of the Agricultural Act of 1970, as amended, is amended by—

(a) striking out "1971 through 1977" each place it occurs and inserting in lieu thereof "1971 through 1982"; and

(b) striking out "1972 through 1977" and inserting in lieu thereof "1972 through 1982".

STATE AGENCY ALLOTMENTS; YIELD CALCULATIONS

SEC. 405. Section 405 of the Agricultural Act of 1970, as amended, is amended by—

(a) striking out "1971 through 1977" and inserting in lieu thereof "1971 through 1982"; and

(b) striking out "1974 through 1977" and inserting in lieu thereof "1974 through 1982".

SUSPENSION OF QUOTA PROVISIONS

SEC. 406. Section 406 of the Agricultural Act of 1970, as amended, is amended by striking out "1971 through 1977" and inserting in lieu thereof "1971 through 1982".

APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949

SEC. 407. Section 408 of the Agricultural Act of 1970, as amended, is amended by striking out "1971 through 1977" and inserting in lieu thereof "1971 through 1982".

COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS FOR WHEAT AND FEED GRAINS

SEC. 408. Section 409 of the Agricultural Act of 1970, as amended, is amended by striking out "1971 through 1977" and inserting in lieu thereof "1971 through 1982".

SET-ASIDE ON SUMMER FALLOW FARMS

SEC. 409. Section 410 of the Agricultural Act of 1970, as amended, is amended by striking out "1971 through 1977" and inserting in lieu thereof "1971 through 1982".

COST OF PRODUCTION

SEC. 410. Title IV of the Agricultural Act of 1970, as amended, is amended by adding at the end thereof a new section 411 as follows:

"COST OF PRODUCTION

"Sec. 411. (a) The Secretary of Agriculture shall determine for each of the 1979 through 1982 crops of wheat, corn, and upland cotton the cost of production to be used in the establishment of loan and payment rates for each commodity. The determination shall be based on the Secretary's estimate of the costs incurred in the production of the crop, taking into consideration joint products such as the value of cottonseed and the value of grazing in the case of wheat, and shall include, but not be limited to—

"(1) a charge for all direct or variable costs, such as labor, power and machinery, seed, fertilizer and chemicals, custom services, irrigation, interest on operating capital, and other materials;

"(2) a charge for overhead costs (a proportionate share, if applicable), such as personal property taxes, electricity, sales taxes, insurance, farm auto costs, and other such costs not directly related to the production of a specific crop;

"(3) a charge for management; and

"(4) a charge for land based on a composite land allocation using share rent, cash rent, and average acquisition value.

"(b) Yields used in determining per unit costs shall be based on the most recent 5-year weighted national average harvested yields for wheat and cotton and the most recent 5-year weighted national average yields of corn harvested for grain.".

TITLE V—FEED GRAIN PROGRAM

LOAN RATE AND TARGET PRICE

SEC. 501. (a) Paragraph (18) of section 1 of the Agriculture and Consumer Protection Act of 1973 is amended by striking out "1974 through 1977" and inserting in lieu thereof "1974 through 1982".

(b) Effective only with respect to the 1978 through 1982 crops of feed grains, section 501 of the Agricultural Act of 1970, as amended by the Agriculture and Consumer Protection Act of 1973, is amended by—

(1) striking out "1971 through 1977" each place it occurs and inserting in lieu thereof "1971 through 1982";

(2) striking out "1974 through 1977" each place it occurs and inserting in lieu thereof "1974 through 1982";

(3) amending section 105(a)(1) of the Agricultural Act of 1949, as it appears therein, to read as follows:

"(a)(1) The Secretary shall make available to producers loans and purchases on each crop of corn at not less than 75 per centum of the cost of production, except that the Secretary may adjust such level if he determines that such level will discourage the exportation of feed grains or result in excessive total stocks of feed grains in the United States."; and

(4) amending section 105(b)(1) of the Agricultural Act of 1949, as it appears therein, to read as follows:

"(b(1) In addition, the Secretary shall make available to producers payments for each crop of corn, grain sorghums, and, if designated by the Secretary, barley, computed by multiplying (i) the payment rate, times (ii) the allotment for the farm for such crop, times (iii) the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield. The payment rate for corn shall be the amount by which the higher of—

"(A) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

"(B) the loan level determined under subsection (a) for such crop

is less than the cost of production per bushel. The cost of production per bushel for the 1978 crop of corn is determined to be $2.28. For each of the 1979 through 1982 crops, the cost of production shall be determined by the Secretary in accordance with section 411 of the Agricultural Act of 1970. The payment rate for grain sorghums and, if designated by the Secretary, barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. If the Secretary determines that the producers on a farm are prevented from planting any portion of the farm acreage allotment to feed grains or other nonconserving crop, because of drought, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment on such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the cost of production. If the Secretary determines that, because of such a distaster or condition, the total quantity of feed grains (or of wheat, or cotton planted in lieu of the allotted crop) which the producers are able to harvest on any farm is less than 66⅔ per centum of the farm acreage allotment times the yield of feed grains (or of wheat, or cotton planted in lieu of the allotted crop) established for the farm, the rate of payment for the deficiency in production below 100 per centum shall be the larger of (A) the foregoing rate, or (B) one-third of the cost of production.".

TITLE VI—UPLAND COTTON PROGRAM

SUSPENSION OF MARKETING QUOTAS; MINIMUM BASE ACREAGE ALLOTMENTS

SEC. 601. Section 601 of the Agricultural Act of 1970, as amended, is amended by—

(a) striking out "1971 through 1977" each place it occurs and inserting in lieu thereof "1971 through 1982";

(b) striking out from paragraph (2) "1970 through 1976" and inserting in lieu thereof "1970 through 1981";

(c) striking out from paragraph (3)(1) "1978" and inserting in lieu thereof "1983";

(d) striking out from paragraph (4) "1972 through 1977" and inserting in lieu thereof "1972 through 1982"; and

(e) striking out from paragraph (4) "1974

through 1977" and inserting in lieu thereof "1974 through 1982".

COTTON PRODUCTION INCENTIVES; LOAN RATE AND TARGET PRICE

SEC. 602. Section 602 of the Agricultural Act of 1970, as amended, is amended by—

(a) striking out "1971 through 1977" each place it occurs and inserting in lieu thereof "1971 through 1982";

(b) striking out "1974 through 1977" each place it occurs and inserting in lieu thereof "1974 through 1982"; and

(c) effective, beginning with the 1978 crop, amending paragraphs (1) and (2) of section 103(e) of the Agricultural Act of 1949, as they appear therein, to read as follows:

"(e)(1) The Secretary shall upon presentation of warehouse receipts reflecting accrued storage charges of not more than 60 days make available for the 1978 through 1982 crops of upland cotton to cooperators nonrecourse loans for a term of 10 months from the first day of the month in which the loan is made at such level as will reflect for Middling one-inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States not less than 75 per centum of the cost of production, except that if the loan rate so calculated is higher than the estimated average world price for American cotton of such quality for the marketing year for which the loan determination is made, the Secretary may adjust the loan rate for upland cotton to not less than 90 per centum of the estimated world price. The loan level for any crop of upland cotton shall be determined and announced not later than November 1 of the calendar year preceding the marketing year for which such loan is to be effective. Notwithstanding the foregoing, if the carryover of upland cotton as of the beginning of the marketing year for any of the 1972 through 1982 crops exceeds 7.2 million bales, producers on any farm harvesting cotton of such crop from an acreage in excess of the base acreage allotment for such farm shall be entitled to loans and purchases only on an amount of the cotton of such crop produced on such farm determined by multiplying the yield used in computing payments for such farm by the base acreage allotment for such farm.

"(2) Payments shall be made for each crop of cotton to the producers on each farm at a rate equal to the amount by which the higher of—

"(A) the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, or

"(B) the loan level determined under paragraph (1) for such crop

is less than the cost of production per pound. The cost of production per pound for the 1978 crop is determined to be 51.1 cents per pound. For each of the 1979 through 1982 crops, the cost of production shall be determined by the Secretary in accordance with section 411 of the Agricultural Act of 1970. If the Secretary determines that the producers on a farm are prevented from planting any portion of the allotment to cotton because of drought, flood, or other natural disaster, or condition beyond the control of the producer, the rate of payment for such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the cost of production. If the Secretary determines that, because of such a disaster or condition, the total quantity of cotton which the producers are able to harvest on any farm is less than 66⅔ per centum of the farm base acreage allotment times the average yield established for the farm, the rate of payment for the deficiency in production below 100 per centum shall be the larger of (A) the foregoing rate, or (B) one-third of the cost of production. The payment rate with respect to any producer who (i) is on a small farm (that is, a farm on which the basic acreage allotment is ten acres or less, or on which the yield used in making payments times the farm base acreage allotment is five thousand pounds or less, and for which the base acreage allotment has not been reduced under section 350(f)), (ii) resides on such farm, and (iii) derives his principal income from cotton produced on such farm, shall be increased by 30 per centum; but, notwithstanding paragraph (3), such increase shall be made only with respect to his share of cotton actually harvested on such farm within the quantity specified in paragraph (3),".

COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS

SEC. 603. Section 603 of the Agricultural Act of 1970, as amended, is amended by striking out "1978" and inserting in lieu thereof "1983".

MISCELLANEOUS COTTON PROVISIONS

SEC. 604. Sections 604, 605, 606, 607, and 608 of the Agricultural Act of 1970, as amended, are each amended by striking out "1971 through 1977" and inserting in lieu thereof "1971 through 1982".

SKIPROW PRACTICES

SEC. 605. Section 612 of the Agricultural Act of 1970 is amended by striking out "1974 through 1977" and inserting in lieu thereof "1974 through 1982".

TITLE VII—RICE

NATIONAL ACREAGE ALLOTMENT AND ALLOCATION

SEC. 701. Section 101 of the Rice Production Act of 1975 is amended by striking out "1976 and 1977" each place it occurs and inserting in lieu thereof "1976 through 1982".

LOAN RATE AND TARGET PRICE

SEC. 702. Section 102 of the Rice Production Act of 1975 is amended by—

(a) striking out "1976 and 1977" each place it occurs and inserting in lieu thereof "1976 through 1982"; and

(b) amending paragraphs (1) and (2) of section 101(g) of the Agricultural Act of 1949, as they appear therein, to read as follows:

"(1) The established price for the purpose of making payments on rice under this subsection shall be $8 per hundredweight in the case of the 1976 crop, adjusted to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period beginning on the date of enactment of the Rice Production Act of 1975, and ending July 31, 1976; for each of the 1977 through 1982 crops, the established price shall be the established price for the preceding year's crop adjusted to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the 12-month period immediately preceding July 31 of the crop year for which the established price is determined: *Provided*, That any increase that would otherwise be made in the established price for the 1976 through 1982 crops to reflect a change in the index of prices paid by farmers may be further adjusted to reflect any change in (i) the national average yield per acre of rice for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre for the three calendar years preceding the year previous to the one for which the determination is made.

"(2) The Secretary shall make available to cooperators in the several States of the United States, loans and purchases on the 1976 crop of rice at a rate equal to $6 per hundredweight, adjusted to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period beginning on the date of enactment of the Rice Production Act of 1975 and ending July 31, 1976: *Provided*, That any increase in the rate of loans and purchases for the 1976 crop to reflect a change in the index of prices paid by farmers may be further adjusted to reflect the change described in the proviso in paragraph (1) to this subsection. Loans and purchases for each of the 1977 through 1982 crops shall be established at such rate as bears the same ratio to the loan rate for the preceding year's crop as the established price for the current year's crop bears to the established price for the preceding year's crop. Loans and purchases for each of the 1976 through 1982 crops shall be made available to cooperators on a farm with respect to a quantity of rice determined by multiplying the allotment by the yield established for the farm, as determined in the manner described in the second sentence of paragraph (4) of this subsection.".

SUSPENSION OF MARKETING QUOTAS AND OTHER PROVISIONS

SEC. 703. Section 103 of the Rice Production Act of 1975 is amended by striking out "1976 and 1977" and inserting in lieu thereof "1976 through 1982".

UNUSED ACREAGE ALLOTMENTS

SEC. 704. Section 301 of the Rice Production Act of 1975 is amended by striking out "1976 and 1977" and inserting in lieu thereof "1976 through 1982".

FINALITY OF DETERMINATIONS

SEC. 705. Section 302 of the Rice Production Act of 1975 is amended by striking out "1976 and 1977" and inserting in lieu thereof "1976 through 1982".

DEFINITION OF COOPERATOR

SEC. 706. Section 303 of the Rice Production Act of 1975 is amended by striking out "1976 and 1977" and inserting in lieu thereof "1976 through 1982".

APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949

SEC. 707. Section 304 of the Rice Production Act of 1975 is amended by striking out "1976 and 1977" and inserting in lieu thereof "1976 through 1982".

TITLE VIII—FOOD AND AGRICULTURAL RESEARCH

Subtitle A—Food and Agricultural Research: Planning, Coordination, and Dissemination of Findings

FINDINGS AND DECLARATIONS

SEC. 801. (a) Congress finds that—

(1) the Federal Government of the United States has provided funding support for food and agricultural research for many years in order to promote and protect the general health and welfare of the people of the United States;

(2) the Federal Government's support of food and agricultural research has significantly contributed to the development of the Nation's agricultural system;

(3) the agencies conducting federally supported food and agricultural research were established at different times in response to different and specific needs, and their work is not fully coordinated;

(4) these agencies have only been partially successful in responding to the needs of all persons affected by their research;

(5) useful information produced through federally supported food and agricultural research is not being efficiently transferred to the people of the United States;

(6) Federal funding levels for food and agricultural research in recent years have not been commensurate with needs stemming from changes in United States agricultural practices and the world food and agricultural situation;

(7) new research initiatives are needed in the areas of food and human nutrition, animal health, and aquaculture;

(8) increased research efforts are necessary to find solutions to environmental problems and alternatives to the technologies that have contributed to these problems; and

(9) expanded research is needed to improve the management and use of the Nation's natural and renewable resources and promote improved living standards in rural America.

(b) Congress hereby declares that it is the policy of the Federal Government of the United States that special measures as set forth in this subtitle shall be undertaken to improve the coordination, planning, and dissemination of food and agricultural research, identify needs and establish priorities for such research, and assure the full achievement of national food and agricultural research objectives.

(c) Congress further declares that the Secretary of Agriculture should have the primary role in the overall national food and agricultural research effort and in implementing the intent of Congress as expressed in this subtitle, in cooperation with other Federal departments and agencies, the States, colleges and universities, and user groups.

DEFINITIONS

SEC. 802. When used in this subtitle—

(a) the term "food and agricultural research" means research in the fields of agriculture, silviculture, aquaculture, associated marketing systems, water and soil resources, home economics, human nutrition, and animal health;

(b) the term "Secretary" means the Secretary of Agriculture of the United States;

(c) the term "Department of Agriculture" means the United States Department of Agriculture;

(d) the term "Policy Council" means the Federal Food and Agricultural Research Policy Council;

(e) the term "Operations Committee" means the Federal Food and Agricultural Research Operations and Advisory Committee;

(f) the term "Users Advisory Board" means the Users Advisory Board for Food and Agricultural Research;

(g) the term "State agricultural experiment stations" means those institutions eligible to receive funds under the Act of March 2, 1887, as amended (24 Stat. 440, as amended; 7 U.S.C. 361a–361i); and the Research Facilities Act (77 Stat. 90; 7 U.S.C. 390–390k); and

(h) the term "agricultural and mechanical colleges" means those institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 419, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute.

FEDERAL FOOD AND AGRICULTURAL RESEARCH POLICY COUNCIL

SEC. 803. (a) To aid in the development, implementation, and coordination of Federal food and agricultural research programs, there is hereby created and established within the executive branch of the Government of the United States a permanent council to be known as the Federal Food and Agricultural Research Policy Council.

(b) The Policy Council shall be composed of the following eight persons—

(1) the Director of the Office of Science and Technology Policy, who shall serve as the Chairperson;

(2) the Assistant Secretary of Agriculture who has jurisdiction over food and agricultural research, who shall serve as Vice Chairperson;

(3) the Assistant Secretary of Health of the Department of Health, Education, and Welfare;

(4) the Deputy Administrator of the Agency for International Development of the Department of State;

(5) the Deputy Administrator of the Environmental Protection Agency;

(6) the Deputy Director of the Office of Management and Budget;

(7) the Deputy Administrator of the Energy Research and Development Administration; and

(8) the Deputy Director of the National Science Foundation.

(c) The Policy Council shall meet at the call of the Chairperson, but at least once during each three-month period.

(d) The Secretary shall provide clerical assistance and staff personnel to the Policy Council to carry out its duties. The Director of the Office of Research and Competitive Grants of the Department of Agriculture shall serve as executive secretary to the Policy Council.

(e) The Policy Council shall—

(1) periodically review Federal food and agricultural research programs in order to insure that there is maximum coordination and cooperation among Federal departments and agencies in their food and agricultural research efforts; and

(2) annually prepare and submit to the Secretary of Agriculture, not later than January 31 of each year, a statement of the recommendations of the Policy Council developed pursuant to the requirements of section 808(a) of this title. The statement shall include, as necessary, the recommendations of the Policy Council with respect to supplemental funding or organizational changes necessary to achieve the objectives of this subtitle.

FEDERAL FOOD AND AGRICULTURAL RESEARCH OPERATIONS AND ADVISORY COMMITTEE

SEC. 804. (a) There is hereby created and established in the Department of Agriculture a permanent committee to be known as the Federal Food and Agricultural Research Operations and Advisory Committee.

(b) The Operations Committee shall be composed of the following twenty-three members who are directly involved in the national food and agricultural research effort—

(1) seven members from the Department of Agriculture designated by the Secretary, including the Assistant Secretary who has jurisdiction over food and agricultural research, who shall serve as Co-Chairperson, and the administrators of the major research and extension agencies or bureaus within the Department of Agriculture;

(2) the following seven members from other Federal departments and agencies—

(A) the Assistant Administrator for Pesticides of the Environmental Protection Agency;

(B) a representative designated by the Administrator of the Agency for International Development of the Department of State;

(C) a representative of the Food and Drug Administration of the Department of Health, Education, and Welfare, and a representative of the National Institutes of Health of the Department of Health, Education, and Welfare, designated by the Secretary of the Department of Health, Education, and Welfare;

(D) a representative designated by the Administrator of the National Oceanic and Atmospheric Administration of the Department of Commerce;

(E) a representative designated by the Administrator of the Energy Research and Development Administration; and

(F) a representative designated by the Director of the National Science Foundation;

(3) a representative designated by the Executive Committee for the Division of Agriculture of the National Association of State Univerisities and Land-Grant Colleges (who shall serve as Co-Chairperson);

(4) a representative designated by the Experiment Station Committee on Organization and Policy;

(5) a representative designated by the Chairperson of the Association of State Colleges and University Forestry Research Organization;

(6) a representative designated by the Extension Committee on Organization and Policy;

(7) a representative designated by the Commission on Home Economics of the National Association of State Universities and Land-Grant Colleges;

(8) the Chairperson of the Animal Health Science Research Advisory Board;

(9) a representative designated by the agricultural and mechanical colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 419, as amended; 7 U.S.C. 321–326 and 328);

(10) a representative designated by the American Association of Universities; and

(11) a representative designated by the Board on Agriculture and Renewable Resources of the National Academy of Sciences.

(c) (1) The Secretary is authorized to appoint ex officio members to the Operations Committee.

(2) The Director of the Office of Research and Competitive Grants of the Department of Agriculture shall be an ex officio member of the Operations Committee.

(d) The Operations Committee shall meet at least once during three-month period. At least one meeting each year shall be a joint meeting with the Users Advisory Board.

(e) The Secretary shall provide clerical assistance and staff personnel to the Operations Committee to carry out its duties. The Director of the Office of Research and Competitive Grants of the Department of Agriculture shall serve as executive secretary to the Operations Committee.

(f) The Operations Committee shall—

(1) provide a forum for the interchange of information among the organizations represented by the members of the Operations Committee that will assure maximum awareness among these organizations concerning the research programs, results, and directions, of each organization;

(2) develop, and periodically review the effectiveness of, a system for compiling, maintaining, and disseminating information about each federally supported food and agricultural research project and, to the maximum extent possible, information about private research projects conducted by colleges and universities, foundations, contract research groups, businesses, and others. Information about private research projects shall not be included in this system unless they are partially or entirely funded by the Federal Government or the organizations sponsoring the projects request in writing the inclusion of information about such research projects;

(3) develop and recommend methods for expanding bases of cooperation in planning and implementing national, regional, and interstate research programs, for submission to the Department of Agriculture and other agencies and institutions conducting food and agricultural research;

(4) develop a system for reviewing and evaluating food and agricultural research programs;

(5) develop, and periodically review the effectiveness of, guidelines for use by the Secretary in making competitive grants under section 813 of this title;

(6) periodically review developments in

food and agricultural research and determine the high-priority research areas, and submit an annual report identifying the high-priority research areas to the Office of Research and Competitive Grants of the Department of Agriculture for use by the Secretary in making competitive grants; and

(7) prepare and submit to the Secretary, not later than December 31 of each year, a statement of recommendations of the Operations Committee developed pursuant to the requirements of section 808(a) of this title. The statement shall also include—

(A) the committee's recommendations as to unified food and agricultural research programs to be implemented during the following fiscal year, delineating suggested areas of responsibility for Federal and State agencies in carrying out such programs, and the overall planning, evaluation, coordination, and support necessary for such programs, and

(B) a summary of food and agricultural research achievements made during, and the status of on-going projects as of the end of, the prior fiscal year for the research programs conducted by the organizations represented by the members of the Operations Committee. Minority views, if timely submitted, shall be included in the submission.

The Secretary shall make the statement available to the Policy Council and Users Advisory Board.

USERS ADVISORY BOARD FOR FOOD AND AGRICULTURAL RESEARCH; WORKING PANELS

SEC. 805. (a) The Secretary shall establish within the Department of Agriculture a permanent board to be known as the Users Advisory Board for Food and Agricultural Research.

(b) The Users Advisory Board shall be composed of the following twenty-five members to be appointed by the Secretary—

(1) four members representing producers of agricultural commodities and aquaculture;

(2) four members representing consumer interests;

(3) four members representing farm suppliers and food and fiber processors;

(4) four members representing food marketing organizations;

(5) two members representing environmental groups;

(6) two members representing animal health groups;

(7) two members engaged in rural development work;

(8) two members engaged in human nutrition work; and

(9) one member representing organized labor.

Members of the Users Advisory Board shall be appointed for three-year terms and may be reappointed only after an absence from the Users Advisory Board of at least three years: *Provided*, That original appointments shall be for one, two, and three years, on a proportional basis, and any person appointed for less than a full term may be reappointed after the expiration of such term for a successive appointment for a full three-year term.

(c) The Users Advisory Board shall select a Chairperson and Vice-Chairperson from its membership, at its first meeting each year, who shall serve in those positions for a term of one year.

(d) The Users Advisory Board shall meet at least once during every six-month period. At least one meeting each year shall be a joint meeting with the Operations Committee.

(e)(1) The Users Advisory Board shall be divided, for the performance of the duties prescribed in subsection (i) of this section, into five working panels, each composed of five members of the Users Advisory Board, with general responsibilities, respectively, as follows—

(A) user group 1—agricultural input requirements;

(B) user group 2—agricultural and food production;

(C) user group 3—food marketing;

(D) user group 4—human nutrition; and

(E) user group 5—renewable resources.

(2) Membership on the working panels shall be for a term of one year and members may select the working panel on which to serve. However, whenever more than five members of the Users Advisory Board wish to serve on the same working panel, membership shall be determined by drawing lots.

(3) Determination of the membership of the working panels shall be made, under the supervision of the Chairperson of the Users Advisory Board, at the first meeting of the Users Advisory Board each year.

(4) The working panels shall each select a Chairperson. The Chairperson and Vice-Chairperson of the Users Advisory Board may not serve as Chairperson of a working panel.

(5) The working panels shall meet at least once during every four-month period. All members of the Users Advisory Board shall be advised of each meeting of the working panels and, if they are not members of the working panel holding the meeting, may participate in the meeting on a nonvoting basis.

(f) The Chairperson and Vice-Chairperson of the Users Advisory Board and the Chairpersons of the working panels shall constitute an executive board.

(g) The Secretary shall, after consultation with the executive board, provide clerical assistance and staff personnel to the Users Advisory Board to carry out its duties. In addition, the Secretary shall employ, with the advice and consent of the executive board, a person to serve as staff director for the Users Advisory Board. The staff director shall be deemed to be a confidential or policymaking position excepted from the Civil Service competitive service requirements of title 5 of the United States Code. The staff director shall be an ex officio member of the Users Advisory Board and all working panels.

(h) The Users Advisory Board shall—

(1) develop and submit recommendations as to appropriate subjects and issues for consideration by the Policy Council;

(2) annually review and assess for the Policy Council and Operations Committee—

(A) the policies, programs, goals, and priorities of Federal departments and agencies performing food and agricultural research;

(B) the relationship of the Federal Government with the agricultural and mechanical colleges and State agricultural experiment stations, and with other colleges and universities in the United States which conduct or have the capacity to conduct food and agricultural research with Federal support; and

(C) the extent of food and agricultural research being conducted by other entities, including private foundations and businesses, and the relationships of such research to federally supported food and agricultural research; and

(3) prepare and submit to the Secretary, not later than November 30 of each year, a statement of the recommendations of the Users Advisory Board developed pursuant to the requirements of section 808(a) of this title. The statement shall also include a review and an assessment of the allocation of funds for food and agricultural research by the organizations represented on the Operations Committee for the preceding fiscal year. Minority views, if timely submitted, shall be included in the submission. The Secretary shall make the statement available to the Policy Council and Operations Committee.

(i) The working panels shall—

(1) conduct public workshops and meetings with interested persons, to assure that, to the maximum extent possible, the views and comments of all such persons are obtained; and

(2) transmit summaries of the views and opinions obtained to the Policy Council.

ESTABLISHMENT OF THE OFFICE OF RESEARCH AND COMPETITIVE GRANTS AND DUTIES OF THE DIRECTOR

SEC. 806. (a) The Secretary shall establish in the Department of Agriculture an office to be known as the Office of Research and Competitive Grants. This Office shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report generally to the Assistant Secretary of Agriculture with jurisdiction over food and agricultural research. The Director shall possess demonstrated competence in research administration and professional experience in one or more of the sciences involved in food and agricultural research.

(b) The Director shall provide executive secretarial support to the Policy Council and the Operations Committee and shall serve as an ex officio member of the Operations Committee.

(c) The Director shall compile, maintain, and disseminate information about each federally supported research project and, to the maximum extent possible, information about private research projects, pursuant to the system developed by the Operations Committee under section 804(f)(2) of this title.

(d) The Director shall administer the competitive grants provided for in section 813 of this title.

FUNDING OF FOOD AND AGRICULTURAL RESEARCH PROGRAMS

SEC. 807. It is the sense of Congress that Federal funding for food and agricultural research programs should equal, in any fiscal year, an amount not less than one-half of 1 per centum of the total value of personal consumption expenditures for food in the United States for the preceding calendar year plus one-half of 1 per centum of the gross value of agricultural exports from the United States for the preceding calendar year, as reported by the Department of Commerce. Nothing herein shall prevent the President or Congress from requesting or appropriating amounts greater than the level specified by this section.

EXAMINATIONS AND RECOMMENDATIONS WITH RESPECT TO APPROPRIATIONS

SEC. 808. (a) The Policy Council, Operations Committee, and Users Advisory Board shall annually examine federally supported food and agricultural research and education programs, identify the priority needs for those programs, and make recommendations as to allocations of responsibilities and levels of funding among these programs.

The recommendations shall be submitted to the Secretary as provided in this subtitle.

(b) A statement of the recommendations shall be submitted by the Secretary of Agriculture to the President, the Speaker of the House of Representatives, and the President of the Senate not later than February 15 of each year, except that the first statement shall not be due until February 15 of the second fiscal year following the fiscal year in which this Act becomes effective.

RULES AND REGULATIONS

SEC. 809. The Secretary of Agriculture is authorized to prescribe such rules and regulations as the Secretary deems necessary to carry out the provisions of this subtitle.

GENERAL PROVISIONS

SEC. 810. (a) Any vacancy in the Policy Council, Operations Committee, or the Users

Advisory Board shall not affect their powers under this subtitle and shall be filled in the same manner as the original position.

(b) Members of the Policy Council and the Operations Committee may designate representatives to attend meetings of the Policy Council or Operations Committee whenever they are unable to attend.

(c) The Policy Council, Operations Committee, and Users Advisory Board are authorized to delegate any functions to their individual members, and to make such rules and regulations as are necessary for the conduct of business, except as herein otherwise provided.

(d) Members of the Policy Council, Operations Committee, and Users Advisory Board shall serve without compensation, if not otherwise officers or employees of the United States, except that members of the Operations Committee and Users Advisory Board shall, while away from their homes or regular places of business in the performance of services under this subtitle, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5 of the United States Code.

DIRECTOR—EXECUTIVE LEVEL V

SEC. 811. Section 5316 of title 5 of the United States Code, as amended, is amended by adding at the end thereof a new paragraph (141) as follows:

"(141) Director, Office of Research and Competitive Grants, Department of Agriculture.".

APPROPRIATIONS

SEC. 812. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this subtitle.

Subtitle B—Food and Agricultural Research Grants and Contingency Funds

RESEARCH GRANTS

SEC. 813. Section 2 of the Act of August 4, 1965 (79 Stat. 431; 7 U.S.C. 450i), is amended to read as follows:

"SEC. 2. (a) In order to promote research in food, agriculture, and related areas, a research grants program is hereby established in the Department of Agriculture.

"(b) The Secretary of Agriculture is authorized to make competitive grants, for periods not to exceed five years duration, to State agricultural experiment stations, colleges, universities, other research institutions and organizations, and to Federal and private organizations or corporations and individuals, for research to further the programs of the Department of Agriculture. Not less than 50 per centum of the funds extended for competitive grants shall be allocated by the Secretary to high-priority research, taking into consideration the determinations made by the Federal Food and Agricultural Research Operations and Advisory Committee indentifying high-priority research areas.

"(c) The Secretary of Agriculture is authorized to make grants, for periods not to exceed three years duration, to agricultural and mechanical colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308) or the Act of August 30, 1890 (26 Stat. 419, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute, and State agricultural experiment stations, to facilitate or expand on-going State-Federal research programs that (1) require funding in excess of normal program levels, (2) promote excellence in research, (3) promote the development of regional research centers, or (4) promote the research partnership between the Department of Agriculture and such colleges, or the State agricultural experiment stations.

"(d) The Secretary of Agriculture shall make annual grants to support the purchase of equipment and supplies and the construction, alteration, or renovation of buildings necessary for the conduct of food and agricultural research, to—

"(1) each State agricultural experiment station in an amount of $100,000 or an amount which is equal to 10 per centum of the funds received by such station under the Act of March 2, 1887 (24 Stat. 440, as amended; 7 U.S.C. 361a–361i), and the Act of October 10, 1962 (76 Stat. 806; 16 U.S.C. 582a–7), whichever is greater: *Provided*, That of any amount in excess of $50,000 made available under this paragraph during any year for allotment to a State agricultural experiment station, no payment thereof shall be made in excess of the amount which the station makes available during that year for the establishment and maintenance of facilities; and

"(2) each accredited college of veterinary medicine and State agricultural experiment station which receives funds from the Federal Government for animal health research, in an amount which is equal to 10 per centum of the animal health research funds received from the Federal Government during the previous fiscal year.

Any State agricultural experiment station or college eligible for annual grants under this section may elect to defer the receipt of an annual grant for any fiscal year for up to five years: *Provided*, That the total amounts deferred may not exceed $1,000,000. Application may be made for receipt of deferred grants at any time during the five years, subject to the matching funds requirement of this section and the availability of appropriations under this section.

"(e) Each recipient of assistance under this section shall keep such records as the Secretary of Agriculture shall, by regulation, prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grants, the total cost of the project or undertaking in connection with which such funds are given or used, and the amount of that portion of the costs of the projects or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary of Agriculture and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this section.

"(f) The Secretary of Agriculture shall limit allowable overhead costs, with respect to grants awarded under this section, to those necessary to carry out the purposes of the grants.

"(g) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

"(h) The Secretary of Agriculture is authorized to prescribe such rules and regulations as the Secretary deems necessary to carry out the provisions of this section.".

CONTINGENCY FUND

SEC. 814. A contingency fund for the Department of Agriculture shall be established in the United States Treasury to be called the "Department of Agriculture-Contingency Research Fund", and there are hereby authorized to be appropriated such sums as are necessary to maintain such fund at a minimum level of $5,000,000. The fund shall be available to the Secretary of Agriculture without fiscal year limitation to meet irregular or unexpected research needs of any service agency within the Department of Agriculture and emergency food and agricultural research needs, including national or regional conferences in connection with emergency problems or situations.

Subtitle C—National Food and Human Nutrition Research and Extension Program

FINDINGS AND DECLARATIONS

SEC. 815. (a) Congress hereby finds that there is increasing evidence of a relationship between diet and many of the leading causes of death in the United States; that improved nutrition is an integral component of preventive health care; that there is a serious need for research on the chronic effects of diet on degenerative diseases and related disorders; that nutrition and health considerations are important to United States agricultural policy; that there is insufficient knowledge concerning precise human nutritional requirements, the interaction of the various nutritional constituents of food, and differences in nutritional requirements among different population groups such as infants, children, adolescents, elderly men and women, and pregnant women; and that there is a critical need for objective data concerning food safety, the potential of food enrichment, and means to encourage better nutritional practices.

(b) It is hereby declared to be the policy of the United States, for the promotion and protection of the general welfare of its people, that the United States Department of Agriculture conduct research in the fields of human nutrition and the nutritive value of foods and conduct human nutrition education activities, as provided in this subtitle.

AUTHORIZATIONS TO THE SECRETARY OF AGRICULTURE

SEC. 816. In order to carry out the policy of this subtitle, the Secretary of Agriculture of the United States shall develop and implement a national food and human nutrition research and extension program that shall include, but not be limited to—

(a) research on human nutritional requirements;

(b) research on the nutrient composition of foods and the effects of agricultural practices, handling, food processing, and cooking on the nutrients they contain;

(c) surveillance of the nutritional benefits provided to participants in the food programs administered by the Department of Agriculture;

(d) research on the factors affecting food preferences and habits; and

(e) the development of techniques and equipment to assist consumers in the home or in institutions in selecting food that supplies a nutritionally adequate diet.

RESEARCH BY THE AGRICULTURAL RESEARCH SERVICE

SEC. 817. (a) The Secretary of Agriculture shall establish research into food and human nutrition as a separate and distinct mission of the Agricultural Research Service, and the Secretary shall increase support for such research to a level that provides resources adequate to meet the policy of this subtitle.

(b) The Secretary, in administering food and human nutrition research within the Agricultural Research Service, shall periodically consult with the administrators of the Federal agencies that have responsibility for programs dealing with human food and nutrition, as to the specific research needs of those agencies.

(c) Not less than 2 per centum of the funds appropriated to the Agricultural Research Service for food and human nutrition research in any fiscal year shall be allocated and be available to carry out needed research to improve the operations of the programs of the Food and Nutrition Service, as jointly determined by the Administrators of the Agricultural Research Service and the Food and Nutrition Service.

STUDY

SEC. 818. The Secretary of Agriculture shall perform a study assessing the potential value and cost of establishing regional food and human nutrition research centers in the United States. This assessment shall examine the feasibility of using existing Federal facilities in establishing such centers. The Secretary shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings, as a part of the plan the Secretary is required to submit to Congress pursuant to section 822 of this subtitle, not later than one year after the effective date of this Act.

RESEARCH BY STATE AGRICULTURAL EXPERIMENT STATIONS

SEC. 819. Section 3(c) of the Act of March 2, 1887 (24 Stat. 441, as amended; 7 U.S.C. 361c(c)) is amended—

(a) by redesignating paragraph 5 as paragraph 6 and inserting immediately before redesignated paragraph 6 a new paragraph 5 as follows:

"5. Not less than 15 per centum of any funds appropriated pursuant to this subsection for distribution to States shall be used by State agricultural experiment stations for conducting food and human nutrition research projects approved by the Secretary of Agriculture;"; and

(b) by striking out "20" in paragraph 4 and inserting "10".

NUTRITION EDUCATION

SEC. 820. (a) The Extension Service of the Department of Agriculture shall establish a national education program which shall include, but not be limited to, the dissemination of the results of food and human nutrition research performed by the Agricultural Research Service and the State agricultural experiment stations under the direction of the Cooperative State Research Service.

(b) In order to enable low-income individuals and families to engage in nutritionally sound food purchasing and preparation practices, the expanded Federal nutrition education program conducted under section 3(d) of the Smith-Lever Act, as amended (7 U.S.C. 343(d)), shall be expanded to provide for the employment and training of professional and paraprofessional aides to engage in direct nutrition education of enrolled families. Funds for carrying out the provisions of this subsection shall be allocated to each State, in an amount which bears the same ratio to the total amount to be allocated as the population of the State living at or below 125 per centum of the income poverty guidelines prescribed by the Office of Management and Budget (adjusted pursuant to section 625 of the Economic Opportunity Act of 1964, as amended(42 U.S.C. 2971d)) bears to the total population of all the States living at or below 125 per centum of the income poverty guidelines, as determined by the last preceding decennial census at the time each such sum is first appropriated. To the maximum extent practicable, program aides will be hired from the indigenous target population. The provisions of this subsection shall not preclude the Extension Service from developing educational materials and programs for persons in income ranges above the level designated in this subsection. As used in this section and section 821 of this title, the term "State" means any one of the fifty States and the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

SEC. 821. In order to encourage nutrition education programs in the classrooms and lunchrooms of elementary and secondary schools, the Secretary of Agriculture shall, in consultation with appropriate officials in the Department of Health, Education, and Welfare, develop and distribute to State departments of education a comprehensive set of educational materials on food and nutrition education which shall be appropriate for all levels of the elementary and secondary education system.

REPORT TO CONGRESS

SEC. 822. The Secretary of Agriculture shall submit a comprehensive plan for implementing the National Food and Human Nutrition Research and Extension Program provided for by this subtitle to Congress within one year after the effective date of this Act. The plan shall include, but not be limited to, recommendations relating to research direction, funding levels, needed facilities grants, and use of Federal facilities in cooperation with States and others, necessary to achieve the policy set forth in section 815 of this title.

RULES AND REGULATIONS

SEC. 823. The Secretary of Agriculture is authorized to prescribe such rules and regulations as the Secretary deems necessary to carry out the provisions of this subtitle.

Subtitle D—Animal Health Research

PURPOSE

SEC. 824. It is the purpose of this subtitle to promote the general welfare through improved health and productivity of domestic livestock, poultry, and other income-producing animals which are essential to the Nation's food supply and the welfare of producers and consumers of animal products; to facilitate the effective treatment of and, where possible, prevent animal and poultry diseases that, if not controlled, would be disastrous to the United States livestock and poultry industries and endanger the Nation's food supply; to minimize livestock and poultry losses due to transportation and handling; to protect human health through control of animal diseases transmissible to humans; to improve the health of companion animals which support an industry of major economic importance and which contribute significantly to the quality of family life; to improve methods of controlling the births of predators and other animals; and otherwise to promote the general welfare through expanded programs of research to improve animal health. It is recognized that the total animal health research efforts of the several State colleges and universities and of the Federal Government of the United States would be more effective if there were close coordination between such programs, and it is further recognized that colleges of veterinary medicine and departments of veterinary sciences and animal pathology, and similar units conducting animal health research in the State agricultural experiment stations, are especially vital in training research workers in animal health.

DEFINITIONS

SEC. 825. When used in this subtitle—

(a) the term "eligible institution" means those State agricultural experiment stations eligible to receive assistance under the Act of March 2, 1887 (24 Stat. 440, as amended; 7 U.S.C. 361a–361i), and accredited colleges of veterinary medicine;

(b) the term "dean" means the dean of a college of veterinary medicine;

(c) the term "director" means the director of a State agricultural experiment station;

(d) the term "State" means any one of the fifty States and the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States;

(e) the term "Secretary" means the Secretary of Agriculture of the United States;

(f) the term "Advisory Board" means the Animal Health Science Research Advisory Board; and

(g) the term "animal health research capacity" means the capacity of an eligible institution to conduct research on animal health, as determined by the Secretary.

AUTHORIZATION TO THE SECRETARY OF AGRICULTURE

SEC. 826. In order to carry out the purposes of this subtitle, the Secretary is hereby authorized to cooperate with, encourage, and assist the States in carrying out programs of animal health research at eligible institutions, in the manner hereinafter described in this subtitle.

ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD

SEC. 827. (a) The Secretary shall establish a permanent board to be known as the Animal Health Science Research Advisory Board, composed of the following eleven members—

(1) the Administrator of the Agricultural Research Service of the Department of Agriculture;

(2) the Administrator of the Cooperative State Research Service of the Department of Agriculture;

(3) the Administrator of the Animal and Plant Health Inspection Service of the Department of Agriculture;

(4) the Director of the Bureau of Veterinary Medicine of the Food and Drug Administration of the Department of Health, Education, and Welfare;

(5) the following seven members appointed by the Secretary—

(A) two persons representing accredited colleges of veterinary medicine,

(B) two persons representing State agricultural experiment stations, and

(C) three persons representing national livestock and poultry organizations.

The members shall serve without compensation, if not otherwise officers or employees of the United States; except that while away from their homes or regular places of business in the performance of services for the Advisory Board, members of the Advisory Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5 of the United States Code.

(b) The Advisory Board shall provide consultation and advice to and assist the Secretary in administering this subtitle.

(c) The Advisory Board shall meet at the call of the Secretary, but at least once annually to advise the Secretary with respect to the administration and implementation of this subtitle and to recommend priorities for the conduct of research programs authorized under this subtitle, under such rules and procedures for conducting business as the Secretary shall, in his discretion, prescribe.

(d) Nongovernmental members of the Advisory Board shall be appointed for three-year terms and may be reappointed only after an absence from the Advisory Board of at least three years: *Provided*, That their original appointments shall be for one, two, and three years, on a proportional basis, and any person appointed for less than a full term may be reappointed after the expiration of such term for a successive appointment for a full three-year term.

(e)(1) The Advisory Board shall elect a Chairperson from its membership, and the Chairperson shall serve for a term of one year.

(2) The Chairperson of the Advisory Board shall serve as a member of the Federal Food and Agricultural Research Operations and Advisory Committee.

APPROPRIATIONS FOR CONTINUING ANIMAL HEALTH RESEARCH PROGRAMS

SEC. 828. (a) Congress is hereby authorized to appropriate funds annually in such amount as Congress may determine neces-

sary to support continuing animal health research programs at eligible institutions. Funds appropriated under this section shall be used to meet expenses of conducting animal health research, publishing and disseminating the results of such research, contributing to the retirement of employees subject to the provisions of the Act of March 4, 1940 (54 Stat. 39, as amended; 7 U.S.C. 331), administrative planning and direction, and to purchase equipment and supplies necessary for conducting such research.

(b) Funds appropriated under subsection (a) of this section for any fiscal year shall be apportioned as follows:

(1) Four per centum shall be retained by the United States Department of Agriculture for administration, program assistance to the eligible institutions, and program coordination.

(2) Forty-eight per centum shall be distributed among the several States to the eligible institutions in each State in the proportion that the value of and income to producers from domestic livestock and poultry in the State where the eligible institution is located, bears to the total value of and income to producers from domestic livestock and poultry in the United States. The Secretary shall determine the total value of and income from domestic livestock and poultry and the proportionate value of and income from domestic livestock and poultry for each State, based on the most current inventory of all cattle, sheep, swine, horses, and poultry, published by the United States Department of Agriculture.

(3) Forty-eight per centum shall be distributed among the eligible institutions of the several States in proportion to the animal health research capacity of the eligible institution or institutions in each State. The Secretary shall determine the animal health research capacity of an eligible institution, with the advice of the Advisory Board.

(c) In those States with accredited colleges of veterinary medicine, the deans of the accredited college or colleges and the director of the State agricultural experiment station for the State, shall develop a comprehensive animal health research program based on the animal health research capacity of each eligible institution in the State, which shall be submitted to the Secretary for approval and shall be used for the allocation of funds available for the State under this section.

(d) Whenever a new college of veterinary medicine is established in a State and is accredited, the Secretary, after consultation with the dean of such college, and, where applicable, deans of other accredited colleges in the State in which the new college is established, and the director of the State agricultural experiment station, shall provide for the reallocation of funds available to institutions in the State pursuant to subsection (b)(2) of this section between the new college and other eligible institutions in the State, based on the animal health research capacity of each eligible institution.

(e) Whenever two or more States jointly establish a regional college of veterinary medicine or jointly support a college of veterinary medicine serving the States involved, the Secretary is authorized to make funds available to such institution pursuant to subsection (b)(2) of this section in such amounts that reflect the combined relative value of and income from livestock and poultry in the cooperating States, such amount to be adjusted, as necessary, pursuant to the provisions of subsections (c) and (d) of this section.

APPROPRIATIONS FOR RESEARCH ON NATIONAL OR REGIONAL PROBLEMS

SEC. 829. (a) Congress is hereby authorized to appropriate funds annually in such amount as Congress may determine necessary to support research on specific national or regional animal health problems. Funds appropriated under this section shall be used to pay costs of conducting research and other costs provided for in section 828(a) of this title.

(b) Funds appropriated under this section shall be allocated by the Secretary to eligible institutions for work to be done, as mutually agreed upon between the Secretary and the applicable eligible institution or institutions. The Secretary shall consult the Advisory Board in developing plans for the use of these funds.

AVAILABILITY OF APPROPRIATED FUNDS

SEC. 830. Funds available for allocation under the terms of this subtitle shall be paid to each eligible institution at such times and in such amounts as shall be determined by the Secretary. Funds shall remain available for payment of unliquidated obligations for one additional fiscal year following the year of appropriation.

WITHHOLDING OF APPROPRIATED FUNDS

SEC. 831. If the Secretary determines that an eligible institution is not entitled to receive its allocation of the annual appropriation because of its failure to satisfy requirements of this subtitle or regulations issued under it, the Secretary shall withhold such amount. The facts and reasons concerning the determination and withholding shall be reported to the President; and the amount involved shall be kept separate in the Treasury until the close of the next Congress. If the next Congress shall not direct such sum to be paid, it shall be carried to surplus.

REQUIREMENTS FOR USE OF FUNDS

SEC. 832. (a) With respect to research projects on problems of animal health to be performed at eligible institutions and supported with funds allocated to the institutions under this subtitle, the dean or director of each eligible institution shall cause to be prepared and shall review proposals for such research projects, which contain data showing compliance with the purpose in section 824 of this title and the provisions for use of funds specified in section 828(a) of this title, and with general guidelines for project eligibility to be provided by the Secretary with the advice of the Advisory Board. Such research proposals that are approved by the dean or director shall be submitted to the Secretary prior to assignment of funds thereto with a brief summary showing compliance with the purpose of this subtitle and the Secretary's general guidelines.

(b) Each dean or director shall also submit an annual report stating the accomplishments of research projects funded under this subtitle on a project-by-project basis and shall account for all funds allocated to the institution under the provisions of this subtitle at such times and on such forms as the Secretary shall prescribe. If any portion of the alloted moneys received shall by any action or contingency be diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced, no subsequest appropriation shall be allotted or paid to such institution.

MATCHING FUNDS

SEC. 833. The amount paid by the Federal Government to any eligible institution for assistance under this subtitle during any fiscal year, exclusive of the funds paid for research on specific national or regional animal health problems under the provisions of section 829 of this title, shall be in an amount not to exceed $100,000 in addition to an amount not to exceed the amount available to and budgeted for expenditure by such institution during the same fiscal year for animal health research from non-Federal sources. The Secretary is authorized to make such payments in excess of $100,000 on the certificate of the appropriate official of the institution having charge of the animal health research for which payments under this subtitle are to be made. If any institution certified for receipt of matching funds under this subtitle fails to make available and budget for expenditure for animal health research in any fiscal year sums at least as much as the amount for which it is certified, the difference between the Federal matching funds available and the funds made available and budgeted for expenditure by the institution shall be reapportioned by the Secretary to other eligible institutions of the same State if there be any which qualify therefor, and, if there be none, the Secretary shall reapportion such difference to the qualifying eligible institutions of other States.

ALLOCATIONS UNDER THIS SUBTITLE NOT SUBSTITUTIONS

SEC. 834. The sums appropriated and allocated to eligible institutions under this subtitle shall be in addition to, and not in substitution for, sums appropriated or otherwise made available to such institutions pursuant to other provisions of law.

RECORDS

SEC. 835. Each recipient of Federal assistance under this subtitle, pursuant to grants, subgrants, contracts, subcontracts, loans, or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this subtitle shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

ACCESS TO RECORDS

SEC. 836. The Secretary of Agriculture and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in section 835 of this title, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, loans, or other arrangements referred to in section 835.

RULES AND REGULATIONS

SEC. 837. The Secretary is authorized to prescribe such rules and regulations as the Secretary deems necessary to carry out the provisions of this subtitle, and to furnish such advice and assistance as will best promote the purposes of this subtitle.

TITLE IX—PUBLIC LAW 480

CONFORMING AMENDMENT

SEC. 901. Section 103(b) of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by striking out "in section 106(b)(2)" and inserting in lieu thereof "in section 106(b)(2) and section 112".

MODIFICATION OF TITLE I ALLOCATION FORMULA

SEC. 902. Section 111 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended, by inserting "(a)" immediately after the section designation, and by adding at the end thereof a new subsection (b) as follows:

"(b) If the President determines that the quantity of commodities otherwise required to be allocated under subsection (a) of this section to countries with an annual per cap-

ita gross national product of $300 or less cannot be effectively used to carry out the humanitarian purposes of this title, the President may reallocate such commodities.".

FACILITIES TO AID DISTRIBUTION AND CONSUMPTION OF UNITED STATES FARM COMMODITIES

SEC. 903. Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by adding at the end thereof a new section 112 as follows:

"SEC. 112. (a) Notwithstanding any other provision of this Act, the President is authorized to enter into commodity sales agreements with foreign countries or international organizations, and to use foreign currencies, including principal and interest from loan repayments, derived from such sales for the purposes described in subsection (b) of this section.

"(b) From the sales proceeds and loan repayments under this title not less than the equivalent of 5 per centum of the total value of all agreements shall be set aside and made available to the Secretary of Agriculture to finance projects, in cooperation with other appropriate agencies, that will aid in the utilization, distribution, storage, transportation, or otherwise increase foreign consumption of and markets for all United States agricultural commodities: *Provided*, That the Secretary of Agriculture may release such amounts so set aside as he determines cannot be effectively used to carry out the purposes of this section.".

MODIFICATION OF TITLE II MINIMUM QUANTITY REQUIREMENT

SEC. 904. Section 201(b) of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended to read as follows:

"(b) The quantity of agricultural commodities made available under this title to foreign governments and the agencies described under section 202 of this Act for any fiscal year shall not be less than one million five hundred thousand tons, unless the President determines and reports to Congress together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this title: *Provided*, That such minimum quantity shall not exceed the total quantity of commodities determined to be available for disposition under this Act pursuant to section 401, less the quantity of commodities required to meet famine or other urgent or extraordinary relief requirements.".

REIMBURSEMENT OF TRANSPORTATION COSTS

SEC. 905. Section 203 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended as follows:

(a) by striking out the comma after the words "ports of entry abroad" and inserting in lieu thereof a semicolon;

(b) by striking out "or, in the case of landlocked countries,"; and

(c) by inserting immediately after "points of entry abroad" the following: "in the cases of (a) landlocked countries, (b) where ports cannot be used effectively because of natural or other disturbances, (c) where carriers to a specific country are unavailable, or (d) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports".

INCREASED APPROPRIATION LIMIT FOR TITLE II

SEC. 906. Section 204 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by striking out "$600,000,000" and inserting in lieu thereof "$900,000,000."

REVISION OF REPORTING REQUIREMENTS

SEC. 907. Section 408 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended as follows:

(a) Subsection (b) is amended to read as follows:

"(b) Not later than July 1 of each calendar year, the Secretary of Agriculture shall submit to Congress a global assessment of food production and needs and planned programing of food assistance for the coming fiscal year.".

(b) Subsection (c) is amended by striking out "President" and inserting in lieu thereof "Secretary of Agriculture".

EXTENSION OF THE PROGRAM

SEC. 908. Section 409 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by striking out "1977" and inserting in lieu thereof "1982"

TITLE X—FOOD STAMPS

SHORT TITLE

SEC. 1001. This title may be cited as the "National Food Stamp Reform Act of 1977".

DEFINITIONS

SEC. 1002. Section 3 of the Food Stamp Act of 1964, as amended, is amended as follows:

(a) Subsection (e) is amended to read as follows:

"(e) The term 'household' means a group of individuals who are sharing common living quarters, but who are not residents of an institution or boardinghouse, and who have access to cooking facilities and for whom food is customarily purchased in common. Residents of federally subsidized housing for the elderly, built under either section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) or section 236 of the National Housing Act (12 U.S.C. 1715z–1), shall not be considered residents of an institution or boardinghouse. The term "household' also means (1) a single individual living alone who has access to cooking facilities and who purchases food for home consumption; (2) an elderly person who meets the requirements of section 10(h) of this Act; or (3) any narcotics addict or alcoholic who lives under the supervision of a private nonprofit organization or institution for the purpose of regular participation in a drug or alcoholic treatment and rehabilitation program. Notwithstanding any other provision of this subsection, households in which a member is eligible to participate in the nutrition program for the elderly under title VII of the Older Americans Act of 1965, or is authorized by section 10(h) of this Act to use coupons for meals on wheels, shall not be required to have cooking facilities.".

(b) Subsection (f) is amended by striking out the period at the end of the second sentence and inserting in lieu thereof the following: ", or any private nonprofit cooperative food purchasing venture in which the members pay for food purchased prior to receipt of such food. Such private nonprofit cooperative is authorized to redeem members' food coupons prior to receipt by the members of the food so purchased. Organizations and institutions specified in section 10(i) of this Act are not authorized to redeem coupons through banks.".

(c) Subsection (l) is amended to read as follows:

"(l) The term 'elderly person' means a person sixty years of age or over who is not a resident of an institution or boardinghouse.".

(d) Section 3 is amended by adding at the end thereof a new subsection (p) as follows:

"(p) The term 'nutritionally adequate diet' means a diet having the value of the food required to feed a family of four persons consisting of a man and a woman twenty through fifty-four; a child six through eight; and a child nine through eleven years of age, determined in accordance with the thrifty food plan developed in 1975 by the Secretary. The cost of such diet shall be the basis for uniform coupon allotments for all households regardless of composition, except for household size adjustments and adjustments to reflect economies of scale set forth in the thrifty food plan.".

DISTRIBUTION OF FEDERALLY DONATED FOODS

SEC. 1003. Section 4(b) of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"(b) In areas where the food stamp program is in operation, there shall be no distribution of federally donated foods to households under the authority of any other law, except that distribution may be made for such period of time as the Secretary determines necessary to effect an orderly transition on an Indian reservation on which the distribution of federally donated foods to households is being replaced by a food stamp program, or where distribution is made on a temporary basis under separately authorized programs to meet disaster relief needs, or where distribution is for the purposes of any supplemental food program.".

ELIGIBLE HOUSEHOLDS

SEC. 1004. Section 5 of the Food Stamp Act of 1964, as amended, is amended as follows:

(a) Subsection (b) is amended to read as follows:

"(b)(1) The Secretary shall establish uniform national standards of eligibility for participation by households in the food stamp program and no plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary.

"(2) The income standards of eligibility in every State shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964, as amended (47 U.S.C. 2971d) for the forty-eight States and the District of Columbia, Alaska, Hawaii, Puerto Rico, the Virgin Islands of the United States, and Guam, respectively: *Provided*, That in no event shall the standards of eligibility for Puerto Rico, the Virgin Islands and Guam exceed those in the fifty States.

"(3) The Secretary shall utilize the thirty-day period preceding the date of application or recertification in determining income for purposes of eligibility and benefit levels of households: *Provided*, That a longer period may be used as determined by the Secretary for households who regularly derive their annual income in a period of time substantially shorter than one year.

"(4) Notwithstanding the provisions of paragraph (3) of this subsection, a household that has suffered a substantial loss of earned income may immediately make application for participation in the food stamp program. Such application shall be processed in the same manner as that for other applicants except for the determination of the applicant household's income. At the time of such application, members of the household (who are not otherwise exempt) must register for employment under subsection (c) of this section and shall receive the same services under such subsection as any other applicant. At the end of the thirty-day period after the loss of income, the applicant household may present the verification of its income to the certifying authority and such authority shall issue the applicant household its authorization to purchase card immediately thereafter. The certifying authority shall verify the household's eligibility again within thirty days after the issuance of the authorization to purchase card.

"(5) The Secretary shall also prescribe additional standards of eligibility with respect to the amounts of liquid and nonliquid assets a household may own.

"(6) Household income for purposes of the

food stamp program shall be the gross income of the household, as defined in paragraph (7) of this subsection, less (i) a standard deduction of $70 a month applicable to all households, except that the standard deduction for Puerto Rico, the Virgin Islands, and Guam shall be $35 a month; (ii) an additional deduction of $25 a month for any household in which there is at least one elderly person, or any household which has at least $150 a month in earned income; and (iii) Federal, State, and local income taxes and social security taxes paid by employees under the Federal Insurance Contributions Act or mandatory retirement withholdings under section 8334 of title 5, United States Code.

"(7) Notwithstanding any other provision of law, gross income for purposes of the food stamp program shall include, but not be limited to, all money payments (including payments made pursuant to title I of the Domestic Volunteer Services Act of 1973 and Federal, State, and local income tax refunds, and Federal income tax credits) and payments in kind, excluding:

"(A) payments for medical costs made on behalf of the household;

"(B) income received as compensation for services performed as an employee or income from self-employment by a child residing with the household who is a student and who has not attained his eighteenth birthday;

"(C) payments received under title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

"(D) income of a household in a quarter which is received too infrequently or irregularly to be reasonably anticipated: *Provided*, That such infrequent or irregular income of all household members does not exceed $30 during any three-month period;

"(E) all loans, except deferred educational loans to the extent they are not used for tuition and mandatory fees at an institution of higher education or school for the handicapped;

"(F) all scholarships, fellowships, grants, and veterans' educational benefits, except to the extent they are not used for tuition and mandatory fees at an institution of higher education or school for the handicapped;

"(G) training allowances to the extent they are used for tuition and mandatory fees in a training program recognized by any Federal, State, or local governmental agency which is preparatory to or associated with employment;

"(H) housing vendor payments made directly to landlords under programs administered by the Department of Housing and Urban Development;

"(I) payments received under the special supplemental food program for women, infants, and children authorized by section 17 of the Child Nutrition Act;

"(J) vendor or in kind payments derived from government benefit programs including, but not limited to, school lunch, medicare, and elderly feeding programs, and any payments in kind which cannot reasonably and properly be computed;

"(K) any income that any other law specifically excludes from consideration as income for the purposes of determining eligibility for the food stamp program: and

"(L) the cost of producing self-employed income.

"(8) The Secretary may also establish temporary emergency standards of eligibility for the duration of the emergency, without regard to income and other financial resources, for households that are victims of a disaster which disrupts commercial channels of food distribution when he determines that (A) such households are in need of temporary food assistance, and (B) commercial channels of food distribution have again become available to meet the temporary food needs of such households.".

(b) Subsection (c) is amended to read as follows:

"(c)(1) Notwithstanding any other provision of law, the Secretary shall include in the uniform national standards of eligibility to be prescribed under subsection (b) of this section a provision that each State agency shall provide that a household shall not be eligible for assistance under this Act if it includes an able-bodied adult person between the ages of eighteen and sixty (except a parent or other member of the household who has the responsibility of care of a dependent child under the age of twelve or of an incapacitated person; a parent or other caretaker of a child or of an incapacitated person in households where there is another able-bodied parent who is subject to the requirements of this subsection; bona fide students (enrolled at least half-time) in any school or training program recognized by any Federal, State, or local governmental agency; or persons employed and working at least thirty hours per week) who without good cause—

"(A) fails to register for employment at a State employment service office or, when impractical, at such other appropriate State or Federal office designated by the Secretary of Labor;

"(B) fails to inquire regularly about employment with prospective employers or otherwise fails to engage regularly in activities directly related to securing employment;

"(C) refuses to accept employment or public work at not less than the highest of (i) the applicable State minimum wage; (ii) the applicable Federal minimum wage; (iii) the applicable rates established by a valid regulation of the Federal Government authorized by existing law to establish such regulations; or (iv) if there is no applicable wage as described in subdivision (i), (ii), or (iii) of clause (C) of this paragraph, a wage which is not substantially less favorable than the wage normally paid for similar work in that labor market, but in no event less than three-fourths of the Federal minimum wage rates specified in section 6(a)(1) of the Fair Labor Standards Act; or

"(D) voluntarily quits any job unless the household of which such person is a member was certified for benefits under this Act immediately prior to such unemployment.

"(2) In carrying out its responsibilities under this subsection, the State employment service shall comply with regulations issued jointly by the Secretary and the Secretary of Labor. The regulations shall take into account the diversity of the food stamp work registrant population and varying registrant needs, and shall conform as closely as possible to the policies of the work incentive program as determined appropriate by the Secretary and the Secretary of Labor.

"(3) In the event of a failure of the State employment service to comply with the regulations issued under paragraph (2) of this subsection, the Secretary of Labor is authorized to assume the responsibilities of such State employment service. From the sums appropriated to carry out this Act, there are authorized to be allocated for transfer to the Secretary of Labor (A) for fiscal year 1978 not more than $100,000,000 and (B) for each succeeding fiscal year such sum as may be jointly determined by the Secretary and the Secretary of Labor to be necessary for the Secretary of Labor to carry out his responsibilities under this section. The Secretary shall transfer such sums as are allocated for transfer to the Secretary of Labor. The Secretary of Labor is authorized to make grants to, and enter into agreements with, public or private agencies or organizations in order to carry out his responsibilities under this Act.

"(4) Refusal to work at a plant or site subject to a strike or lockout for the duration of such strike or lockout shall not be deemed to be a refusal to accept employment.

"(5) For the purposes of this section, the term 'ablebodied adult person' shall not include any narcotics addict or alcoholic who regularly participates, as a resident or nonresident, in any drug addiction or alcoholic treatment and rehabilitation program for whom the chief administrative officer of the rehabilitation program has certified in writing to the State agency that the work registration requirement would interfere with rehabilitation.

"(6) The exception provided in paragraph (1) with respect to bona fide students shall not apply in the case of any student during any period such student is not attending the school or training program in which he is enrolled because of a break in the school year (or between school years) or training programs if the duration of such break is thirty days or more.".

(c) Section 5 is amended by adding at the end thereof new subsections (e) through (j) as follows:

"(e) No individual shall be eligible to participate in the food stamp program unless he is a resident of the United States, and is either (1) a citizen or (2) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act). If, in the application process it becomes known, or the State agency has reason to believe, that an alien has entered or remained in the United States illegally, the State agency shall submit to the Department of Justice information indicating that the applicant may be an illegal alien.

"(f) No household shall be eligible to participate, or to continue to participate, in the food stamp program, if it refuses to submit to the State agency necessary information for a determination as to the household's eligibility to participate in the program. No household shall be eligible to participate in the food stamp program for a period of up to one year after it has been found either by a court of appropriate jurisdiction to have been guilty of a crime involving fraud in connection with its participation in the food stamp program, or by a State agency, after hearing and notice, to have fraudulently obtained coupons.

"(g) The Secretary shall require every participating household (except those participating households in States which implement, at State option, a monthly reporting of changes in the household's circumstances, including, but not limited to, income, household size, and resources) that experiences changes affecting its eligibility or benefit status to report to the State agency, within ten days of the date upon which such changes become known to the household, any change in monthly income in excess of $25 and any other change deemed appropriate by the Secretary. If a household fails to fulfill this reporting requirement, or fails to report a change as part of its monthly report in a State which implements monthly client reporting, its coupon allotment for the next certification period shall be reduced to reflect the impact of the changes at the time when they should have been reported.

"(h) No individual shall be considered a household member for food stamp program purposes if such individual (1) has reached his eighteenth birthday; (2) is enrolled in

an institution of higher education, and (3) is properly claimed or could properly be claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household.

"(i) No household that knowingly transfers liquid or nonliquid assets for the purpose of qualifying or attempting to qualify for the food stamp program shall be eligible to participate in the program for such period of time as may be determined in accordance with regulations issued pursuant to this Act, but in no event shall such period of time be less than thirty days from the date of discovery of the transfer.

"(j) No individual who receives supplemental security income benefits under title XVI of the Social Security Act, State supplementary payments described in section 1616 of such Act, or payments of the type referred to in section 212(a) of Public Law 93-66, as amended, shall be considered to be a member of a household or an elderly person for purposes of this Act for any month, if, for such month, such individual resides in a State which provides State supplementary payments (1) of the type described in section 1616(a) of the Social Security Act, and (2) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.".

VALUE OF THE COUPON ALLOTMENT AND CHARGES TO BE MADE

SEC. 1005. Section 7 of the Food Stamp Act of 1964, as amended, is amended as follows:

(a) Subsection (a) is amended to read as follows:

"(a) The face value of the coupon allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be in such amount as will provide such households a coupon allotment sufficient to allow them to purchase a nutritionally adequate diet as defined in section 3(p) of this Act: *Provided*, That in no event shall the face value of the coupon allotments used in Puerto Rico, the Virgin Islands, and Guam exceed those in the fifty States. The face value of the coupon allotment shall be adjusted semiannually by the nearest dollar increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics in the Department of Labor. Such changes shall be made in January and July of each year based upon the cost of food in the preceding August and February, respectively. In no event shall such adjustments be made for households of a given size unless the increase in the face value of the coupon allotment for such households, as calculated in accordance with this subsection, is a minimum of $2.".

(b) Subsection (b) is amended to read as follows:

"(b) Households shall be charged for the coupon allotment issued to them, and the amount of such charge shall be 27.5 per centum of the household's income, as determined in accordance with section 5(b) of this Act: *Provided*, That for single-person households and two-person households the minimum benefit shall be $10 per month. The Secretary shall insure that each eligible household receives four authorization to purchase cards in a timely manner at the outset of each month in which it is eligible so that it can continue to purchase food with the use of coupons without interruption, each card shall represent one-fourth of that household's monthly coupon allotment.".

(c) Subsection (d)(5)(A) is amended by inserting the words ", which may include the State agency" immediately after the word "designee".

(d) Subsection (d)(6) is amended by striking out "or his designee,".

ADMINISTRATION

SEC. 1006. Section 10 of the Food Stamp Act of 1964, as amended, is amended as follows:

(a) Subsection (a) is amended by inserting "(1)" immediately after the subsection designation and adding at the end thereof a new sentence and a new paragraph (2) as follows: "To encourage the purchase of nutritious foods, the Extension Service of the Department of Agriculture, with the technical assistance of the Food and Nutrition Service, shall extend its food and nutrition education program to the greatest extent possible to reasonably reach food stamp program recipients. The program shall be further supplemented by the development of printed materials designed to teach low-income persons how to buy and prepare more nutritious and economical meals. From the funds appropriated to carry out this Act, the Secretary is authorized to allocate to the Extension Service such sums as the Secretary determines necessary to implement the program of nutrition education.

"(2) Federal agencies that administer programs for needy people, including, but not limited to, supplemental security income and social security programs, shall make every reasonable attempt to inform recipients of those programs (who are potentially eligible for the food stamp program) of the existence of the food stamp program and its income and resource guidelines.".

(b) Subsection (e) is amended by revising clause (5) to read as follows: "(5) that the State agency shall undertake effective action, including the use of services provided by other federally funded agencies and organizations, to inform low-income households concerning the availability and benefits of the food stamp program;".

(c) Subsection (e) is further revised (1) by inserting in clause (7) after the word "law", the following: ", and at the option of the State agency"; (2) by deleting "and" preceding clause (8) and striking the period at the end of clause (8); and (3) by adding the following new clauses (9) and (10): "; (9) for the prompt payment to households of the bonus value of any coupon allotment which has been wrongfully denied, delayed, or terminated as a result of any administrative error on the part of the State agency: *Provided*, That application for such payment shall be filed not later than three months after the household has knowledge of such error and any such payment shall not exceed the bonus value of any such coupon allotment to which the household is determined to be entitled for a three month period: *Provided further*, That the period for which such coupon allotment may be paid shall be extended by such time, in excess of three months, as may be required to complete administrative review of the alleged wrongful denial; and (10) the institution of procedures under which the State agency shall undertake effective action to (A) determine promptly the eligibility of applicant households by providing an opportunity for each household to receive and file an application for participation in the food stamp program on the same day of such household's first reasonable attempt to make an oral or written request for such application, and (B) complete the certification of all eligible households and provide an authorization to purchase card to such households not later than thirty days after the filing of such applications.".

(d) Subsection (f) is amended to read as follows:

"(f)(1) If the Secretary determines that in the administration of the program there is a failure by a State agency to comply with the provisions of this Act, or with the regulations issued pursuant to this Act, or with the State plan of operation, he shall inform such State agency of such failure and allow the State agency a specified period of time for the correction of such failure. If the State agency does not correct such failure within the specified period of time, the Secretary may alternatively or concurrently (A) refer the matter to the Attorney General with a request that an injunction be sought to require compliance by the State agency and, at the suit of the Attorney General in an appropriate United States district court the State agency may be so enjoined, or (B) direct that there be no further issuance of coupons in the political subdivisions where such failure has occurred until such time as satisfactory corrective action has been taken.

"(2) If any State fails substantially to carry out the State plan of operation under section 10(e) of this Act (including any quality control plan) approved by the Secretary for such State for such year, the Secretary shall withhold from the State an amount equal to 10 per centum of the funds which would otherwise be payable to such State under section 15(b) for such fiscal year for administrative expenses.".

(e) Subsection (g) is amended by striking out the word "gross" in the first sentence thereof.

(f) Subsection (h) is amended by striking out the first sentence and inserting in lieu thereof the following: "Subject to such terms and conditions as may be prescribed by the Secretary in the regulations issued pursuant to this Act, household members who are elderly, housebound, feeble, physically handicapped, or otherwise disabled, to the extent that they are unable to prepare adequately all of their meals, may use coupons issued to them to purchase meals prepared for and delivered to them by a political subdivision or by a private nonprofit organization which (1) is operated in a manner consistent with the purposes of this Act; and (2) is recognized as a tax-exempt organization by the Internal Revenue Service.".

(g) Subsection (i) is amended by striking out ", (2), and (3)" in the first sentence thereof and inserting in lieu thereof "and (2)".

(h) Section 10 is amended by adding at the end thereof new subsections (j) and (k) as follows:

"(j) The Secretary, in conjunction with the Secretary of Health, Education, and Welfare, is authorized to prescribe regulations permitting applicants and recipients of supplemental security income benefits under title XVI of the Social Security Act to apply for food stamps at supplemental security income certification offices. In accordance with the regulations issued by the Secretary, certification of food stamp eligibility in such offices shall be conducted by State agency personnel, and employees of the Social Security Administration in such offices shall refer supplemental security income applicants and recipients to the appropriate State agency personnel in order that the application and certification for food stamp assistance may be accomplished as efficiently and conveniently as possible.

"(k) In areas where there are numerous persons who speak a language other than English, multilingual personnel and printed material shall—where necessary—be used in the administration of the food stamp program.".

SETTLEMENT AND ADJUSTMENT OF CLAIMS

SEC. 1007. Section 12 of the Food Stamp Act of 1964, as amended, is amended by adding at the end thereof the following new sentence: "Such claims include, but are not limited to, claims arising from fraudulent and nonfraudulent overissuances to recipients.".

CRIMINAL PENALTIES

SEC. 1008. Subsections (b) and (c) of section 14 of the Food Stamp Act of 1964, as

amended, are amended by striking out "$5,000" and inserting in lieu thereof "$1,000".

ADMINISTRATIVE EXPENSES

SEC. 1009. Section 15 of the Food Stamp Act of 1964, as amended, is amended as follows:

(a) Subsection (b) is amended—

(1) by striking out "The" and inserting in lieu thereof the following: "Except as provided in subsection (c) of this section, the"; and

(2) by inserting at the end of clause (1) and immediately before the semicolon the following: ", exclusive of those households in which all members are receiving cash assistance under part A of title IV of the Social Security Act".

(b) Section 15 is amended by adding at the end thereof new subsections (c) and (d) as follows:

"(c) Notwithstanding any other provision of this Act, the Secretary is authorized to pay to each State agency an amount equal to 75 per centum of all direct costs of State food stamp program investigations, prosecutions, and State activities related to recovering losses sustained in the food stamp program, except for the costs of such activities with respect to households in which all members are receiving cash assistance under part A of title IV of the Social Security Act.

"(d) Notwithstanding any other provision of this Act, the administrative costs incurred by a State plan for aid and services to needy families with children, approved under part A of title IV of the Social Security Act, in conducting public assistance withholding procedures under section 10(e)(7) of this Act shall be paid from funds appropriated to carry out this Act.".

APPROPRIATIONS

SEC. 1010. Subsection (a) of section 16 of the Food Stamp Act of 1964, as amended, is amended by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1982".

PILOT PROJECT AUTHORITY; EARNINGS CLEARANCE SYSTEM STUDY; ASSETS STUDY

SEC. 1011. The Food Stamp Act of 1964, as amended, is amended by adding at the end thereof new sections 18 through 21 as follows:

"PILOT PROJECT AUTHORITY

"SEC. 18. In carrying out the provisions of this Act, the Secretary is authorized to carry out on a trial basis, in one or more areas of the United States, but in no event for more than 10 per centum of the participating population of any State, experimental projects for purposes of increasing the program's efficiency and delivery of benefits to eligible households. Except for the pilot project required by section 21 of this Act, no project shall be implemented which would lower or further restrict the resource and income limitations, or increase the purchase requirement, provided for under this Act.

"STUDY OF EARNINGS CLEARANCE SYSTEM

"SEC. 19. The Secretary is authorized and directed to conduct a study of the feasibility and advisability of the establishment of an earnings clearance system (which system shall be consistent with the Privacy Act of 1974 (5 U.S.C. 552a), insofar as it provides for the use of information from records of Federal agencies, and with any other applicable privacy law insofar as it provides for the use of information from non-Federal records) for the purpose of checking the actual income and assets of a household against those reported by such household. The Secretary shall submit a written report to the Congress within one year after the date of enactment of this section, disclosing the results of such study. The report shall include such explanations and comments as the Secretary deems appropriate.

"ASSETS STUDY

"SEC. 20. The Secretary shall conduct a survey of households participating in the food stamp program for the purpose of determining the average assets and distribution of assets held by participants. The Secretary shall submit a written report to the Congress within one hundred and eighty days after the date of enactment of this section, disclosing the results of such survey. The report shall include such explanations and comments as the Secretary deems appropriate.

"PILOT PROJECT ON ELIMINATION OF PURCHASE REQUIREMENT

"SEC. 21. Within ninety days after the date of enactment of this section, the Secretary shall implement a pilot project testing the effect of elimination of the purchase requirement specified in section 6 of this Act. Such project shall be carried out in a statistically significant number of project areas, or parts of project areas, not fewer than ten, in geographically dispersed urban and rural regions, and shall employ a benefit reduction ratio of not higher than 30 per centum of household income. Not later than March 1, 1978, the Secretary shall report to the Congress on the progress of such project, including statistical information on participation rates, changes in food consumption patterns, impact on benefit costs and administrative costs, and other observations and recommendations which he may deem appropriate. From the sums appropriated to carry out this Act, the Secretary is authorized to allocate not more than $20,000,000 to carry out his responsibilities under this section.".

CONFORMING AMENDMENTS

SEC. 1012. (a) Section 3(b) and section 4(c) of Public Law 93-86 are repealed.

(b) The last sentence of section 416 of the Act of October 31, 1949 (as added by section 411(g) of Public Law 92-603), is repealed.

(c) Section 8(c) of Public Law 93-233 is amended by striking out "section 3(e) of the Food Stamp Act of 1964 (as amended by subsection (a) of this section)" and inserting in lieu thereof "section 5(j) of the Food Stamp Act of 1964, as amended,".

(d) Section 8(f) of Public Law 93-233 is amended by striking out everything through "during such period," and inserting in lieu thereof "The amendment made by subsection (e) shall not."

ESTABLISHMENT OF ADDITIONAL ASSISTANT SECRETARY OF AGRICULTURE

SEC. 1013. (a) There shall be hereafter in the Department of Agriculture, in addition to the Assistant Secretaries now provided by law, an Assistant Secretary of Agriculture with jurisdiction for food and nutrition programs who shall (1) be appointed by the President, by and with the advice and consent of the Senate, and (2) receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

(b) Section 5315 of title 5 of the United States Code is amended by striking out "(5)" at the end of paragraph (11) and by inserting in lieu thereof "(6)".

TITLE XI—RURAL DEVELOPMENT

Subtitle A—Rural Community Fire Protection Program

DISPOSITION OF SURPLUS FEDERAL PROPERTY TO RURAL FIRE FORCES

SEC. 1101. Section 402 of the Rural Development Act of 1972 (7 U.S.C. 2652) is amended by inserting "(a)" before the first sentence and by adding at the end thereof new subsections (b) and (c) as follows:

"(b) The Secretary, with cooperation and assistance from the Administrator of General Services, shall encourage the use of excess personal property (within the meaning of the Federal Property and Administrative Services Act of 1949) by rural fire forces receiving assistance under this title.

"(c) To promote maximum program effectiveness and economy, the Secretary shall closely coordinate the assistance provided under this title with assistance provided under other fire protection and rural development programs administered by the Secretary.".

REPORTS TO CONGRESS

SEC. 1102. Section 403 of the Rural Development Act of 1972 (7 U.S.C. 2653) is amended by (1) striking out "REPORT.—" and inserting in lieu thereof "REPORTS.—(a)"; and (2) adding at the end thereof new subsection (b) as follows.

"(b) Not later than March 1 of each year, beginning in the calendar year 1978, the Secretary of Agriculture shall submit a report to the Congress regarding the operation, during the preceding fiscal year, of the program provided for under this title. The Secretary shall include in such report the number of applications for assistance filed by each State during fiscal year, the number of such applications approved by the Secretary, the amounts allocated to each State and the purposes for which such allocations were made. The Secretary shall also include in the report any comments and recommendations for improving the program he deems appropriate.".

EXTENSION OF APPROPRIATIONS AUTHORITY

SEC. 1103. Section 404 of the Rural Development Act of 1972 (7 U.S.C. 2654) is amended by adding at the end thereof the following new sentence: "There is further authorized to be appropriated to carry out the provisions of this title not to exceed $7,000,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980.".

Subtitle B—Congressional Approval of Watershed Projects

SEC. 1104. The Watershed Protection and Flood Prevention Act, as amended, is amended as follows:

(a) Section 2(3) is amended by striking out "$250,000" and inserting in lieu thereof "$750,000".

(b) Section 5(3) is amended by striking out "$250,000" and inserting in lieu thereof "$750,000".

(c) Section 5(4) is amended by striking out "$250,000" and inserting in lieu thereof "$750,000".

Subtitle C—Congressional Approval of Resource Conservation and Development Project Loans

SEC. 1105. The third sentence of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1011(e)), is amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

TITLE XII—EXTENSION OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

SCIENTIFIC ADVISORY PANEL

SEC. 1201. Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136w), is amended by adding at the end of subsection (d) a new sentence as follows: "The advisory panel established by this subsection shall be permanent.".

EXTENSION OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

SEC. 1202. Section 27 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136y), is amended by striking out "and for the period beginning October 1, 1976, and ending March 31, 1977,

the sum of $23,600,000." and inserting the following: "and for the period beginning October 1, 1976, and ending September 30, 1977, the sum of $37,000,000. There are hereby authorized to be appropriated for the fiscal year ending September 30, 1978, the sum of $65,000,000; for the fiscal year ending September 30, 1979, the sum of $70,000,000; and for the fiscal year ending September 30, 1980, the sum of $75,000,000.".

TITLE XIII—MISCELLANEOUS PROVISIONS

INCLUSION OF AQUACULTURE AND HUMAN NUTRITION AMONG THE BASIC FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE

SEC. 1301. (a) Section 520 of the Revised Statutes (7 U.S.C. 2201) is amended by striking out the phrase "agriculture and rural development" and inserting in lieu thereof the phrase "agriculture, rural development, marine and fresh water aquaculture, and human nutrition".

(b) Subsection (a) of section 526 of the Revised Statutes (7 U.S.C. 2204(a)) is amended by striking out the phrase "agriculture and rural development" and inserting in lieu thereof the phrase "agriculture, rural development, marine and fresh water aquaculture, and human nutrition".

BEEKEEPER INDEMNITY PROGRAM

SEC. 1302. Section 804(f) of the Agricultural Act of 1970, as amended, is amended by striking out "December 31, 1977" and inserting in lieu thereof "December 31, 1982".

MULTIYEAR SET-ASIDE CONTRACTS

SEC. 1303. Section 1005 of the Agricultural Act of 1970 is amended by striking out "1977" and inserting in lieu thereof "1982", and by striking out "1974 through 1978" and inserting in lieu thereof "1974 through 1982".

COMMODITY DISTRIBUTION PROGRAM

SEC. 1304. Section 4(a)(2) of the Agriculture and Consumer Protection Act of 1973, as amended, is amended by striking out "two", and by striking out "July 1, 1975, and ending September 30, 1977" and inserting in lieu thereof "July 1, 1975, and ending September 30, 1982".

RESCUE OPERATIONS BY THE SECRETARY OF AGRICULTURE ON NATIONAL FOREST SYSTEM LANDS

SEC. 1305. Section 3 of the Act of May 27, 1930 (46 Stat. 387; 16 U.S.C. 575), is amended to read as follows:

"SEC. 3. (a) The Secretary of Agriculture is authorized in cases of emergency to utilize personnel and equipment and incur such expenses as may be necessary in—

"(1) searching for persons lost within the National Forest System;

"(2) providing emergency medical services for persons seriously ill or injured within the National Forest System and while in transit to the nearest medical facility;

"(3) transporting persons seriously ill or injured within the National Forest System to the nearest medical facility or to the nearest place where the sick or injured person may be transferred to interested parties or local authorities; and

"(4) transporting persons who die within the National Forest System to the nearest place where the body may be transferred to interested parties or local authorities.

"(b) The Secretary of Agriculture may cooperate with any State or political subdivision thereof in conducting activities under this section, and he may reimburse cooperators under terms of a written agreement for expenditures incurred in connection with services and materials provided under this section.

"(c) There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this section.".

OTHER RESCUE OPERATIONS BY THE SECRETARY OF AGRICULTURE IN CASES OF EMERGENCY

SEC. 1306. (a) The Secretary of Agriculture is authorized, when called upon by local or State authorities, in cases of emergency, to utilize personnel and equipment and incur such expenses as may be necessary in—

(1) searching for lost persons;

(2) providing emergency medical services for persons seriously ill or injured at the place where such person located and while in transit to the nearest medical facility;

(3) transporting persons seriously ill or injured to the nearest medical facility or to the nearest place where the sick or injured person may be transferred to interested parties or local authorities; and

(4) transporting dead persons to the nearest place where the body may be transferred to interested parties or local authorities.

(b) There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this section.

SUMMARY OF THE FOOD AND AGRICULTURE ACT OF 1977

The major provisions of the bill would—

(1) extend for five years (1978–1982) the current programs for wheat, feed grains, and upland cotton with a change effective beginning with the 1978 crops under which the target price would be equal to the cost of production of the commodity; and the loan rate would be not less than 75 percent of the cost of production, subject to adjustment under special circumstances. For 1978, (a) the target prices and (b) the loan levels (if established at 75 percent of the cost of production) would be as follows:

Wheat	bushel	$2.91	$2.18
Corn	do	2.28	1.71
Cotton	lb	0.511	0.3833

(2) extend for five years (1978–1982) the current program for wool;

(3) extend for five years (1978–1982) the current program for rice;

(4) extend for five years (1978–1982) the current program for milk marketing orders;

(5) extend for five years (1978–1982) the authority for making dairy products available to veterans hospitals and to the military;

(6) extend for five years (1978–1982) the authority for making indemnity payments to dairy farmers who sustain losses as a result of pesticides;

(7) extend for five years (1978–1982) the authority to carry out programs under Public Law 480 with changes which—

(A) authorize the President to waive the requirement that 75 percent of the volume of U.S. concessional food aid provided under title I of Public Law 480 in each fiscal year be allocated to nations having an annual per capita gross national product of $300 or less upon a determination that the quantity of food aid otherwise required to be allocated to such nations cannot be effectively used to carry out the humanitarian purposes of title I;

(B) specifically authorize the use of foreign currencies to assist foreign countries in establishing facilities for the handling, storage, and distribution of U.S. agricultural commodities;

(C) increase to 1,500,000 tons (from 1,300,000 tons) the minimum quantity of agricultural commodities to be distributed in each fiscal year under title II of Public Law 480, and delete the requirement that one million tons be distributed through voluntary agencies and the World Food Program;

(D) increase to $900 million (from $600 million) the maximum level of assistance under title II of Public Law 480; and

(E) permit payment of transportation costs to points of entry other than the seaports of the recipient country;

(8) extend for five years (1978–1982) the food stamp program with changes which would—

(A) limit participation to households with net incomes at or below the official Federal poverty levels;

(B) replace itemized deductions with a standard deduction of $70;

(C) establish a 30-day retrospective accounting period for eligibility determinations;

(D) exclude from eligibility college students who are or who can legally be claimed as tax dependents of ineligible households;

(E) establish a uniform purchase requirement of 27.5 percent of net monthly income.

(F) authorize a pilot project on elimination of the purchase requirement; and

(G) establish a new Assistant Secretary of Agriculture for Food and Nutrition Programs;

(7) extend the rural community fire protection program through September 30, 1980, with an annual authorization of appropriations not to exceed $7 million; encourage rural fire fighting forces to make use of excess Federal property; and require an annual report to the Congress on rural community fire protection;

(8) extend the authorization for the Federal Insecticide, Fungicide, and Rodenticide Act for fiscal years 1978 ($65 million), 1979 ($70 million), and 1980 ($75 million);

(9) extend for five years (1978–1982) the authority for making indemnity payments to beekeepers who sustain losses as a result of pesticides;

(10) extend for five years (1978–1982) the authority for the purchase and donation of agricultural commodities with appropriated funds;

(11) increase from $250,000 to $500,000 the amount of any loan that could be made for a resource conservation and development project under the Bankhead-Jones Farm Tenant Act without prior Congressional approval of the loan;

(12) amend the Watershed Protection and Flood Prevention Act to provide that prior Congressional approval of watershed projects would be required only where the estimated Federal contribution is in excess of $750,000 (under existing law, projects involving an estimated Federal contribution of more than $250,000 require prior Congressional approval); and

(13) provide for the improvement of food and agricultural research, with special programs for food and nutrition and animal health research. The bill expresses the sense of the Congress that Federal food and agricultural research should be annually supported at a level of one-half of one percent of (a) the amount spent annually in the United States on food for personal consumption, and (b) the annual value of agricultural exports from the United States. The bill would—

(A) establish three consultant panels to help coordinate national research efforts;

(B) allocate to high-priority research not less than 50 percent of the appropriations for the competitive research grants program of the Department of Agriculture;

(C) require the Department of Agriculture to develop a human food and nutrition research program;

(D) authorize annual appropriations for the award of matching funds grants to all veterinary schools and experiment stations performing animal health research; and

(E) authorize annual appropriations for the award of discretionary grants to institutions for research projects dealing with national or regional animal health problems.

SECTION-BY-SECTION ANALYSIS

The bill contains a short title and 13 separate titles as follows:

(1) Title I—Payment Limitation for Wheat, Feed Grains, and Upland Cotton.
(2) Title II—Dairy.
(3) Title III—Wool Program.
(4) Title IV—Wheat Program.
(5) Title V—Feed Grain Program.
(6) Title VI—Upland Cotton Program.
(7) Title VII—Rice.

(8) Title VIII—Food and Agricultural Research.

(9) Title IX—Public Law 480.

(10) Title X—Food Stamps.

(11) Title XI—Rural Development.

(12) Title XII—Extension of the Federal Insecticide, Fungicide, and Rodenticide Act.

(13) Title XIII—Miscellaneous Provisions.

SHORT TITLE

The first section provides that the bill may be cited as the "Food and Agriculture Act of 1977".

TITLE I—PAYMENT LIMITATION FOR WHEAT, FEED GRAINS, AND UPLAND COTTON

Section 101 extends title I of the Agricultural Act of 1970, as amended (7 U.S.C. 1305 note), for five years—the 1978 through 1982 crops. Title I of the 1970 Act, as amended, provides for a $20,000 payment limitation on the total amount of payments which a person is entitled to receive under one or more of the annual feed grain, wheat, and upland cotton programs. The term "payment" does not include loans or purchases, or any part of any payment which represents compensation for resource adjustment or public access for recreation. The present provision is effective only through the 1977 crops.

TITLE II—DAIRY

Dairy base plans

Section 201 extends for five years (1978–1982) the amendments made to the milk marketing order provisions of section 8c of the Agricultural Adjustment Act (of 1933), as amended (7 U.S.C. 608), by section 201 of the Agricultural Act of 1970, and section 1(a) of the Agriculture and Consumer Protection Act of 1973. In the absence of an extension these provisions—relating to dairy base plans—will not be effective as to orders issued after December 31, 1977.

Transfer of dairy products to the military and veterans hospitals

Section 202 extends for five years the authority contained in section 202 of the Agricultural Act of 1949, as amended (7 U.S.C. 1447a), which provides for making dairy products available to veterans hospitals and to the military. This authority was extended by section 203 of the Agricultural Act of 1970 and further extended by section 1(4) of the Agriculture and Consumer Protection Act of 1973. There is no other similar legislation which will come into effect after December 31, 1977, without an extension.

Dairy indemnity programs

Section 203 extends for five years the Act of August 13, 1968 (7 U.S.C. 450j, k, l), as amended by section 204 of the Agricultural Act of 1970 and section 1(5) of the Agriculture and Consumer Protection Act of 1973, which provides for indemnity payments to dairy farmers who sustain losses as a result of pesticides. The present authority is effective only through June 30, 1977. Without an extension, there is no other similar legislation which will come into effect on that date.

Producer handlers

Section 204 amends section 206 of the Agricultural Act of 1970, as amended (7 U.S.C. 601 note), to make it clear that the legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and extended by the Agricultural Marketing Agreement Act of 1937, as amended, is not changed by the amendments made by the bill.

TITLE III—WOOL PROGRAM

Section 301 extends for five years the National Wool Act of 1954 (7 U.S.C. 1781 et seq.), as amended by section 301 of the Agricultural Act of 1970 and section 1(7) of the Agriculture and Consumer Protection Act of 1973, which requires the Secretary of Agriculture to support the prices of wool and mohair to producers by means of loans, purchases, payments, and other operations. The present provisions are only effective for wool and mohair marketed during the period ending December 31, 1977. After December 31, 1977, the Secretary of Agriculture has discretionary authority to support the price of wool and mohair under title III of the Agricultural Act of 1949, as amended (7 U.S.C. 1447 et seq.), through loans, purchases, or other operations. If the provisions of the 1954 Act are not extended, there will be no statutory authority for payments.

TITLE IV—WHEAT PROGRAM

Loan rate and target price

Section 401 extends and amends section 107 of the Agricultural Act of 1970 and further amended by section 1(8) of the Agriculture and Consumer Protection Act of 1973. Section 107 of the 1949 Act provides for price support loans and purchases for wheat, deficiency or "target price" payments, and disaster payments. The present provisions are effective only through the 1977 crop.

Section 107 of the 1949 Act, as amended by section 401 of the bill, provides for loans and purchases for the 1978 through 1982 crops of wheat at not less than 75 percent of cost of production. However, if the loan rate as calculated is higher than the estimated average world price for wheat for the marketing year for which the loan determination is made, the Secretary may adjust the loan rate for wheat to not less than 90 percent of the estimated average world price.

Section 107 of the 1949 Act, as amended by section 401 of the bill, requires deficiency payments be made to wheat producers if the national weighted average market price they receive for wheat during the first five months of the marketing year (or the loan level established for the crop, whichever is higher) is less than the cost of production.

The cost of production for the 1978 crop of wheat is established at $2.91. For the crop years 1979 through 1982, the cost of production will be determined by the Secretary in accordance with new section 411 of the 1970 Act, as added by section 410 of the bill.

The disaster payment provisions of section 107 of the 1949 Act are amended to reflect the change from an established price to the cost of production in the formula for determining disaster payments.

If section 401 of the 1970 Act is not extended, beginning with the 1978 crop, price support on wheat will again be made available under the original version of section 107, which was added to the 1949 Act by the Act of September 27, 1962 (76 Stat. 630) and completely revised by the Act of April 11, 1964 (78 Stat. 182). (It remained in effect through the 1965 crop and was suspended for the 1966 through 1970 crops by the Act of November 3, 1965, and October 11, 1968, and for the 1971 through 1977 crops by the 1970 and 1973 Acts.) There is no suspended legislation providing for payments on wheat which will come into effect again for the 1978 crops.

Allotment and set-aside

Section 402 extends section 379b and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379b(c) et seq.), as amended by section 402 of the Agricultural Act of 1970 and further amended by section 1(9) of the Agriculture and Consumer Protection Act of 1973, for the 1978 through 1982 crops of wheat. These sections provide for wheat acreage allotments, a setaside of cropland, grazing, and the sharing of payments among producers. The present provisions expire with the 1977 crop of wheat.

If the present provisions are not extended, beginning with the 1978 crop, the original version of sections 379b and 379c (as amended), which were enacted by the Food and Agriculture Act of 1962, and suspended by the 1970 and 1973 Acts, will again become effective. These sections provide for a wheat marketing certificate program.

Nonapplicability of processor certificate requirement

Section 403 extends for five years (July 1, 1978, through July 1, 1983) section 403(b) of the Agricultural Act of 1970, as amended by section 1(10) of the Agriculture and Consumer Protection Act of 1973. Those provisions suspended, through June 30, 1978, sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j, of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d et seq.), dealing with marketing certificate requirements for processors and exporters. If the suspension of these sections is not extended, persons who engage in the processing of wheat into food products and exporters would be required to acquire and surrender marketing certificates, after June 30, 1978.

Suspension of marketing quotas; conforming amendments

Section 404 extends for five years (1978 through 1982) section 404 of the Agricultural Act of 1970, as amended by section 1(11) of the Agriculture and Consumer Protection Act of 1973. Section 404 of the 1970 Act suspended, through 1977, sections 331, 332, 333, 334, 335, 336, 338, and 339 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 et seq.), which provide for wheat marketing quotas and acreage allotments. If the suspension of these provisions is not extended, they will again become effective with the 1978 crop.

Section 404 of the 1970 Act, as extended by section 1(11) of the 1973 Act, also added the last sentence to section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), which defined "acreage allotment" to include the domestic allotment for wheat. If not extended, this definition expires with the 1977 crop.

The language "payments (including certificates) under the wheat and feed grain set-aside programs" in the first sentence of section 385 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1385), as added by section 404 of the 1970 Act and extended by section 1(11) of the 1973 Act, is effective only through the 1977 crops.

State agency allotments; yield calculations

Section 405 extends for five years (1978 through 1982) section 405 of the Agricultural Act of 1970, as amended by section 1(12) of the Agriculture and Consumer Protection Act of 1973. These provisions contain a technical amendment made by the 1970 Act in section 706 of the Food and Agriculture Act of 1965, which deals with transfers of allotments on State lands, and a special provision for the use of actual wheat yields in lieu of projected yields. These provisions are effective only through the 1977 crop of wheat.

Suspension of quota provisions

Section 406 extends for five years (1978 through 1982) section 406 of the Agricultural Act of 1970, as extended by section 1(13) of the Agriculture and Consumer Protection Act of 1973. Section 406 of the 1970 Act, as amended, suspended, through the 1977 crop, Public Law 74, 77th Congress (7 U.S.C. 1330, 1340), which contains provisions regarding wheat marketing quotas and penalties. These statutory provisions will again become effestive with the 1978 crop, unless section 406 of the 1970 Act is extended.

Application of terms in the Agricultural Act of 1949

Section 407 extends for five years (1978 through 1982) section 408 of the Agricultural Act of 1970, as extended by section 1(15) of the Agriculture and Consumer Protection Act of 1973. This provision makes the terms "support price", "level of support", and "level of price support" in sections 402, 403, 406, and 416 of the Agricultural Act of 1949 applicable to the level of loans and purchases

for wheat and feed grains under that Act, and makes the terms "price support", "price support operations", and "price support program" in those sections and section 401(a) of the 1949 Act applicable to the loan and purchase operations for wheat and feed grains under that Act. This provision is effective only through the 1977 crop.

Commodity credit corporation sales price restrictions for wheat and feed grains

Section 408 extends for five years (1978 through 1982) section 409 of the Agricultural Act of 1970, as extended by section 1(16) of the Agriculture and Consumer Protection Act of 1973, which amended section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427). This provision contains the requirement that Commodity Credit Corporation stocks of wheat, corn, grain sorghum, barley, oats, and rye, not be sold at less than 115 percent of the national average loan rate. The changes in section 407 of the 1949 Act are only effective through the 1977 marketing years for such commodities, unless extended.

Set-aside on summer fallow farms

Section 409 extends for five years (1978 through 1982) section 410 of the Agricultural Act of 1970, as extended by section 1(17) of the Agriculture and Consumer Protection Act of 1973. Section 410 of the 1970 Act provides that if in any year at least 55 percent of the cropland on an established summer fallow farm is devoted to summer fallow use, no further acreage shall be required to be set-aside under the wheat, feed grain and cotton programs for such year. This provision, unless extended, is effective only through the 1977 crops of wheat, feed grains, and cotton.

Cost of production

Section 410 adds a new section 411 to title IV of the Agricultural Act of 1970. New section 411 requires the Secretary of Agriculture to determine for each of the 1979 through 1982 crops of wheat, corn, and upland cotton the cost of production to be used in the establishment of loan and payment rates. The determination will be based on the Secretary's estimate of the costs incurred in the production of the crop (taking into consideration joint products such as grazing in the case of wheat and cottonseed in the case of cotton) and shall include, but not be limited to—(1) a charge for all direct or variable costs, such as labor, power and machinery, seed, fertilizer and chemicals, custom services, irrigation, interest on operating capital, and other materials; and (2) a charge for overhead costs (a proportionate share, in those instances where a farm is planted to two or more crops), such as personal property taxes, electricity, sales taxes, insurance, farm auto costs, and other such costs not directly related to the production of a specific crop; (3) a charge for management; and (4) a charge for land based on a composite land allocation using share rent, cash rent, and average acquisition value.

New section 411 also provides that yields used in determining per unit costs shall be based on the most recent five-year weighted national average harvested yields for wheat and cotton and the most recent five-year weighted national average yields of corn harvested for grain.

TITLE V—FEED GRAIN PROGRAM

Loan rate and target price

Section 501 extends for five years—the crop years 1978 through 1982—section 105 of the Agricultural Act of 1949, as amended by section 501 of the Agricultural Act of 1970 and section 1(18) of the Agriculture and Consumer Protection Act of 1973. Section 105 of the 1949 Act provides for price support loans and purchases for feed grains, deficiency or "target price" payments, and disaster payments. The present provisions are effective only through the 1977 crop.

Section 105 of the 1949 Act, as amended by section 501 of the bill, requires the Secretary of Agriculture to make loans and purchases available to producers on each of the 1978 through 1982 crops of corn at not less than 75 percent of the cost of production. However, if loans and purchases at the level so computed will discourage the exportation of feed grains from the United States or result in excessive total stocks of feed grains in the United States, the Secretary may adjust such level.

Section 105(b)(1) of the 1949 Act, as amended by section 501 of the bill requires that deficiency payments be made available to producers if the national weighted average market price they receive for the commodity during the first five months of the marketing year (or the loan level established for the crop, whichever is higher) is less than the cost of production. The payment rate for grain sorghum and, if designated by the Secretary barley shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made for corn. Deficiency payments are required to be made available to producers of grain sorghum and, if designated by the Secretary, barley under the same criteria. The cost of production per bushel for the 1978 crop of corn is determined to be $2.28. The cost of production for the 1979 through 1982 crops of corn will be determined by the Secretary in accordance with new section 411 of the Agricultural Act of 1970, as added by section 410 of the bill.

The disaster payment provisions of section 105 of the 1949 Act are amended to reflect the change from an established price to the cost of production in the formula for determining disaster payments.

TITLE VI—UPLAND COTTON PROGRAM

Suspension of marketing quotas; minimum base acreage allotments

Section 601 extends for five years—the 1978 through 1982 crops of upland cotton—section 601 of the Agricultural Act of 1970, as amended and extended by section 1(19) of the Agriculture and Consumer Protection Act of 1973.

Section 601 of the 1970 Act, as amended, (1) suspended through the 1977 crop of upland cotton the cotton marketing quotas and acreage allotments contained in sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342 et seq.); (2) added section 342a to the 1938 Act (7 U.S.C. 1342a) providing for a national cotton production goal, which expires after the November 15, 1976, proclamation for the 1977 crop; (3) amended subsection 344a(a) of the 1938 Act, which provides for the sale, lease, and transfer of acreage allotments for upland cotton through the 1977 crop (beginning with the 1978 crop, the suspended version of subsection 344a(a) will again become effective unless the present provision is extended); (4) suspended through the 1977 crop subdivisions (ii), (iv), (v), and (vi) of subsection 344a(b), the last sentence of subsection (b) and subsections (e) and (h) of section 344a of the 1938 Act (7 U.S.C. 1344b) concerning transfer of acreage allotments (these provisions will become effective again with the 1978 crop, if their suspension is not extended); and (5) amended section 350 of the 1938 Act (7 U.S.C. 1350) providing for base acreage allotments through the 1977 crop (there is no suspended legislation on this subject which will become effective for the 1978 crop, if this provision is not extended).

Cotton production incentives; and rate and target price

Section 602 amends and extends section 602 of the Agricultural Act of 1970, as amended by section 1(20) of the Agriculture and Consumer Protection Act of 1973. Section 602 of the 1970 Act added subsection 103(e) to the Agricultural Act of 1949 (7 U.S.C. 1444(e)), providing for price support loans, deficiency or "target price" payments, disaster payments, set-aside, and land diversion payments, effective through the 1977 crop.

Section 602 amends sections 103(e)(1) and (2) of the 1949 Act to provide that the Secretary is required, upon presentation of warehouse receipts reflecting accrued storage charges of not more than 60 days, to make available for the 1978 through 1982 crops of upland cotton to cooperators 10-month nonrecourse loans at a level which will reflect for Middling one-inch upland cotton at average location in the United States not less than 75 percent of the cost of production. However, if the loan rate so calculated is higher than the estimated average world price for American cotton of such quality for the marketing year for which the loan determination is made, the Secretary may adjust the loan rate for upland cotton to not less than 90 percent of the estimated world price.

Section 103(e) of the 1949 Act, as amended by section 602 of the bill, requires that deficiency payments be made to upland cotton producers if the average market price they receive for upland cotton during the calendar year which includes the first five months of the marketing year for the crop (or the loan level established for the crop, whichever is higher) is less than the cost of production.

The cost of production for the 1978 crop is determined to be 51.1 cents per pound. For the 1979 through 1982 crops, the cost of production will be determined by the Secretary in accordance with new section 411 of the 1970 Act, as added by section 410 of the bill.

The disaster payment provisions of section 103(e) of the 1949 Act are amended to reflect the change from an established price to the cost of production in the formula for determining disaster payments.

Commodity Credit Corporation sales price restrictions

Section 603 extends for five years, to July 31, 1982, section 603 of the Agricultural Act of 1970, as extended by section 1(21) of the Agriculture and Consumer Protection Act of 1973.

Section 603 of the 1970 Act amended section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) relating to CCC sales of its stocks of cotton. Under that section, the Commodity Credit Corporation is required to sell upland cotton for unrestricted use at the same prices it sells cotton for export, but in no event, however, at less than 110 percent of the loan rate for Middling one-inch upland cotton adjusted for current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges. After July 31, 1978, sales will be made in accordance with the provisions of section 407 in effect prior to the 1970 Act, if section 603 is not extended.

Miscellaneous cotton provisions

Section 604 extends for five years—the 1978 through 1982 crops of cotton—the provisions of sections 604, 605, 606, 607, and 608 of the Agricultural Act of 1970.

Section 604 of the 1970 Act amends section 408(b) of the Agricultural Act of 1949, as amended, by defining a "cooperator" in the upland cotton program as a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under the program.

Section 605 of the 1970 Act contains minor technical provisions as follows:

(1) Eminent Domain: It amends section 378 of the Agricultural Adjustment Act of 1938, as amended, to provide that the term

"allotment" as used in this section includes the farm base acreage allotment for upland cotton.

(2) Reconstitution of Farms: It amends section 379 of the Agricultural Act of 1938, as amended, to provide that the term "acreage allotments" as used in this section includes the farm base acreage allotment for upland cotton.

(3) Finality of Farmers' Payments and Loans: It amends section 385 of the Agricultural Adjustment Act of 1938, as amended, to provide that payments made under the cotton set-aside program, when officially determined in conformity with program regulations, are final and conclusive and not reviewable by any other officer or agency of the Government.

Section 606 of the 1970 Act deals with transfer of acreage allotments on state lands. It amends section 706 of Public Law 89–321 to provide that the term "acreage allotments" as used in that section shall include the farm base acreage allotments for upland cotton.

Section 607 of the 1970 Act amends section 408 of the Agricultural Act of 1949, as amended, by adding a new subsection (1) entitled "Reference to Terms Made Applicable to Upland Cotton." This subsection provides that references made in sections 402, 403, 406, and 416 to the terms "support price", "level of support", and "level of price support" shall apply as well to the level of loans and purchases for upland cotton and references made to the terms "price support", "price support operations", and "price support program" in such sections and in section 401(a) shall be considered as applying as well to the loan and purchase operations for upland cotton under this Act.

Section 608 of the 1970 Act provides that section 203 of the Agricultural Act of 1949, as amended, shall not be applicable. Section 203 provides that whenever the price of either cottonseed or soybeans is supported, the price of the other shall be supported at such level as will cause them to compete on equal terms in the market.

Skiprow practices

Section 605 extends for five years, through the 1982 crop of cotton, section 612 of the Agricultural Act of 1970 as amended by section 1(23) of the Agriculture and Consumer Protection Act of 1973. That section amended subsection 347(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C 1347(a)) by adding a sentence providing that the rules governing skiprow patterns which were in effect for the 1971 through 1973 crops shall also apply to the 1974 through 1977 crops. There is no other such legislation which will be effective after the 1977 crop, if the present provision is not extended.

TITLE VII—RICE

National acreage allotment and allocation

Section 701 extends section 101 of the Rice Production Act of 1975, which amended section 352 of the Agricultural Adjustment Act of 1938, to provide for a rice program covering the 1976 through 1982 crop years, as follows:

Subsection (a) of section 352, as amended, establishes a national acreage allotment of 1.8 million acres (increased from the minimum allotment of 1.65 million acres existing prior to the 1975 Act). The allotment would be used as a base for calculating payments, loans and purchases to be made available to cooperators. Marketing quotas are suspended for the 1976 through 1982 crops and thus the allotment would not serve as a limitation on production. Producers without allotments could engage in the production of rice but would not be eligible to receive program benefits.

Subsection (b) provides for the national allotment to be apportioned to farms, and in producer States and administrative areas, to producers on the basis of allotments established for the 1975 crop with adjustments beginning with the 1977 crop to reflect failure to plant 90 percent of the acreage allotment in the previous year. A portion of the national allotment not to exceed 1 percent of the allotment apportioned within each State may be reserved by the State committee for apportionment to new rice farms and new rice producers, for making adjustments in allotments to correct inequities or prevent hardships, and for making corrections in farm or producer allotments.

Subsection (c) provides that if the acreage planted on a farm is less than 90 percent of the allotment, downward adjustments are required to be made in the allotment for the succeeding crop, except that the reduction cannot exceed 20 percent of the farm or producer allotment for the preceding crop. For the purpose of this provision, an acreage not planted in rice because of a condition beyond the control of the producer is considered as planted to rice. The Secretary may permit producers of rice to have acreages devoted to other crops considered as devoted to the production of rice to such extent and subject to such terms and conditions as he determines will not impair the effectiveness of the program. If no rice is planted for two consecutive years on a farm which has a farm acreage allotment or by a producer with an allotment, the farm or producer loses the allotment. No farm or producer allotment can be reduced or lost, however, for failure to plant if the cooperator elects not to receive payments for the allotment not planted.

Subsection (d) authorizes the Secretary to permit the transfer of the number of acres in an allotment which cannot be timely planted or replanted because of a condition beyond the control of the producer to another farm in the same or any nearby county in the same administrative area on which one or more persons on the farm from which the transfer is made will be engaged in the production of rice and will share in the proceeds thereof. The history of any allotment so transferred is preserved on the farm from which the transfer is made. The Secretary is authorized for the purpose of determining the amount of payments and loans to be made to establish a farm yield on the farm to which the transfer is made, if there is no established yield for that farm.

Subsection (e) requires the Secretary to permit the owner and operator of any farm for which a farm acreage allotment has been established to sell or lease all or any part of the allotment to any other owner or operator of a farm in the same administrative area or transfer the allotment to another farm owned or controlled by him in the same administrative area. Similarly, producer allotments may be sold or leased to other producers in the same administrative area. In the case of producer allotments, provision is made for apportionment of the allotment if the producer dies, or in the case of a partnership if the partnership is dissolved in a manner similar to pre-1975 law. Farm allotments may be voluntarily released to the county committee for reapportionment to other farms in the same county, in which event the allotment is preserved for history purposes on the farm from which the transfer is made.

Subsection (f) provides that an acreage planted in excess of a farm or producer allotment in crop years 1976 through 1982 cannot be taken into account in establishing farm or producer allotments in future years.

Loan rate and target price

Section 702 extends new subsection (g) to section 101 of the Agricultural Act of 1949, added by section 102 of the Rice Production Act of 1975, providing for the Secretary to make available non-recourse loans, purchases, and payments under a target price program for the 1976 through 1982 crop years. These benefits would be made available only to cooperators and only on allotted acreages. Cooperators are defined as persons who produce rice on a farm for which a farm acreage allotment has been established or to which a producer allotment has been allocated.

Section 101(g) of the 1949 Act, as extended by section 702 of the bill, contains the following provisions:

Paragraph (1) of subsection (g) establishes a target price to be used in determining payments to be made to cooperators. It provides for the target price to be $8 per hundredweight in the case of the 1976 crop, adjusted to reflect changes in the index of prices paid by farmers for production items, interest, taxes and wage rates during the period beginning on the date of enactment of the 1975 Act and ending July 31, 1976. For each of the 1977 through 1982 crops the target price crop would be the target price for the preceding year's crop, adjusted to reflect changes in such index in the 12-month period immediately preceding July 31 of the crop year for which the established price is determined. The Secretary may adjust any increase that he would otherwise make in the target price for the 1976 through 1982 crops to reflect changes in yields.

Paragraph (2) requires the Secretary to make loans and purchases available at a rate of $6 per hundredweight in the case of the 1976 crop, adjusted to reflect changes in the index of prices paid by farmers during the period beginning on the date of enactment of the 1975 Act and ending July 31, 1976. The Secretary may further adjust any increase in the loan and purchase rate to reflect a change in yields. Loans and purchases for the 1977 through 1982 crops are required to be established at a rate that bears the same ratio to the loan rate for the preceding year's crop as the established price for the current year's crop bears to the established price for the preceding year's crop. Loans and purchases may be made available only to each cooperator on the quantity of rice determined by multiplying the allotment of the cooperator for the crop by the yield established for the farm.

Paragraph (3) requires the Secretary to make payments available at a rate equal to the amount by which the target price exceeds the higher of the loan rate or the national average market price received by farmers during the first five months of the marketing year for the crop (i.e., August–December). Payments would be made available only to cooperators.

Paragraph (4) provides for payment to be made on a quantity of rice determined by multiplying the allotment of the cooperator for the crop by the yield established for the farm. The yield for purposes of determining payments and loans is based on the actual yields per harvested acre for the three preceding years, adjusted for abnormal yields in any year caused by a condition beyond the control of the cooperator.

Paragraph (3) also provides for disaster payments under terms and conditions similar to the wheat, feed grains, and upland cotton programs. If producers on a farm are prevented from planting all or any portion of the acres of the producer or the farm acreage allotment to rice or other nonconserving crop because of a condition beyond the control of the producer, the Secretary is required to make a payment on the affected areas at the larger of the deficiency payment rate or one-third of the target price. If, because of such condition, the amount of rice producers are able to harvest on a farm is less than two-thirds of the farm acreage allotment times

the established yield for the farm, a disaster payment is required to be made for the deficiency in production. The disaster payment would be at the higher of the deficiency payment rate or one-third the established price. No disaster payment can be made, however, on a farm from which an allotment was transferred to another farm because of a natural disaster condition with respect to the transferred acreage. A disaster payment could be made on the farm to which such acres were transferred if that farm qualified under this paragraph. The payment would be calculated, based on the farm yield established on the farm to which such acres were transferred. The disaster payment provisions apply both to administrative areas where allotments are allocated on a farm basis and areas where they are allocated on a producer basis.

Paragraph (5) authorizes but does not require the Secretary to provide for a set-aside program if he estimates (without taking into consideration the effect of the set-aside) that the carryover of rice at the end of the marketing year will exceed 15 per centum of the total supply of rice for the marketing year beginning in the calendar year in which the crop will be grown. The Secretary must make a preliminary determination before January 1 and a final determination by April 1 of the calendar year in which the crop will be grown on whether a set-aside will be in effect and, if so, the acreage of the set-aside.

If a set-aside is in effect, then as a condition of eligibility for payments, loans and purchases, the cooperator must set aside and devote to conservation uses the acreage of cropland specified by the Secretary. This shall be such percentage of the allotment (not to exceed 30 percent) as specified by the Secretary plus the conserving base, if required. In order to adjust acreage of rice to desirable goals, the Secretary may also make land diversion payments, in addition to deficiency payments, to cooperators who, to the extent prescribed by the Secretary, devote to conservation uses an acreage of cropland on the farm in addition to that required to be devoted under the regular set-aside program. The Secretary must limit the total acreage diverted so as not to affect adversely the economy of a county or community. Paragraph (5) contains terms and conditions relating to the set-aside which are the same as provided in the wheat, feed grain, and cotton program

Paragraph (6) provides for cooperators to protect the set-aside and additional diverted acreage and authorizes cost sharing by the Secretary for acreages devoted to wildlife food plots or wildlife habitats, and public access payments for allowing hunting, trapping, fishing and hiking by the general public—all in a manner similar to the wheat, feed grain, and cotton programs.

Paragraph (7) requires that as a condition to participating in the program the operator of the farm must file an agreement with the Secretary and the cooperators on the farm must comply with the set-aside acreages specified in the agreement. Provision is included authorizing the Secretary to terminate or modify the agreement in emergency situations such as to alleviate a shortage.

Paragraph (8) provides safeguards for tenants and sharecroppers.

Paragraph (9) provides that if a cooperator fails to comply fully with the terms and conditions of the program, the Secretary may, nevertheless, make loans, purchases, and payments in amounts he deems equitable in relation to the default.

Paragraph (10) authorizes the Secretary to issue regulations deemed necessary to carry out the subsection.

Paragraph (11) provides for the rice program authorized by subsection (g) to be carried out through the Commodity Credit Corporation.

Paragraph (12) makes applicable to the rice program the assignment of payment provisions of subsection 8(g) of the Soil Conservation and Domestic Allotment Act. That provision is also applicable to the cotton program.

Paragraph (13) provides that the total payments a person can receive under the rice program for any crop year cannot exceed $55,000. The term "payments" for payment limitation purposes does not include loans or purchases or any part of the payment determined to represent compensation for resource adjustment or public access for recreation. The Secretary is given authority to issue regulations defining the term "person" and prescribing rules determined necessary to assure a fair and reasonable application of the limitation, except that the rules for determining whether corporations and their stockholders may be considered a separate person shall be in accordance with the regulations issued by the Secretary on December 18, 1970, relative to the wheat, feed grain, and cotton programs. The payment limitation does not apply to State agencies which farm lands primarily for a public function.

Suspension of marketing quotas and other provisions

Section 703 suspends for the 1976 through 1982 crops of rice the provisions of law relating to marketing quotas, marketing quota penalties, and apportionment of the national acreage allotment.

Unused acreage allotments

Section 704 extends section 301 of the Rice Production Act of 1975 making inapplicable to the 1976 through 1982 crops section 377 of the Agricultural Adjustment Act of 1938, which relates to preservation of unused acreage allotments.

Finality of determinations

Section 705 extends section 302 of the Rice Production Act of 1975 making effective for the 1976 through 1982 crops of rice the finality provisions of section 385 of the Agricultural Adjustment Act of 1938. It also authorizes the Secretary in the event a producer dies, becomes incompetent, or disappears before receiving a payment, to make the payment as the Secretary determines fair and reasonable in all the circumstances.

Definition of cooperator

Section 706 extends section 303 of the Rice Production Act of 1975 amending the definition of a cooperator under section 408(b) of the Agricultural Act of 1949. Under the definition, a rice cooperator for the purpose of making payments, loans and purchases on the 1976 through 1982 crops is a person who has a rice acreage allotment and, if a set-aside program is in effect, has set aside any acreage required under the program.

Application of terms in the Agricultural Act of 1949

Section 707 makes conforming changes in various sections of the Agricultural Act of 1949. The changes are effective for the 1976 through 1982 crops of rice.

TITLE VIII—FOOD AND AGRICULTURAL RESEARCH

Subtitle A—Food and Agricultural Research: Planning, Coordination, and Dissemination of Findings

Findings and declarations

Section 801 of the bill sets out the Congressional findings and policy with respect to the need for food and agricultural research planning, coordination, and dissemination of findings.

Definitions

Section 802 of the bill provides for the definition of terms used in the subtitle.

Federal Food and Agricultural Research Policy Council

Section 803 of the bill provides for the establishment in the Executive Branch of a permanent Federal Food and Agricultural Research Policy Council to aid in the development, implementation, and coordination of Federal food and agricultural research programs. The Policy Council would be composed of 8 members: 6 senior members of the Executive Branch who administer food and agricultural research programs; the Deputy Director of the Office of Management and Budget; and the Deputy Director of the National Science Foundation. The Policy Council would be chaired by the Director of Science and Technology Policy; and the Assistant Secretary of Agriculture with jurisdiction over food and agricultural research would serve as Vice-Chairperson. The Policy Council would meet at least four times a year. The Secretary of Agriculture would provide the Policy Council with necessary clerical assistance and staff personnel. The Director of the Office of Research and Competitive Grants of the Department of Agriculture would serve as executive secretary to the Council.

The Policy Council would be responsible for: (1) periodically reviewing Federal food and agricultural research programs to assure that there is maximum coordination and cooperation among Federal departments and agencies; and (2) submitting annually to the Secretary of Agriculture the research funding recommendations for the next following fiscal year developed by the Council, pursuant to the requirements of section 808 of the bill. This statement would include, as necessary, the Council's recommendations with respect to supplemental funding or organizational changes necessary to achieve the objectives of this subtitle.

Federal Food and Agricultural Research Operations and Advisory Committee

Section 804 of the bill provides for the establishment within the Department of Agriculture of a permanent Federal food and Agricultural Research Operations and Advisory Committee. The Operations Committee would be composed of 23 members directly involved in the management of food and agricultural research programs. The Assistant Secretary of Agriculture with jurisdiction over food and agricultural research and the representative of the Executive Committee for the Division of Agriculture of the National Association of State Universities and Land-Grant Colleges would serve as Co-Chairpersons. The Director of the Office of Research and Competitive Grants of the Department of Agriculture (established under section 806) would serve as an ex officio member of the Operations Committee and as executive secretary, and the appointment of other ex officio members would be permitted. The Operations Committee would meet at least four times a year, and one of of these meetings would be a joint meeting with the Users Advisory Board for Food and Agricultural Research. The Secretary of Agriculture would provide the Operations Committee with necessary clerical assistance and staff personnel.

The tasks of the Operations Committee would include: (1) providing a forum for the interchange of information among member organizations; (2) the development of a system for information gathering and dissemination, with respect to Federally sponsored and, where possible, private food and agricultural research projects; (3) the development of methods for expanding the bases for cooperation in planning and implementing national, regional, and interstate research programs; (4) the development of

a research program evaluation system; (5) the development of guidelines for the award of Federal competitive grants; (6) the periodic review of research developments and the determination of high-priority need areas, in connection therewith, for use in the award of Federal competitive grants; and (7) the annual submission of a report to the Secretary of Agriculture of its research funding recommendations for the next following fiscal year required under section 808 of the bill, to include recommendations as to unified Federal-State research projects that should be implemented, a status report on all on-going research projects, and minority views (if timely submitted).

Users Advisory Board for Food and Agricultural Research, and working panels

Section 805 of the bill provides for the establishment of a permanent Users Advisory Board for Food and Agricultural Research within the Department of Agriculture. The Board would be composed of twenty-five members appointed by the Secretary, and would represent a wide spectrum of interest groups who use or are directly affected by food and agricultural research products. Appointments would be for three years. The Board would meet at least twice annually, and one of these meetings would be a joint meeting with the Operations Committee. The duties of the Board would be to: (1) recommend issues for consideration by the Policy Council; (2) annually review and assess (for the Policy Council (A) Federal research programs, (B) the relationship between the Federal Government and agricultural and mechanical colleges, State agricultural experiment stations, and other American universities doing food and agricultural research, and (C) the extent of private food and agricultural research; and (3) annually submit a statement to the Secretary of Agriculture on its research funding recommendations for the next following fiscal year required under section 808 of the bill, its assessment of the allocation of funding for the immediately preceding fiscal year, and minority views (if timely submitted).

(The due date for the annual reports would be staggered in this manner: the Users Advisory Board statement to the Secretary would be due by November 30 (see section 805(h)); the Operations Committee statement to the Secretary would be due by December 31 (see section 804(f); the Policy Council statement to the Secretary would be due by January 31 (see section 803(e)); and the Secretary's submission of these statements to the President and the Congress would be due by February 15 (see section 808(b)).

This section also provides for the division of the Board into five working panels each composed of five members from the Board, for the purpose of conducting public workshops and meetings with interested persons. The views and opinions of such persons would be forwarded to the Policy Council. The 5 working panels would cover the areas, respectively of: (1) agricultural input requirements; (2) agricultural and food production; (3) food marketing; (4) human nutrition; and (5) renewable resources. The term of membership on working panels would be for one year.

This section also provides that the Chairpersons of the Board and each working panel, and the Vice-Chairperson of the Board (who would be elected for one-year terms by their members) would constitute an executive board to advise the Secretary with respect to needed clerical assistance and staff personnel, and the selection of a person to serve as staff director of the Users Advisory Board staff personnel. This person would serve as an ex officio member of the Board and all working panels.

Establishment of the office of Research and competitive grants and duties of the Director

Section 806 of the bill provides for the establishment of the Office of Research and Competitive Grants within the Department of Agriculture. It would be headed by a Director who would report generally to the Assistant Secretary of Agriculture with jurisdiction over food and agricultural research. The Director, who would be a Presidential appointee subject to Senate confirmation, would be required to possess demonstrated competence in research administration and have a background in science. The Director would provide executive secretarial support to the Policy Council and Operations Committee. He or she would be responsible for disseminating information about Federally-supported research projects and for administering the Federal competitive grants program.

Funding of food and agricultural research programs

Section 807 of the bill expresses the sense of the Congress that Federal funding for food and agricultural research should equal, in any fiscal year, an amount not less than ½ of 1 percent of (1) the total value of personal consumption expenditures for food in the United States, and (2) the gross value of United States agricultural exports, for the preceding calendar year. This would be only a minimum level of funding and shall not prevent additional funds from being appropriated.

Examinations and recommendations with respect to appropriations

Section 808 of the bill requires the Policy Council, the Operations Committee, and the Users Advisory Board to annually examine the federally supported food and agricultural research and education programs, identify priority needs, and make recommendations as to allocation of responsibilities and levels of funding among these programs for submission to the Secretary of Agriculture. The Secretary would be required to transmit the recommendations to the President and the Congress, annually. The first submission would be due by February 15 of the second fiscal year following the year in which this title is enacted.

Rules and Regulations

Section 809 of the bill authorizes the Secretary of Agriculture to prescribe rules and regulations under this subtitle.

General provisions

Section 810 of the bill makes provision for: (1) the filling of vacancies in the membership of the Policy Council, Operations Committee, and Users Advisory Board; (2) designation by members of the Policy Council and Operations Committee of representatives to attend meetings; (3) the delegation of functions to individual members and the making of rules and regulations, for all three panels; and (4) payment of travel expenses, including per diem, to members of the Operations Committee and Users Advisory Board, while they are away from their homes or places of business in the performance of services under this subtitle. The members of all three panels would otherwise serve without any other compensation.

Director—Executive level

Section 811 of the bill amends section 5315 of title 5 of the United States Code to include the Director of the Office of Research and Competitive Grants as an Executive Level V position.

Appropriations

Section 812 of the bill authorizes the appropriations of funds necessary to carry out the subtitle.

Subtitle B—Food and Agricultural Research Grants and Contingency Fund

Research grants

Section 813 of the bill amends section 2 of the Act of August 4, 1965 which provides for agricultural research contracts and grants. As amended, this section would authorize the award of three types of grants to support food and agricultural research: competitive grants, grants to facilitate State-Federal research programs, and facilities grants to experiment stations and agricultural and mechanical colleges. The purpose of grants under section 2 would be to support high-priority research in food, agriculture, and related areas.

The Secretary of Agriculture would be authorized to award competitive grants to State agricultural experiment stations, schools, research institutions, and others for research to further the programs of the Department of Agriculture. Fifty percent of these grant funds would be allocated to high-priority research, as identified by the Operations Committee.

The Secretary would also be authorized to award grants to State agricultural experiment stations and agricultural and mechanical colleges to facilitate or expand on-going State-Federal research programs that: (1) are promising, but need additional funding; (2) promote excellence in research; (3) promote the development of regional research centers or; (4) promote the research partnership between the Department and the experiment stations or colleges.

Under the facilities grants program, the Secretary would be authorized to award grants to improve facilities necessary for food and agricultural research. Each State agricultural experiment station would annually be awarded $100,000, or 10 percent of what it receives under the Hatch Act and the MacIntire-Stennis Act, whichever is greater. For any amount in excess of $50,000 annually, the institution would be required to make a matching amount available for the establishment and maintenance of facilities. In addition, each experiment station and accredited college of veterinary medicine would receive annually an amount equal to 10 percent of what it received from the Federal government during the previous fiscal year for animal health research. Recipients of facilities grants would be permitted to have the annual grants accrue as a credit, for up to 5 years.

All recipients of funds would be required to keep records with respect to the grants, as the Secretary might require. The Secretary and the Comptroller General of the United States would have access to the recipients' records for purposes of audit or review of the books. The Secretary would be required to limit overhead cost items in grants to those necessary to carry out the grants. Appropriations as necessary to carry out this section would be authorized. The Secretary would be authorized to prescribe rules and regulations under section 2.

Contingency fund

Section 814 of the bill provides for the creation of a contingency fund in the U.S. Treasury, to be called the Department of Agriculture-Contingency Research Fund. It would be maintained at a minimum level of $5,000,000. It would be available to the Secretary of Agriculture, without fiscal year limitation, to meet emergency or irregular food and agricultural research needs, including national or regional conferences in connection wtih emergencies.

Subtitle C—National Food and Human Nutrition Research and Extension Program

Findings and declarations

Section 815 of the bill sets out the Congressional findings and declaration of policy with respect to the need for a national food and human nutrition research and extension program.

Authorizations to the Secretary of Agriculture

Section 816 of the bill directs the Secretary of Agriculture to develop and implement the national research and extension program. The program would include nutritional and food preference and habit research, surveillance of Departmental food assistance programs, and the development of techniques and equipment to assist consumers in selecting nutritionally-adequate food.

Research by the Agricultural Research Service

Section 817 of the bill requires the Secretary of Agriculture to (1) establish food and human nutrition research as a separate and distinct mission of the Agricultural Research Service, and (2) increase support for such research to a level adequate to meet the needs of the program established under this subtitle. The Secretary would consult with all Federal agencies responsible for food and human nutrition programs as to their specific research needs, in administering the research program. Not less than 2 percent of the funds appropriated for food and nutrition research by the Agricultural Research Service each year would be allocated for research to improve the operations of the Food and Nutrition Service of the Department of Agriculture.

Study

Section 818 of the bill provides for the performance of a study by the Secretary of Agriculture assessing the potential and cost of establishing regional food and human nutrition research centers in the United States, including an examination of the potential of using existing Federal facilities in establishing these centers. The Secretary would have one year in which to perform the study and would include his findings and recommendations based on the study in the report to the Congress required under section 822.

Research By State Agricultural Experiment Stations

Section 819 of the bill amends section 3(c) of the Hatch Act, dealing with the allocation of Federal funds to State agricultural experiment stations. Under the amendment, the percentage of such funds appropriated under the Hatch Act that would be earmarked for marketing research would be reduced from 20 percent to 10 percent. A new paragraph is added to this section, under which 15 percent of such appropriated funds would be earmarked for food and human nutrition research.

Nutrition Education

Section 820 of the bill requires the Extension Service of the Department of Agriculture to establish a national education program, for the dissemination of food and human nutrition research findings. Also, the Expanded Federal Nutrition Education Program would be expanded to provide for the employment and training of aides to engage in nutrition education of enrolled families. Funds for carrying out this teaching program would be allocated to each State in the proportion that the number of persons in the State living at or below 125 percent of the poverty level, bears to the number of persons in the entire country at or below such level.

Section 821 of the bill requires the Secretary of Agriculture to develop and distribute educational materials on food and nutrition education for use in primary and secondary schools, to all State departments of education.

Report to Congress

Section 822 of the bill requires the Secretary of Agriculture to submit a comprehensive plan for implementing the national food and human nutrition program, within one year of the effective date of this Act. It would include the findings and recommendations of the study to be performed under section 818.

Rules and regulations

Section 823 of the bill authorizes the Secretary of Agriculture to prescribe rules and regulations under this subtitle.

Subtitle D—Animal Health Research

Purpose

Section 824 sets out the Congressional purposes with respect to subtitle D.

Definitions

Section 825 of the bill provides for the definition of terms used in subtitle D.

Authorization to the Secretary of Agriculture

Section 826 of the bill authorizes the Secretary of Agriculture to cooperate with, encourage, and assist States in carrying out animal health research programs at eligible institutions.

Animal health science research advisory board

Section 827 of the bill provides for the establishment by the Secretary of Agriculture of an Animal Health Science Research Advisory Board, to provide consultation and advice to and assist the Secretary in administering this subtitle. The Board would be composed of eleven members: the Administrators of the Department's Agricultural Research Service, Cooperative State Research Service, and the Animal and Plant Health Inspection Service; the Director of the Bureau of Veterinary Medicine of the Food and Drug Administration of the Department of Health, Education, and Welfare; and seven members appointed by the Secretary generally representing institutions eligible for Federal funds under this subtitle and national livestock and poultry organizations. Members appointed by the Secretary would serve for three-year terms. The members would serve on the Board without compensation, except for travel expenses, including per diem. The Board would meet at least once annually to advise the Secretary with respect to the administration of this subtitle and to recommend research priorities.

Appropriations for continuing animal health research programs

Section 828 of the bill authorizes annual appropriations for the award of funds to eligible institutions (accredited colleges of veterinary medicine and State agricultural experiment stations) to meet the expenses of animal health research activities. Appropriations would be allocated as follows: (1) 4 percent to the Department of Agriculture for administrative purposes; (2) 48 percent to eligible institutions, to be distributed among institutions in the proportion that the amount of domestic livestock and poultry production to the States in which the institutions are located bears to the total U.S. production; and 48 percent to eligible institutions, to be distributed among institutions in the proportion that the animal health research capacity of the institutions bear to the total capacity in the United States. Provision is made for: (1) the allocation of funds among institutions in States that have both an agricultural experiment station engaged in animal health research and one or more veterinary colleges; (2) reallocation of funding among institutions in a State whenever a new veterinary college is established in the State; and (3) the allocation of funds to regional colleges or colleges jointly supported by two or more States.

Appropriations for research on national and regional problems

Section 829 of the bill authorizes annual appropriations to support research on national or regional animal health research problems. These funds would be allocated by the Secretary of Agriculture to eligible institutions as mutually agreed on by the Secretary and the institution involved. The Secretary would consult with the Advisory Board in developing plans for using these funds.

Availability of appropriated funds

Section 830 of the bill provides that the funds made available under this subtitle to the eligible institutions shall be allocated by the Secretary of Agriculture, at such times and in such amounts as he determines. Funds would remain available for the payment of unliquidated obligations for one additional fiscal year following the year of appropriation.

Withholding of appropriated funds

Section 831 of th bill requires the Secretary of Agriculture to withhold allocations to eligible institutions whenever the Secretary determines that an institution is not entitled to receive the allocation due to failure to satisfy the requirements of this subtitle or regulations issued under it. If funds are withheld, the Secretary is to report the facts involved to the President. The allocation would be held separate in the Treasury until the close of the next Congress. If the next Congress did not direct that the sum be paid, it would be carried to surplus.

Requirements for use of funds

Section 832 of the bill requires that the dean or director of eligible institutions to review animal health research project proposals at the institution to be funded under this subtitle, to determine that they comply with the purposes of this subtitle, the provisions for use of funds specified in section 828(a), and general guidelines for project eligibility, as developed by the Secretary with the advice of the Advisory Board. Research proposals that are approved would be submitted to the Secretary prior to the assignment of funds thereto with a brief summary showing compliance.

Each dean or director would also be required to submit an annual report stating the accomplishments of projects funded under this subtitle and to account for all funds allocated to the institution. Any funds that are misapplied would have to be replaced, and, until this was done, no subsequent funds would be alloted to the institution.

Matching funds

Section 833 of the bill requires that for all amounts awarded anually to institutions under section 828 in excess of $100,000, the allotment must be matched by non-Federal funds budgeted for animal health research. If the institution did not provide a full match for the Federal funds, the part of its allotment in excess of that for which matching funds were provided would be reallocated to other eligible institutions in the State, or if there be none, to other eligible institutions.

Allocations under this subtitle not substitutions

Section 834 of the bill states that funds appropriated and allocated to institutions under this subtitle shall be in addition to, and not substitution for, sums appropriated or otherwise made available to such institutions pursuant to other provisions of law.

Records

Section 835 of the bill requires recipients of funds under this subtitle to keep such records as the Secretary prescribes, including

records that fully document the use of such funds, and records that will facilitate an effective audit.

Access to records

Section 836 of the bill gives the Secretary of Agriculture and the Comptroller General of the United States, and their representatives, access to records of the recipients of funds, for the purpose of audit and examination of books. The authorization would remain in effect for three years following the completion of the project for which the funds were used.

Rules and regulations

Section 837 of the bill authorizes the Secretary of Agriculture to prescribe rules and regulations under this subtitle and to furnish such advice and assistance as will best promote the purposes of this subtitle.

TITLE IX—PUBLIC LAW 480

Conforming amendment

Section 901 amends section 103(b) of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480), as amended, to add a reference to section 112 which is added by the bill. Section 103 specifies, among other things, the conditions under which the President may accept repayment in foreign currencies.

Modification of title I allocation formula

Section 902 amends section 111 of P.L. 480 by adding a new subsection (b). Section 111 currently requires that 75 per centum of title I commodities be allocated and agreed to be delivered to countries with a per capita gross national product of $300 or less and which have an inability to secure sufficient food for their immediate requirements through their own production or through commercial purchases from abroad.

New subsection (b) would allow the President to reallocate commodities available to those poor countries if the commodities cannot be effectively used to carry out the humanitarian objectives of title I.

Facilities to aid distribution and consumption of U.S. farm commodities

Section 903 adds a new section 112 to title I of P.L. 480.

New section 112(a) authorizes the President to enter into commodity sales agreements and accept repayment in foreign currencies for subsection (b) activities.

New section 112(b) authorizes the Secretary of Agriculture to use not less than 5 per centum of the proceeds generated from the sale of title I commodities to develop handling, distribution, storage and other facilities which would contribute to increased consumption of U.S. farm commodities in foreign countries.

Modification of minimum quantity requirement

Section 904 amends section 201(b) of P.L. 480, to increase the minimum quantities of commodities to be distributed under title II of P.L. 480 (donations) from 1,300,000 metric tons to 1,500,000 metric tons. The requirement that 1,000,000 metric tons of such minimum volume be allocated to voluntary agencies and the World Food Program is deleted.

Reimbursement of transportation costs

Section 905 amends section 203 of P.L. 480 to provide authority to pay transportation costs for title II commodities to points of entry other than ports in the recipient country where (1) ports cannot be used effectively as entry points because of natural or other disorders, (2) carriers to a specific recipient country are unavailable, or (3) substantial savings can be achieved either in costs or time of transportation by use of designated points of entry other than seaports. Presently, transportation costs are only paid to a seaport in the recipient country except in the case of landlocked countries.

Increased appropriation limit for title II

Section 906 amends section 204 of P.L. 480 by increasing the maximum authorized annual reimbursement to the Commodity Credit Corporation for title II program costs from $600,000,000 to $900,000,000.

Revision of reporting requirements

Section 907 amends section 408 of P.L. 480 to permit certain required reports pertaining to assessment of the world food situation to be transmitted to the Congress by the Secretary of Agriculture rather than the President. Section 907 also amends section 408 of P.L. 480 to delete certain reports required by this section pertaining to the relationship of program activities under P.L. 480 to development activites of other countries and under the Foreign Assistance Act.

Extension of the program

Section 908 extends for five years, through December 31, 1982, section 409 of P.L. 480. That section presently provides that no agreements under title I of the act and no programs of assistance under title II of the act shall be entered into after December 31, 1977.

TITLE X—FOOD STAMP

Short title

Section 1001 provides that title X may be cited as the "National Food Stamp Reform Act of 1977".

Definitions

Section 1002 amends subsections (e), (f), and (l); and adds a new subsection (p) to section 3 of the Food Stamp Act of 1964. Section 3 defines the terms used in the Act.

Subsection (e), which defines the term "household", is amended to delete the requirement that household members under age 60 be related in order to qualify for the food stamp program. This requirement was ruled unconstitutional by the Supreme Court in *Moreno* v. *USDA*, 413 U.S. 528. The amendment will bring the Act into conformance with the Supreme Court decision.

The revised language eliminates the requirement that a household consist of an economic unit so that a household will, for purposes of the Act, be persons who share common living quarters and purchase food in common. The deletion of the "economic unit" criterion of eligibility will simplify the determination of which individuals constitute a household and will minimize the problem of individuals or groups of individuals living together and applying as "separate" households.

Subsection (e) retains as a "household" single persons living alone and purchasing food for home consumption; elderly persons eligible to purchase delivered meals or meals prepared by a designated private or public nonprofit organization; and narcotics addicts or alcoholics who reside in a treatment or rehabilitation center. Residents of federally subsidized housing for the elderly will also continue to be deemed not to be residents of institutions for the purposes of the food stamp program.

Subsection (e) is further amended to exclude from the cooking facilities requirement those households in which a member is eligible to participate in the nutrition program for the elderly under title VII of the Older Americans Act of 1965 or is authorized to use coupons for home-delivered meals (meals-on-wheels).

The revised language also deletes the provision concerning Supplemental Security Income recipients.

Subsection (f), which defines the term "retail food store", is amended to include within that definition any private nonprofit cooperative food purchasing venture in which members pay for food before they actually receive their food. The cooperatives would be able to redeem their members' food stamps prior to delivery of the food.

Subsection (f) is further amended by providing that drug addiction and alcoholic treatment and rehabilitation centers participating in the food stamp program are not authorized to redeem coupons through banks. This provision is added in order to eliminate the high potential for program abuse which exists because center personnel can now immediately convert their clients' food coupons to cash at the banks where they have purchased the food coupons using their clients' authorization to purchase cards. It will encourage the use of food coupons at retail and wholesale food stores.

Subsection (l) is amended by defining "elderly person" as being a person 60 years of age or over who is not a resident of an institution or boardinghouse. The new definition deletes the provision that the elderly must be a person living alone, or with spouse.

New subsection (p) defines a "nutritionally adequate diet" as one that is based on the thrifty food plan developed in 1975 by the Department of Agriculture and provides that the cost of such diet shall be the basis for uniform coupon allotments with variations only for household size.

* * * revises subsection (b) of section 4 of the Food Stamp Act.

Subsection (b) is revised to continue to permit concurrent operation of the food stamp and food distribution programs on Indian reservations for a period of transition from the food distribution program to the food stamp program. Concurrent operation is also authorized to meet disaster relief needs and for the purposes of any supplemental food program. Authority for concurrent operation of both programs in an area on request of the State agency is deleted.

Eligible households

Section 1004 revises subsections (b) and (c); and adds new subsections (e), (f), (g), (h), (i), and (j) to section 5 of the Food Stamp Act.

Subsection (b), as revised, requires the Secretary to establish uniform national standards of eligibility fer the food stamp program. It also requires that the income standards of eligibility be the income poverty guidelines prescribed by the Office of Management and Budget, adjusted pursuant to section 625 of the Economic Opportunity Act of 1964, as amended, for the forty-eight States and the District of Columbia, Alaska, Hawaii, Puerto Rico, the Virgin Islands of the United States, and Guam. Application of these guidelines will, in effect, terminate categorical eligibility of public assistance households and recipients of Supplemental Security Income whose income is above such guidelines. The poverty guidelines replace the current method of determining maximum net income levels as the point at which the coupon allotment equals 30 percent of net income.

The revised subsection (b) requires that the Secretary use the income actually received during the 30-day period prior to application or recertification in determining income of households. The use of the income received during the previous 30 days would replace the current method of anticipating a household's circumstances. Longer periods may be used for individuals who regularly derive their annual income in a period of time substantially shorter than one year (e.g., from such sources as self-employment, agriculture, contract work, and educational scholarships). However, a household that has suffered a substantial loss of earned income may immediately apply for program benefits. It is expected that the Secretary will issue regulations

specifying the nature and extent of such loss which must be sustained in order to qualify for immediate application. At the time of application, members of the household (who are not otherwise exempt) must register for employment under section 5(c). After the expiration of the 30-day period from the date of loss of earned income, the applicant household may present to the certifying authority verification of its income and immediately be issued an authorization to purchase (ATP) card. Such household's eligibility will be reverified by the certifying authority within 30 days after the issuance of the ATP card.

The revised subsection (b) requires the Secretary to establish additional eligibility standards with respect to the amount of liquid and nonliquid assets a household may own and still be eligible for program participation.

A monthly standard deduction of $70 a month applicable to all households (except that the monthly standard deduction for households in Puerto Rico, the Virgin Islands, and Guam will be $35) replaces certain itemized deductions now allowed by regulation, such as expenses for medical and educational fees, child care, support payments, and excess shelter costs.

The revised subsection (b) also provides for an additional monthly deduction of $25 for any household containing at least one individual aged 60 or over, or which has at least $150 a month in earned income, in recognition of the needs of the elderly whose limited earning capacity prevents them from meeting special expenses incurred at this age, and work related expenses.

Participating households will be able to deduct—from gross income—Federal, State, and local income taxes, and Social Security or mandatory retirement withholding for employees of the Federal government. (Consultation with the Secretary of the Department of Health, Education, and Welfare on national standards of eligibility is no longer required since categorical eligibility of public assistance and SSI recipients is removed.)

The revised subsection (b) defines "gross income" to include (but not be limited to) all money payments and payments in kind (including payments under Title I of the Domestic Volunteer Services Act of 1973 and Federal, State, and local income tax refunds, and Federal income tax credits). However, there are excluded from gross income (1) medical vendor payments; (2) income earned by a child residing with the household who is a student and who is younger than 18 years old; (3) payments received under title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; (4) infrequent or irregular income of all household members that does not exceed $30 during any three-month period; (5) all loans, except deferred educational loans to the extent they are not used for tuition and mandatory fees at an institution of higher education or school for the handicapped; (6) all scholarships, fellowships, grants, and veterans' educational benefits, except to the extent they are not used for tuition and mandatory fees at an institution of higher education or school for the handicapped; (7) housing vendor payments made directly to landlords under programs administered by the Department of Housing and Urban Development; (8) payments received under the WIC program; (9) any vendor or in kind benefits that are derived from Government benefit programs which cannot reasonably and properly be computed; (10) any income that any other law specifically excludes as income for the purposes of determining eligibility for the food stamp program; (11) training allowances to the extent they are used for tuition and mandatory fees in an accredited training program which is preparatory to or associated with employment; and (12) the cost of producing self-employed income.

Revised subsection (b) also eliminates the present statutory mechanical disaster provision. Under this provision, State agencies are required to provide emergency assistance to households who are unable to purchase coupons because their authorization to purchase cards have not been produced on a timely basis due to a mechanical failure of the equipment used to produce such cards. As an alternative, the credits for lost benefits provision in new section 10(e)(9) of the Act can be used to recompense food stamp recipients who have lost benefits because of a mechanical disaster.

Revised subsection (c) reduces the upper age limit for work registration from 65 to 60 and makes other significant changes in the work registration provisions. Use of age 60 is consistent with the definition of elderly in other portions of the Act.

The categories of people required to register for work would be more clearly defined by specifying that the term "dependent children" of such people means children under the age of twelve.

Exempted from the work registration requirements of subsection (c) are a parent or other household member who has the responsibility of care of a dependent child or of an incapacitated person; a parent or other caretaker of a child or of an incapacitated person in households where there is another able-bodied person who is subject to the work registration requirements; bona fide students (enrolled at least half-time) in any accredited school or training program; and persons employed and working at least 30 hours per week.

Program ineligibility for a household would result if an able-bodied adult household member (without good cause or not otherwise exempt) (1) fails to register for work; (2) fails to engage in an active job search; (3) refuses to accept employment or public work at not less than the highest of (a) the applicable State minimum wage, (b) the applicable Federal minimum wage, (c) the applicable rates established by a valid regulation of the Federal Government authorized by existing law to establish such regulation, or (d) if no wage is established under (a), (b), or (c), a wage which is not substantially less favorable than the wage normally paid for similar work in that labor market, but in no event less than three-fourths of the prevailing Federal minimum wage; or (4) voluntarily quits any job (unless the household was certified for program benefits immediately prior to such unemployment). Refusal to work at a plant or site subject to a strike or lockout for the duration of a strike or lockout is not deemed refusal to accept employment.

The State employment service responsible for administering the work registration provisions of subsection (c) is to comply with regulations issued jointly by the Secretary of Agriculture and the Secretary of Labor. The regulations are to conform as closely as possible with the policies of the work incentive program (WIN) taking into account the diversity of the food stamp work registrant population and varying registrant needs, as determined appropriate by the Secretaries of Agriculture and Labor.

If the State employment service fails to comply with the regulations issued under subsection (c), the Secretary of Labor is authorized to assume such responsibilities.

Not more than $100,000,000 is authorized to be allocated to the Secretary of Labor for fiscal year 1978 to enable him to carry out his responsibilities under subsection (c). The amount to be allocated to the Secretary of Labor for each succeeding fiscal year shall be jointly determined by the Secretary of Agriculture and the Secretary of Labor.

The Secretary of Labor is authorized to make grants or enter into agreements for the purpose of carrying out his responsibilities under subsection (c). (The agreements could be with State public assistance agencies.)

Any narcotics addict or alcoholic who regularly participates as a resident or nonresident in any drug addiction or alcoholic treatment and rehabilitation program for whom the chief administrative officer of the rehabilitation program certifies in writing to the State agency that the work registration requirement would interfere with rehabilitation is not considered an "able-bodied person" and is, therefore, not subject to the work registration provisions of subsection (c).

The exception from the work registration requirement of this section for bona fide students will not apply during a break in the school year or, between school years, if the break is for thirty or more days.

New subsection (e) provides that illegally and temporarily resident aliens may not participate in the food stamp program. The current Act does not contain such a provision; however, this requirement is consistent with the public assistance requirements of the Department of Health, Education, and Welfare, and the Supplemental Security Income Program statutory provision. In addition, this provision requires the State agency to disclose information regarding illegally present aliens to the Department of Justice.

New subsections (f) and (g) delineates the participating household's responsibilities under the food stamp program.

New subsection (f) specifically requires recipients to provide information needed for the certification process and any subsequent audit or quality control review. If a household refuses to cooperate in providing information necessary for making a determination of eligibility or ineligibility or to complete a quality control review, the household is subject to denial of food stamp benefits. Households which are found to be fraudulently obtaining coupons would be disqualified for a period not to exceed one year.

New subsection (g) mandates that the Secretary will require all participating households (except households in States which implement a monthly client reporting system) to report to the State agency any change in monthly income in excess of $25 and any other change deemed appropriate by the Secretary within 10 days of the change. This is the situation presently, by program regulation, and the States would have the option of implementing a monthly client reporting system. If a household fails to fulfill the reporting requirement of this subsection, or fails to report a change under a monthly reporting system, its coupon allotment for the next certification period will be reduced to reflect the impact of the changes at the time when they should have been reported.

New subsection (h) provides permanent statutory authority to establish tax dependency criteria for food stamp eligibility of students. This provision is consistent with the language contained in the Agriculture and Related Agencies Appropriation Act, 1977 (Public Law 94-351, 90 Stat. 851); however, the provision is more inclusive than that language inasmuch as program ineligibility results if the student is properly claimed or could properly be claimed as a tax dependent of an ineligible household. The determination of tax dependency is to be made in the year the family support is being received, not the year in which the tax return is actually filed.

New subsection (i) makes the ineligible any household which, as determined by the Secretary, purposely transfer ownership of a resource in order to meet the program's assets test. The Secretary can set by regulation

the period of such ineligibility provided it lasts at least 30 days from the date of discovery of the transfer.

New subsection (j) continues the ineligibility of any recipient of Supplemental Security Income payments in a State which has specifically increased its supplementary payments to include the bonus value of food stamps.

Value of the coupon allotment and charges to be made

Section 1005 revises subsections (a), (b), and (d) of section 7 of the Food Stamp Act.

Revised subsection (a) provides that the total value of the coupons to be issued to a participating household shall be calculated on the basis of a family of 4 persons described in section 3(p) of the Act, as added by section 1002(d) of the bill. This revised language is intended to continue the present practice of the Department of Agriculture which utilizes an averaging system to establish a standard coupon allotment for each household size. This average allotment will be adjusted to reflect economies of scale for different size households. A typical household would receive allotments which vary from their specific needs, since the only adjustment would be by household size.

Revised subsection (b) establishes the amount that a household shall be charged for its coupon allotment as 27.5 percent of adjusted gross monthly income. The revised language assures that each single-person and two-person participating household would receive a food stamp benefit (or what is commonly referred to as the "bonus") of at least $10. The variable purchase option presently contained in subsection (b) is deleted. The Secretary is required to insure that all participating households receive 4 authorizations to purchase cards in a timely manner at the beginning of each month, each card representing one-fourth of that household's monthly coupon allotment. This provision would replace the present variable purchase option and would allow greater flexibility to participating households.

The revised subsection eliminates the present statutory provision that households with incomes of less than $30 per month not be charged for their coupon allotments; the proposed standard deduction will be higher than $30 per month for all households.

Revised subsections (d)(5)(A) and (d)(6) are technical amendments to those subsections to clarify the fact that State agencies may be the Secretary's designee for receipt of monthly reports on coupon vendor activity.

Administration

Section 1006 revises section 10 of the Food Stamp Act.

Subsections (a), (e)(5), and (e)(7) are revised; new subsections (e)(9), (e)(10), (j) and (k) are added; and subsections (f), (g), (h), and (i) are revised.

Subsection (a) is amended by requiring that the USDA Extension Service, with the technical assistance of the Food and Nutrition Service, extend its food and nutrition education program to the greatest extent practicable to encourage the purchase of nutritious foods by program participants. This provision would direct the development of pamphlets and other printed materials designed to educate low-income persons on how to buy and prepare more nutritious and economical meals.

Subsection (a) is further amended by requiring that Federal agencies which administer programs for the needy make every reasonable effort to inform recipients of those programs (who are potentially eligible for the food stamp program) of the existence and income and resource guidelines of the food stamp program. Such Federal agencies would carry out this responsibility in the normal course of their dealings with their clients.

Clause (5) of subsection (e) presently requires State agencies to take effective action to "inform" low-income households and to "insure" the participation of those that are eligible. Clause (5), as revised by the bill, deletes the requirement to "insure" participation because of the unintended burden it has placed on the State agencies in effectively administering the outreach provision.

Subsection (e) is revised by amending clause (7) to give a State agency the option to establish a system under which a food stamp household may elect to have its charge for the coupon allotment withheld from its public assistance check, to conform to Public Law 94–585.

A new clause (9) is added to subsection (e) to facilitate compliance with the U.S. District Court ruling, *Bermudez* v. *USDA*, 348 F. Supp. 1279 D.D.C. 1972), that USDA must provide retroactive benefits to households who have had their food stamp allotment wrongfully delayed, denied, or terminated as a result of administrative errors by State agencies. Households would have to file for such benefits within three months of their having knowledge of the error and such payments would not be more than the bonus value of the household's coupon allotment for a three month period. However, the period for which payments may be made could be extended by such time as is necessary to complete administrative review of the alleged wrongful denial. Presently, such benefits are restored by reducing the household's subsequent purchase requirements until full compensation has been made. This method was prescribed by the courts. This revision provides legislative authority for direct cash payments to households for the amount of bonus coupons lost. The cash payments would be regarded as "bonus" food stamp benefits under section 7(c) of the Act and, therefore, not counted as income or resources for any purpose under any Federal or State laws.

A new clause (10) is added to subsection (e) which requires the State agency to undertake effective action to (1) determine promptly eligibility of applicants by providing an opportunity for households to receive and file applications on the same day of their first reasonable oral or written attempt to apply, and (2) complete certification and issue authorization to purchase cards within 30 days of the filing of an application.

Revised subsection (f) provides the Department of Agriculture with another remedy to cope with a State's noncompliance with the provisions of the Food Stamp Act and regulations. This remedy will allow the Department of Agriculture, through the Department of Justice, to bring an injunctive action in a U.S. District Court to require compliance by the State. The provision in present section 10(f) authorizing the Secretary to terminate coupon issuance in political subdivisions where noncompliance persists, until satisfactory corrective action is taken, is retained.

Revised subsection (f) further directs the Secretary to withhold 10 per centum of the Federal funds payable to any State for its administrative costs if the State substantially fails to implement its approved plan of operation (including any quality control plan).

Subsection (g) presently imposes upon State agencies liability to the Federal Government for the value of bonus coupons issued through "gross negligence" in the certifying of applicant households. The revised subsection reduces the standard to "negligence." Proof of negligence would constitute a basis for asserting a claim and would permit a fair application of this provision.

Subsection (h) is amended to allow all food stamp recipients who are housebound, feeble, physically handicapped or otherwise disabled, as well as all those over 60 years of age to use food stamps for home-delivered meals (meals-on-wheels). Under existing law, recipients must be both incapacitated and elderly to be able to get meals-on-wheels with stamps. This section does not extend eligibility for the program; it simply states that those people who already qualify for food stamps and meals-on-wheels can use the stamps to pay for the meals. The meals must be prepared and delivered by a political subdivision or a tax exempt private organization operated in a manner consistent with the provisions of the Food Stamp Act. The restriction against receipt of donated foods in preparing meals for food stamp recipients is deleted.

Subsection (i) is amended to conform to changes made in section 10(h).

New subsection (j) authorizes the Secretary in conjunction with the Secretary of Health, Education, and Welfare, to issue regulations which would permit SSI applicants and recipients to apply for food stamps at SSI certification offices. If such regulations are issued, the food stamp certification of SSI recipients would be performed by State agency personnel; employees of the Social Security Administration in SSI offices would refer SSI applicants and recipients to the appropriate State agency personnel in order that the application and certification for food stamp assistance may be accomplished as efficiently and conveniently as possible.

New subsection (k) requires the use of multilingual personnel and printed material (where necessary) in the administration of the program in areas where numerous persons are non-English speaking.

Settlement and adjustment of claims

Section 1007 amends section 12 of the Food Stamp Act. The present language in section 12 is not clear as to whether procedures for reviewing and handling recipients claims arising from food stamp overissuances are at the discretion of the Secretary or must be governed by the rules and procedures of the General Accounting Office. The proposed language makes it clear that the Secretary may adopt such procedures as he deems necessary to effectively handle such claims without being limited to those generally applicable to claims of the Government.

Criminal penalties

Section 1008 amends section 14 of the Food Stamp Act. Subsections (b) and (c) are amended to reduce the maximum penalty for misdemeanors from the current $5,000 to $1,000. A reduction of the penalties would permit misdemeanors to be prosecuted before magistrates under the Federal Magistrates Act. Minor recipient and retailer-type violations would be subject to faster and more frequent prosecution and thus would be more effectively deterred.

Administrative expenses

Section 1009 amends section 15 of the Food Stamp Act. Subsection (b) is amended to make it clear that, with respect to general certification costs, the Secretary will pay the Federal share of State agency certification costs for nonpublic assistance households and Supplemental Security Income recipients only (along with the Federal share of all issuance costs). The Department of Health, Education, and Welfare would continue to pay the Federal share of State agency certification costs for Aid to Families with Dependent Children (AFDC) households.

New subsections (c) and (d) are added at the end of section 15. New subsection (c) is added to provide authority for the Secretary to pay to State agencies 75 percent of the direct costs incurred in prosecutions and related activities as they concern recovery of program losses from nonpublic assistance households.

New subsection (d) conforms to Public Law 94–585 which provides that the administrative costs incurred by a State plan for aid and services to AFDC families in conducting public assistance withholding procedures under section 10(e)(7) will be paid for from Food Stamp Program appropriations.

Appropriations

Section 1010 amends section 16(a) of the Food Stamp Act to extend the authorization for food stamp appropriations to September 30, 1982. The present appropriations authorization expires on September 30, 1977.

Pilot project authority; earnings clearance system study: assets study

Section 1011 adds new sections 18, 19, 20, and 21 to the Food Stamp Act.

New section 18 authorizes the Secretary to carry out on a trial basis experimental projects in order to determine more efficient methods of operating the program.

New section 19 authorizes and directs the Secretary to conduct a study of the feasibility and advisability of establishing a system for verifying the earnings of applicants and participants with proper protection for the privacy of individuals. The results of such study is to be submitted to Congress one year after the enactment of the section.

New section 20 requires the Secretary to conduct a study to determine average assets and distribution of assets held by food stamp participants. The Secretary is required to submit a report to Congress on such study within 180 days after the enactment of the section.

New section 21 requires the Secretary, within ninety days after enactment of this section, to implement a pilot project in not fewer than ten project areas, or parts of project areas, in geographically dispersed urban and rural regions, on the effect of elimination of the purchase requirement. The Secretary is required to submit a report to Congress not later than March 1, 1978, on this pilot project. $20,000,000 is authorized to carry out this project.

Conforming amendment

Section 1012 makes necessary conforming changes in Public Laws 93–233, 93–286, and the Act of October 31, 1949, which would—together with new subsection (j) of section 5 of the Food Stamp Act—make permanent the "cash out" provisions now applicable to Supplemental Security Income recipients.

Establishment of additional Assistant Secretary of Agriculture

Section 1013 establishes in the Department of Agriculture an additional Assistant Secretary who would be responsible for administering—under the direction of the Secretary—the food and nutrition programs of the Department. Such programs include the food stamp program, the child nutrition programs (school lunch, school breakfast, child care food, summer food, and WIC), and food distribution programs.

TITLE XI—RURAL DEVELOPMENT

Subtitle A—Rural Community Fire Protection

Disposition of surplus Federal property to rural fire forces

Section 1101 would add new subsection (b) and (c) to section 402 of the Rural Development Act of 1972.

New subsection (b) would direct the Secretary, with cooperation and assistance from the Administrator of General Services, to encourage the use of excess Federal personal property by rural fire forces in the program.

New subsection (c) would require the Secretary to closely coordinate the assistance under the program with assistance provided under other fire protection and rural development programs administered by him, to promote maximum effectiveness and economy.

Section 1102 would add a new subsection (b) to section 403 of the Rural Development Act of 1972.

New subsection 403(b) would require the Secretary of Agriculture to report to Congress, not later than March 1 of each year, beginning with calendar year 1978, on the operation of the rural community fire protection program. The report would include the number of applications for assistance filed, the number of applications approved, the amounts allocated to each State, the purposes for which the allocations were made, and such comments and recommendations for improving the program as the Secretary deems appropriate.

Extension of appropriations authority

Section 1103 would amend section 404 of the Rural Development Act of 1972 to extend the authorization for appropriations for carrying out the rural community fire protection program through September 30, 1980. Not to exceed $7 million could be appropriated for each of the fiscal years 1978, 1979, and 1980.

Subtitle B—Congressional Approval of Watershed projects

Section 1104 amends sections 2(3), 5(3), and 5(4) of the Watershed Protection and Flood Prevention Act, as amended, by raising from $250,000 to $500,000 the amount of any project under that Act requiring Congressional approval, transmittal to the Congress of the watershed or subwatershed area plan, and transmission of certain plans and recommendations to Congress.

Subtitle C—Congressional Approval of Resource Conservation and Development Project Loans

Section 1105 would increase from $250,000 to $500,000 the amount of any loan that could be made for a Resource Conservation and Development project under the Bankhead-Jones Farm Tenant Act without prior approval of such loan by the House and Senate Agriculture Committees.

TITLE XII—EXTENSION OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Scientific Advisory Panel

Section 1201 would make permanent the scientific advisory panel established by section 25 of FIFRA. Under that section of the Act the Administrator of the Environmental Protection Agency must submit to the advisory panel for comment as to the impact on health and the environment, of the notices of intent to cancel pesticide registrations and the proposed and final form of regulations issued under the Act. In the absence of an amendment to section 25, the scientific advisory panel will terminate on November 28, 1977.

Extension of FIFRA

Section 1202 extends the authorization for appropriations for the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for fiscal years 1978, 1979, and 1980, at $65,000,000, $70,000,000, and $75,000,000 respectively.

TITLE XIII—MISCELLANEOUS PROVISIONS

Inclusion of aquaculture and human nutrition among the basic functions of the Department of Agriculture

Section 1301 amends sections 520 and 526 (a) of the Revised Statutes (7 U.S.C. 2201, 224(a)) to include marine and fresh water aquaculture and human nutrition as basic functions of the Department of Agriculture.

Beekeepers indemnity program

Section 1302 extends for five years, through December 31, 1982, section 804 of the Agricultural Act of 1970 (7 U.S.C. 135b note), as extended by section 1(27) of the Agriculture and Consumer Protection Act of 1973, which provides for indemnity payments to beekeepers who sustain losses as a result of pesticides. The present provision is effective only through December 31, 1977. There is no other suspended legislation on this subject which will come into effect on that date.

Multiyear set-aside contracts

Section 1303 extends for five years, 1978 through 1982, section 1005 of the Agricultural Act of 1970 (16 U.S.C. 1505), as added by section 1(28) of the Agriculture and Consumer Protection Act of 1973. Section 1005 of the 1970 Act authorizes multiyear set-aside contracts under the Rural Environmental Conservation Program. The present authority does not extend beyond the 1977 crop.

Commodity distribution programs

Section 1304 extends for five years, through September 30, 1982, section 4(a)(2) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612 note), as extended by P.L. 93–347 (88 Stat. 340, July 12, 1974) and P.L. 94–273 (90 Stat. 375, April 21, 1976). Section 4(a)(2) of the 1973 Act provides for the purchase and donation of agricultural commodities with appropriated funds during the period ending September 30, 1977. There are various other commodity purchase and distribution statutes which will remain in effect after that date and have no expiration date.

Rescue operations by the Secretary of Agriculture on National Forest System lands

Section 1305 amends section 3 of the Act of May 27, 1930 (46 Stat. 387; 16 U.S.C. 575) to authorize the Secretary of Agriculture to utilize Department personnel and equipment in cases of emergency to: (1) search for lost persons within the National Forest System; (2) provide emergency medical services for persons seriously ill or injured within the National Forest System and while in transit to the nearest medical facility; (3) transporting seriously ill or injured persons within the System to the nearest medical facility or to the nearest place where they can be transferred to interested parties or local authorities; and (4) transporting persons who die within the National Forest System to the nearest place where the body may be transferred to interested parties or local authorities.

New section 3(b) authorizes the Secretary to cooperate with any State or political subdivision in conducting activities under this section. The Secretary may reimburse cooperators under terms of a written agreement for expenditures in connection with activities under this section.

New section 3(c) authorizes to be appropriated such amounts as may be necessary to carry out the provisions of this section.

Other rescue operations by the Secretary of Agriculture in case of emergency

Section 1306 provides general authority (similar to that contained in section 1305 of the bill) for the Secretary of Agriculture to aid in rescue operations in cases of emergency when called upon by local or State authorities.

Mr. TALMADGE. Mr. President, I yield such time as I have remaining to the distinguished Senator from Kansas, the ranking minority member of our committee.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, the Senator from Kansas is pleased to join the chairman of the Senate Agriculture Committtee, the distinguished Senator from Georgia (Mr. TALMADGE), in introducing the Food and Agriculture Act of 1977.

Basically, this comprehensive bill will extend for 5 years, and upgrade, the successful farm programs of the past 4 years—programs which permit the farmer, not the Government, to determine what to plant, when to plant, and how much to plant. The bill also extends and upgrades a number of other programs that affect agriculture, including the food for peace program, the food stamp program, the pesticide regulation program, and the agricultural research program.

There are two major reasons for my cosponsoring this legislation. First, I believe it is a useful starting point for our consideration of a new farm bill in the Senate Agriculture Committee. This is not to say I agree with everything in the bill. We will soon begin a series of hearings in the Agriculture Committee where the specific provisions that should be incorporated in the farm bill will be further discussed. But this legislation serves as a reference point that farmers and farm organizations can agree with or disagree with as they see fit. Subsequent to those hearings, I and other members of the committee may choose to change various provisions now in the bill. In addition to the provisions about which I have reservations, there are some provisions with which I disagree completely. In these cases I have introduced or will introduce legislation of my own. I will discuss these measures in further detail in a moment.

Secondly, I cosponsor this bill in the spirit of bipartisan cooperation. I hope this will set the tone which has always existed in the Senate Agriculture Committee where those from both sides of the aisle can work constructively to achieve the best possible program for farmers, consumers, and the Nation as a whole without regard to narrow partisan political interest.

5-YEAR EXTENSION

This bill provides a 5-year extension of the basic farm commodity programs. This extension is an indication of the basic success we have enjoyed under the existing programs in recent years.

The American farmer has demonstrated what he can do when Government rules are removed. More than 215 million Americans eat well—better than any other people in the world—because American farmers are efficient. Millions more people in other parts of the world also share in America's abundant production. This abundance is due in no small part to the market-oriented farm policies pursued by the administration and the Congress in recent years.

The Food and Agriculture Act of 1977 extends the present successful farm programs for wheat, feedgrains, and cotton. In addition, this bill extends the present wool, rice, dairy, and beekeeper indemnity programs.

COST OF PRODUCTION

In the commodity programs for wheat, feedgrains, and cotton, this bill relates the target price more realistically to the cost of production. Target prices are $2.91 per bushel for wheat, $2.28 per bushel for corn—with feedgrain target prices based on that of corn—and 51.1 cents per pound for cotton.

As every farmer knows, the cost of production varies greatly from farm to farm. However, the target price proposed in this legislation is a vast improvement over the existing level of target prices due to the sharp increases in production costs since target prices were instituted in 1973. The cost of production figures used in this legislation are based on all the costs incurred by farmers in producing a crop, including planting, harvesting, management, and the cost of land. The greatest variable in production cost from one farm operation to another is the cost of land. The calculation of land costs in this bill is based on an average of cash rent farming operations, crop sharing operations, full ownership of the land, and the acquisition price of buying land at current market prices.

So the target price figure we have in this bill is a rough average. It may or may not equal the cost of production for any given farmer based on the particulars of his operation. I wish to state my reservations about the target prices included in this bill. We may wish to change them following the hearings.

LOAN RATE FLEXIBILITY

Minimum loan levels provided in this bill are 75 percent of the target price, or 75 percent of the cost of production figures. Specifically, the minimum loan level would be 2.18 per bushel for wheat, $1.71 per bushel for corn, and 38.33 cents per pound for cotton. The Secretary would have the full authority under this bill to set loan levels at a higher figure if desired, up to a level of 90 percent of parity, which would approximate $4.40 per bushel for wheat according to the most recent USDA parity figures.

This legislation if enacted, would set the minimum loan rate at a level less than the existing loan levels. For example, the minimum loan level of $2.18 per bushel in this bill compares to the present $2.25 per bushel for wheat. I have reservations about this and feel we may want to raise the minimum loan level in the bill to 80 percent of the target price.

This legislation also provides flexibility for the Secretary of Agriculture to set loan rates below the minimum level of 75 percent of the target price if he determines that loan rates are preventing the sale of farm commodities in the world market. There has already been some expressions of concern that the existing of loan rates is an obstacle to farm exports. Our competitors in the export market, specifically Argentina and Canada, have been undercutting U.S. prices for wheat exports. Losing a portion of the world market to Argentina and Canada is harmful to our farmers and to the national trade balance. I believe it is good the Secretary of Agriculture should have this flexibility on loan rates so that we can maintain a high level of exports.

FOOD STAMP PROGRAM

I commend the Senator from Georgia for including a 5-year extension of the food stamp program in this comprehensive Food and Agriculture Act. The food stamp program, though beset with poor administration and lax eligibility standards, is an important source of income and nutritional support for millions of low-income American families.

While the food stamp provisions of this bill contain many worthwhile reforms, I do not believe the bill goes far enough in insuring that the truly needy are able to participate in the food stamp program. Accordingly, I shall introduce my own food stamp reform bill in the near future.

AGRICULTURAL RESEARCH POLICY

Mr. President, last week I introduced S. 248, the National Agricultural Research Policy Act, together with the Senator from South Dakota (Mr. McGOVERN). This bill differs substantially with the agricultural research provision in the Food and Farm Act of 1977.

Last year the House of Representatives passed a bill very similar to S. 248. It is my feeling that several aspects of S. 248 are more desirable than the agriculture research provision in this bill. It is my hope that we can incorporate the National Agricultural Research Policy Act in any comprehensive farm bill passed by the Senate this year.

PESTICIDE REGULATION

This bill would extend the Federal Insecticide, Fungicide, and Rodenticide Act for 3 years with a $5 million authorization increase each year. The Senator from Kansas is well aware of the many areas of disagreement and dissatisfaction with the implementation of this act. I wish to express my reservations about a 3-year extension without first going into the specific areas of difficulty under this law.

It is possible that we may want a shorter extension period and that we may wish to make some modifications in the basic act.

FOOD FOR PEACE

Mr. President, this bill makes several changes to the Public Law 480, food for peace program. I believe all these changes are good and want to express my support.

The most important change allows the Secretary of Agriculture to waive the restriction under the so-called 75/25 provision. USDA recently indicated that they were unable to ship all the commodities that were available to countries where people were in need of food assistance. This is because Congress changed the law in the last Congress to require that 75 percent of all food for peace donations be sent to countries with a per capita GNP of less than $300. The Department of Agriculture has found that the countries with less than $300 per capita GNP simply could not accommodate the donation of 75 percent of the food donations under Public Law 480. Yet many countries with a GNP of over $300 per capita could use food assistance. This bill allows the Secretary of Agriculture to waive the 75/25 restriction when such a situation develops in the future.

AREAS OF AGREEMENT

This bill contains several provisions which I wholeheartedly support. It extends and improves the rural community

fire protection program. The provision in this bill is identical to S. 12, which I introduced last week together with the Senator from Kentucky (Mr. HUDDLESTON).

This bill also increases from $250,000 to $750,000 the level for watersheds beyond which Congress must approve. Similarly, this bill provides that Congress must approve new resource conservation and development districts only when the funding authorization exceeds $500,000 as opposed to the present $250,000. These two minor changes will greatly facilitate the funding and completion of smaller watersheds and R.C. & D.'s.

AREAS FOR FURTHER CONSIDERATION

There are several issues not incorporated in this bill that need to be considered in the near future.

The most pressing need is to improve the program providing emergency credit for farmers. With farm prices at present levels many rural banks simply do not have enough credit to meet the needs of farmers and to prevent them from going bankrupt. In my view, this is an area where further Government assistance is greatly needed and I hope we can take up this matter in the committee early in the session.

Last week, I introduced S. 240, a bill to amend the agriculture conservation program—ACP—together with the senior Senator from South Dakota (Mr. MCGOVERN). This bill, S. 240, would provide greater emphasis under ACP on long-term conservation projects, as opposed to short-term annual practices. The result would be a more meaningful conservation program for farmers.

The new grain inspection law passed by Congress last year has developed a number of controversies which may need further legislative consideration. Hopefully, any areas of necessary legislative change will soon be clarified so that we can take this up in conjunction with the comprehensive farm bill.

The present system of allotments for wheat and feedgrains is based on planting assessments of over 20 years ago. The basis for allotments is greatly in need of being updated. Updating the allotments system will result in more equitable payments under the disaster payment program for prevented planting or prevented harvesting. The allotment system also needs to be updated so that any set-aside program that may be instituted by the Secretary of Agriculture at some future point will be more equitable.

The shortcomings of the Federal crop insurance program and the disaster payment program need to be carefully reviewed so that we can provide a program of full coverage to every farmer.

The present peanut program is a multi-million-dollar "boondoggle" that needs drastic revision.

During the past harvest, farmers were faced with a shortage of storage facilities for wheat and feedgrains. This situation could be alleviated by improving the farm storage facility loan program in the Department of Agriculture. Hopefully, we can take a look at this situation during the farm bill consideration.

Last week I introduced S. 264, a bill to increase the maximum Federal contribution to the cost of any State meat or poultry inspection system from 50 to 80 percent. Passage and enactment of this legislation has been sought by several States for some time. I hope we can consider this legislation in conjunction with the farm bill.

Mr. President, all these issues need further consideration. They are not included in the comprehensive farm bill we are introducing today and I hope we can consider them with an eye toward including them in the final version of the bill as reported out by the Senate Agriculture Committee.

Again, the Senator from Kansas is pleased to join in introducing this legislation and I look forward to the further consideration of this legislation in hearings and in the Senate Agriculture Committee discussion.

Mr. STENNIS. Mr. President, if the Senator will yield to me, I thank him and the chairman of the committee, as a Member from an agricultural State, for the fine work they have done already and for what I know they will do in the future on this.

Mr. President, I strongly support the new farm bill which has been introduced by the distinguished chairman of the Committee on Agriculture and Forestry, Senator TALMADGE.

As my colleagues know, the present farm bill, the Agriculture Act of 1973, expires at the end of this year. It is essential that Congress act promptly on a new bill, so that any uncertainties can be set to rest in this matter of food production, which is so vital both to farmers and consumers of the Nation. Then the necessary orderly processes can proceed toward the planning and production of 1978 crops. The Senator from Georgia (Mr. TALMADGE) is certainly to be commended for bringing this very comprehensive bill to the attention of the Senate so early in this session.

The bill as proposed is a 5-year authorization of the farm and food programs. As the chairman says, this bill will no doubt be referred to as the omnibus farm bill, because it addresses not only all of the farm programs, but also food stamps, food-for-peace exports, pesticide regulation, and agricultural research. The chairman intends hearings on all the subjects in this bill, which he presents as a base for suggestions and constructive improvements. I am sure there will be some changes from the bill as introduced, as a result of the hearings, but it is already a fine start and will serve a highly useful purpose. In my view the general policies on which it is based are sound. Certainly we must pass a new farm bill and the sooner the better.

The 1973 act adopted target prices and loan levels for the major farm crops, in place of the subsidies and production limitations of previous programs. This has worked extremely well, resulting in maximized production and tremendous increases in farm exports. The farmer has had the flexibility he needed to choose his crops and make the most effective use of his land. It is clear that the use of target prices and loan levels should continue.

There was a shortcoming in the 1973 legislation, however. The target prices were not adequately adjusted so as to reflect changes in costs of production, which have been very large, reflecting major increases in prices of petroleum products, fertilizers, farm equipment, and other items that are basic in farming operations. The target prices were intended to protect farmers against catastrophic losses from drastic price changes, by establishing a floor price at which Government supports would come into play. Only the fact that crop prices have remained at fairly reasonable levels for the last 3 years has prevented the American farmer from being badly hurt by unrealistic target prices and loan levels under present programs. When farmers are hurt production goes down, and when that happens food prices skyrocket, and the American people—the consumers—are hurt. Every person in the Nation has a stake in good farm legislation. and I wish this were better understood in some of the large urban areas and by their representatives in Congress.

This new bill relates both target prices and loan levels to reasonable cost of production. This is as it should be, and I fully concur.

Crop loans are extremely important. They enable a farmer to get cash to plant his next crop without having to sell his last one at a loss, if the market happens to be at the bottom at the time, which often can happen because market prices for farm products are very volatile. I believe that one of the subjects that will be receiving particular attention at hearings will be the duration of these commodity loans. The maturity of the loans is presently 1 year for most crops; 10 months for cotton.

A longer loan period seems desirable, for several reasons. There is no longer need to be so fearful of surpluses of a given commodity, for with the present world food situation a surplus is a temporary thing. With exports having such a strong effect on farm prices, a multiple-year commodity loan would enable the farmer to wait out the export market, in most cases, and get a fair price for his product. At the same time he would have the cash flow to run his farm.

The matter of grain reserves is another factor in increasing commodity loan periods. I note that last week the Secretary-designate of Agriculture, Mr. Bergland, who has been unanimously endorsed by the Senate Agriculture Committee, said that he intends to present legislation soon for on-farm grain reserves, which means longer loans.

In the case of cotton, both prices and supply have been in a roller-coaster pattern. The supply is short now. Periods of short supply erode the market and are very undesirable. If the producers are going to carry over the supplies needed to stabilize the situation, which appears to be inevitable, then longer loan periods are needed.

All in all, the parts of this bill dealing with the farm programs themselves are very straightforward and promise to have wide support.

There is no program in this bill for

beef production. The beef cattle producers have been in a very distressed situation for some time, and still are, but I do not think that restrictions on production in return for subsidies is the answer. The beef cattle pattern is following a cycle, and hopefully there are better times ahead for the hard-pressed cattle producers. I am certainly concerned with their fate.

The consumer must be made to understand that the cattle and hog producers are allies and helpers of the consumer, not the adversary.

There are many more very important parts to this bill, and I will not address them in detail at this time. The rice bill was for 1976 and 1977 only, and its extension must be considered. There is the milk marketing program, which would be extended, and farm products for school lunch and nutrition programs, the food for peace program, and others.

The food stamp title in this bill is aimed at meaningful reforms to restore the integrity of the program. I favor far more extended reforms of this food stamp program. By itself, this should be a major subject in this Congress, and one badly needing prompt attention.

I am very pleased to see the careful attention and high priority given agricultural research in this bill. In terms of 1967 dollars, the research programs are operating at the same level they were 10 years ago. Given the fact that spectacular scientific breakthroughs can no longer be expected as a matter of course, like they used to be, and a world food shortage is virtually certain, we should be pressing hard in agricultural research. I advocate this very strongly.

Mr. President, this new 5-year farm bill has been introduced in a very prompt and timely way. I know the committee plans to expedite the hearings. I strongly urge the Senate as a whole to have this same sense of urgency in dealing with this bill and meeting the very tight legislative deadlines that are involved. This is a vital bill for our farmers and for the American people.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon is recognized for not to exceed 15 minutes.

THE BEVERAGE CONTAINER REUSE AND RECYCLING ACT OF 1977—S. 276

INTRODUCTION AND PURPOSE

Mr. HATFIELD. Mr. President, today I am introducing the "Beverage Container Reuse and Recycling Act of 1977." This bill is similar to legislation I have introduced in the past two Congresses and to laws already in effect in Oregon and Vermont.

As my colleagues will recall, an almost identical proposal was considered on the Senate floor last June 30 as an amendment to the Solid Waste Utilization Act. Although the amendment was defeated, due in part to heavy industry opposition, events of the past few months have renewed interest in this issue.

Last September, the U.S. Environmental Protection Agency approved guidelines establishing a system of refundable deposits on all beer and soft drink containers sold on Federal facilities. These guidelines are due to become effective by September 1977.

In early October 1976, the Federal Energy Administration released its long-awaited report on the "Energy and Economic Impacts of Mandatory Deposits." Last summer when my amendment was under consideration on the Senate floor, several of my colleagues expressed their concern that too little was known about this issue and that more study was needed. The FEA study confirms what we already knew to be the case in Oregon and Vermont—that the use of reusable and recyclable beverage containers reduces litter and solid waste, and conserves energy and natural resources without the severe economic dislocation forecasted by some opponents of this legislation.

Then, on November 2, 1976, Election Day, voters in Michigan and Maine approved returnable beverage container referenda. This brings the number of "returnable" States to four, with initiatives planned in several other States this year.

In its report to the President and Congress, the National Commission on Supplies and Shortages made several proposals concerning ways to avoid future shortages of raw materials and various commodities. According to the report, one of the steps that can and should be taken is the encouragement of recycling through the establishment of mandatory deposits on beverage containers.

The returnable beverage container issue is, therefore, still very much alive. It is my hope that my colleagues here in the Senate will give this matter additional thought in the coming months, and that after hearings and further discussion, the Congress will take a strong position on the need to reduce our wasteful discard of precious natural resources.

Mr. President, it is the purpose of this amendment to encourage the reuse and recycling of beverage containers, and to discontinue the wasteful "no-deposit, no return" throwaway attitude toward this Nation's scarce energy supply and natural resources. This bill requires a mandatory minimum refundable deposit of 5 cents on all beer and soft drink cans and bottles to be phased in over a 3-year period. It also bans the manufacture and sale of beverage cans with a detachable opening device, commonly called the "flip top," 1 year after the bill becomes law. With the exception of the flip top, this bill does not ban any container type. No distinction is made between bottles and cans.

Throwaway containers should be repugnant reminders of how little society cares about the wanton depletion of its energy resources, or a measure of the disdain for helping to curtail the staggering litter and solid waste problem we face. The beverage container area provides the Congress and the Nation a clear opportunity to reject the throwaway ethic spawned by our reckless idolatry of technology. The Beverage Container Reuse and Recycling Act of 1977 rejects this attitude in favor of reducing energy consumption and helping solve our litter and solid waste problems. It is time to end the process whereby industry asks the consumer to pay the cost of cleaning up our litter. Let us adopt a policy where the price of bottles and cans reflects the true cost to society of this disposal. Let us make the litterer pay to throw away his can or bottle.

Mr. President, I ask unanimous consent that a general summary of the impacts of a returnable beverage container prepared by the Environmental Action Foundation as well as a question and answer sheet prepared by the EPA be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BOTTLES & SENSE

The returnable bottle is a wonderful invention whose time has come—again. We didn't fully appreciate the returnable 15 years ago when it was the only way to buy beer and soft drinks. So nobody raised a fuss when the container manufacturers and brewers shifted to throwaway bottles and cans.

Over the past five years, however, the returnable bottle has looked better and better to Americans who are tired of seeing throwaways littering their landscape. And it's not only the possibility of reducing litter that makes the returnable look good: it's a great money saver for the consumer, as well as an energy and materials saver.

The consumer doesn't buy a deposit bottle—he *borrows* it. No wonder returnables are cheaper than throwaway cans and bottles! A returnable bottle can be refilled an average of 15 times. No wonder returnables are more energy saving and materials conservative than throwaways. (We could save 115,000 barrels of oil a day and 7 million tons of reusable materials each year if we returned to returnables nationwide.)

The refillable bottle is making a comeback across the country as more and more cities, counties and states pass laws which require a deposit on all beverage containers. It's only a matter of time before refillable cans and bottles will be as fully available and in use as they were before the throwaway ethic began. Returnables make sense for today: they're a simple way to save energy, money and materials at a time when all of these resources are scarce.

The proliferation of one-way, throwaway beverage containers places a heavy and unnecessary burden on our national energy resources. According to the U.S. Environmental Protection Agency (EPA), we waste 224 trillion BTU's of energy each year manufacturing throwaway beer and soft drink cans and bottles.(1) That's enough energy to furnish all the electrical energy needs of New York and Chicago residents for an entire year. And it would be enough energy to meet the combined yearly requirements of 185 million people living in Asia, Africa and Central America.(2)

The Citizen's Advisory Committee on Environmental Quality recognized the need for federal leadership in effective energy conservation. Therefore, the Committee recommended to the President that national legislation be enacted to require a refundable deposit on all beverage containers. Citing the energy shortage as "a critical national problem," the Committee reported that "refillable" beverage containers provide an inexpensive, . . . and energy-saving alternative to . . . energy-wasting disposable beer and soft drink containers."(3)

John Sawhill, former Administrator of the

Federal Energy Administration, has said, "there are few other instances . . . where energy savings of this magnitude could be achieved as easily in terms of required capital investment and employment dislocations . . ."(4) Despite findings by government and private researchers of the potential for dramatic energy savings from nationwide returnable can and bottle use, we continue to produce billions of throwaways each year. So many, in fact, that one percent of our total national energy consumption is used solely to package the "leisure beverages" we drink.

Although some industry officials promote volunteer recycling and municipal resource recovery facilities as effective ways to reduce energy loads in the beverage industry, their claims are not borne out in fact. While recycling containers in some cases does use less energy than manufacturing new ones, refilling returnable containers uses much less energy than recycling. One throwaway can or bottle requires three times more energy to deliver the same amount of beverage than a returnable glass bottle used 10 times, less than the national average number of returns.

ENERGY USE OF DIFFERENT CONTAINERS

Environmental Impact	*Energy (million BTU's)*
15 Trip Glass (Returnable)	15
All Steel	35
Bi-metallic Can	54
One-way Glass	63
Aluminum Can	89

Source: Midwest Research Institute under EPA contract.

Throwaway cans and bottles are an energy luxury we can no longer afford. With a nation-wide all-returnable system, we could easily cut energy consumption in the beverage industry by 50 percent. Through a dramatic change in driving habits, Americans recently succeeded in saving 200,000 barrels of oil a day under the 55 mph speed limit conservation measure. By simply returning to returnables, we could save an additional 115,000 barrels of oil each day. (5)

MATERIALS

Manufacturing throwaways is a wasteful and expensive habit. One throwaway can or bottle uses four to six times more raw materials than one returnable bottle refilled 15 times, the current national average. Millions of tons of potentially useful materials end up discarded as garbage or litter.

In 1975, the U.S. beverage container industry used 7 million tons of glass, 2 million tons of steel and 500,000 tons of aluminum to make beer and soft drink containers, most of which were used once and thrown away. These materials represent a phenomenal 45 percent of all glass, six percent of all aluminum and two percent of all steel produced in the United States. (6) As William Coors, president of the nation's fourth largest brewery, recently testified, "We aren't going to have the materials in which to market our product if we don't start getting our containers back." (7)

Unless the "throwaway ethic" is reversed, the need for raw materials imports will continue to grow. Scientist Glenn T. Seaborg recently called for better planning of materials policy. "As economic growth and industrialization accelerate over much of the world, the competition for mineral supplies will increase and the developing countries will exert more control over . . . the mineral resources. This situation has the seeds for crisis. . . ." (8)

Dependence on overseas suppliers for materials is especially critical in the aluminum industry. The U.S. currently imports 85 percent of its aluminum and bauxite, the raw material used to make aluminum. When bauxite prices rose recently, Alcoa cut back production of aluminum for housing, construction materials, airplanes and household foil. Aluminum was still available, however, for beer can manufacture, one of the top three categories of aluminum consumption in the United States (9).

It is time to recognize the folly of using precious imported materials to make throwaway beverage containers. Returning to returnables would safeguard these limited materials and more sensibly allocated our nation's resources.

LITTER

In 1973, over 60 billion beer and soft drink containers were manufactured in the United States. That figure will climb to 80 billion in 1985. (10) One beverage container in four ends up as litter on our landscape. (11) The ugliness of littered beer cans and broken pop bottles along roadsides, in parks and on beaches prompted the passage of beverage container legislation in the states of Oregon, South Dakota and Vermont. In addition, Oberlin, Ohio; Bowie and Montgomery County, Maryland; Berkeley, California; Cayuga County, New York; Fairfax and Loudon Counties, Virginia have all passed legislation curbing throwaways.

Beverage containers make up between 60 and 80 percent of litter by volume and 20 and 40 percent by item count (when one beer can equals one gum wrapper). (12) The efforts of container manufacturers and the brewing and soft drink industries to educate the public against littering have had little impact. Anti-litter laws around the country have proven unenforceable.

Beverage container legislation has been in effect in Oregon and Oberlin, Ohio since 1972 and in Vermont since 1973. Litter surveys in both states have shown substantial reductions in total litter and in beverage container litter (see chart). Of the littered beverage containers found by the Vermont State Department of Highways, only 25 percent were sold in Vermont; the rest were brought in by out-of-state tourists. (13)

The economic incentive of a deposit has now been shown to effectively reduce beverage container litter. About $535 million is currently spent each year for litter pick-up around the country. (14) A deposit on beverage containers provides a financial incentive not to litter, as well as a financial incentive to clean up littered containers. People will once again collect beer and soft drink containers along the roadsides and return them for extra spending money.

Buying returnables is a vote against litter and a positive action for a more beautiful America.

SOLID WASTE

The growth rate of throwaways is astronomical. The manufacture of throwaway cans and bottles has grown eight times faster than actual consumption of beer and soft drinks. Between 1955 and 1973, the number of containers produced skyrocketed 488 percent, while consumption of beer and soft drinks increased only 58 percent. (15)

Cutting down on wastes is a critical problem for cities and counties responsible for solid waste collection and disposal. Beverage containers are the fastest growing category of municipal solid waste, increasing eight percent annually. Although some states and localities have enacted their own legislation to control throwaways, the growing solid waste burden must ultimately be dealt with by the nation as a whole. Endorsing this philosophy, the National League of Cities/U.S. Conference of Mayors resolved that, "Unless we reduce the total volume of solid waste generated nationally, local governments will continue to be overburdened with the flow and financing of the nation's solid waste."

As the flow of materials increases, we can expect continued expansion of the amount of waste requiring disposal, according to the National Commission on Materials Policy. The Commission recommends that "the amount of solid waste be increasingly reduced where possible by methods of recycling, reuse and recovery." (16)

Recycling centers have been set up in many communities around the country in an attempt to recover some of the aluminum, glass and steel wasted in throwaway beverage container production. Facilities to mechanically recover aluminum and glass from solid waste are now being developed. Voluntary centers have been particularly encouraged by those in the beverage container business. Rather than curtail their expanding production of throwaway cans and bottles, these industries are eager to promote the image of citizens as litter-collectors.

However, only one in seven aluminum cans is actually recycled; 10 billion of them continue to find their way onto refuse piles and roadsides every year. In 1973, only three percent of the steel cans were recycled. (17) Most steel cans can't even go through the recycling process because their aluminum flip-tops contaminate the steel making recovery uneconomical.

Mechanical systems for the separation of glass and aluminum have not yet been demonstrated on a commercial scale. Even if the technology is successfully developed, most municipalities will not be able to afford these facilities and their construction will take many years. Therefore, resource recovery of a substantial portion of the country's throwaway cans and bottles in the near future is impossible.

It has been argued that a nationwide returnable system would reduce the aluminum can content and hence lower the market value of municipal waste available for recycling. Energy researcher Bruce Hannon of the University of Illinois has said that this logic is like having "each person swallow a little platinum to increase the value of sewage" so that the sewage treatment plant can operate efficiently. (18) In fact, there is no conflict between resource recovery systems and a nationwide returnable system. According to the EPA, "changing the composition of municipal waste through mandatory deposit legislation would not significantly affect the economics of most resource recovery plants." (19)

Our first priority should be to get rid of what we don't need; then when the technology is available, we should recover the rest. In the meantime, manual separation of recyclable materials by citizens is a viable alternative to expensive, energy-intensive resource recovery operations. With a nationwide deposit system, we could ensure that six to seven million tons of materials would be returned for reuse and recycling each year.

THE CONSUMER

Buying beer and soft drinks in returnable glass bottles instead of throwaways is a good way to save money. In New York state alone, consumers could save close to $40 million each year under mandatory deposit legislation.(20) That's how much extra they now spend for the "convenience" of throwaway containers. *On the average equivalent amounts of beverage sell for two or four cents more in a throwaway can or bottle than in returnables.*

The reason for the higher prices is that the major expense in throwaway container production goes for packaging—not for labor, ingredients or transportation. According to a survey conducted by market analysts Sanford C. Bernstein & Co., "packaging is *the* major factor in the production of beer," accounting for as much as 56 percent of the costs while the ingredients account for only 12 percent. (21) *But with returnable bottles, the consumer saves money by borrowing the expensive packaging.*

Currently it is difficult for consumers who want to save money to find returnables on store shelves. In Washington, D.C., for ex-

ample, an Environmental Action survey found that less than 15 percent of the 361 liquor stores surveyed carried beer in returnables. And where beer was available in returnables, it was sold only in 24-bottle cases in one or two brands. The situation is similar—and often worse—in other communities around the country.

In January, 1975 the Falstaff Brewing Co. launched the first marketing of returnables in 12-bottle cases. According to Falstaff Vice-Chairman Joseph Griesedick, "Returnable bottles are the most economical for the consumers and the brewer." He noted that consumers would pay only $2.50 for a 12-bottle case of returnables as compared with $3.13 for the same amount of beer in cans—a 5-cent-per-bottle savings.(22)

Returnable savings hold true in the soft drink industry as well. The president of Coca-Cola, USA, testified before the Senate Judiciary Committee: "Coke sold in food stores in nonreturnable packages is priced, on the average, 30 to 40 percent higher than Coca-Cola in returnable bottles. The difference lies essentially in the different costs of packaging. The cost of returnables is spread over many uses; the cost of the nonreturnable package is absorbed in one use." (23)

Obviously many beverage-related industries prefer to continue this upwardly spiraling system of more throwaways and higher prices. Such industries no longer have to pay the costs of refilling and reusing beverage containers which are higher than the cost of the beverage ingredients. And as taxpayers, consumers must also foot the bill for collection and disposal of throwaways.

Attitude surveys and the experiences of Oregon and Vermont have shown that consumers are more than willing to forgo "convenience" packaging for a return to returnables. The first nationwide poll on the issue of returnables was recently conducted by the Opinion Research Corporation for the Federal Energy Administration (FEA). An overwhelming 73 percent of those polled favored a law requiring that all soft drinks and beer be sold in returnable bottles and cans.

Consumer Attitude National Survey

(percentage)

Would you favor or oppose a law requiring all soft drinks and beer to be sold in returnable bottles and cans:

	Favor	Oppose	Don't know
Total public	73	15	12
Men	78	13	9
Women	69	17	14
Age 18–29	85	10	5
30–49	72	19	9
50 or over	65	15	20
Less than high school complete	68	16	16
High school complete	73	17	10
Some college	81	11	8
Family income under $10,000	70	15	15
$10,000 to $15,000	77	14	9
Over $15,000	78	15	7

SOURCE: Opinion Research Corporation, Princeton, New Jersey, February, 1975 for the Federal Energy Administration.

In Michigan, a private poll conducted for Governor William Milliken found that 73.3 percent of the people favored a state law banning the sale of non-returnable bottles and cans. (24) And, in the state of Oregon, an opinion poll taken one year after enactment of that state's law found 91 percent of the people approved, while only five percent voiced any disapproval at all. (25)

Consumers have found other reasons, in addition to saving money, for returning to returnables. The safety hazards of throwaway cans and bottles are a source of serious concern to consumers. In its spring, 1975 hearings, the Consumer Product Safety Commission verified that throwaway bottles break more easily than returnables. The Commission pointed out that splintering or exploding glass beverage bottles were responsible for 11,000 hospital emergency cases in one year. Detachable, "flip-top", "pull-top" tabs on metal cans are also a safety hazard to people who step on them or swallow them, according to the *Journal of the American Medical Association.* (26) The state of California recently passed legislation prohibiting the use of detachable openings on beverage cans, and detachable flip-tops would also be outlawed under national beverage container legislation.

Nationwide use of returnables would shift the cost of litter collection and container disposal back to the manufacturers and consumers of beverages, relieving the growing burden being placed on the general public. Returning to returnables would also mean a healthy financial boost for the nation's consumers.

EMPLOYMENT IMPACT

Thousands of workers have lost their jobs in the brewery and soft drink industries because of throwaways, according to Anthony Sapienza, president of Brewery and Soft Drink Workers Union Local 1164. "It requires fewer workers to process these containers than returnable bottles," Sapienza said in announcing his union's support of beverage container legislation. He added that "steelworkers make the throwaway cans, glass workers make the bottles, but we lose the jobs." (27)

Twenty-six thousand three hundred workers lost their jobs in the brewing industry between 1958 and 1974.(28) Concentration and consolidation in the beverage industry, along with the shift to throwaway containers, have led to the shutdown of many brewing and soft drink bottling companies. In 1935, for example, there were 765 brewing plants in the U.S. but by 1974, only 99 plants remained. These are owned by 55 companies, six of which control 68 percent of the market. (29) This trend is also being followed in the soft drink industry. *Seven thousand nine hundred workers lost their jobs in the soft drink industry between 1970 and 1974.*(30) Coca-Cola plans to phase out 900 franchised bottling plants across the country and replace them with 78 centralized plants by 1980.

A recent development in beverage containers will mean even greater job loss in the future. The plastic bottle is already being used by soft drink manufacturers and is expected to capture 10 percent of the throwaway container market by 1980. The rapid introduction of this container will mean job losses for workers in the glass and can industries, as manufacturers in the brewing and soft drink industries switch to plastics.

A report commissioned by the Environmental Protection Agency predicts that continued expansion of the throwaway beverage container system will lead to further loss of jobs.(31) The job losses which have already occurred in the beverage container industry were the result of "natural" free market forces. Clearly, if we allow these market forces to prevail, thousands more workers in the soft drink brewing and container manufacturing industries are bound to suffer major job loss and dislocation.

Passing national mandatory deposit legislation will affect the jobs of workers now manufacturing throwaway cans and bottles. Although the proposed legislation does not ban the manufacture of throwaway bottles and cans, it is expected that there will be a shift to the use of refillable bottles and recyclable cans. Thus the production of throwaway bottles and cans would be reduced. The Research Triangle Institute has estimated that after a five-year implementation period for the proposed law, about 90 percent of the containers sold would be refillable and 10 percent would be cans. During this period, the Institute estimated that *39,000* jobs would be lost;(32) yet at the same time, using RTI's methodology, approximately 107,000 new jobs would be created for small bottlers, distributors, truckers and retail clerks.

In every study conducted on the employment impact of federal or state beverage container legislation, there has been a net increase in employment. However, many of the jobs generated by a returnable system can not be substituted for jobs under a throwaway system, although many are of equal pay rate. Therefore, provision should be made for retraining and relocating displaced workers, while those presently unemployed gain the thousands of new jobs created by a shift to returnables.

It's true that there will be some job dislocations with a shift to returnables as there were in the past with the shift to throwaways. But by going back to returnables, jobs will be created instead of lost.

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QUESTIONS AND ANSWERS ON RETURNABLE BEVERAGE CONTAINERS FOR BEER AND SOFT DRINKS

WASTE REDUCTION BRANCH, RESOURCE RECOVERY DIVISION, OFFICE OF SOLID WASTE MANAGEMENT PROGRAMS, U.S. ENVIRONMENTAL PROTECTION AGENCY, JULY 1975

1. *What are returnable beverage containers?*

Returnable beverage containers are containers that are accepted for return after use. Usually a cash deposit is paid when the beverage is purchased and refunded when the container is returned. The purpose of the deposit is to provide an incentive for the return of the container either for refilling or for recycling of the container materials.

2. *What are the environmental and resource conservation benefits of returnable beverage containers?*

The return of beverage containers reduces the generation of beverage container waste and litter. Reuse and recycling of containers reduces air and water pollution resulting from the production of containers, and conserves energy and materials.

3. *What is mandatory beverage container deposit legislation?*

Mandatory deposit legislation is a law or ordinance which requires a deposit on all beverage containers sold in a particular jurisdiction.

4. *Is there mandatory deposit legislation in existence today?*

Three States have enacted mandatory deposit or returnable container laws for beer and carbonated soft drinks: Oregon, Vermont and South Dakota.

In Oregon, a refund value of 2 cents is carried by all "certified" containers, which can be reused by more than one manufacturer. All other containers carry a refund value of 5 cents. Metal containers with detachable tab tops are banned.

In Vermont, all beer and soft drink containers carry a refund value of at least 5 cents. The manufacturer or distributor is also required to pay the retailer a fee of 20 percent of the deposit (1 cent per 5 cent-deposit container) to cover the costs of handling the returned containers. In January 1977 nonrefillable bottles will be banned in Vermont, as will metal containers with detachable tops and non-biodegradable container carriers.

South Dakota has passed a law which requires that every beverage container sold in that State, subsequent to July 1, 1976 shall be either a reuseable container or a container which is biodegradable.

Several communities including Bowie, Maryland; Loudoun County, Virginia and Ann Arbor, Michigan have passed similar laws which have not been implemented due to legal challenges.

5. *Does mandatory deposit legislation eliminate the use of the metal can as a beverage container?*

Mandatory deposit legislation does not prohibit the use of metal cans. However, in Oregon, after passage of the law, the use of refillable bottles increased and the use of cans decreased. For soft drinks, refillable bottles increased from 53 percent of the market prior to the law to 88 percent of the market in the year following the law.[1] Soft drink cans decreased from 40 percent of the market to 12 percent.[2] Refillable beer bottles increased from 31 percent of the market before the law to 96 percent afterwards.[3] Beer cans declined from 40 percent to 3.5 percent.[4] The use of nonrefillable glass bottles was practically eliminated for both beer and soft drinks.

In Vermont comprehensive data on pre-law and post-law container usage is not available. However, as of April 1975, cans and nonrefillable bottles were still being sold for both beer and soft drinks, but a trend towards more widescale use of refillable bottles for soft drinks has been reported.[5]

Nationwide in 1972 approximately 39 percent of all soft drinks were packaged in refillable bottles, 27 percent in nonrefillable bottles and 34 percent in cans.[6] For beer the figures are approximately 18 percent for refillable bottles, 24 percent for nonrefillable bottles and 58 percent for cans.[7] The market mix of containers varies significantly for different geographic regions.

Footnotes at end of article.

Mandatory deposit legislation would probably result in a shift towards the increased use of refillable bottles. Nonrefillable glass bottles may well disappear from the market (however for larger sizes nonrefillable bottles may remain). Cans would probably decline in market share but would remain in some quantities, especially in areas where they are currently predominant.

6. *How much solid waste can be prevented by such laws?*

On a national basis, beer and soft drink containers accounted for 8 million tons of solid waste in 1973.[8] This represented 6 percent of total municipal (household and commercial) waste. Beverage containers are a rapidly growing segment of municipal waste, with an estimated growth rate of 10 percent per year from 1962 to 1972.[9]

If 90 percent of the containers bearing a deposit were returned for refilling or recycling, there would be a reduction in beverage container waste of 70 to 75 percent, or 5 to 6 million tons on a national basis.

7. *What about littered beverage containers?*

Most studies show that beer and soft drink containers comprise between 20 to 30 percent of roadside litter by item count.[10, 11, 12] However many other littered items are smaller and less visable than beverage containers and degrade more rapidly in the natural environment. On a volume basis, which is a better measure of litter visibility, beverage containers have been found to represent 62 percent of highway litter.[11] For the year following enactment of deposit legislation, beverage container litter decreased by 66 percent in Oregon and by 67 percent in Vermont.[13, 6]

8. *How much energy could be saved by use of returnable containers?*

Beverage containers that are refilled or recycled save energy and materials. A glass beverage container used 10 times consumes less than one-third of the energy of nonreuseable containers used to deliver the equivalent quantity of beverage.[14] Aluminum and all-steel cans that are recycled save 78 and 39 percent, respectively, of the energy required to manufacture a can from virgin raw materials.[15]

The energy that would be saved through mandatory legislation depends upon the resulting container mix and the return and recycling rates for the containers. For example, if national mandatory deposit legislation had been in effect in 1973, and if the bottle and can container mix had not changed, and if 90 percent of all bottles had been returned and refilled and 80 percent of all cans had been recycled, approximately 151 trillion British Thermal Units (BTU) of energy would have been saved. If on the other hand in 1973 refillable bottles had represented 80 percent of the market share (and bottle and cans had been returned and recycled at the above rates) approximately 209 trillion BTU's of energy would have been saved.[16]

9. *How significant are these energy savings?*

A saving of 209 trillion BTU's is equivalent to the energy content of 39 million barrels of oil. It is also equal to about one-half of the energy used in producing the current mix of beverage containers. While this amounts to a saving of just 0.3 percent of total national energy use, it is important to note that it is of similar magnitude to the saving achievable through other energy conservation measures currently being considered. For example, it is equivalent to one-half of the energy saving that can be acheived from strict enforcement of a 55 mile per hour speed limit nationwide.[17]

10. *How much materials could be saved through the use of returnable containers?*

If in 1973 90 percent of all bottles had been refilled, and 80 percent of all cans had been recycled, between 5 and 6 million tons of raw materials would have been saved that year. This would represent a savings of 3.8 to 4.6 million tons of glass, 1.1 to 1.3 million tons of steel and 300,000 to 350,000 tons of aluminum.[18]

11 *How would a returnable system affect beer and soft drink prices?*

Beer and soft drinks sold in refillable containers are generally cheaper to the consumer than beverages in one-way bottles and cans. Savings in the range of $.03 to $.05 per 12 ounce container have been frequently observed.[18, 19, 20, 21] However, it has been argued that the costs of handling and transporting returned containers are not fully reflected in retail prices. These costs have been estimated to range from less than $.01 to $.02 per container.[22, 23] Therefore, even if these costs are assumed not to have been reflected and are added, beverages in refillable containers cost less to the consumer. To the extent that mandatory deposit legislation induces a shift to refillable bottles, average prices fcr beer and soft drinks should decline.

However, it should be pointed out that a rapid widescale shift to an all refillable bottle system would require considerable equipment changeover in the brewing and soft drink industries and would result in additional costs that could be passed on to the consumer. If the transition to refillables takes place gradually over a period of years, the costs of rapid changeover would be avoided.

12. *How many times do containers have to be returned before energy and cost savings are achieved?*

For an energy savings to be achieved from use of a refillable bottle it must make at least four trips or have a return rate of 75 percent.[24] Refillable bottles generally become cheaper than one-way containers at return of 80 percent (5 trips), although this varies from bottler to bottler.[25]

In Oregon one year after passage of the deposit law, refillable soft drink containers were return at a 96 percent rate,[26] and refillable beer containers at an 80 to 95 percent rate.[27,28] Approximately 65 to 70 percent of all cans were being returned and this rate was increasing.[29, 28] Detailed data are not available from Vermont, although several bottlers have indicated return rates of 90 to 95 percent.[5]

The subject of average national return rates for refillable bottles is a matter of considerable debate. An estimate calculated by dividing container fillings by container purchases results in an average return rate during the period 1963 to 1972 of 94 percent for soft drinks and 96 percent for beer.[29] These figures may not represent actual return rates since bottle inventories may have been changing. Furthermore, these figures include both "on-premise" beverage consumption (in taverns and restaurants) where return rates would be expected to be higher than for "off-premise" consumption (e.g. beverages purchased from supermarkets or retail stores). Another estimate indicates sofe dring container trippage of 10 to 15[30] (return rate of 90 to 94 percent) and a beer container trippage of 18[31] (return rate of 95 percent).

In any case, for a mandatory deposit system it appears reasonable to expect a return rate for beer and soft drink containers that would be much greater than that necessary for energy and cost savings.

13. *How would a mandatory deposit law impact on the beverage production, container manufacturing and distribution industries?*

The impacts of mandatory deposit legislation upon industry would depend upon the extent of the change in the market mix of containers and the time period over which this change takes place. Most estimates of economic impact have been based upon the extreme assumption of a complete and sudden switch to refillable bottles. Under these circumstances, facilities for the production, storage and distribution of one-way containers, not convertible to returnable systems, would become obsolete and would have to be replaced. Glass and metal container production would decline. Bottlers and brewers would initially have to invest in additional bottle washing equipment and refillable container lines. Additional transportation costs would be incurred for the distribution of beverages and the return of containers. Some retailers would need additional storage space and would have to add employes to handle returned containers.

Based on 1969 data in an industry-sponsored study of the impacts of a ban on nonrefillables, tax writeoffs would amount to $1.3 billion, and total new investments $1.2 billion.[33] More recently the brewing industry has claimed total "conversion costs" of $5 billion for a sudden switch to refillables and a ban on one-way containers.[33]

The 1969 study indicated that cost increases in the brewing and soft drink bottling industries would be more than offset by container cost savings.[34] Some of these savings could also be passed on to beverage distributors and retailers to offset increased costs in these sectors. The study found that the aggregate cost to all sectors of the industry (beverage producers through retailers, inclusive) would be $250 million in the first year of a ban, but would actually become a $40 million gain in subsequent years due to container savings.[34]

Tax losses and new investment requirements would be lower for a mandatory deposit system in which nonrefillable containers were not completely eliminated. Capital losses would be reduced if time were allowed for normal amortization of current investments over a period of years. A 1975 study for the State of New York, assuming a 3-year phase-in to a market mix of 80 to 90 percent refillables, concluded that new investment requirements in that period would be $53 million per year, compared to a normal investment requirement of $30 million per year with no legislation.[35]

It should also be noted that normal industry competition resulting in changes in relative container prices or introduction of new container types (such as the plastic bottle) could have similar impacts on the container industries.

14. *What would be the effect of National mandatory deposit legislation on employment?*

The impact of mandatory deposit legislation upon employment would also depend on the rate of change of container usage. A rapid shift toward the use of refillable bottles would eliminate some jobs, primarily skilled positions in the container manufacturing industries. It has been estimated that a complete ban of nonrefillable containers in 1969 would have resulted in the loss of 60,000 jobs that year.[36] However it was also estimated that the establishment of a returnable system would also create a roughly equal number of new jobs, primarily jobs of lower skill classification and pay, in the retail and distribution sectors of the economy.[36] It is important to note that the employees displaced would not be directly transferable to these new jobs. Employment dislocations would be reduced if nonrefillable bottles and metal cans continued to be sold or if the change in container usage took place over a period of time. A transition period would allow natural attrition in employment to absorb some of the job losses. Also it would provide time for employment to shift to other plants or industries manufacturing other containers or similar products. For example, it has been estimated that a gradual transition over a 5 year period to a 90 percent reduction in nonrefillable containers would result in the loss of 39,000 positions.[37]

Footnotes at end of article.

A 10 year transition to a similar market would result in the loss of about 17,000 positions.[37]

Studies conducted for the States of Maryland, Minnesota, New York, Connecticut, Illinois, Michigan and Maine all found that the job gains in the retail and distribution sectors would be greater than the losses in contained manufacturing.[38-44] In New York, for example, a job gain of 5,200 and a loss of 1,200 jobs was predicted, with a net annual payroll increase of $35 million.[45]

In Oregon, where a deposit law is in effect, one study estimated an addition, of 175 to 200 new jobs and a loss of 340 to 427 existing jobs but did not estimate job increases in retail stores.[46] Another study estimated a net job gain of 365 jobs (including retail).[47]

15. *Is mandatory deposit legislation at cross-purposes with plants built for the recovery of energy and materials from waste?*

A resource recovery plant processes mixed municipal waste in order to extract materials and other products which can be sold. Changing the composition of municipal waste through mandatory deposit legislation would not significantly affect the economics of most resource recovery plants. Approximately 80 percent of the municipal waste stream is organic materials—paper, plastics, etc. This fraction should be the primary concern of a resource recovery facility, as it represents the bulk of the waste, and provides the bulk of revenue ($10 to $15 per ton of waste processed) needed to make resource recovery economically feasible.[48]

As a maximum result of mandatory deposit legislation, glass in the waste stream could be reduced by about 35 to 45 percent, ferrous metal wastes could be reduced by 15 percent, and, where use of aluminum cans is substantial, aluminum wastes could decline by 30 to 45 percent. Under favorable market conditions, gross revenues from the beverage container fraction of the waste stream amount to about $1 to $2 per ton of waste processed. When the costs of recovering and transporting these fractions are considered, the net revenue contribution is considerably less. Removal of the beverage container fraction through a mandatory deposit system would probably not cause a net revenue reduction in excess of $1 per ton of waste processed.[49]

It should be emphasized that recovery technologies for glass and aluminum are for the most part not yet fully demonstrated and markets for recovered glass and metal resources have just begun to be developed. In light of the uncertainties of separating and marketing aluminum and glass from solid waste, beverage container legislation does not entail undue risk for the installation of resource recovery facilities.

Resource recovery system feasibility should not be decided solely on the basis of glass, aluminum and steel recovery economics. Other more important factors are the general uncertainty regarding future markets (especially for the organic fraction) and the institutional obstacles to organizing and implementing a venture of this sort. A significant number of future recovery investment decisions should not be adversely impacted by mandatory deposit legislation.

16. *Are there other mechanisms, such as the litter tax enacted by the State of Washington, that will achieve benefits similar to a mandatory deposit law?*

Litter taxes are generally very small taxes (a fraction of a cent per product) imposed at the time of sale of products likely to be littered. Such taxes could provide additional revenues to collect litter along streets, highways, and recreational areas. The major shortcoming of a litter tax is that it does not create a disincentive for littering (the tax is paid regardless of whether the individual purchasing the product litters the item or not). Furthermore, such a mechanism would not reduce the generation of solid waste, nor would it result in savings of energy or materials. Thus while a litter tax is not incompatible with mandatory deposit legislation, it is not a substitute for such legislation.

17. *Is there a sanitation problem in storing used containers?*

While there is a possibility of insect problems associated with the storage of bottles and cans containing beverage residues, it should be noted that returnable containers have been used for many years without significant adverse public health impacts. If public health laws and sanitation codes are strictly enforced, and containers are picked up on a frequent and timely basis, such problems should be minimized.

18. *Isn't there a loss of convenience to the consumer?*

A deposit law does not require return of the container, but does make the consumer who discards the container pay the amount of the deposit. A study for the State of Oregon found that 87 percent of those surveyed found no inconvenience with returnables.[50] Furthermore this survey found that 91 percent of the respondents approved of the legislation and only 5 percent voiced any disapproval at all.[51]

19. *What is the position of the U.S. Environmental Protection Agency on mandatory deposit legislation at the Federal, State and local levels?*

The U.S. Environmental Protection Agency has testified in favor of the adoption on a nationwide scale of a mandatory deposit system for beer and soft drink containers.[52] Based upon several years of analysis and observations in the States which have enacted mandatory deposit laws, it is concluded that a mandatory deposit program would result in significant conservation of energy and materials, and a reduction in solid waste and litter caused by beverage containers. A sudden shift to a returnable system, however, would likely result in excessive economic disruption and unemployment. To minimize the adverse economic repurcussions, it is recommended that a nationwide system be phased in over an extended period of time.

While ideally such legislation should be national, State-level legislation, based upon the experience in Oregon and Vermont, also appears to be effective in achieving the benefits. Below the State-level, ordinances requiring mandatory container deposits would probably be effective in large regions, counties or metropolitan areas. Not enough experience has been acquired to indicate whether local ordinances for smaller communities would be effective.

EPA neither supports nor opposes State or local deposit legislation. EPA favors national legislation in this area and has decided not to promote the adoption of State or local laws, which may be superseded by a national law at a later time. Furthermore the Agency does not have the resources to analyze the economic impacts of different State laws. However EPA does not oppose State or local deposit legislation that is designed to reduce negative employment and economic impacts and contains provisions anticipating possible national laws.

FOOTNOTES

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SOURCE REDUCTION

Mr. HATFIELD. Mr. President, returnable beverage containers are not a new concept. As recently as 1960, 95 percent of our soft drinks and 50 percent of our beer were packaged in refillable containers on which a deposit was paid. Today 79 percent of the beer and two-thirds of the soft drinks sold in the United States are packaged in "oneway" or throwaway containers .

Our consumption of beverage containers has far outdistanced the consumption of the beverages themselves. For example, in 1959, 15.4 billion beverage containers were consumed. During the following 13 years when per capita consumption of these beverages increased 33 percent, the use of beverage containers increased a whopping 221 percent—to 55.2 billion by 1972. In 1973, the figure increased to 60 billion and could go to 80 billion by 1980.

It is predicted that we could save 5.2 million tons of glass, 1.5 million tons of steel, and 530,000 tons of aluminum annually by switching to a returnable system. The materials used for these containers equal 45 percent of all the glass, 6 percent of all the aluminum, and 2 percent of all the steel purchased in this country. In testimony before the Idaho State Legislature, William Coors, president of Adolph Coors Brewing Co., made the following statement.

We aren't going to have the materials in which to market our product if we don't start getting our containers back.

LITTER AND SOLID WASTE

Beverage container litter amounted to between 54 and 70 percent of the litter in Oregon prior to 1972. On a national basis cans and bottles consist of between 60 and 80 percent by volume of total litter and 20 to 40 percent by piece count. While the antilittering attitude that the industry is trying to instill through programs such as Keep America Beautiful is commendable and should be encouraged, that alone is simply not enough.

Solid waste has quickly become a premier environmental issue. It is a problem that we are just now beginning to understand and cope with. Passage of this legislation would signal a willingness on the part of this body to make a direct commitment to reducing solid waste. The National League of Cities and the U.S. Conference of Mayors have endorsed the need for solid waste reduction. They made the following prediction:

Unless we reduce the total volume of solid waste generated nationally, local governments will continue to be overburdened with the flow and financing of solid waste.

In October 26, 1976, the Oregon Journal published the results of a litter survey they conducted. Ten 1-mile stretches of road with comparable traffic volume in Oregon and Washington State were compared. It was determined that Washington roads have 7.5 times more litter than Oregon roads, probably due to Oregon's deposit law. I ask unanimous consent that the complete survey be printed in the RECORD at this point.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

[From the Oregon Journal, Oct. 26, 1976]

OREGON BOTTLE BILL CUTS LITTER, ACCORDING TO JOURNAL SURVEY

(By Dean Smith)

Washington highways have 7.5 times more bottle and can litter than comparable roads in Oregon, the Oregon Journal has discovered in a special survey on the eve of bottle bill balloting in four states.

Comparing 10 one-mile road sections of comparable use and traffic volume, the Journal found an average of 294 containers per mile in Washington against 39 in Oregon.

Both states have claimed that their anti-litter programs—which in Washington includes a Model Litter Control Act that emphasizes public education and in Oregon the bottle bill—have substantially reduced litter.

Statistics generated in the two states are being used in emotional campaigns in Maine, Michigan, Massachusetts and Colorado where voters will consider ballot measures Nov. 2 patterned after the Oregon law, now in its 5th year.

The Journal tally, which considered only bottle and can litter, showed that few 5-cent returnable beer or soft drink cans were tossed along the 10 miles of Oregon roads inventoried.

Of the 209 cans found in the state, only 11 (or 5.3 percent) were refundable. The other cans found apparently were purchased outside of Oregon, or were bought before the bottle bill took effect in October, 1972.

The survey, compiled with the help of volunteer students from Tigard High School and Portland State University, could not arrive at a similar comparison for discarded bottles.

It did show that a high number of all-aluminum cans, which are newer to the marketplace than other types of cans, were found in Washington.

Of the 1,968 cans turned up in Washington, 69.7 percent were non-deposit aluminum. In Oregon, 26.2 percent of the 209 cans retrieved were aluminum.

Survey tallies also showed that wine bottles—under consideration for inclusion under the bottle bill—constituted 4.8 percent of Oregon's discards and only 1 percent of those in Washington. Whisky bottles represented 2.2 percent of Oregon's total and less than one percent of the Washington litter.

Bottle bill proponent Don Waggoner, ex-president of the Oregon Environmental Council, said the newspaper's findings confirmed his long-held suspicions.

"It confirms what we've been seeing in Oregon and Washington," Waggoner said, "which is that the bottle bill is in fact working and significantly reducing can and bottle litter."

Not convinced of that conclusion is Portland Attorney George Wagner, who represents several can companies and the Oregon Beverage Industry Task Force.

Wagner, nothing that litter pickups had occurred on the Oregon survey sites more recently than in Washington, said that Washington has a "superior antilitter program" which is working well.

"Since Oregon cleans up after litterers much more frequently than Washington," Wagner said, "the Journal litter survey found more litter in Washington than in Oregon. This is a measure of cleanliness, not littering."

Washington Gov. Dan Evans says his state has reduced total litter by 66 per cent since 1971, based on estimates of littering before the litter act took effect.

Former Oregon Gov. Tom McCall, meanwhile, has been claiming in the East that Oregon's litter was reduced by 47 per cent after the bottle bill.

The Journal study was not able to determine to what extent the differing anti-litter programs have curbed the rate at which litter is dropped along roadways in the two states.

Officials at Washington's Department of Highways and Department of Ecology, which both conduct litter pickup programs, say they do not keep accurate records on exact highway locations cleaned.

In only one case—Oregon's Highway 224 and Washington's Highway 6—was litter collected on nearly the same date.

On the Oregon route, 97 beer and soft drink containers were found and on the Washington road a total of 144.

Illustrated by the survey is the fact that Oregon emphasizes roadside cleanup more than Washington, in spite of the fact that more tax dollars are spent on litter programs in Washington.

The Oregon Highway Division spent $633,000 on litter removal during fiscal year 1975–76, while its Washington counterpart spent $480,162 during the same period.

In addition, Washington spent $724,438 for funding education, advertising and litter collection programs during the fiscal year, according to Mike Aarhaus, assistant program director for the litter act. That money comes from a small tax assessed on litter-producing industries, he said.

Linda Bradford, a DOE official, said much of the litter collection funded by the act

this summer was performed in state parks and other non-highway areas.

Although the bottle bill has strong public support in Oregon, it has fared poorly thus far elsewhere, with only Vermont passing a similar law.

Industry opponents reportedly will spend $300,000 in Maine, at least $750,000 in Michigan and as much as $1.3 million in Massachusetts to defeat the ballot measures.

Proponents have raised only a fraction of that to boost the refund laws, sources in those states report.

The measure is on the ballot as an initiative in Michigan and a referendum in the other states.

In all but Colorado it would ban pull-top cans, and would institute a minimum 5-cent per container refund in all four states. (Oregon requires only a 2-cent refund on certified containers able to be used by more than one manufacturer.)

For the Journal survey, volunteers went to pre-designated survey miles and picked up only the "observable" litter seen while walking along the highway shoulder.

The sites were chosen based on their average daily traffic load, similarity in the type of road (2-lane versus 4-lane, for example) and the nature of travel it generated.

All carbonated soft drink and malt beverage containers were collected—along with wine and whisky bottles—and were returned for tabulation.

In the case of broken glass containers, only the neck portions were retrieved to avoid counting a single container more than once. Bottle caps, pull-tab tops and other beverage-related litter were not collected.

In Oregon, the data showed 165 beer cans, 44 soft drink cans, 159 beer bottles, 17 soft drink bottles, 20 wine bottles and 9 whisky bottles.

In Washington, 1,273 beer cans, 695 soft drink cans, 806 beer bottles, 161 soft drink bottles, 31 wine bottles and 22 whisky bottles were recovered.

Compilations of the survey data are available by writing the Journal, 1320 SW Broadway, Portland, 97201.

OREGON, WASHINGTON ROADSIDES COMPARED

Oregon highways	Average daily cars	Containers	Days since last pickup
Oregon 26, 9 mi west of Buxton	3,200	27	65–74
Oregon 47, 5 mi south of Vernonia	915	13	100
Oregon 99W, 2 mi south of Dundee	9,300	11	78–108
Oregon 126, 9 mi east of Springfield	2,650	85	365+
Oregon 26, 4 mi east of Wemme	3,800	48	86
Oregon 99E, 4 mi south of Woodburn	6,500	34	111
Oregon 219, 10 mi north of Newberg	1,200	23	66
Oregon 224, 8 mi west of Eagle Creek	3,400	97	74
Oregon 221, 4 mi south of Dayton	1,050	17	78–108
Oregon 6, 4 mi west of Gales Creek	2,500	30	65–74
Total (for 10 mi)	34,515	385	
Averages (per mile)	3,452	38.5	

Washington highways	Average daily cars	Containers	Days since last pickup
Washington 14, 4 mi west of Stevenson	3,275	343	*156
Washington 140, 8 mi north of Washougal	980	339	*217
Washington 502, 4 mi west of Battleground	5,000	306	*217
Washington 503, 4 mi east of Woodland	2,300	591	*217
U.S. 101, 3 mi north of Hoquiam	3,900	423	Undetermined
U.S. 101, 2 mi south of Raymond	6,300	232	Undetermined
Washington 603, 4 mi north of Winlock	1,300	149	*139
Washington 6, 5 mi west of Chehalis	3,000	144	73–80
Washington 41, 12 mi north of Longview	990	253	*217
Washington 504, 8 mi east of Castle Rock	1,300	155	*217
Total (for 10 mi)	28,345	2,935	
Averages (per mile)	2,835	293.5	

* Estimates only.

Note: The Washington Highway Department said crews worked portions of these highways at th approximate time indicated, but kept no records of the exact mileposts actually cleaned up by foo patrols.

ENERGY

Mr. HATFIELD. Mr. President, another problem created by the continued use of nonreturnables, and one that has taken on added significance over the past few years, is the waste of energy resources due to our willingness to discard perfectly good glass and metal containers after one use. By switching to returnables, we could reduce the container industry's energy consumption by 42 percent and save between 80,000 and 125,000 barrels of oil per day.

According to the testimony of the U.S. Environmental Protection Agency during hearings on my returnable beverage container bill before the Senate Commerce Comimttee in May 1974, the manufacture of one-way bottles and cans wastes the equivalent of the energy needs for 1 year of all the residents of New York and Chicago. While reducing this wasteful energy consumption would by no means solve our energy problems, this amendment offers us the opportunity to make significant progress on this critical national problem.

Mr. President, I ask unanimous consent that two studies of the energy impacts of a national deposit system appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SYSTEM ENERGY AND RECYCLING: A STUDY OF THE BEVERAGE INDUSTRY

(By Bruce Hannon, Assistant Professor of General Engineering and Staff Member With Center for Advanced Computation)

GENERAL

Recycling is a complex problem. Most everyone agrees that the recycling of consumed resources promotes a more desirable environment. We recognize that the materials which constitute most of our goods, are finite. The dispersal of these materials into landfills is therefore viewed as wasteful of both land and materials. These materials should somehow be reintroduced into our system of consumption. A simplistic view of such a system is to return the used item to its point of manufacture; i.e., an abandoned auto is dismembered and the steel is returned to the steel companies, discarded glass bottles are returned to the bottle manufacturer, etc. This is a highly simplified recognition of the law of conservation of mass. However, little public or scientific environmental attention has been given to a companion physical law, that of conservation of energy. Energy resources are also finite and also cause environmental degradation when consumed too rapidly. Full pollution control may ultimately be achieved, but there is no alternative to resource depletion.

A consideration of both laws lets us decide when and where to reintroduce the used material or whether a material form needed to be created in the first place.

The object of this paper is to present an example system in which both of these physical laws can be used to describe a recycling process in the packaging industry. If any generality can be gained from the example, it is that recycling of mass should be accomplished at the earliest opportunity, in order to use the least mass and the least energy of the alternatives available to perform a desired service.

A second and equally important purpose is to introduce least-energy systems analysis as a means of system choice. The rising cost of energy due to the internalization of environmental costs, the fluctuating foreign supplies and the decrease in certain proved energy reserves in the U.S. (1) all lead to use of energy systems analysis solely for extending survival.

In an energy shortage, the most efficient energy systems will dominate, but we must also soon question the need of the quantity consumed in providing a given quality of life. In other words, there is an extremely important distinction between evaluating system energy flow; the former is primarily an engineering matter, the latter is mainly a societal one.

Had energy not been so accessible and therefore so cheap in the U.S., many systems might not be so extensive and in use today, e.g., the automobile, the aluminum industry, the packaging industry, etc. But energy is rapidly becoming expensive. Dr. David Schwartz, assistant chief of the Office of Economics of the Federal Power Commission estimates that the internalization of environmental costs alone will raise the cost of electricity about one cent per kilowatt-hour which should more than double the current industrial prices. We therefore must plan for least-energy-consuming systems. In fact, some hold that energy is the real currency in systems made of living components. Under this view, items would have as their true value the resource energy committed in their manufacturing. This type of pricing reflects wasted energy and dwindling energy resources, as well as the scarcity of the mass involved.

THE PROBLEM

The packaging industry has blossomed in the last few years with the American consumer paying about $25 billion in 1966 for packaging, ninety per cent of which was discarded (2). By 1971 the packaging industry had become an even larger multibillion-dollar interest which opposes the reduction of the amount of materials used in wrapping, sacking, canning, bottling and otherwise protecting and selling merchandise to the consuming public. Based on convenience appeal to our increasingly mobile society, advertising campaigns, principally by container manufacturers, have convinced a public that the throwaway container works in their best interest. But litter, problems in solid waste disposal, high consumer purchase cost, and resource drain are fostering a worthy adversary to the packaging syndrome.

Nowhere is this conflict more clearly underscored than in the packaging of beer and

soft drinks. These two commodities alone constitute a major portion of the food and beverage consumed by the U.S. public and about one-half of all beverage and food containers (2).

The purchase price for soft drinks in throwaway glass is thirty per cent more than when it is sold in returnable containers (20). Added to this are litter pickup and hauling and landfill costs, paid by the consumer through monthly billings from trash haulers and state and municipal taxes. There are, in addition, the environmental costs of material and energy production paid in terms of health and aesthetic losses such as lung damage from power plant emissions and land strip mined for coal. Were these costs tabulated and presented to the consumers at the time of purchase, consumers would at least know the true cost of packaging and might choose to buy less expensive returnable containers. A recent consumer survey in Illinois (25) indicates a preference for the returnable soft drink container.

On the other hand, the packaging people have wedged themselves into the economic web causing a redistribution of labor. Labor, as well as the packaging industry, is opposed to a reduction in the volume of throwaway containers. One wonders if a reduction in the use of the earth's capital supplies of energy might actually mean an increase in the need for human energy and consequently fuller employment. Indeed, Professor Hugh Folk (23) has shown that a return to returnable bottles would cause a net increase of 1500 jobs in Illinois.

THE EVOLUTION OF THE PROBLEM

The first efforts at market conversion to one-way beverage containers were made by the steel industry in the late forties and early fifties. Together with the major can companies they viewed the beer and soft drink market as the last major expansion area for steel cans. With returnable bottles averaging about forty trips, it was clear that forty cans would be needed to replace each returnable bottle over a period of six to eight months. Aluminum companies made their entrance into the market in the mid to late fifties introducing the all-aluminum beer can. Aluminum has since appeared in the tops of steel beer and soft drink cans to facilitate opening.

A surprisingly early success of cans was found in the ghetto areas of major cities. The generally small family storage and cooling space of the inner city dweller requires purchases of one cooled package per visit to the market. Purchased in such a way, the three to four cent deposit per returnable bottle lacked the aggregate appeal of a returning case of bottles. Further, the process of reacquiring the deposit appears to be very demeaning for the inner city proud but poor (8). There was also a stiff retailer resistance in accepting returned bottles because of diminishing retail storage space. In 1960, for example, forty per cent of the roofed supermarket space was devoted to non-selling storage and in 1970 only ten percent of such space was for storage (8). However, the bottler's storage space has increased significantly due to the diversity of containers (8).

Suburbanites tend to favor returnable bottles much more than the inner city dweller. Suburban women make regular food shopping trips by auto, and also can exert more influence over the retailer. As a result the trips per returnable bottle are significantly greater in the suburbs.

Since the beverage makers and bottlers were not selling containers to the public, they were indifferent to the needs of the steel and can companies. It fell incumbent on the beverage wholesalers and retailers to aid in the conversion of the market to throwaway containers. The concept of minimum non-selling storage space and the elimination of the labor of sorting and stacking returnables had obvious appeal.

At about the same time, glass bottle manufacturers realized the impact of cans on their market and competition between glass and steel throwaways began. With these pressures from both sides, the bottlers revised their bottling lines to handle throwaway containers.

Therefore, the decline in return rate and retreat from the market place of the returnable is not caused by bottle fragility but is due to general affluence, competition from other packages, and advertising, the mechanism for the change in consumer habits.

The returnable bottle has been the real victim in the price battle between the can and the throwaway bottle as evidenced by the following quote (26):

The chairman of the board of Owens-Illinois Glass Co. testified that he takes into account the price of metal containers in pricing containers for beer, soft drinks, and household and chemical products, and to a lesser degree for toiletries and cosmetics. In assessing the likelihood that it could "penetrate (the) tremendous market" for soft drink containers, Continental (Can) concluded "(a)ssuming that the merchandising factors are favorable and that the product quality is well received, the upper limit on market acceptance will then be determined by price." Continental also stated in an intercompany memorandum that in the fight between the beer can and the one-way bottle "(t)he key factor, in our estimation, is pricing," and concluded that a reduction in the price of one-way beer bottles was to "be regarded as a further attempt on the part of the glass manufacturers to maintain their position in the one-way package field."

That the container manufacturer uses advertising not only on the consumer but on the other key parts of the industry is admitted (26); an official of the Glass Container Manufacturers Institute described that organization's advertising program as three-pronged, directed at the packer, the retailer, and the ultimate consumer.

The impact of the throwaway campaign is partially described in Table 1 and Figure 1a, which show that the return trippage of the soft drink bottle and the market share of the returnable botle have declined appreciably. Figure 1b indicates that beverage consumption has risen by a factor of 1.6 from 1958 to 1970 while beverage container consumption has risen by a factor of 4.2 during the same period.

TABLE 1.—*A comparison of the returnable bottle market share (percent) for beer and soft drink beverages* (2).

	1958	1966	1976
Market share, returnable bottle percentage:			
Soft drink	98	80	32
Beer	58	35	20

There are several reasons for the lag of the soft drink market conversion to throwaway containers. The relatively high cost ratio of the throwaway container to the total soft drink product is probably the most important reason. Another possible force which slows the throwaway intrusion is the housewife's generally excellent grasp of the unit cost of soft drinks. This probably occurs because she is an experienced shopper while the beer purchaser is less familiar with the importance of such calculations. The relatively high refill rate on beer containers is largely due to the type of retail outlet (tavern) and that the market percentages are more nearly stable relative to soft drinks. Finally, the relatively high acidity and oxygen content of soft drinks made the use of cans difficult.

There is still reluctance among some bottlers to continue the throwaway practice simply because the one-way container increases the cost of consumption and therefore reduces sales and consequently profit. Many claim, however, that the throwaway container has increased their sales volume and accordingly improved their competitive position.

But the bottlers are succumbing to the "economics of scale" and following the centralizing tendencies of other industries. For example, there were 8000 soft drink bottlers in 1960 and a decade later their numbers had dwindled to only 3600 (8). The centralized bottlers tend to the one-way container because of the inefficient return shipping of empty returnable bottles.

The only force which is opposing this centralizing tendency is the franchising procedure used by the major beverage makers. These franchises provide each bottler an exclusive territory which tends to aggravate the large food wholesalers who are required to buy soft drinks locally. This procedure breaks up the food wholesalers "economy of scale" and has consequently produced the "private label" soft drink. These brands are packaged exclusively in cans and sold over extremely large areas from very large centralized plants. The "private label" soft drinks are sometimes sold with the wholesaler or retailer label and tend to be much lower priced than the major brands. The price difference is in the beverage, however, not the container.

Recently the Federal Trade Commission filed a complaint with the U.S. Justice Department to break up the major soft drink franchise operation charging that these operations tend to exclude competition. The small bottlers are quite opposed to this complaint as they feel it will lead to large centralized canning plants (8).

The economic involvement of packaging has been deceptively low but it has been estimated that a return to returnable bottles from throwaway beverage bottles and cans would reduce the purchase costs by $1.4 billion per year (23).

Because of the increased cost and because of increasing average container size, a plethora of bottle and carton sizes has accumulated on the market. Beverages are sold in 7, 10, 12, 16, and 28 oz. containers and sold singly, in 6 packs, in 8 packs, or in 24 bottle cases. This great variety tends to conceal the unit cost from all but the most calculating consumer. For example, six 12 oz. cans sell for $.99. The marked price encourages can sales but actually the beverage in returnable bottles is about thirty percent less expensive than cans or throwaways. A recent court ruling in Illinois declared it illegal to tax the consumer on the deposit charge. This has had the effect of requiring a clear display of the deposit charge.

A 12 oz. returnable soft drink bottle costs the bottlers about $.09; a 12 oz. throwaway bottle costs about $.04 and a 12 oz. can costs about $.05 (8). Even though the glass throwaway costs less than a can, it is heavier and subject to inconvenient breakage. Cans can be shipped more compactly than one-way glass bottles and are much less difficult to dispose of. Throwaway glass containers can be returned to the bottle makers as waste glass (cullet) although color separation is a considerable problem. The small percentage of returned cans are not remelted but chemically dissolved to obtain copper which is currently very scarce in natural form.

Besides the drop in returnable bottle trippage, other results of heavy emphasis on throwaway packaging were a sharp increase in roadside litter and a significant increase in solid waste. In particular, those who were now committed to the one-way container were quite concerned with the inverse advertising provided by a labeled discarded container. The agencies which had formed to promote their own interests now joined together to form an anti-litter organization. The Can Manufacturers Institute and the

Glass Container Manufacturers Institute teamed with the U.S. Brewers Association and the National Soft Drink Bottlers Association to form the vehicle for public education against littering, "Keep America Beautiful, Inc." It was through advertising campaigns by these agencies that I became interested in the packaging industry. It initially seemed a paradox that these same agencies would vigorously and successfully oppose the reduction in generation of solid waste and litter and at the same time promote anti-littering campaigns.

In answer to the solid waste problems the above agencies have actively supported a solid waste collection system which would gather household and commercial waste and separate the waste into recyclable components from which new products could be made.

The industry's proposed solution closes, with the exception of lost materials, the mass flow loop in packaging beer and soft drinks. The industry calls this "remelting" concept "recycling," and it is. But returnable bottles are also a form of "recycling," perhaps best called "refilling."

However, the system in use today seems to be tending toward exclusive use of the one-way container without the collection, sorting and remelting system. Thus, we have three systems, two of which claim to be recycling and all satisfy the same consumer demand with respect to beverage consumption.

Since the economic differences between the systems go relatively unnoticed and the recycling of mass is available for either system, we need some better device for underscoring the system differences. No more suitable means exists to my knowledge than to examine the total resource energy required to operate these systems for a given quantity of beverage, an energy-effectiveness analysis.

THE ENERGY ANALYSIS

The investigation covers glass, plastic, paper, steel, and aluminum beverage containers. The concentration of the analysis is in the soft drink industry, because there the returnable glass bottle is still an important market item for which data are readily available. An analysis of the beer industry has essentially the same result as that of soft drinks, and a similar analysis is made of paper, plastic, and glass containers in the dairy industry.

At the outset, we must realize that energy associated with the containers, not the beverage, should be tabulated. The basic approach is to calculate the total resource energy consumed for packaging in the returnable and throwaway systems, for one gallon of beverage delivered to the consumer. Also, each glass container system has an optional remelting loop for discarded containers. Finally, equations are developed which give the ratio of unit energy (and dollar cost) for throwaways to the unit energy for returnable bottles, as a function of the number of fills.

The energy calculations are based on the total resource energy expenditure involved in extracting a unit of fuel from the ground, plus the calorimetric value of the fuel itself. Thus, the resource energy of a gallon of gasoline and of a gallon of diesel fuel are 125,000 BTU (British Thermal Units), and 138,000 BTU, respectively (*3*). Natural gas has an energy value of 1,000 BTU per cubic foot under normal supply conditions. The resource energy required to ship one ton-mile of freight by rail is 640 BTU (4), and a typical diesel truck consumes approximately 2,400 BTU/ton-mile of cargo (*4, 5*).

In most of the references, the thermal equivalent of one kilowatt-hour of electrical energy (3,412 BTU) must be converted to an equivalent resource energy figure. As recently as 1968, coal, oil, and gas fired steam-electric plants were only 29.36% efficient in converting and delivering resource energy to the user, and this type of plant constitutes 99% of the major electricity sources in the Midwest (*6*). Therefore the resource energy required to generate one kilowatt-hour of electric power is 3,412/0.2936=11,620 BTU.

In this study, the entire energy consumed by the industry has been totaled, including such things as heating and lighting. However, I have neglected certain indirect energy commitments, mainly because they are thought to be small and are difficult to calculate. Such energies would be those required to make the bottling machine, delivery trucks, etc. * * *

Tribus and McIrvine calculate that the resource energy requirements for human labor, for moderately strenuous activity, are only about 0.4% of the mechanical energy input to a given product.

The bottler who supplied the soft drink data for this study sells over 70 million drinks annually. His all-urban data is so extensive that it allowed accurate comparisons of returnable bottles, throwaway bottles, and cans. These are the major sale items, with several million fillings annually in each form. His average number of refills for the 16 oz. returnable is eight (8). The average unit weight of the 16 oz. returnable bottle is 1.00 lb., and that of the 16 oz. throwaway bottle is 0.656 lb. Thus, for each gallon of beverage which flows through the soft drink industry, one 16 oz. returnable bottle (1.00 lb. of glass) or eight 16 oz. throwaway bottles (5.25 lb. of glass) are required.

The returnable and throwaway systems

Figure 2 shows the complete histories of returnable and throwaway glass containers in the soft drink industry. First, the raw materials are acquired from their various sources and transported to the glass manufacturing plant, where they are combined with recycled glass in the bottle-making process. Finished bottles are shipped to the bottler, who washes and fills them, and distributes them to retail outlets.

In the returnable system, the average bottle is filled N times before it gets broken or discarded. On the other hand, in the throwaway system, N bottles pass through the retail outlet to the consumer for each N fills of a single returnable bottle.

After being transported to the collected waste system, discarded glass is separated from household wastes at about 50% efficiency. Further sorting of separated glass by color has a 60% efficiency, and thus 30% of the glass in the received waste is returned to the glass manufacturer for reprocessing (9). The separation, cleaning, and sorting operations are presently in the pilot plant stage, but the container manufacturers insist that this is the method of the future. A small percentage of the throwaway containers are also currently being disposed of in glass collection centers and sent to the container manufacturers for reprocessing.

I now give the detailed computations of the energies involved in the returnable and throwaway systems. The energy contributions from each segment of the system are first computed in terms of the number of BTU per pound of glass, and then this number is converted to a pair of entries in Table 2, which lists the returnable and throwaway energies in BTU per gallon of beverage, for each segment of the system. The conversion factors are 1.00 lb./gal. for returnables, and 5.25 lb./gal. for throwaways.

Material acquisition for new glass

The amounts of materials necessary for a ton of glass, and their associated energies, are (10, 11):

Sand, 1,333 lb., 344,600 BTU.
Limestone, 435 lb., 13,900 BTU.
Soda Ash, 433 lb., 1,385,300 BTU.
Feldspar, 151 lb., 61,400 BTU.

Therefore the acquisition energy for glass is 900 BTU/lb. for returnables and 4,740 BTU/gal. for throwaways.

Transportation of raw materials

One of the Nation's largest glass container manufacturers, who prefers to remain anonymous, indicates that the average distance between the manufacturing plant and the raw materials site is 245 miles, and that 79% of these materials were moved by rail and 21% by diesel truck in 1971. From this data we calculate the energy to transport the raw materials for a pound of finished glass at 125 BTU, or 125 BTU/gal. for returnables and 650 BTU/gal. for throwaways.

Container manufacture

A detailed examination of overall industry data (12) reveals that the total glass container manufacturing energy, including lighting and space heating, is 7,740 BTU/lb. Bottle crown manufacturing energy was calculated from references (1), (12) and (13), and the result was 27,000 BTU/lb. (see Table 3). The energy for crowns is the same in both the returnable and throwaway systems; i.e., 1,935 BTU/gal.

Transportation to the bottler

From the Census of Transportation (13) the average distance to the bottler is found to be 345 miles, with 70.2% of the containers shipped by truck and the rest by rail. Local inter-city trucking companies said that the truck capacity averaged 1,500 cases of throwaway and 1,200 cases of returnable bottles (14). Therefore, the transportation energy, calculated on a ton-mile basis and weighted to reflect the loading inequities on trucks, is 360 BTU/lb.

Bottling, packaging, and transportation to the outlet

The energy to bottle a single gallon of beverage was allocated from the total warehousing, bottling, and transport energy on the basis of the number of bottles processed. In 1970, the total energy consumed per gallon of beverage was (8):

Electricity, 0.112 Kwh.
Natural Gas, 2.0 cu. ft.
Fuel Oil, 0.01 gal.
Gasoline, 2.1 gal.

Thus, bottling and warehousing energy for returnable and throwaway bottles were found to be 5,400 BTU/gal.

Consumption of paper, plastic, and wood were reported by two major bottlers (8, 15). Wood consumption was small for all types of containers. The energy consumed in manufacturing the paper and plastic portions of the packaging was derived in a manner similar to that shown in Table 4. Plastic is used mainly in can systems.

The Census of Transportation (13) shows a national average soft drink delivery distance of 231 miles, 75% of which is by private truck. Transportation energy was weighted to consider the larger and heavier returnable bottle, and the fact that returnable bottles must be shipped back to the bottler.

The retail outlet and the consumer

Soft drinks account for less than about 1% of retail outlet space, and therefore require a negligible amount of energy relative to other demands. Also, consumer transportation to and from the retail outlet is neglected in the energy calculations, because each trip to the store has multiple purposes and the greatest portion of the energy expended must be charged to items other than bottle transportation.

Collection and hauling of discarded glass

Since trash hauling is a single-purpose activity, the energy consumption for gas can be prorated on a ton-mile basis. Local sanitary haulers give the following averaged information (16):

Average truck capacity, 4 tons (50% load factor).

Average gasoline consumption, 7 mi./gal.

Average (round) trip, 20 mi.

Using the resource energy 125,000 BTU/gal. for gasoline, the energy consumed hauling waste can be calculated at 89.3 BTU/lb.

Separation and sorting of glass

Figure 2 gives a schematic view of the pilot plant process mentioned earlier for separation of solid waste into usable components. The separation units (50% efficient) requires 1,941,000 BTU/ton of waste material input (9), and the sorting process (60% efficient) requires 523,000 BTU/ton of glass input (17). It is assumed that the energy allocable to glass can be taken as a percent by weight of the total process energy; i.e., the energy to remove a ton of glass from municipal waste is the same as that required to remove a ton of steel, or a ton of paper. Input to the separation unit is considered to be a unit of solid waste containing one ton of glass; thus, 0.5 ton of glass is output for cleaning and sorting, and the final yield is 0.3 ton of sorted glass (30% of the original input). Note that for each process, separation and sorting, we must charge the processing energy on the basis of the amount of glass input; i.e., separating one ton of glass from a unit of solid waste consumes 1,941,000, even though the yield is only 0.5 ton. Likewise, sorting of 0.5 ton of separated glass consumes 523,000/2=261,500 BTU, for a yield of 0.3 ton. Therefore, the energy charge for separation and sorting of glass from waste is 1,100 BTU/lb.

Transportation of reclaimed glass to reprocessor

The best estimate of the transportation effort required to bring the reclaimed glass from the point of reclamation to the container maker is that it would be at least equal to the transportation energy per ton from the origin of raw materials to the container makers; i.e., 125 BTU/lb.

CONCLUSION

The most striking feature of this tabulation is that in both the returnable and the throwaway systems the net effect of recycling discarded containers is to raise the total energy commitment. This is due to the large energy contribution of the separation and sorting process. For example, in the returnable system, recycling saves 900–630=270 BTU/gal. in material acquisition, but costs 1,100 BTU/gal. in separation and sorting. In both systems, the savings in transportation of raw materials is offset by the corresponding cost of transporting broken glass to the container maker.

Clearly, if the calculations are accurate, it is currently unfeasible from an incremental energy standpoint to recycle separated used glass for making new glass bottles. Perhaps as the separation and sorting efficiency improve, the situation will reverse. If household and commercial separation are required, and separate hauling is provided, then recycling is feasible from an energy standpoint if there is no alternative. However, in the beverage industry, even if the collection and separation energy is zero, one can easily conceive of an energy cost on the throwaway glass to be recycled since it was not necessary to make these containers in view of the lesser-energy-cost system of returnable bottles.

THE ENERGY RATIO

From Table 2, the ratio of total throwaway energy to total returnable energy can be directly calculated for N=8 fills per bottle:

100% new: ER=65,345/27,205=2.4.

30% recycle: ER=69,735/28,040=2.5.

For values of N other than 8, we can calculate the energy ratio according to the following equation:

$$ER=\frac{E_{TA}}{\frac{}{N}^{8(E_{RS}-E_B-E_{CM}-E_{BT})+E_B+E_{CM}+E_B{}^T}}$$

where

E_{RS} = Total returnable system energy for $N=8$
E_B = Bottling energy
E_{CM} = Crown manufacturing energy
E_{BT} = Bottle transportation energy (to outlet)

The last three items in this list are the segments of the system that do not depend on N. From equation (1), we get two glass container system equations, one without and one with recycling:

$$ER_{100}=\frac{1}{\frac{1.75}{N}+0.12} \quad (2)$$

$$ER_{30}=\frac{1}{\frac{1.77}{N}+0.13} \quad (3)$$

Equation (2) is plotted in Figure 4. Note that with unbreakable returnable bottles and perfect consumer habits ($N=\infty$), there is a limit to the energy ratio.

In a manner similar to that for the glass container system, the energy to drive the can container system is calculated almost exclusively from Bureau of Census records (11, 12, 13). The results are given in Table 3.

The energy ratio for the paper-glass returnable milk delivery system is 1.6 (see Table 4) (18). Obviously, a paper container is proportionately far less energy demanding than a glass container. The total milk container system energy could be reduced 21% by an all-returnable delivery system. The total national energy consumed by the milk container system is negligible, however, compared to soft drinks or beer.

An approximate energy analysis for polyethylene (high-density) halfgallon milk containers (19) discloses a system energy requirement of 26,750 BTU/gal. for nonreturnable (55 grams) and 7,850 BTU/gal. for returnable (132 grams, 50 return trips) containers for an energy ratio of 3.4 to 1. The paper container is superior to the plastic throwaway container from an energy viewpoint, but the plastic and glass returnable systems are nearly equivalent.

A similar energy calculation has been made for the beer industry (see Table 5). The energy ratio for returnable versus throwaway glass containers (12 oz., 19 return trips) is 3.1 when only container energies are compared. The high transportation energy for the beer system arises from the fact that the breweries are located, on the average, over twice as far from the consumer as are soft drinks bottlers.

The ratio of the cost of the throwaway to the cost of the returnable (16 oz. glass) soft drink container can be approximated (8, 20). The cost ratio includes only costs associated with the containers: manufacturing, filling and refilling, handling and landfill disposal costs. The resulting cost ratio equation is plotted in Figure 4:

$$\text{Cost ratio}=CR=\frac{1}{\frac{1.39}{N}+0.40} \quad (4)$$

Note that the container cost (and energy) break-even point is 2.30 fills. Thus, decisions to discard a refillable system can be based on energy or dollar economics. The important difference between the break-even points found here and those used in practice seems to be that the latter are based on a view of a single part of the system; i.e., the bottler, rather than a total system view.

If the wholesale beverage costs are included, the cost ratio at N=15 would be about 1.2, indicating that the retailer is deriving a significantly higher profit on throwaway packages when the average retail cost ratio is 1.3 (Illinois average) (20).

It is instructive to estimate the energy directly associated with the beverage. These energies would include those necessary for syrup preparation, brewing, pasteurizing, water supply and sewage disposal at the bottlers and the consumer, transporting the beverage to and from the consumer and retailer, and cooling the beverage for consumption. These energies are estimated at 4,250 BTU/gallon of beverage for any of the above soft drink systems. The energy content of the soft drink delivered by these container systems is about 6,700 BTU/gallon. Consequently, on the average, we spend 400% more energy in returnable (15 fills) and about 975% more in throwaway delivery systems than the energy content of the fluid delivered.

Table 6 gives similar ratios for other beverages. Caloric values of the beverages were obtained from bottlers. Clearly, not even the best existing returnable bottle system could survive in a subsistence society.

A further interesting outcome of the study is the distribution of demand on resource energy as seen in Table 7. About 34 percent of the resource energy used by the can container system goes into the production of electricity. Similar figures for the glass container system are 17.6 percent and 18.5 percent for the returnable and throwaway, respectively (16 oz., no remelt).

About 14 percent of the total resource energy is diverted into electricity in the making of finished steel shapes; 72 percent of the resource energy goes into electricity in the production of finished aluminum shapes. About 22 percent of the resource energy is used to make electricity in paper production.

If the beverage industry were converted to returnable containers, the 1970 container system energy, which accounts for 0.48 percent of the total U.S. energy demand, would be reduced by about 40%. The energy savings in 1970 would have supplied the total electrical needs for Washington D.C., Pittsburgh, San Francisco and Boston for about 5 months, or about 30 billion kilowatt hours.

An economic and labor study in the beverage container industry has been made for Illinois (23). If a complete return to returnables were made in this state, a consumer saving of 75 million dollars and a net increase of 1,500 jobs would result. Although jobs would be lost in the steel and container industries, more lower paid jobs would be produced at the wholesale and retail level.

Extrapolating Folk's data to the national level implies an increase in employment of 130,000 jobs and an increase in consumer savings of $1.4 billion dollars. If the savings on average personal consumption, would develop and the consumer spent the savings on average personnal consumption, then about half of the estimated energy savings or 15 billion kilowatt hours would be realized.

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SENSIBLE CITIZENS AGAINST THROWAWAYS (SCAT) AND CRUSADE FOR A CLEANER ENVIRONMENT

The throwaway soft drink and beer container, long under attack for its litter, solid waste, resource waste, and higher cost characteristics, came under a new attack today—it is a shocking waste of energy.

Proponents of a nationwide mandatory return to reusable leisure drink containers released a study showing that such legislature will save 66% of energy saved by a nationwide 50 mile an hour speed limit or more than the energy savings under one plan of limited air flights or about a third of one published government plan for lower home heating limits.

A Montgomery County Maryland citizens organization, Sensible Citizens Against Throwaways (SCAT) and a national environmental unit, Crusade for a Clean Environment, presented data supporting enactment of Senate bill S2062 sponsored among others by Senators Hatfield and Packwood of Oregon where similar legislation has been in effect for over a year.

It would ban all non-returnable beverage containers. The Commerce Committee is expected to hold hearings in late January. Montgomery County has studied similar legislation for the past year and its County Council will meet Friday to start final action on the bill.

The focus on the energy aspects of such legislation is timely in that the data has been collected to portray equivalent energy waste of throwaway beverage containers in comparison to other energy savings measures proposed by the Administration.

John Breier, SCAT president, showed an energy saving equivalent to 131,000 barrels of oil per day with an all returnable container system.

Dr. Robert Turner of SCAT presented data showing that at the time of disposal—each 12 oz. beer can has accumulated the equivalent of 26% of its volume in wasted gasoline. It is the same as putting both the can and 3.18 ozs. of gasoline into the family garbage can.

Turner also compared the national energy waste to the heating of 2.5 million three bedroom brick homes and the heating of an average bath to the energy waste of six average throwaway containers. He also noted that a 100-watt light bulb burning for 12 hours consumes the waste equivalent energy of a single beer or soft drink can.

Such energy savings or waste come about because each reusable container is used again and again. The SCAT study used 10 trips of one reusable bottle versus the manufacture bottling, transportation and disposal of 10 cans or one-way bottles. The equivalent waste per throwaway is 4195 BTU's.

The equivalent waste of the 60 billion throwaway containers used in the USA in 1972 is equal to the energy equivalent provided by 5.5 million gallons of gasoline per day. An area such as Montgomery County with 568,000 residents and 204 million throwaways per year could share the equivalent of 18,770 gallons of gasoline savings per day.

Aluminum is the most energy wasteful container; each can representing 6.9 ozs. of gasoline waste. Over 10 billion aluminum containers were used last year.

The study showed recycling is not a viable alternative. Each 16 oz. glass bottle that is recycled adds 10% at its equivalent energy budget.

The nation's total throwaway container equivalent energy waste is equal to the output of 10 Calvert Cliff size nuclear power plants.

The study, based on those done by Dr. Bruce Hannon of the University of Illinois and the Midwest Research Institute under contract to EPA, utilizes equivalent energy units of British Thermal Units utilized by the mining, manufacturing, bottling, distribution and disposal of one-way and reusable beer and soft drink containers.

Although the total process uses energy from electricity, oil, and gasoline sources the equivalent BTU's are expressed in gallons of gasoline and barrels of crude oil to surface the equivalent energy waste in terms currently used to describe the nation's energy shortage.

Thus the 131,000 barrels of gasoline per day is the BTU equivalent of throwaway energy waste and would require 279,000 barrels of crude oil to make that much gasoline under existing refinery operations. The conversions to an all returnable system would save the energy equivalent of 131,000 barrels of gasoline each day. The savings would actually come in the use of less oil, electricity as well as gasoline.

SCAT also presented the results of two studies that showed a move to an all returnable system would actually mean a job increase . . . that is more net jobs with more people required in the bottling and retail outlets and less in the can and bottle manufacturing companies.

BOTTLES AND ENERGY FACT SHEET

Preliminary

A tremendous amount of energy waste is associated with "one-way" throwaway beer and soft drink beverage containers. Two comprehensive studies have been performed on the relative energy impact resulting from use of throwaway containers compared to returnable bottles, one by Dr. Bruce Hannon of the Engineering Department at the University of Illinois and the other by Midwest Research Institute under contract to the Environmental Protection Agency. In the Calculations below data from the MRI analysis are used, although Dr. Hannon's figures would provide essentially the same results. Here some scientific findings are translated into everyday terms; this analysis is not exact but is intended as a "ballpark" estimate, and where assumptions had to be made they were in every case conservative (leading to lower than actual apparent energy waste), so the energy squander is actually more severe than described below.

"Average throwaway container" (ATC) defined

The U.S. Department of Commerce reports that 83.7 Billion containers for beer and soft drinks were manufactured in the U.S. in 1972:

23.8 Billion Returnable Glass Bottles.

28.0 Billion Bimetal and Steel (mostly bimetal) Throwaway Cans.

21.5 Billion Throwaway Glass Bottles.

10.4 Billion Aluminum Throwaway Cans.

All containers are assumed here to be 12 oz.; this assumption will provide a lower energy waste estimate than is the real case. The throwaways will be compared to returnable bottles with 10 trips per bottle life, also conservative since national average is 20.

Container description	10-trip returnable	Bimetallic can	Glass throwaway	Aluminum can
Energy consumed per use (Btu's)	2,212	5,316	6,610	8,953
Energy wasted compared to 10-trip returnable (per container) (Btu's)	0	3,104	4,398	6,741
Number of uses in 1972 (billions)	23.8	28.0	21.5	10.4
Total energy consumption (Btu's) (trillions)	52.6	148.8	142.1	93.1

Note: Thus energy consumed by the 59.9 billion throwaways is 384 trillion Btu's and from this comes a definition of an "average throwaway container" (ATC). The average energy requirement for throwaways is 6,410 Btu per container, and so the average waste per unit is (6,410—2,212)=4,198 Btu per container

House heating equivalent waste

Washington Gas Light Co. reports that a three (3) bedroom brick house has an annual heating requirement of 102 Million BTU's.

Montgomery County Annual Throwaway Waste=856.5 Billion BTU=8400 Houses.

USA Annual Throwaway Waste=251 Trillion BTU=2.5 Million Homes.

Thus 8400 houses in Montgomery County could be comfortably heated using the energy represented by throwaways in Montgomery County alone: this is about 5% of the home heating requirement (annual) in the county. Reflects on this as you turn down your thermostat.

Hot water heating

Suppose you take a hot bath in a tub 4½ feet long, 2 feet wide with water 1 foot deep. The heat required to warm this 67.5 gallons of water from 65° F to 110° F is 25,245 BTU's, which can be represented by the energy waste of 6 Average Throwaway Containers (ATC's).

The heat stored in 60 gallons of water (an average home hot water tank) heated from 50° F to 150° F is 50,000 BTU, represented by 12 ATC's.

Illumination

A 100 watt light bulb burning for over 12 hours consumes the same energy represented by the energy waste of a single 12 oz ATC (4198 BTU).

Equivalent electrical waste

Dr. Priscilla Laws, Professor of Physics at Dickinson College, calculated that the USA annual throwaway energy (beverage containers only) could provide all residential electrical power for an affluent city of 7.5 Million people. Scaled down to Montgomery County annual container waste, this would serve 25,800 people.

Time Magazine (November 26, 1973) reported the following energy consumption costs for an average American home: (Note: 1 kw-hr=3413 BTU=0.813 ATC's).

Item, annual energy, and equivalent ATC's:

Average U.S. household, 8000 kw-hr, 6500 throwaway containers.

Electric Toothbrush, 0.5 kw-hr, 0.4 throwaway containers.

Electric Carving Knife, 8 kw-hr, 6.5 throwaway containers.

Garbage Disposal, 30 kw-hr, 24 throwaway containers.

Refrigerator (average 14 ft³), 1137 kw-hr, 925 throwaway containers.

Refrigerator (Frost free 17 ft³), 2008 kw-hr., 1632 throwaway containers.

Color TV (3.6 hours/day), 440 kw-hr, 358 throwaway containers.

Black and White TV, 120 kw-hr, 98 throwaway containers.

Air Conditioner, 1440 kw-hr, 1170 throwaway containers.

Automatic Clothes Washer, 103 kw-hr, 84 throwaway containers.

Hot Water Heater, 4219 kw-hr, 3430 throwaway containers.

Recycling compared to reuse

Recycling, defined in the present context as return of a glass bottle for sorting, crushing, melting and remanufacture into another (identical) bottle, tends to save glass but not energy. In the reuse process the bottle is cleaned, not remade, at a considerable energy and financial saving. The following table for 16 oz bottles illustrates this concept; the data are from the Dr. Hannon study, considered at only eight return trips.

Type use	Energy consumed per use (per bottle)	Energy wasted compared to returnable bottle (per bottle)
	[In Btu's]	
Returnable	2,400	0
Throwaway	7,260	4,860
Recycle	7,825	5,425

Two results emerge from the above table: recycling bottles does not save energy, and everytime a 16 oz throwaway bottle is consumed 4860 BTU's of energy are wasted. The energy penalty against recycle compared to throwaway arises because it actually requires more energy to sort out the glass from mixed trash in many locations than to mine virgin glass from a single location. In the manufacturing process the overwhelming energy expenditure occurs with the melting and forming process, common to every throwaway and recycle usage. With reused bottles this melting is not repeated prior to every usage, hence the significantly lower energy consumption.

Other consequences of unnecessary consumption

Only energy costs relating to throwaway bottles and cans have been considered above. Other factors which would enter into a total impact analysis concurrent with resource squander would include increased atmospheric emission, increased waterborne wastes including thermal pollution, more committed water volume for processing, increased post-consumer solid waste, increased industrial solid waste, dangerous and unsightly litter, more strip mines to provide more virgin raw materials, increased encroachment and stress on wildlife habitats, spoilation and ruination of lands, increased financial costs to the consumer, and of course less available fuel with which to energize higher priority activities.

Equivalent waste of nuclear power plants

The USA national energy waste due to the throwaway system is 251 Trillion BTU/year which equals 8400 Mw (Megawatts). Each unit of Calvert Cliffs Nuclear Power Plant in Maryland has a maximum electricity generating capacity of 880 Mw, and so the national energy waste represented by throwaway leisure beverage containers is equivalent to about ten (10) very large nuclear power plants.

EFFECTS ON EMPLOYMENT OF AN ALL REUSABLE BEVERAGE CONTAINER SYSTEM

	Employment—thousands		Reusable with 4 percent drop
	Present	Reusab.e	
Total	336,800	351,500	337,100
Industry:			
Soft drink	128.6	146.6	141.2
Malt liquor	58.1	63.2	61.3
Beer distribution	59.6	76.9	74.2
Glass container manufacturing	26.1	12.7	10.4
Metal can manufacturing	29.5	----------	----------
Basic metals	15.3	----------	----------
Retail grocery	19.6	52.1	50.0
Total	336.8	351.5	337.1
Average earnings under each of the proposed systems for all of the industries involved in beverage container packaging and distribution in 1972	$7,688	$7,338	$7,343

Source: "The Beverage Container Problem: Analysis and Recommendations;" EPA-R2-72-059, September 1972; Bingham, Taylor H. and Mulligan, Paul F.; Research Triangle Institute

IMPACT ON THE CONSUMER

Mr. HATFIELD. Mr. President, now let us consider the impact of throwaways on the individual shopper. The use of returnables adds to the expense of the beverage being purchased. The average price of a beverage in a returnable container is about 2 cents less than one purchased in a one-way bottle and about 5 cents less than in a can. When you buy a no-deposit, no-return bottle or can and discard it after use, you are paying for the total cost of packaging that beverage. When you purchase your beer or soft drink in a returnable container, however, you are actually borrowing the package and sharing its cost with 15 or as many as 20 other consumers, as is the case in Oregon.

Lest we be accused of trying to regulate the marketplace by mandating the use of returnables, let me point out to my colleagues that the industry, through advertising and production policy, has convinced the consumer of the "convenience" of nonreturnables. For this reason, you are hard pressed to find beer and soft drinks sold in reusable containers in most areas of the country. In most stores today you have no choice but to purchase your favorite beverage in a nonreturnable container.

According to Mr. Joseph Griesedieck, the vice chairman of Falstaff Brewing Corp., "returnable bottles are the most economical for the consumers and the brewer." Mr. J. Lucien Smith, the president of Coca-Cola, made the following statement before the Senate Judiciary Committee:

Coke sold in food stores in non-returnable packages is priced, on the average, 30 to 40% higher than Coca-Cola in returnable bottles. The difference lies essentially in the different costs of packaging. The cost of returnables is spread over many uses; the cost of the non-returnable package is absorbed in one use.

Mr. President, I ask unanimous consent that the "Price Comparison Survey of Beer and Soft Drinks in Refillable and Nonrefillable Containers," prepared jointly by the EPA and the League of Women Voters and the accompanying press release be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRICE SURVEY OF BEVERAGES IN REFILLABLE AND NONREFILLABLE CONTAINERS

Soft drinks and beer in refillable bottles are cheaper than in throwaway bottles and cans, according to a price comparison survey being released by the U.S. Environmental Protection Agency. This price survey was undertaken in 28 cities in 24 States by members of the League of Women Voters in conjunction with EPA during the summer of 1975. The results of this survey are contained in an EPA report, "Price Comparison Survey of Beer and Soft Drinks in Refillable and Nonrefillable Containers."

Direct price comparisons from this survey show that those who buy beverages in refillable containers save, on the average, 30 cents on a six-pack for beverages in seven ounce to 16 ounce containers. In addition, consumers could save 16 cents for each soft drink purchased in a 32 ounce refillable bottle.

In the survey, container size and the number of containers per pack were held constant so that any difference in price was due solely to whether the beverage was in a refillable or a nonrefillable container.

The survey results showed that in 37 direct comparisons, the beverage in the refillable containers always cost less than the product in the throwaway containers, except for one instance where there was no difference in cost.

The survey also showed that soft drinks were generally available in refillable bottles, but that the selection among brands and sizes was limited. Beer, in contrast, was not generally available in refillable bottles. In the few instances where beer was available in refillable bottles, it was sold only by the case.

Throwaway containers, in addition to adding to the purchase of beverages, result in increased quantities of solid waste that must be collected and disposed. Furthermore, one-way bottles and cans form a significant por-

tion of the items littered annually in this country. Beverage containers that are used a single time also consume more renewable materials and energy that do beverage containers that are returned and reused. These conclusions are supported by studies conducted by various organizations, including EPA and the Federal Energy Administration.

The cities where the League of Women Voters conducted the price comparison survey were: San Francisco, Chicago, Honolulu, Boston; Richmond, Virginia; Vermillion, South Dakota; Aurora, Colorado; Chester, Montana; Allison Park, Pennsylvania; Nashua, New Hampshire; Las Cruces, New Mexico; Rochester, Michigan; Shreveport, Louisiana; Roseville, Minnesota; Bismarck, North Dakota, Iowa City, Iowa; Anoka, Minnesota; St. Paul, Minnesota; Chapel Hill, North Carolina; Columbus, Ohio; Warwick, Rhode Island; Charleston, West Virginia; Casper, Wyoming; Dallas; Irving, Texas; Phoenix; Menlo Park, California, West Suffield, Connecticut.

PRICE COMPARISON SURVEY OF BEER AND SOFT DRINKS IN REFILLABLE AND NONREFILLABLE CONTAINERS

(By Charles Peterson)

INTRODUCTION

During the past several years, there has been a great deal of interest in requiring a refundable deposit on beer and soft drink containers. The deposit would serve as an incentive for the consumer to return the empty container, so that it could be reused or recycled. In general, a returnable beverage container system is expected to result in an increased market share for refillable glass bottles as compared to nonrefillable bottles and cans.

One of the questions associated with a returnable beverage container system is the impact it would have on beverage costs. There have been a few comparison price surveys that indicate that beverages in refillable bottles are sold at lower overall prices for the consumer. However, these surveys have tended to concentrate on individual market areas and have generally contained only a limited number of price comparisons. In order to obtain more information on a broader basis, the League of Women Voters (LWV), in conjunction with the U.S. Environmental Protection Agency (EPA), undertook this price survey to compare beverages in refillable bottles with beverages in nonrefillable bottles and cans.

BACKGROUND

The information gathering device was a questionnaire, the Appendix IV, on which the respondents were asked to obtain comparable price data for beverages in refillable and nonrefillable containers. In addition to the price comparison data, the League members were asked to report the number of beverage brands available in refillables and nonrefillables in the store where the price data was obtained. Of the 65 questionnaires mailed to League members, 34 were returned, which is a response rate of 52.3 percent. The returned questionnaires were completed between June and August, 1975.

The beverage price questionnaire was also used to collect container price comparisons data on soft drinks in the Washington, D.C., area during May, 1975. A supplementary survey of beer prices was undertaken in August, 1975, in order to obtain a complete survey of beverage prices in the Washington, D.C., area. The results of both of these surveys have been included in this report.

SUMMARY

Beverages in refillable bottles are definitely cheaper for consumers than beverages sold in nonrefillable containers, according to the results of each of the three price comparison surveys in this report.

Consumers in the Washington, D.C. area could save an average of 4.4 cents per container, or 26 cents per six-pack, if they purchased soft drinks in refillables. The purchase of soft drinks in eight-packs would save consumers an average of 62.3 cents, or 7.9 cents per container.

Purchasers of beer could realize savings ranging from 60 cents to $2.00 per case with the purchase of regular beer in refillables in the Washington, D.C. area. They could also economize on their premium beer purchases by buying in refillable bottles. The average potential price savings observed was 55 cents per case with premium beer.

Savings averaging five cents per container, or 10 cents per six-pack were reported by the League members for soft drinks in 7-ounce to 16-ounce refillables. Consumers could economize even more by buying soft drinks in 32-ounce refillable bottles, which were an average 16.8 cents per container less expensive than soft drinks in the same size nonrefillables.

The League members also reported that soft drinks were generally available in refillable containers, but the brand and size selection was considerably less than the selection that was available in nonrefillables. Beer, however, was available in refillable bottles in only a limited number of instances.

Of the surveys taken in the Washington, D.C. metropolitan area, only the beer survey obtained information on the availability of refillables. The data collected showed that in Washington, D.C., 37.5 percent of the stores surveyed carried refillables, while in the surrounding areas of Virginia and Maryland the percentages were 38.4 percent and 20.6 percent respectively. In addition, except for one grocery store chain, which offered beer in six-packs with refillable bottles, beer in refillables was sold only by the case.

SOFT DRINK CONTAINER PRICE SURVEY, WASHINGTON, D.C., METROPOLITAN AREA

DIRECT COMPARISON

(Same Brands, Volume and Pack Size)

Soft drinks in refillable bottles are definitely cheaper than soft drinks in nonrefillable containers based on the price comparison data presented in Table I. In the comparisons used, the only difference between the beverage prices is the type of container (refillable vs. nonrefillable).

Savings with refillables ranging from 3.5 to 5 cents per container, or in percentage terms from 15.2 percent to 22.5 percent, were observed for the six direct price comparisons. The savings with refillable bottles were from 21 to 30 cents per six-pack. Therefore, consumers could have saved an average 26 cents per six pack, or 4.4 cents per container, by purchasing soft drinks in refillable bottles.

Table I—(Summary: Appendix I–A); Volume: 16-Ounce, Size: Six-Pack (Number of Observations: Six)

Savings per refillable container (cents), range: low, 3.5; high, 5.0.

Percent savings per refillable container, range: low, 15.2 percent; high, 22.5 percent.

Savings per refillable container (cents), average: 4.4.

INDIRECT COMPARISON

(Same Brands and Volume; Different Pack Size)

The price comparisons shown in Table II still show refillables to be the lowest cost form of beverage packaging. However, an additional cost factor (variation in pack size) has been introduced, which could influence the price differential.

The extent to which the variance in pack size influences the price differential in this section can be reasonably estimated in this case by comparing the average price difference between the direct and indirect comparison data. On a container basis, the average price difference between the direct and indirect price comparisons was only .06 cents. While this does not mean that the consumer fails to obtain a cost savings from larger pack sizes, it does indicate that these savings are small in this instance. Therefore, the price difference between beverages in refillable containers and beverages in nonrefillable containers has been attributed entirely to the container type.

In each of the 16 price comparisons in this section, the refillable container was the cheapest alternative. The price differentials range from 10.7 percent to 40.9 percent in favor of refillables, or from 2.4 to 7.9 cents per container. This represents a possible 19 to 63 cents savings per eight-pack with the purchase of beverages in refillable bottles.

Table II—(Summary: Appendix I–B); volume: 16-ounce, size: eight-pack refillables, six-pack nonrefillables

(Number of Observations: 16)

Savings per refillable container (cents), range: Low, 2.4; high, 7.9.

Percent savings per refillable, range: Low, 10.7; high, 40.9.

Savings per refillable container (cents), average: 4.4.

BEER CONTAINER PRICE SURVEY—METROPOLITAN WASHINGTON, D.C.

RETURNABLE CONTAINER AVAILABILITY

Beer was available in refillable bottles in only 22, or 32.4 percent, of the 68 retail outlets contacted in the Washington, D.C. area. Additionally, except for one instance—a grocery store chain in Virginia, beer in refillable containers was only available by the case.

The availability of beer in refillable containers in the metropolitan area can be broken down to show that in Washington, D.C. 37.5 percent of the stores surveyed carry refillables, while in the surrounding areas of Virginia and Maryland, the percentages are 38.4 percent and 20.6 percent respectively.

A further refinement for the District reveals that the Northwest quadrant of the City had the highest percentage of retail outlets in which refillable beer containers were available—50.0 percent. In the other quadrants, 33.3 percent of the stores surveyed in Southeast were found to carry refillable beer bottles and 20.0 percent of the stores in both Northeast and Southwest stocked refillables.

In Montgomery County, Maryland, where the county government controls the liquor outlets, only 21.1 percent of the county dispensaries handled refillable beer bottles.

PRICE COMPARISONS

Consumers could obtain rather substantial price savings on a per case basis by purchasing their beer in refillable bottles according to the outcome of the Washington, D.C. beer price survey. The amount of the savings varied depending on whether a beer was a regular or premium beer. Savings with refillables were consistently higher with the regular beers.

The data presented for both the regular and premium grade beers involves direct price comparisons with identical brands of beer in the same size container and pack configuration. Therefore, the only difference between the prices of a brand of beer in refillables and nonrefillables is the inherent difference in cost between these two types of packages.

Regular Beer. Savings ranging from 60 cents to $2.00 per case, or from 13.2 percent to 50.1 percent, could have been achieved by consumers who purchased their regular beer in refillable bottles, see Table III. The average cost savings with refillable bottles was $1.45 per case, which is a six-cent per container savings.

These results were based on 23 regular

beer price comparisons in this survey, based on data obtained on seven brands of beer (Ballentine, Carling, National, Old Milwaukee, Pabst, Schmidts, and Schaeffer).

Table III—(Summary: Appendix II–A); Volume: 12-Ounce, size: 24-Container Case

(Number of Observations: 23)

Savings with refillable containers per case (cents), range: low, 60; high, 200.

Percent savings with refillable containers per case, range: Low, 13.2; high, 50.1.

Savings with refillable containers per case (cents), average: 145.

Premium Beer. Reductions in cost for consumers ranging from 30 cents to $1.05 per case, or from 4.1 percent to 17.7 percent, were possible if they had bought their premium beer in refillable bottles. On the average, consumers would have saved 55 cents per case by purchasing premium beer in refillable bottles rather than nonrefillable containers. See Table IV.

The only instance where beer in refillable containers was available in a six-pack, in either this survey or the League of Women Voters survey, was at retail grocery store chain in Virginia. The price data obtained from this single instance revealed that the price differential between the refillables and nonrefillables was only 1.9 percent.

The beers designated as premium in tabulating the results of this survey were Budweiser, Schlitz and Miller.

Table IV—(Summary: Appendix II–B); Volume: 12-Ounce, Size: 24-Container Case

(Number of Observations: 16)

Savings with refillable containers per case (cents), range: Low 30; high, 105.

Percent savings with refillable containers per case, range: Low 4.1; high, 17.7.

Savings with refillable container per case (cents), average: 55.

LEAGUE OF WOMEN VOTERS PRICE SURVEY

BRAND AVAILABILITY

The consumer generally has a choice in deciding upon the type of package in which to purchase soft drinks, according to the information supplied by the League members. However, except for a few instances, soft drinks in refillable containers are limited in both the range of sizes and the number of brands available when compared with nonrefillable containers.

Two notable exceptions, where refillable containers outnumber nonrefillables, are Oregon and Vermont. In both of these States, all beverages are sold in containers carrying deposits and the majority of these containers are also refillable.

While the consumer generally has a choice of purchasing soft drinks in refillable containers, this same opportunity does not occur with beer. Of the 14 outlets included in this survey that sold beer, only four carried beer in refillable containers, and even then the selection was limited.

PRICE COMPARISONS

Direct Comparison. Again, the refillable container was shown to be the lowest cost type of package in which the consumer could purchase beverages with one exception. In one instance, the price of a soft drink in refillable and nonrefillable containers was found to be equal, (Table V).

Consumers could have economized on their soft drink purchase in the 7-ounce to 16-ounce size range by purchasing their soda in refillables. Savings with such purchases were found to range from one cent to ten cents per container, or six to 60 cents per six-pack. On a percentage basis, consumer savings were from 4.6 percent to 57.8 percent, while average savings with refillable bottles in the smaller sizes was five cents per container, or 30 cents per six-pack. See Table V–A.

The one instance where refillables and nonrefillables sold for the same price was for a soft drink in the 28-ounce intermediate size, see Table V–B. This was the only direct comparison in this size, and therefore it is not possible to offer an explanation for this occurrence. It is noteworthy that this is the only instance in the three surveys where a beverage in a refillable container was not less expensive than the same beverage in a similar sized nonrefillable container.

The largest potential savings for consumers of soft drinks is in the 32-ounce size container, (Table V–C). In this size beverage container, savings ranging from 14 to 18 cents per container were reported, or in percentage terms from 40.5 percnt to 65.7 percent. The average price differential for the 12 price comparisons was 16.8 cents per container.

For beer, price savings from 30 to 65 cents per case of 24 containers were reported by the League members. This translates into savings in percentage terms of 4.6 percent to 12.0 percent. The average price reduction with refillables was 45 cents per case, see Table V–D.

Table V—(Summary: Appendix III–A)

SOFT DRINKS—DIRECT COMPARISONS

Table V–A—Volume: 7-ounce to 16 ounce; Size: Six and Eight Packs

(Number of Observations: 24)

Savings per refillable container (cents), range: Low, 1; high, 10.

Percent savings per refillable container (cents), range: Low, 4.6; high, 57.8.

Savings per refillable container (cents), average: 5.

Table V–B—Volume: 28-ounce; size: single container

(Number of Observations: 1)

Savings per refillable container (cents): 0.

Table V–C—Volume: 32-ounce; size: single container

(Number of observations: 12)

Savings per refillable container (cents), range: Low, 14; high, 18.

Percent savings per refillable container (cents), range: Low, 40.5; high, 66.7.

Savings per refillable container (cents), average: 16.8.

BEER-DIRECT COMPARISONS

Table V–D—Volume: 12-Ounce; Size: 24-Container Case

(Number of Observations: 3)

Savings with refillable containers per case (cents), range: low, 30; high, 65.

Percent savings with refillable containers per case, range: low, 4.6; high, 12.0.

Savings with refillable containers per case (cents), average: 45.

Indirect Comparisons. The indirect price comparison data presented in this section is not as easy to interpret as the direct price comparison data presented in the previous section. This is due to the introduction of each beverage price variables as differences in container and pack size, in addition to the cost differences attributable to the use of refillable or nonrefillable containers.

For this reason, the data in Appendix III–6 must be examined carefully so that erroneous conclusions are not drawn from the data.

In those instances that the container pack and size comparisons are within a reasonable range, the price differentials between the refillable and nonrefillable containers are relatively easy to interpret. The remainder of the price comparisons were included to provide some further information on the cost per ounce for different types of packages, container sizes, and pack configurations.

While interpretation of the data in this section may not be as straight forward as interpretation of the direct comparisons, the indirect comparisons do indicate that beverages in refillable bottles are available at a lower cost to the consumer than beverages in nonrefillable bottles, assuming that the beverages are packaged in containers of nearly the same size and pack configuration.

CONSUMER PREFERENCE

Mr. HATFIELD. Mr. President, if, as the industry maintains, their continued production of nonreturnables reflects the preference of the consumer, why, in a nationwide poll on the issue of nonreturnables recently conducted by Opinion Research Corp. for the Federal Energy Administration, did 73 percent of those polled favor a law requiring that all soft drinks and beer be sold in returnable containers? I submit to my colleagues that the consumer is aware of the advantages of the returnable bottle or can. In Oregon an astounding 91 percent of the citizens have registered their approval of returnables. Similarly, consumers nationwide would eagerly adapt to the new system.

EMPLOYMENT

It is predicted that a net gain of between 80,000 and 118,000 jobs by 1982, with substantial increases in payrolls and labor income—about 22 percent according to the Federal Energy Administration—would result if this bill becomes law. This would be very helpful to an industry already plagued by employment problems due to the recent trend toward larger centralized brewing and soft drink plants at the expense of many thousands of jobs in smaller community breweries and bottling companies. With the 3-year phasein provided for in this legislation, transitional problems should be minimized.

THE OREGON EXPERIENCE

Now that we have discussed the concept of returnables and their impact on solid waste, energy, the consumer, and employment, we are fortunate enough to be able to put all of this into the context of "real world" experience. In October 1972, legislation banning nonreturnables became law in Oregon. Our experience has been one of outstanding success, as evidenced by opinion polls and the comments of consumers, retailers, and distributers.

Bottles are being returned at a 90-percent rate and cans at an 80-percent rate. No increase in beer or soft drink prices has been attributable to the Oregon deposit law. In a study conducted by Don Waggoner of the Oregon Environmental Council, the Oregon law was shown to have reduced roadside litter 39 percent on a piece count basis and 42 percent on a volume basis after 2 years. Beverage container litter was reduced by 83 percent during those same 2 years with no change in litter cleanup expenditures.

We are saving 1.4 trillion Btu's annually in Oregon. This is enough energy to satisfy the home heating requirements of 50,000 Oregonians or to generate 130 million kilowatt hours of electricity worth $2.8 million annually. Moreover, there was a net gain of 365 full-time jobs, hardly substantiating the gloomy forecasts offered by many prior to adoption of the Oregon law.

Mr. President, I ask unanimous consent that two reports on the success of

the Oregon beverage container law appear in the RECORD. The first, "Oregon's Bottle Bill: 2 years Later," was prepared by Don Waggoner of the Oregon Environmental Council in 1974 and revised in May 1975. The second "The Economic Impact of Oregon's Bottle Bill," is the work of Dr. Charles M. Gudger and Dr. Jack C. Bailes, professors at Oregon State University's School of Business and Technology.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OREGON'S BOTTLE BILL: TWO YEARS LATER

(By Don Waggoner)

FOREWORD

Oregon's Bottle Bill was passed by the Oregon legislature in 1971. It became effective on October 1, 1972, and the results following implementation have been the center of much controversy ever since. It had been challenged in the courts and declared constitutional by both the District Court and the Court of Appeals in Oregon. In May 1974, the Oregon State Supreme Court refused to review the Court of Appeals decision. On May 22, 1974 an announcement was made that no appeal would be carried to the United States Supreme Court, thereby ending any further challenge to the Law's constitutionality.

The length of time between legislative adoption and the effective date of the bill gave ample opportunity to review the before and after consequences of this Act. Two separate major studies regarding the outcome have been completed and released.[1,2] Litter studies which were started one year prior to the bill's effective date were continued for two years following the effective date. There has been a wealth of information, misinformation, fact and conjecture which has been generated on this subject.

Why so much interest in Oregon's Bottle Bill? The reason goes well beyond the boundaries of Oregon. It has been interpreted by both supporters and opponents as symbolic in the effort to reserve the move toward the "throw away society". It has been argued that the bill would not work and further that it has not worked. Others have agreed with former Governor Tom McCall when he called the bill a "rip roaring success".

This report has been written with several purposes in mind. First, it is intended to provide a detailed discussion regarding the implementation of Oregon's Bottle Bill for use by others who might consider similar legislation. Second, the analysis points out areas of confusion or disagreement which have arisen and attempts to clarify them. The overall goal has been to document the value of container refund legislation in a world with finite resources that are being rapidly and, in the case of beverage packaging, unnecessarily depleted.

SUMMARY OF CONCLUSIONS

The major conclusions of this report have been summarized as follows:

1. Roadside litter was reduced overall 26% on a piece count basis and 35% on a volume basis the first year after the Bill went into effect. During the second year, the reduction increased to 39% overall by piece count and 47% by volume.

2. Beer and soft drink beverage container litter was reduced by 72% during the first year and by 83% during the second year following the Act's October 1, 1972 effective date.

3. No increase in enforcement activities was observed which would affect littering rates.

4. No changes in litter pickup expenditures were observed.

5. For beer, returnable bottles captured 96% of the market after the Act was implemented compared to 36% before. Nonreturnable bottles, which had held 31% of the market previously, were eliminated and can sales dropped from 33% to 4%.

6. For soft drinks, returnable bottles moved from 53% of the market before the October 1, 1972 date to 88% the year following and 91% two years after. Non-returnable bottles, which had held 7% of the market were removed from the market. Cans moved from 40% to 12% one year later and 9% of sales two years later.

7. A "Littering Index" which shows the relative littering rate for deposit beverage containers shows that beer cans have 16 times the chance of being littered as does a soft drink returnable bottle.

8. Return rates continue to improve for the certified compact eleven ounce "stubby" bottle. 1974 data shows a 93% return rate which compares a 96% return rate for soft drink bottles. As a result, trippages for beer and soft drink refillables are 15 and 24 respectively.

9. Beer sales continue on historical growth trends following the first year adjustment which occurred due to the move from larger cans and bottles to the eleven ounce "stubby".

10. Beer prices in Oregon were slightly higher than in Washington following an increase at the end of 1974. Prior to that time no significant differentials existed.

11. Soft drink sales have been strongly affected by large price increases caused by sugar price variations. Prices remain comparable between Oregon and Washington with large differentials between cans and non-returnables and the cheaper returnable packages.

12. Employment has been increased as a result of the Act. An approximate net increase of 55 to 365 full-time jobs have been created.

13. The economic effect on industry has been small. Other factors not related to the bottle bill have been far more important. Direct consequences of the Act have been estimated to have caused an operating income change ranging between a negative 6.8% to a positive 3.1% based on total sales at retail.

14. Energy savings as a result of a move from 43% refillables to 94% are significant. 1.4 trillion BTU's are being saved annually, enough to provide the home heating needs for 50,000 Oregonians or to generate 130 million kilowatt hours of electricity worth $2,800,000 annually.

PROVISIONS OF THE LAW

The Act covers all beer and carbonated soft drink beverage containers sold at retail after October 1, 1972. It requires that a refund be paid to any person presenting empty soft drink or beer bottles or cans for refund. A minimum five cent refund is required except for certified standard reusable (refillable) containers where the minimum refund is two cents. The pull tab can is prohibited. For the complete text of the Law as passed in 1971 and amended in 1973, see Appendix A. It should be noted that the Law did not *ban* cans nor did it *require* deposits. It does have the effect, however, of encouraging reusable containers and in fact, deposits have been charged on all beer and soft drinks.

The provisions to encourage a standard reusable container was included to attempt to retain the then existing "stubby" beer bottle. It was also hoped that it would promote the emergence of a similar bottle for soft drinks. The compact eleven ounce "stubby" had been in wide use by the regional breweries for some time. Since any brewery could wash, fill and attach its own label for each refill, sorting by the retailer and distributor was held to a minimum.

Shortly after the Bottle Bill became effective, more than twenty different brand labels were being attached to the "stubby" by regional and shipping brewers. It could therefore be said that "In Oregon, only the label and the beer were different—the bottle was the same".

No move by soft drink bottlers has been made to establish a certified container. None is expected because the spread between a refund of two cents and new soft drink container cost of more than ten cents is much larger than for the "stubby" which has a new cost of approximately five cents. Bottlers want to ensure that their reusable bottles return. Therefore, since the October 1, 1972 effective date of the Bill, refunds have been increased from five cents to seven cents and in some cases ten cents on soft drink bottles of sixteen ounces or less. Similarly, quart-size bottles have increased from ten cents to fourteen and twenty cents.

APPLIED DECISION SYSTEMS STUDY

The provisions of the Bottle Bill as enacted in 1971 require that a review of the consequences be made for presentation to the 1975 legislature. To fulfill this requirement, bids were requested from consultants in early 1973. Applied Decision Systems, a Massachusetts firm was awarded the contract on November 1, 1973.

The draft copy of the ADS[2] report was released on September 3, 1974. Hearings were held on September 12 to receive testimony regarding the draft. Conclusions regarding litter reductions were challenged as being too small and economic consequences were alleged to have been misstated. Finally, on one important industry segment, the retailer grocer, ADS had not been able to obtain sufficient data to permit its inclusion in the economic analysis. Subsequently a number of changes were made to the draft. A second hearing was held on October 8, 1974. Additional testimony was received at this hearing and it became apparent that a great deal more research would be needed to resolve the controversies which had devloped.

The special legislative committee which had been established to review the report finally acted unanimously to accept the ADS report with the following motion proposed by Representative Hansell . . . "So I would move that the committee recommend to the Fiscal Officer and the Emergency Board that the ADS Report, as amended be accepted with the following provisions: that the Fiscal Office have an introduction to the report stating the history of the report and the limitations that are connected with it, and in addition that by accepting the ADS report the Fiscal Office and the Legislature disclaim any responsibility for the accuracy of the figures or the data that is used. In addition, that all statistics and data that are contained as a part of it have a prior statement as to the percent of industry that was contacted, percentage of the total industry that is represented. That in addition we have clearly emphasized that these questionnaires by their very nature were voluntary."

Discussion on the motion included Representative Hansell's statement that . . . "my purpose in doing this is that we get away from the idea that this is an official report and that the Oregon Legislature has completely approved. . . ."

Opponents of the concept of container refund legislation have referred to the ADS[2] report as the "official study". In a release[3] dated September 19, 1974 by Rockey/Marsh Public Relations two pages of copy contain the word "official" in regard to the ADS study eight times. Others have also used the term "official" to describe the study. A California Beer Wholesalers Association release[4] dated October 24, 1974 bears the heading "Official Study Disputes 'Bottle Bill' Success". Nevertheless, the position of the ADS study is that it was paid for by the State of Oregon but any conclusions have not been endorsed or supported by the State. In short,

Footnotes at end of article.

the ADS study must be able to stand item by item on its own merit.

GUDGER AND BAILES STUDY

Professor Charles M. Gudger and Jack C. Bailes authored a report entitled "The Economic Impact of Oregon's Bottle Bill".[1] This report, issued in March 1974, was supported in part by the National Science Foundation Institutional Grant for Science. It does not consider litter reduction but does review economic aspects in considerable detail.

OREGON LITTER SURVEYS

In October of 1971, litter surveys were begun on 30 randomly selected one mile sites throughout the state highways of western Oregon. The following Oregon State Highway Division map has been modified to show the locations of each of the 30 sites. See Appendix B for additional details regarding each of the test sites. The survey was continued for three years with the last pickup in early September 1974.

Although the thirty sites remained unchanged throughout the test period, the ways in which the litter picked up was tabulated did vary over the period. In general, each change provided more detailed information. For example, during the period October 1971 through September 1972, which will be referred to as "before", there were five categories of tabulation. During the period November 1972 through September 1973, which will be called "transition", there were six categories. This change was required because the beer and soft drink can became a refund container as a result of the provisions of the "bottle bill". Finally, during the period November 1973 through September 1974, "after", there were some fourteen breakdowns in the tabulations. See Appendix C, D, E for facsimiles of the data collection sheets. Throughout, the basic groupings were not changed. Rather, greater detail was being supplied within these groupings. Figure I summarizes the categories used.

FIGURE I

LITTER TABULATION CATEGORIES

Before October 1971 to September 1972	Transition, November 1972 to September 1973	After October 1973 to September 1974
More than 5¢ deposit bottles	More than 5¢ deposit bottles	Quart bottles (deposit over 5¢).
5¢ deposit bottles	5¢ deposit bottles	5¢ deposit soft drink bottles.
	5¢ deposit cans	5¢ deposit beer cans.
		5¢ deposit soft drink cans.
2¢ deposit bottles	2¢ deposit bottles	2¢ deposit beer bottles.
All other beverage containers	All other beverage containers	Nonreturnable beer cans.
		Nonreturnable soft drink cans.
		Nonreturnable beer bottles.
		Nonreturnable soft drink bottles.
All other litter	All other litter	Other cans (miscellaneous).
		Other bottles (miscellaneous).
		Paper beverage related containers—6 pack, case (etc.).
		Miscellaneous litter.
Total items	Total items	Total items.

RESULTS

Litter rates for all items during the TRANSITION period show a 26% reduction over the BEFORE period based on piece counts. Similarly the AFTER period shows a 39% reduction over the BEFORE period. Littering rates for beverage containers showed a 72% reduction during the TRANSITION period and an 83% reduction for the AFTER period. Figure II summarizes the results of the litter reduction computations.

It should be remembered that these reductions are for state highway sections. Other areas such as parks, trails, streams, beaches and county and city roads were not included in the test sites. It should also be noted that the results are based on piece counts only. Thus a cigarette butt is given equal weight in the tabulations to the far more visible beverage can.

Two conclusions may now be drawn:

1. Cans are more likely to be littered than bottles.

2. Beer containers are more likely to be littered than soft drink containers.

In each instance the margin is very dramatic. For beer, a can is 4.9 times as likely to be littered as a bottle. For soft drinks the margin is 7.1 times. A beer container is 2.4 times as likely to be littered as a soft drink container.

Finally, a beer can generates 12.9% of total deposit litter with only 2.3% of total sales for a "Littering Index" of 5.61. The soft drink bottle generates only 14.1% of total deposit litter even though it amounts to 39.0% of total sales for a "Littering Index" of 0.36. Thus the beer can has 16 times the probability of being littered as a soft drink bottle. The results can therefore be summarized as "People tend to litter beer cans".

TRIPPAGE

It is very difficult to actually determine the number of round trips which a reusable container makes before it is broken or discarded. No records are maintained on any specific bottle to determine this figure. However, a term known as "trippage" has been developed and is widely used by both the beer and soft-drink industry. "Trippage" is defined as 100% divided by the percentage of containers which fail to return after each filling. Thus, a single-use container's trippage would be 100% divided by 100% or 1 trip. Similarly, a return of half would result in 100% divided by 50% or 2 trips. Finally, a 95% return rate would give a trippage of 100% divided by 5% or 20 trips. For refillables, the actual number of reuses would be somewhat lower than the "trippage" figure calculated here, since breakage in the brewery or bottling plant reduces the quantity that can be refilled.

ADS[2] concluded that before the Bottle Bill became effective there was an 82% return rate on the standard 11 ounce "stubby" bottle which was widely used in the Northwest. This is equivalent to a trippage of 5.6 trips. During the TRANSITION period, ADS found that returns increased to 95% for the regional breweries (a trippage of 20 trips) and 29% for the major three national breweries serving Oregon in the "stubby" containers (1.4 trips) to give an overall return rate of 86% or 7 trips for the total of all breweries studied.

During the year 1974, return rates for five regional breweries increased[12] to 101% (a trippage of infinity) while those of four of the major shipping brewers increased to 57%. This left an average return rate for the certified "stubby" containers of 93.1% and a trippage of 15.

For soft drinks, ADS[2] concluded that return rates were 95.7% for BEFORE and 85.9% for TRANSITION. Recent information indicates no change in the return rate, giving a trippage of approximately 24 for both TRANSITION and AFTER.

PUBLIC ACCEPTANCE

Six hundred in depth interviews were held with Oregon consumers in September 1973. The results of these interviews have been well documented in the ADS[2] report. They showed overwhelming acceptance by those interviewed. Ninety-five percent of the persons interviewed had an opinion regarding the Bottle Bill and 95% of those with an opinion voiced approval. For additional information the reader is referred to the ADS[2] report and Volume I of the supporting materials for that report.

BEER SALES

Total Oregon annual beer sales by volume[13] are shown in Figure XI.

FIGURE XI

ANNUAL OREGON BEER SALES

Year	Annual sales (thousands of (barrels)	Percent increase over previous year
1968	1,151.3	1.57
1969	1,228.5	6.71
1970	1,314.6	7.01
1971	1,395.8	6.18
1972	1,469.6	5.29
1973	1,489.8	1.37
1974	1,574.3	5.67

It can be seen that beer sales increased at a relatively uniform annual rate after 1968 through 1972. During the first full year immediately following the Bottle Bill, the rate of increase was only 1.37%. However, during 1974, the second full year following the Bottle Bill's date, the increase again rose at the historical rate of 5.67%. The ADS study used the period three months before the Act went into effect and nine months after its effective date to compare to previous growth rates. They concluded that the Act had caused a long-term change in the trend of beer sales.

While it is true that there was a slight reduction from historical increases during the TRANSITION year, it is very important to further analyze the reasons for this change.

One of the goals of the supporters of the Bottle Bill was to encourage a switch away from single-use containers back to reusables. This is indeed what happened. The reusable "stubby" 11 ounce bottle increase from 48% of total beer sales by container in 1971, to 89% in 1973 and 90% during the first nine months of 1974. By comparison, 12-ounce cans were moving from 25% of the market during 1971, to 2% during 1973 and 3% during the first nine months of 1974. Similarly, the 16-ounce can changed from 8% in 1971 to 1% in both 1973 and 1974. In addition, the 12-ounce bottle which captured 14% of the market in 1971, moved to 6% in 1973 and dropped further to 3% in 1974. Sales of reusable quarts remained at 2% to 3% throughout the period.

The net effect of these changes was to

Footnotes at end of article.

move to a significantly smaller container. Thus, although fillings increased by 13% between 1971 and 1973, container barrelage increased only 7.7%. Putting it another way, barrelage per 1000 fillings decreased by nearly 5% between 1971 and 1973. Since it is likely that a consumer sits down to have a "beer or two" rather than "12-ounces" or "16-ounces" of beer, it is not surprising that the shift to 11-ounce "stubbies" brought with it a relative drop in beer sales measured by barrelage.

The 11-ounce "stubby" was already in general use in Oregon in 1972 when the switch to reusable containers took place. Had the standard container been a 12-ounce bottle, then it is likely that essentially no change in historical patterns would have taken place.

It is interesting to note that beer sales for Oregon have followed a virtually identical pattern to those of its northern neighbor, Washington State. Between 1970 and 1974 Oregon experienced a 19.69% increase while Washington [14] obtained a 19.25% increase. Similarly, both Oregon and Washington experienced an identical increase of 5.67% between 1973 and 1974. It can thus be stated that the Bottle Bill does not appear to have had any appreciable effect on beer sales in Oregon except that caused by reduction in average container size during 1973.

BEER PRICES

Recent years have been marked by a large increase in beer prices both in Oregon and nationally. Inflation in virtually every aspect of the brewing industry has brought about these increases. It is thus difficult to evaluate the specific increases, if any, that should be attributed to the Bottle Bill. The decrease in purchase of new containers constituted a reduction in costs. On the other hand, increased handling costs for reusable containers was an offset to these savings. Nevertheless, prices for comparable packages of beer sold in Oregon compared to those in Washington, which does not have refund legislation, were essentially equal throughout both the TRANSITION and AFTER periods. This was true in spite of several increases in both States. Both Oregon Distributors and Retailers increased the percentage markups over their costs during this period. Between 1971 and August 1974, regional brewery price increases of 20.5% for the "stubby" 6-pak resulted in a 29.5% increase by the Distributors and a 31.4% increase posted by the Retailers.

In late December, 1974, regional brewery price increases on the "stubby" 6-pak of 4.9% became 4.9% increases at the distributor level and a 7.2% increase to Oregon consumers. Prices increased only approximately 5% in Washington State. Therefore, prices for beer are approximately 2 to 3% higher per ounce in Oregon for Regional brands on comparable sizes compared to Washington. Washington State has a sales tax of 5% while Oregon has none. Price comparisons do not include sales tax or deposits.

SOFT DRINKS SALES

The ADS [2] report detailed a shift from canning operations to franchised bottlers between 1972 and 1973. It concluded that there was probably no net change in packaged soft drink sales between the two years. It is extremely difficult to obtain precise information regarding Oregon soft drink sales. Nationally, soft drink sales stabilized in 1974 with no increase in sales reported.[15] No specific information is published for Oregon. Since 1973, sugar price increases have required significantly increased prices of soft drinks, and this has adversely affected the sale trends of soft drinks both in Oregon and nationally. Consequently, it can be concluded that during 1974, whatever minor impacts the Bottle Bill had on soft drink sales have been completely overshadowed by price considerations.

SOFT DRINK PRICES

Soft drink prices have been subject to extreme inflationary increases of up to 50% in the Northwest. Nevertheless, prices in Washington are comparable to those found in Oregon and there is a significant cost differential between reusable and one-way containers. In Washington, the one-way container is priced between 20% and 25% more per ounce for the same brand in the same size package compared to reusable containers. In Oregon it is difficult to compare refillables to single-use containers of the same size and brand. Comparing an 8-pak 16-ounce returnable package to a 6-pak 12-ounce can package of the same brand, however, the cans cost approximately 50% more per ounce. The same is true in Washington between these two packages.

EMPLOYMENT INCREASES

Two researchers have directed themselves to the employment impacts of the Bottle Bill. Drs. Gudger and Bailes [1] considered retailers, soft drink bottlers, brewers, distributors, can manufacturers, and bottle manufacturers. ADS [2] was unable to obtain sufficient information from retailers and failed to include the employment increases for common carrier trucking man hours but did obtain information regarding all other groups.

Drs. Gudger and Bailes concluded that there were increased man hours during the TRANSITION period compared to BEFORE which amount to a net full time increase of 365 people as shown in Figure XII.

Figure XII—Employment Impact, Gudger & Bailes

Production labor	−350
Truck driving	+140
Warehouse and handling	+575
Total	+365

Initially, ADS [2] referred readers to Gudger and Bailes for the retail portion of the employment picture. Recent estimates provided by Jim Glauthier of ADS [16] for both retailers and common carrier trucking have been included in Figure XIII. These figures are somewhat different from those given above partly because these are estimates of jobs lost or gained, not equivalent increases based on hours worked. For example, in the Retailers group, it was estimated by ADS that fifty percent of the increased hours expended did not require additional hiring but was instead done by existing personnel spending longer hours or more efficient use of persons already employed. As a result the estimate of 200 to 250 increase in jobs is half the total that would have been used by Gudger and Bailes.

FIGURE XIII

EMPLOYMENT CHANGES, ADS

	Change—	
	Minimum	Maximum
Soft drinks	+82	+98
Brewers	+50	+60
Distributors	+43	+50
Can manufacturers	−140	−162
Bottle manufacturers	−200	−200
Common carrier trucking	+20	+20
Retailers	+200	+250
Total	+55	+116

ECONOMIC EFFECT ON INDUSTRY

Both ADS [2] and Drs. Gudger and Bailes [1] evaluated the economic consequences in great detail. Their methods used were different in many respects and their conclusions also varied significantly. Manufacturing and distributing soft drinks and beer is a very complicated industry process. Unfortunately, because it is a very competitive industry, some data is considered confidential and has not been made available to any researchers. Secondly, some information was made available to ADS which has not and will not be made available to others. These facts make it very difficult to compare the results of these two reports. The net impacts for the sectors studied will be tabulated as shown in Figure XIV.

FIGURE XIV

CHANGES IN OPERATING INCOME DUE TO THE BOTTLE BILL

[In thousands of dollars]

	Gudger and Bailes	ADS	
		Minimum	Maximum
Glass bottle manufacturers	−264	+68	+106
Can manufacturers	−350	−2,252	−2,463
Brewers	+5,328	−912	−1,182
Beer distributors	−589	−661	−1,498
Soft drink bottlers	−2,765	−3,116	−3,553
Retailers	−2,946	(1)	(1)
Total	+3,944	−6,873	−8,590

[1] Not stated

It can be seen that the two reports found widely different impacts. On Operating Income, Gudger & Bailes reported an improvement of $3,944,000 while ADS concluded that there was a $6,873,000 to $8,590,000 decrease. The most critical differences stem from conclusions regarding return rates or "Trippage" changes as a result of the Bill. ADS concluded that there was virtually no change in soft drink returns of approximately 96% while Gudger and Bailes concluded that the return rates rose from 80% to 92%. Similarly, for beer, ADS concluded that return rates increased from 82% to 86% while Gudger and Bailes used a change of from 75% to 95% in their calculations.

These differences cause very large impacts on the container purchase costs for the brewer and bottler. For example, Gudger and Bailes calculated a $16,184,000 savings in container costs to the brewers and bottlers. The much smaller changes found by ADS resulted in smaller savings for these sectors. Consequently, the negative impacts on bottle and can manufacturers who lost business could not be balanced off against savings for the brewery and bottler in the ADS analysis.

It is difficult to resolve this discrepancy. As was noted earlier under "TRIPPAGE", return rates on stubby beer bottles did increase to 95% in 1974. However, it does appear that soft drink return percentages have remained essentially unchanged by the Act.

Total beer and soft drink sales for 1973 at retail were $126,000,000.[1] The increased profit found by Gudger and Bailes is therefore 3.1% of total sales. By comparison, the loss shown by ADS is 5.4% to 6.8% of total sales. When the savings to the consumer as a result of more frequent purchases of the less expensive soft drink returnable packages is also considered, the impact on the consumer will be very small indeed. Other factors, such as increased raw materials and container costs and general inflationary pressures have had far greater consequences than the shift back to refillables.

ENERGY SAVINGS

Refillable containers are somewhat bulkier than single use containers. Consequently, more labor is needed to handle them. In addition, the extra sorting, handling and cleaning steps involved in the return to the bottler or brewery for reuse also require additional labor. By comparison, the single use container requires more energy in mining, transportation, molding, reduction,

Footnotes at end of article.

smelting and metal forming processes required for each use. Thus, the refillable system is a labor intensive one while the single use system is energy intensive.

Refillable containers have grown from approximately 43% of the soft drink and beer market to approximately 94% during the second year after the Act went into effect. Based upon a recent EPA report "Resources and Environmental Profile Analysis of Nine Beverage Container Alternatives[17]" using Oregon container mix changes, return rates and recycling experience, energy savings have been computed (See Appendix N). This analysis shows that approximately 1,400 Billion BTU's are being saved each year as a result of the Bottle Bill.

This is equivalent to the average Oregon home heating needs of 12,000 units that heat with natural gas or the population of a residential community of approximately 50,000 people. Alternatively, if this energy were converted to electricity, then the annual savings would total approximately 130 million kilowatt hours. If electricity rates were at the approximate average national rate[18] of 2.2 cents per kilowatt hour, this would then total $2,800,000 savings annually.

CONCLUSION

This combination of decreased consumption of energy plus increased employment as a result of the "return to the returnable" is very significant. One characteristic of convenience packaging is that it often causes energy intensive alternatives to be substituted for those which are labor intensive. Thus, energy requirements are increased, while at the same time, jobs are eliminated.

It is regrettable but true that many existing jobs and very large corporate investments are dependent upon the continuation of the wasteful practices of the "no deposit-no return" concept. More new jobs would be created by a return to refillables than would be lost. However, this fact does not soften the impact upon the specific individual who must abandon old skills and perhaps move to a new community and a new job. This is a general problem which is as yet unsolved but which must be dealt with as our society abandons the wasteful patterns of recent years.

It is perhaps ironic that the highly visible consequences of the "throwaway" being literally thrown away on our roadsides has prompted a new awareness of the more general problems which are caused by the acceptance of the "throw-away ethic". The focus of the debate will likely shift over time from litter reduction to energy conservation and source reduction and the attendant employment increases.

Now that the results of the "Oregon Experiment" are in it is hoped that they will be used by other lawmakers as a guide to enactment of similar legislation. As a nation we are becoming increasingly aware that our resources are finite—not unlimited. Concepts such as container refund legislation can play an important role in the much needed effort to reestablish an equilibrium with our environment as well as prevent the further erosion of our employment base.

FOOTNOTES

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2. Applied Decision Systems, Inc.—Study of the Effectiveness and Impact of the Oregon Minimum Deposit Law—Draft September, 1974, Final Report October, 1974.

3. Rockey/Marsh—Public Relations, Inc.—September 19, 1974.

4. California Beer Wholesalers Association, Inc., Bulletin No. 3—October 24, 1974.

5. Oregon Beverage Task Force—December 20, 1974—released by Rockey/Marsh Public Relations, Inc.

6. Waggoner, Don—Oregon's "Bottle Bill"—One Year Later—October 4, 1973.

7. Department of Ecology, State of Washington, Litter Control Revenue and Expenditure Projections.

8. Kegg, Larry—Washington State Highway Commission, Department of Highways—February 3, 1975—letter to Dr. Emma Verdieck.

9. Department of Agriculture and Natural Resources, University of Connecticut, Storrs Ct—06268. Impacts of Beverage Container Legislation on Connecticut and a Review of the Experience in Oregon, Vermont and Washington State—March 12, 1975.

10. Department of Ecology—State of Washington—March 20, 1975, State Highway Periodic Litter Survey.

11. Waggoner, Don—Oregon's Bottle Bill—April 20, 1972.

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13. Oregon Liquor Control Commission—Statement of Beer Sales by Breweries.

14. Washington State Liquor Control Board—Report of Beer Sales in the State of Washington.

15. Beverage Industry—April 4, 1975—"Soft Drinks Remain at Record Levels Despite Softening Economy".

16. Glauthier, Jim—Applied Decision Systems—May 7, 1975—Private Communication.

17. Resource and Environmental Profile Analysis of Nine Beverage Container Alternatives—Final Report—EPA—1974—EPA/530/SW—9/C.

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THE ECONOMIC IMPACT OF OREGON'S "BOTTLE BILL"

(By Charles M. Gudger, Ph. D. and Jack C. Bailes, Ph. D.)

CHAPTER 1—INTRODUCTION

1.1 The Oregon Law

On October 1, 1972 a new law, popularly known as "The Oregon Bottle Bill" went into effect in the State of Oregon. This law imposes new regulations on carbonated beverage (malt beverage and soft drink) containers. Its primary purpose was to encourage the use of refillable containers and thus reduce the litter and solid waste associated with disposable beverage containers. The main provisions of the law are as follows:

1. All carbonated beverage containers (with the exception noted below) sold in the state must have a minimum refundable deposit of five cents.

2. Refillable containers used by more than one beverage manufacturer *may* be certified by the Oregon Liquor Control Commission. A certified container can have a minimum refundable deposit of two cents.

The original law used terminology to the effect that such containers *shall* be certified upon application by manufacturers. The effect has been that there are, at present, two certified bottles—the 11-ounce brown "stubby" beer bottle and the quart "twist top" beer bottle. No soft drink bottles have been proposed for certification. Obviously, bottles of special shape or with permanently embossed brand identification do not qualify under this provision.

3. The deposit on any carbonated beverage container *must* be refunded by any retailer or wholesaler who sells that kind, brand, and size of beverage.

In effect this means that containers do not have to be returned to the particular dealer who originally sold the beverage and collected the deposit. In the case of wholesalers, certified bottles have removable labels and are being redeemed by wholesalers of competing brands.

4. Metal containers having detachable parts cannot be sold in the state.

In effect, this bans the sale of "ring pull" or "flip top" cans. Some new designs of beverage cans such as the "push top" that has disc shaped sections that are pushed into the can, but do not detach, are being marketed in the state. Most of the beverage cans being sold have solid tops that are opened with the standard beverage can opener. It will be noted that cans, although not refillable, must have a minimum deposit of five cents.

5. The law contains provisions for enabling the establishment of cooperative redemption centers to be used by groups of retailers or wholesalers.

No attempt has been made, however, to establish such a center anywhere in the state.

The "Bottle Bill" was widely hailed by environmentalists as a significant step in reversing the very great increase in litter and solid waste represented by packaging materials. It was opposed (moderately by some and vigorously by others) by all sectors of industry that were directly affected by it. Its constitutionality continues to be challenged in the courts to the present time. Some of the opposition, in fact much of the question of constitutionality, is based on the perception of these businesses that they are being singled out and thus are being discriminated against whereas other businesses are responsible for much greater volumes of waste and are not being subjected to similar regulation. As one soft drink bottler, who is not particularly opposed to the bill, stated "After all, the only real difference between a bottle and a piano crate is that few piano crates are thrown out of cars. Both are packaging materials, and the disposal of both results in environmental problems." Additional opposition was based on considered opinion that the law would be, at best, only minimally effective in reducing litter. Further, different legislation was proposed (a tax on litter-prone packaging materials) that was felt to be more effective and less costly to directly affected business.

1.2 Purpose of this investigation

As with almost all environmental legislation, one of the major questions is that of what its cost will be in relation to what benefits it will bring. In the case of the Oregon Bottle Bill, the cost to government for enforcing legislation of this nature is minimal. The cost to the public as consumers is greatly dependent upon whether business costs are increased and are reflected in higher prices. (Consumer costs associated with returning containers and with having funds tied up in deposits are seen to be so small for individual consumers as to be insignificant.) The major question, then, concerns the economic impact of the law on the industries that produce and market carbonated beverages and on those industries that supply them. This report is primarily addressed to answering this latter question.

The primary objective of this study has been to conduct an independent investigation of the economic impact of the Oregon Bottle Bill on directly affected businesses. Those businesses include Container Manufacturers, Malt Beverage Brewers, Malt Beverage Distributors, Carbonated Beverage (soft drink) Bottlers, and Retailers of malt and carbonated beverages. Determination of the economic effects of the Bottle Bill is necessary for an objective evaluation of the Oregon Bottle Bill. It would not be appropriate to consider only the environmental impact of such legislation, as alternative programs (i.e. with similar reduction of litter, solid waste, or resource usage) may have differing economic implications. It is also im-

portant that a study of economic effects of the Bottle Bill be conducted by independent researchers. Conflicting projections and statements issued from industry or environmental associations have not aided objective evaluations.

The specific economic factors to be considered by this study include the following:

1. Changes in sales volumes of malt and carbonated beverages.

2. Changes in container sales mix of malt and carbonated beverages.

3. Return rates of refillable containers.

4. Changes in sales volumes of glass and metal beverage containers.

5. Price changes for malt and carbonated beverages.

6. Changes in production, distribution, and retail costs of operation.

7. Capital losses and changeover costs.

8. New capital investment.

9. Competitive changes—number of brands on the market.

1.3 Sources of Cost Data—Methodology

Starting shortly after the Bottle Bill went into effect, extensive interviews were conducted with representatives of all sectors of the businesses directly affected by the bill in order to determine the affected cost elements of each type of operation. From this information, preliminary questionnaires were designed to elicit the specific data required. Whenever possible, these questionnaires contained checks for internal consistency. For example, pre- and post-Bottle Bill information on elements such as space, sales volume, and labor cost, was requested so that the consistency of replies could be ascertained. Also, the questionnaires provided means of checking accuracy between sectors. For example, information on return rates, sales volumes, prices, etc., was requested from each industry level so that accuracy of replies could be judged. Industry representatives were most cooperative in reviewing the questionnaires for relevance, for completeness, and for understandability, and provided helpful advice as to industry record keeping practices which aided greatly in wording questions in a way that would make them more readily answered. Preliminary questionnaires were then personally administered to at least 5% of the proposed samples to discover and correct any further problems with terminology, structure, or unwarranted difficulty. From this information, questionnaires were printed and distributed to 100% of the licensed malt beverage distributors, 100% of licensed soft drink bottlers, and 400 retailers in the state. The retailer sample included 300 grocers and 100 vending machine operators and taverns. All parts of the retailer sample were stratified geographically to assure that all areas—coastal resort, border, high and low population density areas, etc.—were represented. Brewers and container manufacturers with significant market shares in Oregon were interviewed directly by the principal investigators.

Follow up questionnaires were sent to all who did not respond to the initial inquiry, and the investigators attended various industry meetings in order to explain the study and encourage reply. The response rate on mailed questionnaires was expectedly low from businesses that were not significantly affected by the bill, for example, taverns and vending machine operators (service stations) responded at 12% and 22% rates respectively. Other mailed questionnaire response rates ranged from 32% to 48%. Whenever practical, atypical data from the replies were checked by personal interview or by telephone. Consequently, it was necessary to exclude very little data from the calculations.

CHAPTER 4—SUMMARY AND CONCLUSIONS

4.1 Introduction

This chapter summarizes the economic effects of The Oregon Bottle Bill on malt beverage brewers, malt beverage distributors, soft drink bottlers, retailers, and manufacturers of beverage containers. These results are based on empirical data collected for the year 1973, and include the effects of the bill on operating income, capital losses and changeover costs, and new investment. Further conclusions are presented concerning the economic impact of the Bottle Bill on the Oregon State Government and on the malt and carbonated beverage consumers of Oregon. Finally, implications are drawn as to the impact of the Bottle Bill on litter, solid waste, and employment.

4.2 Summary of the Economic Impact of The Bottle Bill on Business

4.2.1 Operating Income

Table 4–1 presents the effect of the Bottle Bill on the operating incomes of those business sectors directly affected by the legislation.

TABLE 4–1. CHANGES IN OPERATING INCOME IN 1973 DUE TO THE BOTTLE BILL

Industry	Change in operating income	Direction of change
Glass bottle manufacturers	$264,000	Decrease.
Can manufacturers	350,272	Decrease.
Malt beverage brewers	5,328,383	Increase.
Malt beverage distributors	589,000	Decrease.
Soft drink bottlers	2,764,675	Increase.
Retailers	2,945,825	Decrease.
Total change for all industries	3,943,961	Increase.

Source: Oregon State University, bottle bill survey.

4.2.2. Capital Losses and Changeover Costs

All industry segments reported zero or insignificant capital losses. This was due to the localization of the Bottle Bill to the state of Oregon and the transferability of physical capital (e.g., vending machines) or capital usage (e.g., use of can lines for beer sold in markets adjacent to Oregon). There are potential capital losses for equipment within the state of Oregon used solely for canning soft drinks, however such losses have not been realized to date. The largest of these possible capital losses would involve the $600,000 book value of canning equipment owned by Emerald Canning Company. The market value of that equipment was unavailable. Those changeover costs that have been reported are shown below:

Soft Drink Bottlers	$75,000
Retailers	99,627
Total Changeover Costs	174,627

Those changeover costs shown for retailers represent the cost of inventory that did not conform to the requirements of the Bottle Bill and could not be sold after September 30, 1972.

4.2.3 New Investment

The Bottle Bill has resulted in new capital investments in several industry segments, however it has not been possible in all cases to determine the portion of actual increased investment that was necessitated by the bill. New trucks and bottling, washing, or filling equipment may have provided for capacity in excess of that required by the implementation of Oregon's Bottle Bill. Nevertheless, Table 4–2 shows the reported new investment in returnable bottle float for brewers; in truck and bottle handling equipment for beer distributors; in returnable bottle float, trucks, bottle washing and bottle filling equipment for soft drink bottlers; in bottle sorting and handling equipment for retailers.

TABLE 4–2.—NEW CAPITAL INVESTMENT NECESSITATED BY THE BOTTLE BILL

Industry	Amount of investment	Type of investment
Malt beverage brewers	$1,300,000	Bottle float.
Malt beverage distributors	550,000	Trucks, bottle handling equipment.
Soft drink bottlers	3,310,000	Bottle float, trucks, bottling equipment, washing equipment.
Retailers	193,000	Bottle sorting and handling equipment.
Total new capital investment.	5,353,000	

Source: Oregon State University, bottle bill survey.

4.3 Economic Impact of the Bottle Bill on State Excise Tax Revenues

Early projections concerning the effects of the Bottle Bill predicted a decline in state excise tax revenue of up to $5 million a year (Wagner, p. 24). This prediction was based on the expected negative sales effect of the Bottle Bill. Since the actual 1973 Oregon malt beverage sales records do not support the hypothesis of depressed beer sales, there is no evidence that excise taxes have been affected.

4.4 Economic Impact of the Bottle Bill on Oregon Consumers

The actual net cost to Oregon consumers of beer and soft drinks in 1973 was not significantly different from what it would have been given pre-Bottle Bill marketing conditions. This was the case even though there was a price increase in 1973 for both beer and soft drinks in returnable bottles. The average price increase amounted to approximately 11% for all brands of beer in returnable bottles, and to 7.6% for all brands of soft drinks in returnable bottles. The 1973 prices of soft drinks and malt beverages in cans were unchanged from their 1972 prices. However, the prices of beer and soft drinks in returnable bottles were still lower than the prices of those beverages in cans. This price differential favoring returnable bottles and the increases in percentages of beer and soft drinks sold in returnable bottles have offset the effect of the 1973 price increases. As shown in Table 4–3, the total expenditure in 1973 by Oregon consumers for beer and soft drinks increased by $183,550 over what they would have spent under 1972 prices and sales mixes. This 1973 price increase is assumed to be due to the Bottle Bill, then the bill has had only an insignificant effect on the total amount spent by Oregon consumers for beer and soft drinks. In Chapter Two, it was concluded that the Bottle Bill did not cause the price increases; under this assumption, the Bottle Bill has resulted in a significant savings to consumers.

TABLE 4–3.—TOTAL EXPENDITURE BY OREGON CONSUMERS FOR SOFT DRINKS AND MALT BEVERAGES

[Amounts in dollars; except percent]

	Soft drink	Malt beverage	Total
Actual expenditure in 1973	49,246,800	76,462,000	125,708,800
Expenditure in 1973 assuming prebottle bill sales mix and prices	49,980,000	75,545,250	125,525,250

	Soft drink	Malt beverage	Total
Increase (decrease) in beverage expenditure	(733,200)	916,750	183,550
Change as percent of actual	−1.5	+1.2	+0.1

Source: Oregon State University, bottle bill survey.

When a returnable container is not returned, the amount of the deposit is an additional cost to the consumer. The Bottle Bill has resulted in both brewers and soft drink bottlers selling a much higher percentage of returnable bottles, and in a required deposit on beverage cans. However, under the Bottle Bill, the return rates for returnable bottles have substantially increased. The net effect has been a decrease of $266,000 in deposit losses by consumers. Table 4–4 compares the actual 1973 deposits lost with the 1973 estimated deposit losses assuming pre-Bottle Bill sales mixes and return rates.

TABLE 4–4.—OREGON CONSUMERS LOSSES ON CONTAINER DEPOSITS FOR SOFT DRINK AND MALT BEVERAGE

[Amounts in dollars]

	Soft drink	Malt beverage	Total
Actual deposits lost in 1973	1,497,000	635,660	2,133,660
Deposit losses in 1973 assuming prebottle bill sales mixes and return rates	1,800,000	593,850	2,393,850
Increase (decrease) in deposit losses due to bottle bill	(303,000)	41,810	(261,190)

Source: Oregon State University bottle bill survey

It is clear that the Bottle Bill has not caused significant economic losses to consumers, rather it may have been responsible for economic gains. On the other hand, consumers have suffered a loss of choice of soft drink and malt beverages in convenience oriented packaging. In addition, consumers are required to expend some effort and perhaps cost to obtain refunds of deposits on returnable containers. The effect of the Bottle Bill on consumer economic utility could not be determined without extensive consumer attitude surveys. This research study did not collect consumer attitude data, however the following sections discuss three additional areas—solid waste, litter, and employment—where the Bottle Bill could affect consumer utility. Even though this report does not provide direct evidence of consumer attitude, it has shown increased return rates, beverage sales in accordance with trends, and that retailers conspicuously did not report consumer complaints. These findings would at least tend to refute any hypothesis of negative consumer attitude toward the Bottle Bill.

4.5 Solid waste and litter

Beverage containers sold and not returned eventually enter the solid waste stream either as disposed trash or as litter. Returned containers that are not refilled are not considered to contribute to solid waste in that they are recycled. From the sales mix and return rates under pre- and post-Bottle Bill conditions, we can calculate the number of containers entering the solid waste stream annually and the difference resulting from the Bottle Bill. These figures are summarized in Table 4–5.

TABLE 4–5. NUMBER OF BEVERAGE CONTAINERS PER YEAR IN SOLID WASTE

Type of container	Prebottle bill conditions	Postbottle bill conditions	Reduction
BOTTLES			
Beer:			
Nonrefillable	89,910,000	458,800	
Returnable	26,692,500	17,556,600	
Soft drink:			
Nonreturnable	18,000,000	0	
Returnable	36,000,000	21,840,000	
Total bottles	173,602,500	39,855,400	133,747,100
CANS			
Beer	161,320,000	3,478,000	
Soft drink	102,000,000	8,100,000	
Total cans	263,320,000	11,578,000	251,742,000
Total beverage containers	436,922,500	51,533,400	385,489,100

Source: Oregon State University Bottle Bill Survey.

The Bottle Bill has resulted in an 88% reduction in the number of beverage containers in solid waste. It has been estimated that the beverage container share of solid waste disposal cost is 93.3 million dollars per year (Bingham and Mulligan, p. 22). This estimate is perhaps somewhat overstated in that it compares the proportion of beverage containers to all solid waste and uses that proportion of total disposal costs. Obviously a reduction in one type of waste would not necessarily result in a similar reduction in total cost. Others, however, have estimated the cost of collection and disposal of beverage containers to be $176 million (Midwest Research Institute, p. 6). Using the lower figure, however, and considering that Oregon's share of the total beverage market is approximately 0.8%, the savings in solid waste disposal costs would be $656,832 per year.

The effect of the bill on roadside litter is even more pronounced. The Oregon Highway Division has conducted monthly litter counts on 25 to 30 one-mile sections of highways since October, 1971. These surveys indicate at least a 92% reduction in item count of beverage containers littered (Governor's Litter Composition Survey). Moreover, 66% of containers littered recently are non-returnables—either from other states or purchased prior to the effective date of the bill. Despite any question concerning interpretation of the survey data, it is apparent that beverage container litter has been reduced by at least as much as has beverage container solid waste. It has been conservatively estimated that 5% of the beverage containers in the solid waste stream are littered (Bingham and Mulligan, p. 31). Using this percentage, the saving on litter pick-up amounts to a minimum of $366,000 per year assuming no change in frequency or intensity of litter cleanup. Perhaps more realistically, others have estimated national beverage litter collection costs at 86 million dollars (Bingham and Mulligan, p. 34). Applying the Oregon market share and the indicated reduction in litter to this figure results in an estimated saving of $632,000 per year.

4.6 Employment

There has been much speculation as to the effect of the Bottle Bill on the loss of employment in skilled jobs and the gain in unskilled employment (Wagner, Midwest Research Institute, Bowman). In the industry sectors considered in this report, container manufacturers have reduced production employment as have contract canners. Soft drink bottlers and brewers have increased production employment due to increases in washing and sterilizing, and because bottling is more labor intensive than canning. Increases in transportation and delivery costs have added to truck driver employment. The increased handling, sorting and storing of returned containers has added to warehouse and handling employment. Total effects are outlined in Table 4–6.

Table 4–6.—Operating employment effects of the bottle bill

Production labor (decrease)	(350)
Truckdriving (increase)	140
Warehouse and handling (increase)	575
Total employment (increase)	365

Source: Oregon State University Bottle Bill Survey.

The above figure does not include employment in industries supplying the required new capital—machinery, buildings, trucks, etc., but only that labor expended in on-going operations in the beverage and container industries. Administrative and clerical labor has not been estimated, but it is doubtful that needs in these areas would be lowered by the legislation. The total annual payroll addition represented by the net increase shown in Table 4–6 is estimated to be $1,600,000.

4.7 Conclusions

The Oregon Bottle Bill was adopted with the objective of reducing litter and solid waste by encouraging the use of refillable beverage containers. It was hoped that the means selected would be effective in accomplishing the objective and result in minimum losses to business, minimum costs to government, and minimum cost and inconvenience to consumers. The findings of this study indicate that the objective is being met very well and that the costs are well below anticipated levels,.

As to effectiveness: The use of refillable containers has increased 44.6% in 1972 to 93.15% in 1973. Beverage container solid waste and litter has been decreased by 88%.

As to its cost to businesses: It cannot be demonstrated that the bill has caused reduction in sales volumes. Container manufacturers, beer distributors, and retailers have experienced adverse economic effects, but total operating income for all business sectors combined has been increased by $3.93 million per year due to the bill. Businesses have suffered capital losses and changeover costs of $175,000 and have made new investments of $5.35 million.

As to cost to government: Income tax revenues should be slightly higher due to the increased business income and increased employment and payroll. Excise tax revenues have not been affected. Costs of enforcement of the legislation are minimal. For the same frequency and intensity of collection and disposal, solid waste and litter costs are down substantially.

As to cost and inconvenience to consumers: Carbonated beverage price increases in Oregon cannot be demonstrated to be caused by the Bottle Bill. Yet considering price increases and deposit losses, the total expenditure of Oregon consumers for the same quantity of beverages in 1973 is $75,000 less than in 1972. This study has made no attempt to survey consumer attitudes. On the assumption that what consumers actually do is more indicative of their real attitude than what they say they will do, we conclude that consumers do not perceive great inconveniences resulting from the bill.

Given its objectives and constraints, the Oregon Bottle Bill has been highly successful. Whether other approaches would be as effective or as efficient can be determined only by other experiments.

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Mr. HATFIELD. Mr. President, I also ask unanimous consent that several other statements attesting to Oregon's success be placed in the RECORD. Included among these are statements by Oregon's Governor, Robert W. Straub; Mr. Don Waggoner; Mr. Alfred A. Hampson, an early advocate of the Oregon law; Oregon retailer, Mr. John Piacentini; the Environmental Action Foundation's pamphlet, "All's Well on the Oregon Trail"; and an article for Sierra Club Bulletin by Nancie Fadeley entitled, "Oregon's Bottle Bill Works!"

There being no objection the material was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Apr. 23, 1975]

GOV. STRAUB ON POP-TOP, BOTTLE LAW

The issue of banning non-returnable bottles and pop-top cans is being sharply debated as several local communities weigh implementing such steps. The State of Oregon passed such a law in 1972. Oregon Gov. Robert W. Straub was interviewed on the subject by Washington Star Staff Writer Thomas Love.

Question. What has happened in Oregon since it became the first to outlaw non-returnable bottles and pop-top cans?

STRAUB. We've had a very noticeable clean-up of litter along our highways, lakes and recreation areas. A report done by Oregon State University shows there actually has been an increase in employment because of the bottle bill—more people being needed in the grocery stores and supermarkets to handle the returned bottle.

Q. Has there been any major change in the cost of keeping the state clean since the law went into effect?

A. Yes, the cost has been remarkably reduced. The deposit requirement has caused most of the bottles to be returned to the stores so they're not lying around on the highways or on the beaches, waiting to be collected.

Q. What has been the cost to the state's retailers and wholesalers of drinks and beer because of the new law?

A. I can't tell. I don't know. Consumption has not been much affected. People are drinking as much beer and Coca Cola as they were before, and to some extent local breweries are in an economic advantage because they can more easily use the returnable bottles. I think they have enjoyed some benefits in terms of competition with out-of-state breweries.

Q. Some retailers have complained that they're unfairly bearing the brunt of the cost of the program because they have to absorb all the additional costs of handling and transporting the bottles that are turned in. How does the state feel about this?

A. I think this is true but I think that it's a minor cost. It is a burden to the retail outlets, but they do get the advantage and the profits from selling the beer and the soft drinks. I feel it's part of the cost that they should absorb and they are absorbing it.

Q. This is, you think it should be viewed as a normal business expense?

A. That is correct.

Q. Has there been any thought of including some provision in the law to reimburse the retailers for their additional costs?

A. That proposal was before the 1973 legislature and was rejected.

Q. Have you any idea of what percentage of the bottles are actually being returned?

A. I would make an estimate of 90 percent.

Q. Has there been any loss of business to neighboring states in areas close to the borders because of the law?

A. Not in any measureable amount. Conversely, we do not have a sales tax so communities on the border are benefitted because people come into Oregon to buy groceries and so on. There's no reason why we should suffer any losses.

Q. How does the law affect the sellers of such things as imported beer when it would be unreasonable to ship the bottles back where they came from for refilling?

A. Those bottles are considered "premium bottles" so they're returned to the distributor with a five cent deposit rather than the normal two cents. They're disposed of in the solid waste stream.

Q. Do you know whether the bottlers are making more or less profit since they have to use more expensive returnable bottles but can use them time and time again?

A. We don't have a large bottling industry in Oregon, so we haven't looked too closely at this. However, a returnable bottle replaces about nine non-returnable bottles and doesn't cost nearly that much more, so bottlers probably have an opportunity to make more profit from returnable bottles than from non-returnables.

Q. How has the public responded to the ban on returnable bottles and poptop cans?

A. Tremendously. I think, if there were any efforts to repeal the bottle amendment there would just be a public uprising against such a move. It is completely sold. I think the average citizen is for it. I think even the average grocery store owner or manager finds it acceptable.

Q. Is there any organized opposition to the law?

A. Within the state of Oregon, no. The container industry is opposed to it and it retains lobbyists working throughout the nation against any spread of the ban. Of course, some of them are Oregon people.

Q. I take it then this is not much of a political issue. Would there be any money available from opponents of the ban for politicians who would work to repeal it?

A. There would not be because in my judgment it is politically unsupportable in Oregon for anybody to advocate repeal of the bottle bill. It is really widely accepted and dug in here now. There is no major thrust against it.

Q. Why do you think the people of Oregon have accepted the ban and are now so well behind it when there has been so much opposition in other parts of the country when similar laws have been proposed?

A. I think if other parts of the country were to adopt bottle bills similar to Oregon's that very soon their support would be strong as it is here. The fact is that the industry is spreading misinformation about the effects of the bottle bill. I've heard and seen reports that the packaging industry is saying it isn't effective in dealing with litter. This is incorrect. It has proven to be very effective in Oregon. I have seen reports that the packaging industry is saying the bottle bill is a severe blow to employment. This has not been true in Oregon since it has actually helped employment. Of course there is the other advantage of energy conservation in recycling the container.

Q. Are there any other reasons the ban is working out so well here?

A. Yes. I guess it may be partly due to the unique nature of the Oregon populace. They are a little bolder in venturing forth—in

trying new things. But once ideas have been proven, they stick with them.

Q. Based on conversations you have had with governors of other states and requests for information you have received, do you see similar laws being enacted elsewhere?

A. Yes. Vermont already has a bottle bill similar to Oregon's. The state of New Mexico tried to get a bottle bill through but it was killed by one vote in the committee. Other states have inquired. I feel there is a growing awareness on the part of state legislators that this would be a sound, constructive way to go.

STATEMENT BY OREGON GOVERNOR BOB STRAUB

We believe in the Oregon Bottle Bill. It was the first effort to put into law recognition that resources of the earth are not infinite, but are finite, and that the earth was not a throw-away resource that was endless. Its significance as a landmark in environment law rests on the fact that for the first time in the environmental movement, direct action was taken by a legislative body to reduce litter and solid waste by encouraging the use of refillable beverage containers.

The law is self-enforcing. It doesn't require any bureaucracy at all. Understanding that good intentions alone do not keep the world clean, the drafters of the Oregon Bottle Bill devised a law that would work on more fundamental precepts—that you get your own, or in the case of the thousands of kids who now comb the state collecting bottles and cans) somebody else's money back when you recycle the containers. And the market place works. It gets at the root of the solid-waste problem by assuring that litter is recycled.

The Beverage Container Act has been in effect since October 1, 1972. It requires that beer and soft drinks cannot be sold in Oregon in non-returnable cans or bottles. All beverage containers must have a refund value of not less than 5¢ unless the container is "certified" by the Oregon Liquor Control Commission. To be a "certified" container, it must be used by more than one of the regular suppliers of the market and must have the stamp of approval by the OLCC. "Certified" containers take a minimum deposit of not less than 2¢. Certification in Oregon has resulted in a total of twenty-four separate brands of beer being bottled in the same interchangeable 11 ounce "stubby" container, with identity dependent upon the label.

Besides the requirement for a minimum deposit, the Oregon law further prohibits the so-called "flip-top" opener, or detachable ring opening, requires that all merchants who sell beverages must refund on the kind, size and type of container they sell regardless of whether they actually sold the containers being returned, and permits the establishment of redemption center for taking back the empty containers. Thus far no redemption center have been established, and it is now not envisioned that any will be.

Litter pick-up studies were made throughout the state during the year before and after the effective date of the Bottle Bill. These studies show that total litter was reduced 26%; beer and soft drink container litter was reduced 72% in 1973 and 83% in 1974. In some areas, container litter along our roads and highways was reduced by as much as 90%.

Energy savings are significant. In Oregon, refillable beverage containers used to account for about 43% of the market. Today, with the Bottle Bill, 94 out of every 100 beverage containers are redeemed. The manufacture of the throwaway bottle expends three times as much energy as the manufacture of the returnable bottle. 1.4 trillion BTU's are being saved annually, enough to provide the home heating needs for 50,000 Oregonians or to generate 130 million kilowatt hours of electricity worth $2.8 million annually. Energy conservation is an important bonus of the Bottle Bill.

Another important element is the Bill's influence on public attitudes. Oregonians are becoming more and more aware that we simply cannot sustain forever the "throwaway society" attitude. Before we adopted our Bottle Bill, returnable beer bottles amounted to only 36% of the market. Now we redeem 96 out of every 100 beer bottles. We think that's a remarkable turnabout in public attitudes.

Moreover, our Bottle Bill is popular with the people. We find that in every public opinion survey we hear of, the people of Oregon indicate by a majority of 85 to 90% that they like the legislation, and want to keep it.

We think that Wisconsin and this nation needs a Bottle Bill patterned after the Oregon bill. We feel there ought to be a bounty on every single beer and soft drink container sold in America. We believe that a Bottle Bill is not only feasible but that such a law would strikingly reduce litter and aid in the conservation of energy and other natural resources that are in short supply.

[67th Annual Meeting, National Governors' Conference, The Fairmont Hotel, New Orleans, La., June 8–11, 1975]

REMARKS BY OREGON GOVERNOR BOB STRAUB

We believe in the Oregon Bottle Bill.

It works.

Let me tell you some facts about the Bottle Bill.

It takes a lot of energy to manufacture glass bottles and aluminum cans. When those bottles and cans are used just once, and discarded, most of that energy is wasted.

In Oregon, refillable beverage containers used to account for about 43 percent of the market.

Today, with the Bottle Bill, 94 out of every 100 beverage containers are redeemed.

We've saved about 1.4 trillion BTUs of energy by redeeming, refilling, recycling and reclaiming our beverage containers.

That much energy is worth $2.8 million.

It's enough energy to provide for the home heating needs of 50,000 Oregonians.

Energy conservation is one important element of a Bottle Bill.

Here's another point: In Oregon, total roadside litter was reduced by 26 percent in the first full year of the Bottle Bill.

Beer and soft drink beverage container litter was reduced by 72 percent during the first year and by 83 percent during the second year.

In some areas, container litter along our roads and highways was reduced by as much as 90 percent.

Another important element is the Bill's influence on attitudes. Oregonians are becoming more and more aware that we simply cannot sustain forever the "throwaway society" attitude.

Before we adopt our Bottle Bill, returnable beer bottles amounted to only 16 percent of the market. Now we redeem 96 out of every 100 beer bottles.

We think that's a remarkable turnabout in public attitudes. It's a good basis for a strong conservation ethic.

We think this nation needs a Bottle Bill patterned after the Oregon bill.

We want the National Governors' Conference to adopt Oregon's substitute resolution on beverage containers.

We think there ought to be a bounty on every single beer and soft drink container sold in America.

This redemption incentive has resulted in glass bottles being used about 20 times. And manufacturers can reclaim the aluminum and steel in beverage cans.

The draft resolution prepared by the Conference Committee on Natural Resources and Environmental Management speaks of banning "non-refillable" containers.

That is not enough. An effective state or national Bottle Bill must include redemptions for refillable, re-useable, recyclable and reclaimable containers.

It's my hope that the assembled governors will weigh all the evidence—much of which Oregon has shared with them—to make sure the position adopted at this conference is both adequate and defensible.

Some members of the press will be called on to prepare in-depth analyses of the bottle bill question. We in Oregon are ready to assist you in every way we can.

I would specifically recommend our latest study, "The Oregon Bottle Bill. . . . Two Years Later." It was published last week and is an extensive and thorough and credible document. We'd be happy to send it to any of you who write to us.

OREGON ENVIRONMENTAL COUNCIL,
Portland, Oreg., June 25, 1976.

DEAR SENATOR: The Senate will soon be voting on an amendment to the Solid Waste Utilization Act (S. 2150) to include a section on beverage container reuse and recycling. It would require a minimum refund on all soft drink and beer containers and prohibit the pull tab.

The State of Oregon passed a similar law in 1971. It went into effect in October 1, 1972, and the results have been carefully studied. Since the law has now been in effect for three and one-half years, we believe that a brief summary of what has occurred here in Oregon can provide good background for consideration of the amendment which will soon be before you.

In summary, Oregon's "bottle bill" is working very well in all respects and has been overwhelmingly endorsed and accepted by Oregonians One year after the law went into effect, six hundred in-depth interviews were held with Oregon consumers. Ninety-five percent of those interviewed had an opinion about the act and an amazing 95% of those with an opinion were favorable!

Oregonians are saving energy. Each year they save 1.4 trillion Btu's. This is equivalent to the annual natural gas home heating needs of 50,000 Oregonians—2.5% of our population. Return rates for bottles have increased to an average of 94% and approximately 80% of all cans sold are returned for recycling.

Oregonians are saving money. Prices in Oregon are comparable to those in Washington State. However, since they are buying more returnables, whose average unit cost is lower, their total beverage costs are less.

There has been a net job increase. The single use "throwaway" container uses more energy and raw materials, but requires less labor. Before the "bottle bill" returnables accounted for only 43% of total soft drink and beer sales. They now amount to approximately 94% of total sales. This has resulted in reported increases of from 55 to 365 new jobs for the beverage industry.

Litter is down dramatically. Beverage can and bottle litter is down 83%. Total litter is down 47% by volume. There were three years of careful "before and after" litter pickup studies on 30 randomly selected one mile sections throughout western Oregon. These conclusions are based on comparable data for the year before the effective date and the second year after.

We have prepared a comprehensive booklet which gives greater detail on these and other aspects of the act. It is entitled "Oregon's Bottle Bill—Two Years Later." It is available to you or your staff on a complementary basis upon request. We will also attempt to answer any questions which you may have regarding Oregon's experience with container refund legislation.

Sincerely,

DON WAGGONER,
Past President.

[Sixth Annual Composting-Waste Recycling Conference, Portland Sheraton Hotel, Portland, Oregon, May 14, 1976]

ADDRESS BY DON WAGGONER, PAST PRESIDENT OREGON ENVIRONMENTAL COUNCIL

Good morning. I am very pleased to be able to be with you today and talk to you about Oregon's bottle bill. We are proud of its success here in Oregon.

The bottle bill concept approaches the problem of human waste by reducing the total amount of waste that is generated. This is the principle of source reduction and is simply summarized with the statement, "Don't make it in the first place." Those of you who read Rodale's "Environmental Action Bulletin" are well aware that Oregon's bottle bill has been extremely successful in this regard.

The Act covers carbonated soft drinks and beer and requires that a refund be paid by the retailer for empty beer and soft drink containers. In order to encourage the use of standard reuseable containers, a minimum 2¢ refund is required on all bottles which are certified as being used by more than one manufacturer. For all other beverage containers (including cans) a 5¢ minimum refund is required. The law was passed in 1971 and its success in moving Oregon out of the flip-top, pull-tab, throw-away society has been nothing short of dramatic.

The beer can, which held 33% of the market in Oregon has moved to 4%. The non-returnable beer bottle, which held 31% of the market has been virtually eliminated and the returnable, refillable beer bottle has increased from 36% to 96% of the market.

For soft drinks, a similar pattern has occurred. Cans held 40% of the market prior to the Act. They moved to only 9% of total sales during the second year after the Act's effective date. Non-returnable soft drink bottles are completely off the market and the returnable, refillable soft drink container moved from 53% to 91% of the total soft drink market.

As this has occurred the statement which alleges that "They'll never bring them back anyway" has been roundly disproved. Soft drinks enjoy a 96% return rate and the certified reuseable container, the 11 ounce "stubby" enjoys a 93% return rate for the five regional breweries and four of the major shipping brewers.

This is source reduction at its very best. During 1974, as a direct result of Oregon's bottle bill, there was a reduction of container purchases by bottlers and brewers of 81%. The solid waste stream was therefore reduced by three hundred and fifty million containers.

Now, it is conventional marketing wisdom that decreasing the different types of packages in which the product is offered will reduce sales. The same conventional wisdom tells us that effectively eliminating single use "convenience" packaging by putting a 5¢ refund value on that container will also reduce sales. This simply hasn't happened in Oregon. Beer sales continue to increase as they have in the past and there is no evidence to indicate that soft drink sales have been adversely affected.

As a nation, we are beginning to accept the fact that there really is an energy crisis. Further, we are coming to the realization that our natural resources are limited. Finally, there is a spreading revulsion against the highly visible litter which these throw-away beverage cans and bottles bring to our roadsides, our trails, our rivers, our lakes and our beaches.

Back in 1971, the Oregon bottle bill was enacted by a courageous and foresighted Oregon Legislature. At that time, very few people were concerned about conservation of our national resources and energy. The book "Limits to Growth" had not yet been published. OPEC had not yet shocked the industrialized nations by their price increases.

However, Oregonians were becoming increasingly incensed at the litter, the most visible portion of which is often beverage containers. After all, aren't those containers designed to catch our eye?

Thus, litter reduction was the primary reason for Oregon's bottle bill. Without the promise of a significant litter reduction, I am certain that Oregon's landmark legislation could not have been passed. As it was, it was close, very close, but it did pass. The lobbying against its passage was intense, just as it has been in every city, county and state that has considered bottle bills across the country. I am sure that every argument with one exception that has been used throughout the United States was used here in Oregon.

One argument, however, was not used in Oregon. That argument is the one that is now being used time and time again throughout the United States. It goes something like this—"Oregon's bottle bill has failed. Litter has increased. Costs have increased. There has been a net job loss. Sales are down and the consumer is no longer able to purchase the aluminum can."

A recent effort which typifies the attack on the Oregon bottle bill is the ALCOA leaflet entitled "Trouble on the Oregon Trail". Perhaps some of you have seen this as it has been widely distributed. I would like to spend several minutes discussing the specific content of this leaflet since it is at the same time one of the most blatant and one of the most often used documents in the campaign to defeat bottle bills throughout the country. The ALCOA pamphlet starts out by stating that despite early reports of success, that the true, negative aspects of the bill are now coming out. It then details some of the anti-litter efforts which have been underway in Oregon. It speaks of the citations and warnings being handed out by police to litterers and mentions that litter clean up costs increased between 1969 and 1973. It also states that in 1973 hundreds of young people were on patrol picking up litter. Thus, it lays the foundation of a picture of Oregon as a state that is somehow different from other states, and which was making major changes which would have been expected to reduce litter even without a bottle bill.

What it fails to say, however, is that there was a very elaborate test program which was established to carefully monitor any changes in roadside litter during the year prior to the bill's effective date and for two years following the October 1, 1972 effective date of the bill. The pamphlet implies that there may have been an increase in enforcement activities. This was simply not true. During the first full year immediately following the bottle bill's implementation, litter related warnings and citations actually decreased.

In a similar fashion, the litter expenses are misleading. They suggest that the increase of litter pick up expenditures could have resulted in some change to the litter reduction results. The truth is that the 30 test sites which were randomly selected from state highways in western Oregon were carefully controlled so that any increases or decreases in litter pick-up expenditures would not have effected them in any way.

Under a heading "Twilight on the Trail" the ALCOA pamphlet has been printed in two versions. The first version showed beverage container litter going up by 90% between the first and second years of the bottle bill. (The summer of 1973 and the summer of 1974.) The second version which is the result of a printing revision of October, 1975 shows an increase of 52% in beverage container litter. Both of these figures are entirely unjustified. The correct result using comparable data is that there was not an increase at all but instead, a decrease of 20% between these two years.

It will be very illustrative of the tactics which have been used by the anti-bottle bill lobby if we examine this particular claim in some detail. Briefly, two separate studies which were well known to give results which could not be successfully compared have indeed been compared. It is thus, a classic "apples and oranges" comparison.

The first study lasted three years. Litter deposited on 30 one mile sections was picked up monthly or semi-monthly and tallied in the field. I will refer to these tallies as "field counts." The important thing to note is that the three years' data is comparable. Consistent methods were used throughout the full three years of the study. The study started one year before the act took effect and continued for two years after the October 1, 1972 effective date.

The second study covered only the period during the first year after the Act went into effect, it consisted of an additional tabulation of a portion of the field count data. The method used was that after the field tabulations had been made the litter was sent to Salem for a recount. There, only the first twenty-five of the field sites received in Salem were tabulated.

For various reasons, some of which are not completely understood, the Salem counts were significantly and consistently lower than the field counts. As a result the only conclusions which can be drawn out of the Salem counts are volume relationships between various kinds of litter. However, any direct comparisons between the Salem recounts and the field counts will lead to completely misleading conclusions. This was well known by all persons who have been carefully following the results of Oregon's bottle bill. The Applied Decisions Systems report, one of the principal studies made to evaluate the Act's effectiveness, discusses this at some length in their final report.

Nevertheless, the percentage increases found in ALCOA pamphlets do use the Salem recount in their calculations. Therefore, they have a low base for the first year after the bill went into effect. It then relies upon the field count which utilizes the consistent method of counting for the second year after the bill's effective date.

An earlier report released on December 20th, 1974 by the Oregon Beverage Industry Task Force went even further and claimed a 127% increase. This report not only paired the low Salem recount against the field counts but further contained a basic error in interpreting the data which was provided by the Oregon State Highway Department.

It is significant to note that nowhere in this pamphlet is there a reference to the fact that this "apples and oranges" Salem recount versus field count comparison basis is being used. Rather, a footnote states that "information in this article is from the Oregon Highway Division survey." It is true that this data was provided by the Oregon Highway Division. However, at no time did the Highway Division ever summarize, compare or draw conclusions regarding their data. Instead, the conclusions were drawn by persons who used the Highway Department's raw data, unknowingly made gross errors in dealing with the data and then subsequently chose to compare incompatible surveys. It is difficult to avoid the conclusion that this amounted to deliberate deception with the apparent goal of showing that the bottle bill had been a failure.

The section "Twilight on the Trail" in ALCOA's October, 1975 version ends with the paragraphs "By September, 1974 littering with beverage containers increased 52% while other litter not covered by the Oregon bottle bill dropped 26%. The litter count was discontinued." The clear implication is that the litter count was discontinued as a result of data which was unfavorable to Oregon's bottle bill. The fact is that in October of 1973 it was decided that litter would be picked up for another year.

During September of 1974 it was simply reaffirmed that sufficient data had been developed. There is absolutely *no* foundation to the suggestion that the litter count was discontinued because of a soaring of the results.

The comparable field count versus field count comparisons show a continuing decline during the second year after the bill went into effect compared to the first. Comparing the year before the Act and two years after, there was a total reduction of 83% for beverage container litter and 21% for other items. This results in a 39% reduction on total litter by piece count and a 47% reduction by volume two years after the Act went into effect. Thus, the 83% reduction in beverage can and bottle litter is even slightly larger than the 81% reduction of total cans and bottles entering the solid waste stream here in Oregon following the major switch to returnable, refillable containers.

The second major ALCOA charge is economic. The "Trouble on the Oregon Trail" pamphlet states that earnings were down, sales were down, jobs were lost, costs were up, businesses were hit and consumers took it on the chin."

It is true that earnings were down some. It is an inevitable fact that source reduction techniques result in elimination of the production of certain items. This results in losses by those companies that were making the now unnecessary products. However, a large portion of the losses in pre-tax earnings which were detailed are a result of a convention used by soft drink bottles in "writing down the container to deposit." Thus, if a bottler purchases a bottle for 15¢, and the deposit is only 5¢, he immediately charges the difference between 15¢ and 5¢ as a direct reduction of his earnings. Since the Act has gone into effect, the refund has been increased from 5¢ to 10¢ on soft drink returnables of 16 ounces or less and from 10¢ to 20¢ on larger bottles. Following the same logic of the "write down to refund" convention it would appear reasonable that it would now be necessary to "write up the value to refund". It is likely that this simple manipulation would result in more increases in pre-tax earnings being shown than the total losses previously detailed.

The statement that sales of private label and warehouse soft drinks dropped 40% completely ignores the fact that franchised bottler sales, such as Pepsi and 7-Up increased significantly to balance off the private label and warehouse sales decrease.

The statement that "Jobs were lost" ignores the increase in jobs at the retail grocer level and increases in common carrier trucking. In the Applied Decision Systems study it was specifically noted that the impact of the additional handling and sorting of the retail grocer was not included. The ADS report has simply been used directly by ALCOA without stating that the largest area of employment increase had been omitted. When common carrier trucking and retail grocer impacts are included the net change becomes an increase of 55 to 365 people. The lower figure assumes that fifty percent of the increased hours expended by the retail grocers resulted in existing personnel merely working longer hours. The 366 net increase is based on equivalent full time employees based on extra hours worked. No mention of this was made in the ALCOA release.

To state that costs were up completely ignores the fact that literally millions of containers did not have to be purchased. Thus, in fact costs were *down*. This is the reason why consumers actually profited from the change. If we look at consumer price level in Oregon and Washington since the bottle bill became effective, we find only slight cost differentials between comparable packages. The only significant differences have been that Oregonians are buying more refillables. For soft drinks, there has been and continues to be a significant difference between the unit cost of a refillable compared to the unit cost of a throw-away. Since Oregonians purchase a higher percentage of the lower unit cost refillables, they have actually saved money.

Finally, to suggest, as ALCOA does, that "8 of the 29 bottlers sold out within two years" as a direct result of the bottle bill is again misleading. Beginning in 1973, the large increase in sugar prices caused the retail prices of soft drinks to go up all over the United St tes. This resulted in a profit squeeze Nationally. In some cases an actual reduction in volume occurred as consumers resisted the price increases. Consequently, this was a difficult time for soft drink bottlers throughout the country. The important thing to note is that these bottling plants, even though they were sold, are still operating. One contract canner did close his can plant but he also owned the Coca Cola franchise for the area and he continued to bottle Coca Cola. Nationally, the period since 1950 has been a very bad time for soft drink bottlers. Over 60% of all soft drink bottlers went out of business in the period 1950 to 1974. The throw-away container contributed in no small part of this decline. During the same period, soft drink sales increased 276%. The source for these figures is the National Soft Drink Association as published in September, 1974 in the magazine Beverage Industry's 1974–1975 Annual Manual.

ALCOA is not the only group which has been distributing this type of misleading information. The Aluminum Association has recently reprinted the October, 1975 version of ALCOA's pamphlet intact and is now distributing it. Recently the national Chief Executive Officer of Pepsico, Donald M. Kendal, has used the Aluminum Association's pamphlet in an answer to concerns raised by a m n in Pennsylvania.

Kaiser Aluminum has also used much of the same type of information in their book entitled "At Issue—The Beverage Container", published in February, 1976.

You may by now have asked yourself "Who has been developing and providing this misinformation?" The answer is "only ALCOA, Kaiser and the Aluminum Association know for sure". A further related question is "How long will it be before they recognize and acknowledge their errors and correct their literature?" I do not believe that the presidents of ALCOA and Kaiser Aluminum are consciously sanctioning this deplorable wholesale broadcasting of misinformation. While I am certain that they would like to increase their sales of aluminum cans, I simply am not convinced that they are so irresponsible that they would knowingly engage in this kind of misrepresentation. In this post Watergate era, responsible corporate citizens simply cannot afford to deal with anything other than fact. My conclusion is that those at the head of these corporations simply do not know the truth about what their companies are distributing.

Therefore, I urge each of you to write the president and other responsible executives of these companies and ask them what the sources are for their literature. Tell them you do not believe the statements made in their releases and pamphlets can be substantiated and ask them to review them. The reason why the ALCOA pamphlet got changed from the 90% to the 52% beverage container litter increase was that Hugh Considine, president of National Can was informed that the information stating that there was a 127% beverage container litter increase which he was providing to his stockholders was inaccurate. He promptly ordered a change made. A new release was issued on August 11, 1975 by National Can. However, they still didn't get their facts straight, since they were still incorrectly showing an increase rather than the decrease which actually occured. In October, 1975 ALCOA changed their pamphlet to coincide with the National Can position.

Please join with me in this effort to convince the businesses who are engaged in fighting the container refund concept to at least use a factual base for their arguments. I plan to enter into a dialogue with their executives and I urge you to join me. Should you find new examples of gross misrepresentations I would welcome your sending me a copy of your letter.

I am convinced that the truth will ultimately be understood. Container refund legislation points the way to the future. The Oregon Experiment has proven that a financial incentive to return a container results in increased sales in refillable containers and it helps bring the container back. Refillable containers with Oregon's return rates permitted Oregonians to save 1.4 trillion BTU's in 1974. This is equivalent to the annual energy savings to provide the annual home heating needs for 50,000 Oregonians heating with natural gas.

This source reduction concept and others like it must be substituted for the use-it-once, throw-it-away philosophy which has becomes all too prevalent. If we permit experiments such as Oregon's bottle bill to flounder after their successful introduction simply because half-truths and misinformation muddy the water, or society's options for solving the very real energy and resource crisis which confront us are greatly reduced. We must not let that happen. Oregon's bottle bill is a small but important step towards showing the ways in which we kick the excessive energy consumption habit. We cannot afford to let the success of container refund legislation which has been so impressively demonstrated here in Oregon slip through our fingers.

HAMPSON & BAYLESS,
Portland, Oreg., June 25, 1976.

DEAR SENATOR: I am writing this letter to request that you support Amendment Number 1944 (Beverage Container Reuse and Recycling Act), to Senate Bill 2150 (Solid Waste Utilization Act of 1976).

I was one of the authors of Oregon's Bottle Bill and one of the individuals who helped lobby it through the Oregon Legislature in 1971. It was with great pride that I can tell you that the law does work here in Oregon.

The success of the law has been so dramatic that it is seldom that one sees a can or bottle along the highways of Oregon, on our beaches or rivers. I recently drove from Portland to Boston, and was startled at the difference between the highways of Oregon and those of the rest of the country.

The bill has been a great success here, although there has been much publicity to the contrary. One has merely to come to Oregon to see this startling difference. Not only is the Bill successful in reducing the litter, but likewise it has changed the method by which beer and soft drinks were distributed in Oregon from a one trip throw-away container to reusable ones. This has worked great economies, especially in the waste of aluminum cans, raw material for which is imported into the United States. Oregon's Bottle Bill has been a success in every way and is almost uniformly supported by the citizens of Oregon.

I hope that you will see your way clear to support this extremely important Amendment.

Very truly yours,

ALFRED A. HAMPSON.

PLAID PANTRY CONVENIENCE STORES,
Portland, Oreg., June 24, 1976.

DEAR SENATOR HATFIELD: I am writing this letter in support of your amendment to The Bottle Bill legislation.

I am an operator of a chain of convenience stores in Oregon and Southwest Washington. I have some 90 stores in my chain, they are similar to the 7–11 stores in the Washington area.

The Bottle Bill has not caused the havoc in Oregon as the opponents of the bill would have you believe. I am a retailer, the person who this type of legislation is supposed to hurt. Opponents of the Bottle Bill will tell you that retail sales will go down with a Bottle Bill. They will tell you that prices will go up and that there will be massive unemployment. None of these things have happened to me or any other retailer that I know of in Oregon.

Sales of beverages affected by the Bottle Bill in our stores are as high today as they were before the Bottle Bill became law. I do not know of one customer who has walked out of one of our stores because of the type of packing we offer for sale and we have over 500,000 customers who shop our stores every week.

Prices have not gone up because of the Bottle Bill. The customer has always paid a higher price for the convenience of the one-way container. Prices in our Oregon stores are lower for the returnable container than for the same product in the one-way container in our Washington State stores. Opponents of the Bottle Bill are not telling the truth when they tell people that prices will go up.

Oregon has not seen a massive unemployment because of the Bottle Bill. There may have been a shift from one type of job to another, but even this is not as bad as opponents of the Bottle Bill will tell you.

The Bottle Bill is working in Oregon. A drive through our state will prove this at first glance. Every grocer I know claims that they are buying back as many if not more empty containers than they are selling. If this is true, which it is in our stores, how can people still be littering?

Opponents of the Bottle Bill are creating a scare in every retailer in this country by telling them untruths about the Bottle Bill. I have traveled all around the United States and I have heard the testimony given by opponents and I am shocked by the propaganda they are spreading.

I consider myself a good businessman. In the retail business you have got to be good to survive. I am also concerned about our environment. The Bottle Bill has not hurt our business. The Bottle Bill has helped our environment. It is good legislation. If people could just be told the truth about how well it works, I am sure that they would be for it.

Sincerely,

JOHN PIACENTINI.

[From Environmental Action Foundation]

ALL'S WELL ON THE OREGON TRAIL

A REFUTATION

In late 1975 the Aluminum Company of America (Alcoa) produced the pamphlet *Trouble on the Oregon Trail*. This publicity piece which angered environmentalists across the country is an effort to convince citizens and government representatives that the bottle bill in Oregon is a failure. Alcoa would have us believe that Oregon's litter has increased since passage of the bottle bill and that the bill is causing serious economic problems.

The truth is that Oregon's experience has been almost entirely positive. Increased employment, reduced consumer costs, less litter, lowered energy consumption and improved quality of life have all followed the law. Let's look at the facts.

"A RIP ROARING SUCCESS!"

Oregon's bottle bill became effective in October 1972. Under the law, all carbonated beverage containers (cans and bottles) carry a refund value. Dealers are required to pay a refund for any container they stock in that particular type and size. Soft drink and beer cans with detachable pull-tab openers were banned. Certified containers which can be reused by different bottlers carry a 2-cent deposit rather than the usual 5-cents.

The constitutionality of the law was challenged in Oregon courts and upheld. Oregon's ex-governor Tom McCall refers to it as a "rip-roaring success!" And polls have shown that 91% of the consumers in Oregon favor the bill.

LESS LITTER UNDER THE LAW

Alcoa presents a chart entitled "Last of the Oregon Litter Counts" in which they compare the average number of litter items found during the summer of 1973 (the first year after the bill) to the average number found in the following year. This chart shows a 52% increase in beverage container litter.

Alcoa draws its figures from a study prepared by George Wagner (an independent consultant) of the Oregon Highway Department's litter counts. Wagner's data has been found to be "inaccurate" for many reasons by the U.S. Environmental Protection Agency (EPA). In his study Wagner compared a significantly under-estimated recount of litter for the first year after the bill was passed to an over-estimated litter count for the second year.

Furthermore, EPA has stated that "since litter data is available for the entire three-year period (before enactment, first and second year after) it is not necessary, nor is it advisable to depend upon a comparison for one three-month period in two successive years after the law's enactment . . .", as Alcoa has done in its chart.

According to EPA, the Oregon Environmental Council's study of the highway department litter collection, "provides the most complete and reliable information on the impact of the bottle bill on litter in the State of Oregon."

LITTER COUNT DOWN

	Before	After Count	After Percent reduction from before
Deposit containers	2,829	2,099	26
Throwaway containers	19,810	1,649	92
Total containers	22,639	3,748	83
Other litter	56,605	44,862	21
Total litter	79,244	48,610	39

Note: Don Waggoner, Oregon's bottle bill, 2 years later.

There were twice as many returnables sold after the bill than before and yet there was a 26% reduction in the number of returnables found in litter. And, the 83% reduction in total beverage container litter after two years of the law is most significant.

Alcoa would like to give credit for any litter reduction to an "all out effort" made by citizens and government in Oregon and not to the bill.

Alcoa claims that the state highway department quadrupled expenditures on litter clean-up. In fact, funds expended by the highway department on litter clean-up have remained almost constant from 1970 to 1974.

Alcoa's figures on litter citations are also misleading. They use figures which include citations for recreational vehicle sewage, stream pollution and boat violations.

Alcoa also refers to "hundreds of young people" on patrol picking up litter in Oregon as a possible explanation for litter reduction. They refer to the Youth Litter Corps, SOLV (Save Oregon from Litter and Vandalism) and KOL (Keep Oregon Livable). These programs could not have had any effect on state litter surveys. The state surveys took place on 30 randomly selected one-mile sections of highways which were surveyed and picked-up early each month. No other litter crew was permitted to clean these test sections.

The fact that beverage container litter decreased by 82% in the first two years of the bottle bill while other litter only decreased by 21% shows that the bottle bill with its financial incentive has been more effective than general anti-litter programs in Oregon.

Trouble on the Oregon Trail states that bottle bills do not ". . . even propose to deal with all the sources of litter." This is true. The bottle bill in Oregon does not attempt to deal with gum wrappers, cigarette butts or any other types of litter except beer and soft drink containers. However, the results of a survey conducted in three Oregon cities before the bill took effect showed that beverage containers comprised 56% by volume of all littered items. They are the most visible and the most dangerous portion of litter.

The container industry is fond of using "piece-count" litter surveys in order to prove that their products do not represent a large portion of litter. Piece-count surveys often include non-manmade items, such as dead animals, leaves and twigs. Such surveys give every item the same value, implying that a gum wrapper is as much of an eye sore as a can or bottle.

BOTTLES AND CENTS

Earnings.—Alcoa claims "earnings were down." They are referring to beverage industry earnings which they claim were down by $7 million. Alcoa's data came from a study prepared by Applied Decision Systems (ADS), a Massachusetts consulting firm. Alcoa erroneously calls the ADS report "Oregon's official study." Although ADS was paid by the state for their study, its conclusions have not been endorsed or supported by the state.

Another study prepared by Professors Gudger and Bailes of Oregon State University (OSU) found that business experienced a $4 million increase in operating revenue after the bottle bill, included is the substantial saving to malt brewers and soft drink bottlers who no longer found it necessary to buy as many cans and bottles.

Consumer Prices.—Alcoa asserts that consumers in Oregon are paying more for beer and soft drinks due to the bottle bill. However, both ADS and OSU conclude that although some beverage prices have increased there is no reason to attribute any price rise to the law. Beer and soft drink prices in Oregon remain comparable to prices in neighboring Washington where there is no bottle bill.

Sale.—In claiming "sales were down", Alcoa states that sale of private label and warehouse soft drinks dropped 40%. Private label and warehouse soft drinks are the "house brands" which comprised only about 20% of the market before the bottle bill. These beverages were packaged almost entirely in the throwaways.

ADS found no change in soft sales for the first two years of the bill.

It is true that most stores in Oregon no longer carry as many brands, or as many different kinds and sizes of containers as they did before the law went into effect. But every major domestic beer, and most foreign beers remain on the market. ADS surveyed Oregon containers and found that only 7% thought the bottle bill had limited their choice of soft drink brands. In addition only 4% expressed negative sentiments toward this brand limitation.

Costs.—Stating "costs were up," Alcoa refers to the capital investments paid by industries to switch from throwaways to returnables. This is true but it should be remembered that capital investments were also required when industry switched from returnables to throwaways in the first place. In addition, these extra investment costs are invariably passed on to consumers and do not necessarily constitute a loss to industry.

Employment.—Alcoa cites job losses ranging from 165 to 227 in the first year of the bottle bill. This information came from ADS.

Alcoa neglects to report that since ADS received little co-operation from retailers, the extensive job gains in retail operations were not calculated. ADS did estimate that there was an addition of a "potentially large number of jobs and overtime hours in retail stores . . ." as a result of the bill.

OSU went into employment impacts in more detail. They found that 350 jobs were gained for truck driving and 575 jobs gained for warehouse and handling giving a balance of 365 additional jobs. They also noted additional employment increases for industries supplying new capital for returnables, such as machinery and trucks.

Small Businesses.—It is true that storing and handling returnables can create some problems for retailers but grocers can pass on increases in handling cost to the consumer. Innovations such as the interchangeable "stubby" bottle are making the returnable system more convenient for retailers. The "stubby" is being refilled by all brands of beer interchangeably and its standard size and shape make it easy to stack and handle.

There is no Oregon store, large or small, that has gone out of business as a result of the bottle bill.

Alcoa claims that eight of Oregon's 29 bottlers have sold out within two years of the bill. This is proportional to the number of independent small bottlers selling out to large concerns nationwide, regardless of legislation: It should be noted that selling out is different from going out of business. No bottling plant in Oregon has shut down since the bottle bill was passed.

WHAT ALCOA DIDN'T TELL US

In addition to litter reduction, Oregon has experienced other environmental benefits from the bottle bill.

Energy—Don Waggoner of the Oregon Environmental Council has estimated that Oregon is saving approximately 1,400 billion BTU's each year as a result of the law. This is equivalent to the gas used for home heating by approximately 50,000 people in Oregon annually.

Solid Waste.—The OSU study concluded that Oregon has experienced a significant reduction of beverage containers in garbage. Before the bill's enactment, 436,922,500 soft drink and beer containers contributed to Oregon's solid waste every year. After the bottle bill only 51,433,400 containers per year became waste—a reduction of 88 percent.

PROMISING ALTERNATIVES

It's no surprise that Alcoa suggests resource recovery technology and the Action Research Model from Keep America Beautiful (KAB) as alternatives to bottle bills.

KAB's Action Research Model (ARM), which Alcoa wholeheartedly endorses, is another attempt to draw public attention away from the materials and energy wastefulness of throwaway containers.

KAB's approach is two-pronged. First: convince the public that the only problem with containers is litter and since cans and bottles make up only a small percentage (they use piece-count litter surveys), bottle bills do not help litter reduction. Second, convince the public that litter reduction is achieved by programs such as ARM. They do not, however, show any concrete evidence that ARM is working.

Represented on the Board of Directors of the National Center for Resource Recovery are most of the same corporations that make up KAP—including Alcoa. Resource recovery is a high technology, expensive process of recovering materials and/or energy from solid waste. Although it is a technology that is still in the experimental stage, great hopes are seen for it in the future.

Oregon believes that there is no inherent conflict between their bottle bill and resource recovery. The Oregon State Solid Waste Management Plan, in its effort to achieve 90 percent recovery by 1982, includes the building of at least a half dozen resource recovery facilities.

There is no trouble on the Oregon Trail—but there is a great deal of misinformation. For more facts contact: Environmental Action Foundation, 724 Dupont Circle Building, Washington, D.C. 20036.

[From Sierra Club Bulletin, July/August 1976]

OREGON'S BOTTLE BILL WORKS!

(By Nancie Fadeley)

Contrary to widely circulated rumors, we still drink beer and pop in Oregon, having found that they are just as refreshing in returnable containers as they were in the nonreturnables that used to litter the state.

Consumpion of these beverages has continued to increase since October 1972, when the Oregon "bottle bill," which requires a deposit on all beer and soft-drink containers sold in the state, became law. The only pattern the Oregon Liquor Control Commission can find in the fluctuation of beverage sales relates not to the availability of returnable or nonreturnable containers, but to weekend weather: the hotter the weekends, the higher the sales.

Only once since the initiation of the bottle bill have sales dropped below the pre-nonreturnable era. That was in December 1972, a time distinguished by distinctly non-beer-drinking weather. Beer sales in Oregon dropped almost thirteen percent that cold December; at the same time, the neighboring state of Washington—which has no bottle bill—experienced a *twenty*-percent drop in beer consumption.

Sales figures for soft drinks are harder to obtain because the Oregon Liquor Control Commission doesn't keep track of them, but available information suggests that consumption of carbonated beverages in Oregon continues to follow national trends.

Consumers benefit when they don't have to pay for nonreturnable containers. Gloomy forecasts that the bottle bill would cause prices to soar have proved to be incorrect. A bottle of pop does cost more in Oregon today than in pre-bottle-bill days—it also costs more in Washington, Idaho and California. Prices in Oregon are comparable to, or lower than, prices across state lines. Contrary to the insistence of the anti-bottle-bill lobby, which spends an estimated twenty million dollars annually to fight the spread of the bottle-bill idea, inflation and the soaring costs of sugar, not the bottle bill, have caused beverage prices to rise.

Forecasts that the bottle bill would hurt Oregon's economy also were wrong. In a study of the economic impact of the legislation, Charles Gudger and Jack Bailes, professors of business administration at Oregon State University, found that although some jobs were lost, twice as many were created. The emphasis has been switched from manufacturing new containers to handling, recycling and refilling old ones—a turn from energy-intensive to labor-intensive activities.

The Oregon AFL-CIO, which opposed the bottle bill when it was introduced in 1971, no longer fights it. There have been no attempts at repeal. Instead, there is considerable talk about expanding the bottle-bill idea to other containers.

Bill Wessinger, who heads Oregon's major brewery, Blitz-Weinhard, has become one of the bottle bill's most enthusiastic supporters. "We haven't bought a new bottle since the bottle bill began," he said. Blitz refills returned bottles—ninety-six million a year—and passes some of the savings on to retailers to cover increased handling costs. Blitz isn't the only brewery to find that new beer is fine in old bottles. Others in the Northwest immediately discovered the savings resulting from reuse. Recently, Budweiser—bottled in Los Angeles—has begun paying a premium price for returnables, trucking them a thousand miles south for refilling.

In spite of inflation, little pick-up costs in Oregon have not increased since pre-bottle-bill days; roadsides and recreation areas, while not immaculate, no longer look littered. Vacationing Oregonians return with reports that they are startled to see litter along roadsides in other states. Tourists vacationing in Oregon seem just as startled by the lack of litter and frequently write the governor to ask what secret method the state has for keeping its roadsides so clean.

Opponents of bottle bills in other states have played with Oregon's litter-count figures in an attempt to discredit such legislation as a way of reducing litter. They have been unwittingly assisted by the poor way in which the state's litter surveys were done. For example, some crews counted even twigs as litter; others did not distinguish between milk containers, which have no deposit, and beer bottles, which do. Another factor complicating before-and-after counts was the publication of which sections of highways were being monitored. Later, other sections had to be selected in order to avoid possible tampering which would affect results. Worst of all, it was only after the litter surveys were under way that those in charge realized that the total volume of litter was a more significant measure than the number of pieces. (A cigarette butt, for example, should not count the same as a beer bottle.) Other complications involved construction activities, snow cover, delayed pickup dates, and discrepancies between counts in the field and those conducted at headquarters.

Nevertheless, analysis of reliable data shows significant decreases in beverage-container litter (by far the most conspicuous kind of roadside litter). Indeed, Oregon's roadsides look cleaner than those of other states. Comparisons of Oregon litter counts with those of neighboring states further confirm the value of the bottle bill in reducing litter.

Oregonians have also begun to realize that the bottle bill is energy legislation of the best sort: it takes less energy to recycle or reuse a container, even when it is shipped to Los Angeles for refilling, than it does to make a new one. At a time of increasing world shortages of various resources and commodities, the bottle bill provides a model for the kind of constructive legislation we can enact today. Last year, when home-canning jars were in short supply, America produced—and threw away—8.5 *billion* disposable soft-drink bottles, plus billions more for beer. At the same time, industries are threatened with shortages of aluminum, as well as the energy necessary to produce aluminum products, even as throw-away cans continue to fill up America's landfills—another limited resource.

Ask any Oregonian and you'll learn that the Oregon bottle bill is the most popular piece of legislation ever enacted in the state. Young and old, indoor and outdoor types, liberals and conservatives—all know about and like to talk about the bottle bill. So much citizen awareness about a piece of legislation is truly unusual.

Recently, a survey was taken of 601 Oregonians to discover consumer attitudes about the bottle bill. Even though this survey began by pointing out objectionable features, such as the bother of returning features, such as the bottling of returning containers and of paying deposits, ninety-one percent of those responding were in favor of the law. Only five percent of those questioned had any unfavorable reactions at all, and only two percent expressed outright opposition. Other public-opinion surveys reveal similar support.

Oregonians' enthusiastic endorsement of the bottle bill is a clear refutation of industry's insistence that Americans demand throwaway packaging. The returns from Oregon indicate that perhaps Americans have embraced the throw-away ethic largely because industry has not offered opportunities for return and reuse.

There is not a single Oregon politician who doesn't boast of his or her support for the bottle bill. Former Governor Tom McCall (a Republican) calls it "a rip-roaring success." Governor Robert W. Straub (a Democrat) has said, "Most Oregonians just wish it went further."

FEDERAL ENERGY ADMINISTRATION STUDY

Mr. HATFIELD. Mr. President, on October 1, 1976, the Federal Energy Administration released its long-awaited report on the energy and economic impacts of a national returnable beverage container system similar to the legislation I am introducing today. The results and conclusions contained in this study are very encouraging.

It is reported that cans will continue to have a significant share of the market in beverage containers and that there will be significant reduction in materials use and energy consumption. Based on a return rate of 10 trips for refillable bottles—and it is conceivable that the rate could be higher as has been the case in Oregon—we could save about 81,000 barrels of oil daily by 1982, which is about 44 percent of the total energy that will be used by the entire beverage container industry.

An increase of 156,000 jobs is forecast primarily in distribution and retailing, along with a decrease of about 38,000 jobs in the container and metals industry, leaving a net increase of about 118,000 jobs. This is a 32 percent increase in total employment for beverage-related industries. Total labor income would increase by $829 million or 22 percent, according to the FEA.

These labor statistics corroborate the experience we have had in Oregon with our own deposit law, and present favorable prospects of success for a national law. Returnables can and do work .The FEA study bears this out. I now refer my colleagues who expressed interest in seeing more studies prior to implementing a law of this kind to the executive summary of the FEA report which I ask be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENERGY AND ECONOMIC IMPACTS OF MANDATORY DEPOSITS

(Figures do not appear in the RECORD)

EXECUTIVE SUMMARY SEPTEMBER 1976

Acknowledgments

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Tayler H. Bingham, RTI, was the project manager for this study. Working with him were Bun Song Lee, Paul F. Mulligan and Philip C. Cooley. Franklin Associates, Ltd., was a subcontractor. At Franklin Associates, William E. Franklin, Robert G. Hunt and Marjorie A. Franklin were primarily involved. Personnel at Franklin Associates were responsible for the materials presented in appendixes D, G, H, I and parts of appendix M.

Morris J. Zusman, Federal Energy Administration, was project officer. Michael Loube, also of the Federal Energy Administration, assisted in the review of this study. Their interest, guidance and critical reviews are very much appreciated.

Many individuals in other government agencies, industry, labor organizations, environmental groups, and in research provided important data, insights and reviews of both the methodology (at an early meeting at RTI) and/or critical reviews of the draft version of this study. Their efforts are very much appreciated. Likewise, we owe a debt to other published studies of this issue which also were important sources of data.

1.0 Overview

The subject addressed by this study is the impact of proposed mandatory national beverage container deposit legislation—commonly referred to as "bottle bill" legislation. The study examines specific impacts that the imposition of a 5-cent refundable deposit on all beer and soft drink containers (refillable bottles, nonrefillable bottles and cans) would have on the total beverage related industry.

The study is not a comprehensive cost-benefit analysis of mandatory deposit legislation, but rather examines three major areas of potential impact. These impact areas are 1) changes in annual energy consumption, 2) changes in capital investment requirements (in terms of fixed plant and equipment), and 3) changes in labor requirements (in terms of jobs and earnings). These impacts are developed for those industries in the total beverage system that would be most affected by changes caused by a mandatory deposit. The industries included are: retailers, beverage producers and distributors, container manufacturers, and producers of basic steel and aluminum.

It is important to recognize at the outset that this legislation would not ban any specific container type. Rather, it would create an incentive for consumers to return all types of empty beverage containers for a deposit refund. However, the response of consumers to the deposit incentive (and its requirement to bring containers back) is expected to cause shifts among the types of containers sold.

To develop the potential impacts, the report first projects energy, capital and labor requirements of the beverage industry assuming no deposit legislation is passed. These baseline projections are then compared to projections of what might happen after a deposit law. Results are reported for a 1982 steady-state situation, assuming that: 1) a law would be implemented in the late 1970's and 2) by 1982 transitory effects will have been dissipated.

2.0 Organization

The report is composed of a summary, three primary chapters and 13 supporting appendices.

Due to the controversial nature of this subject an early draft version of this study was sent to various individuals—in other government agencies, industry, labor, environmental groups, research, and to other knowledgeable and interested persons—for critical review and comment. Their comments and suggestions have been incorporated whenever possible in this final report. For the interest of the reader, these extensive comments have been printed verbatim in Appendix L of the study. Specific questions and issues brought out by these comments are addressed in Appendix M. For any reader not fully aware of the controversy this issue has generated, we suggest a close reading of these appendices.

3.0 Approach

The impact of a deposit law depends primarily on two factors: the *technical* interrelationships between container types and their respective requirements for energy, capital and labor; and the *behavioral* (market) responses of producers and consumers to the deposit incentive to return the empty container.

Data does exist to estimate the energy, capital and labor requirements of the beverage container system as a function of the total beverage consumed in each specific type of container (based on a specific trippage of refillable bottles and return rate of cans). This study has identified and measured the technical requirements associated with the production and use of each container type. This was done starting with mining the raw materials and continuing through manufacturing, use and disposal of the container, including a loop for recycling of reuse as appropriate.

The behavioral/market response determines the extent and direction of any impact caused by a deposit law. Unfortunately no data exist to predict with any degree of accuracy what the market response to a deposit law is likely to be. However, it is assumed that under a deposit system the market share represented by nonrefillable bottles will fall to zero since, to the consumer, there is no intrinsic difference between a one-way bottle or a refillable bottle when both have an associated deposit. Because cans, on the other hand, are intrinsically different from bottles, being lighter weight, easier to stack and not subject to breakage, it is believed that cans will continue to have a significant share of the market.

What has been done is to establish a set of parameters from which many possible market responses can be evaluated. Three parameters essentially capture the total behavioral market response. These are: the can market share, the can return rate, the refillable bottle return rate, proportion of containers returned or trippage. Each scenario of possible market responses can be described by a unique set of parameter values.

4.0 General findings

The continuation of current trends in the beverage industry without the imposition of a deposit law will mean that in 1982, the base year for which impacts are examined, that the production and distribution of beverage will require 383 x 10^{12} Btu's of energy (about one-half of one percent of the Nation's total energy consumption), $7.3 billion in capital investment, and 369,000 jobs yielding $4.1 billion in labor earnings.

A deposit law could change these projections since the refillable bottle system, when the bottles are returned, is a comparatively labor and capital intensive system; the nonrefillable bottle and can systems are relatively materials and energy intensive. Therefore, any market shift toward refillable bottles with the bottles returned would tend to reduce materials and energy usage while increasing capital and labor requirements. Shifts toward non-refillable bottles and cans would tend to have the opposite effects. The increased usage of recycled materials or increases in refillable bottle trippage would tend to reduce the amount of materials required and conserve energy resources for the total beverage system. Over time technological innovations are reducing per-unit energy, labor and material requirements for all container types. The parametric curves displaying the potential impacts of the deposit legislation have these innovations embodied in them. Beyond these general statements the impact of a deposit law will depend on the extent and direction of the behavioral response.

5.0 Parametric relationships

Figures 1 through 5 present the three impacts examined in the study: figure 1, energy; figure 2 capital; figures 3, 4 and 5 labor. Because the impacts are not identical for beer and soft drinks, the impacts are presented for each beverage. To obtain the total impact of beverage container legislation the impacts for beer and soft drink must be added together. The curves are all parametric, showing the impact as a function of the can market share and the container return rate. In order to minimize the number of curves that would have to be displayed, the bottle and can return rates have been assumed to be identical. The subsequent paragraphs discuss the rational for this assumption.

Figure 1 presents the net energy impacts of the beverage container legislation. This figure can be read, as all the other impact figures, by selecting a can market share and a container return rate. The figure is entered on the x (horizontal) axis at the can market share assumed after a deposit law is passed. A vertical line is projected until it intersects with the container return rate selected. A horizontal line is projected from the intersection point to the y (vertical) axis to read the impact. Figure 1, as all the impact curves, shows what the estimated 1982 can market share is projected to be without a deposit law. The numbers (1) and (2) on the curves correspond to two illustrative scenarios (discussed below) that are used as a means to aid the discussion in subsequent paragraphs.

The wide range of impacts at the extremes of the possible market responses points out one reason why this legislation has been so controversial. Figure 1 shows that under differing scenarios the energy impact could be either positive or negative. At one extreme, if all consumers switched to refillable bottles (a zero can share) and discarded them (a zero return rate) energy consumption would increase by 322 x 10^{12} Btu annually or 155,000 barrels of oil equivalent daily. (This value is obtained by entering figure 1a (the beer panel), at the zero can share point and the zero return rate reading 100 Btu x 10^{12} on the y axis and adding it to the 220 Btu x 10^{12} that is read in a similar manner from the soft drink curve). At the other extreme, if all consumers switched to refillable bottles and always returned them, energy consumption would be reduced by 292 x 10^{12} Btu annually or 141,000 barrels of oil equivalent per day.

Neither extreme is realistic. If all refillable bottles are discarded, producers would find it cheaper to package in one-way containers because unless refillable bottles are returned several times, they are more expensive to use. The other extreme is also unrealistic since some bottles will be broken or chipped and some consumers will not return bottles under any circumstances.

The format for figures 2 through 5 is similar to that for figure 1. In figure 2 the net change in the value of the capital stock for each post deposit law can market share—container return rate combination is shown. Figure 3 presents the net aggregate employment impacts.

Because jobs are gained in some industries and lost in others, aggregating the industries, as was done in developing figure 3, masks the impacts on the individual industries. Therefore, figure 4 presents the net employment impacts disaggregated into each of the six industries considered: glass container manufacturers, can manufacturers, steel manufacturing, aluminum manufacturing, beverage production and distribution, and retailing. These impacts are presented only for the extreme return rates; both beer and soft drinks are shown in the same panel. It is assumed that workers within any industry are substitutable, for example, the same worker can make a one-way bottle or a refillable bottle. In one case, 4f retailing, employment is insensitive to the market shares and only sensitive to the return rate. Figure 5 is the complement to figure 3. It shows the net aggregate impact on earnings.

6.0 Illustrative scenarios

This study uses two illustrative scenarios to indicate how to use the parametric curves. The scenarios were chosen to avoid extreme values and provide the reader with two complete estimates of the impact of a deposit law that fall within the broad range of what can be considered to be a reasonable behavioral response to beverage container legislation. However, the reader is again reminded that figures 1–5 provide the vehicle for examining the impact of any scenario.

To place the behavioral responses assumed for the two illustrative scenarios into perspective, and to allow the reader some insight for making his own assumptions, a few observations are first in order.

6.1 Key behavioral parameters

(1) Refillable Bottle Return Rate—Currently this rate is about 0.9 or ten trips per bottle. It has declined over time. When the refillable bottle was the primary container, trippage rates of 30–40 were reportedly obtained. Two offsetting factors have to be evaluated to estimate the impact that a deposit law would have on trippage. First, since all stores would accept bottles back under a deposit law the ease of returning the bottles would be greatly increased thus suggesting a higher trippage. Second, present one-way container purchasers who switched to refillables might still be inclined to discard them which would argue for lower trippage. The assumptions chosen for the two illustrative scenarios, continuing today's trippage rate or reducing trippage by half seem to fall within a reasonable range of expected outcomes after a deposit law is in place.

(2) Can Return Rates—In most of the nation there currently are collection centers for the recycling of aluminum cans. Aluminum can collection centers, offering three-fourths of a cent per can, today receive approximately 25 percent of all aluminum beverage cans sold. The aluminum industry projects this rate to continue increasing rapidly in the future years. In the state of Oregon, which has a deposit law, about 70 percent of all cans are returned.

Under a national law the can return rate will depend on a number of key factors. Since individuals currently purchasing cans generally value the convenience of immediately discarding the container, low return rates would be obtained if this behavior continued. However, from a convenience standpoint, cans should be easier to return than bottles, since they are lighter and require less space. In addition, since cans may be returned even in a damaged condition, it will be relatively easy for scavengers to collect cans from waste or litter. Thus, while it is possible that a greater proportion of cans than bottles would be discarded by the initial consumer, it is also possible that the can return rate could be higher than the bottle return rate. With this background,the assumptions used in the illustrative scenarios—80 or 90 percent returns—seem to fall within a reasonable range of future (1982) expectations. Any return rate from zero to infinity can be found using the parametric curves. However, the parametric curves presented in the study tie the can and bottle return rates together, under the assumption that the consumer or scavenger will generally return either container at approximately the same rate.

(3) Can Market Share—By 1982 the can market share is projected to be 59 percent. With the imposition of a deposit law, and the likely (and assumed for this report) demise of nonrefillable bottles, the can market share could either rise or fall. Nonrefillable bottle consumers may switch to purchasing cans. This could lead to continued growth in can sales. In addition, since can makers and beverage producers currently have a large capital investment in equipment dedicated to handling cans, the bulk of which cannot be shifted to other uses, they will no doubt face significant incentives to maintain the can as a competitive container in the beverage market. Arguing for a lower can share is the fact that the imposition of a deposit will require can consumers to incur either some new inconvenience by returning cans or dispose of the cans, thus forfeiting the deposit and paying a higher price. This might lead to reductions in the can market share. However, since consumers perceive cans as having some unique attributes (safer and lighter than bottles), total or near total elimination of the can will probably not occur.

Based on the foregoing it has been assumed in the two illustrative scenarios that the can volumes stop growing after legislation; for scenario 1, can sales fall to the 1976 can volume, while for scenario 2 can volume falls to half the 1976 level. This represents a decline of 29 and 65 percent respectively from the projected 1982 levels without a deposit law. In any event, using the parametric curves any can market share from zero to 100 percent may be examined.

6.2 Technical reasons for impacts

In developing any particular scenario (the two scenarios used are illustrative) the reader must keep in mind the basic assumptions used in this study. These are:

1. Beverage markets are reasonably competitive.
2. Cans and botles will be returned at the same rate.
3. The current prices of beer and soft drinks by container reflect the actual costs of each plus a normal return on investment.
4. The relative shares of the can market for steel or aluminum containers will be unaffected by the imposition of a deposit law.
5. The market share represented by nonrefillable bottles will fall to zero after a deposit law.
6. All returned containers will be either recycled or reused, as appropriate.

Combining thes assumptions and the specific behavioral responses assumed for the illustrative scenarios yields the following results (table 1 presents the complete results).

6.3 Illustrative scenario 1

Behavioral Response Assumed: The 1982 quantity of can sales equals 1976 can sales; cans and refillable bottles are both returned at a rate similar to the current average return rate for refillable bottles; 0.9, for refillable bottles (this return implies a trippage of 10 for refillable bottles). Using the parametric curves, the resulting impact of these assumptions on energy, capital employment and labor can be found.

Energy: Consumption would be reduced about 168 x 10^{12} Btu annually or 81,000 barrels of oil equivalent daily, compared with 1982 projections of energy use without deposit legislation. This savings is equal to 44 percent of the energy that would have been used by the beverage industry.

Capital: Requirements would be increased by $824 million. This is an increase of 11 percent over capital needs without deposit legislation.

Labor: Employment increases of 156,000, primarily in beverage distribution and retailing, and decreases of 38,000 in container and metals manufacturing for a *net* increase of 118,000 jobs. This represents an increase of 32 percent in total employment for the beverage related industries. Total labor income increases by $879 million or 22 percent. This smaller income gain is due to the slight reduction in average earnings per employee since the jobs gained are generally

less skilled and lower paying than those in the original job structure.

6.4 Illustrative scenario 2

Behavioral Response Assumed: The 1982 quantity of can sales falls to one-half of the 1976 sales level; cans and refillable bottles are both returned at a 0.8 return rate (this implies an equivalent trippage of five about one-half the current refillable bottle trippage rate).

The parametric curves, can be used to determine the impacts of this illustrative scenario. The results are displayed in table 1.

TABLE 1.—SUMMARY OF THE NET ENERGY AND ECONOMIC IMPACTS OF MANDATORY DEPOSITS: ILLUSTRATIVE SCENARIOS, 1982

	1982 baseline value	Scenario 1 (canned beverage sales equal to 1976 value; container return rate of 0.9)**	Scenario 2 (canned beverage sales equal to ½ of 1976 value; container return rate of 0.8)*
Beverage consumption rate, 10^9 ounces annually	1,893.5	−3.6	−3.5
Container production rate, 10^9 units annually	90.6	−33.6	−48.6
Glass containers	18.0	−12.2	−1.6
Refillable	2.4	+3.4	+14.1
Nonrefillable	15.7	−15.7	−15.7
Cans	72.5	−21.3	−47.0
Steel	42.0	−12.8	−27.5
Aluminum	30.5	−8.4	−19.5
System energy requirements,* 10^{12} Btu annually	383	−168	−144
System capital requirements,* 10^6 dollars	7,303	+824	+2,006
System labor requirements:*			
Net employment, 10^3 jobs	369	+118	+117
Jobs gained	NA	156	166
Jobs lost	NA	38	49
Labor earnings, 10^6 dollars annually	4,080	+879	+936

*Major direct and indirect industries.
**The values reported in this column represent deviations from the baseline trends reported in the 1st column.
NA—Not applicable.

Source: Research Triangle Institute.

Energy: Consumption would be reduced by 144 x 10^{12} Btu annually, or 70,000 barrels of oil equivalent daily.

Capital: Requirements would be increased by slightly more than $2 billion.

Labor: Employment increases by a net 117,000 jobs (increases of 166,000 jobs and decreases of 49,000). Total labor income increases by $936 million.

The impacts described have their basis in the assumptions and behavioral responses assumed. The following short discussion represents the reasons and logical format that yield these results. This same process should be followed to examine and evaluate the impacts obtained from any scenario taken from the parametric curves.

Energy—In the case of the illustrative scenarios, energy savings are due to the increased use of refillable bottles and in the recycling of cans. Reuse of bottles avoids the raw material extraction and processing stages of production, as well as the materials and container-fabrication stages. Energy savings are also obtained from recycling metal since recycling bypasses the raw materials extraction and processing stages and lowers energy needs in the refined materials processing steps. This is of particular significance in the case of aluminum cans.

Capital—In the case of the illustrative scenarios, increased capital needs are due to additional space and handling required to return containers as well as the fact that refillable bottle lines are more expensive per unit of output.

Labor—In the case of the illustrative scenarios, additional labor is required at the retail and the beverage producer and distributor level, both to handle and transport returned containers.

6.5 Sensitivity of results

Although the parametric curves can be used to examine the sensitivity of the impact of a deposit law across the total range of market response, it is convenient to use the two illustrative scenarios to highlight the sensitivity of the impacts to large perturbations in the market response.

With the exception of capital, all of the impacts are inelastic with respect to market responses in the range of the illustrative scenarios. For a 50 percent change in the can share of the market and a 50 percent change in the trippage (the market response changes going from illustrative scenario 1 to illustrative scenario 2), the energy impact changes ony 14 percent, the jobs gained change only 6 percent, the jobs lost change 29 percent, the net jobs gained change 1 percent and the net labor earnings change 6 percent. The major shift is in capital requirements which change 143 percent. There is, however, no *a priori* basis for assuming that that any particular scenario will in fact occur, which is why the parametric curves have been developed, allowing for the identification and examination of other scenarios.

It is apparent that within this broad range of potential market responses the impact of a deposit law on energy and labor is relatively constant.

7.0 Qualifications

In evaluating the conclusions of this research, the reader should keep in mind that the beverage production and distribution system is very complex and that packaging has a critical effect on the system. Any attempt to describe the system in terms of only three markets each for beer and soft drinks (the refillable bottle, nonrefillable bottle, and metal can markets), as is done in this study, is bound to ignore many factors that will influence the final set of impacts obtained if mandatory deposit legislation is enacted on a national scale. Furthermore, the set of impacts analyzed in this study, while it includes some of the more important issues, does not necessarily provide the complete set of impacts required for a comprehensive cost-benefit evaluation of mandatory deposits. Nevertheless, the material presented can provide an important input to an informed decision-making process.

STUDIES IN OTHER STATES

Mr. HATFIELD. Mr. President, several other States have undertaken studies on the beverage container issue. I ask unanimous consent that portions of studies conducted by the Federal Reserve Bank of Boston for the New England area, an analysis of returnables in Maryland, and a similar study for the District of Columbia be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ECONOMICS EFFECTS OF REQUIRING DEPOSITS ON BEVERAGE CONTAINERS

(By Richard W. Kopcke)

Three New England states, Connecticut, Maine and Massachusetts, are now considering legislation to require minimum deposits on containers for soft drinks and beer. Although this type of legislation would clearly produce substantial energy and environmental benefits,[1] opponents claim that these proposals would lead to a loss of jobs and increases in beverage prices. They point out that these states have extremely high unemployment rates and can ill afford any overall loss of job opportunities. Before such legislation is considered, therefore, its potential advantages and disadvantages must be evaluated carefully.

Aside from the impact of beverage container legislation, it is important to note that this is a period of great turbulence in the brewing industry. Recently, for example, several breweries closed in Massachusetts and several moved out of New York City within a *seven*-month period. The causes may be in the recent recession or in the possibility of achieving savings by closing old plants. In any event, these factors have a much greater impact on employment than mandatory deposit legislation for containers.

Since economic analyses have been completed for Connecticut and Maine,[2] this article considers the effects of minimum deposit legislation on employment and retail beverage prices in Massachusetts. The two major conclusions are:

(1) the requirement of a minimum deposit on beverage containers would increase employment opportunities in Massachusetts, although payrolls would decline in certain industries; and

(2) there is very little likelihood that the proposal would produce a noticeable increase in retail beverage prices; in fact, some prices might fall.

The legislation would hurt bottle manufacturers in the state as well as individual bottlers, beer distributors, retailers and can manufacturers. However, the adverse effects of the legislation would be moderated by providing an adequate period of transition for the industries involved, and the benefits would be enhanced if all New England states passed similar legislation.

EMPLOYMENT PROSPECTS UNDER THE MASSACHUSETTS BILL

The proposed Massachusetts legislation (House Bill #4200 of 1975) would require all soft drink and beer containers to carry a minimum refundable deposit (5¢ on small containers and 10¢ on all containers holding more than 32 ounces) after February 1, 1977. A ban would be placed on the sale of cans with detachable metal parts. All stores would be required to accept containers and refund deposits on any brands sold in the store. In turn, distributors would have to accept and pay the refund on their bottles and can on making delivery to the retail outlet.

A minimum deposit law in Massachusetts would shift beverage packaging heavily in favor of returnable-recyclable containers, since only through reuse of the containers could the costs of the return process be recovered. Employment in the manufacture of beverage containers would decline, since fewer new bottles would be required. Employment would, however, increase in the bot-

[1] This article focuses only on the economic impact of mandatory deposit legislation. For a comprehensive analysis of the energy and environmental benefits possible from the reuse of beverage containers which will result from such legislation, see U.S. Environmental Protection Agency, *Resource and Environmental Profile Analysis of Nine Beverage Container Alternatives, 1974.*

[2] Carlos Stern *et al., Impacts of Beverage Container Legislation on Connecticut and a Review of the Experience in Oregon, Vermont and Washington State,* University of Connecticut, Dept. of Ag. Econ., March 20, 1975 and Murrough H. O'Brien, *Returnable Containers for Maine: An Environmental and Economic Assessment,* March 17, 1975.

tling and distributing sectors; and skilled workers would be needed to operate and maintain bottle cleaning machines, additional employees to collect and recycle cans, truck drivers to transport the returned containers, and personnel for the additional warehousing and handling requirements. Employment would also increase at retail stores handling the returns. Table I summarizes the range of possible employment effects of the proposed Massachusetts legislation. The following sections analyze the potential effects on each of these industries.

TABLE I—EMPLOYMENT EFFECTS IN MASSACHUSETTS OF THE PROPOSED LEGISLATION

Industry	Range of employment changes (in terms of full-time positions)	Corresponding payroll changes (thousands)
Metal can manufacturing	(300)– 0	($2,533)– 0
Glass bottle manufacturing	(335)– (425)	(2,828)–($3,588)
Soft drink bottlers and canners	240 – 400	2,372 – 4,064
Malt liquor production	2 – 5	23 – 58
Wholesale beer distribution	180 – 400	1,707 – 3,793
Retail stores	400 –1,000	2,207 – 5,517
Net change	187 –1,380	948 – 9,944

Source: Data on current employment levels from Massachusetts Department of Commerce, 1974–75 Massachusetts Industrial Directory and U.S. Bureau of the Census, County Business Patents, Massachusetts, 1973. The data were adjusted to reflect employment in each firm directly attributable to beverage-related production. In addition, the figures were amended to reflect the closing of the Needham branch of the American Can Co. and the closing of the Piels and Carling breweries. The Owens-Illinois Glass Manufacturing Co. was also added. The range of employment changes was calculated by extrapolating from the Oregon experience as reported in Applied Decision Systems, Study of the Effectiveness and Impact of the Oregon Minimum Deposit Law, State of Oregon, Department of Transportation, 1974, pp. II–43, 131–134; T. H. Bingham and P. F. Mulligan, The Beverage Container Problem, Research Triangle Institute, Government Printing Office, Washington, D.C., September 1972, p. 173; C. M. Gudger and J. C. Bailes, The Economic Impact of Oregon's Bottle Bill, Oregon State University Press, March 1974, pp. 68–69, and Statement to the Oregon Legislature Minimum Deposit Law Study Review Committee, Sept. 12, 1974, p. 16. The figures do not include the positive secondary employment influences in the construction and machine tooling industries. Furthermore, possible employment increases resulting from the development of regional breweries and/or a recycling center have not been included. Payroll changes were calculated by applying the relative ratio of wages in Massachusetts for a particular industry to that in Oregon (U.S. Department of Labor, Bureau of Labor Statistics, Employment and Earnings: States and Areas 1939–72) to reported wage rates in the Oregon studies. These figures were calculated on a disaggregated basis, by individual job function for employees hired after the legislation was adopted. See Applied Decision Systems, p. iii and II–43.

Metal Can Manufacturing. Mandatory deposit legislation in Oregon resulted in a significant shift to refillable bottles instead of cans. Three firms in Massachusetts manufacture metal cans for beverage use, employing 300 people, and if a similar shift in market share were to take place (which we do not anticipate) these jobs would be threatened. The Oregon experience with cans is, however, unlikely to be repeated in Massachusetts for two reasons. First, Oregon provided an incentive for the shift to bottles by allowing a lower deposit for certified, refillable, standardized bottles than for cans. The Massachusetts legislation does not include such an incentive. Second, the Oregon market was only a small segment of the West Coast regional market, and all but 2 of the 11 major brewers supplying the area were located outside the state. These brewers diverted bottles previously distributed to other states into the Oregon market, rather than converting to cans with no detachable parts. Massachusetts play a far greater role in its regional market, and therefore the same results cannot be expected to occur.

Furthermore, the natural advantages associated with cans ensure them a future role in beverage packaging. They are less expensive to fill, handle, ship, and store. Also, recent technological advances have enabled manufacturers to produce both cans without detachable parts and compacting machines suitable or smaller retail outlets. Cans have particular advantages for the consumer since they are unbreakable, light, and crushable, and refrigerate more quickly. Finally, on the environmental side, although a refillable bottle is the most energy efficient of all container types, reusable aluminum cans nearly equal the energy efficiency of returnable bottles if recycling rates of about 90 percent are obtained. The energy and raw material savings possible from recycling of cans are substantial. In summary, while Massachusetts could lose as many as 300 jobs in the can manufacturing industry, it seems much more likely that cans would retain their market share resulting in no loss of employment in that industry.

Moreover, the return system might create a demand for a recycling plant, leading to new industry and increased employment in the state. While the Massachusetts retail beverage container market is not sufficiently large to justify a metal recycling industry, adoption of similar legislation by all the New England states could warrant such a development. In any event, additional employment will be required to shred cans for shipment to recycling centers. However, Table I does not include any estimates of additional employment resulting from either shredding or from a possible recycling plant.

Glass Bottle Manufacturing. Massachusetts has two major beverage glass bottle manufacturers, together employing an estimated 500 workers. The use of refillable bottles implies a decline in employment in bottle manufacturing, the extent depending upon both the return rates experienced and the market share of refillable bottles. Assuming an 85 percent return rate (approximately seven trips per bottle on the average) and no decline in the use of cans, then employment in the industry would be reduced about 85 percent, a loss of 425 jobs. However, should bottles replace cans as happened in Oregon then more refillable bottles would be required, although total employment in the industry would still decline. Even assuming a complete shift to bottles, a net loss of 335 jobs could still result.

These predicted declines in employment may be overstated. First, to the extent that bottles manufactured out-of-state are used in Massachusetts, the switch to refillables would result primarily in declines in bottle imports, implying smaller reductions in employment within the state. Furthermore, can and bottle manufacturers do not limit their production solely to beverage containers. By increasing their production of containers for other uses, they might be able to avoid some employment loss.

The first column of Table I shows the estimated change in employment under the most pessimistic of assumptions. In the can and bottle manufacturing industries, the employment loss would be greatest if bottles completely replaced cans as beverage containers. Under these unlikely conditions, the state would suffer losses of as many as 635 jobs. If cans retained their market share, about 425 jobs would be lost in glass bottle manufacturing.

Soft Drink Bottlers and Canners. The bottling and canning of soft drinks merely require adding carbonated water to extracts and syrups which can be shipped inexpensively. As a result, bottlers and canners are widely dispersed and service relatively small geographic areas, thus limiting the transportation costs associated with the shipping of the bottled and canned beverages. In Massachusetts alone about 65 soft drink bottlers and canners employ approximately 2,870 people. This figure includes production as well as distribution employment, since the latter is handled by truck driver/salesman representatives of the local bottlers.

Employment opportunities in the industry would increase after passage of returnable container legislation. More drivers would be needed to carry the returns; additional personnel would be required for handling, warehousing, and bottle cleaning. A study of the Oregon experience estimated that at least 82 jobs were added in this industry following adoption of its legislation. Since the Massachusetts market is more than three times that of Oregon, a minimum gain of 240 workers might be expected but, in fact, as many as 400 jobs might be created.[3]

Malt Liquor Production. Massachusetts has suffered a decline in employment in the brewing industry in recent years. In 1965 seven breweries operated in the state, but only one, employing 60 workers, will remain following the closing of the Carling Brewery in mid-1976. The legislation will have an insignificant effect on the existing brewer in terms of the additional staff required for handling returns and bottlewashing (see Table I). However, because the legislation will give a competitive advantage to brewers located close to the consumers, it may have a significant effect in reversing the trend away from local brewers and may therefore increase employment in Massachusetts by encouraging the development of both local breweries and regional plants of national breweries. Since this possibility is speculative no employment increases for new breweries are shown even for the most optimistic estimates of Table I.

Wholesale Distribution of Beer. Massachusetts has 103 beer distributors employing 3,382 individuals. Preliminary evidence from the Oregon experience showed that one additional employee was needed for each 4.5 million returnables handled.[4] Based on the estimated volume of beer consumption in Massachusetts, 180 new employees would be required. However, cost data from the Oregon experience including transportation costs for the return trip demonstrate that an estimate of 400 new jobs for Massachusetts is reasonable.

TABLE II.—COST CHANGES DUE TO CONVERSION TO REFILLABLE-RECYCLABLE CONTAINERS

[In dollars per case]

	Soft drinks		Beer	
	Bottles	Cans	Bottles	Cans
Wholesale prices	–0.20	–0.25	–0.39	–0.32
Distribution costs			.10	.10
Retail handling costs	.30	.30	.30	.30
Net change	.10	.05	.01	.08

Note: Distribution and retail cost changes were estimated from data on the Oregon experience presented in Applied Decision Systems and Gudger and Bailes. (See notes to table I.)

Source: Wholesale price changes are calculated in the technical appendix.

Retail Stores. Grocery stores, supermarkets, and packaged liquor outlets would need to expand employment should a minimum de-

[3] The estimate of 400 jobs was obtained by applying a handling charge of $.17 per case, derived from Oregon studies, to a calculation of the number of cases sold in Massachusetts. The resulting labor bill divided by the average wage rate provides this estimate of the number of jobs.

[4] This estimate was derived by averaging the productivity figures presented in Gudger and Bailes, *The Economic Impact of Oregon's Bottle Bill,* March 1974, pp. 46–48; Gudger and Bailes, *Statement to the Oregon Legislature Minimum Deposit Law Study Review Committee,* September 12, 1974, p. 16; and Applied Decision Systems, *Study of the Effectiveness and Impact of The Oregon Minimum Deposit Law,* pp. II–131–134.

posit program be enacted, in order to handle customer returns. The Oregon data showed that approximately 3,000 hours of work are created for every million returnable containers handled. In Massachusetts this suggests that the equivalent of 2,000 employee years of work would be created at the retail level. Much of this work would be performed by part-time employees or by existing staff working overtime. With greater use of cans than occurred in Oregon and the installation of automated compactors, combined with utilization of overtime labor and part-time help, a range of 400 to 1,000 additional full-time workers seems probable.

Aggregate Employment Effect and Impact on Payrolls. Table I shows that in the aggregate the proposed Massachusetts legislation would create from 187 to 1,380 additional jobs. Similar employment increases have been predicted in analyses for other states. A U.S. Department of Commerce study of the impact of mandatory deposit legislation on the nation predicted as many as 33,000 additional jobs.[5]

Despite these employment increases, there is concern that high-paying jobs would be lost while any new jobs would be predominantly unskilled and part-time positions. If this were the case, the legislation could still result in a decline in payrolls. However, job skills and pay scales in the soft drink bottling, brewing, beer distribution, and trucking industries are comparable to those in the glass container and can industries. Our analysis shows that employment changes for workers in these industries would offset each other, with net benefits from additional gains in the low-paying retail sector. Analysis of the changes in employment in terms of relative pay scales in Massachusetts, also presented in Table I, shows that the state's payrolls could increase from $1 to $10 million.

ESTIMATED RETAIL PRICE CHANGES

To assess the influence of mandatory minimum deposit legislation on retail beverage prices, surveys have compared recent prices in the states of Washington, which has no such legislation, and Oregon, which does. Two years after the enactment of the legislation in Oregon, beer prices were 2 to 3 percent higher there for regional brands than in Washington.[6] However, soft drinks sold in reusable containers were comparably priced in both states. Moreover, beverages in these containers sold for 20 to 25 percent less than throw-aways in Washington.

In Vermont, bottlers and brewers were initially reluctant to introduce reusable containers when minimum deposits were required for all beer and soft drink packages. Therefore, the potential benefits of a recyclable packaging system were frustrated since used containers were discarded and retail beverage prices rose. Now, however, many Vermont beverage wholesalers are discovering that they can gain competitive advantages and reduce prices by switching to refillable containers. Bottlers who have converted report that recovery rates are comfortably above break-even points.[7]

Other studies have also predicted lower retail prices as a result of mandatory minimum deposit legislation. A recent study in New York State predicted a drop in retail prices saving the states consumers $40 million. National survey evidence published by the U.S. Environmental Protection Agency shows that beer in refillable bottles sells for 5 percent less than beer in one-way bottles, while the use of refillable bottles reduces soft drink prices by 17 percent on average. Furthermore, in recent testimony before the Federal Trade Commission, soft drink bottlers reported that returnable containers with reasonable rates of reuse are the most economical package for the consumer.[8] In Boston, a popular soft drink in a 16-ounce returnable bottle sells for two-thirds of its price in a one-way bottle. Similarly, a popular beer sells for 10 percent less in returnable bottles.

Opponents of this legislation, however, suggest that the costs of switching completely to a reusable container system would be extremely high. They believe that the evidence of retail price surveys is misleading since reusable containers are a relatively minor form of beverage packaging today. A major shift to these containers would require substantial amounts of investment and would alter the cost structure of beverage firms significantly. These opponents have claimed that the added expense would drive up retail prices.

Table II summarizes our estimates of changes in the costs of soda and beer to retailers resulting from a conversion to refillable-recyclable containers. In spite of generous estimates of potential net cost increases, the table clearly shows that overall costs would rise insignificantly at most.

As explained in the technical appendix, wholesale prices of soft drinks would probably drop at least 20 cents per case for 7–12 ounce bottles and 25 cents per case for 12 ounce cans. Similar analysis indicates that the wholesale prices for beer would decrease at least 39 cents per case for bottles and 32 cents per case for cans. For bottlers and brewers the most important component of the beverage costs is the expenses of beverage containers which comprise almost half their cost, and consequently savings made possible by reusing containers overshadow increased expenses.

The predicted reduction in wholesale prices is substantiated by the experience of a western brewery which has converted its entire operation to refillable bottles and recycled aluminum cans. Paying a bounty for the return of its bottles and for aluminum cans, the brewery has experienced high return rates and has found the process to be economically advantageous.

Oregon data show that beer distribution handling costs and amortized investment expenses increased by 5–10 cents per case with the bulk of the charges due to labor costs. Although cans are less expensive to handle than bottles, a 10 cents per case increase is applied to both forms of packaging for beer distributors. No corresponding expenses are shown for soft drinks because distribution costs are included in the wholesale prices charged by bottling firms.

Retail expenses increase as a result of the added employment and capital investment required by recyclable-reusable packaging. Each 350 bottles returned requires approximately one manhour of labor to process the returns, handle the deposits, and undertake the necessary bookkeeping. Although cans are more easily processed than bottles, once again the same estimate of labor requirements has been applied. In addition to the employment expense, the retailers may require the capital investment either to provide additional storage space or to buy compactors. In any event, a very generous estimate of the increased costs experienced by soft drink and malt beverage retailers is 30 cents per case. The net effect of these cost changes to retailers shows little likelihood that retail prices of beer or soda would rise by more than 2 percent as a result of the Massachusetts bill.

In summary, the available evidence supports the hypothesis that returnable-recyclable beverage containers will not require significantly higher retail prices. In fact, the net effect of cost changes could permit retail prices to fall.

DESIRABILITY OF AN ADEQUATE PHASE-IN PERIOD

To avoid some of the potential adverse economic effects, any mandatory deposit legislation should be enacted with an effective date one or two years after the legislation is passed to allow for adjustments in the affected industries. Bottle manufacturers then would be able to plan for the decline in the demand for beverage bottles and shift production to bottles suitable for other purposes, thus minimizing employment losses. Manufacturers could develop cans without detachable parts, thus avoiding the sharp decline in the market share of beverages sold in cans that was experienced in Oregon. Soft drink bottlers and brewers would have time to adjust their production systems to handle refillable bottles, and the necessary capital investment could be spread out over several years, preventing cash-flow crises. Finally, retail stores would have time to adjust to the new handling requirements and evaluate the need to invest in compacting machines.

THE BENEFITS OF SIMILAR LEGISLATION THROUGHOUT THE REGION

A mandatory deposit system could yield further gains if similar legislation were adopted throughout the region. This could allow for the development of new industry, since together the New England states could generate a sufficient volume of returned cans to permit efficient recycling and thus allow for a centrally located regional recycling center.

Furthermore, the small size of the New England states exacerbates border problems associated with differential legislation. Bottlers and brewers would find it difficult to comply with a variety of incompatible state laws in their sales areas. The possibilities for industry resistance would also be lessened if each state's law were compatible with that of the other states. The Vermont experience, where bottlers and brewers were reluctant to switch to reusable containers, would not be repeated if similar legislation were adopted throughout the region. The incentives for manufacturers to use standardized bottles, increasing the benefits of the legislation, would also be greater. Finally, uniform legislation for all New England states would make compliance by brewers, bottlers, and distributors that much easier, since many of them service customers in more than one state.

ALTERNATIVE SOLUTIONS

While the environmental, employment, and price effects of the proposed mandatory

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[5] Gudger and Bailes, March 1974, pp. 68–69, provides data on the Oregon experience; Carlos Stern *et al., Impacts of Beverage Container Legislation on Connecticut and a Review of the Experience in Oregon, Vermont, and Washington State;* Murrough H. O'Brien, Maine Citizens for Returnable Containers, *Returnable Containers for Maine: An Environmental and Economic Assessment;* New York Senate Task Force on Critical Problems, *No Deposit, No Return . . . A Report on Beverage Containers,* February, 1975; estimates showing employment increases for the U.S. as a whole have been made by the U.S. Department of Commerce, *The Impacts of National Beverage Container Legislation,* Bureau of Domestic Commerce Staff Ctudy No. A–01–75, October, 1975.

[6] However, about 60 percent of Oregon beers are brewed out of state which would naturally increase transportation costs. Another factor is that Washington has a 5 percent sales tax on beer while Oregon has none. See Don Waggoner, *Oregon's Bottle Bill—Two Years Later.* Columbia Group Press, May 1974, p. 30.

[7] The Vermont Governor's Highway Litter Evaluation Committee, "Report to the Governor," mimeo, December 1973, pp. 21 ff.

[8] United States of America before the Federal Trade Commission in the matter of the Coca-Cola Company, Docket Number 8855, October 3, 1975.

deposit legislation are all expected to be positive in the aggregate in Massachusetts, the adverse impact of the legislation on certain industries highlights the need to examine alternative proposals.

One alternative proposal is an outright *ban* on the use of nonrefillable bottles and nonrecyclable cans, but nothing in such a ban would encourage the return of containers. In addition, unless provision were made for a gradual transition to reusable containers, such an action would probably have severe adverse economic effects, including immediate curtailment of employment in the glass and can manufacturing industries.

Another alternative is a program to tax cans and bottles as potential litter, combined with direct government sponsorship of recycling and resource recovery programs, public education and litter recovery. Vermont initially adopted a litter tax, and one is now levied in Washington state. However, energy savings from resource recovery and recycling are considerably less than those associated with direct reuse, and education and litter collection programs in the past have not been particularly successful.[9]

A review of the alternatives by a New York State Senate Task Force led them to conclude that only mandatory deposit legislation can provide substanital direct benefits:

"Requiring that a deposit be placed on all beer and soft drink containers (whether they be refillable bottles, nonrefillable bottles, or cans) without prescribing that specific types of container be used, provides a direct economic incentive to consumers to return bottles and cans to retailers. Such a mechanism forces beverage manufacturers to deal with emptied containers, thus encouraging the use of refillable or easily recyclable containers. The deposit approach takes advantage of an existing, proven mechanism; does not restrict consumers or producers from using the container they prefer so long as provision is made for its return; and does not restrict innovation while minimizing government intervention in the marketplace. Only those consumers who decide not to return containers are penalized (through forfeiture of deposit a revenue to the beverage industries which would ultimately contribute to offsetting costs and possible price reductions).[10]

CONCLUSION

The mandatory deposit legislation currently proposed in Massachusetts provides for considerable environmental benefits. Fortunately, the foregoing analysis has demonstrated that the proposed law is not intrinsically detrimental to employment opportunity in the state. Moreover, retail price levels may actually decline. However, some employment loss may result in the glass and can manufacturing industries. Establishment of an adequate transition period to enable affected industries to adjust their technologies will help ensure a minimum of job losses. Acceptance of the legislation by both industry and consumers in the period immediately following its adoption is vitally important to its success.

TECHNICAL APPENDIX: COMPARATIVE COSTS OF BEVERAGE CONTAINERS

Mandatory bottle legislation will alter the cost structure of the bottling and brewing industries. By stimulating a switch to reusable containers, the legislation will result in increased costs to the bottlers due to each of the following:

Sorting and handling required to process the refillable and recyclable containers;
The return trip transportation;
Required cleansing of refillable bottles;
Warehousing of refillables;
Investment for processing reusable containers;
Heavier cartons needed to carry returnables; and
New and heavier bottles.

On the other hand, costs will decrease through the reuse of bottles and cartons and the recycling of cans. Savings in these factors are especially significant since containers comprise nearly 50 percent of total costs.

This appendix analyzes the likely direction and comparative magnitude of soft drink bottlers' cost changes under mandatory deposit bottle legislation by weighing the impacts of each of the above changes. Similar analysis applies to brewers' costs. The data are drawn from the experience of Oregon in 1972. Although the level of prices has changed since then, the relative impact of the legislation should be the same.

Table I presents a comparison of costs of returnable and nonreturnable soft drink containers. The components requiring additional costs under the returnable system add 53¢ per case for bottles and 47¢ for cans. The comparable figures for beer are 41¢ per case for bottles and 28¢ for cans. The estimated cost increase for cans is overstated since lines 1, 2 and 4 of the table assume that recyclable cans require the same handling, shipping, and capital expenses as refillable bottles.

The level of increase reflected in Table I is heavily dependent upon labor costs since both the sorting/handling and delivery are labor intensive. Indices of average hourly earnings for production workers show that Oregon labor is more costly for the relevant occupations and therefore the cost increases associated with refillables are probably overstated for Massachusetts.

Table I shows that cost increases would be overshadowed by the savings associated with reuse of containers. Bottles reused seven times would result in savings of 64¢ per case. The cost saving would also be significant for recycled cans. Energy use in producing recycled can stock would be negligible compared to processing bauxite, and capital investment would be only 6 percent of the amount needed to start with virgin ore. Savings of 62¢ per case could be achieved.

As a result of these savings, wholesale costs would be expected to decline upon conversion to reusable containers. Several factors, however, would be needed to realize these savings. The trippage per container would have to exceed the breakeven point, and cans would have to be recycled. If beverages were sold in standard bottles, reusable by several firms, considerable additional savings would result. Compatible legislation among the states of the region would provide additional incentives for standardization of bottles and thus would increase savings. Finally, substantial savings could also be effected by careful transportation planning so that, for example, trucks combine deliveries with picking up empty containers.

APPENDIX TABLE I.— COMPARATIVE COSTS PER CASE OF RETURNABLE AND NONRETURNABLE SOFT DRINK PACKAGES SUMMER 1972

[In 12-ounce containers]

	7-trip refillable bottle	1-way bottle	1-metal aluminum can, made from recycled metal [1]	Nonreturnable can
Higher costs with returnables:				
1. Sorting and handling [2]	$0.18		$0.18	
2. Delivery (including inbound freight) [2]	.50	$0.33	.50	$0.29
3. Manufacturing, warehousing, and ingredients [3]	.60	.50	.45	.45
4. Amortized capital costs	.08		.08	
Lower costs with returnables:				
5. Container costs [4]	.26	.90	.46	1.08
6. Carriers [5]	.12	.13	.13	.13
No cost change:				
7. Crowns	.04	.04		
Average cost per case: Soft drink packages	1.78	1.90	1.80	1.95
After markup [6]	2.49	2.69	2.51	2.76

[1] Data in this column in categories 1 and 2 are based on expenses associated with refillable bottles. Since cans are lighter and require less care and space in handling, the costs for cans are therefore overstated.

[2] These categories include significant labor costs, which are higher in Oregon than Massachusetts (U.S. Department of Labor, Bureau of Labor Statistics). They are based on the 95-percent Oregon return rate. These data used for bottle expenses have been criticized by Gudger and Bailes, Sept. 2, 1974 (p. 6) as well as Bingham and Mulligan (pp. 172–3) for overstating the cost disadvantage of refillable bottles over 2-way bottles. A fortiori 1-metal can expenses could be overstated.

[3] The 10-cent diflerential between refillable and 1-way bottles has been criticized as being excessive. See the statement by C. M. Gudger and J. C. Bailes to the Oregon Legislature, Sept. 12, 1974, p. 6.

[4] The price per case of refillable bottles is $2.55, the price per case of recycled cans is $0.48. The return rate is 85 percent. The deposit is 3 cents per unit. Since soft drink bottlers maintain distinctive bottles, the price of returnable soft drink bottles is more than twice that of returnable beer bottles. We assumed that the 3 cents certified deposit applies, nonetheless. As a result we overstate costs, if anything.

[5] Refillable bottles require heavy duty but resuable cartons. The net cost of these is slightly less than the cost of nonreusable carriers required for 1-way bottles.

[6] A markup of 41.5 percent was used in these calculations, reflecting current industry patterns. The markup represents return to capital and therefore is not applied to item 4.

MANDATORY DEPOSIT LEGISLATION FOR BEER AND SOFT DRINK CONTAINERS IN MARYLAND: AN ECONOMIC ANALYSIS

(Ted Scheinman, staff economist, Council of Economic Advisers, State of Maryland)

GOVERNOR'S COUNCIL OF ECONOMIC ADVISERS

Summary

Along 42 selected one-mile segments of highway in the State of Maryland, a survey by the State Highway Department found that beverage containers accounted for an average of about 30 percent of all litter. An average of one beverage container was found every ten feet along the sample highway segments, during a one month period. It is estimated that the cost of picking up all beverage container litter in the State of Maryland would be about $6 million dollars per year.

In the State of Maryland, it is estimated that beverage containers account for about 5 percent of all solid waste, or about 200,000 tons a year. The cost of disposal of the beverage containers in Maryland is estimated to be about $1 million per year.

Use of beverage containers requires a significant amount of natural resources; however, the impact is primarily a national concern. On a national level, 44.9 percent of U.S. production of container glass, 5.6 percent of U.S. production of aluminum, and 2.0 percent of U.S. production of steel is used for beverage containers. The total en-

[9] New York Senate Task Force on Critical Problems, p. 34–48.

[10] *Ibid.*, p. 3.

ergy requirements for beverage containers in the State of Maryland is about 9.8 trillion BTU's per year—about the same energy required to heat 96,000 homes in Maryland for a year.

In Maryland the use of non-returnable beverage containers is considered to be a problem. Littered beverage containers cover the highways, solid waste is composed of millions of disposed beverage containers; and precious natural resources are used in the production of containers that are used only once. What can be done to help solve the beverage container problem in Maryland?

Of the solutions suggested for dealing with the problems related to the use of beverage containers, the most frequently discussed is an Oregon-type law that would require a deposit on all beer and soft drink containers. With a deposit, it is expected that consumers would choose to use more returnable, refillable glass containers, in place of non-returnable glass or metal containers. Where containers are returned for refilling, it is expected that the problems of litter, solid waste, and excess resource utilization would be reduced. In this report, the extent of the beverage container problem is examined. Then, an analysis of the employment impact of the imposition of a mandatory deposit law shows what the Maryland impact on employment would be. Finally, the fiscal impact is briefly discussed.

A major portion of this report deals with the employment impact of a mandatory deposit on the State of Maryland. It was found that some industries—those concerned with the production of beverage containers—would be forced to reduce employment levels, but that industries involved in the distribution and retailing of beverage containers would have significantly higher employment levels. With adequate lead time, any adjustment hardships can be minimized. The direct impact on the various industries in Maryland is as follows:

Soft Drink	+406
Malt Liquors	+27
Wholesale beer distribution	+134
Glass container manufacture	−279
Metal can manufacture	−403
Retail	+1703
Metal suppliers	−61

The net effect of a mandatory deposit law in the State of Maryland would be an increase in employment in these industries of about 1500 persons. Only in periods of high unemployment, can this increase in employment be considered beneficial; during times of full-employment, the additional labor might take away from production of other goods and services.

The 1500 jobs that would be created by a mandatory deposit would result in an increase of $18.5 million in Maryland Personal Income, resulting in an increased revenue to the State of about $1.1 million from income and sales taxes. Local jurisdictions would also gain about $400,000 in net revenue.

Expenditures for litter pickup and solid waste disposal are expected to decline with a mandatory deposit law.

CONCLUSION

In conclusion, this report has found that beverage containers are a significant problem in the State of Maryland. The beverage container portion of roadside litter is about 30 percent of total litter; the beverage container portion of solid waste is about 5 percent; and the annual energy required to produce the beverage containers used in the State could heat about 96,000 homes in Maryland every year.

A number of alternatives have been examined to deal with the beverage container problem. In this discussion the alternative of requiring a minimum deposit on all beer and soft drink containers has been examined in detail, with a special focus on the direct employment effect of such legislation. It was found that employment would increase in the distribution and retailing sectors, but decrease in the container manufacturing sectors. The net result would be an increase in net employment in the State of Maryland of 1600 persons.

Furthermore, it was found that the personal income generated by the imposition of a mandatory deposit would be about $18.5 million, resulting in an increase in State revenues of about $1.1 million and local revenues of about $370,000. In addition, reduced expenditures would be required for beverage container litter and solid waste disposal.

It should be made clear that not all issues have been examined in this discussion. Especially, the impact on profits in the affected industries as well as the consumer savings have not been examined. This report should not be considered a complete economic impact, but only an examination of several important issues. It is hoped that this discussion will increase the information available to decision makers in the State of Maryland.

MANDATORY DEPOSIT LEGISLATION FOR BEER AND SOFT DRINK CONTAINERS IN WASHINGTON, D.C.: AN ECONOMIC ANALYSIS

(Prepared for the Transportation and Environmental Affairs Committee, Council of the District of Columbia, June 4, 1975, Ted Scheinman, economic consultant)

SUMMARY

This study examines the economic impact of a mandatory deposit law in Washington, D.C., from the point of view of employment, payrolls, tax receipts, and costs. It was found that employment, payrolls, and tax receipts to Washington, D.C. would increase and costs could possibly decrease.

In order to examine the economic impact, three scenarios were developed for different return rates of beverage containers. The three scenarios consist of a 4-trip, 10-trip, and 20-trip refillable container. It is expected that a 10-trip refillable will be the most likely outcome.

Employment in Washington, D.C. will increase as a result of a mandatory deposit law. The soft drink bottler will require an additional 9 employees; the beer wholesalers will require between 24 and 31 additional employees; and the retail sector will require between 353 and 457 additional employees. In total, between 386 and 497 additional workers will be needed with a returnable system. There is expected to be no job losses in Washington, D.C., as a result of a mandatory deposit law.

With the additional employment, taxable payrolls and tax receipts will increase. About $3.3 to $4.3 million will be added to taxable payrolls and tax receipts will increase between $308 and $396 thousand.

Data obtained from a study in New York State has allowed an approximation of cost effects from a mandatory deposit law, for a ten-trip returnable bottle. Consumers in Washington have potential savings of about $400,000. However, these savings must be weighed against the loss of convenience of non-returnable beverage containers.

CONCLUSION

In conclusion, this report has found that if a Mandatory Deposit Law were passed in Washington, D.C., there would be an increase in employment of between 386 and 497 persons, depending on whether one expects people to return bottles most of the time or not. The additional employment would be in the soft drink bottling plant, the wholesale beer distribution sector, and the retail sector. We anticipate no job losses in the District of Columbia as a result of a mandatory deposit; any job losses would occur in other states.

The additional employment will generate from between $3.3 and $4.3 million additional for the payrolls in Washington, D.C. This additional payroll will bring in between 308 and 396 thousand dollars additional to the District from taxes paid.

Finally, we have made an approximation of the cost impact of a mandatory deposit law and found that overall costs will decline by about $400,000. Although these are estimates based on a study performed for New York State, they appear to indicate that the average price of beverage will not increase in the District of Columbia.

It should be made clear that not all issues have been examined in this discussion. Especially, the impact on profits in the affected industries has not been examined. This report should not be considered a complete economic impact, but only an examination of several important issues. It is hoped that this discussion will increase the information available to decision makers in Washington, D.C.

EPA BEVERAGE CONTAINER GUIDELINES

Mr. HATFIELD. Mr. President, on September 10, 1976, the U.S. Environmental Protection Agency announced approval of guidelines to encourage the reuse and recycling of beverage containers sold on Federal facilities. A 5-cent refundable deposit system, similar to the one advocated in my legislation, is due to become effective by September 1977, on all military installations, national parks, and Federal buildings, unless circumstances dictate otherwise.

Mr. President, I ask unanimous consent that a press release summarizing the results of a test program at Yosemite National Park in California which led to approval of the guidelines be printed in the RECORD along with details of the guidelines themselves.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Environmental News, Environmental Protection Agency, Washington, D.C., July 20, 1976]

YOSEMITE TEST OF BEVERAGE CONTAINER REFUND

A test program to reduce litter and solid waste is being conducted at Yosemite National Park in California. The program involves the placement of a five-cent deposit on each can or bottle of beer or soft drink sold in the park. The deposit is refunded when the empty containers are returned to one of the 18 park redemption centers. The U.S. Environmental Protection Agency is monitoring the experiment by the park's concessionaire, the Yosemite Park and Curry Company.

At the latest count about 72 percent of all containers sold are being returned, a rate that compares favorably with experiences in Oregon and Vermont under their State laws requiring deposits refundable on return of empty containers. Last year the Yosemite Park and Curry Company ran a voluntary recycling center and collected about a ton of empty containers over the year. This year under the refundable deposit system about a ton of returned cans and bottles are collected each week.

Most beverages sold at Yosemite National Park are in aluminum cans, but some are in tin-coated steel cans and some in glass bottles, mainly nonrefillable. The Yosemite Park and Curry Company ships bottles and cans, along with old newspapers and cardboard, to Fresno, California, and sells them for recycling.

The test of the Yosemite refund system started May 17, 1976, and continues through September 19, 1976, or longer. The concessionaire company, to support this program,

has news articles about the test running continuously in two park publications, the *Yosemite Guide* and the *Yosemite Sentinel*; posters are prominently displayed, and nightly talks by U.S. Park Rangers to park visitors incorporate information about the program.

The Environmental Protection Agency is preparing a guideline that would call for the establishment of similar returnable container systems at all Federal facilities that sell beverages in containers.

[Environmental News release, U.S. Environmental Protection Agency, Washington, D.C., Sept. 10, 1976]

RECYCLING-REUSE OF BEVERAGE CONTAINERS SOLD ON FEDERAL FACILITIES TO BE ENCOURAGED

To encourage reuse or recycling, final guidelines requiring a five-cent refundable deposit on bottles and cans of soft drinks or beer sold on Federal facilities have been promulgated by the U.S. Environmental Protection Agency The objective of the deposit is to give consumers an incentive to return the empty bottle or can for refund. Then the containers will be reused or recycled, thereby reducing solid waste and litter and conserving energy and materials. The guidelines will take effect in September 1977.

"These guidelines are similar to Oregon and Vermont laws," said Russell E. Train, EPA Administrator. "We know from the experience in those states that placing a refundable five-cent deposit on beverage containers can be a successful method for encouraging the return of the empty containers. As a result, there has been a marked reduction in beverage container litter."

These guidelines are required by the Solid Waste Disposal Act. Under Section 209, these guidelines constitute recommendations to State and local agencies. Under Section 211, they are mandatory for Federal departments and agencies.

Train said that "our data indicate that the use of a returnable beverage container system on Federal facilities will result in energy savings equivalent to as much as 2,000 barrels of oil per day. Anticipated annual material savings could amount to as much as 6,000 tons of aluminum, 24,000 tons of steel, and 80,000 tons of glass. No matter what types of containers are used—bottles or cans or both—their return for reuse or recycling will bring about savings in energy and important raw materials."

The Department of Defense is the Federal agency most affected. With $300 million in annual beverage sales, the Department of Defense accounts for over 95 percent of the beverages sold on Federal facilities. The other agencies principally affected by the guidelines will be the National Park Service, the Forest Service, and the General Services Administration.

The guidelines have been substantially modified in response to the nearly 6,000 comments received during the 60-day public comment period which ended January 12, 1976.

Train said: "One revision was made to clear up a misunderstanding that these guidelines somehow discriminate against cans. They do not. A returnable system can be effective even when the majority of the beverages sold are in cans.

"For example, a beverage container deposit system is being tested at Yosemite National Park in California by the Yosemite Park & Curry Co., the park's prime concessionaire. Most of the soft drinks and beer are sold in cans. The results show that over 70 percent of the containers sold are being returned for refund. More than a ton of aluminum cans is being recycled each week. Officials of the company are so pleased with the results of the test that they decided before these guidelines are published to continue the deposit system on their own initiative."

The guidelines also have been revised to allow exemptions at some Federal facilities where warranted; for example, where a substantial portion of sales may be unavoidably diverted away from the facility.

Even if sales remain at an acceptable level, the deposit system may not result in high return rates if the consumers still discard the containers. It is also possible that an isolated facility would incur substantial and unrecoverable costs in implementing the guidelines.

"The guidelines recognize that these situations may occur and clearly indicate that such conditions are acceptable reasons to consider the discontinuation of the use of returnable beverage containers, provided that all reasonable alternatives have been exhausted in an effort to eliminate any problems," Train said.

Although the guidelines do not go into effect on Federal facilities for a year, they will be tested at from six to ten military installations in the near future. The tests will provide valuable data on the economic effect of the guidelines.

The guidelines will be published soon in the Federal Register.

[Commentary from the U.S. Environmental Protection Agency, Sept. 16, 1976]

BEVERAGE CONTAINER GUIDELINES FOR FEDERAL AGENCIES

FINAL GUIDELINES

The U.S. Environmental Protection Agency, under provisions of Sections 209 and 211 of the amended Solid Waste Disposal Act (Public Laws 89-272 and 91-512), has promulgated Federal Guidelines dealing with beverage containers for carbonated beverages (soft drinks and beer).* These guidelines for Federal agencies are the final version of a proposal that was published in the *Federal Register* on November 13, 1975. This action is a part of the leadership role that the Congress has mandated for the EPA in the environmental area, i.e., preparation and promulgation of Federal Guidelines to improve the solid waste management practices of Federal Agencies.

The Guidelines for Beverage Containers require the institution of returnable beverage container systems at Federal facilities. Beer and soft drink containers of all types are to be rendered returnable by the application of a five cent deposit paid by the consumer at the time of sale and refunded to the consumer upon return of the empty container. Containers returned to the dealer by the consumer can then be returned to the bottler for refilling or, in the case of non-refillable containers, can be recycled. In either case, beverage containers are eliminated from the solid waste stream and removed as a source of litter. The result includes obvious benefits to solid waste management and the conservation of materials and energy.

The guidelines are intended to achieve two goals: a reduction in beverage container solid waste and litter; and the conservation and more efficient use of energy and material resources. Materials that, up to now, have been discarded or littered will now be reused or recycled. The Guidelines are expected to result in energy savings equivalent to as much as 2,000 barrels of oil per day. Anticipated annual material savings could amount to as much as 6,000 tons of aluminum, 24,000 tons of steel, and 80,000 tons of glass. No matter what types of containers are used, bottles or cans or both, their return for reuse or recycling will bring about savings in energy and important raw materials.

In certain circumstances, at some Federal facilities, specific local conditions may preclude the effective achievement of these goals. Agency heads are to determine whether implementation of the guidelines will achieve the goals in a cost-effective manner. If this is not the case, the agency may decide not to implement the Guidelines.

IMPLEMENTATION

Under the Guidelines Federal Agencies will have up to one year following promulgation to provide the EPA Administrator with schedules of the actions being taken to implement the Guidelines. A Federal Agency that does not intend to implement the Guidelines at specific facilities or categories of facilities must inform the EPA Administrator of that intent. The EPA Administrator does not have enforcement authority for any solid waste management Guidelines. However, the EPA Administrator, under Executive Order 11752, must report periodically to the President on the progress of the Federal Agencies in implementing this order (E.O. 11752).

COMMENTS ON PROPOSED GUIDELINES

The Guidelines were published for public comment in the *Federal Register* on November 13, 1975. During the 60 day public comment period, which ended on January 12, 1976, a total of 5955 comments were received. Copies of all responses received on or before January 12, 1976, are available for public inspection at the EPA Public Information Reference Unit (EPA Library), 401 M Street, S.W., Washington, D.C. during normal working hours.

In order to facilitate review, the 5955 comments were carefully screened to identify the issues raised in each comment. Similar issues were then organized into groups which were then carefully summarized. These 33 summary issues reflect the views of respondents who commented on the *Proposed Beverage Container Guidelines* on or before January 12, 1976. Two other documents are also on file with the EPA Public Information Reference Unit for public review. The first lists each respondent and indicates which respondents commented on each issue. The second explains each issue and presents the EPA responses to all issuers raised. Duplicates of those two documents are also available for inspection at the Public Information Reference Units of the 10 EPA Regional Offices.

The following discussion treats the most significant of the 33 issues raised during the public comment period.

Several of those who commented on the proposed guidelines questioned EPA's authority to issue guidelines for beverage containers. Statutory authority for EPA to prepare the Guidelines is based on the provisions (and the legislative history) of Section 209 of the amended Solid Waste Disposal Act of 1965, which states that the Administrator ". . . shall, in cooperation with appropriate State, Federal, interstate, regional, and local agencies, allowing for public comment by other interested parties, recommend to appropriate agencies and publish in the *Federal Register* guidelines for solid waste recovery, collection, separation, and disposal systems. . . ."

The EPA Office of General Counsel has stated the legal opinion that, because the Guidelines call for systems that will result in the collection of beverage containers, the Guidelines are, indeed, responsive to, and authorized by the Act. Further, the Justice Department has found that EPA is on "firm legal grounds" regarding its authority to promulgate these Guidelines.

Some commenters were concerned with the issue of energy. Many based their objections on the erroneous assumption that the Guidelines would require the exclusive use of refillable bottles. They suggested that energy

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*See *Federal Register*, Vol. 41, No. 184, Tuesday, September 21, 1976; Part II, pp. 41202-41205.

consumption under the Guidelines would actually increase due to the increased bulk and weight of refillable containers, and that this would result in increased transportation requirements.

However, extensive analyses have shown that refillable bottles, when reused several times, are less energy intensive than either one-way glass bottles or cans, when all factors are considered. Thus, the introduction or increased use of refillable bottles on Federal facilities would provide benefits in terms of energy conservation. In any event, the fact is that the Guidelines do not require the use of any particular container type, either implicitly or explicitly. Nonrefillable bottles and cans that are returned and recycled also conserve energy. Therefore, regardless of the types of containers used in implementing the guidelines, energy conservation should result.

Other commenters were concerned that the Guidelines would have severe adverse effects on employment in the container manufacturing industry. The origin of these concerns is the prediction, in various estimates of the impact of national beverage container legislation, that a major shift in container mix (from cans and nonrefillable bottles to refillable bottles) would result from such legislation. Those estimates predict that a shift of national scope away from nonrefillable containers would cause the employment dislocations that these commenters fear.

Those predictions for national beverage container legislation cannot be used in predicting the impacts of these Guidelines, because the guidelines affect only Federal facilities. These Federal facilities, which comprise only two to four percent of the national beverage market, are widely dispersed across the country. The remaining 96 to 98 percent of the national market will not be affected. Thus, even the maximum possible shift to refillable bottles at Federal facilities will have no more impact on the national beverage container mix (and, therefore, on employment in the container manufacturing industry) than a slight shift in consumer preference. In any event, virtually every study that has attempted to predict the impact of national beverage container legislation on employment has predicted increased numbers of jobs and higher total labor income. These studies also predict that job dislocations will occur if that legislation is implemented suddenly. Therefore, EPA has, for some time now, recommended that national beverage container legislation be phased-in over several years in order to minimize potential job dislocations.

Many commenters indicated concern that the Guidelines would have severe negative economic impact on some or all segments of the beer, soft drink, and container manufacturing industries and those industries that supply materials to them, as well as on the retail and distribution systems. Those who predicted cost increases referred to some of the studies that have been performed in an attempt to predict the impact of national beverage container legislation.

Again, the assumptions used in these studies cannot be used in predicting the impacts of the Guidelines. Virtually all of these studies assume a substantial national shift from nonrefillable containers to refillables and assume resultant extensive capital expenditures for new equipment. Because the Guidelines apply only to the two to four percent of national beverage sales that take place on Federal facilities, it is neither appropriate nor accurate to extrapolate downward from national impact analyses. It is unlikely that any of the capital or other major costs predicted to result from national beverage container legislation would follow implementation of the Guidelines, even if the beverage container mix at all Federal facilities shifted entirely to refillable bottles. Further, if unexpected new costs are incurred by beverage producers, bottlers, distributors, or wholesalers, at specific facilities or in specific types of cases, the Guidelines provisions for nonimplementation can be applied if those costs preclude cost-effective achievement of the goals of the Guidelines.

Most of those who have cited adverse economic impacts anticipate that the ultimate result will be higher shelf prices for beer and soft drinks at Federal facilities. Others, however, assume increased availability of beverages in refillable containers and, therefore, anticipated reduced costs to consumers because refillables are the least expensive container type. Because no new capital costs are expected to be incurred under the guidelines, no general price increases are expected either. Further, because beverages are less expensive in refillable containers, average beverage prices should be reduced to the extent that their use is increased.

Some commenters expressed the belief that the Guidelines would eliminate freedom of choice in products and packaging offered to Federal government and military personnel. This is not the case. The Guidelines neither restrict nor require the use of any specific container type. In fact, other commenters suggested that the Guidelines will actually increase the choices available to consumers by increasing the likelihood that refillables will be added to the existing container mix because they provide the least expensive means for achieving the environmental goals sought.

Some of those who commented indicated concern that, while the proposed Guidelines provided for nonimplementation due to economic impracticability, the term "economic impracticability" was not defined. This led some to fear that nonimplementation could never be justified, while others feared that claims of economic impracticability might be used indiscriminately to justify nonimplementation, even where implementation was actually possible. In response to these valid concerns, the final Guidelines have been modified to clarify the concept of economic impracticability. The final Guidelines also explain particular circumstances in which practical considerations would rule out implementation, i.e., situations in which implementation is economically feasible but would not effectively achieve the goals of the Guidelines.

Several commenters were confused by, or indicated concern about, the provisions for vending machines in the proposed guidelines. Much of the confusion and concern was justified as those provisions were not clear. The proposed Guidelines tried to consider the variety of physical and economic situations in which vending machines are used and prescribe specific requirements for that usage. The final Guidelines have been written to allow decisions on vending machine implementation to be made on the basis of particular situations within a facility. Therefore, while the final Guidelines do not treat vending machine beverage sales explicitly, the provisions are sufficiently broad that they cover vending machines implicitly. Decisions for vending machine implementation are to be based on the same considerations that are applied to other carbonated beverage sales.

Some commenters objected to the assertion in the proposed guidelines that the economic and inflationary impacts of the Guidelines would be minor, and to the consequent decision that the Agency is not required to prepare an Inflationary Impact Statement. These commenters pointed to a wide variety of studies and predictions, citing them as proof that increased costs or prices would result from implementation of the guidelines and that these increases would be inflationary. Virtually all of the predictions cited are highly dependent on the assumption that there would be a substantial national shift to refillable bottles. That national shift is not expected to occur as a result of these Guidelines. The economic and inflationary impacts of the Guidelines have been carefully evaluated. It has been determined that the effects will be minor and that the Guidelines are not a "major action" requiring an Inflation Impact Statement as prescribed by Executive Order 11821, OMB Circular A107, and existing EPA policy.

Several commenters stated that EPA should withhold action on the Guidelines until the subject of returnable beverage containers has been debated by the Congress. We call attention to recent action in the U.S. Senate. A national returnable beverage container bill proposed by Senator Hatfield as an amendment to S. 2150, the Solid Waste Utilization Act of 1976, was rejected by the Senate. After the vote on this amendment, the following statements were made on the floor of the Senate (*Congressional Record*, June 30, 1976, pages 21417–21418):

"Mr. STAFFORD. I think it would be a mistake to view the defeat of the Hatfield amendment as a mandate to the Administrator of Environmental Protection Agency to halt efforts to initiate innovative programs requiring returnable containers on Federal installations and facilities. Rather, today's vote may more properly be interpreted as a decision by the Senate that it does not want to authorize a nationwide container deposit law at this time.

"Just as the bill permits individual States to enact their own courses of action, the Senate this morning has reinforced that principle by rejecting a single Federal standard.

"However, the bill permits individual States to enact their own container policies and legislation. In that manner, innovative programs can be tested and demonstrated for study by the entire Nation.

"Similarly, the proposal for a returnable container policy at Federal facilities can provide our Nation with valuable information.

"Nothing that has happened on the floor of the Senate can properly be interpreted as a mandate from this body to halt that valuable demonstration effort."

"Mr. MUSKIE. Mr. President, rejection of the Hatfield amendment should in no way prejudice EPA's ongoing programs to develop solid waste management programs which may include resource conservation—source reduction programs. EPA currently has regulations which require deposits on beverage containers sold at Federal facilities. These regulations are new. We are still learning from them. They will continue in effect even without the Hatfield amendment so we can have a real test of the impact and implication of the kind of proposal without the amendment."

Following the defeat of his returnable beverage container amendment, Mr. Hatfield introduced an amendment calling for the President, through the cooperation of appropriate Federal agencies, to study all aspects of national beverage container deposit legislation. This substitute amendment was passed by a vote of 85–1, with 14 not voting. While these guidelines affect a much smaller and widely dispersed market than would national legislation, information gained through their implementation could clearly be an integral part of such a study. S. 2150 was passed by a vote of 88–3 with 9 not voting.

The Federal Agencies most affected by these Guidelines are expected to be the Department of Defense, National Park Service (Department of Interior), Forest Service (Department of Agriculture), and the General Services Administration. More than 95 percent of the carbonated beverage sales at Federal facilities are on military installations.

[From the Federal Register, vol. 41, no. 184, Tuesday, Sept. 21, 1976]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 605-6]

PART 244—SOLID WASTE MANAGEMENT GUIDELINES FOR BEVERAGE CONTAINERS

Section 209 of the Solid Waste Disposal Act of 1965 (Pub. L. 89-272), as amended by the Resource Recovery Act of 1970 (Pub. L. 91-512), requires the Administrator of the U.S. Environmental Protection Agency (EPA) to "recommend to appropriate agencies and publish in the FEDERAL REGISTER guidelines for solid waste recovery systems. * * *" Further, Section 211 mandates that Federal agencies "shall insure compliance with the guidelines recommended under Section 209 and the purpose of this (Solid Waste Disposal) Act."

In fulfillment of its responsibilities under Section 209, EPA promulgated the first set of guidelines: "Guidelines for the Thermal Processing and Land Disposal of Solid Wastes," on August 14, 1974 (40 CFR 240 and 241). Since that time, guidelines have been promulgated for the Storage and Collection of Residential, Commercial, and Institutional Solid Waste on February 13, 1976 (40 CFR 243); for Source Separation for Material Recovery on April 23, 1976 (40 CFR 246); and for Resource Recovery Facilities in September of 1976 (40 CFR 245). In addition, non-mandatory guidelines for "Procurement of Products that Contain Recycled Material" were published in the FEDERAL REGISTER on January 15, 1976 (40 CFR 247).

These "Beverage Container Guidelines" were first published in proposed form in the Federal Register on November 13, 1975. At that time public comment was provided during which interested parties could make their views known to the Environmental Protection Agency.

The proposed guidelines required that Federal facilities establish a system for the return of beer and soft drink beverage containers in order to achieve the environmental benefits of reduced solid waste and litter and the conservation of energy and material resources. They required that all beverage containers be rendered returnable through the application of a 5 cent deposit as an incentive to the consumer to return empty containers. This refundable deposit was to be paid by the consumer, upon purchase of beverages, and refunded by the dealer when the empty container was returned.

The implicit goal of the proposed guidelines was to gain the desired environmental benefits through reuse or recycling of returned containers. It has become evident, through public and Congressional comments, that this point was not always clearly understood. Therefore, the guidelines now being published attempt to clarify that any type of container is acceptable for use in implementing a returnable beverage container system as long as beverage containers are returned and are either reused or recycled, where markets for recyclable materials are available. Changes have also been made to increase the flexibility available to agencies and facilities in implementing such a system to ease the adaptation of the guidelines' requirements to particular, local situations.

The Agency received 5955 responses during the comment period from private citizens, industry representatives, labor unions, environmental groups, and other government agencies. Copies of all responses received on or before January 12, 1976, are available for public inspection at the EPA Public Information Reference Unit (EPA Library), 401 M Street, S.W., Washington, D.C. during normal working hours. In order to facilitate review, the 5955 comments were carefully screened to identify the issues raised in each comment. Similar issues were then organized into groups which were then carefully summarized. These 33 summary issues reflect, but do not repeat verbatim, the views of every respondent who commented on the Proposed Beverage Container Guidelines on or before January 12, 1976. Two other documents are also on file with the EPA Public Information Reference Unit for public review. The first lists each respondent and indicates which respondents commented on each issue. The second explains each issue and presents the EPA responses to all issues raised. Duplicates of those two documents are also available for inspection at the Public Information Reference Units of the 10 EPA Regional Offices.

The following discussion treats the more important of the 33 issues during the public comment period.

Several of those who commented on the guidelines were concerned with the issue of energy. Many based their objections on the erroneous assumption that these guidelines require the exclusive use of refillable bottles. They suggested that energy consumption under the guidelines would actually increase due to the increased bulk and weight of refillable containers, and resultant increases in transportation requirements. Extensive analyses have shown that refillable bottles, when reused several times are less energy-intensive than either one-way glass bottles or cans when all factors are considered. Thus the introduction or increased use of refillable bottles on Federal facilities would provide benefits in terms of energy conservation. However, the fact is that the guidelines do not require the use of any particular container type, either implicitly or explicitly. Non-refillable bottles and cans that are returned and recycled also conserve energy. Therefore, regardless of the types of containers used in implementing the guidelines, energy conservation should result.

Other commenters were concerned that the guidelines would have severe adverse effects on employment in the container manufacturing industry. The origin of these concerns is the prediction, in various estimates of the impact of national beverage container legislation, that a major shift in container mix from cans and nonrefillable bottles to refillable bottles would result from such legislation. Those estimates predict that a shift of national scope away from non-refillable containers would cause the employment dislocations that these commenters fear. However, those impact predictions do not apply here, because the guidelines apply only to Federal facilities. Those Federal facilities comprise only two to four percent of the national beverage market widely dispersed across the country. The remaining 96 to 98 percent of the national market would remain unchanged. Thus, even the maximum possible shift to refillable bottles at Federal facilities would have no more impact on the national container mix and, therefore, on employment in the container manufacturing industry, than a slight shift in consumer preference.

Many commenters indicated concern that the guidelines would have severe negative economic impact on some or all segments of the beer, soft drink, and container manufacturing industries and those industries that supply materials to them, as well as on the retail and distribution systems. Those who predict cost increases refer to some studies that have been performed in an attempt to predict the impact of national beverage container legislation. Their basic assumptions are not applicable to the guidelines because virtually all of these studies assume a substantial national shift from nonrefillable containers to refillables that would lead to extensive capital expenditures for new equipment. Again, because these guidelines apply only to the two to four percent of national beverage sales that take place on Federal facilities, it is neither appropriate nor accurate to extrapolate downward from national impact analyses. It is unlikely that any of the capital or other major costs predicted to result from national beverage container legislation would follow implementation of these guidelines, even if the container mix on Federal facilities shifted entirely to refillable bottles. Further, even if unexpected new costs are incurred by beverage producers, bottlers, distributors, or wholesalers, the provisions for nonimplementation described in § 244.100(d) can be applied if those costs preclude the effective achievement of the goals of the guidelines.

Most of those who cite adverse economic impacts anticipate that the ultimate result will be higher prices to consumers. Several others, though, assuming increased availability of beverages in refillable containers, anticipate reduced cost to consumers because refillables are the least expensive container type.

Because no new capital costs are expected to be incurred under the guidelines, no general price increases are expected either. Further, because beverages are less expensive in refillable containers, average beverage prices should be reduced by their increased use.

Some commenters expressed the belief that these guidelines would eliminate freedom of choice in products and packaging offered to Federal government and military personnel. This is not the case. The guidelines neither restrict nor require the use of any specific container type. In fact, others suggested that the guidelines would actually increase the choices available to consumers by increasing the likelihood that refillables will be added to the present container mix because they presently provide the least expensive means for achieving the environment goals sought.

Some of those who commented indicated concern that, while the proposed guidelines provided for non-implementation due to economic impracticability, the term "economic impracticability" was not defined. This led some to fear that non-implementation could never be justified, while others feared that claims of economic impracticability might be used indiscriminately to justify nonimplementation, even where implementation was actually possible. In response to these valid concerns, the guidelines have been modified to clarify the concept of economic impracticability. The final guidelines also explain particular circumstances in which practical considerations would rule out implementation, i.e. situations in which implementation is economically feasible, but would not operate effectively to achieve the goals of the guidelines.

Several commenters were confused by, or indicated concern about the provisions for vending machines in the proposed guidelines. Much of the confusion and concern was justified as those provisions were not clear. The proposed guidelines tried to consider the variety of physical and economic situations in which vending machines are used and prescribe specific requirements for that usage. As revised, the guidelines requirements have been written to allow decisions on vending machine implementation to be made on the basis of particular situations within a facility. Therefore, while the revised guidelines do not treat vending machine beverage sales explicitly, the provisions are sufficiently broad that they cover vending machines implicitly. Decisions for vending machine implementation should be based on the same considerations that are applied to other beverage sales.

Some commenters objected to the assertion in the proposed guidelines that the economic and inflationary impacts of the guidelines would be minor and the Agency's

consequent decision that it was not required to prepare an Inflationary Impact Statement. These commenters point to a wide variety of studies and predictions, citing them as proof that increased costs or prices would result from implementation of the guidelines and that these increases would be inflationary. Virtually all of these predictions are highly dependent on the assumption that there would be a substantial national shift to refillable bottles. This is not expected to occur as a result of these guidelines.

The economic and inflationary impacts of the guidelines have been carefully evaluated. It has been determined that the effects will be minor and that the guidelines are not a "major action" requiring an inflation impact statement as prescribed by Executive Order 11821 and OMB Circular A-107.

Several commenters stated that EPA should withhold action on these guidelines until the subject of returnable beverage containers has been debated by the Congress. This is apparently a view that is not shared by the U.S. Senate. A returnable beverage container amendment proposed by Senator Hatfield to S. 2150, the Solid Waste Utilization Act of 1976, was rejected by the Senate after debate that was limited to 30 minutes. After the vote on this amendment, the following statements were made on the floor of the Senate (Congressional Record, June 30, 1976, pages 21417-21418):

Mr. STAFFORD. I think it would be a mistake to view the defeat of the Hatfield amendment as a mandate to the Administrator of the Environmental Protection Agency to halt efforts to initiate innovative programs requiring returnable containers on Federal installations and facilities. Rather, today's vote may more properly be interpreted as a decision by the Senate that it does not want to authorize a nationwide container deposit law at this time.

"Just as the bill permits individual States to chart their own courses of action, the Senate this morning has reinforced that principle by rejecting a single Federal standard.

"However, the bill permits individual States to enact their own container policies and legislation. In that manner, innovative programs can be tested and demonstrated for study by the entire Nation.

"Similarly, the proposal for a returnable container policy at Federal facilities can provide our Nation with valuable information.

"Nothing that has happened on the floor of the Senate can properly be interpreted as a mandate from this body to halt that valuable demonstration effort."

"Mr. MUSKIE. Mr. President, rejection of the Hatfield amendment should in no way prejudice EPA's ongoing programs to develop solid waste management programs which may include resource conservation—source reduction programs.

"EPA currently has regulations which require deposits on beverage containers sold at Federal facilities. These regulations are new. We are still learning from them. They will continue in effect even without the Hatfield amendment so we can have a real test of the impact and implication of the kind of proposal without the amendment."

Neither of these statements was rebutted.

Following the defeat of his returnable beverage container amendment, Mr. Hatfield introduced an amendment calling for the President, through the cooperation of appropriate Federal agencies, to study all aspects of national beverage container deposit legislation. This substitute amendment was passed by a vote of 85-1, with 14 not voting. While these guidelines affect a much smaller and widely dispersed market than would national legislation, information gained through their implementation could clearly be an integral part of such a study. S. 2150 was passed by a vote of 88-3 with 9 not voting.

Future Revisions. Section 209 of the Act states that guidelines "shall be revised from time to time." Following the public comment period, several changes were made to clarify and refine the proposed guidelines. No more changes are planned for the immediate future. Implementation of the guidelines may result in the identification of areas that require refinement or modification. To that end, comments or suggestions are invited from persons with experience in implementing these guidelines or other returnable beverage container systems.

Promulgation. These guidelines are issued under the Authority of Section 209(a) of the Solid Waste Disposal Act of 1965 (Pub. L. 89-272) as amended by the Resource Recovery Act of 1970 (Pub. L. 91-512). Chapter I of Title 40 of the Code of Federal Regulations is amended effective October 20, 1976 by adding a new Part 244.

Dated: September 10, 1976.

RUSSELL E. TRAIN,
Administrator.

Subpart A—General Provisions

Sec.
244.100 Scope.
244.101 Definitions.

Subpart B—Requirements

244.200 Requirements.
244.201 Use of Returnable Beverage Containers.
244.202 Information.
244.203 Implementation Decisions and Reporting.

Appendix—Recommended Bibliography.

Subpart A—General Provisions

§ 244.100 Scope.

(a) The "Requirement" sections contained herein delineate minimum actions for Federal agencies for reducing beverage container waste.

(b) Section 211 of the Act and Executive Order 11752 make the "Requirements" section of the guidelines mandatory upon Federal agencies. They are recommended for adoption by State and local governments and private agencies.

(c) *Intent and Objectives.*—(1) These Guidelines for Beverage Containers are intended to achieve a reduction in beverage container solid waste and litter, resulting in savings in waste collection and disposal costs to the Federal Government. They are also intended to achieve the conservation and more efficient use of energy and material resources through the development of effective beverage distribution and container collection systems.

(2) The guidelines are intended to achieve these goals by making all beverage containers returnable and encouraging reuse or recycling of the returned containers. To accomplish the return of beverage containers, a deposit of at least five cents on each returnable beverage container is to be paid upon purchase by the consumer and refunded to the consumer when the empty container is returned to the dealer. This refund value provides a positive incentive for consumers to return the empty containers. Once containers are returned, nonrefillable containers can be recycled and refillable bottles can be reused.

(3) The minimum deposit of five cents has been chosen because it is deemed a large enough incentive to induce the return of most containers, and it is the most widely used deposit amount in present deposit systems. Because this action is intended to be compatible with present deposit systems, it is recommended that Federal facilities apply higher deposit levels in localities where higher levels are ordinarily used and lower deposit levels if the local area has an established return system with a minimum deposit level, for some or all beverage containers, of less than five cents.

(4) Final determination of how the requirements of the guidelines will be met rests with the head of each Federal agency.

(5) Federal facilities implementing the guidelines must charge refundable deposits on both refillable beverage containers and nonrefillable ones. Use of a refillable beverage container system will achieve the objectives of this guideline and will also most likely result in lower beverage prices for consumers. However, placing refundable deposits on nonrefillable containers, which are subsequently returned and recycled, also achieves the objectives of the guidelines.

(d) *Nonimplementation for Federal Facilities.*—(1) The objectives of these guidelines are to reduce solid waste and litter and to conserve energy and materials through the use of a return system for beverage containers. In order to have a substantial impact on solid waste and litter created by beverage containers and to effect the concomitant energy and materials savings in a cost-effective manner, three conditions will be necessary: first, that consumers continue to purchase beverages from dealers at Federal facilities; second, that empty containers be returned and then reused or recycled; third, that the costs of implementation are not prohibitive. The head of each agency should consider these factors in order to make a determination regarding implementation of these guidelines.

(2) The Administrator recognizes that the requirements of these guidelines may not be practical at some Federal facilities due to geographic or logistic problems of a local nature. Further, he recognizes that the use of a returnable beverage container system will accomplish nothing if all reasonable efforts to implement such a system have failed to induce consumers to buy beverages in returnable containers or to return them when empty. When these situations persist, agencies may determine not to continue implementation of these guidelines.

(3) Federal agencies that make the determination not to use returnable containers shall provide to the Administrator the analysis and rationale used in making that determination as required by Section 244.100(f)(3). The Administrator will publish notice of availability of this report in the FEDERAL REGISTER. The following conditions are considered to be valid reasons for not using returnable beverage containers.

(i) Situations in which, after a trial implementation, there is no alternative available that results in meeting the objectives of the guidelines in a cost effective manner. Examples of indications of this situation include, but are not limited to: (1) data indicating a substantial and persistent reduction in beverage sales that is not directly attributable to any other cause; and (2) failure to establish a beverage container return rate that effectively achieves the objectives of these guidelines.

(ii) Situations in which no viable alternative can be found which avoids excessive, irrecoverable costs to the facility or the Agency. These conditions may prevail at either part or all of the facility. It is expected that facilities will use returnable beverage containers in those portions of their beverage distribution systems where it is effective to do so. However, it is recognized that in some situations, such as for unattended vending machines where it is impractical to establish refund locations, or in small remote outlets where the majority of consumers are transient, it may not be possible to use returnable containers effectively. The provisions for nonimplementation can be applied to those portions of a facility.

(e) The Environmental Protection Agency will render technical assistance and other guidance to Federal agencies when requested to do so pursuant to Section 3(d)(1) of Executive Order 11752.

(f) *Reports.*—(1) *Implementation Schedule Report.* This report is to advise the EPA of plans for the implementation of these guidelines. It is to be submitted to the Administrator within 60 days following an

agency's determination to implement, and should include a list of planned implementation actions and a schedule indicating when those actions will be taken.

(2) *Annual Status Report.*—This report will provide information to the Administrator which will enable him to monitor compliance with the guidelines as required by Executive Order 11752. The form of this report will be prescribed by the Administrator at a later time.

(3) *Nonimplementation Report.*—Nonimplementation reports are to be submitted to the Administrator as soon as possible after a final agency determination has been made not to use returnable beverage containers but not later than sixty days after this determination. The Administrator will indicate to the reporting agency his concurrence or nonconcurrence with the agency's decision, including his reasons therefor. This concurrence or nonconcurrence is advisory.

Nonimplemenation reports should include:

(i) A description of alternative actions considered or implemented, including those actions which, if taken or continued, would have involved a deposit or return system.

(ii) A description of ongoing actions that will be continued and actions taken or proposed that would preclude future implementation of a returnable beverage container system. This statement should identify all agency facilities or categories of facilities that will be affected.

(iii) An analysis in support of the determination not to implement a deposit system, including technical data, market studies, and policy considerations used in making that determination. If the determination not to implement is based on inability to achieve a cost-effective system, this analysis should include such things as sales volume, impact on total overhead costs, administrative costs, other costs of implementation, percentage of containers sold that are returned, solid waste and litter reduction, energy and materials saved, and retail prices (before and after implementation).

§ 244.101 Definitions.

(a) "Beverage" means carbonated natural or mineral waters; soda water and similar carbonated soft drinks; and beer or other carbonated malt drinks in liquid form and intended for human consumption.

(b) "Beverage container" means an airtight container containing a beverage under pressure of carbonation. Cups and other open receptacles are specifically excluded from this definition.

(c) "Consumer" means any person who purchases a beverage in a beverage container for final use or consumption.

(d) "Dealer" means any person who engages in the sale of beverages in beverage containers to a consumer.

(e) "Deposit" means the sum paid to the dealer by the consumer when beverages are purchased in returnable beverage containers, and which is refunded when the beverage container is returned.

(f) "Distributor" means any person who engages in the sale of beverages, in beverage containers, to a dealer, including any manufacturer who engages in such sale.

(g) "Federal Agency" means any department, agency, establishment, or instrumentality of the executive branch of the United States government.

(h) "Federal facility" means any building, installation, structure, land, or public work owned by or leased to the Federal Government. Ships at sea, aircraft in the air, land forces on maneuvers, and other mobile facilities; and United States Government installations located on foreign soil or on land outside the jurisdiction of the United States Government are not considered "Federal facilities" for the purpose of these guidelines.

(i) "On-Premise Sales" means sales transactions in which beverages are purchased by a consumer for immediate consumption within the area under control of the dealer.

(j) "Recycling" means the process by which recovered materials are transformed into new products.

(k) "Refillable Beverage Container" means a beverage container that when returned to a distributor or bottler is refilled with a beverage and reused.

(l) "Refund" means the sum, equal to the deposit, that is given to the consumer or the dealer or both in exchange for empty returnable beverage containers.

(m) "Returnable Beverage Container" means a beverage container for which a deposit is paid upon purchase and for which a refund of equal value is payable upon return.

Subpart B—Requirements

§ 244.200 Requirements.

§ 244.201 Use of Returnable Beverage Containers.

(a) All beverages in beverage containers sold or offered for sale shall be sold in returnable beverage containers. On-premise sales are specifically excluded from this requirement provided that empty beverage containers are returned to the distributor for refilling, or are recycled, either by the dealer or by the distributor when markets for recyclable materials are available.

(b) The deposit shall be at least five (5) cents unless the local area has an established return system in operation with a lower minimum deposit level. In those specific areas, Federal facilities may adopt a minimum deposit equal to the local deposit level.

(c) A dealer shall accept from a consumer any empty beverage containers of the kind, size and brand sold by the dealer, and pay the consumer the refund value of the beverage container, provided the container is refillable or is labelled in accordance with Section 244.202(a).

(d) The refund shall be provided at the place of sale whenever possible or as close to that place as practicable, and in any event, on the premises of the particular federal facility involved. Refund locations shall be conspicuously labelled as refund centers. If they are not in the immediate vicinity of the place of sale, notice of their location shall be prominently posted at that place of sale.

(e) A dealer shall not procure beverages in beverage containers from distributors who refuse to: accept from the dealer any returnable beverage containers of the kind, size and brand sold by the distributor; pay to the dealer the refund value of the beverage containers; and reuse the returned containers or recycle them where markets for recyclable materials are available.

(f) Returned refillable beverage containers shall be returned to the distributor for refilling. Nonrefillable beverage containers shall be returned to the appropriate distributor or recycled, where markets for recyclable materials are available.

§ 244.202 Information.

(a) With the exception of refillable beverage containers, every returnable beverage container sold or offered for sale by a dealer shall clearly and conspicuously indicate, by embossing or by stamp, or by a label securely affixed to the beverage container, the refund value of the container and that the container is returnable.

(b) Dealers shall inform consumers that beverages are sold in returnable beverage containers by placing a sign, or a shelf label, or both, in close proximity to any sales display of beverages in returnable containers. That sign or label shall indicate that all containers are returnable, separately list the beverage price and deposit to be paid by the consumer, and shall indicate where the empty beverage containers may be returned for refund of the deposit.

§ 244.203 Implementation Decisions and Reporting.

Federal agencies are to determine whether or not to implement these guidelines by (date, one year after promulgation in the FEDERAL REGISTER). Reporting of that determination shall be in accordance with the following requirements:

(a) Federal agencies that plan to implement these guidelines shall report that decision to the Administrator in accordance with the procedures described in § 244.100 (f)(1).

(b) Implementing agencies shall provide to the Administrator an annual status report in accordance with the procedures described in § 244.100(f)(2).

(c) Agencies that determine not to implement these guidelines shall provide to the Administrator a nonimplementation report in accordance with § 244.100(f)(3). This report shall include the reasons for nonimplementation, based on concepts presented in § 244.100(d), and shall be repeated at least every three years.

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[News Release, Office of Assistant Secretary of Defense, Public Affairs, Washington, D.C., Nov. 10, 1976]

DOD To Conduct Test of Beverage Container Guidelines

The Department of Defense today announced that it has selected ten military installations to participate in a one-year test of the Environmental Protection Agency's Guidelines for Beverage Containers which were promulgated in the *Federal Register* in September 1976, and are mandatory for all federal agencies. The guidelines require a five-cent deposit on all beverage containers sold at federal facilities.

The purpose of the DoD test is to evaluate the economic impact of the guidelines on the military resale system for beverages sold in exchanges, commissaries, clubs, messes and package stores. The test, to be conducted at ten carefully chosen installations representing different beverage resale situations, is designed to give DoD the data it needs to determine at which of its installations nationwide it will be possible to implement the guidelines on a permanent basis.

The five-cent deposit refund requirement is intended to provide the consumer with an economic incentive to return empty beverage containers so that they can be reclaimed for refilling or recycling, depending on whether the container is a refillable bottle, non-refillable bottle, or a can. At each installation, the containers that are returned will be collected by outlets selling beverages and sold for reclamation. The refilling and recycling of beverage containers will help to reduce the amount of litter on military installations and conserve much-needed raw materials and energy.

The test will be conducted at the following Air Force, Army, Navy, and Marine installations:

Army: Headquarters, U.S. Army Armor Center and Fort Knox, Fort Knox, Kentucky; Headquarters, U.S. Army Communications Command, Fort Huachuca, Arizona; Headquarters, 1st Infantry Division and Fort Riley, Fort Riley, Kansas.

Navy: Naval Support Activity, Philadelphia, Pennsylvania; Naval Air Station, Whidbey Island, Oak Harbor, Washington; Navy Weapons Center, China Lake, California.

Air Force: Laughlin Air Force Base, Texas; Malmstrom Air Force Base, Montana; Patrick Air Force Base, Florida.

Marine Corps: Marine Corps Air Station, Yuma, Arizona.

Fort Knox will be the first installation to begin the test in February 1977. The nine other installations will begin the test shortly thereafter.

A Joint Executive Agency Task Force has been formed to develop and manage the test program. Participating on the Task Force are representatives of the military departments and the Environmental Protection Agency. The Chairman of the Task Force is Colonel Harlow D. Hart, Sr., USAF. The Task Force is working closely with the civilian contractor for the test, Franklin Associates, Ltd., who is assisting DoD in the design, conduct and evaluation of the test program.

Once the test program has been completed and the results are properly evaluated, the Department will then be able to determine the feasibility of implementation of the beverage container guidelines at military installations in the U.S.

FLIP TOP HAZARDS

Mr. HATFIELD. Mr. President, I now ask unanimous consent that two articles which discuss the health and environmental hazards of flip tops on humans and wildlife appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Journal of the American Medical Association]

Aluminum "Pop Tops" a Hazard to Child Health

(By John D. Burrington, MD)

In a 3½-year period, seven children have been treated for complications of ingestion or aspiration of pull tabs from aluminum beverage cans. One child died from a fistula between the esophagus and a branch of the aortic arch, and two children suffered esophageal perforation with local abscess formation. Since aluminum absorbs x-rays poorly, the pull tabs cannot be seen in frontal projection if they overlie vertebral bodies. Any toddler with unexplained alteration of feeding habits or persistent respiratory symptoms requires evaluation for an aspirated or ingested foreign body. (JAMA 235:2614–2617, 1976).

Physicians have been alerted by Alexander et al., Glass and Goodman, and others to suspect esophageal foreign bodies in children with unexplained respiratory symptoms. Radiopaque objects are easily detected by routine roentgenographic examination of the neck and mediastinum, but radiolucent objects still go undetected. The advent of radiolucent plastic toys that are frequently included in breakfast cereal or popcorn as "prizes" has produced a substantial number of esophageal obstructions and perforations in children. To this list of child health hazards producing esophageal obstruction with radiolucent objects, we must now add the ubiquitous metal strips removed from "pop top" beverage cans. These shiny pieces of metal, which litter the ground of parks and picnic areas, prove irresistible to curious toddlers or children crawling in the grass. They place the attractive new objects into their mouths and all too frequently swallow or aspirate them. While many pull tabs undoubtedly pass undetected through the gastrointestinal tract, this report outlines the case histories of seven children in whom they lodged in the esophagus or were aspirated into the airway. In none was the ingestion witnessed or suspected. Six of the children survived their encounter, but one bled to death from erosion of the pull tab through the esophagus into a branch of the innominate artery.

REPORT OF CASES

Case 1.—A 13-month-old boy was brought to his pediatrician because of a two-week history of inability to take any table food or other solids. He had been able to drink liquids up until four hours prior to being seen. At that time he was unable to swallow his saliva. Chest roentenogram demonstrated a column of food and air bubbles extending upward from the level of the aortic arch. He underwent esophagoscopy under general anesthesia and a large amount of food was removed from the upper portion of the esophagus. A sharp metal strip from a pop top lying at the base of the food column was removed through the esophagoscope. There were local ulcerations in the esophagus, but no evidence of perforation. His recovery was uneventful, and no stricture or other complication developed.

Case 2.—An 11-month-old boy was seen because of high fever, difficult respiration, and inability to swallow liquids. On admission to the hospital, his temperature was 40 C rectally, and he was extremely ill. A chest roentgenogram showed mediastinal widening and fluid in the left hemithorax. Aspirated fluid showed mixed flora on Gram stain and yielded a mixture of Gram-positive and Gram-negative organisms. After 12 hours' chest drainage, rehydration, and infusion of intravenous antibiotics, he remained extremely ill. A limited barium swallow examination showed considerable distortion of the upper third of the esophagus in the region of the thoracic inlet and extravasation of contrast material into the mediastinum. After further rehydration, he underwent a right thoracotomy and exploration of the upper esophagus. The region between the aortic arch and the thoracic inlet was densely fibrotic, and an abscess cavity continuous with the esophagus contained a free-floating metallic strip from a pop top. The stiff and inflamed edges of the esophageal perforation were loosely approximated with interrupted sutures of 4/0 wire. Large anterior and posterior chest tubes were placed in the right portion of the chest, with the tips near the area of perforation. A Stamm gastrostom was placed for alimentation, and a sump catheter was inserted into the nasopharynx to minimize passage of saliva down the esophagus.

The esophageal closure leaked a small amount of saliva from the third through the seventh day but ultimately sealed completely. On the ninth day, the tube in the left side of the chest was removed, and on the tenth and 14th days the tubes in the right side of the chest were removed. A rather long stricture from the thoracic inlet to the region of the aortic arch developed, which required several dilations starting one month after his original surgery. After five dilations, the esophagus assumed approximately normal caliber, and he had no further difficulties in swallowing. The gastrostomy tube was removed approximately nine months after the original operation and two months after his last dilation.

Case 3.—A 4-month-old infant was admitted because of a coarse, hacking cough and wheezing respirations. The initial diagnosis of croup or epiglottitis could not be confirmed by lateral roentgenograms of the

airway. When his symptoms worsened, he underwent laryngoscopy before an endotracheal tube was passed to relieve his airway obstruction. Wedged between the vocal cords was a rolled-up metallic portion of a beverage can top. This was removed with forceps, and an endotracheal tube was passed into his airway. Forty-eight hours later, the endotracheal tube was removed, and he had no further difficulties.

CASE 4.—A 2-year-old boy was seen for a history of difficulty in swallowing for at least one year. He supposedly had had several normal barium swallow examinations, although our initial study showed a distortion of the esophagus in the portion between the thoracic inlet and the aortic arch. There appeared to be deviation of the esophagus to the left and an apparent diverticulum or duplication of the esophagus extending to the right. Fluoroscopy showed the entire area somewhat stiffened, and peristalsis was abnormal.

An exploratory operation was performed after esophagoscopy showed only the deviation and stiffening of the esophagus. Through a right thoracotomy, the upper portion of the esophagus was mobilized, although it was deeply encased in scar. To the right and posterior portion of the esophagus lay a fairly large abscess cavity in which a pull tab was lodged, surrounded by pus and old food. There was no mucosal lining, but at operation it was not possible to differentiate a perforation with abscess formation from the diverticulum that had become a repository for the metal strip and food.

The cavity was excised as much as possible, and the esophagus was closed primarily with interrupted sutures of 4/0 wire. A large chest tube was left in place, with its tip near the suture line, and a sump catheter was placed in the nasopharynx. A small amount of saliva was present in the chest tube from the second to the fifth day, although a diatrizoate meglumine swallow examination performed on the tenth day showed no further leakage. The chest tube was consequently removed, and he required four dilations of a long stricture that occurred in the region of the perforation. This slowly resolved, and although his follow-up has been sporadic, he has remained asymptomatic.

CASE 5.—An 11-month-old boy was brought to the emergency room about one hour after onset of an episode of coughing and intermittent cyanosis. This had begun during a family picnic at a public picnic ground. On admission to the hospital, he had coarse breath sounds and marked dyspnea. Chest roentgenogram, including inspiratory and expiratory x-ray films to rule out a foreign body, were all interpreted as normal. He was placed in mist and given postural drainage and bronchial dilators without relief. On the following morning, he underwent bronchoscopy, and the metallic tab of a pop top was removed from the region of the carina. His convalescence was uneventful.

CASE 6.—A 13-month-old girl appeared in the emergency ward, unable to swallow her own saliva. Chest roentgenograms showed mediastinal widening, with a tiny amount of fluid in the left of the chest. A diatrizoate meglumine swallow examination showed complete obstruction of the esophagus at the level of the aortic arch but no extravasation of contrast material. After eight hours of rehydration and infusion of intravenous antibiotics, she underwent esophagoscopy and had a large amount of old food removed from her esophagus. After the food had been removed, it was not possible to pass the esophagoscope through a narrow portion of the esophagus. This scope was removed and a 3½ F bronchoscope inserted. Through the telescope, a small, metallic foreign body could be identified deeply embedded in granulation tissue. At this point, the endoscopy was discontinued, and the patient was returned to the recovery room.

On the following day, with two units of cross-matched blood on hand and with thoracotomy instruments in the operating room, the endoscopy was repeated, and the metallic foreign body was removed uneventfully. There was a small amount of bleeding but no evidence of perforation. She was watched carefully in the intensive care area for 48 hours, with a nasopharyngeal sump tube in place, while receiving intravenous fluids and antibiotics. After 48 hours, the diatrizoate meglumine study was repeated and showed a small but distorted lumen in the esophagus and no extravasation of contrast material. By the fourth day, she was afebrile, and her vital signs had returned to normal. She then began a diet of clear liquids and advanced to a soft diet over the next 48 hours.

Two weeks later, she was admitted because of inability to swallow her saliva, and on examination she had food impacted above a stricture in her esophagus. The food was removed through an esophagoscope, and a filiform dilator was passed through the area of the stricture. The filiform dilator was followed with dilators up to 12 F, and then a No. 8 polyethylene feeding catheter was inserted through the nostril into her stomach. She received tube feedings for approximately one week and then underwent an esophageal dilation again. Over the next three months, the stricture slowly softened, and she required no further dilations. She is now asymptomatic.

CASE 7.—An 11-month-old boy had been seen in several different emergency rooms over a period of ten days because of noisy breathing and diminished intake of food and liquid. Numerous chest roentgenograms were taken, including a study of the entire airway from nasopharynx to mainstem bronchi. These were interpreted as normal. On the day of admission, he had passed several tarry stools, and his hematocrit reading dropped from 36% to 14%. Transfusion with packed red blood cells in the intensive care area raised his hematocrit reading to 25%. After six hours of stable vital signs, he suddenly became ashen, his blood pressure dropped to unobtainable levels, and bradycardia developed. Resuscitation required 450 ml of saline and 250 ml of packed red blood cells, approximately one blood volume for this 10-kg child, administered over approximately 25 minutes. When his resuscitation was complete, he began to vomit large volumes of bright red blood, and his abdomen distended rapidly.

With a preoperative diagnosis of upper gastrointestinal bleeding probably originating from the stomach, he was taken to the operating room. Rapid exploration of his stomach and the duodenum showed blood to be welling up from the esophagus. Examination of the lumen of the esophagus showed no evidence of mucosal tears suggestive of a Mallory-Weiss syndrome of esophageal varices. A sterile proctoscope inserted in the distal portion of the esophagus showed only that bright red blood was gushing down from above. The incisions were closed with a single running suture. The patient underwent esophagoscopy from above but bleeding was so brisk that no information was obtained.

Through a left thoractomy, the distal portion of the esophagus was freed up from the diaphragm to the arch of the aorta. An umbilical tape tied about the esophagus just below the aortic arch showed that the bleeding was coming from above. The upper portion of the esophagus between the thoracic inlet and the aortic arch was then freed up, and external compression here demonstrated that the bleeding was from behind the aortic arch. The portion of the esophagus below the arch was opened linearly, and with a finger in the esophagus, bleeding could be temporarily tamponaded by pressing upwards against the aortic arch. During the hurried dissection of the aortic arch in an attempt to control bleeding, blood loss exceeded our ability to replace it, and the patient lost all vital signs. Each time the patient was resuscitated the massive bleeding recurred, and after 20 minutes he had fixed, dilated pupils, so further efforts were abandoned.

At postmortem examination, there was a deep ulceration within the esophagus that conformed exactly to the metallic tab of a pop top. There was also a large perforation of the esophagus into the region of the aortic arch, although no direct communication could be demonstrated with the aorta. Presumably the sharp irregular tip of the metal strip had eroded through into one of the great vessels or perhaps a bronchial vessel. The foreign body was not obtained from the gastrointestinal tract at the time of autopsy, although retrospective review of the chest roentgenograms taken several days before showed a metallic object in the esophagus behind the aortic arch that conformed in outline to a metal pull tab.

COMMENT

Thin strips of aluminum that become lodged in the esophagus are particularly difficult to detect roentgenographically unless they are locked for specifically. Flat objects such as coins invariably become oriented transversely in the esophagus since this represents its greatest diameter. In children, most objects that do not pass the esophagus become impacted at the thoracic inlet or above the aortic arch where the esophagus overlies the vertebral column. Thus, the outline of foreign bodies in this portion of the esophagus is projected over the image of the vertebrae in routine posteroanterior or anteroposterior chest roentgenograms.

Alexander et al. have shown that absorption of x-rays by a substance is roughly proportional to its density. Thus, fat is less dense than water, and small shards of glass with a density of 2.4 to 2.8 may not be detectable roentgenographically when imbedded in tissue. Aluminum with a density of 2.7 has much the same radiodensity as glass, so that the pull tabs, which are made of aluminum 0.2 mm thick, show only a faint shadow on an ordinary roentgenogram. In the lateral projection, a pull tab in the esophagus presents 14 mm of aluminum in its greatest diameter, so that recognition should be facilitated. Viewing this portion of the esophagus without interference from projection of the arms and shoulders takes special effort in positioning the patient.

Since many of the ingestions or aspirations involving toddlers are not witnessed by an adult, the history obtained by the first physician to see the child may not suggest a foreign body. However, persistent respiratory symptoms and any change in eating habits should be evaluated by posteroanterior and lateral chest roentgenograms with inspiratory-expiratory views if indicated. The neck and nasopharynx should be included in all such examinations. If these are normal and there is no evidence of mediastinal abscess or free air, a contrast study of the esophagus using thickened barium will frequently show plastic, fish bones, or an aluminum foreign body lodged in the esophagus.

The metal strip from a pop top is usually bent into a hook shape as it is removed from the can. When the ring separates from the bent metal strip, it leaves a serrated edge and two sharp corners. Thus, if diagnosis is delayed, these sharp edges will perforate the esophagus and cause mediastinitis or erode into the mediastinal vessel. Safety pins lodged in the esophagus have caused aortic arch perforation and acute cardiac tamponade, but since they are made of spring steel, they are more readily identified roentgenographically than are aluminum pull tabs. All parents must be cautioned about the hazard of discarded pull tabs just as they are now about the hazards of the open safety pin left within an infant's reach during a diaper change.

[From the Defenders of Wildlife, June 1975]

DEADLY THROWAWAYS—PLASTIC SIX-PACK BINDERS AND METAL PULL TABS DOOM WILDLIFE

(By Penny Ward)

A big brown pelican is cruising Florida's coastal salt flats hunting for food. He dives at a shadow in the water, snaps at it, and in a moment finds his prey choking him. It somehow wraps around his neck, then loops over his bill. In panic, the pelican flies back to his roost in the mangroves and claws at his adversary. Soon his foot is entangled. The pelican continues to fight, but in a little while he is dead, strangled by his mysterious antagonist.

The pelican mistook a plastic six-pack can binder for a fish. He became another wildlife victim of an unthinking and uninformed person, who probably tossed the plastic trash into the water without knowing it could harm a wild animal.

Wild creatures are beginning to suffer the fallout of our burgeoning solid waste litter. The "throwaway" beverage container is the chief villain. "No-deposit, no-return" litter grows about eight percent annually. Last year some *three billion* throwaways ended up on our roadsides and recreation areas. Even our most pristine reserves have become the final resting places for millions of easy-to-tote containers and their by-products, the flip-top pull-tabs and plastic six-pack binders.

While humans see this litter as an aesthetic blight, animals see it as a possible source of food. "The big problem with plastic can binders is that grazing and wading birds are curious and nibble or dive at them," says Frank Kenney, of the U.S. Fish and Wildlife Service. "They manage to tangle them over their heads, a foot gets involved, and they strangle in the ensuing fight."

The tame, curious brown pelican—already a candidate for the endangered species list—is among the most vulnerable to such entrapment. But many states have recorded similar deaths among other types of waterfowl. Aside from the pelican, the most common victims are gulls, ducks, and geese.

If entanglement doesn't strangle the bird, it may starve to death. Dr. Martin Wiley, a Maryland wildlife biologist, describes the plight of a seagull he saw in Chesapeake Bay. "The bird had the plastic rings jammed between the mandibles of his bill and stretched over the back of his head. He could fly, but of course he couldn't eat. I watched him for days but couldn't get close. I knew he was doomed."

Some entangled animals may be able to function, but they become social outcasts. Michigan biologists found a Canada goose with plastic rings merely threaded loosely over his neck. Though he was healthy, the rest of the geese on the lake picked on him unmercifully. The gander was eventually caught and the rings removed, but it was too late to solve his marital problems. His mate and goslings had found the trash decoration so bizarre that they had abandoned him.

Small birds have similar problems with the little pull-tab rings from beverage cans. Some species find them attractive as nesting materials. A member of Washington, D.C.'s Audubon Naturalist Society tells of a cardinal found dead with a pull-tab ring jammed over its face. She thinks that the bird was partially blinded and died of exposure or exhaustion.

These sparkling little rings are also attractive to fish—in fact, some fishermen use them as spinners ahead of bait. Biologists in Michigan and California have discovered fingerling trout girdled by pull-tab rings. They theorize the fish struck at the shiny rings, missed, shot through and got stuck. In both cases the trout were about six inches long. Miracles of growth, the fish were still quite active when discovered, though the rings were slowly cutting their bodies in half.

Bigger fish sometimes swallow the rings, which they perceive as food or as aggravating intruders in their territories. Pull-tabs are occasionally discovered by sportsfishermen in the stomachs of panfish, trout, salmon, and other fish which "strike," as opposed to bottom feeders which "taste." The ring may just ride along harmlessly inside the fish, but if pushed into the digestive tract, it can fatally lacerate or impact the system. (Interestingly, major hospitals across the U.S. report pull-tabs showing up in human stomachs, inadvertently swallowed by a person who'd dropped the tab into the can. They are difficult to detect by X-ray and often require major surgery to remove.)

All grazing animals, domestic and wild, accidentally eat bits of trash. Ranchers who lease state or federal lands which permit public recreation are particularly concerned about the dangers litter poses to their herds—dangers often revealed during autopsy. E. P. Harvey, general manager of a large family ranch operation which includes five wildlife refuges in the Southwest, has for many years studied the problem. "Domestic animals will chew, taste, smell, and investigate all sorts of things," Harvey says. "They'll eat nails, pull-tabs, plastic items, small can lids, wire, bones, and plastic bags," Harvey says that while ingested litter rarely kills an animal unless the object punctures the digestive tract or impacts the bowel, the trash diet leaves the animal in poor physical condition.

"We know a good deal about domestic animals ingesting harmful objects, but little about wildlife," Harvey says. "From observation, however, we know wildlife is interested in the same things as domestic animals, so we can assume the results are similar."

The beverage container itself—steel, aluminum, or glass—creates special hazards. Broken bottles and cans cripple livestock and wildlife. Horseback riders hesitate to ride in road ditches for this reason.

While wild animals are more alert and cautious than their domestic counterparts, rancher Harvey says that in some instances deer and antelope put their feet through beverage cans. When the hoof breaks through, the sharp edges can cut off the blood supply, crippling the animal or causing an open wound. "The lameness may lead to death by predation or severe weather, or the wound can become the target of fatal insect infection."

Perhaps these litter-related tragedies don't comprise a major threat to wildlife, yet the examples recorded are only the tip of the iceberg. The incidents are symptoms of a deteriorating environment. The condition of our wildlife is an index of the quality of our own lives.

A growing threat to animals, litter is already a plague to humans. Our wayside litter amounts to as much as four million tons per year, and we spent $200 million per year to retrieve it. About 35% of the total, 1.4 million tons, is made up of throwaway bottles and cans. And it compounds every day because glass and aluminum virtually never break down in the environment. The litter not only clutters our roadsides, but it defaces our most pristine areas. An outdoorsman who feels he's exploring an area where no one has trod is likely to find an empty beer can that dictates otherwise. Some remote backpacking trails glitter with bottles, cans, and pop tops.

Believing that what we can't see won't hurt us, some people have turned our lake and river bottoms into dumps. In 1972, Dan Carleson, a fishery biologist for the Oregon Game Commission, made a series of dives to survey the bottom of that state's serene and beautiful Diamond Lake. He found an underwater nightmare. Carleson calculated that the lake bottom was strewn with 44,500 empty beverage containers.

And Carleson could only count bottles and cans which were visible. Silt has a tendency to slowly bury its garbage. "We found that as our knees and swim fins sank into the ooze we bumped into a tremendous amount of litter that settled into the bottom," Carleson said. Commenting on Carleson's report, the editor of the *Oregon Game Bulletin* lamented, "It appears that at the rate we're going, Diamond Lake could become a landfill."

This garbage, settled into lake and stream bottoms, causes frequent injuries to swimmers and waders. It also presents road hazards to fish. Fish have accidents too, but they are seldom discovered or recorded. A few years ago a biologist for the Oregon Game Commission found a beer can containing about 50 dead hatchling trout in the Rogue River. He theorized the trout either were attracted by their blurred reflections in the metal, or perceived the dark hole in the can top as shelter. Once they followed the leader inside, they became lost in the crowded darkness and suffocated.

A fisherman at Oregon's Unity Reservoir last winter hauled out a three-pound rainbow trout wedged tightly in a broken beer bottle. And a Michigan fisherman hooked a tormented 21-inch pike which was being slowly decapitated by a six-pack binder encircling its body.

Nowadays litter creates more than an aesthetic barrier between human beings and nature. It creates physical barriers in the forms of barbed wire, locked gates, and no-trespassing signs. The Pennsylvania Fish Commission reports, "Litterbugs are largely responsible for posting by private landowners along our streams and lakes." The story is the same in other states—more and more land is being closed to public access as landowners lose patience with those who litter their property.

Litter is the most obvious sin throwaways commit against our society; it isn't the greatest. More serious sins are the wanton waste of our energy and resources. Last year Americans used over *60 billion* disposable beverage containers. The amount of electrical and fossil-fuel energy squandered in manufacturing these throwaways is staggering. According to studies based on 1972 figures—when we used eight billion *fewer* containers than last year—our throwaways cost enough energy to heat two million three-bedroom homes in the mid-Atlantic states for eight months. In other terms, the throwaways used enough energy to satisfy the annual electrical needs of 9.1 million people. In comparison to a returnable container system, in which a bottle makes about ten round trips between consumer and bottler, our throwaway system costs the equivalent of five million gallons of gasoline per day. That means, in effect, that the equivalent of 4½ ounces of gasoline is wasted in making each 12-ounce container. The figures for aluminum cans are more shocking still: To use an aluminum can, we waste the energy equivalent of *more than half the can's capacity in gasoline.*

In 1972 beverage container production required two million tons of steel, 6.2 million tons of glass, and 575,000 tons of aluminum. This use accounts for 45 percent of all glass and 8 percent of all aluminum production in the country, and is the biggest single demand on our glass and aluminum supplies. While world supplies of these resources are not critically short, we depend on foreign countries for 33 percent of our iron ore, and 84 percent of our bauxite. In these politically troubled times, such dependency is dubious.

The convenience of throwaways isn't free. Consumers pay the price. With a disposable container we actually pay three times. Once

when we purchase it, once when we dispose of it, and once to have it laid to rest.

Beverages in throwaways are as much as 40 percent more expensive than drinks in returnable/refillable bottles. According to the beverage industry's own figures, 56 percent of the cost of a container of beer is the container itself. Americans spend about $1.5 billion per year for the throwaway luxury, but because of price-marketing procedures in many stores, they're not apt to be aware of it. For example, eight throwaway bottles of soda may be marked $1.61. Eight equivalent returnables may also be marked $1.61, but the consumer will get back 40 cents, or 25 percent of the purchase price, when he returns the bottles.

Even after it has been purchased, the throwaway keeps on costing. Once the beverage container is emptied, there it is—a throwaway to be thrown away. Beverage containers make up the most rapidly growing category of waste in the national trash can. They comprise about seven percent of the total of our garbage, second only to newspapers. (Garbage means solid waste thrown in trash cans as opposed to waste which becomes litter.) EPA projects that at current rates Americans will toss out 11.3 million tons of beverage containers in 1976. If the cost per ton to collect and dispose of solid waste remains stable, getting rid of all those bottles and cans will cost us nearly $200 million annually by the Bicentennial.

We are the world's leading garbage-producing nation. New York, for example, creates more garbage than London and Tokyo combined. While New York's population rose only 1.5 percent since 1960, its garbage production rose 42 percent. We are running out of space for all that garbage. A 1973 survey by the National League of Cities revealed that nearly half our cities will run out of refuse landfill capacity by 1978.

The throwaway came to us about 15 years ago, in an age of opulence. Its initiation into society accompanied big gaudy cars and gasoline wars. The term energy shortage hadn't been coined. Our resources appeared never ending, and national environmental concern was still many years off.

But today big gaudy cars and gasoline wars have left the scene, and many people think the throwaway should do likewise. In recent years over 350 bills to regulate beverage containers have been introduced in Congress, or at state and local levels. Oregon, Vermont, and South Dakota already restrict throwaways. Several other states are close to passing bills. Scores of cities and counties have passed such legislation, which at all levels has been upheld in court tests.

The Oregon bottle bill was enacted in late 1972. It required a mandatory five-cent deposit on beverage containers, and banned pull-tab rings. Oregon's success with the bill prompted Republican Senator Mark Hatfield to introduce federal legislation requiring a mandatory deposit and banning of pull-tab rings. The bill (S613) would be phased in nationally over a three-year period.

Hatfield's bill is rapidly gaining support, but it is bitterly opposed by the steel, glass, aluminum, and container industries, along with soft drink bottlers and brewers. Fearing the inconvenience and possible loss in profits, these groups spend millions each year to fight container legislation.

The manufacturers say that such legislation will raise prices, lower consumption, create unemployment, and fail to reduce litter. Certainly the change would create initial logistical problems for industry. The net result, however, appears worth the effort. Oregon reports that beverage prices have risen since 1972—but they've risen everywhere, largely due to increased sugar prices. Oregon's beverage prices are in line with those of neighboring Washington state, which does not yet have a bottle bill. Beer and soft drink sales in Oregon continued to climb after the law was enacted. Significantly, Oregon also reports the shift to returnables resulted in a net *gain* in employment. While there was a shift in the types of jobs, the move created more total jobs in industries. In fact, Maryland's Council of Economic Advisors recently projected that if Maryland returned to returnables, there'd be a net increase of 1,500 jobs generating $18.5 million in personal income.

Both Oregon and Vermont report a heartening decrease in litter following container legislation. Oregon initially reported beverage container litter down 80 to 90 percent, and recently reported total litter has dropped as much as 46 percent. Lake Diamond may not become a landfill after all. Vermont's Agency of Environmental Conservation reports that even opponents of their bottle bill now agree that legislation has greatly decreased beverage-related litter along that state's roadsides.

The Vermont agency reports that the opposition attempted to cloud the litter reduction issue by counting containers placed in roadside trash receptacles along with highway litter, and comparing the tally with pre-bottle law statistics which counted only roadside litter. Despite statistical games, reason dictates people are much less likely to throw away something of specific value than something intended to be thrown away.

The industries opposing container legislation point to recycling and cleanup campaigns as alternatives. Recycling, however, does not yet offer sufficient monetary reward to be successful. Only half a cent is usually offered for cans, the more recyclable of the two container types. Only 15 percent of all aluminum cans made it back to recyclers last year. The statistics for glass are worse. There are only about 100 glass recycling centers in the entire U.S. Old glass is only worth about $20 a ton, and takes more money and energy to recycle. The expense and logistics of hauling materials in for recycling has dampened the volunteer enthusiasm which sprung out of Earth Day movements. In too many cases, cities and charity organizations which sponsored recycling campaigns wound up losing money.

Certainly recycling centers are growing as cities begin to realize there's money and energy in municipal trash. And recycling does save energy and resources. When the EPA examined the various energy requirements of nine beverage container systems, it found that the pull-tab aluminum can, with a 15-percent rate of recycling, was ranked ninth, the worst, for delivering 1000 gallons of beer. A returnable/refillable glass bottle system was ranked first.

Recycling is most valuable as a complement to a system which produces less waste in the first place. A return to returnables is in fact the ultimate in recycling. It places a significant rather than a token bounty on containers. A deposit container which is extravagantly discarded becomes someone else's nickel. And when a ten-trip returnable comes to the end of its journey, it can then be recycled.

Clean-up campaigns, like recycling, are also valuable follow-ups, but they will not eliminate litter by themselves. Two of the largest national campaigns are "Keep America Beautiful" and "Pitch In." KAB is sponsored largely by beverage container industries and their suppliers, along with retail food distributors and fast food chains. "Pitch In" is sponsored by the American Brewers Association. While any clean-up effort is to be praised, these industry campaigns are no more than we might expect from the initiators of the problem. And although both organizations claim to work toward litter reduction, they actually lobby against legislation to eliminate throwaways.

Industry argues that litter is a behavioral problem which can be solved through education. Yet it's difficult to imagine anyone who has not been exposed to antilitter propaganda. In fact, containers themselves now bear a message reading "Please Don't Litter." But the problem increases. Without nipping waste production in the bud, our litter problem won't go away.

Proponents of beverage container legislation are winning inch by inch. Several recent surveys at both state and national levels indicate that citizens overwhelmingly favor returning to returnables. Their chances of doing so voluntarily are slim, since in most areas very few beverages are available in returnable bottles.

Although concerned citizens view container legislation at state and local levels as a step in the right direction, they believe the most logical and desirable legislation is Hatfield's Senate Bill 613. A federal law would create national uniformity and eliminate a series of drawn-out battles. In the minds of many, it's an idea whose time has come.

Opponent industries will suffer some pains as a result of change, but it's difficult to imagine that these corporate giants won't land on their feet. Manufacturers might well do better to spend time and money on positive efforts to facilitate the move to a returnable system. They could create a short, squatty space-saving bottle, standardized for use by more than one distributor. The label would still identify the product, and the standardization would solve sorting and distribution problems.

Several franchised bottlers have recently voluntarily switched to returnables, and realized increases in sales and profit. Joyce Beverages in Chicago made the switch in 1973. During the first year, sales of Joyce's Orange Crush *were up 87%*.

A 7-UP bottler recently stated in a beverage industry newsletter, ". . . if by our own volition, we got rid of the pull-top can and throwaway bottles, we'd make fortunes. While at corporate levels beverage industries still reject the idea, local franchised pioneers of the switch are pleased with the results.

It's unlikely many of us will resent the switch to returnables, given what we've to gain. This is, after all, the only planet we have. Its condition is a good index to the quality of our lives. Our fellow creatures—the birds, animals, and fish—must rely on our intelligence and rational behavior to protect their world and ours.

OTHER TESTIMONY AND NEWSPAPER ARTICLES

Mr. HATFIELD. Mr. President, 2 days of hearings were held by the Senate Commerce Committee on a similar beverage container bill which I proposed in the 93d Congress. I ask that the statement of John R. Quarles, Deputy Administrator of the Environmental Protection Agency, appear in the RECORD followed by my testimony before the same committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF HON. JOHN R. QUARLES, JR.

Mr. Chairman and Members of the Subcommittee: I appreciate the opportunity to appear before you this morning to discuss the views of the Environmental Protection Agency on S. 2062, "a bill to prohibit the introduction into interstate commerce of nonreturnable beverage containers." This measure would impose a mandatory two cent deposit on containers which could be used interchangeably by various beverage manufacturers and bottlers and a 5 cent deposit on all other beverage containers for sale or shipment in the United States. While the bill would not prohibit the use of metal cans,

it would ban those metal containers with detachable tab tops.

S. 2062 is modeled after the beverage container law which was enacted by the State of Oregon in October 1972.

As a Nation, we Americans consume more bottled soft drinks and malt beverages than any other people in the world. Indeed, there are few national habits more typically American than taking time out for "the pause that refreshes." Bottled beverages, whether we like it or not, are truly part of the American life style.

While the soft drink and beer industries have grown over the last twenty years in response to the demands of a growing and thirsty population, the consumption of beverage containers has also increased—but at a rate in considerable disproportion to both population trends and beverage consumption.

Between 1959 and 1972, the quantity of beer and soft drinks consumed in the United States increased 33% per capita. During this same time period, the number of beer and soft drink containers consumed skyrocketed by 221%—from 15.4 billion units in 1959 to 55.7 billion units in 1972. This dramatic increase in container consumption can be traced, in large part, to an increase in the use of the non-refillable container.

To borrow another phrase from the beverage industry, we Americans have adopted over the years a "no deposit, no return" attitude about our resources which has become increasingly troublesome now that energy and materials are in short supply.

Nowhere is our "throw away" style of life more apparent than along the streets and highways of this country.

Beer and soft drink containers form a large and highly visible segment of roadside litter. According to a privately commissioned study, in 1969, discarded beverage containers were estimated to comprise 19.7% of highway litter by item and between 54 and 70 percent by volume, based on observations of the Oregon State highway department.

Relating these figures to the broader solid waste picture, we find that approximately 8.2 million tons of beer and soft drink containers were produced and discarded in the U.S. in 1972. This figure represents 21% of all packaging wastes and approximately 8% of the total product waste generated by business and commercial establishments, households and institutions. Beverage containers are the most rapidly growing segment of all municipal waste with a growth rate of approximately 8% per year.

While a concern for the environment and the problems of litter and solid waste disposal serves as the more obvious incentive to reduce the burgeoning number of discarded beverage containers, we have found that a return to refillables has undeniable materials and energy benefits as well. Discouraging the use of "throwaway" containers is indeed one practice which fully satisfies the demands of both environmental enhancement and energy conservation.

In 1972, beverage container production resulted in the use of 6 million tons of glass, 1.6 million tons of steel, and 575,000 tons of aluminum. Moreover, beverage container consumption results in the use of approximately 1% to 2% of energy used by all U.S. industries.

Our studies show that taking into account the energy demands of both the manufacturing and refilling process, a refillable bottle making 5 trips has been found to use one third less energy than that required merely to produce one nonrefillable glass or aluminum container. This is a significant energy savings when we consider that most returnable bottles make upwards of 10 trips, and 25 to 30 trips per bottle is not unusual.

The trend toward increased use of nonrefillable containers is likely to continue over the next decade if steps are not taken to slow this spiraling demand for throwaways. By 1980, the 55.7 billion figure for containers consumed is expected to rise to 80 billion units, with the greatest growth anticipated for the aluminum beverage container.

Public officials and private citizens alike have watched with increasing concern the proliferation of discarded bottles and cans along our highways, parks and beaches. Aside from local anti-litter laws and privately-sponsored clean-up campaigns, efforts to come to grips with the problems associated with the careless disposal of non-returnable were ineffective until recently.

In 1970, with the enactment of the Resource Recovery Act, the Environmental Protection Agency was given authority to investigate the beverage container situation. Section 205 of that Act directs EPA to study the recovery of resources from solid waste and the reduction of solid waste at the source. Beverage containers as well as other types of packaging were among those areas studied under this authority.

Our *Second Report to Congress*, transmitted in March of this year pursuant to Section 205, discusses our work in the area of beverage containers and outlines the major options available to reduce the generation of disposable bottles and cans.

Briefly, we found three major types of strategies that have been proposed to either reverse the trend toward refillable containers or reduce the beverage container portion of litter: taxes on beverage containers to finance litter clean-up, a ban on the manufacture and sale of non-refillable containers, and a mandatory deposit system, such as that contained in S. 2062.

(1) *Litter Tax.* The litter tax would require that a minimal additional sum, perhaps $0.005 per container, be paid on the sale of each container for beer or carbonated soft drinks. The tax could be imposed at the point of purchase of the container by the beverage industry. Litter taxes could be imposed at the State or local level, as in the State of Washington. Where implemented at the State and local level, the costs and benefits must be analyzed in relation to the characteristics of the particular area. While a low litter tax might not cause any change in the rate of littering, it would raise revenue to be used for litter collection. Such a tax would not affect the trend toward non-refillables.

(2) *Ban on Nonrefillable Containers.* A ban on nonrefillable containers would prohibit utilization of any container other than one which is refillable. Bottlers of beer and soft drinks would probably place deposits on their refillable beverage containers to retrieve them for refilling. As for the drawbacks associated with such an approach, such a ban would completely eliminate the beverage can manufacturing industry as well as the contract canning industry. The uses of steel and aluminum for beverage cans would also be eliminated. The State of South Dakota has recently enacted a law prohibiting the sale of beverage containers which are not reusable or biodegradeable.

(3) *Mandatory Deposit.* The mandatory deposit alternative would require the retailer to pay anywhere from 2 to 10 cents for every empty container of beer and carbonated soft drinks. The retailer would be required to accept from the consumer any empty container of the kind, size, and brand sold by that retail outlet. Retailers, in turn could return empty containers to the distributor who would also be required to pay the stipulated refund.

Mandatory deposit legislation is now in effect in the States of Oregon and Vermont. In Oregon, the law has been upheld by the Oregon Supreme Court. The Vermont law has also recently been upheld in the courts. However, the laws that have been passed in Bowie, Maryland, Loudon County, Virginia, and Ann Arbor, Michigan, have not been enacted due to legal challenges.

Data presently available from the operation of the various State and municipal mandatory deposit programs reflect both the merits and the drawbacks of such a system.

Studies by both Research Triangle Institute and Midwest Research Institute indicate that mandatory deposit legislation is likely to result in decreases of 60 to 95% in the number of beverage containers discarded as litter. Preliminary data from Oregon support these analyses as they illustrate beverage container litter reductions of from 75 to 85%. Such a mandatory deposit system would be likely to result in a decrease in solid waste of from 70–75% of the beverage container portion of the amount of total product waste, or 5–6 million tons.

Benefits produced by mandatory deposit legislation in reducing energy consumption depend upon the mix of containers available and the number of trips per container. Based on the achievement of a 90% refillable bottle market in which each container makes 10 trips, we estimate a reduction in the energy required to produce beverage containers of approximately 194 trillion BTU's of energy. This would be equivalent to 92 thousand barrels of oil per day.

Turning now to the economic effects of mandatory deposit legislation, predictions on beverage sales impacts range from no sales decline to a decline of 8%. Preliminary experience in Oregon indicates a drop in the beer growth rate from 6% in previous years to 1.2% in 1973. However, it is important to point out that an analysis of beer sales trends over the past 10 years has indicated that sales in 1973 show no significant deviation from the trend line. It would therefore be difficult to prove any adverse sales impacts from the Oregon beverage container legislation.

No comprehensive data on soft drink sales in Oregon are as yet available. A recent survey by Oregon State University estimates a 10% rise in soft drink sales, a figure that is consistent with previous years. Although comprehensive beverage sales data are not yet available from Vermont, it appears that the law in that State has resulted in some sales decline.

One major drawback of the implementation of a mandatory deposit program is the potential for considerable temporary industrial disruption. A study performed by Research Triangle Institute estimates that in 1969, a deposit measure would have resulted in a loss of approximately 60,500 jobs nationally, primarily in the container manufacturing industries, and a gain of 60,800 jobs, primarily in the retail and product distribution sectors of the economy. This would mean a net increase in total jobs. It is important to note, however, that the jobs gained would be lower paying than those lost. Thus such a measure might be likely to produce a net loss in labor income.

Mandatory deposit legislation is also likely to result in a decline in tax revenues during the period of transition to a refillable system. This would be due to the fact that a majority of beverage can lines would become obsolete, as would a large percentage of container handling equipment. Estimates of losses in revenue from beer excise taxes and corporate write-offs for obsolete equipment during the first year of transition range from $271 to $803 million nationally. These figures would probably decrease if beverage sales did not decline, and if beverage cans continued to be sold.

Mandatory deposit legislation would also affect the consuming public. While the average price paid by consumers for beer and soft drinks should decrease because the higher price nonrefillable containers would not be available, increased handling costs and costs related to equipment changes in the brewing and soft drink industries are likely to be passed on to the consumer. Nevertheless, it is likely that the consumer

could pay slightly less on the average for beer and soft drinks under a mandatory deposit system.

In this regard, it is interesting to note that the price of soft drinks in the State of Washington where no mandatory deposit law is in effect rose 12% as compared with only an 8% rise in the neighboring State of Oregon, which had a mandatory deposit law in effect during that same period.

Mandatory deposit legislation may result in limitations on both brands and sizes of beverage containers available to the consumer. Preliminary data from Oregon support this indication as many foreign beers and some soft drink brands cannot be obtained in the same sizes in which they were available before the law went into effect.

It should be emphasized that these considerations are based upon a fairly broad-brush national macro-economic assessment. There are a number of other micro-economic effects that could occur which are much more difficult to predict, and have not been the subject of analysis to date. These include shifts from regional to local beverage distribution systems and other inter-firm and inter-product effects.

Based upon our observations in the States and localities which have enacted mandatory deposit laws, we believe that a mandatory deposit program results in conservation of energy and materials and a reduction in solid waste and litter caused by beverage containers. We would therefore favor the adoption on a nationwide scale of a mandatory deposit system to eliminate differences in beverage container programs from State to State and to assure a uniform and equitable program for manufacturer, bottler, laborer, and consumer alike.

Associated with a sudden shift to refillable systems, however, is the likelihood of some economic disruption and unemployment. In order to achieve the resource and energy recovery benefits of such a program while at the same time minimizing the adverse economic repercussions, we would recommend that such a nationwide system be implemented over an extended period of time and with proper controls. Such a phasing-in would greatly reduce industrial dislocation.

If an immediate shift to a national mandatory deposit system went into effect in 1975, based on the achievement of a 90% refillable bottle market, we estimate that approximately 57,000 employees in the metal and glass container industries would be affected.

Phasing in such a system by 1980, however, would reduce the employment dislocations by 32%, thereby affecting 39,000 employees rather than 57,000. This would mean an average of less than 7,000 employees dislocated per year. Further reductions in dislocation could be achieved by an even more lengthy phase-in period. If, for example, a 90% refillable bottle market were to be achieved by 1985, an estimated 16,000 employees would be affected, less than 3,000 per year.

These dislocations must also be viewed in light of job opportunities available for the displaced workers within their occupational category and industry. Assuming a 90% refillable market by 1980, we have been advised by the Bureau of Labor Statistics that for each job lost, a minimum of 70 job opportunities would become available in the same occupational category. For certain job categories, several thousand job opportunities would be made available for every dislocated employee. These job opportunities do not take into account the large number of jobs that would be created in the beverage manufacturing, retail, and distribution sectors of the economy by a return to a refillable system.

As to the specific provisions of S. 2062, we offer several observations. We have considerable difficulty with the failure of the bill to provide for a phase-in period. Without some equitable and efficient technique for phasing-in the deposit requirements, we would anticipate severe economic disruptions and dislocations. We are not sure in our own minds how a "phase-in" could best be accomplished.

Another problem stems from a provision in the bill which might be construed as drawing a distinction between interstate and intrastate beverage shipments. Such a distinction could well defeat a national program, and it would clearly result in inequities.

Since the success of any program of mandatory deposits depends on public awareness and response, we believe the approach taken must be simple and unmistakably clear. The multiple definitions of a variety of beverage containers could be confusing.

However, aside from the difficulties we have with many of the specific provisions of S. 2062, we are in accord with the basic idea of the bill.

Mr. Chairman, we could go on and on in the collection and examination of data, and in the analysis and re-analysis of probable effects from any regulatory approach to the problems of beverage container consumption and litter. We have studied this matter intensively and we believe that we now have a reasonably reliable body of data concerning the problem. We have the benefit of the Oregon experience. We also have the prospect of a proliferation of State and local laws addressing the problem with differing and perhaps contradictory approaches.

As I mentioned earlier, we do lack some economic data concerning possible market effects of a mandatory deposit requirement. On the other hand, the information and data we have concerning the environmental effects of such a requirement we believe are persuasive.

Because of the difficulties we have with the provisions of S. 2062 we do not recommend its enactment. However, we do endorse its underlying premise—that a national requirement of mandatory deposits for beverage containers can make a significant contribution toward the solution of the environmental problems associated with no-deposit, no-return containers.

STATEMENT BY SENATOR MARK HATFIELD

Mr. Chairman, as the former ranking Republican on this subcommittee, it is a pleasure to appear before you this morning in support of my proposal, S. 2062. My colleague from Oregon, Mr. Packwood, is a cosponsor, as are Senators Case, Hughes, Kennedy, McGee, and Metcalf.

Appearing before the Senator from Utah, Mr. Moss, always is a pleasure, for his national leadership efforts for consumers and in the recycling area I know will alert him to the problems of solid waste, litter and energy, and he will see what Oregon has done to solve one aspect of this problem with our bottle bill. I am aware of the many pressures for hearings before this subcommittee, and my thanks for scheduling the hearing are echoed by everyone from Oregon, where we have made our state bottle law work.

I also want to recognize the fine staff work done on this hearing by Mr. Paul Cunningham.

A THROWAWAY SOCIETY—CAN WE AFFORD IT?

Can the American people reverse the drift toward a "throwaway society?" The people of Oregon have answered "Yes" to this challenge, and the opportunity now exists for the rest of the country. Non-returnable beverage containers—beer and soft drink—have been banned from sale in Oregon for over a year. No flip-top snap-tab cans; no throwaway bottles. A deposit is required on all bottled and non-tab canned beverages.

The Oregon legislature picked out an identifiable segment of the "make it, use it, discard it" attitude and passed a law showing that some people recognize yesterday's attitudes won't work on today's problems or tomorrow's challenges. The state law in Oregon has been a huge success. It has cut litter drastically and saved energy. The people of Oregon made the law work. Today and tomorrow this Committee will hear from a number of people from Oregon who will provide the Committee with details on the Oregon law, and discuss its application to a national bottle bill. I will not, therefore, address my remarks to the nuts and bolts of the legislation, for others I know will offer testimony on its merits, and others on what they see to be its shortcomings.

Instead, Mr. Chairman, I would like to share with you some thoughts on the broader picture of why a national ban on the sale of non-returnable beverage containers should be enacted.

To pass such legislation as the Committee is considering would help reverse the counter-ecological growth patterns that have paralleled the technology explosion of the past two decades.

Beverage packaging is only one example of this pattern. Housing could have been chosen, where aluminum siding creates a pollution price tag nine times greater than wood siding. It takes six times the energy to move the same amount of freight by truck than by rail. Production of aluminum, cement, and chemicals consumes thirty percent of the industrial use of electric power in the United States. Some of the new energy sources under review will use great amounts of energy in their production, so the "net energy" result is meager in the face of the resource depletion in generating it.

NET ENERGY

Energy consumed to make new energy is a crucial factor to which energy planners and economic advisors have paid little attention. For example, if it took nine units of energy to mine, process, and transport oil shale that in turn, generated only ten units of energy, the net energy gain would be only one unit of energy. Such a shale reserve, therefore, would deliver only one-tenth as much net energy and last one-tenth as long as was calculated using today's gross energy figures. Using such gross energy reserve statistics regarding fossil fuels instead of a net energy figure only deludes the public. Nuclear power, hailed by many, probably just barely yields net energy today, due to high costs of mining and processing fuels, storing wastes, operating complex safety systems, and manning governmental regulating agencies.

The issue of throwaway beverage cans and bottles is one that can be conquered. In the abstract, we can say that all this issue needs is the support of those people who sip, drink, swill, or guzzle beverages. In reality, it needs the support of this committee and a push by Congress. While the opposition is powerful and influential, and has, I presume, a substantial "war chest" to fight this bill, I believe this legislation should be passed. The beverage container issue is one definable in scope. It can be examined and—more importantly—It can be solved.

SOLID WASTE

Although the statistic is staggering, we are told that some 90 million beverage containers will be produced this year. Most of that total will be thrown away, except in Oregon. Production on non-returnable beer bottles increased from 1946 to 1969 by over 3700%—an amount difficult to comprehend. At the same time, returnable beer bottles dropped 64% per capita.

Putting away the ethics of a throwaway society for a moment, we should try to visualize the solid waste problem of disposing of these cans and bottles. It is a staggering job. The siting of future landfills to dispose of mountains of trash is a major problem

whose dimensions—literally and figuratively—will continue to grow.

ENERGY SAVINGS

Because solid waste on such a vast scale is difficult to comprehend, every beverage purchaser should look at energy savings from passage of our national bottle bill. I think the Committee should look at this carefully, for information I have received indicates such a law would generate substantial energy savings. One study shows an energy saving equal to the total 1970 energy needs for the cities of Boston, Washington, Pittsburgh, and San Francisco for five months. Another report states that the energy equivalent of 131,000 gallons of gasoline daily would be saved by banning throwaways. Another study shows it takes over three times the energy to bottle a gallon of beer in throwaway containers than in returnable ones.

Each time an empty beer can or soft drink bottle is thrown away, the energy used in its manufacture also is discarded. A returnable container is used an average of over ten times, with obvious energy savings. We are told a 100 watt light bulb could burn for twelve hours on the energy wasted on a throwaway. One Ph.D. studying this problem says the energy waste is so great that throwing away an aluminum 12 ounce beverage can is like throwing it away half full of gasoline—the energy equivalent used in its manufacture. An environmental group here in Washington has calculated the national energy savings of a ban on throwaways to equal:

The electrical needs of 9.1 million Americans for a year; or

The gasoline for 1.5 million cars averaging 10 miles per gallon to travel 10,000 miles; or

The natural gas to heat 2 million three bedroom homes in the Mid-Atlantic region for the 8-month heating season.

ENVIRONMENTAL TECHNOLOGY

Today we are led to believe that maintaining a quality environment and providing for our energy needs are conflicting objectives. Maintenance of our natural ecological systems, however, should not have to compete with man's other uses for energy. These ecological cycles actually should supplement our energy supply, and it is tragic we have allowed this relationship to be turned around.

We have been making technological choices that have been displacing products and processes that fit in with the cycles of nature. To rescue nature, we then have been applying "environmental technology" which substitutes for natural processes, and therefore duplicates the natural work from the ecological sector. This displacement and duplication is a crippling economic handicap. Consider the example of how sewage is handled. As the growth of urban areas has become more and more concentrated, much energy—including research and development work—has gone into developing and implementing technologies to protect lakes, rivers and oceans from the wastes dumped into them. These wastes, however, often are rich sources of chemical energy capable of being recycled back into the farmlands from which the nutrients came. They could replace much of the fertilizer now produced from fossil fuels and eliminate the need for energy-expensive tertiary sewage treatment.

The same attitude is reflected in the numerous ads showing large bottle and can manufacturers encouraging the recycling of their throwaways, although the increased energy use can be seen by anyone. Modern man unfortunately appears to believe it is better to solve the little-solid waste problem by energy-expensive recycling rather than by avoiding much of the problem to begin with through use of returnable containers. In spite of the national leadership given by Senator Moss in the recycling area, however, insufficient economic incentives unfortunately still hinder solutions to solid waste problems such as beverage containers. I just wish some of Senator Moss's recycling proposals had been in effect for years, and our solid waste problem would not be as severe as it is today.

LITTER REDUCTION

While energy savings offer an au courant impetus for banning throwaways, the dramatic reduction in litter in Oregon provides another critical reason why our bill should be enacted. In fact, the litter reduction is really an easily seen benefit to anyone travelling in Oregon recently. We have witnessed a dramatic drop in roadside beverage container litter. A study of the impact of the law on litter in Oregon by the Environmental Protection Administration states ". . . the law had a significant and positive impact on the litter in Oregon." The E.P.A. study showed beverage container content in roadside litter has dropped about 96%. EPA spokesmen in their testimony, as well as Oregon witnesses can provide more background on this important savings from enactment of our bill.

CONSUMERS AND THE "THROWAWAY TAX"

As supermarket dollars buy less and less, consumers should remember they are paying a "throwaway tax" on all those snap-tab flip-top cans and throwaway bottles. Dollar watchers need only examine beverage costs where both returnable and nonreturnables are sold. You pay less for returnables. When a consumer buys a beverage in a returnable container and returns it, he pays only a fraction of its container cost. The throwaway purchaser, however, pays the entire cost. Added to this is a disposal cost, and sometimes a roadside litter cleanup cost.

In a throwaway society characterized by mountains of discarded beverage containers, the problem is not caused by "them", but by "us." Two slogans illustrate the situation: "We have met the enemy and they is us," and "If you're not part of the solution, then you're part of the problem."

So far, however, little has been done to solve this problem. Oregon results from our bottle law show it can be attacked and solved, but acquiescence by a dormant public won't accomplish it.

Throwaway containers should be repugnant reminders of how little society cares about wanton depletion of its energy resources, or a measure of the disdain for helping curtail the staggering litter and solid waste problems.

A laundry list of areas exists where blind obedience to technology has created a host of problems. The beverage container area provides Congress a clear opportunity to reject this throwaway ethic spawned by the idolatry of technology. We must reject this misguided attitude in favor of one which reduces energy and help solve our litter—solid waste problems.

I urge this Committee to approve our bill, and thus to signal an end to this destructive approach to the stewardship of our land and its finite resources.

While we are the enemy today, we can be part of the solution tomorrow. To do less than solve this problem would be to submit to the tyranny of technology. To solve the problems caused by throwaway beverage containers would be to signal that society can place critical values—ethical and economic—in their proper perspective. The American people and the Congress must reject the flip-top, snap-tab throwaway society, and banning throwaway nonreturnable containers is a needed first step.

In closing, Mr. Chairman, let me thank you again for holding hearings on this bill. We in Oregon know such a law can work and we welcome the opportunity to testify about the Oregon law. As Oregon witnesses appear, I would hope that some questions could be directed to them about the opposition to our bill. Ask them what dire predictions were made in hearings similar to this one before the Oregon legislature. Try to find out just what the opposition claimed the effect of enactment of the law would be. The reason I suggested this to the Chairman is that I know opponents of our bill will stream before this hearing and predict a worse depression than the 1930's if Congress bans throwaways. Tales of woe will be pictured by our powerful opponents. As witnesses from Oregon will tell you, the Oregon legislature heard all the same dire predictions. If the men and women in our legislature had believed all the claims of the bill's opponents, there would have been no Oregon "bottle bill".

It is no secret that opponents of the bill represent both labor and management—and perhaps I should be pleased that I could help this labor-management rapprochement, even if it is only to defeat my bill.

Thank you again, Mr. Chairman, and I will supply any added material you wish for the RECORD.

Mr. HATFIELD. Mr. President, in addition, Dr. Barry Commoner, Director of the Center for the Biology of National Systems at Washington University, testified on behalf of the Illinois Beverage Container Act on February 11, 1976. I ask that his statement appear in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY DR. BARRY COMMONER

Testimony of Dr. Barry Commoner, Director, Center for the Biology of Natural Systems, Washington University, before the Illinois General Assembly regarding HB 1838, the Illinois Beverage Container Act, February 11, 1976.

I am pleased to be here today to share with this committee my feelings about the important legislation which is being considered this morning. I think that the Illinois Beverage Container Act is a significant piece of legislation which deals with positively redirecting some of the recent production trends.

I use the word redirecting intentionally because I feel that the beverage industry made many of the common mistakes that have brought us to these difficult times. These mistakes are the result of several post-World War II trends in production technology—increased energy consumption from mechanization and larger shipping distances plus larger, centralized production facilities. In fact, until about ten years ago most soft drinks and even about half of all the beer shipped in containers were in returnable bottles. So it was relatively simple to drink a beer or soda without consuming a bottle too. When the bottle was returned, it did not go a tremendous distance because there were more breweries and beverage manufacturers and they tended to be located near the consumer.

However, in recent years all this has changed. The small brewery has been closed, and beer is generally supplied by a remote regional producer. In 1972 there were 108 breweries, four of which accounted for 52 percent of the value of the shipments. In 1958 there were 211 breweries, the four largest accounting for only 28 percent of the values of shipment. Since the distance between the producer and the consumer has increased, the cost of returning the empty container to the brewer has also escalated. Faced with this burdensome, unprofitable responsibility, the beverage industry simply shifted the con-

tainer problem to the public. Now it has become increasingly difficult to drink a beer without consuming a container, too. A recent estimate is that by 1980 the industry will ship 400 containers per capita. So the responsibility falls to the individual, or all too frequently to the state or local authorities to assure proper disposal of the container. Now let's turn from this historical prospective to a brief analysis of what a container is, and what your proposed legislation would do.

I don't want to dwell on the energy question, because I know that Bruce Hannon will cover it in all the necessary detail, but I do want to point out several significant numbers. The figures I am quoting are the total energy requirement to manufacture the raw materials, transportation of raw materials to the processing plant, plus the energy consumed in manufacturing and transporting the bottle to the bottling plant. A 12-ounce container made of aluminum requires 8308 BTU's, one made of steel requires 4872, a nonrefillable glass bottle 4918, while a refillable glass bottle requires 1023. I should make it clear that the energy figure for the returnable bottle is the result of dividing its total energy requirement by the fifteen trips which it is generally assumed to make.

So, in its most detached sense, a beverage container is a combination of valuable natural resources. However, it does not come into being through some magical process, but through the efforts of an industry. So let's turn from the energy question to one which is even more familiar to you, jobs. This has always been a key issue in any legislative forum.

The Department of Commerce did a study, issued October 1, 1975, entitled "The Impacts of National Beverage Legislation," in which the estimate was made that on a national scale, a total of 82,000 jobs would be lost, mostly in the manufacturing and fabrication industries, if a national law similar to the one before you today were instituted. However, this report goes on to note that between 95,000 and 115,000 jobs would be gained in the areas of production. They break down the anticipated gains as follows: 35,000–40,000 in retailing, 25,000–30,000 in malt beverage distribution, 20,000–25,000 in soft drink distribution and 15,000–20,000 in the area of beverage production and filling. Thus it would appear from this report that on a national scale, legislation such as you are considering today would result in a net job gain of 13,000 to 33,000 jobs. Let's compare this projection with the actual figures from a state that has adopted such a law, Oregon. A recent (January 24, 1976) editorial in the St. Louis *Post-Dispatch* noted that "there has been a net gain of 20,000 jobs . . ." attributed to the new legislation. I have attached the editorial, which calls for a similar law to be enacted in Missouri, to my testimony for inclusion in the record.

This finding supported the expectation that the jobs gained would be in a wide range of areas—generally more unskilled and clerical jobs than production worker jobs were created. So it would appear that implementation of the law you are considering would result in a sizeable increase in jobs available to your constituents. It seems reasonable to expect that these jobs could be filled by the numerous semi-skilled unemployed who are now finding it so difficult to work. I might note that Illinois is a much more populous state than Oregon and also given to warmer weather, so that it seems reasonable to assume that your beverage consumption is greater and thus your job gain would be proportionately higher.

Now let's look at the bottle as an expression of choice on the beverage manufacturer's part. Based on figures from the *Census of Manufactures*, it appears that the container preference of the soft drink industry differs largely from that of the malt beverage industry. In 1965, 82.3 percent of all soft drinks shipped were in returnable bottles, while only 41 percent of the malt beverages were. By 1972, the most recent figures available, each sector had reduced its percentage of returnable bottles by half, soft drinks to 37.3 percent and malt beverages to 19 percent. The interesting aspect of these figures is that returnable bottle usage by the soft drink industry has decreased at a much slower rate since 1970, dropping only three percentage points in as many years. However, malt beverage producers have a steady rate of decline in their use of returnable bottles, at about 3 percent every year.

The explanation for this disparity between the two components of the beverage industry is provided in a report written by HEW, a "Draft Environmental Impact Statement on Plastic Bottles for Carbonated Beverages and Beer." It notes that "returnable containers have retained a relatively larger share of the soft drink industry compared to the brewing industry because of the franchised bottler system which encourages small bottlers with relatively low transportation costs. Breweries, conversely, have become larger and centralized, encouraging use of one-way containers." So there is a correlation between decentralization of the beverage industry and returnable bottles which could lead one to expect that passage of a law requiring returnable bottles would be a boon for local breweries and soft drink manufacturers and would be an incentive for national manufacturers to establish plants in your state. Such decentralization would shorten the average distance traveled by each container, and more importantly, should increase the activity of this manufacturing sector within your state. The resultant increase in state and local revenues as well as jobs should certainly be an incentive to pass this bill.

In Oregon an interesting, symbolic relationship has developed between the local breweries and the more remotely located ones. Because the breweries have switched to a standard container known as a "certified container" in your bill, the competition for the used bottles is strong. Thus the local breweries buy the bottles which are shipped in, reusing them with their own product, and the more remote ones have yet to bear the expense of shipping the containers back to the point of origin.

Now that we have looked at this issue from the environmental and the economic point of view, let's take a long hard look at the container itself. Does it have any intrinsic value? Not as far as I can tell. I don't want to consume a container, what I want are its contents. The beverage industry, like so many other modern giants, seems misled in its attempt to compete for customers. One popular soft drink is available in 52 different sizes and container configurations, according to a recent first-hand market survey. Now you need a pocket calculator to figure out which is the best buy, not allowing for the hidden costs to taxpayers for the nonreturnable containers.

An expected increase in the price of the beverage is one of the objections raised to mandatory returnable bottles. Such an increase would create a hardship for the consumer who is purchasing the beverage. Again I would like to report on the actual experience in Oregon. There have been slight increases in the prices of beer and soft drinks since the bill was enacted. However, the price of soft drinks in the state of Washington, where there is no mandatory deposit law in effect, rose 12 percent, as compared with only an 8 percent rise in the Oregon price. Thus it seems that other economic factors play a greater role in setting the price of the beverage.

I do not believe that our society has demanded this proliferation of container options. Their cost in terms of natural resources, particularly energy, jobs, and cost of disposal collection seems to far outweigh any convenience they might provide. I have great faith that the people of Illinois and its legislature is concerned enough about the imbalance in this cost/benefit ratio to support this legislation and to comply with it willingly when it is passed.

Mr. HATFIELD. Mr. President, several articles and editorials have appeared in various newspapers and periodicals concerning aspects of the beverage container issue. I ask unanimous consent that these be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 30, 1976]

A SENSIBLE APPROACH TO TRASH

The Senate is about to have an opportunity to approve a measure that would have far-reaching effects not only on the public health and economy of the nation, but on energy consumption, the depletion of natural resources and the kinds of products people buy, use and throw away. This tall order is contained in S. 2150, the solid waste utilization bill, which is scheduled for floor action today. It is a comprehensive package of provisions dealing with the enormous problem of what to do about the gross national trash-pile—household garbage, industrial wastes and hazardous substances that are being tossed out by the millions of tons each year.

The measure constitutes a strong response to the "no-deposit-no-return" approach that is costing this nation in so many ways. For example, supporters of the bill note that this year, Americans will throw out 150 million tons of garbage containing valuable resources, which, if recycled, could save the equivalent of 400,000 barrels of oil a day, 7 percent of our iron, 8 percent of our aluminum and 14 percent of our paper. In addition, U.S. corporations will dispose of an estimated 380 million tons of hazardous industrial waste, much of it into landfills or lagoons.

The solid waste utilization bill would give the Environmental Protection Agency a handle on this hazardous waste in the various phases of its collection, treatment and disposal. The measure also contains guidelines for the phasing out of open dumping. In addition, EPA would be authorized to make grants for waste management and resource recovery programs, and to guarantee loans for construction of resource recovery systems.

There is also a most important amendment scheduled to be offered by Sen. Mark O. Hatfield (R-Ore.). It would place a five-cent deposit on all beer and soft drink containers and ban the hazardous "flip-top" can. The proposal calls for a phased approach aimed at reducing any temporary, adverse effects that might result from changes in manufacturing and distribution processes; the deposit requirement would not go into effect until five years after the bill's enactment. Without reciting all of the strong arguments that have been made over the years on behalf of this sensible attack on the problem of wasted natural resources, we would simply assert that the national approach proposed by Sen. Hatfield would be far more effective than the local and regional plans that have been attempted in the absence of a comprehensive federal program.

Industry opponents of this amendment have spent millions of dollars on a heavy lobbying campaign attempting to focus attention on "resource recovery"—and away from "source reduction," which is the term for reducing what's in the trash first, before recovering and recycling other materials. Polls indicate that consumers understand this logic, for it is they who are footing the bills for litter control and solid waste man-

agement. Last year alone, an estimated $400 million was spent to collect and dispose of discarded bottles and cans. Now the Senate has an opportunity to take a vital step toward curbing national wastefulness by making the Hatfield amendment a part of the solid waste utilization bill.

[From the Baltimore Sun, June 30, 1976]

BOTTLE BAN

The environmental, economic and esthetic arguments in favor of a ban on throwaway beverage containers are overwhelming. The throwaways add immensely to litter along America's roads and highways, and they needlessly use energy and other irreplaceable resources. But movements in favor of banning the throwaways so far have made slow headway because of the immense resistance of the can and bottle lobby. This week Senator Hatfield of Oregon will introduce on the Senate floor an amendment which would phase out the non-returnables nationally over a five-year period, by requiring a minimum 5-cent deposit on all beverage containers. The Senate should accept the Hatfield amendment.

[From the Christian Science Monitor, May 14, 1976]

RETURNING TO "RETURNABLES"

Perpetuation of what has become almost an American tradition—the attitude of "make it, use it, throw it away"—has received a boost from the Massachusetts House of Representatives.

The House refused to endorse an initiative-petition measure banning use of nonreturnable bottles. In doing so it soothed national container industry fears that, if the Bay State joins Oregon and Vermont in requiring that beverages be sold in returnable bottles, the rest of the nation might soon follow suit.

In 1973 the average American used 71 "six-packs" of beverages. One out of every four of those containers ended up as trash. Bottles and cans account for approximately 50 percent of the national litter problem.

At the same time surveys on the impact of bottle laws in Vermont and Oregon show that 90 to 95 percent of the returnable beverage containers are being reused. In Oregon overall litter has dropped 39 percent, while beverage container refuse has plunged 83 percent.

In Massachusetts the AFL–CIO opposed the bottle bill, saying it would result in loss of up to 1,000 jobs in the bottle-making trade. Yet a Federal Reserve Bank of Boston report concludes that there would be a net gain in employment, although primarily in less-skilled, lower-paid retailing jobs. It indicates an overall benefit to the state's economy.

On a national scale, a draft Federal Energy Administration report concludes that requiring deposits on beverage containers would result in economic gain.

Fortunately, the issue is not dead in Massachusetts. Backers of the proposal can place it on the November, 1976, ballot if they collect a little over 9,000 signatures, which should not be difficult. Meanwhile several other states, including Maine, New York, Maryland, and Virginia, are now considering similar bottle legislation.

The most effective way to curb litter, aside from convincing people not to toss it down in the first place, is to make it too costly for the heedless litterer.

Bay State citizens and indeed all Americans ought to realize that legislative bans on disposable bottles mean both the creation of jobs and a litter-free landscape.

[From the Washington Star, May 10, 1976]

IMPASSE ON THROWAWAYS?

It perhaps is as debilitating to embrace an idea over-long as to avoid ideas at all. A good notion can have its vital juices squeezed out and left a husk. We wonder if this process may be occurring now with the idea of banishing throw-away beer and soft-drink bottles.

The thesis is basically, if abstractly, sound. Throwaways are indicative of a disposal mentality that is becoming injurious to this country; their manufacture represents an egregious consumption of energy. The roadsides attest to the aesthetic squalor of throwaway habits.

Proponents of getting rid of the throwaways may have both over-simplified and over-sold the efficacy of government action to accomplish this. There are, of course, studies available to prove almost anything one wishes to demonstrate about any topic. However, fairly credible reports have said that curtailing use of the disposable bottles will not diminish but create jobs by converting to returnable containers. These studies also point out, however, that transforming major segments of the soft-drink and brewing industries would create severe dislocations in an economy still being treated for a low blood count.

Politically, the ban-throwaway movement has fared poorly in recent years in this area. The Howard County council recently repealed its five-year-old law, which had been under attack since conception. Loudoun County's deposit ordinance was overturned in court. Likewise in Montgomery County, where the council now is considering another anti-disposable regulation to try to remedy the deficiencies of the earlier law. In February, the District City Council voted down a throwaway-control proposal. Two bills now are pending in Prince Georges County but it will be astounding if the concept is translated into law.

The primary arguments advanced by opponents of governmental action cite what they believe will be a significant burden on businesses, an increase in prices because of extra handling of products, and the adding of yet another tax. In addition, opponents deflate the litter hypothesis—beverage-related litter, as they phrase it, constitutes less than 20 per cent of the total. We've seen figures that range higher, but we are unaware of any statistics that are generally held to be definitive.

So, around here at least, the ban-throwaway forces and the hands-off forces seem to be close to impasse. We have supported the idea of regulating disposables, but it is becoming fairly apparent that the effort is finding little favor at present.

The time may have arrived for the environmental groups that have championed the anti-throwaway effort to concede on this front. Recycling—of paper and paper products, as well as of metal and glass—may more incisively address the entire problem of litter. There is a worthy challenge.

For those who are distressed by throwaways, there is a remedy, as sure if slower than government action: Stop buying disposables. If enough people do, returnable containers would become conveniently available.

[From the Los Angeles Times, April 27, 1976]

REUSABLE BOTTLES—A DEPOSIT ON BEAUTY

The throwaway beverage can and the no-deposit, no-return bottle share two traits. They both blight the California landscape. They both represent substantial and needless drains on the nation's supply of energy and natural resources.

Sooner or later these plain facts will force lawmakers to do the right thing: to require deposits on the drink containers so that bottles will be reused and cans will not be tossed promiscuously away. Oregon has passed such a law and so has Vermont. The laws are working, and they have not harmed either state's economy. Other state legislatures and Congress are arguing about it and getting nowhere.

Sadly for California, 1976 will not be the year for action unless the state Senate's Natural Resources and Wildlife Committee changes its mind. And does it this week.

Last month the committee failed, on a 4–4 vote, to pass a sensible bottle and can deposit bill introduced by Sen. Omer L. Rains (D-Ventura). It would have required a five-cent deposit on cans and bottles except that standardized bottle sizes—used in common by all beverage makers—would carry only a 2-cent deposit. The law would allow two years' grace before its provisions took effect, plenty of time for retailers to gear up for the recycling traffic and for manufacturers to adjust their purchasing and marketing practices.

The Rains bill, stymied in March by a vacancy on the committee and by opposition from can makers, glass manufacturers and their workers, is up for reconsideration this week. All it needs is one member's switch to a yes vote. All such a switch requires is a look at the facts.

[From the Christian Science Monitor, Apr. 1, 1976]

USE THAT BOTTLE AGAIN

Every American produces about six pounds of trash and garbage a day and uses more energy than citizens of any other country. One way to help cut down on this exorbitant waste is to reuse the millions of beverage containers "consumed" along with the contents.

Recycling bottles and cans to produce new ones would save some natural resources (although not energy) and reduce litter, but efforts to encourage voluntary recycling have largely failed. A better answer is to clean and refill bottles, with a required deposit fee as an economic incentive.

In Oregon, where such a bottle law has been in effect since 1972, the results have been positive. Roadsides are much cleaner with bottle and can litter down by at least two-thirds. Some bottle manufacturing jobs were lost, but even more jobs were created to process the returnable bottles.

Since in the long run manufacturing non-return bottles and cans requires several times more energy than returnables, the saving of increasingly precious energy also is important. The federal Environmental Protection Agency estimates that a nationwide bottle deposit law could save 100,000 barrels of oil a day.

Chances for such a national law appear dim, but dozens of states are moving to follow Oregon's lead. Petitioning voters in Massachusetts have forced the State Legislature to consider a bottle bill. Their case has been made stronger by a Federal Reserve Bank of Boston study which concluded that there would be a net gain of jobs in the state if bottle deposit were required.

While paying a few cents deposit may be inconvenient, it should be emphasized that over all savings could be considerable. A case of non-deposit bottles, for example, would cost more than returnable bottles because the customer would be paying for their entire use rather than just one out of, say, 10 refills. The Boston Federal Reserve study confirmed the potential for consumer savings.

By all important standards—economic energy, and environmental—reusable beverage containers make good sense.

[From the Washington Post, Mar. 1, 1976]

SKIRMISHES IN THE WAR ON JUNK

As many readers may have noticed, February was something less than a banner month for citizens' groups and regional leaders who have been supporting legislation to curb the blight and waste caused by throwaway beverage containers. In Maryland, Virginia and the District, the manufacturers and distributors of pop-top cans, one-way bottles and other trash-bound containers

have won a respite from the mounting tide of successful consumer efforts to reduce litter, conserve natural resources and save energy through a stemming of the traffic in throwaways. Despite these setbacks, however, the war against this pollution of metal and glass is far from lost.

In Loudoun County, a circuit judge found unconstitutional a 1971 ordinance requiring a deposit on soft drink and beer containers and made permanent an injunction blocking the county from enforcing the measure. The judge said the measure—which differed in several ways from later proposals endorsed by officials in other area jurisdictions—conflicted with state law and was unconstitutionally vague. Under the Loudoun ordinance, wholesalers would have been held liable if retailers did not collect and return the deposit properly; and retailers would have been held responsible for unreturned containers. The measure also provided for criminal fines for violators. If there is no appeal of the decision, supporters of anti-throwaway measures will seek passage of a proposal similar to those already endorsed by the Metropolitan Washington Council of Governments and upheld in Maryland.

Of more immediate concern is a move in the Virginia General Assembly to take away the authority of all localities to enact their own anti-throwaway measures. A bill to this effect, pushed hard by industry lobbyists, has passed the House of Delegates and is due for consideration—possibly this week—by the state senate's agriculture, conservation and natural resources committee. Whatever arguments some legislators may make against a statewide deposit requirement, which they already have succeeded in defeating in this Assembly session, the local option to act ought not to be cavalierly stifled in Richmond. Instead, the Senate committee should kill the industry-supported bill.

In Maryland, the General Assembly also has rejected statewide deposit measures for this session; and in Montgomery County, a tax on throwaways that had been scheduled to go into effect this week has been delayed for at least a month as a result of a suit by merchants and bottle companies. County officials, who have estimated that the tax could generate more than $300,000 a month in revenue, are requesting a speedy trial on the merits of the law; there ought to be no reason for any more than a one-month holdup.

In the District, the city council leadership suddenly called up its mandatory-deposit proposal for consideration last week and rejected it by an 8-to-5 vote. Since other deposit laws enacted in this region (in Fairfax and Montgomery counties) would not take effect until 1977 or 1978, the city's legislators do have ample time to reconsider their proposal in light of future moves in the suburbs.

Understandably, there is some reluctance on the part of local lawmakers to commit their individual jurisdictions to the mandatory deposit without assurances that other area governments will do the same. But through the Council of Governments, new agreements on a common effective date for regional actions can—and should—be worked out so that the movement against the wasteful and expensive throwaway can resume in a concerted fashion.

[From the St. Louis Post-Dispatch, Jan. 24, 1976]

BOTTLE LAW

Oregon's "bottle" law is three years old now, and while a good deal of controversy over it remains, no one disputes that there has been a dramatic improvement in the state's litter problem. As a result of a law that bans pull-tab cans and requires a 5-cent deposit on most containers, Oregonians are returning at least 80 per cent of the beverage containers they purchase, reducing the volume of container litter by 35 per cent.

As for the economic impact, one study indicates that there has been a net gain of 20,000 jobs, though most have been in the lower-paying clerical level at the expense of the higher-paying production-worker jobs. The unmeasured gain of the bottle law is in the natural resources that have not been consumed as a result of fewer aluminum cans and other throwaway containers being manufactured.

The idea of stopping litter before it starts is certainly superior to the notion promoted by the brewing industry of "pitching in," that is, throwing the nonreturnable container into a trash barrel after using it. The latter approach does not conserve resources and does little to reduce the cost of collecting litter, not to mention the expense of disposing of such nonbiodegradable litter. Perhaps some day Missouri will enact a similar law.

[From Sports Illustrated Aug. 2, 1976]

THE POINT OF NO RETURNS

(By Jerry Uhrhammer)

A summer-long experiment in California's Yosemite National Park is proving that no one should underestimate the power of a nickel in cleaning up America. Last May, without fanfare, the park concessionaire began charging a 5-cent deposit on every beverage container sold. The purpose was to encourage consumers to collect cans and bottles rather than toss them away as litter. Early returns have been remarkable.

"Every week we're recycling more aluminum cans than we did all last year," reports John Crofut, public-relations director for the Yosemite Park and Curry Company, which will sell about one million cans of beer and soft drinks during the 10-week test. "The return rate is up to 76% and it may go to 80%. The amount of litter in the park has been greatly reduced. We find people from five to 95 out picking up the cans."

The Yosemite experience could be a preview of what lies ahead in other national parks if U.S. Environmental Protection Agency plans aren't sidetracked. The EPA is formulating regulations that would make mandatory a deposit on all pop and beer sold in federal parks, buildings and military bases.

But Yosemite soon may find itself smack in the middle of The Great Bottle Bill War. The battle began 300-odd miles to the north, in the state of Oregon, in 1971 when the legislature passed a law requiring deposits on all beer and pop containers and banning the ubiquitous pull-tabs. By placing an economic value on every container, proponents reasoned, there would be fewer throwaways, and ugly litter along roadsides and beaches would be drastically reduced. And that's exactly how it worked.

Not surprisingly, the bottle bill encountered opposition. The deposit-and-return concept is anathema to a container industry, which profits from the manufacture of 60 billion throwaway cans and bottles annually. National brewers also have a sizable stake in the continued use of the one-way containers, which allows them to expand their markets and compete against regional beers without having to worry about shipping empties back for refilling. The container industry complains that Oregon's bottle bill and others since passed in Vermont and South Dakota are discriminatory, focusing on only a fraction of "total" litter. As an alternative, the industry argues for tougher litter laws and better education programs to change the behavior patterns of the people responsible for litter.

The industry has argued that Oregon is a unique place, suggesting it is full of woodsy weirdos, and while the bottle bill might be effective there, it probably wouldn't work elsewhere. Other representatives of industry use another approach, asserting that Oregon's bottle bill has actually been a failure. Tom McCall, the former governor of the state who signed the bottle bill into law, calls it "the most lied-about piece of legislation in history." His successor, Bob Straub, also has uttered some strong words. In a letter to William B. Renner, president of the Aluminum Company of America, Straub charged ALCOA with "incredible lies, innuendos and gross inaccuracies." Straub was concerned about an ALCOA advertising campaign that warned of "Trouble on the Oregon Trail." Among ALCOA's claims: Oregon's beverage-container litter problem had actually gotten worse, prices were up, sales were down and the aluminum can had been "lost," depriving the consumer of his freedom of choice. "Mr. Renner, this is simply not responsible advertising," Straub wrote. But Renner, in his reply, defended the advertising and spoke of ALCOA's commitment to solving the *total* litter problem.

ALCOA's assessment is sharply at odds with the way most Oregonians perceive the bottle bill. After the law took effect in October 1972, the impact on the outdoors became obvious, and Oregonians became believers. A 1973 public-opinion survey found 91% of the citizens favoring the law.

A fishermen's organization conducted annual litter pickups along the Siuslaw River and Lake Creek, two popular steelhead streams, and after the bottle bill went into effect, the chairman of the clean-up group wrote, "Two years ago we picked up an estimated 3,000 beer cans and bottles, all nonreturnable, amounting to about 80% of our catch on that trip. Last Sunday, less than 1% of the litter we picked up was beer cans and bottles."

"You can walk on the beaches now and hardly ever see a bottle or can," says Don Waggoner, a 41-year-old industrial executive and past president of the Oregon Environmental Council, the coalition of citizens' groups that lobbied for the bill. Waggoner says state highway litter surveys show that beverage-related litter declined 83% during the first two years of the deposit system.

Ski-area operators report drastic reductions in the debris picked up after the snow melts. At Crater Lake National Park rangers are stopping less frequently to pick up discarded containers along the roads. Backpackers are finding less litter on trails and in campsites. "We once considered banning the taking of cans and bottles into our wildernesses because we have no disposal systems there," says Al Sorseth, recreation officer for the Willamette National Forest on the western slope of the Cascades. "But in the last few years we would not have been able to justify such a regulation—what's taken in seems to be coming out. One reason is that the bottle bill has created an emphasis . . . an awareness."

At a rodeo in eastern Oregon, Governor Straub recently saw proof that while bottles are still thrown away, they don't necessarily end up as unsightly litter. As rodeo spectators tossed away their empties on the hillside that served as a natural bleachers, small boys collected the bottles almost before they landed and carried them off in boxes to claim the refund bounty. "When the rodeo was over and people left, there wasn't a bottle or can left in the whole area," Straub says.

Oregon's return rate for refillable bottles is reported at 94%. Some of the refillable bottles make 20 trips or more. John Piacentini, owner of a chain of markets, says, "Every grocer I know claims he is buying back as many—if not more—empty containers as the number of full ones he is selling. If this is true, how can people still be littering?"

And how can ALCOA claim beverage-container litter is worse than ever? By ingenious—too ingenious—use of litter statistics, says Waggoner. The claim was based on differing sets of data that, in Waggoner's opinion, couldn't be compared without coming to misleading conclusions. Renner seems reluctant to discuss specifics. "I think you're beat-

ing a dead horse to death," he says. "You can prove anything you want to prove. The important thing is that we all agree there is a litter problem—the only area of difference is how to improve it."

Tom McCall thinks it is time to stop disputes over what the litter statistics do or do not show. "I keep telling people to bring to Oregon the most empirical of all research instruments, the human eye, and have a look for themselves," he says.

Anyone who takes McCall's advice is likely to make an additional discovery. The aluminum can was not lost on the Oregon Trail; it only dropped out of sight temporarily while nondetachable "button-down" tops were in the process of being developed to replace the outlawed pull-tabs. Retailers also needed time to devise ways of handling the empty cans. Now the aluminum can is making a comeback, though not in its previous numbers, and is available for the consumer who prefers it.

Consumers are bringing back the empty cans almost as faithfully as they return the bottles. The return rate is averaging 80%.

The high return rates achieved in Oregon and Yosemite strongly suggest that the deposit system may be the answer. Although the aluminum industry recently announced with a touch of pride that 3.9 billion all-aluminum cans were collected for recycling last year—a record performance—that was only one out of four cans sold. Approximately 11.7 billion cans wound up as part of the country's solid-waste stream.

Bottle-bill legislation similar to Oregon's has been introduced in almost every other state, with minimal results. Only Vermont has a mandatory deposit law in effect (since 1973) and the experience there parallels Oregon's. South Dakota passed legislation that was scheduled to take effect this year, but the bill was repealed under industry pressure and replaced with a substitute that takes effect in 1978.

Bottle-bill enthusiasts invariably find themselves outgunned financially by interested corporations. Colorado brewer William Coors, a maverick who favors a uniform federal deposit law, estimates that industry is spending $20 million annually to fight the bottle-bill war. In Dade County, Fla. the beverage and container industry spent more than $180,000—66% of it coming from outside the county—to defeat a deposit bill in a local referendum. Greater Miami civic groups supporting the proposal had a war chest of only $1,751.

Perhaps understandably, labor is siding with industry, seeking to protect some jobs that would be affected by a return to a two-way system. "The power of big business and big labor marching in lock-step simply overwhelmed us," said Oregon Senator Mark Hatfield on June 30 after the U.S. Senate rejected 60–26, his amendment to ban throwaway beverage containers over a five-year period.

Economic issues, with the emphasis on jobs, have been the most potent weapon in repelling bottle-bill threats. But studies in several states found that what happened in Oregon would be repeated elsewhere; bottle bills would create more jobs than the number lost. At the same time, these studies showed, a switch to refillable containers would probably mean lower retail prices for the consumer. A one-way can has to be much more costly than a bottle that can be used again and again.

Deposit-law referendums are expected this year in Michigan, Massachusetts, Maine and Colorado. The Michigan United Conservation Clubs, Inc., representing some 100,000 sportsmen, collected more than 400,000 signatures in 30 days to put a bottle bill on the November ballot—only to be challenged in the courts by an industry-labor coalition. But polls show pro-bottle-bill sentiment running 75% and higher, says MUCC Executive Director Tom Washington.

"In the final analysis, the man on the street is fed up with cans in his yard, along the highway and driveway and everywhere else—that's probably what will sway the vote," Washington says.

While litter reduction has immediate political appeal, energy is showing signs of becoming the major issue in the bottle-bill debate. Hatfield told the Senate that a switch to returnables would reduce the container industry's energy consumption by 42% and save the equivalent of 125,000 barrels of oil a day. In Oregon alone, according to Don Waggoner's busy slide rule, the bottle bill has resulted in an energy savings of 1,400 trillion BTU's annually, enough to provide the natural-gas heating needs of 12,000 homes.

A clue that industry can adapt swiftly to legislative changes came after Vermont strengthened its law, requiring all bottles to be refillable by Jan. 1, 1977. "Within one week," reports Donald Webster, Vermont's director of environmental protection, "Schlitz flooded the market with refillable bottles and advertising that said, 'Save money with money-saver refillable bottles.'"

The year ahead should be the most decisive one of the bottle war. So if the issue makes you fighting mad—one way or the other—take to the field.

[From Reader's Digest, March 1976]

CAN THIS LAW STOP THE TRASHING OF AMERICA?

(By Earl and Miriam Selby)

In the last 15 years, a revolution has swept through the U.S. soft-drink and beer industries. Back in 1960, we drank 95 percent of our soda pop and 50 percent of our packaged beers from refillable bottles—the kind that could be brought back for the deposit and then used over and over. Today, 79 percent of packaged beer and two out of three soft drinks are sold in cans and "no-deposit, no return" bottles, which are used once and then thrown away.

As a result, America is living amid the offal of the beer and beverage industry. Consider:

We are now using about 60 *billion* beverage throwaways a year. These cans and bottles add some nine million tons of trash to our national garbage can.

Using what it called conservative estimates, the Research Triangle Institute of North Carolina reported that in 1969 more than two billion beverage containers found their way to the national roadside. Since then, the total may have reached three billion. Such throwaways account for 20 to 40 percent of all litter.

Several years ago, a metals company offered a dime a pound for empty aluminum beer and pop cans. In 14 weeks, Billy R. Hall, a Dallas cement-finisher, and his wife salvaged almost a quarter of a million cans from the streets and alleys of their city.

A 1975 California study put that state's current litter *injuries* at 300,000 per year. The predominant causes: broken beer and bottles and pull-tab openers from cans.

How do we avoid this trashing of America?

In the early 1970s, two states—Vermont and Oregon—pioneered a kind of legislation that has come to be known as "the bottle bill." This legislation led to a deposit-and-refund system on beer and carbonated soft-drink containers, cans included. The theory was that it would encourage everyone to return containers to the beverage network so they could be refilled or recycled, thus cutting down on litter and also lightening the overburdened garbage can.

How did the idea work? In Oregon, according to a study by Massachusetts' Applied Decision Systems (ADS), beer and pop roadside trash declined 66 percent within one year of passage of the bottle bill; *all* litter declined 11 percent. Another study by Don Waggoner, past president of the Oregon Environmental Council, indicated that two years after the bottle bill the state's beverage trash was down 83 percent; all litter, 39 percent. In Vermont, the highway department reports that can and bottle litter declined 76 percent in one year; all litter, 33 percent.

Today, bottle-bill advocates are pushing basically similar legislation across the nation. They have made hundreds of efforts to enact bills—from Congress down to City Hall. South Dakota has passed container legislation due to go into effect in July. The District of Columbia's council adopted a bill in 1974, only to have the mayor veto it. The federal Environmental Protection Agency backs a national bill. So do such diverse organizations as the National League of Cities and the U.S. Conference of Mayors, the League of Women Voters and the United Auto Workers.[1]

The backers now see more than trash involved. They say that America has become a throwaway society, has lost the pioneer ethic of "waste not, want not." They see the bottle bill as a way to begin recapturing national thriftiness. In their scenario, if we refilled 90 percent of beverage bottles and recycled eight of ten beverage cans, the country would annually save from five to six million tons of basic resources (glass, steel, aluminum) and energy equivalent to 39 million barrels of oil.

There is also the issue of cost to the consumers. In 1972, the president of Coca-Cola, U.S.A., told Congress: "Coke sold in food stores in nonreturnable packages is priced, on the average, 30 to 40 percent higher than in returnable bottles." Why? Softdrink cans cost about seven cents each. The Pepsi-Cola franchiser in Portland, Ore., figures that using refillable bottles again and again reduces the container cost *per filling* to less than a penny, compared with four to seven cents for throwaways. A 1971 study by Prof. Bruce Hannon at the University of Illinois concluded that changing from throwaways to refillables would save consumers about $1.4 billion a year.[2]

Such a change, however, especially on a national scale, would hit certain giant industries with megaton force. Here is the reason:

There was a time when a brewer's territory was limited to the distance that a team of horses—and later a truck—could cover in a day. Throwaways changed all that. No longer concerned about getting containers back to the plant, brewers could ship a thousand miles or more, enabling the big ones to invade the local markets of smaller rivals. From 184 in 1958, the number of brewers shrank to 55 in 1974. Eight beer manufacturers now control nearly three-quarters of the market. If throwaways were banned, these giants would be hard hit.

The ADS survey provided another insight into why the beverage industry fights for throwaways. In 1972, big national brewers charged an average wholesale price of $2.50

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[1] Bottle bills include various provisions. Oregon's law banned the pull-tab can altogether, on the ground that the tab was dangerous, unsightly and omnipresent in litter. Vermont initially did not ban the pull-tabs, but now has banned both them and nonrefillable bottles, starting in 1977.

[2] The impact of containers on the cost of beer is immense. A 1973 article in *Beverage Industry* said that for three of the largest brewers—all heavily into non-returnable cans and bottles—containers constituted 56 percent of their average manufacturing expenses. This was almost three times the amount spent on labor, and nearly four times the cost of the beer's agricultural ingredients.

in Oregon for a case of beer in 11-ounce, refillable bottles. For a case of 12-ounce throwaway cans, the average wholesale price was $3.20. On the bottled beer, the brewers included a mark-up for themselves of 32 cents over the cost of manufacturing. On the cans, the mark-up was 74 cents. The mark-ups for soft drinks were even larger.

It is easy to see why most big beverage makers and bottlers have fought bottle bills. They have been joined by can and glass makers, beer wholesalers, supermarket chains, and the large unions of steel, glass and aluminum workers. It has been a costly fight. William Coors, whose brewery is the only major beer maker to favor deposit legislation, has publicly put the spending at $20 million a year. There is no doubt about the campaign's success. Of hundreds of efforts to enact bottle bills, only three states and a scattering of local jurisdictions have succeeded. And most of the county and city laws have been suspended, pending court tests.

The bottle bill has done much to detrash Oregon and Vermont. Nonetheless, there are serious questions that can be raised. Here, in mini-debate form, are some of them, with replies summarizing both the industry position and that of the bottle-bill advocates.

1. Won't consumers lose "convenience" and "freedom of choice"?

Industry: Beer and soft-drink makers adopted throwaways because the consumer wanted them. Though consumers may tell pollsters they favor returnables, in the marketplace they buy non-returnables because they want the convenience. They should be allowed to choose.

Advocates: Throwaways are "convenient" chiefly for the beverage industry's biggest customer: food outlets, which avoid the cost of handling returnables. As for the consumer's supposed preferences, a survey in Oregon found that only 12 percent of consumers felt it was inconvenient to pay deposits and return empties. Only seven percent thought the bottle bill limited their choice of soft drinks—three percent for beer.

2. Does a bottle bill cost jobs?

Industry: A national bottle bill would throw from 60,000 to 160,000 people out of work. As chairman William F. May of the American Can Co. says, this nation is too deeply committed to the one-way, no-deposit, no-return container to go back to the refillable system.

Advocates: Though there would be dislocations, overall a bottle bill *creates* employment because of the additional workers needed by beer and soft-drink makers and distributors. Anyway, did industry shed tears when throwaways allowed big brewers to swallow smaller plants and eliminate some 20,000 jobs? When Vermont's AFL-CIO leadership tried to get support for fighting that state's bottle bill, the rank and file turned it down.

3. What about the impact on industry?

Industry: It would be catastrophic. Can and bottle plants would lose billions in sales. In Oregon alone, the ADS study reported, can makers lost about $10 million in one year's sales, and it was expected that glass sales, after a spurt to meet the need for new refillables, would go down another $3.6 million.

Advocates: The bottle bill doesn't mean the end of beverage-can sales. Now that progress is being made toward an ecologically sound nondetachable opener for cans, metal containers could be expected to retain about 20 percent of the market. Besides, as the Oregon Court of Appeals told American Can and other industry litigants: "With every change of circumstance in the marketplace, there are gainers and there are losers. There will be new gainers and new losers as the industry adapts to the ban."

Industry: We estimate that converting to refillable systems—dismantling can lines, getting new equipment—would cost $5 billion. That's intolerable.

Advocates: A few years ago, the industry hired Midwest Research Institute of Kansas City to determine the impact of a ban on throwaways. MRI estimated aggregate impact (including new equipment and additional labor) for brewers, beer distributors, bottlers and retailers in the first year to be a loss of $247 million. By the second year, however, lower container costs with a refillable system were seen as yielding an aggregate gain of $37 million.

Industry: The extra costs of handling returnable bottles could be devastating to small grocers. And a flood of returnables would overwhelm the storage capacities of supermarkets. Also, stores would be exposed to vermin-ridden containers.

Advocates: There is some inconvenience for grocers in handling returns. However, when a group of Vermont grocers claimed losses because of the bottle bill, a court upheld the law and dismissed the suit. Vermont grocers already get, for handling costs, a 20-percent allowance on the deposit. Oregon's legislature, on the other hand, has not seen the need to authorize such an allowance. And neither state has yet cited any store as a health hazard for having empty beverage containers.

4. What about consumer prices?

Industry: They would have to go up, because of the tremendous costs of converting plants to refillables.

Advocates: If industry converted to returnables, it would save money, because it would be paying less per use for containers. With these savings, prices could be reduced. A widely accepted estimate is that a bottle could be refilled ten times.

Industry: The trouble with all those "savings" is that they are based on the assumption that people will return bottles. A refillable bottle may make only two or three round trips between plant and consumer in big cities, as few as five or eight elsewhere.

Advocates: When industry was arguing against a government proposal to destroy bottles bearing outlawed cyclamate labels, it said the containers lasted five years. An Arizona bottler says he gets about 50 round trips per bottle.

Besides these questions, there is one more point to consider. What do the people of Oregon and Vermont think of their bottle laws? In Vermont, every attempt to repeal or cripple the law has been defeated. The ADS public-opinion poll for Oregon says: " 'Overwhelming' is virtually the only word to describe Oregon's approval of the bottle bill. Nine in ten people (91 percent) said they approved, and only one in 20 voiced any disapproval at all."

All right, says industry, but that was a poll. There have been eight legislative votes in other states involving the bottle bill, and the bill has been turned down every time.

[From the Reader's Digest, May 1976]

THE LOBBY THAT BATTLES THE BOTTLE BILLS

(By Earl and Miriam Selby)

A "bottle bill" is a piece of federal, state or local legislation aimed at helping America kick the habit of throwing away 60 billion beer and soda-pop cans and bottles every year. To stem this nine-million-ton tide of trash, the typical bottle bill proposes that all beverage containers—cans included—carry deposits with mandatory refunds, so they will be returned for refilling or recycling. Advocates of bottle bills argue that they will cut down on litter and trash, conserve energy and resources, and save consumers more than a billion dollars a year.

On the surface, those promises seem so attractive that one wonders why we haven't embraced a *nationwide* bottle bill. A partial answer may be found in what happened in two localities when bottle bills came up against the lobby supported by the beverage and container industries:

In 1970, in Washington State, college professor Robert Keller triggered a statewide vote on a bottle bill. He and his group had $6000 to spend on their cause. The lobby had $300,000. It inundated the state with commercials, advertising and other material. The bottle bill lost.

In Florida, a Dade County (Miami) survey estimated that a typical mile of a major Dade street is littered with 17,850 cans each year. A young county commissioner, Harvey Ruvin, proposed a bottle bill. His side had $1700—plus whatever free air time they could get under the federal "Fairness Doctrine"—to tell their story to the public. The lobby had $180,000—most of it from outside of Dade County—to mount a spectacular advertising blitz using 19 newspapers, 20 radio stations and four television outlets. In November 1974, the voters turned the bottle bill down.

William K. Coors, the only major brewer who favors deposit legislation, estimates that industry pours out $20 million a year to battle the bottle bill and to promote its own alternatives. Support is drawn from the can and bottle makers, the beer and pop industries, certain supermarket chains, and large unions of steel, glass and aluminum workers. With a total annual budget of $7.5 million, the United States Brewers Association alone can call on its lawyers, economists, consultants, think-tank researchers and field representatives to help quash a bottle bill. Such money and firepower are hard to overcome.

Thus, bottle-bill advocates have lost every one of the eight elections involving the bill. In all, there have been hundreds of efforts in Congress and the states to enact various forms of bottle-bill or other beverage-container legislation. To date, only the Oregon, Vermont and South Dakota legislatures plus a scattering of local jurisdictions, have succeeded. (South Dakota's law is not scheduled to become effective until 1978.)

The success of the lobby can be explained not only by its munificent war chest, but also by its shrewd tactics. Consider:

The lobby plays hard, and for keeps. In New York City, a group known as the Environmental Action Coalition received $350,000 in support over a period of three years from industry—Pepsi-Cola, the Can Manufacturers Institute, the Aluminum Association and other keepers of the lobby—to educate the public on such industry-endorsed goals as recycling and resource-recovery programs. In the spring of 1975, however, the Coalition endorsed the bottle bill as a companion to resource recovery. Since then, it has received almost nothing from the lobby.

The lobby can be devious. It sometimes submarines discussion of a bottle bill by raising unwarranted fears. Mayonnaise jars are a favorite tactic. William Ginn, a leader in Maine's struggle to get rid of throwaway containers, was startled when a brewers' spokesman he was debating on radio referred to such jars, implying that the bill could lead to deposit on them, although nothing in the legislative proposal even remotely supported this. Ginn got so caught up in the Mayonnaise question that by the time he recovered himself he had lost the debate. Says Ginn: "I know—now—what the technique is: confuse the public by making it unsure as to just what the bottle bill is. You don't vote for what you have doubts about."

The lobby uses time-consuming court challenges. In Bowie, Md., the city council passed a bottle bill. The lobby sued to overthrow

the bill. Four years went by before the lobby was defeated in the courts.

The lobby hides its identity. Its politically active committees frequently bear names that give no indication that they are industry-supported. In Washington State, the lobby called itself Citizens Committee Against Initiative 256; in Maryland the Maryland Council on Environmental Economics; in Eau Claire, Wis., the Eau Claire Consumer Information Committee; in Florida, the Dade Consumer Information Committee. When Dade County environmentalists protested that this last name was misleading because the committee was not a consumer group, an industry spokesman stated that the name was proper because the committee was trying to get information to consumers.

The 1974 Florida battle deserves further attention because Dade County was so strategically important. With more than a million and a half residents, and up to 12 million tourists annually, the Miami area accounts for nearly one percent of the U.S. beverage market, consuming the contents of 490 million throwaway cans and bottles every year. If Dade went for the bottle bill—and if tourists brought word of the law back home—the domino effects could ripple everywhere.

So out went the lobby's call for money. In a single week, the Dade Consumer Information Committee collected $98,200, with individual contributors going as high as $7000. Florida law, however, limits donors in single-issue fights to $1000. The lobby was therefore forced to return $61,000. Milwaukee's Joseph Schlitz Brewing Co., which had sent in $2800, got $1800 back. A bit later, the Dade committee received $1000 from a malt company and $800 from a Wisconsin firm selling ducklings. Both are owned by Schlitz. From St. Louis, Anheuser-Busch (Budweiser) chipped in $1000. So did seven of its transportation subsidiaries, and a can company partially owned by the brewer. Total: $9000. For this single election in one county the lobby eventually financed the Dade committee with $150,000, drawn from 23 states as far away as Washington and California.

How to use the money? First, the committee hired public-relations counselor Richard Rundell to coordinate its campaign. A man with 20 years' experience in Florida politics, Rundell laid down this basic strategy: "Keep the campaign *local* by using Miami people who can tell audiences, 'I am one of you. Big business happens to be against this [the bottle bill], but so am I and so should you be.'"

At Rundell's suggestion, a public-opinion poll was taken to orient the campaign. The poll found that while voters strongly endorsed a deposit on bottles, they were five-to-four against a deposit on cans. The lobby therefore concentrated its advertising firepower on can deposits. In one ad, the headline implied that *all* cans, not just beverage containers, would be subject to deposit.

The lobby fastened on inflation as the umbrella for its campaign. It claimed that fighting the bottle bill was "fighting inflation," since a deposit raised the cost. It did not mention that deposits would be refunded—nor that nationally franchised soft drinks already on local shelves in deposit bottles were generally cheaper than the same brand in throwaways.

Many supermarkets put stickers on all six-packs of beverages, saying the bottle bill would raise the price 30 cents (the deposit). The Winn-Dixie grocery chain, which financed its own campaign with $30,000, printed anti-bottle-bill statements on paper bags, so a shopper carrying one became a walking billboard for the lobby.

The lobby touched off memories of fights over "forced busing" by calling the bottle bill the "forced deposit" law. A young black man was hired to broadcast commercials against the bottle bill and to rebut claims that the bill would help save the environment. "We made it clear," Rundell wrote in the *Public Relations Journal*, "that we felt some of our minority groups didn't have much of an environment to worry about."

Indeed, the well-organized lobby was on the attack in so many places, in so many ways, that the environmentalists never could catch up. Before the campaign, the lobby's own poll had predicted that the bill would pass, possibly by two-to-one. The actual vote, after the lobby finished its three weeks of intensive work, was 57 percent against it.

The lobby isn't always that successful. But, as in Vermont, even when it loses the first battles, it keeps the war going. Shortly after Vermont inaugurated the deposit system in 1973, beer distributors boosted their prices in the state by 60 cents a case, exclusive of deposits. Twenty-four cents were mandated in the law to repay grocers for handling container returns. And the other 36 cents? Gov. Thomas Salmon, an advocate of the bottle bill, hung them on the lobby. He charged it was grabbing for profits in an "overt attempt to anger the Vermont public by substantial increases in the price," an anger which could then be funneled into a drive to repeal the bottle bill.

Having seen something of how the beer and soft-drink lobby works, and so often wins, who can doubt its power?

[From the Washington Star, Sept. 23, 1975]

Beer-Can Issue Overcomes Libertarian Theory

(By James J. Kilpatrick)

The Environmental Protection Agency (EPA) is about ready to publish some proposed guidelines for the use of federal agencies. The EPA's purpose is to discourage the use of throwaway containers for beer and soft drinks. Understandably, the beer, soft-drink, bottle and can manufacturers are having conniption fits, but the EPA is on the right track.

The issue here, it seems to me, is more an issue of political philosophy than of economic impact. At the moment, the guidelines are merely proposals; they could not become final until some time next year. Once made final, the guidelines would not have mandatory effect; if a federal agency concluded that returnable containers were not available at reasonable cost, the agency could get out from under the guideline plan.

Even if every federal agency went along with the proposition, sales of beer and soft drinks in throwaway containers would not be significantly affected. The EPA estimates that such sales at federal outlets amount to only 2 to 4 per cent of total sales. The EPA also believes the effect on employment in the can and glass industries would be minimal. Under the proposed guidelines, 5-cent deposit would be required on every carbonated container sold at a federal installation. Non-returnable containers could still be sold; but they would cost a nickel more.

What we have here is one more conflict between the freedom of the individual and the power of the state. The doctrines of a free society hold that customers should have the greatest possible freedom of choice: They should be able to purchase any drink they please, in any size and kind of container they desire, and the marketplace alone should limit their selection.

But even the most libertarian view of a free society acknowledges that individual rights are not absolute. The community also has rights that may be defined and protected. In this case, A's right to purchase beer in throwaway cans does not give A the right to throw the cans on B's lawn.

Agreed, say the can and bottle people: The solution is to arrest A for littering. But as a practical matter, the community responds, this is an impossibility There are not enough police, prosecutors, judges and juries in the whole country to enforce the anti-litter laws now on the books. If these throwaway containers constitute a public nuisance—and they do—the only effective way to abate the nuisance is by attacking the problem at its source: the container itself.

Speaking simply as one citizen who is fed up with litter, I will buy the EPA's approach. The can and bottle manufacturers are fine folks, but their non-returnable containers constitute an ugliness no civilized community should have to tolerate. Neither should the people be put to the burden of massive law enforcement machinery merely to serve libertarian theory.

The most high-flown theories get shot down by human nature. God made tidy people, but God made trashy people also, and the trashy people have the tidy people outnumbered. No anti-litter laws ever devised will deter the swinish multitudes from hurling their empty six-packs all over the countryside, but the experience of Oregon with its law on non-returnables indicates that the economic pressure of a mandatory deposit will lessen the evil.

Ours is a beautiful country. Neither the special interests of the can and bottle makers, nor the libertarian's theories of individual freedom, should override society's effort, in this especially pervasive and obnoxious matter, to keep the country beautiful. Other such efforts have been sustained by the courts. Historic zoning laws, anti-billboard laws, junkyard screening laws—these and many other regulations are infringements upon property rights and personal freedom, but they command widespread public support.

It was Prof. Louis D. Rubin Jr., I believe, who once speculated upon the time, thousands of years hence, when archeologists from a distant galaxy would stumble over the dead planet Earth. Alighting from their spacecraft, they would explore what obviously had been roads and highways, and they would be puzzled by millions of identical small green artifacts. The archeologists would take these to be symbols of the religion practiced by the vanished race of Americans. No deposit, no return. Surely, our civilization could leave something more meaningful behind.

[From the Washington Star, July 10, 1973]

Oregon Litter Bit Better

(By James J. Kilpatrick)

The sovereign state of Oregon draws its name, or so I have been told, from the Algonquin word for "beautiful water." The preservation of natural beauty thus has a long tradition in Oregon, and the good word these days is that Oregon is doing something to keep that tradition alive. The state's "bottle bill" is working.

Over the strenuous opposition of the brewing and canning industries, Oregon adopted its anti-litter law in June of 1971. The act went into operation on Oct. 1 of last year. Since that time, cans with pull-tab openers have been banned outright in Oregon, and all beer and soft-drink containers have been required to carry refund values.

The Environmental Protection Agency recently released a pocket-sized study of the act's first six months of operation. Gov. Tom McCall's office has provided some figures from the State Highway Division as of June 1. The data indicate that, while the act has imposed some inconvenience and a few hardships, the law is achieving a spectacular reduction in the volume of litter.

In an effort to measure the act's effectiveness, the Highway Division last September made a meticulous count along 25 one-mile stretches of typical Oregon highway. In that month, just before the law went into operation, the division counted 25,775 pieces of litter along the test roads. The figure in-

cluded 2,061 beer cans, 719-soft-drink cans, 481 nonreturnable beer bottles, and 86 nonreturnable soft-drink bottles.

In May of this year, the most recent month for which figures are available, total litter had dropped to 7,933 pieces, a reduction of 69 per cent. Only 153 beer cans and 38 soft-drink cans were picked up. The number of nonreturnable bottles had dropped to 41.

Oregon's program admittedly has imposed a burden on retailers, who find it a nuisance to handle storage and refunds on thousands of reusable bottles. The act also is blamed for the loss of 142 jobs in two small canning plants that have closed down since October. Offsetting the layoffs, in the EPA's view, is a probable increase in employment in bottling plants.

This is a modest price to pay, or so it seems to me, for so drastic a reduction in the litter that uglifies our highways and shames our people. No other country in the world has the litter problem that one encounters in affluent America. The psychologists, I suppose could find explanation for this masochistic raping of our national beauty—something in us that hates our land, something of the vandal, something of the brute.

The canning industry, as you might expect, has launched a counterattack against the Oregon law. (A similar law has just gone into effect in Vermont.) The American Can Co. brought suit against Oregon authorities, contending that the bottle bill violates the commerce clause and the equal protection clause and, besides, it denies the consumer freedom of choice. One Oregon court already has held the act fully constitutional, and the Oregon Court of Appeals is to hear argument on the measure this fall.

Two recent decisions of the U.S. Supreme Court may strengthen Oregon's hand. In one case, the court upheld a California regulation controlling the sale of liquor in "bottomless" bars; in another, the court upheld a South Carolina tax on liquor importers. In both cases, the court gave new meaning to the Twenty-first Amendment, which reserves power to the states to handle the importation and sale of alcoholic beverages.

Oregon's Sen. Mark Hatfield, encouraged by his state's experience, on June 25 introduced a bill to make the ban nationwide. Congressmen Edward R. Roybal of California and Joseph P. Vigorito of Pennsylvania introduced similar bills in the House. In both House and Senate, serious efforts are under way to get at the problem through recycling.

There are too many ugly Americans cruising our highways ever to solve the matter wholly. No appeal to beauty is likely to affect the trashers. But Oregon has pointed the way for other states and the Congress to beat the problem of the throwaway can.

CONCLUSION

Mr. HATFIELD. Mr. President, the no-deposit, no-return attitude that dominates more and more packaging ignores energy and solid waste problems in the idolization of convenience. Beverage containers are a good place to reject this wasteful ethic in an area where we know we can succeed.

I realize that an extensive amount of materials have been offered for the RECORD this afternoon. It was my intention in this presentation to compile all the arguments in favor of this legislation at one time so that my colleagues, their staffs, and others who use the RECORD will have a comprehensive review of the issue for easy future reference.

In conclusion, Mr. President, I ask that the "Beverage Container Reuse and Recycling Act of 1977" appear at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Beverage Container Reuse and Recycling Act of 1977".

SEC. 2. (a) The Congress finds and declares that:

(1) The failure to reuse and recycle empty beverage containers represents a significant and unnecessary waste of important national energy and material resources.

(2) The littering of empty beverage containers constitutes a public nuisance, safety hazard, and esthetic blight and imposes upon public and private agencies unnecessary costs for the removal and collection of such containers.

(3) Empty beverage containers constitute a significant and rapidly growing proportion of municipal solid waste, whose disposal imposes a severe financial burden on municipal governments.

(4) The reuse and recycling of empty beverage containers would eliminate these unnecessary burdens on individuals, local governments, and the environment.

(5) A uniform national system for requiring a refund value on the sale of all beverage containers would result in a high level of reuse and recycling of such containers when empty.

(b) For purposes of this Act—

(1) The term "beverage" means beer or other malt beverage, mineral water, soda water, or a carbonated soft drink of any variety in liquid form and intended for human consumption.

(2) The term "beverage container" means a container designed to contain a beverage under pressure of carbonation.

(3) The term "consumer" means a person who purchases a beverage in a beverage container for any use other than resale.

(4) The term "distributor" means a person who sells or offers for sale in interstate commerce beverages in beverage containers for resale.

(5) The term "interstate commerce" means commerce among the several States or with any foreign country, or in the District of Columbia, or in any territory of the United States.

(6) The term "State" includes the District of Columbia and territories of the United States.

(7) The term "retailer" means a person who purchases from a distributor beverages in beverage containers for sale to a consumer or who sells or offers to sell in interstate commerce beverages in beverage containers to a consumer.

(c) (1) No distributor may sell or offer for sale a beverage in a beverage container unless there is clearly and prominently embossed, stamped, labeled, or otherwise securely affixed to such container a statement of a refund value of not less than five cents for such container.

(2) No retailer may sell or offer for sale a beverage in a beverage container unless there is clearly and prominently embossed, stamped, labeled, or otherwise securely affixed to such container a statement of a refund value of not less than five cents for such container.

(d) (1) A retailer shall pay to a person the amount of the refund value affixed, in accordance with subsection (a), to any empty and unbroken beverage container which is tendered by such person to such retailer, and which contained the brand of beverage being sold by such retailer.

(2) A distributor shall pay to a retailer the amount of the refund value affixed, in accordance with subsection (c), to any empty and unbroken beverage container which is tendered by such retailer to such distributor, and which contained the brand of beverage being sold by such distributor.

(e) No State may place a tax or other levy for the sale or transfer of property on the collection or return of the amount of any refund value established under this section.

(f) No distributor or retailer may sell or offer for sale a beverage in a metal beverage container a part of which is designed to be detached in order to open such container.

(g) Whoever violates any provision of subsection (c), (d), or (f) shall be fined not more than $1,000, or imprisoned for not more than sixty days, or both, for each violation.

(h) (1) The Administrator of the Environmental Protection Agency shall monitor, before and after the effective dates of subsections (c), (d), and (f), the rate of reuse and recycling of beverage containers, and shall evaluate and report to Congress periodically on the impact of the provisions and of this section on—

(A) conservation of energy and material resources;

(B) reduction of solid waste; and

(C) the economy.

(2) The Administrator of the Environmental Protection Agency shall establish such regulations as are necessary for the purpose of this section, and shall provide such technical assistance and information to distributors, retailers, and consumers, and to manufacturers of beverage containers as is necessary to carry out the provisions and purposes of this section.

(i) (1) Except as otherwise provided in paragraphs (2) and (3), this section shall take effect on the date of enactment of this Act.

(2) The provisions of subsections (c) and (d) shall apply only with respect to beverages in beverage containers sold or offered for sale in interstate commerce on or after three years after the date of enactment of this Act.

(3) The provisions of subsection (f) shall apply only with respect to beverages in beverage containers sold or offered for sale in interstate commerce on or after one year after the date of enactment of this Act.

Mr. ABOUREZK. Mr. President, I want to commend my colleague Senator HATFIELD for introducing the Beverage Container Reuse and Recycling Act. I also want to add my name to this important legislation as a cosponsor.

I believe that this bill is essential for us to enact this Congress. We have heard a great deal about conserving energy and natural resources. We are constantly exhorted to do all that we can to make the greatest use of what we have. In the area of recycling beverage containers, however, exhortation is not enough. For many years, people returned beverage containers to get back the deposit they had paid. The development of no deposit, no return containers changed all this drastically, however. This change has been very costly. A study completed by the Federal Energy Administration concluded that putting back a 5-cent deposit on beverage containers would save 81,000 barrels of oil a day by 1982 and would create a net increase of 118,000 jobs. Based on experience in Oregon and other States, moreover, it would not cause an increase in the price of beverages. With all these advantages, and with the urgent need to save our resources, it seems to me that the importance of passing this bill is obvious.

We will probably have to face some rather substantial changes in our life-

styles if we are to make real progress in conserving energy. This bill would cause only the most marginal change in the way we live, and would result in enormous savings.

Mr. BROOKE. Mr. President, there can be no greater symbol of the waste and neglect which characterizes our attitude toward our natural resources and our environment than the no-deposit, no-return soda pop bottle or the throwaway beer can. Anyone who has walked, bicycled, or driven even the remotest back roads in Massachusetts or any other State in the Union can attest to the fact that somewhere on that road will be a discarded bottle or a crushed can. And along any major thoroughfare, casually discarded containers are as numerous as they are ugly.

I was disappointed when the voters in my State of Massachusetts narrowly rejected such a law in November of 1976. Studies showed clearly that the net effect of the bill would have been to create jobs. But, more important than the enactment of State laws is the implementation of a broad Federal standard. Not only would it be the most effective way to reduce the volume of solid waste dramatically, but it would also avoid the situation in which the State with the most stringent penalties might feel any economic cost because neighboring States had less stringent laws. All would, under this measure, be subject to the same ban on throwaways.

So great is our desire to unburden ourselves of these containers in any place but a trash can that some 4.1 billion containers were littered in 1975 alone. These bottles and cans comprise an astounding 40 to 60 percent of all litter by volume. And if nothing is done, it is estimated that some 5.3 billion containers will litter our roads, rivers, lakes, and beaches by 1980.

It was not always this way. All but our youngest children remember the days of returnable bottles. In fact, most of us in our youth no doubt supplemented our allowance by cleaning up streets and parks and bringing old bottles back to the store for a refund. But then the new nonreturnable bottles and cans were introduced as a convenience. And it was not long before that convenience would get out of hand. Since 1960 the production of containers has tripled while at the same time we consume only 33 percent more beverages. Annual production of beer and soft drink containers now hovers at 56 billion. Laid end to end, these containers would stretch nearly 4½ million miles—enough to encircle the Earth nearly 180 times.

As production rose, so did waste. Bottles and cans constitute nearly a quarter of all municipal waste. Soon that figure will be one-third of all trash. Between 55 and 70 percent of all roadside litter is bottles, cans, and flip tops. Indeed, a consideration often overlooked by most people is the enormous cost of disposing of the millions of tons of garbage each day—a cost which comes right out of the pocket of the municipal taxpayer. And the cost in natural resources is high: The Environmental Protection Agency estimates that we recover through recycling only 2 percent of all steel used in cans, 7 percent of all aluminum used in cans, and about 3 percent of all glass used in bottles. Equally high is the cost in terms of energy: Each day we waste the equivalent of 5 million gallons of gasoline in producing new containers. Simple recycling would save this energy loss.

Clearly action is needed, and needed now. The era of our no-deposit, no-return way of life must come to an end. It is placing too great a burden on our natural environment, on our natural resources, and on our pocketbooks.

The legislation before us today would ban nonreturnable containers after a 5-year period. I have studied this bill, and I believe that it will be good not only for the Nation's ecology, but also its economy.

Critics of the proposed ban on nonreturnable bottles and cans argue that such a bill will cost us the jobs of the men and women now working in the bottling plants and the breweries, and that new work will not be created for these workers. They also argue that the price of beverages would go up. As these claims have long been a cause of concern to me, I carefully reviewed them before deciding to support the bill. And my review convinced me that these arguments are unfounded.

A study by the Federal Reserve Board of Boston shows that in our State alone, there will actually be a net gain of between 187 and 1,380 jobs, and an increase in overall payrolls of between $1 million and $10 million. And because the container cost is such a large component of the price of a beer or a soft drink, the study finds that the price we pay for various beverages could actually decrease should the Senate legislation take effect.

Mr. President, I ask unanimous consent that the text of this study be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BROOKE. Mr. President, some have also argued that the return bottles and cans will pose a public health hazard to the retail establishments handling them. I have looked into this question, and I am satisfied that, while some rearrangements may be necessary in small stores, the inconvenience can be dealt with, and that health hazards will not be a significant problem. I ask unanimous consent that two letters from public health officials which address this issue also be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BROOKE. Mr. President, similar legislation has now been passed in Oregon, Vermont, Michigan, and Maine. And the results are impressive in Oregon and Vermont where the law has been in effect for 3 years. Oregon found its beverage container litter decreased by 83 percent, while popular approval for the new law has reached an astonishing 91 percent in public opinion polls.

Most Americans agree with the consensus in Oregon. Indeed, a recent poll by the Federal Energy Administration revealed that 73 percent of those polled favored a law requiring that all soft drinks and beer be sold in returnable bottles and cans. I think these Americans are right. If you add up all the benefits—the economic gains, the energy savings, the reduction in solid waste disposal, and the eradication of the blight of bottle and can litter—I think there can be little doubt that passage of a beverage container reuse and recycling act should be an urgent priority for the Congress.

EXHIBIT 1

[From the New England Economic Indicators, Federal Reserve Bank of Boston, March 1976]

THE ECONOMIC EFFECTS OF REQUIRING DEPOSITS ON BEVERAGE CONTAINERS

(By Richard W. Kopcke)

Three New England states, Connecticut, Maine and Massachusetts, are now considering legislation to require minimum deposits on containers for soft drinks and beer. Although this type of legislation would clearly produce substantial energy and environmental benefits,[1] opponents claim that these proposals would lead to a loss of jobs and increases in beverage prices. They point out that these states have extremely high unemployment rates and can ill afford any overall loss of job opportunities. Before such legislation is considered, therefore, its potential advantages and disadvantages must be evaluated carefully.

Aside from the impact of beverage container legislation, it is important to note that this is a period of great turbulence in the brewing industry. Recently, for example, several breweries closed in Massachusetts and several moved out of New York City within a *seven*-month period. The causes may be in the recent recession or in the possibility of achieving savings by closing old plants. In any event, these factors have a much greater impact on employment than mandatory deposit legislation for containers.

Since economic analyses have been completed for Connecticut and Maine,[2] this article considers the effects of minimum deposit legislation on employment and retail beverage prices in Massachusetts. The two major conclusions are:

(1) the requirement of a minimum deposit on beverage containers would increase employment opportunities in Massachusetts, although payrolls would decline in certain industries; and

(2) there is very little likelihood that the proposal would produce a noticeable increase in retail beverage prices; in fact, some prices might fall.

The legislation would hurt bottle manufacturers in the state as well as individual bottlers, beer distributors, retailers and can manufacturers. However, the adverse effects of the legislation would be moderated by providing an adequate period of transition for the industries involved, and the benefits would be enhanced if all New England states passed similar legislation.

Footnotes at end of article.

EMPLOYMENT PROSPECTS UNDER THE MASSACHUSETTS BILL

The proposed Massachusetts legislation (House Bill #4200 of 1975) would require all soft drink and beer containers to carry a minimum refundable deposit (5¢ on small containers and 10¢ on all containers holding more than 32 ounces) after February 1, 1977. A ban would be placed on the sale of cans with detachable metal parts. All stores would be required to accept containers and refund deposits on any brands sold in the store. In turn, distributors would have to accept and pay the refund on their bottles and cans on making delivery to the retail outlet.

A minimum deposit law in Massachusetts would shift beverage packaging heavily in favor of returnable-recyclable containers, since only through reuse of the containers could the costs of the return process be recovered. Employment in the manufacture of beverage containers would decline, since fewer new bottles would be required. Employment would, however, increase in the bottling and distributing sectors; and skilled workers would be needed to operate and maintain bottle cleaning machines, additional employees to collect and recycle cans, truck drivers to transport the returned containers, and personnel for the additional warehousing and handling requirements. Employment would also increase at retail stores handling the returns. Table I summarizes the range of possible employment effects of the proposed Massachusetts legislation. The following sections analyze the potential effects on each of these industries.

Metal Can Manufacturing. Mandatory deposit legislation in Oregon resulted in a significant shift to refillable bottles instead of cans. Three firms in Massachusetts manufacture metal cans for beverage use, employing 300 people, and if a similar shift in market share were to take place (which we do not anticipate) these jobs would be threatened. The Oregon exeprience with cans is, however, unlikely to be repeated in Massachusetts for two reasons. First, Oregon provided an incentive for the shift to bottles by allowing a lower deposit for certified, refillable, standardized bottles than for cans. The Massachusetts legislation does not include such an incentive. Second, the Oregon market was only a small segment of the West Coast regional market, and all but 2 of the 11 major brewers supplying the area were located outside the state. These brewers diverted bottles previously distributed to other states into the Oregon market, rather than converting to cans with no detachable parts. Massachusetts plays a far greater role in its regional market, and therefore the same results cannot be expected to occur.

Furthermore, the natural advantages associated with cans ensure them a future role in beverage packaging. They are less expensive to fill, handle, ship, and store. Also, recent technological advances have enabled manufacturers to produce both cans without detachable parts and compacting machines suitable or smaller retail outlets. Cans have particular advantages for the consumer since they are unbreakable, light, and crushable, and refrigerate more quickly. Finally, on the environmental side, although a refillable bottle is the most energy efficient of all container types, reusable aluminum cans nearly equal the energy efficiency of returnable bottles if recycling rates of about 90 percent are obtained. The energy and raw material savings possible from recycling of cans are substantial. In summary, while Massachusetts could lose as many as 300 jobs in the can manufacturing industry, it seems much more likely that cans would retain their market share resulting in no loss of employment in that industry.

TABLE I.—EMPLOYMENT EFFECTS IN MASSACHUSETTS OF THE PROPOSED LEGISLATION

Industry	Range of employment changes (in terms of full-time positions)		Corresponding payroll changes (thousands)	
Metal can manufacturing	(300)	0	($2,533)	0
Glass bottle manufacturing	(335)	(425)	(2,82g)	($3,588)
Soft drink bottlers and canners	240	400	2,372	4,064
Malt liquor production	2	5	23	58
Wholesale beer distribution	180	400	1,707	3,793
Retail stores	400	1,000	2,207	5,517
Net change	187	1,380	948	9,944

Source: Data on current employment levels from Massachusetts Department of Commerce, "1974-75 Massachusetts Industrial Directory" and U.S. Bureau of the Census, "Country Business Patterns, Massachusetts, 1973."

The data were adjusted to reflect employment in each firm directly attributable to beverage-related production. In addition, the figures were amended to reflect the closing of the Needham branch of the American Can Co. and the closing of the Piels and Carling breweries. The Owens-Illinois Glass Manufacturing Co. was also added.

The range of employment changes was calculated by extrapolating from the Oregon experience as reported in Applied Decision Systems, "Study of the Effectiveness and Impact of the Oregon Minimum Deposit Law," State of Oregon, Department of Transportation, 1974, pp. 11–43, 131–134; T. H. Bingham and P. F. Mulligan, "The Beverage Container Problem." Research Triangle Institute, Government Printing Office, Washington, D.C., September 1972, p. 173; C. M. Gudger and J. C. Bailes, "The Economic Impact of Oregon's Bottle Bill," Oregon State University Press, March 1974, pp. 68–69 and "Statement to the Oregon Legislature Minimum Deposit Law Study Review Committee," Sept. 12, 1974, p. 16.

The figures do not include the positive secondary employment influences in the construction and machine tooling industries. Furthermore, possible employment increases resulting from the development of regional breweries and/or a recycling center have not been included.

Payroll changes were calculated by applying the relative ratio of wages in Massachusetts for a particular industry to that in Oregon (U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings: States and Areas, 1939–1972) to reported wage rates in the Oregon studies. These figures were calculated on a disaggregated basis, by individual job function for employees hired after the legislation was adopted. See Applied Decision Systems, p. iii and 11–43.

Moreover, the return system might create a demand for a recycling plant, leading to new industry and increased employment in the state. While the Massachusetts retail beverage container market is not sufficiently large to justify a metal recycling industry, adoption of similar legislation by all the New England states could warrant such a development. In any event, additional employment will be required to shred cans for shipment to recycling centers. However, Table I does not include any estimates of additional employment resulting from either shredding or from a possible recycling plant.

Glass Bottle Manufacturing. Massachusetts has two major beverage glass bottle manufacturers, together employing an estimated 500 workers. The use of refillable bottles implies a decline in employment in bottle manufacturing, the extent depending upon both the return rates experienced and the market share of refillable bottles. Assuming an 85 percent return rate (approximately seven trips per bottle on the average) and no decline in the use of cans, then employment in the industry would be reduced about 85 percent, a loss of 425 jobs. However, should bottles replace cans as happened in Oregon then more refillable bottles would be required, although total employment in the industry would still decline. Even assuming a complete shift to bottles, a net loss of 335 jobs could still result.

These predicted declines in employment may be overstated. First, to the extent that bottles manufactured out-of-state are used in Massachusetts, the switch to refillables would result primarily in declines in bottle imports, implying smaller reductions in employment within the state. Furthermore, can and bottle manufacturers do not limit their production solely to beverage containers. By increasing their production of containers for other uses, they might be able to avoid some employment loss.

The first column of Table 1 shows the estimated change in employment under the most pessimistic of assumptions. In the can and bottle manufacturing industries, the employment loss would be greatest if bottles completely replaced cans as beverage containers. Under these unlikely conditions, the state would suffer losses of as many as 635 jobs. If cans retained their market share, about 425 jobs would be lost in glass bottle manufacturing.

Soft Drink Bottlers and Canners. The bottling and canning of soft drinks merely require adding carbonated water to extracts and syrups which can be shipped inexpensively. As a result, bottlers and canners are widely dispersed and service relatively small geographic areas, thus limiting the transportation costs associated with the shipping of the bottled and canned beverages. In Massachusetts alone about 65 soft drink bottlers and canners employ approximately 2,870 people. This figure includes production as well as distribution employment since the latter is handled by truck driver/salesman representatives of the local bottlers.

Employment opportunities in the industry would increase after passage of returnable container legislation. More drivers would be needed to carry the returns; additional personnel would be required for handling, warehousing, and bottle cleaning. A study of the Oregon experience estimated that at least 82 jobs were added in this industry following adoption of its legislation. Since the Massachusetts market is more than three times that of Oregon, a minimum gain of 240 workers might be expected but, in fact, as many as 400 jobs might be created.[3]

Malt Liquor Production. Massachusetts has suffered a decline in employment in the brewing industry in recent years. In 1965 seven breweries operated in the state, but only one, employing 60 workers, will remain following the closing of the Carling Brewery in mid-1976. The legislation will have an insignificant effect on the existing brewer in terms of the additional staff required for handling returns and bottlewashing (see Table I). However, because the legislation will give a competitive advantage to brewers located close to the consumers, it may have a significant effect in reversing the trend away from local brewers and may therefore increase employment in Massachusetts by encouraging the development of both local breweries and regional plants of national breweries. Since this possibility is speculative no employment increases for new breweries are shown even for the most optimistic estimates of Table I.

Wholesale Distribution of Beer. Massachusetts has 103 beer distributors employing 3,382 individuals. Preliminary evidence from the Oregon experience showed that one additional employee was needed for each 4.5 million returnables handled.[4] Based on the estimated volume of beer consumption in Massachusetts, 180 new employees would be required. However, cost data from the Oregon experience including transportation costs for the return trip demonstrate that an estimate of 400 new jobs for Massachusetts is reasonable.

Footnotes at end of article.

TABLE II.—COST CHANGES DUE TO CONVERSION TO REFILLABLE-RECYCLABLE CONTAINERS

[Dollars per case]

	Soft drinks		Beer	
	Bottles	Cans	Bottles	Cans
Wholesale prices	−$0.20	−$0.25	−$0.39	−$0.32
Distribution costs			.10	.10
Retail handling costs	.30	.30	.30	.30
Net change	.10	.05	.01	.08

Source: Wholesale price changes are calculated in the technical appendix. Distribution and retail cost changes were estimated from data on the Oregon experience presented in Applied Decision Systems and Gudger and Bailes. (See notes to table I).

Retail Stores. Grocery stores, supermarkets, and packaged liquor outlets would need to expand employment should a minimum deposit program be enacted, in order to handle customer returns. The Oregon data showed that approximately 3,000 hours of work are created for every million returnable containers handled. In Massachusetts this suggests that the equivalent of 2,000 employee years of work would be created at the retail level. Much of this would be performed by part-time employees or by existing staff working overtime. With greater use of cans that occurred in Oregon and the installation of automated compactors, combined with utilization of overtime labor and part-time help, a range of 400 to 1,000 additional full-time workers seem probable.

Aggregate Employment Effect and Impact on payrolls. Table I shows that in aggregate the proposed Massachusetts legislation would create from 187 to 1,380 additional jobs. Similar employment increases have been predicted in analyses for other states. A U.S. Department of Commerce study of the impact of mandatory deposit legislation on the nation predicted as many as 33,000 additional jobs.[5]

Despite these employment increases, there is concern that high-paying jobs would be lost while any new jobs would be predominantly unskilled and part-time positions. If this were the case, the legislation could still result in a decline in payrolls. However, job skills and pay scales in the soft drink bottling, brewing, beer distribution, and trucking industries are comparable to those in the glass container and can industries. Our analysis shows that employment changes for workers in these industries would offset each other, with net benefits from additional gains in the low-paying retail sector. Analysis of the changes in employment in terms of relative pay scales in Massachusetts, also presented in Table I, shows that the state's payrolls could increase from $1 to $10 million.

ESTIMATED RETAIL PRICE CHANGES

To assess the influence of mandatory minimum deposit legislation on retail beverage prices, surveys have compared recent prices in the States of Washington, which has no such legislation, and Oregon, which does. Two years after the enactment of the legislation in Oregon, beer prices were 2 to 3 percent higher there for regional brands than in Washington.[6] However, soft drinks sold in reusable containers were comparably priced in both states. Moreover, beverages in these containers sold for 20 to 25 percent less than throw-aways in Washington.

In Vermont, bottlers and brewers were initially reluctant to introduce reusable containers when minimum deposits were required for all beer and soft drink packages. Therefore, the potential benefits of a recyclable packaging system were frustrated since used containers were discarded and retail beverage prices rose. Now, however, many Vermont beverage wholesalers are discovering that they can gain competitive advantages and reduce prices by switching to refillable containers. Bottlers who have converted report that recovery rates are comfortably above break-even points.[7]

Other studies have also predicted lower retail prices as a result of mandatory minimum deposit legislation. A recent study in New York State predicted a drop in retail prices saving the state's consumers $40 million. National survey evidence published by the U.S. Environmental Protection Agency shows that beer in refillable bottles sells for 5 percent less than beer in one-way bottles, while the use of refillable bottles reduces soft drink prices by 17 percent on average. Furthermore, in recent testimony before the Federal Trade Commission, soft drink bottlers reported that returnable containers with reasonable rates of reuse are the most economical package for the consumer.[8] In Boston, a popular soft drink in a 16-ounce returnable bottle sells for two-thirds of its price in a one-way bottle. Similarly, a popular beer sells for 10 percent less in returnable bottles.

Opponents of this legislation, however, suggest that the costs of switching completely to a reusable container system would be extremely high. They believe that the evidence of retail price surveys is misleading since reusable containers are a relatively minor form of beverage packaging today. A major shift to these containers would require substantial amounts of investment and would alter the cost structure of beverage firms significantly. These opponents have claimed that the added expense would drive up retail prices.

Table II summarizes our estimates of changes in the costs of soda and beer to retailers resulting from a conversion to refillable-recyclable containers. In spite of generous estimates of potential net cost increases, the table clearly shows that overall costs would rise insignificantly at most.

As explained in the technical appendix, wholesale prices of soft drinks would probably drop at least 20 cents per case for 7–12 ounce bottles and 25 cents per case for 12 ounce cans. Similar analysis indicates that the wholesale prices for beer would decrease at least 39 cents per case for bottles and 32 cents per case for cans. For bottlers and brewers the most important component of the beverage costs is the expenses of beverage containers which comprise almost half their cost, and consequently savings made possible by reusing containers overshadow increased expenses.

The predicted reduction in wholesale prices is substantiated by the experience of a western brewery which has converted its entire operation to refillable bottles and recycled aluminum cans. Paying a bounty for the return of its bottles and for aluminum cans, the brewery has experienced high return rates and has found the process to be economically advantageous.

Oregon data show that beer distribution handling costs and amortized investment expenses increase by 5–10 cents per case with the bulk of the charges due to labor costs. Although cans are less expensive to handle than bottles, a 10 cents per case increase is applied to both forms of packaging for beer distributors. No corresponding expenses are shown for soft drinks because distribution costs are included in the wholesale prices charged by bottling firms.

Retail expenses increase as a result of the added employment and capital investment required by recyclable-reusable packaging. Each 350 bottles returned requires approximately one manhour of labor to process the returns, handle the deposits, and undertake the necessary bookkeeping. Although cans are more easily processed than bottles, once again the same estimate of labor requirements has been applied. In addition to the employment expense, the retailers may require capital investment either to provide additional storage space or to buy compactors. In any event, a very generous estimate of the increased costs experienced by soft drink and malt beverage retailers is 30 cents per case. The net effect of these cost changes to retailers shows little likelihood that retail prices of beer or soda would rise by more than 2 percent as a result of the Massachusetts bill.

In summary, the available evidence supports the hypothesis that returnable-recyclable beverage containers will not require significantly higher retail prices. In fact, the net effect of cost changes could permit retail prices to fall.

DESIRABILITY OF AN ADEQUATE PHASE-IN PERIOD

To avoid some of the potential adverse economic effects, any mandatory deposit legislation should be enacted with an effective date one or two years after the legislation is passed to allow for adjustments in the affected industries. Bottle manufacturers then would be able to plan for the decline in the demand for beverage bottles and shift production to bottles suitable for other purposes, thus minimizing employment losses. Manufacturers could develop cans without detachable parts, thus avoiding the sharp decline in the market share of beverages sold in cans that was experienced in Oregon. Soft drink bottlers and brewers would have time to adjust their production systems to handle refillable bottles, and the necessary capital investment could be spread out over several years, preventing cash-flow crises. Finally, retail stores would have time to adjust to the new handling requirements and evaluate the need to invest in compacting machines.

THE BENEFITS OF SIMILAR LEGISLATION THROUGHOUT THE REGION

A mandatory deposit system could yield further gains if similar legislation were adopted throughout the region. This could allow for the development of new industry, since together the New England states could generate a sufficient volume of returned cans to permit efficient recycling and thus allow for a centrally located regional recycling center.

Furthermore, the small size of the New England states exacerbates border problems associated with differential legislation. Bottlers and brewers would find it difficult to comply with a variety of incompatible state laws in their sales areas. The possibilities for industry resistance would also be lessened if each state's law were compatible with that of the other states. The Vermont experience, where bottlers and brewers were reluctant to switch to reusable containers, would not be repeated if similar legislation were adopted throughout the region. The incentives for manufacturers to use standardized bottles, increasing the benefits of the legislation, would also be greater. Finally, uniform legislation for all New England states would make compliance by brewers, bottlers, and distributors that much easier, since many of them service customers in more than one state.

ALTERNATIVE SOLUTIONS

While the environmental, employment, and price effects of the proposed mandatory deposit legislation are all expected to be positive in the aggregate in Massachusetts, the adverse impact of the legislation on certain industries highlights the need to examine alternative proposals.

One alternative proposal is an outright *ban* on the use of nonrefillable bottles and nonrecyclable cans, but nothing in such a ban would encourage the return of containers. In addition, unless provision were made for a gradual transition to reusable contain-

Footnotes at end of article.

ers, such an action would probably have severe adverse economic effects, including immediate curtailment of employment in the glass and can manufacturing industries.

Another alternative is a program to tax cans and bottles as potential litter, combined with direct government sponsorship of recycling and resource recovery programs, public education and litter recovery. Vermont initially adopted a litter tax, and one is now levied in Washington state. However, energy savings from resource recovery and recycling are considerably less than those associated with direct reuse, and education and litter collection programs in the past have not been particularly successful.[9]

A review of the alternatives by a New York State Senate Task Force led them to conclude that only mandatory deposit legislation can provide substantial direct benefits:

"Requiring that a deposit be placed on all beer and soft drink containers (whether they be refillable bottles, nonrefillable bottles, or cans) without prescribing that specific types of containers be used, provides a direct economic incentive to consumers to return bottles and cans to retailers. Such a mechanism forces beverage manufacturers to deal with emptied containers, thus encouraging the use of refillable or easily recyclable containers. The deposit approach takes advantage of an existing, proven mechanism; does not restrict consumers or producers from using the container they prefer so long as provision is made for its return; and does not restrict innovation while minimizing government intervention in the marketplace. Only those consumers who decide not to return containers are penalized (through forfeiture of deposit, a revenue to the beverage industries which would ultimately contribute to offsetting costs and possible price reduction." [10]

CONCLUSION

The mandatory deposit legislation currently proposed in Massachusetts provides for considerable environmental benefits. Fortunately, the foregoing analysis has demonstrated that the proposed law is not intrinsically detrimental to employment opportunity in the state. Moreover, retail price levels may actually decline. However, some employment loss may result in the glass and can manufacturing industries. Establishment of an adequate transition period to enable affected industries to adjust their technologies will help ensure a minimum of job losses. Acceptance of the legislation by both industry and consumers in the period immediately following its adoption is vitally important to its success.

FOOTNOTES

[1] This article focuses only on the economic impact of mandatory deposit legislation. For a comprehensive analysis of the energy and environmental benefits possible from the reuse of beverage containers which will result from such legislation, see U.S. Environmental Protection Agency, *Resource and Environmental Profile Analysis of Nine Beverage Container Alternatives, 1974.*

[2] Carlos Stern *et al., Impacts of Beverage Container Legislation on Connecticut and a Review of the Experience in Oregon, Vermont and Washington State,* University of Connecticut, Dept. of Ag. Econ., March 20, 1975 and Murrough H. O'Brien, *Returnable Containers for Maine: An Environmental and Economic Assessment,* March 17, 1975.

[3] The estimate of 400 jobs was obtained by applying a handling charge of $.17 per case, derived from Oregon studies, to a calculation of the number of cases sold in Massachusetts. The resulting labor bill divided by the average wage rate provides this estimate of the number of jobs.

[4] This estimate was derived by averaging the productivity figures presented in Gudger and Bailes, *The Economic Impact of Oregon's Bottle Bill,* March 1974, pp. 46–48; Gudger and Bailes, *Statement to the Oregon Legislature Minimum Deposit Law Study Review Committee,* September 12, 1974, p. 16; and Applied Decision Systems, *Study of the Effectiveness and Impact of The Oregon Minimum Deposit Law,* pp. II–131–134.

[5] Gudger and Bailes, March 1974, pp. 68–69, provides data on the Oregon experience; Carlos Stern *et al., Impacts of Beverage Container Legislation on Connecticut and a Review of the Experience in Oregon, Vermont, and Washington State;* Murrough H. O'Brien, Maine Citizens for Returnable Containers, *Returnable Containers for Maine: An Environmental and Economic Assessment;* New York Senate Task Force on Critical Problems, *No Deposit, No Return . . . A Report on Beverage Containers,* February, 1975; estimates showing employment increases for the U.S. as a whole have been made by the U.S. Department of Commerce, *The Impacts of National Beverage Container Legislation.* Bureau of Domestic Commerce Staff Study No. A–01–75, October, 1975.

[6] However, about 60 percent of Oregon beers are brewed out of state which would naturally increase transportation costs. Another factor is that Washington has a 5-percent sales tax on beer while Oregon has none. See Don Waggoner, *Oregon's Bottle Bill—Two Years Later.* Columbia Group Press, May 1974, p. 30.

[7] The Vermont Governor's Highway Letter Evaluation Committee, "Report to the Governor," mimeo, December 1973, pp. 21 ff.

[8] United States of America before the Federal Trade Commission in the matter of the Coca-Cola Company, Docket Number 8855, October 3, 1975.

[9] New York Senate Task Force on Criitcal Problems, p. 34–48.

[10] *Ibid.,* p. 3.

TECHNICAL APPENDIX—COMPARATIVE COSTS OF BEVERAGE CONTAINERS

Mandatory bottle legislation will alter the cost structure of the bottling and brewing industries. By stimulating a switch to reusable containers, the legislation will result in increased costs to the bottlers due to each of the following:

Sorting and handling required to process the refillable and recyclable containers;

The return trip transportation;

Required cleansing of refillable bottles;

Warehousing of refillables;

Investment for processing reusable containers;

Heavier cartons needed to carry returnables; and

New and heavier bottles.

On the other hand, costs will decrease through the reuse of bottles and cartons and the recycling of cans. Savings in these factors are especially significant since containers comprise nearly 50 percent of total costs.

This appendix analyzes the likely direction and comparative magnitude of soft drink bottlers' cost changes under mandatory deposit bottle legislation by weighing the impacts of each of the above changes. Similar analysis applies to brewers' costs. The data are drawn from the experience of Oregon in 1972. Although the level of prices has changed since then, the relative impact of the legislation should be the same.

Table I presents a comparison of costs of returnable and nonreturnable soft drink containers. The components requiring additional costs under the returnable system add 53¢ per case for bottles and 47¢ for cans. The comparable figures for beer are 41¢ per case for bottles and 28¢ for cans. The estimated cost increase for cans is overstated since lines 1, 2 and 4 of the table assume that recyclable cans require the same handling, shipping, and capital expenses as refillable bottles.

The level of increase reflected in Table I is heavily dependent upon labor costs since both the sorting/handling and delivery are labor intensive. Indices of average hourly earnings for production workers show that Oregon labor is more costly for the relevant occupations and therefore the cost increases associated with refillables are probably overstated for Massachusetts.

Table I shows that cost increases would be overshadowed by the savings associated with reuse of containers. Bottles reused seven times would result in savings of 64¢ per case. The cost saving would also be significant for recycled cans. Energy use in producing recycled can stock would be negligible compared to processing bauxite, and capital investment would be only 6 percent of the amount needed to start with virgin ore. Savings of 62¢ per case could be achieved.

As a result of these savings, wholesale costs would be expected to decline upon conversion to reusable containers. Several factors, however, would be needed to realize these savings. The trippage per container would have to exceed the breakeven point, and cans would have to be recycled. If beverages were sold in standard bottles, reusable by several firms, considerable additional savings would result. Compatible legislation among the states of the region would provide additional incentives for standardization of bottles and thus would increase savings. Finally, substantial savings could also be effected by careful transportation planning so that, for example, trucks combine deliveries with picking up empty containers.

APPENDIX TABLE I—COMPARATIVE COSTS PER CASE OF RETURNABLE AND NONRETURNABLE SOFT DRINK PACKAGES, SUMMER 1972

	7-trip refillable bottle (12 oz)	1-way bottle (12 oz)	1-metal aluminum can (12 oz) made from recycled metal [1]	Nonreturnable can (12 oz.)
Higher costs with returnables:				
1. Sorting and handling [2]	$0.18		$0.18	----
2. Delivery (including inbound freight) [2]	.50	$0.33	.50	$0.29
3. Manufacturing, warehousing, and ingredients [3]	.60	.50	.45	.45
4. Amortized capital costs	.08		.08	----
Lower costs with returnables:				
5. Container costs [4]	.26	.90	.46	1.08
6. Carriers [5]	.12	.13	.13	.13
No cost change:				
7. Crowns	.04	.04	----	----
Average cost per case: soft drink packages	1.78	1.90	1.80	1.95
After markup [6]	2.49	2.69	2.51	2.76

[1] Data in this column in categories 1 and 2 are based on expenses associated with refillable bottles Since cans are lighter and require less care and space in handling, the costs for cans are therefore overstated.

[2] These categories include significant labor costs, which are higher in Oregon than Massachusetts (U.S. Department of Labor, Bureau of Labor Statistics). They are based on the 95-percent Oregon return rate These data used for bottle expenses have been criticized by Gudger and Bailes, Sept. 2, 1974 (p. 6) as well as Bingham and Mulligan (pp. 172–3) for overstating the cost disadvantage of refillable bottles over 1-way bottles. A fortiori 1-metal can expenses could be overstated.

[3] The 10¢ differential between refillable and 1-way bottles has been criticized as being excessive. See the statement by C. M. Gudger and J. C. Bailes to the Oregon Legislature, Sept. 12, 1974, p. 6

[4] The price per case of refillable bottles is $2.55, the price per case of recycled cans is $0.48 The return rate is 85 percent. The deposit is 3¢ per unit. Since soft drink bottlers maintain distinctive bottles, the price of returnable soft drink bottles is more than twice that of returnable beer bottles. We assumed that the 3¢ certified deposit applies, nonetheless. As a result we overstate costs, if anything.

[5] Refillable bottles require heavy duty but reusable cartons. The net cost of these is slightly less than the cost of nonreusable carriers required for 1-way bottles

[6] A markup of 41.5 percent was used in these calculations, reflecting current industry patterns. The markup represents return to capital and therefore is not applied to item 4.

EXHIBIT 2
STATE OF NEW YORK,
DEPARTMENT OF HEALTH,
Albany, N.Y., June 13, 1974.

JON S. EISENBURG,
Fayetteville, N.Y.

DEAR MR. EISENBURG: Commissioner Ingraham has referred your letter of June 7 for reply to me. Although I believe there is a possibility that returnable beverage containers could pose a health hazard I do not believe that this is a practical issue as I think the likelihood of transmission of disease from a container is really minute. From my point of view, the major problem posed by returned beverage containers would be the same as with any glass: breakage and cuts. I do not believe they pose a significant communicable disease hazard. I should point out, however, that I know of no scientific literature bearing on this particular problem on one side or the other. I hope this has answered your questions.

Sincerely yours,
ALAN R. HINMAN, M.D.,
Assistant Commissioner for Epidemiology and Preventive Health Services.

STATE DEPARTMENT OF AGRICULTURE,
Salem, Oreg., April 7, 1975.

Mr. FOREST GOLDEN, P.E.,
Auburn, N.Y.

DEAR MR. GOLDEN: To my knowledge there have been no documented cases of litter inside reusable bottles being responsible for health problems since the effective date of the Oregon Bottle Bill legislation. Any bottle bill impact on the health of Oregon residents would be the improved appearance of the cleanliness of roadsides, streets, beaches, parks and other public and recreational areas resulting from the absence of empty beverage bottles and cans.

Since the department obtained staffing to include meat market inspection, we have been able to make more frequent inspections and have recorded a marked improvement in the sanitary conditions of these markets.

There were some initial food market sanitation problems on handling of returned bottles as there was an unusually large number of containers turned in for refund when the bottle bill became effective. Bottles were collected from roadsides and recreational areas where they had been exposed to the elements for some time and consequently, presented some sanitation problems. This condition has long since disappeared as the bottles are now returned directly from home or promptly after usage so they are not exposed to the elements and therefore are in good condition and free of litter.

Beverage distributors have alleviated the empty bottle storage problem in most cases by scheduling a more frequent pickup of the return bottles. We have not noted any increase in rodent or insect problems in the food markets since the bottle bill became effective. What bottle storage sanitation problems do exist are usually found in the small convenience-type food markets.

Sincerely,
KENNETH E. CARL,
Administrator, Dairy and Consumer Services Division.

Mr. PACKWOOD. Mr. President, I believe today marks another step in the drive to a national bottle bill. With the recent elections in November two other States have now adopted this beverage container deposit system practice, and still further reports have reaffirmed the obvious benefits of this policy.

During the last Congress Federal studies were released which showed a national bottle bill, similar to that operating now in Oregon, Vermont, and South Dakota and soon in Michigan and Maine, will produce a net increase in jobs, significant savings of oil on a national scale, a reduction of litter, savings to the purchasing consumer, a decrease in solid waste costs, and obviously a conservation of our solid materials.

There is little rhyme or reason to the opposition to such a national policy. It stems from the overproportioned concern of those industries most directly affected by this legislation. In some ways there seems to be an inconsistency in the opposition to this bill. The aluminum industry, which is the primary producer of beverage cans, is increasing its prices for the recovery of aluminum, that is processed aluminum. The industry has a growing desire to obtain this previously produced aluminum and use it in its current manufacturing of aluminum products. Second, that is exactly what a national bottle bill would help them to do—obtain more aluminum. With a 5 cent deposit on beverage containers, and in this instance cans, consumers would return a far greater amount of aluminum which the industry could recover than the current national situation where few areas have deposits on the return of containers.

I have stated before the benefits of a national bottle bill many times. In the last analysis, by whatever standard you wish to use, this legislation is a national winner. If we are talking energy, jobs, conservation, a reduction of littering, or even the Nation's preference, I believe passage of this bill is the right move. I deeply hope my colleagues will take a strong and careful look at this proposal offered today by Senator HATFIELD and myself. A national bottle bill has been too long in waiting and its time has come.

QUORUM CALL

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that between now and 2:30 p.m. there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. HART AND FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. HART be recognized for not to exceed 15 minutes; that there then be a period for the transaction of routine morning business, of not to exceed 30 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 39—DISAPPROVAL OF THE PAY RECOMMENDATIONS OF THE PRESIDENT

Mr. ALLEN. Mr. President, on behalf of myself, Mr. DOMENICI, Mr. HELMS, Mr. HATCH, Mr. MCCLURE, Mr. HANSEN, Mr. DANFORTH, and Mr. WALLOP, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 39) relating to the disapproval of the pay recommendations of the President.

Mr. ROBERT C. BYRD. Mr. President, I object to the immediate consideration of the resolution.

The PRESIDING OFFICER. The resolution will go over under the rule.

Mr. ALLEN. Mr. President, this is a resolution which would disapprove of the President's recommendation for a pay increase for the top officials in the executive and judicial branches of Government and Congress.

Under the law, the Pay Commission makes recommendations to the President for a suggested pay schedule for top officials in Government. Then the President can accept those figures or modify them as he sees fit and then make recommendations. These recommendations go into effect unless one House of Congress agrees to a resolution vetoing or disapproving of this pay increase. All action must be completed with 30 days or the pay plan goes into effect automatically.

I feel that Members of the House and the Senate should be willing to vote up or down, themselves, on the amount of their salary and not have a back-door approach. We have only until 2:30 to discuss this matter. This matter will come over under the rule and in all likelihood will come up, I trust, for a vote on tomorrow. I hope the leadership will allow this resolution to come to a vote.

Mr. President, yesterday President Ford submitted to the Congress his recommendations for increases in executive, legislative, and judicial salaries under the Federal Salary Act of 1967. Although the President reduced in some instances the exorbitant recommendations made to him by the Commission on Executive, Legislative, and Judicial Salaries, his

proposal calls, nevertheless, for massive increases in the pay of high officials throughout the Government.

Now, Mr. President, I am not opposed to periodic review of the pay of salaried employees of the Federal Government, but I believe the proposal submitted yesterday can only be characterized as a postelection raid on the Treasury. Senators and Congressmen are given a quantum increase in pay of some 29 percent. Others in the government would receive massive jumps in pay ranging from an additional one-quarter to almost an additional one-third of their present salaries. Pay increases under the President's plan would average a shocking 28 percent over present levels.

Working citizens in our country have already been pushed to the breaking point by the excessive Federal taxation which is required to pay, at least in part, for the gluttonous and ever-expanding programs of the Federal Government. Gigantic Federal deficits rob the same citizen through the invisible tax imposed by inflation. Mr. President, working people are struggling to maintain their families and their accustomed standard of living under this oppressive weight of Federal taxation, yet the President proposes in one step to jump the pay of top Federal officials who are already by every reasonable measure compensated handsomely.

Mr. President, I do not believe the American taxpayer is going to stand for this unnecessary and totally unjustified ripoff. Mr. President, I believe if we fail to take responsible action in this body to block the President's plan, our failure to act will be remembered far beyond the next few months. Taxpayers are not going to be fooled on this issue. Taxpayers are going to understand fully that the massive pay increases now proposed can only mean higher taxes or further inflation. In either event, working taxpayers are the losers, and they know it.

In my judgment, Mr. President, we are already on the verge of a taxpayer revolt. The ill-advised pay increases announced yesterday could well be the last straw. In any event, Mr. President, if we fail to discharge our clear duty to disapprove the President's proposal, in my judgment, the Congress will be severely and justifiably criticized.

How can we possibly justify an average pay increase of some 28 percent for already highly compensated top Government officials when ordinary Government workers received last October a raise which averaged only 4.8 percent. But now, incredibly, Mr. President, some top officials would receive under the President's plan increases amounting to almost one-third of their present compensation. Yes, Mr. President, the rich surely do get richer, and it looks like the poor are going to get poorer unless we take action.

But, Mr. President, fortunately we are permitted by the terms of the Federal Salary Act to disapprove in whole or part the President's proposal. I am, therefore, joining with other Senators today in introducing a resolution disapproving the President's plan in its entirety. We have a limited period of time in which to act, and I am therefore hopeful that the Senate will act promptly to disapprove the President's plan and that no effort will be made to block action during the short period permitted us by the statute.

In introducing a resolution of disapproval, I am not unmindful that some problem has been experienced in attracting and retaining top quality people to fill civil service and possibly some judicial positions in our Government. However, the one-shot, massive pay proposal now before the Congress is an unseemly and shabby method for correcting possible pay inequities. Moreover, the President's proposal could have very serious adverse psychological effects in the private sector and might well trigger an inflationary round of unrestrained wage and price hikes in industries throughout the country. Government officials would be hard pressed to call for restraint after having set the worst possible example in managing their own affairs.

Mr. President, at a time when government is calling on ordinary citizens to make fiscal and personal sacrifices in the interest of curbing inflation and conserving energy, our failure to disapprove the President's plan would rightly be considered a failure of leadership and a further display of congressional irresponsibility and impropriety.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered.

The resolution is as follows:

S. Res. 39

Resolved, That the Senate disapproves all of the recommendations of the President with respect to rates of pay which were transmitted to the Congress pursuant to section 225(h) of the Federal Salary Act of 1967 on January 17, 1977.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. DOMENICI. Mr. President, I gladly join as an original cosponsor with the distinguished Senator from Alabama.

I am aware of the serious inequities in the executive branch pay system and schedules, but I honestly believe that it is inappropriate at this particular time in our history, with the economics what they are, with inflation and its threats being what they are, to accept through the back door, as the Senator says, about a 30 percent across-the-board pay increase for high executives and Members of Congress.

I hope that all Members will give this matter serious consideration. As the distinguished Senator has said, we will be voting on this matter in the very near future.

In some respects, as to some members of the executive, it is with reluctance; but when I look at the entire package, I am not the least bit reluctant to join in the Allen-Domenici resolution to deny the entire package, which is our approach to getting to the proposal. We do not have any other way to handle it at this point.

Mr. President, I am opposed to the entire package of salary increases proposed by the President in his fiscal year 1978 budget message. In a time of economic uncertainty, when the American people are being called upon to make sacrifices, and when American business and labor are being urged to show restraint in prices and wages, it is imperative that Congress set an example.

The complete package of pay increases for the bureaucracy and Congress will cost the American taxpayer an estimated $85 million a year. It contains wage hikes generally amounting, in many cases, to nearly 30 percent. Moreover, in absolute terms, many of the pay hikes constitute pay increases of over $13,000. Pay hikes of this magnitude for the Congress and the upper echelons of the Federal Governmental bureaucracy can only be described as unwarranted. Such an inflationary pay package can hardly be said to show restraint, and is certainly not an example we would wish others in the country to follow.

With this in mind I am introducing in the Senate today a resolution of disapproval for the entire pay proposal. Such an action will be a clear demonstration to the American people that we in the Congress are serious and that we are not paying lip service to the idea of restraint while voting ourselves a lavish salary increase.

Mr. President, in taking this position I am very aware of the serious problems being experienced in attracting and retaining top quality people to fill civil service and high judicial positions in our Government. Over 20,000 employees at the top of the civil service are presently locked in at the maximum salary level. I am disturbed to note, for example, that one supervisory employee in NASA has 47 people working for him that make as much or more than he does. I am also concerned that 18 resignations in the past 2 years in the Federal bankruptcy courts appear to be related to inadequate salaries. Clearly these and other problems related to salary inequities need attention. But I am persuaded that a one-shot correction of the sort now before us is not the way to eliminate these inequities. It will be misunderstood. It may, in fact, trigger an inflationary round of unrestrained wage and price hikes across the country by those who will claim they are only following the Congress example.

The problem of inadequate salaries has evolved gradually over a number of years. I believe they can only be solved gradually by a series of appropriate adjustments in salaries and other benefits. Even so, I am not at all convinced that the adjustments need ultimately be as large as those recommended to us today.

Finally, I would like to call particular attention to the pay hikes proposed for Members of Congress. A one-shot 29-percent increase, from $44,600 to $57,500, has been recommended. I am opposed to this increase, and indeed to any pay hike for Congressmen and Senators. This is a position I have consistently taken since entering the Senate 4 years ago. In spite of arguments to the contrary, I do not believe inadequate salaries are a major consideration in deterring qualified individuals from seeking election to the House or Senate. Surely the salary level should be high enough for capable men and women to support themselves

while holding office. But I believe this is the case now, and no adjustment is required. Moreover, an increase for Congressmen at a time when the institution has come under increasing attack from the electorate represents an abrogation of our leadership and an exercise in irresponsibility.

Mr. HANSEN. Mr. President, I, too, join the distinguished Senator from Alabama and the distinguished Senator from New Mexico in sponsoring the resolution of disapproval which has been referred to.

I will have more to say later, but I take this opportunity to point out that the prime reason for the pay raise has to be inflation; and the prime responsibility for inflation has to rest squarely, as the distinguished occupant of the chair knows, upon the shoulders of the Congress of the United States. We and we alone can do something about inflation. So far, we have turned our backs upon all opportunities to come to grips with the problem of inflation.

It certainly is true, there can be no doubt at all, that the judges, Members of Congress, and other in the higher echelons of government are in a very precarious situation because the pay raises to which they are presently entitled do not keep up with inflation. But the fact remains that the Congress of the United States has to accept the responsibility for inflation, and so far I am dismayed that we have not faced up to that responsibility.

I will have more to say later, but I would like now to make known my position, the fact that I will vote to support this resolution of disapproval, and I would hope that the Congress of the United States would face up to its responsibilities, and recognize we are in this pay raise proposal only addressing a problem that affects a very small minority of the people in the United States who know first hand what the burdens of inflation are.

I thank the Chair.

Mr. HELMS. Mr. President, yesterday President Ford sent his farewell gift to the Congress—a hefty 28-percent pay raise for all the top officials in Government including the Members of this body. The bulk of Government workers got a 4.8-percent raise last October—a raise that was in itself inflationary, and self-defeating. Yet now the top bureaucrats will be in line for an increase that is six times that which the rank and file received.

Mr. President, even though the Senator from North Carolina, like all other Senators, would benefit by this proposal, he cannot in conscience approve such a raise at a time when the average American is hard pressed to pay his taxes—taxes which will be necessary not only to fund the pay raise, but also to pay for all the other big spending programs which some politicians imagine are necessary.

There are those who contend that Senators and top bureaucrats are underpaid, and that it is necessary to raise their pay in order to attract qualified persons. Well, the Senator from North Carolina notes that only 2 months ago we went through national elections. During that election and in the previous campaigns, this Senator observed that there was no lack of candidates seeking the office of Senator, many of them raising and spending large sums of money to run for that office.

The Senator from North Carolina must assume that all of these candidates were knowledgeable men and women, and that they must have been aware of the rate of pay which goes along with the office of Senator. Similarly, each of us ran for office, most against strong opponents all eager for the same office. The Senator from North Carolina was aware of the level of compensation provided, and was and is willing to accept the office on those terms.

If the economic conditions of our country were better, if the Senate and the House of Representatives had been more frugal in their spending of the taxpayers' money, if the Government of the United States had been managed on a sound basis with a balanced budget and a sound dollar, then it might, indeed, have been in order to review the salaries of top Government executives to see if compensation was fair and adequate. But none of those conditions have been met; and in any case a proposed raise of 28 percent is entirely out of the question.

It is not right and proper for the Senate to reward its Members with increased compensation, when the same Senate—in conjunction with the House of Representatives and the executive branch—is itself responsible for the irresponsible fiscal policies which have imposed such a burden upon the working people of this Nation. This Senate is itself responsible for the inflation which is stealing purchasing power from the taxpayer's purse. We could stop it if we chose to do so. We could insist that this Government follow proper fiscal and monetary policies. But we have not done so.

Even if there should be some Members of this body who feel that they are undercompensated, I believe that it is well for all of us to tighten our belts, to feel the discipline of putting brakes on our own spending. Then perhaps we will be more responsible to the pleas of the people for cutting Government spending and cutting taxes.

The same is true of the heads of agencies in the executive branch. Let them also feel the discipline of decreased personal spending. Let them remember how hard it is to make a buck, and perhaps they will be more frugal in management of their present agency resources—resources squeezed out of the taxpayer. Perhaps they will be less eager to come up here on Capitol Hill and recommend more and more spending for bigger and bigger bureaucratic empires.

Mr. President, I am pleased to join with the distinguished Senator from Alabama in a resolution disallowing the proposed Presidential salary increase recommendation, and I urge every Member of this body to do likewise.

PROPOSED RESCISSIONS IN COMMERCE, DEFENSE, STATE, TRANSPORTATION, SBA, AND INTERNATIONAL SECURITY ASSISTANCE PROGRAMS—MESSAGE FROM THE PRESIDENT—PM 21

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Commerce, the Committee on Armed Services, the Committee on Small Business, the Committee on Agriculture and Forestry, the Committee on Public Works, the Committee on Finance, and the Committee on Interior and Insular Affairs, jointly, pursuant to the order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose nine new rescissions totalling $1,001.3 million and report eight new deferrals totalling $273.4 million in budget authority developed in connection with the 1978 budget. In addition, I am reporting $70.6 million in increases to five deferrals previously transmitted.

The rescission proposals pertain to programs of the Departments of Commerce, Defense, State, and Transportation as well as the Small Business Administration and an International Security Assistance program.

The new deferrals involve programs of the Departments of Commerce and Transportation and the Energy Research and Development Administration while the increases to existing deferrals relate to the Departments of Agriculture, Defense, and Transportation.

I urge the Congress to act favorably on the rescission proposals.

GERALD R. FORD.

THE WHITE HOUSE, *January 17, 1977.*

FEDERAL PAY RAISE PLAN—MESSAGE FROM THE PRESIDENT—PM 22

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

As a part of my fiscal year 1978 Budget, I am recommending a substantial increase in the level of compensation for members of the Federal Judiciary and the Congress as well as senior officials in the Executive Branch. I have been guided in this decision by the unanimous recommendation of the Commission on Executive, Legislative, and Judicial Salaries.

At the same time, I am also strongly endorsing the recommendation of the Commission that new and strengthened codes of conduct be adopted by each branch. Like the Commission, I would not recommend the salary increases if there is not a firm commitment to a new code of conduct.

I have personally discussed this matter with President-Elect Carter and he

authorized me to say that he fully supports my recommendations concerning salary levels and the need for stronger codes of conduct for all three branches as recommended by the Commission. Thus, the Executive Branch has made the commitment to the improved code of conduct. I have also spoken to the Chief Justice of the United States and he too supports the recommendations of the Commission and is committed to the code of conduct principles outlined in the report.

If the Congress commits itself to adoption of the proposed code of conduct reforms, then I believe the Congress should permit their salary increases to take effect. This will not only restore public confidence in national leaders, but it will permit the country to be able to attract the most qualified citizens to these important posts.

Congress enacted in 1967 the current procedure which provides for a special Commission on Executive, Legislative, and Judicial Salaries to be established every four years. This Quadrennial Commission reviewed the rates of pay for the Executive Schedule and for positions at comparable levels in the Legislative and Judicial Branches and submitted recommended changes to me. I am required to include my recommendations in the next annual Budget transmitted after the Commission makes its report. These proposed rates go into effect a month later if neither the Senate nor the House disapproves.

The last increase occurred in 1969. Quadrennial adjustments proposed by the President in 1974 were denied by the Senate. Except for a 5% adjustment enacted in 1975, salaries of senior officials in the Executive, Legislative and Judicial Branches have been frozen for nearly eight years. This year's Quadrennial Commission, chaired by former Commerce Secretary Peter G. Peterson, has documented the serious problems in keeping and recruiting qualified officials.

There is also a related problem of salary compression for some Civil Service employees. Most grades of the General Schedule have continued to rise annually as a result of the upward pressure of private salary rates. But under current law no Civil Service employee can be paid more than the statutory pay rate for Executive Level V. Consequently, all senior Civil Service employees in grades GS–16 through 18 and many at the upper levels of GS–15 have reached this ceiling, so that five different levels of officials in the Executive Branch now are paid at much the same rate.

Many of the same problems apply to the Judicial and Legislative Branches. As a result of frozen compensation schedules, a number of Federal Judges have left the bench to return to private law practice, and the Chief Justice has reported to me that others are planning to do so. This represents an alarming loss of talent and experience.

The Quadrennial Commission determined that a 50% increase in Executive, Legislative, and Judicial pay would have been justified by economic indicators. However, the Commission members concluded that direct pay comparisons with the private sector are neither feasible nor appropriate for most of the positions covered by their report, and they recommend what they believed to be the minimum increases necessary to attract and retain the best qualified individuals for these positions. Nevertheless, I have somewhat reduced the amount of salary increases recommended by the Commission. I believe the levels contained in the Budget I am submitting to the Congress today, represents the proper balance between the need for higher levels of compensation and my determination that not one cent of the taxpayer's money should be spent unnecessarily.

The Commission's proposals for salary increases were coupled with recommendations for new "Codes of Public Conduct" in the three separate branches of Government. These would provide full public disclosure of each official's financial affairs, place tight restrictions on other earned income, apply strict conflict of interest provisions upon investments, tighten up expense allowances, place reasonable restrictions on post-service employment and provide vigorous and consistent auditing. In effect, the Commission thus recommends providing higher salaries in exchange for limitations upon other forms of income that give rise to questions concerning ethics or conflicts of interest.

In order to demonstrate a firm commitment to the code of conduct reforms, I urge each House of the Congress to take positive action—such as adoption of a resolution—supporting the code within the thirty-day period available to reject the proposed salary increases. I commend the leadership shown thus far by both Houses in moving toward code of conduct reforms and I am confident that the principles stated in the Commission's report will be adopted.

GERALD R. FORD.

THE WHITE HOUSE, *January 17, 1977.*

AIRCRAFT NOISE REDUCTION ACT OF 1977—MESSAGE FROM THE PRESIDENT—PM 23

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on Commerce:

To the Congress of the United States:

Solving the airport noise problem is an environmental imperative for the millions of Americans who live in neighborhoods around our major airports. One reason U.S. commercial airlines have been unable to meet FAA noise standards is that some airlines could not afford to under the regulatory constraints of the present regulatory system.

On October 21, 1976, therefore, I took the following action:

First, I directed the Administrator of the Federal Aviation Administration to promulgate a regulation requiring domestic commercial aircraft to meet Federal Noise standards in accordance with a phased-in time schedule, not to exceed eight years.

Second, I put Congress on notice that my aviation regulatory reform proposal of 1975, which they had failed to pass, would be resubmitted in January, 1977. On January 13, 1977, I submitted to the Congress a separate message outlining my recommendations for major aviation regulatory reform. Only by enactment of these recommendations can we achieve long-term financial strength in the airline industry necessary to meet these and future noise requirements.

Third, I directed Secretary Coleman to hold public hearings and report to me on whether further financing arrangements might be necessary to ensure that all U.S. carriers can meet the noise standards within the prescribed time schedule.

The Department of Transportation has now issued a comprehensive statement on Aviation Noise Abatement Policy; the Federal Aviation Administration published on December 23, 1976, regulations responding to my directive; and the Secretary of Transportation conducted hearings on alternative financing arrangements.

With regard to the financing problem, it is encouraging to note that the airlines have reported that their earnings for 1976 increased substantially over those for the previous year. I believe, however, that it is essential to the long-term economic success of the airlines that meaningful regulatory reform legislation be enacted in this session of the Congress.

It must be recognized that it is up to the Congress to enact legislation on regulatory reform and that the full benefits of any such legislation would be phased in over time. Implementation of the noise requirements, however, must begin now. Because the airlines must meet the prescribed noise reduction schedule on time and in a cost-effective manner, I am submitting two bills for the consideration of the Congress.

In brief, the amendments to the Federal Aviation Act and the Airport and Airway Development Act, that I am now submitting provide for:

(1) The establishment by the Civil Aeronautics Board of a program under which an environmental surcharge would be placed on air passenger tickets and waybills that would provide revenues necessary to help finance the modification or replacement of noisy aircraft; and

(2) The establishment of a program of grants to airlines from existing balances in the Airport and Airway Trust Fund to assist in financing the modification of categories of aircraft specified by the Secretary of Transportation.

The amendments to the Internal Revenue Code provide:

—A reduction in existing air passenger ticket and waybill taxes, the revenues from which have built up a $1.5 billion surplus in the Airport and Airway Trust Fund.

Revenues from the reduced aviation user taxes will still be sufficient to finance Government airport and airway programs at levels provided for through fiscal year 1980.

Again, it is preferable to solve the long-term financial requirements of the aircraft noise problem through the enact-

ment of the regulatory reform legislation I proposed in 1975 and have recommended again this year. Given the need to begin implementation of these noise rules immediately, I recommend that the Congress give careful attention to the benefits that my regulatory reform proposal will provide and consider the bills I am forwarding today in this context.

GERALD R. FORD.

THE WHITE HOUSE, *January 18, 1977.*

REPORT ON GOVERNMENT SERVICES TO RURAL AMERICA—MESSAGE FROM THE PRESIDENT—PM 24

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on Agriculture and Forestry:

To the Congress of the United States:

I am transmitting herewith the seventh annual report on Government services to rural America, as required by the Agricultural Act of 1970.

GERALD R. FORD.

THE WHITE HOUSE, *January 18, 1977.*

BUDGET OF THE UNITED STATES, 1978—MESSAGE FROM THE PRESIDENT—PM 25

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on Appropriations and the Committee on the Budget, jointly, by unanimous consent:

To the Congress of the United States:

The budget is the President's blueprint for the operation of the Government in the year ahead. It records his views on priorities and directions for the future—balancing the American desire to solve every perceived problem at once with the practical reality of limited resources and competing needs.

The thirty budgets I have either shaped or helped to shape are a chronicle of our lives and times. They tell us what we have aspired to be and what we have been in fact. They tell us about the growing complexity of our society, about the changing and growing role of our Government, and about new problems we have identified and our attempts to solve them.

In shaping my budgets as President, I have sought to renew the basic questions about the composition and direction of the Government and its programs. In my reviews of existing and proposed programs and activities I have asked:

—Is this activity important to our national security or sense of social equity?

—Is this activity sufficiently important to require that we tax our people or borrow funds to pay for it?

—Must the Federal Government raise the taxes or borrow the funds or should State or local government do so?

—Should the Federal Government direct and manage the activity or should it limit its role to the provision of financing?

—How has the program performed in the past? Have the benefits outweighed the costs in dollars or other burdens imposed?

—Have the benefits gone to the intended beneficiary?

—Does this activity conflict with or overlap another?

As the result of these reviews I have proposed to reverse some trends and to accelerate others.

I have proposed, and repropose this year, a marked slowdown in the rate of growth in Government spending. Over the last three decades, Federal, State, and local government spending has grown from 18% of GNP to 34% of GNP. Federal spending growth has averaged 10% per year over the last decade. And even these percentages do not tell the whole story. As the budget documents illustrate, there has been a trend over the last few years toward so-called off-budget spending. This is an undesirable practice because it obscures the real impact of the Federal Government and makes it more difficult for any but the most technically knowledgeable citizens to understand what their Government is doing. Therefore, I am calling for legislation to halt this practice so that our budget system will fully reflect the financial activities of the Government.

In a related attempt to gain greater control over the rate of growth of Government spending I have given special attention this year to spending plans for fiscal year 1979, the year after the budget year. For the first time, the Federal budget shows detailed planning amounts for the year beyond the budget year. This innovation grows out of my conviction that our only real hope of curbing the growth of Federal spending is to plan further in advance and to discipline ourselves to stick to those plans.

From the standpoint of deficits of most recent years the 1978 budget I present shows us fairly close to balance in 1979 and shows balanced budgets thereafter. The effects on 1978 and 1979 spending of congressional action in the last session rejecting many of the restraints I proposed for the current fiscal year, 1977, made total balance in 1979 impossible unless I was willing to abandon, at least in part, the further immediate tax relief I have advocated since October of 1975 and, for no reason other than being able to show such a 1979 balance, cut back from program levels I feel are justified. These alternatives were unacceptable, but given the greatly reduced deficit for 1979 this budget implies, congressional cooperation on the restraints I propose and a slightly better economic performance in the months ahead than we have used in preparing this 1978 budget, it is entirely possible that when the 1979 budget is due to be submitted, a year from now, it could be in total balance as I have strived to achieve.

With restraint on the growth of Federal spending, we can begin to provide permanent tax reductions to ease the burden on middle-income taxpayers and businesses. For too long Government has presumed that it is "entitled" to the additional tax revenues generated as inflation and increases in real income push taxpayers into higher tax brackets. We need to reverse this presumption. We need to put the burden of proof on the Government to demonstrate the reasons why individuals and businesses should not keep the income and wealth they produce. Accordingly, my long-term budget projections assume further tax relief will be provided, rather than presuming, as has been the practice in the past, that positive margins of receipts over expenditures that show up in projections are "surpluses" or "fiscal dividends" that must be used primarily for more Federal spending, on existing or new programs or both.

One trend has been reversed in the past two years. After several years of decline in real spending for national security purposes the Congress has agreed in substantial part to my recommendations for increases in defense spending. The budget I propose this year and the planning levels for the succeeding four years assume a continuation of this real growth trend. My recommendations are the result of a careful assessment of our own defense posture and that of our potential adversaries. In this area as in all others, I am recommending spending I consider essential while at the same time proposing savings in outmoded or unwarranted activities. For the longer term, my recommendations recognize the simple fact that we must plan now for the defense systems we will need 10 years from now.

This same approach was reflected last year in my recommendations for the Federal Government's basic research and development programs. In spite of the financial pressures on the Federal budget, I recommended real growth. I am again proposing real growth for basic research and development programs this year because I am convinced that we must maintain our world leadership in science and technology in order to increase our national productivity and attain the better life we want for our people and the rest of the world.

I am also calling again for an end to the proliferation of new Federal programs and for consolidation of many of the programs we now have. At last count there are 1,044 programs identified in the Catalog of Federal Domestic Assistance. While our Nation has many needs, there is no rational justification for the maze that has been created.

Overlap and duplication are not the only defects of these programs; nor are they the most serious. More importantly, the current programs too often fail to aid the intended beneficiaries as much as expected, rewarding instead those who have learned how to work the Washington system. Some of these programs fail to pinpoint responsibility and accountability for performance and too many impose a managerial and operating burden on the Federal Government, diverting attention from the functions that must be performed at the Federal level and at the same time usurping the proper roles of State and local governments and the private sector.

If we could ever afford the "luxury" of this inefficiency and ineptitude, we can no longer. Federal programs for

health services, elementary and secondary education, child nutrition and welfare, for example, are areas that desperately need reform. I called for action last year and prepared detailed legislative proposals. Those who truly care about the needs of our people will not let another year go by without reform. There is no excuse, for example, for the Federal Government to have 15 different child nutrition programs spending over $3 billion per year and still have 700,000 children from families below the poverty line who receive no aid. Nor is there any reason to take the money out of the taxpayers' pockets to subsidize their own children's school lunch.

It will take real courage to correct these problems and the others I have identified for congressional action without following the all too familiar pattern of the past—simply adding more programs. But, increasingly, courage is not a choice; it is an absolute requirement if we are to avoid ever larger, less responsive government.

The task ahead will not be easy because it will require some fundamental changes in our expectations for Government. As a start, we need to understand that income and wealth are not produced in Washington, they are only redistributed there. As a corollary, we need to overcome the idea that Members of the Congress are elected to bring home Federal projects for their district or State. Until this idea is totally rejected, higher funding levels for old programs and more new programs will be enacted each year as Members of the Congress seek to insure their reelection. We also need to overcome the prevalent attitude that only new programs with multibillion-dollar price tags are worthy of media attention and public discussion and worthy of being judged bold and innovative. The multitude of programs already in a budget of more than $400 billion and initiatives to do something about them are worthy of intense public scrutiny, discussion and judgment in their own right.

These changes in attitude will require leadership not only by the executive branch, but, at least equally important, on the part of each Member of the Congress. Members of the Congress must begin to share the burden of the President in saying no to special interest groups—even those in their own districts or States.

The changes that have occurred in the congressional budgetmaking process in recent years provide some basis for optimism for the future. The new budget committees have begun to provide a counterbalance to the spending and taxing committees, offering hope that the total effect of the splintered actions of the other committees will be given equal weight in the congressional process.

But more progress is needed. Just as the budget process cannot do the whole job in the executive branch, it cannot in the Congress either. No matter how streamlined and properly organized the departments and agencies of the executive branch or the committees and subcommittees of the Congress become—and there is surely room for substantial improvement in this respect at both ends of Pennsylvania Avenue—the executive branch must continue to refine and the Congress must adopt processes whereby recommendations to the President or to the House or Senate, as the case may be, on major issues are developed by task force groups representing the competing priorities of various departments and agencies and of the various congressional committees and subcommittees. The reason is simply that most major issues cut across jurisdictional lines, no matter how well drawn—energy, international affairs, and welfare reform, to name but a few examples. I urge the new administration to build on what has been accomplished in this regard in the executive branch. I urge the Congress promptly to put into place the necessary counterpart mechanisms. Such improvements in process, coupled with further progress in the development of the budget process, will help substantially in addressing and meeting our problems and attaining the goals we have set for our Nation.

The last thirty budgets record a turbulent period in our history; wars, domestic strife and serious economic problems. In the last two years, we have laid the foundation for a positive future. We have stabilized international relationships and created the framework for global progress. At home, we have restored confidence in government while reversing the trends of inflation and unemployment. Building on this solid base, the policies and programs contained in this budget can help us to fulfill the promise of America.

GERALD R. FORD.

JANUARY 17, 1977.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President's budget message be referred jointly to the Committee on Appropriations and the Committee on the Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT—PM 26

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Joint Economic Committee:

To the Congress of the United States:

The past year was a year of sound economic achievement. A year ago I said that my key economic goal was "to create an economic environment in which sustainable noninflationary growth can be achieved." While much remains to be done, we have built a very solid foundation for further economic gains in 1977 and beyond. The recovery has continued to produce substantial gains in output and employment. Unemployment remains much too high, but the marked reduction that we see in inflation as well as in inflationary expectations represents significant progress toward regaining the stable noninflationary prosperity that has been our goal.

The gross national product, adjusted for inflation, rose by slightly more than 6 percent last year. The rise in production was extremely rapid at the beginning of 1976. The advance moderated during the spring, but at the close of the year the recovery showed signs of reacceleration. In December more than 88 million Americans were employed, an increase of about 3 million from last December and more than 4 million above the 1975 recession low. Economic gains were widespread. Real incomes continued their rise, consumer expenditures also moved upward, business investment began to recover, and housing construction improved significantly. Unemployment dropped sharply in the early months of last year, although it rose again as the extraordinarily rapid expansion in the labor force outpaced the creation of new jobs.

Substantial headway was also made on the inflation front. Since late 1975 the consumer price index has risen only 5 percent, a full percentage point less than was anticipated and a noteworthy improvement over the 12 percent inflation rate of 1974. Wage settlements continued to moderate. Record crops and more ample supplies of farm products halted the sharp increases in food prices. As fears of inflation ebbed, interest rates declined, contrary to most expectations at the beginning of the year; and the stock market, reflecting this heightened confidence, was close to the highs of the year when trading ended in 1976. The lower rate of inflation and the improved state of financial markets attest to the significant progress we have made during the past year toward reestablishing a stable, noninflationary, full-employment economy.

If this goal is to be fully realized, the present policy of moderation in fiscal and monetary affairs and of relying on a restored vitality in the private sector must continue. We need tax reductions to support a lasting economic recovery and to provide relief from the increases in real tax burdens induced by inflation. In the long run, inflation and real economic growth will constantly push taxpayers into higher and higher tax brackets unless tax laws are changed. Some believe that these additional tax receipts should be spent on new Government programs. I do not. Instead I believe that the Congress should counteract the growing burden imposed by the tax system—and the reduction of private incentives that it implies—by periodically providing offsetting tax cuts while continuing to restrain the rate of growth of Government spending.

The creation of permanent, meaningful, and productive jobs for our growing labor force requires a higher level of private investment. Tax reductions must be so designed that measures to stimulate consumption are balanced by those which will increase investment. Investment has for some time been falling short of the levels required if we are to provide enough productive jobs for our people at rising real wage rates, and if we hope to renew and improve our capital stock so that we can meet our requirements for energy and make headway toward environmental, job safety,

and other goals. Investment has grown more slowly than would normally be true at this stage of a recovery. A stronger spur to investment in productive plant and equipment is necessary for the further improvement in production and employment in 1977 and beyond.

TAX REDUCTIONS

In October 1975, I presented to the Congress a program of tax cuts and spending restraints that would have reduced the burden of government for all taxpayers. It would have given the American people more freedom to spend their incomes as they choose rather than as Washington chooses for them, and it would have increased incentives to expand investment. However, the Congress decided otherwise—to increase spending far more than I wanted and to cut taxes far less than I wanted.

Earlier this month I again sent to the Congress my recommendations to cut taxes. I have once more urged a permanent increase in the personal exemption from $750 to $1,000 to replace the system of temporary tax credits that has so greatly complicated the individual income tax return. I am also recommending a higher income allowance and a series of permanent tax rate reductions. My proposals provide income tax relief for individuals that will total $10 billion in 1977.

To encourage the investment that will mean good steady jobs for our expanding labor force, I am recommending once again a permanent reduction in the corporate income tax from 48 to 46 percent. I urge as well the enactment of legislation to make permanent the extension of the 10 percent investment tax credit and the increased corporate surtax exemption provided by the Tax Reform Act of 1976. In the longer run we must eliminate the double taxation of dividend payments. I am therefore renewing my proposal to integrate corporate and personal income taxes gradually over a period of years beginning in 1978.

I am also renewing my recommendation of accelerated depreciation for investment in new plants and equipment undertaken in areas where unemployment is 7 percent or higher. I am firmly convinced that this is a far better way to raise employment where the economy has not caught up with the recovery than adding layer upon layer of new spending programs.

Although such tax cuts for individuals and businesses are desirable at this time to support stronger consumer and capital goods markets, we must be mindful of the need to bring down our large Federal budget deficit as quickly as possible. As the economy improves and the demand for private credit becomes greater, Federal borrowing requirements to finance the deficit must be lowered to avoid preempting funds needed for private investment and to ensure steady progress in the battle against inflation. Accordingly, in my Budget Message I am again recommending responsible restraint in the growth of Federal budget outlays. These policies will also bring us closer to our goals of stable noninflationary prosperity.

INTERNATIONAL DEVELOPMENTS

Much progress was evident in the rest of the world last year, and international economic cooperation continued to improve. Restoration of a stable growth path, however, has proved difficult. Throughout the world, countries are still grappling with the complicated and painful aftermath of inflation, recession, and the sharp increases in the relative price of energy. Serious social and political problems have made these adjustments more difficult.

When I met with the leaders of the major industrial nations in the summer of 1976, the restoration of full employment in our several economies was the most important item on our agenda. Stable full employment and continued improvement in the well-being of our own peoples and the world population at large, we agreed, will take a number of years. Although the course of faster expansion seems attractive, it is clearly risky. Impatience which leads to a reacceleration of inflation could jeopardize the significant progress we have achieved so far.

The costly lessons of the past decade are inescapable. High and variable inflation rates are incompatible with sustainable growth. Overly expansionary policies contributed to the very high inflation rate and, in turn, to the deepest worldwide recession since the 1930s. Policy changes and adjustments will doubtless be needed in 1977 and thereafter. But policies must hold to a reasonably steady and predictable course. In particular, the measures we select to further our economic expansion must not raise the risk of future inflation.

The growing recognition among nations of their interdependence has helped to create the cooperation that is now apparent among members of the industrial community. The mutuality of the policy goal of the developed and developing countries needs to be better understood on each side. For this reason the discussions between developed and developing countries during 1976 have attempted to foster a climate in which our joint interests and our diverse concerns can be freely expressed. Although the progress so far achieved has disappointed some, it has helped us avoid the sometimes easier but mutually destructive course of trade restrictions.

ENERGY POLICY

Energy matters retain their troublesome hold among the problems threatening the Nation's long-run prosperity. The sharp increases in oil prices in 1973–75 imposed major costs upon our economy. We have done much to accommodate the new higher prices for energy, but some aspects of energy policy have hampered the adjustment. The Congress has continued to hold prices for domestically produced oil and natural gas well below world market levels. These lower energy prices have encouraged the inefficient use of energy and discouraged efforts to expand domestic supplies and improve the energy efficiency of the overall capital stock.

The recovery has heightened the demand for energy and thus resulted in greater imports of oil. In consequence the United States now depends even more heavily upon imported petroleum and is even more vulnerable than a year ago to future price manipulation and interruptions in supply. Now that the problems of recession and inflation are receding, we can more vigorously address this difficulty. The energy program that I have presented before is designed to answer the longer need.

First steps are under way toward creating a strategic oil reserve which will help shield us from disruptions in supply. The OPEC pricing decisions of December were a forceful reminder of the Nation's growing need for protection against foreign moves that affect the price and can alter the availability of imported oil. Strategic storage will provide a first line of defense against the threat of disrupted supplies. This vital program must be implemented, and we must also take positive steps to lessen our economic dependence upon foreign oil.

Measures that will make us less dependent on foreign energy supplies have been proposed by this Administration; but unfortunately many of the most important proposals have not yet been accepted by the Congress. Some of the measures involve present costs which will yield much greater future benefits. Others, which would lead to more efficient use of our energy resources, would benefit the Nation immediately as well as in the future.

It is critically important—for energy security, environmental quality, and long-term economic productivity—that prices of domestic petroleum and natural gas be allowed to match more closely the full cost of these fuels. In the immediate future oil prices should be allowed to rise as they were intended to do under the Energy Policy and Conservation Act. Steps should also be taken which would help close the gap more rapidly between domestic and world market prices for petroleum, allow a free-market price for North Slope Alaskan oil, and deregulate the wellhead price of new natural gas.

Although a number of inconsistencies remain, the relation between the Nation's goals for energy and for the environment has become clearer and the effects of existing policies more fully known. The time is ripe for reexamining environmental policy and determining whether the ends we all seek can be achieved at a lower cost to the economy and to the security of our energy supplies.

Taken together, all of the actions recommended here would help the economy to adjust to the new energy situation and do much to ensure more reliable supplies of energy for the future. They would also signal to the world that this Nation is serious about developing secure supplies of energy. Most important, these efforts would encourage conservation and give industry the confidence that will spur the production of both conventional fuels and substitutes.

REGULATORY REFORM

As economic problems have arisen and been dealt with by new policy initiatives, the Government's role in the economy has grown ever larger. The number of commissions, agencies, administrations, bureaus, and offices set up to conduct programs increases constantly. Each ap-

pears important when it is first established. The trouble is that they are seldom, if ever, terminated when they have accomplished their original mission. By one recent count there were 1,200 Federal Government organizations alone having significant powers to regulate a wide and growing range of economic activities.

The direct Federal outlay to control practices in the private sector is substantial. Even more important are the losses that these activities impose on the production and distribution of goods and services throughout the economy. No accurate measure of the total costs and benefits of actions by the regulatory agencies is possible at this time or perhaps ever. Although all Americans are aware of the substantial benefits which regulations produce in their everyday lives, we frequently lose sight of the efforts of such programs in restricting the growth of productivity.

The use of newly developed technology, the development of new companies and products, and the opening up of new occupations have all been impeded by the need for licenses, certification, review, and legal judgments introduced by one agency or another. When innovative activities are discouraged progress is curbed throughout the economy, even in those areas where some regulation is justified. Regulations must therefore be reexamined to ensure the removal of costly and counterproductive regulations and to identify those whose need has passed. Where benefits seem large we should make sure that the benefits are realized at the least possible cost.

To reduce the regulatory burden, I asked the Congress in the last year to eliminate unnecessary and anticompetitive regulation in the airline and trucking industries. This action was to follow the path of regulatory reform that the railroad industry achieved in the Railroad Revitalization and Regulatory Reform Act of 1976. I also urged the Congress to eliminate the Federal Power Commission's controls on new gas prices, which have held back exploration and sales to the interstate pipelines serving northern and western cities. Earlier this month I once again submitted to the Congress a plan to eliminate controls on gasoline refining and marketing.

Among agencies under my jurisdiction I have set out new regulatory procedures which will make controls more effective and less costly to all concerned, but such steps are only a beginning. The Congress and the executive branch must undertake a comprehensive review to ascertain the effects of present controls, and then offer to the American people a corrective program that will cut across administrative boundaries. Only a sweeping reform will remove the regulatory burden where it is no longer justified and place the initiative for production and distribution back in the more efficient hands of private enterprise.

ROLE OF THE GOVERNMENT IN SOCIETY

I firmly believe that if we dedicate our efforts to the major problems I have outlined here we can successfully resolve them. As a people we have an extraordinary capacity to marshal our resources against even the gravest difficulties.

Unfortunately many of our problems are self-made. One which has concerned me particularly over the years is a tendency, born of goodwill and a desire to improve the state of American life, which makes us think we can create costless benefits for our people. We are unwilling to confront some of our hardest choices. We persist in the belief that we can always tolerate a little larger Federal deficit, or the creation of a little more money, especially for the sake of programs which seem to promise clear and readily definable benefits. This is a kind of self-deception that we must learn to resist.

Certainly we must adopt measures that promise to keep the economic expansion going and reduce the high unemployment. But overly expansive policies with their inevitable risk of renewed inflation are realities which are easily overlooked in the understandable desire for the immediately tangible benefits foreseen from specific programs. What we seek is a sustainable expansion and the restoration of full employment without inflation, and we must settle for no less.

The discipline implicit in a prudent fiscal policy is not easy but it offers very considerable and lasting rewards. I am hopeful that the recent creation of the budget committees to serve the Congress will help to provide this necessary discipline. Prudent budget policies are essential if we are to restore stable full-employment conditions and provide the productive jobs which our people need and want. Some part of our present deficit is the result of the recession and will accordingly disappear as full employment is restored. Beyond this, however, we must restrain the growth of Federal expenditures. If we do not, we shall have to resign ourselves to higher taxes or to high employment deficits with their inflationary consequences.

Nowhere are these tradeoffs so evident as in our social security program and our efforts to provide medical insurance for our people. I have emphasized the need to maintain a fiscally sound social security system and repeatedly rejected proposals to fund increased benefits out of what are called general revenues. The purpose of linking social security benefits to specially designated taxes is to balance the benefits to one segment of society with the costs to another segment. Our democratic processes of government work better when the costs of programs are open and visible to those who pay them. Funding our social security benefits through specifically designated payroll taxes strengthens the discipline that should govern these decisions. Benefits are not costless, and we should not allow this fact to be submerged in any general revenue funding of the social security system.

Similar pressures are building up with respect to medical care. We have become concerned, and rightly so, over sharp increases in the cost of medical care which emphasize the need to improve the efficiency and effectiveness in the delivery of health care services. These have arisen in part because the large expansion in health insurance coverage under both private and public programs has reduced the sensitivity of consumers to costs and weakened the incentives to achieve efficiencies. Individuals, businesses, and unions, confronted with the higher costs of private health insurance have begun to exert curbs on the systems for delivering health and medical service, and their influence should be salutary. I hope we will not choose to fund these costs through a comprehensive national health insurance system, since this will only weaken the incentives for improvement and efficiency that are now emerging.

These are but two examples of the pressures which threaten to erode our fiscal processes. We must recognize that making governmental expenditure policy the principal arm of demand management has undesirable consequences. Expenditure programs once in place are extremely difficult to cut back. The result is a permanent rise in Federal outlays and the risk of ever-increasing growth in the government relative to the private sector. As the experience of other countries forcibly illustrates, this is a dangerous path. It weakens incentives, reduces efficiency, leads to lagging standards of living, and carries inevitable risks of inflation. It is much better to provide fiscal adjustments through tax reductions than through Federal spending programs.

The solid improvement of this year means continued progress toward a better life for all Americans. Problems will always remain, but the future is bright with opportunities to continue strengthening our economy. Improvement is part of the American way of life, but we must recognize that few problems, when viewed realistically, lend themselves to quick and easy solution. Our policies must take into account the full costs and lasting implications of the changes we make today for whatever worthwhile reason. If they attack symptoms rather than causes, policies will be ineffective and may even preclude the very goals which we seek. Enduring improvement in the economic welfare of the American people requires that the courses we embark on to meet today's problems will also bring us closer to our more distant goals and aspirations.

GERALD R. FORD.

January 18, 1977.

INTERNATIONAL ECONOMIC REPORT—MESSAGE FROM THE PRESIDENT—PM 27

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

The world economy has come a long way from the gloom and uncertainty of two years ago. Despite many divisive economic pressures, international cooperation has not broken down but has, in fact, improved. U.S. initiatives to strengthen international economic cooperation have led to real progress. Our major allies and trading partners have cooperated with us and have reciprocated our desire for strengthened economic ties.

At the Economic Summit in Puerto Rico, in the OECD, the IMF, the GATT and in numerous other meetings in 1976, we joined with our major trading and financial partners and with other nations to whom developments in the larger economies are of primary importance, in forging compatible approaches to the difficult problems that beset our economies. We concurred that first and foremost we must place our economies on a path of sustained growth without inflation. That is the essential ingredient to further and lasting reduction in unemployment. We also strengthened our common resolve to avoid trade restrictive measures and to negotiate a more open international trading system. We reached a consensus on appropriate means to assist countries needing financial help as they work toward economic stability. We also agreed to make constructive efforts to deal with the problems between developed and developing nations.

The United States can be proud of its leadership in these areas. International economic cooperation is stronger today than at any time since the Second World War. We have learned the importance of industrialized democracies taking into account the likely impact of their actions on other nations as they develop their economic policies. In an interdependent world, a nation which disrupts the economies of its trading partners does so at its own eventual peril.

We have also come to realize how mutually supportive action benefits all countries. Accordingly we and our partners have improved arrangements for assisting countries in special need as they work to stabilize their domestic economies. The United States has worked very closely with several of our friends and allies in supporting their efforts to resolve their economic difficulties. We have constructed a strong framework for cooperation with other industrialized democracies to manage future possible disruptions of oil supplies and to reduce dependence on oil imports. We have attempted to promote a more constructive relationship with the developing nations. This new relationship will enable us to enhance their economic prospects as a part of a common effort to improve the world economy and to give them a greater share in the responsibilities for, and in the management and benefits of, an orderly and prosperous international economic system.

More specifically, substantial progress, together with lingering problems, mark developments in several areas.

MONETARY AFFAIRS

In 1976, member nations of the International Monetary Fund successfully concluded the first general revision of the Articles of Agreement since the Bretton Woods Agreement of 1944. In effect, these amendments replace the old exchange rate system based on par values with one permitting countries to establish floating exchange rates, either individually or jointly. The new system will oblige member countries to promote exchange stability by fostering stable economic and financial conditions and to avoid disruptively influencing exchange rates or the international monetary system. Under the new system, Special Drawing Rights will replace gold as the unit of account in the Fund.

The amendments creating this system were formally accepted by the United States and will become effective upon similar ratification by the requisite number of member nations. At that time, the Fund will have new and broader responsibilities for overseeing the international monetary system and for developing principles that will help countries meet their financial obligations. The effect will be to promote expanded trade and growth through a more efficient and realistic exchange rate system.

The United States also proposed the creation of a Trust Fund, managed by the IMF, to provide assistance on concessionary terms to low-income Fund members. Resources are now being realized from profits on sales, over four years, of 25 million ounces of IMF-held gold.

INTERNATIONAL TRADE

Although the recession and large balance of payments deficits of the oil consuming countries led several of them to move in the direction of new restrictive trade policies, on the whole, considerable success has been achieved in maintaining an open world trading system. The growth of world trade resumed in 1976, following a decline in 1975—the first since World War II.

On January 1, the United States joined other developed countries in establishing a Generalized System of Preferences for imports from developing nations. These preferences apply to more than 2,700 tariff items, giving duty-free access to the U.S. market to qualified developing countries and affording these nations the opportunity to diversify their exports and to increase their export income.

The Multilateral Trade Negotiations in Geneva, among more than ninety nations, made progress in several areas. The United States proposed a formula for cutting tariffs, and a number of other measures covering tropical products from developing countries, import safeguards, and quantitative restrictions. Considerable progress was made on a product standard code, and work was started on improving the GATT framework for international trade and on a code for government procurement.

This international cooperation in furtherance of open trade was complemented by U.S. action in resolving several domestic complaints of trade injury. The responsible actions of this country strengthened the resolve of our trading partners to resist pressures for import restrictions, thus contributing to brighter prospects for U.S. exports and to an orderly and open international trading system.

COMMODITIES AND RAW MATERIALS

Major developments in the international commodity area during 1976 included an agreement to expand the IMF Compensatory Finance Facility; adoption by the UNCTAD IV Conference of a comprehensive commodities resolution; continued commodity policy discussions at the Conference on International Economic Cooperation; and efforts to renew the coffee, tin, and cocoa commodity agreements.

The United States strongly supported expansion of the IMF Compensatory Finance Facility, designed to help countries to stabilize their export earnings. In addition, at the UNCTAD IV Conference, the United States proposed the creation of a new International Resources Bank to promote production of raw materials in the developing nations by facilitating investment flows into these countries.

In some respects, however, the approach of the United States with respect to commodity policies differs from that of a number of developing countries. Generally, these countries support commodity arrangements that provide for greater government control of prices and production, as well as common financing of commodity buffer stocks. In contrast, the commodity policy of the United States has three major objectives:

—To ensure adequate investment in resource development to meet future market demands at reasonable prices;

—To examine on a case-by-case basis individual commodities in order to determine how best to improve (where possible) the functioning of individual commodity markets and to determine whether commodity agreements would be useful and appropriate;

—To promote the stable growth of the commodity export earnings of developing countries.

The United States has repeatedly pointed out that artificial increases of prices serve the interests of neither producers nor consumers in both developed and developing countries. Frequently, control of prices and production has led to lower, less stable earnings for producers, mainly because substitute sources are developed or existing sources expanded. Moreover, controls have often initially meant higher prices for consumers, reduced exports, and a decline in the economic welfare of all parties. The United States, while prepared to genuinely consider methods of improving markets for individual commodities, generally supports the use of market mechanisms to determine supplies and prices.

MULTINATIONAL CORPORATIONS AND INTERNATIONAL INVESTMENT

In June 1976, the United States approved the adoption of the Declaration on International Investment and Multinational Enterprises devised by the Organization for Economic Cooperation and Development. This agreement affirms the principle of national treatment of multinational corporations (MNC's); recommends guidelines of good business practices for the activities of MNC's; and indicates the responsibilities of governments regarding international investment incentives and disincentives.

The United States recognizes that increased investment is a critical element for international economic growth, and

that MNC's have contributed substantially to the rise in international investment and productivity. The activities of MNC's, however, have prompted questions about their obligations to both home and host countries and about the reciprocal responsibility of nations where the MNC's do business. Where possible, the United States is willing to enter into bilateral and multilateral discussions to help resolve these intergovernmental disputes.

The United States welcomes foreign investment in its domestic economy. The Administration's Committee on Foreign Investment in the United States has coordinated overall policy in this area. In 1976, major studies of foreign portfolio and foreign direct investment in the United States were completed and reported to the Congress.

CRITICAL INTERNATIONAL ECONOMIC PROBLEMS

We must also be aware that the events of the past year have left an agenda of unresolved problems including:

(1) the challenge of achieving stable economic growth in industrial and developing nations alike, and reducing inflation, unemployment and excessive public sector deficits;

(2) the necessity for the United States and other nations to obtain an adequate amount of real capital formation, to create jobs and to increase productivity;

(3) the major imbalance between oil exporters and oil importing nations, and the directly related increasing debt burden of developing and some developed nations;

(4) the failure to achieve an agreement among developed and less developed nations on an effective and efficient strategy for increasing prosperity for less developed countries in the context of a common effort to improve the world economy;

(5) the inadequate progress of the United States and other oil-consuming nations in reducing dependence on oil imports; and the need to encourage domestic development of oil and gas resources, alternative energy sources, and conservation;

(6) the continuing temptation among nations to use restrictive trade measures and the need to resist such pressures while reducing trade barriers and improving means for managing trade problems.

This Report traces the progress made in 1976 in dealing with the major economic issues facing the world. Evolving economic and political developments will continue to challenge the leaders of all nations. Because of the vigor of our people and the strength of our system, the United States today, as much or more than in years past, is the pivotal force for building a strong and prosperous world economy. By acting in a manner consistent with the interests of our own people yet remaining cognizant of the interests of other nations as well, I am certain that the United States will continue to provide leadership in solving the critical issues of today and the unforeseen developments of tomorrow.

GERALD R. FORD.

THE WHITE HOUSE, *January 18, 1977.*

MESSAGES FROM THE HOUSE

At 1:49 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that, pursuant to the provisions of section 401(b), title 4, Public Law 91–510, the Speaker has appointed Mr. BROOKS, Mr. GIAIMO, Mr. OBERSTAR, Mr. CLEVELAND, and Mr. ASHBROOK as members of the Joint Committee on Congressional Operations on the part of the House.

The message also announced that, pursuant to the provisions of 15 U.S.C. 1024(a), the Speaker has appointed Mr. BOLLING, Mr. REUSS, Mr. MOORHEAD of Pennsylvania, Mr. HAMILTON, Mr. LONG of Louisiana, Mr. PIKE, Mr. BROWN of Ohio, Mr. BROWN of Michigan, Mrs. HECKLER, and Mr. ROUSSELOT as members of the Joint Economic Committee on the part of the House.

The message further announced that the House has passed, without amendment, the joint resolution (S.J. Res. 12) to authorize the U.S. Secret Service to continue to furnish protection to certain former Federal officials or members of their immediate families.

EXECUTIVE REPORTS

Mr. SPARKMAN, from the Committee on Foreign Relations, submitted a report relating to the prospective nomination of Cyrus R. Vance to be Secretary of State (Exec. Rept. 95–1).

Mr. STENNIS, from the Committee on Armed Services, submitted a report relating to the prospective nominations of Harold Brown to be Secretary of Defense, and Charles W. Duncan, Jr., to be Deputy Secretary of Defense (Exec. Rept. 95–2).

INTRODUCTION OF BILLS AND JOINT RESOLUTION

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. THURMOND (for himself, Mr. ALLEN, Mr. BAKER, Mr. BARTLETT, Mr. BELLMON, Mr. BENTSEN, Mr. HARRY F. BYRD, JR., Mr. CHILES, Mr. CURTIS, Mr. DANFORTH, Mr. DOLE, Mr. DOMENICI, Mr. EASTLAND, Mr. GARN, Mr. GOLDWATER, Mr. HANSEN, Mr. HATCH, Mr. HAYAKAWA, Mr. HELMS, Mr. HOLLINGS, Mr. LAXALT, Mr. LUGAR, Mr. MCCLELLAN, Mr. MCCLURE, Mr. MORGAN, Mr. NUNN, Mr. SCHMITT, Mr. SCOTT, Mr. STEVENS, Mr. STONE, Mr. TALMADGE, Mr. TOWER, Mr. WALLOP, Mr. YOUNG, and Mr. ZORINSKY):

S. 274. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization in the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. TALMADGE (for himself, Mr. DOLE, Mr. ALLEN, Mr. EASTLAND, Mr. HELMS, Mr. HUDDLESTON, and Mr. DOMENICI):

S. 275. A bill to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. HATFIELD (for himself, Mr. ABOUREZK, Mr. BROOKE, Mr. CHURCH, Mr. HASKELL, Mr. JAVITS, Mr. LEAHY, Mr. METCALF, Mr. PACKWOOD, and Mr. STAFFORD):

S. 276. A bill to establish a national system to promote the reuse and recycling of beverage containers; to the Committee on Commerce.

By Mr. MATHIAS (for himself, Mr. BROOKE, and Mr. JAVITS):

S. 277. A bill to promote economy, efficiency, and improved service in the financing, administration, and delivery of social welfare service provided for under Federal law; to the Committee on Finance and the Committee on Labor and Public Welfare, jointly, by unanimous consent.

By Mr. STEVENS:

S. 278. A bill for the relief of Nguyen Chung-Quan; to the Committee on the Judiciary.

S. 279. A bill for the relief of Nguyen Thuy-Diep; to the Committee on the Judiciary.

By Mr. HEINZ:

S. 280. A bill for the relief of Ludwik Kikla; to the Committee on the Judiciary.

By Mr. MCCLURE:

S. 281. A bill for the relief of Kenjie Okuma; to the Committee on the Judiciary.

S. 282. A bill for the relief of Luis Sandoval-Miramontes; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 283. A bill for the relief of Manuel Suarez and his wife, Aurora Garcia Suarez; to the Committee on the Judiciary.

S. 284. A bill for the relief of Dr. Homero Rene Anchondo-Hernandez and Dr. Silvia Sobarzo de Anchondo; to the Committee on the Judiciary.

S. 285. A bill to protect private pension plan participants from excessive concentration of the investment of tax-exempt private pension assets in a small number of corporate stocks by amending the Internal Revenue Code of 1954 to impose reasonable investment limitations on large pension managers; to the Committee on Finance.

By Mr. DOLE:

S. 286. A bill to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. MELCHER (for himself and Mr. METCALF):

S. 287. A bill to provide for the control of mosquitoes and mosquito vectors of human disease through technical assistance and grants-in-aid for control projects; to the Committee on Labor and Public Welfare.

By Mr. PEARSON:

S. 288. A bill to amend title II of the Social Security Act so as to provide that the deduction from benefits due to excess earnings shall be reduced to $1 for each $3 of earnings on those earnings in excess of a floor amount but not less than twice such floor amount; to the Committee on Finance.

By Mr. TOWER:

S. 289. A bill to repeal titles XV and XVI of the Public Health Service Act; to the Committee on Labor and Public Welfare.

By Mr. CHILES:

S. 290. A bill to establish a Federal commission on ethics, to provide a code of conduct for Federal employees, to provide for financial disclosure by Federal employees, and for other purposes; to the Committee on Government Operations.

By Mr. STEVENS:

S. 291. A bill to amend the Shipping Act, 1916, in order to provide that a State, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States shall be considered a citizen of the United States for the purposes of such act; to the Committee on Commerce.

By Mr. PEARSON (for himself and Mr. BAKER):

S. 292. A bill to amend the Federal Aviation Act of 1958 to bring about the phased and progressive transition to an air transportation system which will rely on competitive market forces to determine the variety, quality, and price of interstate and overseas air services, and for other purpcses; to the Committee on Commerce.

By Mr. JAVITS (for himself, Mr. RIBICOFF, Mr. PERCY, Mr. ROTH, Mr. WEICKER, and Mr. LUGAR):

S. 293. A bill to provide periodic authorization and oversight for the OMB; to the Committee on Government Operations.

By Mr. MELCHER (for himself and Mr. YOUNG):

S. 294. A bill to amend the Meat Import Quota Act of 1964 to define fresh, chilled and frozen meat, and for other purposes; to the Committee on Finance.

By Mr. STEVENS:

S. 295. A bill to amend title 5 of the United States Code to provide vacation leave for residents of Alaska serving a tour of duty at a hardship station in Alaska; to the Committee on Post Office and Civil Service.

By Mr. MELCHER:

S. 296. A bill for the relief of Basile Christopoulos; to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself, Mr. ABOUREZK, Mr. BARTLETT, Mr. BENTSEN, Mr. BURDICK, Mr. CLARK, Mr. CURTIS, Mr. DOLE, Mr. EAGLETON, Mr. FORD, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUDDLESTON, Mr. JOHNSTON, Mr. LAXALT, Mr. LEAHY, Mr. MCCLURE, Mr. MCGOVERN, Mr. MORGAN, Mr. STAFFORD, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, and Mr. HART):

S. 297. A bill to require that imported meat and meat food products made in whole or in part of imported meat be subjected to certain tests and that such meat or products be identified as having been imported; to require the inspection of imported dairy products and that such products comply with certain minimum standards of sanitation, to require that the cost of conducting such tests, inspections, and identification procedures on imported meat and meat food products and on dairy products, as the case may be, be borne by the exporters of such articles; and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. STEVENS:

S. 298. A bill to amend section 8335(e) of title 5, United States Code; to the Committee on Post Office and Civil Service.

By Mr. CANNON (for himself and Mr. LAXALT):

S. 299. A bill to direct the conveyance of certain real property of the United States to the county of Mineral, State of Nevada; to the Committee on Interior and Insular Affairs.

By Mr. BELLMON (for Mr. BARTLETT):

S. 300. A bill to establish a Department of Education; to the Committee on Government Operations.

By Mr. MELCHER (for himself and Mr. METCALF):

S. 301. A bill to authorize the Secretary of the Interior to designate the Beartooth Highway, Montana and Wyoming, as the James E. Murray Memorial Parkway, and for other purposes; to the Committee on Public Works.

By Mr. METCALF:

S. 302. A bill to establish university coal research laboratories, noncoal mineral research institutes, energy resource fellowships, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McCLURE (for himself, Mr. THURMOND and Mr. HEINZ):

S. 303. A bill to deny Members of Congress any increase in pay under any law passed, or plan or recommendation received, during a Congress unless such increase is to take effect not earlier than the first day of the next Congress; to the Committee on Post Office and Civil Service.

By Mr. BAYH (for himself, Mr. BURDICK, Mr. CASE, Mr. CLARK, Mr. CULVER, Mr. GRAVEL, Mr. HASKELL, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, and Mr. LEAHY):

S. 304. A bill to amend title II of the Social Security Act to eliminate the special dependency requirements for entitlement to husband's and widower's insurance benefits, to provide benefits for widowed fathers with minor children, to make certain other changes so that benefits for husbands, widowers, and fathers will be payable on the same basis as benefits for wives, widows, and mothers, and to permit the payment of benefits to a married couple on their combined earnings record where that method of computation provides a higher combined benefit; to the Committee on Finance.

By Mr. PROXMIRE (for himself and Mr. WILLIAMS):

S. 305. A bill to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

By Mr. STAFFORD (for himself, Mr. RANDOLPH, Mr. BAKER, Mr. DOMENICI, Mr. GRAVEL, Mr. HART, Mr. HEINZ, and Mr. MCCLURE):

S. 306. A bill to authorize a program for employment of teenaged youth in community improvement projects; to the Committee on Public Works.

By Mr. MATSUNAGA:

S. 307. A bill for the relief of Commander Bernard E. Hartnett, U.S. Navy; to the Committee on the Judiciary.

By Mr. LEAHY:

S. 308. A bill to rescind certain budget authority for the CVN nuclear attack aircraft carrier program as recommended in the message of the President of January 17, 1977, transmitted to the Congress pursuant to section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. MATSUNAGA:

S. 309. A bill to authorize recomputation of age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of the pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

S. 310. A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. RIBICOFF, Mr. DOLE, Mr. CHURCH, Mr. DECONCINI, Mr. DOMENICI, Mr. GOLDWATER, Mr. LEAHY, Mr. MAGNUSON, Mr. SCHMITT, Mr. STAFFORD, Mr. STEVENS, Mr. HUDDLESTON, and Mr. HUMPHREY):

S. 311. A bill entitled the College Tuition Tax Relief Act of 1977; to the Committee on Finance.

By Mr. BELLMON (for himself and Mr. DOLE):

S. 312. A bill to amend the Consolidated Farm and Rural Development Act; to the Committee on Agriculture and Forestry.

By Mr. HATHAWAY:

S. 313. A bill to amend title 39, United States Code, with respect to the organizational and financial matters of the U.S. Postal Service and the Postal Rate Commission, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. McGOVERN:

S. 314. A bill to terminate the embargo against trade between the United States and Cuba with respect to medical supplies and food and agricultural commodities; to the Committee on Foreign Relations.

By Mr. JACKSON (for himself and Mr. HANSEN):

S. 315. A bill to designate certain lands within the National Park System as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. KENNEDY (for himself, Mr. CLARK, Mr. RIBICOFF, and Mr. STAFFORD):

S. 316. A bill to amend chapter 5, subchapter II of title 5, United States Code, to provide for improved administrative procedures; to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 317. A bill to amend title 38 of the United States Code in order to provide service pensions to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans Affairs.

By Mr. KENNEDY:

S. 318. A bill to amend the Foreign Assistance Act of 1961 to provide emergency relief, rehabilitation, and humanitarian assistance to the people who have been victimized by the recent earthquakes in Turkey; to the Committee on Foreign Relations.

By Mr. McGOVERN:

S. 319. A bill to amend the Federal Crop Insurance Act to provide for a new special crop insurance program; to the Committee on Agriculture and Forestry.

S. 320. A bill to amend title 39 of the United States Code to extend the moratorium with respect to postal rate increases, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. THURMOND:

S. 321. A bill to provide for the establishment of a national cemetery in the State of South Carolina; to the Committee on Veterans Affairs.

By Mr. ABOUREZK:

S. 322. A bill to authorize, under certain circumstances, payments to producers of certain agricultural commodities who are unable to plant all or a portion of their allotment for such commodities or who are unable to harvest more than one-third of their allotments for such commodities, because of a natural disaster or condition beyond the control of such producers; to the Committee on Agriculture and Forestry.

S. 323. A bill to amend subtitle C of the Consolidated Farm and Rural Development Act to reduce the rate of interest on emergency loans made under such subtitle, to increase the term of such loans, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. HUMPHREY:

S. 324. A bill to amend the Social Security Act to provide for improvements in the program relating to the diagnosis, screening, and referral of child health and maternal conditions established by title V of such act; to the Committee on Finance.

By Mr. GLENN:

S. 325. A bill to provide for allocation of natural gas during periods of natural gas supply emergency; to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. ALLEN, Mr. BAKER, Mr. BARTLETT, Mr. BELLMON, Mr. BENTSEN, Mr. HARRY F. BYRD, JR., Mr. CHILES, Mr. CURTIS, Mr. DANFORTH, Mr. DOLE, Mr. DO-

MENICI, Mr. EASTLAND, Mr. GARN, Mr. GOLDWATER, Mr. HANSEN, Mr. HATCH, Mr. HAYAKAWA, Mr. HELMS, Mr. HOLLINGS, Mr. LAXALT, Mr. LUGAR, Mr. MCCLELLAN, Mr. MCCLURE, Mr. MORGAN, Mr. NUNN, Mr. SCHMITT, Mr. SCOTT, Mr. STEVENS, Mr. STONE, Mr. TALMADGE, Mr. TOWER, Mr. WALLOP, Mr. YOUNG, and Mr. ZORINSKY):

S. 274. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization in the Armed Forces, and for other purposes; to the Committee on Armed Services.

(The remarks of Mr. THURMOND when he introduced the above bill appear earlier in today's RECORD.)

By Mr. TALMADGE (for himself, Mr. DOLE, Mr. ALLEN, Mr. STONE, Mr. EASTLAND, Mr. HELMS, Mr. HUDDLESTON, and Mr. DOMENICI):

S. 275. A bill to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes; to the Committee on Agriculture and Forestry.

(The remarks of Mr. TALMADGE when he introduced the above bill appear earlier in today's RECORD.)

By Mr. HATFIELD (for himself, Mr. ABOUREZK, Mr. BROOKE, Mr. CHURCH, Mr. HASKELL, Mr. JAVITS, Mr. LEAHY, Mr. METCALF, Mr. PACKWOOD, and Mr. STAFFORD):

S. 276. A bill to establish a national system to promote the reuse and recycling of beverage containers; to the Committee on Commerce.

(The remarks of Mr. HATFIELD when he introduced the above bill appear earlier in today's RECORD.)

By Mr. MATHIAS (for himself, Mr. BROOKE, and Mr. JAVITS):

S. 277. A bill to promote economy, efficiency, and improved service in the financing, administration, and delivery of social welfare service provided for under Federal law; to the Committee on Finance and the Committee on Labor and Public Welfare, jointly, by unanimous consent.

Mr. MATHIAS. Mr. President, I send to the desk a bill which lays the groundwork for specific legislative steps we might take next year to reform this Nation's welfare system.

This bill is designed to get the facts about all our income maintenance programs—facts which we do not have today—and to develop reform proposals free of the kind of emotionalism that has made "welfare" a favorite punching bag of political campaigners.

There is no consensus today in the Congress or among the American people on how welfare should be reformed. My bill would begin the process of developing that consensus. The 18-member bipartisan Commission that would be created by this bill would have 1 year to recommend measures to reform all Federal income maintenance programs. By looking at the full spectrum of such programs—which constitute a $28 billion system—the Commission should enable us to make sound reforms in this expensive and important function of government.

Last year, the Senate passed legislation to reform the food stamp program. Mr. TALMADGE, the distinguished chairman of the Committee on Agriculture and Forestry, the floor manager of the food stamp bill, noted that reform of the food stamp program—important as that task was—represented only one of a number of reforms we must undertake if we wish to develop a coherent system of income maintenance programs. During the opening round of debate on the food stamp bill, Senator TALMADGE stated:

> The food stamp program does not operate in a vacuum.

To stress his point, he quoted a statement made by Dr. Richard P. Nathan, of the Brookings Institution in testimony before the Agriculture Committee:

> The main lesson learned by analysis of welfare policies in the five years since President Nixon's Family Assistance Plan was proposed in August 1969, is that all programs of Federal Government that transfer cash and in-kind assistance to individuals must be looked at together.

Mr. President, this is precisely the purpose which this bill accomplishes. This bill would create a national Commission of 18 distinguished members as follows: The Secretaries of HEW and Labor; four members appointed by the President from public or private life; three members appointed by the Senate majority leader, one from the Senate and one from private life; three members appointed by the minority leader of the Senate, one from the Senate and one from private life; three members appointed by the House majority leader, one from the House and one from private life; and three members appointed by the minority leader of the House, one from the House and one from private life.

I offer this bill in the light of certain facts; facts which have convinced me that there will be no reform of the welfare system this year, though most of us agree that reforms are necessary; facts which suggest that there is, at this time, no general consensus in the Congress or public as to what form and substance the reform of income maintenance programs should take; facts which suggest that the issues involved are of such magnitude and complexity and fraught with emotion that, as an important initial step, we should remove partisanship as much as possible from the development of sound welfare reform proposals. We can do this by providing for the type of Commission proposed in this bill.

I am pleased to note that the approach outlined in this bill has received the endorsement of the U.S. Conference of Mayors' Task Force on Income Security, the National Conference of State Legislatures, the National Association of Counties, and has received favorable consideration by the National Urban Coalition.

Mr. President, this bill will not guarantee that the Commission will recommend a proposal on which the Congress, the President, or the general public will agree. But that outcome does not alarm me. The Congress will still have an opportunity to work its will on whatever proposal comes before it. The most important feature, however, is that, by adopting this bill, the Senate will be indicating its own dissatisfaction with our present system and that it does wish to begin and begin now, the process of designing a better income maintenance system.

That system must be one which assists citizens to achieve self-support and independence; it must be a system which will meet the needs of families and individuals; it must be a system which eliminates duplication and overlapping; it must be a system which reduces fraud and errors; it must be a system which assures equitable treatment of citizens; and, finally, it must be a system which provides for sound financing and some measure of fiscal relief for our financially pressed States, cities, and counties. The need for reform is clear and pressing.

In many respects some of the arguments used against the system in the past few years still apply today; namely, that it contains disincentives to work; that it encourages family dissolution; and that it is inequitable both with respect to regions of the country and individuals.

But this does not lessen the dilemma which potential reformers face. We recognize that, unless AFDC is opened up to poor intact families with a full-time working father, any changes that liberalize benefits automatically will increase the financial penalty against excluded families. This in turn will increase the incentive for family splitting. Moreover, if separate, uncoordinated programs continue to proliferate, work disincentives will climb. At the same time, rationalization of the welfare system may be impeded by the rising level of combined benefits that would have to be surrendered to achieve a universal system, or to replace various programs with a single "negative income tax" program. In light of these complexities the question is, How do we achieve reform?

Do we conclude, as we did 6 years ago, that the system is in abysmal chaos and must be restructured? Or should we pursue gradual reform? Facing us is a $28 billion system which pleases few Americans, regardless of political belief. Yet the question recurs; how do we begin to address this issue, particularly this year?

The bill I introduce today offers the way, Mr. President. I ask unanimous consent that letters endorsing this bill at the time of its introduction late in the 94th Congress, from the Honorable Abraham Beame, chairman of the Task Force

on Income Security for the U.S. Conference of Mayors, and from Mr. Vance Webb, president of the National Association of Counties, a recent article describing various approaches to reform, and the text of the bill be printed in the RECORD.

There being no objection, the bill, letters, and article were ordered to be printed in the RECORD, as follows:

S. 277

A bill to promote economy, efficiency, and improved service in the financing, administration, and delivery of social welfare service provided for under Federal law

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared to be the policy of Congress to promote economy, efficiency, and improved service in the financing, administration, and delivery of social welfare services, including, but not limited to those programs which provide a cash benefit or the equivalent of cash to individuals and families in need by—

(1) assisting needy and low income people to achieve self-support and self-sufficiency;

(2) providing funds in the amounts adequate to meet the needs of needy and low income families and individuals;

(3) eliminating duplication and overlapping of services, activities, and functions in the Federal income maintenance programs;

(4) consolidating services, activities, and functions of a similar nature in such programs;

(5) reducing fraud and errors in administration of such programs;

(6) assuring equitable treatment of people in similar circumstances and needs under such programs, taking into consideration geographic locations and other factors; and

(7) developing methods of equitable financing for such programs.

SEC. 2. (a) There is hereby established a Commission to be known as the National Commission on the Reform of Income Maintenance Programs (hereinafter referred to as the "Commission") for the purpose of developing specific legislative proposals designed to carry out the policies set forth in the first section.

(b)(1) The Commission shall consist of eighteen members as follows:

(A) The Secretary of Health, Education, and Welfare.

(B) The Secretary of Labor.

(C) Four members appointed by the President from public or private life.

(4) Three members appointed by the majority leader of the Senate, one from the Senate and one from private life.

(E) Three members appointed by the minority leader of the Senate, one from the Senate and one from private life.

(F) Three members appointed by the majority leader of the House of Representatives, one from the House of Representatives and one from private life.

(G) Three members appointed by the minority leader of the House of Representatives, one from the House of Representatives and one from private life.

(2) If any member has been appointed by virtue of the office he holds, his term shall expire when he no longer holds such office.

(d) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) The Commission shall elect a chairman and vice-chairman from among its members except that no member of the President's cabinet or Congress may serve in either position.

(f) Ten members of the Commission shall constitute a quorum.

SEC. 3. (a) Members of the Commission who are officers or fulltime employees of the United States or who are Members of Congress shall receive no compensation for their services as members of the Commission.

(b) All other members, unless precluded by the nature of any office they hold, shall be compensated at rates determined by the Commission, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c) All members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

SEC. 4. The Commission shall appoint an Executive Director and not to exceed three assistant directors. The Executive Director shall be compensated at a rate not to exceed that of level V of the Executive Schedule and the Assistant Directors at a rate not in excess of the maximum rate authorized by the General Schedule (subchapter III of chapter 53 of title 5, United States Code). The Commission shall have the power to appoint other personnel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual shall receive compensation at a rate in excess of the maximum rate authorized by the General Schedule. The Commission may request the detail of Federal employees, with or without reimbursement. The Commission may also use consultant or contract services.

SEC. 5. The Commission shall develop and draft proposed legislation to reform existing social welfare laws and programs in accordance with the policies set forth in the first section. It shall also draft a proposed plan for implementation of such legislation. The Commission shall also prepare cost estimates for carrying out such proposed legislation.

SEC. 6. In carrying out the purpose of this Act and in developing the necessary legislation, the Commission shall:

(1) hold public hearings, discussions, and meetings and receive such testimony as it deems necessary;

(2) study and analyze past and present social welfare policies and programs on the local, State, and federal levels;

(3) consider the relationships among cash and in-kind income and job security programs, job creations, social services, and manpower programs;

(4) consult with persons knowledgeable in the development and administration of social welfare programs, including recipients of benefits; and

(5) regularly inform and consult with the relevant legislative committees of Congress and the relevant agencies of the Executive Branch.

SEC. 7. The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed by the Commission in carrying out the purposes of this Act; and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates and statistics directly to the Commission, upon request made by the chairman or vice chairman of the Commission.

SEC. 8. No later than one year after the date of enactment of this Act, the Commission shall submit its recommendation to the appropriate committees of the Congress and to the President.

SEC. 9. Any information obtained by the Commission from individuals, groups, organizations, Federal, State, and local agencies and officials shall be subject to all existing and future laws concerning privacy and freedom of information.

SEC. 10 (a) The Commission shall commence its activities as soon as ten members have been appointed.

(b) If, after ten members have been appointed, no money has been appropriated to carry out the purposes of this section, the Commission may enter into an agreement with the Secretary of Health, Education, and Welfare to advance such financial resources as may be necessary to begin the work of the Commission. The Department of Health, Education, and Welfare shall be reimbursed for such advances out of funds appropriated to carry out this Act.

SEC. 11. The Commission shall locate its offices in the District of Columbia and may obtain and utilize services, facilities, and staff provided under agreement between it and any Federal agency, for which such agency may or may not be reimbursed.

SEC. 12. (a) The Commission is authorized, by a vote of two-thirds or more of its members, to require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before any subcommittee or member. Subpenas may be issued under the signature of the chairman or vice chairman and may be served by any person designated by the chairman or the vice chairman.

(b) In the case of contumacy or refusal to obey a subpena issued under subsection (a) of this section by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such court, upon application made by the Attorney General of the United States, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purpose of this Act, to remain available until expended.

U.S. CONFERENCE OF MAYORS,
Washington, D.C., April 8, 1976.

Hon. CHARLES MC. MATHIAS, Jr.,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: I am writing to you today as Chairman of the U.S. Conference of Mayors Task Force on Income Security. I understand you are about to introduce legislation to establish a National Commission on the Reform of Income Assistance Program. The Commission would have a one-year mandate to develop detailed welfare reform legislation to submit to Congress.

I strongly endorse this legislation and the goals behind it. Welfare is now recognized as a national problem and as such must be a federalized effort. Local governments can no longer bear the burden of these costs, which if you include medical care for the poor, will total $1.1 billion of New York City tax levy funds for the next fiscal year. Such costs make up a third of our total budget, counting state and federal shares. In addition, those who receive welfare benefits must be given equitable and adequate treatment,

while we provide incentives to become self-sufficient through full-time employment. In the final analysis, only the federal government could provide such a program. You have my support in this endeavor and I hope it will receive prompt consideration and enactment.

ABRAHAM D. BEAME,
Mayor, Chairman, Task Force on Income Security.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., April 8, 1976.

Hon. CHARLES MC. MATHIAS, Jr.,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: I am delighted to learn that you plan to introduce a bill to create a national commission to develop recommendations for reforming the federal income maintenance programs. Reform of the present welfare system is one of NACo's highest priorities and we applaud your leadership in introducing this bill. We believe that the work of such a commission would make a major contribution toward the development of meaningful reform, and we look forward to working with you to get this bill through Congress.

VANCE WEBB,
President.

[From the Washington Post, Jan. 10, 1977]

LET'S NOT TALK ABOUT WELFARE REFORM

(By Jodie T. Allen)

There has been a great deal of confusion lately as to whether or not the incoming administration is committed to the pursuit of welfare reform. Part of this confusion arises, no doubt, from the President-elect's own understandable uncertainty as to the options available to him in establishing his budget and legislative priorities. But even if Jimmy Carter were to spell out his intended actions in painstaking detail, it would not be surprising if his commitment to "welfare reform" continued to be questioned.

The cause of this confusion is simple. It is that welfare reform means many things to many people. So it might be useful to try to sort out just what the major protagonists in the welfare debate really want.

THE RESTRUCTURERS

The first group we will consider might be called the "welfare restructurers." This group, which includes most of the interested academic community, is appalled by the structural messiness of the current welfare system with its huge geographic disparity in benefits, its favoritism to certain types of low-income persons and its haphazard mix and layering of cash, near-cash (e.g., food stamps) and in-kind (e.g., housing and medical assistance) benefits. This group is further divided between those who are concerned primarily with the adequacy and evenhandedness of the system and those who are further concerned that the current structure of benefits promotes family instability, reduced work effort, and thus long-term dependency.

While some of the structural reformers focus their attention on improving job opportunities and employment-related income for the poor, most of them favor the introduction of a "negative income tax" type program. In this approach, a minimum income is assured to all poor persons through a federally financed income guarantee. The actual benefit paid would be reduced by some proportion of the recipient's own income. Federal support would then be withdrawn from most or all current welfare programs.

The theoretical attractions of this approach are demonstrated by the fact that all of the most widely discussed welfare proposals of the last several years—including President Nixon's Family Assistance Plan, George McGovern's $1,000-a-person "tax credit," and former Rep. Martha Griffith's "Income Security for Americans"—share this basic structure.

The major problem with plans of this sort is that you can't design one at any price likely to be considered feasible in the next few years—at least if you hope to satisfy the principal notions of adequacy and fairness held by the various subgroups of this particular "reform" constituency.

THE FISCAL RELIEFERS

Another of the most frequently heard from groups is the "fiscal reliefers." Hardly a week goes by that one or another governor or mayor isn't heard to implore to the federal government to lift the burden of welfare costs from the shoulders of his beleaguered constituents. (Never addressed is the fact that—unless we can somehow interest Saudi Arabia in investing in American welfare payments—most of that federally accepted burden will ultimately return to those same taxpayers in the form of increased federal taxes or foregone tax relief.) The fiscal reliefers are sometimes persuaded by the lofty rhetoric of the restcurturers that their interests are aligned. But once the numbers begin to be analyzed, a falling out is inevitable.

This is why: Restructuring welfare means raising benefits where they are currently low, extending benefits to newly covered groups and lowering income tax burdens on the near poor. The obvious result is that the federal payments will have to be low relative to what is now paid in the more liberal states—where most welfare recipients reside and from which the shrillest cries for fiscal relief emanate. So if current benefit levels are to be maintained, these states will then have to pay from their own pockets the difference between the federal guarantee and the total level of current benefits. Since under current law the federal government funds over half of all welfare program costs, the net savings to a liberal state may be small or nonexistent. Of course, the states could decide to cut benefit levels but this is something they haven't been willing to do very much in the past because of pressure from the third major welfare interest group—the "welfare advocates."

THE WELFARE ADVOCATES

Unsurprisingly, organized recipients and their spokesmen and supporters are primarily interested in improving existing benefits. Their interests are not entirely in conflict with those of the welfare restructurers, since the introduction of a federal guarantee would substantially raise benefits in the states with the lowest welfare payments, primarily the South. But the low-payment states are not typically the homes of the most vocal welfare groups. And raising benefits in the high-payment states, where they do live, doesn't please either the restructurers who want to spread things around more evenly, or the fiscal reliefers who doubt that further increasing their already substantial burdens will enhance the attractiveness of a take-over to the feds. But most antithetical to the interests of the advocacy groups are those of the "cost-cutters."

THE COST-CUTTERS

The cost-cutters, of course, are those who don't care much whether the welfare system is fair, or adequate or has "perverse incentives." They just wish it didn't cost so much. While the spokesmen for this interest group have generally been from the political right, opinion polls tend to suggest that, if you consult the average man on the street, this is where he'll tell you he comes out. Despite its overwhelming numerical advantage, this group has obviously exerted little control over welfare policy in the last decade or so. Disorganization is only part of the reason Mostly the group is ineffective because, beyond a stout belief that you ought somehow to "get the cheaters off the roles," it has no real program and when faced with the actual possibility of reducing assistance to a demonstrably needy family, members of this group are usually just as squeamish as anyone else.

THE ADMINISTRATIVE REFORMERS

Finally, we come to the only group of would-be welfare changers whose interests are at least partially in harmony with, if somewhat peripheral to, those of the other interest groups. These are the "administrative reformers" who believe they see in the enormous inefficiencies of current welfare operations the opportunity at once to (1) improve the responsiveness of the system to the needs of its current clients; (2) increase its acceptability to the general public; (3) demonstrate at least the administrative feasibility of an extended federal program (currently grounds for considerable skepticism), and (4) through savings in both administrative and misdirected benefit expenditures, permit some expansion in benefits at no additional budget cost. All of this is very hard to argue against. But, on the one hand, it lacks the excitement promised by the restructurers and, on the other, it arouses the suspicion of the advocacy groups that the efficiency experts are simply cost-cutters in disguise.

Since all of these hopes and desires have traditionally been peddled under the generic tradename of "welfare reform," it is no wonder that the debate has been confusing—even to the insiders. Many a political coalition has foundered at the crucial moment when one of the partners has suddenly realized that what the other had in mind was, at best, irrelevant and, at worst, downright threatening to his own concerns. But if many of these objectives are irreconcilable, at least in the short run, it doesn't seem to me that any of them is so inherently shameful that it can't be mentioned outright in polite political company.

So let's not talk about "welfare reform" at all. Let's talk about welfare restructuring or welfare expansion or welfare-benefit improvement; or about fiscal relief for certain states, or cutting benefit costs; or about administrative overhaul. We still may not agree, but at least we will know what we are arguing about. And who knows? Maybe we will even find that there is some common ground among us.

Mr. MATHIAS. I ask unanimous consent that this bill be referred jointly to the Committee on Finance and the Committee on Labor and Public Welfare.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. STEVENS:

S. 278. A bill for the relief of Nguyen Chung-Quan; to the Committee on the Judiciary.

S. 279. A bill for the relief of Nguyen Thuy-Diep; to the Committee on the Judiciary.

Mr. STEVENS. Mr. President, I am today introducing two private bills for the relief of two Vietnamese refugees. These two individuals are presently in the United States but are not eligible for citizenship under law. I think their situation is sufficiently unique that they should be granted citizenship as soon as possible.

The problem of these two individuals was brought to my attention by a constituent, Gen. B. B. Talley, retired. General Talley has known the family for several years and recommends them highly.

I appreciate him letting me know of the situation and I am hopeful the Senate will act prompty on this bill.

I ask unanimous consent that the bills be printed in full in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Nguyen Chung-Quan shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

S. 279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Nguyen Thuy-Diep shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

By Mr. BENTSEN:

S. 285. A bill to protect private pension plan participants from excessive concentration of the investment of tax-exempt private pension assets in a small number of corporate stocks by amending the Internal Revenue Code of 1954 to impose reasonable investment limitations on large pension managers; to the Committee on Finance.

PENSION INVESTMENT ACT OF 1977

Mr. BENTSEN. Mr. President, I am today introducing tax legislation to insure that large managers of tax-exempt private pension assets diversify their investments to include the stocks of a larger number of corporations in their portfolios. This legislation is needed to protect the retirement benefits of countless American workers and senior citizens. The legislation has been formulated after 4 years of extensive hearings and study by the Senate Finance Committee's Financial Markets Subcommittee, which I chair. As a member of the Senate Finance Committee, I intend to push for early action during the 95th Congress on this important tax legislation. Today there are more than $200 billion of private pension assets and these assets receive an estimated tax subsidy of $4 billion annually.

Mr. President, today private pension assets are managed by a very small number of financial institutions located in a very few localities. There have been instances in which these pension managers tended to concentrate their investments in the stocks of the same few companies. This creates a potentially dangerous investment situation for pension plan participants. If one of this very small group of pension managers decides to sell a major investment, on a bit of news, and other managers attempt to follow, they find that the "gate" suddenly gets very narrow. This situation can result in a very substantial reduction in the price of the stock to the detriment of countless American workers and retirees.

Greater safety of pension assets can be insured if pension investments are reasonably diversified and decisionmaking is spread over a larger number of advisers. This will help avoid tendencies toward a "follow-the-leader" syndrome. It will also help avoid precipitous fluctuations in stock prices and self-fulfilling prophecies.

To demonstrate the extent to which the management of pension assets is concentrated in a small number of financial institutions, let us look at some statistics. Just 15 of the largest bank trust departments manage $140 billion of assets, including $75 billion of private pension assets, and that $75 billion represents about 80 percent of the total pension assets managed by all 4,000 trust departments throughout the country. Similarly, 12 of the largest insurance companies manage over $160 billion in assets, including about $56 billion of private pension assets, or 79 percent of the total pension assets managed by all 1,800 life insurance companies. In addition, several of the largest self-managed pension plans have assets in excess of $2 billion. A mere two dozen private financial managers have responsibility for managing over $130 billion of pension assets. Such concentration of financial activity in a small number of large institutions tends to give them a disturbing amount of power over the Nation's economic life.

The potential for large financial managers to exert influence over major portions of our economy can be illustrated by these fact: With respect to discretionary investments, in 1975 Morgan Guaranty Trust Co., the Nation's largest bank trust department, held 9 percent of the outstanding shares of International Paper Co., 9 percent of the outstanding shares of Pepsico, Inc., and 8 percent of Squibb Corp. In fact, other pension managers have held even larger portions of the outstanding stocks of some companies.

Dominant stock market trading by the investment committee of a single pension manager can substantially influence or even virtually set stock market prices. During 1973, 1974, and 1975 there were 16 instances in which Morgan Guaranty Trust Co.'s net purchases or sales of issues on the New York Stock Exchange exceeded 20 percent of the total trading in those stocks during the year. For example, Morgan Guaranty bought 31 percent of all the shares of International Nickel traded in 1975.

To help prevent excessive concentration, my legislation would impose reasonable limitations on the amount of stock that a large pension manager could hold in any one company. Under this legislation a tax penalty would be imposed on any large pension manager that holds more than 5 percent of the outstanding stock of any security with respect to the manager's aggregate discretionary pension assets.

However, the limitation would not apply retroactively. Managers of pension accounts would not be forced to dispose of current stock holdings. In addition, these diversification requirements would apply only to those large pension managers with over $1 billion of pension assets. These financial institutions are the ones that have the potential to exert enormous influence over our economy.

A number of our Nation's largest bank trust departments recognize the wisdom of such limits, and in fact, have already adopted very similar limits on a voluntary basis. The purpose of putting these limits into law is simply to insure that all pension managers follow the example that some of the best have established on their own.

Decades ago, Congress enacted tax incentives to encourage the growth of pension plans. Under current tax laws, qualified private pension plans receive three tax benefits. First, employers are given a tax deduction for all contributions made to a qualified plan. Second, the investment earnings of assets in the plan are tax exempt. Third, employer contributions are not taxable to the employee at the time of contribution. Rather, the income is deferred until the money is actually distributed to the employee after his retirement—at which time he is usually in a much lower tax bracket.

Tax-exempt private pension plans today receive an estimated tax subsidy of $4 billion annually. Inasmuch as the Federal Government encourages the creation of pension plans through our tax laws, these tax laws must include safeguards to prevent excessive concentration of pension investments.

There is substantial precedent under both State and Federal law for limitations on the amount of stock that a pension manager can hold in one company. Insurance companies are so limited in practically every State. Mutual funds are subject to holding limits established by Federal law.

There are five major reasons for imposing diversification requirements on pension managers:

HELP PROTECT THE SAFETY OF PENSION ASSETS

First, excessive concentration of pension investments in a few select stocks raises disturbing questions about the safety of the enormous amounts of pension money. In testimony before the Senate Financial Markets Subcommittee, one trust department officer argued that those of us who advocate limits on their holdings are ignoring their fiduciary responsibilities for these funds. Quite the contrary. Prior to coming to the Senate, I was involved in the management of an insurance company, a mutual fund and a savings and loan association, as well as

several banks—all of which involved fiduciary relationships. It is precisely because of the fiduciary responsibilities that limitations are needed.

The retirement incomes of countless Americans depend directly upon the safety of the pension investments. Excessive concentration of investments in only a few stocks jeopardizes the safety of these assets since a major decline in value of only two or three of these select stocks would substantially reduce the value of the pension assets.

HELP PREVENT CONCENTRATION OF ECONOMIC CONTROL

Second, limitations on the investments of pension managers will help prevent a small number of large institutions from achieving too much control over our entire economy.

We must never allow our financial institutions to control American business to the extent that such institutions control German or Japanese businesses, for example.

The Senate Financial Markets Subcommittee has obtained data indicating that pension managers often hold large portions of the outstanding shares of a single company. In 1973, one bank trust department held more than 14 percent of the outstanding shares of Walt Disney, almost 12 percent of Schlumberger, and over 10 percent of Polaroid. The aggregate discretionary accounts of another large bank included more than 17 percent of one company, close to 17 percent of a second company, and over 10 percent of a third.

A follow-up study by the Senate Financial Markets Subcommittee in 1975 revealed that with respect to discretionary investments Morgan Guaranty Trust Company held 9 percent of the outstanding shares of International Paper Company, 9 percent of the outstanding shares of Pepsico and 8 percent of Squibb Corp. U.S. Trust Co. held almost 10 percent of the shares of WUI, Inc., and almost 9 percent of Hudson Pulp & Paper. Mellon Bank held 10 percent of the outstanding shares of Nalco Chemical and 8 percent of Mellon National Corp. Continental Bank held 33 percent of Northwestern Steel and Wire and 25 percent of Victor Comptometer Corp.

Continued institutional acquisition of large portions of American corporations will lead to too few individuals possessing too much economic control over the entire economy. Limitations on institutional holdings will help prevent this.

HELP PROMOTE GREATER LIQUIDITY IN OUR STOCK MARKETS

Third, holding limitations would help provide greater liquidity in the stock market. Thousands of individual investment decisions, occurring hour after hour, are necessary to allow our capital markets to price securities in a manner which reflect their true value and to provide the liquidity that has made our capital markets unique in the world. One of the factors that detracts from liquidity of the markets is the holding by a few institutions of a large amount of the stocks of a limited number of companies.

Relative stock prices play an important role in the allocation of capital in our economy. Valuations—reflected in stock prices—govern the allocation of resources that produce the millions of different products and services turned out by the American economy. Whether a company is able to issue new stock or obtain additional debt to finance a new expansion frequently depends upon what its stock is selling for. It is essential to the health of the country that its stock be accurately priced.

Limits on the stock that one pension manager can hold in one company will limit the money this manager can pour into the market to bolster the price of any particular stocks. This will limit the ability to create self-fulfilling prophecies. The ability of pension managers to channel billions of dollars of new pension money every year into a few select stocks can have a very distorting effect on our stock market and our economy.

The problem of stock market liquidity was comprehensively analyzed in a 1976 study by one of the Nation's foremost authorities on institutional investors, Prof. Roy Schotland of Georgetown University Law School. According to his study, Morgan Guaranty's trust and investment divisions bought 38.5 percent of all the shares of Kaiser Aluminum & Chemical in 1975. Morgan Guaranty Trust Co. has raised no question about his figures. In that same year, Morgan also accounted for net purchases of Potlach amounting to 31.4 percent of total trading, 30.8 percent of International Nickel, 28.6 percent of Crown Zellerbach, and 24.1 percent of Manufacturer's Hanover. During 1973, 1974, and 1975 there were 128 instances where Morgan's net purchases or net sales of New York Stock Exchange stocks exceeded 5 percent of the total purchases or sales in those stocks. In 16 of those instances, Morgan accounted for more than 20 percent of the buying and selling.

In his study, Professor Schotland commented that—

It is impossible to measure how much price impact such trading does have, because so many factors go into each stock's price at any moment. But it defies belief that massive buying or massive selling would not have significant impact, at least in the short-run . . . Even if one were not concerned by a pattern of heavy trading on behalf of the Morgan alone, this is the ripest time for guarding against the spread of such dominant or unduly influential trading. We should not allow any single committee of investment managers in any single institution to dominate major segments of our equity markets. Such domination threatens the soundness of market pricing.

Arguing that limiting the amount of trading any investor could do was impractical, Professor Schotland concluded that the solution to the problem lies in limiting the amount of any one stock an institution could hold. He said a holding limit would not only encourage diversification of the stock market investments of large trust departments but would also spread assets among a greater number of banks and other investment managers as new pension accounts avoid trust departments already near their limit in some stocks. Professor Schotland said:

The resulting increase in diversification of holdings within the huge trust departments, and in dispersion of trust assets among a larger number of trust departments and other investment managers, will go far toward reducing any one (or a few) institutional investor's domination of trading.

Of course, even with holding limits there will still be instances of very large trading by a single institutional investor. However, the limits will greatly reduce the magnitude of such instances and the frequency of occurrence.

ENCOURAGE DISPERSION OF PENSION ASSETS AMONG A LARGER NUMBER OF MANAGERS

Fourth, these limits will encourage the spreading of pension assets among a larger number of managers. This is bound to occur as new pension accounts avoid the handful of large trust departments which will already be at the limit of their holdings in some securities so that a new account could not be invested in any of those stocks. For the same reason, even some existing pension accounts are likely to reduce their additions to funds managed by the largest institutions.

ENCOURAGE INSTITUTIONAL INTEREST IN WELL-MANAGED SMALL AND MEDIUM SIZED COMPANIES

Fifth, these limitations on concentration will encourage greater institutional interest in the many other well-managed companies that now have seriously limited access to our Nation's capital markets. Diversification of pension investments into these companies will substantially increase competition in our economy at the same time as it provides greater safety for the funds. In particular, these limitations will promote greater investment in many smaller and medium-sized companies that have strong historical earnings records and good growth prospects.

Americans too often forget the indispensable role of small business in promoting healthy competition in our economy, creating jobs for a growing work force and developing innovative ideas and products. It is the small businessman who provides jobs for about one-half of our private work force.

Traditionally, it has been relatively easy for an American to go into business for himself, to become his own boss. This has been good not only for the millions of individual Americans who have set up their own businesses, but also for our economy at large. This great diversity of ownership has spurred competition, helping keep prices down, helping assure a wide variety of goods and services and helping bring strength and resilience to our free enterprise system.

In recent years it has become particularly difficult for small businesses to raise the capital needed to expand or modernize or simply get off the ground. We may never know how many potential "Xeroxes" or "Polaroids" have failed to get started over the past few years for a lack of startup capital. The initiative of smaller investors and smaller enterprises led to the development of the photocopying industry, of insulin, of cellophane, of air-conditioning, the cyclotron, and many other products and processes too numerous to list. We cannot afford to stifle this progress.

Mr. President, for these reasons

prompt enactment of my proposed holding limitations is needed.

Under my legislation, a tax penalty would be imposed on any large pension manager whose investments violated the diversification standards. These limits would apply only to financial institutions that manage $1 billion or more of pension assets.

If any large manager of tax-exempt funds exceeded these limitations—for example, by purchasing an additional 1 percent of the outstanding shares of a company in which it already holds 5 percent—a penalty tax equal to 5 percent of the excess holdings would be imposed on the manager by the Internal Revenue Service. Then, if the manager failed to dispose of the excess holdings within 180 days, IRS would impose an additional penalty of 100 percent of the excess.

Furthermore, these limitations would not apply to investments in companies with a capital account of less than $150 million. To limit investments in small and medium size companies would discourage institutional investors from looking for opportunities among smaller companies. The institutional investor wants a position large enough to have a real effect upon the portfolio. In addition, the cost of analyzing a company relative to the potential dollar investment must be recognized. By excluding smaller companies from these restrictions, institutions would be encouraged to take the time to analyze the smaller companies.

Before drafting this legislation, I sent detailed questionnaires to the Nation's largest bank trust departments. Their replies enabled me to select the most reasonable percentage limits for holdings.

Many of the Nation's leading banks have indicated that a bank should hold no more than 5 percent of a company's outstanding shares. Several years ago the executive vice president of the Frst National City Bank, stated:

> If we held more than 5 percent of a company's stock, we'd be concerned that we could become locked in. That 5-percent limit is our working rule for good market liquidity.

Another bank said that as a general rule, it does not want its aggregate discretionary holdings to represent more than 5 percent of a company's outstanding shares.

Some argue that holding limits cannot be applied to the aggregate holdings of pension managers since some institutional investors do not deal with a common pool of funds but instead deal with many different individual accounts which must be treated separately. However, one must remember that institutional investors presently must make allocations between the various accounts they hold. As examples, large banks must allocate purchases of the shares of small and new companies among various accounts. In addition, bank trusts must allocate promising new issues among their various accounts. Several banks have indicated that they have one investment committee which makes the final decision as to what stocks to buy and sell. Clearly, such a system requires an allocation of the purchases and sales among accounts with the same investment goals. There is no reason why pension managers cannot adopt an allocation policy to comply with aggregate holding limitations since they now must have an allocation policy anyway.

MODIFICATION OF THE PRUDENT MAN RULE

The second major provision in my bill would prevent the "prudent man" rule which currently applies to all pension managers from artificially discouraging pension investments in new and expanding smaller companies. These are companies in great need of equity capital which present a higher than normal risk but offer the possibility of a higher than normal return.

A great deal of the recent growth of institutional investments has been due to the inflow of private pension funds. The assets in private pension funds currently exceed $200 billion and the figure is rising annually, with much of the increase being invested in common stocks.

The 1974 Pension Reform Act (ERISA—Employee Retirement Income Security Act) includes a Federal "prudent man" rule which exposes the managers and trustees of pension plans to liability for losses resulting from unreasonable investments. Certainly, this is necessary to protect pension assets against highly risky investments but it has also had a very undesirable and unintended side effect. It has led to even greater concentration of investments in companies which have been thoroughly analyzed and stamped with the approval of giant bank trust departments. Trustees are more reluctant to reach out beyond successful, solid, well-researched companies toward those which are newer and attractive but less completely tried. Yet we must not forget that at one time IBM, Xerox, and Polaroid were new and untried companies.

My legislation would provide pension managers with leeway to invest 2 percent of the assets of any pension plan in companies with paid-in capital of less than $25 million or in venture capital funds which invest in such companies. This would be a modification of any Federal or State prudent man rule for just 2 percent of the pension assets. However, the "leeway clause" would not relieve a fiduciary from any existing prohibition against self-dealing or fraudulent transactions. It would relieve a fiduciary from liability only with respect to the riskiness of an investment. Nor would the "leeway clause" imply that investments in all companies of less than $25 million are high risk investments. Many are not. This provision would simply allow a limited amount of pension assets to be invested in a small company which presents a higher than normal risk but offers a potentially higher than normal return. The leeway clause would be a purely voluntary provision for pension plans.

It is essential that Congress define the prudent man investment standard in such a way that it does not actively discourage investments by pension funds in smaller companies. The unintended effect of the prudent man rule has been to artificially confine the investment of pension fund assets to blue-chip securities. Since pension funds are a major source of equity capital, the result has been to deprive many smaller and medium-sized companies of the investment capital they need to prosper and grow.

Sixty-four percent of pension trustees surveyed by the International Foundation of Employee Benefit Plans in 1976 reported that as a result of the 1974 pension law they were less willing to invest in anything other than blue-chip-type investments.

In response to a questionnaire, the executive vice president of Chemical Bank told the Senate Financial Markets Subcommittee:

> A number of factors, including the enactment of ERISA, have caused us to reduce substantially our investment of pension funds in venture capital situations.

An executive of the Wachovia Bank & Trust Co. stated:

> Because of ERISA, we feel it is no longer appropriate to make venture capital investments in a retirement fund. While our investments in this area had been minimal prior to enactment of ERISA, we now believe that no investments of this type are appropriate.

In earlier years, pension plans provided a large portion of the funds that were invested in venture capital. Other venture capital investors have been foundations, private individuals, casualty insurance companies, and bank holding companies. However, investment by these groups has been reduced because of depletion of their capital. Pension funds today are the only major source of capital accretion, other than large corporations, that could fund a significant number of developing companies.

In the 1960–69 time period, a number of pension plan investment managers made direct investments in private equities of developing companies. After 1969 there was a substantial shift by pension managers to the recognition that effective venture investing requires specially skilled support and involvement in the activities of the developing company. As a result a large portion of pension plan investment in developing companies in the 1970–74 time period was through the medium of venture capital funds.

Since passage of ERISA there has been little investment by pension plans in venture capital funds even though during the 5 years preceding ERISA at least 50 venture funds had been established with a substantial part of their funding provided by pension plans.

A 2-percent leeway clause to the prudent man rule would be analagous to the so-called basket clauses found in a great many State insurance laws. Many States permit life insurance companies to invest a portion or their assets in companies which otherwise would not qualify as acceptable investments. A leeway clause for pension funds would be modification of any State or Federal prudent man rule.

A leeway clause for 2 percent of the assets of a pension trust would certainly not jeopardize the safety of the pension assets. The leeway clause applies only to 2 percent of the assets of a pension trust and investments in some unseasoned companies can be very profitable.

Artificial legislative restrictions on investments in smaller startup companies can severely impede economic growth.

Economic growth in our Nation depends upon the availability of a sufficient supply of venture capital for the risk-takers and entrepreneurs who have the initiative to start new businesses and to develop imaginative new ideas.

Let us look at some examples of the importance of venture capital to our entire economy.

Venture capital was essential in the creation of transistors. It is the transistor which made possible the large central computer industry and the military instrumentation industry. The development of the minicomputer industry depended on the availability of venture capital. The minicomputer industry not only provides substantial jobs and tax revenues but has also been a major factor in improving the productivity of industry. Everyone is familiar with pocket calculators. Pocket calculators are solely the product of American technology and venture capital.

A venture capital enterprise funded by risk investments developed the know-how for miniaturized semiconductors called MOS's. With this know-how and technology an entire new industry was created and America still leads the world in the field. The total initial risk capital investment was relatively small, especially when compared to recent total industry sales.

Indeed, venture capital has had an important impact on any number of high-growth industries—semiconductors, minicomputers, all kinds of other computer-related products, hand-held calculators, automatic editing typewriters, CATV, hi-fis, new medical instruments and a wide variety of others.

Even frozen orange juice was developed through venture capital. A great many jobs have been brought back to the United States from Japan through the development of the small chips that are used in hand-held calculators, and this type of advance is now being applied to electronic watches. These were developments by small companies that were not subject to the restrictions of a large company environment and could attract the bright young scientist, production manager and marketing people to move the product into the marketplace. And it is also the result of venture capitalists who were willing to risk their capital to build new companies to better serve the public.

We cannot maintain a healthy, competitive and growing economy unless there is enough capital available for the risk-takers and entrepreneurs who want to develop their ideas into businesses. That capital—venture capital—is in very short supply these days and artificial legislative restraints on how it is invested must be removed. It has been estimated that my proposed 2-percent leeway clause to the prudent man rule could free up hundreds of millions of dollars for investment in smaller companies without jeopardizing the integrity of pension funds.

In conclusion, limits on the stock market investments of tax exempt pension assets are needed to protect private pension plan participants from excessive concentration of pension investments and to encourage greater institutional interest in a larger number of corporate stocks. These limits would help prevent a small number of large pension managers from achieving too much control over our economy. In addition, these limits would encourage the dispersion of pension assets among a larger number of managers. A 2-percent leeway clause to the prudent man rule would prevent this rule from artificially discouraging pension investments in new and expanding small companies that are in great need of equity capital.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD, a factsheet describing the bill I am introducing today, as well as an editorial from Pensions and Investments magazine endorsing my proposed revision of the prudent man rule.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACT SHEET—SENATOR LLOYD BENTSEN'S PROPOSED "PENSION INVESTMENT ACT OF 1977"

Reasonable limitations on the stock market investments of tax exempt private pension assets are needed to protect private pension plan participants from excessive concentration of pension investments. Today private pension assets are managed by a very small number of financial institutions located in a very few localities. There have been instances in which these pension managers tended to concentrate their investments in the stocks of the same few companies. This creates a potentially dangerous investment situation for pension plan participants. If one of this very small group of pension managers decides to sell a major investment, on a bit of news, other managers attempt to follow, they find that the "gate" suddenly gets very narrow. This situation can result in a very substantial reduction in the price of the stock to the detriment of countless American workers and retirees.

Greater safety of pension assets can be insured if pension investments are reasonably diversified and decision-making is spread over a larger number of advisers. This will help avoid tendencies toward a "follow-the-leader" syndrome. It will also help avoid precipitous fluctuations in stock prices and self-fulfilling prophecies.

If one pension manager holds an unduly large proportion of the stock of a company, that manager's decision to sell could virtually set the market price of the stock. For example, the Morgan Guaranty Trust Company (New York), which held 12 percent of Schlumberger's stock in 1973, sold about one out of every eight Schlumberger shares traded in 1974 and 1975. While holding 11 percent of the outstanding shares of Phillip Morris, the Morgan Guaranty Trust Company sold one out of ten, and *also* bought one out of 20 Phillip Morris shares, traded in 1974, then in 1975 sold one out of every 8 Phillip Morris shares traded.

Tax exempt private pension plans today receive an estimated tax subsidy of $4 billion annually. Inasmuch as the Federal Government encourages the creation of pension plans through our tax laws, these laws must include safeguards to protect American workers and retirees.

The stockholding limitations of the "Pension Investment Act" would apply to approximately 20 of the Nation's largest bank trust departments, 12 of the Nation's largest insurance companies and several large self-managed pension plans. These financial institutions are the ones that have the potential power to exert an enormous impact on the entire economy.

1. Limitation on the stock holdings of large pension managers—A tax penalty would be imposed on any pension manager with over $1 billion of pension assets that holds more than 5 percent of the outstanding stock of any security with respect to the manager's aggregate discretionary pension assets.

The limitation would not apply retroactively. Managers of pension accounts would not be forced to dispose of current stock holdings.

If any manager of tax exempt pension funds exceeded the limitation (for example, by purchasing an additional one percent of the outstanding shares of a company in which it already holds five percent), a penalty tax equal to five percent of the excess holdings would be imposed on the manager by the Internal Revenue Service. In the event that the manager fails to dispose of the excess holdings within 180-days, IRS would impose an additional penalty of 100 percent of the excess on the manager.

These limitations would not apply to investments in companies with a capitalization of less than $150 million.

2. Modification of the prudent man rule—Pension managers would be given leeway to invest 2 percent of the assets of any pension plan in companies with a paid-in capital of less than $25 million or to invest in venture capital funds which invest in such companies. This would be a modification of any Federal or State "prudent man rule" for two percent of the pension assets. However, the leeway clause would not relieve fiduciaries from any existing prohibition against self-dealing or fraudulent transactions. Nor would the "leeway clause" imply that investments in all companies of less than $25 million are high-risk investment. Many are not.

This provision would prevent the "prudent man rule" from continuing to artificially discourage pension investment in new and expanding smaller companies. Economic growth in our Nation depends upon the availability of a sufficient supply of venture capital for the risk takers and entrepeneurs who have the initiative to start new businesses and to develop imaginative new ideas. Yet 64 percent of the pension trustees surveyed by the International Foundation of Employee Benefit Plans in 1976 reported that as a result of the 1974 pension reform act they were less willing to invest in anything other than blue-chip type investments. The purpose of this leeway clause is simply to correct an unintended side effect of the 1974 pension reform act.

[From Pensions & Investments Magazine, Nov. 22, 1976]

PRUDENT MAN REVISION COULD CREATE MORE JOBS

President-elect Jimmy Carter and most of his Democratic colleagues in Congress expressed great concern during the election campaign about the high level of unemployment in the United States.

Congress has tried to tackle the problem by passing bills designed to put the unemployed on the public payroll, but this is obviously an expensive, inefficient, short-term expedient.

A far better approach is to encourage the creation of jobs in the private sector. Many of those espousing this approach speak in terms of tax incentives to business to create new jobs for the hard-core unemployed.

But while giving money directly to the poor is acceptable, Congress usually balks at giving money to business to create meaningful jobs, so the tax incentive idea seems unlikely to get very far. That's a shame.

The Committee of Publicly Owned Companies (COPOC) has come up with a program which will help create jobs without costing the government, and hence the taxpayers, a cent.

COPOC wants Congress to define the

"prudent man" investment standard in such a way that it does not actively discourage investment by pension funds in smaller companies. It is campaigning to have this definition made when Congress takes up revision of ERISA in 1977.

The committee argues that an unintentional effect of the ERISA investment standard has been to largely confine the investment of pension fund assets to blue chip securities.

Since these funds are a major source of equity capital, the committee argues, the result has been to deprive thousands of small and medium-sized companies of the investment capital they need to grow, prosper, produce goods and services and create jobs.

It says institutional investors have been "intimidated" by the prudent man standard, as stated in ERISA, or are taking refuge behind it, and increasingly limiting their investments to blue chip and fixed-income securities.

It points out that during the two years following the passage of ERISA, only 471 new issues of common stock were marketed compared with 888 new common stock issues in the two preceding years.

Further, 64% of pension trustees surveyed by the International Foundation of Employe Benefit Plans reported that as a result of ERISA they were less willing to invest in anything other than blue-chip type investments.

The committee has proposed that the stated objectives of ERISA should be amended to expressly declare a policy allowing pension funds to invest in a broad spectrum of American companies, and that the prudent man standard should be interpreted in that light.

It has also proposed that the prudent man rule be clarified to be expressly applicable to the total portfolio of pension plan investments rather than each individual investment.

And it has endorsed the Bentsen bill which proposes that pension fund managers should have leeway to invest up to 1% of the assets of any pension plan in companies with paid-in capital of less than $25 million.

These seem to be eminently sensible proposals. Pension funds should be invested in a broad spectrum of companies. Indeed, ERISA specifies diversification. Unfortunately, that has been offset by fear of fiduciary liability so that only 50 or 100 major stocks are favored.

The COPOC is not alone in calling for a wider, more modern interpretation of the prudent man rule in terms of the whole portfolio. James Hutchinson, former administrator of the Pension and Welfare Benefit Programs at the Labor Department, recently lent his voice to the call.

The Bentsen bill also seems to be a responsible proposal which may do some good without jeopardizing the integrity of pension funds. It could free up as much as $850 million for investment in smaller companies.

These modest and sensible proposals deserve consideration by the new administration and Congress, and active support by the pension industry.

By Mr. DOLE:

S. 286. A bill to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes; to the Committee on Agriculture and Forestry.

Mr. DOLE. Mr. President, during the last session of Congress, I offered a bill, S. 3054, to repeal certain requirements relating to the notice of plant and animal quarantines. The bill, which was introduced upon request from the U.S. Department of Agriculture, was favorably reported by the Committee on Agriculture and Forestry last September. Unfortunately, there was not enough time remaining in the session for full Senate consideration of S. 3054, or its enactment into law. Today I am pleased to offer identical legislation.

PLANT AND ANIMAL QUARANTINES

When plant or animal disease or insect infestations necessitate a quarantine, the U.S. Department of Agriculture is required to give prompt notice to railroads and other carriers doing business in the infected area. However, the method of notification, as mandated by laws dating back to 1884, 1905, and 1912, is duplicative and obsolete. In addition to issuing press releases, the Department must also give written notice to all local carriers and publish quarantine notices in the Federal Register and in local newspapers.

DUPLICATIVE NOTIFICATION

According to the Department of Agriculture, these required methods of public notification are time consuming, expensive, repetitive, and ineffective. My bill will streamline the notification process by repealing the present requirement to public notice in newspapers and to submit written notice to local carriers. However, the Department will continue to give notice in the Federal Register and issue frequent press releases relating to quarantines and similar actions.

LESS EXPENSIVE METHOD

By repealing unnecessary notification requirements, we will conserve manpower and end an expenditure of funds which no longer serve a useful purpose. The Department estimates that the enactment of my bill will result in a savings of approximately $16,400 annually.

In addition, my bill will clarify the authority of the Secretary of Agriculture to exercise discretion in deciding whether to quarantine areas under the terms of the Quarantine Act of 1905. This accords with the manner in which the act has been administered for many years.

Mr. President, I urge my colleagues to take prompt and affirmative action on this sensible and noncontroversial measure.

By Mr. PEARSON:

S. 288. A bill to amend title II of the Social Security Act so as to provide that the deduction from benefits due to excess earnings shall be reduced to $1 for each $3 of earnings on those earnings in excess of a floor amount but not less than twice such floor amount; to the Committee on Finance.

Mr. PEARSON. Mr. President, today I am introducing legislation to modify the social security retirement test. I propose the establishment of three levels of earnings that would be subject to different reductions in social security benefits.

The first level would continue to exclude annual earned income of $3,000 or less now exempt under the retirement test. There would be no loss of benefits for earned income within this level.

The second level would include employment earnings between the annual exempt amount under present law and twice the exempt amount—$3,000 to $6,000. There would be a loss of $1 in benefits for each $3 in earnings for earned income within this level.

The third level would include all employment earnings in excess of twice the annual exempt amount under present law—$6,000. There would be a loss of $1 in benefits for each $2 of earnings within this level.

The present social security retirement test provides that social security beneficiaries under age 72 may earn through employment as much as $3,000 annually without any reduction in social security benefits. If the beneficiary's income from employment exceeds this limitation, benefits will be reduced by $1 for every $2 of annual earnings.

Mr. President, I believe the present retirement test takes unfair advantage of our Nation's elderly. In this age of inflation, social security benefits alone often are not sufficient to provide a decent standard of living, and many elderly individuals must work to supplement their meager retirement income. For social security beneficiaries who do work, the earnings limitation, in effect, amounts to an additional tax on social security benefits over and above the regular social security tax and income tax these recipients must pay.

Many older persons are not working for fear of losing their social security benefits. As a result, an untold amount of valuable skills and experience acquired by the elderly through years of hard work is lost to our country and our economy.

Low-income workers bear the heaviest burden of the retirement test. Under the present system, nonwork income is not counted toward the retirement test earnings limitation. Individuals may receive any amount of income from private insurance, pension plans, savings, dividends, rentals from real estate, or other sources of nonwork income without experiencing any reductions in social security benefits. A wealthy individual who receives thousands of dollars a year in interest income may collect full social security benefits. But an average person who did not have money to invest and who might need to continue working to survive cannot work without being subject to reduced social security benefits.

Mr. President, the social security retirement test must be changed.

Many individuals have demanded its complete abolishment. However, the estimated cost of doing so, approximately $7 billion in 1977, makes such a step economically impractical and infeasible.

Therefore, I am introducing a proposal designed to provide significant assistance to those elderly persons who most need to work to supplement their inadequate retirement income. My bill would reduce the social security benefits withheld from beneficiaries who earn between $3,000 and $6,000. Instead of losing $1 in benefits for each $2 of earnings as under current law, beneficiaries would lose $1 in benefits for every $3 of earnings. Thus, the burden of the retirement test would be reduced for low-income individuals.

The following tables demonstrate the difference in the amount of social security benefits payable to a worker in January 1977 at selected earnings levels under the present social security retirement test and under my bill:

SOCIAL SECURITY BENEFITS PAYABLE TO A WORKER IN JANUARY 1977 AT SELECTED EARNINGS LEVELS UNDER THE SOCIAL SECURITY RETIREMENT TEST

Unreduced monthly benefit	Annual earnings								
	$3,000	$4,000	$5,000	$6,000	$7,000	$8,000	$9,000	$10,000	$11,000
$150	1,800	1,300	800	300					
$200	2,400	1,900	1,400	900	400				
$250	3,000	2,500	2,000	1,500	1,000	500			
$300	3,600	3,100	2,600	2,100	1,600	1,100	600	100	
$350	4,200	3,700	3,200	2,700	2,200	1,700	1,200	700	400
$400	4,800	4,300	3,800	3,300	2,800	2,300	1,800	1,300	[1] 800

[1] A beneficiary getting a monthly benefit of $412.70, the highest monthly unreduced benefit payable to a worker who retires at age 65 in 1977, could have annual earnings of $12,903.80 before all of his benefits would be withheld.

SOCIAL SECURITY BENEFITS THAT WOULD BE PAYABLE IN JANUARY 1977 TO A WORKER UNDER THE PEARSON BILL

Unreduced monthly benefit	Annual earnings								
	$3,000	$4,000	$5,000	$6,000	$7,000	$8,000	$9,000	$10,000	$11,000
$150	1,800	1,467	1,133	800	300				
$200	2,400	2,067	1,733	1,400	900	400			
$250	3,000	2,667	2,333	2,000	1,500	1,000	500		
$300	3,600	3,267	2,933	2,600	2,100	1,600	1,100	600	100
$350	4,200	3,867	3,533	3,200	2,700	2,200	1,700	1,200	700
$400	4,800	4,467	4,133	3,800	3,300	2,800	2,300	1,800	[1] 1,300

[1] A beneficiary getting a monthly benefit of $412.70, the highest monthly unreduced benefit payable to a worker who retires at age 65 in 1977, could have annual earnings of $13,903.80 before all of his benefits would be withheld.

For example, under the present system a person receiving $150 a month in social security benefits and a work income of $5,000 would receive annually $800 in total social security benefits. Under my bill, this same individual would receive $1,133 of social security benefits annually, an increase of 42 percent.

The loss of only $1 of benefits of each $3 of earnings between $3,000 and $6,000 under my bill would provide additional work incentives for the elderly and allow their skills to be utilized.

My proposal would cost approximately $750 million for calendar year 1977, according to estimates by the Social Security Administration. This amount is substantially lower than estimates for eliminating the retirement test or raising the earnings limitation $1,000 or more.

My bill would provide constructive and necessary reform of the social security retirement test at a reasonable cost. It would allow many of our elderly citizens who are able and willing to work to help themselves and become more economically independent. Therefore, I urge my colleagues to promptly consider this measure and to join me in support of this bill.

By Mr. TOWER:

S. 289. A bill to repeal titles XV and XVI of the Public Health Service Act; to the Committee on Labor and Public Welfare.

Mr. TOWER. Mr. President, since its passage in December of 1974, I have felt increasingly alarmed about the ramifications of the National Health Planning and Resources Development Act, Public Law 93–641.

This controversial measure was enacted in response to the fact that existing health planning programs had faced major problems over the years due to overlapping agencies at the State and local levels and the inability of the existing agencies to enforce planning decisions. There was general agreement in the Congress that some revision of health planning programs was necessary. This legislation mandated the creation of over 200 health systems agencies as part of a new national health planning network. The purpose was to establish priorities for the development of health facilities and services and to monitor the use of Federal health funds in those designated areas.

While I was in accord with the assessment that some change in health planning programs was desirable, I strongly opposed the passage of this particular act because I felt that its comprehensive regulatory provisions and Federal requirements would undercut the flexibility of State and local governments, impede the freedom of individuals to determine their own health needs, and minimize input by the medical community, subsequently leading to an overall decline in the quality and availability of health care.

Since Public Law 93–641 was enacted, I have followed it carefully, and I am even more convinced than ever of its undesirable ramifications. Because I have such grave reservations, I am again introducing a bill to repeal the National Health Planning and Resources Development Act of 1974, titles XV and XVI of the Public Health Service Act. I ask unanimous consent that the text of the bill be included in the RECORD at the conclusion of my remarks.

It is obvious that many of the health service areas created by Public Law 93–641 will face greater problems or difficulties than others, regardless of how the HSA's are comprised, whether they are metropolitan or rural, or what groups are designated to run them. Nonetheless, a great deal of concern has been expressed to me from people in all aspects of the health care sector about the complexities of this act and the effects it will have on the distribution and quality of health care.

I especially fear the impact that this legislation will have on nonmetropolitan communities and the health facilities and services in those areas. I am concerned that the National Health Planning and Resources Development Act will totally disrupt the health delivery systems of rural areas. It will do this by essentially dichotomous system of medical care. Title XV, section 1502 mandates:

(1) [t]he provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas.

(2) [t]he development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric, emergency medical, intensive and coronary care, and radiation therapy services),

(7) [t]he development by health service institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographically integrated basis.

The long-term implications of these provisions should be apparent. I believe that, for a myriad of reasons, they would ultimately deprive the rural population of good medical care. These provisions would result in smaller, rural hospitals providing primary care, while specialty care would be available only in metropolitan health care centers.

The subsequent transferral of seriously ill patients to metropolitan health care centers would drastically reduce the income to rural hospitals, effectuating a loss of personnel and the discontinuance of many services. Furthermore, good physicians cannot be expected to remain long in an area of primary care where they can participate in only a part of a patient's treatment, and young doctors will not be attracted to a rural practice limited in such a way. In light of the health manpower maldistribution problems that we are presently facing and the efforts the Federal Government is making to entice young physicians to rural areas, I find this provision somewhat paradoxical. It will be hard indeed to draw medical personnel to rural areas in which there are sadly inadequate medical facilities and where they will have little opportunity to stay abreast of current medical developments.

In addition, the legislation has constitutional and administrative problems and the contradictory mandate of improving the public's access to health care while containing its cost. The 1976 National Governors Conference was deeply concerned with the incursion of the national health planning network into State sovereignty. The legislation takes authority for determining health policy for State government away from the Governor, which has been construed as a violation of State's rights under the 10th amendment. The legislation also gives the health systems agencies review authority over a wide variety of Federal funds which violates many State constitutions and statutes, as does the requirement for certificate-of-needs programs.

After a year, the Department of Health, Education, and Welfare is still undergoing the painful convulsions of setting up an administration for the program. It is doubtful that the delivery system established by this act will ever save consumers money, and the administrative costs, as always, are phenomenal. Due to the confusion of transition, the Department has had to resort to private consultants for research that staff should ordinarily be expected to do at a cost of $14 million.

The health systems agencies themselves are still in the process of being designated and have so far accomplished nothing in actual health planning. Their selection has been ponderous and disputed, which is probably indicative of the

turmoil that will accompany any substantial decisions the agencies themselves make.

And since there is no provision to insure accountability for the expenditure of public funds back to elected officials at any level, the general public will find it extremely difficult to express its displeasure with the decisions made by the health systems agencies that do not serve the public good.

The HSA's are potentially the most powerful organizations in the entire health industry, and this fact has not been lost on the groups competing for appointment. I have objected to the implementing legislation from the beginning because of the underlying premise that it will facilitate the implementation of a national health insurance program if and when it comes into being. By seeking to establish at the Federal, State, regional, and local levels an interrelated system through which health planning, regulation, and allocation of resources will be determined, Public Law 93-641 represents a very real and unprecedented effort in nationalizing our health care system. Virtually all health facilities and services will be subject to regulation—not to mention funding—by health systems agencies, subject to HEW guidelines. I find this a frightening proposition. We have seen all too often in the past what excessive, though well-intentioned, Government regulation can do. Because of the act's potential for undermining efficient administration of health care programs, we shall inevitably get poorer health care in the bargain.

This ominous piece of legislation will expire in June of this year, and I see no point in prolonging a wholly unsatisfactory experiment. I have heard a tremendous amount of criticism about its potential, and even the most tentative optimism seems foolhardy in light of its inauspicious beginning. This is a costly, confusing, and universally unsatisfactory law we would do well to eliminate from the codes. I urge my colleagues to join with me in seeking its immediate repeal.

By Mr. CHILES:

S. 290. A bill to establish a Federal Commission on Ethics, to provide a code of conduct for Federal employees, to provide for financial disclosure by Federal employees, and for other purposes; to the Committee on Government Operations.

Mr. CHILES. Mr. President, I am introducing today legislation creating a Federal Commission on Ethics. I ask unanimous consent that an explanation of this legislation and a copy of the bill be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. My proposal would require public financial disclosure by high level employees in all three branches of the Federal Government; establish a code of conduct which would be applicable to all Federal employees; and establish a Federal Commission on Ethics which would investigate alleged violations of the code of conduct and render advisory opinions concerning possible violations.

There has been much talk in recent years about public trust and confidence in our elected and appointed Government leaders. Recent national surveys have tracked this steady loss of confidence. As Members of Congress we have only to listen to our constituents, read the letters that come into our offices, and see the editorials almost daily around the country expressing this trend. We have seen a President resign and watched while numerous Government officials are implicated in an ever-widening scandal and misuse of office.

If we believe that Government exists by the will of the people then we must also believe the people have a right to know how their representatives, elected and appointed, are using the power that was given to them including their personal conduct in these offices of trust. As I mentioned earlier, one of our greatest problems of today is that people have lost confidence in their leaders—not in Government—not in the system—but in the people who run it. If people do not have confidence, even if we make the right decision, it won't work. I strongly feel one way to help restore confidence is in the creation of a fair and workable code of conduct for all employees of the three branches of Federal Government, legislative, executive, and judicial, together with penalties for violations of the code. In addition, the establishment of a Federal Commission on Ethics which would investigate alleged violations of the code, and render advisory opinions concerning violations.

The need for guidelines in the area of conflict of interest was eloquently put by our former colleague Senator Paul Douglas.

> Many men, perhaps even the majority of those who go wrong, blunder into evil through ignorance. Not knowing clearly what is expected of them in concrete situations, they allow themselves to be led into compromising acts which gradually wash away a large part of their idealism . . . guiding principles and codes backed up by certain social sanctions can be a great aid to troubled navigators on the stormy seas of life.

The Congress has taken steps to respond to the lack of public confidence and trust in recent years by passing such measures as campaign finance disclosure, Federal Elections Commission, amendments to the Freedom of Information Act, and Government in the sunshine which opens up meetings of Federal agencies to the public. Hopefully, in this Congress we will see a lobbying disclosure statute passed.

I believe the requirements concerning public disclosure of financial net worth and restrictions on post-Government employment which President-elect Carter is placing upon members of his administration to limit conflict of interest are admirable. His staff has indicated this will be one of the first steps in his administration toward restoring the confidence of the people in their Government. I feel we must go even a step further by establishing a Federal Commission on Ethics to oversee, guide, and advise members of all three branches of our Government in the conduct of their activities while in the service of the Federal Government.

When I first came to the Senate in 1971, I adopted a policy of making public my financial statement so that the public would be aware of my financial interests in judging my performance as a U.S. Senator. I felt then, and I do now more strongly, that such personal financial disclosure by public officials is vitally important to regaining public confidence in the integrity of those who conduct the people's business. Legislation to establish a Federal Commission on Ethics has been introduced as far back as 1951. I hope that the 95th Congress will see to it that such a Commission is established. The legislation that is introduced today is a starting point. It is based on the experience of State government and different State and Federal bar associations.

If we examine the development and innovation in the ethics area by State government we find that this concept is working and can be made to work at the Federal level. We need the public's trust. Without their support the decisions made by any of the three branches are meaningless. No one, no matter how rightfully situated can afford to be arrogant about the power the people have bestowed upon him. It is up to those leaders who control the exercise of that power to do everything they can to assure the public that their decisions are not being made with ethical conflicts.

The great majority of our public servants are decent honest men and women dedicated to the will of their country but because of the weaknesses of a few, the public tends to lump everyone together. The establishment of a Federal Code of Conduct along with a Federal Commission on Ethics to oversee the Code will be another major step toward regaining the lost confidence we all feel.

S. 290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ETHICAL CONDUCT

SHORT TITLE

SEC. 101. This title may be cited as the "Federal Ethics Act of 1977".

CODE OF CONDUCT

SEC. 102. (a) Title 5 of the United States Code is amended by adding at the end thereof the following new part:

"PART IV—FEDERAL CODE OF CONDUCT

"Chapter | "Sec.
91—Code of Conduct | 9101

"CHAPTER 91—Code of Conduct

"Sec.
"9101. Definition.
"9102. Solicitation.
"9103. Use of Official Position.
"9104. Appearance of Impropriety.
"9105. Nongovernmental Employment.
"9106. Employment Before and After Government Service.

"§ 9101. Definitions

"For purposes of this chapter—

"(1) the term 'employee' includes the President of the United States, the Vice President of the United States, a Member of Congress, an officer designated under section 2104 of this title, an employee designated under section 2105 of this title, an officer or member

of a uniformed service, and an officer or employee of the United States Postal Service;

"(2) the term 'part-time employee' means any individual serving without pay or for nominal pay, or any individual serving on an intermittent basis as an expert, consultant, or member of a commission, committee, or board who is paid on a daily when-actually-employed basis;

"(3) the term 'agency' means any authority of the government of the United States.

"§ 9102. SOLICITATION

"An employee shall not solicit or accept any item of value in excess of $50 from any person with whom such individual is involved in the performance of his official duties.

"§ 9103. USE OF OFFICIAL POSITION

"(a) An employee shall not (1) use or attempt to use his official position, or (11) disclose or use any information obtained through that position to secure any gain, privilege, benefit, exemption or other item of value for—

"(1) himself, or

"(2) any other person, unless such use or disclosure is provided by law for the proper performance of his official duties.

"§ 9104. APPEARANCE OF IMPROPRIETY

"An employee shall not engage in any conduct nor associate with any person in such a manner as to present to the public an appearance of impropriety.

"§ 9105. NONGOVERNMENTAL EMPLOYMENT

"(a) An employee shall not perform any services other than his official duties if such service conflicts in any way with the performance of his official duties.

"(b) Any employee who is required to file a report under section 202 (b) (5) or (6) of the Financial Disclosure Act of 1977 shall not receive any item of value for the performance of services other than his official duties, unless such employee has entered into an agreement with the head of the agency for which he is employed specifically authorizing such employee to perform services other than his official duties.

"(c) Any employee who is required to file a report under section 202 (b) (1), (2), (3), or (4) of the Financial Disclosure Act of 1977, and an employee who is the head of an executive agency (as defined in section 105 of this title) shall not receive anything of value for the performance of services other than his official duties.

"(d) This section shall not apply to any part-time employee.

"§ 9106. EMPLOYMENT BEFORE AND AFTER GOVERNMENT SERVICE

"(a) In the performance of his official duties, an employee shall not participate personally or substantially in any matter relating to—

"(1) any entity in which he, his spouse, or his child has a material interest, or

"(2) any person who was the employer of the employee during the two-year period immediately preceding his employment with the Federal government.

"(b) During the 3 year period immediately following the termination of his employment with the Federal Government, an employee shall not—

"(1) accept any employment with any person he was personally and directly involved with in the performance of his official duties, or

"(2) represent or act as the agent for any person in any transaction or other matter with the agency of the Federal Government by which he was employed.

"(c) This section shall not apply to any part-time employee".

(b) The table of contents for title 5, United States Code, is amended by adding at the end thereof the following:

"PART IV—FEDERAL CODE OF CONDUCT

"CHAPTER 91—Code of Conduct

"9101. Definition.
"9102. Solicitation.
"9103. Use of Official Position.
"9104. Appearance of Impropriety.
"9105. Nongovernmental Employment.
"9106. Employment Before and After Government Service.".

CRIMINAL PENALTIES

SEC. 103. (a) Section 201 of title 18, United States Code, is amended—

(1) by striking out "therefrom—" in subsection (i) thereof and inserting in lieu thereof "therefrom; or"; and

(2) by redesignating subsections (j) and (k) as subsections (k) and (l) and by inserting after subsection (i) and before the paragraph beginning "Shall be fined" the following:

"(j) Whoever, being a public official, directly or indirectly, solicits or accepts any item of value in excess of $50 from any person such individual is involved with the performance of any official act—".

(b) Section 201(g) of title 18, United States Code, is amended by inserting after "him" the following: "or for or because of the disclosure or use of any information received by him in his official position".

(c)(1) Section 207(b) of title 18, United States Code, is amended by striking out "responsibility—" and inserting in lieu thereof ", or".

(2) Section 207 of such title is amended by redesignating subsection (c) as subsection (d) and inserting immediately after subsection (b) and before the paragraph beginning "Shall be fined" the following:

"(c) Whoever, being a public official (as defined in section 201(a) of this title) other than a part-time employee defined in section 9101 (2) of title 5, United States Code, during the three-year period following the termination of his employment as a public official—

"(1) accepts any employment with any person he was personally and substantially involved with in the performance of his official responsibilities, or

"(2) represents any person before the agency of the United States Government by which he was employed—".

(3) The last sentence of section 207 of such title is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)".

(d) Section 208 (a) of title 18, United States Code, is amended by inserting before ", or any person" the following: ", any person who was the employer of the officer or employee during the two-year period immediately preceding his employment with the United States Government".

(e)(1) Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. NONGOVERNMENTAL EMPLOYMENT

"Whoever knowingly and willfully violates any provision of section 9105 of title 5, United States Code, shall be fined not more than $15,000 or imprisoned not more than two years, or both.".

(2) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"225. Nongovernmental Employment.".

ESTABLISHMENT OF COMMISSION ON ETHICS

SEC. 104. (a)(1) There is established a commission to be known as the Federal Commission on Ethics (hereinafter referred to as the "Commission"). The Commission is composed of 7 members appointed as follows:

(A) two shall be appointed by the President of the United States from a list submitted by the majority and minority leaders of the Senate and the House of Representatives;

(B) two shall be appointed by the President of the United States from a list submitted by the Judicial Conference of the United States; and

(C) three appointed by the President of the United States.

No more than one member appointed under subparagraph (A) or (B) and no more than two members appointed under subparagraph (C) shall be affiliated with the same political party.

(2) Members of the Commission shall serve for terms of two years, except that of the members first appointed, the President shall designate one appointed under paragraph (1) (A), one under paragraph (1) (B), and one under paragraph (1) (C) to serve for a term of only one year. No individual may serve more than 2 terms on the Commission. An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds. Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.

(3) Members shall be chosen on the basis of their maturity, experience, integrity, impartiality, and good judgment and shall be chosen from among individuals who, at the time of their appointment, are not elected or appointed officers or employees in the executive, legislative, or judicial branch of the Government of the United States.

(4) Members of the Commission shall receive per diem at the maximum daily rate for GS–18 of the General Schedule under section 5332(a) of title 5, United States Code, when they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(5) The Commission shall elect a Chairman and a Vice Chairman from among its members for a term of one year. No member may serve as Chairman for more than one term. The Chairman and the Vice Chairman shall not be affiliated with the same political party. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in such Office.

(b) All decisions of the Commission with respect to the exercise of its duties and powers under the provisions of this Act shall be made by a majority vote of the members of the Commission. A member of the Commission may not delegate to any person his vote or any decision-making authority or duty invested in the Commission by the provisions of this Act.

(c) The Commission shall meet at least once each month and also at the call of any member, with the approval of the Chairman or Vice Chairman.

(d) The Commission shall prepare written rules for the conduct of its activities, shall have an official seal which shall be judicially noticed, and shall have its principal office in or near the District of Columbia (but it may meet or exercise any of its powers anywhere in the United States).

(e)(1) The Commission shall have a staff director who shall be appointed by the Commission. The staff director shall be paid at a rate not to exceed the rate of basic pay in effect for GS–18 of the General Schedule under section 5332(a) of title 5, United States Code. With the approval of the Commission, the Staff Director may appoint and fix the pay of such additional personnel as he considers desirable.

(2) With the approval of the Commission, the Staff Director may procure temporary

and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule under section 5332(a) of title 5, United States Code.

(3) In carrying out its responsibilities under this title, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities, of other agencies and departments of the United States Government. The heads of such agencies and departments may make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

POWERS

SEC. 105 (a) The Commission has the power—

(1) to require, by special or general order, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within a reasonable period of time and under oath or otherwise as the Commission may determine;

(2) to administer oaths or affirmations;

(3) to require by subpena, signed by the Chairman or the Vice Chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

(6) to render advisory opinions as provided in section 107 of this title; and

(7) to conduct investigations and hearings expeditiously, and to report apparent violations to the appropriate law enforcement authorities.

(b) Any United States District Court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission in the case of a refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith. Any failure to obey the order of the Court may be punished by the Court as a contempt thereof.

(c) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

(d) Whenever the Commission submits any budget estimate or request to the President of the United States or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress.

DUTIES

SEC. 106. (a) It shall be the duty of the Commission to investigate and report with respect to violations of chapter 91 of title 5, United States Code, and of chapter 11 of title 18, United States Code.

(b) (1) Any person who believes a violation of chapter 91 of title 5, United States Code, or of chapter 11 of title 18, United States Code, has occurred may file a complaint with the Commission.

(2) The Commission upon receiving any complaint under paragraph (1), or if it has reason to believe that any person has committed a violation of any such provision, shall notify the person involved of such apparent violation and shall—

(A) report such apparent violation to the Attorney General; or

(B) make an investigation of such apparent violation.

(3) Any investigation under paragraph (2) (B) shall be conducted expeditiously.

(4) The Commission shall, at the request of any person who receives notice of an apparent violation under paragraph (2), conduct a hearing with respect to such apparent violation.

(5) If the Commission determines, after investigation and after affording due notice and an opportunity for a hearing, that there is reason to believe that any person has engaged, or is about to engage in any act which constitutes or will constitute a violation of chapter 91 of title 5, United States Code, or of chapter 11 of title 18, United States Code, it shall report such findings to—

(A) the person with respect to whom the investigation was conducted,

(B) the head of the agency in which the indivdual investigated is employed, except in the case of—

(i) the President or Vice-President, it shall notify the Committees on the Judiciary of the Senate and the House of Representatives,

(ii) a Member, officer, or employee of the Senate and House of Representatives, it shall notify the appropriate ethics committee of the Senate and the House of Representatives, respectively.

(iii) a justice, judge, officer, or employee of any court of the United States, it shall notify the Director of the Administrative Office of the United States Courts, and

(iv) the head of each agency, each Presidential employee in the Executive Office of the President, and each full-time member of a board, committee, or commission appointed by the President, it shall notify the President, for appropriate personnel or other action, and

(C) the Attorney General.

(c) In any case in which the Commission refers an apparent violation to the Attorney General and to any individual notified under subsection (b) (5) (B), the Attorney General and such individual shall report monthly to the Commission with respect to any action taken by the Attorney General or such individual regarding such apparent violation with the first report being transmitted no later than 30 days after the date the Commission refers any apparent violation. If the Commission determines that appropriate action is not being taken within a reasonable time, it shall report such determination to the President and to the Congress.

ADVISORY OPINIONS

SEC. 107. (a) Upon written request to the Commission by any employee of the United States Government, the Commission shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual would constitute a violation of chapter 91 of title 5, United States Code, or chapter 11 of title 18, United States Code.

(b) Notwithstanding any other provision of law, any person with respect to whom an advisory opinion is rendered under subsection (a) who acts in good faith in accordance with the provisions and findings of such advisory opinion shall be presumed to be in compliance with the provisions of chapter 91 of title 5, United States Code, or of chapter 11 of title 18, United States Code.

(c) Any request made under subsection (a) shall be made public by the Commission. The Commission shall before rendering an advisory opinion with respect to such request, provide any interested party with an opportunity to transmit written comments to the Commission with respect to such request.

REPORTS

SEC. 108. The Commission shall transmit reports to the President of the United States and to each House of Congress no later than January 31 of each year. Each such report shall contain a detailed statement with respect to the activities of the Commission in carrying out its duties under this title, together with recommendations for such legislative or other action as the Commission considers appropriate.

GOVERNMENT IN THE SUNSHINE ACT

SEC. 109. For purposes of the Government in the Sunshine Act, the Federal Commission on Ethics shall be considered an agency within the meaning of Section 552b(a)(1) of Title 5, United States Code.

APPROPRIATIONS

SEC. 110. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

SEPARABILITY

SEC. 111. If any part of this title is held invalid, the remainder of the title shall not be affected thereby. If any provision of any part of this title, or the application thereof to any person or circumstance, is held invalid, the provisions of other parts and their application to other persons and circumstances shall not be affected thereby.

TITLE II—GOVERNMENT PERSONNEL; FINANCIAL DISCLOSURE REQUIREMENTS

DEFINITION

SEC. 201. As used in this title—

(1) the term "agency" means each authority of the Government of the United States;

(2) the term "commodity future" means commodity future as defined in sections 2 and 5 of the Commodity Exchange Act, as amended (7 U.S.C. 2 and 5);

(3) the term "Comptroller General" means the Comptroller General of the United States;

(4) the term "dependent" means dependent as defined in section 152 of the Internal Revenue Code of 1954;

(5) the term "employee" includes any employee designated under section 2105 of title 5, United States Code, any employee of the United States Postal Service or of the Postal Rate Commission, and any individual who is nominated by the President, subject to the confirmation of the Senate, to a position as such an employee;

(6) the term "immediate family" means—(A) the spouse of an individual, (B) the child, parent, grandparent, grandchild, brother, or sister of an individual or of the spouse of such individual, and (C) the spouse of any individual designated in clause (B);

(7) the term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954;

(8) the term "Member of Congress" means a Senator, a Representative, a Resident Commissioner, or a Delegate;

(9) the term "officer" includes any officer designated under section 2104 of title 5, United States Code, and any officer of the United States Postal Service or of the Postal Rate Commission, and any individual nominated by the President, subject to the confirmation of the Senate, to a position as such an officer;

(10) the term "security" means security as defined in section 2 of the securities Act of 1933, as amended (15 U.S.C. 77b);

(11) the term "transaction in securities and commodities" means any acquisition, transfer, or other disposition involving any security or commodity;

(12) the term "uniformed services" means any of the Armed Forces, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration;

(13) the term "political contribution" means a contribution as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431); and

(14) the term "expenditure" means an expenditure as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

(15) the term "part-time officer or employee" means any individual serving without pay or for nominal pay, or any individual serving on an intermittent basis as an expert, consultant, or member of a commission, committee, or board who is paid on a daily when-actually-employed basis.

INDIVIDUALS REQUIRED TO FILE REPORT

SEC. 202. (a) Any individual who is or was an officer or employee designated under subsection (b) shall file each calendar year a report containing a full and complete financial statement for the preceding calendar year if such individual has occupied the office or position for a period in excess of ninety days in such calendar year.

(b) The officers and employees referred to in subsection (a) are—

(1) the President;

(2) the Vice President;

(3) each Member of Congress;

(4) each justice or judge of the United States;

(5) each officer or employee of the United States who is compensated at a rate equal to or in excess of the minimum rate prescribed for employees holding the grade of GS–16 under section 5332(a) of title 5, United States Code other than a part-time officer or employee; and

(6) each member of a uniformed service who is compensated at a rate equal to or in excess of the monthly rate of pay prescribed for grade 0–6, as adjusted under section 1009 of title 37, United States Code.

(c) Any individual who seeks nomination for election, or election, to the office of President, Vice President, or Member of Congress shall file in any year in which such individual has—

(1) taken the action necessary under the law of a State to qualify for nomination for election, or election, or

(2) received political contributions or made expenditures, or has given consent for any other person to receive political contributions or make expenditures, with a view to bringing about such individual's nomination for election or election, to such office, a report containing a full and complete financial statement for the preceding calendar year.

CONTENTS OF REPORTS

SEC. 203. (a) Each individual shall include in each report required to be filed by him under section 202 a full and complete statement, in such manner and form as the Comptroller General may prescribe, with respect to—

(1) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received from any member of his immediate family) received during the preceding calendar year which exceeds $100 in amount or value, including any fee or other honorarium received for or in connection with the preparation or delivery of any speech, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication;

(2) the fair market value and source of any item received in kind or aggregate of such items received from one source (other than items received in kind from any member of his immediate family), including, but not limited to, any transportation or entertainment received, during the preceding calendar year if such fair market value for such item exceeds $500;

(3) the identity and the category of value, as designated under subsection (b), of each asset, other than household furnishings or goods, jewelry, clothing, or any vehicle owned solely for the personal use of the individual, his spouse, or any of his dependents, held during the preceding calendar year which has a value in excess of $1,000 as of the close of the preceding calendar year;

(4) the identity and the category of amount, as designated under subsection (b), of each liability owed which is in excess of $1,000 as of the close of the preceding calendar year;

(5) the identity, the category of amount, as designated under subsection (b), and date of any transaction in securities of any business entity or any transaction in commodities futures during the preceding calendar year which is in excess of $1,000;

(6) the identity and the category of value, as designated under subsection (b), of any purchase or sale of real property or any interest in any real property during the preceding calendar year if the value of property involved in such purchase or sale exceeds $1,000;

(7) any patent right or any interest in any patent right, and the nature of such patent right, held during the preceding calendar year; and

(8) a description of, the parties to, and the terms of any contract, promise, or other agreement between such individual and any person with respect to his employment after such individual ceases to occupy his office or position with the Government, including any agreement under which such individual is taking a leave of absence from an office or position outside of the Government in order to occupy an office or position of the Government, and a description of and the parties with any unfunded pension agreement between such individual and any employer other than the Government.

Each individual designated under paragraphs (5) and (6) of section 202(b) shall also include in such report the identity of any person, other than the Government, who paid such individual compensation in excess of $5,000 in any of the five years prior to the preceding calendar year and the nature and term of the services such individual performed for such person. The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

(b)(1) For purposes of paragraphs (3) through (6) of subsection (a), an individual need not specify the actual amount or value of each asset, each liability, each transaction in securities of any business entity or in commodities futures, or each purchase or sale required to be reported under such paragraphs, but such individual shall indicate which of the following categories such amount or value is within—

(A) not more than $5,000,

(B) greater than $5,000 but not more than $15,000,

(C) greater than $15,000 but not more than $50,000,

(D) greater than $50,000, but not more than $100,000, or

(E) greater than $100,000.

(2) Each individual shall report the actual amount or value of any other item required to be reported under this section.

(c) For purposes of paragraphs (1) through (7) of subsection (a), an individual shall include each item of income or reimbursement and each gift received, each item received in kind, each asset held, each liability owed, each transaction in commodities futures and in securities, each purchase or sale of real property or interest in any real property, and each patent right or interest in any patent right held by him, his spouse, or any of his dependents within his control, or by him and his spouse or dependents jointly, or by any person acting on his behalf, except that no disclosure shall be required as to those items of the spouse and dependents of the reporting individual which represent their sole property and which are not in any way, directly or indirectly, past or present, derived from the income, earnings, investments, assets, dividends, property, holdings, or activities of the covered official.

FILING OF REPORTS

SEC. 204. a)(1) Each individual required to file a report under section 202(a), other than an individual excepted under paragraphs 4 and 5 of this subsection, shall file such report with the Comptroller General not later than May 15 of each year. Each such individual, other than the President, Vice President, a Member of Congress, a justice or judge of the United States, any officer or employee of the Senate or the House of Representatives or any court of the United States, the head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in the Executive Office, or each full-time member of a committee, board, or commission appointed by the President, shall file a copy of such report with the head of the agency in which such individual occupies any office or position at the same time as such report is filed with the Comptroller General.

(2) Each Member, officer, and employee of the House of Representatives and the Senate required to file a report under section 202(a) shall file a copy of such report with the Clerk of the House of Representatives and the Secretary of the Senate, respectively, and each justice, judge, officer, and employee of any court of the United States shall file a copy of such report with the Director of the Administrative Office of the United States Courts at the same time as such report is filed with the Comptroller General.

(3) The head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in the Executive Office, and each full-time member of a committee, board, or commission appointed by the President, shall file a copy of such report with the Chairman of the Civil Service Commission at the same time such report is filed with the Comptroller General.

(4) The President may exempt any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged exclusively in intelligence activities in any agency of the United States from the requirement to file a report with the Comptroller General if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would reveal the identity of an undercover agent of the Federal Government. Each individual exempted by the President from such requirements shall file such report with the head of the agency in which he occupies an office or position or, if an individual described in subsection (a)(3), with the Chairman of the Civil Service Commission.

(5) Each individual who is nominated by the President, subject to the confirmation of the Senate, to any position as an officer or employee of the United States shall, prior to any hearings with respect to such confirmation, file with the Comptroller General and with the appropriate committee of the Senate a report with respect to the year preceding the year in which such individual was nominated.

(b) Each individual required to file a report under section 202(c) shall file such report with the Comptroller General within one month after the earliest of either action which such individual takes under section 202(c) (1) or (2).

(c)(1) Any individual who ceases prior to May 15 of any calendar year to occupy the office or position the occupancy of which im-

poses upon him the reporting requirement contained in section 202(a) shall file such report for the preceding calendar year and the period of such calendar year for which he occupies such office or position on or before May 15 of such calendar year.

(2) Any individual who ceases to occupy such office or position after May 15 of any calendar year shall file such report for the period of such calendar year which he occupies such office or position on the last day he occupies such office or position.

(d) The Comptroller General may grant one or more reasonable extensions of time for filing any report but the total of such extensions shall not exceed ninety days.

(e) The Comptroller General shall promulgate such rules and regulations as are required to carry out the provisions and purposes of this title.

FAILURE TO FILE OR FALSIFYING REPORTS; PROCEDURE

SEC. 205. (a) (1) Any individual who knowingly and willfully falsifies or fails to report any information such individual is required to report under section 203, shall be fined in any amount not exceeding $10,000, or imprisoned for not more than one year, or both.

(2) The Attorney General may bring a civil action in any district court of the United States against any individual who fails to file a report which such individual is required to file under section 202 or who fails to report any information which such individual is required to report under section 203. The court in which such action is brought may assess against such individual a penalty in any amount not to exceed $5,000.

(b) The head of each agency, the Clerk of the House of Representatives with respect to any Member, officer, or employee of the House of Representatives, the Secretary of the Senate with respect to any Member, officer or employee of the Senate, and the Director of the Administrative Office of the United States Courts with respect to any. justice, judge, officer, or employee of any court of the United States shall submit annually to the Comptroller General a complete list of individuals who are required to file a report under section 202 and shall submit at the close of each calendar quarter a list of individuals who have begun or have terminated employment with such agency, the House of Representatives, the Senate, or any court in such calendar quarter.

(c) The Comptroller General shall refer to the Attorney General the name of any individual the Comptroller General has reasonable cause to believe has failed to file a report or has falsified or failed to file information required to be reported. In addition, if such individual is a Member, officer, or employee of the Senate or the House of Repsentatives, the Comptroller General shall refer the name of such individual to the Senate Select Committee on Standards and Conduct or the Committee on Standards of Official Conduct of the House of Representatives, whichever is appropriate.

(d) The President, the Vice President, either House of Congress, the Director of the Administrative Office of the United States Courts, the head of each agency or the Civil Service Commission may take any appropriate personnel or other action against any individual failing to file a report or information or falsifying information.

CUSTODY AND AUDIT OF, AND PUBLIC ACCESS TO, REPORTS

SEC. 206. (a) The Comptroller General shall make each report filed with him under section 205 available to the public within fifteen days after the receipt of such report from any individual and provide a copy of such report to any person upon a written or oral request.

(b) The Comptroller General may require any person receiving a copy of such report under subsection (a) to supply his name and address and the name of the person or organization, if any, on whose behalf he is requesting such copy and to pay a reasonable fee in any amount which the Comptroller General finds necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. The Comptroller General may furnish any copy of such report without charge or at a reduced charge if he determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the public.

(c) (1) It shall be unlawful for any person to inspect or obtain a copy of any report—

(A) for any unlawful purpose;

(B) for any commercial purpose;

(C) to determine or establish the credit rating of any individual; or

(D) for use directly or indirectly in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action in any district court of the United States against any person who inspects or obtains such report for any purpose prohibited in pargaraph (1). The court in which such action is brought may assess against such individual a penalty in any amount not to exceed $1,000.

(d) Any report received by the Comptroller General shall be held in his custody and made available to the public for a period of five years after receipt by the Comptroller General of such report. After such five-year period, the Comptroller General shall destroy any such report.

(e) The House of Representatives, the Senate, the Director of the Administrative Office of the United States Courts, the Chairman of the Civil Service Commission, and the head of each agency shall make provisions to assure that each report shall be reviewed in accordance with any law or regulation with respect to conflicts of interest or confidential financial information of officers or employees of the House of Representatives, the Senate, the United States courts or each such agency or in accordance with rules and regulations as may be prescribed.

(f) (1) The Comptroller General shall, under such regulations as he may prescribe, conduct on a random basis audits of not more than 5 per centum of the reports filed with him under section 204(a) (1).

(2) The Comptroller General shall audit during each term of an individual holding the office of President or Vice President at least one report filed by such individual under section 204(a) (1) during such term.

(3) The Comptroller General shall, during each six-year period beginning after the date of enactment of this Act, audit at least one report filed by each Member of the Senate and the House of Representatives during such six-year period.

(4) (A) In conducting an audit under paragraph (1), (2), or (3), the Comptroller General is authorized to require by subpena the production of books, papers, and other documents. All such subpenas shall be issued and signed by the Comptroller General.

(B) In case of a refusal to comply with a subpena issued under subparagraph (A)—

(i) the Comptroller General is authorized to seek an order by any district court of the United States having jurisdiction of the defendant to require the production of the documents involved; and

(ii) such district court may issue such order and enforce it by contempt proceedings.

SEC. 207. The Civil Service Commission and the Department of Justice shall each analyze regulations and procedures presently in effect with regard to financial conflicts of interest among employees of the Federal Government, including the Federal Ethics Act of 1977, and recommend to the appropriate committees of Congress and to the Federal Commission on Ethics for their consideration such legislation as may be necessary. Such reports shall be delivered within six months of the enactment of this Act.

SEPARABILITY

SEC. 208. If any part of this title is held invalid, the remainder of the title shall not be affected thereby. If any provision of any part of this title, or the application thereof to any person or circumstance, is held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 209. There are authorized to be appropriated for each fiscal year through September 30, 1981, such sums as may be necessary to carry out the provisions of this title.

SHORT TITLE

SEC. 210. This title may be cited as the "Financial Disclosure Act of 1977".

EFFECTIVE DATE

SEC. 211. The provisions of this title shall take effect on January 1, 1977, except that (1) no individual shall be required to file a report under section 204 (a) prior to May 15 1978, and (2) any individual who is required to file a report during calendar year 1977 under section 204 (b) or (c) shall only be required to include information with respect to calendar year 1977.

SUMMARY OF FEDERAL ETHICS ACT OF 1977—TITLE I—AND FINANCIAL DISCLOSURE ACT OF 1977—TITLE II—

A. TITLE I—ETHICAL CONDUCT

Summary

Title I of the legislation establishes (1) a code of conduct for all employees in the three branches of the Federal Government and (2) a Federal Commission on Ethics.

Code of Conduct

A Federal employee is prohibited from (1) soliciting or accepting any item of value in excess of $50 from any person with whom the employee is involved in the performance of his official duties; (2) using his official position to secure any gain or other item of value for himself or any other person, unless it is considered proper performance of his official duties; (3) engaging in any conduct or associating with any person in such a manner to present to the public an appearance of impropriety; and (4) performing any services which conflict with his official duties. Those government employees who must file a financial disclosure report under Title II of this Act (excluding the President, Vice President, Members of Congress, justices and judges of the United States and heads of executive agencies) are prohibited from receiving any item of value for performing services other than their official duties, unless they have specific authorization from their agency heads. The President, Vice President, Members of Congress, justices and judges of the United States, and heads of executive agencies are prohibited from receiving any item of value for performing services other than their official duties.

In performing his official duties, a Federal employee shall not participate personally or substantially in any matter regarding (1) any entity in which he, his spouse, or his child has a material interest, or (2) any person who was his employer during the 2 year period immediately preceding his Federal employment. An employee shall not, for a period of 3 years immediately following the termination of his Federal employment (1) accept any employment with any person he was personally and directly involved with in the performance of his official duties, or (2) represent or act as the agent for any person in any transaction or other matter with the

agency of the Federal Government by which he was employed.

The prohibitions included in this statute are added to the criminal statute.

Establishment of a Commission on Ethics

The Federal Commission on Ethics shall be composed of 7 members appointed as follows:

(A) two appointed by the President from a list submitted by the majority and minority leaders of the Senate and the House of Representatives;

(B) two appointed by the President from a list submitted by the Judicial Conference of the United States; and

(C) three appointed by the President.

No more than one member appointed under (A) or (B) and no more than two members under (C) shall be from the same political party.

The members shall be chosen on the basis of their maturity, experience, and integrity and shall, at the time of their appointment, not be employees of any of the three branches of the Federal Government. They shall not receive any pay for serving on the Commission other than per diem when performing Commission duties and reimbursement for travel and other necessary expenses. They shall meet monthly or at the call of any member and shall have a staff director and such additional staff to carry out the provisions of this Act.

Commission Powers, Duties, Reports

The Commission has the power to (1) administer oaths or affirmations; (2) require, by subpena or special or general order, persons to testify and provide documentary evidence; (3) render advisory opinions concerning possible violations, upon written request to the Commission by any Federal employee; and (4) conduct investigations and hearings and report apparent violations to the appropriate law enforcement authorities. The Commission, upon receiving any complaint of violations of the code of conduct or the criminal statute, of if it has reason to believe any person has committed a violation, shall notify the person involved of such apparent violation and report the apparent violation to the Attorney General or make an investigation of it. Any investigation by the Commission shall be conducted expeditiously. The Commission shall be subject to the provisions of the Government in the Sunshine Act.

Further, the Commission must, at the request of the alleged violator, conduct a hearing concerning the matter. If the Commission determines, after its investigation and after affording an opportunity for a hearing, there is reason to believe that any person has violated or is about to violate the code of conduct or criminal statute, it shall report its findings to (1) the alleged violator, (2) the head of the agency in which the individual investigated is employed for appropriate personnel or other action, and (3) the Attorney General. In the case of the President, Vice President or Member, officer or employee of the Senate and House of Representatives, the appropriate Congressional committees shall be notified, for appropriate personnel or other action. For a judicial employee, the Director of Administrative Office of the United States Courts shall be notified for appropriate or other action. For the head of each agency, each Presidential employee in the Executive Office of the President, and each full-time member of a board, committee, or commission appointed by the President, the President shall be notified for appropriate or other action.

The Attorney General and any individual to whom the Commission notified for appropriate personnel or other action shall report monthly to the Commission on actions taken on the apparent violation. If the Commission determines appropriate action is not being taken within a reasonable time, it shall report the matter to the President and the Congress.

The Commission shall render written advisory opinions within a reasonable time and any person who acts in good faith in accordance with the opinion shall be presumed to be in compliance with the code of conduct and criminal statute. All opinions shall be made public.

The Commission shall submit annual reports to the President and each House of Congress concerning their activities and recommendations for legislative or other action.

B. TITLE II—FINANCIAL DISCLOSURE

Summary

Title II of the legislation is a comprehensive statute requiring full and complete public financial disclosure by high-level officials in all three branches of the Federal Government. It does not in any way regulate permissible conduct or prohibit the holding of any financial interest.

The Title may be divided into three main portions. The first portion defines who must file financial disclosure statements, the second specifies what information must be provided in the statements, and the third provides regulations for the enforcement of this statute and for public access to the reports.

Individuals Required to File Reports

The individuals who must file an annual public financial disclosure report are the President, Vice President, Members of Congress, justices and judges of the United States, officers and employees of the Federal Government compensated at a rate equal to or greater than the rate of pay for grade GS–16, and members of a uniformed service compensated at a rate equal to or greater than the rate of pay for grade O–6.

In addition, any individual who seeks nomination for election to the office of President, Vice President or Member of Congress must file a public financial disclosure statement in any year in which that individual has taken actions to qualify as a candidate for public office under the Federal elections laws. Further, any individual who is nominated by the President, subject to confirmation by the Senate, to occupy a position any of the three branches of the Federal Government must file a public financial disclosure report in the year that individual is nominated.

Contents of Reports

The financial disclosure statements required under this statute are uniform for all individuals who have to file and must contain the following information:

(1) The amount and source of each item of income, each reimbursement for any expenditure, and each gift or aggregate of gifts from one source (excluding gifts from any member of his immediate family) received during the preceding calendar year which exceeds $100 in value;

(2) The amount and source of each item received in kind or aggregate of such items received from one source (other than items received from any member of his immediate family) during the preceding calendar year which exceeds $500 in value;

(3) The identity and category of value of each asset held during the preceding calendar year which has a value in excess of $1,000 as of the close of the preceding calendar year. This requirement covers only assets of a business nature and specifically excludes personal possessions and household items, including vehicles, owned exclusively for the personal use of the individual and his dependents;

(4) The identity and category of value of each liability owed in excess of $1,000 at the close of the preceding calendar year;

(5) the identity, category of value and date of any transaction in securities of any business entity or any transaction in commodities futures during the preceding calendar year which exceeds $1,000 in value;

(6) The identity and category of value of any purchase, sale, or holding of real property during the preceding calendar year which exceeds $1,000 in value;

(7) A description of any patent right or interest in a patent right held; and

(8) A description of any contract, promise or other agreement between the reporting individual and any other person regarding the individual's employment after he leaves government service, including any unfunded pension agreement between the reporting individual and any employer other than the Federal Government.

Those government employees who must file a report under this statute, (excluding the President, Vice President, Members of Congress, and justices and judges of the United States) must also include in their reports the identity of any prior nongovernmental employers by whom they were paid over $5,000 in any of the five preceding years, as well as a description of the nature and terms of the employment involved.

With respect to requirements (3) through (6) above, the exact amount or fair market value of each asset or item need not be reported. When reporting these items, it will be sufficient to report which of the following categories of value the asset or item is within:

(A) less than $5,000;
(B) between $5,000 and $15,000;
(C) between $15,000 and $50,000;
(D) between $50,000 and $100,000;
(E) more than $100,000.

Filing of Reports

Each government official required to file a financial disclosure report must do so with the Comptroller General by May 15th of each year. A copy of the report must also be filed by the individual with the appropriate supervisory official. Those officials are the individual's agency head, for employees of the executive branch; the Secretary of the Senate or Clerk of the House, for Members and employees of Congress; the Director of the Administrative Office of the United States Courts, for judges and employees of any court; and the Chairman of the Civil Service Commission, for agency heads, Presidential appointees in the Executive Office of the President, and fulltime members of committees, boards and commissions appointed by the President.

The President is authorized to exempt undercover agents from filing public financial reports, but these individuals must still file a financial disclosure form with the head of their agency.

Candidates for Federal elective office required to file a financial report must do so with the Comptroller General within one month after becoming a candidate for that office.

The Comptroller General is authorized to grant extensions up to ninety days for the filing of financial disclosure reports.

The Comptroller General shall promulgate such rules and regulations as required to carry out this title.

Failure to File Reports or Falsifying Reports

Criminal and civil penalties are established for willful failure to file a report or willful falsification of any information in a report. The Comptroller General is directed to refer to the Attorney General the name of any individual who he has reasonable cause to believe has failed to file a report or has falsified or omitted information required by the report. In addition, if the individual is a Member, officer, or employee of the Senate or House of Representatives, the Comptroller General must refer the name of the offending individual to the appropriate ethics committee for investigations.

Custody and Audit of and Public Access to Reports

The Comptroller General is required to make each report filed with him available to

the public within 15 days after receipt of the report. He must provide a copy of any report to any person who requests one, contingent upon payment of a fee for reproducing the document. It is made unlawful for any person to inspect or obtain a copy of a report for any unlawful or commercial purpose, for determining the credit rating of an individual, or for use in the solicitation of money for any purpose. A civil penalty not to exceed $1,000 may be assessed against anyone who violates this provision. Although the reports are made public, the agency head or appropriate supervisory person is still responsible for reviewing the report and ensuring that conflict of interest regulations are not being violated.

To help ensure the accuracy and completeness of the information filed in the reports, the Comptroller General is also required to conduct random audits of not more than 5 percent of the financial disclosure reports filed each year. The Comptroller General must also audit the financial disclosure reports of each individual holding the office of President or Vice President at least once during each of their term of office and of each Member of the Senate and the House of Representatives at least once during each six-year period. The Comptroller General is given the power to subpoena papers and documents necessary for conducting these audits and the consequent authority to seek court assistance in the enforcement of any such subpoena.

The Civil Service Commission and the Department of Justice are required to analyze existing regulations and procedures regarding financial conflicts of interests among employees of the Federal Government, including the Federal Ethics Act of 1977, and recommend, within 6 months of the enactment of this Act, to the appropriate committees of Congress and the Federal Commission on Ethics for their consideration such legislation as they deem necessary.

By Mr. STEVENS:

S. 291. A bill to amend the Shipping Act, 1916, in order to provide that a State, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States shall be considered a citizen of the United States shall be considered a citizen of the United States for the purposes of such act; to the Committee on Commerce.

Mr. STEVENS. Mr. President, today I wish to introduce a bill which would amend the Shipping Act of 1916 and the Merchant Marine Act of 1920 to add to the list of definitions included in the Shipping Act the following language:

The term "citizen of the United States" also includes a state, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

The two acts, in various articles, confer exclusively upon citizens certain shipping and shipbuilding rights, including the right to obtain first lien on an American vessel. The intent of this aspect of the two acts is to prevent foreigners from exercising control over American shipping.

Unfortunately, although a State is not a foreigner, States are not explicitly included among those entities identified in the Shipping Act as citizens of the United States. Neither are they explicitly excluded. One consequence of this defect is that the State of Alaska is presently unable to obtain a first lien on a fisherman's vessel. Three years ago, Alaska instituted a revolving loan program for its fishermen. Since in most cases a fisherman's vessel is his only property which is of sufficient value to serve as collateral for these loans and which is not already mortgaged, the defect in the Shipping Act creates a serious and immediate problem in my home State which this amendment would eliminate.

The overall effect of my bill would be to clarify the ambiguity which presently exists in the two acts regarding the citizenship of States. When a bill identical to this one was introduced in the 93d Congress, it was not reported out of the Commerce Committee because of the uncertainty felt by several of the committee's members concerning the broad ramifications of the amendment on the lengthy shipping acts. No detailed analysis of the amendment had yet been made.

I have obtained such an analysis from the general counsel of the Department of Commerce. His assessment of the impact of the amendment was that either it did not affect a particular section or that it resolved an ambiguity in the language in such a way as advanced the purposes of the act.

Mr. President, now that little question remains as to the beneficial impact of this amendment on the shipping acts which it affects, I urge prompt action on this bill.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Shipping Act, 1916 (46 U.S.C. 801), is amended by adding the following definition: "The term 'citizen of the United States' also includes a State, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States."

By Mr. PEARSON (for himself and Mr. BAKER):

S. 292. A bill to amend the Federal Aviation Act of 1958 to bring about the phased and progressive transition to an air transportation system which will rely on competitive market forces to determine the variety, quality, and price of interstate and overseas air services, and for other purposes; to the Committee on Commerce.

COMMERCIAL AVIATION REGULATORY REFORM ACT OF 1977

Mr. PEARSON. Mr. President, I introduce for myself and Senator BAKER, and for appropriate reference a bill, the Commercial Aviation Regulatory Reform Act of 1977, to promote a phased and progressive transition to an air transportation system which will rely upon competitive market forces to determine the variety, quality, and price of interstate and overseas air transportation.

I ask unanimous consent that there be printed in the RECORD immediately following these remarks the text of the bill, a summary analysis of its provisions, and the changes in existing law that would be occasioned by enactment of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, this bill is a composite measure that represents what I believe to be the most prudent course for the Congress to take in attempting to fashion a new regulatory regime for commercial aviation. The bill adopts, with some minor modifications, many of the Civil Aeronautics Board's proposals for regulatory reform which were developed through an intense study of the current regulatory system and proposed by a unanimous Board. The bill also contains some new and different approaches to small community service, subsidy, and foreign air transportation policy.

In the last Congress, the distinguished senior Senator from Nevada (Mr. CANNON), chairman of the Aviation Subcommittee of the Committee on Commerce, held several days of hearings concerning the need for a change in the regulatory environment that now rigidly controls the operations of the Nation's commercial airlines. The conclusion drawn from those hearings is that substantial reforms are urgently needed. The debate on this issue now focuses on how much and how soon regulatory reform is appropriate.

Airline economic regulation was initiated almost 40 years ago when the Nation's airline industry was an infant in every respect. The regulatory theory at that time was one of "protectionism"—public utility-type regulation. Such a policy is inappropriate for today's sophisticated airlines. These companies have developed the best aviation system in the world, characterized by a high degree of technical and managerial expertise. Their marketing skill and financial acumen is well known. Strict economic regulation is holding them back—precluding the attainment of even higher levels of productivity and public accommodation.

As many of my colleagues are aware, there are many deficiencies in small community service. This problem is of particular concern to me. Some commuter air carriers have braved the regulatory and administrative process at the CAB and have become certificated air carriers. Air New England and Air Midwest have recently achieved certification, and Air Wisconsin has an application before the Board for similar authority. These small but dependable air carriers hold out what may be the best hope of small communities across the Nation for reliable access to the Nation's major air transportation centers. The Senate should encourage and protect small community air service. I believe that this objective may be achieved by creating a new class of air carriers—"limited air carriers." Such carriers would be certificated through expedited procedures. They would receive route protection and they would be eligible for Federal subsidy where appropriate, and Federal guarantee of equipment loans.

Many communities have come to rely on subsidized service by local service carriers. Such communities depend upon

reliable air service for continued economic growth and development. It seems unthinkable to me that Congress would fashion a new regulatory regime that leaves such communities without essential air service.

The bill would require that all subsidy eligible communities continue to be eligible for subsidized service for a period of 10 years. It also directs the CAB to establish, by regulation, objective service criteria to be used in determining which communities will be eligible for subsidized service. Subsidized small community service would, of course, continue indefinitely beyond the 10-year guarantee. The bill limits participation in the subsidy program to "limited air carriers," and the compensation to be paid to such carriers is not based upon the provision of mail service. It is contemplated that certain air-taxi and commuter operators, and existing local service air carriers, would apply for such authority. Nothing would preclude concurrent operations as a "limited air carrier" with aircraft of limited capacity and an air carrier operating aircraft of unlimited capacity.

Mr. President, aviation regulatory reform is long overdue and I urge the Senate to act soon on such legislation. I believe the bill I introduce today is the vehicle for achieving that goal.

S. 292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commercial Aviation Regulatory Reform Act of 1977".

SEC. 2. DECLARATION OF POLICY.

The Congress hereby finds and declares the following:

(1) The present system of protective Federal economic regulation of commercial air transportation, which served the Nation well during the infancy of the commercial airline industry, is inappropriate for today's modern commercial aviation system.

(2) The Nation's commercial airline industry has developed the highest degree of managerial and technical expertise and the need for public-utility-type regulation has ceased with the maturity of the industry.

(3) The continuation of a regulatory policy for commercial aviation which rigidly controls the variety and cost of air transport services available to the consumer is no longer in the public interest.

(4) The public interest would be better served by a regulatory policy for commercial aviation that more actively promotes efficient and innovative competitive service.

(5) The progressive transition to an air transportation system that relies to the maximum extent practicable on natural market forces is in the long-term public interest.

(6) The public interest requires that the Civil Aeronautics Board employ to the fullest extent, within the bounds of procedural due process, expedited nonhearing procedures during a closely monitored transitional period leading to a greater reliance on natural marketplace forces to determine the variety and quality of air transportation services available to the consumer.

SEC. 3. DEFINITIONS.

Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) is amended—

(1) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively, and by inserting the following new paragraph (11):

"(11) 'All-cargo air transportation' means air transportation of property, or of property and mail, only.";

(2) by redesignating paragraphs (13) through (24) as paragraphs (17) through (28), respectively, and by inserting the following new paragraphs (14) through (16):

"(14) 'Certificated air carrier' means, for the purposes of title IV of this Act, an air carrier operating pursuant to authority granted by a certificate of public convenience and necessity as set forth in section 401(d)(1) and (2) of this Act.

"(15) 'Charter air transportation' means charter trips, including inclusive tour charter trips, in air transportation, rendered pursuant to a license issued pursuant to section 401(d)(3) of this Act.

"(16) 'Charter trip' means air transportation performed under regulations prescribed by the Board in which the entire capacity of an aircraft has been engaged for the movement of persons, property or mail by one or more persons each of whom has engaged a substantial portion of such capacity.";

(3) by amending paragraph (23), as redesignated by this section, to read as follows:

"(23) 'Foreign air carrier' means any person, not a citizen of the United States, who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in foreign air transportation: *Provided,* That the Board may by order relieve foreign air carriers who are not directly engaged in the operation of aircraft in foreign air transportation from the provisions of this Act to the extent and for such periods that such relief may be in the public interest.";

(4) by redesignating paragraphs (25) through (32) as paragraphs (31) through (38), respectively, and by inserting the following new paragraphs (29) and (30):

"(29) 'Limited air carrier' means an air carrier holding a certificate authorizing it to engage in limited air transportation.

"(30) 'Limited air transportation' means air transportation rendered pursuant to a certificate of authority issued pursuant to section 401(d)(5) of this Act to provide scheduled service with aircraft of limited capacity.";

(5) by redesignating paragraphs (33) and (34) as paragraphs (40) and (41) and by inserting the following new paragraph:

"(39) 'Scheduled air transportation' means flights in regular route service which are not charter trips.";

(6) by striking out paragraphs (35) and (36) thereof; and

(7) by redesignating paragraphs (37) and (38) as paragraphs (42) and (43).

SEC. 4. POLICY.

Section 102 of the Federal Aviation Act of 1958 (49 U.S.C. 1302) is amended to read as follows:

"DECLARATION OF POLICY: THE BOARD

"SEC. 102. (a) INTERSTATE AND OVERSEAS AIR TRANSPORTATION.—In the exercise and performance of its powers and duties under this Act with respect to interstate and overseas air transportation, the Board shall deem the following, among other things, to be in the public interest:

"(1) The maintenance of an efficient private enterprise air transportation system responsive to the present and future needs of the foreign and domestic commerce, the Postal Service, and the national defense of the United States.

"(2) The progressive transition to an air transportation system which relies on natural competitive market forces to determine the variety, frequency, quality, and price of air services without unjust discrimination, undue preferences or advantages, or unfair, deceptive, or predatory practices.

"(3) The reliance on entry or potential entry of new carriers into all phases of air transportation to provide the stimulus for the provision of efficient and innovative air transportation with meaningful price competition and optimal carrier efficiency.

"(4) The continued access of rural or isolated areas to the Nation's air transportation network with direct Federal assistance where appropriate.

"(5) The maintenance of the highest degree of safety in air commerce.

"(b) FOREIGN AIR TRANSPORTATION.—In the exercise and performance of its powers and duties under this Act, the Board shall deem the following, among other things, to be in the public interest, and in accordance with the public convenience and necessity:

"(1) The development of an economically viable system of foreign air transportation under the United States flag which is conducted by privately owned and operated air carriers and which is properly adapted to the present and future needs of the foreign and domestic commerce, the Postal Service, and the national defense of the United States.

"(2) The economic regulation of foreign air transportation in such manner as to recognize the existence of the following market realities which evidence the inherent differences between the competitive dynamics of domestic and foreign air transportation:

"(i) In foreign air transportation, United States-flag air carriers must compete for the most part with foreign-flag air carriers who are owned or financially supported by their respective governments and whose competitive motivations are not necessarily those prevailing in a free enterprise market system.

"(ii) In foreign air transportation, United States-flag air carriers must operate pursuant to foreign laws and practices which in many instances restrict their freedom to manage their respective enterprises so as to achieve maximum efficiency.

"(iii) In foreign air transportation, the extent of competition on particular routes is not subject to the unilateral control of the United States but is determined through bilateral agreements negotiated with many foreign governments and by international comity and reciprocity.

"(iv) In foreign air transportation, the level of capacity offered by respective carriers on foreign routes cannot be effectively adjusted to demand by reason of high levels of competition, unilateral actions by foreign governments, and the basic characteristics of international air transport operations.

"(v) In foreign air transportation, rates and charges cannot be determined either by the respective air carriers or the United States Government, but must be approved by all governments whose flag carriers compete on a particular route.

"(3) The promotion of adequate, economical and efficient service by air carriers at reasonable charges, without unjust discrimination, undue preferences or advantages or unfair or destructive competitive practices.

"(4) Competition among air carriers, taken with that provided by foreign air carriers, which is sufficient to assure the development of a foreign air transport system of the kind and quality specified in subsections (1) and (3), of this subsection.

"(5) The promotion of the highest degree of safety in foreign air transportation.".

SEC. 5. FEDERAL PREEMPTION.

Title I of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new section:

"FEDERAL PREEMPTION

"SEC. 105. No State or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States shall enact any law, regulation, or standard relating to rates, routes, or services in air transportation.".

SEC. 6. CERTIFICATES AND LICENSES.

(a) Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is amended by amending the heading to read as follows: "CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND LICENSES.".

(b) Section 401(a) of such Act is amended to read as follows:

"CERTIFICATE OR LICENSE REQUIRED

"(a) No air carrier shall engage in any air transportation unless there is in force either a certificate or a license issued by the Board authorizing such air carrier to engage in such transportation.".

(c) Section 401(b) of such Act is amended by adding the words "or License" to the heading, and by inserting the words "or license" after the word "certificate" in the subsection.

(d) Section 401(c) of such Act is amended by inserting the words "or license" after the word "certificate" in the second sentence in the subsection, and by striking out the last sentence reading as follows: "Such application shall be set for a public hearing, and the Board shall dispose of such application as speedily as possible."

(e) Section 401(d) of such Act is amended—

(1) by amending the heading to read: "Issuance of Certificates and Licenses";

(2) by striking "The" and inserting the following at the beginning of the sentence in paragraph (1) of subsection (d): "In the case of an application for authority to perform scheduled air transportation of persons, property, and mail, or foreign all-cargo air transportation, the";

(3) by striking out the words "a certificate" where they first appear in paragraph (2) of subsection (d) and inserting in lieu thereof the word "authority"; inserting the word "scheduled" immediately after the word "temporary"; and inserting the words "of persons, property, and mail, or foreign all-cargo air transportation" immediately after the words "air transportation";

(4) by amending paragraph (3) of subsection (d) to read as follows:

"(3) In the case of an application for authority to engage in charter air transportation, the Board shall issue a license for such periods as may be required by the public interest if, and to the extent that, it finds the applicant fit, willing, and able properly to perform such charter air transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder."; and

(5) by adding at the end of subsection (d) the following three new paragraphs:

"(4) Notwithstanding paragraphs (1) or (2) of this subsection, in the case of an application for authority to engage in all-cargo interstate or overseas air transportation, the Board shall issue a license for such periods as may be required by the public interest if, and to the extent that, it finds the applicant fit, willing, and able properly to perform such all-cargo air transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

"(5)(A) In the case of an application for a certificate to engage in limited air transportation, the Board may issue a certificate to any applicant who, on January 1, 1976, was operating pursuant to Part 298 of the Board's economic regulations (14 C.F.R. 298) or pursuant to a certificate authorizing essentially short-haul, local, or feeder air transportation or to any other applicant, for such periods as may be required in the public interest, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and the proposed service qualifies for compensation under section 406 of this Act. In determining whether an applicant is fit, willing, and able, the Board may reach this determination on the basis of information furnished the Board in writing and without a hearing. The Board shall not be required to find that the public convenience and necessity require the issuance of a limited air carrier certificate, but shall adopt such rules and regulations and requirements as it may deem in the public interest to implement and enforce the policies set forth in this Act. Any certificate issued pursuant to this section shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be in accordance with the purpose of limited air transportation. Nothing in this Act shall be construed so as to prohibit concurrent operations as a limited air carrier and an air carrier operating pursuant to a certificate of public convenience and necessity, a license, or Part 298 of the Board's economic regulations (14 C.F.R. 298).

"(B) No certificate to engage in limited air transportation shall be issued or remain in effect unless the applicant for such certificate or the limited air carrier, as the case may be, complies with regulations or orders issued by the Board governing the filing, approval, and amounts of policies of liability insurance covering bodily injuries to or the death of any person, or for loss or damage to property of others, resulting from the operation or maintenance of aircraft under such certificate.

"(C) If any service authorized by a certificate to engage in limited air transportation is not performed to the minimum extent prescribed by the Board, it may by order direct that such certificate shall thereupon cease to be effective to the extent of such service. The requirement that each applicant for a certificate to engage in limited air transportation must be found to be fit, willing and able properly to conform to the provisions of this Act and the rules, regulations and requirements of the Board under this Act, shall be a continuing requirement applicable to each limited air carrier with respect to the transportation authorized by, and currently furnished or proposed to be furnished under, such carrier's certificate. The Board shall by order modify, suspend, or revoke such certificate, in whole or in part, for failure of such carrier (i) to comply with the continuing requirement that such carrier be so fit, willing and able, or (ii) to file such reports as the board shall deem necessary to determine whether such carrier is so fit, willing and able. The Board shall prescribe such regulations and issue such orders as may be necessary to carry out the provisions of this subsection.

"(6) Notwithstanding any other provision of this subsection, any air carrier that engages in air transportation, solely with aircraft having a maximum passenger capacity of less than 56 passengers or a maximum payload capacity of less than 16,000 pounds, shall be exempt from the requirements of subsection (a) of this section, and any other provisions of this Act as may be prescribed by the Board under regulations or otherwise, if it conforms to such liability insurance requirements and such other reasonable regulations as the Board shall from time to time adopt in the public interest. The Board may by regulation increase the passenger or property capacities specified in this paragraph when the public interest so requires. With respect to air transportation between points both of which are within the State of Alaska, or one of which is in Alaska and the other in Canada, the Board may decrease the passenger or property capacities specified in this paragraph or require carriers engaged in Alaskan intrastate air transportation to obtain operating authority from the State of Alaska, as the public interest may require.".

(f) Section 401(e) of such Act is amended

(1) by amending the heading to read as follows: "TERMS AND CONDITIONS OF CERTIFICATES AND LICENSES";

(2) by amending paragraph (2) by inserting the words "or license" after the word "certificate" in the last sentence of the paragraph;

(3) by striking out paragraph (3) and redesignating paragraphs (4) through (6) as paragraphs (3) through (5), respectively;

(4) by amending paragraph (3) (as redesignated by paragraph (3) of this subsection) by inserting the words "or license" after the word "certificate" where it first appears, and changing the semicolon to a period after the word "require" and by striking out "except that the Board may impose such terms, conditions, or limitations in a certificate for supplemental air transportation when required by subsection (d)(3) of this section";

(5) by amending paragraph (5) (as redesignated by paragraph (3) of this subsection) to read as follows:

"(5) Any certificated air carrier may perform charter trips (including inclusive tour charter trips) or any other special service, under regulations prescribed by the Board.";

(6) by adding at the end of subsection (e) the following four new paragraphs:

"(6) A license to engage in foreign and overseas charter air transportation shall contain any terms, conditions, and limitations which are required by any international treaty, convention, or agreement or which are directed to be included by the President upon his review under section 801(a) of this Act.

"(7) A license to engage in all-cargo interstate or overseas air transportation issued pursuant to subsection (d)(4), (m)(2), or (n)(3) of this section may, during the 2 years beginning with the effective date of this paragraph, be subject to such reasonable terms, conditions, and limitations on the geographic, operational, and other scope of the air transportation to be performed as the public interest shall require. Such terms, conditions, and limitations shall cease to be effective at the end of such 2-year period.

"(8) Every license issued pursuant to subsection (d) (3) and (4) of this section shall be subject to such reasonable regulations as the Board shall from time to time prescribe in the public interest. Any such license may also be made subject to any reasonable terms, conditions, and limitations which the Board determines to be required by its findings concerning fitness, willingness, and ability to perform the air transportation authorized thereby.

"(9) Within 90 days after the effective date of this subsection, the Board shall institute a proceeding looking toward the phased removed of all closed door restrictions included in any certificate of public convenience and necessity. Upon application of any air carrier seeking removal of any other terms, conditions, or limitations included in its certificate to engage in interstate or overseas air transportation, or upon its own initiative, the Board shall eliminate any such term, condition, or limitation which is found to be obsolete or inconsistent with the policy set forth in section 102 of this Act.".

(g) Section 401(f) of such Act is amended—

(1) by amending the heading to read as follows: "EFFECTIVE DATE AND DURATION OF CERTIFICATES AND LICENSES"; and

(2) by inserting the words "and license" after the word "certificate" where it first appears, striking out the phrase "under subsection (d)(2) of this section," and inserting a comma after the word "time", inserting the words "or license" after the word "certificate" where it appears the second time, and striking out the phrase ", entered after notice and hearing," in the proviso.

(h) Section 401(g) of such Act is amended by striking out the phrase ", after notice and hearings,", inserting the words "or license" immediately after the word "certificate" where it appears in the subsection, inserting the words "or public interest" after

the words "public convenience and necessity", and inserting the phrase "or suspend for such period as the Board may deem appropriate" after the word "revoke".

(i) Section 401(h) of such Act is amended—

(1) by amending the heading to read as follows: "TRANSFER OF CERTIFICATES AND LICENSES"; and

(2) by inserting the word "or license" after the word "certificate".

(j) Section 401(i) of such Act is amended—

(1) by amending the heading to read as follows: "CERTAIN RIGHTS NOT CONFERRED BY CERTIFICATES OR LICENSES"; and

(2) by inserting the words "or license" immediately after the word "certificate".

(k) Section 401(j) of such Act is amended to read as follows:

"TERMINATION OR SUSPENSION OF SERVICE

"(j)(1) No air carrier shall terminate any service required by its certificate of public convenience and necessity or certificate to engage in limited air transportaton except upon a minimum of 90 days' notice filed with the Board and served upon each community directly affected by such termination: *Provided*, That the Board is empowered upon complaint or upon its own initiative to suspend such termination for any period of time not to exceed an additional 270 days in order to allow arrangements to be made for substitute service.

"(2) The Board may, by regulation or otherwise, authorize such temporary suspension of service as may be in the public interest.".

(l) Sections 401 (l) and (m) of such Act are deleted and section 401(n) of such Act is redesignated as section 401(l).

(m) Section 401(l) (as redesignated by subsection (l) of this section) is amended—

(1) by amending the heading to read as follows: "ADDITIONAL POWERS AND DUTIES OF BOARD WITH RESPECT TO LICENSE HOLDERS";

(2) by amending paragraph (1) to read as follows:

"(1) No license to engage in air transportation, pursuant to subsection (d) (3) or (4) of this section shall be issued or remain in effect unless the applicant for such license or the air carrier, as the case may be, complies with regulations or orders issued by the Board governing the filing and approval of policies of insurance, in the amount prescribed by the Board, conditioned to pay, within the amount of such insurance, amounts for which such applicant or such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others resulting from the negligent operation or maintenance of aircraft under such license.";

(3) by striking out the words "supplemental air carriers" in paragraph (2) and inserting in lieu thereof the following: "air carriers licensed under subsections (d) (3) or (4) of this section", and striking out the word "supplemental" before the word "air" where it appears the second and third time and inserting in lieu thereof the word "such" before the word "air" where it appears the second time;

(4) by striking out paragraph (3) and redesignating paragraphs (4) through (6) as paragraphs (3) through (5), respectively;

(5) by amending paragraph (3) (as redesignated by paragraph (4) of this subsection) by striking out the word "certificate" where it appears in the paragraph and inserting in lieu thereof the word "license", striking out the word "supplemental", inserting the words "charter or all-cargo" before the words "air transportation" in the first sentence, inserting the phrase "licensed under subsection (d) (3) or (4) of this section" after the words "air carrier" in the first sentence, and striking out the phrase ", entered after notice and hearing," in the last sentence; and

(6) by amending paragraph (4) (as redesignated by paragraph (4) of this subsection) by striking out the word "certificate" where it appears therein and inserting in lieu thereof the word "license", striking out the words "a supplemental air carrier" in the first sentence and inserting in lieu thereof the following: "an air carrier licensed under subsection (d) (3) or (4) of this section", striking out the following in the first sentence: "(3), or (4)" and inserting in lieu thereof the following: "(2), or (3)", and striking out the following in the last sentence: "(3), and (4)" and inserting in lieu thereof the following: "(2), or (3)".

(n) Section 401 of such Act is amended by adding at the end thereof the following two new subsections.

"ISSUANCE OF LICENSES IN LIEU OF CERTIFICATES

"(m) Notwithstanding any other provisions of this Act—

"(1) Any certificate in effect on the effective date of this paragraph authorizing supplemental air transportation shall be deemed to be a license to engage in charter air transportation pursuant to subsection (d)(3) of this section, and shall continue to be subject to all of the provisions of such certificate: *Provided*, That such license shall include the authority to transport mail.

"(2) Any certificate in effect on the effective date of this paragraph authorizing interstate or overseas all-cargo air transportation shall be deemed to be a license pursuant to subsection (d)(4) of this section to engage in interstate all-cargo air transportation between any point in any State of the United States, or the District of Columbia, and any point in any other State of the United States, or the District of Columbia, and in overseas all-cargo air transpotration to the extent provided in said certificate. Such license shall continue to be subject to all the provisions of said certificate, other than restrictions as to points to be served in interstate air transportation.

"PROCEDURES FOR PROCESSING APPLICATIONS

"(n)(1) The Board shall adopt rules establishing expedited procedures, which provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings, for disposing of—

"(A) applications for a license to engage in air transportation pursuant to subsection (d) (3), (d) (4), or (d) (5) of this section;

"(B) applications for a certificate to engage in interstate or overseas air transportation pursuant to subsection (d) (1) or (2) of this section;

"(C) applications by the holder thereof for the alteration, amendment, modification, transfer, or suspension of all or any part of any such certificate or license pursuant to subsection (g) or (h) of this section; and

"(D) petitions by interested persons and investigations by the Board, whether on its own initiative or in response to a complaint, for the alteration, amendment, modification, suspension, or revocation of all or any part of any certificate or license issued pursuant to this section so as to reduce, restrict, suspend, or terminate the holder's authority thereunder to provide any service which the holder has not inaugurated within a period fixed by the Board pursuant to subsection (f) of this section, or which the holder has ceased to operate and has not operated for a period designated by the Board pursuant to that subsection.

"(2) In determining whether to employ such expedited procedures in a particular case involving issuance or amendment of a certificate for interstate or overseas air transportation, the Board shall give consideration to the magnitude of the potential impact of its decision in the case on the interstate and overseas air transportation system. The rules adopted by the Board pursuant to this subsection shall, to the extent the Board finds it practicable, set forth the standards it intends to apply in determining whether to employ such expedited procedures, and in deciding cases in which such procedures are employed. Such rules may provide, among other things, that applications by applicants of demonstrated fitness for certificates to engage in interstate or overseas air transportation in specified types of situation, as defined in said rules, consistent with a phased and progressive transition to a more competitive air transportation system, shall be automatically granted without a further showing of need. The Board may by rule or order provide that in particular cases or classes of cases, any authority thus automatically granted shall remain in effect for not more than one year, but may thereafter be extended or made permanent upon a showing that the holder has promptly inaugurated and has continued to operate the service authorized. Such rules shall also, to the extent the Board finds it practicable, define and limit the types of factual evidence the Board will deem relevant and material in various classes of cases, and prescribe how such relevant and material facts shall be made of record.

(3) In the case of an application for a license to engage in all-cargo air transportation filed within 120 days after the date of enactment of this Act, and showing that, from January 1, 1976, until the effective date of this section, the applicant, or its predecessor in interest, was a scheduled all-cargo air carrier operating pursuant to an exemption issued by the Board (including Part 298 of the Board's economic regulations (14 C.F.R. 298)), and continuously operating as such (except as to interruptions of service over which the applicant or its predecessor in interest had no control), the Board, upon proof of such fact only, shall issue a license authorizing such applicant to engage in all-cargo air transportation pursuant to section 401(d)(4) of this Act.

(4) In all other cases, and in any case where it finds that the public interest so requires, the Board shall set the matter down for an oral evidentiary hearing, and shall dispose thereof as speedily as possible, with due regard for the rights and privileges of all interested persons, pursuant to its rules of procedure.

"(5) The Board shall by rule establish procedural deadlines for Board actions pursuant to this section. In any case in which the Board is unable to act within the applicable procedural deadline established by such rule, it shall issue a notice to the parties to the case setting forth the reasons for such inability and establishing a new procedural deadline for such action."

SEC. 7. TARIFFS.

(a) Section 403(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1373) is amended to read as follows:

"FILING OF TARIFFS REQUIRED

"(a)(1) Every air carrier and every foreign air carrier shall file with the Board, print, and keep open to public inspection tariffs showing all rates, fares, and charges for air transportation (except for charter trips in interstate and overseas air transportation, and for the transportation of mail) between points served by it, and between points served by it and points served by any other air carrier or foreign air carrier when through service and through rates shall have been established, and all such tariffs shall show to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with such air transportation.

"(2) Every air carrier shall file with the Board, print, and keep open for public inspection, tariffs showing, to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with charter trips in

interstate and overseas air transportation of persons or property.

"(3) Every air carrier shall file with the Board, and serve upon such persons as the Board may require by regulation or otherwise, tariffs stating all rates for the transportation of mail between all points served by it, between points between which it has contracted to carry mail pursuant to section 5402(a) of title 39, United States Code, and between points served by it and points served by any other air carrier when through mail service and through mail rates shall have been established. All such tariffs shall show, to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with such transportation of mail. Nothing shall be contained in such tariffs which is inconsistent with any rules and regulations issued by the Postmaster General under section 405(a) of this Act. Initial tariffs filed pursuant to this subsection by air carriers which, on the date this subsection becomes effective, are compensated for the transportation of mail at rates established by the Board pursuant to section 406 of this Act, shall set forth the rates for air transportation of mail, and the classifications, rules, regulations, practices, and services in connection with such transportation, that are in effect for such transportation on the date this subsection becomes effective. The Board may permit such initial tariffs to become effective on less than the notice required by section 403(c). If, at the time this subsection becomes effective, such rates, classifications, rules, regulations, practices, or services are under investigation by the Board, such tariffs and any subsequent tariffs, filed before the Board shall determine the final lawful rates, classifications, rules, regulations, practices, and services under investigation, shall be temporary and subject to retroactive adjustment in accordance with section 1002(d)(3)(A) of this Act: *Provided*, That, after the final lawful rates or classifications, rules, regulations, or practices applicable to such initial or subsequent tariffs specifying temporary rates shall have been determined, no tariffs filed thereafter pursuant to this subsection shall set forth temporary rates or classifications, rules, regulations, practices, or services in connection with such transportation.

"(4) Tariffs shall be filed, posted, and published in such form and manner, and shall contain such information, as the Board shall by regulation prescribe, and the Board is empowered to reject any tariff so filed which is not consistent with this section and its regulations. Any tariff so rejected shall be void. The rates, fares, and charges shown in any tariff shall be stated in terms of lawful money of the United States, but such tariffs (other than mail tariffs under paragraph (3) of this subsection) may also state rates, fares, and charges in terms of currencies other than lawful money of the United States, and may, in the case of foreign air transportation, contain such information as may be required under the laws of any country in or to which an air carrier or foreign air carrier is authorized to operate."

(b) Section 403(b) of such Act is amended by amending the first sentence in paragraph (1)—

(1) by inserting the words "or the transportation of mail by aircraft" after the words "air transportation"; and

(2) by striking out the semicolon after the words "foreign air carrier", where they appear for the first time, and inserting in lieu thereof the following: "except as provided in section 1002(d)(3)(A) of this Act;".

(c) Section 403(c) of such Act is amended by striking out the word "thirty" in the first sentence and inserting in lieu thereof the figure "45".

(d) Section 403(d) of such Act is amended to read as follows:

"FILING OF DIVISION OF RATES AND CHANGES REQUIRED

"(d) Every air carrier or foreign air carrier shall keep currently on file with the Board, if the Board so requires, the established divisions of all joint rates, fares, and charges for foreign air transportation in which such air carrier or foreign air carrier participates. Every air carrier shall keep currently on file with the Board, if the Board so requires, the established divisions of all joint rates, fares, and charges for interstate or overseas transportation of persons and for the transportation of mail by aircraft in which such air carrier participates.".

SEC. 8. SERVICE, RATES, AND DIVISIONS.

(a) Section 404 of the Federal Aviation Act of 1958 (49 U.S.C. 1374) is amended by amending the heading to read as follows: "RATES FOR CARRIAGE OF PERSONS, PROPERTY, AND MAIL".

(b) Section 404(a)(1) of such Act is amended to read as follows:

"(1)(A) It shall be the duty of every certificated air carrier to provide—

"(i) interstate and overseas air transportation of persons and property, and the transportation of mail by aircraft, as authorized by its certificate, upon reasonable request therefor;

"(ii) reasonable through service in connection with other air carriers; and

"(iii) adequate service, equipment, and facilities in connection with such transportation of persons and mail;

"(B) It shall be the duty of every licensed air carrier to provide interstate and overseas air transportation of persons and property, and the transportation of mail by aircraft, as authorized by its license, upon reasonable request therefor;

"(C) It shall be the duty of every air carrier—

"(i) to provide safe service, equipment, and facilities in connection with air transportation;

"(ii) to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges for interstate and overseas transportation of persons (except charter trips) and for the transportation of mail;

"(iii) to establish just and reasonable classifications, rules, regulations, and practices relating to interstate and overseas air transportation of persons and property and to the transportation of mail; and

"(iv) in case of joint rates, fares, and charges for such transportation of persons and mail, to establish just, reasonable, and equitable divisions thereof as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers.".

(c) Section 404(h) of such Act is amended to read as follows:

"DISCRIMINATION

"(b) No air carrier or foreign air carrier shall make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, locality, or description of traffic in air transportation of persons or property in any respect whatsoever or subject any particular person, port, locality, or description of traffic in air transportation of persons or property to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.".

SEC. 9. MAIL SERVICE.

(a) Section 405(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1375) is amended to read as follows:

"MAIL SCHEDULES

"(b) Each certificated air carrier shall, from time to time, file with the Board and the Postmaster General a statement showing the points between which such air carrier is authorized to engage in air transportation, and all schedules, and all changes therein, of aircraft regularly operated by the carrier between such points, setting forth in respect of each such schedule the points served thereby and the time of arrival and departure at each such point. No change shall be made in any such schedules used for the carriage of mail except upon ten days' notice to the Postmaster General."

(b) Sections 405 (c) and (d) of such Act are deleted, sections 405 (e) and (f) are redesignated as sections 405 (c) and (d), respectively, and the following new subsection (e) is inserted after subsection (d) (as redesignated by this subsection):

"PAYMENTS TO FOREIGN AIR CARRIERS

"(e)(1) In any case where air transportation is performed between the United States and any foreign country, both by aircraft owned or operated by one or more air carriers holding a certificate or license under this title, and by aircraft owned or operated by one or more foreign air carriers, the Postmaster General shall not pay to, or for the account of, any such foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country, which, in his opinion, will result (over such reasonable period as the Postmaster General may determine, taking account of exchange fluctuations and other factors) in such foreign air carrier receiving a higher rate of compensation for transporting such mail than such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and the United States, or receiving a higher rate of compensation for transporting such mail than a rate determined by the Postmaster General to be comparable to the rate such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and intermediate country on the route of such air carrier between such foreign country and the United States.

"(2) The Secretary of State and the Postmaster General shall take all necessary and appropriate actions to assure that the rates paid for the transportation of mail pursuant to the Universal Postal Union Convention shall not be higher than fair and reasonable rates for such services. The Secretary of State and the Postmaster General shall oppose any present or proposed Universal Postal Union rates which are higher than such fair and reasonable rates."

(c) Sections 405 (g) through (i) of such Act are redesignated as sections 405 (f) through (h), respectively, and section 405(j) is deleted.

SEC. 10. COMPENSATION.

Section 406 of the Federal Aviation Act of 1958 (49 U.S.C. 1376) is amended to read as follows:

"COMPENSATION FOR LIMITED AIR TRANSPORTATION

"SEC. 406. (a) AUTHORITY TO DETERMINE COMPENSATION.—The Board is empowered and directed, upon its own initiative or upon application, to fix and determine from time to time the fair and reasonable rates of compensation for the provision of limited air transportation consistent with the policy set forth in section 102(a)(4) of this Act. Such compensation shall be made from appropriations made to the Board for that purpose.

"(b) DETERMINATION OF RATES.—In fixing and determining fair and reasonable rates of compensation under this section, the Board, considering the conditions peculiar to transportation by aircraft and to the particular air carrier or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Board shall take into consideration, among other factors—

"(1) such standards respecting the character and quality of services to be rendered by air carriers as may be prescribed by or pursuant to law; and

"(2) the need of each such air carrier for compensation sufficient to insure the performance of such service, and, together with all other revenues from such service, to enable such air carrier under honest, economical, and efficient management, to provide adequately and efficiently the authorized limited air transportation.

"(c) CERTIFICATE REQUIRED.—No air carrier shall be eligible for compensation pursuant to this section unless such air carrier holds a certificate to engage in limited air transportation pursuant to section 401(d)(5) of this Act.

"(d) COMPENSATED SERVICE GUARANTEE.—The Board shall determine, based upon objective criteria to be established by the Board by regulation, those needed services which shall be eligible for compensation pursuant to this section in order to fulfill the objectives of section 102(a)(4) of this Act, such regulation to be promulgated no more than one hundred and eighty days after the effective date of this section: *Provided, however*, That in no case shall any city-pair market receiving subsidized services pursuant to existing law upon the effective date of this section, be denied eligibility for compensated service pursuant to this section for a period of 10 years after the effective date of this section irrespective of any regulations adopted by the Board for the purpose of implementing this section.

"(e) INTERIM COMPENSATION.—Any air carrier receiving compensation for the provision of service to any city-pair markets that are considered eligible for compensated service pursuant to existing law on the effective date of this section, shall continue to receive such compensation until such time that the Board promulgates new regulations required hereby and issues appropriate operating authority pursuant to section 401(d)(5) of this Act.".

SEC. 11. CONSOLIDATION, MERGER, AND ACQUISITION.

(a) Section 408(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1378) is amended—

(1) by inserting the words "pursuant to subsection (b)(1) or exempted pursuant to subsection (b)(2)" after the word "Board" in the phrase preceding paragraph (1) of the subsection; and

(2) by striking out the proviso at the end of paragraph (5) of the subsection reading as follows: "*Provided*, That the Board may by order exempt any such acquisition of a noncertificated air carrier from this requirement to the extent and for such periods as may be in the public interest."

(b) Section 408(b) of such Act is amended—

(1) by inserting "(1)" immediately after "(b)" and amending the first sentence in paragraph (1) to read as follows: "Any person seeking approval of a consolidation, merger, purchase, lease, operating contract, or acquisition of control specified in subsection (a) of this section, where one or more of the parties to such transaction is a certificated air carrier, a foreign air carrier, or a person controlling, controlled by, or under common control with, a certificated air carrier or foreign air carrier, shall present an application to the Board, and thereupon the Board shall notify the persons involved in the consolidation, merger, purchase, lease, operating contract, or acquisition of control, and other persons known to have a substantial interest in the proceeding, of the time and place of a public hearing.";

(2) by striking out in paragraph (1) the following: "*Provided further*, That if the applicant is a carrier other than an air carrier, or a person controlled by a carrier other than an air carrier or affiliated therewith within the meaning of section 5(8) of the Interstate Commerce Act, as amended, such applicant shall for the purposes of this section be considered an air carrier and the Board shall not enter such an order of approval unless it finds that the transaction proposed will promote the public interest by enabling such carrier other than an air carrier to use aircraft to public advantage in its operation and will not restrain competition:"; and

(3) by adding at the end of subsection (b) the following new paragraph:

"(2) Any person seeking exemption of a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section, where none of the parties to such transaction is a certificated air carrier, a foreign air carrier, or a person controlling, controlled by, or under common control with, a certificated air carrier or foreign air carrier, shall file with the Board, pursuant to prescribed regulations, on 45 days' notice, a statement of its intent to enter into any of the prohibited acts set forth in subsection (a) of this section. The Board may, within 45 days of the date of such filing, require such person to file an application for approval pursuant to the requirements of subsection (b)(1) of this section if it finds either that the proposed transaction may monopolize, tend to monopolize, or otherwise restrain competition in air transportation in any section of the country or that the person may not be fit, willing, and able to properly perform the transportation authorized by the license and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board thereunder. If the Board fails to act within 45 days of such filing, the proposed transactions shall be exempt from subsection (a) of this section. In the case of fraud, misrepresentation, or omission of relevant and material facts, the Board may withdraw any exemption resulting from this subsection under procedures to be prescribed by the Board. Any exemption resulting from this subsection shall not be considered an order of the Board for the purposes of section 414 of this Act."

(c) Section 408(c) of such Act is amended by inserting the phrase ", any person controlling such air carrier," after the words "air carrier" where they first appear in the subsection.

SEC. 12. ANTITRUST IMMUNITY.

Section 414 of the Federal Aviation Act of 1958 (49 U.S.C. 1384) is amended to read as follows:

"ANTITRUST IMMUNITY

"SEC. 414. Any person affected by any order made under sections 408, 409, or 412 of this Act shall be, and is hereby, relieved from the operations of the 'antitrust laws,' as designated in section 1 of the Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, and of all other restraints or prohibitions made by, or imposed under, authority of the antitrust laws, only insofar as may be necessary to enable such person to proceed with the transaction specifically approved by the Board in such order or those transactions necessarily contemplated thereby: *Provided*, That, in such order, the Board may specifically define and limit the scope of the relief granted.".

SEC. 13. CLASSIFICATIONS AND EXEMPTIONS.

(a) Section 416 of the Federal Aviation Act of 1958 (49 U.S.C. 1386) is amended by amending the heading to read as follows: "CLASSIFICATIONS AND EXEMPTIONS".

(b) Section 416(a) of such Act is amended by amending the heading of the subsection to read as follows: "Classifications", and by inserting the words "or foreign air carriers" after the words "air carriers" where they appear in the subsection.

(c) Section 416(b) of such Act is amended by amending paragraph (1) of the subsection to read as follows:

"(1) The Board, from time to time and to the extent necessary, may (except as provided in paragraph (2) of this subsection) exempt from the requirements of this title or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder, any person or class of persons, if it finds that such exemption is or will be justified by special and unusual circumstances, or by reason of the limited extent of the activity sought to be exempted, and that the exemption is not inconsistent with the public interest.".

SEC. 14. EXECUTIVE REVIEW.

Section 801(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1481) is amended by inserting the words "or license" after the word "certificate" in the first sentence of the subsection, and inserting a comma after the word "certificates" in the second sentence and adding the word "licenses.".

SEC. 15. PROCEDURES.

Section 1001 of the Federal Aviation Act of 1958 (49 U.S.C. 1491) is amended by inserting "(a)" immediately after "1001" and by adding at the ending thereof the following new subsection:

"SHOW-CAUSE PROCEDURES

"(b) Notwithstanding any provision of this Act requiring the Board to act after notice and hearings, the Board may by order, entered after notice and such opportunity for interested persons to file appropriate written evidence and argument as it shall by rule provide, dispense with an oral evidentiary hearing and proceed to final decision, with or without an opportunity for further written or oral argument before the Board, in any case where it finds on the basis of the record before it, and of facts of which it is entitled to take notice under its rules of procedure, that there are no significant issues of material fact in the case which require an oral evidentiary hearing for their determination. In such a case the Board shall, on its own initiative or at the request of an interested party, first issue an order to show cause, describing specifically the action it proposes to take setting forth its tentative findings of fact and conclusions of law in support of such action, and requiring any interested party opposed to such action to show cause why such action should not be taken, and, if such party requests an oral evidentiary hearing, why such a hearing is essential to determine significant issues of material fact in the case and why any relevant and material facts the party proposes to adduce cannot be adequately put into the record by written submissions. Upon receipt of answers to its order to show cause, the Board shall proceed to final decision in the case, set the case down for an oral evidentiary hearing, or take such other action as may be appropriate under its rules.".

SEC. 16. RATES AND PRACTICES.

(a) Section 1002(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1482) is amended to read as follows:

"POWER TO PRESCRIBE RATES AND PRACTICES OF AIR CARRIERS"

"(d)(1) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier for scheduled interstate or overseas air transportation of persons.

"(A) is or will be unreasonably high, the Board shall determine and prescribe the law-

ful maximum fare or charge thereafter to be demanded, charged, collected, or received;

"(B) is or will be predatory or tend to restrain competition among air carriers, the Board shall determine and prescribe the lawful minimum fare or charge thereafter to be demanded, charged, collected, or received; or

"(C) does or will preclude the provision of adequate service by the carrier in the market to which the fare or charge is applicable, the Board shall determine and prescribe the lawful minimum fare or charge thereafter to be demanded, charged, collected, or received.

"(2) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any classification, rule, regulation, or practice affecting any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier for scheduled interstate or overseas air transportation of persons or property or services in connection therewith, is or will be unjust or unreasonable, the Board shall determine and prescribe the lawful classification, rule, regulation, or practice thereafter to be made effective.

"(3)(A) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate or charge demanded, charged, collected, or received for the transportation of mail by aircraft or services connected therewith, or any classification, rule, regulation, or practice affecting such rate or charge, or the value of service thereunder, is or will be unjust or unreasonable, the Board shall determine and prescribe the lawful rate or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received, or the lawful classification, rule, regulation, or practice thereafter to be made effective: *Provided*, That if an initial or subsequent tariff filed pursuant to section 403(a)(3) of this Act sets forth a temporary mail rate or charge, or classification, rule, regulation, or practice that is under investigation at the time of filing, the lawful rate or charge, or classification, rule, regulation, or practice determined by the Board after hearing shall be effective from such date as the Board shall determine to be proper.

"(B) The Board shall act expeditiously on any proposed changes in rates for the transportation of mail by aircraft in foreign air transportation. In exercising its powers and performing its duties with respect to such rates, the Board shall take into consideration rates paid for transportation of mail pursuant to the Universal Postal Union Convention as ratified by the United States Government, shall take into account all of the ratemaking elements employed by the Universal Postal Union in fixing its airmail rates, and shall further consider the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union rates for the carriage of United States mail and the national origin mail of their own countries.

"(4) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier for scheduled interstate or overseas air transportation of persons or property, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may alter the same to the extent necessary to correct such discrimination, preference, or prejudice and make an order that the air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory, preferential, or prejudicial rate, fare, or charge or enforcing any such discriminatory, preferential, or prejudical classification, rule, regulation, or practice.".

(b) Section 1002(e) of such Act is amended to read as follows:

"RULE OF RATEMAKING FOR INTERSTATE AND OVERSEAS AIR TRANSPORTATION AND TRANSPORTATION OF MAIL

"(e) In exercising its power and performing its duties with respect to the determination of fares and charges for the carriage of persons pursuant to subsection (d)(1) of this section and of rates for the carriage of mail pursuant to subsection (d)(3) of this section, the Board shall take into consideration, among other factors—

"(1) the criteria set forth in section 102(a) of this Act;

"(2) the effect of such rates, fares, and charges on the movement of traffic;

"(3) the need in the public interest of adequate and efficient transportation of persons and mail by air carriers at the lowest cost consistent with the furnishing of such services; and

"(4) with respect to maximum rates and fares, the need of each air carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.".

(c) Section 1002(g) of such Act is amended—

(1) by amending the heading to read as follows: "Suspension of Rates in Interstate and Overseas Air Transportation and Rates for the Transportation of Mail";

(2) by inserting the words "or the transportation of mail by aircraft" after the words "overseas air transportation" in the first sentence in the subsection, and inserting the words "at least 15 days before the time when such tariff would otherwise go into effect," before the words "a statement in writing" in such sentence; and

(3) by striking out the word "any" before the words "air carrier" in the proviso in the last sentence and inserting in lieu thereof the word "an".

(d) Section 1002(h) of such Act is amended to read as follows:

"(h) Whenever, after notice and hearing, upon complaint or upon its own initiative, the Board is of the opinion that the divisions of joint fares or charges for interstate or overseas air transportation of persons, or joint rates, fares or charges for foreign air tranportation, or joint rates for the transportation of mail by air carriers, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the air carriers or foreign air carriers parties theeto, the Board shall prescribe the just, reasonable, and equitable divisions thereof to be received by the several air carriers. The Board may require the adjustment of divisions between such air carriers from the date of filing the complaint or entry of order of investigation, or such other subsequent thereto as the Board finds to be just, reasonable, and equitable.".

(e) Section 102(i) of such Act is amended to read as follows:

"(i) The Board shall, whenever required by the public convenience and necessity, after notice and hearing, upon complaint or upon its own initiative, establish through service and joint rates, fares, or charges (or the maxima or minima, or the maxima and minima thereof) for interstate or overseas air transportation of persons or the transportation of mail, or the classifications, rules, regulations, or practices affecting such rates, fares, or charges, or the value of service thereunder, and the terms and conditions under which such through service shall be operated.".

SEC. 17. EMERGENCY ORDERS.

Section 1005(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1485) is amended—

(1) by amending the first proviso in subsection (a) to read as follows: "*Provided*, That whenever the Secretary of Transportation is of the opinion that an emergency requiring immediate action exists in respect of safety in air commerce or the Board is of the opinion that an emergency requiring immediate action exists in respect of economic regulation in air transportation, the Secretary of Transportation or the Board as the case may be is authorized, either upon complaint or his or the Board's own initiative without complaint, at once, if he or the Board so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, to make such just and reasonable orders, rules, or regulations, as may be essential in the interest of safety in air commerce or economic regulation in air transportation to meet such emergency:"; and

(2) by inserting the words "or the Board" after the words "the Secretary of Transportation" in the second proviso of subsection (a).

SEC. 18. MAIL RATES.

Section 3401 of title 39, United States Code, is amended by striking out the words "at rates fixed and determined by the Civil Aeronautics Board in accordance with section 1378 of title 49" where they appear in subsections (b) and (c) of the section, and inserting in lieu thereof the words "at rates set forth in lawful tariffs on file with the Civil Aeronautics Board".

SEC. 19. MAIL SERVICE.

Section 5402(a) of title 39, United States Code, is amended to read as follows:

"(a) If the Postal Service determines that services by certificated air carriers or combination of air carriers between any pair or pairs of points is not adequate for its purposes, it may contract for the transportation of mail by air at rates set forth in lawful tariffs on file with the Civil Aeronautics Board (1) with any certificated air carrier between any of the points between which the carrier is authorized by the Civil Aeronautics Board to engage in the transportation of mail, or (2) with any other certificated or licensed air carrier if no certificated air carrier so authorized is willing to so contract.".

SEC. 20. EXISTING DETERMINATIONS.

(a) All orders, determinations, rules, regulations, permits, contracts, certificates, rates, and privileges which have been issued, made, or granted, or allowed to become effective, by the President, the Civil Aeronautics Board, or the Postmaster General, or any court of competent jurisdiction, under any provision of law repealed or amended by this Act, or in the exercise of duties, powers, or functions, which are vested in the Board, and which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Board, or by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect proceedings pending at the time this Act takes effect before the Board. Any such proceedings shall be continued before the Board, orders issued therein, appeals therefrom taken, and payments made pursuant to such orders, as if this Act had not been enacted. Any orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Board, or by operation of law.

(c) The provisions of this Act shall not affect suits commenced prior to the date on which this Act takes effect, and all such suits

shall be continued, proceedings therein had, appeals therein taken, and judgments rendered, in the same manner and with the same effect as if this Act had not been enacted.

SEC. 21. EFFECTIVE DATE.

This Act shall take effect 6 months after the date of its enactment.

SUMMARY ANALYSIS OF THE COMMERCIAL AVIATION REGULATORY REFORM ACT OF 1977

CONGRESSIONAL DECLARATION OF POLICY

This section sets forth the Congressional findings that the current regulatory regime is inappropriate for today's modern commercial aviation system, and that the Board should closely monitor a transition to an air transportation system that relies to the maximum extent practicable on natural market forces to determine the variety, quality, and price of air transportation service available to the consumer.

DEFINITIONS

New definitions of "all-cargo air transportation," "certificated air carrier," "charter air transportation," "charter trip," "limited air carrier," "limited air transportation," and "scheduled air transportation" are added. The classifications of "supplemental air carrier," and "supplemental air transportation" are deleted, and the definition of "foreign air carrier" is modified.

SAFETY

The Federal Aviation Act has always required the maintenance of the highest degree of safety in domestic and foreign air transportation. Since it is anticipated that the existing high safety standards will continue, there are no changes in the respective responsibilities of the CAB and the Federal Aviation Administration with respect to safety matters.

BOARD POLICY: INTERSTATE AND OVERSEAS AIR TRANSPORTATION

The Board is directed to consider as being in the public interest, the maintenance of a safe and efficient private enterprise air transportation system which relies on natural competitive forces to determine the quality and price of service. The continued access of rural or isolated areas to the Nation's air transportation centers, including subsidized service, is to be considered as being in the public interest.

BOARD POLICY: FOREIGN AIR TRANSPORTATION

The Board is directed to recognize in its regulation of foreign air transportation the inherent differences between the market realities that exist in domestic operations and those that prevail in competition on foreign routes. It is made clear that the regulation of foreign air transportation should not be governed by the same regulatory principles that are employed for the development of domestic aviation policy. A separate policy for foreign air transportation is necessitated in part by the fact that most foreign-flag carriers are owned or controlled by the respective foreign governments.

DOMESTIC ROUTE EXPANSION

Section 102 of the Act is revised to establish a new policy direction for interstate and overseas air transportation. Existing section 102 is oriented toward the development and protection of the air transport industry through public utility-type regulation over entry, exit, and pricing. The amendments explicitly recognize the Congressional mandate that the Board begin a phased and progressive transition to an air transportation system which encourages competition, including the entry of new carriers into the industry.

Section 401 is amended to authorize the Board to employ non-hearing procedures for the grant of new authority through the elimination of existing restrictions, the deletion of unused authority, but the CAB would, in all circumstances, be required to provide interested persons with an opportunity to submit written evidence and argument and could set any matter for evidentiary hearing where it concludes that the matter is likely to have a substantial impact on the interstate or overseas air transportation system or that a hearing is likely to assist in resolving issues of fact or policy.

Section 401 is also amended to delete the express requirement of a hearing. Such change is intended to permit the Board to adopt regulations providing for gradual expansion of carriers' existing domestic and overseas route systems, including the removal of certificate restrictions, and the gradual creation of new domestic or overseas route systems through expedited procedures which do not necessarily include full evidentiary hearings.

SUBSIDIZED SERVICE

A new section 406 has been added to authorize the CAB to compensate "limited air carriers" for the provision of subsidized small community service without regard to whether mail service is provided. Such compensation will be based upon objective service criteria to be developed by the Board, but will not disturb the subsidy eligible status of any community for 10 years. Carriers already receiving subsidy payments will continue to receive such compensation under current law until the effective date of implementing regulations and appropriate operating authority.

LIMITED AIR CARRIERS

Section 401 is amended to establish a new class of certificated air carrier, the "limited air carrier". Expedited certification will be granted qualified carriers, and such operations will be eligible for direct Federal subsidy pursuant to a new section 406. "Limited air carriers" will also be eligible for Federal guaranty of equipment loans.

FOREIGN AIR TRANSPORTATION

The requirement in existing law that carriers obtain appropriate certificates of public convenience and necessity to operate scheduled foreign air transportation is maintained. CAB decisions involving foreign air transportation would continue to be subject to the approval of the President pursuant to section 801 of the Act.

TERMINATION OR SUSPENSION OF SERVICE

Section 401 of the Act is amended to provide for exit from unprofitable points on 90 days notice filed with the Board and served upon each community directly affected. The CAB could suspend such termination for a period not to exceed 270 days in order to allow arrangements to be made for substitute service. Existing CAB authority to authorize temporary suspensions of service, by regulation or otherwise and without hearing, would be retained.

EXEMPTIONS

Section 416 of the Act is amended to permit the Board to exempt any person (not merely air carriers) and to eliminate the existing "undue burden" standard, replacing it with a requirement that the Board find that grant of the exemption is justified by special and unusual circumstances or by reason of the limited extent of the activity sought to be exempted, and that the exemption is not inconsistent with the public interest. Former section 101(19) is amended to authorize the Board to relieve foreign indirect air carriers from the requirements of Title IV similar to its authority to relieve U.S. indirect carriers under section 101(3).

Section 408(c) is amended so as to add to the statutory exemption for acquisitions of ground facilities by air carriers an exemption for the acquisition of a ground facility by an air carrier controlled by a holding company.

ENTRY INTO CHARTER AIR TRANSPORTATION AND DOMESTIC ALL-CARGO AIR TRANSPORTATION

Section 401 is amended to bring about open entry into and free exit from charter air transportation and domestic all-cargo transportation. Such entry is accomplished through the creation of a new type of operating authority, the "license," which requires only a test of fitness, willingness, and ability. Such test would include, among other things, financial integrity and compliance disposition along the lines historically employed by the Board. All license holders would be subject to the continuing fitness requirement currently applicable to "supplemental" air carriers under existing section 401(n) of the Act. Existing non-certificated all-cargo carriers would be granted "grandfather" rights upon a showing of fitness, willingness, and ability and a reasonable period of operations as a scheduled all-cargo carrier.

Carriers would still be required to obtain appropriate certificates of public convenience and necessity to operate in scheduled foreign air transportation.

The Board would automatically grant licenses to existing "supplemental" air carriers holding certificates of public convenience and necessity. The amendments provide a two year phased transition period for domestic all-cargo air transportation during which new entry into markets currently receiving scheduled all-cargo service could be subjected to restrictions by the Board. Open entry would occur within two years.

Amendments to section 401 also eliminate any question of a legal barrier that would preclude "supplemental" carriers from simultaneously holding certificates authorizing scheduled air transportation. The Board would have the statutory authority to grant certificates to charter air carriers to engage in scheduled air transportation and scheduled carriers would be eligible to receive licenses to perform charter air transportation. Section 101 would be amended so as to allow charter carriers to transport mail.

Section 417, which currently permits the Board to authorize charter air carriers to perform individually-ticketed or way-billed service under highly specialized circumstances, would be deleted. Once the basic statutory prohibition against the performance of scheduled service by charter carriers is ended, the grant or denial of authority to perform services now covered by section 417 would be determined under the more general exemption standards of section 416 of the Act.

CHARTER RULES

Section 101 is amended to add a definition of "charter trips" which provides that a charter consists simply of plane-load air transportation. Such definition removes all legal doubt that a "charter trip" encompasses a variety of full planeload operations, including the various types of charters already promulgated or proposed by the Board. The specific retention of one form of charter—the inclusive tour charter—would insure that planeload air transportation which is part of a package involving ground accommodations would continue to be considered charter air transportation. Charter trips would include split charters, as under current Board regulations.

Such amendment also permits the Board to develop a charter program which will increase the availability of low-cost air transportation. Although such amendment removes language in Section 101(36) which generally prohibits the sale of tickets in charter air transportation directly to the public by supplemental air carriers, the Board would retain the legal authority under the proposed legislation to continue the present restriction against the sale by direct air carriers of individual tickets for charter

flights directly to members of the general public, or indirectly by controlling, being controlled by, or under common control with a person who does make such sales.

While the scheduled carriers' right to perform charter trips will continue to be limited by regulation under section 401(e)(6), the Board will grant on-route charter authority to air carriers. Moreover, nothing prohibits any scheduled carrier from applying for license authority pursuant to 401(d)(3) in addition to its certificate authority.

SMALL AIRCRAFT EXEMPTION

Section 401(d) is amended to permanently establish an exemption from the requirement to hold a certificate of public convenience and necessity and various other provisions of Title IV of the Act for any air carrier engaging in interstate or overseas air transportation with aircraft having a maximum passenger capacity of less then 56 seats or a maximum payload capacity of less than 16,000 pounds if the carrier conforms to the financial responsibility requirements which the Board may impose. This section would not in any way affect the power of the Board to specify the size of equipment eligible for Federal subsidy pursuant to new Section 406.

PROCEDURAL EXPEDITION

Section 401 is amended to require the Board to establish procedural standards, including deadlines for the processing of applications filed pursuant to section 401 of the Act. The Board is required to issue a public notice to all parties setting forth reasons for any inability to render a decision by the dates prescribed, and directs that the Board issue a new procedural deadline. The establishment of standards for particular classes of cases is to be accomplished through rulemaking procedures in which all interested persons may participate. Such standards may be changed, as necessary, through the establishment of new standards by subsequent rulemaking procedures.

PASSENGER FARES

Sections 403, 404, and 1002 are amended to distinguish between the duties of certificated (combination) and licensed (charter) air carriers in interstate and overseas passenger air transportation, and the Board's powers with respect thereto. As to scheduled passenger service, the Board would retain jurisdiction to establish maximum fares, to establish minimum fares in cases of predatory practices or inadequate service, to establish reasonable rules, and to correct discrimination. With respect to passenger charters, only the reasonableness of carrier rules would be regulated.

The rule of ratemaking in section 1002(e) is revised to reflect the new declaration of policy in section 102(a) and to eliminate carrier-protective criteria.

ELIMINATION OF MANDATORY CONTROL JURISDICTION AND RELATED ANTITRUST MATTERS

Section 408 of the Act is amended to eliminate mandatory Board jurisdiction over mergers, consolidations, acquisitions, and the like, in those sectors of the industry whose entry would be essentially unregulated (except for fitness or financial responsibility) under section 401 of the Act. A new subsection is added which would require the numerous control relationships involving "unregulated" persons to be filed with the Board in advance of consummation and would give the Board a brief period of time to review such transactions and determine whether an assertion of Board jurisdiction is required. In the absence of an assertion of jurisdiction the parties would be free to consummate the transaction but no antitrust immunity pursuant to section 414 would attach. An assertion of Board jurisdiction would require a preliminary finding that the transaction may have serious anticompetitive effects. The Board's existing section 408 jurisdiction and responsibilities would continue with respect to certificated carriers. Similarly, no changes are made with respect to section 409 (interlocking arrangements) or 412 (agreements).

Section 414 of the Act, which confers antitrust immunity with respect to matters approved by the Board under sections 408, 409, or 412 of the Act, would be modified to more precisely describe the scope and type of immunity conferred. This change is designed to permit the Board to limit the applicability of antitrust immunity to those actions actually approved by the Board. It is contemplated that the Board would approve anticompetitive arrangements only in those circumstances where such anticompetitive considerations are outweighed by a serious transportation need or important public benefits. The change would also allow the Board to limit immunity to those aspects of the arrangement "affecting air transportation."

FREIGHT RATES

Section 403, 404, and 1002 are amended to eliminate carrier duties and Board regulation with respect to the reasonableness of scheduled and charter freight rates in interstate and overseas air transportation. The Board would retain jurisdiction only over discriminatory rates in scheduled transportation and reasonable rules for scheduled and charter freight transportation.

MAIL TRANSPORTATION

Sections 401, 403, 404, 405, 406, and 1002 of the Federal Aviation Act and section 3401 (b) and (c) and 5402(a) of the Postal Reorganization Act are amended to recognize the authority of charter air carriers to carry mail, to provide for the establishment of mail rates by carrier tariff-filing rather than the current method of Board-established mail rates, and to enhance the mail contracting authority of the Postal Service. Anachronistic provisions now in sections 405 and 406 of the Federal Aviation Act are deleted, and other subsections in section 406 relating to transportation of mail are moved to either section 405 or 1002. Provisions relating to Federal subsidy are superseded by new section 406.

Section 405(a) is amended to eliminate the Postmaster General's authority to require additional carrier schedules, and section 5402(a) of the Postal Reorganization Act is amended to permit the Postal Service to contract for additional mail service with certificated (combination) or licensed (charter and all-cargo) carriers when it finds service in any market to be inadequate. Section 5402(c) currently authorizes contracting with air taxis where service is inadequate, and section 5402(b) authorizes contracting where *no* service is certificated. Neither of these subsections requires the filing of tariffs, and rates are not subject to Board regulation.

Section 405(j) is deleted, since it has been superseded by section 5007 of the Postal Reorganization Act.

SUSPENSION OF TARIFFS

Under revised section 403, tariffs are required to be filed for scheduled passenger fares and rules, scheduled freight rates and rules, passenger and freight charter rules in interstate and overseas air transportation, and scheduled and charter mail rates and rules. No change is made in passenger and freight tariffs for foreign air transportation. The suspension provisions of section 1002(g) are applicable to such tariffs insofar as the Board retains jurisdiction (e.g., freight rates on scheduled interstate service could be suspended only in cases of discrimination).

Section 403(c) is amended to require that tariffs be filed on 45-days' notice (rather than the current 30 days) in order to increase public notice of tariff cnanges. Section 1002(g) is amended to require that the Board issue suspension orders 15 days before the effective date of any proposed tariff.

MISCELLANEOUS AMENDMENTS

A new section 105 is added to make clear that no state or political subdivision may interfere with the purposes of the bill by regulating interstate air transportation. This provision represents simply a codification of existing law and leaves unimpaired the state's authority over intrastate matters.

Section 801(a) is modified to require that "licenses" in overseas and foreign air transportation be subject to Presidential approval.

Section 1001(b) provides an express statutory foundation to the Board's employment of show-cause procedures.

Section 1005 is amended to permit the Board to undertake limited emergency action without a hearing. It is believed desirable to make this modification so as to give the Board an addititonal tool for taking action to protect consumers from unacceptable adjustments of service.

EFFECTIVE DATE

The Act shall take effect six months after the date of its enactment.

FEDERAL AVIATION ACT OF 1958 (AS AMENDED)

PROPOSED CHANGES IN EXISTING LAW

(Commercial Aviation Regulatory Reform Act of 1977)

(Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law to which no change is proposed is shown in roman.)

TITLE I—GENERAL PROVISIONS

DEFINITIONS

SEC. 101. [*72 Stat. 737, as amended by 75 Stat. 467, 76 Stat. 143, 82 Stat. 867, 84 Stat. 921, 88 Stats. 409, 419, 49 U.S.C. 1301*] As used in this Act, unless the context otherwise requires—

(1) "Administrator" means the Administrator of the Federal Aviation Administration.

(2) "Aeronautics" means the science and art of flight.

(3) "Air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation: *Provided*, That the Board may by order relieve air carriers who are not directly engaged in the operation of aircraft in air transportation from the provisions of this Act to the extent and for such periods as may be in the public interest.

(4) "Air commerce" means interstate, overseas, or foreign air commerce or the transportation of mail by aircraft or any operation or navigation of aircraft within the limits of any Federal airway or any operation or navigation of aircraft which directly affects, or which may endanger safety in, interstate, overseas, or foreign air commerce.

(5) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air.

(6) "Aircraft engine" means an engine used, or intended to be used, for propulsion of aircraft and includes all parts, appurtenances, and accessories thereof other than propellers.

(7) "Airman" means any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while underway; and (except to the extent the Administrator may otherwise provide with respect to individuals employed outside the United States) any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher or air-traffic control-tower operator.

(8) "Air navigation facility" means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft.

(9) "Airport" means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.

(10) "Air transportation" means interstate, overseas, or foreign air transportation or the transportation of mail by aircraft.

(11) "All-cargo air transportation" means air transportation of property, or of property and mail, only.

[(11)](12) "Appliances" means instruments, equipment, apparatus, parts, appurtenances, or accessories, of whatever description which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or mechanisms installed in or attached to aircraft during flight), and which are not a part or parts of aircraft, aircraft engines, or propellers.

[(12)](13) "Board" means the Civil Aeronautics Board.

(14) "Certified air carrier" means, for the purposes of Title IV of this Act, an air carrier operating pursuant to authority granted by a certificate of public convenience and necessity as set forth in section 401(d) (1) and (2) of this Act.

(15) "Charter air transportation" means charter trips, including inclusive tour charter trips, in air transportation, rendered pursuant to a license issued pursuant to Section 401(d)(3) of this Act.

(16) "Charter trip" means air transportation performed under regulations prescribed by the Board in which the entire capacity of an aircraft has been engaged for the movement of persons, property or mail by one or more persons each of whom has engaged a substantial portion of such capacity.

[(13)](17) *"Citizens of the United States"* means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

[(14)](18) "Civil aircraft" means any aircraft other than a public aircraft.

[(15)](19) "Civil aircraft of the United States' means any aircraft registered as provided in this Act.

[(16)](20) "Conditional sale" means (a) any contract for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part under which possession is delivered to the buyer and the property is to vest in the buyer at a subsequent time, upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (b) any contract for the bailment or leasing of an aircraft, aircraft engine, propeller, appliance, or spare part, by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value thereof, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner thereof upon full compliance with the terms of the contract. The buyer, bailee, or lessee shall be deemed to be the person by whom any such contract is made or given.

[(17)](21) "Conveyance" means a bill of sale, contract of conditional sale, mortgage, assignment of mortgage, or other instrument affecting title to, or interest in, property.

[18](22) "Federal airway" means a portion of the navigable airspace of the United States designated by the Administrator as a Federal airway.

[19](23) "Foreign air carrier" means any person, not a citizen of the United States, who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in foreign air transportation: *Provided, That the Board may by order relieve foreign air carriers who are not directly engaged in the operation of aircraft in foreign air transportation from the provisions of this Act to the extent and for such periods that such relief may be in the public interest.*

[(20)](24) "Interstate air commerce", "overseas air commerce", and "foreign air commerce", respectively, mean the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft, or the operation or navigation of aircraft in the conduct of furtherance of a business or vocation, in commerce between, respectively—

(a) a place in any State of the United States or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

[(21)] (25) "Interstate air transportation" "overseas air transportation", and "foreign air transportation", respectively, mean the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce between, respectively—

(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

[(22)] (26) "Intrastate air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage solely in intrastate air transportation.

[(23)] (27) "Intrastate air transportation" means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.

[(24)] (28) "Landing area" means any locality, either of land or water, including airports and intermediate landing fields, which is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

(29) "Limited air carrier" means an air carrier holding a certificate authorizing it to engage in limited air transportation.

(30) "Limited air transportation" means air transportation rendered pursuant to a certificate of authority issued pursuant to section 401(d)(5) of this Act to provide scheduled service with aircraft of limited capacity.

[(25)] (31) "Mail" means United States mail and foreign-transit mail.

[(26)] (32) "Navigable airspace" means air space above the minimum altitudes of flight prescribed by regulations issued under this Act, and shall include airspace needed to insure safety in take-off and landing of aircraft.

[(27)] (33) "Navigation of aircraft" or "navigate aircraft" includes the piloting of aircraft.

[(28)] (34) "Operation of aircraft" or "operate aircraft" means the use of aircraft, for the purpose of air navigation and includes the navigation of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of this Act.

[(29)] (35) "Person" means any individual, firm, copartnership, corporation, company, association, joint-stock association or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.

[(30)] (36) "Propeller" includes all parts, appurtenances, and accessories thereof.

[(31)] (37) "Possessions of the United States" means (a) the Canal Zone, but nothing herein shall impair or affect the jurisdiction which has heretofore been, or may hereafter be, granted to the President in respect of air navigation in the Canal Zone; and (b) all other possessions of the United States. Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this Act to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

[(32] (38) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof including the government of any State, Territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

(39) *"Scheduled air transportation" means flights in regular route service which are not charter trips.*

[(33)] (40) "Spare parts" means parts, appurtenances, and accessories of aircraft (other than aircraft engines and propellers), of aircraft engines (other than propellers), or propellers and of appliances, maintained for installation or use in an aircraft, aircraft engine, propeller, or appliance, but which at the time are not installed therein or attached thereto.

[(34)] (41) The term "special aircraft jurisdiction of the United States" includes—

(a) civil aircraft of the United States;

(b) aircraft of the national defense forces of the United States;

(c) any other aircraft within the United States;

(d) any other aircraft outside the United States—

(1) that has its next scheduled destination or last point of departure in the United

States, if that aircraft next actually lands in the United States; or

(ii) having "an offense", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed abroad, if that aircraft lands in the United States with the alleged offender still abroad; and

(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property abroad.

[(35) "Supplemental air carrier" means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in supplemental air transportation.

[(36) "Supplemental air transportation" means charter trips, including inclusive tour charter trips, in air transportation, other than the transportation of mail by aircraft, rendered pursuant to a certificate of public convenience and necessity issued pursuant to section 401(d)(3) of this Act to supplement the scheduled service authorized by certificates of public convenience and necessity issued pursuant to sections 401(d) (1) and (2) of this Act. Nothing in this paragraph shall permit a supplemental air carrier to sell or offer for sale an inclusive tour in air transportation by selling or offering for sale individual tickets directly to members of the general public, or to do so indirectly by controlling, being controlled by, or under common control with, a person authorized by the Board to make such sales.]

[(37)](42) "Ticket agent" means any person, not an air carrier or a foreign air carrier and not a bona fide employee of an air carrier or foreign air carrier, who, as principal or agent, sells or offers for sale any air transportation, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts or arranges for, such transportation.

[(38)](43) "United States" means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof.

DECLARATION OF POLICY: THE BOARD

Interstate and overseas air transportation

[SEC. 102 [72 Stat. 740, 49 U.S.C. 1302] In the exercise and performance of its powers and duties under this Act, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

[(a) The encouragement and development of an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

[(b) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages to assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between, and coordinate transportation by air carriers;

[(c) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices;

[(d) Competition to the extent necessary to assure the sound development of an air-transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

[(e) The promotion of safety in air commerce; and

[(f) The promotion, encouragement, and development of civil aeronautics.]

Sec. 102. (a) In the exercise and performance of its powers and duties under this Act with respect to interstate and overseas air transportation, the Board shall deem the following, among other things, to be in the public interest:

(1) The maintenance of an efficient private enterprise air transportation system responsive to the present and future needs of the foreign and domestic commerce, the Postal Service, and the national defense of the United States.

(2) The progressive transition to an air transportation system which relies on natural competitive market forces to determine the variety, frequency, quality, and price of air services without unjust discrimination, undue preferences or advantages, or unfair, deceptive or predatory practices.

(3) The reliance on entry or potential energy of new carriers into all phases of air transportation to provide the stimulus for the provision of efficient and innovative air transportation with meaningful price competition and optimal carrier efficiency.

(4) The continued access of rural or isolated areas to the Nation's air transportation network with direct Federal assistance where appropriate.

(5) The maintenance of the highest degree of safety in air commerce.

Foreign air transportation

(b) In the exercise and performance of its powers and duties under this Act, the Board shall deem the following, among other things, to be in the public interest, and in accordance with the public convenience and necessity:

(1) The development of an economically viable system of foreign air transportation under the United States flag which is conducted by privately owned and operated air carriers and which is properly adapted to the present and future needs of the foreign and domestic commerce, the Postal Service, and the national defense of the United States.

(2) The economic regulation of foreign air transportation in such manner as to recognize the existence of the following market realities which evidence the inherent differences between the competitive dynamics of domestic and foreign air transportation:

(i) In foreign air transportation, United States-flag air carriers must compete for the most part with foreign-flag air carriers who are owned or financially supported by their respective governments and whose competitive motivations are not necessarily those prevailing in a free enterprise market system.

(ii) In foreign air transportation, United States-flag air carriers must operate pursuant to foreign laws and practices which in many instances restrict their freedom to manage their respective enterprises so as to achieve maximum efficiency.

(iii) In foreign air transportation, the extent of competition on particular routes is not subject to the unilateral control of the United States but is determined through bilateral agreements negotiated with many foreign governments and by international comity and reciprocity.

(iv) In foreign air transportation, the level of capacity offered by respective carriers on foreign routes cannot be effectively adjusted to demand by reason of high levels of competition, unilateral actions by foreign governments, and the basic characteristics of international air transport operations.

(v) In foreign air transportation, rates and charges cannot be determined either by the respective air carriers or the United States government, but must be approved by all governments whose flag carriers compete on a particular route.

(3) The promotion of adequate, economical and efficient service by air carriers at reasonable charges, without unjust discrimination, undue preferences or advantages or unfair or destructive competitive practices.

(4) Competition among air carriers, taken with that provided by foreign air carriers, which is sufficient to assure the development of a foreign air transport system of the kind and quality specified in subsections (1) and (3) of this subsection.

(5) The promotion of the highest degree of safety in foreign air transportation.

* * * * *

Federal preemption

Sec. 105. No State or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States shall enact any law, regulation, or standard relating to rates, routes, or services in air transportation.

* * * * *

TITLE IV—AIR CARRIER ECONOMIC REGULATION

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND LICENSES

Certificate *or License* Required

SEC. 401. [72 Stat. 754. as amended by 76 Stat. 143, 82 Stat. 867, 49 U.S.C. 1371] (a) No air carrier shall engage in any air transportation unless there is in force *either* certificate *or a license* issued by the Board authorizing such air carrier to engage in such transportation.

Application for Certificate *or License*

(b) Application for a certificate *or license* shall be made in writing to the Board and shall be so verified, shall be in such form and contain such information, and shall be accompanied by such proof of service upon such interested persons, as the Board shall by regulation require.

Notice of Application

(c) Upon the filing of any such application, the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of a certificate *or license*. [Such application shall be set for a public hearing, and the Board shall dispose of such application as speedily as possible.]

Issuance of Certificates *and Licenses*

(d)(1) In the case of an application for authority to perform scheduled air transportation of persons, property, and mail, or foreign all-cargo air transportation, the [The] Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation is required by the public convenience and necessity; otherwise such application shall be denied.

(2) In the case of an application for [a certificate] *authority* to engage in temporary *scheduled* air transportation of *persons, property, and mail, or foreign all-cargo air transportation*, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods as may be required by the public convenience and necessity, if it finds that the applicant is fit,

willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

(3) In the case of an application for [a certificate] *authority* to engage in [supplemental] *charter* air transportation, the Board [may] *shall* issue a [certificate, to any applicant not holding a certificate under paragraph (1) or (2) of this subsection, authorizing the whole or any part thereof, and for such periods, as may be required by the public convenience and necessity] *license for such periods as may be required by the public interest* if, *and to the extent that,* it finds [that] the applicant [is] fit, willing, and able properly to perform [the] *such charter air* transportation [covered by the application] and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder. [Any certificate issued pursuant to this paragraph shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be limited to supplemental air transportation as defined in this Act.]

(4) Notwithstanding paragraphs (1) or (2) of this subsection, in the case of an application for authority to engage in all-cargo interstate or overseas air transportation, the Board shall issue a license for such periods as may be required by the public interest if, and to the extent that, it finds the applicant fit, willing, and able properly to perform such all-cargo air transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

(5)(A) In the case of an application for a certificate to engage in limited air transportation, the Board may issue a certificate to any applicant who, on January 1, 1976, was operating pursuant to Part 298 of the Board's economic regulations (14 CFR 298), or pursuant to a certificate authorizing essentially short-haul, local or feeder air transportation, or to any other applicant, for such periods as may be required in the public interest, if it finds that the applicant is fit, willing and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and the proposed service qualifies for compensation under section 406 of this Act. In determining whether an applicant is fit, willing, and able, the Board may reach this determination on the basis of information furnished the Board in writing and without a hearing. The Board shall not be required to find that public convenience and necessity require the issuance of a limited air carrier certificate, but shall adopt such rules and regulations and requirements as it may deem in the public interest to implement and enforce the policies set forth in this Act. Any certificate issued pursuant to this section shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be in accordance with the purpose of limited air transportation. Nothing in this Act shall be construed so as to prohibit concurrent operations as a limited air carrier and an air carrier operating pursuant to a certificate of public convenience and necessity, a license, or Part 298 of the Board's economic regulations (14 CFR 298).

(B) No certificate to engage in limited air transportation shall be issued or remain in effect unless the applicant for such certificate or the limited air carrier, as the case may be, complies with regulations or orders issued by the Board governing the filing, approval, and amounts of policies of liability insurance covering bodily injuries to or the death of any person, or for loss or damage to property of others, resulting from the operation or maintenance of aircraft under such certificate.

(C) If any service authorized by a certificate to engage in limited air transportation is not performed to the minimum extent prescribed by the Board, it may by order direct that such certificate shall thereupon cease to be effective to the extent of such service. The requirement that each applicant for a certificate to engage in limited air transportation must be found to be fit, willing and able properly to conform to the provisions of this Act and the rules, regulations and requirements of the Board under this Act, shall be a continuing requirement applicable to each limited air carrier with respect to the transportation authorized by, and currently furnished or proposed to be furnished under, such carrier's certificate. The Board shall by order modify, suspend, or revoke such certificate, in whole or in part, for failure of such carrier (i) to comply with the continuing requirement that such carrier be so fit, willing and able, or (ii) to file such reports as the Board may deem necessary to determine whether such carrier is so fit, willing and able. The Board shall prescribe such regulations and issue such orders as may be necessary to carry out the provisions of this subsection.

(6) Notwithstanding any other provision of this subsection, any air carrier that engages in air transportation solely with aircraft having a maximum passenger capacity of less than fifty-six passengers or a maximum payload capacity of less than 16,000 pounds, shall be exempt from the requirements of subsection (a) of this section, and any other provisions of this Act as may be prescribed by the Board under regulations or otherwise, if it conforms to such liability insurance requirements and such other reasonable regulations as the Board shall from time to time adopt in the public interest. The Board may by regulation increase the passenger or property capacities specified in this paragraph when the public interest so requires. With respect to air transportation between points both of which are within the State of Alaska, or one of which is in Alaska and the other in Canada, the Board may decrease the passenger or property capacities specified in this paragraph or require carriers engaged in Alaskan intrastate air transportation to obtain operating authority from the State of Alaska, as the public interest may require.

Terms and Conditions of Certificates *and Licenses*

(e)(1) Each certificate issued under this section shall specify the terminal points and intermediate points, if any, between which the air carrier is authorized to engage in air transportation and the service to be rendered; and there shall be attached to the exercise of the privileges granted by the certificate, or amendment thereto, such reasonable terms, conditions, and limitations as the public interest may require.

(2) A certificate issued under this section to engage in foreign air transportation shall, insofar as the operation is to take place without the United States, designate the terminal and intermediate points only insofar as the Board shall deem practicable, and otherwise shall designate only the general route or routes to be followed. Any air carrier holding a certificate *or license* for foreign air transportation shall be authorized to handle and transport mail of countries other than the United States.

[(3) A certificate issued under this section to engage in supplemental air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable and otherwise shall designate only the geographical area or areas within or between which service may be rendered.]

[(4)](3) No term, condition, or limitation of a certificate *or license* shall restrict the right of an air carrier to add to or change schedules, equipment, accommodations, and facilities for performing the authorized transportation and service as the development of the business and the demands of the public shall require. [except that the Board may impose such terms, conditions, or limitations in a certificate for supplemental air transportation when required by subsection (d)(3) of this section.]

[(5)](4) No air carrier shall be deemed to have violated any term, condition, or limitation of its certificate by landing or taking off during an emergency at a point not named in its certificate or by operating in an emergency, under regulations which may be prescribed by the Board, between terminal and intermediate points other than those specified in its certificate.

[(6)](5) Any *certificated* air carrier [, other than a supplemental air carrier,] may perform charter trips (including inclusive tour charter trips) or any other special service, [without regard to the points named in its certificate, or the type of service provided therein,] under regulations prescribed by the Board.

(6) A license to engage in foreign and overseas charter air transportation shall contain any terms, conditions, and limitations which are required by any international treaty, convention, or agreement or which are directed to be included by the President upon his review under section 801(a) of this Act.

(7) A license to engage in all-cargo interstate or overseas air transportation issued pursuant to subsection (d)(4), (m)(2), or (n)(3) of this section may, during the 2 years beginning with the effective date of this paragraph, be subject to such reasonable terms, conditions, and limitations on the geographic, operational, and other scope of the air transportation to be performed as the public interest shall require. Such terms, conditions, and limitations shall cease to be effective at the end of such 2-year period.

(8) Every license issued pursuant to subsections (d)(3) and (4) of this section shall be subject to such reasonable regulations as the Board shall from time to time prescribe in the public interest. Any such license may also be made subject to any reasonable terms, conditions, and limitations which the Board determines to be required by its findings concerning fitness, willingness, and ability to perform the air transportation authorized thereby.

(9) Within 90 days after the effective date of this subsection, the Board shall institute a proceeding toward the phased removal of all closed door restrictions included in any certificate of public convenience and necessity. Upon application of any air carrier seeking removal of any other terms, conditions, or limitations included in its certificate to engage in interstate or overseas air transportation, or upon its own initiative, the Board shall eliminate any such term, condition, or limitation which is found to be obsolete or inconsistent with the policy set forth in section 102 of this Act.

Effective Date and Duration of Certificates *and Licenses*

(f) Each certificate *and license* shall be effective from the date specified therein, and shall continue in effect until suspended or revoked as hereinafter provided, or until the Board shall certify that operation thereunder has ceased, or, if issued for a limited period of time, [under subsection (d)(2) of this section,] shall continue in effect until the expiration thereof, unless, prior to the date of expiration, such certificate *or license* shall be suspended or revoked as provided herein, or the Board shall certify that operations thereunder have ceased: *Provided,* That if any service authorized by a certificate is not inaugurated within such period, not less than ninety days, after the date of the authorization as shall be fixed by the Board, or if, for a period of ninety days or such other period as may be designated by the Board any

such service is not operated, the Board may by order [, entered after notice and hearing,] direct that such certificate shall thereupon cease to be effective to the extent of such service.

Authority to Modify, Suspend, or Revoke

(g) The Board upon petition or complaint or upon its own initiative [, after notice and hearings,] may alter, amend, modify, or suspend any such certificate *or license* in whole or in part, if the public convenience and necessity *or public interest* so require, or may revoke *or suspend for such period as the Board may deem appropriate* any such certificate *or license* in whole or in part, for intentional failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate: *Provided*, That no such certificate *or license* shall be revoked unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with this proviso), rule, regulation, term, condition, or limitation found by the Board to have been violated. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of the certificate *or license*.

Transfer of Certificates *and Licenses*

(h) No certificate *or license* may be transferred unless such transfer is approved by the Board as being consistent with the public interest.

Certain Rights Not Conferred by Certificates *or Licenses*

(i) No certificate *or license* shall confer any proprietary, property, or exclusive right in the use of any airspace, Federal airway, landing area, or air-navigation facility.

[Application for Abandonment]

Termination or suspension of service

(j) [No air carrier shall abandon any route, or part thereof, for which a certificate has been issued by the Board, unless, upon the application of such air carrier, after notice and hearing, the Board shall find such abandonment to be in the public interest. Any interested person may file with the Board a protest or memorandum of opposition to or in support of any such abandonment. The Board may, by regulations or otherwise, authorize such temporary suspension of service as may be in the public interest.]

(j) (1) No air carrier shall terminate any service required by its certificate of public convenience and necessity or certificate to engage in limited air transportation except upon a minimum of 90 days' notice filed with the Board and served upon each community directly affected by such termination: Provided, That the Board is empowered upon complaint or upon its own initiative to suspend such termination for any period of time not to exceed an additional 270 days in order to allow arrangements to be made for substitute service.

(2) The Board may, by regulation or otherwise, authorize such temporary suspension of service as may be in the public interest.

Compliance With Labor Legislation

(k) (1) Every air carrier shall maintain rates of compensation, maximum hours, and other working conditions and relations of all of its pilots and copilots who are engaged in interstate air transportation within the continental United States (not including Alaska) so as to conform with decision numbered 83 made by the National Labor Board on May 10, 1934, notwithstanding any limitation therein as to the period of its effectiveness.

(2) Every air carrier shall maintain rates of compensation for all of its pilots and copilots who are engaged in overseas or foreign air transportation or air transportation wholly within a Territory or possession of the United States, the minimum of which shall be not less, upon an annual basis, than the compensation required to be paid under said decision 83 for comparable service to pilots and copilots engaged in interstate air transportation within the continental United States (not including Alaska).

(3) Nothing herein contained shall be construed as restricting the right of any such pilots or copilots, or other employees, of any such air carrier to obtain by collective bargaining higher rates of compensation or more favorable working conditions or relations.

(4) It shall be a condition upon the holding of a certificate by any air carrier that such carrier shall comply with title II of the Railway Labor Act, as amended.

(5) The term "pilot" as used in this subsection shall mean an employee who is responsible for the manipulation of or who manipulates the flight controls of an aircraft while under way including takeoff and landing of such aircraft, and the term "copilot" as used in this subsection shall mean an employee any part of whose duty is to assist or relieve the pilot in such manipulation, and who is properly qualified to serve as, and holds a currently effective airman certificate authorizing him to serve as, such pilot or copilot.

[Requirement as to Carriage of Mail]

[(1) Whenever so authorized by its certificate, any air carrier shall provide necessary and adequate facilities and service for the transportation of mail, and shall transport mail whenever required by the Postmaster General. Such air carrier shall be entitled to receive reasonable compensation therefor as hereinafter provided.]

[Application for New Mail Service]

[(m) Whenever, from time to time, the Postmaster General shall find that the needs of the Postal Service require the transportation of mail by aircraft between any points within the United States or between the United States and foreign countries, in addition to the transportation of mail authorized in certificates then currently effective, the Postmaster General shall certify such finding to the Board and file therewith a statement showing such additional service and the facilities necessary in connection therewith, and a copy of such certification and statement shall be posted for at least twenty days in the office of the secretary of the Board. The Board shall, after notice and hearing, and if found by it to be required by the public convenience and necessity, make provision for such additional service, and the facilities necessary in connection therewith, by issuing a new certificate or certificates or by amending an existing certificate or certificates in accordance with the provisions of this section.]

Additional Powers and Duties of Board With Respect to [Supplemental Air Carriers] *License Holders*

[(n)] *(l)* (1) No [certificate] *license* to engage in [supplemental] air transportation, *pursuant to subsection d (3) or (4) of this section* [and no special operating authorization described in section 417 of this title,] shall be issued or remain in effect unless the applicant for such *license* [certificate] or the [supplemental] air carrier, as the case may be, complies with regulations or orders issued by the Board governing the filing and approval of policies of insurance, in the amount prescribed by the Board, conditioned to pay, within the amount of such insurance, amounts for which such applicant or such [supplemental] air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the negligent operation or maintenance of aircraft under such *license* [certificate or such special operating authorization.]

(2) In order to protect travelers and shippers by aircraft operated by [supplemental air carriers] *air carriers licensed under subsection d (3) or (4) of this section the Board* may require any [supplemental] *such* air carrier to file a performance bond or equivalent security arrangement, in such amount and upon such terms as the Board shall prescribe, to be conditioned upon such [supplemental] air carrier's making appropriate compensation to such travelers and shippers, as prescribed by the Board, for failure on the part of such carrier to perform air transportation services in accordance with agreements therefor.

[(3) If any service authorized by a certificate to engage in supplemental air transportation is not performed to the minimum extent prescribed by the Board, it may by order, entered after notice and hearing, direct that such certificate shall thereupon cease to be effective to the extent of such service.]

[(4)] *(3)* The requirement that each applicant for a [certificate] *license* to engage in [supplemental] *charter or all-cargo* air transportation must be found to be fit, willing, and able properly to perform the transportation covered by his application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board under this Act, shall be a continuing requirement applicable to each [supplemental] air carrier *licensed under subsection d (3) or (4) of this section* with respect to the transportation authorized by, and currently furnished or proposed to be furnished under, such carrier's [certificate] *license*. The Board shall by order [, entered after notice and hearing,] modify, suspend, or revoke such [certificate] *license*, in whole or in part, for failure of such carrier (A) to comply with the continuing requirement that such carrier be so fit, willing, and able, or (B) to file such reports as the Board may deem necessary to determine whether such carrier is so fit, willing, and able.

[(5)] *(4)* In any case in which the Board determines that the failure of [a supplemental air carrier] *an air carrier licensed under subsection d (3) or (4) of this section* to comply with the provisions of paragraph (1), [(3), or (4)] *(2) or (3)* of this subsection, or regulations or orders of the Board thereunder, requires, in the interest of the rights, welfare, or safety of the public, immediate suspension of such carrier's [certificate] *license*, the Board shall suspend such [certificate] *license*, in whole or in part, without notice or hearing, for not more than thirty days. The Board shall immediately enter upon a hearing to determine whether such [certificate] *license* should be modified, suspended, or revoked and, pending the completion of such hearing, the Board may further suspend such [certificate] *license* for additional periods aggregating not more than sixty days. If the Board determines that a carrier whose [certificate] *license* is suspended under this paragraph comes into compliance with the provisions of paragraphs (1), [(3), and (4)] *(2) or (3)* of this subsection, and regulations and orders of the Board thereunder, the Board may immediately terminate the suspension of such [certificate] *license* and any pending proceeding commenced under this paragraph, but nothing in this sentence shall preclude the Board from imposing on such carrier a civil penalty for any violation of such provisions, regulations, or orders.

[(6)] *(5)* The Board shall prescribe such regulations and issue such orders as may be necessary to carry out the provisions of this subsection.

Issuance of Licenses in Lieu of Certificates

(m) Notwithstanding any other provisions of this Act—

(1) Any certificate in effect on the effective date of this paragraph authorizing supplemental air transportation shall be deemed to be a license to engage in charter air transportation pursuant to subsection (d)(3) of this section, and shall continue to be subject to all of the provisions of such certificate: Provided, That such license shall include the authority to transport mail.

(2) Any certificate in effect on the effective date of this paragraph authorizing interstate or overseas all-cargo air transportation shall be deemed to be a license pursuant to subsection (d)(4) of this section to engage in interstate all-cargo air transportation between any point in any State of the United States, or the District of Columbia, and any point in any other State of the United States, or the District of Columbia, and in overseas all-cargo air transportation to the extent provided in said certificate. Such license shall continue to be subject to all the provisions of said certificate, other than restrictions as to points to be served in interstate air transportation.

Procedures for Processing Applications

(n)(1) The Board shall adopt rules establishing expedited procedures, which shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings, for disposing of—

(A) applications for a license to engage in air transportation pursuant to subsections (d)(3), (d)(4), or (d)(5) of this section;

(B) applications for a certificate to engage in interstate or overseas air transportation pursuant to subsection (d)(1) or (2) of this section;

(C) applications by the holder thereof for the alteration, amendment, modification, transfer or suspension of all or any part of any such certificate or license pursuant to subsections (g) or (h) of this section;

(D) petitions by interested persons and investigations by the Board, whether on its own initiative or in response to a complaint, for the alteration, amendment, modification, suspension, or revocation of all or any part of any certificate or license issued pursuant to this section so as to reduce, restrict, suspend, or terminate the holder's authority thereunder to provide any service which the holder has not inaugurated within a period fixed by the Board pursuant to subsection (f) of this section, or which the holder has ceased to operate and has not operated for a period designated by the Board pursuant to that subsection.

(2) In determining whether to employ such expedited procedures in a particular case involving issuance or amendment of a certificate for interstate or overseas air transportation, the Board shall give consideration to the magnitude of the potential impact of its decision in the case on the interstate and overseas air transportation system. The rules adopted by the Board pursuant to this subsection shall, to the extent the Board finds it practical, set forth the standards it intends to apply in determining whether to employ such expedited procedures, and in deciding cases in which such procedures are employed. Such rules may provide, among other things, that applications by applicants of demonstrated fitness, for certificates to engage in interstate or overseas air transportation in specified types of situations, as defined in said rules, consistent with a phased and progressive transition to a more competitive air transportation system, shall be automatically granted without a further showing of need. The Board may by rule or order provide that in particular cases or classes of cases, any authority thus automatically granted shall remain in effect for not more than one year, but may thereafter be extended or made permanent upon a showing that the holder has promptly inaugurated and has continued to operate the service authorized. Such rules shall also, to the extent the Board finds it practicable, define and limit the types of factual evidence the Board will deem relevant and material in various classes of cases, and prescribe how such relevant and material facts shall be made of record.

(3) In the case of an application for a license to engage in all-cargo air transportation filed within 120 days after the date of enactment of this Act, and showing that, from January 1, 1976, until the effecive date of this section, the applicant, or its predecessor in interest, was a scheduled all-cargo air carrier operating pursuant to an exemption issued by the Board (including Part 298 of the Board's economic regulations (14 C.F.R. 298)), and continuously operating as such (except as to interruptions of service over which the applicant or its predecssor in interest had no control), the Board, upon proof of such fact only, shall issue a license authorizing such applicant to engage in all-cargo air transportation pursuant to section 401(d)(4) of this Act.

(4) In all other cases, and in any case where it finds that the public interest so requires, the Board shall set the matter down for an oral evidentiary hearing, and shall dispose thereof as speedily as possible, with due regard for the rights and privileges of all interested persons, pursuant to its rules of procedure.

(5) The Board shall by rule establish procedural deadlines for Board actions pursuant to this section. In any case in which the Board is unable to act within the applicable procedural deadline established by such rule, it shall issue a notice to the parties to the case setting forth the reasons for such inability and etsablishing a new procedural deadline for such action.

PERMITS TO FOREIGN AIR CARRIERS

Permit Required

SEC. 402. [72 Stat. 757, 49 U.S.C. 1372] (a) No foreign air carrier shall engage in foreign air transportation unless there is in force a permit issued by the Board authorizing such carrier so to engage.

Issuance of Permit

(b) The Board is empowered to issue such a permit if it finds that such carrier is fit, willing, and able properly to perform such air transporttaion and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation will be in the public interest.

Application for Permit

(c) Application for a permit shall be made in writing to the Board, shall be so verified, shall be in such form and contain such information, and shall be accompanied by such proof of service upon such interested persons, as the Board shall by regulation require.

Notice of Application

(d) Upon the filing of an application for a permit the Board shall give due notice thereof to the public by posting a notice of such application in the office of the secretary of the Board and to such other persons as the Board may by regulation determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of a permit. Such application shall be set for public hearing and the Board shall dispose of such application as speedily as possible.

Terms and Conditions of Permit

(e) The Board may prescribe the duration of any permit and may attach to such permit such reasonable terms, conditions, or limitations as, in its judgment, the public interest may require.

Authority To Modify, Suspend, or Revoke

(f) Any permit issued under the provisions of this section may, after notice and hearing, be altered, modified, amended, suspended, canceled, or revoked by the Board whenever it finds such action to be in the public interest. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, modification, amendment, suspension, cancellation, or revocation of a permit.

Transfer of Permit

(g) No permit may be transferred unless such transfer is approved by the Board as being in the public interest.

TARIFFS OF AIR CARRIERS

Filing of Tariffs Required

SEC. 403. [72 Stat. 785, as amended 74 Stat. 445, 88 Stat. 2105, 49 U.S.C. 1373] (a)(1) Every air carrier and every foreign air carrier shall file with the Board, [and] print, and keep open to public inspection, tariffs showing all rates, fares, and charges for air transportation (*except for charter trips in interstate and overseas air transportation, and for the transportation of mail*) between points served by it, and between points served by it and points served by any other air carrier or foreign air carrier when through service and though rates shall have been established, and [showing] *all such tariffs shall show* to the extent required by regulations of the Board, all classification, rules, regulations, practices, and services in connection with such air transportation. [Tariffs shall be filed, posted, and published in such form and manner, and shall contain such information, as the Board shall by regulation prescribe; and the Board is empowered to reject any tariff so filed which is not consistent with this section and such regulations. Any tariff so rejected shall be void. The rates, fares, and charges shown in any tariff shall be stated in terms of lawful money of the United States, but such tariffs may also state rates, fares, and charges in terms of currencies other than lawful money of the United States, and may, in the case of foreign air transportation, contain such information as may be required under the laws of any country in or to which an air carrier or foreign air carrier is authorized to operate.]

(2) Every air carrier shall file with the Board, print, and keep open for public inspection, tariffs showing, to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with charter trips in interstate and overseas air transportation of persons or property.

(3) Every air carrier shall file with the Board, and serve upon such persons as the Board may require by regulation or otherwise, tariffs stating all rates for the transportation of mail between all points served by it, between points between which it has contracted to carry mail pursuant to section 5402(a) of title 39, United States Code, and between points served by it and points served by any other air carrier when through mail service and through mail rates shall have been established. All such tariffs shall show, to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with such transportation of mail. Nothing shall be contained in such tariffs which is inconsistent with any rules and regulations issued by the Postmaster General under section 504(a) of this Act. Initial tariffs filed pursuant to this subsection by air carriers which, on the date this subsection becomes effective, are compensated for the transportation of mail at rates established by the Board pursuant to section 406 of this Act shall set forth the rates for air transportation of mail, and the classifications, rules, regulations practices, and

services in connection with such transportation, that are in effect for such transportation on the date this subsection becomes effective. The Board may permit such initial tariffs to become effective on less than the notice required by section 403(c). If, at the time this subsection becomes effective, such rates, classifications, rules, regulations, practices, or services are under investigation by the Board, such tariffs and any subsequent tariffs, filed before the Board shall determine the final lawful rates, classifications, rules regulations, practices, and services under investigation, shall be temporary and subject to retroactive adjustment in accordance with section 1002(d)(3)(A) of this Act; Provided, That, after the final lawful rates or classifications, rules, regulations, or practices applicable to such initial or subsequent tariffs specifying temporary rates shall have been determined, no tariffs filed thereafter pursuant to this subsection shall set forth temporary rates or classifications, rules, regulations practices, or services in connection with such transportation.

(4) Tariffs shall be filed, posted, and published in such form and manner, and shall contain such information, as the Board shall by regulation prescribe, and the Board is empowered to reject any tariff so filed which is not consistent with this section and its regulations. Any tariff so rejected shall be void. The rates, fares, and charges shown in any tariff shall be stated in terms of lawful money of the United States, but such tariffs (other than mail tariffs under paragraph (3) of this subsection) may also state rates, fares and charges in terms of this subsection) may also state rates, fares, and charges in terms of currencies other than lawful money of the United States, and may, in the case of foreign air transportation, contain such information as may be required under the laws of any country in or to which an air carrier or foreign air carrier is authorized to operate.

[Observance of Tariffs; Rebating Prohibited]

(b)(1) No air carrier or foreign air carrier or any ticket agent shall charge or demand or collect or receive a greater or less or different compensation for air transportation, *or the transportation of mail by aircraft,* or for any service in connection therewith, than the rates, fares, and charges specified in then currently effective tariffs of such air carrier or foreign air carrier[;], *except as provided in section 1002(d)(3)(A) of this Act;* and no air carrier or foreign air carrier or ticket agent shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, refund or remit any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities, with respect to matters required by the Board to be specified in such tariffs except those specified therein. Nothing in this Act shall prohibit such air carriers or foreign air carriers, under such terms and conditions as the Board may prescribe, from issuing or interchanging tickets or passes for free or reduced-rate transportation to their directors, officers, and employees including retired directors, officers, and employees who are receiving retirement benefits from any air carrier or foreign air carrier), the parents and immediate families of such officers and employees, and the immediate families of such directors: widows, widowers, and minor children of employees who have died as a direct result of personal injury sustained while in the performance of duty in the service of such air carrier or foreign air carrier; witnesses and attorneys attending any legal investigation in which any such air carrier is interested; persons injured in aircraft accidents and physicians and nurses attending such persons; immediate families, including parents, of persons injured or killed in aircraft accidents where the object is to transport such persons in connection with such accident; and any person or property with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; and, in the case of overseas or foreign air transportation, to such other persons and under such other circumstances as the Board may by regulations prescribe. Any air carrier or foreign air carrier, under such terms and conditions as the Board may prescribe, may grant reduced-rate transportation to ministers of religion on a space-available basis.

(2) No shipper, consignor, consignee, forwarder, broker, or other person, or any director, officer, agent, or employee thereof, shall knowingly pay, directly or indirectly, by any device or means, any greater or less or different compensation for air transportation of property, or for any service in connection therewith, than the rates, fares, and charges specified in currently effective tariffs applicable to such air transportation; and no such person shall, in any manner or by any device, directly or indirectly, through any agent or broker, or otherwise, knowingly solicit, accept, or receive a refund or remittance of any portion of the rates, fares, or charges so specified, or knowingly solicit, accept, or receive any privilege, favor, or facility, with respect to matters required by the Board to be specified in such tariffs, except those specified therein.

Notice of Tariff Change

(c) No change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff of any air carrier or foreign air carrier, except after [thirty] *45* days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section. Such notice shall plainly state the change proposed to be made and the time such change will take effect. The Board may in the public interest, by regulation or otherwise, allow such change upon notice less than that herein specified, or modify the requirements of this section with respect to filing and posting of tariffs, either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

Filing of Divisions of Rates and Charges Required

(d) Every air carrier or foreign air carrier shall keep currently on file with the Board, if the Board so requires, the established divisions of all joint rates, fares, and charges for *foreign* air transportation in which such air carrier or foreign air carrier participates. *Every air carrier shall keep currently on file with the Board, if the Board so requires, the established divisions of all joint rates, fares, and charges for interstate or overseas transportation of persons, and for the transportation of mail by aircraft in which such air carrier participates.*

Rates for Carriage of Persons, [and] *property, and mail*

Carrier's Duty To Provide Service, Rates, and Divisions

SEC. 404. [*72 Stat. 760, as amended by 86 Stat. 95, 49 U.S.C. 1374*] (a)(1)(*A*) *it shall* be the duty of every *certificated* air carrier to provide—

(*i*) [and furnish] interstate and overseas air transportation of *persons and property, and the transportation of mail by aircraft,* as authorized by its certificate, upon reasonable request therefor; [and to provide]

(*ii*) reasonable through service in [such air transportation in] connection with other air carriers; *and* [to provide safe and]

(*iii*) adequate service, equipment, and facilities in connection with such transportation *of persons and mail*; [: to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to such air transportation; and, in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers.]

(B) It shall be the duty of every licensed air carrier to provide interstate and overseas air transportation of persons and property, and the transportation of mail by aircraft as authorized by its license, upon reasonable request therefor;

(C) It shall be the duty of every air carrier—

(i) to provide safe service, equipment, and facilities in connection with air transportation;

(ii) to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges for interstate and overseas transportation of persons (except charter trips) and for the transportation of mail;

(iii) to establish just and reasonable classifications, rules, regulations, and practices relating to interstate and overseas air transportation of persons and property and to the transportation of mail; and,

(iv) in case of joint rates, fares, and charges for such transportation of persons and mail, to establish just, reasonable, and equitable divisions thereof as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers.

(2) It shall be the duty of every air carrier and foreign air carrier to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to foreign air transportation; and, in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof as between air carriers or foreign air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers or foreign air carriers.

Discrimination

(b) No air carrier or foreign air carrier shall make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, locality, or description of traffic in air transportation of persons or property in any respect whatsoever or subject any particular person, port, locality, or description of traffic in air transportation of persons or property to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

TRANSPORTATION OF MAIL

Postal Rules and Regulations

SEC. 405. [*72 Stat. 760, 49 U.S.C. 1375*] (a) The Postmaster General is authorized to make such rules and regulations, not inconsistent with the provisions of this Act, or any order, rule, or regulation made by the Board thereunder, as may be necessary for the safe and expeditious carriage of mail by aircraft.

Mail Schedules

(b) Each *certificated* air carrier shall, from time to time, file with the Board and the Postmaster General a statement showing the points between which such air carrier is authorized to engage in air transportation, and all schedules, and all changes therein, of aircraft regularly operated by the carrier between such points, setting forth in respect of each such schedule the points served thereby and the time of arrival and departure at each such point. [The Postmaster General may designate any such schedule for the transportation of mail between the points between which the air carrier is authorized by its certificate to transport mail, and may, by order, require the air carrier to establish additional schedules for the transportation of mail between such points.] No change shall be made in any *such* schedules *used*

for the carriage of mail [designated or ordered to be established by the Postmaster General] except upon ten days' notice *to the Postmaster General.* [thereof filed as herein provided. The Postmaster General may by order disapprove any such change or alter, amend, or modify any such schedule or change. No order of the Postmaster General under this subsection shall become effective until ten days after its issuance. Any person who would be aggrieved by any such order of the Postmaster General under this subsection may, before the expiration of such ten-day period, apply to the Board, under such regulations as it may prescribe, for a review of such order. The Board may review, and, if the public convenience and necessity so require, amend, revise, suspend, or cancel such order; and, pending such review and the determination thereof, may postpone the effective date of such order. The Board shall give preference to proceedings under this subsection over all proceedings pending before it. No air carrier shall transport mail in accordance with any schedule other than a schedule designated or order to be established under this subsection for the transportation of mail.]

[Maximum Mail Load]

[(c) The Board may fix the maximum mail load for any schedule or for any aircraft or any type of aircraft; but, in the event that mail in excess of the maximum load is tendered by the Postmaster General for transportation by any air carrier in accordance with any schedule designated or ordered to be established by the Postmaster General under subsection (b) of this section for the transportation of mail, such air carrier shall, to the extent such air carrier is reasonably able as determined by the Board, furnish facilities sufficient to transport, and shall transport, such mail as nearly in accordance with such schedule as the Board shall determine to be possible.]

[Tender of Mail]

[(d) From and after the issuance of any certificate authorizing the transportation of mail by aircraft, the Postmaster General shall tender mail to the holder thereof, to the extent required by the Postal Service, for transportation between the points named in such certificate for the transportation of mail, and such mail shall be transported by the air carrier holding such certificate in accordance with such rules, regulations, and requirements as may be promulgated by the Postmaster General under this section.]

Foreign Postal Arrangement

[(e)](c)(1) Nothing in this Act shall be deemed to abrogate or affect any arrangement made by the United States with the postal administration of any foreign country with respect to transportation of mail by aircraft, or to impair the authority of the Postmaster General to enter into any such arrangement with the postal administration of any foreign country.

(2) The Postmaster General may, in any case where service may be necessary by a person not a citizen of the United States who may not be obligated to transport the mail for a foreign country, make arrangements, without advertising, with such person for transporting mail by aircraft to or within any foreign country.

Transportation of Foreign Mail

[(f)](d)(1) Any air carrier holding a certificate to engage in foreign air transportation and transporting mails of foreign countries shall transport such mails subject to control and regulation by the United States. The Postmaster General shall from time to time fix the rates of compensation that shall be charged the respective foreign countries for the transportation of their mails by such air carriers, and such rates shall be put into effect by the Postmaster General in accordance with the provisions of the postal convention regulating the postal relations between the United States and the respective foreign countries, or as provided hereinafter in this subsection. In any case where the Postmaster General deems such action to be in the public interest, he may approve rates provided in arrangements between any such air carrier and any foreign country covering the transportation of mails of such country, under which mails of such country have been carried on scheduled operations prior to January 1, 1938, or in extension or modifications of such arrangements, and may permit any such air carrier to enter into arrangements with any foreign country for the transportation of its mails at rates fixed by the Postmaster General in advance of the making of any such arrangement. The Postmaster General may authorize any such air carrier, under such limtiations as the Postmaster General may prescribe, to change the rates to be charged any foreign country for the transportation of its mails by such air carrier within that country or between that country and another foreign country.

(2) In any case where such air carrier has an arrangement with any foreign country for transporting its mails, made or approved in accordance with the provisions of paragraph (1) of this subsection, it shall collect its compensation from the foreign country under its arrangement, and in case of the absence of any arrangement between the air carrier and the foreign country consistent with this subsection, the collections made from the foreign country by the United States shall be for the account of such air carrier: *Provided,* That no such air carrier shall be entitled to receive compensation both from such foreign country and from the Untied States in respect of the transportation of the same mail or the same mails of foreign countries.

Payments to Foreign Air Carriers

(e)(1) In any case where air transportation is performed between the United States and any foreign country, both by aircraft owned or operated by one or more air carriers holding a certificate or license under this title, and by aircraft owned or operated by one or more foreign air carriers, the Postmaster General shall not pay to, or for the account of, any such foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country, which, in his opinion, will result (over such reasonable period as the Postmaster General may determine, taking account of exchange fluctuations and other factors) in such foreign air carrier receiving a higher rate of compensation for transporting such mail than such foreign counry pays to air carriers for transporting its mail by aircraft between such foreign country and the United States, or receiving a higher rate of compensation for transporting such mail than a rate determined by the Postmaster Generul to be comparable to the rate such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and intermediate country on the route of such air carrier between such foreign country and the United States.

(2) The Secretary of State and the Postmaster General shall take all necessary and appropriate actions to assure that the rates paid for the transportation of mail pursuant to the Universal Postal Union Convention shall not be higher than fair and reasonable rates for such services. The Secretary of State and the Postmaster General shall oppose any present or proposed Universal Postal Union rates which are higher than such fair and reasonable rates.

Evidence of Performance of Mail Services

[(g)](f) Air carriers transporting or handling United States mail shall submit, under signature of a duly authorized official, when an in such form as may be required by the Postmaster General, evidence of the performance of mail service; and air carriers transporting or handling mails of foreign countries shall submit, under signature of a duly authorized official, when and in such form as may be required by the Postmaster General, evidence of the amount of such mails transported or handled, and the compensation payable and received therefor.

Emergency Mail Service

[(h)](g) In the event of emergency caused by flood, fire, or other calamitous visitation, the Postmaster General is authorized to contract, without advertising, for the transportation by aircraft of any or all classes of mail to or from localities affected by such calamity, where available facilities of persons authorized to transport mail to or from such localities are inadequate to meet the requirements of the Postal Service during such emergency. Such contracts may be only for such periods as may be necessitated, for the maintenance of mail service, by the inadequacy of such other facilities. No operation pursuant to any such contract, for such period, shall be air transportation within the purview of this Act. Payment of compensation for service performed under such contracts shall be made, at rates provided in such contracts, from appropriations for the transportation of mail by the means normally used for transporting the mail transported under such contracts.

Experimental Airmal Service

[(j)](h) Nothing contained in this Act shall be construed to repeal in whole or in part the provisions of section 6 of the Act entitled "An Act to provide for experimental airmail service, to further develop safety, efficiency, economy, and for other purposes," approved April 15, 1938, as amended. The transportation of mail under contracts entered into under such section shall not, except for section 401(k) and 416(b), be deemed to be "air transportation" as used in this Act, and the rates of compensation for such transportation of mail shall not be fixed under this Act.

[Free Travel for Postal Employees]

[(i) Every air carrier carrying the mails shall carry on any plane that it operates and without charge therefor, the persons in charge of the mails when on duty, and such duly accredited agents and officers of the Post Office Department, and post office inspectors, while traveling on official business relating to the transportation of mail by aircraft, as the Board may by regulation prescribe, upon the exhibition of their credentials.]

[RATES FOR TRANSPORTATION OF MAIL]

[Authority to Fix Rates]

[SEC. 406. [*72 Stat. 763, as amended by 76 Stat. 145, 80 Stat. 942, 88 Stat. 2103, 49 U.S.C. 1376*] (a) The Board is empowered and directed upon its own initiative or upon petition of the Postmaster General or an air carrier, (1) to fix and determine from time to time, after notice and hearing, the fair and reasonable rates of compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith (including the transportation of mail by an air carrier by other means than aircraft whenever such transportation is incidental to the transportation of mail by aircraft or is made necessary by conditions of emergency arising from aircraft operation), by each holder of a certificate authorizing the transportation of mail by aircraft, and to make such rates effective from such date as it shall determine to be proper; (2) to prescribe the method or methods, by aircraft-mile, pound-mile, weight, space, or any combination thereof, or otherwise, for ascertaining such rates of compensation for each air carrier or class of air carriers; and (3) to publish the same.]

[Rate Making Elements]

[(b) In fixing and determining fair and reasonable rates of compensation under this section, the Board, considering the condi-

tions peculiar to transportation by aircraft and to the particular air carrier or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Board shall take into consideration, among other factors, (1) the condition that such air carriers may hold and operate under certificates authorizing the carriage of mail only by providing necessary and adequate facilities and service for the transportation of mail; (2) such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law; and (3) the need of each such air carrier (other than a supplemental air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and, together with all other revenue of the air carrier, to enable such air carrier under honest, economical, and efficient management, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense. In applying clause (3) of this subsection, the Board shall take into consideration any standards and criteria prescribed by the Secretary of Transportation, for determining the character and quality of transportation required for the commerce of the United States and the national defense.]

[Payment]

[(c) The Postmaster General shall make payments out of appropriations for the transportation of mail by aircraft of so much of the total compensation as is fixed and determined by the Board under this section without regard to clause (3) of subsection (b) of this section. The Board shall make payments of the remainder of the total compensation payable under this section out of appropriations made to the Board for that purpose.]

[Treatment of Proceeds of Disposition of Certain Property]

[(d) In determining the need of an air carrier for compensation for the transportation of mail, and such carrier's "other revenue" for the purpose of this section, the Board shall not take into account—

[(1) gains derived from the sale or other disposition of flight equipment if (A) the carrier notifies the Board in writing that it has invested or intends to reinvest the gains (less applicable expenses and taxes) derived from such sale or other disposition of flight equipment, and (B) submits evidence in the manner prescribed by the Board that an amount equal to such gains (less applicable expenses and taxes) has been expended for purchase of flight equipment or has been deposited in a special reequipment fund, or

[(2) losses sustained from the sale or other disposition of flight equipment.

Any amounts so deposited in a reequipment fund as above provided shall be used solely for investment in flight equipment either through payments on account of the purchase price or construction of flight equipment or in retirement of debt contracted for the purchase or construction of flight equipment, and unless so reinvested within such reasonable time as the Board may prescribe, the carrier shall not have the benefit of this paragraph. Amounts so deposited in the reequipment fund shall not be included as part of the carrier's used and useful investment for purposes of section 406 until expended as provided above: *Provided*, That the flight equipment in which said gain may be invested shall not include equipment delivered to the carrier prior to April 6, 1956: *Provided further*, That the provisions of this subsection shall be effective as to all capital gains or losses realized on and after April 6, 1956, with respect to the sale or other disposition of flight equipment whether or not thee Board shall have entered a final order taking account thereof in determining all other revenue of the air carrier.]

[Statement of Postmaster General and Carrier]

[(e) Any petition for the fixing of fair and reasonable rates of compensation under this section shall include a statement of the rate the petitioner believes to be fair and reasonable. The Postmaster General shall introduce as part of the record in all proceedings under this section a comprehensive statement of all service to be required of the air carrier and such other information in his possession as may be deemed by the Board to be material to the inquiry.]

[Weighing of Mail]

[(f) The Postmaster General may weigh the mail transported by aircraft and make such computations for statistical and administrative purposes as may be required in the interest of the mail service. The Postmaster General is authorized to employ such clerical and other assistance as may be required in connection with proceedings under this Act. If the Board shall determine that it is necessary or advisable, in order to carry out the provisions of this Act, to have additional and more frequent weighing of the mails, the Postmaster General, upon request of the Board shall provide therefor in like manner, but such weighing need not be for continuous periods of more than thirty days.]

[Availability of Appropriations]

[(g) Except as otherwise provided in section 405(h), the unexpended balances of all appropriations for the transportation of mail by aircraft pursuant to contracts entered into under the Air Mail Act of 1934, as amended, and the unexpended balances of all appropriations available for the transportation of mail by aircraft in Alaska, shall be available, in addition to the purposes stated in such appropriations, for the payment of compensation by the Postmaster General, as provided in this Act, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between points in the continental United States or between points in Hawaii or in Alaska or between points in the continental United States and points in Canada within one hundred and fifty miles of the international boundary line. Except as otherwise provided in section 405(h), the unexpended balances of all apropriations for the transportation of mail by aircraft pursuant to contracts entered into under the Act of March 8, 1928, as amended, shall be available, in addition to the purposes stated in such appropriations, for payment to be made by the Postmaster General, as provided by this Act, in respect of the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between points in the United States and points outside thereof, or between points in the continental United States and Territories or possessions of the United States, or between Territories or possessions of the United States.]

[Payments to Foreign Air Carriers]

[(h)(1) In any case where air transportation is performed between the United States and any foreign country, both by aircraft owned or operated by one or more air carriers holding a certificate under this title and by aircraft owned or operated by one or more foreign air carriers, the Postmaster General shall not pay to or for the account of any such foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country, which, in his opinion, will result (over such reasonable period as the Postmaster General may determine, taking account of exchange fluctuations and other factors) in such foreign air carrier receiving a higher rate of compensation for transporting such mail than such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and the United States, or receiving a higher rate of compensation for transporting such mail than a rate determined by the Postmaster General to be comparable to the rate such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and intermediate country on the route of such air carrier between such foreign country and the United States.

[(2) The Secretary of State and the Postmaster General each shall take all necessary and appropriate actions to assure that the rates paid for the transportation of mail pursuant to the Universal Postal Union Convention shall not be higher than fair and reasonable rates for such services. The Secretary of State and the Postmaster General shall oppose any present or proposed Universal Postal Union rates which are higher than such fair and reasonable rates.

[(3) The Civil Aeronautics Board shall act expeditiously on any proposed changes in rates for the transportation of mail by aircraft in foreign air transportation. In establishing such rates, the Board shall take into consideration rates paid for transportation of mail pursuant to the Universal Postal Union Convention as ratified by the United States Government, shall take into account all of the ratemaking elements employed by the Universal Postal Union in fixing its airmail rates, and shall further consider the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union rates for the carriage of United States mail and the national origin mail of their own countries.]

Compensation for limited air transportation

Authority to determine compensation

Sec. 406. (a) The Board is empowered and directed, upon its own initiative or upon application, to fix and determine from time to time the fair and reasonable rates of compensation for the provision of limited air transportation consistent with the policy set forth in section 102(a)(4) of this Act. Such compensation shall be made from appropriations made to the Board for that purpose.

Determination of rates

(b) In fixing and determining fair and reasonable rates of compensation under this section, the Board, considering the conditions peculiar to transportation by aircraft and to the particular air carrier or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Board shall take into consideration, among other factors, (1) such standards respecting the character and quality of services to be rendered by air carriers as may be prescribed by or pursuant to law, and (2) the need of each such air carrier for compensation sufficient to insure the performance of such service, and, together with all other revenues from such honest, economical, and efficient management, to provide adequately and efficiently the authorized limited air transportation.

Certificate required

(c) No air carrier shall be eligible for compensation pursuant to this section unless such air carrier holds a certificate to engage in limited air transportation pursuant to section 401(d)(5) of this Act.

Compensated service guarantee

(d) The Board shall determine, based upon objective criteria to be established by the Board by regulation, those needed services which shall be eligible for compensation pursuant to this section in order to fulfill the objections of section 102(a)(4) of this Act.

such regulation to be promulgated no more than 180 days after the effective date of this section: Provided, however, That in no case shall any city-pair market receiving subsidized services pursuant to existing law upon the effective date of this section be denied eligibility for compensated service pursuant to this section for a period of 10 years after the effective date of this section irrespective of any regulations adopted by the Board for the purpose of implementing this section.

Interim compensation

(e) Any air carrier receiving compensation for the provision of service to any city-pair markets that are considered eligible for compensated service pursuant to existing law on the effective date of this section, shall continue to receive such compensation until such time that the Board promulgates new regulations required hereby and issues appropriate operating authority pursuant to section 401(d)(5) of this Act.

ACCOUNTS, RECORDS, AND REPORTS

Filing of Reports

SEC. 407. [*72 Stat. 766, as amended by 83 Stat. 103, 88 Stat. 2105, 49 U.S.C. 1377*] (a) The Board is empowered to require annual, monthly, periodical, and special reports from any air carrier; to prescribe the manner and form in which such reports shall be made; and to require from any air carrier specific answers to all questions upon which the Board may deem information to be necessary. Such reports shall be under oath whenever the Board so requires. The Board may also require any air carrier to file with it a true copy of each or any contract, agreement, understanding, or arrangement, between such air carrier and any other carrier or person, in relation to any traffic affected by the provisions of this Act.

Disclosure of Stock Ownership

(b) Each air carrier shall submit annually, and at such other times as the Board shall require, a list showing the names of each of its stockholders or members holding more than 5 per centum of the entire capital stock or capital, as the case may be, of such air carrier, together with the name of any person for whose account, if other than the holder, such stock is held; and a report setting forth a description of the shares of stock, or other interest, held by such air carrier, or for its account, in persons other than itself. Any person owning, benefically or as trustee, more than 5 per centum of any class of the capital stock or capital, as the case may be, of an air carrier shall submit annually, and at such other times as the Board may require, a description of the shares of stock or other interest owned by such person, and the amount thereof.

Disclosure of Stock Ownership by Officer or Director

(c) Each officer and director of an air carrier shall annually and at such other times as the Board shall, require transmit to the Board a report describing the shares of stock or other interests held by him in any air carrier, any person engaged in any phase of aeronautics, or any common carrier, and in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, air carriers, other persons engaged in any phase of aeronautics, or common carriers.

Form of Accounts

(d) The Board shall prescribe the forms of any and all accounts, records, and memoranda to be kept by air carriers, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money, and the length of time such accounts, records, and memoranda shall be preserved; and it shall be unlawful for air carriers to keep any accounts, records, or memoranda other than those prescribed or approved by the Board: *Provided*, That any air carrier may keep additional accounts, records, or memoranda if they do not impair the integrity of the accounts, records, or memoranda prescribed or approved by the Board and do not constitute an undue financial burden on such air carrier.

Inspection of Accounts and Property

(e) The Board shall at all times have access to all lands, buildings, and equipment of any air carrier or foreign air carrier and to all accounts, records, and memorandums, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers, or ticket agents and it may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memorandums. The provisions of this section shall apply, to the extent found by the Board to be reasonably necessary for the administration of this Act, to persons having control over any air carrier, or affiliated with any air carrier within the meaning of section 5(8) of the Interstate Commerce Act, as amended.

CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL

Acts Prohibited

SEC. 408. [*72 Stat. 767, as amended by 74 Stat. 901, 83 Stat. 103, 49 U.S.C. 1378*] (a) It shall be unlawful unless approved by order of the Board *pursuant to subsection (b)(1) or exempted pursuant to subsection (b)(2)* as provided in this section—

(1) For two or more air carriers, or for any air carrier and any other common carrier or any person engaged in any other phase of aeronautics, to consolidate or merge their properties, or any part thereof, into one person for the ownership, management, or operation of the properties theretofore in separate ownerships;

(2) For any air carrier, any person controlling an air carrier, any other common carrier, or any person engaged in any other phase of aeronautics, to purchase, lease, or contract to operate the properties, or any substantial part thereof, of any air carrier;

(3) For any air carrier or person controlling an air carrier to purchase, lease, or contract to operate the properties, or any substantial part thereof, of any person engaged in any phase of aeronautics otherwise than as an air carrier;

(4) For any foreign air carrier or person controlling a foreign air carrier to acquire control, in any manner whatsoever, of any citizen of the United States engaged in any phase of aeronautics;

(5) For any air carrier or person controlling an air carrier, any other common carrier, any person engaged in any other phase of aeronautics, or any other person to acquire control of any air carrier in any manner whatsoever; [*Provided*, That the Board may by order exempt any such acquisition of a noncertificated air carrier from this requirement to the extent and for such periods as may be in the public interest;]

(6) For any air carrier or person controlling an air carrier to acquire control, in any manner whatsoever, of any person engaged in any phase of aeronautics otherwise than as an air carrier; or

(7) For any person to continue to maintain any relationship established in violation of any of the foregoing subdivisions of this subsection.

(b)(1) Any person seeking approval of a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section, *where one or more of the parties to such transaction is a certificated air carrier, a foreign air carrier, or a person controlling, controlled by, or under common control with, a certificated air carrier or foreign air carrier,* shall present an application to the Board, and thereupon the Board shall notify the persons involved in the consolidation, merger, purchase, lease, operating contract, or acquisition of control, and other persons known to have a substantial interest in the proceeding, of the time and place of a public hearing. Unless, after such hearing, the Board finds that the consolidation, merger, purchase, lease, operating contract, or acquisition of control will not be consistent with the public interest or that the conditions of this section will not be fulfilled, it shall by order approve such consolidation, merger, purchase, lease, operating contract, or acquisition of control, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe: *Provided*, That the Board shall not approve any consolidation, merger, purchase, lease, operating contract, or acquisition of control which would result in creating a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the consolidation, merger, purchase, lease, operating contract, or acquisition of control: [*Provided further*, That if the the applicant is a carrier other than an air carrier, or a person controlled by a carrier other than an air carrier or affiliated therewith within the meaning of section 5(8) of the Interstate Commerce Act, as amended, such applicant shall for the purposes of this section be considered an air carrier and the Board shall not enter such an order of approval unless it finds that the transaction proposed will promote the public interest by enabling such carrier other than an air carrier to use aircraft to public advantage in its operation and will not restrain competition:] *Provided further*, That, in any case in which the Board determines that the transaction which is the subject of the application does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition, and determines that no person disclosing a substantial interest then currently is requesting a hearing, the Board, after publication in the Federal Register of notice of the Board's intention to dispose of such application without a hearing (a copy of which notice shall be furnished by the Board to the Attorney General not later than the day following the date of such publication), may determine that the public interest does not require a hearing and by order approve or disapprove such transaction.

(2) Any person seeking exemption of a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section, where none of the parties to such transaction is a certificated air carrier, a foreign air carrier, or a person controlling, controlled by, or under common control with, a certificated air carrier or foreign air carrier, shall file with the Board, pursuant to prescribed regulations, on 45 days' notice, a statement of its intent to enter into any of the prohibited acts set forth in subsection (a) of this section. The Board may, within 45 days of the date of such filing, require such person to file an application for approval pursuant to the requirements of subsection (b)(1) of this section if it finds either that the proposed transaction may monopolize, tend to monopolize, or otherwise restrain competition in air transportation in any section of the country or that the person may not be fit, willing, and able to properly perform the transportation authorized by the license and to conform to the provisions of this Act and the rules, regulations and requirements of the Board thereunder. If the Board fails to act within 45 days of such filing, the proposed transactions shall be exempt from subsection (a) of this section. In the case of fraud, misrepresentation, or omission of relevant and

material facts, the Board may withdraw any exemption resulting from this subsection under procedures to be prescribed by the Board. Any exemption resulting from this subsection shall not be considered an order of the Board for the purposes of section 414 of this Act.

Interests in Ground Facilities

(c) The provisions of this section and section 409 shall not apply with respect to the acquisition or holding by any air carrier, *any person controlling such air carrier*, or any officer or director thereof, of (1) any interest in any ticket office, landing area, hangar, or other ground facility reasonably incidental to the performance by such air carrier of any of its services, or (2) any stock or other interest or any office or directorship in any person whose principal business is the maintenance or operation of any such ticket office, landing area, hangar, or other ground facility.

Jurisdiction of Accounts of Noncarriers

(d) Whenever, after the effective date of this section, a person, not an air carrier, is authorized, pursuant to this section, to acquire control of an air carrier, such person thereafter shall, to the extent found by the Board to be reasonably necessary for the administration of this Act, be subject, in the same manner as if such person were an air carrier, to the provisions of this Act relating to accounts, records, and reports, and the inspection of facilities and records, including the penalties applicable in the case of violations thereof.

Investigation of Violations

(e) The Board is empowered, upon complaint or upon its own initiative, to investigate and, after notice and hearing, to determine whether any person is violating any provision of subsection (a) of this section. If the Board finds after hearing that such person is violating any provision of such subsection, it shall by order require such person to take action, consistent with the provisions of this Act, as may be necessary, in the opinion of the Board, to prevent further violation of such provision.

Presumption of Control

(f) For the purposes of this section, any person owning beneficially 10 per centum or more of the voting securities or capital, as the case may be, of an air carrier shall be presumed to be in control of such air carrier unless the Board finds otherwise. As used herein, beneficial ownership of 10 per centum of the voting securities of a carrier means ownership of such amount of its outstanding voting securities as entitles the holder thereof to cast 10 per centum of the aggregate votes which the holders of all the outstanding voting securities of such carrier are entitled to cast.

PROHIBITED INTERESTS

Interlocking Relationships

Sec. 409. [*72 Stat. 768, 49 U.S.C. 1379*] (a) It shall be unlawful, unless such relationship shall have been approved by order of the Board upon due showing, in the form and manner prescribed by the Board, that the public interest will not be adversely affected thereby—

(1) For any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics.

(2) For any air carrier, knowingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics.

(3) For any person who is an officer or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics.

(4) For any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

(5) For any air carrier, knowingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member, or as a stockholder holding a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

(6) For any person who is an officer or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

Profit From Transfer of Securities

(b) It shall be unlawful for any officer or director of any air carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof.

LOANS AND FINANCIAL AID

Sec. 410. [*72 Stat. 769, as amended by 76 Stat. 936, 49 U.S.C. 1380*] The Board is empowered to approve or disapprove, in whole or in part, any and all applications made after the effective date of this section for or in connection with any loan or other financial aid from the United States or any agency thereof to, or for the benefit of, any air carrier. No such loan or financial aid shall be made or given without such approval, and the terms and conditions upon which such loan or financial aid is provided shall be prescribed by the Board. The provisions of this section shall not be applicable to the guaranty of loans by the Secretary of Commerce under the provisions of such Act of September 7, 1957, as amended, but the Secretary of Commerce shall consult with and consider the views and recommendations of the Board in making such guaranties.

METHODS OF COMPETITION

Sec. 411. [*72 Stat. 769, 49 U.S.C. 1381*] The Board may, upon its own initiative or upon complaint by any air carrier, foreign air carrier, or ticket agent, if it considers that such action by it would be in the interest of the public, investigate and determine whether any air carrier, foreign air carrier, or ticket agent has been or is engaged in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof. If the Board shall find, after notice and hearing, that such air carrier, foreign air carrier, or ticket agent is engaged in such unfair or deceptive practices or unfair methods of competition, it shall order such air carrier, foreign air carrier, or ticket agent to cease and desist from such practices or methods of competition.

POOLING AND OTHER AGREEMENTS

Filing of Agreements Required

Sec. 412. [*72 Stat. 770, 49 U.S.C. 1382*] (a) Every air carrier shall file with the Board a true copy, or, if oral, a true and complete memorandum, of every contract or agreement (whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise) affecting air transportation and in force on the effective date of this section or hereafter entered into, or any modification or cancellation thereof, between such air carrier and any other air carrier, foreign air carrier, or other carrier for pooling or apportioning earnings, losses, traffic, service, or equipment, or relating to the establishment of transportation rates, fares, charges, or classifications or for preserving and improving safety, economy, and efficiency of operation, or for controlling, regulating, preventing, or otherwise eliminating destructive, oppressive or wasteful competition, or for regulating stops, schedules, and character of service, or for other cooperative working arrangements.

Approval by Board

(b) The Board shall by order disapprove any such contract or agreement, whether or not previously approved by it, that it finds to be adverse to the public interest, or in violation of this Act, and shall by order approve any such contract or agreement, or any modification or cancellation thereof, that it does not find to be adverse to the public interest, or in violation of this Act; except that the Board may not approve any contract or agreement between an air carrier not directly engaged in the operation of aircraft in air transportation and a common carrier subject to the Interstate Commerce Act, as amended, governing the compensation to be received by such common carrier for transportation services performed by it.

FORM OF CONTROL

Sec. 413 [*72 Stat. 770, 49 U.S.C. 1383*] For the purposes of this title, whenever reference is made to control, it is immaterial whether such control is direct or indirect.

[LEGAL RESTRAINTS] *Antitrust immunity*

Sec. 414. [*72 Stat. 770, 49 U.S.C. 1384*] Any person affected by any order made under sections 408, 409, or 412 of this Act shall be, and is hereby, relieved from the operations of the "antitrust laws", as designated in section 1 of the Act entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, and of all other restraints or prohibitions made by, or imposed under, authority of *the antitrust* laws, *only* insofar as may be necessary to enable such person to *proceed with the transaction specifically approved by the Board in such order or those transactions necessarily contemplated thereby: Provided, That, in such order, the Board may specifically define and limit the scope of the relief granted.* [do anything authorized, approved, or required by such order.]

INQUIRY INTO AIR CARRIER MANAGEMENT

Sec. 415. [*72 Stat. 770, 49 U.S.C. 1385*] For the purpose of exercising and performing its powers and duties under this Act, the Board is empowered to inquire into the management of the business of any air carrier and, to the extent reasonably necessary for any such inquiry, to obtain from such carrier, and from any person controlling or controlled by, or under common control with, such air carrier, full and complete reports and other information.

CLASSIFICATIONS AND EXEMPTIONS [OF CARRIERS]

Classifications

Sec. 416. [*72 Stat. 771, 49 U.S.C. 1386*] (a) The Board may from time to time establish

such just and reasonable classifications or groups of air carriers *or foreign air carriers* for the purposes of this title as the nature of the services performed by such air carriers *or foreign air carriers* shall require; and such just and reasonable rules and regulations, pursuant to and consistent with the provisions of this title, to be observed by each such class or group, as the Board finds necessary in the public interest.

Exemptions

(b)(1) The Board, from time to time and to the extent necessary, may (except as provided in paragraph (2) of this subsection) exempt from the requirements of this title or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder, any *person or class of persons, if it finds that such exemption is or will be justified by special and unusual circumstances, or by reason of the limited extent of the activity sought to be exempted, and that the exemption is not inconsistent with the public interest.* [air carrier or class of air carriers, if it finds that the enforcement of this title or such provision, or such rule, regulation, term, condition, or limitation is or would be an undue burden on such air carrier or class of air carriers by reason of the limited extent of, or unusual circumstances affecting, the operations of such air carrier or class of air carriers and is not in the public interest.]

(2) The Board shall not exempt any air carrier from any provision of subsection (k) of section 401 of this title, except that (A) any air carrier not engaged in scheduled air transportation, and (B), to the extent that the operations of such air carrier are conducted during daylight hours, any air carrier engaged in scheduled air transportation, may be exempted from the provisions of paragraphs (1) and (2) of such subsection if the Board finds, after notice and hearing, that, by reason of the limited extent of, or unusual circumstances affecting the operations of any such air carrier, the enforcement of such paragraphs is or would be such an undue burden on such air carrier as to obstruct its development and prevent it from beginning or continuing operations, and that the exemption of such air carrier from such paragraphs would not adversely affect the public interest: *Provided*, That nothing in this subsection shall be deemed to authorize the Board to exempt any air carrier from any requirement of this title, or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder which provides for maximum flying hours for pilots or copilots.

SPECIAL OPERATING AUTHORIZATIONS

Authority of Board to Issue

SEC. 417. [76 Stat. 145, 49 U.S.C. 1387](a) If the Board finds upon an investigation conducted on its own initiative or upon request of an air carrier—

(1) that the capacity for air transportation being offered by the holder of a certificate of public convenience and necessity between particular points in the United States is, or will be, temporarily insufficient to meet the requirements of the public or the Postal Service; or

(2) that there is a temporary requirement for air transportation between two points, one or both of which is not regularly served by any air carrier; and

(3) that any supplemental air carrier can provide the additional service temporarily required in the public interest; the Board may issue to such supplemental air carrier a special operating authorization to engage in air transportation between such points.

Terms of Authorization

(b) A special operating authorization issued under this section—

(1) shall contain such limitations or requirements as to frequency of service, size or type of equipment, or otherwise, as will assure that the service so authorized will alleviate the insufficiency which otherwise would exist, without significant diversion of traffic from the holders of certificates for the route;

(2) shall be valid for not more than thirty days and may be extended for additional periods aggregating not more than sixty days; and

(3) shall not be deemed a license within the meaning of section 9(b) of the Administrative Procedure Act (5 U.S.C. 1008(b)).

Procedure

(c) The Board shall by regulation establish procedures for the expeditious investigation and determination of requests for such special operating authorizations. Such procedures shall include written notice to air carriers certificated to provide service between the points involved, and shall provide for such opportunity to protest the application in writing, and at the Board's discretion to be heard orally in support of such protest, as will not unduly delay issuance of such special operating authorization, taking into account the degree of emergency involved.

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TITLE VIII—OTHER ADMINISTRATIVE AGENCIES

THE PRESIDENT OF THE UNITED STATES

SEC. 801. [72 Stat. 782, as amended by 86 Stat. 96, 49 U.S.C. 1461] (a) The issuance, denial transfer, amendment, cancellation, suspension, or revocation of, and the terms, conditions, and limitations contained in, any certificate *or license* authorizing an air carrier to engage in overseas or foreign air transportation, or air transportation between places in the same Territory or possession, or any permit issuable to any foreign air carrier under section 402, shall be subject to the approval of the President. Copies of all applications in respect of such certificates, *licenses*, and permits shall be transmitted to the President by the Board before hearing thereon, and all decisions, thereon by the Board shall be submitted to the President before publication thereof.

(b) Any order of the Board pursuant to section 1002(j) of this Act suspending, rejecting, or canceling a rate, fare or charge for foreign air transportation, and any order rescinding the effectiveness of any such order, shall be submitted to the President before publication thereof. The President may disapprove any such order when he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States not later than ten days following submission by the Board of any such order to the President.

* * * * *

TITLE X—PROCEDURE

CONDUCT OF PROCEEDINGS

SEC. 1001. [*72 Stat. 788, 49 U.S.C. 4181*] *(a)* The Board and the Secretary of Transportation, subject to the provisions of this Act and the Administrative Procedure Act (5 U.S.C. 551), may conduct their proceedings in such manner as will be conducive to the proper dispatch of business and to the ends of justice. No member of the Board or Administration shall participate in any hearing or proceeding in which he has a pecuniary interest. Any person may appear before the Board or Administration and be heard in person or by attorney. The Board, in its discretion, may enter its appearance and participate as an interested party in any proceeding conducted by the Secretary of Transportation under title III of this Act, and in any proceeding conducted by the Secretary of Transportation under title VI of this Act from which no appeal is provided to the Board. Every vote and official act of the Board and the Administration shall be entered of record, and the proceedings thereof shall be open to the public upon request of any interested party, unless the Board or the Secretary of Transportation determines that secrecy is requisite on grounds of national defense.

Show-cause procedures

(b) Notwithstanding any provision of this Act requiring the Board to act after notice and hearings, the Board may by order, entered after notice and such opportunity for interested persons to file appropriate written evidence and argument as it shall by rule provide, dispense with an oral evidentiary hearing and proceed to final decision, with or without an opportunity for further written or oral argument before the Board, in any case where it finds on the basis of the record before it, and of facts of which it is entitled to take notice under its rules of procedure, that there are no significant issues of material fact in the case which require an oral evidentiary hearing for their determination. In such a case the Board shall, on its own initiative or at the request of an interested party, first issue an order to show cause, describing specifically the action it proposes to take, setting forth its tentative findings of fact and conclusions of law in support of such action, and requiring any interested party opposed to such action to show cause why such action should not be taken, and, if such party requests an oral evidentiary hearing, why such a hearing is essential to determine significant issues of material fact in the case and why any relevant and material facts the party proposes to adduce cannot be adequately put into the record by written submissions. Upon receipt of answers to its order to show cause, the Board shall proceed to final decision in the case, set the case down for an oral evidentiary hearing, or take such other action as may be appropriate under its rules.

COMPLAINTS TO AND INVESTIGATIONS BY THE SECRETARY OF TRANSPORTATION AND THE BOARD

Filing of Complaints Authorized

SEC. 1002. [*72 Stat. 788, as amended by 86 Stat. 96, 49 U.S.C. 1482*] (a) Any person may file with the Secretary of Transportation or the Board, as to matters within their respective jurisdictions, a complaint in writing with respect to anything done or omitted to be done by any person in contravention of any provisions of this Act, or of any requirement established pursuant thereto. If the person complained against shall not satisfy the complaint and there shall appear to be any reasonable ground for investigating the complaint, it shall be the duty of the Secretary of Transportation or the Board to investigate the matters complained of. Whenever the Secretary of Transportation or the Board is of the opinion that any complaint does not state facts which warrant an investigation or action, such complaint may be dismissed without hearing. In the case of complaints against a member of the Armed Forces of the United States acting in the performance of his official duties, the Secretary of Transportation or the Board, as the case may be, shall refer the complaint to the Secretary of the department concerned for action. The Secretary shall, within ninety days after receiving such a complaint, inform the Secretary of Transportation or the Board of his disposition of the complaint, including a report as to any corrective or disciplinary actions taken.

Investigations on Initiative of Secretary of Transportation or Board

(b) The Secretary of Transportation or the Board, with respect to matters within their respective jurisdictions, is empowered at any time to institute an investigation, on their own initiative, in any case and as to any matter or thing within their respective jurisdictions, concerning which complaint is authorized to be made to or before the Secretary of Transportation or Board by any provision of this Act, or concerning

which any question may arise under any of the provisions of this Act, or relating to the enforcement of any of the provisions of this Act. The Secretary of Transportation or the Board shall have the same power to proceed with any investigation instituted on their own motion as though it had been appealed to by complaint.

Entry of Orders for Compliance With Act

(c) If the Secretary of Transportation or the Board finds, after notice and hearing, in any investigation instituted upon complaint or upon their own initiative, with respect to matters within their jurisdiction, that any person has failed to comply with any provision of this Act or any requirement established pursuant thereto, the Secretary of Transportation or the Board shall issue an appropriate order to compel such person to comply therewith.

Power to Prescribe Rates and Practices of Air Carriers

(d) (*1*) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected or received by any air carrier for *scheduled* interstate or overseas air transportation *of persons* [or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjust or unreasonable or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board shall determine and prescribe the lawful rate, fare, or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received, or the lawful classification, rule, regulation, or practice thereafter to be made effective: *Provided*, That as to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge.], *(A) is or will be unreasonably high, the Board shall determine and prescribe the lawful maximum fare or charge thereafter to be demanded, charged, collected, or received; (B) is or will be predatory or tend to restrain competition among air carriers, the Board shall determine and prescribe the lawful minimum fare or charge thereafter to be demanded, charged, collected, or received; or (C) does or will preclude the provisions of adequate service by the carrier in the market to which the fare or charge is applicable, the Board shall determine and prescribe the lawful minimum fare or charge thereafter to be demanded, charged, collected, or received.*

(2) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any classification, rule, regulation, or practice affecting any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier for scheduled interstate or overseas air transportation of persons or property or services in connection therewith, is or will be unjust or unreasonable, the Board shall determine and prescribe the lawful classification, rule, regulation, or practice thereafter to be made effective.

(3) (A) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate or charge demanded, charged, collected, or received for the transportation of mail by aircraft or services connected therewith, or any classification, rule, regulation, or practice affecting such rate or charge, or the value of service thereunder, is or will be unjust or unreasonable, the Board shall determine and prescribe the lawful rate or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received, or the lawful classification, rule, regulation, or practice thereafter to be made effective: Provided, That, if an initial or subsequent tariff filed pursuant to section 403(a)(3) of this act sets forth a temporary mail rate or charge, or classification, rule, regulation, or practice that is under investigation at the time of filing, the lawful rate or charge, or classification, rule, regulation, or practice determined by the Board after hearing shall be effective from such date as the Board shall determine to be proper.

(B) The Board shall act expeditiously on any proposed changes in rates for the transportation of mail by aircraft in foreign air transportation. In exercising its powers and performing its duties with respect to such rates, the Board shall take into consideration rates paid for transportation of mail pursuant to the Universal Postal Union Convention as ratified by the United States Government, shall take into account all of the ratemaking elements employed by the Universal Postal Union in fixing its airmail rates, and shall further consider the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union rates for the carriage of United States mail and the national origin mail of their own countries.

(4) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier for scheduled interstate or overseas air transportation of persons or property, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may alter the same to the extent necessary to correct such discrimination, preference, or prejudice and make an order that the air carrier shall discontinue demanding, charging, collecting or receiving any such discriminatory, preferential, or prejudicial rate, fare, or charge or enforcing any such discriminatory, preferential, or prejudicial classification, rule, regulation, or practice.

Rule of ratemaking *for Interstate and overseas air transportation and transportation of mail*

(e) In exercising [and performing] its powers and *performing its* duties with respect to the determination of [rates] *fares and charges* for the carriage of persons [or property,] *pursuant to subsection (d)(1) of this section and of rates for the carriage of mail pursuant to subsection (d)(3) of this section*, the Board shall take into consideration, among other factors—

(1) The criteria set forth in section 102 (a) of this Act;

[(1)] (2) The effect of such rates, [upon] *fares, and charges on* the movement of traffic;

[(2)] (3) The need in the public interest of adequate and efficient transportation of persons and [property] *mail* by air carriers at the lowest cost consistent with the furnishing of such services; *and*

[(3) Such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law;]

[(4) The inherent advantages of transportation by aircraft; and]

(4) With respect to maximum rates and fares, the need of each air carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.

[(5) The need of each air carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.]

Removal of discrimination in foreign air transportation

(f) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier or foreign air carrier for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may alter the same to the extent necessary to correct such discrimination, preference, or prejudice and make an order that the air carrier or foreign air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory, preferential, or prejudicial rate, fare, or charge or enforcing any such discriminatory, preferential, or prejudicial classification, rule, regulation, or practice.

Suspension of rates in interstate and overseas air transportation and rates for the transportation of mail

(g) Whenever any air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers) rate, fare, or charge for interstate or overseas air transportation *or the transportation of mail by aircraft* or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with such tariff, and delivering to the air carrier affected thereby, *at least 15 days before the time when such tariff would otherwise go into effect*, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period of ninety days, and, if the proceeding has not been concluded and a final order made within such period, the Board may, from time to time, extend the period of suspension, but not for a longer period in the aggregate than one hundred and eighty days beyond the time when such tariff would otherwise go into effect; and, after hearing, whether completed before or after the rate, fare, charge, classification, rule, regulation, or practice goes into effect, the Board may make such order with reference thereto as would be proper in a proceeding instituted after such rate, fare, charge, classification, rule, regulation, or practice had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect at the end of such period: *Provided*, That this subsection shall not apply to any initial tariff filed by [any] *an* air carrier.

Power To Prescribe Divisions of Rates

(h) Whenever, after notice and hearing, upon complaint or upon its own initiative, the Board is of the opinion that the divisions of joint [rates,] fares or charges for *interstate or overseas* air transportation *of persons, or joint rates, fares, or charges for foreign air transportation, or joint rates for the transportation of mail by air carriers*, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the air carriers or foreign air carriers parties thereto, the Board shall prescribe the just, reasonable and equitable divisions thereto to be received by the several air carriers. The

Board may require the adjustment of divisions between such air carriers from the date of filing the complaint or entry of order of investigation, or such other date, subsequent thereto as the Board finds to be just, reasonable, and equitable.

Power to Establish Through Air Transportation Service

(i) The Board shall, whenever required by the public convenience and necessity, after notice and hearing, upon complaint or upon its own initiative, establish through service and joint rates, fares, or charges (or the maxima or minima, or the maxima and minima thereof) for interstate or overseas air transportation *of persons or the transportation of mail,* or the classifications, rules, regulations, or practices affecting such rates, fares, or charges, or the value of the service thereunder, and the terms and conditions under which such through service shall be operated [: *Provided,* That as to joint rates, fares, and charges for overseas air transportation the Board shall determine and prescribe only just and reasonable maximum or minimum or maximum and minimum joint rates, fares, or charges.].

Suspension and Rejection of Rates in Foreign Air Transportation

(j) (1) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers) rate, fare or charge for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period or periods not exceeding three hundred and sixty-five days in the aggregate beyond the time when such tariff would otherwise go into effect. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may take action to reject or cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. The Board may at any time rescind the suspension of such tariff and permit the use of such rate fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded and an order made within the period of suspension or suspensions, or if the Board shall otherwise so direct, the proposed rate, fare, charge, classification, rule, regulation or practice shall go into effect subject, however to being canceled when the proceeding is concluded. This paragraph shall not apply to any initial tariff filed by an air carrier or foreign air carrier. During the period of any suspension or suspensions, or following rejection or cancellation of a tariff, including tariffs which have gone into effect provisionally, the affected air carrier or foreign air carrier shall maintain in effect and use the rate, fare, or charge, or the classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, which was in effect immediately prior to the filing of the new tariff.

(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, upon reasonable notice, and by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, and the effective date thereof, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, following the effective date of such suspension, for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the effective date of such suspension. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may take action to cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded within the period of suspension or suspensions, the tariff shall again go into effect subject, however, to being canceled when the proceeding is concluded. For the purposes of operation during the period of such suspension, or the period following cancellation of an existing tariff pending effectiveness of a new tariff, the air carrier or foreign air carrier may file a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.

(3) Whenever the Board finds that the government or aeronautical authorities of any foreign country have refused to permit the charging of rates, fares, or charges contained in a properly filed and published tariff of an air carrier filed under this Act for foreign air transportation to such foreign country, the Board may, without hearing, (A) suspend the operation of any existing tariff of any foreign air carrier providing services between the United States and such foreign country for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the date of such suspension, and (B) during the period of such suspension or suspensions, order the foreign air carrier to charge rates, fares, or charges which are the same as those contained in a properly filed and published tariff (designated by the Board) of an air carrier filed under this Act for foreign air transportation to such foreign country, and the effective right of an air carrier to start or continue service at the designated rates, fares, or charges to such foreign country shall be a condition to the continuation of service by the foreign air carrier in foreign air transportation to such foreign country.

(4) The provisions of this subsection and compliance with any order of the Board issued pursuant thereto shall be an express condition to the certificates or permits now held or hereafter issued to any air carrier or foreign air carrier, and the maintenance of rates, fares, or charges in conformity with the requirements of such provisions and such order of the Board shall be a condition to the continuation of the affected service by such air carrier or foreign air carrier.

(5) In exercising and performing its powers and duties under this subsection with respect to the rejection or cancellation of rates for the carriage of persons or property, the Board shall take into consideration, among other factors—

(A) the effect of such rates upon the movement of traffic;

(B) the need in the public interest of adequate and efficient transportation of persons and property by air carriers and foreign air carriers at the lowest cost consistent with the furnishing of such service;

(C) such standards respecting the character and quality of service to be rendered by air carriers and foreign air carriers as may be prescribed by or pursuant to law;

(D) the inherent advantages of transportation by aircraft;

(E) the need of such air carrier and foreign air carrier for revenue sufficient to enable such air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier service; and

(F) whether such rates will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation.

Designation of Boards

SEC. 1003. [72 Stat. 791, 49 U.S.C. 1483] (a) The Board and the Interstate Commerce Commission shall direct their respective chairmen to designate, from time to time, a like number of members of each to act as a joint board to consider and pass upon matters referred to such board as provided in subsection (c) of this section.

Through Service and Joint Rates

(b) Air carriers may establish reasonable through service and joint rates, fares, and charges with other common carriers; except that with respect to transportation of property, air carriers not directly engaged in the operation of aircraft in air transportation (other than companies engaged in the air express business) may not establish joint rates or charges, under the provisions of this subsection, with common carriers subject to the Interstate Commerce Act. In case of through service by air carriers and common carriers subject to the Interstate Commerce Act, it shall be the duty of the carriers parties thereto to establish just and reasonable rates, fares, or charges and just and reasonable classifications, rules, regulations, and practices affecting such rates, fares, or charges, or the value of the service thereunder, and if joint rates, fares, or charges shall have been established with respect to such through service, just, reasonable, and equitable divisions of such joint rates, fares, or charges as between the carriers participating therein. Any air carrier, and any common carrier subject to the Interstate Commerce Act, which is participating in such through service and joint rates, fares, or charges, shall include in its tariffs, filed with the Civil Aeronautics Board or the Interstate Commerce Commission, as the case may be, a statement showing such through service and joint rates, fares, or charges.

Jurisdiction of Boards

(c) Matters relating to such through service and joint rates, fares, or charges may be referred by the Board or the Interstate Commerce Commission, upon complaint or upon its own initiative, to a joint board created as provided in subsection (a). Complaints may be made to the Interstate Commerce Commision or the Board with respect to any matter which may be referred to a joint board under this subsection.

Power of Boards

(d) With respect to matters referred to any joint board as provided in subsection (c), if such board finds, after notice and hearing, that any such joint rate, fare, or charge, or classification rule, regulation, or practice, affecting such joint rate, fare, or charge or the value of the service thereunder is or will be unjust, unreasonable, unjustly discriminatory, or unduly preferential or prejudicial, or that any division of any such joint rate, fare, or charge, is or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto, it is authorized and directed to take the same action with respect thereto as the Board is empowered to take with respect to any joint rate, fare, or charge, between air carriers, or any divisions thereof, or any classification, rule, regulation, or practice affecting such joint rate, fare, or charge or the value of the service thereunder.

Judicial Enforcement and Review

(e) Orders of the joint boards shall be enforceable and reviewable as provided in this Act with respect to orders of the Board.

EVIDENCE

Power to Take Evidence

SEC. 1004. [72 Stat. 792, as amended by 84 Stat. 922, 49 U.S.C. 1484] (a) Any member or examiner of the Board, when duly designated by the Board for such purpose, may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States designated by the Board. In all cases heard by an examiner or a single member the Board shall hear or receive argument on request of either party.

Power to Issue Subpoena

(b) For the purposes of this Act the Board shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

Enforcement of Subpoena

(c) The attendance of witnesses, and the production of books, papers, and documents, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpoena, the Board or any party to a proceeding before the Board, may invoke the aid of any court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this section.

Contempt

(d) Any court of the United States within the jurisdiction of which an inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the Board (and produce books, papers, or documents if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Disposition

(e) The Board may order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Board and having power to administer oaths. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Board, as hereinbefore provided.

Method of Taking Depositions

(f) Every person deposing as herein provided shall be cautioned and shall be required to swear (or affirm, if he so requests) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Board.

Foreign Depositions

(g) If a witness whose testimony may be desired to be taken by depcsition be in a foreign country, the deposition may be taken, provided the laws of the foreign country so permit, by a consular officer or other person commissioned by the Board, or agreed upon by the parties by stipulation in writing to be filed with the Board, or may be taken under letters rogatory issued by a court of competent jurisdiction at the request of the Board.

Fees

(h) Witnesses whose depositions are taken as authorized in this Act, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the court of the United States: *Provided*, That with respect to commissions or letters rogatory issued at the initiative of the Board, executed in foreign countries, the Board shall pay such fees, charges, or expenses incidental thereto as may be found necessary, in accordance with regulations on the subject to be prescribed by the Board.

Compelling Testimony

(i) [Repealed by Act of October 15, 1970, 84 Stat. 922, effective December 14, 1970]

ORDERS, NOTICES, AND SERVICE

Effective Date of Orders; Emergency Orders

SEC. 1005. [72 Stat. 794, as amended by 73 Stat. 427, 49 U.S.C. 1485] (a) Except as otherwise provided in this Act, all orders, rules, and regulations of the Board or the Secretary of Transportation shall take effect within such reasonable time as the Board or Secretary of Transportation may prescribe, and shall continue in force until their further order, rule, or regulation, or for a specified period of time, as shall be prescribed in the order, rule, or regulation: *Provided*, That whenever the Secretary of Transportation is of the opinion that an emergency requiring immediate action exists in respect of safety in air commerce *or the Board is of the opinion that an emergency requiring immediate action exists in respect of economic regulation in air transportation*, the Secretary of Transportation *or the Board* as the case may be is authorized, either upon complaint or his *or the Board's* own initiative without complaint, at once, if he *or the Board* so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, to make such just and reasonable orders, rules, or regulations, as may be essential in the interest of safety in air commerce *or economic regulation in air transportation* to meet such emergency: *Provided further*, That the Secretary of Transportation *or the Board* shall immediately initiate proceedings relating to the matters embraced in any such order, rule, or regulation, and shall, insofar as practicable, give preference to such proceedings over all others under this Act.

Designation of Agent for Service

(b) It shall be the duty of every air carrier and foreign air carrier to designate in writing an agent upon whom service of all notices and process and all orders, decisions, and requirements of the Board and the Secretary of Transportation may be made for and on behalf of said carrier, and to file such designation with the Secretary of Transportation and in the office of the secretary of the Board, which designation may from time to time be changed by like writing similarly filed. Service of all notices and process and orders, decisions, and requirements of the Secretary of Transportation or the Board may be made upon such carrier by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such carrier, and in default of such designation of such agent, service of any notice or other process in any proceedings before said Secretary of Transportation or Board or of any order, decision, or requirements of the Secretary of Transportation or Board, may be made by posting such notice, process, order, requirement, or decision in the office of the Secretary of Transportation or with the secretary of the Board.

Other Methods of Service

(c) Service of notices, processes, orders, rules, and regulations upon any person may be made by personal service, or upon an agent designated in writing for that purpose, or by registered or certified mail addressed to such person or agent. Whenever service is made by registered or certified mail, the date of mailing shall be considered as the time when service is made.

Suspension or Modification of Order

(d) Except as otherwise provided in this Act, the Secretary of Transportation or the Board is empowered to suspend or modify their orders upon such notice and in such manner as they shall deem proper.

Compliance With Order Required

(e) It shall be the duty of every person subject to this Act, and its agents and employees, to observe and comply with any order, rule, regulation, or certificate issued by the Secretary of Transportation or the Board under this Act affecting such person so long as the same shall remain in effect.

Form and Service of Orders

(f) Every order of the Secreary of Transportation or the Board shall set forth the findings of fact upon which it is based, and shall be served upon the parties to the proceeding and the persons affected by such order.

By Mr. JAVITS (for himself, Mr. RIBICOFF, Mr. HATCH, Mr. PERCY, Mr. ROTH, Mr. WEICKER, and Mr. LUGAR):

S. 293. A bill to provide periodic authorization and oversight for the OMB; to the Committee on Government Operations.

OMB AUTHORIZATION AND OVERSIGHT LEGISLATION

Mr. JAVITS. Mr. President, today the Office of Management and Budget is regarded as one of the most important policymaking entities in the Federal Government. In fact it has become a powerful Presidential agency—in many respects a surrogate President—administering and shaping administration policy in virtually every department and agency of the executive branch. The nature of its function and influence has been changing since its establishment by Reorganization Plan No. 2 of 1970.

After 6 years experience under the plan, we know that senior officials of OMB have been able to initiate and curtail programs, negotiate agreements with Congress, block proposals from departments and agencies, decide interdepart-

mental disputes, bring about the impoundment or the release of funds, and precipitate Presidential vetoes.

To a great extent OMB decides how much money will be spent on each program. It then has the authority to see how each program is carried out. It reviews all legislation which is submitted by the departments and agencies to Congress, with broad authority to recommend changes. Virtually every questionnaire sent to businesses or private groups must be cleared by OMB. It establishes the broad array of committees in the executive departments that advise the Government on policy. It is equipped with staff and computers to make the necessary analyses, and it has access to every study and piece of information gathered by the departments and agencies. It plays an important and perhaps unique role in the intergovernmental system of grant and contract administration.

While it is true that the exact shape and clout of OMB is directly proportional to the will and direction of the President himself and his concept of its role, it is also true that the office is likely to retain a significant role in the development and administration of executive policy. There is no more appropriate time than the beginning of a new administration for the President and the Congress to reexamine that role in light of the 6 years experience and the commitment of all of us to make the Federal Government more efficient and effective. I am confident that Mr. Thomas B. Lance, Director-designate of OMB who appeared this morning before the Government Operations Committee will welcome that reexamination.

Accordingly, I am introducing legislation today, cosponsored by Senators RIBICOFF, PERCY, WEICKER, ROTH, and LUGAR to extend and strengthen the oversight capability of the Congress with respect to the operations of OMB. Hopefully, it may serve as a vehicle in the Government Operations Committee through which we and the new administration may examine these important questions in a cooperative partnership.

The Office of Management and Budget Authorization and Oversight Act establishes a more effective base for the exercise of congressional oversight of OMB by:

First. Requiring specific renewable authorization authority. The bill strikes a compromise between permanent and annual authorization authority by requiring specific 3-year authorization, which should not interfere with the ongoing responsibilities of OMB for program management and budget cycle activities;

Second. Requiring the Director as head of the Agency to keep the committees of the Senate and House fully and currently informed regarding the activities of the office. This provision will fortify the authority of the Congress to obtain information without which effective oversight cannot be conducted, and

Third. Levying specific reporting requirements on the office in order to provide the Comptroller General with basic information relating to the practices and management techniques used to develop, implement and evaluate programs, develop information systems, process legislative and position proposals and implement career personnel programs.

The GAO would also report to Congress on whether the original intent and purposes of Reorganization Plan No. 2 of 1970 are being carried out, and whether OMB should be performing each of the 58 specific transfers of authority originally granted.

This legislation is thoroughly consistent with the long-term efforts of Congress to maintain its constitutional prerogative of being responsible for the establishment and the evaluation of the Nation's laws. During the 93d and 94th Congress significant progress was made toward this goal with the enactment of the Impoundment Control and Budget Reform Act and legislation to require confirmation of the Director and Deputy Director of OMB. The impetus of those reforms—so ably begun by our former colleague, Senator Ervin, and by the current distinguished chairman of the Government Operations Committee, Senator RIBICOFF, and our ranking minority member, Senator PERCY, must be continued.

Despite the enormous work of the Government Operations Committee and the Congress commitment to impoundment and budget control as reflected in Public Law 93–344, an intricate web of complex administrative procedures are still available to OMB in effect to substitute for the expenditure decisions of the Congress its own executive discretion. Contract negotiation practices, the use of lump sum appropriations for "emergencies" and shifting of funds to unauthorized budget categories are among practices which should be reviewed.

All of these functions should be examined in the broad context of OMB's role as super agency with a high degree of control over all executive branch agencies, including the regulatory agencies, as well as over many of the policies and programs enacted by Congress. Analyzing the OMB in terms of: First, its impact upon the policymaking and implementation process and second, the techniques by which it exercises that influence should be of priority interest to this committee.

Mr. President, OMB can trace its organization back to the Budget and Accounting Act of 1921—42 Stat. 20—which established the BOB in the Treasury Department and the General Accounting Office as a congressional staff agency. In the early years of the Bureau's existence its responsibilities and activities were modest, principally that of pressuring agencies to reduce expenditures and to improve their procurement, supply, and inventory control operations.

In 1939 the BOB was moved closer to Presidential policymaking when it was transferred from the Treasury Department to the newly created Executive Office of the President—Reorganization Plan No. 1 of 1939. At the time of its move it had approximately 40 employees. With the establishment of the Executive Office of the President, the BOB acquired a strong policymaking role through its central legislative clearance process and the various budgeting requirements placed upon the several agencies.

Reorganization Plan No. 2 of 1970 proposed that the Budget Bureau be replaced by an Office of Management and Budget and that a new Domestic Council be created. It precipitated a major congressional debate and opposition focused primarily in the House. It signaled a change for the BOB which went far beyond mere name changing. The President's powers were enhanced by having all statutory powers previously granted to the Bureau of the Budget placed in his hand, to be redelegated to OMB by Executive order. According to President Nixon's message:

> The intent of the plan was to provide the President with an institutional staff capability in the various areas of executive management—particularly in program evaluation and coordination, government organization, information and management systems, and development of executive talent. The Office was to continue to perform the key function of assisting the President in the preparation and execution of the Federal budget. Specifically, Reorganization Plan No. 2 would enable the Office to provide greater emphasis on assessing the extent to which Government programs are actually achieving their intended results and delivering the intended services to their recipients. As a part of this effort, the Office was directed to seek greater interagency cooperation and coordination, particularly at the operating level. It was also to provide a continuous review of the organization of the executive branch and its management techniques.

The new OMB was to have broader management responsibility and less influence over important legislative policy questions, the latter task to be shifted to the new Domestic Council in the White House.

A major issue in the debate in the House Government Operations Committee was the transfer to the President of statutory functions that had since 1921 been vested in the Bureau of the Budget. It was argued that such authority constituted the only rationale by which Congress could hold the BOB accountable for its actions and performance. By altering this provision it was argued the new OMB could not effectively be made subject to ongoing congressional oversight. With the AFL–CIO and several other witnesses on record as opposing the plan, the full House Government Operations Committee reported a resolution of disapproval, citing the fact that the plan would result in "important areas of domestic concern being completely concealed from the legislative branch."

Following intense floor debate the House upheld the President, voting 193–164 in favor of the plan.

It appears that OMB has developed substantially its authority under the reorganization plan and expanded its influence throughout the executive branch. This expansion has come not only in growth of influence, but also through a change in emphasis. With the development of managerial as well as budgetary functions, this influence has extended beyond policymaking execution and control.

First. Much of this expansion of power stems from OMB's role as the President's chief source of information. The OMB role of information collection and trans-

mission, both between the President and the departments, and between the executive branch and Congress, has tremendous implications for OMB's expanded role. What other entity within the Federal Government maintains a comparable three-way link between these centers of policy initiative and execution? Its unique position and access to information makes OMB a pivotal focal point.

Second. Related to this global view of OMB is its role of "coordinator" of Federal programs. It assists in implementing major legislation under which several agencies and departments share responsibility for action, and helps to coordinate Federal grant programs.

Third. OMB also serves in the role of adjudicating inter-agency conflicts. Generally only the most controversial of these conflicts are considered by the President. How responsive to laws and the intent of Congress is OMB in its role of coordinator? What has been the effect on Cabinet, department and agency morale? Has OMB been effective in achieving the coordination so vitally needed?

Four. Another source of OMB's expanded influence is its continuing role in what might be termed "crisis management." OMB's staff is geared up to deal with crises on a moment's notice. It was responsible for developing airport security during the rash of sky-jackings; it has been active in coordinating disaster relief; it drew up the initial contingency gas rationing plans; it helped to establish the Federal Energy Office; and, it redesigned the Federal role in drug enforcement and treatment.

While a budgetary function was intended from the earliest days of the BOB, there is no record that Congress intended to invest the President with the power of central legislative clearance. Nonetheless, by World War II the BOB was clearly the agency through which all executive units had to clear their requests and proposals before they were forwarded to Congress. And, it is often difficult to find out what OMB rejected and why.

As a counter to this expansion of influence, it is important to keep in mind that even OMB has the problem of limited staff and resources. It can in fact only do so much. Except for the addition of the new "management associates" concept, professional staff levels have apparently remained stable. With its resources spread so thin it is in the constant danger of being overwhelmed by the demands, expertise, and sheer bulk of the executive establishment. Today, it has about 660 persons with about 10 schedule C's. With the exception of its top level directorate, it is still largely a professional, career agency. Nevertheless, it is important to determine what impact OMB has that is not a Presidential impact. Can and does OMB have an independent role divorced from the Oval Office?

Mr. President, there are several important questions which the Congress must examine. To what extent has departmental policy independence been reduced by the implementation of executive control through managerial techniques by OMB? Has the OMB experience of the last 6 years led to the denigration of departmental pluralism and decline of policy creativity?

How is the budgeting process integrated with the policy process? How is the management-by-objective system working, is it just a label or is it a significant management tool? How does OMB select its program targets for evaluation? What is the role of OMB in program development, implementation and evaluation? Management control of vast resources of information is often lacking in executive branch operations. There is great difficulty in generating quantifiable measurements of progress for many Government programs such as those found in HEW and the State Department. Often when figures are presented as evidence of a program's accomplishments the numbers turn out to be "soft" and therefore meaningless. Therefore, the methods and system by which OMB develops and controls program data is of fundamental importance in determining outcome.

While a certain degree of OMB policy involvement is legitimate and desirable, the deliberate enforcement of an OMB chosen political consensus poses a serious threat of stifling program innovation in which the Congress and the departments have either a constitutional, statutory, or policy role. Formerly, such changes came largely from within the Federal departments. The number and scope of alternatives for Federal programs filtering up through the departments and sent to the President will be sharply reduced. The danger that the policymaking process will become sterile in the departments is very real. Essentially, then, this dilemma reduces itself to a tradeoff between Presidential discipline and preservation of legislative and executive branch pluralism.

Congress must take this dilemma into account in designing its response to OMB's role, not only on behalf of the departments, but also on behalf of its own law-making responsibility. Thus, the OMB/departmental relationship should be the principal focus of such hearings.

A fundamental assumption underlying the adoption of Reorganization Plan No. 2 of 1970 was that Presidential control of the bureaucracy is a necessary goal for any administration. Implicit in that assumption however, is the necessity that such control not be excessive.

Mr. President, the task of managing the Federal bureaucracy is an enormously complex and difficult one. We too—every bit as much as the President-elect—are concerned at really getting a hand on the economy and efficiency of our Federal Government. There is no doubt that it is the President's responsibility and his constitutional role to direct and manage the executive branch. It is likewise the responsibility of the Congress to determine through the exercise of its oversight powers the degree to which the Office of Management and Budget is carrying forward the extraordinary responsibilities which the Congress approved for it 7 years ago. I hope that the Government Operations Committee in both Houses will undertake this task at an early date. The legislation we introduce today should focus us on and facilitate consideration of these issues.

By Mr. STEVENS:

S. 295. A bill to amend title 5 of the United States Code to provide vacation leave for residents of Alaska serving a tour of duty at a hardship station in Alaska; to the Committee on Post Office and Civil Service.

Mr. STEVENS. Mr. President, today I am introducing legislation which would end the current inequitable treatment accorded certain civil service employees in Alaska by the Federal Government.

Presently, a Federal employee recruited outside the State of Alaska for duty in my State is provided a trip back to his home in the "lower 48" for himself and his family every 2 years, at Federal expense, after his initial tour of duty. This authorization is contained in subsection 5728(a) of title 5 which provides that, under such regulations as the President may prescribe, an agency shall pay the expenses of round-trip travel of an employee and the transportation of his immediate family from his post of duty outside the continental United States to the place of his actual residence at the time of appointment or transfer for vacation leave when he has satisfactorily completed a prescribed tour of duty and has agreed to serve another at the same or another post of duty outside the continental United States.

Unfortunately, Alaskans who sign up for a tour of duty in a remote section of my State are not accorded this same benefit. Consequently, there is an untenable situation in which two Federal employees, working side by side in a remote section of my State, doing the same job, working the same number of hours, are treated and paid differently. The employee recruited in the "lower 48" has transportation for him and his family to his home in the "lower 48" paid. This transportation cost or special benefit for these employees can be considerable, depending on the employee's family.

Now, the Alaskan who may have signed up, say in our largest city of Anchorage, for a remote duty assignment at Adak on the Aleutian chain does not have this fringe benefit. He is not paid the same salary for the same work. This policy has created a second-class citizen of certain Federal employees simply because they happen to have been residents of the State of Alaska prior to their signing up for service in a remote area.

This situation has created a serious morale problem, causing friction between Alaskans and the non-Alaskans.

My bill would allow for this same citizen from Anchorage who signed up for duty in Adak to receive this turnaround leave benefit to his point of origin, Anchorage, under the same rules and guidelines as now governs those Federal employees recruited outside my State. The remedy for this inequity is too long overdue. The General Accounting Office has stated:

> Limiting the benefits to persons with original residences in the continental United States appear to be inequitable to native Alaskans who are employed by the Government.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5728 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Under such regulations as the President may prescribe, an agency shall pay from its appropriations to an employee whose actual place of residence is in Alaska at the time of his appointment or transfer to a post of duty in Alaska which is designed as a hardship station the expenses or round-trip travel of such employee, and the transportation of his immediate family, but not household goods, from such post of duty to such place of residence after such employee has satisfactorily completed an agreed period of service at such post of duty and is returning to such place of residence to take leave before serving another tour of duty at the same or another post of duty at a hardship station in Alaska or at another post of duty outside of the continental United States and Alaska under a new written agreement made before departing from such post of duty.".

(b) The amendment made by subsection (a) applies to employees serving at a post of duty at a hardship station in Alaska on and after the date of enactment of this Act.

By Mr. PACKWOOD (for himself, Mr. ABOUREZK, Mr. BARTLETT, Mr. BENTSEN, Mr. BURDICK, Mr. CLARK, Mr. CURTIS, Mr. DOLE, Mr. EAGLETON, Mr. FORD, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUDDLESTON, Mr. JOHNSTON, Mr. LAXALT, Mr. LEAHY, Mr. MCCLURE, Mr. MCGOVERN, Mr. MORGAN, Mr. STAFFORD, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, and Mr. HART):

S. 297. A bill to require that imported meat and meat food products made in whole or in part of imported meat be subjected to certain tests and that such meat or products be identified as having been imported; to require the inspection of imported dairy products and that such products comply with certain minimum standards of sanitation; to require that the cost of conducting such tests, inspections, and identification procedures on imported meat and meat food products and on dairy products, as the case may be, be borne by the exporters of such articles; and for other purposes; to the Committee on Agriculture and Forestry.

MEAT AND DAIRY IMPORT INSPECTION AND LABELING ACT OF 1977

Mr. PACKWOOD. Mr. President, today I am reintroducing with several cosponsors a plan to require stiffer standards of inspection of imported meat and dairy products, and to require these products to be labeled in order to inform the final customer that the product is imported. The cost of these measures would be paid by assessing fees against the country importing the products. The 45 Senators who joined me in the 94th Congress as cosponsors recognize the need for this legislation, as has Senator JAMES ALLEN, who promised to hold hearings this year in his Subcommittee on Agricultural Research and General Legislation.

I do not propose, or approve of, standards which will create a trade barrier to these meat and dairy products. I am not proposing that imports be subjected to any stricter standards than are now required of domestic producers. I simply want imported products to meet standards of wholesomeness which are as close as reasonably possible to those we impose on American producers.

No one who knows this issue well can expect that the foreign inspection system will ever be identical to the one we can implement in this country. We simply cannot expect to send our Federal inspectors through foreign plants to inspect each and every carcass or every dairy farm, as we do in this country. It would be too expensive and few importing nations would stand for that type of intervention.

On the other hand, we cannot allow American consumers in this country to face the possible danger of meat and dairy products imported without adequate inspections. Since we cannot always send our own Federal inspectors to importing nations, we must require them to carry out adequate inspections. Those foreign inspectors conducting tests on meat to be imported into this country must be highly qualified to do their job, as highly qualified as our USDA inspectors. They must be required to inspect the internal organs of meat producing animals because this is the easiest, and often the only, way to determine if the carcass contains poisonous substances. Currently, such tests are not conducted on imported meat. The USDA must also conduct spot checks to verify the accuracy of foreign testing programs and refuse to allow the importation of meat from countries which consistently fail to meet primary, essential standards prescribed by the Secretary of Agriculture.

In the area of dairy products, there appears to be even fewer regulations and checks to insure that Americans are receiving a wholesome product. The Food and Drug Administration has few regulations maintaining the sanitation of imported dairy products and even less statistical data reporting on the amounts of milk and milk products turned back due to filth or disease producing agents. These imported products come into this country, are mixed with domestically produced goods and marketed, in most cases, without ever being checked for wholesomeness by U.S. authorities. The Meat and Dairy Import Inspection and Labeling Act would require these products to meet, as nearly as possible, the same standards as those required of domestic products.

In addition, since we can never require absolutely equal inspection, we must provide the American consumer the last defense against any possible dangers of imported food. We must give consumers the choice of whether they prefer to buy American products, or whether they are willing to take the risk of eating potentially impure imports. To do this the imported products must be labeled in some fashion, to be determined by the responsible agencies, to give Americans this option.

I introduce this bill with full awareness that the Geneva Accord trade talks are trying to establish universal standards of quality for food products traded internationally. I hope those talks are successful and feel my bill has no adverse effect on those negotiations. In fact, I believe our passage of this bill will show the world how serious we believe the situation presently is.

My colleagues in the Senate are fully aware that I have always preferred free, uninhibited trade between nations. But the concept of free trade does not mean we have to subject our citizens to substandard food products. I urge every Senator to consider the impact imported food has on his individual State and join me in this necessary legislation.

By Mr. STEVENS:

S. 298. A bill to amend section 8335(e) of title 5, United States Code; to the Committee on Post Office and Civil Service.

Mr. STEVENS. Mr. Chairman. today I am introducing legislation which would cost little if any Federal funds and which would eliminate an undue and unjustifiable restriction on certain Federal clerical employees.

As is well known, the Alaska Railroad is the only federally owned railroad in the Nation. As such, Alaska Railroad employees are Federal employees. The Alaska Railroad Retirement Act of 1963—Public Law 74–836—provided for mandatory retirement at age 62 for employees of the Alaska Railroad except clerical employees. Mandatory retirement at age 62 was established because transportation employees of the Alaska Railroad were subject to unusual hardships and dangers as compared to those confronted by employees in the Continental United States. A part of the Alaska Railroad is located in country which is swept by severe storms and is subject to heavy snowfall and very low temperatures. It was deemed in the best interests of both the employees' and passengers' safety not to permit employees of advancing age to engage in work under such difficult and trying conditions.

Clerical employees were excluded from this act on the basis that they were not subject to these same dangers, difficulties, and hazards. Because of administrative difficulties encountered because of this exclusion and because of differing employee deductions between the Alaska Railroad Retirement Act and the Civil Service Retirement Act, clerical employees of the Alaska Railroad were brought under the Alaska Railroad Retirement Act in June of 1949—Public Law 76–680.

As a result of this action, clerical employees are now required to retire upon reaching the age of 62 after completing 15 years of service in Alaska. This despite the fact that they do not in any way face the same hazards as railroad transportation employees.

In 1949, the Alaska Railroad Retire-

Service Retirement Act—Public Law 81-810. The age 62 mandatory retirement provision was retained. As a result of the merging of these two retirement programs, the major administrative difficulties, administering differing retirement systems, was brought to an end. Unfortunately, clerical employees were continued to be subjected to the 62 mandatory retirement provisions.

Mr. Chairman, my bill, if passed, would once again exempt clerical employees from this unfair restriction. Many clerical employees of the Alaska Railroad would prefer to remain with the Federal service beyond age 62. Mr. Chairman, I do not think we can afford to lose the valuable services of these employees when it is simply not necessary to do so. Many of these people want to remain with the Government and the Alaska Railroad wishes to retain them. But because of a former administrative problem, solved almost 30 years ago, these employees continue to suffer this undue restriction.

Mr. Chairman, I ask for unanimous consent to have a copy of my bill printed in the RECORD at the end of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8335(e) of title 5, United States Code, is amended as follows:

"(e) This section applies to an employee of the Alaska Railroad in Alaska, except an employee in a managerial or clerical position, and to an employee who is a citizen of the United States employed on the Isthmus of Panama by the Panama Canal Company or the Canal Zone Government, who becomes sixty-two years of age and completes fifteen years of service in Alaska or on the Isthmus of Panama.".

By Mr. CANNON (for himself and Mr. LAXALT):

S. 299. A bill to direct the conveyance of certain real property of the United States to the county of Mineral, State of Nevada; to the Committee on Interior and Insular Affairs.

Mr. CANNON. Mr. President, the bill I have introduced with my colleague, Senator PAUL LAXALT, directs the Secretary of the Interior to convey approximately 2,482 acres of Federal land to Mineral County, Nev.

The land involved was previously withdrawn for the use of the Navy as part of the Hawthorne Ammunition Depot. As the Navy facility has been reduced in the past few years, the county has developed imaginative plans for an industrial park to provide an alternative economic base. The county is 95 percent federally owned and the town of Hawthorne does not have suitable private property available for this purpose. The town is virtually landlocked by national resource lands.

I urge early action by the Senate on this legislation. A similar bill, H.R. 10072, was passed by the House in the closing days of the 94th Congress. Unfortunately, the Senate Interior Committee was unable to take affirmative action prior to sine die adjournment. There were no objections to the measure at any level in the 94th Congress and I am confident none will arise this year. Early action will insure that the economy of Hawthorne and Mineral County will be saved.

Mr. LAXALT. Mr. President, the purpose of this proposed legislation is to authorize the Secretary of the Interior and the Administrator of the General Services Administration to convey certain public lands in the State of Nevada, to the county of Mineral, Nev.

The lands in question consist of some 2,482 acres of national resource lands. They were originally withdrawn for exclusive use as a Naval Ammunition Depot at Hawthorne, Nev. On November 1, 1972, the Department of the Navy declared the property excess and requested the lands be transferred to the Bureau of Land Management. The Bureau of Land Management reports they are not needed for any Bureau programs and they are isolated from other lands administered by BLM.

Mineral County's economic picture at this time is dismal. There is an urgent need to expand the county's economic base. This legislation would allow Mineral County to acquire the property and develop it for industrial purposes in an effort to attract industry to the area.

In conclusion, Mr. President, conveyance of the lands in question would serve objectives that: First, may not be able to be achieved prudently or feasibly on land other than the tract in question: and second, outweigh public objectives and values which may be served by maintaining the land in Federal ownership.

Mr. President, I urge expeditious and favorable consideration of this proposal.

By Mr. BELLMON (for Mr. BARTLETT):

S. 300. A bill to establish a Department of Education; to the Committee on Government Operations.

Mr. BELLMON. Mr. President, on behalf of Senator BARTLETT, I introduce a bill, and I ask unanimous consent that a statement prepared by him in connection with the bill, together with the text of the bill, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BARTLETT

The Federal Government is a major source of financial and technical assistance to the Nation's schools and colleges. Today I introduce legislation which provides for a significant administrative change in the delivery of this assistance. Currently Federal assistance is provided chiefly through the Office of Education, a major component of the Education Division of the Department of Health, Education, and Welfare. The Office of Education has a staff of approximately 3,000 employees, and a budget of more than $7 billion. It administers more than 100 programs, most of them operated through State and local education agencies. These programs affect students in virtually all of the Nation's 16,000 school districts, 3,000 universities and two and four-year colleges, and 10,000 occupational schools.

The major goals of the Office of Education are:

To equalize the opportunity for education for all individuals and groups who are at a disadvantage because of economic, racial, or geographic conditions or physical or mental handicaps.

To improve the quality and relevance of American education, primarily through research, development, experimentation, demonstration, dissemination, and training.

To provide financial and technical support to libraries, State and local education agencies, developing institutions of higher education, and adult and vocational education.

Five Bureaus, several Staff Offices and Staffs attached directly to the Office of the Commissioner, and 10 Regional Offices work toward meeting these goals. I am sure that when one reviews the history of the Office of Education he cannot help but be impressed with the growth and scope of operation of the agency since its inception and the tremendous progress it has made to date in fulfilling its mission.

However, I believe that a vast improvement can yet be made if the agency charged with the responsibility for carrying out this mission were given Cabinet-level status and charged with the responsibility for administering all programs under the jurisdiction of the Department of Health, Education, and Welfare directly related to education, as well as certain other education programs now administered by other Departments and Agencies. Certainly credentials of this most important agency more than qualifies it to undertake this awesome responsibility, and the importance of its mission is more than worthy of Cabinet-level status.

I am, therefore, introducing legislation to accomplish this objective. I am aware that the DHEW has historically opposed this type of legislation, citing as its reasons the opinion that a vast majority of the concerns of the Agency such as poverty, drug abuse, alcoholism, child development, rehabilitation of handicapped, are not exclusively an education problem, or a welfare problem, but involve aspects of each of these areas. It is their belief that the creation of a separate Department to administer education programs would isolate them from related programs which deal with human problems, programs with which they must necessarily remain closely linked. Further, they think such a change would result in a fragmented approach to problems bearing on the conditions of the family and the individual and the results therefrom would also be fragmented.

I disagree with this opinion and believe strongly that on the contrary a separate agency specifically charged with the responsibility for carrying out Federal policy with regard to education can only result in further improvement of the education system of this Nation. Unlike the present situation where the Department charged with carrying out health and welfare programs as well, the Department I propose would be able to devote its full attention and resources to achieving a Federal education program of the highest quality, and would still be able to work with the Health and Welfare Department in achieving this goal. Further, a consolidation of the major Federal programs and responsibilities affecting education, I believe, is most desirable and long overdue. A consolidated education effort would afford the Federal Government a greater opportunity to achieve a vital national objective of highest priority—the education of our youth.

S. 300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education".

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby declares that the national interest requires (1) that adequate recognition be given to the funda-

mental importance to our society of education and training in its broadest aspect and to the importance within the Federal structure of the agency charged with the responsibility of carrying out Federal policy in education; and (2) that Federal programs designed to provide financial support for education at all levels be coordinated and administered in such a way as to eliminate duplication of effort and conflicting policies and procedures.

(b) The Congress further finds and declares that these vital objectives cannot be achieved so long as major Federal programs and responsibilities in this field are fragmented among several agencies and departments and their administration relegated to relatively minor levels within the executive branch, and that it is therefore necessary and desirable to establish a new department to carry out the major Federal programs affecting education.

ESTABLISHMENT OF DEPARTMENT

SEC. 3. (a) There is hereby established at the seat of government an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) There shall be in the Department a Deputy Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary (or, during the absence or disability of the Deputy Secretary, or in the event of a vacancy in the office of the Deputy Secretary, an Assistant Secretary or the General Counsel, determined according to such order as the Secretary shall prescribe) shall act for, and exercise the powers of the Secretary, during the absence or disability of the Secretary or in the event of a vacancy in the office of the Secretary. The Deputy Secretary shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(c) There shall be in the Department four Assistant Secretaries and a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

TRANSFERS TO DEPARTMENTS

SEC. 4. (a) There are hereby transferred to the Secretary all functions of the Office of Education and of the Commissioner of Education and other officers and offices of the Office of Education.

(b) There are hereby transferred to the Secretary all functions of the Director of the Office of Economic Opportunity, and of the other officers and offices of such Office (including functions delegated or carried on outside of such Office) under the following provisions of the Economic Opportunity Act of 1964:

(1) Sections 222(a)(1), 222(a)(2), 222(a)(5), and 222(a)(10) (relating to assistance for Head Start, Follow Through, and Upward Bound programs not conducted by community action agencies, and to an "Environmental Action" program).

(c) There are hereby transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare—

(1) under the following laws and provisions of law (relating generally to education):

(A) Section 653 of the Education of the Handicapped Act.

(B) Section 211 of the Appalachian Regional Development Act of 1965 (relating to vocational education facilities in the Appalachian region).

(C) The International Education Act of 1966.

(D) Title VI and section 1001(d) of the National Defense Education Act of 1958 (relating to language development programs and consultation with other Federal agencies).

(E) Section 403 of the General Education Provisions Act (relating to supervision of Office of Education).

(F) Sections 427(a)(2)(D) and 427(b) of the Higher Education Act of 1965 (relating to interest rate on certain student loans).

(G) The Act of July 2, 1862 (7 U.S.C. 301 et. seq.), and the Act of August 30, 1890 (7 U.S.C. 321 et seq.), relating to land-grant colleges.

(H) Part B of the General Education Provisions Act (relating to advance funding).

(I) Part B of title X of the Higher Education Act of 1965 (relating to improvement of postsecondary education).

(J) Section 706 of the Emergency School Aid Act (relating to waivers of ineligibility).

(K) The Juvenile Delinquency Prevention Act.

(2) under the following laws and provisions of law (relating to Howard University, Gallaudet College, and Model Secondary School for the Deaf):

(A) The Act of March 3, 1893 (20 U.S.C. 121; 27 Stat. 595), the Act of July 1, 1898 (20 U.S.C. 121; 30 Stat. 624), and the Act of March 3, 1899, chapter 424 (20 U.S.C. 122; 30 Stat. 1101), insofar as such Acts relate to Howard University.

(B) Section 441 of the Revised Statutes (D.C. Code, sec. 31–1022).

(C) The Act of June 18, 1954 (D.C. Code, sec. 31–1025 et seq.).

(D) The Model Secondary School for the Deaf Act (D.C. Code, sec. 31–1051 et seq.)

(3) under the following provisions of law (relating to appointment and compensation of advisory committees):

(A) The Cooperative Research Act (20 U.S.C. 331 et seq.).

(B) Sections 309, 541, 604, 708, and 906 of the Elementary and Secondary Education Act of 1965.

(C) Section 761 of the National Defense Education Act of 1958.

(D) Sections 110, 205, and 303 of the Higher Education Act of 1965.

(E) Section 716 of the Emergency School Aid Act.

(F) Sections 104(a)(2)(B) and 104(a)(5) of the Vocational Education Act of 1963.

(G) Section 310 of the Adult Education Act.

(d) There are hereby transferred to the Secretary all functions of the Assistant Secretary for Education.

(e) There are hereby transferred to the Secretary all functions of—

(1) the Secretary of Defense and the Secretaries of the military departments under (A) the Defense Department Overseas Teachers Pay and Personnel Practices Act, and (B) section 606(a) of the Department of Defense Appropriation Act, 1968, or any comparable provision of subsequent appropriation Acts; and

(2) the Secretary of the Navy under section 7204 of title 10, United States Code (relating to schools for dependents of members of the naval service).

(f) Within one hundred and eighty days of the effective date of this Act the President may transfer to the Secretary any function not transferred to the Secretary by the preceding subsections of this section, if the Director of the Office of Management and Budget determines such function relates primarily to functions transferred by such subsections to the Secretary.

REDESIGNATION OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 5. (a) The Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, the Under Secretary of Health, Education, and Welfare, the Assistant Secretaries of Health, Education, and Welfare, the General Counsel of the Department of Health, Education, and Welfare, and the Assistant Secretary of Health, Education, and Welfare for Administration shall on and after the effective date of this Act be known and designated as the Department of Health and Welfare, the Secretary of Health and Welfare, the Under Secretary of Health and Welfare, the Assistant Secretaries of Health and Welfare, the General Counsel of the Department of Health and Welfare, and the Assistant Secretary of Health and Welfare for Administration, respectively.

(b) Any reference in a law, regulation, document, or record of the United States to the Department of Health, Education, and Welfare or an office the title of which is redesignated by subsection (a) of this section shall be held and considered to be a reference to the Department of Health and Welfare or to such office as so redesignated.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) In addition to the authority contained in any other Act which is transferred to the Secretary, the Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including investigators, attorneys, and hearing examiners, as are necessary to carry out his functions and to prescribe their authority and duties.

(b) The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 per diem for individuals unless otherwise specified in an appropriation Act.

(c) The Secretary may, in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred to the Secretary in this Act, delegate any of his functions to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions.

(d) The personnel, assets, liabilities, contracts, property, records, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the Office of Education, and of the Commissioner of Education and other officers and offices thereof, are hereby transferred to the Secretary.

(e) So much of the positions, personnel, assets, liabilities, contracts, property, records, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available in connection with the functions transferred by section 4 (except section 4(a)) of this Act as the Director of the Office of Management and Budget shall determine shall be transferred to the Secretary. Except as provided in subsection (f) personnel engaged in functions transferred under this Act shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(f) The transfer of personnel pursuant to subsections (d) and (e) of this section shall be without reduction in classification or compensation for one year after such transfer.

(g) In any case where all of the functions of any office or agency are transferred pursuant to this Act, such office or agency shall lapse.

(h) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part

the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such fund shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund.

(i) The Secretary may approve a seal of office for the Department, and judicial notice shall be taken of such seal.

(j) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, as necessary, and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote localities:

(1) Emergency medical services and supplies;

(2) Food and other subsistence supplies;

(3) Messing facilities;

(4) Motion picture equipment and film for recreation and training; and

(5) Living and working quarters and facilities.

The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection shall be at prices reflecting reasonable value as determined by the Secretary, and the proceeds therefrom shall be credited to the appropriation from which the expenditure was made.

(k)(1) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary.

(2) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securiteis guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary pursuant to paragraph (1), shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

(l) The Secretary is authorized to appoint, without regard to the civil service laws, such advisory committees as may be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (b) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(m)(1) The Secretary is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or individuals for the conduct of research into any aspect of the problems related to the programs of the Department which are authorized by statute.

(2) The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he deems pertinent on the research carried out pursuant to this subsection.

(3) Nothing contained in this subsection is intended to amend, modify, or repeal any provisions of law administered by the Department which authorize the making of contracts for research.

AMENDMENTS TO OTHER LAWS

SEC. 7. (a) Section 19(d)(1) of title 3, United States Code, is hereby amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Welfare", and by inserting before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5 of the United States Code is amended by striking out ", Education," in the antepenultimate paragraph, and by inserting below the last paragraph the following:

"The Department of Education".

(c) Subchapter II (relating to Executive Schedule pay rates) of chapter 53 of title 5 of the United States Code is amended as follows:

(1) Section 5312 is amended by striking out ", Education," in the paragraph (10), and by adding below paragraph (12) the following:

"(13) Secretary of Education.".

(2) Section 5314 is amended by striking out ", Education," in paragraph (7) and by adding below paragraph (59) the following:

"(60) Deputy Secretary of Education.".

(3) Section 5315 is amended by striking out ", Education," in paragraphs (17), (41), and (97), and by adding after paragraph (97) the following:

"(98) General Counsel, Department of Education.

"(99) Assistant Secretaries of Education (4).".

(4) Section 5316 is amended by striking out "Education," in paragraphs (24), (43), (52), (53), and (95).

(5) Section 5317 is amended by striking out "thirty-four" and inserting in lieu thereof "thirty-six".

(d) Sections 5315 (441) and (88) of title 5, United States Code, are repealed.

(e) Section 106(a) of the International Education Act of 1966 is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education", and by striking out "the Assistant Secretary of Health, Education, and Welfare for Education" and inserting in lieu thereof "an Assistant Secretary of Education".

(f) Section 502(1) of the Economic Opportunity Act of 1964 is amended by striking out "basic education,".

(g) Section 431 of the General Education Provisions Act and section 141(c)(4) of the Education Amendments of 1972 are each amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education".

(h) Section 442(b)(3) of the Indian Education Act is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Welfare or of the Department of Education.".

ANNUAL REPORT

SEC. 8. The Secretary shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Department during the preceding fiscal year.

SAVINGS PROVISIONS

SEC. 9. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective—

(A) under any provision of law amended by this Act, or

(B) in the exercise of duties, powers, or functions which are transferred under this Act,

by (i) any department or agency, any functions of which are transferred by this Act, or (ii) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any department or agency (or component thereof), functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the department or agency before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect, and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official of the Department as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act—

(A) such department or agency is transferred to the Secretary, or

(B) any function of such department, agency, or officer is transferred to the Secretary,

then such suit shall be continued by the Secretary (except in the case of a suit not involving functions transferred to the Secretary, in which case the suit shall be continued by the department, agency, or officer which was a party to the suit prior to the effective date of this Act).

(d) With respect to any function, power, or duty transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department or agency, officer or office so transferred or functions of which are so transferred shall be deemed to mean the officer or agency in which this Act vests such function after such transfer.

(e) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

(f) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as that vested in the department or agency exercising such functions immediately preceding their transfer, and his actions in exercising such functions shall have the same force and effect as when exercised by such department or agency.

CODIFICATION

SEC. 10. The Secretary is directed to submit to the Congress within two years from the effective date of this Act a proposed codification of all laws which contain functions transferred to the Secretary by this Act.

DEFINITIONS

SEC. 11. For purposes of this Act:

(1) The term "Department" means Department of Education.

(2) The term "Secretary" means Secretary of Education.

(3) The term "function" includes power and duty.

EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

SEC. 12. (a) This Act shall take effect ninety days after the enactment of this Act, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Any of the officers provided for in this Act may (notwithstanding subsection (a)) be appointed in the manner provided for in this Act, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the rates provided for in this Act. Such compensation and related expenses of their offices shall be paid from funds available for the functions to be transferred to the Department pursuant to this Act.

SEC. 13. All references to "Commissioner of Education" in the text of this bill shall be changed to "Secretary of Education" to conform with the provisions of this title.

By Mr. METCALF:

S. 302. A bill to establish university coal research laboratories, noncoal mineral research institutes, energy resource fellowships, and for other purposes; to the Committee on Interior and Insular Affairs.

Mr. METCALF. Mr. President, I am sending to the desk a bill to establish university coal research laboratories, noncoal mineral research institutes, energy resource fellowships, and for other purposes.

Our Nation is presently undergoing adjustment to a new state of affairs. Where we once took for granted the seemingly unlimited domestic supplies of fuel oil, natural gas, and hard minerals necessary for our industrial economy, we now find ourselves ever more reliant on foreign imports. The trauma of the 1973–74 OPEC embago brought home to us the hard fact that such dependence entails risks.

So the President has rightly called for greater coal production and conversion of utilities to coal. Our industry is seeking new reserves of hard minerals, oil, and natural gas.

To meet the manpower requirements of all this expanded exploration and production activity, we must give our universities and State institutions of higher learning a real shot in the arm. We must reverse the dangerous decline, not to say disappearance, of our schools of mining across the country. Some mining schools, indeed, are at the point where they can barely function, due to the lack of adequate funds.

Mr. President, we need to bring about a true resurgence of research, investigation, demonstration, and experimentation in the exploration, extraction, processing, development, and production of our mineral resources. We need to develop new mining and mineral technologies. We need to learn more about the conservation and best use of available supplies of our minerals.

Perhaps most urgent of all—and here I have in mind strip mining for coal with respect to the inevitable spread of mining activity into areas heretofore relatively undeveloped—we must diligently investigate the many aspects of mining and mining reclamation which affect our environment: the economic, legal, social, engineering, recreational, biological, geographic, ecological, and other such ramifications.

It will require many more specialists to carry out these investigations than are presently available. Our institutions of higher learning will require assistance, through outright grants and through a fellowship program, to accelerate and expand the training of mining engineers, mineral engineers, geochemists, mineralogists, mineral economists, fuel scientists, combustion engineers, geologists, chemical engineers, civil engineers, mechanical engineers, ecologists, hydrologists, and the like.

This bill would establish 10 university coal research laboratories, a thousand fellowships, numerous special research and development projects of alternative coal mining technologies, and a system of State noncoal mining and mineral resources and research institutes. The Director of the National Science Foundation and the Secretary of the Interior would have responsibility for different segments of the four-part program.

I believe our universities and State institutions of higher learning deserve no less.

By Mr. McCLURE (for himself, Mr. THURMOND, and Mr. HEINZ):

S. 303. A bill to deny Members of Congress any increase in pay under any law passed, or plan or recommendation received, during a Congress unless such increase is to take effect not earlier than the first day of the next Congress; to the Committee on Post Office and Civil Service.

Mr. McCLURE. Mr. President, today I am reintroducing a bill Senator Taft sponsored in the last Congress. This bill provides that a general election must fall between the time a congressional pay increase is voted upon and the time it goes into effect.

I think this proposal could be helpful particularly at this time when the Commission on Executive, Legislative, and Judicial Salaries has recommended to the President salary increases for Federal judges and most senior Federal officials, including Members of Congress. The bill could eliminate a serious procedural problem and eliminate charges of conflict of interest because no Member of Congress could receive a pay raise in the same Congress in which the pay raise was enacted. Not until the first day of the following Congress could any pay increase for Members be paid. This legislation addresses just the timing of any future salary increases, not the merits of any specific increase.

I believe a policy which allows no Member of Congress to receive a pay raise in the same Congress in which the pay raise is enacted is critical to the credibility of any Federal salary raise proposal. Many State legislatures have already made this stipuation in their legislative pay procedures.

Obvious to us all is the necessity to attract and retain people of high quality within the ranks of senior Federal officials and Federal judgeships. Because any pay raise proposals for Members of Congress are linked to increases for other top level Federal officials, there exists a built-in conflict, because the Congress must approve any such proposal. In addition to the mood of the American people on pay raises, is the damage which can be done to this country in lost talent if legislative representatives do not feel free to vote as objectively as possible on top level Federal pay raises. A delay in implementing a pay raise for elected officials gives the electorate the opportunity to express themselves on that issue and helps prevent this conflict of interest.

We all know that many top level Federal employees and Federal judges have been penalized because of Congress inability to discuss pay proposals realistically. My bill would provide Congress and the American people with a far better way to deal with the question of pay raises.

By Mr. BAYH (for himself, Mr. BURDICK, Mr. CASE, Mr. CLARK, Mr. CULVER, Mr. GRAVEL, Mr. HASKELL, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, and Mr. LEAHY):

S. 304. A bill to amend title II of the Social Security Act to eliminate the special dependency requirements for entitlement to husband's and widower's insurance benefits, to provide benefits for widowed fathers with minor children, to

make certain other changes so that benefits for husbands, widowers, and fathers will be payable on the same basis as benefits for wives, widows, and mothers, and to permit the payment of benefits to a married couple on their combined earnings record where that method of computation provides a higher combined benefit; to the Committee on Finance.

Mr. BAYH. Mr. President, last year the Supreme Court of the United States made a landmark decision, *Weinberger v. Wisenfeld* (420 U.S. 636 (1975)) which significantly altered the treatment of women under the present social security system. The Supreme Court in handing down its decision in Weinberger against Wisenfeld, stated that—

> The Constitution of the United States forbids the gender-based differentiations that result in the efforts of women workers required to pay social security taxes, producing less protection for their families than is produced by the efforts of men.

The Court held specifically that the gender-based distinction mandated under the present social security law, authorizing the survivors' benefits for the widow of a deceased worker with children, but denying them to a widower in the same position, violated the right to equal protection secured by the due process clause of the fifth amendment. The Court observed that the distinction was based on an "archaic and overbroad" generalization that "male workers' earnings are vital to their families' support, while female workers' earnings do not significantly contribute to their families' support."

The Wisenfeld decision was a direct signal to the Congress—a signal to examine all aspects of the social security system which might prove similarly discriminatory to women.

In response to this need for reevaluation, Mr. President, we are reintroducing legislation first introduced in the last Congress, to redress all existing patterns and practices of sex discrimination within the social security system. It attempts to assure the working woman who has been contributing her tax dollars on an equal basis with working men, that her family will receive the very same protection afforded to the working male and his family.

This legislation goes a step further than merely assuring equality of benefits for working women: it redefines the method of benefit calculation so that a woman who has worked all her life can see the impact of her earnings reflected in the amount of benefits collected by a two-earner family.

Historically, social security laws have been based upon the assumption of the male as the family breadwinner. Over the years, there have been occasional attempts to change various provisions of the social security system to more accurately reflect the growing participation of women in the work force; however, the basic structure of the system remains cast in the outmoded image of the male as the sole support of his family, and the woman as a nonworking dependent.

While it is true that homemaking may still be the main occupation of American women, it is no longer the only occupation or source of identity for most of them. Today there are alternatives opening to increasing numbers of the female population. This is reflected by statistics showing that over half of those women between the ages of 18 and 64 are active members of the work force. The Department of Labor has estimated that 9 out of every 10 women will work outside the home at some time in their life. Presently, 44 percent of all married women work, 52 percent of mothers with school-age children, and 36 percent of mothers with pre-school-age children work outside the home.

These women work because they need money, and because their families need money. They do not work for "pin money" or for little luxuries. Women work because they want a better life for themselves and for their families; they work because they want their children to have food to eat; they work because they want to give their children a chance for higher education. For many families, it is the wife's earnings that keep the family off the welfare rolls and out of dire poverty.

1. EXISTING PATTERNS OF DISCRIMINATION

The present social security system does not reflect these statistics on women in the labor force. The current structure of the social security system continues to reflect the image of the male wage earner as the sole supporter of his family, thereby denying to millions of women workers the right to have their contribution to the social security system produce equal benefits for their families and dependents. Under the present system, workingwomen contribute to social security taxes on an equitable basis with workingmen, but these women are unable to obtain the same coverage for their spouses and dependents as is guaranteed to the spouse and dependent of every male wage earner.

A. EXTENSION OF BENEFITS

This type of discrimination has taken two forms. Either there has been no benefit category for dependents of workingwomen similar to the category afforded dependents of workingmen, or there has been a requirement of economic dependency as a condition for eligibility to receive benefits which applies only to dependents of working wives, not to workingmen.

For example under the law, when a father dies leaving dependent children, the mother may qualify for "mother insurance benefits," but when a mother dies leaving a father with dependent children, there are no "father insurance benefits" to enable him to keep his family together. This instance, which was the case addressed by the Supreme Court in Weinberger against Wisenfeld provides a clear example that the social security system has taken no recognition of the 13.5 million working mothers with dependent children.

Regulations have been issued pursuant to Wisenfeld; however the social security laws on the books remain unchanged.

The Supreme Court heard oral arguments during its full term in a case based directly on this issue, Matthews against Goldfarb.

The other form of this type of discrimination is just as invidious. The application of an economic dependency requirement on the spouse of a female wage earner, but not on the spouse of a male wage earner clearly reflects the assumption that it is the rare woman whose economic contribution to the support of her family amounts to more than pin money. Therefore, under the present system when a husband dies, retires, or becomes disabled, his wife may draw on his social security regardless of her actual dependency on him; but when a wife dies, retires, or becomes disabled, her husband may draw benefits only if he can prove that he was dependent for at least half of his support on her.

B. COMPUTATION OF BENEFITS

In addition to being discriminatory toward workingwomen in the extension of benefits to their spouses and dependents, the social security system is also discriminatory in the way in which benefits are calculated.

More workingwomen receive social security benefits as dependent wives, widows, and mothers than as workers. Under the present system, a workingwoman may qualify for benefits as an earner or a dependent, but not as both. Thus, unless a wife's earnings entitle her to a benefit larger than half that of her husband's the dependent wife's benefit—or for a widow, larger than her deceased husband's full benefit—a married woman who pays social security taxes all her life may receive retirement benefits no larger than if she had never worked a day in her life or contributed a dime in taxes. Even if her earnings do entitle her to a retirement benefit somewhat larger than she would have received as a dependent, for that extra amount, she will have paid a disproportionately higher tax.

The end result of calculating benefits in this manner is that a working couple may be paid less in total retirement benefits than any couple which had the same total earnings where only the husband worked. In testimony pointing out this discrepancy before the Joint Economic Committee, former Social Security Commissioner Robert Ball gave the following example:

> Where only the husband works and has average yearly earnings of $9,000 the benefit payable according to the table in present law would be $354.50 for the husband and $177.30 for the wife, a total of $531.80 a month; if the husband has had average earnings of $6,000 and the wife had had earnings of $3,000—combined earnings of $9,000—his benefit would be $269.70 and hers would be $174.80, a total of $444.50; $87.30 less than the couple with the same total average earnings when only the husband worked. These results do not apply when the combined earnings of the couple are significantly above the maximum credited for benefit purposes, currently $10,800.

Mr. President, we agree with former Commissioner Ball in his assessment that there is no good reason in social insurance theory for this difference in treatment. Both couples in the Commissioner's example have paid the same in contributions, and both have had the same level of living, and, therefore, should get the same replacement of past earnings in retirement or disability benefits.

II. SUMMARY OF LEGISLATION

The legislation that we are introducing today attempts to address all of these discriminatory characteristics of the social security system. It amends these portion of the social security laws which offer discriminatory benefits to dependents of male workers, but not to dependents of women workers; it eliminates dependency requirements for the extension of benefits; and it offers a new formula for the calculation of benefits based upon the combined earnings of a working couple.

All of the recommended changes found in the bill were endorsed by a special subcommittee of the Advisory Council of Social Security. The calculation formula based on combined earnings has already been considered by the Ways and Means Committee and the House of Representatives and approved as part of H.R. 1 in the 93d Congress. While this provision was dropped during the conference on H.R. 1, we hope that the Senate will take this opportunity to reassert this proposal for needed change.

We realize that there are those who would oppose any change in the social security system which is regarded as liberalizing the benefit structure in any way. Many of those who oppose such changes do so based upon apprehension at the cost to a system which some see as in financial trouble already. To those critics, I would just say that the cost of extended equal protection to women workers and their families is a very small percentage of the costs of the social security system. For example, the estimated cost for the computation of benefits based on combined earnings is less than 1 percent of the total payroll. That is a very small price to pay for equality.

Mr. President, in order that the provisions of my bill will be fully understood, I ask unanimous consent that the bill, along with a section-by-section analysis, be printed in the RECORD. In addition, I also ask unanimous consent that two articles supporting the need for this legislation be inserted in the RECORD following the section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equity in Social Security Act of 1977".

ELIMINATION OF SPECIAL DEPENDENCY REQUIREMENTS FOR HUSBAND'S AND WIDOWER'S BENEFITS

SEC. 2. (a)(1) Section 202(c)(1) of the Social Security Act is amended—

(A) by adding "and" at the end of subparagraph (B);

(B) by striking out subparagraph (C); and

(C) by redesignating subparagraph (D) as subparagraph (C).

(2) Section 202(c) of such Act is further amended by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(b)(1) Section 202(f)(1) of such Act is amended—

(A) by adding "and" at the end of subparagraph (C);

(B) by striking out subparagraph (D); and

(C) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(2) Section 202(f) of such Act is further amended by striking out paragraph (2), and by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively.

(3)(A) Section 202(f)(1)(B) of such Act is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (5)".

(B) The subparagraph of section 202(f)(1) of such Act redesignated as subparagraph (F) by paragraph (1)(C) of this subsection is amended by striking out "paragraph (7)" and "paragraph (6)" and inserting in lieu thereof "paragraph (6)" and "paragraph (5)", respectively.

(C) Subparagraph (A) of the paragraph of section 202(f) of such Act redesignated as paragraph (2) by paragraph (2) of this subsection is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)".

(D) The paragraph of section 202(f) of such Act redesignated as paragraph (4) by paragraph (2) of this subsection is amended by striking out "paragraph (4)" and "paragraph (3)" and inserting in lieu thereof "paragraph (3)" and "paragraph (2)", respectively.

(E) The paragraph of section 202(f) of such Act redesignated as paragraph (6) by paragraph (2) of this subsection is amended by striking out "paragraph (1)(G)" and "paragraph (6)" and inserting in lieu thereof "paragraph (1)(F)" and "paragraph (5)", respectively.

ELIGIBILITY OF CERTAIN DIVORCED HUSBANDS AND FORMER HUSBANDS FOR HUSBAND'S AND WIDOWER'S BENEFITS

SEC. 3. (a)(1) Section 202(c)(1) of the Social Security Act is amended by inserting "and every divorced husband (as defined in section 216(d))" immediately after "husband (as defined in section 216(f))", and by inserting "or such divorced husband" immediately after "if such husband", in the matter preceding subparagraph (A).

(2) Section 202(c)(1) of such Act (as amended by the first section of this Act) is further amended by striking out "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) in the case of a divorced husband, is not married, and".

(3) Section 202(c)(1) of such Act is further amended by striking out "shall be entitled" and inserting in lieu thereof "shall (subject to subsection (s)) be entitled".

(4) Section 202(c)(1) of such Act is further amended—

(A) by inserting immediately after "they are divorced" in the matter following the colon the following: "(in the case of a husband) and either he has not attained age 62 or he has attained such age but has not been married to such individual for a period of 20 years immediately before the date the divorce became effective"; and

(B) by adding at the end thereof the following new sentence: "In the case of a divorced husband, entitlement to such benefits shall also end with the month preceding the month in which he marries a person other than such individual.".

(5) Section 202(c)(2) of such Act (as redesignated by the first section of this Act) is amended by inserting after "his wife" the following: "(or, in the case of a divorced husband, his former wife)".

(6) Section 202(c) of such Act (as amended by the first section of this Act) is further amended by adding at the end thereof the following new paragraph:

"(3) In the case of any divorced husband who marries—

"(A) an individual entitled to benefits under subsection (e), (g), or (h) of this section, or

"(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d),

such divorced husband's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) (but subject to subsection (s)), not be terminated by reason of such marriage.".

(b)(1) Section 202(f)(1) of such Act is amended by inserting "and every surviving divorced husband (as defined in section 216(d))" immediately after "widower (as defined in section 216(g))", and by inserting "or such surviving divorced husband" immediately after "if such widower", in the matter preceding subparagraph (A).

(2) Section 202(f)(1)(A) of such Act is amended by striking out "has not remarried" and inserting in lieu thereof "is not married".

(3) Section 202(f) of such Act is further amended by inserting "or surviving divorced husband" immediately after "widower" each place it appears in paragraphs (2)(B), (3), (5), and (6) (as redesignated by the first section of this Act).

(4) Section 202(f)(3) of such Act (as so redesignated) is amended by inserting "or surviving divorced husband's" immediately after "widower's".

(c)(1) Section 216(d)(1) of such Act is amended by adding at the end thereof the following new sentence: "The term 'divorced husband' means a man divorced from an individual, but only if he had been married to such individual for a period of 20 years immediately before the date the divorce became effective.".

(2) Section 216(d)(2) of such Act is amended by adding at the end thereof the following new sentence: "The term 'surviving divorced husband' means a man divorced from an individual who has died, but only if he had been married to such individual for a period of 20 years immediately before the date the divorce became effective.".

(3) The heading of section 216(d) of such Act is amended by inserting "and Husbands" immediately after "Wives".

ELIGIBILITY FOR HUSBAND'S BENEFITS BASED ON HAVING CHILD IN CARE

SEC. 4. (a) Section 202(c)(1)(B) of the Social Security Act is amended to read as follows:

"(B) has attained age 62 or (in the case of a husband) has in his care (individually or jointly with such individual) at the time of filing such application a child entitled to a child's insurance benefit on the basis of the wages and self-employment income of such individual,".

(b) Section 202(c)(1) of such Act (as amended by section 2(a) of this Act) is further amended by inserting immediately after the first sentence the following new sentence: "In the case of a husband who has not attained age 62, entitlement to such benefits shall also end with the month preceding the first month in which no child of the insured individual is entitled to a child's insurance benefit.".

BENEFITS FOR WIDOWED FATHERS WITH MINOR CHILDREN

SEC. 5. Section 202(g) of the Social Security Act is amended to read as follows:

"Mother's and Father's Insurance Benefits

"(g)(1) The widow, widower, and every surviving divorced mother or father (as defined in section 216(d)) of an individual who died a fully or currently insured individual, if such widow, widower, or surviving divorced mother or father—

"(A) is not married,

"(B) is not entitled to a widow's or widower's insurance benefit,

"(C) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of such individual,

"(D) has filed application for mother's or father's insurance benefits, or was entitled to wife's or husband's insurance benefits on the basis of the wages and self-employment income of such individual for the month preceding the month in which such individual died, and

"(E) at the time of filing such application has in her or his care a child of such individual entitled to a child's insurance benefit,

shall (subject to subsection (s)) be entitled to a mother's or father's insurance benefit for each month, beginning with the first month in which she or he becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child's insurance benefit, or such widow, widower, or surviving divorced mother or father becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, becomes entitled to a widow's or widower's insurance benefit, remarries, or dies. Entitlement to such benefits shall also end, in the case of a surviving divorced mother or father, with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such surviving divorced mother or father is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased individual.

"(2) Such mother's or father's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

"(3) In the case of a widow, widower, or surviving divorced mother or father who marries—

"(A) an individual entitled to benefits under this subsection or subsection (a), (e), (f), or (h), or under section 223(a), or

"(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

the entitlement of such widow, widower, or surviving divorced mother or father to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under section 223(a) or subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 223(a) or subsection (d) of this section unless (i) he or she ceases to be so entitled by reason of his or her death, or (ii) in the case of an individual who was entitled to benefits under section 223(a), he or she is entitled, for the month following such last month, to benefits under subsection (a) of this section.".

MISCELLANEOUS CONFORMING AMENDMENTS

SEC. 6(a)(1) Section 202(b)(3)(A) of the Social Security Act is amended by striking out "(f) or (h)" and inserting in lieu thereof "(f), (g), or (h)".

(2) Section 202(b)(3) of such Act is further amended by striking out the semicolon and all that follows and inserting in lieu thereof a period.

(b)(1) Section 202(c)(3)(A) of such Act is amended by striking out "(f) or (h)" and inserting in lieu thereof "(f), (g), or (h)".

(2) Section 202(e)(3) of such Act is further amended by striking out the semicolon and all that follows and inserting in lieu thereof a period.

(c) Section 202(f)(1)(C) of such Act is amended by inserting after the comma at the end thereof the following: "or was entitled, on the basis of such wages and self-employment income to father's insurance benefits for the month preceding the month in which he attained age 65,".

(d) Section 202(k) of such Act is amended—

(1) by striking out "or (f)(5)" wherever it appears in paragraphs (2)(B) and (3)(B) and inserting in lieu thereof in each instance "or (f)(4)"; and

(2) by striking out "or (f)(3)" in paragraph (3)(A) and inserting in lieu thereof "or (f)(2)".

(e)(1) Section 202(p)(1) of such Act is amended by striking out "subparagraph (C) of subsection (c)(1),".

(2) Section 202(p)(1) of such Act is further amended by striking out "clause (i) or (ii) of subparagraph (D) of subsection (f)(1), or".

(f)(1)(A) Section 202(q)(3)(E) of such Act is amended, in the matter preceding clause (i) thereof, by inserting "or surviving divorced husband" immediately after "in the case of a widower".

(B) Section 202(q)(3)(F) of such Act is amended, in the matter preceding clause (i) thereof, by inserting "or surviving divorced husband" immediately after "in the case of a widower".

(C) Section 202(q)(3)(G) of such Act is amended by inserting "or surviving divorced husband" immediately after "in the case of a widower".

(2)(A) Section 202(q)(5)(A) of such Act is amended—

(i) by inserting "or husband's" immediately after "wife's" each place it appears therein,

(ii) by inserting "or by him" immediately after "by her",

(iii) by inserting "or he" immediately after "she" each place it appears therein,

(iv) by inserting "or in his" immediately after "in her", and

(v) by striking out "her wife's insurance benefit" and inserting in lieu thereof "her wife's or his husband's insurance benefit".

(B) Section 202(q)(5)(B) of such Act is amended—

(i) by striking out "woman" and inserting in lieu thereof "individual", and

(ii) by striking out "she" and inserting in lieu thereof "such individual".

(C) Section 202(q)(5)(C) of such Act is amended—

(i) by striking out "woman" and inserting in lieu thereof "individual",

(ii) by inserting "or his" after "in her",

(iii) by inserting "or he" immediately after "she" each place it appears therein, and

(iv) by inserting "or husband's" immediately after "wife's".

(D) Section 202(q)(5)(D) of such Act is amended by inserting immediately before the period at the end thereof the following: "; and no widow's insurance benefit for a month in which he has in his care a child of his deceased wife (or deceased former wife) entitled to child's insurance benefits shall be reduced under this subsection below the amount to which he would have been entitled had he been entitled for such month to father's insurance benefits on the basis of his deceased wife's (or deceased former wife's) wages and self-employment income".

(3) Section 202(q)(6)(A)(i)(II) of such Act is amended by inserting "or husband's" immediately after "wife's".

(4) Section 202(q)(7)(B) of such Act is amended—

(A) by inserting "or husband's" immediately after "wife's",

(B) by inserting "or he" immediately after "she", and

(C) by inserting "or his" immediately after "or her".

(g) Section 202(s) of such Act is amended—

(1) by inserting "(c)(1)," after "(b)(1)," in paragraph (1);

(2) by striking out "Subsection (f)(4), and so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4), of this section as precedes the semicolon" in pargraph (2) and inserting in lieu thereof "Subsections (b)(3), (c)(4), (e)(3), and (f)(3, and so much of subsections (d)(5), (g)(3), and (h)(4), of this section as precedes the semicolon"; and

(3) by striking out "Subsections (c)(2)(B) and (f)(2)(B) of this section, so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4)" in paragraph (3) and inserting in lieu thereof "So much of subsections (d)(5), (g)(3), and (h)(4)".

(h) Section 203(c)(2) of such Act is amended—

(1) by striking out "wife" and inserting in lieu thereof "wife or husband";

(2) by striking out "wife's" each place it appears and inserting in lieu thereof "wife's or husband's";

(3) by striking out "her care" and inserting in lieu thereof "her or his care"; and

(4) by striking out "her husband" each place it appears and inserting in lieu thereof "her or his spouse".

(i)(1) Section 203(c)(3) of such Act is amended to read as follows:

"(3) in which such individual, if a widow or widower entitled to a mother's or father's insurance benefit, did not have in her or his care a child of the deceased husband or wife entitled to a child's insurance benefit; or".

(2) Section 203(c)(4) of such Act is amended to read as follows:

"(4) in which such individual, if a surviving divorced mother or father entitled to a mother's or father's insurance benefit did not have in her or his care a child of her or his deceased former spouse who (A) is her or his son, daughter, or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of her or his deceased former spouse.".

(j) The last sentence of section 203(c) of such Act is amended by inserting "or surviving divorced husband" after "the widower".

(k) The second sentence of section 205(b) of such Act is amended by inserting "surviving divorced father," after "surviving divorced mother,", by inserting "divorced husband," after "husband,", and by inserting "surviving divorced husband," after "widower,".

(l)(1) Section 216(d)(3) of such Act is amended to read as follows:

"(3) The term 'surviving divorced mother or father' means an individual divorced from a person who has died, but only if (A) such individual is the mother or father of such person's son or daughter, (B) such individual legally adopted such person's son or daughter while such individual and such person were married and while such son or daughter was under the age of 18, (C) such person legally adopted such individual's son or daughter while such individual and such person were married and while such son or daughter was under the age of 18, or (D) such individual was married to such person at the time both of them legally adopted a child under the age of 18."

(2) The heading of section 216(d) of such Act (as amended by section 2(c)(3) of this Act) is amended by inserting "Surviving Divorced Mothers and Fathers;" immediately after "Husbands;".

(m)(1) The first sentence of section 222(b)(1) of such Act is amended by striking out "or surviving divorced wife" and inserting in lieu thereof ", surviving divorced wife, or surviving divorced husband".

(2) Section 222(b)(2) of such Act is

amended by inserting "or father's" after "mother's" each place it appears.

(3) Section 222(b)(3) of such Act is amended by inserting "divorced husband," immediately after "husband,".

(n) Section 222(d)(1) of such Act is amended by inserting "and surviving divorced husbands" immediately after "for widowers".

(o) Section 223(d)(2) of such Act is amended by striking out "or widower" in subparagraphs (A) and (B) and inserting in lieu thereof "widower, or surviving divorced husband".

(p) The first sentence of section 225 of such Act is amended by inserting "or surviving divorced husband" immediately after "a widower".

COMPUTATION OF BENEFITS BASED ON COMBINED EARNINGS OF HUSBAND AND WIFE

SEC. 7. (a) Section 202(a) of the Social Security Act is amended to read as follows:

"(a)(1) Every individual who—

"(A) is a fully insured individual (as defined in section 214(a)),

"(B) has attained age 62, and

"(C) has filed application for old-age insurance benefits or was entitled to disability insurance benefits for the month preceding the month in which he attained age 65,

shall be entitled to an old-age insurance benefit, for each month beginning with the first month in which such individual becomes so entitled to such insurance benefits and ending with the month preceding the month in which he dies.

"(2) Except as provided in subsection (q), such individual's old-age insurance benefit for any month shall be equal to his primary insurance amount for such month as determined under section 215(a), or as determined under paragraph (3) of this subsection if such paragraph is applicable and its application increases the total of the monthly insurance benefits to which such individual and his spouse are entitled for the month in which the provisions of paragraph (3) are met. If the primary insurance amount of an individual or his spouse for any month is determined under paragraph (3), the primary insurance amount of each of them for such month shall, notwithstanding the preceding sentence, be determined only under paragraph (3).

"(3) If an individual and his spouse—

"(A) each has at least 20 years of coverage (as determined under the last sentence of section 215(a), with years of coverage determined under clause (1) of such sentence being credited for 1950 and consecutive prior years, and without the application of the last sentence of section 215(b)(2)(C)), taking into account only years occurring during the period beginning with the calendar year in which they were married.

"(B) each attained age 62 after 1975,

"(C) each is entitled to benefits under this subsection (or section 223), and

"(D) each has filed an election to have his primary insurance amount determined under this paragraph, then the primary insurance amount of such individual and the primary insurance amount of such spouse, for purposes of determining the old-age insurance benefit (prior to the application of subsection (w)) or disability insurance benefit of each of them for any month beginning with January 1977 or, if later, the month in which their elections under subparagraph (D) were filed, and ending with the month preceding the month in which either of them dies or they are divorced, shall be equal to 75 percent of the amount (specified in subparagraph (G)) derived by—

"(E) combining the annual wages and self-employment income of such individual and such spouse (including any wages and self-employment income taken into account in a recomputation made under section 215(f)) for each year in which either or both of them had any such wages or self-employment income, up to the maximum amount prescribed in section 215(e) for such year,

"(F) computing (under section 215(b) and (d)) an average monthly wage on the basis of the wages and self-employment income determined under subparagraph (E) (or, if any wages and self-employment income have been taken into account in a recomputation under section 215(f), recomputing as provided in section 215(a)(1)(A) and (C) as though the year with respect to which such recomputation is made is the last year of the period specified in section 215(b)(2)(C)), as through all of such wages and self-employment income had been earned or derived by such individual or his spouse, whichever is younger, and

"(G) determining (under section 215(a)) an amount equal to the primary insurance amount which would result from the average monthly wage determined under subparagraph (F).

For purposes of subparagraph (F), if an individual or his spouse is entitled to disability insurance benefits, such individual or spouse shall be deemed to have attained age 62 at the time provided in section 223(a)(2).

"(4) No benefits payable under subsections (b), (c), (d), (e), (g), (h), or (i) shall be computed on the basis of a primary insurance amount determined under paragraph (3) of this section.

"(5) The term 'primary insurance amount' as used in the provisions of this title other than this subsection shall not include a primary insurance amount determined under paragraph (3) unless specifically so indicated."

(b)(1) Section 202(c)(1)(C)(i) of such Act is amended by striking out "such individual," and inserting in lieu thereof "such individual or to an old-age or disability insurance benefit determined under subsection (a)(3),".

(2) Section 202(c)(2) of such Act is amended—

(A) by striking out "and subparagraph (B) of this paragraph" in subparagraph (A) and inserting in lieu thereof "and subparagraphs (B) and (C) of this paragraph"; and

(B) by adding at the end thereof the following new subparagraph:

"(C) In any case where a widow was entitled for the month preceding the month in which the deceased individual died to an old-age insurance benefit or a disability insurance benefit based on a primary insurance amount determined under section 202(a)(3), such widow's insurance benefit for each month shall be determined only on the basis of the wages and self-employment income of her deceased spouse and, for purposes of subparagraph (B), the old-age or disability insurance benefit of the deceased spouse shall be deemed to be the amount it would have been if it had been determined under subsection (a)(1) or section 223, except that after the application of subparagraphs (A) and (B), and subsection 203(a), such widow's insurance benefit shall be not less than the amount of the old-age or disability insurance benefit to which she would be entitled for such month (based on a primary insurance amount determined under subsection (a)(3)) if such individual had not died, disregarding for this purpose the period beginning with the year after the year of such individual's death and any wages and self-employment income paid to or derived by either of them during such period. This subparagraph shall not apply, in the case of a widow who remarries, with respect to the month in which such remarriage occurs or any subsequent month."

(c) Section 202(f)(2) of such Act (as redesignated by section 1(b)(2) of this Act) is amended—

(A) by striking out "and subparagraph (B) of this paragraph" in subparagraph (A) and inserting in lieu thereof "and subparagraphs (B) and (C) of this paragraph"; and

(B) by adding at the end thereof the following new subparagraph:

"(C) In any case where a widower was entitled for the month preceding the month in which the deceased individual died to an old-age insurance benefit or a disability insurance benefit based on a primary insurance amount determined under section 202(a)(3), such widower's insurance benefit for each month shall be determined only on the basis of the wages and self-employment income of his deceased spouse and, for purposes of subparagraph (B), the old-age or disability insurance benefit of the deceased spouse shall be deemed to be the amount it would have been if it had been determined under subsection (a)(1) or section 223, except that after the application of subparagraphs (A) and (B), and subsection 203(a), such widower's insurance benefit shall be not less than the amount of the old-age or disability insurance benefit to which he would be entitled for such month (based on a primary insurance amount determined under subsection (a)(3)) if such individual had not died, disregarding for this purpose the period beginning with the year after the year of such individual's death and any wages and self-employment income paid to or derived by either of them during such period. This subparagraph shall not apply, in the case of a widower who remarries, with respect to the month in which such remarriage occurs or any subsequent month."

(d) Section 203(a) of such Act is amended by striking out "or" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and by inserting after paragraph (5) the following new paragraph:

"(6) in applying this subsection in any case where the primary insurance amount of the insured individual was determined under section 202(a)(3) and his entitlement under such section has not terminated, the total of monthly benefits to which persons other than such individual may be entitled on the basis of such individual's wages and self-employment income shall be determined as though such individual's primary insurance amount had instead been determined under section 215(a) and without regard to section 202(a)(3)."

(e)(1) Section 215(a)(1) of such Act is amended by inserting after "this subsection" in the matter preceding subparagraph (A) the following: "and in section 202(a)(3)".

(2) Section 215(a)(2) of such Act is amended—

(A) by striking out "or" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or", and

(C) by adding at the end thereof the following new subparagraph:

"(C) an amount equal to the primary insurance amount on which such disability insurance benefit is based if such primary insurance amount was determined under section 202(a)(3)."

(3) Section 215(f)(1) of such Act is amended by inserting "(or section 202(a)(3))" after "determined under this section."

(4) The second sentence of section 215(f)(2) of such Act is amended by inserting before the period at the end thereof the following: ", and, in the case of an individual whose primary insurance amount was determined under section 202(a)(3), as though such amount had instead been determined under subsection (a) of this section and without regard to section 202(a)(3)".

(5) Section 223(a)(2) of such Act is amended by inserting "(or under section 202(a)(3))" after "under section 215".

EFFECTIVE DATES

SEC. 8. The amendments made by sections 1 through 5 of this Act shall apply with re-

under title II of the Social Security Act for months after the month in which this Act is enacted, on the basis of applications filed in or after the month in which this Act is enacted. The amendments made by section 6 of this Act shall apply only with respect to monthly insurance benefits under such title II for months after December 1977.

[From the Clearinghouse Review, December 1974]

SEX DISCRIMINATION IN THE FAMILY BENEFITS SECTIONS OF THE SOCIAL SECURITY ACT

(By Donald Randolph) *

I. INTRODUCTION

Due to the fact that many older people rely on OASDI Social Security benefits,[1] not merely as an income supplement, but rather as their only means of support,[2] increased attention is being paid to the structure of the Social Security system, as indicated by the activity of both Congress and the commentators.[3] As a result, constitutionally questionable aspects of the Social Security structure and administration, heretofore ignored, are now ripe for challenge.[4]

One of the most blatant inequities in the system is the high incidence of discrimination based solely on sex, particularly with regard to treatment of the working woman. Recent developments in the courts indicate that such sex-based classifications need no longer be tolerated without questioning their constitutional and factual validity.

As the original Act was gradually revised, the discriminatory provisions were incorporated to provide benefits for the *family* of the worker. The worker remains the primary beneficiary, but the system provides for the payment of monthly benefits to certain dependents of the worker, or to his/her survivors in the event of death. Entitlement for these benefits stems from the work record of the worker/spouse, who must have remained in employment covered by OASDI for a substantial period of time.[5]

Congress has consistently used the "traditional" family structure (male breadwinner and female dependent) as the model for the development of family benefits. This fact is borne out by the ultimate effect of the provisions and by direct statements of legislative intent. Consequently, it is not surprising that many provisions directly discriminate against families which include a female in covered employment. Recent statistics clearly indicate that a substantial number of families are adversely affected by the outmoded provisions.[6]

The purpose of this article is to describe the discriminatory provisions within the family benefits area and to outline several approaches to a constitutional challenge of these provisions based on equal protection grounds. The list of provisions is not meant to be exhaustive; indeed, many of the same assumptions undoubtedly underlie other areas of the Act. Furthermore, it should not be inferred that the discrimination in the family benefits area will be completely remedied by revising the sections considered. The extent to which the traditional family structure permeates every section is such that nothing short of a total legislative revision will suffice, and it is hoped that exposure of the gross unfairness of sex bias in the Act will serve to prompt an eventual revision. At a minimum, the causes of action outlined below may provide relief for those families who both deserve and rely on Social Security benefits, yet are denied their fair entitlement due to non-traditional family structures.

II. DISCRIMINATION IN THE ACT

Sex discrimination in the family benefits sections of the Act can be divided into two general forms: (1) the additional element of economic dependency, required only of men, as a condition of eligibility for benefits based on the earnings of the spouse; and (2) the availability of benefits to certain categories of women but not to corresponding categories of men. Both of the above forms of discrimination cause identically-situated persons to be accorded different treatment solely on the basis of a characteristic over which they have no control, and which has no necessary relationship to their abilities, needs or functions. In every instance the discrimination is double-edged: a man cannot receive the same benefits which a similarly-situated woman receives; conversely, no female wage-earner can obtain, via her Social Security contributions, the coverage for her spouse, regardless of his dependency, which is guaranteed to the spouse of every male wage-earner.

A. Economic dependency requirement

Although benefits are available to both wives [7] and widows [8] whose husbands are entitled to old age or disability insurance benefits, and the same benefits are available to similarly situated husbands [9] and widowers,[10] a man has the additional requirement of proving he was receiving at least one-half of his support from his wife at a certain specified time.[11] These sections discriminate against any family consisting of a working wife entitled to benefits and an ineligible husband. The total potential entitlement to family benefits is considerably less than a identically situated family in which traditional roles obtain.[12]

B. Categorical discrimination

In the sections discussed below, the discrimination stems from the availability of benefits to certain categories of women and not to corresponding categories of men. Note that every categorical exclusion of men is also a direct discrimination against a female wage-earner, who cannot obtain for her spouse similar benefits guaranteed to the spouse of every male wage-earner.

(1) Divorced Spouses

The Act contains provisions which protect the aged divorced wife of an old age or disability benefits beneficiary. These sections include benefits for divorced wives,[13] surviving divorced wives [14] and disabled surviving divorced wives.[15] No similar provisions exist for divorced husbands, whose present benefits and/or eligibility for future entitlements (based on the wife's contributions) both terminate as of the date of the divorce.[16]

These provisions reflect a deep concern for the plight of an aged woman who, through divorce, loses both her husband and her means of support.[17] Conversely, they reflect a total disregard for the plight of an aged divorced man who might have relied on his wife's support prior to their divorce, and for the efforts of the woman wage-earner whose Social Security contributions are given no credit in this context.

(2) Mothers' Benefits

These benefits are available to certain categories of women who have in their care children of the worker/husband. These categories include wives,[18] surviving mothers[19] and surviving divorced mothers,[20] as long as the beneficiary is under age 62 and has in her care a child eligible for benefits.[21] The additional payments to the mother are primarily intended for the protection of the children. The mother receives the benefits not merely because she is female, but because it is assumed that she would prefer to remain at home to care for the children.[22]

No similar provisions exist for husbands who have custody of a child under similar circumstances. The obvious inequity of this omission was successfully challenged by a widower/plaintiff in *Wiesenfeld v. Secretary of HEW*.[23] The district court declared that 42 U.S.C. § 402(g) was unconstitutional insofar as it discriminates against widowers on the basis of sex. The impact of this decision will be discussed below.

III. EQUAL PROTECTION ANALYSIS

A. General approach

It is well established that the fifth amendment guarantees to every person security from arbitrary treatment and equal protection under the law. The fifth amendment imposes the same obligation upon the federal government as the fourteenth amendment does upon the states.[24] Consistent with this mandate, the Supreme Court has used equal protection principles to scrutinize classifications based on sex.[25] Certainly other constitutional approaches are available depending upon the circumstances of the classification, including theories of due process and irrebuttable presumption.[26] However, in the recent cases dealing with classifications most closely resembling those under discussion, equal protection analyses have succeeded in overturning legislative classifications based solely on sex.[27]

B. Standards of review

In determining whether a statute violates equal protection, courts have applied standards of review ranging from lenient to stringent.[28] Two standards are generally contrasted: (1) the strict security test, met only by a demonstration of a "compelling state interest," applicable when the statute impinges upon a "fundamental right or interest" or invokes a "suspect" criterion; and (2) the reasonable relationship test.

Considerable dissatisfaction has been expressed with regard to the limited choice posed by this "two-tiered" formula. Some courts and commentators have interpreted recent decisions as creating an "intermediate test" for legislative discrimination based upon sex.[29] Nevertheless, the establishment of an "intermediate test" was rejected by the three-judge court in *Wiesenfeld*, and, by most recent indications, the Supreme Court still heavily relies upon the two-tiered standard of review.[30]

With respect to the applicable standard of review for the classifications under discussion, a two-fold approach can be adopted: (1) each of the statutes creates a suspect classification for which no compelling justification exists; (2) the distinctions between the sexes for purposes of determining eligibility for Social Security insurance benefits lack a reasonable relationship to permissible governmental objectives.

(1) Strict Review: Sex as a Suspect Criterion

(a) Precedent

On May 14, 1973, in *Frontiero* v. *Richardson*,[31] the Supreme Court declared unconstitutional certain federal statutes which provided, solely for administrative convenience, that spouses of male members of the Armed Services are dependents for the purposes of obtaining certain benefits, but that spouses of female members are not considered dependents unless they are dependent for more than one-half of their support.[32] Four members of the Court, in a plurality opinion written by Justice Brennan, declared that gender classifications are inherently suspect and are subject to strict judicial scrutiny under the due process clause of the fifth amendment:

"[S]ince sex, like race and national origin, is an immutable characteristic determined solely by the accident of birth, the imposition of special disabilities upon the members of a particular sex because of their sex would seem to violate 'the basic concept of our system that legal burdens should bear some relationship to individual responsibility. . . .'

"With these considerations in mind, we can only conclude that classifications based upon sex, like classifications based upon race, alienage, or national origin, are inherently

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suspect, and must therefore be subjected to strict judicial scrutiny."

Justice Stewart, concurring, preferred to label the distinction "invidious" and cited *Reed v. Reed*[44] (declaring unconstitutional a statute that preferred men to women as estate administrators). The remaining Justices, save the lone dissenter, relied on *Reed* to find the statutes unconstitutional only insofar as they denied to Armed Services husbands benefits available to similarly situated Armed Services wives.

Due to *Frontiero's* lack of a clear majority and indentifiable guidelines, the commentators have declined to interpret the case as providing lower courts with a mandate to treat sex classifications under strict scrutiny. Nevertheless, several decisions read *Frontiero* as instructing recognition of sex as a suspect criterion.[45]

Wiesenfeld v. Secretary of HEW, a class action challenging the denial of "mother's" benefits to a father with an eligible child in his care, agreed with the *Frontiero* majority. The plaintiff's wife had been a school teacher for seven years and contributed fully to Social Security until her death. The three-judge panel found that Section 202(g) of the Social Security Act,[46] which provides for the payment of mothers' insurance benefits (with no similar provision for fathers), heaps additional economic disadvantages on women wage-earners and therefore violates the fifth amendment protection. The *Wiesenfeld* court found that the statute in question satisfied the lenient rational basis test, but failed under the strict scrutiny test. The government has appealed to the Supreme Court,[47] and its decision could have major significance for all the sections presently under analysis.

On April 24, 1974, the Supreme Court decided *Kahn v. Shevin*.[48] Writing for the majority, Justice Douglas stated that a Florida statute granting a $500 property tax exemption to widows but not to widowers does not violate the equal protection clause. The two dissenting opinions basically stated that the statute should have been more narrowly drawn.

A narrow reading of the decision would limit its effect to cases involving state tax schemes. However, it is likely to be contended as having a much broader scope Despite the majority's efforts to distinguish *Frontiero*, this case can be interpreted as a divergence from the trend toward sex as a "suspect criterion." Since *Kahn* does not specifically identify the equal protection standard of review applied, several interpretations are possible. First, Douglas has defected from the *Frontiero* plurality and no longer contends that sex is a suspect classification. Accordingly, the rational basis test was applied and satisfied.[49] Support for this interpretation is two-fold: the majority uses language typically used in conjunction with the rational basis test:

"[Florida's differing] treatment of widows and widowers rest[s] upon some ground of difference having a fair and substantial relation to the object of the legislation."[50]

Also, the majorty did not consider less intrusive alternative means of classification, even though they are readily available. Such consideration is usually automatic where the strict standard operates, and a compelling state interest is required.

Second, Douglas has not abandoned sex as a suspect classification, but feels that the state has established the required compelling interest under the strict standard of equal protection review. Here the supporting rationale is also two-fold. First, Douglas gives considerable weight to the "affirmative action" aspect of the Florida statute, and he underscores the absence of any similar justification in *Frontiero:*

"And in *Frontiero* the plurality opinion also noted that the statutes there were 'not in any sense designed to rectify the effects of past discrimination against women.' "[51]

Second, Douglas feels the state's interest in formulation of its own *tax* laws should be given considerable deference:

"[W]here taxation is concerned and no specific federal right, apart from equal protection, is imperiled, the states have large leeway in making classifications and drawing lines which in their judgment produce reasonable systems of taxation."[52]

Third, Douglas is continuing the development of an "intermediate test" for sex classifications. This interpretation is enhanced by the fact that the *Kahn* language quoted above is the identical quote which commentators claim is the basis of the "new" test.

At best, *Kahn's* message is garbled, and can only add to the confusion of lower courts and commentators. Clearer guidelines are needed before the applicable standard of review for gender classifications can be predicted with any certainty. Nevertheless, by alleging that both the strict and lenient standards have been violated, the court can select the most comfortable framework for review. Such an approach allows the focus to be on consideration of the challenged provisions themselves and lack of adequate justification for discrimiantion against women regardless of which standard is applied.

(b) Analysis

Despite the ambiguity reflected in the strict scrutiny cases discussed above, one trend has remained constant: the Supreme Court will apply a stricter standard where the effect of sex classification is to disadvantage women further. It therefore becomes crucial to identify separately the discriminatory effects of a challenged section on both men and women, emphasizing the overall unfairness to women wage-earners. Herein lies the key to a successful challenge.

(1) Discrimination against women

The amount of Social Security contributions deducted from the wage-earner's salary is in no way dependent upon the sex of the worker. Consequently, the female wage-earner contributes the same amount, but receives fewer benefits for her family than a male wage-earner. The plight of the female worker and her family was recognized in *Wiesenfeld:*

"During her employment as a teacher, maximum social security payments were deducted from her salary. Yet, upon her tragic death, her surviving spouse and child receive less social security benefits than those of a male teacher who earned the same salary and made the same social security payments."[53]

Although *Wiesenfeld* was directed at the provisions covering benefits for surviving mothers,[54] the same reasoning is clearly applicable to all "mother benefits" sections[55] which do not provide equal benefits for the male spouse who retains custody of the child of a deceased or disabled female wage-earner. In every instance, the woman's family receives fewer benefits solely because of a failure to comply with traditional sex roles.

Similarly, the *Frontiero* Court noted that the existence of a half-support requirement for male spouses caused an unfair burden to be placed on women:

"[T]hese statutes seize upon a group—women—who have historically suffered discrimination in employment, and rely on the effects of this past discrimination in employment as justification for heaping on additional economic disadvantages."[56]

The half-support requirement in Social Security for dependent husbands and widowers is functionally identical to the half-support requirement in *Frontiero*. Therefore, the reasoning employed to invalidate the requirement in *Frontiero* can be logically and consistently extended to the parallel requirements of the Social Security Act.

The disadvantage to the woman wage-earner is perhaps less evident in the area of categorical exclusion of divorced male spouses from receipt of benefits. For instance, it may be assured that the divorced husband is no longer a member of the worker's family, and therefore is not a proper recipient of family benents. In addition, the working wife would appear to be less concerned about the livelihood of her divorced husband than of her surviving husband and child, as in *Wiesenfeld*. Nevertheless, the woman worker is denied benefits which would inure to her divorced spouse at the time of their divorce, thus denying her equal treatment solely on the basis of sex.[57] Certainly, if alimony paid by the woman worker is to be a factor in the divorce settlement, the fact that no Social Security benefits are available to the divorced male spouse will place an increased economic burden on the woman.

In challenging a Social Security provision as discriminatory against women, it is important to distinguish between the categorical designation of benefits for women as spouses can certainly be presented as an attempt to rectify the effects of past discrimination against women. However, the concomitant result of the categorical classifications is discrimination against women as workers. Since primary eligibility for benefits stems from the contributions of the wage-earner, it would seem that Social Security protection of the woman worker against further economic disadvantage would significantly outweigh the value of benefits to women as spouses.

(2) Discrimination Against Men

While instances of discrimination against women dominate the growing body of case law, the constitutional mandate might be equally applicable to men, as conspicuously indicated by the Supreme Court's decision in *Stanley v. Illinois*[58] (unwed father may not be deprived of custody absent a hearing of the same quality accorded to wed parents and unwed mothers).

However, a challenge based on discrimination against men raises several difficult issues, especially where application of the strict scrutiny test is being sought. For instance, it may be that the *Stanley* decision was based on due process rather than equal protection grounds precisely because it involved discrimination against men, and men are not a "suspect class."

Also, it might be contended that affirmative legislative or executive action which favors a historically deprived class is constitutionally valid, even though it discriminates against other non-deprived classes.[59] Such a justification was held to be insufficient in *Wisenfeld* when matched against the stricter standards of the close judicial scrutiny tests the court recognized that the section in question, though possibly intended to rectify the effects of past and present discrimination against women as spouses, operated further to disadvantage women as wage earners.[60] The plaintiff's additional claim that the section directly discriminates against *men* on the basis of sex does not appear to have been a significant factor in the court's decision.[61]

In summary, courts appear reluctant to apply the strict scrutiny test and grant an equal protection remedy to men subject to discrimination by a law which favors women.[62] Thus, the approach which is most likely to obtain relief for men disadvantaged by sex discrimination in Social Security family benefits is, paradoxically, an emphasis on the disadvantage to the women wage-earner.

(3) Lenient Standard: Reasonable Relationship to Legitimate Government Interests

Under the "traditional" equal protection standard, a legislative classification must be upheld unless it is "patently arbitrary" and

Footnotes at end of article.

bears no "rational relationship to a legitimate governmental interest.[53] Certainly, if sex classifications are ultimately accepted as "inherently suspect," as argued above, there is no necessity to challenge their validity under the lesser, traditional standards. Unfortunately, there is speculation that a clearly definitive statement by the Supreme Court in this regard will not occur until after the Equal Rights Amendment has been ratified by the states.[54] Additionally, some courts subscribe to the principle stated in *Wiesenfeld*, that:

"[I]f a statute violates equal protection doctrine under a lesser standard, there is no need to examine that classification by close judicial scrutiny. *Aiello v. Hansen*, 359 F. Supp. 792, 796 (N.D. Cal. 1973); *see also Eisenstadt v. Baird*, 405 U.S. 430, 447 n. 7, 92 S. Ct. 1029, 31 L. Ed. 2d 349 (1972)."[55]

Also, as discussed earlier, emphasis on the lack of adequate justification for discrimination rather than on selection of a proper standard of review is the most staightforward and potentially successful approach. Accordingly, it may be fruitful to consider whether the sections under discussion meet the traditional test requiring a rational relationship to some valid public purpose.

In recent decisions involving sex classifications, the legislative purposes advanced as legitimate bases for a challenged act's validity fall into two general categories: (a) administrative convenience, and (b) rectification of the effects of past discrimination against women through affirmative legislative or executive action.

(a) Administrative convenience

The Supreme Court and lower federal courts have consistently rejected administrative convenience as a justification for discriminatory sex-based classifications.[56] In *Frontiero*, the government conceded that the challenged sex classification served no purpose other than mere "administrative convenience," in response, eight justices agreed that "the Constitution recognizes higher values than speed and efficiency" and held that the government's reason was insufficient insofar as the national basis for the differential treatment was concerned. The message is clear: a classification which discriminates on the basis of sex *solely* for administrative convenience will not satisfy the rational basis test. It appears that this will be the result regardless of whether the discrimination is directed against women or men.

(b) Affirmative action

The concept of affirmative action for women as a compelling interest to satisfy the strict scrutiny test has already been discussed. In the context of the lenient standard, the issue appears to have been resolved: a statute whose purpose is to rectify the effects of past discrimination against women will satisfy the rational basis test. This was the conclusion reached by the *Wiesenfeld* Court, which acknowledged that affirmative action for women was not arbitrary because:

"[I]t is very evident that women have been and continue to be unable to earn income equal to that of men even though Congress has clearly indicated that job discrimination on the basis of sex shall be unlawful."[58]

Moreover, regardless of which interpretation of *Kahn* is finally accepted, the majority did accept as a *rational* purpose the state's desire to reduce the "disparity between the economic capabilities of a man and a woman."[59]

Of course, the affirmative action rationale has only been ultimately accepted as valid in a case where the statute in question actually benefits women as a class.[60] If the classification operates to further *deprive* women, it should be contended that any positive effects are cancelled out. This is certainly the result in the context of Social Security benefits, where any advantages to women spouses are offset by a corresponding disadvantage to women wage-earners.

(c) The remedy

When a statutory provision denies equal protection by establishing an unconstitutional classification, a court may remedy the defect either by declaring the provision equally operative upon all persons similarly situated, or by declaring the provision inoperative as to all of them.[61] In deciding whether benefits should be extended or extinguished, the court must be responsive to the dominant legislative purpose.[62]

The 1939 amendments to the original Social Security Act first authorized payments to family members of the worker spouse. In keeping with the purpose of Social Security, "to provide a systematic program of protection against economic and social hazards," they were intended "to afford more adequate protection to the family as a unit."[63] The laudable purpose of "more adequate protection" should be extended to families regardless of their non-compliance with traditional family structures. If an equal protection challenge to the Act is successful, the only resolution which preserves the original purpose is to extend the benefits without regard to sex.

IV. CONCLUSION

Legislative revision would probably be a more efficient and realistic method of completely neutralizing the sex bias in the Social Security Act than challenging each provision on a case-by-case basis. Unfortunately, such an extensive revision does not appear imminent, and current economic conditions accentuate the need for immediate action to secure equal benefits for non-traditional families. Multiple litigation challenging these provisions could have the dual effect of prompting Supreme Court review and encouraging Congress to take action.

It is evident that a concise standard of decision has not been developed for challenging sex classifications on equal protection grounds. Therefore, in utilizing the present strict scrutiny and reasonable relationship tests, it becomes crucial to concentrate on the ultimate disadvantage to the woman wage-earner due to sex bias in the Social Security Act. The present trend indicates that such an approach will maximize the chances that a challenge of sex discrimination will be successful.

FOOTNOTES

* Legal Staff, National Senior Citizens Law Center, 1709 W. Eighth St., Los Angeles, Calif. 90017, (213) 483–3990.

[1] Federal Old-Age, Survivors, and Disability Insurance Benefits. 42 U.S.C. §§ 401–29 (1970) as amended (Supp. II, 1972).

[2] Ball, *Policy Issues in Social Security*. Soc. Sec. Bull. 5 (June 1966).

[3] Citizens' Advisory Council on the Status of Women. Report of the Task Force on Social Insurance and Taxes (1968) HEW, Report of the Women's Action Program 85–93 (1972); National Organization for Women, Now Goals (1973); The President's Commission on the Status of Women, Report of the Committee on Social Insurance and Taxes (1963); *Sex Classifications in the Social Security Benefit Structure*. 49 IND. LJ. 181 (Fall 1973) [hereinafter cited as *Sex Classifications*]; *Sex Discrimination in Income Security Programs*. 49 Notre Dame Law. 534 (Fall 1974).

[4] Miller, *Constitutional Issues in Social Security*. 8 Clearinghouse Rev. 79 (June 1974).

[5] "This substantial period of time is called a 'quarter of coverage.' A 'quarter of coverage' means a three month period in which the individual has received at least $50 in wages in covered employment or has received at least $100 of self-employed income. 42 U.S.C. § 413(a) (1970). To be 'fully insured' under OASDI, a person must have at least one quarter of coverage per year from age 21 (or 1950, whichever is later) until the year in which he or she does nor reaches age 62, or a total of 40 quarters of coverage. 42 U.S.C. § 414(a) (Supp. II, 1972)." *Sex Classifications, supra* n. 2. at 8.

[6] "Women age 20 and over made up 34% of the civilian labor force in 1972. 96 Monthly Lab. Rev., Sept. 1973, at 105, (Table 4). 78.5% of working women in 1967 were married, widowed, or divorced. Handbook, *supra* note 18, at 23 (Table 7). The number of working wives increased by 4.1 million between 1962 and 1969. 40% of the period's total labor force increase. 95 Monthly Lab. Rev., Aug., 1972, at 11. In 1971, 59% of women workers were married and one-third of working women had both a husband and dependent children. 95 Monthly Lab. Rev., Apr., 1972, at 9. Of the 44 million husband-wife families in 1970, wives were the main income recipients in 32 million families, 7.4% of the total. In 1960, the percentage was 5.7. Census Bureau, Sources and Structure of Family Income 377 (1973) (Table 9)." *Sex Classifications supra* n. 2. at 19.

[7] 42 U.S.C. § 402(b).

[8] 42 U.S.C. § 402(e).

[9] 42 U.S.C. § 402(c).

[10] 42 U.S.C. § 402(f).

[11] 42 U.S.C. § 402(c)(1)(C); 42 U.S.C. § 402 (f)(1)(D); for further discussion, *see Sex Classifications, supra* n.2, at 186 and nn. 27–28. On March 13, 1974, Senator Tower (R-Texas) introduced S. 3167 which would eliminate the special dependency requirements for entitlement to husband's and widower's benefits. The bill was referred to the Committee on Finance.

[12] The non-traditional family consisting of woman wage-earner and ineligible spouse is precluded from receiving husband's benefits approximately equal to one-half of the primary insurance amount of the wife, [*see* 42 U.S.C. § 402(c)(3), *as amended* (Supp. II. 1972)] and widower's benefits equal to the primary insurance amount of his deceased wife [42 U.S.C. § 402(f)(3), *as amended* (Supp. 11, 1972)].

[13] 42 U.S.C. § 402(b)(1).

[14] 42 U.S.C. § 402(e)(1).

[15] 42 U.S.C. § 402(e)(1)(B)(ii).

[16] 42 U.S.C. § 402(c)(1)(D).

[17] The primary purpose for these provisions was to:

" 'provide protection mainly for women who have spent their lives in marriages are dissolved when they are far along in years—especially housewives who have not been able to work and earn social security benefit protection of their own." REPORT OF THE COMMITTEE ON WAYS AND MEANS ON H.R. 6675. H.R. REP. NO. 213, 89th Cong., 1st Sess. 94 (1965), quoted in 1971 ADVISORY COUNCIL ON SOCIAL SECURITY. Report 34 (1971)." *Sex Classifications, supra* n.2 at 187 and n.34.

[18] 42 U.S.C. § 402(b)(1)(B).

[19] 42 U.S.C. § 402(g)(g)(1).

[20] *Id.*

[21] 42 U.S.C. § 402(b)(1)(B); 42 U.S.C. § 402 (g)(1)(E); *see* Eligibility for Children's Benefits, 42 U.S.C. § 402(d).

[22] Final report of the Advisory Council on Social Security 31 (1938); report of the Advisory Council on Social Security, S. Misc. Doc. No. 4, 76th Cong., 1st Sess. 18 (1939).

[23] 367 F. Supp. 981 (D. N.J. 1973).

[24] *See* U.S. Dept. of Agriculture v. Moreno, 413 U.S. 528 (1973); Shapiro v. Thompson, 394 U.S. 618, 641–42 (1969); Bolling v. Sharpe, 347 U.S. 497, 499 (1954); Miller v. Laird, 349 F. Supp. 1034 (D. D.C. 1972) (three-judge court); Hobson v. Hansen, 269 F. Supp. 401 (D. D.C. 1967), aff'd sub nom. Smuek v. Hobson, 408 F. 2d 175 (D.C. Cir. 1969).

[25] Reed v. Reed, 404 U.S. 71 (1971); Frontiero v. Richardson, 411 U.S. 677 (1973); Moritz v. Commissioner of Internal Revenue, 469 F. 2d 466, 470 (10th Cir. 1972), cert.

denied, 412 U.S. 906 (1973); Ballard v. Laird, 360 F. Supp. 643 (S.D. Cal. 1973) three-judge court).

[26] *See* Stanley v. Illinois, 405 U.S. 645 (1972).

[27] Frontiero v. Richardson, 411 U.S. 677 (1973); Wiesenfeld v. Secretary of HEW, 367 F. Supp. 981 (D. N.J. 1973); *but see* Kahn v. Shevin, 94 S. Ct. 1734 (1974).

[28] *See* Developments in the Law—Equal Protection, 82 Harv. L. Rev. 1065 (1969).

[29] Eslinger v. Thomas, 476 F. 2d 255, 231 (4th Cir. 1972); Wark v. Robbins, 458 F. 2d 1295, 1297 n. 4 (1st Cir. 1972) (dictum); *see generally*, Gunther, The Supreme Court 1971 Term—Foreward: In Search of Evolving Doctrine on a Changing Court, 86 Harv. L. Rev. 1. (1972); Getman, The Emerging Constitutional Principle of Sexual Equality. The Supreme Court Review 157 (1972).

[30] Frontiero v. Richardson, 411 U.S. 677 (1973); Wiesenfeld v. Secretary of HEW, 367 F. Supp. 981 (D. N.J. 1973).

[31] 411 U.S. 677, 93 S. Ct. 1764 (1973).

[32] The effect of this decision has been the subject of much speculation and analysis. *See, e.g.*, Sex Discrimination and Equal Protection: An Analysis of Constitutional Approaches to Achieve Equal Rights for Women, 38 Albany L. Rev. 66 (1973); Toward Sexual Equality? An Analysis of Frontiero v. Richardson, 49 Iowa L. Rev. 377 (1973).

[33] 411 U.S. at 6.

[34] 404 U.S. 71 (1971).

[35] Ballard v. Laird, 360 F. Supp. 643 (S.D. Cal. 1973) (three-judge court); Andrews v. The Drew Municipal Separate School, — F. Supp. — (N.D. Miss. 1973); Wiesenfeld v. Secretary of H.E.W., 367 F. Supp. 981 (D. N.J. 1973).

[36] 42 U.S.C. § 402(g).

[37] *Appeal docketed*, No. 73–1892, U.S. Sup. Ct., June 18, 1974.

[38] 94 S. Ct. 1734 (1974).

[39] This interpretation was accepted by the court in Kohr v. Weinberger, 43 U.S.L.W. 2066 (E.D. Pa. July 26, 1974) (three-judge court). (Benefits computation formula in Social Security which favors women wage-earners over men does not unconstitutionally discriminate against men.)

[40] U.S. Ct. 1734 at 1737.

[41] *Id.* at 1737, n.8.

[42] *Id.*

[43] 367 F. Supp. at 991.

[44] 42 U.S.C. § 402(g)(1).

[45] 42 U.S.C. § 402(b), § 402(g).

[46] 411 U.S. at 698 n.22.

[47] Oliver v. Weinberger, No. C–74–1416 SC (N.D. Cal., filed July 8, 1974), is a class action challenging the constitutionality of 42 U.S.C. § 402(b), which authorizes payment of benefits to divorced wives of covered workers but not to divorced husbands of such workers. The plaintiff is the ex-husband of a fully insured woman who is presently receiving Old Age Insurance benefits. Plaintiff has never engaged in covered employment.

[48] 415 U.S.C. 645 (1972).

[49] Note that the justification for affirmative action programs arose in civil rights cases, where the programs were used to combat racial classifications without the limits of case-by-case adjudication. It may be that inherent differences exist between race and sex classifications such that similar justifications are not applicable. See Getman, *The Emerging Constitutional Principle of Sexual Equality*, 1972 Supreme Court Rev. 157, 165.

[50] 367 F. Supp. at 990.

[51] *Id.* at 991.

[52] • • • requiring a compelling government interest, courts have consistently required a showing that no alternatives exist which intrude to a lesser degree upon the strong individual at stake. The Wiesenfeld court had no reason to pursue the existence of alternatives, since they invalidated the affirmative action justification on other grounds. Therefore, it might be argued that, at a minimum, alternatives should be considered before discrimination against men is allowed.

[53] See Kohr v. Weinberger, 43 U.S.L. 2066 (E.D. Pa., July 26, 1974).

[54] See Jefferson v. Hackney, 406 U.S. 535 (1972); Richardson v. Belcher, 404 U.S. 78, 81 (1971); Dandridge v. Williams, 397 U.S.. 471 (1970); McGowan v. Maryland, 366 U.S. 420 (1961); see generally, Developments in the Law—Equal Protection, 82 HARV L. REV. (1969).

[55] 367 F.Supp. at 989.

[56] Reed v. Reed, 404 U.S. 71 (1971); Frontiero v. Richardson, 411 U.S. 677 (1973). See also Diaz v. Weinberger 361 F.Supp. 1, 11 (S.D. Fla. 1973); Ballard v. Laird, 360 F. Supp. 643 (S.D. Cal. 1973); Aiello v. Hansen, 359 F. Supp. 792, 798 (N.D. Cal. 1973); Chatman v. Barnes, 357 F.Supp. 9 (N.D. Okla. 1973). (All decided by three-judge courts.)

[57] 411 U.S. 677 (1973.)

[58] 367 F.Supp. at 990.

[59] 94 S.Ct. at 1736. See also Kohr v. Weinberger, 43 U.S.L.W. 2066 (E.D. Pa., July 26, 1974).

[60] Kahn v. Shevin, 94 S. Ct. 1734 (1974); Kohr v. Weinberger, 43 U.S.L.W. 2066 (E.D. Pa., July 26, 1974).

[61] Skinner v. Oklahoma ex rel. Williamson, 316 U.S. 535 (1942); Iowa-Des Moines Nat'l Bank v. Bennett, 284, U.S. 239, 247 (1931).

[62] Frontiero v. Richardson, 411 U.S. 677 (1973).

[63] H.R. REP. NO. 728, 76th Cong., 1st Sess. (1939).

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Sex Classification in the Social Security Benefit Structure

The social security program, providing social insurance protection against old age death and disability (OASDI),[1] has assumed increasing national importance in the last two decades both in terms of revenue collected by payroll taxes and benefits paid.[2] The program's benefits are distributed according to family relationship. A worker receives benefits as the primary breadwiner, and wives, children, parents and a few husbands receive benefits as dependents. Since the benefit structure is rooted in traditional assumptions regarding family roles, the dependents' benefits are largely defined in terms of sex. Although some of Social Security's distinctions based on sex have been eliminated over the years, differentials remain in the dependent wife's, widow's, mother's, husband's, and widower's benefit provisions.[3]

With recent developments in the constitutional doctrines of equal protection and due process, the courts have indicated a greater willingness to carefully evaluate and strike down classifications based on sex. Social Security's sex-linked benefit structure may now be vulnerable to attack.

The future of Social Security may include not only reforms which will equalize existing benefit programs, but also reforms which will broaden the system's coverage.[4] Since its initial adoption, the social security system has been expanded as societal views on the purpose of the program and those whom it should protect have changed. With the current reexamination of Women's roles and Social Security's impact on women, OASDI's primary protection of workers many eventually be extended to those, either men or women, now considered dependents who work at home without pay rather than in the labor force.

Current OASDI benefit provisions

The concept of the family embodied in the Social Security Act[5] has evolved over time, but the basic assumption that men are the breadwinners supporting dependent women has remained. This traditional notion of proper sex roles is exemplified by the fact that wives and widows are presumed to be dependent of male workers, whereas husbands and widowers must prove their dependence. The worker's benefit itself has been designed with the male breadwinner model in mind.

Benefits for workers

Under the original Act, the worker was the only beneficiary.[6] Today, the worker is the primary beneficiary, but dependents receive some benefits from the worker's Primary Insurance Amount (PIA).[7] To receive protection as a worker, a person must have worked for a substantial period of time in employment covered by OASDI.[8] The program applies only to those who work for pay since benefits are calculated on the basis of an average monthly wage.[9]

Female and male workers' benefits have been calculated differently because the Act has assumed that the family breadwinner is a man. This differential treatment began in 1956 when women became eligible for benefits at age 62.[10] The provision was designed to allow nonworking wives to receive benefits at an earlier age in order to ease the financial strain on a married couple when the husband retired at age 65.[11] Although aimed at dependent wives, all women were allowed to take advantage of the provision, thereby encouraging the earlier retirement of working women. The early retirement provision was extended to men in 1961,[12] but the benefit-computation point used in determining the PIA was not reduced from age 65 to age 62 for men as it had been for women.[13] Thus, for men any year of retirement between age 62 and age 65 was considered a year of low earnings in calculating the average monthly wage. This calculation resulted in lower benefits for men than for women with the same average earnings over their working years,[14] and gave men a considerable incentive not to take advantage of early retirement. The 1972 amendments to OASDI provided for elimination of this sex-based age differential over the next three years.[15]

By 1975 Social Security will give men the same incentive as women to retire at age 62, but it is likely that a larger proportion of women than men will continue to retire early, due to broader societal pressures. Women traditionally have been encouraged or even forced to retire at earlier ages than men although their greater life expectancy would suggest an opposite policy.[16] Although early retirement has been seen as an advantage for women, it reflects a view that women are secondary workers. The social security system has reinforced this tradition by making early retirement more attractive for women than for men. In addition, the early retirement provisions, with permanently reduced benefits, have resulted in a greater proportion of women beneficiaries receiving significantly lower benefits throughout their remaining years.[17]

The male breadwinner model reflected in the worker's benefit structure suffers from a two-fold limitation. On the one hand, a majority of women between the ages of 18 and 65 now work.[18] Working wives, many with dependent children, are a substantial proportion of the labor force, and an increasing number of married women are the primary breadwinners in their families.[19] On the other hand, because Social Security only covers work for pay,[20] the many women who continue to work at home or as volunteers in the community are denied primary coverage as workers. This results in a larger proportion of men than women receiving the higher worker's benefit.[21]

Benefits for dependent women and men

More women receive social security benefits as dependent wives, widows and mothers

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than as workers.[22] The retirement benefit for wives and the survivor's benefits for widows were added in 1939 with the presumption that wives are dependent upon their husbands.[23] If both a wife and her husband are retired, she automatically receives a benefit equal to one-half of her husband's PIA, unless she has worked in covered employment and her own worker's benefit is greater than her wife's benefit.[24] Roughly speaking, if a wife has average earnings over one-third of her husband's she will not then be considered "dependent" and she will receive a worker's benefit larger than her dependent's benefit would have been.[25] A widow, on the other hand, is treated as a dependent unless her own worker's benefit equals or exceeds her deceased husband's PIA.[26]

The benefits for husbands and widowers offer a stark contrast to the presumptive dependency benefits for wives and widows. The husband and widower benefits were added in 1950 to allow disabled or otherwise dependent men to receive benefits in the "rare" case where the primary breadwinner was the wife.[27] In order to qualify for benefits on a woman's wage record, a husband or widower must show that he received over one-half of his individual support from his wife.[28] Since OASDI assumes that one-half of family expenses are for the husband, the wife must have paid at least three-fourths of the total family expenses for her husband to receive a dependent's benefit. If eligible, a husband will receive one-half of his wife's PIA, and a widower will receive a benefit equal to his wife's PIA.[29]

Hostility toward liberalization of benefits for husbands and widowers continues to be based on the same traditional assumptions regarding family roles. The 1971 Advisory Council on Social Security assumed that all married men work unless disabled, and therefore, they could not be dependent on their wives.[30] The Council opposed elimination of the support requirement because of its feeling that men would receive double benefits financed by the public: benefits from public retirement plans for state or federal employees not covered by OASDI and benefits from OASDI derived from wives' wage records.[31] Interestingly, the Council was not concerned about women who presently receive double benefits.[32]

While husbands and widowers have at least a limited opportunity to draw benefits on their wives' wage records, divorced men, unlike divorced women, receive no protection under the Act.[33] The primary reason for the inclusion of divorced wives and "divorced widows" in the female benefit structure was to—

"Provide protection mainly for women who have spent their lives in marriages that are dissolved when they are far along in years—especially housewives who have not been able to work and earn social security benefit protection of their own." [34]

Since the Advisory Council assumed that men do not stay home and keep house,[35] they considered the sex-based distinction valid, providing no opportunity for a divorced man to show he departed from the norm.

The social security system provides further benefits for women with children.[36] A mother's benefit was added in 1950, payable to a wife, widow or surviving divorced wife under age 65 (now age 62) as long as she had in her care a child eligible for benefits.[37] The purpose behind the mother's benefit was to enable a wife with children to remain at home and care for them after her husband died, retired, or became disabled.[38] No corresponding father's benefit exists.

The system assumes that the death or disablement of the husband-father will result in a loss of earnings for the family, but does not make the same assumption regarding the death or disablement of the working wife-mother.[39] Although the 1950 amendments were viewed as a repudiation of the assumption that women only work for "pin money," [40] the lack of a father's benefit perpetuates the secondary importance of the wife's contribution to the family income.

THE QUESTIONABLE CONSTITUTIONALITY OF SOCIAL SECURITY'S SEX CLASSIFICATIONS

The sex classifications which remain in the OASDI benefit structure are vulnerable to constitutional attack. With recent United States Supreme Court extensions of equal protection and due process doctrines in the area of sex discrimination, it is possible that the sex-based statutory scheme of OASDI will be declared void. Private employment benefit plans similar to OASDI have been found to violate title VII of the Civil Rights Act of 1964.[41] In addition, the Equal Rights Amendment to the United States Constitution,[42] if ratified, will necessitate abandonment of the sex-stereotyped benefit structure.

The effect of Reed and Frontiero on OASDI

Traditionally, in cases challenging legislative classifications based on sex under the equal protection and due process doctrines,[43] the Supreme Court used the more lenient "rational relationship" test,[44] rather than requiring a showing of "compelling state interest." [45] The Court allowed legislatures to draw sharp lines between the sexes,[46] and found a rational basis for sex classification in its belief that "[women are] still regarded as the center of home and family life." [47]

The first break in this traditional approach to sex classification came in *Reed v. Reed*.[48] In a unanimous decision, the Court struck down an Idaho statute giving preference to males over females in selecting administrators of decedents' estates. The Court held that the sex classification was arbitrary and based on 'criteria wholly unrelated to the objective of the statute.[49] The state's rationale that men as a rule are more conversant with business affairs than women [50] was implicitly rejected by the Court. It went on to say that even though the state's interests in achieving administrative efficiency and avoiding intrafamily controversy are not without some legitimacy, "the choice in this context may not lawfully be mandated solely on the basis of sex." [51] Although *Reed* did not declare sex a "suspect classification," it was viewed by many as the beginning of a more careful evaluation of sex classifications by the Court.[52]

A second shift in the Court's treatment of sex classification came with *Frontiero v. Richardson*,[53] challenging the sex classifications in the federal statutes defining dependents and dependents' benefits for uniformed service personnel.[54] Under these laws, in order for a woman in the military to claim her husband as a dependent for purposes of obtaining an increased housing allowance and medical and dental benefits, he must receive over one-half of his support from his wife.[55] On the other hand, a wife of a serviceman is presumed dependent, as is OASDI, and is automatically eligible for benefits.[56] The plaintiff in *Frontiero* requested dependents' benefits for her husband, a full-time student. His share of their total expenses was $354 per month, but because he received $205 per month in veterans' benefits, he did not meet the one-half support requirement.

A three-judge panel sustained the statutory scheme, finding that the distinction was not based *solely* on sex, as in *Reed*, but was based on sex *plus* the specific relationship of the dependent individual to the servicemember.[57] Looking for a "reasonable basis" upon which to uphold the statute, the court pointed to the administrative burden which Congress allegedly sought to avoid by establishing wives' presumptive dependency.[58] The court reasoned that a presumption to facilitate administration does not violate equal protection if it does not unduly burden or oppress the class upon which it operates.[59] The court found that the only burden on women in this case was that married women were not allowed to receive "windfall" payments which married men received by claiming wives not in fact dependent.[60] This burden was not considered sufficiently oppressive to void the statute.[61]

The Supreme Court reversed the district panel and held that the challenged statutes violated the due process clause insofar as they require a servicewoman to prove the dependency of her husband.[62] Justice Brennan joined by Justices Douglas, White and Marshall, found that classifications based on sex, like those based on race, alienage and national origin, are inherently suspect and must be subjected to close judicial scrutiny.[63] In abandoning the rational relationship test, previously applied to sex classifications, Justice Brennan cited *Reed*, characterizing it as a "departure from 'traditional' rational basis analysis." [64] He based his conclusion that sex is a suspect classification upon the pervasive, although often subtle, discrimination against women, and upon the fact that sex, like race, is an immutable characteristic determined by birth which frequently bears no relation to one's ability to perform or contribute to society.[65] He also cited *Reed* as precedent for rejecting the government's rationale of administrative convenience.[66]

Although eight Justices concurred in the *Frontiero* judgment,[67] only four were willing to declare sex a suspect classification.[68] Justice Powell, joined by Chief Justice Burger and Justice Blackmum, declined to characterize sex as a suspect classification "with all the far-reaching implications of such a holding." [69] Justice Powell preferred to decide the case on the authority of *Reed*, reserving for the future any expansion of its rationale.[70] In addition, because the Equal Rights Amendment had been submitted by Congress to the states for ratification, he thought that the adoption of the strict scrutiny test for sex classification would preempt "by judicial action a major political decision which is currently in process of resolution." [71] Justice Stewart joined neither Justice Brennan's nor Justice Powell's opinion, but simply concurred in the judgement on the basis of *Reed*.[72]

The judgment in *Frontiero* eliminated the requirement that service women prove the dependency of their husbands, resulting in the extension of the presumption of dependency to all spouses regardless of sex. The one-half support requirement struck down in *Frontiero* is identical to that found in the husband's and widower's social security benefits.[73] Thus, *Frontiero* should lead the Court to hold Social Security's male support requirements unconstitutional, and extend to men the presumption of dependency continued in the wife's and widow's benefits. Extension of the dependency presumption would mean that a husband or widower would automatically receive whichever benefit was greater, his own or a derivative benefit based upon his wife's wage record.[74]

In addition, *Frontiero* can be used as the basis for arguing that the lack of a father's benefit [75] constitutes discrimination as invidious as the presumptive dependency rules. Because Social Security makes no provision for a father's benefit, a mother's employment results in less financial protection for her family than a father's employment. If a working mothers dies or becomes disabled, fathers are penalized by the lack of any benefit to replace either the mother's contribution to the family income or her provision of household or childcare services.[76]

OASDI as measured by the public policy of title VII

Although OASDI, as a federal retirement plan, is not covered by title VII of the Civil

Footnotes at end of article.

Rights Act of 1964, the commitment to sexual equality expressed in title VII [77] lends support to a court finding Social Security's sex classifications unconstitutional under *Frontiero*. Justice Brennan, in finding sex a suspect classification in *Frontiero*, referred to title VII and noted that—

"Congress itself has concluded that classifications based upon sex are inherently invidious, and this conclusion of a coequal branch of Government is not without significance." [78]

Title VII bans discrimination in "conditions of employment" which has been construed to include retirement and death benefit plants.[79] Although title VII is not applicable to OASDI, its sex-based benefit structure would be illegal if OASDI were an arrangement between private employers and employees.

The Equal Employment Opportunity Commission (EEOC) which enforces title VII, in its guidelines on sex discrimination, has declared that benefits conditioned on "head of household" or "principal wage earner" status will be found prima facie violations.[80] The Guidelines also prohibit employers from establishing benefits for wives and families of male employees where the same benefits are not available for the husbands and families of female employees.[81] In litigation involving a private retirement plan, the EEOC held that an employer's death benefit plan similar to OASDI violated title VII by providing for mandatory payments to the surviving wife of a deceased worker, while paying benefits to a deceased worker's husband only if he was physically or mentally incapable of self-support.[82] The employer argued that the death benefits did not discriminate on the basis of sex, but were based upon the fact that married women were generally supported by their husbands and had fewer obligations to support others.[83] In rejecting this defense, the EEOC held such presumptions based on the collective characteristics of a sexual group were without merit because title VII was intended to protect individuals from the penalizing effects of stereotypes based on sex.[84]

Title VII lends support to the argument that Social Security's sex classification may no longer be viewed as a permissible method of meeting the welfare and income security goals of OASDI. What is important to these goals is the economic role assumed by each spouse, not the spouse's sex. It would be highly anamolous for a court to decide that the sex classifications of OASDI meet either the rational relationship or the compelling state interest tests, when such classifications are not allowed in employment plans within the private sector.

Impact of the Equal Rights Amendment on OASDI

Finally, another legal tool that could be used to eliminate OASDI's sex classification would be the proposed Equal Rights Amendment (ERA) to the Constitution.[85] The simple theory of the ERA is that sex would no longer be a permissible basis for statutory classification.[86] The fact that members of one sex are more likely than members of the other sex to perform particular functions would not "authorize the Government to fix legal rights or obligations on the basis of membership in one sex." [87] Under this rationale, legislative classification is permissible in "situation[s] where a physical characteristic unique to one sex is involved" [88] or where personal privacy is essential.[89] Otherwise, the proposed amendment would require that legal distinctions be made on the basis of characteristics or functions common to both sexes.

Consequently, under the ERA, all spouses would be eligible for social security benefits on equal terms.[90] The male and female dependent spouse benefits could be reconciled in two ways: either by eliminating the presumption or by extending the presumption of dependency to husbands and widowers, as in *Frontiero*.[91] The dependency presumption could be eliminated by requiring women to prove that they receive one-half of their support from their husbands. This would be the least desirable alternative since forcing wives to prove receipt of support would increase the complexity of an already intricate system and would proliferate litigation.[92] Thus, the preferrable alternative under the ERA would be to extend Social Security's presumptive dependency to men so that husbands and widowers would be eligible on the same basis as wives and widows. Extension would result in the least change in the present system.[93]

If the social security benefit provisions are extended through application of the Equal Rights Amendment or the equal protection and due process clauses, enabling men to receive benefits on the same terms as women, these modifications would probably not create many additional beneficiaries or increase the size of payments. Men's rates of employment, average earnings and average PIA will remain higher than women's until employment discrimination against women ends. However, elimination of the current sex classifications would be significant in altering the present expectations implicit in the Act that all husbands are primary breadwinners and all wives are at best secondary earners. It would provide equal benefits for those couples who voluntarily choose to differ from the accepted norm, or who are forced to adopt nontraditional patterns for financial reasons. After modification, the statutory scheme would be sex-neutral on its face: the primary family earner would receive a workers' benefit, and the spouse, regardless of sex, would receive a derivative benefit if she or he had a PIA less than one-half of the primary earner's.

A STEP BEYOND ELIMINATION OF SEX CLASSIFICATIONS

Abolishing the sex classifications in OASDI will not alter the status of economic dependency which is a reality for many, if not most, women. A larger proportion of women will continue to receive a derivative spouse's benefit, based on their husbands' PIA, rather than their own worker's benefit. The perpetuation of women's dependent status through the social security system is regarded by many as a continued form of second-class treatment, ignoring women's productive contribution to society through their work as housewives and mothers.[94] Because many women do not work for money, they are unable to earn social security credits. Nevertheless, their work needs to be recognized as indispensible and as worthy of protection against the risks of death and disability. The social security system, by making benefits entirely dependent on substantial prior attachment to the work force, perpetuates society's disregard for those who do not work for pay. To encourage the treatment of women as equals and to provide minimum protection for homemakers against disability and death, the social security system should be revised to protect homemakers as primary workers.

Women's work patterns often vary from the patterns considered normal for most men. Although a majority of women work for wages at some point during their lives, many withdraw from the work force for varying lengths of time in order to bear and raise children.[95] Because computation of a person's PIA is based on a certain length of *continuous* work, interrupted work patterns and periods of part-time emploment are major reasons many women do not receive their own social security benefits, even though they have accumulated social security credits.[96] Coverage of homemakers as workers would allow women to maintain a continuous work record throughout their productive years, and the multiple roles women play as workers and child rearers would no longer penalize them in terms of accumulated benefits.[97]

One concrete legislative proposal has been developed to provide primary coverage of homemakers. House Bill 252, introduced on January 3, 1973,[98] would extend social security coverage to an individual who resides with, and maintains a household for, another employed or self-employed person. Monthly wages equal to the national average monthly wage for employment in service occupations would be deemed to have been paid to the individual for such "householder service." [99] If the householder was also employed part-time, she or he would be covered as a householder as long as the earned wages were insufficient to meet the minimum requirements for regular coverage.[100] General revenue funds would be used to finance this additional coverage.[101] The provisions make no distinctions on the basis of sex, so that men as well as women would be free to adopt dual roles if they chose to do so.

In the past, the major objections leveled against the coverage of homemaking services have been the practical difficulties of imputing a monetary value to unpaid work, and the related question of who should pay the payroll tax "contribution" to finance the additional benefits.[102] House Bill 252 avoids these two problems by using the national average wage for service workers to impute value and general revenue funds to finance benefits. Similar questions were answered in 1939 when the original provisions for dependent's benefits were passed, enlarging the welfare aspects of Social Security and departing from a strict insurance model.[103] Neither married men nor their wives were at that time asked to meet the additional costs of the wife's and widow's benefits; they were financed by all who paid the payroll tax.[104] The problem of imputed value was avoided by making the benefits dependent on the husband's earnings.[105] Today, however, recognizing the regressive nature of the payroll tax,[106] general revenue financing is preferable to higher payroll tax rates.

House Bill 252 does not provide for elimination of any of the present dependent's benefits, but would merely add an alternative benefit. If a wife is eligible to receive a derivative dependent's benefit higher than the household worker's benefit, she would be allowed to do so.[107] Thus, with House Bill 252, the Social Security Act would incorporate two views of homemakers by according them status as workers, in addition to recognizing their economic dependency.

CONCLUSION

Social security coverage of homemakers as workers would constitute a major expansion of the system, approaching universal protection for all persons over age 62 against the risks of retirement, death, and disability. With the elimination of sex classifications as a relevant basis upon which to condition benefits the system would remain tied to the economic or productive functions of individuals. Because social security benefits are derived from an average monthly wage, however, women will continue to receive lower benefits than men, whether as workers or householders, as long as women are generally discriminated against in hiring, promotion and pay.

There is no way of eliminating this more subtle and indirect differential impact on women unless social security benefits are divorced from previous work experience. However, such a major revision in the concept of Social Security is highly unlikely. Short of such sweeping legislative reform of Social Security, the conversion of the present benefit structure into a sex-neutral statutory framework is necessary in order for Social

Footnotes at end of article.

Security to accommodate present changes in family roles and the increasing economic participation of women.

MARTHA S. WEST.

FOOTNOTES

[1] Federal Old-Age, Survivors, and Disability Insurance Benefits, 42 U.S.C. §§ 401–29 (1970). *as amended*, (Supp. II, 1972 [hereinafter referred to as OASDI or Social Security] This note will not include any discussion of the health insurance benefits of social security, known as Medicare.

[2] In 1971 social security payroll tax revenue reached 44 billion dollars, a growth from 4% of total federal revenue in 1949 to 23% in 1971. J. BRITTAIN, THE PAYROLL TAX FOR SOCIAL SECURITY 1 (1972) [hereinafter cited as BRITTAIN]. At the end of November, 1972, monthly cash benefits reached nearly 3.9 billion dollars. These benefits were paid to more than 28.3 million beneficiaries, health benefits included. 36 Soc. SEC. BULL., Mar., 1973, at 1.

[3] These differentials and social security's impact on women have become increasing concerns among those interested in improving women's social and economic status. *See* CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN, REPORT OF THE TASK FORCE ON SOCIAL INSURANCE AND TAXES (1968) [hereinafter cited as CITIZENS' COUNCIL]; HEW, REPORT OF THE WOMEN'S ACTION PROGRAM 85–93 (1972) [hereinafter cited as HEW Report]; NATIONAL ORGANIZATION FOR WOMEN, NOW GOALS (1973); THE PRESIDENT'S COMMISSION ON SOCIAL INSURANCE AND TAXES (1968) [hereinafter cited as PRESIDENT'S COMMISSION].

[4] *See* pp. 197–199 *infra*.

[5] 42 U.S.C. §§ 401–29 (1970), *as amended* (Supp. II, 1972 [hereinafter referred to as the Act]. "The Act" is used interchangeably with "OASDI" and "Social Security." *See* note 1 *supra*.

[6] Social Security Act of August 14, 1935, ch. 531, § 202, 49 Stat. 623.

[7] 42 U.S.C. § 415(a) (Supp. II, 1972).

[8] This substantial period of time is called "a quarter of coverage." A "quarter of coverage" means a three month period in which the individual has received at least $50 in wages in covered employment or has received at least $100 of self-employment income. 42 U.S.C. § 413(a) (1970). To be "fully insured" under OASDI, a person must have at least one quarter of coverage per year from age 21 (or 1950, whichever is later) until the year in which she or he dies or reaches 62, or a total of 40 quarters of coverage. 42 U.S.C. § 414(a) (Supp. II, 1972).

Social Security now cover 90% of workers in paid employment. Those not working in covered employment include federal civilian employees, certain employees of state and local government, and self-employed farmers who are voluntarily excluded from coverage. The remaining workers not receiving coverage are ineligible because of insufficient earnings, such as some domestic workers, farmworkers, self-employed farmers, nonfarm self-employed, and employees of nonprofit organizations, 36 Soc. Sec. Bull., Mar., 1973, at 75 (Table Q–2, figures for Sept., 1972).

[9] 42 U.S.C. § 415(b) (1970).

[10] Social Security Amendments of August 1, 1956, ch. 836, §§ 102(a), (c), 70 Stat. 809, *amending* 42 U.S.C. §§ 402, 416 (1952) (codified at 42 U.S.C. §§ 402(q), 416(a) (1970)). In 1965, widows became eligible for reduced benefits at age 60. Social Security Amendments of July 30, 1965, Pub. L. No. 89–97, § 307(a), 79 Stat. 373, *as amended* 42 U.S.C. § 402(c) (1970). Early retirement benefits are permanently reduced to take into account the longer period over which they will be paid. 42 U.S.C. § 402(q) (Supp. II, 1972).

[11] Wives were believed to be characteristically several years younger than their husbands. Bixby, *Women and Social Security in the United States*, 35 Soc. SEC. BULL, Sept 1972, at 5 [hereinafter cited as Bixby].

[12] Social Security Amendments of June 30, 1961, Pub. L. No. 87–64, § 102(a), 75 Stat. 131, *amending* 42 U.S.C. § 402 (1958) (codified at 42 U.S.C. §§ 402(a), (c), (f) (1970)).

[13] 42 U.S.C. §§ 414(a)(1), 415(b)(3) (1970).

[14] In Gruenwald v. Gardner, 390 F.2d 591 (2d Cir. 1968), a male plaintiff challenged the constitutionality of the sex classification in these provisions. His primary insurance amount at age 62 of $100.60 was reduced by 20% to $80.50 because of early retirement. A woman, with a history of equal earnings and retiring at age 62, would have had a PIA of $115.60, reduced to $92.50 because of early retirement. In her case, the three years from age 62 to age 65 would be ignored in computing benefits. In the man's case, those three years are included as three years of low earnings in the computation of an average monthly wage, resulting in a lower PIA.

[15] Social Security Amendments of October 30, 1972, Pub. L. No. 92–603, §§ 104(a), (b), 86 Stat. 1340, *amending* 42 U.S.C. §§ 414, 415 (1970) (codified at 42 U.S.C. §§ 414(a), 415(b)(3) (Supp. II, 1972)). The provisions giving the effective dates of the 1972 amendments to 42 U.S.C. §§ 414, 415 (Supp. II, 1972), specify that in 1973 men's benefits will be computed using age 64, in 1974 using age 63, and in 1975 the computation point for both men and women will be age 62. *Id.* § 414 (effective date of 1972 amendments).

[16] HEW REPORT, *supra* note 3, at 86.

[17] In June, 1972 61.2% of female retired workers were receiving reduced benefits, compared to 40% for male retired workers. The average monthly reduced benefit for women was $106. The average monthly reduced benefit for men was $131. For women the average worker's benefit without reduction was only $128 compared to $158 for men. 35 Soc. SEC. BULL., Dec. 1972, at 74 (Table Q–5).

[18] In May, 1973, 51.5% of women age 20–64 were in the labor force; 53.9% of those age 18 and 19 were in the labor force. 19 EMPLOYMENT & EARNINGS, June, 1973, at 24 (Table A–3). In 1950, only 37.2% of women age 18–64 were working. DEP'T OF LABOR, WOMEN'S BUREAU, HANDBOOK ON WOMEN WORKERS 22 (1969) (Table 6) [hereinafter cited as HANDBOOK].

[19] Women age 20 and over made 34% of the civilian labor force in 1972. 96 MONTHLY LAB. REV., Sept., 1973, at 105 (Table 4). 78.5% of working women in 1967 were married, widowed, or divorced. HANDBOOK, *supra* note 18, at 23 (Table 7). The number of working wives increased by 4.1 million between 1962 and 1969, 40% of the period's total labor force increase. 95 MONTHLY LAB. REV., Aug., 1972, at 11. In 1971, 59% of women workers were married and one-third of working women had both a husband and dependent children. 95 MONTHLY LAB. REV., Apr., 1972, at 9. Of the 44 million husband-wife families in 1970, wives were the main income recipients in 3.2 million families, 7.4% of the total. In 1960, the percentage was 5.7. CENSUS BUREAU, SOURCES AND STRUCTURE OF FAMILY INCOME 377 (1973) (Table 9).

[20] *See* note 9 *supra* and text accompanying.

[21] In June 1972, 8,072,238 men were receiving monthly benefits. Of these men, 9.9% received benefits as retired workers. At the same time, 13,111,337 women were receiving monthly benefits, but only 47% of these women received benefits as retired workers. 35 Soc. SEC. BULL., Dec. 1972, at 74–78 (Tables Q–5 to –10).

Nonrecognition of women's work in the home or community will be explored in the final section of this note.

[22] Of the 13 million women receiving monthly benefits under OASDI in June, 1972, 6,990,000, or 53%, received benefits as dependent wives, mothers or widows, *Id.*

[23] Social Security Amendments of August 10, 1939, ch. 666, §§ 202(b), (d), (e), 53 Stat. 1364–65, *as amended* 42 §§ 402(b), (e), (g) (1970); REPORT OF THE SOCIAL SECURITY BD., H.R. MISC. DOC. No. 110, 76th Cong., 1st Sess. 6–7 (1939). The wife's benefit was regarded as one way of increasing benefits for workers in the early years of the system. In 1939 two-thirds of all men over 65 were married. These provisions were designed to account for the greater presumptive need of the married couple, although proponents of the amendment believed many wives would eventually develop benefit rights based on their own earnings, thus eventually reducing the cost of the supplemental benefits to a relatively small amount. Hearings on H.R. 6635, the Social Security Amendments of 1939, before the House Comm. on Ways and Means, 76th Cong., 1st Sess. 59 (1939).

Divorced wives, and surviving divorced wives, or "divorced widows," if not remarried, were included in the wife's and widow's provisions beginning in 1965. They were not presumed dependent on their ex-spouses. Social Security Amendments of July 30, 1965, Pub. L. No. 89–97, § 308, 79 Stat. 375–78, *as amended* 42 U.S.C. §§ 402(b), (e), 416(d) (1970). In order to be eligible, a divorced wife or surviving divorced wife had to be receiving at least one-half of her support from the primary beneficiary, or receiving substantial contributions under a written agreement or a court order. In addition, her marriage to the insured must have lasted for at least twenty years. The support requirements were eliminated in 1972, so that only the twenty year duration of marriage requirement remains. Social Security Amendments of October 30, 1972, Pub. L. No. 92–603, § 114, *amending* 42 U.S.C. §§ 402, 416 (1970) (codified at 42 U.S.C. §§ 402(b), (e), 416(d) (Supp. II, 1972)).

[24] 42 U.S.C. §§ 402(b)(1)(E), (2) (1970).

[25] For example, if a working wife had an average monthly wage of $200, her PIA would equal $154.40. If her hubsand's average monthly wage were three times hers, or $600, her wife's benefit would equal $154.90, one-half of her hubsand's PIA of $309.80. If her average monthly wage were $250, her PIA would equal $174.80; her worker's benefit would be larger and she would no longer receive a dependent wife's benefit. *See* 42 U.S.C. § 415 (Supp. II, 1972) (Table for Determining Primary Insurance Amount and Maximum Family Benefits).

Rather than questioning the dependency presumption, the *Report of the 1971 Advisory Council on Social Security* made the assumption more explicit and expansive:

"[T]he program provides benefits . . . for those of his relatives whom the worker normally supports or has a legal obligation to support . . . Benefits are provided for a wife or widow without a test of support because it is reasonable to presume that a wife or widow loses support, or a potential source of support, when the husband's earnings are cut off, except in situations where she, herself, has covered earnings and is eligible for a benefit on her own account that is larger than her wife's or widow's benefit."

1971 ADVISORY COUNCIL ON SOCIAL SECURITY, REPORT 34 (1971) [hereinafter cited as 1971 ADVISORY REPORT]. There is no recognition by the Advisory Council that husbands lose support, or potential sources of support, when their wives' earnings are cut off.

[26] A widow receives a dependent's benefit equal to 100% of her deceased husband's PIA. 42 U.S.C. § 402(e)(2)(A) (Supp. II, 1972). Before the 1972 amendments, a widow received only 75% of her husband's benefit. Social Security Amendments of August 10, 1939, ch. 666, § 202(d)(2), 53 Stat. 1365.

As the Social Security Administration prefers to explain the dependent wife and widow provisions, if a wife works and then retires, she receives her own benefit in any case. In addition, if her worker's benefit is low or non-existent, she receives a supplemental benefit up to the derivative benefit limits. Bixby, *supra* note 11, at 5.

Working women have expressed great dis-

satisfaction with the dependent wife's and widow's benefits. *See* CITIZEN'S COUNCIL, *supra* note 3, at 67–78, 84–85; PRESIDENT'S COMMISSION, supra note 3, at 36–39. Under current provisions a married woman who has worked most of her life may get little or no more in benefits than she would have gotten had she never worked. Although she has paid social security taxes, she may receives no additional "return" over what she would have received had she remained a "dependent" wife.

The Social Security Administration is aware of these complaints, but points out that working women receive advantages for their contributions in the form of insurance protection against loss of earnings due to disability or death for themselves and their dependents, Bixby, *supra* note 11, at 9.

Rather than focusing on the differential treatment of working and nonworking wives, perhaps emphasis should be placed on the distinction between monetarily-employed workers, who supposedly have the ability to pay the payroll tax and those who work at home without financial compensation. In a very crude and indirect way, the social security system is compensating housewives through the wife's benefits for many years of unpaid labor.

[27] Social Security Amendments of August 28, 1950, ch. 809, § 101(a), 64 Stat. 483, 485 (codified at 42 U.S.C. §§ 402(c), (f) (1970)).

These additional benefits were viewed as establishing parity between the dependents of working men and women. However, the differential support requirements were virtually ignored. A program analyst for Social Security stated:

"The earlier legislation made no provision for benefits to a husband or widower on a woman's wage record. . . . The 1950 amendments have resolved this inequity. The new law retains the concept of deemed dependency of the wife on the husband, which fits the usual family situation, but it also permits the husband or widower to become a beneficiary on the basis of the wife's wage record if he has in fact been dependent on her."

Riches, Women Workers and Their Dependents Under the 1950 Amendments, 14 SOC. SEC. BULL., Aug., 1951, at 9, 11 [hereinafter cited as Riches].

[28] 42 U.S.C. §§ 402(c)(1)(C), (f)(1)(D) (1970). This test of dependency must be met prior to any calculation of PIA, and support encompasses all income received by the couple from whatever source. As explained in Clark v. Celebreeze, 230 F. Supp. 798 (D. Mass. 1964), *aff'd*, 344 F.2d 479 (1st Cir. 1965), *cert. denied*, 385 U.S. 817 (1966), one of the few cases litigating a husband's right to benefits, the Social Security Examiner added together the total family income available for mutual expenses of the husband and wife, took half as the husband's total support, and took half again to see if he met the requirement, which he did not. "Support" is defined in 20 C.F.R. § 404.350(c) (1972) as including food, shelter, clothing, ordinary medical expenses, and "other ordinary and customary items." *Id.*

[29] 42 U.S.C. §§ 402(c)(3), (f)(3) (1970), *as amended* (Supp. II, 1972).

[30] 1971 ADVISORY REPORT, *supra* note 25, at 34–35.

[31] *Id.*

[32] The Advisory Council stated that dual entitlement for women was not a problem because the number of wives who work in noncovered employment and who get dependents' benefits even though they are not really dependent is a relatively small proportion of wives receiving dependent benefits. The Council offered no support for this statement. *Id.* at 35.

[33] Divorced husbands and surviving divorced husbands, not remarried, are not included in the husband's and widower's benefits as contrasted with divorced women. *See* note 23 *supra*.

[34] REPORT OF THE COMMITTEE ON WAYS AND MEANS ON H.R. 6675, H.R. REP. No. 213, 89th Cong., 1st Sess. 94 (1965), *quoted in* 1971 ADVISORY REPORT, *supra* note 25, at 36.

[35] 1971 ADVISORY REPORT, *supra* note 25, at 36.

[36] Provision for wives with children whose husbands retire or become disabled is made through the wife's benefit. 42 U.S.C. § 402(b)(1)(B) (1970). Provision for wives with children whose husbands die is made through the mother's benefit. *Id.* § 402(g)(1).

[37] Social Security Amendments of August 28, 1950, ch. 809, § 101(a), 64 Stat. 483, 485–86, *amending* 42 U.S.C. § 402 (1946) (codified at 42 U.S.C. §§ 402(b), (g) (1970)). A benefit for a worker's widow with an eligible child in her care was first added in 1939 under the provision "Widow's Current Insurance Benefits." Social Security Amendments of August 10, 1939, ch. 666, § 202(e), 53 Stat. 1365. The 1950 amendments changed the benefit title to "Mother's Benefit," extended protection to surviving divorced mothers and, under the wife's benefit, to mothers whose husbands retired or became disabled.

If the husband-father retires or is disabled, the mother's benefit is 50% of his PIA, 42 U.S.C. § 402(b)(1)(B), (2) (1970); if the husband-father dies the mother receives 75% of his PIA, *id.* § 402(g)(2).

Children may draw benefits on their parent's wage record. 42 U.S.C. § 402(d) (1970). When the dependent child's benefit was established in 1939 a child was deemed dependent on the father as long as the father was living with or contributing to the support of the child. A child was deemed dependent on the mother *only* if she was the sole support of the child and the father was no longer living with the child. Social Security Amendments of August 10, 1939, ch. 666, § 202(c), 53 Stat. 1364. After the 1950 amendments, if the mother was currently insured when she died or reached 65, her children were automatically entitled to benefits, assuming they were under the age limitations. If the mother was fully, but not currently insured, the child could receive benefits only if the mother provided at least one-half of the child's support, or the child was neither living with nor receiving any support from the father. Social Security Amendments of August 28, 1950, ch. 809, § 101(a), 64 Stat. 484. These limitations on the benefits available to the children of working women are eliminated in 1967. Social Security Amendments of 1967, Pub. L. No. 90–248, § 151, 81 Stat. 860 (1968), *amending* 42 U.S.C. § 402(d) (1964) (codified at 42 U.S.C. § 402(d) (1970)).

[38] REPORT OF THE ADVISORY COUNCIL ON SOCIAL SECURITY, S. MISC. DOC. No. 4, 76th Cong., 1st Sess. 18 (1939).

[39] Because the 1971 Advisory Council conceived of the mother's benefit as giving a choice to women not to work but to stay home, they saw no reason to extend the benefit to fathers:

"A man generally continues to work to support himself and his children after the death or disability of his wife. . . . Even though many more married women work today than in the past, so that they are both workers and homemakers, very few men adopt such a dual role; the customary and predominant role of the father is not that of a homemaker but rather that of the family breadwinner. . . . The Council therefore does not recommend that benefits be provided for a young father who has children in his care." 1971 ADVISORY REPORT, *supra* note 25, at 35.

A housewife is completely left out of OASDI's primary coverage, and no provision exists to help replace her services if she dies or becomes disabled. However, because women who work outside the home are otherwise covered by the Act, the lack of a benefit for fathers to replace a working wife's contribution to the family income seems indefensible.

[40] Riches, *supra* note 27, at 11.

[41] *See* note 79 *infra* & text accompanying, Title VII is codified at 42 U.S.C. § 2000e (1970), *as amended* (Supp. II, 1972).

[42] H.R.J. Res. 208, 92d Cong., 2d Sess. (1972); S.J. Res. 8, 92d Cong., 1st Sess. (1971).

[43] The equal protection clause of the fourteenth amendment is not directly applicable to federal legislation such as OASDI, but the concepts surrounding it have been incorporated by the Supreme Court into the due process clause of the fifth amendment when reviewing federal action. Bolling v. Sharpe, 347 U.S. 497 (1954).

[44] *E.g.*, Richardson v. Belcher, 404 U.S. 78, 84 (1971); Dandridge v. Williams, 397 U.S. 471, 485, 487 (1970); Flemming v. Nestor, 363 U.S. 603, 611 (1960).

[45] Korematsu v. United States, 323 U.S. 214, 216 (1944) (race); Shapiro v. Thompson, 394 U.S. 618, 638 (1969) (affects fundamental interest in interstate movement).

[46] Goesaert v. Cleary, 335 U.S. 464, 466 (1948).

[47] Hoyt v. Florida, 368 U.S. 57, 62 (1961). In the only reported case to date attacking a sex classification in OASDI as a violation of equal protection and due process, the Second Circuit Court of Appeals followed the traditional rational relationship approach and declared that "special recognition and favored treatment can constitutionally be afforded women." Gruenwald v. Gardner, 390 F.2d 591, 592, *cert. denied*, 393 U.S. 982 (1968). In *Gruenwald*, the male plaintiff contended that the age differentials based on sex, in 42 U.S.C. § 415(b)(3) (1970), used in computing average monthly wages were unconstitutional. For the details of these provisions, see notes 12–15 *supra*. The provisions were upheld as constitutional because the court felt the sex classification was not patently arbitrary or utterly lacking a rational justification, and did not involve invidious discrimination. Because women as a class earn less than men, and their economic opportunities in higher age groups are less, the court found a reasonable relationship between the classification and the objective of the provision. This objective, according to the court, was to reduce the disparity between the economic and physical capabilities of men and women. 390 F.2d at 592.

[48] 404 U.S. 71 (1971).

[49] *Id.* at 74, 76.

[50] Brief for Respondent at 12, Reed v. Reed, 404 U.S. 71 (1971).

[51] 404 U.S. at 77.

[52] Justice Douglas in his concurring opinion in Alexander v. Louisiana, 405 U.S. 625 (1971), challenging the exemption of women from state juries, declared:

"The absolute exemption provided by Louisiana . . . betrays a view of a woman's role which cannot withstand scrutiny under modern standards. . . . Classifications based on sex are no longer insulated from judicial scrutiny by a legislative judgment that "woman's place is in the home," or that woman is by her "nature" ill-suited for a particular task.

Id. at 639–41. He then cited *Reed*. Similarly, Judge Duniway, dissenting in Struck v. Secretary of Defense, 460 F.2d 1372 (9th Cir. 1971), challenging the Army's regulation discharging officers who become pregnant, argued that Struck should have been given a rehearing in light of *Reed*, and stated: "It is not yet clear whether classification based upon sex is 'suspect,'. . . . I think, however, that eventually the Supreme Court will so

hold." *Id.* at 1378. In Moritz v. Commissioner of Internal Revenue, 469 F.2d 466 (10th Cir. 1972), the Court of Appeals concluded that § 214 of the Internal Revenue Code, 26 U.S.C. § 214 (1970), allowing only women and married men to deduct expenses for the care of dependents, was unconstitutional. Under the scrutiny required by *Reed*, the classification, based solely on sex, was held to constitute an invidious discrimination against never-married men. 469 F.2d at 470. *Compare* Getman, *The Emerging Constitutional Principle of Sexual Equality*, 1972 SUP. CT. REV., 157 (1973) [hereinafter cited at Getman] and Sedler, *The Legal Dimensions of Women's Liberation: An Overview*, 47 IND. L.J. 419 (1972) [hereinafter cited as Sedler] *with* Ginsberg, *Comment on Reed v. Reed*, 1 WOMEN'S RIGHTS L. REP., Spring, 1972, at 7 (calling the *Reed* opinion a "small, guarded step" forward).

[53] 411 U.S. 677 (1973).

[54] 37 U.S.C. § 401 (1970); 10 *id.* § 1072.

[55] 37 *id.* § 401; 10 *id.* § 1072(2)(C).

[56] 37 *id.* § 401; 10 *id.* § 1072(2)(A).

[57] Frontiero v. Laird, 341 F. Supp. 201, 206, 209 (M.D. Ala. 1972). The court noted that women in the armed services can claim unmarried, legitimate, minor children for purposes of medical and dental benefits without a showing of dependency in fact. *Id.* at 205–06. Judge Johnson dissented, finding the statutory classification based solely on sex. He would declare the statutes unconstitutional on the basis of *Reed*, regarding the rationale of administrative convenience as an insufficient rational basis to support the classification *Id.* at 209, 210.

[58] *Id.* at 207.

[59] *Id.*

[60] *Id.* at 207–08.

[61] *Id.* at 208.

[62] Frontiero v. Richardson, 411 U.S. 677, 691 (1973).

[63] *Id.* at 688.

[64] *Id.* at 684.

[65] *Id.* at 686.

[66] *Id.* at 690.

[67] Justice Rehnquist dissented for the reasons given by the district court *Id.* at 691.

[68] Two lower federal courts and two state courts, however, have previously reached the conclusion that sex is a suspect classification. *See* Sail'er Inn. Inc. v. Kirby, 5 Cal. 3d 1, 485 P.2d 529, 95 Cal. Rptr. 329 (1971); State v. Costello, 59 N.J. 334, 282 A.2d 748 (1971); *cf.* United States *ex rel.* Robinson v. York, 281 F. Supp. 8 (D. Conn. 1968), which examined a sex distinction in a criminal statute under the "strict scrutiny" standard, and found the sex classification to constitute invidious discrimination. In Thorn's v. Richardson, 4 BNA FAIR EMPLOYMENT PRACTICES CAS. 299 (W.D. Wash. 1971), women plaintiffs attacked the referral system of the federally administered Work Incentive Program (WIN), which under federal regulations gives preference to unemployed male welfare recipients over unemployed female recipients. The court held that the sex classifications were suspect, encroached upon the plaintiff's fundamental rights, and were without rational basis as is required by the fifth and fourteenth amendments. *Id.* at 302.

[69] 411 U.S. 677, 692 (1973).

[70] *Id.*

[71] *Id.*

[72] *Id.* at 691.

[73] *Compare* 42 U.S.C. §§ 402(c)(1)(C), (f)(1)(D) (1970) *with* 37 *id.* § 401 *and* 10 *id.* § 1072(2)(C). The Social Security Act also includes a one-half support requirement in the dependent benefit for a workers' parents, but the parents' provision makes no distinction on the basis of sex; it applies equally to male and female workers, and to male and female parents. 42 U.S.C. § 402(h)(1)(B) (1970).

[74] Even the 1971 Advisory Council on Social Security recognized that the value of social insurance protection for dependents was lower for working women than for working men, due to the support requirement that husbands and widowers must meet to receive benefits on a woman's wage record. The Advisory Council pointed out, however, that this lower value of dependents' protection was offset by the greater value of the working woman's retirement benefit resulting from women's greater longevity. 1971 ADVISORY REPORT, *supra* note 25, at 63.

As the Court noted in *Frontiero*, the statutes requiring proof of support by husbands are not in any sense designed to rectify the effects of past discrimination against women. 411 U.S. at 689 n. 22. *Frontiero* can be distinguished from Gruenwald v. Gardner, 390 F.2d 591, *cert. denied*, 393 U.S. 982 (1968). *Gruenwald* upheld a sex classification in OASDI because the provision in question worked to the advantage of women in reducing the existing monetary disparity between male and female worker's benefits. *Id.* at 592. Although not designed with affirmative action in mind, the age differentials previously found in the computation provisions may have been able to pass a strict judicial scrutiny test as a means of promoting equality for women. *See* Getman, *supra* note 52, at 165–66; Sedler, *supra* note 52, at 454.

[75] *See* notes 36–40 *supra* & text accompanying.

[76] Wiesenfeld v. Secretary of Health, Education and Welfare, Civil No. 268–73 (D.N.J., filed Feb. 1973) is a class action challenging the denial of a "mother's" benefit to a father who has in his care an infant child. The plaintiff's wife had been a school teacher for seven years. She contributed fully to social security and earned substantially more than her husband until her death in childbirth. The plaintiff husband qualified for benefits under 42 U.S.C. § 402(g) (1970) in all respects except his sex.

[77] Title VII of the Civil Rights Act of 1964 states in pertinent part:

"It shall be an unlawful employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's . . . sex." 42 U.S.C. § 2000–2(a)(1) (1970).

[78] 411 U.S. 677, 687–88 (1973).

[79] Bartmess v. Drewrys U.S.A., Inc., 444 F. 2d 1186 (7th Cir.), *cert, denied*, 404 U.S. 939 (1971); Rosen v. Pub. Serv. Elec. & Gas Co., 328 F. Supp. 454 (N.J. 1970), *aff'd* 477 F.2d 90 (3d Cir. 1973).

[80] 29 C.F.R. § 1604.9(c) (1973).

[81] *Id.* § 1604.9(d).

[82] CCH 1973 EEOC Dec. ¶ 6050, at 4083 (1969).

[83] *Id.* at 4084.

[84] *Id.* Another plan which paid death benefits only to surviving spouses of male employees, excluding female employees, was also found to violate title VII. CCH 1973 EEOC Dec. ¶ 6114, at 4206 (1970). A group health insurance plan, which required that an employee be a "head of household" to be eligible for benefits, was also rejected by the EEOC. CCH 1973 EEOC Dec. ¶ 6050, at 4026 (1969). In that case married males were assumed to be "heads," while married women as a group were assigned to an ineligible status. Again, the EEOC stated that such benefits could not be based on general assumptions regarding females as a group, including the employer's assumption that any working female was dependent upon her husband for support, regardless of the extent to which she contributes to be actual support and maintenance of her family. *Id.*

[85] The Equal Rights Amendment reads as follows:

"SEC. 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"Sec. 2. The Congress shall have the power to enforce, by appropriate legislation, the provision of this article.

"Sec. 3. This amendment shall take effect two years after the date of ratification."

H.R.J. Res. 208, 92d Cong., 2d Sess. (1972); S.J. Res. 8, 92d Cong., 1st Sess. (1971). As of April 1973, 30 states had ratified the amendment; 38 states are required for adoption. The states have until March, 1979 to ratify the proposed twenty-seventh amendment. 1 WOMEN'S RIGHTS L. REP., Spring, 1973, at 104.

[86] SENATE COMM. ON THE JUDICIARY, EQUAL RIGHTS FOR MEN AND WOMEN, S. REP. NO. 92–689, 92d Cong., 2d Sess. 11 (1972) [hereinafter cited as SENATE REPORT]; Brown, Emerson, Falk & Freedman, *The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women*, 80 Yale L.J. 871, 889 (1971) [hereinafter cited as *Equal Rights*].

[87] SENATE REPORT, *supra* note 86, at 11–12.

[88] *Equal Rights*, *supra* note 86, at 890.

[89] SENATE REPORT, *supra* note 86, at 12.

[90] Congresswoman Martha Griffiths, in her testimony in hearings on the ERA, used the social security provisions based on the sex of the spouse as examples of the impact the ERA would have on federal as well as state laws. *Hearings in Equal Rights for Men and Women Before Subcom. No. 4 of the House Comm. on the Judiciary*, 92d Cong., 1st Sess. 38 (1971). In the debate on the floor of the Senate prior to passage of the ERA, Senator Fong introduced a letter from HEW Secretary Richardson listing instances of the Social Security Act's differential treatment based on sex which would be affected by the ERA. 118 CONG. REC. 4404 (daily ed. Mar. 21, 1972).

[91] Frontiero v. Richardson, 411 U.S. 677, 691, (1973). Under title VII of the Civil Rights Act of 1964, U.S.C. § 2000e (1970), *as amended* (Supp. II, 1972), employers would also have the alternative of extending a benefit to both sexes on the same terms, or of eliminating it. In addition, the Equal Rights Amendment would require that the present benefit for a mother of an eligible child be extended to fathers, and that divorced men be eligible for benefits on the same basis as divorced wives and widows.

[92] Such litigation has continually occurred under the previously existing one-half support requirement for divorced wives. Social Security Amendments of July 30, 1965, Pub. L. No. 89–97, § 308, 79 Stat. 375–77. Including a one-half support requirement for wives might also deny coverage to women who work outside the home, but are not covered by social security or any other federal retirement plan, such as some domestic workers. In 1972, 500,000 domestic workers were not covered by OASDI. 36 Soc. Sec. BULL., Mar., 1973, at 75 (Table Q–2).

[93] Currently, many more women than men are drawing benefits as dependents and would be affected by the addition of a support requirement for women. As of June, 1972, 6,990,000 women were drawing benefits as wives and widows 35 Soc. Sec. BULL., Dec., 1972, at 76–78 (Tables Q–7 to –10). Only 11,695 husbands and widowers were currently drawing benefits as dependents, and although it is difficult to estimate how many additional men would be able to qualify under the present wife's benefit rules, it is not likely to be a substantial number. If Congress is concerned about dual entitlement to benefits *see* notes 30–32 *supra* and text accompanying, it could easily add a provision reducing a spouse's benefit by the amount received under another federal retirement system, or by giving a spouse the option of electing one of the two available benefits.

[94] *See* HEW REPORT, *supra* note 3, at 91–92; Walker, *Sex Discrimination in Government Benefit Programs*, 23 HASTINGS L.J. 277 (1971) [hereinafter cited as Walker]. Walker refers to the homemaker "Black-out Period," pointing out that a housewife is not eligible for any kind of federal cash assistance be-

tween the time her last child leaves home and the time she reaches age 62. Walker, *supra*, at 278. Social Security offers no protection to a housewife against her own death or disability, and provides no replacement benefit to meet her family's increased costs of house and child care.

[95] HANDBOOK, *supra* note 18, at 7–8.

[96] Bixby, *supra* note 11, at 9.

[97] An individual work record would also reduce the risk attendant upon divorce, as benefits would not be based on marital status; a wife would no longer lose all accumulated social security protection if her marriage had not lasted twenty years. *See* 42 U.S.C. §§ 402(b)(1)(H), 416(d)(1)–(2) (1970).

[98] 93d Cong., 1st Sess. (1973). The bill was introduced by Representatives Abzug, Badillo, Conyers, Harrington, Podell, and Tiernan, and was referred to the Committee on Ways and Means. As of September, 1973, it was still languishing in the committee. WOMEN'S EQUITY ACTION LEAGUE, WASHINGTON REPORT No. 14 (1973).

[99] H.R. 252, 93d Cong., 1st Sess. § 232(c) (1973).

[100] *Id.* § 232(b)(4). For minimum requirements of coverage as a worker see note 8 *supra*.

[101] H.R. 252, 93d Cong., 1st Sess. § 3 (1973).

[102] *See* PRESIDENT'S COMMISSION, *supra* note 3, at 37; Bixby, *supra* note 11, at 10.

[103] REPORT OF THE SOCIAL SECURITY BD., H.R. MISC. DOC. No. 110, 76th Cong., 1st Sess. 5 (1939).

[104] *Id.* at 5–7, 11–12.

[105] Social Security Amendments of August 10, 1939, ch. 666, § 202(b), 53 Stat. 1364 (codified at 42 U.S.C. § 402(b)(2) (1970)).

[106] *See generally* BRITTAIN, *supra* note 2.

[107] Although not provided for in H.R. 252, 93d Cong., 1st Sess. (1973), the householder service benefit should also set the minimum benefit level, so as not to penalize those who are forced to work for wages below the average service worker's wage. The householder service benefit would form a floor below which benefits would not be allowed to fall. The national average monthly wage in service occupations was approximately $447 as of March 1973, 19 EMPLOYMENT & EARNINGS, June, 1973, at 86 (Table C–2). The average hourly pay for service occupations was listed at $3.30 and average weekly pay was $111.37.

H.R. 252 would not be the only possible way to extend primary coverage to homemakers. An alternative method of coverage could be worked out by splitting combined family earnings, attributing a portion to each spouse as her or his own earnings, and in that way establishing individual wage records that would survive the marriage. If "payroll" contributions from homemakers were regarded as necessary, they could be made through the federal income tax reporting system. *See* J. PECHMAN, H. AARON & M. TAUSSIG, SOCIAL SECURITY—PERSPECTIVES FOR REFORM 188–91 (1968).

SECTION-BY-SECTION ANALYSIS

SECTION 2

Would eliminate the requirements that a man must have been receiving at least one-half of his support from his wife in order to be eligible for "husband's" social security benefits and for "widower's" social security benefits. (A husband or widower would be able to receive benefits under the same eligibility requirements as a wife or widow.)

SECTION 3

Would provide benefits for a divorced husband (on generally the same basis as now provided for a divorced wife).

SECTION 4

Would provide benefits for a husband having a child in his care entitled to a child's social security benefit based on the earnings of the mother. (This would provide benefits to men in this circumstance on generally the same basis as such benefits are now provided to women.)

SECTION 5

Would provide for "father's" benefits to be payable to a widower having a child in his care entitled to a child's social security benefit based on the earnings of the mother. (This would write into law a recent Supreme Court decision requiring "father's" benefits to be paid on the same basis as "mother's" benefits.)

SECTION 6

Would make the necessary conforming changes in present law.

SECTION 7

Would provide for the computation of a social security benefit based on combined earnings, of a married couple if (a) the combined computation resulted in higher total benefit payments for the two; (b) computation was made for both husband and wife; (c) each had 20 years of social security coverage beginning with the year of marriage; (d) each attains age 62 after 1975; (e) each is entitled to an old-age or disability benefit based on his or her own earnings; and (f) both elected to apply for benefits under the combined computation.

Under the combined computation method, benefits would be determined as follows: (a) The earnings of both husband and wife would be combined for each year up to the maximum wage base in effect for that year. (b) An average monthly wage and primary insurance amount would be computed according to the formula and table in current law using the wages of both as if the total amount were earned by the younger spouse. (c) Each spouse would then receive a primary insurance amount (on which benefits are based) equal to 75% of the combined primary insurance amount as determined above.

Benefits based on this combined computation would end with the month preceding the month of death of either spouse, or divorce.

Other benefits based on the husband's or wife's earnings, i.e., wife's, husband's, child's, widow's, widower's mother's, father's, parent's; and/or lump-sum death benefits would *not* be computed on the basis of a primary insurance amount determined under these combined computation provisions. The maximum amount of benefits for a family would also be determined without regard to the combined computation method as if the benefit for the worker had been computed under provisions in current law.

An unremarried widow or widower, previously receiving a benefit under the combined computation provisions, would be entitled to a widow's or widower's benefit as provided in current law (and amended by the preceding sections of these amendments), except that such benefit would not be less than the amount she or he was receiving while the spouse was alive.

SECTION 8

Would make the amendments providing equal treatment for men (as contained in sections 1–5) effective for months after the month of enactment of these amendments, on the basis of applications filed in or after the month of enactment. The combined benefit computation amendments (section 7) would be effective beginning with regard to benefits payable for January 1978 and after.

By Mr. PROXMIRE (for himself and Mr. WILLIAMS):

S. 305. A bill to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

Mr. PROXMIRE. Mr. President, Senator WILLIAMS and I are today cosponsoring legislation to outlaw foreign bribery by U.S. corporations, and to require disclosure of the true ownership of domestic industry, for reference to the Committee on Banking, Housing and Urban Affairs. The legislation, titled the "Foreign Corrupt Practices and Domestic and Foreign Investment Disclosure Act of 1977," has no less for its purpose than the restoration and maintenance of confidence in American business at home and abroad.

The various provisions of this bill concerning corrupt practices are identical to the legislation outlawing foreign bribery which passed the Senate in the 94th Congress by a vote of 86 to nothing. The essential thrust of this bill is as follows:

Every corporation having securities registered with the Securities and Exchange Commission is required to keep books and records which accurately and fairly reflect the transactions and dispositions of its assets and to maintain an adequate system of accounting controls; falsification of books and records is proscribed.

Materially false or misleading statements or omissions to accountants in connection with audits or examinations of companies registered with the SEC are outlawed.

Payments to foreign government officials, to foreign political parties and candidates for foreign political office with the use of the mail or with the aid of any instrumentality of interstate commerce are forbidden where the purpose of such payment is to obtain or retain business, influencing a foreign government or influencing legislation or regulations; payments to intermediaries for such purposes are also outlawed. These provisions outlawing foreign bribery payments apply specifically to companies coming within the jurisdiction of the SEC and to all other companies.

In my view, it is absolutely essential that the provisions of any legislation outlawing foreign bribery be keyed to the investigatory and enforcement machinery of the SEC. The SEC has been the most vigorous agency of Government on the issue of ferreting out and stopping the pernicious practice of foreign bribery. This is as it should be. Most of the largest companies in the country are subjected to the rules and regulations of the SEC respecting the issuance and public sale of securities and respecting the issuance of annual reports and solicitations of the proxies of stockholders for the purpose of selecting boards of directors.

Bribery of foreign government officials by American companies to secure business is a practice incompatible with our way of life and is destructive of the best interests of our foreign policy. The Lockheed bribery scandal brought down a Japanese Government and nearly torpedoed the development of democracy in that Nation. Severe effects on democratic governments in Italy and in the Netherlands were felt. We cannot allow this kind of assault on foreign democratic governments by our companies to continue.

Bribery of foreign officials by U.S. com-

panies has attained crisis proportions. The SEC has uncovered over 175 companies engaging such practices involving over $300 million. Companies which use bribery in their marketing strategy falsify their books and maintain inadequate accounting controls. Accounting audits have been inadequate to insure that accurate disclosure of the management and financial affairs of such companies would be made to investors. In the process, capital markets have become distorted.

Investors have a basic right to know how public companies are being managed and their financial condition. Timely disclosure to investors of such information has a profound effect on capital formation and the operation of the capital markets of the Nation. Payments policies to foreign officials by companies is information which an investor needs to determine whether or not to invest in the company. Many of our largest corporations set up accounting systems to hide substantial payments to foreign officials. As a result, the books and records of the companies were falsified and the true condition of the companies were masked. Accounting controls and audits and examinations were not adequate to prevent the duplicity.

Bribery is bad business. It tarnishes the image of our democracy abroad especially with nations struggling to develop their own democracies. Bribery poses significant business risks to companies which engage in such practices. When such payments are uncovered, the substantial business may be lost. Expected earnings may not materialize. Property may be confiscated by hostile governments both within the nation where such payments were made and elsewhere. Competition between American companies is distorted. A company which develops a good product for sale at a fair price may find itself excluded from a market because its competition, which produced an inferior and higher priced product, has rigged the market with a bribe. This bill will curtail such practices.

It may be argued that a provision of law outlawing a foreign bribe will be difficult to enforce. But certainly difficulty of enforcement is no reason not to have such a law. Furthermore, I am sure that foreign nations will be pleased to supply the evidence necessary to support such prosecutions. In any event, the crime specified is the use of the U.S. mails or other instrumentality to make a foreign bribe. And, perhaps most importantly, this legislation is a clear signal to the business community and to the world that we will not tolerate foreign corrupt payments by our corporations.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be included in the RECORD following my remarks along with a full text of the bill. I wish also to associate myself with the remarks of Senator WILLIAMS on the disclosure provisions of this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

The purposes of this legislation would be acomplished by amending existing section 13(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), by adding a new section 30A to the Exchange Act, and by adding a new provision to the criminal code.

TITLE I—FOREIGN CORRUPT PRACTICES

SEC. 101. This title may be cited as "The Foreign Corrupt Practices Act of 1977".

Section 102 of the bill would amend section 13 of the Exchange Act by renumbering existing paragraph (b) as (b)(1) and by adding three new paragraphs.

New subparagraph 13(b)(2) would apply only to issuers which have a class of securities registered pursuant to section 12 of the Exchange Act and issuers required to file reports pursuant to section 15(b) of the Exchange Act ("reporting companies"). It would require reporting companies to make and keep books, records and accounts which accurately and fairly reflect all of their transactions and dispositions of the assets.

A reporting company also would be required to establish and maintain an adequate system of internal accounting controls sufficient to provide reasonable assurances that transactions are executed in accordance with management's directions and that they be recorded in a manner that permits the company to prepare its financial statement in accordance with generally accepted accounting principles or other applicable criteria and maintain accountability for its assets. The system of accounting controls also would have to be sufficient to assure that access to a company's assets is permited only in accordance with mangement's authorization and that the recorded accountability for assets is compared with its existing assets at reasonable intervals and appropriate action is taken with respect to differences.

Subparagraph 3 would make it unlawful for any person to falsify or cause to be falsified any book, record, account or document of a reporting company which has been made or is required to be made for any accounting purpose.

Subparagraph 4 would make it unlawful for any person to make or cause to be made a materially false or misleading statement or to omit to state or cause another person to omit to state any material fact necessary in order to make statements to an accountant not misleading. This provision would apply to statements made to an accountant in connection with any examination or audit of an issuer with securities registered or to be registered under the Securities Act of 1933, as well as any examination or audit of a reporting company.

Section 103 of the bill would add a new section 30A to the Exchange Act to prohibit any reporting company from offering, paying, promising to pay or authorizing the payment of any money and from offering, giving, promising to give or authorizing the giving of anything of value, for a corrupt purpose, to three classes of persons:

(1) to an official of a foreign government or instrumentality of a foreign government,

(2) to a foreign political party or an official of a foreign political party, or a candidate for a foreign political office, and

(3) to any other person while the issuer knows or has reason to know that money or a gift will be offered, promised or given to an official of a foreign government or instrumentality, a foreign political party, an official of a foreign political party, or a candidate for a foreign political office.

The scope of Section 30A is further limited by the requirement that the offer, promise, authorization, payment or gift have as a purpose inducing the recipient to use his or its influence with the foreign government or instrumentality, or to refrain from performing any of his or its official responsibilities, so as to direct business to any person, maintain an established business opportunity with any person, divert any business opportunity from any person or influence the enactment or promulgation of legislation or regulations of that government or instrumentality.

Section 104 of the bill as reported would prohibit persons included in the definition of the term "domestic concern" who would not be covered by new section 30A of the Exchange Act from engaging in any of the same types of conduct prohibited by that section.

The term "domestic concern" is defined in the bill to mean an individual who is a citizen or national of the United States as well as any corporation, partnership, association, joint-stock company, business trust, or unincorporated organization which is owned or controlled by individuals who are citizens or nationals of the United States, which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or any territory, possession, or commonwealth of the United States.

The term "interstate commerce" is defined to mean trade, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place or ship outside thereof. The term includes the intrastate use of a telephone or other interstate means of communication and the intrastate use of any other interstate instrumentality.

The penalties for each violation of this provision would be the same as the criminal penalties contained in the Exchange Act—a fine of up to $10,000 or imprisonment for up to two years, or both.

TITLE II—INVESTMENT DISCLOSURE

Section 201 of the bill provides a short title: the Domestic and Foreign Investment Improved Disclosure Act of 1977.

Section 202 of the bill would amend section 13(d)(1) of the Securities Exchange Act of 1934 (the "Exchange Act") to expand the disclosure requirements applicable thereunder to include disclosure of (a) the residence, nationality, and nature of the beneficial ownership of the person acquiring the securities and all other persons by whom or on whose behalf the purchases have been or are to be effected and (b) the background and nationality of each associate of the purchaser who owns or has a right to acquire additional shares of the issuer.

Section 203 of the bill would add a new subsection 13(g) to the Securities Exchange Act of 1934. Paragraph (1) thereof would require every holder of record of, and any other person having an interest in, 2% or more of, any security of a class described in section 13(d)(1) of the Exchange Act, to report such interest and such other information, in such form and at such intervals (but in no event more frequently than quarterly) as the SEC may by rule prescribe.

Paragraph (2) thereof would empower the SEC to prescribe, by rule, the manner in which the reports required by paragraph (1) shall be filed or published. It would also authorize the SEC to require issuers to include specific information received as a result of such reports in any filing or registration statement with the SEC.

Paragraph (3) provides for the gradual reduction in the 2% threshold of paragraph (1): 1% on September 1, 1978 and to ½ of 1% on September 1, 1979. However, both the authority and the procedures are provided to enable the SEC to shorten or extend these periods upon a finding that such change is not inconsistent with the protection of investors or the public interest and after giving appropriate consideration to and receiving public comments on the enumerated considerations.

Paragraph (3) would also require the SEC to report to the Congress on August 1, 1978, and again on August 1, 1979, on the steps it has taken, or plans to take, to implement, accelerate, or defer the time periods. In ad-

dition, the SEC would be required to report to the Congress by January 2, 1980 on the feasibility and desirability of reducing the specified thresholds to one-tenth of 1 per centum.

Paragraph (4) would give the SEC the authority, by rule or order, to exempt from the requirements of the new subsection any security, issuer, or person, or any class of securities, issuers, or persons, if it finds that such exemption is not inconsistent with the public interest or the protection of investors.

Paragraph (5) would make it unlawful for any person, in contravention of such rules as the SEC may prescribe, to make use of the mails or any other means or instrumentality of interstate commerce to effect any transaction (for his own account or the account of another) in any security subject to this new subsection if such person knew, or should have known, that information required to be filed or published in accordance with this subsection, either by the person effecting the transaction or by the person on whose behalf, directly or indirectly, the transaction is intended to be effected, has not been filed or published.

Paragraph (6) would require the SEC to consult with the Comptroller General of the United States, the Director of the Office of Management and Budget, the regulatory agencies referred to in section 3(a)(34)(D) of the Exchange Act and other Federal authorities which, directly or indirectly, require reports substantially similar to that called for by this subsection in order to achieve uniform, centralized reporting of such information and avoid unnecessary duplicative reporting by, and minimize the compliance burden on, persons required to report.

S. 305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FOREIGN CORRUPT PRACTICES

SEC. 101. This title may be cited as the "Foreign Corrupt Practices Act of 1977".

SEC. 102. Section 13(b) of the Securities and Exchange Act (15 U.S.C. 78(b)), is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following:

"(2) Every issuer which has a class of securities registered pursuant to section 12 of this title and every issuer which is required to file reports pursuant to section 15(d) of this title shall—

"(A) make and keep books, records, and accounts, which accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and

"(B) devise and maintain an adequate system of internal accounting controls sufficient to provide reasonable assurances that—

"(i) transactions are executed in accordance with management's general or specific authorization;

"(ii) transactions are recorded as necessary (1) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements and (2) to maintain accountability for assets;

"(iii) access to assets is permitted only in accordance with management's authorization; and

"(iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

"(3) It shall be unlawful for any person, directly or indirectly, to falsify, or cause to be falsified, any book, record, account, or document, made or required to be made for any accounting purpose, of any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title.

"(4) It shall be unlawful for any person, directly or indirectly—

"(A) to make, or cause to be made, a materially false or misleading statement, or

"(B) to omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in the light of the circumstances under which they were made, not misleading to an accountant in connection with any examination or audit of an issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title, or in connection with any examination or audit of an issuer with respect to an offering registered or to be registered under the Securities Act of 1933.".

SEC. 103. The Securities Exchange Act of 1934 is amended by inserting after section 30 the following new section:

"PAYMENTS TO OFFICIALS

"SEC. 30A. It shall be unlawful for any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title to make use of the mails or of any means or instrumentality of interstate commerce corruptly to offer, pay, or promise to pay, or authorize the payment of, any money, or to offer, give, or promise to give, or authorize the giving of, anything of value to—

"(1) any person who is an official of a foreign government or instrumentality thereof for the purpose of inducing that individual—

"(A) to use his influence with a foreign government or instrumentality, or

"(B) to fail to perform his official functions, to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality;

"(2) any foreign political party or official thereof or any candidate for foreign political office for the purpose of inducing that party, official, or candidate—

"(A) to use its or his influence with a foreign government or instrumentality thereof, or

"(B) to fail to perform its or his official functions,

to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality; or

"(3) any person, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised directly or indirectly to any individual who is an official of a foreign government or instrumentality thereof, or to any foreign political party or official thereof or to any foreign political party or official thereof or any candidate for foreign political office, for the purpose of inducing that individual, official, or party—

"(A) to use his or its influence with a foreign government or instrumentality, or

"(B) to fail to perform his or its official functions,

to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality.".

PAYMENTS TO OFFICIALS

SEC. 104. (a) It shall be unlawful for any domestic concern, other than an issuer which is subject to section 30A of the Securities Exchange Act of 1934, to make use of the mails or of any means or instrumentality of interstate commerce corruptly to offer, pay, or promise to pay, or authorize the payment of, any money, or to offer, give, or promise to give or authorize the giving of, anything of value to—

(1) any individual who is an official of a foreign government or instrumentality thereof for the purpose of inducing that individual—

(A) to use his influence with a foreign government or instrumentality, or

(B) to fail to perform his official functions, to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality,

(2) any foreign political party or official thereof or any candidate for foreign political office for the purpose of inducing that party, official, or candidate—

(A) to use its or his influence with a foreign government or instrumentality thereof, or

(B) to fail to perform its or his official functions,

to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality; or

(3) any individual, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised directly or indirectly to any individual who is an official of a foreign government or instrumentality thereof, or to any foreign political party or official thereof or any candidate for foreign political office, for the purpose of inducing that individual, official or party—

(A) to use his or its influence with a foreign government or instrumentality, or

(B) to fail to perform his or its official functions,

to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality.

(b) Any person who willfully violates this section shall upon conviction be fined not more than $10,000, or imprisoned not more than two years, or both.

(c) As used in this section—

(1) the term "domestic concern" means an individual who is a citizen or national of the United States, or any corporation, partnership, association, joint-stock company, business trust, or unincorporated organization which is owned or controlled by individuals who are citizens or nationals of the United States, which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or any territory, possession, or commonwealth of the United States; and

(2) the term "interstate commerce" means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place or ship outside thereof, and such term includes the intrastate use of a telephone or other interstate means of communication or any other interstate instrumentality.

TITLE II—DISCLOSURE

SEC. 201. This title may be cited as the "Domestic and Foreign Investment Improved Disclosure Act of 1977".

SEC. 202. Section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended to read as follows:

"(d)(1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption

contained in section 12(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing such of the following information, and such additional information, as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(A) the background and identity, residence, and nationality of, and the nature of such beneficial ownership by, such person and all other persons by whom or on whose behalf the purchases have been or are to be effected;

"(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading such security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 3(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public;

"(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities, any plans or proposals which such persons may have to liquidate such issuer, to sell its assets to or merge it with any other persons, or to make any other major change in its business or corporate structure;

"(D) the number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such person, and (ii) by each associate of such person, giving the background, identity, residence, and nationality of each such associate; and

"(E) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.".

SEC. 203. Section 13 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78m), is amended by adding at the end thereof the following new subsection:

"(g)(1) Every holder of record of, and any other person having an interest in, 2 per centum or more of any security of a class described in subsection (d)(1) of this section shall report such interest and such other information, in such form and at such intervals (but in no event more frequently than quarterly), as the Commission may, by rule, prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(2) Reports made pursuant to paragraph (1) of this subsection shall be filed or published in such manner and to such persons, including the Commission, as the Commission may, by rule, specify. Any issuer which receives reports pursuant to this paragraph shall include in any filing or registration statement it makes with the Commission, under the Federal securities laws as defined in section 21(g) of this title, such of the information contained in such reports as the Commission may, by rule, require.

"(3) The 2 per centum figure in subsection (g)(1) of this section shall be reduced to 1 per centum on September 1, 1978, and to one-half of 1 per centum on September 1, 1979: *Provided, however,* That the Commission may shorten or extend such periods if the Commission first finds that such reduction or extension is not inconsistent with the protection of investors or the public interest, after giving appropriate consideration to, and receiving public comments, views, and data on, the following matters:

"(A) the incidence of avoidance of reporting by beneficial owners using multiple holders of record;

"(B) the cost of compliance to issuers and to record holders;

"(C) the effect on the securities markets of such action, including the system for the clearance and settlement of securities transactions;

"(D) the benefits to investors and to the public;

"(E) any bona fide interests of an individual in the privacy of his financial affairs;

"(F) the extent to which such reported information gives or would give any person an undue advantage in connection with activities subject to sections 13(d) and 14(d) of this title;

"(G) the need for such information in connection with the administration and enforcement of this title; and

"(H) such other matters as the Commission may deem relevant, including the results of any study or investigation it may undertake pursuant to this title and the information obtained pursuant to section 13(f) of this title.

The Commission shall report to the Congress on August 1, 1978, and again on August 1, 1979, the steps it has taken, or plans to take, to implement, accelerate, or defer the time periods set forth in this paragraph. In addition, the Commission shall no later than January 2, 1980, report to the Congress on the feasibility and desirability of reducing the per centum figure in paragraph (3) to one-tenth of 1 per centum, after studying the impact of such reduction on a reasonable sample of issuers, recordholders, and other persons required to report under this subsection and after full consideration of the matters referred to in clauses (A) through (H).

"(4) The Commission, by rule or order, may exempt from the requirements of this subsection or the rules thereunder, conditionally or unconditionally, any security, issuer, or person, or any class of securities, issuers, or persons, if it finds that such exemption is not inconsistent with the public interest or the protection of investors.

"(5) It shall be unlawful for any person, in contravention of such rules as the Commission may prescribe, to make use of the mails or any other means or instrumentality of interstate commerce to effect any transaction (for his own account or the account of another) in any security of a class described in subsection (d)(1) of this section, if such person knew, or should have known, that information required to be filed or published in accordance with this subsection, either by the person effecting the transaction or by the person on whose behalf, directly or indirectly, the transaction is intended to be effected, has not been filed or published.

"(6) In exercising its authority under this subsection, the Commission shall take such steps as are within its power, including consulting with the Comptroller General of the United States, the Director of the Office of Management and Budget, the appropriate regulatory agencies referred to in section 3(a)(34)34(D) of this title, and other Federal authorities which, directly or indirectly, require reports substantially similar to that called for by this subsection (A) to achieve uniform, centralized reporting of such information and (B) consistently with the objectives set forth in this subsection, to avoid unnecessarily duplicative reporting by and minimize the compliance burden on persons required to report.".

Mr. WILLIAMS. Mr. President, as chairman of the Subcommittee on Securities, I am pleased to join with Senator PROXMIRE in introducing legislation to amend the Securities Exchange Act of 1934. Each of the two titles of this bill was considered at great length and passed by the Senate late in the 94th Congress. Due to the abbreviated session, however, no action was taken by the House of Representatives. In reintroducing these two bills as one legislative package, I am hopeful that both Houses of Congress will be able to act early in this session on these important improvements in the scope and administration of the Federal securities laws.

Since Senator PROXMIRE has already explained the need for and provisions of the antibribery provisions contained in title I, I want to associate myself with his remarks and elaborate on the balance of the bill.

In addition to the foreign corrupt practices features of this legislation, title II, the Domestic and Foreign Investment and Improved Disclosure Act of 1977, would improve significantly the availability and accuracy of information about the ownership of U.S. businesses by amending the Federal securities laws.

Two distinct, but interrelated, developments point up the need for better information concerning corporate ownership.

The first is the dramatic growth of foreign investment in the United States in recent years; the second is the long-standing difficulty, and in many cases the impossibility, of determining who actually owns and controls publicly owned corporations.

Mr. President, each of these points is important enough in its own right to justify prompt action; taken together the need is compelling.

Reports by the Federal Energy Administration, the Council on International Economic Policy, and the reports on foreign portfolio and direct investment submitted to Congress by the Treasury and Commerce Departments pursuant to the Foreign Investment Study Act of 1974, all concluded that U.S. Government monitoring of foreign ownership of American business is inadequate.

Moreover, there is widespread agreement that our present data gathering capabilities are seriously deficient, thus handicapping ongoing analyses of the national and international economic and policy questions raised by the dramatic increases in foreign investment.

To remedy this shortcoming of our present disclosure requirements, title II of the bill would amend section 13(d) of the Securities Exchange Act of 1934, which I sponsored in 1968, to require additional disclosure concerning residence, nationality and nature of the beneficial ownership, as well as the background and

nationality of each associate of the purchaser, acquiring more than 5 percent of a public company's stock.

With the benefit of this augmented disclosure, for the first time it will be possible to measure the extent to which foreign investors have acquired or seek to acquire controlling or potentially controlling interest in U.S. corporations.

And it will do this without discriminating against foreign investors or imposing on them any additional burdens.

While national policy toward foreign investment is assessed on a continuing basis with information that is essential to the intelligent formulation of sound policy, the U.S. "open door" toward investment from abroad will remain wide open unless and until events make it clear that revisions are warranted.

The second element of title II relates to disclosure of stock ownership in a broader sense.

The problems of determining whc actually owns and controls American business dates back at least to the beginning of this century.

Immediate concern over the monitoring of foreign investment, however, has accelerated the search for an effective solution.

Title II would attack this problem by enlisting the aid of recordholders in securing public disclosure of essential information regarding the ownership and control of U.S. corporate securities.

Every recordholder of, and any other person having an interest in, 2 percent or more of any class of equity securities described in section 13(d)(1) of the Securities Exchange Act of 1934 would be required to disclose that interest and such other ownership information as the SEC may by rule prescribe.

These new reporting requirements would be applicable initially to persons having an interest in 2 percent or more of a corporation's securities.

The threshold would be reduced eventually, according to a specified timetable, first to 1 percent and, finally, to one-half of 1 percent.

However, the SEC would have discretion to shorten or extend these periods if, after considering certain matters set forth in the bill, it finds that such action is not inconsistent with the protection of investors or the public interest.

Several authoritative studies done by the Subcommittee on Securities—Securities Industry Study Report, 1972; the SEC—Institutional Investor Study, 1971; and the Senate Government Operations Committee—Disclosure of Corporate Ownership Study, 1973, Corporate Ownership and Control, 1975—document need for more effective disclosure and dissemination of more complete information concerning corporate ownership.

Most recently, in its final report pursuant to section 12(m) of the Securities Exchange Act concerning "street" and "nominee" registration, the SEC reaffirmed the inadequacies of the present disclosure and reporting practices and recognized the need for expanding both the universe of reporting persons and the Commission's enforcement powers.

Immediate and far-reaching consequences result from present difficulties in obtaining accurate ownership information:

First, neither companies nor their stockholders have information which is needed to protect their own interests.

Second, neither Federal agencies, the executive branch, nor the Congress has available sufficient information upon which to base reasoned public policy.

Third, the present inadequacies may actually impede the availability of such information where required by law, mask activities which could entail civil or criminal penalties; and cause costly duplicative overlaps which the regulated companies, their shareholders, and the taxpayers must bear.

And I should add, Mr. President, that this is so despite the fact that adequate and accurate information concerning ownership has been required by Congress and mandated by many regulatory agencies for many years.

Clearly what is called for is improved disclosure of ownership information, and this bill is the enabling legislation.

Mr. President, public policy in support of enhanced disclosure in securities transactions follows a pattern which began with the Securities Acts of 1933 and 1934.

This legislation will complement continuing efforts within the executive branch, the regulatory agencies and the Securities Subcommittee to increase the availability of information which is vital to the development of sound policy in complex areas where important national and international issues are at stake.

By Mr. STAFFORD (for himself, Mr. RANDOLPH, Mr. BAKER, Mr. DOMENICI, Mr. GRAVEL, Mr. HART, Mr. HEINZ, and Mr. MCCLURE):

S. 306. A bill to authorize a program for employment of teenaged youth in community improvement projects; to the Committee on Public Works.

THE YOUTH COMMUNITY IMPROVEMENT PROGRAM

Mr. STAFFORD. Mr. President, I am introducing, for myself and several of my colleagues. a bill designed to help alleviate the serious unemployment prevailing among the youth of this country.

Historically, the rate of unemployment among youth has been higher than that for older workers. The situation, however, has worsened in recent years and the gap between teenagers and adult workers has widened. In 1953, teenage unemployment was about 5 percentage points higher than the adult rate. In 1975, teenage unemployment was 12.6 percentage points higher. Today young people make up a substantial share of the unemployed of this Nation. Young people between the ages 16 to 19 represent only about 10 percent of the civilian labor force, but they constitute about 24 percent of the total number of unemployed persons—this is nearly a full quarter of the national figure. During 1976, 1.75 million teenagers were unemployed.

Over the last 2½ years, Congress has enacted legislation to deal with the high levels of cyclical unemployment. On the opening day of this Congress, numerous measures to further stimulate the economy were introduced and will be considered.

I believe, however, that the growing unemployment among youth will only be marginally alleviated through broad monetary and fiscal policies and programs. To respond to the needs of the youth sector of the population, we must design proposals specifically for the needs of youth and which are carefully targeted to this group. Employment opportunities for youth improve as the economy improves, but the process is slow. It may take years to reduce the high levels of unemployment now prevailing through these general approaches.

I believe legislation in this area is merited not only because of the high levels of unemployment and the fact that these levels represent such a large share of the total national figure, but also, and perhaps more importantly, because the long-term impact of imposed joblessness on young people may be quite adverse. In the late teenage years, most young people begin the transition from an academic environment to adult society. Early job experience provides the essential link between school and the adult world of work.

Without these early job opportunities, many young persons become frustrated, alienated from the work force and many reach their early adult years with no real connection with work and no sense of responsibility. Not only do they lack skills but they lack an adult, pragmatic view of what is required of them to obtain and hold a permanent job.

The purpose of this bill is to provide early job experience and skill training to youths between the ages of 16 and 19 on community improvement activities. Eligible activities would include work on community facilities, neighborhood projects, including repairs of low-income housing, and conservation and maintenance work on lands owned by the Federal Government, States, and local communities. These would be activities which need to be done and would not otherwise be carried out.

These are projects which do not require extensive plans and long-range planning but can be undertaken quickly. Communities across the country have such projects which receive low priority during times of economic distress and remain undone. These are, nevertheless, valuable projects which enhance the community and extend the useful life of many facilities and services. Not only does the community benefit from these improvements, which remain after the project has ended, but the young people also have the satisfaction of seeing a job well done—something both can point to with pride.

Maximum flexibility is given each local sponsor in designing a program, allowing them to match local opportunities with the needs of youth. Some may find that an apprenticeship approach may be the most effective approach.

I hope that efforts would be made to link activities funded under this bill with other similar Federal programs. For example, the local sponsor is authorized

to enter agreements with the National Park Service and National Forest Service for work on lands administered by these agencies. Youth could also be used for weatherization projects, supplementing the program operated by the Federal Energy Administration.

Programs would be designed for a 12-month period and would serve both in-school and out-of-school youth. Programs would be geared to the scheduling needs of the in-school youth and effort would be made to coordinate job activity with classroom instruction including the granting of school credits for work experience gained under the program.

In order to promote proper skill development during the year long project, each project crew would work under the supervision of a person trained in that particular activity.

The bill authorizes a total of $1.5 billion for fiscal years 1977 and 1978, and places responsibility for administering the program with the Economic Development Administration in the Department of Commerce. The Agency has operated community improvement programs of this type for several years, gaining some expertise in this area.

This bill does not attempt to address the full range of long-term questions which must be faced in dealing with the problems of youth, including the role of the education system in facilitating the transition to permanent jobs and adult life. My bill is designed to address a limited but important aspect of the problem. The intent is to initiate jobs quickly, to provide a realistic job experience and training while at the same time serving the community in a concrete and meaningful way.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the end of the remarks of my colleagues.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. RANDOLPH. Mr. President, I join today with my colleague Senator STAFFORD and others in introducing a bill addressing the unemployment problem faced by the youth of this country. During the 94th Congress, the Committee on Public Works initiated legislation which attempted to solve the unemployment crisis faced by construction workers. This legislation was passed and the first allocation of funds made in December of 1976.

Many useful projects are to be undertaken and many workers will be employed. However, that legislation did not address the critical need faced by the youth of our Nation. Last year, the unemployment rate among the 16 to 19 age group was in excess of 12½ percent. In the cities, the proportion of unemployed is even greater among this group. This is an intolerable percentage and must be reduced.

I commend Senator STAFFORD for initiating this legislation and will work with him and others in the Public Works Committee on this problem, as we seek to authorize additional funds for the public works jobs program.

In the near future, I will introduce legislation authorizing additional funding for the Public Works Employment Act, so that additional jobs can be created and needed public facilities constructed. The bill which I will offer will contain provisions applying to both of these issues. In the Public Works Committee we will attempt to develop legislation addressing both of these critical unemployment problems and report the legislation as quickly as possible for full Senate consideration.

Mr. HART. Mr. President, I have been concerned for a long time with the problem of how to make public works employment strategies and programs responsive to the needs of unemployed young people of this country. I know this problem has been of special interest to the Senator from Vermont, Mr. STAFFORD, as well. I would like to direct my colleagues' attention to the bill we are introducing today with other members of the Public Works Committee to establish a youth employment program.

This segment of the work force—consisting of young people between 16 and 20 years of age—has special and unique problems in terms of unemployment. This is amply demonstrated by the fact that they account for 24 percent of the total number of unemployed persons in this country. In Colorado alone, this could mean that over 17,000 persons from ages 16 to 20 are out looking for work and not finding it.

We have, in past years, enacted and funded major programs to attack unemployment. In many instances, these programs have been targeted at certain special segments of the work force which are experiencing high rates of unemployment. The most recent example was the passage of the Public Works Employment Act of 1976. Title I of the act was intended to put people back to work in the construction industry. Title II of the act was in part concerned with maintaining many thousands of jobs for State and local employees. To repeat, the Public Works Employment Act of 1976 put certain people back to work and insured that others could continue to work.

Mr. President, we cannot put many unemployed young persons back to work, nor can we so easily pass a law or a program to keep them working, because many of them have never held a job before. Many of them lack skills.

This bill, setting up a youth employment program, will go a long way toward filling the cracks in existing programs through which the unemployed youth of this country have traditionally fallen. It would not solve all their problems, but it will put well over 200,000 young people to work at meaningful jobs, and, more importantly in the long run it represents long-lasting investments in valuable human skills and experience acquired, and in terms of community improvements which might not otherwise be made.

Mr. President, I am hopeful that the Senate Committee on Public Works will give this legislation the prompt attention it deserves.

S. 306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Youth Community Improvement Act of 1977".

SEC. 2. The Public Works and Economic Development Act of 1965, as amended, is amended by adding the following new title:

"Title XI—YOUTH COMMUNITY IMPROVEMENT PROGRAM

"STATEMENT OF PURPOSE

"SEC. 1101. It is the purpose of this title to establish a program of community improvement projects to provide employment, work experience, and skill training to youths in areas of aggravated unemployment.

"DEFINITIONS

"SEC. 1102. As used in this title the term—

"(1) 'eligible applicant' means any State or local government or Indian Tribe or Alaska Native organization;

"(2) 'youth' means an individual who has attained the age sixteen but not age twenty;

"(3) 'Secretary' means the Secretary of Commerce;

"(4) 'State' includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1103. There are authorized to be appropriated $1,500,000,000 for the period beginning on the date of enactment of this title and ending September 30, 1978, to carry out the provisions of this title.

"ALLOCATION OF FUNDS

"SEC. 1104. In allocating funds appropriated under this title, the Secretary shall take into consideration the severity of unemployment among youths eligible for assistance under this title residing in the areas under the jurisdiction of each eligible applicant: *Provided*, however, that not less than one-half of 1 per centum of all amounts appropriated to carry out this title shall be granted under this title for programs within any one State, except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, not less than one-half of 1 per centum in the aggregate shall be granted for such projects in all four of these jurisdictions.

"COMMUNITY IMPROVEMENT YOUTH EMPLOYMENT PROGRAM

"SEC. 1105. (a) The Secretary is authorized, in accordance with the provisions of this title, to make grants to, and to enter into contracts with, eligible applicants to pay the costs of community improvement projects to be carried out by youths employed by such applicants. Community improvements projects include work on community capital improvements, which would not otherwise be carried out, including the rehabilitation, alteration or improvement of public facilities; neighborhood improvements, including basic repairs to low income housing; and conservation, maintenance or restoration of natural resources on publicly-held lands. Any eligible applicant may enter into agreements with the National Park Service or the United States Forest Service to carry out community improvement projects on lands administered by such agencies. Eligible applicants shall undertake to develop sufficient projects to provide twelve months of employment and training for each enrolled youth.

"(b) No grant may be made, and no contract may be entered into, under the provisions of this title unless the agreement evidencing such grant or contract provides assurances that—

"(1) the community improvement project is an eligible project which will be conducted

in such manner as to permit the youth employed in that project who are in school to coordinate the job with classroom instruction and, to the extent feasible, to permit such youth to receive credit from the appropriate local educational agency or school involved;

"(2) youths employed in community improvement projects under this title shall be paid wages which are not lower than (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(1) of such Act applied to the youth and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable employment, or (C) the prevailing rates of pay for persons employed in similar public occupations by the same employer, except that the eligible applicant may make provisions to offset such wages by the reasonable cost of supervisory or administrative expenses and, where necessary food, shelter, and transportation costs related to the employment of such youth, pursuant to such regulations as the Secretary may prescribe;

"(3) persons employed in necessary technical and supervisory positions assisted under this title shall be paid the prevailing rates of pay for persons employed in similar activities in the area. In the case of persons performing work of the type to which the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5) applies, the prevailing wage will be determined in accordance with that Act;

"(4) the activities of the project subject to such agreement (A) will result in an increase in employment opportunities over those which would otherwise be available, (B) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of non-overtime or wages or employment benefits), (C) will not impair existing contracts for services or result in the substitution of Federal or other funds in connection with the work that would otherwise be performed, and (D) will not substitute jobs assisted under this title for existing federally assisted jobs; and

"(5) no person with responsibility in the operation of such an agreement will discriminate with respect to any youth or any applicant for participation in any eligible project because of race, creed, color, national origin, sex, political affiliation, or beliefs.

"APPLICATIONS

"SEC. 1106. (a) Financial assistance under this title may be provided by the Secretary only pursuant to an application which is submitted by an eligible applicant and which is approved by the Secretary in accordance with the provisions of this title and in accordance with the rules and regulations which the Secretary has promulgated governing programs to be funded under this title.

"(b) Each such application shall—

"(1) provide a description of the jobs to be filled, a listing of the major kinds of work to be performed to carry out eligible projects, and the approximate duration for which the participants would be assigned to such jobs;

"(2) provide a description of job training and skill development opportunities that will be made available to participating youth, as well as a description of plans to coordinate the training and work experience with school related programs including vocational training and the awarding of academic credit;

"(3) describe the wages or salaries to be paid youths and other persons employed in jobs and supervisory positions assisted under this title.

"(4) set forth assurances that there will be an adequate number of supervisory personnel on an eligible project and that the supervisory personnel are adequately trained in skills needed to carry out the project and can instruct participating youths in skills needed to carry out a project;

"(5) set forth assurances that any income generated by the project will be applied toward the cost of the project; and

"(6) set forth such other assurances, arrangements, and conditions consistent with the provisions of this title, as the Secretary deems necessary, in accordance with such regulations as the Secretary shall prescribe.

"(7) describe the organization and responsibilities of the administering local corporation required under section 1109 of this Act.

"PAYMENTS

"SEC. 1107. (a) The Secretary is authorized to pay any eligible applicant having an agreement under this title for that fiscal year the amount necessary to carry out that agreement, as determined by him.

"(b) Payments under this title may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

"REVIEW AND AUDIT

"SEC. 1108. The Secretary and the Comptroller General of the United States, or any duly authorized representatives, shall have access for the purpose of audit and examination, to any books, documents, papers, and records of a grant or contract entered into under this title that are pertinent to the grant or contract.

"LOCAL CORPORATIONS

"SEC. 1109. To carry out the activities funded under this title, each eligible applicant shall establish or designate a local nonprofit corporation. The corporation shall include at least one representative for each of the following interests: the local government, local educational institutions, the business community, labor organizations, community based organizations, and the local manpower office. The Secretary in issuing guidelines and regulations shall include regulations concerning the organization and responsibilities of such local corporation.

"EDUCATION CREDIT

"SEC. 1110. The Secretary of Commerce in carrying out the purposes of this title, shall work with the appropriate State education agency to provide that academic credit be awarded for work experience gained through this program.

"UTILIZATION OF OTHER FEDERAL AGENCIES SERVICES AND FACILITIES

"SEC. 1111. In addition to such other authority as he may have, the Secretary is authorized, in the performance of his functions under this title, and to the extent permitted by law, to utilize the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and utilize the services and facilities of the agencies of any State or political subdivision of a State, with their consent: *Provided, however*, That where any such facilities are not adequate or available, the Secretary is authorized to provide for the housing, food, transportation, and medical needs of youth employed in the national parks and national forests.".

By Mr. LEAHY:

S. 308. A bill to rescind certain budget authority for the CVN nuclear attack aircraft carrier program as recommended in the message of the President on January 17, 1977, transmitted to the Congress pursuant to section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

Mr. LEAHY. Mr. President, amid the parting shots we have received from the outgoing administration, we received one yesterday that I would personally like to acknowledge and applaud. Yesterday, President Ford sent to the Congress a message requesting a rescission of the $350 million appropriated for fiscal year 1977 for initial funding of another large-deck, nuclear powered aircraft carrier of the Nimitz class.

I commend the President for this courageous action which, in effect, admits the error in making this request last May during a fiercely fought primary campaign. In fact, the request for this additional aircraft carrier was part of a billion dollar-plus package requested by the President the day after his loss in the Texas primary election.

Coupled with the fact that the President's budget contained no requests for additional funds for the carrier, this rescission represents a major policy decision not to go ahead with the building of large-deck aircraft carriers.

Mr. President, in order to implement the President's rescission request, I have today introduced a bill giving congressional approval to his action. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the request for the $350 million was not in the original budget submitted to Congress a year ago. It was deferred, so as to allow time for the National Security Council to conduct a thorough study of future Navy programs and requirements, with special attention to the future of large-deck carriers.

The May decision to request funds for this carrier was not based on any preliminary results or conclusions from the NSC study or on any new assessment of the Soviet threat or of our own naval capabilities. As far as I can determine, based on the testimony of the Secretary of Defense before the Senate Armed Services Committee, the decision to commit over $2 billion in initial procurement costs and another $15 billion over the life of the ship, not to mention billions of dollars more for escort ships and the effects of inflation, had no basis in any responsible study of these factors.

It was made despite the serious questions that had been raised concerning the future role of the large-deck carrier in the modern Navy, and its vulnerability to relatively inexpensive Soviet weapons, such as cruise missiles.

Mr. President, last August I stood in this Chamber and urged passage of an amendment to delete from the Department of Defense appropriation bill the $350 million earmarked for the initial funding of this new 94,000-ton, nuclear-powered aircraft carrier. I urged the Senate to show some restraint on a program that could turn out to be our most expensive weapon system, a program so obviously in need of further study that before proceeding with it the President had ordered a special study by the National Security Council.

Unfortunately, my amendment to defer the long-lead funding for the carrier was defeated by a vote of 50 to 35, and the $350 million was appropriated.

The National Security Council study was completed shortly after the debate

on my amendment and prior to the political conventions. The Council recommended one more giant carrier, the one in question, but, and most important, recommended that this carrier be the last of the Nimitz-class carriers. In view of the pressures on the Council created by the intense atmosphere of an emotional political campaign, I think it is fair to deduce that the conclusion that the United States should stop building these carriers was the more significant.

For reasons that are unknown to us now, the fact that the budget does not include funds for the carrier can only indicate that the National Security Council has reversed its recommendation that even one more Nimitz-class carrier is needed.

Mr. President, the primary mission of the U.S. Navy is control of the sea lanes vital to our national security, especially those of the North Atlantic which provide the link to Europe and our NATO forces. The primary threat to those lanes posed by the Soviet Union is the threat posed by the large Soviet attack submarine force. However, the primary mission of the large-deck carrier is to project fire power against shore targets. And that secondary Navy mission has been questioned recently. A Congressional Budget Office study paper has concluded that to successfully accomplish the power projection mission against the Soviet Union would require construction of not one, but several more Nimitz-class aircraft carriers, a program that would cost billions of dollars in the next decade. Those billions can be more effectively spent on smaller carriers and more attack submarines, recognized as the best weapons in our arsenal to counter the Soviet submarine force.

I urge prompt consderation and passage of this bill which I have today introduced so that the future of the large-deck carrier can be settled once and for all. This will enable the Navy, and also the President and the Congress, to direct vitally-needed attention to building a Navy based not on old assumptions and habits, but rather on realistic and objective assessments of future national security missions and requirements, and the threat to the accomplishment of those missions posed by the Soviet Union.

S. 308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of $350,000,000 appropriated under the heading "Shipbuilding and Conversion, Navy" in title IV of the Department of Defense Appropriation Act, 1977, for the CVN nuclear attack aircraft carrier program is hereby rescinded as recommended by the President in Rescission Proposal numbered R–77–9, transmitted to the Congress on January 17, 1977.

By Mr. MATSUNAGA:

S. 309. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

Mr. MATSUNAGA. Mr. President, the debt of gratitude which this country owes the men and women who have chosen the armed services as their career can never be described in merely monetary terms. The sacrifices they have made so that we can live in peace and freedom must be repaid—in part by providing servicemen compassionate and just treatment upon retirement from public service.

It is in this spirit that I have introduced a bill today that would restore to certain Army retirees benefits which they were promised at the time of their enlistment.

To gain the proper perspective on this issue, let us look at the Army retirement system as it began during the Civil War. The system was instituted as a way to rid active duty rolls of superannuated officers, and fill those senior billets with men young enough to lead troops in the field. At that time soldiers had to have 45 years of service to qualify for retirement, and their benefits consisted only of a year's pay and allowance.

However, shortly after the system was begun, in 1870, an annual retired pay, set at 75 percent of active duty pay was established. This connection, through law and custom, continued until 1958, when retirees were told that they would not get annuity increases, even though active duty pay was increased.

In 1963 a cost-of-living clause was added, which automatically increases pay for the retired military in keeping up with rising costs.

Ever since that time, efforts have been made to restore the old system through legislation—in effect, to permit retirees to "recompute" their annuities whenever active duty pay was adjusted. The struggle to accomplish this has been long and difficult.

Most often, the argument is made that such recomputation will entail appropriation of billions of dollars of backpay. This position ignores completely the fact that those who served on active duty before 1958 had the rules changed on them in the middle of the game. Since 1870 retirement pay had been tied to active duty pay. Then, suddenly and arbitrarily, there was no connection at all. Worse, this severing came at a time of rapid active duty pay increases, so that recomputation was unavailable to the retiree just when it would have done him and his family the most good.

The bill I introduced today represents a compromise between the need to redress this grievance against retirees, and the need to exercise constraint on Federal expenditures. Instead of reinstituting recomputation for all current as well as all retired servicemen, this measure would provide a "one-shot" recomputation for retirees who were on active duty prior to 1958. No further recomputation is authorized, but cost-of-living increases would in the future be based on "recomputed" pay, that is, pay recomputed upon rates of pay in effect on January 1, 1972.

In the years since 1870, it is an indisputable fact that the service's excellent retirement plan has been a major factor in inducing officers and noncommissioned officers alike to make the service a career. It is impossible to estimate precisely how many people "re-upped" because of recomputation, but it cannot be denied that there were a substantial number.

Mr. President, I submit therefore that the abandonment of recomputation in 1958 constituted a breach of faith with those who had already retired and those who were then on active duty. This injustice is a blemish on this country's record of providing adequate and fair compensation to those who have served in our Armed Forces. They have given of their minds, bodies, and years—none of which can be replaced. I am sure we can all agree that they deserve no less than equity in their retired pay.

In the words of Supreme Court Justice Hugo Black, referring to the rights of American Indians, "Great nations, like great men, should keep their word."

I urge an early and favorable consideration of my bill.

By Mr. MATSUNAGA:

S. 310. A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid; to the Committee on Finance.

Mr. MATSUNAGA. Mr. President, today I am introducing legislation which would provide for the inclusion of licensed practical nursing services under the medicare and medicaid programs. This proposal would recognize for the first time on the Federal level the important contributions which licensed practical nurses have made throughout the years to our Nation's health and medical care delivery systems. It is similar in function and intent to a proposal which has been introduced in both bodies of the two previous Congresses by my Hawaii congressional colleague and myself to provide for the inclusion of registered nursing services under the medicare and medicaid programs.

According to the latest estimation of the Division of Nursing of the U.S. Public Health Service, about 447,000 licensed practical nurses can be found in a wide variety of work settings. While the majority of licensed practical nurses work in hospitals, clinics, homes for the aged, and nursing homes, they can also be found working in doctor's offices, schools, public health agencies, and in private homes.

The medical duties of a licensed practical nurse are as varied as their settings. An LPN can provide direct patient care at the bedside in relatively stable nursing situations such as found in hospitals, extended care units, nursing homes, and in private homes in administering treatment and medication prescribed by a physician or dentist. LPN's can also perform nursing functions in semicomplex situations such as found in hospital nursing service units, recovery rooms, and labor rooms, and in more complex situations found in intensive care and coronary care units and in emergency rooms.

In the area of health care delivery,

LPN's assist other members of the health care delivery team in the promotion of personal and community health by promoting and carrying out preventive measures in community health facilities such as healthy baby clinics and outpatient clinics.

Mr. President, licensed practical nurses have made and will continue to make valuable contributions to our health and medical care delivery systems. By virtue of their training, LPN's are able to provide much needed basic nursing services in a wide variety of patient settings at a significantly lower average cost than a charge for similar services provided by a registered nurse.

It is therefore apparent that in a multitiered, cost controlled health and medical care delivery proposal such as comprehensive national health insurance, licensed practical nurses will play an important role in the delivery of basic health and medical care to our Nation's citizenry.

I am introducing this proposal today to assist in the recognition of that fact by providing a mechanism in the medicare and medicaid programs which will demonstrate the importance of licensed practical nursing services along with physician services, registered nursing services, and all the other health and medical care professional services which together comprise the health and medical care systems of the United States.

Mr. President, I urge my colleagues to give thoughtful consideration and support of this proposal in connection with comprehensive medicare reform and comprehensive national health insurance legislation. I ask unanimous consent that my bill be printed in the RECORD for the benefit of any interested reader.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1861(s) of the Social Security Act is amended by inserting immediately before the matter following paragraph (13) the following: "The term 'medical and other health services' also means medical care, or any other type of remedial care recognized under State law, furnished by licensed practical nurses within the scope of their practice as defined by State law.".

SEC. 2. (a) Section 1905(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (16);

(2) by inserting "and" at the end of paragraph (17);

(3) by adding immediately below paragraph (17) the following new paragraph:

"(18) medical care, or any other type of remedial care recognized under State law furnished by licensed practical nurses within the scope of their practice as defined by State law;".

(b)(1) Section 1902(a)(13)(B) of such Act is amended by inserting after "through (5)" the following: and (18)".

(2) Section 1902(a)(13)(C)(i) of such Act is amended by inserting immediately after "through (5)" the following: "and (18)".

(3) Section 1902(a)(13)(C)(ii)(I) of such Act is amended by inserting immediately after "through (16)" the following: "and (18)".

(4) Section 1902(a)(14)(A)(i) of such Act is amended by striking out "and (7)" and inserting in lieu thereof ", (7), and (18)".

SEC. 3. The amendments made by this Act shall be effective with respect to payments under titles XVII and XIX of the Social Security Act for calendar quarters commencing with the first calendar quarter beginning after the date of enactment of this Act.

By Mr. ROTH (for himself, Mr. RIBICOFF, Mr. DOLE, Mr. CHURCH, Mr. DECONCINI, Mr. DOMENICI, Mr. GOLDWATER, Mr. LEAHY, Mr. MAGNUSON, Mr. SCHMITT, Mr. STAFFORD, Mr. STEVENS, Mr. HUDDLESTON, and Mr. HUMPHREY):

S. 311. A bill entitled the College Tuition Tax Relief Act of 1977; to the Committee on Finance.

COLLEGE TUITION TAX RELIEF ACT OF 1977

Mr. ROTH. Mr. President, I am today introducing legislation to provide tax credits for college education expenses. I am introducing this legislation, which is based on my college tax credit legislation which twice passed the Senate in 1976, with the distinguished Senator from Connecticut (Mr. RIBICOFF), who first introduced college tax credit legislation in 1963, and with Senators DOLE, CHURCH, DECONCINI, DOMENICI, GOLDWATER, HUDDLESTON, HUMPHREY, LEAHY, MAGNUSON, SCHMITT, STAFFORD, and STEVENS.

This legislation provides a tax credit, subtracted directly from the amount of taxes owed, for educational expenses paid by an individual for himself, his spouse, or his dependents. The amount of the tax credit is to be $250 in 1977, $300 in 1978, $400 in 1979, and $500 in 1980 and thereafter.

The tax credits will apply to tuition, fees, books, supplies and equipment required for courses of instruction of eligible institutions. To be eligible for the tax credit, an individual must be a full-time student above the secondary level at an institution of higher education or at a vocational school. This legislation will become effective for courses of education beginning after June 30, 1977.

Mr. President, last year the Senate twice overwhelmingly endorsed my college tax credit legislation by votes of 68 to 20 and 62 to 21. The legislation was initially approved by the Senate Finance Committee and adopted by the full Senate as an amendment to the tax reform bill. The Senate approved the legislation a second time after members of the House Ways and Means Committee made a commitment to bring the college tax credit up for a House vote in a separate piece of legislation. Unfortunately, a procedural ploy prevented the full House from voting on the bill before the 94th Congress adjourned.

Despite these setbacks, I am convinced that Congress can, and must, enact this legislation to provide tax relief to the millions of families struggling to send their children to college. I believe the revenue impact of this legislation. $1.1 billion in fiscal 1978, $1.3 billion in fiscal 1979, $1.7 billion in fiscal 1980, and $2 billion in fiscal 1981, is a worthwhile and necessary investment in the future of our country.

The increasing costs of a college education are making it extremely difficult for more and more families to send their children to college, and we are rapidly approaching a situation in this country where only the affluent and the very poor will be able to attend college. In addition, the revenue invested in tax credits for higher education will lead to higher earnings, better job opportunities, and, consequently, higher tax revenues returning to the Federal Treasury. And with a Federal budget well in excess of $400 billion a year, I believe that a $1-billion investment is a very modest commitment to help the children of working Americans help themselves.

There is a tremendous need for the adoption of this legislation. According to the statistics, and according to virtually every college administrator to whom I have talked, there is a growing number of qualified students who are prevented from obtaining a higher education because of increasing costs.

In the past few years, the cost of a college education has skyrocketed. According to the Library of Congress, the average annual total cost of a public university has increased 40 percent in the past 5 years, from $1,782 to $2,790. For a private university, the average annual total cost has increased 35 percent, from $2,793 to $4,568. And according to a New York Times survey, the total annual costs at many colleges and universities are as high as $7,000.

These increasing costs are a primary reason why college attendance has declined in the past few years. The U.S. Census Bureau reports that there has been a significant decrease in the percentage of 18- to 24-year-old dependents attending college full time. This enrollment decline has been concentrated primarily among middle-income families. Between 1970 and 1973, enrollment from families earning between $10,000 to $15,000 a year declined from 43 percent to 36 percent, while enrollment of lower- and higher-income students remained fairly stable.

In addition, U.S. Census Bureau data show that families are especially hard hit right now because many of them have more than one child of college age at the same time. These families face the difficult problem of educating two or more children over an 8- to 10-year period.

Middle-income families are especially hard hit by the increasing college education costs. There are millions of families today who are neither affluent enough to afford the high cost of college nor poor enough to qualify for the many different government assistance programs which their taxes make possible. As of January 1975, less than 4 percent of the basic educational opportunity grants, the main Federal assistance program, went to students from families earning more than $12,000 a year, while almost 44 percent went to families earning less than $6,000, and almost 65 percent went to families earning less than $9,000. I support providing aid to needy students, but we must not

lose sight of the fact that the families who are paying the taxes to finance this aid are themselves finding it more and more difficult to educate their own children.

As a New York Times editorial said recently, the difficulty that parents are having in sending their children to college "suggests outright disaster for the vast majority of American middle-class families in the $12,000 to $20,000 range who are considered too affluent for Federal or State scholarship aid."

The editorial goes on to urge the Federal Government "to open its eyes to a clear and present danger—that college gates are being shut to increasing numbers of able, middle-class young people on economic grounds alone. Nothing less is at stake than the future of an open, upward-mobile democratic society."

Mr. President, I believe it is clear that there is a vital need for the adoption of this legislation. The Federal Government is spending billions and billions of dollars each year on welfare and unemployment aid, on bailing out cities, and on foreign aid. Yet because it is unwilling to commit a single dollar, millions of potential students from working families are unable to attend college and receive an education. These families, caught in the middle, are not asking for a Government handout. They merely want to retain a small portion of their own earnings to help them send their children to college.

Mr. President, although I was disappointed that this measure was not fully approved last year, I am confident that Congress will enact a college tax relief measure this session. The Senate overwhelmingly approved this legislation twice last year, and, if given the chance, I am confident the House will also enact this legislation providing college tax relief to working Americans. I intend to intensify my efforts, and I urge my colleagues in both the Senate and the House to join with me in this effort to enact legislation to provide tax credits to help offset college education expenses.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code (relating to credits allowable) is amended by inserting before section 45 of the following new section:

"SEC. 44D. EXPENSES OF HIGHER EDUCATION.

"(a) GENERAL RULE.—There shall be allowed to an individual, as a credit against the tax imposed by this chapter for the taxable year, an amount, determined under subsection (b), of the educational expenses paid by him during the taxable year to one or more eligible educational institutions for himself, his spouse, or any of his dependents (as defined in section 152).

"(b) LIMITATIONS—

"(1) AMOUNT PER INDIVIDUAL.—The credit under subsection (a) for educational expenses of any individual shall be an amount equal to—

"(A) so much of such expenses paid in taxable years beginning after December 31, 1976, but before January 1, 1978, as does not exceed $250,

"(B) so much of such expenses paid in taxable years beginning after December 31, 1977, but before January 1, 1979, as does not exceed $300,

"(C) so much of such expenses paid in taxable years beginning after December 31, 1978, but before January 1, 1980, as does not exceed $400, and

"(D) so much of such expenses paid in taxable years beginning after December 31, 1979, as does not exceed $500.

"(2) PRORATION OF CREDIT WHERE MORE THAN ONE TAXPAYER PAYS EXPENSES.—If educational expenses of an individual are paid by more than one taxpayer during the taxable year, the credit allowable to each such taxpayer under subsection (a) shall be the same portion of the credit determined under paragraph (1) which the amount of educational expenses of such individual paid by the taxpayer during the taxable year is of the total amount of educational expenses of such individual paid by all taxpayers during the taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) EDUCATIONAL EXPENSES.—The term 'educational expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, and

"(B) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

Such term does not include any amount paid, directly or indirectly, for meals, lodging, or similar personal, living, or family expenses. In the event an amount paid for tuition or fees includes an amount for meals, lodging, or similar expenses which is not separately stated, the portion of such amount which is attributable to meals, lodging, or similar expenses shall be determined under regulations prescribed by the Secretary.

"(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education; or

"(B) a vocational school.

"(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means the institutions described in section 1202(a) or 491(b) of the Higher Education Act of 1965.

"(4) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational education school as defined in section 108 (2) of the Vocational Education Act of 1963.

"(d) SPECIAL RULES.—

"(1) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amounts otherwise taken into account under subsection (a) as educational expenses of any individual during any period shall be reduced (before the application of subsection (b)) by any amounts received by such individual during such period as—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which under section 117 is not includible in gross income, and,

"(B) an educational assistance allowance under chapter 35 of title 38 of the United States Code or education and training allowance under chapter 33 of title 38 of the United States Code.

"(2) GRADUATE, NONCREDIT, AND RECREATIONAL, ETC., COURSES.—Amounts paid for educational expenses of any individual shall be taken into account under subsection (a) only to the extent such expenses are attributable to courses of instruction for which credit is allowed toward a baccalaureate degree by an institution of higher education or toward a certificate of required course work at a vocational school and are not attributable to any graduate program of such individual.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) to the taxpayer shall not exceed the amount of the tax imposed on the taxable year by this chapter, reduced by the sum of the credits allowable under this subpart (other than under this section, section 31, and section 39).

"(4) FULL-TIME STUDENT.—No credit shall be allowed under subsection (a) for amounts paid during the taxable year for educational expenses with respect to any individual unless that individual, during any 4 calendar months during the calendar year in which the taxable year of the taxpayer begins, is a full-time student above the secondary level at an eligible educational institution.

"(5) SPOUSE.—No credit shall be allowed under subsection (a) for amounts paid during the taxable year for educational expenses for the spouse of the taxpayer unless—

"(A) the taxpayer is entitled to an exemption for his spouse under section 151(b) for the taxable year, or

"(B) the taxpayer files a joint return with his spouse under section 6013 for the taxable year.

"(e) DISALLOWANCE OF EXPENSES AS DEDUCTION.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any educational expense which (after the application of subsection (b)) is taken into account in determining the amount of any credit allowed under subsection (a). The preceding sentence shall not apply to the educational expenses of any taxpayer who, under regulations prescribed by the Secretary, elects not to apply the provisions of this section with respect to such expenses for the taxable year.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

(b) CONFORMING AMENDMENT.—

(1) The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following:

"SEC. 44D. EXPENSES OF HIGHER EDUCATION.".

(2) Section 55(c)(2)(B) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof a comma and the word "and", and by adding at the end thereof the following new clause:

"(xi) section 44D (relating to credit for expenses for higher education)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to educational expenses paid after June 30, 1977, in taxable years beginning after December 31, 1976, for courses of instruction commencing after June 30, 1977.

Mr. RIBICOFF. Mr. President, I am cosponsoring with Senator WILLIAM ROTH S. 311, a bill to provide much-needed relief to middle-income parents who are paying the college tuition of their children. The costs of higher education have risen dramatically. Middle-income families are finding it more and more difficult to send their children to college. Those with children in college are financially strapped.

Historically we have valued higher education. We have designed many student aid programs to help students from lower income families. These programs have shown results. Attendance rates have increased. College is now within reach for many low-income students.

But the middle-income family all too often is squeezed out. These grant programs are available to few families with

income of more than $12,000. Only loans and a heavy debt burden are available to their children.

The legislation we introduce today would provide a tax credit for higher education expenses. The credit would be phased in beginning at $250 in 1977—for fiscal year 1978—$300 in 1978, $400 in 1979, and reaching $500 in 1980. It would apply to tuition, fees, books, supplies, and equipment required for courses of instruction at colleges, universities, and certified vocational schools. The tax credit would be subtracted directly from the amount of taxes owed. It would lessen the burden borne by middle-income families trying to educate their children. In addition, it would be a signal to those families that the Federal Government intends to help them.

I first introduced a tuition tax credit proposal more than 12 years ago. The Senate passed similar legislation four times. The bills failed in the House. Middle-income families wishing to send their children to college need help. This college tuition tax credit is an important step forward.

Mr. DOMENICI. Mr. President, I am pleased to join Senators RIBICOFF and ROTH today in introducing S. 311, which would provide tax credits for certain educational expenses.

The tax credit allowed for each student is limited to $250 for expenses paid in fiscal year 1978. It increases each year until it reaches a limit of $500 for expenses paid in 1980 and subsequent years. The educational expenses which are eligible for the credit include tuition, fees, books, supplies, and equipment. The credit is not available for any amounts paid for meals, lodging, or other personal, living, or family expenses.

Mr. President, I believe passage of this kind of legislation becomes more urgent each passing year. In fact, if this Congress does not act or relieve the intolerable burden that financing a college education is imposing on the American family, many of our children are going to be deprived of the advanced education that they need and deserve.

I know we are all aware of the high costs of a college education, and it is clear these costs are increasingly prohibitive to middle-income families.

Some examples of the levels to which college costs have escalated will give ample illustration of the need for the legislation introduced today. According to estimates by the U.S. Office of Education, the average charges for tuition and required fees for a full-time resident, undergraduate student in a public 4-year institution for the 1975–76 school year totaled $731. For other public 4-year institutions these charges were estimated to total $574. The average total cost of public universities has increased in the past 5 years from $1,782 to $2,790. In private universities, the average charges for tuition and required fees for the 1975–76 school year were estimated to total $3,013.

For other private 4-year institutions, these charges were estimated to total $2,444. If expenses for the necessities accompanying higher education, such as books, supplies, room and board, transportation, and personal items, are added, they can truly be astronomical—reaching as high as $7,000 a year for some private institutions.

The above figures certainly indicate that the tax credit included in S. 311 is far from lavish, but it will bring some relief to middle-income families who have been especially hard hit by the rising costs of higher education. Obviously many families are now excluded from even considering private colleges and universities. High-income families are still able to afford to send their children to college, and the children of low-income families are eligible for many Government grant and loan programs. It is the middle-income families who are not receiving the help they are entitled to.

The Federal revenues lost from allowing such a credit will be more than compensated for by the increased tax payments these college-educated students will earn in later life. Furthermore, in noneconomic terms, how could we measure the rewards of higher education to individuals and to the Nation?

The Senate has repeatedly passed legislation similar to the proposal introduced today. In the 94th Congress, an education tax credit proposal was passed twice, only to be removed in conference committees. I believe we must persist in our efforts to assure that every American who wants a higher education has the opportunity to receive one. We must pass this legislation in this session of Congress. Its enactment is overdue.

By Mr. BELLMON (for himself and Mr. DOLE):

S. 312. A bill to amend the Consolidated Farm and Rural Development Act; to the Committee on Agriculture and Forestry.

Mr. BELLMON. Mr. President, I am today introducing legislation to make several changes in the Farmers Home Administration real estate and operating loan programs.

These programs have served American agriculture well but are becoming unrealistic in terms of the cost of land, farm operating expenses, and the Federal budget.

The bill will make it possible for the Farmers Home Administration to work more closely with private lenders, improve the quality and expand credit services to rural borrowers, and restore fiscal restraint and responsibility to the administration of these essential credit programs.

The need for the increase in Farmers Home Administration loan limits is unquestionable. The bill increases farm ownership loan limits to $200,000. The present $100,000 limit in farm ownership loans was established in 1970. Nationwide land costs have risen sharply since then. For instance, in Oklahoma, land values have increased more than 213 percent since November 1970, according to USDA's Economic Research Service. Land prices have increased more than 220 percent nationally according to ERS.

Even more urgent is the increase in FHA operating loan limits from $50,000 to $100,000 to reflect the increases in operating cost that have occurred since the $50,000 limit was established in 1972. Since that time, the index of prices paid by farmers has increased by more than 160 percent, according to ERS.

Everyone who understands agriculture is aware of the increased cost of items the farmer needs for production. Fertilizer prices are up as much as 300 percent in some cases; fuel cost and machinery costs have doubled; and feed costs as well as most production costs have increased significantly. One does not even have to be a farmer or a rancher to readily see that the cost of doing business has risen sharply since the last increase in the FHA operating loan limit.

It is now obvious that agriculture commodities will be one of the few products exported that has the capability of offsetting costs of oil imports. Yet the Government is being very shortsighted in not providing the means of credit that is necessary for young farmers to start their own farming operation. The family farm has made the U.S. agriculture system second to none. If the U.S. Department of Agriculture does not give family farmers and ranchers the support that is necessary for stable production, ranchers and farmers can not and will not be able to meet the world's growing demand for food.

Historically the main purpose of the Farmers Home Administration has been to help young and beginning farmers get established in agriculture. The average age of American farmers creeps up year by year. Unless Farmers Home Administration loan levels are realistic, fewer and fewer farmers will be coming into the business, and those already in the business will be forced into bankruptcy.

This legislation is aimed at providing access to credit which new farmers must have to get started and to carry them through periods such as the present when costs exceed prices.

A summary of this bill explains in greater detail the provisions included, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROPOSED LEGISLATION

Section 1 makes corporations and partnerships eligible for farm ownership loans as long as the entity does not become the operator of a larger than family-size farm. The credit elsewhere test would apply to both the entity and the principal stockholders or partners.

Section 2 authorizes farm ownership type loans up to $200,000, instead of the present $100,000, and up to $300,000 for guaranteed loans. It eliminates the $225,000 total indebtedness restriction that may exist against a farm. It also eliminates the requirement that the county committee certify as to the maximum amount of such a loan.

Section 3 simplifies the definition of "rural", gives a preference to municipalities having a population of not more than 5,500 for subtitle A loans other than business and industry ones, eliminates the confusing "urbanized and urbanizing" test for business and industry loans, and authorizes the Secretary to determine population levels on a when-needed basis.

Section 4 provides that for any loan made under subtitle A on a guaranteed basis, the interest rate will be negotiated between the borrower and the lender. It eliminates the

subsidized, maximum interest rate of 5% for certain loans and requires all insured loans under subtitle A to be at a cost of money rate of interest plus a possible add-on of 1%. Business and industry loans made on an insured basis would continue to be made at their present formula interest rate which permits a slightly higher rate of interest than the proposed cost of money formula for other subtitle A loans. The last amendment in this section would delete the requirement that the Secretary hold any required escrow funds in a segregated account.

Section 5 eliminates the maximum dollar limitation on the amount of new loans that may be held in the Ag. Credit Ins. Fund, as other funds administered by FmHA.

Section 6 adds a new section which would authorize the Secretary to purchase the guaranteed portion of any outstanding guaranteed loan from the holder and to use the assets of the Ag. Credit Ins. Fund and the Rural Development Ins. Fund for such purposes.

Section 7 eliminates the transfer of employment and overproduction determinations required by section 310B of the Consolidated Farm and Rural Development Act, as well as deleting the Dept. of Labor certification, where the FmHA financial assistance does not exceed $500,000 or where employment will not be increased by more than 20 employees.

Section 8 does for operating loans the same thing that section 1 does for farm ownership type loans.

Section 9 increases the operating loan limit from $50,000 to $100,000, and provides for guaranteed operating loans a ceiling of $200,000. It also deletes the requirement that the county committee certify as to the maximum amount of operating loans.

Section 10 provides that the interest rate for guaranteed operating loans will be one negotiated between the borrower and lender.

Section 11 deletes Puerto Rico and the Virgin Islands from the eligible areas for emergency loans since these areas are covered by a new proposed definition in section 15. Similar changes are being made in other sections of the Consolidated Farm and Rural Development Act. This section also specifies that an eligible partnership for an emergency loan must be a U.S. partnership. A similar requirement is already imposed on corporations.

Section 12 authorizes loan and grant activity to continue as to existing projects financed in a rural area after the area ceased to be rural.

Section 13 empowers the Secretary to establish an appeal procedure from determinations made by the county committees.

Section 14 exempts guaranteed loans from the credit graduation requirements.

Section 15 inserts a new definition in the Consolidated Farm and Rural Development Act which increases the jurisdictional area which FmHA may serve to include all commonwealths territories, and possessions of the U.S.

Section 16 specifically authorizes Congress to establish FmHA program levels. Where such a level is established, it must contain both an insured and a guaranteed amount.

Section 17 empowers other Fed. agencies to become jointly involved with the financing of any program FmHA can finance.

By Mr. HATHAWAY:

S. 313. A bill to amend title 39, United States Code, with respect to the organizational and financial matters of the U.S. Postal Service and the Postal Rate Commission, and for other purposes; to the Committee on Post Office and Civil Service.

POSTAL REFORM ACT OF 1977

Mr. HATHAWAY. Mr. President, I am pleased to introduce today a bill which would make a number of basic and vitally needed changes in the structure and funding of our Postal Service and Postal Rate Commission and would to a large degree restore to these agencies a sense of public duty and responsibility.

This bill is in many respects similar to S. 3569, a bill I introduced in the last Congress on June 15, 1976, and to amendments I supported to H.R. 8603.

Some of the provisions of my previous bill were included in the final version of H.R. 8603 as signed into law, and these improved the short-term situation somewhat. They included a requirement that the Postal Service maintain all levels and types of services which were offered in June of 1976, that no post office be closed which serve 35 or more families, that nonprofit publications dealing with fisheries information be entitled to the same postal rates granted to nonprofit agricultural publications, and that colleges and other institutions of higher education be entitled to such rates for the purpose of mailing catalogues and other course information. But the most important provisions of my bill were not adopted—direct congressional authorization and appropriation of funds for the Postal Service, Presidential appointment of the Postmaster General, and returning the Postal Service to the executive branch of the Government. Instead, H.R. 8603 ignored the fundamental problems of the Postal Service.

This bill, signed into law by President Ford on September 24, 1976, simply turned the postal problem over to a special independent commission that is due to report back to Congress and to the President by March 15, 1977.

The Commission is holding hearings in many parts of the country to solicit the views and suggestions of commercial mail users and more importantly private citizens. In fact, such a hearing is scheduled today in Portland, Maine. While I applaud the Commission's efforts to encourage citizen participation, and I hope that it will develop a novel and complete solution to our postal woes, at the same time I question whether this Commission will tell us anything which we do not already know.

THE NATURE OF THE PROBLEM

Over the last few years it has become apparent to me that the ongoing problems of the Postal Service have been of great concern to many of my constituents, and that they feel this entity has become out of touch with their needs. I have heard from small businessmen, from those associated with educational institutions, from users of the mail in both rural and urban areas, and from postmasters and postal employees, all of whom have urged that some corrective action be taken by Congress with respect to the Postal Service.

My bill is based on the assumption that in order to restore the Postal Service to a position of public confidence and trust, it is necessary for both the Congress and the President to exercise greater oversight and control over its operations. The Postal Service must be made more accountable and responsible to the elected representatives of the American people. Furthermore, if we are to fulfill our own responsibility to those who elected us, we must again undertake this job.

The problem with the Postal Service in recent years has been that both the Congress and the President have viewed the situation as someone else's problem and not their own.

When Congress enacted the Postal Reorganization Act of 1970, it hoped to set up an independent business entity which would ultimately need no Federal funding whatsoever. Day-to-day business decisions would be left to the Postal Service and its managing Board of Governors. Rate decisions would be made by the separate Postal Rate Commission, subject to the approval of the Postal Service. The idea was based on similar systems already in effect in such segments of the economy as the telephone industry and electric utilities.

At the time this legislation was enacted, it was hailed as the beginning of a long-needed modernization effort which would bring new efficiency to an enterprise which some had claimed was outdated and riddled with political appointees.

With such a promising beginning, the Postal Service seemed to be off to a good start in its first 2 years of operation. The old post office system had suffered a $204 million loss in its last year of operation, but by 1973 the postal system had cut this figure down to $13 million, still a large sum, but indicative of substantial progress. Then in 1974, the loss figures jumped to $438 million, and to $989 million in 1975.

In fiscal year 1976, the loss was $1.176 billion. For the transition quarter the Postal Service showed a surplus of $15 million. This latter figure is gratifying but there is no assurance this surplus will continue. Furthermore, during this period the Postal Service benefited from a $500,000,000 appropriation pursuant to H.R. 8603.

While that appropriation did not directly go toward operating expenses, but rather toward accrued debt, it did have a substantial positive impact on the financial position of the Postal Service.

Coupled with these startling figures has been a rising public outcry over deteriorating services. This problem has been studied and restudied by the General Accounting Office and other bodies.

There have been mixed conclusions to such studies, but the GAO has noted that even if the Postal Service were to deliver 95 percent of all first class mail on time, 2.6 billion letters would arrive late each year.

The Postal Service has been faced with the same rising costs for gasoline, other fuels, and essential items which all Americans have had to endure. It has responded with series of rate increases and recently with tentative announcements of closings of rural post offices, and is considering other service cutbacks such as eliminating Saturday deliveries.

These events and tentative announce-

ments have understandably disturbed both my constituents and citizens in other parts of the country. They now feel that they need to have more of a voice and that many decisions which could be made by the Postal Service in pursuit of ostensible cost-saving would, in the long-run, be very detrimental and contradictory to the original concept behind the Postal Service and its predecessor; namely, to function as a service to deliver mail promptly and efficiently to all parts of the country. It now appears that this mission is inconsistent with the independent, corporate approach which the Postal Reorganization Act envisioned. It is clear that what is good for the financial condition of the Postal Service may be very bad for the American people.

THE COMMISSION

I find it hard to believe that the Commission will be able to offer any comprehensive solution in such a short period of time. The only solution which has any hope of succeeding is for both the Congress and the President to reassert their responsibility over the Postal Service on an ongoing basis. It is doubtful that the Commission will reach this conclusion and hence I am introducing a bill designed to achieve this goal.

I am afraid that the Commission will instead serve as a vehicle for giving increased credibility to the views of the Postal Service held by some in the current administration.

For example, it is my understanding that the Office of Management and Budget prepared a letter to the Commission, asking it to give close attention to whether the Postal Service monopoly on first-class mail ought to be eliminated.

Such a move would signal the end of the Postal Service's ability to function as a service and would cripple its efforts to serve rural America.

Private competitors would probably be very successful in gaining control of the intra-city mail in our largest metropolitan areas, but I doubt very much whether these corporations would be willing or able to undertake delivery to outlying rural areas. That job would be left, as it is now, to the Postal Service. Thus, the private carriers would skim the cream of the business and leave the less lucrative and often losing business to the Postal Service. This would only aggravate the current situation.

While the idea of allowing private enterprise to compete with the Postal Service in delivery of first-class mail is on the surface an appealing one, it is clear that such a move would greatly limit the Postal Service's ability to meet its statutory obligation to deliver mail to all parts of the country.

DIRECT ACCOUNTABILITY TO CONGRESS

The Postal Service must be more directly accountable to Congress, and also must be given such financial assistance as is necessary for it to meet its primary mission, within our national budget priorities. The Postal Service must be made to operate efficiently, but this ought not to allow the wholesale elimination of historic services.

Rather, Congress should undertake the primary responsibility of deciding which services are essential and which are not, and provide sufficient funding for the former, and take responsibility to eliminate the latter. Without such a structure of Postal Service accountability to Congress and congressional responsibility for effective oversight the current postal problems seem destined to continue, with all parties involved blaming each other for costs and cutbacks.

The original concept behind the creation of the Postal Service under the Reorganization Act—to make the Postal Service independent and therefore to function as a business—was intended to foster overall efficiency, to cut costs, and to maximize service. This was a noble and perhaps valid experiment. But based on our experience of the last 8 years, it has clearly backfired. We should admit to our mistake and begin anew with mechanisms for oversight and responsibility.

When I received mounting complaints from my constituents over deteriorating service and threatened cutbacks, I could have responded by telling them that the Postal Service is an independent corporation, that whatever inconvenience they suffered was outside my jurisdiction as a legislator to take steps to correct. But this would have been a copout. Congress right now is responsible for the damage done by the enacting of the 1970 Reorganization Act. Yet Congress lacks any effective tools to exercise its responsibility.

We will be reneging on our duty to the American people if we do not act to give us the power to effect changes in the Postal Service.

My bill requires that the Postal Service come before Congress for annual authorization and appropriation of its total budget needs.

In this way we will be able to exercise direct oversight over its function, oversight which has been noticeably lacking for the last 6 years.

We will once again be able to respond to the legitimate needs of our constituents to have a voice in the cost and the quality of our postal services as do all our other committees with authorization power over particular Federal agencies and departments which fall under their jurisdiction. The Senate Committee on Post Office and Civil Service will be in a position to oversee the operations of the Postal Service on an ongoing basis. The Committee on Appropriations will similarly be able to require the Postal Service to justify its financial needs given the service it provides.

Further, the Postal Service will be subject to the budget procedures which we recently established and have imposed upon all other public services.

It has been suggested that this change will serve to eliminate whatever incentive there is within the Postal Service to operate efficiently and to provide high quality service to the American people. According to this argument, the Postal Service will be tempted to let its operation slide and simply come to Congress each year for whatever money it needs.

I do not think this analysis is correct, and on the contrary, it is my view that the present lack of accountability to Congress is by far the greater danger.

Furthermore, until we regain the power of the purse in this area, we are powerless to address the questions which so concern our constituents. These questions include the ever-rising rates and declining services and the threatened closing of many of our outlying rural post offices.

In evaluating our rate structure, we ought to consider the costs of the equivalent to first-class service in other countries of the world. For example, in France, the cost is 18 cents; in Sweden 23 cents; and in Japan, over 16 cents. In the United Kingdom the cost is over 17 cents, and this cost has jumped a total of 89 percent in the last 2 years. Compared to these figures, Canada has maintained a constant cost of 8 cents. The point of this comparison is that the final pre-letter cost to consumers will depend to a large degree, on the extent to which the individual governments are willing to subsidize their postal services. Other factors of course are efficiency and overhead services. By giving Congress increased budgetary authority, this provision would allow for closer attention to the appropriate mix of subsidies and rate increases.

I am not saying that our rates should always remain constant or that under no circumstances should we close any post office. I think these matters will require close attention and study. It may well be that the costs which would be incurred by such policies, which inevitably would be passed on to all our taxpayers, cannot be justified when compared with the benefits of these policies. But the point is that until Congress again becomes involved, the appropriate level of public subsidy vis a vis private cost bearing will never be determined.

We will continue to flail away at the Postal Service while we lack the legislative tools and the conviction to confront the problem directly ourselves.

The amendment would remedy this situation. Postal revenues would again go directly into the Treasury and the appropriate amount of subsidy would come out of the Treasury. The system would mesh.

We would be accountable to our constituents for the tough decisions involving post office closings and rate increases. With this modified structure they too would be in a better position to determine the level and type of service they consider appropriate.

Congress would not be making all of the business decisions for the Postal Service. This would still be the job of the Postmaster General. Nor would Congress be setting rates. This would be left to the Postal Rate Commission.

But Congress would be in a position to have an impact on these decisions, and to alter their direction in broad policy terms, through the authorization and appropriation mechanism.

REQUIRE POSTMASTER GENERAL TO BE APPOINTED BY PRESIDENT

This bill would make the Postmaster General a Presidential appointee, subject to confirmation of the Senate. This simple change would go a long way to-

ward restoring the notion that both the executive and the legislative branches ought to be responsible for the success or failure of the Postal Service.

The Postmaster General would once again be a public servant, owing his job to the elected representatives of the people.

The argument is raised against this amendment that it would be a step backward to the days when the old Post Office suffered from an overabundance of political appointees who some allege were more interested in politics than efficiency.

I would not support this amendment if this charge were in any way true. This amendment does not disturb the provision contained in existing law which makes it a crime for an elected official to recommend any individual for a position with the Postal Service.

This should continue to be the strongest possible deterrent against any return to the days of political patronage.

Under the amendment, only the Postmaster General and his Deputy would be Presidential appointees. The very top officials of the Postal Service would serve at the pleasure of the Postmaster General, but the remainder of the Postal Service employees would continue to be chosen on a nonpartisan basis.

Thus, under this amendment, we would gain the very substantial benefit of making the Postmaster General and his top assistants directly accountable so the people and we would not incur the admitted detriment of allowing political influence to overwhelm the rank and file postal workers.

Under existing law, the Postmaster General is appointed by the Board of Governors. Because the President would now undertake this function, this amendment would abolish the Board.

The establishment of the Board under the 1970 act was consistent with the notion that the Postal Service would function as an independent corporation. The Governors would function in the manner of a corporate board of directors. Since that approach has not worked well, and since it is my view that the responsibility for the functioning of the Postal Service ought to be vested in one Postmaster General and not nine Governors, there would seem to be no need for their continued existence and accompanying expense to the taxpayers.

Requiring direct Presidential involvement in the appointment of the Postmaster General will have the added benefit of insuring that the President maintains an ongoing interest in the Postmaster General's success in doing his job.

It was disclosed in the hearings held this spring before the Senate Committee on Post Office and Civil Service that the current Postmaster General, Benjamin Franklin Bailar, was having a great deal of difficulty in getting through to the White House. In fact, for a time, telephone calls he placed to the White House were not returned.

This sort of attitude on the part of the executive must stop, and this amendment would establish the mechanism to remedy the problem.

Senate confirmation of the Postmaster General would also confer an additional and substantial benefit. Each of us would in a direct way have a stake in the ability of the Postmaster to do his or her job well.

As is presently the case for all other officials whose appointment must be confirmed by this body, we would be given the opportunity to hold hearings on the individual's qualification to hold the office, to ask questions on the policy goals that individual intends to implement, and to accept or reject that individual depending on our assessment of his fitness to hold the office in question.

We have been disappointed on more than one occasion with regard to our decision on appointments, but we know at least that we had our chance at one time.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Postal Reform Act of 1977".

DIRECT CONGRESSIONAL AUTHORIZATION AND APPROPRIATION

SEC. 2. (a) Section 2401(b) of title 39, United States Code, is amended by striking out paragraph (3).

(b) Paragraph (2) of section 2401(b) of such title is amended to read as follows:

"(2)(A) In addition to the sums authorized under paragraph (1) of this subsection, there are authorized to be appropriated to the Postal Service such additional sums as may be determined to be necessary for an efficient service-oriented postal service. An appropriation for any fiscal year under this paragraph shall not be made to the Postal Service unless, for such year, an authorization for an appropriation is enacted by Congress.".

ORGANIZATION OF POSTAL SERVICE

SEC. 3. (a) Section 102 of title 39, United States Code, is amended to read as follows:

"§ 102. DEFINITIONS

"As used in this title 'Postal Service' means the United States Postal Service established by section 201 of this title.".

(b) Section 201 of such title is amended by striking out ", as an independent establishment of" and inserting in lieu thereof "within".

(c) Section 202 of such title is repealed and the item relating to such section in the table of sections for chapter 2 of such title is amended to read as follows:

"202. Repealed.".

(d)(1) Sections 203 through 205 of such title are amended to read as follows:

"§ 203. POSTMASTER GENERAL

"The head of the Postal Service is the Postmaster General. The Postmaster General shall be appointed by the President by and with the advice and consent of the Senate. The Postmaster General shall receive compensation at the rate provided for level I of the Executive Schedule under section 5312 of title 5.

"§ 204. DEPUTY POSTMASTER GENERAL

"The Deputy Postmaster General of the Postal Service shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Postmaster General shall perform such duties as the Postmaster General may require. The Deputy Postmaster General shall receive compensation at the rate provided for level II of the Executive Schedule under section 5313 of title 5.

"§ 205. SENIOR ASSISTANT POSTMASTERS GENERAL; ASSISTANT POSTMASTERS GENERAL; GENERAL COUNSEL; JUDICIAL OFFICER

"There shall be within the Postal Service three Senior Assistant Postmasters General, eight Assistant Postmasters General, a General Counsel, and a Judiciary Officer. The Senior Assistant Postmaster General, the Assistant Postmaster General, the General Counsel, and the Judicial Officer shall be appointed by, and shall serve at the pleasure of, the Postmaster General. The Judicial Officer shall perform such quasi-judicial duties, not inconsistent with chapter 36 of this title, as the Postmaster General may designate. The Judicial Officer shall be the agency for the purposes of the requirements of chapter 5 of title 5, to the extent that functions are delegated to him by the Postmaster General. The Senior Assistant Postmasters General shall receive compensation at the rate provided for level III of the Executive Schedule under section 5313 of title 5. The Assistant Postmasters General, the General Counsel, and the Judicial Officer shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5314 of title 5.".

(2) The items relating to sections 203 through 205 of such title are amended to read as follows:

"203. Postmaster General.
"204. Deputy Postmaster General.
"205. Senior Assistant Postmasters General; Assistant Postmasters General; General Counsel; Judicial Officer.".

(e) Section 402 of such title is amended to read as follows:

"§ 402. DELEGATION OF AUTHORITY

"The Postmaster General may delegate to any officer or employee of the Postal Service the responsibility for the performance of such functions as may be vested by law in him or in any other officer or employee of the Postal Service.".

(f)(1) Section 410(a) of such title is amended by striking out ", including the provisions of chapters 5 and 7 of title 5,".

(2) Section 410(b) of such title is amended—

(A) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and "and"; and

(B) by adding immediately below such paragraph the following:

"(7) chapter 5 (administrative procedure) and chapter 7 (judicial review) of title 5.".

(g) Section 1005(d) of such title is amended by striking out "(other than the Governors)".

POSTAL RATE COMMISSION

SEC. 4. (a) The first sentence of section 3601 of this title is amended by inserting immediately after "5 Commissioners appointed by the President" the following: ", by and with the advice and consent of the Senate".

(b) The last sentence of section 3601 of such title is amended to read as follows: "The Commissioners may be removed from office by the President for inefficiency, neglect of duty, or malfeasance in office. The Commissioners of the Postal Service shall be appointed with due regard to fitness and qualifications.".

(c) The amendments made by subsections (a) and (b) of this section shall be effective with respect to any individual appointed to fill a vacancy or appointed for a term of office on the Postal Rate Commission

on and after the date of enactment of the Postal Reform Act of 1976.

SEC. 5. (a)(1) Section 3604(c) of title 39, United States Code, is amended to read as follows:

"(c)(1) The Commission shall prepare and submit to the President and Congress, simultaneously, a budget of the Commission's projected expenses.

"(2) There are authorized to be appropriated such sums as may be necessary to pay the expenses of the Commission.".

(2) Section 2003(e) of such title is amended by striking out "and, subject to the provisions of section 3604 of this title, all of the expenses of the Postal Rate Commission".

(b)(1) The first sentence of section 3621 of such title is amended by striking out "Governors are" and inserting in lieu thereof "the Postmaster General is".

(2) Section 3624 of such title is amended by striking out "Governors" and inserting in lieu thereof "Postmaster General".

(3) Section 3625 of such title is amended—

(A) by striking out "Governors" each place it appears and inserting in lieu thereof "Postmaster General".

(B) in the third sentence of subsection (d) by striking out "with the unanimous written concurrence of all of the Governors then holding office,".

(4) Section 3628 of such title is amended by striking out "Governors" each place it appears and inserting in lieu thereof "Postmaster General".

(5) Section 3641 of such title is amended by striking out "Governors" each place it appears and inserting in lieu thereof "Postmaster General".

POSTAL SERVICE PERSONNEL

SEC. 6. (a)(1) Section 1001(b) of such title is amended by striking out "202, 204, and 1001(c)" and inserting in lieu thereof "203, 204, and 205".

(2) Sections 1001 (c) and (d) of such title are repealed.

(b) Section 1002(a) is amended by striking out "a Governor or" and inserting in lieu thereof "a".

(c) Section 1005(a)(3) of such title is amended by striking out "202, 204, and 1001 (c)" and inserting in lieu thereof "203, 204, and 205".

EXPENSES OF POSTAL SERVICE

SEC. 7. Section 2009 of such title is amended by adding at the end thereof the following new sentence: "Whenever the Postal Service submits any budget program, estimate, or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that program, estimate, or request to the Congress.".

By Mr. McGOVERN:

S. 314. A bill to terminate the embargo against trade between the United States and Cuba with respect to medical supplies and food and agricultural commodities; to the Committee on Foreign Relations.

Mr. McGOVERN. Mr. President, at some point, the about-to-be Carter administration will have to make a policy decision on the issue of normalization of relations with Cuba.

I hope such a decision comes sooner than later, but more importantly, I hope the decision is a positive one.

The Washington rumor-mill indicates that it will be, that the new administration will announce a partial lifting of the embargo and will use that decision as the basis for beginning formal negotiations with the Castro government.

In view of this and my own deep-seated conviction that nothing is to be gained by continuing our trade embargo, I am sending to the desk, for appropriate referral, a bill to permit a partial resumption of trade with Cuba. This legislation is designed to authorize trade in two broad categories: First, medical supplies, and second, food and agricultural products.

Mr. President, I do not intend to rehash the Cuba policy issue. Suffice it to say that too many serious mistakes have been made on both sides—the Bay of Pigs; the missile crisis; the expropriation of property; the export of revolution; political prisoners; acts of terrorism; the CIA; the Mafia; Angola; the trade embargo itself; the decision to cancel the hijacking agreement. The list reads more like an indictment than a policy, and it is virtually endless. But end it we must.

This is the sole purpose of the legislation I am introducing today. It will serve to set the stage for the negotiations that are necessary for resolving our differences. It will start us down the negotiating path, which is the only way to proceed. Time will not resolve our differences; nor can they be settled by third parties. The record of the past 16 years proves this with little room for doubt.

The way to proceed—the only way to proceed—is at the negotiating table, and the way to get there is through a partial lifting of the embargo—as authorized by the bill I am submitting today.

By Mr. JACKSON (for himself and Mr. HANSEN):

S. 315. A bill to designate certain lands within the National Park System as wilderness; to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, on behalf of myself and the senior Senator from Wyoming (Mr. HANSEN) I am introducing an omnibus wilderness bill today which contains 26 proposals for wilderness designation within particular units of the national park system. These proposals represent recommendations which have previously been transmitted to the Congress by the President pursuant to the requirements of the Wilderness Act of 1964.

Among other things, the Wilderness Act directs the Secretary of the Interior to review every roadless area of 5,000 contiguous acres or more within units of the national park system under his jurisdiction on September 3, 1964. After his review, the Secretary reports to the President as to the suitability or nonsuitability of each area for preservation as part of the wilderness system.

During the last Congress, 13 areas were designated as wilderness by Public Law 94-567. Reintroduction of the remaining proposals will provide for their consideration by the 95th Congress.

By Mr. KENNEDY (for himself, Mr. CLARK, Mr. RIBICOFF, and Mr. STAFFORD):

S. 316. A bill to amend chapter 5, subchapter II of title 5, United States Code, to provide for improved administrative procedures; to the Committee on the Judiciary.

OPEN COMMUNICATIONS ACT OF 1977

Mr. KENNEDY. Mr. President, today I am introducing the Open Communications Act, which would require the logging by executive branch officials of communications from outside parties who are attempting to influence administrative decisionmaking. The bill would amend the Administrative Procedure Act by adding a section to require high-level agency officials to keep public calendars and to record routinely and disclose most communications they receive from outside persons regarding official agency business.

This bill is identical to the amended version of S. 1289, which was favorably reported to the Judiciary Committee last March from the Administrative Practice and Procedure Subcommittee. I introduced the bill in the last Congress and am pleased that Senators CLARK, PERCY, RIBICOFF, and STAFFORD are again joining me this year in introducing this measure.

The legislation recognizes that some administrative difficulties may arise from logging and disclosure requirements that have too broad a sweep. Its purpose is to strike a balance between administrative burdens and the greater public interest in knowing more about why and how Government decisions are made. This same balance has been struck in the Administrative Procedure Act, the Freedom of Information Act, and the recent Government in the Sunshine Act.

The "open communications" policy indicated in this bill is intended to serve as a simple and efficient means of discouraging the exercise of secret, improper influence in the executive branch. Agency officials need only keep a brief summary record of communications they receive from outside persons regarding official business. The summary record provided for public inspection will serve as a key to pinpoint more specific requests for Government information, and as a tool to allow monitoring of lobbying influences in the executive branch. The need for such a policy, governed by uniform procedures, emerged clearly from the 2 days of hearings held last year by the Subcommittee on Administrative Practice and Procedure, which I chair.

This bill recognizes the sophistication of administrative decisionmaking and tailors its requirements accordingly. It focuses on the high-level decisionmaker and the highest level decisions. It would allow agency personnel to solicit information freely. The legislation provides for the confidentiality of internal agency activities. And it would not unduly impede the flexibility which is the lifeblood of the administrative process.

Basically, the bill would require agency officials to maintain a brief summary of communications initiated by persons outside the agency. The Open Communications Act contains a straight-forward requirement that only one simple record be maintained of communications covered by the bill. More importantly, however, are the built-in protections contained in the bill for dealing with sensitive Government information. Some com-

munications—involving national security interests, freedom of the press, and internal agency deliberations—are exempted from recording entirely.

A second series of exemptions protects certain records from automatic disclosure: communications received from a confidential source, those from a criminal defendant or his counsel, and interagency communications. Finally trade secret information or information otherwise protected from disclosure by statute would not even be included in the public summary record.

The bill also requires Presidential appointees to publish calendars of their official activities, and contains a panoply of sanctions to insure agency and official compliance. At the same time, it allows agencies considerable flexibility to adapt the bill's requirements to special needs and circumstances.

The positive experience of Federal agencies utilizing recording and disclosure procedures similar to those required by this amendment demonstrates that such procedures are practical, effective, and not costly. The Consumer Product Safety Commission has for the past few years adhered to regulations requiring the publication of calendars and maintenance of logs that go beyond those required by this amendment. The Food and Drug Administration has likewise adopted logging regulations, as has the Federal Energy Administration. Testimony from Federal officials and others indicate that these procedures do not inhibit legitimate communications and, in fact, are useful in educating the public concerning the agency's decisionmaking activities.

Support for the legislation has been voiced not only by agency officials and representatives of a variety of citizen groups, but also by lawyers and lobbyists who spend much of their time dealing with Federal agencies. The Pharmaceutical Manufacturers Association, for example, whose members are closely regulated and overseen by various Federal agencies, indicated support for the objectives and approach reflected in this bill. The published hearing record of the Administrative Practice Subcommittee contains substantial testimony from both the business and consumer sectors favoring the Open Communications Act.

The Open Communications Act of 1977 would serve to standardize and regularize the various approaches of the Federal agencies to this problem: it will provide a uniform statutory standard that will also allow agencies to make adjustments in accordance with their own specific needs. The bill's procedures are designed to avoid adding to the workload of Government officials, and any minimal burdens will be more than offset by its salutory effect. In total, this legislation will be a sensible method of opening agency activities to public view and checking the abuses caused by ex parte influence and lobbying abuses.

By Mr. McGOVERN:

S. 317. A bill to amend title 38 of the United States Code in order to provide service pensions to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

WORLD WAR I PENSIONS

Mr. McGOVERN. Mr. President, as the 95th Congress begins to consider the crucial issues of the day, we will hear much talk of priorities and solutions for the problems which face us. Whatever the most urgent needs may be—inflation, unemployment, energy, the budget, welfare reform—all of these hit with the most painful impact on the elderly. Unfortunately, it is the elderly who are least able to carry these burdens.

Yet, older Americans deserve to live their later years in dignity. Why, then, must so many of them struggle to acquire even the bare necessities of life? Why do so many older citizens live in poverty?

This situation indicates that those with legislative power are unaware of the plight of the elderly. Nowhere is this insensitivity to the claims of justice so painfully clear as in the congressional treatment of the veterans of the First World War.

We cannot celebrate 200 years of freedom without noting that millions of brave Americans risked life and limb to protect the Nation. One expression of our appreciation to those who defended the Nation has been the development of a pension system to insure veterans against despair in their later years. But the objectives of our pension system have never been fulfilled. During my years in the Senate, I have been besieged by letters from World War I veterans who describe the experiences of poverty and frustration, the inadequacies and inequities of the pension system. Many of them tell of being defeated by high grocery prices. They write of giving up small comforts to pay for rising medical bills. These letter writers share one common feeling about their own hardships—the conviction that a government which they served long ago does not serve them in their time of need.

World War I veterans know that through their unselfish performance of military service, they have rightfully earned a fair pension. Their meager social security payments and perhaps small income-related veterans pensions are not meeting their needs. So in many cases, they must turn to public welfare. There is nothing wrong with food stamps or other forms of public assistance, but veterans should have no need of them. They have earned the right to more than charity or welfare. They look to a just system of veterans security as the honorable repayment they deserve.

And I agree.

For the past two sessions of Congress, I have introduced legislation to provide a modest service pension for World War I veterans and their widows. I am introducing that same language again today. If the bill is enacted, it would grant a pension of $135 per month for a single veteran or widow without dependents, or $150 per month for a married veteran or widow with dependents. It would also free the VA pension from the total income formula which has in the past given with one hand and with the other taken away.

This legislation would help repay the debt owed to each American who served during the first worldwide conflict. At the time of the war's end, these World War I veterans did not receive the many benefits that I and other veterans of later wars received. There were no VA hospitals, counseling services, GI bill educational programs. But in the early 1920's, when they were returning home from war, they were young and optimistic and more easily able to readjust to civilian life. These men and women were certainly entitled to special assistance for their sacrifices then, just as those of us who fought in succeeding conflicts were entitled to special compensatory benefits for the sacrifices we made. We received them; World War I veterans did not. While it is too late to offer World War I veterans job counseling and educational assistance, it is not too late to guarantee a pension healthy enough to help them combat the rising cost of living.

Although Congress has unfortunately not taken these specific steps on the pension matter, we have certainly not been idle on the whole issue of veterans pension reform. A rather comprehensive pension restructuring bill was passed by the Senate in December 1975. By establishing an income floor, this legislation, which was the result of a great deal of study and preparation by the Senate Veterans Affairs Committee, is designed to make many improvements in the pension structure. It would extend fuller and more adequate pension coverage to the neediest veterans. It would assure veterans that they can depend solely on their pensions without having to turn to welfare assistance. And it would prevent any recipient from suffering a reduction in VA pension due to possible social security increases.

I support this idea and I hope that the Congress will finally approve such strong reform provisions this session. The need for veterans pension reform is underscored by the fact that veterans 65 years and older will more than triple to 8 million in the next 15 years. But I know that many of them need help now—not 15 years from now. This is why I remain dedicated to the idea of a service pension for World War I veterans and their widows—now.

We have some unfinished business to transact with the veterans of World War I. We must not let them think that we have forgotten them. We must prove that we are willing to continue the fight for justice and decency for every veteran across this great land.

Mr. President, I ask unanimous consent that a copy of the bill to provide service pensions to certain veterans of World War I and their widows be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter II of chapter 15 of title 38, United States Code, is amended by adding immediately after section 512 the following new section:

"§ 513. Certain World War I veterans

"(a) For purposes of this section—

"(1) The pension and other benefits provided by this section shall be deemed, for all purposes, to be in payment of the debt owed by the Nation to the beneficiaries thereof for services rendered by them and shall not, for any reason, be considered to be a gratuity.

"(2) The term 'World War I' means the period beginning on April 5, 1917, and ending on July 2, 1921.

"(b) The Administrator shall pay to each veteran who served in the active military, naval, or air service at any time during World War I and who is not eligible for pension under section 521 of this title pension at the rate prescribed by this section.

"(c)(1) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, the monthly rate of pension shall be $150.

"(2) If the veteran is unmarried (or married but not living with or reasonably contributing to the support of his spouse) and has no child, the monthly rate of pension shall be $135.

"(d) If the veteran is in need of regular aid and attendance, the monthly rate of pension payable to him under subsection (c) shall be increased by $125.

"(e) If the veteran has a disability by reason of which he is permanently housebound but does not qualify for the aid and attendance rate payable under subsection (d), the monthly rate payable to him under subsection (c) shall be increased by $50.

"(f)(1) Any veteran entitled to pension under this section is entitled to hospital, domiciliary, and medical care under chapter 17 of this title for any non-service-connected disability.

"(2) Notwithstanding any other provision of law, the Administrator shall pay on behalf of any veteran receiving pension under this section the cost of any medical services provided outside of Veterans' Administration facilities to such veteran by any physician if the Administrator finds the travel to and from a Veterans' Administration medical facility for such services would impose a medical or financial hardship on the veteran.

"(g) The pension, medical and hospital benefits, and reimbursement for medical costs provided for by this section shall be paid, or provided, as the case may be, without regard to (1) any income of any kind or from any source payable to the veteran or his spouse, and (2) the corpus of the estate of the veteran or his spouse.

"(h) Any veteran who is eligible for pension under section 521 of this title shall, if he so elects, be paid pension, and provided the other benefits, prescribed by this section. If pension is paid pursuant to such an election, the election shall be irrevocable.".

(b) The analysis of such chapter 15 is amended by adding immediately after

"512. Spanish-American War veterans."

the following:

"513. Certain World War I veterans.".

SEC. 2. (a) Subchapter III of chapter 15 of title 38, United States Code, is amended by adding immediately after section 537 the following new section:

"§ 538. Widows of certain World War I veterans

"(a) The Administrator shall pay to the widow of each veteran of World War I who at the time of his death was receiving pension under section 513 of this title pension at the rate prescribed by this section, if the widow is not eligible for widow's pension under any other provision of this subchapter.

"(b)(1) If there is a widow and one or more children, the monthly rate of pension shall be $150.

"(2) If there is no child, the monthly rate of pension shall be $135.

"(c) No pension shall be paid to widow of a veteran under this section unless she was married to him—

"(1) before December 14, 1944; or

"(2) for one year or more; or

"(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

"(d) The pension provided by this section shall be paid without regard to (1) any income of any kind or from any source payable to the widow, and (2) the corpus of the estate of the widow.

"(e) Any widow who is eligible for pension under section 541 of this title shall, if she so elects, be paid pension prescribed by this section. If pension is paid pursuant to such an election, the election shall be irrevocable.".

(b) The analysis of such subchapter III is amended by inserting immediately after

"537. Children of Spanish-American War veterans."

the following:

"538. Widows of certain World War I veterans.".

By Mr. KENNEDY:

S. 318. A bill to amend the Foreign Assistance Act of 1961 to provide emergency relief, rehabilitation, and humanitarian assitance to the people who have been victimized by the recent earthquakes in Turkey; to the Committee on Foreign Relations.

TURKISH EARTHQUAKE ASSISTANCE

Mr. KENNEDY. Mr. President, I am introducing today a bill to authorize $10 million in urgently needed rehabilitation and reconstruction funds for the victims of last November's massive earthquake in northeastern Turkey. Over 51,000 people were made homeless as scores of villages and towns were leveled, killing over 3,200 people and injuring 8,000 more.

Although the emergency phase of the relief operation has ended, rehabilitation and reconstruction efforts have just begun. There is now a need for additional international humanitarian assistance to contribute to this effort. The purpose of my bill is to authorize additional funding so that the United States can join with others in the international community in support of these programs for the earthquake victims in Turkey.

To date, the United States has provided some $3.6 million out of the more than $11 million provided by the international community during the emergency phase of the relief operation. Working under snow and adverse conditions, U.S. relief teams and the Foreign Disaster Assistance Office of the Agency for International Development responded with commendable speed in providing tents, blankets, and other emergency supplies. However, the emergency phase of the U.S. effort ended on December 15 with the withdrawal of the U.S. Air Force support team from the Van Air Base.

The Government of Turkey has now initiated a number of rehabilitation and reconstruction programs for which additional support is needed. There is, for example, an urgent need for funds to support the reconstruction of housing as soon as weather conditions permit. According to AID officials, Turkey has undertaken the necessary planning to begin a housing program in late spring, and has adopted a number of innovative designs to provide "earthquake proof" construction.

In addition, there is a need to reconstruct the many community structures damaged or destroyed during the earthquake. Plans for the reconstruction of schools and health centers and markets have already been completed—only the funding is missing.

The people of the United States have already expressed their sympathy and concern for the earthquake victims of Turkey by providing emergency humanitarian assistance. But as in other disasaster situations, the rehabilitation and reconstruction programs also deserve our continued support.

This bill will provide that support, and permit the United States to contribute its fair share to the international effort in behalf of the earthquake victims of Turkey. According to preliminary estimates in the field, $10 million is a reasonable American contribution to reconstruction programs in the housing and health and education fields.

Mr. President, the rehabilitation and reconstruction efforts of Turkey deserve the traditional support and concern of the American people. In this spirit, I am confident the Senate Foreign Relations Committee will expeditiously consider and act upon this legislation and report it to the floor.

Mr. President, I ask unanimous consent that the text of the bill, as well as the latest AID situation report on Turkey, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Turkey Relief and Rehabilitation Act of 1977".

SEC. 2. Chapter 9 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 495B. Turkey Relief and Rehabilitation.—(a) The President is authorized to provide assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of the people who have been victimized by the recent earthquakes in Turkey. There is authorized to be appropriated to the President to carry out the purposes of this section $10,000,000 for the fiscal year 1977, which amount is authorized to remain available until expended. Assistance under this section shall be provided in accordance with the policy and general authority of section 491 of this Act. Obligations incurred prior to the enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Turkey may be charged to the appropriations authorized under this section.

"(b) Assistance made available under this section shall be distributed to the maximum extent practicable through United States voluntary relief agencies and other international relief and development organizations.

"(c) In order to limit the extent of deaths, injuries, and destruction in future earth-

quakes, assistance provided under this section which is used for the construction of housing in Turkey shall, to the maximum extent possible, be used for housing which is constructed of seismic resistant materials or which will otherwise minimize the danger of injury to occupants during future earthquakes; and the President should encourage the Government of Turkey to promote the use of such materials.

"(d) Notwithstanding any other provision of law, the amount authorized to be appropriated in subsection (a) of this section may be used only for the purposes specified in this section. The authority contained in section 610(a) of this Act may not be used to transfer funds made available under this section.".

OFFICE OF U.S. FOREIGN DISASTER ASSISTANCE,
Washington, D.C.

(Situation report No. 11, December 17, 1976)

Note: This will be the last OFDA Situation Report on U.S. emergency relief operations in Turkey unless there are further developments.

TURKEY EARTHQUAKE

Facts

Date: November 24, 1976.

Time: Approximately 7:00 a.m. EST (2:00 P.M. local time).

Magnitude: 7.6—Richter Scale.

Location: Northeastern provinces; epicenter near the town of Muradiye. This area is mountainous and most villages are 6,000 feet or more above sea level.

Casualties:

Deaths: 3,294.

Injured: 8,000.

Homeless: 51,000 (20,000 are children).

The United States Government has completed its program of assistance during the emergency phase to victims of the earthquake which occurred on November 24, 1976 in the northeastern provinces of Turkey. Upon receiving information of the earthquake, U.S. Government agencies responded immediately by providing tents, blankets, and other supplies and services valued at $3.5 million. The procurement, airlift, distribution of emergency supplies and equipment were completed with the withdrawal of the U.S. Air Force support team from the Van Air Base Wednesday, December 15, 1976.

The following represents the current status of U.S. Government and other donors' assistance.

United States Government assistance

Ambassador's Disaster Declaration	$25,000
250 aluminum cots	6,238
Plus 30% transportation	1,872
Total cost cots	8,110
10,000 wool blankets	49,970
Plus 30% transportation	14,991
Plus estimated cost of airlift (included in military estimate)	(30,000)
Total cost blankets (without airlift)	64,961
1,000 kerosene heaters	22,900
15 gross wicks	2,850
Plus estimated cost of inland transportation and airlift	18,361
Total cost heaters	44,111
Total	142,182

Supplies and services requested by OFDA and provided by DOD on a reimbursable basis

Supplies: Tents (1,120), heaters (2,240), gas cans (800)	$1,750,000
Airlift of above	550,000
Additional supplies: Spark arresters (1,000), ridge poles (120), tent liners (120), heat shields (200) (estimated)	41,000
Spare parts for tents, heaters, etc. (estimate, including airlift)	200,000
General purpose small tents (1,000) (estimated)	700,000
Airlift of above	208,826
Total	3,449,826
Total USG	3,592,008

In addition, U.S. Air Force personnel helped the Government of Turkey with the conversion of the Van Airfield to a 24-hour operation by installing U.S. emergency runway lights, additional communications, and providing a cargo management staff, forklifts and other loading equipment. This U.S. presence was supplemented by a 47-man team flown into the area to help instruct in the erection of the tents and assembling the stoves. On December 5, the team was reduced when 33 members were airlifted from Van Airport to Incirlik. The remaining eleven members were withdrawn and returned to their units on December 7.

U.S. Voluntary Agency assistance

American National Red Cross (ANRC)—Cash donation of $25,000 to LICROSS for the Turkish Red Crescent. Also shipped 40,000 light weight jackets. LICROSS requested that an American be sent to Turkey as the League's liaison for coordination of relief supplies. The Assistant Director for Disaster Services, (Southeastern Area), ANRC,. arrived in Turkey on December 9.

CARE—Provided one ton of powdered milk (NFDM) for use of 1,000 children orphaned or separated from parents. CARE also provided $50,000 to their representative in Turkey ($25,000 CARE/U.S. and $25,000 CARE/Canada) for local purchase of blankets, clothing and food.

Catholic Relief Services—Released clothing from its warehouse in Turkey. Provided $10,000 to the Turkish Red Crescent. CRS also established a Turkish Earthquake Fund; donations may be sent to CRS Headquarters, 1011 First Avenue, New York, N.Y. 10010.

Church World Service—Launched an appeal on November 29 to churches in the U.S. for $100,000 in cash for rehabilitation and reconstruction projects in devastated areas of Turkey.

Direct Relief Foundation—Air-shipped 312 pounds of pharmaceuticals and medical supplies valued at $6,000.

Seventh-Day Adventist World Service—Contributed 10 tons of clothing, 200 tents, and 3,000 blankets with an estimated value of $31,000.

Southern Baptist Convention Foreign Mission Board—Channeled $10,000 to the Galatian Baptist Mission in Ankara which presented the donation to the Red Crescent.

Government of Turkey assistance

The Turkish Armed Forces have 17 helicopters which are being used to transport tents, medical and military personnel and other supplies into the stricken area as weather permits.

The Turkish Red Crescent has sent 1,000 tents, 3,000 blankets, food, a medical team and 40 relief workers into the area.

Thirty doctors from the staff of the Ataturk University Medical School have gone to the area. There are two mobile hospitals in use.

Substantial quantities of clothing and cash have been collected by Red Crescent and other organizations.

International assistance

LICROSS and UNDRO report the following:

Governments

1. Australia:
Red Cross, cash donation, $2,041.
Government, cash donation, $30,699.
Total, $32,740.

2. Austria: 2,000 bottles blood substitute, 1,000 woolen blankets, 3,000 toilet kits, $21,707.

3. Belgium:
2,000 blankets, $10,645.
Cash donations, $26,315.
Total, $36,960.

4. Bulgaria: 17 tons blankets, tents, foodstuffs, $62,210.

5. Canada:
Red Cross, cash donation, $10,000.
Government, cash donation, $100,000.
Total, $110,000.

6. China (Peoples Republic): cash donation, $51,020.

7. Denmark: 545 heating units, kerosene, 1,144 sleeping bags, 7,728 new polar coats, $235,714.

8. Finland: 2,000 blankets, 25 family tents, 1,300 blood bags and transfusion sets, 2.2 tons winter clothing, 25 tons bisquits, $33,508.*

9. France: 1,850 parcels of clothing, 100 cots, 2,000 blankets, 350 sleeping bags heaters, 200 storm lamps, $19,878.**

10. Germany (Democratic Republic): 1 Army hospital group (withdrawn Dec. 15, 1976), 570 blankets, 12 tents, 1,150 pieces of men's clothing, $66,155.

11. Germany (Federal Republic): Cash donation, $6,000.
5,000 pullovers, 4,000 trousers, 4,000 sweat shirts, 17,000 wool blankets, 1,510 tents, 27,675 sleeping bags, 29,000 pieces of clothing, 700 stoves, 1 water purification and packaging unit, 49,400 blankets, 1,200 cots.**

12. Great Britain:
Red Cross, 558 overcoats, 1 Landrover station wagon, $14,640.
Government, 5,000 blankets, 300 tents, 100 camp beds, 500 heaters, 4 tons sleeping bags and clothing.**
Christian Aid, 1 Landrover, $6,436.
Save the Children Fund, 3 arctic tents w/ heaters, $1,641.
OXFAM, 400 blankets, $656.

13. Greece: 5,000 blankets, 300 tents, $215,510.

14. Iceland: Cash donation, $3,424.

15. Iran: 700 tents, 1,500 blankets, 4 tons of canned food, 15 tons dry milk and medicines; cash donation and in-kind, $500,000+.

16. Iraq: 4 planeloads of tents, blankets and clothing.*

17. Israel: 300 blankets, 750 kgs. foodstuffs.*

18. Italy: 455 kgs bandages, 10,000 blankets, 380 kgs surgical dressings, medicines.*

19. Japan: Cash donation, $3,347.

20. Kuwait: Government, 10 tons medicines, 18 tons beans w/tomatoes, 31.7 tons rice, 16 tons milk powder, 140 bales blankets.*

21. Monaco: Cash donation, $994.

22. Netherlands: 1,000 wool blankets, 4,000 acrylic blankets, 10,000 transfusion sets, 10,000 blood bags, 15,500 sleeping bags, 1,050 blankets, 1 inflatable hall.**
Cash donation, $73,984.

23. New Zealand: Cash donation, $898.
5,000 blood bags.**

24. Norway: Cash donation, $188,000.
550 family tents.**
Church Emergency Relief, Cash donation, $36,363.

25. Pakistan: 100 tents, 3,000 blankets, 3,000 prs. wool socks.*

26. Saudi Arabia: Cash donation, $5,000,000.

27. Spain: Cash donation, $2,857.

28. Sweden: 30 tents w/heaters, 3,000 blankets, 50 kerosene heaters, 9 tons winter cloth-

*Value of assistance not reported.
**Incomplete value of assistance reported.

ing, 2,000 emergency blankets, 6 Landrovers, $85,065+.
29. Switzerland:
Red Cross:
10,080 blood packs, $17,897.
10,080 blood sets, $6,994.
11,000 hand sealer clips, $1,058.
522 winter overcoats, 16,327.
560 jump suits, 4,343.
1,000 overalls (children), 6,020.
1,200 sleeping bags, 19,749.
Red Cross and Government:
100 family tents, $18,532.
300 canvas tarpaulins, $5,654.
2,000 wool blankets, $20,408.
10–12 prefab houses.**
5,000 cloaks.**

Organizations

UNDRO: 6 tons medicaments and assessment personnel, $20,000.
UNICEF: Cash donation, $25,000.
UNDR: Cash donation, $25,000.
EEC: Cash donation.*

E. E. ANDERSON,
General USMC (Ret),
Director.

By Mr. McGOVERN:

S. 319. A bill to amend the Federal Crop Insurance Act to provide for a new special crop insurance program; to the Committee on Agriculture and Forestry.

A FEDERAL CROP INSURANCE OPTION

Mr. McGOVERN. Mr. President, I send to the desk for appropriate reference a bill to amend the Federal Crop Insurance Act to provide for a new special crop insurance program.

I am confident that this Congress will attempt to expand the coverage now available under the Federal crop insurance program. Since barely 13 percent of the present agricultural crop is covered by Federal crop insurance, such an effort is, first, laudable, and second, necessary in days in which we must seek to minimize the risk factor in farming.

Several proposals are bound to be put forth. It is not my intention to endorse any of them at this moment. I do feel that all proposals should receive serious consideration. One proposal was developed by Mr. E. A. Jaenke of E. A. Jaenke & Associates, a Washington consulting firm whose interests are largely to represent the agricultural community. Mr. Jaenke needs no introduction to the Congress. He has had wide experience at the Department of Agriculture, is a former Governor of the Farm Credit Board, and is respected in the consulting field. Thus his thoughts deserve consideration by Members of this body. I want to make it clear that I do not necessarily fully subscribe to the program he and his associates have developed but I think that the Congress would be ill advised if it did not have this proposal for its consideration. It is in this spirit that I introduce this legislation for consideration in connection with the 1977 farm bill.

Under this program, any producer could purchase insurance up to one-third of his production. He would pay premium rates based on sound actuarial tables for his area, and the Government would match his purchased coverage. If he chose to purchase coverage on one-third of his production, the Government would provide coverage for a second third. At this maximum level of coverage, a farmer would have insurance against the loss of two-thirds of his expected production based on average yields and acres planted.

However, a producer may prefer to purchase a lower level of coverage, say 20 percent. In this case, the Government would provide an additional 20 percent.

Mr. Jaenke has developed these concepts as substitutes for disaster programs. He in fact says:

If the producer chose to "go it alone" without purchasing any coverage, the Government would have no obligation.

I must disassociate myself with this statement because of my firm conviction that disaster programs are necessary and desirable. My own State has just experienced its worst growing season in this century. If it were not for the twisted disaster program amended by the Congress, many of my constituents would be faced with financial ruin. I thus intend to support an expanded disaster program in the 1977 bill which I will enunciate under separate legislation.

I commend Ed Jaenke for his interprise in developing this program and ask unanimous consent that the text of the bill I am introducing today with respect to Federal crop insurance be printed in the RECORD at the conclusion of these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Crop Insurance Act (7 U.S.C. 1501–1520), is amended by adding after section 508 a new section as follows:

"SPECIAL CROP INSURANCE PROGRAM

"SEC. 508A. (a) In addition to the crop insurance program authorized under section 508, the Board shall, commencing with crops planted for harvest in 1978, insure or reinsure insurers of producers of any commodity in any county as provided in this section.

"(b) Crop insurance issued under this section shall be issued against loss of the insured commodity due to the same unavoidable causes described in section 508(a).

"(c) Except in the case of tobacco, insurance issued under this section shall not extend beyond the period the insured commodity is in the field.

"(d) A producer may elect to insure not more than two-thirds of his crop or any lesser portion thereof in accordance with such terms and conditions as the Board may prescribe.

"(e)(1) The Board shall fix adequate premiums in the agricultural commodity or in cash at such rates as the Board deems sufficient to cover claims for crop losses on such insurance and to establish a reasonable reserve against unforeseen losses.

"(2) Such premiums shall be established on the basis of (A) the parity or comparable price of the commodity as determined by the Secretary of Agriculture or on the basis of the average market price designated by the Board, and (B) the risk involved regarding the commodity (as determined by the Board) in the area in which the insured commodity is produced.

"(3) The producer shall pay one-half of the cost of the premium for the insurance purchased by him under this section and the Corporation shall pay the remaining one-half. The amount of the premium to be paid by the producer shall be collected at such time or times, or shall be secured in such manner, as the Board may determine.

"(4) Insurance shall not be provided on any agricultural commodity in any county in which the Board determines that the income from such commodity constitutes an unimportant part of the total agricultural income of the county, except that insurance may be provided for producers on farms situated in a local producing area bordering on a county with a crop-insurance program.

"(5) All other provisions of this Act, to the extent not inconsistent with the provisions of this section, shall apply to insurance issued under this section.

"(6) The Corporation shall report annually to the Congress on the results of its operations under this section and shall include in such report such recommendations for legislative changes in the programs carried out under this Act as it deems advisable.".

SEC. 2. The first sentence of section 516(a) of the Federal Crop Insurance Act (7 U.S.C. 1516(a)), is amended by striking out "not in excess of $12,000,000" and by inserting "(including the amount of premium payments required to be made by the Corporation under section 508A)" after "cost of the Corporation".

By Mr. McGOVERN:

S. 320. A bill to amend title 39 of the United States Code to extend the moratorium with respect to postal rate increases, and for other purposes; to the Committee on Post Office and Civil Service.

Mr. McGOVERN. Mr. President, as we are all painfully aware, postal rates and postal deficits have increased in an alarming manner over the past several years and, at the same time, the quality of service has clearly declined. In fiscal 1973, the first full year of USPS operation, the deficit was $13 million and it cost 8 cents to mail a first-class letter. In July 1976, the USPS was running an estimated total deficit of $3 billion in spite of a 13-cent first-class rate.

Confronted by the prospect of a virtual collapse in the postal system and deep differences of opinion over what to do about it, Congress last year passed H.R. 8603, now Public Law 94–421, a stopgap measure designed to get the Postal Service through the end of the year without further crisis. Public Law 94–421 increased the postal subsidy, created a Commission on Postal Service to make recommendations for improving the USPS and placed a moratorium on rate increases, service reductions, and small post office closings until March 15, 1977, when the Commission is scheduled to submit its report to the President and the Congress.

I am not privy to USPS plans for the period immediately following the end of the moratorium, but I do know that there is grave concern in South Dakota and around the country that we shall return to the situation which pertained before the moratorium went into effect. Businessmen are worried about the prospect of fewer deliveries. Publishers fear crippling increases in mailing costs and people in our rural areas foresee the distinct possibility of renewed small post office closings and rural route consolidations. Further, press reports indicate that the USPS hopes to move as soon as possible to raise first-class rates from

*Value of assistance not reported.
** Incomplete value of assistance reported.

13 to 16 or 17 cents, with more increases probable in the future.

Although I do not wish to try to anticipate the recommendations of the Commission on Postal Service, I think it is accurate to say that we shall have to make hard choices in the near future about the kind of postal service we want and about the manner in which we are going to pay for it. It is also clear that the postal issue will be an early test for the Congress and the new administration in the eyes of many Americans.

Mr. President, I believe that it would be most unfortunate were the Congress to take up permanent postal legislation in the midst of another crisis. I do not think that the public interest will be well served by decisions reached in the face of actual or threatened service reductions, closings, and rate hikes.

In order to insure that we shall be able to work in a reasonable atmosphere, I am today introducing a bill to extend the moratorium on rate increases, service reductions and closings for 90 days beyond the submission date of the Commission report. My intent is to permit the Congress to give due consideration to the report of the Commission on Postal Service and to enable the Congress to work its will in this vital area without undue pressure. If adopted, the bill would in no way prevent the Commission or the USPS from making proposals of any kind. It would, however, make it impossible for the USPS to present the Congress and the public with the kinds of accomplished facts we encountered last year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2401(e) of title 39, United States Code, is amended by striking out "ending on the date on which the Commission on Postal Service is required to transmit the final report required under section 7(f)(1) of the Postal Reorganization Act Amendments of 1976 to the President and each House of Congress," and inserting in lieu thereof the following: "ending on June 15, 1977,".

(b) Section 2401(f) of such title is amended by striking out "ending on the date on which the Commission on Postal Service is required to transmit the final report required under section 7(f)(1) of the Postal Reorganization Act Amendemnts of 1976 to the President and each House of Congreess," and inserting in lieu thereof: "ending on June 15, 1977,".

By Mr. THURMOND:

S. 321. A bill to provide for the establishment of a national cemetery in the State of South Carolina; to the Committee on Veterans' Affairs.

Mr. THURMOND. Mr. President, I am pleased to introduce a bill to provide for a national cemetery in the State of South Carolina.

South Carolina's existing national cemeteries are extremely small and unsuitably located within the State to meet the needs of the State's veteran population. Furthermore, it has been projected that the cemetery in Florence will be filled by the year 1983 and the one in Beaufort by the year 2000.

At the present time there are 383,000 veterans in South Carolina. Seventy percent of these live within a 100-mile radius of the State's capital in Columbia, the proposed site for the new national cemetery. The inadequacy of current facilities to meet the present and future needs of the veterans population has been acknowledged by the Veterans' Administration.

Unfortunately, at the present time, appropriations for new cemetery plans have been confined to one cemetery for each Federal region. This results in veterans being buried many miles from their homes. Additionally, other member States within the same region feel neglected under this arrangement.

Mr. President, I am strongly convinced that veterans who have served their country and who wish to be buried in a national cemetery should have that privilege offered in their own State. They should not have to be interred hundreds of miles away from their loved ones.

South Carolina needs additional burial space to meet the present and future needs of our State's veterans population. This legislation is designed to accommodate that need.

Mr. President, I send the bill to the desk for appropriate reference, and ask unanimous consent that the text appear in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs is authorized and directed to establish a national cemetery in the State of South Carolina. Such cemetery shall be established at or near the city of Columbia, South Carolina, if the Administrator determines that such a location is desirable and practicable for such purpose. The Administrator is authorized to use as a site for such cemetery any federally owned lands in such State which are surplus to the needs of the department or agency of the Government having jurisdiction over such lands and which are deemed by the Administrator to be suitable for the location thereon of a national cemetery. In the event the Administrator determines that no such federally owned lands are available as a site for such cemetery, he is authorized to acquire by donation, purchase, condemnation, or otherwise such lands as in his judgment are required as a site for such cemetery.

SEC. 2. The head of any department or agency of the Government having jurisdiction over any lands in the State of South Carolina which are surplus to the needs of such department or agency and which are deemed by the Administrator of Veterans' Affairs to be suitable for the location thereon of the national cemetery provided for by the first section of this Act is authorized and directed, upon request by the Administrator of Veterans' Affairs, to transfer such lands to the Veterans' Administration.

SEC. 3. The Administrator of Veterans' Affairs is authorized and directed to provide for the care and maintenance of the national cemetery established under authority of this Act.

SEC. 4. The appropriation of such sums as may be necessary to carry out the provisions of this Act is hereby authorized.

By Mr. ABOUREZK:

S. 322. A bill to authorize, under certain circumstances, payments to producers of certain agricultural commodities who are unable to plant all or a portion of their allotment for such commodities or who are unable to harvest more than one-third of their allotments for such commodities because of a natural disaster or condition beyond the control of such producers; to the Committee on Agriculture and Forestry.

Mr. ABOUREZK. Mr. President, the drought in the upper Midwest has caused tremendous losses which will take producers several years to recover. In South Dakota alone there is over a billion dollars loss. The current disaster program is a disaster in the opinion of most producers. These people have lost all confidence in the ability of the Department of Agriculture to respond to their drought needs. It has been a prime example of too little too late.

A year ago it was the announced policy to encourage all production. Farmers and ranchers responded and went out and purchased the seed, fertilizer, machinery, and fuel. They planted fence row to fence row while the cost of production in 1976 rose an estimate 9½ percent over 1975. In South Dakota alone, the estimated total operating expense for 1976 is $1.5 billion. South Dakota producers spent $1.5 to plant last year's crop and, because it didn't rain, they lost over $1.2 billion.

The low-yield payments for the 1976 crop will amount to only an estimated $65 million. This is less than 1 percent of the amount they took out of their pockets to plant this year's crop.

Mr. President, the legislation that I am offering today is an attempt at reforming this formula for making low-yield payments. Essentially, it would base low-yield payments on one-half the support price rather than the one-third in the present program.

The prevented planting provisions would remain at one-third. This approach would be more understandable because a producer that is prevented from planting does not have as large an expense as does the producer that has gone to the expense of planting. Therefore, a raise in the formula to one-half of the support price times the normal yield on the allotted acres is a much fairer way to determine a disaster payment.

This legislation will determine eligibility on production on the allotted acres rather than on the total farm production. Having been encouraged by the Department of Agriculture in recent years to plant all his acres, the farmer with substantial amounts of unallotted acreage in production takes the risk in doing so of losing his eligibility under the low-yield payments program. In fact, a General Accounting Office report found that this was the major reason for the loss in disaster benefits in 1974.

Basically, these amendments would make the approach to natural disaster more understandable to producers. Con-

gress will be considering a new farm program this year and I sincerely hope that this bill will be part of this legislative package.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, if acreage allotments are in effect for wheat, corn, grain sorghum, oats, rye, barley, cotton, or soybeans for the 1978 or any subsequent crop year and—

(1) the Secretary determines that any producer is prevented from planting any portion of the farm acreage allotment to the commodity for which the allotment was made (or to some other nonconserving crop) because of drought, flood, or other natural disaster or condition beyond the control of the producer, the Secretary shall pay to such producer an amount determined by multiplying (A) one-third of the minimum price support (in dollars) announced for such commodity for such crop year, times (B) the allotment for the farm for such crop year, times (C) the yield established for the farm for the preceding crop year with such adjustments as the Secretary determines necessary to provide a fair and equitable yield; or

(2) the Secretary determines that, because of such a disaster or condition, the total quantity of any such commodity (or other nonconserving crop planted instead of such commodity) which the producer is able to harvest from the farm acreage allotment in such crop year is less than 66⅔ percent of the farm acreage allotment for such commodity, the Secretary shall pay to such producer for the deficiency in production below 100 percent an amount determined by multiplying (A) one-half of the minimum price support (in dollars) announced for such commodity for such crop year, times (B) the allotment for the farm for such crop year, times (C) the yield established for the farm for the preceding crop year with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. ABOUREZK:

S. 323. A bill to amend subtitle C of the Consolidated Farm and Rural Development Act to reduce the rate of interest on emergency loans made under such subtitle, to increase the term of such loans, and for other purposes; to the Committee on Agriculture and Forestry.

Mr. ABOUREZK. Mr. President, I am today introducing a bill to amend subtitle C of the Consolidated Farm and Rural Development Act to reduce the rate of interest on emergency loans, to increase the terms of such loans, to redefine the test for credit provisions, and to give the Secretary of Agriculture the authority to postpone the repayment of principal and interest in disaster situations.

South Dakota as well as several other States in the Midwest are suffering the worst drought in history. There are predictions that this may be the beginning of a prolonged dry cycle. In fact, the subsoil moisture is so low now that the prospects for next year look bleak indeed. Even with above normal spring rains, it will take producers many years to recover from this year's drought.

In countless cases, I have seen farm and ranch families, who have worked a lifetime to put together a farming operation, unable to refinance for next year. It is really unfair to expect a family to jeopardize a life's work because of 1 or 2 bad years. After all, these people are unable to control the weather.

Yet the current emergency loan program is not adequate to meet their needs. At scores of meetings that have been conducted in my home State, producers unanimously expressed a need to modify the test for credit provisions and to lower the interest rates for the young and small farmers who are the least able to cope with the prolonged nature of this drought.

Under my legislation, the interest rate would be lowered to 1 percent on the first $50,000 of loss in the emergency loan program. This provision would assist these new and small farmers who must have more assistance to recover.

The current test for credit provision is disqualifying many producers. The current program is forcing producers to completely refinance their farming operation with long-term lenders as the test for credit. I see no reason a producer must have to be refused financing from a long-term lender in order to qualify for an emergency loan. The Government need not penalize the family operators who have worked for years to put together a farming operation.

Therefore, my bill would provide that no test for credit be applied to the first $50,000 of actual loss in any disaster. Any loan in excess of $50,000 would have to stand the test for credit as in the present law.

This piece of legislation would also extend the repayment schedule to 20 years on such laws. This allows producers the opportunity to recover from a bad year, or a series of bad years, and enables them to better manage the recovery period.

The Secretary of Agriculture is given the authority to postpone, for a period he deems appropriate, the repayment of principal and interest on emergency loans. This provision is necessary because many producers have had drought losses for 2 and 3 years and are having a difficult time paying off past and present emergency loans.

Mr. President, it is the policy of this Government to encourage all out production on the part of our Nation's agriculture producers. It must also be our Nation's policy to share the risk with these producers in times of disaster. Farmers are willing to take those enormous risks involved in today's agriculture, but only if they can have the backing of our Government.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proviso contained in the first sentence of section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) is amended to read as follows: *"Provided,* That they have experience and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan.".

SEC. 2. Section 324 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964) is amended to read as follows:

"SEC. 324. (a) Loans made or insured under this subtitle shall bear interest—

"(1) at 1 per centum per annum on that portion of the loan equal to the amount of the actual loss caused by the disaster or $50,000, whichever amount is less; and

"(2) at 5 per centum per annum on any amount of the loan in excess of the actual loss caused by the disaster or on any amount of the loan in excess of $50,000, whichever amount is greater.

"(b) No credit test, other than that prescribed in the first sentence of section 321 (b), shall be applied to any applicant for a loan under this subtitle on any amount of such loan up to an amount equal to the amount of the actual loss caused by the disaster or $50,000, whichever amount is less. No loan may be made or insured under this subtitle in excess of the amount of the actual loss caused by the disaster or $50,000, whichever amount is less, unless the Secretary determines that the applicant is unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

"(c) Loans made or insured under this subtitle shall be made for a term of 20 years. The Secretary may extend the repayment period beyond 20 years in any case he determines such action is necessary or appropriate to meet the credit needs of the borrower. The Secretary is also authorized to postpone, for any period he deems appropriate, the repayment of the principal and interest on any loan made or insured under this subtitle.

"(d) All such loans shall be made upon the full personal liability of the borrower and upon the best security available, as the Secretary may prescribe, necessary to assure repayment of the loan; but if such security is not available because of the disaster, the Secretary shall accept as security such collateral as is available, a portion or all of which may have depreciated in value due to the disaster and which in the opinion of the Secretary, together with his confidence in the repayment ability of the applicant, is adequate security for the loan.".

SEC. 3. The amendments made by this Act, shall apply to loans made or insured under subtitle II of the Consolidated Farm and Rural Development Act on and after the date of enactment of this Act.

By Mr. HUMPHREY:

S. 324. A bill to amend the Social Security Act to provide for improvements in the program relating to the diagnosis, screening, and referral of child health and maternal conditions established by title V of such act, to the Committee on Finance.

CHILD AND MATERNAL HEALTH CARE EXTENSION ACT

Mr. HUMPHREY. Mr. President, today I am reintroducing legislation to under-

write a new era in maternal and child health in the United States. The Child and Maternal Health Care Extension Act of 1977 authorizes a decisive Federal response to critical gaps in the availability and financing of early diagnosis, screening and treatment of serious child and maternal health conditions, especially among low-income groups in underserved areas.

Health care for all Americans is a priority concern of this Congress and one which involves a great many complex issues of financing, coverage, quality, and access.

By amending title V of the Social Security Act, we can move ahead promptly without waiting for all the issues of national insurance to be resolved, at the same time acquiring the experience and laying the groundwork for a wider program.

The arguments for so doing are compelling. We know how to achieve a dramatic and immediate improvement in maternal and child health and a significant decrease in infant mortality and serious illness. Moreover, the health care of this population is relatively inexpensive. Medical care for children costs proportionately less than for any other age group, yet the return on investment is enormous in its implications for the long-term general health and productivity of our population as well as the reduction of the social costs of developmental disabilities.

These facts emerged clearly in hearings, published in June of 1976, by the Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce of the House of Representatives.

In its testimony before that committee, the American Academy of Pediatrics estimated that 10 to 20 percent of all children in the United States suffer from chronic, handicapping conditions; that at least one-third of these conditions could be corrected or prevented by appropriate care during the preschool years; and that continuing, comprehensive care up to age 18 would correct or prevent up to 60 percent of these conditions.

Until such time as a comprehensive national health insurance program can be developed and implemented, either in its entirety or in stages, the academy proposed as I do today that title V of the Social Security Act, the maternal and child health program, be modified and expanded as one of the most effective and most underfunded Federal health initiatives.

I have no doubt that Congress can and must shape a health care program that successfully addresses the needs of the entire population. As we move toward this approach, we must not neglect the immediate needs, especially those of underserved areas, with their concentrations of high risk pregnant women and preterm infants.

PURPOSE

The Child and Maternal Health Care Extension Act of 1977 authorizes a decisive Federal response to critical gaps in the availability and financing of early diagnosis, screening, and treatment of serious child and maternal health conditions, especially among low-income groups and in underserved areas.

This bill guarantees that all infants, children, and pregnant women, regardless of residence, income or race, will have access to medical diagnosis, screening, and comprehensive medical care. The health of our children will determine the nature and quality of our future. How we meet this responsibility is a measure not only of values but of vision.

PROBLEMS IN DELIVERY

Among the obstacles to primary health care for children are the reduced number of medical personnel in this field, and a serious skewing in their geographical distribution, with variations of up to 500 percent in the availability of physician services between nonpoverty and poverty areas.

Statistics drawn from AMA studies of physician distribution give us an idea of the severity of the problem. Although the national number of pediatricians has increased, the loss of general practitioners has resulted in a substantial decrease in the number of effective primary child health care providers.

The ratio of general practitioners to population has been steadily declining. In 1949, 50 percent of the Nation's physicians were in general practice. By 1970, that number had declined to 21.8 percent.

This is not the only problem hampering provision of health services to children. There is also a nationwide maldistribution of doctors providing this care. In 1974, 145 counties in the Nation did not have a single practicing physician. An AMA 1971 report identified 1,600 additional counties, with a total population of at least 23 million persons, without an active, resident pediatrician.

Information presented during hearings on the Health Professions Educational Assistance Act of 1976 showed that the urban-rural gap is growing wider. The average increase in physician-population ratios in the five "doctor-rich" States was 27 percent, compared to a growth of only 12 percent in the five lowest ratio States.

While the medical professions have not agreed on the ideal number of primary health care providers per 100,000 children, counties without a single pediatrician and only a small number of general practitioners are, by any standard, understaffed. There, children of all races, rich and poor alike, are denied a basic equality of access to the health care services available to children fortunate enough to reside elsewhere.

To improve this Nation's child health care program, the problems caused by declining numbers as well as the maldistribution of primary child health care providers must be alleviated. Only by addressing these two basic problems can equal access to child health care be assured for all children, regardless of family income or residential location.

BASIC SOLUTION: MOBILE HEALTH CARE FACILITIES

The first substantive part of my bill, section 3, specifically confronts the problems of declining numbers and the maldistribution of primary child health care providers. And it addresses these critical needs through a new and very practical mechanism—the establishment of mobile health care facilities in physician-shortage counties across the Nation through grants to States under an expanded title V of the Social Security Act.

In every eligible county in the State there must be a mobile health care team in operation, including a pediatrician and more than one of the following: A pediatric nurse practitioner, a registered nurse, a licensed practical nurse, a dietitian, and a health assistant. Emphasis is also placed on the use of paraprofessionals and students in medicine and the allied health professions. And, the frequency and locations of mobile health team visits must be clearly spelled out in the State plan.

The key focus of mobile health care teamwork will be careful medical examinations of expectant mothers and children. These examinations must include the diagnosis of the following child health problems:

Child abuse and neglect;
Nutritional deficiencies;
Dental problems;
Emotional problems;
Visual and hearing defects;
Mental retardation and learning disorders;
Crippling and handicapping conditions; and
Catastrophic illness.

When these conditions are screened, the child must receive immediate treatment by the mobile health care team, and be referred to the nearest major facility which provides health care on an inpatient or outpatient basis. This referral must be followed up by a team assistant, to assure that the further required treatment was actually received.

Medical examinations by the mobile health care team are to be free to all children and expectant mothers. The costs of further treatment for lower-income families are to be covered under appropriate public health programs.

PEDIATRIC NURSE PRACTITIONERS

Another step in alleviating the shortage and maldistribution of primary child health care providers is to expand opportunities for education and service as pediatric nurse practitioners.

It is abundantly clear that from the perspectives of time and economy, greater use should be made of pediatric nurse practitioners. It takes less time and less money to train them than to train pediatricians who would provide an equivalent amount of service. According to a recent survey of pediatricians, more than 50 percent favored delegating to allied health workers, such as pediatric nurse practitioners, tasks such as immunization, providing instructions on child care and feeding, compiling the medical history of the patient and the patient's family, and providing certain medical advice.

These same pediatricians stated that the major obstacle to the greater use of allied health workers in pediatric practice was the lack of trained workers. While the Federal Government has significantly increased its support under the Nurse Training Act of 1975 for the

training of nurse practitioners in general, much more needs to be done. To place more emphasis on this obvious educational need, section 4 of my bill would amend title V, section 511 of the Social Security Act to make grants to institutions of higher learning specifically for the training of pediatric nurse practitioners.

OVERCOMING THE COST BARRIER TO HEALTH CARE

Despite our apparent wealth, the United States has an infant mortality rate higher than that of 15 other developed nations.

The infant mortality rate varies considerably, however, among economic categories within the United States. One of the factors causing the high infant mortality rate, particularly among the poor, is the lack of prenatal and postnatal medical care. The percentage of mothers who receive no prenatal care is 10 times greater among low-income white families than it is among white families earning more than $10,000; this discrepancy between these income categories is even greater when nonwhite families are considered.

Another factor increasing the risk for mothers and newborn is the recent troubling rise in the birthrate among teenagers. The number of children born to girls under 15 has doubled since 1960. Eighty-five percent of these births are illegitimate, and young unmarried mothers are least likely to receive adequate prenatal care. The infants are more than twice as likely to be of low birth weight and account for about 62 percent of all infant deaths.

Many of these mothers receiving no prenatal care would be able to receive a diagnosis and some medical assistance from the mobile health care units established under the provisions of the bill I am introducing today.

For those low-income mothers who are fortunate enough to receive prenatal care, most do not have any insurance covering medical costs and hospitalization during delivery or for subsequent treatment.

After birth, life-threatening and catastrophic illness takes a toll among our children and usually require large financial expenditures by the family in order to secure remedial medical care. Family medical insurance usually does not cover the considerable expense of treating a catastrophic or life-threatening illness.

If we are to guarantee that our children suffering from life-threatening and catastrophic illnesses will receive medical care—and not have such care denied by a family's low income—the Federal Government must begin to provide greater support for such care.

To achieve the goal of greater Federal Government support for the care of these child and maternal health conditions, section 6 of my bill would amend section 505(a)(7) of the Social Security Act to require that as a condition for receiving Federal allotments, State plans must provide for comprehensive health care and services for prematurely born infants and for full-term infants who have defects or conditions which are life-threatening or handicapping and which can be corrected or ameliorated.

This section also is amended to require that by fiscal year 1981 State plans should provide for comprehensive health care and services to all children under 6 years of age whose health is threatened or had been impaired seriously by a major trauma, a life-threatening illness, or an illness of catastrophic nature.

Furthermore, section 7 of my bill would amend section 505(a) of the Social Security Act to add a new requirement that States shall have plans to provide comprehensive maternity and infant care for low-income families. This care would include prenatal care, care during and after childbirth, and related hospital services for mothers, and comprehensive medical care for infants during their first year of life.

EARLY DIAGNOSIS AND TREATMENT VITAL

Mr. President, the value of primary care services has been repeatedly documented. It is now known that the survival rate of premature babies can be dramatically increased through adequate care.

The advances in infant survival and health achieved through immunization are now so taken for granted that this progress may actually be endangered. One out of three American children today lacks immunization against some major childhood disease.

In the article, "The Challenge of Primary Care," in the winter 1977 issue of Daedalus, Dr. David E. Rogers offers the following specific examples of achievements of maternal and infant care treatment centers in low-income areas in the 1960's:

(a) Neonatal death rates dropped from 20 to 15.4 per 1,000 live births in predominantly black and high-risk populations. In a maternal and infant-care project in Omaha, Nebraska, infant deaths fell dramatically from 33.4 per 1,000 live births in 1964 to 13.4 in 1969.

(b) The number of hospital days per 1,000 children and youth registered in clinic programs dropped from 101 days to 42 days in a four-year interval, an impressive cost savings.

(c) The new cases of rheumatic fever among children in a Baltimore comprehensive care program dropped by 60 percent within the care area, with no corresponding improvement among children in the rest of the city.

Mr. President, it has become increasingly clear that the most serious need in promoting quality health care for mothers and children in America today is the early identification of health problems and their immediate treatment.

A recent study of child health care in the Washington, D.C., area revealed a high incidence of serious health problems such as iron deficiency anemia, uncorrected vision defects, and hearing losses among children of both upper and lower income areas.

The study's director, Dr. David M. Kessner, concluded that the children had not been screened by doctors, or that a thorough diagnosis had not been made after initial screening tests, or the children had not received the indicated treatment.

The presence of problems at all income levels emphasizes the need to make early medical examination, diagnosis, screening, and immediate treatment readily accessible to all expectant mothers, infants, and children. I urge Congress to make this a priority goal of national policy.

Mr. President, I ask unanimous consent that the text of the Child and Maternal Health Care Extension Act be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child and Maternal Health Care Extension Act".

DECLARATION OF POLICY

SEC. 2. The Congress finds and declares that in order to reduce the infant mortality rate and generally improve the health of children—

(1) more emphasis must be placed upon alleviating the problems caused by the declining numbers and the maldistribution of primary child health care providers, and

(2) greater access to medical care for children must be provided in order to improve child health and to eliminate the needless suffering and crippling conditions experienced by children because of the lack of available early diagnosis, screening, and treatment of potentially serious medical conditions.

SEC. 3. (a) Title V of the Social Security Act is amended by adding at the end thereof the following:

"PART B—MOBILE HEALTH CARE FACILITIES

"APPROPRIATION

"SEC. 525. For the purpose of enabling the States to diagnose, screen, and provide immediate limited treatment of child health and maternal health conditions, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for establishment and operation of mobile health care facilities.

"STATE PLANS FOR MOBILE HEALTH CARE FACILITIES

"SEC. 526. (a) A State plan for the establishment and operation of mobile health care facilities must—

"(1) provide that a mobile health care team shall be in existence and operate in each of the eligible counties within the State;

"(2) provide for the establishment or designation of a single State agency to supervise the administration of the plan;

"(3) provide that the State agency designated in accordance with paragraph (2) will have authority to carry out the plan in conformity with this section;

"(4) provide that the State agency will (A) make an annual report to the Secretary concerning the activities, achievements, and operations of each mobile health care team established in such State, in such form and containing such additional information as the Secretary may from time to time require, and (B) comply with such requirements as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

"(5) provide that the Comptroller General of the United States or his delegate shall have access, for the purpose of audit and examination, to the data on which any report required to be submitted under paragraph (4) is based;

"(6) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit

to the Secretary any modifications thereof which it considers necessary;

"(7) provide that—

"(A) the personnel assigned to each mobile health care team will include a pediatrician and more than one of each of the following: a pediatric nurse practitioner; a registered nurse; a licensed practical nurse; a dietitian; and a health assistant; and

"(B) to the extent practical, students in medicine and the allied health professions who plan to specialize in pediatrics or family medicine will be included as personnel on each mobile health care team;

"(8) designate, in accordance with regulations established by the Secretary, the locations within each eligible county that the mobile health care team will visit and the frequency and duration of such visits;

"(9) provide that the mobile health care team will give children medical examinations and that such examinations must include, but are not limited to, the diagnosis and screening of the following conditions—

"(A) child abuse and neglect,

"(B) nutritional deficiencies,

"(C) dental problems,

"(D) emotional problems,

"(E) visual and hearing defects,

"(F) mental retardation and learning disorders,

"(G) crippling and handicapping conditions, and

"(H) catastrophic illnesses;

"(10) provide that the medical methods, procedures, and equipment the State will require each mobile health care team to employ to assure that the examination and the diagnosis of the conditions designated in paragraph (9) will be of high quality be set out in the State plan;

"(11) provide that each mobile health care team test for pregnancy and screen and diagnose all prenatal and postnatal conditions up to one year after giving birth;

"(12) provide that each mobile health care team screen all pregnant and lactating women for nutritional deficiencies;

"(13) provide that the medical examination, diagnosis, and screening provided by each mobile health care team be free to all children and pregnant and lactating women;

"(14) provide that each mobile health care team will provide immediate preventive care or treatment for the diagnosed conditions where, in the judgment of the attending physician, such immediate care is required because of the serious condition of the patient;

"(15) provide that for those conditions requiring medical treatment a mobile health care team reasonably cannot provide, the patient will be referred to the nearest, major facility which provides health care on an inpatient or outpatient basis, except that children requiring such referrals shall, whenever possible, be referred to an accredited hospital with facilities for parents to spend extended periods of time with their children during the child's hospital confinement;

"(16) provide that each mobile health care team will refer cases of child abuse and neglect to the appropriate State agency and to any public or private nonprofit center established to identify, prevent, and treat child abuse and neglect which serves the geographic area covered by such team;

"(17) provide that in addition to giving immediate treatment to infants diagnosed as nutritional risks, each mobile health care team will refer such infants to the appropriate local public or private nonprofit health or welfare agencies receiving funds under section 17(a) of the Child Nutrition Act of 1966, as amended, so that such infants may receive supplemental foods;

"(18) provide that children who are crippled or who are suffering from conditions leading to crippling will be referred to the State agency providing services to crippled children under part A of this title;

"(19) provide that women diagnosed as pregnant will receive from the mobile health care team whatever immediate care or treatment their conditions require and for further referral by such team to appropriate health care facilities and physicians as appropriate;

"(20) provide that women determined to be nutritional risks shall be referred to the appropriate local public or private nonprofit health or welfare agencies receiving funds under section 17(a) of the Child Nutrition Act of 1966, as amended, so they may receive supplemental foods;

"(21) provide that all referrals shall be subsequently reviewed by a health assistant assigned to the mobile health care team which makes a referral; and

"(22) provide that any individual who receives treatment in addition to the examination, diagnosis, screening, or immediate treatment which is authorized under the State plan will be given the opportunity to enroll in any public health care program for which he is eligible and that payment for such additional treatment will be made in accordance with the provisions of such program and that, in all other cases, additional treatment will be paid for by such individual.

"(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which—

"(1) proposes to employ a mobile health care team which will visit too few locations or whose visits will be of such frequency and duration to be inadequate to carry out the purposes of this part; or

"(2) fails, in the case of a State in which there is an agreement in effect pursuant to section 794C of the Public Health Service Act under which students or trainees in the allied health professions participate in a work-study program, to provide that employment under such a work-study program on a mobile health care team automatically qualifies as part of such a work-study program.

"PAYMENTS TO STATES

"SEC. 527. (a) Appropriations pursuant to section 525 shall be available for making grants to States having a plan approved under section 625 for the establishment and operation of mobile health care facilities.

"(b) Payments pursuant to grants made under this section may be in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulation.

"OPERATION OF STATE PLANS

"SEC. 528. (a) The Secretary shall review periodically the eligibility of all counties in each State and notify the appropriate State agency of changes in the eligibility of each such county to participate in the program established under this part. Each county that is an eligible county (and is participating in the program established under this part) whose child health care ratio is found to exceed the limit established by the Secretary shall continue to be an eligible county and may continue to participate in the program established under this part for not more than one year after notice of ineligibility has been transmitted to the State agency.

"(b) If the Secretary, after reasonable notice and opportunity for hearing to the State agency supervising the administration of the State plan approved under this section, finds—

"(1) that the plan has been so changed that it no longer complies with the provisions of section 526(a); or

"(2) that in the administration of the plan there is a failure to comply substantially with any such provision; or

"(3) that an eligible county within the State is not included within the State plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

"(c) Whenever any State desires a modification of the State plan in order to reduce the scope or extent of the care and services provided by a mobile health care team under such plan, or to terminate any of the care and services so provided, the Secretary shall, upon application of the State, approve any such modification only if such modification does not violate any of the provisions of section 526(a) or any existent regulation established pursuant thereto.

"DEFINITIONS

"SEC. 529. When used in this part—

"(a) The term 'State' means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa.

"(b) The term 'county' includes a political subdivision of a State formally denominated as a county, parish, or other similar unit.

"(c) The term 'child health care provider' means a pediatrician and such other health care personnel as the Secretary shall designate by regulation after consultation with recognized authorities in, and Federal agencies concerned with, child health care.

"(d) The term 'child health care ratio' means the proportion of child health care providers in a State per 100,000 population under 18 years of age in such State.

"(e) The term 'eligible county' means (1) a county in which there is not located a practicing pediatrician, or (2) a county whose proportion of child health care providers to population under 18 years of age is less than the child health care ratio as defined in subsection (d).

"(f) The term 'pregnant and lactating women', 'infants', and 'supplemental foods' shall have the same meanings when used in this part as such terms are defined in section 17 of the Child Nutrition Act of 1966, as amended.

"REPORTS

"SEC. 530. The Secretary shall evaluate annually the operations and accomplishments of the mobile teams in terms of extending child and maternal health care to areas with new primary child health care providers and achieving the purposes of this part. The Secretary shall report his findings together with any recommendations to the President and the Congress not later than March 1 of each year."

(b) Title V of the Social Security Act is further amended by inserting "PART A—GENERAL SERVICE PROGRAMS" immediately below the caption of such title.

TRAINING OF PEDIATRIC NURSE PRACTITIONERS

SEC. 4. Section 511 of such Act is amended by inserting immediately before the period in the last sentence "and for the training of pediatric nurse practitioners".

PAYMENT FOR SERVICES RENDERED BY A PEDIATRIC NURSE PRACTITIONER

SEC. 5. (a) Section 1905 (a) of such Act is amended by redesignating paragraph (17) as paragraph (18) and inserting after paragraph (16) the following new paragraph:

"(17) services rendered by a pediatric nurse practitioner;".

SERVICES FOR CRIPPLED CHILDREN

SEC. 6. (a) Section 505(a)(7) of such Act is amended to read as follows:

"(7) provides, with respect to the portion of the plan relating to services for crippled children—

"(A) for early identification of children in need of health care and services, and for health care and treatment needed to correct

or ameliorate defects or chronic conditions discovered thereby, through provision of such periodic screening and diagnostic services that are not already provided by mobile health care teams established pursuant to part B, and such treatment, care, and other measures to correct or ameliorate defects or chronic conditions, as may be provided in regulations of the Secretary;

"(B) effective July 1, 1978, for comprehensive health care and services to prematurely born infants (as determined in accordance with standards prescribed by the Secretary) and full-term infants (as determined in accordance with standards prescribed by the Secretary) who have defects or conditions which are life threatening or handicapping and which can be corrected or ameliorated by health care services and other measures relating to the correction or amelioration of such defects or conditions, as may be provided in regulations of the Secretary; and

"(C) effective July 1, 1978, for comprehensive health care and services to children whose health is threatened or has been seriously impaired by major trauma, life-threatening illness, and other illnesses of a catastrophic nature, and for the provision of such care and services to all children in such age groups as may be prescribed in regulations of the Secretary except that effective July 1, 1981, such care and services shall be provided to all children under age 6;".

MATERNAL AND CHILD HEALTH SERVICES

SEC. 7. Section 505(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (14);

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(16) effective July 1, 1979, provides, in the case of families with low income (as determined by the State in accordance with criteria prescribed by the Secretary), for (A) comprehensive maternity care to prospective mothers (including prenatal care, care during and after childbirth, and inpatient hospital services related to such care), and (B) comprehensive medical health care for infants during the first year of life."

EFFECTIVE DATE

SEC. 8. The provisions of this Act shall become effective on July 1, 1977.

By Mr. GLENN:

S. 325. A bill to provide for allocation of natural gas during periods of natural gas supply emergency; to the Committee on Commerce.

TEMPORARY NATURAL GAS EMERGENCY SUPPLY ACT

Mr. GLENN. Mr. President, the word "crisis" is often invoked for situations that in reality fall far short of major consequences.

Such is not the case, however, with the natural gas shortages gripping several States, including my own. What began as a gas shortage has developed into a severe crisis that has all the markings of a potential tragedy, particularly so if the unusually severe winter weather conditions persist or even worsen, as some long-range forecasters predict.

Our Government frequently is called upon to lend assistance, domestically and internationally, when natural disaster strikes. This humanitarian zeal and concern is a true mark of American sensitivity to the plight of others.

Imagine, then, how this body would react if word reached us that citizens—through no fault of their own—had lost use of their schools, their businesses, their industrial capacity and even their capacity to maintain public health and safety. I would expect the Senate would, as it has done frequently in the past, work with the President and the House of Representatives to provide emergency assistance and to ward off the possibility of an even worse tragedy.

What is happening today in Ohio and some other States borders on just such a crisis calling for national action.

Here, in brief, is a partial summary of what is occurring in my State of nearly 11 million persons.

Schools throughout Ohio below college level are closed.

Scores of factories have shut their gates and laid off workers.

Whole business sections of metropolitan areas have suspended operations.

Government offices have shut down completely in some cases.

Residential heating faces the prospect of sharp curtailments, as well.

What alarms me even more than the grave present reality, is that the Government apparently does not have the legal means to thwart an impending tragedy if temperatures in the Midwest and elsewhere stay at their record low levels.

I use the word "tragedy" advisedly. What we have now is a true crisis, touching every Ohio family. But I want to stress to my colleagues today that Ohio, and several other States, are one step removed from stark tragedy.

It is a situation that the President and the Congress cannot confront with existing means at their disposal.

The legislation which I introduce today seeks to correct the situation by empowering the President to declare an emergency situation to exist when circumstances become so severe that a State or region is clearly incapable of coping with natural gas shortages and the public welfare is endangered.

After declaration of a natural gas emergency by the President, the Federal Power Commission would direct interstate pipeline systems not facing crisis conditions to transfer part of their gas supplies to the pipelines serving emergency areas.

This would be a last resort mechanism, temporary in nature and strictly a protection against the possibility that some States would be paralyzed while others suffer comparatively little hardship.

I hope, of course, that such authority would never have to be invoked. But Congress cannot stand silently as this natural gas crisis deepens without granting the President the emergency powers he must have to confront what, in a matter of days, could become a catastrophic situation touching many millions of our citizens.

The legislation is drawn in such a way as to insure that, in helping one section of the country, another is not thrown into a similar emergency by losing excessive amounts of its natural gas.

Critics of the natural gas industry have, as we all know raised severe and, in some cases, well documented allegations about the present gas shortage and policies of the industry as a whole. Some will argue, I'm sure, that my bill merely bails out pipeline companies and distributors that have been mismanaged and allowed themselves to run short of supplies once the weather turned unexpectedly cold.

I reply to these arguments that we in the Congress will have ample opportunity to investigate their charges this year when natural gas legislation is introduced. I share the desire to know why these shortages occurred and whether Congress could have acted to avert the mess.

That desire for detailed information, however, does not dim the reality of our present crisis. By every authoritative source, there are apparently no major supplies of new natural gas that can be put in the pipelines in sufficient amounts to ease the situation dramatically. Gas under ground in the producing states would take months or years to drill.

Meanwhile our citizens are the ones who may have to bear the brunt of an increasing crisis. They are the ones who are on the receiving end of the misery that—through absolutely no fault of their own—translates into closed schools, factories, and shops with resultant social and economic toll.

These are staggering consequences. If the companies, or State utility commissions, or the Federal Government, or anyone else has erred, I want Congress to root out the wrongs. In the meantime, though let us not stand on the sidelines while real human misery looms. The consequences of such inaction are almost too great to comprehend.

My legislation, as noted earlier, is temporary. Its authority expires on May 1, 1977. It is a one-time only effort to protect Ohio and sister States from what could happen if the situation becomes even worse this winter, a real possibility.

Administratively, I admit it will be difficult. However, I was pleased to read in the New York Times, January 14, that Federal Power Commission Chairman Richard Dunham, in acknowledging that some of our colleagues had written to request an emergency allocation plan, indicated that he would favor such a course if gas shortages threaten home heating.

Such a home curtailment possibility, Mr. President, once would have been considered extremely remote. It is not any longer. The short-term and 30-day weather forecasts are not encouraging. We hope that the situation improves and that schools will reopen, men and women can return to work, and the crisis passes with no additional harm.

But I for one do not believe that the Senate wants to shirk its responsibilities to guard against a tragedy that could be unprecedent in its scope.

I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Temporary Natural Gas Emergency Supply Act of 1977.".

SEC. 2. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by striking out section 24 thereof (15 U.S.C. 717w) in its entirety and by inserting immediately after the enacting clause thereof and before section 1 thereof (15 U.S.C. 717) the following: "That this Act may be cited as the 'Natural Gas Act'.

"TITLE I—GENERAL PROVISIONS".

SEC. 3. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by adding at the end thereof the following new title:

"TITLE II—EMERGENCY ALLOCATION AUTHORITY

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Temporary Natural Gas Emergency Supply Act'.

"FINDINGS AND PURPOSES

"SEC. 202. (a) The Congress hereby finds that—

"(1) The shortage of natural gas supplies in various sections of the country together with unusually cold winter weather conditions has already resulted in extensive plant and school closings and may result in more extreme curtailments severely affecting the public health and welfare and the economy of affected regions;

"(2) The supply shortage is not evenly distributed throughout the country so that some communities served by the interstate pipeline system are experiencing little or no difficulties and can be expected to continue to be less severely threatened than other communities;

"(3) In the event that the unusually cold winter weather conditions persist or worsen, causing severe natural gas supply emergencies in communities served by the interstate pipeline system, the Federal Power Commission should have authority to allocate gas supplies to any such community from communities not seriously affected by supply shortages;

"(4) The President as Chief Executive of the United States should have the responsibility for determining when conditions are so severe as to require such authority to be exercised; and

"(5) Even in the event that it proves unnecessary to exercise such authority, the responsible course of conduct is to create such authority and to provide legislative impetus to the Federal Power Commission to make plans for its use should this become necessary.

"(b) It is therefore the purpose of this title to provide for emergency allocation authority for the Federal Power Commission until May 1, 1977.

"PRESIDENTIAL DETERMINATION

"SEC. 203. The President may determine that a natural gas supply emergency exists along the transmission routes or within the service area of an interstate pipeline if such pipeline is unable to furnish amounts of natural gas necessary to avoid severe threats to public health or welfare or to avoid extreme economic hardship. In making such determination, the President may consider, but need not limit himself to, failures to supply natural gas to priority users under the existing Federal Power Commssion curtailment system.

"FEDERAL POWER COMMISSION ORDERS

"SEC. 204. (a) Whenever such an emergency is declared, the Commission shall, by order, direct an interstate pipeline which is not itself experiencing such an emergency to make specified deliveries of natural gas, directly or indirectly, to the pipeline which is experiencing such emergency unless it determines that—

"(1) Such emergency can be eliminated by practicable conservation measures including procurement of alternative fuel supplies, or

"(2) The amount of natural gas needed to eliminate such emergency if transferred from a pipeline not experiencing such emergency would create a comparable emergency along the transmission routes or within the service area of such pipeline.

"(b) A pipeline delivering natural gas pursuant to any such order shall be compensated for such gas at a rate agreed on by the parties affected by such order. If such parties fail to agree, the Commission, after hearing held after such order takes effect, may prescribe by supplemental order such compensation as it finds to be just and reasonable.

"(c) No pipeline delivering natural gas pursuant to any such order and no customer of such pipeline shall be liable for the failure to deliver natural gas to any customer when such failure results from compliance with such order.

"EXPIRATION DATE

"SEC. 205. (a) This title shall expire on midnight May 1, 1977.

"(b) The exception of this title and the authority granted under this title shall not affect any pending proceedings not finally determined on the date of such expiration based upon any action taken prior to such date."

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. DOLE, the Senator from South Carolina (Mr. THURMOND), the Senator from Colorado (Mr. HASKELL), the Senator from Alabama (Mr. ALLEN), the Senator from New Mexico (Mr. DOMENICI) the Senator from Indiana (Mr. BAYH), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 4, a bill to provide that the changes made by the Tax Reform Act of 1976 to the exclusion for sick pay shall only apply to taxable years beginning after December 31, 1976.

S. 21

At the request of Mr. DOMENICI, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. BUMPERS), the Senator from Alaska (Mr. STEVENS), the Senator from Kansas (Mr. DOLE), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Dakota (Mr. YOUNG), the Senator from Vermont (Mr. LEAHY), the Senator from Illinois (Mr. PERCY), the Senator from Alabama (Mr. ALLEN), the Senator from Nevada (Mr. CANNON), the Senator from Michigan (Mr. GRIFFIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Utah (Mr. GARN), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of S. 21, a bill to amend the Occupational Safety and Health Act of 1970, to provide additional consultation and education to employers.

S. 31

At the request of Mr. DOMENICI, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 31, a bill to amend the Gun Control Act of 1968 to provide for separate offense and consecutive sentencing in felonies involving the use of a firearm.

S. 50

At the request of Mr. HUMPHREY, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 50, the Full Employment and Balanced Growth Act of 1977.

S. 94

At the request of Mr. HOLLINGS, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Nevada (Mr. CANNON), and the Senator from Maine (Mr. HATHAWAY) were added as cosponsors of S. 94, the Postal Reorganization Act Amendments of 1977.

S. 170

At the request of Mr. HUMPHREY, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 170, a bill to amend the Comprehensive Employment and Training Act to provide job and job counseling programs for youths.

S. 175

At the request of Mr. SCHWEIKER, the Senator from Oklahoma (Mr. BELLMON), the Senator from Florida (Mr. STONE), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Tennessee (Mr. BAKER), the Senator from Washington (Mr. JACKSON) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 175, a bill to provide a special program of financial assistance to opportunities industrialization centers and to other national community based organizations.

S. 181

At the request of Mr. KENNEDY, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 181, relating to sentencing guidelines.

S. 205

At the request of Mr. BENTSEN, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 205, a bill to amend title 18, United States Code, relating to criminal offenses committed by terrorists.

S. 256

At the request of Mr. BENTSEN, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 256, the 1977 Amendments to the Natural Gas Act.

SENATE RESOLUTION 18

At the request of Mr. ALLEN, the Senator from Wyoming (Mr. HANSEN) and the Senator from Oklahoma (Mr. BELLMON) were added as cosponsors of Senate Resolution 18, to express the sense of the Senate in opposition to a general Presidential pardon by proclamation or executive order of Vietnam-era draft evaders, and for other purposes.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. DOLE, the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from Arizona (Mr. GOLDWATER) were added as cosponsors of Senate Concurrent Resolution 3, to urge establishment of a Presidential Task Force on MIA/POW's.

ORDER FOR STAR PRINT—S. 255

Mr. CRANSTON. Mr. President, I ask unanimous consent, on behalf of Senator HUMPHREY, to have a star print of S. 255 made changing the date of 1975 to 1977 on page 1 of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFERRAL OF A BILL—S. 273

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 273, which was referred Friday last to the Committee on Commerce, be referred jointly to the Committee on Commerce, the Committee on Public Works, and the Committee on Interior and Insular Affairs, as was the identical bill in the last Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 41—SUBMISSION OF A RESOLUTION TO AMEND THE STANDING RULES OF THE SENATE

(Referred to the Committee on Rules and Administration.)

Mr. ALLEN submitted the following resolution:

S. RES. 41

Resolved, That paragraph 3 of rule XLIV of the Standing Rules of the Senate is amended to read as follows:

"3. Each Senator or person who has declared or otherwise made known his intention to seek nomination or election, or who has filed papers or petitions for nomination or election, or on whose behalf a declaration or nominating paper or petition has been made or filed, or who has otherwise, directly or indirectly, manifested his intention to seek nomination or election, pursuant to State law to the office of United States Senator, shall file with the Secretary of the Senate, before the 15th of May in each year, the accounting required by rule XLII for all contributions received by him during the preceding year, except that contributions in the aggregate amount or value of less than $50 received from any single source during the reporting period may be totaled without further itemization."

Resolved further that rule XLIV of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"6. Notwithstanding the provisions of Title 2, United States Code Section 4411 no Senator or person who has declared or otherwise made known his intention to seek nomination or election, or who has filed papers or petitions for nomination or election, or on whose behalf a declaration or nominating paper or petition has been made or filed, or who has otherwise, directly or indirectly, manifested his intention to seek nomination or election, pursuant to State law, to the office of United States Senator, and no officer or employee of the Senate shall accept any honorarium for any appearance, speech, or article, nor shall any such person accept reimbursement for expenses, including actual travel and subsistence expenses, incurred by him in connection with any appearance, speech, or article."

PROHIBITING HONORARIA

Mr. ALLEN. Mr. President, for some time I have sought a change in the statutes governing the conduct of Members of Congress and candidates for public office to prohibit the acceptance of honorarium. During Senate consideration of the Federal Election Campaign Act Amendments of 1974, I offered an amendment to that measure to forbid any Member of Congress to accept any honorarium, fee, or payment from any source whatsoever in connection with any speech, article, or appearance other than his official salary or official reimbursements or allowances from the U.S. Treasury. I regret to say, Mr. President, that my amendment was rejected even though I pointed out in arguing for its adoption that in 1972 Members of the Senate had received more than $600,000 in honoraria or payments for speeches or appearances. I have recently checked the records of the Secretary of the Senate, and I am sorry to report that 1975 honoraria receipts by Senators totaled $634,735.49, reflecting perhaps recent increases in honoraria limits. And, Mr. President, I cannot help wondering, in passing, if that $634,735.49 was taken fully into account in reviewing congressional salaries prior to yesterday's proposed massive 29-percent pay increase for Members of Congress. I think not.

So, Mr. President, I do feel that the Senate should go ahead now and entirely eliminate the practice of accepting honoraria, and for that reason, having previously given notice in accordance with rule XL of the Standing Rules of the Senate, I am today introducing a resolution to amend the Senate rules to forbid the acceptance of honoraria or private reimbursement for expenses in connection with public appearances.

Mr. President, recognizing that some staff members are also in demand for public appearances and speaking engagements, my proposed rule change would include Senate officers and employees. I believe all of us whether Senators or Senate staff should be compensated for our duties in connection with our public office only from the Treasury of the United States and that we ought not in any other way to profit from the public office we hold.

Mr. President, there well may be some attempt made in this Congress to place further restriction on the receipt of honoraria by all Federal employees. As Senators know, 2 U.S.C. 441i already forbids the acceptance of an honorarium in excess of $2,000 and puts an absolute ceiling on the total honoraria which may be received in any 1 year at $25,000. We would indeed do well to enact a statute forbidding the acceptance of honoraria by all Federal employees, or at a minimum restricting further the amounts permitted.

But I recommend, Mr. President, that the Senate go ahead now and set the example in the legislative branch of government by imposing an absolute prohibition on honoraria. Certainly it is within the power of the Senate under the Constitution to amend its rules to impose a prohibition of that nature, and I urge that the rules change I propose be adopted promptly. In no event should action on the question be delayed since our reluctance to act will be interpreted as reluctance to face the issue.

The issue ought to be faced along with other issues directly affecting public confidence in Government, because in my judgment, now is a time in which we must reexamine carefully all of the standards of conduct set forth in the Standing Rules of the Senate, renewing thereby the spirit of the preamble to the Senate resolution of March 22, 1968, in which it was declared to be the policy of the Senate that a public office is to be treated as a public trust and that—

The officer has been entrusted with public power by the people; that the officer holds this power in trust to be used only for their benefit and never for the benefit of himself or a few; and that the officer must never conduct his own affairs so as to infringe on the public interest.

SENATE RESOLUTION 42—SUBMISSION OF A RESOLUTION RELATING TO INTERNATIONAL TERRORIST ACTIVITIES

(Referred to the Committee on Foreign Relations.)

Mr. BELLMON (for Mr. BARTLETT) submitted the following resolution:

S. RES. 42

Resolved, That the Senate requests that the President engage in the negotiation of agreements with other nations to help prevent acts of terrorism by, among other means, denying assistance or asylum to persons who perpetrate acts of terrorism, and by invoking sanctions against any nation which gives assistance or grants asylum to such persons.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the President.

Mr. BELLMON. Mr. President, on behalf of Mr. BARTLETT, I submit a resolution and I ask unanimous consent that a statement by Senator BARTLETT be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BARTLETT

A decision last week by a Federal Court in France resulted in the release of Palestinian Abu Daoud, undermining the efforts of both Israel and West Germany, who had requested extradition of the alleged terrorist. Daoud was sought for prosecution in the murder of Israeli athletes at the 1972 Olympic Games in Munich.

While the decision by France was bitterly disappointing to Israel and West Germany in particular, the action has grave implications for every civilized nation of the world. It underscores once again the tragic and inexcusable absence of international cooperation to combat international terrorism.

Today I introduce legislation which does not address itself to this incident specifically, but to the general issue of international terrorism and the need for some framework within which the civilized nations of the world can work together to prevent terrorist acts. Terrorism, regardless of the ideal or goal involved, is a world-wide plague. Its prevention will require world-wide cooperation.

The resolution I propose requests that the President of the United States engage in negotiations with other nations to halt international terrorist activities. These negotiations would hopefully lead to agreements to help prevent acts of terrorism by, among other means, denying assistance or asylum to persons who perpetrate acts of terrorism, and by invoking sanctions against any nation which gives assistance or grants asylum to such persons.

NOTICES OF HEARINGS

PROPERTY AND CRIME INSURANCE PROGRAMS

Mr. SPARKMAN. Mr. President, I wish to announce that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing and Urban Affairs will hold a 2-day hearing, January 27 and 28, 1977, on the property and crime insurance programs under the administrative jurisdiction of the Federal Insurance Administration, Department of Housing and Urban Development. Both of these programs will expire on April 30, 1977.

The hearing will begin at 10 a.m. each day and will be held in room 5302, Dirksen Senate Office Building.

Persons wishing to testify should contact Robert E. Malakoff, staff director, Housing and Urban Affairs Subcommittee, room 5228, Dirksen Senate Office Building, 202–224–6348.

The committee would also welcome statements for inclusion in the hearing record.

SUBCOMMITTEE ON ENERGY RESEARCH AND WATER RESOURCES

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public that the Subcommittee on Energy Research and Water Resources will hold an oversight hearing on the Teton Dam disaster on Monday, January 24 at 10 a.m. in room 3110, Dirksen Senate Office Building, regarding the Teton Dam disaster.

Testifying at the hearing will be members of the independent panel to review the cause of the Teton Dam failure, Mr. Dennis Sachs, chairman of the Interdepartmental Review Group To Study the Failure of the Teton Dam, Commissioner Gilbert Stamm of the Bureau of Reclamation, and Maj. Gen. Ernest Graves of the Army Corps of Engineers.

SUBCOMMITTEE ON CONSTITUTIONAL AMENDMENTS

Mr. BAYH. Mr. President, the Subcommittee on Constitutional Amendments is scheduling hearings on Senate Joint Resolution 1, proposing a constitutional amendment on the direct popular election of the President, for Thursday, January 27, 1977, and February 1, 2, and 3, 1977.

These hearings will be held in room 2228 Dirksen, the Judiciary Committee hearing room on January 27, beginning at 10 a.m.; February 2, beginning at 11 a.m.; and February 3, beginning at 10 a.m. The hearing on February 1, will be held in room 1224 Dirksen, the Appropriations Committee hearing room at 10 a.m.

Any persons wishing to submit written statements for the hearing record should send them to Subcommittee on Constitutional Amendments, room 108, Russell Senate Office Building, Washington, D.C. 20510.

ADDITIONAL STATEMENTS

ORIGINS OF THE CARTER FAMILY IN GEORGIA

Mr. TALMADGE. Mr. President, Georgians are very proud that a citizen of their State will become the 39th President of the United States Thursday. Their prayers and good wishes, and those of all the Nation are with Jimmy Carter at this time as he prepares to assume the most important job in the United States and the world.

There appeared in the Atlanta Journal and Constitution Magazine of last Sunday an historical and extremely interesting article which traces the background and origin of the Carter family in Georgia.

I bring this article to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A PRESIDENT IN THE FAMILY

(By Margaret Shannon)

The politician among President-elect Jimmy Carter's forebears was his maternal grandfather, James Jackson Gordy, who was called Jim Jack, except in his latter years, when he was known around the state capitol as "Uncle Jack," one of those familiar figures who turned up in patronage jobs while the Georgia legislature was in session, a recognition for past favors and a ticket to Atlanta, where the action was.

He stayed in a boardinghouse during the session, but the capitol was his real home. He loved it, loved being around politicians. He never held elective office, but he had a series of political jobs—postmaster at Richland, Ga., federal revenue agent in the prohibition days and deputy federal marshal. They were the kind of jobs that a man got and kept not just on the basis of his qualifications, but also by being on the right side politically.

His political heroes were Tom Watson and Gene Talmadge, especially Watson, the agrarian rebel, who was more his contemporary. When Jim Jack Gordy's youngest son was born in 1906, he named him Tom Watson Gordy and wrote Watson, then in between his two races for President on the Populist ticket, to tell him about the boy. He also enclosed a dollar to subscribe to Watson's new political weekly, the Jeffersonian.

Watson wrote back: "I appreciate very much the fact that you have named the latest addition to your family circle in honor of me, and I trust that the infant who will bear my name through life will find the road onward and upward less rocky than it has been to his namesake."

"I'll tell you where I think Jimmy got his politics," Alton Carter, Jimmy's "Uncle Buddy," said. "Lillian's daddy—his mother's daddy—was nothing but a politician. Anything he did, if politics was in it, he was in hog heaven. He had three sons—all of 'em's dead now—and every one of 'em was a hot politician. Like Lillian. She's just as hot a politician as anybody.

"If you were running and you wanted help, you went to Jim Jack Gordy. I remember Bryant Castellow from Cuthbert running for Congress (in 1932). He went to work for him to beat the band, and he was elected, too. If you wanted to be elected, you'd go to Jim Jack and give him a little money to get in behind and help you, or if he wanted to help you for nothing, why, he could always do it." Gordy died in 1948, in his 85th year.

When Jimmy Carter was running for President of the United States, he often talked about his ties to the land, how his roots were deep in Georgia soil, because his forefathers had farmed it for 200 years. As the campaign progressed, the theme became a liturgy.

There is evidence that, even as he was using the theme in his campaign, he was searching for the past in him. One day he took a tape recorder and went to see his Uncle Buddy and talked with him for two hours about the Carter family, as far back as Uncle Buddy remembered it or had learned about it.

Jimmy Carter had started the quest for the past in him long before. Back in 1968, two years before he was elected governor of Georgia, he had gone with Uncle Buddy to McDuffie County to see the Rock House, which was built around 1785 by Jimmy Carter's great-great-great-great-grandfather Thomas Ansley. Carter's great-great-grandfather Wiley Carter married Thomas Ansley's granddaughter, Ann Ansley.

The Rock House with its two-foot-thick walls has survived for almost two centuries and little else in the vicinity has. Some researchers theorized that Thomas Ansley was a Quaker because he obtained his first land in Georgia as the result of a petition by a predominantly Quaker group for a place to settle, but other documentation indicates he was one of a number of non-Quakers in the group.

Thomas Ansley was born in New Jersey around 1737, moved to North Carolina sometime before 1760 and migrated to Georgia around 1769. An architect who examined the Rock House for the Georgia Department of Natural Resources said its design and construction showed New Jersey influences. Thomas Ansley deeded the Rock House to his favorite son, Abel, in 1798. Abel was the father of Ann, who married Wiley Carter when he was 23 and she was possibly just 16.

Wiley Carter is important among Jimmy Carter's forebears because he put down the roots that brought Jimmy Carter back to southwest Georgia in 1953, causing him to abandon the prospect of high command one day in the United States Navy, changing the course of his career and making of him, in time, a politician and President.

Wiley Carter was living in Warren County when he married. He was a planter or farmer and had some slaves. When a man died in those days, his slaves usually brought more at his estate sale than his land—much more. Slaves were a measure of a man's wealth. One of the documented stories about Wiley Carter, great-great-grandfather of President-elect Carter, concerns the time he killed a man in the course of a dispute over a slave.

The incident occurred in late 1841, and Wiley Carter went to trial at the April 1842 term of the county criminal court on a charge of murdering a man named Usry. A summary of evidence at the trial, contained in old court records, does not give Usry's first name, but it does present a vivid picture of the confrontation at Usry's home, where Carter shot Usry, according to witnesses, in self-defense.

Carter had accused Usry of taking a slave illegally and had obtained a warrant to compel Usry to return him. "Carter was anxious to have Usry taken as he was apprehensive he would carry off the Negro," says the summary, quoting Sheriff Augustus Beall. So off went the sheriff, Carter and several other men to Usry's.

They went at night. But when they got there, Usry refused to come out and surrender. Instead, said the sheriff, Usry "made up a light" in the house and loaded a gun. As the night wore on, Usry poured forth a stream of profanity and threats, most of them aimed at Carter. One witness said he heard Usry say he would "make Carter with a round hole and a patch" and would shoot Carter on sight if it cost him his last drop of blood.

At one point Usry accused Carter's wife of unchastity and Sheriff Beall "induced Carter not to be violent." The sheriff offered to break down the door and take Usry by force, but this time Carter advocated restraint. He said he hoped Usry would sober up and surrender. Carter also expressed a desire not to hurt Mrs. Usry.

It was about breakfast time when the drama came to a climax. Usry's son burst

from the house to warn Carter to leave or Usry would kill him. Then Usry came out onto the piazza, and Carter, who was on Usry's left six or seven feet from the porch fired. One witness said he heard Usry's gun strike the house at the time he was shot, but did not see Usry. Another said he saw Carter's gun fire, but did not see Usry, either. The sheriff testified that Carter and Usry raised their guns about the same time and Carter fired. The blast hit Usry in the right shoulder.

Wiley Carter was acquitted of Usry's murder. The summary of evidence does not state what became of the slave. Carter continued to live in Warren County until 1851, when he moved to the Quebec community in the northern part of Sumter County 20 miles north of a settlement called the Plains of Dura. The name came from the Bible, in which the plain of Dura was the place near Babylon where Nebuchadnezzar erected the golden idol that Shadrach, Mesach and Abednego refused to worship. A post office was established at the Plains of Dura, Ga., in 1839 in Arthur Turner's store. After the railroad came through a mile to the south in 1885, the center of the community began to shift, and the town of Plains as it is known today was incorporated in 1896.

The Carter blood in the President-elect goes back to England to one Thomas Carter, who came to America in 1637 to Isle of Wight County on the James River in Virginia. At least two fifth-generation descendants of this Thomas Carter—Kindred and James Carter—came to Georgia from the Bertie County region of northeastern North Carolina. Uncle Buddy always thought that the family line came down through James Carter, but researcher Ken Thomas has recently established the likelihood that Kindred was Jimmy Carter's direct ancestor.

This is too bad in a way, because James Carter's name is on a plaque in Warren County as a soldier in the American Revolution and Kindred's isn't. Research may yet turn up what Kindred did in the Revolution now that his great-great-great-great-grandson is going to be President of the United States.

Kindred Carter arrived in Georgia in the late 1780s and settled along Little Germany Creek in Richmond County, on land now in McDuffie County. He had a 307-acre farm where he raised wheat, cotton and livestock. He died in 1800 when he was about 50 years old.

One of Kindred's sons was named James. James was born in North Carolina in 1773, before the family moved to Georgia. He was married in 1798 to Eleanor Duckworth (everybody called her Nellie), and the next year her father gave them 133 acres of land on White's Creek in Warren County. It was bounded on the north by Thomas Ansley's land—Thomas Ansley, the builder of the Rock House.

Accounts indicate that when James Carter went to farming this land some years later, he had to break new ground. This was the way the country was opened up; this was how Georgia grew and became, in white man's terms, more civilized. James Carter lived in Warren County from around 1815 to around 1835. His land holdings increased to some 500 acres. Mainly he raised cotton.

There are certain watershed events in the history of Georgia, among them the removal of the Indians. The removal of the Cherokees has been most written about, but what happened to the Creeks is what affected the Carter family history.

In 1821 a treaty with the Creeks reduced their holdings in Southwest Georgia to the area between the Flint and the Chattahoochee Rivers. It was fertile land and the hunting and fishing were good. It was a prime source of food for the Creeks. The white man coveted this land. There were trading posts and trails in it that he had opened. In 1825 the Marquis de Lafayette spent a night at a trading camp 40 miles west of the Flint and then went on to visit with Creek chieftains on the banks of the Chattahoochee.

In the Indian Springs treaty of 1825 the Creeks signed away 4.7 million acres in Georgia in exchange for a like amount of land west of the Mississippi River, plus money, and although the validity of the treaty was challenged, Gov. George Troup defied the federal government and went ahead and had the area surveyed.

There was a rush to settle the land, and in the rush came a Carter—James' younger brother, Jesse, who settled in Talbot County and prospered as a cotton planter.

This is what lured President-elect Carter's family to southwest Georgia: the removal of the Indians and Jesse's presence and success there. Around 1835, when he was a relatively old man, James, brother of Jesse, moved to Talbot County also. The 1850 census listed James as 77 years old, a farmer and the owner of eight slaves. Jesse owned 69.

James Carter was still alive when his son Wiley moved west, too, in 1851, leaving Warren County for good, leaving behind the lingering tales of his shoot-out with Usry, leaving his first wife Ann buried and bringing along his second wife Sarah.

A contemporary account tells what it was like in Sumter County when Wiley settled in the Quebec community. It says the flat land was very productive, with cotton the principal crop, followed by corn, wheat, rye and sugarcane. The climate was excessively hot, and while it couldn't be called unhealthy, sickness prevailed in several areas. Fevers and chills were the most common diseases. The inhabitants were intelligent, hospitable and frugal. Forests abounded with game, and hunting was among the chief amusements.

Wiley built a house on a site that is now in Schley County. The house, what is left of it, still stands today at the intersection of Georgia Highways 45 and 153. It is known as the Battle place because a family named Battle has owned it for over a century.

The house has been altered and is ramshackle and no one has lived in it for years. Alton Carter remembers that it formerly had two stories, and inside, the outline of a staircase shows against the hallway wall.

When James Carter died in 1858, he was at his son Wiley's plantation, maybe in that house. James Carter was buried in a $50 metallic coffin in a $5 coat, $5 pants, a $3 vest, a fine $1.50 shirt, 60-cent drawers, 25-cent hose, $1 gloves and $1.25 pumps. His land and slaves were sold in 1859. His 303 acres went for $1,200. His "negroes," as the county records term them, brought these amounts: Green, $1,106; Solomon, $1,261; Frank, $1,200; Titus, $900; Mary and Joe, mother and child, $1,225.

According to the 1860 census, Wiley Carter owned 600 acres of improved land, 1,600 acres of unimproved land, two horses, 11 mules, 10 head of cattle and 165 swine. When he died in 1864, he was buried a short way down the road from the house he'd built.

"Not very long ago the timber folks wanted to go in there and cut the timber on that land up there," Alton Carter said. "They began to investigate and they found the old deed where Wiley Carter deeded two and a half acres up there to be a cemetery eternal."

Alton Carter, with the help of some others, including Jimmy Carter, had the old family cemetery cleaned up in 1967 and the old tombstones placed back where it appeared that they ought to be. About six months ago when it began to look as if Jimmy might really become President, more work was done. Now there's a chainlink fence around the graves. A big sign out front says: "Carter Family Cemetery." Everybody in it died in the 1800s.

Littleberry Walker Carter, Wiley's son, born in 1832 while his parents were still living in Warren County, was a Confederate soldier in a celebrated unit known as the Sumter Flying Artillery. Its battle flag is in a glass case in the state capitol. It was organized by Capt. A. S. Cutts, who was in the mercantile business in Americus, the county seat, and who had been in the U.S. Army during the war against Mexico.

Cutts' unit was mustered into the Confederate army on July 6, 1861, in Richmond, Va., as Company A, 11th Battalion, Georgia Volunteers. In the spring of 1862 when Cutts was authorized to increase his command from a company to a battalion, Walker Carter and two of his brothers enlisted.

Cutts' artillery did not come home from Virginia until after the Civil War was over. It was in action at Boonsboro, The Wilderness, Spottsylvania Courthouse, Hanover Junction, Petersburg and elsewhere, but the three Carter brothers survived. Walker went through the war all the way as a private.

Walker Carter had lived with his in-laws in Warren County after marrying Mary Ann Diligent Seals in 1851, and had moved to Sumter County in 1860. He died comparatively young—at age 42—in 1874.

There is some confusion over how he died. His grandson Alton Carter, born in 1888, said he always heard that Walker Carter's wife died one day and he died the next, both of diphtheria. There is some evidence to support this, including records stating that they both died the same year.

One reason the facts are hard to pin down is that their graves were moved from the country to Americus years after they were buried. "One of my aunts and my mother went out there one time," Alton Carter said, "and some fellow had bought the place and had made a hog pen around there and had the graves inside the hog pen. My aunt liked to had a fit, her mother and father being buried out there. So they got the undertaker and had them moved." The new graves went unmarked for years, but Alton Carter finally found them and had them marked.

But there also is an intriguing story of how Walker Carter might have died that cropped up when another branch of the Carter family—not Jimmy's—was researching its past. A Schley County official, Charles D. Carter, wrote William J. Carter of Atlanta in 1942:

"Walker Carter was killed right after the Civil War in a drunken row with his partner over the proceeds of a flying jennie (sic) they owned and operated. His murderer was a brother-in-law of old marshal Lingo of Americus. George Lingo, a son of the old marshal, told me his murderer ran away and went to South America, never was caught."

A flying jenny is a simplified merry-go-round, usually homemade. The tendency is to discount this story of how Walker Carter died. Then this item turns up in the list of goods sold after his death: "1 flying machine." It brought $20.75 at the estate sale. Was the "flying machine" the flying jenny?

Walker Carter is the first of Jimmy Carter's ancestors probably known to have been associated with peanuts. The appraisal of his estate includes seven bushels of ground peas. Ground peas are peanuts.

Jimmy Carter's branch of the Carter family moved away from the Sumter-Schley area in the mid-1880s. Up to then, none of them had ever lived at Plains; it was not in any sense the ancestral home. Here is how the Carters got to Plains:

When William Archibald (Billy) Carter, son of Walker Carter, married Nina Pratt in 1885, they went to live at Arlington, which is in Calhoun County just north of the Early County line. Alton Carter was born there in 1888.

"My daddy finally went down in Early County and that's where he died," Alton Carter said. James Earl Carter, Alton's only brother and Jimmy's father, was born in

Early County in 1894. Their father, Billy, was a farmer and a sawmill man. "He had three sawmills when he died," Alton Carter said.

Billy Carter was shot to death in 1903. Alton, then 15, saw it happen.

"It was a dispute about a little desk," Alton said. "This fellow had a store rented from my daddy, and when he moved out, he took that desk with him. My daddy sent me after that desk, and I went to get it. But the fellow said, 'I done bought that desk.'

"I went back, and that night when daddy came in, I said, 'Will said he had bought that desk from you.' He said, 'I don't know nothing about it. I'll go over and see him.'

"They got to arguing and fussing, and then that fellow up and shot him. I wasn't more than 20 feet from him when he was shot. He shot him with a pistol. Hit him in the back of the head. That was 1903. They had a trial in court. They had three mistrials and last time they turned the fellow loose. The main thing about it is my daddy went over there in his place of business and that went against him."

The Early County Times of Sept. 3, 1903, reported: "Tuesday night at 7:30 at Rowena, in the eastern part of the county, Mr. W. A. Carter and Will Taliaferro became engaged in a difficulty in which both were seriously cut and Mr. Carter shot in the head. Up to 12 o'clock today Carter was barely alive." The next week's paper reported his death. Taliaferro later was tried on a manslaughter charge, but the jury could not agree on a verdict.

The Carters moved to Plains in 1904. "I brought my mother and three sisters and my brother to Plains," Alton Carter said. "My brother Earl, Jimmy's daddy, was 10 years old. We were nothing but children when my daddy died. I had an uncle, Calvin Carter, in Americus, and he would go down to Early County and help us out. He was administrator of my daddy's estate.

"Then he advised us to move away from down there and be up here in Plains close to him. He thought Plains was a better place to live anyhow. If we got into trouble, we could just go over to Americus and get in touch with him—which we did.

"My mother didn't have any business sense at all, and she turned it over to me. I was kind of head of the family from then on. I went to school the balance of 1904, and in 1905 I started working right here in this store." It is the store that is now a landmark of President-elect Carter's hometown, the antiques store run by Hugh Carter and his daddy, Alton, still working at age 88.

So from age 10 Earl Carter grew up in Plains. He was in the Army in World War I, coming out a lieutenant, and in 1923 he married Bessie Lillian Gordy of Richland, daughter of Jim Jack Gordy, who was then, at 60, still a fine-looking man, over 6 feet tall, weighing 190 pounds, with pale blue eyes, graying hair and a dashing moustache. He kept a moustache from early manhood through the rest of his life, though he trimmed it smaller and smaller as the years went by.

Jimmy Carter has said and written that he resigned from the Navy and came home to Plains in 1953 after his father died because he realized how meaningful Earl Carter's life had been and how important that kind of life could be. He was needed to take over the family business and farming interests, of course, but what drew him home were the family roots. A Navy career, even one as successful as he seemed headed for, meant rootlessness.

"You know folks that work hard as the devil all the time and just make a living," Alton Carter said, "and you see others that every time they move their hand they make money. That was the kind of man Earl was. When he died, he had a whole lot of money in the bank. He had 4,000 acres of land and every bit of it paid for. He was just a wizard, if you want to know the truth.

"Then another thing—he worked himself and everybody around him worked. He made Jimmy work."

Earl Carter was an insurance broker, a farmer, a fertilizer dealer, a Baptist, a Democrat and a member of the county board of education and was in his first term as a state legislator when he died. When he was dying, he tore up some of the bills that people owed him.

Peter Gordy, great-great-great-grandfather of Jimmy Carter, migrated from Maryland to Georgia sometime before 1803. He lived in Baldwin County. His son, Wilson Gordy, born in 1801, lived until 1890. Like some of the Carters, Wilson Gordy moved to southwest Georgia soon after it was opened up in the late 1820s, settling in a part of Muscogee County that later was taken into Chattahoochee County.

Family tradition has it that when Wilson Gordy left Baldwin County, he took all his worldly goods in a hogshead pulled by mules and he and his family sat on a seat built over the hogshead, and that is the way they got to southwest Georgia. A hogshead was a large cask with an axle and shafts; it was most commonly used for taking tobacco to market.

Peter Gordy, Wilson's father, moved to southwest Georgia also. The Gordys were farmers and Baptists. Wilson Gordy married Mary Scott, whose forebears were said to be Irish. This is believable, for somewhere in Jimmy Carter's makeup there had to be an Irish strain.

Wilson Gordy was 80 when his wife died. The next year he married again.

He had several sons by his first marriage, but the one who has to do with Jimmy Carter was James Thomas Gordy, born in 1828. When James Thomas Gordy was 36 years old and living in Chattahoochee County (the Gordys never moved around as much as the Carters) and already the father of four children, he joined the state militia and went off to fight for the Confederacy.

This was in 1864 and the Confederacy was almost beaten. The boys and the old men were going t' war. Jim Jack Gordy, Jimmy Carter's grandfather, was not even a year old when James Thomas Gordy joined up with Company B, 6th Georgia State Militia, in May 1864. He was assigned as wagonmaster.

Two months later, on July 22, 1864, the day of the Battle of Atlanta, Company B was at Conyers Station when Brig. Gen. Kenner Garrard of the Union forces attacked, acting on orders to put the Georgia Railroad out of commission between Lithonia and Covington. Garrard burned the depot at Conyers and took scores of prisoners, including some members of Company B—but not Pvt. Gordy.

James Thomas Gordy was a farmer, and he got to be tax collector before he died. The political bent was beginning to show. One of his sons, Dr. Francis Marion Gordy, a physician, was ordinary of Chattahoochee County for several terms and was elected to the Georgia Senate for the 1907-08 term and then moved to Columbus, where he was elected senator for the 1909-10 term. Then he moved back to Chattahoochee County and became ordinary again.

This was Jimmy Carter's greatuncle, Jim Jack Gordy's older brother.

"Daddy was a well-read person," Mrs. Emily Dolvin of Roswell, Jim Jack Gordy's youngest child, said. "He used to tell me to add one new word a day to my vocabulary. He always wanted us to read."

Mrs. Dolvin—"Sissy" to her family and "Aunt Sissy" on the campaign trail during the nine months she campaigned all over the United States this year for nephew Jimmy—recalled that her father was chairman of the board of education for a long time when they lived at Richland. He got Knox Walker, later superintendent of Fulton County schools, and Guy Wells, later president of Georgia State College for Women, their first jobs.

Jim Jack Gordy was friendly and outgoing. Like Lillian, Jimmy's mother? "I don't remember that he was quite *that* open," Mrs. Dolvin said—and she laughed. "What comes up comes out with Lilly."

Mrs. Dolvin talked about her mother, Jimmy Carter's grandmother, "She was a lovely person. She was the backbone of the family as to religion and things like that. She had family prayers at night. We always went to Sunday school and church with mama. She used to tell me about the First World War—knitting things and such as that. She died when she was 80, but she always had a very youthful outlook."

To express how she thinks the family feels about the fact that one of their own, Jimmy Carter of Plains, Ga., will become President of the United States on Jan. 20, 1977, Aunt Sissy tells about an incident on the evening of Jan. 13, 1971, the day he was inaugurated as governor of Georgia.

"We were riding in this limousine on our way to the reception I had charge of," she said. "Lilly had asked my husband to act as her escort, and I had a state trooper for mine. Well, we're not limousine people, you know, and here we were in this caravan of limousines, all this pomp, and Lilly turned to me and said, 'Sissy, what are we doing here?'

"That's what I think about when I think about Jimmy being President. This is the only place in the whole wide world this could have happened to a family like ours."

NOTE.—Some research assistance for this article was provided by Ken Thomas of Decatur and Columbus, a historical researcher and author of a genealogical report on the Carter and Gordy families in Georgia Life magazine, and Ronnie Ranew of Americus, a distant cousin of President-elect Jimmy Carter.

PHILIP A. HART

Mr. GRIFFIN. Mr President, late in September, shortly before the sine die adjournment of the 94th Congress, members of this body said an affectionate farewell to a dear friend and colleague, Philip A. Hart, who was about to retire after 18 years of distinguished service in the Senate.

At that time, Senator Hart as well as his colleagues in the Senate knew he did not have long to live. For most of his colleagues, that was the last opportunity they had to pay public tribute to this fine Senator.

But I had one more opportunity before he died on December 26, 1976. On December 10, which was Phil Hart's birthday, I traveled to the Sleeping Bear Dunes National Lakeshore in northern Michigan—a national park of incomparable beauty, for which Senator Hart worked so hard and wished to be remembered—and I was privileged to participate in the dedication of the visitors' center in his name.

I ask unanimous consent that remarks I delivered on that occasion be printed in the RECORD.

In addition, I ask unanimous consent that several editorial tributes to Senator Hart, published following his death, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY U.S. SENATOR ROBERT P. GRIFFIN AT THE DEDICATION OF THE PHILIP A. HART VISITORS' CENTER, SLEEPING BEAR DUNES NATIONAL LAKESHORE, DECEMBER 10, 1976

Commissioner Carl, Marty Martinek, your associates in the National Park Service, and

all the distinguished ladies and gentlemen here in this audience today:

If I may impose a bit upon your good nature and patience, I'd like to repeat some words I spoke in the Senate a little over a month ago, during the closing days of the last session of the Congress. I said:

"Mr. President. As we say our farewells this week to colleagues who are retiring from service in this body, I find there is none more difficult for me than to say farewell to my friend and my senior colleague, Senator Philip A. Hart.

"When I think of Phil Hart, words come to mind like gentleness, kindness, compassion, integrity, intelligence, dedication, humility, and above all, courage.

"Being of different political parties, Phil Hart and I, to be sure, have had our political and philosophical differences. But I can say that never have we had a personal difference.

"The relationship between us has been among the best of any pair of senators from any state. This has been a pleasant relationship for the two of us, and it has been a good relationship for the state of Michigan.

"Sometimes I have kidded Phil Hart about his only fault—being a Democrat. And how single-handedly he set back the cause of women's rights in Michigan by 12 years when he twice trounced able, well-qualified Republican women candidates who ran against him, in 1964 and 1970.

"But, of course, it was no accident that Michigan voters three times, by substantial margins, sent Phil Hart to the United States Senate.

"And in his tenure, he has left a lasting mark, both on the Senate and on the nation. His work, often done quietly and behind the scenes, has touched the lives of every American—whether in civil rights, consumerism, anti-trust, or the issues of war and peace. He has provided leadership that has well earned him his undisputed place as the 'conscience of the Senate.'

"As a mark of the esteem of his colleagues in this body," I continued, "the Senate has taken two actions in recent weeks to name buildings in his honor—one, a new Senate office building that is being built in Washington; and the other, even closer to his heart, the Visitors' Center Building at Sleeping Bear Dunes National Park in northern Michigan—for which he worked so tirelessly to make certain that future generations will enjoy the beauty of that area."

Later in the course of those remarks, I said: "Will Rogers once observed that heroes are made every little while. But only one in a million conducts himself afterwards so that it makes us proud that we honored him at the time.

"Phil Hart is such a hero. We are proud to know him and to have had the opportunity to honor him. Indeed, it is he who has honored us by his friendship and inspiration."

Well, I suspect that it would be altogether fitting and wise now to sit down. But needless to say, it would not be senatorial. So, I have some more thoughts that I would like to share with you on this occasion.

You know, one of the most wonderful features of that unique club known as the United States Senate—of which there are only 100 members—is that we have the opportunity, working closely together day after day, to get to know one another—we get to know one another very well over a period of years.

Close personal friendships are developed and, interestingly, those friendships often reach across the party aisle that divides us and bridge deep political differences.

It is interesting and may sometimes be surprising to those on the outside of the Senate that the senators who make the greatest impact on the institution itself and who command the most respect from their colleagues often are not the ones who make the most noise or get the most publicity. Often they are the quiet, behind-the-scenes senators who do their work without much media attention.

Senator Dick Russell of Georgia used to say: "There are two kinds of horses in the Senate—the show horses and the work horses. And if you want respect and real influence among your colleagues," he used to say, "be a work horse."

During the years of his service in the Senate, Phil Hart has been a work horse in the Senate. But he has been much more than that.

If Phil Hart were forced somehow to speak about his accomplishments—and it would be difficult to get him to do so—he would point to his family. And to be sure, his family has been a source of great satisfaction and strength to him through the years, and especially now.

Any tribute to Phil Hart, particularly in these days that are so difficult for the family, could not omit reference to them. A beautiful article the other day in the Washington Star noted that the Hart children have come home from around the country to be with their father at this time, and they take turns sitting at his bedside.

There is Mary, who is 20 and a major in theater at college; Laura, a pre-med student; Clyde, a painter; and Ann, a soprano voice student; Walter, a businessman in Seattle; Jimmy, an artist; Michael, another college student; and Cammie, a registered nurse.

One of the girls said the other day: "We've always been close. But now that Dad is so ill, we've been exhibiting it more."

As most everyone who knows the Hart family recognizes, Janey Hart is something else. Janey, Phil's wife, is an outstanding American in her own right. She learned to fly while she was still a teenager. Later she passed all the tests to qualify as an astronaut. "I'm the same age as John Glenn," she argued strenuously as she fought for the chance to go to the moon.

In 1970, she received a college degree in anthropology, earning it after her children were grown. She's a sailor who has sailed all over the western hemisphere, and has plans to sail around the world.

Phil glows with pride when he talks about Janey. "Color her vivid," he once told an interviewer. "There's nothing pastel about Janey."

So today we honor a remarkable senator who over the years has been supported by a remarkable family.

It might surprise some of you to learn that one of Phil Hart's closest friends in the United States Senate is Republican Bob Dole, regarded by many as conservative and whose name became a household word in this last Presidential campaign.

As an infantryman in World War II, Phil Hart was severely wounded by a mortar shell at Utah Beach on D-Day—a mortar shell that tore away a large section of his inner right arm.

During a long period of convalescence in an Army hospital, he met and became a very close friend of two future senators. They were in the same hospital ward because they, too, had severe arm wounds. Their names: Daniel Inouye of Hawaii, who lost an arm, and Bob Dole of Kansas, who has one arm that is all but useless.

People remember Phil Hart for simple things. Sid Woolner, his administrative assistant, was quoted as saying: "Senator Hart has always carried his own suitcase. He's always insisted on that. You couldn't carry his suitcase—but he would carry yours."

Several years ago, a Washington journalist wrote a book in which he described Phil Hart as a man who is widely regarded as the gentlest and kindest in the Senate. A Senate colleague, when asked by the author to read the galley proofs, sent them back to the author with this penciled note: "Don't say that Phil Hart is 'widely regarded' as the gentlest and kindest in the Senate. Just say he is."

Some might ask: how is it possible that Phil Hart could have been such a vigilant crusader on behalf of so many controversial issues and yet be held in such high esteem, with no enemies whatsoever?

Assuredly it is something more than just a soft voice or a merry Irish twinkle in his eye. Over and over again the answer comes back: in addition to competence, and so many other qualities of character, he is a man of humility. He has always been able to keep his own convictions from being crusted over with diehard or blowhard self-righteousness.

He said on one occasion: "You never really know even your own motives most of the time. Yet, many people are always assuming they know the motives of everyone else."

As Congressman Ruppe put it the other day, it is a great tribute to Phil Hart's honesty and humility that, despite sharp differences of opinion over his stands on specific issues of importance to our state, he remains very popular among all Michigan citizens as well as among his colleagues in the Congress.

Unfortunately, it is too rare these days that an individual in public office is popular for what he is, as well as what he stands for.

At one point not long ago, Governor Milliken indicated his desire and intention to set aside and proclaim this day, December 10, which is Phil Hart's birthday, as a special day throughout the state of Michigan. But, in typical Phil Hart fashion, he asked Bill Milliken not to do it.

Senator Hart asked that there be no elaborate ceremonies in his honor, making it clear that, as far as he is concerned, he would like to leave public office in the manner that he has served—quietly and without fanfare.

In a way, it could be said that by having this ceremony, we may be violating his personal wishes. And yet, I know that for him and for us, this is something very different and very special.

In a recent interview, after being reminded of his major and historic contributions in such fields as civil rights, consumerism and anti-trust, Phil Hart finally stopped the reporter and said that he wanted to be remembered for his efforts in connection with Pictured Rocks and Sleeping Bear Dunes National Lakeshore.

I suspect his feelings were summed up in these words, taken from a speech he gave last year concerning the heritage we now are shaping for the nation 200 years hence. He said, and I quote:

"Will we leave them great fields of metal and concrete, or the opportunity to sink their feet into the sandy beaches of Lake Michigan? The Sleeping Bear Dunes National Lakeshore, along with the nation's other parks and lakeshores, helps assure that some of our blessings will survive."

I'm very glad that you invited me, and that I could be here today for this simple ceremony—which is the way Phil Hart would want it.

I'm happy to join you in formally dedicating and naming this Visitors' Center in honor of a fine and a good man. It is a simple, and an appropriate, way to say to him: "Phil Hart, we are grateful; we will remember you—and we will miss you."

Thank you very much.

[From the Detroit Free Press, Dec. 28, 1976]

Hart's Vision and Courage Left Us All Much Richer

It is hard to say goodby to a legend.

And Sen. Philip Hart, a kind and gentle and wise man who tried to make life better for people, was certainly that.

Sen. Hart was a person who fought the good fights, who stood up for what he believed in: a decent chance for all people in

this country, whether that meant feeding the poor, knocking over racial barriers, or erasing the hatreds that grew from a woeful and undeclared war in Asia.

There are few people who are almost universally respected. Respect, after all, must be earned. But Philip Hart was such a person.

He seemed to do the right thing, to say the right thing, before most people had even thought about the subject, let alone come to a conclusion.

In 1957, long before the Peace Corps or VISTA, Mr. Hart, then lieutenant governor of Michigan, urged the state's Young Democrats to find solutions to "poverty in Asia and Africa and prejudice in America."

In 1958, six years before the creation of the Equal Employment Opportunity Commission, he wrote Vice-President Richard Nixon and requested that more facts be made available on the success or failure of eliminating racial discrimination in government-contracted jobs.

In 1959, his first year in the Senate—and more than a decade before financial disclosure legislation—he broke a state precedent and revealed the financial details of his office operations. That same year, he called for a system of federal election registrars to ensure voting rights for blacks in the South.

On through the years, example after example piled up. He was the man with the conscience. The man who fought for the rights of consumers. The man who stared the home state auto companies in the eye. The man who made others realize that politics, despite so much evidence to the contrary, sometimes could be the kind of noble endeavor envisioned by the pragmatic but philosophical politicians who wrote the Declaration of Independence and Constitution of this country.

Knowing all that about Philip Hart, it is doubly difficult to reconcile it with the profound despair he felt in his last months. Not despair for himself—Philip Hart, who worked in the Senate as long as he could despite the cancer growing inside him, would waste no time on that—but despair because more had not been accomplished, because the basic structures of the economy had remained mostly unchanged, because not everyone shared his vision of what a better America would be.

Perhaps no greater tribute could be paid to Mr. Hart than to say he was wrong in that despair.

His being on earth, his being in the Senate, made a difference. Anyone older than 35 in this country can look back to the year Phil Hart was elected to the Senate, and state categorically that things have gotten better. Not perfect—human nature itself precludes that—but better. There may still be racial discrimination, but it is not tolerated by law. There may still be consumer deception, but the doctrine of caveat emptor is no longer acceptable. There may still be those who will defend to the death the status quo, but there are others who, having known or known of Philip Hart, will never be so inclined.

The man was a legend. And now he is gone. And saying goodby is not easy at all.

[From the Detroit News, Dec. 28, 1976]

DEATH TAKES A SENATOR: PHIL HART—A GOOD AND HONEST POLITICIAN

When Philip Hart started out in politics, he told a reporter:

"I enjoy and thrill at it. I contemplate being in politics as long as the people want me. I want to make every minute count and leave a record that is worthwhile."

Although the thrill and the joy finally went out of it, he did indeed make every minute count and left a record—as a man, not merely as a politician—that will live in the history of the U.S. Senate.

To the very last, Sen. Hart's conduct in Congress reflected the idealism and dedication he carried with him when first he walked through the Senate doorway.

"Because of this idealism and the honest passion with which he held his views, we respected him even when disagreeing with him most vigorously.

Phil Hart was a liberal. Unlike some other liberals, he held his viewpoint because he believed in it, not because he thought it would win votes for him. His was not an easy, sleight-of-hand liberalism.

It took courage, for example, for a senator from the state of Michigan, the hub of the automobile industry, to advocate breaking up General Motors. No promiser of overnight solutions, he once observed:

"It is easier to solve technical problems than social problems. Ten years is enough time to build a spaceship, but is only a blink of an eye in the history of man's long ascent toward a just and humane society."

He never tried to con people into believing that they could eat their pie and have it, too. On the subject of savings in national defense spending, he once said:

"We can't have it both ways. We can't ask the Pentagon to operate efficiently and then say don't close any bases in my state."

Hart had another trait which distinguished him from bogus liberals—the spirit of tolerance for other points of view. One thing you learn in politics, he said, "is the need to avoid absolutism, especially the notion that your own conclusions must be correct, or whatever you finally decide should be done is what God would do if He were here."

Long after he knew he was dying of cancer that had spread through his lymph glands, Hart went daily to the Senate to tend to business. He had a compelling sense of duty and remained forever concerned about certain other personal values. Shortly before his death, he said in an interview:

"You worry about how you will handle the last bad days that are ahead. It isn't that you ask for a cure, but that either you will be spared long periods of pain or that you will handle it with some measure of decency and dignity."

As it turned out, he handled death as he had handled life—with a large measure of decency and dignity.

[From the Grand Rapids Press, Dec. 28, 1976]

PHILIP A. HART

One of the greatest burdens for Sen. Philip A. Hart to bear in the last year of his life may not have been the knowledge of his impending death from cancer, but rather the recent rush of personal tributes, dedications and testimonials carried out or proposed in honor of Michigan's senior senator.

The senator was not one to bask easily in the light of adulation, a trait that set him quite apart from the average politician.

Philip Hart was by no means a run-of-the-mill politician. With high political office seemingly assured nowadays mostly to those who can charm a television audience, appeal to the baser instincts of the public or hire the cleverest opinion-polling organization, Sen. Hart was elected and twice re-elected on the basis of personal integrity and a reputation for being fair, honest and wise no matter what the political consequences to himself.

There was never any doubt in Mr. Hart's mind as to his loyalties or responsibilities—the only thing that mattered in the world were human beings. He championed human causes on the Senate floor to the end.

It was no surprise to hear him say last year that he considered successful floor leadership of the civil rights acts of 1965 and 1963 as his greatest achievements. He was rightfully proud of his efforts to establish the Sleeping Bear National Lakeshore near Traverse City, and he had long been in the forefront of those advocating environmental and consumer causes and an end to poverty in America. Those are hardly concerns that stir a constituency, but probably the senator never thought about it.

Sen. Hart's civility and kindness were carried to such an extreme—if that is possible—that regardless of his position or commitment on an issue, he never failed to speak gently to an opponent or to question his motives.

Above all the senator never confused what he believed to be right with what he or his party might require for political advantage. Such behavior is called statesmanship, but that is a word that does not wear well when applied to Philip Hart; he was, simply, a man of principle.

An example: Consider the national campaign in 1972 when court-ordered school busing became a political rallying cry despite the fact that it was a constitutional matter largely removed from political remedy. Most Michigan officeholders, including civil rights advocates, could not join the anti-busing crusade quickly enough, often subverting professed ideology and rational analysis. Sen. Hart did not leap on that bandwagon. Four years later the issue mostly vanished from the state election scene, and Sen. Hart rests easily secure in the knowledge that he didn't contribute to, or profit from, the politically inspired hysteria.

Following the senator's death on Sunday few news stories or commentators failed to note that Mr. Hart was the "conscience of the U.S. Senate." He was that, of course, but he was known to be weary of the pomposity and phoniness that count for prestige in the national political arena. The frustrations of nearly 18 years were telling, physically, on the man even before his fatal cancer was diagnosed.

The conscience of the Senate was, too often, a very lonely person on Capitol Hill, and Philip Hart probably would wish that the honors his colleagues are lavishing over him now could someday be transformed into like concern for those in the nation who are unjustly treated, deprived or just plain unlucky.

[From the Washington Post, Dec. 28, 1976]

PHILIP ALOYSIUS HART

Sen. Philip Hart of Michigan believed that "no person is irreplaceable." But for many of his colleagues and admirers it will be a long time before anyone in the Senate matches his integrity, diligence and compassionate humanism. It may also be a long time before a full assessment can be made of his 18 years in the Senate, so diverse were his interests and so far-reaching his legislative achievements. He was involved in nearly every major legislative effort affecting civil rights, consumers and antitrust policy. His political philosophy of practical liberalism prompted him, as a holder of power himself, to examine doggedly whether other powerful forces in American life were accountable to the citizens as they should be. His work on such issues as amnesty, pesticide control, lead poisoning, no-fault insurance, decriminalization of marijuana, freedom of information, and divestiture by oil and auto companies was directed toward that end.

Along the way, Sen. Hart had special qualities of grace and modesty that enabled his gentle ways to become an effective way. He cared nothing for politics by press release, saying of the Senate: "There's a terrible tendency here to think that everything we do and say, or omit to do, is of world consequence. But you know full well that you can go across the street and the bus driver couldn't care less."

That was not a put-down of politics. In fact, Sen. Hart was a spirited defender of his profession. The occasional crimes and failures in high places are rare, he insisted, when placed against the constant lures and temptations that are resisted every day. That he was so faithful a resister himself was one reason many in the Senate came to value him as a moral force as well as a political force. As for setting his own standards, he told an interviewer last year: "I remember the expression that the politician is the lay-priest of society. The corporal works of mercy are part of the business of how the government runs. A solid case can be made that whatever the venality that attaches to the profession, politics is still a high vocation. . . . I have regarded it as an opportunity to make a more humane life for everybody."

Without intending it, Sen. Hart became a study in what was almost anti-politics. He regularly attacked his state's largest employer, the auto industry, for its safety lapses and monopolistic practices. From a hunting state, he called for strong gun controls. He continued to support busing, no matter how hot the issue became in Michigan. These were risky positions, but Sen. Hart adhered to them because he perceived that the voters had put him in the Senate to be something more than an errand boy.

The perceptions were well placed. His two re-elections were, as is said, handily won. He could have gone for a fourth term but declined, even before he knew that he was suffering from cancer. Let the guard change, he said. That was characteristic not only of his modesty but also of his confidence—a conviction that the fights for justice and compassion were continuing struggles and that others would surely follow who would give as much as he had. Others will come along, of course. And they will have few models—for professional politics and personal character—more deserving of study than Philip Hart.

[From the Washington Post, Dec. 29, 1976]

PHILIP HART'S FAITH AND TRUST

(By Colman McCarthy)

In late September, in what were to be his last public words, Philip Hart spoke simply before a gathering of the Michigan delegation to Congress: "I close as I began, by thanking all of you for trusting me."

That he was thanking others was characteristic. Yet the debt was clearly and directly the other way. How many owed something to Hart when he died Sunday can't be known, but it can be said that because of the moral substance of his positions and the depth of his character, it was no accident that he was the trusted man of American politics. He fronted for no one. His alliances were to timeless ideals, not upstart lobbies. As though he were the wildest of gamblers, he bet that the common vanities of hack politics—images, smiles, calls for brighter days—counted for little. Instead, he wagered that conscience and persistence could matter.

Hart's 18 years in the Senate can be understood, on one level, by examining the positions he took and the causes he backed. He used his political power to help ease the suffering of society's victims, from inner-city children damaged by lead fumes to farmworkers poisoned by pesticides. He sought to reduce the might of corporations and increase their accountability, beginning with the automakers in Michigan who might have expected some coziness from him.

Others in Congress have groped through the darkness with similar lights, yet they have not come close to enjoying the trust that people gave Philip Hart. The difference had less to do with positions or votes than with voice. Hart spoke, whether in private conversation or public debate, as one who cared little for the spectacle of politics but everything for its potential to elevate policy to the heightened level where people live. Because of that, trusting him required no large heap of faith. Instead, the faith was but a step away, no more than a natural movement from doubt to believability.

Hart made mistakes but the public learned of them from him, not the newspapers. In November 1975, he attended hearings at which abuses by the FBI were detailed. Hart said that prior to those hearings he had "been told for years by, among others, members of my own family that this is what the Bureau has been doing all this time. As a result of my superior wisdom and high office, I assured them that they were on pot—it just wasn't true. They (the FBI) just wouldn't do it . . . I am glad I got back in time to be persuaded of what my own family had not been able to persuade me of for so long."

That Hart could be sufficiently detached to see his own lapses was one of the reasons for his closeness to Eugene McCarthy. "Gene had an ability to stand back and look at us, including himself," Hart recalled in an interview earlier this year. "In the Senate, where you're busy all the time and tend to think this is where all the action is, amid all the puffery that goes on around here, Gene could periodically sit in the gallery and look at himself and the rest of us, and put it in perspective."

Although Hart understood that "no one gets into elective politics who doesn't have some ego to be fed, and that includes me," he consistently defended politics as "a high vocation." He told the September gathering of his Michigan colleagues, "There are people who fill books describing or vaguely suggesting the evils that occur in these halls. If they could listen to the conversations I've listened to since 1958, if it were evil they were curious about they would have long since left. In my book, politicians maintain a higher level of integrity than most other categories. The temptations are great but helpfully the discipline of the press and others is equally great and even if you would like to pick up an extra $500 million you wouldn't like to read about it. Most people say thank you, but 'no.' I hope that younger people understand that politics is a very dangerous business. But what effective weapon isn't?"

Much of Hart's committee work involved issues that touched people's lives in the neighborhoods and shops, and showed how these people were often victimized by the government's value system. Some of these values, he told a reporter visiting his office, have helped create "the myth that you increase your (national) security by increasing your armaments. I don't know how many billions we've spent for weapons since I've been here but it's at least a trillion dollars . . . And the whole world is doing it, and we're peddling arms to the poor nations. Every dollar spent that way is a dollar deprived the poor, health systems, educational systems. Last year, the world spent—I think it was $240 billion—for its 'security.' If we had taken 10 per cent of that—$24 billion—and put it into technology to increase agricultural productivity so the world could better feed itself, a person could argue we would have contributed more toward security than we got from that $24 billion spent on weapons."

Philip Hart was neither a scholar nor an orator, and he had little taste for writing. In crowds, he was easily overlooked. He was no shouter, and refused to bombard newsrooms with press releases merely to get coverage of his hearings. If any issue was crucial, the pack would be forced to show up sooner or later, while the prescient reporters would have been on hand all along. News coverage ranked lower to him than news analysis: the painstaking laying-out of the connections among economic forces, legislative reforms and what all the confusion meant in the lives of citizens. He valued editors and writers who shared his conviction that citizenship didn't have to be a synonym for bewilderment.

By maintaining fidelity to one wife, one church and one party throughout his adult life, Hart lived, one might say, as a conformist. But the ideas he conformed to—that laws mattered, that public exposure of evil would reduce victimization of the innocent, that inner rage was compatible with outer gentleness—were less the values of the herd than his own standards of singular excellence.

The last weeks of Philip Hart's life were an agony of cancer's pain. He had known death was coming, had quietly spoken of it and had called a priest to his bedside to make peace with the God with whom he had seldom quarreled. His death on Sunday, in his home on Calvert Street with his wife and children offering mercies, came several days after consciousness had become but a flicker. His body, small to begin with, had given out. The visitors to his sickbed could only trust that their dying friend—beyond words but not yet beyond life—knew they were there to offer final testaments of love. It was fitting that they should have this faith at that time, trust having so often passed between Sen. Hart and his community of family and friends.

S. 146, SOCIAL SECURITY EARNINGS LIMITATION BILL

Mr. PELL. Mr. President, I am pleased to cosponsor Senator Goldwater's thoughtful and important bill, S. 146, to repeal the earnings limitation of the Social Security Act for all workers age 65 and over. The earnings limitation is an idea whose time has come and long gone, but which still remains with us, as an unfair and impractical part of the social security system.

The earnings limitation triggers once an individual between the age of 65 and 72 earns more than $3,000 per year, and removes $1 from their benefit check for every $2 they earn over that amount. Approximately 1,400,000 persons lose all or part of their retirement checks because they have a working income over the $3,000 level, and another 400,000 seniors will decide not to work, or will work only part time, to stay below that $3,000 mark. Both in pinciple and in practice, this is unfair and unwise; it weakens our economy, rather than strengthens it.

There are four main reasons why I believe we should remove this earnings limitation.

First, it discriminates against the low-income elderly person, because it removes income from those whose annual incomes are closest to the poverty level.

Second, it discriminates against wage earners, because it only applies to wages, and not to income from investments, rents, pensions, or dividends.

Third, by providing a disincentive to work, it forces people into retirement, rather than letting retirement be a matter of free choice. We seem to be actually encouraging the depression which can accompany forced retirement.

Finally, we take skilled workers and arbitrarily remove them from our production-oriented economy.

I believe that the sooner this inequitable burden is lifted from the older worker, the sooner we will have a more rational and humane working experience

for hundreds of thousands of senior citizens.

ENERGY PROBLEMS FACING FARMERS OVER NEW MEXICO

Mr. DOMENICI. Mr. President, there are so many important issues connected with the rising cost of energy and so many difficult problems created thereby that we tend to overlook some of the lesser known aspects of the energy dilemma. American agriculture has been affected as adversely as any other segment of our economy by rapidly escalating energy costs, yet we hear far less about those problems and their consequences than we hear about other problem areas.

Agriculture is vastly important to this Nation and indeed to the entire world, not just for the food and fiber but because it is one of the cornerstones of a free society.

For these reasons, Mr. President, I want to call to the attention of my colleagues an informative article in the December issue of New Mexico Business magazine by Dr. Neil Patrick, an assistant professor of farm management and production at New Mexico State University.

Dr. Patrick testified before the New Mexico Legislative Energy Committee in October and it is principally his testimony which is contained in the article from New Mexico Business.

New Mexico and New Mexicans depend heavily on agri-industry as a source of income and as a way of life. We can not, we must not, let our farms and ranches drift to oblivion for failure to help to meet the rising cost of energy. Of all the vast multitude of massive national problems we must deal with in the 95th Congress, this has to be one at the very top of the list. Accordingly, I commend this article to the serious consideration of my colleagues.

I ask unanimous consent that the full text of Dr. Patrick's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ENERGY PROBLEMS FACING FARMERS OF NEW MEXICO

(By Neil Patrick)

INTRODUCTION

The New Mexico Rural Development Committee is an organization comprised of U.S.D.A. Agencies and New Mexico State Government represented by the State Planning Office. Chairman of the State Rural Development Committee is Don Purcell, Farmers Home Administration. Other U.S.D.A. members include: Cooperative Extension Service, Soil Conservation Service, U.S. Forest Service, Agriculture Stabilization and Conservation Service, Rural Electrification Administration, Agricultural Research Service and the New Mexico Experiment Station.

Principal objectives of the Rural Development Committee are twofold: 1) to do its utmost to see that U.S.D.A. programs, resources, and authorities are made available to rural residents and; 2) to represent the interest of farmers, ranchers, and rural New Mexicans in matters that concern their economic well-being.

In September 1975, the State Rural Development Committee organized an Agri-Energy Subcommittee as a means of prioritizing agriculture's energy needs in New Mexico. Dr. Neil Patrick, New Mexico State University, and John Winnett, Rural Electrification Administration, are co-chairmen of the Subcommittee.

Since its inception, the Subcommittee has communicated with the Governor's Science Advisor and characterized the problem. It has also met with officials of New Mexico Public Service Company, Southern Union and El Paso Natural Gas Companies and the New Mexico L.P. Gas Commission to analyze the extent of problems that will confront agriculture producers in the state. Subsequently, the Subcommittee met with the New Mexico Energy Resource Board in Santa Fe to review the matter in depth. Dr. Patrick testified before the New Mexico Legislative Energy Committee in October to properly identify the dimension of Agri-Energy in our state so that the New Mexico Legislature which convenes in January, 1977 would have information available as the basis for required remedial legislation.

TEXT OF TESTIMONY

Mr. Chairman, Ladies and Gentlemen: I thank you for giving me the opportunity to speak of my concerns regarding energy and agriculture. I intend to give a short presentation, but if the committee desires, at some later time, I would be glad to work with you to develop solutions to this problem.

I'm an economist who does not intend to give you a lot of statistics today for two reasons. First of all, the research to develop these statistics was just begun in September. At current funding levels the project will continue for two or three years, although I'd like to see it move a little faster. The second reason is that I would rather speak to you regarding some important concepts about the problem rather than give you a lot of numbers.

Now in looking at the effects of energy price increases and quantity curtailments in New Mexico, I feel that we have to look at three major sectors of our economy—the household sector, the industrial sector and the agricultural sector. I'd like to take a brief look at each of these to examine some of the economic differences and how these differences impact upon the energy question. First, the households. In the United States we are so accustomed to comfort that generally we will pay whatever is required to keep our homes heated and cooled, at least in the short run. We will continue to use our electric appliances, at least those we consider to be absolutely necessary, like electric shavers and mixers, and we will continue to prepare and cook our food as we have in the past. We'll gripe about the energy price increases, and we'll talk a lot about it, but we'll continue to pay whatever it takes to live the way that we're accustomed. Actually, in New Mexico we're probably in an enviable position because of our climate. It takes less energy in this state to heat and cool our houses than it does in a lot of other parts of the United States.

Turning to industry. In general, industry tends to use similar technology regardless of its location—the same type of machines, same types of processes, and so on. For example, a plant that manufactures nitrogen fertilizer, will use essentially the same technologies in New Mexico as it does anywhere else. This is generally true of all types of industry. Therefore, the energy requirements per unit of output, are very similar regardless of where the plant is located. In fact, New Mexico may have some advantages due to its climate which requires less energy for heating and cooling the plants, keeping their workers comfortable. Industry across the country is also in an economic position to pass most, if not all, of its cost increasees on to the public in the form of higher prices. If energy price increases cause industrial prices to go up in New Mexico, the same kinds of prices are apt to occur wherever similar kinds of industry are located. These price increases will be passed on to the consumer.

In discussion of agriculture, I'd like to concentrate on production agriculture on the farm or on the ranch. Processing of agriculture products has been included with industry. Agriculture is characterized by many producers, each such a small proportion of the market, even within a local community, that each individual cannot exert any effect on the market. He's a price taker. He must take whatever price he can get. If a farmer's costs increase, he can't pass this increase on to the consumer, as industry can; he must absorb this extra cost. If this extra cost gets to the point where it wipes out all his profits, he's in financial trouble. New Mexico farmers and ranchers produce products valued at about $750 million a year. About 70 percent of this value is cattle, most of it produced on range land. About 90 percent of the crops produced in this state come from irrigated land. About 65 percent of the water used for irrigation in New Mexico is pumped, some from wells as deep or deeper than 500 feet. Certain areas in New Mexico produce large quantities of crops on land entirely supplied with water from wells, i.e., East-Central New Mexico, South-East New Mexico, South-West New Mexico and other scattered areas. These sections of the state depend on water pumped from wells for the water for their crops and their livelihood.

Although it is unusual, some of these farmers are paying as much as $50 per acre foot to pump water. The average in these areas I just mentioned, is probably in the range of $10 to $12 per acre foot. These farmers raising grain sorghum, wheat, cotton and other agricultural products are competing in the market with farmers in Kansas, Nebraska, Iowa, Illinois, South Dakota and so on, who receive their water from the sky, in the form of rainfall. In other words, they don't have to bear this cost of pumping water from the ground. Because New Mexico's total agriculture production is a fairly small percentage of the total of the United States, commodity prices will not increase very much, even though energy prices go up.

Since pumping water is a major cost in many areas of agriculture production in New Mexico, how much can energy prices increase before our New Mexico farmers cannot afford to pump water? A preliminary study that I conducted about a month ago, using very general, very aggregated data, shows that an increase of about 80 to 100 percent—approximately a doubling of energy prices—will cause farmers in these particular areas, to begin to shift from irrigated to dryland crops. In other words, a doubling of energy prices gets them to the point where dryland crops become more profitable per acre than irrigated crops. As a general rule, we can say yields of dryland crops are about a fourth of irrigated crop yields in these areas. As yields are reduced, profits are reduced also. We estimate that dryland farming provides about a third of the profits per acre as does irrigated farming. This means fewer farmers can make a living from the farm in these particular areas. In fact, if we take this a step further, two out of three farmers in these areas, will no longer be able to support themselves on the land.

Where do they go? What do they do? What happens to the rural communities that depend on these farmers for their livelihoods? What happens to the grocery stores, to the hardware stores? Have we thought about some alternative employment possibilities in these areas? Are there legislative programs that might ease the shock that's apt to take place? We all know that energy price increases are inevitable and are imminent; in fact, we're seeing them already. In my opinion, the time to be concerned is now,

while we have the time to act before the crisis really hits these areas.

APPENDIX

The following statistical information relates to the overall Agri-Energy situation in New Mexico:

*1700–1800 farmers pump about 50 percent of water pumped in New Mexico with natural gas.

*5,000,000 MCF of natural gas is used for pumping water.

*Annual cost of natural gas in New Mexico averaged about 60¢/MCF in 1975 and about 90¢/MCF in 1976. By area, the price of natural gas varied from 30¢/MCF to $1.50/MCF.

*1.3 million acres of irrigated land in New Mexico.

*$190,000,000 worth of crops produced from irrigated land in 1975.

*The cost of conversion of pumps from natural gas to electricity and diesel varies, depending on well depth and capacity, between an estimated $2,000 and $5,000.

*Comparative costs of pumping water: electricity 1½ times natural gas; and diesel 2 times natural gas. These costs are approximated for 1975, and vary by area.

NOTICE OF RESPONSIBILITY TO FILE FINANCIAL DISCLOSURE AND OUTSIDE EMPLOYMENT REPORTS

Mr. CANNON. Mr. President, the Select Committee on Standards and Conduct has just sent to each Senator and to each employee who was on the payroll at yearend printed instructions, forms, and envelopes for making reports of financial disclosure and outside employment. These reports are required by Senate rules 42 and 44.

The printed instructions that have been sent out state clearly who must file, and when and where to file.

The committee, through its staff at telephone 42981, is available to assist and counsel Senators and employees in understanding their responsibilities for filing. Additional copies of the printed forms may be obtained from the committee.

COSPONSORSHIP OF S. 21—OSHA AMENDMENT

Mr. GRIFFIN. Mr. President, again this year, I am cosponsoring legislation to amend the Occupational Safety and Health Act of 1970—OSHA—to provide consultation and education services, particularly for small business. The bill is S. 21, introduced by Senator DOMINICI.

In the 94th Congress, I cosponsored similar legislation because of the need for explanation and understanding of the confusing, complex, and highly technical OSHA requirements. S. 21, now before the Senate, would be especially helpful to those small businesses which are unable to hire private consultants for advice on the applicability of OSHA standards to their work places. Such a measure passed the House last year but, unfortunately, did not pass the Senate.

The need for consultation services, however, remains an important legislative item for this session. Presently, consultation services cannot be provided by the Department of Labor without also triggering the enforcement provisions of OSHA, because OSHA prohibits Federal on site consultative visits except as a part of an enforcement proceeding. It, thus, discourages employers from seeking advice from OSHA officials.

The thrust of this bill is to encourage the small business employers and operators of hazardous work places to seek advice on safety requirements necessary in order to comply with OSHA standards without fear of inviting OSHA penalties. Of course, in cases of imminent dangers discovered during a consultative visit, this information would be transmitted to enforcement authorities to protect the workers.

On the whole this measure should result in more informed employers and thus improve compliance to OSHA standards. It would also provide access to information not available to employers in 22 States and territories.

Most importantly, it is a step toward fulfilling the purpose of OSHA, which is to provide the safest possible place for the 65 million employees covered by this act.

ENERGY SUBCOMMITTEE HEARINGS: "THE AGENDA WITH OPEC"

Mr. KENNEDY. Mr. President, last week the Subcommittee on Energy of the Joint Economic Committee held 2 days of public hearings on the subject, "Energy Independence or Interdependence: The Agenda with OPEC." In the aftermath of the mid-December meeting in Qatar of the oil ministers of the Organization of Petroleum Exporting Countries, the international oil market has been adjusting to the two-tiered pricing system adopted by the cartel. Commencing on January 1, 1977, Saudi Arabia and the United Arab Emirates have been selling their crude oil for about 5 percent less than the other 11 members of the cartel. Saudi Arabia has also announced its intention of increasing its daily production level to about 9.8 million barrels per day by March, with a further increase to about 11.8 MBPD by the end of 1977.

This unexpected action by Saudi Arabia has brought into full public view the economic and political differences within the cartel and, in my view, it has opened up new opportunities for the United States to pursue the vital objective of assured sources of imported oil at more reasonable prices. The situation also provides us with an exceptional opportunity to examine the level of competitive behavior that actually exists in the acquisition of oil from the cartel by U.S. multinational oil companies. Will the companies aggressively seek to purchase the less expensive Saudi and UAE crude? Or, alternatively, will they be content to continue lifting quantities of the higher-priced oil out of fear of jeopardizing their access to oil in the other OPEC nations? We have been told repeatedly that oil companies are not propping up the cartel through informal prorationing agreements. The two-tiered OPEC pricing system has now given us a concrete situation to test this proposition.

The witnesses at the Energy Subcommittee hearing presented a number of viewpoints and opinions in analyzing this complex subject. Those who testified on January 12 included:

Theodore H. Moran, professor, Johns Hopkins School of Advanced International Studies, Washington, D.C.;

Morris A. Adelman, professor, Massachusetts Institute of Technology, Cambridge, Mass.;

John H. Lichtblau, executive director, Petroleum Industry Research Foundation, Inc., New York, N.Y.; and

A. J. Meyer, professor, Harvard University, Cambridge, Mass.

Because the question of U.S. policy toward OPEC is certain to be a major concern of the 95th Congress and the incoming Carter-Mondale administration, I ask unanimous consent that the prepared testimony before the Energy Subcommittee on January 12 be printed in the RECORD, for the assistance of Senators and staff.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

[From the Petroleum Industry Research Foundation, Inc., New York, N.Y., Jan. 12, 1977]

THE OPEC PRICE INCREASE

(By John H. Lichtblau)

It is still too early to assess all the consequences of the decisions taken by the OPEC members at their Ministerial meeting in Doha last month. To some extent the decisions may be considered beneficial to the U.S. and other importing nations. Certainly, Saudi Arabia's removal of all production restrictions is welcome news, for the possibility that the country might not raise its imposed 8.5 million b/d ceiling in response to higher future demand for its crude had given rise to fears of a possible shortage of OPEC oil, perhaps as early as the middle of this year.

The other major decision, the establishment of a two-tier price system, is good for the consuming countries relative to the most likely alternative course of action, a 10% increase for all OPEC members. As it is, we estimate the new price system will mean a weighted average increase in the first half of 1977 for all OPEC crude of nearly 8% on the basis of current output shares, and 7.5% if Saudi production rises to 10.5 million b/d. In the second half of the year, the price increase could go to 11.0–11.5% if the 11 other members go through with their announced additional 5% increase while Saudi Arabia and the United Arab Emirates (U.A.E.) remain at 5%. Since none of these price increases were the result of market forces but were all decreed by government edict, the question may be asked: are any of them reasonable, from OPEC's point of view as well as that of the consuming countries?

One answer frequently voiced in consuming countries is that after the 350–400% increase in OPEC oil prices in 1973/74 an extended pause before any further increase is eminently reasonable even if it means an erosion, in real terms, of the price levels achieved earlier. There is clearly much merit in this argument, particularly if one considers the significant impact which the earlier oil price increases had on the recession of 1974/75, the longest and deepest in the post-war period.

But I believe the argument lacks political realism. Between 1971 and 1974 OPEC had won a bloodless revolution of major historic proportions, taking control over the production of nearly 70% of one of the free world's most important resources and transferring hundreds of billions of dollars from the industrial nations to a group of developing nations. Having succeeded in this beyond expectations, OPEC is unlikely to stand by quietly now and watch its victory shrink away through a steady erosion of the purchasing power of its exported oil.

Thus, instead of the various pleadings and

exhortations by the leaders of the consuming countries prior to the Doha meeting for a moderate price increase, no increase at all, or an increase no higher than a certain percentage, a possible alternate approach might have been for the consuming countries, perhaps working through the International Energy Agency or OECD, to calculate the real loss in the purchasing power of a barrel of oil in world trade since the last OPEC price increase and then attempt to negotiate an increase of approximately that magnitude with OPEC. This would of course be a form of indexation with all the problems inherent in such a system. But if the consuming countries have a direct influence in the construction of the index it might be worth experimenting with.

It certainly would have given us a better result at Doha than the combined OPEC increase. Even the lowest of the various increases, Saudi Arabia's and the U.A.E.'s 5%, was slightly higher than OPEC's real loss in purchasing power since the last oil price increase in October 1975. It is to Sheik Yamani's great credit that he publicly recognized this fact and thus was the first OPEC leader to break with the organization's party line which says increases of 15% to 25% would barely offset the inflation in OPEC's import prices.

Thus, an increase of about 5% for 1977 can be called reasonable by our definition. It would not present a major financial burden for most of the world's importers. If all OPEC producers had adopted it, its annual cost would have been about $6 billion. On a global scale this is a relatively negligible amount, equal to about 0.6% of this year's likely trillion-dollar world import trade. Furthermore, it follows 15 months of virtual price stability in OPEC oil. By most standards of measurement a 5% price increase could therefore be considered quite tolerable for all but the Less Developed Countries who represent really a special problem requiring special measures.

But of course for the moment a 5% overall price increase for 1977 is just wishful thinking. As we know, unless something is done we will be saddled with a 15% price increase by next July for the 11 OPEC members accounting for 60–65% of total OPEC production. This increase may not be tolerable. What can we do about it? Perhaps nothing. But I would like to suggest two general approaches that may be helpful.

(1) We must stop planning and hoping for OPEC's downfall, since it is counterproductive to an atmosphere of cooperative coexistence with OPEC on whose oil we will have to depend significantly for the next 12–15 years, even with our efforts at conservation and new energy source development; and (2) we and the other consuming nations must use our collective leverage, which is considerable, to start a direct and specific dialogue with OPEC, and only with OPEC, on the one area of direct specific common concern—the price and production of oil. As you know, the North-South dialogue in Paris was initially meant to do just that. It became a fiasco because it turned into a laundry list of problems and grievances between the industrial nations and the less developed ones, completely overshadowing the initial purpose.

I think we can make clear to OPEC that what is now happening in world oil price formation is the exact mirror image of their historic complaint prior to 1973, namely that prices were determined in and by the consumer nations without any regard for the interests of the producer nations. Now it is just the other way around and it is just as untenable. When OPEC meets to set prices no one speaks for the consumer and since free market signals have been banished by the cartel, the decisions are arbitrary from the consumers' point of view.

True, we have been fortunate so far in that Saudi Arabia, OPEC's most important member, has been a very effective moderating force at all OPEC price setting sessions since December 1973. This has saved the consuming countries many billions of dollars. But Saudi Arabia's economic and political interests and orientations are quite different from those of the major consuming countries. We should therefore not assume that Saudi Arabia will always use its influence on the side of the consumers. At the Doha meeting Saudi Arabia's official reason for not going along with the 10% increase contained the implication that if certain political expectations were not met its price posture might change. Sheik Yamani could have employed the same rationale to announce a high price increase now with a promise for a later reduction if the expectations are met.

The consuming countries must therefore try to find some forum where they can directly debate, discuss or negotiate the price of oil with OPEC. The new uncertainty over Saudi Arabia's future role in OPEC and the scheduled further price increase on July 1 make this a matter of real urgency.

Now, I would like to briefly examine how OPEC might fare under the new price system. The impact will be quite uneven. The additional revenue generated from the higher prices will accrue primarily to the two countries which least want or need it, Saudi Arabia and the U.A.E., because the increase in their combined production will more than offset their lesser price increases. It is not known yet how much Saudi production will actually be raised as a result of the removal of the 8.5 million b/d annual ceiling on Aramco production. But it appears that a sustained production level of about 10.5–11.0 million b/d is technically achievable in the first half of 1977. This would be 1.5–2.0 million b/d above actual production during the 4th quarter of 1976. In the U.A.E. production may be increased by about 250,000 b/d to 2.2 million b/d in the first half of 1977. Thus, under our assumptions the two countries will increase their combined output by about 15%–20% above the high levels realized in the fourth quarter of 1976.

Meanwhile, total OPEC production in the first half may decline by about 1.5–2.0 million b/d from the fourth quarter 1976 level. The decline will be largely concentrated in the first quarter and will be due primarily to the worldwide inventory accumulation of OPEC crude in the last quarter of 1976 which is now being reversed. Thus, under our assumed level of Saudi and U.A.E. production increases, which are by no means certain at this moment, the 11 other countries would have to absorb both the entire decline in the total demand for OPEC oil and the increase in the output of the two others. The result would be that the entire additional revenue generated by the OPEC price increases, about $5 billion in the first half, would go to the two countries with the lower increases.

Among the 11 others, those principally negatively affected would be Iran, Iraq and Kuwait since their oil is most similar in quality to Saudi Arabia's and, unlike some crudes of other OPEC countries, all of their crudes were increased by 10% or more.

Thus, for the next 2 or 3 months the oil revenues of these three countries will decline substantially if their price relationship to the new Saudi Arabian prices remains unchanged. Venezuela will also be somewhat hurt because more Saudi Arabian crude and products made from it will come to the Caribbean and the U.S. East Coast. In the second quarter the situation is likely to improve somewhat for these countries because of an expected increase in world demand for OPEC oil. However, they could still earn less than if they had not raised their prices at all and Saudi Arabia had maintained its output ceiling.

If the 11 countries go through with the announced additional 5% increase on July 1, their situation will improve, since they will not lose much more business to Saudi Arabia and the U.A.E. at the higher price differential than at the lower one. This consideration might in fact strengthen their determination to move to the higher level if the two other countries maintain their current prices.

Such a scenario is of course only speculative as of now. It is equally possible that by next July the two sides will have come together again and will have established a uniform base price for all members. There are pressures on both sides to move towards a compromise. Iran, Iraq and Kuwait know that a price reduction towards the Saudi level in return for reinstatement of a lower Saudi Arabian production level will net them significantly more revenue than the present system. On the Saudi Arabian side there have been the repeated public and private complaints that the 8.5 million b/d ceiling was much too high in terms of the domestically investable revenue it generated, and that the country's interests would be better served if any oil volume which had to be converted into foreign investments, over which the country has no ultimate control, stayed in the ground. The removal of the output ceiling will of course greatly exacerbate this problem.

But even if the split continues I do not think it will mean the end of OPEC's effectiveness, if we mean by that its power to set and enforce prices. For one thing, Saudi Arabia continues to provide a floor for all OPEC prices which is 4–5% higher than last year's floor. Secondly, Saudi Arabia's productive capacity is limited in the short run. Theoretically it is 12 million b/d, but a sustained production level above 11–11.5 million b/d is unlikely to be achieved this year. Thus, the two countries together cannot supply more than about 13.5–14 million b/d maximum. Since world demand for OPEC oil (including internal demand) for the last 9 months of 1977 will be 31–32 million b/d, the 11 other members, if they can absorb the shock of the first quarter reduction, will have an assured outlet of about 18 million b/d for the rest of the year, 9% less than in 1976 but at 10–15% higher prices.

In the short term, the most the consuming countries can therefore hope to gain from the OPEC price split is an eventual official or unofficial reduction of the prices of the 11 countries towards the new Saudi level. This would be significant. But it would hardly herald the end of OPEC's price setting power.

I would like to end my statement with a brief comment about the international oil companies and OPEC prices. The decisions at Doha have made it clear, if further evidence was needed, that the companies' influence on OPEC prices is non-existent. They would hardly have come up with the price structure adopted there.

While the two-tier system lasts, those companies with access to Saudi and U.A.E. oil—that includes not only the companies with concessions in those countries but also those which buy from them or from the two countries' government companies—may derive some relative downstream advantage (but no increase in crude oil profit margins) from the lower cost oil. Those without access to this oil will of course be at a corresponding disadvantage. Inventory profits are likely to be quite limited, particularly for those who stored additional volumes of Saudi Arabian crude, since the inventory appreciation is largely offset by the cost of storage. More importantly, in many major consuming countries, including of course the U.S., some form of price controls or price supervision exists which would prevent the accrual of such profits. In fact, past experience has shown that in many of these countries permission to pass on higher crude oil costs is usually delayed well beyond the time of the arrival of the higher priced crude so that the companies often incur initial losses on OPEC price increases.

But how a foreign company fares under a given OPEC price change is really quite ir-

relevant to the reason for the price change. None of the considerations that went into the two price decisions at Doha had anything to do with oil company profitability. In fact, the only comment made on that subject was Sheik Yamani's warning that he would not let the companies with access to Saudi crude make a profit on the price differential.

Thus, if we are frustrated by OPEC's pricing policy we must discuss it with OPEC and stop inventing convoluted theories of how OPEC's survival depends on the oil companies' support. The reality is much simpler but admittedly much more difficult to deal with.

THE FUTURE OF OPEC: WILL THE GLUE HOLD?

(By Prof. A. J. Meyer)

The several questions posed by this Committee are timely and appropriate. None, obviously, can be answered with certainty. My emphatic answer to the one facing today's panel is, "Yes, so long as the U.S. continues to supply the glue".

First, a few comments about OPEC. The sixteen-year-old oil producers club is an American creation. It owes both its birth and its growing strength to actions and policies of the U.S. Government, Congress, oil companies, conservationist organizations, the academic community, and above all our energy-consuming public. American universities educated and developed its founding leadership; its first consultant study contract went to a firm in Cambridge, Mass.; it hired its first chief economist, later Secretary-General (and the architect of its growth) from that same firm; an American oil company announced the August 1960 crude oil price cuts—which led to OPEC's launching; Americans played the major role in its conception.

Since then OPEC has drawn even more heavily on U.S. sustenance. Some examples: American oil companies, performing impressive technical feats and competing viciously for markets, led the way to supply oil to the consuming world at costs which by 1970 still equalled real levels of 1938! This great bargain created (among other things) a "flight from coal" in Europe and a worldwide postponement of plans for massive nuclear electric power generation—under serious discussion in the early 1950's. The oil "surplus" of the late 1950's and 1960's gave OPEC its reason for existence and at the same time discouraged development of alternatives to natural crude oil.

The Congress and several presidential administrations—Republican and Democratic—have also unwittingly since 1960, supported OPEC. Oil import controls, abandoned only in 1972, drew down U.S. oil and gas reserves dramatically and reduced a domestic stockpile far larger than that now advocated by energy planners. Another boon to OPEC has been Congressional and administrative failure to plan and develop programs to utilize U.S. coal reserves and nuclear power capabilities effectively. Proponents of legislative divestiture of oil companies offer OPEC continuing hope for a weakening of U.S. oil firms through loss of integrated facilities—and inevitably higher crude oil prices. The "two tier" oil price system still provides U.S. consumers with subsidized low-cost gasoline while speeding depletion of U.S. oil supplies. Natural gas regulation does the same for this rapidly vanishing resource.

U.S. conservationists have also supported OPEC vigorously—by checking efforts to develop domestic coal reserves and slowing the U.S. nuclear power program. In effect, conservationists have helped commit the U.S. to growing dependence on imported crude oil—while remaining comfortably oblivious to the inevitable pollution risks of a rising world tanker tonnage and dependence on natural crude oil. The East Coast oil spills offer recent testimony.

Another staunch, if unwitting, OPEC ally has been the American academic community. Economists and political scientists frequently point to the imminent explosion within OPEC which will tumble oil prices. Equally frequent forecasts from academe also see stripper wells, Mexico, Alaska, and the North Sea as sources certain to return bargain oil prices to Americans. Others motivated by political and ethnic considerations, and advocating Jeffersonian Democracy for foreign governments they dislike, point to Arab OPEC members or the Shah of Iran as inspiration for its evil doing. Scholarly journal articles and seminars on these subjects abound. Such predictions and aspersions irritate America's friends among OPEC decisionmakers while simultaneously lulling our public into false and dangerous complacency.

Probably the greatest single supporter of OPEC, and chief mixer of glue for its structure, is the American energy consumer. We reject the warnings issued frequently by oil companies, government officials and utility executives about looming shortages of natural gas and oil. Conservation of energy remains a task for "others", not us. Wooed by the silken depravity of T.V. commercial announcers, we buy large cars and leave the Pintos and Chevettes unsold. We assure poll-taking firms that energy shortage forecasts are wildly exaggerated and merely a cover for rising corporate profits. Collectively, U.S. energy consumers provide OPEC with a guaranteed rising yearly market increase of at least a million barrels daily for the foreseeable future. This provides a lot of glue for OPEC.

Growing U.S. dependence on OPEC oil, with a similar need for OECD nations (including Japan) makes me conclude that OPEC will remain a force for at least ten years, maybe for twice that long. Internal disagreement among OPEC's parents will be frequent, but so long as Saudi Arabia, the UAE and Kuwait remain financially able and committed to "moderate fine tuning" of oil prices, I would guess that OPEC will remain intact. And oil prices will, in my opinion, continue to rise for at least another decade.

In the near term (for five years at least) Saudi Arabia's role will be crucial. Its policies on price and volume of crude oil remain a prime, perhaps the prime factor in world energy. Important also are Saudi Arabia's efforts to join the U.S. in promoting an Arab-Israeli settlement. Equally important will be the Kingdom's success or failure in its development effort and in winding down levels of arms expenditures. The latter are currently at all time highs, as Saudi Arabia has belatedly joined Israel and Iran as a massive buyer of Western (mainly U.S.) arms. With luck, Saudi Arabia's policy of moderation in oil pricing will succeed and its peace initiative will not be rejected outright by the United States and the Middle Eastern nations also involved.

U.S. policy toward OPEC should, in my opinion, consist of the following: first, we should recognize that OPEC is a fact of life to be reckoned with and not just a subject for speeches and writings expressing righteous indignation at its behaviour; second, we should admit candidly that OPEC's price controls, and even the occasional embargoes enacted by its parents, are weapons invented by the U.S. and used repeatedly by this country from 1941 to the present—for oil, food, and other strategic materials; third, we should welcome, and not rebuff piously, those OPEC nations—such as Saudi Arabia—on whom we are increasingly dependent for our energy supply (and funds for our capital markets), when they make overtures for cooperation. We badly need them, now.

Finally, the most important element in U.S. policy towards OPEC, by far, should be a flat-out drive to cut the staggering growth in U.S. dependence on OPEC crude oil. To do this involves re-shaping of U.S. energy policy and elimination of current chaos. The massive supplies of energy within the U.S. (in BTU's, several multiples of oil reserves controlled by OPEC countries) must be developed. Instead of seeking scapegoats to blame for the U.S. energy plight, those involved (consultants, company executives, academics, Congressmen, government officials) must work to find substitutes for OPEC crude. For legislators, and members of the new Administration, the decision will be difficult, since the right ones won't, in many instances, prove popular with American voters.

TESTIMONY OF M. A. ADELMAN BEFORE JOINT ECONOMIC COMMITTEE, JANUARY 12, 1977

I thank the Committee for the invitation to testify.

CONTINUING AMERICAN SUPPORT FOR CARTEL—NEVER EXPLAINED

The United States Government has always supported the world oil cartel, and without explaining why, either to insiders or outsiders. Congress should bring these issues into the open.

There can be little doubt about American support. I gave much offense by saying this in 1971 and 1972; [1] but I understated the case. It would help if we could put on the public record the relevant State Department briefings and internal correspondence. But at least we know now that when the Libyans opened Pandora's box in 1970, some oil companies wanted to resist, some to comply, and some waffled. The United States Government insisted on giving the Libyans what they wanted. The then managing director of Royal Dutch/Shell later wrote Senator Church that he did not know why.[2] Recently the Treasury's Mr. Parsky said that "breaking up OPEC would be detrimental." [3] He does not explain why. Nobody on Capital Hill has enough interest or curiosity to ask him.

The United States Government has already legitimatized a Persian Gulf price 50 percent higher than today. The U.S.-Iranian communique and press conference of August 7, 1976 [4] estimates the value of Iran oil shipments to the United States during 1976–1980 as around $14 billion. Quantities are not mentioned, but even if they were somewhat higher than in recent years, the five-year total could hardly exceed 900 million barrels. Since a year's exports have already gone at $11.50, a little arithmetic shows the target price to be around $17.

Recently the State Department deliberately leaked documents to a friendly writer,[5] who twice gave the official view that cooperation with oil producers, particularly with Saudi Arabia, has been a great success. Nobody can doubt that the Saudis have "a vast commitment by the U.S. government to play a major part in fashioning their infrastructure and to sell, over the years, arms worth many billions of dollars". The State Department should explain why this burden on us is a success. A United States Senate Committee sees things a little differently: they are concerned that tens of thousands of American "advisors" are our hostages to Persian Gulf ambitions and feuds. It is not the only political danger.

CARTEL A BURDEN AND DANGER

We can set aside doomsday rhetoric and cartel apologetics. Direct tribute to the cartel is over $125 million per year worldwide, about a fourth paid by us. Building new energy sources at home diverts capital and labor and thereby lowers our real income. The industrialized countries have largely avoided beggar-my-neighbor policies to adjust balances of payments, but their resolution seems to be wearing thin, and there could be heavy effects on world trade. OPEC success in monopolizing a natural resource has inspired strife all over the world. Patches of barren ground or ocean seem worth fighting for; the Law of the Sea conferences have failed; there are confrontations from the Aegean to the East China Sea. Investment

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Footnotes at end of article.

in minerals in the less developed countries decreases as they try to follow the OPEC examples both in taking over properties and trying to form cartels. There has also been political damage. (See below, "Embargo".)

It is a long overdue question, why the pro-cartel policy has persisted so long, and what good it is supposed to be doing. I suggest that there are three reasons, all honestly believed, all of them false and delusive.

First, since 1945 and particularly since 1950, it has been our policy to subsidize the oil producers in order to have friends at the Persian Gulf and oppose Russian advances in that area. We would do it directly for a tiny percent of the cartel tribute. It would be not only cheaper but much more effective. Governments would be much more amenable to American wishes and interests if they were directly dependent on us, and if they did not have billions of dollars with which to pursue their own adventures.

Saudi Arabia as a supposed force for moderation in Middle East politics is based on just one thing: money. If we were to subsidize Egypt directly, not only would we save billions, the money would go farther. The Egyptians would like it much better: "It has long been ruefully said in Cairo that the [Saudi] Arabs are determined to fight to the last Egyptian."[6]

The second reason, which has only gained currency in the last few years, is that high prices are good because they discourage energy consumption. If so, it is no reason for pouring out billions in tribute. If we collect an excise tax on oil products, we can use some to subsidize low income consumers, energy research, or any other useful purpose.

The third delusion is the belief that we face a long-run energy shortage. Now, regardless of what we think about demand growth, fossil fuels reserves, etc., the belief in shortage is nonsense. Except when a government deliberately holds a price below the market-clearing level, any shortage, any excess of demand over supply, forces up the price and closes the "gap". In any but the short run, the amount supplied will equal the amount demanded. When a monopolist swears, his hand on his heart, that he will never let us run short, we had better believe him. For if supply is less than demand, he will raise the price and increase his profits. Under competition, prices will be less and profits approach the normal level for marginal production—but again, no shortage.

If Saudi Arabia enforces a "production ceiling" on its output, and if the amount demanded worldwide really exceeds world capacity, the price will rise. It is merely a problem of tactics: whether the Saudis prefer to raise the price directly or indirectly. But a price rise there will be in either case.

Price is the only issue; energy "needs" and "gaps" and "shortages" are time-wasting confusion.

Our foreign-policy makers, in and out of government, continue to labor under a mythical problem: "Will the oil producing governments produce enough for our needs? We must somehow induce them to do this. We are interdependent—they need the money, we need the oil. Let us make some kind of agreement, with both economic and political elements, to make it worth their while."

This is all illusion. The cartel governments will produce enough oil to maximize their revenues—no more or less. Maximum revenue means also maximum political clout, for the royal road to power is money. That is why political differences will not weaken the cartel; political and economic objectives are both served by maximum revenues. Instead of assuming problems, I suggest we look at the central fact: a group monopoly controls the supply and price of oil. Once we realize that, we can dispose fairly quickly of some influential slogans.

Footnotes at end of article.

CARTEL NATIONS' POLITICAL OBJECTIVES IRRELEVANT

Political objectives are irrelevant to the operation of the cartel. Each cartel nation seeks power to advance its own political aims. The royal road to power is money. Therefore despite any political diversity these nations agree on the cartel objective: maximum revenues. They may disagree on what price would maximize revenues, in short or long run. It is a difficult, perhaps insoluble problem. Moreover, they do not agree on how to divide up those gains; the discord has been contained, so far. But thoughts of splitting the so-called OPEC moderates from OPEC extremists, linkage with nonoil issues, political settlements, etc. disregard the nature of the cartel and are addressed to phantoms.

Mr. Kissinger's thesis that world oil prices are "political prices" is gratuitous error. When higher prices increase the revenues of the sellers, we need no far-fetched political hypothesis to explain them.

"DEPENDENCE" NOTHING BUT MONOPOLY—NO MONOPOLY, NO DEPENDENCE—"INTERDEPENDENCE" IS MYTH

Dependence on any nations or persons requires, first, an essential product or service; second, its control by a single hand or united group. We need food, but farmers cannot deny us food so long as they are many and not united, hence we are not dependent on farmers. We are dependent on those persons who in concert control the supply of oil, and may restrict its production. Control of supply is the essence of monopoly, and dependence only an aspect of monopoly.

The cartel of the oil-producing nations has two special features which increase dependence.

a. Oil is a nondurable good, needed in a continuing stream. It is quite unlike the metals. The service we get out of steel or aluminum is embodied in an enormous stock of durable instruments. The stock is consumed only very slowly. So a year's cutoff by a steel or aluminum monopoly would deny us only the small annual increase in the stock, and we would have enough time to retrieve the situation. Oil stocks are normally a small percent of current consumption, and a cutoff does quick damage.

b. The oil cartel is composed of sovereign states. Some of them have accumulated very large foreign-exchange holdings, and can the more easily do without current income.

The cartel nations are not dependent on us, because we have no monopolies comparable to their oil monopoly. However much they need our food or industrial products, they are sure of getting them by normal purchase, if not from one country then from another. The industrial nations are not united to control prices, and are not going to cut off their supply. (Nor, in my opinion, should they try.)

Trade may be called "interdependence", if we prefer five syllables to one. Aside from this, to speak of "interdependence" between oil producing and consuming nations simply ignores the market structures on both sides of the fence. Of course a few people are getting rich out of that trade, and will use all their influence to help increase cartel revenues and prevent any resistence.

c. We are dependent on cartel oil, but not on Arab oil. If we imported not a drop, it would be replaced by non-Arab oil at little additional expense or trouble. But neither would it do us much good, because as will now be explained the problem is not an impossible "embargo" but a production cutback.

"EMBARGO" NEVER WAS—"ENERGY INDEPENDENCE" IMPOSSIBLE

During the production cutback of 1973-74 (the so-called "embargo") the industrialized democracies fell apart. Member nations of the European Economic Community broke their own law, the Treaty of Rome, which prohibits restrictions on movements of goods, in order to help cut off the Netherlands. As in the 1930's, Europeans hastened to make friends with the tiger, in the hope he would go eat someone else.

Yet the fraction of oil imports lost was 9 percent for the most "friendly" to the Arabs—France—and 14 percent to their "enemy"—meaning us. France suffered more because it had no domestic production. The loss of supply was roughly equal everywhere.

A selective embargo against the United States was and is impossible. If oil becomes more scarce in some consuming countries, prices are higher there. Those producer nations who do not cut back increase profits by diverting exports to those countries, until prices are roughly equalized. (The oil companies did well to anticipate the inevitable and do the complex logistics.) The non-Arab governments have no difficulty in doing well by doing good. American imports are now around 7 million barrels daily (mbd) and by 1980 may be 9 mbd. Non-Arab OPEC capacity is today 14.5 million, and growing.

This is both good and bad news. The Arabs cannot hurt us without hurting everybody even worse, since we import much less of our oil consumption. But in hurting everybody else they also exert pressure on us. Therefore even zero U.S. oil imports would not remove energy dependence, hardly mitigate it. Energy independence is literally impossible. So long as the cartel keeps prices very high, the oil producing nations get richer, they can more easily afford production cut-backs, and we are more subject to blackmail.

Moreover, if the cartel runs into trouble, a temporary production cutback is an obvious way to clean out inventories, jack up prices, and scare consuming nations. It will be used when and as the cartel needs to use it. No political settlement has the slightest relevance to this clear and present danger. The Administration has been "unwilling to depict publicly and vividly the danger of another deliberate, unfriendly embargo by nations, notably Saudi Arabia and Iran, which Mr. Kissinger regards as essential to stability and American interests in the Middle East" (Edward Cowan, in New York Times, January 2, 1977, Section 4, page 2). It is the last but not least of the cover-ups.

SOVEREIGN MONOPOLISTS CANNOT BE HELD TO ANY AGREEMENT—SAUDI ARABIA, PROMISE-BREAKER EXTRAORDINARY

It is impossible to make any binding agreement with sovereign monopolists.

An agreement can only be enforced by competition or law or both. If anyone persistently violates his word, people will go elsewhere, and after a while he is out of business. Or else a court will say: perform or we will seize your assets. But the monopoly has suppressed competition, so there is no other place to go. And sovereign states are beyond any law. Hence any agreement is truly "inoperative".

Experience supports logic. Table 1 shows government take per barrel of the Saudi market crude. Government take has always been the bulk of the price, and is today nearly all of it. Nearly every line represents a broken agreement, and some have been omitted. The entry for 1971 is the Tehran agreement, supposed to last for five years. It lasted about five months, and after repeated violations it was openly repudiated in September 1973, before the Middle East war. Sheik Yamani made the classic statement: "We in Saudi Arabia would have liked to honor and abide by the Tehran agreement, but . . ." circumstances had changed.[7]

TABLE 1. *Saudi Arabian Light—Government take (dollars per barrel)*

Date:	Amount	Index
December 1970	.88	100
June 1971	1.26	143
January 1972	1.45	165
June 1972	1.52	173
October 1973	3.05	347
January 1974	7.00	795
June 1974	9.20–9.35	1054
October 1974	9.80	1114
November 1974	10.12	1150
January 1975	10.16	1155
October 1975	11.18	1270
January 1977	11.74	1334

Sources: "Petroleum Press Service [Petroleum Economist]," November 1973, February 1974, June 1974, October-December 1974; January 1975; October 1975; Petroleum Intelligence Weekly, March 11 *, June 17 *, July 22, September 9, September 16, September 23, October 14, November 25 * (1974); December 20, 1976. The starred dates show when the Saudis led the price rise, while Iran followed.

The Saudi boycott of the United States was a violation of their treaty of commerce with us, and should have resulted in prompt loss of their most-favored-nation status—had not the Nixon Administration covered up.

Government take was $7.00 per barrel at the start of 1974. (The higher figures usually shown are later adjustments, made retroactive.) Repeatedly our government proclaimed that the price was too high. The Saudis were very cooperative. They repeatedly called for lower prices. And they repeatedly raised the prices, chiefly by the trick of increasing the percent of participation. The trade press shows that on at least three occasions the Iranian price "hawks" followed the Saudi lead upward.[8]

An executive agreement was signed on June 8, 1974 for Saudi-American economic cooperation. Two days later, after a celebration-reception at the Saudi Embassy in Washington, the price was raised, retroactively, by $1.35.[9] On at least two later occasions, the American Secretary of State said he had assurances of lower prices, and both times the price went up.[10]

In mid-1974, the Saudis announced an auction to bring down prices. They garnered millions of golden opinions, and then cancelled the auction. After all it might really have brought down prices.

Soon thereafter, In October 1974, another promise: they would not permit output to be reduced. Of course they did permit it. Disappointed American officials complained that the Saudis had "pulled the rug from under them" by allowing reduced production.[11]

We need not admire hypocrisy, but we may excuse it. American policy makers were so eager to be deceived, so avid for any soothing word which they could represent to the public as a deed, that it would have been almost cruel not to give them what they wanted.

Cooperation with the oil producing nations is not good or bad, it is illusory. No matter what we give them, once it cannot be withdrawn, it becomes irrelevant. They need only keep a bargain when it suits them.

The idea that "we must come to terms with oil producers because they have the oil and we need it" is a cliche that gained acceptance because it was vague, and now seems clear because it is familiar. If the United States does anything that a large group of oil-producing countries do not like, or even if it does nothing, they can interrupt or reduce supply. Whatever we do to please them becomes past history, and they can use the same weapons later.

CARTEL REMAINS STRONG BUT FRAGILE

All cartels including this one are fragile because they fix the price at a level where it would pay any individual member to expand output by means of secret price cuts, which when matched by enough rivals would break up the whole scheme. This cartel is strong because it has prevented the chiselling from getting started.

High cartel prices are self-reinforcing. They promote lower supply instead of higher. With large enough revenues, the cartel nations can fulfill their spending plans and commitments. The higher the price, the easier to pay debts and stay solvent. Then the less the pressure on them to gain some extra revenues by shading the price.

High prices cause lower production in non-cartel countries as well. Norway and Mexico would speed up the rate of development and exploration if prices were not expected to go higher. (In economists' jargon, these are "backward bending supply curves.")

But strength one way is fragility the other way. Lower prices would make cartel countries strapped for cash, and more likely to reduce prices still more. The self-reinforcing and cumulative tendency either way is what makes a cartel unstable.

The chances seem small of reduced world demand breaking the cartel. In 1974, there was a large reduction in volume, accomplished in only a few months, hence with greater shock value than "conservation" could ever do. Yet there was a 50 percent increase in the price. (See Table 1.) We are not dealing with a market where prices are set by competitive supply and demand. We are dealing with a cartel which is in process of learning how high the world price can be pushed.

Because the cartel members are sovereign nations, they can suppress competition by force or the threat of force. Iran can limit outshipments from the Persian Gulf. Saudi Arabia can invade and occupy its neighbors. Distances are short, local populations scanty, the terrain ideal for a quick grab. Kuwait, U.A.E., and Qatar account for 6 million barrels daily of capacity, and they can be taken out quickly. The knowledge of such a backstop is an important cartel strength.

The cartel can live with selling fewer barrels than in 1973. The ultimate question is: can Saudi Arabia take the whole burden of excess capacity, letting the others produce as much as they wish? How far down will Saudi Arabia be willing to go?

We can dismiss the nonsense, however seriously urged by some Americans, that Saudi Arabia would rather produce less oil, but makes a sacrifice for the good of the world. But undoubtedly they could if need be meet their commitments with considerably less than current output.

Professor Moran calculates about $32 billion annually a minimum acceptable Saudi income.[12] At prices of $15 (or $20) per barrel, this could be met with 6 (or with 4.5) million barrels daily. Assume the Saudis would be content with that production, if they were certain of getting it. But certainty is impossible. That is the basic cartel problem. Suppose total OPEC production is lower than expected by one or two mbd, a fluctuation or error of only 3 to 6 percent. Then if Saudi Arabia is the residual supplier of 6 mbd, and absorbs the 1–2 mbd decrease, it is a 20 to 40 percent loss. (If they are producing 8 mbd, it is 15 to 30 percent.) Simple prudence will not let the Saudis permit output to go that low, while others produce as they like. They will need and demand compensation, in the form of either a higher share or of an agreement for others to cut back proportionately.

Similarly, suppose it is profitable to raise the cartel price by a third because the sales loss would be only about one tenth (elasticity of demand assumed as —0.37). If even half the loss fell on Saudi Arabia, it would be no gain for them even if everything happened exactly as planned. They could not agree to it. This is the basic reason for Saudi caution since the great days of 1974.

The real dangers to cartel cohesion, therefore, are not slack demand for their oil, but rather the difficulty of assigning the inevitable excess capacity. To speak of Saudi Arabia (and the rest of the Southern Gulf) as residual suppliers is correct, but there are difficulties and dangers in their acting this role. Their danger is our opportunity.

I turn now to two feasible means of active resistance.

IF ALL CONSUMING NATIONS LEVY A PERCENTAGE TAX THEY CAN DIVERT MOST CARTEL REVENUES INTO THEIR OWN TREASURIES

If all or most consuming nations were to levy a tax on crude oil and products which was proportional to the cartel price, this would divert much or most of the cartel revenues back into their own treasuries. It would not stop the cartel from fixing the price-quantity combination which maximizes cartel revenues. But a proportionate tax would keep most of the money at home. Of course the cartel can raise the price even more, but they would lose revenue.

Appendix 1 shows the proof in detail.

The prospects of the consuming countries adopting any such policy are in my opinion remote. Yet oddly enough, the chances are fair that they will do this without meaning to. It depends more on how quickly the cartel governments raise the price, than on how high. If the cartel nations are content to keep raising the price by small increments, as they have done since the end of 1974, then balances of payments can adjust. Higher priced oil imports mean a gradual adjustment in many directions: some oil importing nations will devalue in small steps; they will import less of all goods, including oil; some will have higher exports, not necessarily to the oil producers. But large changes in oil prices force consuming country governments to take strong action to check imports, including taxes or tariffs on crude oil or products. Therefore consuming countries may find themselves taking one step after another, inadvertently doing what they would never dream of doing deliberately—levying a proportional or more-than-proportional tax.

This is another reason why the larger cartelists, chiefly Saudi Arabia, will continue to practice moderation as long as the consuming countries are in recession or at least not peak prosperity. Another reason is that they fear that the burden of restriction may in the future fall chiefly upon them—as it has not fallen in the recent past.

IMPORT QUOTA AUCTIONS

Every cartel with excess capacity is vulnerable to disruption. Hence what the oil cartel nations really fear, as Iraq said so well in the autumn of 1975, when threatening Kuwait for a trifling price cut, is "competitive bidding among producers", i.e., among producing nations.

The United States could take the hint. As a large buyer, it could inject some competition, exploit the cartel's one weakness, lower it own import costs and disrupt cartel cohesion. A detailed plan for this, published elsewhere, is Appendix 3 to this statement.

Briefly, it provides that imports be fixed monthly to equate demand with supply at prevailing prices. (Mistakes are easily correctible the following month.) Import entitlements or tickets would be sold monthly at public auction to anyone paying in advance. This would create a primary market of some 200 million tickets monthly. Resale of tickets would be permitted. In order to allow forward planning and term contracts, a supply of tickets could be issued valid for future periods.

The cartel nations would not buy tickets, at first, and tickets would be very cheap. So much the better for getting the system off to a smooth start. But a ticket would be worth up to $12 to a cartel nation. Nearly

Footnotes at end of article.

$2.5 billions' worth of them would be up for grabs, month after month. Cheating by a cartel government would be easy. They could buy tickets in the primary or secondary market, through third parties. A cartel country would sell at the cartel price and not even the customers would know that it was chiselling, by buying tickets, thereby rebating to the United States Treasury. Any country wanting extra revenues would buy more tickets to sell more barrels. Any country which lost business would recoup itself by buying tickets, jostling other cartelists. The tickets would not stay cheap for long. Without any interference in industry logistics, and with a handful of employees administering the auctions, the United States would pocket substantial revenues.

No serious argument has ever been offered against the quota auction system. The burden of proof ought to be on those who assume that every cartel nation would resist temptation indefinitely, month after month. We need only one defector to get the process started. As it develops, the big cartelists would be the holdouts. Then imports from Saudi Arabia would drop, to be replaced by imports from producing nations who were more eager or needy for money—i.e., whose interests were closer to ours.

The import quota auction system has often been misunderstood or misrepresented as a government purchasing monopoly. That would be a logistical horror. It would also lose the secrecy in chiselling.[12] The United States as buyer would need to make long term purchases, thereby legitimizing a cartel price—just the contrary of what is desirable.

CARTEL CANNOT SOON BE QUICKLY DESTROYED, BUT SHOULD NOT BE HELPED

The cartel could have been prevented from ever getting started, and as recently as two years ago it might have been quickly destroyed. That is not feasible now. The profits of their raid on the world economy have been so huge that if the cartel collapsed tomorrow, the most strenuous violent efforts would be made to put it together again. Strength may give rise to extreme tactics, but so also may weakness. There could, as pointed out earlier, be a production cutback to put the price back up again. Hence the need for a stockpile, to prevent both Arabs and non-Arabs from scaring us out of any rational counter-action. See Appendix 2.

Some would claim that as things stand today, there is nothing at all which the United States or other nations can do. If so, we should at least not collaborate with our oppressors. Let us make no deal which would tie our hands, and prevent us from using any future opportunities for resistance. There is nothing to be gained by freezing a dismal present into the indefinite future.

President Carter and Secretary Vance will probably not give us a repeat of September 1974, when Mr. Ford gave his "tough" speech in Detroit, and Mr. Kissinger gave his "tough" speech in New York. On almost the same day, Federal Energy Administrator John Sawhill was asked what plan there was for lowering world oil prices. He replied truthfully: there were none. Mr. Kissinger was angry and Mr. Sawhill left. But the incoming administration would do well to remember: the illusion of "doing something" is a dangerous temptation. Hence for our government to somehow "get involved in the oil importing process", for the sake of being involved, could lead to an implicit under-writing of cartel prices and revenues.

FOOTNOTES

[1] M. A. Adelman, "Is the Oil Shortage Real? Oil Companies as Tax Collectors", *Foreign Policy*, No. 9, Winter 1972.

[2] Multinational Corporations and American Foreign Policy. Hearings before the Subcommittee on Multinational Corporations of the Committee on Foreign Relations. 92nd Congress, Second Session, Part 8, pp. 771–773 (1975). For brief explorations of this history and what followed, see "A Diplomatic Situation Where Oil and Hauteur Just Didn't Mix", Washington Post, March 14, 1976, p. F11, and "How OPEC Came to Power", Forbes, April 15, 1976, pp. 69–85.

[3] Time, January 19, 1976, p. 54.

[4] Department of State *Bulletin*, September 6, 1976.

[5] Edward R. F. Sheehan, "How Kissinger Did It", *Foreign Policy*, No. 22, Spring 1976, pp. 3–70.

[6] Cairo correspondent, in London *Economist*, November 13, 1976, p. 83.

[7] *Middle East Economic Survey*, September 7, 1973.

[8] See Table 1.

[9] New York Times, June 9, 10, 11, 1974.

[10] New York Times, October 13, 1974; *Oil & Gas Journal*, October 21 and December 23, 1974.

[11] *Oil & Gas Journal*, March 17, 1975.

[12] Theordore H. Moran, "Why Oil Prices Go Up: OPEC Wants Them", *Foreign Policy*, No. 25, Winter 1976, p. 65.

[13] Some proponents of such a monopoly recognize (inadequately, I think) the loss of secrecy as well as the supply difficulties, but urge that it would not be serious because a given landed price would leave the Persian Gulf f.o.b. price unclear because of the possible variations through freight and quality. Unfortunately these are quite small relative to the price, so a serious reduction would be impossible to hide. See Christopher D. Stone and Jack MacNamara, "How to Take On OPEC", New York Times Magazine, December 12, 1976, pp. 38–44.

OIL PRICES AND THE FUTURE OF OPEC

(By Theodore H. Moran, Visiting Associate Professor, School of Advanced International Studies, Johns Hopkins University, Washington, D.C.)

Mr. Chairman: In your letter of invitation to appear today you suggested that I might be able to use research I have been conducting under the sponsorship of Resources for the Future to address two questions of interest to your Committee, namely: 1) what will life with OPEC be like for the United States (and for the world) over the medium term in the future? And 2) will the glue that binds OPEC together continue to stick?

My calculations suggest that the answer to the first question is fairly straightforward. Life with OPEC will be difficult and painful. Adjusting to the emergence of OPEC does not mean having to accommodate to a one-time increase in the price of oil, which is now over. Rather it means having to face a regular and steady push toward higher real prices for petroleum this year, next year, and each year in the future. This appraisal is not contradicted by the apparent "moderation" of OPEC in this year: a 5%–10% increase in oil prices in the first half of 1977, followed by another increase later in the year. Had the economic recovery been stronger in the OECD countries, as Sheik Yamani admitted, Saudi Arabia would have gone along with an even greater price increase. The most optimistic prediction one can make about OPEC behavior between now and 1980 (and beyond) is that the price of oil will rise in real terms as fast as the macroeconomic policies of the major industrial countries can adjust. That could mean an average annual price jump of 10% to 15% above the OECD rate of inflation.

The answer to the second question is more ambiguous. To keep prices high (or raise them higher) will require OPEC to absorb larger and larger amounts of spare capacity in the late 1970s. In the past most of this spare capacity has been able to be shunted off, with only a small amount of tension, onto OPEC members for whom the marginal utility of the revenues foregone was near zero. Before the end of the decade, this will no longer be possible. Instead, approximately 6 mbd of idle facilities will have to be held by governments who feel they "need" the revenues those facilities would generate. This has implications that are not now widely appreciated. A large amount of spare capacity in the hands of governments who would like to use it is a tremendously unstable situation for a producers' group that is trying to restrict production. It renders the group vulnerable to the efforts of consumers to play one producer against another and thus weaken the group's ability to collude. But it does not ensure, by itself, that OPEC will break up. Indeed the rational way for OPEC to respond to this vulnerability will be to establish a system of explicit prorationing, with a faithful commitment to higher prices being the reward for the members accepting the decision on who must accept how much spare capacity.

Thus, life with OPEC over the middle term will be costly and difficult. But, between now and the early 1980s, the oil-importing countries (led by the United States) will face an unprecedented opportunity to moderate the impact of the energy crises that otherwise will surely come by applying a little solvent to the glue that holds OPEC together. This will require establishing procedures to reward differentially those members who choose to alleviate their financial "squeezes" by expanding volume rather than by restricting it. If the oil-importing countries do not seize this opportunity, however—specifically if the United States continues to drift along with no identifiable energy policy in the vague hope that the energy crisis will somehow disappear—they will find themselves having to shift ever larger annual amounts of real resources to the OPEC nations with traumatic implications for the Third World, for the Fourth World, for the weaker industrial countries and for the international financial system as a whole.

I

Let me turn to the analysis of these points.

What will life with OPEC be like over the medium term? Since 1973 the conventional prediction in the U.S. Government and in private business circles has been that energy prices would remain level, or decline slightly, in real terms between the date of the prediction and 1980. This seemed a reasonable expectation as long as the OPEC countries were awash in petrodollar revenues, supposedly unable to "absorb" them and searching anxiously for ways to recycle them. But the conventional prediction will prove false precisely because constant real oil prices will not generate enough revenues to finance programs that civilian or military elites in the OPEC countries consider too important to give up if they have any choice in the matter.

The perception about the extent to which the oil exporting states will "need" petroleum revenues for their government budgets has taken a quantum leap since 1973 for three reasons: (1) there has been a worldwide explosion in the cost of heavy equipment and construction; (2) the diseconomies of scale of rapid growth have proven very great in the OPEC countries; (3) the goals that the OPEC nations have set for themselves ("development," "welfare," "defense," international "influence") have proved to be enormously expensive. As a result the "Development Plans" of the major OPEC governments would be, if carried out, prohibitively costly. But that is an unrealistic standard—such Plans were typically too grandiose to begin with. What is striking is that even small fractions of the economic, social, and military plans of the major OPEC governments will be too costly to finance if oil prices "only" remain constant.

Iran, for example, planned to spend $112 billion between 1973 and 1978 to lay the foundation for a modern state before the country's petroleum capacity begins to dwindle in the mid-1980s. The Iranian Plan

and Budget Organization projected a net revenue surplus, after the completion of all projects, of more than $11 billion. But before the end of 1975 the Iranian government already faced both balances of payments and fiscal deficits. A recalculation of the cost of the programs more realistically suggests that the total Plan will cost at least 50 percent more than the initial estimate of $112 billion. Of this jump, approximately 15 percent will be due to the higher price of imported goods if current trends continue; 35 percent will be generated internally. Even if Iran is able to export oil at full capacity from 1976 through the end of the Five Year Plan with oil prices rising no more than the 15% decreed by the majority of the OPEC members for 1977, it will still be able to finance only about half of the civilian projects contemplated by the Plan and perhaps even a smaller fraction of the military and internal security programs desired by the Shah. At the same time, the authorities in Tehran are facing pressures for additional programs—food subsidies, public housing, rural development—that are needed to retain the present level of domestic political stability. Iran has, not surprisingly, been the forefront of those oil exporting countries pushing for dramatically higher oil prices.

Saudi Arabia is discovering that its oil earnings are buying even less than the Iranians when measured against the original expectations of the Central Planning Office in Riyadh. The Five Year Plan announced for 1975–80 was supposed to cost $142 billion. In fact it will cost much more than double that figure. (Of the rise in program costs in the Saudi plan, 5 to 10 percent have thus far been "imported inflation." The remainder can be attributed to domestic causes.) Few outside analysts thought that the timetable contemplated in the plan was even faintly realistic. Now subsequent calculations indicate that even if the Saudis were to stretch out the plan over a twenty-year period, and drop many projects altogether, they will still have to earn more than $30 billion per year to finance their budget on a current basis. Even if Saudi authorities drop their expectations about economic development dramatically (especially industrial development that requires the use of foreign workers), place no more than moderate priority on national defense and popular welfare, and maintain their interest in domestic stability and the ability to influence intra-Arab affairs (via aid) at current levels, they will have to finance programs at a rate of $30–35 billion (1976 prices) in the late 1970s—early 1980s. Should oil prices rise no more than 5 to 10 percent in 1977 and remain constant (in real terms) thereafter, the Saudi government will have to export 8–9 mbd per year to cover its expenditures or else draw down its financial reserves at a very fast rate. (With massive cutbacks and stretch-outs of programs, Saudi financial reserves will probably peak in 1978 at not much more than $50 billion and decline steadily after that).

But what about those in the royal family or in the Council of Ministers who dislike the high level of economic activity and the pace of public spending in Saudi Arabia, and who would like to go back to the relative quiet of the pre-1973 period? Or what about the assertion, made by Sheik Yamani and others, that Saudi Arabia could cut production to 3 mbd, or even 1 mbd, without feeling the effects? Due to the high current level of official reserves, the Saudi government could easily do this for a short period of time.

Thus the threat should be given serious consideration in the event of another Middle East war (although the behavior of other oil exporters with excess capacity at the time would be crucial to the effectiveness of a Saudi production cut). As a longer term strategy, however, one has to weigh the credibility of the Yamani assertion against the kind of domestic upheaval that might result against a future government that tried it.

A Saudi government that had already stretched the country's Five Year Plan out over 20 years (and placed stringent limits on the spending of ministries concerned with national defense, economic development, or social stability) would, by 1979, have an annual budget of $26 billion remaining even if it suddenly reduced expenditures on new infrastructure, gas gathering, and industrial projects to zero. That would require exports of 6.4 mbd to finance on a current basis. It could cut its budget to $24 billion by also stopping new municipal water projects completely and eliminating the entire food subsidy program. That would require exports of 5.9 mbd. It could cut its budget to $20 billion by also firing half of the bureaucrats in the Saudi administration. That would still require exports of 4.9 mbd. It could cut its budget to $17 billion by also stopping all foreign aid (predominantly to other Arab states). That would require exports of 4.2 mbd. It could cut its budget to $14 billion by also eliminating all expenditures on military construction and equipment. That would get to the 3.5 mbd mark. And so on.

The record of survival for regimes that try to stop, or reverse, the process of social mobilization and rising expectations once it is started should not recommend this as a promising strategy for a monarchy.

These projections do not mean, of course, that Saudi Arabia will have any inclination to break away from OPEC if its export level does not earn the country $30 billion each year. It simply means that below that level the Saudis will either have to expand their market share at the expense of their OPEC colleagues or to become more sympathetic to the urgings of their fellow members for an escalation in the real price of oil.

Prominent among those members will be the high-population, high-mobilization societies—such as Algeria, Indonesia, Nigeria, Iraq, and Venezuela. Before 1980 ten or eleven of the thirteen members of OPEC will likely be facing current fiscal deficits. Indeed, depending upon how the market for OPEC oil is divided, all thirteen countries could be experiencing deficits.[1]

II

What will this financial squeeze do to the "glue" that holds OPEC together?

OPEC's approaching financial squeeze could be, paradoxically, either the catalyst for the producers' association to perfect its structure as a cartel, or the opportunity for the major oil-importing countries to weaken the ability of the association to collude and thus moderate the impact of the continuing energy crisis. The most plausible calculations of demand for OPEC exports in 1980, for example, indicate a figure of 29–30 mbd (million barrels per day oil equivalent) at current prices, including oil, natural gas, and petroleum products.[2] With the expanding appetite for revenues, this will mean that by 1980, with a 5%–10% price rise in 1977 and constant real prices thereafter, OPEC will have to absorb not merely 17 mbd in aggregate spare capacity but more than 6 mbd of spare capacity in the hands of governments for whom the marginal utility of the revenues foregone is high. While the near-term matching of OPEC revenues with perceived OPSC needs will be close, the medium-term prospects—after Alaskan, North Sea, and other sources come on-line—portray a far different picture. In the late 1970s and early 1980s, the market will be a mirror-image of the post-1973 market, with more sellers than there are buyers at the given OPEC price.

Does this mean that OPEC will fall apart spontaneously and the energy crisis thereby disappear? Such a hope surfaces perennially in Washington as government officials try to persuade themselves that if they do nothing the problem will vanish.[3] But there is little justification for it. It is based on the assumption that, instead of gaining experience and sophistication in the years since 1973 (or, indeed, since 1971), the OPEC members will be less skillful in balancing supply and demand in the future than they have been until now. More plausible is the expectation that, if left to themselves, the OPEC countries will do what is most rational from the point of view of their own self-interest: namely, assign explicit market shares and reward compliance (as well as ease internal tensions) with generous and dependable price hikes.

Will the United States be able to rely upon the "special relationship" with Saudi Arabia that has been the centerpiece of Secretary Kissinger's approach to OPEC? This will be a policy approach of increasing fragility over the next three or four years, especially if the United States continues to ignore the sources of strength that reinforce its own position in that relationship. As the real or perceived revenue needs of the OPEC governments mount, the Saudis will become caught, unavoidably, in having to make a zero-sum choice: either to side with the other members of OPEC that are cutting back of development projects and are angry about the cost of industrial equipment and weapons imported from the West, or to provoke their wrath by following a unilateral policy designed as a favor to the United States, Europe, and Japan.

Thus, reliance upon the gratuitous goodwill of a "moderate" Saudi Arabia assumes that the Saudis will regularly and dependably put the interests of consumers above the interests of their fellow producers, Arab and non-Arab alike, and stand ready, at the same time, to withstand the mounting wrath of their neighbors and fellow exporters (a wrath the depths of whose intensity is being demonstrated only mildly in the first quarter of 1977). More plausibly, Saudi Arabia will probably limit its role as a "moderate" in the future as it has in 1976–7 to ensuring that the shift of resources demanded by the other members of OPEC is kept within bounds that does not "strangle" or "destroy" the strong, developed economies of the West.

How high might an explicit OPEC cartel be likely to raise oil prices? Since even the scaled-down versions of the OPEC development plans would require more than a doubling of the oil price in real terms by 1980 (under the most favorable assumptions about supply and demand elasticities), and since a doubling of the oil price would be counterproductive if it produced another severe recession in the West, the primary constraint on the cartel's price strategy would probably be the fear of an adverse impact on industrial activity in the OECD countries. Thus, depending on how well the macroeconomic policies of the U.S., Europe, and Japan will be able to cope with the strain, OPEC price raises might range from "only" 5% when the large Western economies are shaky (or when OPEC members want some political favor like pressure for a favorable Middle East settlement) to 10%–15% above the rate of OECD inflation when the large Western economies are relatively robust.

While this push will ultimately be constrained by the price of substitutes (for example, shale oil or gasified coal), it could in the meantime have a severely adverse impact on the weaker OECD economies, such as Italy and the United Kingdom, and a devastating impact on the Third and Fourth Worlds.[4]

III

What are the policy implications of this analysis for the United States?

There are three principal implications for U.S. policy: (1) the energy crisis is not dead. It is only resting, and will soon reappear with potentially more devastating consequences. (For example, the apparent "ease" with which Third World countries have expanded their debt to more than $130 billion since the 1973 oil price jump does not mean that future increases in their import bills will be

Footnotes at end of article.

handled with equal ease. Instead, "ease" in financing the last round means that future rounds will be much tougher to finance.)

(2) Relations between the major oil-importing countries and OPEC will, necessarily, become more tense and strained in the next years as both sides realize that (while neither wants to kill the goose) they are engaged in a largely zero-sum struggle for real resources that each side feels is necessary for its economic health, social welfare, and national power. There will be no easy, amicable resolution to the problems in the relations between the oil-exporting and the oil-importing countries.

(There is one heartening corollary to the above point. The "financial squeeze" projected for OPEC means that the petrodollar surplus "problem" is vanishing as abruptly as it appeared, and the justification for pushing every possible policy designed to sop up those petrodollars (especially selling massive amounts of military arms) has disappeared.)

(3) The balance of power is not inevitably tilting, however, in favor of the OPEC countries. The need for oil exporters who desire higher revenues to absorb large amounts of spare capacity will render OPEC vulnerable to the possibility of the oil importing countries playing one producer off against another. (As a corollary to this point, conservation measures in the United States plus efforts to stimulate non-OPEC sources of supply will in the future greatly complicate OPEC's future ability to operate as a cartel. A few years ago Secretary Kissinger's call for conservation measures to reduce U.S. consumption by 1 mbd died a quiet death within the Ford administration as other advisers warned that the sacrifice of American consumers could easily be matched by an offsetting reduction in Saudi output that would, if anything, be welcomed by Saudi financial authorities. By the late 1970s this will no longer be possible for Saudi Arabia.)

How might the oil-importing countries, led by the United States, strengthen the power they have to countervail OPEC's pressure for higher prices?

The tactical options range from open confrontation (which would probably be both inefficient and undesirable) to quiet subtlety. But the strategic principle would remain the same: to weaken the ability of the OPEC members to collude by rewarding differentially (in economic, political, and military terms) those members who choose to augment their revenues by expanding output rather than by restricting it.

Economically, it could include the plan suggested by M. A. Adelman, for example, to auction import tickets for the U.S. market by secret bidding.[5] This system would favor any hard-pressed government anxious to expand its market share by discounting its price, while giving OPEC as a whole minimal opportunity to monitor either who the cheaters were or how large the discounts became. Since Professor Adelman is here today I shall not elaborate on the pro's and con's of this system, except to point out that the intensification of the spare-capacity-cum-financial-squeeze problem within OPEC will create a favorable environment for its success. With 6 mbd of idle facilities in the hands of governments that need the revenues those facilities produce, there will be a continuous buyer's market, with more sellers anxious to dispose of their product than there are customers.

Politically and militarily this approach could make the continuation of crucial services provided to OPEC countries by American suppliers contingent upon certain production or price targets being met over specified periods of time. The operative wisdom in the U.S. government at the present time is that any good or service supplied by Americans would be instantly and painlessly provided by others if the U.S. government threatened to stop or slow its provision. For some goods and services that is certainly true. But for others it is patently false. Clearly there is a spectrum from housing construction carried out by private American companies (which could be easily replaced) to sophisticated military equipment and intelligence information provided by American government agencies (which could not be replaced at all). The United States currently has extensive commercial, financial, labor, communications, cryptographic, engineering, cultural, educational, managerial, military, and intelligence-sharing programs with the governments of Iran and Saudi Arabia, for example. Yet it has never taken an inventory of how many of these could be replaced, at what cost, with how long a disruption, and with what reaction among pro-U.S. elements in the civilian and military elites if the United States were forced, because of OPEC policy, to make an "agonizing reappraisal" of the structure of relations between ourselves and either of the two countries.

In the case of Saudi Arabia, there are both price-hawks and price-doves influential in the governmental hierarchy. The price-doves argue that from the point of view of the country's national interest the only way to retard Iran's military expenditures and curb its imperial ambitions is through preventing oil prices from rising. These voices could be strengthened with carefully orchestrated American encouragement.

The main point to be considered as the U.S. government (both Congress and the Executive) begins at last to give energy policy the priority it deserves is that OPEC will be pressing for ever higher real prices for oil. The United States can remain passive only at great economic and political cost. It must begin to develop the tools to counteract that pressure.

FOOTNOTES

[1] The measure here is fiscal deficits, not balance of payments deficits which will lag somewhat behind fiscal deficits, depending on the country. For the assumptions about the rate of growth of non-petroleum revenues during the simulation period, see Moran, *Oil Prices and the Future of OPEC: the Political Economy of Tension and Stability in the Organization of Petroleum Exporting Countries*, (Washington: Resources for the Future, in progress 1977).

[2] On the demand side, the "base case" in my study assumes an aggregate growth in (non-Communist) world energy demand of 4% per year. The projection is consistent with an average GNP growth of 5.0% per year, with an income elasticity of energy consumption of 1.0, a price elasticity of −0.15, and an appropriate lag effect as an energy-intensive capital stock is replaced by less energy-intensive capital goods. On the supply side, the "base case" includes cautious assumptions about output, such as a steady decline in U.S. "lower 48" oil and gas production even with price decontrol, a continuing slowdown in nuclear construction, a one year delay in the Alaskan pipeline, Mexican oil production of only 1.1 mbd in 1980, Egyptian oil production of only 0.5 mbd in 1980, Chinese oil exports of only 0.5 mbd in 1980. From this "base case" comes the figure of 6.1 mbd of spare capacity in the hands of governments for whom the marginal utility of the revenues forgone is high. Under three plausible alternative scenarios unwanted spare capacity rises as high as 8.9 mbd. Under four plausible alternative scenarios unwanted spare capacity drops as low as 5.3 mbd. Only if demand is substantially higher than 4% per year *and* supply is substantially lower than the cautious projections made in the case does spare capacity drop below 3.0 mbd.

[3] Indeed, there is occasional wishful thinking that the present two-tier price system constitutes the beginning of OPEC's break-up. While the next six months could highlight the potential for extreme tension that exists among the OPEC members, and indicate how disruptive a Saudi Arabia that refuses to act as a residual balancer to accommodate the price level decreed by the other members could be, the probable outcome will be merely a price rise very close to Saudi Arabia's 5% rather than the beginning of a "break-up."

If the two-tier price system continues through the first quarter of 1977, the eleven members of OPEC who try to hold their price rise at 10% will suffer an *aggregate net revenue loss of 16%* in comparison to a rapid capitulation to the 5% level. In terms of the strain on their budgets, their tax receipts will be running *a full 25%* behind what they were in the second half of 1976. For some countries, such as Iran, Kuwait, and Venezuela, whose heavy crudes compete directly with Saudi Arabia's the net revenue loss could be much greater. For this reason, if Saudi Arabia holds firm to its rumored production intentions and if the oil companies are aggressive price shoppers, I would expect the eleven to discover rapidly that adopting the 5% formula (openly or covertly) will be in their own best interest.

Analysis: *For the aggregate net revenue loss.*

1. Demand for OPEC exports in the last quarter of 1976 was about 32 mbd with an inventory build-up of 3–4 mbd, for a "real" demand level of approximately 29.5 mbd.

2. Demand in the first quarter of 1977 will equal about 29.5 mbd minus the inventory drawdown of about 3.5 mbd and minus almost 0.5 mbd in fewer bunkers, or 25.5 mbd.

3. I assume that if all the OPEC countries had adopted an equal 5% price rise the Saudi share of the market would be about 7.0 mbd and the Abu Dhabi share about 1.2 mbd, for a market of 17.3 mbd for the other eleven (25.5–8.2).

4. If, instead, Saudi Arabia increases its production to 9.8 mbd and Abu Dhabi to 2.0 mbd, the market for the other eleven will be 13.7 mbd (25.5–11.8).

5. Thus the eleven lose 3.6 mbd in volume or 21% (3.6/17.3), but gain 5% in price (a rise of 10% instead of 5%) for a net loss of 16% in revenues.

For the quarter to quarter comparison

1. Demand for OPEC oil in the first quarter of 1977 will equal (from above) 25.5 mbd.

2. If Saudi Arabia exports at 9.8 mbd and Abu Dhabi at 2.0, the other eleven members of OPEC will share a market of 13.7 mbd.

3. During the last quarter of 1976 Saudi Arabia exported at a rate of 9.2 mbd and Abu Dhabi at 1.6 mbd, leaving the other eleven a market of 21.2 mbd (32.0–10.8).

4. Thus, the eleven will have a market 7.5 mbd smaller (21.2–13.7) or 35% less (7.5/21.2) than the last quarter of 1976.

[4] The non-OPEC LDCs "lose" about $13 billion per year on account of the past increases in oil prices, and "gain back" about $5 billion per year in aid from OPEC (with over half of that going to Arab states). The analysis presented here suggests that the opportunity cost of giving aid will rise for most members of OPEC over the next 5 years—that is, foreign aid will constitute an increasingly sharp "sacrifice" in terms of other programs foregone. Thus one would predict a *declining* rather than a rising level of foreign aid from OPEC between now and the early 1980s. Indeed the decline has already begun. Iranian aid dropped 41% if one compares the budget for 1975–6 (1354) with the budget for 1976–7 (1355).

[5] M.A. Adelman, "Import Quota Ticket Auctions," *Challenge*, January–February 1976.

TRIBUTE TO ROLAND HAYES

Mr. BROOKE. Mr. President, early New Years Day Roland Hayes, one of the world's most famous singers, died after a long, debilitating illness. He was 89.

No words can adequately describe the loss of this extraordinary man. For Roland Hayes touched so many people in so many ways. For millions both here

and abroad, it is his magnificent tenor voice which will linger in vivid memories. Yet for many more Americans, particularly black Americans, it is his life itself, the sheer inspiration of his achievement, that will live on in our hearts and minds.

And what a life. Born in 1887 to a poor black farmer and a former slave in Curryville, Ga., Roland Hayes had to work and work tirelessly to gain his international fame. In his early years, jobs as a field hand and a laborer helped him to sustain himself, his widowed mother, and others in his family. At the age of 16 he entered Fisk University where he began at the sixth grade level and worked his way through Fisk's precollegiate program.

After 4 years he left Fisk and went to work as a waiter in Louisville, Ky. It was then that a well-connected Bostonian heard him sing and arranged for him to appear in Boston with the Fisk Jubilee Singers. The rest is history. For 9 years he practiced under Boston's well-known singing teacher Arthur Hubbard, while supporting himself and his mother as a bell hop and later as a page at the John Hancock Life Insurance Co.

On November 15, 1917, Roland Hayes gave his first major concert in Boston's Symphony Hall. It was the first time that a black American had commanded a concert stage. It was also a sellout performance.

The success of this inaugural concert led to a national tour. But as happened so often, the racial barrier proved too great, and many halls were reluctant to book him. Indeed, he was told that no black would be accepted as a serious musician in America. Yet determined, as was so characteristic of him, he went to Europe, not to escape, but to learn and to perfect and to become the singer his countrymen would not let him become.

Abroad he took more voice lessons, studied composers and their music, mastered the German lieder, brought international recognition to black spirituals, and met some of Europe's most famous musicians. His work, as well as his fame, soared. And in 1921 he became the first black singer to give a command performance for the King and Queen of England. Four years later there was yet another command performance, this time for Queen Mother Maria Christina of Spain.

But in between these stunning foreign triumphs, Roland Hayes had returned home for an even more important and dramatic triumph: an invitation in 1923 to sing with the Boston Symphony Orchestra. Of that historic occasion, Roland Hays would say:

> It purged tradition of a blot, the removal of which opened the door of opportunity to worthy artists of the Negro race.

Fifty years later, in 1973, Roland Hayes gave his last public performance. Fittingly it was in the very Boston in which he launched his magnificent career.

Now, a scant 4 years later, that voice is still. That great magnanimous spirit rests.

Mr. President, I shall always consider it my special privilege to have known this genuinely gifted man. To have reveled in his spendid art. To have learned from his quiet, determined humanism. He was an artist, yes. But he was so much more: a leader, a champion, a stalwart. He truly made a difference.

To his devoted wife Helen Hayes, his daughter Afrika Hayes Long, and his two granddaughters Erica and Zaida, all of whom gave him much comfort. Our prayers are that God see them through this difficult loss of such a great and good man.

SENATOR BROOKE'S PROPOSAL: HOUSING FOR YOUNG FAMILIES

Mr. McGOVERN. Mr. President, the Sunday, January 9 edition of Parade magazine contained an outline of Senator BROOKE, Republican of Massachusetts, for new opportunities and incentives for young people to obtain mortgage financing in home buying. Few in this body do not recognize the need for providing these incentives. Last year I introduced the Young Farmers Homestead Act to provide similar incentives for young families who seek to enter agriculture as their life calling but who were unable to obtain the necessary initial financing. Senator BROOKE was a cosponsor of that legislation.

I commend the Senator from Massachusetts for his novel and innovative approach to the young married housing problem. I am confident that he will receive an enthusiastic response from the Parade article. For the information of other Senators, I ask unanimous consent that the article I have referred to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOMES AND HOPES

The American dream of owning a home is rapidly growing faint.

The median price of a new house is now over $40,000. To live in a desirable suburb costs even more. Only a minority of American families can afford such prices.

For young families (those with husband and wife in the 25-to-34 age bracket) the prospect of buying a new house is almost nil.

Sen. Edward Brooke (R., Mass.) would like to provide young married couples with an opportunity to own a house.

In his Young Families Housing Act, Brooke has proposed a new type of mortgage arrangement whereby a young family would make smaller monthly mortgage payments in the early years and proportionately larger payments in the later years. Brooke contends that it makes sense to structure a mortgage so that a young family pays less in the years when its income is less and more in later years, when its income is higher.

His legislation envisions a method whereby the young family can accumulate enough cash for a down payment. This would be done by permitting the first-time homebuyer to establish a savings account—called an "individual housing account"—into which he could deposit $2500 a year up to a maximum of $10,000. This money would be deductible for income tax purposes and would have to be applied as a down payment on a house.

The housing industry has outpriced itself, and imaginative, creative legislation such as Brooke's is sorely needed.

AMENDMENT OF THE GUN CONTROL ACT OF 1968

Mr. DOMENICI. Mr. President, on January 10, 1977, I introduced S. 31, a bill to amend the Gun Control Act of 1968 to provide for separate offense and consecutive sentencing in felonies involving the use of a firearm. Although I asked unanimous consent that the bill be printed in the RECORD along with my remarks, it was not printed. Therefore, I ask unanimous consent that my previous remarks together with my bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. DOMENICI. Mr. President, in the first session of the 94th Congress, I introduced the same bill I am reintroducing today. When I introduced the bill then, I reported that a crime of violence occurred every 36 seconds. Now, just two years later, a crime of violence occurs every 31 seconds. While at first glance this may not appear to be a large increase, in fact it represents greater than a 16 percent increase in just two short years.

In 1975 we find that the number of violent crimes has reached the unprecedented level of over 1 million, 26 thousand. This represents a 38.9 percent increase over the number in 1970 and a 16.6 percent increase in the number in 1973. These are shocking statistics. They translate into the fact that in 1975 there was almost a 40 percent greater probability than in 1970 that any of us would have been victimized by violent crime.

Nationally, in 1975, firearms were involved in 66 percent of all murders. In the Western states this figure was 59 percent, but in New Mexico it was over 63 percent. Nationally, firearms were involved in almost 25 percent of the aggravated assaults. In the Western States this was slightly over 22 percent, but in New Mexico it was over 25 percent. Nationally, firearms were involved in almost 45 percent of the robberies. In the Western States it was 44 percent, but in New Mexico it was almost 49 percent.

Thus, in two out of the three categories for which gun related crime statistics are kept, New Mexico exceeds the national average and in all three cases, New Mexico exceeds the other Western States. Over half of the murders and almost half of the robberies in my state involve the use of guns.

Yet I do not believe that the answer to this problem can be found in attempting to deprive our citizenry of their right to own guns. Legitimate, responsible homeowners and sportsmen should not be penalized for the misdeeds of others.

The penalties should be placed on the wrongdoers. They should be swift and they must be stern. Only by putting the criminal on notice that his misdeeds will cost him dearly can we hope to correct this critical problem.

Therefore, I, together with my colleagues Senators Curtis, Stevens, and Thurmond introduced today an amendment to title 18, section 924(c) of the United States Code that would provide significantly stiffer sanctions for the illegal use of firearms.

S. 31

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 924(c) of the Gun Control Act of 1968 (Public Law 90–618; 18 U.S.C. 924(c)) read as follows:

"(c) Whoever—

"(1) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States; or

"(2) carries a firearm during the commission of any felony for which he may be prosecuted in a court of the United States, shall, in addition to the punishment provided for the commission of such felony, be sentenced for the additional offense defined in this subsection to a term of imprisonment for not less than one year nor more than ten years. In the case of his second or subsequent conviction under this subsection, such person

shall be sentenced to a term of imprisonment for not less than two nor more than twenty-five years.

"The execution or imposition of any term of imprisonment imposed under this subsection may not be suspended, and probation may not be granted. Any term or imprisonment imposed under this subsection may not be imposed to run concurrently with any term or imprisonment imposed for the commission of such felony.

Mr. President, the bill clarifies the intent of Congress that carrying a gun be treated as a separate and distinct offense from the felony committed.

In addition, it provides that the present requirements of "unlawfulness" in the carrying of the gun be deleted. Therefore, the act of carrying a gun despite the lawfulness of possession will be treated as a criminal act if done in conjunction with the commission of a crime.

Finally, this bill dispels all doubt that carrying a firearm during the commission of a felony creates a separate and distinct felony sentencing for which must be imposed consecutively with that of the underlying charge. Sentencing for the gun charge would be subject to the sterner penalties this bill contains.

With our crime rate accelerating, and our innocent citizens needlessly dying, I commend this amendment to my distinguished colleagues as an urgent matter deserving our earnest attention.

VIETNAM: HEALING THE WOUNDS OF WAR

Mr. KENNEDY. Mr. President, I would like to share with the Senate an extraordinarily thoughtful essay regarding Vietnam—and the need for healing the wounds of that tragic war—written by William E. Colby, former Director of the Central Intelligence Agency and a senior American official in South Vietnam.

For the thousands of Americans who were, over the years, involved and concerned with Vietnam—in whatever way, and with whatever differing views—all can unite in endorsing Mr. Colby's call to "bind up our Nation's wounds over Vietnam. Let us put behind us the division—but let us not believe the task will be ended when its American dimension is complete. The burdens borne by Americans were small compared to those of Vietnamese."

Nowhere are these burdens better documented, Mr. President, than in the latest report of the Subcommittee on Refugees, which I serve as chairman. Entitled "Aftermath of War: Humanitarian Problems of Southeast Asia," it describes, page after page, what Mr. Colby writes—that families are still shattered, wounds unhealed, lives disrupted—on a scale that would have crushed a less stout people. These must receive equal attention when, as Lincoln said:

> We care for him who shall have borne the battle, and his widow, and his orphan, and seek a just, and a lasting peace, among ourselves, and with all nations.

It was in this spirit, Mr. President, that I offered two recommendations in releasing the subcommittee's report last May, and which I would like to restate again for the RECORD. I ask unanimous consent that they be printed at this point in the RECORD.

There being no objection, the recommendations were ordered to be printed in the RECORD, as follows:

RECOMMENDATIONS

1. NORMALIZATION OF RELATIONS WITH THE PEOPLE AND GOVERNMENT OF VIETNAM

The United States should actively seek a reconciliation and normalization of relations with the people and Government of Vietnam. Such a policy is in the interest of resolving the many outstanding humanitarian and related problems resulting from the war, and of promoting peaceful development and stability in Southeast Asia.

In pursuing an active policy of reconciliation and normalization, the United States should stress the immediate need for additional measures to get information about American military and civilian personnel still considered missing in action and to facilitate the repatriation of remains. The United States should also promote:

(*a*) The commencement of trade and commerce;

(*b*) The opening of cultural, educational, and similar exchanges;

(*c*) The relaxation of travel restrictions;

(*d*) The reunification of families separated by the events of March and April 1975; and

(*e*) The free exchange of personal communications, including mail and parcels, between those living in the United States and those living in Vietnam.

In the interest of seeking a reconciliation and a normalization of relations with the people and Government of Vietnam, the United States should also renew its intention to help heal the wounds of war, initially with a view toward contributing to the international relief and rehabilitation efforts currently underway in the war-affected areas of Vietnam.

The basis for pursuing a policy of reconciliation and normalization was stated by Secretary of State Kissinger in 1973:

". . . it is our firm intention in our relationship to the Democratic Republic of Vietnam to move from hostility to normalization to conciliation and cooperation. And we believe that under conditions of peace we can contribute throughout Indochina to a realization of the humane aspirations of all the people of Indochina. And we will, in that spirit, perform our traditional role of helping people realize these aspirations in peace."

2. SPECIAL PRESIDENTIAL ENVOY TO INDOCHINA

To move from a posture of hostility and neglect, to a policy of reconciliation in our relations with the people and governments of Indochina, the President should designate immediately a Special Envoy to undertake new diplomatic inititaives to promote the normalizing of relations with Vietnam and the repairing of relations with the Lao People's Democratic Republic, where the United States continues to maintain an Embassy. Such initiatives are in the interest of all parties, and would hopefully contribute to real progress in resolving some immediate problems of mutual concern and in building friendly relations between the United States and Vietnam and Laos.

Mr. KENNEDY. Mr. President, I commend to the attention of the Senate the thoughtful essay by Mr. Colby and, hopefully, in the coming weeks and months, Americans will join together in supporting the kinds of national objectives he has stated so well.

I ask unanimous consent that the text of Mr. Colby's essay, and an accompanying editorial in the Washington Post, be printed in the RECORD.

There being no objection, the essay and editorial were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 14, 1977]

VIETNAM: A WARRIOR'S PRESCRIPTION FOR PEACE

(By William E. Colby)

American MIAs, draft evaders and deserters dominate our policy discussions of how to close the book on our difficult Vietnam experience. Hundreds of returned POWs, thousands of relatives mourning the sacrifice of their loved ones, hundreds of thousands of Vietnam veterans all call for equal consideration as we attempt to put Vietnam in its proper historical perspective. But these are all Americans, and the Vietnamese also affected by the war are hardly part of our debates.

This American dimension to Vietnam long warped American policy. Our disdain for President Ngo Dinh Diem's Mandarin character led to his overthrow—and death. Our "smart bombs" destroyed trucks and trains but not bicycle porters. Our conception that modern war is fought by soldiers delayed for years our support for a "people's war" in South Vietnam.

Eventually, we turned to "Vietnamization." Five hundred thousand weapons were distributed to South Vietnamese villagers to use against those they viewed as enemies. Five hundred thousand American troops were removed from Vietnam. But even then we left American guns and tactics useless when American ammunition and American-scale logistics were cut off.

As we formulate our policy for the future, will we make the same mistake? Will we concentrate on the American dimension and view Vietnam only as it affects America? Or can we formulate a policy and program that will reflect the real interests of America—and of the Vietnamese people whose tenacity has carried their national integrity through more than 2,000 years of history?

Yes, let us bind up our nation's wounds over Vietnam. Let us put behind us the division between those who believed they bore the "torch of freedom" in Vietnam and those who believed they lifted it in the anti-war protests. Let us honor those who answered the call to duty, and let us welcome back to the national family those who followed their consciences into disobedience or exile.

But let us not believe the task will be ended when its American dimension is complete. The burdens borne by Americans were small compared to those of Vietnamese. Families are still shattered, wounds unhealed, lives disrupted—on a scale that would have crushed a less stout people. These must receive equal attention when, as Lincoln said, we "care for him who shall have borne the battle, and his widow, and his orphan," and seek "a just, and a lasting peace, among ourselves, and with all nations."

The 130,000 refugees who fled Vietnam in April 1975 have been received in America. Already, many are becoming productive members of the American community, as only the latest of the many waves of refugees, exiles and afflicted who contributed their talents to build this nation. But many did not escape in those last days. Some still put to sea in small boats hoping to be picked up by passing merchantmen or to circumvent Vietnamese and Cambodian patrols to reach sanctuary in Thailand or Malaysia. Some of these are coldly by-passed at sea, some reach the "sanctuary" to find that their presence is unwelcome either there or in farther refuges, some die from the rigors of the sea or hostile patrols.

Many remain in Vietnam, if not being "re-educated" in camps, still held without communication or possibility of joining their families who were lucky enough to escape in April 1975. Many others are in Laos and Cambodia, where they too once looked to U.S. support of their struggle, if not with the pervasive American presence that char-

acterized Vietnam. Some idea of the possible numbers of those who identified their cause with America can be judged from the 900,000 who chose to leave North Vietnam in 1954, when a three-month period of grace to do so was a provision of the accords that recognized that North Vietnamese victory.

And many others in all three Indochinese nations were affected by U.S. power: the bombed bridges and depot centers of North Vietnam, the wounded and maimed throughout the peninsula, the widows and orphans of our erstwhile enemies and allies. Debate about whether these injuries were caused by America's "best and brightest," North Vietnamese determination to dominate Indochina or anti-colonial revolutionary nationalism, can be left to the historians. The real challenge is whether the nation that rebuilt and repaired its allies and enemies of World War II can heal the wounds of its allies and enemies in Indochina, to achieve an equivalent relationship of respect and friendship with them. Can we apply another phrase from our Declaration of Independence so admired by Ho Chi Minh, that we hold Vietnam, "as we hold all Mankind, Enemies in War, in Peace Friends"?

The situation in Indochina is, of course, not the same as that after World War II. America faces a victorious rather than a defeated enemy. And the North Vietnamese David does not stand over a prostrate Goliath, but faces one with great remaining power and responsibility in the world. Neither can work his will over the other, and both can be prickly with pride in their future contacts. The way out, therefore, requires a turn away from the past, from recriminations over broken promises and antagonistic policies, toward a future of mutual respect and repair of the damages of the war.

The first step in such a process must be mutual recognition of the true future interests of each side, including the reality that neither should seek the humiliation of the other. Thus the new Vietnam properly asks recognition of its victory and identity in international circles such as the United Nations. And the United States can properly ask that its recognition be received simply as such, and not cast in terms of American penance. Intermediaries such as the World Bank and the Asian Development Bank are already acting to reduce the political frictions that direct dealings might bring, but nonetheless start the process of healing. And a group of American anti-war activists helped the process in their recent protest against violations of human rights by the victorious Vietnamese regime. They demonstrated that their opposition to earlier American policy was based on their view of principle, not blind support of the Vietnamese cause, then or in the future.

Each side in such a new relationship can ask actions by the other beyond mere recognition. Vietnam can ask assistance, direct or indirect, from the United States to rebuild. It can also ask assurance against efforts, overt or covert, against its new sovereignty, either by Americans or those benefitting from its protection.

On the other side, America has asked for an accounting of its MIAs. It also can ask for humanitarian treatment of its former allies and associates still within Vietnam, that silence from them does not mask retribution. In return for its assistance, it can ask that the family members of those who escaped in 1975 be permitted to leave and join their families. It could also request that those who served the United States during the war, or those closely associated with it in the South Vietnamese government, should also be allowed the 1954 option of exile from the new Vietnam. If the new masters of Vietnam truly wish to build a new society, they should release those who fought against it and will resist becoming a part of it.

As an aspect of the look ahead rather than backward, both sides could also agree to consign the misdeeds of the past to the mists of history, either air bombing or rockets, either grenades in marketplaces or "search and destroy." They could accept the impossibility of apportioning blame for the wrongs of more than a decade of war.

Within its own jurisdiction, each side can, of course, act on its own to repair the damage of the war. Vietnam's pride in its sacrifice and victory will become a chapter in the several millenia of Vietnamese history. "Re-education" as a genuine process and not a euphemism for imprisonment can lead many Vietnamese voluntarily to accept the new Vietnam, and with less cost than the brutal Cambodian tactic of class-elimination. America can give honor to those who responded to its call to duty to serve in Vietnam and to those whose consciences led them to protest or to refuse the call.

But America has an obligation not only to its own citizens and opponents with respect to Vietnam. To fulfill its commitments there, it must also rehabilitate those who fought beside us and looked, and still look, to a different future than the war's outcome has brought. Some may be rehabilitated elsewhere, but for many their only hope is to come to our shores, whether they are today in Thai refugee camps or looking out from the new Vietnam of which they will never be a part. When they, too, are part of the American community from which they had assurances of support in battle, then we can assert that we fulfilled our obligation to them in peace.

[From the Washington Post, Jan. 14, 1977]

MR. COLBY ON VIETNAM

We publish today on the opposite page an appeal by former intelligence director William E. Colby. Mr. Colby believes the country should take a part in healing the wounds that the Vietnam war left not only in the United States—but in Vietnam as well. Let us not duplicate in peace the error we made throughout the war, he argues. That error involved being able to see only the American dimension of the war. Can this country, he asks, be as practical and magnanimous in relation to a victorious enemy as it was after World War II to enemies it had defeated? The former CIA director argues that we should be: By mutual concern for each other's current interests, he suggests, a relationship of advantage to both can be built.

Mr. Colby is, we think, particularly well situated to comment. For he was a leading participant in the conduct and making of American policy in Vietnam during the war period—including some of this country's bloodiest and most controversial acts. He offers now, we believe, a valuable personal model of the broad, humane and forward-looking view, one free of demands for either vengeance or penance, which Americans ought to be taking toward current questions of Vietnam. Essentially the same view comes through the concern for human-rights violations in Vietnam recently voiced by a group of former antiwar activists. This is also the view reflected in Jimmy Carter's pledge to "get the Vietnamese war over with" for the American victims of the war, including draft evaders and deserters.

Like Mr. Carter, Mr. Colby wants to proceed with the healing—and without rendering moral judgments on particular acts of the war or on the war overall. Mr. Colby's contribution is to take this standard the last mile. He would apply it to the Vietnamese victims of the war: those who were victims of American bombs and guns and those who stood with the United States during the fighting and who are under special duress in their homeland now.

The course Mr. Colby commends promises a bonus on a matter of special American concern, an accounting of the MIAs. His arguments reinforce the conviction of those who, like ourselves, have long felt that the best way to gain satisfaction on this count is to pursue direct and across-the-board negotiations with the governments of Indochina, especially Vietnam, in order to satisfy their legitimate interests as well as the United States' own. In brief, he makes a powerful and dignified case for where the country should now go. The case is only enhanced, we believe, by one's awareness of where Mr. Colby has been.

MRS. McNAMARA'S GOOD IDEA

Mr. MATHIAS. Mr. President, a recent editorial in the Washington Star gave special praise to Margaret McNamara and to Reading is Fundamental, Inc. During its first 10 years this program has proven that children can more easily be taught to read when the personal rewards of reading are made available to them directly and pleasantly. The organization gives good and interesting books to children. As a result, the children learn that reading can be a pleasure as well as a useful skill. The children choose the books they wish to read and then keep them for their own. They gain interest in certain authors or topics and follow those interests as they wish. Reports from teachers and parents are universally positive. The RIF idea does not promote any particular method of teaching students to read. It has proven its value in making youngsters more responsive to learning, though, because it makes reading worth the effort.

RIF has also shown what a private organization can do with a good idea, high motivation and volunteers who work to involve parents and students. It began with one experimental project 10 years ago. It now has 400 programs in communities around the country. The national office provides technical assistance, handles public education and obtains discounts from publishers for the books that community groups buy.

Because of its success and because of the demands upon RIF to expand even further, it will now receive funds from HEW to match its local contributions. This will extend the benefits of the program to many more children. I second the Star's word of caution, however, and hope that RIF does not lose the freshness, dedication and elegant simplicity that it displayed without Government help.

Mr. President, I ask unanimous consent that the December 19, 1976 Washington Star editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WISHING RIF WELL

A recent release from the Department of Health, Education and Welfare is the type of government paper that evokes mixed emotions—particularly in the case at hand. A $4 million grant has been made by HEW to Reading Is Fundamental, Inc., the 10-year-old, privately operated program here. This is the first time RIF has sought major federal funds which, as we know, come attached to federal notions of how to run a railroad.

Reading Is Fundamental is equally a vision and a program. It deserves a great many good words. RIF was founded in 1966 by Margaret McNamara. The idea was grandly simple: If children were permitted to choose and own books that interested them, they might come to feel that reading was far more than an imposition, a chore. From 10 modest pilot projects, RIF has grown to more than 400

locally operated, locally funded programs in 47 states and the District. RIF concentrates on children up to the ninth grade, primarily in poorer communities; so far more than 5 million paperbacks have been distributed to more than 2 million children.

RIF up to now has depended largely on local energies and initiative; money has been raised through foundations, community service clubs, civic organizations, businesses; publishers and distributors often donate books or provide them at discount. The paperbacks are distributed to the children, sometimes on a basis of one free book as reward for reading several others. "The important thing," said Ruth Graves, RIF's managing director, "is that no child goes away from a RIF project without a book in hand, a book the child has chosen himself or herself."

So simple—and so perceptive. Books can be terribly alien objects, even threatening ones, to a child who associates them with a shadowy authoritarian presence—which too often is how school impinges on a childish imagination—or to a child who comes from a home where books are not cherished.

"We don't claim to teach reading," Mrs. McNamara told Alan Otten of the *Wall Street Journal*. "That's the schools' job. What we do is motivate children to find out what's inside a book." But the extraordinary growth and encomium that RIF has recorded suggests that far more follows from that modest premise.

Now RIF is taking a calculated risk. Requests for new projects and help from the Washington headquarters, Mr. Otten wrote, are expanding at the same time that book costs are sharply rising and private contributors are reducing support. The organization reached the point that, without federal assistance, it could not keep up with demand.

The HEW grant was made possible under the National Reading Improvement program. The agency's Office of Education now will pay up to 50 per cent of the cost of books with local groups matching the percentage and receiving assistance from the RIF headquarters.

"Will (the federal involvement) change the character of the program?" Mrs. McNamara mused to the *Journal*. "I certainly hope not—but we would be stupid not to know that that danger is there."

There is always a penalty, at least a potential one, in success. And Reading Is Fundamental has been superbly successful. Yet expansion to try to meet the need that exists for its vision is so widespread that the organization probably had to take the chance. We hope HEW will have the good sense not to fiddle with a proven and estimable program.

SENATOR NELSON SPEAKS ON MILK MARKETING

Mr. McGOVERN. Mr. President, on December 15, 1976, a very important and significant conference on milk marketing was held here in Washington. It was an important conference because it dealt with a basic food—milk—and because the problems involved in the marketing of milk are of primary concern to all of us.

It was a significant conference because it was sponsored by two groups that might ordinarily take divergent and even hostile views on the problems addressed. Those two sponsors were the Community Nutrition Institute and the National Milk Producers Federation. A third important sponsor was the U.S. Department of Agriculture.

This well-rounded public discussion was enhanced additionally by a major address by our colleague, Senator NELSON of Wisconsin, the State that produces more milk by far than any other in the Nation. Those of us who have served with GAYLORD NELSON know that his dedication, not only to the Wisconsin dairy farmer and his family but to those throughout the Nation, is sincere and passionate. More important, however, we know that Senator Nelson among us understands the problems of the dairy farmer and his value to the Nation to a degree that is unparalleled.

The dialog sponsored by the Community Nutrition Institute, the National Milk Producers Federation, and the Department of Agriculture needs to be continued and expanded upon. For that reason, I ask unanimous consent that Senator NELSON's remarks to the conference together with the attached tables be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR GAYLORD NELSON

The most pleasing aspect of being here today is the joint sponsorship of this conference. Just a year ago the Community Nutrition Institute held its own conference on this subject, to be followed in a few months by what might be described as a counter-conference sponsored by the National Milk Producers Federation.

The joint sponsorship of this meeting, with the active participation of the U.S. Department of Agriculture, is, I hope, recognition of the fact that there need not be, indeed, must not be, conflict between the dairy farmers who produce milk and the consumers who purchase it.

They have a common interest—adequate production of a basic food with a fair return to the producing family farmer at a price that is fair to the consumer.

The first CNI conference seemed to me to place undue emphasis on the second part of the lowest possible cost to the consumer. Very little attention was given to the necessity that the family dairy farmer must have a fair price if he is to continue producing an adequate supply of milk.

One participant at that original conference, who was critical of dairy farmer cooperatives and of the federal milk pricing system, was asked if he had any concern for the producing dairy farmer. His answer was in the negative—his concern was only with what happened to the milk after it left the farm.

My invitation to speak at this conference was prefaced with the question, "How would Congress look at any legislation dealing with changes in the nature of dairy cooperatives and the federal milk marketing system?"

My answer is that most members of Congress would look at the question from a position of profound ignorance while those who understand the issue would ask, just what is the nature of the changes proposed? My general answer to that general question is that I would support any workable proposal that would assure the dairy farmer a return at least equal to the cost of production. Dairy farmers are used to hard work, long hours and cows that produce milk seven days a week including Christmas. They and their families will work for low wages or no wages so long as the milk price will pay the cost of production. They are perfectly willing to gamble on some good years that will reward them with some income for their labor, some for their managerial skills and some return on their investment. If achievement of that modest objective could be advanced through some improvements in marketing orders or cooperatives I am for it. Any proposal that would weaken the market position of the dairy farmer I would oppose.

Any dialogue about cooperative, marketing orders and price supports must begin with the farmer. He can produce more than the consumer can use and frequently does. He can expand his production to meet any foreseeable demand. His milk meets higher standards than any milk produced elsewhere in the world. In short, the consumer is at no risk so long as the farmer can survive on his land.

There are, of course, major social and cultural values at stake in the survival of the family farm. These values are important to us all. Involved is the great question of stewardship of our land. Should the man who tills the soil and produces the food and fiber own the land? Or, should absentee corporate giants own the land, and hired hands till the soil and manage that vital resource?

Beyond the social and cultural implications this question is important to the consumer from a purely economic standpoint.

The modern optimum size family dairy farm is the most efficient producer of milk. Thus it is important to the consumer that we design a system, create a climate in which the dairy farmer can survive. This would not be a major problem if the farmer had the same measure of control over production and price that all other producers and sellers have. He is, in fact, the only businessman in the economy who does not have the power to set the price of his product. He cannot easily slow down his production or speed it up, or close down production and lay off his producers. He cannot calculate his cost of production and set a price to cover it. And he has to continue to produce even though he is losing money on every unit of production.

For example, in Wisconsin in 1975 the all-milk price received by dairy farmers was $8.17 a hundredweight, but the *actual* production cost was $9.79 a hundredweight. The farmer absorbed the difference of $1.62 for every hundred pounds of milk he produced.

It is instructive to examine the peak and valley prices received by dairy farmers under the Minnesota-Wisconsin series recently. In January, 1975, the Minnesota-Wisconsin was $6.80 a hundredweight; by December, 1975, it had risen to $9.08, only to fall back to $8.25 a hundredweight two months later. Since February, it has again risen to $8.99 and then dropped sharply to the current price of $8.26 a hundredweight.

No farmer can plan either a family or a business budget on income varying that much—particularly when the income is below real production costs even at its highest level.

As noted that situation improved markedly throughout most of 1976. But the trend has been reversed. Severe drought and other factors are driving up production costs and prices have dropped sharply.

For the first time in recent years the numbers of dairy farmers quitting in Wisconsin was not as high during early 1976 as it had been in the past. But if the current "bust" period continues, if there is not a federal program to relieve it, I predict that the number of dairy farms in Wisconsin will again decline sharply.

The dairy programs of today grew out of absolute necessity. The dairy farmer had to have the cooperatives to market his milk if he was to survive. The dairy industry had to have a federal milk marketing and pricing system if there was to be some orderliness in the marketing and pricing of milk.

That does not mean that either the cooperatives or the federal marketing system are perfect. But there are laws that govern the activities of the non-profit cooperatives and they should be enforced. And the federal milk marketing system obviously is going through a continuing process of adaptation to modern circumstances.

Senator Kennedy a year ago spoke at the CNI conference about the federal marketing system and pointed out that those critical of

the programs that had been developed out of necessity to provide this nation with a sufficient supply of milk had a responsibility to propose a substitute program before they replaced the existing one.

It is the view of many consumers (perhaps a substantial majority) that retail prices can be appreciably reduced by further squeezing the dairy farmer. They believe that the dairy support program is an indefensible expenditure of tax payers money to subsidize the farmer.

This, despite the fact that the dairy farmer and his family work longer hours each day, more days a week, for lower average income and less return on investment than any other class of businessmen in our economy. Not infrequently consumers, city folks, members of Congress, ask me why they should continue to subsidize the dairy farmer. My response puzzles them, convinces no one but makes me feel better. I point out that they are asking the wrong question. The right question is: How much longer can the dairy farmer be expected to continue to subsidize the consumer? When one efficiently produces a good product for a low return for one's labor and frequently little or no return for investment or management, it is the producer who is paying the subsidy, not the consumer.

It is instructive to note that the average American today works less than 10 minutes to buy a half gallon of milk.

In 1950 it took almost 16 minutes of work to make the same purchase.

In 1950 the average worker toiled almost one-half hour to buy a pound of butter; in 1975 he earned it in less than 13 minutes.

In 1950, the average American spent 22.4 percent of his income for all of his food; in 1975 his food cost had dropped to 17.1 percent of his income, the lowest percentage of any nation.

Whatever changes, improvements or modifications may be advocated or proposed in support programs, marketing order procedures or the operation of cooperatives, they must have as their objective a more stable and higher average return to the farmer for his milk. If this can be partially achieved somehow in the marketing process, all to the good. However, whatever the program may be, at a minimum it must at least assure the farmer his cost of production. That will serve both the interest of the consumer and the farmer.

Percentage of income spent on food

	Percent
India	64
Brazil	47
Russia	40
Yugoslavia	39
France	26
United States	15

SOURCE.—USDA.

CONSUMER EXPENDITURES FOR FOOD, INCOME, AND LABOR REQUIRED TO PURCHASE SPECIFIED DAIRY PRODUCTS SELECTED YEARS, 1950–75

Year	Consumer expenditures for all foods		Time worked (minutes) to earn money to purchase—			
	Amount (billions)	As a percentage of income	Butter 1 lb	Milk at stores, ½ gal	American cheese, ½ lb	Ice cream ½ gal
1950	$46.0	22.4	29.6	15.8	11.7	35.6
1955	58.1	21.3	22.5	13.8	10.2	26.6
1960	70.5	20.2	19.5	12.8	9.0	22.2
1965	85.8	18.2	17.3	10.9	8.7	18.1
1970	118.6	17.3	15.5	10.2	9.0	15.1
1975	184.8	17.1	12.8	9.8	9.6	15.2

Source: U.S. Department of Agriculture.

RELATIVE PRIORITY LEGISLATIVE AND SECURITY GOALS OF THE VETERANS OF FOREIGN WARS OF THE UNITED STATES FOR THE 95TH CONGRESS

Mr. THURMOND. Mr. President, I have recently completed reviewing the priority legislative and security goals of the VFW for the first session of the 95th Congress.

In addition to recommending the Congress to make cost-of-living adjustments in the VA compensation and pension programs, the mandates of the VFW focus upon some of the most pressing problems confronting the VA, the veterans population, and the security of our Nation as a whole.

The VFW strongly opposes any takeover or intrusion upon the VA health care system by any plan of national health insurance. The VFW would vigorously resist any steps to diminish the integrity of the Veterans' Administration. Also among their goals is the establishment of a national cemetery in each State.

In the area of national security, the VFW favors the maintenance of the operation, control, and defense of the Panama Canal under U.S. sovereignty. This great veterans organization further insists that other member nations in the U.N. share greater financial responsibility in the operation of that institution.

Mr. President, the membership of no organization has made more meaningful sacrifices to preserve our freedom than the VFW. They have always enjoyed an unqualified standing to speak out on the issues which affect our Nation. I have found their legislative and security goals for 1977 relevant and enlightening. In order to share these mandates with my colleagues, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the mandates were ordered to be printed in the RECORD, as follows:

PRIORITY: LEGISLATIVE PROGRAM OF THE VFW

Preamble: "Look to yourselves, that we lose not those things which we have wrought."

The concept of veterans' benefits is rooted in the very founding of our great nation. The Commander of the Continental Army, General George Washington, laid the foundation in 1783 when he stated in part in a letter to the Governors of all the states:

"It (benefits) was part of their hire . . . it was the price of their blood and of your independency, it is therefore more than a common debt, it is a debt of honor."

Expanding thereon, President Abraham Lincoln in his second inaugural address called upon the nation

". . . to care for him who shall have borne the battle, and for his widow and his orphan . . ."

These commitments include compensating disabled veterans for disabilities incurred in the nation's service in wartime and to the veteran's dependents for the loss of life or earning capacity of the veteran, to promote the rehabilitation and readjustment to civilian life of those veterans who have suffered physical or economic loss because of their service to the nation and to care for needy veterans who cannot be completely rehabilitated.

There are presently nearly 30 million veterans of whom more than 26 million are war veterans, and together with their 70 million dependents constitute nearly half the population of the United States of America.

The average age of all veterans is 47 years. The remaining Spanish-American war veterans, who number less than 700, are more than 96. World War I veterans average over 81 with many in their 90's. World War II veterans average over 56. Korean veterans average 45 years of age and the youngest of all are the Vietnam veterans who average 30.

Two million two hundred thousand veterans are in receipt of compensation for their service-connected disabilities and dependency and indemnity compensation is paid to 484,000 widows and children of veterans who were killed in action or died as a result of their service-connected disabilities. Pension is paid to nearly one million veterans whose nonservice-connected disabilities have rendered them unable to adequately support themselves and death pension is received by 1.2 million widows and children of such veterans with wartime service. All pensioners must meet a strict income means test annually.

A grateful nation through the wisdom of the Congress of the United States has recognized its obligation to those who have rendered a special service to our Republic during periods of war and hostilities by serving in our Armed Forces and to their survivors.

"The only thing necessary for evil to succeed is for good men to do nothing."

We are all familiar with the anti-veteran forces and social planners who would do violence not only to the Veterans Administration hospital and health care system but to all veterans' benefits. We also know the shift in national sentiment from veterans and their survivors to social welfare programs has historically been the handmaiden of peacetime. This, we of the V.F.W. expect and have acquitted ourselves well in dealing with the past 77 years. However, most recently high officials within the government have taken stands to reduce our hard-fought-for-and-won veterans' benefits and to relegate our needy veterans and their widows to the welfare rolls.

The proposed Administration's budget for the Veterans Administration for the Fiscal Year 1977 was wholly inadequate and unfeeling. Not only did this budget fail to provide cost-of-living increases in the benefits programs but would have dictated the termination of pensions for more than 43,000 veterans and widows and severely reduced the pensions of all others on the rolls effective October 1, 1976. Also, no funding was included for eight previously programmed new VA hospitals and no money needed to correct deficiencies throughout the VA hospital system.

Additionally, through the introduction and passage of negative legislation to reduce other existing benefits, the Administration was desirous of further paring the VA budget.

Through the nationwide effort of the V.F.W. and its national officers, the Congress became aware of this transparent budget

and took the necessary action to increase the amount. Had the Administration's recommendations prevailed, the veterans' share of the national budget would have been only 4.3 percent instead of the present 4.7 percent. By comparison, 20 years ago, veterans' benefits and services accounted for over seven cents of every tax dollar, yet in this period from 1956 to 1976 the veteran population has increased by over 30 percent.

In a surprise announcement in May 1976, President Ford indicated his decision to proceed immediately to provide design funds for all eight previously programmed new VA hospitals and construction funds in the Fiscal Year 1977 for two of the new hospitals.

In the past year, legislation surfaced in Congress to tax veterans' benefits and disability retired pay and the V.F.W. spearheaded a fight that helped kill this proposal.

Among options submitted by the Congressional Budget Office to the Congress of the United States were the elimination of the nonservice-connected pension program on the grounds that pensioners' current financial position bears no relationship to past military service and that other programs will provide income assistance to needy veterans. Also, termination of eligibility for free medical benefits for nonservice-connected disabled veterans, and, the most horrendous of all, the phasing down of VA hospital operations with care provided to service-connected disabled veterans through contracts. In other words, do away with the VA hospital system as such and relegate those receiving pensions to the welfare rolls.

Another proposal, which if successful would merge veterans' functions for budget purposes with functions of other programs administered by other agencies, i.e., HEW, HUD, and so forth, which had all the earmarks of consolidating veterans' programs with other federal agencies. Historically, the V.F.W. has opposed the splintering of veterans' benefits by other departments and agencies. V.F.W. opposed this action and, at least temporarily, it has died.

Additionally, members of the House Budget Committee were proposing the VA educational function, for budget purposes, be shifted to the education function handled by HEW. V.F.W. opposed this and advised the chairman of the House Budget Committee we could only view such action as the prelude to transferring the jurisdiction for VA educational benefits to HEW.

Even more recently, legislation was introduced in the Congress containing language which would have permitted the transfer of the Veterans Administration hospital and health care system to HEW. V.F.W. discovered this covertly worded legislation and protested vigorously to the author thereof. As a result, the sponsor of this legislation submitted new bills superseding the previous ones specifically exempting the Veterans Administration from his legislation. Additionally, the author stated it was not his intent to permit the transfer of such VA facilities to HEW.

Veterans preference has come under attack from all sides. Women's activist groups are advocating complete repeal of veterans preference except for those veterans with combat incurred disabilities. Government agencies are disqualifying veteran applicants on the basis of their age. Federal agencies are contracting out services, opening jobs formerly reserved for veterans to nonveterans. The 1.8 million plus members of the Veterans of Foreign Wars and the 568,000 members of the Ladies Auxiliary have again mandated their national officers and staffs to join the membership in its justified fight to preserve veterans preference in all phases of federal employment. There is no right greater than the right to be a productive worker. The opportunity of veterans to have maximum employment exposure in a free enterprise is one of the freedoms that the veteran laid down his life to protect. To be denied this right to work following his sacrifice is an absolute disgrace to veterans of this great country.

Given the foregoing, the following priority legislative goals reflect both the deep concern of the V.F.W. for veterans' benefits and its aims for the justifiable expansion and improvement thereof.

"Together we will make it."

LEGISLATIVE GOALS FOR 1977

For service-connected disabled and their dependents

a. Increase rates for compensation and dependency and indemnity compensation.

b. Authorize dependency and indemnity compensation to widows and orphans of 100 percent service-connected disabled veterans, regardless of the cause of death.

c. Authorize CHAMPVA to dependents of veterans 100 percent disabled at time of death due to service-connected disabilities.

Pension

a. Support legislation to make permanent pension rate increases granted by Public Law 94–169.

b. Support restructuring of the pension program to benefit all recipients and not be more restrictive than present law.

c. Seek additional pension for our World War I comrades.

Veterans' Administration medical care

a. Provide highest quality medical care in all VA facilities.

b. Oppose intrusion upon or takeover of VA hospitals by National Health Insurance and the dismembering or dismantling of benefits administered by the Veterans Administration.

c. Pursue correction of deficiencies cited in the "Report of Special Survey of Level of Quality of Patient Care at VA Hospitals and Clinics," dated July 31, 1974.

d. Oppose any attempt by medical school officials to interfere with the administration and medical direction of Veterans Administration hospitals.

e. Seek enactment of permanent legislation to establish salary levels more attractive to VA health care personnel.

f. Seek adequate funding to permit VA hospitals and clinics to dispense acceptable emergency care and treatment on weekends, holidays and after normal duty hours.

Veterans' Administration programs

a. Oppose any proposal which could be construed as dismembering, dismantling, or in any, diminishing the integrity of the Veterans Administration and its programs.

b. Require any proposed change to the Veterans Administration Rating Schedule be submitted to Congress and subject to public hearings.

c. Oppose the inclusion of veterans benefits in any cyclical budgetary reauthorization commonly referred to as "sunset" legislation.

d. Oppose the further granting of VA benefits to other than those who served in the U.S. Armed Forces during periods of war or hostilities, were drafted or mustered into federal service, or who served in a campaign or expedition.

Veterans education

a. Oppose repeal of the 2-year extension for completing educational benefits provided by Public Law 93–337.

b. Seek removal of restriction to undergraduate work imposed on the 9-months' extension granted by Public Law 93–508.

c. Support peacetime GI Bill if funded in its entirety by the Department of Defense and active duty personnel and administered by the Veterans Administration.

Cemeteries

a. Provide a national cemetery in every state.

b. Oppose elimination of the $250 Veterans Administration burial allowance.

Civil service and employment

a. Preserve and extend the Veterans Preference Act of 1944, as amended.

b. Pursue reduction of unemployment among veterans, particularly younger Vietnam veterans.

c. Propose and demand that the term "affirmative action" be interpreted or defined to mean true priority thus guaranteeing that veterans in any economic category (CETA) would be offered employment prior to offers to non-veterans.

d. Upgrade the position now designated as "Special Assistant for Veterans Affairs to the Under Secretary of Labor" to "Assistant Secretary of Labor for Veterans Employment".

e. Require CETA planning councils established by Public Law 93–203 to include as voting members local persons designated by Congressionally chartered veterans organizations.

f. Restore Veterans Employment Service travel funds to at least the level of F.Y. 1975.

Armed Forces benefits

a. Restoration of CHAMPUS benefits which have been curtailed or eliminated by DOD.

b. Exempt Survivor Benefit Plan annuities as countable income for VA benefits and permit concurrent receipt of such annuity and DIC.

c. Oppose the transfer of the cost of military retired pay from the DOD budget to the VA budget.

d. Permit concurrent receipt of military retired pay and VA compensation or pension without waiver of retired pay.

e. Passage of legislation to eliminate the "lock-in" provision of the Survivor Benefit Plan, reduce the marriage period from two years to one year and eliminate the Social Security offset for beneficiaries.

Miscellaneous

a. Strongly support continuance of both the Senate Veterans' Affairs Committee and the House Veterans' Affairs Committee with sole jurisdiction over veterans legislation introduced in Congress as presently being referred to these committees.

b. Seek legislation restricting postal rates for qualified non-profit organizations to not more than 50 percent of rates established for non-preferred mail.

PRIORITY: NATIONAL SECURITY AND FOREIGN AFFAIRS PROGRAM OF THE VFW

PREAMBLE

On isolationism

"The Veterans of Foreign Wars understands in their very bones that if we are unprepared to help defend places other than North America, we shall soon have nothing but North America to defend."—James R. Schlesinger, Former Secretary of Defense, Remarks at the V.F.W.'s 77th National Convention.

On freedom

"Genuine human freedom is inner freedom, given to us by God: freedom to decide upon our own acts, as well as moral responsibility for them—that which was called in an age-old, and now quaint, word: Honor."—Alexander Solzhenitsyn, Nobel Prize-winning Soviet Political exile.

Your VFW and freedom

"Well, let there be no doubt in any corner. Your V.F.W. stands for freedom and against communism, and we're going to start speaking out for and with office holders from both parties who share our view and against those who don't . . .

"And if being for freedom and against communism causes some to charge we're getting 'into politics,' well, meet 'Politician Number 1'."—R. D. Smith, Commander-in-Chief, Veterans of Foreign Wars of the United States (Acceptance Remarks, 77th National Convention).

The security problem of our beloved nation does not lie principally in the current size of the defense budget. The 94th Congress, in an historic reversal of its opening anti-defense rhetoric, voted a defense money bill of over $104 billion: 15% larger than last year's bill. (Even the liberal Brookings Institution is now calling for increased defense expenditures over the next five years.)

The basic security problem of the United States is that far too many of our people cannot bring themselves to believe that we truly have a valid security problem. One distinguished journalist put it this way:

"Can there be a Hitler-time without a Hitler?"

The stark facts, well known to V.F.W.ers and to all serious students of international politics, would answer "yes."

"The Soviet Union—secretly and openly—has repeatedly committed deliberate acts that mock detente and threaten the free world . . . Clearly we must shed any lingering illusions we may have that the Russians have abandoned their determination to undermine Western democracy and impose their system upon the world."—Former Secretary of Defense, Melvin R. Laird.

"Peaceful coexistence does not mean the end of the struggle of the two world powers. The struggle between the proletariat and the bourgeoisie, between world socialism and imperialism will be waged right up to the complete and final victory of communism on a world scale."—Brezhnev, *Pravda*, August 22, 1976

"The United States is in a tougher power position than it has been since Valley Forge. Not since Valley Forge has any foreign country had the ability to destroy or seriously cripple the United States. That capability exists today."—Lt. Gen. "Dick" Walters, USAR (Ret.) former Deputy Director, CIA (Remarks to the V.F.W.'s 76th National Convention.

National Commander-in-Chief R. D. "Bulldog" Smith laid it on the line in New York on August 20, 1976:

"No one person or organization is always right when it comes to questions of national security.

"But, I'll tell you one thing for sure right now.

"Our V.F.W. has been on target more often than most people—and I specifically include those in high office within the State Department—who are supposed to be smarter than we are on the subject of national security and foreign affairs . . .

Détente

"We say, and we're going to keep on saying, that the uncritical acceptance of 'détente' by millions of our hoodwinked fellow citizens started with a massive massage job on the common sense and resolution on the American people. We say where is the 'prudent' Soviet behavior that so-called 'détente' was supposed to usher in. Did the Soviets behave with 'restraint' in Angola? Are they behaving with common decency toward the captive nations of Eastern Europe? Have they stopped, or even slowed, the one-sided arms race that they—not we—started?

"To all these questions, the answer is clearly 'no' and, unless we Americans want to hang it up after 200 years, we better start to turn things around right now . . .

"Since 1964, our Navy has gone down by 50 percent in ships, 31 percent in aircraft, 23 percent in manpower, and 22 percent in total displacement. Now, we have fewer ships than we did just before Pearl Harbor! Feel any better?

"Four years ago—in 1972—the Soviets had a 2 to 1 advantage over us in the throw-weight of their missile arsenal. Four years from now, unless reversed, their advantage will be 4 to 1 . . .

"Now, apart from our position in Korea, the 'domino theory' has moved from 'theory' to fact in Asia. American power and influence—have been ejected from Vietnam, Laos, Cambodia, and Thailand. The Philippines may well raise the ante on our two bases there—Subic Bay and Clark Air Force Base. A political shift in Japan could force us off Okinawa . . .

"In short, our position in the world has eroded and those who seek to be our leaders are busy looking the other way . . .

"Now for some specific jobs for all of us to do in the year ahead:

"Block, and then reverse, the impending sell out of the Republic of Taiwan. What is morally wrong can never be politically right and any sell out of our staunch ally of 35 years would stain American foreign policy for all time.

"It will not happen!

"Keep our flag flying over the United States Canal located on the Isthmus of Panama without any 'ifs,' 'ands,' or 'buts.'

"Start today to assure that the United States Navy and the United States Merchant Marine regain their position as the world's foremost ocean going force. America is a blue water world island and we should never forget this inescapable geographic and strategic fact.

"Never quit telling the 94th (and 95th) Congresses that if they quit on military commissary stores, every member who so votes will have the V.F.W. to contend with back where he lives . . .

"Now, so long as one American is carried as 'MIA' we will continue our heartfelt support for the tragedy-touched next-of-kin . . .

"Some say that 'amnesty' will 'bind up the country's wounds.' I say that it would be a mass precedent for desertion and draft dodging and we will never stand for it; and no candidate for political office at any level should forget this for one moment.

"And I specifically include those who call for a Presidential 'pardon.' Changing the word 'amnesty' to the word 'pardon' doesn't fool us for one moment—and I don't believe it will fool the American people . . .

"Should you ask me why we do what we do, my answer would be brief: to celebrate our tricentennial as the richest, freest, and best nation in the history of the world.

"And, to make this event happen, we are going to make patriotism pay at the polling place more than ever.

"Together we can make it!"

Yes, together we will make it, and again, your V.F.W. will show the way to the timid, the apathetic, and the deceived.

For we set our course by the distant stars and not by the light of every passing ship.

SECURITY GOALS FOR 1977

1. We in the V.F.W.. reconfirm our long standing position for freedom—and against communism—and we ask that the President and the Congress join with us in our informed and discriminating struggle against communism.

2. In the future, should the United States find it necessary to defend our nation or our nation's security interest by recouse to arms, we fight with but one objective: WIN.

3. We request that Section 4 of the War Powers Bill be revised to require a prompt expression of Congressional support for, or opposition to, a Presidential initiative abroad, involving or possibly involving, U.S. armed forces in a hostile environment, and that the Congress not be permitted to play the passive, essentially irresponsible role it cast for itself under the War Powers Bill.

4. We will inform the President and Members of Congress that the number one strategic task confronting the United States now is to fund, build, equip, and man a U.S. Navy that is clearly pre-eminent.

5. We urge the United States, as a matter of strategic urgency, to press forward now with the development and full deployment of the cruise missile as a badly overdue enhancement of the TRIAD (bombers, ICBMs, and SLBMs).

6. The United States Canal, located on the Isthmus of Panama, its operation, control, and defense, shall remain under U.S. sovereignty. Any problems relating to the administration of the Canal can be worked out without disturbing the present treaty, and U.S. citizens and employees of the Canal must continue to meet their responsibilities under U.S. sovereignty. We also recommend that the Panama Canal Zone send to the Congress of the United States a delegate such as is done by Puerto Rico, the District of Columbia, and the Virgin Islands.

7. We urge the Congress to provide sufficient funds to strongly support the concept of a modern and ample U.S. forces base in the Indian Ocean on the Island of Diego Garcia.

8. To help the Republic of China to advance freedom, prosperity and peace in the Far East, we urge continued military aid and other assistance, and that the United States fully honor our 1954 treaty to defend the Republic of China from attack. We continue our opposition to full diplomatic relations with the Peoples' Republic of China, as such relations would be detrimental to the security and economic status of the Republic of China. We urge extreme caution in all informal discussions and contacts with Communist China.

9. We will seek to reverse an earlier Congressional blunder of denying military aid to Turkey by impressing upon Congressional leadership the overriding strategic importance of Turkey, and the U.S. bases therein, to the United States.

10. We continue our support for the CIA and the FBI, and request that the budgets of both organizations not be made public. We also request full support by the Administration and the Congress for the FBI and CIA, and that any malefactors in either agency receive such punishment as the law provides.

11. We will continue to press the Chairman of the House Judiciary Committee to the end that the staff and resources of the former House Internal Security Committee be fully utilized by the Judiciary Committee to meet its new internal security responsibilities, and we strongly urge that the Senate Internal Security Subcommittee be funded at a level of not less than $295,000.

12. We will continue our efforts to impress upon the Congress and the Administration the importance of the B–1 Bomber and request that the United States promptly purchase and deploy, as available, the long overdue 244 B–1 replacement bombers.

13. In an effort to keep Americans alive and free, we urge the President to appoint a panel of citizens to study the current status and projected effectiveness of U.S. Civil Defense measures. In light of the panel's findings, recommend both short and long term measures needed to defend exposed America, and as a stop-gap measure, fund the beleaguered and by-passed Civil Defense Preparedness Agency by at least $110 million for FY 1977, and charge this Agency with developing plans to move "out front" and become a truly national component of our "common defense" willing and able to provide the national leadership necessary to protect exposed America.

14. In view of the concommitant mortgaging of our national security and freedom of action, we support a fair and comprehensive U.S. energy policy designed to reverse growing U.S. dependence on OPEC oil imports.

Foreign affairs

1. We convey to the President and the Congress our conviction that the current policy of neglect towards the 20 nations of Latin America, save retreat on the Canal Zone, is bankrupt, and that a new and discriminating pattern of nation-to-nation policies be undertaken.

2. We urge the President and the Congress to reduce U.S. financial support to the United Nations from its current level to a pro rata share; ie, 1/144 of the UN budget, and unless the blatantly anti-American bias cease, we withdraw from the UN General Assembly.

3. We oppose U.S. adherence to the United Nations "Genocide" Convention, and so inform the United States Senate and the President.

4. To prevent America being in an undeniable position of military, hence political, inferiority and vulnerability, we continue our opposition to the heedless and unexamined American acceptance of "détente."

5. We call upon the President and the Congress to continue the present policy of no trade with, or diplomatic recognition of, Communist Cuba, and under no circumstances grant concessions affecting complete and undiluted U.S. sovereignty, control and use of Guantanamo Bay as a U.S. Naval Base of Supreme strategic and political importance.

6. We urge the U.S. Government to fully honor and stand behind the Mutual Defense Treaty of 1952 with the Government of the Philippines as long as the Government of the Philippines honors their commitment under said treaty.

7. In an effort to combat the problem of illegal aliens in the United States, we recommend a Congressionally mandated effort be undertaken to rid the United States of illegal aliens by causing employers to verify the immigration status of their employees, and border patrol surveillance and illegal alien detection techniques be intensified to assure that this hurtful traffic does not resume again in the future.

8. In reaffirming our unalterable support for the Constitution and the government established thereunder, we continue our strong opposition to the subordination of the United States of America, its government, and its citizens to any form of World Government.

Military affairs

1. We will continue our unalterable position of total opposition to unconditional or conditional "amnesty" or "pardon" and, through our membership, inform the Congress and the American people of our total commitment to pursue the "amnesty never" doctrine. We cannot and will not advocate support for any political party or candidate proposing to grant amnesty or pardon to those who fled at a time when loyal citizens were fighting and dying in conflict with our nation's enemies.

2. As a part of our total commitment to obtain a complete accounting of our men Missing in Action, we urge continuance of the Select Committee on MIAs beyond the January, 1977 expiration date to examine and recommend upon all aspects of the MIA situation still unresolved. We denounce as the lowest form of international blackmail any attempts to barter for information on our men listed as Missing in Action. We request the Administration and the Congress to speak out forcefully and publicly on this issue, and recommend that no most favored nation status be granted, or no further trade agreements be negotiated with either the Soviet Union or Red China. We also oppose any material or monetary aid for North Vietnam or any like-minded countries until such time as our remaining Prisoners of War are released and a full and accurate accounting and/or return of our men Missing in Action has been made. As called for in Resolution 319A, the Secretary of State will be urged to move the MIA issue up among his negotiating priorities.

3. We will continue to take the lead in pressing home to both the Congress and the Executive Branch our total and uncompromising opposition to any proposal from any quarter which would have the practical or potential effect of unionizing our armed forces.

4. Any action by the President or the Congress to reduce traditional military commissary privileges and services will continue to receive total opposition by the V.F.W.

5. We call upon the Executive Branch of the Government, in close consultation with the Congress, to draw up a plan for truly universal military training for all U.S. citizens in a specific age group, and upon completion of this plan, hold it in readiness to be formally and unequivocally presented to the Congress for implementation should the expensive and experimental reliance upon "All Volunteer Forces" prove to be unworkable or, for any reason, fall short of doing the needed joo.

6. We urge that the Selective Service System by fully supported by the Office of Management and Budget as a key part of our total manpower mobilization effort, and that annual registration of 18-year old males be resumed as soon as feasible. We also request that a headquarters be reestablished in each state of the union, as well as at the national level, with adequate funds and staff necessary to carry out the foregoing.

7. We oppose any effort by the Congress or the military departments to eliminate characterization of discharge, or to lower the requirements for an honorable discharge.

8. One of the most outstanding programs for producing military officers and future leaders of our nation is the Reserve Officers Training Corps, as well as the Junior ROTC Program. In this regard, we continue our staunch support for both the ROTC and Junior ROTC programs, and recommend to all college and university students that they take advantage of the tremendous opportunity for training, leadership and achievement which the Reserve Officers Training Corps presents.

9. We continue our strong support of the USO, an organization so important to the members of the armed forces and their families.

10. We request that the Congress restore recomputation of military retired pay for all living pre-1958 retirees, in accordance with retirement procedures in effect prior to their retirement.

11. We oppose the elimination of the one percent cost-of-living entitlement for retirees, as well as the elimination of any benefits of active duty and retired military that were earned and are deserved by those who answered our country's call in time of war.

12. We call upon the Congress to authorize for Fiscal Year 1977 a minimum end strength of 785,000 for the Active Duty Army and permit and encourage the on-going expansion to 16 Divisions.

STUDYING THE AIRLINE INDUSTRY

Mr. KENNEDY. Mr. President, the Congress has studied in some detail our Nation's airline industry and the economic effects of CAB regulation on air travelers and airline firms. Last year, for example, the Senate Subcommittee on Administrative Practice and Procedure, which I chair, published eight volumes of hearings and issued a comprehensive 255-page report on the subject. The report recommended a drastic reduction in airline regulation.

Shortly after the report was issued, Senator HOWARD CANNON, the chairman of the Senate Aviation Subcommittee, and Congressman GLENN ANDERSON, the chairman of the House Aviation Subcommittee, presided over additional hearings to consider various legislative proposals to reduce airline regulation. Those hearings confirmed the need for meaningful regulatory reform and prompted additional legislative proposals.

Mr. President, those of us who have presided over and actively participated in congressional hearings on the airline industry can attest to the fact that the issues are sometimes complicated and the evidence massive. Mr. Carole Shifrin, of the Washington Post, has written a comprehensive four-part series on the subject that presents the issues and the evidence as clearly and succinctly as anything I have ever seen. I ask unanimous consent that the Post series be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. AIRLINES: IN PRECARIOUS HEALTH—REGULATION, COSTS, SLOWING GROWTH, AGING FLEET AMONG WOES—I

(By Carole Shifrin)

"No, I don't want a federal certificate," says F.M. Morse, president of Command Airways, one of 235 commuter airlines in this country not regulated by the federal government.

"That (regulation) just assures that the government will see you never make any money."

Morse's view of what regulation does to the airline industry may be extreme, but most critics and regulators would agree there is more than a grain of truth to it.

If you accept Morse's view, he is one of the lucky ones. Command Airways does business in New York and Massachusetts. It does not fly planes seating more than 30 persons across state lines. Hence it does not come under federal certification and regulation.

But the big U.S. trunk lines—United, American, Pan Am, Eastern and others—do.

And these are the lines, with some exceptions, that are hurting. The reasons are manifold and complex.

They range from huge cost increases for fuel and new planes to only modest growth in the number of people who use planes.

They include small or non-existent profits, business mistakes made in the glory days of the '60s, competition that in many instances is phony. And eventually, in any list of reasons for the precarious health of the airlines industry, one comes back to the point made by F.M. Morse—federal regulation, Civil Aeronuatics Board regulation.

Since the CAB was established in 1938 to encourage and develop a nationwide air transportation system and to foster sound economic conditions in the industry, the airlines subject to its regulation have had their good years and their bad.

Just 50 years ago, U.S. airline industry consisted of 100-mile-per-hour, open-cockpit planes that took 30 hours (and six pilot changes en route) to carry mail across the country.

In 1930, Trans World Airlines started the first trancontinental airline service; it took 36 hours, with an overnight stop in Kansas City. It wasn't until 1953 that TWA started the first non-stop passenger service coast to coast, a flight that took eight hours. It now takes five.

Today, the U.S. airline system is a pervasive part of American life, with planes crisscrossing the country on more than 13,000 flights a day, carrying more than half a million passengers and more than 7,500 tons of mail and freight.

The industry that carried 6,000 passengers in 1926 now flies 215 million a year.

The airlines' glamour and phenomenal growth history would suggest that this is a

healthy, thriving industry, making lots of money.

Instead, in the words of CAB chairman John Robson, it is an industry "frequently in trouble."

It is also an exceptionally cyclical industry.

In the past decade, the corporate rate of return for the major domestic airlines reached 10 per cent only once (in 1966), and in seven of the last 10 years it has not climbed over 6 per cent.

There also is a wide disparity in earnings among the carriers.

From 1966 through 1975, two major airlines did particularly poorly; Pan American World Airways had an average annual loss of $11.6 million and Eastern Airlines had an average annual loss of $3.6 million.

Over the same 10 years, Delta Airlines, Northwest Airlines and United Airlines did the best, with average annual profits that ranged from $33 million to $47 million.

Other major airlines, on the average, also made money over the last 10 years, but not as much as the staggering revenues collected might suggest.

For instance, American Airlines collected a total of $12.1 billion in gross revenues from 1966 through 1975, but had a net profit of only $110.3 million, an average of $11 million a year. That works out to a net profit as a percentage of revenues of 0.9.

Continental Airlines collected $3.3 billion in gross revenues over the same decade, but had a net profit of just $66.9 million. Its net profit as a percentage of revenues collected was 2.

Nineteen seventy-five was a disaster for the industry. The recession and a resulting decline in passenger traffic combined with continuing increases in operating expenses for fuel and labor. As a result, the 6 biggest of the 11 trunk carriers lost money—American, United, Eastern, Pan Am, TWA and Continental.

The airlines compete for customers by offering more and more frequent flights, attractive flight attendants, gourmet meals, free drinks, first-run movies and comfort. All of these increase the airlines' cost of operations, but not their efficiency, nor necessarily the total number of customers.

The carriers' "service" competition manifests itself most prominently in the number and frequency of flights. And there is evidence to support the airlines' belief that increasing the number of flights in a market often results in a more than proportionate increase in passengers, according to CAB officials.

This pattern drives up capacity in the more than 70 per cent of the market where there are "competing" carriers but there generally is no proportionate rise in the total number of passengers carried. So the added flights result in a decline in the percentage of seats occupied by paying passengers. As load factors decline, fewer passengers share the total costs of operations, which in turn creates pressure for higher fares.

"If fares are permitted to rise, the cycle repeats itself," according to the CAB's Robson. "The higher fare levels enable carriers to mount additional capacity with which to compete for a larger market share. The result is a spiral of future excess capacity, lower load factors, and pressures for further fare increases."

CAB statistics indicate that, on the average, planes flown by the major carriers are barely more than half full. For the 11 "trunk" airlines, planes were 53 per cent full in fiscal 1975 and 55.4 per cent full in fiscal 1974.

There are wide variations among the carriers; some begin to make money carrying far fewer passengers than their competitors. Northwest Airlines, for instance, has a breakeven load factor of 43 per cent compared with a 59 per cent breakeven load factor for United Airlines.

"The board believes that the crux of the industry's poor financial results in recent times is that the airline industry . . . operates more aircraft than are needed to satisfy demand at normal fares," Robson says. "With supply outrunning demand, it is not surprising that the industry has been unprofitable."

Members of the apparently ever-widening group of government officials and legislators critical of the current regulatory apparatus contend that exposing the carriers to the same laws of supply and demand that most other industries face—by giving them freedom to lower and raise prices and by opening opportunities for new competitors—would cause them to become more efficient and permit their managements to test their skills in bringing in more passengers, and more profits.

Under more competitive conditions, the theory goes, the airlines would seek to put more passengers on their planes, would go after passengers by offering lower fares than their competitors and, in the end, would increase the total number of people who fly.

The airlines see a simple cause for many of their problems: Airline fares have been kept too low. There is "nothing basically wrong" with the industry or the form of regulation under which it operates, according to Albert V. Casey, chairman and president of American Airlines. "What is wrong is that the industry's costs have escalated rapidly in recent years, and its fares have not been permitted to stay abreast of costs," he says.

He and other airline executives for the most part believe the CAB is to blame for setting what they say are unrealistic standards for approving fare increases. The board's policy is to allow the airlines to charge fares that will produce a 12 per cent return on investment, assuming that the carriers are operating at a "reasonable" load factor of 55 per cent—irrespective of the carriers' actual load factor—and collecting full fares from those passengers. The formula also assumes that the plane is carrying the number of seats it was designed to carry.

But to the airlines, these are sweeping assumptions.

The carriers want the board to approve fare increases based upon their actual load factors and yields; they point out the yield per passenger is lower than the board assumes because many of them may be paying the discount instead of the regular fares.

Board officials, however, insist the formula is necessary to save the airlines from themselves, to prevent further wasteful overcapacity and a continual upward spiral in fares that may in turn discourage some air travel. The standards are necessary "to avoid having the public support excess capacity through higher fare levels and to protect full-fare passengers from subsidizing discount-fare passengers," Robson told Congress this year.

Besides allowing fares to go up, Frank Borman, president—and, as of Thursday, chairman—of Eastern Airlines, has other prescriptions to improve the economic health of the industry. Reduce the federal tax on air transportation, which goes into the airport trust fund, abandon the liberalization of charter rules designed to increase low-cost air travel (the scheduled carriers say it cuts into their scheduled business), put off hearings on applications for "duplicative" competitive route authority, reduce government environmental regulations, let the airlines cooperate in developing new aircraft, and grant ailing carriers federal subsidies "as a last resort."

Eastern is one of three major carriers—Pan Am and TWA were the others—who asked for annual subsidies totaling $500 million but were turned down by the CAB this year.

The federal government, through the CAB, already pays subsidies totaling more than $70 million a year to eight of nine federally certificated "local service" carriers such as Frontier, Ozark, and Piedmont to serve localities the board thinks might otherwise go without air service.

Robson worries that if the nation doesn't move soon to reduce regulation of the airline industry, the government may be forced alternatively to tighten regulation as carriers turn to the government for public funds in times of distress. "I do not presume to speculate or assert that such is inevitable," he told the New York Society of Security Analysts last month, "but the experience of the railroads cannot be ignored."

He's come to believe, in his year-and-a-half tenure on the board, that the long-term financial prospects for industries subject to strict government economic regulation are not as bright as they are for unregulated industries.

Delay in the regulatory decisionmaking process, the necessity for economic regulators to balance demands of competing constituencies, and the unpredictability inherent in differing philosophies as board members leave and are replaced, all suggest fundamental long-term structural problems of economic regulation, Robson contends.

CAB Called Roadblock Despite Its Changes—II

(By Carole Shifrin)

Everyone appears to agree that the Civil Aeronautics Board has changed—a good deal.

Two years ago—only yesterday in the life of a federal bureaucracy—the agency was under attack for alleged corruption of its high officials, lack of impartiality, an overprotective view of the industry it regulates, a hostile attitude toward newcomers, a lack of due process, and disinterest in the consumer.

"The CAB has become a fundamentally different agency than the one I studied and criticized during the many weeks of hearings in 1974 and 1975," admits Sen. Edward M. Kennedy (D-Mass.), who conducted hearings of the Senate Administrative Practice and Procedure Subcommittee on the board's performance.

Since those hearings, the CAB's top personnel, procedures and policies have undergone substantial change.

But the next Congress will have to decide whether the changes Sen. Kennedy referred to are enough. The questions remain.

Can the agency function adequately under its 38-year-old mandate? Has it outlived its usefulness? Is it serving the public or is it impairing further development of a sound, nationwide air transportation system?

The board itself told Congress this year that less regulation would result in a more efficient and less costly air travel system.

The board called for legislation that would alter its statutory mandate to make clear that it should "favor competition" over protection, reduce the scope of its regulation over some sectors of the industry, encourage freer entry into and exit from air routes and the business generally, and give the airlines greater pricing freedom.

"The board should be given high marks for coming up and saying all is not well," CAB member R. Tenney Johnson said in an interview, and it generally was praised for not defending the status quo.

Though he insists it was a "team effort," the man generally credited with moving the board to this position is chairman John E. Robson, who took over the embattled agency 18 months ago.

Since that time, the board's achievements have been significant. It:

Ended a five-year "route moratorium" dur-

ing which it severely limited new air route awards by declining to grant hearings on applications from carriers seeking to expand their areas. In fiscal 1976, the board scheduled for hearing 48 per cent more route cases than it had in fiscal 1975, and completed 40 per cent more.

Reversed policy direction and liberalized regulations for charters in an effort to expand low-cost air travel.

Certificated Air Midwest as a local service carrier. Though required to certify those "fit, willing and able," the board has certificated few local service carriers, and no major trunk carriers in its 38-year history.

Ended a policy of approving capacity reduction agreements, an anticompetitive practice sanctioned for five years which permitted airlines to meet among themselves and agree to reduce the number of flights each would operate on highly traveled domestic routes.

Implemented many recommendations made by an outside advisory committee on procedural reform to expedite board activities and cut down on regulatory "lag," including the imposition of deadlines so matters no longer will languish for years.

Encouraged and approved the use of discount and promotional fares, though at the same time approving cumulative fare increases on domestic flights totaling 10 per cent.

Redirected the focus and resources of the board's Bureau of Enforcement away from pursuing technical violations of the law. "We now have a pervasive attitude of looking at the policy basis for pursuing an enforcement action, with the consumers' interest the number one concern," says Thomas F. McBride, former associate Watergate special prosecutor who became the bureau's director. During this period, American, Braniff, Continental and Aloha Airlines agreed to civil penalties totaling $575,000 to settle charges of failing to report properly disbursements of corporate funds, some of which were used to make illegal political contributions.

Set in motion many important proceedings, including a comprehensive review of rules governing conflict of interest and outside communications on board matters.

But despite all the reforms, despite quicker action on route applications, despite encouraging more competition, the CAB, in the view of its critics, remains a formidable roadblock to a healthy, competitive airline industry.

The anti-regulation argument holds that airlines would make quicker decisions on price and service if they were truly competing for airline travelers in a free and open market.

Instead, because of regulation, the airlines spend a good bit of time and resources protecting themselves and their territories from would-be competitors. They do it by filing petitions with the CAB opposing another airline's request to fly certain routes. Petitions result in hearings, appeals, rehearings, and finally court tests.

The alternative suggested is the competition of the marketplace—If another airline tries to take your passengers away, offer a better, cheaper product as companies in unregulated industries do.

A good test of the regulatory system is in the making right now.

Southwest Airlines, a Texas-only carrier, and a new airline, Midway Airlines, have applied to fly to and from Chicago and 15 other cities at fares almost half the current price. The proposals are expected to be greeted with scores of opposing petitions from airlines that now fly these routes.

Petitions to extend the initial comment period (a preliminary skirmish before the actual petitions of opposition are filed) were received almost immediately by the CAB and have already been granted.

"It's going to be a big hoedown," Robson admits.

"Every decision the board makes is going to make someone unhappy," CAB member Johnson says.

The Southwest Midway applications are expected to take 18 months to two years and then, in all probability, will wind up in court. "The board is always caught between the carriers and courts," Johnson says.

Much of the CAB's growing workload involves decisions on the nitty-gritty of airline operations. For instance, last month the board for the second time in two years rejected a request from Frontier Airlines to drop permanently two cities it now serves by virtue of its federal certificate—Paris, Tex., and McAlester, Okla.

Frontier had argued that even though it might be subsidized by the federal government to serve those towns—it gets an overall subsidy in the neighborhood of $12 million a year—the traffic generated wasn't large enough or lucrative enough to merit stopping in the two cities; an average of five passengers a day. Most travelers from those places prefer to drive the 100 miles to the large airports near them (Dallas-Fort Worth and Tulsa) than use the local service, the carrier contended.

The board last month repeated its view that cutting off air service to the communities would impair their link to the national transportation network and would affect their growth and development, even though it realized that continued service by Frontier using its large aircraft was "not the most efficient manner for providing the necessary service at these two communities." It did grant Frontier the authority to suspend service to Paris, Texas, if a small commuter airline institutes scheduled service as is planned.

Inaction is another charge leveled at the CAB. One recent example involved a plane load of Hawaii vacationers returning on a charter flight to San Francisco.

From San Francisco, they were booked on United Airlines, but United was on strike. So instead, the charter operator arranged for seats on Pacific Southwest Airlines, a California intrastate carrier.

The CAB entered the picture because its permission was needed to transfer the baggage from the CAB-regulated charter to the non-regulated Pacific Southwest plane. The CAB members could not agree and the upshot was that the passengers had to carry their own luggage from one plane to another.

"They made those people lug their bags over a half mile from one gate to the other for no good reason," a staff member said.

More serious examples of inaction are given by Reuben B. Robertson III, legal director of the Aviation Consumer Action Project, a Ralph Nader started group that prods the board on consumer problems.

Robertson agrees that the CAB has changed.

"Personal integrity was the issue two years ago," but no longer, he says. Nevertheless, despite excellent people on the board, the CAB is not able to regulate he adds.

"They are a paralyzed agency; they are simply unable to make decisions that need to be made," Robertson contends. "Cases wait years to be resolved in areas that are not difficult to resolve."

Robertson cites overbooking as an example.

Overbooking is a widespread industry practice under which the airlines sell "confirmed reservations" on a flight to more customers than there are seats in order to compensate for the problem of no-shows they say they have to contend with.

More than 130,000 would be passengers who held "confirmed reservations" were bumped from scheduled flights last year by the major airlines, according to CAB figures.

"It's a fraud and causes enormous consumer inconvenience," Robertson argues. He has asked that the board prohibit the policy as "deceptive" under the Federal Aviation Act, which he says would force the carriers to come up with a better way to handle whatever problems they may have as a result of no-shows.

So far, the CAB has declared that airlines with a policy of deliberately overbooking flights must begin informing customers of that fact, but has deferred further action pending the outcome of an overall examination of the board's policies concerning deliberate overselling. The board has had the issue of overbooking before it for several years.

"It's a question of what comes first," says CAB chairman Robson. "You've got stuff you have to do, like tariffs, that take precedence over everything; you have things of varying degrees of importance, and you just can't do it all at once. So it doesn't get all done at once and some things get less expeditious treatment."

Although the list of achievements and changes at the board is substantial and Robson speaks only of his respect and affection for the board and its staff, board insiders say it hasn't been easy to effect change and that some board members' traditionalist views have slowed the process. Robson, a nontraditionalist who came to the board without a background steeped in the industry but dedicated to solving some of its problems, faced an overall agency steeped in tradition and a widely held view that their job is really to "help" the industry, some board sources say. "We never did it that way before" is said to be the most frequent sentence uttered at the board and the toughest thing to contend with, a source says.

Some observers fear that whatever progress the board has made could be wiped out if Robson leaves and is not replaced by a similar non-traditionalist.

But Robson brushes aside questions about whether changes at the agency are only skin-deep.

"The only fair measurement of what an agency is . . . is what it does," he says. "The only way to measure whether it's different or not different . . . is sort of bottom line."

Robson has expressed the view that the problems of the board and the airline industry are inherent in regulation and that the board's statutory authority should be changed, a view echoed by Kennedy.

". . . streamlined procedures and better appointments—as important as they may be—do not close the book on regulatory reform," Kennedy said. "The underlying mandates of the agencies are as often as not the real problem and the CAB is a perfect example of that."

To which one CAB official adds a plaintive footnote:

"Any senator who votes to set up a multimember agency should be obliged to serve on one."

THUMBNAIL SKETCHES OF THE CAB MEMBERS

John E. Robson

John E. Robson, 46, became chairman of the CAB in April 1975, following a period of blistering criticism of the board's leadership, policies, and procedures on Capitol Hill and from the Executive Branch.

A Republican, Robson had served in the Johnson administration, first as a special consultant to the director of the Bureau of the Budget in 1966, then as the Department of Transportation's first general counsel and then as its Under Secretary.

He was a partner in the Chicago law firm of Sidley and Austin immediately prior to his appointment to the board. His term expires at the end of 1977.

Under federal law, the President must annually redesignate the CAB chairman.

R. Tenney Johnson

R. Tenney Johnson, 46, was general counsel of the Energy Research and Development Administration when appointed to the board in March. A Republican, whose term expires at the end of next month, Johnson considers

himself a career civil servant. He began as an attorney with the Defense Department after law school, and has served as general counsel of the National Aeronautics and Space Administration, general counsel to the CAB, and deputy general counsel of the Transportation Department.

"The board cannot be a substitute for carrier management," he says. "So if I ask myself, should the government be more involved or less, the answer is as much less as possible."

G. Joseph Minetti

G. Joseph Minetti, 69, has been on the board since 1956. He hasn't made a speech in 10 years and declined to be interviewed.

"He just doesn't give interviews as a matter of personal policy," his assistant said. "He considers that his views are expressed in the board's orders and opinions and, where he disagrees with them, in the dissents."

Minetti's term expires at the end of 1979, but he turns 70 in April and will need a waiver from the White House in order to remain a member after that.

Minetti, a Democrat, served on the Federal Maritime Commission before he was appointed to the CAB by President Dwight D. Eisenhower.

Richard J. O'Melia

Richard J. O'Melia, 59, a member of the CAB staff since 1957, served as director of the Bureau of Enforcement from 1969 until he was named to the board in 1973 by Richard Nixon. His tenure on the board has been marked with some controversy. During congressional hearings last year, O'Melia and former CAB chairman Robert D. Timm gave conflicting testimony, which was referred to the Justice Department, on whether an investigation into illegal campaign contributions by the airlines was ordered closed by one of them. Another point of controversy involved 16,228 shares of General Tire & Rubber Co., valued at more than $320,000 and owned by O'Melia's wife who inherited them from her father, a member of the company's founding family. General Tire owns RKO General which in turn owns controlling interest of Frontier Airlines, a CAB-regulated and subsidized carrier. At the end of 1974, Mrs. O'Melia put the stock in a "blind" trust.

O'Melia is a Republican whose term expires at the end of 1980. He declined to be interviewed.

Lee R. West

Lee R. West, 47, was an Oklahoma state judge when he was appointed to the CAB in November 1973 by President Richard Nixon.

An assistant said West has not made a speech since he's been on the board, and has a policy of not granting interviews. It's been his position that his views are made known through the official positions taken by the board in published orders and very often through dissents," his assistant said.

West's term expires at the end of 1978. He is a Democrat.

REGULATED AIR FARES USUALLY HIGHER—III

(By Carole Shifrin)

If you want to fly from Dallas to Houston, you can take Southwest Airlines for $25 during the day or $15 on evenings and weekends.

Or you can take Braniff International for $38.

The price difference is largely federal regulation.

Southwest is an intrastate carrier whose routes, so far, lie totally within the State of Texas. As a result, it is not regulated by the Civil Aeronautics Board.

Braniff is a "trunk" carrier with a federal certificate whose routes and rates are regulated by the CAB.

If you want to fly from Tulsa, Okla., to Fayetteville, Ark., you can take Frontier Airlines for $28, or Scheduled Skyways for $20.

The difference again is one of a federal regulatory agency setting the fares versus free market forces setting the fares.

Frontier is a "local service" carrier certificated by the CAB which regulates its rates and routes. Scheduled Skyways is one of 235 commuter airlines whose rates and routes are not set by the federal government. (Even though Skyways crosses state lines, it escapes federal regulations because its planes seat no more than 30 passengers.)

The differences in the fares of federally regulated and unregulated airlines aren't always as startling as these examples. Sometimes the fares of some of the commuter airlines are the same or higher than those of the regulated airlines.

But evidence collected by the Department of Transportation indicates that fares of commuters in the markets where they compete head-to-head with the CAB-regulated airlines are lower more often than they are higher.

In addition, the fares of intrastate carriers in Texas and California—who are subject to various forms of state regulation—are now and have always been lower than those of the CAB-regulated airlines.

The success of Southwest, Scheduled Skyways and other federally unregulated airlines in providing good service at lower prices raises some tough questions about the efficiency of the present framework of CAB regulations.

"The difference between low air fares and high air fares should not be the difference between the absence and presence of federal regulation," Sen. Edward M. Kennedy (D-Mass.) said during Senate hearings last year.

But there can be no argument that the major airlines don't compete in the one area of most concern to the passenger—price.

They compete in other ways. Major airline campaigns are waged over such frills as free movies, cheap liquor, steaks (even bagels and lox), and flight times. But not over prices.

Often, there is also a bewildering schedule of different prices depending on your age, the length of your stay or the time of departure. But again, the competition is in frills or convenience, not in price.

If a Washingtonian wants to fly to Los Angeles, for instance, there are a number of kinds of flights from the scheduled carriers with authority to take you there (American Airlines, United Airlines, and Trans World Airlines):

If you have to go tomorrow, a round-trip coach ticket will cost you $384; a first-class ticket is $584. Accompanying children can travel for $256 coach and $390 first class.

If you go at night, your ticket will cost $308 coach, your child's $205. A first-class ticket at night costs $384 for adults, $256 for each accompanying child.

If you can make your reservations at least 14 days in advance, pay for your ticket no later than 10 days after reservations are confirmed, but at least 14 days prior to departure, and plan to stay 7 to 30 days, you pay $307 and your child pays $192 for an "excursion" fare. This alternative may not be available, however, because only a limited number of seats are for sale at this price. An airline is allowed to offer these fares for up to 30 per cent of the seats of any given flight at this discounted fare, but it doesn't have to designate any seats at this fare if it doesn't want to.

There also is an excursion price at night with the same rules applying which will cost you $288 round-trip with children traveling for $192.

If you are willing to purchase a ground tour or hotel package along with your air ticket, and will not travel after 2 p.m. on Friday or Sunday, will stay at least 6 days but not more than 30, your round-trip flight will cost you $288—the "tour basing fare"—plus the cost of the ground package, which has to be at least $65 including two nights' lodging and a tour feature.

Except for charters, which have their own (often more complicated) strings but whose fares are usually substantially lower, those are your choices. None of the three carriers flying to California from here—American, United, or TWA—will offer you a better price to get you to travel with them.

Each of them charges exactly the same for the trip, regardless of their different labor or fuel costs, the differing amounts of money they spend on advertising and decorating their planes, the varying costs of the frills they offer, variations in how much they pay their top executive officers, or whether the plane is full or half-empty.

This is called "service" competition.

Sometimes a traveler will be quoted different prices by different airlines for the same trip, but that is the result of mistakes. And it apparently happens frequently for trips involving more than one destination, thanks to the complex set of regulations involving stopovers, changes of airlines and fare construction rules.

"The price structure is so complicated for certain kinds of air routes that neither you nor the ticket agent can cope with it," Consumer Reports told its readers after it surveyed trip costs. "And there is a strong chance that you will pay more than you should." The magazine, published by the non-profit Consumers Union, found itself overcharged on 15 to 20 air tickets it purchased from 8 major airlines. No one undercharged.

Fares for the federally regulated airlines, which account for most air passenger traffic in the United States, are essentially determined by the CAB.

The carriers file their proposed fares with the board, giving at least 30 days' notice. The board has the power to approve the fare requests or to suspend them—not put them into effect—and investigate their lawfulness if the board thinks the fares might be discriminatory—too high or too low.

The board approves or disapproves fare proposals using standards it has set in a series of decisions over the last five years arising out of its "domestic passenger fare investigation" (DPFI).

Under the DPFI formula, fares are approved if they yield a 12 per cent rate of return on investment above costs of operations. For the purpose of setting these returns the CAB assumes that planes are 55 per cent full and are carrying the number of seats they were designed to carry.

The carriers aren't happy with these CAB assumptions.

They say, for example, that seats are often taken out of planes to make them roomier. This makes the board's use of the full number of seats unrealistic. United chairman Edward Carlson has been quoted as saying that putting the seats back would result in "cattle-car treatment" the public doesn't want. TWA chairman Charles Tillinghast has suggested that the airlines can make the allowable 12 per cent rate of return only on the "Mickey Mouse charts" of the CAB.

The board, however, strongly defends the DPFI. "I don't think the public understands how much regulatory reform was involved in the DPFI," says Arthur H. Simms, director of the board's Bureau of Economics. "In an industry characterized by service competition, instead of price, there would be ever-escalating service if the board permitted fares to reflect those costs.

"If the board is going to protect the carriers from entry (of new competition), then it must set standards to encourage the industry to be efficient."

Because service competition results in excess capacity, board officials contend that if they allowed the carriers what they want, the

customers would face higher and higher fares to pay for a continual spiral of empty seats.

"The board acted to prevent some major costs of service competition from being passed through to the consumer in higher fares," CAB chairman John E. Robson says of the DPFI.

Robson told Congress this year during hearings on proposals to reduce regulation of the industry that the board fears that service competition is "an inherent feature of the basic regulatory system" rather than a product of the board's particular decisions. In a system with limited freedom of entry, the carriers appear to have "very little incentive" to compete on the basis of price, Robson said. No carrier has ever come in and asked for a general reduction of its fares.

In its testimony to Congress on deregulation proposals, the board admitted that regulation had produced fares that were higher than they might otherwise have been.

The Senate Administrative Practice and Procedure Subcommittee, after its extensive hearings on board operations, admitted the DPFI was a step forward, but contended that built into the board's rate-setting system are a number of features that inherently will tend to discourage the offering of lower fares to consumers:

Because the board insists that carriers charge equal fares for equal distances, carriers are prevented from selective price cuts even though their costs vary.

The rule that fares must increase gradually as distances increase ignores the fact that costs over the long-haul routes may be lower per mile than shorter-distance routes.

By making fare decisions based on their effect on the entire industry, the CAB discourages across-the-board price cuts by one carrier. It works this way: Carrier A applies to cut all its fares by 5 per cent; the board studies the effect that this price cut would have on all of carrier A's competitors; it finds that if the entire group followed carrier A's example, the rate of return would be less than the permitted 12 per cent. The request is denied.

The subcommittee also noted that built into the board's formula is a view that demand for air travel is relatively inelastic, that is, it does not change much with changes in price. The contrary may be true, it said.

"If the board is mistaken—if demand is in fact elastic rather than inelastic—then the board's efforts to obtain higher revenues for the industry through a series of continued price increases are doomed to failure, for the price increases will drive away too many passengers to make service more profitable," the subcommittee suggested. "Rather, efforts to tap new markets through lower fare service would be more likely to maintain industry profits."

The airlines operating solely within the States of California and Texas, and thus outside the scope of CAB regulation, provide especially good fodder for the Kennedy subcommittee's conclusions that lower fares might attract increasing numbers of passengers.

By offering consumers low fares on frequent flights between major cities in California, two carriers—Pacific Southwest Airlines and Air California—created a dramatic increase in air traffic compared to similar-distance routes in other parts of the country. Between 1965 and 1971, DOT figures indicate that their traffic increased by an average of 23.3 per cent per year, while the average annual growth in interstate short-haul markets, like the California routes, was 4.7 per cent.

Air traffic in Texas also increased dramatically after the entry of Southwest Airlines into the Texas market in 1971. For instance, there were 340,000 passengers a year flying between Dallas and Houston in 1970 before Southwest got in. This year, there will be a total of 900,000 air passengers between the two cities. And Southwest will be flying about 675,000 of them, according to the airline's president, M. Lamar Muse.

His airline has attracted new passengers by offering them low fares and frequent service. Muse says Southwest offers its passengers a two-tier pricing system. An "executive class" fare—$25 on all but one of its routes—is charged for flights weekdays until 6:59 p.m.; a "pleasure class" fare of $15 is charged in the evenings and on weekends.

Compared to the "executive class" fare, "the CAB airlines' coach fares are some 55 per cent higher," Muse told Congress this summer. His "pleasure class" fare is 61 per cent less than the CAB carriers' coach fare.

Southwest is flying planes that are 66.7 per cent full compared to the major airlines' 53 per cent. Fuller planes mean more profits.

A report written by the aviation consulting firm of Simat, Helisen & Eichner for DOT concluded that nationally there are 60 interstate markets similar in distance and density to the California and Texas markets—6 of them involving Washington.

Travelers on those routes could take advantage of lower fares, similar to those in Texas and California, if the airlines were operating in a less regulated environment, the report suggested. The figures indicated that travelers from Washington could save $9 a flight to Boston, $10 to Detroit and $7 to New York during peak travel times, and fly almost half-price at other times.

A traveler flying the 399 miles from Washington to Boston now pays $55, while a Californian flying the 456 miles from San Francisco to San Diego pays $32. "A comparison of virtually any intrastate route with virtually any comparable interstate route reveals similar fare differences," the Kennedy subcommittee said.

The CAB-regulated airlines argue that it is not CAB regulation, but special circumstances, that brought about the low fares within California and Texas, like better weather, denser traffic, less congestion and the absence of costs associated with interstate baggage and ticket requirements.

The Kennedy subcommittee concluded that there were differences but that, taken all together, the factors accounted for less than half of the fare differences.

"Most of the difference arises from the fact that the intrastate carriers carry more passengers in their planes," the report simply concluded. ". . . greater freedom to compete is probably responsible for those fuller planes and lower fares."

Southwest Airlines plans to get CAB approval to fly between Chicago and 14 cities at nearly half the current fares, applying the formula so successful in Texas—low-fare, frequent, on-time commuter type service using airports close in to major cities when possible.

Midway Airlines, a newly created carrier, has already filed with the CAB for authority to fly in and out of Chicago's little-used Midway Airport from six cities at similarly low fares.

But it would be premature to try and make reservations.

A decision on their applications is expected to take from 18 months to two years.

DEGREE OF CHANGE NEEDED IN AIRLINE REGULATION DISPUTED—IV

(By Carole Shifrin)

World Airways, a charter airline, applied in 1967 to fly regular routes at low prices between Los Angeles and New York. After 6½ years of study, the Civil Aeronautics Board dismissed the application as stale.

Federal Express Corp., an all-cargo airline, wanted permission to operate larger planes because its business was growing. The large planes required a CAB exemption. It was denied.

Pan Am sometimes flies near-empty planes between New York and the West Coast because it is not permitted to pick up "local" passengers. Local passengers are those who aren't coming from, or going to, an overseas location.

These and hundreds of other examples are cited to show that the regulatory process is slow and rigid and not in the best interest of the carriers or the consumers.

And many experts, including industry and CAB officials, agree that changes in the regulatory system are needed.

The ongoing argument is over how far these changes should go.

One view is that airlines, like most other industries, should compete openly in the marketplace.

Another is that the regulatory system can be streamlined and updated to do away with the delays and absurdities spawned by the present maze of rules.

The rules that govern major airline operations were fashioned in the 1930s when airplanes literally were barely off the ground. The whole orientation of the mandate under which the CAB operated then—and operates now—was geared to developing and protecting an infant industry through traditional, public-utility-type regulation.

Control who comes into the market;

Control where they operate;

Control how much they charge for their services.

But the U.S. airline industry is grown up now and may no longer need the protective mantle of federal regulation, if indeed it ever did.

Proponents of change suggest that the airlines' current unhealthy financial condition may in fact be caused by being protected from the rigors of the marketplace. Competition ordinarily spurs efficiency, innovation, sensitivity to consumer demands and lower prices.

The argument over deregulation also comes at a time when the airline industry faces challenges far different from its growing period.

What is ahead is a period characterized by increasing costs without the productivity gains of the past. Traffic growth (the number of people who fly) will be moderate compared with the spectacular increases of previous years. New capital, to finance a modern and environmentally acceptable fleet for the 1980s, will be difficult to raise.

For all these reasons, the cry for deregulation, or at least decreased regulation, has become more insistent.

Even at the CAB, there is a growing consensus that the fortunes of the carriers may be substantially improved if, over a transition period; the agency's controls are loosened and the airlines are permitted to operate in a more competitive environment.

Legislative proposals for change—written by the Ford administration; Sen. Edward M. Kennedy (D-Mass.); Senate Aviation Subcommittee chairman Howard W. Cannon (D-Nev.); and House Aviation Subcommittee chairman Glenn M. Anderson (D-Calif.)—all have a similar thrust, relax federal regulations of pricing and entry and exit on routes; move toward placing greater reliance on competitive market forces.

These advocates of change, while they differ on details, all believe that giving airlines the chance to charge different prices as well as drop or add different routes will lead to more efficiency, lower fares, more customers and higher profits.

Primarily because they feel the CAB has not permitted adequate fare increases in the past, the airlines now support some pricing flexibility. But they are still opposed to decontrols on who can enter or leave a certain market.

Supporters of change insist that if you have one you must have the other. If airlines are given the right to raise or lower prices on certain routes then other airlines must have the right to compete on those routes without CAB interference.

"Fare flexibility will equal rapidly increasing fares if there is not some kind of marketplace constraint. . . ." argues John W. Barnum, Deputy Secretary of Transportation. "The marketplace is disciplined by the potential entry of a new competitor. The fact that a potential competitor is waiting in the wings . . . will keep the fares down."

The air carriers disagree. They argue strenuously that tampering with the current regulatory system on routes will have a number of disastrous results: cause market chaos and undo the integrated nature of the air transport system, result in predatory pricing and cut-throat competition to drive out competitors, leading to monopoly and even higher air fares, and cause carriers to abandon routes on their systems—mostly smaller cities—which they say are currently losing money but which are being subsidized by their profitable routes.

"In my view, it would cause grave and irreparable damage to the integrated air transportation network," American Airlines chairman and president Albert V. Casey told Congress this year during hearings on deregulation proposals. Because "our costs are 90 per cent fixed," fares could not possibly drop, he said. Instead, under deregulation more airlines would serve the same routes, and consequently planes would be carrying even fewer passengers.

"There would be chaos," Braniff International president Hardling L. Lawrence contended. "We'd have to chase the loads; we'd be here today, and there tomorrow. We would take advantage of every market that would be available to us."

Others suggest that passengers would be unable to make reservations and they wouldn't know from day to day who flies which routes at what fares.

Though there would be a period of uncertainty and instability, DOT and CAB officials discount the carriers' predictions of chaos and doom. The commuter experience indicates, they say, that deregulation doesn't mean the same as "chaos." Commuter airlines, for instance, make reservations, publish their fares, adhere to their schedules.

Predatory price-cutting to drive others out of the market in order to gain a monopoly wouldn't make much sense under a system of open entry, they point out, because competing firms always could re-enter markets when the existing firms sought to raise fares to unrealistic levels.

Carriers won't all rush to the same markets either, Barnum argues. "In the last analysis, the airlines make money because they fly their airplanes X hours a day, with a Y load factor. If you give management flexibility, it's going to make logical decisions as to the best total route structure to get a higher load factor and to get maximum hour utilization out of its aircraft," he said.

As for service to small communities, DOT officials contend they can find no evidence of widespread cross-subsidization in the airline business. The CAB has had a fairly liberal policy of letting carriers drop routes that are losing money; indeed, a DOT study indicated that, despite the payment over the last 16 years of more than a billion dollars in federal subsidies designed to encourage continued air service to small cities, the regulated carriers have, since 1960, abandoned almost a third of the points they then served. Commuter airlines have taken over service to most of these cities.

"There will be some instability, but I don't feel any small community will be without air service forever," says Bruce E. Cunningham, director of the CAB's bureau of operating rights. "If the demand is there, people are going to be able to fly." It just won't be the same airline, he adds.

Though they generally dismiss the dire consequences the airlines have predicted, government officials are frank to admit there are risks to moving from a rigid system of regulation to one more reliant on sometimes cruel market forces. "After 38 years of economic regulation, there should be a transition period, so those told to play the rules this way can adapt," Cunningham says. "If it happens too quickly, it would put some carriers into bankruptcy in a reasonable period of time."

As a result of the long-time regulation, the carriers have different route structures that may face different intrusions under a less regulated environment; their current cost system is also a result of regulation; they have built-in seniority labor costs because they are mature companies.

The incumbent carriers wouldn't start off on an equal footing, and the possibility of bankruptcies haunts them. "I should like to be able to say that TWA is not afraid of deregulation of market entry," TWA chairman Charles C. Tillinghast testified this summer. "I cannot."

Despite their opposition so far, DOT Deputy Secretary Barnum thinks several of the airlines might endorse proposals to reduce air regulation if the new administration decides to back a measure. "In this town, you've got to let a lot of shoes drop before you put yours on the floor," he says. Because both the Senate and House aviation subcommittee chairmen have written their own bills, held lengthy hearings this year and have stated that they plan to go forward in the next Congress with consideration of deregulation proposals, the remaining question is what the Carter administration will do.

Earlier this month, aides to President-elect Carter said regulatory reform proposals would be "one of the early priorities" of his administration. During the campaign Carter told Ralph Nader's Public Citizen Forum that "economic regulation which permits, in many instances, an unwarranted increase in the price of products to consumers ought to be drastically curtailed.

"One obvious . . . example . . . is the relative cost of intrastate airline travel, such as in Texas or California, compared to equivalent distances traveled in interstate airline routes where the cost is almost doubled . . ." he said.

Formidable opposition to passage of legislation, however, exists. Some may come from labor unions who perceive in deregulation a threat to jobs should a carrier fail, and increased pressure on future wage contracts; under the present system, increased labor costs are passed through to the consumer.

These costs are significant. The airline industry is the highest paid in America. According to the Air Transport Association, the scheduled carriers trade group, the average salary of the regulated carriers is $17,000 plus $3,000 in benefits. Airline pilots' salaries range up to $100,000 a year.

But despite opposition, the CAB's chairman, John E. Robson, believes that change must come.

If not, Robson says, the airline industry will continue to have its ups and downs, but probably more downs; fares will continue to rise, putting a damper on traffic growth; and the airlines will increasingly turn to the government for financial aid.

And with federal aid will come tighter and tighter controls on the way the airlines do business.

As one congressional source put it:

"Congress does not allocate federal funds to private companies without taking its pound of flesh."

TETON SAGA

Mr. McCLURE. Mr. President, on June 5, 1976, the Teton Dam in southeastern Idaho burst sending a wall of mud, debris, and water through the peaceful towns in the valley below, leaving destruction and suffering in its path. The following is an account written by Mrs. Ruth Barrus of Sugar City, Idaho, of her experience with the flood and the agonizing rebuilding process afterward. It is a moving, inspirational story which leaves the reader with a realization of the sturdiness of the American spirit and the importance of family and faith in times of needs.

I ask unanimous consent that Ms. Barrus' account entitled "Teton Saga" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TETON SAGA

It was a beautiful Saturday morning as we boarded the plane in Dayton, Ohio, for return to our Sugar City, Idaho home June 5, 1976. We were rejuvenated from a rewarding two weeks spent first with our son Clyn and his wife Marilyn and his family in St. Paul, Minnesota, and next with our daughter LaRue and her husband Martell and family in Dayton, Ohio. We felt a kind of special strength in us, both spiritual and physical, enriched by the love and care of children and grandchildren; and we felt we could meet the challenge of another rigorous summer on the farm and at the college where challenging assignments awaited me. Our 560-acre farm had been made beautiful and fertile by the labor of three generations of Barruses, and my husband's mind was spinning with ideas for the labor at hand as soon as he arrived home: beets to be thinned, hay to be fertilized, ditches to be made ready for irrigation, cattle to be put on the range, and so on, endlessly. My head was spinning with ideas concerning a big research project at Ricks College that I would be directing: the Musical Heritage of the Upper Snake River Valley, and its effect on human lives, and I needed to get people involved all up and down the valley in the collection of pictures and histories that would reveal our musical heritage.

As eager as we were to plunge into our labors, we had two grandsons with us whose eyes shone greater than ours and who paced impatiently at the delays in different airports. They were to spend another summer on grandpa's farm where there were trucks and tractors to drive, fences to fix, crops to irrigate, and, not so exciting, beets to thin and then weed. Charles and Norman were just 11 and 12 when their father first brought them to the farm from Ohio.

That was 3 summers ago. Fields were heavy with green. For centuries they had been enriched by the winding Teton River which threaded itself in and out of our farm. On hot summer days the Teton River was a haven for swimmers and fishermen, and it was perfect for nature walks. The Grand Tetons were in full view, and birds and wildlife mingled with cattle and sheep for pasture. As father and sons waded in the deep fertility he stopped and pointed to the clear blue sky above and said: "I want you to breathe in deeply this clean, fresh air and look at all these miles of green. Tell me, just how many boys in the world your age get to look at a sky like that and breathe air like that, and wade in green like this. Just how many boys in the world get to work on a farm at all?"

Charles and Norman guessed there were not many boys who get that opportunity.

"Then," counseled Martell their father, "put your heart and best energies into this experience." And this the boys had done each summer since that time.

They had big plans for this summer. Charles, now 15, had been studying motors in school the past year so he could work on all the old tractors and motors on the farm to get them in tip-top condition. Even though this was their first plane ride, the conversation with his brother Norman was all about motors. The question paramount on their minds was, would they get to Sugar City tonight in time to go out on the farm. "It will be around four when we get there," I told them, "and you can work until dark if you want to." That seemed to satisfy them and each settled back to his dreams.

The wait in the Salt Lake airport seemed especially long, but at 1:00 P.M. we were just going out the door to board the plane for Idaho Falls when Randy Roberts, who grew up in Sugar City and worked for Western Airlines, rushed up to us. Pale and with voice shaking he asked, "Have you heard any news from Sugar?"

We sensed deep tragedy and our minds flashed to the possibility of death or accident. "What has happened?" we asked, troubled.

"The Teton Dam has burst and Sugar City has been annihilated!" In shock and unbelief, we started at Randy.

"I can't believe it!" was my husband LaMar's reply.

"Are you sure of this?" I questioned.

Our grandsons, unaware of this news, were waving impatiently for us to get on the plane, sure that it would take off without us. We just stood there and looked at Randy and he at us.

"I am going home, too," he said, "to see what has happened to the folks."

Slowly we boarded the plane, our heads shaking with disbelief, but our hearts trembling with belief. What did annihilation mean? Three Barrus families lived in Sugar City and one in Rexburg. Were they alive? Were they warned in time to get out? Where would they have to go to escape the billions of gallons of water suddenly freed to gush down canyon walls in a direct path to Sugar City and our farm just ten miles away from the dam? Where was safety and who was safe? Prayers clutched our hearts. Our son LaMar Jr.'s home was on the hill in Rexburg. He and his family were on vacation in California, so his family was safe. Was safety in his home and would the Barruses be there? I prayed they would. I thought of the men in the fields, especially two older unmarried brothers to my husband who had poor eyesight and were nearly deaf. Would my sister-in-law Janet be able to reach them in the fields and get them to safety? I thought of friends, many of them widows, who lived in isolation in farm houses. Would they be safe?

Idaho Falls finally came into view, and tidy green fields and homes below looked undisturbed by any prospect of flood. The news had to be just a bad dream, but a sister-in-law who met us at the airport verified the nightmare. "Janet called from Sugar City just a little while ago saying I was to meet you at the airport because the "dam has burst, 20 feet of water is headed our way, and we barely have time to escape, goodbye!" I couldn't believe that Janet could take time for us in such a crisis when she had children, grandchildren, and brothers-in-law to find and motivate to safety. Her thoughtfulness helped us to know, though, that they had been warned and had a possibility of escaping the path of the flood. We were grateful for that assurance.

All roads out of Idaho Falls were closed and we stayed that night with Keith and Corrine Barrus. For many weeks their home became a communication hub to the many friends and relatives throughout the United States who wanted assurance of the safety of those they loved. Keith and Corrine became an anchor in our dilemma. Most of the fourteen hours we spent in Idaho Falls were spent on the telephone, for when we went north to Rexburg and Sugar City, we knew all communication with the outside would be cut off. Hours were spent just getting one call through, for lines into Idaho Falls were jammed with calls. We knew LaMar Jr., Carol and family would be crazy with fear when they heard the news in California. Surely they would call Keith's in Idaho Falls, and what message would I be able to tell them. We did not know for sure how anyone in the Sugar area fared. Carol's father had traditionally gone each Saturday during the summer to the Teton River near the dam to fish. Was he warned in time?

All Saturday afternoon and late into the night, radios, and TV's were monitored for news of Sugar and Rexburg. Suddenly on TV from KSL in Salt Lake City appeared our nephew Brent Barrus. He was telling the reporter that he had taken his family out of Sugar by the cemetery road southeast of town up on a hill just beyond the Teton River and our farm. He described on TV the massive wall of muddy water which inundated Sugar, preceded by a giant churn of dust, logs, splintered houses and debris. An NBC–TV team had landed in a helicopter in a field near the cemetery and Brent, and he was interviewed by them. He described the devastation of the Barrus farm to them. All the buildings, cattle, sheep, fences, tractors, trucks, machinery—all were swept away like children's toys. The 150 ton stacks of hay exploded like match sticks. Powerful machinery were twisted together like wire and mangled and covered by debris. All that remained of a green fertile, nurtured farm was a vast lake of filth and destruction. As far as eye could see nature had been crushed and defiled. A stench of death filled the air as a pall of thick, grey dust clouded the sun and blue of the sky.

"One thing we are grateful for—our families were saved!" Brent concluded. What joyful news for us in Idaho Falls to hear in the agony of our despair. Immdiately following the interview with Brent, on TV came a picture of Lola and Glen Walters, Carol's parents. He hadn't gone fishing on the Teton River that Saturday, but had stayed home to paint the fence! He and Lola were in old painter's clothes, which were all they were able to take out of Sugar City, but they looked beautiful to us. Now, when LaMar Jr. called from California, he could know that both families were safe.

As calls from family and friends poured into Idaho Falls from across the United States, and as we felt their love and concern, we had a stirring verification that the importance of life rested in our families. Our loss of material possessions was of minor concern to us right then—the safety and welfare of our families was all that mattered. Our mind and heart were in constant prayer, and the miracle of the Lord's answer was the closeness we felt with our loved ones despite the terrible curtain of physical destruction.

On Sunday, June 6th, because we had a Sugar City driver's license, we were able to get through a very tight roadblock to Rexburg. (Over 50 State policemen from over the state had come immediately to Madison County to seal off all roads into that area. They remained for nearly two months, marvelously serving and protecting this area.) Keith loaned us his pickup; "It's yours as long as you need it," he said, (for both our cars had been left in Sugar and were destroyed). It took us 4½ hours to travel that 30 miles, so congested was traffic. We went to LaMar Jr.'s house on the hill and found all the Barruses and the Walters there. It was a reunion marked by tears of gratitude.

All roads to Sugar City were washed away, but my husband LaMar drove as far as he could on the cemetery road and then walked the rest of the way to our home in Sugar. He didn't say much when he got back except that the house was ruined. Both south and east walls were gone and mud and devastation were everywhere. One road into Sugar was made passable by 4:00 in the afternoon. We traveled the washed and treacherous road to our home. There it stood, in a sea of filthy water and mud, crushed, ripped, beaten and pierced by the wall of water that had pushed the remains of three homes into it. The south wall and part of the foundation in the southeast were ripped away. Debris from houses washed into ours was even thrown onto the roof, and in places was piled 20 feet high in our yard and out on the road on either side.

The only way we could get into the house was to walk on the farthest extremes of the road around to our back entrance. When we tried to open the door it was blocked by a large lounge chair. We climbed over piles of debris—trash, logs, and splintered remains of several houses to the south side and entered where walls had been ripped out. This could not be our home! Just a little over two weeks ago I had left it spotlessly clean and attractive. Treasures we had worked for all our married lives were housed in those front rooms, and before we left to go East to visit our children, I recalled going alone into those rooms and kneeling down by the couch and thanking my Heavenly Father for His generosity and kindness to us for the beauty of our surroundings.

Our home was basically an old one, but through years of remodeling it was now all new—the old house was still there with all its memories, but inside and out it had been covered by new walls of sturdy and beautiful wood, and decorated by years of accumulation of rare and treasured things from Europe. Our boys, through missions and music study, had spent at least ten years in Europe and I had the privilege of going there myself and many treasures had been collected from there those years. Tapestries, silver, crystal, Italian tablecloths, rare figurines and pictures, and priceless books: books dealing with art, music, literature, history; valuable church books and all our scriptures; encyclopedias, and a library of organ and piano music collected over a period of 45 years—all swept away.

Where our Baldwin baby grand piano sat was now a huge log which had come through the window, encrusted with barnyard straw and debris. On that piano had been placed a 14" statue of Beethoven, a colored picture of myself and LaMar on our 40th wedding anniversary and a beautiful large colored wax candle on which was carved people in a tiny European Village which my sister had brought to me from Germany—all gone! All furniture in frontrooms and bedroom were swept away never to be seen again. A rare 7' x 4' tapestry in Rococo design which Craig Barrus had purchased for me in Italy was gone. Broken floors, many feet of mud, and piles of mud-laden carpet remained. And yet—here is a miracle—on a shelf in our floor-to-ceiling bookcase, just inches above the 6' level of water that swept through our house, still stood a delicate miniature Dresden dancing doll—so fragile I hardly dared dust for fear of crushing it. LaMar Jr. had sent it to Grandma Barrus, while he was on his mission, from Austria, and when she died I had inherited it.

To see something so beautiful surrounded by such desecration was a shocking contrast. Another miracle!—just eight inches away from a bedroom outside wall hung a large colored picture of my mother which belonged to my sister, but was recently loaned to me. The four-thickness wall, inches from this picture, had literally been splintered and ripped away, and that picture was supported only by a small nail—and yet it was still

hanging there! Barely above the water line, on tiny shelves built especially in our bedroom to hold the baby pictures of our children—the pictures were still there, undisturbed! The only picture we had of our son Kent, who died when he was 18 months, was still there. What joy filled my heart.

Then my thoughts turned to a large pasteboard file which was in the back family room. It contained stories, pictures and records of all my people and LaMar's people. I had collected them for years toward making histories of our people. What had happened to them. The door into the back from the frontroom was blocked by a fallen refrigerator and piles of mud. We climbed through the debris again around to the back door and pushed and squeezed past the lounge chair that blocked it. In the utility room the freezer lay flat on its back—and we had just filled it with fresh beef before we left on the trip. The dryer was on its face, and the washer was twisted but still clung to its pipes. To get into the family room was difficult. It looked as if a large churn had gone rampant. I managed to get to the file box, but it was saturated with water and soggy with mud. "I have got to save this," I cried, in despair.

"It looks impossible," LaMar replied.

"I have got to try. Let's get it out to the pickup." Together we carried it to the car.

LaMar began examining the deep freeze. It was flat on the floor on its back, and he struggled to open the door. It resisted at first but finally came open. To our surprise the meat was totally untouched by the water and mud! It was still frozen, and the elements still had frost on them. The seal on the door had not been broken by the impact. It was amazing. Could we save all this meat? About this time a state Fish and Game man drove by in his pickup, and I stopped him and asked his opinion. He said there was not a reason in the world that meat would not be perfectly safe. "Save it," he challenged.

What could we do with all that meat? We thought of friends in Rexburg who might have room in their deep freezers. We contacted the Passey's and the Biddulph's and, with what room was available in our son's freezer, we placed the meat by late that evening. With the scarcity of money, the high prices resulting from the flood, the lack of stores, what a blessing this meat has been to us!

With our soggy file box and its treasures in the back of the pickup we headed after dark back to Idaho Falls. Our dress clothes and shoes, which were the only kind of clothes we had now, were covered with mud, and we were smeared with it. As we drove back, LaMar and I talked about what we could do. Everything looked hopeless, and yet we felt compelled to do something. "We can't do anything without boots and shovels," we agreed.

We passed Bonneville High School and noted that it had become a Red Cross Center. Maybe they have boots and shovels," I exclaimed. We stopped and went in. We were informed by a lady there that none were immediately available, but, looking at our dirty clothes, she smiled and said, "we do have some levi's that just came in that might help you." There were just two pair; one fit me, and the other, even though a little large, LaMar was able to wear. We lived in these levi's for weeks, washing them each night at LaMar Jr.'s home.

Shoes became a critical problem to me. Even though the Red Cross and welfare agencies were quick to provide us with vast amounts of clothing, when you wear a 9½ or 10 triple-A shoe, and have to go to Salt Lake to purchase such shoes, you certainly don't pick them up in welfare agencies. For 10 days I sloshed around in size 10 men's rubber boots and size 9, C-width saddle oxfords that the welfare center managed to provide for me, but aching arches soon told me that this could not continue. My sister in Oregon, who wears the same size shoe as I do, sensed my dilemma and quickly put in the mail several pairs of her shoes that would serve me. Included in the package also were slacks, blouses, and dresses. This is an example of the sensitive, heart-warming response to our needs that came from so many no matter how far away. A cousin, Katie Olsen, came up from Logan as quickly as work crews were allowed, and after she had quietly assessed our needs, she called my many cousins in Logan and soon five boxes of supplies were delivered to us—clothing, dishes, kettles, jams and jellies, fruit, canned goods, and endless nice things. Katie herself sent many things that are commonly taken for granted in any home, yet we were lacking: stationery, paper clips, bobby pins, scarfs, pins, needles, thread, mirrors, make-up, even perfume, and countless other thoughtful items. LaMar, even now, picks up things in our HUD trailer and says, "Where did these come from?" And I reply each time, "Katie."

It was 10:00 o'clock that Sunday evening when we got back to Keith's. We carried the file box into the kitchen and I commenced an all night task of washing pictures and precious papers and records. I covered a two-car garage floor with my washings and three rooms in their split-level home. Newspapers protected carpets. Periodically, LaMar would call to me from the bedroom to come to bed. "You will be ill," he counseled, "if you don't get your rest."

"I can't," I emphasized. "This is our past, and if we don't save our past, what kind of a future can we build on?" He said no more.

It was 5:00 A.M. when I finally went to bed, but I felt strengthened and challenged by the experience. As I laid out pictures of our parents, grandparents, and great grandparents; uncles, cousins and immediate family; as I handled and felt the power of their records and stories—as this continued hour after hour, I wept periodically in gratitude for their lives, their courage, their faith and endurance.

They had crossed oceans, walked the plains, pioneered communities in Utah, Wyoming, and Idaho. They understood and endured trials that we might be. I felt their strength come into me, and I knew that we would weather the trials that were in store for us. The veil was very thin, and I felt close to them all that long night. I knew that they loved me and would pray for me and strengthen me. I also sensed that prayers were being said for us throughout the United States, and I witnessed great physical and spiritual strength. We know the Lord was with us and we would bear our burdens.

There is a sequel which must be told to this episode. All the pictures I had washed had curled greatly in drying, so I placed them in heavy encyclopedias to press them, and left them at Kieth's and Corrine's. During the intervening weeks, Corrine had taken them out, rewashed and flattened them, sorted them as to families, and pasted them in a big picture album—then presented them to me! What a gift of self! How greatly is it appreciated!

Monday morning was another time-consuming journey to Sugar City, and a day trying to commence salvage of precious things from many feet of mud, and then a journey back to Idaho Falls again that night. Many people were staying at LaMar's and it was crowded and we needed to keep the people in Idaho Falls informed as well as communicate further with our families throughout the United States who were in great stress with concern over us, so we went back there that evening. Tuesday morning we came again to Rexburg and there to remain for many weeks with no further communication with the outside world. Our grandsons went with us this time. They had not been idle in Idaho Falls those two days we were traveling back and forth to Rexburg and Sugar City. A call for volunteers had gone out requesting help from men and boys to fill sand bags and stack them on the Snake River's edge to prevent flooding in that area. Hundreds had answered the call and thousands of sand bags prevented a big section of downtown Idaho Falls from flood damage as Teton waters came into the Snake River. The boys now were anxious to view what had happened to Sugar and "their farm". We joined the Barrus' and Walters' families at LaMar's—making a total of 20 to sleep there that night.

Tuesday afternoon I attended a special faculty and staff meeting called by President Eyring. More than 60% of this great group of people had been disastrously affected by the flood, and the other 40% had opened their homes and storehouses to help the thousands who had poured into Rexburg for refuge. Ricks College, at the first call for evacuation of the flooded areas, had opened its doors and resources to all, making no distinction in race, color or creed. Food was immediately supplied in the cafeteria; diapers, milk, baby food made available for the infants; clothing dispensed to those who needed it (Ammon Stake in hours had collected and made available through Relief Society and priesthood groups vast amounts of needed clothing, shoes and bedding, etc.); housing provided in dormitories for the homeless. All this was done without fanfare—quietly and effectively.

The fieldhouse in the Hart Building became the base for all government, Red Cross and disaster agencies. President Eyring didn't talk about this, however. He soberly addressed us in our need. With voice trembling and tears close to the surface, he complimented "his family" for the cheerful spirit and courage that had been exemplified in this tragedy. He warned us, though, that this was only the beginning of many trials to come. "It will be a long haul," he told us. "You have survived well the initial shock, but remember it is only the beginning. It may take years before rehabilitation can be achieved. It will require full faith, strength, and patience to endure to the end. Keep close to the Lord; keep close to each other and serve one another," he told us. "Tests will come soon that we never dreamed would be ours! Tests of honesty as we deal with the government; tests of jealousy—is your neighbor getting more than you?; tests of faith—what have I done to deserve this?; tests of patience—your need is immediate, but large agencies take time to provide all that you need. You have passed your first test of crisis in a great manner," he said. "I know, if you are faithful, you can pass all ensuing tests." Now, as we enter our fourth month after the flood, we realize the wisdom of his counsel.

President Eyring told us that temporary housing would be available at the girl's dormitories, and if faculty and staff needed housing, immediate application was important. I went quickly to the information desk in the Manwaring Center and applied. The clerk shook her head, informing me that housing was gone soon after the flood struck. I was ready to leave when the phone rang, and she indicated that I should wait. She smiled and told me that an apartment in the Third Dormitory would soon be vacated and if I would contact the head resident immediately, I could probably have it. I did this, and was very pleased that we could get housing that would allow cooking for our family. Many thousands of refugees were totally dependent for their three meals a day upon the cafeteria at Ricks College.

As high as 30,000 meals in one day were served there. It was important that we did what we could to relieve them in this costly service. LaMar, Carol and their four children would be arriving today from California, and

their home could not hold for long such a large gathering, so we greatly appreciated this dormitory housing. The other Barrus families also found residence that day in Teton Chalet, housing normally used by Ricks College students. (The fact that this tragedy struck in summer months when the many housing areas were freed of the nearly 6000 students that come to Rexburg each fall, was a great blessing to the people. Temporary housing became quickly available to the thousands affected by the flood.)

Reunion with LaMar and his family was marked with tears and gratitude. Carol said that all the way home she had prayed that we would all be there in their home. Words cannot describe the sustaining strength and service Carol and LaMar and their family have maintained for our benefit throughout the long weeks of this disaster. Our two Ohio grandsons were now joined by their cousins—Connie, Katherine, Kent and Deborah—in digging out mud and washing salvaged articles. Their washing machine was kept constantly active to supply clean clothing to the large Barrus and Walters families—for ranks had swollen by the addition of other family members that had come from afar to help. Each night, Carol with the help of her children, had a hot meal waiting for tired, dirty, hungry workers after they returned from a day of salvage in Sugar City. Sometimes as high as 30 people would alternate turns at the big oak dining table. Their help in cleaning and salvaging was divided between the Barrus' and Walters' families, and the worries of both became their worries. Even though we tried to maintain a cheerful and optimistic attitude about everything, as I look back on those first few weeks, I realize that we were really in a state of shock—almost totally incapable of organization, decision, and real accomplishment in our work. We seemed to wander from task to task with little done on any one thing, being easily distracted in our thoughts and efforts. What should we throw away? What should we try to save? Where could we store it even if we could save it? In this mass of total destruction, where was our future? Immediate needs were well taken care of by church, family, Red Cross and many welfare groups—but what about the future? We became almost like little children, needing a strong hand to guide us and strengthen us. LaMar and Carol helped immeasurably to provide this.

Great strength also came from our other children. Clyn in St. Paul, Minnesota, in our early calls to him from Idaho Falls, positively stated that he was coming to help and was bringing his son David, eight years of age, with him. We assured him that the journey was too far and that we could manage. His wife Marilyn was not well, for she was soon to deliver twins which would bring the number of their children to six. Several years earlier she had suffered from a severe automobile accident that has broken her pelvic bone in four places and caused severe internal injury. She was suffering from those injuries by the pressure of the twins. But Clyn's family was determined that they should come, and they did. Not only did Clyn and David come, but his brother-in-law Bill Sheffield and his son Michael also came. Bill had sacrificed a week's pay from his job to render this service to us. They would stay in Rexburg with their parents-in-law, Lowell and Ruth Bidduloh, and help us in Sugar by day. They left St. Paul after church Sunday night and arrived late Tuesday. Somehow he was able to persuade reluctant police officers at roadblocks that he had parents in distress in Sugar City who needed their help Our daughter LaRue Gee in Dayton, Ohio was determined to come also, but we persuaded her that her five younger children at home needed her more than we did, and that we would work her two strong boys who had come home with us sufficiently to compensate for her absence.

Added to our task force that first week were Austin and Fern Seager from Ogden, LaMar's sister and brother-in-law. Austin taught Industrial Arts at Weber College and he wanted to try to get the one remaining tractor that was left out of seven, into operation. It had a bucket lift and would be helpful in our salvage operations. They postponed their vacation to Florida a week to serve us. They arrived with parts, tools, oil, gas and equipment to work on the tractor. Charles and Norman alternated being his assistant, and they went to work dissembling, cleaning and reassembling the tractor. Thursday the motor was tested. It coughed and then started to run. We were all elated, but when it was put to use it could only run for a 15-minute to an hour period before the red danger light went on.

We have since learned that no motors subjected to the corrosive and sticky effects of that silt and mud have been able to function very long. Fern rotated between Janet's and Rondo's home and our home in the back-breaking salvage work. Her quiet and understanding help and influence was of great psychological benefit to us as well as the tenacious way she attacked all the drawers filled with mud, extricating the valuable contents contained in them. Phil Jordan from Idaho Falls (husband to Louise Barrus, Keith's daughter) brought a truck for us to use as long as was needed. He brought word that nieces and nephews in Idaho Falls were scheduling their time so that someone would be here each day to help.

The uniting of this great family group in sacrifice, love and service brought a spirit into our lives and community that is difficult to talk or write about without tears coming to our eyes. I never wept a tear over the loss of our material things, but when I saw and felt the magnitude of the human heart as it opened to our aid, I wept. I still can't keep back the tears when I think of the kindnesses and sacrifices of others.

We had no water and electricity in Sugar City. By 7:30 at night it was an abandoned village, tightly protected by faithful National Guard units. (How grateful we were that first week for the privacy in Sugar City that State Policemen and National Guard maintained for us. We were a community of family and neighbors, isolated in our tribulation, who loved each other and who understood each others hearts. Our communication was free and cheerful. It was a time of strengthening, not sorrowing. We were protected from the curious, the stranger, and those who would prey on us.) By day we were an army of workers. Stagnant, dirty pools surrounded our homes even covering, in places, the road. We would pry loose swollen drawers and take them out to the pools and empty their contents near one.

With rubber gloves protecting our hands we extricated important contents from the thick mud. (I felt particularly frustrated in this operation because of my broken right wrist. My right arm was in a cast up to my elbow, and finger movement was almost impossible in my right hand. The cast was due to come off, but the doctor said it wouldn't be wise at this time, for I could easily injure my wrist again. I was a total left-handed salvage operator.) We salvaged cooking and eating utinsels, pots and pans, household tools, canned goods, and clothing and all the endless household articles.

Fortunately, most of our fruit, dishes, spices, cereals and small electrical appliances were high enough to escape the flood. They had to be boxed and taken someplace for storage We took as much as we could to the dormitory where we were living, but it was decided to store the rest in Brent Barrus's garage. Shoes, towels and many clothing articles were taken out to the pools for a preliminary washing to rid them of several inches of mud. The whole neighborhood was engaged in this task, and we joked back and forth together. We decided that certain pools would be the wash areas and other, cleaner-looking pools would be the rinse areas. Clothing articles were spread to dry on broken trees and limbs that cluttered the yards. As I viewed these clothing articles spread on dismembered trees, moving in the breeze, I thought of refugee camps in Israel and the industry of the people then. I felt close to them at that time.

One afternoon I had loaded our borrowed pickup full with soggy winter coats, suits, sweaters and many dresses (an endless accumulation of years) to take to Rexburg, but not sure what I would do with them when I got there. A pickup from Idaho Falls drove next to us containing Margaret and Boyd Thomas. They took the contents out of our pickup and placed them in theirs. "We are taking them to Idaho Falls to wish and clean," they said, and we could not persuade them otherwise. Mrs. Steed from Idaho Falls, at another time, insisted on taking all LaMar's work clothes and many towels and dish towels to Idaho Falls for cleaning. Louise Barrus took another load to Idaho Falls of table cloths and many accumulated articles. The hundreds of people in Idaho Falls and other areas who relieved flood-weary people of the tons of filthy washing and cleaning gave inestimable service. Even in Rexburg, washing was not permitted for some time, because of broken water and sewer lines.

The Leland Kunz family from Bern, just out of Montpelier, surely went the extra mile to help us. The whole Bern ward did something, I am sure, to serve us. Renae Kunz got through the roadblock and deposited boxes of groceries at LaMar's to help feed the many they were serving. Staples, bread, fruit, canned goods—everything that would seem necessary, came in the boxes. Boxes of special significance and personal items they brought to our apartment in the dorms. The generosity of these people seem to know no bounds. I had to tell them that I must not accept more than our needs, and our needs were now filled. Norma Kunz, especially, sensed my personal needs and continued to bring special items. Even now, whenever the Kunzes come to Rexburg to bring their girls to school or to visit, we are showered with fresh vegetables, fresh homemade bread and luscious jams. I can't seem to stop them in their generosity. Because I had lost all my recipes, the Relief Society in Bern, motivated by the Kunzes, sent a recipe box filled with varied and exciting recipes. The moral and physical lift that we had through the service of all these people was of great importance to us. The spirit of empathy, love and sacrifice that was exemplified bound us together in a sisterhood and brotherhood that I am sure will be a sacred part of the eternities. Our hearts are full of gratitude. RoseAnn Hamblen was another who gave such service.

Clyn, Bill, LaMar and all the grandchildren really developed a program of salvage. Our upstairs bedrooms were untouched by the flood, and they still sparkled with the cleaning I had given them before we left for our vacation. Bedding was folded off the five beds and taken to our apartment; beds, dressers, and bookcases full of books were stored in Brent's garage. Rugs were taken off the floor and stored. Clyn even ventured into the attic, which had only one support in the outside center, all other supports broken or swept away, to retrieve the boxes of precious items there. My mother's memorabilia, and old letters that were to be a part of histories, pictures of ancestors, Christmas decorations, an old treddle sewing machine mother had given me, and

much more were all stored there. Carefully, with attic and salvager trembling, he pushed the boxes to the door and others took them below to safety. If I had been there, I would not have allowed it, so dangerous was this task; but it was accomplished.

Clyn and Bill loaded all the big appliances—washer, dryer, refrigerator, deep freeze, dishwasher (which had been used only two weeks), and even the TV—and took them to LaMar's in Rexburg. Carefully they were washed down and the motors cleaned and put in an oven to dry. Both were experienced in motors and did their best to save them. What they didn't know at that time was that these waters had a capacity of infiltration and corrosion as never experienced before, and water and mud had penetrated the insulation and damaged sensitive elements to the extent that no appliances were salvagable. Also, we didn't know at that time whether we would get any help in replacement, and we tried as best as possible to save these costly items. The efforts of Clyn and Bill in this regard were greatly appreciated. When one considers the thousands of appliances that were swept away and destroyed by this flood, replacement staggers the imagination.

The mud on our kitchen floor was around two feet deep in places and acted somewhat like quicksand. We knew that the house had to be destroyed, so we did not attempt to shovel it all out. Paths to cupboards and other areas were shoveled so we could salvage. We formed chain groups to get articles outside, for it took great effort to walk in the mud. One afternoon David was stooping low to get articles from a turntable in the corner of the kitchen, and in doing so got mud on his shirt. He seemed frustrated by this for he was a boy who loved cleanliness. It offered a good point of conversation about how dirty the pioneers must have gotten, and that to become a part of the group of workers in Sugar City one just had to wear a mud badge.

You would be totally out of place in Sugar unless you wore the identification of mud. Before the day was over he would be able to wear a lot of such badges. I had stepped on the center mud pile as I was talking and didn't realize that I and my boots were sinking deeeply into it. When I tried to move my feet were glued tight, and I fell over backwards into the oozing, stinking mud. I looked so ridiculous that everyone started to laugh. I was shoveled out and I had to go outside to our wash pools and lie on my back to get the sticky mud from my clothes, and even my hair. They told me I was a true Sugarite now!

As we worked together that first week a cheerful spirit permeated our neighborhood, and we joked together and kidded each other about how clean our clothes were after being washed in our stagnant pools and hung on torn tree limbs to dry. Harold and Carol Hill spent three days salvaging through what was left of their home which had smashed into ours, even covering part of our roof. It was even crowded into our frontroom, and extended from there out to the middle of the road. They would spend hours and days picking through trash and moving ragged timbers to find, perhaps, a dish, a sewing machine, a table, a typewriter, some silver. I told them jokingly, "I have invited you to visit us many times, but, really, you didn't need to bring your whole house with you!" They now call me "their favorite landlord". As I searched through mud in my drawers to salvage our things, I felt rich compared to the Hill's, yet they bore their loss with cheerful spirit.

That first week will be a special week in our memories—for it was a week totally cut off from the world when just families and neighbors banded together to meet the disaster that had befallen them. Children and grandchildren, no matter the distance away, joined with their parents to attack the job at hand.

There were no mourners—only workers! Unselfishness, sacrifice, love and cheerfulness abounded. We felt the depth of our love for our families. We felt the strength and power of such love; its importance in our lives. Mothers, fathers, children, uncles, aunts, grandparents, cousins, grandchildren all worked together in harmony and joy. We ate together, laughed together, even played together some evenings, and at night all beds were full and floors were covered with sleeping bags. I am sure that our grandchildren will be strengthened by this experience for they will know how greatly they are loved and appreciated by a large family, and that the whole family will be affected by any act they do, good or bad. We wondered, at times, if the United Order would not be something like the way we lived that first week. After all could be done to salvage what could be, Clyn and Bill, Fern and Austin, and other close members of the family who had come from afar, left for their homes. It was hard to tell them goodbye, for we felt such strength from them, but we shall always be grateful to them.

LaMar and I had to spend many hours each day at the Hart Fieldhouse, waiting in long lines to get registered with HUD, the Red Cross, the ASC, the SBA, and endless other special agencies. It was a frustrating, but important part of our total experience. We were brought into contact with the thousands of others who had also suffered devastating losses. In our wait we would converse together and feel the strength and courage of each other's spirit. We were all equals now. Some may have lost more than others, but everyone had lost all they had and so we would all have to start at the same base for recovery. I don't think I will ever experience such a feeling of total equality as far as material things are concerned again, and I treasure the camaraderie and relaxed acceptance of each other that resulted.

It wasn't until Thursday that LaMar attempted to take me out to see the farm. Water had subsided sufficiently that travel was possible but hazardous on the east and part of the north side. The south side was impassable and still is after three months. Two bridges were left hanging high in the air and giant gouges that you could drop houses into lashed the road for a mile. Some of our most fertile ground ran parallel to this road. It is hard to estimate the devastation to this land.

It is doubtful if much of it will ever come back into productivity. As we traveled east and west on the north section, on fields where water had subsided, we noted acres of gravel covering our choice land. Fences were gone everywhere, ditches washed away, and trash and debris strewn everywhere: twisted tractors and machinery; scarred, mud-laden trucks and pickups; beaten pieces of metal granaries and tanks; huge trees, stripped clean of their bark, with roots still intact—all cluttered our farm as far as eye could see. I was quiet on this journey, even though at times it seemed we would be swallowed up in the b'g holes in the road, or fall into deep gutters so narrow was it at times.

The large brick bungalow home—the old Barrus homestead—with all the farm buildings including milking sheds, barns, five granaries, many tons of hay and grain, 400 head of cattle and 150 head of sheep were totally swept away as if they never existed. For the first time I felt depression settle over me. We can buy new cars, build a new house, buy a new piano, etc., but what can you do with land that has lost great amounts of top soil, and with great gouges where once was level land? How can you rebuild a land when not even a monkey wrench is left to work with? LaMar was saying it would take close to $500,000 to purchase machinery, build the fences, dig the ditches before we could even start to farm—and we had nothing! Here was a test of real faith.

I could not let LaMar feel my discouragement. He had put his life into this farm, as had his father before him, and he must not feel that all is lost. I have often read the 38th Section of the Doctrine and Covenants, verses 18–20, in which the Lord promises a land of inheritance to the righteous: "And I will give it unto you for the land of your inheritance, if you seek it with all your hearts. And this shall be covenant with you, ye shall have it for the land of your inheritance, and for the inheritance of your children forever, while the earth shall stand, and ye shall possess it again in eternity, no more to pass away."

I have dreamed that if I could have a great wish it would be to stand on this farm on resurrection morning with my family, to continue to enjoy the richness and abundance of this wonderful farm. It was a kind of holy place to us, for on it we had experienced family togetherness and the importance of work. We had learned cooperation, enjoyed discovery; when the children were young we used to take the cows to pasture each day. The pasture historically was an old Indian village, and ancient ovens, arrow heads and other artifacts brought us close to an exciting past. LaMar Jr. would often ride his horse through the rivers and canals to round up the straying cows. It was a place for dreams, for it was great fun to lie on our backs under protecting willows and look at the blue sky and arching Tetons and talk of things to be accomplished—in music, archeology, FFA, drama, speech—everything seemed possible as we lay in the freshness of things. These same experiences went from children to grandchildren, and each had enriched the importance of the farm. The desecration of this beautiful land, hallowed by our experiences together, seemed almost more than I could bear.

"We must keep faith," I tried to express to LaMar. "The government has promised complete restitution," I said, not too convincingly. Any words were weak in the face of such destruction, so quietness prevailed. If I am to fight depression, I must not think of the farm. The labor and cost ahead are too much for our aging generation. It will take the next generation to cope with the endless problems that are there.

The first week ended with a visit from President Spencer W. Kimball and Elder Boyd Packer to the flood victims in the Hart Auditorium. It is hard to describe the importance of this meeting. Communication was entirely gone with the outside world and even friends—there were no telephones, radios, TV, no newspapers. Everyone was scattered to temporary residence—Rexburg apartments, St. Anthony, Rigby, Archer, Plano, etc. No one knew where anyone else lived or how they fared. People came away from Sugar only with the clothes they had on, and Saturday afternoon clothes are not always the best.

Yet as the people from our stake came together in that conference with our president and prophet, they were clean and attractive. They were smiling and greeting each other with love and concern. They were carrying their infants and guiding their small children into this epic meeting with our leader. We sat in reverence and profound appreciation for the leadership in our church and for the Gospel and the hope and courage it offers. We understood with our minds and hearts what the prophet was telling us, and we silently dedicated ourselves to follow his counsel. The history of the L.D.S. people is a history of trials, sac-

rifice, patience, honesty and great faith. We must exemplify to this age that we can accept our trials as the Lord would have us do, that He might bless us. We must be a witness to the world of the power of the Lord in us. Oh, we must not fail!

As the second week after the flood commenced, one became aware of the massive capability of the welfare services of the L.D.S. Church. A stream of buses containing hundreds of volunteer workers from Utah, Wyoming, Montana, and distant communities in Idaho came into our area to help us in clean-up and fix-up operations. One Sugar City man witnessed a sacrament church service in southern Idaho, where the bishop announced to the congregation that he needed 25 people from his ward willing to pay $12.00 for busfare, pack food sufficient for a day, leave at 4:00 A.M. and return at 12:00 midnight and work hard with shovels and scrubbing brushes all day. He asked by show of hands how many were willing to go, and the whole congregation raised their hands. The hours spent by volunteer workers from the L.D.S. Church and other churches and agencies would add into the millions of hours. Not only was their labor of inestimable worth toward rehabilitation, but their spirit and cheerfulness gave strength and courage when it was greatly needed.

What concerns us now is, would we have been just as willing to do the same for others? How would we have performed had we received the call? I guess we never really know who we are until the tests have been met. There are countless numbers who have passed this test of service and sacrifice and we love and appreciate them.

Charles and Norman did not get the privilege of working on grandpa's farm that summer, but they had the experience of giving service to others. For two weeks, along with their cousins, they dug out mud, ripped out wet plaster, carried heavy boxes for relatives and neighbors. Then Norman got a job helping clean the Sugar City schools and Charles got work with a farmer who will still able to carry on his farming operations at Moody. They liked their work and enjoyed their friends.

The Manwaring Center was a recreation center for thousands, and planned recreation involved them happily in what free time they had. An emergency appendix operation cut Charles' farming activities in July, and Martell and LaRue with their other five children came from Ohio to get their sons. I was glad they could come. LaRue had great love for the farm, and the memories they contained. I almost feel that those removed from the destruction suffer more than we in the midst of it, for we are so caught up in the labor of it all we do not have time to grieve. In an early telephone conversation with LaRue she started to weep. I said quickly, "Don't cry, LaRue. I have not yet; don't make me do it now." She answered, "I have wept enough for us both."

They came to Rexburg from the north, so stopped at Sugar City before coming to us in our dormitory apartment in Rexburg. As she recited the experience of seeing the horrible destruction of our home, she said: "I thought I would weep when I saw our home, but it wasn't our home I was seeing. Our home has been defiled and made filthy by something evil and contaminated. The spirit is gone. All that is left are broken and smelling timbers that need to be totally destroyed. This isn't my home at all. Now, as I walk into this apartment with you and some of our pictures and things surrounding you, I feel a sense of coming home. There is a spirit here. Now I know for sure that home is not a structure but a spirit. I can now be content to accept a new home, for I am sure this same spirit will be there."

What a sermon LaRue gave in those few words. We must not grieve for that which is corrupted and needs to be destroyed; we must, in the newness of things, build in such a way that the spirit of home can be with us. In a home that exemplifies love and sacrifice, there is a special spirit, whether it be an apartment, trailer, or our own carefully planned house. The important thing now was to preserve that spirit.

As to reread these lines, written while we are still in the throes of our devastating experience, I realize that I am not totally removed from the shock of it all—that I still suffer from disorganization and lack of vision. But with what perspective I have, I would like to assess my feelings, three months after June 5th. Even though I cannot see clearly into the future, I have faith in it. We have foundations poured for a new home. I cannot see clearly how it will look or how I will arrange and decorate it, but I feel I will receive guidance as we progress.

I have faith that the government will be fair with us in our claims. Prayerfully we have tried to be fair with the government. In assessing our losses and checking costs for replacement, we were horrified how inflation has magnified the costs. We regret having to put the government to so much cost.

We have appreciated the labors and sincere concern that all government agencies and personnel have given us. I feel it has been a miracle that so much had been done in so little time. The HUD people have moved mountains that we could be settled in trailers east of Sugar City—obtaining land, building roads, putting in water and sewer systems, bringing in hundreds of trailers from all over the United States, and, with great consideration, locating us in them, checking frequently with us as to our problems and needs, The Small Business Loans Agency have cut miles of red tape that we might obtain as quickly as possible means to commence businesses and start rebuilding.

Farm rehabilitation is slow. The future still looks impossible. I am sure the ASC are striving to be of help, but greater help immediately and in planning for the future has got to take place before the farmer can feel any security. I appreciate the labors of President Gerald Ford, Governor Andrus, Senators Church and McClure, and Congressman Hansen. I feel that they have worked tirelessly in our behalf. I hope that our future actions will justify their labors and concern.

I have great appreciation for the State Police and the National Guard who protected our privacy and our property at great cost and inconvenience to themselves, maintaining long hours under difficult and frustrating circumstances. I appreciate the Civil Defense and all county and city officials and workers who have worked and are working almost around-the-clock to serve us in our needs. The Corps of Engineers became part of our community for many weeks as they removed debris and trash in long twelve-hour shifts.

The Utah Power and Light and Mountain Bell Telephone have performed a staggering task of restoring electricity and telephone service to our homes and communities. These workers, as with the HUD, SBA, and Bureau of Reclamation people, have left their families and homes to live in motels and apartments in Idaho Falls, and drive each day to perform 12-hour day service for our benefit. They have all performed Herculean tasks.

I am appreciative of the great role Red Cross played in our lives those first weeks. Corps of volunteer workers, almost filling the Hart Fieldhouse, patiently listened to our trials and found ways to help us in our immediacy. What a welcome sight was the Red Cross stationwagon that, every few hours, toured our neighborhood in Sugar City, bringing pop, sandwiches, apples, pure water and bananas. They maintained emergency service as long as we had a Command Post in the Sugar High School Gym. They issued critical supplies without question to all who needed them, both in Sugar City and Rexburg. All was done with an attitude of sympathy and concern. I shall always be a supporter of the Red Cross. The Salvation Army and others also maintained food service for our benefit for many weeks.

How marvelous has been the role of RICKS College with President Eyring at the helm in its service to this valley. I realize it has been an extension of the arm of the Church, and yet it has played a unique role. To outline and detail its services and its effect on human lives would require a paper of great length. I hope such a book will be written. This is my 43rd year of teaching at RICKS College, and every year has been memorable and rewarding, but 1976 will stand out, I think, as the greatest year of its history. Quietly and inconspicuously, the hungry were fed, given shelter, provided recreation and counsel, and facility was provided that the great system of rehabilitation could carry on. I am deeply grateful for Ricks College!

I am grateful for the welfare system in the L.D.S. Church and the thousands who made sacrifice that we might live again. Other churches and organizations have given significant aid, and they deserve our sincere thanks.

I am deeply grateful for our family. Crisis has proven their quality and worth. Their outpouring of love, sacrifice, comfort and diligent labor sustained us and is continuing to sustain us through all our difficult moments. The fact that they were all saved makes our material losses seem minor in importance.

Most of all, I am grateful for the Gospel of Jesus Christ and its representatives here on earth. What comfort it has given in time of travail, peace in a time of emotional and mental conflict, hope in a time of despair, and light in a time of darkness.

As I conclude, I am reminded of a scripture in the Doctrine and Covenants, Section 78: 19; "And he who receiveth all things in thankfulness shall be made glorious; and the things of this earth shall be added unto him, even an hundred fold, yea, more."

I have faith that abundance will come to us; that out of the destruction and desolation will come a new Sugar City, clean and beautiful, peopled by those who have passed the trial of faith. They will be strong and firmly planted in the values of the Gospel. I pray we may never lose sight of those values and blessings and never cease to worship and obey the source from which they stem.

RUTH BARRUS.

YOUTH AND THE WORLD OF WORK: A COMMUNITY RESPONSIBILITY

Mr. HUMPHREY. Mr. President, last Tuesday, January 11, I introduced, with my good friend Senator JAVITS and others, a major youth employment bill, S. 170—the "Comprehensive Youth Employment Act of 1977." A companion measure (H.R. 1731) was introduced on the same day in the House by Congressman PAUL SIMON of Illinois.

This legislation would establish a number of programs to reduce the unemployment rate among our Nation's youth, as well as to help youth obtain the job information, job counseling, and work experience they need to make informed job and career decisions. Among the programs that would be created by the Comprehensive Youth Employment Act are:

First, a youth community service program to create productive jobs for youths on local community projects;

Second, a youth opportunities in private enterprise program to help youths find jobs in private enterprise and to reimburse industry for on-the-job training costs;

Third, a work experience for in-school youths program to provide youths with job experience before secondary school completion;

Fourth, an occupational information and career counseling program to provide youths with the job counseling and information needed to make informed career choices;

Fifth, a national conservation corps to provide jobs for youths on national and local conservation projects; and

Sixth, an expansion of the job corps for severely disadvantaged youths.

This bill provides a wide variety of coordinated programs because youths in the labor market have a wide variety of probems. The variety of these problems and possible solutions is illustrated in a paper by Daniel H. Kruger, professor of industrial relations at the Michigan State University, entitled "Youth and the World of Work: A Community Responsibility."

In his paper, Professor Kruger points out that there are three distinct youth labor markets—one involving youths who need permanent employment, one involving youths who need temporary work, and one involving youths who need regular work while going to school.

For many young people, the need for a job is desperate—their income is needed for school or to help support a family. These young people require employment with decent pay and the chance of advancement to better jobs.

But even where a youth only seeks part-time employment for spending money, there are social benefits from helping such youths find employment—they gain work experience, develop good work habits, and gain basic work skills. As Professor Kruger points out, low level jobs in such industries as the fast food industry are not dead-end jobs, but "can be valuable experiences for young workers in making the transition from school to work. They can learn about the necessity of being dependable—reporting to work when scheduled to work, being on time when scheduled to work, working with peers and under supervision. They can use these experiencese to learn good work habits."

In his list of recommendations, Professor Kruger called for a variety of approaches to place youths in jobs. Among his recommendations are: First, an expression of school-work experience programs which integrate classroom education with work experience; second, strengthening of counseling and guidance programs in the schools; third, establishing working relationship between schools and the local offices of the State employment service; and fourth, an expansion of youth employment programs by the local CETA prime sponsors.

These are all programs contained in the Comprehensive Youth Employment Act.

Professor Kruger's paper is a valuable comment on the problem of youth unemployment, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

YOUTH AND THE WORLD OF WORK: A COMMUNITY RESPONSIBILITY

The very high youth unemployment rate which the nation is experiencing calls for action at the national, state, and local levels. About one fifth of the youth 16–19 years of age are unemployed and nearly 40% of the minority youth are unemployed. Currently many youth are insufficiently prepared during the school years to gain entry into employment. It appears that young persons perceive that there is little correlation between education and the world of work. These youth have limited access to work experiences while in school. These work experiences are indeed part and parcel of one's learning experiences. This is particularly true in a job economy where ninety percent of the nation's labor force are employees.

At the national level there is no concerted manpower thrust. There is, however, a patchwork of manpower programs which deal with youth. The Vocational Education Act of 1963 as amended provides federal assistance for vocational education programs. The Comprehensive Employment and Training Act mandates manpower services to unemployed youth and school dropouts but the decision to provide such services has been decentralized to local prime sponsors and funds for programs for youth have to compete with demands for funds for other programs as determined by the local CETA prime sponsors. The Law Enforcement Assistance Act (CEAA) provides funds for programs for delinquent youth and juvenile offenders. All these acts provide programs for youth but they are limited in scope due to inadequate funding.

At the State level, State Legislatures provide funds for vocational education. At least two states (Florida and Virginia) have enacted legislation which provides for school based placement services. Some states (the exact number is not known) have encouraged school districts to establish school based placement services through the use of vocational funds. States have also established programs for delinquent youth but it is not known how extensive these programs are.

At the local level, CETA prime sponsors have in many jurisdictions continued the Neighborhood Youth Corps type programs. It is estimated that 56% of Title I enrollees under age 22 were served by local prime sponsors in 3rd Quarter 1976. We do not know how many were 16–19 years of age. School districts also provide educational services to their students.

Despite all these programmatic efforts, it appears that the separation between the school and the world of work has widened significantly. The rite of passage, the transition from school to work is replete with difficulties and barriers. For example many young persons do not know how to complete an employment application.

Recently the Personnel Administrator of a major hospital in Detroit told me that many young walk-ins at the Employment Office just do not know how to complete the application form or apply for a job. They come in with a big wad of gum in their mouth which affects their speaking, they have dirty fingernails, their personal grooming is not satisfactory. As for completing the employment form, he reported that they put down for highest grade completed C— and D+ or some other letter grade. As for sex some put down neither, or whenever possible. These are humorous anecdotes but they reflect one dimension of the problem youth job seekers have.

This Administration also noted that these comments were directed against the walk-ins. Those young persons referred to the Hospital by Community Based Organizations or Schools or some other labor market intermediary do, for the most part, know how to apply for a job. Admittedly these are the experiences of one major employer in Detroit but they appear to be widespread.

Although all levels of government are involved to some extent in dealing with youth employment and unemployment problems much more needs to be done. New legislation and additional funds would also help to alleviate the problem. But in the absence of new legislation and additional funds, there is much which can be done at the local level if there is a commitment or a will to action. There are already resources available to assist youth but there is not a systematic access to them. This paper focuses on what can be done with available resources.

In efforts to solve problems—the first step is to identify the nature of the problem. The extent of the youth unemployment problem has been identified. Efforts have been made to identify the barriers or impediments to employment of youth but these studies are of a general nature. Each labor market in the nation has unique characteristics and therefore must be analyzed both in terms of availability of jobs for young persons and barriers to employment.

In analyzing labor markets, there appears to be in larger communities what I call an identifiable youth labor market. By this I mean those employers which primarily hire young people. For example, the fast food industry—McDonalds, Burger Chef, Burger King, to mention a few, appear to hire young people. These are not lifetime employment opportunities but they can be valuable experiences for young workers in making the transition from school to work. They can learn about the necessity of being dependable—reporting for work when scheduled to work, being on time when scheduled to work, working with peers and under supervision. They can use these experiences to learn good work habits.

I take issue with those who say that these kinds of jobs are dead-end and that they do not provide any career ladder. Of course the pay is minimum but these young workers are generally not heads of households and many still live at home. I would hope that these young persons would want to better themselves to the extent they can and want to do so.

In analyzing employment and unemployment of teenagers, it is necessary to examine the nature of the youth labor market. There are three distinct youth labor markets, each with its own characteristics. One is for those youth seeking full time year round employment. This could be called the "permanent" market. The second type of youth labor market is for those youth seeking temporary jobs. This is the transient market in which youth are in and out of employment for varying lengths of time. A third type which I call the mini-permanent. In this type of labor market, the young person needs a job for a given duration, i.e. while in school.

In the "permanent" youth labor market, youth are looking for jobs which have some degree of permanency. Job applicants look for work more or less in line with some kind of vocational objective. There are selectivity factors operating in this market. Applicants undoubtedly give some consideration to type of work, social status of job, pay, hours, fringe benefits and promotional prospects. They may take a job in this market on a temporary basis, but because of a variety of circumstances, the job may become "permanent." For example, the individual once acquiring seniority may be reluctant to leave the permanent market, especially if alternative employment opportunities are not as attractive.

The transient youth labor market attracts students and other young workers with a

loose attachment to the labor market. They may have other goals, but they are in need of a job which can produce income to finance a specific objective, i.e., buy clothes, a car, finance a trip, or their education. Many work in order to have spending money. There are also selectivity factors operating in this kind of market, but they are quite different in nature from those operating in the "permanent" youth labor market. Flexibility of hours is a consideration, especially if the individual does not have access to a car or public transportation is either not available or is not convenient. Transient young workers are probably less concerned with the social status of a given job because they know that the particular job which they may get is only temporary. They, therefore, are willing to take low status jobs. They probably do not examine closely the fringe benefits offered by the prospective employer. The pay, while important for the obtainment of their primary goals or objectives, is perhaps not as important as it is for individuals in the permanent youth labor market.

There is another aspect to the transient youth labor market which affects both employment and unemployment. Those 16 and 17 years old are living at home and are probably under parental control or influence. In urban areas, parents may not want their children to take jobs in the downtown area, especially if the jobs involve being out after dark. Thus, the specific geographical labor market in which they seek employment may be restricted in terms of available job opportunities. Their parents may want or permit their children to work, but only in an area nearby to their home. This type of young worker, therefore, looks for work in an area with limited possibilities. In looking for a job, however, he is counted in the labor force and thus, is unemployed.

There is another type of youth labor market which is neither "permanent" or transient. In this labor market the young workers seek a "regular part time or full time job" while going to school. The job is needed either to pay tuition and buy books or to contribute to the family income. The individual is not interested in a "temporary" job, i.e., in and out for short periods of time. This intermediate labor market could be described as a "mini-permanent" labor market. He needs a job for a specific time period, i.e., until he finishes school, either high school or college. It is this time factor which distinguishes this type of labor market from the other two types.

The existence of at least three types of youth labor markets underscore that youth unemployment has many faces. The black male or female in the urban center would appear to have a more serious unemployment problem than a white male or female youth living in a suburban community. Both are seeking employment, and both are unemployed. The degree of need for a job of the two groups, however, may not be the same. The black youth may need a job to contribute to family income in order to buy food and shelter. The white youth may need a job to finance his education or a car. The connotation of unemployment for the two groups is not the same. Unemployment is a "bad sounding" word which normally signifies deprivation, loss of regular income and hardship. This mental picture does not apply to all youth unemployment.

The existence of the three types of youth labor markets and the many faces of youth unemployment suggest that there are many variables affecting youth employment and unemployment. Some of these variables include in addition to age: sex, education, race, family income, marital status, general level of economic activity, i.e., whether high or low rates of unemployment, location of individual, whether he or she lives in an urban or rural area and has access to other employment alternatives.

The many faces of youth unemployment call attention to the needs of a variety of approaches to place young adults in a job. It would be extremely helpful if Congress and the President would recognize the gravity of the situation but frankly we cannot wait for politicians concerned only with election or reelection to enact the needed legislation. Since we cannot look to Washington, we must look to our respective state and local communities to do the best we can with available resources in order to alleviate the unemployment problems of youth. Below are strategies which could be implemented at the state or local levels:

1. There is a need for a citizen's commission or committee on employment problems of youth at both the state and local community levels appoined by governor and mayors. The purpose of these committees or commissioners would be three fold.

a. To heighten the awareness and the sentivity of the community as to the employment and unemployment problems of young adults.

b. To assist in the mobilizing community resources in order to facilitate the employment of youth.

c. To serve as a clearing house for activities relating to the employment problems of youth and to collect and analyze information on what the programs in the community are doing to alleviate the unemployment problems of young adults.

2. Every effort should be made to expand school work experience programs. These are in my view extremely valuable programs because they integrate classroom education with work experience. It was John Dewey who called attention to the fact that students learn by doing. These programs benefit the individual involved, the schools, employers in both the private, public and not for profit sections and the community. Hence I call these programs a four way experience in which all segments of the community benefit.

3. Schools need to have access to career information and knowledge of local training, employment education and service opportunities. Local offices of the state employment service and local CETA prime sponsors can help schools obtain such information.

4. Counseling and guidance programs in the schools need to be strengthened and improved using community employment-related resources. It has been my experience that employers and self-employed persons are usually willing to cooperate with schools if they are asked. Assignments have to be framed in a way that they can see how they can contribute. Busy persons do not have time to waste. Using such community resources can help develop an important source of assistance for the schools.

5. School districts or consortium of school districts should be encouraged to develop School Based Placement Services which would assist their students to find either part time jobs while in schools or full time jobs if they are moving from graduation to the labor market. The School Board Placement Service could also conduct pre-employment classes in which students would be taught how to fill out an employment application, how to interview for a job and how to look for a job.

6. Working relationships need to be established between schools and the local office of the state employment service. Many local offices of the Federal, State Public Employment Service have Job Banks which are a computerized job order system which could be helpful to schools in finding jobs for students.

7. Employers in the community should be encouraged to adopt a school. Through such adoptions or partnerships the employers could help the school in a variety of ways. Every employer is an educational and training institution and they have resources which could be helpful to the school. For example the employers could provide resources for counseling and guidance. They could be involved in pre-employment classes. They could provide internships and temporary as well as full time jobs. Employer involvement in helping to resolve the unemployment problems of young workers is crucial to any program to alleviate youth unemployment.

8. The possibilities of developing community service non-profit corporations should be explored in order to obtain contracts with business firms in order to create employment opportunities for young workers. The young workers could do janitorial, typing and other kinds of work for pay.

9. The Community Service Corporation (CSC) could also develop a placement service for young workers similar to the temporary help agencies. For example the growing number of older citizens in our communities need assistance in washing windows, mowing grass, removing snow and other types of activities associated with home ownership. The CSC could assist in the development of training programs to meet specific needs in the area.

10. Local CETA prime sponsors should be encouraged to allocate a growing proportion of their funds for youth employment programs.

11. The local community youth commission should explore additional sources of funding and assistance from state agencies, local business groups and the United Way agencies to either develop needed services or to strengthen and improve existing services.

Admittedly these strategies will not resolve all the employment problems of young workers. They, however, can contribute to the amelioration of a critical human resource problem. Moreover these efforts can collectively sensitize the community that much more needs to be done to assist young workers make the transition from school to the world of work and to point out the employment needs for this group of workers who are in their formative years.

If citizen groups throughout the nation demand that their elected representatives in both the state legislatures and Congress do something constructive to ameliorate the employment problems of youth, these representatives may be pressured into giving this problem a higher priority. Herein lies a challenge and an opportunity.

STOPPING THE B–1 BOMBER

Mr. McGOVERN. Mr. President, many hours have been spent in this Chamber in debate over today's most controversial weapons system—the B–1 bomber. As my colleagues know, I have long been opposed to the B–1 because it is far too expensive for the marginal role it would play within our security force.

The early battles in the Senate against the B–1 never came close to victory, but the tide suddenly began to turn last year when the Senate voted to withhold B–1 production funds until the newly elected President had the opportunity to make his own decision. That time has now come and, no doubt, we are all anxiously waiting to hear President-elect Carter's decision on the fate of the B–1.

What was responsible for the turnaround in the Congress from blanket acceptance of the B–1 to very grave doubts about the plane's merits? One of the most important factors, I am convinced, has been the national campaign to stop

the B-1 bomber. This coalition of church, labor and public interest groups has proved instrumental in educating the public and the Congress to the arguments against the B-1. Their efforts have been in great part responsible for the Senate's approval of the Culver amendment and the very close vote in the House on the same language.

The campaign has been a true public interest lobby consisting of a coalition of dozens of groups representing millions of Americans around the country. On Thursday, January 13, the leaders of these organizations held a press conference to demonstrate the depth of commitment among ordinary citizens to preventing production of the B-1.

Senator PROXMIRE and I both joined these groups Thursday in urging President-elect Carter not to abandon the view he expressed last summer that "the B-1 is an example of a proposed system which should not be funded and is wasteful to taxpayers' dollars".

We are expecting him to remain committed to this position when he makes the final B-1 production decision and further, we hope that he will take the first opportunity to meet with a delegation representing these groups and their constituencies in order to understand what the citizens of this country really think about the B-1. We know that he has gotten the Pentagon's message, but if President-elect Carter wants his decision to be truly based on the national interest, then he will meet with this delegation to see what they have to say.

Mr. President, I ask unanimous consent that the text of my remarks and those of Senator PROXMIRE and other participants in the press conference be printed in the RECORD together with a list of the membership of the campaign to stop the B-1 and their letter to President-elect Carter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

B-1 PRESS CONFERENCE STATEMENT

(By Senator GEORGE MCGOVERN)

One of the earliest decisions President Carter will have to make should tell the American people, in tangible terms, the seriousness of his campaign pledge to cut excessive government spending.

Just the other side of Mr. Carter's inauguration sits the B-1 Bomber, waiting for a "thumbs up" decision to go soaring up into a cost bracket which may ultimately reach more than ninety billion of the taxpayers' dollars.

Such an astronomical expense might be justified if the plane were clearly necessary for our national defense. But if there once was a military rationale for a successor manned bomber, this design, the B-1 is far more the product of irresistable corporate desires and military dreams. It is to basic manned bomber roles what the Rolls Royce is to basic transportation.

Whether or not to allow B-1 production to begin involves consideration far beyond the plane's capabilities. I do not doubt that it can perform the feats of a titanium superman. But that does not answer the real question we have come here to ask, and that is—do we need the B-1 Bomber? Can we truly rationalize such a heavy commitment when the role strategic bombers can be relied upon to perform is only marginal? Can we justify a $92 billion expenditure to buy, arm, operate and maintain the one strategic system that has the least to do with deterring nuclear wars and that will be the least likely to participate if nuclear war ever comes? I think not.

The studies of this system have all flowed from one basic assumption—that we need, in addition to the overwhelming force of our land and sea-based missiles—the power to strike some two thousand hardened targets in the Soviet Union. Why? My assertion is that the mission was designed to fit the bomber. But whatever the truth is, I have not seen anywhere, in all the hearings and reports on the B-1, a persuasive case that such a capability is vital to our security or, indeed, that it will even contribute to our security in any significant way.

From the hard work and good offices of the dozens of groups represented here today I know that there is a broad and expanding base of opposition among the American people to the escalating cost of the B-1. And I know that a growing number of my colleagues in the Senate are greatly concerned about the Pentagon's tendency to attempt to build every capability possible into every program, with the end results that for a given amount of money we are getting less and less defense.

While campaigning for the Presidency, Mr. Carter spoke often about the need to cut government waste. In particular, he committed himself to a lean Pentagon budget. What better way could he prove to the electorate that his promises were serious than to stop production of the B-1? He should do it as soon as possible—not in June, but as soon as he has been sworn in.

As President-elect Carter has often pointed out, the national budget is only so big. There are other priorities, in and out of the military budget which demand and deserve our attention.

I hope that the new President will demonstrate his leadership, his independence, and most of all his understanding that the military appetite cannot be insatiable lest we starve other areas vital to our national well-being. Our inclinations may be unlimited, but our resources are not. Halting the B-1 Bomber is the essential first step toward rational military planning and sensible national priorities.

B-1 PRESS CONFERENCE STATEMENT BY SENATOR WILLIAM PROXMIRE

I want to say a few words about the coalition to stop the B-1 bomber. What we have here is a David and Goliath story.

On one side is Rockwell International—one of America's corporate giants with an active lobbying effort here in Washington and thousands of subcontractors throughout the country. Rockwell encourages its employees and stockholders to get out and support the B-1. They send delegations to newspaper editors. They publish ads in leading newspapers. They use the old unemployment argument to good effect. They are sophisticated, organized, affluent, influential in the councils of government. They have former employees in high positions in the Pentagon.

Joining them is the entire bureaucracy of the Department of Defense; and the military associations, and the military magazines, and businessmen from firms receiving subcontracts.

Against this giant stands one small, crowded, seemingly disorganized office of the B-1 campaign with a nonexistent budget and volunteers who have never shared a corporate boardroom or the advisory councils of the Pentagon.

How is it that this almost pitifully small effort has fought the pro-B-1 forces to a draw?

It's an intriguing question. The answer should give heart to all who question the democratic process. The stop the B-1 coalition has succeeded because they have gone to the people with the logic of their arguments. They have persuaded without slick advertising and sophisticated lobbying.

They have substituted hard work and hard headed research for money and behind the scenes influence.

So today, instead of commenting on the many deficiencies of the B-1, I want to commend the coalition, for win, lose, or draw, they represent the best of the ideals this country stands for—participatory democracy—government from the people rather than government by special interests.

There are 38 groups joining in the call today for President-elect Carter to talk with a Stop-the-B-1 Campaign Delegation. Many are represented here in this room but we only have time for five to speak.

NATIONAL ORGANIZATIONS REPRESENTED AT JANUARY 13 PRESS CONFERENCE CALLING FOR TERMINATION OF THE B-1 BOMBER AND PUBLIC DISCUSSION WITH JIMMY CARTER

American Friends Service Committee—Louis Schneider, Exec. Secretary.

Americans for Democratic Action.

Business Executives Move for New National Priorities—Henry Niles.

Campaign for a Democratic Foreign Policy—Katy Whalen.

Catholic Peace Fellowship.

Center for Defense Information—Admiral Gene LaRocque.

Clergy and Laity Concerned—Sally Benson.

Coalition for a New Foreign and Military Policy—Brewster Rhoads.

Common Cause—Michael Cole.

Congress Watch—Public Citizen—Nancy Drabble.

Council for a Livable World.

Environmental Action Foundation—Dick Munson, Director.

Episcopal Peace Fellowship.

Federation of American Scientists—Jeremy J. Stone, Director.

Fellowship of Reconciliation.

Friends Committee on National Legislation—Edward F. Snyder, Exec. Secy.

Friends of the Earth—Jeff Knight, Director.

Gray Panthers—Mary McCall.

International Longshoremen's and Warehousemen's Union—Pat Tobin.

Jesuit Conference, Office of Social Ministries—Father Bill Davis.

National Association of Social Workers—Chauncey A. Alexander, Exec. Dir.

National Student Association—Ed Kennedy.

National Taxpayers Union—Steve Chapman.

NETWORK.

National Organization of Women NOW.

Oil, Chemical and Atomic Workers.

PUSH—Rev. Jesse L. Jackson.

SANE—Sanford Gottlieb, Director.

Southern Christian Leadership Conference.

United Church of Christ Board of Homeland Ministries.

United Church of Christ Office for Church in Society.

United Presbyterian Church in the USA, Washington Office—Judie Stone.

War Resistors League.

Church of the Brethren—Dr. Gladys Weaver.

Unitarian Universalist Association—Robert Alpern, Director.

Women's International League for Peace and Freedom—Nancy Ramsay.

Women strike for peace—Edith Villastrigo.

YWCA National Capital Legislative—Social Action Committee.

LETTER TO PRESIDENT-ELECT CARTER FROM THE NATIONAL CAMPAIGN TO STOP THE B-1 BOMBER, READ BY SALLY BENSON, CLERGY AND LAITY CONCERNED

DEAR PRESIDENT-ELECT CARTER: We cordially invite you to meet with a delegation from the Campaign to Stop the B-1 Bomber *before* you make your decision on the controversial

new weapon. We propose that the conversation be open to the public and the press. Our experience convinces us that the case for the B–1 wilts under the bright light of public scrutiny.

The B–1 would be the most expensive weapon of all time, but no authority has stated clearly what vital role it could fill in the age of missiles. As McGeorge Bundy said recently, "among disinterested military and civilian experts, no major weapons system has ever had such feeble support."

The fact is the B–1 is a weapon in search of a mission, a boondoggle propelled by self-interested weapons contractors and defense officials—as if this $92 billion program had no effect on the millions of taxpayers who would pay for it.

The B–1 would be off the ground today but for all the citizens who stood up against it. We are a diverse coalition of public citizen groups who represent workers, scientists, churchgoers, taxpayers, peace activists, businesspeople, social workers, environmentalists. The position we share is summed up in the words you wrote to the Democratic Platform Committee last June 12th:

"Exotic weapons which serve no real function do not contribute to the defense of this country. The B–1 is an example of a proposed system which should not be funded and would be wasteful of taxpayers' dollars."

We applaud that judgment and we will support it because it sustains our hope that the new Administration will respond to the country's real security needs.

That is exactly what we want to discuss with you: restoring meaning to the idea of "national security." We represent millions of Americans who know from daily experience that the most pernicious dangers they face are really at their doorsteps—unemployment and inflation, poor housing and health care, decaying cities and a deteriorating environment. The B–1 bomber proves that exorbitant, unnecessary military spending aggravates all these problems. For example, twice as many jobs would be created if the B–1 money were spent instead on housing. And for the cost of just one B–1 we could educate every child in a city the size of Cincinnati for a whole year.

Facts like these put the burden of proof squarely on the advocates of "exotic" new weapons.

Our priorities are wrong if we buy the B–1. National security must not be defined solely by those who are principals in the military-industrial establishment, because their interests are not always identical with the public interest.

So, we accept and we appreciate your invitation to find ways to participate in the decisions of government. We look forward to talking with you very soon.

Sincerely,

ROBERT BRAMMER,
For the National Campaign to Stop the B–1 Bomber.

SPECIFIC CONCERNS THE DELEGATION WISHES TO DISCUSS IN A PUBLIC TALK WITH JIMMY CARTER

We are concerned that each month the decision is postponed, another $87 million is spent on the B–1 bomber. If you delay the decision beyond February we urge you to freeze all production funding while the judgment is pending. Every dollar spent on production makes it more difficult to terminate the program later and is a dollar wasted when the program is terminated.

We share your goal of "reduction of nuclear weapons in all nations to zero." (Carter Campaign Foreign Policy Statement.) We urge you to work tirelessly for real strategic arms control, and we look forward to discussing how you think the B–1 relates to the SALT talks.

We share your fear of the dangerous Cruise Missile, and we ask you to do everything in your power to prevent its deployment.

We are disappointed that your Administration may not fulfill your pledge to cut at least five to seven billion dollars from this year's defense budget. We think there is room to cut that and much more, and we will vigorously support all efforts to do so.

We are very suspicious of the politicization of the intelligence estimates. We do not consider it coincidental that cries of alarm over the "Soviet menace" are synchronized repeatedly with key defense decisions. We think they have been used to manipulate public opinion. (We witnessed Russian scare stories surfacing at the beginning of last year's authorization cycle and just before key B–1 votes in April, June and August.) We agree with Harold Brown that exaggerated alarms actually reduce our security in the world.

We urge you to close the "revolving door" between the Defense Department and the weapons corporations, and we ask you to establish strict rules and stiff penalties to root out improper relations between the DoD and the contractors. Without them, suspicion will persist that decisions are being made for private, not public benefit.

We are concerned that your Defense Secretary-designate, Harold Brown, was Air Force Secretary at the beginning of the B–1 program and that some of his recent statements indicate continued support of the B–1. We are anxious to hear him elaborate on the criteria he named Tuesday for judging the B–1, and we look forward to discussing what additional criteria YOU will use when you consider Mr. Brown's recommendation.

STATEMENT OF JEREMY J. STONE, DIRECTOR OF THE FEDERATION OF AMERICAN SCIENTSTS

Nothing illustrates more clearly the public's loss of control over the weapons acquisition process than the B–1 bomber. It is a product of a "commonsense gap." The public long ago realized that missiles were replacing bombers; with nuclear warheads rising steadily and rapidly over the years, the justification for spending tens of billions of dollars for bombers has disappeared.

Nevertheless, the support of the Air Force, much industry, and some unions for projects of this kind resists not only logic, but even a public awareness that bombers are obsolete.

An astonishing phalanx of former government experts on this subject has agreed that the B–1 bomber is not worth its costs.

There are three reasons for opposing the B–1 that generated this unprecedented consensus of opposition.

Some believe that bombers are unnecessary in the missile age.

Some believe that, if bombers are necessary, we already have a major bomber force—totally unmatched by the Soviets—in a B–52 force that will last far longer than it takes to build a replacement.

Others believe that, if another bomber is to be built, the B–1 is the wrong bomber.

In short, a composite of widely held views is this: We do not need bombers; we have bombers; and the B–1 is, in any case, the wrong bomber.

Those who consider the B–1 bomber totally unnecessary consider it a "rubble-pounder" arriving long after the war is effectively over.

Those who consider the B–1 bomber redundant point to the official lifetime projections of the B–52 that have it flying into the 1990's.

Those who consider the B–1 to be the wrong bomber call it a "cadillac of the sky" designed to penetrate Soviet airspace when a stand-off bomber would be cheaper and more efficient.

In our experience, no multibillion dollar weapons system has been less cost-effective than the B–1 bomber and none has been more widely panned by experts.

Reputable studies show that the cost per bomber has risen from its earlier projected $40.1 million per plane in 1970 to $93.8 million per plane for a fleet of 240 in 1976. This suggests $22.8 billion for procurement but even the ten-year operating costs for the bomber, maintenance, supporting forces, and all the rest have been estimated at $73.4 billion in constant 1976 dollars. There would be $4 billion per year in indirect and direct operating costs each subsequent year (of which there would be at least ten more). In short, the B–1 bomber requires on the order of the entire 1976 defense budget over its lifetime. This is an extraordinary cost for a weapons system that ranks third behind sub-based missile force and land-based minutemen.

The last refuge of bomber supporters has always been the suggestion that the tens of billions of dollars should be spent on bombers because they are "recallable." This is, in fact, a euphemistic way of describing the fact that bombers are so vulnerable on the ground that they must be put precariously and expensively into the air.

Obviously, we have many other ways of showing, in any particular crisis, that we are moving toward politically and strategically irrevocable action. And, in any case, only a handful of bombers would be necessary to fulfill the "show of force" that it is argued is involved in putting bombers into the air—and we have the B–52 force for this alleged purpose for a considerable further period.

This "recallable" argument is so hackneyed (and irrelevant to the B–1 case) that we would not even devote a paragraph to it in the two or three minutes allotted except for the fact that, to our dismay, the Secretary of Defense designate used it at his confirmation hearing as one reason for a bias he said he had in favor of maintaining bombers as part of the strategic force.

If this argument is to be used in favor of the B–1, nothing will better indicate the bankruptcy of the case for a new bomber. We hope that, on reflection, the Defense Department will support the commonsense reflected in President Carter's earlier recommendation to scrap this aerial battleship.

STATEMENT BY LOUIS W. SCHNEIDER, EXECUTIVE SECRETARY, AMERICAN FRIENDS SERVICE COMMITTEE

Four years ago the United States Air Force completed the most savage and immoral terror bombing in the history of our country. We would do well to retain that grisly picture in our minds as we talk today about the shiny new bomber, the B–1.

Today, we call on President-elect Carter to stop immediately the production of the B–1 Bomber and to take all necessary steps, unilaterally if need be, to move to general and complete disarmament. To prepare for war is to intend to make war when the world cries out for peace. Termination of new weapons systems, a moratorium on nuclear testing, an end to nuclear proliferation and a restraint on arms sales can give the United States leadership in seeking world peace.

We already know that the United States and the Soviet Union possess enough explosive power to destroy the global population several times over. Why more weapons? We in the AFSC see the effort to stop the B–1 as a conflict between the peaceful aspirations of the American people and the corporate and military interests which will gain profit and prestige from a new and extravagant B–1 weapons system at the expense of the American people.

Each day President-elect Carter permits the development of the B–1 to go on, another $2.9 million of American taxes go to

Rockwell International, General Electric and Boeing. At the same time our schools, hospitals, houses, transportation facilities, environmental programs and other needed human services go unmet and unfunded.

Furthermore, while the B–1 is often defended on the basis of providing jobs, we know from the Department of Labor Statistics that up to 60% more jobs could be provided by equivalent funds spent on civilian projects. Recognizing the immediate needs of workers who may lose jobs if the B–1 program is cancelled, we call upon the Federal government to guarantee support and job retraining for these workers and to launch a national program for economic conversion.

It is imperative to change our nation's priorities from escalating military power to meeting human needs. Stopping the B–1 can be a new signal to the American people and to the people of the world, a signal that the United States is prepared and ready to face the challenges of disarmament and economic conversion.

We therefore call on President-elect Carter to stick to his campaign statement that the B–1 "should not be funded." To support stopping the B–1, the AFSC is conducting over 100 vigils across the United States on Saturday, January 22, 1977, two days after Mr. Carter takes office.

We have already made President-elect Carter aware of our deep concern about the B–1. A Quaker vigil in Plains, Georgia on December 18, 1976, had that concern as a primary message. We assured Mr. Carter then that we'd support him in any action he took to stop the B–1 and convert American industry to peacetime work. That's our message today, and on January 22 that will be our message again.

LOCATIONS FOR JANUARY 22, 1977, VIGILS TO STOP THE B–1

For further information, please contact: Terry Provance or Paul Brink—215–241–7000, AFSC, 1501 Cherry Street, Philadelphia, Pa. 19102.

Akron, Ohio.
Albany, N.Y.
Albuquerque, N. Mex.
Amherst, Mass.
Annapolis, Md.
Arcata, Calif.
Arlington, Va.
Atchison, Kans.
Asheville, N.C.
Athens, Ohio.
Atlanta, Ga.
Austin, Tex.
Baltimore, Md.
Belchertown, Mass.
Berkeley, Calif.
Bronx, N.Y.
Brooklyn, N.Y.
Buffalo, N.Y.
Cape May, N.J.
Carmel, Calif.
Chapel Hill, N.C.
Chicago, Ill.
Cincinnati, Ohio.
Cleveland, Ohio.
Columbia, Md.
Columbia, Mo.
Columbus, Ohio.
Conshohocken, Pa.
Davis, Calif.
Dayton, Ohio.
Delmar, Calif.
Denver, Colo.
Des Moines, Iowa.
Detroit, Mich.
Doylestown, Pa.
Eugene, Oreg.
Eureka, Calif.
Evansville, Ind.
Germantown, Pa.
Grand Rapids, Mich.
Great Neck, N.Y.
Greenville, N.C.
Hartford, Conn.
Haverford, Pa.
Hollywood, Fla.
Hornell, N.Y.
Jersey City, N.J.
Kent, Ohio.
Kingman, Ariz.
Las Cruces, N. Mex.
Lima, Ohio.
Little Falls, Minn.
Los Angeles, Calif.
Louisville, Ky.
Memphis, Tenn.
Miami, Fla.
Milwaukee, Wis.
Mobile, Ala.
Monterey, Calif.
Moorestown, N.J.
Muncie, Ind.
Nashville, Tenn.
New Brunswick, N.J.
New Haven, Conn.
New Orleans, La.
New York, N.Y. (4).
Northampton, Mass.
Oklahoma City, Okla.
Palo Alto, Calif.
Philadelphia, Pa.
Pittsburgh, Pa.
Portland, Oreg.
Queens, N.Y.
Reno, Nev.
Richmond, Va.
Rochester, N.Y.
Sacramento, Calif.
San Bernardino, Calif.
San Diego, Calif.
San Francisco, Calif.
Scranton, Pa.
Seattle, Wash.
Spokane, Wash.
Springville, N.Y.
Stanford, Calif.
Saint Cloud, Minn.
Saint Louis, Mo.
Toronto, Can.
Trinidad, Calif.
Voluntown, Conn.
Wausaw, Wisc.
Wamego, Kans.
Washington, D.C.
West Chester, Pa.
Westport, Conn.
Wilmington, Del.
Wilmington, Ohio.
Worchester, Mass.
Yellow Springs, Ohio.
Youngstown, Ohio.

STATEMENT BY MICHAEL COLE, LEGISLATIVE DIRECTOR OF COMMON CAUSE

Common Cause is pleased to join in calling on President-elect Jimmy Carter to carry out his campaign statements in opposition to the B-1 bomber by terminating the program after he takes office.

Many citizens are asking how a weapons system as controversial and costly as the B-1 bomber has proceeded to the brink of production. Common Cause believes that much of the answer lies in massive special interest lobbying in behalf of the B-1 and in conflicts of interest that have permeated its development to date. For too long these problems have plagued government procurement decisions. They warp the decision-making process, too often at the expense of the public interest.

Lobbying

Rockwell International has conducted an intensive lobbying campaign to save the B-1. Rockwell representatives have saturated the Hill with facts and figures, models and brochures. Congressional offices have received briefings, charts and handouts detailing the B-1's economic benefits for the nation and the member's state and congressional district.

In addition, Rockwell has been conducting lobbying efforts in their plants around the country. Last August, for example, Rockwell's president, Robert Anderson urged all the firm's 119,000 employees to write their representatives to support continued funding of the B-1 project. Anderson's request was contained in a pamphlet suggesting key arguments for the B-1 and Rockwell provided stationery, envelopes and stamps for sending the letters.

In July of 1976, Rockwell launched a nationwide newspaper advertising blitz on behalf of the B-1. Among the scores of newspapers across the country in which ads were placed boosting the B-1 were the Wall Street Journal, New York Post, Seattle Post Intelligencer, Seattle Times, Providence Evening Bulletin, Providence Journal, Wilmington Morning News and Wilmington Evening Journal, Atlanta Constitution, Atlanta Journal, St. Louis Post-Dispatch, St. Louis Globe Democrat, Springfield Illinois Journal Register, Chicago Daily News, Chicago Sun Times and the Chicago Tribune.

Despite its wide variety of lobbying activities, Rockwell International has never registered or reported lobbying expenses under the Federal Regulation of Lobbying Act of 1946. Until April of 1975, neither was any individual registered as a lobbyist for Rockwell International. Since then three individuals have registered—Ralph J. Watson, and John M. Torbet, listed as senior legislative liaison representatives, and Anne Genevieve Allen, listed simply as Government Relations, B-1 Division.

During the last four quarters for which lobbying reports are available (the 4th quarter of 1975 through the 3rd quarter of 1976), the three of them report receiving fees and salaries related to lobbying totalling a meager $3,119 and they report lobbying expenses of only $2,490. Thus, the public and members of Congress have no reliable measure of the true dimensions of the extensive lobbying activities engaged in by Rockwell in behalf of the B–1.

CONFLICT OF INTEREST: THE REVOLVING DOOR

The B–1 provides a text-book example of the revolving door between the Pentagon and the offices of major defense contractors. Thanks to a 1969 law originally proposed by Senator William Proxmire (D-WI.), high-ranking transferees between DoD and the defense industry are required to file yearly employment reports. As a result, we have some specific examples of the revolving door problem as it relates to the B–1. Common Cause has examined some of these employment reports and found that:

Lt. Col. Henry Gaynor was chief of the Air Force's Configuration Identification Division and Deputy for B–1 until December 1973. Gaynor then went to work for Rockwell's B–1 Division.

Col. George D. Hendrix was in the Weapons Systems Evaluation Group, Office of the Secretary of Defense until April 1973. Hendrix then took a position in Rockwell's B–1 Division as assistant director of flight test operations.

Lt. Col. Benjamin F. Wiley, Jr. was chief of the Air Force Strategic Air Command's Quality Control Division until August 1971. Wiley then went to work for Rockwell as Production Readiness Manager for Quality and Reliability Assurance in the B–1 Division.

Col. George P. Haviland was an aeronautical engineer with the Air Force until January 1973. Haviland then went to Rockwell as associate program manager for B–1 airframe.

Brig. Gen. Robert J. Meyer was the Air Force's Director of Procurement Policy until July 1969. Meyer went to work for Rockwell's B–1 Division.

This kind of interchange between the military and the private defense industry clearly gives individuals who have recently left the Pentagon special access to plead their case for their new employer. Unfortunately, the public's interest is often lost in the shuffle.

CONFLICT OF INTEREST: ACCEPTANCE OF WEEKEND HOSPITALITY

During 1976, key Pentagon personnel with responsibility for the B–1 were identified as being weekend guests at hunting lodges and Carribean retreats courtesy of Rockwell. Among those named last February as having attended Rockwell's Maryland hunting lodge were:

Lt. Col. James T. Cooper of the Office of the Air Force Deputy Chief of Staff for Research and Development.

Lt. Col. Richard C. Coupland of the Office of the Air Force Deputy Chief of Staff for Research and Development.

Maj. Robert F. Durkin of the Office of the Air Force Deputy Chief of Staff for Research and Development.

Franklin J. Ross, deputy for requirements in the Office of the Assistant Secretary of the Air Force for Research and Development.

In addition, the Pentagon's outgoing Director of Defense Research and Engineering, Malcolm R. Currie, received a severe reprimand and was fined one month's pay by Defense Secretary Donald Rumsfeld last March for accepting a trip to Rockwell's Bimini resort in the Bahamas as the personal guest of Rockwell president Robert Anderson.

CAMPAIGN CONTRIBUTIONS

Campaign contributions are another important factor in securing support for military weapons systems such as the B–1. Last year Rockwell formed a political action committee, registering its Good Government Committee with the Federal Election Commission on March 15, 1976. Among the recipients of Rockwell largesse were seven members of the House Armed Services Committee and 11 members of the House Appropriations Committee, including five of the twelve members of its Defense Appropriations subcommittee. Four years earlier a lawsuit brought by Common Cause against the Committee to Re-Elect the President in 1972 revealed $98,000 in previously secret contributions from "the employees of North American Rockwell" to the Nixon campaign.

This record shows the broad array of carefully orchestrated tactics employed by Rockwell in its efforts to obtain Executive and Congressional approval of the B–1. Common Cause doesn't believe the case for the B–1 has been made on its merits. In fact, Rockwell appears to have used the variety of means we have outlined to compensate for the fact that it cannot make the case on its merits. We believe that President-elect Carter was right in saying that "the B–1 is an example of a proposed system which should not be funded and would be wasteful of taxpayers' dollars." We now urge him to implement this position during the early months of his Presidency.

STATEMENT BY RICHARD MUNSON, DIRECTOR, ENVIRONMENTAL ACTION FOUNDATION

If a contest were held to select the single enterprise which contributes to the widest range of environmental abuses, the B–1 bomber would surely be a finalist. The supersonic aircraft is an ear-piercing, air-polluting, fuel-guzzling, ecological aberration.

And, as its price continues to escalate, the plane takes money away from programs for social improvement and environmental protection, including mass transit, clean energy sources and a host of efforts which could preserve our land, air and water.

On Tuesday, January 11, seven national organizations filed a lawsuit against the Defense Department and the Air Force for their failure to complete an environmental impact statement on the supersonic B–1 bomber as required by the National Environmental Policy Act. The groups are requesting a court order to stop the U.S. Government from spending additional money or approving contracts on the B–1 until an adequate EIS is prepared and processed. They also seek to establish that the Defense Department must obey the law and its own environmental regulations.

Mr. Carter—who had a good environmental record as Governor of Georgia—can now assure that the same environmental scrutiny is applied to military systems as to civilian programs. When the plane's threat to the environment is added to its strategic and fiscal problems, environmentalists believe President-elect Carter must conclude that the B–1 is unnecessary and wasteful of our nation's resources.

STATEMENT BY CHAUNCEY A. ALEXANDER, EXECUTIVE DIRECTOR, THE NATIONAL ASSOCIATION OF SOCIAL WORKERS

On behalf of the social work profession, I would like to present arguments for the reduction of the military budget and especially for stopping production of the B–1 bomber. This sort of national priority has seriously affected the quality of American life.

The representatives from the other groups here today have presented facts relative to the inappropriateness of the B–1 bomber. From the social worker's point of view, the United States does not need the B–1 bomber because of any international danger. The dangers are right here at home, facing American citizens in their everyday lives.

The National Association of Social Workers and its 70,000 professional members cannot justify the enormous expense of the B–1 bomber knowing that:

Nearly 20% of American families do not have adequate income to provide the basic needs of food, clothing and shelter.

7 million American children are underfed and undernourished.

As many as 1/5 of the United States population have been unemployed during 1976, with the overall figure around 8%.

Among nations, the United States ranks:

15th in literacy rate,

15th in infant mortality rate,

7th in adult female mortality rate,

19th in adult male mortality rate,

18th in doctor-patient ratio, that is 178 physicians for every 100,000 persons, and

26th in life expectancy.

And, hospital costs, doctors fees and insurance rates are skyrocketing, making basic medical care almost a luxury item for many citizens.

A recent Joint Economic Committee report found that there is a direct link between unemployment, illness and criminal behavior. And, when considering the factors of real income, rate of inflation and rate of unemployment—rate of unemployment was found to have the most profound impact on society.

In strictly human terms, the Committee's report suggests that a 1.4% rise in unemployment during 1970 alone is associated directly with some 1,500 additional suicides, 1,700 additional homicides, 25,000 additional strokes, heart and kidney disease deaths, 5,500 added mental hospital admissions and 800 additional deaths from cirrhosis of the liver—all in the past five years.

Daily, we social workers witness the direct effect on our clients of fluctuations in the economy. Contrary to past Administrations' emphasis on controlling inflation, reducing unemployment promotes a sound economy as well as national well-being.

And, contrary to what B–1 bomber advocates would have you think—hardware programs do not generate that great a number of jobs.

In fact, at peak production, the B–1 bomber project would generate only 22,000 jobs per billion dollars. But, in the fields of housing, health, education and welfare, 134,000 jobs per billion dollars would be generated.

There are other facts to consider when deciding the fate of the B–1 bomber project.

The Maternal and Child Health program has made one of the single most important contributions to the improvement of child welfare yet despite a $200 million authorization for funds, less than $50 million has been actually appropriated.

Social workers want to know why Congress holds to a ceiling of $2.5 billion on social services expenditures, when nearly a billion dollars more than that was spent on four B–1 test planes.

Social workers also want to know why an 8% inflationary factor is allotted the Department of Defense's budget while none is allotted for the budget of the Department of Health, Education and Welfare.

The United States has the largest GNP in the world yet has serious social and economic problems affecting the well-being of its citizens. We can no longer afford to let these contradictions continue. And, we can no longer afford to use 52% of our tax dollars for the military and only 23% for human resources.

Not only do we have to prevent any further expenditures for the B–1 bomber but in light of the facts I have presented and and the fact that the United States already has the capacity to destroy the 219 major cities in the Soviet Union 39 times over, we must begin now to systematically reduce all unnecessary and extraneous military expenditures.

The National Association of Social Workers is calling on its leaders to give urgent attention to the reduction of the military budget and to divert funds and other resources to respond to the mounting social needs in this country.

TERRORISM IN RHODESIA

Mr. McCLELLAN. Mr. President, recently I received a very thoughtful letter from Mr. Dana Brown of St. Louis, Mo., concerning the problem of terrorism in Rhodesia and the effect that U.S. foreign policy has had in supporting the terrorist campaign. For some time, I myself have entertained serious doubts about the wisdom of our foreign policy with respect to this nation, whose citizens—both black and white—are now literally fighting for their very lives. It may well be that, in view of the violence and suffering that is now being experienced at the hands of these terrorists throughout the country by all of its citizens, some change in direction on our part is now in order.

Mr. Brown's comments are based upon his personal experiences over many years and are certainly deserving of our careful consideration. I, therefore, ask unanimous consent that his letter of December 15 be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DECEMBER 15, 1976.

DEAR SENATOR MCCLELLAN: I have just returned from a long safari thru much of Rhodesia, my 22nd trip to Africa. Day and night this beautiful country is being invaded and attacked by terrorists from all sides. Country roads, railroads, and bridges are mined. All areas are under ambush. There is no safe highway. There is no safe railroad. All are under constant attack.

Farm homes and native villages are nightly attacked and destroyed by terrorists using Russian made missiles and K–47 automatic rifles. Isolated farm homes are regularly destroyed and the inhabitants butchered. The native villages are invaded and terrorized by murderous killings. Nine out of every ten victims are black. A favorite tactic is cutting

off the nose, lips, and ears of the village head man and leaving him a walking skeleton. The ranch house of a friend of mine has been attacked on three different occasions. His only defense during the first two attacks was a shotgun and the help of a neighbor. The attackers were using Russian made missiles and K-47 automatic rifles.

These people are fighting with unbelievable bravery, with the crudest of weapons. U.S. sanctions are complete. There is no way for Rhodesians to obtain arms or ammunition. Our State Department is solidly behind the Communist terrorist campaign of murder and destruction. While we supply money for Russian arms, we make certain of the ultimate destruction of the Rhodesian country and people by complete sanctions against them. Rhodesia is the most progressive, prosperous and best governed country in Africa. It is completely Anti-Communist. It is Pro-American, which brings to mind Franklin Roosevelt's statement "The hand that held the dagger stuck it into the back of his friend."

Sincerely yours,

DANA BROWN.

A 6-YEAR TRAIL ON JAMES EARL RAY

Mr. HOLLINGS. Mr. President, at a time when there is renewed interest in the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr., I think it is important for my colleagues to be aware of a new publication by Mr. George McMillan, who is a longtime friend of mine from South Carolina.

Mr. McMillan has an extensive background in writing. During the Depression, he worked on the WPA Writer's Project and edited the Tennessee Guide, which frequently has been acclaimed as one of the finest pieces of regional writing in the country. He served as deputy chief of the News Bureau, Office of War Information, before volunteering for Marine Corps duty in 1943. After the war, he located in Aiken, S.C., and became a freelance writer for major national magazines and newspapers. Additionally, he has been a Guggenheim fellow and a Lasker fellow in civil rights.

All of this is by way of introducing to my colleagues a new book by Mr. McMillan, entitled "The Making of an Assassin, the Life of James Earl Ray," which recently was published by Little, Brown & Co.

Mr. McMillan, in the manner of a professional investigative reporter, spent 6 years gathering original research for this very definitive volume on the confessed slayer of Dr. King. It is his opinion, having spent an extensive period of time interviewing members of the Ray family and friends of the assassin, that James Earl Ray acted alone in killing Dr. King. It is an opinion I neither support nor deny, but I found Mr. McMillan's supporting evidence and the psychological profile of James Earl Ray that is skillfully woven into the narrative to be compelling and persuasive. At the least, it is a timely book that should be read by all who maintain an interest in Dr. King's death and the various investigations and theories surrounding it.

In this connection, I ask unanimous consent to have printed in the RECORD a review of Mr. McMillan's book by Jeremiah O'Leary, which appeared in the Washington Star on December 12, 1976, and I heartily recommend the book to the membership of the Senate.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

A 6-YEAR TRAIL ON JAMES EARL RAY

(By Jeremiah O'Leary)

Reflecting on the tidal wave of assassination books that erupted after the murders of President John F. Kennedy, Dr. Martin Luther King and Sen. Robert F. Kennedy, it is a professional pleasure to encounter a volume that reflects a solid 6 years of original research instead of ivory tower thumbsucking.

It is especially timely that George McMillan is now in the book stores since a House Select Committee on Assassinations is about to embark on a full-scale investigation of the murders that shook the world in the 1960s. McMillan, unlike most of the assassination authors, did not rely almost wholly on the investigative work of such entities as the Warren Commission, the FBI and various police departments.

McMillan immersed himself in the lives of the family and friends of James Earl Ray, certainly no pleasurable enterprise considering the skid-row/Tobacco Road milieu of the suspicious and a moral background of the man who killed America's foremost black leader.

Instead of analyzing the official reports and the newspaper clippings and then coming up with startling theories, spread wholesale as if they were facts. McMillan plunged into the world of James Earl Ray and stayed there with little surcease for years. The result is a sensitive and immensely revealing story of the Midwestern background that spawned Ray and how he came to his fateful meeting with King in Memphis, Tenn. in April, 1968.

The bottom line, McMillan concludes, is that Ray acted alone in committing the assassination of Dr. King, that there was no conspiracy except in the mind of the small-time criminal who pulled the trigger. McMillan has found more than enough witnesses to the fact that Ray was consumed with racial hatred and determined long before the final act that he committed in the conviction that it was his mission in life to kill the "Big Nigger," as Ray called King.

An important part of McMillan's exhaustive reporting was to discover persuasive reasons for believing that Ray's year of wandering and his getaway from Memphis were financed by funds he had available to him from his activities as a "merchant" of contraband in the last prison he was in before the murder. McMillan has managed to demonstrate persuasively that Ray had enough money to finance his pre-assassination odyssey and his escape to Canada and Europe without being bankrolled by anyone.

But it is the psychological portrait of Ray and his antecedents that is so chilling. McMillan found Ray to be a product of the poor-white culture of the Mississippi river towns in which he grew up and an almost predestined fate to be outside the law from his earliest youth. McMillan found Ray to be a moderately intelligent man but one whose perceptions of society were warped by the Jukes-Kallikak family to which he belonged.

His father, "Speedy," and his mother, Ceal, were hopelessly in the grip of their urban hillbilly environment. His siblings and other relatives were and are almost completely alienated from the mainstream of life. Given a windfall of money, the Ray family members preferred the sleazy slums or rural shacks in which they lived. Freed from prison, a Ray family member more often than not could barely stay at large any longer than it took to think of the next crime.

Ray knew prisons all his life and he knew how to survive in them. He seems to have enjoyed the outside life of whores, cheap bars and slums in which he moved yet he always managed to get caught again as if the only real security for him was inside prison walls. Yet, Ray was not a stupid man. He was a sucker for the pipe dreams that came to him: his fascination with the Nazis, even when he saw them humbled in post-war Germany, and his attempts to improve his knowledge of law, bartending and even ballroom dancing are cases in point.

In retracing Ray's movements in the year he was at large before the slaying of King, McMillan proves that Ray was a cunning and resourceful man. Ray, it seems, could have actually made it in the straight world if he had really tried but he appears to have become overcome with the obsession to kill King while he was in that most racist of prisons, Jefferson City, Mo. state pen.

This is no study of the manhunt and worldwide investigation that led to Ray's capture in London airport. This book is really a John Guntherine attempt to get inside Ray and learn what made him tick from the moment he was born. McMillan succeeds admirably. He incontrovertibly places Ray in a fringe of society that most of us do not even see and terrifies the reader with the knowledge that there are so many people in the U.S. to whom jails, violation of the law and squalor are a way of life.

The appalling thing is that Ray contained within himself enough assets of intelligence and ambition to have crossed over into the straight world. I am no psychologist and therefore cannot entirely subscribe to McMillan's idea that, in killing King, Ray was really committing parricide against his own Jeter Lester-like father. I feel, on the basis of the McMillan dissection of James Earl Ray, that he was a lawless bigot to whom it was a natural thing to plan and execute the murder of the civil rights leader.

The House Select Committee, among others, should take the reporting of George McMillan into account when it begins probing the murder of King. McMillan has done a good deal of the committee's work already when it comes to deciding whether the world knows all there is to know about Ray and why he set out to kill Dr. King and did so with nearly as much skill as the fictional "Jackal" of screen and novel.

This is a most important book, and incredibly timely, since the King assassination will soon be probed by a committee which does not have six years in which to reach a conclusion.

NO RETREAT ON PUBLIC LAW 480 TITLE II MINIMUMS

Mr. HUMPHREY. Mr. President, on September 29 last year, I expressed concern, in a statement appearing in the RECORD, that the administration was continuing to disregard the humanitarian food aid minimum of 1.3 million tons for title II of Public Law 480. This minimum, which was a floor amount, not a ceiling, was established at my initiative in an effort to begin redirecting our food-for-peace program toward the humanitarian goals for which it was originally intended.

My concern, and that of other Senators, stemmed from the use of the food-for-peace program by the executive branch as primarily a political tool.

My criticism prompted a response from the Administrator for the Agency for International Development, Daniel Parker. While he gave a very detailed and impressive explanation as to AID's activities, particularly in efforts to assist the voluntary agencies in enhancing their

food distribution activities in the poorest countries, he also offered several reasons why the 1.3-million-ton minimum was not met during fiscal year 1976.

I responded to the Administrator's concern over my statement by pointing out that the 1.3-million-ton level "was established as a minimum figure which we had surpassed in many of the previous years. This was not established as a target but as a floor amount, and the administration should have been able to do even better than this figure."

Mr. President, my point is this—that despite increased contributions to the world food program on the part of donor nations and bilateral food donations, millions of people around the world go to bed hungry each night. Millions of people still suffer from malnutrition. Our Government can do a much better job of identifying the areas of need and advance programing for humanitarian food assistance than it has been doing in the past. I am confident that we would surpass the 1.3-million-ton minimum for title II by a wide margin if such an effort were undertaken.

In addition, I am also aware of instances where AID missions in the field have experienced significant difficulties in securing additional Public Law 480 title II allocations for in-country food-for-work programs. I seriously disagree with the argument that our Government should hold back in programing title II allocations for fear that unforeseen disaster relief requirements would push us over the 1.3 million ton minimum. Once again, I reiterate that the 1.3 million ton figure is a floor and not a ceiling. And I repeat what I said on September 29:

> I intend to offer legislation to extend and amend Public Law 480. I assure you that this legislation will leave no room for misinterpretation of the legislative minimum for Title II distribution.

In essence, I find it somewhat disconcerting, if the executive branch is having difficulty in interpreting the intent of Congress on legislative matters, that the interpretation is not made on the other side of the ledger—in other words, for the benefit of hungry people.

While I commend AID's leadership under Dan Parker for moving aggressively in the area of assistance to voluntary agencies in their food distribution and nutrition programs, I would urge that considerable attention be paid to adequate advance planning in the allocation and levels of the title II program in an effort to more adequately meet global hunger needs.

I ask unanimous consent that both Mr. Parker's reaction to my earlier statement and my response be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., November 10, 1976.

Hon. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR HUBERT: Your Senate statement of September 29, captioned "Administration Disregards Humanitarian Food Aid Minimum", obviously causes us a good deal of concern. First, I want to assure you that far from changing our affirmative attitude toward humanitarian food assistance, we are taking steps to help the voluntary agencies enhance their food distribution activities in the poorest countries.

For example, A.I.D. has provided a grant of $453,000 to Catholic Relief Services for training village health workers in integrating nutrition and health services in Morocco. CARE has received a grant of $76,300 to develop and test a community health and nutrition program in Tunisia. In Egypt, the equivalent of $427,000 of excess currencies is being used by CARE for a three-year nutrition/health education program. A five-year integrated food-for-work program was started in Bangladesh last year. It utilizes wheat under Title II and includes a grant of about $1.6 million to CARE for managerial assistance and to help the government develop a national food-for-work program which can ultimately be carried out with the country's own resources. And, with the assurance of continuity of supplies for Title II, we are encouraging multi-year planning by the voluntary agencies where appropriate.

The U.S. also supported the World Food Program's target of $750 million for Calendar Years 1977 and 1978 and pledged 25 percent—$188 million—of the total target compared to our pledge of $140 million for the preceding two-year period.

During FY 1976, we notified the Title II program sponsors—primarily the voluntary agencies and the World Food Program—that proposed programs totaling slightly over 1.3 million metric tons had been approved and that the commodities would be shipped when requested. In other words, the statutory requirement that at least 1.3 million tons of food be made available for distribution was met. Owing to a number of factors, actual shipments were slightly less than 1 million tons.

Programs approved for the voluntary agencies totaled 771,000 tons and shipments during FY 1976 were 675,000 tons. About half of the 106,000 ton difference arises from the fact that we are holding up shipment of 50,000 tons of wheat for Bangladesh because of the storage problem there. In the meantime, CARE is using domestic supplies for a food-for-work program. These supplies will be replaced by Title II shipments as soon as the storage problem has been alleviated—probably during FY 1977. Incidentally, shipment of 150,000 tons of wheat was held up under Title I for the same reason. The World Food Program also delayed shipment of over 20,000 tons of soy-fortified sorghum grits.

By far the largest difference between approved programs and actual shipments during FY 1976 reflects a cut-back in requests for shipments from the U.S. by the World Food Program (WFP). Although shipment of about 427,000 tons of food was approved during FY 1976, actual shipments totaled about 197,000 tons. This compares to 310,800 tons shipped in FY 1975.

WFP has access to food and cash pledged by about 70 donor countries. Pledges—which are made in dollars—are made for a two-year period. For Calendar Years 1975–1976, WFP established a target of $440 million. Actual pledges totaled $622 million, including an additional contribution of 400,000 tons of wheat from Canada. It appears that in managing its total resources, WFP drew against pledges from other donors during FY 1976 and reduced shipping requests from the U.S. In FY 1975, WFP had drawn heavily upon the U.S. pledge, particularly for disaster relief in the Sahel and for relatively high-priced nonfat dry milk for other programs.

At the outset of the year, we established a reserve for emergency and disaster relief programs. In FY 1976, emergency programs totaling about $49 million covering 175,000 tons of food were approved. In FY 1975, 283,000 tons were shipped for disaster relief at a cost of over $75 million—i.e. in terms of dollar value, 54 percent more than FY 1976.

It is extremely difficult to re-program and ship any substantial amount of commodities if during the last few months of the fiscal year, it appears that the full amount of the emergency reserve may not be needed. The voluntary agencies need time to expand ongoing activities or initiate new programs and host governments may not be able to adjust their budgets to finance additional local costs.

The record for the transitional quarter is much closer to the mark. Programs totaling 330,000 tons were approved. Estimated shipments, including carryover from programs approved earlier, are about 300,000 tons. This includes 50,000 tons of wheat approved in early September for emergency food relief in Pakistan.

While it is clear that a larger allocation for Title II would provide more leeway in planning, we do not believe that a mandatory shipping level would be realistic. Variations in disaster relief requirements, unexpected increases in local production and in-country storage problems, such as occurred in Bangladesh, and changes in WFP's requests for U.S. food may have the effect of increasing or, as in FY 1976, reducing shipments below planned levels.

I hope the above information will be helpful to you.

Sincerely yours,

DANIEL PARKER.

WASHINGTON, D.C.,
December 15, 1976.

Mr. DANIEL PARKER,
Administrator, Agency For International Development, Washington, D.C.

DEAR DAN: Thank you for writing to share with me your concerns regarding my September 29 CONGRESSIONAL RECORD statement on the Administration's not meeting the 13 million ton minimum level for Title Food For Peace assistance.

I made these remarks because of my disappointment that this minimum figure was not achieved. It was established as a minimum figure which we had surpassed in many of the previous years. This was not established as a target but as a floor amount, and the Administration should have been able to do even better than this figure.

I am hopeful that we can do better than this amount in the future. I am encouraged by the activities which you outlined in your letter. This serves to indicate to me the importance of expanding this program in the future.

With best wishes.

Sincerely,

HUBERT H. HUMPHREY.

LAST ACT OF WORLD WAR II—THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, World War II has not ended. The Axis powers, who committed the terrible crime of genocide, have been beaten on the battlefield. Although physical hostilities have ended, the basic rights we fought for have not been recognized by the Senate.

According to article I of the Convention on the Prevention and Punishment of the Crime of Genocide:

> The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Let us make our feelings known to the world. As we enter our third century, the

eyes of many nations are focused upon us. Shall we give them the example of a nation standing pat on the genocide issue for almost 30 years? Let us complete the job we began when we declared war on the Axis powers. Let us complete the final paperwork, which only began with peace treaties with Japan and Germany.

It is time to show the world we are still concerned with the actions of humanity. As President Kennedy said:

The day-to-day unfolding of events makes it ever clearer that our own welfare is interrelated with the rights and freedoms of other nations. There is no society so advanced that it no longer needs periodic recommitment to human rights. The United States cannot afford to renounce responsibility for support of the very fundamentals which distinguish our concept of government from all forms of tyranny.

Let us commit ourselves. Mr. President, I urge the Senate to ratify the Genocide Convention.

MARTIN LUTHER KING'S BIRTHDAY

Mr. WILLIAMS. Mr. President, last Saturday, January 15, 1977, marked the 48th anniversary of the birth of Martin Luther King, a day of commemoration and reflection in many States of the Union, including my own State of New Jersey.

Martin Luther King embodied the struggle of all oppressed people for equality and justice. Virtually his whole adult life was given to the cause of brotherhood—a cause which ironically was to cost him his life, a victim of an assassin's bullet.

Although he died almost 10 years ago, Reverend King's dream to create love where there is hate and peace where there is violence has been, and will continue to be, a source of inspiration for all humanity.

CARL A. S. COAN

Mr. HOLLINGS. Mr. President, I was sorry and saddened to learn, over the holidays, of the passing of my good friend and associate, Carl A. S. Coan. Carl was one of the first people I met when I came to the Senate in 1966. I was assigned to the Committee on Banking, Housing, and Urban Affairs, and quickly came to appreciate the expertise Carl had in his capacity as staff director of the Subcommittee on Housing and Urban Affairs. Not only did he have mastery of the facts and statistics, but he had a sound and stable judgment which added force to the counsel he so generously gave.

Carl was a kind man, a thoughtful man, and a dedicated man. He worked long and hard day in, day out, here in the Senate and before that in the executive branch. He was, without doubt, tops in his field, and one of the most respected men I have ever had the privilege of knowing.

To his wife and sons and daughters, I know there is little we can say to bring any comfort at so sad a time. But Carl leaves them, as he leaves us, a legacy rich in effort, integrity, and achievement. His family will draw pride and sustenance from that legacy just as will his many friends here in the U.S. Senate. We will miss this good and honorable man.

A SAFEGUARD AGAINST OVERPAYMENT OF INCOME TAXES BY THE ELDERLY

Mr. CHILES. Mr. President, The Senate Special Committee on Aging is concerned with the full range of problems faced by the older American, ranging from income security and health care to transportation and energy needs.

A significant problem which is particularly pertinent at this time is the impact of taxation upon the elderly. As a member of the Committee on Aging. I see this as an important area of concern. While low income during retirement is perhaps the most serious difficulty confronting the elderly, there are still many elderly persons who have substantial income and must file a Federal tax return. Unfortunately, many of these individuals may overpay their taxes, often because they are not aware of tax relief measures which can result in savings to them. It has been estimated that perhaps as many as one-half of elderly taxpayers may be paying more income taxes than required by law.

The Internal Revenue Service has repeatedly emphasized that it wants no taxpayer to pay more taxes than are legally due. The retired person living on a fixed income is least able to afford any overpayment. As part of its effort to protect the elderly from needless overpayment of their taxes, the Special Committee on Aging has for the past few years performed a most valuable service by putting together a checklist of possible deductions for individuals who itemize their expenditures—such as medical expenses, interest, charitable contributions and taxes. This summary can prove very valuable to the individual taxpayer as many Floridians have told me from direct experience in using the checklist. Also the checklist can serve as a useful guide for determining whether it would be better to itemize, claim the standard deduction or the low-income allowance. I am delighted that the committee has continued to monitor changes and update the checklist of itemized deductions each year, and as in the past this year's summary will prove a most helpful reference for the taxpayer.

The committee has printed only a limited quantity of the checklist. For this reason I ask unanimous consent that this publication—"Protecting Older Americans From Overpayment of Income Taxes"—be printed in the RECORD.

There being no objection, the publication was ordered to be printed in the RECORD, as follows:

PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF TAXES

(A revised checklist of itemized deductions for use in taxable year 1976)

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

Medical and dental expenses

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15c, Form 1040).

Insurance premiums

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

Drugs and medicines

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15c, Form 1040).

Other medical expenses

Other allowable medical and dental expenses (subject to 3% limitation):

Abdominal supports (prescribed by a doctor).
Acupuncture services.
Ambulance hire.
Anesthetist.
Arch supports (prescribed by a doctor).
Artificial limbs and teeth.
Back supports (prescribed by a doctor).
Braces.
Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.
Cardiographs.
Chiropodist.
Chiropractor.
Christian Science practitioner authorized.
Convalescent home (for medical treatment only).
Crutches.
Dental services (e.g., cleaning, X-ray, filling teeth).
Dentures.
Dermatologist.
Eyeglasses.
Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed).
Gynecologist.
Hearing aids and batteries.
Home health services.
Hospital expenses.
Insulin treatment.
Invalid chair.
Lab tests.
Lipreading lessons (designed to overcome a handicap).
Neurologist.
Nursing services (for medical care, including nurse's board paid by you).
Occupational therapist.
Ophthalmologist.
Optician.
Optometrist.
Oral surgery.
Osteopath, licensed.
Pediatrician.
Physical examinations.
Physical therapist.
Physician.
Podiatrist.
Psychiatrist.
Psychoanalyst.
Psychologist.
Psychotherapy.
Radium therapy.
Sacroiliac belt (prescribed by a doctor).
Seeing-eye dog and maintenance.
Speech therapist.
Splints.
Supplementary medical insurance (Part B) under Medicare.
Surgeon.
Telephone/teletype special communications equipment for the deaf.

Transportation expenses for medical purposes (7 cents per mile plus parking and tolls or actual fares for taxi, buses, etc.).

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs.

Whirlpool baths for medical purposes.

X-rays.

Taxes

Real estate.

State and local gasoline.

General sales.

State and local income.

Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of five classes of items: automobiles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pensions or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, recovery of pension costs, dividends untaxed under the dividend exclusion, interest on municipal bonds, unemployment compensation and public assistance payments).

Contributions

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15c, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20% of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 7¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

Interest

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges, loan fees, credit investigation fees, or similar charges.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

Other charge accounts for installment purchases—may deduct the lesser of (1) 6% of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) or (2) the portion of the total fee or service charge allocable to the year.

Casualty or theft losses

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

Credit for child and dependent care expenses

Certain payments made for child and dependent care may now be claimed as a credit against tax instead of as an itemized deduction.

If a taxpayer maintained a household that included a child under age 15 or a dependent or spouse incapable of self-care, a taxpayer may be allowed a 20% credit for employment related expenses. These expenses must have been paid during the taxable year in order to enable the taxpayer to work either full or part time.

For detailed information, see the instructions for Form 2441 on page 17.

Miscellaneous

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—Taxpayers may now claim either a deduction (line 32, Schedule A, Form 1040) or a credit (line 52, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $100 ($200 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $25 ceiling ($50 for couples filing jointly).

Presidential Election Campaign Fund.—Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) for the Presidential Election Campaign Fund.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

Other tax relief measures

Filing status:	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2,450
Single (age 65 or older)	3,200
Qualifying widow(er) under 65 with dependent child	2,850
Qualifying widow(er) 65 or older with dependent child	3,600
Married couple (both spouses under 65) filing jointly	3,600
Married couple (1 spouse 65 or older) filing jointly	4,350
Married couple (both spouses 65 or older) filing jointly	5,100
Married filing separately	750

Additional Personal Exemption for Age.—Besides the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1977, you will be entitled to the additional $750 personal exemption because of age for your 1976 Federal income tax return.

General Tax Credit.—A new general tax credit is available. For this credit, the taxpayer may claim the greater of (1) $35 per exemption shown on line 6d, Form 1040A or Form 1040, or (2) 2 percent of taxable income (line 15, Form 1040A or line 47, Form 1040) but not more than $180 ($90, if married, filing separately).

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10% of the mutual dependent's support, *but only one of them,* may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax

return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers.—A taxpayer may elect to exclude from gross income part or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 (this amount will increase to $35,000 for taxable years beginning after December 31, 1976) or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000 (this amount will increase to $35,000 for taxable years beginning after December 31, 1976), an election may be made to exclude part of the gain based on a ratio of $20,000 (this amount will increase to $35,000 for taxable years beginning after December 31, 1976) over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within 18 months before or 18 months after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Credit for the Elderly.—A new, expanded, and simplified credit for the elderly has replaced the former more complex retirement income credit.

A taxpayer may be able to claim this credit and reduce taxes by as much as $375 (if single), or $562.50 (if married filing jointly), if the taxpayer is:

(1) Age 65 or older, or

(2) Under age 65 and retired under a public retirement system.

To be eligible for this credit, taxpayers no longer have to meet the income requirement of having received over $600 of earned income during each of any 10 years before this year.

For more information, see instructions for Schedules R and RP.

Earned Income Credit.—A taxpayer who maintains a household for a child who is under age 19, or is a student, or is a disabled dependent, may be entitled to a special payment or credit of up to $400. This is called the earned income credit. It may come as a refund check or be applied against any taxes owed. Generally, if a taxpayer reported earned income and had adjusted gross income (line 15c, Form 1040) of less than $8,000, the taxpayer may be able to claim the credit.

Earned income means wages, salaries, tips, other employee compensation, and net earnings from self-employment (generally amount shown on Schedule SE (Form 1040) line 13). A married couple must file a joint return to be eligible for the credit. Certain married persons living apart with a dependent child may also be eligible to claim the credit.

For more information, see instructions for Form 1040 or 1040A.

ON THE PASSING OF CARL COAN

Mr. WILLIAMS. Mr. President, I was deeply saddened to learn of the sudden passing on December 21, 1976, of Carl A. S. Coan, staff director for the Senate Subcommittee on Housing and Urban Affairs, a position he held for 15 years.

Over the many years I have served on the Senate Banking, Housing, and Urban Affairs Committee, I had come to know Carl as one of the most dedicated, intelligent, and knowledgeable persons on Capitol Hill. He was totally committed to his work, and his work was a total expression of his compassion for those in our society without safe, decent housing.

Carl was instrumental in the development of virtually every piece of housing legislation over the last two decades. Always a ready source of wise counsel and good advice, Carl was often able to combine his intimate feeling for the legislative process with his unsurpassed skill in the field of housing to provide the inspiration for compromise that would speed legislation toward passage.

With Carl's death the Senate lost a true friend and the people of this country lost a true public servant. My heartfelt condolences go out to his wife and his children who were always such an important part of his life. We shall miss him dearly.

CONCLUSION OF MORNING BUSINESS

The VICE PRESIDENT. The period for the transaction of morning business has now ended.

ORDER OF BUSINESS

The VICE PRESIDENT. Under the previous order, the hour of 2:30 p.m. having arrived, the President of the Senate is now recognized to address the Senate for not to exceed 30 minutes.

ADDRESS BY THE VICE PRESIDENT TO THE SENATE

The VICE PRESIDENT. Distinguished leaders, honorable Members of the United States Senate, it has been my privilege to serve as Vice President of the United States, and thereby as your presiding officer, since December 19, 1974.

I salute the Members of this great legislative body whose dedication I admire and whose friendship I shall always cherish.

I came to this post, to which I had never aspired, and had, indeed, foresworn, because of the constitutional crisis confronting our country.

As I leave this office, I share with you and a grateful Nation, the profound satisfaction that our country has returned secure to its regular elective procedures of representative government.

It required dedicated effort by men and women of high principle who put the Nation first and themselves a distinct second.

In the vanguard of these valiant Americans, I salute President Gerald R. Ford. Thanks principally to his courageous and steadfast navigation, the Ship of State is on its course again and well-prepared for the new Captain and crew who will guide her for the next 4 years.

President-elect Carter and Vice President-elect MONDALE have our good wishes, our prayers and our support. With the cooperation of the Congress, they can chart their course for a safe and productive voyage.

For me, these past 2 years, in all candor, cannot be said to have sorely tried either my talents or my stamina.

But out of this experience, I bequeath to my successor two helpful mottos of this office of high calling: First, "They also serve who merely sit and wait"; and second, "Wait and want not." [Laughter.]

But, in all fairness, these 2 years of service have afforded me the rarest opportunity to gain new insights into the working of this great democracy; its trials, its triumphs, its challenges, its promises for the future.

The experience has sharpened my understanding, as well, of the crucial problems confronting us and all mankind. The winds of change are sweeping our world.

Traditional milestones are being overturned; venerated signposts obliterated. Historic bastions of power are yielding to new and untried forces.

And in far too much of the world, the light of liberty has been snuffed out and economic freedom erased.

Our expectation of man's inevitable forward march to universal recognition of the dignity of every human being is being denied, not only by the continuing repressions of the past, but also the emergent tyrannies of today.

Clearly, tomorrow belongs to no one. Free peoples can claim no prior lien. Only through strength and resolution, only through wisdom and courage, will free people gain the future.

And to do this they must convince the world not alone of the moral rightness of their cause, but equally of the universal and practical benefit from pursuing it.

These are times that try the very soul of America; the intelligence, capacity and courage of its leadership; the understanding, energy, and stamina of its people; times all the more critical because the future of freedom everywhere rests upon the American conscience and capacity.

We Americans must face squarely the fact that our political liberty and economic freedom are inseparable; that only through dynamism and productivity of our Nation can we meet our people's needs at home and responsibilities abroad. They are inextricably tied together.

An America true to its principles is not only a beacon light for liberty, but the surest promise of freedom for mankind.

Let us never forget that the Declaration of Independence stands today, as it did 200 years ago, as the most revolutionary challenge ever made to tyranny and despotism, whatever be their stripe or purpose.

The opportunities before us are great,

and I am optimistic about the future if we have the courage and vision to grasp it.

And let me say again, as I did on the night I assumed this office, "There is nothing wrong with America that Americans cannot right."

Thank you very much.

[Applause, Senators rising.]

The VICE PRESIDENT. Thank you very much.

[Applause, Senators rising.]

ORDER OF BUSINESS

The VICE PRESIDENT. Under the previous order, there will now be a period of not to exceed 30 minutes for responses by Senators to be equally divided and controlled by the majority and minority leaders.

TRIBUTES TO THE VICE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I yield myself such time as I may require.

On December 19, 1974, in this very Chamber, Nelson A. Rockefeller took the oath of office and became the 41st Vice President of the United States. Indeed, you were the third Vice President to take office in 14 months. Before your confirmation by Congress to the position to which President Ford had appointed you, you, Mr. Vice President, had satisfied the most intense scrutiny to which any public official in our history had ever been subjected. I believe that that confirmation was one of the most fortuitous that the legislative branch has ever made. May I say to my colleagues and to the American people who are represented here today that NELSON ROCKEFELLER has shared his considerable talents with his fellow citizens in a way that has lent general stability to this country during a period when that stability was desperately needed.

Vice President ROCKEFELLER is now approaching the end of his tenure in office. When he leaves his post, he will carry with him the gratitude, appreciation, honor, and love of the American people for the service he has rendered.

The quality of that service has come as no surprise, however. Mr. ROCKEFELLER's term as Vice President is the zenith of a career characterized at each step by excellence, responsibility, and creativity.

The Rockefeller family is one of the most legendary families in history. It has produced industrialists, statesmen, financiers, philanthropists, and cultural leaders. NELSON ROCKEFELLER did not break with that tradition. He chose to use his enormous talents and resources to inspire valuable innovation, to search for better responses to the chronic problems that beset mankind, to replace shoddy and unsatisfactory practices and methods with the best that he could discover, and to spend himself for principle rather than selfish gain. He has been, in short, a pioneer of ideas and possibilities.

Because he is a man who is comfortable with himself and confident of his own strengths, he is able to put other men at ease to be themselves and to realize the best that lies in them.

Because he is a man of vision and compassion, he has been a leader in the effort to increase educational opportunities for all Americans, to improve health care, to solve urban problems, to meet the just claims of labor, to provide more efficient transportation, and to insure better housing for our citizens. As he once said:

> There is nothing wrong with America that Americans cannot right.

Because he is a man who abhors war and suffering, he has sought to bring enlightenment to relations between nations and peoples around the world.

In truth, this country has been served by few men who can claim the achievements, the character, and the stature of NELSON ROCKEFELLER.

Unfortunately, men who see so clearly beyond their own times are often misunderstood. Therefore, Vice President ROCKEFELLER has had his disappointments, but, true to his own mettle—and there is mettle in great abundance—he has remained undaunted in his efforts to bring to fruition the ideals for which he has lived. Every defeat has been for him a new challenge.

And as one of those, Mr. Vice President, who sat on the committee that examined you, that interrogated you, I think perhaps that I as much as anyone, perhaps more than anyone in this body, can say as follows, as did Rudyard Kipling. I have learned to respect you all the more since those days when we sat facing one another in that committee hearing. I have come to admire you and to respect you more than ever. And with Rudyard Kipling I think I could possibly offer the best description for a man like NELSON ROCKEFELLER.

> If you can talk with crowds and keep your virtue,
> Or walk with kings—nor lose the common touch;
> If neither foes nor loving friends can hurt you;
> If all men count with you, but none too much;
> If you can fill the unforgiving minute,
> With sixty seconds' worth of distance run—
> Yours is the Earth and everything that's in it,
> And—which is more—

If I may paraphrase "You are a man"—

my son.

Mr. President, I believe that is the kind of man NELSON ROCKEFELLER is, and I count it a privilege that I have been able to address him as Mr. Vice President and, above all, to call him my friend.

The VICE PRESIDENT. Thank you, Senator.

Mr. BAKER addressed the Chair.

The VICE PRESIDENT. The Senator from Tennessee.

Mr. BAKER. Mr. President, it is difficult to follow the eloquent address of the distinguished majority leader who spoke not only the truth but obviously spoke from his heart as well. I think it a mark of excellence of your tenure in this chair as President of the Senate that the respect and tribute that is being paid to you today is truly bipartisan in its nature and endeavor.

It is superfluous to point out, I am sure, to all of the Members of this body and to the country that few of our Nation's leaders have had the difficulty of coming to office in such a trying time as has the present occupant of this chair.

A little over 2 years ago in a troubled time and with your office shrouded in difficulties and disgrace, the President of the United States sent to us the nomination of NELSON A. ROCKEFELLER, of New York, to be the 41st Vice President of the United States.

The nomination of NELSON ROCKEFELLER was, in and of itself, illustrative, in my view, of the excellence of the new President himself.

I imagine it can always be said that the Vice Presidency should be occupied by a man of extraordinary integrity, a man beyond reproach in both his public and private lives. But in August 1974, more than ever before, it was essential that this particular nominee be one of unchallengeable and impeccable credentials.

In the process of confirmation, NELSON ROCKEFELLER underwent what surely must have been the most excruciatingly detailed examination of any nominee for any position in the history of this Government. You were examined with uncommon fervor against an uncommon standard of competence and integrity, and you proved more than equal to that challenge.

As Vice President, you have worked with diligence on the pressing domestic needs of the Nation and represented us with dignity abroad.

I believe you have served capably, with imagination, industry, and not least, Mr. Vice President, with good humor. It was no surprise to us who know you that in your career in public service, which began in 1940, you have settled for nothing less than excellence.

Perhaps more important than any tangible accomplishments, however, is the service the Vice President, in tandem with the President, has performed in the restoration of the public's confidence in government, and the way you performed that difficult and challenging feat, so little defined and so unclearly settled by the Constitution itself, is a tribute to your dedication to the institutions of the Government, your understandings of the sensibilities of power, and the responsibility that goes with your office and the country as a whole.

I believe all of my colleagues will be joined in saying that you did it extraordinarily well and you served in that coupling between President and Vice President in a way that will set a precedent for others who occupy those offices in the future.

Mr. Vice President, it is my opportunity, it is indeed one of the high points of my political career to be able to say to you that you have been not only the distinguished and great Vice President of the United States, a great and distinguished Governor of the State of New York, a dedicated citizen and public servant, but you have been truly a leader of the Senate and an example for all of us, and we thank you for it.

The VICE PRESIDENT. Thank you very much, Senator.

The Senator from Alaska.

Mr. STEVENS. Mr. President, the time is short. I will not repeat the comments that have been made by the majority and minority leaders. I think the country knows your achievements and the record of your public service. You were called to serve the best interests of this country by four Presidents of both parties and never have you refused and never have you failed the American people in your service to this country.

Mr. President, it has been an honor and a privilege to have served with you in the Senate of the United States. As our 41st Vice President, you assumed the Vice Presidency in a manner unique in America's history. By the process prescribed in the Constitution, you became the second Vice President to ascend to that high office under the 25th amendment. The congressional confirmation hearings that you and President Ford experienced represented one of the most intense and detailed nomination hearings ever afforded public officials. Your confirmation by the Congress was a testimony to your personal character and integrity. The standard of conduct that you have always demanded of yourself is an example to be followed by all of us in Government service. The 2 years that you have served as Vice President did much to restore the Nation's confidence in its leaders, and this is a tribute to you.

Your achievements and record of public service is indeed distinguishing. Mr. Vice President, you were called to serve the best interests of our country at four different times by four different Presidents representing both political parties. Never did you refuse and the American people are grateful to you for this service.

The people of your State of New York bestowed a great honor on you by making you the first Governor elected to four 4-year terms in the Nation's history. The programs that you fought for as Governor of New York set national patterns in the areas of housing, transportation, the environment, and the arts; but never did you forget the human element of government, that we are here to serve the people, and because of this you will always be known by the people as a man of great compassion and humanitarian concern.

We in this body will miss your cogent remarks and calm and intelligent influence. Mr. President, I will continue to cherish your personal friendship over the years ahead.

Ann and I wish you and Happy the best in the coming years, and we hope you will come back and see us quite often.

We believe that the personal relationships that you have had with many Members of this Senate should let you know, both of you, that you will always be welcome, and even if you are not here you will be in our hearts.

I yield at this time 3 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I would be very happy to have the whip of the Democratic side precede me, if I have unanimous consent to immediately follow his comments.

Mr. CRANSTON. Why do you not go right ahead, and I will follow you?

The VICE PRESIDENT. The Senator from California.

Mr. CRANSTON. Mr. President, I am delighted to join in these words to you, as we approach the eve of your departure. I echo the sentiments that have been expressed. You have performed beautifully in a very, very difficult time in the history of our country.

I shall strike one personal note. I perhaps have known you longer than any other Senator in the Chamber. I am not certain of that fact. But I know that we first encountered each other 35 years ago, when you were Coordinator of Inter-American Affairs and I was heading the Division of Facts and Figures. We met a few times in meetings in Archibald McLeish's office across the way in the Library of Congress Annex, in your office, and in the office of Frank Jamison and others.

You started a great career of public service at that time doing so very well in inter-American relationships.

I think at no time since have we had the good relationships we enjoyed during that period of time under your leadership with our neighbors to the south.

You went on to render a great deal of distinguished service in many other capacities, and I have seen one consistency throughout your career. In those very early days when you and I were quite young, you were full of enthusiasm, you were very down to earth, you were absolutely informal, you had a great big broad smile that was magnificent, and you kept those characteristics; and had you occupied the White House I know we would not have had an imperial Presidency despite the fact you are a Rockefeller.

The VICE PRESIDENT. I thank the Senator very much.

Mr. PERCY. Mr. President, I hope that the distinguished Senator from New York (Mr. JAVITS) may be recognized following my comments because of his long personal friendship, and also the distinguished junior Senator from New York (Mr. MOYNIHAN), who likewise comes from the Vice President's State.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. ROBERT C. BYRD. Mr. President, I believe the time was to have been under the control of the distinguished Republican leader and myself. I know that there are many Senators on both sides of the aisle who wish to speak. If agreeable with the Republican leader, I ask unanimous consent that Senators may have not to exceed 5 minutes each, and have a period of not to exceed 1 hour, so that all Senators may have an opportunity to obtain recognition and speak.

Mr. BAKER. I think that is entirely appropriate, and I think it is obviously clear that there will be demands for time beyond the limits originally contemplated. So I would join in that unanimous-consent request.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. BAKER. I ask unanimous consent that I may yield control of the time on this matter to the distinguished Senator from Alaska.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I must confess, first of all, my conflict of interest in paying tribute to Vice President ROCKEFELLER. As some of you may know, he is my daughter's husband's uncle and my grandchildren's—once removed—cousin's father.

We have both just returned from West Virginia, in the company of Senator ROBERT C. BYRD and Senator JENNINGS RANDOLPH, where my son-in-law and the Vice President's nephew was inaugurated as Governor of the State of West Virginia. Unlike Senator BYRD and Senator RANDOLPH, Vice President ROCKEFELLER and I both would have liked to have seen a Republican Rockefeller inaugurated as Governor of West Virginia, but partisanship did not interfere with the great sense of pride that we had in his accomplishments and his entry at top levels to the leadership of that great State; and we wish him, of course, well in his future career.

I would like to mention also that my own esteem for the Vice President is perhaps best expressed by the fact that I did support him for President in 1968, and I also made the greatest mistake of my life in not actively supporting him for President in 1964, when I was running for Governor of Illinois. He is qualified to be President of the United States, and that is why, overwhelmingly, he was supported by Congress to be Vice President.

But long before family ties brought us together, I had the pleasure of knowing NELSON ROCKEFELLER well. In 1957 he appointed me to the Rockefeller brothers' study project. The proposed 6-month project, which was conducted under the extraordinary direction of Henry Kissinger, aided ably by Nancy Hanks, was subsequently extended and completed 3 years later resulting in a remarkable document, Prospects for America.

This really, in a sense, led to the creation by President Eisenhower of the Committee on Program and Progress, and subsequently the creation of the Critical Issues Committee, ably headed by a distinguished group of Democrats. This led to my own appointment as platform chairman of the Republican Party in 1960; so there are few men who have had greater influence on my own political career.

Service on that project led to this long association and friendship with the Vice President, which I deeply value.

As we pause to pay tribute to NELSON ROCKEFELLER, one fact stands out above all others: There is almost no man in America who would have had to give so little of himself to succeed, but there is probably no man among us in public life who gave more of himself for the benefit of us all.

Even when some in his own party opposed his points of view, he came forward without hesitation or concern for personal gain. He spoke out for what he believed in without reluctance. History has proven him right on many scores, including his judgments about his political party.

NELSON ROCKEFELLER has always looked to the individual and the potential of the

individual as the great hope of America. He learned the value of this principle from his grandfather and his father and he passed it on to the next generation. His lineage was a gift, but he accepted it with grace, nurtured it with commitment, and shared it with dignity.

It is often said that timing is everything in public life. There was a time when it appeared that NELSON ROCKEFELLER would be President of the United States. Although he never achieved this goal, his leadership, strength, and innovation have benefitted our country in countless ways.

He has worked for every President since Franklin Roosevelt. He served as Governor of New York for 15 years. He capped his public career as Vice President. His collective contribution in service to his fellow citizens is spectacular.

Because of his character, compassion, energy, and enthusiasm, NELSON ROCKEFELLER has touched the lives of millions of people from all walks of life, including the neglected and the weak as well as those more capable of making their own way.

We are a better nation and a better people because of NELSON ROCKEFELLER. Every American owes him a debt of gratitude.

The VICE PRESIDENT. Thank you very much.

The Senator from Rhode Island.

Mr. PELL. Mr. President, I wish to pay tribute to our own President, the Senate's President, Vice President NELSON ALDRICH ROCKEFELLER.

When he was in the process of being confirmed, I remember saying what a fine Vice President he would be and that he possessed the most important quality that a Vice President could have—and that is the ability to be a great President. Unfortunately history has denied him the opportunity to be President of the United States, but his whole life has proved him to be a great leader, and a marvelous public servant.

I know, too, that being the grandson of Senator Nelson Aldrich of Rhode Island, he particularly enjoyed presiding over our body.

May you, Mr. Vice President, continue to exercise your leadership, your creativity, and your gentility of character for many, many years to come. Good luck to you and your lovely wife.

The VICE PRESIDENT. Thank you very much, Senator PELL.

The Senator from North Dakota.

Mr. YOUNG. Mr. President, I wish to join with all the other Senators in their well-chosen words regarding our beloved Presiding Officer and Vice President, NELSON ROCKEFELLER. I find it difficult to find words to adequately express my own feelings.

The U.S. Senate has been fortunate to have as its Presiding Officer, Vice President NELSON A. ROCKEFELLER. He has been one of our very best Vice Presidents and presided over the Senate in the most fair and capable manner. He has gained the respect and confidence of Members of the Senate as few Vice Presidents ever have.

Vice President ROCKEFELLER, has always been a great public servant, serving unselfishly in many capacities of government and human endeavor, and in all, he has won the admiration of people everywhere. He is honored and respected not only in the United States but throughout the world.

Few men have contributed so much to this country and in so many different ways, as has Vice President ROCKEFELLER. He made a great contribution in other high offices of Federal Government for many years. He was a very popular Governor of the great State of New York. He was elected for an unprecedented four 4-year terms.

NELSON ROCKEFELLER is ending his long and distinguished career in public service as Vice President of the United States.

He deserves the gratitude of all our people for his great contribution to government and mankind.

To me, he has long been a wonderful and most helpful friend.

The VICE PRESIDENT. Thank you, Senator. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I am going to relate one incident here that has a great deal of meaning to me as I judge the character and qualities of the Vice President.

Soon after I became a member of the Appropriations Committee, a young man came in to testify about the HEW budget. He was acting on very short notice for someone who could not be there.

I had been a member of the committee long enough, at least, to be rather hard to impress, so I slid down a little for a moment of ease and rest. But within less than a minute I saw how this witness had mastered his facts, and he presented to us for an hour and a half a lucid explanation of this program which, though not as large as it is now, was already a growing child, in a very fine way, showing a splendid knowledge of the facts and expressing the needs of this Department, using a lot of what would have been merely dry figures and developing it all into a story of the real need of the Department.

I was tremendously impressed with him then. I did not know Mr. ROCKEFELLER as an individual at that time, but I thought that anyone in his circumstances who would go to the extreme effort necessary to master the long and intricate facts and problems as he did, and present this matter in such a splendid way, certainly had solid dedication to public service as one of his fine virtues.

Later I observed him as Governor of the State of New York which is a tremendously difficult job.

When he was nominated for Vice President and the hearings were being conducted, rumors started floating around. I was very happy that I felt I knew the man. I was not disturbed a bit. Sure enough, the rumors dissolved in thin air.

I am proud of the splendid record he made as President of our body and for the Nation, too, wherein he showed the qualities I thought he had.

He did a fine thing last year when the political winds were rising and blowing in different directions, when he announced that he would remove himself from any kind of consideration for nomination for reelection.

I believe there has passed our way, and the Nation's way, a fine public servant. As a member of this body, I want to thank him for his services here.

The VICE PRESIDENT. I thank the Senator from Mississippi.

The Senator from New York.

Mr. JAVITS. I ask unanimous consent that I may yield to the Senator from Alabama and then regain the floor.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I am very glad to have the opportunity to join with my colleagues in the Senate today to pay respect to our Vice President.

I might go back to what I was about to say to our retiring Vice President, because I suppose in a couple of days, 2 or 3 days, that will become effective. On his leaving the Chair, where he has presided so well over this Senate during his term, I believe he has rendered tremendous service. I believe he has presided well, with evenhandedness and wisely. Times do come when it requires a great deal of wisdom, almost the wisdom of a Solomon, to cut between the different issues, the different persons, and the different things that may be considered in rendering his decision.

I think it has been, as I say, evenhanded.

Mr. President, I want you to know that it has been a pleasure to serve in the Senate during the time you have presided as President of the Senate of the United States.

In closing, I wish you continued and great success in fulfilling all of the aspirations of your mind and heart, remembering that there are those of us back here who remember so well the time you presided so well over us.

The VICE PRESIDENT. Thank you very much, indeed, Senator.

The Senator from New York.

Mr. JAVITS. Mr. President, this is a very special moment for me, the senior Senator from New York, who has known the Vice President personally for, I believe, about as many years as ALAN CRANSTON, and also who has been his close colleague in political life in New York since 1958 when he first aspired to the governorship of that State and I was in my first term here in the Senate.

It is very interesting, Mr. President, those who know the Vice President and also me know that you could not find two people who came from more diverse sides of the track. Yet here we are in the same place at the same time, an extraordinary confluence of time and events in history in which the Vice President of the United States has played such a very significant part.

In the few minutes I have, I would like to give what seem to me to be some of the highlights of that great career, bearing in mind always that there is a rich, full, fruitful life for NELSON A. ROCKEFELLER in the days ahead. We are by no means laying him to rest here today. That perhaps is the best thing a friend can say.

First, he is a spirited man. I know we have had many struggles together and we got pretty hot about it. I love that and he does. It has never left the slightest trace of resentment that has held over more than a few hours, if that.

Then he is a big man. He apologized twice to the Senate of the United States, and for good reason. It left him higher in the esteem of his colleagues than ever before, because he showed human fallibility as well as the size of a man who knows how to make amends when he knows better than anyone else there is something to make amends for.

Then, beyond everything else, to me he has really been an inspiration. He is a man of broad vision, a vision that this world absolutely requires.

Mr. Vice President of the United States, I pray that Jimmy Carter may have this gift of vision.

When you proposed $100 billion for dealing with the oil problem, you were right. That is the measure of what is required. If we wait, it will take twice that. If we wait longer, it will take three times that. If we wait longer than that, we will lose it all.

You have done that in many, many fields. That is why I speak so auspiciously about your future.

You are going to be what you call a civilian now. You are well, you have a wonderful family, a source of great pride to you and to the country, and there is every reason why your life should be as productive as it ever was in the days ahead.

Finally, in the long corridor of history, the Vice President of the United States now incumbent will be treated well for he has made a very significant mark in his time. He made my party and his party in the State of New York and kept it a progressive force. We may lose, but we are always on the side that is going forward to preserve the two-party system in our country.

He has served indefatigably in the struggle for freedom. That is critical. The Vice President of the United States has been hardheaded in what we face and has not tried to denigrate the threats nor to reduce them in consequence, and yet has been an ardent devotee of the fact that we can have détente, that we can find a way out, that war is not inevitable but it is within our control. In order to control it, we have to be clear eyed, realistic, and beyond everything else resolute in what we believe.

So I would seek for my friend, the President of the Senate and the Vice President of the United States, the will, the capacity, the health, and the opportunity to continue to let this clear-eyed understanding of our country's mission and this resoluteness in pursuing it stay with him, as we say in my faith, until 120. Marion and I wish both you and Happy the very best for the future.

The VICE PRESIDENT. Thank you very much, Senator.

Senator DOLE.

Mr DOLE. Mr. Vice President, I rise to pay tribute to one of the most extraordinary public servants of the century, and I say that with utmost sincerity, with utmost conviction.

Speaker after speaker has commended you on your outstanding public record. Since the 1940's, you have served your State, your Nation, Presidents of both political parties, and a score of domestic and international philanthropic organizations with dedication and enthusiasm. Your public achievements have been well chronicled, and I have not the time to recite them all.

I, too, praise your public record and look forward to your further contributions to the betterment of our Nation.

But it is your friendship that I value most.

Whenever I asked for help in political campaigns, or on matters of public policy, NELSON ROCKEFELLER was there.

In 1974, when I was engaged in an uphill campaign for reelection to the Senate, you generously came to Kansas to work on my behalf.

Again last fall, when I was seeking to succeed you, Mr. Vice President, you generously gave your time, advice, and counsel to my campaign. I can second what the distinguished senior Senator from New York has said: you are spirited. I can recall one particular day in the recent campaign when you were quite—well, animated.

The 1976 campaign demonstrated your dedication and toughness, but also your willingness, Mr. Vice President, to give up the second highest office in the land in order to unify your party. It is a measure of your greatness and a measure of your success, a mark of your generosity and your longstanding dedication to the two-party system in America.

Too often, Mr. Vice President, you have been castigated, criticized, and misunderstood by some—not many, but by some—in our party. But you have been one of the most tireless workers on behalf of Republican candidates, be they liberal, moderate, or conservative, because you have been and will continue to be interested in good government and the national stability which only a strong two-party system offers.

Mr. Vice President, you are a great national asset. I say that as a personal tribute, not with reference to any material value.

Finally, Mr. Vice President, I am confident your lifelong dedication to improving the lot of people throughout the world will continue unabated in the years ahead. Again, I offer my personal thanks as one who has worked with you and one who hoped to succeed you. In the final analysis, it is your dedication, your loyalty, your spirit, and your love of America which endears you to your colleagues and the American people. As you have said many times, "you are the greatest."

The VICE PRESIDENT. I thank the Senator.

Senator ALLEN of Alabama.

Mr. ALLEN. Mr. President, I am happy to have this opportunity to express my high regard and my high esteem for you, Mr. President, the President of the U.S. Senate. I had the privilege of serving on the Committee on Rules, which considered the confirmation of your appointment by the President to be Vice President. I must state that I voted in the committee somewhat hesitantly in behalf of your confirmation and voted similarly here on the floor. But, Mr. President, if I had that opportunity again, I would vote for your confirmation without hesitancy, because I feel that you are, indeed, a great American.

I have not always agreed with your political philosophy. I have not always agreed with your rulings here in the U.S. Senate and have opposed some of them vehemently. But I do feel that your rulings were made as a result of a great deal of research and as a result of your conviction that you were acting in accordance with the rules of the Senate.

Mr. President, one of the attributes about you which has impressed me so very much is the fact that you are a great team player and you always exhibited that attribute during your service as Vice President. You did not always agree with the policies of the administration, yet you loyally supported those policies, because you are a team player.

Then, too, Mr. President, when you took the initiative in taking yourself out of consideration for renomination as Vice President, you did not sulk in your tent. You kept working and I dare say you were the difference between President Ford's being renominated and not being renominated. All during the campaign, you exerted your best efforts in behalf of the ticket of your party. So, certainly, being a great team player, being a great sportsman, being a great public servant has endeared you to the Members of the Senate and to the citizenry, generally.

I might say that in my years of observing outgoing administrations, I have never before seen such a euphoria through the land, such a feeling of good will and of appreciation for the services of this administration, President Ford and Vice President Rockefeller. Seldom has this state of mind existed in the country regarding an outgoing administration. I think that a great part of that comes about as a result of your dedicated efforts as Vice President and as a dedicated public servant. So, I wish, for myself and for Mrs. Allen, to express our very deepest appreciation and best wishes to you and your charming wife, Happy. We know you are going to continue to be interested in government, you are going to continue to be interested in the welfare of the United States of America, because the welfare of our country is very much in your heart and mind.

The VICE PRESIDENT. I thank you for your generosity, Senator.

Mr. MATHIAS. Mr. President, I find it very difficult to address the Chair in the third person as would be proper because of our association in so many enterprises. As I have listened to the tributes that have been rendered this afternoon, it has become clear how difficult it is to enumerate all the important events and activities in which you have been engaged all your life. A lot of the things we have talked about here this afternoon have been political. They have related to government and to politics. But, I do not think it should be forgotten that a very important part of your contribution to American life has been in the arts—in the areas of art and architecture. Nor can we forget that your contributions to foreign policy are as notable as your contributions to domestic politics. I sometimes think we use the phrase "renaissance man" too loosely, but I honestly believe that we are this afternoon in the presence of a renaissance man. One element of that is the way in which you have encouraged excellence wherever your own interests

have led you. A measure of your stature can be gaged by the stature of your associates. I will name Henry Kissinger for one. In your contributions to and encouragement of excellence in politics, in foreign policy and in the arts, you have long and for very good reason been conspicuous on our national landscape.

But I think perhaps your greatest contribution—and it is one to which we are all deeply indebted—is a very quiet, very subtle one. When this country lay limp, drained in the wake of Watergate resignations of former Vice President Agnew and former President Nixon, you placed the fruits of your entire life at the disposal of an unprecedented, untested, unelected administration, and you did it without demurrer.

You brought the weight of worldwide prestige, you brought a formidable array of friendships to lend support to this unique administration. I think you added a substantial dimension to the administration at a time when it was needed.

I am happy to have this opportunity to record my gratitude for a remarkable and unselfish performance. I think what you offered this country was impressive, but no less impressive than the man himself.

I am sure most of us have heard that old Washington story about the taxi driver who took a visitor past the National Archives and the visitor asked, "What does it mean that 'What is past is prologue'?"

The taxi driver turned to the visitor and replied, "That means 'you ain't seen nothin' yet.'"

We all regret losing Nelson and Happy Rockefeller from the Washington scene. But, I have to confess to you, Mr. President, that my regret has to be tempered by the great curiosity I have as to where this versatile, public-spirited man is going to put his energies and talents to work next.

The VICE PRESIDENT. I thank the Senator very much.

Mr. RANDOLPH. Mr. President, on September 25, 1974, it was my privilege and my responsibility to appear as a Senator, not as a Democrat or a Republican, but as a Senator to endorse your nomination which had been made by the President of the United States to become the Vice President.

The Rules and Administration Committee was hearing for several days those who were for you and those who were against you. I am the only Democrat who appeared voluntarily to speak for you, although certainly there were many Democrats who had expressed their support for you rather than a formal presentation before the committee.

At that time, I was asked when I first knew NELSON ROCKEFELLER. I am not attempting to compete with ALAN CRANSTON or JACOB JAVITS, but perhaps I have known that occupant of this chair as long as those two gentleman have known him. It was in the 1940's when, as a Member of the House of Representatives, I was intensely interested with Members of the Congress in working out the program to fund the Inter-American Highway which was to cross Central America.

At that time, there were many of us working on that program, which has proved entirely worthwhile, not only giving mobility to citizens to move and products to move, but bringing an understanding among peoples because they began to rub shoulders, exchange thoughts, and become neighbors. This had not been possible in past years when there had been barriers because of a lack of highway transportation.

I recall today that it was at the direct request of President Franklin D. Roosevelt that there was established, and you, Mr. Vice President, headed the Office of Coordinator of Inter-American Affairs. You were intensely interested in that program and gave needed leadership.

You were shortly to move from that office to be the Assistant Secretary of State for Latin American Affairs.

As we thought then about Central America and about our neighbors to the south, we were beginning to understand that it was very important to not just be tolerant of men and women in the far places of the world because tolerance, may I suggest to my colleagues, is not enough. There is a reason to go beyond mere tolerance. We must strive to achieve an understanding of the other person and his viewpoint. It is then that we begin to make progress in connection with the strengthening of the bonds of humanity wherever people may live.

It was in that earlier period, Mr. Vice President, that I was impressed with your vigor, your intelligence, and your integrity.

I felt then and I have had reason through the years to know that all of those qualities of yours were genuine.

So I reinforce this afternoon what I felt so keenly in that earlier period.

The discussion today has ranged over the activities that you have had in the State of New York and in the Federal Government, but I want to bring us up to date on a subject that perhaps even Senators and the country may not be too familiar with, and that has to do with your chairmanship of the National Commission on Water Quality.

In 1972, Congress passed the Federal Water Pollution Control Act amendments. In that act, we included a provision for a National Commission on Water Quality. We felt that it was very important to review and assess the water pollution program and then to move realistically to lower the pollution in the waters of the United States of America.

Your appointment came from the President of the United States. You were one of the 5 public commissioners who were selected; there were 5 Members from the Senate and 5 Members from the House—a 15-member commission. The members of the commission elected you as chairman. You served as chairman for more than 3½ years. You served when you were Governor of New York, and you served when you became Vice President of the United States. It is timely this afternoon for me to indicate to my colleagues that the other 14 members of the commission voted that we wanted you to continue as Chairman of the National Commission on Water Quality, even after you had taken on the important responsibilities of the Vice Presidency.

Perhaps I should stop now; but I should like to conclude with something beyond just the mechanics of politics and the procedures of government. I think you have had a compassion and you have had an understanding and you have had a faith. With these characteristics, which too often are overlooked by many people, you were able to embrace and interpret these concerns and really make them a part of the lives of other people.

You have been able to translate this goodwill within yourself, and others understand that this compassion of yours was not a facade, to live a life of a manly man.

Reference has been made today to a renaissance man. I would rather think of you as a manly man. I have carried in my wallet through the years a poem indicating who the manly man is, and I will apply it to you, if I may, this afternoon. We do not know who wrote these words.

The world has room for the manly man,
With the spirit of manly cheer;
The world delights in the man who smiles,
When his eyes keep back the tear;
It loves the man who, when things are wrong,
Can take his place and stand;
With his face to the fight,
And his eyes to the light,
And toil with a willing hand.
Hurrah for the manly man
Who comes with sunlight on his face,
And the strength to do and the will to dare
And the courage to find his place.

You have occupied a very real place in the lives of many of us individually, certainly in the Senate of the United States and in the Republic of which we are part.

Mary and I wish for Happy and you continuing joy and faith.

The VICE PRESIDENT. Thank you very much. indeed.

Mr. CURTIS. Mr. President, I do not want this occasion to pass without expressing my appreciation for the service of our distinguished Vice President and to commend him for a life filled with public service. Our allotted time this afternoon is short, and many people want to be heard. I will be brief and try to avoid those things that others have mentioned.

In the field of public affairs there are important issues and very important issues. I believe that anything that deals with the strength and security of our country, the national defense in its broadest terms, is a very important issue. I commend our distinguished Vice President on the stance he has taken, on the position he has held, and the influence he has exerted for maintaining the defense of the United States of America and keeping our beloved Republic strong and secure. This is not only a very important issue—it is the issue upon which everything else that we hold dear in this country depends.

I commend the Vice President for his public service. I wish to him and to his everything fine in the future.

The VICE PRESIDENT. I thank the Senator.

Mr. CHAFEE. Mr. President, I must say that there is not anything that would

give me greater pleasure than the first words I have uttered on this floor, to say them in praise of you. Not only have you come from Rhode Island, but also, it has been my great privilege to enjoy a friendship with you ever since I became active in public life.

You have been praised for your service as Vice President, as a patron of the arts, a foreign policy expert, a businessman, and a statesman in the finest sense of the word, truly a man for all seasons. However, I should like to call attention to what I think is your greatest achievement, and that is the time you spent fighting in the trenches, running the State of New York as Governor for probably the longest term of anyone else, certainly in this century and extending back into the last century, some 14 years.

As Governor of that incredibly large State, you made government work. It seems to me that in Washington, programs can be passed, in Albany programs can be passed, but somebody has to make them work, and that devolves upon the Governor in many instances. You ran an efficient and honest administration; but much more important than that, it seems to me that you thought about the future. You took the long view. When something had to be done about mass transportation, you thought about it and did something about it. You thought about the need for clean water and did something about it. You thought about the need for additional parks in the State, and you did something about it. So it went, for better medical care, for youth programs, on and on—things that touched the lives every day of the citizens of your State and touch them not only today but for years in the future.

You have inspired the rest of us who have labored in the vineyard, out in the hustings, as Senator DOLE mentioned. Your incredible enthusiasm has lifted the spirit of all of us. You have been a steadfast friend who helped me when I ran for office, as well as many others, a host of other candidates.

So on behalf of Ginny and myself I extend to you, Happy and the boys a Seal Harbor wish: may you always have a fair wind and a following sea.

The VICE PRESIDENT. Thank you very much, Senator.

Mr. DOMENICI. Mr. Vice President, I have not been involved in politics long enough to speak of your many roles and your many accomplishments as a public servant. Others have done that far better than I, for they know of it individually, having served with you. So I just want to share with you more of a spiritual observation, if you will.

You know, societies like ours give much to certain people. I think it is fair to say it gave much to you. I think it is fair to say it gave much to your family, to your father, your grandfather, and to those on both sides of your family.

It seems to me that the greatest tribute we can pay to you is you have evidenced the highest ideals of a human being because when much is given frequently much is not given in return. It appears to me that you must have had in your life many opportunities, Mr. Vice President, to choose not to give of yourself for you could have done many other things, I am sure, that in the conventional wisdom of our times would appear to be far better for you, far better for your family, whom we have kind of ignored here, for you would be doing what your means permitted you to do and what conventional wisdom would have told you to do.

It seems to me that I would be remiss if I did not say to you and for this record that when one gives so much of his time when he could have done many other things, in a very real way our great society and culture has succeeded because you have given in return many, many times over.

I am sure this was not always easy because what has been expressed about the difficulties you have gone through, each of those was probably an opportunity to take another course. It seems to me that when that opportunity presented itself you did not choose another easier course but went right back into another endeavor and role for America and, as your visions grew, for the world.

I commend you, Mr. Vice President, on your few remarks today because I have now grown to know you as a man who has great faith in tradition and has great faith in the principles of this great democracy, but one who is willing to face up to the need for change without destroying and compromising the very blood and sinew of that which makes us great. So your remarks about our freedom and our being the bastion of freedom in the world, depending upon America and its willingness, its conscience and its capacity, I believe you said, and you end your remarks here once again reminding us of the very basics. I hope there are people who take your place, people to whom this country has given much, who will, in turn, give much of themselves.

It has been a privilege knowing you, being part of your time here in Washington. I, too, think even a little State like mine knows of your generosity that I have been speaking of, for you have even been there to help candidates, to help express American philosophy and views, and to help our party, which you consider to be part of making this country better and keeping that party active and right on out front doing its thing, which has been very much a part of your life.

I compliment you very much for it but, more importantly, I thank you for it.

The VICE PRESIDENT. I deeply appreciate it. Thank you, Senator.

The Chair recognizes Senator TOWER of Texas.

Mr. TOWER. Mr. Vice President, I am delighted to have this opportunity to talk about you this afternoon. Hailing from seperate parts of the country as we do, and representing differing elements of the Republican Party as we have, it has, perhaps, taken a little time for me to get acquainted with you.

I have from time to time on intraparty matters been on the opposite side of the fence. In our last effort we were on the same side. I must say I would rather be at your side than be in opposition.

I never have known a man in public life who could manifest the iron will and determination to win and yet take defeat and disappointment with more grace and goodwill than you. I have never seen you wallow in self-pity or any sense of bitterness or rancor. I have never seen you carry a grudge. You have always been a team player and, despite your tough-mindedness, have been generous and kind with those with whom you have been associated. You certainly have been a splendid public servant and have incurred the debt of all Americans, a debt which they cannot repay.

I know you and your family derive a great deal of benefit from this society of ours, and I know, too, you have devoted your life to paying this society back, and you have done so in good measure, with great ability, dedication, with a high kind of conviction, with lofty aspirations, many of which have been fulfilled, and those of us who have the privilege of knowing you and serving you can think better of ourselves for having done so.

Thank you so much for your splendid service to our country.

The VICE PRESIDENT. I thank the Senator.

Mr. BAKER. Mr. President, I yield to the distinguished Senator from Pennsylvania.

Mr. HEINZ. Mr. President, to say that today is a special occasion is something of an understatement, for it is a welcome opportunity to recognize the unique contribution made by you, Mr. Vice President, our Presiding Officer.

I can think of very few people in the history of this country who dedicated themselves more wholeheartedly and single-minded to public service, to the betterment of his fellow man, than our Presiding Officer.

To say, Mr. Vice President, that you are a dedicated public servant, a loyal citizen, a whole man, a renaissance man, understates the case.

I believe that NELSON ROCKEFELLER is blessed with many outstanding talents, indefatigable energy and abundance of intellect, enhanced by great commonsense, compassion, a demonstrated abiding sense of justice and fair play, a commitment to equality for all under the law, and a very broad, very far-seeing vision of the greatness that can be achieved by individual Americans, our democracy, and the world community of nations.

You are a man who has used the blessings of your talents wisely and well. You have consistently placed the well-being of this Nation ahead of personal considerations in every mission, whether undertaken as a State Department official, Governor of the great State of New York, as Vice President of the United States, and other assignments too numerous to mention, and once again, and now, as a private citizen come January 21.

I have been personally privileged to know you, to work on your behalf, to share in the common cause with you, to disagree with you as occasion demanded, to vote to confirm you as Vice President, when I served in the House of Representatives, and now to share in today's recognition.

In my personal knowledge of you, which I have the privilege to have, I am confident of one further thing, and that is that NELSON ROCKEFELLER will make further great contributions of which we will all be proud.

The VICE PRESIDENT. Thank you, Senator.

The junior Senator from New York.

Mr. MOYNIHAN. Mr. President, in recognition of the extraordinarily lowly status to which I had attained, I had not intended to speak, but the courage of addressing maiden remarks to the Chair on this occasion having been shown by others, I could not be less audacious.

I shall try, however, to be brief in deference to my circumstances, but I would like, sir, to take the opportunity, so many large statements having been made about your large achievements, to tell of how you had lived in the minds and hearts of little children, at least two little children of mine.

I had the experience to be secretary to the Governor of the State of New York at the time that you succeeded to that honorable position, and in that circumstance I had a car which in my small family was known as Daddy's car, and on the 1st of January I went off looking for a job in what was known as Mommie's car, and the two children asked what happened to Daddy's car, and they were told by a rather partisan wife who is still partisan and still with me today, Mr. ROCKEFELLER had taken it.

The 12th night came, and the Christmas tree disappeared in the house. We were awakened in the morning by two very nervous children saying, "Mr. ROCKEFELLER has taken our Christmas tree."

A year or a year and a half passed, and such was the impression of those events that one day when your face appeared on evening television, my oldest son, then about 5, went rushing in for his sister, aged 4, to say, "Come, hurry, there is a picture here of the man who took our Christmas tree."

And they have turned out to be Democrats, sir. But they have learned from their father a higher regard for you and learned of your many wide, wholly admirable achievements.

I wonder if we respectfully might refer only to one, which was one of the most extraordinary acts of public service in our time, when you left the governorship of the State of New York, after 15 years of service to establish today what you felt to be, and I think was, a higher service in the country, in a nation clearly having lost its sense of direction and control over its destiny, to establish a Committee on Critical Choices for America.

It was characteristic of you that your purpose was not to set up a panel which would then tell Americans what they should do but rather so to analyze the realities, the facts, the trends, and tendencies of our time to say to Americans that there were a number of critical areas where they would have to do something, and even to do nothing was a choice, and a critical one, and to level out what that range of choices might be in order that they would be better made.

It was an effort of extraordinary selflessness, patriotism, and, if you will not mind, intelligence, and foresight.

You assembled a most distinguished group of which I had the privilege to be one of the junior members. We worked tirelessly. Only now is the fruit of that effort coming forward in a series of extraordinary distinguished studies.

I do not think in our time or in our age there has been an equivalent act of statesmanship and foresight, and I would like as a member of that commission—and other members of that commission served in this body—to stand in tribute to you, sir, for that which is so representative of all else.

Thank you, Mr. President.

The VICE PRESIDENT. I am deeply grateful. Thank you, Senator.

The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, there is an old axiom that says that freshman Members are to be seen and not to be heard, and I was about to observe that axiom, but after seeing other freshman Members here dare to speak in the Chamber, as one who subscribes to all that has been said here in the Chamber, I could not remain in silence.

I will say that one of my proudest moments in all my life happened only on the 4th of this month as I walked down the aisle, escorted by my senior Senator, Senator INOUYE, and I raised my right hand to be sworn in by the Vice President of the United States, the Honorable NELSON ROCKEFELLER.

And I take great pride in that because that was the culmination of my American dream. Ever since I was a junior in high school, in Kauai High School in the Hawaiian Island chain, I had dreamed of becoming a Member of the U.S. Senate, and to be administered the oath of office by one whom I had admired for as long as I knew about him and known him from personal acquaintance was indeed an honor.

I recall when I was approaching adulthood and becoming interested in politics, ROCKFELLER I was told was a democrat and spelled with a small "d" and certainly it is that. You are indeed a democrat in the sense that you have stood and fought for those principles upon which this great Nation was founded. And as you leave these halls, I am sure that you will be looked upon as an elder statesman whose counsel will be repeatedly sought. And this is good for the reason that you have been good for this country and will no doubt continue to contribute to its greatness even as you step out of your present office.

The VICE PRESIDENT. Thank you very much, Senator.

The Senator from Indiana.

Mr. LUGAR. Mr. President, I speak as one who admires the tremendous work that you have done in behalf of federalism in this country.

A great deal has been made of your achievements as Governor, but I would say as one who has served at the local level for most of my public career that those who have served as mayors, county officials, and local officials in this country appreciate the genius of federalism, and you, sir, in your work have exemplified this genius magnificently and in so many ways.

I have appreciated my association with you on the Advisory Commission on Intergovernmental Relations. I was impressed 6 or 7 years ago as you put great stakes in the need for welfare reform and in the need to try to determine how we were going to finance public schools in this country adequately and with justice to each schoolchild.

This leads me to what I think is the highest tribute that could be paid to you, and that is that you have been a very generous person in terms of your time, your leadership, and in your inspiration to the students of this country.

It was my privilege as a student at Denison University in Granville, Ohio, to enter your office when you were the Under Secretary of the Department of Health, Education and Welfare and to question you along with a dozen other students about your office, about what was at that time a new department, and about the new administration of which you were a part, as you had been of past administrations. You were extraordinarily generous to young people with your time, even when you had enormous and time-consuming responsibilities.

You have continuously exemplified this commitment to young people, and this is why I am certain that Americans of all ages join in our celebration for you but I specifically want to commend you for that inspiration. You have provided an example that each one of us, I am certain, will attempt to emulate.

The VICE PRESIDENT. Thank you, Senator. The Members of the Senate have been extremely generous.

The Senator from Michigan.

Mr. GRIFFIN. Mr. President, considering all the things that have been said, and all the reasons that we could go on saying and reciting, I am very confident that history will proclaim that you were one of the greatest Vice Presidents in the history of our Nation. And history ought to say that.

You and President Ford served us in one of our darkest hours. President Ford will be remembered for the restoration of trust and confidence in the executive branch of the Government, but he was able to accomplish that, in large part, because he had a great Vice President.

The Senate, the country, the people, indeed the world, owe you a great debt. We thank you, and we want you to know we love you and wish you the very best for the future. Thank you very much.

The VICE PRESIDENT. Thank you, Senator.

Mr. CHILES. I would like to associate myself with some of the remarks that have been made.

Mr. Vice President, this has been spoken of before today, I think, and I would agree that holding the job of Vice President is very hard for a person who has been a leader in his own right, with his own ambitions and his own goals that he seeks. I have had an opportunity to observe you in the role you have played as Vice President, and I think that I have never seen anyone serving in any secondary role who was more loyal, more devoted, or tried any harder to be a team player than I think you tried to be, I think in many instances completely contrary to where your own goals or your own best interests would have been.

Watching the moves that you made as the reelection possibilities came around, and as there was all kinds of fighting, and watching it from the other side as a partisan Democrat with some great interest. I had a chance to observe that, as I think everyone did, and to see

the completely unchangeable way in which you faced that and the way in which you not only supported the President, but supported the ticket and the Republican Party and its principles, as I say, by pulling yourself out of consideration when there was controversy. I really liked that very much, and wanted to say something about that, and to say also that I as an observer am going to have great interest in what new goals and new careers you now are going to embark on. I think we could have had this meeting 10 or 15 or 20 years ago and still had many of these same comments, and now I look forward to seeing what is going to happen 10 or 15 years from now, and what kind of new heights you will achieve and what kind of new service you will give to your country and to your fellow men.

I am delighted to associate myself with these remarks.

The VICE PRESIDENT. Thank you very much, Senator.

Mr. ROTH. Mr. President, I am pleased to join my colleagues in paying tribute to the man who for the past 2 years has been the Vice President of the United States and the President of the Senate.

The Vice Presidency is regarded as one of Washington's most difficult and most delicate jobs. On the one hand, the Vice Presidency demands a man with the ability and capability to assume the work of running the country at any moment. On the other hand, the office has few inherent powers and puts many restraints on the independence of the man who holds it. NELSON ROCKEFELLER has served in this difficult position with competence and good grace. In an act of personal sacrifice and party loyalty some time ago, he asked the President not to consider him as a possible running-mate for another term.

Mr. ROCKEFELLER leaves office with a long and distinguished record of public service behind him. His record as diplomat involved in Inter-American affairs, as Governor of one of the Nation's largest States, and as Vice President are well known. He has served with great distinction on a number of special bodies such as the Advisory Commission on Intergovernmental Relations, the Commission on Water Quality, and the Foreign Intelligence Advisory Board.

NELSON ROCKEFELLER is a man of political courage and conviction who has not shied away from controversy. He has played an extremely important part in American political debate over the past 2 decades and has been an eloquent spokesman for one wing of the Republican Party.

We say goodby to him and to his charming wife, Happy, but we hope that he will be a frequent visitor to this body and city.

Mr. WILLIAMS. Mr. President, it is with real regret that we bid farewell to Vice President of the United States NELSON A. ROCKEFELLER.

During his tenure as President of the Senate, he has occupied the chair with distinction. He has been firm, but fair; concise, yet courteous; never garrulous, and always good-humored.

Though much of the task of presiding over this body of marked individualists is routine, there have been times when the duties required the patience of Job and the wisdom of Solomon. There have been times when heightened emotions bade fair to overwhelm continence and reason. On those relatively rare occasions, the gavel has been wielded with grace and good judgment.

As a Democrat, I am naturally pleased to know that a colleague and a Democrat will be Vice President ROCKEFELLER's successor. But even that does not wholly alleviate our regret at saying goodbye to a man who has won our admiration, respect, and affection.

Mr. ROCKEFFELLER has said that when he leaves office, he will once again plunge into the maelstrom of private enterprise. When he does I am sure he will enjoy notable success, as he has always done.

To his wife, Happy, and to his family, I wish many more years of happiness and contentment in the company of their private citizen.

Mr. PEARSON. Mr. President, I would like to make a few brief comments about a dedicated public servant, NELSON A. ROCKEFELLER. I will not take much time as I know that many other Senators will seek recognition for the same purpose.

NELSON ROCKEFELLER has said he will leave the Vice-Presidency to turn with enthusiasm to the free enterprise of the Nation's private sector. As America's business looks forward to his contribution, our Government thanks him for his years of uncompromising service. The people will long be grateful for his leadership not only in public and private endeavors but particularly for the philanthropic commitments he and his family have followed for decades.

Of course, Mr. ROCKEFELLER's beneficiaries are not limited to the confines of the United States. His efforts on behalf of Latin America go back to 1935 when he began work in the Venezuelan petroleum industry. It continued in 1944 and 1945 when he was Assistant Secretary of State for American Republic Affairs. In 1946, joined by his brothers, he established a philanthropic organization, the American International Association for Economic and Social Development which financed nonprofit projects to ameliorate health, educational, agricultural, and other social problems in the poor areas of Latin America.

Later, as Special Assistant to President Eisenhower for Foreign Affairs, Mr. ROCKEFELLER played a role in the development of the "open skies" proposal for limiting world armaments. His work there and for the 1955 Geneva Summit Conference helped make for a more peaceful world.

Mr. ROCKEFELLER did not enter elective politics until 1958 when he was elected Governor of New York State. He was subsequently reelected Governor three more times, thus becoming the only Governor in the Nation's history to be elected to four 4-year terms. As Governor, Mr. ROCKEFELLER's efforts on behalf of education, the environment, transportation, and welfare reform brought him note among his colleagues as a creative and effective administrator.

But I believe NELSON ROCKEFELLER's greatest service to the United States began on August 20, 1974, when he became Vice President under the 25th amendment to the Constitution. The Nation was then in its most trying constitutional crisis since the Civil War. It is understandable that Gerald Ford and the Nation turned to Mr. ROCKEFELLER in this most severe time of need. I am certain that history will record what too few presently acknowledge. That at one of its lowest ebbs, NELSON ROCKEFELLER calmly helped us find renewed faith and dignity in the American ideal.

Mr. LAXALT. Mr. President, one of our Nation's foremost public men returns to private life on Thursday. And, despite all my disagreements with NELSON ROCKEFELLER on issues of policy and philosophy, I find it difficult to conceive of American politics without his energy, drive, and superb administrative abilities.

I have long considered the Vice President to be a worthy opponent. He has been a most able exponent of a view both in the Republican Party and the Nation as a whole with which I have not agreed but which I recognize to reflect fully the feelings of his own constituency. The unprecedented achievement of his being elected four times Governor of New York provides ample evidence of his ability to articulate effectively the wishes of his constituents.

But, it is perhaps the Vice President's executive background which is most impressive. Not only has he served as Governor of one of our most populous States but he has also held demanding Federal executive positions under three Presidents.

In 1966, this executive acumen was made crystal clear to those of us who had the pleasure of serving with him as fellow Governors. His grasp of detail, command of issues and powers of articulation were readily evident to those of us who met with him at the National Governors' Conference.

Then came the tragic experience of Watergate which brought Gerald Ford to the White House and left a vacancy in the Vice Presidency. NELSON ROCKEFELLER accepted that office much to the amazement of many of the professional pundits. They said he was above being Vice President. They said his executive experience as Governor of New York and his family wealth made him somehow too good for that office.

Mr. President, in my judgment this man who once said he did not want to be vice president of anything has filled our Nation's second highest office with grace, dignity, and evident ability in a most trying time. NELSON ROCKEFELLER has earned our respect and he deserves our thanks.

Mr. HATFIELD. Mr. President, I wish to add my comments to those eloquent remarks made by others in paying tribute to the service of the Vice President. During the years we have served together, first as Governors of our respective States, and now together here in Washington, I have come to know him as a truly remarkable gentleman.

As a former Governor myself, as many of us are here in this Chamber, I naturally paid particular attention to the

long record of service the Vice President gave to the people of New York as their Governor. He attempted to modernize State government to provide better service long before such efforts became popular. He was a skillful manager and administrator, and future Governors of New York will be judged by his example. He recognized that as Governor, he held the office as a public trust, the steward of people's welfare and their future.

The circumstances by which the Vice President assumed this office really were unique in our history. Partially because of the atmosphere of the time, and partly because of his financial holdings, he was subjected to a public scrutiny that probably exceeded that of any public official at any time. Yet throughout this rigorous period of questioning, he maintained his composure, his good nature, and helped create a spirit of good will that has continued to today.

I think we all should reflect on the contributions to the public welfare that the Vice President has made in his decades of public service. I will not read through the list of offices to which he has been elected and appointed—that is well known to us all. Instead, on behalf of myself and my constituents, I will just say thank you for a job well done. We are better by virtue of his contributions to our society. His record of public service throughout his life could be a target for young men and women who seek a career in public service. That is as fine a legacy as any.

Mr. STAFFORD. Mr. President, it was with great admiration and warmth that I listened to your remarks today as you complete your service as Vice President of the United States.

Your departure from active politics leaves a void that I am particularly aware of since I have valued our friendship since we were first term Governors back in 1959 and met at Fort Ticonderoga. Nor am I unmindful of the valuable personal assistance you have so generously rendered to me in the years since.

I take considerable comfort, however, in knowing that a man of your capacity for innovative thought and human understanding on the major problems facing our Nation will continue to be available to advise us whenever we encounter serious problems.

I, for one, shall not hesitate to call upon you again.

Meantime, much happiness and continued success to you in your return to the business world and your own private life.

Mr. TALMADGE. Mr. President, I join my colleagues in the Senate in honoring our friend and leader, the Vice President of the United States.

NELSON ROCKEFELLER has performed the duties of Vice President and as President of the Senate with distinction and ability. Mr. ROCKEFELLER brought to the office of Vice President and the Senate a talent for government and administration which resulted from his outstanding service as Governor of New York and from the influential role he has played in American politics for many years.

Mr. ROCKEFELLER is extremely hard-working and intelligent, and I hope we can continue to count on him for his advice and counsel in affairs of state.

I wish the Vice President good health, happiness, and every success in all that he undertakes in the future.

Mr. BELLMON. Mr. President, the history of the United States is replete with examples of Vice Presidents who have, through one series of events or another, become Chief Executive of the country. Probably no Vice President in our history has ever been more fully qualified for the Presidency than the incumbent, NELSON ROCKEFELLER, who is now entering the final hours of his office.

Experienced at many levels of government, trained to meet great responsibilities in both the public and private sector, blessed with the confidence and esteem of his fellow Americans and gifted with high intelligence, great courage, and an instinctive love for his fellow man, NELSON ROCKEFELLER was ideally prepared to be President. In addition, the exhaustive hearings which led to his confirmation prepared the citizens of the country to place their full and complete trust in this great American.

Mr. President, over the years, I have had the good fortune to be associated with NELSON ROCKEFELLER in many fields of endeavor. We served together as Governors and in that capacity I had the frequent pleasure of observing Mr. ROCKEFELLER as he displayed his leadership qualities in the discharge of his duties as chief executive of the Nation's most populous State. Many of the initiatives taken by Governor ROCKEFELLER were later embraced by Federal legislation and became important new thrusts for Federal programs. As a Governor, he was sensitive to the needs of his people and innovative in translating those needs into effective governmental action.

NELSON and his gracious wife, Happy, have graced the Washington scene with their generous hospitality. Both before and since ascending to the Vice Presidency, the Rockefellers have been gracious hosts to Americans from all walks of life and to guests from dozens of foreign countries. They have truly been ambassadors of good will in the highest sense of the word.

Mr. President, the Vice Presidency has not always been a highly regarded office on the national scene. NELSON and Happy ROCKEFFELLER have done much to add to the prestige and the respect of this office. They have given stature to the position of the Vice Presidency and demonstrated that Vice Presidents do a far greater service than most Americans had formerly recognized. It has been my pleasure to be among their friends and admirers for many years and I am pleased now to join with my colleagues in wishing them Godspeed as they prepare to reassume other leadership roles.

Mr. MCGOVERN. Mr. President, when NELSON A. ROCKEFELLER leaves office on January 20, a remarkable public career will, at least for the time being, have come to an end. I wish to join my colleagues on both sides of the aisle in expressing my respect and genuine affection for this talented man who has served the Nation in so many different capacities for more than 30 years.

NELSON ROCKEFELLER has been an important leader of the Republican Party, but it was a Democratic President, Franklin D. Roosevelt, who first brought him into public life in the very crucial area of relations with Latin America—a topic which became one of his lifelong interests. Under President Roosevelt, he rose to become Assistant Secretary of State for American Republic Affairs and served in that capacity for the duration of World War II.

After the war, Mr. ROCKEFELLER devoted himself to business and philanthropic pursuits, but when the Eisenhower administration came into office he had the opportunity to serve once again. He acquired experience in domestic affairs—as Deputy Secretary of HEW—and had further input into foreign policy as a Special Assistant to the President for Foreign Affairs. In 1958, he was elected Governor of New York for the first of an unprecedented four terms. And in 1974, he became Vice President of the United States.

Mr. President, very few Americans have been as well prepared by training, experience and temperament as NELSON ROCKEFELLER to function in positions of high public trust. He has made his mark on our times and he has served the Nation to the best of his ability. As he returns to private life, my warmest best wishes go with him and with his lovely wife. I know that he will continue to serve his country and his party in the years to come.

Mr. KENNEDY. Mr. President, I am delighted to join my colleagues today in expressing my admiration for Vice President ROCKEFELLER and to commend him for his distinguished service to the Senate and the Nation in his role as Vice President over the past 2 years.

He came to office under extremely difficult circumstances. The 25th amendment was enduring a critical test in the wake of Watergate and the resignations of Vice President Agnew and President Nixon. All of us in Congress and the Nation owe a debt of gratitude and respect to both President Ford and Vice President ROCKEFELLER for the effective manner in which they helped to put the country back on course. They showed how well our democracy works, even under conditions of great stress. That is perhaps their greatest achievement, and the one for which they will be remembered best by history.

But Vice President ROCKEFELLER will also be remembered by us for other important things during his service as our presiding officer. One of his first official actions was to preside over the Senate during the historic filibuster debate in 1975 at the beginning of the 94th Congress. It is not too much to say that he took a crash course in parliamentary procedure and passed with flying, if occasionally tattered, colors. The result was a landmark change in the filibuster rule, easing the requirement in the Senate rules for ending debate and permitting the Senate to work its will in the face of severe delaying tactics. An accident of history put the right person at the right time in the presiding officer's chair, and I do not think we could have carried the day without him.

I would also single out a few other noteworthy aspects of Vice President ROCKEFELLER's service here. Unfailingly, he has been one of the most dedicated and insistent voices in public life asking the Nation to look beyond the issues of the moment, and to deal more effectively and perceptively with the long-run challenges facing us. Woodrow Wilson once said:

The leaders of mankind are those who lift their feet from the dusty road, whose eyes are on the future.

NELSON ROCKEFELLER, perhaps more than any other contemporary public figure, has tried to meet that ideal. His Commission on Critical Choices continues to provide a steady stream of constructive and thoughtful analyses of difficult national issues. He was also a leader in the bipartisan efforts last year to develop a realistic approach to the emerging energy crisis. In many other areas, he has helped to guide us.

One special area in which I had the privilege to work directly with Vice President ROCKEFELLER was in national science policy. In this field, the Vice President exercised a great deal of personal leadership within the administration. We had a number of extensive discussions of the issues. With others, we worked together in convening a White House Science Advisory Conference, in which the Vice President was a leading figure in advocating the concept of a White House Office of Science Adviser to the President. In the development of the legislation that resulted from this Conference, Vice President ROCKEFELLER played a highly constructive role in helping to resolve the differences between the administration and the Congress. Throughout this joint effort, I was deeply impressed with his personal commitment, his high purpose, and his nonpartisan dedication to the public welfare and the Nation's science policy. The successful public law signed by President Ford last May owes a great deal to the energy and constant efforts of the Vice President.

My hope is that in the years to come, Vice President ROCKEFELLER will find new opportunities to use his extraordinary talents and ability. We have enjoyed his friendship and assistance throughout his service here. Faced with so many difficult and continuing challenges, the Nation can ill afford to lose his helping hand and his progressive and effective voice.

Mr. PACKWOOD. Mr. President, it is difficult to adequately express appreciation to someone such as NELSON A. ROCKEFELLER, who has provided such dedicated and outstanding service to his country. Vice President ROCKEFELLER has had a long and distinguished career as a public servant, his accomplishments ranging from international emissary for the United States to serving as a model Governor for four terms in New York. Most recently, as Vice President and President of the Senate, he provided the day-to-day leadership so necessary for the successful function of a complex body such as ours. Though Vice President ROCKEFELLER will be missed by his colleagues here in the Capitol, I am certain he will continue to provide, as he has in the past, the leadership and progressive thinking so vital to the growth and prosperity of our country.

The VICE PRESIDENT. The Chair is deeply grateful for the expressions that have been made by the Members of this distinguished body, and would like to express very heartfelt gratitude for the generosity that was expressed.

SENATE RESOLUTION 37—RESOLUTION OF APPRECIATION FOR SERVICE WELL DONE FOR VICE PRESIDENT NELSON A. ROCKEFELLER

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of a resolution which I have at the desk.

The VICE PRESIDENT. The resolution will be stated.

The legislative clerk read as follows:

Whereas, our esteemed colleague Nelson A. Rockefeller, the Nation's forty-first Vice President and presiding officer of the Senate; and

Whereas, Vice President Rockefeller has had a long and admirable career serving four Presidents and as Governor of New York for 15 years; and

Whereas, Vice President Rockefeller has also distinguished himself with his philanthropies and interest in the arts; and

Whereas, our colleague has decided to retire to enjoy his remaining years after his long years of service that have yielded governmental, economic, social and cultural contributions beyond measure: Now therefore be it

Resolved, that the United States Senate recognizes the outstanding contributions made by Vice President Rockefeller to this Nation, commends him for the manner and integrity with which he carried out his responsibilities, and wishes him Godspeed in his new and active life.

Resolved further, that the Secretary of the Senate is hereby directed to send a copy of this Resolution to the Vice President of the United States.

The VICE PRESIDENT. Without objection, the Senate will proceed to its consideration.

The resolution was considered and agreed to.

The preamble was agreed to.

ORDER FOR 10-DAY PERIOD FOR FILING OF TRIBUTES TO VICE PRESIDENT

Mr. ROBERT C. BYRD. I ask unanimous consent that all Senators may have 10 days in which to enter statements into the RECORD eulogizing the Vice President.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER FOR PRINTING OF TRIBUTES TO THE VICE PRESIDENT AS A PUBLIC DOCUMENT

Mr. ROBERT C. BYRD. I ask unanimous consent that these various eulogies be gathered together, bound and printed as a public document.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR CHILES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the eulogies for the Vice President and just prior to the expression of eulogies to the President of the United States, Mr. CHILES be recognized for not to exceed 5 minutes on another matter.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER TO VITIATE ACTION ON RESOLUTION TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if my colleague will yield further, that the resolution that was to have been acted upon today, reported from the Foreign Relations Committee, with respect to the release of Abu Daoud, be vitiated insofar as the action on that resolution today is concerned.

The VICE PRESIDENT. Without objection, it is so ordered.

SENATE RESOLUTION 4—REORGANIZATION OF THE SENATE COMMITTEE SYSTEM—AUTHORITY FOR COMMITTEE ON RULES AND ADMINISTRATION TO MEET IN CLOSED SESSION

Mr. CHILES. Mr. President, I wish to discuss a procedural development which occurred last Friday in the Senate. A unanimous-consent request was made by the chairman of the Committee on Rules and Administration, Mr. CANNON.

This request is found in the CONGRESSIONAL RECORD of January 14, 1977, on page 1131. This request authorizes the Rules Committee to meet in closed session to conduct markups on Senate Resolution 4 which is the proposed reorganization of the Senate Committee System.

To close meetings under this request, a vote would be required. It is not clear whether this vote is to be in open session of the committee or on the record. This request, having no objection at the time made, was so ordered.

Mr. President, I am deeply concerned about this request and how it was obtained. Had I been notified or known of this request, I would have been present and objected to it. This action strikes at the very heart of the standard of openness which the Senate is clearly on record as favoring.

Senate Resolution 9, which passed the Senate on November 5, 1975, by a vote of 86 to 0 clearly placed the Senate in favor of shifting the standard toward more openness and provide for open meetings of Senate committees. I ask unanimous consent that a copy of Senate Resolution 9 be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 9

Resolved, That paragraph 7(b) of rule XXV of the Standing Rules of the Senate be amended to read as follows:

"(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in paragraphs (1)

through (5) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

"(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

"(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

"(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

"(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

"(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

"(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

"(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of each person; or

"(6) or may divulge matters required to be kept confidential under other provisions of law or Government regulations.

Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

"(c) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

"(d) Each committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceedings of each meeting or conference whether or not such meeting or any part thereof is closed under this paragraph, unless a majority of said members vote to forego such a record."

SEC. 2. The first sentence of section 133(b) of the Legislative Reorganization Act of 1946, section 133A(b) of the Legislative Reorganization Act of 1946, section 242(a) of the Legislative Reorganization Act of 1970, and sections 102 (d) and (e) of the Congressional Budget Act of 1974 are repealed.

SEC. 3. (a) Rule XXVII of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"3. Each conference committee between the Senate and the House of Representatives shall be open to the public except when the managers of either the Senate or the House of Representatives in open session determine by a rollcall vote of a majority of those managers present, that all or part of the remainder of the meeting on the day of the vote shall be closed to the public.".

(b) The amendment made by subsection (a) shall not become effective until a similar rule is adopted by the House of Representatives.

(c) The caption of such rule XXVII is amended to read as follows:

"CONFERENCE COMMITTEES; REPORTS; OPEN MEETINGS".

Mr. CHILES. In addition, Senate Resolution 9 provides for a procedure whereby if a committee wants to close a meeting, a vote must be taken in open session and recorded. Also, one of the exemptions in Senate Resolution 9 must be specifically cited as a reason.

Mr. President, the Senate has voted three different times to make its committee meetings open to the public with certain limited exceptions.

On March 20, 1974, the Senate agreed to an amendment to the new Budget Act by a vote of 55 to 26 to open meetings of the Senate Budget Committee to the public.

On November 5, 1975, the Senate defeated, by a vote of 16 to 77, a version by the Rules Committee to severely weaken Senate Resolution 9's attempt to open the meetings of the Senate committee to the public. Later that same day, the Senate unanimously agreed to Senate Resolution 9, without this weakening provision, by a vote of 86 to 0.

In addition, the House adopted a similar rules change and this now applies to conferences between the House and Senate.

Clearly the Senate has spoken about this standard of openness. Now we see a request which has the effect of shutting the public out of observing a committee's consideration of a most important Senate reorganization proposal, that is, the reorganization of the Senate committee system.

The reasons given were that this resolution is a housekeeping proposal and there is a deadline in order to report out.

Mr. President, we have seen the careful consideration by two Senate committees and the Senate as a whole on Senate Resolution 9. I sincerely feel that almost all of the membership of this body after working with this open meeting rule feels their conduct of the people's business has worked well.

To begin to, in piecemeal fashion, chip away at a rule which the Senate has unanimously adopted is a precedent that concerns me greatly in a time when the public's confidence in our Federal Government is not what we would like it to be. The Congress has responded to this credibility gap in the passage of Senate Resolution 9 and Senate 5, applying sunshine to the meetings of Federal agencies.

If we are to veer from the standard, the issue should be hit head on and we should consider Senate Resolution 9 and any amendments to it, but not take the tack of tearing down the standard in such a fashion.

Mr. President, I want to ask unanimous consent that the previous unanimous-consent agreement concerning the closing of the Rules Committee be vitiated.

The PRESIDING OFFICER (Mr. Metzenbaum). Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, I think I agree with what the Senator from Florida has said, particularly with respect to this particular measure. As a member of the Rules Committee, I might add for the RECORD that the Rules Committee met in closed session and a motion was made to open those markup sessions to the public. That motion carried. The meetings that have been held in connection with the markup of Senate Resolution 4 since last Friday, including meetings that were held yesterday and today, have been open to the public.

Mr. CHILES. I am delighted to hear that, and I am delighted to hear that a majority of the members of the Rules Committee would not vote to close their meetings. I still make this unanimous-consent request, because I do not think we should change from what we have adopted unanimously as a Senate rule, which sets exceptions that can be used if there is going to be a request and to make that change by unanimous-consent agreement when people are not notified.

Mr. GRIFFIN. Having voted in the Rules Committee to open the markup sessions to the public, I shall not object.

Mr. STENNIS. Mr. President, reserving the right to object. and I think I shall object, I know nothing about the matter to which the esteemed Senator from Florida is referring. I was not present when the unanimous consent was given. But I certainly would want the Senator from Nevada, the chairman of the Rules Committee, who made the request, as I understand it, to be here and have a chance to be heard on this matter if he desires. Under those circumstances, at least, I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. CHILES. Mr. President, I would like to say that certainly the Senator has the right to object, as any Senator does. I acknowledge he has that right to object.

The Senator from Florida was not here when the unanimous-consent agreement was requested last Friday. He was not notified nor, to my knowledge, was anyone else in the Senate notified. The Senator from Florida did sponsor Senate Resolution 5 and the other resolution which were unanimously adopted by this body which provided for the opening of meetings.

If we are going to have a situation where anyone can come to the floor at any time without notifying anyone and seek unanimous consent, we might as well not have that rule. It does not mean anything and there is no reason to have it on the books. I know of the great respect of the Senator of Mississippi for the rules of the Senate. For that reason and for others I wanted to make this request.

Mr. STENNIS. Mr. President, did the Senator say something for me to respond to?

Mr. CHILES. The Senator from Florida just said knowing the great respect of the Senator from Mississippi for the rules of the Senate I had made the request, but also out of my respect for those rules of the Senate. Does the Senator renew his objection?

Mr. STENNIS. Mr. President, the reason I gave is very plain. The Senator from Nevada. the man who usually has good reason for the things he says and does, is not here. As a courtesy to him.

I would continue to object until he is notified and says he does not wish to be heard or does not interpose any objection. The unanimous-consent that he obtained is the rule of the Senate until changed. That would be my position, with great personal deference to the Senator from Florida.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period of not to exceed 2 hours for the purpose of tributes to President Ford, with the time to be equally divided and controlled by the majority and minority leaders.

AUTHORITY FOR TRIBUTES TO PRESIDENT FORD TO BE PRINTED AND BOUND

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all Senators may have 10 days in which to insert their statements in the RECORD with respect to President Ford, and that such statements be kept together and bound and printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTES TO PRESIDENT GERALD R. FORD

Mr. ROBERT C. BYRD. Mr. President, August 1974 will be recorded as one of the most crucial and eventful periods in American history. During that month, for the first time since the birth of the Republic, one President resigned from office and an unelected Vice President ascended to take his place. It was a tragic time and a dangerous time. In many nations it might have been the occasion for armed bands to confront one another in the streets.

But not so in America.

I predict that historians will describe the last 2½ years in this Nation as an era of great civility between people. This period will be historic not because of a great war, civil disasters, or drastic upheavals. On the contrary, it will be important because it has been a time of respite, relief, and recuperation following the events that preceded it.

This judgment will be possible in no small measure because of the labor, efforts, and influence of President Gerald R. Ford.

President Ford has been to us an executive physician, as it were. He has soothed and healed the country, while restoring confidence in the integrity of the Presidency through his example of commonsense, consideration, religious faith, humility, and personal maturity. He has made it fashionable once again for the President of the United States to be seen as a man of real feelings and genuine humanity. This has made it possible for the ordinary man in this country to identify himself with his President. Moreover, President Ford's combined sense of humor and sense of dignity have allowed the citizens of the Nation to love and revere the man in the White House as any people must do if they are to willingly follow their leader.

This has been one of the most difficult Presidencies to serve since the War Between the States. Not only did President Ford comport himself well, but also, he did indeed make all of us proud of our Nation and her institutions. Through his quiet strength and unpretentious nobility, Gerald Ford has shown to the whole world once again the character that has made this the greatest Nation and civilization in the history of mankind.

Mr. President, when Governor Carter takes the oath of office in front of the Capitol on Thursday, another era in our national saga will come to an end. But when Mr. Ford departs the White House, he will not soon depart from our hearts. I forecast that he will become one of our best-loved citizens, and I hope that he will continue to contribute his wisdom and gracious spirit to our national life. I can assure him that all of his former colleagues in Congress look forward to his continued friendship, and we wish for him the highest joys that life can offer to a good man who has served his Nation so responsibly and unselfishly.

Mr. CRANSTON. Mr. President, I yield myself such time as I may consume.

Mr. President, just a week short of 38 months ago, I rose to support the nomination of Gerald R. Ford to be Vice President of the United States. His nomination was the first to come before the Senate under what I then called the "new and untested" 25th amendment to our Constitution. So, too, was Jerry Ford, from a national viewpoint, new and untested. Before voting on his confirmation, therefore, I held several hundred meetings and phone conversations with a wide variety of people in hopes of getting a deeper understanding of the man who was to become our Vice President, and, as it subsequently turned out, our President.

Mr. President, I am truly astonished, in retrospect, how well the perceptiveness, the wisdom, and the insight of the people I spoke to has proven out. They did indeed know Jerry Ford, his many strengths and his weaknesses. They advised me well, and in balance I made the right decision. It was made in good part on the advice I received from these many, many people, and also it was made in the light of my own personal knowledge of Gerald Ford, which was not immense at that time, although we had known each other for awhile.

These conversations with so many people, most of them Californians but not all, led me to these conclusions that I expressed on the Senate floor on Monday, November 26:

Speaking of the trauma of Watergate and its effect upon all of us, I said:

Out of all this, out of the strange and untoward events now transpiring in our America, I strongly sense that there may come not the dividing of Americans that has been feared, but a uniting of Americans that has not been foreseen.

And in an odd, unexpected, unpredictable way, Gerald Ford may serve as the catalyst for this * * * I think he will prove to be a man of solidity in a time of turbulence.

So, as a Democrat who must vote "aye" or "no" on a Republican nominee for Vice President who may very well become our President, I have come to my decision.

I vote for Gerald Ford with trust in his trustworthiness, with faith in his fairness, with sufficient confidence in his capability—and with great hope.

Mr. President, the record of Gerald Ford in bringing our country together through these trying times, has demonstrated, I think, the soundness of those conclusions of mine, conclusions that were shared by the Senate, and that are now shared by the country.

We have seen many expressions of this view of his tenure as President, of his custody of our Constitution and our freedom in the capacity that he has overall along with the other branches of Government, as President of the United States.

There have been great tributes to him as he leaves us as President. There was a most warm welcome to him when he came before the joint session a few nights ago in the other body.

I can think of no more fitting way for me to bid farewell to Gerald Ford, the President, and to welcome Gerald Ford, private citizen, and my new California constituent—I am delighted he will fly to California immediately after he leaves the White House and that he plans to reside in California—than to have printed in the RECORD at this point the report I made to the Senate November 26, 1973, on the results of my survey on the Ford Vice Presidential nomination.

I ask unanimous consent that this be done.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

CONSIDERATION OF NOMINATION OF GERALD R. FORD TO BE VICE PRESIDENT

Mr. CRANSTON. Mr. President, I rise to support the nomination of GERALD FORD to be Vice President of the United States. I will cast my vote for him.

Frankly, I am astonished to hear myself, a lifelong Democrat, support a Republican for Vice President of the United States.

We are living through an incredible time of unprecedented events, however. And so we in this Democrat-controlled Congress find ourselves, under this new and untested 25th amendment to our Constitution, doing what a Republican National Convention, and then the people themselves, would normally do in nominating and electing a Vice President.

Together, we in Congress share a unique and heavy responsibility—particularly in view of the present plight of the Presidency. I have not taken this responsibility lightly.

* * * * *

My own contacts with FORD have been casual and infrequent. I did have an encouraging experience recently when, on the emergency medical services bill that was primarily mine on the Senate side, he came through on a commitment he made to the House that the President would sign the measure, after an original veto, despite the fact that all but one of the several changes the President had demanded in the measure had not been made. This, however, only finally worked itself out a few days ago.

I set out, on my own, weeks ago, to learn all I could about FORD.

I have consulted very widely. I have held several hundred meetings and phone conversations with those I represent in California—and others elsewhere—who might shed some light on GERALD FORD. I have talked with colleagues of his of both parties in the House and with Senators who have served with him there or had reason to deal with him directly from here; with people of Michigan whom he represents; with men and women in other States who have crossed his trail, or observed him; and most of all with hundreds of Californians whose views I

thought would have particular value, and whom I phoned or visited with out there in the State in the past few weeks.

Californians I have consulted include business, labor, and civic leaders, Democrats and independent voters. I have consulted particularly with Republicans who, under normal circumstances, would have had a more direct role in considering the nomination of a member of their party for Vice President, and who would be most likely to know GERALD FORD, or to have information or insights about him. Among others, I talked with 56 of the 57 Republican county central committee chairmen, with leaders of the official and unofficial statewide GOP organizations in California, including the State chairman, Gordon Luce, and the national committeeman, Dr. William Banowsky. I discussed FORD with Gov. Ronald Reagan and other constitutional officers, and I sought the advice of the delegates to the 1968 Miami Republican National Convention. I also solicited the views of a large number of official and unofficial leaders of California's Democratic Party at the State and local level, including the State chairman, Assemblyman John Burton, the vice chairman, Charles Manatt, members of the national committee, and many county central committee chairmen.

Of all the people I consulted, only two Republicans and three Democrats spoke out strongly against FORD and urged his rejection.

Some Republicans, and a number of Democrats, said that they would have nominated someone else—but that, given the prevailing situation and the procedures available under the 25th amendment, all of them said they nevertheless favored approval of GERALD FORD.

A large number of the leaders of both parties, along with many others I spoke to, said they felt that FORD, considering the circumstances and the man, was just about the best choice that could have been made.

Not one person raised any question about GERALD FORD's honesty.

One prominent California businessman offered specific evidence of his integrity and good judgment. A wealthy Michigan industralist, who is a friend of his and of FORD's, concerned about FORD's modest income and standard of living, has several times offered to let FORD in on some legitimate real estate deals that seemed promising. Invariably, this man told his California friend, FORD politely and firmly declined.

Several Republican leaders, too, told me of personal experiences of their own involving financial contributions given to FORD to be transmitted to other Republican candidates. Their common conclusion was summed up by one, who said:

"The money was always handled scrupulously, always accounted for just the way the law required."

Explained another:

"Sometimes we simply gave Ford the money, and told him to pass it along to whatever congressional candidate he felt needed it most. He not only always reported back to tell us what he'd done with it, but he told us we could have the money back if we didn't like the candidates he'd picked."

Other comments on this aspect of the man:

A businessman who has dealt with FORD on legislation over the years:

"He's not an equivocator, or a liar, or a slip-around the corner guy."

A rural Republican county committee chairman:

"He's probably as straight a guy as I've known, or even known about, in politics."

Another of the same:

"I don't know him personally, but he seems like a right good man—appears honest. I sure hope he is."

Another:

"He seems straight. If a man isn't, you hear whispers. I've never heard any about him."

A Republican colleague of FORD's in the House, a Californian:

"He's so square, I'd be absolutely shocked and astounded if he'd ever done anything wrong."

An urban Democratic county committee chairman:

"Thank God he's got character, not charisma. We've had too much of the one, too little of the other. I like his low-key style, after all the high, shrill notes others have been striking."

I chatted about FORD with our former Republican colleague, Charles Goodell of New York, who was one of the leaders in the move that deposed Charles Halleck and propelled FORD to GOP leadership in the House, and who, ironically, was later a Senate victim of Spiro Agnew. Said Goodell about FORD:

"He's open, honest, decent, solid. You can believe him, even when you don't want to follow him. No arrogance. Reaches out for help. Comparisons to Truman has a ring of truth to them."

Early, when the many investigations of FORD had barely gotten underway, the plaintive hope that nothing bad was in his background to be turned up was reflected in the remarks of a Republican county committee chairman:

"My wife and I are terribly troubled by the whole situation. We just hope he checks out o.k. on his income taxes."

Another Republican official said at about the same time:

"He seems honest to me—but don't rush things because of the crisis. Make sure you know all there is to know about him before you act back there."

The only serious question voiced to me about GERALD FORD went to his competence—not to serve as Vice President but as President.

The general impression seems to be, both on the part of those who know him casually or who knew him only by hearsay or through impressions gained through the media, that FORD is something of a plodder—not brilliant not creative, but adequate, competent, reliable.

"I have a great sense of relief that it's FORD," said a very prominent Democrat in the State. "We could have had a terrible controversy over somebody else. He's very acceptable."

A leader of Republican women told me:

"In my opinion he, like many of us middle class Americans, works more for his country than his own personal ambition. He's not arrogant, and he works well with others."

A noted Democratic business leader in California:

"We know Gerry and Betty more socially than anything else. He's a straight shooter whom you instinctively trust; superb for this particular, tough situation. Re the allegations that he isn't bright, that's silly. He isn't scintillating or sparkling, but he's far from being a dummy."

A top Republican Party leader:

"I had some feeling of letdown when he was picked. I'd have preferred some more extraordinary person. There's nothing about him that causes me to be enormously enthusiastic—nor particularly negative."

Those who know FORD better than these tend to agree that he is no super-brain—but they generally give him him high marks for ability to work things out and get things done. "He's got a good bit of savvy," said one longtime FORD-watcher.

And, from these who have had direct opportunities to size him up in action—over the years or in brief but significant encounters—I picked up some fascinating, and encouraging, insights.

John McCone, Los Angeles industrialist who was head of the CIA in the Kennedy administration, told me that FORD has a penetrating, inquisitive approach to serious problems. In briefings, of congressional leaders during the Cuban missile crisis, he felt FORD had some sound intuitions, sensing there was "something more to it" than some supposedly well-informed officials in the executive branch originally believed to be the case. "FORD's cold, correct judgment about the nature of the missiles was proven sound," McCone told me. "The so-called experts were wrong."

David Packard, likewise a California industrialist, who worked with FORD two administrations later during President Nixon's first term, while serving as Undersecretary of Defense, used some of the same words to convey much the same impression:

"A good, steady hand . . . responsible . . . solid insights . . . thoughtful . . . I'd put faith in his experience."

Marvin Watson, the Texan who was in the White House with Lyndon Johnson and who now practices law in Los Angeles and Washington, observed FORD often in congressional liaison sessions, and recalled:

"He was quiet and reserved in those meetings; straight in negotiations; never offered compromises, but didn't oppose them, either. He supported foreign policy, opposed domestic policy. He was fair, although a couple of times his speeches on the House floor after a White House session annoyed us. No question about his integrity. Good organizer."

Other comments in this category:

A Republican woman leader in California who has known FORD for years:

"A native intelligence—not a schooled "intellectual." Horsesense."

Another Republican woman in the State:

"He's modest and humble, and we need some of that. We've had all too much, for all too long, of people who think they know it all, of leaders with limitless confidence in their own superiority who lead us into unlimited nightmares."

A former chairman of the Republican Party in California:

"The fact that he's been in politics and government so long should make him a real plus for this administration. The President's had too many people around him with no political experience."

He then recalled the story about Sam Rayburn, Lyndon Johnson, and the bright and brilliant people President Kennedy brought down to Washington, when the Speaker supposedly said:

"They may be mighty intelligent, Lyndon, but I'd feel a lot better about them if one of them had run for sheriff once."

A prominent educator:

"He seems to respect representative government. If he becomes President, he won't develop a God-like, dictator-like complex."

Former Senator William F. Knowland:

"I had a very favorable impression during the thirteen and a half years we were there together. He's got his feet on the ground. He knows the issues—you've really got to learn them you know, in those leadership roles."

A Republican county committee chairman, one of many who have become acquainted with FORD in the course of constant travels across the country to speak on behalf of GOP congressional candidates:

"Not brilliant, but a sound, solid citizen who'll do the best he can."

A nationally known figure who was behind him at Yale Law School:

"He's a real Eagle Scout. As bright as many people who've served as Vice-President, and a heck of a lot brighter than some Veeps."

Time and again, Charles Goodell's point about Ford "reaching out" to others for help was stressed. A conservative Californian who was until recently a colleague of Ford's in the House, H. Allen Smith of Glendale, told me he supported Halleck against Ford in the struggle that made Ford minority leader.

"But he surprised me afterwards. Always straightforward, always consulted—consulted everybody. "What about this?" he'd ask. "What about that?" Always listened. Never gave orders. Works terribly hard, endlessly. Has a great memory. You can trust him as far as you can trust anybody."

"Why'd you oppose him?" I asked.

"Only because I was close to Halleck in those days, and barely knew Ford."

I did get a strong negative from one prominent aerospace-defense executive in California, a Republican who has seen something of Ford in business-government relations. Said he:

"There's nothing wrong with him. Also, there's nothing right with him. He's not the kind of guy I'd hire to get a job done. He's a non-entity."

Most people, by now, seem to have heard about the caustic comments Lyndon Johnson allegedly made about Ford, particularly the one about playing football too often without a helmet.

One Republican I conferred with turned that football background right around, however. He said:

"Things might be better if Richard Nixon had made that Whittier football team. Thank God, Gerald Ford made the Michigan team. He's strong, and he knows it. He's tough, and he knows it. He won't have to prove his manhood—and I'm not thinking only about Nixon when I say that. Look at his predecessor. Thank God, too, that Ford wasn't a quarterback. He knows he doesn't know all the answers."

And a Republican county committee chairman from the Mother Lode said:

"I've been impressed with Jerry Ford since I saw him play football in the East-West Shrine Game."

Gerald Ford's record on the issues was the major point of controversy that I encountered—primarily among Democrats but also, to a mionr degree, among Republicans.

It was on the basis of his voting record—and mainly on civil rights issues—that the few Democrats opposed to Ford urged that he be rejected. Only one black leader with whom I spoke urged that he be turned down for that reason, however.

"I disagree with him 100 percent on the issues," said a Democratic candidate for governor. "But we've got no choice, under this new Amendment. We can't expect Nixon to pick anybody with a Democratic voting record. And he could have done worse. Remember how, after Haynsworth was defeated, he tried to give us Carswell?"

A leader of the volunteer California Republican Assembly suggested, in the conceivable context of a Ford presidency, that he would be better than President Nixon on domestic matters—"through his experience in grappling with them over so many years in the House"—but that he would be weaker on foreign policy; "so I'm relieved by his apparent respect for Henry Kissinger and the prospect that he'd keep him as Secretary of State."

A Republican conservative delegate to the Miami convention:

"I'd have preferred somebody with a position more to the right. But he's o.k. I'd put him slightly to my left—which may please you!"

A local Democratic leader:

"He's sure been a Nixon supporter, and he was bad on the war—but he's honest, people can believe in him, so I hope he's confirmed."

A labor leader:

"He's got a terrible voting record on the COPE charts—but I think you have to approve him."

Several Republicans, and a few Democrats, cited Ford's support of GOP Congressman Pete McCloskey's successful bid for reelection last year—despite his strong opposition to President Nixon and to the Vietnam War—as evidence of a broad-gauged, unprejudiced attitude on Ford's part. "I'm all for him," McCloskey himself told me. And, apropos of Ford's support of the Vietnam War all through the Johnson and Nixon years, a liberal, anti-war Democrat who serves in the House, said:

"Sure he was a hawk, but a lot of hawks learned a lot out of the Vietnam tragedy, and I think one of them was Ford. Don't forget that it was Ford who finally negotiated Nixon's acceptance of the cutoff date that ended our combat role in the war."

The hope that Ford was just the man to improve relations between the executive branch and Congress was expressed by a great many people of all political persuasions and philosophies. "If I had to pick one threat out of the quilt," said a county supervisor, "it would be how timely it is to have Ford emerge on the national scene. The confrontation between the President and the Congress is deep and dangerous, and maybe Ford can do something about it. President Nixon was very wise to pick him."

Quite a few with whom I consulted, some in agreement with Ford on the basis of his voting record and some in disagreement, felt that it was impossible to judge him on the basis of that record.

"His sense of responsibility, of duty, as Republican leader in the House, explains his support of Nixon's program. It is not fair, or accurate, to size up his philosophy solely on that basis. It does not necessarily reflect his views," said one Republican, expressing a view voiced by several others and by a couple of Democrats as well.

Other Democrats expressed concern that Ford simply seemed to swallow whole whatever program Richard Nixon laid down. But John Veneman, former Republican assemblyman, who came to HEW as Under Secretary to Bob Finch, and who encountered Ford every now and then on legislative matters, told me:

"He had more than an average grasp of HEW-type issues. I found him very pragmatic—not at all a hard liner. Eager to weigh the merits. He wouldn't just take the White House line because somebody called him up from down there. A very key point about him is that he has a good staff—seems to know how to size up people and select assistants very well."

A remarkably restrained and fair comment—one that might surprise foes of OEO's legal services program—came from a young services program—came from a young attorney who has worked in that program in Gerald Ford's congressional district:

"He really represents that district of his. That district would distrust anybody who was innovative, and throw out anybody who was liberal. So his voting record doesn't necessarily reveal his real beliefs. I'll be watching to see if, there's any change when he gets away to a national base, like there was in Lyndon Johnson—on domestic issues—when he was liberated from his Texas base. I wouldn't expect as dramtic a change in Ford, yet I'd be surprised if there wasn't some change."

Incidentally, I was struck during my canvas of so many citizens that no one—no Republican, no Democrat, no labor leader, no minority group leader, no civil rights activist, no attorney—no one ever raised the issue of Ford's abortive effort to impeach Justice William O. Douglas, let alone suggested that as a reason to vote against him.

A shrewd and seasoned Democratic leader in California, who has great experience in national politics, expressed the same theme about Ford and his District in these words: "The papers in Grand Rapids—Ford's hometown—are ultra-conservative. Their influence on Ford will diminish now."

And how thoroughly Ford, indeed, does represent his district was described by a Saginaw banker who was queried about Ford by a leader of one of California's Republican organizations.

"He communicates constantly with people here in the district, the banker said. He understands our problems and tries hard to solve them. His leadership responsibilities in the House may have something to do with the fact that he's never gotten any nationally significant bills of his own through Congress. But he's never been too busy to pay attention to our needs. He's never overlooked us."

Actually, far and away the best comment on the issues aspect of Gerald Ford came, I think, from our own Democratic colleague from Michigan (Mr. HART), when he said:

"I have known Gerry Ford for many years. During that time we have often disagreed, but I have never had reason to doubt his integrity and his sincerity. As for his voting record. I suspect he views mine in about the same light I view his, and in this period of swift change only the foolhardy offers his own voting record as a standard of wisdom and consistency."

Thinking back now upon all the varied views of Gerald Ford I have absorbed, I find I am most of all impressed by what seems to me to be an almost startling concensus of conciliation that is developing around him.

Virtually if not totally unknown to many of those with whom I have spoken until he burst so suddenly and so recently into their consciousness, Gerry Ford has come into focus as someone who appears to offer the Nation a steadiness and a dependability for which it yearns.

I doubt if there has ever before been a time when integrity has so surpassed ideology in the judging of a man for so high an office in our land.

I have never before found so many Democrats so universally and utterly devoid of partisanship when giving their measure of a Republican leader.

I have never before found so many Republicans so free and frank in discussing and dissecting, with a Democrat, their own leaders as they affect the future of their party and our Nation.

Many of these conversations, of course, branched out beyond Gerald Ford to Richard Nixon, the Congress, the courts, the Constitution, the country.

The possibility of a Ford Presidency was always implicit, often explicit. No Democrat urged that Congress hold up FORD in hopes of instead landing CARL ALBERT, Democrat, in the White House. Many spoke out strongly against that course, including the State Democratic chairman and vice chairman, John Burton and Charles Manatt. "That would be taking partisan advantages of a national crisis," was a common comment. "It would be breaking trust to try to put a Democrat in," said John Henning, executive secretary of the State AFL–CIO.

A Republican deleagte to Miami ended our conversation by asking with a chuckle:

"Will you call up to ask my views when Ford submits his vice-presidential choice to Congress?"

Out of all this, out of the strange and untoward events now transpiring in our America, I strongly sense that there may come not the dividing of Americans that has been feared but a uniting of Americans that has not been foreseen.

And, in an odd, unexpected, unpredictable way, GERALD FORD may serve as the catalyst for this.

"I feel comfortable about him," was said to me three times in three separate conversations, repeated in those exact words, once by a Democrat, once by a Republican, once by one whose party affiliation is unknown to me.

GERALD FORD may seem bland and uninspiring to those whose tunnel-vision politics is limited to a compulsion for the charismatic leader. But I think he will prove to be a man of solidity in a time of turbulence.

GERALD FORD may not, however, be a man for all seasons. He will need the prayers, the guidance, the help of all of us if history forces him into the Presidency.

On the issues, FORD described himself in his testimony before the Rules Committee in words I might use if I sought to describe myself. He said he's "conservative in fiscal affairs, moderate in domestic affairs, internationalist in foreign affairs." I am sure my definitions would differ quite deeply in detail in all three categories, but FORD's self-analy-

sis did offer me, too, a sense of reassurance—and compatability.

So, as a Democrat who must vote "aye" or "no" on a Republican nominee for Vice President who may well become our President, I have come to my decision.

I vote for GERALD FORD with trust in his trustworthiness, with faith in his fairness, with sufficient confidence in his capability—and with great hope.

GERALD FORD—A GREAT PRESIDENT, A GOOD MAN

Mr. DOLE. Mr. President, the date was June 28, 1787, and our national leaders were gathered in Philadelphia in an atmosphere of rancor, dispute, and doubt. The Constitutional Convention had been underway for some time and events had come to such a pass that the very future of our young experiment in democracy was in doubt.

On that day, Benjamin Franklin—then a very old man—rose and offered a motion that henceforth their deliberations begin with prayer. In introducing that motion, he made this statement. He said:

I have lived, Sir, a long time, and the longer I live the more convincing proofs I see of this truth, that God governs in the Affairs of Men.

On the eve of our celebration of 200 years of success with our experiment in democracy, this Nation again found itself in an atmosphere of rancor, dispute, and doubt. Our country was not in danger from without, but from within. Our confidence in ourselves as a people and in our basic institutions of government was gravely affected. In that hour of national necessity, America saw again proof that God governs in the affairs of men.

The Constitution created back in 1787 proved equal to our need, and for that we were grateful and perhaps even a little astonished. The world at large was even envious.

Those same events gave us a man whose inherent human gifts captured and reflected back upon us our own historical vision of the goodness of America and reminded us of what we had always believed ourselves—and, in adversity, proved ourselves—to be.

As prayer created the proper environment for the birth of our Constitution, so prayer supported the first President created, not by popular franchise, but by constitutional mandate.

He did not ask for a hundred days, or even a thousand days. He promised no great crusades, and announced no new national purpose. His own request, majestic in its simplicity, was as old as our Republic and as sincere as the heart of America.

"You have not elected me President with your ballots," he told our people, "so I ask rather that you confirm me as President with your prayers." And the American people did so.

If it is true that the Almighty rules in the affairs of men, and I believe it is, then we cannot say that Gerald Ford was an accidental President. Rather he was a providential President.

A FORCE FOR NATIONAL UNITY

Jerry Ford did not awaken strong emotions in the American people. Some saw that as a weakness in him. Many more now understand what a monumental strength it was and is. For strong emotions do not unite a nation; they divide it. And we needed to be united. Jerry Ford never played on our fears and weaknesses. He appealed not to faction, but to faith. He asked not for partisanship, but for patriotism. He called upon our courage and our strength.

While some would dig about in the fires of our recent past for the ashes of disgrace and despair, Jerry Ford lifted out the flame of national redemption. He came to office on the heels of 15 years of war, waste, and Watergate and put an end to the hemorrhaging of our national self-respect. He rekindled the spirit of America in our national life and in our hearts.

If he had done that and nothing more, history would count him as one of our great Presidents. But he did do more.

Today we are at peace not only in our hearts; we are at peace in the world, and likely to remain so, for the work of this strong man. Our economy has been stabilized and the groundwork laid for a new prosperity as a result of his prudence. We are able to embark on new and uncertain paths with assurance, as a result of his wisdom.

THE FORD LEGACY

On a personal note, let me say that I shall always be grateful for the honor of having been Jerry Ford's running mate in the election of 1976. While the Republican ticket did not prevail, it would greatly stretch the meanings of words to say that Jerry Ford lost. He cannot be said to have lost when we look to the fact that he has created a legacy of stability, integrity and dignity of which his successor must now strive to be worthy.

In 2 short days, he will leave the high office which he restored and ennobled just as he came to it—with our prayers. For the President, for a First Lady whose strength and courage and warmth both he and our Nation relied upon, and for their wonderful family, our prayer is that they may have long years of good health, of prosperity, and of happiness.

President Ford has promised us that he will continue to be active in our national life, and for that we are profoundly grateful. He was there when America needed him, and he will continue to be there. And America will continue to need him.

So, to our 38th President, we say: God bless you, God speed you, and thank you.

Mr. BAKER. Mr. President, few of our Nation's leaders have been regarded with more affection and respect than President Gerald R. Ford, whose good sense and sound judgment guided us through one of the most troubled eras in our history.

Thrust into the Presidency at a time when public confidence in government leaders and institutions had reached the lowest point in decades, he succeeded, as much on the strength of his personality as his program, in restoring trust and changing the mood of the Nation from one of cynicism to one of confidence and hope. I know of no public figure who could better have effected this turnabout, and I believe that the Nation will value this achievement and this President increasingly in the years ahead.

The 29 months of the Ford Presidency have been characterized consistently by openness, courage, and a willingness to seek new solutions to the pressing problems of the Nation. He has traveled throughout the world in an effort to achieve peace and stability in the Middle East, improve relations with China and the Soviet Union, and strengthen our bonds of friendship with our European allies. As his Presidency draws to a close, Americans are at peace with the world, and are free of military involvements in foreign nations for the first time in many years.

President Ford has managed to maintain a friendly and cooperative relationship with a Congress dominated by the other party, the majority party—compromising with the Congress where compromise would further the goals of reducing inflation and easing the burden of Government intrusion into the lives of Americans. He has, however, had the courage to firmly veto measures he judged inconsistent with those goals; and most of his vetoes have been sustained. The result of this combination of firmness and compromise has been significant progress toward stable economic growth, paving the way for further growth in the months ahead.

Another of the great benefits the Nation has derived from President Ford's tenure in office has been the work and example of the First Lady, Betty Ford, whose candor, grace, courage, and charm have won the hearts of many millions of Americans, including this Member of the Senate.

While I regret that Jerry Ford's tenure in this term as President is now at an end, I anticipate his continued active involvement in political and national affairs and his further contributions to the Nation. I know that we will benefit from his 28 years of experience in public service, his commonsense, and his intrinsic goodness for many years to come.

Mr. President, I wish to take this occasion to express my goodwill, my warm affection, and my gratitude to the President and his family and particularly to wish Mrs. Ford health and happiness as she and the President return to private life.

Mr. STEVENS. Mr. President, in 2 days this Nation will be changing leadership, a process so common, so accepted, that it has become a part of the American life, a part of the governing process. Yet, throughout the world such orderly and peaceful transition of power is the exception rather than the rule. This Nation's people and its leaders can well be proud of the cooperative and cordial changing of the guard that is currently taking place.

Much of the credit for this exemplary transition is owed in great part to President Gerald Ford. This Nation's capital is full of comment and praise of President Ford for the gracious manner in which he has extended his cooperation to the incoming administration. It is well known that this is one of the more cooperative and cordial transitions in the history of the Nation. This fact is not surprising to those of us who know and cherish the friendship of the person who currently occupies the White House. He has been a great leader, he has set the example, he has brought this Nation together and has offered to the American public the quality of leadership

which will, if followed by all in public office, restore public confidence in this Nation's leaders.

There have been many words said, many statements published, regarding Gerald Ford. Most have alluded to the absolute honesty and integrity which permeates his entire character and his quarter century of public service. Honesty, integrity, openness and character have always been a mark of Gerald Ford's public career.

My good friend from the House, Congressman JOHN RHODES, was absolutely correct when he stated to the effect that when they made Gerald Ford they broke the mold. No President has ever had his public and private life so closely scrutinized, investigated, and researched as Gerald Ford. Few people could have come out of this investigation as clean and untouched by even a hint of a scandal as did Gerald Ford. His public service is one almost impossible to duplicate; yet, if this Nation's leaders are to restore faith in the American public for its governmental institutions, we must all strive to emulate Gerald Ford's record. His honesty, integrity, character, and openness is a legacy we must all try to keep alive.

It is my firm hope that President Ford will return often to Washington—we know he will have an office here—for we will want his advice and I know the Members of this body on both sides of the aisle will listen to his words closely as they have always done in the past.

Ann and I join with millions of Americans in wishing President and Betty Ford the very best in their future endeavors.

Mr. CURTIS. Mr. President, throughout the time it was my privilege to serve in the House of Representatives with President Ford and the time that it was my privilege to serve here in the Senate when he was the Presiding Officer, as well as when he was President, I have been proud to know that man.

Last Friday morning I got off the plane at Omaha, Nebr., and started to drive out to my home, I saw a sign for the first time announcing the exit on the interstate that one takes to go to the birthplace of Gerald R. Ford.

As a Senator who represents in part the State where our President Ford was born, I have a special reason for paying tribute to him today.

I believe that President Gerald Ford is going to be treated very well by the historians. When enough time has elapsed that we are able to look with more clarity and more perception, it is my prediction they are going to find that one of the great Presidents of our Republic was President Ford.

I shall read the words of the resolution which is offered by myself, Senators BAKER, TOWER, STEVENS and HANSEN, because I think it is fitting that we turn our attention to it:

Whereas, Gerald R. Ford, our 38th President; has now completed more than 34 years of service to the Government of the United States, comprising almost four years in the Navy during World War II, 25 years in the House of Representatives, ten months as Vice President and Presiding Officer of the Senate, and two and one-half years as President; and

Whereas it is agreed that when Gerald R. Ford became President he entered office in a unique manner in the most trying of circumstances; and

Whereas President Gerald R. Ford restored the sense of national trust and honor that is essential to the governmental process; and

Whereas President Gerald R. Ford earned and won respect for his integrity and his steadfastness and the entire Nation was strengthened; and

Whereas President Gerald R. Ford leaves his office with a Nation rebuilt and ready to move forward; and

Whereas our friend and leader Gerald R. Ford leaves the political stage with the gratitude of all Americans secure in the knowledge he was the right man for the right job at the right place: Now, therefore, be it

Resolved, That the United States Senate recognizes the outstanding contributions made by President Ford to this Nation, commends him for the manner and integrity with which he carried out his responsibilities, and wishes him Godspeed in his new and active life.

Provided further, that the Secretary of the Senate is hereby directed to send a copy of this Resolution to the President of the United States.

Mr. President, in a brief time on this floor, none of us can enumerate all the fine things that ought to be said about President Ford.

Historians will apply themselves to that task for a long time and the more they apply themselves, the taller will President Ford stand.

President Ford vetoed about 55 bills passed by the Congress—I believe it was 55. I happen to agree with those.

I am convinced that our economy was saved by the vetoes of President Ford. I think he served our country in doing what he thought best for our economy. I believe that he did save us as a Nation from many mistakes and possible disaster by reason of those vetoes.

But any of us who have been engaged in politics knows that every time a President vetoes a bill there is a block of voters—there is one group and maybe many groups—who are very disappointed. Oftentimes those champions of a cause are very militant, and if we add threescore of those groups together they combine a mighty force in a national election.

Here is a man who stood by his convictions, vetoed all of those measures and then came within 8,000 votes of winning the electoral vote to be elected President.

Mr. President, my prediction is that this history is going to have something kind to say about Gerald R. Ford. I believe as they delve into the life of this good and great man and see what he did in unselfishly standing by his convictions to steer this country aright, that the image he will have will be that of a great and good man and that he will become taller in the public mind as the years go by.

I commend him on one of the most remarkable and unusual careers in American politics. I wish to him and to Mrs. Betty Ford and all their family a future that is filled with more good things than they dare hope or expect at this time.

A President wins when the country wins. The country has benefited by the service of this man, who placed his convictions and love of country and his concern for what was good for this country above all else. I praise him, and I salute him.

Mr. STENNIS. Mr. President, President Gerald Ford, when he came to the White House, had qualities about him based on public service on Capitol Hill, by which he had the confidence of all of his colleagues, so far as I know. Even when dealing with him as President, there was one thing that was common to the conversation, the points made, the arguments even made here on the floor by everyone, that they had confidence in the man. I believe he would rather have that said about him, as anyone would, than a great many other things added together that could be said, particularly when it has such a solid foundation with respect with everyone who dealt with him and knew him.

It was that quality that made him respond in such a fine way to the circumstances in which he became President. I do not believe anyone ever came into that office who had more to carry on such short notice and did it in such a willing, fine way. He did his very best, took a stance based on these qualities that generated confidence, which means character and obligation to duty.

He proved again, in this very troublesome time, without special preparation, his great usefulness during these 25 months or so. Under the facts and circumstances, it is a record that will continue to contribute to the strength of our Nation, and I believe that in the future it will continue to shine, based on these qualities and others, and bring strength and inspiration to youth and example to many others who follow. My good wishes go with him as he pursues his journey further.

Mr. SCOTT. Mr. President, I thank the leadership of the Senate for providing this time for Senators to pay their respects to our outgoing President. Many of us have known Jerry Ford when we could openly call him by his first name. Many of us served with him in the House of Representatives and voted for his confirmation as Vice President under the 25th amendment to the Constitution in November of 1973. The Committee on Rules at that time made a searching inquiry into Congressman Ford's public and private record. They were satisfied that he was a man of integrity and one who would not abuse the powers and perogatives of his public office. At that time my own comments on his nomination concluded with the opinion that he would be an excellent Vice President, a healer of wounds, a man of wisdom, fairness and trust. We did not know that he would soon be elevated to the Presidency of the United States. However, I believe that he leaves office with the respect of the American people for the manner in which he conducted himself during the time he was our President.

As Senators know during the recent election, Virginia was the only Southern State which gave its electoral votes to President Ford, and perhaps this makes it fitting for the principal newspaper in Richmond, our State capital, to editorially commend him for his contribution to the Nation's welfare. It refers to an excerpt from his recent state of the Union message which reads, "taken in sum, I

can report that the state of the Union is good. There is room for improvement as always, but today we have a more perfect union than when my stewardship began."

The editor expresses the opinion that "without a doubt the Union is in far better condition than Mr. Ford found it, and he is largely responsible for that fact. For the contributions that he made to the Nation at one of its darkest hours, this dedicated man deserves a special place in history and in the hearts of his countrymen."

I ask unanimous consent to have the editorial printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. SASSER). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SCOTT. I invite the attention of the Senate to the closing paragraph:

The day may come when most Americans will realize that this exceptional man was right about the economy, right about social spending, right about defense and right about the Nixon pardon. Time may eventually produce a consensus that Gerald Ford was *right* for America. We are among those who believe even now that he was, and he has our profound gratitude and best wishes as he returns to private life.

Mr. President, I have considered Congressman Ford, Vice President Ford, and President Ford as a friend, as a just and a good man and certainly want to add my deepest respects and best wishes to him and Mrs. Ford as they return to private life. I express the hope that in the years to come, he will continue to contribute to the welfare of our Nation.

EXHIBIT 1

[From the Richmond (Va.) Times-Dispatch, Jan. 16, 1977]

FORD'S CONTRIBUTION: MORE PERFECT UNION

In his final address to Congress last week, President Ford confidently declared:

"Taken in sum, I can report that the state of the Union is good. There is room for improvement as always, but today we have a more perfect union than when my stewardship began."

A more perfect union. This is a fitting summary of the achievements of the Ford administration. Without a doubt the Union is in far better condition than Mr. Ford found it, and he is largely responsible for that fact. For the contributions that he made to the nation at one of its darkest hours, this dedicated man deserves a special place in history and in the hearts of his countrymen.

Gerald R. Ford, whose political ambitions apparently had never extended to the White House, entered the presidency in August of 1974 under adversities unlike any that had ever before plagued a new chief executive. For the first time in history, both a president and vice president had resigned in disgrace; and the executive branch of the government, littered with the wreckage of Watergate, was in disarray. That scandal and the Vietnam war, one of the most unpopular and frustrating conflicts this nation had ever become involved in, had disillusioned and embittered the American people. Inflation raged, and, to make matters worse for him, the nation was beginning to slide into its worst recession in four decades.

Mr. Ford immediately faced the formidable tasks of salvaging the presidency, expunging the bitterness from the public mood, restoring the faith of the American people in their government and guiding the nation back to economic health. And all this he had to do without a vote of confidence from the people, for never had he submitted himself or his philosophy to the test of a national election. Both the vice presidency and the presidency he entered, of course, by appointment. Nor could he count on the cooperation of Congress, controlled by Democrats who had little sympathy for the Republican President's views on the role of government. They maintained this attitude, as Mr. Ford courageously reminded them Wednesday night, throughout his administration.

Gerald Ford proved to be ideally qualified for his challenging mission. The personal qualities that he brought to the presidency—candor, sincerity, humility, friendliness and conspicuous integrity—constituted the soothing balm the troubled country needed. He quickly gained the nation's respect, and he retains that respect today. Despite his defeat in November, Mr. Ford will be remembered as one of the most admired men who ever occupied the White House.

President Ford's political philosophy and sense of responsibility also were ideal for the times, though many Americans failed—and fail even now—to see this. A thoroughly dedicated American, he demonstrated more than once that he placed the welfare of his country above political considerations.

This quality led him to pardon former President Richard Nixon. Mr. Ford's motive for this controversial act, he has often explained, was not to do his predecessor a favor but to hasten the nation's recovery from the troubles that beset it. Regrettably, Mr. Nixon's resignation had not calmed the passions aroused by Watergate, for there were those who wished to pursue the man into retirement and bring him into court for trial and punishment, a process that surely would have inflamed the nation's wounds. At the outset of his administration, Mr. Ford found that disputes about Mr. Nixon's future and other Watergate matters were consuming most of his time, time that should have been devoted to Vietnam, the declining economy and other urgent matters. The quickest and most effective way to correct this debilitating situation, Mr. Ford concluded, was to pardon Mr. Nixon. For this, he has been excoriated, but the nation has benefited by his bold action.

Mr. Ford's abiding dedication to America's welfare shaped the policies of his administration. He might have increased his political popularity by advocating major government spending programs to stimulate the ailing economy, but he knew these to be dangerous cosmetics that ultimately could make matters worse. It would be far better for the nation, he was convinced, to minimize government intervention and to rely primarily upon the forces of free enterprise to correct the economy's troubles. And for this, he was accused of being insensitive to the needs of the unemployed.

Persistently and sharply, Mr. Ford questioned the value of many of the giant federal social programs that his Democratic predecessors had initiated, knowing that they imposed a heavy burden upon American taxpayers and threatened the dignity and freedom of individuals. Time after time, he boldly used his veto power to thwart unnecessary or extravagant proposals that emerged from Congress. For all this, he was accused of being insensitive to the needs of the poor.

Gerald Ford's cautious approach to the nation's economic and social problems lacked the spectacularity that pyrotechnical government programs tend to possess, and the public has given him far less credit than he deserves. The fact that the rate of inflation has dropped by half since the start of his administration, the fact that the nation is being lifted from the recession primarily by the power of private enterprise and the fact that this country is far happier than it was two years ago all tend to prove the basic soundness of his philosophy of government.

The day may come when most Americans will realize that this exceptional man was right about the economy, right about social spending, right about defense and right about the Nixon pardon. Time may eventually produce a consensus that Gerald Ford was *right* for America. We are among those who believe even now that he was, and he has our profound gratitude and best wishes as he returns to private life.

Mr. GRIFFIN. Mr. President, Gerald Ford did not seek the Presidency. But at one of the darkest hours in our history, he was there to restore honor, decency and trust to the White House.

Gerald Ford is, and has been, a man of principle. In many ways, he has been a Truman, a Vandenberg, and a Taft rolled into one. Like those men, he has been a strong partisan. But in times of national crisis and need, he put partisan considerations aside to meet the crises confronting the Nation.

Jerry Ford is, and has been, a humble man. Perhaps that characteristic became most apparent when he acknowledged to the American people—and to himself—that he is a Ford, not a Lincoln.

Gerald Ford is, and has been, a man of the people. I agree with a mutual friend—the President's counsel, Phil Buchen—who was quoted recently as saying that President Gerald Ford "maintains the common touch, relates to people as much as he did as a Congressman, and is easy going in the way he treats people."

After taking the oath of office in August 1974, President Ford closed his remarks to the American people by saying,

I now solemnly reaffirm my promise . . . To uphold the Constitution, to do what is right as God gives me to see the right, and to do the very best that I can for America.

God helping me, I will not let you down.

Jerry Ford did not let us down.

Indeed, I am convinced that he has earned a place in history as one of the greatest Presidents ever to have served the people of this country.

Recently a London correspondent, Brian Dunning, wrote an article reflecting on Jerry Ford's years as President, and I would like to read from it:

FORD RESTORED RESPECT FOR U.S. ABROAD

(By Brian Dunning)

LONDON.—Now that some of the dust is settling, permit this non-American to tell you something which needs saying.

Gerald Ford has been a very great President and your decision not to elect him was a beautiful piece of historic justice. With the benefit of distance and hindsight, it is now obvious that this "good and decent man" was never destined to secure by the vote an office which he acquired by the turn of events over which neither he nor you had any control. The fact that he so nearly made it is irrelevant. What matters is that he achieved his place in history without having to win anything. To have made him a winner would have been to deny the qualities which made Gerald Ford unique and memorable.

I have a clear recollection of what you Americans were like just three short years ago. In case you have forgotten, I will tell you. There was a general cynicism so thick and cloying as to be almost suffocating. Americans had become obsessively sour and disillusioned—not simply with politicians but with, so it seemed, life itself. It was a mood of sullen resentment which had been building up for a long time and Europeans like myself found it both worrying and dis-

tressing. We did not enjoy the prospect of your United States wallowing in self-destruction, rolling in ashes, nervously twitching, and holding your national embarrassment aloft like a ragged banner.

We were sick and tired of Americans parading their shame before us. We were sick and tired of Americans apologizing. We were sick and tired of Americans clad in the rags of Watergate, Vietnam, the CIA, Spiro Agnew and Chappaquiddick. It was terrible. It was more than terrible: It was endless and destructive. Americans had become a nation of introverted bores, perpetually ramming down our polite throats your alleged failures, shortcomings, misdemeanors, tragedies, scandals, defeats, immoralities, miseries, stupidities and fears. You scared the pants off your friends and brought enormous joy to your enemies.

I can still recall a newspaper article over here written by an American whose name is best forgotten, although it remains well known. The article was headed: "Why I Am Ashamed of My Country." It was brilliant, vitriolic and lucid. And it turned my stomach.

That was three years ago. A thousand days. It could just as easily be a thousand years. The difference between then and now is the real achievement of Gerald Ford—and don't you forget it.

Those of us who cherish and admire the United States and what it stands for owe that man a debt of gratitude beyond evaluation. It is wholly unimportant that occasionally he was clumsy. It matters not one jot that he sometimes said the wrong thing. It is supremely insignificant that once in awhile he mixed up his geography or messed up his protocol or slipped on the aircraft steps.

It is even more superfluous to point out that his policies were not always successful or that he was at loggerheads with Congress or that he presided over a recession. Only one thing really matters—that he restored some of the old good humor and native confidence of you Americans.

I detect little cynicism these days, Boredom, perhaps—but not cynicism, I meet no Americans who boast of being ashamed of their country, I encounter no sackcloth, no ashes and certainly no general guilt for events which are water under history's bridge.

Americans are inclined to forget the profound desire of Europeans that the United States should be happy and idealistic. The vision of a contented Republic runs very deep in the trans-Atlantic mind. We celebrated the Bicentennial with (I suspect) more passion than yourselves because the concept of America has always meant so much to so many in the narrower lands of the Old World.

Simply by being himself, Gerald Ford returned America to its proper course instead of allowing it to drift into the wilderness. He completed the miracle without being elected to do it. No victory at the polls would have allowed him to improve what he had already accomplished, Mr. Carter, and all of you and all of us, can start with a clean sheet. Thank you, Mr. Ford. We non-Americans think you were swell.

There is a twist of irony, Mr. President, in the fact that many of his critics among the columnists and editorial writers have recently discovered what a great President Gerald Ford is and has been.

I am convinced that historians for many years in the future will continue to say that here was a good man, a great President.

I ask unanimous consent that a number of articles be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 16, 1977]

THE PRESIDENT THE COUNTRY NEEDED

(By David S. Broder)

In an odd, inexplicable way, the truth has begun to dawn on people in the final days of Gerald R. Ford's tenure that he was the kind of President Americans wanted—and didn't know they had.

After a decade of presidential excess, they wanted a man of modesty, good character, honesty and openness. They wanted a President who was humane and prudent, peaceable but firm. Especially, they wanted one uncorrupted by the cynicism and lust for power that they had come to associate with Washington politicians.

Jimmy Carter's campaign was the successful projection of these idealized qualities of the post-Watergate President. It was also a series of promises—to reform the government, end bureaucratic waste, provide an energy policy, curb the nuclear arms race, cure unemployment, etc.

How well President Carter measures up to these character tests and how many of his goals he achieves remains to be seen.

But Gerald Ford—even while acknowledging in his last State of the Union address and in a series of valedictory interviews his disappointments in the fields of economics, energy and governmental reform—gave people a quiet reminder that he has been exactly the kind of personality they prayed to find in the presidency.

He did so in a variety of ways, large and small, not least of which was his demonstration of equanimity in the face of his first—and any politician's greatest—defeat. Both The Washington Post and the New York Times headlined the fact that Ford was "at peace" with himself and his fate, as if that were remarkable for a departing President.

And, of course, it is. Two of his three most immediate predecessors had left the White House as political exiles; the third had been murdered.

Ford leaves on a tidal wave of good will of which the cheers in the House chamber the other night were vocal testimony. As he recalled in his farewell interview with The Post, he had originally planned to wind up his public service this January by making the 94th Congress his last as the representative from Grand Rapids.

As it works out, he is leaving only 17 days "behind schedule," having served 29 months as President and with the country the better for his service.

He leaves with the nation at peace, the international scene as tranquil as it is ever likely to be, and the American people more united and confident than at any time in a decade.

Some of that is luck. Some of it is the healing effect of time on the scars of Vietnam and Watergate. But Gerald Ford also leaves the presidency itself healthier than he found it, and that is because he thought hard about what was needed there—and did it.

Take, for example, the matter of the President's relationship to his Cabinet. One central aspect of the "imperial presidency" was the subordination of Cabinet officers to the arrogant whims of the White House staff.

Jimmy Carter has talked a great deal about his desire for strong, autonomous Cabinet officers, and in the final days before his takeover, was still trying to determine what kind of White House staff arrangements would encourage that decentralization of decision-making.

Yet, as James E. Connor, Ford's staff and Cabinet secretary, pointed out to a visitor the other day, almost no one has noted the extent to which Ford himself already demonstrated how to solve that problem.

Yet it is a fact that the outgoing Cabinet has been spared interference from officious White House staff members either in their departmental decisionmaking or in their access to the President

Ford cured this ill by quite conscious, shrewd strategies. He required, for example, that no communication from a Cabinet member to the President could be delayed more than five days for White House "staffing." If the staff comments weren't ready in that time, the Cabinet member's paper went into the President's reading file on its own, rather than being pigeonholed endlessly in the White House bureaucracy.

Ford himself set the example for devolution of decision-making. In the face of heavy pressure to bring all major issues to the White House, he insisted, for example, that the Secretary of Transportation should decide the Concorde landing-rights question and that the Attorney General handle the government's response to Boston's antibusing violence.

In these, and other ways equally important, he demonstrated in practice the virtues of which Carter spoke.

Oddly, neither he nor his advocates made much of this fact in the recent campaign. But Gerald Ford can leave office with some confidence that history will record that he was, in truth, the President the country needed at this time and knew that it wanted even by another name.

[From the Washington Post, Jan. 6, 1977]

THE FORD YEARS

"At no point has he shown a keen or impressive grasp of the complexities of hard questions. Pedestrian, partisan, dogged—he has been the very model of a second-level party man. It is no accident that over his quarter-century of unremarkable service in the House, he has never been put forward for the presidency. . . ." So we spoke in this space a little over three years ago upon learning that Gerald Ford was about to ascend to the office of Vice President. We do not cite our despondent appraisal because we think it was on the money, but rather because we think it was not. Having been forced to replace his Vice President, and being in not-so-secure condition in office himself, Richard Nixon had just informed a waiting world that Gerald Ford was the one. Frankly, it did not occur to us that Gerald Ford was also the right one.

But we were wrong, he was. The President who will leave office this week brought precisely the needed temperament, character and virtues to the high offices he has temporarily held. These qualities are regularly subsumed under the familiar general heading of "decency," a word that does indeed fit the man. What is so revealing about the times in which we live—and the horrendous political circumstances surrounding Mr. Ford's accession to office—is the vaguely condescending way in which this particular tribute is paid to him: Well, you have to admit he is a decent human being . . . or . . . Don't get me wrong. Of course, I think he's a decent person . . . and so on. Decency, in this context, becomes as an attribute something roughly comparable to good posture or punctuality. How odd that so few of us have been willing to acknowledge that decency in the White House can be regarded as a luxury or a bonus or a fringe benefit only at our peril.

It is central. And its absence was central to the sorrows this country endured in the years preceding Mr. Ford's presidency. In his first days and months, it was as if he had liberated Washington—from its personal fears and hostilities and suspicions, from the dark and squalid asumptions that people had come reflexively to make about one another and about the way things "really" worked. God knows who was (and is) still listening in on whose line or who is plotting what gruesome revenge against what political foe. Our point is merely that Gerald Ford brought to the White House an open, unsinister and—yes—decent style of doing things that altered the life of the city and ultimately of the country.

We have found many of the President's programs and positions (and lack of both in some cases) dismal news indeed. But that is yesterday's laundry list. Our summing up of the Ford presidency draws us only to the overriding legacy he leaves.

Will this city under the Carter Democrats be able to preserve that political and personal civility that Gerald Ford did so much, so unexpectedly, to revive? The Carter administration, more activist and energetic, we would guess, than its predecessor, faster-paced, more intellectually self-certain and combative, is almost by nature destined to put some of these homely but hard-won virtues at risk. We can only hope the new administration will understand their indispensability. Mr. Ford has left it an incomparable gift in the detoxified political atmosphere of the pace and the institutions it is about temporarily to inherit.

The outgoing President has also done a great deal for the honor of his party, although you wouldn't necessarily know it to listen to the samurai-like grunts and howls coming out of the struggle for party control. But Gerald Ford did in fact redeem the Nixon moral disaster. His two-and-a-half years gave point and purpose and respectability to the efforts of those innumerable straight-arrow Republicans who had come to work in Washington and who had been let down, in fact betrayed, by their own White House. And the exceptional quality of most of Mr. Ford's own high level appointments—John Paul Stevens, Edward Levi, William Coleman, to name just a few—went a long way to erase the memory of earlier indictment and disgrace.

We will leave it to others to tote up the pluses and minuses of the Ford administration in strict program and/or policy terms. We can frankly do without reviewing it ourselves. We think it is enough to point out that Gerald Ford had an all but impossible assignment—and that he did a hell of a job.

[From the Washington Post, Jan. 16, 1977]

FORD LOOKS TO THE GOP FUTURE

(By Joseph Kraft)

Jerry Ford came to praise himself—and not to bury the Republican Party. He had a strong personal case to make, and he made it effectively in his third State of the Union message. If he exaggerated some, it was for the benign purpose of holding open the door to an eventual Republican comeback.

The undoubted accomplishment of the Ford presidency was the recovery of national morale. The White House, the main institutions of government, and the very concepts of national security and political authority had been used for criminal purposes by President Nixon. Ford reversed that degradation of the democratic process.

He personally exemplified truth, openness and affection for other Americans. He democratized the White House and appointed independent persons of rare quality to the highest offices. He delegated authority widely, including the authority to sit in judgment of his own actions. He kept faith with the Congress, even in the midst of the debacle in Vietnam.

Probably no other man in American public life could have played the role he played—the role, if I may mix the plays somewhat, of Laertes to Nixon's Iago. All Americans are in his debt. If, as he said Wednesday night, the state of the union is more perfect, it is due in large measure to the innate goodness of Jerry Ford.

Ford also staked two claims that require more careful inspection. He spoke of the "recovery from the recession and our steady return to sound economic growth." He said growth was "now continuing after the recent period of uncertainty, which is part of the price we pay for free election."

But recent economic growth has been neither sound nor steady. Growth is moving at about 4.5 per cent per year, which means that unemployment will stay well over 6 per cent for a long, long time. The recovery, which looked so robust at the turn of the year, suddenly went flat during the past summer and fall.

Against that background, Ford's claim that the recent economic slowdown is "part of the price we pay for free elections" seems very curious. The implication is that Jimmy Carter's campaign rhetoric caused businessmen and consumers to lose confidence, thus precipitating the economic pause. Which is very special pleading, indeed.

Equally doubtful are Ford's pronouncements on defense. He did, to be sure, arrest the steady drop in military spending—but mainly on the motion of former Defense Secretary James Schlesinger.

The shipbuilding program Ford developed is a chaotic mess that commits big money to the huge surface vessels that are especially vulnerable to the new equipment in the Soviet air and naval forces. Military sales abroad were made on an indiscriminate basis by private contractors who are only now being brought under the control of the Defense Department. Far from arranging for a steady American buildup, Ford showered the Pentagon with more funds than even the free-spending brass have been able to dispense smoothly.

Almost certainly Ford emphasized those controversial points because of party politics. The Republicans have lost the White House and been weakened in the Congress and in their recently developed Southern base. Inevitably a rebuilding period is required, and presumably the rebuilding will have to take place at the state level—in Illinois where a Republican governor has just taken over; in Pennsylvania where a Democratic split makes a good opportunity; and in California, which might soon wise up to the superficial intellectualism of Jerry Brown.

Meanwhile, the party needs a national focus. Economic and defense policy are probably the best rallying points against the Democrats, and the stance taken in those areas by Ford is a model of enlightenment when set against the views of the party conservatives. It ought not to be forgotten that Ford ran so well against Carter thanks in large measure to a well-nigh brilliant campaign.

So two cheers, at least, are in order for Jerry Ford as a Republican. He has not—to reverse Goldsmith's judgment of Burke—rendered unto mankind what was meant for party.

[From the New York Times, Jan. 13, 1977]

THE FORD YEARS

When Gerald R. Ford became President of the United States in August 1974 he faced uniquely difficult circumstances. Earlier Presidents had faced worse dangers such as war or economic catastrophe. But Mr. Ford entered the Presidency when the office itself had been stricken by disabling cynicism and doubt. The Watergate scandals and the repeated deceptions used to cover them up had frayed the invisible bonds of confidence that tie the Presidency to other institutions of Government and to the people. Mr. Ford's primary task was to protect those injured ties against further harm and, if possible, by his conduct in office, to strengthen them.

The President's farewell State of the Union message last evening marked the end of the Ford years. He stressed themes that have preoccupied him, including military strength, the dangers of inflation and the importance of national unity. But rescuing the Presidency was his central task. We are grateful that he recognized it and largely succeeded in it.

President Ford not only renewed public faith in the integrity of the Presidency but he also restored a sense of calm and dignity to the entire public scene. Jimmy Carter will have an easier time of it because of the kind of President that Gerald Ford has been.

His personality was Mr. Ford's main asset in the task of healing and renewal. He is a naturally candid, friendly, forthright man with admirable emotional balance. He has borne criticism in a good-humored, impersonal way. It is not surprising that he hung Harry Truman's portrait in a place of honor in the White House. Not since Mr. Truman has there been a President who so nearly embodied and expressed what Americans think of as their typical virtues.

Mrs. Ford and the Ford children played unexpectedly important parts in returning the White House to a sense of normality. Betty Ford not only expressed her own interests in dance and the arts but also proved a candid and articulate figure with her outspoken comments on premarital relationships, marijuana and abortion. She shares fully in the President's achievement.

These personal qualities sustained President Ford in the aftermath of his most disputed action—the decision to pardon Richard Nixon without obtaining any statement acknowledging guilt. He may have paid dearly for that decision if, as some argue, it cost him the election last November. Regardless of the consequences, Mr. Ford recouped much ground by his readiness, unprecedented among modern Presidents, to explain and defend his action in Congressional testimony.

President Ford's conservative philosophy aided him in his central task of restoring public confidence. He had no mandate to undertake strong initiatives of policy or program. Fortunately, he had the good sense of the true conservative to perceive this fact of life. He scuttled any remaining efforts of the Nixon Administration to repeal New Frontier and Great Society legislation by the impounding of funds or other short cuts. He tried to be and generally was a constitutional President.

Mr. Ford sent out some confusing signals about his intentions or aspirations. But they usually derived from the public relations ideas of his advisers rather than from his own bedrock convictions. Mr. Ford was no crusader for civil liberties. He had no real desire to transform the normal conduct of Government business to make it more open and accessible to press and public. Despite his call for prompt enactment of a national health insurance program in his first address to Congress, he had little interest in reorganizing the delivery of health care in this country.

Basically, Mr. Ford believed that government is best when it governs least. One of his favorite sentences was a restatement of a Nixon theme: "The government that is big enough to give you everything you want is big enough to take away everything you have." There could be much worse philosophies for a government's taking office in a time of trauma. It made for dullness but it also made for safety—and safety was the public's first requirement.

Yet Mr. Ford's easygoing personality and passive conservatism were also the sources of his political undoing last autumn. He never persuaded the public that he was fully in charge or keenly determined to lead the nation toward specific objectives. The President and his associates responded to crises as they arose and tried to manage them as best they could with the least possible disturbance to the status quo.

If Mr. Ford had enjoyed the good fortune to preside over the nation's affairs in quiet times, his style of cautious crisis management might well have sufficed. But it was his misfortune that the worst economic recession in 40 years set in as his Administration was taking hold. Unemployment rose sharply and is still hovering around 8 percent. Fearing that a program of vigorous economic stimulus would lead to inflation, he followed too conservative a course.

The problems of the older cities likewise reached a breaking point during the Ford years. Ultimately, the Ford Administration fumbled its way to a partial response to these

many difficult problems, but the President's initial negative attitude was what lingered in the public memory.

The recession and the urban crisis hurt most Americans to some degree, but their effects hit hardest at the poor and blacks and other minorities struggling to break free from generations of second-class citizenship. Mr. Ford, although kind and sensitive in his personal relationships, seemed to suffer from a failure of the imagination when it came to envisaging and responding to these large-scale human hardships. As minority leader of the House of Representatives, he had been stone-deaf to the civil rights revolution of the 1960's. He carried this failing into the White House, where his statement on the Boston school busing dispute and other racial controversies showed a curious lack of sympathy for the victims of discrimination.

Finally, Mr. Ford inherited the unsolved energy shortage from his predecessor. Nowhere did he and his associates look worse than on the energy front. Their predominant impulses to trust market forces and to minimize Government intervention conflicted with those of the Democratic-controlled Congress to intervene aggressively. The result was a continuing muddle.

The sudden collapse of South Vietnam, the continuing crisis in the Middle East, and other foreign problems also pressed in on Mr. Ford. But since even more than most Presidents he shared the burdens of foreign policy with his Secretary of State, the diplomacy of recent years should be examined separately.

The concentration of economic, urban, and energy problems kept the Ford Administration continuously under pressure and on the defensive. For a full year, Ronald Reagan's candidacy added a political danger and contributed to a sense of strain and disarray. President Ford finally overcame the challenge within his party and very nearly overcame his Democratic opponent in November.

His political comeback was both a testament to America's innate conservatism and a tribute to his own durable personal qualities. Mr. Ford today enjoys the respect and affection of his fellow citizens. Moreover, he leaves the country in better shape than he found it. Those two achievements may seem modest, but they eluded several of his more brilliant predecessors. Mr. Ford has a right to take satisfaction from them.

[From the Wall Street Journal, Jan. 14, 1977]

A PRESIDENT'S GOODBYE

Jerry Ford's parting State of the Union message was noteworthy for two things: the truth in his observation that the nation is in better shape today than when he came to power in 1974; the equal validity of his admonitions to the Congress about its own failures.

The fact that Mr. Ford could honestly report that the state of the union is good owes very little to Congress. He had, after all, vetoed 24 bills last year and it is safe to say that had he not done so, the nation would be facing a more serious danger of renewed inflation than it now faces. The economic recovery and steady expansion of jobs that are occurring as Mr. Ford leaves office owe much to his success in getting inflation under control.

Mr. Ford might well have said goodbye to his old workplace of 25 years—where he still has many friends in both parties—in a spirit of benign forgetfulness of the failings he has perceived from his White House perspective. It is a mark of his character that he chose instead to tell that body that if the federal government is to be reformed under a President of either party, the process must begin with a reformed Congress.

He took pains to observe that the legislative bureaucracy has been expanding rapidly while the federal executive has been contracting and the judiciary remains seriously undermanned. The 535 men and women he was primarily addressing now cost the taxpayers over $1 billion a year in legislative branch operating costs.

While the President did not belabor the point, Newsweek recently estimated that legislative bodies at all levels pass some 150,000 new laws every year, which along with administrative regulation are threatening to drown the country in legalities.

There are serious questions to be asked whether the elected representatives in Washington still control the legislative mill or whether the combined power of the anonymous, non-elected and permanent staff bureaucracy of both the executive and legislative branches has become the dominant force in government. Some recent bills have suggested the latter in their length, complexity and in the sleeper provisions that seemed to surprise many Congressmen themselves after they learned what they had voted for. An example was the provision in the 1,500-page tax bill that will raise taxes so sharply for many Americans working overseas for U.S. companies as to make it impossible for them to retain their jobs.

Increasingly, the legislative bureaucracy is going public instead of working in the shadows of Congressmen. A Senate staff director was recently quoted extensively in the Times with acid criticisms of what he sees as soft federal regulation. "Perhaps the government and the corporations it is supposed to regulate are simply following the Golden Rule—whoever has the gold makes the rules," said this presumptuous spokesman for the United States Congress.

Mr. Ford complained that Congress had sidetracked most of his efforts to consolidate overlapping programs and agencies, to return more decision-making and responsibility to state and local governments and to "eliminate unnecessary red tape and outrageously complex regulations."

The President generously observed that Congress has made some efforts toward better control—the congressional budget process, for example. But he also made it clear that he will continue to be, out of office, a critic of the pervasive and pernicious spread of law and regulation. Over the next four years, it will be less easy for Congressmen to blame the problem on the "Imperial Presidency."

Mr. MATSUNAGA. Mr. President, I rise to join my colleagues in paying tribute to President Ford who will be leaving office in 2 days.

When the nomination of Gerald Ford came before the House of Representatives for confirmation to the Office of Vice President, I was one who took to the floor of the House and urged my colleagues to vote for confirmation on that nomination, little knowing at that time that shortly thereafter Gerald Ford, a Member of the House of Representatives, then to be confirmed as Vice President, would be elevated to the highest office in the land.

Gerald Ford will go down in history as one who brought back trust in Government among the people of this Nation.

He was a man who kept his word. I served with Jerry Ford in the House of Representatives for 11 years, and during that period I had occasion to ask of him for support of bills intended for the benefit of my home State of Hawaii. Whenever Jerry Ford gave his word he kept it. It was because of this one quality that when his nomination was up for confirmation before Congress I believe Democrats as well as Republicans all joined unanimously to confirm his nomination.

I had the pleasure of traveling with Jerry Ford when he was Vice President to Hawaii. After he was placed into that office I met him in the hallway over in the House of Representatives when he was visiting there, and he said:

Sparky, I am going to Hawaii next week. Do you want to go with me?

I said:

Certainly. I would like to get a free ride definitely.

He said:

Okay. Fine. We will give you the details later.

Subsequently I received a call from him, and he said:

Sparky, you know I asked you to go with me to Hawaii, but I am told now that the trip is being paid for by the Republican Party and, therefore, objections have been raised to my taking you on that trip. However, Sparky, I gave you my word. You be down at the airport and I will take you with me.

He gave me the details as to when I should report at the airport. I did in accordance with the agreement report to the airport, and he took me on board. When we arrived in Honolulu there were the Republican leaders, and one of the Republican Party leaders came up to me and with amazement written all over her face said:

How did you ever get on this plane?

It was on Air Force II, but then the Republican Party had paid for that trip.

That is the kind of man Gerry Ford was and is.

It is certainly fortunate that at the time in the wake of Watergate we had a man like Jerry Ford to take the helm of our ship of state.

So I join my colleagues in wishing him the best that life can hold for him as he leaves that high office and becomes private citizen Jerry R. Ford.

Thank you very much.

Mr. ALLEN. Mr. President, President and Mrs. Ford have left a mark on the Nation, and it is a good mark. He came to the Presidency when our Nation was torn asunder, when we were demoralized, when we were polarized, and when we were badly divided.

He helped restore public confidence in Government. He put an end to the so-called Imperial Presidency. He brought the Presidency down to Earth, among the people. He is a man of honor, courage, ability, character, and great strength. And I express my admiration for this great man and for the accomplishments of his administration.

America is at peace today. More people are at work today than ever before in our history. There is a good feeling throughout the land. And as I have watched administrations in their time and have looked back into history I have never seen an administration that has gone out with the popularity and the good wishes of the people of America to the extent that this administration is going into history.

On Sunday, there were three articles in the Washington Post, one an editorial, one an article by the brilliant and highly respected David S. Broder, and another article by the equally brilliant and highly respected Joseph Kraft. All of these writings were high in their praise of President Ford. I would daresay that

this is the first time that three such articles have appeared on two pages of the Washington Post concerning Mr. Ford in the entire period of his service as President.

I was particularly intrigued by the article by Mr. Broder. He said this:

In an odd, inexplicable way, the truth has begun to dawn on people in the final days of Gerald R. Ford's tenure that he was the kind of president Americans wanted—and didn't know that they had.

That is a remarkable tribute to President Ford.

I recall a similar story or article that I read as a boy. It was a short story by Hawthorne, entitled "The Great Stone Face." In the mountains of New England, according to the story, there was a great stone face, made out of the natural formation of the rock there on the mountain. And in the valley there was a young boy who looked up each day at the great stone face and he saw in this great stone face great attributes, attributes of firmness, high quality, and character. He kept looking for a person who did look like the great stone face and that would have these great attributes of character. From time to time as he grew into manhood, into middle age, and then on into old age he saw several people come on the scene. Each time as to someone who had great success he would say, well, surely this is the great stone face, but each one of these individuals exhibited shortcomings of character, and he determined that that individual was not the one. It was not until he reached old age that the other residents there in the community finally recognized that this boy who now had grown to manhood and old age, who had been looking for someone who looked like the great stone face and embodied the great principles of character that he saw in this great stone face, that this boy, now grown old, did himself look like the great stone face and that he did have the character that was embodied in this outcropping of rock there on the mountain.

That is what Mr. Broder seems to be saying, that all the time, according to Mr. Broder, we did have the kind of President that the people wanted, just as in the story of the Great Stone Face, the boy was himself the personification of the Great Stone Face.

Mr. Kraft's article has this to say:

The undoubted accomplishment of the Ford presidency was the recovery of national morale.

I skip down:

He personally exemplified truth, openness and affection for other Americans. He democratized the White House and appointed independent persons of rare quality to the highest offices. He delegated authority widely, including the authority to sit in judgment of his own actions. He kept faith with the Congress, even in the midst of the debacle in Vietnam.

Probably no other man in American public life could have played the role he played.

But the most remarkable of all three articles is the editorial in the Washington Post, which reads in part:

The President who will leave office this week brought precisely the needed temperament, character and virtues to the high offices he has temporarily held. These qualities are regularly subsumed under the familiar general heading of "decency," a word that does indeed fit the man. What is so revealing about the times in which we live—and the horrendous political circumstances surrounding Mr. Ford's accession to office—is the vaguely condescending way in which this particular tribute is paid to him:

It goes on in that vein, ending up by saying that Gerald Ford had an all but impossible assignment and that he did a great job.

Mr. President, I ask unanimous consent that these three articles be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1, 2, and 3.)

Mr. ALLEN. It is a pleasure for me as an Alabama Democrat to pay tribute to President Gerald R. Ford and Mrs. Betty Ford, who have done an outstanding job as President and First Lady. The American people, as I see it, do hold them in high regard and truly regard them as people whom they love and trust.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Washington Post, Jan. 16, 1977]

FORD LOOKS TO THE GOP FUTURE

(By Joseph Kraft)

Jerry Ford came to praise himself—and not to bury the Republican Party. He had a strong personal case to make, and he made it effectively in his third State of the Union message. If he exaggerated some, it was for the benign purpose of holding open the door to an eventual Republican comeback.

The undoubted accomplishment of the Ford presidency was the recovery of national morale. The White House, the main institutions of government, and the very concepts of national security and political authority had been used for criminal purposes by President Nixon. Ford reversed that degradation of the democratic process.

He personally exemplified truth, openness and affection for other Americans. He democratized the White House and appointed independent persons of rare quality to the highest offices. He delegated authority widely, including the authority to sit in judgment of his own actions. He kept faith with the Congress, even in the midst of the debacle in Vietnam.

Probably no other man in American public life could have played the role he played—the role, if I may mix the plays somewhat, of Laertes to Nixon's Iago. All Americans are in his debt. If, as he said Wednesday night, the state of the union is more perfect, it is due in large measure to the innate goodness of Jerry Ford.

Ford also staked two claims that require more careful inspection. He spoke of the "recovery from the recession and our steady return to sound economic growth." He said growth was "now continuing after the recent period of uncertainty, which is part of the price we pay for free election."

But recent economic growth has been neither sound nor steady. Growth is moving at about 4.5 per cent per year, which means that unemployment will stay well over 6 per cent for a long, long time. The recovery, which looked so robust at the turn of the year, suddenly went flat during the past summer and fall.

Against that background, Ford's claim that the recent economic slowdown is "part of the price we pay for free elections" seems very curious. The implication is that Jimmy Carter's campaign rhetoric caused businessmen and consumers to lose confidence, thus precipitating the economic pause. Which is very special pleading, indeed.

Equally doubtful are Ford's pronouncements on defense. He did, to be sure, arrest the steady drop in military spending—but mainly on the motion of former Defense Secretary James Schlesinger.

The shipbuilding program Ford developed is a chaotic mess that commits big money to the huge surface vessels that are especially vulnerable to the new equipment in the Soviet air and naval forces. Military sales abroad were made on an indiscriminate basis by private contractors who are only now being brought under the control of the Defense Department. Far from arranging for a steady American buildup, Ford showered the Pentagon with more funds than even the free-spending brass have been able to dispense smoothly.

Almost certainly Ford emphasized those controversial points because of party politics. The Republicans have lost the White House and been weakened in the Congress and in their recently developed Southern base. Inevitably a rebuilding period is required, and presumably the rebuilding will have to take place at the state level—in Illinois where a Republican governor has just taken over; in Pennsylvania where a Democratic split makes a good opportunity; and in California, which might soon wise up to the superficial intellectualism of Jerry Brown.

Meanwhile, the party needs a national focus. Economic and defense policy are probably the best rallying points against the Democrats, and the stance taken in those areas by Ford is a model of enlightenment when set against the views of the party conservatives. It ought not to be forgotten that Ford ran so well against Carter thanks in large measure to a well-nigh brilliant campaign.

So two cheers, at least, are in order for Jerry Ford as a Republican. He has not—to reverse Goldsmith's judgment of Burke—rendered unto mankind what was meant for party.

EXHIBIT 2

[From the Washington Post, Jan. 16, 1977]

THE PRESIDENT THE COUNTRY NEEDED

(By David S. Broder)

In an odd, inexplicable way, the truth has begun to dawn on people in the final days of Gerald R. Ford's tenure that he was the kind of President Americans wanted—and didn't know they had.

After a decade of presidential excess, they wanted a man of modesty, good character, honesty and openness. They wanted a President who was humane and prudent, peaceable but firm. Especially they wanted one uncorrupted by the cynicism and lust for power that they had come to associate with Washington politicians.

Jimmy Carter's campaign was the successful projection of these idealized qualities of the post-Watergate President. It was also a series of promises—to reform the government, end bureaucratic waste, provide an energy policy, curb the nuclear arms race, cure unemployment, etc.

How well President Carter measures up to these character tests and how many of his goals he achieves remains to be seen.

But Gerald Ford—even while acknowledging in his last State of the Union address and in a series of valedictory interviews his disappointments in the fields of economics, energy and governmental reform—gave people a quiet reminder that he has been exactly the kind of personality they prayed to find in the presidency.

He did so in a variety of ways, large and small, not least of which was his demonstration of equanimity in the face of his first—and any politician's greatest—defeat. Both The Washington Post and the New York Times headlined the fact that Ford was "at peace" with himself and his fate, as

if that were remarkable for a departing President.

And, of course, it is. Two of his three most immediate predecessors had left the White House as political exiles; the third had been murdered.

Ford leaves on a tidal wave of good will, of which the cheers in the House chamber the other night were vocal testimony. As he recalled in his farewell interview with The Post, he had originally planned to wind up his public service this January by making the 94th Congress his last as the representative from Grand Rapids.

As it works out, he is leaving only 17 days "behind schedule," having served 29 months as President and with the country the better for his service.

He leaves with the nation at peace, the international scene as tranquil as it is ever likely to be, and the American people more united and confident than at any time in a decade.

Some of that is luck. Some of it is the healing effect of time on the scars of Vietnam and Watergate. But Gerald Ford also leaves the presidency itself healthier than he found it, and that is because he thought hard about what was needed there—and did it.

Take, for example, the matter of the President's relationship to his Cabinet. One central aspect of the "imperial presidency" was the subordination of Cabinet officers to the arrogant whims of the White House staff.

Jimmy Carter has talked a great deal about his desire for strong, autonomous Cabinet officers, and in the final days before his takeover, was still trying to determine what kind of White House staff arrangements would encourage that decentralization of decisionmaking.

Yet, as James E. Connor, Ford's staff and Cabinet secretary, pointed out to a visitor the other day, almost no one has noted the extent to which Ford himself already demonstrated how to solve that problem.

Yet it is a fact that the outgoing Cabinet has been spared interference from officious White House staff members either in their departmental decisionmaking or in their access to the President.

Ford cured this ill by quite conscious, shrewd strategies. He required, for example, that no communication from a Cabinet member to the President could be delayed more than five days for White House "staffing." If the staff comments weren't ready in that time, the Cabinet member's paper went into the President's reading file on its own, rather than being pigeonholed endlessly in the White House bureaucracy.

Ford himself set the example for devolution of decision-making. In the face of heavy pressure to bring all major issues to the White House, he insisted, for example, that the Secretary of Transportation should decide the Concorde landing-rights question and that the Attorney General handle the government's response to Boston's anti-busing violence.

In these, and other ways equally important, he demonstrated in practice the virtues of which Carter spoke.

Oddly, neither he nor his advocates made much of this fact in the recent campaign. But Gerald Ford can leave office with some confidence that history will record that he was, in truth, the President the country needed at this time and knew that it wanted, even by another name.

EXHIBIT 3

[From the Washington Post, Jan. 16, 1977]

THE FORD YEARS . . .

"At no point has he shown a keen or impressive grasp of the complexities of hard questions. Pedestrian, partisan, dogged—he has been the very model of a second-level party man. It is no accident that over his quarter-century of unremarkable service in the House, he has never been put forward for the presidency. . . ." So we spoke in this space a little over three years ago upon learning that Gerald Ford was about to ascend to the office of Vice President. We do not cite our despondent appraisal because we think it was on the money, but rather because we think it was not. Having been forced to replace his Vice President, and being in not-so-secure condition in office himself, Richard Nixon had just informed a waiting world that Gerald Ford was the one. Frankly, it did not occur to us that Gerald Ford was also the right one.

But we were wrong, he was. The President who will leave office this week brought precisely the needed temperament, character and virtues to the high offices he has temporarily held. These qualities are regularly subsumed under the familiar general heading of "decency," a word that does indeed fit the man. What is so revealing about the times in which we live—and the horrendous political circumstances surrounding Mr. Ford's accession to office—is the vaguely condescending way in which this particular tribute is paid to him: Well, you have to admit he is a decent human being . . . or . . . Don't get me wrong: Of course, I think he's a decent person . . . and so on. Decency, in this context, becomes as an attribute something roughly comparable to good posture or punctuality. How odd that so few of us have been willing to acknowledge that decency in the White House can be regarded as a luxury or a bonus or a fringe benefit only at our peril.

It is central. And its absence was central to the sorrows this country endured in the years preceding Mr. Ford's presidency. In his first days and months, it was as if he had liberated Washington—from its personal fears and hostilities and suspicions, from the dark and squalid assumptions that people had come reflexively to make about one another and about the way things "really" worked. God knows who was (and is) still listening in on whose line or who is plotting what gruesome revenge against what political foe. Our point is merely that Gerald Ford brought to the White House an open, unsinister and—yes—decent style of doing things that altered the life of the city and ultimately of the country.

We have found many of the President's programs and positions (and lack of both in some cases) dismal news indeed. But that is yesterday's laundry list. Our summing up of the Ford presidency draws us only to the overriding legacy he leaves.

Will this city under the Carter Democrats be able to preserve that political and personal civility that Gerald Ford did so much, so unexpectedly, to revive? The Carter administration, more activist and energetic, we would guess, than its predecessor, faster-paced, more intellectually self-certain and combative, is almost by nature destined to put some of these homely, but hard-won virtues at risk. We can only hope the new administration will understand their indispensability. Mr. Ford has left it an incomparable gift in the detoxified political atmosphere of the place and the institutions it is about temporarily to inherit.

The outgoing President has also done a great deal for the honor of his party, although you wouldn't necessarily know it to listen to the samurai-like grunts and howls coming out of the struggle for party control. But Gerald Ford did in fact redeem the Nixon moral disaster. His two-and-a-half years gave point and purpose and respectability to the efforts of those innumerable straight-arrow Republicans who had come to work in Washington and who had been let down, in fact betrayed, by their own White House. And the exceptional quality of most of Mr. Ford's own high level appointments—John Paul Stevens, Edward Levi, William Coleman, to name just a few—went a long way to erase the memory of earlier indictment and disgrace.

We will leave it to others to tote up the pluses and minuses of the Ford administration in strict program and/or policy terms. We can frankly do without reviewing it ourselves. We think it is enough to point out that Gerald Ford had an all but impossible assignment—and that he did a hell of a job.

Mr. SCHMITT. Mr. President, it is with great pleasure that the first time I address this body is to join with you in commemoration and praise of President Ford.

The other Members of this body have certainly known the President and his life longer than I. My very first meeting with them was in the White House on the occasion of the television coverage of the launch of the Apollo-Soyuz mission. I had the unique opportunity to discuss that mission with them and to spend about 30 minutes discussing not only our activities in space but also many and varied issues of the day. Then, on a second occasion, I met with the President in the company of a number of senatorial candidates and found once again there was visible to all of us not only great understanding of the national and international issues of the time, but a great compassion for not only his fellow man living today, but those who are not yet born, who have only the future to look forward to.

It was on these occasions that I found the President had one of the broadest grasps I had been exposed to in areas such as foreign policy, defense, the economy of the Nation and the world; that very critical issue of our energy policy or lack of same, and, from my own parochial point of view, a great grasp, understanding and long support for our activities on the frontiers of space, a great understanding for the potential that is out there for this Nation and for mankind.

As a matter of fact, I found that President Ford knew more about New Mexico politics at that time than I did. I will give him credit, along with many others, for having encouraged me to enter the very important field of human endeavor in a free democracy such as ours.

I also noted upon entering the White House that there was an atmosphere that was very much the atmosphere of Jerry and Betty Ford. It was an atmosphere of friendliness, of cooperation, of helpfulness, and of genuine American quality.

I think we all realized the other night when President Ford made his most recent state of the Union address that we not only heard a beautiful expression of the meaning of a career in public service and a call to others to become involved in such service, but we heard a direct challenge to ourselves to become active and to take steps toward the future in areas in which we all know we must work—in energy, in our defense, and in our very steady progress toward permanent stability in the Nation's economy.

These are directions that, if we all are willing to search our conscience, we know are sound directions.

President Ford provided us with a President in name, in fact and indeed at a time when this was so desperately needed. His lovely wife Betty provided us with a First Lady in name, in fact and in deed, far more than we could ever have asked. For this, I am sure everyone

would agree we say thank you, and for this we say Godspeed. Thank you, Mr. President.

Mr. HAYAKAWA. Mr. President, I would like to add a word of appreciation for President Ford.

He has been severely criticized for his pardon of Richard Nixon, but it seems to me it was a very, very wise thing to have done. If Mr. Nixon had been brought to trial our country would have been in convulsions and in dispute for years thereafter. Instead of all that, President Ford was wise enough and compassionate enough to put a stop to all of that at that moment with his pardon. It was a brave, bold, and compassionate thing to do. I just want to put into the RECORD my deep appreciation and the appreciation of millions of others for his wisdom in that act. Thank you very much, Mr. President.

Mr. JAVITS. Mr. President, I have joined in the resolution of commendation to President Ford for his vast service. I spent a long campaign speaking for him and in every way, advocating the cause which he represented, which I believe would have brought to the country 4 years of unparalleled tranquility and unity. As I have said so much about him and his situation in the campaign, I shall not take the Senate's time to go into it further here, except to say that I had the great privilege, the historic privilege, of spending the election night with the President and his family. I should like my colleagues to know the distinction, the warmth, the friendship, the marvelous spirit of understanding of how our people voted that was manifested by President Ford and Betty Ford and their children.

Without any regard to politics, and President Ford and I have disagreed very frequently, notwithstanding my support of him for the Presidency, it was one of the most admirable scenes—at a time when, generally speaking, most men and women would have been rather cast down—that I have ever seen in American family life. To me, that represents about the finest tribute one could pay to a man about whom I have said just about everything that can be said.

I thank the Chair.

Mr. ROTH. Mr. President, the American people owe a great debt to Gerald R. Ford and to Betty Ford. It is a debt that has not yet been fully comprehended or appreciated.

Gerald Ford became President through a series of extraordinary events which shook the confidence of the public in the institutions of government. By the example of his own character and integrity, Mr. Ford renewed the public's confidence that honest, straightforward, and decent men are still found in high public office. His was a steady hand at the helm of the ship of state.

Gerald Ford became President at a time of worsening economic crisis. America still faces very grave economic and energy problems, and President Ford has described his frustrations in dealing with these problems as among his greatest regrets. I believe, however, that his programs to stimulate the private economy and reduce the burden on the average taxpayer, even though unable to be completely carried out, have laid the foundation for full economic recovery.

Gerald Ford inherited an activist and brilliant foreign policy. He consolidated gains of previous years and took much needed steps to restore the confidence of America's allies in the will and ability of this country to continue to shoulder the burdens of free world leadership.

Betty Ford has been a partner and unpaid consultant. She has been a poised and wonderful First Lady—truly first in the hearts of her country men and women.

As time deepens our sense of historical perspective, I am convinced that the Ford Presidency will be regarded as an extremely significant period in our Nation's history. It will be seen as a turning point when a man who had not sought the Presidency took on its burdens to lead us away from what has been aptly called a national nightmare and through the period of renewed faith, confidence, and pride in America that characterized our Bicentennial celebrations. Mr. Ford will be regarded as a rare President who put his own sincere beliefs in what was best for the country ahead of political expediency, even though that probably cost him his office.

Like other Americans, I disagreed with some of President Ford's decisions, but I always respected his sincerity and intentions. Like many Americans, I agreed with President Ford far more often than I disagreed with him. It has been one of the richest rewards of my public career that I have known and worked with such a man, first when we were Republican colleagues in the House of Representatives and later when he was the President and I a Senator from Delaware.

Gerald Ford is leaving office with the same grace and the same sense of good will and peace as when he assumed the Presidency. After 28 years of devoted public service his contributions have been many, but have not ended. I know that his voice as a respected and dedicated private citizen will continue to be heard and, I hope, heeded.

Mr. BROOKE. Mr. President, little more than 2 short years ago, Gerald Ford took office in one of the darkest and most troubled times in our Nation's history. Already bitterly torn by a mistaken war, the country suffered yet another tragedy as illegal and unethical deeds by members of the executive branch impressed themselves upon the Nation's consciousness. The tragedy culminated when it became clear that the President of the United States himself had participated in some of these misdeeds, and the Nation was severely shaken when for the first time in American history a President was forced to resign. Surely never before have we so needed a leader, and by a benevolent fate which has so often blessed America, we were blessed with that leadership.

Gerald Ford has been termed an accidental President, but no elected President ever moved more surely to provide what the country's spirit needed. When he assumed the Presidency, Gerald Ford had served with distinction in our National Government for almost 25 years, many of those years as a leader of the Congress he loved and served so well. But Gerald Ford's ability to renew and unite the country went far beyond experience. He had the intuitive sense to do what was needed—the mark of great leadership.

First and most importantly, President Ford restored honesty and common decency to the American Government. He brought back honor to the Federal Government—an honor which made it possible for the American people once more to trust their leaders and their Government. And it is that trust which makes a democratic government possible. How little attention we pay to that necessary trust until the tragic consequences of its absence paralyze the Government and the Nation. It is a lasting tribute to President Ford that it is now almost impossible to remember how pervasive that lack of trust and paralysis were when he assumed office. President Ford leaves President-elect Carter a government whose foundations and ties to the American people are sure.

President Ford did more, however, than simply restoring the good relations between the Government and the American people. He also restored the badly frayed relations between Congress and the Presidency. He recognized the most basic rule of comity, that of disagreeing without being disagreeable. The bitterness and suspicion of the years preceding President Ford have been supplanted by a healthier relationship and a congressional role more approximating its constitutional mandate. This too is a major accomplishment.

The years allotted to President Ford did not permit him to accomplish all he wished. But he did achieve many important goals. Since the last years of the Johnson administration the worsening economy has been a major concern of both the Government and the American people. A rampant and escalating inflation reduced every workingman's wages and every retired person's savings. A sick economy brought unemployment to millions of Americans. While President Ford has said that the great regret of his administration was that it was not able to substantially reduce unemployment, he was able to substantially reduce inflation, cutting the inflation rate in half. And this lessening of inflation is what now makes it possible to initiate programs to stimulate the economy with less accompanying risk of again stimulating inflation. Thus once more the Federal Government can move ahead, basing its programs on foundations laid during the Ford administration.

During its too few years, the Ford administration also made substantial and notable initiatives and accomplishments in the field of foreign relations.

President Ford, by his personal integrity and a willingness to work closely with U.S. allies, has done much to recover lost prestige for the United States. Relations with Western Europe and Japan, under his administration, have more clearly reflected their vital importance to the United States than had been the case in recent years. He has

reaffirmed that the cornerstone of U.S. involvement in world affairs continues to be the alliance of domestic states.

The President also exhibited, as few if any of his predecessors had, a sensitivity to the importance of developments in Africa to U.S. interests. At long last the United States has begun to put substance behind its professed commitment to majority rule in southern Africa. Pressure is being brought to bear on the Smith regime to accept rapid evolution to majority rule. Much more needs to be done, but a start has been made.

In the defense area the President reiterated U.S. intent to remain strong while willing to explore every legitimate avenue to effective limitations on strategic and conventional armaments. The Vladivostok accord is a positive step, hopefully setting the stage for further reductions in strategic delivery systems.

One of the disappointments for the administration has been the lack of a SALT II accord. Hopefully, progress can be made in this area in the near future.

One of the high marks of the Ford administration has been its efforts to push the search for peace in the Middle East forward. It leaves a legacy of positive effort for a new administration to build upon.

In sum, Gerald Ford has ably fulfilled his stewardship over U.S. foreign and national security interests.

Clearly, Gerald Ford has much to be proud of during his stewardship of the Presidency. He and Mrs. Ford have done much to earn the respect and, indeed, the affection and gratitude of the entire American people. The Congress and the American people wish President and Mrs. Ford long and happy years of retirement. Our regret at that retirement is mitigated only by the assurances of both President and Mrs. Ford that they do not intend to retire from their commitments in public life. We look forward to many years of the grace of their presence and the wisdom of their counsel.

BEING HIMSELF WAS GERALD FORD'S GREATEST GIFT TO US

Mr. McINTYRE. Mr. President, shortly after the election the Washington Post's William Greider wrote an article titled: "How Much Can a President Do?"

Greider pursued a double theme: First, that the Nation has an exaggerated notion of the power of the Presidency; and second, that this unrealistic assumption produces unrealistic expectations. He wrote:

> Much of what Presidents do, maybe even most of what they do, is in response to a stream of history that is utterly beyond their manipulation. They do not shape it so much as they react to it.

Greider went on to say:

> No President or politician can quite admit it, but most of what the Federal government does is ameliorative, designed to curb an excess in the society or soften a social or economic transition . . . Few decisions by Presidents or the Federal government lead to fundamental alterations in the American society. If you look back over the last thirty years, they make a small list.

The list offered by the writer included decisions by two Presidents to enter foreign wars; the Supreme Court's decision to stop sanctioning the racial caste system in the South; the GI bill's alteration of class and social status by opening college to all veterans; the impact of the interstate highway program and subsidized housing mortgages in creating America's suburbs, and the modest reduction of the deprivations of poverty made by Federal transfer payments.

Greider suggested that anyone can make his own list, but added that—

> The point is that there are few fundamental changes which government initiated itself and, as the list suggests, some decisions produced profound effects which no one anticipated.

Mr. President, I contend that Gerald Ford made a decision that must be added to any list of Presidential acts that produced a profound effect.

When he decided that he would not be changed by the aura and trappings of the Presidency, he gave his country the greatest gift he could give it. By being himself—open, accessible, free of illusions about himself—from the moment he stepped into the White House, to his gracious acceptance of the election outcome, to his eloquent farewell appearance before the Congress last week, Jerry Ford did more to restore his fellow countrymen's faith in the stability and integrity of its leadership than any legislative agenda, policy, or Executive order ever could have accomplished.

As Columnist David Broder put it so persuasively earlier this week, Gerald Ford—

> Can leave office with some confidence that history will record that he was, in truth, the President the country needed as this time and knew that it wanted, even by another name.

We are all indebted to this good and decent man.

Mr. SCHWEIKER. Mr. President, it is an honor for me to join today with my many colleagues from both sides of the aisle in honoring the 38th President of the United, Gerald R. Ford of Michigan.

President Ford's career of service to his State and Nation has been marked by distinction. Beginning with his years as Congressman from Michigan, through his service as House minority leader, Vice President, and ultimately President, Jerry Ford has been a vigorous advocate of the principles in which he believes.

When he assumed the Presidency in 1974, President Ford was faced with one of the gravest constitutional crises in our Nation's history. In 2 short years he brought stability and integrity back to the White House. He provided an even hand on the tiller of the ship of state when it was adrift, and for this we will always be in his debt.

Mr. President, respected columnist David Broder captured the essence of the Ford Presidency in the Washington Post this past Sunday. His column is entitled, "The President the Country Needed."

Mr. President, I request that the column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

THE PRESIDENT THE COUNTRY NEEDED
(By David S. Broder)

In an odd, inexplicable way, the truth has begun to dawn on people in the final days of Gerald R. Ford's tenure that he was the kind of President Americans wanted—and didn't know they had.

After a decade of presidential excess, they wanted a man of modesty, good character, honesty and openness. They wanted a President who was humane and prudent, peaceable but firm. Especially, they wanted one uncorrupted by the cynicism and lust for power that they had come to associate with Washington politicians.

Jimmy Carter's campaign was the successful projection of these idealized qualities of the post-Watergate President. It was also a series of promises—to reform the government, end bureaucratic waste, provide an energy policy, curb the nuclear arms race, cure unemployment, etc.

How well President Carter measures up to these character tests and how many of his goals he achieves remains to be seen.

But Gerald Ford—even while acknowledging in his last State of the Union address and in a series of valedictory interviews his disappointments in the fields of economics, energy and governmental reform—gave people a quiet reminder that he has been exactly the kind of personality they prayed to find in the presidency.

He did so in a variety of ways, large and small, not least of which was his demonstration of equanimity in the face of his first—and any politician's greatest—defeat. Both The Washington Post and the New York Times headlined the fact that Ford was "at peace" with himself and his fate, as if that were remarkable for a departing President.

And, of course, it is. Two of his three most immediate predecessors had left the White House as political exiles; the third had been murdered.

Ford leaves on a tidal wave of good will, of which the cheers in the House chamber the other night were vocal testimony. As he recalled in his farewell interview with The Post, he had originally planned to wind up his public service this January by making the 94th Congress his last as the representative from Grand Rapids.

As it works out, he is leaving only 17 days "behind schedule," having served 29 months as President and with the country the better for his service.

He leaves with the nation at peace, the international scene as tranquil as it is ever likely to be, and the American people more united and confident than at any time in a decade.

Some of that is luck. Some of it is the healing effect of time on the scars of Vietnam and Watergate. But Gerald Ford also leaves the presidency itself healthier than he found it, and that is because he thought hard about what was needed there—and did it.

Take, for example, the matter of the President's relationship to his Cabinet. One central aspect of the "imperial presidency" was the subordination of Cabinet officers to the arrogant whims of the White House staff.

Jimmy Carter has talked a great deal about his desire for strong, autonomous Cabinet officers, and in the final days before his takeover, was still trying to determine what kind of White House staff arrangements would encourage .that decentralization of decision-making.

Yet, as James E. Connor, Ford's staff and Cabinet secretary, pointed out to a visitor the other day, almost no one has noted the extent to which Ford himself already demonstrated how to solve that problem.

Yet it is a fact that the outgoing Cabinet has been spared interference from officious White House staff members either in their departmental decision-making or in their access to the President.

Ford cured this ill by quite conscious, shrewd strategies. He required, for example, that no communication from a Cabinet member to the President could be delayed more than five days for White House

"staffing." If the staff comments weren't ready in that time, the Cabinet member's paper went into the President's reading file on its own, rather than being pigeonholed endlessly in the White House bureaucracy.

Ford himself set the example for devolution of decision-making. In the face of heavy pressure to bring all major issues to the White House, he insisted, for example, that the Secretary of Transportation should decide the Concorde landing-rights question and that the Attorney General handle the government's response to Boston's anti-busing violence.

In these, and other ways equally important, he demonstrated in practice the virtues of which Carter spoke.

Oddly, neither he nor his advocates made much of this fact in the recent campaign. But Gerald Ford can leave office with some confidence that history will record that he was, in truth, the President the country needed at this time and knew that it wanted, even by another name.

Mr. McGOVERN. Mr. President, I wish to associate myself with the many expressions of praise and affection we have heard today for Gerald R. Ford of Michigan, the 37th President of the United States. I offer my thanks and my warmest best wishes to him and to his family as he returns to private life.

Gerald Ford leaves office in the same way he assumed it—in dignity and with the respect and gratitude of his fellow citizens. I have sometimes differed with him on the substance of the issues during his term, but like millions of other Americans, I shall never forget that he acceded to the Presidency in the darkest of times. He bore his weighty responsibilities with courage and determination and he gave us reason to hope that his high office, disgraced at the time he assumed it, could once again serve as a focus for our hopes.

Gerald Ford represents much of what is best in the American character—straightforward, plain spoken, decent, and willing to espouse a point of view. His sturdy presence in the White House in a time of profound crisis served the Nation well.

Mr. President, I am confident that President Ford will continue to play an important role in our national life. His experience will be an invaluable resource for his successors and his voice is one to which the American people will listen. It is my sincerest hope that the future will hold all good things for the President, for Mrs. Ford, and for the Ford family.

Mr. HATFIELD. Mr. President, it is an honor to rise to join in paying tribute to President Gerald R. Ford. All of us begin our assessment of the man and his Presidency by reflecting on his character, for in his case, it is what casts a long shadow over every other aspect of his Presidency.

The phrases "decent" and "honorable" became trite in their overuse, and this is a shame, for they express precisely what should be a goal in life. The fact that they are used to describe so many people does not dim their application to President Ford. He is so comfortable with himself as a person that it rubs off on those surrounding him, his family, and his close friends.

To me, instead of examining other qualities or features about the man and his term in office, one of the most telling measures of a person is the stature in the eyes of the spouse and their children. President Ford is loved by his family. He has a relationship of trust and strength with everyone in his family that allows a free and honest interchange of views. And it is an exchange, not merely a father or husband talking at others. Here he truly discusses with others in his family.

To have modeled faithful familyhood in this era of disintegration in homes and families is one of his greatest legacies. He has been true to the teachings of the Scriptures where it says "Fathers, provoke not your children to anger: but bring them up in the nurture, and admonition of the Lord." To Betty, Michael, Jack, Susan, and Steve, he has been a source of strength, of companionship, of understanding, and of love. He has been a compelling spiritual brother as the family has stood together, becoming closer under the pressures of life in the White House.

Much has been said about President Ford's decency during his stewardship of the office of the Presidency. More will be revealed as years go by about the deep wells in his home and spirit from which this character has sprung.

Under the tremendous pressures of this office, he has kept his personal relationship with others in his family in proper perspective, taking time where needed to share with them, and gain strength from the exchange.

President Ford has allowed, and even urged, his sons and daughter to develop as individuals. Their convictions are expressed and encouraged, not suppressed or ignored. Thus, in spite of differences on specific issues, his family meshes together, because of the inner strength generated by keeping things in their proper perspective.

In closing, as a father, I have taken particular note of this aspect of the man, and I think all parents would do well by his example. At a time when the pressures of disintegration threaten family ties, his is an example for us all.

Mr. MATHIAS. Mr. President, I have long believed that in our entire history no man ever assumed the Presidency under circumstances that compare with those that prevailed when Gerald R. Ford became President of the United States.

George Washington could balance the chaos of revolution with the worldwide respect he enjoyed as the leader of that revolution. Abraham Lincoln could balance the confusion of the descent into the Civil War with the moral fervor that united at least half the country.

But Gerald Ford inherited a bitter legacy. It fell to him to balance the disillusion and despair bred by Watergate solely with his own character and courage. He more than measured up to that Herculean challenge. From the moment Gerald Ford took the oath of office on August 9, 1974, he showed himself equal to his very heavy burden. His open approach was like a fresh breeze on a hot, muggy summer's day. The prostrate country responded to this quiet, friendly man and to his calm wisdom. It responded eagerly to his wife, Betty, too, whose bright presence in the White House truly "let the sun shine in."

The debt this Nation—and each one of us—owes to Gerald Ford is incalculable. No words will ever encompass it.

But, I cannot let President Ford's term in office end without expressing my deep gratitude to him and to Mrs. Ford for leading us through the tunnel and into the light.

Mr. PEARSON. Mr. President, history deserves to be kind to Gerald Ford. I think it will be. Generations from now historians will look back and take notice that this 38th President was largely responsible for reviving a badly demoralized country through his example of decency and candor.

Let us remember, Mr. President, that Gerald Ford took over at a time when a narrow selfishness kept men blind, when their own self-preservation demanded a broader, more honest outlook—an outlook he provided.

He was not elected President, as we have been told again and again. He inherited the job and along with it an almost unbearable set of circumstances. The Nation was in a fit of despair as the fury of Watergate led to the resignation of a President and the trail of deceit was laid bare before the people. The scandal spawned the most serious threat yet to our Constitution. Trust in Government was nil. The economy was beginning to sour at precisely the time we needed leadership most.

He understood the immediate needs of the Nation. His last state of the Union message reveals that the Nation is in better health now than when he took the job. That this is true is a tribute to his dedication. The Nation is in better health and, in large part, we have Gerald Ford to thank.

His example has been that the fruits of labor could be gathered only by people working together. He did not pretend to apply the lessons of a life outgrown to problems of the present. He faced his job with objectivity and was diligent in his efforts to make Government more responsive to the people.

He did not dazzle his audience, but was persuasive through his honesty. To his politics he applied the best strain of his native Midwestern conservatism. Few have combined such deep conviction with such decency. He earned the Nation's trust.

Most important, Mr. President, this man taught us that if we realize our strength as a whole and work for a common good, our problems, however strange and enormously difficult, will not prove too much to handle.

Gerald Ford and the men he picked to surround him proved a valuable guide in averting the blind alleys that mark the follies of past administrations. He was truthful with us and his appraisals have started us on the way to a better moral and economic health.

The career in Washington of Gerald Ford spanned more than a quarter century. It was a successful career and one marked with distinction. But this does not presage a conclusion to his counsel.

The next decade calls for his assist-

ance as much as the last. The Republican Party has been badly shaken and the new generation of Republicans could benefit greatly by his wisdom.

His continued activity can serve to soothe party factionalism. He can help in bringing more people into the Republican ranks. And, Mr. President, considering the magnanimous personality of Mr. Ford, I would predict that such activity will be dominating much of his time.

He leaves a long and distinguished career in Washington and I join with my colleagues in extending my admiration and wishing the Ford family continued success and happiness.

Mr. LAXALT. Mr. President, political circumstances—in a strange way—introduced me to the decency, honor, and honesty of President Jerry Ford. It is no secret that during the primary stage of our last election he and I engaged in an intrasquad political scrimmage. Unlike some contests, however, never a harsh word or unpleasant incident marred our personal relationship. As tight as the primary turned out to be we never crossed swords in anger. All of us in this business know just how difficult it can be to maintain your poise and sense of humor under these circumstances. That President Ford did, and conducted himself in the most admirable manner is certainly a testament to all those fine qualities the American people have come to associate with this gentleman.

During his term in office, President Ford displayed these qualities of decency and sensitivity in the policies he pursued for the American people. And he added another dimension which, frankly, I do not think has been accorded the attention it deserves—courage.

The circumstances which brought this man into office were, to say the least, unpleasant. There were tremendous pressures on President Ford of the kind I doubt any of us understand and hope none of us ever has to experience. A political climate pervaded in the country and in the Congress which could easily have forced a lesser man to give ground on the principles he has always held fast to and caused him to loosen a grip on his executive authority, because the Office of President had been battered from pillar to post. Jerry Ford never for a moment forgot what his duty was or what must be done as President. In so acting, he restored dignity to the Presidency.

It took a person of honor, decency, honesty, and courage to bring this Nation around following the Watergate and Vietnam years. We could not have asked for a better man than President Ford. He was a prescription for our ills and each of us, all Americans, owe him a debt of deep gratitude.

Mr. BAYH. Mr. President, it will be inappropriate to permit Gerald Ford to leave the Presidency without proper acknowledgement of the valuable service he performed for our Nation during our greatest constitutional crisis.

Had we not lived through the past several years, we could not imagine the possibility of a Vice President and a President resigning from office in disgrace. Had we not shared the national trauma of recent years, we could not imagine public esteem in our Government falling so low. Yet we have witnessed these sorry events; and our system of government has survived.

One reason it survived is that Gerald Ford assumed the Presidency with decades of creditable public service, and then promptly set about the crucial task of restoring public confidence in our Government and our political system. He held his head high, and in doing so enabled our entire Nation to lift its head once again.

While I look forward to the administration of our incoming President, our hope for the future does not diminish our gratitude to President Ford. While I was delighted with President-elect Carter's victory, I am delighted to say also that President Ford commands our lasting respect.

I also want to note, Mr. President, that President Ford's nomination as Vice President, and his subsequent accession to the Presidency, provided the first test of the 25th amendment to the Constitution. As the author of that amendment, I am gratified that it not only worked, but passed its first, and probably most difficult, test so successfully.

Finally, Mr. President, it is relevant to note that President Ford has provided the full cooperation of his administration to President-elect Carter during the transition period. Much is said, rightfully so, of the orderly fashion in which power changes hands in this country. The dignity and decency of Gerald Ford has helped make that transfer of power during recent months all the more successful.

It may be said that Gerald Ford leaves office the same way he began—as an honest, committed public servant working for his country and his countrymen.

Mr. PERCY. Mr. President, today we have the opportunity to express our appreciation and respect to President Ford for his service to the Nation and the Presidency.

Gerald Ford became President during one of the most serious political crises in our history. It was a fearful and frustrating time when the people's faith in Government was at a deep low. President Ford assumed the Presidency with confidence and ease which engendered hope in our people.

We are all aware of Gerald Ford's immense personal decency and civility. We respect him for these qualities. But even more, we respect him for the way he has made these qualities a symbol of his Presidency. The decency of the man has spread throughout the country.

President Ford has been a calming and reassuring influence for America. He has helped to get us back on the track toward greater stability and strength.

On the domestic scene, the most pressing problem is still the economy. But the President's steady hand on the helm has helped cool inflation and reduce unemployment. We have a long way to go to make the economy strong, particularly by diminishing the number of jobless. But we are on the right track.

In foreign affairs, there is still much to do. But President Ford and Secretary Kissinger have made an immense contribution, especially through their efforts to bring a lasting peace to the Middle East.

The most important question we can ask about a President is whether he leaves the Nation and the Presidency in better condition than when he assumed office. For Gerald Ford the answer is yes. I can think of nothing more satisfying for him than to know that through determination and sensitivity to our needs he leaves behind a better America.

Mr. YOUNG. Mr. President, I have been very pleased with recent kind and generous comments by the news media concerning President Ford's long public service and particularly his record as President of the United States. These views from the news media come from those with widely divergent political and economic viewpoints.

I cannot help but feel that down through the long corridor of history, Gerald Ford will be remembered as an honest, decent, and respected President of the United States. One who assumed office at one of the most difficult times in our history. We were involved in an unpopular war, scandals wracked our Federal Government, and people even lost confidence and respect for the Government.

His conduct as President was such that he was able to leave office with the people's faith in their Government restored. Few if any Presidents have done so much as he to regain worldwide confidence and respect for the United States.

President Ford had many difficult and unhappy experiences during the turbulent time he assumed the Office of the President of the United States. President Ford richly deserves the credit that has been accorded him for his accomplishments, which I believe history will record as among the most important of any President.

Unlike most Presidents, President Ford is leaving office much more popular and respected than when he assumed the Presidency. He was truly the right man, at the right place, at the right time.

President Ford has been a personal friend of mine for many years and one whom I have come to greatly admire and respect, not only as a great President but as a good personal friend.

My wife, Patricia, and I extend our best wishes to President Ford, Betty and their family for a wonderful and productive future.

Mr. BELLMON. Mr. President, the great genius of the American system of representative government is that it provides a means whereby citizens with the requisite talent and drive can arise from humble beginnings to occupy the highest office in the land. Under our system there is no need to be royally born, to be immensely rich, or to be a member of any powerful group. Achieving the Presidency requires much of an individual. In the case of President Ford, the office came as the culmination of a life of service to the people of his congressional

district, to his political party and to the country.

The Presidency of Gerald R. Ford began at a time of great turmoil in the country. The confidence of many Americans in the Presidency had been severely shaken. The challenge of the Ford Presidency was to restore equanimity and confidence both in Government and in our representative processes. That he has done so with style and skill is immensely to his credit. It is also his greatest legacy to the Nation and to his successor.

At the time President Ford assumed office, the amount of national resources devoted to defense had been in a sharp decline. The result was a dangerous erosion in our ability to meet the responsibility of keeping peace in the world. President Ford wisely and courageously led the Nation and the Congress into a reversal of this decline. The result is a new defense policy which will restore our Nation's peace-keeping abilities. President Ford has made it his first priority to insure the common defense of our Nation so that the blessings of liberty can be enjoyed by all.

As one who supported President Ford's nomination and election, I was deeply disappointed at the decision of American voters not to continue him in office. In my judgment, President Ford richly deserved a full 4-year term. The Office of President is currently the most demanding station in the world and Gerald Ford's 2½ years of service proved beyond a shadow of a doubt that he possesses all the attributes and qualifications needed for the job.

President Ford's gracious acceptance of the decision which American voters made in the polls last November demonstrates another of his merits. He has gone far beyond the action required by law or tradition in smoothing the transition and helping to assure the success and effectiveness of the President-elect. The welfare of the Nation is greatly enhanced as a result.

America and the world are better places today than they were when the Ford Presidency began. Americans owe a lasting debt of gratitude to President Ford and his family for the gracious manner in which they have presided as the First Family of the country. I am pleased to join with millions of others in thanking them for the service they have rendered the Nation and in wishing them success and fulfillment in their future endeavors.

Mr. THURMOND. Mr. President, President John Adams, the first occupant of the White House, prayed that "none but wise and honest men" would ever live there. I join my colleagues in paying tribute to the wise and honest man who has lived there for the last 2½ years.

It is often said of the American presidency that the office makes the man. In the case of Gerald Ford, exactly the opposite has been true. When he became President, the Office was in a shambles. Its authority was weakened, its prestige impaired, its honor tarnished. Now, as he prepares to leave the Presidency, it has once again become the force for political and moral leadership that the American people want and expect it to be. For this reason alone, President Ford would deserve the lasting gratitude of the American people, and especially of his successors as President.

It is no exaggeration to say that Gerald Ford rescued the Presidency. In this regard, he can only be compared to another of our Founding Fathers, George Washington. The confidence and respect George Washington first won for the office, and for the National Government as a whole, Gerald Ford won back. Moreover, he did it in the same way as Washington—by sheer force of character. Consequently, no President since Washington has been able to leave office with his place in history more secure.

President Ford, however, rescued more than just an office. It is worth remembering, on the eve of our greatest public celebration, the depression and despondence into which the Nation had sunk in the Watergate summer of 1974. The travail of the Presidency was the travail of the whole country. Skepticism about our Government had reached a record high. People were beginning to question the fundamental assumptions of a democratic system. They were even questioning the strength, and the moral values, of our national character. Worst of all, there appeared to be no escape from our difficulties.

Then, along came Gerald Ford. "Our long national nightmare is over," he told us; and it was. Americans took heart to see, as President, a man so open, so diligent, so confident, so cheerful, and so transparently honest. As we survey the condition of the country in this inaugural week, it is clear what a long way we have come from the day Gerald Ford become President. We have survived political scandal. We have surmounted foreign setbacks. We have staved off economic collapse. Most importantly, we have regained our customary self-confidence so that we can face the future with hope and excitement rather than fear. It is the leadership of Gerald Ford that has worked this startling transformation.

Indeed, President Ford saved far more than just the Presidency. His achievement can be compared not just with that of Washington, but with that of Lincoln.

The Presidency of Gerald Ford will be remembered for more reasons than those I have been discussing. His policies, in my view, have been prudent and practical, and have resulted in individual accomplishments too numerous to mention. Especially noteworthy, however, have been his efforts to maintain a strong national defense and to reduce the size and cost of Government. His words on these two important subjects will, if heeded, provide needed guidance in the years ahead. If unheeded, I predict they will return to haunt those who disregard them.

It is Gerald Ford the man, though, and not Gerald Ford the politician, who will most command the attention of history. As events unfold one after the other, and as the memory of particular political issues and battles grows dim, the character and personality of Gerald Ford will loom larger and larger in the public mind. They will comfort and reassure the rising generations just as they have comforted and reassured our own. They will win for him in time to come the same honor they have won in our time, the highest that a democratic society can bestow—the warm and durable friendship of his fellow citizens.

Mr. President, I have known President Ford for many years—first as a colleague over on the House side, then as Vice President and our Presiding Officer here in the Senate, and most recently as President. He has been just as good a friend to me as he has been to the Nation, and I shall miss him very much. Allow me to take this opportunity to wish him and his charming family a future filled with happiness and success, and to express the hope that we shall see him in Washington as often as circumstances permit. I, personally, shall always welcome his company and his counsel.

At this time, I would also like to pay tribute to our outgoing Vice President, NELSON ROCKEFELLER. He has rendered valuable assistance to the President, and has presided fairly and graciously over our deliberations here in the Senate. I wish him well in his future undertakings, in which, I am sure, he will give us many further proofs of his patriotism and ability.

Before concluding, I shall return to John Adams for a moment. His prayer for Presidential wisdom and honesty has not always been fulfilled. It has been fulfilled often enough, however, to demonstrate a degree of divine favor toward this country which few nations have ever enjoyed. Significantly, we seem to have had our wisest and most honest Presidents during the times when we needed them most. The last 2½ years have been such a time. Gerald Ford has been such a President.

Mr. President, I have been struck by the spontaneous outpouring of gratitude to President Ford that we have witnessed across the Nation in the last few days. The newspapers, in particular, have been eloquent in his praise. I have collected a representative sampling of articles about President Ford, including some of the more notable ones from my home State of South Carolina. That others may derive the same pleasure that I did from reading them, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 16, 1977]

THE FORD YEARS . . .

"At no point has he shown a keen or impressive grasp of the complexities of hard questions. Pedestrian, partisan, dogged—he has been the very model of a second-level party man. It is no accident that over his quarter-century of unremarkable service in the House, he has never been put forward for the presidency. . . ." So we spoke in this space a little over three years ago upon learning that Gerald Ford was about to ascend to the Office of Vice President. We do not cite our

despondent appraisal because we think it was on the money, but rather because we think it was not. Having been forced to replace his Vice President, and being in not-so-secure condition in office himself, Richard Nixon had just informed a waiting world that Gerald Ford was the one. Frankly, it did not occur to us that Gerald Ford was also the right one.

But we were wrong; he was. The President who will leave office this week brought precisely the needed temperament, character and virtues to the high offices he has temporarily held. These qualities are regularly subsumed under the familiar general heading of "decency," a word that does indeed fit the man. What is so revealing about the times in which we live—and the horrendous political circumstances surrounding Mr. Ford's accession to office—is the vaguely condescending way in which this particular tribute is paid to him: *Well, you have to admit he is a decent human being . . .* or *. . . don't get me wrong: Of course, I think he's a decent person . . .* and so on. Decency, in this context, becomes as an attribute something roughly comparable to good posture or punctuality. How odd that so few of us have been willing to acknowledge that decency in the White House can be regarded as a luxury or a bonus or a fringe benefit only at our peril.

It is central. And its absence was central to the sorrows this country endured in the years preceding Mr. Ford's presidency. In his first days and months, it was as if he had liberated Washington—from its personal fears and hostilities and suspicions, from the dark and squalid assumptions that people had come reflexively to make about one another and about the way things "really" worked. God knows who was (and is) still listening in on whose line or who is plotting what gruesome revenge against what political foe. Our point is merely that Gerald Ford brought to the White House an open, unsinister and—yes—decent style of doing things that altered the life of the city and ultimately of the country.

We have found many of the President's programs and positions (and lack of both in some cases) dismal news indeed. But that is yesterday's laundry list. Our summing up of the Ford presidency draws us only to the overriding legacy he leaves.

Will this city under the Carter Democrats be able to preserve that political and personal civility that Gerald Ford did so much, so unexpectedly, to revive? The Carter administration, more activist and energetic, we would guess, than its predecessor, faster-paced, more intellectually self-certain and combative, is almost by nature destined to put some of these homely, but hard-won virtues at risk. We can only hope the new administration will understand their indispensability. Mr. Ford has left it an incomparable gift in the detoxified political atmosphere of the place and the institutions it is about temporarily to inherit.

The outgoing President has also done a great deal for the honor of his party, although you wouldn't necessarily know it to listen to the samurai-like grunts and howls coming out of the struggle for party control. But Gerald Ford did in fact redeem the Nixon moral disaster. His two-and-a-half years gave point and purpose and respectability to the efforts of those innumerable straight-arrow Republicans who had come to work in Washington and who had been let down, in fact betrayed, by their own White House. And the exceptional quality of most of Mr. Ford's own high level appointments—John Paul Stevens, Edward Levi, William Coleman, to name just a few—went a long way to erase the memory of earlier indictment and disgrace.

We will leave it to others to tote up the pluses and minuses of the Ford administration in strict program and/or policy terms. We can frankly do without reviewing it ourselves. We think it is enough to point out that Gerald Ford had an all but impossible assignment—and that he did a hell of a job.

[From the Aiken (S.C.) Standard, Jan. 10, 1977]

A MEASURE OF FORD'S INTEGRITY: HOW THE PRESIDENT HANDLED THE CRUISE MISSILE

(By Holmes Alexander)

Some of us who regret Gerald Ford's defeat—we rated him high, if imperfect, for integrity—now have a way to give the moral measurements of the man.

It meant more than people had any way of knowing when, shortly before New Year's, President Ford admitted that his "disappointments" included failure to wrap up the SALT II agreements.

There are several observations to make on the President's admission of an unsuccess, as he seemed to think it, in disarmament dickering with Russia. First, it will be conceded by virtually every American of every political coloration that Richard Nixon, Mr. Ford's predecessor and the genuine originator of SALT I, would never have admitted failure.

We know by his pre-Watergate record of Russo-American negotiations that Nixon was prepared by the public relations hoopla to claim that a victory for peace had been gained. Some of the papers in 1972, ferried back and forth between Helsinki and Moscow, were as hastily prepared as a sophomore's end-of-term paper. The document had to be turned in to the prof regardless of substance. So it was with SALT I. Nixon got the signatures, the cheers, but history gave him low marks.

Admittedly, it is no great compliment to Mr. Ford to say that he behaved better than Nixon, and yet it is the most available praise at hand. As Nixon was the instigator of SALT I, he deserves credit with Henry Kissinger and Henry Jackson for what was useful toward "arms limitations" in the agreement. But his bankruptcy of integrity will always leave one of those credibility gaps between what he claimed to accomplish and what he delivered.

Nothing of the sort could be said, or suspected, of Mr. Ford. He met with Brezhnev at Vladivostok for what could be called Round One of SALT II. The general agreement is well known. Each side accepted the "cap" placed on the number of strategic vehicles. But the consultation broke up without arriving at any precise definitions of a strategic, or nuclear, or international weapon.

The USSR had a new bomber the Backfire in the making. It was claimed to be for use in Eurasia only, against NATO and the Red Chinese. The USA had a low-flying bull's-eye attack missile, launchable from land, sea, in the air and under the sea. The Russians were willing to restrict the range of Backfire if the Americans would put some wraps on the Cruise missile.

How easy would it have been for Mr. Ford to wink an eye at this seeming trade-off, and enter the race against Jimmy Carter as the archangel of peace or at least of disarmament! He could have had a SALT II contract in his pocket when he accepted the nomination at Kansas City. He could have waved the scrap of paper like a winning golfer's cap clear across the land.

But any President or Presidential candidate, morally capable of such tactics, would have been a political wretch. I intend to write subsequently on the capabilities and advantages to the United States of this Cruise missile. It is sufficient meanwhile to give a rousing cheer for Gerry Ford, the man who deliberately accepted "disappointment" rather than imperil his country.

Briefly, America has developed in the Cruise missile the countermeasure to the Soviet Union's underground defenses for its population and war production. The enemy was prepared to lose thousands of civilians, while saving about an equal number, in order to shake off the American nuclear barrage which was very powerful, but not all powerful. The Soviet Union would have been able to save a preponderance of its war machine—if only the U.S. negotiators at Vladivostok could have been talked into compromise on limitation.

We can say with certainty that, compared with the unhappy Nixon, Gerald Ford is a President of conscience. He is deserving of everlasting fame.

[From the Greenville (S.C.) News, Jan. 15, 1977]

FORD'S STATURE WILL INCREASE

Watching and listening to President Ford give his final State of the Union message to Congress produced mixed emotions and the inevitable question: How will this President, the first "unelected" chief executive, go down in history?

The President's address, especially his thoughts on the future and on political philosophy, served to remind all listeners that Gerald Ford came very close to winning last November's elections. He made a strong race, coming from far, far behind to a photo finish. The hopes and the philosophies he enunciated Wednesday evening are very much alive in this broad land; they are the hopes and philosophies of millions of Americans. And they have a certain vitality which will continue.

The message also brought home once again the well-known fact that President Ford is a thoroughly decent person—a good man. His goodness has left a lasting imprint on the Presidency because of the effect it had to restore faith in the highest office, badly eroded by Watergate. Gerald Ford was a terribly burdened person when he assumed the tarnished, crippled presidency with the nation still engaged in the disastrous Vietnam conflict. He faced problems no other President ever encountered, and he had no popular mandate to back the difficult decisions he had to make. He was in the loneliest of uncharted waters.

His goodness and his faith in the American system soon became evident. His humbleness in asking for help was itself a healing act after decades of increasing presidential arrogance. His lack of charisma or dash or assertiveness was more than offset by President Ford's personal identification with the average, decent American. He made it plain that he was a "First Citizen," not a master of citizens.

Finally he had the courage of his convictions, as Congress soon learned from his vetoes of unwise and budget-busting acts. Although the office he inherited was tarnished and he was handicapped by lack of a mandate, Gerald Ford was no weakling. The record shows he won more times than he lost in veto battles with the heavily Democratic Congress.

As he leaves office after a narrow defeat, President Ford is entitled to the satisfaction of knowing he personally restored the high office of President to respect, that he turns over to his successor a nation at peace with itself and with the word. That is a great accomplishment for a President without a mandate.

Most Americans, including many who voted against him, agree that Gerald Ford has been a good President. We have an idea that history will give him very high marks because of what he managed to do despite unprecedented handicaps. He will grow in stature as the passage of time reveals the lasting nature of his contributions to these United States of America.

Mr. HARRY F. BYRD, JR. Mr. President, it is said that one cannot fully judge a man until one has ascertained the opinion which his opponents hold of him.

Gerald Ford's return to the Congress last Wednesday night to an outpouring of affection by his political friends and opponents alike reconfirms the genuine fondness all segments of the political spectrum hold for him.

President Ford took hold of the reins of Government during one of the most difficult times in our Nation's history—a time of constitutional crisis and crippling public distrust of Government.

Times such as those called for a special kind of leadership—a person of unquestioned integrity and openness, whose personal honesty was above reproach. Few people in American political life exemplify those qualifications to a greater degree than does Gerald R. Ford.

As President Ford leaves office, our Nation is at peace, both at home and abroad. The wounds of Vietnam, for the most part, have been healed. American military forces, for the first time in many a year, are not engaged in combat.

Yet, the President has wisely emphasized in his last formal speech to the Nation that the United States must remain militarily strong, this being the most effective way to insure peace and stability throughout the world. President Ford has worked continuously to achieve the delicate balance of strength without belligerency.

On the domestic front, he has shown greater vacillation than in his handling of foreign affairs. If the huge deficit spending of the Federal Government during his Presidency is not exactly the kind of monument a President would like, he can, with accuracy, point to the fact that his major partner in the spending process—the Congress—would have opted for even greater deficits.

Gerald R. Ford was unexpectedly thrust into the office of President of the United States. He did not seek it, and one can well believe that he did not even want it. But he worked hard and decently and sacrificed much.

As President Ford leaves office, he takes with him the good wishes and, indeed, the affection of most Americans.

I salute him as a friend—and as a President who has contributed much to our Nation.

Mr. TALMADGE. Mr. President, I am very glad to have this opportunity to join the Senate in paying tribute to President Gerald R. Ford. President Ford leaves behind a record of 25 years of distinguished service in the Congress of the United States and as Chief Executive of our Nation.

One cannot know President Ford personally without being extremely fond of him. This was demonstrated by the warm reception he received last Thursday night in his farewell State of the Union ad-address.

He is a man to be admired for his candor and openness, his courage and forthrightness. He ascended to the office of the Presidency in a way no other man had done before in the history or our Republic. Confidence in the Chief Executive and in government in general was extremely low. He made it his first order of business to put the affairs of the White House in order and to heal America from the grave wounds of the Vietnam war and scandal which soiled the honor and integrity of our great Nation.

President Ford can take pride in all that he did to restore faith and confidence in the Presidency and the White House. I have been proud to work with him during the time that he served in Congress and in the White House, and I always will cherish the warm association we have had over many years. I extend to President Ford and all his family Godspeed and my very best wishes for every happiness and success in the years ahead.

Mr. STAFFORD. Mr. President, Vermonters discovered long ago that the mouth usually does a poor job as an intrepreter for words from the heart. So our oral outpourings mostly are pretty short.

These will be also, but I cannot let this moment pass without paying humble tribute to President Gerald Ford.

During my service with him in the House of Representatives, Gerry Ford became a valued friend and counselor. He had firm and strong convictions, but was always understanding when one had other views. He gave unselfishly of his time and talents to assist many of us in other parts of the country, although he sought nothing greater than to serve the people of his own District in Michigan.

Then, as we know, history took hold of events.

But Gerry Ford never changed.

He brought to the office of Vice President and then to that of President of the United States the same friendliness, the same decency, the same honesty that he had always exhibited in dealing with all human beings.

Whether with his family, his constituents, his colleagues in the Congress, or in the Oval Office as President, this man was the same honorable person. One had the feeling that his words truly did come from the heart.

Gerald R. Ford has served American well.

America will remember him well in the days ahead.

Mr. WALLOP. Mr. President, I would like to take this opportunity, on behalf of the people of the State of Wyoming and myself, to offer President Ford our heartfelt admiration and respect for the job he has done during his tenure in the White House.

I believe the people of Wyoming demonstrated their trust in President Ford when they gave him an overwhelming vote of confidence on November 2, 1976.

I am sure that I am speaking for the people of Wyoming when I say we are grateful for the stability he brought to our country during a time of unprecedented political and social turmoil.

President Ford's candor and humanity has restored the public's confidence in their elected officials. It was a tremendous Bicentennial gift to our great country.

I would like to express our warm appreciation to President Ford for the work he has done and offer best wishes for whatever the future may hold for him.

Mr. PACKWOOD. Mr. President, Gerald Ford is one of the rare Americans who have had the privilege of serving this country, not only as a highly distinguished Member of the House of Representatives, but also as President, an honor received by few. I am confident that future generations will remember him as one of the most remarkable Presidents of this country. When he inherited the office, it was in the most shaken state of our Nation's history. Yet in a short period of time, Gerald Ford brought back some of our most basic and cherished virtues to our highest office—honesty, decency, openness, fairness, warmth, and a sense of humor. Few men leaving office have earned such strong personal respect from those of all political persuasions.

To me, Gerald Ford, Betty, and children exemplify a fine, fine American family, and their departure will leave us with a true sense of loss. They made me proud to be an American. I do want to point out, however, that though Gerald Ford is leaving office, he is not leaving the Republican Party, and I know all of us here will continue to look for him for counsel and leadership. We wish him and his family a most peaceful and fulfilling future.

RESOLUTION OF APPRECIATION AND HIGH REGARD FOR GERALD R. FORD

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order that we proceed to the immediate consideration of a resolution at the desk.

The PRESIDING OFFICER. The amendment will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 38) of appreciation and high regard for President Gerald R. Ford.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it may be in order for any Senators who wish to add their names as cosponsors to that resolution do so. I should like to have mine added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHMITT. Mr. President, I rise to ask that my name be added as cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. May I add my name, too, Mr. President.

Mr. CRANSTON. Mr. President, I would like my name added, too.

Mr. ALLEN. Mr. President, I should like to add my name.

Mr. SCHWEIKER. I should like to add my name.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, under the order, all Senators may have

until 6 p.m. today to add their names, I believe by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 38) was agreed to.

The preamble was agreed to.

The resolution offered by Mr. CURTIS, Mr. BAKER, Mr. TOWER, Mr. STEVENS, Mr. HANSEN, Mr. JAVITS, Mr. BELLMON, Mr. ROBERT C. BYRD, Mr. SCHMITT, Mr. ALLEN, Mr. HAYAKAWA, Mr. CRANSTON, Mr. SCHWEIKER, and Mr. SCOTT, with its preamble, reads as follows:

S. RES. 38

Whereas, Gerald R. Ford, our 38th President, has now completed more than 34 years of service to the Government of the United States, comprising almost four years in the Navy during World War II, 25 years in the House of Representatives, ten months as Vice President and Presiding Officer of the Senate, and two and one-half years as President; and

Whereas it is agreed that when Gerald R. Ford became President he entered office in a unique manner in the most trying of circumstances; and

Whereas President Gerald R. Ford restored the sense of national trust and honor that is essential to the governmental process; and

Whereas President Gerald R. Ford earned and won respect for his integrity and his steadfastness and the entire Nation was strengthened; and

Whereas President Gerald R. Ford leaves his office with a Nation rebuilt and ready to move forward; and

Whereas our friend and leader Gerald R. Ford leaves the political stage with the gratitude of all Americans secure in the knowledge he was the right man for the right job at the right place: Now, therefore, be it

Resolved, that the United States Senate recognizes the outstanding contributions made by President Ford to this Nation, commends him for the manner and integrity with which he carried out his responsibilities, and wishes him Godspeed in his new and active life.

Resolved further, That the Secretary of the Senate is hereby directed to send a copy of this Resolution to the President of the United States.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now go into executive session to consider nominations on the executive calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

U.S. AIR FORCE AND U.S. ARMY

The assistant legislative clerk proceeded to read nominations on the executive calendar.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all of the nominations on the executive calendar be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I have conferred with the majority leader and all of these nominations are confirmed on our side.

The PRESIDING OFFICER. Without objection, all nominations are considered and confirmed en bloc.

(All nominations confirmed today are printed in the RECORD at the conclusion of the Senate proceedings.)

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TED SORENSEN NOMINATION

Mr. McGOVERN. Mr. President, I deeply regret the manner in which Theodore Sorensen was forced to withdraw his name as President Carter's nominee to direct the Central Intelligence Agency. I think the handling of this entire matter represented the Senate and the Federal establishment at its very worst. The only grace about the entire matter was the manner in which Mr. Sorensen withdrew his name from further consideration. Unfortunately, the insidious behind-the-scenes attacks on Mr. Sorensen which forced his withdrawal have deprived the Nation of the services of one of its most capable and patriotic men.

Today's Washington Post editorial about this matter notwithstanding, the attacks on Mr. Sorensen implying that his past record with regard to handling of classified materials would jeopardize the Nation's security is, in fact, McCarthyism pure and simple. Because I believe this case could be of importance beyond the immediate impact, I ask unanimous consent that my statement, prepared for the Senate Select Committee on Intelligence Activities, and a brief memorandum I have prepared on the past practice of other government officials of leaking information to the press be printed at this point in the RECORD, along with a copy of Mr. Sorensen's statement of yesterday, his biographical sketch, a list of the witnesses scheduled to testify, both in support and in opposition to this nomination, and an article about the issue appearing in the Washington Post of January 16.

There being no objection, the material was ordered to be printed in the RECORD, as follaws:

STATEMENT BY SENATOR GEORGE MCGOVERN, DEMOCRAT OF SOUTH DAKOTA

Mr. Chairman: I strongly support the nomination of Theodore Sorensen as Director of the CIA. I have known all of the directors of the agency during the past twenty years and I believe Ted Sorensen to be as well, if not better qualified to head the agency as any of his predecessors. His experience, judgment, reliability and intelligence are all stronger than we are accustomed to in this office. I have known him as a friend, as an associate, as a dedicated public servant, as a presidential confidante and as an eminent attorney. He is a man of intense patriotism who can be relied upon to place the national interest first and foremost at all times.

It is because I know his qualities of mind and character so well that I resent the scurrilous attack that was unleashed against him this past weekend. Certain largely unidentified people have leaked a variety of stories to the press designed to prejudice the nomination of this man. The campaign being waged against him has not been equalled since the days of the late and unlamented Joe McCarthy.

What do they say of Ted Sorensen? They say first that he doesn't have experience. The truth is that he has more experience in both national and international affairs than the President-elect who has nominated him. The director of the CIA does not need to be an experienced spy or an experienced break-in artist. If on-the-job experience in such activities were needed in the director's office, we should be seeking out H. L. Hunt, or James McCord or J. Gordon Liddy. But these experienced CIA men have all been sent off to jail. Which is one way of reminding us that what the CIA now needs is a director of sound morals with a knowledge of American legal and constitutional principles, a strong character and a clear sense of the national interest. Ted Sorensen has all of these qualities. Talk about experience. He was the White House Counsel under the late President Kennedy. He was a trusted aide of John Kennedy during his Senate service. He traveled the length and breadth of America with John Kennedy during his long four-year bid for the presidency. In the White House he was the principal drafter of the great messages President Kennedy delivered to the nation and the world. But beyond this, he was a trusted advisor in every arm of the government—including many matters involving the intelligence functions of the government. He saw at first hand the operation of the entire governmental complex. Few, if any, men ever to serve as director of the CIA brought to that office the wide-ranging experience of Ted Sorensen.

They say he took his government papers including classified papers with him when he left White House service. But this is not something he has concealed, nor is it without ample precedent. Ted Sorensen volunteered this information in his own voluntary affidavits which he submitted at the public trial of Daniel Ellsberg. He gave this affidavit as a means of demonstrating a fact of life, which is that it is customary for White House aides to take their files with them when they leave government service.

It is said that he leaked classified information. But Mr. Sorensen has assured those who ask him about this matter that he never released classified information except when ordered to do so by the President. Nor has anyone demonstrated how anything he ever released under presidential order was damaging to the nation.

If certain Senators are so incensed about the practice of leaking, how do they explain their own conduct in anonymously leaking reports about Mr. Sorensen? And why don't they get more incensed about the persons who in recent days have leaked the classified CIA estimates of Soviet military strength relative to American military strength? What about the constant leaking by the Pentagon of classified information on weapons systems?

One unnamed Senator was quoted in yesterday's Post as follows: "The job requires a man of authority, a man who can control the

entire intelligence community—a Jim Schlesinger, not a Sorensen. The director of the largest intelligence service in the world is a leaker. It undermines the whole intelligence effort. It raises questions about his judgment."

I submit that a statement like that raises questions, not about Mr. Sorensen's judgment, but about the judgment of the anonymous Senator. That Senator appears to be more accomplished at leaking than at judging. If he regards leaking as the most serious offense of the CIA, what does he think about that agency's record of attempted but bungled assassination efforts, its working alliance with the criminal underworld, its crude efforts to subvert independent governments, its secret wars, its shabby un-American performance for so many years in so many places. It is these shameful, self-defeating practices that jeopardize the CIA and that must be brought under control if that agency is not to continue discrediting the good name of the United States.

Ted Sorensen is the kind of man who will know what his agency is supposed to do as well as what it is not supposed to do. I hope for the sake of America that he will be confirmed in the important assignment for which President-elect Carter has selected him.

On the basis of what I now know about this nomination and what has been said about it as reported in the press, I can only conclude that if it were rejected, we can mark it down that the ghost of Joe McCarthy still stalks the land.

MEMO FROM SENATOR M'GOVERN

Other leaking

1. "Leaks are as important to the bureaucrats and politicians as they are to reporters. Thomas J. Smith, an inspector in the FBI's intelligence division, was later to draw a distinction between what he called 'controlled' and 'uncontrolled' leaks. A 'controlled' leak, he suggested, was one undertaken by the government for good and proper purposes of its own. An 'uncontrolled' leak was one undertaken by a government official for purposes deemed to be improper. The FBI, Smith said, had decided to investigate only 'uncontrolled' leaks." (J. Anthony Lukas, *Nightmare, The Underside of the Nixon Years*)

2. *Suggest that the committee should call Helms, Bush, Colby, and/or Schlesinger to ask whether any of them had ever engaged in leaking themselves, or directly or indirectly authorized a leak.*

3. ". . . Kissinger did leak—to favored powers in the Washington press corps like Max Frankel of *The New York Times*, Chalmers Roberts and Murray Marder of *The Washington Post*, and Marvin Kalb of CBS." (J. Anthony Lukas, *Nightmare*)

4. "If any of the incoming reports indicated any kind of progress, Rostow immediately authorized a leak. *Business Week* got computer data charts of attacks by Vietcong (if they were down); the *Christian Science Monitor* got computerized population-control data from the Hamlet Evaluation Survey; the Los Angeles *Times* received data on the searches of junks and hamlets secured." (David Halberstam, *The Best and the Brightest*)

STATEMENT OF THEODORE C. SORENSEN

Mr. Chairman, Members of the Committee: I am grateful for this opportunity to share with you my views on President-elect Carter's decision to nominate me for the post of Director of Central Intelligence, and to answer the scurrilous and unfounded personal attacks which have been anonymously circulated against me.

I did not seek or lightly accept this assignment, and some of my friends have suggested that anyone agreeing to take the job lacks either the sanity or the judgment necessary to fulfill it. I recognize that the successes of the Intelligence Community are largely unspoken while its errors are roundly assailed; that it is often accused of deeds that it never committed or that it undertook at the request of higher authority; and that the Agency and its employees are rarely able to defend themselves publicly against these attacks. In recent days, I have had the same experience.

But I do not intend to be intimidated by those who wish to strike at me, or through me at Governor Carter, by personal attacks on my integrity and probity, grossly distorting the facts and maliciously twisting my words. I prize both my country and my honor too greatly to desert this post under that kind of cloud; and I am here to appeal to the sense of fairness of the Members of this Committee.

I recognize that some of you have legitimate questions concerning my qualifications. But before dealing with those questions, I must as a matter of personal privilege respond to the personal attacks upon my character which my nomination has suddenly stirred.

1. First, it has been said that I leaked or otherwise conveyed classified information for political or personal purposes. That charge is totally false. In the White House, I drew upon classified materials in backgrounding the press only when I was specifically directed to do so by the President, who clearly had such authority; and I took documents home for review only in those rare instances when I would otherwise have spent 24 hours a day in that office.

I have never compromised the national security of this country, or approved of anyone else doing so. My affidavits in the lawsuits brought against the New York Times and Daniel Ellsberg regarding publication of the Pentagon Papers accurately described the practices then prevalent in Washington—not as they should have been but as they were. Almost identical affidavits were submitted by a former Assistant Secretary of State, a former State Department Legal Adviser and a former Ambassador. During my White House service I received the highest security clearances from the CIA; and I received them again in the last few weeks. I have something of a reputation for guarding secrets, whether they be those of my government, my clients, or my friends. No one has ever charged me with conveying classified information to others or mislaying classified materials.

2. Second, it has been said that I improperly took classified documents with me from the White House when I left government service, improperly used them in writing my book on President Kennedy, and improperly obtained a tax deduction for donating them to the John F. Kennedy Library. Those charges are totally false. Upon the announcement in early 1964 that I was leaving the White House, I was visited by the Assistant Archivist of the United States, an official in the General Services Administration. He informed me that the papers in my files that I had created and accumulated during the period of my service in the White House were regarded by both law and historical precedent as my personal property; and further, that I was entitled to make any use of those papers that I deemed appropriate, whether selling them as some former White House aides had done, writing books based on them as other former aides had done, or donating them to an appropriate educational institution—with a tax deduction on the value of the gift—as still others had done.

Upon my signing on February 14, 1964, a letter of Intent to donate my papers to the Kennedy Library, the Archivist's Office sorted and packed my files, presumably leaving behind anything that was not mine, transferred them to a GSA depository in the Boston area. The GSA then sent to my home certain of those papers which I had selected as necessary background materials for my book. It collected them from me upon completion of my manuscript, and the entire lot of my papers was then transmitted to the John F. Kennedy Library, to which I donated them.

Naturally there were classified papers among them (although no communications intelligence reports), just as there were classified documents among the papers taken upon their departure from the White House by the principal aides of every President at least since Woodrow Wilson, including Col. House, Samuel Rosenman, Harry Hopkins, Sherman Adams, McGeorge Bundy and many, many others. Like most of those named. I reviewed my papers, including classified papers, in preparing a book on my experiences, just as Gerald Ford at his confirmation hearing acknowledged drawing upon Top Secret documents in his possession when writing his book on the Warren Commission. In the decade since my book was published, no one has suggested that security was in any way breached by anything in my book, and it was in fact submitted for clearance in advance to the National Security Adviser to the President, to his former deputy, and to the former Deputy Secretary of Defense. My handling of classified information was at all times in accordance with the then-existing laws, regulations and practices.

Upon donating my papers to the Kennedy Library (instead of selling them individually for a far larger amount), I received the tax deduction to which I was entitled by law, just as many former government officials did over the years—including, in addition to some or all of those already mentioned, former Ambassador Galbraith, former White House aide Authur Schlesinger, and former Governor and Ambassador Adlai Stevenson.

No doubt arguments can be made against the practice begun by George Washington of White House occupants taking their papers with them—John Eisenhower has recently stated, for example, that his father inherited from Truman and left to Kennedy no papers other than the instructions on nuclear attack procedures—but at the time I took my papers in 1964, that was clearly the accepted view of the law.

No doubt arguments can also be made against permitting tax deductions on the donation of papers by former government officials—and such arguments were made when the law was changed in 1960—but that was nevertheless the law prior to that time.

All of the above actions were taken with the full knowledge and approval of the government, and were publicly described in the well-publicized affidavits which I filed in the New York Times case and subsequently in the Ellsberg case. Those two cases involved important First Amendment issues, including the public's right to know the tragic history of the Vietnam War. Whatever improvements might have been made in the wording of my affidavits, I make no apology for having responded to the requests of counsel in both cases to attest to the inconsistencies and anomalies of government classification practices.

3. Third, it has been said that I avoided military service as a pacifist during World War II and the Korean War. This charge is totally false. I have never sought to avoid military service, hazardous or otherwise, in wartime or any other time. I have never advocated for the United States a policy of pacifism, non-resistance to attack or unilateral disarmament. The facts are that I registered for the draft upon becoming 18 years of age in 1946, a year after World War II ended, and shortly thereafter expressed the philosophy of non-violence with which I had been reared by two deeply idealistic parents by requesting, not an avoidance of military

duty or hazardous duty, but military service in a non-combatant capacity (classification IAO)—preferring, by way of illustration, to serve on the battlefield as a medical corpsman saving lives instead of taking lives. This status was granted. My action was largely symbolic, inasmuch as our country was not then at war or expected to go to war. I have never, in my service on the Executive Committee of the National Security Council during the Cuban Missile Crisis or at any other time, permitted my preference for personal non-violence to inhibit in any way my advice to the President on the military and other options available as a matter of national policy. I would not have accepted Governor Carter's designation to be Director of Central Intelligence were I not prepared to carry out every lawful order of the President conceivably connected with this post.

4. Fourth, it has been said that my legal representation of multinational corporations and foreign governments poses a conflict of interest in undertaking this assignment. This charge is patently absurd. Over the years, the highest national security officials in our country have frequently represented such clients before taking office—including Messrs. Dulles, Acheson, Rogers, McCloy, Stevenson and a host of others—but no one challenged their right to serve or later claimed that their actions were prejudiced by those earlier ties. My only representations of foreign governments were the brief occasions on which I represented the Government of Iran, Zaire, Sierra Leone and Newfoundland in commercial disputes or negotiations. In no country did I have any connection with or firsthand knowledge of any activities of either their intelligence agencies or our own; nor do I have now any obligations or prejudices regarding any foreign country which would interfere with any official duties.

5. The fifth and final charge is the suggestion that I must have been somehow involved in the Kennedy White House plots to assassinate foreign leaders. That charge is totally false. I have previously testified under oath, and I do so again today, that I knew nothing of such plots; and no one who did has ever stated or ever could state, nor did your predecessor committee find or suggest, that I was informed or involved in any way. The record is equally clear that I had no advance knowledge or involvement of any kind in the Bay of Pigs or in any CIA covert operations.

Mr. Chairman, far more than any job or title, I value my good name. I resent this reckless scattering of baseless personal accusations in order to suppress a different point of view. I respectfully ask this Committee, whatever the fate of my nomination, to consider the evidence submitted today and previously submitted to your staff, and to make it clear that these personal charges are wholly false and without foundation and not the basis for the Committee's view of my nomination.

With these personal charges out of the way, we can turn now to the question of my qualifications—to legitimate questions raised by those with whom I respectfully disagree but who are entitled to raise what they regard as valid questions. There are basically two such questions:

First is the question of my experience in intelligence. I was an observer at National Security Council meetings and a reader of intelligence reports in the White House, and worked closely with the CIA and other national security officials during the Cuban Missile Crisis. I have since leaving the White House written and lectured widely on international affairs, and engaged in negotiations with dozens if not hundreds of top foreign officials. I was requested by the Ford White House a year ago to provide advice and consultation on its reorganization of the intelligence effort. My qualifications for this post have been endorsed by John McCone, Clark Clifford, Averell Harriman, Admiral Elmo Zumwalt, General James Gavin, and others who know of my work. Most importantly, I was chosen by the President-elect as someone sufficiently in his personal trust and confidence to bring him the hard unvarnished facts, and to reject any improper orders whatever their source; as someone who possessed the integrity necessary to continue the task of restoring public trust and confidence in the CIA, and earning that trust and confidence by keeping the Agency accountable and free of abuse; and as someone with the degree of intellect and independence required to protect the integrity of the intelligence process from outside pressures and politics.

But I recognize that there are those, inside and outside of the intelligence establishment, who disagree with the Murphy Commission recommendation that an outsider always be named to this post; who refuse to recognize the totally non-partisan leadership provided by George Bush despite earlier concerns about his partisan background; or who see no value for this post in a lawyer's sensitivities to civil liberties and lawful conduct. These people believe that only someone from inside the military or intelligence establishment has the experience necessary for this job. I disagree.

Second is the question of my views. Although as previously indicated I am not a pacifist, I do favor a foreign policy that prefers where possible the risks of peace to the risks of war. Although as previously indicated I fully recognize the need for legitimate government secrecy, which is in fact weakened by over-classification, I do believe in the right of the Congress and public to receive far more information than they presently do from all government agencies, including the CIA. I believe in the application of moral and legal standards to national security decisions, including the limitation of covert operations to extraordinary circumstances involving the vital national interests of our country, with timely review by the appropriate Congressional Committees and written authorization by the President and his senior Cabinet officials.

There are those who disagree with these views and regard them as incompatible with the duties of a Director of Central Intelligence. Paying little heed to the fact that the Director's real responsibility is to provide leadership to the Intelligence Community and objective intelligence, not policy, to the President and his policymakers, these critics prefer to view this post as part of the national security decision-making apparatus and prefer in that post someone with policy commitments more like their own.

Obviously I disagree with that view as well.

THEODORE C. SORENSEN, DIRECTOR OF CENTRAL INTELLIGENCE-DESIGNATE

Theodore C. Sorensen was born in Lincoln, Nebraska on May 8, 1928. From 1966 until his recent nomination, Mr. Sorensen was a partner in the law firm of Paul, Weiss, Rifkind, Wharton & Garrison in New York City. He is a member of the Bar of the States of New York and Nebraska and of the District of Columbia. He was Assistant to Senator John F. Kennedy from 1953 to 1961 and Special Counsel to President Kennedy from 1961 to 1963. In 1952, he served as counsel for the Joint Committee on Railroad Retirement Legislation. In 1951, he was employed as a counsel for what is now the Department of Health, Education and Welfare.

Mr. Sorensen served as Chairman of the Advisory Committee, New York State Democratic Party from 1967 to 1969; as an advisor to the Robert F. Kennedy for President Campaign in 1968; and as a delegate to the National Democratic Convention in 1968. He was the co-author of the Party's Minority Peace Plank in that year. In 1970, he was a candidate for the United States Senate in the New York Democratic Party.

His memberships include: Phi Beta Kappa; the National Executive Committee of the Lawyers Committee for Civil Rights Under Law; American Society of International Law; and the Council on Foreign Relations. He is a trustee of the Robert Kennedy Memorial and of the Medgar Evers Fund.

Mr. Sorensen is the author of *Kennedy; Decision-Making in the White House; The Kennedy Legacy; Watchmen in the Night;* and numerous magazine articles.

He received his undergraduate and law degrees at the University of Nebraska, where he was Editor-in-Chief of the Law Review and ranked first in his law school class.

Mr. Sorensen is married and has four children.

TENTATIVE WITNESS LIST, CONSIDERATION OF THE NOMINATION OF MR. THEODORE C. SORENSEN TO BECOME DIRECTOR OF CENTRAL INTELLIGENCE, COMMENCING JAN. 17, 1977

The witnesses in support of Mr. Sorensen's nomination will include:

Ambassador Averill Harriman;
Mr. Clark Clifford;
Judge Simon Rifkind; and
Admiral Elmo Zumwalt.

Witnesses commenting on the issue of the nomination:

Common Cause—Mr. David Cohen, President.

The witnesses in opposition to Mr. Sorensen's nomination will include:

Congressman Larry P. McDonald (7th Dist. Georgia).

The Conservative Caucus—Mr. Howard Phillips.

The Conservative Caucus—Mr. Larry Uzzell.

American Conservative Union—Mr. Francis J. McNamara.

Committee for the Survival of a Free Congress—Mr. Charles Moser.

Fusion Energy Foundation—Dr. Morris Levitt.

Center for National Security Studies—Mr. John Marks.

Liberty Lobby—Mr. Robert M. Bartell.

U.S. Labor Party—Ms. Susan Kokinda.

Mr. E. C. "Mike" Ackerman.

Ambassador Edward M. Korry.

Dr. Stefan Possony.

[From the Washington Post, Jan. 16, 1977]

SORENSEN NOMINATION IN TROUBLE

(By Spencer Rich)

The nomination of Theodore C. Sorensen as Central Intelligence Agency director appeared in grave danger yesterday, amid reports that several members of the Senate Intelligence Committee have asked President-elect Jimmy Carter to withdraw Sorensen's name or face the possibility he will not be confirmed.

The Intelligence Committee begins hearings Monday on Sorensen. His problems result from sworn affidavits, which he submitted in the 1970 Pentagon papers case and the 1972 trial of Daniel Ellsberg, that he had taken classified materials from the White House when he left it in 1964 after being a top aide to the late President Kennedy.

Sorensen, who was at the CIA headquarters in Langley, Va., yesterday, issued a statement last night saying Carter "has reaffirmed his strong determination that I serve as director of central intelligence and I expect to do so."

Mark Alcott, a law partner of Sorensen who was acting as his spokesman, said the reaffirmation came during a telephone conversation between Carter and Sorensen yesterday.

Sorensen said in his statement that Carter had read the affidavits which have been on the public record for five years, and "is familiar with all the facts."

He said, "Any charge that I have acted improperly with respect to classified information or White House papers is totally false."

Members of the Senate Intelligence Com-

mittee, who received copies of the Sorensen affidavits Friday, said they show that he used some of the materials in his 1965 book, "Kennedys" and received a tax break for donating those and other papers to the government.

The affidavits also state, members said, that he leaked classified materials while in the White House for political and other purposes. The affidavits were called to the committee's attention by Sen. Joe Biden Jr. (D-Del.), a member.

Yesterday, three members of the Intelligence Committee, who asked not to be identified, said they had been told that Committee Chairman Daniel K. Inouye (D-Hawaii) and Senate Minority Leader Howard H. Baker (R-Tenn.), as well as several others, had advised Carter that he should consider withdrawing Sorensen's name, because he lacked judgment and respect for the classification process.

Spokesmen for both Inouye and Baker declined to confirm or deny the report. A spokesman said Baker, an ex officio member of the committee and its former senior Republican, had talked with Carter about Sorensen. Baker told reporters on Jan. 7 that there was "significant opposition" to Sorensen.

Senate Majority Leader Robert C. Byrd (D-W.Va.), meanwhile, told reporters yesterday that the Sorensen nomination "is in considerable difficulty" and he "wouldn't be willing to say" at the moment that he will support Sorensen. He said Sorensen's "chances, at this point, are questionable."

A Carter spokesman in Washington said that the President-elect "is going to stand by this nomination fully." In Plains, Ga., Carter's deputy press secretary Rex Granum said Carter is "aware of the problem."

Sen. Jake Garn (R-Utah), a member of the 15-man Intelligence Committee, said he opposes Sorensen, and he believes Sens. Strom Thurmond (R-S.C.), Barry Goldwater (R-Ariz.) and Robert Morgan (D-N.C.) have also decided to oppose Sorensen.

"First of all, I don't think he has any experience at all," Garn said. "Secondly, I'm very concerned about someone who would leak classified documents out of the White House."

One committee Democrat, who asked not to be identified, said that both Sorensen and Carter "are being urged to withdraw the nomination in a most emphatic way—by senators on the committee and by others. They're not all Republicans. It's coming from both sides.

"I think a majority of the committee would vote against him now. It was marginal to begin with. He wasn't qualified. It never made any sense. The job requires a man of authority, a civilian who can control the entire intelligence community—a Jim Schlesinger, not a Sorensen. The director of the largest intelligence service in the world is a leaker! It undermines the whole intelligence effort. It raises questions about his judgment.

"He didn't tell Carter. This was nip and tuck before. Now it's impossible."

Sen. Mark Hatfield (R-Ore.), also on the committee, said, "I have heard that some have urged his withdrawal. A significant number have reservations."

The Pentagon papers case arose in 1971 when the government attempted to prevent The New York Times, Washington Post and other publications from publishing Pentagon documents, which had been obtained from a then unknown source or sources, giving the history of secret government deliberations involving the Vietnamese war.

Later, Ellsberg was accused of leaking the secret documents, which he had obtained when working for the Rand Corp., a government contractor, by duplicating a copy of the papers in Rand's possession.

Ellsberg was tried in 1972 on a 15-count indictment alleging national security violations, but the charges were dismissed after 89 days of trial in 1973 because of the "plumbers" break-in of his psychiatrist's office.

Sorensen filed the affidavits on behalf of Ellsberg and a codefendant in an effort to show that it was not uncommon for high government officials to take documents with them when they left the government and that leaking secret information was done often.

In his affidavits, according to several members of the Intelligence Committee, Sorensen admitted that when he left the White House in 1964, he took with him 67 boxes of material accumulated during his years as President Kennedy's top White House staff aide, including seven boxes of classified documents, such as copies of Kennedy-Khrushchev materials, materials on the Congo, Bay of Pigs, Laos and Berlin crises, and a transcript of the Kennedy-Khrushchev meetings in Vienna.

The affidavits also indicate he donated some of the material to the National Archives and received a tax break.

Senate aides said the hearings are scheduled to go on Monday unless Sorensen's name is withdrawn and that Sorensen is preparing a spirited defense before the committee in the hope of saving his nomination.

ORDER OF BUSINESS

(The following proceedings occurred during the tributes to President Ford and are printed at this point in the RECORD by unanimous consent.)

Mr. HELMS. Mr. President, the able Senator from New Mexico is on his way to the Chamber for the purpose of paying tribute to the outgoing President of the United States. The Senator from Alabama has a matter he wants to present. I ask unanimous consent that the Senator from Alabama be permitted to proceed, with the understanding that when Senator SCHMITT arrives, he can make his remarks and they will appear in the RECORD at the appropriate place.

Mr. BAKER. Mr. President, reserving the right to object, and I do not plan to object, could I know the nature of the other business the Senator from Alabama has?

Mr. ALLEN. I have another resolution which I am going to ask unanimous consent be considered at this time. I understand that objection will be made, and that it will go over under the rule; and it will take only 2 or 3 minutes. It has to do with the sense of the Senate in opposition to blanket pardon and amnesty.

Mr. BAKER. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 40—TO EXPRESS THE SENSE OF THE SENATE IN OPPOSITION TO A GENERAL PRESIDENTIAL PARDON BY PROCLAMATION OR EXECUTIVE ORDER OF VIETNAM ERA DRAFT EVADERS, AND FOR OTHER PURPOSES

Mr. ALLEN. Mr. President, I send to the desk, in behalf of myself, Mr. HARRY F. BYRD, JR., Mr. HELMS, Mr. GARN, Mr. HAYAKAWA, Mr. THURMOND, Mr. GOLDWATER, Mr. BELLMON, Mr. HANSEN, Mr. HATCH, and Mr. MCCLURE, a resolution having to do with expressing the sense of the Senate in opposition to blanket pardon or amnesty. I ask unanimous consent for the immediate consideration of the resolution.

Mr. ABOUREZK. Mr. President, I object. Mr. President, I object.

The PRESIDING OFFICER. The resolution will be stated, first.

The assistant legislative clerk read as follows:

A resolution (S. Res. 40) to express the sense of the Senate in opposition to a general Presidential pardon by proclamation or executive order of Vietnam era draft evaders, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ABOUREZK. I object.

Mr. ALLEN. Mr. President, I did not expect the resolution to be considered at this time. I had informed the majority leader that I planned to do this, and stated I understood that he would make objection.

The PRESIDING OFFICER. Objection having been heard, the resolution will go over under the rule.

The resolution (S. Res. 40) is as follows:

S. RES. 40

Resolved, that

Whereas President-elect Jimmy Carter has indicated that he will, as one of his first official acts as President, issue some form of Presidential pardon for all Vietnam era draft evaders;

Whereas the grant of an immediate blanket Presidential pardon for all Vietnam era draft evaders would be a disservice to the more than 3 million men and women who served honorably in the Armed Forces during the Vietnam era and to the families whose sons died in battle or captivity or remain missing in action;

Whereas the grant now of an immediate blanket Presidential pardon for all Vietnam era draft evaders would ignore the purpose and work of the Presidential Clemency Board and make meaningless the alternate service performed by those who elected to apply for clemency;

Whereas an immediate blanket Presidential pardon for Vietnam era draft evaders could have dire effect on military morale and discipline and might tend to hamper future defense efforts; and

Whereas the issue of blanket pardons for draft dodgers is of such importance to the United States and the people of the United States that the Senate feels that President-elect Carter and the people should be advised of the Sense of the Senate on this issue;

Now therefore, the sense of the Senate is that the President of the United States would be ill-advised to pardon, and he is hereby urged not to pardon, by any general or blanket decree, proclamation, order, or amnesty draft evaders who chose to break the laws of the United States rather than to serve honorably in our Armed Forces during the period August 4, 1964, through March 28, 1973, and it is further the sense of the Senate that each application for pardon for draft evasion should be handled compassionately but on the basis of its own merit or demerit.

ORDER FOR RECESS FROM WEDNESDAY, JANUARY 19, UNTIL 10:15 A.M. ON THURSDAY, JANUARY 20, 1977 AND ORDER OF BUSINESS ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the

Senate completes its business on tomorrow it stand in recess until the hour of 10:15 a.m. on Thursday; and, provided further, that there be a place in the RECORD for statements, bills, resolutions, petitions and memorials on Thursday; and that after the two leaders or their designees have been recognized under the standing order for not to exceed 5 minutes each on Thursday that there be a quorum call, at which time Senators will gather in a body to proceed to the inauguration of the new President and Vice President; and that the Senate, following the inauguration, continue to stand in recess during the day awaiting the call of the Chair

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it would be my hope that following the inauguration, at some point during the afternoon the Senate could reconvene and take up those nominations which, by then, will have been received from the new President and will have been reported from the various committees subject to the receipt of the names from the President, and on which no controversy is expected, so that hopefully those nominations can be confirmed by unanimous consent on Thursday afternoon. That will be the intent of the leadership.

Mr. STEVENS. Reserving the right to object—and I shall not object—it is my understanding, would I be correct in stating it, that there would be no anticipated rollcall votes on Inauguration Day because of the rule that if there was any objection at all the nomination would have to go over; is that correct?

Mr. ROBERT C. BYRD. The Senator is exactly correct. No rollcall votes would be anticipated, and we would only take up those nominations which have been reported from the committees by unanimous consent and on which no rollcall votes are expected that day.

Mr STEVENS. I thank the Senator.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, while I have the floor, I shall announce that no rollcall votes are expected during the remainder of this day.

ORDER FOR ADJOURNMENT FROM THURSDAY, JANUARY 20, 1977 UNTIL FRIDAY, JANUARY 21, 1977

Mr. ROBERT C. BYRD. I ask unanimous consent at this time that when the Senate completes its business on Thursday, it stand in adjournment until the hour of 12 o'clock noon on Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM FRIDAY NEXT TO MONDAY, JANUARY 24, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this order may be vitiated later depending on the circumstances—that when the Senate completes its business on Friday it stand in adjournment until the hour of 12 noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR McGOVERN ON TOMORROW

Mr. CRANSTON. Mr. President, I ask unanimous consent that the time allocated to me tomorrow be allocated instead to Senator McGOVERN.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR CRANSTON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the recognition of Mr. HART on tomorrow, Mr. CRANSTON be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow, the Senate will convene at the hour of 2 o'clock. After the two leaders or their designees have been recognized under the standing order, Mr. HART will be recognized for not to exceed 15 minutes, after which Mr. CRANSTON will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes each. It is possible that rollcall votes may occur on tomorrow afternoon, inasmuch as various resolutions are in a position to be coming over under the rule. What will occur in regard to those resolutions remains to be seen, but rollcall votes may occur. As a matter of fact, I would expect such rollcall votes to occur.

PROGRAM FOR THURSDAY, JANUARY 20, 1977

Mr. ROBERT C. BYRD. Mr. President, when the Senate completes its business tomorrow, it will stand in recess until the hour of 10:15 a.m. on Thursday. The two leaders on Thursday will be confined to 5 minutes each under the order previously entered, and all Senators may enter into the RECORD on Thursday statements, bills and resolutions, petitions and memorials. But following the recognition of the two leaders on Thursday, there will be a quorum call.

Circa 10:15 a.m. on Thursday, Senators will gather in a body to proceed to the inauguration and, following the inauguration, the Senate will stand in recess, under the order previously entered, awaiting the call of the Chair.

At some point during the afternoon, and I think by tomorrow, I shall be able to be more specific on this point, nominations that are not controversial and on which rollcall votes are not anticipated and which are expected to be agreed to by unanimous consent will be taken up, of course, subsequent to the receipt by the Senate of the messages from the President containing these nominations.

ADJOURNMENT

Mr. CRANSTON. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 2 p.m. tomorrow.

The motion was agreed to; and at 5:47 p.m., the Senate adjourned until tomorrow, Wednesday, January 19, 1977, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate January 18, 1977:

IN THE ARMY

The U.S. Army Reserve officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Donald Jordan Brown, xxx-xx-x... xxx...
Brig. Gen. Leston Neal Carmichael, xxx-... xxx-xx-x...
Brig. Gen. Richard Holcomb Cooper, xxx-... xxx-xx-...
Brig. Gen. Ladd Franklin Hunt, xxx-xx-x... xxx...
Brig. Gen. John David Jones, xxx-xx-xxxx.

To be brigadier general

Col. Robert Melvin Carter, xxx-xx-xxxx.
Col. Joseph Peter Cillo, xxx-xx-xxxx.
Col. Edward Dorwart Clapp, xxx-xx-xxxx.
Col. Robert Earl Crosser, xxx-xx-xxxx.
Col. Robert Milton Erffmeyer, xxx-xx-xxxx xxx...
Col. Jack Howard King, xxx-xx-xxxx.
Col. James Carroll McElroy, Jr., xxx-xx-xx... xxx...
Col. Dean Winston Meyerson, xxx-xx-xxxx.
Col. John Herbert Pigman, xxx-xx-xxxx.
Col. Antonio Rodriguez-Balinas, xxx-xx-x... xxx...
Col. Zack Church Saufley, xxx-xx-xxxx.
Col. Robert LeRoy Shirkey, xxx-xx-xxxx.
Col. Russell Cowan Wright, xxx-xx-xxxx.

The Army National Guard of the United States officers named herein for appointment as Reserve Commissioned officers of the Army under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen William Herbert Duncan, xxx-... xxx-xx-...
Brig. Gen. Delmer Hilton Nichols, xxx-xx-x... xxx...
Brig. Gen. James Simonet O'Brien, xxx-xx-x... xxx...

To be brigadier general

Col. Neil Edison Allgood, xxx-xx-xxxx.
Col. Robert Francis Brainard, xxx-xx-xxxx.
Col. Bernard Cole Clippard, xxx-xx-xxxx.
Col. Joseph Patrick Hegarty, xxx-xx-xxxx.
Col. Willard Dimock Hill, Jr., xxx-xx-xxxx.
Col. Thomas Seiei Ito, xxx-xx-xxxx.
Col. James Thomas Keltner, xxx-xx-xxxx.
Col. Maurice Hamilton Phillips, xxx-xx-x... xxx...

Col. Cohen Everett Robertson, xxx-xx-xxxx.
Col. Hal Franklin Robertson, xxx-xx-xxxx.
Col. Harry Van Steel, Jr., xxx-xx-xxxx.
Col. Edmund Conrad Tiemann, xxx-xx-xxxx xxx...

The Army National Guard of the United States officers named herein for appointment as Reserve Commissioned officers of the Army under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be brigadier general

Col. John William Gillette, xxx-xx-xxxx.
Col. Fred William Greenagel, xxx-xx-xxxx.
Col. John Whelan Kiely, xxx-xx-xxxx.
Col. James Jay Lison, Jr., xxx-xx-xxxx.
Col. Willard Atherton Shank, xxx-xx-xxxx.
Col. Ivan Ray Smith, xxx-xx-xxxx.
Col. Carl Douglas Wallace, xxx-xx-xxxx.

IN THE MARINE CORPS

The following-named (Naval Reserve Officer Training Corps) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Beaty, Luther M.
Hoey, Kevin A.
Kennedy, David L.
Koehler, William C.
Machado, Richard J.
Maguire, Robert A.
Reeves, David E.
Robbins, Wayne L.

The following-named (Navy enlisted scientific education program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Benes, Martin D.
Blizzard, Thomas F.
Brown, Bruce A.
Diehl, Roger K.
Evans, Donald V.
Flanagan, Patrick A.
Hires, Willie E.
Kelley, David A.
Miller, David L.
Nehring, Richard E.
Osmer, George A.
Raymond, Christopher D.
Smith, Neal R.
Stotzer, Mark D.
Tanner, Michael F.
Thompson, Joseph M.
Woodruff, Henry A.

The following-named (Marine Corps enlisted commissioning education program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Battles, Ralph S., Jr.
Davis, Billy H.
Diaz, Gilbert B.
Dubois, Milan E., Jr.
Graham, Richard D.
Hockman, Arthur E., II
Lynn, Douglas C.
Marley, John
Matthews, James D.
Yarbrough, Warren M.

IN THE COAST GUARD

The following-named officers of the Coast Guard for promotion to the grade of lieutenant:

Michael B. Garwood
Samuel R. Brooks, III
Martin C. Eger
Stephen R. Campbell
Galen W. Dunton
John A. Martin
Steven D. Poole
Gregory D. Lapp
Norman D. Robb
Dennis N. Herbert
John T. Egbert
Steven B. Sullivan
William W. Spitler
Kenneth T. Venuto
Gary K. Sooy
John J. Anthony
James A. Rauch
Bruce J. Good
William C. Helgeson
William D. Kline
Dennis G. Bohlayer
Gregory S. Chapman
Philip P. Wieczynski
Paul J. Moeller
Daniel J. Farrell
Daniel W. Stuhlmann
Arthur J. French, III
John C. Reed
Bruce P. Austin
Kenneth M. Norris
Miles A. Millbach
Mathew L. Sheep
Carl V. Mosebach
Herbert A. Lewis
Michael G. Fay
Patrick T. Hoopes
David B. Crawford
Bernard J. Roan
Robert H. Fitch
John E. Veentjer
Thomas J. Allard
Robert D. Gamble
John R. Sprouse
Brian J. Clark
George T. Gunther
Thomas J. Haas
Rodney M. Leis
William J. Wilkinson, III
Steven E. Froehlich
David E. Young
John D. Cook
Paul G. Miller
Byron D. Ward, Jr.
Calvin M. Rich
Thomas J. Donlon
Ray W. Clark, Jr.
David W. Smith
Michael J. Calabro
Thomas J. Collins
Tajr Hull
John V. O'Shea
Gary S. Steinfort
Grant E. Leber
Michael J. Pierce
Gary P. Kosciusko
Robert E. Young
Peter T. Milner
Steven J. Bellona
Dennis H. Schenck
Gregory M. Auth
Robert W. Bruce, Jr.
Kenneth D. Bradley
Frederick A. Adams
Robert G. Ross
James R. Woeppel
Donald S. Lewis
Daniel J. Rothaupt
Stephen H. Francis
Robert F. O'Hara
Douglas I. Boyles
Michael J. Wensman
Stanley T. Fuger, Jr.
Edward P. Boyle
Robert L. Skewes
Michael J. Courtois
David M. Rice
Peter A. Popko
Rodney B. Bowles
David A. Anderson
Keith Coddington
Noris M. Turner
Dale L. Thompson
Charles A. Barrett
Michael M. Rosecrans
Michael M. Ashdown
James T. Loew
Dante J. Grasso, Jr.
Michael F. Breen
George F. Wright
Robin E. Gutridge
Stephen E. Trenchard
Robin E. Crusse
Kenneth H. Good
Robert A. Schwehr
Kenneth N. Knutson, Jr.
Michael A. Robinett
Freddy L. Montoya
Harry K. Foote
Robert F. Petko
David R. Nicholson
Michael J. Stevens
Deryck G. Bratton
Larry L. Hereth
David W. Smith
Thomas J. Hadley
William E. Plage, Jr.
Jimmie L. Sether
Daniel J. Scherer
Robert E. Dodge, Jr.
Robert G. Blythe
Douglass S. Hertz
Alan M. Orr
Robert A. Robichaud
Robert F. Rzemieniewski
David R. Gauthier
Thomas A. Fitzgerald
Mark W. Newman
Robert C. Johnson
James E. Tighe
James L. Converse
William J. Barker
Gary M. Anderson
Stephen L. Johnson
James C. Devin
Anthony C. Yamada
John D. Pendegraft
John S. Burnett
Michael W. Brown
Peter J. Boyd
Robert A. Bohlen
Alan J. Rice
Lawrence J. Shirley
Thomas D. Meyer
John S. Clay
Keith A. Moll
Frank L. Stoup
Mason F. Stober
Gregory L. Rahl
David W. Moore
Guy H. Buckelew
Randal K. Corrigan
Keith R. Colwell
Carlos Alfonso
Michael R. Warren
Gary T. Mansi
Billy L. Laws
Warren G. Schneeweis
Louis J. Orsini
Allen W. Penn
Stephen C. Patterson
Timothy J. Howe
Patrick L. Shuck
Gary H. Watson
William D. Chappell
James W. John
William G. Paulick
Alton J. Parks
Albert A. Hoffman
Bruce D. Martin
David E. Elliott
Joseph F. Duncan
Kevin J. Grote
Thomas W. Hathaway
Carl R. Perkins
John S. Calhoun
Christian T. Bohner
Ottis B. Jones, Jr.
James E. Koehler
Richard P. Tittermary
Wayne K. Gibson
Douglas K. McFadden
Thomas A. Trovsvig
Richard E. Frye II
Dennis R. Shoebotham
Walter Sapp
James W. Guin, Jr.
William A. Danner
David J. Doyle
Arthur E. Adkins
Herman S. Pritchard
David V. Romme
Thomas R. Aitchison
Andrew J. Key, Jr.
Donald T. Graviss
Dennis J. Mayberry
Richard J. Armstrong
Virgilio S. Merced
Garace A. Reynard
Dennis A. Stuart
Glen A. Reed

The following-named temporary officers of the Coast Guard to be permanent commissioned officers in the grade of lieutenant (junior grade).

John S. Calhoun
Christian T. Bohner
Ottis B. Jones, Jr.
James E. Koehler
Richard P. Tittermary
Wayne K. Gibson
Douglas K. McFadden
Thomas A. Trosvig
Richard E. Frye II
Dennis R. Shoebotham
Walter Sapp
James W. Guin, Jr.
William A. Danner
David J. Doyle
Arthur E. Adkins
Herman S. Pritchard
David V. Romme
Thomas R. Aitchison
Andrew J. Key, Jr.
Donald T. Graviss
Dennis J. Mayberry
Richard J. Armstrong
Virgilio S. Merced
Garace A. Reynard
Dennis A. Stuart
Glen A. Reed

CONFIRMATIONS

Executive nominations confirmed by the Senate January 18, 1977:

IN THE AIR FORCE

The following officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839 title 10 of the United States Code:

To be major general

Brig. Gen. James H. Ahmann, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Melvin G. Bowling, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Kelly H. Burke, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Edgar A. Chavarrie, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Thomas E. Clifford, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Gerald E. Cooke, xxx-xx-xxxx FR, Regular Air Force.
Brig Gen. Edwin A. Coy xxx-xx-xxxx FR, Regular Air Force.
Brig Gen. James B. Currie, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Garth B. Dettinger, xxx-xx-xxxx FR, Regular Air Force, Medical.
Brig. Gen. Charles L. Donnelly, Jr., xxx-xx-... FR, Regular Air Force.
Brig. Gen. Hans H. Driessnack, xxx-xx-xxxx FR, Regular Air Force.
Brig Gen. Philip C. Gast xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. William D. Gilbert, xxx-xx-xxxx FR, Regular Air Force.
Brig Gen. David L. Gray xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Fred A. Haeffner, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Gerald K. Hendricks, xxx-xx-x... FR, Regular Air Force.
Brig. Gen. John W. Hepfer, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. James R. Hildreth, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. John H. Jacobsmeyer, Jr., xxx-xx-x... FR, Regular Air Force.
Brig. Gen. Charles F. G. Kuyk, Jr., xxx-xx-x... FR, Regular Air Force.
Brig. Gen. Doyle E. Larson, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. George D. Miller, xxx-xx-xxxx FR, Regular Air Force.
Brig Gen. Billy M. Minter, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Warren C. Moore, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Edward J. Nash, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. William L. Nicholson III, xxx-xx-x... FR, Regular Air Force.
Brig. Gen. Jerome F. O'Malley, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Earl G. Peck xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Bobby W. Presley, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Len C. Russell, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. Robert Scurlock, xxx-xx-xxxx FR, Regular Air Force.
Brig. Gen. James W. Stansberry, xxx-xx-x... FR, Regular Air Force.
Brig. Gen. LeRoy W. Svendsen, Jr., xxx-xx-x... FR, Regular Air Force.
Brig. Gen. Robert C. Taylor, xxx-xx-xxxx FR, Regular Air Force.

The following officers for appointment in the Regular Air Force to the grades indicated, under the provisions of chapter 835, title 10 of the United States Code:

To be major general

Maj. Gen. Arnold W. Braswell, xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. Wilbur L. Creech, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Brig. Gen. James B. Currie, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Cecil E. Fox [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. Raymond B. Furlong, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Abbott C. Greenleaf, [redacted] R (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. James V. Hartinger, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Richard C. Henry, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. Robert T. Marsh, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Abner B. Martin, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Otis C. Moore, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Edwin W. Robertson II, [redacted] R (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Evan W. Rosencrans, [redacted] R (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. George E. Schafer, [redacted] FR (brigadier general, Regular Air Force, Medical), U.S. Air Force.

To be brigadier general

Brig. Gen. Walter H. Baxter III, [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Thomas G. Bee, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Rufus L. Billups, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. William E. Carson, [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Edgar A. Chavarrie, [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Robert W. Clement, [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Thomas E. Clifford, [redacted] (colonel, Regular Air Force, U.S. Air Force.

Brig. Gen. Philip J. Conley, Jr., [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Edwin A. Coy, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Theodore P. Crichton, [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Michael E. DeArmond, [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Garth B. Dettinger, [redacted] R (colonel, Regular Air Force, Medical), U.S. Air Force.

Brig. Gen. Richard T. Drury, [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Howard M. Estes, Jr., [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Harry Falls, Jr., [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Don M. Hartung, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John W. Hepfer, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Francis A. Humphreys, Jr., [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Elwood A. Kees, Jr., [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Charles B. Knudson, [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Benton K. Partin, [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Earl G. Peck [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Andrew Pringle, Jr., [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Walter D. Reed, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Robert Scurlock, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. James W. Stansberry, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. LeRoy W. Svendsen, Jr., [redacted] R (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Daryle E. Tripp, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Everett L. True, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Charles E. Woods, [redacted] R (colonel, Regular Air Force), U.S. Air Force.

The following officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be brigadier general

Col. Walter J. Bacon II, [redacted] FR, Regular Air Force.

Col. James I. Baginski, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. Merton W. Baker [redacted] FR, Regular Air Force.

Col. Jerome R. Barnes, Jr., [redacted] FR, Regular Air Force.

Col. Tommy I. Bell, [redacted] FR, Regular Air Force.

Col. Theodore D. Broadwater, [redacted] FR, Regular Air Force.

Col. Norma E. Brown [redacted] FR, Regular Air Force.

Col. John R. Budne [redacted] FR, Regular Air Force.

Col. Richard A. Burpee, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. William J. Campbell, [redacted] FR, Regular Air Force.

Col. Melvin F. Chubb, Jr., [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. Cecil D. Crabb, [redacted] FR, Regular Air Force.

Col. Edward L. Ellis, [redacted] FR, Regular Air Force.

Col. Alonzo L. Ferguson, [redacted] FR, Regular Air Force.

Col. Paul E. Gardner [redacted] FR, Regular Air Force.

Col. Allison G. Glover [redacted] FR, Regular Air Force.

Col. Irwin P. Graham [redacted] FR, Regular Air Force.

Col. Patrick J. Halloran [redacted] FR, Regular Air Force.

Col. Paul H. Hodges, [redacted] FR, Regular Air Force.

Col. Charles B. Jiggetts [redacted] FR, Regular Air Force.

Col. Robert W. Kennedy, [redacted] FR, Regular Air Force.

Col. Frederick C. Kyler [redacted] FR, Regular Air Force.

Col. Charles W. Lamb [redacted] FR, Regular Air Force.

Col. Joseph R. Lowry [redacted] FR, Regular Air Force.

Col. John B. Marks, Jr. [redacted] FR, Regular Air Force.

Col. William E. Masterson, [redacted] FR, Regular Air Force.

Col. Robert F. McCarthy, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. Forrest S. McCartney, [redacted] FR, Regular Air Force.

Col. Robert G. McIver [redacted] FR, Regular Air Force, Medical.

Col. Edward Mendel [redacted] FR, Regular Air Force.

Col. Kenneth R. Milam, Jr., [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. Alfred M. Miller, Jr., [redacted] FR, Regular Air Force.

Col. Russell E. Mohney, [redacted] FR Regular Air Force.

Col. William H. L. Mullins, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. Kenneth L. Peek, Jr., [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. James C. Pfautz, [redacted] FR, Regular Air Force.

Col. Robert D. Russ, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. Vernon H. Sandrock, [redacted] FR, Regular Air Force.

Col. Richard K. Saxer, [redacted] FR, Regular Air Force.

Col. Casper T. Spangrud, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. Dennis B. Sullivan, [redacted] FR, Regular Air Force.

Col. James Taylor, Jr., [redacted] FR, Regular Air Force.

Col. Mele Vojvodich, Jr., [redacted] FR, Regular Air Force.

Col. Larry D. Welch, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section [redacted] in grade as follows:

To be lieutenant general

Maj. Gen. Robert Gibbins Gard, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

The following-named officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 3284 and 3307:

To be major general

Maj. Gen. Cecil W. Hospelhorn, [redacted], Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Lawrence M. Jones, Jr., [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Gordon J. Duquemin, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. William R. Wray, [redacted], Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Robert J. Malley, [redacted], Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Richard A. Bresnahan, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. George E. Turnmeyer, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. James A. Johnson, [redacted], Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. James B. Vaught, [redacted], Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Otis C. Lynn [redacted], Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. William L. Mundie, [redacted], Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Willard W. Scott, Jr. xxx-xx-x... xxx-... Army of the United States, (brigadier general, U. S. Army).

Maj. Gen. John W. McEnery, xxx-xx-xxxx, Army of the United States, (brigadier general, U.S. Army).

Lt. Gen. Donn A. Starry xxx-xx-xxxx, Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. William B. Caldwell III, xxx-xx-x... xxx-x... Army of the United States(brigadier general, U.S. Army).

Maj. Gen. Kenneth E. Dohleman, xxx-xx-x... xxx-... Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Oren E. DeHaven, xxx-xx-xxxx, Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Joseph K. Bratton, xxx-xx-xxxx, Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Lee E. Surut xxx-xx-xxxx, Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Jerry B. Lauer xxx-xx-xxxx Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Donald R. Keith, xxx-xx-xxxx Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. John F. Forrest xxx-xx-xxxx Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Marion C. Ross, xxx-xx-xxxx Army of the United States, (brigadier general, U.S. Army).

To be brigadier general

Maj. Gen. William B. Steele, xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

The following-named officers for temporary appointment in the Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general

Brig. Gen. Charles K. Heiden, xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Brig. Gen. John C. Faith xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Brig. Gen. Hillman Dickinson, xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Brig. Gen. Emmett W. Bowers, xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Brig. Gen. Charles P. Graham, xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Brig. Gen. James H. Merryman, xxx-xx-xx... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Louis C. Menetrey, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Paul S. Williams, Jr., xxx-xx-xx... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Guy S. Meloy III, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Maxwell R. Thurman, xxx-xx-x... xxx-... Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. William J. Livsey, Jr., xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. William I. Rolya, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Jack V. Mackmull, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Emil L. Konopnicki, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Sampson H. Bass, Jr., xxx-xx-xx... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Joseph N. Jaggers, Jr., xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert L. Bergquist, xxx-xx-xxxx xxx-... Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. William J. Hilsman, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. John W. Seigle xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Donald E. Rosenblum, xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. James F. Cochran III xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Louis W. Prentiss, Jr., xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. John B. Blount xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Benjamin L. Harrison, xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Phillip Kaplan xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Brig. Gen. Edward A. Partain, xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Brig. Gen. Jack N. Merritt xxx-xx-xxxx Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Donald M. Babers, xxx-xx-xxxx Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Thomas P. Lynch, xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Brig. Gen. Paul M. Timmerberg, xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army.)

Brig. Gen. Tom H. Brain xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Lucien E. Bolduc, Jr., xxx-xx-xx... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Sinclair L. Melner, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Alan A. Nord, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Albert B. Akers xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Jere W. Sharp xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. James G. Boatner, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Story C. Stevens, xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Brig. Gen. Edmund R. Thompson, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

The following-named officers for temporary appointment in the Army of the United States to the grade indicated, under the provisions of Title 10, United States Code, Sections 3442 and 3447.

To be brigadier general

Col. Frederic J. Brown III xxx-xx-xxxx, Army of the United States (major, U.S. Army).

Col. John L. Ballantyne III xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. John W. Woodmansee, Jr., xxx-xx-xxxx xxx-... Army of the United States (major, U.S. Army).

Col. Jack A. Walker, xxx-xx-xxxx, Army of the United States (major, U.S. Army).

Col. Edward A. Dinges, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Thomas F. Healy, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Patrick M. Roddy, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles J. Fiala xxx-xx-xxxx Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert M. Elton, xxx-xx-xxxx Army of the United States (lieutenant colonel, U.S. Army).

Col. Ames S. Albro, Jr., xxx-xx-xxxx Army of the United States (lieutenant colonel, U.S. Army).

Col. William S. deCamp, xxx-xx-xxxx Army of the United States (major, U.S. Army).

Col. Carl E. Vuono, xxx-xx-xxxx Army of the United States (major, U.S. Army).

Col. Grail L. Brookshire, xxx-xx-xxxx Army of the United States (lieutenant colonel, U.S. Army).

Col. Neal Creighton, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. John S. Crosby, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Philip L. Bolte, xxx-xx-xxxx, U.S. Army.

Col. William W. Maurer, xxx-xx-xxxx Army of the United States (lieutenant colonel, U.S. Army).

Col. William R. Sarber, Jr. xxx-xx-xxxx, U.S. Army.

Col. Niles J. Fulwyler, xxx-xx-xxxx U.S. Army.

Col. John W. Hudachek, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. David C. Martin, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Stephen E. Nichols, xxx-xx-xxxx, U.S. Army.

Col. Edward C. O'Connor, xxx-xx-xxxx, U.S. Army.

Col. Henry H. Harper, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Duard D. Ball, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Leonard J. Riley, xxx-xx-xxxx, Army of the United States (major, U.S. Army).

Col. John D. Granger, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Alton H. Harvey, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. James E. Armstrong, xxx-xx-xxxx, U.S. Army.

Col. Donald G. Weinert, xxx-xx-xxxx, U.S. Army.

Col. Allen H. Light, Jr., xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Howard G. Crowell, Jr., xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. James P. Maloney, xxx-xx-xxxx Army of the United States (lieutenant colonel, U.S. Army).

Col. Dwight L. Wilson, xxx-xx-xxxx Army of the United States (lieutenant colonel, U.S. Army).

Col. Henry Doctor, Jr., xxx-xx-xxxx Army of the United States (lieutenant colonel, U.S. Army).

Col. Andrew H. Anderson, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Albert N. Stubblebine III, xxx-xx-xxxx, U.S. Army.

Col. Vincent E. Falter, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Harvey D. Williams, xxx-xx-xxxx, U.S. Army.

Col. Duane H. Stubbs, xxx-xx-xxxx, U.S. Army.

Col. Walter J. Mehl, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Max W. Noah, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert A. Sullivan, xxx-xx-xxxx, U.S. Army.

Col. Harold I. Small, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Francis J. Toner, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Edward M. Browne, xxx-xx-xxxx, U.S. Army.

Col. James A. Williams, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Col. Clarence E. McKnight, Jr., xxx-xx-xxxx, U.S. Army.

Col. Donald R. Lasher, xxx-xx-xxxx, U.S. Army.

Col. Harry L. Dukes, Jr., xxx-xx-xxxx, U.S. Army.

SENATE—*Wednesday, January 19, 1977*

The Senate met at 2 p.m. and was called to order by Hon. WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Stand silent! Know that I am God! I will be honored by every nation in the world!—Psalms 46: 10—The Living Bible.

Eternal God, who amid all the changes of this life remains the same yesterday, today, and forever, we thank Thee for Thy Word which endures all time, for Thy Law which never changes, and for Thy love which never fails.

In this body, guide us by the truth of Thy Word, help us to be obedient to Thy Law, and fill us with Thy love.

In the Redeemer's name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 19, 1977.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. FORD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Tuesday, January 18, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION FOR CLERICAL CORRECTIONS IN THE ENGROSSMENT OF SENATE RESOLUTION 36

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of Senate Resolution 36.

The ACTING PRESIDENT pro tempore. Without objection, is is to ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Washington (Mr. JACKSON) such time as he may require, from the time allotted to the majority leader. I should like to reserve 3 minutes of my own time.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia yields time to the Senator from Washington.

SENATE RESOLUTION 43 AND SENATE RESOLUTION 44—SUBMISSION OF RESOLUTIONS DISAPPROVING ENERGY ACTIONS NUMBERED 8 AND 9

(Referred to the Committee on Interior and Insular Affairs.)

Mr. JACKSON. Mr. President, today President Ford sent to Congress his proposals to remove price and allocation controls from motor gasoline. Unless the Congress disapproves, these proposals will become effective at midnight, February 3, 1977.

As many of my colleagues are aware, I have very serious reservations about the wisdom of these proposals. Beyond this, I consider President Ford's decision to attempt to decontrol gasoline at this time to be totally inappropriate.

In my opinion, this is an issue which the Congress and the Carter administration—together—should address early in the 95th Congress. However, it is an issue which should be dealt with using orderly and established procedures, and not through patchwork proposals, developed without consultation with the Congress, which are hurried through by the outgoing administration. It cannot be dealt with through commitments made by those in the Ford administration who will have no responsibility for the effects of decontrol later this year.

I am, therefore, introducing today resolutions which, if adopted by the Senate, will prevent the removal of mandatory gasoline controls and preserve an opportunity for the new Congress and the new administration to address this issue in an orderly and responsible fashion.

I ask unanimous consent that the texts of these two resolutions and copies of President Ford's proposals be printed at the conclusion of my remarks. Two disapproval resolutions are necessary since the President, pursuant to law, has submitted separate decontrol proposals dealing with gasoline price and allocation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. JACKSON. Mr. President, I do not believe that the Senate will make its first major vote of the 95th Congress a vote to take the lid off gasoline prices. We have just emerged from an election campaign in which the health of the economy was a central issue. A new President and a new Congress must now begin the task of economic recovery. Adoption of a proposal to remove price control on gasoline—a proposal whose economic impact at least is highly uncertain and potentially very damaging—is exactly the wrong way to begin.

In past weeks, practically everyone in the U.S. Government has been speaking out, deploring the recent decision by members of the OPEC cartel to raise world oil prices. How can these statements about the adverse impacts of high petroleum prices have any credibility at all if the next act of the U.S. Government is to decontrol prices domestically?

President Ford has had the authority to decontrol gasoline since December 1975. He had ample opportunity to submit a decontrol proposal for gasoline during the 94th Congress. If this proposal is a good idea now, it was a good idea last fall before the election. If it could not be submitted then, it should not be submitted now.

The simplest way to preserve a chance to deal with this issue in a productive way is for President Carter simply to withdraw the Ford decontrol proposal. I am going to ask President-elect Carter to do just that.

Actions such as the one President Ford has taken today can only increase the skepticism of the public about the process by which energy policy is developed. Gasoline decontrol involves very serious and complex questions of public policy which cannot be given adequate

consideration by the Congress at this time. If the Ford proposals become effective, thousands of independent small businessmen who market gasoline will lose whatever protection the provisions of the Allocation Act has afforded. In the past the authorities and responsibilities embodied in the act have been administered in a manner which has been far from perfect. The transition from that imperfect situation to a better one is a matter which requires care and judgment—the kind of care and judgment which will not be possible given the timing of the present Ford administration proposals.

Mr. President, I have no choice but to oppose this gasoline decontrol proposal. I am not an advocate for each and every letter of the regulations which have been administered by the Federal Energy Administration over the past 3 years. But President Ford's gasoline decontrol plan is not the answer to the problems with the present regulation. If we allow decontrol to become effective in the manner proposed, we will be ignoring our responsibilities to the people who elected us. Our abrogation of these responsibilities, moreover, will be obvious to the public.

Mr. President, I ask unanimous consent that the text of a letter I wrote to President Ford on December 14 urging that he not decontrol gasoline be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 14, 1976.

Hon. GERALD R. FORD,
President, the White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing in response to reports that your Administration will seek to remove price and allocation controls from motor gasoline during the period between the return of Congress and the inauguration of the President-Elect.

The decision to submit to Congress a proposal to decontrol gasoline is, of course, one you have the authority to make under law. Although the procedures contemplated in the Energy Policy and Conservation Act would normally suffice, I do not believe that this is true with respect to the short and hectic interval between January 4 and January 20.

The ongoing debate over national energy policy for the past three years has often been characterized by confrontation. Much of this was unavoidable. However, one result has been a magnification of popular cynicism about the ability of our institutions to deal objectively with energy issues. An eleventh-hour attempt to implement gasoline decontrol will, I believe, be viewed by the public with suspicion and widely perceived as a bow to special interests.

Moreover, in my view, there is absolutely no urgency associated with gasoline decontrol. The Federal Energy Administration has performed a valuable service in assembling its "Preliminary Findings and Views" with respect to decontrol. This work deserves the full attention and evaluation of the new Administration. I feel, however, that the new Administration, in cooperation with the Congress, should expand the examination of the issue to include discussion of appropriate mechanisms to guard against unwarranted increases in gasoline prices during periods of tight supply and appropriate procedures to take into account the radical structural changes of the past three years which affect tens of thousands of independent businessmen who market gasoline.

Finally, as required by the Energy Policy and Conservation Act, a major review of petroleum pricing policy is scheduled for early 1977. As Chairman of the Senate Committee on Interior and Insular Affairs, I intend to encourage and participate in a full and open discussion of this policy, and to see that all the issues are fully analyzed on the public record.

In summary, I am convinced that any proposal to decontrol gasoline during the last days of your Administration—and prior to the evaluation of petroleum policy options which is certain to occur early in the term of the next Administration—is both unjustified and unwise. I also believe that such a proposal would be defeated without adequate consideration of the merits and that such a defeat would strongly influence future action on gasoline decontrol.

I hope you will have these comments in mind when you consider action on gasoline decontrol.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

Mr. JACKSON. Mr. President, the names of the Senators who are cosponsors of this resolution are as follows: Mr. FORD, Mr. MAGNUSON, Mr. LEAHY, Mr. METZENBAUM, Mr. RIBICOFF, Mr. WILLIAMS, Mr. BAYH, Mr. CHURCH, Mr. MCINTYRE, Mr. DURKIN, Mr. ZORINSKY, Mr. CRANSTON, Mr. INOUYE, Mr. RIEGLE, Mr. HATHAWAY, Mr. MATSUNAGA, Mr. ANDERSON, Mr. MCGOVERN, Mr. ABOUREZK, Mr. SARBANES, Mr. HUMPHREY, and Mr. METCALF.

I ask unanimous consent that other Senators may join in this resolution in the next 2 legislative days.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

EXHIBIT 1

S. RES. 43

Resolved, That the Senate does not favor the energy action numbered 8, transmitted to the Congress on January 19, 1977.

S. RES. 44

Resolved, That the Senate does not favor the energy action numbered 9 transmitted to the Congress on January 19, 1977.

EXHIBIT 2

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., January 19, 1977.

Re exemption of motor gasoline from the mandatory petroleum allocation regulations (energy action No. 8).

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On November 19, 1976, the Federal Energy Administration gave notice of a proposal to exempt motor gasoline from the Mandatory Petroleum Allocation and Price Regulations. Written comments from interested persons were invited through December 15, 1976. A public hearing regarding the proposal was held in Washington, D.C., and regional hearings were held in six other cities, on December 14 and 15, 1976.

FEA has now completed its consideration of all the information available in this proceeding and has determined that the proposal to exempt motor gasoline from both the Mandatory Petroleum Price and Allocation Regulations should be adopted.

As required by section 455 of the Energy Policy and Conservation Act, Pub. L. 94-163 (EPCA), which added section 12 to the Emergency Petroleum Allocation Act of 1973, as amended, each amendment exempting any oil, refined petroleum product or refined product category from regulation must be submitted separately to each House of the Congress for review pursuant to section 551 of the EPCA. In addition, the Energy Conservation and Production Act (Pub. L. 94-385), enacted on August 14, 1976 (ECPA), prohibits FEA from submitting as one energy action an amendment exempting any oil, refined petroleum product or refined product category from both price and allocation regulations. The ECPA does permit concurrent submissions to the Congress, however, of separate energy actions for the exemption from price and allocation regulations of any oil, refined petroleum product or refined product category.

Therefore, FEA is herewith submitting to the Senate, as Energy Action No. 8, an amendment exempting motor gasoline from the allocation regulations and is concurrently submitting this amendment to the House of Representatives, for Congressional review. At the same time, in Energy Action No. 9, FEA is submitting for review separately to each House of Congress an amendment exempting motor gasoline from the Mandatory Petroleum Price Regulations.

The findings and views supporting both amendments, which are required by section 455 of the EPCA, are set forth in the enclosed document entitled "Findings and Views Concerning the Exemption of Motor Gasoline from the Mandatory Petroleum Allocation and Price Regulations".

The Administrator of the Federal Energy Administration has been delegated by the President all the authority granted to him by the Emergency Petroleum Allocation Act of 1973 (E.O. 11790, 39 FR 23185).

Unless disapproved by either House of Congress as provided by section 551 of the EPCA, the enclosed amendment will be effective March 1, 1977.

Sincerely,

GORMAN C. SMITH,
Acting Administrator.

TITLE 10—ENERGY

Chapter II—FEDERAL ENERGY ADMINISTRATION

PART 210—GENERAL ALLOCATION AND PRICE RULES

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

EXEMPTION OF MOTOR GASOLINE FROM THE MANDATORY PETROLEUM ALLOCATION REGULATIONS

Introduction

On November 19, 1976, the Federal Energy Administration ("FEA") issued a notice of proposed rulemaking and public hearing (41 FR 51832, November 24, 1976) to amend 10 CFR Parts 210, 211 and 212 to exempt motor gasoline (as defined in 10 CFR 211.51 and 212.31 of the Mandatory Petroleum Allocation and Price Regulations) and to establish a special motor gasoline set-aside for the transitional period following decontrol. The proposal was based on tentative conclusions set forth in a document dated November 16, 1976, entitled "Preliminary Findings and Views Concerning the Exemption of Motor Gasoline from the Mandatory Petroleum Allocation and Price Regulations" ("Preliminary Findings").

Concurrent with the issuance of this amendment exempting motor gasoline from the Mandatory Petroleum Allocation Regu-

lations, a separate amendment is being issued to exempt motor gasoline from the Mandatory Petroleum Price Regulations. Both amendments are being submitted for Congressional review, as Energy Actions Nos. 8 and 9, respectively, pursuant to section 551 of the Energy Policy and Conservation Act, Pub. L. 94–163 ("EPCA"), and in accordance with section 102 of the Energy Conservation and Production Act, Pub. L. 94–385 ("ECPA"), which in effect requires that FEA submit separate energy actions to the Congress when proposing the exemption of a refined petroleum product from both price and allocation regulations, but does not prohibit concurrent submissions of such separate energy actions.

Written comments on the exemption proposal and on the Preliminary Findings were invited through December 15, 1976 and public hearings were held on December 14 and 15, 1976 in Washington, D.C.; Atlanta, Georgia; Chicago, Illinois; Dallas, Texas; Denver, Colorado; New York, N.Y.; and San Francisco, California. As of December 31, 1976, 307 parties had submitted oral and written comments in response to the proposed exemption. Those offering comments included major integrated refining companies, large and small independent refining companies, branded and nonbranded wholesale gasoline distributors, retail sales outlets, trade associations, consumer groups and governmental representatives.

A substantial majority of those commenting agreed with FEA that motor gasoline should be exempted from FEA's allocation and price regulations. This support was based generally upon agreement with FEA's conclusions as to supply and demand projections, competition, and other findings and views set forth in the Preliminary Findings. In particular, there was widespread agreement that competition has been keeping retail gasoline prices below the maximum prices allowed under the Mandatory Petroleum Price Regulations. Most marketers commenting also favored the establishment of a mechanism to assure them a source of supply during the transition following the exemptions. Certain comments at the December hearings noted that the Preliminary Findings, issued contemporaneously with the exemption proposal, were not consistent with data from the economic forecasting firm, Data Resources, Inc. ("DRI"), whose macroeconomic model drives FEA's short-term petroleum demand model. DRI released revised economic forecasts, on which these comments were based, after the analysis for the Preliminary Findings was completed. Information derived from the most recent DRI "Cyclelong" forecast has, however, now been incorporated into FEA's current findings and views. After carefully considering all the comments and making the appropriate revisions to the data supporting its proposed findings, FEA has concluded that its initial view that motor gasoline should be exempted from regulations is correct.

No information or data were presented in this proceeding which significantly alter FEA's Preliminary Findings and Views. FEA does not anticipate that supply shortages will occur or that motor gasoline prices will rise to higher levels than if controls were continued. In any event, FEA has standby authority under section 12(f) of the Emergency Petroleum Allocation Act of 1973 (EPAA) to reimpose controls (on a temporary or permanent basis) if necessary to attain the objectives set forth in section 4(b)(1) of the EPAA. Therefore, FEA hereby adopts the proposed amendments exempting motor gasoline from the Mandatory Petroleum Allocation Regulations.

In the exemption proposal, FEA requested comments on the appropriate lead time which should be provided before the decontrol amendment would become effective so as to assure a smooth transition to a decontrolled market. FEA proposed an effective date of the first day of the month following the first full month subsequent to the expiration of the Congressional review period. The fifteen day review period under section 551 of the EPCA will expire shortly after February 1, 1977. Upon consideration of the comments received on this issue, FEA has concluded that it would be appropriate to provide for an effective date of March 1, given that firms will have more than a month's notice of FEA's exemption proposals. Therefore, unless disapproved by either House of Congress under section 551 of the EPCA, this exemption will be effective March 1, 1977.

Findings and views

In addition to this amendment exempting motor gasoline from the Mandatory Petroleum Allocation Regulations and the concurrent amendment exempting motor gasoline from the Mandatory Petroleum Price Regualtions, FEA has prepared its findings and views supporting these amendments as required by section 12 of the EPAA, based upon its consideration of the comments of those persons who participated in the rulemaking and other information available to FEA. These findings and views are set forth in a single document dated January 14, 1977 and entitled "Findings and Views Concerning the Exemption of Motor Gasoline from the Mandatory Petroleum Allocation and Price Regulations" (the "Findings and Views"). The findings and views set forth therein may be summarized, in part, as follows:

(1) Motor gasoline is no longer in short supply; anticipated supplies of motor gasoline will be sufficient to meet the demand over the near term.

(2) Exemption of motor gasoline from the Mandatory Petroleum Allocation and Price Regulations will not have an adverse impact on the supply of any other refined product. With projected expansions, domestic refining capacity is projected to be more than adequate to meet demand.

(3) Competition and market forces are adequate to protect consumers following exemption of motor gasoline from regulation.

(4) Exemption of motor gasoline from regulation will not result in inequitable prices for any class of end-user. FEA does not expect that exemption of motor gasoline from price controls would lead to any price increases over and above those that would be experienced under continued regulation.

Adequate refinery capacity to meet all refined product requirements should guarantee continued competition in the refining segment of the industry. The large number of independent and small refiners now competing successfully in the motor gasoline market indicates that sufficient competition exists to protect consumers.

(5) Exemption of motor gasoline from the price and allocation regulations is consistent with the attainment of the objectives set forth in section 4(b)(1) of the EPAA.

Since an adequate supply is anticipated, continued allocation and pricing controls over motor gasoline are not necessary to protect the public health, safety and welfare, and the national defense [Section 4(b)(1)(A)]; the maintenance of all public services [Section 4(b)(1)(B)]; the maintenance of agricultural operations [Section 4(b)(1)(C)]; or the maintenance of exploration for and production or extraction of fuels and minerals [Section 4(b)(1)(G)].

Adequate supply and the positive effects of competition should insure that the exemption is consistent with: the equitable distribution of crude oil, residual fuel oil and refined petroleum products at equitable prices [Section 4(b)(1)(F)]; preservation of an economically sound and competitive petroleum industry [Section 4(b)(1)(D)]; economic efficiency [Section 4(b)(1)(H)]; and minimization of economic distortions, inflexibility, and interference with market mechanisms [Section 4b)(1)(I)].

The exemption should have no adverse effect on the allocation of suitable types of crude oil to U.S. refineries [Section 4(b)(1)(E)].

The Findings and Views also state FEA's views concerning the potential economic impacts of exempting motor gasoline from the Mandatory Petroleum Allocation and Price Regulations. Because no supply, demand or price impacts are anticipated as a result of the exemption, it is not expected that there will be any significant state or regional impacts resulting from the proposed exemption. In particular, no undue adverse impact is expected on any governmental units. In addition, FEA anticipates no adverse economic impacts on the availability of consumer goods or services, the Gross National Product, small business or the supply and availability of energy resources as fuel or feedstock for industry. FEA expects that the exemption will not adversely affect the competitive viability of independent refiners and marketers. The exemption is likewise expected not to cause an adverse effect on employment or consumer prices. FEA's assessment of the effects of the exemption on the rate of unemployment in the U.S., on the Consumer Price Index and on the implicit price deflator for the Gross National Product are set forth in detail in the Findings and Views.

Special Rule No. 4

While FEA did not and does not expect supply dislocations to occur as a result of motor gasoline decontrol, Special Rule No. 4, as proposed in the November 19 notice, was designed as a safeguard against the same type of potential supply dislocations which prompted the adoption of Special Rule No. 3, following the exemption of middle distillates. In the proposal, FEA sought to insure that no marketer of gasoline would lose its supply source without adequate time to arrange for a new supplier during the transitional period following the removal of controls. As proposed, Special Rule No. 4 permitted marketers who have made diligent unsuccessful efforts to obtain supplies of motor gasoline to be assigned as much as their previously authorized base period use from the special set-aside. These assignments could have been made for periods of up to three months if required to permit the marketers to make their own supply arrangements or for longer if required to preclude hardships to consumers. The proposal also allowed assignments to be made directly to consumers under the same hardship criteria that currently exist for motor gasoline in the state set-aside program. As proposed, the set-aside for each prime supplier constituted three percent of the estimated portion of its total supply of motor gasoline for the particular month to be sold into the distribution system of a state for consumption therein. FEA also proposed that the motor gasoline special set-aside be administered by State Offices, which currently are authorized to administer both the state set-aside for motor gasoline and the special set-aside for middle distillates.

As a result of evaluating marketers comments, FEA has concluded that the proposed Special Rule No. 4 may not be a fully adequate safeguard to assure continued supply. As adopted, therefore, Special Rule No. 4 provides greater protection for independent marketers than the initial proposal. Special Rule No. 4 now contains a double type of supply guaranteed for all wholesale pur-

chasers. Under the transition assignment program, to terminate motor gasoline supplier/wholesale purchaser relationships prior to March 1, 1978, all suppliers will be required to provide at least 90 days notice to any wholesale purchaser (commencing no earlier than the effective date of this amendment) before terminating the supply relationship with that purchaser. Any such termination may be effective only at the end of a period corresponding to a base period coinciding with or following the end of the ninety day notice period. If the purchaser is unable, after a diligent effort, to obtain a supply of motor gasoline equal to its base period use, it may apply at least thirty days prior to the date on which the termination is to become effective to the FEA Regional Office for the region where it is located, to continue its supplier/purchaser relationship with its base period supplier for three additional months. The wholesale purchaser may reapply to the FEA Regional Office for two additional continuation orders for three months periods if it remains unable to find alternative sources of supply. A purchaser which chooses not to receive product from its base period supplier during any three month period, however, will be assumed to have an alternative source of supply and not be eligible to apply for a further transition assignment as to the volume of product not lifted, unless such failure to lift is due to factors beyond the control of the purchaser and FEA determines that the purchaser's inability to obtain that volume would impose an undue hardship on that the purchaser. The notification and transition assignment period will provide an assured supply. In any event, no assignment under Special Rule No. 4 will extend beyond one year from March 1, 1977, the announced effective date of this exemption.

Special Rule No. 4 also provides that if FEA fails to act on an application for continuation of a supplier/purchaser relationship that was filed in a timely fashion, that is, at least thirty days prior to the date on which a termination following ninety days' notice was to take effect or a prior continuation order was to expire, the supplier/purchaser relationship will not end but will automatically continue for an additional month pending FEA action on the application. Moreover, if a late-filed application has not been acted on by FEA on the termination date, Special Rule No. 4 authorizes FEA to issue a temporary continuation order for one month pending final action on the application if the applicant shows good cause for the late filing.

Inasmuch as prices will no longer be subject to controls during this period if the exemption with regard to price is not disapproved, Special Rule No. 4 also prevents circumvention of the transition assignment procedures set forth above by requiring that prices charged to wholesale purchasers, including marketers, receiving product under Special Rule No. 4 shall be nondiscriminatory. Suppliers must make gasoline available to purchasers which are assigned to them pursuant to Special Rule No. 4 on the same terms and conditions under which they make gasoline available to other similarly situated purchasers. In other words, suppliers may not discriminate against purchasers solely because they are assigned purchasers. The same definition of "discrimination" applies for purposes of the Special Rule as currently is used in § 210.62(b).

Special Rule No. 4 further provides the additional protection of a continuing, but gradually diminishing, operation of the state set-aside for motor gasoline for nine months following decontrol, which would be available to resellers, as well as end-users which can demonstrate hardship or emergency requirements. The decreasing volumes available in the set-aside are based on FEA's view that, as the transition to a normally functioning decontrolled market continues, a decreasing number of end-users and wholesale purchasers, including marketers, have the potential of being faced with hardship and emergency requirements. For the first three months following decontrol, the set-aside for each prime supplier would constitute three percent of the estimated portion of its total supply of motor gasoline for each particular month to be sold into the distribution system of a state for consumption therein. For the next succeeding three months the set-aside would constitute two percent and, for the following three months, one percent, after which time it will terminate. Aside from modifying the state set-aside percentage and making it available to resellers (e.g., independent retail marketers) as well as end-users, all other current procedures governing use of the state set-aside would remain in effect.

FEA intends to issue guidelines pursuant to Special Rule No. 4 to provide both FEA and the public greater guidance on the operation of the provisions of the Rule. These guidelines would explain in greater detail such matters as what efforts FEA would deem to constitute a "diligent unsuccessful effort to locate an alternate source of supply" and how the non-discrimination requirements would apply in particular situations.

Section 12 (f) of the EPAA provides that following the exemption of any product from regulation, FEA shall have the authority at any time to reimpose allocation controls if necessary to attain the objectives of the EPAA. For this reason, FEA is adopting amendments which exempt motor gasoline from the general allocation regulations but which do not delete those regulations from the Code of Federal Regulations. They are in effect converted to standby status, so that, in the event of shortages or other occurrences which might require reimposition of controls, they may, with appropriate modifications, be quickly put into effect.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641).

In consideration of the foregoing, Parts 210 and 211 of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below, effective March 1, 1977, unless this amendment is disapproved by either House of Congress pursuant to the review procedures set forth in Section 551 of the EPCA or withdrawn by the President prior to Congressional approval or disapproval during the 15-day period provided for Congressional review in Section 551 of the EPCA.

Issued in Washington, D.C., January 19, 1977.

DAVID G. WILSON,
Acting General Counsel.

1. Section 210.35 is amended by adding subparagraph (h)(1) to read as follows:

§ 210.35 *Exempted products.*

* * * * *

(h)(1) Motor gasoline as defined in § 211.51 of this chapter is exempt from the provisions of Part 211 of this chapter (except as set forth in Special Rule No. 4 to Subpart A of Part 211).

2. Section 211.1 is amended in paragraph (b) by adding new subparagraph (10) to read as follows:

§ 211.1 *Scope.*

* * * * *

(b) *Exclusions.*

* * * * *

(10) Notwithstanding the other provisions of this part including Subpart F, motor gasoline is excluded from this part (except as set forth in Special Rule No. 4 to Subpart A of Part 211).

3. The Appendix to Subpart A of Part 211 is amended by the addition of a Special Rule No. 4 to read as follows:

SPECIAL RULE NO. 4

1. *Scope.* Notwithstanding the exemption of motor gasoline from the Mandatory Petroleum Allocation Regulations, this Special Rule provides for a continuation of the State set-aside program for motor gasoline for the months March 1977 through November 1977, as set forth below, and the establishment of a transitional assignment program for motor gasoline for the months March 1977 through February 1978.

2. *Provision for motor gasoline set-aside.* (a) Notwithstanding the provisions of paragraph (h) of § 210.35 and of subparagraph (10) of paragraph (b) of § 211.1, the set-aside established for motor gasoline for assignment by State Offices in accordance with the provisions of §§ 211.17 and 211.107(a) and Subpart Q of the Federal Energy Administration Administrative Procedures and Sanctions (10 CFR 205.210 *et seq.*) is hereby continued for the months March 1977 through November 1977, except as modified herein.

(b) In addition to those wholesale-purchaser consumers and end-users eligible to receive an assignment from the State set-aside, and those wholesale purchaser-resellers seeking an assignment to enable them to supply such wholesale purchaser-consumers and end-users under 10 CFR § 205.211(a), any wholesale purchaser-reseller which is experiencing a hardship due to its inability to obtain an adequate supply of motor gasoline may apply for and receive an assignment of motor gasoline in accordance with the provisions of § 211.17 and 10 CFR 205.210 *et seq.*

(c) The State set-aside percentage level for motor gasoline will be three percent for the months March, April, and May 1977, two percent for June, July, and August 1977, and one percent for September, October, and November 1977.

3. *Transitional assignment program.* Notwithstanding any contrary provisions of Parts 205 and 211 of this chapter, assignments of base period suppliers and base period use for wholesale purchasers of motor gasoline shall be made in accordance with the provisions of this Special Rule.

(a) No supplier/wholesale purchaser relationship in effect under § 211.9 of this part as of February 28, 1977, may be terminated before March 1, 1978 by a supplier except upon written notice to the wholesale purchaser given at least ninety (90) days prior to the date on which the supplier intends to terminate the supply relationship. A termination under this paragraph (a) may only be effective at the end of the period corresponding to a base period coinciding with or following the expiration of the ninety (90) day notice period. Any such ninety (90) day period may not begin prior to March 1, 1977.

(b) Any wholesale purchaser which has received a notice from its supplier under paragraph (a) above shall make a diligent effort to locate an alternate source of supply. If its effort is unsuccessful it may apply to the appropriate FEA Regional Office for a continuation of its current supplier/purchaser relationship, but any such application shall be made at least thirty (30) days prior to the date on which the termination under paragraph (a) is to become effective. The applicant shall certify to the FEA that it has made a diligent unsuccessful effort to locate an alternate source of supply and shall set forth in its application (i) the name and address of its base period supplier; (ii) its base period use with that supplier for each period corresponding to a base period;

and (iii) the names and addresses of other suppliers contacted with respect to the applicant's efforts to locate an alternate source of supply, the volumes requested from each such other supplier, and the dates of those contacts. The applicant shall send a copy of its application to its base period supplier.

(c) If FEA determines that an applicant has made a diligent unsuccessful effort to locate an alternate source of supply, FEA shall order a continuation of the applicant's existing supplier/purchaser relationship for a period of three consecutive periods corresponding to a base period. While a continuation order is in effect, the wholesale purchaser shall again make a diligent effort to locate an alternate source of supply. If the wholesale purchaser is again unsuccessful, it may again supply for a continuation in accordance with paragraph (b) above.

(d) If FEA fails to take action on a timely filed application under paragraph (b) or (c) prior to the date upon which the termination of the supplier/purchaser relationship which is the subject of the application is to become effective, the supplier/purchaser relationship shall be automatically extended for a period of one (1) month pending FEA action on the application. If FEA fails to take action on a late filed application under paragraph (b) or (c) prior to the date upon which the termination of the supplier/purchaser relationship which is the subject of the application is to become effective, FEA may issue a temporary continuation order for a period of one (1) month pending FEA action on the application upon a showing by the applicant of good cause for the late filing.

(e) FEA may issue with respect to any supplier/purchaser relationship no more than three (3) continuation orders. In no event may the provisions of a continuation order be effective beyond February 28, 1978.

(f) The failure of any wholesale purchaser to purchase its full allocation entitlement from its base period supplier without the written consent of that supplier in any three (3) month period shall disqualify any such purchaser from being eligible for issuance of a further continuation order covering volumes in excess of the percentage of the allocation entitlement lifted in the previous three (3) month period, unless such failure to purchase is due to factors beyond the control of that wholesale purchaser and FEA determines that such disqualification would impose an undue hardship on that wholesale purchaser.

4. *Non-discrimination requirement.* To prohibit any form of discrimination (including price discrimination) which has the effect of circumventing, frustrating, or impairing the objectives, purposes and intent of this Special Rule, the requirements of paragraph (b) of § 210.62 of this chapter shall continue to apply to suppliers to which an authorizing document is presented pursuant to the continuation of the motor gasoline set-aside under this Special Rule, to suppliers which are subject to a continuation order under the transitional assignment program of this Special Rule, and to all suppliers which are still supplying purchasers because they have failed to give notice of intent to terminate supplies or such termination has not yet become effective.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., January 19, 1977.

Re Exemption of Motor Gasoline from the Mandatory Petroleum Price Regulations (Energy Action No. 9).

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On November 19, 1976, the Federal Energy Administration gave notice of a proposal to exempt motor gasoline from the Mandatory Petroleum Allocation and Price Regulations. Written comments from interested persons were invited through December 15, 1976. A public hearing regarding the proposal was held in Washington, D.C., and regional hearings were held in six other cities, on December 14 and 15, 1976.

FEA has now completed its consideration of all the information available in this proceeding and has determined that the proposal to exempt motor gasoline from both the Mandatory Petroleum Price and Allocation Regulations should be adopted.

As required by section 455 of the Energy Policy and Conservation Act, Pub. L. 94-163 (EPCA), which added section 12 to the Emergency Petroleum Allocation Act of 1973, as amended, each amendment exempting any oil, refined petroleum product or refined product category from regulation must be submitted separately to each House of the Congress for review pursuant to section 551 of the EPCA. In addition, the Energy Conservation and Production Act (Pub. L. 94-385), enacted on August 14, 1976 (ECPA), prohibits FEA from submitting as one energy action an amendment exempting any oil, refined petroleum product or refined product category from both price and allocation regulations. The ECPA does permit concurrent submissions to the Congress, however, of separate energy actions for the exemption from price and allocation regulations of any oil, refined petroleum product or refined product category.

Therefore, FEA is herewith submitting to the Senate, as Energy Action No. 9, an amendment exempting motor gasoline from the price regulations and is concurrently submitting this amendment to the House of Representatives, for Congressional review. At the same time, in Energy Action No. 8, FEA is submitting for review separately to each House of Congress an amendment exempting motor gasoline from the Mandatory Petroleum Allocation Regulations.

The findings and views supporting both amendments, which are required by section 455 of the EPCA, are set forth in the enclosed document entitled "Findings and Views Concerning the Exemption of Motor Gasoline from the Mandatory Petroleum Allocation and Price Regulations".

The Administrator of the Federal Energy Administration has been delegated by the President all the authority granted to him by the Emergency Petroleum Allocation Act of 1973 (E.O. 11790, 39 FR 23185).

Unless disapproved by either House of Congress as provided by section 551 of the EPCA, the enclosed amendment will be effective March 1, 1977.

Sincerely,

GORMAN C. SMITH,
Acting Administrator.

TITLE 10—ENERGY

Chapter II—FEDERAL ENERGY ADMINISTRATION

PART 210—GENERAL ALLOCATION AND PRICE RULES

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

EXEMPTION OF MOTOR GASOLINE FROM THE MANDATORY PETROLEUM PRICE REGULATIONS

Introduction

On November 19, 1976, the Federal Energy Administration ("FEA") issued a notice of proposed rulemaking and public hearing (41 FR 51832, November 24, 1976) to amend 10 CFR Parts 210, 211 and 212 to exempt motor gasoline (as defined in 10 CFR 211.51 and 212.31 of the Mandatory Petroleum Allocation and Price Regulations) and to establish a special motor gasoline set-aside for the transitional period following decontrol. The proposal was based on tentative conclusions set forth in a document dated November 16, 1976, entitled "Preliminary Findings and Views Concerning the Exemption of Motor Gasoline from the Mandatory Petroleum Allocation and Price Regulations" ("Preliminary Findings").

Concurrent with the issuance of this amendment exempting motor gasoline from the Mandatory Petroleum Price Regulations, a separate amendment is being issued to exempt motor gasoline from the Mandatory Petroleum Allocation Regulations. Both amendments are being submitted for Congressional review, as Energy Actions Nos. 9 and 8, respectively, pursuant to section 551 of the Energy Policy and Conservation Act, Pub. L. 94-163 ("EPCA"), and in accordance with section 102 of the Energy Conservation and Production Act, Pub. L. 94-385 ("ECPA"), which in effect requires that FEA submit separate energy actions to the Congress when proposing the exemption of a refined petroleum product from both price and allocation regulations, but does not prohibit concurrent submissions of such separate energy actions.

Written comments on the exemption proposal and on the Preliminary Findings were invited through December 15, 1976 and public hearings were held on December 14 and 15, 1976 in Washington, D.C.; Atlanta, Georgia; Chicago, Illinois; Dallas, Texas; Denver, Colorado; New York, N.Y.; and San Francisco, California. As of December 31, 1976, 307 parties had submitted oral and written comments in response to the proposed exemption. Those offering comments included major integrated refining companies, large and small independent refining companies, branded and nonbranded wholesale gasoline distributors, retail sales outlets, trade associations, consumer groups and governmental representatives.

A substantial majority of those commenting agreed with FEA that motor gasoline should be exempted from FEA's allocation and price regulations. This support was based generally upon agreement with FEA's conclusions as to supply and demand projections, competition, and other findings and views set forth in the Preliminary Findings. In particular, there was widespread agreement that competition has been keeping retail gasoline prices below the maximum prices allowed under the Mandatory Petroleum Price Regulations. Most marketers commenting also favored the establishment of a mechanism to assure them a source of supply during the transition following the exemptions. Certain comments at the December hearings noted that the Preliminary Findings, issued contemporaneously with the exemption proposal, were not consistent with data from the economic forecasting firm, Data Resources, Inc. ("DRI"), whose macroeconomic model drives FEA's short-term petroleum demand model. DRI released revised economic forecasts, on which these comments were based, after the analysis for the Preliminary Findings was completed. Information derived from the most recent DRI "Cyclelong" forecast has, however, now been incorporated into FEA's current findings and views. After carefully considering all the comments and making the appropriate revisions to the data supporting its proposed findings, FEA has concluded that its initial views that motor gasoline should be exempted from regulations is correct.

No information or data were presented in this proceeding which significantly alter FEA's Preliminary Findings and Views. FEA does not anticipate that supply shortages will occur or that motor gasoline prices will rise to higher levels than if controls were continued. In any event, FEA has standby authority under section 12(f) of the Emergency Petroleum Allocation Act of 1973 (EPAA) to reimpose controls (on a temporary or permanent basis) if necessary to attain the objectives set forth in section 4(b)(1) of the EPAA. Therefore, FEA hereby adopts the proposed amendments exempting motor gasoline from the Mandatory Petroleum Price Regulations.

In the exemption proposal, FEA requested comments on the appropriate lead time which should be provided before the decontrol amendment would become effective so as to assure a smooth transition to a decontrolled market. FEA proposed an effective date of the first day of the month following the first full month subsequent to the expiration of the Congressional review period. The fifteen day review period under section 551 of the EPCA will expire shortly after February 1, 1977. Upon consideration of the comments received on this issue, FEA has concluded that it would be appropriate to provide for an effective date of March 1, given that firms will have more than a month's notice of FEA's exemption proposals. Therefore, unless disapproved by either House of Congress under section 551 of the EPCA, this exemption will be effective March 1, 1977.

Findings and views

In addition to this amendment exempting motor gasoline from the Mandatory Petroleum Price Regulations and the concurrent amendment exempting motor gasoline from the Mandatory Petroleum Allocation Regulations, FEA has prepared its findings and views supporting these amendments as required by section 12 of the EPAA, based upon its consideration of the comments of those persons who participated in the rulemaking and other information available to FEA. These findings and views are set forth in a single document dated January 14, 1977 and entitled "Findings and Views Concerning the Exemption of Motor Gasoline from the Mandatory Petroleum Allocation and Price Regulations" (the) "Finding and Views"). The findings and views set forth therein may be summarized, in part, as follows:

(1) Motor gasoline is no longer in short supply; anticipated supplies of motor gasoline will be sufficient to meet the demand over the near term.

(2) Exemption of motor gasoline from the Mandatory Peteroluem Allocation and Price Regulations will not have an adverse impact on the supply of any other refined product. With projected expansions, domestic refining capacity is projected to be more than adequate to meet demand.

(3) Competition and market forces are adequate to protect consumers following exemption of motor gasoline from regulation.

(4) Exemption of motor gasoline from regulation will not result in inequitable prices for any class of end-user. FEA does not expect that exemption of motor gasoline from price controls would lead to any price increases over and above those that would be experienced under continued regulation.

Adequate refinery capacity to meet all refined product requirements should guarantee continued competition in the refining segment of the industry. The large number of independent and small refiners now competing successfully in the motor gasoline market indicates that sufficient competition exists to protect consumers.

(5) Exemption of motor gasoline from the price and allocation regulations is consistent with the attainment of the objectives set forth in section 4(b)(1) of the EPAA.

Since an adequate supply is anticipated, continued allocation and pricing controls over motor gasoline are not necessary to protect the public health, safety and welfare, and the national defense [Section 4(b)(1)(A)]; the maintenance of all public services [Section 4(b)(1)(B)]; the maintenance of agricultural operations [Section 4(b)(1)(C)]; or the maintenance of exploration for and production of extraction of fuels and minerals [Section 4(b)(1)(G)].

Adequate supply and the positive effects of competition should insure that the exemption is consistent with: the equitable distribution of crude oil, residual fuel oil and refined petroleum products at equitable prices [Section 4(b)(1)(F)]; preservation of an economically sound and competitive petroleum industry [Section 4(b)(1)(D)]; economic efficiency [Section 4(b)(1)(H)]; and minimization of economic distortions, inflexibility, and interference with market mechanisms [Section 4(b)(1)(I)].

The exemption should have no adverse effect on the allocation of suitable types of crude oil to U.S. refineries [Section 4(b)(1)(E)].

In connection with FEA's projection that no price increase will occur solely as a result of the exemption from the price regulations, it should be noted that FEA expects that upon decontrol the additional costs of refining unleaded gasoline over the costs of producing leaded gasoline will be more accurately reflected in the prices of unleaded gasoline. FEA has estimated that a price differential of up to two cents per gallon could result. However, even if price controls were to continue, FEA has on this same date issued a regulatory change which permits refiners to reflect the difference in refining costs between these two grades of motor gasoline in the prices charged for these products.

The Findings and Views also state FEA's views concerning the potential economic impacts of exempting motor gasoline from the Mandatory Petroleum Allocation and Price Regulations. Because no supply, demand or price impacts are anticipated as a result of the exemption, it is not expected that there will be any significant state or regional impacts resulting from the proposed exemption. In particular, no undue adverse impact is expected on any governmental units. In addition, FEA anticipates no adverse economic impacts on the availability of consumer goods or services, the Gross National Product, small business or the supply and availability of energy resources as fuel or feedstock for industry. FEA expects that the exemption will not adversely affect the competitive viability of independent refiners and marketers. The exemption is likewise expected not to have an adverse effect on employment or consumer prices. FEA's assessment of the effects of the exemption on the rate of unemployment in the U.S., on the Consumer Price Index and on the implicit price deflator for the Gross National Product are set forth in detail in the Findings and Views.

Post exemption monitoring of gasoline prices

FEA intends to issue shortly for comment a method of monitoring prices of motor gasoline to assure the continued reasonableness of price levels following the effective date of the exemption of motor gasoline from price and allocation controls. FEA will request written comments and hold public hearings with respect to the specific features of the price monitoring system.

The monitoring system which FEA intends to adopt provides for the monthly measurement of average actual gasoline prices, calculating prices on both a national and regional basis through the end of the 1977 summer driving season. Actual prices would be compared with price indices representing the average price levels FEA believes would have prevailed had gasoline continued under price controls, with sufficient flexibility to allow for statistical error, inherent deficiencies in the operation of the price index, seasonal price adjustments and short term market aberrations. The proposed price monitoring system will provide for remedial action in the event the actual average prices exceed by two cents the appropriate price index.

Section 12(f) of the EPAA provides that following the exemption of any product from regulation, FEA shall have the authority at any time to reimpose price controls if necessary to attain the objectives of the EPAA. For this reason, FEA is adopting amendments which exempt gasoline from the price regulations but which do not delete those regulations from the Code of Federal Regulations. They are in effect converted to standby status, so that, in the event of shortages or other occurrences which might require reimposition of controls, they may, with appropriate modifications, be quickly put into effect.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 F.R. 23185; E.O. 11933, 41 FR 36641).

In consideration of the foregoing, Parts 210 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below, effective March 1, 1977, unless this amendment is disapproved by either House of Congress pursuant to the review procedures set forth in Section 551 of the EPCA or withdrawn by the President prior to Congressional approval or disapproval during the 15-day period provided for Congressional review in Section 551 of the EPCA.

Issued in Washington, D.C., January 19, 1977.

DAVID G. WILSON,
Acting General Counsel.

1. Section 210.35 is amended by adding subparagraph (2) to paragraph (h) to read as follows:

§ 210.35 *Exempted products.*

* * * * *

(h) * * *

(2) Gasoline as defined in § 212.31 of this chapter is exempt from the provisions of part 212 of this chapter.

2. Section 212.31 is amended in the definition of "covered products" to read as follows:

§ 212.31 *Definitions.*

* * * * *

"Covered products" means aviation fuel (kerosene-type), aviation gasoline, butane, crude oil, natural gas liquids, natural gasoline, and propane. A blend of two or more particular covered products is considered to be that particular covered product constituting the major proportion of the blend.

* * * * *

3. Subpart C of Part 212 is amended by adding a new section 212.58 as follows:

§ 212.58 *Gasoline.*

The prices charged for gasoline are exempt from the provisions of this part.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 4 minutes remaining.

Mr. ROBERT C. BYRD. I yield 2 minutes to Mr. METZENBAUM, and that will leave me with 2 minutes.

DECONTROL OF MOTOR GASOLINE PRICES

Mr. METZENBAUM. Mr. President, today the Senate has formally received a message from the President proposing the decontrol of motor gasoline prices effective March 1, 1977. Under the provisions of the Energy, Policy and Conservation Act—Public Law 94–163—this proposal will be implemented unless either House of Congress exercises its veto power within 15 legislative days.

I take strong issue with the President's

attempt to decontrol the price of gasoline in his last 24 hours in office. Regardless of any policy objections, of which I have many, I believe that this last-minute action taken by an outgoing administration on the eve of Inauguration Day will do little to enhance most Americans' faith in Government. I am disappointed that President Ford has used his last day in office to remove controls on gasoline prices—an act which could greatly increase the cost of gasoline to millions of consumers.

On December 9 of last year I held a news conference with four other Senators-elect, Senators ZORINSKY, MATSUNAGA, RIEGLE, and ANDERSON. We released a copy of a letter we sent to the President asking him not to proceed with his intention to decontrol the price of gasoline. Mr. President I ask unanimous consent that a copy of that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C.

Mr. GERALD R. FORD,
President, the White House,
Washington, D.C.

DEAR MR. PRESIDENT: The news media has reported that the Federal Energy Administration intends to propose the de-control of gasoline prices. This proposal will be submitted to you by January 4, 1977, and, if given your approval, will become effective on January 19, 1977, one day before President-elect Carter is to take office. We strongly urge you not to de-control gasoline prices. Furthermore, as Senators-elect we will vote, if necessary, for a congressional veto of such a de-control proposal.

De-control would result in higher prices to the consumer and greater profits to the oil companies. Such additional profits are unwarranted and unnecessary. During the first quarter of this year oil company earnings climbed 70 percent over the first quarter of 1975. While the rest of the market held steady in the 2nd quarter, oil company stock gained 20 percent and reliable investment firms are predicting 15 to 20 percent earnings gains in 1977.

Mr. Zarb, in his statement to the press, has indicated that by taking this action it would restore "some measure of competition back into the system." But that contention is illogical. There is nothing in the law at the present time to prevent oil companies from competing with each other to lower prices. The fact that prices are currently below the statutory maximum in no way justifies removing the ceiling. The FEA argues that prices would not rise above the current ceiling even after de-control. Then what reason exists to eliminate the ceiling? Now consumers are guaranteed that the price of gasoline will not soar exorbitantly. Without it the consumer has no protection. Public confidence in the stability of the economy is vitally necessary. De-control raises the spectre of higher gas prices and ever-increasing inflation.

But regardless of the policy considerations, we believe strongly that such a last minute action on your part would contribute to a further loss of confidence by that great body of the American public that is so skeptical of their political leaders. De-controlling the price of gasoline on the old administration's initiative within 24 hours of the time the new president takes office would do little to restore the public's belief in the processes of government.

On many occasions we have disagreed with you, but we have always respected the high standards that you have brought to public service. We hope and trust that you will not take any last minute actions which would serve to diminish your honorable record.

Sincerely yours,

HOWARD M. METZENBAUM.
EDWARD ZORINSKY.
SPARK M. MATSUNAGA.
DONALD W. RIEGLE, Jr.
WENDELL ANDERSON.

Mr. METZENBAUM. Mr. President, at that time we pointed out that there was no economic justification for removing controls and exposing consumers to higher prices when the major oil companies were experiencing increased earnings. For example, during the first quarter of 1976, oil company earnings climbed 70 percent over the first quarter of 1975. While the rest of the market held steady in the second quarter, oil company stocks gained 20 percent and reliable investment firms are predicting 15 to 20 percent earnings gains in 1977.

Mindful of the Federal Energy Administration's claims that the economic impact of gasoline decontrol on consumers would be "minimal," I asked the Library of Congress to prepare an independent analysis of the effect that decontrol would have on gasoline prices.

This study indicates that the decontrol of gasoline prices may cost the consumer as much as $6 to $9 billion a year, and would add as much as 5½ to 8 cents a gallon at the pump. While I am in no position to determine whether the Federal Energy Administration is correct in indicating that the impact of decontrol would be minimal or if the Library of Congress is correct in estimating that gasoline users could pay as much as $6 to $9 billion extra, the mere fact that there is substantial uncertainty provides sufficient basis for Congress to veto the President's intended act.

With the Senate presently concerned with the much-needed reform of its committee system, it is unrealistic to expect Members of the Senate to devote the time necessary to carefully examine the conflicting viewpoints regarding the impact of gasoline decontrol. Since neither the President nor the Administrator of the Federal Energy Administration has articulated any great need to immediately decontrol gasoline prices, it would be imprudent for Congress not to override a measure which could so greatly affect so many consumers.

Today, a resolution of disapproval of this plan has been introduced by the distinguished chairman of the Senate Interior Committee, Senator JACKSON. I commend him for the leadership he has displayed on this issue and am pleased to be a cosponsor of this resolution. I strongly urge my colleagues to support this resolution of disapproval.

Mr. President, I ask unanimous consent to have printed in the Record the Library of Congress study entitled "Exemption of Gasoline From the Mandatory Allocation and Price Regulations."

There being no objection, the document was ordered to be printed in the RECORD, as follows:

EXEMPTION OF GASOLINE FROM THE MANDATORY ALLOCATION AND PRICE REGULATIONS

(By Lawrence Kumins)

INTRODUCTION—SOME PROS AND CONS ON DECONTROL

Opinion on the value of gasoline price control is divided. For the most part, major oil companies, some independents, and some gasoline marketers find the price control program and mandatory allocation burdensome. Some marketers, however, are concerned that they might be adversely affected by the end of mandatory allocation, or the victims of price discrimination by being sold only products refined from higher priced crude. Consumer groups, for the most part, fear that higher prices will result from decontrol.

Benefits would stem, decontrol proponents hold, from removal of the substantial bureaucratic burden imposed by the controls program and from enhanced competition facilitated by the removal of mandatory allocations, which lock buyers of gasoline into purchases from suppliers who supplied them in a 1972 base period. Decontrol proponents also believe that permitting retailers and jobbers to shop around for supply among refiners will foster competition and stabilize prices, or possibly even decrease prices.

Those favoring decontrol further hold that, even with current regulatory impediments, competition has been sufficient to hold prices below FEA fixed ceilings. This could well be true. However, those on the pro-control side would assert that many large refiners are at ceiling prices, and put large quantities of gasoline onto the market at these lower ceiling prices, thereby holding down the prices of other refiners who could legally charge higher prices. Rather than competition, this viewpoint holds, it is the disparity among prices which tends to be the price depressing force. With decontrol, there might be a tendency to converge on the higher priced refiners' prices.

On the pro-decontrol side, still another price depressing force is at work in the retail segment of the gasoline market. While refiners margins have doubled since 1974 (as discussed below), retailers' margins have fallen significantly, from an early 1974 high of 10.9 cents per gallon to a September 1976 level of 7.6 cents per gallon for major brand regular at full service outlets. Self-service retail dealer margins have also fallen, even though their market share has grown. Under decontrol, one theory would hold that refiners' margins would return to earlier levels due to enhanced competition.

However, decontrol opponents would cite the decline in number of refiner supplied lessee[1] retail outlets, from 112,000 in early 1972 to about 78,000 today. This decline could be interpreted as a move toward diminished competition, which decontrol opponents say would worsen. Proponents of decontrol regard the lessee outlet decline simply a streamlining of marketing in a competitive environment with ultimate savings to consumers. But whatever viewpoint is taken, it does seem clear that retailers are earning lower margins and refiners higher margins under controls. This could, in the long run, lead to the failure of enough dealers to cause diminished competition.

Some final considerations on what might happen to prices under gasoline decontrol are in order. There appear to be two polar positions, plus some middle ground. One polar position has been taken by FEA, i.e. competitive forces will continue to work and there will be no material price escalations directly attributable to decontrol. Another position, perhaps polar, but nevertheless involving risks that controls provide insurance against, is that there may be a necessity to

Footnotes at end of article.

import gasoline at world prices, thus driving all U.S. prices to the marginal cost of these imports. These could occur if (i) there are major refinery breakdowns during key demand periods; (ii) FEA's demand forecasts are in general too low; (iii) FEA's demand forecasts for unleaded gasoline are too low; [2] and (iv) there is a tendency for U.S. gasoline prices to converge on world prices. Large costs could be involved in this case, as each cent per gallon per year in higher gasoline prices adds $1.1 billion annually to users' bills.

Between the risk of large price increases and the hope of none, lie some middle ground scenarios when either marginal cost pricing does not work fully, as classical economists would see it, diminishing the full worst cases impact. Other factors could intervene as well and mitigate impacts, such as real reductions in demand during 1977 and 1978 from 1976 growth rates, which would diminish potential supply pressures. This is an FEA assumption we question later in the paper.

Beyond these economic arguments concerning the price behavior of gasoline in a decontrolled environment lie a range of broad public policy considerations which bear upon desirable market functions in a widely urged effort to indicate movement toward conservation and eventual replacement of petroleum products by other transportation fuels or power. This area of discussion is not treated in the following analysis.

One final note is in order before entering the discussion of decontrol's effect. This is that the probability of noticeable price increases during late winter and early spring months is lowered by normally slack seasonal demand. However, as the spring-summer driving season approaches, demand normally increases, and the price increases discussed below might then come into play, in a manner similar to the past summer's (1976) experience which saw Gulf Coast spot prices exceed 40¢/gallon.

EXEMPTION OF GASOLINE FROM THE MANDATORY ALLOCATION AND PRICE REGULATIONS

In response to many requests on the gasoline decontrol issue, with specific focus on the Federal Energy Administration (FEA) November 16, 1976 document, *Preliminary Findings and Views Concerning the Exemption of Motor Gasoline From the Mandatory Allocation and Price Regulations*, the following analysis is provided. As FEA notes, and we reiterate, the process of figuring out what will happen to gasoline in a decontrol environment is complex. Opinion is divided with some students of the industry holding decontrol will cause no changes (other than those already expected due to legislatively mandated regulatory activity, OPEC price rises, etc.) and others predicting sharp price increases (in excess of these preprogramed levels). One thing about which there appears to be some consensus is that there are a number of preprogramed factors which will increase gasoline prices sharply. Among them are an anticipated OPEC price increase, increased domestic crude prices under the Energy Policy and Conservation Act (EPCA), and pass-through of increased refiners nonproduct costs under current FEA regulations. Given this consensus of upward moving gasoline prices, an additional problem is posed as far as separating preprogramed price increases from those which may be attributable to decontrol per se. There are other problems which complicate any analysis of motor gasoline pricing which stem from the fact that gas is really not one completely fungible product, but three products with somewhat different characteristics—regular (leaded) gasoline, unleaded, and premium gasoline—and supply functions.

Footnotes at end of article.

TABLE 1.—*Regular gasoline jobber prices and crude acquisition cost 1974, 1975, and January-June (average) 1976 (¢/gal.)*

Year	Gasoline	Crude	Margin
1974	26.7	21.6	5.1
1975	31.9	24.7	7.2
1976 (Jan.-June)	33.8	25.3	8.5

SOURCE.—FEA Monthly Energy Review, October, 1976.

Table 1 should be read with this note in mind. Only about 45 percent of a typical barrel of crude is sold as gasoline, the remainder being refined into numerous other products. Prior to 1973, a refiner had wide latitude to allocate crude costs among products. In theory, he could allocate only ten percent of crude costs to gasoline, charging a low price for gas, but making up for this by charging the remaining 90 percent of the crude barrel's cost to various other products. But subsequent legislation and FEA regulations more or less mandate proportionate passthrough of crude price increases. For this reason, a barrel of crude's price should be more or less proportionately reflected in a gallon of gasoline. And the refiners margins—refining costs and profits—should be more or less fairly represented by the difference between prices to jobbers and crude cost.

The margins for regular gasoline have increased 67 percent over this time frame. It should be noted that (i) the base year (1974) was one of record industry profits and (ii) if margins for higher priced premium and unleaded product were included, then the estimated margin increase would probably be larger.

Gasoline jobber prices have been extrapolated from August 1976 (the last month published) to November based on correlation [3] with the Independent Petroleum Associations (IPAA) *Wholesale Prices*. Refiner acquisition prices for crude are estimated (from June to November 1976) at $11.00 (26.2¢/gal), a best guess estimate based on stable domestic prices under EPCA and a relatively stable world crude market. In November the *estimated* crude/gasoline price margin had widened to 10.2¢/gal,[4] based on the equation estimated in Appendix 1 and IPAA November gasoline prices. This estimated increase indicates that current refiner margins are twice as large as the 1974 average level.

We have focused in on jobber prices here because they are representative of nearly all gasoline sales. They not only form the basis from which retail prices at the gas pump are computed but closely measure the prices paid by wholesale consumers who purchase large volumes of bulk gasoline supplies. Note that all these prices *exclude Federal and State taxes*, which add an average of 12.5¢ per gallon to road user prices nationwide.

U.S. GASOLINE PRICES AND WORLD MARKET PRICES

Beneath the layer of controls on gasoline prices lie crude oil controls which fix domestically produced oil at wellhead prices averaging about $8.00/bbl. This resulted in a June 1976 refiner acquisition crude cost of $8.59/bbl.[5] for domestically produced crude—$4.88 less than that of June's imports (which were $13.47). The fact that U.S. refinery throughput is a blend of controlled and imported crude meant that for the first six months of 1976, the latest available data, the U.S. refiner domestic/imported composite crude blend cost of $10.63 was well below the $13.35 import price. Subtracting the 21¢/bbl. import fee, we can estimate that refiners elsewhere in the world had a comparable crude acquisition cost, which would be $13.14 without the fee. On this basis, one would expect U.S. refined product prices, including gasoline, to average $2.51/bbl. ($13.14–$10.63) or about 6¢ per gallon below those charged by foreign refiners running only world priced crude. Table 2 compares the refiners' prices (to jobbers) with adjusted prices for U.S. quality gasoline on the Rotterdam and Italian spot markets during recent months.

BACKGROUND ON GASOLINE PRICE CONTROLS

Many not familiar with the intricacies of refined product price controls are under the false impression that gasoline prices are controlled in a manner similar to the prices charged by an electric utility. Utility prices are carefully regulated [6] on a basis which reimburses the utility for its non-capital or operating costs on a one for one basis. Capital costs are accounted for based on used and useful plant and equipment actually in service in the business (less depreciation), and a "fair" return on investment is included in the rates charged users along with out of pocket type operating costs.

Gasoline prices are, however, not set on such a rigorous basis wherein every cost element is accounted for (and subject to scrutiny by) the regulatory body. With refined product price controls, there is no basic item for item cost accounting. Rather, controlled gasoline prices are based on frozen-in prices which were in effect on May 15, 1973. Dollar for dollar crude oil cost increase passthrough is provided for, as well as the passthrough of a variety of other costs (called "non-product costs"). There is some limited flexibility to allocate various costs back and forth among the different products refined from a barrel of crude. But there are no controls on profitability (or return on investment), nor is there an item by item, audited accounting for each and every refinery's nonproduct cost passthrough.

GASOLINE PRICES AND CRUDE OIL PRICES

The primary cost component of any oil fuel, at the wholesale or refiner to jobber transactions level, is the crude oil input expense. A key point in examining how gasoline prices reached their present levels is the refiner margin for gasoline, the markup over and above basic crude cost. Table 1 summarizes the comparison between jobber prices for regular gasoline sold by 21 leading refiners and the composite refiner acquisition cost of crude oil for the post-Embargo period for which FEA has published data.

TABLE 2.—COMPARISON OF EUROPEAN SPOT MARKET GASOLINE PRICES WITH U.S. JOBBER PRICES, JUNE-NOVEMBER 1976 (U.S. CENTS PER GALLON)

[European figures adjusted to reflect U.S. regular gasoline prices]

Month	Rotterdam	Italy	United States	Landed in United States: Rotterdam	Landed in United States: Italy
(1)	(2)	(3)	(4)	(5)	(6)
June	43.1	40.5	35.8	46.0	43.4
July	41.2	38.1	36.2	44.1	41.0
August	40.2	37.8	36.5	43.1	40.2
September	39.1	36.9	36.4	42.0	39.8
October	39.5	37.1	36.4	42.4	40.0
November	38.3	35.9	36.4	41.2	38.8
Average	40.2	37.6	36.3	43.1	40.5

Source: Platt's Oilgram, Monthly Energy Review, IPAA Wholesale Prices, and CRS estimates.

After discussion with Platt's Oilgram staff members, we selected the upper range of their price quotes, because it was indicated to us that these were representative of high quality, low lead premium gasoline (which would meet U.S. specifications) that would be most desirable from an importer's point of view because it could be used to "enrich" his gasoline pool. Either this premium gasoline could be sold directly as high test, or could be blended with other petroleum products (downgrading it), to be sold as leaded regular. But its major advantage would be

to free up other light end refinery products or gasoline pool components, for utilization in formulating unleaded fuel.

We have been unable to locate a comprehensive refiner/jobber price series for premium gasoline.

It was therefore necessary to make the assumption that premium sold at the wholesale level for 3 cents per gallon more than regular—an assumption with which we are not entirely comfortable.[7] It is based on the fact that premium sold at branded, full serve retail outlets for 63.0 cents/gallon vs. 58.0 cents/gallon for regular during the first eight months of 1976. We believe that, of this 5 cents per gallon regular/premium differential, 2 cents could be attributable to higher dealer margins customary for premium, while 3 cents may be the incremental value of this fuel. Carrying this rationale on. Platt's high premium [8] quotes were reduced 3 cents per gallon to get an equivalent price estimate for value of this material when blended as U.S. equivalent regular. Columns 2 and 3 of Table 2 [9] were derived in this manner, based on month end Platt's data for the most recent six months. Column 4 contains actual FEA refiner jobber price data for June through August, and estimates based on the regression described above and in Appendix 1. In columns 2, 3 and 4, the averages contained would appear to roughly indicate that actual U.S. refinery prices were 3.9 cents/gallon under Rotterdam refinery prices and about 1.3 cents less than Italian refinery prices, probably because of either product or crude price controls or some combind benefits thereof. Columns 5 and 6 indicate that, with transport (1.4 cents/gallon as suggested by the Platt's staff) and the 1.5 cents/gallon refined product U.S. import duty for gasoline, differentials between European and American prices would be enlarged by a total of 2.9 cents/gallon, implying that gasoline price controls kept U.S. prices below what the landed cost of imports would be by between 6.8 cents (Rotterdam) and 4.2 cents per gallon (Italy).

Another conclusion might be drawn as well. This is that, while real savings have likely been realized under controls, the full savings which could have stemmed from the fact that U.S. refiners crude acquisition cost is 6 cents per gallon below world levels have never been realized.

At best, with imputed U.S. prices 3.9¢ below adjusted (for octane) Rotterdam, 3.9¢ have been saved. At worst, a comparison with adjusted (for octane) Italian spot prices would indicate a savings of only 1.3¢/gallon. What is implied is that, even under product price controls, regular gasoline sold to jobbers by 21 leading refiners (the data contained in Table 2, column 4) is 2.1 (relative to Rotterdam prices) to 4.7 (relative to Italian prices) cents per gallon above what it should be, given the benefits of price controlled crude available to U.S. refiners.

This thinking is further reinforced by comparison with gasoline prices in another nodal refining area, the Caribbean. Here, current postings for 95 Research Octane (U.S. regular fuel) were 38.8¢/gallon at Exxon Aruba (effective August 12, (1976) and 38.0¢/gallon at Shell Curacao (effective August 16, 1976), according to the October 1976 *Petroleum Economist*. These average about 2¢ above current U.S. refinery gate prices. Adding an estimated 1¢ for transport and 1.5¢ for the import fee, an upside risk of decontrolled U.S. gasoline converging on Caribbean prices of 4.5¢/gallon can be hypothesized (2¢+1¢+1.5¢).

COSTING GASOLINE PRICE INCREASES

FEA projects 1977 and 1978 motor gasoline usage at 7.2 mbd and 7.4 mbd [10] respectively. At these levels of consumption, a 1¢/gallon price increase over what might have been more restrictive control levels would imply user costs of about an extra $1.1 billion during these years. At the boundary, the above sections would appear to indicate that:

(i) If gasoline prices have averaged 2.1¢ to 4.7¢/gallon above what they should have been during 1976, based on the fact that U.S. crude is cheaper than foreign refiners' crude, users might have paid between $2.3 and $5.2 billion extra.

(ii) If, in the event of decontrol, domestic prices rose to the landed cost of potential imports, increases of between 4.2 and 6.8 cents per gallon could be anticipated. Costs here might be in the $4.6 to $7.5 billion range.

INTERACTION OF GASOLINE DECONTROL WITH AN OPEC PRICE INCREASE

OPEC has recently concluded its meeting on prices, and the effective outcome of the pricing decision is still unclear. Eleven cartel members agreed on a ten percent price hike for early 1977, with an additional five percent increment to be added in June or July. Saudi Arabia and the U.A.E., dissented, and stated they would raise prices only five percent for 1977.[11] How these divergent policies will be resolved in world markets is a matter of some speculation.

Perhaps the Saudi-U.A.E. combine will have enough market power to hold increases to five percent worldwide. Alternatively, if world crude demand continues to grow at its 1976 rate, effective rates may be driven up by ten percent or more. At this point in time, just a few days after the price increases were announced, a fairly safe, middle ground assumption is that world crude prices will go up 7.5 percent on average. With the crude produced by the 13 OPEC member nations now averaging about $12.00/bbl in the field, a 7.5 percent increase amounts to 90¢/bbl. For U.S. fuel users, who will be importing about 6.6 mbd of foreign oil during 1977, this will cost about $2.2 billion [12] more than current expenditures, regardless of what happens with U.S. product price controls. Allocated over FEA's projected 1977 (in Table IV–1) [13] 18.1 mbd (about 280 billion gallons per year) supply of total petroleum (Table IV–2), this would imply product price increases of about three-quarter cents per gallon on average [14] for U.S. refined products. Much of the direct impact upon products of this anticipated OPEC increase will be mitigated by the fact that almost 60 percent of the crude oil (and natural gas liquids) used for making oil fuels here is price controlled and will not rise in parallel with imported crude prices [15] a benefit enjoyed in few other nations.

Refined product prices elsewhere, not benefiting from controlled U.S. crude prices, will rise by the full amount of the OPEC price increase—about 2 cents per gallon.[16] These increases are estimated to be about 1¼ cents [17] per gallon above what U.S. prices might be expected to rise under the same set of circumstances. Herein lies a risk: if gasoline prices are decontrolled and rise to the landed cost of imports, whose 1977 prices would be escalated by OPEC 2 cents per gallon higher than they are today, gasoline price increases of 1¼ cents/gallon, or about $1.4 billion yearly,[18] above what would be experienced with controls and an OPEC increase could be realized. This would be additive with the $4.6–$7.5 billion decontrol increases estimated above, increasing the range of decontrol gasoline price increase to $6.0 to $8.9 billion over what it could otherwise be under controls.

A NOTE ON UNLEADED AND PREMIUM GASOLINE PRICING

There are two areas wherein price controls relation to costs are rather unclear—unleaded and premium gasoline. Nowhere in *Preliminary Findings* is the supply, demand, and pricing of premium discussed. While premium may, at some time in the future, become obsolescent, it is nevertheless a product used by many motorists. Near term price increases would be detrimental to them, and FEA has not attempted to estimate the impact involved.

Unleaded pricing is the focal point of substantially more interest because of its growing market share, which FEA estimates will exceed 30 percent in 1978. On page 108 of the *Preliminary Findings* report, FEA states that its survey indicates an incremental cost range of .5–4.0 cents/gallon for new unleaded capacity, averaging 2¢/gallon. Current pricing permits a 1¢/gallon surcharge over May 15, 1973 leaded prices (with appropriate proportionate cost passthroughs). August 1976 data in the October *Monthly Energy Review* indicate that full serve unleaded regular sells for nearly 6¢/gallon above leaded. Differentials of this magnitude are not reconciled with the basic nature of the 1¢ above leaded control approach. During the first eight months of 1976 (mid-level) unleaded sold for 61.8¢/gallon at the pump, while regular averaged 58.0¢/gallon. This 3.8¢/gallon differential would seem high in light of the control mechanism. Furthermore, if marginal cost pricing prevails with decontrol, it could be the 4¢ incremental unleaded refining cost which will tend to set prices, rather than the 2¢ average cost.

Similarly, premium sold for 63.0¢/gallon during this period—5¢ over regular. It is not clear how this differential enlarged over 1974's 3.6¢/gallon or whether or not it is justified under controls. This trend could be a harbinger of costly selective price increases for unleaded and premium. With 1978 unleaded demand projected at 2.24 mbd by FEA, every 1¢/gallon that unleaded prices rise over their proper controlled levels will cost users $340 million annually.

DEMAND FOR GASOLINE

FEA's Table IV–1 displays their petroleum demand estimates for the 1976–1978 (time frame. Implicit in their estimates are annual increases in gasoline demand of 2.9 percent for 1976–77 and 2.8 percent for 1977–78. These rates are far below the 4.9 percent increase of 1975–76. Moreover, the forecasts are based on an extremely pessimistic real 1.2 percent GNP growth rate for 1978—much lower than the 4.7 real rate forecast by DRI.[19]

For 1977, FEA notes (on page 76) [20] ". . . The rate of increase in demand for petroleum products is expected to remain in line with the 1976 level, increasing by 5.2 percent versus 5.6 percent in the previous year." But, while gasoline increased 4.9 percent as overall product demand increased 5.6 percent during 1976, FEA has 1977 overall demand up 5.2 percent but gasoline demand up by only 2.9 percent. This would appear disproportionately low for gasoline, and more in line with 1978 projection of 2.9 percent overall product demand growth and 2.8 percent gasoline increases. These seemingly low 1978 forecasts go hand in hand with low GNP growth. FEA notes some risk here, and states on pages 76 and 78:

"In 1978, however, the rise in demand is expected to slow down along with a leveling off in the rise in economic activity. As a result, the FEA projects that total demand for petroleum products from 1977 to 1978 will increase by 2.7 percent. The cumulative rise in total domestic demand through 1978 from its 1975 level is projected to be a little less than two and one-half million barrels per day, reaching a total demand level of 18.8 million barrels per day in 1978.

"In the unlikely event that the economic recovery maintains the current rate of 5.2 percent, total demand in 1978 would be 19.2 million barrels per day. This demand can be met without increasing imports by maintaining a capacity utilization rate of 94 percent. However, since this capacity utilization rate cannot be sustained for more than a few months, imports would have to be increased to achieve this demand level."

Footnotes at end of article.

Underestimates of demand, particularly for unleaded gasoline, would necessitate refined product imports [21] which, in turn, would tend to insure convergence of decontrolled gasoline on world prices. An error in estimating unleaded demand would have more far-reaching implications than just a generalized under-estimate since an unanticipated need to blend more unleaded could (i) mean a more serious refining capacity shortage, given relatively limited unleaded capability, (ii) use up the components needed to blend premium, and (iii) diminish the potential supply of leaded regular.

It should be remembered that this market mechanism basically operates on marginal cost pricing, at least in theory. In a domestic refining supply shortfall situation wherein the marginal supply is imported, generally accepted economic theory holds, marginal cost pricing would tend to assure domestic prices would converge on import's landed cost, possibly resulting in higher costs to fuel users as described on page 15.

FOOTNOTES

[1] As distinguished from other types of retail outlets.

[2] Unleaded gasoline production comes at the expense of reduced ability to produce total gasoline output. It particularly affects premium fuel production. High unleaded demand can generally aggravate a supply shortfall, reducing supplies across the board.

[3] A 99 percent correlation exists between these data series during the post-Embargo period. In other words, a regression analysis yielded an R-squared, adjusted for degrees of freedom of .99. See Appendix 1 for further details.

[4] Based on the Appendix 1 equation, a 36.4¢/gal jobber price is indicated, and the 10.2¢ figure is calculated as 36.4¢ minus 26.2¢.

[5] At least in theory.

[6] This extra 59¢/bbl includes transport from field to refinery and other similar costs.

[7] This assumption has some other implications as well. Most importantly, it acts as a real world consideration, which buffers the theoretical effect of marginal cost pricing, and works against real convergence on true incremental supply prices. As a buffer, it tends to lower possible impacts estimated later in this paper, causing them to be less than truly representative of actual marginal cost pricing.

[8] Converted from $/metric ton to cents/gallon by multiplication by .2762, a conversion supplied us by the *Platt's* staff.

[9] See page 11.

[10] These demand projections assume very low near term price elasticity for small price differentials.

[11] For currency, it should be noted that Indonesia may raise its price by around 6 percent.

[12] 6.6 mbd×365×$.90=$2.2 billion.

[13] See *Preliminary Findings*, etc. report.

[14] $2.2 billion divided by 280 billion gallons = three-quarter cents/gallon.

[15] Recently uncontrolled production of domestic stripper well oil, about 1 mbd, will probably rise to the OPEC increased import levels, costing about $330 million. However, when divided up among the 280 billion gallons of estimated 1977 refined products consumption, this amount of money is too small to affect these cents per gallon computations noticeably.

[16] 90¢/bbl divided by 42 gallons equals about 2 cents/gallon.

[17] 2 cents−.75¢=1¼ cents.

[18] 1½¢/gallon×110 billion gallons=$1.4 billion.

[19] *The Data Resources Review*, December 1976. Data Resources Inc.

[20] *Preliminary Findings* report.

[21] Of high quality premium gasoline, Caribbean 95 octane (regular) or custom European refinery runs of material formulated to U.S. standards.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have no requests for time on our side. I reserve the remainder of my time, under the standing order.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. HATHAWAY). The Chair, on behalf of the Vice President, pursuant to Public Law 93–642, appoints the Senator from Missouri (Mr. EAGLETON) to the Harry S Truman Memorial Scholarship Foundation Board of Trustees.

The Chair, on behalf of the Vice President, pursuant to Public Law 93–556, appoints the Senator from Oregon (Mr. HATFIELD) to the Federal Paperwork Commission.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado (Mr. HART) is recognized for not to exceed 15 minutes.

AUTOMOBILE POLLUTION CONTROL

Mr. HART. Mr. President, our Nation came to a broad and substantial consensus in the late 1960s that, for the protection of public health, the destruction of our environment had to be halted. With this consensus, Congress passed the Clean Air Act of 1970.

Support for a clean environment still exists and is even stronger today. Yet, since the passage of the Clean Air Act 6 years ago, millions of people have been unnecessarily exposed to harmful levels of air pollution—while industries have been given reprieve after reprieve from cleanup deadlines.

Nowhere has this been more appalling than in the area of automobile pollution control. The automobile manufacturers have violated the law and have been given only minimal fines. They have failed to meet deadlines and have been granted delay after delay. Time after time, public health has been sacrificed on the altar of expediency.

The latest sacrifice came during consideration of the 1976 clean air amendments last year. The car manufacturers, with the aid of other polluting industries, successfully lobbied, delayed, and prolonged deliberations. As a result, reasonable, consensus legislation was killed by a Senate filibuster on the last day of the session.

As I said at the time, Mr. President, the death of that bill signaled to all the American people that concentrated economic power can still dominate the Government of this country. It is outrageous that in this age of sunshine and open government, in this age of consumer rights and participatory democracy, large concentrated corporate interests cannot only violate the law and go unpunished, but can also kill legislation designed to protect all the people of this nation.

Now there is talk of granting the industry a 1-year extension in emission deadlines by passing so called quick fix legislation. Mr. President, my message today to you and my distinguished colleagues is that this Senator from Colorado will do everything in his power to oppose that kind of special interest legislative fix.

The record of the past 6 years clearly demonstrates what we can expect from this industry if we grant it yet another 1-year delay. During that year, high paid lobbyists will be up here on Capitol Hill, arguing for even further delays.

To support my argument, I submit the record of violations and delays which have characterized the auto manufacturers' successful attempts to avoid producing low-emission cars.

RECORD OF EMISSION CONTROL VIOLATIONS AND FINES

First, since the beginning of the Federal emission control program, the Environmental Protection Agency has had to force the manufacturers to recall and repair emission control systems on as many as 2.5 million automobiles.

Second, in 1971, a major manufacturer violated certification regulations on 200,000 cars. The company was fined only 5 cents per car, although the maximum allowable fine under the law was $10,000 per car.

Third, in 1973, this same manufacturer falsified certification information given to the Environmental Protection Agency. In this case, the fine was $2 per car again, a small fraction of the allowable fine.

Fourth, a major foreign manufacturer violated the law in 1973 by installing on its cars emission control devices which would shut off automatically under normal driving conditions. This was not discovered during testing because the cars were rigged so that the shutoff devices would not function during that testing. When the EPA finally discovered the violation, fines of only $20 per car were levied on the manufacturer for this willful violation.

Currently, the Justice Department is asking for judgments against a major domestic manufacturer for yet another violation of emission control regulations. This case is still pending. But past history of violations and fines indicate what we can expect.

Mr. President, this is just a sampling of the favorable treatment bestowed on large, powerful corporations who violate laws and regulations designed to protect public health. Fines as low as 5 cents where the law provides for $10,000. Every citizen of this country should ask himself or herself if he would have received the same treatment if he had merely allowed his parking meter to expire.

RECORD OF DELAYS IN AUTO EMISSION REGULATIONS

Mr. President, violating the law and receiving minimal fines is not the only means used by the automobile manufacturers to avoid making cleaner cars. Since the emission regulations were first mandated in 1970, the manufacturers have pushed and lobbied for delay after delay after delay:

First, in April 1973, the EPA granted the automobile companies a 1-year extension of emissions control deadlines—

despite independent scientific evidence that the requisite technology was available.

Second, 3 months later, in July 1973, the automakers applied for and were granted another 1-year suspension—this time for nitrogen oxide emission standards.

Third, in 1974, the auto industry successfully lobbied Congress for another delay. This time the Arab oil embargo and the possibility of emission-related fuel economy losses were used as excuses. Since then, we have learned that stricter standards, requiring the use of catalytic converter technology, are actually responsible for better, not worse, automobile fuel economy.

Fourth, in 1975, the industry again petitioned EPA for the third suspension of the hydrocarbon and carbon monoxide standards. This delay was granted on the grounds that emission control technology might cause a new hazard—sulfates. Since the suspension, we have learned that the sulfate hazard does not exist.

Finally, during congressional deliberation over the 1976 Clean Air Act amendments, the industry lobbied for a 5-year moratorium of emission standards. Having failed to keep that moratorium in the conference report, the industry was pleased to see the bill die.

Mr. President, that 5 years of delay would expose 83 million people in this country to 20 percent more smog and carbon monoxide by the 1980's. Yet the people whose health is on the line have not been told. Instead, they have been told that the economic situation in the auto industry and the need for energy conservation require the abandoning of measures which protect public health and safety.

This Congress has at its command economic tools far more powerful than relaxing emission control standards. The time has come for the Congress to refute the phony arguments of fuel economy and economic recovery as a reason to ignore the urgency of air pollution control and the public health.

In the past 6 years we have learned a great deal about pollution control. It is appropriate for us to draw on that experience and revise existing regulations to make them a more workable basis for public policy.

However, in the past 6 years we have also learned how large powerful companies have counted on congressional reprieves from clean-up deadlines. The time has come to stop this trend. Any revision of the automobile pollution regulations should not be considered until the automobile industry is put to solid proof—much greater proof than they offered us last year—that they cannot meet existing standards.

No industry or set of industries—no labor union or collection of labor unions—should have the power to define the public interest. That is the responsibility of the Government of the United States. The people of this country do not elect corporate executives. Those executives do not take an oath of office.

The responsibility to protect the interests of all the people of the United States rests on us—the elected representatives of those people. I think the time has come to carry out that responsibility.

Mr. President, I yield back the remainder of my time.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from South Dakota (Mr. McGOVERN) is recognized for not to exceed 15 minutes.

SENATE RESOLUTION 45—SUBMISSION OF A RESOLUTION RELATING TO RECOMMENDATIONS OF THE TEMPORARY SELECT COMMITTEE TO STUDY THE COMMITTEE SYSTEM

(Referred to the Committee on Rules and Administration.)

Mr. McGOVERN (for himself, Mr. DOLE and Mr. RIEGLE) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 45

Resolved, That the Committee on Rules and Administration is authorized to consider Senate Resolution 4 through April 19, 1977.

SEC. 2. The majority and minority leaders shall, at the earliest time practicable, take steps to place before the Senate resolutions which—

(1) terminate all temporary committee assignments; and

(2) establish permanent assignments to the standing committees of the Senate, and provide for filling of vacancies on select, special, and joint committees.

Mr. McGOVERN. Mr. President, I send to the desk a resolution that, in effect, would give the Rules Committee another 90 days to report on the reorganization plan, the so-called Stevenson proposal.

The resolution is based upon two premises: first, that the Rules Committee ought to consider at one time all the recommendations of the select committee to study the Senate committee system as well as the Hughes committee recommendations that neither the Rules Committee nor the rest of the Senate has yet had a chance to evaluate, and that it is a mistake to ask either the Committee on Rules or the Senate itself to evaluate this partial series of recommendations that are now before us.

The second assumption on which my resolution, that I have just sent to the desk, is based is that it is foolish to rush in a matter of a few days through a reorganization so sweeping that it will change the very nature of this institution and possibly in very harmful ways. But rather for good or ill the Senate should not act on this resolution without fully comprehending all of its implications.

The resolution I offer this afternoon would grant the Rules Committee an additional 90 days until April 19, so that it can make a proper examination of all the recommendations of both the Stevenson committee and the Hughes Commission.

The select committee decided last year to break its work into two phases. The first emphasized committee jurisdictions and thus the proposal we now have before us.

The second phase of the work before the Stevenson committee was supposed to govern questions of staffing, committee rules, and procedure. Aside from the proposal in Senate Resolution 4, for computerized scheduling, we have nothing from the second phase of the select committee's work.

So, the net effect of all of this is that the reorganization committee has given us half of the area of assigned responsibility to look at. We do not know yet what is going to come in the way of subsequent recommendations from that committee. Nor do we know how the recommendations of the reorganization committee are going to measure with the parallel recommendations that have just come to us from the Hughes Commission.

Coincidentally, at the invitation of Senator CULVER, we created in 1975 a Commission on the Operation of the Senate. It was chaired by former Senator Harold Hughes. Over a period of some 15 months that Commission undertook a thorough examination of Senate organization and operation.

The resulting report of the Hughes Commission, which included a wide variety of recommendations on such matters as the better use of space, time of Senators, and other resources, that report was transmitted to the Senate leadership on December 31, just a little over 2 weeks ago.

Along with the second phase of the select committee's work, the Stevenson Committee, which we have not yet seen, it seems obvious to me that the Hughes Commission study has an important bearing on the nature and extent of the committee reorganization which might be required. It, too, recommends computer scheduling to avoid the problem of overlapping committee meetings. It suggests setting some days of the week aside for committee meetings and others for floor action. It suggests that votes occur in clusters. Certainly these and other Hughes Commission proposals will affect the number of issues each Senator can handle effectively.

Since it has been only 2 weeks that this report has been available, it is clear that neither the select committee nor the Rules Committee has had an opportunity to review the findings of the Hughes Commission. Therefore, the logical way to proceed would be for the Rules Committee to consider all of these matters at one time and with enough time to fashion the most constructive possible response, including both jurisdictional realinements and management innovations.

Mr. President, it has occurred to me that to proceed otherwise, in other words, to try to act hastily on the recommendations of the first half of the reorganization committee before we have had a chance to evaluate what Senator Hughes and his group are recommending is very much like calling in a couple of medical consultants on a medical problem and then proceeding with the operation before the second team of doctors has had an opportunity to be heard.

The Rules Committee was told to consider the committee reorganization by itself and to do it, in effect, in a vacuum,

and, beyond that, they were asked to report back in a grand total of 11 legislative days.

Mr. President, what is the rush about this? Even if one is totally committed to the concept of fundamental reorganization of the Senate, why are we being placed in a position where we have to act on this so quickly, on a proposal that can fundamentally affect the structure of the Senate in its capacity to do its work?

One possible explanation of all of this rush is that some members of the select committee recognize that the Hughes Commission may render large parts of the other committee's recommendations irrelevant. At the select committee meeting last April 29, for example, Senator DOMENICI stressed the need to line up with the Hughes Commission, and I quote the Senator from New Mexico. He said:

> And since they are precluded from considering jurisdictional changes, I would assume they are going to be making some very concrete suggestions on how to make the present system better.

Then he went on to say:

> I think that is a red flag for us, because if they make it sound like they have got a way to do it better under the present system, we are going to find some people opting for their approach for a few years in lieu of ours.

Mr. President, I ask Members of the Senate if in fact the Hughes Commission does have recommendations that appear to be superior than the formula that is being offered to us by the Stevenson committee why should we not examine those possibilities before we are rushed into a judgment on the reorganization plan that is now pending?

It appears to me that the demand for haste in this matter is both political and parochial. Those who are sold on this sweeping reorganization idea seem to be fearful that if we consider all of the options we might not buy their particular package, that we might combine parts of it with other methods of resolving the organizational problems that are before us.

The hastiness of the process is also a product of the political clout involved in denying the 18 new Members of the Senate committee assignments until after the reorganization is approved.

Mr. President, the leadership is to be congratulated for modifying that device of the select committee and assigning Senators temporarily to standing committees, so they can participate in confirmation hearings and other pressing Senate business.

But that is only half of a solution. I have made no effort to canvass the new Members of the Senate. I do know that when I first became a Member of the Senate I would have been deeply disappointed if I had not had the same rights as other Members to permanent committee assignments, including assignment to vacancies on select, special, and joint committees. I would have regarded that as discrimination against me and especially against my constituents, who have a right to expect that they would have representation on an equal footing with other Senators and other States.

Why deny these rights to the 18 new Members of the Senate? The only reason I can imagine is the fear that if these 18 new Senators receive their assignments they will feel less pressure to support hasty adoption of the reorganization plan.

I think we should end any impression that such tactics are being used to short circuit the deliberative responsibility of the Senate.

My resolution would end that impression and those tactics, and it would also allow the Senate to proceed in an orderly fashion to reorganize itself carefully and rationally. Haste can only make for mistakes that we will live to regret later. So, we need reasonable time to contemplate the broader implications this reorganization proposal holds for the place of the Senate in the federal system.

Perhaps within 90 days, which is not an unreasonable extension, we will also have some sense of how the promised reorganization of the executive branch is to proceed, so we can avoid the confusion that will follow if the Senate is reorganized according to one format, and that runs counter to the executive reorganization. At the very least, the resolution I introduce today will permit the Rules Committee and the Senate to consider both phase 1 and phase 2 of the select committee's work at the same time, together with the recommendations of the Hughes Commission. It will remove this, to me, inexplicable pressure to buy a house based on an examination of only one wall.

If the proponents of Senate Resolution 4 are confident of the wisdom of their plan, there is no reason why they should fear the kind of scrutiny that I propose. Why do we not grant the Rules Committee and the Senate as a whole a reasonable period of time to consider the recommendation as a complete package?

Mr. President, I do not presume to speak for the distinguished chairman of the Committee on Rules and Administration, who has done an excellent job of trying, as best he can, to comply with the heretofore expressed wishes of the Senate of passing judgment on this area of proposals by today. But I think every Senator who has talked with him knows he is deeply concerned about whether it is possible, really, to do a workmanlike job on anything this complicated, and complete it by today, by the January 19 deadline that we set for him at a time when we had not yet sufficiently assessed how complicated this matter might be. I think it ill behooves those who took 9 months on the select committee study to be unhappy when the Senate takes a little time to make its judgment on these proposals that have been submitted to us.

My second premise in offering this resolution this afternoon goes not to procedure, but to the merits of the select committee's proposal.

If the Rules Committee hearings are any guide, the conventional posture of most Senators on this proposal is to have perhaps some reservations about details as it affects one's own committee, but to welcome with boundless enthusiasm the principle of the overall Rules Committee plan.

Mr. President, I have a differing view, and I so expressed it in my testimony before the Rules Committee. I did not go there primarily to save the Nutrition Committee, although I think that is purpose enough. I went there because I disagree fundamentally with some of the underlying premises of the Rules Committee plan, and I am becoming increasingly distressed about the insinuations in the press that anyone who is opposed to this particular reorganization plan is automatically against political or congressional reform.

I am for reform. I am not for the Stevenson-Brock proposal in its present format.

Even if I could be satisfied on the details that directly affect the committee I chair, the Committee on Nutrition and Human Needs, I would still oppose this reorganization plan; and my plea for a more careful process is based in part upon the conviction that as we think more seriously about this proposal, a majority of the Senators will come to see that some of its basic premises are faulty, that its impact upon the Senate will be damaging to the proper role of the U.S. Senate.

The goal of this reorganization proposal is said to be greater efficiency. But let us not be so efficient, in a superficial sense of that word, as to reduce our capacity for innovation, our capacity for constructive competition among ourselves in bringing a variety of ideas to bear on the problems that face the country, and particularly in those aspects of policy development in which the Senate functions at its best.

In pursuit of legislative efficiency, the idea of the select committee was to devise a system in which every issue would be assigned to one and only one place. The plan is to avoid duplication of effort and duplication of attention. The plan is further to share the overall workload of the Senate evenly, and to reduce the number of committees and subcommittees, and consequently the demands on Members' time.

Mr. President, the initial plan of the Stevenson committee, as I understand it—since revised, because the select committee apparently had not thought through its implications on subcommittee chairmanships—was for each Senator to serve on no more than two subcommittees on each of two standing committees, and therefore to specialize in four areas of policy.

The appeal of that plan was its simplicity—cutting back some 31 standing committees to just 12, plus 3 "third" committees, each with clear lines of jurisdiction.

But it also has problems, even as revised. In the first place, it will not have the promised results, for several reasons.

At the outset, neither the importance of issues nor the workload involved in them can be predicted all that neatly. For example, had we created a Select Committee To Study the Committee System 5 years ago, it probably would not have occurred to the Members that we needed a standing committee with jurisdiction over energy issues. Six or 7 years ago it was of no particular concern that

there was no committee on the environment. Yet those areas now generate some of the most time-consuming and urgent work before the Senate. It is pure illusion to assume that we can write hard lines of jurisdiction today to assure that the issues of the future will receive the attention they require.

Nor can we resolve the issues by simply redrawing committee boundaries simplistically. National problems inevitably burst the bounds of neat organizational charts. A member of the new Committee on the Environment and Public Works certainly would not ignore the supersonic transport simply because it falls under the jurisdiction of Commerce, Science, and Transportation. The Small Business Committee cannot skip over the antitrust issues that belong to Judiciary, the occupational safety and health matters which belong to human resources, or the environmental standards which formally fit elsewhere.

The fact is that our urbanized and industrialized society confronts a whole range of complicated new problems. As the expected role of the National Government has expanded, the job of a Senator has become more difficult and more complex. Blaming those conditions on the committee system is a little like blaming the swaying trees for causing the wind to blow. And expecting committee consolidations to make the job easier is the same as expecting that it will warm up outside if everyone will just quit wearing those heavy coats.

Perhaps we should consider a bit more exactly what our senatorial obligations are, and by whose definition? One thing is quite certain: regardless of the compartments in which we might be placed under any reorganization scheme, our constituents will continue to hold each of us responsible for every issue that comes before the Senate. Jurisdictional overlap goes with the job. And if a Senator's constituents want him to place a priority on, say, energy issues, they are not likely to be impressed by the response that he would certainly like to, but the Senate wanted him to specialize in something else. I think Members of this body have both a right and an obligation to set sensible priorities for themselves, and to pursue as best they can the entire range of national policy questions.

Indeed, that bears on one of the most fundamental characteristics of the Senate. In both original concept and evolution, the Senate is the generalist of the federal system. Obviously we cannot—nor should we—match the administrative expertise of the executive branch. We cannot, and should not, involve ourselves deeply in the day-to-day implementation of the Federal programs—at least so long as those programs continue to reflect policy guidelines to which we have agreed.

Nor can we hope to match the degree of issue specialization in the House of Representatives. That stands to reason. They have 435 Members; we have but 100. And on any given subject, there are Members of the House who know more than any Senator about particular programs.

But the Senate does have a unique quality. The special contribution of the Senate is to generalize. The Senate is best equipped to generate longer range policy ideas, to forecast problems, to understand how various policies might affect different groups of people, to expose the choices among conflicting priorities when all worthy purposes cannot be pursued.

The heart of my objection to this reorganization plan is that it would stunt the creativity and openness of the Senate, and it would do so for the sake of a misplaced affection for legislative efficiency and organizational form. It diminishes our capacity for what we are best constituted to do, for the sake of perhaps a slight increase in our ability to mimic other parts of the Government.

At the outset of this exercise, the chairman of the select committee, Senator STEVENSON, offered this interpretation of what is wrong with the Senate:

> It is no wonder that there is little consistency or coherence to what we do here. Do we have anything that could fairly be called a "policy" in such fields as energy conservation, environmental protection, or health care?

The Senate does not have a policy in those areas, in large part because the Members do not agree on what the best policy would be, and in even greater part because there have been strong ideological differences in past years between Capitol Hill and the White House.

But even without those obstacles, it is probably unreasonable to expect that a 100-member legislative body can, on its own, fashion a comprehensive policy in such areas, in the absence of clear proposals from the executive branch. They are, after all, responsibilities of the Government as a whole, to be hammered out among the Executive, the House, and the Senate.

What the Senate does have is a record of exposing problems, often hidden or ignored before, whether they relate to Government policy or social conditions. What we can offer is a wide variety of ideas, a choice of solutions. What we can do is test competing answers instead of marching lock-step to the beat of a single drummer, the plan of one committee. Last year, the President who was later defeated for reelection excused his own failures by attacking our record. But to respond by taking a meat ax to our committee structure suggests that, instead of arguing our case, we are simply yielding to the charges of two successive Presidents who thought the way to evade responsibility was to blame Capitol Hill.

The chief villain, we are told, is overlapping jurisdiction. There are too many committees and subcommittees with jurisdiction over the same things. We can never pass legislation when so many Members are staking out claims to the same turf.

Well, I frankly prefer diversity to monopoly, especially in the realm of ideas. And I do not think it impedes our proper functioning. The environment issue is a good example. We have had two committees claiming jurisdiction, and the struggle to determine who was in charge has become a modern-day legend of the Senate. But, if there is one area in which there has been no shortage of legislation passed, it is the environment. It may just be that competition from other Members inspired action. The competition and proliferation of involvement, the creation of new subcommittees—demonstrated that this was an issue of broad implications, deserving both careful study and the best conceived response.

I agree, of course, that we must always reach a time of deciding, when the majority must work its will. But there are far better ways to facilitate action than to fashion jurisdictional monopolies. Joint or sequential referrals are always possible. We could minimize the delay involved by a rule requiring that, if one of two committees with overlapping jurisdiction reports a bill, the other would be obliged to report its own version within a limited time. A better approach still would be to welcome the creation of the nonlegislative committees—select, special, and joint committees—which the authors of Senate Resolution 4 find so offensive. They can conduct investigations, assist in oversight, and generate legislative and policy ideas without bothering the Parliamentarian with the Senate-keeping detail of deciding which bill goes where. If we actively considered such alternatives, then I suspect the only people who will think overlap impedes our process are those who think too many ideas spoil the system. And for them I can only recall the words of the late Adlai Stevenson in Portland, Oreg., during his 1952 Presidential campaign:

> A free society means a society based on free competition, and there is no more important competition than the competition in ideas, competition in opinion.

Instead of serving that concept, Senate Resolution 4 would diminish new, novel, and unconventional ideas. If the one committee with relevant jurisdiction is disinterested or inattentive, there will be nowhere else to go.

And the organizational premise has other tangible costs for our democratic system. In contrast to the recent emphasis on dispersing the power of the Senate among the full membership, Senate Resolution 4 is a formula for consolidating more power in fewer hands.

Mr. President, the problem with this so-called move in the direction of efficiency is that it assumes that by placing the whole range of a single issue in one committtee, that is going to produce a better legislative result. I would challenge that assumption, Mr. President.

Suppose you have a situation where the chairman of one of the 12 standing committees that are going to be retained under this proposal is opposed to moving forward, let us say, on the question of health care for the American people, or he is opposed to doing anything more about the nutritional problems of the American people, which I personally think is the No. 1 preventive health care measure we ought to be taking.

If we concentrate all of that power over any one of these issues under a single chairman, we have greatly reduced the possibility that citizens concerned about action on that problem can get it, because one man, in effect, can virtually block it.

The net result of the so-called Steven-

son reorganization plan is to greatly enhance the power of the most senior and most entrenched committee chairmen. So, by reducing the number of committees from 31 to 12, we are also concentrating considerably more power in the hands of the more senior Members of this body.

We are at the same time cutting off the possibilities for competing points of view to be aired publicly, for witnesses to have access in several forums on an issue in which they are interested.

Under the initial plan, only 15 Senators—the most senior majority Members on the 15 committees—would have been committee chairmen. Only they would have had the practical authority over staff, scheduling and legislation which goes with that title. In fact, authority over legislation would have been even more concentrated in the 12 standing committee chairmanships. Budget and rules both deal principally with internal Senate business, and the Senate Committee on Intelligence Oversight, while given a temporary lease on life, was marked for extinction at a later time. So let us be clear on a fundamental point: This reorganization plan further strengthens the legislative grip of senior committee chairmen. It is a throwback to an earlier day when junior members could be seen and perhaps heard, but could not achieve much of anything important.

I would submit to the Senate that many of the most constructive and innovative steps which have been taken here in the Senate—and I think about the field of nutrition for one—have been initiated not by the committee that will now become the parent committee of these issues, but have been initiated by hearings that were conducted in one of the select committees, one of the joint committees, or one of the special committees created by the Senate.

In contrast to the interest we have lately demonstrated in preventing executive domination of national policy, the reorganization invites such domination. If only because of concentrated access and the chance to focus their efforts more precisely, the executive branch will have a much greater opportunity to shape our decisions.

The same will be true of the best organized and best financed lobbies. As Government has grown their numbers and sophistication have mushroomed. They have great expertise in dealing with Senators and committee and personal staff. Usually they get in first. They know millions—or billions—of dollars can be at stake. This reorganization makes their job easier—and it wlil bring a corresponding decline in the ability of the poor, the sick, and the disorganized to find anyone who will listen to them.

As we proceed with this proposal we must recognize that organizational structures are not neutral. And this organizational plan comes down hard in favor of the most established power centers in the Senate. It is a fine piece of irony that a plan with such consequences could be called "reform."

The proponents have an answer, of course. They say that in support of "creative overlap" they rejected a plan to create just five super committees, with just five chairmen and still more rigid lines of jurisdiction. What an artful use of the strawman technique. By the same reasoning we could have welcomed the five committee proposal if they had rejected a step that was still more extreme—perhaps a plan to eliminate all committees and just let the majority and minority leaders decide which bills to report. This is no argument at all.

Mr. President, we seem to have forgotten that not one of these select or special committees was created until a majority of the Senate thought that there was an urgent national need that was not being met by one of the major standing committees already in being. So if we adopt this principle, that there is something inherently wrong with the creation of a special or a select committee, we are cutting off what historically has been one of the most useful and constructive instruments that has been open to the Senate in dealing with particular problems.

One thinks of the Watergate Committee; one thinks of the important studies on the economy which have been made by the Joint Economic Committee; one thinks of the special concerns of the small business groups, of the aging. These are not bad committees merely because they add to the number of committees here in the Senate.

What I would hope the Senate would do at a time when it is supposedly interested in improving the quality of our work is to evaluate the quality of the work of these various committees. If we have a committee which is serving no useful purpose let us give it a quiet funeral. But if we have a committee which is serving the national interest, why should we abolish that committee simply because it does not fit someone's idea of what an organizational chart in the U.S. Senate ought to look like?

Finally, let me say that I am troubled by one other aspect of this controversy—the allegation, in the press and elsewhere, that Senators who object to the parts of the plan which affect their committees must be motivated by what one member of the select committee described to me as "the most parochial and selfish of interests." If that is an accurate reflection of any Senator's view, then he ought to be willing to name names and cite specifics. Better yet, instead of retreating behind abstract organizational principles of dubious merit—such as the thought that all joint, special, and select committees should be abolished—let us undertake the harder and more relevant task of deciding which of our committees are making meaningful contributions to policy, and are addressing problems of real importance to the country, and which are not.

As I suggested earlier, I submit in principle that joint, select, and special committees constitute a highly worthwhile feature of the Senate structure. With competent staffing, they can consider broad issues—such as economic growth—which easily cut across the boundaries of two or more standing committees. They can be responsive to the claims of large groups of people—such as the aging—whose special problems might be neglected or downplayed by committees organized along purely functional lines.

They can bring another perspective to oversight; they can focus a fresh lens on problems. Without the constant pressure of day-to-day legislation, they can take a wider view of present programs, and they can look ahead and draw attention to issues which may be upon us a few years hence. And they can do all that without creating any overlap in legislative jurisdiction at all.

The sponsors of Senate Resolution 4 have not even begun, for example, to make the case that the job of the Select Committee on Nutrition and Human Needs has been completed, even on the most fundamental matter of assuring that every American has sufficient quantities of food. The select committee was created because the relevant standing committees denied, ignored, and even scoffed at this national disgrace. It was created after the country was shocked that we had many Americans suffering from malnutrition or nutrition-related diseases we thought were limited to the poorest nations in the world. More recently the committee has attended to the plight of home-bound elderly citizens who are forced into institutions at great cost to the public, simply because we fail to provide them food at minimal cost. The committee has fought for proper implementation of food stamps and of programs for pregnant women, infants, and children. The committee has investigated those issues, it has issued reports—and, yes, it has nagged the executive branch and the standing committees to do their jobs.

Beyond that, the select committee has started to examine the American diet and to focus attention upon the relationship between the food we eat and the incidence of killer diseases. Malnutrition is not only an issue of the quantity of food, but of kind and quality.

I have not heard the argument that these issues are insignificant or that they do not deserve such attention. Nor have the sponsors of Senate Resolution 4 been able to make any sort of credible case that the committee staff is anything less than competent, hardworking, and dedicated. Then what is the case for permitting this committee to be swallowed by the Committee on Agriculture?

If the sponsors of Senate Resolution 4 are simply concerned about my scheduling problems, let me assure them that I have no difficulties that cannot be resolved without depriving the hungry of one of their few consistent hopes and helps inside the Government.

Perhaps the thought of a select committee is untidy to those who insist that our function is to mechanically pass laws. But I nonetheless have to note that those who developed Senate Resolution 4 did their own work through a select committee structure. Why, if these are such troublesome institutions, did they not simply rely upon the rules committee, which has ample authority and the necessary legislative jurisdiction?

The difference, of course, is that this committee included the word "temporary" right in the title, apparently to

demonstrate its virtue in planning to disappear. That is a notion we can all applaud—when the issues can be thoroughly explored and resolved in a short time. Quite frankly, I wish the temporary Select Committee To Study the Senate Committee System had taken longer to consider the full ramifications of its proposal. And in any event, I urge that the Rules Committee and the Senate itself allot sufficient time to make up the difference.

As we do, we should be mindful of the wise words of Justice Brandeis, which I believe apply with special force in the U.S. Senate. He said:

> The founder's goal at the Convention of 1787, (was not to promote efficiency but to preclude the exercise of arbitrary power . . . not to avoid friction, but, by means of the inevitable friction incident to the distribution of Governmental powers . . . to save the people from autocracy.

So, Mr. President, I would make a strong appeal to the Senate this afternoon that we grant the Rules Committee an additional 90 days time to evaluate the implications of what we are about to do, to look at what Senator Hughes and his commission have recommended, to see how those recommendations fit in with those made by the Stevenson committee, and then let us come back in the spring with the tools we need to make these judgments.

Mr. President, I am joined in this resolution today by the distinguished Senator from Michigan (Mr. RIEGLE) and by the distinguished Senator from Kansas (Mr. DOLE). This is a bipartisan proposal. It does represent the concern of many Senators whose names do not appear as cosponsors of this resolution but who have talked to many of us about the haste, the undue haste, with which we are being asked to proceed on this matter.

I would further emphasize the importance of acting on this resolution so that these 18 new Senators, almost one-fifth of this body, are treated the same as the rest of us in terms of their committee assignments.

I very much hope that this resolution will be looked upon favorably by the Senate, and instead of acting in haste we will act soberly and prudently as we ought to on a matter of such great importance.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I ask unanimous consent to proceed for whatever period of time I feel necessary.

The PRESIDING OFFICER. Under the previous order, statements made during morning business are limited to 5 minutes each.

Mr. RIEGLE. I thank the Chair.

Mr. President and colleagues, I rise today to concur with the comments and the proposal of the distinguished Senator from South Dakota. I want to dovetail into his remarks and emphasize specifically my feeling about the great need to maintain the Special Committee on Aging and the Select Committee on Nutrition and Human Needs. I would have added to that list the Small Business Committee, the Veterans' Affairs Committee, and the Joint Economic Committee. But in those instances other arrangements have been made.

The great public pressure in the case of the veterans organizations and small businesses have been effective enough that provisions have been made, so far as I understand it, to continue those committees as they have been in the past. I am delighted that they are going to be continued.

By the same token I am troubled by the fact that two committees whose constituencies are less able to respond with letters, less able to respond with group visits to the Capitol, less able to respond with phone calls from across the country, are, in effect, being consolidated. I am concerned that in this reorganization they are being consolidated out of business. I again make reference to the Committee on Aging and the Committee on Nutrition.

In a moment, I shall address what I think are some of the very specific accomplishments of these two select committees which I would like to see maintained. I think that too few Senators realize the extensive and numerous successes that these two committees have had in past years in promoting the welfare of the Nation's elderly and undernourished citizens.

In the past, special problem areas—veteran matters, the problems of the aged, nutrition needs, the condition of small business, the Joint Economic Committee—were matters given separate attention because they were unable to get the proper attention they required under the old committee structure.

I for one do not want to see these special areas of national interest swallowed up by standing committees. That would be a step backward in my view. One can argue that is not the intent of the committee consolidation—but surely that will be the effect. Therefore, I must oppose the elimination of these important committees. I say to my friends who seek congressional reform—there is no reform inherent in committee consolidation.

The thing that concerns me most at the outset is that we are proceeding under the general banner of reform with these committee consolidations, and I just do not see the reform there. I come to the Senate as one as committed to reform as probably anybody in the body. I spent years in the House fighting on issues related to reform, to try to change that institution.

To consolidate more power in fewer hands is not reform. I am concerned that there has not been the kind of penetrating analysis outside this Chamber, outside this institution, by the press and others, that really gets to the heart of what is being proposed in this instance. In effect, if these changes which have been talked about were to go through pretty much as laid out, I do not think the Senate would necessarily be in a better position to do an effective job in meeting the country's needs; but very clearly there would be more power in fewer hands. I, for one, think this is antireform.

The fact is that those of us who are freshmen, and there are 18 of us, 18 percent of the body, have not had an opportunity, with the execption of one Member, to serve here previously; we have not had the opportunity to function on committees under the existing structure; and we are being asked in haste to make basic judgmental decisions about the structure of the institution. Frankly, I think we need more experience in order to make those kinds of basic judgments. These are not small changes in terms of limiting and hindering the focus of national efforts in certain areas.

I think both in the case of the Committee on Aging and the Committee on Nutrition what we have seen happen is the development of national policy. Too often it seems to me that what the Congress has failed to do is to give leadership in the area of a development of national policy. As a result over the years the executive branch has moved in and has preempted policy development in area after area.

Finally, we have gotten ourselves on an equal footing, I believe, in the areas where we have these select committees that I have mentioned and now we are about to give that away. We are about to give it away in the name of reform by consolidating these initiatives which have worked and combining them into a larger organizational structure where, in a sense, I think their policy formulation capability is going to be reduced.

If we are going to talk about giving a clear, specific focus to one issue, let us take energy. Clearly, that is a major national problem. It is in the news right at the moment because of the period of cold weather we are experiencing, the shortage of natural gas and other things. Let us form one consolidated initiative in the area of energy. I think that would make good sense. Let us use that as a test case and run that for several months or 2 or 3 years and see how it works. But to commit ourselves to the elimination and the consolidation of committees, subcommittees, and select committees which have worked and worked effectively in the past would be a mistake.

Let me just quickly cite some statistics with respect to the 16-year history of the Committee on Aging.

During that period of time, in the last 16 years—and in large part because of the committee leadership—there have been eight across-the-board increases in social security benefits for the elderly and each was initiated and promoted by the Aging Committee. Between 1935 and 1961, a period of 26 years, there were only four such increases. The Aging Committee was responsible for the original medicare legislation which covers virtually every senior citizen in the United States, the Older Americans Act, and the Age Discrimination in Employment Act; 450,000 elderly citizens benefit annually from the Older Americans title VII nutrition program for the elderly; 15,000 Americans over age 65 participate in the Senior Community Facilities Employment Service under title IX of the Older Americans Act, and their number will increase to 26,000 in July 1977.

Mr. President, the annual budget of the Aging Committee is $500,000. The number of elderly across the country who stand to benefit from its continued activity is 23 million and increases at a yearly rate of 500,000. I do not believe that this institution wants to abandon these people by abolishing a committee that has been so dedicated and responsive to our elderly population. Surely $500,000 is a small price to pay for the health and welfare of 23 million Americans.

The fact that we have not been inundated by letters in the same way as have other committees with better organized constituencies is in no way a measure of either the public support or the public need for the continuation of these committees. That is money well spent and I would like to see us continue to spend it in that fashion.

Equally important, Mr. President, I think is the continuation of the Select Committee on Nutrition and Human Needs. Here again, let us look at some of its achievements since its origin in 1969.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ROBERT C. BYRD. Does the Senator desire additional time?

Mr. RIEGLE. If possible.

Mr. ROBERT C. BYRD. Will the Chair recognize me?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. How much time does the Senator want?

Mr. RIEGLE. Approximately 4 minutes.

Mr. ROBERT C. BYRD. I yield 4 minutes of my 5 to the Senator from Michigan.

Mr. ABOUREZK. Will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. ABOUREZK. I have 5 minutes coming and I shall yield my 5 minutes if he wants it.

Mr. ROBERT C. BYRD. The Senator does not have 5 minutes coming unless he asks for recognition. We are in morning business now. I would prefer to use my time. If the Senator from South Dakota wishes, let the Senator be recognized and yield his time.

Mr. ABOUREZK. Mr. President, I ask for recognition under the morning business period.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. I yield my 5 minutes to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator.

Again I want to summarize what I think are some of the significant achievements of the Select Committee on Nutrition and Human Needs. Bear in mind, the annual budget in this case is $400,000. With these funds, the committee has successfully fought to maintain nutrition programs that now reach a total of 50 million people throughout the United States each year. That makes it the largest health support system in the country. And the most significant factor in improving health in the United States has been better nutrition. Free lunch and free breakfast programs are now provided to over 25 million children per day and more than $3 billion in Federal resources are now available to help support our Nation's children. The food stamp program—the backbone of our national effort to eliminate hunger in America—reaches 17.5 million people today as compared to 3.5 million in 1968.

Lest any Senator think the hunger problem is limited to a few "problem" areas, I am placing in the RECORD charts which show how three programs—the women, infants, and children program—WIC—and the free breakfast and lunch programs for schoolchildren—have mushroomed in scope since 1969. In five States—Illinois, Oregon, Nevada, California, and Alabama—no WIC program existed at all in 1969. As an average in these States, the free breakfast program served 19 times more children in 1975 than in 1969, while the lunch program served 8 times as many children. As was the case before we got started in this direction.

I think if we dismantle the Nutrition Committee by folding it into Agriculture, these programs and others will be in serious jeopardy. We will also lose a crucial congressional forum for those groups who, without committees like the Nutrition Committee, will have no voice in planning the programs that directly affect their well-being. If, as the reorganization plans proposes, the nutrition program becomes only a subcommittee within the Committee on Agriculture, I am concerned that, in effect, we will be saying farewell to the effective monitoring and creative thinking that has characterized the Nutrition Committee for the past 9 years.

I do not want to see us pull the rug out from under the people—the elderly and the undernourished—who depend on these programs for their day to day existence. Nor do I want to see that happen to people in small business, or the veterans, or the other committees that have been placed in jeopardy here.

The thing I am most concerned about here is this: there is a need for basic reform in this institution. No place is it greater than with respect to the seniority system. With the selection of committee chairmen based on length of service—while those procedures are undergoing some modification—the effect is that we still practice a very rigid seniority system in this institution. I happen to think that is not the best way to pick leadership for major committees, but that it is a tough issue to tackle. That is why we are not tackling it; why, in effect, it has been sidestepped and the effort has been directed toward committee reorganization, what we call committee reform. But we have watched what has happened in the last few weeks and watched other proposals and seen it modified and modified. It is modified to the point now where the only things that are threatened are those where the constituencies involved, regardless of need, are underorganized and not able to muster the same kind of counteroffensive that stronger constituencies of smaller size in the country have been able to marshal. We ought not to be making final decisions in this institution on that basis.

The facts I have just presented with respect to the Aging and Nutrition Committees are important to us and I have tried to illustrate why they are important to the country. I do not think we want to walk away directly from the focus given to these committees in the name of accomplishing something along the lines of reform. I think we ought to wait. I think a period of time ought to pass in which the Committee on Rules can conduct extensive hearings. Let us have outside witnesses come in. Perhaps we ought to have hearings across the country and let effective groups, who would have difficulty coming to Washington, testify and have witnesses appear before the Rules Committee to be heard on something as basic as the way their own lives are going to be affected, especially with respect to elderly people and people in our society who do not have the income they need to eat the correct diet for the good nutrition they need.

This is why I join the Senator from South Dakota in proposing that we delay action on these matters until the 18 new Members have had more opportunity to see this system from the inside and work with it, and until we have had the chance to have thoroughgoing and searching hearings, on the broadest kind of basis, so that when we finally do act, we are sure we are getting reform and not just the appearance of reform in the name of an impulse in that direction.

Mr. President, I conclude only by saying this: I want very much to be a constructive Member of this body and to help this institution evolve its procedures and its internal operating structures as we go into the future together. I hope always to play that kind of role as a Member of this institution. But I am greatly concerned about actions that we take which, on their surface, may seem to promise a good deal more than, in fact, we have any right to expect.

The reason these select committees were created is that these subject areas were not getting the kind of focused attention they needed under the old structure. For us to go backward, for us to consolidate and shuffle these things together in the name of reform, I think, is clearly a mistake. I hope we will pause long and carefully before we move any further in that direction.

I thank the Senator for yielding. I yield back the remainder of my time.

I ask unanimous consent to have printed in the RECORD the tables I referred to.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Women, infants, and children

(Monthly caseload)

	1969	1975
Illinois	0	18,260
Oregon	0	10,962
Nevada	0	3,355
California	0	46,501
Alabama	0	16,211

Free breakfast program

(Number of daily recipients)

	1969	1975
Illinois	8,032	69,271
Oregon	864	7,744
Nevada	468	9,418
California	6,004	261,360
Alabama	3,248	56,137

Free lunch program

(Number of daily recipients)

	1969	1975
Illinois	34,365	454,609
Oregon	8,478	67,282
Nevada	1,881	17,477
California	88,998	937,789
Alabama	111,605	337,605

ORDER OF BUSINESS

(The following proceedings occurred during the foregoing remarks by Mr. McGOVERN and are printed at this point in the RECORD by unanimous consent.)

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. HART). The time of the Senator from South Dakota has expired. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes each.

Mr. CRANSTON. Mr. President, I yield 5 minutes to the Senator from South Dakota for the purpose of continuing this discussion, and I request that it not appear in the RECORD as interrupting his speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me for a unanimous-consent request without its appearing in the RECORD as an interruption?

Mr. McGOVERN. I yield.

Mr. ROBERT C. BYRD. Mr. President, before I make the request, I had indicated yesterday the request of a Senator to have rollcalls on some of the nominations. That Senator has now withdrawn his request.

VITIATION OF ORDERS FOR SESSION ON FRIDAY

It may be that we will have to have rollcalls, or we might not; therefore, I ask unanimous consent to vitiate the order for adjourning from tomorrow over to Friday and from Friday over to Monday, because it may not be necessary to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for yielding. I ask unanimous consent that the time I have consumed not come out of his presentation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. I thank the majority leader and the majority whip.

(This concludes the proceedings which occurred earlier.)

Mr. ROBERT C. BYRD. Mr. President, how much time remains for morning business?

The PRESIDING OFFICER. Until 7 minutes after 3.

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

Mr. ROBERT C. BYRD. Mr. President, yesterday, the Senate agreed to Senate Resolution 36, submitted jointly by myself and the distinguished minority leader (Mr. BAKER). The resoluton established a temporary Special Committee on Official Conduct, to be composed of 15 members, appointed by the President Pro Tempore of the Senate, 8 of whom are to be appointed upon the recommendation of the majority leader and 7 of whom are to be appointed on the recommendation of the minority leader. The chairman of the special committee, under the resolution, is to be designated by the majority leader. I now designate, as chairman of the temporary Special Committee on Official Conduct, Mr. NELSON. I send to the desk a list of the majority members of the special committee for appointment by the President pro tempore.

The PRESIDING OFFICER. The clerk will state the names.

The assistant legislative clerk read as follows:

Senator NELSON, chairman; Senators RIBICOFF, INOUYE, EAGLETON, NUNN, CLARK, GLENN, and MELCHER.

Mr. BAKER. Mr. President, pursuant to the same authority and in response to the requirements of Senate Resolution 36—which is somewhat different in the case of the appointment of the seven minority Members; to wit, the seven Republicans thus designated shall choose their ranking member who will become vice chairman of the committee—I appoint the following Members to be minority members of that committee.

The PRESIDING OFFICER. The clerk will state the names.

The assistant legislative clerk read as follows:

Senators THURMOND, JAVITS, GRIFFIN, PACKWOOD, STAFFORD, LAXALT, and CHAFEE.

EXECUTIVE C, 95TH CONGRESS, 1ST SESSION—REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the convention signed at Manila on October 1, 1976, with the Government of the Republic of the Philippines with respect to taxes on income, with an exchange of notes, done at Washington on November 24, 1976 (Executive C, 95th Congress, 1st session), transmitted to the Senate today by the President of the United States, and that the treaty with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The message from the President is as follows:

To the Senate of the United States:

I submit herewith, for Senate advice and consent to ratification, the Convention signed at Manila on October 1, 1976, between the Government of the United States of America and the Government of the Republic of the Philippines with Respect to Taxes on Income, and an exchange of notes between Secretary of the Treasury William E. Simon and Secretary of Finance Cesar Virata interpreting Article 23(2) of the Convention, done at Washington on November 24, 1976.

There is no convention on this subject presently in force between the United States and the Philippines.

The Convention follows generally the form and content of most conventions of this type recently concluded by this government. Its primary purpose is to identify clearly the tax interests of the two countries so as to avoid double taxation and make difficult the illegal evasion of taxation. The exchange of notes confirms that certain provisions of the Philippines tax system comply with the Convention.

I also transmit, for the information of the Senate, the report of the Department of State with respect to the Convention.

Conventions such as this one are an important element in promoting closer economic cooperation between the United States and other countries. I urge the Senate to act favorably on this Convention at an early date and give its advice and consent to ratification.

GERALD R. FORD.

The WHITE HOUSE, *January 19, 1977.*

THE ENERGY CRISIS BECOMES REAL AGAIN

Mr. ROBERT C. BYRD. Mr. President, the news media are full of stories about the severe winter weather that has gripped the eastern half of the United States for the past week or more. Rivers and bays are freezing and temperatures are setting new record lows from the Great Lakes to the gulf.

But the most serious effect of this frigid weather is the havoc that is being wrought with the energy resources of this country. Natural gas supplies are running dangerously low. Curtailments of business and industry have already precipitated the layoff of hundreds of thousands of employees throughout the Northeast, Midwest, and Southeast. Fuel shortages and massive demands have produced acute cuts in available electricity; blackouts have occurred in several States. Steel mills have been forced to close in south-western Pennsylvania, and some 2,000 families have been forced to evacuate their homes in southern West Virginia because of a drop in gas pressure. Each day brings new reports and new crises related to the energy problem.

In 1973, the Arab oil embargo dramatically underlined the energy vulnerability of this country. In the wake of long lines at the gas pumps, there was considerable discussion about making this Nation "energy-independent" by developing more fully our current energy resources and discovering new sources of power. Even though experts in the energy field had predicted eventual shortages for many years, it took the Arab oil embargo to give concrete meaning to those forecasts.

Unfortunately, human beings have short memories. When gasoline and oil became plentiful again, the energy crisis

was relegated once more to a primarily academic concern.

I hope that the present emergencies will help to bring about vigorous action toward alleviating our energy deficiencies before crisis gives way to disaster. The present employment layoffs and industrial shutdowns are but a portent of the catastrophe that can befall us if we fail to attack our energy problems with greater determination. If we allow continued complacency to guide our actions with regard to supplementing our finite and limited energy resources in this country, the depression of the thirties could be but a shadow when compared to the economic and human suffering that might result from the energy deficit that is looming down the road before us.

We need to develop and explore every possible source of energy that might be practical and possible for our use. However, in just one energy area alone, a concerted effort might yield a generous result.

Some experts predict that our present proven supplies of natural gas—estimated at approximately 230 trillion cubic feet—will run out in less than 10 years. Dramatizing this estimate is the fact that interstate domestic natural gas deliveries dropped from nearly 13 trillion cubic feet in 1974 to less than 11 trillion in 1976. This year, deliveries are expected to fall another 1 trillion. Each year, at the present rate of consumption, less gas will mean more jobless people, more factories and shops closing, and increasingly colder homes, churches, and schools.

But underlying several States in the Appalachian and Midwestern regions of this country are vast formations of Devonian shale containing the largest resources of natural gas on the North American continent. The most conservative estimates indicate that over 400 trillion cubic feet of gas are trapped in these shale formations, almost twice our present proven supplies. Unfortunately, current research has only begun to discover practical methods for exploiting this enormous energy resource.

Mr. President, I was disappointed to note on Monday that President Ford's budget for fiscal year 1978 proposes to continue research in this program at only the 1977 level of $10 million. Last year, as chairman of the Interior Appropriations Subcommittee, I added $6 million to the Devonian shale program to bring it to its present level. With the present gas shortages facing us today and those that are forecast for the future, it is not enough to allow this program merely "to move along." We must allocate all funding and manpower necessary to bring this untapped source of natural gas onstream at the earliest possible date. I urge the incoming administration to review this program very closely and to submit a budget amendment to increase President Ford's $10 million budget request for this item by the maximum amount that can be effectively and prudently utilized for research and developmental activities related to the Devonian shale programs.

ORDER OF BUSINESS

Mr. SCHMITT. Mr. President, are there 5 minutes remaining?

The PRESIDING OFFICER. There are 2 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for routine morning business be extended by an additional 15 minutes with the limitation to continue at 5 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Mexico.

PARDON OF VIETNAM DRAFT EVADERS

Mr. SCHMITT. Mr. President, I wish to speak relative to the suggestion of pardon of the Vietnam draft evaders and, in particular, Senate Resolution 18.

When I first arrived in the U.S. Senate and this issue came before us, I had some question as to whether or not the Senate should express itself on this matter. I now feel, after the discussions of the last several days, that it is appropriate that we take a stand on this issue and attempt to provide guidance to the President and the rest of the country.

First of all, I believe there is a constitutional question of whether or not the general pardon or amnesty is in fact constitutional. I just say that it is not clear. Specific pardon, individual pardon, certainly is constitutional, as has been demonstrated many times in the past. The most recent Presidential clemency board illustrated this one more time.

Second, I think we would do a great disservice to future generations of Americans if we set a precedent in the case of a blanket pardon without conditions of precedent for future prosecution of draft evasion.

Third, I think we would do a disservice to Americans who stood on principle, who were in fact willing to pay the price as Americans of being against the Vietnam war and activities associated with it. In many respects, these individuals, whether we agreed with them or not at the time, helped turn the tide against an unpopular war and allowed us to eventually terminate that war.

I think it is neither fair nor right that we do this disservice to these Americans.

Fourth, I think we would do a disservice to the conscientious objectors, as was pointed out so eloquently on Friday by the Senator from California (Mr. HAYAKAWA). These were Americans who were willing to pay the price, in many cases including death, because they did not believe, for reasons of conscience, in the taking of human life.

I think it is neither right nor fair that we establish a precedent through a blanket pardon that would be a disservice to these conscientious objectors.

Finally, it would be a disservice to those who served—and this is probably the most important point—because or in spite of their belief relative to war or any other human inspiration. We should not degrade their action in any way by a blanket pardon.

The veterans of American military efforts are the backbone of the Nation's patriotic spirit. We should not break that spirit at any time. We may need it. We may need it in case of another military attack on this country or its people or our allies. We may need it in case of an economic attack on this country or our allies. In some remote cases, we may face criminal attack where the psychological resources of this country would be called into play. Let us not break that spirit by a blanket pardon.

Mr. President, I urge that the incoming administration, and particularly President Carter, examine again an initiative much like that of President Ford where we evaluate on a case-by-case basis the possibilities of pardon for individuals who evaded the Vietnam draft. Those Americans who were in hiding in this country or abroad should feel it a great opportunity for service to the country.

If they did not feel they could serve then, they certainly could serve us now. I think they have a great responsibility to their country. They, more than any others, can bind and heal the last wounds of that terrible war. I hope that, when given the chance again to come forward, they will come home, serve their country in its peaceful endeavors, and allow us once again to try to put that event of the past behind us.

Mr. President, I ask unanimous consent that my name may be added as a cosponsor of Senate Resolution 18.

The PRESIDING OFFICER (Mr. CULVER). Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. CULVER). The time for morning business has expired.

Mr. CRANSTON. Mr. President, I ask unanimous consent, in view of not only the Senator from Kentucky but at least one other Senator who wishes to speak; namely, the former Vice President, Senator HUBERT HUMPHREY, that the period be extended for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, I yield myself such time as I may require. May I ask the distinguished assistant majority leader to restate his unanimous-consent request of a few moments ago. He did not use his microphone and I was unable to hear anything except he wanted to accord Senator HUMPHREY some time.

Mr. CRANSTON. I am sorry. The time was extended for 20 minutes. Senator HUMPHREY is coming over to give a speech on President Ford which he was unable to do yesterday at the time those speeches

were given. I guess that time runs out at about 16 minutes from now.

Mr. HELMS. Well, Mr. President, I hope there will not be any further extensions of the morning period because we do have an important resolution over under the rules to which I want consideration given this afternoon.

I reserve the remainder of my time and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescined.

The PRESIDING OFFICER. Without objection it is so ordered.

SENATE RESOLUTION 18—PARDON OF VIETNAM-ERA DRAFT EVADERS

Mr. ALLEN. Mr. President, I send a motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The motion will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes the following motion:

I move that the Senate proceed to the consideration of Senate Resolution 18.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The motion is not debatable.

Mr. ALLEN. Yes. I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. I ask the Chair the specific question: This motion is not debatable, is it?

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. If it is not disposed of prior to 2 o'clock it will still continue the pending business, also without debate; is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I ask unanimous consent that I may introduce a bill, without in any way interfering with anything that is going on.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

[At this point in the proceedings Mr. JAVITS made remarks in connection with the introduction of a bill which are printed in the RECORD under Statements on Bills during routine morning business.]

ORDER OF BUSINESS

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, in order that we might go on to the unfinished business.

Mr. CRANSTON. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the roll call.

The legislative clerk resumed the call of the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. CRANSTON. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. I do this, Mr. President, with an understanding with the distinguished Senator from Alabama that the business which is before the Senate not in any way be set aside, that it continue to be the pending business following my remarks.

Mr. ALLEN. Reserving the right to object, and I shall not object, of course, I hope after the Senator has concluded his remarks the leadership will allow us to proceed to the pending motion, which is that the Senate take up the sense of the Senate resolution introduced by the Senator from Alabama, the Senator from North Carolina, and many others, saying that it is the sense of the Senate that it would be unwise for the President to grant a blanket amnesty or pardon to Vietnam war draft dodgers. I hope the leadership will not persist in dilatory tactics.

The PRESIDING OFFICER. The pending motion is not debatable. Does the Senator from Minnesota ask unanimous consent to address the Senate?

Mr. HUMPHREY. I do, sir.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I first wish to thank my friend and colleague from Alabama.

TRIBUTE TO PRESIDENT GERALD R. FORD

Mr. HUMPHREY. Mr. President, yesterday the Members of this body took time, and very appropriately so, to comment upon the President of the United States and his stewardship of the Office of the Presidency, Mr. Gerald Ford.

Today, Mr. President, I wish to add my words of comment to those of others.

With the inauguration of President-elect Carter, one of our honored public servants will become a private citizen again. Of course, I speak of Gerald Ford.

Gerald Ford came to Washington 28 years ago. As a matter of fact, he came as a Member of the 81st Congress. President Ford and his wife Betty came to the Congress in the same year that I was privileged to become a Member of the Senate, when Muriel and I and our family came to Washington.

Gerald Ford pledged to serve the people of Michigan who had elected him to the House of Representatives. He has served with distinction in the House of Representatives, and has been an effective spokesman for his party through these many years of his service.

He served as minority leader in the House from 1965 to 1973, and was chairman of the Republican National Conventions of 1968 and 1972.

Gerald Ford became President at a time when the Presidency had become characterized by Presidential excesses and wanton abuse of power.

We of this body know that we voted for him as Vice President of the United States, with the resignation of Mr. Agnew.

This was the first time that the Senate had an opportunity to work its will under the amendment relating to Presidential succession.

I think it is fair to say that the overwhelming majority of us looked upon Gerald Ford with a spirit of friendliness and as one who had served with us in Congress for many years in a most effective manner.

He became President of the United States in August 1973, with the resignation of President Nixon.

He became President at a time when this country was divided, disillusioned; when cynicism was abroad in the land.

He assumed the awesome responsibilities of the Presidency at a time when people were beginning to lose faith in the institutions of government. He came into the White House as our President at a time when that distinguished and noble office had been tarnished. He took the reigns of power and authority in the Presidency and has served us with honor, with ability and dedication to this very hour.

His actions as President have helped to heal the wounds caused by the previous administration.

Mr. President, President Ford's actions as President, as I have said, have helped to heal the wounds caused by the excesses and the abuse of power of the previous administration. He helped reunite this Nation and renewed the needed confidence in our government.

I want to speak about a little experience I had not long ago related to President Ford and Mrs. Ford.

After I had returned from the hospital, having been there for some 3 weeks, I received a call from the President's secretary. The secretary asked:

Would it be possible for you and Mrs. Humphrey to join the President and Mrs. Ford for a little dinner at the White House on the night of Wednesday, November 17?

I said we would be highly honored, and I thanked the secretary and asked the secretary to inform the President that

we were looking forward to the opportunity of sharing an evening with the President and his lady.

The night of November 17 came around. I had been, by the way, that same day in Plains, Ga., with the President-elect. We had Members of Congress involved in economic policy matters who had been called to Georgia to discuss with President-elect Carter the economic package that was to be presented.

Well, we came to the White House, and I said to Mrs. Humphrey,

I suppose that there will be a small group there, Muriel.

I had just been recuperating from surgery and was not feeling too strong. But I said,

It will be a delightful evening and we will have a chance to meet some of President Ford's friends and, most likely, some of his associates in the office.

We arrived at the White House and went up to the second floor of the White House, where the President's private living quarters are. I looked down the hallway, and there was the President, sitting by himself—no one else. He came to greet us. The first thing he said was,

Betty will be with us in just a few moments.

I looked around, and no one was there. I said,

Mr. President, maybe we are a little early.

He said,

Oh, no, Betty and I just wanted to have a chance to have dinner with you and Muriel.

I consider that one of the nicest tributes I have ever received and one of the nicest and kindest acts of any man in public life. I have not always been exactly the tribune of praise for Mr. Ford's policies, but I have always tried to differentiate my feelings about individuals from those that I have about some of the utterances of individuals, or their policies.

This goes for my colleagues here, in the Senate. You have an affection for persons. You may disagree with them on some economic or social policy, but you learn something about the person and that learning gives you a feeling of friendship and of respect for that person.

That was one of the most interesting and exciting evenings of my long public life. We had a chance to talk very privately. The President was only a few days away from the election results. It was a very close election. He could have been morose, he could have been bitter. I read in the press that he was, which, of course, is not true. He was neither morose nor bitter. He had accepted the results as a man of his character and quality would. We just talked about what took place in the campaign, joked a little bit about it. I said, "I don't know, Mr. President, if you have extra connections up there in the divine Heavens, but I had intended to be out on the stump doing a little campaigning against you, but I was immobilized."

Of course, that might have been all to his benefit, had I been out on the stump, campaigning against him. But as some of you know, he had come to pay me a visit in the hospital and during the time of my illness, both President and Mrs. Ford were most attentive, calling Muriel, my wife, many times, seeing how I was getting along, sending me a little note, paying me a personal visit. These are acts of a good man, of a very decent man.

That evening, I found it to be even more so. He took us all around the White House. He is a family man. His lovely wife, Betty, was there. She took time with my dear Muriel and showed her the many changes that had been made in the White House. They did not live in an ostentatious way.

Finally, we got into the room where he had some of his memorabilia. He even had that football helmet that President Johnson used to say he never wore. I teased him a little bit about that. We had a great time. I want to repeat here what I said to him there:

"Mr. President, you and I have had many disagreements, particularly on some of the economic policies. I have scolded you about some of your vetoes."

He took this all in good humor. But, I said, "History will not remember those things. You will be remembered not because of what economic policy you advocated; you will be remembered not because of the bills that you signed or the vetoes that you made. But you will be remembered in history for having restored to the Office of the Presidency, the decency, the honesty, the integrity, the honor, the nobility which that office must have."

And I said to him right then, "I would have given 5 years of my life to have had 2 weeks, 2 months, in this office, and you have had 2½ years. You lost an election, but you have not lost the love and the respect of the American people."

That is exactly the way I feel about Gerald Ford. I think that, with all of his limitations—and we all have limitations, do we not? If anybody does not think he has some, he ought not to be in this body. With all of his limitations, this man has served this country well.

I think we sensed that the other night when he made his state of the Union speech to the joint session of the Congress. I did not agree with everything he said. He rapped the Congress a little bit, which he ought to do. You have to expect a certain amount of this. But the important thing was that he spoke as the leader of our country. He told us the state of the Union as he saw it, and that is all any man can do.

What was impressive was the reaction of the Members of the Senate and the House of Representatives without regard to party. This man was applauded heartily, not perfunctorily. He was cheered, not jeered. And when he left that podium in the House of Representatives and he walked down that aisle in the House of Representatives where he had served so long, shaking hands with old friends and new Members, he went out of there, not a loser but a winner.

So, Mr. President, I take this moment to express very sincerely my thanks to a fine and good man who has served as President of the United States. I say to Gerald Ford, in every office that he has held, he has shown himself to be a man of good character, honesty, decency, and fairness. He has shown wisdom at times and restraint at all times. He has demonstrated personal integrity and a sense of humanity in his actions. In all of this, he has gained the respect of all of us who have had the privilege and the honor of knowing him.

President Ford has had a long and distinguished career in public service. I say today that he will be missed, but he will be around, too. He is a healthy man and he is a vigorous man. He is leaving office on a wave of good feeling. What better thing is there than that? That wave of good feeling comes not only from his friends of many years in Congress but from all of the American people.

Let me be personal: Mrs. Humphrey joins me in wishing President Ford and his wife, Betty, a long, happy, good life for the many days and years that will be theirs.

Mrs. Ford has been such a fine First Lady. That family is a good, typical American family. They have been talked about and written about in our media, in our press. Their children, like our children, have, from time to time, done some things that you kind of wish they had not done. But they are independent, free American citizens, and I have enjoyed that family.

I think the White House needs to be a family house. The White House needs to symbolize to the American people the virtues of family living, and I am happy to note that Mr. Carter and his wonderful wife, Rosalynn, will always have family in the White House. There is nothing like a little family music—that is, a little noise and commotion—that reminds you that you are a citizen and not just a public official.

So, Mr. President, and I say this to President Ford, I wish you well. You have been a long-time friend and you are going to continue to be as long as I have the opportunity of living and a chance to know you and to see you.

Mr. HELMS. Will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, those of us who had the good fortune to be present in this Chamber during the remarks by the distinguished Senator from Minnesota heard this fine American pay an eloquent tribute to another fine American.

I say to the Senator from Minnesota that all of the expressions of admiration and respect and affection he spoke for the President of the United States, the rest of us in the Senate feel the same way about the Senator from Minnesota.

Mr. HUMPHREY. I thank the Senator.

Mr. HELMS. Mr. President, I wish Gerry Ford could have been here to have heard the Senator's remarks. They were eloquent. He is a decent man. He is a giant.

Mr. HUMPHREY. I thank the Senator very much.

Mr. CRANSTON. Mr. President, this may be somewhat unprecedented, but I wish to say that I adopt wholeheartedly and totally the words of the Senator from North Carolina. It actually is not the

first time. We have worked together on several occasions.

I thank the Senator from Minnesota very much for stating what I think is in the hearts of all of us here.

PARDON OF VIETNAM-ERA DRAFT EVADERS

The Senate continued with the consideration of the motion to proceed to consider the resolution (S. Res. 18) to express the sense of the Senate in opposition to a general Presidential pardon by proclamation of Executive order of Vietnam-era draft evaders, and for other purposes.

Mr. CRANSTON. Mr. President, I now move to table the pending motion of the Senator from Alabama, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 42, nays 45, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—42

Abourezk	Gravel	McIntyre
Anderson	Hart	Melcher
Bayh	Haskell	Metzenbaum
Brooke	Hatfield	Nelson
Bumpers	Huddleston	Pearson
Byrd, Robert C.	Humphrey	Pell
Case	Inouye	Percy
Chafee	Javits	Proxmire
Clark	Kennedy	Ribicoff
Cranston	Leahy	Riegle
Culver	Magnuson	Sarbanes
DeConcini	Mathias	Sasser
Eagleton	Matsunaga	Stevenson
Eastland	McGovern	Williams

NAYS—45

Allen	Hansen	Schweiker
Baker	Hatch	Scott
Bellmon	Hathaway	Sparkman
Bentsen	Hayakawa	Stafford
Burdick	Helms	Stennis
Byrd, Harry F., Jr.	Hollings	Stevens
	Jackson	Stone
Cannon	Johnston	Talmadge
Chiles	Laxalt	Thurmond
Curtis	Lugar	Tower
Danforth	McClellan	Wallop
Dole	Morgan	Weicker
Domenici	Nunn	Young
Durkin	Packwood	Zorinsky
Garn	Randolph	
Glenn	Schmitt	

NOT VOTING—13

Bartlett	Griffin	Moynihan
Biden	Heinz	Muskie
Church	Long	Roth
Ford	McClure	
Goldwater	Metcalf	

So Mr. CRANSTON's motion to table Mr. ALLEN's motion was rejected.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the consideration of Senate Resolution 18.

Mr. ALLEN. The motion is nondebatable, is it not, Mr. President?

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BUMPERS. Mr. President, point of order.

The PRESIDING OFFICER. The Senator from Arkansas will state it.

Mr. BUMPERS. Do I understand the Senator from Alabama to say that we now have before us the motion to proceed to consider and that it is not debatable?

The PRESIDING OFFICER. The Senator is correct. The motion is not debatable.

Mr. CRANSTON. The point of order is made that the motion to proceed is not debatable. If the resolution is put before the body that resolution then becomes debatable.

The PRESIDING OFFICER. If the motion is agreed to then the resolution is debatable.

The question is on agreeing to the motion to proceed. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Kentucky (Mr. FORD), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 50, nays 41, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—50

Allen	Griffin	Packwood
Baker	Hansen	Randolph
Bellmon	Hatch	Schmitt
Bentsen	Hathaway	Schweiker
Burdick	Hayakawa	Scott
Byrd, Harry F., Jr.	Helms	Sparkman
	Hollings	Stafford
Cannon	Jackson	Stennis
Chiles	Johnston	Stevens
Curtis	Laxalt	Stone
Danforth	Leahy	Talmadge
Dole	Lugar	Thurmond
Domenici	Magnuson	Tower
Durkin	McClellan	Wallop
Eastland	McIntyre	Weicker
Garn	Morgan	Young
Glenn	Nunn	Zorinsky

NAYS—41

Abourezk	Gravel	Metzenbaum
Anderson	Hart	Moynihan
Bayh	Haskell	Nelson
Brooke	Hatfield	Pearson
Bumpers	Heinz	Pell
Byrd, Robert C.	Huddleston	Percy
Case	Humphrey	Proxmire
Chafee	Inouye	Ribicoff
Church	Javits	Riegle
Clark	Kennedy	Sarbanes
Cranston	Mathias	Sasser
Culver	Matsunaga	Stevenson
DeConcini	McGovern	Williams
Eagleton	Melcher	

NOT VOTING—9

Bartlett	Goldwater	Metcalf
Biden	Long	Muskie
Ford	McClure	Roth

So the motion to proceed to consider was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. May we have order in the Senate, please, and will those Senators in the aisles take their seats?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may make certain unanimous-consent requests without losing my right to the floor, such requests not having to do with the particular question before the Senate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR COMMITTEE ON RULES AND ADMINISTRATION TO FILE REPORT BY JANUARY 25, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate Committee on Rules may have until midnight, Tuesday next, to file its report on the Stevenson resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECONVENING OF THE SENATE FOLLOWING INAUGURATION CEREMONY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow following the inauguration ceremony, the Senate reconvene at the hour of 4 o'clock p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. ALLEN. Mr. President, under the rules, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk reads as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate upon Senate Resolution 18, expressing the sense of the

Senate relating to opposition to Presidential pardon for Vietnam era draft evaders.

Jesse Helms, Clifford P. Hansen, Malcolm Wallop, Harrison H. Schmitt, Orrin G. Hatch, Strom Thurmond, Carl T. Curtis, Bob Dole, Peter V. Dominici, John C. Danforth, Milton R. Young, William L. Scott, Paul Laxalt, Richard Stone, Robert P. Griffin, Jake Garn, Richard G. Lugar.

AMERICANS AGAINST AMNESTY

Mr. ALLEN. Mr. President, I have on my desk a petition signed by, I am told, 30,000 Americans, protesting the granting of blanket amnesty or pardon. This petition is addressed to the Americans Against Amnesty, Albuquerque, N. Mex.

I do not ask permission to introduce this stack of petitions, but I do ask unanimous consent that the top sheet, giving the petition and some few signatures, be printed in the RECORD as being typical of a petition containing 30,000 names that I have here on my desk.

There being no objection, the petition was ordered to be printed in the RECORD, as follows:

AMERICANS AGAINST AMNESTY

P.O. Box 1397, Albuquerque, New Mexico 87103

I support the Americans and their families, who served their country with honor during World War I, World War II, Korea, Vietnam and in Peace Time. I do not want our President to betray Americans who gave their lives, were injured, POW's, MIA's, or their loved ones by granting or declaring unconditional amnesty or pardons for those who chose to desert or evade military service during the Vietnam Conflict.

Frances Rice, 3726 Kingman Ave,, Portsmouth, Va.

Hazel M. Kone, 2244 Dellwood Rd., Chesapeake, Va. In honor of my World War II brother.

Mrs. John P. Holmes, 2021 Christofer Dr.

Leon R. Boune, Sr., 4309 Portsmouth Blvd., Chesapeake, Va.

Ruth K. Boune, 2015 Colorado Ave., Portsmouth, Va.

Brenda W. Homaker, 620 Apache Rd., Portsmouth, Va.

Willard C. Fauleigh, P.O. Box 263, Grandy, N.C.

Leon R. Boune, Sr., 3737 Concord Dr., Suffolk, Va.

Janice T. Vick, 1317 Hodges Ferry Rd., Portsmouth, Va.

Milford K. Howell, Jr. (U.S. Navy), 5817 Hawthorne Lane, Portsmouth, Va.

Sharon F. Howell, 5817 Hawthorne La., Portsmouth, Va.

Betty R. Howell, 5817 Hawthorne La., Portsmouth, Va.

Frances B. Stark, Sr. 1514 Victory Blvd., Portsmouth, Va.

Mildred B. Stroud, 1514 Victory Blvd., Portsmouth, Va.

Eric T. Guiller, 4813 Thornwood St., Portsmouth, Va.

Iris P. Guiller, 4813 Thornwood St., Portsmouth, Va.

Otis Vick, 1317 Hodges Ferry Rd., Portsmouth, Va., World War II.

Ruth B. Parker, 2015 Colorado Ave., Portsmouth, Va.

Ephraim E. Parker, 2015 Colorado Ave., Portsmouth, Va., We gave all we had: In memory of Our Son, Pvt. I Class Earl E. Parker. Vietnam 1968. "Only the dead have seen the end of War" (Quote Jim Bishop) Reporter.

PARDONING DRAFT EVADERS

Mr. STENNIS. Mr. President, I am wholeheartedly in favor of Senate Resolution 18. This resolution, sponsored by the distinguished Senator from Alabama (Mr. ALLEN) would express the sense of the Senate that no blanket pardon or amnesty should be granted to those who violated the selective service laws and thus evaded their obligation to serve in the armed services during the war in Southeast Asia.

More than 3,000,000 American men and women served their country faithfully and loyally during the war in Vietnam. More than 300,000 were injured and more than 50,000 laid down their lives. While those who escaped service by violating the draft law, and by fleeing to other countries, may have been acting out of a conscientious belief in moral principles, it is undeniably true that their American citizenship carries with it very strong and very clear responsibilities. One of these is to serve the country in its time of need. I totally reject the idea that each individual has the personal right to select which responsibility he will fulfill and which he will default on.

It is clear to me, Mr. President, that if each individual has the right to determine if and when he will bear arms in defense of this Nation it will almost certainly lead to our downfall and defeat in some future armed conflict. In Vietnam, for example, for each of the approximately 32,000 draft deserters and 10,000 draft evaders another individual had to come forward and take his place.

I believe that President-elect Carter is wrong in proposing a blanket amnesty for those who violated the selective service laws. While we all hate war, when it comes we must, as we have throughout our relatively short history as a Nation, rely on the young men of this country to answer the call to duty and willingly and patriotically come to the defense of our Nation and its ideals. We should reward those who rendered faithful service and punish those who deliberately and without just cause turned their backs on their land to which their loyalty was due.

In my judgment, the proposed blanket amnesty is not only unfair to those who answered the call to duty but it could have an adverse effect on our efforts to raise an all-volunteer force—and this is already in trouble—as well as raise doubts about the readiness, reliability, and integrity of our military services in the event of a future national emergency.

Therefore, Mr. President, I urge that Senate Resolution 18 be promptly adopted. I also restate as strongly as I can my opposition to a blanket pardon or amnesty for draft evaders, draft dodgers, and deserters. I believe that each case should be considered on an individual basis as prescribed by law and the Uniform Code of Military Justice. This, I submit, is the best and most prudent course to follow and is in the long-range best interests of this Nation. If we do otherwise—then we lay the groundwork for the gravest kind of trouble in the future.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Rodney, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE NATIONAL HOUSING GOAL—MESSAGE FROM THE PRESIDENT—PM 28

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

I herewith transmit the Ninth Annual Report on the National Housing Goal as required by Section 1603 of the Housing and Urban Development Act of 1968.

GERALD R. FORD.

THE WHITE HOUSE, *January 19, 1977.*

REPORT ON THE FEDERAL OCEAN PROGRAM—MESSAGE FROM THE PRESIDENT—PM 29

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce:

To the Congress of the United States:

Pursuant to P.L. 89–454, I am herewith transmitting the 1975 annual report on the Federal Ocean Program. The report represents a summary of national efforts to comprehend, conserve and use the sea, and lists significant activities of the Federal Government related to the marine sciences in 1974 and early 1975.

During this period, the United States:

—intensified programs to appraise energy resources of the oceans and assess the environmental impact of their development;

—expanded geological and geophysical research programs which broaden our knowledge of the earth's evolutionary process and provide information of practical importance;

—continued development of the capability to mine deep seabed minerals without damage to the environment;

—enhanced opportunities for ocean-related recreational activities;

—strengthened our ability to forecast marine environmental conditions; and

—began formal negotiations with other nations in the UN Law of the Sea Conference during a two-month session in Caracas, Venezuela.

The report which I am transmitting emphasizes these achievements and provides additional information on the Federal Ocean Program budget for fiscal years 1974–1976, as well as on the National Sea Grant Program and the status of the federally supported marine research fleet.

Subsequent to the period covered by this report, there have been several developments of importance to Federal Ocean Policy including:

—the completion of three additional substantive negotiating sessions of the UN Law of the Sea Conference;
—the enactment of the Fishery Conservation and Management Act in April 1976 which, effective March 1, 1977, will extend our fisheries jurisdiction to 200 miles;
—the leasing of Outer Continental Shelf areas for oil and gas exploitation; and
—a budgetary increase for the Federal Ocean Program from $872.5 million in FY 1976 to $956.6 million in FY 1977.

As indicated in the report, the Federal Ocean Program was designed to advance and facilitate this nation's expanding uses of the sea and its resources. As a major oceans user the United States will continue to pursue forward-looking programs, aware of the need to safeguard the quality of the marine environment and conscious of the need to cooperate with other nations on programs and policies that will advance our interests and those of the world community.

GERALD R. FORD.

THE WHITE HOUSE, *January 19, 1977.*

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 2:09 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the enrolled joint resolution (S.J. Res. 12) to authorize the United States Secret Service to continue to furnish protection to certain former Federal officials or members of their immediate families.

The enrolled joint resolution was subsequently signed by the Acting President pro tempore (Mr. FORD).

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

EC–385. A letter from the Secretary of Transportation transmitting proposed legislation relative to amending the Deepwater Port Act of 1974 (with accompanying papers),

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary of Transportation relative to amending the Deep Water Port Act of 1974 be referred jointly to the Committee on Commerce, the Committee on Public Works, and the Committee on Interior and Insular Affairs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EC–386. A letter from the Administrator of the National Aeronautics and Space Administration transmitting proposed legislation to authorize appropriations to NASA for research and development, construction of facilities, and research and program management, and for other purposes (with accompanying papers); to the Committee on Aeronautics and Space Sciences.

EC–387. A letter from the Acting Secretary of Agriculture transmitting, pursuant to law, the seventh annual report on Information and Technical Assistance (with an accompanying report); to the Committee on Agriculture and Forestry.

EC–388. A letter from the Administrator of the Rural Electrification Administration transmitting, pursuant to law, the approval of an REA insured loan to Upshur-Rural Electric Cooperative Corporation of Gilmer, Texas (with an accompanying report); to the Committee on Appropriations.

EC–389. A letter from the Chairman of the Indian Claims Commission transmitting, pursuant to law, a report in respect to Indian Claims it dockets numbered 236–A and 236–B.

EC–390. A letter from the Deputy Director of the Office of Management and Budget transmitting, pursuant to law, that the appropriation to the Southwestern Power Administration has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

EC–391. A letter from the Assistant Secretary of Defense transmitting, pursuant to law, contract award dates for the Patrol Hydrofoil Missile program that should be added to the report covering November 15, 1976 to February 15, 1977 (with accompanying papers); to the Committee on Armed Services.

EC–392. A letter from the Administrator of the General Services Administration transmitting, pursuant to law, the Statistical Supplement, Stockpile Report for the period ending September 30, 1976 (with an accompanying report); to the Committee on Armed Services.

EC–393. A letter from the Secretary of Defense transmitting notice of an increase in the civilian strength authorized for September 30, 1977; to the Committee on Armed Services.

EC–394. A letter from the Deputy Assistant Secretary of Defense, Installations and Housing, transmitting, pursuant to law, notice of seven construction projects to be undertaken by the Army Reserve (with an accompanying report); to the Committee on Armed Services.

EC–395. A letter from the Secretary of Defense transmitting, pursuant to law, the Annual Defense Department Report (with an accompanying report); to the Committee on Armed Services.

EC–396. A letter from the Chairman of the Securities and Exchange Commission transmitting proposed legislation to amend the Securities Exchange Act of 1934 to increase the amount authorized to be appropriated for the Securities and Exchange Commission for fiscal year 1977 (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC–397. A letter from the Secretary of Transportation transmitting, pursuant to law, a report entitled "National Transportation: Trends and Choices" (with an accompanying report); to the Committee on Commerce.

EC–398. A letter from the Secretary of Transportation transmitting proposed legislation to simplify the tonnage measurement of certain vessels (with accompanying papers); to the Committee on Commerce.

EC–399. A letter from the Secretary of Transportation transmitting proposed legislation to revise and improve the laws relating to the documentation of seamen (with accompanying papers); to the Committee on Commerce.

EC–400. A letter from the Secretary of Transportation transmitting proposed legislation to revise and improve the laws relating to the documentation of vessels, and for other purposes (with accompanying papers); to the Committee on Commerce.

EC–401. A letter from the Secretary of Transportation transmitting three proposed pieces of legislation, (1) to revise and improve the laws relating to the documentation of vessels, and for other purposes, (2) to revise and improve the laws relating to the documentation of seamen, and (3) to simplify the tonnage measurement of certain vessels; to the Committee on Commerce.

EC–402. A letter from the Secretary of Transportation transmitting a draft bill to amend the Regional Rail Reorganization Act of 1973 (with accompanying papers); to the Committee on Commerce.

EC–403. A letter from the Secretary of Commerce transmitting, pursuant to law, the annual Report on Ocean Pollution, Overfishing, and Offshore Development (July 1974 through July 1975) (with an accompanying report); to the Committee on Commerce.

EC–404. A letter from the Under Secretary of Commerce transmitting a draft bill to amend the Marine Mammal Protection Act of 1972 in connection with the incidental taking of marine mammals with commercial fishing (with accompanying papers); to the Committee on Commerce.

EC–405. A letter from the Vice President and General Manager of C & P Telephone transmitting, pursuant to law, a Statement of Receipts and Expenditures of the Chesapeake and Potomac Telephone Company for the year 1976 (with an accompanying report); to the Committee on the District of Columbia.

EC–406. A letter from the Special Representative for Trade Negotiations transmitting, pursuant to law, a report setting forth actions to be taken by the President in response to certain trade practices of foreign governments (with an accompanying report); to the Committee on Finance.

EC–407. A letter from the Secretary of the Treasury transmitting a draft bill to amend the Tariff Act of 1930 to raise the monetary ceiling for non-judicial forfeiture of any vessel, vehicle, merchandise, or baggage seized under the customs laws, and for other purposes (with accompanying papers); to the Committee on Finance.

EC–408. A letter, dated January 13, 1977, from the Assistant Legal Adviser for Treaty Affairs transmitting, pursuant to law, the international agreements other than treaties entered into by the United States within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

EC–409. A letter from the President of the Overseas Private Investment Corporation transmitting, pursuant to law, the annual report of the Overseas Private Investment Corporation for Fiscal Year 1976 (with an accompanying report); to the Committee on Foreign Relations.

EC–410. A letter from the Acting Assistant Secretary for Congressional Relations transmitting notice of an omission of reference to Section 111 of the Foreign Gifts and Decorations Act of 1966 in a previous transmittal; to the Committee on Foreign Relations.

EC–411. A letter from the Deputy Under Secretary of State transmitting, pursuant to law, a report on plans for improving and simplifying the personnel systems of the Department of State and the United States Information Agency (with an accompanying report); to the Committee on Foreign Relations.

EC–412. A letter from the Rear Admiral, U.S. Coast Guard, Chief of Staff transmitting, pursuant to law, a modification to an existing system of records in accordance with the Privacy Act (with an accompanying report); to the Committee on Government Operations.

EC–413. A letter from the Administrator of the Veterans Administration transmitting, pursuant to law, a report of new system for the Veterans Administration in accordance with the Privacy Act (with an accompanying report); to the Committee on Government Operations.

EC–414. A letter from the General Counsel of the National Endowment for the Arts transmitting, pursuant to law, a report on a proposed new system of records in accordance with the Privacy Act (with an accom-

panying report); to the Committee on Government Operations.

EC–415. A letter from the Assistant Secretary of Defense transmitting, pursuant to law, the 1976 transition period report of the Department of Defense relative to its disposition of foreign excess personal property (with an accompanying report); to the Committee on Government Operations.

EC–416. A letter from the Chief Commissioner of the United States Court of Claims transmitting, pursuant to law, a report concerning the allowance of consultant claims in proceedings conducted pursuant to the Alaska Native Claims Settlement Act (with an accompanying report); to the Committee on Interior and Insular Affairs.

EC–417. A letter from the Secretary of the Treasury transmitting a draft bill to remove the limitation on dues for United States membership in the International Criminal Police Organization, and for other purposes (with accompanying papers); to the Committee on the Judiciary.

EC–418. A letter from the Deputy Director of the Office of Management and Budget transmitting, pursuant to law, a follow-up report with respect to the recommendations contained in the report entitled "Structure and Procedures: Recommendations for Change" (with an accompanying report); to the Committee on the Judiciary.

EC–419. A letter from the Secretary of the Treasury transmitting a proposed bill to amend the United States Code to authorize the destruction of explosive materials subject to seizure and forfeiture where it is impractical or unsafe to remove the materials to a place of storage or where such materials cannot be safely stored (with accompanying papers); to the Committee on the Judiciary.

EC–420. A letter from the Secretary of the Treasury transmitting a proposed bill to amend the United States Code to include officers and employees of the Bureau of Alcohol, Tobacco and Firearms (with accompanying papers); to the Committee on the Judiciary.

EC–421. A letter from the Secretary of the Treasury transmitting proposed legislation to eliminate formal forfeiture procedures, both judicial and administrative, involving unregistered National Firearms Act weapons (with accompanying papers); to the Committee on the Judiciary.

EC–422. A letter from the United States Commissioner of Education transmitting, pursuant to law, the Catalog of Federal Education Assistance Program, 1976 (with an accompanying report); to the Committee on Labor and Public Welfare.

EC–423. A letter from the Acting Director of the Office of Regulatory Review for the Department of Health, Education, and Welfare transmitting, pursuant to law, a copy of documents which have been transmitted to the Federal Register covering the Guaranteed Student Loan Program (with an accompanying report); to the Committee on Labor and Public Welfare.

EC–424. A letter from the Secretary of Labor transmitting, pursuant to law, a report on the program established by the Emergency Unemployment Compensation Act (with an accompanying report; to the Committee on Labor and Public Welfare.

EC–425. A letter from the Under Secretary of Health, Education, and Welfare transmitting, pursuant to law, a report on the National Health Service Corps (with an accompanying report); to the Committee on Labor and Public Welfare.

EC–426. A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the fourth report of the National Heart, Lung, and Blood Advisory Council (with an accompanying report); to the Committee on Labor and Public Welfare.

EC–427. A letter from the Director of the Office of Regulatory Review of the Department of Health, Education, and Welfare transmitting, pursuant to law, a copy of regulations delivered to the Federal Register on Emergency School Aid Criteria and Procedures (with an accompanying report); to the Committee on Labor and Public Welfare.

EC–428. A letter from the Chairman of the United States Civil Service Commission transmitting proposed legislation to improve the operation of the Federal Wage System, and for other purposes (with accompanying papers); to the Committee on Post Office and Civil Service.

EC–429. A letter from the Chairman of the United States Civil Service Commission transmitting proposed legislation to provide for an increase in the number of positions which the Civil Service Commissioners may establish and place in GS–935–16 (with accompanying papers); to the Committee on Post Office and Civil Service.

EC–430. A letter from the Chairman of the United States Civil Service Commission transmitting proposed legislation to eliminate the apportionment requirement for appointment to the departmental service in the District of Columbia (with accompanying papers); to the Committee on Post Office and Civil Service.

EC–431. A letter from the Secretary of Transportation transmitting proposed legislation to amend the entitlement of air traffic controllers who are separated under section 3382 of title 5, United States Code, to training under section 3381 (with accompanying papers); to the Committee on Post Office and Civil Service.

EC–432. A letter from the Assistant Secretary for Economic Development transmitting notice of a delay in the report of the annual report of the Economic Development Administration for fiscal year 1976; to the Committee on Public Works.

EC–433. A letter from the Secretary of Transportation transmitting, pursuant to law, a report for a study of the various factors involved in the planning, selection, programing, and implementation of Federal-aid urban system routes (with an accompanying report); to the Committee on Public Works.

EC–434. A letter from the Secretary of Transportation transmitting proposed legislation to facilitate the implementation of section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (with accompanying papers); to the Committee on Public Works.

EC–435. A letter from the Secretary of the Treasury transmitting, pursuant to law, information on the amounts of antirecession fiscal assistance money which have been paid to each State and unit local government (with an accompanying report); to the Committee on Public Works.

EC–436. A letter from the Administrator of the United States Environmental Protection Agency transmitting proposed legislation to amend the Federal Water Pollution Control Act (with accompanying papers); to the Committee on Public Works.

EC–437. A letter from the Director of the Office of Management and Budget transmitting proposed legislation relative to income assistance simplification (with accompanying papers).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Director of the Office of Management and Budget, relative to income assistance simplification, be referred jointly to the committees on Finance; Labor and Public Welfare; Agriculture and Forestry; and Banking, Housing and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC–438. A letter from the Director of the Office of Management and Budget transmitting proposed legislation to require the use of the Consumer Price Index for all urban consumers in certain Federal programs (with accompanying papers); to the Committee on Government Operations.

EC–439. A letter from the Acting Administrator of the Federal Energy Administration transmitting, pursuant to law, notice of a proposal to exempt motor gasoline from the Mandatory Petroleum Allocation and Price Regulations, Energy Action No. 9 (with accompanying papers); to the Committee on Interior and Insular Affairs.

EC–440. A letter from the Acting Administrator of the Federal Energy Administration transmitting, pursuant to law, notice of a proposal to exempt motor gasoline from the Mandatory Petroleum Allocation and Price Regulations, Energy Action No. 8 (with accompanying papers); to the Committee on Interior and Insular Affairs.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, January 19, 1977, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 12) to authorize the U.S. Secret Service to continue to furnish protection to certain former Federal officials or members of their immediate families.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

U.S. COAST GUARD AND NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. MAGNUSON. Mr. President, as in executive session, I report favorably sundry nominations in the Coast Guard and National Oceanic and Atmospheric Administration which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the CONGRESSIONAL RECORD of January 6, 1977, at the end of the Senate proceedings.)

REPORTS RECOMMENDING CONFIRMATION OF NOMINATIONS PENDING FORMAL RECEIPT—COMMITTEE ON COMMERCE

Mr. MAGNUSON, from the Committee on Commerce, submitted the following nominees-designate, which were unanimously approved by the committee, with the recommendation that they be confirmed, pending formal receipt, and further subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate:

Juanita M. Kreps, of North Carolina, to be Secretary of Commerce;

Brock Adams, of Washington, to be Secretary of Transportation;

Alan A. Butchman, of Massachusetts, to be Deputy Secretary of Transportation;

Terrence L. Bracy, of Arizona, to be an Assistant Secretary of Transportation;

Chester Davenport, of Georgia, to be an Assistant Secretary of Transportation; and

Linda Heller Kamm, of New York, to be General Counsel of the Department of Transportation.

(The nominees-designate were unanimously approved with the recommendation that the nominations be confirmed, pending formal receipt, and further subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

REPORT RECOMMENDING CONFIRMATION OF NOMINATIONS PENDING FORMAL RECEIPT—COMMITTEE ON FINANCE

JANUARY 18, 1977.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: The Committee on Finance last week held hearings on the anticipated nominations of W. Michael Blumenthal to be Secretary of the Treasury, Joseph A. Califano, Jr. to be Secretary of Health, Education, and Welfare, and Laurence Woodworth to be Assistant Secretary of the Treasury.

This morning the Committee met in executive session and voted to recommend that when these nominations are received by the Senate, they be confirmed by the Senate without being referred to the Committee on Finance.

I have received written communications from each of the anticipated nominees stating that if confirmed by the Senate, they will respond to requests to appear and testify before any duly constituted committee of the Senate.

With every good wish, I am,

Sincerely,

RUSSELL B. LONG,
Chairman.

REPORT RECOMMENDING CONFIRMATION OF NOMINATION PENDING FORMAL RECEIPT—COMMITTEE ON AGRICULTURE AND FORESTRY

JANUARY 19, 1977.

Hon. ROBERT C. BYRD,
Senate Majority Leader,
U.S. Senate,
Washington, D.C.

DEAR MR. MAJORITY LEADER: The Committee on Agriculture and Forestry, on January 11, 1977, approved without objection a motion to recommend confirmation by the Senate of the nomination of Bob Bergland of Minnesota to be Secretary of Agriculture on receipt of the nomination.

The recommendation is made subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted Committee of the Senate.

With every good wish, I am,

Sincerely,

HERMAN E. TALMADGE,
Chairman.

REPORT RECOMMENDING CONFIRMATION OF A NOMINATION PENDING FORMAL RECEIPT—COMMITTEE ON GOVERNMENT OPERATIONS

JANUARY 19, 1977.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR BOB: This is to advise you that the Committee on Government Operations has considered the nomination of Thomas Bertram Lance to be Director of the Office of Management and Budget, and recommends that if and when the nomination is received that it be approved.

Sincerely,

ABE RIBICOFF.

REPORT RECOMMENDING CONFIRMATION OF NOMINATIONS PENDING FORMAL RECEIPT—COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

JANUARY 18, 1977.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR BOB: I am enclosing two resolutions approved by the Senate Committee on Banking, Housing and Urban Affairs, recommending that the following prospective nominations be confirmed when they are received by the Senate:

Patricia Roberts Harris, Secretary—Department of Housing and Urban Development;

Charles L. Schultze, Chairman—the Council of Economic Advisers.

Sincerely,

WILLIAM PROXMIRE,
Chairman.

RESOLUTION OF THE SENATE COMMITTEE ON BANKING AND URBAN AFFAIRS

The Committee, having met to consider the prospective nomination of Patricia Roberts Harris to be the Secretary of the Department of Housing and Urban Development, recommends that the nomination be confirmed when it is received by the Senate.

Approved by the Senate Committee on Banking, Housing and Urban Affairs on January 18, 1977.

RESOLUTION OF THE SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

The Committee, having met to consider the prospective nomination of Charles L. Schultze to be Chairman of The Council of Economic Advisers, recommends that the nomination be confirmed when it is received by the Senate.

Approved by the Senate Committee on Banking, Housing and Urban Affairs on January 18, 1977.

REPORT RECOMMENDING CONFIRMATION OF NOMINATION PENDING FORMAL RECEIPT—COMMITTEE ON THE JUDICIARY.

JANUARY 19, 1977.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR BOB: This is to advise you that the Committee on the Judiciary has considered the nomination of Griffin B. Bell to be Attorney General and recommends if and when the nomination is received that it be approved.

Sincerely,

JAMES O. EASTLAND,
Chairman.

PROSPECTIVE REPORT ON RAY MARSHALL TO BE SECRETARY OF LABOR.

The Committee on Labor and Public Welfare having held hearings on the prospective nomination of Ray Marshall to be Secretary of Labor does hereby recommend that if the nomination is made by the President, such nomination be confirmed. The Chairman is authorized to so inform the Leadership and waive referral to the Committee.

Agreed to 14–2, January 18, 1977.

JANUARY 18, 1977.

Hon. ROBERT C. BYRD
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: The Committee on Labor and Public Welfare met in Executive Session this morning to consider the prospective nomination of Ray Marshall to be Secretary of Labor. The Committee recommended that if the nomination is made by the President, such nomination be confirmed and further authorized me to waive referral of the nomination to the Committee on Labor and Public Welfare when it is received by the Senate.

With kind personal regards.

Sincerely,

HARRISON A. WILLIAMS,
Chairman.

REPORT ON CONSIDERATION OF CECIL D. ANDRUS TO BE SECRETARY OF THE INTERIOR (EXEC. REPT. NO. 95–3)

Mr. JACKSON. Mr. President, I am submitting for the consideration of the Senate a report on the Interior Committee's consideration of the proposed nomination of Cecil D. Andrus to be Secretary of the Interior. I ask unanimous consent that an excerpt of this report be printed in the RECORD for the information of Senators prior to receipt of the nomination tomorrow.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

CONSIDERATION OF CECIL D. ANDRUS TO BE SECRETARY OF THE INTERIOR

COMMITTEE ACTION

President-elect Carter has publicly indicated that, upon taking the Office of President, he intends to nominate Mr. Andrus to be Secretary of the Interior. In anticipation of that nomination, the committee held public hearings on January 17 and 18, 1977. After full consideration of his record and credentials, the committee found Mr. Andrus qualified for the position of the Secretary of the Interior. On January 18, 1977 the committee voted unanimously to report favorably on the nomination of Mr. Andrus, when received.

BIOGRAPHICAL SKETCH

Governor Cecil D. Andrus was born in Hood River, Oregon, on August 25, 1931, to Hal and Dorothy Andrus.

Following a year at Oregon State, the Governor served in the Navy during the Korean war, then returned with his wife, Carol, to Orifino, Idaho. They have three daughters, Tana, Tracy and Kelley.

Elected as Idaho's 25th Governor and inaugurated on January 4, 1971, Governor Andrus was re-elected on November 5, 1974, to a second term by the largest margin in the State's history.

As a freshman Governor, he was named to the Executive Committee of the National Governors' Conference. He served as chairman of the Rocky Mountain Federation of States (1970–1972), and until recently was chairman of the National Governors' conference.

COMMITTEE HEARINGS

The committee held 2 days of public hearings on the proposed nomination of Governor Andrus. The Governor testified on January 17, 1977. A copy of his prepared statement follows:

STATEMENT OF HON. CECIL D. ANDRUS, GOVERNOR OF IDAHO, TO BE SECRETARY OF THE INTERIOR

Mr. Chairman, Distinguished Members of the Senate Interior Committee, and other Distinguished Guests:

My name is Cecil D. Andrus. I presently hold the Office of Governor of the State of

Idaho. I have been Governor for the past six years.

I am deeply honored to have been nominated by President-elect Carter to be Secretary of the Interior. I am aware of the responsibilities given to the Secretary in administering the duties of the Interior Department. I am hopeful that you will judge my background and experience as a western Governor as positive qualifications for the Secretary's position.

I do not view my selection as a mandate to do as I please anymore than I viewed my election as Governor to be a mandate of this type. Rather, I accept it as an obligation to work with the President, the Congress, and the people in making the tough decisions and hard choices facing this nation.

The Department of the Interior, more than any other Department or agency of the Federal Government, can best be called the steward of our resource heritage. It is a heritage given us to use and to enjoy wisely, and yet to protect and pass on to future generations.

The Department is not only the steward of the country's natural resources, but also discharges trust responsibilities for large numbers of people.

I take these people responsibilities very seriously; they will have a high priority in my administration of the Department.

As Governor of Idaho, I consistently stressed one theme—that we must protect the quality of life we have in Idaho—and I have had full support of the pople of Idaho on that concept.

If I am confirmed, my goal as Secretary of the Interior will be to protect and enhance the quality of life for all in the United States.

In Idaho, we have found ways to protect the environment while selectively developing our mineral wealth; to set aside wilderness areas while at the same time harvesting timber; and to manage our rangeland not only for livestock but for wildlife and other resource values as well.

You should know that I believe that conservation is no longer a pious ideal, it is an element of our survival. Many resources are limited and precious. My efforts will be focused on curbing old habits of overconsumption and misuse, seeking instead to use less and to use better.

I share the deep concerns of our citizens who want to know what our nation will be like when our children and grandchildren reach adulthood.

I support and believe in the National Park System, the Wilderness System and the Wild and Scenic Rivers of this Nation. Parks, wilderness and wild rivers are meaningful gifts for future generations and I intend to advocate these programs on behalf of the American people.

It is only in recent years that we have come to realize that too much of our environment has been wasted or destroyed or misused—and that we have not been good stewards.

Only as we began to near the end of the second century of this Nation's history did we begin to realize that we had been foreclosing an option that we should have been saving for our children and grandchildren—the option to place high values on clear air, on pure water, on wildlife, on outdoor recreation, and on unscarred nature. We were taking away from generations yet unborn the ability to make important decisions about their stewardship of the land, the water and the air.

I am hopeful that we are now entering an era when the concept of multiple use will be better understood.

That has not always been the case.

The problem is that multiple use does not mean that every acre should be logged, mined or grazed. Some areas are best used for one purpose, some for another. And, this is compatible with the intent of the multiple use concept.

In the era just beginning, I hope that confusion about the meaning of multiple use will be resolved.

It will be, *if* we get the broad vision of those who can see the entire horizon; not the tunnel vision of those who see only the portion of the horizon that is desirable to them.

In essence, we can, and we must, make certain that our natural resources are developed or not developed for the benefit of everyone and through such use, keep our nation strong and our quality of life high.

I am pleased to be part of the new administration, particularly when our next President is a man who himself personally has been involved in the protection of the heritage of America. We can all look forward to his personal involvement in decisions we make to protect clean air, clean water and uncluttered landscapes, but yet at the same time providing a progressive society where we can all make a living and have a living that is worthwhile.

I look forward to serving the American people. It is a noble challenge to attempt to maintain that delicate balance between progress and preservation. With your guidance and support, we are going to get the job done.

On January 18, 1977, the committee heard testimony from representatives of the following organizations: National Congress of American Indians, Sierra Club, American Horse Protection Association, Alaska Federation of Natives, Inc., U.S. Labor Party, Fusion Energy Foundation, and Defenders of Wildlife.

FINANCIAL STATEMENT AND ADDITIONAL INFORMATION

The committee rules require each Presidential nominee to submit a financial statement sworn to by the nominee as to its completeness and accuracy. Mr. Andrus agreed to the committee's request that his own financial statement be made public. A copy of the statement and the nominee-designate's responses to a standard series of specific questions is set forth below:

FINANCIAL STATEMENT

*Cecil & Carol Andrus**

DECEMBER 31, 1976.

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS

Cash on hand and in banks	$3,500
Listed securities—add schedule	23,000
Unlisted securities—add schedule	18,850
Real estate interests, including mortgages—add schedule	45,000
Personal property	20,950
Life insurance—cash value	3,300
Other assets—itemize:	
State of Idaho pension plan employee contributions	12,855
Total assets	127,455

LIABILITIES

Notes payable to others	10,000
Unpaid income tax**	840
Real estate mortgages payable—add schedule	7,800
Chattel mortgages and other lines payable	1,000
Other debts—itemize: Household Expenses	200
Total liabilities	19,840
Net worth	107,615

*Carol Andrus and her sister, Sally Bouregois, are Co-Guardians for their Mother, Mildred May. In that capacity, they are responsible for the management of their Mother's assets totaling approximately $85,000.00. All of these funds are invested in time certificates of deposit.

** State and Federal taxes for 1976 which are due and payable April 15, 1977.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.

I participate in the State of Idaho's Pension Plan. The value of my contributions to the Plan (as of January 1, 1977), is approximately $12,850.00. Under the Plan, I have earned an accrued retirement benefit at age 65 of $680.65 per month. The total potential value of my retirement benefit at age 65 is $121,537.00. I intend to maintain this retirement program. A total lump sum settlement is not available to me at the present time under this pension plan.

2. Are any assets pledged? (Add schedule.)

Yes. 2,000 shares of common stock of Sunshine Mining Company.

3. Are you currently a party to any legal action?

I am a party to various legal actions in my capacity as Governor of Idaho. I am not involved in any legal actions personally.

4. Have you ever declared bankruptcy?

No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Andrus, Cecil Dale.

Position to which nominated: Secretary of the Interior.

Date of nomination: January 20, 1977.

Date of birth: 25 August, 1931.

Place of birth: Hood River, Oregon.

Marital status: Married.

Full name of spouse: Carol M. Andrus.

Name and ages of children: Tanna Lee, 25; Tracy Sue, 20; and Kelly Kay, 16.

Education: Eugene, Ore. High School, 1943–48; Oregon State University, 1948–49.

Degrees received: None.

Honors and awards: List all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Honorary Doctorate of Law, Gonzaga University; Honorary Doctorate of Law, University of Idaho; Idaho Man of the Year, 1971 and 1972; Idaho Conservationist of the Year, 1972; and Many other lesser awards as Governor.

Memberships: List all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Veterans of Foreign Wars, Past Commander;
American Legion;
AF/AM Lodge 69, Orofino, Idaho;
El Korah Temple, Boise, Idaho;
B.P.O.E. Lodge 96, Lewiston, Idaho;
The Poachers Club, Boise, Idaho;
Ducks Unlimited;
Arid Club, Boise, Idaho;
Crane Creek Country Club, Boise, Idaho;
Hillcrest Country Club, Boise, Idaho;
Idaho Taxpayers' Association; and
Board of Directors of Idaho Youth Ranch.

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates.

1951–1955—U.S. Navy.

1955–1961—TRU-CUT Lumber Co., Orofino, Idaho. Lumberjack, woods work, equipment operator, sawmill construction, millwright, production manager.

1961–1963—Self-Employed—small wood by-product firm.

1963–1967—Assistant Manager, Workmen's Compensation Exchange, Lewiston, Idaho. Managed self-insurance programs for Idaho firms in the lumber and logging industry.

1967–1970—General Manager for the State of Idaho for the Paul Revere Insurance Companies. Home office in Worcester, Masschusetts.

1970–1977—Governor of the State of Idaho.

Government experience: List any experi-

ence in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Member of Idaho Senate, 1961–1967; 1969–1970.

Governor of the State of Idaho from January 4, 1971 to the present.

President of the Idaho State Land Board 1971–1977. Served on many other boards and commissions as Governor of Idaho.

Chairman of the Federation of the Rocky Mountain States, 1972–1973.

Chairman of the National Governors' Conference, 1976–1977.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

Inaugural Addresses, 1971 and 1975, published in "Great American Speeches"; other articles in various periodicals in my capacity as Governor.

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

None.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

Potential conflicts of interest: 1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

Shares of stock in the various mining companies listed on Attachment 1.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.

As a part of my duties as Governor of Idaho, I have been extensively involved in dealing with legislative matters at all levels of Government.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

See attachment 2.

[Attachment 1]

SCHEDULE OF SECURITIES

Shares of common stock, company, and value at January 1, 1977:

Listed:

2,000, Sunshine Mining, $23,000.

Unlisted:

6,000, Silver Syndicate, $13,500.

25,000, Silver Buckle Mines, $2,250.

40,000, Placer Creek Mining, $1,600.

Investors Diversified Services Mutual Fund, $1,500.

SCHEDULE OF LIABILITIES

Notes Payable: Piper, Jaffery, a brokerage firm. This is a margin loan secured by 2,000 shares of Sunshine Mining Company Stock. $10,000.

Real Estate Mortgages: Balance payable to Floyd Loomis, Cascade, Idaho, under a Real Estate purchase contract (the real estate is described below). $7,800.

Chattel Mortgages, etc.: Automobile loan payable to Idaho Bank & Trust Company. $1,000.

SCHEDULE OF REAL ESTATE

(1) I own approximately ⅛ acre of land in Valley County, Idaho adjacent to the Cascade Reservoir. The land was purchased from Floyd Loomis and a summer cabin was constructed on the site several years ago. $45,000.

[Attachment 2]

I will divest myself of all mining stocks listed in Attachment 1. The values of these securities are currently depressed because of a strike at the Sunshine Mine. Consequently, I will place these securities in a blind trust with instructions to the Trustee to sell these securities in an orderly way, with sales to be complete no later than six months from the date of my confirmation. A copy of the Trust is attached.

Appendix C

TRUST AGREEMENT

WE, CECIL D. ANDRUS and CAROL M. ANDRUS, husband and wife of Boise, Ada County, Idaho (hereinafter called "Settlors"), hereby assign, set over, and transfer unto the IDAHO BANK AND TRUST COMPANY, BOISE, IDAHO, all of our interest in and to the marketable securities listed on Exhibit A attached hereto and incorporated herein, to hold the same as Trustees in Trust as hereinafter provided.

Article I

Settlors reserve the right at any time or times after six months from the date hereof, to amend, alter or revoke this trust, in whole or in part, or any provision hereof, by an instrument in writing signed by either of the Settlors and delivered to the Trustee during the lifetime of such Settlor.

Article II

During the existence of this Trust, the Trustee shall pay the net income of the Trust to the Settlors at least as often as quarterly. Upon the death of a Settlor, the income thereafter shall be so paid to the survivor.

Article III

Upon the termination of this Trust for any reason whatsoever, the Trustee shall pay the then remaining principal and any undistributed net income of the Trust, as follows:

(1) To the Settlors jointly, if both Settlors are then living;

(2) If only one Settlor is then living, then to such Settlor;

(3) If neither Settlor is then living, then to the issue of Settlors, then living, per stirpes.

Article IV

This Trust shall terminate, thirty days after the first of the following events to occur:

(1) upon revocation of the Trust as provided in Article I hereof;

(2) upon the death of Cecil D. Andrus;

(3) at such time as Cecil D. Andrus is no longer Secretary of the Interior.

Article V

During the existence of this Trust, the Trustee shall manage and invest the assets of this Trust as follows:

(1) The marketable securities listed in Exhibit A attached hereto shall be sold by the Trustee in an orderly manner in such a way as to realize the best possible price for such investments taking into account the limited markets for some of such investments and the status of operations at the respective companies; provided, however, that all of said securities shall be sold no later than six months from the date hereof.

(2) The proceeds of the sale of said securities shall be reinvested by the Trustee, in its sole discretion and without consultation with or notification to Settlors, in any one or more of the following:

(a) certificates of deposits issued by commercial banks;

(b) instruments of the United States Government;

(c) well diversified, no load, mutual funds.

Article VI

During the existence of this Trust, the Trustee shall not provide Settlors with any listing or accounting of the investments held in Trust provided, however, that Trustee shall provide Settlors annually and at such other times as Settlors may request, the total market value of the Trust assets. Trustee shall also provide to an accountant designated by Settlors such information as may be necessary for the preparation of Settlors' tax returns.

Article VII

In extension and not in limitation of the powers given by law or other provisions of this Trust, Trustee shall have the following powers with respect to the Trust created hereby and to the Trust property, to be exercised from time to time in the discretion of the Trustee, without order or license of Court and without the knowledge or consent of Settlors:

(1) To sell, exchange, transfer, convey and make contracts concerning the Trust property for such considerations and upon such terms as the Trustee may determine; to execute any instruments with regard thereto.

(2) To hold bonds, shares, or other securities in bearer form, or in the name of the Trustee or in the name of a nominee, without indication of any fiduciary capacity.

(3) To deposit cash in a checking account, savings account or certifications of deposit in a bank, including the Trustee bank, without indication of any fiduciary capacity. Trustee shall have custody of all Trust assets.

(4) To give general or special proxies or powers of an attorney for voting or acting in respect of shares of securities which may be discretionary and with power of substitution.

(5) To employ and pay custodians of Trust property, brokers, agents and attorneys.

Article VIII

The following provisions shall apply to the extent that they are not inconsistent with any of the preceding articles:

(1) Income or principal payable to any minor or to any other person who in the opinion of the Trustee is incapacitated through illness, age, or other cause may be applied by the Trustee at its discretion for the beneficiary's maintenance, support or education, by direct payment of such beneficiary's expenses or by payment to such beneficiary's legal guardian.

(2) Whenever distribution is to be made to designated "issue" on a per stirpes basis, the property shall be distributed to such persons by right of representation and not per capita.

[Exhibit A]

Shares of Common Stock and Company

2,000—Sunshine Mining.
6,000—Silver Syndicate.
25,000—Silver Buckle Mines.
40,000—Placer Creek Mining.

CONFLICT OF INTEREST

As indicated in Attachment 2 of the information submitted above, Governor Andrus

agreed to divest himself of all mining stocks by placing the securities in a blind trust with instructions to the Trustee to sell them in an orderly way, with sales to be completed no later than six months from the date of his confirmation. The committee accepted the Governor's actions as a method to avoid the appearance of any conflict of interest, and in view of the uncertain market for the securities involved, extended the time for divestment to nine months.

CONCLUSION

The committee agrees that Governor Andrus is qualified in all respects to serve as Secretary of the Interior and recommends that he be confirmed by the United States Senate, if nominated.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. INOUYE:

S. 326. A bill to amend chapter 34 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to extend, under certain circumstances, the period within which a veteran must complete a program of education under such chapter; to the Committee on Veterans' Affairs.

S. 327. A bill to provide a minimum level for retirement salaries of certain Federal judges in territories and possessions; to the Committee on the Judiciary.

S. 328. A bill for the relief of David Parkin; to the Committee on the Judiciary.

S. 329. A bill for the relief of Mr. Andres B. Pasion; to the Committee on the Judiciary.

S. 330. A bill for the relief of Librado Perez; to the Committee on the Judiciary.

S. 331. A bill for the relief of Miss Evelyn R. Rey; to the Committee on the Judiciary.

S. 332. A bill for the relief of Miss Etsuko Yamamoto; to the Committee on the Judiciary.

S. 333. A bill for the relief of Mr. and Mrs. Venkateswara Rao Yellapragada; to the Committee on the Judiciary.

S. 334. A bill for the relief of Jerry W. Manandic and Ceferino W. Manadic; to the Committee on the Judiciary.

S. 335. A bill for the relief of Lenora Antes and Rudolfo Mateo Antes; to the Committee on the Judiciary.

S. 336. A bill for the relief of Fon-Chiau Shih; to the Committee on the Judiciary.

S. 337. A bill for the relief of Miriama Jones; to the Committee on the Judiciary.

S. 338. A bill for the relief of Mrs. Araceli Hervias; to the Committee on the Judiciary.

S. 339. A bill for the relief of Mr. and Mrs. Tetsuo Abe; to the Committee on the Judiciary.

S. 340. A bill for the relief of Dr. Belinda A. Aquino; to the Committee on the Judiciary.

S. 341. A bill for the relief of Lucilo Mejia Balaoen; to the Committee on the Judiciary.

S. 342. A bill for the relief of Mrs. Etsuko Kogachi Bowman; to the Committee on the Judiciary.

S. 343. A bill for the relief of Graciela Castillo; to the Committee on the Judiciary.

S. 344. A bill for the relief of Mr. Angelo B. Cortes; to the Committee on the Judiciary.

S. 345. A bill for the relief of Faatoaga Laufou; to the Committee on the Judiciary.

S. 346. A bill for the relief of Ms. Nilda Galang Joven; to the Committee on the Judiciary.

S. 347. A bill for the relief of Mrs. Shu-Yung Gloria Kaw; to the Committee on the Judiciary.

S. 348. A bill for the relief of Keun Bae Kim; to the Committee on the Judiciary.

S. 349. A bill for the relief of Mr. Sung Won Kim; to the Committee on the Judiciary.

S. 350. A bill for the relief of Paul Wing-Ling Kwan; to the Committee on the Judiciary.

S. 351. A bill for the relief of Mr. and Mrs. B. William Magallanes; to the Committee on the Judiciary.

S. 352. A bill for the relief of Benjamin N. Mascarenas; to the Committee on the Judiciary.

S. 353. A bill for the relief of Evelyn and Wilma Matayoshi; to the Committee on the Judiciary.

S. 354. A bill for the relief of Felipe Cardines Mejia; to the Committee on the Judiciary.

S. 355. A bill for the relief of Mr. and Mrs. Lemuel D. Navarrete; to the Committee on the Judiciary.

S. 356. A bill for the relief of Mr. and Mrs. Shinya Nozaki; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 357. A bill to authorize the Secretary of Commerce to assist in the construction of certain facilities; to the Committee on Commerce.

S. 358. A bill to amend title II of the Social Security Act to adjust the earnings exemption, applicable to recipients of monthly benefits thereunder, for individuals in Alaska or Hawaii so as to take into account the higher cost of living in such States; to the Commitee on Finance.

S. 359. A bill to amend title 5, United States Code, to provide additional cost-of-living adjustments in civil service retirement annuities of certain retired employees in Alaska as long as retired employees continue to reside in Alaska, and for other purposes; to the Committee on Post Office and Civil Service.

S. 360. A bill to amend the Federal Aviation Act of 1958, as amended, by requiring certification and subsidy of at least two air carriers to points receiving neither highway nor railroad service; to the Committee on Commerce.

S. 361. A bill to amend the Internal Revenue Code of 1954 to exempt from tax a portion of the income of individuals not employed by the Federal Government who live in a State in which Federal employees receive an allowance based on living costs and conditions of environment; to the Committee on Finance.

S. 362. A bill to amend the Internal Revenue Code of 1954 to permit a deduction from gross income based upon the cost of living in certain States; to the Committee on Finance.

By Mr. McCLURE (for himself and Mr. HANSEN):

S. 363. A bill to amend the Endangered Species Act of 1973 relating to the designation of certain areas as critical habitats of endangered and threatened species, and for other purposes; to the Committee on Commerce.

By Mr. HART (for himself, Mr. BUMPERS, Mr. HASKELL, and Mr. McGOVERN):

S. 364. A bill to provide for judicial review of administrative determinations made by the Administrator of the Veterans' Administration; to apply the provisions of chapter 5 of title 5, United States Code, to the rules, regulations, and orders of the Veterans' Administration; to provide for the use of a reasonable fee for attorneys in rendering legal assistance to veterans with claims before the Veterans' Administration; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FORD (for himself and Mr. GOLDWATER) (by request):

S. 365. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Aeronautical and Space Sciences.

By Mr. INOUYE (for himself and Mr. THURMOND):

S. 366. A bill to amend chapter 61 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes; to the Committee on Armed Services.

By Mr. McGOVERN:

S. 367. A bill to authorize the Secretary of the Interior to guarantee certain State, local, or other public agency bonds issued to finance water resource facilities; to the Committee on Interior and Insular Affairs.

By Mr. INOUYE:

S. 368. A bill to amend title II of the Social Security Act to provide that the amount of the insurance benefit payable thereunder to remarried widows and widowers will not be reduced on account of their remarriage; to the Committee on Finance.

S. 369. A bill to amend the Tariff Act of 1930 to exempt from duties and taxes supplies for certain additional classes of vessels; to the Committee on Finance.

By Mr. JAVITS (for himself, Mr. CRANSTON, Mr. BROOKE, and Mr. HUMPHREY):

S. 370. A bill to establish a national health insurance system for maternal and child health care; to the Committee on Finance and the Committee on Labor and Public Welfare, jointly, by unanimous consent.

By Mr. ABOUREZK (for himself and Mr. McGOVERN):

S. 371. A bill to establish a farm training adjustment program for farmers whose farming operations are adversely affected by a natural disaster; to the Committee on Agriculture and Forestry.

S. 372. A bill to assist farmers and ranchers to replace foundation herds of cattle such farmers and ranchers are forced to sell as the result of natural disasters; to the Committee on Agriculture and Forestry.

By Mr. HAYAKAWA:

S. 373. A bill to amend the Marine Mammal Protection Act of 1972 in connection with the incidental taking of marine mammals with commercial fishing; to the Committee on Commerce.

By Mr. HUMPHREY:

S. 374. A bill to establish a Federal Housing Bank to purchase mortgages from Federal National Mortgage Association and the Federal Home Loan Bank System having rates of interest no higher than 6 per centum, to refinance mortgages of families stricken by unemployment, to provide emergency mortgage relief, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

By Mr. BELLMON:

S. 375. A bill to amend the Wild and Scenic Rivers Act so as to authorize the establishment of certain advisory committees; to the Committee on Interior and Insular Affairs.

By Mr. GOLDWATER:

S. 376. A bill for the relief of Victor Manuel Heredia-Sanchez; to the Committee on the Judiciary.

S. 377. A bill for the relief of Frederick Po-Shing Chu and his wife, Grace Wing-Ping Chu; to the Committee on the Judiciary.

By Mr. HUDDLESTON:

S. 378. A bill to create the Youth Resource Corps to supplement the Youth Conservation Corps, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS:

S. 379. A bill to amend section 360 of title 38, United States Code, to provide increased awards of service-connected compensation to certain veterans who have suffered the loss or loss of use of paired extremities; to the Committee on Veterans' Affairs.

By Mr. DOLE:

S. 380. A bill to amend section 111 of the Agricultural Trade Development and Assistance Act of 1954 to modify the so-called "75/25" food assistance requirement provided

for in such section; to the Committee on Agriculture and Forestry.

By Mr. TOWER:

S. 381. A bill to amend section 404 of the Federal Water Pollution Control Act to prevent Federal usurpation of State water resources; to the Committee on Public Works.

By Mr. BROOKE (for himself and Mr. KENNEDY):

S. 382. A bill to impose certain safety requirements with respect to swimming pools acquired, built, or operated by the Federal Government; to the Committee on Government Operations.

By Mr. HATHAWAY:

S. 383. A bill to provide for financial disclosure by Federal officers and employees, and for other purposes; to the Committee on Government Operations and the Committee on the Judiciary, jointly, by unanimous consent.

S. 384. A bill to provide for incentive loans to the commercial fisheries industry; to the Committee on Commerce, and the Committee on Banking, Housing and Urban Affairs, jointly, by unanimous consent.

By Mr. GRIFFIN:

S. 385. A bill to name a certain Federal building in Grand Rapids, Mich., the "Gerald R. Ford Building"; to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS:

S. 357. A bill to authorize the Secretary of Commerce to assist in the construction of certain facilities; to the Committee on Commerce.

SMALL COMMUNITY HYDROELECTRIC GENERATING FACILITY ASSISTANCE ACT

Mr. STEVENS. Mr. President, today I am introducing the Small Community Hydroelectric Generating Facility Assistance Act. This bill would provide Federal loan guarantees to small communities for the purpose of financing the construction of hydroelectric generating facilities. There is considerable need in several areas of the United States for the development of hydroelectric power sources.

Southeast Alaska is a prime example of an area in which there is a serious need in small communities for hydroelectric power. Presently, most of these communities in southeast Alaska are dependent upon diesel-powered generators for the production of electricity. Needless to say, the energy crisis which our Nation is now facing has drastically increased the cost of diesel fuel. As a result, diesel-generated electricity is very costly to produce and is expensive for the consumer to purchase. In addition this method of producing electricity eats up fossil fuel, which is a valuable energy resource and is now in critical demand in our country.

At the same time, these communities of southeast Alaska have access to an abundant natural resource which now is going to waste but could be utilized to solve the problem of electrical production. The resource is water and the solution is hydroelectric power.

Mr. President, this bill would enable certain small communities to obtain loans on the private market for the purpose of constructing hydroelectric projects at affordable interest rates. Federal guarantee of these loans would make this possible.

This bill outlines the requirements for Federal loan guarantees for the construction of hydroelectric generating facilities. Construction projects are eligible for a Federal loan guarantee under the bill upon a determination by the Secretary of Commerce that the following criteria have been met:

First. The construction of the hydroelectric facility is essential to the economic development of the area;

Second. Without a Federal loan guarantee, necessary financing on reasonable terms could not be obtained for the construction;

Third. The project must be economically viable. That is, the prospective earning power of the facility to the area makes the project a sound economic investment; and

Fourth. The total obligations for such a project must not exceed $100 million. Under the bill the Secretary of Commerce may guarantee a loan for up to 90 percent of this amount.

The bill further provides that only those bonds, notes, or other obligations which are made on reasonable terms under reasonable interest rates can qualify for Federal guarantees.

Under this bill the Secretary of Commerce also is authorized to grant an interest subsidy on certain of the federally guaranteed loans for hydroelectric facility construction.

Mr. President, I would again like to stress the importance of hydroelectric power to small communities in certain areas of the United States. I feel this bill would solve many of the problems now confronting these communities in their efforts to achieve reliable low-cost power.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "the Small Community Hydroelectric Generating Facility Assistance Act".

SEC. 2. (a) The Secretary of Commerce is authorized to enter into necessary agreements to guarantee the bonds, notes, or other obligations (including interest thereon) of any State or local body issued for the purpose of financing the construction of a hydroelectric generating facility (including prelicensing costs), upon determination that—

(1) the construction of such facility is essential to the economic development of the area;

(2) the total of the obligations for each such facility to be guaranteed does not exceed $100,000,000;

(3) the provisions of Federal and State law relating to such construction will be complied with;

(4) Without such guarantee, in the amount thereof, necessary financing on reasonable tems could not be obtained for such construction;

(5) such obligations are to be paid in not to exceed fifty years;

(6) the prospective earning power of such facilities, including all benefits to the area, makes the project economically viable; and

(7) the construction and operating plans for such facility provide for sound engineering designs and procedures and fiscal management.

(b) Only bonds, notes, and other obligations which are issued or made on reasonable terms and which gear a reasonable interest rate (as determined under regulations of the Secretary) shall be eligible to receive a guarantee under this Act. No guarantee under this Act shall apply to so much of the principal amount of any bond, note, or obligation as exceeds 90 per centum of the cost of the project with respect to which such bond, note, or obligation is issued or made.

SEC. 3. The Secretary is authorized under such rules and regulations as he may prescribe to pay as an interest subsidy on loans which are guaranteed under the provisions of this Act amounts which are necessary to reduce the rate payable by the borrower to the rate determined under section 2 of this Act.

SEC. 4. Payments required to be made as a consequence of any guarantee of subsidy by the Secretary of Commerce pursuant to this Act shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as are necessary for such purpose. There are further authorized to be appropriated such sums as are necessary to administer this Act.

By Mr. STEVENS:

S. 358. A bill to amend title II of the Social Security Act to adjust the earnings exemption, applicable to recipients of monthly benefits thereunder, for individuals in Alaska or Hawaii so as to take into account the higher cost of living in such States; to the Committee on Finance.

Mr. STEVENS. Mr. President, in the past few years the Congress has become increasingly sensitive to the needs of our senior citizens. Legislation has been introduced to increase benefits to these citizens and to increase the opportunities for them to provide their services in businesses and community organizations throughout the country.

I like to think that the retired people in Alaska are a unique breed of individuals. Their intense desire for self-sufficiency and self-reliance has been conditioned by a lifetime spent in a very rugged and demanding area. The bill which I am introducing is a step toward allowing them to maintain this self-reliance. The bill provides for an increase in the exempt earnings under the social security law in proportion to the salary adjustments currently made for Federal employees.

We are asking that our senior citizens be given an opportunity to engage in satisfying work experiences which contribute to the economy of the country.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(9) For special provisions applicable to individuals in Alaska or Hawaii, see subsection (m).". (b) Section 203(h) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) For special provisions applicable to individuals in Alaska or Hawaii, see subsection (m)."

(c) Section 203 of such Act is further

amended by adding at the end thereof the following new subsection: "Special Rule Applicable to Individuals in Alaska or Hawaii

"(m) In applying the provisions of subsections (f) and (h) to any individual with respect to any period (consisting of one or more complete calendar months) for all of which he is physically present in Alaska or Hawaii, the figure "$200" and the term "exempt amount" (as referred to in paragraphs (1), (3), and (4)(B) of subsection (f), and in paragraph (1)(A) of subsection (h)) shall be deemed to be such figure, or such exempt amount, as the case may be, plus a per centum thereof equal to the per centum applicable, as of the beginning of such period, in determining the amount of the allowance payable under section 5941 of title 5, United States Code, to Federal employees serving in such State.".

By Mr. STEVENS:

S. 359. A bill to amend title 5, United States Code, to provide additional cost-of-living adjustments in civil service retirement annuities of certain retired employees in Alaska as long as retired employees continue to reside in Alaska, and for other purposes; to the Committee on Post Office and Civil Service.

Mr. STEVENS. Mr. President, today I am introducing a bill to extend cost of living adjustments in Civil Service retirement annuities to certain retired employees residing in Alaska.

Mr. President, under this bill the annuity of each retired employee, who has already performed 10 years of service in Alaska prior to separation and after commencing his annuity continues to reside in Alaska, shall be increased by 25 percent so long as he continues to reside in Alaska. Survivors are similarly covered. Persons previously retired would be covered, but annuities would not be retroactive.

This increased retirement annuity is a just increase and is needed by Alaskans. The United States has granted Alaska a cost-of-living pay increase of up to 25 percent for Government employees, yet has not followed through and considered that the same high cost of living exists in their retirement.

Based on the average U.S. cost-of-living index of 100 for a low budget for a retired couple, Anchorage, in the autumn of 1976, had a cost-of-living index of 146. This is more than 21 percent higher than even this bill would authorize. The intermediate budget for this same retired couple was 136 and the higher budget is 130. Both these indicators show that without a doubt even a 25-percent cost-of-living adjustment will not bring the Alaskan retired Federal employee up to a par with his counterparts in the Lower 48 but rather would simply reduce the difference to an almost tolerable level.

In most areas of the United States, as one moves away from the urban areas the cost of living decreases. However, in Alaska the exact opposite is true. Anchorage is one of the least expensive places to live in the State while other sections have a cost of living two to three times the national average.

Mr. President, an inequality presently exists in our Nation. Alaskans who have rendered a great service to our Government are forced to retire on minimum wages while the cost of living in Alaska continues to leap upward at a much faster rate than in the rest of the Nation. This bill will do much to dissolve this inequality; it is a bill that will provide long overdue justice to Alaskans, and I ask that it be considered as such in this session of Congress.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. That section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) Notwithstanding any other provision of this subchapter and in addition to the amount of annuity to which he otherwise is entitled under this subchapter, the annuity of each retired employee who has performed ten years of service in Alaska prior to separation and who, after the commencing date of his annuity, continues to reside in Alaska, shall be increased by 25 per centum so long as he continues to reside in Alaska. This annuity differential is applicable to the annuity of any survivor of such retired employee.".

SEC. 2. The amendment made by this Act shall apply to persons retiring or retired prior to, on, or after the date of enactment of this Act, and their survivors; but no annuity differential shall be payable by reason of such amendment for any period prior to the first day of the first month which begins after the date of the enactment of this Act.

By Mr. STEVENS:

S. 360. A bill to amend the Federal Aviation Act of 1958, as amended, by requiring certification and subsidy of at least two air carriers to points receiving neither highway nor railroad service; to the Committee on Commerce.

Mr. STEVENS. Mr. President, two decisions by the Civil Aeronautics Board prompted the bill I introduce today.

In 1969, the Civil Aeronautics Board initiated the Alaska service investigation. The investigation was subsequently divided into three phases: trunk line, regional routes, and bush routes. The CAB issued a decision and order in December 1971 for the trunk line and regional route phases. In this decision, the CAB created a monopoly situation by suspending two of the three carriers serving southeastern Alaska. One carrier had previously been suspended in 1965. A second carrier received a subsidy, and the third did not. Upon suspending two of the carriers, the CAB gave a monopoly route award to the remaining carrier on a subsidy ineligible basis.

In September 1972, the CAB decided the bush routes phase of the Alaska service investigation. In this decision, the CAB created another monopoly situation by suspending one of two subsidized carriers serving northwestern Alaska. The remaining carrier received a monopoly route award on a subsidy ineligible basis. Petitions for reconsideration were subsequently filed. In response, the CAB granted a motion for a stay order. On November 19, 1974, the CAB dissolved the stay order, denied the petitions for reconsideration, and permanently suspended the primary carrier's authority to serve the Anchorage-Nome-Kotzebue route.

Southeast Alaska is islandic. It has neither road nor rail service to Anchorage or Seattle, which are its only gateways other than by air. Air transportation is the only mode of travel other than infrequent and slow ferry service. Northwest Alaska—Nome, Kotzebue, and Unalakleet—is also far and remote. It typified the Alaskan dilemma of sparsely populated communities scattered great distances from population and supply centers. In the winter months, the Bering Sea freezes and the only mode of transportation is by air. While Alaska is not alone in such physical characteristics, these portions of the State typify the dependence on air of many isolated rural communities in this country. Competition is important. The absence of competing rail and highway service makes competing air service all the more important.

These two CAB decisions were not in the public interest. In its attempt to strengthen the financial prospects of Alaskan air operations, the CAB gave insubstantial weight to the commerce, postal, and national defense needs, and the public interest which dictated alternative dependable air carrier service. Additionally, the State has experienced a 16-percent population growth factor in the first half of this decade.

The present status of Alaska's economy, stimulated by the North Slope oil development and the Native Claims Settlement Act, demands increased air service, not less. Yet, the CAB continues on a course of eliminating air carrier competition to those communities which are so dependent on air transportation. This problem is of extreme concern to Alaskans.

For this reason, I am today introducing legislation which will insure continued air service to points in Alaska and elsewhere that receive neither highway nor rail service. This legislation would make it clear that air service to points in the United States, including Alaska and Hawaii, receiving neither highway service nor railroad service shall be maintained on air routes. It will also insure that subsidy payments necessary to provide such air service will be allowed.

The bill will accomplish the following:

First, the legislation adds a new provision to section 102 of the Federal Aviation Act of 1958. Section 102 details the considerations of the CAB in determining whether certification should be granted, altered, amended, modified, or suspended under section 401 of the act. This will broaden the public interest standards of the act. It will require the CAB to determine whether or not competing modes of transportation are available to communities for which the CAB authorizes airline service. If communities are isolated from railroad or highway transportation systems, the CAB will have to accommodate this dependency on air service by providing a sufficient amount of competition with the air mode.

Second, section 2 will require that no

term or condition of any certificate can limit the maximum subsidy amounts payable for service to or from points receiving neither railroad service nor highway service. Existing certificates must be so amended.

Third, section 3 will require that in deterring the need for such a subsidy, the Civil Aeronautics Board and the Secretary of Transportation must consider air service to be a requirement for points receiving neither highway service nor rail service.

Fourth, section 4 will require that in determining the public convenience and necessity under the sections I have previously mentioned, the Board shall consider that the certification of at least two air carriers in areas receiving neither highway service nor railroad service is necessary for the public convenience and necessity.

This legislation is intended to prescribe guidelines in determining the amount of subsidy and the criteria for certification. It is not intended to increase the amount of subsidy paid.

I request unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Aviation Act of 1958, as amended, is hereby further amended as follows:

SECTION 1. By redesignating clauses (d), (e), and (f) of section 102 (49 U.S.C. 1302) as clauses (e), (f), and (g), respectively, and by inserting after clause (c) the following:

"(d) The extension of such service to points in the continental United States which shall include Alaska and Hawaii receiving neither highway service nor railroad service.".

SEC. 2. By adding a paragraph (7) to subsection (e) of section 401 (49 U.S.C. 1371) that shall provide as follows:

"(7) No term or condition in any certificate shall limit the maximum subsidy amounts payable with respect to service to or from points that receive neither railroad service nor highway service. The Board shall, without hearings, alter, modify, or amend any existing certificate term or condition in contravention of this requirement so as to bring such term or condition into conformity therewith.".

SEC. 3. By adding the following sentence to subsection (b) of section 406 (49 U.S.C. 1376): "In the exercise of their powers and duties under this subsection, the Board and the Secretary of Transportation shall consider as required for the commerce of the United States, the Postal Service, and the national defense, air service to points in the continental United States which shall include Alaska and Hawaii receiving neither highway service nor railroad service.".

SEC. 4. Add a new section 406(a) as follows:

"In determining the public convenience and necessity under sections 102, 401, and 406, the Board shall consider as necessary to the sound development of an air-transport system properly adapted to the needs of the foreign and domestic commerce of the United States, the Postal Service, and the national defense, the certification of at least two air carriers to provide air service to points in the United States receiving neither highway service nor railroad service.".

By Mr. STEVENS:

S. 361. A bill to amend the Internal Revenue Code of 1954 to exempt from tax a portion of the income of individuals not employed by the Federal Government who live in a State in which Federal employees receive an allowance based on living costs and conditions of environment; to the Committee on Finance.

S. 362. A bill to amend the Internal Revenue Code of 1954 to permit a deduction from gross income based upon the cost of living in certain States; to the Committee on Finance.

Mr. STEVENS. Mr. President, today I am introducing legislation to allow a taxpayer a deduction from gross income based upon the cost of living in certain States and an additional bill to exempt from Federal taxation a portion of the income of non-Federal employees living in a State in which Federal employees receive an allowance based on living costs and other conditions.

The taxpayers of Alaska and other States where living costs are significantly above the national average, have been unreasonably burdened by virtue of their residences. The first bill would allow an individual to deduct a percentage of the total amount of personal exemption equal to the percentage by which the cost of living in his State exceeds the average national cost of living for that taxable year. The deduction would be limited to the percentage of time during which the taxpayer resided within the State on which he bases the deduction. The Secretary of the Treasury would be delegated the authority of determining whether a particular State's cost of living significantly exceeds the national average.

The most current Bureau of Labor statistics reveal that Alaska and Hawaii rank as the areas in which it costs the most to live and maintain a family at any income level. Anchorage, Alaska, ranks as the most expensive city in the entire Nation in which to live. Honolulu, Hawaii, ranks second in this regard with all other cities significantly below these top two. The Alaskan price structure, which is largely due to the tremendous costs incurred in transporting goods and material to Alaska, has imposed a hardship on citizens with fixed incomes and deters prospective residents and business concerns from settling within the State.

Now with the trans-Alaska oil pipeline under construction, the prices for shelter, food, and essential services are rising at a faster rate in Alaska than the rest of the country.

My alternative bill providing tax equality between Federal and non-Federal employees would rectify a long-standing inequity in States with high living costs. At present, the Federal Government provides a 25-percent cost-of-living adjustment to civil service employees who reside in Alaska. This nontaxable adjustment is added to the base pay of Federal employees, but is not available to non-Federal employees. Therefore, the tax burden upon workers in the private sector is inequitably repressive and relief is required to equalize their tax responsibility with those federally employed. Both bills which I have introduced in this regard contain limitations upon Federal employees who receive a nontaxable cost-of-living allowance.

I believe that the combination of these two bills will provide much needed Federal tax relief to the beleaguered taxpayer of my State and certain other States where the cost of living is significantly above the national average. Moreover, these bills should help to accelerate the economic and social progress of these States by stimulating business relocation therein and not discouraging prospective residents from moving thereto. Accordingly I urge the careful consideration of this legislation.

I ask unanimous consent that these bills be printed at this point in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically included from gross income) is amended by redesignating section 124 as 125, and inserting after section 123 the following new section:

"SEC. 124. PARTIAL EXCLUSION OF INCOME OF INDIVIDUALS RESIDING IN CERTAIN STATES.

"(a) GENERAL RULE.—In the case of an individual who resides and is employed in a State in which employees of the Government of the United States receive an allowance under section 5941 of title 5, United States Code, gross income does not include a percentage of income received during the taxable year as compensation for personal services (including fees, commissions, and similar items) equal to the percentage of basic pay received by employees of the Government of the United States as an allowance under such section.

"(b) LIMITATIONS.—

"(1) FEDERAL EMPLOYEES.—The provisions of subsection (a) shall not apply to amounts received by an employee of the Government of the United States as pay and allowances from the Government.

"(2) RESIDENTS FOR LESS THAN A TAXABLE YEAR.—If an individual does not reside in such a State for the entire taxable year, the provisions of subsection (a) shall apply only to compensation attributable to the period during which such individual resides in such State.

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

(b) The table of sections for such part III is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Partial exclusion of income of individuals residing in certain States.

"Sec. 125. Cross references to other Acts.".

SEC. 2. The amendments made by this Act shall apply to taxable years beginning after December 31, 1974.

S. 362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section

218 as 219, and inserting after section 217 the following new section:

"SEC. 218. COST-OF-LIVING DEDUCTION.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction a percentage of the total amount of the personal exemptions to which he is entitled equal to the percentage (determined by the Secretary or his delegate under subsection (c)) by which the cost of living in the State in which he resides during the taxable year exceeds the average cost of living in the United States for that year.

"(b) LIMITATIONS.—The amount of the deduction allowable under subsection (a) shall be adjusted appropriately for any period of time during a taxable year during which the taxpayer was not residing in the State on which he bases his deduction under such subsection. In the case of a taxpayer who, during any taxable year, resides in more than one State which qualified him for such deduction, the amount of the deduction shall reflect the proportionate periods of time during which he resided in such State. In the case of a taxpayer whose taxable year is not the calendar year, the amount of the deduction shall reflect proportionately the calendar years which fall within his taxable year.

"(1) FEDERAL EMPLOYEES.—The provisions of subsection (a) shall not apply to amounts received by an employee of the Government of the United States as pay and allowances from the Government.

"(c) DETERMINATIONS BY THE SECRETARY.—On or before December 1 of each year, the Secretary or his delegate shall determine with respect to each State whether the cost of living in such State is greater than the average cost of living in the United States. If the Secretary or his delegate determines that the cost of living in any State is greater than the average cost of living in the United States, he shall determine and make available the percentage (rounding off to the nearest whole percent) by which the cost of living in such State exceeds the average cost of living in the United States. The determination shall be made for each year on the basis of indices and other information available from all departments and agencies of the Government covering the first 9 months of such year, and the determination of the cost of living in each State shall be made on the basis of such indices and information applicable to the 3 largest cities or metropolitan areas in such State.

"(d) FINALITY OF DETERMINATIONS.—Determinations by the Secretary or his delegate under subsection (c) shall be final and shall not be subject to review by any other officer of the United States or by any court.

"(e) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) The table of sections for such part VII is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 218. Cost-of-living deduction.
"Sec. 219. Cross references.".

By Mr. McCLURE (for himself and Mr. HANSEN):

S. 363. A bill to amend the Endangered Species Act of 1973 relating to the designation of certain areas as critical habitats of endangered and threatened species, and for other purposes; to the Committee on Commerce.

CRITICAL HABITATS

Mr. McCLURE. Mr. President, my distinguished colleague Senator HANSEN and I have recently witnessed the public hearing process in our States on the proposal to establish a critical habitat for the grizzly bear under provisions of the Endangered Species Act (Public Law 93–205).

We are convinced that the establishment of a critical habitat for an endangered or threatened animal or plant species under terms of the act is indeed a major Federal action, and falls within the provisions of the National Environmental Policy Act of 1969 (Public Law 91–190). It is the intent of the bill we introduce today to provide for the filing of an environmental impact statement when proposing a critical habitat for an endangered species. We feel this move will clarify both the options and adjustments in ongoing Federal programs that exist in proposed critical habitat areas.

By Mr. HART (for himself, Mr. BUMPERS, Mr. HASKELL, and Mr. McGOVERN):

S. 364. A bill to provide for judicial review of administrative determinations made by the Administrator of the Veterans' Administration; to apply the provisions of chapter 5 of title 5, United States Code, to the rules, regulations, and orders of the Veterans' Administration; to provide for the use of a reasonable fee for attorneys in rendering legal assistance to veterans with claims before the Veterans' Administration; and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' JUDICIAL REVIEW ACT OF 1977

Mr. HART. Mr. President, on behalf of myself, and Senators HASKELL, McGOVERN, and BUMPERS, today I am introducing S. 364, a bill to amend title 38 of the United States Code to provide for the judicial review of administrative decisions promulgated by the Veterans' Administration, and to allow veterans full access to legal counsel in proceedings before the Veterans' Administration.

The Veterans' Administration differs from other Federal agencies in that its regulations and most of the resulting adjudicated decisions on individual cases are not subject to the scrutiny of the Federal courts. Under title 38, United States Code, section 211(a) the Veterans' Administration is insulated from judicial review, thus denying veterans and their dependents or survivors access to due process of law on decisions of benefit eligibility.

Adjudication of VA benefits falls mainly within two areas: Disability eligibilities and pension eligibilities. In each instance, a local three-member board, made up of VA employees, determines the veteran's eligibility and level of disability payment. The only recourse for a veteran desiring to challenge this determination is an appeal to the Board of Veterans' Appeals, also composed of VA employees in Washington, D.C. The decision of the board is final and unless new and material evidence is presented, the case is closed. At no point in the process are there provisions for review of VA regulations and adjudicative decisions by persons outside the agency.

Most Federal agencies are subject to the Administrative Procedure Act (title 5, United States Code) which allows judicial review of final administrative actions. Under section 702 of that act, "a person suffering a legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute" can seek judicial recourse. The court can determine whether the agency observed the statutory requirements and adhered to constitutional requirement in its application of administrative procedures.

For example, the Social Security Administration, which uses procedures similar to the Veterans' Administration in establishing disability claims, is covered by the Administrative Procedure Act, and thus its decisions are ultimately subjected to the scrutiny of the Federal courts.

Although veterans may be represented by attorneys in proceedings before the Veterans' Administration, section 3404 (c) of title 38 limits attorneys' fees to $10. The fee limitation, which was implemented more than a century ago in the best interest of the veteran, now imposes a severe burden on veterans seeking just treatment. Less than 2 percent of the claimants appealing to the Board of Veterans' Appeals are represented by legal counsel. Currently, veterans can obtain assistance without charge in the presentation of their claims before the Veterans' Administration from national veterans service organization representatives and VA counselors. In most cases, the assistance provided by these counselors is of sufficient quality and provides the VA Rating Board with sufficient evidence to render a fair and equitable decision on the claim. However, if a veteran desires the representation of an attorney in these proceedings, the prohibitive fee restriction of $10 places severe restraints on this right.

I believe this de facto prohibition of legal representation may be a denial of the veteran's right to due process as provided by the fifth amendment. Veterans who desire outside legal representation in VA proceedings should be able to exercise that right. In this regard, too, the Social Security Administration offers a far better system. Although it was also once bound to the $10 fee limitation, that agency long ago instituted a sensible formula to determine reasonable attorneys' fees on a case-by-case basis. Legal representation more than doubled as a result. It is time for the VA to follow suit.

Mr. President, opponents of this proposal argue that opening the VA to judicial review would flood the Federal courts with cases. That claim, however, is baseless.

The Veterans' Administration does process tens of thousands of benefit claims annually, but a review of the statistics shows that the Board of Veterans' Appeals, the final reviewing body for disputed claims, handled only 43,000 cases, or a fraction of the original number, in fiscal year 1975. Of these, 26,000 were reversed or remanded to the local rating boards for their reconsideration. This left approximately 17,000 cases which could have been brought before Federal courts for review. This number would likely be even smaller, because of the financial burden of litigation and the re-

finement of the internal claims adjudication procedures of the VA. It must also be pointed out that the veteran must exhaust all internal administrative remedies and follow the procedures set forth in the Administrative Procedure Act before a case can be brought before the Federal judiciary.

The real issue, however, is clear. Do we deny the American veteran access to judicial review, because Congress feels justice is too expensive or would increase the workload of our judicial system? I think not.

Some opponents to the concept of judicial review of VA decisions also say that such issues as disability compensation and benefit eligibility are too technical for the courts to review. But that argument ignores the fact that most other agencies such as the Social Security Administration with its complex and technical regulations, are subject to independent review by the courts of their adjudicative procedures. Furthermore, the Federal court, under the guidelines of the Administrative Procedures Act, would only entertain appeals for the review of a final VA action if it is alleged that the final action is first, arbitrary and capricious; second, an abuse of discretion; third, an excess of statutory jurisdiction; fourth, if it failed to observe the procedure as required by law; or fifth, if it was otherwise unlawful.

Still another argument against judicial review is that it would destroy the uniformity of VA decisions. It is my belief that an independent review of VA regulations, under the provisions of the Administrative Procedure Act (title 5, United States Code, sections 556 and 557), and review of individual VA adjudicated decisions will only improve the uniformity of the decisionmaking process.

My research has exposed a marked disparity between VA regional offices in decisions handed down in veterans' cases. For example, the Denver Regional Office has indicated that in the adjudication of other-than-honorable discharge cases in 1975, only 10 percent were ruled eligible for benefits. The Minnesota VA Regional Office, on the other hand, ruled that 25 percent of those veterans with other-than-honorable discharges were eligible for VA benefits.

This evidence appears to indicate a lack of uniformity of VA decisions within the system. If judicial review were granted, more uniformity of the VA procedures—not less—would be the result, and this would strengthen the adjudicative process.

Although the VA now publishes its proposed rules and regulations, which ultimately govern its administrative and adjudicative procedures, it is not required to do so under Federal statute. Once these regulations become final, they are not subject to the scrutiny of the Federal judiciary. Therefore, the VA not only writes its own rules and regulations, but they are immune from the public and judicial review that most other Federal agencies are subject to under law. Once the VA renders a final decision on the case, that decision is final. To the veteran, this means that not only are the administrative decisions which determine his benefit elegibility exempt from court review, but so are the regulations and procedures which shape those decisions. There is no avenue for appeal outside the agency.

Mr. President, this legislation will require the VA to comply with the specific rulemaking procedures set forth in chapter 5 of the Administrative Procedures Act. By placing the VA under the scrutiny of the well-structured rulemaking procedure of that act, veterans and other affected parties will be granted the right to challenge proposed rules. Congress will thereby insure some degree of protection from the tyranny of unrestrained and capricious bureaucratic action.

Mr. President, in closing I wish to note that the legislation I am proposing today has received widespread support from veterans' organizations in my State and across the Nation. When I introduced similar legislation during the last Congress, I received hundreds of calls and letters from veterans' groups and individual veterans around the country who support this bill. It was in response to this enormous call to action by veterans, I believe, which persuaded the former chairman of the Senate Veterans' Affairs Committee to promise full-scale hearings on this measure during the current session of Congress.

Colorado veterans have raised a particularly strong voice in support of judicial review. The Colorado Board of Veterans' Affairs, a statutory board which addresses veterans' issues affecting Coloradans, recently passed a resolution on this subject, which I would like to bring to the Senate attention. I ask unanimous consent that the resolution appear at the conclusion of my remarks in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HART. Mr. President, I believe that a fundamental issue before Congress today is the accountability of Federal agencies. To deny a citizen access to an attorney, and also to isolate a Federal agency from the scrutiny of the Federal courts goes against the very principles of our constitutional system.

I ask unanimous consent that the text of S. 364 be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans Administration Administrative Procedure and Judicial Review Act".

SEC. 2. Section 211(a) of title 38, United States Code, is amended by striking out after "shall be" all that follows through the end of such subsection and inserting in lieu thereof the following: "subject to judicial review as provided in chapter 7 of title 5.".

SEC. 3. Notwithstanding any other provision of law, all rules, regulations, orders, and any other determination of any kind made by the Administrator of the Veterans' Administration or his delegate shall be subject to the provisions of chapter 5 of title 5, United States Code.

SEC. 4. Section 3404(c) of title 38, United States Code, is hereby repealed.

EXHIBIT 1

RESOLUTION

Whereas: Veterans Administration (V.A.) proposed rules and regulations are not subject to the Federal Administrative Procedure Act before they have the force of law (Title 5, Sections 553 and 554 provide for the printing of proposed regulations in the "Federal Register" for public comment before they can become law and Sections 556 and 557 provide for hearings on proposed regulations with the burden of proof on the government agency.)

Whereas: These rules and regulations are therefore sometimes not consistent with the very structure that gave them life.

Whereas: The V.A. adjudicates applications for veterans benefits utilizing these regulations as criteria and claimants whose applications are denied may file further appeals with the V.A. until their cases ultimately reach the Board of Veterans Appeals in Washington, D.C.

Whereas: The 31 permanent members of the Board of Veterans Appeals are practically speaking V.A. employees and under Title 38 U.S.C., Section 211(a) their decisions are final and not reviewable in any Court of law.

Whereas: This denial of judicial review reduces the status of veterans to second class citizens since veterans benefits are thus defined as "gratuities" while Supreme Court decisions have elevated welfare benefits to the level of "statutory entitlements" which cannot be denied or reduced without due process of law which includes court review.

Be it resolved that: The Colorado Board of Veterans Affairs urges the Veterans Affairs Committee of the Senate and House study possible legislation that: (1) subjects the V.A. proposed rules and regulations to the provisions of the Federal Administrative Procedure Act (Title 5, U.S.C. Sections 553 and 554, and 556 and 557) and (2) permits limited judicial review of Board of Veterans Appeals decisions under Title 5 U.S.C., Section 702.

By Mr. INOUYE (for himself and Mr. THURMOND):

S. 366. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, the present regulations governing retirement pay to reservists do not allow a member of a Reserve unit who did not serve on active duty prior to August 16, 1945, to receive benefits. This was intended to prevent those reservists who failed to serve their country during its time of greatest need from enjoying the benefits which were provided to those who fought to protect their homeland.

A number of situations have come to my attention in which an individual was a member of the Reserves, but through no fault of his own, he did not serve on active duty during World War II, but he did serve during the Berlin crisis, the Vietnam war, or for an extended period of time since the end of World War II.

On April 1, 1974, I introduced S. 3283, to amend chapter 67 of title 10, United States Code, to grant eligibility to certain reservists who did not perform active duty before August 16, 1945, and for other purposes. S. 3283 was designed to make this law more equitable. The Department of Defense gave its approval to this bill. The Office of Management and Budget also had no objections as

it would require no additional appropriations.

On the basis of this support, the Senate Armed Services Committee acted favorably on S. 3283 and it was reported to the Senate with amendments on December 12, 1974. The Senate passed S. 3283 by unanimous consent in December 14, 1974, after first agreeing to the amendments recommended by the committee. Unfortunately, there was insufficient time remaining in the 93d Congress for action to be taken by the House of Representatives prior to adjournment sine die.

On January 15, 1975, I introduced essentially the same legislation in the 94th Congress and S. 117. I regret to say that this bill died in committee, reportedly as a result of the committee's desire not to act on retirement legislation until it had a chance to consider sweeping retirement modernization legislation being prepared by the Defense Department. I would hope that any modernization legislation submitted to the Congress would provide the relief contained in the bill I am introducing today.

In view of the unanimous action taken by the Senate on this legislation in the 93d Congress and considering that this legislation should be a part of any overhaul of the defense retirement system, I wish to urge my colleagues to give early and favorable consideration to this bill which I am now introducing.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 67 of title 10, United States Code, is amended as follows:

(1) Section 1331(c) is amended to read as follows:

"(c) No person who before August 16, 1945, was a Reserve of an armed force, or a member of the Army without component or other category covered by section 1332(a)(1) of this title except a regular component, is eligible for retired pay under this chapter unless he performed—

"(1) active duty after April 5, 1917, and before November 12, 1918, or after September 8, 1940, and before January 1, 1947;

"(2) active duty (other than for training) after June 26, 1950, and before July 28, 1953, after August 13, 1961 and before May 31, 1963, or after August 4, 1964, and before March 28, 1973; or

"(3) at least twenty years of service (computed under section 1332 of this title) after August 15, 1945."

(2) Section 1332(b) is amended by adding the following new clause after clause (7):

"(8) Service before August 16, 1945, if eligibility for retired pay is based on section 1331(c)(3) of this title.".

(3) Section 1333 is amended—

(A) by striking out "For" and inserting in place thereof "(a) Except as provided in subsection (b), for";

and

(B) by adding the following new subsection:

"(b) Service before August 16, 1945, may not be counted under subsection (a), if eligibility for retired pay is based on section 1331(c)(3) of this title.".

By Mr. McGOVERN:

S. 367. A bill to authorize the Secretary of the Interior to guarantee certain State, local, or other public agency bonds issued to finance water resource facilities; to the Committee on Interior and Insular Affairs.

WATER RESOURCE FACILITIES

Mr. McGOVERN. Mr. President, the dry weather conditions of 1976 have cost my State of South Dakota more than $800 million. Comparable losses have been experienced from coast to coast, but the Midwest and Great Plains, as during the midthirties, have borne the greater burden of the drought. Predictions by meteorologists caution us that this weather cycle may have several more years to run. If it does, we could face the same economic hardships, dislocations, and hunger, still not forgotten, of 40 years ago.

Like its sister States, South Dakota has generally been deficient in rainfall, but there have been sufficient amounts during the growing season for its prime agricultural concerns—grains and cattle. The natural supply has then been augmented by increasing use of irrigation canals, and development of underground sources for domestic use.

The additional water supplies so far, however, have been insufficient for the demands placed upon the American farmer for production—not only for domestic requirements, but also to provide surpluses for sale overseas to buttress the U.S. balance of payments. These are not inconsiderable. As an example, in the 9-month period of January to September of 1976, total foreign exports were $84.5 billion, of which $16.7 billion represented agricultural products. Annual projections on that basis would be $115 billion and $23 billion.

With the rising cost of the imported oil which now makes up over 40 percent of our daily domestic requirements, it is critical that we continue to expand our capability to sell the products of our land in overseas markets. To maintain and increase production in the semiarid upper Great Plains, however, will require the application of water to the land during the critical growing season.

The tragic aspect of the current drought is that there is much water available. Substantial amounts fill the Mississippi, the Missouri, and other lesser watercourses with the impoundments that have been constructed. There are still reserves in lakes and certainly in the aquifers which lie beneath the land. The problem lies in the deficiency of the prime distributing agent, rainfall. It has become both sparsely distributed and low in volume.

The availability of water is well known as is the vast amount of money necessary for its development, conveyance, and utilization. Yet Federal, State, and local governments along wtih those who use it for domestic, stock, or irrigation purposes have been willing to supply those funds so that the distribution facilities can be constructed. Over the past few years a large number of water systems have been completed and dedicated; the costs have reached hundreds of millions of dollars in Federal grants, loans, hook-up and user charges.

Now, faced with a tremendously larger demand, totaling additional hundreds of millions of dollars, the Federal Government, through the Farmers Home Administration, the Soil Conservation Service, the Bureau of Reclamation, and the Corps of Engineers, must decide the question of to what extent the Federal Government can and should use public funds for the purposes which, in some way, must be accomplished.

In South Dakota, residents are recognizing that there are some limitations to Government aid. Hence, they have depended heavily upon loans or have laid plans to issue revenue bonds on their own for water systems. No price is too high to pay for the one commodity we can in no way get along without.

Today, I am introducing legislation which hopefully will encourage the revenue bond method of financing. I am proposing that the Federal Government guarantee payment of principal and interest on revenue bonds issued by a unit of State or local government or by a public agency designated by such a unit of government for the purpose of financing construction of water resource facilities for conservation, storage or distribution of water for agricultural, industrial, recreational, or personal use in either urban or rural areas. The legislation requires that the Federal Government shall be protected by the charging by the sponsoring government unit of a user fee sufficient to pay principal or interest on the obligation. The Secretary of the Treasury shall have been given in a form acceptable to him a pledge of revenues for such repayment.

Guarantees under my bill do not deprive the Government of tax revenues. For any obligation issued by a unit of State or local government or a designated agency, the interest paid shall be included in gross income for the purpose of chapter I of the Internal Revenue Code of 1954. The Secretary is, however, authorized to make grants to or on behalf of the issuer to cover not more than 30 percent of the net interest costs.

Fortunately, my legislation extends a practice which is already in operation and which has resulted in the acquisition of facilities and the supplying of services in any number of different areas. Federal guarantees have been applied through such Government mechanisms as the Rural Electrification Act of 1936, to loans to small businesses, students, veterans, and to assist housing, overseas investment, and on to more unusual efforts such as the development of geothermal energy sources.

These guarantees have been responsible for considerable progress and development and resultant improvement in the quality of our lives at a nominal cost to the Federal Government. The guaranteed loans are repaid and such repayment would ordinarily be threatened in any serious degree only when the Nation's economic health is not robust.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior is authorized to guarantee and make commitments to guarantee payment of principal and interest as scheduled on revenue bonds issued by any unit of a State or local government, or by a public agency designated by such a unit of government, for the purpose of financing construction of water resource facilities for conservation, storage or distribution of water for agricultural, industrial, recreational, or personal use in either urban or rural areas, or both.

(b) The Secretary shall require of any issuer whose obligations are guaranteed under this section that such issuer make and collect, from users of water for which facilities are to be constructed, sufficient rates to pay the principal and interest on such obligations. In the event of a default by a user, the United States shall succeed to any remedy available to the issuer against the user.

(c) No guarantee or commitment to guarantee shall be made with respect to any issuer unless such issuer shall have given to the Secretary, in a form acceptable to him, a pledge of revenues for the repayment of any amount required to be paid by the United States pursuant to any guarantee under this section.

(d) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

SEC. 2. The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his obligations under guarantees authorized by this Act. The obligations issued under this section shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this section, and for such purposes is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which such securities may be issued under such Act are extended to include the purchases of the Secretary's obligations hereunder.

SEC. 3. (a) Obligations guaranteed under this Act may, at the option of the issuer, be subject to Federal taxation as provided in subsection (b). In the event that taxable obligations are issued and guaranteed, the Secretary is authorized to make, and to contract to make, grants to or in behalf of the issuer to cover not to exceed 30 percent of the net interest cost to the issuer of such obligations.

(b) With respect to any obligation issued by a unit of State or local government or designated agency which such unit or agency has elected to issue as a taxable obligation pursuant to subsection (a) of this section, the interest paid on such obligation shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(c) There are authorized to be appropriated such amounts as are necessary for payments under subsection (a).

By Mr. INOUYE:

S. 368. A bill to amend title II of the Social Security Act to provide that the amount of the insurance benefit payable thereunder to remarried widows and widowers will not be reduced on account of their remarriage; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing legislation to amend the Social Security Act in order to insure that those individuals who are entitled under our present social security law to widow benefits, shall not forfeit this entitlement if they decide to remarry.

Under the provisions of our current law, upon remarrying these individuals become entitled to one-half of their deceased husbands' amount, or the "wife benefits" under their new husbands' account, whichever is higher. As a wife, she essentially would receive 50 percent of what her new husband does; however, as a widow, she would receive 100 percent of what her deceased husband received. In either case, there is a $107.90 per month minimum entitlement.

Under the provisions of my proposal, this formula would be changed so that the widow—new wife—would have a choice between a new entitlement as a wife under her new husband's account, or the same level of entitlement by staying with her previous husband's account. Although my proposal is minor in scope, I hope that it will be of significant benefit to many of our senior citizens.

There can be little doubt that basic economic stability and loneliness are two of the prime problems facing our elderly today. Accordingly, I feel that whenever possible our Government should consciously confront these issues and do all that it can to provide these citizens with both a respectable minimum income, and wherever possible, also to foster, rather than hinder, their desire to remarry.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 368

Be it enacted by the Senate and House of Representatives of the United States of America in Congess assembled, That (a)(1) section 202(e)(2)(A) of the Social Security Act is amended by striking out "paragraph (4) of this subsection,".

(2) Section 202(e)(4) of such Act is amended by striking out "except" and all that follows.

(b)(1) Section 202(f)(3)(A) of such Act is amended by striking out "paragraph (5) of this subsection,".

(2) Section 202(f)(5) of such Act is amended by striking out "except" and all that follows.

SEC. 2. The amendments made by this Act shall apply with respect to monthly insurance benefits under title II of the Social Security Act for months after the month following the month in which this Act is enacted.

By Mr. INOUYE:

S. 369. A bill to amend the Tariff Act of 1930 to exempt from duties and taxes supplies for certain additional classes of vessels; to the Committee on Finance.

Mr. INOUYE. Mr. President, late in the last session of the 94th Congress, I introduced legislation to amend and modernize section 309(a) of the Tariff Act of 1930. Given the lateness in the session and the press of other business the Finance Committee was unable to complete analysis of the bill and report on it to the Senate.

Since the effect of this bill would be to increase the sales and profits of our bonded warehouses and foreign trade zones, I would like to reintroduce this bill. While the annual increase in sales will be relatively minimal compared to our total international commerce, anything we can do to meet the competition will be helpful now that our balance of trade has turned so heavily against us.

Current tariff statutes limit the types of ships which can purchase duty- and tax-free supplies from bonded warehouses and foreign-trade zones. Only vessels operated by the United States, vessels of war of any nation, and foreign or domestic vessels employed in the fisheries or whaling business or actually engaged in foreign trade are afforded this privilege. Since the original tariff act was silent on other classes of vessels, they have been excluded from permission to purchase inbond supplies at U.S. ports, making it more economical for them to buy supplies during non-U.S. calls. One local supplier of duty- and tax-free ship's stores in Hawaii has estimated sales losses of $100,000 each year as a result of outdated tariff provisions excluding special-purpose vessels from duty- and tax-free purchases.

My bill would go a long way toward correcting this situation by extending the privilege to the following additional classes of vessels of the United States and foreign nations: Naval and maritime training vessels, oceanographic research vessels, cable-laying vessels, vessels engaged in salvage operations in international waters, ocean mining vessels, ocean drilling vessels, vessels engaged in supplying other vessels or stations in the high seas, vessels and ocean stations engaged in power generation or communciations relay, and vessels engaged in data collection from the sea or the air.

In drawing up this legislation initially, I reviewed hearings, reports, and floor debates on the Tariff Act of 1930 and subsequent amendments thereto, including the Customs Simplification Act of 1953 and Public Law 86-606. This research did not reveal any substantive support for restriction of the types of vessels which can use bonded warehouse and foreign-trade zone facilities. In fact, later amendments to the tariff law have all expanded rather than limited the types of vessels eligible for the privilege. The special purpose categories included in the original legislation fishing and whaling were simply the important one in 1930. Today we have more diversified priorities.

Finally when I proposed this amendment to the Tariff Act I consulted with the appropriate divisions of the Treasury and Commerce Departments and neither agency voiced any objection to the expansion.

In 1976 our balance of trade was in a heavily deficit position. As our economy begins to improve in 1977 and 1978, many economists believe that our demand for foreign goods will continue to rise. To prevent another balance-of-

payments crisis we need now to seek solutions for increasing our sales. This will not be achieved by one dramatic stroke but rather by a series of small measures each making us more competitive for international sales. This amendment is one such measure to bring the Tariff Act of 1930 up to 1977 standards, to make the most of today's business opportunities in the international commerical sphere. I urge support of this bill.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 309(a) of the Tariff Act of 1930 is amended—

(1) by striking out "or (C)" in paragraph (1) and inserting in lieu thereof the following: "(C) the following vessels of the United States: naval and maritime training vessels, oceanographic research vessels, cable-laying vessels, vessels engaged in salvage operations in international waters, ocean mining vessels, ocean drilling vessels, vessels engaged in supplying other vessels or stations on the high seas, vessels and ocean stations engaged in power generation or communication or communications relay, and vessels engaged in data collection from the sea or the air, or (D)"; and

(2) by striking out "or" before "(B)" in paragraph (2), and by inserting before the semicolon at the end of such paragraph the following: "or (C) the following foreign vessels: naval and maritime training vessels, oceanographic research vessels, cable-laying vessels, vessels engaged in salvage operations in international waters, ocean mining vessels, ocean drilling vessels, vessels engaged in supplying other vessels or stations on the high seas, vessels and ocean stations engaged in power generation or communication or communications relay, and vessels engaged in data collection from the sea or the air".

By Mr. JAVITS (for himself, Mr. CRANSTON, Mr. BROOKE, and Mr. HUMPHREY):

S. 370. A bill to establish a national health insurance system for maternal and child health care; to the Committee on Finance and the Committee on Labor and Public Welfare, jointly, by unanimous consent.

NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN ACT

Mr. JAVITS. Mr. President, with Senators CRANSTON, BROOKE, and HUMPHREY, as cosponsors I introduce the National Health Insurance for Mothers and Children Act, which I send to the desk for appropriate reference, and I ask unanimous consent that the full text of the bill and a summary be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. JAVITS. The companion bill in the House was introduced by Representative SCHEUER and more than 20 cosponsors.

Mr. President, I am very pleased that my distinguished colleagues Senators CRANSTON and BROOKE are again joining me in cosponsoring this important legislation this time with Senator HUMPHREY joining us.

Senator CRANSTON has long been a dedicated leader in seeking better health care for all Americans, both as a key member of the Health Subcommittee of the Committee on Labor and Public Welfare, where we have productively collaborated on health legislation for many years, and as chairman of the Health and Hospitals Subcommittee of the Veterans' Affairs Committee. Senator BROOKE, as the ranking minority member of the Senate Appropriations Labor-HEW Subcommittee, has long been aware of and worked to meet the need to assure a strong financial and organizational base for cost-effective, high-quality health care. Senator HUMPHREY's leadership in this and other similar fields is very well known indeed.

Mr. President, I believe that the time has come to take another step toward a major national goal: A comprehensive health program for all our citizens. Medicare and medicaid programs have provided coverage for our elderly citizens and for many poor citizens.

To further our evolving national health policy, I introduce a bill which would establish a comprehensive system of national health insurance for mothers and children and at the same time would foster and develop the organizational framework for delivering comprehensive maternal and child health care. The organizational framework is set forth in title IV, and because of the joint referral is not being introduced as a separate bill, as was done last year.

I believe that this bill represents the next logical step along the road to national health coverage.

Recommendations to strengthen and improve the bill—made at congressional hearings on the bill, as well as in comments from leaders in the field of maternal and child health care—are being evaluated carefully. At this time, however, I am introducing with Senators BROOKE, CRANSTON and HUMPHREY last year's bill to signify our continued commitment to this program. When revisions are finalized those who have assisted in the preparation of the revised bill will be informed and consulted, and I will with Senators BROOKE, CRANSTON and HUMPHREY then introduce it.

Mr. President, while I continue to support the enactment into law of a comprehensive national health scheme for all Americans. It makes enormously good sense both in human terms and as national policy to begin on the road to universal national health insurance with comprehensive health care for mothers and children. The mothers and children of this Nation are the foundation of our Nation's strength, productivity and prosperity. It is time to begin to fulfill one of their great needs—the equal right to health care, whether rich or poor. Health care should be a right, not a privilege. The provision of adequate and accessible health care regardless of economic status is, in my judgment, an imperative in the pursuit of social justice. Only justice and morality should determine whether one lives or dies, not economic circumstances.

It is imperative, therefore, to safeguard the health of mothers and children by providing accessible, comprehensive health services. At the same time, both the financial and organizational provisions of this legislation allow us to set into motion and evaluate health delivery with cost controls and a rational delivery system in which such continuous, high quality care may be provided.

While we provide the means of increasing access of mothers and children to health care that emphasizes and fosters the prevention of disease and the promotion of health—rather than illness care—we shall have the opportunity to prove out my conviction that universal national health insurance is not only feasible but desirable and will foster important improvements in the quality and cost-effectiveness of the total health care system.

The major provisions of the National Health Insurance for Mothers and Children Act include:

Comprehensive ambulatory—including home health, rehabilitative, social and mental health services—and hospital care for children from birth up to the age of 18 with incentives for preventive children's health services included in the benefit package.

All appropriate prenatal and postpartum health care for women, up to 12 weeks after childbirth.

Support services—transportation, outreach, dependent care—for special populations or those persons determined to have a high risk of infant and maternal morbidity.

Only such limited cost sharing and special reimbursement incentives that would stimulate the development and acceptance by provider and patient of maternal and child health group practices.

Payments for health professionals on the basis of specified and negotiated fee schedules, periodically adjusted according to such economic index or indices determined to be appropriate.

Payment for institutions according to budgets agreed to in advance—prospective budgeting.

Specific standards for health institutions and health professionals qualified for reimbursement under the maternal and child health programs.

Second consultation for certain surgical procedures.

Financing through payroll taxes and general revenues.

A $93 million grant, contract and loan guarantee program designed to foster the development of group practices for the delivery of comprehensive maternal and child health care.

Medical malpractice reinsurance for claims brought against such a comprehensive maternal and child health group practice; $30,000,000 is authorized for health professions educational programs related to providing health care through comprehensive maternal and child health group practices.

Special consideration for assignment of National Health Service Corps personnel to those practicing in comprehensive maternal and child health practices.

The measure I introduce today builds upon, modifies, strengthens and integrates the bills introduced separately by Representatives JAMES H. SCHEUER and ANDREW MAGUIRE.

The bill establishes a mechanism for

the incorporation of preventive medicine into the health care delivery system.

Medical and related health professional services are reoriented from episodic illness care, to a responsibility for health maintenance.

That prevention concept is encompassed in the bill in three ways:

First, the benefit package covers fully all preventive care and early disease detection, in order to facilitate appropriate careseeking by mothers and children, who stand to gain the most from timely access to the healh care system.

Second, incentives are established for both physician and patient, to provide and seek care respectively in organized group practice settings.

Third, the appropriate organizational arrangements facilitated by the bill authorize a creative Federal reimbursement policy for physicians and a wide range of other providers, such as health educators or nurses in extended roles, who may make the difference in preventive care.

Healthy mothers and healthy children represent the fruits of truly preventive health services that are rendered at a crucial time during the human life cycle. Therefore, the children and mothers of our Nation cannot wait for the promise of national health insurance—a promise which has been on legislative agenda for too long a time. I believe the time is now for the Congress to be the effective advocate for the health and well being of the mothers and children. It is time to invest together in our Nation's future.

EXHIBIT 1

S. 370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

SHORT TITLE

SECTION 1. This Act with the table of contents may be cited as the "National Health Insurance for Mothers and Children Act.".

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FINDINGS AND DECLARATIONS OF PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the mothers and children of this Nation are the foundation of its future strength, productivity, and prosperity;

(2) adequate health care for mothers and children is essential to safeguard this precious resource; and

(3) adequate medical care for pregnant women and children has the greatest potential for improving the health status of the general population.

(b) The purpose of this Act is—

(1) to establish a system of national health insurance and health care benefits for children and pregnant women residing in the United States;

(2) to increase the access of such individuals to health care, to enhance its quality, and to emphasize the prevention of disease as well as the treatment of illness; and

(3) to improve the efficiency and the use of resources and to restrain the increasing costs of maternal and child health care, while providing fair and reasonable compensation to those who furnish it.

FREE CHOICE BY PATIENT AND PRACTITIONER

SEC. 3. The administration of this Act shall not interfere with the freedom of any physician to choose to whom health care will be provided by the physician or any patient to choose the physician from whom they will receive health care.

OBSERVANCE OF RELIGIOUS BELIEFS

SEC. 4. Nothing in this Act shall be construed to authorize the Secretary or the Board (or any of their agents or employees) to compel any person to undergo any medical screening, examination, diagnosis, or treatment, or to accept any other health care services provided under this Act for any purpose; and the participation by any individual in health care provided under this Act shall be wholly voluntary

TITLE I—GENERAL PROVISIONS AND ADMINISTRATION

PART A—GENERAL PROVISIONS

DEFINITIONS

SEC. 101. For the purposes of this Act, the term—

(1) "Secretary" means the Secretary of Health, Education, and Welfare;

(2) "Board" means the Maternal and Child Health Board established by section 111;

(3) "child" means an individual from the time of birth to the age of eighteen years;

(4) "woman" means a female during pregnancy and during the twelve weeks immediately following her pregnancy;

(5) "Council" means the National Maternal and Child Health Council established by section 121;

(6) "covered service" means a health care

service or item described in title II for which payment may be made in accordance with title III of this Act;

(7) "alien lawfully admitted for permanent residence" includes an alien permanently residing in the United States under color of law and an alien who is lawfully present in the United States as a result of the application of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act; and

(8) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territory of the Virgin Islands, Guam, and American Samoa.

ELIGIBILITY FOR BENEFITS

SEC. 102. (a) Every individual—

(1) who is a citizen of the United States or an alien lawfully admitted for permanent residence, and

(29) who is a child or who is pregnant, shall be eligible to have payment made for health care services received by such individual in accordance with the provisions of this Act.

(b) Any female individual who is described in subsection (a)(1) shall be eligible to have payment for health care services received by such individual in order to determine whether or not such individual is pregnant, in accordance with the provisions of this Act.

PART B—ADMINISTRATION

ESTABLISHMENT OF THE MATERNAL AND CHILD HEALTH BOARD

SEC. 111. (a) There is hereby established in the Department a Maternal and Child Health Board to be composed of five members to be appointed by the President, by and with the consent of the Senate. During his term of membership on the Board, no member shall engage in any other business, vocation, or employment. Not more than two members of the Board shall be members of the same political party.

(b) Each member of the Board shall hold office for a term of five years except that—

(1) a member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term, and

(2) the terms of office of the members first appointed shall expire, as designated by the President at the time of their appointment, at the end of one, three, and five years, respectively, after the date of enactment of this Act.

A member who has served for two consecutive five-year terms shall not be eligible for reappointment until two years after he has ceased to serve.

(c) The President shall designate one of the members of the Board as Chairman of the Board.

DUTIES OF THE BOARD

SEC. 112. (a) In addition to the specific duties given the Board under this Act, the Board shall—

(1) except as specifically provided under this Act, have the duty of administering titles II and III of this Act (relating to nature and scope of benefits and administration and method of payment of benefits under this Act), and

(2) have the general duty of continuously studying the operation of this Act and of the most effective methods of providing comprehensive personal health services to mothers and children in the United States, and of making recommendations on legislation and matters of administrative policy with respect thereto.

(b) The Board shall make an annual report to the Congress on the administration of the functions with which it is charged. The report shall include, for periods prior to the effective date of health benefits, an evaluation by the Board of the progress in preparing for the initiation of benefits under this Act, of the adequacy and quality of services furnished under it, of the adequacy of compensation to the providers of services, of the costs of the services and the effectiveness of measures to control such costs, of its coordination with the National Council on Health Planning and Development established under the Public Health Service Act and of detailed comments respecting disapproval of any Maternal and Child Health Council recommendations.

(c) The Secretary shall make available to the Board all information available to him from sources within the Department or from other sources, pertaining to the functions and duties of the Board.

EXECUTIVE DIRECTOR, EMPLOYMENT OF STAFF, AND DELEGATION OF AUTHORITY

SEC. 113. (a) There is hereby established the position of Executive Director of the Maternal and Child Health Board. The Executive Director shall be appointed by the Board with the approval of the Secretary and shall perform such duties in the administration of this Act as the Board assigns.

(b)(1) The Board is authorized to employ such individuals, in accordance with the provisions of title 5, United States Code, as may be necessary to carry out its functions under this Act.

(2) To the extent it deems it consistent with the purposes of this Act and its duties under this Act, the Board may employ such hearing examiners as it determines to be necessary to promote the resolution of disputes over—

(1) an individual's eligibility for covered benefits under section 102;

(2) the qualifications of institutions, under section 202;

(3) the appropriatness of a fee payment schedule, prospective rate schedule, wholesale cost schedule, or dispensing fee schedule established under title III;

(4) the reasonableness of payments for special population benefits, under section 333; or

(5) violation of an agreement required under section 307 or the requirements of title III under section 307.

(c) The Board is authorized to delegate to the Executive Director, to any other officer or employee of the Board, or, with the approval of the Secretary, to any other officer or employee of the Department, any of its functions or duties under this Act, other than the issuance of regulations.

REGULATIONS OF AND SUBPOENAS BY THE BOARD

SEC. 114. (a) The Board shall prescribe such regulations as may be necessary to carry out its duties under this Act.

(b)(1) For the purpose of any hearing, investigation, or other proceeding authorized under this Act, the Board may issue subpoenas requiring persons any place in the United States to attend and testify as witnesses at the designated place of such hearing, investigation, or other proceeding, and to produce any evidence that relates to any matter under investigation or in question before the Board. Subpoenas of the Board shall be served by anyone authorized by it by delivering a copy thereof to the person named therein, or by mailing a copy by registered mail or by certified mail addressed to such individual at his last dwelling place or principal place of business. A verified return by the individual so serving the subpoena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post office receipt therefor signed by the person so served, shall be proof of service. Witnesses so subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(2) In case of contumacy by, or refusal to obey a subpoena duly served upon, any person, any district court of the United States for the judicial district in which such person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Board, shall have jurisdiction to issue an order requiring such person to appear and give testimony, or to appear and produce evidence, or both; any failure to obey such order of the court may be punished by such court as contempt thereof.

FUNDS FOR THE EVALUATION OF THE MATERNAL AND CHILD HEALTH CARE PROGRAM

SEC. 115. (a) The Secretary shall allocate to the Office of Research and Statistics of the Social Security Administration an amount equal to one-tenth of 1 per centum of the total amount of payments made under this Act for the purpose of evaluating the operation of this Act and the impact of such operation on existing private health insurance programs.

(b) Not less often than annually, such Office shall report to the Secretary, to the Board, and to the Congress on the operation of this Act and shall include in such report any recommendations for changes in the operation of this Act.

PART C—ADVISORY COUNCIL

ESTABLISHMENT OF NATIONAL MATERNAL AND CHILD HEALTH COUNCIL

SEC. 121. (a) There is hereby established a National Maternal and Child Health Council, which shall consist of the Chairman of the Board, who shall serve as Chairman of the Council, and ten members, not otherwise in the employ of the United States, appointed by the Secretary, on recommendation of the Board, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, as follows:

(1) not less than six individuals who—

(A) are not engaged in and have no financial interest in the furnishing of any health services,

(B) as a result of their training, experience or attainments are exceptionally well qualified as representatives of consumers of maternal and child health care services,

(C) as a result of their training, experience or attainments are exceptionally well qualified and familiar with the health care needs of mothers and children, and

(D) as a result of their training, experience or attainments are exceptionally well qualified and experienced in dealing with problems associated with the obtaining of maternal and child health care services; and

(2) not more than four individuals who—

(A) as a result of their training, experience or attainments are exceptionally well qualified in fields related to medical, hospital, or other health activities, or

(B) as a result of their training, experience or attainments are exceptionally well qualified and representative of organizations or associations of professional health personnel.

(b) Each member of the Council shall serve for a term or five years, except that—

(1) any member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term; and

(2) the terms of members first appointed shall expire, as designated by the Secretary at the time of their appointment, two at the end of the first year, two at the end of the second year, two at the end of the third year, two at the end of the fourth year, and two at the end of the fifth year after the date of enactment of this Act.

DUTIES OF COUNCIL

SEC. 122. (a) The Council shall—

(1) advise the Board on matters of general policy in the administration of this Act, in the formulations of regulations, and in the performance of the Board's functions and duties,

(2) study the operation of this Act and the

use of maternal and child health care services under it, and

(3) recommend to the Board such changes in the administration of the provisions of the Act as it deems desirable.

(b) The Council shall make an annual report to the Board on the performance of its functions, including any recommendations it may have with respect thereto, and shall promptly transmit such report to Congress.

(c) The Council shall meet as frequently as the Board deems necessary, but not less than four times each year. Upon request of six or more members, it is the duty of the Chairman to call a meeting of the Council.

APPOINTMENT OF STAFF AND COMPENSATION

SEC. 123. (a) The Council is authorized to appoint such professional or technical consultants as may be necessary to carry out its duties.

(b) The Board shall provide such secretarial, clerical, and other assistance as the Council may require to carry out its duties under this Act.

(c) Members of the Council and technical or professional consultants, while serving or traveling on business of the Council, shall receive compensation at rates fixed by the Board, but not in excess of the equivalent of the daily rate paid under GS–18 of the general schedule under section 5332 of title 5, United States Code; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in Government service employed intermittently.

TITLE II—NATURE AND SCOPE OF BENEFITS

PART A—DEFINITIONS AND QUALIFICATIONS OF INSTITUTIONS

DEFINITIONS, GENERAL TERMS AND SERVICES

SEC. 201. For the purpose of this title and title III, the term—

(1) "physician" means a doctor of medicine, osteopathy, dentistry, optometry, or podiatry who is legally authorized to practice his or her profession in the State in which he or she performs such functions;

(2) "physician extender" means a physician assistant, dental auxiliary, nurse practitioner, or nurse mid-wife under the supervision of a physician whether or not performed in the office of such physician or at a place at which he or she is present if the individual may legally perform the services in the State in which the services are performed;

(3) "professional services" means medical services provided by a physician or physician extender and includes materials and supplies commonly furnished, without separate charge, by a physician or physician extender as an incident to the provision of such services;

(4) "preventive children's health services" means professional services the frequency and content of which are determined by the Board, after consultation with the Council, to be ordinarily necessary to maintain the health of a child and to prevent common illnesses, and may include medical and dental evaluations, immunizations, screening for vision and hearing defects, and appropriate health education;

(5) "inpatient services" means—

(A) bed and board;

(B) such nursing, medical, rehabilitative, and other services as are ordinarily furnished by a qualified hospital for the care and treatment of inpatients;

(C) such mental health services, including psychiatric and psychological services, only as are authorized pursuant to regulations established by the Board for the health of the child;

(D) drugs, biologicals, blood and blood products, supplies, appliances, and equipment for use in a hospital for the care and treatment of inpatients; and

(E) such other diagnostic and therapeutic items and services ordinarily furnished by a qualified hospital, or by others by arrangement with such hospital, to inpatients.

(6) "home health services" means nursing services and homemaking services, as defined by the Board;

(7) "diagnostic services" means tests for the purpose of providing information for the diagnosis, prevention, or treatment of any injury, disability, or disease or for the assessment of the health of an individual;

(8) "emergency medical care" means medical care for patients with a severe, life-threatening, or potentially disabling condition which requires medical intervention within minutes or hours after the onset of such condition; and

(9) "support services" means services described in section 233.

STANDARDS FOR QUALIFIED INSTITUTIONS

SEC. 202. For the purposes of this title and title III, the term—

(1) "qualified hospital" means a hospital which, as determined in accordance with section 203—

(A) provides diagnostic and therapeutic services to patients for a variety of medical conditions;

(B) maintains clinical records on all its patients;

(C) has published bylaws in effect with respect to the qualifications, rights, and responsibilities of its staff of physicians;

(D) shall not discriminate on any arbitrary ground unrelated to professional qualifications in the granting or maintaining of medical staff privileges;

(E) requires that every patient must be under the direct and personal care of a single physician;

(F) provides twenty-four-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times;

(G) has a pharmaceutical and drug therapeutics committee which establishes policies for the selection, acquisition, and use of drugs;

(H) has in effect a hospital utilization review plan which meets the requirements of title XVIII of the Social Security Act;

(I) meets all applicable requirements of the laws of the State and of the locality in which it is situated; and

(J) meets such other requirements as the Board finds necessary in the interest of the health and safety of the individuals who are furnished services in such institution.

(2) "qualified pediatric unit" means a unit in a qualified hospital which, as determined in accordance with section 203—

(A) is a separate unit in the hospital for the exclusive use of children;

(B) contains at least twelve beds;

(C) has an annual occupancy rate of at least 70 per centum;

(D) has no restrictions on visiting hours for parents and guardians except as medically required; and

(E) has a reasonable and adequate arrangement for overnight accommodation of the parent, guardian, or adult friend of a patient under the age of seven years.

(3) "qualified obstetrical unit" means a unit in a qualified hospital which, as determined in accordance within section 203—

(A) is a separate unit in the hospital for the exclusive use of obstetrical patients;

(B) has an average of at least—

(i) 500 deliveries annually if located in a rural area (as defined by the Board), or

(ii) 1,500 deliveries annually if not located in a rural area.

The Board may waive the required number of deliveries specified in subparagraph (B) (i) if it finds it in the best interest of the medical care of pregnant women in the area.

(4) "qualified nursing home" means an institution which, as determined in accordance with section 203—

(A) provides skilled nursing and related services to inpatients who are not being treated primarily for mental illness;

(B) has written policies, established and periodically reviewed by a group including at least one physician and at least one registered nurse, governing its furnishing of health services, including the dispensing and administering of drugs;

(C) has a full-time physician or full-time registered nurse supervising its furnishing of medical services;

(D) requires that every patient must be under the direct and personal care of a single physician;

(E) has a physician available to furnish emergency medical care;

(F) maintains clinical records on all its patients;

(G) has in effect a utilization review plan which meets the requirements of title XVIII of the Social Security Act;

(H) meets all applicable requirements of the laws of the State and of the locality in which it is situated;

(I) provides for examination of a patient by a physician within twenty-four hours of the time of his admission to it;

(J) provides for admission of a patient only after a certification by a physician that the patient requires care in such a facility;

(K) has a separate unit in the nursing home for the exclusive use of children; and

(L) meets such other requirements as the Board finds necessary in the interest of the health and safety of the individuals who are furnished services in such institution.

(5) "qualified home health agency" means an institution which, as determined in accordance with section 203—

(A) is a public or nonprofit organization, or subdivision thereof;

(B) provides skilled nursing, homemaker, home health and other medical and social services to assure patients' health and welfare in their homes;

(C) has written policies, established and periodically reviewed by a group including at least one physician and at least one registered nurse, governing its furnishing of services;

(D) has a full-time physician or full-time registered nurse supervising its furnishing of home health services;

(E) maintains clinical records on all its patients;

(F) meets all applicable requirements of the laws of the States and of the localities in which it furnishes services; and

(G) meets such other requirements as the Board finds necessary in the interest of the health and safety of the individuals who are furnished services in such institution.

(6) "qualified pathology laboratory" means a facility for the biological, microbiological, serological, chemical, immuno-hemotological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body, which meets all applicable requirements of the laws of the State and of the locality in which it is situated.

DETERMINATION OF QUALIFIED INSTITUTIONS

SEC. 203. (a) In determining the qualifications of an institution under section 202, the Board shall consult, pursuant to this section, with apppropriate State agencies, recognized national listing or accrediting bodies, and health systems agencies (established pursuant to title XV of the Public Health Service Act).

(b)(1) The Board shall delegate, to the extent that the Board finds it appropriate, to a State health agency or other appropriate State agency (hereinafter in this subsection

referred to as the "State health agency"), the function of determining whether or not an institution meets any or all of the qualifications of section 202.

(2) If the Board finds that accreditation of an institution by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, or any other national accrediting body provides reasonable assurance that any or all of the qualifications of section 202 are met, it may, to the extent it deems it appropriate, treat such institution or agency as meeting the qualification or qualifications with respect to which the Board made such finding.

(3) The Board may agree with the State health agency for such agency to survey—

(A) on a selective sample basis, or

(B) when the Board finds that a survey is appropriate because of substantial allegations of the existence of a significant deficiency or deficiencies, which, if found to be present, would adversely affect the health, welfare, or safety of patients,

any institution whose qualifications under section 202 are reviewed under subsection (b)(2) or section 303(a)(2)(A), and which has made an agreement with the Board pursuant to section 321(b)(3).

(4) No later than sixty days after the completion, pursuant to paragraph (1) or (3), of a survey by a State health agency of the qualifications of an institution under this Act, the Board shall publish the findings of each such survey in a readily available manner.

(c) The Board shall pay the State health agency for the reasonable cost of performing functions authorized under subsection (b).

PART B—CHILDREN'S BENEFITS

COVERED PROFESSIONAL SERVICES

SEC. 211. (a) Except as provided in subsection (b), covered professional services shall include—

(1) preventive children's health services, and

(2) professional services for the diagnosis, treatment, or rehabilitation of a child following injury, disability, or disease.

(b) For the purposes of this section, covered professional services do not include—

(1) orthodontic services for children except for handicapping malocclusion;

(2) professional dental services for children under the age of four years;

(3) major surgery on a child not performed by a surgeon eligible or certified by a surgical specialty board;

(4) a tonsillectomy or adenoidectomy performed on a child without a second consultation by an independent physician as to the necessity for such surgery;

(5) any diagnostic or therapeutic procedure performed on a child without a second consultation by an independent physician as to the necessity for such diagnostic or therapeutic procedure, where the Board determines a second consultation respecting such procedure is appropriate or necessary for the health and welfare of the child; and

(6) psychiatric services except as provided under section 216 or except such inpatient psychiatric services as authorized pursuant to regulations established by the Board for the health and welfare of the child.

COVERED INPATIENT HOSPITAL SERVICES

SEC. 212. (a) Except as provided in subsections (b) and (c), covered inpatient hospital services shall include—

(1) inpatient services for a child of any age in any qualified hospital where a physician certifies, in accordance with regulations established by the Board, that the child requires emergency medical care;

(2) inpatient services for a child under the age of twelve years in a qualified pediatric unit; and

(3) inpatient services for a child of twelve years or older in a qualified hospital.

(b) For the purposes of this section, covered services do not include the services of a private duty nurse or attendant.

COVERED NURSING HOME SERVICES

SEC. 213. (a) Except as provided in subsection (b), covered nursing home services shall include inpatient services for a child in any qualified nursing home.

(b) Covered nursing home services under this section are limited to 120 days of inpatient services annually, but not more than 60 consecutive days in any one quarter.

COVERED HOME HEALTH SERVICES

SEC. 214. (a) Except as provided in subsection (b), covered home health care services shall include home health care services furnished by a qualified home health agency, where a physician certifies, in accordance with regulations established by the Board, that such services are necessary for the health and welfare of a child.

(b) Covered home health care services under this section are limited to 120 days of home health care services annually, except it may be waived when the limitation will result in the physician certifying that such limitation will require institutionalization of the child in accordance with regulations established by the Board.

COVERED DIAGNOSTIC SERVICES

SEC. 215. Covered diagnostic services shall include diagnostic services performed by a qualified pathology laboratory for a child who is not an inpatient in a hospital or a nursing home.

COVERED REHABILITATIVE, SOCIAL, AND MENTAL HEALTH SERVICES

SEC. 216. (a) Except as provided in subsection (b), covered rehabilitative, social, and mental health services shall include—

(1) rehabilitative services, including physical therapy and speech therapy,

(2) social services, and

(3) mental health services, including psychiatric and psychological services,

furnished to a child who is not an inpatient in a hospital or nursing home, if furnished in a facility described in subsection (c), where a physician certifies, in accordance with regulations established by the Board, that such services are necessary for the health and welfare of a child.

(b) Covered rehabilitative, social, and mental health services under this section are limited as follows:

(1) rehabilitative services are limited to 60 visits, as defined by the Board, annually, and

(2) social and mental health services are limited to 60 visits, as defined by the Board, annually.

(c) A service described in subsection (a) is a covered service when furnished in a facility which—

(1) is run by a nonprofit or public organization, or subdivision thereof, and

(2) meets the applicable requirements of laws of the State and of the locality in which it is located.

COVERED DRUGS AND BIOLOGICALS

SEC. 217. (a) Covered drugs and biologicals shall include any drug or biological dispensed for use by a child who is not an inpatient in a hospital or nursing home, if—

(1) such drug or biological is required, by section 503(b) of the Federal Food, Drug, and Cosmetic Act, to be dispensed only upon prescription of a physicians; and

(2) such drug or biological is prescribed to be taken by such child for a period of longer than ten therapeutic days.

(b) Covered drugs and biologicals shall also include insulin dispensed for use by a child who is not an inpatient in a hospital or nursing home.

COVERED DEVICES, APPLIANCES, AND EQUIPMENT

SEC. 218. (a) Except as provided in subsection (b), covered devices, appliances, and equipment shall include—

(1) the dispensing of such devices for the correction of the vision or hearing of a child, and

(2) the dispensing of such other medical devices, appliances, and equipment for the treatment or rehabilitation of a child following injury, disability, or disease, as a physician certifies, in accordance with regulations established by the Board, to be necessary for the health and welfare of such child.

(B) The Board may, by regulation, exclude from covered devices, appliances, and equipment under subsection (a) the dispensing of such devices, appliances, and equipment as the Board determines to be ineffective, unreliable, unvalidated or not cost-justified in the prevention, treatment or rehabilitation of child injury, disability, or disease.

PART C—MATERNITY BENEFTS

COVERED PROFESSIONAL SERVICES

SEC. 221. Covered professional services shall include professional services—

(1) for the diagnosis and treatment of pregnancy, and

(2) for the diagnosis and treatment of any injury, disability, or disease during pregnancy, and

(3) for the diagnosis and treatment of any injury, disability, or disease related to pregnancy during the period of twelve weeks immediately following the pregnancy.

COVERED INPATIENT HOSPITAL SERVICES

SEC. 222. (a) Except as provided in subsection (b), covered inpatient hospital services shall include—

(1) inpatient services for a woman during pregnancy in any qualified hospital where a physician certifies, in accordance with regulations established by the Board, that the woman requires emergency medical care;

(2) inpatient services in a qualified hospital for a woman during the period of twelve weeks immediately following her pregnancy where a physician certifies in accordance with regulations established by the Board, that the woman requires emergency medical care for the diagnosis or treatment of any injury, disability, or disease related to pregnancy; and

(3) inpatient services for a woman during pregnancy in any qualified obstetrical unit.

(b) For the purposes of this section, covered inpatient hospital services do not include the services of a private duty nurse or attendant.

COVERED DIAGNOSTIC SERVICES

SEC. 223. (a) Covered diagnostic services shall include diagnostic services performed by a qualified pathology laboratory—

(1) for a woman during pregnancy, and

(2) for a woman during the period of twelve weeks immediately following the pregnancy,

if such woman is not an inpatient in a hospital or in a nursing home.

(b) Covered diagnostic services shall include diagnostic services performed by a qualified pathology laboratory to determine whether or not a woman is pregnant.

COVERED DRUGS AND BIOLOGICALS

SEC. 224. Covered drugs and biologicals shall include any drug or biological dispensed for use by a woman during pregnancy or during the period of twelve weeks immediately following her pregnancy, if such woman is not an inpatient in a hospital or nursing home, and if—

(1) such drug or biological is required, by section 503(b) of the Federal Food, Drug, and Cosmetic Act, to be dispensed only upon prescription of a physician, and such drug or biological is prescribed to be taken by such

woman for a period of longer than ten therapeutic days, or

(2) such drug is insulin.

COVERED DEVICES, APPLIANCES, AND EQUIPMENT

SEC. 225. (a) Except as provided in subsection (b), covered devices, appliances, and equipment shall include the dispensing of such devices, appliances, and equipment as a physician may certify, in accordance with regulations established by the Board, as required for the treatment of a woman for any condition related to pregnancy during pregnancy or during the period of twelve weeks immediately following her pregnancy.

(b) The Board may, by regulation, exclude from covered devices, appliances, and equipment under subsection (a) the dispensing of such devices, appliances, and equipment as the Board determines to be ineffective, unreliable, unvalidated, or not cost-justified in the treatment of a condition related to pregnancy.

PART D—SPECIAL POPULATION BENEFITS

PURPOSE

SEC. 231. The purpose of this part is to furnish additional covered support services to individuals residing in inaccessible areas or who are otherwise unlikely to use the other services covered under this Act in order to promote the appropriate use of services under this Act by all individuals, regardless of race, income, health status, or location of residency

SPECIAL POPULATION

SEC. 232. (a) The Board to the maximum extent feasible shall arrange for the furnishing of the covered support services, described in section 233, to individuals—

(1) who reside in a health manpower shortage area, as determined by the Board, or

(2) who, because of poverty, discrimination, or cultural barriers, are determined by the Board to suffer a higher risk of infant and maternal morbidity and mortality than other individuals.

(b) For the purposes of subsection (a), the term "health manpower shortage area" means—

(1) an area in an urban or rural area (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health care) which the Board determines has a health manpower shortage, or

(2) a population group which the Board determines has such a shortage.

COVERED SUPPORT SERVICES

SEC. 233. (a) Covered support services shall include, with respect to an individual described in section 232(a)—

(1) transportation of such individual (and, if such individual is a child, the parent or guardian of such child) to and from a person furnishing covered services to such individual under this Act;

(2) care of a dependent while such individual is being furnished covered services under this Act;

(3) social outreach assistance to inform such individual about and to assist such individual in receiving covered services furnished under this Act; and

(4) such similar services provided on behalf of such individual as the Board determines as necessary and appropriate to the purposes of this part,

if such services are provided by a person described in subsection (b).

(b) A support service described in subsection (a) is a covered service when furnished—

(1) under the supervision of a qualified institution, or

(2) by or under the supervision of a public or private nonprofit organization determined by the Board to have the organizational and financial capability to furnish such service on a dependable and fiscally responsible basis.

TITLE III—ADMINISTRATION AND METHOD OF PAYMENT OF BENEFITS

PART A—ADMINISTRATION AND GENERAL PROVISIONS

DEFINITIONS

SEC. 301. For the purposes of this title, the term—

(1) "carrier" means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization;

(2) "fee payment area" means an area designated by the Secretary, pursuant to section 1152(a) of the Social Security Act (42 U.S.A. 1320c–1), as appropriate with respect to the establishment of Professional Standards Review Organizations;

(3) "fee payment schedule" means a schedule, approved in accordance with section 312, of the amount of payments for the provision under this Act of various covered professional services;

(4) "covered institutional services" means—

(A) covered inpatient hospital services,

(B) covered nursing home services,

(C) covered home health care services,

(D) covered rehabilitative, social, and mental health services, and

(E) covered diagnostic services;

(5) "qualified institution" means—

(A) a qualified hospital,

(B) a qualified nursing home,

(C) a qualified home health agency,

(D) a facility described in section 216(a)(3), and

(E) a qualified pathology laboratory;

(6) "prospective rate schedule" means a schedule, approved in accordance with section 322, of the amount of payments for the provisions under this Act of various covered institutional services; and

(7) "person" includes a qualified institution.

DELEGATION OF SECRETARY'S AUTHORITY

SEC. 302. To the extent he deems it consistent with the purposes of this Act, the Secretary may delegate his authority for the administration of the system of payments or eligibility for benefits provided for in this title to the Administrator of the Social Security Administration.

USE OF CARRIERS FOR ADMINISTRATION OF BENEFITS

SEC. 303. (a) In order to provide for the administration of the benefits under this Act with maximum efficiency and convenience for individuals eligible for benefits under this Act and for persons furnishing services to such individuals, the Secretary is authorized, after consultation with the Board, to enter into contracts with carriers as defined in section 301(i) to perform some or all of the following functions (or, to the extent provided in such contracts, will secure performance thereof by other organizations)—

(1)(A) determine the amounts of payments required to be made under this Act;

(B) receive, disburse, and account for funds in making such payments;

(C) assist persons furnishing services under this Act in establishing and maintaining fiscal records necessary for purposes of this Act; and

(D) make such audits of the records of persons furnishing services as may be necessary to assure that proper payments are made under this Act;

(2)(A) determine compliance with the qualifications of section 202, and

(B) assist persons who furnish services for which payment may be made under this Act, in the development of procedures relating to utilization practices, make studies of the effectiveness of such procedures and methods for their improvement, assist in the application of safeguards against unnecessary utilization of services furnished by persons to individuals eligible for benefits under this Act, and provide procedures for and assist in arranging where necessary, the establishment of groups outside hospitals (meeting the requirements of section 1861(k)(2) of the Social Security Act) to make reviews of utilization;

(3) serve as a channel of communication of information relating to the administration of this Act; and

(4) otherwise assist, in such manner as the contract may provide, in discharging administrative duties necessary to carry out the purposes of this Act.

(b)(1) Contracts with carriers under subsection (a) may be entered into without regard to section 3709 of the Revised Statutes or any other provision of law requiring competitive bidding.

(2) No such contract shall be entered into with any carrier unless the Secretary finds that during the year 1976 at least 3 percent of the total dollar value of health insurance outstanding in the United States was written or underwritten by such carrier.

(3) No such contract shall be entered into with any carrier unless the Secretary finds that such carrier will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

(c) Each such contract shall provide that—

(1) where the carrier has agreed to make payments under this Act—

(A) the carrier shall establish and maintain procedures by which a person furnishing services covered under this Act will be granted an opportunity for a fair hearing by the carrier, in any case where the amount in controversy is $100 or more—

(i) when requests for payment for such services under this Act are denied or are not acted upon with reasonable promptness, or

(ii) when the amount of such payments is in controversy;

(B) the carrier shall use such standard forms and procedures for requests for payment as the Board may prescribe to minimize administrative work of physicians and others furnishing services covered under this Act;

(C) the Secretary shall advance funds to the carrier for the making of payments under this Act; and

(2) the carrier shall furnish to the Secretary such timely information and reports as he may find necessary in performing his functions under this Act; and

(3) the carrier shall maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under paragraph (2) and otherwise to carry out the purposes of this Act;

and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appropriate.

(c)(1) Except as provided in paragraph (2), each contract shall be for a term of at least two years, and may be made automatically renewable from term to term in the absence of notice by either party of its intention not to renew the contract at the end of the current term.

(2) Each contract may be terminated—

(A) by the carrier at such time and upon such notice to the Secretary, to the Board,

to the public, and to persons furnishing services under this Act, as the Secretary establishes by regulation, and

(B) by the Secretary at any time, after such reasonable notice to the carrier, the Board, the public, and to persons furnishing services under this Act and after such opportunity for a hearing to the carrier as the Secretary establishes by regulation, if the Secretary finds that—

(i) the carrier has failed substantially to carry out the contract, or

(ii) the carrier is carrying out all or some of the duties provided for in the contract in a manner inconsistent with the effective and efficient administration of this Act.

(d)(1) Any contract with a carrier under this section may require such carrier or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

(2) No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States be liable with respect to any payments certified by him under this section.

(3) No individual designated pursuant to a contract under this section as a disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by an individual designated pursuant to a contract under this section as a certifying officer.

(4) No such carrier shall be liable to the United States for any payments referred to in paragraph (2) or (3).

LIMITATION ON PAYMENTS

SEC. 304. (a) Payment for a covered service furnished under this Act may be made only—

(1) to the person furnishing such service,

(2) to the employer of such person, if such person has an agreement to turn over such payments to his employer, or

(3) to the facility in which such service was provided, if there is an agreement between such person and facility under which the facility receives payments for such person's services.

(b) No payment may be made for covered institutional services furnished by a person prior to the Board's determination that such person is a qualified institution.

COPAYMENT FOR CERTAIN COVERED SERVICES

SEC. 305. (a) The Secretary shall pay 100 per centum of the full payment amount if—

(1) such covered service is other than one of the following:

(A) a home health service;

(B) a covered device, equipment, or appliance, described in section 218 or 225; or

(C) a covered professional service, other than preventive children's health services, furnished to a child; or

(2) such covered service is furnished under a fee schedule described in section 312(a)(2) (relating to capitation methods); or

(3) the individual to whom such covered service is furnished (or, if the individual is a child, the parent or guardian of such child)—

(A) has an income below the poverty level, as determined by the Board, or

(B) is eligible in the State in which he resides for any benefits under title XIX of the Social Security Act (relating to medicaid).

(b) Except as provided in subsection (a), the Secretary shall pay 90 per centum of the full payment amount.

(c) For the purposes of this section, the term "full payment amount" means the amount specified in a schedule established pursuant to this title as representing full payment for the furnishing of any covered service.

SIMPLIFIED REQUEST FOR PAYMENT PROCEDURES

SEC. 306. The Secretary and the Board shall provide, to the extent consistent with the efficient administration of this Act, for the consolidation and standardization of simple forms and procedures which a physician, physician extender, or qualified institution must complete in order to request and receive payment for furnishing covered professional and institutional services under this Act.

PROHIBITIONS OF AND CONDITIONS FOR PAYMENTS

SEC. 307. (a) If the Board determines, after a hearing, held in accordance with subchapter II of chapter 5 of title 5, United States Code (Administrative Procedure Act), that a person furnishing covered services under this Act has—

(1) substantially or consistently violated the terms of an agreement required under the provisions of this title, or

(2) has substantially or consistently violated requirements for such person under this title,

the Board may prohibit, for such period, not to exceed one year, as it may deem appropriate, the making of any payments under this Act with respect to the furnishing of covered services by such person after the determination by the Board.

(b) If the Board determines, after a hearing held in accordance with subchapter II of chapter 5 of title 5, United States Code (Administrative Procedure Act), that a person furnishing covered services under this Act has violated an agreement containing the provisions of section 311(c)(2), 311(d)(1)(A), 311(d)(2), 321(b)(2), 321(c)(2), 332(c)(2), or 332(d)(1), the Board may require, as a condition for such person having payments made under this Act for services furnished after the date of such determination, that such person provide an appropriate arrangement for the refunding of those fees and charges which were collected in violation of the applicable provisions of such sections.

PART B—PAYMENT FOR COVERED PROFESSIONAL SERVICES

GENERAL PROVISIONS

SEC. 311. (a) Payments shall be made by the Secretary for the furnishing of covered professional services in accordance with part A of this part.

(b)(1) In accordance with procedures established by the Secretary, after consultation with the Board, any person intending to request payment for its furnishing of covered professional services under this Act shall notify the Secretary of such intention at least thirty days prior to submittal of the first request for payment for such person.

(2) The Board shall make available, in such manner and form and at such times as the Board may consider appropriate, to the public the name, address, and telephone number of each person who has filed, pursuant to paragraph (1), notice of his intent to request payment for the furnishing of covered professional services under this Act.

(c) Any person furnishing covered professional services who intends to request payment under this Act for furnishing such services shall —

(1) display, in a manner prescribed by the Board, public notice of its participation in the program under this Act; and

(2) inform each patient (or if the patient is a child, the parent or guardian of such patient), prior to the furnishing of such services, the amount of any co-payment the patient (or parent or guardian of such patient) must make for services.

(d)(1) No payment shall be made pursuant to this Act to a person furnishing a covered professional service unless that person agrees—

(A) except as provided in section 313, to accept the amount specified in the appropriate fee payment schedule, established in accordance with section 312, as full payment for such services.

(B) to provide such information, as the Secretary may require by regulation, to verify the service or services furnished.

(2) No payment shall be made pursuant to a fee payment schedule described in section 312(a)(2) (relating to capitation payments) unless the person receiving payment pursuant to such schedule furnishes in an appropriate manner, determined by the Board, all services covered under such schedule, or has arranged, in an appropriate manner, determined by the Board, for furnishing of of all such services as it is not qualified to furnish.

(e)(1) Timely payment under this Act based on a fee payment schedule described in section 312(a)(1) (relating to fee for service) shall be made in accordance with this Act after furnishing of the service covered in such schedule.

(2) Timely payment under this Act based on a fee payment schedule described in section 312(a)(2) (relating to capitation fees) shall be made in such a manner, to be determined by the Board, as to reflect the timing of normal furnishing of services to individuals receiving the care described in such section under this Act.

APPROVAL OF FEE PAYMENT SCHEDULES

SEC. 312. (a) In accordance with this section, the Board shall approve for each fee payment area a schedule of the amount of payments to be made under this Act for the furnishing of various covered professional services, and shall include—

(1) a fee payment schedule for the furnishing of individual services, and

(2) a fee payment schedule for the payment—

(A) of a single amount for the furnishing of prepaid pediatric care (as defined in subsection (f)(1)) for a period of not less than one year, as specified by the Board, and

(B) of a single amount for the furnishing of prepaid maternity care (as defined in subsection (f)(2)).

(b) For the purposes of this section, the Board shall designate for each fee payment area a fee payment board (hereinafter in this section referred to as the "fee payment board") which shall be—

(1) a nonprofit organization (or component thereof),

(2) composed of individuals furnishing covered professional services in such area, and

(3) open for membership to all individuals furnishing such professional services in such area.

(c) Each fee payment board shall submit to the Board a proposed fee payment schedule no later than 18 months after the date of enactment of this Act. Each such board may submit to the Board a proposed revision of such schedule once every year and at such other times as the Board, after consultation with the Secretary, may deem appropriate to the administration of this Act.

(d)(1) The Board shall approve a proposed fee payment schedule or a proposed revision thereof if it finds that such schedule or revision, except as provided in paragraph (2), reflects the prevailing fee for service or services in the fee payment area as of December 31, 1974, as adjusted according to such economic index or indices as the Board determines to be appropriate.

(2) A fee schedule described in subsection (a)(2) (relating to capitation payments) may provide for the payment of an amount, not to exceed by more than 10 per centum the amount otherwise payable under this subsection, in addition to the amount otherwise payable under this subsection.

(3) Where a fee payment schedule has not been proposed for a fee payment area, or

where the Board does not approve a proposed schedule, the Board shall approve as a fee payment schedule for such area—

(A) a schedule which reflects an approved schedule for an area similar in economic characteristics to the area involved, or

(B) where the Board determines that an area of similar economic characteristics does not exist, a schedule which, except as provided in paragraph (2) of this subsection, reflects the prevailing fee for service or services in the fee payment area as of December 31, 1974, as adjusted according to such economic index or indices as the Board determines to be appropriate.

(4) No later than one month approval of a proposed schedule, and within one month after approval of a schedule, the Board shall publish notice of such schedule in the fee payment area covered by such schedule.

(e) Persons adversely affected by the Board's approval or disapproval of a fee payment schedule under this section may seek review of such approval or disapproval under the procedures provided in subchapter II of chapter 5 of title 5, United States Code (Administrative Procedure Act).

(f) As used in this section, the term—

(1) "prepaid pediatric care" means coverd professional services under section 211 including—

(A) preventive children's health services, and

(B) such other health services as may be determined by the Board as appropriate for the diagnosis and treatment of common pediatric conditions; and

(C) evidence of arrangements for the referral for diagnosis or treatment of other than common pediatric conditions, pursuant to regulations established by the Board.

(2) "prepaid maternity care" means covered professional services under section 221 including—

(A) such professional services as the Board determines are ordinary and appropriate in a normal maternity case, and

(B) evidence of arrangements for the referral for diagnosis or treatment of other than normal maternity care, pursuant to regulations established by the Board.

DEMONSTRATION METHODS OF PAYMENT

SEC. 313. (a) In lieu of payment pursuant to section 312, a fee payment board may propose and the Board may approve, on an experimental or demonstration basis for a period not to exceed two years, a method of payment for covered professional services furnished under this Act, if the Board determines that the total amount of payments under such method will not exceed the total amount of payments which would otherwise be made under this applicable fee payment schedule.

(b) The Board shall report to Congress on the results of any experiments or demonstrations under subsection (a), and include in such report such recommendations for changes in the methods of payment under this Act as the Board determines are appropriate.

PART C—PAYMENT FOR COVERED INSTITUTIONAL SERVICES

GENERAL PROVISIONS

SEC. 321. (a) Payments shall be made on a timely basis and in accordance with part A and this part by the Secretary for covered institutional services.

(b) No payment shall be made under this Act to a qualified institution furnishing covered institutional services unless such institution—

(1) has submitted and has had approved by the Board a prospective rate schedule, in accordance with section 322;

(2) agrees to accept the amount specified in such schedule as full payment for such services; and

(3) agrees to provide such information, as the Secretary may require by regulation, to verify its qualifications as a qualified institution and to verify the services furnished under this Act.

(c) Any qualified institution which has had a prospective rate schedule, for its furnishing of covered institutional services, approved pursuant to section 322, and which intends to request payment under this Act for furnishing such services shall—

(1) display, in a manner prescribed by the Board, public notice of its participation in the program under this Act, and

(2) inform each patient (or if patient is a child, the parent or guardian of such patient), prior to the furnishing of such services, the amount of any copayment the patient (or parent or guardian of such patient) must make for such services.

APPROVAL OF PROSPECTIVE RATE SCHEDULES

SEC. 322. (a)(1) The Board, after consultation with the Secretary, qualified institutions, carriers, and other interested parties and organizations, shall establish one or more methods (hereinafter in this section referred to as "methods"), which satisfy the criteria of subsection (b), for the establishment of a prospective rate schedule for the payment of qualified institutions furnishing covered institutional services under this Act.

(2) The Board may modify or eliminate a method or methods established under paragraph (1) where it determines, after consultation with qualified institutions which have submitted to the Board a proposed prospective rate schedule based on such method, and with the Secretary, carriers, and other interested parties and organizations, that—

(A) such method or methods are inconsistent with the provisions of subsection (b), or

(B) are inconsistent with the efficient administration or purposes of this Act.

(3) Any modification or elimination of a method or methods pursuant to paragraph (2) shall take effect, with respect to a qualified institution which has submitted to the Board a proposed prospective rate schedule based on such method, no earlier than six months after the Board has notified such institution of such modification or elimination of such method or methods.

(b) Any method established by the Board pursuant to subsection (a) for payment of qualified institutions for furnishing covered institutional services shall provide—

(1) for the establishment of rates of payments for such services in advance of the time when such services are furnished and without regard to costs actually incurred in furnishing such services;

(2) for the revision of such rates no more frequently than once every year, unless the Board determines that more frequent adjustments are appropriate due to significant unforeseeable events, including—

(A) natural disasters and catastrophes,

(B) epidemics,

(C) major economic dislocations not under the control of the institution furnishing such services, and

(D) significant changes in patient mix not under the control of the institution furnishing such services;

(3) financial incentives for improved efficiency in the furnishing of such services by sharing savings with qualified institutions that perform at lower than anticipated costs;

(4) incentives for retrospectively validated improved quality in the furnishing of covered services;

(5) for a reasonable return on investment based on a rate of return on investment of comparable risk and computed at the time such prospective rate schedule is established; and

(6) for payment of such portion of the operation and administration (including the financing of capital improvements), of such qualified institution's program as is necessary for the furnishing of such services, and, if subject to review by a health systems agency under section 1513(a)(1)(A) of the Public Health Services Act, as has been approved by such agency.

(c) Each person who intends to request payment for the furnishing of covered institutional services pursuant to this Act—

(1) shall submit to the Board a proposed prospective rate schedule for the furnishing of such services based on a method established by the Board pursuant to this section, and

(2) may submit to the Board, after such schedule has become effective, a proposed revision of such schedule—

(A) once every year,

(B) when the Board modifies or eliminates a method, pursuant to subsection (a)(2), upon which such schedule has been based, and

(C) at such other times as the Board, after consultation with the Secretary, determines is consistent with subsection (b)(2) and is appropriate for the administration of this Act.

(d)(1) Unless the Board, no later than sixty days after the date of the submittal of a proposed prospective rate schedule or a proposed revision thereof, finds that such schedule or revision is inconsistent with a method established by the Board, such schedule or revision thereof shall become effective sixty days after the date of such submittal.

(2) No later than ten days after the date a proposed rate schedule or a revision thereof is submitted to the Board, the person submitting the proposal shall publish such proposed schedule or revision in such region affected by the proposal and in such a manner as the Board may determine is appropriate to carry out the purposes of this Act.

(e) Persons adversely affected by the Board's approval or disapproval of a prospective rate schedule or revision thereof under this section may seek review of such approval or disapproval under the procedures provided in subchapter II of chapter 5 of title 5, United States Code (Administrative Procedure Act).

PART D—PAYMENT FOR DRUGS, DEVICES, AND SPECIAL POPULATION BENEFITS

DEFINITIONS

SEC. 331. As used in this part, the term—

(1) "dispenser" means any person who has notified the Secretary, pursuant to section 332(b)(1), of his intention to request payment under this Act for the dispensing of covered drugs and devices; and

(2) "covered drugs and devices" means covered drugs and biologicals, and covered devices, appliances, and equipment.

PAYMENT FOR COVERED DRUGS AND DEVICES

SEC. 332. (a) Payments shall be made by the Secretary for the dispensing of covered drugs and devices in accordance with part A and this part.

(b)(1) In accordance with procedures established by the Secretary, after consultation with the Board, any person intending to request payment for its dispensing of covered drugs and devices under this Act shall notify the Secretary of such intention at least thirty days prior to submittal of the first request for payment for such person.

(2) The Board shall make available, in such manner and at such times as the Board may consider appropriate, to the public the name, address, and telephone number of each dispenser.

(c) Each dispenser shall—

(1) display, in a manner prescribed by the Board, public notice of its participation in the program under this Act; and

(2) inform each patient (or if the patient is a child, the parent or guardian of such

patient), prior to the dispensing of such drugs or devices, the amount of any copayment the patient (or the parent or guardian of such patient) must make for such drugs or devices.

(d) No payment shall be made pursuant to this Act to a dispenser unless that person agrees—

(1) to accept the amount specified in accordance with subsection (e), as full payment for the dispensing of such drug or device, and

(2) to provide such information, as the Secretary may require by regulation, to verify the drug or device dispensed.

(e) The amount of payment made under this Act for the dispensing of a covered drug or device shall be the sum of—

(1) the wholesale cost of such drug or device, as determined under the schedule adopted pursuant to subsection (f), and

(2) a fee for the dispensing of such drug or device (hereinafter in this section referred to as a "dispensing fee"), as determined under the schedule adopted pursuant to subsection (g).

(f)(1) The Board shall determine and publish, no less often than annually, a schedule of the wholesale cost of covered drugs and devices commonly dispensed under this Act, and shall establish by regulation procedures for determination of the wholesale cost of covered drugs and devices not commonly dispensed under this Act.

(2) The Board may provide in such schedule for variations in the wholesale cost to reflect differences in costs to a dispenser as a result of differences in size of the dispenser and differences in the regional location of the dispenser.

(g)(1) A dispenser requesting payment under this part shall submit to the Board, in a form prescribed by the Board, a proposed schedule of dispensing fees.

(2) Such schedule may be revised once every year and at such other times as the Board, after consultation with the Secretary, determines is consistent with the administration of this Act.

(3) The Board shall approve such proposed schedule or proopsed revision thereof unless, no later than sixty days after the submittal of such proposed schedule or of a proposed revision thereof, it finds that the dispensing fees in such schedule or revision are not in excess of a percentage of the schedule of wholesale costs (determined pursuant to subsection (f)) sufficient to compensate the dispenser for the reasonable costs of dispensing such drug or device.

(4) No dispensing fee shall be approved under this section if the dispenser is a physician, unless the Board determines that there is no dispenser (other than a physician) in the community in which such physician requests to dispense covered drugs or devices.

PAYMENT FOR SPECIAL POPULATION BENEFITS

SEC. 333. (a) Payments shall be made by the Secretary for the furnishing of covered support services in accordance with part A and this section.

(b) The Board shall establish mechanisms to reimburse to persons described in section 233(b) for the furnishing of covered support services in such reasonable amounts as the Board determines are necessary and appropriate for the efficient furnishing of such services.

TITLE IV—COMPREHENSIVE MATERIAL AND CHILD HEALTH PRACTICE

PART A—ASSISTANCE FOR COMPREHENSIVE MATERNAL AND CHILD HEALTH PRACTICE

FINDINGS AND DECLARARTION OF PURPOSE

SEC. 401. (a) The Congress hereby finds and declares that improving the provision and the delivery of health care to mothers and children is of critical importance and of the highest national priority and that present programs of health services do not provide for such continuing, efficient, and comprehensive health care, and lead to an unnecessary duplication of facilities, equipment, and personnel.

(b) It is the purpose of this title to provide financial and technical assistance through loans, grants, supplementary financing and otherwise to health service institutions and organizations which will stimulate and enable such institutions and organizations to plan, develop, and implement comprehensive maternal and child health practice.

SEC. 402. (a) For purposes of this title, the term "comprehensive maternal and child health practice" means a legal entity which is organized and operated in the following manner:

(1) Except for an entity which will provide medical services for special populations (as defined in section 232)—

(A) the entity shall provide medical services by at least five health professionals licensed to practice medicine or osteopathy;

(B) of the health professionals providing services for the entity, at least one-half or three, whichever is greater, shall be health professionals engaged in family practice or general pediatrics practice;

(C) the principal source of professional practice income for a majority of the health professionals shall be required to be derived from covered professional services provided through their relationship to the entity; and

(D) the entity providing medical services to a special population shall provide medical services through at least three health professionals who are licensed to practice medicine or osteopathy and two of whom are engaged in family practice or general pediatric practice.

(2) The entity shall offer a comprehensive range of pediatric obstetrical services reasonably expected to meet the majority of the medical needs of the women and children which it serves. These services shall include covered professional services (including consultant and referral services by a physician), medically necessary emergency health services, diagnostic laboratory services, and preventive health and health education services.

(3) The entity shall offer each of its patients a readily identifiable individual who shall either be a physician or other licensed or certified health professional and who shall be primarily responsible for continuity in the care provided the patient by the entity.

(4) The members of the entity shall share equipment, facilities, and professional, technical, and administrative personnel.

(5) The entity shall—

(A) maintain a unitary record system,

(B) provide for a system of assurance of the quality of medical care delivery through the entity,

(C) meet applicable standards of accreditation of the American Group Practice Association or the Council on Ambulatory Care of the Joint Commission on the Accreditation of Hospitals, and

(D) operate under a unitary administrative structure which includes billing services and opportunities for patients to register and resolve grievances regarding billing or the quality of medical care through the entity.

(6) The entity shall maintain an information program for the residents of its medical service area which fully discloses—

(A) the covered professional services offered through the entity, and

(B) the method by which patients of the entity may resolve grievances respecting billing for covered professional services or the quality of the covered professional services.

(7) The entity shall to the extent feasible use such additional professional personnel (including physician extenders'), allied health professions personnel and other health personnel (as specified in regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services to patients.

PRIORITIES FOR GRANTS AND CONTRACTS

SEC. 403. In providing any assistance under this title the Secretary shall give a priority to grants and contracts which will establish an entity that will provide "covered professional services" through a fee payment schedule defined under section 312(a)(2).

GRANTS AND CONTRACTS FOR FEASIBILITY SURVEYS

SEC. 404. (a) The Secretary may make grants to public and nonprofit private entities and enter into contracts with public and private entities for projects for surveys or other activities to determine the feasibility of—

(1) developing and operating comprehensive maternal and child health practices, or

(2) expanding significantly the operation of existing comprehensive maternal and child health practices.

(b) An application for a grant or contract under subsection (a) shall contain assurances satisfactory to the Board that, in conducting surveys or other activities with the assistance of a grant or contract under such subsection the applicant will cooperate with the health systems agency defined under section 1512 of the Public Health Service Act) whose health service area (defined in section 1511 of the Public Health Service Act) covers (in whole or in part) the area for which the survey or other activity will be conducted.

(c) Of the sums appropriated for any fiscal year under section 409 for grants and contracts under this section, not less than 20 percent shall be set aside and obligated each fiscal year for projects to determine the feasibility of developing and operating or expanding the operation of comprehensive maternal and child health practices which the Board determines may reasonably be expected to have after their development or expansion not less than two-thirds of their patients drawn from residents of special populations, defined in section 232.

GRANTS, CONTRACTS, AND LOAN GUARANTEES FOR PLANNING AND FOR INITIAL DEVELOPMENT COSTS

SEC. 405. (a) The Secretary may—

(1) make grants to public and nonprofit private entities and enter into contracts with public and private entities for planning projects for—

(A) the establishment of comprehensive maternal and child health practices, or

(B) the significant expansion of comprehensive maternal and child health practices; and

(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to private entities for planning projects for the establishment of comprehensive maternal and child health practices or for the significant expansion of comprehensive maternal and child health practices.

(b) The Secretary may—

(1) make grants to public and nonprofit private entities and enter into contracts with public and private entities for projects for the initial development of comprehensive maternal and child health practices; and

(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private entity for projects for the initial development of comprehensive maternal and child health practices.

(c) In considering applications for grants, contracts, or loan guarantees under subsection (a) or (b)—

(1) the Secretary may not approve such an application unless it contains or is supported by assurances satisfactory to the Secretary that, at the time the comprehensive maternal and child health practice for which

such application is submitted first becomes operational after its development or expansion, it will cooperate in the conduct of the studies authorized by part D; and

(2) the Secretary shall in addition to the priority established under section 403 give priority to an application which contains or is supported by assurances satisfactory to the Secretary that, at the time the comprehensive maternal and child health practice for which such application is submitted first becomes operational after its development or expansion, it will serve a special population.

(d)(1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under subsection (a) or (b) may not exceed such limitations as may be specified in appropriation Acts.

(2) Loan guarantees under subsection (a) or (b) may be made through the fiscal year ending September 30, 1980.

(3) The aggregate amount of principal of loans guaranteed under subsection (a) or (b) for any project may not exceed $1,000,000.

LOANS AND LOAN GUARANTEES FOR INITIAL OPERATION COSTS

SEC. 406. (a) The Secretary may—

(1) make loans to comprehensive maternal and child health practices to assist them in meeting the amount by which their operating costs in the period of the first thirty-six months of their operation exceed their revenues in that period;

(2) make loans to comprehensive maternal and child health practices to assist them in meeting the amount by which their operating costs, which the Secretary determines are attributable to significant expansion in patients served and which are incurred in the period of the first thirty-six months of their operation after such expansion, exceed their revenues in that period which the Secretary determines are attributable to such expansion; and

(3) guarantee to non-Federal lenders payment to the principal of and the interest on loans made to any private comprehensive medical practice for the amounts referred to in paragraph (1) or (2).

(b) In considering applications for loans or loan guarantees under subsection (a), the Secretary shall give special consideration to an application which contains or is supported by assurances satisfactory to the Secretary that the comprehensive maternal and child health practice for which the application is submitted will serve a special population.

(c)(1) The cumulative total of the principal of the loans outstanding at any time which have been directly made or with respect to which guarantees have been issued under subsection (a) may not exceed such limitations as may be specified in appropriation Acts

(2) Loans under subsection (a) shall be made from the fund established under section 408.

(3) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under subsection (a) may not exceed such limitations as may be specified in appropriation Acts

(4) Loans and loan guarantees under subsection (a) may be made through the fiscal year ending September 30, 1980.

ADMINISTRATION OF PART A

SEC. 407. (a) No grant, contract, loan, or loan guarantee may be made under this part unless an application therefor has been submitted to and approval by the Secretary.

(b) Payments under grants and contacts under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS

SEC. 408. (a)(1) The Secretary may not approve an application for a loan guarantee under this part unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this part.

(2) (A) The United States shall be entitled to recover from the applicant for a loan guarantee under this part the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this part (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this part shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this part will be achieved.

(b)(1) The Secretary may not approve an application for a loan under this part unless—

(A) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this part shall—

(A) have such security,

(B) have such maturity date,

(C) be repayable in such installments,

(D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this part, and

(E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this part while adequately protecting the financial interests of the United States.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reason of the failure of a borrower to make payments of principal of and interest on a loan made under this part, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c)(1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this part.

(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan. Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or as otherwise appropriate. Any such agreement may (A) provide that the Secretary shall act as agent of any such purchaser for the purpose of collecting from the borrower to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such organization under such loan; and (B) provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this paragraph.

(3) After any loan under this part to a public comprehensive maternal and child health practice has been sold and guaranteed under this subsection, interest paid on such loan which is received by the purchaser thereof (or his successor in interest) shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the loan fund established under subsection (e).

(d) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to discharge his responsibilities under loan guarantees issued by him under this part. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the funds. To the extent authorized in appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary in connection with loan guarantees under this part and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

(e) There is established in the Treasury a loan fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to make loans under this part. There shall also be deposited in the fund amounts received by the Secretary as interest payments and repayment of principal on loans made under this part and other property or assets derived by him from his operations respecting such loans, from the sale of loans under subsection (c) of this section, or from the sale of assets.

AUTHORIZATION OF APPROPRIATIONS

SEC. 409. (a) For payments under grants and contracts under sections 404(a)(1), 405(a)(1)(A), and 405(b) there are authorized to be appropriated $5,500,000 for the fiscal year ending September 30, 1978, $6,000,000 for the fiscal year ending September 30,

1979, and $7,000,000 for the fiscal year ending September 30, 1980.

(b) For payments under grants and contracts under sections 404(a)(2) and 405(a)(1)(B) there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1978, $25,000,000 for the fiscal year ending September 30, 1979, and $30,000,000 for the fiscal year ending September 30, 1980.

PART B—MEDICAL MALPRACTICE REINSURANCE PROGRAM FOR COMPREHENSIVE MATERNAL CHILD HEALTH EXPENSES

GENERAL AUTHORITY

SEC. 410. (a) The Secretary may, through an identifiable administrative unit within the Department of Health, Education, and Welfare, take such action as may be necessary to make available, in accordance with this part and subject to such regulation as the Secretary may prescribe, to insurance companies and other insurers and pools of insurance companies and other insurers reinsurance against the part of claims brought by any of their insureds which are comprehensive maternal and child health practices and arising out of medical malpractice which exceed $100,000.

(b) Reinsurance under subsection (a) shall be made available pursuant to contract, agreement, or any other arrangement, in consideration of such payment of a premium fee, or other charge as the Secretary finds necessary to cover anticipated claims and other costs of providing such reinsurance.

PAYMENT OF CLAIMS

SEC. 411. The Secretary shall establish the general method or methods by which proved and approved claims which are covered by reinsurance made available under this part may be adjusted and paid for.

USE OF EXISTING FACILITIES AND SERVICES

SEC. 412. In carrying out his responsibilities under this part, the Secretary may use—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States; and

(2) officers and employees of any executive agency (as defined in section 105 of title 5, United States Code) as the Secretary and the head of any such agency may from time to time agree upon, on a reimbursement or other basis.

RECOVERY OF PREMIUMS

SEC. 413. (a) The Secretary, in a suit brought in the appropriate United States district court, shall be entitled to recover from any insurer the amount of any unpaid premiums lawfully payable by such insurer to the Secretary.

(b) No action or proceeding shall be brought for the recovery of any premium due to the Secretary for reinsurance, or for the recovery of any premium paid to the Secretary in excess of the amount due to him, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except that, where the insurer has made or filed with the Secretary a false or fraudulent annual statement, or other document with the intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Secretary.

REPORTS AND AUDITS

SEC. 414. (a) As a condition to the receipt of reinsurance under this part, each insurer and pool of insurers which is reinsured under this part shall file with the Secretary—

(1) a copy of each annual statement (and any amendments to it) filed with the insurance authority of the State in which reinsurance under this part is effective; and

(2) information respecting—

(A) actual claims asserted by patients (or their legal representatives) against comprehensive maternal and child health practices which are insureds of the insurers.

(B) reports of adverse medical incidents filed by such insureds, and

(C) any other matter pertaining to medical malpractice insurance as the Board may determine is necessary for the effective administration of the reinsurance authorized in this part.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of inevstigation, audit, and examination to any books, documents, papers, and records of any insurer or pool reinsured under this part that are pertinent to reinsurance provided under this part. Such audit shall be conducted to the maximum extent feasible in cooperation with State insurance authorities.

PART C—EDUCATION AND TRAINING

AUTHORITY FOR GRANTS AND CONTRACTS

SEC. 420. (a) The Secretary may, upon application and upon such conditions as the Secretary may prescribe, make grants to and enter into contracts with public and nonprofit private entities for the following projects:

(1) Projects to promote the teaching of students in health professional schools respecting alternative methods of delivering medical care.

(2) Projects to promote the training within comprehensive maternal and child health practices of students of health professional schools and individuals in residency training programs in family medicine and general pediatrics. Priorities shall be given to projects involving comprehensive maternal and child health practices serving medically underserved populations.

(3) Projects to promote and establish programs under which comprehensive maternal and child health practices serving special populations are provided support services by health professional schools, including telephone and other telecommunication consultations and visits by the faculties of such schools.

(4) Projects to promote programs for the training of individuals (including physicians) in the management of comprehensive maternal and child health practices and to provide consultation and technical assistance to comprehensive maternal and child health practices to assist them in the management of their practices.

(b) For payments under grants and contracts under this section, there are authorized to be appropriated $7,500,000 for the fiscal year ending September 30, 1978, $10,000,000 for the fiscal year ending September 30, 1979, and $12,500,000 for the fiscal year ending September 30, 1980.

NATIONAL HEALTH SERVICE CORPS

SEC. 421. (a) In the administration of the National Health Service Corps program (under section 329 of the Public Health Service Act) the Secretary shall give special consideration to applications for assignment of National Health Service Corps personnel to practice in comprehensive maternal and child health practices (as defined in section 402 of this title).

(b) In the case of any individual—

(1) who has received a degree of doctor of medicine or doctor of osteopathy;

(2) who obtained (A) one or more loans from a loan fund established under part C of title VII of the Public Health Service Act, or (B) any other educational loan for his costs at a school of medicine or osteopathy; and

(3) who enters into an agreement with the Secretary to practice his profession (as a member of the National Health Service Corps or otherwise) for a period of at least two years in a comprehensive maternal and child health practice (as defined in section 402, providing covered professional services through a fee payment schedule defined under section 312(a)(2) to a special population, the Secretary shall make payments in accordance with subsection (b), for and on behalf of that individual, on the principal of and interest on any loan of his described in paragraph (2) of this subsection which is outstanding on the date he begins the practice specified in the agreement described in paragraph (3) of this subsection.

(c) The payments described in subsection (a) shall be made by the Secretary as follows: Upon completion by the individual for whom the payments are to be made of each year of the practice specified in the agreement he entered into with the Secretary under subsection (a), the Secretary shall pay 12.5 per centum of the principal of, and the interest on, each loan of such individual described in subsection (a) which is outstanding on the date he began such practice, except that if such practice was in a comprehensive maternal and child health practice serving special populations the payment shall be 25 per centum of such principal and interest.

(d) Notwithstanding the requirement of completion of practice specified in subsection (b), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of practice for which the borrower may receive payments under this section, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then engaged as described by subsection (a), and that he will continue to be so engaged for the period required (in the absence of this subsection) to entitle him to have made the payments provided by this section for such period; except that not more than 85 per centum of the principal of any such loan shall be paid pursuant to this subsection.

(e) A borrower who fails to fulfill an agreement with the Secretary entered into under subsection (a) shall be liable to reimburse the Secretary for any payments made pursuant to subsection (b) or (c) in consideration of such agreement.

TITLE V—FINANCING THE NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN PROGRAM

PART A—FUNDS FOR SUPPORT OF THE NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN PROGRAM

AUTHORIZATION OF APPROPRIATIONS

SEC. 501. (a) In order to assure prompt payment for the administrative and other expenses incurred during the early months of the program established by this Act, and in order to provide a contingency reserve, there is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, to remain available through a period of three years beginning with the date of enactment of this Act such sums as may be necessary for repayable advances (without interest) to the Trust Fund created by section 411.

(b) There are hereby authorized to be appropriated to the Trust Fund created by section 411 in each fiscal year such funds, in addition to funds deposited in such fund pursuant to section 412, as may be required by the Secretary to carry out the purposes of this Act.

PAYROLL AND SELF-EMPLOYMENT TAXES

SEC. 502. (a) Section 3101 of the Internal Revenue Code of 1954 (relating to social security and medicare taxes on employees) is amended by adding at the end thereof the following new subsection:

"(c) NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN.—In addition to the taxes imposed by the preceding subsections, there is hereby imposed on the income of every individual a tax equal to 0.10 percent of the wages (as defined in section 3121(a) except that the limitation on the amount of wages subject to the tax shall not apply) received by him with respect to employment (as defined in section 3121(r)).".

(b) Section 3111 of such Code (relating to social security and medicare taxes on employers) is amended by adding at the end thereof the following new subsection:

"(c) MATERNAL AND CHILD HEALTH CARE.—In addition to the taxes imposed by the preceding subsections, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 0.10 percent of the wages (as defined in section 3121(a) except that the limitation on the amount of wages subject to the tax shall not apply) paid by him with respect to employment (as defined in section 3121(r)).".

(c) Section 3121 of such Code (containing definitions applicable to social security payroll taxes) is amended by adding at the end thereof the following new subsection:

"(r) EMPLOYMENT FOR PURPOSES OF MATERNAL AND CHILD HEALTH CARE TAX.—For the purposes of sections 3101(c) and 3111(c), the term 'employment' has the meaning set forth in subsection (b) of this section except that—

"(1) the exclusions contained in the following paragraphs of subsection (b) shall not be applied—

"(A) paragraph (1) (relating to foreign agricultural workers);

"(B) paragraphs (5) and (6) (relating to employment by the United States or its instrumentalities) other than paragraph (6)(C)(iii) through (v) (relating to certain minor employments);

"(C) paragraph (7) (relating to employment by States and their political subdivisions and instrumentalities) other than paragraph (7)(C) (i) through (iv) (relating to certain minor employments by the District of Columbia);

"(D) paragraph (8) (relating to employment by charitable and similar organizations);

"(E) paragraph (9) (relating to employment covered by the railroad retirement system); and

"(F) paragraph (17) (relating to employment by subversive organizations); and

"(2) subsection (m) of this section (including services by members of the uniformed services in the term 'employment') shall not be applied.".

(d) Section 1401 of such Code (imposing social security addition to the taxes imposed by the preceding subsections, and medicare taxes on self-employed individuals) is amended by adding at the end thereof the following new subsection:

"(c) MATERNAL AND CHILD HEALTH CARE.—In there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to 0.10 percent of the amount of the self-employment income for such taxable year.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 503. Section 218 of the Social Security Act (42 U.S.C. 418) (relating to agreements for the coverage of services performed in the employ of States and their political subdivisions and instrumentalities) is amended—

(1) by inserting in subsection (e)(1)(A) "subsections (a) and (b) of" immediately before "sections 3101 and 3111";

(2) by inserting in subsection (e)(2)(B) "subsections (a) and (b) of" immediately before "section 3111"; and

(3) by adding at the end of subsection (e) the following new paragraph:

"(3) Notwithstanding the provisions of any agreement entered into under this section, no State shall be under any obligation to pay to the Secretary of the Treasury, with respect to service covered under the agreement and performed on or after the effective date of section 402(d) of the Maternal and Child Health Care Act, amounts equivalent to the taxes which would be imposed by sections 3101(c) and 3111(c) of the Internal Revenue Code of 1954 if such service constituted employment as defined in section 3121(b) or section 3121(r) of such Code.".

PART B—MATERNAL AND CHILD HEALTH TRUST FUND

CREATION OF THE TRUST FUND

SEC. 511. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the Maternal and Child Health Trust Fund (hereinafter in this part referred to as the "Trust Fund").

(b) The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 412(c), and such amounts as may be appropriated to or deposited in such fund as provided in this part.

FUNDING OF TRUST FUND

SEC. 512. (a) There are hereby appropriated to the Trust Fund for the fiscal year ending September 30, 1976, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) the taxes imposed by section 3101(c) and 3111(c) of the Internal Revenue Code of 1954 with respect to wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code on and after the effective date of section 402(a) of the Maternal and Child Health Care Act, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare in accordance with such reports; and

(2) the taxes imposed by section 1401(c) of the Internal Revenue Code of 1954 with respect to self-employment income reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code on and after the effective date of section 402(d) of the Maternal and Child Health Care Act, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such section to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of self-employment established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

(b) The amounts appropriated by subsection (a) shall be transferred from time to time from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in subsection (a), paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such subsection.

(c) The Managing Trustee of the Trust Fund is authorized to accept on behalf of the United States, and deposit into the Trust Fund, money, gifts, and bequests made unconditionally to the Trust Fund or to the Department of Health, Education, and Welfare, or any part or officer thereof, for the benefit of such Fund or any activity financed through such Fund.

MANAGEMENT OF TRUST FUND

SEC. 513. (a) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this part referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio.

(b) The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (in this part being referred to as the "Managing Trustee"). The Commissioner of the Social Security shall serve as the Secretary of the Board of Trustees.

(c) The Board of Trustees shall meet not less frequently than once each calendar year.

(d) It shall be the duty of the Board of Trustees to—

(1) hold the Trust Fund;

(2) submit to the Congress not later than the first day of April of each year a report, to be printed as a House document of the session of the Congress to which the report is made, on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next two fiscal years, which report shall include—

(A) a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year;

(B) an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next two fiscal years; and

(C) a statement of the actuarial status of the Trust Fund; and

(3) report immediately to the Congress whenever the Board of Trustees is of the opinion that the amount of the Trust Fund is unduly small; and

(4) review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

INVESTMENT OF FUNDS FOR THE TRUST FUND

SEC. 514. (a) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals.

(b)(1) Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(2) For such purpose such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(c)(1) The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund.

(2) Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 percentum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield.

(d) The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(e) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold

by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(f) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

ADJUSTMENT OF TRUST FUND FOR OVERPAYMENTS AND UNDERPAYMENTS

SEC. 515. (a)(1) The Managing Trustee shall pay from time to time from the Trust Fund into the Treasury the amount estimated by him as taxes imposed under section 3101(c) of the Internal Revenue Code of 1954 which are subject to refund under section 6413(c) of such Code with respect to wages paid on or after January 1 of the year following the date of enactment of this Act.

(2) Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary in accordance with the wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary shall furnish the Managing Trustee such information as may be required by the Managing Trustee for such purpose.

(3) The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections.

(b) Repayments made under subsection (a) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

PAYMENT OF SERVICES AND ADMINISTRATIVE EXPENSES

SEC. 516. The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary certifies are necessary to make the payments provided for by title III of this Act and to make payments for administrative and research expenses incurred under this Act.

TITLE VI—PENALTIES, EFFECTIVE DATES, AND TECHNICAL AMENDMENTS

PENALTIES

SEC. 601. (a) Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact—

(A) in any request for payment under this Act,

(B) for use in determining eligibility for any benefit under this Act,

(C) for use in determining the qualifications of an institution, under section 202, to have payments made under this Act for such institution's furnishing of services, or

(2) knowingly and with fraudulent intent conceals or fails to disclose a material fact—

(A) in any request for payment under this Act,

(B) for use in determining eligibility for any benefit under this Act,

(C) for use in determining the qualifications of an institution, under section 202, in order to have payments made under this Act for such institution's furnishing of services; or

(3) having made application to, and received, any such benefit or payment for the use and benefit of another, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person, shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) Whoever furnishes or dispenses a covered service to an individual for which payment may be made under this Act and who solicits, offers, or receives any—

(1) kickback or bribe in connection with the furnishing or dispensing of such service or the making or receipt of such payment, or

(2) rebate of any fee or charge for referring any such individual to another person for the furnishing or dispensing of such service,

shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

EFFECTIVE DATES

SEC. 602. (a) Except as provided in subsections (b), (c), (d), and (e), the provisions of this Act shall take effect on the date of enactment of this Act.

(b) Sections 402(a), 402(b), 402(d), and 412(a) (relating to collection of maternal and child health care taxes) shall take effect on January 1 of the year following the date of enactment of this Act.

(c) Part B of title II (relating to children's benefits) shall take effect on the following dates for children of the following ages on those dates—

(1) two years after the date of enactment of this Act for children below the age of seven years;

(2) three years after the date of enactment of this Act for children below the age of thirteen years; and

(3) four years after the date of enactment of this Act for all children eligible under this Act.

(d) Part C of title II (relating to maternity benefits) shall take effect two years after the date of enactment of this Act.

(e) Part D of title II (relating to special population benefits) shall take effect on the effective date, specified in subsection (c) or (d) of this section, for the furnishing of covered services to which covered support services under such part are related.

CONFORMING AMENDMENTS

SEC. 603. (a) Title V of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENTS FOR SERVICES UNDER NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN ACT

"SEC. 517. No payment may be made under this title for the furnishing of services which would be eligible for payment as a covered service under the Maternal and Child Health Care Act.".

(b) Section 1862 of the Social Security Act (42 U.S.C. 1395y) is amended by adding immediately after subsection (d) the following new subsection:

"(e) No payment may be made under this title for the furnishing of services which would be eligible for payment as a covered service under the Maternal and Child Health Care Act.".

(c) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENTS FOR SERVICES UNDER THE NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN ACT

"SEC. 1911. No payment may be made under this title for the furnishing of services which would be eligible for payment as a covered service under the Maternal and Child Health Care Act.".

EXHIBIT 2

NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN

Sponsors: Senators Jacob K. Javits, Alan Cranston, and Edward W. Brooke.

DESCRIPTION

I. General Approach:

This bill establishes a program of comprehensive health care for all children and a program of maternity benefits for all women.

The program is financed by a modest addition to the payroll tax system and from general revenues. The bill creates a Maternal and Child Health Board within the Department of Health, Education and Welfare which administers the program. The Social Security Administration supervises payments to providers of care. Such cost control measures as prospective reimbursement for institutions, fee schedules for practitioners and economic incentives for the use of capitation as a mode of reimbursement for practitioners are included. The bill also provides authority designed to stimulate, through grants, loans and technical assistance, the development of maternal and child health group practices.

II. People Covered:

All children from birth to age of 18 years and all pregnant women who are legal residents of this country are eligible for the benefits of this program.

III. Scope of Benefits:

The program provides for children a wide range of health care benefits. Pregnant women are provided with full prenatal, delivery and post delivery care.

A. Children's Benefits:

1. Professional Services:

(a) Provided by a physician or a physician's extender (defined to include physician assistant, nurse practitioner, nurse midwife or dental auxiliary) under the supervision of a physician.

(b) Preventive health services including screening medical history and physical examination and such screening and preventive health measures as are appropriate to the age of the child. The frequency and the details of these preventive health visits are to be determined by the Maternal and Child Health Board in consultation with the Maternal and Child Health Advisory Council.

(c) All professional services for sick children with a 10% copayment fee paid by the patient to the provider when services not provided in pre-paid group practice.

(d) Dental services include preventive services, diagnostic services, and therapeutic services, for children over the age of 4 years.

(e) Limitations of Service.

(1) Mental health services are covered only when delivered in organized settings (such as community mental health or child guidance clinics) with provision for inpatient psychiatric services as limited by regulations established by the Board.

(2) All major surgery to be performed only by Board eligible or certified surgeons.

(3) Tonsillectomies and adenoidectomies to be performed only after a second opinion from an independent physician.

(4) The Board may require a second opinion from an independent physician prior to other diagnostic or therapeutic procedures where it determines such second opinions are appropriate or necessary for the welfare of the child.

(5) Dental orthodontic services are excluded except for therapy for handicapping malocclusion.

2. Institutional Services:

(a) Unlimited inpatient hospital services in qualified pediatric units for children.

(b) Skilled nursing home services limited to 120 days annually with child admitted only upon a physician's certification of need and following a physical examination within 24 hours of admission.

(c) Home health services including homemaker and other social services limited to 120 days annually with a ten percent copayment. Limitation may be waived when such would result in the institutionalization of the child.

(d) Rehabiliative services provided in an organized setting limited to 60 visits annually.

(e) Mental health and social services provided in an organized setting limited to 60 visits annually.

3. Other services:

(a) Laboratory diagnostic services.

(b) Drugs prescribed to be taken for longer than ten days.

(c) Devices, appliances and equipment with a 10% copayment fee.

B. Maternity Benefits;

1. Professional practitioner services:

(a) Provided by a physician or by a physician extender (defined to include physician assistant, nurse practitioner or nurse midwife) under the supervision of a physician.

(b) All professional services required during pregnancy and delivery

(c) All professional services required for the diagnosis and treatment of conditions related to pregnancy during the 12 weeks following the termination of pregnancy.

2. Institutional services:

(a) All hospitalization required during pregnancy and for delivery

(b) All hospitalization required for the diagnosis and treatment of conditions related to pregnancy during the 12 weeks following the termination of pregnancy.

3. Other services:

(a) All laboratory diagnostic services required during pregnancy and the 12 weeks following the termination of pregnancy.

(b) All drugs prescribed during pregnancy and during the 12 weeks following pregnancy which are to be taken for longer than 10 days.

C. Special Populations:

1. The Maternal and Child Health Board is mandated to designate certain regions or populations as medically underserved and to allocate additional funds for services required to ensure access and appropriate use of the benefits of the program. Such services include transportation, social services, outreach and counselling.

D. Comprehensive Maternal and Child Health Group Practice:

1. Designed to foster the development and expansion of group practice for the delivery of maternal and child care with authorizations of approximately $100 million authorized over three years.

2. Grants and contracts for surveys of the feasibility of the development of group practice for the delivery of maternal and child health care.

3. Grants, contracts and loan guarantees for planning and initial developmental and operational costs for beginning group practices.

4. Medical malpractice reinsurance programs authorized for those practitioners participating in such group practices.

5. Special consideration authorized for assignment of National Health Service Corps personnel.

IV Administration:

A five-person Maternal and Child Health Board within the Department of Health, Education and Welfare is responsible for the administration of this program. The members of the Board are appointed by the President with the advice and consent of the Senate. The responsibilities of the Board include the formulation of regulations, the negotiation of reimbursement schedules for institutions and of fee schedules for practitioners.

A National Maternal and Child Advisory Council (consisting of 6 consumers and 4 experts in Maternal and Child Health) appointed by the Secretary of Health, Education and Welfare. The Council advises the Maternal and Child Health Board on matters of policy and the operation of the program. The Council reports to the Board and to Congress annually.

A carrier which has underwritten at least 3% of U.S.'s 1976 total health insurance dollar value may participate in administration of benefits.

V Financing:

The program is financed through the following sources:

A. 0.1 percent tax on all of the employee's wages

B. 0.1 precent tax on all of the employer's payrolls

C. 0.1 percent on all of the self-employed wages

D. Contributions from general revenues equal to the amount necessary to implement the provisions of this program.

VI Payments of Providers of Maternal and Child Health Services:

A. Institutional reimbursement will be by a method of prospective reimbursement negotiated by the institutions with the Maternal and Child Health Board or their respective delegates.

B. Individual professional providers will be reimbursed by fee schedule negotiated between the professional providers and the Maternal and Child Health Board. The Maternal and Child Health Board may not approve any fee schedule which exceeds the prevailing fee schedule existing on December 31, 1974, and which has been adjusted by appropriate economic indices. Professional providers may elect to be reimbursed through the capitation method of reimbursement. The Board may provide up to a 10% bonus to those practitioners electing capitation as a mode of reimbursement. No copayment will be paid by patients using providers reimbursed through capitation.

C. Payment to dispensers of drugs or appliances will be based upon wholesale cost and dispensing fee negotiated between the dispensers and the Maternal and Child Health Board or their delegates.

VII Effect of other Government Programs:

Direct medical care benefits for mother and children under Title XIX and Title V superseded by this Act.

VIII Other Major Provisions:

A. Only hospitals with 1500 deliveries in an urban area and 500 deliveries in a rural area will be approved as institutions for the maternity benefits of this program. The Board may waive this provision in areas in which it creates a hazard for the health and welfare of pregnant women.

B. Only hospitals with defined pediatric units of at least 12 beds and a 70% occupancy rate will be eligible institutions for the pediatric benefits of this program.

C. Families who are indigent are exempted from the copayment fee.

XIX Effective Date:

A. Tax colection will begin during the fiscal year following enactment.

B. Maternity benefits and those for children up to the age of 7 years will begin 24 months following enactment.

C. Benefits for children, ages 7 through 13 years, will begin 36 months following enactment.

D. Benefits for children, ages 12 through 18 years, will begin 48 months following enactment.

Mr. BROOKE. Mr. President, no problem in our Nation should rank higher on our list of national priorities than adequate health care at a reasonable cost for all our citizens. But instead we find ourselves in the dilemma of having probably the most superb medical service in the world, yet at a price which an increasing number of Americans are simply unable to afford.

There seems no end to the escalating health care costs. Between 1974 and 1975, the Medical Consumer Price Index went up over 12 percent, a rate far above the overall cost of living increase. Hospital service charges rose by 15 percent. Physician's fees rose by 12.3 percent. The total national health expenditures increased from $104 billion in 1974 to $118.5 billion in 1975. And national health expenditures as a percentage of gross national product increased from 7.7 percent in 1974 to 8.3 percent in 1975.

The cost of medical service is one of the primary reasons for our national health problems. And these problems are pervasive and tragic, even in the midst of our affluence. No aspect of our health care dilemma offers so stark a portrait of our failure as the health care which we inflict upon our children, or more to the point, which we neglect to give them. The figures about the infant mortality rate alone tell the story.

In 1970, the United States had an infant mortality rate of almost 20 per thousand. In contrast, France had only 15, Denmark 14.8, Japan 13, and Sweden 11.7. And even more disturbing, a study done in recent years showed that of 34 countries examined, the United States had the least favorable reduction of infant mortality of any of the industrial countries.

Thus, how we reverse these figures, both in terms of cost and of availability of decent medical care, is of crucial importance. And reverse them we must. I have long called for national health insurance as the means by which to do this. The support for national health insurance has grown in recent years to the point where most Americans agree that something must be done about health care. And this support will continue to grow as health care is increasingly priced beyond the reach of not only the poor but even middle class Americans.

Disappointingly, the Government has failed to respond. Many national health insurance bills have been introduced in Congress, but none has passed. Many studies have been done in the executive branch showing how much a plan for national health care is needed, but the administration persists in telling us that we cannot afford it.

I believe that we cannot afford not to have adequate medical care for all our citizens. For this reason, and because comprehensive national health insurance seems logjammed in the Congress and executive branch, I join with Senator JAVITS in introducing a bill which would provide health coverage to children and pregnant women.

While medicare and medicaid provide health care for our elderly and for the needy, the National Health Insurance for Mothers and Children Act will take us yet another step forward in building a structure of comprehensive national health insurance.

The bill establishing a comprehensive system of national health insurance for mothers and children would provide medical service to children up until the age of 18 and to mothers during pregnancy and for 12 weeks after birth. These ages and these periods represent a crucial time in the life of a person, laying a foundation of good or bad health which will follow a person for the rest of her or his life. A child would be provided with comprehensive ambulatory and hospital care. This care would include home health, rehabilitative, and mental health service. A mother would be provided with all appropriate prenatal and post partum health care for women, up to 12 weeks after childbirth. Preventive health care would be stressed for both mothers and children.

Quite frankly, I would much prefer the

enactment of comprehensive national health insurance covering everyone. But we have waited too long for this. And I feel that if we cannot have a comprehensive national health insurance at once, we must build it brick by brick, including group after group. Our legislation, which we now propose this week, is another important step in this building process.

Mr. CRANSTON. Mr. President, I am delighted to join with my colleague, the distinguished Senator from New York (Mr. JAVITS) in cosponsoring this important legislative initiative, the National Health Insurance for Mothers and Children Act.

I am delighted that the distinguished Senator from Minnesota (Mr. HUMPHREY) and the distinguished Senator from Massachusetts (Mr. BROOKE) are also cosponsors.

Senator JAVITS has a distinguished record as a leader in the field of health. As ranking minority member of the Committee on Labor and Public Welfare, his judgment and experience have been a tremendous resource to the committee. I do not believe there has been any health legislation introduced which has not benefited from his attention. His sponsorship of the legislation we are introducing today is an indication of its importance and potential for improving the quality of health care for all Americans.

Senator HUMPHREY'S and Senator BROOKE'S strong commitments to programs oriented toward the people's interest are likewise well known.

This legislation, Mr. President, would provide for:

Comprehensive ambulatory—including home health, rehabilitative, social and mental health services—and hospital care for children from birth up to the age of 18 with incentives for preventive children's health services included in the benefit package.

These services would be phased in over a period 5 years after enactment of the legislation. Maternity benefits and benefits for children up to the age of 7 years would begin 2 months after enactment; benefits for children aged between 7 and 13 years would begin 40 months after enactment, and benefits for children aged 12 through 18 years would begin 5 years after enactment.

In addition, the bill would provide all appropriate prenatal and postpartum health care for women, up to 12 weeks after childbirth.

Benefits would cover support services such as transportation, outreach, and dependent care for special populations or those individuals who have a high risk of infant or maternal morbidity.

The bill would include appropriate cost sharing and reimbursement incentives which would stimulate the development and acceptance by the medical community and patients of maternal and child health group practices.

In addition the bill would provide for:

Payments for health professionals on the basis of specified and negotiated fee schedules, periodically adjusted according to economic index or indices determined to be appropriate.

Payment for institutions according to budgets agreed to in advance—prospective budgeting.

Specific standards for health institutions and health professionals qualified for reimbursements under the maternal and child care programs.

Second consultation for certain surgical procedures.

The program would be financed through payroll taxes and general revenues.

Title IV of the bill provides for grants, contracts and loan guarantees for the development of group practices for the delivery of maternal and child health care.

The major provisions of this title include:

First. A program designed to foster the development of group practices for the delivery of maternal and child health care.

Second. Grants, contracts, and loan guarantees for the initial planning and operational costs of group practices consisting of pediatricians, family practitioners, obstetricians/gynecologists, and other health professionals—such as nurse practitioners and nurse midwives—who deliver maternal and child health services.

Third. Medical malpractice reinsurance for claims brought against a comprehensive maternal and child health practice.

Fourth. Support for health professions educational programs related to providing health care through comprehensive maternal and child health group practices.

Fifth. Special consideration for assignment of National Health Service Corps personnel to those practicing in comprehensive maternal and child health practices.

Mr. President, the bill we introduce today is identical to the bill Senator Javits and I introduced in the last Congress as S. 3593.

It is important to note that the House Subcommittee on Health and the Environment of the Interstate and Foreign Commerce Committee held hearings last year on a similar measure sponsored by Congressman SCHEUER, and many others including my colleague from California, YVONNE BRATHWAITE BURKE.

In the last several months I have solicited comments and suggestions from outstanding leaders in the field of health. In addition, valuable input was received during congressional hearings on this legislation last year. We are presently evaluating very carefully these recommendations to strengthen and improve the bill. However, at this time, we are introducing last year's bill to signify our continued commitment to this program. As the bill moves through the legislative process, the excellent suggestions we have received will be given every consideration and incorporated into the bill's provision for committee and Senate approval.

The legislation we are introducing today, Mr. President, is a step toward achieving the objectives of all of the health legislation I have sponsored since I have been in the Senate: To make comprehensive cost effective, compassionate, and accessible health care available to all those Americans who need it.

By focusing on the health needs of children, we are taking an important step in achieving that kind of health care for all Americans. We know that young, poor mothers do not get adequate prenatal care. Their children all too often begin life handicapped with numerous personal and financial costs. America has an unforgivably high perinatal mortality rate and that rate is even higher among medically underserved population groups. If Americans begin their lives with good health care, there is strong evidence to support the belief that their adult years will be relatively free of serious illnesses.

The bill we are introducing today assures the accessibility of preventive, comprehensive health care for young Americans and builds up our capacity to provide these services. It is designed to insure that these services will be provided in a cost effective manner. It can truly be viewed as an investment in the future of America.

I want to make it clear, Mr. President, that in joining in these measures with Senator JAVITS—and I know he feels this way too—I am not in any way abandoning my support for the achievement of comprehensive national health insurance for all our citizens as represented by my being an original cosponsor of S. 3 ever since it was first introduced in the 92d Congress.

We must not abandon, and we must achieve, national health insurance for all those among us who so desperately need it. I see no way that an approach such as the one Senator JAVITS and I are offering, which will cover only very young Americans, can impede the ongoing effort to provide insurance for those who are older.

This measure unlike proposals for catastrophic insurance, provides insurance only for those now under the age of 13 and for women in the childbearing years during pregnancy and the postnatal period. For other segments of the population it constitutes no step at all. Thus enactment of the Javits-Cranston bill would not reduce the pressure one bit for an insurance program for Americans not covered by this legislation.

Many individuals believe that comprehensive national health insurance will be extremely difficult to obtain in a single stroke. That certainly seems to be the case for the immediate future, in any event. While we continue to set our goal, Mr. President, on comprehensive health insurance for all our citizens, I believe we have to take decisive action now to begin the journey down the road toward universal coverage. We would serve no one's interest by failing to take this major step proposed in this legislation toward making a major improvement in the health of Americans.

I recognize fully that as we move ahead with consideration of this legislation, we must at the same time try to deal with the health care needs of the near poor—those individuals who are too young to qualify for medicare and whose incomes or other financial resources place them above the medicaid eligibil-

ity line. For these individuals, the costs of health care present insurmountable barriers to seeking it.

I am fully committed to improving the accessibility and availability of health care for these individuals and believe that many programs now in place have made a positive step in that direction. Among these programs have been my efforts to expand the scope of health care available to eligible veterans through the Veterans' Administration medical system; the development of legislation encouraging the establishment of health maintenance organizations with an emphasis on serving underserved population groups; the development of legislation to encourage the establishment of neighborhood health centers and migrant health centers, whose services are provided to those population groups which historically have found health care inaccessible either because of financial or geographic barriers.

I have also cosponsored legislation extending and improving the authorities for the support of health professional training which has as one of its major objectives improving the accessibility and availability of care in underserved areas, as well as expanding the Nation's ability to provide primary health care and preventive health care.

I recognized that while these legislative steps have helped a considerable segment of the population whose access to comprehensive health care is limited, an important segment still remains who face obstacles in obtaining quality health care.

I have attempted to overcome these obstacles for one element of this group—those individuals between the ages of 60 and 65 who are retired or who are dependents of spouses who are receiving social security payments or are medicare beneficiaries, by my sponsorship in three succeeding Congresses of legislation permitting them to buy in to medicare. I am hopeful that this legislation will become law when the next major amendments are made to title XVIII—medicare—of the Social Security Act.

I see all this legislation, including the legislation introduced today, as part of the Federal responsibility to make this country No. 1 in health care in the world and to guarantee that all levels of necessary health care are available for all members of our society.

By Mr. ABOUREZK (for himself and Mr. McGOVERN) :

S. 371. A bill to establish a farm training adjustment program for farmers whose farming operations are adversely affected by a natural disaster; to the Committee on Agriculture and Forestry.

FARM TRAINING ADJUSTMENT ACT

Mr. ABOUREZK. Mr. President, in South Dakota as well as several States in the Midwest, farmers and ranchers are experiencing a drought that is seriously affecting their ability to continue their farming operations.

The farm training adjustment program that I am introducing today is a self-help approach to lessening the impacts of a natural disaster.

The trend recently has been the elimination of many family farm operators. The current drought, as in any disaster, accelerates this exodus. Young farm families understand their failures when they have some control over them, but lack of rain is something they have nothing to do with.

The Farm Training Adjustment Act provides a program that would be administered by the States under which training and education in various aspects of agriculture will be provided to farmers who have adversely been affected by a natural disaster.

To be eligible, a participant would have to be an owner or operator of a farm, depend on farming for over one-half of his income, have sustained, as a result of a natural disaster, an income loss in his farming operation, be unemployed or unable to sustain an income equal to or greater than 75 percent of his average income. Each participant in the program would be limited to a 20-week period and a subsistence payment of $1,000 per month.

These provisions limit the program to bona fide farmers and are similar to other training programs that are offered in our economy. Here we are attempting to maintain our family farms as a vital part of American life Instead of direct subsidy to farmers; the Government would be providing self-help in the form of training to agriculture. Not only would we be assisting the maintenance of family farmers, but we would be encouraging more agricultural production through training those actively involved in the production of food and fiber.

Mr. President, the reintroduction of this bill is very important because the current drought is continuing. The prospects for next year do not look good. In fact, some weather experts have indicated a possibility that the dry cycle may continue for 2 or 3 more years.

I hope this new concept to natural disaster problems may be part of a comprehensive reform of disaster programs. The experiences of this last year tells us that there must be a new, more comprehensive approach.

I hope that I can have the support of the Congress because this program is needed now and will continue to be needed any time there is a natural disaster.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Training Adjustment Program".

SEC. 2. It is the purpose of this Act to establish a program to be administered by the States under which training and education in various aspects of agriculture will be provided to farmers who have been adversely affected by a natural disaster.

SEC. 3. (a) To be eligible to participate in the program provided for under this Act a person must (1) be the owner or operator of a farm, (2) depend upon farming for over one-half of his income, (3) have sustained, as a direct result of a natural disaster, an income loss in his farming operation measured against the average annual income from his farming operations during the base period, and (4) be unemployed or unable to sustain an income equal to or greater than 75 per centum of his average annual income for the three preceding years in which conditions resulting from a natural disaster were not a major factor.

(b) For purposes of this section the term "base period" means the three years preceding the year in which the natural disaster occurred. In any case in which a farming operation has been conducted by the farmer for a period less than three years, the farmer must have sustained a net loss in his farm income during the year in which the natural disaster occurred.

(c) In no case shall more than two owners or operators of a farm be eligible to participate in the program provided for under this Act.

SEC. 4. (a) The Secretary of Agriculture is authorized to allocate funds to any State which makes application therefor for the purpose of conducting a farm training adjustment program for the farmers of such State who have been adversely affected as the result of a natural disaster in such State.

(b) Funds shall be made available to a State only if the State submits to the Secretary of Agriculture a plan for the farm training adjustment program to be conducted by such State and such plan is approved by the Secretary.

SEC. 5. (a) The farm training adjustment by the department of agriculture of such State (or by the corresponding department or agency of such State) under the supervision and control of a State-Federal Administrative Committee established for such State. Such committee shall be composed of (1) four members appointed by the Governor of such State, three of whom shall be from the department of agriculture of such State (or from the corresponding department or agency of such State) and one of whom shall be from the department or agency of such State concerned with vocational education; and (2) four members appointed by the Secretary of Agriculture from among employees of the United States Department of Agriculture.

SEC. 6. (a) The teaching standards and curriculum for the farm training adjustment program for any State shall be prescribed by the State-Federal Administrative Committee for such State appointed under section 5. The curriculum for any such program shall be designed to meet the needs of modern agriculture operations and shall include, but shall not be limited to (1) farm management, (2) livestock marketing, (3) animal nutrition, (4) crop production, (5) conservation principles, (6) welding, (7) artificial insemination of livestock, and (8) first aid.

(b) No farm training adjustment program may exceed a 20-week period for any participant.

SEC. 7. Each participant enrolled in a farm training adjustment program shall be entitled to a subsistence payment of $1,000 per month, but in order to qualify for the full amount of such payment a participant must attend a minimum of 80 per centum of the total class hours. In any case in which a participant attends less than 80 per centum of the total class hours in any period, a reduction in the amount of the payment shall be made in an amount proportional to the number of class hours actually attended by such participant during such period.

SEC. 8. As used in this Act, the term "natural disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic

eruption, snowstorm, drought, fire, or other natural disaster which is of such magnitude in any area of the United States that the Secretary of Agriculture designates such area a natural disaster area for purposes of this Act.

SEC. 9. The Secretary is authorized to promulgate such rules and regulations as he deems necessary or appropriate to carry out effectively the provisions of this Act.

SEC. 10. There are authorized to be appropriated to the Department of Agriculture each fiscal year, beginning with the fiscal year 1978, such sums as may be necessary to carry out the provisions of this Act.

By Mr. ABOUREZK (for himself and Mr. McGOVERN):

S. 372. A bill to assist farmers and ranchers to replace foundation herds of cattle such farmers and ranchers are forced to sell as the result of natural disasters; to the Committee on Agriculture and Forestry.

EMERGENCY LIVESTOCK REPLACEMENT ACT

Mr. ABOUREZK. Mr. President, I am introducing, along with my distinguished colleague, Senator GEORGE MCGOVERN, a bill entitled, the Emergency Livestock Replacement Act. The bill would provide direct assistance to farmers who are forced to sell their most valuable livestock as a result of a natural disaster.

The upper Midwest is experiencing the worst drought since the "thirties." In my home State of South Dakota, many counties have seen as many as 94 percent of the cattle leave the county. This tremendous reduction in numbers means that blood lines that cow-calf operators have developed for generations have been wiped out because of the drought. Anyone that knows anything at all about the cattle business knows how painful that forced decision was.

Farmers are losing money either way they go. If they try to hold on to the cattle, they are faced with highly inflated feed prices. If they sell the cattle, they lose a bloodline that has taken years to develop. When it comes to replacing those cattle after the drought ends, they are going to be forced to pay out a significant amount of money in the margin between what they got when they sold and what they had to pay when they bought back.

Mr. President, this situation has brought me to the realization that a program was needed to provide farmers certain assistance during times of disaster to help alleviate this problem. The legislation I am introducing today is designed to do that.

Under my legislation, the program would go into effect upon the President's designation of the area as a disaster. It would continue for a period of 2 years following that disaster designation. The Agricultural Stabilization and Conservation Service—ASCS—will be responsible for the administration of the program.

The program would limit each farmer or rancher to 100 head and would be available to all farmers without regard to their present financial status.

Following the disaster designation, upon the request of the farmer, the ASCS appraiser would visit a farm to establish a written appraisal for the cattle to be sold. The receipt of sale would be filed with the ASCS for certification. At any time during the 2 years following the date of the disaster designation, a farmer can purchase cattle for replacement purposes. After purchase, the ASCS would again appraise the newly purchased cattle to determine comparability to those the farmer is replacing. If the producer was required to pay more for comparable cattle at the time of repurchase, the U.S. Department of Agriculture would reimburse the farmer for the difference.

Basically, the legislation would create an insurance program for livestock producers faced with the disastrous circumstances resulting from natural disasters such as the drought we experienced this year.

I sincerely hope that the Congress will consider this bill at the earliest possible moment. Our farmers simply cannot stand to continue to lose the phenomenal financial losses which they have for much longer.

Mr. President, I ask unanimous consent that the text of the Emergency Livestock Replacement Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Livestock Replacement Act".

SEC. 2. (a) Whenever the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") determines that the farmers and ranchers in any area of the United States cannot, without extreme financial hardship, continue to maintain their foundation herds of cattle as the result of a natural disaster in such area, the Secretary is authorized to designate such area as a disaster area for purposes of this Act and to provide the farmers and ranchers in such area with foundation herd indemnification protection as hereinafter authorized.

(b) Any farmer or rancher in any area so designated by the Secretary may obtain foundation herd indemnification protection by filing a written application therefor with the Secretary in such manner as the Secretary shall prescribe.

(c) As soon as practicable after any farmer or rancher has filed an application with the Secretary for foundation herd indemnification protection under this Act, the Secretary shall make a written appraisal of the dollar value of the foundation herd of cattle designated by such farmer or rancher. In no event shall the designated foundation herd consist of more than 100 head of cattle nor the appraised value of any such herd exceed $

(d) In order to be eligible for the foundation herd indemnification protection provided for in this Act a farmer or rancher must sell the foundation herd designated by him within 15 days after the date of the appraisal of such herd by the Secretary. If a farmer or rancher fails to sell such designated foundation herd within such 15 days period he may obtain a new appraisal by the Secretary.

SEC. 4. (1) Any farmer or rancher in any area designated as a disaster area for purposes of this Act who makes application for and is granted foundation herd indemnification protection under this Act and who purchases a replacement foundation herd of cattle within two years after the date on which such area is designated a disaster area for purposes of this Act shall be paid a replacement payment as provided in paragraph (2).

(2) The amount of the replacement payment paid to any farmer or rancher in any case shall be an amount equal to the difference between the amount such farmer or rancher had to pay to obtain a replacement foundation herd and the Secretary's appraised dollar value of the foundation herd sold by such farmer or rancher; but a farmer or rancher shall be entitled to a replacement payment only (A) to the extent that the amount paid for the replacement herd exceeds the Secretary's appraised dollar value of the foundation herd sold by the farmer or rancher, and (B) in an amount necessary to purchase a replacement foundation herd of a quality and quantity comparable to the foundation herd sold by the farmer or rancher.

(b) In no event shall the Secretary pay any amount in excess of an amount which is more than per centum greater than the appraised dollar value of the foundation herd of cattle sold by the farmer or rancher.

SEC. 5. The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this Act.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 7. This Act shall become effective October 1, 1977.

By Mr. HAYAKAWA:

S. 373. A bill to amend the Marine Mammal Protection Act of 1972 in connection with the incidental taking of marine mammals with commercial fishing; to the Committee on Commerce.

Mr. HAYAKAWA. Mr. President, I am introducing today a bill to amend the Marine Mammal Protection Act of 1972 in connection with the incidental taking of marine mammals with commercial fishing. One exception to the moratorium on the taking of all marine mammals, imposed by the Marine Mammal Protection Act of 1972, permits such taking when incidental to commercial fishing. Incidental taking is subject to a permit program governed by regulations of the Secretary of Commerce.

The incidental taking provisions of the act have had a serious impact on the tuna fishing industry. Most tuna caught by the U.S. tuna fishing industry are taken by encircling schools of porpoise with large purse seines. For reasons not understood, yellowfin tuna swim beneath the porpoise schools. After the porpoise are released from the net, the tuna are harvested. Most porpoise swim safely free, but a substantial number each year are caught in the nets and drowned. As an immediate goal, the act requires that such incidental taking be reduced to near zero and prohibits any fishing on porpoise populations which are below the optimum sustainable level.

In the latter case, the act permits no flexibility; all fishing must immediately cease. Enforcement of current regulations is hampered by lack of clear authority to place observers aboard tuna vessels, particularly when the vessel has not declared its intention to fish on porpoise and consequently is not required to carry a permit.

As a result of these requirements, even though substantial progress has been made by the industry, operating under regulations of the Secretary of Commerce and as a result of research sponsored by both the industry and the Fed-

eral Government, has made good progress in reducing porpoise mortality. Legal fishing on porpoise by the U.S. fleet has come to a halt. The industry is prohibited by order of the district court for the District of Columbia from fishing on porpoise. Even if this legal issue was disposed of, it would be difficult for the Secretary to permit tuna fishing on porpoise and achieve the goal of a level of porpoise mortality near zero.

The Secretary and many environmental conservation organizations believe that the present situation is unsatisfactory from every standpoint, including that of the porpoises themselves. The prohibitions of the present law may cause a number of the members of the U.S. tuna fleet to attempt to transfer to foreign flags or increase the market share of foreign fleets, which would make regulation of incidental killing difficult or impossible. Most parties familiar with the problem are convinced that the progress in reduction of kill can be significantly improved under appropriate regulations without causing extreme injury to the U.S. tuna fishing industry.

The following amendments are introduced with the aim of remedying some of the obvious shortcomings of the act. They may not satisfy completely the interests of the environmentalists nor those of industry. I am, therefore, prepared to examine carefully any improvement to this bill which may be suggested in the course of the hearings.

I am also prepared to consider for introduction other bills that may take different approaches to this problem.

By Mr. HUMPHREY:

S. 374. A bill to establish a Federal Housing Bank to purchase mortgages from Federal National Mortgage Association and the Federal Home Loan Bank System having rates of interest no higher than 6 per centum, to refinance mortgages of families stricken by unemployment, to provide emergency mortgage relief, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

FEDERAL HOUSING BANK ACT

Mr. HUMPHREY. Mr. President, it has become commonplace in discussing the economy to point out the relationship between the housing sector and our overall economic health.

This vital industry is not only a critical component of the economy in its own right, but supports countless other crucial sectors, including home furnishings, steel production for appliances, water and sewer construction, and a host of others. And yet, after so many years of studying and anticipating the housing market, we have still not found a way to promote adequate homebuilding and to insulate it from the destructive swings of the business cycle.

We have not succeeded—but not for want of trying. Over the years, we have created the Federal Housing Administration, the Federal Home Loan Bank System, the Federal National Mortgage Association, and the Government National Mortgage Associaton.

We have all of these agencies today. And we still suffered a virtual depression in the housing industry during the last 2 years, with 1976 starts lower than we had anticipated—and much lower than we need. And this intolerable situation is going to persist as long as we allow the financial establishment to dictate that when money is tight, millions of American families must suffer inadequate housing and we must abandon our traditional goal of a decent home for every one of our citizens.

I am introducing legislation today to create an institution that will do the job. It will stabilize the construction industry by making funds available to home purchasers at reasonable rates, no more than 6 percent for most mortgages—and on a consistent basis that is related to our housing needs.

The bill sets up the Federal Housing Bank which will buy mortgages with interest rates below 6 percent at a pace tied to housing needs—not to higher profit for financial institutions and Wall Street bankers.

It will purchase mortgages from FNMA and mortgage bankers; from savings and loans and banks; from insurance companies and pension trusts. With this bill the relationship between borrowers and lenders will remain as it always has. But these mortgage companies will have a market for the loans and they will have a constant turnover of mortgage funds.

For the first 2 years, the mortgages that the Bank will purchase will have to be secured by new home construction. After 2 years, the Bank will phase in purchases of mortgages on existing housing. And of course, under the emergency mortgage assistance feature of the bill, it will purchase and refinance mortgages for homeowners of existing housing who are stricken by unemployment.

The purchasing activity of the Bank will be related to the need for housing in this country. Each year the Bank will survey the housing needed to meet our oft-stated goal of a decent home for every American family within a 10-year period. The Bank will then undertake to purchase or make commitments to purchase enough mortgages so that housing starts will be stimulated at a rate which will take us one-tenth of the way to our goal. Since this process will be repeated each year, the level of activity will keep pace with changes in demand for housing as well as past successes in creating new housing units. If the private sector of our economy recovers and begins producing housing at a rate we need, then the Bank will not be purchasing mortgages.

In order to be sure that the middle-income families who really need this assistance will be helped, the amount of mortgage indebtedness which will be subject to the low-interest rate assistance will be determined on a continuous basis by the use of prototype costs. The prototype shelter unit is one which contains 1,400 square feet of living space having a moderate but adequate design, and making most effective use of land resources and community facilities.

If a property is valued at the prototype cost level, then the purchaser will be able to obtain a mortgage to cover 90 percent of the cost and will pay 6 percent interest or less.

But the Bank will be able to buy mortgages in higher amounts provided they carry a dual interest rate; low on the part equivalent to 90 percent of the prototype cost, and market rate on the amount above that. This way, if a family needs a larger house or wants to work and pay for a bigger house or a better location, they can be aided to the same extent as a family that can get along adequately in a house meeting the prototype limits.

Prototype costs are used because in the last few years we have seen what happens when steeply increasing prices make statutory limits obsolete. If Congress or the President must act to change these limits, then we put a stop to all construction. The Bank will make yearly reviews and readjustments to the prototype costs for each region or SMSA so that they will keep pace with price increases.

The Bank will get the funds to purchase mortgages from the issuance of bonds backed by the full faith and credit of the U.S. Government. When rates on these types of bonds are low, the Bank will be able to borrow for relatively long terms. If the long-term rates rise above short-term rates, then the debt management policy of the Bank will be flexible enough to borrow on short term until the long-term rates again subside.

The Treasury is directed to reimburse the Bank for any difference between its costs of borrowing and the rates of the mortgages which it purchases. Because the cost of federally guaranteed borrowing is generally low, this reimbursement by the Treasury will be the exception rather than the rule. And, if long-term rates are low enough and the Bank has succeeded in stimulating startups to its annual requirement, there may be money in the Bank available to repay the Treasury on account of any previous reimbursements.

In addition, the Bank will have another important responsibility: Protecting those Americans who cannot continue to meet mortgage payments, because of unemployment. That is, when a person can certify that he has been unemployed for a period of 6 months, and that he has no assets with which to meet his mortgage commitments, then that person will become eligible for refinancing assistance from the Bank. The refinanced mortgages could be secured by existing housing, and would carry interest charges of 6 percent or less. Moreover, if the refinancing assistance proved inadequate, the Bank would be empowered to declare a debt moratorium on principal and interest for a period of up to 18 months.

Mr. President, we have long given lip-service to the fundamental goal of decent housing for our citizens. And the time is overdue to act on that goal. The legislation I am proposing today is essential if this Nation is to witness a recovery in the housing industry—a sector of the economy so crucial to our well-being that when the shelter industry declines, it draws down the entire economy with it—and if we are finally to remove mortgage borrowing from the cycles of credit stringency and ease.

Indeed, in the absence of such legislation, the future of American housing is uncertain at best, in a market in which the costs of raw materials are rising higher every day, because of scarcities and price-fixing arrangements.

Mr. President, I ask unanimous consent that the text of this legislation be printed at this point in the RECORD, along with a section-by-section summary.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Housing Bank Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the vigor and prosperity of our economy requires a healthy and active housing industry;

(2) adequate shelter for the multitude of our working families is a hallmark of our standard of living;

(3) for decades this Nation has been able to produce housing at reasonable cost, but long-term projections of capital and materials shortages threaten this goal;

(4) decent, safe, and sanitary housing cannot be provided if interest rates on home mortgages are inordinately high; and

(5) Congress must create an institution which can reduce the costs of financing the purchase of a home for the average American family.

(b) The purpose of this Act is to establish a Federal Housing Bank which will provide permanent mortgage funds at a rate of 6 per centum or less for low- and moderate-income home purchasers; and to provide emergency mortgage relief for families hit by unemployment.

ESTABLISHMENT OF BANK

SEC. 3. There is hereby created a body corporate to be known as the Federal Housing Bank, which shall have succession until dissolved by Act of Congress. The Bank, which shall be an agency of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business. For the purposes of jurisdiction and venue, the Bank shall be deemed a citizen and resident of the District of Columbia.

SEC. 4. The Bank shall have, in addition to the special authority conferred by section 7 of this Act, the power—

(1) to sue and be sued, and complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal, by the Board, such bylaws, rules, and regulations as may be necesary for the conduct of its business;

(4) to conduct its business, carry on its operations, have offices, and exercise the powers granted by this Act in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, and own, hold, improve, use, or otherwise deal in and with, any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Bank;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, and to require bond for them and fix the penalty hereof; and

(9) to enter into contracts, execute instruments, incur liabilities, and do all things which are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

BOARD OF DIRECTORS: MANAGEMENT

SEC. 5. (a) The Bank shall have a board of directors which shall initially consist of nine members to be appointed as follows:

(1) three members shall be nominated by the President pro tempore of the Senate;

(2) three members shall be nominated by the Speaker of the House of Representatives; and

(3) three members shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated at the time of his appointment to serve as President of the Bank and Chairman of the Board of Directors. If the President shall fail to nominate the aforesaid members within ninety days of the passage of this Act, then these members shall be appointed by the Congress in conference assembled.

(b) The Board shall hold regular bimonthly meetings and shall hold other meetings at the call of the Chairman. A majority of the Board shall constitute a majority for the transaction of business. Any vacancy in the Board shall not affect its powers or duties.

(c) Any Director who is an officer or employee of the United States shall serve without additional compensation for his services as a Director.

(d) The management of the Bank shall be vested in the President of the Bank, subject to such policies as the Board of Directors shall prescribe from time to time.

INITIAL EXPENSES

SEC. 6. In order to facilitate the formation of the Bank, the Secretary of the Treasury is authorized to pay initial organizing and operating expenses. There is hereby authorized to be appropriated not to exceed $500,000 for this purpose.

SPECIAL AUTHORITY

SEC. 77. (a) Subject to the provisions of this Act, the Bank is authorized—

(1) to make commitments to purchase, and to purchase, service, and sell, on terms and conditions determined by the Bank, home mortgages on single family homes, or condominiums or cooperatives, from the Federal National Mortgage Association or the Federal Home Loan Bank system, and

(2) to make commitments to purchase, and to purchase, hold, and refinance mortgages on homes of persons who certify that they have been unemployed for six months and do not have assets that could be used to pay the mortgage on their principal dwelling place.

(b) The mortgages purchased under this section shall have the following characteristics and such others as the Bank may from time to time determine:

(1) bearing interest at a rate which is 1 per centum over the rate on obligations of the Bank, but in no event more than 6 per centum;

(2) having a term of thirty years or the useful life of the structure whichever is less;

(3) in an amount equal to 90 per centum of the value of the mortgaged property or the prototype cost to be determined as set forth in section 9 of this Act, whichever is less, except that the Bank may purchase in a higher amount having a dual interest rate of 6 per centum or less on the portion equal to 90 per centum of the prototype cost and a market interest rate on the portion above that cost;

(4) having a prepayment penalty in an amount determined by the Bank to be necessary to cover any costs incurred because of early repayment;

(5) including a sum necessary to compensate the originator for its costs in processing the loan, transferring it to the Bank, warehousing the loan prior to transfer, and a fair profit; and

(6) securing indebtedness incurred by an owner-occupant.

(c) Except for mortgages purchased or refinanced under the provisions of subsection (a)(2) of this section, the property securing the aforesaid mortgages shall—

(1) for a period of two years from the date of enactment of this Act, be newly constructed;

(2) for a period from two to five years from the date of enactment of this Act, be either newly constructed or existing construction having a value which is 50 per centum of the prototype cost established by the Bank for the locality in which the property is located;

(3) for a period from five to eight years from the date of enactment of this Act, be either newly constructed or existing construction having a value which is 70 per centum of the prototype cost established by the Bank for the locality in which the property is located:

(4) For a period from eight to ten years from the date of enactment of this Act, be either newly constructed or existing construction having a value which is 90 per centum of the prototype cost established by the Bank for the locality in which the property is located; and

(5) after ten years from the date of enactment of this Act, there shall be no restriction on the age of the dwelling, located on property securing mortgages purchased by the Bank.

SURVEY OF HOUSING NEEDS

SEC. 8. (a) Each calendar year the Bank shall make and publish a survey of the need for housing construction throughout the Nation over a period of ten years.

(b) In any calendar year the Bank shall purchase mortgages pursuant to section 7(a)(1) of this Act in an amount which will support the construction of one-tenth of the ten-year housing need as determined from the survey made pursuant to subsection (a) of this section.

ESTABLISHING PROTOTYPE COSTS

SEC. 9. The Bank shall establish on an annual basis for every standard metropolitan statistical area and for appropriate regional areas not included within standard metropolitan statistical area, a prototype cost for the construction of a modest but adequate, detached, semidetached, townhouse, condominium, or cooperative housing unit containing fourteen hundred square feet of living space.

EMERGENCY MORTGAGE RELIEF

SEC. 10. With respect to any mortgages which the Bank acquires pursuant to section 7(a)(2) of this Act, the Bank is authorized to declare a moratorium on payments of principal, interest, or both for a period of eighteen months on terms and conditions to be determined by the Bank so as to alleviate hardship arising from unemployment.

OBLIGATIONS OF THE BANK

SEC. 11. (a) The Bank is authorized to issue and have outstanding obligations having such maturities and bearing such rates of interest as may be determined by the Bank. Such obligations may be redeemable at the option of the Bank before maturity in such manner as may be stipulated therein. The full faith and credit of the United States is hereby pledged to the payment of all amounts which may be required to be paid on these obligations.

(b) The Bank may require the Secretary

of the Treasury to purchase obligations of the Bank issued pursuant to subsection (a) in such amounts as may be necessary in the determination of the Bank to meet its obligations under this Act, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any obligations acquired by him under this subsection. All purchases and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States. This subsection shall not be construed as limiting the authority of the Secretary to purchase obligations of the Bank in excess of such amount.

FEDERAL PAYMENTS TO THE BANK

SEC. 12. (a) The Secretary of the Treasury is authorized to make, and to contract to make, annual payments to the Bank in such amounts as are necessary to equal the amount by which the dollar amount of interest paid by the Bank on account of its outstanding obligations exceeds the dollar amount of interest received by the Bank on account of mortgages purchased pursuant to section 7.

(b) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out his functions under this Act, including such sums as may be necessary to make the annual payments required by contracts entered into by the Secretary of the Treasury pursuant to subsection (a) of this section.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 13. (a) The financial transactions of the Bank shall be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the Bank and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances of securities held by depositaries, fiscal agents, and custodians.

(b) The expenses of any audit performed under this section shall be borne out of appropriations to the General Accounting Office, and appropriations in such sums as may be necessary for this purpose are authorized.

AUDIT REPORT TO CONGRESS

SEC. 14. A report of each such audit of the Bank for any fiscal year shall be made by the Comptroller General to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of any such audit and shall include a statement of assets and liabilities; a statement of capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the Congress informed of the operations and financial condition of the Bank, together with such recommendations with respect thereto as the Comptroller General may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Bank, and the Secretary of the Treasury.

TAX EXEMPTION

SEC. 15. The Bank, its property, its franchise, capital reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority, except that (1) any real property and tangible personal property of the Bank shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (2) any and all obligations issued by the Bank shall be subjected both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

NATURE OF OBLIGATIONS

SEC. 16. All obligations issued by the Bank shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the Bank pursuant to this Act shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations or obligations guaranteed as to principal or interest by the United States.

PREPARATION OF OBLIGATIONS

SEC. 17. In order to furnish obligations for delivery by the Bank, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Bank. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The Bank shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

UNITED STATES NOT LIABLE

SEC. 18. Except as otherwise specifically provided in this Act, the United States shall not be liable for any debts, defaults, acts, or omissions of the Bank.

ANNUAL REPORT

SEC. 19. The Bank shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

AMENDMENTS RELATING TO FINANCIAL INSTITUTIONS

SEC. 20. (a) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by inserting "or obligations of the Federal Housing Bank", immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association,".

(b) Section 5200 of the Revised Statutes (12 U.S.C. 84) is amended by adding at the end thereof the following new paragraph:

"(14) Obligations of the Federal Housing Bank shall not be subject to any limitation based upon such capital stock and surplus.".

(c) The first paragraph of section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by inserting "or in obligations of the Federal Housing Bank;" in the second proviso, immediately after "any political subdivision thereof;".

(d) Paragraph (2) of section 14(b) of the Federal Reserve Act (12 U.S.C. 355) is amended by inserting ", or any obligation of the Federal Housing Bank" immediately before the period at the end thereof.

DEFINITIONS

SEC. 21. As used in this Act—

(a) The term "Bank" means the Federal Housing Bank created by section 3, and the term "Board" means its Board of Directors.

(b) The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, or any agency or instrumentality thereof.

(c) The term "Federal Home Loan Bank System" means the Federal Home Loan Bank, the Federal Savings and Loan Insurance Corporation, any member of a Federal home loan bank, or any other financial institution whose deposits are insured by the Federal Government.

(d) The term "obligation" means any bond, note, debenture, or other instrument evidencing debt.

(e) The term "home mortgage" means a first mortgage on real estate in fee simple or on a leasehold under a renewable lease for not less than ninety-nine years upon which there is located a dwelling used by the owner as a principal residence.

SEPARABILITY

SEC. 22. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 23. There are authorized to be appropriated, without fiscal year limitation, such sums as may be necessary to carry out the purposes of this Act.

SECTION-BY-SECTION OUTLINE

Sec. 1. Title: Federal Housing Bank Act (Federal Homestead Bank Act).

Sec. 2. Findings: That a healthy national economy requires a healthy building industry; that our goal of providing decent housing for all American families is imperiled by shortages of capital and materials; that an institution must be created to lower the costs of borrowing to finance homes.

Sec. 3. Establishment of Bank: Corporate body, succession until dissolved by Congress; an agency of the United States government.

Sec. 4. General Powers: Standard powers of a corporation to conduct its business.

Sec. 5. Board of Directors—Management; Directed by a Board having nine (9) members, six appointed by the Congress and three by the President (if the President doesn't nominate members within 90 days of passage, then the Congress may appoint the remaining directors).

Sec. 6. Initial Expenses: $500,000.00.

Sec. 7(a)(1). Purchase of Home Mortgages: Bank is authorized to purchase mortgages from FNMA at a rate which will eliminate the backlog of housing needs within ten years by stimulating housing starts and new construction.

Sec. 7(a)(2). Purchase. Refinance of Unemployed Homeowners: Bank is authorized to purchase and refinance mortgages incurred by persons who certify that they have been unemployed for six months and lack assets to make mortgage payments.

Sec. 7(b). Mortgages to have the following terms and conditions:

Bearing interest at a rate 1% over the rate on obligations of the Bank, but in no event more than 6%.

For a term of 30 years.

In an amount equal to 90% of the value of the mortgaged property or the prototype cost established by the Bank for the locality in which the property is located whichever is less, except that the Bank may purchase mortgages in a higher amount having a dual interest rate of 6% or less on the portion equal to 90% of the prototype cost and a market interest rate on the portion above that cost.

Secured by mortgage on new construction.

Having a prepayment penalty on an amount determined by the Bank to be necessary to cover any costs incurred because of the early repayment.

Including a sum necessary to compen-

sate the originator for its costs in processing the loan, transferring it to the Bank, warehousing the loan prior to transfer, and a fair profit.

Available only to owner occupants.

Sec. 7(c). Mortgages on Existing Construction: Except for mortgages of unemployed homeowners, beginning two years from the date of enactment of the Act and extending for 5 years, the Bank will be authorized to refinance mortgages on existing houses having a value which is 50% of the area's prototype cost; for 5 to 8 years on existing housing having 70% of the prototype cost; for 8 to 10 years on existing housing having 90% of the prototype cost; thereafter on all new or existing housing.

Sec. 8. Survey of Housing Needs: Bank directed to make an annual survey of the nation's homeownership housing needs over the succeeding ten years in order to make a determination of the number of housing starts which must be stimulated during the year by the activities of the Bank.

Sec. 9. Establishing Prototype Costs: Bank directed to set a cost for each metropolitan or regional area for a modest, but adequate, housing unit having 1400 square feet of living space to serve as a basis for setting the limit on portion of loan to be financed at the rate of 6% or less.

Sec. 10. Emergency Mortgage Relief: Bank may declare a moratorium on principal and interest payments for up to 18 months on mortgages of unemployed homeowners pursuant to Sec. 7(a)(2) of the Act.

Sec. 11. Obligations of the Bank: Authorized to issue obligations having rates and terms as determined by the Bank necessary to finance the operations of the Bank; fully guaranteed as to principal and interest by the full faith and credit of the United States Government. Bank may also require the Treasury to purchase for up to 18 months its obligations in order to allow the Bank to meet its responsibilities under the Act.

Sec. 12. Federal Payments to the Bank: Treasury Department is directed to make an annual payment to the Bank in an amount to cover the difference between the Bank's cost to borrow and its return from mortgages purchased by it.

Sec. 13. Audit of Financial Transactions: To be made each year by the GAO.

Sec. 14. Audit Report to Congress: GAO to report results of audit to Congress each year.

Sec. 15. Tax Exemption: Funds of the bank exempt from tax; real property subject to local taxes; principal & interest on bonds subject to income tax.

Sec. 16. Nature of Obligations: Lawful investment for trusts and fiduciaries. Exempt from Securities laws.

Sec. 18. Preparation of obligations: May be prepared by the Treasury.

Sec. 18. United States not Liable:

Sec. 19. Annual Report: Must report activities to Congress.

Sec. 20. Amendments Relating to Financial Institutions:

Sec. 21. Definitions: Bank; State; Obligation; Federal Home Loan Bank System; Home Mortgage.

Sec. 22. Separability:

Sec. 23. Authorization for Appropriations:

By Mr. BELLMON:

S. 375. A bill to amend the Wild and Scenic Rivers Act so as to authorize the establishment of certain advisory committees; to the Committee on Interior and Insular Affairs.

Mr. BELLMON. Mr. President, today I am introducing a bill to amend the Wild and Scenic Rivers Act of 1968, for the specific purpose of encouraging greater citizen participation in the process associated with the development of our Wild and Scenic River System. This legislation would provide for the establishment of certain advisory panels to assist the Department of Interior in its efforts to study and analyze the various rivers designated as wild and scenic rivers. These advisory panels would be comprised of local citizens from the affected area and would be applicable to every river that is presently being considered for inclusion in our Wild and Scenic River System as well as those rivers designated for study in the coming years.

An experience in my own State has prompted me to introduce this legislation, Mr. President, and I would like to briefly recount the events leading up to this particular experience and the decision to introduce this particular bill.

Mr. President, several years ago the Illinois River was designated by the Congress to be included in the Nation's Wild and Scenic Rivers System, pending the results of a study by the Department of Interior. This river, which flows through eastern Oklahoma, is an excellent example of the natural beauty our country possesses. Thousands of Oklahomans attach great importance to preserving this beauty in its natural state for the enjoyment of many generations to come. It is for this reason that I sponsored the legislation which authorized the study of the Illinois River for possible inclusion in our Wild and Scenic River System.

In addition to the natural beauty of the Illinois River, this entire area comprises a huge recreational resource in that part of our State. As a result of this, a controversy developed between those who felt this area should be preserved in its original state and those landowners who would prefer to utilize the entire area to its complete economic potential. Unlike any other river system that had been studied by either the Departments of Interior or Agriculture, the Illinois River system is comprised almost entirely of privately owned lands. Even the bed of the Illinois River is owned by the riparian owner of the stream. In most cases, the rivers studied for inclusion in the scenic rivers system had substantial publicly owned lands surrounding them or were located in areas already under Federal control such as a national park or forest. Unfortunately, this is not the case with the Illinois River.

Consequently, as you can see Mr. President, should the Illinois River be recommended as a wild and scenic river by the Interior Department, these local landowners will lose a certain portion of their land through condemnation proceedings. Very simply, this is a situation of growth versus no growth, and in this case, the Federal Government is suggesting limited growth for the purpose of preserving the wild and scenic qualities which are unique to the Illinois River. The landowners on the other hand, envision a time when their land could be utilized for economic development so as to promote the use of this recreational resource, and they feel very strongly that the Federal Government should not take their land away, irrespective of just compensation.

In short, Mr. President, these have been the arguments back and forth whenever the subject of the Illinois River and the scenic rivers study have been discussed. As you can readily understand, a unique and difficult situation exists where the land adjoining a scenic river is privately owned.

After several years of heated public hearings and basic disagreements over the suspected recommendations of the Interior Department with respect to the Illinois River, it became apparent that a lack of continuous local input into this study was creating a greater controversy than already existed. Therefore, in conjunction with the Bureau of Outdoor Recreation, a citizens' advisory panel was created to participate in the study of the Illinois River to allow better representation of the local and statewide interests during the study session. The involvement of this group has done more to bring about a good working relationship among the parties involved than any action during this study. I might point out that this citizens' advisory panel for the Illinois River study is the only such panel established at this point in time.

Allowing local citizens direct input into this study has renewed their faith in our governmental process which, as we all know is predicated upon the principle of government by the people. From all that I can gather Mr. President, this advisory panel to the Illinois River Scenic River Study has been a huge success, and for this reason, it is the opinion of the members of this panel as well as the study team participants that a local panel would be a useful tool in any ongoing or future study which may take place under the provisions of the Wild and Scenic Rivers Act. Since most streams that will be added for study will fall into the category of privately owned rather than publicly owned systems, local involvement on a continuing basis can be a key to proper study.

Mr. President, having recounted the circumstances peculiar to the Illinois River Scenic River Study, it is apparent that there exists a need for greater citizen participation in the entire process of developing a national wild and scenic rivers system. Every scenic river study is unique unto itself. Therefore, local inputs are important in every case.

Mr. President, I ask that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271), is amended by adding at the end thereof the following new subsection:

"(d) In connection with any study or other action pursuant to this Act or any other law involving an additional component or components to the national wild and scenic rivers system, the appropriate departmental or other agency head is authorized and instructed to establish citizen advisory committees to advise and make recommendations on matters relating to such additional component or components.".

By Mr. HUDDLESTON:

S. 378. A bill to create the Youth Resource Corps to supplement the Youth Conservation Corps, and for other pur-

poses; to the Committee on Interior and Insular Affairs.

YOUTH RESOURCE CORPS ACT

Mr. HUDDLESTON. Mr. President, I am today introducing legislation, modeled after the very successful Youth Conservation Corps, to provide an expanded program of youth employment in our national forests and parks and in State and local parks and recreation areas.

There is no doubt that youth unemployment in our Nation is quite high. Some 3.6 million of the 7.8 million persons considered unemployed in 1975 were between the ages of 16 and 24. Nearly one out of five teenagers seeking a job is unemployed. The recession which began late in 1973 had a particularly marked effect on youth unemployment. In fact, Ralph E. Smith of the Urban Institute has estimated that—

The number of teenagers without jobs as a result of the slack labor market rose by 1.1 million by the end of 1975: 420,000 more unemployed and 660,000 fewer teenagers in the labor force than there would have been had the economy continued to grow. One out of four job losses associated with the recession was incurred by a teenager.

Still, youth unemployment may, in many cases, be differentiated from other unemployment. Some of it obviously results from the transition from school to the work environment. Some of it may be attributed to the fact that young people like to experiment with different types of jobs before settling into one on a longer term basis. In other cases, it may be part-time, rather than full-time, employment that the person is seeking. While these factors indicate that youth unemployment problems may not be the same as unemployment problems among other segments of our population, they do nothing to diminish the very real economic and social difficulties which many American youth confront as a result of inability to find work.

The legislation which I am proposing today seeks to deal with this matter. It would authorize a program modeled after both the Federal lands and the State grant programs of the Youth Conservation Corps. This new program would, however, allow for employment of an individual for a period of up to 1 year. The age period for participation would also be expanded to encompass those between the ages of 16 and 24 in order to accommodate the entire group of those young persons who have difficulty in finding work. Sponsors would have to meet a requirement designed to insure that the program provides a meaningful work experience for young people—they would have to prepare plans which would guarantee that skill development was an integral part of the year-long program, that a conscious effort be made to see that participants emerge from the program with capabilities which they did not have when they entered.

Because studies of youth unemployment indicate a number of young people seeking employment desire part-time work and because those interested in remaining in school should be encouraged to do so, the legislation contains a section providing for cooperative endeavors between the administering departments and local educational agencies or nonprofit institutions. Under this section, a person's curriculum could be coordinated with part-time employment for which the person would be paid. In such a situation, it is obvious that schedules would have to be worked out so that sufficient time for both school and for work can be included, but this portion of the proposal could have twin benefits of providing needed part-time work and encouraging or, indeed, enabling young people to remain in school. Under the State grant program, part-time work might also be available.

The legislation specifies a number of activities which participants would engage in—construction, repair and maintenance of visitor facilities and other buildings, repair and maintenance of roads and trails, reforestation and timber stand improvement, forest fire prevention and control, flood and erosion control, fish and wildlife habitat preservation and improvement, preservation of historic and archeological sites, beautification projects. There is little question that the proposed work is useful—and needed.

A congressional report issued a few months ago on our national parks noted—

Visitor services and facilities are now being neglected throughout the system. Park buildings, roads, bridges, trails, historic sites and archeological relics are not being maintained according to the Park Service's own standards.

Similar problems exist in national forests, State parks, and other non-Federal public lands. Use of such areas has intensified. Demands on the areas have accordingly expanded. Yet, we have not been able to keep up the maintenance, repair and improvements which are needed if we are to protect these national assets. The expanded and long deserved attention which conservation and preservation are finally receiving demand that we move expeditiously to improve efforts to protect our lands, our timber, our fish and wildlife, and those facilities which already represent an investment of taxpayers' money.

A program such as the one contemplated in this legislation can, therefore, serve a dual purpose: it can provide increased job opportunities and skill development for a portion of our population whose difficulties in securing employment are particularly great and it can provide needed manpower for constructive work in enhancing and protecting America's great natural resources.

Finally, the program is based on one which has already had its successes. Over the past few summers, numerous young men and women have taken part in the Youth Conservation Corps. Our Forest Service, National Park Service, and local political jurisdictions have worked with these projects and know their capabilities. From conversations I have had with many in my own State of Kentucky, I know that such an expanded program can prove worthwhile and a sound investment in both our Nation's human and natural resources.

I commend this legislation to the Members of the Senate.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. HUDDLESTON. I yield.

Mr. STENNIS. Mr. President, as I understand the Senator's speech, I believe he has outlined here a very practical, constructive plan to do something about this unemployment on a constructive basis.

Mr. HUDDLESTON. Yes.

Mr. STENNIS. Where there will be something left to show for the money that has been spent and, at the same time, benefit anyone who honestly wants to work.

I know the Senator has done a lot of work on this and I want to encourage him any way I can.

Mr. HUDDLESTON. I thank the Senator.

Mr. STENNIS. I am vitally interested in the problem the Senator is trying to reach, as well as the forests, parks and other natural resources, and I think the Senator has sent up a new signal here. I hope we can get behind the Senator and do something about it along those lines.

Mr. HUDDLESTON. I thank the distinguished Senator from Mississippi. I think he has stated very well the point of utilizing our own resources and developing our own resources and, at the same time, providing needed employment and leaving something left over, left for future generations after the program has ended.

By Mr. WILLIAMS:

S. 379. A bill to amend section 360 of title 38, United States Code, to provide increased awards of service-connected compensation to certain veterans who have suffered the loss or loss of use of paired extremities; to the Committee on Veterans' Affairs.

VETERANS' COMPENSATION

Mr. WILLIAMS. Mr. President, I am today introducing legislation to expand compensation benefits for certain service-connected disabled veterans who have suffered additional disabilities following their discharge from military service. Similar legislation has been introduced in the House by the distinguished chairman of the House Subcommittee on Compensation, Pension, and Insurance (Mr. MONTGOMERY).

Since 1962, a veteran who lost an eye or kidney in the military and then lost the other eye or kidney to nonservice connected causes after leaving the service has been eligible for compensation for both losses. When these benefits were enacted, it was argued that the total disability resulting from such compound losses derived directly from the loss that was originally suffered in the service. The service-connected loss of an eye, for example, has been considered the causative factor in the total blindness of an individual who lost his or her remaining eye after discharge.

Present law permits additional compensation only in those cases where the remaining eye or kidney has been lost. If a veteran with the service-connected loss of an arm or leg subsequently loses the paired extremity, he may receive compensation only for the original, serv-

ice-connected loss. The same restriction applies to compensation for hearing loss.

My legislation would expand compensation benefits for disabled veterans who have suffered the loss of one extremity in the service, and who later suffered the loss of the paired extremity due to nonservice-connected causes. The loss of the use of a paired extremity would also be additionally compensable. Likewise, the measure would apply to hearing loss.

I believe that this legislation is consistent with the purposes of the benefits enacted in 1962, involving total blindness and kidney loss, and thus it breaks no new ground. The measure logically extends existing law by recognizing that the service-connected loss of an extremity or of the hearing in one ear is directly related to any total disability that would occur if the paired extremity or if the remaining hearing is also lost following service in the military. The cost of the legislation, which would become effective beginning with fiscal year 1978, would be very small.

The Federal Government has long maintained a deep commitment to assist its disabled veterans in coping in the society they fought to protect and preserve. I believe that the legislation I have offered today would contribute to the strengthening of that commitment.

By Mr. DOLE:

S. 380. A bill to amend section 111 of the Agricultural Trade Development and Assistance Act of 1954 to modify the so-called "75/25" food assistance requirement provided for in such section; to the Committee on Agriculture and Forestry.

PUBLIC LAW 480 AMENDMENT

Mr. DOLE. Mr. President. In the fall of 1975 the Congress amended Public Law 480 to require that 75 percent of the commodities available under title I of that act be allocated to countries with a per capita gross national product of $300 or less. This provision was enacted in response to the short supply situation which had prevailed over the previous 3 years and a policy of using a large share of title I to meet special foreign policy priorities particularly in Southeast Asia.

Since that time conditions have changed dramatically. Bumper crops around the world have changed short supply into surplus. U.S. wheat stocks are expected to reach their highest levels in 13 years. Similarly, other major grains are in abundant supply worldwide.

In the face of abundant supplies and falling farm prices, the allocation formula has placed great hardship on many developing nations, as well as crippled efforts to use Public Law 480 as a means of developing foreign market for excess supplies.

Nations such as India and Bangladesh are being forced to absorb commodities for which they have neither a need nor adequate storage as a consequence of the allocation formula. Developing countries with a need but with a per capita GNP of greater than $300 are being denied Public Law 480 title I assistance. As a result, we are creating waste such as that which received popular attention in the case of Bangladesh this year, and also are unable to meet shipment goals. This means that the already weak market situation will be further eroded by failure of anticipated Public Law 480 exports to materialize.

Clearly, the allocation formula is not serving the interest of directing Public Law 480 to the neediest countries, nor developing foreign markets for U.S. farm commodities. It certainly is not humanitarian to dump commodities on the market of countries already facing abundant supplies and thereby weakening prices received by their own producers and the incentive for agricultural development. And it is not in the interest of the United States to back up supplies which we could otherwise sell under Public Law 480 concessional financing.

The bill I am offering today would amend section 111 of Public Law 480 under which the allocation formula is provided to permit the President authority to reallocate some portion of the 75 percent of title I commodities which are mandated to go to countries with a per capita GNP of $300 or less. This amendment would still require the President to first make available title I assistance to countries with a $300 per capita GNP or less and would allow reallocation of title I financing to other countries only if they cannot be used effectively to carry out the humanitarian purposes of Public Law 480.

Mr. President, one of the most important strengths of Public Law 480 is the fact that it serves several important objectives. The fact that it serves humanitarian, market development and foreign policy purposes has given Public Law 480 a breadth of support enjoyed by few other programs of its kind. And, if properly administered, Public Law 480 is able to serve each objective in a complementary and balanced manner. Yet, the allocation formula added a little over a year ago to the legislation threatens this balance and the longer term effectiveness of our Public Law 480 program. My bill would provide the flexibility necessary to insure that the program is responsive to changing requirements both in terms of our own economy as well as food needs abroad.

Therefore, I would urge the support of my colleagues of this measure so that Public Law 480 can continue to serve the needs of farmers, needy people abroad and the American economy.

By Mr. TOWER:

S. 381. A bill to amend section 404 of the Federal Water Pollution Control Act to prevent Federal usurpation of State water resources; to the Committee on Public Works.

Mr. TOWER. Mr. President, I am today introducing legislation to curtail the authority of the Corps of Engineers over State water resources. This bill is similar to legislation I introduced last year which failed in the Senate by a single vote.

My bill would restrict expansion of Federal authority over nonnavigable waters under section 404 of the Federal Water Pollution Control Act, which authorizes the corps to issue permits for activities in navigable waters involving the discharge of dredged or fill material.

The corps attained that authority not through congressional mandate but through judicial interpretation; an interpretation, I might add, which was challenged by the corps itself.

Under the court-ordered permit program, the corps has begun to require permits for activities in waters over which it has never had jurisdiction, waters which are neither navigable nor critical to navigation.

As recently as last Friday, an official of the corps admitted that when the Congress enacted the Federal Water Pollution Control Act, there was no intention to give the corps broad authority forced on it by the Federal District Court of the District of Columbia in the 1975 case of NRDC against Callaway.

But as a result of the court's interpretation of the Water Act, section 404 has developed into a National Wetlands Protection Act, again, a circumstance never envisioned nor intended by Congress.

But what we have, and what the country is faced with is a regulatory scheme covering not just the wetlands of the Nation, but virtually all surface waters up to the headwaters of streams, and all natural bodies of water over 5 surface acres.

Under this regulatory program, the corps decides, on the basis of the impact on water quality, whether to allow discharges into waters of the United States of dredged or fill material.

The jargon here is somewhat misleading. By discharges, we do not just mean some kind of sludge that emits from a sewer. A discharge may be sand, gravel, or any number of solid materials normally used in construction of highways, dams, culverts, and so on.

No dam can be built, no drainage system can be installed, no stream crossing can be constructed, without asking the Corps of Engineers for permission.

The full impact of the corps permit system has not yet been experienced. In implementing the regulations required by the court, the corps has phased in its authority in three steps, the third of which goes into effect on July 1, 1977. Until this time, the impact has not been great with the corps restricting its activity to traditional navigable waters and other major rivers and streams.

In July, however, under phase III of the corps permit policy, the total program will be implemented, covering virtually all the surface waters of the United States.

It is impossible to determine now the extent of the usurpation of State and private water rights. Even the corps has not yet fixed the limits of its authority and is even now contemplating changes in the regulations which set the limits of authority.

The corps is not yet prepared to tell a farmer, or a State highway department, or a forester, whether or not a permit will be required for activity, because the corps has not yet determined how it will measure the headwaters of streams and has not even begun to map these areas so that a person can know beforehand what will be and what not be waters under the corps' jurisdiction.

If we allow this program to stand as a monument to judicial usurpation, our

citizens cannot know whether they are breaking the law until the corps gets around to setting the limits on its authority.

Vital projects are being delayed because the sponsors are unsure whether or not a section 404 permit will be required. Some activities have been exempted by the corps, but these exemptions are being changed at this very moment. We do not know whether a certain conservation practice will or will not be legal without a corps permit.

There is one group, however, that is not wasting any time.

The environmentalists are using every opportunity to challenge approved water resource projects on the basis that they do not have section 404 permits from the corps. While critical conservation projects are being delayed, these opponents of jobs and economic growth seek to enjoin those who provide water resources and jobs for this country.

As we have found from the abuse of the Fish and Wildlife Coordination Act, which is cited as the basis for requiring mitigation of damage to wildlife habitats in public works projects, so too are we finding section 404 being used to halt progress in areas where progress is essential in providing jobs.

Let us be honest, Mr. President. Those who favor using the Clean Water Act to halt legislatively approved water projects, projects which help solve part of this country's immense unemployment problem, have no concern for the working men and women of this country. They have no conception of what is needed to keep this country's agricultural machine running or our housing industry growing.

Mr. President, I hope that those of my colleagues whose States need jobs and homes and highways will respond to this challenge by halting the Corps of Engineers as it steadily intrudes into the affairs of our States and our private citizens.

Mr. President, my efforts to reverse the court-ordered permit program under section 404 of the Federal Water Pollution Control Act failed by a single vote in the last Congress.

Now there are 18 new Senators who will have to decide what is best for their State on this issue. I would hope that among the freshman class of the Senate in this Congress we would find the majority that eluded us in the last.

Mr. President, I implore the Senate to stop this dangerous trend. Because we need jobs for the unemployed, because we need water for our farms and cities, because we need homes for our people, I urgently ask the Senate to support my bill and act on it expeditiously so that we can get on with the business of our country.

Mr. President, I ask unanimous consent that my bill and a summary be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PERMITS FOR DREDGED OR FILL MATERIAL

SEC. 1. That (a) Subsection (a) of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by adding immediately after "navigable waters" the following: "and adjacent wetlands".

SEC. 2. Such section 404 is further amended by adding at the end thereof the following new subsections:

"(d)(1) The term 'navigable waters' as used in this section shall mean all waters which are presently used, or are susceptible to use in this natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high mark (mean higher high water mark on the west coast).

"(2) The term 'adjacent wetlands' as used in this section shall mean (A) those coastal wetlands, mudflats, swamps, marshes, shallows, and those areas periodically inundated by saline or brackish waters that are normally characterized by the prevalence of salt or brackish water vegetation capable of growth and reproduction, which are contiguous or adjacent to navigable waters subject to the ebb and flow of the tide, and (B) those freshwater wetlands including marshes, shallows, swamps, and similar areas that are contiguous or adjacent to other navigable waters, that support fresh water vegetation and that are periodically inundated and are normally characterized by the prevalence of vegetation that requires saturated soil conditions for growth and reproduction.

"(e) Except as provided in subsection (f) of this section, the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands is not prohibited by or otherwise subject to regulation under this Act, or section 9, section 10, or section 13 of the Act of March 3, 1899.

"(f) If the Secretary of the Army, acting through the Chief of Engineers, and the Governor of a State enter into a joint agreement that the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands of such State should be regulated because of the ecological and environmental importance of such waters, the Secretary, acting through the Chief of Engineers, may regulate such discharge pursuant to the provisions of this section. Any joint agreement entered into pursuant to this subsection may be revoked, in whole or in part, by the Governor of the State who entered into such joint agreement or, by the Secretary of the Army, acting through the Chief of Engineers.

"(g) In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized to issue those general permits which he determines to be in the public interest.

"(h) The discharge of dredged or fill material—

"(1) from normal farming, silviculture, and ranching activities, including, but not limited to, plowing, terracing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products;

"(2) for the purpose of maintenance of currently serviceable structures, including, but not limited to, dikes, dams, levees, groins, ripraps, breakwaters, causeways, and bridge abutments and approaches, and other transportation structures (including emergency reconstruction); or

"(3) for the purpose of construction or maintenance of farm or stock ponds and irrigation ditches,

is not prohibited by or otherwise subject to regulation under this Act.

"(i) The discharge of dredged or fill material as part of the construction, alteration, or repair of a Federal or federally assisted project authorized by Congress is not prohibited by or otherwise subject to regulation under this Act if the effects of such discharge have been included in an environmental impact statement or environmental assessment for such project pursuant to the provisions of the National Environmental Policy Act of 1969 and such environmental impact statement or environmental assessment has been submitted to Congress in connection with the authorization or funding of such project.

"(j) The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to a State upon its request all or any part of those functions vested in him by this section relating to the adjacent wetlands in that State if he determines (A) that such State has the authority, responsibility, and capability to carry out such functions, and (B) that such delegation is in the public interest. Any such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such a delegation.".

PROVISIONS OF TOWER AMENDMENT TO PUBLIC LAW 92-500

A. Restricts expansion of federal authority over navigable waters.

B. Provides protection to wetlands, swamps, marshes, etc. which are adjacent to navigable waters.

C. Allows a state to request the Corps to assume permit authority in wetlands other than those adjacent to navigable waters, thus providing even broader protection of wetland resources.

D. Authorizes the issuance of general permits for activities which either individually or collectively have minor environmental impact.

E. Exempts from Corps permit requirements activities:

1. related to normal farming, forestry and ranching activities.

2. for maintaining currently serviceable structures such as dikes, dams, and levees.

3. for construction or maintenance of farm or stock ponds and irrigation ditches.

F. Eliminates double paperwork by eliminating the need for a permit for those federal or federally assisted projects for which an EIS has been submitted to Congress.

G. Provides for delegation by the Corps of its wetlands protection responsibilities to those states with adequate authority.

By Mr. BROOKE (for himself and Mr. KENNEDY):

S. 382. A bill to impose certain safety requirements with respect to swimming pools acquired, built, or operated by the Federal Government; to the Committee on Government Operations.

SWIMMING POOL SAFETY ACT OF 1977

Mr. BROOKE. Mr. President, today I am filing the Swimming Pool Safety Act of 1977. This simple measure provides that any in-ground, outdoor swimming pool on Federal property or built by recipients of Federal funds must be fenced and equipped with lifesaving devices. Its purpose is to prevent many of the hundreds of fatal and near-fatal accidents which occur in pools each year. The bill is written with small children in mind. The U.S. Consumer Product Safety Commission estimates that deaths of small children in swimming pools each year number in the hundreds. Mr. President, most of these tragedies would have been prevented if pools had been fenced in.

In October 1973, two beautiful children, Shayne Beckwith who was then 2

and his brother, Shawn, who was 3, drowned in an unused swimming pool in Somerville, Mass. Their parents, Bonnie and Gerard Beckwith, have waged a courageous and determined struggle to turn their personal tragedy into a meaningful memorial to their sons. They have campaigned across the country for a wide range of safety measures to protect all our children. In the Commonwealth of Massachusetts, the Beckwiths educated the public and the legislature about swimming pool safety. In 1975, Governor Dukakis signed into law a measure comparable to the Federal bill I am filing today. Last year, I introduced this measure and it was referred to the Subcommittee on Oversight Procedures. Unfortunately, no action was taken.

State regulations will not do the job themselves. Federal action is necessary. There are countless outdoor, inground pools on military installations, VA hospital grounds, parks and recreation areas, and on public facilities acquired and developed with Federal funds. Most of those are not covered by State legislation. I have been shocked to discover that none of them is covered by any Federal safety regulations.

The addition of a child-proof fence and a life ring to existing and new outdoor pools, as this measure would require, will add only a small fraction to the cost of the pool. I feel this cost should not even be considered in view of the terrible, devastating tragedy it can avert. Critics of the Swimming Pool Safety Act argue that this measure would be an overregulation by the Federal Government. I do not understand how anyone can rationally argue that a Federal requirement of fences and life rings for federally funded facilities is an overextension of governmental authority. This bill offers a way of assuring that U.S. funds are not used to create hazards to the lives of our children. The taxpayer's money must not be used in such a manner.

Mr. President, I introduce the Swimming Pool Safety Act of 1977 in memory of Shawn and Shayne Beckwith and also in memory of the hundreds of dead children whose names we do not know. We can delay the enactment of the Swimming Pool Safety Act no longer. This measure must be acted on before we lose the life of another child due to poor safety standards. This bill offers such a simple way to save our children.

Mr. President, I ask unanimous consent that the text of the Swimming Pool Safety Act of 1977 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Swimming Pool Safety Act of 1977".

SEC. 2. (a) No Federal agency or recipient of Federal funds may acquire, build, or operate any outdoor inground swimming pool unless such pool is—

(1) enclosed by a fence at least six feet in height which is firmly secured at ground level and the top of which is, including gates, at least six feet above the underlying ground;

(2) enclosed by a fence with self-latching gates, the latches of which are at least four feet above the underlying ground or are otherwise designed to bar entry from the outside by children under the age of seven years;

(3) equipped with at least one life ring and one rescue hook.

(b) For purposes of this section the term—

(1) "outdoor inground pool" means an outdoor inground swimming or wading pool on the premises of, or used in connection with, a Federal agency or a recipient of Federal funds;

(2) "Federal agency" means any department, agency, instrumentality, or authority of the executive, legislative, or judicial branch of the Federal Government, including any independent establishment of the Federal Government; and

(3) "recipient of Federal funds" means any person, institution, or unit of State or local government which receives Federal funds for the purpose of acquiring, building, or operating any outdoor inground swimming pool.

(c) The Administrator of General Services shall—

(1) promulgate such rules and regulations as he may deem necessary to carry out the provisions of this section; and

(2) prepare and furnish to the Congress a report on the operation of these regulations as soon as practicable after the end of each fiscal year.

By Mr. HATHAWAY:

S. 383. A bill to provide for financial disclosure by Federal officers and employees, and for other purposes; to the Committee on Government Operations and the Committee on the Judiciary, jointly, by unanimous consent.

FINANCIAL DISCLOSURE ACT OF 1977

Mr. HATHAWAY. Mr. President, I am pleased to introduce today the Financial Disclosure Act of 1977.

This measure is identical to title III of the so-called Watergate Reform Act, S. 495, approved by this body on July 21, 1976, which unfortunately was not enacted into law during the 94th Congress due to lack of action on the part of the House of Representatives.

It is appropriate that I introduce this bill today, on the day following the Senate's approval of Senate Resolution 36, establishing a special ad hoc committee to propose a code of ethics for Members, officers, and employees of the Senate in the performance of their official duties.

I am hopeful that this committee will fulfill the mandate set out for it under Senate Resolution 36. It is required to report back to the Senate by March 1, 1977, its recommendations with regard to achieving complete annual public disclosure of income, assets, gifts, and so on, placing restrictions on honorariums and other outside income, eliminating or limiting potential conflicts of interest in investments, and implementing standards for office accounts and excess campaign contributions and Senate travel.

This is a vital and important task, and I intend to follow the work of the new committee closely.

Many of the issues which the committee will consider are already addressed by Senate rules, the Federal Election Campaign Act, and other Federal law. But, because of the distrust and alienation which many of our citizens feel with regard to their elected officials and governmental institutions, it is appropriate and necessary that the Senate consider all of these matters again, in detail, and adopt a comprehensive Code of Ethics which will provide sound standards for Members, officers, and employees of this body.

I am particularly gratified to note that the terms of Senate Resolution 36 require that the recommendations of the committee be considered on an expedited basis and that there is a firm time limitation on all such debate and amendments.

While I hope this committee will begin anew, and give close scrutiny to all prior ethical standards and requirements, I urge it to consider the standards most recently considered and approved by the Senate in the area of financial disclosure specifically the Watergate Reform Act's financial disclosure requirements.

I am introducing this bill today, which incorporates those requirements, in order to insure that this legislation be directly considered by the new committee.

These provisions would require public disclosure of the amounts and sources of income, assets, and other property rights on the part of all Members of Congress, the President, the Vice President, U.S. Justices and judges, top-level civil servants, and legislative branch employees.

These reports would be filed with the Comptroller General, who would be required to make such reports available to the public, and to conduct periodic audits of such reports.

Anyone required to file who willfully falsifies or fails to report such information would be subject to a fine of up to $10,000 or a 1-year prison sentence, or both.

These disclosure requirements would give our citizens renewed confidence in the integrity of all our top governmental officials in all three branches of Government who will be subject to uniform and rigid disclosure requirements.

This act would take effect on April 1, 1977, to coincide, hopefully, with the action of the Senate in adopting its own comprehensive ethics code.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Financial Disclosure Act of 1977".

DEFINITIONS

SEC. 2. As used in this title—

(1) the term "agency" means each authority of the Government of the United States;

(2) the term "commodity future" means commodity future as defined in sections 2 and 5 of the Commodity Exchange Act, as amended (7 U.S.C. 2 and 5);

(3) the term "Comptroller General" means the Comptroller General of the United States;

(4) the term "dependent" means dependent as defined in section 152 of the Internal Revenue Code of 1954;

(5) the term "employee" includes any employee designated under section 2105 of title 5, United States Code, and any employee of the United States Postal Service or of the Postal Rate Commission;

(6) the term "immediate family" means—(A) the spouse of an individual, (B) the child, parent, grandparent, grandchild, brother, or sister of an individual or of the spouse of such individual, and (C) the spouse of any individual designated in clause (B);

(7) the term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954;

(8) the term "Member of Congress" means a Senator, a Representative, a Resident Commissioner, or a Delegate;

(9) the term "officer" includes any officer designated under section 2104 of title 5, United States Code, and any officer of the United States Postal Service or of the Postal Rate Commission;

(10) the term "security" means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b);

(11) the term "transactions in securities and commodities" means any acquisition, transfer, or other disposition involving any security or commodity;

(12) the term "uniformed services" means any of the armed forces, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration;

(13) the term "political contribution" means a contribution as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431); and

(14) the term "expenditure" means an expenditure as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

INDIVIDUALS REQUESTED TO FILE REPORT

SEC. 3. (a) Any individual who is or was an officer or employee designated under subsection (b) shall file each calendar year a report containing a full and complete financial statement for the preceding calendar year if such individual has occupied the office or position for a period in excess of ninety days in such calendar year.

(b) The officers and employees referred to in subsection (a) are—

(1) the President;

(2) the Vice President;

(3) each Member of Congress;

(4) each justice or judge of the United States;

(5) each officer or employee of the United States who is compensated at a rate equal to or in excess of the minimum rate prescribed for employees holding the grade of GS–16 under section 5332(a) of title 5, United States Code; and

(6) each member of a uniformed service who is compensated at a rate equal to or in excess of the monthly rate of pay prescribed for grade O–7, as adjusted under section 1009 of title 37, United States Code.

(c) Any individual who seeks nomination for election, or election, to the office of President, Vice President, or Member of Congress shall file in any year in which such individual has—

(1) taken the action necessary under the law of a State to qualify for nomination for election, or election, or

(2) received political contributions or made expenditures, or has given consent for any other person to receive political contributions or make expenditures, with a view to bringing about such individual's nomination for election or election, to such office, a report containing a full and complete financial statement for the preceding calendar year.

CONTENTS OF REPORTS

SEC. 4. (a) Each individual shall include in each report required to be filed by him under section 3 a full and complete statement, in such manner and form as the Comptroller General may prescribe, with respect to—

(1) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received from any member of his immediate family) received during the preceding calendar year which exceeds $100 in amount or value, including any fee or other honorarium received for or in connection with the preparation or delivery of any speech, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication;

(2) the fair market value and source of any item received in kind or aggregate of such items received from one source (other than items received in kind from any member of his immediate family), including, but not limited to, any transportation or entertainment received, during the preceding calendar year if such fair market value for such item exceeds $500;

(3) the identity and the category of value, as designated under subsection (b), of each asset, other than household furnishings or goods, jewelry, clothing, or any vehicle owned solely for the personal use of the individual, his spouse, or any of his dependents, held during the preceding calendar year which has a value in excess of $1,000 as of the close of the preceding calendar year;

(4) the identity and the category of amount, as designated under subsection (b), of each liability owed which is in excess of $1,000 as of the close of the preceding calendar year;

(5) the identity, the category of amount, as designated under subsection (b), and date of any transaction in securities of any business entity or any transaction in commodities futures during the preceding calendar year which is in excess of $1,000;

(6) the identity and the category of value, as designated under subsection (b), of any purchase or sale of real property or any interest in any real property during the preceding calendar year if the value of property involved in such purchase or sale exceeds $1,000;

(7) any patent right or any interest in any patent right, and the nature of such patent right, held during the preceding calendar year; and

(8) a description of, the parties to, and the terms of any contract, promise, or other agreement between such individual and any person with respect to his employment after such individual ceases to occupy his office or position with the Government, including any agreement under which such individual is taking a leave of absence from an office or position outside of the Government in order to occupy an office or position of the Government, and a description of and the parties with any unfunded pension agreement between such individual and any employer other than the Government.

Each individual designated under paragraphs (5) and (6) of section 3(b) shall also include in such report the identity of any person, other than the Government, who paid such individual compensation in excess of $5,000 in any of the five years prior to the preceding calendar year and the nature and term of the services such individual performed for such person. The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

(b)(1) For purposes of paragraphs (3) through (6) of subsection (a), an individual need not specify the actual amount or value of each asset, each liability, each transaction in securities of any business entity or in commodities futures, or each purchase or sale required to be reported under such paragraphs, but such individual shall indicate which of the following categories such amount or value is within—

(A) not more than $5,000.

(B) greater than $5,000 but not more than $15,000.

(C) greater than $15,000 but not more than $50,000.

(D) greater than $50,000, but not more than $100,000, or

(E) greater than $100,000.

(2) Each individual shall report the actual amount or value of any other item required to be reported under this section.

(c) For purposes of paragraphs (1) through (7) of subsection (a), an individual shall include each item of income or reimbursement and each gift received, each item received in kind, each asset held, each liability owed, each transaction in commodities futures and in securities, each purchase or sale of real property or interest in any real property, and each patent right or interest in any patent right held by him, his spouse, or any of his dependents within his control, or by him and his spouse or dependents, jointly, or by any person acting on his behalf: *Provided*, That no disclosure shall be required as to those items of the spouse and dependents of the reporting individual which represent their sole property and which are not in any way, directly or indirectly, past or present, derived from the income, earnings, investments, assets, dividends, property, holdings or activities of the covered official.

FILING OF REPORTS

SEC. 5. (a)(1) Each individual required to file a report under section 3(a), other than an individual excepted under paragraph (3) of this subsection, shall file such report with the Comptroller General not later than May 15 of each year. Each such individual, other than the President, Vice President, a Member of Congress, a justice or judge of the United States, any officer or employee of the Senate or the House of Representatives or any court of the United States, the head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in the Executive Office, or each full-time member of a committee, board, or commission appointed by the President, shall file a copy of such report with the head of the agency in which such individual occupies any office or position at the same time as such report is filed with the Comptroller General.

(2) Each Member, officer, and employee of the House of Representatives and the Senate required to file a report under section 3(a) shall file a copy of such report with the Clerk of the House of Representatives and the Secretary of the Senate, respectively, and each justice, judge, officer, and employee of any court of the United States shall file a copy of such report with the Director of the Administrative Office of the United States Courts at the same time as such report is filed with the Comptroller General.

(3) The head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in the Executive Office, and each full-time member of a committee, board, or commission appointed by the President, shall file a copy of such report with the Chairman of the Civil Service Commission at the same time such report is filed with the Comptroller General.

(4) The President may exempt any individual in the Central Intelligence Agency,

the Defense Intelligence Agency, or the National Security Agency, or any individual engaged exclusively in intelligence activities in any agency of the United States from the requirement to file a report with the Comptroller General if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would reveal the identity of an undercover agent of the Federal Government. Each individual exempted by the President from such requirements shall file such report with the head of the agency in which he occupies an office or position or, if an individual described in subsection (a)(3), with the Chairman of the Civil Service Commission.

(b) Each individual required to file a report under section 3(c) shall file such report with the Comptroller General within one month after the earliest of either action which such individual takes under section 3(c)(1) or (2).

(c)(1) Any individual who ceases prior to May 15 of any calendar year to occupy the office or position the occupancy of which imposes upon him the reporting requirement contained in section 3(a) shall file such report for the preceding calendar year and the period of such calendar year for which he occupies such office or position on or before May 15 of such calendar year.

(2) Any individual who ceases to occupy such office or position after May 15 of any calendar year shall file such report for the period of such calendar year which he occupies such office or position on the last day he occupies such office or position.

(d) The Comptroller General may grant one or more reasonable extensions of time for filing any report but the total of such extensions shall not exceed ninety days.

(e) The Comptroller General shall promulgate such rules and regulations as are required to carry out the provisions and purposes of this title.

FAILURE TO FILE OR FALSIFYING REPORT: PROCEDURE

SEC. 60. (a)(1) Any individual who knowingly and willfully falsifies or fails to report any information such individual is required to report under section 4 shall be fined in any amount not exceeding $10,000, or imprisoned for not more than one year, or both.

(2) The Attorney General may bring a civil action in any district court of the United States against any individual who fails to file a report which such individual is required to file under section 3 or who fails to report any information which such individual is required to report under section 303. The court in which such action is brought may assess against such individual a penalty in any amount not to exceed $5,000.

(b) The head of each agency, the Clerk of the House of Representatives with respect to any Member, officer, or employee of the House of Representatives, the Secretary of the Senate with respect to any Member, officer or employee of the Senate, and the Director of the Administrative Office of the United States Courts with respect to any justice, judge, officer, or employee of any court of the United States shall submit annually to the Comptroller General a complete list of individuals who are required to file a report under section 3 and shall submit at the close of each calendar quarter a list of individuals who have begun or have terminated employment with such agency, the House of Representatives, the Senate, or any court in such calendar quarter.

(c) The Comptroller General shall refer to the Attorney General the name of any individual the Comptroller General has reasonable cause to believe has failed to file a report or has falsified or failed to file information required to be reported. In addition, if such individual is a Member, officer, or employee of the Senate or the House of Representatives, the Comptroller General shall refer the name of such individual to the Senate Select Committee on Standards and Conduct or the Committee on Standards of Official Conduct of the House of Representatives, whichever is appropriate.

(d) The President, the Vice President, either House of Congress, the Director of the Administrative Office of the United States Courts, the head of each agency or the Civil Service Commission may take any appropriate personnel or other action against any individual failing to file a report or information or falsifying information.

CUSTODY AND AUDIT OF, AND PUBLIC ACCESS TO, REPORTS

SEC. 7. (a) The Comptroller General shall make each report filed with him under section 6 available to the public within fifteen days after the receipt of such report from any individual and provide a copy of such report to any person upon a written or oral request.

(b) The Comptroller General may require any person receiving a copy of such report under subsection (a) to supply his name and address and the name of the person or organization, if any, on whose behalf he is requesting such copy and to pay a reasonable fee in any amount which the Comptroller General finds necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. The Comptroller General may furnish any copy of such report without charge or at a reduced charge if he determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the public.

(c)(1) It shall be unlawful for any person to inspect or obtain a copy of any report—

(A) for any unlawful purpose;

(B) for any commercial purpose;

(C) to determine or establish the credit rating of any individual; or

(D) for use directly or indirectly in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action in any district court of the United States against any person who inspects or obtains such report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such individual a penalty in any amount not to exceed $1,000.

(d) Any report received by the Comptroller General shall be held in his custody and made available to the public for a period of five years after receipt by the Comptroller General of such report. After such five-year period, the Comptroller General shall destroy any such report.

(e)(1) The House of Representatives, the Senate, the Director of the Administrative Office of the United States Courts, the Chairman of the Civil Service Commission, and the head of each agency shall make provisions to assure that each report shall be viewed in accordance with any law or regulation with respect to conflicts of interest or confidential financial information of officers or employees of the House of Representatives, the Senate, the United States courts or each such agency or in accordance with rules and regulations as may be prescribed.

(2) Notwithstanding any law or resolution, whenever in any criminal case pending in any competent court in which a Member, officer, or employee of the Senate is a defendant, or in any proceeding before a grand jury of any competent court in which alleged criminal conduct of a Member, officer, or employee of the Senate is under investigation, a discovery order of a competent court is served upon the Comptroller General of the United States directing him to appear and produce any reports filed pursuant to any financial disclosure requirement, then the Comptroller General shall—

(A) if such report is in a sealed envelope, unseal the envelope containing such report and have an authenticated copy made of such report, replace such report in such envelope and reseal it, and note on such envelope that it was opened pursuant to this paragraph in response to a subpena, a copy of which shall be attached to such envelope, and

(B) appear in response to such subpena and produce the authenticated copy so made. For purposes of this paragraph, the term "competent court" means a court of the United States, a State, or the District of Columbia which has general jurisdiction to hear cases involving criminal offenses against the United States, such State, or the District of Columbia, as the case may be.

(f)(1) The Comptroller General shall, under such regulations as he may prescribe, conduct on a random basis audits of not more than 5 per centum of the reports filed with him under section 5(a)(1).

(2) The Comptroller General shall audit during each term of an individual holding the office of President or Vice President at least one report filed by such individual under section 5(a)(1) during such term.

(3) The Comptroller General shall, during each six-year period beginning after the date of enactment of this Act, audit at least one report filed by each Member of the Senate and the House of Representatives during such six-year period.

(4)(A) In conducting an audit under paragraph (1), (2), or (3), the Comptroller General is authorized to require by subpena the production of books, papers, and other documents. All such subpenas shall be issued and signed by the Comptroller General.

(B) In case of a refusal to comply with a subpena issued under subparagraph (A)—

(i) the Comptroller General is authorized to seek an order by any district court of the United States having jurisdiction of the defendant to require the production of the documents involved; and

(ii) such district court may issue such order and enforce it by contempt proceedings.

SEC. 8. The Civil Service Commission and the Department of Justice shall each analyze regulations and procedures presently in effect with regard to financial conflicts of interest among employees of the Federal Government and recommend to the appropriate committees of Congress for their consideration such legislation as may be necessary including comments on amendment numbered 2031 as submitted. Such reports shall be delivered within six months of the enactment of this Act.

SEPARABILITY

SEC. 9. If any part of this Act is held invalid, the remainder of the title shall not be affected thereby. If any provision of any of this title, or the application thereof to any person or circumstance, is held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There are authorized to be appropriated for each fiscal year through September 30, 1981, such sums as may be necessary to carry out the provisions of this title.

EFFECTIVE DATE

SEC. 11. The provisions of this Act shall take effect on April 1, 1977, except that (1) no individual shall be required to file a report under section 5(a) prior to May 15, 1978, and (2) any individual who is required to file a report during calendar year 1977 under section 5(b) or (c) shall only be required to include information with respect to calendar year 1977.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill introduced by the Senator from Maine (Mr. HATHAWAY), providing for financial disclosure by Federal officers and employees, be jointly referred to the Committees on Government Operations and Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. HATHAWAY:

S. 384. A bill to provide for incentive loans to the commercial fisheries industry; to the Committee on Commerce, and the Committee on Banking, Housing and Urban Affairs, jointly, by unanimous consent.

COMMERCIAL FISHERIES IMPROVEMENT FUND ACT OF 1976

Mr. HATHAWAY. Mr. President, today I am pleased to reintroduce proposed legislation that will help stimulate the development of the U.S. commercial fishing industry. I introduced this bill last year shortly after passage of the 200-mile fishing limit law. It is apparent that the 200-mile legislation can be meaningful only if its advantages accure to American fishermen. To reap those benefits while ensuring overall sound fishery management, financial assistance should be assured which will permit both efficient harvesting of fish through the development of underutilized species and markets, and the upgrading of the domestic fleet to be competitive with the foreign fleets. During the last 30 years, a minimal amount of assistance only has been provided the domestic fishing industry.

Even though we have over 88,633 miles of tidal shoreline including rivers and streams, the present U.S. catch is only one-eighth of the potential annual yield of over 40.7 billion pounds of fish.

On March 1, 1977, the United States will assume exclusive jurisdiction over one-fifth of the world's marine fish stock through implementation of the Fishery Conservation and Management Act of 1976. Under the provisions of this law, the United States will regulate the marine resources within 200 miles of its coastline, which account for a substantial portion of the harvestable stocks presently fished by foreign fleets. The opportunities have never been so great, yet the responsibilities never so pressing.

BACKGROUND

In 1948, the total volume of fish harvested off the U.S. coast reached a level of 4.4 billion pounds. In 1972, the amount of harvested fish was 11.1 billion pounds. Almost the entire total increase of harvested fish from the U.S. coast since 1948 has been taken by subsidized foreign fleets.

Since 1938, one third of the increase of all Japanese catches and one-fifth of the U.S.S.R. increases have come from fishing operations within 200 miles of the U.S. coastline. Under extended jurisdiction the benefits to be made available to our domestic fishermen will not materialize unless assistance is provided to help upgrade equipment, fishing techniques, and marketing potential.

Other nations that have taken the initiative to offer financial assistance to their fishing fleets have recorded increases of substantial quantities: Japan, from 18.1 to 22.4 billion pounds annually; U.S.S.R. from 3.3 to 16.2 billion pounds annually; China, from 5.9 to 16.7 billion pounds annually; and Norway from 2.4 to 7.0 billion pounds annually. It is imperative that we set to work to restore both our fisheries and our industry.

The contributions of the fisheries resources to this country are numerous. The landed value of the fish caught each year by the American commercial fishing industry is approximately $1 billion. The total impact of this activity on the national economy is much greater; in dollars, approximately $6.5 billion, more than six times the value of the landed catch. Commercial fishing now provides employment for almost 750,000 people either directly or indirectly.

The world's population is increasing rapidly, and there are predictions that the next century will see food storages of crisis proportions. In the United States alone, consumption of fishery products has nearly doubled in the last 25 years—the increase, unfortunately, being met by a fourfold expansion in imports. Today, the U.S. imports approximately 65 percent of the fish products it consumes. The present trend in consumption patterns indicates that more than a third as much again will be required to meet our needs by 1985.

THE NEED FOR LEGISLATION

Despite rising demand in the U.S. for fishery products, U.S. fleets generally have remained underdeveloped or have deteriorated. Processors have had to rely more and more on imports to meet this increasing demand. As a result of rising problems facing the fisheries industry, the Senate Select Committee on Small Business undertook the task of identifying the specific factors that needed congressional attention.

This bill is a culmination of many days of Small Business Committee filed hearings held in three different sectors of the United States—Florida, Maine, and Alabama. Despite the varied geographical locations, the problems encountered by the fishermen are relatively identical.

The small, independent fisherman is a major component of the U.S. commerical fishing industry. It is estimated that 80 percent of the fishing craft in the United States are individually owned and that 84 percent of them are under 5 net tons. Additionally, in the processing industry about 42 percent of the processing plants have annual sales of less than $100,000. The lack of financial assistance ranked at the top of the list of complaints, along with high fuel costs and foreign dumping of fisheries products on U.S. markets.

A major existing financial assistance program that provides loans to the fishing industry is the Fisheries Loan Fund—FLF, administered by the National Marine Fisheries Service. This revolving loan fund was created by the Fish and Wildlife Act of 1956, (15 U.S.C. 742C as amended), with an authorization of $20 million. Only 13 million was appropriated for use of the entire fishing fleet, supplying only $31 million in loans since its inception.

In 1973, the administration imposed a moratorium on the fund, thus eliminating the major source of investment capital for the small fisherman. A GAO report condemned the FLF on the basis of inefficient operation, due to lack of specific loan criteria and lack of funds. It also opposed continued use of the fund because it helped finance the maintenance or addition of excess harvesting capacity in some fisheries.

In a February 18, 1976 GAO report, "Action is Needed Now to Protect Our Fishery Resources," the following conclusion and recommendation was made:

> The fisheries loan fund could be used to mitigate the problems of excess harvesting capacity by encouraging vessel owners to transfer their operations from fisheries with excess capacity to those that are less developed. To use the fund in this way, existing legislation will have to be amended.

Finally, in July 1976, the Department of Commerce published "The National Program for Marine Fisheries." In this report, the national plan calls for the relegislation of the fisheries loan fund in order to encourage the development of fisheries not fully utilized by the U.S. industry.

Today, I am introducing this needed legislation. In brief, the bill will provide long term loans of 15 years for fishing vessels and 25 years for shoreside facilities, at interest rates not to exceed the Government's cost of money. The loans may be used for the purchase, construction, and rehabilitation of new or used vessels and shoreside facilities destined for use in underutilized fisheries.

Additional loans will be available for fishermen in presently adequately utilized fisheries, but at rates equal to the Government's cost of money. The Secretary of Commerce will not make these loans if it is determined that additional vessels will hinder the efficient performance of existing vessels.

Finally, low interest loans at 2 percentage points below the Government's cost of money will be made available for up to 36 months to help those unable to pursue their trade as fishermen or owners of shoreside facilities due to economic disasters.

DETAILED EXPLANATION OF THE BILL

The main portion of this bill is divided into four sections, sections 4, 5, 6, and 7.

Section 4 provides for low-interest, long-term loans for the development of shoreside facilities—docks, receiving facilities, processing plants, and storage and distribution facilities—and for the construction, rehabilitation, purchase, or operation of fishing vessels for underutilized fisheries.

Underutilized fisheries are species or groups of species of fish that are not harvested to their potential. These loans would be provided at a minimum of 3 percent and a maximum of the Government's cost of money, with a maturity not exceeding 15 years for fishing vessels and 25 years for fisheries shoreside facilities. These figures have been selected on the basis of testimony received from fishermen and seafood processors, at the

four hearings held by the Senate Select Committee on Small Business.

Section 5 authorizes the Secretary of Commerce to make 25-year loans available, equal to the Government's cost of money, for the construction, rehabilitation, expansion, of fisheries shoreside facilities, other than those authorized in section 4. These loans would provide for additionally needed shoreside facilities in areas that are not classified as underutilized.

Section 6 authorizes the Secretary of Commerce to make loans available equal to the Government's cost of money for the purchase, construction, and rehabilitation of fishing vessels. These loans will provide for upgrading of the fleet itself to insure that our fishermen are able to take advantage of the benefits of the 200-mile fisheries zone.

Section 7 provides for low interest loans at a rate of at least two percentage points below the Government's cost of money for the purpose of providing financial asistance needed to offset economic distress. In the bill, economic distress means any short-term—up to 36 months—economic or resource dislocation affecting a significant portion of the harvesting and processing sector of the commercial fisheries industry in any fishery. As defined, these loans would also be available for such dislocations affecting the fishing industry in a significant portion of a State or region. Such determinations are to be made by the Secretary of Commerce in consultation with State and local representatives.

Section 8 limits the loans available under sections 5 and 6 by stipulating that such loans shall not be extended unless loans from other sources are not available on reasonable terms.

Section 9 stipulates that such loans under sections 5 and 6 shall not be issued unless reasonable assurance of repayment have been made. A significant aspect of this section states that the appellant's prospective, as well as, past earnings, are to be considered in determining one's ability to repay the loan.

The restrictive stipulations in sections 8 and 9 do not apply to loans under sections 4 and 7 because such loans are intended to be incentives toward the development of underutilized fisheries. It is understood that such loans and situations must be assumed to hold higher risks than often ordinarily encountered.

Section 10 requires that all applicants for loans possess or will possess the ability, experience, resources, and other qualifications necessary to operate and maintain such vessels or facilities indicated in the bill.

Section 11 restrains the issuance of loans for the purchase of new or used vessels if such vessels do not replace existing commercial fishing vessels. In that case, if the Secretary of Commerce determines that the addition of a vessel will cause economic hardship or injury to the efficient vessels already operating in that fishery, such loans will not be allowed.

Section 12 lists the requirements for citizenship, based on the determinations made pursuant to section 2 of the Shipping Act of 1916, for corporations, partnerships, and associations operating a vessel in the coastwide trade.

Section 13 establishes the commercial fisheries improvement fund itself, which will be a revolving fund operating through May 31, 1990. $250,000,000 are authorized for the loans and the cost of administering such loans.

Section 14 allows the Secretary of Commerce to modify such procedures relevant to the rate of interest, or the time of payment of any installment of principal, or security, subject to specific limitations as set forth in the act.

Section 15 repeals section 4 of the Fish and Wildlife Act of 1956 (15 U.S.C. 742c), thus eliminating the existing fisheries loan fund.

Section 16 authorizes the Secretary of Commerce to promulgate such rules and regulations necessary or appropriate to carry out the purposes and the provisions of the proposed legislation.

Mr. President, the primary purposes of this bill are to increase the potential of the domestic commercial fisheries industry, to strengthen the competitive position of the U.S. fishing fleet, and to provide the resources necessary to make adequate use of the extended fisheries jurisdiction. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Commercial Fisheries Improvement Fund Act of 1976".

SEC. 2. The purposes of this Act are—

(1) to increase the potential of the commercial fisheries industry to harvest, process, and market a greater percentage of the fish, shellfish, and other marine resources sold in this country;

(2) to strengthen the competitive position of the commercial fisheries industry with respect to foreign harvesters and processors, thereby resulting in increased economic stability in the domestic industry and full utilization of the resources within the extended fisheries zone by the domestic fisheries industry;

(3) to provide for development of resources within the extended national fisheries zone in the national interest;

(4) to provide increased commercial fisheries opportunities for access to developmental capital; and

(5) to provide for fishing vessel financial assistance in the commercial fisheries industry.

SEC. 3. As used in this Act, the term—

(1) "commercial fisheries industry" means all segments of such industry in the United States from harvesting to processing to distribution;

(2) "fishery" means a species or group of species forming a segment of the harvesting sector of the fisheries industry;

(3) "underutilized fishery" means such a species or group of species which are not harvested to their potential by the domestic commercial fisheries industry;

(4) "fisheries shoreside facilities" includes, but is not limited to, such new or used facilities as docks, receiving facilities, processing plants, and storage and distribution facilities, together with all necessary equipment;

(5) "processing facilities" means production equipment and facilities (including land) needed to receive the catch of fishing vessels, prepare, hold, or distribute such catch for market;

(6) "upgrading" means improving efficiency or productivity through rehabilitation, modernization, expansion, or technological improvement, either of individual vessels or shoreside facilities or of all vessels or shoreside facilities engaged in any fishing;

(7) "Government's cost of money" means, as determined by the Secretary of the Treasury, the average market yield on outstanding Treasury obligations of comparable maturity;

(8) "short term" means anywhere up to 36 months;

(9) "economic distress" means short term economic or resources dislocations affecting a significant portion of the harvesting and processing sector of the commercial fisheries industry in any fishery, or affecting a significant portion of such industry within a State or region of a State, as determined by the Secretary of Commerce, in consultation with State and local representatives;

(10) "fishing vessel" means any new or used vessel, boat, ship, or other type of craft, regardless of size, together with all necessary gear and equipment, which is used for, equipped to be used for, or of a type which is normally used for—

(A) commercial fishing; or

(B) aiding or assisting in the performance of any activity relating to commercial fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing of fish; and

(11) "Secretary" means the Secretary of Commerce.

SEC. 4. (a) The Secretary is authorized to make long-term, low interest, incentive loans—

(1) to provide capital for the construction, rehabilitation, purchase, or operation of fisheries shoreside facilities for underutilized fisheries, and

(2) to provide capital for the construction, rehabilitation, purchase, or operation of fishing vessels for underutilized fisheries.

(b) Any such loan shall be provided at an interest rate, to be determined by the Secretary in accordance with the purposes of this section, at a minimum of 3 per centum and a maximum of the Government's cost of money, and with a maturity not exceeding 15 years for fishing vessels and 25 years for fisheries shoreside facilities.

SEC. 5. The Secretary is authorized to make loans at a rate equal to the Government's cost of money for the construction, expansion, or rehabilitation of fisheries shoreside facilities, other than those authorized in section 4. Such loans shall have a maturity not exceeding 25 years.

SEC. 6. The Secretary is authorized to make loans at a rate equal to the Government's cost of money for the purchase, construction, or rehabilitation of fishing vessels or fleets, other than those authorized in section 4. Such loans shall have a maturity not exceeding 15 years.

SEC. 7. The Secretary is authorized to make low interest loans at a rate of at least two percentage points below the Government's cost of money for the purpose of providing financial assistance needed to offset economic distress in the commercial fisheries industry. Such loans shall be made on the basis of regulations promulgated by the Secretary which will assure rapid and timely assistance where needed in such industry.

SEC. 8. No financial assistance shall be extended pursuant to this Act unless reasonable financial assistance applied for is not otherwise available on reasonable terms except in the case of loans authorized under sections 4 and 7.

SEC. 9. Loans except for those under sections 4 and 7 shall be approved only upon furnishing of such security or other reasonable assurance of repayment as the Secretary may require considering the objectives of this

Act, which is to provide reasonable financial assistance not otherwise available to commercial fishermen. The proposed collateral for a loan must be of such a nature that, when considered with the integrity and ability of the management, and the applicant's past and prospective earnings, repayment of the loan will be reasonably assured. The Secretary shall recognize that the risk assumed for loans made pursuant to sections 4 and 7 will often be higher than ordinary.

SEC. 10. Before approving any loan pursuant to this Act relating to a fishing vessel or a fisheries shoreside facility, the Secretary shall determine that the applicant does, or will, possess the ability, experience, resources, and other qualifications necessary to operate and maintain such vessel or facility.

SEC. 11. Before the Secretary approves a loan pursuant to this Act for the purchase of a new or used vessel, which will not replace an existing commercial fishing vessel, he shall determine that the applicant's contemplated operation of such vessel in a fishery will not cause economic hardship or injury to efficient vessels already operating in that fishery.

SEC. 12. (a) Loans pursuant to this Act shall be made only to citizens or nationals of the United States.

(b) Within the meaning of this section, a corporation, partnership, or association shall not be deemed to be a citizen of the United States unless the Secretary determines that it satisfactorily meets all of the requirements set forth in section 2 of the Shipping Act, 1916 for determining the United States citizenship of a corporation, partnership, or association operating a vessel in the coastwise trade.

(c) The nationality of an applicant shall be established to the satisfaction of the Secretary.

(d) Within the meaning of this section, no corporation, partnership, or association organized under the laws of American Samoa shall be deemed a national of the United States unless 75 per centum of the interest therein is owned by nationals of the United States, citizens of the United States, or both, and in the case of a corporation, unless its president or other chief executive officer and the chairman of its board are nationals or citizens of the United States and unless no more of its directors than a minority of the number necessary to constitute a quorum are nonnationals and noncitizens. Seventy-five per centum of the interest in the corporation, shall not be deemed to be owned by nationals of the United States, citizens of the United States, or both; (1) if the title to 75 per centum of its stock is not vested in such nationals and citizens free from any trust or fiduciary obligation in favor of any person not a national or citizen of the United States; (2) if 75 per centum of the voting power in such corporation is not vested in nationals of the United States, citizens of the United States, or both; (3) if through any contract or understanding it is so arranged that more than 25 per centum of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a national or citizen of the United States; or (4) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a national or citizen of the United States.

SEC. 13. (a) There shall be established in the Treasury a Commercial Fisheries Improvement Fund which shall be used by the Secretary as a fund from which to make loans under this Act. Any funds received by the Secretary on or before May 30, 1990, in payment of principal or interest on any loans so made shall be deposited in such Fund and be available for making additional loans under this Act. Any funds received in such Fund after May 31, 1990 (at which time such Fund shall cease to exist), shall be paid into the Treasury as miscellaneous receipts.

(b) There is authorized to be appropriated to the Commercial Fisheries Improvement Fund, without fiscal year limitation, the sum of $250,000,000 to provide initial capital for all loans under this Act, and to provide for the expense of administering them.

SEC. 14. The Secretary, subject to the specific limitations in this Act, may consent to the modification, with respect to the rate of interest or time of payment of any installment of principal, or the security, of any loan pursuant to this Act.

SEC. 15. (a) Section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) is repealed.

(b) Any outstanding loans made under such section shall be handled in accordance with this Act and the rules and regulations promulgated by the Secretary under it insofar as this Act or those rules and regulations are not inconsistent with any loan contract entered into pursuant to such section 4. The fisheries loan fund created by such section shall hereby cease to exist. All assets and liabilities of such fund shall be transferred to and become a part of the Commercial Fisheries Improvement Fund established by this Act.

SEC. 16. The Secretary is authorized and directed to promulgate such rules and regulations as he may deem necessary or appropriate to carry out the purposes and provisions of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill introduced by the Senator from Maine (Mr. HATHAWAY), providing for incentive loans to the commercial fisheries industry, be jointly referred to the Committees on Commerce, and Banking, Housing and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 62

At the request of Mr. BAKER (for Mr. MATHIAS), the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 62, a bill to amend the Tax Reform Act of 1976 to extend for 1 year the effective date of provisions regarding changes in exclusion for sick pay.

S. 122

At the request of Mr. BROOKE, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 122, a bill to reform electric utility rate regulation, to strengthen State electric utility regulatory agencies, and for other purposes.

S. 146

At the request of Mr. GOLDWATER, the Senator from Arizona (Mr. DECONCINI) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) were added as cosponsors of S. 146, a bill to repeal the earnings limitation of the Social Security Act for all workers age 65 and over.

S. 203

At the request of Mr. BELLMON, the Senator from Kansas (Mr. DOLE) and the Senator from Oklahoma (Mr. BARTLETT) were added as cosponsors of S. 203, a bill to amend the Agricultural Act of 1970.

S. 221

At the request of Mr. INOUYE, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 221, a bill to authorize the Secretary of the Navy to set aside and clear a certain portion of the island of Kahoolawe, Hawaii, as a pilot project to determine the feasibility and cost factors of clearing the entire island and surrounding waters of naval ordnance which is on such island and in such waters as a result of such island being used as a target range.

S. 236

At the request of Mr. ABOUREZK, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 236, a bill to amend the Veterans Education and Employment Assistance Act of 1976.

S. 256

At the request of Mr. BENTSEN, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 256, the 1977 amendments to the Natural Gas Act.

S. 312

At the request of Mr. BELLMON, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of S. 312, a bill to amend the Consolidated Farm and Rural Development Act.

S. 314

At the request of Mr. MCGOVERN, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 314, a bill to terminate the embargo against trade between the United States and Cuba with respect to medical supplies and food and agricultural commodities.

SENATE RESOLUTION 18

At the request of Mr. SCHMITT, his name was added as a cosponsor of Senate Resolution 18, to express the sense of the Senate in opposition to a general Presidential pardon by proclamation or Executive order of Vietnam era draft evaders, and for other purposes.

SENATE RESOLUTION 26

At the request of Mr. BROOKE, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. HART), and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of Senate Resolution 26, relating to standards and conduct.

SENATE CONCURRENT RESOLUTION 2

At the request of Mr. HELMS, the Senator from Florida (Mr. STONE) was added as a cosponsor of Senate Concurrent Resolution 2, relating to military personnel missing or killed in action and body not recovered, in Southeast Asia.

SENATE CONCURRENT RESOLUTION 4

At the request of Mr. BROOKE, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Oregon (Mr. HATFIELD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Montana (Mr. METCALF) were added as cosponsors of Senate Concurrent Resolution 4, relating to amnesty.

SENATE RESOLUTION 46—SUBMISSION OF A RESOLUTION HONORING CARL HAYDEN

(Referred to the Committee on Rules and Administration.)

Mr. GOLDWATER (for himself and Mr. DECONCINI) submitted the following

resolution, which was referred to the Committee on Rules and Administration:

S. RES. 46

Resolved, That in honor of Carl Hayden, who served in the United States Congress longer than any other man in history, the Commission on Arts and Antiquities of the United States Senate (hereinafter referred to as the "Commission") is authorized and directed to provide for the design and sculpture of a marble bust of Carl Hayden. The Commission is further authorized and directed, subject to the provisions of S. Res. 382, Ninetieth Congress, agreed to October 1, 1968, to accept such bust on behalf of the Senate and to cause such bust to be placed in an appropriate location within the Senate wing of the Capitol or any of the Senate Office Buildings, or any room, space, or corridor thereof.

SEC. 2. Expenses incurred by the Commission in carrying out this resolution, which shall not exceed $3,000, shall be paid out of the contingent fund of the Senate on vouchers approved by the Chairman of the Commission.

HONORING CARL HAYDEN

Mr. GOLDWATER. Mr. President, on behalf of myself and my colleague from Arizona (Mr. DECONCINI), it is our deep honor to introduce today a Senate Resolution providing that a bust of the late Carl Hayden be placed in the Capitol or Senate Buildings. The legislation is identical to a bill introduced by Senator Fannin and myself in the last session, which passed the Senate as an amendment to a House Concurrent Resolution on the last day of the 94th Congress. I regret very much that the Senate message transmitting the original Concurrent Resolution, together with my amendment, was not received by the House of Representatives before it had adjourned sine die, or both it and the amendment would have become effective. I trust that they each will be agreed to early in this Congress.

Mr. President, I would point out that Carl Hayden served longer in the U.S. Congress than any other person in history—57 consecutive years. This is an unparalleled record that will probably remain unmatched.

Carl Hayden was born in Haydens Ferry, now Tempe, Ariz., on October 2, 1877. After serving as a member of the Tempe Town Council and as sheriff of Maricopa County, he was elected Arizona's first Congressman upon Statehood in 1912. He served in the House for eight successive terms, and then was elected to seven consecutive terms in the Senate. In all, Carl Hayden served 15 years in the House of Representatives and 42 years in the U.S. Senate.

Mr. President, I might say that Carl Hayden's great accomplishments throughout his unparalleled years of service are not as well known as they shall become in time, largely because of his modest character. Carl Hayden did not brag or boast; he did not choose to be a showhorse—he was a workhorse.

For example, Carl Hayden sponsored the 19th amendment to the Constitution in 1919, which extended the right of suffrage to women. He sponsored and managed the bill first establishing the Grand Canyon National Park. And he was a pioneer in setting up the interstate highway system.

Mr. President, our resolution provides for acquiring a marble bust of Carl Hayden at a cost not to exceed $3,000. The bust would be placed anywhere in the Senate wing of the Capitol or the Senate Office Buildings. Actually, it may cost the Government nothing at all because Arizonans likely will raise the money themselves.

Mr. President, I recognize that the Commission on Art and Antiquities has made a recommendation recently which might conflict with my proposal, but even so, clearly an exemption should be made for the single person in history who has served longer in the U.S. Congress than any other. Also, I believe it would be discriminatory for a different rule to cover the placement of busts on the Senate side of Capitol Hill than the one that currently exists for the House. Since there is not yet any uniform rule for the Congress as an entity, I do not feel that the Commission's recommendation should be a barrier to approval of the Carl Hayden resolution.

Mr. President, I hope that the Senate will take swift action on the proposal.

SENATE RESOLUTION 47—SUBMISSION OF A RESOLUTION RELATING TO WORLD FOOD

(Referred to the Committee on Agriculture and Forestry.)

Mr. McGOVERN submitted the following resolution, which was referred to the Committee on Agriculture and Foresty:

S. RES. 47

Whereas half a billion people suffer from malnutrition or under nutrition; and

Whereas very modest shortfalls in crop production can result in widespread human suffering; and

Whereas increasing variability in world food production and trade remains an ever present threat to producers and consumers; and

Whereas the World Food Conference recognized the urgent need for an international undertaking on world food security based largely upon strategic food reserves; and

Whereas the nations of the world have agreed to begin discussions on a system of grain reserves to moderate swings in food availability; and

Whereas the Congress through legislation has repeatedly urged the President to enter negotiations with other nations to establish such a network of grain reserves; and

Whereas little progress has resulted from the initial multilateral discussions toward the negotiation of an international grain reserve system; and

Whereas this lack of progress is caused, in part, from lack of leadership in such discussions; and

Whereas the United States is in a unique position as the world's most important producer of foodstuffs to provide such leadership: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President initiate a major diplomatic initiative toward the creation of an international system of nationally held grain reserves which provides for supply assurance to consumers and income security to producers.

WORLD FOOD: THE CASE FOR U.S. LEADERSHIP

Mr. McGOVERN. Mr. President, I send to the desk for appropriate reference a Senate resolution expressing the sense of the Senate that the President initiate a major diplomatic incentive toward the creation of an international system of nationally held grain reserves which provides for supply assurance to consumers and income security to producers.

Since the 1974 Rome World Food Conference a sort of world wrestling contest has been going on at various conference tables throughout the world on the matter of international food supplies. As is usually the case, the poor and the hungry have come out the world losers. Efforts on our part have been stalemated and efforts of others have been rejected by either our negotiators or by others for a variety of reasons.

Ambassador Yeutter last year briefed the Senate Agriculture Committee on the state of the negotiations and advised us of the unwillingness of the Soviets either to negotiate on the one hand or to be perfectly unreasonable on the other. It is my judgment that the Senate would be remiss in its obligations of advising the administration of its attitudes if it failed to enact the resolution I introduce today. The expertise exists in our academies to move forward on this question in concert with our negotiations. In this connection I mention in particular the work of that distinguished American economist, Dr. Willard Cochrane, of the University of Minnesota as but a single example of great repository of talent that exists throughout the country.

In June of last year I was asked to address a group of Foreign Service officers at the State Department on the question of U.S. leadership. Though Senate business prevented my personal attendance, my remarks on the subject were presented and because they have a close bearing on the resolution I introduce today, I ask unanimous consent that these remarks be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

WORLD FOOD: THE CASE FOR U.S. LEADERSHIP

(Remarks of Senator George McGovern)

It has been nineteen months since the World Food Conference.

Nineteen months of relatively good weather in much of the world.

Nineteen months which have witnessed a revival of the curious idea that if we ignore the world's food problem, it will somehow go away.

Nineteen months of timidity, complacency and inaction.

We left the Rome Conference with reason to hope that a process, at least, had been set in motion to create effective international institutions to foster cooperative, rational approaches to a common problem.

But some of us also left Rome disappointed because our own government failed to seize the moment and move decisively to encourage other nations to join in a concerted effort to increase food aid. The initiative in Rome was ours for the taking, but we let it slip from our hands. Months later, the U.S. made the very proposals which might have turned the World Food Conference into an historic meeting.

And our failure to take the lead in Rome was not an isolated incident. We have consistently shied away from making decisions in an area in which our dominance—and so our responsibility and our opportunity—is decisive.

When grain reserve negotiations began in London last year, to take only one example, many nations were eager and willing to talk. But by the time we came forward with a position—and a wholly inadequate position at that—the momentum was waning rapidly.

The stance we took can fairly be described as extreme—and we showed too little willingness to bridge the gap with other parties.

Efforts are underway to revive these discussions, but I am inclined, reluctantly, to agree with the prophecy of the Department of Agriculture—perhaps a self-fulfilling prophecy—that the negotiations are dead.

So it seems that the question of world food security must wait once again, no doubt until the next real hunger crisis is upon us. And by then, the problem will have grown far more difficult and far more costly to solve.

I believe that we in the United States must face the fact—and face it soon—that we are the only nation in the world which can even begin to organize the vast effort it will take to solve this global problem.

We alone have the political strength, the finances, the technical know-how and the agricultural potential to rally other nations to support a far-sighted approach to world food security.

But world leadership requires a will to act, to engage in active, aggressive diplomacy. To lead, we must abandon the illusion that divine providence and the free market will come to our rescue even if mortal men do nothing.

Over the years, our record in providing food to the needy nations has, of course, been a good one.

Since 1974, we have contributed 6 million tons of the 10 million tons set by the Rome Conference as a target for food aid.

The Congress has taken steps to improve our record. We have, for instance, required that food programs be used increasingly for humanitarian rather than political purposes. And we have strengthened the ties between food aid and local agricultural development.

But we can do much more, beginning, perhaps, with an effort to strengthen and develop the three new international institutions created by the Rome Conference.

These agencies—the World Food Council, the International Fund for Agricultural Development and the Consultative Group on Food Production and Investment—can be useful and dynamic. Or they can become just three more layers in the U.N. bureaucracy.

In large measure, their success or failure will depend on whether the U.S. is merely a participant, or the sponsor and initiator of action.

We can indicate our commitment by sending our highest-level representation to these organizations.

We can design directions for these agencies, or we can be content to criticize the initiatives of others.

We can offer them the most talented people from this land of the greatest agricultural production known to man.

And most importantly of all, we can take concrete steps on our own initiative to create two major food reserve programs—one to provide a cushion against natural disasters and famine conditions among the poorest of the poor and another to restore order and stability to the world grain market. This second program is of great importance if we are to assure that buyers who depend on the world market and farmers who produce for it will enjoy a degree of protection from the wild price fluctuations of recent years.

I propose that Congress and the Administration work together to prepare enabling legislation in order to permit the Administration to negotiate an international agreement with concerned countries to create these two programs. Where market stabilization is concerned it is essential that we have firm and mutually agreed upon policy positions with regard to stabilization objectives, operating decision rules and the manner in which costs and, for that matter, profits are to be shared. The initial agreement, most likely between ourselves and nations like Canada, Australia, France, West Germany and Japan, might also include incentives in the form of assured supplies and access to markets as a way of making it attractive to other countries—including that great market destabilizer, the Soviet Union—to join the Stabilization Club.

I am convinced that we have the opportunity, unique in human history, to build a real system of food security for the world.

We can pass once more. We can continue to look the other way in the face of potential chaos. Or we can turn again to our best traditions. We can devote our enormous energies, talents and resources to the urgent task that only we can accomplish.

It is clear that the future of millions hangs in the balance. The decisions we make—or fail to make—in the United States in the next few months are, quite literally, a matter of life and death.

NOTICES OF HEARINGS

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. JACKSON. Mr. President, I am advised that the President-elect will nominate John F. O'Leary as Administrator of the Federal Energy Administration within the next few days.

Mr. O'Leary, who is now head of New Mexico's Energy Resources Board, has previously served in the Federal Government as Director of the Bureau of Mines, head of the Bureau of Natural Gas at the Federal Power Commission and Director of Licensing for the Atomic Energy Commission.

Because the country faces a number of critical energy issues requiring immediate action, including a growing natural gas shortage, it is vitally important that major posts in the Federal Energy Administration be filled as soon as possible.

With this in mind, I wish to announce that the Senate Interior Committee has scheduled a hearing on Mr. O'Leary's nomination for next Wednesday, January 26. The hearing will begin at 10 a.m. in room 3110 of the Dirksen Building. Anyone wishing to testify on this nomination should notify the staff director of the committee as soon as possible. Telephone 224–4971.

SUBCOMMITTEE ON THE HANDICAPPED

Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on the Handicapped, I announce that our subcommittee has scheduled hearings on a review of programs for the handicapped. The hearings will be held on Monday, February 7, 1977, and Tuesday, February 8, 1977, in room 4232, Dirksen Senate Office Building, 202—224–9075.

Persons wishing to testify should contact Mrs. Patria Forsythe, Professional Staff Member, 10–B Russell Senate Building, (202) 224–9075.

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Senate Select Committee on Small Business has scheduled a hearing on the "Economic Self-Sufficiency of the Handicapped and the Small Business Administration."

The hearing will be held in Denver, Colo., on Saturday, January 29, 1977, and will be cochaired by Senators HASKELL and JAVITS.

ADDITIONAL STATEMENTS

WHO IS NO. 1 IN MILITARY POWER?

Mr. HARRY F. BYRD, JR. Mr. President, as the Presidency of the United States changes hands, one of the more crucial areas of concern which must receive immediate attention from the new administration is that of national defense and the U.S. military strength in relation to the Soviet Union.

I commend to my colleagues in the Congress a throughtful analysis of this subject written by John M. Maury, a native of Charlottesville, Va., who served with distinction as Assistant Secretary of Defense for Legislative Affairs until March of 1976. Previously, he served approximately 20 years with the Central Intelligence Agency, including 8 years as chief of the CIA's Soviet Russia division.

Mr. Maury's article appeared in the January 9, 1977 issue of the Richmond (Va.) Times-Dispatch, whose publisher is D. Tennant Bryan.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHO'S NO. 1?

(By John M. Maury)

(Mr. Maury's long experience in government included two years (April, 1974 to March, 1976) as assistant secretary of defense for legislative affairs; six years (1962–1968) as chief of the CIA station, Athens, Greece; eight years (1954–1962) as chief of the CIA's Soviet Russia Division, and numerous other assignments in Geneva, Berlin and Murmansk, U.S.S.R. He is a native of Charlottesville, a graduate of the University of Virginia Law School, and served from 1936 to 1940 as an assistant Commonwealth's attorney and later acting Commonwealth's attorney for Albemarle County.)

There's a brisk debate these days about whether we or the Soviets are "No. 1" in military power. Defense Secretary Rumsfeld says we are maintaining "rought equivalence." President-elect Carter accepts this and makes a "major commitment . . . to the American people" not to let the Russians get ahead. Ronald Reagan says we have already fallen behind, and a recent study by the Library of Congress concludes that "as it stands, the quantitative balance continues to shift toward the Soviet Union. U.S. qualitative superiority never compensated completely, and in certain respects is slowly slipping away." Rep. Les Aspin, on the other hand, says "the United States cannot have nuclear superiority" and any attempt by either side to gain nuclear superiority will only make both sides more unsafe than they already are."

While there may be debate about who's ahead now, there can be no question about the broad trends in the relative U.S. and Soviet military effort. Over the past dozen years, the Soviets have been going flat out to get ahead, with the result that our relative position has been steadily slipping. As the Library of Congress study notes, our "numerical superiority in strategic nuclear weapons, which was still evident a decade

ago, has dissolved." Soviet ground forces outnumber ours two-and-a-half to one. Their navy has more major combat ships than ours in every category except carriers. The Soviet Tactical Air Force has 25 per cent more fighter, attack and medium bomber aircraft than our Air Force and Marine Corps combined. Estimated Soviet defense spending, over the past 10 years (figured in constant 1977 dollars) has gone up from about $107 billion to $144 billion, while ours has gone down from about $150 to $100 billion. In fact, defense spending now represents only one-fourth of our federal budget, the smallest share since before Pearl Harbor.

Obviously, if these trends continue, we won't have our "rough equivalence" very long. But suppose the Soviets do gain an edge on us—so what? Do they really plan to do us in? Don't we still have sufficient retaliatory capability to make the cost of attacking us prohibitive? Indeed, what are the basic purposes that lie behind this massive Soviet drive for military power?

Winston Churchill once described Russia as "a riddle wrapped in a mystery inside an enigma." No doubt he found the Russians exasperating to deal with, and those of us who have tried to do so can sympathize with the frustrations which may have given rise to Sir Winston's comment.

But one of our wisest diplomats, the late Chip Bohlen, saw the situation a bit differently. He described Russia as "a land of many secrets but few mysteries."

But the fact remains that the precise intention of the men in the Kremlin can hardly be predicted with confidence. Our intelligence services have, thanks to sophisticated photographic and electronic collection systems, achieved outstanding success in probing Soviet *capabilities*. But *intentions* are another story. Satellite cameras can't take pictures of planning papers in Kremlin safes, and it's hardly likely that we've successfully bugged the samovar in the Politburo's executive dining room. Among the best sources of information on intentions are still human sources, old-fashioned spies, and in highly organized police states like the Soviet Union, these are not only hard to find, but even harder to maintain regular and reliable communications with.

Incidentally, our tasks in this regard have certainly not been made easier by recent disclosures of sensitive intelligence information by ambitious congressmen and irresponsible journalists. As a former senior KGB officer has said, "We were always taught that our first objective was to put out the eyes of our opponent by discrediting and disrupting his intelligence service." Moscow should be grateful for the help it's been getting lately from our press and our politicians.

But we do have two useful keys to Soviet long-range aims. We have the record of what Soviet leaders have consistently said, and the history of what they have persistently done, throughout the past 60 years.

What have they said? In the earliest days of the Soviet Union, we find Lenin proclaiming that "the existence of the Soviet Republic side by side with imperialist states for a long time is unthinkable. One or the other must triumph in the end." Ten years later Stalin was echoing the same theme, referring to eventual "war with the capitalist countries" as "inevitable." This theme of the inevitability of decisive conflict between their world and ours has, since the early days of Soviet existence, been frequently repeated but never repudiated.

The only significant change has been a gradual shift in emphasis regarding how the ultimate victory of communism is to be achieved. In the early days the assumption was that one after another of the "imperialist" nations would fall victim to internal revolution, as had Russia. In those days the fledgling Red Army, hastily but brilliantly organized by Trotsky, lacked the punch, and probably the reliability, to provide support to Communist comrades abroad.

Now things are different. The foreign Communists have often proved faithless friends. But today Soviet military power casts its shadow over four continents. And the Kremlin has made no secret of the purposes to which this power is to be applied. The late defense minister, Marshal Grechko, not long ago put it this way:

"At the present stage, the historic purpose of the Soviet armed forces is not limited merely to their function in defending our motherland and other socialist countries. In its foreign policy activity the Soviet state actively and purposefully . . . supports the national liberation struggle . . . in whatever distant region of our planet it may appear."

And at the 25th Party Congress last February Secretary Brezhnev himself said, "Détente does not in the slightest way abolish and cannot abolish or change the laws of class struggle . . . in the developing countries. . . . We are on the side of the forces of progress. . . . We are acting as our revolutionary conscience and our Communist convictions permit us."

So much for Soviet words. How about Soviet actions? Let's look at the record since World War II:

In early 1946 the Soviets tried a military probe into northern Iran. This brought a sharp and unexpected U.S. reaction, and they backed down.

The next year, operating through Yugoslavia and Bulgaria, they sparked and supported a Communist revolt in Greece which developed into two years of bitter and bloody civil war. But the Communist effort finally failed, thanks largely to substantial U.S. support to the Greek nationalists.

In 1948 the Soviets imposed a land blockade of Berlin in an attempt to starve into submission that embarrassing enclave of freedom a hundred miles behind the Iron Curtain. But the Allied airlift kept Berlin alive, and the blockade was lifted a year later.

In 1950 the Soviets gave full technical, logistical and moral support to the North Korean invasion of South Korea. It was only after long and bloody fighting, and by means of extensive U.S. military intervention in behalf of South Korea, that this Communist effort was turned back.

Over the next several years internal problems temporarily monopolized the Kremlin's attention. Stalin's death in early 1953 was followed by a period of uneasy collective leadership ill-suited for bold ventures abroad. Not until the 20th Party Congress in early 1956 did Khrushchev emerge as the dominant figure in the leadership, and he still had his hands full in dealing with issues close to home.

But none of these domestic concerns caused the Kremlin to lose sight of its more distant historically-ordained objectives. Nor did they deter Khrushchev, once he had firmly grasped the levers of power, from bellicose rocket-rattling, table-thumping and threats to "bury" us. But it was not until 1962 that he was ready for a major foreign gamble—as it turned out, probably a bigger gamble than he had bargained for.

The dramatic story of the Cuban missile crisis needs no retelling here. Suffice it to recall that, thanks to wise and courageous national leadership, based on accurate and timely intelligence, the story had a happy ending. But two important lessons from this story can be overlooked only at our peril.

The first is that wherever and whenever the Kremlin perceives an opportunity to better its strategic position vis-a-vis our own without great risk and cost, it will try to do so. And the second is that, despite having at its disposal the most massive intelligence apparatus in history, it can dangerously misjudge the likely reaction of free societies to what we perceive as threats to our vital interests.

There is, by the way, an interesting sequel to the Cuban missile crisis that offers another useful lesson. The story goes that shortly after the crisis subsided, one of the wisest Soviet officials I have known, Deputy Foreign Minister A. A. Kuznetzov, was chatting informally with an American friend, "What lessons do you think we have learned from this experience?" asked the American. "The lesson we Soviets have learned," replied Kuznetzov, "is that we came face to face with you Americans and, as you say, we blinked. But you may be sure that the next time it will be you, not we, who will blink." It may be no coincidence that the massive and all-encompassing Soviet drive for military superiority, which continues unabated today, began in the months immediately following the Cuban missile confrontation.

In recent years we have had no more Cuban-type crises, but military power remains the essential backdrop to every aspect of Soviet foreign policy. The men in the Kremlin are well aware that it was not Marxist theory or Communist ideology that saved them from disaster in World War II and enables them to dominate half of Europe today. As Ambassador Bohlen has pointed out, they may pay lip service to the success of international communism, but they know that in reality they have never won effective control of a foot of territory since the 1917 revolution except through the use or threat of superior military force.

Military force has given them their position as one of the world's two superpowers. It enables them to hold in subjugation their vassals in Eastern Europe. It is the cutting edge of their involvement in the Middle East and Africa today, and no doubt will be the cutting edge in other areas where the situation seems favorable tomorrow.

Today there are encouraging signs that the American people, and their elected representatives, are taking a realistic view of the Soviet drive for military ascendancy and its implications for our own security. Recent public opinion polls indicate that we are willing to bear a substantially increased tax burden if this is necessary to maintain a position of military parity. The man in the street seems to be turning a deaf ear to the argument that the defense budget should be trimmed so that funds can be diverted to social betterment at home. Perhaps he has had enough of the waste and corruption associated with well-intended public welfare programs of recent years.

He might agree with the observation of the late British air marshal, Sir John Slessor, who wrote, "It is customary in democratic countries to deplore expenditures on armaments as conflicting with the requirements of the social services. There is a tendency to forget that the most important social service a government can do for its people is to keep them alive and free."

In any event, those who ran for national office seem to have agreed that the voters are in no mood to accept less than the present "rough equality" in relation to Soviet military power. Defense Secretary Schlesinger was fired in 1975, reportedly because he refused to support the austere defense budget which the administration then proposed. The defense budget eventually submitted to the Congress, however, closely approximated the Schlesinger recommendations. And despite pious promises on Capitol Hill to cut the "bloated" defense budget and trim the "fat" from defense expenditures, it appears that the final result will be a budget not far from Schlesinger's original recommendation.

This may signal a time for rejoicing among those troubled by the lengthening shadow of Soviet power—but hardly for relaxing. We can take comfort in the fact that the Ameri-

can people, no longer deluded by the dim promise of détente—a term widely misunderstood, and even more widely misinterpreted—are prepared to face the issues of national security as they enter their third century with realism and resolve.

But it is not enough that this realism and resolve be expressed only in terms of billions of procurement dollars or megatons of weapon yield. A military establishment, however rich in manpower, hardware and technology, is effective only when commanded by a national leadership prepared to draw upon its full potential whenever and wherever national interests require.

It has been said that national power is the sum of national physical strength plus national moral will. This would suggest that a nation with heroic will, such as Poland in 1939, could overcome the handicap of negligible material strength. But Polish cavalry proved no match for Hitler's panzers. Conversely, the world's richest and (then) most powerful nation was, due to lack of national will, defeated in Vietnam by a country the size of Nicaragua with a population slightly less than that of Colombia. The moral is that true national power is the product of national physical strength *multiplied by* national moral will. Effective national power requires a substantial presence of *both* these ingredients. If either is zero, the end result is zero.

Our national commitment to maintain, at least for the present, parity of physical power with that of the Soviet Union is now clear. No serious candidate in the recent presidential election suggested unilateral arms cuts, or preached "Come home, America." Politicians today are carefully avoiding "liberal" or "isolationist" labels. The youth of the nation seem more interested in pay checks than protests. Generally, our economy appears reasonably healthy and our people relatively content. There is therefore no reason to doubt that the new administration will begin with significant assets—a strong defense establishment and substantial popular support—in the field of foreign policy and national defense.

But these are advantages only if prudently and forcefully exploited—or, to use a phrase popular in foreign policy formulation a generation ago, applied with "patience and firmness."

Prudence requires that, in the words of former Ambassador George Kennan, "we not press an armed criminal against a locked door." There is no reason to suppose that the Kremlin intends or desires an early military confrontation. But neither is there evidence that it shares the view often expressed in the West that general war in the nuclear age is "unthinkable." Soviet military literature is rich in references to the possibility of such a war—"unleashed by the imperialists," to be sure. And Soviet actions are quite consistent with this perception, reflecting readiness for both nuclear and conventional military action. The evidence includes:

Emphasis on diversity, destructiveness, survivability and accuracy of strategic weapons systems and on combat readiness, mobility and sophisticated weaponry of general purpose forces.

Stockpiling of essential military and civilian supplies.

Extensive civil defense preparations involving practice evacuation of entire communities, networks of underground shelters and hospitals and designation of different categories of the population to be evacuated under different stages of alert.

A major program to develop an antisatellite weapon. Our reconnaissance satellites are our chief means of obtaining early warnings of an impending Soviet attack, and they are also essential in monitoring Soviet compliance with arms limitation agreements such as SALT. As the former KGB officer reminded us, "Our first objective was to put out the eyes of our opponent."

A paranoid preoccupation with secrecy. To be sure, this has been characteristic of Russian society for centuries, but in the past it was attributed chiefly to a deep sense of insecurity stemming from Russian weakness and a desire to conceal from the outside world Russian backwardness. These explanations are hardly reassuring today.

The fact that these programs are being pursued during a time of what we in the West call "peace" may startle some Americans. We prefer to make a clear distinction between conditions of "war" and "peace." Under our moral code, for example, it would have been permissible to bomb Hitler's headquarters or participate in the plot for his assassination in 1944 because this was a time of "war" and elimination of Hitler might have shortened the war and saved thousands of lives. But it would not have been permissible to assassinate Hilter in 1934, thereby perhaps saving millions of lives, because in 1934 we were at "peace."

The good Communist, whose thinking is not beclouded by such technicalities, would no doubt contend that in the historic struggle between "communism" and "imperialism" attempts to distinguish between "war" and "peace" are mere exercises in bourgeois hypocrisy. As Lenin wrote, commenting on Clausewitz's discussion of war as an instrument of politics, "War is a part of a whole, and the whole is politics."

The doctrinal Communist concept of war and peace was dramatically illustrated by Trotsky when he led a Soviet delegation attempting to negotiate a peace treaty with the Germans at Brest-Litovsk in February of 1918. Or at least this was what the victorious and practical-minded Germans thought they were there for. One can therefore sympathize with their bewilderment when Trotsky broke off the discussions by proclaiming that the foreign policy of the infant Soviet state was one of "neither war nor peace, but continuing revolution."

While this is hardly an accurate description of Soviet policy today, in the Soviet view the distinction between war and peace is still arbitrary, and at least the possibility of war is never remote. It may not be the most desirable route to travel in reaching historically pre-ordained goals, but it is a route they must be prepared to travel if other routes are foreclosed. And on the basis that it is a route they may unintentionally stumble into, discovering its destination only when it is too late to turn back without humiliating loss of face. Surely the decisions to retreat in the face of sharp U.S. reaction in Iran, Greece, Berlin and Cuba must have been difficult and painful. But in these cases, recognizing weaknesses in their own military position, or perceiving seriousness of purpose on the part of the United States, they "blinked."

In view of their subsequent strides in redressing the military balance, of our own demonstrations of faint-heartedness in Vietnam and Angola and of Mr. Kuznetzov's stern warning that they will not "blink" again, there can be no doubt about the necessity for prudence in the days ahead.

But to be prudent does not mean to be pusillanimous. For while there is the danger that the Kremlin might be panicked or provoked to violence by American belligerence, there is perhaps the greater danger that excessive caution will be seen by the Kremlin as an indication of weakness, offering irresistable temptation for a test of will.

This danger is doubly disturbing when one appreciates the often-demonstrated capacity of the men in the Kremlin for misconception and self-deception regarding attitudes and actions of peoples beyond their own closely guarded borders. For despite having at their disposal the worldwide resources of the awesome KGB, they remain victims of their own past, prisoners of their own ideology, confined to an isolated world of their own making and, for knowledge of the rest of the world, dependent on information filtered through the myopic lens of Marxist orthodoxy or supplied by sources who dare not "bring bad news to the king."

This weakness in judging alien leaders and societies has shown itself frequently throughout the history of Soviet communism. Communist revolutions throughout war-torn Europe were confidently expected to follow close upon the heels of the 1917 revolution in Russia. Soviet efforts to exploit the British general strike in 1926 backfired with irreparable damage to the British Communist movement. Stalin stubbornly refused to believe reports of an impending German attack in 1941 until Hitler's panzers were deep inside Soviet territory.

In the post-war years the Kremlin not only failed to anticipate the U.S. reaction to its ventures, and those of its allies, in Iran, Greece, Berlin, Korea and Cuba, it has equally failed to anticipate smoldering resistance movements on its own doorstep in East Germany, Poland, Hungary and Czechoslovakia; and its insensitive handling of its relations with such erstwhile allies as Yugoslavia, China and Egypt has done grave damage to world Communist solidarity.

There is thus the ever-present possibility that the purpose or implications of action or inaction on our part may be dangerously misjudged by Moscow. Against this danger there is no sure protection. But at least at a minimum it demands that we have a strong, competent and credible intelligence service, independent of agencies having policy or operational responsibility, free from political or partisan pressures and protected from irresponsible intrusion into its operations or judgments or revelation of its sensitive sources and methods, by press, politicians or disgruntled employes and former employes. (It is ironic that our present laws provide criminal penalties for the unauthorized disclosure of certain information of the Internal Revenue Service, the Department of Agriculture and federal grand jury proceedings, but no effective protection for some of our most sensitive intelligence secrets, including the identities—and hence, as we have recently seen, the lives—of our intelligence personnel.)

The need for reliable intelligence by our own decision-makers is all the greater because of the apparent unreliability of the information upon which Soviet decisions are sometimes made. We need accurate intelligence not only to tell us what mischief the Kremlin is up to, but also to tell us what mischief the Kremlin may suspect—perhaps quite erroneously—that we are up to. As an experienced former White House official has observed, probably the greatest threat to peace in our time would be an ill-informed American president.

But even with a strong military arm, united popular support and access to intelligence of unmatched accuracy and relevance, President Carter will, in the words of *New York Times* military correspondent Drew Middleton writing in the August *Atlantic Magazine*, "have to live in a situation of high military risk." And he will be poorly equipped to maintain the "rough equivalence" upon which peace so heavily depends unless he is able to project to both our allies and our adversaries a clear appreciation of where we stand, what we stand for, and what we will *not* stand for, as we enter our third century.

In recent travels about the country, talking with various civic, academic, journalistic and political gatherings, I have gained the impression that, perhaps stimulated by the

atmosphere of our Bicentennial celebrations, the nation is experiencing a renewed sense of national pride and purpose. If so, let us hope that our new national leadership can articulate this in language sufficiently clear and credible to leave no doubt in the minds of the men in the Kremlin as to either our reasonableness and good will in seeking accommodation on the one hand, or our determination forcefully to defend our legitimate national interest on the other.

If we can accomplish this, we may have made an important first step in de-fusing the arms race. And we may discover that the answer to the question of "Who's No. 1?" is not only a matter of firepower, manpower and megatonnage, but that it is equally a matter of the health, cohesion, will and leadership of the national body politic.

IMPACT OF U.S. GRAIN STANDARDS ACT OF 1976 ON FARMERS

Mr. DANFORTH. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Kansas City Times regarding the impact of the U.S. Grain Standards Act of 1976 on the farmers in this country.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ONCE AGAIN THE FARMER GETS HURT IN THE SHUFFLE

The consequences of the new U.S. Grain Standards Act of 1976 are beginning to dawn on American farmers, who see it as another financial lump on their heads. The hooker in the law, which was drawn up and enacted with undue haste before the congressional recess, is that the Department of Agriculture is required to recover through fees all inspection, weighing and supervisory costs. And where will that recovery be made? From farmers, of course, where else?

Beginning Feb. 1, every private concern, state or trade agency authorized to inspect grain will have to pay increased inspection costs. Those costs are being estimated by USDA at $55 million a year and create a new layer of employees who will be paid $16 an hour, $20 for overtime. The law further provides those services will be charged to buyers and sellers, but as a practical matter it will be something buyers will pass back to sellers since they are in the driver's seat.

The law providing for federal inspection of all grain was deemed necessary by Congress in view of disclosures in the last two years of discrepancies in the export of grain primarily through the ports of New Orleans and, to a lesser extent, Houston. Notwithstanding that most of the grain trade appeared free of scandal, all of it must conform.

Gov. Robert Bennett of Kansas and area grainmen recently met to discuss the law. They calculated the program will cost Kansas farmers an estimated $500,000 a year, though that state apparently never has had a scandal of the kind the law is supposed to stop. Bennett urged Congress and the new administration to reconsider the legislation. He observed: "The federal government is proposing we pile bureaucrats on top of bureaucrats—and then send us the bill." The governor also indicated Kansas may take itself out of the federal system and continue to issue certificates under a state system, though that could bring on more problems than it would solve, particularly in export sales.

In a recent interview with The Star, Rep. Bob Bergland, the Minnesota farmer soon to become agriculture secretary, appeared adamant in favor of the law. He insisted that grain be as clean when it arrives at a foreign port as it was when it left U.S. farms. That, of course, is a laudable objective with which no one would argue, and Bergland's impression is that the new federal system would help achieve that goal.

Perhaps Bergland is not yet informed fully of all of the provisions of the act. Governor Bennett's letter to him should help. But from what Bergland has said to date, the grain trade and Kansas and Missouri grain farmers should not count on any help from him. Once again the farmer will be the fall guy.

THE FUEL SHORTAGE

Mr. GOLDWATER. Mr. President, we people in the United States have been extremely fortunate during the last several years in that we did not have any unusual winters. I say we have been fortunate because we have had no unusual demands on fuel, but this present season is the exception that should bring to the American people the obvious fact that the Democrats completely failed in the challenges presented to them for the solution to energy problems. Let us take the State of Arizona, my home State, for example. Over 70 percent of that State depends upon natural gas for heat, cooling, and production of copper. The fact that the Democrats would not allow an increase in the wellhead price of gas, even though it was obvious that it was needed, has now resulted in a decreased productions of gas, or I should say, delivery of gas, to all States which have pipelines. The State of Kansas, for example, sees its schools closed down, hospitals hurt. My own State sees a decrease in the use of natural gas because it isn't available, and across this country Americans should be becoming more and more aware of the fact that the Democrats completely and absolutely let down on their responsibilities to all the American people when during the last 4 or 5 years they refused to do anything about the energy crisis. I think this points up more than any one thing, the need to stop having five different committees in the Senate tampering and playing politics with the subject of energy. It is time to put this whole subject under one committee with responsibilities to the American people, and I intend to keep commenting on this until such a thing occurs. This country is in serious, very serious danger from a fuel shortage and we can put the blame in one place, on the Democrat controlled Congress whose leadership, and lesser leaders, use fuel and energy in an attempt to become nominated for President.

200 YEARS OF STATISTICS ON AGRICULTURE

Mr. McGOVERN. Mr. President, the U.S. Department of Agriculture has recently developed a tremendously helpful book called "Agricultural Statistics 1976." I congratulate the Department for its initiative in compiling this data which I am certain will be used extensively in congressional offices.

I call Senators' attention to this book in spite of personal reservations I have regarding the adequacy and usefulness of crop forecasting by the Statistical Reporting Service. I have asked the General Accounting Office to evaluate these procedures and the methods by which conclusions are reached. Many of my constituents have complained that they ignore these forecasts or view them with skepticism. Others have complained that they unduly influence the futures market. Doanes Agricultural Report for December 24, 1976, indicates that using corn as a commodity, in the past 15 years the November crop production estimate has been below the final production figure 10 times and above only 5 times. The largest underestimate was 243 million bushels and the largest overestimate was 57 million bushels.

The General Accounting Office has advised me by letter that it considers such an evaluation in the public interest and that it will commence such a study as soon as resources are available in March of this year. I think that such an evaluation will be helpful to both the Department and to farmers. Farmers have a right to the best information possible and I think the time has come to at least look into present methodology in the light of contemporary data-assembling capability.

For Senators' information regarding the history of USDA's data-assembling apparatus, I ask unanimous consent that the foreword of the text, entitled "200 Years of Statistics on Agriculture" be printed in the RECORD.

There being no objection, the foreword was ordered to be printed in the RECORD, as follows:

200 YEARS OF STATISTICS ON AGRICULTURE

The demand for timely statistics on United States agriculture is almost as old as the Republic itself. George Washington, during his first term as President, personally conducted a mail survey of the new Nation's farming, inquiring into crop production, prices, and livestock.

Somewhat similar investigations were occasionally undertaken in the early 19th century by agricultural societies and State governments. These surveys varied in scope and quality, however, and valuable as they may have been for specific purposes, they failed to give an overall statistical picture of the country's farming. Moreover, despite Washington's example, and his urgings that a national board of agriculture be established, the Federal government had scant involvement with agriculture until 1839. In that year, Congress assigned $1,000 to the Patent Office to be spent on agriculture's behalf, specifically noting that a portion of the sum was to be used to gather statistics. A year later, the Federal Census schedules included agricultural inquiries for the first time, and the results provided a benchmark for the annual production estimates that the Patent Office began issuing in the 1840's.

The 1839 appropriation signaled a new interest in agriculture on the part of the Federal government. But, as events showed, it did not mean that the government was ready at that point to commit itself henceforth to the yearly collection of agricultural data. A lack of appropriations interrupted the Patent Office's State and Territorial production estimates in 1846, and the statistical series disappeared entirely at the decade's close.

The secondary role that agricultural activities played in the Patent Office—and the possibility that those activities might be abolished or harmed by their subordination—led farm organizations to advocate a separate office of agricultural affairs. As early as 1849 a movement developed to create either a bureau of agriculture within the Interior Department or an entirely new department.

This culminated in the establishment of the U.S. Department of Agriculture in 1862.

The Agency's first Commissioner, Isaac Newton, based his objectives on suggestions that Jesse Buell, editor of the *Cultivator*, had made 20 years before. At the head of Newton's list of goals was "Collecting, arranging, publishing, and disseminating, for the benefit of the Nation, statistical and other useful information in regard to agriculture in its widest acceptation. . . ." In 1863, the Division of Statistics, predecessor of the Statistical Reporting Service was organized within the Department, and the first of USDA's monthly reports appeared.

Agricultural Statistics is the lineal descendant of some of USDA's earliest publications. Annual statistical summaries, based mainly on the work of volunteer reporters, were printed as part of the Secretary's *Report* until 1894 when they began to appear in the newly created *Yearbook of Agriculture* There they continued to be found for the next 40 years. Those four decades saw substantial changes in U.S. agriculture and a need for still more information about the farm sector, its markets and its relationship to the rest of the economy. One consequence was a dramatic increase in the quantity of data published in the *Yearbook*. The statistical tables, which had amounted to less than an eighth of the 1900 volume, were over half of the 1935 edition. Such growth accounted for the decision to issue the tables as a separate publication, a decision that led to the appearance in 1936 of the first volume of *Agricultural Statistics*. The series has been updated annually during the past 40 years, and it stands today among the Department of Agriculture's foremost attempts to provide references that will meet the need for reliable statistical information about U.S. agriculture.

CHAIRMAN PETERSON OF THE COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES MEETS THE PRESS

Mr. STEVENS. Mr. President, one of the major issues this Congress will soon face is the recommendation of the President with regards to the adjustment in salary for the legislative, judicial, and top officials in the executive branch of Government. On December 19, 1976, during the broadcast of the ABC program "Issues and Answers," the Chairman of the Commission on Executive, Legislative, and Judicial Salaries, former Secretary of the Treasury Peter Peterson, appeared. Mr. President, I found his remarks very enlightening. Knowing of the high regard Members of this body have for Secretary Peterson, I ask unanimous consent to have the text of the aforementioned program printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

PETER PETERSON

Mr. CLARK. Mr. Peterson, welcome to ISSUES AND ANSWERS.

Your report recommending very substantial pay raises for some of the top figures in government, including judges and members of Congress, cabinet members, has been submitted to President Ford and the big question now is what is going to happen to it. Has the President given you any assurance that he will really fight for higher pay?

Mr. PETERSON. Well, the President couldn't have been more thoughtful or attentive or responsive to the very good session I had with him a little over a week ago. I guess. He obviously didn't commit himself to specifically what he is going to do because he is now consulting with the Congress and the Judiciary about it.

I would say that I thought he was quite responsive personally to the idea that the time has come for not simply more pay increases but tying it to reform in the government, to the idea of a code of public conduct so that we can start restoring some faith in the part of our citizens, that they know what their public officials are getting paid, that they are getting in full time, and starting to get more trust in our government which I happen to feel is a fundamental reason why so many people in places like my little home town in Kearney, Nebraska, think the public officials are already getting paid enough and maybe too much.

Mr. CLARK. You raise the ethical question. The problem in many eyes here in Washington, with linking a new code of ethics for members of Congress to a pay increase for members of Congress is that it will offend so many people on Capitol Hill that there will be no pay increase.

Will you acknowledge that that is a possibility?

Mr. PETERSON. I would give you two answers to that. First of all, I talked personally with perhaps 25 leaders, our staff talked to many others.

I was personally delighted with the fact that the vast majority of congressional leaders I talked to on their own told me that they thought the time had come for reform.

Some of them used some very colorful language, like maybe the time has come to "clean up the stables" and to "stop eating other people's oats," but I think you will find that many of the leaders are quite prepared now to take some action on that count.

Mr. RATNER. Since your recommendations, Mr. Peterson, don't have the force of law, how would you feel if the pay issue and the code of conduct issue were split when Congress takes them up?

Mr. PETERSON. Well, in a technical sense they have to be split because the legislation that sets up this mechanism deals only with salary increases.

Also, there are some constitutional issues here in which the Congress, for example, has, under the constitution, you will recall, responsibility for judging the qualifications of its members.

Our commission took the view that while there could not be therefore any explicit linkage between pay and our code of public conduct that there should be a good faith agreement, a good faith commitment that vigorous action would take place that is appropriate on both counts and speaking for my commission members—and, incidentally, I asked a task force of distinguished Americans, chaired by Mortimer Kaplan, Leon Jaworski, Bill Ruckelshaus, and Cy Vance, and Doug Dillon, and many others, to look at this issue.

We were unanimous, both of these groups, that the time had come for reform, and I think the precise way that you link it is less important than getting the leadership of all three branches—not just the Congress, because—and we are not singling out just the Congress—all three branches committed to some principles of reform and to a very timely commitment to get this job done promptly.

Mr. RATNER. But, if Congress passed the pay increase without a code of conduct, what would that tell you?

Mr. PETERSON. Well, of course, the Congress being our elected body can do, you know, whatever they decide is in their interests and in the interests of the country.

I can tell you, speaking for this Commission—and we say so in our report—that we would not be for significant pay increases except in the context of major reform.

Mr. CLARK. Do you mean that literally, Mr. Peterson? Members of Congress, I think it is generally acknowledged, their pay has lagged far behind increases in cost-of-living in recent years—are you telling Congress, "Either accept this report with its recommendation for really substantial and far-reaching reforms, or we recommend that you get no pay increase at all?"

Mr. PETERSON. I don't know that we would accept none at all, but they would have been much, much lower, I can assure you of that.

Let me put the question to you this way—and I would put the same question to them: What is our alternative? We have gone eight years roughly in this country with the cost-of-living going up 60 percent, with pay increases of the private sector going up 70 percent during this period, with even the pay of our state officials going up 40 percent and virtually nothing, a five percent in total, one cost-of-living increase in eight years. What are we going to do, wait another five years before we do something and what is going to be the result of that? We have not got 46 percent of our Civil Service officials retiring early in the view of this pay freeze. We have got four and five levels of government getting the same amount of money.

We took testimony from a NASA official who told us that 47 people reporting to him made as much or more than he did.

We have got four heads of departments of the National Institute of Health where there are vacancies because they can't get anybody to take the jobs.

Now are we going to reach the point where we go another five years let's say without increase because it is politically unpopular? And, as I say, I was brought up in Nebraska and I was educated there presumably and I can tell you I am sure people there who might be listening are saying, "What's happened to old Pete? He sounds like a damned fool proposing a pay increase."

But the alternative if we don't do something is, we are going to find, in my judgment, that we are going to end up with a government either of the rich, or the very young, and untried, or those who are willing to compromise themselves with political money, and I argue that that alternative, as politically unpopular as it is to propose pay increase, is far worse than granting sufficient increases where we can get people who aren't rich into our government to work full time and to live without having to depend on outside earned income.

Mr. CLARK. Mr. Peterson, you make a very strong case for pay increases, and we may challenge some of those figures as we proceed with the discussion, but doesn't that only complicate your problem when you tell Congress, "You all deserve a big pay increase, but we are going to insist that you have a new code of ethics at the same time"?

Mr. PETERSON. I would argue that in the first place, our job is not to either make life simple or complicated for the Congress. Our job is to do what we think is in the public interest. We are a group of private citizens who have nothing to gain by this; we are not in public life. And I can tell you that our Commission and the Kaplan Commission is unanimous on the need for reform.

But what is the alternative, again? In September of this year your audience may not remember that in spite of the fact there had been only one 5 percent cost-of-living increase in eight years, there was another one that already had been voted that was due to take effect, and the Congress, who I have great respect for their feel of the attitude of this country, they after all know how to count a lot better than you and I do, decided they would revoke even that five percent cost-of-living increase, knowing their standard of living had been dramatically reduced in the last eight years.

Now, is it so simple as saying "You are going to get substantial pay increases without reform?" I would argue if you don't have the reform and the American public con-

tinues with the attitudes it now has, Congress would be very reluctant to vote itself big pay increases.

Mr. RATNER. Let me, if I may, at this stage, broaden the discussion a bit, because your recommendations apply not only to the salaries of members of Congress and judges and high level executives, but by effectively removing the ceiling on the so-called supergrades in the Civil Service you would give substantial raises to something like 2500 people in Grades 16, 17 and 18.

Mr. PETERSON. Right.

Mr. RATNER. Your recommendation would be to raise the level for civil service pay, for instance, to $49,000 a year.

Mr. PETERSON. That's right.

Mr. RATNER. I would ask you—and the point so often made, $49,000 a year does not seem to be a lot of money in Washington, New York, in Chicago, or some large city. In Montana or New Mexico, it is an awful lot of money. There are only a handful of governors in the country who make $49,000 a year. Are Federal pay scales generally getting out of hand?

Mr. PETERSON. Well, let's take $49,000, which is what we recommended. I can tell you in Kearney, Nebraska, that is still a lot of money. I mean, not only was it a lot of money, it is still a lot of money.

What I tell my friends back there is, I wonder if you know what it costs to buy a house in Washington, compared to Kearney, Nebraska.

I took the nearest major city for which we had numbers on our home, near Kearney, Nebraska, which is Des Moines, Iowa. The average home in a big study that was recently made, purchased in Des Moines, was $35,000. The average home in Washington is $70,000.

For better or for worse, a lot of public officials like to live in Washington, near the White House or the Departments, wherever they work, and they send their kids to private schools. And all I can tell you is that the cost of living in Washington is substantially higher by every standard we could get.

Mr. CLARK. If I could make this point, when you are setting $49,000 salaries for Grade 17 or 18 Civil Service employees across the country, I don't know whether there is one in Kearney, Nebraska, but there are certainly some in the State of Nebraska, some in the State of Montana, some in the State of New Mexico; so all of them are not having to pay that high cost of living.

Mr. PETERSON. Well, but the vast majority of the people we are talking about are in Washington, the overwhelming majority. And frankly, we looked at the idea I think you are getting at, which is called regionalizing of rates, and it got so complicated to work it out, where you have a different scale for everybody, we decided the complexity wasn't worth it.

Mr. RATNER. Along those same lines one of the things your Commission said was that federal pay raises should not be equal to what the same employee would make in private industry.

Mr. PETERSON. I couldn't agree more.

In the first place, we were besieged by people that tried to sell us the comparability concept in which they should be paid the same. I object very strongly to that idea. In the first place, what do you mean "comparability". Let's take the Secretary of Defense, or the head of HEW, or the head of Social Security. What is he comparable to? The head of General Motors, or what? Are we really proposing we pay these people $600,000 or $700,000 a year? The answer is, obviously, no.

Secondly, there is a great tradition in this country—and I would support it; and, incidentally, so do most of the people who come into Government support it—that they ought to accept less. There should be some notion of patriotism and other what we call psychic or service income.

As a matter of fact, the judges who come into the federal judiciary take about a 33 to 35 percent pay cut when they come into the government, and those who have left—and incidentally, one of the things we are worried about is there are more and more leaving—make 85 percent more when they leave. So I think there should be a reduction. And since we are private citizens representing the taxpayer, I would like to be able to get and hold top quality people at the lowest possible cost. So there isn't one commission member here that served with me that thinks you ought to get paid as much in these upper levels as you do in the private sector.

Mr. RATNER. One other thing along that point: If you think that executives in the upper levels of Government should take less in federal government than they may make in private industry, do you think the same thing would apply for a $6,000 computer operator? Should he get the same thing in the federal government that he would get in private industry?

Mr. PETERSON. We injected the notion of total compensation by which we mean not just money income but psychic income. If you will recall, we recommended, for example, that we should turn the problem on its head compared to where it is now.

Currently a Cabinet officer who, I would say, having been one for a period, gets a lot of psychic prestige, psychological income, he now get about $20,000 more than an undersecretary who get a lot less of that visibility, power, psychic income and so forth. We argued that the lower level people who 'get much less of this other income, so to speak, the pyschic income, are entitled to substantially greater increases than the higher level people. For example, the Cabinet, in spite of a 60 percent cost-of-living increase, we only thought they should get a 7 percent increase, because in my opinion you can get everybody you need to be a Cabinet officer. It is not a career; it is only a few years. He gets a good deal when he leaves in terms of a career, and I think it is important that the people at the top do well.

Now, as you go down into the line, however, down to the lower levels, there is very little of that, and there I think you ought to pay what you have to pay.

Mr. CLARK. Mr. Peterson, if I may, we want to get on to another subject here, and that is pensions. The biggest fringe benefit that government employees receive—the General Accounting Office which serves as the watchdog for Congress in looking at Federal spending has become very concerned about federal pensions. In a recent report they said: For every dollar that is paid out in federal salary somebody has to pay another 28¢ into the pension fund.

Now, the employee himself in a contributory pension plan pays 7 percent. The Federal Government in one way or another has to pay at least 21 cents on the dollar to provide funding for Federal pensions that can run up in extreme cases, where an employee works 40 years or so, to 80 percent of base salary. Now, aren't those pensions far out of line with what the average American can expect to earn through Social Security or his company pension plan?

Mr. PETERSON. I am going to surprise you with my answer, because you think I am going to disagree with you, but I am not. We had a private sector group do most of our staff work from industry. I think that is very important because in the same way that Congress has trouble, being one of the few groups in America that votes their own pay increases, I would argue that you should have outside people look at the compensation of the Washington bureaucracy.

We asked about five experts to look at the pension plans of this country, and one of the reasons that I would personally go rather slow on salary increases throughout the bureaucracy is, I would like to see a full objective appraisal made of this pension situation.

Here is what we discovered: I now live in New York, and therefore I am a bit sensitive to the idea of unfunded pension costs. Now, that is putting it mildly. We discovered that if the government were to fund its pension programs on the same basis as industry is now required to under the so-called Erisa laws, it would require even a larger number than what you are talking about; 33 to 40 percent of pay would be required.

The unfunded pension bill at the present time, our experts told us from private industry, working with the Civil Service Commission, who I think agrees with these numbers, is $107 billion, now.

I talked with the leadership of the committees in government who have cognizance over pieces of it, and frankly, sir, one of the problems we have with pensions is it is fractionated. Different departments have different plans and different contributions. We recommend a permanent group, a small group I might add, of private-sector people who are objective and who know what is going on in the private sector to review several subjects, of which pensions is No. 1 on the hit parade, as far as I am concerned. What is interesting is that the Congressional leaders that I talked to who have the legislative cognizance over this issue were surprised, I think stunned might be a more accurate word, to find how much of this pension was now unfunded. They did not appreciate that the number was this high.

Mr. CLARK. Let me ask this question, then: At the time that your Commission is recommending new top salaries for civil servants of $49,000 a year, though a relatively small percentage would draw that maximum salary, wouldn't it be wise to say, "We will recommend paying civil servants this much only if there is substantial pension reform"?

Mr. PETERSON. Well, we took the pension into account in our salary increases, quite frankly, and we did that on purpose, because we want to look at the total compensation. Again, $49,000 sounds like a lot of money, but let's remember what these people are administering.

As I say, four major departments of the National Institutes of Health can't find anybody to take the jobs. A lot of these people are going outside of the Government.

Mr. CLARK. Perhaps we put too much emphasis on that top pay, but there are, for instance, 75,000 civilian employees in the federal government who make more than $30,000.

Mr. PETERSON. Now, where you and I would be in agreement, though we didn't look at it, is, I would be concerned about significant increases in the middle grades and below until several things happened. First, a serious review of the pension situation and what the total costs of that were compared to industry. You haven't mentioned the early retirement program which, one of the aspects of not getting pay increases is that we now in '74 had 46 percent of the people qualified for early retirement leave.

Mr. CLARK. I think we should explain that federal employees can retire at the age of 55 with 30 years service.

Mr. PETERSON. That is right and 46 percent of the people are taking advantage of that who have their pay frozen.

A second thing that has to be looked at throughout the government is what I call the classification problem. We had these private experts look at some 62 jobs and say, "How are they classified?"

Their conclusion was that very few were underclassified but 27 percent of them were overclassified. That is, they were rated higher vis-a-vis the outside world than these experts

thought they should be. That means they are getting paid more perhaps than they should.

There is a third piece of reform that I think is important that we assigned to this new body we hope will be set up called the "Merit Rating Problem."

One of the things we tried to do here was to find out whether we were entering the anomalous situation where we were losing our best people, the argument being if you have early retirement and you can leave early maybe the people who are leaving are those who can get good jobs elsewhere.

So I said, give me a list; give this commission a list of the outstanding performers in our various phases of government.

We couldn't get such a list. I said, "Well, why can't we get such a list?"

I think by unanimous testimony there is no real merit rating system in our government the way there is in the private sector. Most raises are done frankly on a fairly automatic basis in which I assume seniority is a major factor. So, speaking for myself—and I think my fellow commissioners on this—before we do anything very major throughout the bureaucracy, I'd like these three issues looked at, kind of as a package: pensions, including early retirement; reclassification, and the merit rating approach.

Mr. RATNER. Time is running out on us. Could you tell me briefly how fast do you think the Carter Administration should act on this?

Mr. PETERSON. Well, there is a peculiarity in the law which was set up under which our commission functions and we had to take it into account, that restricts the 30-day provision here in which, as you know, the incumbent president makes a recommendation and either house has 30 days to in effect veto it, restricts that privilege to the incumbent president and he has the responsibility to make his recommendations, which is not Mr. Carter, of course—President-elect Carter, but Mr. Ford.

So if you are going to operate under this law, which the President has to, he is the one who has to take this initiative but quite obviously a question that will be raised will be what President-elect Carter's attitude will be toward it.

Mr. RATNER. Do you know?

Mr. PETERSON. No, I do not know, I know what he said in his briefing the other day where he is aware that we are submitting our report, but after all, Governor Carter, I think, showed great sense by campaigning in a sense on the anti-Washington theme and I would hope that he would conclude what we are proposing here in the way of reforms is fully in step with what he proposed, and he himself, you know, has indicated that he is going to propose some major reform for the Executive Branch.

Mr. CLARK. There are a lot of federal employees, I am sure, who hope that President Ford will relieve President-elect Carter of the embarrassment of having to propose federal pay raises by proposing them himself before he leaves office.

I am sorry our time is now up.

Thank you very much for being with us on Issues and Answers.

Mr. PETERSON. It has been my great pleasure.

ARMS RACE SCARE TACTICS AGAIN

Mr. McGOVERN. Mr. President, each year we are treated to a rash of carefully leaked reports and warnings about some awful new Soviet threat that requires the United States to again escalate military spending. This scare game goes on year after year as it steadily increases the already fantastic waste in our military spending.

The whole game can be quickly grasped by a reading of an article by Prof. George Kistiakowsky—former science advisor to Presidents Eisenhower and Kennedy—in the Christian Science Monitor of January 17, 1977, and a news article in today's Washintgon Post relative to Defense Secretary Donald Rumsfeld's current defense posture statement.

I ask unanimous consent that these two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Jan. 17, 1977]

HAZARDS OF SOVIET SCARE STORIES

(By G. B. Kistiakowsky)

A heavy rash of scare stories has appeared lately, such as: "Pentagon Fearful of Soviet Effort to Develop Hunter-Killer Satellites." "Carter to get U.S. Study Suggesting Soviets Seek Nuclear Superiority." "Top Secret National Intelligence Estimate Reports the Soviets Seek Military Superiority," and others. Similar but less macabre stories appear usually in the spring when Congress is working on the military budgets. The current crop is out of season, aimed evidently at influencing Jimmy Carter in the selection of his senior appointees and revising his campaign promise to seek the end of the nuclear arms race.

The leaking of sensitive foreign intelligence information by professional superpatriots in and out of the government is not new. In the early '50s the press was flooded with stories of a "bomber gap.' The result of the campaign was the buildup of B–47 and B–52 strategic bomber forces, although gradually it came out that the gap was a myth.

In 1967 a major "top secret" study in the executive office of the President reported to him that "evidence clearly indicates increasing threat" of the Soviet Union, which will "become critical by 1959 or early 1960," because the U.S.S.R. will "acquire significant ICBM delivery capability with megaton warheads by 1959." It urged increasing United States military budgets and a multibillion dollar civilian defense program to counter that of the Soviets.

President Eisenhower took unkindly to most of these recommendations, and so the contents of this "Gaither" report were leaked out. They were much used by his opposition in Congress and led to the "missile gap" of 1957–61.

The columnist Joseph Alsop confided to me "positive information" in the spring of 1959 that the Soviets had 150 ICBMs ready to strike the United States. I knew that actually our information (from U–2 flights, etc.) was totally negative, no deployment having been detected, but I could not discuss it. Later Mr. Alsop went public with his "information." Sen. John F. Kennedy used the "missile gap" in his 1960 campaign and in 1961 the strategic missiles program was greatly expanded, although the missile gap was turning out to be a myth.

A couple of years later there was a flurry of stories about the massive Soviet civil defense program that almost resulted in Washington's starting one. Still later stories appeared of a countryside Soviet deployment of an antimissile defense, nicknamed Tallinn, which would defeat American missiles and thus undermine the U.S. posture of secure deterrence. As some intelligence analysts asserted throughout, the Tallinn system was only for antiaircraft defense, but in the meantime the U.S. MIRV program got going. The Soviets followed suit and the MIRVed missiles have now greatly increased the already excessive destructiveness of strategic forces on both sides.

The currently leaked National Intelligence Estimate (NIE) was produced with the novel participation of a panel of outsiders chosen, it is said, for their hawkishness. One of the members was Paul H. Nitze, who 20 years ago was a member of the Gaither panel and still earlier authorized the "NSC 68," a top secret paper that urged a cold-war posture on President Truman. History does repeat. The now leaked NIE concluded that the Soviets have a new goal of military superiority over the United States, as evidenced by various indicators, such as extensive civilian defense.

A word about the NIEs. Since Soviet society is tightly closed, it is usually possible to estimate only current military capabilities. To project the rates of production of missiles, planes, tanks, etc., into the future and to translate this into Soviet intentions involves largely value judgment. It is this process that the intelligence community splits, and this time the extreme wing, evidently the Air Force as usual, was reinforced by the outside ultras.

The Soviet leaders make no secret of their desire to spread communism and to make the Soviet Union the world leader. Just as openly Americans pride themselves on being No. 1 and commit themselves to staying there. The real issue is whether the Soviets intend to risk nuclear war by driving for military superiority since the Cuban missile crisis showed how risky it is to bluff with nukes. This intent is firmly denied by the Soviet leaders and is not inferred by experienced analysts of Soviet intentions.

To assess this intent one must bear in mind that strategic weapons deployed by the U.S. half of them totally invulnerable in submarines, would wreak such unimaginably total damage on the Soviet Union that no civilian shelters, grain caches, etc., could make it in any sense the winner of a nuclear war, which would destroy the U.S. as well.

Both sides are pressing hard in the arms race, and the U.S. is not falling behind. Since 1972 it has added about 4,000 strategic warheads while the Soviets added about 1,500, so that now the U.S. deploys about 9,000 to the Soviets' 3,500. The U.S. Navy is second to none, its tonnage being nearly twice that of the Soviet Navy, and the average ages of its ships are lower. This year the CIA stated that no single weapon system of the Soviets is technologically superior to America's. The United States is bordered by friends—not, like the Soviet Union, by potential enemies or allies that need occupation troops to continue being allies.

But the future of the U.S. should not be a fortress existence. The unfortunate result of the current campaign could be another spurt in the arms race, further increasing the likelihood of nuclear war, instead of progressing toward arms control agreements that would provide both sides with secure nuclear deterrence on the road to real peace, as has been advocated by Mr. Carter.

[From the Washington Post, Jan. 19, 1977]

RUMSFELD URGES STEADY RISES IN ARMS SPENDING

(By George C. Wilson)

Defense Secretary Donald H. Rumsfeld, delivering the Pentagon's annual posture statement, made the outgoing administration's case yesterday for keeping military spending high for at least the next five years.

He warned that unless a new blockbuster ICBM, strategic bombers and a fleet of warships were built, the Soviet Union would get so far ahead militarily that the United States would lose influence around the world.

President-elect Jimmy Carter and his Defense Secretary, Harold Brown, thus will be up against a Pentagon brief of 353 pages if they try to downplay the Soviet threat and make cuts in the Pentagon budget as promised during the presidential campaign.

In contrast to the "buying only what we

need" guidance laid down in 1961 when Brown started his first tour at the Pentagon, Rumsfeld argued yesterday that "the United States effort must be as serious, as steady and as sustained as that of the Soviet Union."

He projected Pentagon budgets going from $123.1 billion in the next fiscal year, 1978, to $166.8 billion in 1982. Although the United States and the Soviet Union have "rough equivalency" today in strategic forces, Rumsfeld said, that much money will be required in the future to maintain the balance.

The departing Defense Secretary also firmly embraced the strategy of his immediate predecessor, James R. Schlesinger, by arguing in the posture statement that the United States must prepare to fight a limited nuclear war as well as deter an all-out one.

Rumsfeld said Soviet leaders do not share the American view that nuclear war would be so mutually destructive that actually waging one would be unthinkable.

In one passage illustrative of the tough rhetoric he chose for his farewell statement on national defense, Rumsfeld said the Russians "must be accepted for what they are, not for what we want them to be. Their actions indicate that they take nuclear war seriously. The United States must do no less."

In that context, Rumsfeld said the United States must deploy nuclear weapons so controlled and targeted that the President would have "at least the option to respond in a deliberate and controlled fashion."

Critics have long argued that limited nuclear war is illusory because neither side would restrain itself once the first nuclear weapon was fired.

At the other end of the nuclear war spectrum, Rumsfeld said that destroying Soviet cities in retaliation for an attack on the United States might not be enough. "An important objective of the assured retaliation mission," he said, "should be to retard significantly the ability of the U.S.S.R. to recover from a nuclear exchange and regain the status of 20th century military and industrial power more rapidly than the United States."

This is "a new goal" for retaliation that should not have been set, Herbert Scoville Jr., former CIA deputy director, said at an Arms Control Association luncheon meeting called yesterday to assess the posture statement. He said the Ford administration is overreacting to the Soviet military buildup and "poor-mouthing" U.S. strength.

In making the case for building a new family of, and maintaining armed forces numbering 2.1 million people in peacetime, weapons Rumsfeld said: "Our nation simply cannot allow Soviet capabilities to continue expanding and U.S. capabilities to retrench—as they have over the past decade—without inviting an imbalance and, ultimately, a major crisis."

Not only must the United States advance into a new generation of superweapons for nuclear war, the secretary said, but must continue to improve the conventional forces that are the best insurance against the need to use nuclear weapons.

Because Soviet ocean-spanning missiles are getting more accurate all the time, Rumsfeld said, U.S. land-based Minuteman ICBMs are becoming increasingly vulnerable to a surprise attack. Therefore, he argued, it is time to speed up the development of the MX blockbuster ICBM, which could be moved from place to place around a missile field, making it harder to target and hit.

Deploying the MX, Rumsfeld said, "might serve as an incentive to the Soviets to slow their momentum in deploying new ICBMs and seek mutual reductions is strategic offensive force levels."

Rumsfeld is recommending to Carter that $294 million be spent on the MX in the next fiscal year so it could be deployed in "the mid-1980s."

The B–1 bomber is also needed to maintain "strategic equivalence," Rumsfeld said, and is "the most cost-effective alternative for carrying out the bomber force mission."

Carter said during the political campaign that putting the B–1 into production would be "wasteful." Brown, when he was director of Pentagon research, started the studies that led to the B–1 after the B–70 bomber program was canceled.

In a decision that will be hotly contested in Congress, Rumsfeld said he had scrapped the plan to build a fourth Nimitz class aircraft carrier costing about $2 billion because a new National Security Council study had concluded that the better course was building more but cheaper carriers.

Instead, the plan Carter will inherit calls for starting a new class of smaller carriers that would be used by aircraft that could take off and land on a short stretch of deck.

Rumsfeld also said outer space could become a new battleground and recommended a number of programs to protect American communications and reconnaissance satellites.

Stating "no evidence is available that the Soviet leadership intend to launch a direct military attack on the West in the immediate future," Rumsfeld said "the darker face presented by the Soviet Union" requires U.S. defense budgets of these amounts in the future:

Fiscal 1978 $123.1 billion.
Fiscal 1979 $135.4 billion.
Fiscal 1980 $145.8 billion.
Fiscal 1981 $156.7 billion.
Fiscal 1982 $166.8 billion.

THE TRILATERAL COMMISSION

Mr. GOLDWATER. Mr. President, of late, we have been hearing more and more of the Trilateral Commission. It seems that nearly every member of the Carter administration is a member of this body and also many of our colleagues in the Senate and the House. It was inaugurated in 1973 and it is an organization of private citizens from Japan, Western Europe, and North America who come together to discuss matters of common concern. Papers are published on their findings and we find their areas of interest diversified, but I would say mainly in the fields of economics. Because there has been the attention drawn to this commission by the members of the Carter administration, including the President-elect himself, I thought that my colleagues in the Congress would like to know more about this group, so I have assembled some information about it. The Washington Post of last Sunday evidenced a bit of interest in this organization and published a rather lengthy article on it, and I ask unanimous consent that all of these matters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE TRILATERAL COMMISSION

At its meeting in Ottawa on May 10 and 11, 1976, the Trilateral Commission discussed reports by two of its task forces concerned with international institutional problems. Following its discussion, the commission urged the trilateral governments to take steps to promote reform of international economic institutions and to improve international consultative processes. The task force report, "The Reform of International Institutions," was, in particular, another indication of the recognition by the commission that the renovation of the international system is a task of global as well as trilateral dimensions.

Perhaps no statement more aptly captures the spirit of the Trilateral Commission's work than the speech of its director, Zbigniew Brzezinski, to commission members in Kyoto in mid-1975. Looking back, Mr. Brzezinski noted that when the commission was being assembled, "We were very much aware of the difficulties we were then confronting in our own trilateral relations. We were concerned at that time over the prospect our relations might fragment, that our three regions might be moved by the dynamic of events into more hostile relationships . . ." As this decade has proceeded, however, it has become clear that the strains and shifts in the international system are global as well as trilateral in scope. "I see, in the emerging world, our three regions still representing the more cooperative, the more vital center . . . But I would argue that the focus of much of this [trilateral effort] must be on the fashioning of a more just and equitable world order. In other words, the focus must not be on the preservation of the status quo, but arrangements which increasingly co-opt and embrace the Third and Fourth Worlds in a cooperative endeavor."

BACKGROUND

Inaugurated in 1973, the Trilateral Commission is an organization of well-known private citizens from Japan, Western Europe, and North America who come together to discuss matters of common concern. Its approximately 200 members are drawn from a broad range of occupations—from academics and politicians to businessmen, labor leaders, and ex-government officials. The initiative to set up the commission flowed from the conviction that private citizens with international interests could contribute to building a new consensus among the "trilateral" regions on more cooperative ways of tackling international problems. Underlying this conviction was a belief that in the world of the 1970's and 1980's the advanced industrial democracies could make a major contribution in all spheres, perhaps particularly to the world's economic development, but that their full potential could only be realized if they evolved stronger habits of working together through both governmental and nongovernmental channels. The commission aimed, by developing a process of intensive trilateral discussion and study to make a practical contribution to this end.

Each regional group of the commission is led by a chairman. Gerald C. Smith, formerly Director of the U.S. Arms Control and Disarmament Agency, is North American Chairman; George Berthoin, formerly Chief Representative of the Commission of the European Communities in London, recently succeeded Max Kohnstamm, Director of the European University Institute, as Chairman of the European Group; and Takeshi Watanabe, former President of the Asian Development Bank, is Japanese Chairman. The commission's director during its first 3 years has been Zbigniew Brzezinski, director of the Research Institute on International Change at Columbia University. In addition to the regional chairmen, there is an executive committee composed of some 30 members representative of the larger commission. Particular policy areas are generally tackled through task forces composed of commission members as well as of experts outside the commission.

Of the original members of the commission, several have been called to government service since its inception. Among these are, in the United States, Secretary of Commerce Elliot Richardson and Secretary of Transportation William Coleman; in Japan, For-

eign Minister Kichi Miyazawa; and in Europe, French Prime Minister Raymond Barre, British Minister of State for Foreign and Commonwealth Affairs Evan Luard, and Danish Minister of Foreign Economic Affairs Ivor Norgaard.

In furtherance of its aim of nurturing habits of working together among the trilateral regions, the commission has held six main trilateral meetings in its first 3-year lifespan, completed on June 30, 1976. The next meeting of the commission will be held in Japan in January 1977.

TASK FORCES AND REPORTS

From the outset, the commission has been a policy-oriented organization. The reports of its task forces, all the products of an extensive process of discussion with experts in the three regions, have emphasized shared perspectives and agreed recommendations. As the "Economist" put it: "The men organising the commission . . . want to bring about action, and hence they want the new body to be a marriage of the intellectual and the influential."[1] In this spirit, the commission has consistently urged practical measures to reform the international economic system and to avert possible confrontations, particularly in relations between the developed and the developing worlds.

Twelve reports from trilateral task forces established by the commission have been published, and a number of others are in various stages of preparation.

Most of the completed task force reports, written by academies, ex-government officials, or others, represent policy-oriented efforts to come to grips with key current problems of what might be called the "global political economy." The first commission report, completed in October 1973, dealt with the disarray of the international monetary system. Two reports from the task force on relations with developing countries, in 1974 and 1975, focused on major aspects of a "turning point in North-South economic relations." Other subjects covered have ranged from trade, energy, and commodities issues to the reform of international institutions, the oceans, and the prospects for democracy in the advanced industrial societies of the trilateral regions.

In addition, the commission has taken up issues of topical importance without commissioning special reports on them. The question of international business ethics was discussed at the May 1976 meeting in Ottawa, and earlier meetings dealt with such issues as the Middle East and the political implications of inflation.

In the most recent phase of its work, the commission has studied the institutional problems faced by the trilateral countries and the wider world community in their efforts to tackle current international problems. Two trilateral task forces were commissioned to study these problems—one on the need for the reform of international economic institutions, and one on the problem of intergovernmental consultations. As mentioned earlier, the two reports were discussed at the commission's meeting in Ottawa in May 1976 and published thereafter.

Following its discussion, the commission adopted a statement embodying a program of institutional reform which it urged governments to adopt. The salient elements of this program are:

1. The strengthening of existing institutions. This would include negotiating a new set of rules and rights on export controls within the General Agreement on Tariffs and Trade; greater use of the Organization for Economic Cooperation and Development for the coordination of macroeconomic policies; new rules in the International Monetary Fund to achieve effective multilateral surveillance of the international monetary system; and a greater coordinating role for the International Bank for Reconstruction and Development in economic development affairs, to the extent of introducing a new annual "world development budget" exercise.

2. The creation of new institutions to meet new needs, particularly on the issue of international investment and for the management of certain ocean problems.

3. The improvement of mechanisms for informal consultation between governments, including the possibility of creating a new trilateral consultative mechanism modeled on the European political cooperation machinery (formerly called the Davignon Committee).

The statement recognized that institutional reform cannot in itself solve the world's problems. But the commission believes that strong institutions, with a structure and membership flexible enough to reflect changing priorities and new patterns of influence, can help minimize international friction and disagreements, while also contributing to an international system which is more stable and fair. Such institutions are certainly an essential element of any attempt to find more cooperative approaches for dealing with common problems.

THE NEXT 3 YEARS

The commission recently decided to extend its work for a period of 3 years starting in July 1976. During that period, it will pursue many of the themes of its initial phase. In particular, North-South issues will remain high on its agenda, with a new study being commissioned on food problems in the developing world. It will also pursue the general line of inquiry begun in the controversial study, "The Crisis of Democracy," by Michel Crozier, Samuel Huntington, and Joji Watanuki, by means of a new report on the changing relationships between labor, management, and governments in advanced industrial democracies. The commission has two projects in hand on relations with Communist countries—one on how these countries can be more constructively involved in tackling such global problems as food, energy, and economic development; the other, an overview of current problems in East-West relations. No less important, however, the commission will continue to take up issues of topical importance without commissioning special report on them.

The lifespan of the commission thus far has been considerable change in the state of relations between the countries represented on it. The commission believes that the process of closer cooperation begun shortly after the Arab/Israeli war of 1973 and the sudden rise in oil prices which followed has resulted in an increasingly widespread acceptance of what might be called the "trilateral idea"—the idea that the advanced industrial countries have common responsibilities and common problems in the current international situation.

These problems and responsibilities dictate an unprecedented effort of cooperation between governments and in the private sector both within the trilateral regions and between the trilateral countries and the rest of the world. The commission further believes that by developing specific, policy-oriented proposals for the consideration of governments and private citizens concerned about international problems, it can continue to make a significant contribution to this effort.

For further information about the commission and its reports, write or call: Ms. Trudy Werner, The Trilateral Commission, 345 East 46th Street, New York, N.Y. 10017, Tel. (212) 661-1180.

[1] "Economist," May 5, 1973.

THE TRILATERAL COMMISSION

[A Private North American-European-Japanese Initiative on Matters of Common Concern]

ORGANIZATION AND POLICY PROGRAM

The Commission is composed of about two hundred individuals from the three regions. From this larger group is drawn the Executive Committee, including the Regional Chairmen and twenty-nine other individuals—nine from Japan, eight from the United States, one from Canada, and eleven from the various countries of the European Community and Norway. Twice each year the full Commission or its Executive Committee gathers in one of the regions. The Executive Committee last met in Paris in December 1975. Plenary meetings of the Commission were held in Kyoto in May 1975 and are scheduled for Ottawa in May 1976.

A major portion of each semi-annual meeting is devoted to consideration of reports from Commission task forces. Task force work is at the center of the Policy Program of the Commission. At the core of each task force are rapporteurs from each of the three regions. In the course of their work the rapporteurs are likely to draw on a wide range of consultants, including Commission members and others. The final stage for each task force, before publication of its report, is discussion of the report by the full Commission or its Executive Committee. The Commission or Executive Committee may then use the reports in issuing recommendations of its own, as has been done on a number of occasions. Nine task force reports have been published so far, and five others are in various stages of preparation.

In addition to its task force reports, the Commission has also followed other subjects on a more topical basis, by means of presentations and briefings at its meetings. Subjects covered have included the social and political implications of inflation, financial aspects of the oil crisis, and prospects for peace in the Middle East.

("*(The Commission) will hope to demonstrate through the more flexible actions of private citizens that more progress can be made on . . . emerging common problems by working on them together than by trying to deal separately with the consequences of nationalistic mistakes.*" *James Reston,* The New York Times.)

LEADERSHIP

Japanese Chairman: Takeshi Watanabe.

North American Chairman: Gerard C. Smith.

European Chairman: Georges Bethoin.

European Deputy Chairman: François Duchêne, Egidio Ortona.

North American Secretary: George S. Franklin.

Japanese Secretary: Tadashi Yamamoto.

Director: Zbigniew Brzezinski.

Deputy Director: Christopher J. Makins.

Executive Committee: I. W. Abel, P. Nyboe Andersen, Giovanni Agnelli, Kurt Birrenbach, Robert W. Bonner, Harold Brown, Paul Delouvrier, Herbert Ehrenberg, Marc Eyskens, Chujiro Fujino, Patrick E. Haggerty, Yukitaka Haraguchi, Yoshio Hayashi, Kazushige Hirasawa, Yusuke Kashiwagi, John H. Loudon, Kinhide Mushakoji, Saburo Okita, Henry D. Owen, Mary T. W. Robinson, David Rockefeller, William M. Roth, William W. Scranton, Ryuji Takeuchi, Otto Grieg Tidemand, Nobuhiko Ushiba, Paul C. Warnke, Sir Kenneth Younger, and Sir Philip de Zulueta.

"(The Kyoto meeting) was a remarkable cross section of the interlocking establishments of the world's leading industrialized nations. . . . Because it is primarily concerned with the affairs of the world's most prosperous nations, critics have sometimes dismissed the Trilateral Commission as sim-

ply "a rich man's club." . . . (T)hat made all the more extraordinary the theme which loomed largest in the discussions at Kyoto. Time and again, speakers from a dozen nations came back to the same point: somehow the present international system must be changed so as to accommodate the increasingly insistent demands of the poor nations for a greater share of the world's wealth. . . . (T)he movers and shakers gathered in Kyoto had found themselves largely in agreement in their diagnosis of the world's central political problem. As a group, they were in a rare position to press this diagnosis on the world's policymakers. And diagnosis, after all, is a necessary preliminary to any cure." Robert Christopher, Newsweek (June 16, 1975)

TRILATERAL COMMISSION TASK FORCES

Nine Commission task force reports have been published so far. Five other reports are in various stages of preparation.

1. Towards a renovated world monetary system (1973)

The rapporteurs of the Trilateral Monetary Task Force were Richard N. Cooper, Professor of Economics at Yale University, Motoo Kaji, Professor of Economics at the University of Tokyo, and Claudio Segré, formerly with the Commission of the European Communities and the Lazard Bank in Paris. The task force recommended a number of long-term reforms and interim government measures to restore order and stability to the international monetary system. The postwar monetary system had broken down in the monetary crisis of 1971 and the outlines of a new system were not clear. One of the task force recommendations, the coordinated sale of official gold into private markets and use of the resulting "capital gains" for development assistance, is being partially realized in plans underway for sale of a portion of the gold holdings of the IMF.

2. The crisis of international cooperation (1973)

In broad strokes, the Trilateral Political Task Force sketched the main political, economic and social trends effecting a transformation of the postwar international system. The report sought to clarify the present historical situation, and supplies an underlying rationale for trilateral cooperation. "If collective action were to fail in this crucial area of interdependence, what confidence could there be that it would succeed in others where links are more tenuous?" Francois Duchêne, now Director of the Centre for Contemporary European Studies at the University of Sussex, was the European rapporteur of this task force. The Japanese rapporteur was Kinhide Mushakoji, Director of the Institute of International Relations at Sophia University in Tokyo. The North American was Henry D. Owen, Director of Foreign Policy Studies at the Brookings Institution.

3. A turning point in north-south economic relations (1974)

7. OPEC, the trilateral world, and the developing countries: new arrangements for cooperation, 1976–1980 (1975)

Both of these reports were produced by the Trilateral Task Force on Relations with Developing Countries, the rapporteurs of which were Richard N. Gardner, Professor of Law and International Organization at Columbia University, Saburo Okita, President of the Overseas Economic Cooperation Fund, and B. J. Udink, Former Dutch Minister for Aid to the Developing Countries. The first report was written in the wake of the sharp rise in the price of oil and climbing costs of food and other vital imports of developing countries. Accordingly, the task force addressed the critical question of how the trilateral nations, along with the oil-exporting countries, could best help those poorer developing countries most severely affected by these developments in the world economy. In particular, the task force recommended that trilateral and OPEC countries make available $3 billion in extra concessional aid in 1974–75 for these countries of the "Fourth World," with each group providing half and hopefully with participation of the Soviet Union as well. At a broader level, the task force set forth principles for a general restructuring of North-South economic relations. In its second report, the task force looked somewhat farther ahead, to the end of this decade. The rapporteurs recommended that a "Third Window" be opened in World Bank which would annually provide $3 billion in concessional loans in 1976–80. Funds would be borrowed by the Bank and lent at concessional rates made possible by interest subsidy funds provided mostly by governments. A scaled-down version of the Third Window proposal has now been adopted by the World Bank. To encourage the participation of the OPEC countries in the regular activities of the Bank and IMF, the rapporteurs recommended that the quotas and voting rights of these states in both institutions be raised from the existing 5% of the total to between 15 and 20%. Negotiations in the IMF over quotas and voting rights have resulted in a doubling of OPEC country shares in that organization, to about 10% of the total.

4. Directions for world trade in the nineteen-seventies (1974)

The Trilateral Task Force on Trade set forth cooperative approaches to main issues before the current GATT round of multilateral trade negotiations, which were seen as quite relevant to present economic difficulties and as a valuable opportunity to strengthen an important structure of multilateral cooperation. Successful negotiation of the wide range of issues which should be involved in the current round, it was noted, would require substantial additions to the General Agreement on Tariffs and Trade. The task force recommended these be incorporated in a supplementary code open to all but operated only by those parties subscribing to it. Rapporteurs of this task force were Guido Colonna di Paliano, a former member of the Commission of the European Communities, Philip H. Trezise, former Assistant Secretary of State for Economic Affairs, and Nobuhiko Ushiba, former Ambassador of Japan to the United States.

5. Energy: The Imperative for a Trilateral Approach (1974)

6. Energy: A Strategy for International Action (1974)

Both of these reports were prepared by the Trilateral Task Force on the Political and International Implications of the Energy Crisis. The first sets out general aspects of the problem and general directions for policy. The second is more specific in outlining action on the problem so far and recommending policy lines which should be pursued by the trilateral countries. The task force recommends a broad, positive approach to the oil-exporters, without isolating the issue of price. Meanwhile, the trilateral countries must cooperate to maintain their financial health in the face of existing oil prices and to establish arrangements for sharing energy in any future emergency resulting from cutoffs of Arab oil supplies. For the medium term, through 1985, the trilateral countries must start now to work toward reductions of their dependence on uncertain external energy sources. For the much longer term, to the end of this century, the trilateral countries should move now to outline cooperative research and development efforts, anticipating the end of the hydrocarbon age. While not pessimistic about the long-term future, the task force sees a transitional period of extraordinary difficulty and adjustment ahead as trilateral societies adapt to insecure, expensive, perhaps reduced energy supplies, and to slower economic growth. It is a real question whether the necessary sacrifices will in fact be accepted by powerful elements in the body politic. Countries must remain sensitive to each other's problems and agree on sharing burdens and shortages. The rapporteurs of this task force were John C. Campbell, Senior Research Fellow at the Council on Foreign Relations, Guy de Carmoy, Professor at the European Institute of Business Administration in Fontainebleau, and Shinichi Kondo, former Ambassador of Japan to Canada.

8. The crisis of democracy (1975)

This book-length study, published by New York University Press, is the report of the Trilateral Task Force on the Governability of Democracies. The authors are Michel Crozier, Director of the Centre de Sociologie des Organisations in Paris, Samuel P. Huntington, Professor of Government at Harvard University, and Joji Watanuki, Professor of Sociology at Sophia University in Tokyo. After a long period of rather steady progress, the democratic political systems of the trilateral regions have entered a more difficult and uncertain phase, particularly in Europe and the United States. The demands on democratic government have grown, while the capacity of democratic government seems to have shrunk. The authors seek to analyze the historical situation in each of the regions, and offer some general conclusions. Chapters on Western Europe, the United States, and Japan by individual authors are surrounded by a common introduction and conclusion, and appendices presenting discussion of the report in the Commission.

9. A new regime for the oceans (1975)

Against the background of continuing negotiations in the UN Law of the Sea Conference and a global perspective on critical oceans issues, this task force advances a number of recommendations aimed primarily at improving international ocean management and balancing the distributional consequences of the emerging oceans regime of 200-mile economic zones for coastal states. The rapporteurs of this task force are Michael Hardy, Ann L. Hollick, Johan Jorgen Holst, Douglas M. Johnston, and Shigeru Oda. Hardy is a Legal Adviser to the Commission of the European Communities; Hollick is Executive Director of the Ocean Policy Project at the School of Advanced International Studies of Johns Hopkins University; Holst is Director of Research at the Norwegian Institute of International Affairs; Johnston is Professor of Law at Dalhousie University; Oda is Professor of International Law at Tohoku University.

10. Commodities issues (final report due in early 1976)

The task force will define the complex issues involved in the problems of commodity supplies and outline the political and economic framework within which these issues should be tackled. The rapporteurs of this task force are Carl E. Beigie, Executive Director of the C. D. Howe Research Institute, Wolfgang Hager of the Research Institute of the German Society for Foreign Policy, and Sueo Sekiguchi, Senior Staff Economist at the Japan Economic Research Center.

11. International institutions (final report due in mid-1976)

Against the background of the post-World War II experience of international institution-building and the lessons to be learned from that experience, the task force will offer recommendations for new or reformed institutional arrangements and rules to cope with current problems, and for ways all such institutions can be most effectively mobilized. The rapporteurs of this task force are C. Fred Bergsten, Senior Fellow at the Brookings Institution, George Bertholn, former Chief

Representative of the Commission of the European Community in the United Kingdom, and Kinhide Mushakoji, Professor of International Relations at Sophia University in Tokyo.

12. Trilateral consultative procedures (final report due in mid-1976)

The task force will consider ways of improving trilateral consultation against the background of an increasingly interdependent world in which the domestic and international dimensions of economic problems are more and more interrelated. The rapporteurs are Egidio Ortona, J. Robert Schaetzel, and Nobuhiko Ushiba. Ortona was Ambassador of Italy to the United States; Schaetzel was Ambassador of the United States to the European Community; Ushiba was Ambassador of Japan to the United States.

13. Constructive global involvement of the Communist countries (final report due in early 1977)

The involvement of the U.S.S.R., the Communist countries of Eastern Europe, and China could contribute to tackling certain global problems and, at the same time, assist in the improvement of East-West relations. The task force will study a number of key issues in this light. Chihiro Hosoya, Henry Owen and Andrew Shonfield are the rapporteurs of this task force. Hosoya is Professor of International Relations at Hitotsubashi University; Owen is Director of Foreign Policy Studies at the Brookings Institution; Shonfield is Director of the Royal Institute of International Affairs.

14. The renovated international system (final report due in early 1977)

Drawing on the work of earlier trilateral task forces, this report will provide a framework for interpreting the challenges faced by the existing international order and offer guidelines for policies which will encourage the emergence of a renovated system. Rapporteurs for the project are Richard N. Cooper, Karl Kaiser and Masataka Kohsaka. Cooper is Professor of Economics at Yale University; Kaiser is Director of the Research Institute of the German Society for Foreign Policy; and Kohsaka is Professor of Law at Kyoto University.

THE TRILATERAL COMMISSION

(As of January 1, 1976)

Gerard C. Smith, North American Chairman.

George S. Franklin, North American Secretary.

Georges Berthoin, European Chairman.

François Duchêne, Egidio Ortona, European Deputy Chairmen.

Takeshi Watanabe, Japanese Chairman.

Tadashi Yamamoto, Japanese Secretary.

Zbigniew Brzezinski, Director.

Christopher Makins, Deputy Director.

North American members

[1] I. W. Abel, President, United Steelworkers of America.

David M. Abshire, Chairman, Georgetown University Center for Strategic and International Studies.

Graham Allison, Professor of Politics, Harvard University.

Doris Anderson, Editor, Chatelaine Magazine.

John B. Anderson, House of Representatives.

Ernest C. Arbuckle, Chairman, Wells Fargo Bank.

J. Paul Austin, Chairman, The Coca-Cola Company.

George W. Ball, Senior Partner, Lehman Brothers.

Michel Belanger, President, Montreal Stock Exchange.

Russell Bell, Research Director, Canadian Labour Congress.

Lucy Wilson Benson, Former President, League of Women Voters of the United States.

[1] Robert W. Bonner, Q.C., Bonner & Foulks, Vancouver.

Robert R. Bowie, Clarence Dillon Professor of International Affairs, Harvard University.

William Brock, United States Senate.

[1] Harold Brown, President, California Institute of Technology.

John Brademas, House of Representatives.

James E. Carter, Jr., Former Governor of Georgia.

Lawton Chiles, United States Senate.

Warren Christopher, Partner, O'Melveny & Myers.

Alden W. Clausen, President, Bank of America.

[2] William T. Coleman, Jr., Secretary, Department of Transportation.

Barber B. Conable, Jr., House of Representatives.

Richard N. Cooper, Frank Altschul Professor of International Economics, Yale University.

John C. Culver, United States Senate.

Gerald L. Curtis, East Asian Institute, Columbia University.

Lloyd N. Cutler, Partner, Wilmer, Cutler & Pickering.

Archibald K. Davis, Chairman, Wachovia Bank & Trust Company.

Emmett Dedmon, Vice President and Editorial Director, Field Enterprises, Inc.

Louis A. Desrochers, Partner, McCuaig and Desrochers.

Peter Dobell, Director, Parliamentary Center for Foreign Affairs and Foreign Trade.

Hedley Donovan, Editor-in-Chief, Time, Inc.

Daniel J. Evans, Governor of Washington.

Gordon Fairweather, Member of Parliament.

Donald M. Fraser, House of Representatives.

Richard N. Gardner, Henry L. Moses Professor of Law and International Organization, Columbia University.

[1] Patrick E. Haggerty, Chairman, Texas Instruments.

William A. Hewitt, Chairman, Deere & Company.

Alan Hockin, Executive Vice President, Toronto-Dominion Bank.

Richard Holbrooke, Managing Editor, Foreign Policy Magazine.

Thomas L. Hughes, President, Carnegie Endowment for International Peace.

J. K. Jamieson, Former Chairman, Exxon Corporation.

Edgar F. Kaiser, Jr., President & Chief Executive Officer, Kaiser Resources Ltd.

Lane Kirkland, Secretary-Treasurer, AFL–CIO.

Sol M. Linowitz, Senior Partner, Coudert Brothers.

Bruce K. MacLaury, President, Federal Reserve Bank of Minneapolis.

Claude Masson, Professor of Economics, Laval University.

Paul W. McCracken, Edmund Ezra Day Professor of Business Administration, University of Michigan.

Walter F. Mondale, United States Senate.

Lee L. Morgan, President, Caterpillar Tractor Company.

Kenneth D. Naden, President, National Council of Farmer Cooperatives.

[1] Henry D. Owen, Director, Foreign Policy Studies Program, The Brookings Institution.

David Packard, Chairman, Hewlett-Packard Company.

[2] Jean-Luc Pepin, P.C., Chairman of the Anti-Inflation Board of Canada.

John H. Perkins, President, Continental Illinois National Bank & Trust Company.

Peter G. Peterson, Chairman, Lehman Brothers.

Edwin O. Reischauer, University Professor, Harvard University; former U.S. Ambassador to Japan.

[2] Elliot L. Richardson, Secretary, Department of Commerce.

[1] David Rockefeller, Chairman, Chase Manhattan Bank.

Robert V. Roosa;, Partner, Brown Bros., Harriman & Company.

[1] William M. Roth, Roth Properties.

William V. Roth, Jr., United States Senate.

Carl T. Rowan, Columnist.

Henry B. Schacht, President, Cummins Engine Company.

[1] William W. Scranton, Former Governor of Pennsylvania.

[1] Gerard C. Smith, Counsel, Wilmer, Cutler & Pickering.

Anthony Solomon, Consultant.

Robert Taft, Jr., United States Senate.

Arthur R. Taylor, President, Columbia Broadcasting System, Inc.

Cyrus R. Vance, Partner, Simpson, Thacher & Bartlett.

[1] Paul C. Warnke, Partner, Clifford, Warnke, Glass, McIlwain & Finney.

Marina von N. Whitman, Distinguished Public Service Professor of Economics, University of Pittsburgh.

Carroll L. Wilson, Professor of Management, Alfred P. Sloan School of Management, MIT.

Arthur M. Wood, Chairman, Sears, Roebuck & Company.

Leonard Woodcock, President, United Automobile Workers.

European members

[1] Giovanni Agnelli, President, FIAT, Ltd.

[1] P. Nyboe Andersen, Member of the Danish Parliament.

Raymond Barre, Former Vice President of the Commission of the European Community; Professor, University of Paris.

Piero Bassetti, President of the Regional Government of Lombardy.

[1] Georges Berthoin, Honorary Director-General of the Commission of the European Community.

[1] Kurt Birrenbach, Member of the Bundestag; President, Thyssen Vermögensverwaltung.

Frederick Boland, Chancellor, Dublin University; former President of the United Nations General Assembly.

René Bonety, Advisor, Economic Research Department, French Electricity Board.

Jean-Claude Casanova, Professor of Political Science, Institute of Political Studies, Paris.

Umberto Colombo, Director of the Committee for Scientific Policy, OECD.

Guido Colonna di Paliano, President, La Rinascente; former member of the Commission of the European Community.

Francesco Compagna, Under-Secretary of State, Ministry of the Mezzogiorno.

Michel Crepeau, Member, French National Assembly; Mayor of la Rochelle.

The Earl of Cromer, Former British Ambassador to the United States; Partner, Baring Bros. and Co., Ltd.

Michel Debatisse, Chairman of the French National Farmers' Union.

[1] Paul Delouvrier, Chairman, French Electricity Board.

Barry Desmond, Member of the Lower House of the Irish Republic.

Fritz Dietz, President, German Association for Wholesale and Foreign Trade.

Werner Dollinger, Member of the Bundestag.

[1] Herbert Ehrenberg, Member of the Bundestag.

Pierre Esteva, Directeur Général de l'U.A.P.

[1] Marc Eyskens, Commissary General of the Catholic University of Louvain.

M. H. Fisher, Editor, Financial Times.

René Foch, Member of Executive Committee, Partie des Républicains Indépendents.

Francesco Forte, Professor of Financial Sciences, University of Turin.

Jacques de Fouchier, President, Banque de Paris et des Pays-Bas.

Footnotes at end of article.

Michel Gaudet, Président de la Fédération Francaise des Assurances.

Sir Reay Geddes, Chairman, Dunlop Holdings, Ltd.

Giuseppe Glisenti, Director of General Affairs, La Rinascente.

Lord Harlech, Former British Ambassador to the United States; Chairman, Harlech Television.

Karl Hauenschild, President, German Chemical-Paper-Ceramics Workers' Union.

Jozef P. Houthuys, President, Belgian Confederation of Christian Trade Unions.

Daniel E. Janssen, Deputy Director General, Belgian Chemical Union, Ltd.

Karl Kaiser, Director of the Research Institute of the German Society for Foreign Policy.

Michael Killeen, Managing Director, Industrial Development Authority, Irish Republic.

André Kloos, Chairman of the Socialist radio and television network "V.A.R.A."; former chairman of the Dutch Trade Union Federation.

Max Kohnstamm, Director, European University Institute.

Baron Léon Lambert, President, Banque Lambert, Brussels.

Count Otto Lambsdorff, Member of the Bundestag.

Jean-Philippe Lecat, Former Minister in French Government.

Arrigo Levi, Director, La Stampa, Turin.

Eugen Loderer, President, German Metal Workers' Union.

[1] John Loudon, Chairman, Royal Dutch Petroleum Company.

Evan Luard, Member of Parliament.

Robert Marjolin, Former Vice President of the Commission of the European Community.

Roger Martin, Président de la Cie Saint-Gobain-Pont-à-Mousson.

Reginald Maulding, Member of Parliament; former Cabinet Minister.

F. S. McFadzean, Managing Director, Royal Dutch Shell Group.

Cesare Merlini, Director, Italian Institute for International Affairs.

Alwin Münchmeyer, President, German Banking Federation.

Michael O'Kennedy, Shadow Minister of Foreign Affairs, Irish Republic; former Cabinet Minister.

[1] Egidio Ortana, Former Italian Ambassador to the United States.

Bernard Pagezy, Chairman and Chief Executive Officer, Sociétés d'Assurances du Groupe de Paris (A.G.P.).

Pierre Pescatore, Luxembourg; Member of the European Court of Justice.

Sir John Pilcner, Former British Ambassador to Japan.

Jean Rey, Former President of the Commission of the European Community.

Julian Ridsdale, Member of Parliament; Chairman of the Anglo-Japanese Parliament Group.

Sir Frank K. Roberts, Advisory Director of Unilever, Ltd.; Advisor on International Affairs to Lloyds of London.

[1] Mary T. W. Robinson, Member of the Senate of the Irish Republic.

Sir Eric Roll, Executive Director, S. G. Warburg and Company.

Edmond de Rothschild, Président de la Compagnie Financière Holding.

John Christian Sannes, Director, Norwegian Institute of International Affairs.

Gerhard Schröder, Member of the Bundestag; former Foreign Minister of the Federal Republic of Germany.

Roger Seydoux, Ambassador of France.

Andrew Shonfield, Director, The Royal Institute of International Affairs.

Hans-Günther Sohl, President, Federal Union of German Industry; President of the Board of Directors of August Thyssen Hütte A.G.

Theo Sommer, Editor-in-Chief, Die Zeit.

Myles Staunton, Members of the Lower House of the Irish Republic.

Thorvald Stoltenberg, International Affairs Secretary, Norwegian Trade Union Council.

G. R. Storry, St. Anthony's College, Oxford (Far East Centre).

J. A. Swire, Chairman, John Swire and Sons, Ltd.

[1] Otto Grieg Tidemand, Shipowner; former Norwegian Minister of Defense and Minister of Economic Affairs.

A. F. Tuke, Chairman, Barclays Bank International.

Heinz-Oskar Vetter, Chairman, German Federation of Trade Unions.

Luc Wauters, President, Kredietbank, Brussels.

Otto Wolff von Amerongen, President, Otto Wolff A.G.; President, German Chamber of Commerce.

[1] Sir Kenneth Younger, Former Director of the Royal Institute of International Affairs; former Minister of State for Foreign Affairs.

[1] Sir Philip de Zulueta, Chief Executive, Antony Gibbs Holdings, Ltd.; former Chief Assistant to the British Prime Minister.

Japanese members

Isao Amagi, Advisor to the Minister of Education; former Vice Minister of Education.

Yoshiya Ariyoshi, Chairman, Nippon Yusen Kaisha.

Yoshishige Ashihara, Chairman, Kansai Electric Power Company, Inc.

Toshiwo Doko, President, Japan Federation of Economic Organizations (Keidanren).

Jun Eto, Professor, Tokyo Institute of Technology.

Shinkichi Eto, Professor of International Relations, Tokyo University.

[1] Chujiro Fujino, Chairman, Mitsubishi Corporation.

Shintaro Fukushima, President, Kyodo News Service.

Noboru Gotoh, President, TOKYU Corporation.

Toru Hagiwara, Advisor to the Minister of Foreign Affairs; former Ambassador to France.

Sumio Hara, Chairman, Bank of Tokyo, Ltd.

[1] Yukitaka Haraguchi, Chairman, Central Executive Committee, All Japan Federation of Metal Mine Labor Unions.

Norishige Hasegawa, President, Sumitomo Chemical Company, Ltd.

[1] Yoshio Hayashi, Member of the Diet.

Teru Hidaka, Chairman, Yamaichi Securities Company, Ltd.

[1] Kazushige Hirasawa, TV news commentator, Japan Broadcasting Inc. (NHK).

Hideo Hori, President, Employment Promotion Projects Corporation.

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Shinichi Ichimura, Professor of Economics, Kyoto University.

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Yoshihiro Inayama, Chairman, Nippon Steel Corporation.

Kaoru Inouye, Chairman, Dai-Ichi Kangko Bank, Ltd.

Rokuro Ishikawa, Executive Vice President, Kajima Corporation.

Tadao Ishikawa, Professor, Department of Political Science, Keio University.

Yoshizane Iwasa, Chairman, Japan-U.S. Economic Council.

Motoo Kaji, Professor of Economics, Tokyo University.

Fuji Kamiya, Director, Institute of Modern International Relations, Keio University.

[1] Yusuke Kashiwagi, Deputy President, Bank of Tokyo, Ltd.; former Special Advisor to the Minister of Finance.

Ryoichi Kawai, President, Komatsu, Ltd.

Katsuji Kawamata, Chairman, Nissan Motor Company, Ltd.

Kazutaka Kikawada, Chairman, Tokyo Electric Power Company, Inc.

Kiichiro Kitaura, President, Nomura Securities Company, Ltd.

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Kenichiro Komani, Chairman, Hitachi, Ltd.

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Fumihiko Kono, Counselor, Mitsubishi Heavy Industries, Ltd.

Masataka Kosaka, Professor, Faculty of Law, Kyoto University.

Fumihiko Maki, Principal Partner, Maki and Associates, Design, Planning and Development.

Shigeharu Matsumoto, Chairman, International House of Japan, Inc.

Masaharu Matsushita, President, Matsushita Electric Company, Ltd.

[2] Kiichi Miyazawa, Minister of Foreign Affairs.

Akio Morita, President, SONY Corporation.

Takashi Mukaibo, Professor, Faculty of Engineering, Tokyo University.

[1] Kinhide Mushakoji, Professor of International Relations, Sophia University.

Yonosuke Nagai, Professor of Political Science, Tokyo Institute of Technology.

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Sohei Nakayama, Counsellor, Industrial Bank of Japan.

Yoshihisa Ohijimi, Vice President, Arabian Oil Company, Ltd.; former Vice Minister of International Trade and Industry.

[1] Saburo Okita, President, Overseas Economic Cooperation Fund.

Kiichi Saeki, President, Nomura Research Institute of Technology and Economics.

Kunihiko Sasaki, Chairman, Fuji Bank, Ltd.

[1] Ryuji Takeuchi, Advisor to the Minister for Foreign Affairs; former Ambassador to the United States.

Eiji Toyoda, President, Toyota Motor Company, Ltd.

Seiji Tsutsumi, President, Seibu Department Store, Inc.

Kogoro Uemura, Honorary President, Japan Federation of Economic Organizations (Keidanren).

Tadao Umesao, Director, National Museum of Ethnology.

[1] Nobuhiko Ushiba, Advisor to the Minister for Foreign Affairs; former Ambassador to the United States.

Jiro Ushio, President, Ushio Electric, Inc.

Shogo Watanabe, Chairman, Nikko Securities Company, Ltd.

[1] Takeshi Watanabe, Chairman, Trident International Finance, Ltd., Hong Kong; former President, the Asian Development Bank.

Kizo Yasui, Chairman, Toray Industries, Inc.

FOOTNOTES

[1] Executive Committee

[2] Currently in Public Service

REPORTS OF TASK FORCES OF THE TRILATERAL COMMISSION

1. Towards a Renovated World Monetary System (1973). Trilateral Monetary Task Force. Rapporteurs: Richard N. Cooper, Motoo Kaji, Claudio Segré.

2. The Crisis of International Cooperation (1973). Trilateral Political Task Force. Rapporteurs: Francois Duchene, Kinhide Mushakoji, Henry D. Owen.

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THE COAL SLURRY PIPELINE

Mr. McGOVERN. Mr. President, the current issue of Dakota Farmer—an agricultural publication serving South and North Dakota—has a perceptive series of articles on the proposed Wyoming/Arkansas coal slurry pipeline that is planned by Energy Transportation Systems, Inc.—ETSI.

This is a matter of some concern to the Missouri Basin upstream water storage States in that under the ETSI plan it is envisioned that Missouri River water would be used for this purpose. As a matter of public policy, it is questionable to some whether or not water should be sent from the semiarid upper Great Plains to a point in the southern United States—when the sole purpose is to transport coal. The ETSI plan has been strongly opposed by railroads and others who feel that the coal slurry concept is not feasible. The 94th Congress recognized this concern and commissioned the Office of Technological Assessment to study the operational and design aspects of a coal slurry of this size. The OTA report is due to the Congress sometime next month. From that, the Congress will make a determination on whether or not ETSI should be granted the right of eminent domain for the construction of the pipeline. In practical terms, the denial of such a right would seriously impair—if not terminate—the ETSI plan as presently envisioned.

In addition to Federal actions on the ETSI plan, the South Dakota State Legislature is considering the issue as well.

I think that those in the Congress and elsewhere who are interested, as I am, in the wise utilization of our water resources will find these perceptive articles from the Dakota Farmer on coal slurry to be informative and worthwhile in our continuing discussion of the issues involved.

Mr. President, I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

COAL SLURRY PIPELINE—POINT AND COUNTERPOINT

(By Charles Henry)

(EDITOR'S NOTE: To better understand the water exporting issue, one needs to understand each side of the question. The following article presents the coal slurry pipeline advocates' reasons for transporting coal via pipeline. In addition, the article outlines the railroads' position and their supporting reasons on this issue. The Dakota Farmer is not advocating either system yet, but feels each proponent's side should be fully understood.)

COAL SLURRY PIPELINE

Coal slurry is a 50–50 coal-water mix that is made by mechanically pulverizing coal and blending it with water, according to Frank B. Odasz, area manager for Energy Transportation Systems, Inc., (ETSI) Casper, Wyo. This mixture is then pumped via buried pipe from the coal's source to where it can be burned to generate electricity, says Odasz. The mixture is reduced at the generating plant by the use of filters and much of the water in the mix is then used for cooling purposes, he explains. The remainder of the water is discharged.

According to Odasz, this is a general explanation of coal slurry.

Specifically, his firm, ETSI, is proposing to build a coal slurry pipeline from Campbell County, Wyo., to White Bluff, Ark. and points in the middle-south. Energy Transportation Systems, Inc., is a joint venture of Bechtel, Inc., Lehman Brothers and Kansas-Nebraska Natural Gas Co., says Odasz.

"We feel the coal slurry method of transporting coal has several advantages over other transport systems, says Odasz. "The pipeline is buried for much of its distance, so it is aesthetically attractive. There is no noise or odor. Range fires are not a factor with a pipeline and crossing and traffic tie-ups are not a problem."

"We estimate railroads will use 5.5 times as much net fuel per ton of coal moved than will the pipeline," Odasz says. "The pipeline will deliver coal the proposed distance for approximately $7.90 per ton at today's rates," Odasz says, "and we estimate the cost to be $28.50 per ton if railroads are used."

Of course, we feel that if we draw water from the Missouri River in South Dakota the communities that receive water from our source pipeline will benefit from the new water supply the pipeline will provide, Odasz says. (See the article on ETSI's request for Missouri River water on page 26.)

ETSI's current proposal for a source of water is to draw water from deep wells in the Madison Formation that borders Wyoming and South Dakota, according to Odasz. This water would be pumped in a 30-inch line to a coal preparation plant near the coal field.

According to ETSI, the slurry pipeline system would be comprised of the following components: 1,036 miles of 38-inch pipe with an annual capacity of 25 million tons of coal; several deep wells (2,500 feet) in Niobrara County, Wyo., pumping approximately 15,000 acre-feet of water from the Madison Formation each year; a coal preparation plant, 10 electric pumping stations approximately 100 miles apart on the pipeline and a dewatering facility in Arkansas; a 335-member operating staff; and a construction cost of $750 million.

According to Odasz, ETSI is also agreeing to the following conditions concerning the water supply:

1.) The Wyoming Legislature has passed a law requiring ETSI to protect Wyoming users of Madison Formation water, or cease operations.

2.) The Wyoming state engineer has required that ETSI guarantee supply for eight cities, drill five monitor wells and post $1 million bond.

3.) ETSI intends to draw water from a source which will not interfere with irrigation water or present users of the Madison water, will comply with all restrictions imposed by the legislature and state engineer and is posting the $1 million bond.

The ETSI slurry pipeline will carry a volume of coal with an energy equivalent of 200,000 barrels a day of crude oil, concludes Odasz.

RAILROADS OPPOSE PIPELINES

Railroad companies serving the Dakotas and Wyoming are the most vocal opponents to the ETSI slurry pipeline. While they are not openly opposed to the sale of water, the railroads do feel they are acting in the public's best interest (because they are common carriers) when they oppose the construction of the Wyoming-Arkansas pipeline and any future pipelines.

According to ETSI manager Odasz, the pipeline must cross railroad rights-of-way more than 40 times, a condition the railroads are using to block pipeline construction.

Jim Walker, legal counsel for Burlington-Northern, Inc., (Burlington-Northern would be the principal carrier in competition with the pipeline as they are one of the major rail systems along the proposed pipeline route) explains, "Our position on water really revolves around our opposition to the proposed slurry pipeline. This is not simply a water issue, but rather a transportation issue. And the people of the Dakotas have a vastly greater interest in good rail transportation than they have in this dribble of water that will go through the southwestern corner of South Dakota."

"The real question is one of national transportation policy," says Walker, ". . . does it serve the public interest to permit the pipelines to skim off the very cream of the coal business to the detriment of the carrier?" He continues, "The rail carrier industry will thereby be less able to render efficient transportation for the benefit of farmers and other users. This (coal slurry pipeline) is a specialty carrier service which is deliberately designed to take the very best of our developing business. And that, we suggest, is inimical to national transportation policy and to shippers of all kinds, and in particular, to grain shippers in North and South Dakota."

Burlington-Northern also feels that the proposed pipeline carrying capacity of 25 million tons is no small amount, even when compared to the total amount of coal that will be moved in future years.

"This 25 million tons is an enormous amount," says Walker, "and it's also the very best of the traffic since it's concentrated. That kind of traffic gives the railroad as well as the pipelines opportunities to enjoy economics of scale."

"Those economics of scale produce the earnings that enable us to buy covered hopper cars to serve the farmer . . . beyond that, of course, this pipeline is only one of several lines that are in the planning stages," he continues.

The railroads have also been accused of fighting the pipeline because they want to build their own lines (the only successfully operating line in the U.S. today, the Black Mesa Line in Arizona, is owned by a railroad, the Southern Pacific). "This is false," says Walker. "We did at one time investigate slurry pipelines in cooperation with Bechtel, Inc., for two express purposes. The first was to see whether or not our rights-of-way could be employed for pipelines. The second was to find out what the potential competition from pipelines would be. We broke off that arrangement and have no intention of going into the pipeline business."

Another argument the railroads have had to answer is that without pipelines they would be monopolizing the coal business, particularly Burlington-Northern who owns nearly 60 billion tons of coal reserves.

"First of all, competition involves not only transportation competition, but also competition between coal sources," BN's Walker explains. "When the utility company in Texas decides what form of fuel it will use, it considers atomic fuel, petroleum, natural gas and it considers coal. When it considers coal, it considers Appalachian coal, which they could get by barge; it considers coal from Colorado, which can originate on the Denver and Rio Grande Western Railroad; and it considers coal from New Mexico via the Santa Fe Railroad or coal from Utah via the Union Pacific Railroad," Walker points out. "So you have competition between fossil fuels; therefore, you have competition between the carriers which serve these various fuel sources."

"Another advantage the railroads have is that they are not locked into long-term contracts the way a pipeline would be," says Walker, "if a user wants to shift carriers five or 10 years down the road, he can, but this is not true with the 20 and 30-year contracts the pipelines are calling for."

The railroads also dispute the issue over which system can haul coal the most inexpensively. According to Lloyd Richardson, representative for the South Dakota Railroad Association, "In today's market with the idea that they (slurry pipeline companies) could have a 30-year contract, it would be very possible that they would be able to ship coal at a lesser rate, but we haven't set a rate yet so it is hard to say." He continues, "There is a coal slurry pipeline in Ohio that was eventually put out of business because rail transport was ultimately cheaper with the development of modern unit trains."

Both railroad officials point out that until coal development really begins and the shippers know where the coal is going, establishing rates and monetary losses if pipelines get the business is hard to do. They also point out that the railroads are subject to federal regulation and that will be a factor in pricing coal shipments. However, they both agree, the railroad's involvement in the Dakotas, including employment, tax revenues and increased service would increase as coal development opens up, although much of the coal may not actually move on lines located in the Dakotas.

As an example, Richardson says, "Burlington-Northern has doubled and even tripled the number of employees in the Edgemont, S.D., area because of increasing coal traffic. This investment is certainly felt in other areas if the line can continue to operate at a profit."

HUDSON STUDY

The following conclusions were made by the Hudson Institute, an independent study group from Croton-on-Hudson, N.Y., last June when it was asked to analyze both direct cost and socio-economic factors involved in transporting coal by slurry pipeline and by unit train. The study was prepared by the Institute for Burlington-Northern, Inc.

The study noted that if binding contracts by slurried coal should be negotiated by utilities, the utilities could be forced to accept coal at a cost above that which could be delivered by unit trains and the public would have no choice but to underwrite the agreement.

On the socio-economic issues, the study reached these conclusions:

On the impact of other freight rates and economies of some communities: A loss of unit train coal traffic would have a detrimental effect on some coal hauling railroads, which is likely to impair their ability to offer freight services for other commodities. Freight rates could go up with ill effects on the economies of some communities.

On fuel efficiency: A unit train using diesel fuel is more efficient than a slurry pipeline. Moreover, if slurry pipelines reduce rail revenue enough to cause operations to deteriorate, rail traffic may be diverted to trucks, increasing overall energy and petroleum product use.

On employment: Removing current or potential railroad jobs from the market by installing a duplicate system which does not guarantee cheaper power could be a questionable procedure. Many rail jobs are ones the hard-core unemployed can fill.

On environmental issues: Coal dust problems are said to exist with rail transportation of coal. But subbituminous western coal has a high moisture content and produces little dust. Disposal of slurry water at terminal sites may pose a serious problem, but the risk is a pipe rupture or other accidents is not sufficient to preclude consideration of pipeline construction.

In conclusion, the study said, "examination of existing data indicating the direct effects of slurry pipelines on future coal tariff rates shows no compelling reason for their construction in the presence of an existing rail system with, or near, unit train capacity. On a case-by-case basis there could be exceptions."

WEST RIVER AQUEDUCT

(By Dave Aeilts)

Perhaps one of the most hotly contested issues scheduled to be considered by the South Dakota State Legislature when it convenes in Pierre this month will be a proposal to pipe 20,000 acre-feet (AF) of Missouri River water annually to a Wyoming-based company for use in the transportation of coal.

The company, Energy Transportation Systems, Inc., (ETSI) plans a 1,036 mile-long slurry pipeline—scheduled for competition in 1978—to transport an estimated 25 million tons of coal annually from the center of Powder River coal development, Gillette, Wyo., to generating plants near White Bluff, Ark.

Transportation of coal by slurry pipeline requires substantial quantities of water since the fossil fuel is pulverized and pumped to its destination in a 50/50 coal-water mixture.

Although the state of Wyoming has authorized ETSI to draw 15,000 AF of water from the underground Madison Formation—enough to supply *one* slurry pipeline—the company has submitted an official request for a permit to withdraw 20,000 AF of water from the Oahe reservoir in South Dakota, to be used as a backup supply for the first pipeline and as the main water supply for a possible second coal slurry pipeline.

According to Frank Odasz, ETSI's Rocky Mountain area manager, the coal transportation company will not be ready for the South Dakota water before 1983 if the request is approved.

This request for water has been referred to the legislature (with a "do not pass" recommendation) by the South Dakota Water Rights Commission under state statute SDCL 46-5-20.1 which directs the legislature to act on all requests for water exceeding 10,000 AF.

Drafted into a bill by the Legislative Research Council and awarded a do-pass recommendation by the Council's Interim State Affairs Committee, the proposal to market 20,000 AF of Missouri River water each year to ETSI will come before the legislature in its 1977 session.

A. WEST RIVER AQUEDUCT

If the legislature approves ETSI's request, the water will likely be transported to Wyoming via an aqueduct. Herein, say the proponents of the water sale, lie the benefits of the water sale to South Dakota.

Ed Glassgow, Rapid City, S.D., manager of the Black Hills Conservancy Subdistrict and a proponent of the water sale, explains that the so-called "West River Aqueduct" would supply as many as 17 South Dakota towns and six rural water systems with an estimated 10,000 AF of water annually, in addition to providing ETSI with the water it needs to operate a coal slurry pipeline.

According to Glasgow, the Wyoming company has offered to amortize the aqueduct through industrial water rates which could run as high as $700–$1,000 per acre-foot.

Glasgow indicated that ETSI may also be pursuaded to pick up the cost of lateral pipelines which would be needed to transport the water from the main aqueduct to towns and rural water systems along Interstate 90 (see map accompanying this article).

The resulting benefit to South Dakotans would be low-cost water for West River municipalities and rural water users badly in need of a new source of water, says Glasgow.

In addition, profits of as much as $2 million ($100 per acre-foot) may be realized from the sale of Missouri River water to ETSI for coal slurry transportation. These revenues could be used to fund future water projects throughout the state, suggests Glasgow.

The Black Hills Conservancy Subdistrict manager also adds that legislative approval of the West River Aqueduct proposal will bring an estimated $200 million construction project to Black Hills Conservancy Subdistrict and the West River Conservancy Subdistrict—together representing a total of 13 counties—have organized support for the aqueduct and the water sales among the communities and rural water users of western South Dakota.

"A survey of the area's water needs was made by the subdistricts and it was determined that the requirements would total 10,000 acre-feet by 1980 for municipalities, rural water systems and other groups of farmers and ranchers interested in utilizing Missouri River water," says Glassgow.

As a result of the survey, a plan for the construction of a West River Aqueduct was developed by the South Dakota Department of Natural Resources and the two subdistricts, combining the water requirements of Energy Transportation Systems, Inc., and those of western South Dakota water users into a single delivery system.

To date the following communities in western South Dakota have indicated they would purchase water "at a reasonable cost" from such an aqueduct if it were constructed; Philip, Kadoka, Belvidere, Okaton, Murdo, Draper, Vivian, Presho, Kennebec, Reliance, Wall, Edgemont, Hermosa, New Underwood, Box Elder, Spearfish and Belle Fourche.

Rural water systems also expressing support for the aqueduct proposal and a need for low-cost water include: Cheyenne, Lyman-Jones, Horsehead, Cascade, Rapid Valley and Alkali.

Vern Butler, Pierre, S.D., secretary of South Dakota's Department of Natural Resources agrees that ETSI's request for 20,000 AF of Missouri River water is "an opportunity for South Dakota to provide water to western South Dakota and to use revenues that come from energy development for water development within the state."

Butler, who heads the state department most likely to administer the construction and operation of the aqueduct if approved, believes there is more than enough water in the Missouri River to meet in-state agricultural, municipal and industrial needs in the future—in addition to supplying water for coal-slurry transportation.

Responding to concerns that out-of-state water sales might reduce the water available within the state for irrigation, Butler observes, "The 20,000 AF of water we are talking about marketing is only one-tenth of one percent of the water that's available in the Missouri."

According to Butler, "A recently completed Bureau of Reclamation impact study indicates that we can market up to one million

acre-feet of water for industrial use and still meet all the irrigation needs that are projected within the state."

The proposal to market 20,000 AF annually to ETSI for coal slurry transportation constitutes a "borrowing" of water which the Bureau of Reclamation has allocated for irrigation, but which will not be needed until after the year 2020, explains Butler.

After 40 years (the term of the proposed contract with Energy Transportation) the state would make a determination whether to shut off industrial use or whether to start taking water out of the three million acre-feet of Missouri River water which has been designated available by the bureau for industrial use. (See Missouri River water chart.)

Stating that he believes the benefits of selling water to out-of-state industrial users, such as ETSI, outweigh the detriments, Butler concedes that there are still certain questions which must be answered before the sale of 20,000 AF of water annually to ETSI can take place.

"For one thing," he says, "we still have not completely resolved the question of loss of power revenues out of the mainstem generating plant (at the Oahe Dam) and how best to get those revenues back to the power users."

Butler explains that for every acre-foot of water diverted from the Oahe reservoir, a corresponding loss in power produced by the Oahe generating plant will occur.

However, Butler states that he is confident that a mechanism will be developed to pay for the power that will be lost to the Bureau of Reclamation and, ultimately, to the power districts and municipalities who buy power from the bureau.

"It all comes back to one question," concludes Butler. "Do we continue using an acre-foot of water to generate $2.57 worth of power (the current price at which the bureau sells power generated by the mainsteam generating plants) or do we use it for some other use which essentially has a $700–$1,000 value per acre-foot."

OPPOSITION

The proposed sale of 20,000 AF of water for out-of-state industrial use has generated a great deal of controversy between the proponents of this water sale and those individuals and groups who feel they have something to lose in the transaction.

Among the most vocal groups to officially oppose the West River Aqueduct proposal is the South Dakota Farmers Union.

Testifying before the South Dakota Interim State Affairs Committee, recently, Farmers Union president, Ben Radcliffe, Huron, S.D., charged that the proposed diversion of Missouri River water constitutes "a selling out of our people's rights and interests in favor of a big business deal."

Radcliffe challenged the idea of selling water to out-of-state interests before the question of in-state needs is resolved.

Said the farm organization executive, "We are only in the preliminary stages of anticipating our agricultural, municipal and industrial needs for the future." He called for the development of a "long-range, comprehensive water policy for South Dakota" before any out-of-state industrial requests, such as ETSI's are considered.

Radcliffe added that water for the state's key industry—agriculture—should be given priority in such a water policy.

"The effects of the drought have demonstrated rather dramatically the need to plan for maximum utilization of our water resources if we intend to halt the outward migration of our young people and keep our production and income at an acceptable level."

Opposition to the proposed water sale is also being voiced by some South Dakota power co-op's and municipal electric systems which currently purchase electricity from the Bureau of Reclamation's hydro-electric generating plants on the Missouri River.

Among the first to take a hard-line stance against the proposed water sale is East River Power Cooperative, Madison, S.D.

East River spokesman, Jeff Nelson explains that the power cooperative is "opposed not only to the ETSI request for water, but to industrial water sales in general at this point."

Diversions of water for industrial purposes, states Nelson, have the potential of reducing substantially the hydroelectric power that the bureau will be able to make available to its preference customers—such as East River—in the future.

Under East River's present contract with the Bureau of Reclamation, the bureau is obligated to replace any power lost by diversion of Missouri River water for industrial purposes.

However, Nelson states that East River's contract with the bureau comes due for renegotiation in 1985 and says industrial diversion of water by that time may substantially effect the amount of power the bureau will have available to contract to the power cooperative.

Should the power available fall short of East River's needs, claims Nelson, the cooperative would be forced to purchase additional power from "thermal" sources such as coal or oil fueled power generating plants.

"If that happens, our customers would end up paying higher rates for their electricity," says the East River spokesman, "since power from thermal sources is considerably more expensive than the hydroelectric power we are buying now."

Still another source of opposition to the proposed sale of Missouri River water to ETSI is the railroads.

In recent testimony before the state Water Rights Commission, Charles Kornmann, Aberdeen, S.D., general legal counsel for the Milwaukee Railroad in North and South Dakota and representative of the South Dakota Railroad Association estimated that the Burlington-Northern Railroad would lose $150 million per year in coal-hauling revenues if the proposed Wyoming-Arkansas slurry pipeline is constructed.

Noting that several additional coal-slurry pipelines are currently being planned, Kornmann indicated that grain shippers in the Dakotas can expect an increase in hauling rates if the extremely lucrative coal transportation business is lost as a source of revenue to the railroads. (Although Burlington-Northern has relatively few track miles in South Dakota, the Minneapolis-based transportation giant is the principal rail carrier in North Dakota with over 3,000 miles of track in that state.)

Kornmann also stressed that the future of the Milwaukee Railroad may depend on the financial well-being of the Burlington-Northern, the railroad which stands to benefit most from Wyoming coal development.

According to Kornmann, the Milwaukee—a bankrupt railroad with losses running $25–$30 million a year—is currently under consideration for merger with the Burlington-Northern. (The Milwaukee along with the Chicago-Northwestern accounts for 85 percent of the track in South Dakota.)

Should South Dakota market Missouri River water for coal development in Wyoming? This highly charged and complex question will face the newly formed 1977 South Dakota State Legislature when it convenes in Pierre on January 18.

Whatever their differences, supporters and opponents of the proposed water sale agree that the legislature's decision concerning this question will most certainly set a precedent for future water development within the state.

ESTIMATED COST FIGURES FOR THE PROPOSED WEST RIVER AQUEDUCT

As currently proposed, the West River Aqueduct, designed to transport 20,000 gallons of water annually to Energy Transportation Systems, Inc., (ETSI) a Wyoming-based company, for coal development, would extend 218 miles from the banks of the Oahe Reservoir (25 miles northwest of Pierre) to the South Dakota-Wyoming border west of Edgemont, S.D.

According to Ed Glassgow, Rapid City, S.D., manager of the Black Hills Conservancy Subdistrict, the proposed pipeline would also deliver approximately 10,000 gallons of water annually to as many as 17 towns, six rural water systems and an undetermined number of other users along the main aqueduct route in western South Dakota.

Glassgow indicates that the aqueduct may be constructed with a total capacity of 40,000 AF per year to allow for a possible 10,000 AF increase in water needs of western South Dakota municipalities and rural water users in the future.

A South Dakota Department of Natural Resources draft proposal places the total cost of constructing the West River Aqueduct at $140,099,000. The construction cost would initially be financed through industrial revenue bonds sold by the state to private investors.

Energy Transportation Systems, Inc., says Glassgow, has offered to amortize the cost of the aqueduct over a 40-year contract period, after which South Dakota would own the aqueduct and an established right to 20,000 AF of Missouri River water to use as it chooses.

The Department of Natural Resources draft proposal estimates that Missouri River water delivered via this aqueduct will cost the Wyoming-based transportation company at least $749 per AF or $14,980,000 per year for 20,000 AF. This estimate includes amortization of the aqueduct operation-maintenance-repair, pumping costs and a base water storage charge. The water storage charge would provide the Bureau of Reclamation with funds to purchase power to replace that lost by diversion of Missouri River water away from mainstem hydroelectric generating plants.

Missouri River water would be sold to ETSI on a take-or-pay basis, says Glassgow, explaining that the company would be obligated under contract with the state of South Dakota to pay for the water even if it was not used.

South Dakota municipalities and rural water users, says the draft proposal, would pay only the pumping charge for their water—an estimated $47 per AF or about $.14 per 1,000 gallons.

However, the draft proposal does not include the cost of constructing and maintaining two "laterals" or secondary pipelines which would extend east and west from the main aqueduct, along Interstate 90.

According to Glassgow, these laterals would be required to deliver water from the aqueduct to the towns and rural water systems in western South Dakota who have indicated a need for the water.

"We hope these laterals will be included as part of the total system amortized by ETSI," states Glassgow.

Nor does the draft proposal include an additional water charge of $100 per AF which may be assessed ETSI to provide $2 million of revenue to fund future water development projects in the state.

Proponents of the aqueduct proposal generally agree that ETSI could end up paying as much as $1,000 per AF for the Missouri River water.

South Dakota users, too, can expect to incur additional costs in treating and storing their water and in constructing delivery

systems to transport it from the laterals to their respective points of use.

In any case, the proposed industry-financed aqueduct appears far cheaper than any other water delivery systems currently on the drawing board.

Glassgow cites a conceptual study done by the Black Hills and West River Conservancy Subdistricts in 1975 which found that a similar pipeline constructed without industry help would command municipal and rural water rates as high as $586 per acre-foot.

PERU PUZZLER: WHAT TO DO WITH PIPELINE BUILT OVER THE ANDES

Mr. STEVENS. Mr. President, a recent article in the Wall Street Journal deserves the attention of my colleagues.

The article detailed the problem of an enormous pipeline in Peru across the Andes. The line is apparently almost complete—the problem is that there is not enough oil to fill up the line. The project was built before adequate oil was discovered and the result is a $600 million boondoggle.

Some would have the United States build a similar project. The Arctic gas line from northern Alaska is designed to bring large amounts of gas from both Alaska and northern Canada. But the discovered reserves in Canada are inadequate to fill the line's capacity. Therefore, the Arctic Gas Consortium is putting the cart before the horse in asking us to approve a line designed to hold more gas than is available. This would be a $12 billion boondoggle which the American consumers and taxpayers would end up paying for.

I ask unanimous consent that the recent article be printed in the RECORD

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PERU PUZZLER: WHAT TO DO WITH PIPELINE BUILT OVER THE ANDES

(By Everett G. Martin)

CHIRIYACO, PERU.—To hear the workers tell it, building the Alaskan oil pipeline across the Arctic tundra was a piece of cake compared to building the 530-mile oil pipeline across northern Peru.

In the past two years, the workers have laid huge steel pipe through nearly 200 miles of unrelieved Amazon swamps, contending with snakes, bugs and the flame tree that spits out a treacherous acidic sap when you cut into it.

Then, pipeline builders coursed up through dense jungle mountainsides in torrential rains, on through river gorges and along the razorback spine of the Andes Mountains and over a pass at 8,000 feet. Finally, they crossed what is said to be the world's driest desert, to arrive at the Pacific port of Bayovar.

"I've been laying pipe since my school days in 1935," says Charlie Craig, the man in charge of the toughest section of pipeline, "and I've never seen anything to compare with this."

FINAL TESTING REMAINS

Now, with only the final testing remaining, the line could be pumping out 200,000 barrels of oil a day from the Amazon jungle within the next two months.

But, alas, a hitch has developed: So little oil has been discovered in the jungle that it will take five months just to fill the line with oil so the first trickle can come out the other end.

As if that isn't enough, Peruvian officials have seen the cost of the pipeline project triple to $670 million since construction started.

Petroperu, the state-owned oil monopoly, clings determinedly to the hope that enough oil will ultimately be found to operate the pipeline. But 29 oil companies, most of them based in the U.S., have spent $531 million drilling about 70 wildcat wells in the jungle, with few successes. They are disinclined to throw good money after bad.

RIVAL STRIKES OIL

The oil search began in 1971 after Peru's arch-rival, Ecuador, found substantial amounts of oil just north of the Peru border. Petroperu soon claimed commercially productive wells on its first three tries in 1972, and it offered the international oil groups up to half of whatever oil they might find in further explorations.

Employing hundreds of Peruvians to slash paths through 200-foot-tall trees, often spaced just three feet apart, the seismic crews exploring a jungle area bigger than the state of Georgia found geological formations that could contain oil at many locations. Talk spread of a huge reservoir in the Peruvian Amazon of possibly 10 billion barrels of petroleum.

The only problem the Peruvian government could foresee at the time was getting the oil out to civilization from a jungle that had never been penetrated by even a crude road. One possibility was to ship the oil down the Amazon River through Brazil to the Atlantic Ocean for export. But the Peruvian military has always been wary of the Brazilians, and Peru even beefed up its air and naval forces in the Amazon basin just in case Brazil developed a sudden thirst for its prospective oil. A pipeline over the Andes to the populous part of Peru was the only answer the government could think of.

Petroperu decided that it would have to be a big pipeline, with 24-inch and 36-inch pipe, capable of delivering at least 200,000 barrels a day. The line was designed to cost $230 million. A consortium of Japanese banks and oil refineries eagerly put up the money on the agreement that oil-starved Japan would be paid back in petroleum.

But as the pipeline work proceeded, the oil drillers turned up a succession of dry holes. "It was one of the worst and most expensive experiences we've ever had fighting the local bureaucracy and the jungle at the same time, all for dry holes," a U.S. oil man says. "But it sure looked good to start with."

Occidental Petroleum Corp. did drill several productive wells near the Ecuadorian border, and it has stayed to exploit its find. But the other oil companies have left, millions of dollars poorer. Talk of a 10 billion-barrel reserve in the jungle has given way to estimates of 550 million barrels of proven reserves.

While the outlook was growing bleaker, however, the military government under then-President Juan Velasco pushed ahead with the pipeline. "If they'd acted soon enough, they might have sold off that pipe at a profit," says an oil man back in the U.S. after two years in the jungle.

But the work went on, and the costs soared. The jungle half of the pipeline through the foothills of the Andes was done by a consortium made up of Williams International Group of Tulsa, Sedco Inc. and Horn International, both of Houston. An Argentine-Italian firm named Techint built the line across the Andes and over the desert to the sea.

SWAMP TECHNIQUES

In the waterlogged jungle, Williams used techniques it had developed for laying swamp pipeline in Louisiana and Nigeria. After 45-foot-wide paths were cleared, the dredging and laying of pipe were done from barges.

"We never had any trouble in the swamp that we didn't expect," says Charles Novak, president of the consortium, "but in the high jungle we used dry-ground construction methods when it really wasn't dry because it rained practically all the time."

The last 35-mile stretch of pipeline, just being finished, can't be reached by road, so helicopters carry men and supplies to the work site at a cost of $1,350 an hour. "Without the choppers, this job would take 20 years," pilot Vince Tortolano, a Vietnam veteran, says.

Every morning about five o'clock, Mr. Tortolano begins ferrying the 180-man work crew of Peruvians and Americans out of the base camp here at Chiriyaco for a two-minute ride over a jungle hill and down to the pipeline right-of-way. The trip would be simple except for a thick morning ground fog and the 20-story trees. Mr. Tortolano has to guess his way down into the canyon. A few months ago, one of his fellow pilots guessed wrong and hit the trees; eight men died.

OUT OF THE FOG

Once the crew is on the ground on this day, a light rain begins to wash away the fog. "They say there's a wet season and a dry season here," says Carl Schell, the 53-year-old Oklahoman who is the boss of this section. "But I haven't seen the difference."

As the rain comes down harder, the treads of the big bulldozers slip and slide as they try to work the hillsides. Jim Bottom, a craggy-faced operator from Ashland, Ky., doesn't like his job a bit. "I'm digging on the sides of hills that are more like cliffs," he complains. "They got to tie six dozers to me to keep me from sliding right over the edge. If they let go, I'm through."

Similar problems were encountered on Haubico Mountain. "We spent 19 weeks on that mountain with rain and landslides, cutting back the face to an angle the pipe could take," Mr. Schell says.

Washouts caused by the heavy Amazon rains will be a continuing problem for Petroperu's maintenance crews. At one neglected spot a torrent of water is already eating away at the pipe's ground cover.

Still, Petroperu's biggest problem is finding enough oil. Current proven reserves would be used up in 7½ years, if the line were run at full capacity. Initially, the company expects to have from 30,000 to 40,000 barrels a day available to pump. When a branch pipeline links Occidental's fields to the main line in 1978, another 80,000 barrels is expected to be available daily.

But after the five months it will take just to fill the line, the oil will be able to flow only a few hours at a time, because the line is designed to operate only at a full capacity of 200,000 barrels a day.

Alberto Bruce, Petroperu's general manager, stoutly defends the vast pipeline expenditure, which increased Peru's international debt by one-fifth. The critical decisions to go ahead were made before he took office. But, he argues, "We wouldn't have saved much money by using smaller pipe; what drove the cost up was getting access to the area."

An American oilman says, "If there had been oil out there like we all thought, they'd have been big heroes for gambling on the pipeline."

NO MORE TALK OF EXPORTS

Peru has quit talking in the state-controlled press of becoming a big oil exporter "We hope by the end of next year we will be meeting our own needs, which are now about 116,000 barrels a day," Mr. Bruce says. "That will save us $200 million a year in foreign exchange." Most hope for this, however, lies in exploration going on offshore and in efforts to increase production in the old Talara field of International Petroleum Co., the Exxon subsidiary that the military expropriated in 1968.

There still is talk of offering international

oil companies new inducements to take another crack at wildcatting in the jungle. "After we've been burned once, I don't know what kind of inducement they can offer us to go back in," a U.S. oil executive says. But another says, "I think that in five or 10 years someone will have a new idea on how to explore that country, and all the companies will come rushing back. You've got to remember they were within a whisker of giving up on the North Sea."

Meanwhile, there's a lot of free advice floating around Peru on what to do with the pipeline—some of it is pretty frivolous. A half-serious suggestion is to pump Amazon water over the mountains to raise crops in the desert. "You know," a mud-covered pipeline worker says, "in the end that may turn out to be our real contribution to this country."

NOMINATION OF F. RAY MARSHALL TO BE SECRETARY OF LABOR

Mr. HATCH. Mr. President, after a great deal of consideration and thought, I am announcing my intention to cast my vote against the confirmation of F. Ray Marshall to be next Secretary of Labor in the Carter administration when this matter comes to the Senate floor.

I will cast this vote against his confirmation solely because of his expressed views on many critical labor issues facing the 95th Congress and the American people. Through the courtesy of the chairman, Mr. WILLIAMS, and the ranking member, Mr. JAVITS, of the Committee on Labor and Public Welfare, I was privileged to sit in on the nomination hearings and to direct oral and written questions to the candidate. Throughout my questioning and the questioning of other Senators, I found Mr. Marshall, to be honest, sincere, and quite candid in his responses to some very difficult and controversial labor questions. Also, on the plus side, is his demonstrated intellectual capacity to carry forth the duties of his high office in a satisfactory manner.

My negative vote is hinged upon Mr. Marshall's untenable positions on some of the substantive labor questions with which I do not agree and which a majority of Americans will not agree. For example, I specifically asked him whether or not he would actively support a repeal of section 14B of the National Labor Relations Act which authorizes the so-called right-to-work laws. Utah is a right-to-work law State. Mr. Marshall indicated that he would actively support a repeal of these laws so that the Federal Government could supersede the laws of 20 States who have consciously chosen to outlaw compulsory unionism. Moreover, Mr. Marshall supports the so-called common situs picketing proposal which would give construction trade unions immense unwarranted power in the construction industry, if enacted. In fact, it is my understanding that Mr. Marshall believes that liberalizing construction site picketing rules will have no adverse economic effect on that troubled industry nor will it substantially effect minority unemployment there—statements I find difficult to accept.

I believe his positions on both of these onerous proposals to be not in accordance with the public's views nor are they in their best interests. On this basis alone I feel his confirmation is unwise.

I was also disturbed by other responses he gave. For example, I asked him whether he favored the retention or modification of the Davis-Bacon Act which in my view may well be obsolete, serve no useful purpose, and only contribute to the serious economic problems in the construction industry. Mr. Marshall responded that he not only favored the continuation of this law but also indicated that tighter enforcement of the law was in order. When I asked him about public employee labor relations, he indicated that he would favor a law granting State and local public employees collective bargaining rights. As to certain types of public employees, Mr. Marshall urged that they have the right to strike. Mr. Marshall went so far as to indicate that he believed there was a rightful place for unionism in armed services, but that he had not clearly thought out all of the parameters of such a proposal.

Mr. President, it is my general philosophy that a nomination submitted by a President, whether he be Democrat or Republican, should ordinarily be confirmed by the Senate unless there are clear indications that the nominee would not serve the public interest in the furtherance of his office. I find such conditions to exist in the nomination of Ray Marshall. I believe that he is too closely allied with the special interest positions which represent only 20 percent of the American laboring force. Accordingly, I feel that the public record now necessitates casting my vote against his confirmation.

I urge my colleagues to take a close look at his views prior to passing on his nomination. To help in this process I ask unanimous consent that selected excerpts of the Labor Committee nomination hearing transcript covering various labor areas be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS

Senator HATCH. I appreciate your candor here today in answering the questions of the Committee.

There is an attempt to replace the program established by President Kennedy back in 1960 with legislation. How do you view such a move and do you foresee such an expansion of collective bargaining in the federal sector.

Dr. MARSHALL. Let me say that I have not compared the difference. It depends on what kind of legislation we have. It would seem to me there is some advantage in trying to get legislation to deal with the problems rather than having to deal with them entirely through executive order in the sense that you get perhaps more than legislation, you might say, and also you can get a wider range of Congressional support for what you are doing.

So in some cases I recognize that Congress has in fact sanctioned what happened with the executive order and that difference might not be too important.

But I think it is important for us to thoroughly examine the structure that we have got to see if we do not need to have legislation or if we do not need to make collective bargaining more effective.

Senator HATCH. Dr. Marshall, I am not sure about that but I think that is a consideration, that we ought to look at it and see. And see what kind of collective bargaining the Federal services may need.

There has been some consideration of a union in the armed forces.

What are your views with regard to a unionized military?

Dr. MARSHALL. Well, I have not thought much about the unionized military.

Senator HATCH. I think you should.

What kind of view would you have?

Dr. MARSHALL. I think there is probably some merit to it. I would not permit strikes in the military, obviously.

Senator HATCH. You might be amenable to have a military union?

Dr. MARSHALL. I might be amenable to having a military union where you have got some kind of representation by the soldiers in making the rules that govern their working conditions. Now, I would not be in favor of strikes.

Senator HATCH. Would you mean except with those we have today?

Dr. MARSHALL. I am not sure what we have today. My point is—and I believe in the military and certainly in peacetime and not in combat situations, there are circumstances where a military commander would benefit out of what the people are worried about and what the problems are and that kind of mechanism might be good business for the military.

Senator HATCH. You would not extend it as far as unionizing the military, though?

Dr. MARSHALL. Whatever you want to call it. I think it would not extend to a strike.

Senator HATCH. Would you have an outside collective bargaining agent?

Dr. MARSHALL. I had not thought that out as yet.

Senator HATCH. You think it is a possibility?

Dr. MARSHALL. It is a possibility. If you want me to think it out, I will.

Senator HATCH. Let me move on.

On the new Minimum Wage Bill to be introduced before the 95th Congress, how do you view any proposed increase in the $2.30 figure?

Dr. MARSHALL. I think the $2.30 figure ought to be increased.

Senator HATCH. You do.

Dr. MARSHALL. Because inflation has already eroded that rate and I think you ought to have a rate now of about $2.70 to come to the position where $2.30 was established.

Now, in setting the specific rate I would want to take a look at the impact of it and I have not done that. I think you have to study the impact and what is likely to happen as a result of say the dollar rate or whatever rate you want to consider.

Senator HATCH. There are proponents of a plan to tie automatic increases to the minimum wage structure into an index. Some suggest a consumer price index and some suggest the average hourly earnings index.

Do you look favorably upon that type of a system approach?

Dr. MARSHALL. I think that is another one that needs to be thought out a lot because it has implications that are not obvious I think, and I think the index problem is a complicated one. I think you should see how you want to index it and which index you tie it into.

I think there is some merit in the underlying relationship of the whole real levels of whatever it is you fix, wages or maintenance and try to insulate people from inflationary pressures.

Senator HATCH. How do you feel about a sub-minimum wage to help alleviate the youth unemployment today especially among minorities?

Dr. MARSHALL. I would not stay with that.

Senator HATCH. What if we had a system to establish a welfare base by the State even

for the use of obtaining jobs at this time and the employer pays the difference between that base and a minimum wage for a training period and then after that having to pay the minimum wage?

Dr. MARSHALL. I think that would be an interesting thing. In other words, you might be able to get people employed, pool the resources, you might sell their labor to nonprofit organizations and at lower than the minimum wage thereby paying the minimum wage.

Senator HATCH. One of the problems I see is that the youth of our country are perturbed because the minimum wage is too high. If that is so, then maybe the minimum wage is something that needs scrutinization and we should not have the blanket minimum wage coverage for the youth of the country.

Dr. MARSHALL. I think you are right and I have looked at a lot of minimum wage studies and I think the conclusion is that it always has some impact on unemployment. But because of the great diversity of circumstance we face in the country the overall impact has not been that great and we ought not to have a youth differential because I am afraid you will substitute other unemployed adults for unemployed youths.

Senator HATCH. Assuming hypothetically lowering the minimum wage for the jobs, would you consider that?

Dr. MARSHALL. I think to try to give incentives but to hold the floor would make sense.

Senator HATCH. I would like to move into the area of consumer boycotts, the use of primary boycotts is something that is becoming more frequent in our society today. We see its use in the agricultural sector for instance, i.e., grapes. Do you see this boycott as a legitimate tool in labor relations and would you advise any attempt to attempt legislation to make them illegal or otherwise?

Dr. MARSHALL. I think the boycott is legitimate so long as it is peaceful.

Senator HATCH. Even if it is organized and sponsored by a specific group?

Dr. MARSHALL. People have a choice of either abiding by the boycott or not. Where it tends to get used more often is where the strike weapon is not very strong for the workers involved and therefore it makes bargaining possible even though difficult and drawn out.

Senator HATCH. In other words you are primarily talking about right to work law States.

Dr. MARSHALL. California is not a right to work State but it works there. The boycott—well, not how well it works but it is dependent upon which groups you are talking about. It works better than on grapes and lettuce for example, but if the farm workers had to win a strike under those cricumstances bargaining would have been much more difficult than if they had this weapon available to them.

Senator HATCH. You indicated your views on a picketing. I think there has to be assurances for persons, especially for employees who are not members of the union—and you cited particularly that many minority people have no opportunity to get into the construction trade unions at all—I shouldn't say not at all but very little at any rate. If picketing were instituted what would be the economic consequence on construction industry?

Dr. MARSHALL. To start with the first premise I think a lot of minorities have gotten into the building trade.

Senator HATCH. Very few.

Dr. MARSHALL. Well, I think if you look at the overall numbers in the training programs I worked with, and that is around the steel trade, that the numbers are impressive, particularly if you start with the base of 1960 where there were 2,000 black apprentices in the United States. And through conscious effort to get people in the ratio has been increased five or six times that proportions and special programs have gotten over 30,000 people into those programs since about 1966–67.

So my view about it is that this is not a way to get jobs for minorities. But there are better ways to get jobs for minorities. There are ways to do that and we ought to do those things.

Senator HATCH. Let me ask you some specific things. For instance, what would your position be on legislation if it gave final authority to NLRB judges on matters that may now be appealed to the full Board.

Do you have a position on that?

Dr. MARSHALL. No, I have not.

Senator HATCH. Okay.

What would it be on legislation to give the union a right to bargain without an election if it can show support of 55 percent of the members of the unit?

Dr. MARSHALL. I think that is all right if the employer feels that the union really represents a majority of the workers. I think it would not be wise to permit a minority of the bargaining unit to represent the union.

Senator HATCH. What about treble damages against employers who violate the labor Act or laws?

Dr. MARSHALL. I have not thought about that one either. You mean if it is listed under antitrust?

Senator HATCH. Yes, or under labor laws.

What about if legislation gave power to debar federal contractors who repeatedly violate the labor Act?

Dr. MARSHALL. I think that deserves some consideration.

Senator HATCH. What about legislation which gave the NLRB power to "make whole" remedies?

Dr. MARSHALL. I think that deserves consideration.

Senator HATCH. If I can ask just a couple of more questions.

What is your opinion on the retention of the modification of the Davis-Bacon Act which in my opinion may be obsolete, serve no purpose and only contribute to the economic problems in the construction industry?

Dr. MARSHALL. My inclination is I think they can have some purpose. Maybe it is not being adequately enforced now and therefore might be a problem.

Now before I recommend doing anything I would have to study it more carefully.

Senator HATCH. Are you aware that the Davis-Bacon Act has cost the public billions of dollars?

Dr. MARSHALL. I have a philosophy which says that low wages are not to be, that the employers ought not to be able to acquire disadvantage because of more wages or health conditions or poor safety conditions and that we ought to establish a floor on those things and then let employers compete to become more efficient in doing their main thing.

Senator HATCH. With regard to occupational safety and health—I am moving a little fast here—What is your position on the continued preparation of economic impact analysis in the development and promulgation of new or revised Occupational Safety and Health Standards?

Dr. MARSHALL. My inclination without studying it more is to know what to do for economic impact is to say we probably ought not to have it because it is a very technical and difficult area and the state of the art is very rudimentary and I think you could get delays forever in enforcing laws with those things attached to them.

Senator HATCH. That is what happened in the mineral mining business. We have delays because of the environmental impact studies. Why should we not require them in this area where almost everybody in this country who owns a business is complaining about it?

Dr. MARSHALL. You can complain about it but you have to measure the impact and that is the essential problem. If you do not get clear agreement among economists over an impact study, therefore there is no way to finally resolve that issue.

The state of the art is such that you could effectively destroy any one of those studies that anybody made and if I made one anybody made and if I made one anyone equally skilled in the mystery of economics could destroy it. So we must come to an interminable conflict over it. And I think these processes are useful as decision making tools but they are not useful in the decision making process.

Senator HATCH. Would you be willing, doctor, in the analyses of the Occupational Health and Safety Act, Health Administration Act, to make a thorough examination of how repressive the Act is when administered by local administrators to business and try to recommend some changes?

Dr. MARSHALL. Not only will I, but I intend to.

Senator HATCH. Would you consider making it absolutely mandatory that OSHA inspectors have justifiable legal cause before they walk on to any business premises in our country and in addition to that not only justifiable legal cause but also an explanation of the rules and regulations that they intend to enforce before fines and penalties are levied? Are you in favor of that?

Dr. MARSHALL. I am not sure I am in favor of it.

Senator HATCH. Would you give some consideration to that procedure?

Dr. MARSHALL. Yes.

Senator HATCH. My time is up I know. I have a lot more questions that I would like to discuss with you.

Dr. MARSHALL. I would be glad to meet with you.

Senator HATCH. I would be happy to do that at any time. I do have a letter to you that contains a synopsis of a number of my concerns and I would appreciate it if you would do that for all the members of this committee.

Dr. MARSHALL. Surely.

Senator HATCH. Thank you, Mr. Chairman

The CHAIRMAN. Thank you, Senator Hatch

TRADE DISCRIMINATION

Mr. DECONCINI. Mr. President, the discrimination by the European Economic Community against citrus fruits grown in the United States is, in my view, a violation of the GATT Agreement.

The European Economic Community is the largest export market for the U.S. citrus industry. Because of the systematic discrimination by the EEC, it has been estimated that the industry has lost $75 million in exports since 1969.

When the member states of the EEC endorsed the most-favored-nation clause in the GATT Agreement, they committed themselves to avoid precisely the sort of actions which have led to the present situation. For example, Tunisia and Morocco received an 80-percent tariff preference in 1969; Spain and Israel were given a 40-percent preference in 1970; Egypt and Cyprus received a 40-percent preference in 1973; and Algeria was extended an 80-percent preference in 1975.

The question at issue goes beyond the immediate concerns of the citrus industry. In an era when the United States is increasingly dependent upon foreign countries for oil and other vital products, we must vigilently protect our trading rights. In the final analysis, we can only

pay for imports through our exports. And if discrimination is practiced against one American industry or commodity, the precedent is established for others.

I ask unanimous consent, Mr. President, to have printed at this point in the RECORD the testimony I have prepared for hearings on January 25 being conducted by the Office of the Special Representative for Trade Negotiation.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DENNIS DECONCINI

International trade is an extremely important aspect of the world economy. Every nation must see that it flourishes and expands. However, it is important that each country also be diligent in its efforts to see that trade is a two-way street. If trade cannot flow unhampered by government interference, then restrictions will grow and trade will be reduced.

International commerce is particularly important for the United States. At the present time, we import large quantities of oil. We need to continue to expand our exports in order to pay for our imported goods and oil. Agricultural exports currently make a significant contribution to our balance of payments. We must do all possible to see that these exports continue.

Unfortunately, there are a number of restrictions to agricultural exports in various countries around the world. For example, the Japanese quotas against French oranges immediately come to mind. However, my testimony today will be restricted to the discounts in the tariff rate granted to Mediterranean citrus producers by the European Economic Community. Because of the principle involved, the United States cannot allow this matter to remain unresolved.

As everyone recognizes, citrus is a major agricultural commodity in Arizona. We produce the finest citrus in the world and are happy to share it with European consumers. Citrus from the West Coast of the United States has traveled to Europe for over 70 years. Thus, it is particularly difficult to understand why the European Economic Community singled out citrus to practice its discrimination upon in such a manner as to damage the United States.

When the EEC first granted tariff preferences on citrus, the preference was extended on a Most Favored Nation basis to the United States and other countries. This was proper and in accordance with the rules of the General Agreement on Tariff and Trade. No one was damaged. However, in 1969, the EEC withdrew the Most Favored Nation treatment from the United States and granted tariff preferences on a discriminatory basis. This had an immediate impact on fresh orange exports from the United States. The EEC continued to expand its discrimination to additional countries. Now discriminatory preferences are granted to Spain, Morocco, Tunisia, Egypt, Israel, Algeria and Cyprus. The area of discrimination increased in 1973 when England, Ireland and Denmark joined the European Economic Community.

World trade must be conducted on a nondiscriminatory basis. Reciprocal access to foreign markets must be maintained. This is the reason for the Most Favored Nation principle which is embodied into the General Agreements on Tariffs and Trade. This was agreed to by each member's country of the EEC as well as the United States and other GATT members. It is unconscionable that the EEC will not live up to its written agreement.

This matter is far more important than the citrus products involved. If the EEC can discriminate against the United States on citrus, then it can discriminate against the United States on any commodity, whether agricultural or industrial. The United States must use all the negotiating leverage available to it to resolve this matter. I believe this matter can be resolved and will work to see that it is. It has continued for too long a period of time. The United States must obtain equal treatment promptly.

Mr. DECONCINI. The problem, Mr. President, is not a new one. During the 92d Congress, the Senate unanimously passed a "sense of the Senate" resolution calling upon the President to "make every effort to obtain the removal of discriminatory import preferences maintained by the European Economic Community with respect to citrus fruits and, should such efforts not succeed, the President shall take appropriate remedial steps within 60 days from the date of this resolution against the European Economic Community * * *."

Since that resolution passed the Senate, the Congress has enacted new trade legislation. Yet, the problem remains. I believe that the President has a serious obligation to do all in his power under the law to resolve the matter, and to do so in an expeditious manner.

THE RETIREMENT OF TREASURY SECRETARY SIMON

Mr. HARRY F. BYRD, JR. Mr. President, the day William E. Simon took over as Secretary of the Treasury—May 8, 1974—was a day which otherwise showed few auspicious signs.

The United States was plagued by the worst recession since World War II, and the Watergate-crippled administration seemed economically ineffectual. In Canada, the Trudeau government was about to be toppled by a suicidal budgetary proposal which would destroy jobs by raising corporate taxes and distributing the proceeds to the newly unemployed. The specter of inflation had once again risen in the form of a $163 average increase in the price of Ford automobiles. In short, Mr. Simon's prospects at Treasury were not bright.

But Bill Simon not only survived; he prevailed. He has become an institution on the national economic scene. However bad the Government's financial situation is—and it is quite bad—undoubtedly it would be much worse were it not for the influence of William E. Simon.

In brief, Mr. Simon is one of the few in Washington to tie his public career to an unpopular cause; namely, citing the grave dangers to the American people of continued reckless deficit spending by the Federal Government.

Federal officials, be they in the executive branch or in the Congress, do not like to hear such warnings. It is much easier for the Congress to spend than to require a tightening of the Government's belt.

The prevailing view for much too long has been that the Nation can spend its way to prosperity and that no one needs to pay for it.

Thus, we have more and more—and accelerating—Federal deficits, and an ever-increasing national debt, the interest on which now requires 23 cents of every income tax dollar paid into the Federal Treasury.

Secretary Simon has been the most articulate spokesman for the contrary view, namely, that Government spending is not free, that someone must pay for it—and that that someone is the hard-working American.

William E. Simon has, to an unusual degree, the courage, the talent, and the ability which is so badly needed in public service. As he leaves his position as Secretary of the Treasury, the Senator from Virginia, not only extends to him good wishes and appreciation for a job well-done—but expresses the hope that his courage, his talents, and his abilities will be further utilized in the future for the benefit of the American people.

TRIBUTES TO GERALD R. FORD

Mr. CHURCH. Mr. President, the words that come to mind when one thinks of Gerald Ford and his Presidency are decency, honesty, and integrity.

And those words are perhaps the most fitting tribute that we can pay to his administration and to his Presidency.

Gerald Ford took office when the confidence of the American people in their own Government was at its nadir. A depression of spirit had fallen across the land in the aftermath of a scandal unprecedented in our history, a scandal which infected the body politic with foreboding and mistrust.

In 2 years, a start has been made toward restoring the trust and faith of Americans in their Government. We have a way to go; but the start has been made. And much of the credit for that achievement must go to Gerald Ford.

President Ford reopened the White House to greater public scrutiny. A man of Congress, he reestablished lines of communication long frayed and worn. In his personal, political and official relations, he dealt with friends and adversaries alike openly and without deceit.

There is a temptation to cast Gerald Ford, an unelected President, in the role of mere caretaker. But history, I believe, will accord him a far more important role as man who sought to bind up the wounds of a divided nation. For that role, America owes Gerald Ford its enduring gratitude.

Mr. CANNON. Mr. President, as chairman of the Senate Rules Committee which presided over the historic nomination hearings of Vice-Presidential designate Gerald Ford in 1973, I want to pay tribute to the most valuable service this man has rendered this country.

After a traumatic and turbulent Presidential decade, Gerald Ford has achieved what was considered an almost hopeless prospect—the restoration of faith, respect, and decency in the highest offices of the land.

At the time of our hearings into the qualifications of the Vice-Presidential nominee Gerald Ford, I stated:

This Committee should view its obligations as no less important than the selection of a potential President of the United States.

We are acutely aware that our committee was acting on behalf of the

American people, who normally have the opportunity to vote on who their Vice President shall be. Therefore, we undertook the establishment of a precedent—a solid, constitutional precedent—by pursuing an orderly, logical, thorough, and honest inquiry into the nominee's qualifications.

During the hearings, Mr. Ford responded to the Committee by saying:

> My actions, if confirmed . . . will have an impact on the American people as to my honesty, integrity, and my viewpoints.

Every American knows the results of these unique procedures, and I would like to thank and praise President Ford for the fine way in which he handled his monumental responsibilities.

Although not often in agreement with Gerald Ford on many public policy issues, I feel his contribution of open government is the most welcome, most important legacy his administration could have left this Nation.

As Gerald Ford departs from public service with the gratitude of millions of Americans, I wish the Ford family the very best as honored private citizens.

Mr. HATHAWAY. Mr. President, tomorrow's inaugural ceremonies, as well as the attendant festival rites which span this week, mark the transition of power from one administration to the next.

That orderly conveyance is the marvel of the world, but behind it stand human beings playing out important roles on the inaugural platform.

It is entirely natural that the bright lights and all the world's attention should tomorrow be focused on the President-elect as he undertakes the high duties with which the people have entrusted him.

But I do wish to make a few observations upon the tenure in office of his predecessor, President Gerald R. Ford, for his extraordinary role in a recent but very different transition period of our Government should not go unnoticed.

At a time when democracy's basic ingredients—trust, hope, integrity—were, in our Nation, in unprecedented short supply, President Ford made major gains in their restoration.

I first met Jerry Ford when I was elected to the House in 1964. It says a lot for the man that even after he became President, he was still called Jerry. Decent, easy-going, and approachable—those are some of his constant qualities which those who know him have long admired in him and they are qualities from which the country derived immense benefit during his time in the White House.

The country was struck by his lack of pretense and his ability to resist the aura of plastic glamor which so often results from the attention lavished upon the President.

Even his trippings and head-bumpings bespoke not clumsiness—for he is in fact a graceful man and a good golfer to boot—but rather they characterize the unvarnished natural qualities of a man who in the best American tradition does not allow the pressure of heightened circumstances to rob him of his humanity.

I believe that history will treat Jerry Ford's administration with admiration, for in his good stewardship he did what the Nation asked.

Mr. President, I wish to add my voice to those of so many of my colleagues who yesterday spoke tributes to the Presiding Officer of this body, Vice President NELSON A. ROCKEFELLER.

His long and distinguished career in public service has been most eloquently set forth by the commendation which he yesterday received.

Those of us who saw him and his wife on the CBS program "Who's Who" last night came away reminded again of the very deep and wonderful relationship which he and his wife so clearly enjoy.

In the State of Maine we hold NELSON ROCKEFELLER in special esteem because he is a native of our State, having been born at Bar Harbor. He is the first Vice President to be from Maine since James G. Blaine.

His good humor and grace in fulfilling his duties have been noteworthy, and I am proud to have this opportunity to commend him and to wish him well.

TRIBUTES TO THE VICE PRESIDENT

Mr. SCHMITT. Mr. President, one of the only sad facets of the beginning of my senatorial career is that it coincides with the termination of your service to the Senate. Although our political and national activities have only recently begun to move along similar paths, I have developed an increasing respect for your knowledge, intelligence, and dedication to our country.

I realize that your service to the country has not, and I am sure will not, terminate on January 20. We all look forward to future cooperation with you and to the benefits of your experience and wisdom as we search for real solutions to the present and future problems that we face.

You recognize much more than most the inherent strengths of our Nation, its people, its imagination, and its Government. I hope we will continue to receive your guidelines as the years go by.

Mr. CHURCH. Mr. President, perhaps no man has served his country in such a diverse number of ways, throughout his life, as NELSON ROCKEFELLER.

As adviser to Presidents dating back to Franklin Roosevelt; as Governor of New York for more than three terms; as a catalyst in bringing the talents of businessmen, academicians, and others together on major questions of public policy; and finally as Vice President, NELSON ROCKEFELLER has left a mark on the Nation that will be appreciated more and more as the years go by.

Although the departing Vice President never reached the Presidency, he is philosophical about it, commenting to the Senate on Tuesday that the best advice he can give his successor, Walter Mondale, is the helpful motto that, "They also serve who merely sit and wait."

But the operative part of the statement is that "they also serve." NELSON ROCKEFELLER has served his State and Nation well. More importantly, he has served the American people—and will continue to do so in years to come, for no man of his capacities can sit idle for long.

As NELSON ROCKEFELLER leaves office, he carries with him my respectful compliments on duty well performed.

Mr. HUMPHREY. Mr. President, I am pleased to join my colleagues in paying tribute to a fine and great man whom I have known for many years and consider a good personal friend. He has served this country with distinction and dedication, and has always unselfishly contributed his considerable talents for the benefit of his fellow citizens.

Mr. ROCKEFELLER'S service as Vice President of the United States has been a fitting climax in a record of distinguished public service in positions of high responsibility. It has been of great benefit to this Nation that NELSON ROCKEFELLER has served in the office of Vice President. He has worked diligently on both domestic and foreign issues. Vice President ROCKEFELLER constantly has fought to insure equal opportunity for all Americans to a good life with adequate health care, housing and education. He has led in efforts to improve the relations of nations and peoples around the world.

Mr. President, it remains for history to calculate the full extent of NELSON ROCKEFELLER'S contributions. Mrs. Humphrey joins me in wishing NELSON and Happy a long, happy and fulfilling future.

Mr. CANNON. Mr. President, I would like to give my heartiest and deeply felt thank you to NELSON ROCKEFELLER for a job well done in his service as Vice President of the United States and President of the Senate.

He, along with President Ford, helped achieve what has been considered to be an almost hopeless prospect—the restoration of faith, respect, and decency in the highest offices of the land.

I remember the words the Vice-President-designate gave at his hearings in November 1974 when the U.S. Congress for the second time in history presided over the confirmation of a Vice President:

> This country has reached a point where I think we are in very critical circumstances as a Nation and as a world and if I can be of any use, available to the President for whatever assistance I might give him should I be confirmed, I would be honored.

It is the Nation who was honored. It was my privilege to serve as chairman of the committee which presided over NELSON ROCKEFELLER'S nomination hearings. He shared his views with the American people on every important national issue of the day. His record of public service to his State of New York and the Nation, and to the international community has extended over a period of nearly four decades, reflecting his commitment to family and personal ideals of stewardship, civic responsibility and the ethic of service as an obligation.

Vice President ROCKEFELLER has been an outstanding public servant all his life, giving of himself unselfishly in many

capacities of government and public endeavor. For this he has won the admiration and respect of people throughout the world.

I wish to express my deepest appreciation and best wishes to you, Mr. President, and your wife, Happy. Thank you for a job well done.

SOCIAL (IN) SECURITY

Mr. RIBICOFF. Mr. President, earlier this month Richard Tobin, an executive editor of Saturday Review, discussed the inequities in the social security "retirement test." Senator GOLDWATER and I have introduced legislation to repeal this unfair test. I would like to share Mr. Tobin's column with my colleagues.

Mr. President, I ask unanimous consent that the column "Social (In) security," by Richard L. Tobin be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOCIAL (IN) SECURITY

(By Richard L. Tobin)

If President-elect Carter wishes to become immediately popular with almost anyone over 65, he will tackle at once, and with the greatest vigor, one of the most grossly unfair Federal laws—the one that says you cannot earn a decent living after your 65th birthday and get your well-deserved Social Security at the same time.

In 1977, the maximum a beneficiary can earn will increase to $3,000 a year if he or she wants to collect his or her Social Security income. It's been $2,760 a year up to now, but the magnificent $250 rise won't do much to help those of us who have little or no pension money coming in besides our overdue Social Security benefits.

If your income derives from stocks or bonds and not from a paycheck, you can collect the whole Social Security check each month. But for those of us who live from paycheck to paycheck, and whose income comes directly from the sweat of our aging brow, there is little or no chance of our beginning to collect on the Social Security benefits we've been entitled to ever since we hit 65.

Let me cite my own case, since it is typical of those—millions certainly—who are now being robbed of a chance to retire, at least in part.

I have been a dues-paying member of the Social Security system since Dec. 8, 1936, the day it began. So far as I know, my employers have never missed a payment and I know they have deducted many thousands of dollars from my paychecks over the last 40 years. Each year more has been taken out, and at present this figure runs in excess of $875 per annum.

Yet, after exactly 40 years of paying in, I cannot begin to collect, The reason is, essentially, that I worked for The New York Herald Tribune for 24 years and the Trib had no formal pension system, though it did take care of a few ancient out-pensioners while it was still operative. But the day The Tribune folded, any chance any of us staffers might have had for even a modest pension went down the drain in the welter of bankruptcy. Had the present Federal law guaranteeing pensions been in effect at that time, we staffers might have salvaged some thing. But the rude fact is that we did not and must, therefore, continue to work to survive.

Fortunately for me, I went to work for the Saturday Review in 1960 and was soon taken in under the pension wing of McCall's, which took over the magazine in 1967, it was a good retirement plan and would have worked beautifully had SR not been sold over Norman Cousins' head, at which point I no longer had a pension plan. Fortunately, the few years under McCall's-Norton Simon ownership meant that my pension money, small as it was, had been funded and would come to me no matter who owned me. But it was small, quite naturally, since I was under its wing for less than ten years, starting at the age of 50.

When we recently got SR back, we were faced with all sorts of financial problems, most of which are now beginning to work out. We are probably breaking even—just. But there is little or nothing left over to give us pension money. That is not anyone's fault. In a sense we're lucky to be afloat at all, and I am luckier still to be on someone's payroll at 66.

But the cruel fact is that I cannot stop working because I cannot live on Social Security and the small pension I earned those few years in the 1960's. For every $2 I earn above $3,000 (starting in January) $1 in Social Security benefit is to be taken away. Therefore, if my Social Security income (counting my wife's) is about $6,000 per year, I can forget it if I make $12,000 in salary. Since we cannot live even modestly on the $6,000 plus the small McCall's pension, I am obliged to go on working. Of course, at age 72, the law says, I can keep everything I earn and get my Social Security, too. But I've told myself not to hold my breath.

The original intent of the Social Security law limiting earnings beyond 65 was to open up the employment market for Depression youngsters. That purpose has long since eroded. I like to work. I'm a writer-editor by trade and I shall always be working at something. But I'd very much like to work a bit less for someone else and live, at least in part, on some of the money I've paid in to Washington for just such a purpose over the last four decades. I think I have it coming.

If the lawmakers can't see their way to lifting the silly ceiling on earnings altogether, then maybe they'd raise it so people like me could get a bit of what's coming to them regardless of paycheck. My wife and I would like to travel a little. When I was managing editor of SR and later associate publisher, I had the money but never could scrape together the time to do Europe or Asia. I'd like to now. And it really isn't fair that, through no fault of mine, one splendid publication on which I worked for almost a quarter of a century went to the wall and any pension with it, or that someone bought out from under us at SR, even though the story has a happy ending.

So, Mr. President-elect, if you wish to become immediately popular with at least one Republican, you will recommend immediate changes in the Social Security eligibility laws and see that Congress does something about them.

ENERGY SUPPLY EMERGENCY

Mr. PEARSON. Mr. President, the Nation is in the midst of an energy crisis. Our newspapers tell us daily about new factory shutdowns, job layoffs, natural gas pipelines unable to meet highest priority consumer requirements, fuel oil barges unable to navigate frozen waterways, and electric utilities incapable of meeting the spiraling demands of industrial and residential users. The immediate cause of these severe economic and social disruptions is the record cold weather which has gripped the Nation since last November.

But the recent low temperature did not precipitate the energy crisis. Unrealistically low Federal price controls on oil and natural gas production, the resultant decline in domestic energy supplies, failure to optimize on conservation potential, inability to develop renewable energy resource technology, and dependence on foreign sources to meet much of our energy demand have brought on the crisis—a crisis which has been growing for 5 years and now threatens to have catastrophic results.

As individuals and as a nation we must strive for results. Residential consumers must turn their thermostats down. Business and industry must undertake enormous conservation efforts. Energy utilities must coordinate their efforts to cope with supply shortages. Federal, State, and local government officials must exercise available authority and give public messages that will mitigate the national crisis.

The impact of energy shortages is exacerbated by the record cold now being experienced in the Midwest, East, and South. Natural gas supplies have been curtailed in these areas to all but the highest priority consumers. Plant shutdowns due to gas shortages have resulted in layoffs of over 100,000 individuals. Natural gas storage—usually not tapped until February and March—is already down by 50 percent. Schools in areas of at least five States have been closed and children sent home. In certain locations, only emergency deliveries of natural gas from the West where weather has fortunately been warm and from Canada have prevented curtailment of natural gas deliveries to the highest priority end users. Surplus natural gas normally found in the producing States is just not there due to the unusually cold weather causing producing State consumers to heat their homes for extended periods.

With respect to natural gas, the shortage of this necessary and precious commodity may be ascribed to one factor—unrealistically low prices due to Federal regulation of sales in interstate commerce. It is an economic fact that demand will accelerate beyond available supply if price is not sufficient to elicit the necessary capital that justifies the transaction. The Senate passed legislation in October 1975, which would have rectified this situation, but House action prevented S. 2310, the Pearson-Bentsen bill, from becoming public law. Once again, Senator BENTSEN and I have introduced a bill, S. 256, which will deregulate interstate sales of new natural gas and provide the incentives needed for development of new natural gas supplies.

S. 256 would, if enacted, provide a means for alleviating natural gas shortages in the short-term. Nonregulated sales of intrastate natural gas may be entered into with interstate pipelines, distribution companies, and high priority end-users for up to 180 days in duration. If such an emergency sales program would be strengthened by pipeline interconnection and allocation authority, I am prepared to consider such an amendment to S. 256. Furthermore, I am now studying the need for, and means of implementing such interconnection and allocation authority.

Mr. President, if natural gas were the only energy commodity in short supply

this winter, then obviously alternative fuels such as propane and fuel oil could be supplements for natural gas shortages. But that is not the case. Barges with fuel oil for heating and crude oil for refining are frozen on the Mississippi River, the Chesapeake Bay, and other ice-locked waterways. Coal is frozen in electric utility storage yards and on freight trains in many areas. Water necessary for power generation cannot flow into plants due to intake valve freezeups.

No relief from cold weather is in sight. The situation is worsening. A deepening and pervasive national energy crisis continues to grow daily.

Mr. President, the Congress may enact legislation which deals piecemeal, or in whole, with the energy shortages that are now being experienced throughout the Nation. But passage of such legislation often takes time. In the interim, I am making an open appeal to the incoming administration to take whatever steps are necessary and to exercise whatever authority is available in order to mitigate this severe energy shortage.

Each State, and those individuals in authority within each State, should also take those steps that will carry us through these winter months. Finally, I believe each American will make those efforts and endure those hardships which can assure a lessening of and ultimately an end to our national energy crisis.

AIR CARRIER SERVICE MIAMI-PARIS

Mr. CHILES. Mr. President, the Civil Aeronautics Board now has before it an exemption application by a Florida carrier to provide service between Miami and Paris for 1 year starting this summer. I feel that expeditious approval of this request by the Board is needed to further the ever-increasing commerce between Florida and Europe, to provide Florida an essential tool to compete for its fair share of the international tourist market, and to strengthen the hand of the United States in international aviation negotiations.

Since the inauguration of regularly scheduled U.S.-flag service between Miami and London, Miami has become a major transatlantic gateway servicing the growing market from Florida and the entire South. For the year 1975, for example, almost one-quarter million passengers traveled between Miami and Europe with 90 percent of those passengers moving between Miami and London. This substantial passenger flow is all the more remarkable since it has developed in the face of British pressure to restrict these operations.

With additional service between Miami and Paris, the ability of the Miami gateway to grow and service the South will be substantially enhanced. It is estimated that almost 50,000 passengers would travel on a Miami-Paris route in its first year of operation.

The need for additional Miami-Europe service cannot be measured solely in terms of passenger and cargo volume. Florida is the tourist capital of the Nation and tourism is one of the largest trade items. Improved air connections between Miami and the high-income European heartland are essential to Florida's efforts to tap European tourism potential. Even now, only 17 percent of the Miami traffic is moving to London as a final destination. Paris, the second most important European destination from Miami, would be a key addition to the Florida tourist network. In addition to the clear commercial justification for Miami to Paris service, immediate authorization of an alternative European landing point for Florida traffic is necessary to protect the long range prospects of the Miami-London service and to avert a potentially serious service disruption this summer.

It has been widely reported that the United States and Great Britain are in the midst of a most difficult renegotiation of the international agreement authorizing and regulating United States-United Kingdom air services. These negotiations have been characterized by a basic clash between British protectionist efforts to divide the market by government fiat and our Government's reliance on more competitive principles. Late last week, Deputy Transportation Secretary Barnum warned of a possible disruption of service if a new agreement is not reached before the expiration of the current agreement on June 22, 1977.

With the threat of a United States-United Kingdom service disruption in the air, it would be unthinkable for our Government to leave Miami without an alternative destination. This is particularly true when we have already bargained for and acquired the right to fly between Miami and Paris, and when Southern-tier-Europe services are being offered by Air France, KLM, and Aero-Mexico. Equally important, the authorization of Miami-Paris service would be a concrete demonstration to the British that their anticompetitive posture will not be permitted to retard the development of U.S.-flag services from Miami. Indeed it would provide enhanced negotiating leverage for the United States in dealing with the British.

When the commercial, tourism, and diplomatic considerations favoring Miami-Paris service are taken together, the case for approval is overwhelming. I would hope that expeditious and favorable action on this application will be possible.

THE PAY RAISE

Mr. HANSEN. Mr. President, I rise this afternoon to speak on behalf of the resolution introduced by Senators ALLEN and DOMENICI disapproving of all the recommendations of the President with respect to salary increases.

Mr. President, I have heard most if not all of the arguments in favor of these raises and I have read with interest and concern the articles calling for such increases to assure the American people that men and women of quality and honor will serve in the Government of the United States.

However, before this Congress allows these salary increases, before this Congress is moved by the rather pursuasive arguments made on behalf of the Federal employees involved in this budget request, let us pause just a moment to look at the position in which these employees and indeed, we of the Congress find ourselves.

What we are being asked to do, Mr. President, is to ameliorate, for a relative handful of Federal employees, the devastating effects of inflation. We are being asked to allow Federal judges, top level members of the bureaucracy, and Members of this Congress to catch up with inflation. Yet what we have failed to note, in all of our discussions on this matter, is that we—the Congress—are responsible for inflation.

Instead of being asked to cure the disease, we are asked to cure a symptom. Instead of being requested to put an end to inflation, we are requested to single out and provide relief for a small proportion of the American people, people who, like all Americans, have been hurt by inflation. We are thus selfishly addressing only our problems and ignoring those of all other Americans.

At a time when we have asked the American people to tighten their belts against inflation, to hold the line against ever-increasing wages and prices, the Congress is considering salary increases amounting to nearly 30 percent. It is my belief, Mr. President, that members of Congress are in a mighty poor position to urge restraint by the American people while we refuse to show any ourselves.

It is my firm and steadfast belief that if we selfishly address only our problems, the average American will be let down, will feel that his problems have been ignored, and believe that his plight is of little concern to those Members of Congress in whom he would like to place his trust and confidence. How poorly we will have served him, Mr. President, if we approve these raises.

Let us look briefly at the average young couple in America. Let us look at the typical family of four and see what the congressionally imposed burden of inflation has done.

Mr. President, if we play a numbers game, and look just at dollar figures, it would appear that a family of four pays much less tax today than it did in 1963. The Treasury Department has provided figures which show that in 1963 a family of four which earned $10,000 paid $1,262 in tax, while paying only $905 in 1973. According to the Finance Committee that number was reduced to $797 in 1976. The numbers game makes us look good. But Mr. President, the Department of Commerce tells me that in the 10 years since 1966, the cost of a basket of goods and services has increased by 76.4 percent. Now, at that rate of inflation, that same family earning $10,000 in 1963 would need to earn $17,500 just to keep up with inflation. At that rate of earning, their tax liability would be $2,066, as compared to a 1963 tax liability of $1,262. Moreover, Mr. President, the Advisory Commission on Intergovernmental Affairs projects that by 1980, the same family earning $10,000 in 1975 can expect a further 34-

percent increase in taxes. A family of four which earns only $5,000 can expect a 319-percent increase in its tax burden.

Mr. President, I urge the Members of this body to act with an awareness not of that small body of individuals who ask for and need this raise, but with an awareness of all the Americans who have suffered at the hands of the cruel tax which we have placed upon them—inflation. Let us, with these people in mind, take the first step toward a solution to this problem, not for the few represented by these salary increases but for all Americans.

Mr. President, I urge passage of the resolution proposed by Senators ALLEN and DOMENICI.

BOB STRAUSS

Mr. RIBICOFF. Mr. President, on January 21, 1977, Bob Strauss will be leaving the chairmanship of the Democratic National Committee. What an exceptional man.

Within a period of 4 years he took the Democratic Party from off the floor and led them to National and State victories and the 1976 Presidency.

Bob is truly an original. No one has brought a better flavor of Bob Strauss than David S. Broder. I ask unanimous consent that the Broder column, entitled, "For Bob Strauss, Deserved (Self) Praise" in the January 19, 1977, issue of the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOR BOB STRAUSS, DESERVED (SELF) PRAISE

(By David S. Broder)

"I'd hate," said Robert S. Strauss, "to be the guy who's got to follow my act."

That comment—so characteristic of Strauss in both its accuracy and its beguiling immodesty—could well have served as the grace note on the chorus of praise that will waft the retiring Democratic national chairman out of office the day after Jimmy Carter's inauguration.

It could have, that is, had not Strauss appropriated for himself the best line anyone could have applied to him. But that is typical. During his four-year run, whenever Strauss was not occupied by charming, whipping, or hoodwinking the Democrats into a semblance of unity, he was haranguing anyone who would listen about what a helluva fella this Democratic chairman really is.

His self-praise and self-promotion would have been outrageous had not his performance somehow managed, time after time, to surpass even Strauss' own descriptions.

He served a shorter time than several other chairmen, and he will not be linked in history to the victory of Jimmy Carter in quite the intimate way that Jim Farley was linked to FDR or John M. Bailey to John Kennedy. Strauss was not an original Carter man, and Carter does not let him forget it.

But no Democratic chairman has ever done a better job of nursing his party back from brutal defeat to top-to-bottom victory than Strauss has done. And that is something he can tell his grandchildren without bragging.

The numbers are clear enough. From the day in December, 1972, when Strauss won his narrow victory for the chairmanship, until today, Democrats have made a net gain of 48 House members, seven senators, six governors and one President.

As Strauss turns over his gavel to former Gov. Kenneth M. Curtis of Maine—Carter's choice to head the national committee—Democrats have been given an extraordinary grant of public responsibility in the cities, the states and the national government.

That's one—but not the only—reason that Strauss will be a tough act to follow. Anything that goes wrong in government in the United States the next couple years—and things have a tendency to go wrong, somewhere—is very likely to involve a Democrat.

But a recitation of the numbers does not begin to do justice to the skills that Strauss employed in his main work—circumventing the impulse of the Democrats' warring tribes to murder each other before election day.

What he did, for most of the last four years, was to make himself the target for the factional animosity that had destroyed the Democrats in convention hall in 1968 and 1972.

"I'm running the show," he told labor, the blacks, the women, the Wallaceites, the mayors, the governors and the Congress. "If you've got any quarrel, bring it to me."

They did just that—usually coming at Strauss on the dead-run, with bayonets fixed. In the mental picture I have of him, probably a composite of many real scenes, he is standing in a hotel corridor, his curly hair on end, his eyes red-rimmed and staring. A delegation of angry women's-rights reformers led by Bella Abzug is bearing down on him from one direction. He wheels about, only to face a pack of florid-faced unionists, with Al Barkan at their head.

Strauss is trapped and a brawl is certain. But at the last possible moment, he ducks into a room, with both mobs in hot pursuit. Two minutes later, the reporters get inside, and find Strauss is serving drinks to everyone with one hand while holding Bella and Al, tenderly but firmly around the throat, with the other.

He thrived on crisis, and even as he reviled his intra-party tormentors for being short-sighted, selfish and insufferable, his eyes danced with delight at their absurdity. He loved to tell how he had played on their own emotions to outmaneuver them.

In fact, he loved everything about the game of politics—even when he was its victim. He told and retold, with genuine delight, the story of how this obscure Georgia governor came to him with this innocent-sounding request to be named chairman of the Democrats' 1974 mid-term campaign committee—a nonexistent job, or at best, an empty title, Strauss thought—"and the next thing I knew, he's running a presidential campaign right out of the national committee."

In an age of anti-politics, Bob Strauss reveled in being unashamedly a politician. And he spoke up for politicians—even when they were Republicans. He went to bat for his friend George Bush, when some Democratic senators argued that Bush was disqualified to head the CIA because he had once been Republican national chairman.

And it was not just sentiment when Strauss told Gerald Ford and a roomful of journalists, on the eve of the presidential campaign, that he was grateful as a Democrat to the Republican President who had proved that all politicans are not crooks.

It is impossible to improve on Bob Strauss' estimate of himself. But one can echo it. He will, in truth, be a tough act to follow.

GALLUP POLL SHOWS OVERWHELMING SUPPORT FOR YOUTH EMPLOYMENT PROGRAMS

Mr. HUMPHREY. Mr. President, a recent Gallup poll shows that there is overwhelming support across the country for jobs projects for youths who want to learn a trade and earn some money, such as those to be established under the Comprehensive Youth Employment Act of 1977, which I introduced last week with Senator JAVITS and others.

According to the Gallup poll:

Few issues in polling history have received such overwhelming support by the American public. In the latest survey, 85 percent of those surveyed favor having the federal government set up youth projects—a modern version of the CCC camps of the 1930s, but with efforts aimed at urban problems as well.

This Gallup poll shows that enactment of a youth employment program would be supported by every segment of our society by overwhelming margins. Republicans for example, support the idea by a margin of 78 percent for, to 18 percent against. And youths themselves want a jobs program by a margin of 93 percent for, to only 5 percent against.

Jobs projects for youths would benefit not only the participating youths, who would receive job training, a decent income, and useful work, but they would also have great side benefits for the Nation. According to the Gallup poll, such projects could substantially reduce youth crime and violence:

Many youth experts have labeled the estimated 2 million young people out of school and out of work a prime cause of crime and a great waste of the nation's manpower.

Proponents of youth training projects say that if the idea is adopted on a widespread scale it could effectively reduce crime and violence in our society. Others feel that the program could meet head-on some of the social ills in society and satisfy the desire of youth today to contribute to a better society.

The Comprehensive Youth Employment Act would establish many of the programs needed to reduce youth unemployment—a Youth Community Service program to create employment for youths on local community projects; a Youth Opportunities in Private Enterprise program to create jobs and help youths find jobs in private businesses; a Work Experience for In-school Youth program to provide job experience prior to secondary school completion; an Occupational Information and Career Counseling program to provide youths with the job counseling and information needed to make informed career choices; a National Conservation Corps to provide jobs for youths on conservation projects; and an expansion of the Job Corps for severely disadvantaged youths.

Mr. President, I ask unanimous consent that the article by George Gallup describing the results of this Gallup poll be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRAINING PROJECTS FOR JOBLESS YOUTH WIN OVERWHELMING SUPPORT

(By George Gallup)

PRINCETON, N.J.—One proposal to deal with a persistent problem in American society—that of youth unemployment—has been favored by the American public for more than three decades. This is a proposal to create youth projects for young men who want to learn a trade and earn some money.

Few issues in polling history have received such overwhelming support by the American public. In the latest survey, 85 per cent of those surveyed favor having the federal government set up youth projects—a modern

version of the CCC camps of the 1930s, but with efforts aimed at urban problems as well.

Some manpower experts maintain that in setting up such a program, President-elect Jimmy Carter would considerably reduce the unemployment rate in this country—a top priority of the incoming administration.

A PERSISTENT PROBLEM

The problem of unemployed youth is one that has plagued the U.S. for many years. The unemployment rate for youths 16 to 19 years old is currently running close to 20 per cent—and almost 40 per cent for black teenagers. Willard Wirtz, former Secretary of Labor and a manpower expert, expects that even if the overall unemployment rate drops considerably, the rate for teenagers will still remain high.

BREEDING GROUND FOR CRIME

Many youth experts have labeled the estimated 2 million young people out of school and out of work a prime cause of crime and a great waste of the nation's manpower.

Proponents of youth training projects say that if the idea is adopted on a widespread scale it could effectively reduce crime and violence in our society. Others feel that the program could meet head-on some of the social ills in society and satisfy the desire of youth today to contribute to a better society.

CONCEPT HAS HAD GREAT APPEAL

The concept of youth training centers has consistently had great appeal for the U.S. public, as determined by national surveys over the last four decades.

During the 1930s, upwards of 2 million men were at one time members of the Civilian Conservation Corps or its predecessor, the Emergency Conservation Work agency.

Gallup Poll records show that no New Deal measure was so consistently popular with the public as the CCC camps.

In July 1936—after the camps had been in operation for three years—83 per cent of persons in a national survey were in favor of continuing the CCC. In April 1938, another Gallup Poll recorded nearly eight in 10 in favor of establishing the camps on a permanent basis.

Here is the question asked in the latest survey:

"It is proposed that the federal government set up youth camps—such as the CCC camps of the 1930s—for young men who want to learn a trade and earn a little money by outdoor work. Do you think this is a good idea or a poor idea?"

On few issues has there been such uniformity of opinion, with overwhelming support found regardless of sex, race, educational attainment, political affiliation or labor union membership. The proposal has widespread bipartisan support although Democrats are somewhat more in favor.

Of special interest are the views of young persons—and particularly those young persons (18–24 years) who are the heads of families or chief wage earners and who are unemployed. Nine in 10 in this group favor the idea of training projects.

Following are the national results and those by key groups in the sample:

YOUTH TRAINING PROJECTS?

(Percent)

	Good idea	Poor idea	No opinion
Nationwide	85	10	5
Men	83	13	4
Women	86	7	7
Whites	84	11	5
Non-whites	89	2	9
College	79	17	4
High school	87	7	6
Grade school	87	6	7
Total under 30	90	7	3
18–24 years	93	5	2
25–29 years	85	9	6
30–49 years	79	13	8
50 and over	85	10	5
Republicans	78	18	4
Democrats	90	6	4
Independents	81	11	8
Professional and business	78	17	5
Clerical and sales	83	14	3
Manual workers	88	6	6
Labor union families	86	9	5
Non-union families	84	10	6

The survey findings reported today are based on in-person, in-home interviews with 1,527 adults, 18 and older, taken in more than 300 scientifically selected localities across the nation during the period Dec. 3–6.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I would like to report that, according to current U.S. Census Bureau approximations, the total population of the United States as of January 1, 1977, is 216,453,445. In spite of widely publicized reductions in our fertility levels, this represents an increase of 1,446,382 since January 1 of last year. It also represents an increase of 149,119 since December 1, 1976, that is, in just the last month.

Over the year, therefore, we have added enough additional people to fill more than two cities the size of San Francisco, Calif. And in just 1 short month, we have added more than the equivalent of Lubbock, Tex.

UNIVERSITY OF KENTUCKY COLLEGE OF AGRICULTURE

Mr. HUDDLESTON. Mr. President, shortly after the adjournment of the 94th Congress an article appeared in the Louisville, Ky., Courier-Journal regarding the involvement of the University of Kentucky College of Agriculture with the people of the Commonwealth. The article recounts how the College of Agriculture helps both rural and urban citizens of Kentucky attain a better life.

Not long after the University of Kentucky Agricultural Experiment Station was established the Kentucky Cooperative Extension Service was set up to distribute the information developed through the experiment station research. In the initial days research was directed entirely to agriculture and, as a result, extension was directed mostly to the rural population.

As research developed, the extension scope expanded, moving from the field to include the home—and eventually youth programs. But the farmer and his problems have remained very much in the forefront of the university's program planning.

The accomplishments of the University of Kentucky College of Agriculture are impressive and many. One of the more recent has been the development of a new technology which makes possible increased production of corn, small grains, and soybeans through a system of no-tillage and double cropping. This system greatly reduces soil erosion, increases the uses of land types previously unsuitable for food production, markedly improves the efficiency of fertilizer and water utilization, decreases the requirements for energy in cropping, and increases the yields. Application of this system by Kentucky farmers has resulted in an estimated additional annual income of over $80 million.

Although the University of Kentucky College of Agriculture continues to have a primary interest in the rural community it has a range of intent and activity that potentially touches every life in Kentucky. The value and effects of the college can be found not only in the rural element of society, but also in the urban community, for the college now covers such broad areas that its very existence reaches out into every home and even into business and community life.

Mr. President, we Kentuckians are extremely proud of our ag college, its accomplishments, and its programs. In order to share with my colleagues these accomplishments and programs, I ask unanimous consent that the October 10, 1976, Courier-Journal article, "They're Helped by U.K.'s Agricultural College," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THEY'RE HELPED BY U.K.'S AGRICULTURE COLLEGE

(By Phil Norman)

Debbie Anderson, a 20-year-old waitress in a restaurant near Kentucky Lake, recently attended a class where she learned "how to set a real good table."

She got some tips on how to save steps and give faster service by "carrying quite a few things" on the same tray. And she learned most of the highway numbers in the area, so she could give better directions to confused tourists.

She learned all of that from the University of Kentucky College of Agriculture. Specialists in restaurant management left the Lexington campus to give the training to waitresses in the Land-Between-the-Lakes area.

The UK College of Agriculture promotes tourism.

The college also helps to plan highways, housing projects, sewer systems and industrial developments throughout the state.

It offers training in babysitting, "family living" and fixing old houses. Over the past six years, it has enrolled more than 35,000 families in a program to teach them "basic nutrition" and food-shopping skills.

It is establishing a program to allow Kentuckians to compare their spending habits with those of the average American and to get computerized advice on how to improve their budgets.

It tests more than 50,000 soil samples a year and analyzes thousands of diseased plants for worried farmers and backyard gardeners around the state.

It also teaches agriculture, carries out scores of research projects, organizes homemakers' clubs and supervises the activities of about 200,000 4-H Club members in Kentucky.

In short, the UK College of Agriculture seems to be involved in almost everything. And it probably has an effect of one kind or another on almost everyone in the state.

The college has a budget of more than $20 million a year, nearly half of which comes from various federal sources.

Two hundred faculty members with Ph.D.'s are involved in teaching, research and extension work at the college, which has about 1,600 students. And with more than 2,000 staff members and employes, it might have the largest and best organized grassroots organization ever assembled in Kentucky.

Through its network of county agents, the college has long been a pervasive force in the state's rural communities. Over the years, it has had the image of a "cow college" that

sends out county "farm agents" to give advice on planting soybeans.

All of that seems to be quietly changing, however.

As most of the state's population has drifted off the farm, the college has tried to go with them. Its "community Development" and social-service programs—and even its 4-H and homemaking activities—now seem aimed as much at urban as at rural areas.

By its own count, the college each year makes more than 3 million "personal contacts" through its various programs, including agricultural research.

C. O. Little, associate dean for research at the college, maintains that such research has been responsible for about $300 million a year in increased production and other benefits on Kentucky farms. Without such programs, he argues, everyone would be paying more for food.

Much of the research is done at the college's laboratories and farms at Lexington and Princeton.

One of the college's major accomplishments, according to Little, has been a system of planting crops on unplowed land in Kentucky. He says the system has cut down on erosion and allowed farmers to plant their crops faster. As a result, he says, many farmers have been able to plant two crops on the same land in the same growing season.

Little estimates that the combination of no-till planting and double-cropping has meant $80 million a year in increased production to Kentucky farmers.

But the college has drawn criticism. For one thing, it has been accused, at least in informal grumblings of overselling the cattle business to Kentucky farmers. Many farmers in Kentucky, and some other states, recently have been trying to sell off large cattle herds in a depressed market.

Given the scope of its activities, however, the college seems to have remained remarkably free of major conflicts.

Some of the college's efforts have been compared with the "community action" programs started during the federal government's old "war on poverty." John L. Ragland, association dean for extension at the college, observes that "community action copied a number of things we'd been doing for 50 years."

Cooperative extension agents—staffers assigned to the college's county offices—have organized local groups to obtain roads, sewer systems, housing projects, hospitals and other community benefits. But they have never become entangled in the bitter disputes that once marked some of the organizing efforts of community action.

"Much of our success is due to our low profile," Ragland says. He notes also that the college deals in education and advice, rather than actual financial help.

The wide-ranging activities of the college can be traced largely to its cooperative extension service. As one of the nation's land-grant colleges of 1862, UK shares in annual federal grants for extension services.

The Smith-Lever Act, under which the funds are made available, was passed in 1914. At that time, Congress told the recipient colleges "to assume leadership in every movement, whatever it may be, the aim of which is better farming, better living, more happiness, more education and better citizenship."

The move toward urban programs goes back to 1956, when the act was amended to call for services to those being squeezed off the nation's farms in a changing economy.

Four other state universities—Eastern, Morehead, Murray and Western—offer degrees in agriculture. Kentucky State University, as a land-grant college of 1892, has some part in the cooperative extension program.

But UK is the agricultural giant. It has agricultural and home-economics agents in virtually every county in the state and 4-H agents in most of them. A number of "area development" agents and specialists in various agricultural and other fields also are assigned to offices around the state.

Ragland says the extension service has been expanding its work in what he terms "family living" education. In one aspect of that program, the college has offered training in babysitting to give young people an idea of what to expect from children of various ages.

The service plans also to make fuller use of the college's computer system, Ragland says. He says that a few outlets will be set up soon in shopping centers or other public places to allow interested persons to get computerized advice on how to improve their spending habits.

W. J. USERY, JR., DEPARTING SECRETARY OF LABOR

Mr. WILLIAMS. Mr. President, as the new administration prepares to assume the responsibilities of our Government, I believe it is fitting for those of us who helped bring about the change to acknowledge the inestimable services of a Cabinet officer who has earned the confidence and esteem of the legislative branch, regardless of party.

I refer, Mr. President, to the outgoing Secretary of Labor, the Honorable W. J. Usery, Jr.

During the last 8 years, first as Assistant Secretary of Labor for labor-management relations, then as director of the Federal Mediation and Conciliation Service, and finally as Secretary of Labor for the last 12 months, Bill Usery has had a profound and constructive influence on union-management affairs in this country.

An accelerating trend toward direct Government intervention in labor disputes, through Taft-Hartley injunctions, emergency boards, ad hoc Presidential committees and the like, has been halted. Yet there have been none of the long and difficult "national emergency" strikes that have resulted in Federal intervention in the past.

There were strikes, but in the context of the times, they were relatively few and quickly ended.

Moreover, in several key industries long featured by annual crises in their labor relations—the railroads, the airlines and the construction trades are examples—common bargaining goals, longer term contracts, and better understanding between the parties have become the rule instead of always the exception.

In public employment—Federal, State, and local—a great surge of union organization took place in an area where neither side was prepared to deal with it. Yet Bill Usery was able to minimize the inevitable confrontations through a patient process of education, preparation, and mediation.

These achievements—and there were many more—will be far more enduring monuments to his service than his contributions as a troubleshooter.

All this was done, not in a period of relative economic stability with low unemployment and a constant consumer price level, but under exactly the opposite conditions.

Obviously there is no need for me to describe the economic history of the last 8 years. Every Member of this body, and every citizen, knows it well. But they know as well that the great, turbulent labor strife that might have been expected did not occur.

In a recent account of his stewardship, Secretary Usery put forward some of these same facts, but he bestowed the credit on others. For those of us in the Congress who have been involved with labor-management issues, it was a characteristic display of humility and a reminder of the many talents that have made him so effective.

Over the last 8 years there have been two Presidents of the United States, four other Secretaries of Labor, a number of assistant secretaries, and directors of the Federal Mediation and Conciliation Service.

In this distinguished company, Bill Usery was among the most distinguished, employing his vast capacity for understanding in advocating, inspiring and implementing the policies and performances, the strategy and tactics, that produced these results.

We, and the Nation, will miss his ready and expert hand, but we shall find comfort in knowing that his able counsel will always be available to help us chart our way in difficult times.

CARTER OFF TO GOOD START IN NAMING INTERNATIONAL ECONOMIC POLICY TEAM

Mr. HUMPHREY. Mr. President, last week the Christian Science Monitor carried an excellent article analyzing the international economic policy team President-elect Jimmy Carter has assembled to begin addressing this vital foreign policy area.

As Monitor correspondent Jeremiah Novak noted in pointing out the key personnel have been deeply involved in the Trilateral Commission:

> What most observers see in the new cabinet is the first long-range plan to meet changed world economic conditions since the 1944 Bretton Woods Conference. One World Bank vice-president said, "If the Commission gets their way, we will enter a new era in world economics." And a senior Democratic Congressman said, "The Commission's program has every chance of getting the complete support of the Congress."

What is particularly unique about the new administration's approach to foreign economic policy is the apparent decision of the new President to avoid the pitfalls of the outgoing administration which saw the Treasury Department often undercutting the Department of State on important policy initiatives. That President-elect Carter has assembled individuals of similar international economic policy views to head key policy positions in State, Defense, Treasury, and the National Security Council bodes well for coordinated and positive policy initiatives under the new administration.

In essence, it appears that in the executive branch we will have an international economic policy orientation in which emphasis will be given to proposals to insure long-term global economic stability, rather than a policy which was

dominated by a narrow, parochial view of the world on the part of the Treasury Department under President Ford.

It is vital to the long-term interests of the United States and vital to the long-term chances for peace and justice in the world that our country seek a positive accommodation with the Third and Fourth Worlds in the North-South dialog. The chances have been significantly enhanced by President-elect Carter's wise choices of individuals to fill the key policy positions in the executive branch and his apparent sensitivity to the importance he attaches to this foreign policy area.

Mr. President, I ask unanimous consent that Mr. Novak's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CARTER TEAM PLANS INTERNATIONAL FINANCIAL REVISION

(By Jeremiah Novak)

A group of Carter administration officials have a plan to overhaul the world financial system. They have worked together for three years putting their plans in order in a group known as the Trilateral Commission.

Jimmy Carter, Walter F. Mondale, Cyrus Vance (secretary of state), Harold Brown (secretary of defense), Zbigniew Brzezinski (national security adviser), Richard N. Cooper (State Department-economics), W. Michael Blumenthal (secretary of the treasury), and C. Fred Bergsten (treasury-international economics) are all involved in the work of the commission.

What is interesting about these appointments is that they are all concentrated in the foreign policy sector of the government—the Security Council, State, Treasury, and Defense.

Informed observers in the United Nations, World Bank, and International Monetary Fund (IMF) see this move as part of a longer-range effort by the new administration to overhaul the international economic system. They base their assessment on the series of 13 papers Mr. Carter and his friends had published by the commission in the past three years.

The central thrust of these papers is a call to renovate the world economic system, restore stable exchange rates, and overhaul the IMF and World Bank. For example, writing in a pamphlet called "Toward a Renovated International Monetary System," Richard Cooper called for a return to stable exchange rates through the upgrading of special drawing rights—international credits created by the IMF—to a greater role as a reserve asset.

FREE TRADE IDEAS

In addition, the commission pamphlets call for complete overhaul of the General Agreement on Tariffs and Trade (GATT) by creating a "GATT for Commodity Products", a "GATT for Investment," and a new protocol for freeing trade.

Other pamphlets call for a new attitude toward the third world, a new regime for the oceans, new international institutions, and an overhaul of global energy policy.

The Trilateral Commission, founded at the insistence of David Rockefeller, initially set out to relieve "strains . . . in relations among Japan, North America, and Western Europe," according to Mr. Bergsten, a member. This goal was seen as necessary in the early 1970s when the Nixon shock of the dollar devaluation destroyed the faltering fixed exchange rates of the postwar, Bretton Woods era.

However, as a Trilateral pamphlet puts it, "The strains and shifts in the international system are global as well as trilateral . . . and the commission . . . has moved accordingly."

What most observers see in the new cabinet is the first long-range plan to meet changed world economic conditions since the 1944 Bretton Woods Conference. One World Bank vice-president said, "If the commission gets their way, we will enter a completely new era in world economics." And a senior Democratic congressman said, "the commission's program has every chance of getting the complete support of Congress." This congressman, who is on a committee related to international finance, continued, "It may be that Carter's equivalent to Nixon's China trip is the Tri-lateral plan for a new economic system."

NORTH-SOUTH TALKS

Observers, in particular, have noted that economist Richard Cooper, a nominee for assistant secretary of state, will be responsible for the supervision of the north-south talks now going on in Paris. The talks are dealing with global issues in the areas of finance, trade, energy and industry.

Dr. Cooper, who until recently was provost of Yale University, has been involved in laying the groundwork for overhaul of the IMF. In 1974, he published a book, "A Reordered World," which spells out the shape of the new system.

Many observers feel that Dr. Cooper, who was undecided as whether to join the State or Treasury Department, elected the State Department because it is anticipated that the north-south talks are critical to the moving forward to a new international order.

A senior Indian official at the United Nations said, "Cooper's appointment is taken as a sign of a new U.S. attitude at the talks." Other officials said that "Cooper is the brains of the group. Whatever he does is important."

Dr. Cooper will be flanked by sympathetic supporters. Messrs. Vance, Brzezinski, and Blumenthal are the cabinet officials responsible for formulating U.S. foreign economic policy. Each of them is known to share confidence in Dr. Cooper.

The Cooper mission is critical, according to Neville Smith of Pfizer International, because "any move to achieve a more rational economic system requires the concurrence of the third world."

PROPOSALS NOT DEFINED

A second critical aspect of the "inner" Trilateral cabinet is the mood of President Carter. The President-Elect's view on the issues at Paris and on the Trilateral proposals is not well defined. He has said little publicly on the issues, and has certainly made no in-depth reference to the subject. However, aides in the transition committee say the "President would not have nominated men he disagreed with."

Perhaps the most immediate issue to be faced by the team is whether to return to the fixed exchange rates of the postwar era. Most nations favor a return, as does Dr. Cooper. But Secretary of Treasury William E. Simon has, until now, used U.S. veto power in the IMF to resist a return.

Rep. Henry B. Gonzales (D) of Texas said, "The new amendment to the IMF charter makes possible a return to the fixed rates by an 85 percent vote of the directors of the fund." He was of the opinion that not a few legislators in Congress also favored such a change in policy.

AUTHORITY FOR COMMITTEES TO HAVE UNTIL MIDNIGHT TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, without relinquishing my right to the floor, I ask unanimous consent that committees may have until midnight tonight to file reports on nominations and on other matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield, without losing my right to the floor, to the distinguished Republican leader.

Mr. BAKER. Mr. President, we have no further business.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 10:15 tomorrow morning.

After the two leaders have been recognized, each for not to exceed 5 minutes, there will be a quorum call, and at no later than the hour of 10:25 a.m. Senators will proceed to the inauguration ceremony.

Under the order previously entered, all Senators may introduce bills, resolutions, petitions, memorials, and statements into the RECORD tomorrow.

Following the inauguration ceremony, the Senate will stand in recess until the hour of 4 p.m. tomorrow, at which time it will reconvene, and nominations will be taken up; and it is the present plan of the leadership to take up only those nominations which will not require rollcall votes. Any nominations requiring rollcall votes would go over until Friday. Most of the nominations can be confirmed by unanimous consent, I believe; so I would not anticipate any rollcall votes on nominations tomorrow afternoon.

However, I am very careful to emphasize what I am about to say: This does not mean that there will not be any rollcall votes tomorrow afternoon. Senators know the present situation we are in, and it is conceivable that there could be one or more rollcall votes tomorrow afternoon following the hour of 4 p.m. But if any rollcall votes are demanded on a nomination tomorrow afternoon, it would be my desire and hope that we could put those over until Friday.

Are there any questions? I would like to be protected in my right to the floor; are there questions concerning the program for tomorrow?

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. McGOVERN. Is my understanding correct that notwithstanding the motion which the Senator from Alabama has pending, before any vote would occur on that, that is, the substance of what the Senator is attempting to do, there would be a vote on the motion which I previously entered that that matter be referred to the Committee on the Judiciary?

Mr. ROBERT C. BYRD. The Senator is correct; because when the motion by the distinguished Senator from Alabama went to the calendar, it carried with it the motion that had been offered previously by the Senator from South Dakota.

Mr. McGOVERN. I thank the Senator.

Mr. ROBERT C. BYRD. And there-

fore, it now being back before the Senate, that motion will be the pending question.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And, of course, that motion is subject to further motions.

Are there further questions? If not, if there be no further business to come before the Senate——

Mr. CASE. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. CASE. The Senator asked whether there were any questions about Thursday's schedule. I wonder if we could ask about Friday.

Mr. ROBERT C. BYRD. I am not prepared at this time to state what Friday's schedule will be, beyond what I have already stated.

Mr. CASE. But there will be a session on Friday?

Mr. ROBERT C. BYRD. There will be a session on Friday. I expect rollcall votes to occur on Friday on nominations, and perhaps other matters, some of which may be procedural. And there will be a vote on cloture on Friday.

RECESS UNTIL 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10:15 a.m. tomorrow.

The motion was agreed to; and at 4:58 p.m. the Senate recessed until tomorrow, Thursday, January 20, 1977, at 10:15 a.m.

NOMINATIONS

Executive nominations received by the Senate January 19, 1977:

In the Air Force

The following officer for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of Chapters 35, 831, and 837, Title 10, United States Code:

To be major general

Brig. Gen. John T. Guice, [redacted] FG, Air National Guard.

In the Air Force

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 831, and 837, title 10, United States Code:

To be major general

Brig. Gen. John R. Dolny, [redacted] FG, Air National Guard.

Brig. Gen. Francis L. Gerard, [redacted] FG, Air National Guard.

Brig. Gen. Joseph H. Johnson, [redacted] FG, Air National Guard.

Brig. Gen. Ralph E. Leader, [redacted] FG, Air National Guard.

Brig. Gen. Donald E. Morris, [redacted] FG, Air National Guard.

Brig. Gen. Paul D. Straw, [redacted] FG, Air National Guard.

To be brigadier general

Col. Jay G. Benton, [redacted] FG, Air National Guard.

Col. William M. Berry, Jr., [redacted] FG, Air National Guard.

Col. Fred F. Bradley, [redacted] FG, Air National Guard.

Col. Jerry W. Cochrane, [redacted] FG, Air National Guard.

Col. John B. Conely, [redacted] FG, Air National Guard.

Col. Paul R. Day, [redacted] FG, Air National Guard.

Col. Oscar A. Hunt, [redacted] FG, Air National Guard.

Col. Arthur U. Ishimoto, [redacted] FG, Air National Guard.

Col. James M. Kennedy, [redacted] FG, Air National Guard.

Col. James A. Kilpatrick, [redacted], Air National Guard.

Col. Jack LeGrange, Jr., [redacted] FG, Air National Guard.

Col. Addison O. Logan, [redacted] FG, Air National Guard.

Col. Robert C. McDonald, [redacted] FG, Air National Guard.

Col. Grady L. Patterson, Jr., [redacted] FG, Air National Guard.

Col. Bernard Saul, [redacted] FG, Air National Guard.

Col. James C. Smith, [redacted], Air National Guard.

Col. Emory M. Wright, Jr., [redacted], Air National Guard, Medical.

In the Army

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of Section 3066, in grade as follows:

To be general

Lt. Gen. John Reiley Guthrie, [redacted], Army of the United States (major general, U.S. Army).

In the Navy

The following-named officers of the Navy having been designated for commands and other duties of great importance and responsibility commensurate with the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving:

Vice Adm. Frank D. McMullen, Jr., U.S. Navy.*

Vice Adm. Donald D. Engen, U.S. Navy.*

In the Marine Corps

The following-named U.S. Naval Academy graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Abbot, James M.	Craig, Ricky D.
Adair, Steven A.	Creamer, Robert L., Jr.
Ahlert, Joseph C.	Croisetiere, Paul
Almeida, John M.	Deane, Lawton E.
Amyx, Terry D.	Delape, Francis M.
Anderson, Daryl E.	Donaldson, Donald D.
Armentrout, Russell J.	Donigan, Henry J., III
Barnett, Stephan P.	Eason, Timothy D.
Beaver, Gary L.	Eberle, James S.
Bergman, Bruce W.	Edwards, Thomas D.
Boggs, Steven L.	Episcopo, Nicholas J.,
Boller, Michael K.	Jr.
Booker, Ronald L.	Falzetta, Gregory T.
Bristol, Patrick M.	Fisher, Mark A.
Bukauskas, John A.	Floyd, Mose L.
Burley, Stephen J.	Freeman, David W.
Butler, Daniel J.	Frost, Dolan, II
Caldwell, Richard L.	Gaillard, John D.
Calleros, Salvador J.	Gardner, Victor M., III
Cameron, Peter W.	Gavin, John C.
Campbell, Antoine	Gianelloni, Max A., III
Chamberlain, James B.	Gray, Stanley G.
Coburn, Robert A.	Grieve, Peter W.
Cook, Christopher P.	Griffin, Allen E.
Cook, Douglas	Hamel, Michael R.
Cook, Terrence P.	Hamilton, Terry
Hanson, Stephen R.	Porter, Daniel L.
Harding, David P.	Potts, Jeffrey H.
Hew, Gerald M.	Ray, Danny D.
High, Harper A., Jr.	Reinhart, Joseph N.
Hopkins, Terry S.	Reuss, Gregory C.
Houston, Floyd D.	Ribera, James E.
Isleib, Douglas R.	Rodgers, Ronald L.
Johnston, James P.	Rouse, Keith A.
Jones, Jeffrey N.	Rowas, James R.
Jorgenson, Gene P.	Royalty, Larry B.
Keibel, Donald O.	Sayner, Daniel K.
Kerr, John S.	Schoolfield, Donald J.
Kiely, Thomas P.	Scott, Frank H.
King, Ronald L.	Scott, Stephen D.
Kolp, Jonathan A.	Sharp, Walter G.
Lee, Shelton, Jr.	Sheldon, Robert K.
Lockett, Keith V.	Smith, Collin Y.
Long, Ronald R.	Smith, Michael J.
Mabry, James A., Jr.	Snyder, Richard F.
MacKenzie, Collin S.,	Sprecher, Steven W.
III	Stuver, William A.
Martin, Steven J.	Tart, Wallace L.
McArthur, Heinz M.	Taylor, John A. V.
McCarthy, Eugene T.	Teater, William M., Jr.
McCulloch, William C.	Thomas, Thomas W.,
McElroy, Gordon K.	II
McKinney, Jerry B.,	Tibbits, Keith A., Jr.
Jr.	Tucker, Mark
McNair, Everett R.	Valentine, Jeffrey H.
McNamara, Thomas D.	Vanderschuere, Wayne
McVey, Samuel D.	A.
McVicker, Daniel S.	Varvaris, Peter W.
Merriam, Bret C.	Velzeboer, Pieter M.
Morrison, Gregory A.	Viera, Dennis
Murphy, David J.	Vlahovich, James E.
Nagelin, Michael P.	Walters, David T.
O'Connor, Christopher	Wdowiarz, Peter J.
M.	White, Elbert D.
Ohler, Michael J.	Whitescarver, Clarence
Olmstead, Stephen G.,	G.
Jr.	Williams, David T.
Patterson, Jeffrey J.	Withers, Horace S.

* Presently serving under ad interim appointments.

In the Coast Guard

The following officers of the U.S. Coast Guard for promotion to the grade of Rear Admiral:

Thomas T. Wetmore, I
Benedict L. Stabile
Raymond H. Wood

The following officers of the U.S. Coast Guard for promotion to the grade of lieutenant (junior grade):

Lawrence A. Eppler	Dave L. Brannon
Richard C. Pohland	Mark W. Schultz
Philip A. Thibault	Wayne C. Raabe
Jon S. Dilloway	Michael L. Dobravec
David W. Hoover	Michael Bray
Kevin J. Macnaughton	Dale G. Gabel
Gary T. Blore	Richard M. Sebek
Martin B. Potkalesky	Randall R. Fiebrandt
Gregory D. Ahlstrom	James R. Santucci
Frederick R. Wright	Keith W. Chase
Lawrence A. Hall	Joseph R. McFaul
James J. Hanks	Steven M. Conway
Dennis J. Ihnat	William C. Bennett
William A. Kosty	Patrick J. Ryan
Gregory M. Bowlby	George R. Turner, Jr.
Jeffery H. Sunday	David W. Jones
James D. Weselcouch	David P. Baird
Richard D. Kassler	William T. Bailey
Roger W. Bogue	John E. Crowley, Jr.
Carl A. Lindberg	Robert E. Fellrath
Christopher A. Gauvin	William E. Goodwin
Douglas H. Alsip	Thomas J. McDaniel
Brian N. Durham	Harlan Henderson
Robert A. Stromsted	Roger W. Browne III
Arthur L. Sala	Charles T. Lancaster
Benjamin A. Herrick	William M. Parker, Jr.
Gregory J. Horton	Walter S. Miller
Raymond W. Blowitski	Lutz G. Buesing
Charles T. Bennett	Glenn L. Snyder
III	Mark L. Scire
Harvey E. Johnson, Jr.	Michael F. Holmes
Scott V. Laburn	Thomas H. Micklas
Fred M. Rosa, Jr.	Clyde K. Watanabe
Mark R. Warburton	Douglas P. Rudolph
Craig L. Schnappinger	Mark E. Blumfelder
William S. Vleck	William H. Southwood

Mathew G. Williams	John R. Williams	Frank J. Gross	Dwight G. Hutchinson	Daniel W. Fouts	John J. Davin, Jr.
Kenneth D. McKinna	William L. Johnson	Marvin J. Pontiff	III	Walter J. Romanosky,	Dennis C. Thorseth
David W. Broughton	David M. French	Craig R. Berry	Craig R. Trump	Jr.	Gregory J. Robinson
Patrick K. Lesesne	Charles L. Wakefield	Christopher C. Watson	Joel R. Whitehead	Stephen P. Healow	Dana V. O'Hara
John E. Pillsbury	David W. Ryan	Michael J. Smith	Thomas A. Watkins	Thomas J. Martin	Richard R. Houck
Danny L. Barney	Richard L. Roseberry	John G. Pagani	Douglas E. Martin	Joel C. Hendrix	William D. Angel
Harold D. Lee	Terence R. Miller	Robert M. Latas	James J. Lober, Jr.	George A. Capacci	Paul R. Vonprotz
Herbert H. Sharpe III	Daniel C. Becker	John R. Barrett	John E. Crowley, Jr.	Richard W. Sanford	Brenton S. Whitener
William C. Antrican,	Michael E. Thompson	Elijah Flynn	Eugene L. McDermott	Michael J. Devine	Robert H. Segovis
Jr.	Frank J. Williams	Frederick T. Nichols	Richard A. Rooth	Geoffrey D. Powers	Donald R. Opedal
Richard P. Prince	Mark G. Vanhaverbeke	Daniel M. Brown	Ty G. Waterman	David J. Radachy	Ronald R. Isnor
Henry K. Witmer	Jeffrey A. Florin	Steven A. Newell	John E. Comeau	David E. Willhite	David M. Morgan
Richard W. Goodchild	Bernard J. Silkowski	Andrew G. Webb	Jon T. Tyrd	Jonathan T.	Larry J. Lockwood
Raymond T. Brooks	John J. Albertine	Barry A. Harner	William C. Kessenich	Gunvalson	Wallace R. Ridley
Erik N. Funk	Stephen D. Omar	Joseph G. Gianfalla,	Donald S. Grushey	Robert J. Papp, Jr.	Herbert H. Adams
Arthur J. Volkle, Jr.	Phillip A. Fallis	Jr.	Dennis J. Hardacker	John L. Ferrare	Peter F. Deboer
Timothy S. Sullivan	James Sabo	Christopher R. Marple,	George R. Matthews,	Michael S. Canavan	John P. Delong
Warren D. Levine	Franz N. Wilcenski	Jr.	Jr.	Gregory P. Griffiths	Robert D. Williamson
Gordon D. Garrett	John L. Byczek	Mark R. Anderson	Wayne D. Gusman	Timothy E. Tilghman	Stephen D. Heath
Walter E. Veselka III	John C. Simpson	Thomas J. Baird	Lawrence M. Brooks	David C. Glover	Brent A. Bosin
John L. Grenier	Paul C. Ellner	Arthur E. Cubbon, Jr.	Stephen T. Ciccalone	Robert A. Opkins	Robert D. Lassiter

HOUSE OF REPRESENTATIVES—*Wednesday, January 19, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

"Obey my voice," saith the Lord, and I will be your God and you shall be my people, and walk in all the ways that I command you, that it may be well with you."—Jeremiah 7: 23.

We thank Thee, our Father, that Thou hast made and preserved us as a nation and hast kept us free through these years. Let not our heritage fade from our minds nor our faith in freedom falter in our hearts. Do Thou plant our lives and the life of our Nation in the rich soil of righteousness, truth, and love. Thus may we be made equal to our experiences, ready for our responsibilities, adequate for life and eager to serve Thee, our country, and all mankind. Steadfastly may we learn to work in Thy worthy ways, for Thy name's sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Marks, one of his secretaries.

CURBING MISUSE OF FIREARMS INSTEAD OF DISARMING CITIZENS

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, on January 10 I reintroduced legislation calling for a mandatory prison sentence for anyone convicted of committing a Federal crime with a firearm. I am happy to say that the response from our colleagues has been most encouraging.

This legislation will create an atmosphere where a criminal will know that if he commits a crime with a firearm and is convicted, he is going to jail for at least 5 years and maybe for as much as 10. The judge will not be able to suspend this provision.

The response received from police chiefs, sheriffs, city prosecutors, and concerned citizens is overwhelming in support.

Mr. Speaker, crime in this Nation has reached a crucial point and we must not ignore the problem any longer. It is time to enact legislation to punish criminals who misuse firearms. It's time to control crime.

I urge those colleagues who have not yet cosigned our bill to do so. We need to create an atmosphere in which it is known by everyone that using a gun illegally will be dealt with surely and effectively.

The thrust of this legislation is directed at the criminal who, through his own actions, jeopardizes the rights and lives of law-abiding citizens.

Mr. Speaker, for our constituent's sake, we can do no less.

CONGRESSMAN STRATTON INTRODUCES BILL TO AUTHORIZE INCREASED RETIRED PAY FOR EXTRAORDINARY HEROISM.

(Mr. STRATTON asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, I am today introducing a bill which would add a new section 1407 to title 10 of the United States Code which will amend and restate the present law which authorizes a 10-percent increase in retired pay of enlisted men who have been cited by the Secretary of the department concerned for extraordinary heroism in line of duty.

The present laws authorizing a 10-percent increase in retired pay have been in effect for many years. However, our former colleague, Floyd V. Hicks, of the State of Washington, now a State supreme court justice, brought to our attention an inequity in that law which adversely affects an enlisted man who, having retired and received added retired pay because of a heroic act, later serves on active duty. When that man later returns to the retired list, he cannot recalculate his retired pay to reflect that later active duty and also continue to receive the 10-percent increase because of that heroic act. If he wishes to receive credit for the active duty served after retirement, he cannot continue to receive the added 10 percent for heroism.

When Mr. Hicks brought this matter to our attention, we asked the Department of Defense to review the matter and to provide any comments or recommendations they considered appropriate.

The Department's reply, which was received on September 15, 1976—too late for action in the 94th Congress—not only confirmed the inequity pointed out by Mr. Hicks, but also pointed out a number of other inconsistencies in the award of extra retired pay for heroism in the case of disability retirees and those who might be cited for an act of heroism while on active duty in a retired status, which should be corrected.

The bill I am introducing today, which is based on the Department's recommendation, will provide a basis for hearings in the Committee on Armed Services to consider what changes should be made in regard to this matter.

As a matter of interest, there are approximately 800,000 enlisted men on the retired lists. Of that number, about 1,000—or 1 out of 800—have been cited for extraordinary heroism and are currently entitled to the added pay. While we do not yet have an estimate of the numbers who would benefit from this legislation, the number would be extremely small.

PRESIDENT-ELECT CARTER'S ECONOMIC STIMULUS PROPOSALS

(Mr. CONABLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, a cautionary note:

I hope Congress will not rush to judgment on the economic package which was posed by President-elect Carter recently, even though there apparently was some congressional input into the shape of the package. It accomplishes too little and risks too much to meet a need which at this point is too uncertain. Dispersing

money in this scattergun manner through a series of stimulative and allegedly job-producing devices, many of which have been tried in the past without major effect, will have its major impact in the size of the deficit, rather than on employment. Money is only money, but in human terms his dispersion of funds will kill any application of the same funds to some of the festering problems, like social security imbalance, welfare reform, or national health needs, which the new administration should address early in its tenure.

Economic statistics indicate a substantial improvement over the election period pause, and there is reason to believe the economy has resumed its upward thrust. The movement of short-term interest rates and the jump in the wholesale price index both argue for caution in dealing with a deficit more than 10 percent above projections even without this stimulative package.

These proposals will not further reduce unemployment in this fiscal year by more than one-half of 1 percent, even if they work perfectly. If they aggravate inflationary forces, if the tax cuts are saved instead of spent because of a loss of consumer confidence, if there are delays in public works and public service employment, and if the package swells as Congress warms to the task, the net effect can be damage, rather than improvement.

REPEAL OF THE CONGRESSIONAL PAY RAISE

(Mr. TRIBLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. TRIBLE. Mr. Speaker, I rise to urge the congressional leadership to schedule a prompt vote on H.R. 115, or similar resolution rejecting the proposed congressional pay increase.

As the law now stands, the proposed increase will take effect on February 16—unless Congress votes to reject it. This means Congressmen can award themselves a pay increase simply by neglecting to vote on the matter.

I respectfully suggest this procedure will further damage public confidence in the institutions of representative government. The taxpayers already feel that too many things in government just happen without anyone taking responsibility. If this pay increase takes effect without any kind of vote, our people will be justly cynical.

Let there be a vote, Mr. Speaker. If a majority of the Members feel they deserve this pay increase, let them so vote. It would be much better for us to simply oppose public opinion in this manner than to avoid the vote and attempt to hide from the public.

As for myself, I think we should vote the increase down. I am proud to be among the cosponsors of House Resolution 115, rejecting the increase. Let us wait—and let us work toward—the day when Americans again enjoy abundant job opportunities and an inflation-free dollar. At that time, we might want to ask the taxpayers if we deserve a raise.

Today, we clearly do not.

GARY KEASLER, OF ALBUQUERQUE, N. MEX., RECOGNIZED AS SOUTHWESTERN TERRITORY CITIZEN OF THE YEAR

(Mr. LUJAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. LUJAN. Mr. Speaker, I rise for the purpose of bringing recognition to a citizen of Albuquerque, N. Mex., who has been selected by a national corporation as its Southwestern Territory Citizen of the Year.

Gary Keasler, who is here as a spectator and a participant in this week's inaugural ceremonies, was officially named as Sears, Roebuck & Co.'s regional citizen of the year January 11 at a luncheon in his honor in Dallas, Tex.

The award is given by Sears to a citizen who gives of himself or herself in community service. Based on this criterion, Gary is most deserving of the award and honor.

Gary took the initiative in meeting with local Jaycees and prison officials in Los Lunas, N. Mex., to work out an arrangement whereby prisoners could help in community projects such as the muscular dystrophy fundraising campaign. He also arranged an auction of art and craft work done by inmates at the Los Lunas Honor Farm.

Gary served as an instructor and chairman of a Jaycees project to teach young men to lead rather than follow.

Again, on his own initiative Gary planned and coordinated through Albuquerque's mayor a picnic given for more than 500 elderly citizens. The guests at the picnic were hosted by young men from the Jaycees leadership program and were given VIP treatment.

As a result of Gary's concern for those less fortunate than those of us who have good health and strong bodies, he brought about a plan whereby the Wheelchair Olympics were included in the famous Special Olympics for the Retarded. Last year was the first time the two events were combined and they will remain so. In addition to his efforts to combine those events, Gary organized special classes to teach participants coordination and skills in different sports. He also supervised the 2 days of the Olympics.

Gary joined several other Jaycees in participating in Project Share in which they spent a day with orphaned and underprivileged children. Under the program children were taken into homes and fed and given gifts.

Gary was the leader in a fundraising project to secure money for construction of five Little League baseball fields. He raised $5,000 and then decided to put together a carnival to raise additional funds to purchase equipment. The Little League project in this particular area is geared to assure participation by underprivileged children.

Gary has participated in a project to raise scholarship funds for a Junior Miss scholarship; headed a painting crew to refurbish the local Boys Club; helped paint the Albuquerque Alcoholic Treatment Center; was a member of the board of directors and coordinator of fund raising for the American Red Cross in Albuquerque.

Gary was also named Portfolio Manager of the Year for the most outstanding fundraising project for the Muscular Dystrophy Association. For the project Gary organized a Dancethon—36 hours of continuous dancing which raised $4,500 to fight muscular dystrophy.

As can be seen, Gary Keasler is an active participant in community projects to help his fellow man. But without a deep caring for people, participation is a hollow thing. Gary not only participates, he cares. We would all do well to follow Gary's lead and care about our fellow man with the depth Gary does.

Gary's honor is very well deserved.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, in view of the fact that there does not appear to be a quorum, I move a call of the House.

The SPEAKER. The Chair, pursuant to clause 6(e) of rule XV, recognizes the gentleman from Texas for that purpose.

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman from Maryland will state it.

Mr. BAUMAN. Mr. Speaker, is it not the right under the new rule of any Member to move a call of the House?

The SPEAKER. The Chair in his discretion recognized the gentleman from Texas for that purpose. The Chair did recognize the majority leader, although the Chair was not required to recognize any Member for that purpose at this time.

Mr. BAUMAN. I thank the Speaker for his explanation.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 6]

Adams	Edwards, Calif.	Myers, Michael
Addabbo	Evans, Del.	Neal
Andrews, N.C.	Fenwick	Nolan
Armstrong	Fisher	Oakar
Ashbrook	Flood	Patten
Ashley	Frey	Patterson
Bedell	Gibbons	Pritchard
Bergland	Goldwater	Rangel
Blouin	Goodling	Reuss
Boggs	Guyer	Rhodes
Boiling	Hagedorn	Risenhoover
Bonior	Hall	Rodino
Bonker	Hansen	Rogers
Brooks	Harkin	Runnels
Broomfield	Harsha	Russo
Burke, Calif.	Heckler	Scheuer
Burke, Fla.	Heftel	Schulze
Burton, John	Hillis	Simon
Burton, Phillip	Jenkins	Smith, Iowa
Cederberg	Jenrette	Snyder
Chappell	Kasten	Solarz
Clausen,	Kemp	Spellman
Don H.	Koch	Steiger
Clay	Leach	Teague
Corman	Lloyd, Calif.	Tucker
Cornwell	Luken	Udall
Crane	Lundine	Volkmer
Dellums	McDonald	Walsh
Dicks	McFall	Waxman
Diggs	McKinney	Wiggins
Dornan	Meyner	Wilson, Bob
Drinan	Miller, Calif.	Young, Alaska
Duncan, Oreg.	Mineta	Young, Ga.
Duncan, Tenn.	Minish	Zeferetti
Eckhardt	Moorhead, Pa.	
Edgar	Murphy, Pa.	

The SPEAKER. On this rollcall, 329 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further pro-

ceedings under the call were dispensed with.

SUPPORT URGED FOR INCREASED MINORITY STAFF

(Mr. McCLORY asked and was given permission to address the House 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. McCLORY. Mr. Speaker, today I am submitting an amendment to rule XI of the House of Representatives, concerning the relative size of committee staffs. Under my resolution, the minority party would be entitled to one-third of the professional and clerical staff payroll for each committee.

Mr. Speaker, it seems to me that the importance of this proposal goes beyond partisan considerations. Indeed, what is at stake is the integrity of our legislative process. Through 200 years, our country has been well served by the differing viewpoints of our parties. The bills that finally become public laws are stronger for the diversity of outlooks and perspectives built into them through committee consideration and floor debate.

Thus, to hamstring the minority does a disservice not only to its members and their constituents, but to the Nation as well.

Mr. Speaker, on the Judiciary Committee, where I serve as the ranking minority member, we have a total staff of 84. Of these, only 12 serve the minority members, while the majority party has 72. While I believe that the Judiciary minority will be able to function effectively, it is plain that our meager staff allotment will limit our input into debate, discussion, and final drafting of legislation.

I might add, Mr. Speaker, that the situation on Judiciary is not an isolated case. While a handful of our 21 standing committees have staff ratios approaching one-third, an equal number have minority staffs constituting less than 12 percent of their total staff personnel. Indeed, the House committee average is only 19.1 percent.

The ratio of Democrats to Republicans in the House is 2 to 1. The overall staff ratio is 4 to 1, and on some committees, much more disproportionate. It is time for the House to recognize that it and the Nation are well served by the articulate presentation of alternative viewpoints, and to allow minority Members adequate staff to serve as a vital "loyal opposition."

STATEMENT OF THE HONORABLE ROBERT N. GIAIMO ON THE CONGRESSIONAL BUDGET FOR FISCAL YEAR 1977

(Mr. GIAIMO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GIAIMO. Mr. Speaker, on behalf of the Committee on the Budget, and as called for by the Congressional Budget Act, I am reporting to the House on the status of the fiscal year 1977 congressional budget. The purpose of this report, my first as chairman of the committee, is to give guidance to the Speaker and the House on our current estimates of revenues and spending pursuant to the revenue floor and the spending ceilings set in the second budget resolution for fiscal year 1977, which we adopted last September. At a meeting of the Budget Committee, Wednesday, January 19, we reviewed the current revenue and spending levels, and I have been empowered to file this report with the Speaker and the Parliamentarian pursuant to section 311 of the Congressional Budget Act.

President Ford's budget, which was submitted to Congress on Monday, primarily addresses the 1978 fiscal year. Nevertheless, fiscal year 1977 is far from over. On the contrary, funding for a number of programs and activities assumed in the second budget resolution remains to be provided by the Congress; for example, additional public service jobs, health manpower programs, and certain natural resources programs. In addition, President-elect Carter has indicated that he will seek additional economic stimulus for this fiscal year in the form of tax rebates and reductions and increased spending to promote jobs. It appears certain that this measure will require us to adopt a third budget resolution to accommodate his request.

This report is part of the Budget Committee's routine notification to the House as to where Congress stands in relation to the spending ceiling and revenue floor adopted in the second budget resolution for fiscal year 1977. With regard to these figures, as of the close of legislative business, Monday, January 10, 1977, the current level of spending and revenues stood as follows:

Status of fiscal year 1977 congressional budget reflecting completed action as of January 10, 1977

[In millions of dollars]

	Budget authority	Outlays	Revenues
Second budget resolution	451,550	413,100	362,500
Current level	435,050	409,140	356,000
Amount remaining under ceiling	16,500	3,960	-------
Amount remaining under floor	-------	-------	6,500

NOTE:—A complete analysis of the various items included in the current level may be found in today's Extensions of Remarks.

Members will notice that on the revenue side of the budget, the floor established by the second budget resolution has already been breached. It would, therefore, be a violation of section 311 of the Budget Act to consider any measure which would have the effect of reducing revenues below their present level. Thus, in the event the incoming President's economic stimulus package proposes a revenue reduction, a third budget resolution would be necessary.

In addition to considering the legislation necessary to complete the second budget resolution, plus any additional spending or revenue stimulus which may be proposed by President-elect Carter and provided by the Congress, it should be noted that the pressures of changing economic conditions continue to make the budget vulnerable to increased uncontrollable spending. The apparent slowdown in economic recovery and higher than anticipated levels of unemployment require that the budget be monitored extremely closely. If economic conditions worsened, additional spending could breach the spending ceiling, already tight in outlays, and force out discretionary programs in favor of uncontrollable spending for such programs as unemployment insurance and welfare benefits.

In summary, Mr. Speaker, I must warn my colleagues in the House that the current level of spending leaves little room for new legislation uncontemplated by the second budget resolution. I must therefore ask each Member to consider additional spending measures wisely, to weigh their priorities carefully, and to favor budget decisions which put us on the course of a balanced economic recovery.

As part of the Committee on the Budget's notification to the House on the status of the fiscal year 1977 congressional budget, I am inserting the detailed information which reflects the current level of spending as of close of business, Monday, January 10, 1977:

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1977 CONGRESSIONAL BUDGET ADOPTED IN SENATE CONCURRENT RESOLUTION 139

Reflecting completed action as of January 10, 1977

[In millions of dollars]

	Budget authority	Outlays	Revenues
Second budget resolution	451,550	413,100	362,500
Current level	435,050	409,140	356,000
Amount remaining under ceiling	-------	-------	-------
Amount below revenue floor	-------	-------	6,500

BUDGET AUTHORITY

Any measure providing budget and entitlement authority which is not included in the current level estimate and which exceeds $16,500 million for fiscal year 1977, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in S. Con. Res. 139 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $3,960 million for fiscal year 1977, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in S. Con. Res. 139 to be exceeded.

REVENUES

Since the current level for revenues is $6,500 million below the appropriate level for fiscal year 1977 as set forth in S. Con. Res. 139, any measure that would result in a revenue loss for fiscal year 1977, if adopted and enacted, would be subject to Sec. 311 of the Congressional Budget and Impoundment Control Act of 1974.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., January 11, 1977.

Hon. BROCK ADAMS,
Chairman, Committee on the Budget, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for these items contained in the most recently agreed to concurrent resolution of the 1977 budget. This tabulation is as of close of business January 10, 1977.

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	424,049	400,931	356,000
2. Entitlement authority and other mandatory items requiring further appropriation action	6,210	6,050	-------
3. Continuing resolution authority	4,791	2,158	-------
4. Conference agreements ratified by both Houses	-------	-------	-------
Current level	435,050	409,140	356,000
Second concurrent resolution	451,550	413,100	362,500
Amount remaining (under appropriate level)	16,500	3,960	6,500

Sincerely,

ALICE M. RIVLIN,
Director.

Parliamentarian status report supporting detail, fiscal year 1977 as of close of business, January 10, 1977

[In millions of dollars]

	Budget authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	208,109	191,017
Offsetting receipts	−55,179	−55,179
Previously enacted (94th Congress, 2d session)	271,119	265,093
Total, enacted	424,049	400,931
II. Entitlement authority and other mandatory items requiring further appropriation action:		
Function 050		
Civilian and military pay raises (full estimated cost of pay raises)	2,037	1,976
CIA—benefit increase and funding retirement liability (P.L. 94-522)	24	24
Function 500		
Social service—increase funding for child care programs (P.L. 94-401)	200	200
Function 550		
Medicaid	1,056	989
Function 600		
Food stamps	756	723
Public assistance (AFDC)	122	73
Black lung benefits	37	37
Unemployment insurance:		
Advances to trust fund	1,270	1,270
Offsetting receipts	−1,000	−1,000
Function 700		
Veterans benefits	819	819
Function 800		
Claims and judgments:		
Estimated requirements	174	174
Offsetting receipts	−145	−145
Undistributed by function		
Civilian agency pay raises (full estimated cost of pay raise)	860	910
Total, entitlement authority	6,210	6,050
III. Continuing resolution authority:		
Labor-HEW items not considered:		
Function 500		
Education items	4,296	1,936
Function 550		
Health items	495	222
Total, continuing resolution	4,791	2,158
IV. Conference agreements ratified by both Houses	-------	-------
Total current level, as of January 10, 1977	435,050	409,140
Second concurrent resolution	451,550	413,100
Amount remaining:		
Over ceiling	-------	-------
Under ceiling	16,500	3,960

NAMING MAJORITY MEMBERS TO VARIOUS STANDING COMMITTEES

Mr. FOLEY. Mr. Speaker, as chairman of the Democratic Caucus and by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 117) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 117

Resolution designating membership on certain standing committees of the House

Resolved, That the following-named Members, Delegates, and Resident Commissioner be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Agriculture: Thomas S. Foley (chairman), Washington; W. R. Poage, Texas; E de la Graza, Texas; Walter B. Jones, North Carolina; Ed Jones, Tennessee; Dawson Mathis, Georgia; Bob Bergland, Minnesota; George E. Brown, Jr., California; David R. Bowen, Mississippi; Charles Rose, North Carolina; John Breckinridge, Kentucky; Frederick W. Richmond, New York; Richard Nolan, Minnesota; James Weaver, Oregon; Alvin Baldus, Wisconsin; John Krebs, California; Tom Harkin, Iowa; Jack Hightower, Texas; Berkley Bedell, Iowa; Matthew F.

McHugh, New York; Glenn English, Oklahoma; Floyd J. Fithian, Indiana; John W. Jenrette, Jr., South Carolina; Ray Thornton, Arkansas; Leon E. Panetta, California; Ike Skelton, Missouri; Joseph S. Ammerman, Pennsylvania; Jerry Huckaby, Louisiana; Dan Glickman, Kansas; Daniel K. Akaka, Hawaii.

Committee on Appropriations: George H. Mahon (chairman), Texas; Jamie L. Whitten, Mississippi; Robert L. F. Sikes, Florida; Edward P. Boland, Massachusetts; William H. Natcher, Kentucky; Daniel J. Flood, Pennsylvania; Tom Steed, Oklahoma; George E. Shipley, Illinois; John M. Slack, West Virginia; John J. Flynt, Jr., Georgia; Neal Smith, Iowa; Robert N. Giaimo, Connecticut; Joseph P. Addabbo, New York; John J. McFall, California; Edward J. Patten, New Jersey; Clarence D. Long, Maryland; Sidney R. Yates, Illinois; Frank E. Evans, Colorado; David R. Obey, Wisconsin; Edward R. Roybal, California; Louis Stokes, Ohio; Gunn McKay, Utah; Tom Bevill, Alabama; Bill Chappell, Jr., Florida; Bill D. Burlison, Missouri; Bill Alexander, Arkansas; Edward I. Koch, New York; Yvonne Brathwaite Burke, California; John P. Murtha, Pennsylvania; Bob Traxler, Michigan; Robert Duncan, Oregon; Joseph D. Early, Massachusetts; Max Baucus, Montana; Charles Wilson, Texas; Lindy (Mrs. Hale) Boggs, Louisiana; Adam Benjamin, Jr., Indiana; Norman D. Dicks, Washington.

Committee on Armed Services: Melvin Price (chairman), Illinois; Charles E. Bennett, Florida; Samuel S. Stratton, New York; Richard H. Ichord, Missouri; Lucien N. Nedzi, Michigan; Charles H. Wilson, California; Robert L. Leggett, California; Richard C. White, Texas; Bill Nichols, Alabama; Jack Brinkley, Georgia; Robert H. Mollohan, West Virginia; Dan Daniel, Virginia; G. V. (Sonny) Montgomery, Mississippi; Harold Runnels, New Mexico; Les Aspin, Wisconsin; Ronald V. Dellums, California; Mendel J. Davis, South Carolina; Patricia Schroeder, Colorado; Abraham Kazen, Jr., Texas; Antonio Borja Won Pat, Guam; Bob Carr, Michigan; Jim Lloyd, California; Larry McDonald, Georgia; Thomas J. Downey, New York; Goodloe E. Byron, Maryland; Charles Whitley, North Carolina; Richard A. Tonry, Louisiana.

Committee on Banking, Finance and Urban Affairs: Henry S. Reuss (chairman), Wisconsin; Thomas L. Ashley, Ohio; William S. Moorhead, Pennsylvania; Fernand J. St Germain, Rhode Island; Henry B. Gonzalez, Texas; Joseph G. Minish, New Jersey; Frank Annunzio, Illinois; James M. Hanley, New York; Parren J. Mitchell, Maryland; Walter E. Fauntroy, District of Columbia; Stephen L. Neal, North Carolina; Jerry M. Patterson, California; James J. Blanchard, Michigan; Carroll Hubbard, Jr., Kentucky; John J. LaFalce, New York; Gladys Noon Spellman, Maryland; Les AuCoin, Oregon; Paul E. Tsongas, Massachusetts; Butler Derrick, South Carolina; Mark W. Hannaford, California; David W. Evans, Indiana; Clifford Allen, Tennessee; Norman E. D'Amours, New Hampshire; Stanley N. Lundine, New York; Herman Badillo, New York; Edward W. Pattison, New York; John J. Cavanaugh, Nebraska; Mary Rose Oakar, Ohio; Jim Mattox, Texas; Bruce F. Vento, Minnesota; Doug Barnard, Georgia; Wes Watkins, Oklahoma.

Committee on the District of Columbia: Charles C. Diggs, Jr. (chairman), Michigan; Ronald V. Dellums, California; Walter E. Fauntroy, District of Columbia; James R. Mann, South Carolina; Romano L. Mazzoli, Kentucky; Herbert E. Harris II, Virginia; Dan Daniel, Virginia; Helen S. Meyner, New Jersey.

Committee on Education and Labor: Carl D. Perkins (chairman), Kentucky; Frank Thompson, Jr., New Jersey; John H. Dent, Pennsylvania; John Brademas, Indiana; Augustus F. Hawkins, California; William D. Ford, Michigan; Phillip Burton, California; Joseph M. Gaydos, Pennsylvania; William (Bill) Clay, Missouri; Mario Biaggi, New York; Ike F. Andrews, North Carolina; Michael T. Blouin, Iowa; Robert J. Cornell, Wisconsin; Paul Simon, Illinois; Edward P. Beard, Rhode Island; Leo C. Zeferetti, New York; George Miller, California; Ronald M. Mottl, Ohio; Michael O. Myers, Pennsylvania; Austin J. Murphy, Pennsylvania; Joseph A. Le Fante, New Jersey; Theodore S. Weiss, New York; Cecil (Cec) Heftel, Hawaii; Baltasar Corrada, Puerto Rico; Dale E. Kildee, Michigan.

Committee on Government Operations: Jack Brooks (chairman), Texas; L. H. Fountain, North Carolina; John E. Moss, California; Dante B. Fascell, Florida; William S. Moorhead, Pennsylvania; Benjamin S. Rosenthal, New York; Fernand J. St Germain, Rhode Island; Don Fuqua, Florida; John Conyers, Jr., Michigan; Leo J. Ryan, California; Cardiss Collins, Illinois; John L. Burton, California; Richardson Preyer, North Carolina; Michael Harrington, Massachusetts; Robert F. Drinan, Massachusetts; Barbara Jordan, Texas; Glenn English, Oklahoma; Elliott H. Levitas, Georgia; David W. Evans, Indiana; Anthony Toby Moffett, Connecticut; Andrew Maguire, New Jersey; Les Aspin, Wisconsin; Henry A. Waxman, California; Jack Hightower, Texas; John W. Jenrette, Jr., South Carolina; Floyd J. Fithian, Indiana; Michael T. Blouin, Iowa; Peter H. Kostmayer, Pennsylvania; Theodore S. Weiss, New York.

Committee on House Administration: Frank Thompson, Jr. (chairman), New Jersey; John H. Dent, Pennsylvania; Lucien N. Nedzi, Michigan; John Brademas, Indiana; Augustus F. Hawkins, California; Frank Annunzio, Illinois; Joseph M. Gaydos, Pennsylvania; Ed Jones, Tennessee; Robert H. Mollohan, West Virginia; Lionel Van Deerlin, California; Joseph G. Minish, New Jersey; Mendel J. Davis, South Carolina; Charles Rose, North Carolina; John L. Burton, California; Edward W. Pattison, New York; Leon E. Panetta, California; Joseph S. Ammerman, Pennsylvania.

Committee on Interior and Insular Affairs: Morris K. Udall (chairman), Arizona; Phillip Burton, California; Robert W. Kastenmeier, Wisconsin; Lloyd Meeds, Washington; Abraham Kazen, Jr., Texas; Teno Roncalio, Wyoming; Jonathan B. Bingham, New York; John F. Seiberling, Ohio; Harold Runnels, New Mexico; Antonio Borja Won Pat, Guam; Ron de Lugo, Virgin Islands; Bob Eckhardt, Texas; Goodloe E. Byron, Maryland; Jim Santini, Nevada; Paul E. Tsongas, Massachusetts; James Weaver, Oregon; Bob Carr, Michigan; George Miller, California; Ted Risenhoover, Oklahoma; James J. Florio, New Jersey; Dawson Mathis, Georgia; Philip R. Sharp, Indiana; Matthew F. McHugh, New York; John Krebs, California; Edward J. Markey, Massachusetts; Peter H. Kostmayer, Pennsylvania; Baltasar Corrada, Puerto Rico; Austin J. Murphy, Pennsylvania; Nick Joe Rahall II, West Virginia; Bruce F. Vento, Minnesota; Jerry Huckaby, Louisiana; Lamar Gudger, North Carolina.

Committee on International Relations: Clement J. Zablocki (chairman), Wisconsin; L. H. Fountain, North Carolina; Dante B. Fascell, Florida; Charles C. Diggs, Jr., Michigan; Robert N. C. Nix, Pennsylvania; Donald M. Fraser, Minnesota; Benjamin S. Rosenthal, New York; Lee H. Hamilton, Indiana; Lester L. Wolff, New York; Jonathan B. Bingham, New York; Gus Yatron, Pennsylvania; Michael Harrington, Massachusetts; Leo J. Ryan, California; Cardiss Collins, Illinois; Stephen J. Solarz, New York; Helen S. Meyner, New Jersey; Don Bonker, Washington; Gerry E. Studds, Massachusetts; Andy Ireland, Florida; Donald J. Pease, Ohio; Anthony C. Beilenson, California.

Committee on Interstate and Foreign Commerce: Harley O. Staggers (chairman), West Virginia; John E. Moss, California; John D. Dingell, Michigan; Paul G. Rogers, Florida; Lionel Van Deerlin, California; Fred B. Rooney, Pennsylvania; John M. Murphy, New York; David E. Satterfield III, Virginia; Bob Eckhardt, Texas; Richardson Preyer, North Carolina; Charles J. Carney, Ohio; Ralph H. Metcalfe, Illinois; James H. Scheuer, New York; Richard L. Ottinger, New York; Henry A. Waxman, California; Robert (Bob) Krueger, Texas; Timothy E. Wirth, Colorado; Philip R. Sharp, Indiana; James J. Florio, New Jersey; Anthony Toby Moffett, Connecticut; Jim Santini, Nevada; Andrew Maguire, New Jersey; Marty Russo, Illinois; Edward J. Markey, Massachusetts; Thomas A. Luken, Ohio; Doug Walgren, Pennsylvania; Bob Gammage, Texas; Albert Gore, Jr., Tennessee; Barbara A. Mikulski, Maryland.

Committee on the Judiciary: Peter W. Rodino, Jr. (chairman), New Jersey; Jack Brooks, Texas; Robert W. Kastenmeier, Wisconsin; Don Edwards, California; John Conyers, Jr., Michigan; Joshua Eilberg, Pennsylvania; Walter Flowers, Alabama; James R. Mann, South Carolina; John F. Seiberling, Ohio; George E. Danielson, California; Robert F. Drinan, Massachusetts; Barbara Jordan, Texas; Elizabeth Holtzman, New York; Romano L. Mazzoli, Kentucky; William J. Hughes, New Jersey; Sam B. Hall, Jr., Texas; Lamar Gudger, North Carolina; Harold L. Volkmer, Missouri.

Committee on Merchant Marine and Fisheries: John M. Murphy (chairman), New York; Thomas L. Ashley, Ohio; John D. Dingell, Michigan; Paul G. Rogers, Florida; Walter B. Jones, North Carolina; Robert L. Leggett, California; Mario Biaggi, New York; Glenn M. Anderson, California; E. de la Garza, Texas; Ralph H. Metcalfe, Illinois; John B. Breaux, Louisiana; Fred B. Rooney, Pennsylvania; Bo Ginn, Georgia; Gerry E. Studds, Massachusetts; David R. Bowen, Mississippi; Joshua Eilberg, Pennsylvania; Ron de Lugo, Virgin Islands; Carroll Hubbard, Jr., Kentucky; Don Bonker, Washington; Les AuCoin, Oregon; Norman E. D'Amours, New Hampshire; Jerry M. Patterson, California; Leo C. Zeferetti, New York; James L. Oberstar, Minnesota; William J. Hughes, New Jersey; Barbara A. Mikulski, Maryland; David E. Bonior, Michigan; Daniel K. Akaka, Hawaii.

Committee on Post Office and Civil Service: Robert N. C. Nix (chairman), Pennsylvania; Morris K. Udall, Arizona; James M. Hanley, New York; Charles H. Wilson, California; Richard C. White, Texas; William D. Ford, Michigan; William (Bill) Clay, Missouri; Patricia Schroeder, Colorado; William Lehman, Florida; Gladys Noon Spellman, Maryland; Herbert E. Harris II, Virginia; Stephen J. Solarz, New York; Michael O. Myers, Pensylvania; Cecil (Cec) Heftel, Hawaii.

Committee on Public Works and Transportation: Harold T. Johnson (chairman), California; Ray Roberts, Texas; James J. Howard, New Jersey; Glenn M. Anderson, California; Robert A. Roe, New Jersey; Teno Roncalio, Wyoming; Mike McCormack, Washington; John B. Breaux, Louisiana; Bo Ginn, Georgia; Dale Milford, Texas; Norman Y. Mineta, California; Elliott H. Levitas, Georgia; James L. Oberstar, Minnesota; Jerome A. Ambro, New York; Henry J. Nowak, New York; Robert W. Edgar, Pennsylvania; Marilyn Lloyd, Tennessee; John G. Fary, Illinois; Ted Risenhoover, Oklahoma; W. G. (Bill) Hefner, North Carolina; David L. Cornwell, Indiana; Robert A. Young, Missouri; David E. Bonior, Michigan; Allen E. Ertel, Pennsylvania; Bill Lee Evans, Georgia; Ronnie G. Flippo, Alabama; Nick Joe Rahall II, West Virginia; Bob Stump, Arizona; Douglas Applegate, Ohio.

Committee on Rules: James J. Delaney (chairman), New York; Richard Bolling, Missouri; B. F. Sisk, California; John Young, Texas; Claude Pepper, Florida; Morgan F. Murphy, Illinois; Gillis W. Long, Louisiana; Joe Moakley, Massachusetts; Lloyd Meeds,

Washington; Shirley Chisholm, New York; Christopher J. Dodd, Connecticut.

Committee on Science and Technology: Olin E. Teague (chairman), Texas; Don Fuqua, Florida; Walter Flowers, Alabama; Robert A. Roe, New Jersey; Mike McCormack, Washington; George E. Brown, Jr., California; Dale Milford, Texas; Ray Thornton, Arkansas; James H. Scheuer, New York; Richard L. Ottinger, New York; Tom Harkin, Iowa; Jim Lloyd, California; Jerome A. Ambro, New York; Robert (Bob) Krueger, Texas; Marilyn Lloyd, Tennessee; James J. Blanchard, Michigan; Timothy E. Wirth, Colorado; Stephen L. Neal, North Carolina; Thomas J. Downey, New York; Doug Walgren, Pennsylvania; Ronnie G. Flippo, Alabama; Dan Glickman, Kansas; Bob Gammage, Texas; Anthony C. Beilenson, California; Albert Gore, Jr., Tennessee; Wes Watkins, Oklahoma; Richard A. Tonry, Louisiana.

Committee on Small Business: Neal Smith (chairman), Iowa; Tom Steed, Oklahoma; John D. Dingell, Michigan; James C. Corman, California; Joseph P. Addabbo, New York; Fernand J. St Germain, Rhode Island; Charles J. Carney, Ohio; Bob Bergland, Minnesota; Henry B. Gonzalez, Texas; James M. Hanley, New York; Gus Yatron, Pennsylvania; John Breckinridge, Kentucky; John J. LaFalce, New York; Berkley Bedell, Iowa; Frederick W. Richmond, New York; Marty Russo, Illinois; Alvin Baldus, Wisconsin; Richard Nolan, Minnesota; Herman Badillo, New York; Richard H. Ichord, Missouri; Henry J. Nowak, New York; Thomas A. Luken, Ohio; Joseph A. Le Fante, New Jersey; Andy Ireland, Florida; Dale E. Kildee, Michigan.

Committee on Standards of Official Conduct: John J. Flynt, Jr. (chairman), Georgia; Olin E. Teague, Texas; Charles E. Bennett, Florida; Lee H. Hamilton, Indiana; Richardson Preyer, North Carolina; Walter Flowers, Alabama.

Committee on Veterans' Affairs: Ray Roberts (chairman), Texas; Olin E. Teague, Texas; David E. Satterfield III, Virginia; Don Edwards, California; G. V. (Sonny) Montgomery, Mississippi; Charles J. Carney, Ohio; George E. Danielson, California; Lester L. Wolff, New York; Jack Brinkley, Georgia; Ronald M. Motti, Ohio; Robert J. Cornell, Wisconsin; W. G. (Bill) Hefner, North Carolina; Mark W. Hannaford, California; Edward P. Beard, Rhode Island; Robert W. Edgar, Pennsylvania; Clifford Allen, Tennessee; Sam B. Hall, Jr., Texas; Douglas Applegate, Ohio; Doug Barnard, Georgia.

Committee on Ways and Means: Al Ullman (chairman), Oregon; James A. Burke, Massachusetts; Dan Rostenkowski, Illinois; Charles A. Vanik, Ohio; Omar Burleson, Texas; James C. Corman, California; Sam Gibbons, Florida; Joe D. Waggonner, Jr.; Louisiana; Otis G. Pike, New York; J. J. Pickle, Texas; Charles B. Rangel, New York; William R. Cotter, Connecticut; Fortney H. (Pete) Stark, California; James R. Jones, Oklahoma; Andrew Jacobs, Jr., Indiana; Abner J. Mikva, Illinois; Martha Keys, Kansas; Joseph L. Fisher, Virginia; Harold E. Ford, Tennessee; Ken Holland, South Carolina; William M. Brodhead, Michigan; Ed Jenkins, Georgia; Richard A. Gephardt, Missouri; Jim Guy Tucker, Arkansas; Raymond F. Lederer, Pennsylvania.

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. GRASSLEY. Mr. Speaker, reserving the right to object, will the gentleman from Washington answer a question for me?

I have reserved the right to object so that I may inquire whether or not the full complement of the Committee on Post Office and Civil Service is completed in its membership so that there will be no organizational problems with the consideration of a motion of disapproval of the pay raise which I filed and which must be considered by that committee within 30 days. Is the membership of the committee complete so that it can consider this matter?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I cannot respond to the second part of the gentleman's question, but I can respond by saying that there are certain committee assignments on the part of the majority which have not yet been completely filled. One of those committees is the Committee on Post Office and Civil Service. It is one of six committees that are in that category.

Mr. GRASSLEY. The gentleman is saying, then, that since the committee is not completed in its membership, it cannot meet until those slots are filled?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield.

Mr. FOLEY. There is no such implication to be drawn from the fact that the committee is not filled as to its membership. The committee organizational meeting is at the call of the chairman of that committee, and it is not affected by the fact that the membership of the committee may not have been completely filled.

Mr. CHARLES H. WILSON of California. Mr. Speaker will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I would like to let the membership of the body know that the committee is to be organized on Thursday, January 28, and what the gentleman from Washington has said is true, regardless of the size of the membership of the committee.

Mr. GRASSLEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NAMING MINORITY MEMBERS TO VARIOUS STANDING COMMITTEES

Mr. ANDERSON of Illinois. Mr. Speaker, as Chairman of the Republican Conference, I offer a privileged resolution (H. Res. 118) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 118

Resolved, That the following-named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Agriculture: William C. Wampler, Virginia; Keith G. Sebelius, Kansas; Paul Findley, Illinois; Charles Thone, Nebraska; Steven D. Symms, Idaho; James P. Johnson, Colorado; Edward R. Madigan, Illinois; Margaret M. Heckler, Massachusetts; James M. Jeffords, Vermont; Richard Kelly, Florida; Charles E. Grassley, Iowa; Tom Hagedorn, Minnesota; W. Henson Moore, Louisiana; E. Thomas Coleman, Missouri; Ron Marlenee, Montana.

Committee on Appropriations: Elford A. Cederberg, Michigan; Robert H. Michel, Illinois; Silvio O. Conte, Massachusetts; Joseph M. McDade, Pennsylvania; Mark Andrews, North Dakota; Jack Edwards, Alabama; Robert C. McEwen, New York; John T. Myers, Indiana; J. Kenneth Robinson, Virginia; Clarence E. Miller, Ohio; Lawrence Coughlin, Pennsylvania; C. W. Bill Young, Florida; Jack F. Kemp, New York; William L. Armstrong, Colorado; Ralph S. Regula, Ohio; Clair W. Burgener, California, George M. O'Brien, Illinois; Virginia Smith, Nebraska.

Committee on Armed Services: Bob Wilson, California; William L. Dickinson, Alabama; G. William Whitehurst, Virginia; Floyd Spence, South Carolina; David C. Treen, Louisiana; Robin L. Beard, Tennessee; Donald J. Mitchell, New York; Majorie S. Holt, Maryland; Robert W. Daniel, Jr., Virginia; Elwood Hillis, Indiana; David F. Emery, Maine; Paul S. Trible, Jr., Virginia; Robert E. Badham, California.

Committee on Banking, Finance and Urban Affairs: J. William Stanton, Ohio; Garry Brown, Michigan; Chalmers P. Wylie, Ohio; John H. Rousselot, California; Stewart B. McKinney, Connecticut; George Hansen, Idaho; Henry J. Hyde, Illinois; Richard Kelly, Florida; Charles E. Grassley, Iowa; Millicent Fenwick, New Jersey; James A. S. Leach, Iowa; Newton I. Steers, Maryland; Thomas B. Evans, Jr., Delaware; Bruce F. Caputo, New York; Harold C. Hollenbeck, New Jersey.

Committee on the District of Columbia: Stewart B. McKinney, Connecticut; Tom Railsback, Illinois; Robert W. Daniel, Jr., Virginia; Charles W. Whalen, Jr., Ohio; E. Thomas Coleman, Missouri; Marc L. Marks; Pennsylvania; Newton I. Steers, Maryland.

Committee on Education and Labor: Albert H. Quie, Minnesota; John M. Ashbrook, Ohio; John N. Erlenborn, Illinois; Ronald A. Sarasin, Connecticut; John Buchanan, Alabama; James M. Jeffords, Vermont; Larry Pressler, South Dakota; William F. Goodling, Pennsylvania; Bud Shuster, Pennsylvania; Shirley N. Pettis, California; Carl D. Pursell, Michigan; Mickey Edwards, Oklahoma.

Committee on Government Operations: Frank Horton, New York; John N. Erlenborn, Illinois; John W. Wydler, New York; Clarence J. Brown, Ohio; Paul N. McCloskey, California; Garry Brown, Michigan; Charles Thone, Nebraska; Joel Pritchard, Washington; Edwin B. Forsythe, New Jersey; Robert W. Kasten, Jr., Wisconsin; Thomas N. Kindness, Ohio; Tom Corcoran, Illinois; J. Danforth Quayle, Indiana; Robert S. Walker, Pennsylvania.

Committee on House Administration: William L. Dickinson, Alabama; Samuel L. Devine, Ohio; James C. Cleveland, New Hampshire; Charles E. Wiggins, California; J. Herbert Burke, Florida; Bill Frenzel, Minnesota; Dave Stockman, Michigan; Robert E. Badham, California.

Committee on Interior and Insular Affairs: Joe Skubitz, Kansas; Don H. Clausen, California; Philip E. Ruppe, Michigan; Manuel Lujan, Jr., New Mexico; Keith G. Sebelius, Kansas; Don Young, Alaska; Robert E. Bauman, Maryland; Steven D. Symms, Idaho; James P. Johnson, Colorado; Robert J. Lagomarsino, California; Dan Marriott, Utah; Ron Marlenee, Montana; Eldon Rudd, Arizona; Mickey Edwards, Oklahoma.

Committee on International Relations: William S. Broomfield, Michigan; Edward J. Derwinski, Illinois; Paul Findley, Illinois;

John Buchanan, Alabama; J. Herbert Burke, Florida; Charles W. Whalen, Jr., Ohio; Larry Winn, Jr., Kansas; Benjamin A. Gilman, New York; Tennyson Guyer, Ohio; Robert J. Lagomarsino, California; William F. Goodling, Pennsylvania; Shirley N. Pettis, California.

Committee on Interstate and Foreign Commerce: Samuel L. Devine, Ohio; James T. Broyhill, North Carolina; Tim Lee Carter, Kentucky; Clarence J. Brown, Ohio; Joe Skubitz, Kansas; James M. Collins, Texas; Louis Frey, Jr., Florida; Norman F. Lent New York; Edward R. Madigan, Illinois; Carlos J. Moorhead, California; Matthew J. Rinaldo, New Jersey; W. Henson Moore, Louisiana; Dave Stockman, Michigan; Marc L. Marks, Pennsylvania.

Committee on Judiciary: Robert McClory, Illinois; Tom Railsback, Illinois; Charles E. Wiggins, California; Hamilton Fish, Jr., New York; M. Caldwell Butler, Virginia; William S. Cohen, Maine; Carlos J. Moorhead, California; John M. Ashbrook, Ohio; Henry J. Hyde, Illinois; Thomas N. Kindness, Ohio; Harold S. Sawyer, Michigan.

Committee on Merchant Marine and Fisheries: Philip E. Ruppe, Michigan; Paul N. McCloskey, Jr., California; Gene Snyder, Kentucky; Edwin B. Forsythe, New Jersey; David C. Treen, Louisiana; Joel Pritchard, Washington; Don Young, Alaska; Robert E. Bauman, Maryland; Norman F. Kent, New York; David F. Emery, Maine; Robert K. Dornan, California; Thomas B. Evans, Jr., Delaware; Paul S. Trible, Jr., Virginia.

Committee on Post Office and Civil Service: Edward J. Derwinski, Illinois; John H. Rousselot, California; James M. Collins, Texas; Gene Taylor, Missouri; Benjamin A. Gilman, New York; Trent Lott, Mississippi; James A. S. Leach, Iowa; Tom Corcoran, Illinois.

Committee on Public Works and Transportation: William H. Harsha, Ohio; James C. Cleveland, New Hampshire; Don H. Clausen, California; Gene Snyder, Kentucky; John Paul Hammerschmidt, Arkansas; Bud Shuster, Pennsylvania; William F. Walsh, New York; Thad Cochran, Mississippi; James Abdnor, South Dakota; Gene Taylor, Missouri; Barry M. Goldwater, Jr., California; Tom Hagedorn, Minnesota; Gary A. Myers, Pennsylvania.

Committee on Rules: James H. Quillen, Tennessee; John B. Anderson, Illinois; Delbert L. Latta, Ohio; Del Clawson, California; Trent Lott, Mississippi.

Committee on Science and Technology: John W. Wydler, New York; Larry Winn, Jr., Kansas; Louis Frey, Jr., Florida; Barry M. Goldwater, Jr., California; Gary A. Myers, Pennsylvania; Hamilton Fish, Jr., New York; Manuel Lujan, Jr., New Mexico; Carl D. Pursell, Michigan; Harold C. Hollenbeck, New Jersey; Eldon Rudd, Arizona; Robert K. Dornan, California; Robert S. Walker, Pennsylvania.

Committee on Small Business: Silvio O. Conte, Massachusetts; J. William Stanton, Ohio; Joseph M. McDade, Pennsylvania; William S. Broomfield, Michigan; Tim Lee Carter, Kentucky; M. Caldwell Butler, Virginia; William S. Cohen, Maine; Millicent Fenwick, New Jersey; Robert W. Kasten, Jr., Wisconsin; Larry Pressler, South Dakota; J. Danforth Quayle, Indiana; Dan Marriott, Utah.

Committee on Standards of Official Conduct: Floyd Spence, South Carolina; James H. Quillen, Tennessee; Albert H. Quie, Minnesota; Thad Cochran, Mississippi; Millicent Fenwick, New Jersey.

Committee on Veterans' Affairs: John Paul Hammerschmidt, Arkansas; Margaret M. Heckler, Massachusetts; Chalmers P. Wylie, Ohio; Elwood Hillis, Indiana; James Abdnor, South Dakota; William F. Walsh, New York; Tennyson Guyer, Ohio; George Hansen, Idaho; Harold S. Sawyer, Michigan.

Committee on Ways and Means: Barber B. Conable, Jr., New York; John J. Duncan, Tennessee; Bill Archer, Texas; Guy Vander Jagt, Michigan; William A. Steiger, Wisconsin; Philip M. Crane, Illinois; Bill Frenzel, Minnesota; James G. Martin, North Carolina; L. A. (Skip) Bafalis, Florida; William M. Ketchum, California; Richard T. Schulze, Pennsylvania; Willis D. Gradison, Jr., Ohio.

Mr. ANDERSON of Illinois (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RELATING TO COMPENSATION OF CERTAIN MINORITY EMPLOYEES

Mr. MICHEL. Mr. Speaker, I offer a resolution (H. Res. 119) relating to the compensation of certain minority employees, and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

H. RES. 119

Resolved, That, effective January 3, 1977, and until otherwise provided by law, the rate of pay for each of the six positions of minority employee authorized by the Legislative Pay Act of 1929 and referred to in House Resolution 441 of the Ninety-first Congress shall be a per annum gross rate equal to the annual rate of basic pay of level IV of the Executive Schedule of section 5315 of title 5, United States Code, unless a lower rate is established by the Minority Leader.

SEC. 2. Effective on January 21, 1977, Charles Leppert, Jr., is appointed to one of the positions referred to in the first section of this resolution.

SEC. 3. Until otherwise provided by law, in the settlement of accounts with respect to any individual holding any position referred to in the first section of this resolution for any period beginning on or after October 1, 1976, and ending on or before January 2, 1977, the rate of pay for such position for such period shall be deemed to be the lesser of the annual rate of basic pay of level IV of the Executive Schedule or the rate of pay actually paid to such individual for such period.

Mr. MICHEL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have taken this time for the purpose of asking the distinguished majority leader if he will give us the program for next week.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the majority leader.

Mr. WRIGHT. Mr. Speaker, I will respond to the gentleman's question as follows:

There is no further business for today except for the adoption of a routine privileged resolution.

When the House adjourns today, it will adjourn to meet in this chamber at 10:25 a.m. tomorrow. When it adjourns tomorrow as has already been agreed to it will adjourn until Monday next.

Mr. Speaker, Monday is suspension day. The House will meet at noon, but there are no bills on suspension, nor are there any District bills of which I have knowledge.

It would be our plan that on Tuesday the House would not be in session, and, Mr. Speaker, it would be my purpose to ask unanimous consent that when we adjourn on Monday, we adjourn to meet at 3 o'clock p.m. on Wednesday next.

The only business anticipated on Wednesday would be House Resolution 9, reestablishing the Committee on Assassinations; and that is subject to a rule being granted.

On Thursday the House would meet at 11 a.m. There is no legislative business presently scheduled, and there is no plan for a Friday session.

Mr. MICHEL. Mr. Speaker, if the distinguished majority leader would respond, I am wondering, in view of the fact that no committees are yet meeting, why we would hold to the 3 o'clock meeting time on Wednesday. Would it not be possible, in view of the committees not being organized to meet, that we would meet at the 12 o'clock noon hour, with only that one piece of business to transact if the rule is granted?

Mr. WRIGHT. If the gentleman will yield further, it seems logical to us to assume that some committees might well want to avail themselves of this Wednesday morning period in order to hold their organization sessions and to begin their work.

Mr. MICHEL. Mr. Speaker, with that explanation, I have no further questions with respect to the program for next week; and I thank the majority leader.

REQUEST FOR CERTAIN DOCUMENTS UNDER CONTROL OF THE HOUSE OF REPRESENTATIVES

Mr. WRIGHT. Mr. Speaker, I send to the desk a privileged resolution (H. Res. 120) and ask for its immediate consideration.

The Clerk read the resolution. as follows:

H. RES. 120

Whereas in the case of Baltimore Contractors, Inc., against the United States (Case No. 272–70) pending in the United States Court of Claims, an order was issued by the said court on June 17, 1975, granting the plaintiff's motion for the production of certain documents in the possession and under the control of the House of Representatives; and

Whereas the House of Representatives on December 19, 1975, adopted House Resolution 947, asserting the privileges of the House in relation to the production of said documents; and

Whereas the said court on December 8, 1976, having found that a limited portion of said documents were relevant and material, issued an order for the production of that portion of the requested documents; Therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court of or the judge thereof, or of any legal officer charged with the administration of the order of such court or judge, that documentary evidence in the possession and under the control of the House of Representatives is needful for use in any court of justice, or before any judge or legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That the said court, through any of its officers or agents, be authorized to attend with all proper parties to the proceeding and then always at any place under the orders and control of the House, and to take copies of those requested documents specified in the order of the court of December 8, 1976, which are in the possession or control of the House Office Building Commission; and the House Office Building Commission is authorized to supply copies of said documents, so as, however, the possession of said documents by the said House Office Building Commission shall not be disturbed, or the same shall not be removed from their place of file or custody under the said House Office Building Commission; be it further

Resolved, That a copy of these resolutions be submitted to the said court.

Mr. WRIGHT (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WRIGHT. Mr. Speaker, this is a very routine and normal procedure.

It arises from a case now in the U.S. Court of Claims under which Baltimore Contractors, Inc., has sued the House Office Building Commission over claims relating to the construction of the Rayburn House Office Building.

The Court of Claims has held that a small portion of the minutes of the House Office Building Commission is relevant to the case. This resolution simply would permit the plaintiff to come here to the Capitol and to examine those minutes in the Architect's office.

Mr. Speaker, it is a very routine procedure; and I know of no objection to it.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT AS MEMBERS OF SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

The SPEAKER. Pursuant to the provisions of House Resolution 77, 95th Congress, the Chair appoints as members of the Select Committee on Narcotics Abuse and Control the following members of the House: Mr. WOLFF, New York, chairman; Mr. RODINO, New Jersey; Mr. ROGERS, Florida; Mr. DE LA GARZA, Texas; Mr. MANN, South Carolina; Mr. BADILLO, New York; Mr. MURPHY, Illinois; Mr. RANGEL, New York; Mr. STARK, California; Mr. SCHEUER, New York; Mr. ENGLISH, Oklahoma; Mr. WAXMAN, California; Mr. BURKE, Florida; Mr. RAILSBACK, Illinois; Mr. FREY, Florida; Mr. BEARD, Tennessee; Mr. GILMAN, New York, and Mr. GUYER, Ohio.

APPOINTMENT AS MEMBERS OF SELECT COMMITTEE ON AGING

The SPEAKER. Pursuant to clauses 6 (e) and (g), or rule X, the Chair appoints as members of the Select Committee on Aging the following Members of the House: Mr. PEPPER, Florida, chairman; Mr. ROYBAL, California; Mr. ROONEY, Pennsylvania; Mr. BIAGGI, New York; Mr. FLOWERS, Alabama; Mr. ANDREWS, North Carolina; Mr. JOHN L. BURTON, California; Mr. BEARD, Rhode Island; Mr. BLOUIN, Iowa; Mr. BONKER, Washington; Mr. DOWNEY, New York.

Mr. FLORIO, New Jersey; Mr. FORD, Tennessee; Mr. HUGHES, New Jersey; Mrs. LLOYD, Tennessee; Mr. SANTINI, Nevada; Mr. RISENHOOVER, Oklahoma; Mr. DRINAN, Massachusetts; Mr. EVANS, Indiana; Ms. MEYNER, New Jersey; Mr. RUSSO, Illinois; Mr. LUNDINE, New York; and Ms. OAKAR, Ohio.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 2:25 p.m. on Tuesday, January 18, 1977, and said to contain a message from the President wherein he transmits the seventh annual report on Government services to rural America, as required by the Agricultural Act of 1970.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, U.S. House of Representatives.

SEVENTH ANNUAL REPORT ON GOVERNMENT SERVICES TO RURAL AMERICA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–51)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Agriculture and ordered to be printed with illustrations.

To the Congress of the United States:

I am transmitting herewith the seventh annual report on Government services to rural America, as required by the Agricultural Act of 1970.

GERALD R. FORD.

THE WHITE HOUSE, *January 18, 1977.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
January 18, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 2:25 p.m. on Tuesday, January 18, 1977, and said to contain a message from the President wherein he transmits draft legislation concerning Aircraft Noise Financing.

With kind regards, I am

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, U.S. House of Representatives.

AIRCRAFT NOISE FINANCING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–52)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committees on Public Works and Transportation and Ways and Means and ordered to be printed:

To the Congress of the United States:

Solving the airport noise problem is an environmental imperative for the millions of Americans who live in neighborhoods around our major airports. One reason U.S. commercial airlines have been unable to meet FAA noise standards is that some airlines could not afford to under the regulatory constraints of the present regulatory system.

On October 21, 1976, therefore, I took the following action:

First, I directed the Administrator of the Federal Aviation Administration to promulgate a regulation requiring domestic commercial aircraft to meet Federal Noise standards in accordance with a phased-in time schedule, not to exceed eight years.

Second, I put Congress on notice that my aviation regulatory reform proposal of 1975, which they had failed to pass, would be resubmitted in January, 1977. On January 13, 1977, I submitted to the Congress a separate message outlining my recommendations for major aviation regulatory reform. Only by enactment of these recommendations can we achieve long-term financial strength in the airline industry necessary to meet these and future noise requirements.

Third, I directed Secretary Coleman to hold public hearings and report to me on whether further financing arrangements might be necessary to ensure that all U.S. carriers can meet the noise standards within the prescribed time schedule.

The Department of Transportation has now issued a comprehensive statement on Aviation Noise Abatement Policy; the Federal Aviation Administration published on December 23, 1976, regulations responding to my directive; and the Secretary of Transportation conducted hearings on alternative financing arrangements.

With regard to the financing problem, it is encouraging to note that the airlines have reported that their earnings for 1976 increased substantially over those for the previous year. I believe, however, that it is essential to the long-term economic success of the airlines that meaningful regulatory reform legislation be enacted in this session of the Congress.

It must be recognized that it is up to the Congress to enact legislation on regulatory reform and that the full benefits of any such legislation would be phased in over time. Implementation of the noise requirements, however, must begin now. Because the airlines must meet the prescribed noise reduction schedule on time and in a cost-effective manner, I am submitting two bills for the consideration of the Congress.

In brief, the amendments to the Federal Aviation Act and the Airport and Airway Development Act, that I am now submitting provide for:

(1) The establishment by the Civil Aeronautics Board of a program under which an environmental surcharge would be placed on air passenger tickets and waybills that would provide revenues necessary to help finance the modification or replacement of noisy aircraft; and

(2) The establishment of a program of grants to airlines from existing balances in the Airport and Airway Trust Fund to assist in financing the modification of categories of aircraft specified by the Secretary of Transportation.

The amendments to the Internal Revenue Code provide:

—A reduction in existing air passenger ticket and waybill taxes, the revenues from which have built up a $1.5 billion surplus in the Airport and Airway Trust Fund.

Revenues from the reduced aviation user taxes will still be sufficient to finance Government airport and airway programs at levels provided for through fiscal year 1980.

Again, it is preferable to solve the long-term financial requirements of the aircraft noise problem through the enactment of the regulatory reform legislation I proposed in 1975 and have recommended again this year. Given the need to begin implementation of these noise rules immediately, I recommend that the Congress give careful attention to the benefits that my regulatory reform proposal will provide and consider the bills I am forwarding today in this context.

GERALD R. FORD.

THE WHITE HOUSE, *January 18, 1977.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
January 18, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 2:25 p.m. on Tuesday, January 18, 1977, and said to contain a message from the President wherein he transmits the International Economic Report.

With kind regards, I am

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, U.S. House of Representatives.

INTERNATIONAL ECONOMIC REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on International Relations:

To the Congress of the United States:

The world economy has come a long way from the gloom and uncertainty of two years ago. Despite many divisive economic pressures, international cooperation has not broken down but has, in fact, improved. U.S. initiatives to strengthen international economic cooperation have led to real progress. Our major allies and trading partners have cooperated with us and have reciprocated our desire for strengthened economic ties.

At the Economic Summit in Puerto Rico, in the OECD, the IMF, the GATT and in numerous other meetings in 1976, we joined with our major trading and financial partners and with other nations to whom developments in the larger economies are of primary importance, in forging compatible approaches to the difficult problems that beset our economies. We concurred that first and foremost we must place our economies on a path of sustained growth without inflation. That is the essential ingredient to further and lasting reduction in unemployment. We also strengthened our common resolve to avoid trade restrictive measures and to negotiate a more open international trading system. We reached a consensus on appropriate means to assist countries needing financial help as they work toward economic stability. We also agreed to make constructive efforts to deal with the problems between developed and developing nations.

The United States can be proud of its leadership in these areas. International economic cooperation is stronger today than at any time since the Second World War. We have learned the importance of industrialized democracies taking into account the likely impact of their actions on other nations as they develop their economic policies. In an interdependent world, a nation which disrupts the economies of its trading partners does so at its own eventual peril.

We have also come to realize how mutually supportive action benefits all countries. Accordingly we and our partners have improved arrangements for assisting countries in special need as they work to stabilize their domestic economies. The United States has worked very closely with several of our friends and allies in supporting their efforts to resolve their economic difficulties. We have constructed a strong framework for cooperation with other industrialized democracies to manage future possible disruptions of oil supplies and to reduce dependence on oil imports. We have attempted to promote a more constructive relationship with the developing nations. This new relationship will enable us to enhance their economic prospects as a part of a common effort to improve the world economy and to give them a greater share in the responsibilities for, and in the management and benefits of, an orderly and prosperous international economic system.

More specifically, substantial progress, together with lingering problems, mark developments in several areas.

MONETARY AFFAIRS

In 1976, member nations of the International Monetary Fund successfully concluded the first general revision of the articles of agreement since the Bretton Woods Agreement of 1944. In effect, these amendments replace the old exchange rate system based on par values with one permitting countries to establish floating exchange rates, either individually or jointly. The new system will oblige member countries to promote exchange stability by fostering stable economic and financial conditions and to avoid disruptively influencing exchange rates or the international monetary system. Under the new system, Special Drawing Rights will replace gold as the unit of account in the Fund.

The amendments creating this system were formally accepted by the United States and will become effective upon

similar ratification by the requisite number of member nations. At that time, the Fund will have new and broader responsibilities for overseeing the international monetary system and for developing principles that will help countries meet their financial obligations. The effect will be to promote expanded trade and growth through a more efficient and realistic exchange rate system.

The United States also proposed the creation of a trust fund, managed by the IMF, to provide assistance on concessionary terms to low-income Fund members. Resources are now being realized from profits on sales, over 4 years, of 25 million ounces of IMF-held gold.

INTERNATIONAL TRADE

Although the recession and large balance-of payments deficits of the oil consuming countries led several of them to move in the direction of the new restrictive trade policies, on the whole, considerable success has been achieved in maintaining an open world trading system. The growth of world trade resumed in 1976, following a decline in 1975—the first since World War II.

On January 1, the United States joined other developed countries in establishing a generalized system of preferences for imports from developing nations. These preferences apply to more than 2,700 tariff items, giving duty-free access to the U.S. market to qualified developing countries and affording these nations the opportunity to diversify their exports and to increase their export income.

The multilateral trade negotiations in Geneva, among more than 90 nations, made progress in several areas. The United States proposed a formula for cutting tariffs, and a number of other measures covering tropical products from developing countries, import safeguards, and quantitative restrictions. Considerable progress was made on a product standard code, and work was started on improving the GATT framework for international trade and on a code for Government procurement.

This international cooperation in furtherance of open trade was complemented by U.S. action in resolving several domestic complaints of trade injury. The responsible actions of this country strengthened the resolve of our trading partners to resist pressures for import restrictions, thus contributing to brighter prospects for U.S. exports and to an orderly and open international trading system.

COMMODITIES AND RAW MATERIALS

Major developments in the international commodity area during 1976 included an agreement to expand the IMF Compensatory Finance Facility; adoption by the UNCTAD IV Conference of a comprehensive commodities resolution; continued commodity policy discussions at the Conference on International Economic Cooperation; and efforts to renew the coffee, tin, and cocoa commodity agreements.

The United States strongly supported expansion of the IMF Compensatory Finance Facility, designed to help countries to stabilize their export earnings. In addition, at the UNCTAD IV Conference, the United States proposed the creation of a new International Resources Bank to promote production of raw materials in the developing nations by facilitating investment flows into these countries.

In some respects, however, the approach of the United States with respect to commodity policies differs from that of a number of developing countries. Generally, these countries support commodity arrangements that provide for greater government control of prices and production, as well as common financing of commodity buffer stocks. In contrast, the commodity policy of the United States has there major objectives:

—To ensure adequate investment in resource development to meet future market demands at reasonable prices;

—To examine on a case-by-case basis individual commodities in order to determine how best to improve (where possible) the functioning of individual commodity markets and to determine whether commodity agreements would be useful and appropriate;

—To promote the stable growth of the commodity export earnings of developing countries.

The United States has repeatedly pointed out that artificial increases of prices serve the interests of neither producers nor consumers in both developed and developing countries. Frequently, control of prices and production has led to lower, less stable earnings for producers, mainly because substitute sources are developed or existing sources expanded. Moreover, controls have often initially meant higher prices for consumers, reduced exports, and a decline in the economic welfare of all parties. The United States, while prepared to genuinely consider methods of improving markets for individual commodities, generally supports the use of market mechanisms to determine supplies and prices.

MULTINATIONAL CORPORATIONS AND INTERNATIONAL INVESTMENT

In June 1976, the United States approved the adoption of the Declaration on International Investment and Multinational Enterprises devised by the Organization for Economic Cooperation and Development. This agreement affirms the principle of national treatment of multinational corporations (MNC's); recommends guidelines of good business practices for the activities of MNC's; and indicates the responsibilities of governments regarding international investment incentives and disincentives.

The United States recognizes that increased investment is a critical element for international economic growth, and that MNC's have contributed substantially to the rise in international investment and productivity. The activities of MNC's, however, have prompted questions about their obligations to both home and host countries and about the reciprocal responsibilities of nations where the MNC's do business. Where possible, the United States is willing to enter into bilateral and multilateral discussions to help resolve these intergovernmental disputes.

The United States welcomes foreign investment in its domestic economy. The Administration's Committee on Foreign Investment in the United States has coordinated overall policy in this area. In 1976, major studies of foreign portfolio and foreign direct investment in the United States were completed and reported to the Congress.

CRITICAL INTERNATIONAL ECONOMIC PROBLEMS

We must be aware that the events of the past year have left an agenda of unresolved problems including:

(1) the challenge of achieving stable economic growth in industrial and developing nations alike, and reducing inflation, unemployment and excessive public sector deficits;

(2) the necessity for the United States and other nations to obtain an adequate amount of real capital formation, to create jobs and to increase productivity;

(3) the major imbalance between oil exporters and oil importing nations, and the directly related increasing debt burden of developing and some developed nations;

(4) the failure to achieve an agreement among developed and less developed nations on an effective and efficient strategy for increasing prosperity for less developed countries in the context of a common effort to improve the world economy;

(5) the inadequate progress of the United States and other oil-consuming nations in reducing dependence on oil imports; and the need to encourage domestic development of oil and gas resources, alternative energy sources, and conservation;

(6) the continuing temptation among nations to use restrictive trade measures and the need to resist such pressures while reducing trade barriers and improving means for managing trade problems.

This Report traces the progress made in 1976 in dealing with the major economic issues facing the world. Evolving economic and political developments will continue to challenge the leaders of all nations. Because of the vigor of our people and the strength of our system, the United States today, as much or more than in years past, is the pivotal force for building a strong and prosperous world economy. By acting in a manner consistent with the interests of our own people yet remaining cognizant of the interests of other nations as well, I am certain that the United States will continue to provide leadership in solving the critical issues of today and the unforeseen developments of tomorrow.

GERALD R. FORD.

THE WHITE HOUSE, *January 18, 1977.*

NINTH ANNUAL REPORT ON THE NATIONAL HOUSING GOAL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–53)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking, Finance and Urban Affairs and ordered to be printed with illustrations:

To the Congress of the United States:

I herewith transmit the Ninth Annual Report on the National Housing Goal as required by Section 1603 of the Housing and Urban Development Act of 1968.

GERALD R. FORD.

THE WHITE HOUSE, *January 19, 1977.*

1975 ANNUAL REPORT ON THE FEDERAL OCEAN PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–54)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed with illustrations:

To the Congress of the United States:

Pursuant to P.L. 89–454, I am herewith transmitting the 1975 annual report on the Federal Ocean Program. The report represents a summary of national efforts to comprehend, conserve and use the sea, and lists significant activities of the Federal Government related to the marine sciences in 1974 and early 1975.

During this period, the United States:

—intensified programs to appraise energy resources of the oceans and assess the environmental impact of their development;

—expanded geological and geophysical research programs which broaden our knowledge of the earth's evolutionary process and provide information of practical importance;

—continued development of the capability to mine deep seabed minerals without damage to the environment;

—enhanced opportunities for ocean-related recreational activities;

—strengthened our ability to forecast marine environmental conditions; and;

—began formal negotiations with other nations in the UN Law of the Sea Conference during a two-month session in Caracas, Venezuela.

The report which I am transmitting emphasizes these achievements and provides additional information on the Federal Ocean Program budget for fiscal years 1974–1976, as well as on the National Sea Grant Program and the status of the federally supported marine research fleet.

Subsequent to the period covered by this report, there have been several developments of importance to Federal Ocean Policy including:

—the completion of three additional substantive negotiating sessions of the UN Law of the Sea Conference;

—the enactment of the Fishery Conservation and Management Act in April 1976 which, effective March 1, 1977, will extend our fisheries jurisdiction to 200 miles;

—the leasing of Outer Continental Shelf areas for oil and gas exploitation; and

—a budgetary increase for the Federal Ocean Program from $872.5 million in FY 1976 to $956.6 million in FY 1977.

As indicated in the report, the Federal Ocean Program was designed to advance and facilitate this nation's expanding uses of the sea and its resources. As a major oceans user the United States will continue to pursue forward-looking programs, aware of the need to safeguard the quality of the marine environment and conscious of the need to cooperate with other nations on programs and policies that will advance our interests and those of the world community.

GERALD R. FORD.

THE WHITE HOUSE, *January 19, 1977.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER. Pursuant to House Resolution 10, the Chair lays before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 19, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On January 6, 1977, I was served with the attached subpoena duces tecum, issued by the Chief Judge of the United States District Court for the District of Columbia.

The subpoena commands me or my authorized representative to appear before the Grand Jury of the Court on January 27, 1977 and to testify and produce the documents named therein.

Pursuant to the provisions of House Resolution 10, adopted January 4, 1977, and the privileges of the House of Representatives, no evidence of a documentary character under the control and in the possession of the House may be taken from such control or possession except by its permission. Furthermore that resolution provides that no Member, officer, or employee is authorized to produce such evidence except where a proper court has determined upon the materiality and relevancy of specific papers or documents called for in the subpoena.

On January 14, 1977 the Chief Judge of the United States District Court for the District of Columbia issued a finding of materiality and relevancy for the described materials. Accordingly, I am hereby transmitting said subpoena and order, together with my letter of January 10, 1977 to the Chief Judge for your consideration and the matter is presented for such action as the House in its wisdom deems appropriate.

With kind regards, I am

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

Enclosure.

JANUARY 10, 1977.

Hon. WILLIAM B. JONES,
Chief Judge, U.S. District Court for the District of Columbia, U.S. Courthouse, Washington, D.C.

DEAR JUDGE JONES: This is in respectful answer to the subpoena duces tecum issued to the Clerk of the United States House of Representatives for certain records maintained by the House and directing him to appear as a witness before the grand jury of the Court on January 7, 1977 at 10:00 a.m. and to bring with him the aforesaid records. Pursuant to the provisions of House Resolution 10, adopted on January 4, 1977 no evidence in the possession and control of the House of Representatives may be taken from such control or possession except by its permission. Furthermore, that resolution provides that no Member, officer, or employee is authorized to produce such evidence except where a proper court has determined upon the materiality and relevancy of specific papers or documents called for in the subpoena. Therefore, I have the honor to transmit herewith a certified engrossed copy of House Resolution 10, in reference to this matter, as a respectful answer to the subpoena duces tecum referred to above.

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

Enclosure.

[U.S. District Court for the District of Columbia, Misc. No. 77–0004]

FINDINGS OF COURT

In re possible violations of 18 U.S.C. §§ 287 and 1001.

Upon consideration of *in camera* disclosures made by representatives of the Office of the United States Attorney for the District of Columbia and of the Public Integrity Section of the Criminal Division, Department of Justice, it is this 14th day of January, 1977.

Found, that the papers, documentary evidence, and materials subpoenaed under a subpoena duces tecum dated January 6, 1977, and addressed to the Honorable Edmund L. Henshaw, Jr., Clerk of the House of Representatives of the United States or his authorized representative, a facsimile of which is attached hereto, are necessary, material, and relevant to a pending Grand Jury investigation in this judicial district and in this Court for the promotion of justice.

Wherefore, the Court desires that the documentary evidence or certified copies thereof which are the subject of the subpoena duces tecum be supplied to its authorized representative and agent, Clerk of this Court James F. Davey, accompanied by Assistant United States Attorney John T. Kotelly and/or Harold Damelin of the Department of Justice as representatives of the proper party to this proceeding, to wit: the Federal Grand Jury, pursuant to said subpoena duces tecum.

WILLIAM B. JONES,
Chief Judge, U.S. District Court for the District of Columbia.

[U.S. District Court for the District of Columbia, Misc. 77–0004]

SUBPOENA DUCES TECUM

In re: Possible violations of 18 U.S.C. §§ 287 and 1001.

To: Honorable Edmund L. Henshaw, Jr., Clerk of the House of Representatives, Washington, D.C., or his authorized representative:

Bring with you: All original and official travel records whether maintained by the Finance Office, the Committee on House Administration or other internal House of Representatives body, relating to all trips taken by former Congressman Allan T. Howe of the Second Congressional District of Utah for the period between March 1, 1975, through May 31, 1975, including but not limited to: all trips taken by Congressman Howe which were paid for out of his Congressional travel allowance as well as all trips taken by Congressman Howe on behalf of any Committee to which he may have been assigned which were paid for out of that particular Committee's budget.

You are hereby commanded to attend before the Grand Jury of this Court on Thursday, the 27th day of January, 1977, at 10:00 a.m. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Grand Jury without leave of the Court or the United States Attorney.

Witness: this 6th day of January, 1977.

WILLIAM B. JONES,
Chief Judge, U.S. District Court for the District of Columbia.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

JANUARY 18, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 2:25 p.m. on Tuesday, January 18, 1977, and said to contain a message from the President wherein he transmits the Economic Report of the President.

With kind regards, I am

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

ECONOMIC REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–40)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on International Relations and ordered to be printed with illustrations:

To the Congress of the United States:

The past year was a year of sound economic achievement. A year ago I said that my key economic goal was "to create an economic environment in which sustainable noninflationary growth can be achieved." While much remains to be done, we have built a very solid foundation for further economic gains in 1977 and beyond. The recovery has continued to produce substantial gains in output and employment. Unemployment remains much too high, but the marked reduction that we see in inflation as well as in inflationary expectations represents significant progress toward regaining the stable noninflationary prosperity that has been our goal.

The gross national product, adjusted for inflation, rose by slightly more than 6 percent last year. The rise in production was extremely rapid at the beginning of 1976. The advance moderated during the spring, but at the close of the year the recovery showed signs of reacceleration. In December more than 88 million Americans were employed, an increase of about 3 million from last December and more than 4 million above the 1975 recession low. Economic gains were widespread. Real incomes continued their rise, consumer expenditures also moved upward, business investment began to recover, and housing construction improved significantly. Unemployment dropped sharply in the early months of last year, although it rose again as the extraordinarily rapid expansion in the labor force outpaced the creation of new jobs.

Substantial headway was also made on the inflation front. Since late 1975 the consumer price index has risen only 5 percent, a full percentage point less than was anticipated and a noteworthy improvement over the 12 percent inflation rate of 1974. Wage settlements continued to moderate. Record crops and more ample supplies of farm products halted the sharp increases in food prices. As fears of inflation ebbed, interest rates declined, contrary to most expectations at the beginning of the year; and the stock market, reflecting this heightened confidence, was close to the highs of the year when trading ended in 1976. The lower rate of inflation and the improved state of financial markets attest to the significant progress we have made during the past year toward reestablishing a stable, noninflationary, full-employment economy.

If this goal is to be fully realized, the present policy of moderation in fiscal and monetary affairs and of relying on a restored vitality in the private sector must continue. We need tax reductions to support a lasting economic recovery and to provide relief from the increases in real tax burdens induced by inflation. In the long run, inflation and real economic growth will constantly push taxpayers into higher and higher tax brackets unless tax laws are changed. Some believe that these additional tax receipts should be spent on new Government programs. I do not. Instead I believe that the Congress should counteract the growing burden imposed by the tax system—and the reduction of private incentives that it implies—by periodically providing offsetting tax cuts while continuing to restrain the rate of growth of Government spending.

The creation of permanent, meaningful, and productive jobs for our growing labor force requires a higher level of private investment. Tax reductions must be so designed that measures to stimulate consumption are balanced by those which will increase investment. Investment has for some time been falling short of the levels required if we are to provide enough productive jobs for our people at rising real wage rates, and if we hope to renew and improve our capital stock so that we can meet our requirements for energy and make headway toward environmental, job safety, and other goals. Investment has grown more slowly than would normally be true at this stage of a recovery. A stronger spur to investment in productive plant and equipment is necessary for the further improvement in production and employment in 1977 and beyond.

TAX REDUCTIONS

In October 1975, I presented to the Congress a program of tax cuts and spending restraints that would have reduced the burden of government for all taxpayers. It would have given the American people more freedom to spend their incomes as they choose rather than as Washington chooses for them, and it would have increased incentives to expand investment. However, the Congress decided otherwise—to increase spending far more than I wanted and to cut taxes far less than I wanted.

Earlier this month I again sent to the Congress my recommendations to cut taxes. I have once more urged a permanent increase in the personal exemption from $750 to $1,000 to replace the system of temporary tax credits that has so greatly complicated the individual income tax return. I am also recommending a higher income allowance and a series of permanent tax rate reductions. My proposals provide income tax relief for individuals that will total $10 billion in 1977.

To encourage the investment that will mean good steady jobs for our expanding labor force, I am recommending once again a permanent reduction in the corporate income tax from 48 to 46 percent. I urge as well the enactment of legislation to make permanent the extension of the 10 percent investment tax credit and the increased corporate surtax exemption provided by the Tax Reform Act of 1976. In the longer run we must eliminate the double taxation of dividend payments. I am therefore renewing my proposal to integrate corporate and personal income taxes gradually over a period of years beginning in 1978.

I am also renewing my recommendation of accelerated depreciation for investment in new plants and equipment undertaken in areas where unemployment is 7 percent or higher. I am firmly convinced that this is a far better way to raise employment where the economy has not caught up with the recovery than adding layer upon layer of new spending programs.

Although such tax cuts for individuals and businesses are desirable at this time to support stronger consumer and capital goods markets, we must be mindful of the need to bring down our large Federal budget deficit as quickly as possible. As the economy improves and the demand for private credit becomes greater, Federal borrowing requirements to finance the deficit must be lowered to avoid preempting funds needed for private investment and to ensure steady progress in the battle against inflation. Accordingly, in my Budget Message I am again recommending responsible restraint in the growth of Federal budget outlays. These policies will also bring us closer to our goals of stable noninflationary prosperity.

INTERNATIONAL DEVELOPMENTS

Much progress was evident in the rest of the world last year, and international economic cooperation continued to improve. Restoration of a stable growth path, however, has proved difficult. Throughout the world, countries are still grappling with the complicated and painful aftermath of inflation, recession, and the sharp increases in the relative price of energy. Serious social and political problems have made these adjustments more difficult.

When I met with the leaders of the major industrial nations in the summer of 1976, the restoration of full employment in our several economies was the

most important item on our agenda. Stable full employment and continued improvement in the well-being of our own peoples and the world population at large, we agreed, will take a number of years. Although the course of faster expansion seems attractive, it is clearly risky. Impatience which leads to a reacceleration of inflation could jeopardize the significant progress we have achieved so far.

The costly lessons of the past decade are inescapable. High and variable inflation rates are incompatible with sustainable growth. Overly expansionary policies contributed to the very high inflation rate and, in turn, to the deepest worldwide recession since the 1930s. Policy changes and adjustments will doubtless be needed in 1977 and thereafter. But policies must hold to a reasonably steady and predictable course. In particular, the measures we select to further our economic expansion must not raise the risk of future inflation.

The growing recognition among nations of their interdependence has helped to create the cooperation that is now apparent among members of the industrial community. The mutuality of the policy goals of the developed and developing countries needs to be better understood on each side. For this reason the discussions between developed and developing countries during 1976 have attempted to foster a climate in which our joint interests and our diverse concerns can be freely expressed. Although the progress so far achieved has disappointed some, it has helped us avoid the sometimes easier but mutually destructive course of trade restrictions.

ENERGY POLICY

Energy matters retain their troublesome hold among the problems threatening the Nation's long-run prosperity. The sharp increases in oil prices in 1973–75 imposed major costs upon our economy. We have done much to accommodate the new higher prices for energy, but some aspects of energy policy have hampered the adjustment. The Congress has continued to hold prices for domestically produced oil and natural gas well below world market levels. These lower energy prices have encouraged the inefficient use of energy and discouraged efforts to expand domestic supplies and improve the energy efficiency of the overall capital stock.

The recovery has heightened the demand for energy and thus resulted in greater imports of oil. In consequence the United States now depends even more heavily upon imported petroleum and is even more vulnerable than a year ago to future price manipulation and interruptions in supply. Now that the problems of recession and inflation are receding, we can more vigorously address this difficulty. The energy program that I have presented before is designed to answer the longer need.

First steps are under way toward creating a strategic oil reserve which will help shield us from disruptions in supply. The OPEC pricing decisions of December were a forceful reminder of the Nation's growing need for protection against foreign moves that affect the price and can alter the availability of imported oil. Strategic storage will provide a first line of defense against the threat of disrupted supplies. This vital program must be implemented, and we must also take positive steps to lessen our economic dependence upon foreign oil.

Measures that will make us less dependent on foreign energy supplies have been proposed by this Administration; but unfortunately many of the most important proposals have not yet been accepted by the Congress. Some of the measures involve present costs which will yield much greater future benefits. Others, which would lead to more efficient use of our energy resources, would benefit the Nation immediately as well as in the future.

It is critically important—for energy security, environmental quality, and long-term economic productivity—that prices of domestic petroleum and natural gas be allowed to match more closely the full cost of these fuels. In the immediate future oil prices should be allowed to rise as they were intended to do under the Energy Policy and Conservation Act. Steps should also be taken which would help close the gap more rapidly between domestic and world market prices for petroleum, allow a free-market price for North Slope Alaskan oil, and deregulate the wellhead price of new natural gas.

Although a number of inconsistencies remain, the relation between the Nation's goals for energy and for the environment has become clearer and the effects of existing policies more fully known. The time is ripe for reexamining environmental policy and determining whether the ends we all seek can be achieved at a lower cost to the economy and to the security of our energy supplies.

Taken together, all of the actions recommended here would help the economy to adjust to the new energy situation and do much to ensure more reliable supplies of energy for the future. They would also signal to the world that this Nation is serious about developing secure supplies of energy. Most important, these efforts would encourage conservation and give industry the confidence that will spur the production of both conventional fuels and substitutes.

REGULATORY REFORM

As economic problems have arisen and been dealt with by new policy initiatives, the Government's role in the economy has grown ever larger. The number of commissions, agencies, administrations, bureaus, and offices set up to conduct programs increases constantly. Each appears important when it is first established. The trouble is that they are seldom, if ever, terminated when they have accomplished their original mission. By one recent count there were 1,200 Federal Government organizations alone having significant powers to regulate a wide and growing range of economic activities.

The direct Federal outlay to control practices in the private sector is substantial. Even more important are the losses that these activities impose on the production and distribution of goods and services throughout the economy. No accurate measure of the total costs and benefits of actions by the regulatory agencies is possible at this time or perhaps ever. Although all Americans are aware of the substantial benefits which regulations produce in their everyday lives, we frequently lose sight of the efforts of such programs in restricting the growth of productivity.

The use of newly developed technology, the development of new companies and products, and the opening up of new occupations have all been impeded by the need for licenses, certification, review, and legal judgments introduced by one agency or another. When innovative activities are discouraged progress is curbed throughout the economy, even in those areas where some regulation is justified. Regulations must therefore be reexamined to ensure the removal of costly and counterproductive regulations and to identify those whose need has passed. Where benefits seem large we should make sure that the benefits are realized at the least possible cost.

To reduce the regulatory burden, I asked the Congress in the last year to eliminate unnecessary and anticompetitive regulation in the airline and trucking industries. This action was to follow the path of regulatory reform that the railroad industry achieved in the Railroad Revitalization and Regulatory Reform Act of 1976. I also urged the Congress to eliminate the Federal Power Commission's controls on new gas prices, which have held back exploration and sales to the interstate pipelines serving northern and western cities. Earlier this month I once again submitted to the Congress a plan to eliminate controls on gasoline refining and marketing.

Among agencies under my jurisdiction I have set out new regulatory procedures which will make controls more effective and less costly to all concerned, but such steps are only a beginning. The Congress and the executive branch must undertake a comprehensive review to ascertain the effects of present controls, and then offer to the American people a corrective program that will cut across administrative boundaries. Only a sweeping reform will remove the regulatory burden where it is no longer justified and place the initiative for production and distribution back in the more efficient hands of private enterprise.

ROLE OF THE GOVERNMENT IN SOCIETY

I firmly believe that if we dedicate our efforts to the major problems I have outlined here we can successfully resolve them. As a people we have an extraordinary capacity to marshal our resources against even the gravest difficulties.

Unfortunately many of our problems are self-made. One which has concerned me particularly over the years is a tendency, born of goodwill and a desire to improve the state of American life, which makes us think we can create costless benefits for our people. We are unwilling to confront some of our hardest choices. We persist in the belief that we can always tolerate a little larger Federal deficit, or the creation of a little more money, especially for the sake of programs which seem to promise clear and readily definable benefits. This is a kind

of self-deception that we must learn to resist.

Certainly we must adopt measures that promise to keep the economic expansion going and reduce the high unemployment. But overly expansive policies with their inevitable risk of renewed inflation are realities which are easily overlooked in the understandable desire for the immediately tangible benefits foreseen from specific programs. What we seek is a sustainable expansion and the restoration of full employment without inflation, and we must settle for no less.

The discipline implicit in a prudent fiscal policy is not easy but it offers very considerable and lasting rewards. I am hopeful that the recent creation of the budget committees to serve the Congress will help to provide this necessary discipline. Prudent budget policies are essential if we are to restore stable full-employment conditions and provide the productive jobs which our people need and want. Some part of our present deficit is the result of the recession and will accordingly disappear as full employment is restored. Beyond this, however, we must restrain the growth of Federal expenditures. If we do not, we shall have to resign ourselves to higher taxes or to high employment deficits with their inflationary consequences.

Nowhere are these tradeoffs so evident as in our social security program and our efforts to provide medical insurance for our people. I have emphasized the need to maintain a fiscally sound social security system and repeatedly rejected proposals to fund increased benefits out of what are called general revenues. The purpose of linking social security benefits to specially designated taxes is to balance the benefits to one segment of society with the costs to another segment. Our democratic processes of government work better when the costs of programs are open and visible to those who pay them. Funding our social security benefits through specifically designated payroll taxes strengthens the discipline that should govern these decisions. Benefits are not costless, and we should not allow this fact to be submerged in any general revenue funding of the social security system.

Similar pressures are building up with respect to medical care. We have become concerned, and rightly so, over sharp increases in the cost of medical care which emphasize the need to improve the efficiency and effectiveness in the delivery of health care services. These have arisen in part because the large expansion in health insurance coverage under both private and public programs has reduced the sensitivity of consumers to costs and weakened the incentives to achieve efficiencies. Individuals, businesses, and unions, confronted with the higher costs of private health insurance have begun to exert curbs on the system for delivering health and medical service, and their influence should be salutary. I hope we will not choose to fund these costs through a comprehensive national health insurance system, since this will only weaken the incentives for improvement and efficiency that are now emerging.

These are but two examples of the pressures which threaten to erode our fiscal processes. We must recognize that making governmental expenditure policy the principal arm of demand management has undesirable consequences. Expenditure programs once in place are extremely difficult to cut back. The result is a permanent rise in Federal outlays and the risk of ever-increasing growth in the government relative to the private sector. As the experience of other countries forcibly illustrates, this is a dangerous path. It weakens incentives, reduces efficiency, leads to lagging standards of living, and carries inevitable risks of inflation. It is much better to provide fiscal adjustments through tax reductions than through Federal spending programs.

The solid improvement of this year means continued progress toward a better life for all Americans. Problems will always remain, but the future is bright with opportunities to continue strengthening our economy. Improvement is part of the American way of life, but we must recognize that few problems, when viewed realistically, lend themselves to quick and easy solution. Our policies must take into account the full costs and lasting implications of the changes we make today for whatever worthwhile reason. If they attack symptoms rather than causes, policies will be ineffective and may even preclude the very goals which we seek. Enduring improvement in the economic welfare of the American people requires that the courses we embark on to meet today's problems will also bring us closer to our move distant goals and aspirations.

GERALD R. FORD.

January 18, 1977.

SKUBITZ/DOLE WATERSHED BILL

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKUBITZ. Mr. Speaker, today I am introducing a bill which I introduced in the closing days of the 94th Congress. This bill would significantly improve the rate of construction and completion of watershed projects throughout the United States.

The principal thrust of the legislation is to exempt many small watershed projects from the environmental impact statement requirements of the National Environmental Policy Act. While it would exempt from the requirement of filing an environmental impact statement those watershed projects which do not require any channelization work nor have structures exceeding 15,000 acre/feet, it would do so only with congressional oversight and public input. Also contained in my legislation is a requirement that the Federal review process and all other Federal work on a project be completed within 1 year.

On January 10, of this year Senator DOLE introduced S. 8 which for all intents and purposes amounts to what I tried to accomplish in H.R. 15713 which I introduced on September 27, 1976.

While S. 8 is largely identical to my own bill, Senator DOLE's bill omits one portion from the bill I introduced. This was the section of H.R. 15713 which dealt with the timely completion of Federal work—of course the bureaucrats screamed. They always do when legislation holds their feet to the fire.

I believe 1 year is enough time to complete the paper work on any Federal watershed project. Certainly most Kansans are of the same opinion because the chief complaint I have heard about the Federal watershed program is the slowness with which our Federal bureaucrats complete their work. In Kansas we have a delay of several years because of Federal bureaucrats who surely could be outrun by the oldest of snails. My colleagues, surely we can rightfully demand a more timely completion of Federal work than now exists.

It is my hope that with the introduction of this legislation in both the House and the Senate, the appropriate committees will quickly consider and act on this legislation in order that the logjam of watershed projects in Kansas and the rest of the Nation may be unsnarled.

CALL OF SPECIAL ORDERS

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 60 minutes.

Would the gentleman from New York care to yield in order that we may go to the second speaker, who will take a very brief time?

Mr. WEISS. Mr. Speaker, I have no objection to the gentleman taking a very brief time, but some of the people who are participating have indicated they have a time concern. How much time is anticipated to be taken by the gentleman from Michigan, Mr. Speaker?

The SPEAKER. The gentleman from Michigan (Mr. DINGELL) has requested 10 minutes. The gentleman from New York (Mr. WEISS) has an hour.

How much time is the gentleman from Michigan asking the gentleman from New York to yield?

Mr. DINGELL. Mr. Speaker, less than 10 minutes.

Mr. WEISS. Mr. Speaker, I yield to the gentleman from Michigan (Mr. DINGELL).

DISAPPROVAL OF PRESIDENT'S ENERGY ACTION

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 10 minutes.

Mr. DINGELL. Mr. Speaker, I thank the gentleman from New York for the gentleman's courtesy to me.

With me here on the floor are my friends and colleagues: the distinguished chairman of the Committee on Interstate and Foreign Commerce (Mr. STAGGERS), who has just been reelected to that posi-

tion, and my beloved friend of long standing, the gentleman from California (Mr. Moss), who is my senior on the committee.

Mr. Speaker, I rise to advise the House that the President has sent a message to the Congress proposing the decontrol of gasoline. This is the first energy action which has been submitted in this Congress.

Mr. Speaker, I wish to point out to my colleagues that my good and dear friend, the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS) and my friend, the gentleman from California (Mr. Moss) and I will see to it that resolutions for the disapproval of these energy actions are placed before the House.

Mr. Speaker, I now yield to my distinguished friend, the chairman of the Committee on Interstate and Foreign Commerce, knowing that the gentleman has joined with me to sponsor resolutions of disapproval of that action in this House; action in which we have been joined by 100 of our colleagues.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman from Michigan for yielding and bringing this to the attention of the House.

I think this is going to shock America, because right now we are in crucial times. We might have the price of gasoline raised by one-fourth more and in 6 months one-fourth more and in a year it will be doubled. They are right now coming to what they are in other places, such as in Europe which charges $1.50 to $1.75 for a gallon of gasoline.

I know that my constituents do not want this to pass, so I am going to do everything in my power to see to it that it does not pass, and to protect them and I think to protect all America.

I think most of this House should vote that way. I know there are some that probably cannot, because they represent districts that are interested in it and I am not blaming them; but I say that most every Member of this House should vote against it if they are going to vote for the best interests of America and keep this Nation free, so we can be free citizens.

Mr. Speaker, I thank the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I yield to my friend, the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Speaker, first of all, I want to compliment my very good friend, the very hard-working chairman of the Subcommittee on Energy of the Committee on Interstate and Foreign Commerce.

I also want to compliment the chairman, who has acted promptly to move ahead on the final organization of the committee, to assign it to the old subcommittee in order that work can move ahead.

I want to assure the chairman of the Energy Subcommittee that the staff of the Investigation and Oversight Committee will be available to undertake with the gentleman the necessary studies, so that when we come to this floor with the disapproval resolution, we will be able to illustrate for all Members of the House the very serious impact that the proposed deregulation would have on the economy of this Nation.

Mr. DINGELL. Mr. Speaker, I point out this is an issue too important to the energy policy of President Carter to allow it to go into law without a full opportunity for President Carter to judge for himself the merits of the proposal in the context of the overall energy program which he will be presenting to the Congress shortly.

I would also point out to my colleagues that the Congress is still in the process of organizing itself; it would be improper for us to allow a proposal of this kind to go through at a time when the Congress is ill-prepared to deal with it. There are, in addition, honest, substantive reservations which many of us share with regard to the previously published decontrol proposal. It appears that there is strong reason to believe that the same or similar serious defects may have been carried forward into the proposals received by the House today.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I will yield briefly to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, I thank the distinguished chairman for yielding to me. I want to associate myself with his remarks and indicate that a study done by the Congressional Research Service at my request shows that the impact of this decontrol proposal would be potentially in the range of 6 cents per gallon, or $11 billion for the total economy if prices converge in a period of shortage on the imported price for gasoline.

Moreover, we do not yet have a result of the decontrol of middle distillates. We simply cannot go ahead in the closing hours of this administration on the basis of this curve ball thrown at us by a departing President.

Mr. DINGELL. I thank the gentleman.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, I want to congratulate my chairman for his fast action on this matter, as well as the chairman of the full committee.

I think it deplorable that the President should try to do this in the closing hours of his administration, and in not giving the President-elect an opportunity to formulate his own energy program and make his own decisions in that respect. I trust that the House will support the chairman and support our committee, and disapprove the proposed deregulation.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Speaker, I appreciate the gentleman yielding to me. I would just ask how much time it would take, based on the fact that we have been going through this for 6 years, since 1970. When we first started price control, we had 20 percent importation of oil. Today, we are depending on importation of oil for 46 percent of our needs.

When we have a history like that over 6 years with Government intervention, how much time does it take for the committee to evaluate what intervention has done in the way of disrupting our oil supplies?

Mr. DINGELL. We are continuing to evaluate the effect of oil price controls, and we will continue to do so. I thank the gentleman for his comment.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield further?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. OTTINGER. In reply to the gentleman from Texas, I would just like to point out that decontrol of gasoline prices is not going to do anything to encourage exploration for oil. I would just say that it is all about regulation of the price of crude oil.

Mr. COLLINS of Texas. I would say to my colleague that when prices seek their natural market level, then production will also come in line.

Mr. OTTINGER. Mr. Speaker. I want to congratulate my able chairman, the gentleman from Michigan (Mr. DINGELL) and my friend, our committee chairman, the gentleman from West Virginia (Mr. STAGGERS) for their fast action in introducing a resolution of disapproval of President Ford's order for deregulation of the price of gasoline.

President Ford's action in sending up this deregulation order in the final moments of his administration, attempting to mandate an action with such vast economic consequences for every citizen of our country before the President-elect has a chance to put together his own energy program, is simply deplorable.

The consequences of this order will not simply be to affect the price of gasoline at the pump, though this in itself will be serious enough. Since in the American economy today virtually all our goods are moved to the marketplace in gasoline-driven vehicles, and from the point of manufacture to the point of processing to the wholesaler to a retailer in many instances, the increase in the price of gasoline pressed by this order will ripple through our economy, causing increased prices for all our goods and services.

Furthermore, the increases will cause grave economic hardship, particularly to our already overburdened working men and women in many parts of the country where they have no alternative but to go to and from work by car. The overall inflation induced by the ripple effects of deregulation will also hit hardest at these working people, middle-income families, retired people, and the poor.

Lastly, the price increases this deregulation will permit, will give a bonanza to the energy companies without providing any assurance that they will use the windfall profits resulting for further exploration of oil. There is nothing to keep them from using their huge profits, as they have been, for purchasing unrelated businesses and real estate or investing in further extensions of their already excessive power over alternative forms of energy.

From every point of view, this action was unseemly, attempting to preempt and embarrass the President-elect, and ill-advised. I hope the House will overwhelmingly approve the resolution of disapproval.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Michigan?

There was no objection.

THE RELEASE OF ABU DAOUD BY THE GOVERNMENT OF FRANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 60 minutes.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to my colleague from New York.

Mr. GILMAN. Mr. Speaker, I want to commend the gentleman from New York (Mr. WEISS) for taking the time for this important special order and I join with my colleagues in expressing my indignation and personal sense of injustice at the release of Abu Daoud by the French Government.

Abu Daoud is the founder of the Palestinian Black September commando group, leader of the Al Fatah branch of the PLO and the suspected mastermind of the 1972 terrorist attack on the Israeli Olympic team in Munich. His release was the direct result of the French Government succumbing to the pressures of Arab governments and the threats of the terrorist organizations. This can only mean a step backward in the fight against international terrorism.

France's actions have affronted the world's sense of justice and have further deteriorated the limited control that civilized nations now exercised over terrorism. Such actions do not help relations between France and those nations who wish to make a serious effort to apprehend and punish terrorists.

I have joined with other Members of this body in voicing our indignation at the French action to her President Valery Giscard D'Estaing. In that letter, we expressed our opinion that France has "shown a regrettable disregard for her own moral obligation as a world leader".

This latest chapter of the history of terrorism has brought one free nation to her knees at the hands of terrorism. The United States must take the lead in impressing upon the other members of the international community the collective threat that terrorism poses. We must seek to coordinate a multinational effort to apprehend and punish terrorists whenever and wherever they may strike.

In a recent letter to Ambassador William Scranton, I expressed my belief "that in the interest of international cooperation to combat terrorism, the United Nations should publicly rebuke France for its actions." In addition, I urged him "to protest the inaction of the United Nations concerning international terrorism in general and specifically the release of Abu Daoud. Through its silence, the United Nations has given its encouragement and tacit approval for such action in the future."

I am today reintroducing a resolution I authored in the 94th Congress urging the President to accelerate all efforts to negotiate agreements with other nations in order to prevent acts of terrorism. It also urges him to take certain measures against countries supporting international terrorism and persons engaged in terrorist acts and seek to strengthen sanctions against such countries and persons.

All members of the world community must join together to strike out against all acts of terrorism, whether they are violent or mere intimidation as in France. Any acquiescence to terrorism and its threats is an invitation for terrorists to strike at any nation for any reason at any time. The French Government's actions in releasing Abu Daoud has made us all victims.

Mr. WEISS. I thank my distinguished friend from New York for his kind remarks.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the distinguished gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, I wish to compliment my colleague from New York for his initiative in calling for this special order today about the action of the French Government in releasing Abu Daoud. The French Government's release of Abu Daoud, the Palestinian terrorist accused of planning the Munich attack on Israeli athletes, is an affront to decency and endangers the lives of innocent people throughout the world.

Despite the efforts of French officials to cloud the matter with lectures on their legal procedures, the facts remain painfully clear. Abu Daoud is being sought by Israeli and West German authorities in connection with the attack on Israeli athletes during the 1972 Olympics which resulted in the deaths of 18 persons. He was arrested in Paris on Friday, January 7. Despite requests from Israel and West Germany, that Daoud be detained for extradition, he was released by a French court on Tuesday, January 11, and fled immediately to Algeria.

One need not be an expert on French law or procedure to realize that Daoud's release was accomplished with extraordinary haste. Nor can we accept the French Government's explanation that it had no hand in the outcome, when we realize that: first, French officials, according to news reports, expressed no opinion and sought no opportunity to prepare an argument as the court made a ruling of wide-ranging impact on the effect of an international treaty; second, France maintained no legal or diplomatic contact with Israel during the court proceedings; third, the French prosecutor did not allow West Germany a reasonable time within which to make a formal extradition request; and fourth, French officials failed to use their authority to detain Daoud for using a false name on his visa application.

I believe that the only reasonable conclusion to be drawn from the circumstances of the Daoud case is that the French Government made the considered and cowardly decision to yield to Arab pressure and protect Daoud from prosecution for his terrorist actions. In the words of Israeli Foreign Minister Yigal Allon, France failed the elementary test it faced in "the choice between courage and weak-kneed timidity."

I am afraid that the world will pay dearly for France's action. In releasing Abu Daoud, the French have encouraged terrorists to believe that they can continue to ply their bloody trade without fear of apprehension or punishment. How many more innocent people will be held hostage, bombed, or shot at because the French Government allowed Daoud to escape?

We must also wonder at the international political implications of the French action. If France is willing to condone mass murder because of Arab pressure, where will it draw the line? And if France cannot stand up to the Arabs, what other countries will be willing to do so?

President Giscard D'Estaing has complained that those who are outraged at the Daoud affair have questioned "the honor and dignity of France." I would respond only that it is the actions of President Giscard's own government that have dishonored France.

Mr. WEISS. Mr. Speaker, I thank my distinguished colleague for her very significant remarks.

Mr. TSONGAS. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I am pleased to yield to the distinguished gentleman from Massachusetts (Mr. TSONGAS).

Mr. TSONGAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in a few days, expressions of outrage from the international community will all have been expressed. In a few weeks, the French Government will have weathered the storm of protest. In a few months, the world will forget the name of Abu Daoud.

Today we have the opportunity to express our feelings about the actions of the French Government. In the near future I am hopeful that we will have the opportunity to pass a resolution that will place the House of Representatives on record against international terrorism and international terrorists.

Five years ago, Abu Daoud traveled to the site of the Olympics with a plan to kidnap Israeli athletes. The result was the murder of 11 of these athletes. The Olympics is meant to be an example of a world that can put aside differences

and compete and perform in friendship. The Olympics has taken place in many countries. So has terrorism. Terrorism was planned at the Munich Olympics to publicize the Palestinian cause. The result was a bloodbath example to the world of what terrorism is all about. This example should have proven that acts of terror ought to be deterred at every opportunity. Since every country is the potential victim of terrorism, every country has the obligation to take necessary steps to curtail these acts.

The Council of Europe responded to the obligation I refer to with an anti-terrorism treaty. France signed that treaty. A number of nations have responded to the obligation with bilateral extradition treaties. France has initialed such treaties.

Yet the Government of France, well aware of these obligations and of the alleged crimes of Abu Daoud seized upon an expedient technicality in that country's law. This hasty release of Abu Daoud must be condemned. That is the purpose of all of our speeches and it is the specific purpose of the resolution which I mentioned earlier.

The French Ambassador told us yesterday that the passage of such a resolution by the House would be taken most seriously. That is our purpose. The Government of France must be told clearly and forcefully that this action was a moral and political mistake and an affront to attempts to halt terrorism.

Unless France takes these protests seriously this incident can only encourage the Abu Daoud's of the world. And I for one would not like to leave this type of world to my children.

That is why I take the floor today and that is why I will, in the future, urge you to support a resolution that already has the support of 84 of my colleagues.

Mr. WEISS. Mr. Speaker, I thank the gentleman from Massachusetts for his excellent remarks.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Speaker, I want to congratulate my colleague from New York (Mr. WEISS) for giving us this opportunity to participate with him in expressing our outrage of the actions of the French in releasing Abu Daoud, to impress upon the French Government and all of the governments of the world that an action of this kind encourages international terrorism.

Mr. Speaker, the French were a party to a treaty which was supposed to mandate the exact opposite actions; but they acted so precipitously in releasing Abu Daoud, without there being an opportunity for consideration to requests for extradition from Germany and Israel, which I think was exceedingly unfortunate.

Mr. Speaker, I think this special order today of our colleague, the gentleman from New York (Mr. WEISS), will give an opportunity to the whole Congress to make it clear to the French and the rest of the countries of the world that this is not the course of conduct that we expect from our allies throughout the world.

Mr. Speaker, it is with sadness and conviction that I participate in this special order to protest the release of Abu Daoud by French officials. I am sad because we are here to protest the actions of a close friend and ally, France. Yet, friendship and cooperation with France cannot excuse the grave flouting of international justice, and the encouragement to international terrorism, caused by the precipitous release by France of Abu Daoud.

Mohammed Daoud Audeh, alias Abu Daoud, has been accused of planning and overseeing the "Munich Massacre" where Palestinian terrorists brutally murdered 11 Israeli athletes. He is an active member of the Palestine Revolutionary Council, Al Fatah, and was greeted by Al Fatah representatives at the Algiers airport after his release from France.

Abu Daoud recently attended the funeral of one of his compatriots in Paris, and entered the country with a forged passport, under an assumed name. His true identity was disclosed during his visit, and he was apprehended by French authorities on January 7. At the time his arrest was made public, both Israeli and West German authorities filed requests for extradition with French Government officials. French officials conducted a swift hearing on the requests 4 days after Daoud's arrest, and, on the same day, he was freed and escorted to a plane which brought him, first class, to safety in Algiers.

French Government officials defend their decision to release Daoud on the basis of quirks in international extradition and diplomatic law. Other sources which have examined these same laws, and other laws which relate to this case, claim that French authorities could have easily interpreted these laws or applied other statutes to justify retention and eventual extradition of the terrorist. French officials also chose to ignore the 1976 Council of Europe antiterrorism treaty, which they signed in 1976.

Instead, French Government authorities relied on other factors in making their decision to free Daoud. The press has speculated that they were concerned about Arab oil, President Giscard d'Estaing's upcoming visit to Saudi Arabia, the pending $1.6 billion sale of 200 Mirage F-1 fighter bombers to Egypt, or other existing weapon contracts with Arab nations when they decided to release the terrorist.

Whatever the reason, it did not seem to outweigh or approach any commitment by France—even its international legal obligation—to combat international terrorism or to bring to justice those persons who participate in these brutal and violent acts.

I have joined my colleagues in protesting the release of Abu Daoud by cosponsoring a resolution condemning this decision. I have also circulated today, for cosignature of my colleagues, a letter to the French Ambassador to the United States expressing our grave concern, which I would like to include in my statement today at this point:

His Excellency JACQUES KOSCIUSKO-MORIZET,
Embassy of France, Belmont Road, N.W., Washington, D.C.

DEAR MR. AMBASSADOR: We join many of our fellow Americans in protesting your government's release of Abu Daoud.

We are appalled by France's decision to release Daoud before careful consideration could be made with respect to Israel and West Germany's extradition requests, and we are outraged that France chose to flout the basic tenets of the 1976 Council of Europe anti-terrorism treaty, to which she is a party. The precipitous release of Abu Daoud has jolted the moral conscience of the entire free world.

The materials you sent us trying to assert your government's legal inability to intervene in this situation strike us as specious rationalization. France had the ability to act under international law, if not under domestic law, had she wished to.

For all those who seek to have international diplomacy replace terrorism as a means of solving global problems, France's release of Daoud is an agonizing blow.

Sincerely,

——— ———.

Mr. Speaker, in an official memorandum to all Members of Congress explaining the French position in the Abu Daoud affair, the French Ambassador to the United States, Jacques Kosciusko-Morizet, states that:

In spite of this (the release of Daoud), French diplomacy has always worked toward an overall settlement in the Middle East that could lead to peace in that area of the world and toward secure, recognized and guaranteed boundaries for the countries involved, including Israel. We will continue to work toward this and we hope that relations between France and Israel will be able to continue in a climate of understanding in the future.

These are fine and noble words, and I applaud their intent. However, in light of the Daoud affair, it appears to me that they represent the emptiest of promises. Release of Daoud can only signal to the rest of the world that for France oil and money mean more than justice and ending international terrorism.

Mr. WEISS. I thank my distinguished colleague, the gentleman from New York (Mr. OTTINGER), for his excellent remarks.

Mr. KREBS. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield at this point to my distinguished colleague, the gentleman from California (Mr. KREBS).

Mr. KREBS. I thank the gentleman for yielding.

Mr. Speaker, I would like to congratulate my colleague, the gentleman from New York (Mr. WEISS), for taking this time to give us an opportunity to express our views vis-a-vis the action of the French Government in releasing Abu Daoud.

Mr. Speaker, it is certainly not a pleasant task to criticize the government of a country with which this country certainly has established friendly relations for many, many years.

As someone who has grown up in the 1930's, I am deeply disturbed by the action of the French Government. I remember all too well the development of the policy by the French Government which culminated in the action of the French Government, in conjunction with the British Government, in Munich, when

the delegation, chaired by the then Prime Minister Daladier, came back to the French people with promises of a peace, which, of course, less than a year later turned out to be nothing but an illusion.

Mr. Speaker, the policy of the French Government since the 1956 Suez fiasco has been a gradual and ever-increasing appeasement of the Arab countries in the Middle East. This has been done under the guise of an even-handed policy, which, of course, meant nothing more than a one-sided policy which has become more and more so in recent years.

Mr. Speaker, the release of Abu Daoud, in effect, represents a culmination of that appeasement policy which would have suited much more the Government of Petain rather than the present French Government. I would hope that the policies of the French Government in helping to evade the acts of a known terrorist does not—and I think it is important to emphasize "does not"—represent the sentiment of the French people. They represent a policy of a government that apparently has learned nothing and forgotten much from the policies of the 1930's.

Mr. Speaker, I think what this has really done, in addition to releasing a known terrorist, is to at least in the foreseeable future take away any right that the French Government may have had, if any, to participate in any future guarantees of the borders of the State of Israel.

Probably no other country, other than an Arab clientele, has demanded more vehemently the withdrawal of the Israeli forces from all occupied territories without assurances of any kind, other than the type of guarantees that we saw in 1956 as well as in 1967, which seem to have been worth less than the paper they were written on.

So I think one way that the French Government can retain its standing at least in the world community, specifically in the Middle East, would be by a drastic change in its one-sided policy as far as either of the adversaries in the Middle East dispute are concerned. I believe this is the greatest contribution the French Government can make toward a hoped for peace in the Middle East.

Mr. WEISS. Mr. Speaker, I thank my colleague, the gentleman from California (Mr. KREBS) for his excellent remarks.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I am pleased to yield to my distinguished colleague, the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to commend the gentleman in the well for taking this special order today.

I was one of the Members among our colleagues who went to the French Embassy and to the German Embassy to talk with both the Ambassador to France and the Ambassador to Germany about this unfortunate incident. I feel that we strongly need to stand up and be counted in regard to an important issue like this, and I was pleased to take part in the offering of a resolution which has over 85 cosponsors in the House strongly protesting the action of the French Government.

I would like to take just a moment and read part of the resolution, if I may, that was put together and cosigned by so many Members. We did not move on this resolution as yet, and I understand the committee action will take place as quickly as possible.

In our resolution we make some specific comments that I believe the House of Representatives in toto would be pleased to endorse. We indicate that the House of Representatives condemns all terrorist activities, and that it is the sense of the House of Representatives that perpetrators of such acts should be brought to justice and punished appropriately, and, finally, that it is the sense of the House of Representatives that the release of Abu Daoud by the Government of France was both premature and unjustified, and that such action should be strongly protested.

I would urge the other Members of the House of Representatives to look carefully at this resolution, to look at the language that is appropriate, and to stand up on this particular issue so that we do not fuel the fires of terrorism but in fact stand up and face the direct issue.

I think it is very unfortunate that the Government of France did not hold Abu Daoud long enough for the diplomatic action of the German Government to take place and to have an orderly process of justice rather than the disorderly process that came about.

So again, Mr. Speaker, I would like to commend the gentleman in the well.

Mr. WEISS. Mr. Speaker, I thank my colleague, the gentleman from Pennsylvania (Mr. EDGAR), for his excellent remarks. I wish to commend him and the gentleman from Massachusetts (Mr. TSONGAS) for the excellent work they did in preparing the resolution the gentleman spoke of.

Mr. CARR. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I would be pleased to yield to my distinguished friend and colleague, the gentleman from Michigan.

Mr. CARR. Mr. Speaker, if I may, I would like to direct a few questions to the gentleman from Pennsylvania (Mr. EDGAR), whom I know to be an extremely thoughtful and sensitive person.

I was not one of the delegations that went to the French and German Ambassadors, and I would hope that the gentleman from Pennsylvania will give us more information about what fruit those trips bore. Perhaps the gentleman can do it by answering my question with respect to paragraph C of the resolution which has been put before us. I would ask the gentleman what evidential basis he has established or developed for the conclusion that the release of Abu Daoud by the French Government was premature and unjustified.

Mr. EDGAR. Mr. Speaker, as we discussed the issue with the French Ambassador, it was clear that the early convention between France and Israel was not the convention that would have precedence in this matter, and that in fact in late 1975 and in 1976 they signed a resolution that would be appropriate but not retroactive.

Therefore, the legal precedent was the 1971 German-French Convention, and in particular, article X of that convention, which indicates that in matters such as these, where there is an individual whom another nation wants; namely, Germany wanting Abu Daoud, there would be a period of 20 days during which time that transaction could take place and the formal paperwork could be put together.

In this particular case, the French Government believed that they had indicated to the Government in Germany that they wanted quick action. The German Government, on the other hand, felt that they had provided that quick action by indicating their interest in Abu Daoud and had thought that this would be like many other extradition cases in which they had, on the average, 17 days in which to put together the appropriate paperwork.

Evidently, there is a misunderstanding between the French Government and the German Government, the French Government saying, "We put off for 1 day, from Monday until Tuesday, the court proceedings; and during that time we had indicated to the Government of Germany that they should respond through diplomatic channels if, in fact, they wanted to take some action against Abu Daoud."

The German Government, on the other hand, feels that their action that was taken on the 8th of January to indicate their interest in Abu Daoud was sufficient and that they could put together the necessary materials over a 20-day period.

I believe, according to our discussions with the Ambassador today, that they were quite surprised that the French court did not recognize their initial inquiry.

Perhaps the gentleman in the well, Mr. Speaker, would like to clarify some of what I have said; but I think there was a basic disagreement, the French Government feeling that they waited sufficient time and the German Government feeling that insufficient time was provided under article X of the German-French Convention.

Mr. WEISS. Mr Speaker, if I might just add one word, not only the original inquiry, that is, the German Government's inquiry, but the fact that the Bavarian court had issued a warrant of arrest and had issued a notice of extradition, they felt, was sufficient; and the French insistence that in addition to that they needed a diplomatic request of extradition is what took the Germans by surprise, according to the German Government.

Mr. CARR. If the gentleman will yield further, as I understand it, the French-German treaty, however, requires a diplomatic confirmation; is that not correct?

Mr. WEISS. That seems to be open to question.

The German Ambassador says to us that in his view there is, in fact, no legal requirement for that. The French Ambassador says that he believes that there is a legal requirement. Therefore, there is a different viewpoint on it.

Mr. EDGAR. To speak further on that particular point, the German Ambassador indicated to us that discussions between the two governments, France and Germany, should take place to clarify that particular misunderstanding for future cases; and I think this was the final comment that he made to us this morning.

Mr. WEISS. Quite so.

Mr. CARR. If the gentleman will yield further, Mr. Speaker, I thank the gentleman for his clarification of the matter.

I would merely comment that in the light of those facts, the resolution of the gentleman from Pennsylvania (Mr. EDGAR) would appear to render judgment that the claims of the French Government were unjustified and that the response of the German Government was justified; is that not how I am to read this resolution?

Mr. EDGAR. That is correct.

The resolution was put together a week ago tomorrow; and it was put together as a compilation of the work of our colleague, the gentleman from Massachusetts (Mr. TSONGAS), and myself. Most of us wanted to indicate our strong concern about what we felt was the premature, unjustified release of Abu Daoud by the French Government.

Subsequent to the writing of the resolution and the securing of the 85 or so signatures, we felt it appropriate to visit with the French Ambassador and the German Ambassador, as well as to talk with some people in the administration, to see if we, in fact, could get some facts and figures on the matter.

I would have to say, Mr. Speaker, that none of us coming away from the two visits are completely sure as to who, in fact, was responsible to the greater degree.

I have no trouble in living with the language of our resolution; and I think after having visited both embassies, that, in fact, the French Government did release Abu Daoud prematurely, and I also think that they had the tools to hold him for a longer period of time than they did.

That does not say that the German Government in this respect is completely exonerated from any responsibility and I think we need to give a little more consideration as to that issue.

Mr. CARR. Mr. Speaker, if the gentleman will yield still further, I would like to ask the gentleman from Pennsylvania (Mr. EDGAR) if it is his intention to, as a result of the travel to the German and French Embassies, redraft the resolution that the gentleman is proposing for us?

Mr. EDGAR. I can assure the gentleman that as a result of our meeting this morning there was some thought after we left the meeting that perhaps we should take a look at the cases, referring to Senator HUMPHREY in the Senate and their resolution and also to relook at our resolution in terms of the language to see whether, in fact, it was appropriate.

I would add one footnote and that is that we did hand deliver the resolution to the French embassy yesterday and so they know about it. I do not feel that there is any necessity to rush through this particular language. But I think after one passes by the "whereases" in the resolution, House Resolution 105, that the bottom line shows the strong feeling on the part of many of the Members of the House of Representatives, including myself that, in fact, the hard language of this resolution that the government of France was both premature and unjustified in its action and that such action should be strongly protested, that this would still be the bottom line of any future resolution that might come forward.

Mr. CARR. Mr. Speaker, if the gentleman will yield still further, and then I will conclude.

Mr. WEISS. I am happy to yield further to the gentleman from Michigan.

Mr. CARR. Mr. Speaker, I rise only because I am concerned that so many of the Members who have cosponsored this resolution—and I am not one of those—have in the past, on other issues, expressed strong and deep desires as far as equal rights, including civil liberties and including the advancement of due process. I am terribly interested, if I can be permitted to be your conscience for a moment, that we not rush headlong with language that would seem to circumvent those ideals. Perhaps if we can have solid evidence that the French government in fact took some shortcuts with their own procedures, we might find a better foundation for the condemnation of the French Government.

However, I have to caution us so that we are not about to recommend to the French Government that they not follow due process only because there is a suspected Arab terrorist involved.

Mr. EDGAR. If the gentleman from New York will yield further, I would like to comment on that.

Mr. WEISS. Of course, I yield further to the gentleman.

Mr. EDGAR. Mr. Speaker, I would like to call the attention of the gentleman from Michigan to the very fact that in our resolution we do say under one "whereas" section on page 2, "Without abridging his legal rights," meaning Abu Daoud.

I thank the gentleman from Michigan for reminding us against something that I think we have taken into consideration, and that is that the main concern is that every legal as well as moral obligation was pursued in this matter, and the evidence is not clear that, in fact, there was, on the part of the French Government, the same diligence, the same energies, the same legal advices and the same pursuit of justice from their point of view as there was on the part of Abu Daoud. In fact, yesterday it became clear that he had, and it was repeated several times by the French ambassador, seven very competent loud and articulate lawyers to protect his rights. In fact, on the French Government's side it was my impression, and my impression alone, that there was a mute prosecutor and that in fact the prosecutor on the part of the French Government stood mute, only to answer one or two questions and not really to defend the rights of article X of the German-French Convention. So I do not think it is the feeling of anyone to set aside this resolution because we in any way want to abridge the rights of Abu Daoud or any other person who may stand in line to be extradited. But we felt that clear legal process should be pursued, and in this case we are not sure that that occurred.

Mr. Speaker, I would like to commend my colleague from New York for his leadership in requesting this special order so that I and other colleagues can have a forum to discuss this incident involving the release of Abu Daoud.

I know that many of my colleagues have shared my outrage and frustration. As responsible Members of the House of Representatives, we recognize the sensitive nature of relations between nations. We have no intention of bringing about actions which would sever or even strain the bridges of friendship which have existed between the United States and the Republic of France.

But as representatives of our constituents, we must not look the other way when basic principles of justice have been subverted, in spirit if not by letter. In matters of such import, to ignore this incident would be to condone it.

I am pleased to participate in this effort today to establish a dialog among the Members of this House to try to separate fact from rumor and innuendo. Before we come to some consensus of judgment, I believe we need to have all of the facts before us. If this House agrees that the facts in this case require a strong response, then I feel that it would be irresponsible to shirk from expressing this response. But we must remember to carefully consider all points of view and to keep our personal bias from overtaking a dispassionate analysis of the events which occurred that led to Daoud's release.

For me, it is difficult to be dispassionate about this incident. The reports in the media so far have done little to pacify me.

Mr. Speaker, I introduced on Thursday with my friend and colleague, Mr. TSONGAS, House Resolution 105 to protest the actions by the Government of France with respect to the release of Abu Daoud. As of today, the resolution has merited much attention from our colleagues and 84 cosponsors. I include the resolution at this point in the RECORD:

H. RES. 105

Whereas Black September terrorist leader Mohammed Daoud Audeh, also known as Abu Daoud, has been accused of being the mastermind of the Munich massacre in which eleven Israeli Olympic athletes were murdered; and

Whereas Abu Daoud has been implicated in committing crimes of terrorism which demand judicial pursuit when the opportunity arises; and

Whereas authorities of the Government of France on January 7, 1977, detained a member of the Palestinian Liberation Organization believed to be Abu Daoud; and

Whereas the Governments of the Federal Republic of Germany and the State of Israel requested that Abu Daoud be extradited to be put on trial for his alleged crimes; and

Whereas the Government of France failed to detain Abu Daoud in consideration of re-

quests for extradition by the Government of the Federal Republic of Germany and the State of Israel; and

Whereas there is serious doubt that the Government of France pursued every legal recourse to detain Abu Daoud without abridging his legal rights; and

Whereas the Government of France, a signee of the 1976 Council of Europe Anti-terrorism Treaty, the purpose of which was to curtail world terrorism, has by this action ignored this treaty; and

Whereas this action by the Government of France violates the spirit of international law and morality and encourages terrorism and a disregard of laws protecting citizens of all countries; and

Whereas acts of violence and terrorism are the ultimate attack against principles of justice: Now, therefore, be it

Resolved, That (a) the House of Representatives condemns all terrorist activities;

(b) It is the sense of the House of Representatives that perpetrators of such acts should be brought to justice and punished appropriately; and

(c) It is the sense of the House of Representatives that the release of Abu Daoud by the Government of France was both premature and unjustified, and that such action should be strongly protested.

Mr. Speaker, I have had conversations with many Members of Congress during the last few days about the release of Abu Daoud. During that time, I have been privileged to have access to more information than has been available in the press. I have also joined a contingent of my colleagues in meeting with the French Ambassador and the German Ambassador to the United States. The meeting with the French Ambassador took place yesterday, and I joined some of our colleagues in meeting with the German Ambassador this morning. At these meetings, we listened and asked questions. Many questions remained unanswered to my satisfaction. For example, why was the hearing for Abu Daoud scheduled so quickly despite the fact that the French officials knew that efforts were being made to request extradition? Why was the German Government so slow in preparing and delivering the necessary papers? How, and at what level were decisions made that every legal recourse available to the French Government to detain Abu Daoud would not be pursued?

For obvious reasons, we may never know the full story, although I suspect we will be tormented with one or two movies made for television about this episode. Yet I feel that today's special order will help remove some of the questions remaining in our minds as our colleagues participating relate their experiences with finding out the facts.

At this point, Mr. Speaker, I would like to insert this week's Time magazine story on this incident which I feel deserves the attention of our colleagues:

[From Time Magazine, Jan. 24, 1977]

TERRORISTS—L'AFFAIRE DAOUD: TOO HOT TO HANDLE

The sad-eyed man with the droopy mustache returned to Paris' fashionable Hôtel Résidence Saint-Honoré at 7:30 on a Friday evening. When he walked in, the men waiting for him identified themselves as agents of the *Direction de la Surveillance du Territoire* (DST), the French counterintelligence agency. They asked him to come to headquarters for a routine identity check. He did so without protest. Four days later the suspect was released—thereby touching off one of the most explosive international brouhahas in years. The affair triggered political repercussions from the Quai d'Orsay to the Nile, raised storms of outrage in Jerusalem and Bonn, severely embarrassed the government of French President Valéry Giscard d'Estaing and touched off outcries against the cynical expediency of French justice.

The man at the center of the storm was Abu Daoud, 39, a member of the Revolutionary Military Command of the Palestine Liberation Organization. Abu Daoud (real name: Mohammed Daoud Mohammed Auda) is a mysterious figure in the P.L.O.'s terrorist operations who is widely believed to have had a key role in the 1972 Munich massacre in which 17 people died, including eleven Israeli athletes. Israeli Foreign Minister Yigal Allon denounced Abu Daoud as an "archterrorist" last week; curiously, Israeli intelligence officials—who might have had a special interest in seeing a notorious terrorist apprehended—insisted that since Adu Daoud was now primarily a kind of roving ambassador for the fedayeen movement, he was not on their list of wanted men.

IRAQI PASSPORT

That was certainly not the only anomaly in the affair. Even the circumstances of Abu Daoud's arrest in Paris were strange. He had come to the French capital as a member of a high-ranking Palestinian delegation to attend the funeral of Mahmoud Saleh, a former P.L.O. representative who had been gunned down a few days earlier on a Paris street. Traveling on an Iraqi passport issued in the name of Youssef Hanna Raji, Abu Doaud made no effort to disguise his easily recognizable features. He breezed through immigration and checked into his $33-a-day room. Two policemen, thoughtfully provided by the Foreign Ministry, stood guard at the front door of his hotel. Along with the rest of the delegation, Abu Daoud was invited to the Quai d'Orsay, where he met with the Director for Middle East Affairs. That same evening he was taken into custody by the DST agents.

Oridinarily, the detention of a suspected Arab terrorist would have been cleared with Interior Minister Michel Poniatowski and probably with President Giscard himself. But Poniatowski apparently discovered that Abu Daoud was in DST hands only a couple of hours before the West German Interior Minister called him to say that Bonn wanted the Palestinian held, pending a formal extradition request.

The French dilemma was acute. They were fearful of provoking terrorist reprisals—the memory of the Air France airbus hijacked to Entebbe is still fresh. Beyond that, Paris has assiduously cultivated a pro-Arab policy since the early '60s. France imports 90% of its oil from the Middle East, and the French Defense Minister was at that moment in Cairo negotiating a billion-dollar sale of 200 Mirage jets to Egypt. Giscard was scheduled to visit Saudi Arabia this month, and Foreign Minister Louis de Guiringaud is slated to take a broader swing through the Middle East.

THREE ALIASES

Following West Germany, Israel weighed in with a demand for extradition. In point of fact, neither Jerusalem nor Bonn moved with excessive speed. Also apparently worried about the dangers of retaliation and political fallout, the West German government did not swiftly follow up its telephone request with the requisite confirmation through diplomatic channels. Fumed one Chancellery official: "Why couldn't Daoud have been killed in the Lebanese war?" Retaliation was not the only worry in Bonn. Some legal experts questioned whether the evidence against Abu Daoud was sufficient to make an extradition request stand up and, at a trial, to obtain a conviction. As one Foreign Ministry official noted, "Just imagine what the international reaction against us would be if a German court were to declare Daoud innocent."

When the French had still not received a diplomatic follow-up from the Germans by Monday night, they began to get worried. Complained Poniatowski: "We're being had by the Germans." The next day, in a court hearing on the extradition requests, Abu Daoud was represented by seven lawyers, among them Roland Dumas, whose clients include Socialist Leader François Mitterrand and the satirical weekly *Le Canard Enchainé* (*see* The Press). The lawyers contended that the German request for extradition was invalid because none of the three aliases mentioned included Youssef Hanna Raji, the name under which Abu Daoud was arrested. Nor was the arrest warrant dated. Finally, the Germans had failed to send the diplomatic note. As for the Israeli extradition request, the lawyers argued that France's extradition treaty with Israel did not, at the time the massacre occurred, include crimes committed in third countries, and was not applicable retroactively. At the end of the 20-min. hearing, the judge agreed and ordered Abu Daoud freed. He was hastily whisked off to Orly Airport and put aboard a commercial flight—with a first-class ticket to Algiers.

Technically, the judge seemed to have legal grounds to rule as he did, but not for a moment did anyone in Paris doubt that the decision to free Abu Daoud was a hard political judgment made for reasons of state. Giscard is the leading P.L.O. supporter among Western leaders (France has informally recognized it), and Abu Daoud's capture threatened to rupture France's painstakingly built bridges to the Middle East.

Israel charged that France had broken its extradition treaty, withdrew its ambassador to France, Mordechai Gazit, and called in the French ambassador, Jean Herly, to deliver a "vigorous protest." In Tel Aviv, a crowd of 1,000 that included families of the Munich victims hurled rotten eggs at the French embassy. Summed up Jerusalem's daily *Ma'ariv:* "With cowardice, meanness of spirit and cynicism, the government of France has raised the white flag to the oil suppliers and Mirage purchasers."

Bonn, too, professed amazement and "regret"—even though officials could barely conceal their relief. Editorialized Hamburg's *Bild Zeitung:* "France lies weak, cowardly and humbled on its knees. The worst of it is, nobody knows whether any other European country, West Germany included, might not have done the same." Even pro-government French newspapers condemned Abu Daoud's release. "When acts so cruelly belie words, we are no longer in the political realm," said *Le Figaro*.

In Washington, President-elect Jimmy Carter said he was "deeply disturbed," although he did not mention the incident in a telephone conversation with Giscard about an economic summit. The State Department expressed its "strong conviction that terrorists should be dealt with sternly by legal authorities." The protest was rejected by the Quai d'Orsay as "inadmissible comment on the acts of French courts."

TIPPED OFF

So who had had Abu Daoud arrested and why? That was the question of the week. The most plausible answer was Israel, whose intelligence agents keep close watch on P.L.O. terrorists. By alerting friends in the DST to Abu Daoud's presence in France, they could both embarrass Giscard for his pro-Arab policy and score another round against the Palestinians. Yet despite reports that

Israeli agents had tipped off the French in Beirut that Abu Daoud was on his way to Paris, intelligence sources in Tel Aviv denied that they had had anything to do with it. One top-level official said: "We never wanted Abu Daoud and never tried to assassinate him. The whole affair is typical of internal French intelligence and has nothing to do with Israel, West Germany, or even with anti-terror operations."

But if the Israelis were not behind it, who was? According to one account circulating in Paris last week, the DST had sent out a tracer to Western intelligence agencies at the time the Palestinians requested their visas. The CIA, followed by the British and the Israelis, confirmed that Raji was Abu Daoud. The information was passed to the West Germans, who signaled Paris of their intention to seek Abu Daoud's arrest and extradition. The DST's failure to inform higher-ups led some to believe that pro-Israeli officials in the DST and other ministries were out to torpedo the pro-Arab government of Giscard.

In fact, the DST is notorious for playing political games—and Giscard's government was clearly the loser in the debacle, although no one expected it to affect French foreign policy seriously. Declared one former French Foreign Ministry official: "There's only one way for France to go. The Arabs are the future, and we're honest enough to admit it. We realize Abu Daoud will probably come back to Paris one day as a Palestinian government Cabinet minister."

For his part, Abu Daoud in interviews in Algeria blamed his arrest on "Zionists" within the French police who were opposed to the "official French position regarding the rights of the Palestinian people." He boasted that he would soon return to fighting Israel and Zionism—after a brief vacation in Algeria. "The Israelis are looking to kill all the Palestinians," he said. "If they want to kill me, then they want to kill a revolutionary, not a terrorist."

ABU DAOUD—TERROR'S ADVANCEMAN

"My name is Mohammed Daoud Mohammed Auda. I was born in Siluan near Jerusalem on the 16th of May, 1937. I have one wife and, by her, six children. I have Jordanian citizenship."

So spoke last week's mysterious prisoner of Paris in an interview on Jordanian television in 1973. The broadcast was an intelligence officer's delight. Abu Daoud, who had been captured by the Jordanians after attempting to infiltrate Amman at the head of an Al-Fatah commando team, rambled on for nearly three hours, spilling hitherto unknown details of P.L.O. terrorist plots and the inner workings of the guerrilla organization. Why had Abu Daoud been so candid? Had he been tortured into cooperation? Was he, as the Israelis still suspect, a Jordanian double agent? And why, after his release from prison in Amman, had he not been punished or even liquidated by the comrades whose secrets he had blabbed on TV?

No one knows for sure, but then not very much about any aspect of Abu Daoud's murky life is certain. He was indeed born near Jerusalem, and his family still lives in Siluan. After high school, he taught math and physics in Jordan and joined the outlawed Communist Party. He later taught in Saudi Arabia, studied law and worked for the Kuwaiti Ministry of Justice. In 1965 he joined the fledgling Fatah, taking the code name Abu Daoud (which means father of David, his oldest son), and became a protégé of Abu Iyad, Fatah's second-ranking leader after Yasser Arafat.

Abu Daoud claims to have founded the group's intelligence department, called El Rasd (the Observation), in 1968; he was deeply involved in Fatah preparations to wrest control of Jordan from King Hussein in September 1970. Abu Daoud was shot in the leg in one of the early battles of that Black September and spent the rest of the war recuperating in Damascus. After his recovery, he was sent on missions to Europe, North Korea and China to seek support for the Palestinian cause.

In the summer of 1972, Abu Daoud was given the most important assignment of his underground career. He was sent to Munich as an advanceman for the Black September terrorists who carried out the Olympic Games massacre. Traveling under the *nom de guerre* Sa'ad ad-Din Wali, he spent several weeks in Munich, securing and stashing guns and scouting the Israeli quarters in the Olympic Village. It is not clear whether he remained in the city for the attack on the village and the shootout at a military airbase near Munich.

Between his release from Hussein's prison in 1973 and his arrest this month in Paris, Abu Daoud's doings have been murkier than ever. He apparently has concentrated on diplomatic chores for the P.L.O., part of the time in Baghdad. But Daoud also commanded a Palestinian unit that fought with Moslem leftists in Beirut during the Lebanon civil war. Partly because he dropped out of terrorist work and partly because they think he is still working for the Jordanians, Israeli intelligence insists that he is no longer a prime target. "We don't kill spies of friendly nations," says one agent, with a smile. Abu Daoud, however, would probably be wise not to put those smooth assurances to the test.

Mr. Speaker, to paraphrase Shakespeare, something seems rotten in the state of France. If France did pursue every legal recourse, then the facts will come out eventually, and I would not anticipate any strain in French-American relations. However, if it is true that the accused perpetrator of the Munich massacre was set free to avoid strong economic and political repercussions, then I believe that as human beings, not just as Members, we have the duty and obligation to speak out and lodge our protests in the strongest words possible.

We live in a global community, Mr. Speaker. Sovereign nations make treaties. They exchange information. They are even attributed by some of having distinct personalities. Yet behind the various flags are people who share a common bond which far transcends the artificial boundaries which are political and geographical. If we choose to stifle our reaction against this apparent injustice, I predict we will suffer grave consequences. If we are mute, why should a government even consider the political repercussions before embarking on such a controversial undertaking? And why should we feel defensive about expressing our protest? Certainly, our actions in protesting are warranted if the release was strictly a political decision by the Government of France.

In reviewing all of the information I have about the release of Abu Daoud, I believe that the incident is an example of a political decision which demonstrates a minimal regard for basic principles of justice. The 84 Members who have cosponsored the Edgar-Tsongas resolution, House Resolution 105, share my view that based on evidence presently available, the release of Daoud should be protested.

Mr. WEISS. I thank the gentleman for his comments, and I thank the gentleman from Michigan for the very perceptive questions that he has asked.

I should just like to comment that, of course, what we are talking about here is not a prejudgment of guilt or innocence. This is not a trial of the issues. What we are talking about is a situation of a crime having been committed in one country and where the judicial authorities of that country, having lodged charges against an individual whom they allege was involved in the planning and the conspiracy to commit that crime, had in fact filed a warrant of arrest and then issued a notice of extradition, and they then conveyed the notice of that extradition through judicial channels to the other nation—in this instance France. What we are saying is that according to the French-German Convention, apparently the usual practice and procedure there is that up to 20 days are given for these to be supplemental evidence given to the French authorities to justify in fact the granting of extradition. In this instance, within 4 days the French authorities released the person against whom this warrant was issued.

So we are not at all raising any issue of guilt or innocence. What we are saying is that the French Government in this instance acted contrary to its own procedures and, in fact, had violated its own due processes in favor of—intentionally or otherwise—the person who was charged in the German courts.

Mr. TUCKER. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I will be happy to yield to the gentleman from Arkansas.

Mr. TUCKER. I thank the gentleman for yielding.

Mr. Speaker, I must compliment the gentleman from New York for raising this issue this afternoon, and particularly for pointing out the distinction involved between the actual extradition of Abu Daoud from one nation to another, and the holding of that individual until such time—in this case a very short period of time—as legal documents might be presented to the French Government to allow it to make its final decision. It is an extremely important distinction and, I think, one particularly worth noting in this instance where Abu Daoud was traveling under an assumed name in the country and was released within a distressingly short period of time.

I compliment again the gentleman from New York (Mr. WEISS) for raising the issue this afternoon and for making that very important distinction.

Mr. WEISS. I thank my distinguished colleague, the gentleman from Arkansas, for his very generous remarks.

Mr. DAN DANIEL. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I am pleased to yield to the distinguished gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Speaker, I desire to commend the gentleman from New York (Mr. WEISS) for bringing this matter before the House today to give us an opportunity to discuss this matter of international terrorism which has

reached a distressing point in the history of the world.

Mr. Speaker, it is unbelievable that a nation which has played so significant a part in the history of our civilization should permit itself to be used, and used badly, by contemporary barbarians, as France has done.

Terrorist attacks are not limited in their impact to the country in which they are committed or the people against whom they are perpetrated. When any human being, in any nation on earth, is killed or in any way harmed by those who would impose their political will by force of arms, we are all attacked.

No cause is so great, so pure, so overriding in its importance, that the innocent should be made to suffer for it.

When young sportsmen are murdered in Munich, my grandchildren are less safe. When career diplomats, who are only conducting themselves and their offices in our Nation's best interest are killed, our own neighborhoods are threatened.

Cicero said,

> A nation can survive its fools, and even the ambitious, but cannot survive treason from within . . . A murderer is less to be feared.

Now treason and murder are joined, in this latter half of the 20th century, and a new kind of fear is gradually growing in our midst. And the perpetrators of this fear represent what may become the ultimate evil of our time.

They are the international terrorists.

A quick look at the statistics demonstrates the growth of the problem. In 1973, just 3 years ago, there were 24 bombings alone attributed to terrorist activity in this country. Last year—1976—there were 30 acts of terrorism, at least 75 were killed and many more injured.

Over the past 5 years there have been 255 such bombings, 122 firebombings, 45 sniping incidents, 120 shootings, 24 ambushes, and 21 arsons. Eleven people were killed in terrorist acts in 1975, and 72 people were injured. All at the hands of fanatics who have set themselves above the law and beyond reason as they seek to impose their warped ideas on the rest of us.

I do not know who invented the phrase—certainly the Marxist doctrine lays heavy emphasis on it—"the end justifies the means". Thus do these people, by bomb and threat of bomb, by murder if need be, employ the means of terror to justify whatever end they desire.

Terrorism is no foreign affliction. We know it here, as well. In 1975, four people died and scorces more were injured, when a bomb exploded in Fraunces Tavern in New York City. This landmark has stood since New York City served as our Nation's capital, and was a meeting-place for George Washington and his associates. The Armed Forces of Puerto Rican Liberation claimed credit—if such a word can be used—for this wanton act of death and destruction.

Could those who died, or any of the survivors, some of whom will bear physical and emotional scars the rest of their lives, have done anything to move this cause forward? Of course not—and the terrorists knew this. But fear is their weapon, and surprise its ally. To their sick minds, the act of terror is as significant as accomplishment of their goals.

Yet I know, and many of you here today know as well, the feeling of helplessness that descends when anonymous letters and telephone calls are received, spelling out in the grossest of language that which will be done to him. Not because the speaker or the writer feels I have done him some personal wrong, or even knows me personally. But only because he hates the Government of this country—sometimes his country, too—so strongly, he would willingly kill symbolically.

So long as international hoodlums can attack at random, can find sanctuary with those who share their politics, if not their methods, none of us—and none of those we love—can be free. We are all hostages because we are potential hostages to a sickness which finds glory in gore.

I do not believe that this body has an unrestricted right to impose its views of what is fair and just on another land. But this is not a matter which concerns only one nation or even several nations. It concerns us all.

Mr. WEISS. I thank the gentleman for his excellent remarks.

Mr. BADILLO. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I am pleased to yield to the distinguished gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Speaker, I commend my colleague, the gentleman from New York, for having called this special order.

Mr. WEISS. I thank the gentleman for his comments.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I am pleased to yield to the distinguished gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I do not know whether or not this is a maiden speech by my colleague, the gentleman from New York (Mr. WEISS).

Mr. WEISS. Almost.

Mr. BIAGGI. The gentleman could not have embarked on a more significant and important voyage with relation to this issue. It has complexities, I know, but there is an overriding principle that must be dealt with.

I am delighted to participate with the gentleman from New York (Mr. WEISS) this afternoon in this special order.

Mr. WEISS. Mr. Speaker, I thank the gentleman from New York (Mr. BIAGGI) for his very kind remarks.

I am pleased to yield at this time to my distinguished colleague, the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, I thank the gentleman from New York (Mr. WEISS) and commend him for requesting this special order today.

I asked the Congressional Research Service to do a study of some of the international agreements and their applicability in the case under discussion and I thought it might be interesting at least to highlight some of the preliminary findings by the Congressional Research Service.

First. The French practice in extradition cases has in the past been to hold for an average of 17 days the person whose extradition was under request.

Second. The French have returned on the average annually about 50 persons each year to other countries under these proceedings.

The French record in short has been extremely good—up until the incident that we are discussing—in their compliance with extradition requests, including the recent speedy return of Croatian hijackers to the United States.

The French-German extradition treaty to which the gentleman from New York and others have referred has been enforced since 1951. The practice has been for close working relationships between the French and the German Governments with respect to extradition requests in either direction.

The arrest warrant by the authorities in the Bavarian Ministry of Justice was, according to the German Government, made out correctly and in accordance with the usual international requirements. Nevertheless the French Government chose to act very speedily to deport Mr. Abu Daoud from France. Not only was the 20-day period not honored, and not only was the usual 17-day average period not permitted, but also the meeting of the French court, which usually takes place on Mondays, took place on Tuesday in this instance. That is subject to interpretation. It looked to some of us who have studied this, as if the meeting had been moved up from a later Monday date, the French maintained rather it was a postponement from the preceding Monday, but in any case this was an extraordinary time for the court to meet.

And of course, as my friend and colleague, the gentleman from Pennsylvania pointed out, this was not simply a court decision. It was also a decision of the French Government acting through the State prosecutor in the courts, not to contest the contentions of Mr. Abu Daoud's attorneys.

The result was that no case was made before the court even for the retention of Mr. Abu Daoud during which period it would have been possible to have ascertained the definitive position of the German Government and the German Government's intentions with respect to diplomatic confirmation.

Beyond that, the French Government's interpretation of their own law and of the extradition treaty appears questionable. They maintain that the diplomatic confirmation had to come simultaneously with the request for the warrant. That has not always been the practice in the past and again we see that in this particular case the French Government at minimum has departed from past precedents and at maximum has made an interpretation of its own law and the extradition treaty with Germany which was highly unusual in its narrow technical basis.

Beyond the French-German Extradition Treaty, there is another document,

the 1971 Montreal Convention, which seems in this instance also to apply. France is likewise a signatory to this convention. The Congressional Research Service memorandum which I have indicates that accounts of the 1972 Munich incident clearly reveal that Palestine terrorists committed an offense under article 1(I)(d) of the Montreal Convention.

Article 7 of that convention requires that the contracting state in whose territory the alleged offender is found to be either extradicted or requested or bound over to the competent authorities for the purpose of prosecution. That article admits of "No exception."

We asked the French Ambassador, his Excellency Jacques Koscuisko-Morizet yesterday when we met with him and he appeared to respond to the applicability of that convention. I am going to follow that up with a letter to the Ambassador, because I do feel it is an important point.

In addition, we have the Council of Europe Antiterrorism Treaty of 1976, which France signed, which has not yet been ratified and put into effect. Clearly France took the lead in writing and securing approval for this treaty or convention, along with West Germany. Clearly, this convention established as a presumption that France is going to take some leadership in cases relating to terrorism and in cases relating to those suspected of terrorist activities. In fact, what we have is the exact opposite from the French Government taking refuge in the most narrow legal technicalities of a general and dubious sort.

So in response to the earlier discussion between my friend, the gentleman from Michigan (Mr. CARR) and the gentleman from Pennsylvania (Mr. EDGAR), I think I would have to say that whatever the culpability in this matter, the case against the French Government is devastating. They did not handle the case in typical fashion. They did not wait the period of time that they should have waited. It was not a question of court action which no one should be able to question. It was a question also of the position taken before the court by a representative of the French Government.

Finally, it is not simply the domestic issue. The French Ambassador told us yesterday that any resolution passed by this body or the Senate would be regarded as an interference in the domestic affairs of France. I assume the same thing goes for any statement by a President of the United States or a Secretary of State. I think we must reject that rejection on the grounds that it was decidely and emphatically a question for international discretion and for international action and that the conventions and treaties that have been written and signed by nation-states, including France, has put them under an obligation to act not only within the letter of those conventions, but within the spirit of those conventions.

Therefore, Mr. Speaker, it is in my judgment not only permissible but essential that citizens of this or any other country or elected representatives of this or any other country who wish to make their views known on the actions of any government under any of these conventions or treaties, which are the attempts of nations throughout the world to deal with terrorism, that such statements are, indeed, not only acceptable, but essential, if we are going to focus the issue properly and if we are going to talk not just about legal technicalities, but also about the moral imperatives which many of us feel are essential.

With the permission of the gentleman, I would like to insert in the RECORD at this point an editorial which appeared this morning in the Washington Post, which I think states the case articulately and with real skill and with real eloquence. That is the editorial entitled, "Giscard's Complaint."

I commend the gentleman again for taking the time under a special order for a discussion of this matter. I join with him and with the gentleman from Pennsylvania (Mr. EDGAR) and the gentleman from Massachusetts (Mr. TSONGAS), who have authored the draft resolution which was discussed earlier, and which has about 65 to 70 of my colleagues who are cosponsors of that resolution.

I join with all of them in hoping that we will be able to take a formal action by this House at an early date with respect to this matter. I thank the gentleman for yielding so generously to me.

Mr. Speaker, the editorial follows:

GISCARD'S COMPLAINT

Come listen to the president of France complain about the criticism his government has received for releasing suspected Palestinian terrorist Abu Daoud. The real problem, President Giscard d'Estaing said at his press conference Monday, was that West Germany did not respond to a formal French request to dispatch certain extradition documents. So the court that had jurisdiction over Mr. Daoud had no choice but to let him go. One scarcely knows whether to laugh or cry.

In fact, this is grotesque. By treaty and practice, the period allotted for filing the documents in question is 20 days. The government of France allowed but one day. It was not that Germany did not respond in a proper fashion. France moved smartly to ensure that Germany would not. Once Paris found itself with the accused planner of the Munich massacre on its hands—thanks to the diligence of the French police—the last thing it wanted was for normal procedures to be followed. That would have put it into political confrontation with the Arab nations whose judgments on Mideast matters it has come to accept as its own.

"I would like to say," Mr. Giscard d'Estaing remarked at his press conference, "just as General de Gaulle used to say . . ." It is revealing to see the president evoking the symbol as well as the sentiment of French nationalism in order to justify the "independent policy" of France. No doubt some Frenchmen will respond favorably to his flight away from the merits of the case. One almost has a certain sympathy for Mr. Giscard, who is hard pressed to maintain his government's balance these days on account of economic and political disappointments that have nothing to do with Abu Daoud. But is it not bizarre to hear French "independence" rationalized on grounds that a German clerk failed to file a routine piece of paper 19 days ahead of schedule?

It pleases the president to term the widespread criticism of his government's policy a "campaign belittling France." France is being belittled but not by any "campaign." Our guess is that some of the very Arab nations that demanded the freeing of Abu Daoud were astounded—and in some cases perhaps disappointed—to see Mr. Giscard d'Estaing's government yielding him up as quickly and shamelessly as it did.

There is a special flaw in the assertion of "independence" on the terrorism issue. For terrorism in many of its guises is a peculiarly international phenomenon. Its practitioners need the physical and moral shelter of one nation in order to conduct their operations in another. It follows that the fight against terrorism must be an international one. If the nations whose citizens or values are assaulted by terror do not cooperate with each other to combat it, then they diminish their safety and their claim on a common heritage as well. It is Mr. Giscard d'Estaing's failure to acknowledge this fundamental truth that makes his defense almost as dispiriting as the original act itself.

Mr. WEISS. I thank the gentleman from New Jersey (Mr. MAGUIRE) for his very thoughtful and profound and effective remarks.

Mr. Speaker, in order to place into context why it is that the membership of this House and, indeed, the people of this Nation and the people of the world have been so dismayed by the actions of the French authorities in releasing Abu Daoud, who is alleged to be the planner—the mastermind, if you will—of the massacre at Munich, I think it might be appropriate to recount some of the acts of terrorism to which the people of this world have been subjected over the course of recent years, and most specifically, to recount the events of the Munich tragedy, the Munich massacre.

Mr. Speaker, at 4:20 a.m. on September 5, 1972, during the XX Olympiad at Munich, Germany, a group of young men wearing sports clothes and carrying athletic equipment scaled the walls of the Olympic Village. Once over, they blackened their faces, donned hoods, and proceeded to the Israeli apartments at 31 Colony Strasse where 17 male Israeli athletes, coaches and officials were housed in five apartments.

At 4:32 a.m. the attack began. The terrorists went to the door of Israeli wrestling coach Moshe Weinberg and asked in German if this was the Israeli team. Weinberg opened the door, saw guns, and yelled for his roommates to flee. He was killed by shots through the door. At a second apartment a similar approach was used, and Joseph Romano, a weight lifter, was mortally wounded. Six Israelis were able to escape. Nine were held hostage. They were bound together in groups of three.

At 6 a.m., the Munich police arrived, and 600 men cordoned off the area. At 9 a.m. the Palestinians delivered their demands. They demanded the release of 200 Arab prisoners, detained in Israel, immediately. They demanded the release of two German leftist leaders of a gang that had robbed eight banks and killed three policemen. They demanded the release of another terrorist who took part in the massacre at Lod Airport. They insisted that they be flown to any Arab nation except Jordan or Lebanon. They demanded three planes, leaving at intervals. They gave 3 hours for full compliance or their hostages would be executed.

Prime Minister Golda Maier and her government decided, based upon the past

Israeli experience in dealing with terrorists, that they could not negotiate or release any prisoners. At the pleading of West German Interior Minister Hans Detrich Gensher, the deadline for the terrorists' demands was pushed to 3 p.m., then to 5 p.m.

At 3:45 p.m., the games were suspended at the request of the Israeli Government. By this time, Chancellor Willy Brandt had made an important decision. He ruled out the possibility of permitting the terrorists to leave with the hostages. At 10 p.m., 18 hours after the start of the raid on the Israeli athletes, eight guerrillas took the hostages, who were blindfolded and tied together in a chained fashion, to two helicopters which took them to Furstenfeldbruck Airport.

Once at the airport, the Arabs never exposed more than four of their people at a time. At 10:44 p.m., the shooting started. Two terrorists guarding a helicopter were hit and a German pilot wounded. A third terrorist on the tarmac was killed. The leader of the guerrillas dived under a helicopter and shot back. A Munich police sergeant was killed. The battle continued until 12:10 a.m. The results: Five guerrillas killed, three captured, four Israeli hostages were burned in their helicopter which was grenaded by terrorists. The remaining hostages were gunned down by machine guns by the terrorists.

The group blamed for this attack at Munich was a group named Black September. They allegedly had members in Germany. Other members traveled to Germany a week before the Olympics separately and by various means of transport. They were dispersed in the Olympic Village. Some even held jobs there. Reports circulated that police were seeking 14 others involved as terrorists.

The Munich affair, the Munich massacre, represents only one of many actions of international terrorism undertaken by Black September and by other fringe groups of the PLO.

Here is a list of similar activities:

November 28, 1971, Jordanian Prime Minister Wasfi Tal assassinated in Cairo by Black September terrorists.

September 5, 1972, Munich.

March 3, 1973, Palestinians hijacked Japan Air Lines Boeing 747 from Amsterdam; exploded in Libya 4 days later; one hijacker killed.

August 5, 1973, Black September commandoes attacked Athens airport killing 5 and wounding 55.

September 8, 1974, a TWA flight from Tel Aviv to New York exploded just after takeoff from Athens, killing all 88 persons on board; a Palestinian guerrilla group claimed responsibility for this action.

July 4, 1976, Entebbe. An Israeli commando unit landed at Entebbe Airport in Uganda and flew back to Israel, via Niarobi, Kenya, with 103 persons remaining as hostages of 7 pro-Palestinian hijackers. According to press accounts, 7 terrorists, 3 hostages, and 20 Ugandan soldiers were killed.

August 11, 1976, an Israeli El Al jetliner was the target of a grenade attack by a Palestinian terrorist group as passengers were boarding at the Istanbul airport. Two terrorists were captured; four persons were killed including an aid to Senator JAVITS.

January 11, 1977, Abu Daoud is released.

At this time it might be worthwhile to note that Abu Daoud himself had, subsequent to the Munich attack, made certain statements concerning the Munich massacre. He had been arrested in Jordan in a plot to seize the Jordanian cabinet and hold it hostage. In an effort to release him, members of Black September staged two attacks, one on March 3 in Khartoum, as I indicated earlier, and the second involved the occupation of the Saudi Embassy in Paris by Black September.

In this case, Jordan also refused to release him. Abu Daoud was sentenced to death in Jordan. He earned a reprieve by giving a statement of his activities in El Fatah and Black September. He was ultimately given amnesty by King Hussein.

He fully admitted his activities in the Munich massacre. His presence in Paris in January 1977 was not open and straightforward. He arrived there under false papers.

According to the French, he was issued a visa on January 5 as one Youssef Roji. On January 7, French police, having doubts about his real identity, checked with other police sources and found that Youssef Roji was in fact Abu Daoud. On the same day, German police sources informed the French police that the German authorities had issued a warrant of arrest for Abu Daoud.

The French brought him in. On January 8 the German authorities confirmed the warrant and announced a request for extradition. It was after that notice of extradition that Abu Daoud was subsequently, within a matter of 2 days, released by the French authorities.

The Germans claim that the French action was not in accordance with the regular process according to their extradition treaty with France. They say that once a request is made for arrest and extradition they have 20 days within which to complete filing of the action. Germany maintains that they did send out a temporary request for arrest and that they were preparing a formal request for extradition. Before that was filed the French Government released Daoud.

They have given the following statement on their position which I would like to insert into the RECORD at this time:

Affirming that at the time of Abu Daoud release the diplomatic confirmation of the demand for temporary arrest prior to the extradition have not yet been transmitted The spokesman of the Federal Ministry of Justice pointed out that this was in line with usual procedure. Even though Article 9 of the Extradition Treaty provided for the concurrence transmission of both requests the formal requirements obviously incumbent on the demanding state call for the right to complete the formal documents within a fixed period of time. In accordance with those normal uses and the stipulation of Article 10 of the Treaty the release from custody prior to extradition was not permissible unless twenty days had elapsed since the day of arrest with the formal extradition request and the documents pertaining to it having been submitted.—Statement by the Federal Administrator of Justice of the Federal Republic of Germany, dated January 12, 1977.

Mr. Speaker, the concern of those of us who have addressed ourselves to this subject matter—and indeed of people throughout this country and the world, including many of the Members of this House—is not simply with Abu Daoud. Our concern is with the kind of action that was taken in this instance, action which can then be seized upon by terrorists and would-be terrorists as encouragement to them that they can in fact engage in the worst kind of activities, the most brutal and the most heinous conduct, and that ultimately the nations of the world will yield to whatever motivations—one knows not what, be it arms sales, oil, high politics, or whatever—and that ultimately the nations of the world, even those who profess to take the leadership in antiterrorist activity, will in fact capitulate.

So we have asked for this special order, and we have now had the views of numerous Members stated. Hopefully we will in the very near future have action by both the Senate and the House on resolutions of which Mr. EDGAR spoke. Such action will be critically important because it will be an indication of the protest by the Congress of the United States against this kind of uncivilized and unconcerned, indecent, insensitive action which allows a self-avowed terrorist who is allegedly responsible for the deaths of perhaps dozens, even hundreds of people, to be released from custody before being tried for the crimes that are charged to him.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield further, just briefly?

Mr. WEISS. Yes; I would be pleased to yield to my distinguished colleague, the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, I want to make a further statement with respect to applicable conventions that have been signed internationally, and that is with respect to the French-Israeli Extradition Convention of 1971, which has not yet been referred to here.

There appear to be reasons to believe that the legal applicability of that convention was somewhat more questionable than the applicability of the French-German extradition treaty. Nevertheless, there are still very important questions to be resolved with respect to whether or not that convention in fact might have been possible of interpretation as applicable. I hope this is something on which we can get more enlightenment.

The experience between Israel and France in the past has also been reasonably good. In particular, Israel extradited Claude Lipsky to France under this convention. The convention clearly was in effect prior to the Munich events of 1972, and French law does require that treaties supersede French law in the event of a contradiction.

The French have explained that it is essential under the extradition treaty that certain conditions be met under

both French and Israeli law, that the suspect or the person who is the subject of an extradition request has to be culpable, and so forth, but some statements today have been made in the press and also by the French Ambassador yesterday to the effect that the party would have to be either an Israeli or a French citizen, which is clearly not correct, according to my interpretation or my reading of the extradition agreement.

Moreover, there are real questions about whether or not France maintained close liaison with the Israeli Government, which had, after all, submitted a formal extradition request regardless of its legality. The Israeli Government has said the French Government did not, and the French Government has denied this.

This is another aspect of the case which is, I think, extremely important, and one on which I believe we should have some further clarification.

Mr. Speaker, I want to commend the gentleman from New York (Mr. WEISS) again for taking this time, and I would point out that we are not just talking about Palestinian or extremist Palestinian terrorism in this case; we are talking about terrorism. If governments are permitted to act as the French Government seems to have acted in this case, we are going to have more terrorism from whoever wishes to engage in terrorism. This is not simply an Israeli-Arab or a Palestinian issue. It is an issue as to whether or not we are going to have law and whether or not we are going to observe that law to the best of our ability among, within, and between countries.

Mr. WEISS. Mr. Speaker, again I thank my distinguished colleague, the gentleman from New Jersey (Mr. MAGUIRE), for the excellence of his remarks.

In closing, Mr. Speaker, I simply want to state that what we have done today is to express on our own behalf; on behalf of many, if not all, of the Members of this House; and on behalf of people across this country and throughout the world the violation of our conscience which has occurred as a result of the action which allowed Abu Daoud to be released without subjecting him to trial.

At this time, Mr. Speaker, I want to thank all of my colleagues for their participation today, and I now yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, some days ago the Government of France, in an outrageously cynical gesture of appeasement, released Abu Daoud. an individual alleged to be one of those who planned the terror raid on the Olympic games in Munich, Germany, in 1972, which resulted in the massacre of many of the young members of the Israeli athletic team. In spite of extradition requests by both the State of Israel and the Federal Republic of Germany, the French allowed Abu Daoud to board a plane to Algeria after holding him for about 4 days.

During the last few years, the world has been afflicted repeatedly by the brutal act of terrorists and many innocent lives have been lost. In the face of these tragic experiences, the release by France of one of the most infamous criminals of our time must be protested and condemned, since the safety and welfare of the citizens of all nations are endangered by senseless acts of terrorism.

Terrorism cannot be tolerated, and France not only has encouraged the vain hopes of fanatics who perpetrate atrocities and senseless killings, France has also refused to recognize that terrorism will not cease unless international efforts of cooperation are continued to capture and appropriately punish all terrorists regardless of their cause or their country of origin.

This sad incident accentuates the need for strong action by the United States to stop the menace of terrorism, and it is for this reason that I have cosponsored legislation urging "that the President actively seek an international convention which has as its goal a multilateral treaty to deny sanctuary to international terrorists." I strongly urge the support of my colleagues for this resolution.

Mr. Speaker, the complete text of my resolution follows:

H. CON. RES.

Whereas acts of international terrorism have caused death or serious injury to citizens of many nations; and

Whereas the continued threat of international terrorism endangers the safety and welfare of citizens of all nations; and

Whereas international terrorists have sought sanctuary in many nations; and

Whereas nations granting sanctuary to international terrorists encourage and facilitate acts of international terrorism: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President actively seek an international convention which has as its goal a multilateral treaty to deny sanctuary to international terrorists.

Mr. BAUCUS. Mr. Speaker, I rise today to express my dismay over the release of Palestinian terrorist Abu Daoud by the French Government. In addition to the various resolutions that I have cosponsored, I appreciate the opportunity to address this important issue before you today.

It is unthinkable that the French Government could release this man, who is suspected of planning the 1972 attack on the Israeli Olympic team. Although the French have tried to justify this action by somewhat questionably asserting that the blame rests on West Germany and the absence of a formal extradition request for them, other facts which are unrelated to Mr. Daoud help to clarify the situation further.

Within the last few days, France announced the sale of 200 Mirage F–1 combat jets to the Arabs, thus providing the French with increased access to that much sought after Arab commodity of oil. That a nation would let its beliefs be compromised and turn its back on the legitimate extradition request of a neighbor and ally because of its energy needs, only serves to point out the deplorable lack of a meaningful energy policy among those nations who have become so dependent upon Arab oil.

That France chose to deal with this matter independently will only contribute to the well-being of terrorists throughout the world. An editorial in this morning's Washington Post clearly expresses the problems that the French created when they unilaterally decided to free this terrorist:

There is a special flaw in the assertion of "independence" on the terrorism issue. For terrorism in many of its guises is a peculiarly international phenomenon. Its practitioners need the physical and moral shelter of one nation in order to conduct their operations in another. It follows that the fight against terrorism must be an international one. If the nations whose citizens or values are assaulted by terror do not cooperate with each other to combat it, then they diminish their safety and their claim on a common heritage as well. It is Mr. Giscard d'Estaing's failure to acknowledge this fundamental truth that makes his defense almost as dispiriting as the original act itself.

Although we can do little to insure that other nations will not repeat the actions of the French with regard to terrorists, we can at least let it be known that the American people do not condone this sort of selfish and unjustifiable action.

Mr. STEERS. Mr. Speaker, I rise today today to join several of my colleagues to protest the injudicious release by the French Government of Mohammed Daoud Audeh, alleged leader behind the terrorist activities at the Munich Olympics. The tragic result of that plot, as we all know too well, was the death of 11 innocent Israeli athletes. I feel that the release of this individual constitutes a disregard of basic human morality that is needed urgently if the nations of the world community are to live in harmony.

Release of this dangerous terrorist has encouraged those in the world who rely on terrorism as a platform from which to voice their political views. Had France acted in a more responsible manner, an important precedent of international cooperation in dealing with terrorists would have been set. However, Mr. Speaker, the French were not motivated by decency, morality, or even a desire to uphold international law, and the rest of the international community will have to suffer the consequences. I do not make this statement for the purpose of embarrassing the French people, but in the hope that, in the future, all the nations of the world will do all in their power to end the international plague of terrorism.

Mr. RANGEL. Mr. Speaker, the action by the French Government in releasing the alleged mastermind of the 1972 Munich massacre gives us all cause for great concern. In taking this deplorable and premature action, the French Government appears to be giving short shrift to the justified desires of the world community to resolve this most important matter.

As we all know, France was a signee of the 1976 Anti-Terrorism Treaty. This treaty was designed primarily to reduce world terrorism. However in refusing to hold Abu Daoud in consideration of requests for extradition by the governments of Germany and Israel, France clearly is ignoring this treaty.

I believe that all nations have a right to take action which is considered in their own best interests. At some point, if this world community is to survive as a unit then we must recognize that certain acts are so heinous that they transcend self-

interests and enter the realm of morality. I maintain that the murders of the 11 Israeli athletes was such an act. If France does not recognize that they made a grievous error in this regard, then it is incumbent upon our government to express our strong disapproval of their action. Thus I support fully the resolutions introduced which seek to convey this sentiment to France.

Mr. ROSENTHAL. Mr. Speaker, many of us have expressed our dismay at France's refusal to detain terrorist Abu Daoud pending formal hearings for extradition to either West Germany or Israel.

The French Government's action unquestionably was reprehensible. Its choice of expediency over morality has earned it the disdain of all who seek a civilized and settled world order. It was an action we hope our Government would not have taken under similar circumstances.

France may yet pay another price. In ordering the extradition of a terrorist last year, the Greek Supreme Court noted that any other action could "make Greece a haven for international terrorists, for any fugitive on the lam."

But neither our dire predictions on the floor nor our burning indictments in the RECORD can prevent France or any other country from bowing to the twin pressures of oil and terrorism in the future.

One alternative is counterviolence; but such a response can only breed more of the same.

The only other weapon is law, the natural opposite of terrorism.

The absence of legal cooperation between nations gives terrorists their freedom. And the lack of internationally recognized laws requiring extradition and prosecution of accused terrorists permits governments to act in cowardice.

Partly as a result of the court battle in Greece for extradition of Rolf Pohle, West Germany launched a campaign in the United Nations to formulate a treaty to define terrorism and prescibe measures against it.

The West German proposal addresses one specific aspect of terrorist activity—the taking of hostages. By narrowing the issue, the West Germans hope to avoid the political pitfalls that have prevented United Nations action on terrorism over the past 4 years.

Past efforts have stalled because many diplomats associated antiterrorist statements with opposition to the Arab cause against Israel.

Shortly before adjourning late last year, the U.N. General Assembly unanimously established a 35-member committee to draft and submit next year the text of an international treaty against the taking of hostages.

The fragility of such efforts was demonstrated even as this first step was taken. Before the Arab States would agree to set up a drafting committee, the sponsors of the proposal had to drop from their instructions to the drafting group a provision specifically requiring prosecution and extradition of those who take hostages. West German diplomats believe other provisions will insure that these requirements will be included in the treaty.

In return, the Arab States gave up a demand that the proposed treaty apply only to "innocent" hostages—a provision the United States and others believed would be used to exclude Israelis and others from the treaty's protection.

Even with these limitations, many believe there is a basis for a tough, if narrow, international agreement.

The cooperation among Western nations, the third world, and the Soviet bloc in setting up this drafting committee may signal a new willingness to use the United Nations as a vehicle for positive action against terrorism.

We need strongly to urge the new administration and its United Nations Ambassador-designate to work for adoption of tough antiterrorism laws and treaties.

World outcry against France, which abdicated its moral responsibility in the Abu Daoud case, must be buttressed with the force of international law. A U.N. treaty, supported by all countries, can provide that law.

Mr' MIKVA. Mr. Speaker, I rise to speak in support of the statement of my colleague from New York. The actions of the French authorities amount to nothing less than abject surrender to the pressure exerted by the Arab States and to the threats of the terrorist organizations.

Whether the action was in fear of future terrorist activities or in fear of jeopardizing arms sales to Arab countries, the release presents an appalling spectacle. It is sad to see a civilized, enlightened nation like France, rich in the tradition of interdependence with the rest of the civilized world, trade economic advantage for the safe passage of the man who has publicly boasted of his role in the 1972 Olympics massacre of 11 Israeli athletes and 6 other persons.

It is not sufficient for the French spokesmen to seek to convert their action into an "internal matter." From the beginnings of comity between nations, the holding and extradition of criminals who violate the fundamental laws of any secure society was an international matter. The French know this. Every student of history or law knows this.

The actions of the French court have put a yellow stain on the waters of France's commitment to international law. It will not soon be removed.

Mr. LENT. Mr. Speaker, I wish to join with my colleagues in condemning the recent action by the French Government in releasing Abu Daoud, the alleged mastermind of the Munich olympic massacre. The French action is an indecent affront to international law and order.

It has gotten to the point where one must wonder who in the world—if indeed anyone—has the courage to stand up to terrorism. If the civilized free world will not stand up to the threat of terrorism, who will? Israeli Foreign Minister Allon called the French action "ugly surrender." I must agree. It certainly served France's short-term interest, but in the long run it will do nothing but encourage terrorism. France may well be assured of the continued free flow of oil, but humanity has suffered.

It is my sincere hope that the U.S. Congress will not shirk its responsibility to condemn international lawlessness, and that it will enact a resolution officially condemning the French action.

Mr. YOUNG of Missouri. Mr. Speaker, the French court's release of the Palestinian militant Abu Daoud is a shocking capitulation to threats of economic and terrorist retaliation.

If leading governments of the West will not seek justice even in the face of threats, there will be no containing the despicable acts worked by terrorists.

The French authorities merely had to cooperate by holding Daoud for later extradition. In that way, they would not have had to pass on his guilt or innocence. Justice would have been worked in a jurisdiction where he properly could have been tried.

The premature and unjustified release points up the need for a more effective system to combat terrorism. It is obvious that the current anti-terrorist agreements lack cohesion when a terrorist is freed in the face of extradition requests from two nations.

Every legal effort must be expended to establish a framework to enable civilized nations to bring an end to the criminal acts that have cruelly victimized thousands of persons in recent years.

Mr. BRODHEAD. Mr. Speaker, during the last several years we have witnessed a shocking increase in international terrorism. Defended by its proponents as a legitimate tool of international politics, terrorism is in a fact a heinous and abominable offense against humanity. By the systematic use of violence, almost always directed against innocent people, terrorists seek to coerce and intimidate members of the world community into granting their demands. It is generally agreed among nations that perpetrators of such acts should be brought to justice and punished, and many countries have signed tough antiterrorist treaties to help put an end to terrorist activities. Unfortunately, not all nations are firmly committed to these measures.

The government of France has made its position on terrorism clear. It recently released a member of the Palestinian Liberation Organization believed to be the Black September terrorist leader Abu Daoud. Daoud has been accused of several crimes of terrorism, including planning the Munich Massacre in which 11 innocent Israeli Olympic athletes were murdered.

In spite of France's pledge to support the antiterrorist treaty adopted by the European Common Market countries, and in spite of France's extradition agreements with West Germany and Israel, both of which sought to question Daoud concerning terrorist crimes, the Government of France allowed Daoud to go free on a technicality. There is serious question that the French government pursued every legal means to detain Daoud.

By this narrow, self-interested and shortsighted action, the Government of France has made it clear to the rest of the world that it is willing to sacrifice principle for expediency. It has tacitly approved terrorist activities by ignoring the rights of countries that have suffered terrorist attacks. It has vacated its responsibilities to the world community by

announcing by its action that suspected terrorists may find not justice in France, but a haven from justice.

I believe that the United States must protest France's irresponsible actions in the strongest terms. In addition, we must continue to condemn and stand firm against all terrorist activities and use our influence overseas to encourage our allies to do the same. Only with complete cooperation between nations can we hope to halt these unconscionable acts.

Ms. MIKULSKI. Mr. Speaker, I would like to join my colleagues in protesting the appalling action recently taken by the French Government in the case of Abu Daoud. The French Government behaved irresponsibly in releasing the alleged leader of the Black September group who played a major role in the attack on the Israeli Olympic team at Munich in 1972.

President Valery Giscard D'Estang, at a press conference on Monday January 16, attempted to place the burden of responsibility for the release of Abu Daoud on the German Government. He blamed the West Germans for the lack of haste in verifying the desire to extradite Daoud. In past cases, a period of 20 days had been allowed for the confirmation of such an extradition request. Germany believed this precedent to hold true at this time, also. The French Government is shrugging and attempting to escape its international responsibilities for reasons of its own national difficulties and its relationship with the Arab States.

We, as Americans, need to direct our attention to this situation for two reasons. The first, and most important, is that an international effort must be made at putting a halt to the acts of terrorism which constantly plague nations throughout the world. By releasing those responsible for these acts, a resolution to this problem will be impossible. Second, Abu Daoud was the cause of the terrorist raid upon an Embassy in Khartoum Sudan in 1973 which resulted in the death of American Ambassador Cleo Noel and his aide, George C. Moore.

No government has the right to make decisions of international ramification based solely on its own political considerations. Now is not the time, nor will it ever be, to sit silently while these events transpire. It is our duty to let the French Government know that we will not stand for such subjective reasoning, in situations where people of many nations are involved.

Mr. BIAGGI. Mr. Speaker, the world terrorist movement has a newfound friend in France. The cause for world justice has surely found a new enemy in France. These evaluations are the result of the decision made by France last week to release a man who is known as a leader of the international terrorist movement, and who is wanted as a prime suspect in the Munich massacre of 1972.

The case of Abu Daoud has justifiably earned France universal condemnation by all nations of the world who are involved in the struggle to end international terrorism. France's decision to release Daoud illustrates clearly a brazen disregard for the international agreement they made with Israel involving extradition of criminals. Daoud, who was and still is wanted in Israel for no less than 10 felony offenses, among them murder, is today a free man.

But France's action was more than a breach of international law. They have provided the world terrorist movement with a strong new ally; a new haven where terrorist criminals can go to escape prosecution by those countries in which they commit their violent acts.

The murders of the 11 members from the Israeli Olympic Team of 1972, were senseless and heinous acts of international terrorism. It shocked the conscience of the entire world. Since that time, authorities from both West Germany and Israel have been searching for those who were responsible. The news that the French had apprehended Daoud on January 7, was received with great relief and anticipation by Israel. They submitted an urgent request to have Daoud extradited to Israel to face criminal charges. The French chose instead to release Daoud without even consulting West Germany or Israel.

It is time for sanctions to be imposed against nations who in any way, contribute to the cause of international terrorism. As long as terrorists are aided by nations like France, they will continue to act with impunity throughout the world. All nations opposed to the menace of international terrorism must unite at once, before the movement is allowed to proliferate any further.

I consider this special order an important forum for the House to express strong disapproval of the actions taken by France in the Daoud affair. We cannot abandon our fight against world terrorism until it is won.

Mr. DRINAN. Mr. Speaker, in recent days we have witnessed a series of declarations by officials of the French Government to the effect that the hasty release of the notorious international terrorist known as Abu Daoud was fully in keeping with international law and the internal precedents of the French judicial system. In fact, the release of Abu Daoud violated well-established principles of international law, contravened the terms of international treaties and agreements to which France is a signatory, and departed from the normal procedures of French justice. One can only conclude, therefore, that political considerations governed the action of the French authorities in this deplorable affair.

The Government of Israel issued a timely request for the extradition of the individual known as Abu Daoud on January 10, 1977, 3 days after his arrest and immediately following the issuance of a warrant for his arrest by an Israeli magistrate. According to the terms of the bilateral extradition convention between Israel and France, in effect since 1971, French authorities were obligated to keep the suspect in provisional detention for a period of up to 60 days, pending the submission of the formal request for extradition and the hearing thereon—section 11.

The Government of the Federal Republic of Germany also issued a preliminary request for the extradition of Abu Daoud for trial as a participant in the murder of Israeli athletes at the Olympic games in Munich in 1972. The French Government has indicated that the German request was deficient in certain highly technical requests. This claim is hardly persuasive, however, as international law, by treaty and practice, allots a minimum period of 20 days for the filing of the relevant documents. As the Washington Post noted in its editorial on this matter in its January 19 edition:

> Is it not bizarre to hear French "independence" rationalized on grounds that a German clerk failed to file a routine piece of paper 19 days ahead of schedule?

The French authorities appear to have acted with extreme and highly unusual haste in convening a special, secret session of the tribunal which hears extradition cases. Just 1 day after the receipt of the preliminary extradition requests, the tribunal convened, 6 days ahead of schedule. The proceedings were held in secret, a clear departure from normal procedure and an apparent violation of accepted international practice.

In conclusion, Mr. Speaker, it seems clear that the French authorities took highly unusual measures to speed the release of Abu Daoud, in the process apparently violating the terms of its extradition treaty with Israel and accepted practices of international law. The political considerations which surely motivated these departures from normal procedure should have no place in the fair and impartial administration of justice, and they will certainly constitute a severe setback in the continuing fight against international terrorism.

Mr. WAXMAN. Mr. Speaker, the release of Abu Daoud by the French Government has the gravest implications for the success of efforts by sovereign governments to control—individually and collectively—international terrorism. It is a decision which will return time and again to haunt innocent peoples everywhere.

The facts are startlingly clear. Abu Daoud is a leading figure in the Palestine Liberation Organization. He has been accused of responsibility as architect of the murderous assault on Israeli athletes in Munich in 1972. It is for this heinous crime that indictments have been issued by the West German and Israeli authorities for his arrest, and for which an international warrant for his seizure was outstanding. The Israeli secret service, Mossad, informed French authorities that Abu Daoud was in France, under an assumed name and an Iraqi passport. As soon as Abu Daoud was arrested, both Israel and West Germany sought his extradition. A hearing on their requests was set for later in January, to determine whether the requests should be honored. France was signatory to an antiterrorist convention which provided for extradition of suspected terrorists for trial in countries where their crimes had been committed. Nevertheless, 2 days after his arrest, a French court released Abu Daoud, who flew to Algeria, free to continue his activities.

The French Government acted under extreme pressure from the Arab world, whose ambassadors urged that Abu Daoud be freed. Implicit in their conversations with the French Government was the threat of the renewed exercise of the Arabs' oil weapon. The Egyptian Ambassador was a central figure in conveying these and other demands, and indeed, a day after Abu Daoud's release, it became known that France had reached agreement with Egypt to construct a factory capable of producing 200 Mirage fighters for the Egyptian Air Force by 1980.

France has therefore shown the world that it is willing to pay any price to escape retaliation from terrorists and their supporters. It acted in utter disregard for its extradition agreements with Israel and West Germany. It informed terrorists everywhere that France will not seek to hold international criminals, who have murdered and extorted and subverted, accountable for their actions.

When political terrorism was in its infancy, Golda Meir remarked that in blackmail the first payment was always the easiest, and that the price for each successive demand could only grow higher. Her words ring true to this day. The reign of terror wielded by the PLO no longer extends simply to hijacking airplanes to make statements about the righteousness of its cause, or seizing embassies and diplomats in order to secure the release of other criminals now in jail, but reaches instead to threats to retaliate by jeopardizing oil supplies and the investment of petrodollars. The terrorists now have a hold, in other words, not only on a political cause but on the economic welfare of the developed nations. And they have enlisted in their blackmail other sovereign governments, who act as their agents, and who not only encourage these activities, but give these criminals financial and military support.

To the extent that these demands are met, these activities will only be continued. To the extent that such acquiescence to these demands is tolerated by the world community as a whole, these activities can only be encouraged.

In the absence of a coercive world government with its own police powers, it may well be that each nation will continue to succumb to the temptation of protecting its narrowly defined self-interest at the expense of enforcing an international rule of law. But that does not mean that other nations must stand idly by when terror finds a refuge and criminals are loosed upon the world community.

A mere protest by our Government and others is not enough. It must be made clear to the French that their capitulation has jeopardized the degree of economic and political cooperation between our countries. And I believe our Ambassador to France should be recalled to underscore our determination in this regard.

Terrorism can only be stopped when nations make clear that it will no longer be tolerated. If terrorists know they can successfully evade prosecution under law—that they will not be held responsible for their crimes—there are no limits on what they will seek, or whom they will attack. And so the American ambassador is murdered in Khartoum, and the Saudi Arabian embassy seized in Paris, to effect the release of the same Abu Daoud. And so the oil ministers of OPEC—the very hand that feeds them—are kidnaped in Vienna by Black September, and held hostage for greater support for their political demands.

In the end the greatest price is paid—in human lives—by innocent victims everywhere—innocents who find themselves swept up in events over which they have neither responsibility nor control. They are not only hostages, but pawns. The capitulation of France has jeopardized the security of innocents everywhere.

Therein lies the tragedy of France's action, and the outrage which it has perpetrated on the world.

I have sent a letter to the French Ambassador expressing my feelings in this matter, and wish to attach it for the benefit of my colleagues:

JANUARY 11, 1977.

Ambassador JACQUES KOSCIUZCO-MORIZET,
Embassy of France,
Washington, D.C.

DEAR MR. AMBASSADOR: I view with horror and profound disappointment the release yesterday of Abu Daoud by your government. This action came prior to a resolution of the requests for his extradition by the governments of West Germany and Israel, who have issued indictments for his arrest. Abu Daoud is alleged to have been the architect of the massacre of eleven Israeli athletes at the Olympic games in Munich in 1972. The interests of justice demanded that Abu Daoud be brought before the criminal courts to stand trial.

The Government of France has apparently succumbed to political pressure from the Arab world to release this known terrorist in order to secure protection from reprisal by guerilla organizations and those who give sanction to and support for them. Your government's act is nothing less than complicity in extortion, and has been taken in direct contravention of an antiterrorist convention which has been drafted with the participation of representatives of your government.

Because of your government's actions in this instance, it may well appear to terrorist organizations the world over that they may act with impunity and that their members will not be held responsible for their actions. The true victims of the sad example your government has set are the innocent people—men, women, and children—who will continue to be used—in airplanes, consuls, and stadiums—as pawns in a criminal struggle.

I have asked my government to join in protest of your actions of yesterday, and to take such steps as necessary to facilitate the full implementation of the draft antiterrorist convention.

Sincerely,

HENRY A. WAXMAN,
Member of Congress.

Mr. KOSTMAYER. Mr. Speaker, I rise today to express my very deep concern over the action by French officials in releasing suspected Palestinian terrorist Abu Daoud on January 10.

That action was indicative of a terribly cynical foreign policy based on pecuniary interest while ignoring any sense of justice or fair play.

It is well known that the French Government has been currying the economic favor of the Arab nations. Witness, the sale of Mirage jets to Egypt the day after Daoud's release. But it now appears that the French Government is willing to go far beyond the limits of an economic alliance, by allying itself with an international criminal.

When the West German and Israeli Governments requested Daoud's extradition many of us hoped that this dangerous criminal would finally be brought to justice. And that the grief felt by the civilized world as a result of his crime might be somewhat relieved.

The French may have been justified in denying the Israeli proposal. The extradition agreement they signed in 1975 was not retroactive to 1972.

However, the refusal of the West German extradition request was unconscionable and it demonstrates a policy based in pure politics rather than one based even partially in principle. The French Premier Raymond Barre has stated that the original decision to begin the extradition process was not a simple procedural matter. Rather, he said, it was a political decision.

Why, then, was this political process short circuited before the end of the 20 days during which the West Germans could request extradition? The answer to that question remains unanswered.

It is my view, Mr. Speaker, that the French authorities have allowed a dangerous international murderer to escape justice. I am dismayed that today Abu Daoud is still a free man while the murder of 11 Israeli athletes at the 1972 Munich Olympics remain unpunished and unsolved.

Mr. Speaker, the deaths of too many Jews have gone unpunished. Let us today in this Congress speak out against those not only who take human life, but against those who allow that slaughter to continue by their silence and consent.

Mr. Speaker, we in this country feel strongly about justice. Our record is not perfect, but it is a good one. We ask only that our "enlightened" allies join with us in securing justice and safety for all people.

Mr. DODD. Mr. Speaker, I would like to join my distinguished colleague from New York (Mr. WEISS) in deploring once again the premature release of Abu Daoud by the French Government. In the last several days, I have been actively involved with a number of my colleagues in a thorough scrutiny of the circumstances surrounding Mr. Daoud's detention and subsequent release.

As part of a congressional delegation organized by Mr. MAGUIRE, I met yesterday with the French Ambassador to the United States—His Excellency Jacques Kosciusko-Morizet—to receive a direct account of the events of the last week as they are seen by the French Government, and to question him on the points that seemed to require further clarification. This morning, I attended with a number of my colleagues a meeting which I arranged with the German Ambassador to the United States, His Excellency Berndt Von Staden. The purpose of this meeting was to obtain the official German account of events and the Federal Republic's position on the matter.

At the conclusion of these two meetings, I cannot state unequivocally that I am entirely satisfied with either the French Government's or the West German Government's official explanations. It would appear to me that French legal practice would indeed have allowed the French authorities to detain Mr. Daoud for a full 20 days in full accordance with the Franco-German Extradition Treaty, and in anticipation of the stated intent of the German Government—which was to extradite Mr. Daoud to the Federal Republic. It is also apparent that the German authorities could have confirmed their intention of extradition through diplomatic channels prior to the meeting of the French court which resulted in the release of Mr. Daoud.

However, while the German Government may have failed to act with the promptness and decisiveness that this situation required, the French authorities remain ultimately responsible for the release of Abu Daoud.

Given the serious possibility of Daoud's involvement in the Munich massacre, and the role that his case could have played in demonstrating France's determination to combat terrorism, the release of Daoud is indeed a most regrettable act. It has already resulted in strong adverse reactions from many Western governments, and can only compromise France's credibility in the fight against world terrorism.

In light of these circumstances, I feel strongly that it is incumbent on this body to express its disappointment with the action of the French Government. I have already expressed such sentiments to French President Valery Giscard d'Estaing in a telegram which was cosigned by 28 other Members of Congress, and I am making a personal commitment to a voluntary boycott of French products until the French Government demonstrates a firm commitment to renew its efforts against acts of international violence. I hope that the Congress as a whole can supplement many of our individual expressions of indignation by adopting in the near future a resolution denouncing the release of Abu Daoud. In addition, I would sincerely hope that this unfortunate experience may result in our unified determination to press for an international convention which provides all interested governments with adequate tools with which to reverse the still uncontrolled growth of international terrorism.

Mrs. SPELLMAN. Mr. Speaker, perhaps the recent actions of the French Government can best serve to remind us of the principles upon which our Nation was founded. We have just completed our Bicentennial; tomorrow we will inaugurate a new President. Both events celebrate our status as leaders of the free world, a position which we have held since our original declaration of independence. Our revolution marked our decision not to compromise our morals at the orders of other individuals or nations. We have given countless lives to preserve these morals and rights, for our own people and for other peoples.

This past week, we observed what can at best be called a travesty of justice. A man who stands accused of the deliberate murder of 11 Israeli athletes and 2 West Germans at the 1972 Munich Olympics, Abu Daoud, has been released apparently for the best interests of the French economy. This same man may well have been involved in the slaying of our own Ambassador to the Sudan. For a price, justice was bought. After a cursory hearing, Abu Daoud was released.

This event should serve notice to all who have become complacent that our freedom and judicial system are priceless. We cannot barter these as commodities; we cannot sell our whole system of moral values.

The release of Abu Daoud mocks justice. For me, it can only bring the deepest sorrow. For not only have we observed a man accused of the most despicable crime released, but also we have seen the world made that much safer for those who engage in terrorist activities at our expense. Once before in this century, we tried to buy time and peace over principles. We served then only to encourage the horror of the Third Reich. Now this method of international terror has once again been encouraged and justified.

It is a comfort that I am not alone in my sorrow and consternation. Many of my colleageus have addressed this body and the world. Other statesman in other nations have shared in this outrage against humanity perpetrated upon us. What we feel can only be described as cheap: One innocent life is worth just how many gallons of crude oil?

To those of us who value humanity, morality, and justice, this must be a time of mourning and of renewed commitment. Our strengths and our policies must be dictated by these values—they must never be dictated by another power. In this tragic action of the French Government, we have learned how very susceptible a modern nation can be. Let us be sure that we never, never succumb to those same temptations ouselves.

Mr. BADILLO. Mr. Speaker, millions of people throughout the world perceived the Munich massacre as a profound affront. The release of Abu Daoud, a criminal believed to have participated in that grievous attack, by the French Government is a slap in the face to every person who believes that the human rights and life of every citizen of this world is sacred.

Beyond the disregard of the French Government of the crimes of which Daoud is accused, this incident vividly points up the necessity for international treaties and agreements to prevent incidents of this sort in the future. Many of us, during the past months, have become increasingly aware that an international agreement—firm and stringent—must be reached to control terrorism of the sort that ended innocent lives in Munich. The callous action of the French, in disregard of existing international law and an existing Extradition Treaty with Israel, indicates that any such treaty must have strong and irrevocable provisions for the extradition of those terrorists who are captured. Somewhere there must be an end to the random acts of a few fanatics, and we must make demands on every nation in the world that will preclude further breaches of international law.

GENERAL LEAVE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

NEEDED RELIEF

The SPEAKER pro tempore. Under a previous order of the House, the gentlemen from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, today I am introducing two bills, one which would increase the personal exemption from $750 to $1,200 and another which would allow workers now on inadequate pension plans to establish their own plans up to $1,000 or 10 percent of their salaries—whichever is greater. A husband and wife could set aside $1,750.

The first proposal would increase the equity of the tax structure and relieve the burden of taxation, particularly on moderate-income families.

The personal exemption serves the very important purpose of shielding a basic amount of income from income taxes and is an integral part of a tax structure based on ability to pay. However, this personal exemption has not been sufficiently increased to account for effects of inflation on income. The personal exemption was $600 in 1948, a level at which it remained until 1969. Subsequent changes in 1971 set the current exemption at $750. The Tax Reduction Act of 1975 and subsequent acts in 1975 and 1976 added a temporary credit, currently equal to $35.

Despite these changes, the value of the personal exemption is significantly less in real terms than it was in 1948. Without the temporary credit the exemption should have been increased to $1,445 based on the change in the Consumer Price Index from 1948 to November 1976. Thus even an increase to $1,200 would not entirely make up for the erosion in the value of the exemption due to inflation. If the $35 credit is continued, the provision will be closer to maintaining its real value. A $35 credit is roughly equal to a deduction of about $175; thus the value of the personal exemption would be around $1,375 if my proposed increase is adopted.

To illustrate the point more clearly, note that by deflating the personal exemption of $750 to 1948 dollars, we discover that the value of the exemption is $311. In other words, the current value of the personal exemption in real terms is only half its original value.

The personal exemption is not the only tax provision which is eroded by inflation. A graduated rate structure also means that taxpayers are constantly being pushed into higher income tax rates. In part because of this inflationary effect,

several tax cuts have been enacted. However, these tax cuts have been primarily concentrated on low income taxpayers. The average family which has a moderate income and perhaps itemizes deductions is paying a higher effective rate of tax every year because of the graduated rate structure. The only relief from tax legislation has been a small increase in the personal exemption and the temporary tax credit.

We have allowed inflation to impose an increasingly heavy burden on these middle income taxpayers. For families raising children and trying to save for educational expenses in order to send their children to college, this increasing tax burden has squeezed their resources. An increase in the personal exemption will relieve the increasing burden of taxation on these hard pressed families and provide some of the first substantial relief from the effects of inflation in the past decade. These taxpayers have been, in large part, forgotten in various tax relief acts which have occurred in recent years.

Even this change will not relieve totally the increasing tax burden which occurs as an effect of inflation. To do so would require adjusting the tax rate for inflation as well. However, it is an important first step which can be taken toward relieving these taxpayers of ever increasing effective tax rates.

The other bill I am introducing would improve the private retirement system by allowing individuals to establish their own pension plans—individuals whose pension plans are inadequate. It has been suggested that every individual taxpayer and spouse should be encouraged to accrue during their income-earning years, savings of sufficient magnitude that they will be able, throughout their retirement years, to maintain a standard of living reasonably comparable to the standard that they maintained in their income-earning years.

Too many plans provide inadequate coverage, particularly in view of increasing costs.

Some relief has been provided by the Pension Reform Act of 1974 to the self-employed and to those who have no plan whatsoever. However, I am still very much concerned about those who have very small pension plans and who need relief.

My bill quite simply, would give those persons an option quite similar to the IRA's individual retirement accounts and the Keogh plan. Briefly stated, it would permit an individual to put aside $1,000 or 10 percent of his or her salary whichever is greater. Or in the case of a husband and wife $1,750.

An objective of the Congress when it developed the legislation of 1974 was to increase the number of workers participating in qualified plans. Still a large proportion of uncovered workers are employed by small corporate employers and those are the people we in the Congress must help, and hopefully by approving this legislation which I introduce today.

UNEMPLOYMENT, POVERTY, AND THE TRUTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MICHEL) is is recognized for 10 minutes.

Mr. MICHEL. Mr. Speaker, I recently came across an article written by John Fialka of the Washington Star. In that article, Mr. Fialka outlined the sad facts of our welfare society in which "several billions" of taxpayers' money has been misspent in only the last 4 years. He quite correctly sees the welfare psychology as one ultimately damaging to the United States and asks where we are headed.

He writes:

The momentum is pushing us in the direction of Britain where nearly everybody is absorbed with plans to use other people's money. It has gotten to a point where they are running out of people.

Other people's money. I would like to see those words engraved in the wall above the Speaker's chair. For all the brave talk we hear of the need to spend, one would think that the Congressmen who call for bigger spending programs were spending their own money. But it is other people's money and we are running out of people from whom to wrench it through taxation or inflation.

What the American people need is the truth about the relationship between Government spending and inflation. What we need is an accurate discussion of topics like unemployment and poverty and the taxpayers' dollars that are used to cure them.

The tragic fact of the matter is that congressional discussion of these subjects has not only done a disservice to the facts—it has contributed to conditions which have hurt, not helped, those most in need. Not all those in Congress who cry "Jobs, jobs" are doing the work that can bring about jobs for those who need them. Congressional abuse of the unemployment and poverty problem for political purposes has contributed in no small way to the suffering of those poor and unemployed Americans who should come first in our efforts to find jobs for those seeking work. Demagoguery is not too strong a word to use to describe some of the arguments we have heard in Congress to justify the inflationary Government expenditures that actually cause more sorrow and anguish to the unemployed and the poor.

The cruel politics of inflation, the politics of the majority in the Congress, the politics of spending what the taxpayers do not have and making them pay for it, the politics of using the Government printing presses to try to wipe away the excesses of congressional spending—this is what hurts the poor and the unemployed and the elderly and the needy. It is about time the spokesmen for that kind of politics in the majority party admitted what they have done to families and individuals all across this Nation.

This politics has a rhetoric all its own, a rhetoric that rolls over reality like a tank rolling over a field of daisies.

Let us look at the facts—the real facts of unemployment:

In November 1976, the total number of unemployed persons seeking full-time employment was estimated at 7,095,000.

But what those who want to solve that problem with inflationary Government spending do not tell us is this:

Forty percent of all unemployment is for less than 5 weeks.

Nearly half of the unemployed were women, many of whom are not regular wage earners and are not heads of households.

Over 1½ million of the unemployed were re-entering the job market after an absence. They were not "thrown out of work." They left the job market for a time and are now re-entering it. This is not cause for concern; on the contrary, they are a net gain to the productive capacity of the country.

In November 1976, over 800,000 left jobs voluntarily.

Over 800,000 of the currently unemployed are looking for their first job. Nearly all are dependent on parents and, therefore, not urgent jobseekers.

Finally, we get to the urgent jobseekers, the ones who should come first, the ones whose needs are most pressing: The heads of households. Slightly over 2½ million are unemployed. This is not to be tolerated and we must find jobs for those Americans who have kids and family responsibilities. To lump them together with all the other categories for the sake of boosting the really urgent unemployment figure is nothing short of contemptuous.

And for those who think that the unemployment figure means there are not enough jobs, let us look at some other figures:

Let us look at these figures as they were published by the Wall Street Journal, January 17, 1977. They concern not unemployment but the other side of that issue—employment:

In the past decade total employment in the United States has grown twice as fast as the population.

The last 10 years alone have seen more new jobs of all kinds generated than there are men, women, and children in the cities of New York, Chicago, and Los Angeles combined.

A decade ago there were 37 people with jobs for every 100 infant, child, and adult mouths. Today there are 41 jobs for every 100 mouths.

Total employment growth in the last decade is almost double that of the other two decades since World War II.

Increase in employment in the decade 1947–57 was 12.3 percent; in the decade 1956–66, 14.3 percent; and in the decade 1966–76; an amazing 21.2 percent.

Now, Mr. Speaker, a question arises: If we have been in the midst of such a well-documented period of growth in new jobs, if new jobs are being created at an unprecedented rate, why is our public discussion of the number of Americans working and not working limited always to "the rate of unemployment"? What, indeed, can that single figure possibly mean when measured against the other figures I have just mentioned? It could be argued that by limiting the discussion to one criterion we have not only distorted reality—we have possibly set in motion machinery of government which will take away from the private sector funds needed to eventually create even more new jobs. So what we are doing is not simply indulging in statistical differences—we are deceiving the public.

I have yet to hear one Member of this

House who favors the creation of public jobs at taxpayers expense refer to the fact that during the past 10 years "transfer payments"—tax money going to people who are not working, has gone up a mind-boggling 340 percent. In 1966, $44.7 billion was paid to the "nonworking payroll" in transfer payments—last year the figure was $196.7 billion.

And then there is the recent study undertaken by the Congressional Budget Office. Here, as reported in the Washington Post, January 17, 1977, is what that study says about the food stamp program:

The stamps increase the purchasing power of those who receive them, and only part of that increase—57%, on average—is used to purchase additional food. The other 43% represents income "freed for nonfood purchases."

The stamps also serve in the same way as an increase in the federal share of regular welfare payments would, to even out the level of welfare benefits nationwide by narrowing the benefit differences between high-paying and low-paying states.

The Census Bureau has never counted food stamps as income in measuring poverty in the United States. The CBO report says that if it did, as perhaps it logically should, the number of people found to be poor would be reduced by about 4 million, or nearly 30%.

Mr. Speaker, may I point to that beautifully understated phrase, "as perhaps it logically should," in the section dealing with counting food stamps as income. The use of "perhaps" is an exercise in journalistic prudence rarely encountered these days. Since I am under no obligation to practice the journalistic virtues, let me just say that there is no logical reason not to count food stamps as income. There is every reason to do so and a failure to do so is the worst case of statistical slight-of-hand in recent history.

There are those who point to this explosion of the welfare society as proof that the Great Society worked. Nothing could be more misleading. If Americans had the same dollars that were confiscated by the Government to pay for welfare schemes and used them for capital investment, savings, purchases in the marketplace, there would be no need for Great Society welfare programs of this magnitude. The only people who are making money out of the welfare programs are the well-entrenched welfare professionals and the sociologists and the poverty warriors who have created a whole new subculture of American society, the very existence of which depends upon more Americans being seen as living in poverty. If you took all of the money that has gone to these welfare professionals and well-paid Federal poverty warriors and put it back where it belongs, in the pockets of the hard-working middle class, that money would create jobs, real jobs, productive jobs.

Mr. Speaker I am not a master of statistics. But I ask my colleagues who are: Just when is the Congress going to stop kidding the people? When are the true facts of unemployment and poverty going to be used as a basis for discussion? Just when is demagoguery going to be replaced by an honest look at these complicated subjects?

I would like to place in the RECORD at this point the entire article alluded to earlier from the Wall Street Journal:

REVIEW OF CURRENT TRENDS
IN BUSINESS AND FINANCE

(By John O'Riley)

When inflation is resting, employment and unemployment get more talked about than any other economic matter. Unemployment gets 99% of the attention. But, as the White House changes hands, a look at the other side of the coin—the employment—is most interesting. To some, it may be startling. The past decade has seen total employment in the U.S. grow about twice as fast as the population. And the decade's rate of employment growth has been vastly sharper than that of either of the other two decades since World War II.

The last ten years have seen more new jobs of all kinds generated by the U.S. economy than there are men, women, and children in the cities of New York, Chicago, and Los Angeles combined. There has never been anything like it. The country has grown a lot, but nothing like as fast as the job supply.

The table below traces the population and total employment from 1966 through the year just ended. The 1976 employment figure is the final count, for December, issued last week by the Department of Labor.

People and jobs

[In thousands]

	Population	*Employment*
1966	196,560	72,895
1967	198,712	74,372
1968	200,706	75,920
1969	202,677	77,902
1970	204,878	78,627
1971	207,053	79,120
1972	208,846	81,702
1973	210,410	84,409
1974	211,901	85,936
1975	213,540	84,783
1976	215,355	88,352

The pattern of the figures over the ten-year period adds up to:

Population: Up 10%.

Employment: Up 21%.

Thus the ratio of the number of workers to the number of mouths to be fed has gone up. A decade ago there were 37 people with jobs for every 100 infant, child, and adult mouths. And today there are 41 jobs for every hundred mouths.

Very rarely noticed at all is the way new job creation in the economy over the past ten years compares with that of the other two decades since World War II. The latest period, despite the deepest recession since the 1930s and a high and constantly publicized unemployment "rate," easily heads the parade in this respect. Its total employment growth rate is not quite double that of either of the other two—but it is very near it.

Following are the total employment growth rates of the three decades. The first decade is started with 1947 because through 1946 the labor force included 14-year-olds; since then the starting point has been 16 years of age.

Employment gains: 3 decades

[In percent]

Decade:	*Increase*
1947–1957	Up 12.3
1956–1966	Up 14.3
1966–1976	Up 21.2

But how does this jibe with the high unemployment "rate" of recent years?

The basic problem lies in the public failure to understand what causes "unemployment." In the popular mind, there is just one cause—people losing their jobs. A given number of unemployed is invariably referred to as so many people being "thrown out of work." But job loss has not been the big cause at all lately. The big cause of current unemployment has been the unprecedented number of new job seekers scrambling to get on the paycheck bandwagon. All the seekers are "unemployed" until they find jobs.

The great growth in new job hunters has been well documented. The maturing post-World War II "baby boom" swelled the growth of the working-age population sharply in 1966–76. Inflation and other forces spurred more women and teenagers to seek work—with much success. Employment of adult women spurted 37%, in the past decade, and that of teenagers 28%.

Then there is surely another prop to today's high unemployment "rate" that can't be measured. Nobody can even prove statistically that it is a prop. Yet it must be—and it may be a big one indeed. This is the very large flow into public pockets of non-paycheck money—unemployment compensation, social security retirement money, welfare money, and so on—that just may cause many people to list themselves as unemployed when they aren't really trying very hard to get employed.

The government has a name for this money flow. It is called "transfer payments." It applies to money that is transferred to people who aren't actually working for it when they get it. Here is the record of its growth in the past decade, with the November annual rate representing 1976. Dollar figures are billions.

The non-working payroll

(Transfer payments)

Year	*Total*
1966	$44.7
1967	52.6
1968	59.9
1969	66.5
1970	79.9
1971	94.1
1972	104.1
1973	118.9
1974	140.3
1975	175.2
1976	196.7

The tale of the transfer payments runs thus:

In One Decade: Up 340%.

Nobody says all this "non-working payroll" is bad. But it surely puts some sort of brake on the job-hunting vigor of many counted as "unemployed." A person on extended unemployment payments or welfare may not look as hard. Neither may an out-of-work man whose elderly parents on social security do not depend on him for support—as in the past.

In any case, that $196 billion adds up to a very big part of the public's spending money. It's enough to cover all the retail sales in the nation for three and a half months—more than a fourth of annual sales. It equals five times all the dividends paid to the country's stockholders in a year. It is a fifth as much money as is paid in wages and salaries to all the working folks.

No, on both job creation and non-working pay, the U.S. economy has done pretty well in recent years. Still—it's said to be "sluggish." It's said to need "stimulation."

FIRST ORDER OF BUSINESS—THE RIGHT TO LIFE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 15 minutes.

Mr. BAUMAN. Mr. Speaker, with the opening of the 95th Congress and the renewed talk about "reordering priorities," it would seem to me that there is

no higher urgency in the area of our fundamental civil rights than the right to life itself. I am today reintroducing a constitutional amendment guaranteeing the right to life to all human beings within the jurisdiction of the United States.

The text of my amendment follows:

H.J. RES. 154

Joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right of life to the unborn

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, shall be valid to all intents and purposes as a part of the Constitution only if ratified by the legislatures of three-fourth of the several States within seven years from the date of its submission by the Congress:

"ARTICLE—

"SECTION 1. With respect to the right to life guaranteed in this Constitution, every human being, subject to the jurisdiction of the United States, or of any State, shall be deemed, from the moment of fertilization, to be a person and entitled to the right to life.

"SEC. 2. Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.".

Mr. Speaker, several times during the last Congress, expressions of support for the right to life were voted by the Members of this body culminating into what has now been called, the Hyde amendment. As a supporter of that amendment offered by my distinguished colleague, Representative HYDE, I join with many other Members in lamenting the failure of the Congress in enacting a right to life amendment to the Constitution.

Since the deciding opinions were written in the case of Doe against Bolton, and Roe against Wade, the Supreme Court has implicitly challenged this Congress to act as the political instrument to express the will of the people on the matter of right to life. Yet for 4 years, the Judiciary Committee has wavered, waffled, and done anything other than permit a genuine vote on this issue which is much on the minds of millions of our fellow Americans. I have personally heard expressed the most imaginative, ingeneously contrived excuses by some to cover up for the general inaction and I am reminded of a line by Robert Frost:

We dance arounc the circle and suppose, while the secret sits in the middle, and knows.

The secret is simply that an overwhelmingly majority of Americans want this Congress to reaffirm the right to life, and it is only the concerted action by a few which prevents the Congress from being able to do so.

Yet there must no longer be excuses. The new Secretary of Health, Education, and Welfare has made his views known as an articulate opponent of abortion on demand to ever hold that distinguished office. The President-elect, several members of his Cabinet who have publicly spoken out on the matter and a continuing number of public officials have joined their constituents' support for the principle of the right to life. And only 3 days away, a right to life march to be held in a Nation's Capital nearly frozen still by this cold wave will remind us that neither the geographic distances from our districts nor the walls of Congress can keep us from hearing the clear, determined, anguished chants for the right to life.

I say that the Congress must act, because in Roe versus Wade, the Supreme Court denies 14th amendment protection to the unborn child. The Supreme Court denies that the child is a person, and therefore, no more rights are to be accorded than would otherwise be given a head of lettuce or any other inanimate object. In a nation as conscience bound as ours, this would seem to be an intolerable instance of legal limbo, and therefore, I am compelled to push for early House consideration of this matter.

Mr. Speaker, I would like to briefly address myself to the legal nature of my bill. The amendment which I am offering today provides that every human being subject to the jurisdiction of the United States or any State shall be deemed from the moment of fertilization to be a person entitled to the constitutional right to life. This amendment is identical to one introduced in the other body by my distinguished colleague, Senator JESSE HELMS.

Under this amendment both the Federal Government and the States would have the power to enforce the amendment by necessary legislation. My proposal does not contain an exemption clause such as appears in some other amendments which have been offered by my colleagues. While it is not possible to ignore the problem which arises in cases where a pregnancy places the life of both mother and child in simultaneous danger, such instances are today very rare in medical annals. I do not think that physicians treating their patients in good faith should be placed in legal jeopardy but it would be a mistake in my view to amend the Constitution in a manner which provided a broad exception clause which might be used to permit wholesale abortions under cover of law. That is one of the major reasons why I have used the specific language of my amendment.

While my amendment does make the right to life a Federal constitutional right, it does not preempt the rights of the several States to pass laws against abortion including penalties for such acts. I think it is necessary on a constitutional basis to permit the States to have full powers to legislate prohibitions in this field in order to reach private acts under the 14th amendment.

Mr. Speaker, I am sympathetic to the argument that a woman should have the right to do what she wants with her own body. However, the preponderance of scientific evidence is that an unborn child is an individual human being. The first principle of any civilized society is the right to life of each individual. For society to be both civilized and free, individuals must not only assert their own rights, but respect the equal rights of others.

What about children who are unwanted, and likely to live lives of deprivation or abuse if they are allowed to be born? This problem is not insoluble. There are millions of couples in this country waiting to adopt babies. In some areas the waiting period is more than 3 years. We need better programs to bring those who do not want children together with those who do.

We cannot guarantee any unborn child that his life will be pleasant or risk-free. Life offers only the chance to make the best use of the abilities and opportunities which are yours. Who has the right to decide in advance that a baby waiting to be born will not have even that chance?

It is also wise to consider abortion in the larger context of what many view as a widespread decline in moral standards in the United States. I do not believe that it is the business of Government to enforce any one standard of morality. But we should be careful about legislation in effect, encouraging behavior which, I believe most Americans still regard as immoral.

Mr. Speaker, there are many important matters to be considered by this Congress which can nevertheless wait in the ever present rush of bills and resolutions. This is not one of them. We must not be too patient in waiting for the Congress to eventually consider the first concerns of our citizens or the citizens will lose patience with us. I respectfully urge the earliest consideration of this legislation by the appropriate committees including full hearings to be held on it by the Judiciary Committee to guarantee the right to life.

CONGRESSIONAL PAY RAISE—DILEMMA AND SOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, the President's recent budget message included his transmittal of the Quadrennial Commission's recommendation for a substantial increase in salary for Members of Congress and other top-level Federal officials. For Congressmen the increase will be over $12,000.

As of January 17, the date of transmittal, the clock started running on the pay raise proposal. Unless either House of Congress votes to reject the increase within 30 calendar days after the transmittal, the recommendation will automatically become law. By the time this statement appears in print in the CONGRESSIONAL RECORD, 10 percent of the time will already have elapsed.

There should be no misunderstanding—all that is required for the pay raise recommendation to go into effect is that we do nothing, that neither House of Congress takes any adverse action. And it appears as if this is precisely what will happen.

In order to reject the pay raise recommendation, either whole or in part, a resolution of disapproval is required. Such a resolution must follow the usual course for a bill—referral to committee, hearings, markup, rules, floor debate—and it is highly unlikely that any resolution of disapproval can or will make it to the

floor in the short time allowed. And it is even less likely that a discharge petition could succeed.

This is unfortunate, in my opinion.

Yes, I am a supporter of the proposed increase in salary for Congressmen, judges, and high-level administrators. I believe the increase is necessary and justifiable for a number of reasons, most of which were ably set forth in the report of the Quadrennial Commission.

However, I would like to have a vote on the pay raise. I believe we have an obligation to the American public to put ourselves on record on this matter and to conduct our deliberations in an open and forthright manner.

Now, Mr. Speaker, I shall turn to a topic I have spoken on several times before. That is the question of when a congressional pay raise should go into effect. I am not concerned now with whether or not there should be a pay raise, nor am I questoning what its size might be; I just want to talk about when any congressional pay raise should come.

It strikes me as rather unseemly to have to vote, year after year, on a matter that is to my direct, personal, and immediate benefit or detriment. Yet this is what every Member of Congress must do each and every time we consider the question of congressional salaries.

As I note above, I do not want to do away with voting—a direction in which we seem to be headed—but I also do not want constantly to find myself in this recurrent and obvious conflict-of-interest situation.

This is not an unsolvable problem. The solution is simple. We must enact the Congressional Pay Raise Deferral Act.

Derived from legislation in the 94th Congress, this bill was introduced on the first day of this new session as H.R. 1365. The principal sponsors are myself, NED PATTISON, NEWT STEERS, and DON PEASE. Already, we have about 45 cosponsors.

The Congressional Pay Raise Deferral Act would postpone any increase in congressional salaries until the start of the Congress following the one in which the increase is proposed and approved. With this simple change in the statutes we would no longer be acting to our own immediate advantage, but would instead be deciding the salaries of those who are elected to serve in the next Congress.

In this way, we can remove ourselves from the awkward conflict-of-interest situation in which we are now trapped and also would be giving our constituents a fair and timely opportunity to pass judgment on the wisdom or folly of whatever we decide regarding pay increases for Congressmen.

Our proposed legislation, by the way, would not hold back other top-level salaries during the congressional deferral period. Judges and supergrades are not in this conflict situation, and we do not feel it is right that they should have to bear the burden of our peculiar plight.

Mr. Speaker, I think prompt action on the Congressional Pay Raise Deferral Act would be in the best interests of the Congress and the Nation. Therefore, I call upon our colleagues on the Post Office and Civil Service Committee to begin consideration of this legislation as soon as possible.

In the meantime, the bill remains open to new cosponsors. Any Member wishing to be listed as a cosponsor should contact me or my office.

CONGRESS AND PRESIDENT-ELECT SHOULD REGAIN EFFECTIVE CONTROL OVER FEDERAL BUREAUCRACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 10 minutes.

Mr. MILLER of Ohio. Mr. Speaker, in my judgment, one of the priorities of this Congress and one of the stated priorities of the President-elect is to regain effective control over the Federal bureaucracy. In this regard, the House Committee on Small Business has taken a step in the right direction as evidenced by the following statement given by the distinguished columnist, James J. Kilpatrick, in the January edition of Nation's Business:

STATEMENT BY JAMES J. KILPATRICK

In August of 1975, the Federal Trade Commission published a proposed trade rule for the funeral industry. In October of 1976, a House subcommittee filed a report on the matter. The controversy merits a moment of your time. If we are to learn a few lessons in what big government is all about, the story of the funeral homes can provide a useful textbook.

The funeral industry is a substantial industry. Though many of the country's 22,000 funeral homes are quite small (the national average is only 94 funerals per home per year), the industry reported gross receipts in 1974 of $2.6 billion. It might be supposed, however, that the burial of a local person by a local mortuary in a local graveyard would qualify as intrastate commerce, beyond the reach of federal authority. FTC says not. In FTC's view, funerals "affect" interstate commerce. The trade practices of the funeral homes "are clearly a proper concern of the federal government." Hence the proposed trade rule.

Such rules do not materialize out of the nowhere into the here. They are products of human initiative and human endeavor. In the case of the funeral homes, it appears that at some point early in 1973, an FTC staff attorney, Arthur R. Angel, became interested in the funeral business. The more he thought about it, the more attractive a trade regulation seemed to be. He communicated his enthusiasm to his associates. They spent the next six months reading magazine articles, dissertations, and other material. They interviewed funeral directors. When the staff began looking into the industry, FTC had fewer than a dozen consumer complaints on file. The staff went to work anyhow.

Before they were done, FTC had spent $449,000 over a 20-month period on hearings, paperwork, staff time, printing, and the like. A host of favorable witnesses were rounded up. Under the heading of "public participation," FTC funded seven groups to the tune of $79,000; another $2,600 was paid out for their travel expenses. Consumers Union got $3,980 for a "written analysis of proposed rule." The New York Public Interest Research Group got $8,300. The Continental Association of Funeral and Memorial Societies got $18,000. Another $18,000 was paid to the Consumer Affairs Committee, Americans for Democratic Action, and National Council of Senior Citizens. The California Citizens Action Group got $15,500. And so forth.

In this fashion, the FTC staff compiled a record to support a final report and recommendation. The staff study turned out to be curiously shrill and almost contemptuous in its tone. I wrote in a column last year that some animus seemed plainly to be at work in the drafting of charges against the funeral industry; a recent rereading of the staff study confirms that impression. When the time came to draft this study, it was us against them; the funeral directors had become the enemy. It was now imperative that they be whipped into line. The typical funeral director was portrayed as little more han a greedy body snatcher, a vulture preying upon his grief-stricken clients. His purpose, one infers, is to exploit the bereaved family by creating "total and subtle confusion." He wants to "steer" the family into his highest-priced funeral by shaming them into buying a costly casket and charging them for services "they don't really want."

The proposed trade regulation, designed to put an end to these unfair and deceptive practices, can fairly be described as comprehensive. It runs to 20 double-spaced typewritten pages. Funeral directors would be required to provide written itemization of prices, to offer their customers a full price range of caskets, to maintain elaborate records and documents, and to advise their clients what is not required by law in the way of embalming and burial of the dead.

A significant part of the funeral homes' income derives from the sale of caskets. Under the proposed regulation, it would become an unfair trade practice, punishable at law, for any director "to suggest in any manner that the customer's expressed concern about prices, inexpensive services, or merchandise or an expressed desire to save money by the customer is improper, inappropriate, or indicative of a lack of respect or affection for the deceased."

The funeral directors objected strenuously, as you might expect, to the whole idea of federal regulation. They pointed out that the funeral business already is regulated by state boards and commissions under state laws. They did not complain especially about some of the proposed requirements—for example, a requirement that price information be given over the telephone—but they bitterly protested the implied smear against their profession. They took their protests to the House Committee on Small Business, which turned the matter over to a subcommittee on the activities of regulatory agencies. On Oct. 20, the subcommittee filed a report that amounted to stinging criticism of FTC.

In the subcommittee's view, some serious, demonstrable abuse must exist before federal regulations can be justified. In the matter of the funeral industry, FTC "has not compiled an impressive record." Looking back over a period of five years, the subcommittee noted that ten million persons had died in that period; FTC's complaint file, thanks to extensive publicity, had grown from the original handful to "between 700 and 1,000." Even so, "1,000 complaints in five years is a .0001 level of consumer complaint. This is not only not substantial, it raises questions of even the significance involved."

Turning to the proposed trade rule, the subcommittee found several provisions especially egregious. Among these is the requirement that a funeral director explain to the bereaved family "what is not required." Another rule would require the director "to furnish the customer with a form which suggests the customer 'may want' to visit a competitor of the funeral directors." The subcommittee found these rules "abhorrent to free enterprise and a requirement not imposed upon any other line of business." Such rules "demean any honest reputable businessman."

"Economic regulations must balance the interests of consumers and business," the subcommittee said. "These clearly do not. The subcommittee feels the promulgation of such rules will set a bad precedent and work to destroy the personal integrity, self-esteem, and community respect of honest, reputable small business men and women."

The subcommittee did not wish its criticism of the proposed rule to be misunderstood as a blanket endorsement of the funeral industry and its practices. "There are abuses," but these abuses, for the most part, "are confined to large metropolitan areas." The subcommittee said it abhors the idea of imposing uniform federal regulations for the entire country when regulations directed at specific abuses in specific geographical areas might solve the problem.

In sum: "Considering the local nature of the business, the incidental effect on interstate commerce, and the lack of demonstrable abuse, the subcommittee finds no compelling need for federal regulation of the funeral industry, and concludes that the interests of the public and small business will be better served if the funeral industry is regulated by the states."

Very well. Federal regulation of funeral parlors is not the most monumental topic that might be addressed in this time of political transition. Other issues are more compelling concerns: unemployment, inflation, monetary policy, the control of crime, the unionization of public employees. And beyond the political arena, a host of moral and social problems cry for attention. Yet the FTC approach to the funeral industry is so characteristic of big goverenment in action that it provides an instructive case history of what ails our domestic institutions.

As the House subcommittee discovered, there was never much of a problem to begin with. The TFC staff, spurred on by a few zealous advocates, magnified the abuses in order to justify their own intervention. In time, the staff became convinced of the rectitude of their position. They sold themselves on the need for regulation. They arranged for these witnesses to be paid for participating in the hearings. They built a case, and they prepared a shrill and partisan brief to support their proposed regulation.

As one Washington observer, I do not question the sincerity or the integrity of the bureaucrats who contrived and promulgated the trade rule. People will believe what they want to believe. FTC people genuinely believe the rule is both necessary and desirable in the public interest.

But such a conviction on their part, no matter how sincerely it may be held, is not necessarily sound and wise. State regulation of the funeral industry doubtless is less than perfect. We may readily agree with consumer spokesmen who insist that many state boards are little more than sweetheart outfits, controlled by the funeral directors themselves. My own argument, in instances such as these, is that it is better to tolerate imperfect state regulation—and to seek through state political action to improve such regulation—than to extend pervasive federal control into one more area of American life.

We get to fundamentals here. If the venerable doctrines of federalism means anything, they mean that state powers should be varied and extensive, and that national regimentation should be narrowly confined. The power vested in Congress to regulate commerce among the states never was intended to impose upon our society a strangling network of minute regulations. The constitutional grant goes to national controls that are not merely proper but also "necessary." True, as John Marshall observed, the Constitution does not say "absolutely necessary" or "indispensably necessary," but it is a fair reading to insist that some plausible degree of reasonable need for federal intervention must be shown before the intervention can be justified.

That is the trouble with so much of the bureaucratic busywork we see today. FTC labors, struggles, heaves, convulses—and produces an order to a mouthwash manufacturer to mend his deceptive ads. The Consumer Product Safety Commission erupts with a portentous pronouncement—against a defective electric worm probe. The Occupational Safety and Health Administration works and works and works—but never mind. The bureaucrats seize us at the cradle. Within FTC, they would pursue us to the grave.

THE DEPARTMENT OF DEFENSE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 15 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, on Monday, the very distinguished chairman of the Committee on Appropriations, the gentleman from Texas, and the committee's ranking minority member, the gentleman from Michigan, spoke on the fiscal year 1978 budget. I would like to commend them for their remarks. Each year they come to the floor on the day the budget is presented to give the Members a timely and informative report on the new budget. I would like to speak for a moment on the Department of Defense budget.

FINANCIAL OVERVIEW

Mr. Speaker, the Department of Defense budget request for fiscal year 1978 totals $120.5 billion in budget authority. If this request were approved in full by the Congress and if pending and future supplementals and a rescission package were all approved, the new request would exceed last year's budget by $13.9 billion. Of the proposed increase, it is estimated that $7.4 billion reflects "real program growth," while the remainder—about $6.5 billion—would be absorbed by inflation. Expenditures, by comparison, are expected to rise by $11.8 billion from $98.3 billion in the current fiscal year to $110.1 billion. This represents 25 percent of total Federal expenditures—up 1.1 percent over last year's level and 5.4 percent of the gross national product, the same relative share as last year.

MAJOR PROGRAM CHANGES

As I see it, Mr. Speaker, there are four principal ingredients in the new budget.

First, there is heavy, ongoing investment in the R. & D. and procurement accounts to support the acquisition of advanced weapons and equipment. This is leading to force modernization on a broad scale. The requested increase for R. & D. and procurement alone totals $8.2 billion. These funds would be allocated, for the most part, in the following areas: Twenty-six new ships, including two Tridents; eight B–1 bombers; more than 400 fighter and attack aircraft—F–14's, F–15's, F–16's, A–10's; 12 Air Force and Navy warning and control aircraft; new transport aircraft and helicopters; 14 P–3 antisubmarine aircraft; and 960 M60A1 and M60A3 tanks as well as large numbers of other tracked combat vehicles. Major systems accounting for increases in the R. & D. account are the F–18 fighter, cruise missiles, attack helicopters, SAM–D missile, XM–1 tank program, and a new ICBM, the MX.

Second, an increase of $2.7 billion is requested for operation and maintenance—O. & M. Its purpose is twofold: First, set up the tempo of operational training, that is, the number of flight and steaming hours, and, second, reduce the backlog of major items of equipment—ships, aircraft, tanks, and so forth—awaiting overhaul and repair. Both will increase combat readiness. Although the Department seems to place far greater emphasis on modernization than readiness, I feel that they are of equal importance.

Third, the Department is, for the first time, budgeting for inflation in the O. & M. account. This budget contains about $1.3 billion for that purpose. This policy was approved by the Congress last year and represents a management initiative. We will be watching to see if it really works.

Fourth, a partial moratorium has been placed on military construction work, pending the completion of a comprehensive review of our long term needs for bases and facilities.

This budget does not propose to phase-out appropriated support for military commissaries, but the Department is offering up a $920.5 million rescission package, involving $721.0 million in fiscal year 1977 shipbuilding funds—$350 million for long leadtime items for a nuclear powered attack carrier and $371 million for the *Long Beach* conversion. Both items were added to the budget by our committee. I am somewhat puzzled over this measure, because the funds for the carrier were requested by the President in a formal budget amendment in May 1976.

FORCE AND MANPOWER LEVELS

Strategic and tactical force and manpower levels are programed to remain relatively stable during the new fiscal year. Existing units are being brought up to strength and older items of equipment are being phased out with the introduction of the new. A significant initiative in the personnel field involves a saving of $125 million in permanent change-of-station costs to be derived from 110,000 fewer moves.

DEFENSE APPROPRIATION BILL

The Defense Appropriations Subcommittee will be reviewing the largest portion of the proposed defense budget—the $116.7 billion requested in the fiscal year 1978 defense appropriation bill, plus a $2.3 billion supplemental request for pay raises to be submitted a year from now and a $58 million request for various legislative proposals including the phaseout of dual compensation for reserves who are also on the Federal civilian payroll.

Mr. Speaker, in the past we have held detailed hearings on each account. The new schedule will not permit a continuation of this practice. So as of right now, the subcommittee is planning to hold a limited number of hearings in February, March, and April and then move right into markup in late April. Our hearings will focus on specific is-

sues: Recruiting, shipbuilding, tanks, equipment maintenance, and strategic systems. I plan to delve into some of these problem areas myself. I am particularly concerned about the XM–1 tank, consolidation of helicopter flight training, the adequacy of logistic planning for new systems, NATO standardization as viewed through the XM–1 and Roland programs, to name a few.

The budget once again is proposing the consolidation of undergraduate helicopter pilot training. This will be the third year in a row we have taken a hard look at the problem. Every report so far says that this is the way to go. However, since I have not yet seen the results of the new study and estimated cost savings, I will not comment on the merits of the issue. At the appropriate time I will have a whole lot more to say about it.

Mr. Speaker, it is not possible at this time to determine what level of funding is needed to support our defense posture, but as our review progresses, and we have had a chance to take the budget apart to see what makes it tick and pinpoint the problem areas, we should then be in a position to know what, if any, cuts should be made. In reaching those decisions, we should keep three things in mind. First, we must maintain a strong defense posture; second, we must be ever mindful of the continuing Soviet military buildup; and third, we must try to buy more defense for each appropriated dollar spent.

NUCLEAR PLANTS—MAGNETS FOR TERROR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 60 minutes.

Mr. FISH. Mr. Speaker, the rapid increase in utilization of nuclear powerplants in our country is a subject of deep concern to many Americans. Already this session, more than 20 Members of Congress have cosponsored the Fish-Pattison bill calling for a 5-year moratorium on the construction of nuclear powerplants, the study of their feasibility, and the determination of alternative sources of energy.

An article which appeared in the January 9 Washington Post, points out some of the problems we currently face in this area, as well as raising many questions concerning the current road we are on in the proliferation of nuclear powerplants.

I am inserting the article in the CONGRESSIONAL RECORD at this point for the benefit of my colleagues:

NUCLEAR SABOTAGE

(By Michael Flood)

Violence is by no means a child of the 20th Century; it has a long history. However, the volume of violence in this century has undoubtedly increased. This century has already witnessed 100 million deaths caused by fellow men—give or take 20 per cent. Even allowing for increased population and changed circumstances, the last 75 years appear to have been the most violent period in history.

Politically violent individuals also have always been a part of society, and their activities have been largely contained by the police or military. Today, things are different. These individuals have discovered a political lever which will move the system and they have begun exercising it to effect. The lever is terrorism: the use of coercive intimidation for political motives. Terrorism is not new, but it has undergone refinement; it is no longer the blunt instrument that it used to be.

In the context of 100 million violent deaths in this century, political terrorism is irrelevant. The number of victims makes no statistically significant impact on the mortality figures. But as a tool for political demolition—and one that can be wielded by just a single individual—terrorism today has no rival in the textbooks of conventional military strategy. The rewards are high, the risks paradoxically, relatively small.

Indeed, the techniques of political terrorism and urban guerrilla warfare have proved so effective against the industrially advanced nations that they are now being mimicked on an increasing level around the globe. The Western democracies are unlikely to find refuge from terrorism outside of a police state; the wheels are already in motion.

In the continuing search for new dimensions in terror, for new targets and new vulnerabilities, terrorists will, I believe, turn to nuclear power. Indeed, the initiative has already been taken. Nuclear installations have been threatened, bombed and sabotaged.

Unfortunately for the nuclear industry and, of course, neighboring populations, nuclear installations make attractive targets for terrorist blackmail. They have enormous inventories of radioactive materials. And the fear of radioactivity adds a new dimension to terror. Nuclear power, in theory, offers man great promise; but it invests individuals with a potential for extortion or destruction on a scale approaching that of a blitzkrieg. Sooner or later, when a threat is not heeded or a counteroffensive mishandled, many will lose their lives. This is inevitable.

To appreciate why terrorists will turn to nuclear terror, it is important to understand terrorist psychology. In addition to sophisticated munitions which extend their destructive capabilities, terrorists have acquired a sense of timing and a mastery of mass manipulative psychology. Unlike most Western politicians, their campaigning is done directly with a gun—and with free television air time.

In the main, guerrillas are not primarily interested in slaughtering greater numbers of people, though the potential would certainly be there if they seized a nuclear facility. Terrorists seek to publicize their cause merely by holding a knife at society's throat. They want "a lot of people watching and a lot of people listening, not a lot of people dead." Sometimes, perhaps in frustration, the knife slips.

When apparently indiscriminate terrorist violence does occur, it is violence for effect. It is intended to seize the imagination of the media and the mass audience, thus exaggerating the strength of the movement (which may have fairly limited local support) and the primacy of the cause.

The media have extended the terrorist's stage. Television, especially, has increased the visibility of violence and done more for terrorism than perhaps any other single factor.

Before progressing further, we might ask why nuclear installations will be singled out for terrorist attention instead of other targets, such as oil refineries, chlorine tankers, ocean liners, etc. Arguably, other targets could be attacked with minimum personal risk to the saboteur and at a fraction of the effort. Why, then, the nuclear dimension?

No nuclear installation, so far as known, has yet been sabotaged in such a way as to release radioactivity; but it is all a question of time. These are the early days, the halcyon days of nuclear power. Some 20 nations have now invested in a nuclear future. More than 200 reactors have been built and are * * * tries. By 1980 however, the picture will be different; the number of reactors supplying power is expected to double.

MAGNETS FOR TERROR

Nuclear facilities possess unique features which will attract the terrorist. They are, for example, highly prestigious targets—symbols of national progress—where an assault will draw the press and embarrass the government. An event involving "atomic terror" will make the headlines. The attack will not even have to succeed to send diplomatic ripples along the corridors of power. It was clearly the intention of the bandits who overran the Atucha station in Argentia to make the front pages.

As nuclear reactors are expensive to repair when damaged, especially if radioactive components are involved, the reactors could become the focus for economic sabotage. Electricity grids are a favorite target for saboteurs; and countless small conventionally fueled units have been put out of action by guerrillas. Nuclear plants, which are massive and serve large areas, may challenge the ingenuity of saboteurs.

Those facilities designed and built by foreign nationals in developing (or even technologically advanced) countries may become symbols of imperialism. Their presence may suggest outside interference in national affairs and an intolerable degree of dependence on foreign expertise and materials. Prominent guerrillas, for example, in South America, have singled out North American firms, property and individuals for "reprisals."

Militant individuals who object to a nuclear plant in their neighborhood may channel their anti-nuclear sentiment into direct action. An incident involving the release of radioactive material could stir up public hostility to nuclear power. The explosions in August, 1975, at the Monts d'Aree reactor in France were said to have been a protest against the construction of nuclear plants in Brittany. The demolition of a surveying tower in the United States belonging to a nuclear company in Montague, Mass., was another violent demonstration against nuclear power.

One of the reasons most commonly cited for an attack is blackmail. Once in control of a nuclear facility, insurgents would be in a convincingly powerful position. Protected behind reinforced concrete, they would be difficult to dislodge and could thus exert political and psychological pressure on a government. A counteroffensive would be unthinkable in view of the possible consequences. As Manning Muntzing, former Director of the U.S. Atomic Energy Commission, has conceded:

"A band of highly trained, sophisticated terrorists could conceivably take over a nuclear power plant near a major city and destroy it in such a way as to kill thousands—perhaps millions—of people."

One possibility that has been noted for the future is that terrorist groups may be employed as a means of engaging in surrogate warfare against other nations. Modern conventional warfare is becoming expensive and an increasingly unattractive mode of conflict. Economic warfare has always been practiced; surrogate warfare is merely an extension of this. It may not be attractive to the major world powers (although their activities often appear to verge on it), but rather to smaller, belligerent nations.

When war threatens, nuclear installations become a national liability; they have been described in civil defense circles as a "Trojan

Horse." No surface facility could withstand bombardment by modern artillery.

Several countries with nuclear facilities have been involved in conventional wars or armed skirmishes (for example, India, Israel and South Vietnam), although no installations has as yet been attacked.

Unfortunately, the nuclear fuel cycle itself offers a range of potential targets for terrorists: uranium enrichment plants, fuel fabrication facilities, reactors (particularly the fast breeders), spent fuel cooling ponds, spent fuel processing facilities (where the isotopes of uranium and plutonium are recovered from the raw wastes), as well as the high level liquid waste storage tanks. As a rule, these installations and facilities are remotely sited and some require few personnel, especially at night.

HOAXERS AND MALCONTENTS

The nuclear industry faces not only the saboteur with a pass or the saboteur with a gun but also the growing number of well-researched and credible threats by hoaxers.

Such threats can cause a disruption in any industry. Security both inside and outside nuclear plants has been tightened; but the measures appear little more than a gesture.

A malcontent inside any large industry presents a problem by virtue of his job skills. He may act alone, irrationally or in a calculated manner, with malicious intent. He may form part of a team, selling his services to an organization. He may well know precisely what to do to cripple an installation even without carrying out a dramatic assault. His actions may cause anything from nuisance to calamity.

So far, only a few reported incidents at nuclear sites have been positively associated with malice; most of these incidents occurred during industrial unrest or violent strikes. But unofficial reports of mysterious or deliberate damage to facilities circulate too frequently and consistently to be dismissed as mere gossip.

But whether or not it is a disgruntled employee, an amateur or a profesional saboteur, sabotage to a very limited number of critical components—identifiable from the open literature—could disable enough safety systems through common-mode failure to lead to a core meltdown of the reactor and a containment failure.

Public confidence in the nuclear industry, far from being strengthened by protective measures, has been progressively undermined by a spate of incidents. Nuclear sites have been visited "unofficially" by various individuals. Besides the terrorists, who have committed acts of violence and who apparently had little difficulty in breaking through perimeter fences undetected, politicians, security agents and other individuals testing the security system have entered nuclear installations unobserved or unchecked. One politician even carried a World War II bazooka past guards and detectors at a German site and presented it to the director.

Utilities have had difficulty monitoring the coming and going of unauthorized people at the main gate. Incompetence and, on a few occasions, bad faith have marred the record. A dozen companies in the United States, for example, have been fined and many more reprimanded for failing to implement statutory security procedures.

In the worst cases, U.S. companies were fined for failing to tighten security even after being warned. Other countries have been less forthcoming about official reprimands for poor security implementation. Security, however, even for nuclear-weapon stores, cannot be 100 percent foolproof. Black hat teams from U.S. Special Army Services have entered nuclear-weapon stores during Army exercises despite armed guards, electronic sensors and elaborate locks. And if the Army can do it, so could a well-organized terrorist group.

Everything appears in the terrorists' favor. With local superiority of force and sufficient violence, guerrillas could overwhelm security personnel and enter by the front gate. In addition to the element of surprise, modern terrorists are likely to brandish a variety of sophisticated modern munitions, from wire-guided rockets and toxic gas to bazookas and mortars.

A VARIETY OF POSSIBILITIES

A direct assault on an installation seems most probable; but other approaches, such as aerial bombardment, might prove as effective. An air-taxi or helicopter could deliver up to 1,000 pounds of high explosive. Several organizations have already hijacked and deployed light aircraft and helicopters in raids.

A more remote possibility is a *kamikaze* attack. A threat of this kind occurred in November, 1972, to the Oak Ridge National Laboratory. The impact of a light aircraft might cause only superficial damage to an installation, assuming little fuel and no explosives aboard; but the impact of a larger hijacked aircraft, particularly its engines, would be another matter.

The nuclear industry is obviously concerned about these matters, not only because the potential consequences of an assault or bombardment could be so grave but also because the possibility of sabotage or nuclear theft makes the future of nuclear power look increasingly unattractive to the public. Indeed, this may partly explain the industry's reticence to discuss the hazard. A recent American study on terrorism and nuclear power concluded:

"Given the present volatile character of the nuclear debate in our country, such an act [of sabotage] might cut off our nuclear power plant option."

Events in one nation will not go unnoticed in others. The report from the first disaster will ricochet around the world; but in which country, and when, will it first be heard?

LEGISLATION TO REPEAL COST-OF-LIVING INCREASES TO HIGH-LEVEL EMPLOYEES IN EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

Mr. DERWINSKI. Mr. Speaker, President Ford, in one of his last official acts, has submitted a budget which invites us to retrace our steps on pay-setting procedures for top officials in the Federal Government. That is why I have introduced legislation today to repeal provisions of a 1975 law which makes Members of Congress, U.S. judges, and other high-level Federal executives eligible for automatic, annual cost-of-living adjustments.

In calling for implementation of the recommendations of the Commission on Executive, Legislative, and Judicial Salaries, the President has charted the way for a return to normalcy in an area which has become the playground for demagoguery.

The action we took in 1975 was dictated in part by pressure built up by members of the Federal judiciary. In making their case for a salary adjustment, the judges pointed out the salaries in the legal profession had increased nearly 44 percent since 1969, while their own salaries remained static. Since the same wage freeze applied to employees in the legislative and executive branches, Congress responded by making all three branches eligible for cost-of-living adjustments.

The legislation was not designed to solve the inequities which existed in the salary schedules. It was, however, a vital and logical step taken with the knowledge the problem would be given careful consideration by the Commission on Executive, Legislative, and Judicial Salaries.

Our hard-working Federal judges have been provided for by the Commission. Judges of Federal appeals courts will be paid $57,500, while judges in Federal district courts will receive $54,500. A bipartisan citizens' committee which is supporting the pay recommendations has pointed out that unrealistic salary levels have discouraged qualified men and women from accepting or retaining judicial appointments while many Government agencies report difficulty in retaining attorneys.

With the Commission's pay recommendations in place, there no longer is any need for the 1975 law. It made sense in 1975, but, as long as it remains in force, salary adjustments for members of the executive, legislative, and judicial branches will be subject to the political calendar. With President-elect Carter and the House and Senate leadership all supporting the Ford proposal, we can logically move forward to repeal the 1975 law.

I want to end the political gamesmanship on pay. That is why I want to repeal legislation which grants cost-of-living pay increases to high-level employees in the executive, legislative, and judicial branches.

LEGISLATION ESTABLISHING STRONGER INSPECTION STANDARDS FOR IMPORTED MEAT AND DAIRY PRODUCTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. BAUCUS) is recognized for 10 minutes.

Mr. BAUCUS. Mr. Speaker, I am introducing a bill today that establishes stronger inspection standards for imported meat and dairy products and requires these products to be labeled as imported. These measures will be fair to producers and beneficial to consumers. They will be funded by assessing fees against the exporting country.

I do not propose creating a trade barrier to these meat and dairy products. Imports should not be subjected to stricter standards than are now imposed on domestic products. I simply want imports to meet standards of wholesomeness which are as close as reasonably possible to those we impose on American food.

Foreign inspection systems can never

be identical to ours. We simply cannot expect to send our Federal inspectors through foreign plants to inspect each and every carcass, or every dairy farm, as we do in this country. It would be too expensive and few exporting nations would stand for that type of intervention.

On the other hand, we cannot allow American consumers to face the possible danger of meat and dairy products imported without adequate inspections. Since we cannot always send our own Federal inspectors to exporting nations, we must require these countries to carry out adequate inspections.

Those foreign inspectors conducting tests on meat to be imported into this country must be highly qualified to do their job. They must be required to inspect the internal organs of meat producing animals because this is the easiest, and often the only, way to determine if the carcass contains poisonous substances. Currently, these tests are not conducted on imported meat. The USDA must also conduct spot checks to verify the accuracy of foreign testing programs and refuse to allow the importation of meat from countries which consistently fail to meet essential standards prescribed by the Secretary of Agriculture.

The regulation of imported dairy products is equally weak. The Food and Drug Administration has few regulations controlling the sanitation of imported dairy products. It has little statistical data on the amounts of milk and milk products turned back due to filth or disease producing agents. These imported products come into this country, are mixed with domestically produced goods and marketed, in most cases, without ever being checked for wholesomeness by U.S. authorities. The Meat and Dairy Import Inspection and Labeling Act would require these products to meet, as nearly as possible, the same standards as those required of domestic products.

In addition, since we can never require absolutely equal inspection, we must provide the American consumer a last defense against any possible dangers of imported food. We must give consumers the choice of whether they prefer to buy American products, or whether they are willing to take the risk of eating potentially impure imports. To give Americans this choice, imported products must be clearly labelled.

I introduce this bill with full awareness that the Geneva Accord trade talks are trying to establish universal standards of quality for food products traded internationally. I hope those talks are successful and feel that my bill has no adverse effect on those negotiations. In fact, I believe our passage of this bill will show the world how serious we believe the situation presently is.

The improved regulation of imported meat and dairy products has received the approval of both national consumer and agricultural organizations. I urge my colleagues to support this bill to improve the wholesomeness of the food we eat.

Following is the text of the bill:

H.R. 2010

A bill to require that imported meat and meat food products made in whole or in part of imported meat be subjected to certain tests and that such meat or products be identified as having been imported; to require the inspection of imported dairy products and that such products comply with certain minimum standards of sanitation; to require that the cost of conducting such tests, inspections, and identification procedures on imported meat and meat food products and on dairy products, as the case may be, be borne by the exporters of such articles; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MEAT AND MEAT PRODUCTS

SEC. 201. Section 20(a) of the Federal Meat Inspection Act (21 U.S.C. 620(a)) is amended by inserting "(1)" after "(a)", and by adding at the end thereof the following:

"(2) The Secretary shall, with respect to any carcass, part of a carcass, meat or meat food product of a cow, sheep, swine, goat, horse, mule, or other equine which is capable of use as human food and which is imported into the United States, require by regulation or otherwise that any such article or any product made in whole or in part from any such article, if capable for use as human food, or that the package or container of such article or product, be labeled or otherwise marked in such manner as the Secretary determines practicable to inform the retail consumer of such article or product at the time of purchase that such article or product was imported, in whole or in part, as the case may be, into the United States.

"(3) No carcasses, parts of carcasses, meat or meat food products of cattle, sheep, swine, goats, horses, mules, or other equines which are capable of use as human food shall be imported into the United States unless—

"(A) tests have been conducted on the carcasses, parts of carcasses, and meat and meat food products, including internal organs, of the animals from which such articles came, to determine whether such articles (i) contain any substance prohibited in any carcass or meat or meat food product from any domestically produced animal referred to above, and (ii) contain a level of any substance in excess of the maximum level of such substance permitted under law or regulation in any carcass or meat food product from any domestically produced animal referred to above;

"(B) such tests have been conducted, in the country from which such articles are being imported, by persons who have been initially certified (and subsequently recertified) in the same or similar manner and under the same criteria as persons who are initially certified (and subsequently recertified) by the Department of Agriculture to conduct such tests on articles of animals produced in the United States; and

"(C) the appropriate government official of the country from which any such article is being imported has certified to the Secretary that such article has been tested in accordance with regulations issued by the Secretary and that such article does not contain any substance referred to in subparagraph (A) or contain a level of any substance in excess of the maximum level referred to in such subparagraph, as appropriate.

"(4) In order to verify the accuracy of testing required for substances referred to in paragraph (5), the Secretary shall conduct a program under which inspectors of the Department of Agriculture take, from time to time, samples of carcasses, parts of carcasses, and meat and meat food products of animals referred to in paragraph (5) which are intended for export to the United States, including the internal organs of the animals from which such carcasses and meat and meat food products came, and send such samples to the United States for appropriate testing.

"(5) As used in paragraphs (3) and (4) of this subsection, the term 'substance' means any chemical matter for which the Department of Agriculture conducts tests on carcasses, parts of carcasses, and meat and meat food products, including the internal organs, of cattle, sheep, swine, goats, horses, mules, or other equines which are capable of use as human food, for the purpose of determining whether residues of such chemical matter are present in such articles or to determine whether the residues of such chemical matter present in such articles exceeds levels authorized by law or regulation.

"(6)(A) The Secretary shall prescribe such assessments and fees on imported meat and meat food products as he determines necessary to cover the costs of inspections, certifications, testing, and labeling (or other marking) required under this section.

"(B) In establishing the level or rate of assessments and fees to be imposed under this title, the Secretary shall take into consideration the volume of exports, the value thereof, and such other factors as he deems appropriate in order to achieve a fair and equitable allocation of such assessments and fees among exporters.

"(C) The Secretary shall have authority to suspend or revoke the privilege of any exporter of meat or meat food products to export such products to the United States if such exporter fails to pay the assessments or fees for which he is responsible to pay under this title.".

TITLE II—DAIRY PRODUCTS

SEC. 201. For purposes of this title—

(1) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(2) The term "person" means any individual, partnership, corporation, association, or any other business unit.

(3) The terms "dairy products" and "milk products" mean those food products derived from milk, or any combination or portion thereof; such as all forms of butter, cheese (whether natural or processed), milk, cream, skim milk, whey, buttermilk, edible casein, caseinates and frozen desserts; and any other food product which is prepared in whole or in part from any of the aforesaid products as the Secretary may hereafter designate.

(4) The term "wholesome" means sound, healthful, clean, and otherwise fit for human food.

(5) The term "labeling" means labels and other written, printed, or graphic matter on or attached to the container of any dairy product.

(6) The term "purity" means free from poisonous or deleterious substances which may render the product injurious to health.

(7) The term "administration and supervision" means the administrative review of foreign country laws, regulations, and enforcement procedures offered as being comparable to United States laws, regulations, and enforcement procedures, under the provisions of this title, and the supervision of inspection personnel both inside and outside the United States.

(8) The term "inspection" means the official service rendered by the Department of Health, Education, and Welfare, under the administration and supervision of the Secretary, for the purposes of carrying out the provisions of this title.

SEC. 202. (a) No dairy product shall be imported into the United States unless the Secretary shall first certify that such product originated from supplies of milk which are pure and wholesome and unless the plants in which such products were produced, manufactured, or processed comply with all minimum standards of sanitation prescribed by the Secretary pursuant to the provisions of this title. The standards prescribed by the

Secretary shall include standards for sanitation procedures in the production, cooling, storage, transportation, and handling of milk, and in the manufacture, processing, handling, and transit of dairy products, as well as standards concerning the wholesomeness and purity of the final product.

(b) The standards established by the Secretary for any imported dairy product and for the establishments in which such imported dairy product is produced, manufactured, or processed shall be comparable to those standards of purity, wholesomeness, and sanitation recommended by the Secretary for domestic dairy products produced, manufactured, or processed in the United States and for establishments in the United States in which domestic dairy products are produced, manufactured, or processed.

SEC. 203. (a) For the purpose of establishing comparable inspection requirements and preventing the importation of dairy products produced, manufactured, or processed in foreign plants not meeting the minimum standards prescribed by the Secretary pursuant to the provisions of this title, the Secretary shall, where and to the extent necessary, cause to be inspected imported dairy products and require such products to be accompanied by a certificate of compliance issued by the Secretary in accordance with rules and regulations prescribed by the Secretary establishing minimum standards as to the sanitation of the milk, plant facilities, equipment, and procedures used in the production and transportation of milk, and the manufacture, processing, handling, and transit of such imported dairy products.

(b) All imported dairy products shall, after entry into the United States, be subject to the Federal Food, Drug, and Cosmetic Act.

SEC. 204. The Secretary shall require all dairy products imported into the United States, or the packages or containers of such products, to be labeled or otherwise marked in such manner as he determines practicable to inform the retail consumer of such products at the time of purchase that such products were imported, in whole or in part, as the case may be, into the United States.

SEC. 205. (a) The Secretary is authorized to prescribe rules and regulations to carry out the purposes of this title.

(b) In carrying out the provisions of this title, the Secretary may cooperate with foreign governments, other departments and agencies of the Federal Government, and with appropriate State agencies, and may conduct such examinations, investigations, and inspections as he determines necessary to appropriate through any officer or employee of the United States, of any State, or of any foreign government, who is licensed by the Secretary for such purpose.

SEC. 206. The provisions of this title shall be in addition to the requirements of all other laws relating to imports of dairy products.

SEC. 207. (a) The Secretary shall prescribe such assessments and fees on imported dairy products as he determines necessary to cover the cost of inspections, certifications, and labeling (or other marking) required under the provisions of this title.

(b) In establishing the level or rate of assessments or fees to be imposed under this title, the Secretary shall take into consideration, in the case of any exporter, the annual volume of exports, the value thereof, and such other factors as he deems appropriate in order to achieve a fair and equitable allocation of such assessments and fees among exporters.

(c) The Secretary shall have authority to suspend or revoke the privilege of any exporter of dairy products to export such products to the United States if such exporter fails to pay the assessments or fees for which he is responsible under this title.

SEC. 208. The cost of administering and supervising the provisions of this title shall be borne by the United States.

SEC. 209. There is hereby authorized to be appropriated such sums as are necessary to carry out the administration and supervision of the provisions of this title.

SEC. 210. If any provisions of this title or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

VICTIMS OF CRIME ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I have reintroduced legislation entitled "The Victims of Crime Act of 1977." This bill is designed to provide Federal grants to States for the purposes of compensating innocent victims of violent crime.

The legislation, H.R. 1183, is identical to the bill that was approved by the Committee on the Judiciary in the 94th Congress. It is an important and timely measure.

The terrible increase in crime in America has spawned new and difficult problems. One of the most obvious is the plight of the victims themselves. Many of these persons are poor or elderly or ill. The injuries they sustain, and the time lost from work without pay, can be economically devastating.

Mr. Speaker, it is obvious that we cannot undo the harm, the fear, the injury that victims of criminal assaults have suffered. Therefore it is incumbent upon us to do what we can to ease the financial hardship.

This legislation is intended to aid the States in just that effort. A State with a qualified program would be reimbursed for 50 percent of the claims it paid to victims of State and local crime. In addition, the program would provide 100 percent of the funds awarded by the States to victims of crimes within Federal jurisdiction.

States would have broad authority to establish the compensation programs best suiting their needs. Awards to victims could be made through the courts, for example, or through a State agency.

Currently, only some 20 States have compensation programs, some of them limited to the compensation of "good samaritans." It is my hope that this legislation will encourage the rest of the States to begin programs which will put governmental resources to work for the good of those who have innocently suffered at the hands of criminal assailants.

A CASE STUDY IN CUTTING WELFARE COSTS: NEW YORK'S DILEMMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 20 minutes.

Mr. BINGHAM. Mr. Speaker, as I indicated in my remarks on Monday, New York City's citizens are facing drastic cuts in public assistance and social services proposed by State and city officials to meet the deadline for a balanced budget by fiscal year 1978—beginning this July 1. Eighteen major private human service agencies in New York have formed a task force on the New York City crisis to study the "human impact" of the cuts and offer alternative suggestions. The task force has prepared a series of remarkably thoughtful position papers analyzing the cause of the crisis and what can be done about it.

At the conclusion of my remarks I am including the second of the task force's papers—"Public Assistance Eligibility and Payment Levels in New York." It offers a clear analysis of why State and city budget deficits exist in this federally mandated program and why benefits should not be cut to cover those deficits. It points out the dilemma government officials face trying to reconcile their public commitment to cut government cost and meet basic citizen needs. It proposes an alternative approach to covering such deficits through government structural reform including Federal, State, and city administrative changes aimed at improving efficiency, combating fraud and abuse and providing more equitable funding patterns.

The task force points out, for example, that contrary to popular belief, New York's public assistance payment levels are not unduly high; in fact, they are based on a State standard of need set in 1971. Federal funding reimbursement formulas which do not take into account the effect on city and State welfare budgets of sustained high levels of unemployment—New York had a 9.5-percent rate in 1975—shortages of low-cost housing, and other regional differences have effectively prevented New York from updating its payment levels. Of course, as in the case of SSI, some updating has been forced on it by new Federal law at State and city cost. As this task force report puts it:

> The current Federal reimbursement formula for AFDC discriminates against States like New York, because the State's ability to pay for public assistance costs is determined by its per capita income in relation to a national average. The formula does not take into consideration geographical variations in the cost nomic conditions, favoring States with low of living, number of recipients, or local eco- per capita income and minimal welfare payments. As a result, many of these States benefit from a reimbursement rate of 70% or over, while New York State receives only 50%.

In regard to actions to promote cost efficiency in the management and administration of public assistance, the paper suggests substantial savings can be gained through development of a computerized system for checking welfare client eligibility, and payment fraud and abuse. I understand New York is now negotiating with HEW on its plan to implement such a computerized system for the city and then the State as a whole. However, implementation is expected to take years without additional Federal help.

Finally, the task force paper maintains that:

Inadequate funding mechanisms and management failures are not the responsibility of public assistance clients. Fiscal relief by the Federal and State governments to hard-pressed localities through a more equitable funding formula and a national economic policy that fosters full employment will provide far more economic relief to the taxpayer than a precipitous and unjustifiable cut in eligibility standards and already inadequate AFDC and Home Relief grant levels.

I could not agree more.

The full text of the task force on the New York City crisis statement follows:

PUBLIC ASSISTANCE ELIGIBILITY AND PAYMENT LEVELS IN NEW YORK

A series of recent events indicates that a major effort to cut public assistance payments and restrict eligibility requirements in New York State may be undertaken in the next few months.

The Task Force on the New York City Crisis has set as its highest priority the preservation of public assistance benefits at their current levels. To further reduce these already inadequate grants which do not now meet the subsistence needs of their recipients is to sharply intensify the plight of the approximately one million people in New York City who receive welfare, 600,000 of whom are children on the AFDC rolls.

State budget officials recently disclosed the existence of a $120–175 million gap in the welfare budget—the result, they contend of unanticipated increases in the Home Relief caseload. Although all categories of welfare, including AFDC, are potential targets for cuts, it appears probable that this finding will be used to support either the complete elimination of the Home Relief singles population from eligibility for public assistance, or a reduction in grant levels currently provided.

Legislators should note that the increase in the number of Home Relief recipients results largely from the continuing burden of unemployment in New York State, which averaged 9.5% during 1975, the fifth consecutive year that New York State, New York City and the metropolitan area had an unemployment rate well in excess of the national figure. Even if the State budget should eventually approach the dimensions cited, cutting support payments to persons who are receiving welfare because their unemployment insurance has expired after 65 weeks of joblessness is not sound public policy.

When state legislators address the issue of public assistance payments, they should carefully consider the following realities:

The maximum monthly public assistance payment in New York State is $258 for a family of four, exclusive of rent. This means that each person in the family is allotted $14.88 a week for all of his or her needs, including food and transportaion. It also means that the public assistance payment level now meets only 67.5% of the State's own "standard of need"—the minimal level at which a family is officially considered to be living "adequately." A family of four now requires an additional $124 a month to satisfy the April 1976 cost of that standard of need.

The current grant levels which went into effect on July 1, 1974 support recipients at May 1971 costs. A survey of mothers and children in New York City who receive welfare concluded that in November 1974 63% were eating less or cheaper food than in 1973 and that hunger and malnutrition were widespread among these families. These hardships existed even accounting for the use of food stamps, which enable a family of four to buy food worth $150 for $95, thus extending their purchasing power by $55 a month. Since May 1971, the cost of food at home in New York City has risen 55%, gas and electricity 112% and clothing 24%. Welfare payments have not risen at all.

Public assistance levels have declined even more than the figures cited above indicate due to reduction of and restrictions on discretionary supplements to basic grants. For example, in the past few months, payments for moving expenses and security deposits to public assistance recipients have virtually been eliminated, and strict limits have been imposed beyond which rent requirements will not be met. As much as one-fourth of the welfare caseload will receive less in assistance for these reasons this year than they would have in prior years.

Clearly, the escalating cost of welfare to municipalities is not a consequence of increases in basic grant levels. Rather, it is primarily the result of outmoded funding mechanisms on the State and Federal levels which impose a uniquely high financial burden on New York City and upstate counties. New York State is the only State in the nation that compels its localities to meet 25% of the total cost of AFDC payments, and one of the few that requires a 50% local share of Home Relief payments.

The current Federal reimbursement formula for AFDC discriminates against States like New York, because the State's ability to pay for public assistance costs is determined by its per capita income in relation to a national average. The formula does not take into consideration geographical variations in the cost of living, number of recipients, or local economic conditions, favoring States with low per capita income and minimal welfare payments. As a result, many of these States benefit from a reimbursement rate of 70% or over, while New York States receives only 50%.

In addition, further action is urgently required to promote cost efficiency in the management and administration of New York City's public assistance programs. Substantial savings can be gained through expeditious development of a computerized system for checking client eligibility and provision of well-trained staff in sufficient numbers to effectively operate such a system. This system must be implemented at the earliest possible time along with other efforts to prevent waste and promote efficiency.

Inadequate funding mechanisms and management failures are not the responsibility of public assistance clients. Fiscal relief by the Federal and State governments to hard-pressed localities through a more equitable funding formula and a national economic policy that fosters full employment will provide far more economic relief to the taxpayer than a precipitous and unjustifiable cut in eligibility standards and already inadequate AFDC and Home Relief grant levels.

The Task Force on the New York City Crisis firmly opposes such cuts and invites other groups and individuals to join with it to develop broad-based support for maintenance of a minimally decent standard of living for public assistance recipients.

COMPREHENSIVE VETERANS READJUSTMENT ASSISTANCE ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, I have today introduced legislation entitled the "Comprehensive Veterans Readjustment Assistance Act of 1977," which has as its primary purpose the removal of the major structural inequity in the GI bill thereby granting veterans the option of accelerating their educational entitlement.

While this comprehensive legislation contains many provisions designed to strengthen the GI bill and preclude the abuse that has plagued it in recent years, the principal provision is accelerated entitlement. This provision would permit veterans who demonstrate need to accelerate their total readjustment entitlement thereby enabling them to receive a greater monthly payment over a proportionally reduced period of time. The present entitlement period is fixed by law at 45 months and is by its nature geared to assist veterans enrolled in low-cost public and community college level programs. This provision would remove the discrimination against those veterans who require readjustment assistance in trade, technical, and vocational fields, or private colleges or graduate programs, which take far less than 45 month to complete. I would now like to briefly summarize the provisions of this bill:

SUMMARY

TITLE I EDUCATIONAL ASSISTANCE PROGRAM AMENDMENTS

Section 101. Amends the Congressional declaration of intent of the purpose of the Veterans Educational Assistance program to reaffirm its function as a readjustment program, and to affirm that the program of Accelerated Entitlement is to be used for readjustment assistance and not income supplementation.

Many veterans denied effective readjustment assistance by the current structure of the GI Bill are using their benefits to earn $292 to over $400 as tax free supplemental income, as a bonus, an alternative to working or as a form of unemployment compensation.

This section would add no additional cost to the budget and could result in fiscal savings if veterans abusing the GI Bill contrary to the intent of the program were to be denied access to benefits other than for their intended purpose.

Section 102. Redefines eligibility criteria for GI Bill benefits; separating peace-time post-Korean veterans from Vietnam era veterans who served their country during a period of armed conflict.

This section would add no additional cost, except that it would provide eligibility for alternative educational and financial assistance programs for Post Korean veterans who would otherwise be denied all educational assistance by the expiration of their delimiting date.

Section 103. This section authorizes post-Korean veterans affected by the expiration of their delimiting date to receive certain services, benefits, and assistance, so as to enable them to complete their initial program of education and training.

Its cost would largely be absorbed by currently appropriated funds and programs.

Section 104. Provides for a provisional extension of the delimiting date for needy Vietnam era Veterans. The provision requires that each veteran demonstrate:

(1) He or she was reasonably unable to initate or complete their education and training within the original ten year delimiting period;

(2) that an extension of the delimiting date is necessary for a veteran to initate or complete a program of instruction and that the veteran could not reasonably pursue

Education and Training without GI Bill assistance.

(3) requires that a veteran accorded an extension of the delimiting date be in a program of instruction that offers effective readjustment assistance that is in compliance with the intent of Congress for the Purpose of the GI Bill. (This is to preclude the use of the GI Bill for supplemental income.)

(4) requires that the extension of the delimiting date not exceed the time required to complete the veterans initial program of instruction or two years whichever is the lesser period of time.

The cost is estimated at $100 to $150 million.

Section 105. Provides for comprehensive educational, vocational and personal adjustment counseling for veterans. The counseling would assist veterans in planning and choosing realistic career objectives and effective training programs.

Comprehensive counseling was an integral and important element of the World War II veterans readjustment assistance programs. Hundreds of millions of dollars have been lost because Vietnam era veterans have entered the wrong training programs or encountered personal adjustment problems that forced them to drop out of school.

Most of the counseling cost could be absorbed by effective utilization of existing resources and VA counseling services.

Section 106. Reaffirms that the GI Bill is a readjustment program and urges education and training institutions to consider and administer it as a readjustment program. It provides such assistance as is necessary and appropriate to insure its implementation as a readjustment program.

This could result in savings by effective use of the GI Bill for its intended function.

Section 107. Provides that the Administrator may disapprove applications from veterans who have demonstrated a pattern of misconduct or abuse of the GI Bill. It requires that decisions regarding approval for benefits be submitted to the veteran in writing, with the reasons for approval or disapproval clearly stated.

This could result in cost savings by weeding out veterans abusing the GI Bill.

Section 108. Authorizes the Administrator to disapprove a program of instruction in which less than half of the persons who start the course fail to complete their training.

It also authorizes the Administrator to disapprove a program of instruction whose principal use or attraction is for the purpose of using the GI Bill for supplemental income.

Section 109. Gives the Administrator greater authority to disapprove veterans for unsatisfactory progress while protecting the veterans rights. It allows continuation of benefit payments for thirty days if a school or program of instruction is disapproved, and the veteran is not at fault, in order to enable the veteran to seek alternative readjustment assistance.

It provides for greater safeguards in the use of "audit," "no credit," "withdrawal," and similar grades that do not lead to a degree.

Section 110. This section, permitting "Acceleration of Educational Assistance Allowance Payments" is the most important provision of the comprehensive bill. It will enable the most needy and deserving veterans, within the parameters of their existing educational entitlement, the first opportunity for equitable and effective readjustment assistance by allowing them to receive a greater monthly subsistence allowance while proportionately reducing their total entitlement period.

In other words, they can receive a greater amount of money per month but over a shorter period of time so that the total payments remain the same. The section requires that a veteran demonstrate need for accelerated entitlement; receive vocational and educational counseling; be able to complete his educational objective within the time period benefits are accelerated, and numerous other safeguards. It establishes income ceiling guidelines similar to those imposed on World War II GI Bill users, and establishes an extensive series of guidelines as to persons most likely to be eligible to pursue a program of accelerated entitlement.

The section also requires that an eligible veteran initiate a program of accelerated entitlement within 18 months after the effective date of the provision (Oct. 1, 1977) and complete his training within five years. This would place a time limit on the program and allow accurate cost projections of the entire program within 18 months after its effective date.

Accelerated Entitlement is not a new entitlement but rather a necessary structural change in existing entitlement. It adds no new money to what a veteran is presently entitled by virtue of his or her military service.

Cost estimates await CBO and OMB analysis.

Section 111. Enables peacetime post-Korean veterans to continue to participate in VA work study programs as one means of enabling veterans affected by their delimiting date to complete their education.

The cost would be absorbed by the existing VA budget.

Section 112. Would make peacetime post-Korean veterans eligible for VA educational loans as another means of enabling them to complete their educations.

The cost would be absorbed by monies in the existing VA loan fund.

TITLE II WAR ORPHANS AND WIDOW'S EDUCATIONAL ASSISTANCE PROGRAM AMENDMENTS

Section 201. Amends the delimiting date of the educational assistance program for the wives of totally disabled veterans to 10 years from the time they were determined totally disabled, or to ten years after the disabled veteran was married to the person using the educational assistance. This would provide equity to veterans who were single at the time they were totally disabled.

It would cost $3 million.

Section 202. This provision makes certain widows and war orphans eligible for a program of Accelerated Entitlement.

It would cost $10 million.

TITLE III ADMINISTRATION OF EDUCATIONAL BENEFITS AMENDMENTS

Section 301. Amends criteria for courses and schools approved for veterans benefits to require that branches and extensions be in compliance with the criteria of the State Approving Agencies under whose territorial jurisdiction they are operating.

This provision could substantially reduce abuses by ineffective and unscrupulous institutions and generally improve the overall quality of education and training, resulting in savings.

Section 302. Requires more extensive communication, consultation, and cooperation between the VA, the Office of Education, the State Approving Agencies, and the nationally recognized accrediting agencies and associations. This should improve the effectiveness of readjustment assistance and reduce abuses and improprieties, thus resulting in savings.

Authorizes the development of a "Consumer Protection" program and information service to better protect veterans (and other students) from unscrupulous and ineffective institutions.

Section 303. Provides for greater safeguards against abuse and improprieties by institutions recognized by National accrediting associations and agencies by (1) requiring more accurate records be kept of a veteran's progress toward his stated objective; (2) requiring that all aspects or portions of a program of instruction be approved by the approving agency having jurisdiction over that portion of the program; and (3) require that any residence-correspondence program clearly state what type of program it is and the actual time to be spent in residence training. Many correspondence programs pass themselves off as principally a residence program, when in reality the veteran is enrolled in a correspondence course with little actual residence training.

These provisions would eliminate a major source of abuse and substantially improve the quality and effectiveness of many education and training programs.

Section 304. Expands and improves the criteria for the approval of non-accredited courses.

This section would result in improved education and training and reduced abuse, resulting in cost savings and more effective readjustment assistance.

Section 305. Gives the Administration greater authority after consulting with the Office of Education, the appropriate nationally recognized accrediting agency, and the affected institution, to disapprove programs of instruction that are not providing satisfactory readjustment assistance.

This should result in improved education and training, and less abuse, and thus fiscal savings.

Section 306. Amends the current advance payment system to provide for a conditional advance payment program based upon need. This provision should eliminate the majority of abuse inherent in the advance payment program without adversely affecting those veterans who truly need additional funds at the start of their training.

The provision gives the administrator the authority to determine whether a substance payment will be prepaid or paid at the end of the month for education completed. This will help reduce abuse in the prepayment program.

This provision should result in the savings of millions of dollars lost to overpayments and alleged "rip-offs".

Section 307. Requires the Administrator to establish regulations that will insure the veterans basic constitutional rights to appeal when contesting benefit decisions.

Section 308. Increases the reporting fees paid to institutions for handling veterans benefit claims from $3 to $8 in the absence of conditional advance payment, and from $4 to $10 when the institution must process a conditional advance payment. This should give institutions sufficient financial resources to handle the administrative requirements of veterans programs in a timely manner, and insure that institutions fulfill their administrative responsibilities fully and effectively.

The cost would be $5 million. However, this provision should substantially reduce overpayments and improve institutional services to veterans thus ultimately resulting in substantial cost savings.

Section 309. Requires the Administrator to submit significant acts of illegality and/or misconduct to the Justice Department for appropriate legal action.

Section 310. Significantly strengthens the safeguards and restrictions on the use of correspondence courses. It requires that the veteran be advised of alternatives to correspondence training and the liabilities inherent in a correspondence program.

This should result in savings by reducing the number of veterans entering ineffective correspondence programs (which over 530,000 veterans have failed to complete under the current GI Bill).

Section. 311. Gives the Administrator greater latitude to determine full and part-time training for payment of veterans benefits to facilitate unique situations.

Section 312. Removes the blanket exemption from public schools for approval for veterans benefits and gives the Administrator individual discretion. This should reduce abuse and improve the effectiveness of education and training.

Section 313. Authorizes the Administrator to notify a veteran of alternative readjustment assistance if his school or program of instruction has been disapproved through no misconduct of the veteran and to notify such veterans of any civil or legal recourse they might have in the case of illegalities on the part of the institutions.

Section 314. Authorizes the Administrator to take appropriate steps in the case of a discontinuance or interruption of a program of instruction, to determine if personal adjustment problems may have been a factor, and advise the veteran of the psychological and educational counseling services available to him.

This could result in substantial savings by helping many veterans overcome service related personal and/or family problems that are impeding their readjustment, or forcing them to drop out of educational and training programs.

Section 315. This section establishes an Interagency Veterans Task Force. The provision expands, and enhances the responsibilities, intent and effectiveness of the "Advisory Committee" to better plan, coordinate, administer, implement and preclude abuse in veterans' programs. It was the intent of Congress in the Korean War GI Bill that the educational "Advisory Committee" have a major role in veterans readjustment programs.

It includes a provision to facilitate the evaluation, recognition, utilization and accreditation of military training and experience. Billions of dollars in valuable military training are lost because there are few viable means of translating military training and experience into civilian terms.

It includes a provision that requires that studies and research be conducted to determine the readjustment needs of post Vietnam era veterans and to report to Congress within one year of their findings and recommendations.

It provides for a section within the Task force dealing with enforcement and implementation of laws, regulations and directives. One reason for the massive abuse of the current GI Bill is that there is no effective legal enforcement mechanism, and little assistance available to investigators and prosecutors in cracking down on illegalities and sophisticated rackets which prey upon veterans and other students. This costs the taxpayers hundreds of millions of dollars a year.

The section establishes an Advisory Committee composed of persons eminent in the fields of education, labor, management, consumer protection, and representative of veterans, to assist the Task Force in carrying out its responsibilities. The provision specifies that areas or interests affected by the Task Force's actions be consulted in their decision-making process.

It requires that annual reports made by the Readjustment Advisory Task Force be made to the Congress; and authorizes subpena and other powers to the Task Force.

It would cost approximately $3 million. This Task force should result in substantial savings through reductions of abuses and more effective implementation of benefits programs and services.

TITLE IV: MISCELLANEOUS VETERANS PROGRAM ADJUSTMENTS

Section 401. Requires the Administrator to consult with the Department of Defense to insure that VA criteria for determining eligibility for benefits for veterans with less-than-honorable discharges, is in compliance with, and no less lenient than, the military's criteria for upgrading other-than-honorable discharges. This brings the VA back into compliance with the original intent of Congress for the adjudication of veterans with other-than-honorable discharges.

Section 402. Authorizes the Administrator to recognize State and local veterans projects, self-help groups, and services for the purpose of representing veterans before the VA. It requires that they meet the same standards of competence as nationally recognized organizations, and that they charge the veteran no fee for their services.

TITLE V: VETERANS EMPLOYMENT AND TRAINING AMENDMENTS

This title creates an Assistant Secretary of Labor for Veterans Employment.

The title also repeals the 48-month restriction on special employment assistance to Vietnam veterans so as to entitle all Vietnam veterans to special employment assistance.

TITLE VI: VETERANS ADMINISTRATION: MISCELLANEOUS AMENDMENTS

Section 601. Requires the Administrator to seek maximum coordination effectiveness and interrelation of services to:

(1) assist veterans affected by the expiration of their delimiting date to obtain alternative means of completing their education and training;

(2) assist and inform persons eligible to pursue a program of Accelerated Entitlement;

(3) carry out the duties and functions of the Interagency Veterans Readjustment Advisory Task Force.

Section 602. Requires the Administrator to implement a comprehensive outreach and information program to inform and assist persons affected by the programs established by this Act.

Section 603. Same intent as section 602.

Section 604. Amends the responsibilities of the Veterans Representatives to include assistance:

(1) to veterans affected by their delimiting date;

(2) to veterans eligible for a program of Accelerated Entitlement;

(3) in the development and implementation of Post Vietnam veterans readjustment programs; and

(4) in the effective implementation and preclusion of abuse of veterans readjustment programs.

REMARKS BY CONGRESSMAN BOB KRUEGER UPON INTRODUCTION OF THE KRUEGER-BROWN NATURAL GAS DEREGULATION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. KRUEGER) is recognized for 10 minutes.

Mr. KRUEGER. Mr. Speaker, today six of my colleagues and I are introducing in the House the Natural Gas Amendments of 1977, a bill we believe to be the only answer to our Nation's recurring natural gas shortages. In recent weeks we have watched the predictions of a dire natural gas emergency become painful reality, and today's weather forecasts offer little hope that temperatures above freezing will soon return to most of the United States.

The Wall Street Journal reports that more than 50,000 workers in the automobile industry alone have been laid off temporarily due to shortages of natural gas, and schools across the Nation have been closed in recent weeks because not enough of this precious fuel was available to heat classrooms. We may never be able adequately to gage the economic cost of natural gas curtailments—although a 1975 study estimated that $7 billion a year was a reasonable figure—nearly everyone can relate instances of business or wages lost or inconveniences suffered because of dwindling supplies of natural gas.

The most unfortunate fact about this situation is that it is one of our own making, engendered by unwise and unnecessary government interference in the production pricing of natural gas and nurtured by the failure of the Congress to abandon a thoroughly discredited national policy, namely, FPC regulation of natural gas prices at the wellhead.

It has been nearly a year since the House of Representatives, by a margin of four votes, rejected a chance for the American people to move toward a rational energy policy, one which would provide Americans with an adequate supply of fuel at a reasonable price. On February 5, 1976, the House of Representatives defeated a proposal to deregulate the price of new natural gas at the wellhead by a vote of 205 to 201. At that time, supporters of the move to deregulate new gas prices pointed out that our supply of this precious natural resource was speedily declining, that since 1968 America had consumed, on the average, roughly twice as much natural gas each year as it discovered. As a matter of fact, recent figures show that we are using up our reserve of natural gas nearly three times faster than we find new supplies, and such trends bode ill indeed for a Nation which relies on natural gas to provide one-third of its energy.

For years responsible public officials have warned that a severe winter would produce widespread gas curtailments with accompanying economic dislocations. Each year, when these officials brought forth figures to show what might happen if the two demons of severe winter and energy shortage conjoined, they met with ridicule from self-styled consumer advocates because warm weather and a slack economy held down demand for natural gas. In the meantime, the gas supply situation worsened, until we reached the point at which we find ourselves today.

I will not take time, Mr. Speaker, to detail any of the effects of our failure to deregulate natural gas in the last Congress. They have been reported on the front pages of newspapers across the country for the past week, and I fear that we will continue to read of such situations in days to come. The need for immediate deregulation of new supplies of natural gas should be painfully evident to even the least perceptive observer.

The question is: What can be done to relieve the present emergency? The honest answer is: all too little. But even at that, we can and must do something for the immediate problem, and we must couple that action with long-term dereg-

ulation of new natural gas. That is the only real solution to our recurring shortages.

First, this legislation allows emergency purchases by distressed pipelines for periods of 180 days. It eliminates producer uncertainty by specifying that intrastate sellers will not fall under Federal Power Commission regulations.

Second, it addresses long-term problems by encouraging better conservation of our most precious fuel, and by eliciting greater domestic supplies. It bans new contracts of natural gas for unnecessary boiler fuel use, and grants priority use of gas for agriculture, including fertilizer production and food processing.

La Fontaine tells the parable of the grasshopper and the ant: the grasshopper fiddled all summer while the ant stored grain for the winter. Unfortunately, Congress has fiddled while it should have been storing. And today, many constituents are in the cold as a result. It is time to stop fiddling and get to work. The American people expect and deserve no less than speedy congressional action to guarantee them an adequate supply of natural gas for residential heating and industrial purposes.

NATURAL GAS ACT AMENDMENTS OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. HUBBARD) is recognized for 5 minutes.

Mr. HUBBARD. Mr. Speaker, I am pleased to rise in support of this critically needed measure which my distinguished and able colleague, BOB KRUEGER, has introduced and which I have cosponsored. By promptly enacting this legislation, the House of Representatives can rectify its mistaken judgment of last February when the Krueger amendment to deregulate interstate natural gas prices was tragically defeated by a three-vote margin. We must not compound the harm our Nation is now suffering because of that mistaken judgment by disapproving this measure or failing to act favorably upon it with all deliberate speed.

During last February's debate, opponents of interstate natural gas deregulation argued that the precariousness of the economy, the reputed adequacy of existing reserves, and the profits of the domestic private natural gas industry rendered our proposal unacceptable. It seems that every possible factor was considered except one—the commonsense realization that the Nation might experience a severe winter. This oversight has now come back to haunt us.

The heat of last February's debate will not keep the water pipes from bursting; it will not keep the factories open when there is no energy with which to run them; it will not provide employment to the more than 100,000 Americans who have been sent home from their jobs; it will not open the countless schools which have been locked; and it will not help the hospitals in my home State of Kentucky which have been cut back to that amount of natural gas which is essential to offer the most basic of human services.

Temperatures in Kentucky have averaged 13½° below normal for the first half of January. Natural gas suppliers are seriously understored. Due to the cold weather and the dearth of stored reserves, there is not enough pressure to move what little gas we have to the places we need it. In human terms, the situation is disastrous. The Louisville Gas & Electric Co. has been forced to cut off supplies for the entire winter to 113 industries and large commercial users who need natural gas for boiler fuel. This month, that company has had to terminate natural gas delivery to an additional 435 customers, including 200 schools. Those educational, commercial, and industrial users who are fortunate enough not to have been totally cut off, must now cope with 45- or 55-percent curtailments rather than the 10-percent curtailments provided by allocation.

Opponents of deregulating the price of interstate natural gas talked a great deal about the jobs which would be lost if deregulation were achieved. But, what do those people now have to say to the more than 100,000 workers who are without jobs because of the lack of natural gas? What will be the cost of the unemployment compensation benefits which must be paid? What will be the cost of alternate forms of energy which must replace natural gas if gas is no longer available?

The people of my State and my district have been hit hard, and we will probably be hit much harder as the cold spell continues. Next year's outlook will not be any brighter unless we in the Congress move immediately to deregulate interstate natural gas prices to give producers the incentive necessary to develop new natural gas resources.

Perhaps it is time to revise the adage that everyone talks about the weather, but no one ever does anything about it. Though Congress seems to talk about everything else, it has ignored the threat of cold weather to the health, safety and welfare of our citizens. The time for doing something about it is now.

STATE DEPARTMENT REPORTS UNDERSTATE HUMAN RIGHTS VIOLATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 30 minutes.

Mr. DRINAN. Mr. Speaker, pursuant to section 502(b) of the Foreign Assistance Act, the State Department at the request of Congress compiled reports on the human rights situation in six countries which receive U.S. military assistance: Argentina, Haiti, Indonesia, Iran, Peru, and the Philippines. After repeated insistence by myself and other members of Congress, these reports were finally declassified and released to the public on December 29, 1976.

Based upon my own experiences as a member of a delegation organized by Amnesty International to investigate the human rights situation in Argentina, it seems clear that the State Department reports seriously understate the extent of human rights violations. During the 10 days which I spent in Argentina in November 1976, I learned of the arrest and imprisonment of thousands without charge or trial, the widespread use of torture by the police and the military, the suspension of all civil liberties, the dissolution of parliament, the prohibition of all political activity, and the complicity of the Government in an indiscriminate campaign of terror.

Perhaps the most outrageous single action of the military government in Argentina is its failure to produce a list of those imprisoned. The families of labor and political leaders, professors, students, and others who have been arrested without charge in many cases do not know of the fate of their relatives. I have witnessed firsthand the suffering endured by these families, and I can only conclude that a government which inflicts it merits the condemnation of the world community.

The State Department report on Argentina dismisses the suspension of parliament and the ban on all political activity in a single sentence. It asserts that "legal redress for governmental abuse of basic rights is normally available," while this is plainly not the case. It fails to state unequivocally a fact well known to everyone in Argentina: That the military government is directly involved in right-wing terrorist activities, for the commission of which not a single individual has been arrested or detained. It grossly understates the very strict Government censorship of the press. It fails to suggest any new initiatives which the United States might take to bring about a reduction of the military junta's abuses of power. And it recommends the continuation of U.S. military assistance to Argentina.

While a leftist terrorist movement does exist in Argentina, the measures taken by the Government far exceed the legitimate needs of a vigorous antiterrorist effort. The official Amnesty International report on human rights in Argentina will be available in the near future, and I will share with my colleagues the results of that comprehensive study. For the present, it is clear that the United States must reassess its policy toward Argentina and other governments which violate the fundamental human rights of their citizens. According to legislation enacted during the 94th Congress, the United States must terminate all military assistance to such governments. Additional initiatives are also available: International pressure, in the United Nations, the Organization of American States, or other appropriate forums; various forms of economic sanctions; and positive economic incentives based on improvements in the human rights area.

Not all of the preceding approaches will necessarily be appropriate in all cases, but their serious consideration and judicious implementation are long overdue. The lack of sensitivity to the human

rights issue represented by the State Department report on human rights in Argentina must cease.

There has been considerable criticism of the State Department human rights reports. Two editorials in the Detroit Free Press on January 7, 1977, pointed out the inaccuracies and deficiencies in the reports and highlighted the particularly disturbing situation in Argentina. On January 17, 12 church and political groups, including the Americans for Democratic Action, clergy and laity concerned, and the Friends Committee on National Legislation, released a sharply critical analysis of the reports. The analysis accompanied a letter to President Carter requesting that more and better information on human rights be made available.

The editorials from the Detroit Free Press and excerpts from the letter to President-elect Carter and the accompanying analysis of the Argentine situation follow:

[From the Detroit Free Press, Jan. 7, 1977]

REPORT ON HUMAN RIGHTS FAILS TO TELL IT LIKE IT IS

The State Department, at the request of Congress, has reported on human rights violations in six countries that receive American military support.

The reports make us think the folks at State would have described Jack the Ripper as "a person accused of certain misdeeds and limited mayhem, although these allegations are not fully substantiated."

The State Department under Henry Kissinger has not been eager to make such reports. In fact, last year Secretary Kissinger refused to comply with a law requiring reports on human rights violations in all countries receiving our aid.

Because of that, Congress stiffened the law. The reports released Saturday on six countries were requested by the House International Relations Committee, partly in order to test the State Department's willingness to comply.

The department's reports say human rights have been violated in varying degrees in Argentina, Haiti, Iran, Peru, Indonesia and the Philippines. They tell of torture, arbitrary arrests, prolonged detention without charges and other violations (though not all of these were found in all the six countries).

This is obviously a tricky business for the State Department, and some of its caution in the reports is understandable. Even so, these are "soft" reports. Other sources have detailed, in convincing fashion, much stronger accounts of violations in some of these countries.

The State Department wants our aid continued to the six countries in the reports, despite human rights violations. In our view this sometimes may be in the national interest. But it also is true that the United States can have great influence upon other countries' readiness to violate human rights.

We probably have had some impact, for instance, in moderating the harshness of Haiti's regime. American protestations have even influenced the Soviet Union, at times, to be less repressive in the case of Jews. In short, it is simply not true that our expressions of concern about human rights can be easily ignored abroad.

Members of Congress, as they deal with aid programs, should raise questions and demand answers concerning human rights. Further, the State Department should be prodded to "tell it like it is" when Congress asks for reports on violations.

Otherwise, Washington will be making a mockery of the foreign aid law's requirement that the United States refuse aid to any governments that engage in "a consistent pattern of gross violations of internationally recognized human rights."

IN ARGENTINA, TERROR RULES

When Argentine Gen. Jorge Videla led the coup that toppled the palsied government of Isabel Peron last March, it generally was agreed he had a six-month "grace" period in which to restore the country's equilibrium. But after almost 10 months, Argentina still is floundering in a twilight zone of human-rights repression, terrorism by the left and the right, and persecution of political refugees on a scale that surpasses anything known in pre-coup days.

The Videla junta understandably is anxious to nurture the world's goodwill and economic assistance, and has hired public relations agencies to spread the story of a declining inflation rate and a foreign debt that has been halved. But until the junta addresses the pervasive problem of political repression, it must expect to remain isolated on the fringes of respectability.

If the junta is sincere about making a new beginning, however, this "International Prisoners of Conscience Year," as Amnesty International has labeled 1977, provides a good opportunity. The respected London-based organization, which has documented torture and other abuses of detainees in Argentina and elsewhere, says it will launch "an all-out offensive on behalf of human rights throughout the world" this year.

The Carter administration and Congress can join that offensive by denying the Videla regime further military assistance, by offering sanctuary to South American refugees whose lives are imperiled in Argentina, and by exerting strong diplomatic and other pressures on the junta to stop the repression.

Further evidence of just how far the Argentine political situation has deteriorated is expected later this month when Amnesty International releases a report compiled in part by Rep. Robert Drinan, Roman Catholic priest and Democratic congressman from Massachusetts, who was on a three-member team that spent 10 days in Argentina last fall.

Noting the "incredible tales of torture being used" by the Argentine government, Mr. Drinan says "there's no reason to deny or question the veracity of witnesses. It's just an unbelievable situation."

Earlier, Rep. Edward I. Koch, D-N.Y., told his colleagues that "Argentina is embroiled in a near civil war, and many innocent persons are being caught in a cross fire of leftist guerrilla warfare and government-sponsored counter-terrorism."

Already the political fatalities are nearing the 1,500 mark that was the estimate put on terrorist killings during Mrs. Peron's 21-month rule. The instability that these killings produced was one of the reasons for the Peron government's collapse.

Church sources estimate that at least 5,200 political prisoners are being held, without being charged with any crime and often without any trace being provided as to their whereabouts. The junta's reign of terror recently has taken an ugly anti-clerical turn, as a result of the church having been the one organization that has not been afraid to speak—as one pastoral letter put it—on behalf of those who cannot speak for themselves.

Clearly, the political future of Argentina—as of Chile, Uruguay, Brazil and other South American dictatorships—lies in the hands of those upon whom the repressive governments depend for economic and diplomatic survival. To the extent that the United States provides a portion of that sustenance, 1977 should be the year that leverage is brought to secure human-rights reforms.

JANUARY 17, 1977.

President-elect JIMMY CARTER,
Washington, D.C.

DEAR PRESIDENT-ELECT CARTER: We write to convey our urgent concern about the State Department's superficial treatment of human rights violations. We have been very heartened by your statements on human rights throughout your long campaign and believe that you will share our frustration with the present State Department's way of dealing with human rights.

On January 1, 1977, the House International Relations Committee released partially declassified human rights reports by the State Department on six countries that receive security assistance. The inadequacies of the reports on Argentina, Haiti, Indonesia, Iran and the Philippines compel us to challenge both their content and their conclusions.

After careful scrutiny of these statements, we conclude that the State Department figures given for political prisoners are consistently underestimated and do not take into consideration higher estimates by international organizations. Responsible reports from international legal and human rights groups alleging widespread and routine torture by police and army personnel with the sanction of government leaders, are downgraded or disregarded entirely. (A detailed analysis is attached.) . . .

Americans for Democratic Action, Anti-Martial Law Coalition (Philippines), Argentine Commission for Human Rights, Campaign for a Democratic Foreign Policy, Church of the Brethren, World Ministries Commission, Clergy and Laity Concerned, Friends Committee on National Legislation, Friends of the Filipino People, Haitian Refugee Concerns, National Council of Churches, Jesuit Office of Social Ministries, New York Solidarity Committee with the Argentine People, Washington Office of Latin America, Sr. Ann Gormly (U.S. Catholic Mission Council), Morton Sklar (Catholic University Law School), Herman Will (United Methodist Church, Board of Church and Society).

ARGENTINA

Political Prisoners. The State Department report on Agrentina asserts that "in all probability" the current number of political prisoners detained without trial for unlimited periods is lower than the 4,000 persons Amnesty International (AI)'s 1975–1976 Report estimates to have been in detention at the time of the March 24, 1976 military coup. This assertion ignores two other statements by AI in that same report:

1. "several thousand people were arrested immediately after the coup . . ."

2. ". . . estimates received by AI claim that the number of those in detention is as high as 20,000."

Even if we accept the Argentine government's claim to have released 1,670 political prisoners since the coup, AI's other figures make it impossible to believe the State Department's estimate that less than 4,000 are now political prisoners in Argentine jails.

Government Terror. The State Department report acknowledges that "active duty and retired military and police personnel are reportedly members of vigilante squads" that operate "with apparent impunity." However, the State Department attempts to disassociate the Argentine government leaders from the acts of their subordinates. The report states that Argentine leaders have stated as a matter of policy they do not condone and are seeking to curb violations of human rights, but that in the present atmosphere of terrorism, they cannot yet control the situation."

Father James Weeks, an American born

priest who lived in Argentina for eleven years and was kidnapped on August 3, 1976 in the city of Cordoba, testified before the House Subcommittee on International Organizations on September 28, 1976:

"In summary, from my own experience and that of others with whom I have personnally spoken, there appear to be certain common occurrences experienced by each of the victims throughout their ordeal:

"First of all, all the kidnappers were identified by their captives as police or military men. They were specifically addressed as 'Chief', 'Captain', 'Colonel', 'Lieutenant', etc.

• • • • •

"Third, all the kidnap victims were taken to predetention centers, police stations or military headquarters."

It is widely accepted among most observers of Argentina, including those in the State Department, that the present military government's two major priorities are to stabilize the economy and to wipe out "subversive" elements on the left. In that latter task, the present government, as did the government of Isabel Peron, encourages the actions of semi-clandestine, well disciplined squads of military and police personnel. This is done not only because these often capture and/or assassinate suspected left-wing guerrillas, but also because they intimidate the general population keeping it from opposing the government's other policies. As reported in AI's 1975–1976 report, the present government, as the one before, "has made remarkably few arrests in connection with AAA (Argentine Anti-Communist Alliance), a (rightwing) organization which has carried out more than 2,000 political assassinations since 1973." In summary, groups like the AAA, which include police and armed forces personnel, would appear to be exempt from prosecution, because their activities are compatible with the Argentine government's policies and supplement the repressive activities of the legal security agencies.

Torture. The State Department report acknowledges the existence of torture, but implies that it is something exceptional:

"While torture, cruel, inhuman and degrading treatment or punishment have not been a general practice in Argentina, such methods are reportedly used by the security forces to extract information from some prisoners, particularly suspected or proven terrorists."

The Amnesty International assessment is quite different:

"However, torture is allegedly a routine practice in many local police and military headquarters throughout the country.

Counterinsurgency. The State Department report states: "U.S. military credits have little or no bearing on the counter terrorist capability of the Armed Forces." This is directly contradicted by the Congressional Presentation Document on the Security Assistance Program (March 8, 1976) which states: "The FMS credits being proposed for Argentina will support their program of armed forces modernization, particularly their counterinsurgency and sea control capabilities."

Military credits for FY 77 authorizes the Argentine government to buy 12 UH–1H helicopters (HUEY) of the type commonly used in Vietnam for the insertion of troops into combat zones. Significantly, these additional aircraft would expand the helicopter fleet of the Argentine forces from 107 to 119, according to figures in the "Military Balance", the 1975–76 Report of the London based International Institute for Strategic Studies.

Security Assistance. The State Department offers five reasons for continuing security assistance to Argentina:

1. "Security Assistance demonstrates our desire to cooperate militarily with a country which has 1,000 miles of coastline on the South Atlantic reaching to Cape Horn."

2. "(Security Assistance) offers the United States the possibility of improved communication with the Argentine military who have always influenced events in their country and are now the dominant factor."

3. "Argentina is already a middle power in terms of development . . ."

4. ". . . it has substantial uranium deposits, well-trained physicists and ambitious plans for nuclear power development."

5. U.S. trade and investment are significant and "we have a credit exposure of $2.7 billion."

None of these reasons cite a vital U.S. interest. None of these reasons point to an external threat to Argentina. They are the kind of flimsy reasons that have caused the U.S. Security Assistance Program to come into such disrepute among the American people.

Since the Argentine government clearly acquiesces to terror, if it does not actively promote it, US Security Assistance should be terminated immediately.

ABOLISH THE COUNCIL ON WAGE AND PRICE STABILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

Mr. LEVITAS. Mr. Speaker, today I am introducing legislation which addresses two matters that have become increasingly important during the past several years: First, the credibility of Government to deal with vital national problems, in this case, inflation, and second, the creation of an ineffective bureaucracy despite the best intentions surrounding its creation. The bill I propose abolishes the Council on Wage and Price Stability. The Council cannot and has not done the job of stopping inflation and it continues as a beguiling but ineffective agency of Government to the detriment of public belief.

Let us look at the record of the Council on Wage and Price Stability and how it came to be.

For 3½ Nixon years, we witnessed and suffered under the dismal failure of mandatory wage and price controls under the Economic Stabilization Act of 1970. It was painfully clear that under this program with its phases 1, 2, 3, et cetera, price and wage controls to contain inflation were not effective, and business and labor became vigorously opposed to this form of mandatory regulation. The distortions of prices, wages, supply, and demand in the market place also hurt the public.

Recognizing the need to do something to halt the double-digit inflationary spiral gripping the country at that time, and the failure of controls, it was decided to eliminate the controls and use the market place, persuasion and information instead.

It was felt, however, that the public would feel better if it was told that some other agency of Government was still in the ball game.

Consequently, in August 1974, Congress, at the administration's suggestion, created the Council on Wage and Price Stability. This Council was supposed to monitor wages, prices, dividends, interest rates, and concentration of business power and antitrust activities. As well, the Council was authorized to participate in collective bargaining activities and rulemaking functions of Federal agencies.

The committee report which accompanied the bill creating the Council in 1974 stated that the Council would "have power to monitor the economy generally," have no mandatory or standby control over the economy," "work with labor and management in an effort to improve the structure of collective bargaining and encourage price restraint," and "be authorized to conduct public hearings to help publicize the inflationary problems and to focus attention on the need to increase productivity in all sections of our economy."

In short, the Council has the responsibility of monitoring and impacting upon all—repeat, "all"—decisions in the private sector and all—repeat, "all"—decisions in government which have an inflationary consequence.

The Council, for the most part, has operated with a staff complement of 48 persons of which only 26 are professionals—10 for monitoring all decisions in private business, 7 for monitoring all government activities, and 9 for other responsibilities such as general counsel, public affairs and the director's office. From time to time, the Council has employed the services of outside consultants, specifically six consultants during the first 10 months of its existence. This is the total capability of an agency that is supposed to watch over the total activities of government and private sector operations. When one considers that 535 Members of Congress with over 3,000 staff members cannot even keep up with the government end, not to mention the private sector, who can really believe that in supposedly doing its job, the Council checks into those government and private decisions which may be inflationary? How can they do this with such an inadequate staff?

I should point out here that the Council has some excellent people in its staff including the present and past directors. These have been able, dedicated, and articulate men. It is not their failure I condemn; it is the failure of the Council's statutory charter. These men, properly utilized elsewhere, could be of great help in a meaningful fight against inflation.

During the last Congress, my Subcommittee on Commerce, Consumer, and Monetary Affairs of the Government Operations Committee conducted oversight hearings on the Council on Wage and Price Stability. At that time, representatives of the Council stated that the work of the Council was initiated by reading newspapers, reviewing the Federal Register, and receiving letters from the public and Members of Congress, all on a haphazard and catch-as-catch-can basis.

Using this less-than-systematic procedure, the Council has conducted to date 33 studies of profit monitoring and filed approximately 99 formal comments with Federal agencies—this in the name of doing something about stopping inflation. Who is kidding whom? What about the hundreds of thousands of inflationary decisions that went unnoticed?

The Council has obviously not been

able to do its intended job. Yet, we continue to spend taxpayers' money on it and tell the public we have an agency dealing with inflation. It is a cosmetic agency. Or worse, it disguises the failure of the Government to do something about a serious problem. It is like disguising pain with an opiate and letting the cancer go untreated.

I suggest that the existence of this ineffective Council charged with the high-sounding mission of monitoring the entire economy for inflationary impact is nothing more than a sop to the public to make people think that the Government is doing something, when, in fact, the Council is inherently incapable of any meaningful functions. It should be terminated as a useless body. The information gathering function of the Council can easily be handled by at least three other agencies of Government and collated for Presidential use by a White House aide.

Let us stop kidding the public and let us begin a conscious effort to reduce Federal bureaucracy and wasteful spending.

ALL WAGERING TAX ENFORCEMENT IS RETURNED TO IRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, the Department of the Treasury has advised me that, after more than 2 years of administrative turmoil, both criminal and civil enforcement of the Federal wagering tax laws is being transferred back to the Internal Revenue Service. I understand that Secretary William E. Simon, as one of his last official acts, signed an order last Friday returning all wagering enforcement to the IRS from the Bureau of Alcohol, Tobacco and Firearms. His order is to be published in the Federal Register today.

Hopefully, we will now see an end to the internal bickering that has existed between the IRS and the BATF since December of 1974. Hopefully, we will now see the beginning of effective tax enforcement of an industry that does an annual business of approximately $67 billion and should be returning some $15 billion in wagering excise, stamp, and income taxes to the Treasury every year.

Divided responsibility has been no one's responsibility. Divided responsibility has led to negligible enforcement of this vital and important law.

Prior to December 24, 1974, the IRS was responsible for enforcing both the criminal and the civil wagering tax laws, and enforcement was vigorous and financially productive. After December 24, 1974, however, over the objections of his own top criminal enforcement official, IRS Commissioner Donald C. Alexander conceded responsibility for enforcing the criminal wagering tax laws to BATF. But the Treasury gave BATF no funds to carry out this responsibility. Indeed, at one point, BATF was directed to reduce its inventory of active wagering cases to only two nationwide.

For more than a year after IRS yielded criminal enforcement to BATF, the responsibility for civil enforcement remained in limbo—that is, until I brought the problem to the attention of Secretary Simon. I pointed out that countless numbers of gambling operators were escaping taxation because of the bureaucratic infighting and footdragging then going on.

On February 21, 1976, Secretary Simon officially directed that IRS assume responsibility for civil enforcement. But the directive has been meaningless and nonproductive. IRS policy under Commissioner Alexander has been to wait until BATF had brought a criminal wagering tax case before moving on the civil front. But because Treasury had given BATF no funds to carry out its responsibility for criminal enforcement, IRS has worked no civil cases except those which were in its inventory prior to December 24, 1974.

The upshot of all this is that neither the criminal nor the civil wagering tax laws have been effectively enforced by either the IRS or the BATF. I hope that this 2-year long tax-free holiday for gamblers has ended.

Following is the text of Secretary Simon's order:

TRANSFER OF FUNCTIONS TO THE INTERNAL REVENUE SERVICE

(Treasury Department order No. 221–3 (Revision 2))

By virtue of the authority vested in me as Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, it is ordered that:

1. There is hereby transferred to the Commissioner, Internal Revenue Service those functions, powers and duties of the Director of the Bureau of Alcohol, Tobacco and Firearms arising under laws relating to taxes on wagering and the provisions of Treasury Department Order 221–3.

2. All regulations prescribed, all rules and instructions issued, and all forms adopted for administration of the wagering tax laws in effect or in use on the date of this Order shall continue in effect or in use until superseded or revised by the Commissioner.

3. To the extent that any action taken by the Director of the Bureau of Alcohol, Tobacco and Firearms, or his delegates, under Treasury Department Order 221–3, before the effective date of this Order may require ratification, such action is hereby ratified.

4. Each wagering tax case or investigation open or otherwise in process as of the date of this Order shall be pursued to conclusion by the agency processing the same on that date.

5. This Order is effective immediately. All delegations inconsistent with this Order are revoked.

WILLIAM E. SIMON,
Secretary of the Treasury.

JANUARY 14, 1977.

TED SORENSEN WITHDREW WITH GRACE: THOSE WHO BY THEIR UNWORTHY AND UNFAIR ATTACKS CAUSED HIS WITHDRAWAL HAVE FALLEN FROM GRACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, the withdrawal of Theodore C. Sorensen, an able lawyer and writer who has rendered distinguished service to his country as a Presidential adviser, must place in question the raison d'etre for holding public or appointive office. That raison d'etre for him, for me, and for many others is the opportunity to serve the public to the best of our abilities. Regrettably, there are many who for reasons of personal prejudice or politics are willing to denigrate those who are dedicated to that laudatory goal of public service.

I regret the withdrawal of Ted Sorensen's nomination as the Director of the CIA. He would have been a superb director, exercising his brilliant intellect in support of a balanced approach to one of the most sensitive agencies of Government.

It had been my intention, had the nomination not been withdrawn, to appear before the Senate Select Committee to Study Governmental Operations With Respect to Intelligence Activities and read into the RECORD a letter which 14 Members of the New York congressional delegation had signed. I regret we no longer have that opportunity. Instead I am appending a copy of that letter and an editorial that appeared in today's New York Times. Ted Sorensen withdrew with grace. Those who by their unworthy and unfair attacks caused his withdrawal have fallen from grace.

The material follows:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., January 14, 1977.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Washington, D.C.

DEAR MR. CHAIRMAN: We strongly endorse President-Elect Carter's nomination of Theodore G. Sorensen as Director of Central Intelligence. Though we have in common our membership in the New York Congressional Delegation, we come from all parts of the state; serve urban, rural and suburban districts; and hold differing political views. Nevertheless, we join in expressing bipartisan support for Mr. Sorensen.

We do so because we believe he brings to the position outstanding personal qualities.

Mr. Sorensen is a man of unquestioned personal integrity, who has been scrupulous, candid and direct in all of his dealings with us and our colleagues.

He is, in addition, a man of keen intelligence, with a distinguished educational background. For the better part of two decades, he has addressed public issues with insight and wisdom.

We have not all agreed with all of his positions on those issues. But we have always found them to be well reasoned and carefully considered. Moreover, they are not dogmatic or filtered through an ideological prism. Mr. Sorensen bases his judgments on the facts, not on preconceived notions. As Director of Central Intelligence, we believe, Mr. Sorensen would do likewise; he would present to the President and to the Congress objective and uncolored reports and conclusions.

Sincerely,

Edward I. Koch, Jonathan B. Bingham, John M. Murphy, Charles B. Rangel, Stephen J. Solarz, James H. Scheuer, Lester L. Wolff, Joseph P. Addabbo, Matthew P. McHugh, Edward W. Pattison, Benjamin S. Rosenthal, Theodore S. Weiss, Frederick W. Richmond, Elizabeth Holtzman.

[From the New York Times, Jan. 18, 1977]

SMOKEBOMBS AND SORENSEN

The first thing to be said about Theodore Sorensen's withdrawal yesterday from desig-

nation as Director of Central Intelligence is that he deserves full personal vindication against a subterranean stream of accusations made against him. For the most part, they were unjust or irrelevant and, as one Senator observed, smacked of conviction without a trial.

Consider, for example, the matter of leaks. Members of the Senate Intelligence Committee, which was to pass on his nomination, are much concerned to demonstrate their capacity to keep secrets. They are said to have been shocked when they learned that Mr. Sorensen acknowledged, in two court affidavits, that he gave classified information to reporters during his years in the Kennedy White House. This is not a subject on which we are disinterested; indeed, one of the affidavits was made in the suit brought against this newspaper concerning the Pentagon Papers. But we do know something about the way government works; about how common—and proper—this practice has been for officials up to and including Presidents; and how few former officials would muster the simple courage Mr. Sorensen did to say so.

Then there is the question of personal use of Government papers, including classified papers, by outgoing Government officials. Mr. Sorensen freely concedes having done so. We are not sure, in the abstract, that this is a salutary practice. But there is no doubt that it is a proper one, validated by the conduct of Presidents, aides, and other high officials for years. Suddenly to single out and assail Mr. Sorensen seems unfair, even captious.

The suggestion of captiousness, even of an ideological campaign, against Mr. Sorensen is heightened by the circulation of a variety of other rumors or irrelevant reasons for opposing him. These include the fact that he has been married three times, which, one would think, would be especially awkward grist in a Senate recently characterized as undergoing an epidemic of divorce.

What is equally regrettable is that these smokebombs of objection prevented his nomination from being considered on the merits. We were encouraged by his nomination last month and believe he would have performed creditably. Still, his nomination presented other, fairer questions. It was bruited about that he sought to avoid military service as a pacifist. The darker implication here is grossly unfair to him. But the inherent philosophical question would have been legitimate: Can someone with deep nonviolent views fully act on the need—awful, rare but conceivable—to be cold-blooded?

Still more important is the principle of accountability to Congress and to the public for which Mr. Sorensen's nomination seemed to stand. He has long urged the Congress to greater vigilance over the C.I.A. ("The word 'oversight' has two meanings," he once wrote, "and they chose the wrong one.") In his withdrawal statement today, he stated a worthy principle: "I believe in the application of moral and legal standards to national security decisions, including the limitation of covert operations to extraordinary circumstances involving the vital national interests of our country, with timely review by the appropriate Congressional committees and written authorization by the President and his senior Cabinet officials."

It is a worthy standard, one by which both President-elect Carter and the Senate should be judged as they now decide not only who should run the C.I.A., but how.

REPORT ON THE ACTIVITIES OF THE JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS IN THE 94TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 15 minutes.

Mr. BROOKS. Mr. Speaker, In view of the action of the Senate Committee on Rules and Administration this week in approving the recommendation of the Temporary Select Committee to Study the Senate Committee System to abolish the Joint Committee on Congressional Operations, our colleagues—who have an equal stake in the joint committee and its services—will be interested in the report of the activities of the joint committee during the 94th Congress.

The joint committee's "low profile" should not obscure for our colleagues—as it apparently has for those in the other body—the daily contributions to every Member of the programs, projects, and publications of the joint committee.

The Joint Committee on Congressional Operations was estabilshed for no less unique and optimistic a purpose than to "enable Congress better to meet its responsibilities under the Constitution."

As such, the joint committee is the only committee of the Congress expressly designed to fill a broad institutional need recognized by our colleagues in both Houses: To strengthen in a variety of ways the resources, the personnel, the procedures of that branch of Government on which the freedom and well-being of the American people is most directly dependent, that branch of our "Noble Experiment" which our founders designated as the first among equals.

Whether we have, during the 6 years of our existence, lived up to the high expectations of the 91st Congress, which created the joint committee, or even begun to realize the promise implicit in our origins and purpose can only be judged by our colleagues, by those we are responsible for serving.

Having completed my second term as chairman, however, it is my own conviction that the joint committee has made a substantial contribution to the effectiveness of this institution. More important, in its continuing activities, its established programs, its informational products, and its experimental demonstrations, the joint committee has constructed a solid foundation for future progress in achieving a stronger and more cohesive Congress, better equipped and more fully prepared to fulfill its historic purpose in a demanding and complex world.

The joint committee during the 94th Congress, both directly and through the Commission on Information and Facilities for which it was statutorily responsible, significantly improved established services and initiated a number of promising new activities.

Among highlights of the past 2 years, we have—

Expanded and improved the House and Senate editions of the Congressional Handbook;

Broadened the scope of service of the Congressional Placement Office with stronger emphasis on qualified professional level personnel;

Established a Congressional Travel Office to assist committees and Members with logistical arrangements associated with domestic travel on official business;

Increased the quality and timeliness of our continuing reports on court cases and legal actions of vital interest to the Congress;

Published a study of congressional investigatory powers and procedures;

Organized and established the first computerized Member Information Network in Congress;

Compiled and published an extensive inventory of information resources and services available to Congress;

Conducted in-depth management studies of the Office of Technology Assesssment, the Congressional Research Service, and the Congressional Budget Office and recommended improvements;

Published and distributed a series of pilot issues of a congressional staff journal;

Conducted further tests of the feasibility of radio and television broadcasting of floor proceedings;

Developed and tested a computerized budget information system;

Demonstrated economies of space and staff in the centralized production of Members' form letters;

Conducted studies for, provided information to, and otherwise cooperated with the Senate Commission on the Operation of the Senate, the House Commission on Administrative Review, and the Architect of the Capitol;

Implemented its new and continuing authority (P.L. 93–554) to make studies and recommendations dealing with the jurisdictions and workloads of House committees;

Expanded, in response to growing demand, the provision of office management services to Members and committees;

Organized a pilot project to test the utility of contemporary office furniture, work station designs, et cetera, as a means of achieving better space utilization in Members' offices;

Inventoried all usable space in the House and recommended a series of relocations designed to improve space utilization and encourage development of a rational system of allocating congressional space;

Conducted studies of the Senate and House Offices of Legislative Counsel and recommended ways of improving services;

Development and proposed a means of reducing conflicts in the scheduling of committee and subcommittee meetings;

Established and operated a computer-assisted program for transmitting to Members' offices a running summary of the proceedings and debate on the House floor.

Before describing in greater detail the activities of the joint committee during the 94th Congress, it would be especially appropriate to express appreciation for the cooperation, understanding, and support which have been generously forthcoming from our joint committee colleagues: Senator LEE METCALF of Montana, our distinguished vice chairman and former chairman, MIKE GRAVEL of Alaska, LAWTON CHILES of Florida, JESSE

HELMS of North Carolina, and PETE DOMENICI of New Mexico, and Representatives ROBERT GIAIMO of Connecticut, JAMES O'HARA of Michigan, JAMES CLEVELAND of New Hampshire, and JOHN ASHBROOK of Ohio. Their contributions to the work of the joint committee have been substantial.

To them must also be added our four distinguished House colleagues who served as members of the Commission on Information and Facilities: DON FUQUA of Florida, ELIZABETH HOLTZMAN of New York, CHARLES WHALEN of Ohio, and PHILIP CRANE of Illinois.

It was the Commission, in fact, which constituted the most significant new aspect of joint committee activities in 1975–76. Created by the Committee Reform Amendments of 1974 (H. Res. 988, 93d Congress) to conduct "a thorough and complete" study of information needs and resources, facilities, space requirements and utilization, and the staff resources needed by the Legislative Counsel, the Commission has functioned as an integral part of the joint committee both by law and by the character of its jurisdiction.

A majority of the Commission members were required to be the House Members of the joint committee.

The joint committee staff was required to provide staff support to the Commission.

The Commission's jurisdiction corresponded to that of the joint committee.

The Senate, in Public Law 93–554, concurred in assigning to the joint committee the leading role in the operation of the Commission.

In carrying out its responsibilities, the Commission—as is also the case, of course, with the joint committee—recognized the mutuality of interest of the two bodies in much of the area of its jurisdiction, especially in the need to improve the quality of information resources and services available to the Congress. Wherever possible, the Commission: First, actively sought the cooperation of, and extended its own to, the appropriate Senate authorities; second, made much of its staff work available, and assigned a staff member, to the Commission on the Operation of the Senate; and third, reflected in several of its projects and publications the interest of the Senate as well as the House.

In its final report, House Document 22, 95th Congress, the Commission urged that more be done "to increase coordination between the two bodies where their interests are similar."

During the 94th Congress, both the joint committee—as it has from its establishment—and the Commission emphasized the practical and the pragmatic, as opposed to the merely academic, in the conduct of its studies, projects, and other activities. Wherever appropriate, our work has been guided by the principle that more can be accomplished of lasting value to the Congress and its Members by producing services and materials which meet identifiable and substantial needs.

In the case of the Commission, for example, even before its work had been completed—January 2, 1977—many of its recommendations had been implemented, several of its pilot projects had been continued under other auspices, and a number of its publications had been widely utilized.

The following checklist describes in summary form each of the activities undertaken by the joint committee and the Commission during the 94th Congress:

CONTINUING ACTIVITIES

First, Congressional Handbook: The handbook is a comprehensive guide to the administrative and management aspects of the operations of Congress, covering such matters as allowances, compensation, office equipment, rules and regulations, mailing standards, and so forth. Individual editions are published for both the House and the Senate. While the handbooks are updated continuously, the joint committee last year increased its schedule of revisions to a quarterly basis and included new materials.

Second. Court proceedings: Pursuant to the Legislative Reorganization Act of 1970, the joint committee identifies, tracks, and reports on court proceedings and actions of vital interest to one or both Houses of Congress. Each report, published cumulatively, contains case briefs, accounts of the status of court proceedings, and the full texts of decisions in active cases. During the last Congress, the joint committee expanded its reporting schedule to three times a year. In addition, special reports were published on cases of major interest as soon as possible following the court decisions.

Third. Placement offices: The joint committee staffs placement offices in both the House and Senate, which, prior to the biennial post-election rush, had been conducting approximately 750 to 1,000 interviews of applicants monthly and placing in congressional offices approximately 40 new employees monthly in addition to providing testing and other ancillary services.

Fourth. Applicants for professional positions: The joint committee published and distributed to Members and committees in both Houses, listings by code number synopsizing applicants' qualifications and experience. A service of the Placement Office, the listing is published monthly and ordinarily includes information about applicants with professionally relevant experience who have not previously been employed by the Congress. Included in this service at the end of each Congress is a separate publication of applicants with recent Capitol Hill experience.

Fifth. Office management: Upon request by Members and committees in both Houses, joint committee staff have performed intensive management surveys of individual offices and recommended improvements covering all aspects of office management including: staff qualifications and assignments, work flow, correspondence handling, filing, equipment selection, personnel supervision, office layouts—furniture—distribution of work and communication between Washington and district offices, et cetera. Three such surveys are presently being conducted and four more are pending.

Sixth. Travel office: The joint committee's Travel Office, a service to Members and committees in the House and Senate initiated during the 94th Congress, has experienced growing requests for its services: reservations for air and surface travel, hotel accommodations, arrangements for meeting and hearing rooms, clerical assistance, et cetera, in connection with official domestic travel.

Seventh. Computer information services: In addition to the Commission's formal study of and pilot projects involving automated information resources, joint committee staff has been providing, upon request, advice and assistance to Members' offices regarding the availability of such resources and services, future prospects, and criteria for selecting equipment and information systems.

Eighth. Broadcasting of House and Senate floor proceedings: As a followup to its 1974 study, hearings, and report on radio and television coverage of House and Senate floor proceedings, joint committee members and staff have continued to provide counsel and assistance to concerned Members, committees, and officers regarding implementation of the joint committee's recommendations; such activities include: drafting of proposed legislation, consultations with House Rules Committee members and staff, and testing the feasibility of television cameras on the House floor.

Ninth. Congress and mass communications: In addition to its study of and activities concerning broadcasting of House and Senate floor proceedings, the joint committee pursued its broader study of means of improving the communication of congressional activities and procedures through mass media, and published a report, with recommendations, entitled "A Clear Message to the People."

Tenth. House committee jurisdiction and workloads: House Resolution 988 and Public Law 93–554 assigned to the House members of the joint committee permanent responsibility for continuing the work of the former Select Committee on Committees including studying and recommending changes in the jurisdiction and workloads of House committees and, in cooperation with Senate Members, seeking to rationalize the committee jurisdictions in the two Houses.

In addition to its report and recommendation on committee scheduling conflicts and its report on congressional investigatory powers, House Members and staff of the joint committee developed proposed changes in the House rules clarifying the subpena powers of committee chairmen and initiated a study of the effects of new bill-referral procedures in the House; studies aimed at rationalizing House and Senate committee jurisdictions have been suspended pending disposition of the recommendations of the Temporary Select Committee To Study the Senate Committee System.

Eleventh. Congressional intern program: Again in 1976, as it has in recent

years, the joint committee provided administrative support and supervision for the congressional intern program covering both the House and Senate, including the provision of office space, staff services, speakers, et cetera.

Twelfth. Committee rules: With the cooperation of chairmen of House and Senate standing, select, special, and joint committees, the joint committee again compiled and published the texts of individual committee rules. For the first time, this compilation included the rules of all standing committees of the Congress.

INDIVIDUAL ACTIVITIES

Thirteenth. Conflicts in committee schedules: The House members of the joint committee, under the authority of House Resolution 988, proposed a means of reducing conflicts in the scheduling of committee and subcommitee meetings so as to assure committees a maximum opportunity to obtain and hold quorums at least twice a month.

Fourteenth. Executive branch denials of information to Congress: The joint committee staff began gathering information in preparation for possible hearings into executive branch denials of information requested by congressional committees.

Fifteenth. Statutes and regulations affecting Members of Congress: In preparation for possible future hearings, the joint committee staff has initiated the compilation and analysis of statutes, court decisions, and regulations affecting Members of Congress and their activities.

Sixteenth. Congress and litigation: In preparation for possible hearings on "The Effects of Litigation and the Judicial Process on Congress," the joint committee initiated an extensive preliminary staff study to identify and analyze the recent increase in the number of court cases involving Senators and Representatives, congressional committees, officers of the two bodies, and employees.

Aim of the study would be to determine the effects on the legislative branch of reliance on the judicial process, the constitutional significance of the trend, and the problems of assuring adequate legal representation of congressional interests.

Seventeenth. Congressional legal counsel: The joint committee was consulted frequently in the development, consideration, and Senate approval of title II of the Watergate reform bill, S. 495, which would assign substantial oversight and consultative responsibilities to the joint committee with respect to the functioning of the proposed congressional legal counsel; the study was expanded following Senate passage of the bill.

Eighteenth. Minority legislative training program: In cooperation with individual Members and other congressional organizations, the joint committee provided administrative support, space and personnel for a training program designed to develop legislative skills and understanding for interested minority persons.

Ninteenth. Congress today, 1976: On an experimental basis, the joint committee published and distributed to visitors to the Capitol, a publication specially designed to inform visitors more systematically about how the Congress functions. In addition to introductory essays on the congressional process, each issue contained the names, office numbers, and telephones of Senators and Representatives, a schedule of the current day's meetings of House and Senate Committees, and the legislative program in each House.

Twentieth. Leading cases on congressional investigatory power: The joint committee conducted and published a study of the power of Congress to investigate the issuance of congressional subpenas, the procedural conduct of investigative hearings, and the constitutional rights of witnesses before congressional committees; a compilation of legal precedents enunciated by the Federal courts was included in the report.

Twenty-first. New Member orientation program: Several joint committee members and staff employees participated actively in the development and implementation of the orientation program for new Representatives and Senators of the 95th Congress administered by the Congressional Research Service, the Institute of Politics of Harvard University, and the Brookings Institution; the joint committee's objectives have been to assure the widest possible opportunity for Members to participate and to increase the relevance of the program to the needs and interests of Members and the institution.

Twenty-second. New staff orientation program: The joint committee staff has been preparing, in cooperation with the Congressional Research Service, plans and materials for an expanded program of training and orientation for staff personnel of new Members of the House and Senate during early 1977.

Twenty-third. Senate Commission on the Operation of the Senate: Throughout the life of the Senate Commission, whose jurisdiction is very similar to that of the House Commission, the joint committee and the Commission have provided continuing staff assistance and cooperation, including: First, assigning a joint committee staff member to the Senate Commission for the life of the Commission; second, undertaking responsibility for a staff study of the organization and operation of the Office of Legislative Counsel in the Senate; third, sharing, in advance of publication, staff studies, research, surveys, et cetera, in areas of mutual interest, especially the organizational effectiveness of the Office of Technology Assessment, the Congressional Research Service, and the General Accounting Office and other information sources; and fourth, furnishing information about and otherwise consulting on House Commission projects of interest to the Senate Commission such as the former's pilot Member Information Network. An important result of this cooperation has been the avoidance of considerable potential duplication and the production of complementary studies.

Twenty-fourth. House Commission on Administrative Review: The joint committee and Commission staff have provided, on a continuing basis, similar kinds of cooperation and assistance to the Commission on Administrative Review—whose jurisdiction parallels in many respects that of the House Commission—with the mutual objective of avoiding unnecessary duplication.

INFORMATION

The Commission's several studies and pilot projects in the information area of its activities were expressly designed to develop and test products and services which could help meet the need for and encourage further efforts to equip Congress with modern information capabilities. The Commission—

Twenty-fifth. Information guides: Prepared and published detailed and comprehensive guides to the organization of the General Accounting Office and the Library of Congress-Congressional Research and to the multiple information resources and services provided by the two agencies most immediately responsible for supporting the Congress.

Twenty-sixth. Information inventories: Compiled in carefully annotated and indexed fashion, an unprecedented series of inventories cataloguing information resources and services available to the House from: First, internal House sources; second, all the legislative branch agencies including the GAO and CRS; third, all the departments and principal agencies of the executive branch; and fourth, a wide variety of private organizations—foundations, universities, research institutes, professional and trade associations, et cetera, broadly defining services and sources to include publications, computer systems, and personal consultations; the Commission recommended that the joint committee assume responsibility for the maintenance and regular updating of these inventories—with the assistance of GAO and CRS—and publish them as a master information catalog in loose-leaf format similar to the Joint Committee's "Congressional Handbook".

Twenty-seventh. Organizational studies: Conducted in-depth studies of the organization and management of the Office of Technology Assessment, the Congressional Research Service, and the Congressional Budget Office for the purpose of identifying organizational and administrative conditions which may limit the agencies' effectiveness; individual reports on these studies included numerous Commission and staff recommendations for change, several of which have already been adopted by OTA and CRS, the first two agencies studied.

Twenty-eighth. Member information network. Developed, with the technical cooperation of the House Information Systems, the Library of Congress, and appropriate Senate officials, a 30-office Member Information Network of computer terminals and associated printers accessing the HIS Bill Status System, the Library's SCORPIO system, and the Agriculture Department's FAPRS system

which provides comprehensive information about Federal assistance programs; the Commission recommended that the network be expanded under the jurisdiction of the House Information Systems, and the transfer of control was effected on December 1.

Twenty-ninth. Summary project: Developed as a part of the Member Information Network, the summary of debate and proceedings program, a computer-assisted means of keeping Members advised on a current and continuing basis of the progress of debate and related activities on the House floor, including the capability of retrieving information by time period, Member's name, and bill number; the Commission recommended that the summary program be conducted under the authority of the Doorkeeper of the House and the necessary transfer of personnel and equipment has been completed.

Thirtieth. Budget information: Constructed and tested a Member Budget Information System, with the cooperation of the Congressional Budget Office, House Information Systems, and the Committees on Appropriations and the Budget, providing through automated processes a variety of current and historical data on the Federal budget; the Commission recommended that the system be improved to meet additional user needs, including the provision of an updating capability, that the system be maintained cooperatively by CBO, HIS, the Appropriations and Budget Committees, and the Joint Committee on Congressional Operations, and that it be made available at the earliest opportunity to Members of Congress on an operational basis.

Thirty-first. Staff Journal: Published five pilot issues of a Congressional Staff Journal as a process for communication and as a source for staff members of current information on matters affecting the professional performance of their duties, especially in the area of information resources; the Commission recommended that the publication, entitled STAFF, be continued on a monthly schedule under the jurisdiction of the Joint Committee.

FACILITIES

Having identified a number of space problems and determined specific needs for additional space and improved space utilization, the Commission initiated several studies and pilot projects designed to test possible solutions or provide a foundation for specific recommendations, as follows:

Thirty-second. Space inventory: A comprehensive inventory of all space under the jurisdiction of the House was conducted, its current use determined and analyzed, and five categories established, based on the needs of occupants for ready access to the House floor, as a means of determining priority use of space.

Thirty-third. Space relocations: A series of relocations were proposed to give effect to these priorities and accomplish, among others, the following objectives: provision of space in the Capitol for Members requiring temporary working room; removal of the House Document Room from the Capitol to the Longworth Building to improve service to Members and staffs; relocation of most of the operations of the Publications Distribution Service and the majority and minority printing clerks from the Longworth Building and West Garage to House Annex 2; similar relocations, to House Annex 1 and 2, of all executive branch liaison activities, unofficial organizations, and most of the functions carried on by political party groups; consolidation of news media and postal service functions; and redesign of space in the Rayburn Building for press conferences and other meeting purposes.

Thirty-fourth. Office systems: Several Members' suites have been equipped with specially designed office systems utilizing contemporary modular furniture in a continuing test to determine their potential for saving space and improving working conditions.

Thirty-fifth. Centralized letter production: A Multiple Letter Center was established, serving 18 nearby Members, to test the feasibility of centralizing the production of bulk-type correspondence so as to ease crowding, confusion, and noise in participating offices and free personnel for other work; following the test, the Commission recommended that similar centers be established contingent on the willingness of Members to support such operations at the rate of $3,000 a year from each participant's office allowance.

Thirty-sixth. Rayburn Room. The design and arrangement of the Rayburn Reception Room in the Capitol was studied and design modifications submitted to the House Office Building Commission and the Architect of the Capitol, modifications designed to increase the usefulness of the room for off-the-floor meetings of Members with their staffs and constituents.

Thirty-seventh. Filing systems. Though the Commission did not construct a specific pilot project dealing with office filing systems, it gained substantial insights into record storage and filing system problems and opportunities in the course of both its space and information studies; it recommended that the House, with the assistance of the Joint Committee on Congressional Operations and its Office of Placement and Office Management, actively examine alternative methods of using microform equipment as a means of reducing record storage space requirements and enhancing retrievability of files.

Thirty-eighth. Cannon and Longworth courtyards. The Commission examined at considerable length the prospective advantages and disadvantages of constructing additional office space within the interior courtyards of the Cannon and Longworth Buildings as a means of increasing usable space; the Commission concluded that this alternative possessed considerable potential and recommended that the House Office Building Commission undertake a detailed feasibility study at the earliest possible time.

Thirty-ninth. Automated storage facility. The Commission's space surveys and studies revealed that substantial amounts of space in the three House office buildings, presently devoted to storage of Members' and committees' records, supplies, publications and surplus equipment, could be redeveloped as usable office space. The Commission recommended that the Architect of the Capitol consider in his on-going master plan survey the construction of a fully automated storage warehouse on undeveloped property in the immediate vicinity of the House office buildings to provide for expanded storage facilities, computerized record-keeping, and more expeditious retrieval of needed records and supplies.

Fortieth. Site survey. A detailed engineering and architectural study was commissioned, and a report published, identifying all potential sites on the House side of the Capitol for possible construction of one or more additional House office buildings and assembling for each site all physical data, cost estimates, space potential, and other relevant information for use as an evaluation tool; the report to the Commission was forwarded to the House Office Building Commission and the Architect of the Capitol for further consideration.

Forty-first. House Legislative counsel. The Commission was directed by House Resolution 988 to study "the staff required to provide the House Legislative Counsel with the capability to fully meet the needs of the Members of the House."

Following an extensive study of the Office, its statutory basis, organization, methods of operation, and the views of Members and committees which utilize the services of the legislative counsel and his staff, the Commission found that:

There was general satisfaction among Members and staff with the adequacy of service of the Office of Legislative Counsel;

The increased workload of the Office had forced some Members and committees to seek bill drafting services from other sources;

Due to the limitations on the capacity of the Office to expand, no new services should be offered until the legislative counsel more fully met Members' needs for existing services.

Based on its findings, the Commission, among other things, recommended that the professional staff of the Office be increased from 27 attorneys to no less than 40 over a 5-year period, that additional space be provided, and that the legislative counsel explore the feasibility of utilizing automated data processing to increase productivity. In partial implementation of this recommendation, the Office has installed a computer terminal to access the Justice Department's JURIS information system.

PROJECTED FUTURE ACTIVITIES

While it is not possible to predict with certainty the agenda of the joint committee for the 95th Congress until the joint committee organizes early in 1977, tentative projections of its workload can be made in three categories: First, ongoing activities required by statute or previously approved; second, activities recommended by the House Commission on Information and Facilities or other

official bodies; and, third, activities under active consideration.

(1) ON-GOING ACTIVITIES

First. Preparation of House and Senate handbooks.

Second. Identification of court cases of vital interest to the Congress.

Third. Provision of office management surveys and services.

Fourth. Operation of the Congressional Placement Office.

Fifth. Preparation for hearings on Congress and litigation.

Sixth. Administration of orientation programs for staff of new Members.

Seventh. Operation of the Congressional Travel Office.

Eighth. Implementation of recommendations for broadcasting House and Senate floor proceedings.

Ninth. Administration of the congressional intern program.

Tenth. Continued study of House committee jurisdictions and workloads and the rationalization of House and Senate Committee jurisdictions.

Eleventh. Continued study of executive branch denials of information to Congress.

Twelfth. Continued study of statutes and regulations affecting Members of Congress.

Thirteenth. Continued study of Congress and mass communications.

Fourteenth. Continued efforts in connection with the Congress Today project.

Fifteenth. Publication of monthly listings of applicants for professional positions on congressional staffs.

(2) OFFICIALLY RECOMMENDED ACTIVITIES

First. Publication on a regular basis of a Congressional Information Handbook as a guide to information resources and services for the Congress, utilizing and updating materials assembled by the House Commission on Information and Facilities and published as four individual annotated inventories.

Second. Publication on a monthly basis of STAFF as a staff-prepared and staff-oriented congressional staff journal.

Third. Preparation for implementing provisions affecting the Joint Committee with respect to the proposed congressional legal counsel pending enactment of the Watergate Reform Act.

Fourth. Hearings to review the implementation of recommendations by the House Commission on Information and Facilities and the Senate Commission on the Operation of the Senate affecting the General Accounting Office, Congressional Research Service, Office of Technology Assessment, and Congressional Budget Office.

Fifth. Comprehensive management study of the General Accounting Office.

Sixth. Participation in efforts to expand and improve the Member Budget Information System—developed as a pilot project in connection with the Commission's Member Information Network—with the cooperation of the Congressional Budget Office, House Information Systems, and the Committees on Appropriations and Budget.

Seventh. Consideration of alternative methods of utilizing microform equipment and processes as a means of reducing record storage space requirements and improving retrievability of files.

Eighth. Development, in cooperation with the legislative branch support agencies—CRS, GAO, CBO, OTA—of a master indexing program for congressional publications and automated information systems to improve users' access to these services and resources.

Ninth. Coordination of a Congress-wide program to improve the joint planning, organization, development and use of advanced information systems and resources, including automated resources.

(3) ACTIVITIES UNDER CONSIDERATION

First. Comprehensive study of congressional staffing requirements, patterns of use, regulations, recruitment, training, and so forth.

Second. Study of Members' "office accounts"—privately contributed funds used to supplement official allowances—to determine the need for limitations, regulations, and accountability.

Third. Study of congressional scheduling and utilization of time to determine possible ways of improving efficiency of congressional operations.

Fourth. Feasibility study of education and training programs designed to improve skills and capabilities of congressional staff.

Fifth. Preparation of operational manuals, recruiting brochure, and other materials to improve operations of congressional offices.

In addition to the activities summarized above, the joint committee and its staff are constantly called upon by Members and their staffs for a wide variety of assistance and counsel, of kinds which cannot be quantified or categorized as formal committee studies or projects. Both its Members and its staff represent a broad range of experience, especially in the procedural and operational aspects of congressional service, and this pool of information is utilized on a daily basis.

REPORTS, STUDIES, AND OTHER PUBLICATIONS

A complete list of the publications issued by the Joint Committee and the Commission during the 94th Congress follows:

Congressional Handbook, House of Representatives, 1975; revisions published quarterly.

Congressional Handbook, Senate, 1975; revisions published quarterly.

Congressional Handbook, House of Representatives, 1976; revisions published quarterly.

Congressional Handbook, Senate, 1976; revisions published quarterly.

Court Proceedings and Actions of Vital Interest to the Congress, Cumulative to April 15, 1975; committee print.

———, Opinions of the United States Supreme Court in the Case of Eastland et al. v. United States Servicemen's Fund et al., May 27, 1975; committee print.

———, Cumulative to August 15, 1975; committee print.

———, Cumulative to December 31, 1975; committee print.

———, Cumulative to April 15, 1976; committee print.

———, Cumulative to August 15, 1976; committee print.

———, Cumulative to December 31, 1976; committee print.

Rules Adopted by the Committees of Congress, 94th Congress; committee print.

Leading Cases on Congressional Investigatory Power, 1976; committee print.

To Reduce Conflicts in Committee Schedules—A Recommended Rules Change; 1976, committee print.

Congress Today; 1976, distributed daily during the project.

Applicants for Professional Positions; 1976, distributed monthly. A Clear Message to the People, with additional views filed by Senator Lee Metcalf and Senator Jesse Helms; S. Rep't 94–419.

Staff Requirements of the House Legislative Counsel; H. Doc. 94–327.

Information Resources and Services Available from the General Accounting Office; H. Doc. 94–522.

Information Resources and Services Available from the Library of Congress and the Congressional Research Service; H. Doc. 94–527.

Inventory of Information Resources for the U.S. House of Representatives—Part I: Internal Resources; H. Doc. 94–537.

———, Part II: Other Resources in the Legislative Branch; committee print.

———, Part III: Executive Branch Resources; committee print.

———, Part IV: Private Organization Resources; committee print.

The Office of Technology Assessment: A Study of its Organizational Effectiveness; H. Doc. 94–538.

Organizational Effectiveness of the Congressional Research Service; H. Doc. 95–19.

Congressional Budget Office: A Study of its Organizational Effectiveness; H. Doc. 95–20.

STAFF, a Congressional Staff Journal as a Process for Communication; 5 issues.

Multiple Letter Center; 1976, committee print.

Hearing on a Proposal to Build Additional Office Space in the Interior Courtyards of the Cannon and Longworth House Office Buildings; 1976.

The Feasibility of a Congressional Staff Journal as a "Process for Communication"; committee print.

Automated Information Resources for the U.S. House of Representatives; 1976, committee print.

Congressional Space Inventories with recommendations, together with Supplemental Views (Dissenting in Part) filed by Representatives Elizabeth Holtzman, James G. O'Hara, and Philip M. Crane; and Additional Supplemental Views (Dissenting in Part) filed by Representatives Philip M. Crane, John M. Ashbrook, and James G. O'Hara; 1976, committee print.

Final Report of the House Commission on Information and Facilities; together with Additional Views filed by Representative James C. Cleveland; H. Doc. 95–22.

HELPING STUDENTS LEARN AMERICAN HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, I would like to share with my colleagues a unique Bicentennial project created by Arthur and Althea Driscoll of Windsor, Conn. It is an example of what concerned citizens can do on their own initiative, without the benefit of official planning and Government funds.

The Driscolls are retired senior citizens who do volunteer work for schools, nursing homes, and senior centers. After

exhaustive research, they put together a Bicentennial slide program, "Trails of '76," which followed three revoluntionary war figures, Putnam, Knox, and Rochambeau, through their involvement in the events that led to our independence.

The Driscolls simply visited and photographed every monument, battle site and house that depicted these men's lives. The research took 3 years to complete.

It was the Driscolls' hope to improve the quality of education in American history at public schools. In addition to their school presentations, they conducted over 100 slide shows at nursing homes.

The Driscolls have worked without any compensation except the appreciation of the students, senior citizens and others who have benefited from their painstaking research into the American Revolution. I hope my colleagues will join me in congratulating Mr. and Mrs. Driscoll on their efforts.

HOUSE JOINT RESOLUTION PROPOSING A CONSTITUTIONAL AMENDMENT

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, I am pleased to introduce a House joint resolution proposing a constitutional amendment to create a single 6-year term for the President and Vice President of the United States, and a 3-year term of office for Members of the House of Representatives. This proposal is not a new one, but it is a timely one. Similar legislation has been reported out in the House twice and in 1913, the U.S. Senate approved a single-term proposal which was not acted on in the House because the session was ending. Senators Mike Mansfield and George Aiken, Presidents Johnson and Nixon have all endorsed this idea. As far back as President Andrew Jackson, the single 6-year term has been suggested as an idea full of good sense.

There is nothing magic about a 4-year term. First of all, a 6-year term would allow the President 2 extra years to develop a creative and effective legislative program. Four years is simply not enough time. Even if his programs were both formulated and passed by Congress within his first 2 years, which is unlikely, evaluation would not really be possible until several years after the programs are implemented. Therefore, 6 years will allow for greater accuracy and consistency in Federal policy.

A second reason for the one-term, 6-year limit is that it eliminates reelection worries from the burden of the modern American Presidency. At this moment in history, when the President of the United States is faced with many problems of unprecedented magnitude and sensitivity, he ought to be free from pressures that might divert him from his primary function as our leader. Political campaigns are the proper business of political parties.

They should not become the preoccupation of the White House. This proposal will allow a President to make hard choices in the public interest without worrying about how the decisions would affect his reelection chances. It will take away any inducement to make appointments on a strictly partisan basis in order to gain support for reelection. Indeed, more qualified men and women would be willing to serve as appointees because of the longer terms of office. There would be greater harmony with Congress, for a President free of reelection woes can work with the legislature through consultation, rather than confrontation. A free flow of constructive criticism will remain, but this amendment will stop the barrage of blame that often occurs when Congress and the President compete for popular favor at election time. In essence, a single 6-year term will remove the aura of partisanship from the Executive and will allow the President to be an effective leader of the entire Nation.

It is argued that a single 6-year term will remove politics from the Presidency. The truth of the matter is that the President will still be interested in politics because he will want his party to win in the congressional elections and, more importantly, he will desire a favorable place in history. But this resolution I have offered will remove the President from the level of personal political maneuvering and free his decisions from the temptation of political expediency.

The establishment of a 6-year Presidential tenure gives us the chance to solve another significant problem, that of the term of office for Members of the House of Representatives. The Constitutional Convention originally established the 2-year term as an arbitrary compromise between those who favored annual election and those who wanted 3-year terms in the interest of a more effective legislature. Modern American society is much more complex than was that of the Founding Fathers, however. In the first Congress, 142 bills were introduced, whereas the 94th Congress introduced over 19,000 bills. A 2-year period has become too short a time for a Representative to fulfill both his legislative and constituent duties. Sessions of Congress frequently extend late into the fall of the year and the competing legislative and political pressures impinging upon an incumbent Congressman make it difficult for him to operate well in either realm during the preelection months. A 3-year term would improve legislative effectiveness of Congressmen by giving them an extra year, free from election worries, to focus on their policy-making duties.

It is never easy to change. It is far more simple to accept what we have rather than replace it with an unknown quantity. But this Nation has changed. I feel that a single 6-year term for President and a 3-year term for Representatives will help strengthen and improve both the executive and legislative branches of our Government. Any constitutional amendment is, of course, a long-range solution to pressing problems. But I believe that it is the correct answer and one which we should begin today.

BISHOP HARRISON

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, there are some remarkable similarities between America's Founding Fathers and the men whom the New Testament tells us Christ chose as his Apostles.

Both groups of men came to maturity under rigid authoritarian forms of societal government. The Apostles in Roman-occupied Israel of the first century and our country's forefathers under the monarchical rule of the 18th century British "colonies."

There was little in either culture to encourage a charitable or ethical concern for the individual. The notions of justice and freedom for the common people were remote and farfetched. The individual was strictly subservient to the State, and birth usually determined status and position throughout life.

And yet both groups of men, the Apostles of Christ and our Nation's Founding Fathers, spent their most productive years on this Earth teaching that the individual was all important, that those individuals who make up the common people are not only the repositories of God-given human rights, but also the source of the rights of Government.

Both groups of men, one secular, one religious, identified with the common man in his aspirations toward a fuller, more meaningful life.

On February 6, 1977, in Syracuse, N.Y., a man known for his identification with the common man, for his consuming interest in encouraging each individual to "be the best he can," will be installed as the Seventh Roman Catholic Bishop of the Diocese of Syracuse. And with that installation the concept of individual rights and responsibilities first articulated by the Apostles will once again be renewed, for bishops are considered to be analogous to and direct successors of the Apostles of Christ, according to Catholic teaching.

Bishop Frank J. Harrison, the first native Syracusan to become Diocesan Bishop, will be installed as Ordinary of the Seven County Central New York See. More than 425,000 Catholics reside in the area.

The new bishop grew up in Syracuse and attended St. Lucy's Grammar and High School, where he participated in all major sports and graduated as President of his class.

He attended Notre Dame University, leaving after 2 years to enter St. Bernard's Seminary in Rochester. Ordained in 1937, Father Harrison was assigned to various parishes in the diocese serving 16 years at the cathedral, where he developed a highly successful athletic program for the parish school.

In 1956, he became the first Pastor of St. Andrew's Church, moving to Binghamton's St. Patrick's in 1963.

Highly respected among his fellow clergymen, then Monsignor Harrison was named Auxiliary Bishop of Syracuse in 1971 to assist Bishop David Cunningham in the growing Diocese.

An enthusiastic supporter of the new openness and ecumenical spirit within the church, the announcement of his appointment was greeted warmly by representatives of other faiths in the Syracuse area.

As a mark of his commitment, he has chosen as the theme of his installation "Unity in Christ".

The naming of a new bishop always brings with it a sense of anticipation, a sense of joy among the clergy and the laity, but in the naming of Bishop Harrison a new dimension seems to have been added . . . a feeling of warm, natural, personal identification with the man chosen to be the successor to the Apostles in the Syracuse diocese.

Mr. Speaker, I can think of no man better suited to be the next Bishop of Syracuse, intellectually, socially and spiritually, than Frank J. Harrison.

CENTENNIAL OF SYRACUSE HERALD-JOURNAL, HERALD AMERICAN

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, "ignoring party politics and pursuing an independent course, we shall not hesitate to discuss public questions and to support such men and measures as seen best calculated to advance the best interests of the people."

That is a quote from Arthur Jenkins, the founder, in the first issue of the Syracuse Herald, January 15, 1877.

Today 100 years later the ideas contained in that sentence still serve as the guiding principle of the Syracuse newspapers. This Member can attest to the accuracy of that statement on a first-hand basis. When I first compaigned for this office I did not enjoy the editorial support of the Syracuse newspapers. In succeeding years, though receiving editorial endorsement, my performance in office was not immune from perceptive criticism. Indeed, many time their "discussion of public questions" as Arthur Jenkins noted seemed to me more like an analysis by the loyal opposition!

This Chamber has heard laudatory comments about the free press since its inception. It has become almost commonplace. But while the words may become overused and sterile, the act of the press vitality is born again and underlined again with each succeeding day's paper.

The adversary relationship that exists between the people's representatives and the free and independent newspapers of this Nation is the kind of critical tension every healthy body requires. It keeps us flexible and balanced, responsive and alert.

The Syracuse newspapers have done this. In the words of Richard G. Case, today a feature writer for the Herald-Journal, in commenting on the event:

The Evening Herald was born at dusk by oil lamp 100 years ago in a dingy lot on Syracuse's West Fayette Street.

The birth, it would later be remembered, was attended by "a large colony of hungry and untrammeled cockroaches," a creaking one cylinder press, a handful of inky printers and a man bursting with dreams named Arthur Jenkins.

It was Jan. 15, 1877.

That night—as darkness gathered about the upstate city of 52,000 and the air chilled, Volume One, Number One of an experiment that was to become an institution was yanked off the roll, folded and handed to a squad of "newsies" waiting downstairs in the cold.

The four-page "15 x 20-inch poster" of 800 copies hit the street and Jenkins, as his creation disappeared into the city, was transformed from journeyman printer with a dream of jolting the established press, into a publisher.

Not yet 26, Jenkins was out on a limb many observers thought soon would be sawed from under him. Instead his newspaper survived and today we note its centennial.

From the first 4-page edition of the Herald run off on a hand-fed press in 1877 the Syracuse papers have grown to a modern technological marvel printing a hundred thousand newspapers an hour.

But this modernization could not have come had the Herald not been rescued by Samuel I. Newhouse during the depression.

In those days, newspapers died like flies. But, merged with the Journal and nurtured by careful management, the Herald-Journal not only survived, but prospered to provide Syracuse University, for example, with a new school of communications.

We call that planting seed money.

Today, we print in an hour more papers than the Syracuse community could absorb when Arthur Jenkins published his first edition.

That is a mechanical landmark symbolizing the changes of a hundred years.

The major source of printed news for the heartland of New York State, the Syracuse Herald-Journal, the daily paper, and the Herald-American, the Sunday edition, are published by Stephen Rogers and edited by William Cotter, two career newspapermen who appreciate the profound influence of the press.

Mr. Speaker, I salute the centennial of the Syracuse newspapers and wish them health and prosperity in the coming years. They have helped form the political and social attitudes of a major section of upstate New York. Attitudes which in turn help the strength and character of our National Government.

CONGRESSMAN JOHN BRADEMAS INSERTS HARVARD REVIEW'S ANALYSIS OF THE INAUGURAL ADDRESSES

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, the inaugural address that President Carter will deliver tomorrow is part of a tradition stretching back to the inauguration of President Washington in New York on April 30, 1789.

The inaugural address gives the American people their first glimpse of their new leader; it enables the new President to set the tone for his administration.

Michael S. Oberman, a 1972 graduate of Harvard Law School now practicing law in New York, has made a study of the inaugural addresses. He presents his findings in an article published in the January–February 1977, issue of Harvard magazine.

Mr. Oberman concludes that the best communicators have become our best Presidents. He analyzes the themes of the inaugural addresses, their inspiration, content, purpose, and use of language.

In many ways, he tells us what to look for in an inaugural address. He gives us his ideas on how to judge the person from the statement.

Mr. Speaker, on the eve of the inaugural address of Jimmy Carter as our 39th President, I insert the text of the article at this point in the RECORD:

MY FELLOW CITIZENS . . .

(By Michael S. Oberman)

Inauguration day provides a time for observation. For the citizenry, it gives an opportunity to inspect their incoming leader—to see his style, to hear his thoughts, to sense his stature. For the President-elect, it affords a chance to examine the problems and the progress of the nation, to perceive the challenges and the responsibilities of leadership, and to measure himself against the standards set by his predecessors. For witnesses around the world, it is a time to view the peaceful transfer of power that evidences the stability of the United States government. The oaths, speeches, prayers, and festivities that mark this occasion make the day of transition a day of celebration: in this national ritual, the force of unity is reinvigorated and the strength of the nation is reaffirmed.

The different levels of observation—of the leader, of the job, of the system—are best reflected in the inaugural address. Like all events of the transition, except the oath of office (which is prescribed by the Constitution), the speech given by the entering President has come down to us by tradition. Washington thought it appropriate to impart to members of Congress "my sentiments as they have been awakened by the occasion which brings us together." All of his elected successors have adhered to this precedent, using the speech to explore publicly the views, philosophies, motives, and plans that they were bringing to office. In the context of its time, each speech has fulfilled its symbolic function; it has provided part of the ritual that accompanies a transition and that establishes a legitimate claim to power. In delivering the inaugural, the newly elected first-term President truly assumes the Presidency.

But the addresses—studied as a collection of documents—have another significance: they reveal much about the nature of every Chief Executive and, even more, about the meaning of the Presidency.

Few inaugurals stand out as notable written achievements; the majority—especially those of the nineteenth century—are unoriginal and uninspiring. Indeed, only a handful of Presidents have displayed significant imagination or have broken with the basic format that became entrenched by 1809; only a few have revealed a flair for words. It has been the exceptional Presidents who have delivered the exceptional speeches—perhaps

predictably so, for an ability to communicate effectively is an important trait of any great leader.

WILSON'S ELOQUENCE

One of the best remembered—and best written—inaugurals is Wilson's first, delivered on March 4, 1913. It shows the elements that contribute to a great speech, and suggests the characteristics that make an outstanding President. Compared with the addresses that preceded it, Wilson's inaugural was original and eloquent. Earlier Presidents—except Jefferson, Lincoln, and Theodore Roosevelt—invariably had expressed their gratitude, conveyed a sense of humility, considered the position of the nation in patriotic terms, sketched a philosophy or program for the incoming government, and offered a benediction. Speeches adhering to this formula were largely functional; they did not offer a universal message or special eloquence that would make them memorable. Trained as an educator and possessed of a strong religious influence, Wilson used his speech to "interpret the occasion": with overtones of both a lecture and a sermon, he described to his public the significance of the change in government. While focusing on issues of contemporary concern, Wilson reached beyond the America of his day. His words challenged citizens to reform their society, "to cleanse, to reconsider, to restore, to correct the evil without impairing the good, to purify and humanize every process of our common life without weakening or sentimentalizing it." This points up the first element of the great inaugural: to offer leadership, to place the problems of the time in context, and to universalize the tasks and opportunities facing the nation. Through the exploration of a universal concern in relation to the problems of the country, the speaker should aim to inspire.

Other elements are exposed by this great speech. As have been virtually all of the best speeches, it was comparatively short: less than two thousand words. The virtue of the brief address is related not so much to the attention span of the audience as to the unity of the message. Almost all of the lengthier speeches have been too loose, with the thematic focus lost in an outpouring of words.

Wilson's first speech demonstrates the force of brevity and unity of theme. The central thought—"There has been a change in government"—was stated in the opening sentence, developed in the body of the address, and summarized and generalized in the terminal paragraph. The direction of the speech never wavered; all subordinate ideas arose from this theme. In explaining the change and thereby interpreting the occasion, Wilson explored the needs of the country in essentially nonpartisan terms; he pictured the tasks and the challenges of the government and of the people under the new order. The dedication of all Americans in a united search for progress was the basic appeal.

Besides universality, brevity, and unity, the best inaugurals require literary ability. The skills of the polished writer heighten the impact of the message; in this area very few Presidents have found success. Midway through his inaugural address, Wilson declared:

"We have studied as perhaps no other nation has the most effective means of production, but we have not studied cost or economy as we should either as organizers of industry, as statesmen, or as individuals. Nor have we studied and perfected the means by which government may be put at the service of humanity, in safeguarding the health of the Nation, the health of its men and its women and its children."

This passage typified Wilson's style. He stated his idea succinctly, and then modified and developed it. He spoke in terms of "we" to keep his audience involved. Most notably, he built on repeated words and phrases in succeeding parallel constructions, which at once gave his sentences logic, progress, and involvement; he designed moving phrases with simple words.

With the exception of Lincoln, no President before Wilson appreciated—or at least demonstrated—the importance of an effective terminal paragraph. Usually inaugurals closed with a benediction or invocation, most of which were predictable. Wilson, like Lincoln, used the final paragraph to summarize his theme, to generalize the message, and to reach the highest level of eloquence:

"This is not a day of triumph; it is a day of dedication. Here muster, not the forces of party, but the forces of humanity. Men's hearts wait upon us; men's lives hang in the balance; men's hopes call upon us to say what we will do. Who shall live up to the great trust? Who dares fail to try? I summon all honest men, all patriotic, all forward-looking men, to my side. God helping me, I will not fail them, if they will but counsel and sustain me!"

This memorable address illustrates not only the rudiments of eloquent composition; it reveals something about the style and the image of the speaker. That Wilson willingly abandoned the prototype used by most of his predecessors, that he understood the strengths in Lincoln's messages, and that he appreciated the needs and the significance of his era signal the leadership capabilities of this President. Perhaps his experience as a political scientist, as a college president, and as a governor gave him a sense of what the Chief Executive should do.

REACHING THE PEOPLE

The relationship between effective communication and effective leadership is close and important. For a majority of citizens, the affairs of government unfold mysteriously; to understand the problems and direction of the nation requires careful study. As most people are unwilling to apply themselves to more than the minimal task of citizenship—voting—they look to the words and public deeds of their elected officials for a sense of what is happening. They seek reassurance that the problems of state are not beyond the capabilities of government officials. One function of the President is to communicate with the citizenry and to make clear what, in fact, is quite complex.

In *The Symbolic Uses of Politics*, an excellent analysis of the theatrical side of politics, Murray Edelman states that "the leader's dramaturgical jousts with public problems make the world understandable and convey the promise of collective accomplishment to masses who are bewildered, uncertain, and alone." To lead effectively is to win the confidence and the support of the people; with proper communication, this can be accomplished.

In most cases, this involves letting people hear what they want: "Language becomes," in Edelman's terms, "a sequence of Pavlovian cues rather than an instrument for reasoning and analysis. . . . A word or phrase which has become established as connoting threat or reassurance for a group . . . can evoke everything about the group situation that lends emotions to its public interests, abstracting, rectifying, and magnifying."

The theory of symbolic reassurance—of producing quiescence through an adept use of language—is reflected in the most successful inaugurals. Ritual obeisances to various groups in society, reaffirmation of government by the people, rededication to the American experiment, reconsecration of the Constitution—these themes are present in virtually every speech. These ideas represent the mythical heritage of America, which is vital to the continual legitimation of the system and of the officials directing it. In the great addresses, especially those that met the challenges of a time of crisis, the symbols are used to maximum advantage and are blended with eloquence.

A striking example is Franklin D. Roosevelt's first inaugural. Speaking to a nation beset by economic depression and a sense of self-doubt, Roosevelt was able to communicate hope and a promise of better days. By drawing the distinctions between material and spiritual crises, he at once minimized the problems of the nation and spoke to its strengths. He incorporated into his address the myths of the nation, and he specified the way in which concerted efforts under firm leadership would check the financial crisis. He reassured the public that "this great Nation will endure as it has endured, will revive, and will prosper."

Franklin Roosevelt, Wilson, and Lincoln displayed an ability to lead with words. Presidents remembered as unsuccessful, on the other hand, were unable to deliver even average inaugurals. Grant's first address, given in 1869, underscores his low historical ranking. Aside from brevity, the address lacks the most important elements of an effective speech. Instead, it conjures up the image of a changing military command. The former general mechanically listed what he would and would not do. The word "I" continually reappeared; there was little attempt to involve the audience. One passage not only illustrates the weakness of the rhetoric but, in historical perspective, it betrays other limitations: "It will be my endeavor to execute all laws in good faith, to collect all revenues assessed, and to have them properly accounted for and economically disbursed. I will to the best of my ability appoint to office only those who will carry out this design."

GHOSTWRITING

Since communication skills contribute so much to the image of the President, the roles played by speech writers and the mass media are also worth examining. Ghostwriting is not a new practice; Madison is reported to have aided Washington with the first inaugural. But, especially since Franklin Roosevelt's Administration, writing assistants have become numerous and important. Nevertheless the President's own sense of literary style is still critical. The Chief Executive must know which aides to select for a given task, and which suggestions to accept. Lyndon Johnson inherited for a brief period John F. Kennedy's speechwriting team, but where Kennedy was eloquent and dynamic, Johnson's communication failures produced a breakdown in credibility and symbolic reassurance. To employ ghost writers skillfully, a President has to be able to recognize writing that will complement his speaking style; the eloquent President today must be an adept copyreader.

John Kennedy and his principal ghost writer, Theodore Sorensen, complimented each other's talents and produced in 1961 one of the strongest inaugurals. In his biographical work, *Kennedy*, Sorensen gives an account of the drafting of the speech. The President-elect was the principal author; he determined the themes to be stressed and helped polish the language. Relying heavily on the rhetorical devices perfected by Lincoln—with the addition of a large dose of antithesis—the two writers broke with the traditional pattern of inaugurals and wrote a dynamic speech that corroborated the theme of new leadership. Kennedy was deeply concerned with the image and the hopes he would create: he knew which suggestions to accept and which changes to make in order to perfect the text. His most quoted line—"Ask not what your country can do for you: Ask what

you can do for your country"—first emerged during the campaign in this form: "We do not campaign stressing what our country is going to do for us as a people. We stress what we can do for the country, all of us." [1] The opening line in the first draft of the inaugural proclaimed: "We celebrate today not a victory of party but the sacrament of democracy"; this was changed to: "We celebrate today not a victory of party but a convention of freedom." The final form read: "We observe today not a victory of the party but a celebration of freedom." Kennedy understood the impact of words; the sense of leadership attributed to him can be traced largely to this strength.

If carefully packaged rhetoric and adroit use of symbolic language were essential to leaders before the advent of mass media, these skills are even more critical now. Kennedy, through television, created for himself an image of a young, dynamic, and qualified executive, just as Roosevelt had projected dynamic leadership through his mastery of radio. The impression Kennedy achieved with his televised inaugural and subsequent press conferences gave the nation confidence and made him, for his time, an effective leader.

To execute the duties of the President successfully, an incumbent must be able to communicate and—today—must be adept before the television camera. Performance on inauguration day—especially under the close scrutiny of the media—is a strong indication of Presidential potential. And the initial impression, frozen by the bank of cameras, will be difficult to alter.

CHOOSING THE WORDS

While the inaugural addresses suggest the importance of communication in leadership, and imply the style and potential of various executives, the speeches also uncover some basic points about the office of the Presidency.

Those who enter the office appear to view themselves as members of an exclusive club, at once prestigious and imposing. To become acclimated to both the glories and the challenges, entering Presidents rely on the examples and words of their predecessors. The inaugural proceedings, as mentioned before, are almost entirely traditional; only the oath of office is Constitutionally prescribed, and even here, the phrase "so help me God" is used because of Washington's example. In their inaugural addresses, John Adams and Jefferson described their emotions, philosophies, and intentions without explaining why a speech was necessary. With Madison, a statement of explanation became a standard theme: "Unwilling to depart from examples of the most revered authority, I avail myself of the occasion now presented to express the profound impression made on me by the call of my country to the station to the duties of which I am about to pledge myself by the most solemn of sanctions." Similar declarations were voiced by the next seven Presidents; in later speeches, the statement was usually implicit.

That the inaugural speech and the verbal justification of it remain almost constant implies something about the office of the Presidency. In approaching this position, each new Chief Executive is to some degree unsure of what is involved, unsure of how leadership is to be demonstrated. A few reveal in excellent inaugurals a predilection for their task; most, however, are unwilling to alter tradition, at least until they are safely in office. Ever since the outdoor ceremony became permanent with Jackson, the installation proceedings have not varied substantially. Unlike the State of the Union message, which was prescribed by the Constitution and which was communicated in writing for over a century, the inaugural has always been given orally, following the precedent of George Washington. The challenge to the new leader to surpass the performance of his predecessor and to legitimate his claim to power helps make this a necessity.

The reliance on the past to justify accession to office in the present leads the new President not only to deliver an inaugural; it also leads him to invoke the memory and the teachings of his predecessors. References to former executives by name or by quotation are quite common; they function as a type of secular benediction, comforting and reassuring the public through memories of a heroic heritage. Personal wishes to immediate predecessors—a practice not generally seen in recent years—contributed in the early years of the Republic to the ceremonial and peaceful alteration of power.

John Adams, who was clearly overshadowed at his inaugural by his predecessor, paid tribute to Washington:

"In that retirement which is his voluntary choice may he long live to enjoy the delicious recollection of his services, the gratitude of mankind, the happy fruits of them to himself and the world. . . . His name may still be a rampart, and the knowledge that he lives a bulwark, against all open or secret enemies of his country's peace."

Madison, in offering his sincere wishes to his predecessor, Jefferson, noted that "it is my good fortune, moreover, to have the path in which I am to tread lighted by examples of illustrious services successfully rendered in the most trying difficulties by those who marched before me." Other nineteenth-century Presidents offered similar gratitude for the examples of the past and hailed the achievements of their predecessors. Usually, this was reserved for cases when the outgoing President had yielded to an heir apparent—for instance, Monroe and Van Buren. The Presidency at these times resembles a club in which the new member offers a toast to his sponsor.

While direct references to past Chief Executives underscored the tranquility of transition and the growing national heritage, the practice was expanded by Theodore Roosevelt, replacing the invocation of God usually given in the closing paragraph. In the terminal of his speech—the part of the address that is supposed to insure inspiration—Roosevelt stated:

"We have faith that we shall not prove false to the memories of the men of the mighty past. They did their work, they left us the splendid heritage we now enjoy. We in our turn have an assured confidence that we shall be able to leave this heritage unwasted and enlarged to our children and our children's children. To do so we must show, not merely in great crises, but in the everyday affairs of life, the qualities of practical intelligence, of courage, of hardihood, and endurance, and above all the power of devotion to a lofty ideal, which made great the men who founded this Republic in the days of Washington, which made great the men who preserved this Republic in the days of Abraham Lincoln."

Roosevelt was using the memories of the past to design a secular prayer. To a nation beginning to expand onto the world stage, citation of past Presidents—and the two most prominent, at that—provided more than a historical marker. Roosevelt sought to identify the proven strength of past Americans with the potential of the present Americans he addressed; he sought to associate in their minds the achievements of Washington and Lincoln with the promise of Theodore Roosevelt.

Incoming Presidents have often reached back to previous addresses and reapplied well-known phrases. Occasionally, these are acknowledged: Franklin Roosevelt, in his third address, repeated a "prophecy spoken by our first President in his first inaugural in 1789—words almost directed, it would seem, to this year of 1941: 'The preservation of the sacred fire and the destiny of this republican model of government are justly considered as deeply, perhaps as finally staked, on the experiment entrusted to the hands of the American people.' "

In his first inaugural, Richard M. Nixon stated: "Standing in this same place a third of a century ago, Franklin Delano Roosevelt addressed the nation ravaged by depression and gripped by fear. He could say in surveying the nation's troubles: 'They concern, thank God, only material things.' "

PRESIDENTIAL PLAGIARISM

Most of the time, however, phrases reappear without specific reference to the original source. This practice of Presidential plagiarism underscores the image of the Presidency as a closed club; those few who become Chief Executive can expect special privileges in tapping their special heritage. Those who do cite tested phrases recognize the literary strengths of past speeches; a good turn of phrase does not fade when left to the annals of history.

Such recycling was apparent in Richard M. Nixon's first inaugural. Besides quoting directly from FDR's first speech, Nixon borrowed ideas from other addresses. Nixon titled his inaugural "Search for Peace"; Eisenhower's second was "The Price of Peace." Nixon opened with a listing, by title and name, of the guests seated near him on the platform, and with a greeting to the public. This courtesy, which salutes the outgoing officials of the opposition, had been introduced by Kennedy; both Kennedy and Nixon specifically named their defeated Presidential rivals. Nixon's first line read: "I ask you to share with me today the majesty of this moment." This looks back to an early sentence in Lyndon Johnson's speech—"This is the majesty and the meaning of this moment"—and is probably an intentional derivation. (Curiously, Spiro T. Agnew began his first acceptance speech at the 1968 Republican National Convention with: "I stand here with a deep sense of the improbability of this moment.") Finally, Nixon returned to the closing of Lincoln's first speech for the phrase "the better angels of our nature." An incoming President wants to identify with the best of his predecessors.

Not only are phrases reused; ideas are also shared. In most cases, certain myths must be invoked, certain emotions aroused, certain memories rekindled; the heritage of the nation is proclaimed in order to create the type of symbolic reassurance that Murray Edelman analyzes. But the clear repetition of basic themes in standard patterns re-emphasizes the closed nature of the Presidency. The Chief Executive must act in specified ways and must cite certain traditions: the ideas proclaimed in past inaugurals are thus invariably repeated.

Unity is the primary *idée fixe* of this genre: a national, nonpartisan commitment is the only route to progress. To a citizenry

[1] Even then, the formulation was hardly new. In a Decoration Day speech delivered in 1884, Oliver Wendell Holmes Jr. called on his listeners "to recall what our country has done for each of us, and to ask ourselves what we can do for our country in return."

In 1904, Dean LeBaron Russell Briggs of Harvard wrote, "As has often been said, the youth who loves his Alma Mater will always ask, not 'What can she do for me?' but 'What can I do for her?' "

And in 1916, the chairman of the Republican Convention, Senator Warren G. Harding, declaimed, "In the great fulfillment we must have a citizenship less concerned about what the government can do for it and more anxious about what it can do for the nation."

witnessing the first true transfer of power, to a nation recovering from the impact of sedition laws, and to a system striving to develop the sophisticated mechanisms of a working opposition, Jefferson proclaimed in 1801:

"Let us, then, fellow-citizens, unite with one heart and one mind. Let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things. . . . Every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all Republicans, we are all Federalists."

This attempt to assert forces of harmony against the strains of party reappears in virtually every speech; the new President, after all, is the leader of all the people, and must appeal for the support of all. On occasion, inaugurals proclaim the need for cooperation among people of different parts of the country or of different ethnic and racial backgrounds. Presidents in the decade leading to the Civil War made special efforts to effect national accord. In Lincoln's first inaugural, which most eloquently illustrates this, the preservation of the Union is left to the people. In a phrase reapplied by Kennedy, Lincoln declared: "In your hands, my dissatisfied fellow-countrymen, and not in mine, is the momentous issue of civil war."

In recent times, the divisions in society have been racial rather than political or sectional. Recognizing this, Nixon announced: "To go forward at all is to go forward together. This means black and white together, as one nation, not two." Both the theme and the rhetoric—including repetition, an epigram, and antithesis—typify the usual inaugural format.

A religious reference has also become traditional. All Presidents except Theodore Roosevelt and Abraham Lincoln invoked God's blessings in their first inaugurals; until William Henry Harrison, this appeal formed the basis of the terminal. In nineteenth-century inaugurals, the appeal for God's help is rather extensive. Most of the early Presidents described the wisdom and mercy of God, and asked the people to join in prayer for Heaven's blessings. Eisenhower returned to this form in his first speech, offering a short benediction before his main text.

The best speeches, however, have mentioned God only briefly; the problems and the progress of the nation are phrased largely in secular terms. In his first and fourth speeches, Franklin Roosevelt was more explicit in invoking God, as he spoke to the nation in times of intense crisis. In his two other addresses, the reference is restricted to single clauses. Lincoln's first speech has no benediction; allusions to the Bible constitute the only religious note. A longer allusion, regarding the appeals to God voiced by each of the warring parties, constitutes the bulk of the brief second address; the famous terminal of that speech does include a passing mention of God:

"With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations."

In the modern inaugural, the religious element has been maintained but not stressed; this perhaps reflects a change in national attitudes, as well as an emphasis on secular eloquence fostered by an age of mass media. Kennedy closed, imitating the example of Lincoln's second terminal: "With a good conscience our only sure reward, with history the final judge of our deeds, let us go forth to lead the land we love, asking His blessing and His help, but knowing that here on earth God's work must truly be our own." Nixon concluded his final address in a similar fashion: " 'Riders on the earth together,' let us go forward, firm in our faith, steadfast in our purpose, cautious of the dangers; but sustained by our confidence in the will of God and the promise of man."

Inaugurals also glorify the strengths of the nation: the Constitution, rule by the people, and the progress of the American experiment. In seeking to "interpret the occasion" and to place the position of the country in perspective, it is necessary to reiterate the hopes and the foundation of the shared heritage. Speaking to the strengths of America provides immediate symbolic reassurance; pressing concerns are minimized when balanced with the promise of the society. Myths and components of the nation's heritage underscore the legitimacy of transition, and celebrate the system.

One theme quite apparent in early inaugurals is humility. Washington, hailed by all his fellows, expressed gratitude, modesty, and need for assistance. Van Buren, faced with the difficult assignment of succeeding Jackson, proved the most humble of all:

"I tread in the footsteps of illustrious men, whose superiors it is our happiness to believe are not found on the executive calendar of any country. . . . If such men in the position I now occupy felt themselves overwhelmed by a sense of gratitude for this the highest of all marks of their country's confidence, and by a consciousness of their ability adequately to discharge the duties of an office so difficult and exalted, how much more must these considerations affect one who can rely on no such claims for favor or forebearance!"

Later inaugurals retained the gratitude and the request for cooperation; however, there is much less self-disparagement. Franklin D. Roosevelt, for example, in appraising the effects of depression rather boldly declared in 1933: "The people of the United States have not failed. In their need, they have registered a mandate that they want direct, vigorous leadership. They have made me the present instrument of their wishes. In the spirit of the gift I take it."

This change of tone, from humility and partial despair to confidence and vigor, points up the essential nature of the modern inaugural. A more aggressive tone and a more dynamic executive have characterized the Presidency in the twentieth century. With the nation at its bicentennial, peaceful alteration of power seems less of a marvel. With modern industrial capabilities creating new problems while solving old ones, social legislation is an accepted principle. With the nation recovered from several major crises, the effectiveness of a powerful government has erased old fears of approaching tyranny. And with the federal bureaucracy extremely large and complex, competent management and administration are expected. An incoming President need no longer express humility, compliment his predecessors, or magnify the burdens of the office.

To maintain unity and quiescence, the incoming President must invoke some of the nation's myths; to fill the public image of a President, he may style his remarks after those of his most effective predecessors. Beyond that, he must lead, and lead with confidence.

PRESIDENTIAL IMAGES

What image a President should try to create depends upon his interpretation of the Presidency. A comparison of the acceptance and inaugural addresses given in 1960–61 by Kennedy and in 1968–69 by Nixon suggests the type of impression each sought to make.

Thanks to the blanket television coverage of National Conventions, by the 1960s the acceptance speech had approached the importance of the inaugural; indeed, with Jimmy Carter's first major formal speech at the New York Democratic Convention last summer, it may have reached equal importance. Given access to peak viewing audiences, the candidate aims to appear Presidential; he must display leadership potential. At the same time, he must voice the party position, in order to achieve campaign momentum. Certain themes and accusations may be raised, only to be dropped once Election Day is over; other ideas and phrases—geared to entice nonpartisan spirits—may be retained for the inaugural.

Kennedy's acceptance speech touted the virtues of the Democratic Party; this was vital to the cause of partisan unity. Where inaugurals invoke past Presidents, his acceptance remarks hailed party chiefs; Kennedy singled out Lyndon Johnson, Adlai Stevenson, Stuart Symington, and Harry S. Truman. A portion of his speech attacked the opposition and the opponent. "We know they will invoke the name of Abraham Lincoln on behalf of their candidate [Richard Nixon]—despite the fact that his political career has often seemed to show charity toward none and malice for all." Kennedy went on to praise the Democratic platform and pledge vigorous attempts at social reform. But the performance was only partially partisan; Kennedy also adorned himself with Presidential robes. He announced the need for new leadership, for a rededication to the strengths of the nation. In a passage clearly inspired by the terminal of Wilson's first inaugural, he concluded:

"Are we up to the task? Are we equal to the challenge? . . . That is the choice our nation must make—a choice between . . . determined dedication and creeping mediocrity.

"All mankind waits upon our decision. A whole world looks to see what we will do. We cannot fail their trust; we cannot fail to try."

Kennedy opened his inaugural on a nonpartisan note. He cited in his salutation Vice President Nixon (though he did not mention the incoming Vice President, Johnson); the inaugural ceremonies were called a victory not of party but of freedom. The theme of the speech—a change to new leadership—had been voiced at the Los Angeles nominating Convention: "It is time, in short, for a new generation of leadership—new men to cope with new problems and new opportunities." In the inaugural, this line was reworded: "Let the word go forth . . . that the torch has passed to a new generation of Americans." The inaugural was the more polished speech; through extensive use of "let us" and "we," it sought to challenge and unite the audience. While aspects of the acceptance speech, therefore, were retained, Kennedy's inaugural was more universal, less partisan, and more stately. This reflects the image he aspired to.

Nixon closely followed the example of Kennedy. In fact, a line from Kennedy's acceptance speech—"We are not here to curse the darkness, but to light the candle that can guide us through that darkness to a safe and sane future"—reappears in Nixon's first inaugural: "Let us not curse the remaining dark. Let us gather the light." The essential difference between the speeches of Nixon the nominee and Nixon the President-elect was the difference between a partisan and a unifier. At the Convention, Nixon appealed to backlash sentiment and Republican ideals; he promised law and order, greater discipline, a new Attorney General, less federal control. A more moderate position materialized in the inaugural. Nixon had sensed a need to appeal to youth, to minorities, and to the intellectuals who held him in disdain. Certain

themes, however, appear in both speeches. Nixon, each time, focused on the coming Bicentennial and third millennium, urging his audience to strive for a brighter future. The cause of peace is stressed, again reminiscent of Kennedy:

"And now to the leaders of the Communist world we say, after an era of confrontations, the time has come for an era of negotiations . . . we shall work toward the goal of an open world, open sky, open cities, open hearts, open minds."

Almost the same words appear in the inaugural, though the word "Communist" is dropped:

"After a period of confrontation, we are entering an era of negotiation. We seek an open world—open to ideas, open to the exchange of goods and people."

Finally, the effort of the individual is called forth, while the limitations of the federal government are cited, in both addresses.

The changes made by Kennedy and Nixon as they converted their acceptance statements into inaugurals reveal some of the considerations that the Presidency fosters. Acceptance speeches are generally intended to enhance chances of election; they focus on the problems of the times, centering the blame for blatant difficulties on the opposition. Viewpoints that swing voting blocs are embraced; controversy that might prove detrimental is avoided. The inaugural address must efface the scars of the election. To expedite this process, Kennedy presented a position—though ideologically to the left—that was less liberal than that unfolded in the acceptance remarks; Nixon, in his first inaugural, outlined a moderate philosophy, appearing less conservative than he did in his 1968 Convention statement.

SECOND INAUGURALS

Once in power, the President can display much more originality, much more of his own style. This is why second inaugurals differ, in most cases significantly, from the first. The incumbent is less concerned with creating an image; the approval of the electorate indicates a degree of success in the job. After serving at least part of one term, it is less necessary for the speaker to praise preceding executives, less necessary to rely on their examples. In most cases, the second inaugural is more programmatic. Assuming office for the second time, the President reviews programs to date, and explores the promise of the future. By the time of re-election, his style of leadership has emerged; he can more freely break from the typical inaugural. While there are few generalizations that explain the difference between first and second speeches, one point is clear: the second speech, as a rule, is more personalized. In delivering a second inaugural, the speaker is truly a President, and not a President-elect. Familiar with the ways of office and familiar with his image as a leader, he can be more forthright, more himself.

To understand the office of the Presidency at a given moment in history—this is the requisite for a great inaugural address. Leadership involves communication, involves persuading the public to follow. The best Chief Executives have drafted speeches that helped them meet the demands of their day. They knew which themes to include, which myths to invoke, which words to employ. They were able to predict the burdens of the office and to employ their powers of leadership. A great inaugural does not insure a great Administration, nor does lack of eloquence always imply lack of inspiration. But in an age of communications, in which symbols and slogans often dull intellectual rigor, the performance of a President is critical. The inaugural has become more than a tradition, more than an element of transition. It establishes the style of the President, forces him onto display, freezes his image. At once, the inaugural address is a challenge and a task: to master this speech is to be closer to mastering the problems of the Presidency.

FULL FUNDING PROPOSED FOR MULTILATERAL AID TO LATIN AMERICA

(Mr. BUCHANAN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. BUCHANAN. Mr. Speaker, I would like to commend President Ford for submitting to the Congress a budget calling for the full funding of the U.S. commitment to the Inter-American Development Bank, a multilateral agency geared to foster economic and social development in Latin America as well as to help banish poverty from the region. It has been said by philosophers throughout the ages that poverty is the parent of revolution and crime, that it demoralizes, that it is the enemy of human happiness, that it destroys liberty—and that it is the worst moral disease from which our civilization suffers.

In the spirit of improving the quality of life of the Latin American people, the final Ford budget recommends that the Congress provide $460 million in overdue contributions of $440 million in fiscal 1978.

In addition, the budget presentation reaffirms the decision to provide $240 million of the remaining callable interregional capital, which the Executive already has the authority to commit.

These contributions, negotiated in 1975 as part of a $6.3 billion multilateral replenishment of IDB's resources, were authorized by the Congress last year. To date, however, only a small part of the U.S. commitment has been actually appropriated by the Congress.

The Inter-American Development Bank, launched in 1960 to promote economic growth and social improvement in Latin America, has been the primary source of public external financing for the development efforts of the southern half of this hemisphere.

Through 16 years of operation, the Bank has channeled more than $10 billion in public and private financial resources to a wide variety of developmental projects in Latin America, ranging from basic health units, potable water supplies, rural cooperatives, to power generating, transportation, and industrial projects.

The total investment in these projects amounts to nearly $40 billion. The difference between this figure and the IDB's lending represents mainly the local financial contribution to the projects. In other words, for each $1 lent by the Bank the beneficiary countires have provided almost $3.

The proposed Ford budget will, of course, be subject to review and revision by the incoming Carter administration and the Congress.

Because of the importance of continued, timely U.S. participation in the replenishments of the resources of the Inter-American Development Bank, we would hope that both the Carter administration and the Congress act favorably on this particular recommendation.

On a number of occasions in the past, President-elect Carter has expressed his strong interest in the continuation and expansion of mutually beneficial relations in the Western Hemisphere.

The provision of full funding of the U.S. contribution to the Inter-American Development Bank—which is already well behind schedule—would be an important step in this direction.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1977

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I am introducing today a comprehensive set of amendments to the Housing and Community Development Act of 1974 to provide for a more equitable distribution of funds under the title I block grant program.

Unfortunately, the formula which has been used to allocate block grants fails to send the funds where urban needs are most critical. In particular, the decaying cities of the Northeast and Midwest, where the need is greatest, have been seriously shortchanged. Newark, N.J., for example—a city declining in population and desperately in need of greater assistance—will lose over half of its current funding when the present formula takes complete effect by fiscal year 1980. So will Cleveland, Ohio; Hartford, Conn.; Gary, Ind.; Boston, Mass.; and the list goes on and on.

At the heart of my legislation is the implementation of a new formula that will distribute community development block grant money according to need; it would utilize age of housing—weighted twice—and the extent of poverty as the bases for determining block grant allotments.

Two of the indices presently in the formula are thus discarded, and for good reason. The total population factor now in use directs money to areas without considering the actual needs of those who are counted. The effective result is disastrous; cities that are declining in overall population progressively lose money. By providing less assistance to them, the population index exacerbates the very conditions that are driving people away from the congested urban areas.

The "overcrowded housing" element has also been found by HUD to fail to measure the real needs for which community development funds are intended. Title I is primarily a program for redeveloping the total environment in urban areas: The outmoded infrastructure, the inadequate open space, the dilapidated structures, as well as housing in need of rehabilitation. HUD has found that the "extent of housing overcrowding" is difficult to determine in practice and that it fails to assess these needs.

Recent research conducted by the De-

partment of Housing and Urban Development further indicates that the age of housing stock provides an accurate indicator of the physical condition of the facilities that serve urban areas; that housing age tracks community needs better than any other facet. In combination with the poverty measure, it will direct funds toward areas that are both poor and in greatest need of rehabilitated housing and community facilities.

Another vital element of my legislation is the use of a regional cost-of-living index to measure the extent of poverty. Although the present statute allows the Secretary of HUD the option of using regional cost-of-living differences to adjust the base poverty level, a recent GAO report found that such calculations are not actually taking place. As a result, the extent of poverty in high cost-of-living areas has been badly underestimated. Although nominal wages are higher in these areas, real wages are usually lower.

This legislation also attempts to insure that, within each municipality, needs of low and moderate income people—for whom the act is principally designed. The present language simply stipulates that communities must give "maximum feasible priority" to assisting low and moderate income persons. Section 5 of my bill tightens up this clause by insisting that the needs of persons residing in areas with "critical need"—defined by unemployment rates, age of housing stock, and extent of poverty—must be given priority in community development plans.

Finally, my proposal recognizes that greater experimentation with areawide community development projects must be encouraged. Presently, only $4 million have been allocated in metropolitan areas for this purpose. Yet, there is great promise in the future for regional projects, with their enormous potential for more rational planning and for economies of scale. These amendments set aside a separate 1 percent bonus fund to assist such projects.

Some of my colleagues have proposed that no substantive changes in the act should be promulgated and that hold-harmless funding be maintained indefinitely.

I feel very strongly that we must reject that option. Hold harmless is based on funding levels for categorical programs that expired years ago. It is founded on the assumption that the needs which were evident in the past still prevail today. It insures that those communities which were most adept at grantsmanship should continue to reap the benefits of their past performance well into the future.

Hold harmless simply is not an effective or equitable policy. We must implement a formula that adequately responds to the actual needs of urban areas as they exist today. Certainly, some communities will initially face reduced grant amounts. For those of genuine need, this impact will be minimal. In my legislation, hold harmless grants are maintained intact for one additional year to prepare for the transition to a new formula, then a supplemental fund of $300 million annually is authorized to meet the needs of communities as their hold harmless grants are phased out gradually over a 3-year period.

To solve the problems of urban blight, we must commit the resources necessary to do the job well. My legislation increases the funding level from the present $2.95 billion to $3.5 billion, with annual $500,000,000 increases over the 5-year duration of the authorization. This is the figure which current HUD studies show can effectively be utilized within anticipated budget limitations.

During the first 3 years of the community development program, we have made some progress in attacking the problems of urban areas. Yet, if the Federal Government is intent on actually providing "decent housing and a suitable living environment" for all Americans, then much remains to be done. I ask for the support of my colleagues for this proposal to strengthen and focus the community development program.

A section-by-section analysis and the complete text of the bill follows:

SECTION-BY-SECTION ANALYSIS OF A BILL TO AMEND TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

Section 1—Findings and Purpose:

(a) States that Congress reaffirms its commitment, as declared in Title I of the Housing and Community Development Act of 1974, to develop viable urban communities by providing decent housing and a suitable living environment for individuals of low and moderate income.

(b) States that in order to carry out this commitment the formula for allocating Community Development Block Grants is altered and the authorization period is extended.

Section 2—Allocation and Distribution of Funds:

(a) through (f): The formula for allocating block grants is revised to delete the "housing overcrowding" and population variables, and to include age of housing stock, weighted twice, (number of dwelling units constructed before 1939). Extent of poverty is maintained as a variable in the new formula.

(b) Hold-harmless grants are maintained at the current level for an additional year and are phased out in thirds until fiscal year 1981, when there is no excess of the hold-harmless amount over the basic grant amount.

Section 3—Funding Authorization:

(a) Makes available $3.5 billion for fiscal year 1978 and $500 million in addition to that amount for each successive fiscal year until 1982.

(b) Makes available $300,000,000 to a supplemental fund for each of the fiscal years 1978–1982 for the purposes of: 1) allowing entitlement cities, urban counties and other units of local government to meet their hold-harmless needs; and 2) allocating grants to units of local government within metropolitan areas which are not metropolitan cities or urban counties.

Section 4—Increased Funding for Areawide Community Development Programs:

Increases the discretionary fund to 3% of the total annual appropriation. One per cent of this fund must be allocated to States and units of local government which join in carrying out housing and community development programs that are areawide in scope.

Section 5—Areas with Critical Needs Given Priority:

Requires that block grants be directed to meeting the needs of persons who reside in areas which have a high concentration of the following conditions: 1) old housing, 2) poor people, and 3) unemployed persons.

Section 6—Definitions:

(a) States that any city which had a population of 50,000 or more on August 22, 1974 and which falls below 50,000, shall continue to qualify for entitlement funds as a metropolitan city.

(b) Redefines extent of poverty to include adjustments for regional or area variations in income and costs of living.

H.R. 2113

A bill to amend title I of the Housing and Community Development Act of 1974 for the purposes of extending the authority under such title and providing a more equitable distribution of community development funds to units of general local government under such title

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

STATEMENT OF PURPOSE

SECTION 1. (a) The Congress reaffirms its commitment, as declared in title I of the Housing and Community Development Act of 1974, to develop viable urban communities by providing decent housing and a suitable living environment for individuals of low- and moderate-income. In order to carry out this commitment so that areas of the country with the greatest need will receive the most assistance under such title, the Congress finds that it is necessary to alter the formula by which funds are presently distributed under such title.

(b) The primary purpose of this Act, therefore, is to carry out the commitment described in subsection (a) by extending the period during which grants may be made under such title, and by altering the formula by which the amounts of such grants are determined.

ALLOCATION AND DISTRIBUTION OF FUNDS

SEC. 2. (a) Section 106(b)(1) of the Housing and Community Development Act of 1974 is amended by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) the extent of poverty in all metropolitan cities and the extent of poverty in all metropolitan areas; and

"(B) the number of dwelling units which were constructed before 1939 and which are presently used as dwelling units in all metropolitan cities and the number of such dwelling units in all metropolitan areas."

(b) Section 106(b)(2) of such Act is amended by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) the extent of poverty in that city and the extent of poverty in all metropolitan cities; and

"(B) the number of dwelling units which were constructed before 1939 and which are presently used as dwelling units in that city and the number of such dwelling units in all metropolitan cities."

(c) Section 106(b)(3) of such Act is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) calculating the total amount that would have been allocated to metropolitan cities and urban counties together under paragraph (1) of this subsection if data pertaining to the extent of poverty and the number of dwelling units described in paragraph (1)(B) in all urban counties were in-

cluded in the numerator of each of the fractions described in such paragraph; and

"(B) determining for each county the amount which bears the same ratio to the total amount calculated under subparagraph (A) of this paragraph as the average of the ratios between—

"(i) the extent of poverty in that urban county and the extent of poverty in all metropolitan cities and urban counties; and

"(ii) the number of dwelling units which were constructed before 1939 and which are presently used as dwelling units in that urban county and the number of such dwelling units in all metropolitan cities and urban counties."

(d) Section 106(b)(4) of such Act is amended by striking out "the extent of poverty" and inserting in lieu thereof "the number of dwelling units constructed before 1939 and presently used as dwelling units".

(e)(1) The first sentence of section 106(d)(2) of such Act is amended by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) the extent of poverty in that metropolitan area and the extent of poverty in all metropolitan areas; and

"(B) the number of dwelling units which were constructed before 1939 and which are presently used as dwelling units in that metropolitan area and the number of such dwelling units in all metropolitan areas."

(2) The second sentence of section 106(d) of such Act is amended by striking out "the extent of poverty" and inserting in lieu thereof "the number of dwelling units constructed before 1939 and presently used as dwelling units".

(f)(1) The first sentence of section 106(f)(1) of such Act is amended by striking out clauses (i), (ii), and (iii) of subparagraph (B) and inserting in lieu thereof the following:

"(i) the extent of poverty in the nonmetropolitan areas of that State and the extent of poverty in the nonmetropolitan areas of all States; and

"(ii) the number of dwelling units which were constructed before 1939 and which are presently used as dwelling units in the nonmetropolitan areas of that State and the number of such dwelling units in the nonmetropolitan areas of all States."

(2) The second sentence of section 106(f)(1) of such Act is amended by striking out "the extent of poverty" and inserting in lieu thereof "the number of dwelling units constructed before 1939 and presently used as dwelling units".

(g)(1) Section 106(g)(2) of such Act is amended—

(A) by striking out "and 1977" in the first sentence and inserting in lieu thereof "1977, and 1978";

(B) by striking out "1978, 1979, and 1980" in the second sentence and inserting in lieu thereof "1979, 1980, and 1981"; and

(C) by striking out "1978", "1979", and "1980" in clauses (i), (ii), and (iii), respectively, of the second sentence and inserting in lieu thereof "1979", "1980", and "1981", respectively.

(2) Section 106(h)(2) of such Act is amended by striking out "1978, 1979, and 1980" and inserting in lieu thereof "1979, 1980, and 1981".

(3) Section 106(i) of such Act is amended—

(A) by striking out "population, poverty, and housing overcrowding" and inserting in lieu thereof "poverty and the date-of-construction"; and

(B) by striking out "1978" and "1979" and inserting in lieu thereof "1979" and "1980", respectively.

(h) Section 102(b) of such Act is amended by inserting after "subsection (a)" in the first and second sentence the following: "and the figures used in subsections (b)(1)(B), (b)(2)(B), (b)(3)(B)(ii), (d)(2)(B), and (f)(1)(B)(ii) of section 106".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 3. (a) Section 103(a)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "$8,400,000,000" in the second sentence and inserting in lieu thereof "$30,900,000,000 (to be made available over a period of 8 fiscal years as described in the fourth sentence of this paragraph)"; and

(2) by striking out "and" in the fourth sentence and by inserting immediately before the period at the end of the fourth sentence the following: ", to not to exceed an aggregate of $11,900,000,000 prior to the close of the fiscal year 1978, to not to exceed an aggregate of $15,900,000,000 prior to the close of the fiscal year 1979, to not to exceed an aggregate of $20,400,000,000 prior to the close of the fiscal year 1980, to not to exceed an aggregate of $25,400,000,000 prior to the close of the fiscal year 1981, and to not to exceed an aggregate of $30,900,000,000 prior to the close of the fiscal year 1982".

(b) Section 103(a)(2) of such Act is amended by striking out "and" the second time it appears therein and by inserting after "106(d)(1)" the following: "and $300,000,000 for each of the fiscal years 1978 through 1982 (not more than $100,000,000 of which amount may be used under section 106(d)(1) for any such fiscal year,)".

INCREASED USE OF SECTION 107 DISCRETIONARY FUND FOR AREAWIDE COMMUNITY DEVELOPMENT PROGRAMS

SEC. 4. Section 107 of the Housing and Community Development Act of 1974 is amended to read as follows:

"DISCRETIONARY FUND

"SEC. 107. (a)(1) Of the total amount of authority to enter into contracts approved in appropriation Acts under section 103(a)(1) for each of the fiscal years 1975 through 1982, an amount equal to 2 per centum thereof shall be reserved and set aside in a special discretionary fund for use by the Secretary in making grants (in addition to any other grants which may be made under this title to the same entities or for the same purposes)—

"(A) in behalf of new communities assisted under title VII of the Housing and Urban Development Act of 1970 or title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under title X of the National Housing Act which meet the eligibility standards set forth in title VII of the Housing and Urban Development Act of 1970 and which were the subject of an application or preapplication under such title prior to January 14, 1975;

"(B) in Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands;

"(C) to States and units of general local government for the purpose of demonstrating innovative community development projects;

"(D) to States and units of general local government for the purpose of meeting emergency community development needs caused by federally recognized disasters; and

"(E) to States and units of general local government where the Secretary deems it necessary to correct inequities resulting from the allocation provisions of section 106.

"(2) Of the total amount of authority to enter into contracts approved in appropriation Acts under section 103(a)(1) for each of the fiscal years 1978 through 1982, an amount equal to 1 per centum thereof shall be reserved and set aside in a special discretionary fund for use by the Secretary in making grants (in addition to any other grants which may be made under this title to the same entities or for the same purposes) to States and units of general local government which join in carrying out housing and community development programs that are areawide in scope.

"(b) Not more than one-fourth of the total amount reserved and set aside in the special discretionary fund under subsection (a)(1) for each year may be used for grants to meet emergency disaster needs under subsection (a)(1)(D).

"(c) Amounts reserved and set aside in the special discretionary fund under subsection (a) in any fiscal year but not used in such year shall remain available for use in accordance with subsections (a) and (b) in subsequent fiscal years."

AREAS WITH CRITICAL NEEDS GIVEN PRIORITY

SEC. 5. The first sentence of section 104(b)(2) of the Housing and Community Development Act of 1974 is amended to read as follows: "The Secretary shall require, as a condition of any grant made under this title, that the recipient of such grant give priority, in utilizing the funds from such grant, to meeting the needs of persons residing in areas which have a higher concentration of the following conditions than other areas within the jurisdictional boundaries of the unit of general local government or State receiving the grant—

"(A) dwelling units which were constructed before 1939 and are presently used for dwelling units;

"(B) persons whose incomes are below the poverty level;

"(C) unemployed persons."

AMENDMENTS TO DEFINITIONS

SEC. 6. Section 102(a) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting the following before the period: "or, (C) any other city, within a metropolitan area, which had a population of fifty thousand or more on August 22, 1974";

(2) by striking out ", if feasible and appropriate and in the sole discretion of the Secretary," in paragraph (7), as redesignated by paragraph (2) of this section;

(3) by striking out paragraph (7) and redesignating paragraph (8) as paragraph (7); and

(4) by striking out paragraph (9) and redesignating paragraphs (10), (11), (12), and (13) as paragraph (8), (9), (10), and (11), respectively.

REGULATION OF RECOMBINANT DNA RESEARCH

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, today I am introducing a resolution to encourage regulation by the Department of Health, Education, and Welfare of the private conduct of recombinant DNA research, research which poses grave threats to health and safety, yet at present is totally unregulated.

Although the risk of escape of experimental material is present in any scientific research, such risks are particularly critical in recombinant DNA research because recombinant molecules have a capacity for unlimited proliferation. Once released, they cannot be controlled, and their effects cannot be reversed. Escape of recombinant material could cause an epidemic which could be neither contained nor controlled.

Recombinant DNA research includes all procedures in which DNA fragments from two or more different organisms or viruses which do not normally recombine in nature are recombined in the laboratory and inserted into a living host cell or organism in such a way as to alter its genetic makeup.

Scientists and environmentalists have raised several serious objections to the present conduct of recombinant DNA activities. The bacterium *E. coli* is used as the predominant host for recombinant DNA research. *E. coli* is commonly found in the human intestine. It is the causative agent for nearly all urinary infections and some blood infections. It does not normally colonize in the human colon. *E. coli* is said to be completely ill-suited for use in DNA research because it is so intimately associated with humans and other living organisms.

At the present time the National Institutes of Health—NIH—has the only guidelines for recombinant DNA research and even these apply to only NIH-supported activities. The weak guidelines do not even apply to research conducted or supported by private researchers.

There should be binding regulations that govern the conduct of all recombinant DNA activities. This resolution expresses the sense of the House that HEW promulgate such regulations.

Many of the laboratories doing recombinant DNA research are located on crowded college campuses and other populous areas, where escape of the recombinant material could have disastrous effects. The NIH environmental impact statement estimates that the aggregate risk of an epidemic is 1 in a trillion because the genetically engineered organism must first escape from the experimental situation (risk: 1 in 100); survive after escape (risk 1 in 10,000); and grow and reproduce in its new environment (risk: 1 in a million). However, the risk of transfer of inadvertently ingested material can be tremendously increased if the personnel have certain common conditions. For example, if the worker has been treated with antibiotics or antacids, the risk is greatly increased. Careless or poorly trained technicians can inadvertently let material escape. The risks of escape of recombinant material must be as low as possible because of the material's capacity for unlimited proliferation.

The case of the Biological Laboratory of Harvard University in Cambridge, Mass., proves the need for regulations. The Cambridge City Council has recognized the hazards of unregulated recombinant DNA research to the people of its city. In the absence of binding national regulations over recombinant DNA activities, the council has had to exercise its jurisdiction over Harvard University and the Massachusetts Institute of Technology to impose a temporary ban on this research. When the ban expires February 6, 1977, the council plans to permit recombinant DNA research only under strict regulations which consist of NIH guidelines and a series of other requirements. National regulations are needed because the escape of recombinant material, which could result from the present lack of regulations, could affect a much larger area than that over which any city has jurisdiction.

The resolution that follows expresses the sense of the House that binding regulations are needed to govern all recombinant DNA research in the United States. The Secretary of Health, Education, and Welfare has the authority to formulate and put into effect such regulations. Because the present NIH guidelines are not binding and are not applicable to private researchers, the Secretary must formulate and put into effect regulations that apply to all recombinant DNA activities.

The time has come to make sure that such potentially volatile research be conducted under certain standards of safety. We owe it to our people and our environment.

The text of the resolution follows:

H. RES. 131

Whereas, unregulated research involving recombinant DNA is potentially devastating to the health and safety of the American people,

Whereas, the guidelines issued by the National Institutes of Health governing research involving recombinant DNA apply only to research supported by the National Institutes of Health, and

Whereas, the Secretary of Health, Education, and Welfare has the authority under the Public Health Service Act to make and enforce regulations to prevent the introduction, transmission, or spread of communicable diseases: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Secretary of Health, Education, and Welfare, pursuant to the authority of the Secretary of Health, Education, and Welfare under section 361 of the Public Health Service Act (42 U.S.C. 264), should, by April 30, 1977, cause to be published in the Federal Register proposed regulations governing all research involving recombinant DNA.

CUT REDTAPE AND PAPERWORK

(Mr. STEED asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. STEED. Mr. Speaker, the Commission on Federal Paperwork has as its primary responsibility the reduction of paperwork burdens Government inflicts on the people. However, early on in this series of speeches on paperwork reduction, I want to make clear that this process of cutting is a very careful and deliberate one.

We realize that certain information is essential to government and the people. The need for pertinent, up-to-date, and accurate information has not been sacrificed in our efforts to cut paperwork. We have gone about our task of cutting paperwork with a scythe where needed, but with a scalpel where appropriate.

The size and nature of the society in which we live makes it necessary for government to be well informed. The economy of the United States has increased exponentially in the past several decades. GNP was $736.8 billions in 1960. Projections for 1977 place GNP at the $1,323 billion level, in constant 1972 dollars.

New and huge economic enterprises have come to prominence. Communications and production techniques and capabilities have evolved so quickly and so thoroughly, that they no longer resemble the procedures of just 10 years ago.

New sensitivities have emerged to the needs of all Americans in equal opportunity in employment, health, and housing; in consumer protection; income security and retirement protection; in transportation; and energy supply and demand.

Business management systems and corporate structures have varied, and the growth rates in sectors of the economy devoted to these differing needs have been uneven. These quantum jumps in the way we all relate to each other, to business and to Government, have placed an increasing demand on Government to meet these needs, and protect those needing protection, guarantee that the total economy creates sufficient jobs, demand is maintained and enough capital is available to keep job and production markets expanding.

We all now depend on the accuracy and validity of the reporting systems which Government has established to communicate with all segments of the economy and the population. We rely on them to protect the consumer and investor, and still promote growth and strength in a free-market economy.

The Commission, thus, realizes that some reporting burdens are inevitable. Our challenge has been to understand this and still recommend improved reporting techniques, reduce reporting burdens, maintain confidentiality, and foster the public's right to know.

We shall not deprive the farmer of the knowledge he needs in order to plan his crops; we will just recommend ways that information can be gotten more easily, and without driving the small farmer to distraction with massive senseless questionnaires.

We believe that accurate economic information is necessary but want to make it easier on businesses when we collect this type of information.

We want to simplify tax returns so that the Government knows what a taxpayer's income really is, and so the taxpayer can figure his legal minimum tax.

Mr. Speaker, I wanted to emphasize this balance in our approach to paperwork reduction to assure various groups dependent on certain types of Government information, that they will still receive essential information, but the entire process of making that information available will be far less painful for all involved.

ELEVENTH ANNIVERSARY OF THE SIGNING OF THE CUBAN EXILES' DECLARATION OF FREEDOM

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, January 23, 1977, marks the 11th anniversary of the signing in Key West, Fla., of the Declaration of Freedom by Cuban exiles in the United States.

Eleven years ago this group of patriotic Cubans, their country fallen under the hands of Castro's oppression, dedicated themselves to the restoration of a free Cuba. Their cause is marked by a deep and earnest longing to see the rights of the Cuban people, as citizens and human beings, restored, and inspired by the same faith in the principles of liberty which brought them independence in 1893.

Yet today the Cuban regime is a mockery of the noble principles espoused by Cuba's founders. Fidel Castro does not represent the true aspirations of Cuba's freedom loving people, otherwise he would assert his independence of Moscow and restore basic rights and liberties in Cuba. Under the guise of Cuban independence, which in reality does not exist, Castro has forced the Cuban people into a tragic situation of being used as slaves for economic and military purposes of the Soviet Union. As we have recently marked the anniversary of our own declaration of freedom, this intense commitment to human dignity and freedom merits our praise and support.

Mr. Speaker, I call to the attention of our colleagues the full text of the Declaration of Freedom:

DECLARATION OF FREEDOM

In the City of Key West, Monroe County, State of Florida, United States of America, we the Cuban exiles in the United States, in the name of God Almighty, and speaking both for ourselves and the oppressed people in Cuba, the Martyr Island, do say:

That on January 1st, 1959, the slavery yoke that came from Europe and was extinguished in Cuba at the end of the 19th century, was resumed.

That those responsible for this high treason to our Fatherland and to our People are just a score of traitors who, usurpating the Government of the Country have been acting as mercenary agents for the Sino-Soviet imperialism, and have surrendered to that imperialism our Freedom and our Dignity, also betraying the American Hemisphere.

That as a consequence of this high treason, those who are usurpating the Power in Cuba (as they were never elected by the People), are imposing a regime of bloodshed, terror and hate without any respect or consideration to the dignity of the human being or the most elementary human rights.

That in their hunger for power, these traitors, following the pattern of totalitarian regimes, are trying, within Cuba, to separate the Family, which is the cornerstone of actual society, and at the same time, are poisoning the minds of the Cuban children and youth, in their hope of extending the length of time for this abominable system.

That the rule of the Law has been wiped out in Cuba, and it has been replaced by the evil will of this score of traitors, who are acting under orders from their masters, the Sino-Soviet imperialists.

In view of the aforegoing, we declare.

First: That the actual Cuban regime is guilty of high treason to our Fatherland and to the ideals of the Freedom Revolution which was started on October 10th, 1868.

Second: That this score of traitors who have committed treason against our Fatherland, in case they survive the downfall of their regime, will have to respond, even with their lives before the Ordinary Courts of Justice of Cuba.

Third: That as the Noble Cuban People will not ever surrender, because that Nation was not born to be slave, we, the Cuban People, hereby make the present declaration of freedom.

We hereby swear before God Almighty to fight constantly, until death comes to us, to free Cuba from Communism.

The fundamentals of this Revolution for Freedom are:

First: God Almighty, above all things, in Whom we believe as the essence of Life.

Second: The Fatherland, with all of its Laws, traditions, customs and history as a spiritual value, only surpassed by the concept of God.

Third: The Family, as the cornerstone of the Human Society.

Fourth: Human Rights, for each and every citizen, regardless of race or creed.

Fifth: The Law, as the foundation for the proper development of the Human Society.

Sixth: Democratic Government, with its three independent branches: Legislative, Executive and Judicial.

Seventh: Representative Democracy, through the exercise of Universal Suffrage, Periodically, Free and Secretive, as the expression of Popular Sovereignty.

Eighth: Freedom of Worship, Freedom of Teaching, Freedom of the Press and Free Enterprise.

Ninth: Private Property and Ownership, as the basic expression of Liberty.

Tenth: The improvement of living conditions for both rural and city working masses, with the just and necessary measures, keeping in mind the legitimate interests of both Labor and Capital.

Eleventh: The derogation and eradication of anything which is opposed to the political and religious fundamentals aforementioned, and specifically, the abolition of Communism and any other form of totalitarian manifestation.

Signed and sealed in Key West, Florida, on the 23d day of January, 1966.

INTRODUCTION OF THE INVESTMENT ADVISERS ACT

(Mr. MURPHY of New York asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, today I am introducing a bill to amend the Investment Advisers Act of 1940 to provide substantial protections to the investing public by requiring qualification standards for investment advisers, while at the same time paving the way for the alleviation of the regulatory burdens on the investment advisory industry.

In recent years, the corporate disclosures required by the Securities Acts have become more complex and voluminous. To a large extent, it is the responsibility of the investment adviser to digest and interpret this corporate market information so that it may be translated into intelligent action by or on behalf of the individual investor. Accordingly, the advisers play an essential role in the effective functioning of the U.S. securities markets and the manner in which they perform that function directly bears on the public's confidence in these markets. The recent dramatic increase in the number of advisers and in the vast sums of money under their management underscores their impact on the market. According to figures presented by the Securities and Exchange Commission, between 1969 and December 31, 1975, the number of investment advisers registered with the Commission had almost tripled from 1,343 to 3,606, and the assets under their management had doubled from an estimated $130 billion to approximately $260 billion.

Notwithstanding the adviser's pivotal role in the disclosure process, virtually anyone, regardless of experience or financial responsibility can register with the Securities and Exchange Commission under the Investment Advisers Act of 1940 and hold himself out to the public as an investment adviser. For this reason, in recent years, the Advisers Act has come under substantial criticism from Members of Congress and the Commission as well as by a number of representatives of the investment advisory industry itself. The bill I am introducing today has evolved from years of study by the Commission and would enact reforms originally urged in its 1963 "Report of the Special Study of the Securities Markets."

Qualification and financial responsibility regulations have played an important role in protecting customers of brokers and dealers registered under the Securities Exchange Act of 1934. This bill would simply extend to clients of investment advisers these proven protections which customers of broker-dealers now enjoy.

The hallmark of the securities laws, of course, is disclosure. However, experience under the securities laws demonstrates that disclosure alone cannot reveal whether the adviser possesses certain fundamental knowledge, such as an understanding of financial statements, knowledge of the difference between a stock and a bond, or a grasp of the rules which define the adviser's obligations to his client.

The idea of having qualification standards for investment advisers is no more extraordinary than bar examinations for lawyers, medical boards for doctors or apprenticeships for electricians and plumbers. Moreover, it is entirely consistent with the regulatory pattern under the securities laws. Under the Exchange Act all registered brokers and dealers are subject to qualification standards. It seems only appropriate that those persons whose advice may determine whether a family will be able to send its children to college or determine the standard of living for many persons in retirement, should be subject to some training or experience or to a test or examination.

Concern has been expressed that such standards could be used to limit entry into the advisory profession. This bill will not have such an effect. This is clearly supported by the experience of brokers and dealers who take such qualification examinations pursuant to the Securities Exchange Act of 1934. Of those who have taken the exam in the last 2 years, and who were sufficiently serious about the vocation to try a second time if they

failed the first time, only 4.4 percent did not qualify.

The legislation is very modest in scope and salutary in effect: it provides bare minimum standards and would eliminate only those few who, by any reasonable measure, are clearly unqualified to deal with the public in securities matters. It cannot be overemphasized that this bill does not purport to upgrade the investment performance of investment advisers. Surely, no legislation or qualification requirements can accomplish that.

The bill would also create minimum financial responsibility standards, which would be limited to those advisers who have access to or control over a client's cash and securities or who advise mutual funds. It is inconsistent with the policy of the securities laws that the advisory client, who is already subject to the risks of the marketplace, should also have to hear the business risks of the adviser.

The bill goes a long way toward alleviating duplicative and unnecessary regulatory burdens on investment advisers. First of all, the SEC is given maximum flexibility to exempt existing advisers from any qualification standards. Second, the Commission is directed to work with the State authorities to minimize duplicative testing burdens and finally, authorizes a study by the Commission as to what steps can be taken to eliminate unnecessary and burdensome regulation of investment advisers.

I believe that this bill will provide substantial investor protections and enhance investor confidence in the securities markets.

Following is a report that I prepared for the Interstate and Foreign Commerce Committee last year on the abuses that exist in the investment advisers field which points up the need of the legislation I introduce today.

A BILL TO AMEND THE INVESTMENT ADVISERS ACT OF 1940

(Report of Congressman JOHN M. MURPHY, Chairman, Subcommittee on Consumer Protection and Finance to the members of the Interstate and Foreign Commerce Committee)

During hearings conducted by the Consumer Protection and Finance Subcommittee on May 20 and 21, 1976, testimony was presented which alleged that substantial numbers of investors were being bilked by so-called investment advisers who were, in fact, nothing more than touts, charlatans, persons inept in the investment field, teenagers, and just plain crooks. We also found so-called "chartists" who have developed a numbers system for selecting securities, "star gazers", who depend upon astrology to provide customers advice and persons with no legitimate place of business or with an inadequate or nil financial status. Under current law, virtually anyone can become a registered investment adviser, regardless of age, prior experience, or education in financial matters, and regardless of whether that person possesses any financial responsibility.

Recently a sixteen-year-old registered investment adviser was discovered who operates out of his bedroom in West Virginia. However, not to be outdone, a fourteen-year-old has now filed his application with the Securities and Exchange Commission. Moreover, the files of the Commission are replete with examples of rather esoteric methods used by registered investment advisers to ply their trade, ranging from the interpretation of comic strips to the use of extrasensory perception.

Currently, over 3,700 investment advisers manage funds estimated to exceed $130 billion. These assets include not only mutual funds, but also the personal investments of individual security holders. In order that these investors may realize their expectations for their future use of their investments, such as aid in their retirement or the financing of their children's college educations, it is necessary that they receive competent investment advice from responsive persons. In other words, they should expect to receive the same benefits and protections of minimum qualification standards and of financial responsibility which are applied to other persons engaged in the securities business, such as brokers, dealers, and investment companies. Unfortunately, such standards do not exist under the Investment Advisers Act of 1940.

As a result of the hearings in May, I assigned Subcommittee investigators to review the files of the SEC concerning problems that had developed with investment advisers. Their study revealed that as of June 30, 1976, there were 3,746 registered investment advisers.

The Committee investigators found that the Division of Enforcement of the SEC has conducted a great number of investigations relevant to investment advisers, but that in most instances, the SEC had not acted on the findings of these investigations. The complaint of the SEC is that without the provisions contained in H.R. 13737, which the full Committee will be considering, they are relatively powerless to effectively safeguard American investors from soothsayers, stargazers, those gifted in a most extraordinary manner with ESP, and characters who themselves must have figuratively come out of the comic strips inasmuch as they have acquired an ability to give financial advice based on their own reading of the comics.

While witnesses from the industry generally scoffed at these so-called "horrible examples," seventy cases were quickly culled from the SEC files. Seven of the more bizarre cases I have reproduced synopses of in the following pages. The sixty-odd other cases involved minimal SEC actions brought against investment advisers apparently because local jurisdictions had initiated actions prohibiting the questionable business activities of the investment advisers. It was only then that the SEC proceeded to issue orders suspending, in most instances, for a limited time, the ability of these persons to engage in the commerce of investment advice.

I point out that in the following cases, and occasionally in the above sixty cases, minimal steps were taken by the SEC under the antifraud provisions of the federal securities laws, but the Committee is faced with two major problems:

(1) In scores of similar cases, no action could be taken; and

(2) Where minimum action was taken, it was after the fact, which meant that public investors were seriously damaged financially.

The seven cases are as follows:

1. *SEC* v. *Shamrock Fund* (U.S.D.C., C.D. Cal.—No. 72-569-ALS). First Report of Receiver and Application for Order Thereon, September 11, 1972 (see pp. 5-6).

The Commission filed an action against Shamrock Fund under the Investment Company Act of 1940 seeking an order appointing a receiver. The order was granted and the following excerpt from the First Report of the Receiver and Application for Order Thereon illustrates the problems resulting from an adviser's lack of qualifications:

"One of the most puzzling aspects for the Receiver to understand is the apparent total reliance of Mr. Rhoads [portfolio manager] on certain outsiders for his investment information. At no time does he appear to have gathered detailed investment information to support his investment decisions. He appears to have relied almost exclusively upon tips and other secondary information. This can be explained only on the ground that Mr. Rhoads must have been aware that he was wholly ignorant concerning securities . . ."

Earlier, on page 5, the receiver referred to the fact that Mr. Rhoads "appears to have had no qualifications whatsoever to act as an investment portfolio manager," resulting in substantial diminution of fund assets over time.

2. Marketlines v. SEC 384 F. 2d 264 (2d Cir. 1967).

In 1967, we revoked the registration of an investment advisory firm, Marketlines, Inc., based on violations of the antifraud and other provisions of the Advisers Act. The firm had previously been barred from doing business in the State of Illinois because its president and sole stockholder had failed to pass the examination required by that state. In affirming our administrative sanctions in that case, the U.S. Court of Appeals for the Second Circuit recognized the function of an investment adviser as "an occupation which can cause havoc unless engaged in by those with appropriate background and standards." (384 F. 2d at 264). If the Commission had been authorized at that time to prescribe qualifications requirements for investment advisers, it might have been able to prevent an adviser already found to be unqualified by the State of Illinois from doing business before he had the opportunity to engage in fraudulent practices.

3. Financial Programs, Inc. Investment Advisers Act Rel. No. 447 (March 24, 1975).

Less than a year ago, we found it necessary to impose remedial sanctions on Financial Programs, Inc., an investment adviser to four mutual funds, and certain of its employees. Among our findings in that case (based on the respondents' offer of settlement) were the following:

"The prospectuses of Program's funds represented that they were professionally managed by competent persons. Actually, Programs permitted inexperienced and incompetent persons to make significant investment decisions for the funds. Hurley, Frankenthaler, and other persons committed over $21 million of the funds' assets to over-the-counter securities that were speculative, unseasoned and in limited supply. They did that on the basis of recommendations made to them by a single salesman. Their reliance on him was excessive. Neither Programs, nor Hurley, nor Frankenthaler made any adequate independent study of the companies in question."

We also found that the prices that the funds received when they ultimately sold these securities were so low that most of the original investment was lost. In this case, one of the respondent employees of the adviser asserted as a mitigating factor his lack of prior experience as a mutual fund investment manager.

4. Advanced Analysis, Inc. Stuart Alan Schwalbe, Investment Advisers Act Release No. 397 (January 18, 1974).

The Commission, based on its order for proceedings and respondents' offer of settlement, found that Mr. Schwalbe, president and sole shareholder of Advanced Analysis, Inc., had represented through advertisements that extrasensory perception ("ESP") was an established and reliable means of security analysis and that his ESP powers could be used in and of themselves to determine which securities to buy and sell. He had also promised that his services would produce imminent profits. The Commission found these representations to have been in violation of the Act's antifraud provisions.

On the basis of these and other violations

of the Act, the Commission accepted an offer of settlement providing that the investment adviser registration of Advanced Analysis, Inc. be revoked and that Schwalbe be barred from association with an investment adviser, with the proviso that, after one year, he could apply to the Commission to become associated with an invsetment adviser in an adequately supervised capacity.

5. Intersearch Technology, Inc. [1974–75 Trans. Binder] CCH Fed. Sec. L. Rep. para. 80, 139 (February 28, 1975). See page 85, 189.

Last year, we revoked the registration of Intersearch Technology, Inc. based on the findings of an administrative law judge that a number of violations of the Advisers Act had occurred. One of these was the firm's failure to disclose its insolvency and possible inability to meet its subscription commitments while engaging in advertising and solicitations for new subscribers.

7. Fields, Grant and Company, Litigation Release No. 7010 (July 28, 1976). Litigation Release No. 7229 (January 6, 1976).

Very recently, we accepted offers of settlement of an injunctive action we instituted last July against Fields, Grant and Company based on allegations that the firm had had a substantially-impaired working capital ratio of current assets to current liabilities and a substantial net deficit position and failed to disclose these facts to investors while representing that it would provide investment advisory services and requiring clients to pay advisory fees annually in advance.

I feel it is an understatement that cases such as the Hurley and Frankenthaler Financial Programs, Inc., where these men were allowed to dissipate millions of dollars of investors' money, literally cries out for more effective corrective action.

And what about the Advanced Analysis, Inc., case? After one year, Schwable's registration could be reinstated in an "adequately supervised capacity." What is Schwable doing at this time, and is he being "adequately supervised"? The SEC doesn't know, and neither does anyone else apparently.

What about Frederick N. Goldsmith, who was permitted to withdraw his SEC registration as a financial adviser? Where is Goldsmith today? Is he writing comic strips or making a comedy of financial advice? Under current federal law, we cannot answer these questions.

The problem as determined by Committee investigators is as follows:

To become a registered financial investment adviser, an applicant merely files an application form, pays a $150 fee and agrees to maintain certain records, be subject to SEC audit and inspection, and generally agrees to accept minimal oversight by the SEC.

The SEC investigation of investment adviser registrants is minimal in that the applicant might have a highly questionable background, or he may have been involved in almost any criminal activity that did not involve directly the manipulation or embezzlement of monies or securities that affected the SEC. Since the only criteria utilized in the applicant's application review consists of a file check entirely within the SEC and no other federal or state regulatory agency or repository of files or other criminal activities, under existing law, anyone can become an SEC registered investment adviser.

Experience, competence, past performance are each criteria that SEC officials believe should be considered, but are not now reviewed unless there has been a violation of existing SEC regulations.

Officials of that agency are fully aware of the deficiencies in the SEC applicant review. They are hopeful that the SEC is close to a final rule that makes it incumbent on a registered adviser to reveal to their clients a great deal more about their qualifications, training and experience than is presently required. These officials in the SEC's Office of Reports and Information Services, which is the office of primary responsibility in the issuance of investment advisers registration, hope that at least as stringent requirements for investment adviser registrants be maintained as those requirements for broker-dealers, another area of responsibility for that office. Broker-dealers are, justifiable or not, the area of responsibility with which that office is concerned, and as a result, investment advisers' responsibilities have assumed a secondary role in the line of responsibility. However, that office is fully cognizant of its responsibility with reference to investment advisers and is apparently doing the best it can in administering the investment adviser responsibility within the most limited framework of guidelines established for this important segment of the financial community.

As an indication of the manner in which the Office of Registration is forced to resort to extremes in some cases to maintain at least rudimentary control over would-be teen-age investment advisers, I point out that in the matter of a fifteen-year-old in Orinda, California, his application was not accompanied by the necessary $150 fee and was deficient in other respects, so the application was returned.

However, the Office of Registration states that under the law and SEC regulations, as presently drawn, the Commission had no alternative but to issue a registration to the youth if he complied with their requests. Since that office is unable to legally halt the registration, it adopted a unique device that will possibly give pause for thought to the parents of the would-be teen-age investment advisers.

The Chief of the SEC's Branch of Broker-Dealer and Investment Adviser Registration requested that an attorney in the B/D–IA Registration Branch prepare a letter in "high-powered legalese" for his signature to the fifteen-year-old. The letter (attached) is designed in essence to dissuade the applicant from completion of his filing efforts, and since this letter was sent to the applicant in early April and no response has been had to date, the Office of Investment Advisers Registration believes it has heard the last from the applicant.

But such an effort on the part of the government is akin to firing a cannon to eliminate a mosquito.

On the other hand, the previously-referred-to 16 year old investment adviser in West Virginia is still permitted to retain his valid registration despite the stated misgivings of the employees of the registration section, simply because this youngster had complied with all requirements for registration, paid his fee, and was granted registration, and to date, there has been no legal reason to withdraw or revoke his registration.

The above-mentioned teen-age tout operating out of his bedroom regularly publishes—for a subscription fee—a stock market advisory letter without disclosing his age or experience. He quite candidly admits to investigators "It seems like a good way to make money."

Of the 3,746 investment adviser registrants as of this date, there have been only 19 revocations of registration by the SEC. This small number has resulted primarily through evidence of fraud, embezzlement or other factors, made known to the SEC generally by regional offices or actions by local courts because of a complainant.

The SEC has itself initiated but four revocations. This is indicative of the lax supervision of registered persons or firms doing business as investment advisers selling counselling to investors in a business involving over $130 billion annually.

SEC regulations do not require investment advisers to report the name, number, amounts of money involved, or other pertinent facts relevant to clients. Consequently, in the event of revocation or cancellation of the registration of any investment adviser, the Commission is incapable of initiating any communication with that investor that might avoid financial loss to the investor.

The SEC does publish a newsletter that reflects revocations of registration, but no information relevant to cancellations are included in the newsletter. SEC officials admit that there should be devised some method whereby investors could be informed of the termination of an investment adviser registration, and since the SEC newsletter has limited circulation, most investors would not presently have access to that information.

In theory, the SEC, each three years, audits the investment adviser; however, workload requirements presently do not permit this.

The non-public SEC file reflects that the preponderance of complaints received are from investors who feel they have been duped in subscribing to publications offered by the IA's, have lost money as a result of following the advice offered by the investment adviser, or are otherwise dissatisfied at the performance or non-performance of the investment adviser. The SEC claims that in all instances reviewed, they take such corrective action as is possible. The action generally taken is to inform the investment adviser involved of the complaint and suggest that the investment adviser deal with the complaint.

That's like putting the fox in charge of the chicken coop.

The complainant is told by the SEC that it has neither the authority nor the ability to correct investment adviser errors, but that they have forwarded the complaint information to the investment adviser involved.

This is the maximum authority of the Commission under the existing regulations.

The legislation you will be considering shortly is designed to prevent the kinds of situations from arising that have been touched upon in this report. It would do this by establishing meaningful qualification requirements and financial responsibility standards for investment advisers which in turn would result in substantially improved protections for investors.

H.R. 13737 would make three major regulatory changes in the Investment Advisers Act of 1940.

First, it would authorize the SEC to set minimum qualification standards before a person could enter the investment advisory business. This would be done by the promulgation of rules and regulations pertaining to standards of training and experience, and the passing of an appropriate test or examination.

Second, it would give the SEC authority to require certain investment advisers to maintain a minimum level of financial responsibility. Rules under these provisions would require such things as fidelity bond or minimum net capital requirements.

Third, it would remove the exemption from registration for investment advisers whose business is solely within one state.

H.R. 13737 would also clarify the right of an individual who has been harmed as a result of a violation of the Advisers Act to sue for civil damages in federal courts.

Finally, H.R. 13737 would direct the SEC to conduct three studies designed to improve current practices, one of which would consider whether the Advisers Act would be more efficiently administered under the umbrella of self-regulation.

These provisions will close a substantial regulatory gap by extending to customers of investment advisers the same protections that now prevail throughout other segments of the securities industry.

While the above is designed to curb the kinds of abuses outlined in this report,

amendments adopted by the Subcommittee would also achieve a second major goal which is to alleviate duplicative and unnecessarily burdensome regulation of investment advisers.

STATEMENT OF THE HONORABLE JOHN M. MURPHY ON THE INTRODUCTION OF THE PUBLIC PARTICIPATION ACT

(Mr. MURPHY of New York asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, today I am introducing legislation which will insure that the public is able to participate in agency rulemaking proceedings which involve issues respecting consumer safety. In addition, the legislation will assure that citizens and groups representing a public interest have access to the courts reviewing any agency action involving consumer safety.

During the last several years, the Congress has enacted a number of pieces of legislation designed to protect consumers. However, because of complicated procedures and the time and expense involved in participating in the rulemaking proceeding, the very group intended to be protected by the legislation has often been excluded from the rulemaking process. Public participation is vitally necessary if our regulatory system is to function properly. Public participation protects against agency lethargy, unresponsiveness, conflicts of interest, and domination by the very interests that are supposed to be regulated.

Judge Harold Leventhal of the U.S. Court of Appeals for the District of Columbia Circuit, has pointed out the importance of public participation in agency proceedings and in court review of those proceedings. As Judge Leventhal indicated:

> Administrative law and regulation have been profoundly influenced by the participation in both agencies and courts of public interest representatives who have identified issues and caused agencies and courts to look squarely at the problems that otherwise would have been swept aside and passed unnoticed. They have made complaints; adduced and marshalled evidence; offered different insights and viewpoints and presented scientific, historical and legal research. They have been of significant service to the entire decisional process.

Unfortunately, a recent Supreme Court decision on the award of attorneys' fees has resulted in limiting public access to the courts. In Alyeska Pipeline Service Company against Wilderness Society, the court held that attorneys' fees in court litigation are not recoverable by the prevailing litigant in Federal litigation unless the relevant statute authorizes the award of attorneys' fees. Up until this time, members of the public had relied upon the equitable powers of the court to award them costs of suit and attorneys fees in cases where their participation had furthered a public interest. Because of the Alveska ruling, public interest groups have had to cut back their activities because they do not have the money to finance what may be very time consuming and expensive litigation.

The bill which I am introducing today will assure adequate public participation, not only at the court level, but also at the beginning stages in the rulemaking process. Indepth legal and technical expertise offered on behalf of the public during the agency decisionmaking process can have a profound effect upon the direction which that decision takes. Administrative justice requires that those persons who are supposed to benefit from agency action will have an opportunity to see that their views are heard. Public participation can lead to more informed and wise administrative decisions.

As Consumer Product Safety Commissioner David Pittle indicated in testimony before the Senate Committee on Judiciary:

> In hearing after hearing the industry provides technical witnesses who can persuasively argue their position. This evidence I consider to be important, but it is incomplete. It must be supplemented and balanced by technical arguments made by the public.

Compensation for public participants in agency proceedings is not a new concept. The Magnuson-Moss Federal Trade Commission Improvements Act of 1973 authorizes the FTC to provide compensation to citizens participating in rulemaking proceedings. Likewise, the Toxic Substances Control Act provides for compensation to participants who further a public interest by their participation in a rulemaking proceeding. The Consumer Product Safety Commission has already initiated action to assure adequate public participation. The Commission is considering the adoption of rules which would compensate members of the public participating in proceedings before the Commission. Such action is clearly within the powers of the Commission, and I commend it for its initiative in this area.

The bill which I am introducing today amends the Flammable Fabrics Act, the Federal Hazardous Substances Act, and the National Traffic and Motor Vehicle Safety Act of 1966 to provide for public participation. Under the bill compensation for reasonable attorneys' fees, expert witnesses fees, and other costs of participating in a rulemaking proceeding can be provided to persons who represent an interest which substantially contributes to a fair determination of the issues to be resolved in the proceeding. The economic interest of the person to be compensated must be small in comparison to the costs of effective participation in the proceeding or the person must be able to demonstrate to the agency that the person does not have sufficient resources to adequately participate in the proceeding. The bill also authorizes courts to award costs of suit and reasonable fees to attorneys and expert witnesses in cases which involve the review of an agency action.

I would like to point out that in providing for the award of reasonable attorneys and expert witnesses' fees, I do not intend that an agency or a court be influenced by the fact that a person is a salaried employee of a public interest or foundation-funded organization in determining what is reasonable. Reasonable fees should be those which are commensurate with those which such professionals would normally be compensated for performance of similar services. The fact that attorneys or experts may be employed by citizen groups or foundations at salaries or hourly rates which may be below the standard commercial rates should not be relevant to any computation of the rate of compensation under the bill. Even in situations where a lawyer or expert initially renders services without expectation of receiving any compensation, fees should be awarded at prevailing market rates. It may well be that an attorney will agree to provide representation of an interest in a proceeding because of a belief that such representation furthers the public interest. However, representation of such interest should not have to rely on the charity of counsel.

By enacting the legislation which I have introduced today, the Congress will facilitate the important participation of members of the public in those decisions which bear on public safety. As a result, the decisionmaking process will receive the valuable benefit of their participation and assistance.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. DINGELL, for 10 minutes, today; and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. BADHAM) to revise and extend their remarks and include extraneous material:)

Mr. RAILSBACK, for 5 minutes, today.
Mr. MICHEL, for 10 minutes, today.
Mr. BAUMAN, for 15 minutes, today.
Mr. WHALEN, for 5 minutes, today.
Mr. MILLER of Ohio, for 10 minutes, today.
Mr. EDWARDS of Alabama, for 15 minutes, today.
Mr. FISH, for 60 minutes, today.
Mr. DERWINSKI, for 5 minutes, today.
Mr. GILMAN, for 5 minutes, today.
Mr. LENT, for 5 minutes, today.

(The following Members (at the request of Mr. AKAKA) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. BAUCUS, for 10 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. BINGHAM, for 20 minutes, today.
Mr. WOLFF, for 5 minutes, today.
Mr. KRUEGER, for 10 minutes, today.
Mr. HUBBARD, for 5 minutes, today.
Mr. DRINAN, for 30 minutes, today.
Mr. LEVITAS, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. KOCH, for 10 minutes, today.
Mr. DODD, for 5 minutes, today.

(The following Members (at the request of Mr. WEISS), to revise and extend their remarks, and to include extraneous matter:)

Mr. BROOKS, for 15 minutes, today.
Mr. COTTER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BADHAM) and to include extraneous material:)

Mr. CONABLE in two instances.
Mr. FINDLEY in two instances.
Mr. COLEMAN.
Mr. MADIGAN in two instances.
Mr. HANSEN in six instances.
Mr. CRANE in two instances.
Mr. WHITEHURST.
Mr. BUCHANAN.
Mr. ANDERSON of Illinois.
Mr. WHALEN.
Mr. DERWINSKI in two instances.
Mr. O'BRIEN.
Mr. RUPPE in five instances.
Mr. COHEN in four instances.
Mr. BOB WILSON in two instances.
Mr. STOCKMAN.
Mr. FORSYTHE.
Mr. HOLLENBECK.
Mr. EDWARDS of Oklahoma.
Mr. ERLENBORN.
Mr. GRASSLEY.
Mr. SHUSTER.
Mr. CARTER in two instances.
Mr. COLLINS of Texas in five instances.
Mr. TAYLOR.
Mr. GILMAN in two instances.
Mr. BROYHILL.
Mr. BROWN of Ohio in two instances.
Mr. ABDNOR in two instances.

(The following Members (at the request of Mr. AKAKA) and to include extraneous matter:)

Mr. BYRON.
Mr. TEAGUE in three instances.
Mr. EILBERG in two instances.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in two instances.
Mr. RODINO in two instances.
Mr. MONTGOMERY in two instances.
Mr. WEISS.
Mr. RAHALL in two instances.
Mr. MOAKLEY.
Mr. CHARLES H. WILSON of California.
Mr. ROSENTHAL in three instances.
Mr. MCFALL.
Mr. HAMILTON.
Mr. KASTENMEIER.
Mr. BAUCUS.
Mr. LEVITAS in five instances.
Ms. OAKAR.
Mr. KOCH in three instances.
Mrs. SCHROEDER.
Mr. OBERSTAR.
Mrs. BOGGS.
Mr. BLANCHARD.
Mr. DOWNEY.
Mr. NEDZI in two instances.

(The following Members (at the request of Mr. WEISS), and to include extraneous matter:)

Mr. RANGEL.
Mr. WOLFF.
Mr. MOORHEAD of Pennsylvania.
Mr. PATTERSON of California.
Mr. KOCH in two instances.
Mrs. BURKE of California.
Mr. FITHIAN.

ADJOURNMENT

Mr. WEISS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock p.m.), under its previous order, the House adjourned until tomorrow, Thursday, January 20, 1977, at 10:25 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

428. A letter from the Secretary of Defense, transmitting notice of his decision to increase the civilian strength authorized for the Department of Defense, pursuant to section 501(d) of Public Law 94–361; to the Committee on Armed Services.

429. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken for the Army Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

430. A letter from the vice president and general manager, Chesapeake & Potomac Telephone Co., transmitting a statement of receipts and expenditures and a comparative general balance sheet for the company for 1976, pursuant to 33 Stat. 375 and section 313 of title 43, D.C. Code; to the Committee on the District of Columbia.

431. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report on actions taken on recommendations contained in the final report of the Commission on Revision of the Federal Court Appellate System entitled "Structure and Procedures: Recommendations for Change," dated June 1975, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

432. A letter from the General Counsel, National Endowment for the Arts, transmitting notice of a proposed new system of records for the Endowment, pursuant to 5 U.S.C. 522a(o); to the Committee on Government Operations.

433. A letter from the Administrator of Veterans' Affairs, transmitting notice of a proposed new system of records for the Veterans' Administration, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

434. A letter from the Sergeant at Arms, U.S. House of Representatives, transmitting his annual report of funds drawn by him, the application and disbursement of the sums, and balances remaining in his hands as of January 15, 1977, pursuant to 2 U.S.C. 84; to the Committee on House Administration.

435. A letter from the Chief Commissioner, U.S. Court of Claims, transmitting a report on the allowance of consultant claims in proceedings under the Alaska Native Claims Settlement Act, pursuant to section 20 of the act; to the Committee on Interior and Insular Affairs.

436. A letter from the Secretary of State, transmitting a report that the Department of State has received information concerning a third-country transfer of U.S.-origin defense equipment executed without the consent of the U.S. Government, pursuant to section 3(e) of the Arms Export Control Act (90 Stat. 736); to the Committee on International Relations.

437. A letter from the president, Overseas Private Investment Corporation, transmitting the annual report of the Corporation for fiscal year 1976, pursuant to section 240A(a) of the Foreign Assistance Act of 1961, as amended (83 Stat. 818); to the Committee on International Relations.

438. A letter from the Secretary of Health, Education, and Welfare, transmitting the fourth report of the National Heart, Lung, and Blood Advisory Council, pursuant to section 418(b)(2) of the Public Health Service Act, as amended (90 Stat. 404); to the Committee on Interstate and Foreign Commerce.

439. A letter from the Secretary of Transportation, transmitting the report on the schoolbus safety study, pursuant to section 103(i)(3) of the National Traffic and Motor Vehicle Safety Act, as amended (90 Stat. 815); to the Committee on Interstate and Foreign Commerce.

440. A letter from the Secretary of Transportation; transmitting a report on the final standards, classification and designation of class I railroads in the United States, pursuant to section 503 of Public Law 94–210; to the Committee on Interstate and Foreign Commerce.

441. A letter from the Acting Administrator, Federal Energy Administration, transmitting an amendment to the mandatory petroleum allocation regulations exempting motor gasoline (energy action No. 8), pursuant to section 12 of the Emergency Petroleum Allocation Act, as amended (89 Stat. 951) (H. Doc. No. 95–55); to the Committee on Interstate and Foreign Commerce and ordered to be printed with illustrations.

442. A letter from the Acting Administrator, Federal Energy Administration, transmitting an amendment to the mandatory petroleum price regulations exempting motor gasoline (energy action No. 9), pursuant to section 12 of the Emergency Petroleum Allocation Act, as amended (89 Stat. 951) (H. Doc. No. 95–56); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

443. A letter from the Assistant Secretary of Commerce for Economic Development, transmitting notice of a delay in submission of the annual report of the Economic Development Administration for fiscal year 1976; to the Committee on Public Works and Transportation.

444. A letter from the Secretary of Transportation, transmitting the report on the study of the various factors involved in the planning, selection, programing, and implementation of Federal-aid urban system routes, pursuant to section 149 of Public Law 94–280; to the Committee on Public Works and Transportation.

445. A letter from the Comptroller General of the United States, transmitting a report on the U.S. commercial fishing industry; jointly, to the Committees on Government Operations, and Merchant Marine and Fisheries.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 2001. A bill to amend title II of the Social Security Act to increase to $7,500 the amount of outside earnings in any year which (subject to further increases under the automatic adjustment provisions) is permitted without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. ANDERSON of California (for himself, Mr. KRUEGER, Mr. MINETA, Mr. DUNCAN of Tennessee, Mr. MCHUGH, Mr. JACOBS, Mr. PATTERSON of California, Mr. ZEFERETTI, Mr. ANDREWS of North Dakota, Mr. BREAUX, Mr. KREBS, Mr. ROBINSON, Mr. LENT, Mr. SIMON, Mr. HAWKINS, Mr. EDGAR, Mr. NEAL, Mr. WON PAT, Mr. CHARLES H. WILSON of California, Mr. COUGHLIN, Mr. MITCHELL of New York, Mr. LEHMAN, Mrs. MEYNER, Mr. MAZZOLI, and Mr. MATHIS):

H.R. 2002. A bill to amend chapter 44 of title 18 of the United States Code (respect-

ing firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committe on the Judiciary.

By Mr. ANDERSON of California (for himself, Mr. QUIE, Mr. DAN DANIEL, Mr. DE LUGO, Mr. GIBBONS, Mr. BONIOR, Mr. ENGLISH, Mr. PRITCHARD, Mr. STUDDS, Mr. JONES of Oklahoma, Mr. GEPHARDT, Mr. JONES of Tennessee, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. RANGEL, Mr. ROSE, Mr. SCHEUER, Mr. WALSH, Mr. ROE, Mr. EDWARDS of Oklahoma, Mr. RONCALIO, Mr. LAFALCE, Mr. GINN, Mr. FOUNTAIN, and Mr. BLANCHARD):

H.R. 2003. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

By Mr. ANDERSON of California (for himself, Mr. BROWN of Michigan, Mr. BROWN of Ohio, Mr. FISHER, Mr. PURSELL, Mr. TREEN, Mr. HUCKABY, Mr. LEVITAS, Mr. STRATTON, Mr. MOTTL, Mr. LEACH, Mr. CARNEY, Mr. LONG of LOUISIANA, Mr. LOTT, Mr. RAHALL, Mr. AUCOIN, Mr. GLICKMAN, Mr. HANNAFORD, Mr. TRIBLE, Mr. DOWNEY, Mr. CEDERBERG, Mr. SPENCE, and Mr. FARY):

H.R. 2004. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

By Mr. ANDERSON of Illinois:

H.R. 2005. A bill to authorize a review of collective bargaining in the construction industry; the broadening of the geographical scope of collective bargaining for construction affecting interstate commerce; and the establishment of a Construction Industry Bargaining Commission; to the Committee on Education and Labor.

By Mr. ANDERSON of Illinois (for himself, Mr. ARCHER, Mr. BAFALIS, Mr. BAUMAN, Mr. BUCHANAN, Mr. BUTLER, Mr. CEDERBERG, Mr. CHAPPELL, Mr. CLEVELAND, Mr. COLLINS of TEXAS, Mr. COUGHLIN, Mr. DEVINE, Mr. DUNCAN of Tennessee, Mr. FORSYTHE, Mr. FRENZEL, Ms. HOLT, Mr. KETCHUM, Mr. MATHIS, Mr. MCCLORY, Mr. MICHEL, Mr. ROBINSON, Mr. SEBELIUS, Mr. WHITEHURST, and Mr. WINN):

H.R. 2006. A bill to amend 18 U.S.C. 1951 to make it a Federal criminal offense to engage in violence or destruction at or near a construction site or any other place where work or business is carried on; to the Committee on the Judiciary.

By Mr. KETCHUM (for himself, Mr. TREEN, Mr. ICHORD, Mr. KINDNESS, Mr. ANDREWS of North Dakota, Mr. RISENHOOVER, Mr. WATKINS, Mr. RUDD, Mr. MOORHEAD of California, Mr. TONRY, Mr. BURGENER, Mrs. PETTIS, Mr. MOLLOHAN, Mr. WON PAT, Mr. WHITEHURST, Mr. BADHAM, Mr. KASTENMEIER, Mr. CONABLE, Mr. DUNCAN of Oregon, and Mr. FOUNTAIN):

H.R. 2007. A bill to amend the Voting Rights Act of 1965 to limit certain aspects of its coverage for other than racial groups; to the Committee on the Judiciary.

By Mr. ARCHER:

H.R. 2008. A bill to prohibit travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired; to the Committee on House Administration.

By Mr. ASPIN:

H.R. 2009. A bill to amend title 18, United States Code, to permit the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries authorized by law and conducted by a nonprofit organization, and for other purposes; to the Committee on the Judiciary.

By Mr. BAUCUS:

H.R. 2010. A bill to require that imported meat and meat food products made in whole or in part of imported meat be subjected to certain tests and that such meat or products be identified as having been imported; to require the inspection of imported dairy products and that such products comply with certain minimum standards of sanitation; to require that the cost of conducting such tests, inspections, and identification procedures on imported meat and meat food products and on dairy products, as the case may be, be borne by the exporters of such articles; and for other purposes; to the Committee on Agriculture.

By Mr. BENNETT (for himself and Mr. DAN DANIELS):

H.R. 2011. A bill to authorize appropriations during the fiscal year 1978 for procurement of naval vessels, and for other purposes; to the Committee on Armed Services.

By Mr. BIAGGI:

H.R. 2012. A bill to prohibit Federal assistance to rental housing projects where tenants are not allowed to have pets, or to local governments which do not permit pets in rental housing; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2013. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange services; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BLANCHARD (for himself, Mr. MINETA, Mr. FISHER, Mr. ANDERSON of California, Ms. MIKULSKI, Mr. STUDDS, Mr. TRIBLE, Mr. DICKS, Mr. GRASSLEY, Mrs. COLLINS of Illinois, Mr. AMMERMAN, Mr. SHARP, Mr. MANN, Mr. MCHUGH, and Mr. RINALDO):

H.R. 2014. A bill to require authorizations of new budget authority for Government programs at least every 5 years, to establish a procedure for zero-base review of Government programs every 5 years, and for other purposes; to the Committee on Rules.

By Mr. BOLAND:

H.R. 2015. A bill to require that discharge certificates issued to members of the Armed Forces not indicate the conditions or reasons for discharge, to limit the separation of enlisted members under conditions other than honorable, and to improve the procedures for the review of discharges and dismissals; to the Committee on Armed Services.

H.R. 2016. A bill to preserve and promote the resources of the Connecticut River Valley, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 2017. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in higher education; to the Committee on Ways and Means.

By Mr. BROOMFIELD:

H.R. 2018. A bill to provide for the forgiveness of certain advances made to the unemployment account of Michigan under title XII of the Social Security Act; to the Committee on Ways and Means.

By Mr. BROYHILL (for himself, Mr. MOTTL, Mr. MILLER of Ohio, Mr. QUILLEN, Mr. DUNCAN of Oregon, Mr. DEVINE, Mr. KINDNESS, Mr. THOMPSON, Mr. DERRICK, Mr. MOLLOHAN, Mr. REGULA, Mr. PREYER, Mr. MAZZOLI, Mr. MARTIN, Mr. MANN, Mr. BUTLER, Mr. GOLDWATER, Mr. ROE, Mr. JENRETTE, Mr. FOUNTAIN, Mr. ROSE, Mr. HEFNER, Mr. MCKINNEY, Mr. JONES of North Carolina, and Mr. NEAL):

H.R. 2019. A bill to amend the Natural Gas Act to permit curtailed pipelines to fulfill the needs of high-priority consumers of natural gas; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. ANDERSON of California, Mr. ANNUNZIO, Mr. BLOUIN, Mr. BROWN of California, Mr. CORNELL, Mr. DRINAN, Mr. DUNCAN of Tennessee, Mr. FISH, Mr. FISHER, Mr. FLORIO, Mr. FORD of Tennessee, Mr. FRASER, Mr. FUQUA, Mr. HAMILTON, Mr. HANNAFORD, Mr. HARRINGTON, Mr. HOWARD, Mr. HUGHES, Mr. ICHORD, Mr. KETCHUM, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LEGGETT, and Mr. LLOYD of California):

H.R. 2020. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; jointly to the Committees on Ways and Means, Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. JOHN L. BURTON, Mrs. LLOYD of Tennessee, Mr. MINETA, Mr. MITCHELL of New York, Mr. MOFFETT, Mr. PEPPER, Mr. RUESS, Mr. RODINO, Mr. ROSENTHAL, Mr. ST GERMAIN, Mr. SCHEUER, Mr. SIMON, Mr. SISK, Mrs. SPELLMAN, Mr. STANTON, Mr. THONE, and Mr. WOLFF):

H.R. 2021. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mrs. BURKE of California:

H.R. 2022. A bill to direct the Secretary of the Interior to conduct a 1-year feasibility/suitability study of a National Museum of Afro-American History and Culture in Los Angeles, Calif.; to the Committee on Interior and Insular Affairs.

By Mr. DON H. CLAUSEN:

H.R. 2023. A bill to establish in the Department of Housing and Urban Development a direct low-interest loan program to assist homeowners and other owners of residential structures in purchasing and installing more effective insulation and heating equipment; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2024. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit or an income tax deduction for certain expenditures of a taxpayer relating to the thermal design of the residence of such taxpayer; to the Committee on Ways and Means.

By Mr. COHEN:

H.R. 2025. A bill to amend title 38 of the United States Code in order to provide that the fees payable to agents or attorneys who represent veterans in allowed claims under the veterans laws shall be paid by the Administrator rather than deducted from amounts awarded under the claims, to the Committee on Veterans' Affairs.

H.R. 2026. A bill to amend title II of the Social Security Act to provide that attorneys' fees allowed in administrative or judicial proceedings under that title (or under title XVIII or such act), in cases where the claim-

ants are successful, shall be paid by the Secretary of Health, Education, and Welfare rather than deducted from the amounts awarded claimants; to the Committee on Ways and Means.

By Mr. COLLINS of Texas:

H.R. 2027. A bill to establish a 10-year moratorium on the construction, alteration, acquisition, or leasing of certain buildings for use by Federal agencies in the greater Washington area; to the Committee on Public Works and Transportation.

By Mr. CONABLE:

H.R. 2028. A bill to authorize the home production of beer; to the Committee on Ways and Means.

H.R. 2029. A bill to amend title XVIII of the Social Security Act to establish a program of long-term care services within the medicare program, to provide for the creation of community long-term care agencies as part of a new administrative structure for the organization and delivery of long-term care services, to provide a significant role for persons eligible for long-term care benefits in the administration of the program, and for other purposes; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CONTE (for himself, Mr. ANDREWS of North Dakota, Mr. HOWARD, Mr. CAVANAUGH, Mr. DIGGS, Mr. SKUBITZ, Mr. STUDDS, Mr. BROYHILL, Mr. WOLFF, Mr. DE LUGO, Mr. WHITEHURST, Mr. WEISS, and Mr. DOWNEY):

H.R. 2030. A bill to amend the Public Health Service Act to provide assistance for the planning and development of schools of veterinary medicine; to the Committee on Interstate and Foreign Commerce.

By Mr. CONTE (for himself, Ms. FENWICK, Mr. BOWEN, Mr. MAZZOLI, Mr. DRINAN, Mr. RODINO, Mr. HORTON, Mr. HOLLENBECK, Mr. JOHNSON of California, Mr. ROE, Mr. MOAKLEY, Mr. MINETA, and Mr. SANTINI):

H.R. 2031. A bill to amend the Public Health Service Act to provide assistance for the planning and development of schools of veterinary medicine; to the Committee on Interstate and Foreign Commerce.

By Mr. CONTE (for himself, Mr. JEFFORDS, Mr. BALDUS, Mr. CHARLES H. WILSON of California, Mr. HIGHTOWER, and Mr. RONCALIO):

H.R. 2032. A bill to amend the Public Health Service Act to provide assistance for the planning and development of schools of veterinary medicine; to the Committee on Interstate and Foreign Commerce.

By Mr. CONTE (for himself, Mr. SCHEUER, Mr. GILMAN, Mr BURGENER, Mr. KASTENMEIER, Mr. BUTLER, Mr. WAMPLER, Mr. SARASIN, Ms. MEYNER, Mr. RICHMOND, and Mr. ROYBAL):

H.R. 2033. A bill to amend the Public Health Service Act to provide assistance for the planning and development of schools of veterinary medicine; to the Committee on Interstate and Foreign Commerce.

By Mr. CRANE:

H.R. 2034. A bill to provide for the recovery by a prevailing defendant in Federal criminal cases of a reasonable attorney's fee and other reasonable litigation costs; to the Committee on the Judiciary.

By Mr. CRANE (for himself, Mr. SYMMS, Mr. BREAUX, Mr. KEMP, Mr. KELLY, Mr. QUAYLE, and Mrs. PETTIS):

H.R. 2035. A bill to provide that in civil actions where the United States is a plaintiff, a prevailing defendant may recover a reasonable attorney's fee and other reasonable litigation costs; to the Committee on the Judiciary.

By Mr. ROBERT W. DANIEL, JR. (for himself, Mr. BAFALIS, Mr. BARNARD, Mr. BAUCUS, Mr. BAUMAN, Mr. BIAGGI, Mr. BRODHEAD, Mr. CARTER, Mr. DAVIS, Mr. DERWINSKI, Mr. DICKINSON, Mr. EDWARDS of Alabama, Mr. EMERY, Mr. HANSEN, Mr. HYDE, Mr. KETCHUM, Mr. LAGOMARSINO, Mr. LENT, Mr. MANN, Mr. MARKS, Mr. MOLLOHAN, Mrs. PETTIS, Mr. RANGEL, Mr. WEISS, and Mr. WINN):

H.R. 2036. A bill to provide that the changes made by the Tax Reform Act of 1976 to the exclusion for sick pay shall only apply to taxable years beginning after December 31, 1976; to the Committee on Ways and Means.

Mr. DERWINSKI:

H.R. 2037. A bill to repeal the provisions of law allowing automatic cost-of-living adjustments in the salaries of Members of Congress and certain other legislative, executive and judicial offices and positions; to the Committee on Post Office and Civil Service.

H.R. 2038. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. DOWNEY (for himself and Mr. KASTENMEIR):

H.R. 2039. A bill to amend title 10, United States Code, to provide for the regionalization and traveling of discharge review panels; to establish guidelines for review and correction of military discharge; to provide for legal counsel for discharge applicants; to provide for the recognition of exemplary postservice conduct through the issuance of an honorable discharge (limited); and to otherwise expand and enhance the effectiveness of the Armed Forces discharge review procedures; to the Committee on Armed Services.

By Mr. DRINAN:

H.R. 2040. A bill to establish a health protection tax on cigarettes and for other purposes; to the Committee on Ways and Means.

By Mr. EDWARDS of Alabama:

H.R. 2041. A bill to amend the Occupational Safety and Health Act of 1970 to improve the administration of such act and to establish more efficient regulatory procedures for carrying out such act, and for other purposes; to the Committee on Education and Labor.

H.R. 2042. A bill to amend the Civil Rights Act of 1964 to provide a limitation of 2 years on civil actions brought to prevent unlawful employment practices; to the Committee on Education and Labor.

H.R. 2043. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

H.R. 2044. A bill to amend the Clean Air Act to assure consideration of the total environmental, social, and economic impact while improving the quality of the Nation's air; to the Committee on Interstate and Foreign Commerce.

H.R. 2045. A bill to amend part D of title IV of the Social Security Act to limit the amount of an individual's wages which is subject to garnishment thereunder, for the enforcement of child support and alimony obligations, to 50 percent of such wages (or such lower amount as may be provided by State law); to the Committee on Ways and Means.

H.R. 2046. A bill to modify the restrictions contained in section 170(e) of the Internal Revenue Code in the case of certain contributions of literary, musical, or artistic composition, or similar property; to the Committee on Ways and Means.

By Mr. EMERY:

H.R. 2047. A bill to amend the Commercial Fisheries Research and Development Act of 1964 in order to amend the formula for calculating yearly apportionments to the State of funds available under such act; to the Committee on Merchant Marine and Fisheries.

By Mr. EMERY (for himself and Mr. COHEN):

H.R. 2048. A bill to amend the Tariff Schedules of the United States to provide for a lower rate of duty for certain fish netting and fish nets; to the Committee on Ways and Means.

By Mr. FASCELL:

H.R. 2049. A bill to amend title 28, United States Code, to change the number of district judges authorized for the Southern District of Florida; to the Committee on the Judiciary.

By Mr. FISH:

H.R. 2050. A bill to provide for paper money of the United States to carry a designation in braille indicating the denomination; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2051. A bill to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from the Republic of Vietnam, Laos, or Cambodia; to the Committee on the Judiciary.

By Mr. FUQUA:

H.R. 2052. A bill to amend the depository library program (44 U.S.C. 1901–1914); to the Committee on House Administration.

H.R. 2053. A bill to terminate any phosphate leases issued pursuant to the Mineral Leasing Act of February 25, 1920, as amended, and rights to such leases within the Osceola National Forest and to direct the Secretary of the Interior to take action with respect to the same; to the Committee on Interior and Insular Affairs.

H.R. 2054. A bill to amend title 28, United States Code, to provide that Madison County, Fla., shall be included in the northern judicial district of Florida; to the Committee on the Judiciary.

H.R. 2055. A bill to repeal the Gun Control Act of 1968, to reenact the Federal Firearms Act, to make the use of a firearm to commit certain felonies a Federal crime where that use violates State law, and for other purposes; to the Committee on the Judiciary.

H.R. 2056. A bill to authorize an appropriation to the Secretary of the Interior for the repair and restoration of a certain road in Saint Marks National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

H.R. 2057. A bill to direct the Administrator of General Services to provide for the construction of a public building in Tallahassee, Fla.; to the Committee on Public Works and Transportation.

By Mr. GAYDOS:

H.R. 2058. A bill to strengthen State workers' compensation programs, and for other purposes; to the Committee on Education and Labor.

H.R. 2059. A bill to provide a special program for financial assistance to Opportunities Industrialization Centers in order to provide 1 million new jobs and job training opportunities, and for other purposes; to the Committee on Education and Labor.

H.R. 2060. A bill to amend the Federal Metal and Nonmetallic Mine Safety Act and to transfer certain functions relating to coal mine health and safety under the Federal Coal Mine Health and Safety Act of 1969; to the Committee on Education and Labor.

H.R. 2061. A bill to create the Young Adult Conservation Corps to complement the Youth Conservation Corps; to the Committee on Education and Labor.

H.R. 2062. A bill to prohibit travel at Government expense outside the United States

by Members of Congress who have been defeated, or who have resigned, or retired; to the Committee on House Administration.

H.R. 2063. A bill to provide for the selection of candidates for President of the United States in a national primary election, and for the election of a President and a Vice President by direct vote of the people, and for other purposes; to the Committee on House Administration.

H.R. 2064. A bill to limit U.S. contributions to the United Nations; to the Committee on International Relations.

H.R. 2065. A bill to provide that foreign made products be labeled to show the country of origin, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2066. A bill to amend the Securities Exchange Act of 1934 to restrict persons who are not citizens of the United States from acquiring more than 35 percent of the nonvoting securities or more than 5 percent of the voting securities of any issuer whose securities are registered under such act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2067. A bill to amend title 39, United States Code, to authorize the transmission, without cost to the sender, of letter mail to the President or Vice President of the United States or to Members of Congress, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 2068. A bill to abolish the quadrennial Commission on Executive, Legislative, and Judicial Salaries established by section 225 of the Federal Salary Act of 1967, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 2069. A bill to amend the Fair Labor Standards Act of 1938, to require prenotification to affected employees and communities of dislocation of business concerns, to provide assistance (including retraining) to employees who suffer employment loss through the dislocation of business concerns, to business concerns threatened with dislocation, and to affected communities, to prevent Federal support for unjustified dislocation, and for other purposes; jointly, to the Committees on Education and Labor, and Banking, Finance and Urban Affairs.

H.R. 2070. A bill to require authorizations of new budget authority for Government programs at least every 5 years, to establish a procedure for zero-based review of Government programs every 5 years, and for other purposes; jointly, to the Committees on Rules and Government Operations.

H.R. 2071. A bill to provide reduced retirement benefits for Members of Congress who remain in office after attaining 70 years of age; jointly, to the Committees on Post Office and Civil Service and House Administration.

H.R. 2072. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 2073. A bill to provide property tax relief to low-income elderly homeowners through direct reimbursements; to the Committee on Ways and Means.

H.R. 2074. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of agency rules, and by expanding judicial review, and for other purposes; jointly to the Committees on the Judiciary and Rules.

By Mr. HANLEY:

H.R. 2075. A bill to amend title II of the Social Security Act to increase to $8,000 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted an individual each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. HORTON:

H.R. 2076. A bill to amend the act of August 25, 1958, as amended (the Former Presidents Act of 1958, 3 U.S.C. Sec. 102, note), by amending provisions relating to former President's staffs; to the Committee on Post Office and Civil Service.

By Mr. HUGHES:

H.R. 2077. A bill to amend the Occupational Safety and Health Act of 1970 to provide additional consultation and education to employers, and for other purposes; to the Committee on Education and Labor.

H.R. 2078. A bill for the relief of the city of Cape May, N.J.; to the Committee on the Judiciary.

By Mr. KETCHUM:

H.R. 2079. A bill to repeal a restriction on the availability of health care under the civilian health and medical program of the uniformed services (CHAMPUS); jointly to the Committees on Appropriations and Armed Services.

By Mr. KETCHUM (for himself, Mr. MOORHEAD of California, Mr. REGULA, and Mr. RUDD):

H.R. 2080. A bill to amend titles II and XVIII of the Social Security Act to remove the earnings limitation; to the Committee on Ways and Means.

By Mr. LEGGETT (for himself and Mr. FORSYTHE):

H.R. 2081. A bill to amend the Fishery Conservation and Management Act of 1976 for the purpose of waiving certain requirements of that act in order to provide for the orderly implementation of foreign fishing in the fishery conservation zone on March 1, 1977; to the Committee on Merchant Marine and Fisheries.

By Mr. LEGGETT (for himself, Mr. DINGELL, Mr. FORSYTHE, and Mr. OBERSTAR):

H.R. 2082. A bill to revise the laws relating to the establishment, administration, and management of the National Wildlife Refuge System, to establish a Bureau of National Wildlife Refuges, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. LEHMAN:

H.R. 2083. A bill to provide grants for preschool educational programs for migratory children; to the Committee on Education and Labor.

By Mr. LOTT:

H.R. 2084. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

H.R. 2085. A bill to amend the Federal Trade Commission Act to provide that exclusive territorial arrangements used in the distribution or sale of a trademarked soft drink product or a trademarked private label food product shall not be deemed unlawful per se; jointly to the Committees on Interstate and Foreign Commerce, and the Judiciary.

By Mr. LOTT (for himself and Mr. LUJAN):

H.R. 2086. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Ms. KEYS (for herself, Mr. JOHN L. BURTON, Mr. BRODHEAD, Mr. FRASER, Mr. THOMPSON, Mr. NIX, Mr. LAFALCE, Mr. EILBERG, Ms. HOLTZMAN, Mr. MOAKLEY, Mr. LEHMAN, Ms. MIKULSKI, Mr. PURSELL, Mr. BEDELL, Mr. CHARLES H. WILSON of California, Mr. LEVITAS, Mr. CORMAN, Mr. MAZZOLI, Mr. RUNNELS, Mr. JACOBS, Mr. DAVIS, Mr. KILDEE, Mr. HARRIS, Mr. WEISS, and Mr. DUNCAN of Oregon):

H.R. 2087. A bill to relieve taxpayers from liability with respect to certain underpayments of estimated tax, underwithholding, and interest on underpayments of tax attributable to the application to 1976 of the sick pay and other provisions of the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. KRUEGER (for himself and Mr. BROWN of Ohio):

H.R. 2088. A bill to assure the availability of adequate supplies of natural gas at reasonable prices for consumers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. KRUEGER (for himself, Mr. BROWN of Ohio, Mr. HUBBARD, Mr. DERRICK, Mr. MANN, Mr. MOORE, and Mr. PICKLE):

H.R. 2089. A bill to assure the availability of adequate supplies of natural gas at reasonable prices for consumers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LEVITAS:

H.R. 2090. A bill to provide coverage under the Federal old age, survivors, and disability insurance system for all officers and employees of the United States and its instrumentalities other than those in the judicial branch; to the Committee on Ways and Means.

H.R. 2091. A bill to provide coverage under the Federal old age, survivors, and disability insurance system for all Members of Congress and other officers and employees in the legislative branch of the Government; to the Committee on Ways and Means.

H.R. 2092. A bill to amend title II of the Social Security Act to increase to an amount equivalent to 150 percent of the poverty level the amount of outside earnings which is permitted any individual each year without deductions from benefits thereunder; to the Committee on Ways and Means.

H.R. 2093. A bill to require the Comptroller General of the United States to carry out audits of expenditures and financial transactions of Members, officers, and standing committees of the House of Representatives; to the Committee on House Administration.

H.R. 2094. A bill to repeal the Council on Wage and Price Stability Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MILFORD:

H.R. 2095. A bill to amend title II of the Social Security Act to increase to $5,000 the amount of outside earnings which, subject to further increases under the automatic adjustment provisions, is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. MILLER of Ohio:

H.R. 2096. A bill to amend the National Flood Insurance Act of 1968 to continue the present federally subsidized flood insurance program in any locality where construction of an adequate flood protection system has begun, and to eliminate the compulsory features added to such program by the Flood Disaster Protection Act of 1973; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2097. A bill to authorize the construction of such facilities as deemed necessary by the Secretary of the Army, acting through the Chief of Engineers, in the vicin-

ity of Logan and Nelsonville, Ohio, for the purpose of providing adequate flood protection to this area; to the Committee on Public Works and Transportation.

H.R. 2098. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. MITCHELL of New York:

H.R. 2099. A bill to amend the Internal Revenue Code of 1954 to exempt farmers from the highway use tax on heavy trucks used for farm purposes; to the Committee on Ways and Means.

By Mr. MOORHEAD of Pennsylvania:

H.R. 2100. A bill to amend the Council on Wage and Price Stability Act to require the preparation and publishing in the Federal Register of economic impact statements respecting proposed rules and regulations; to the Committee on Banking, Finance and Housing.

By Mr. MOSS:

H.R. 2101. A bill to create a comprehensive Federal system for determining the ownership of and amount of compensation to be paid for inventions made by employed persons; to the Committee on the Judiciary.

By Mr. MOTTL:

H.R. 2102. A bill to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MOTTL (by request):

H.R. 2103. A bill to amend title 38, United States Code, to provide that veterans with disabilities rated 10 through 100 percent shall receive additional compensation for dependents; to the Committee on Veterans' Affairs.

By Mr. MURPHY of New York:

H.R. 2104. A bill to amend the Flammable Fabrics Act, the Federal Hazardous Substances Act, and the National Traffic and Motor Vehicle Safety Act of 1966 to permit awards of reasonable attorneys' fees and other expenses for public participation in proceedings before Federal agencies, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2105. A bill to amend the Investment Advisers Act of 1940 to authorize the Securities and Exchange Commission to prescribe standards of qualification and financial responsibility for investment advisers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MURTHA:

H.R. 2106. A bill to reorganize the executive branch of the Federal Government to eliminate excessive, duplicative, inflationary, and anticompetitive regulation; jointly to the Committees on Government Operations and Rules.

H.R. 2107. A bill to require authorizations of new budget authority for Government programs at least every 5 years, to establish a procedure for zero-based review of Government programs every 5 years. and for other purposes; jointly, to the Committees on Rules and Government Operations.

By Mr. GARY A. MYERS:

H.R. 2108. A bill to amend the Local Public Works Capital Development and Investment Act of 1976 to increase the authorization, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. NIX:

H.R. 2109. A bill to amend the Older Americans Act of 1965 to provide relief for older Americans who own or rent their homes; to the Committee on Education and Labor.

H.R. 2110. A bill to amend the Social Security Act to establish a program of food allowance for older Americans; jointly, to the Committees on Agriculture, and Ways and Means.

By Mr. OBERSTAR:

H.R. 2111. A bill to amend subtitle C of the Consolidated Farm and Rural Development Act to reduce the rate of interest on emergency loans made under such subtitle, to increase the term of such loans, and for other purposes; to the Committee on Agriculture.

By Mr. O'BRIEN (for himself, Mr. DERWINSKI, Mr. BURGENER, Mr. WON PAT, Mr. CHARLES H. WILSON of California, Mr. BUTLER, Mr. WHITEHURST, Mr. DUNCAN of Tennessee, Mr. TREEN, Mr. SIMON, Mr. LEVITAS, Mr. ROE, Mr. KETCHUM, and Mr. ERTEL):

H.R. 2112. A bill to strengthen the penalty provisions of the Gun Control Act of 1968; to the Committee on the Judiciary.

By Mr. OTTINGER:

H.R. 2113. A bill to amend title I of the Housing and Community Development Act of 1974 for the purposes of extending the authority under such title and providing a more equitable distribution of community development funds to units of general local government under such title; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. PETTIS:

H.R. 2114. A bill to amend title 38 of the United States Code so as to provide that public or private retirement, annuity, or endowment payments, including monthly social security insurance benefits, shall not be included in computing annual income for the purpose of determining eligibility for a pension under chapter 15 of that title; to the Committee on Veterans' Affairs.

H.R. 2115. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 2116. A bill to authorize the lease and transfer of burley tobacco from marketing quotas to burley tobacco farms within the same State; to the Committee on Agriculture.

H.R. 2117. A bill to amend title 38, United States Code, to provide that monthly social security benefit payments and annuity payments under the Railroad Retirement Act of 1974 shall not be included as income for the purpose of determining eligibility for certain veterans' pensions and dependency and indemnity compensation; to the Committee on Veterans' Affairs.

By Mr. RAILSBACK:

H.R. 2118. A bill to establish an Office of Rural Health within the Department of Health, Education, and Welfare, and to assist in the development and demonstration of rural health care delivery models and components; to the Committee on Interstate and Foreign Commerce.

H.R. 2119. A bill to amend chapter 15 of title 38, United States Code, to provide for the payment of pension of $150 per month to World War I veterans, subject to a $3,540 and $4,760 annual income limitation; to provide rity shall not be counted as income; to prothat retirement income such as social secuvide that such pension shall be increased by 10 percent where the veteran served overseas during World War I; and for other purposes; to the Committee on Veterans' Affairs.

H.R. 2120. A bill to amend title 38 of the United States Code in order to provide that monthly social security benefit payments and annuity and pension payments under the Railroad Retirement Act of 1937 shall not be included as income for the purpose of determining eligibility for, and the amount of, veterans' or widows' pensions, and parents' compensation; to the Committee on Veterans' Affairs.

H.R. 2121. A bill to amend title 38 of the United States Code to remove the time limitation within which programs of education for veterans must be completed; to the Committee on Veterans' Affairs.

H.R. 2122. A bill to amend the Internal Revenue Code of 1954 to increase to $1,200 the personal income tax exemptions of a taxpayer, including the exemption for a spouse, the exemptions for dependents, and the additional exemptions for old age and blindness; to the Committee on Ways and Means.

H.R. 2123. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for retirement savings in the case of persons covered by certain pension plans; to the Committee on Ways and Means.

By Mr. REGULA (for himself, Mr. BADILLO, Mr. BAUCUS, Mr. BRINKLEY, Mr. BURGENER, Mr. CARNEY, Mrs. COLLINS of Illinois, Mr. DAN DANIEL, Mr. FOUNTAIN, Mr. HILLIS, Mr. LOTT, Mr. MCKINNEY, Mr. MINETA, Mr. MOORHEAD of California, Mr. NEAL, Mr. ROE, Mr. TRAXLER, and Mr. TREEN):

H.R. 2124. A bill to provide that the changes made by the Tax Reform Act of 1976 to the exclusion for sick pay shall only apply to taxable years beginning after December 31, 1976; to the Committee on Ways and Means.

By Mr. REUSS (for himself and Mr. HARRINGTON):

H.R. 2125. A bill to amend title XI of the Housing and Community Development Act of 1974 for the purpose of providing that units of general local government receiving grants under the hold-harmless provisions of such title shall be entitled, after fiscal year 1977, to continue to receive at least the amount to which they are presently entitled under such provisions, to the Committee on Banking, Finance and Urban Affairs.

H.R. 2126. A bill to extend title II of the Public Works Employment Act of 1976 for five additional quarters; to the Committee on Government Operations.

H.R. 2127. A bill to amend the Internal Revenue Code of 1954 to provide that the tax-exempt treatment allowed to certain industrial development bonds be restricted to bonds the proceeds of which are to be used within economic development areas, and to allow national banks to underwrite these bonds; to the Committee on Ways and Means.

H.R. 2128. A bill to amend title II of the Social Security Act to provide special cost-of-living increases in benefits thereunder based on local differentials in the cost of food and other necessities, over and above the regular annual cost-of-living increases in such benefits which are provided under present law on a national basis, for individuals residing in high-cost cities and other high-cost areas; to the Committee on Ways and Means.

By Mr. ROBERTS:

H.R. 2129. A bill to create a public works program for the purpose of reducing unemployment; to the Committee on Public Works and Transportation.

By Mr. RODINO:

H.R. 2130. A bill to designate the birthday of Martin Luther King, Jr. as a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. ROE:

H.R. 2131. A bill to protect the public health and welfare by providing for the inspection of imported dairy products and by requiring that such products comply with certain minimum standards for sanitation and that the dairy farms on which milk is produced and the plants in which such

products are produced meet certain minimum standards of sanitation, and for other purposes; to the Committee on Agriculture.

H.R. 2132. A bill to establish a bureau of agricultural statistics for the purpose of monitoring the changes in prices which occur in the price of agricultural commodities from the time they are sold by the farmer until the time when the consumer purchases such commodities or products thereof, and for the purpose of making recommendations to the Congress with respect to correcting situations in which the retail price of an agricultural commodity, or product thereof, rises while the prices received by the farmer for the same commodity decreases; to the Committee on Agriculture.

H.R. 2133. A bill to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research; to the Committee on Agriculture.

H.R. 2134. A bill to amend the Federal law relating to the care and treatment of animals to broaden the categories of persons regulated under such law, to assure that birds in pet stores and zoos are protected, and to increase protection for animals in transit; to the Committee on Agriculture.

H.R. 2135. A bill to prohibit the military departments from using dogs in connection with any research or other activities relating to biological or chemical warfare agents; to the Committee on Armed Services.

H.R. 2136. A bill to amend the Education of the Handicapped Act to provide tutorial and related instructional services for homebound children through the employment of college students, particularly veterans and other students who themselves are handicapped; to the Committee on Education and Labor.

H.R. 2137. A bill to amend the Domestic Volunteer Service Act of 1973 to provide that developmentally disabled children receiving services under the foster grandparent program may continue to receive such services as adults; to the Committee on Education and Labor.

H.R. 2138. A bill to authorize a national summer youth sports program; to the Committee on Education and Labor.

H.R. 2139. A bill to establish an Agency of Economic, and Natural Resources Planning in the executive branch of the Federal Government; to the Committee on Government Operations.

H.R. 2140. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials; to the Committee on Government Operations.

H.R. 2141. A bill to amend the Public Health Service Act to provide for the screening and counseling of Americans with respect to Tay-Sachs disease; to the Committee on Interstate and Foreign Commerce.

H.R. 2142. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit donations of surplus supplies and equipment to State and local public recreation agencies; to the Committee on Government Operations.

H.R. 2143. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the disposal of surplus real property to States and their political subdivisions, agencies, and instrumentalities for economic development purposes; to the Committee on Government Operations.

H.R. 2144. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit rescue squads to obtain surplus property; to the Committee on Government Operations.

H.R. 2145. A bill to prohibit the licensing of certain activities regarding plutonium until expressly authorized by Congress, and to provide for a comprehensive study of plutonium recycling; to the Committee on Interior and Insular Affairs.

H.R. 2146. A bill relating to the settlement of debts owed the United States by foreign countries; to the Committee on International Relations.

H.R. 2147. A bill to prohibit actions by U.S. exporters which have the purpose or effect of supporting restrictive trade practices or boycotts imposed against countries friendly to the United States by other foreign countries; to the Committee on International Relations.

H.R. 2148. A bill to prohibit the transfer of nuclear materials to countries which have not ratified the Treaty on Non-Proliferation of Nuclear Weapons; to the Committee on International Relations.

H.R. 2149. A bill to improve the Nation's energy resources; to the Committee on Interstate and Foreign Commerce.

H.R. 2150. A bill to amend the Social Security Act to establish a national catastrophic illness insurance program under which the Federal Government, acting in cooperation with State insurance authorities and the private insurance industry, will reinsure and otherwise encourage the issuance of private health insurance policies which make adequate health protection available to all Americans at a reasonable cost; to the Committee on Interstate and Foreign Commerce.

H.R. 2151. A bill to provide for accelerated research and development in the care and treatment of autistic children, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2152. A bill to amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention, and treatment of, and research in, Huntington's disease; to the Committee on Interstate and Foreign Commerce.

H.R. 2153. A bill to amend the Public Health Service Act to provide for the control of vitiligo; to the Committee on Interstate and Foreign Commerce.

H.R. 2154. A bill to amend the Public Health Service Act to provide assistance for the planning and development of schools of veterinary medicine; to the Committee on Interstate and Foreign Commerce.

H.R. 2155. A bill to provide for protection of franchised dealers in petroleum products; to the Committee on Interstate and Foreign Commerce.

H.R. 2156. A bill to provide preemptive option and financial assistance to States to purchase abandoned rail lines for transportation and utility purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2157. A bill to discourage the use of leg-hold or steel jaw traps on animals in the United States; to the Committee on Interstate and Foreign Commerce.

H.R. 2158. A bill to incorporate the National Ski Patrol System, Inc.; to the Committee on the Judiciary.

H.R. 2159. A bill to incorporate the Italian American War Veterans of the United States, Inc.; to the Committee on the Judiciary.

H.R. 2160. A bill to amend section 401(j) of the Federal Aviation Act of 1958 to provide that no air carrier shall discontinue service, in whole or in part, unless such discontinuance is found to be in the public interest by the Civil Aeronautics Board after public hearings; to the Committee on Public Works and Transportation.

H.R. 2161. A bill to amend the Small Business Act to provide that a small business concern shall include a nonprofit organization providing economic benefit or valuable service to its members; to the Committee on Small Business.

H.R. 2162. A bill to amend title 38 of the United States Code in order to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurance because of service-connected disabilities; to the Committee on Veterans' Affairs.

H.R. 2163. A bill to amend title 38, United States Code, to authorize a program of assistance to States for the establishment, expansion, improvement, and maintenance of veterans cemeteries, and to provide for transportation of bodies to a national cemetery; to the Committee on Veterans' Affairs.

H.R. 2164. A bill to provide a program of tax adjustment for small business and for persons engaged in small business; to the Committee on Ways and Means.

H.R. 2165. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

H.R. 2166. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

H.R. 2167. A bill to amend the Internal Revenue Code of 1954 to provide an additional income tax exemption where a taxpayer, his spouse, or any dependent of the taxpayer is handicapped; to the Committee on Ways and Means.

H.R. 2168. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education; to the Committee on Ways and Means.

H.R. 2169. A bill to amend the Internal Revenue Code of 1954 to increase the excise tax on cigarettes, and to amend the Public Health Service Act to increase the authorization for appropriations for the National Heart and Lung Institute by amounts equal to the increase in receipts from such tax; to the Committee on Ways and Means.

H.R. 2170. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit or an income tax deduction for certain expenditures of a taxpayer relating to the thermal design of such taxpayer; to the Committee on Ways and Means.

H.R. 2171. A bill to amend the Internal Revenue Code of 1954 to deny certain benefits to taxpayers who participate in or cooperate with the boycott of Israel; to the Committee on Ways and Means.

H.R. 2172. A bill to amend the Vocational Rehabilitation Act of 1973, and for other purposes; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

H.R. 2173. A bill to promote services and programs designed to assure the opportunity for adoption for all eligible children; jointly, to the Committees on Education and Labor, and Ways and Means.

H.R. 2174. A bill to amend title XVIII of the Social Security Act to make it clear that payment may be made under the supplementary medical insurance program for wheelchairs and other durable medical equipment furnished on a lease-purchase basis; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. ROE (for himself and Mr. KILDEE):

H.R. 2175. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the handicapped

and elderly; to the Committee on Ways and Means.

By Mr. ROSENTHAL:

H.R. 2176. A bill to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Federal Reserve Board, the Federal Reserve Banks and their branches and check clearing, wire transfer, and security facilities, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency; to the Committee on Government Operations.

H.R. 2177. A bill to amend the Social Security Act to establish a new program of assured annual income benefits for the aged, the blind, and the disabled; to amend title II of such act to improve the computation of benefits and eligibility therefor, to provide for payment of widow's and widower's benefits in full at age 50 without regard to disability, to provide benefits for certain divorced wives with minor children, to raise the earnings base, to eliminate the actuarial reduction and lower the age of entitlement, to provide optional coverage for Federal employees, to eliminate the retirement test, and to increase the lump-sum death payment; to amend title XVIII of such act to reduce to 60 the age of entitlement to medicare benefits and liberalize coverage of the disabled without regard to age, to provide coverage for certain governmental employees, to include qualified prescription drugs, free annual physical examinations, flu shots, prosthetics, eye care, dental care, foot care, and hearing aids under the supplementary medical benefits program, and to eliminate monthly premiums under such program for those whose gross annual income is below $4,800; to establish a food allowance program for older Americans; and for other purposes; jointly, to the Committees on Ways and Means, Interstate and Foreign Commerce, Post Office and Civil Service, and Agriculture.

By Mr. ROSENTHAL (for himself, Mr. BEARD of Rhode Island, Mr. CORMAN, Mr. DOWNEY, Mr. HEFTEL, Mr. KILDEE, Mr. LEHMAN, Mr. MINETA, Mr. MOAKLEY, Mr. MURPHY of New York, Mr. PEPPER, Mr. ROYBAL, and Mr. CHARLES H. WILSON of California):

H.R. 2178. A bill to protect purchasers and prospective purchasers of condominium housing units and residents of multifamily rental structures being converted to condominium units, by providing for the establishment of national minimum standards for condominium sales and conversions, to be administered by an Assistant Secretary for Condominium Housing, Department of Housing and Urban Development; and to insure that financial institutions engaged in the extension of credit to prospective purchasers of condominium units make credit available without discrimination on the basis of age, sex, race, religion, marital status or national origin; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROSENTHAL (for himself and Mr. WOLFF):

H.R. 2179. A bill to require that durable consumer products be labeled as to durability and performance life; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. ANNUNZIO, Mr. BADILLO, Mr. BINGHAM, Mr. BRODHEAD, Mr. CORMAN, Mr. DOWNEY, Mr. DRINAN, Mr. ECKHARDT, Mr. FASCELL, Mr. FORD of Tennessee, Mr. FRASER, Ms. HECKLER, Ms. HOLTZMAN, Mr. HOWARD, Mr. HUGHES, Mr. KOCH, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOFFETT, Mr. MOORHEAD of Pennsylvania, Mr. NOLAN, Mr. OTTINGER, Mr. PEPPER, and Mr. PRICE):

H.R. 2180. A bill to amend the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act and to otherwise require the labels on foods and food products to disclose all of their ingredients and any changes in their ingredients, their nutritional content, accurate weights data, storage information, their manufacturers, packers, and distributors, and their unit prices and to provide for uniform product grading and prohibit misleading brand names; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. RICHMOND, Mr. RODINO, Mr. ROE, Mr. ROYBAL, Mr. SCHEUER, Mr. SOLARZ, Ms. SPELLMAN, Mr. ST GERMAIN, Mr. STARK, Mr. STUDDS, Mr. WAXMAN, Mr. CHARLES H. WILSON of California, Mr. WOLFF, Mr. WON PAT, and Mr. ZEFERETTI):

H.R. 2181. A bill to amend the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act and to otherwise require the labels on foods and food products to disclose all of their ingredients and any changes in their ingredients, their nutritional content, accurate weight data, storage information, their manufacturers, packers, and distributors, and their unit prices and to provide for uniform product grading and prohibit misleading brand names; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. CORMAN, Mr. DOWNEY, Mr. DRINAN, Mr. ECKHARDT, Mr. FRASER, Mr. GILMAN, Ms. HOLTZMAN, Mr. HOWARD, Mr. HUGHES, Mr. MOAKLEY, Mr. MOFFETT, Mr. MOORHEAD of Pennsylvania, Mr. MOTTL, Mr. OTTINGER, Mr. PEPPER, Mr. PRICE, Mr. RICHMOND, Mr. RODINO, Mr. SCHEUER, Mr. SOLARZ, Mr. ST GERMAIN, Mr. STARK, Mr. WAXMAN, and Mr. WOLFF):

H.R. 2182. A bill to amend the Federal Food, Drug, and Cosmetic Act as to require that in the labeling and advertising of drugs sold by prescription the "established name" of such drug must appear each time their proprietary name is used, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself and Mr. ZEFERETTI):

H.R. 2183. A bill to amend the Federal Food, Drug, and Cosmetic Act so as to require that in the labeling and advertising of drugs sold by prescription the "established name" of such drug must appear each time their proprietary name is used, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. ADDABBO, Mr. BADILLO, Mr. BRODHEAD, Mr. CARNEY, Ms. CHISHOLM, Mr. CORMAN, Mr. COTTER, Mr. DOWNEY, Mr. DRINAN, Mr. ECKHARDT, Mr. EDGAR, Mr. FRASER, Mr. GILMAN, Mr. HARRIS, Ms. HOLTZMAN, Mr. HOWARD, Mr. KOCH, Mr. MIKVA, Mr. MOAKLEY, Mr. MOFFETT, Mr. OTTINGER, Mr. PEPPER, Mr. PRICE, and Mr. RICHMOND):

H.R. 2184. A bill to amend the Fair Packaging and Labeling Act to require the disclosure by retail distributors of retail unit prices of consumer commodities and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. RODINO, Mr. ROE, Mr. SCHEUER, Mr. SIMON, Mr. SOLARZ, Mr. WALKER, and Mr. WOLFF):

H.R. 2185. A bill to amend the Fair Packaging and Labeling Act to require the disclosure by retail distributors of retail unit prices of consumer commodities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. ADDABBO, Mr. BADILLO, Mr. BRODHEAD, Ms. CHISHOLM, Mr. CORMAN, Mr. COTTER, Mr. DOWNEY, Mr. DRINAN, Mr. EDGAR, Mr. FRASER, Mr. GILMAN, Mr. HARRIS, Ms. HOLTZMAN, Mr. HOWARD, Mr. MIKVA, Mr. MOAKLEY, Mr. OTTINGER, Mr. PEPPER, Mr. PRICE, Mr. RICHMOND, Mr. RODINO, Mr. ROE, Mr. SCHEUER, and Mr. SOLARZ):

H.R. 2186. A bill to require that durable consumer products be labeled as to durability and performance life; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. ADDABBO, Mr. BADILLO, Mr. BRODHEAD, Mr. CARNEY, Ms. CHISHOLM, Mr. CORMAN, Mr. COTTER, Mr. DOWNEY, Mr. DRINAN, Mr. FORD of Tennessee, Mr. FRASER, Mr. GILMAN, Ms. HOLTZMAN, Mr. HOWARD, Mr. LAGOMARSINO, Mr. MIKVA, Mr. MOAKLEY, Mr. MOFFETT, Mr. OTTINGER, Mr. PEPPER, Mr. PRICE, Mr. RICHMOND, Mr. RODINO, and Mr. ROE):

H.R. 2187. A bill to require that certain durable products be prominently labeled as to date of manufacture, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. SCHEUER, Mr. SOLARZ, Mr. WOLFF, and Mr. ZEFERETTI):

H.R. 2188. A bill to require that certain durable products be prominently labeled as to date of manufacture, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. CORMAN, Mr. DOWNEY, Mr. DRINAN, Mr. ECKHARDT, Mr. FRASER, Mr. GILMAN, Ms. HOLTZMAN, Mr. HOWARD, Mr. HUGHES, Mr. KOCH, Mr. LAGOMARSINO, Mr. MOAKLEY, Mr. MOFFETT, Mr. MOORHEAD of Pennsylvania, Mr. MOTTL, Mr. OTTINGER, Mr. PEPPER, Mr. PRICE, Mr. RICHMOND, Mr. RODINO, Mr. SCHEUER, Mr. SOLARZ, Mr. ST GERMAIN, and Mr. STARK):

H.R. 2189. A bill to require that certain drugs and pharmaceuticals be prominently labeled as to the date beyond which potency or efficacy becomes diminished; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. WAXMAN, and Mr. WOLFF):

H.R. 2190. A bill to require that certain drugs and pharmaceuticals be prominently labeled as to the date beyond which potency or efficacy becomes diminished; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. BRODHEAD, Mr. CORMAN, Mr. DOWNEY, Mr. DRINAN, Mr. ECKHARDT, Mr. FRASER, Mr. GILMAN, Mr. HOWARD, Mr. KOCH, Mr. MOAKLEY, Mr. MOFFETT, Mr. MOORHEAD of Pennsylvania, Mr. MOTTL, Mr. MURPHY of New York, Mr. PEPPER, Mr. PRICE, Mr. RICHMOND, Mr. RODINO, Mr. SCHEUER, Mr. SOLARZ, Mr. ST. GERMAIN, Mr. STARK, Mr. WAXMAN, and Mr. WOLFF):

H.R. 2191. A bill to require retailers of prescription drugs to post the prices of certain commonly prescribed drugs; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. CORMAN, Mr. DOWNEY, Mr. DRINAN, Mr. ECKHARDT, Mr. FRASER, Mr. GILMAN, Ms. HOLTZMAN, Mr. HOWARD, Mr. MOAKLEY, Mr. MOFFETT, Mr. MOORHEAD of Pennsylvania, Mr. MOTTL, Mr. OTTINGER, Mr. PEPPER, Mr. PRICE, Mr. RICHMOND, Mr. SCHEUER, Mr. SOLARZ, Mr. ST GERMAIN, Mr. STARK, Mr. WAXMAN, and Mr. WOLFF):

H.R. 2192. A bill to amend title 35 of the United States Code to provide for compulsory licensing of prescription drug patents; to the Committee on the Judiciary.

By Mr. ROSENTHAL (for himself, Mr. ADDABBO, Mr. BADILLO, Mr. BINGHAM, Mr. BRODHEAD, Mr. DOWNEY, Mr. KOCH, Mr. MOAKLEY, Mr. MURPHY of New York, Mr. PRICE, Mr. RICHMOND, Mr. RODINO, Mr. ROYBAL, Mr. SCHEUER, Mr. SOLARZ, and Mr. WOLFF):

H.R. 2193. A bill to amend title 5, United States Code, to provide for the establishment of a Special Cost-of-Living Pay Schedule containing incresed pay rates for Federal employees in heavily populated cities and metropolitan areas to offset the increased cost of living, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ROSENTHAL (for himself, Mr. ADDABBO, Mr. BADILLO, Mr. BINGHAM, Mr. BLOUIN, Mr. BRODHEAD, Mr. CARNEY, Ms. CHISHOLM, Mr. CORMAN, Mr. DELLUMS, Mr. DOWNEY, Mr. DRINAN, Mr. FISH, Mr. FLOOD, Mr. FORD of Tennessee, Mr. GILMAN, Ms. HOLTZMAN, Mr. HORTON, Ms. JORDAN, Mr. KOCH, Mr. MILLER of California, Mr. MITCHELL of New York, Mr. MOAKLEY, Mr. MOFFETT, and Mr. MOTTL):

H.R. 2194. A bill to amend the Federal Aviation Act of 1958 in order to authorize free or reduced rate transportation to handicapped persons and persons who are 65 years of age or older, to amend the Interstate Commerce Act to authorize free or reduced rate transportation for persons who are 65 years of age or older, and to provide new and improved transportation programs for the handicapped and the elderly; to the Committee on Public Works and Transportation.

By Mr. ROSENTHAL (for himself, Mr. MURPHY of New York, Mr. MURPHY of Pennsylvania, Mr. NEAL, Mr. PEPPER, Mr. PRICE, Mr. RICHMOND, Mr. RINALDO, Mr. RODINO, Mr. ROYBAL, Mr. SCHEUER, Mr. SOLARZ, Mr. STARK, Mr. STUDDS, Mr. WAXMAN, Mr. CHARLES H. WILSON of California, Mr. WINN, and Mr. ZEFERETTI):

H.R. 2195. A bill to amend the Federal Aviation Act of 1958 in order to authorize free or reduced rate transportation to handicapped persons and persons who are 65 years of age or older, to amend the Interstate Commerce Act to authorize free or reduced rate transportation for persons who are 65 years of age or older, and to provide new and improved transportation programs for the handicapped and the elderly; to the Committee on Public Works and Transportation.

By Mr. ROSENTHAL (for himself, Mr. ADDABBO, Mr. BRODHEAD, Mr. DOWNEY, Ms. HOLTZMAN, Mr. LENT, Mr. MOTTL, Mr. RODINO, Mr. ROYBAL, Mr. SCHEUER, Mr. SOLARZ, Mr. STARK, Mr. WAXMAN, and Mr. WOLFF):

H.R. 2196. A bill to establish the Airport Noise Curfew Commission and to define its functions and duties; to the Committee on Public Works and Transportation.

By Mr. ROSENTHAL (for himself, Mr. ADDABBO, Mr. BEARD of Rhode Island, Mr. BINGHAM, Mr. BRODHEAD, Mr. CARNEY, Mr. CLAY, Ms. COLLINS of Illinois, Mr. CONYERS, Mr. DOWNEY, Ms. HOLTZMAN, Mr. HOWARD, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. PRICE, Mr. RANGEL, Mr. SCHEUER, Mr. SOLARZ, Mr. WAXMAN, Mr. WEISS, Mr. CHARLES H. WILSON of California, and Mr. WOLFF):

H.R. 2197. A bill to amend the Social Security Act to provide for a minimum annual income (subject to subsequent increases to reflect the cost of living) of $3,850 in the case of elderly individuals and $5,200 in the case of elderly couples; to the Committee on Ways and Means.

By Mr. ROSENTHAL (for himself, Mr. ADDABBO, Mr. BADILLO, Mr. BRODHEAD, Mr. CARNEY, Ms. CHISHOLM, Mr. CORMAN, Mr. COTTER, Mr. DELLUMS, Mr. DOWNEY, Mr. DRINAN, Mr. EDGAR, Mr. FORD of Tennessee, Mr. FRASER, Mr. GILMAN, Ms. HOLTZMAN, Mr. HOWARD, Mr. KOCH, Mr. LAGOMARSINO, Mr. MAZZOLI, Mr. MIKVA, Mr. MOAKLEY, Mr. MOFFETT, Mr. PEPPER, and Mr. PRICE):

H.R. 2198. A bill to amend the Intergovernmental Cooperation Act of 1968 to improve intergovernmental relationships between the United States and the States and municipalities, and the economy and efficiency of Government, by providing Federal cooperation and assistance in the establishment and strengthening of State and local offices of consumer protection; jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. RICHMOND, Mr. RODINO, Mr. ROE, Mr. SCHEUER, Mr. SOLARZ, and Mr. WOLFF).

H.R. 2199. A bill to amend the Intergovernmental Cooperation Act of 1968 to improve intergovernmental relationships between the United States and the States and municipalities, and the economy and efficiency of Government, by providing Federal cooperation and assistance in the establishment and strengthening of State and local offices of consumer protection; jointly, to the Committee on Government Operations and Interstate and Foreign Commerce.

By Mr. ROYBAL:

H.R. 2200. A bill to amend the Social Security Act and other acts to make certain that recipients of supplemental security income benefits, recipients of social services, recipients of aid to families with veterans' benefit programs and certain other Federal and federally assisted programs will not have the amount of such benefits services, aid, or payments reduced because of increases in monthly social security benefits, and to provide that cost-of-living increases in annuity, pension, retirement, disability, or other employment-re'ated benefits being paid to an individual under a public program, occurring after such individual's initial entitlement to such benefits, shall not be included in such individual's income in determining his or her eligibility for supplemental security income benefits; to the Committee on Ways and Means.

By Mr. RUPPE:

H.R. 2201. A bill to enable the people of Puerto Rico to form a constitution and State government, to be admitted into the Union, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 2202. A bill to amend the Toxic Substances Control Act of October 11, 1976 (Public Law 94-469); to the Committee on Interstate and Foreign Commerce.

H.R. 2203. A bill to amend the Great Lakes Fishery Act of 1956; to the Committee on Merchant Marine and Fisheries.

H.R. 2204. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. SATTERFIELD:

H.R. 2205. A bill relating to the settlement of debts owed the United States by foreign countries; to the Committee on International Relations.

H.R. 2206. A bill to amend section 844 of title 18, United States Code, to provide a mandatory death penalty for certain explosives-related offenses, and for other purposes; to the Committee on the Judiciary.

H.R. 2207. A bill relating to collective-bargaining representation of postal employees; to the Committee on Post Office and Civil Service.

H.R. 2208. A bill to amend the Internal Revenue Code of 1954 to provide an exclusion from gross income for the interest on certain governmental obligations the proceeds of which are used to provide hospital facilities; to the Committee on Ways and Means.

H.R. 2209. A bill to amend title XI of the Social Security Act to repeal the provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. SAWYER (for himself, Mr. BLANCHARD, Mr. BRODHEAD, Mr. BROOMFIELD, Mr. BROWN of Michigan, Mr. CEDERBERG, Mr. DIGGS, Mr. NEDZI, Mr. RUPPE, and Mr. VANDER JAGT):

H.R. 2210. A bill to name a certain Federal Building in Grand Rapids, Mich., the Gerald R. Ford Building; to the Committee on Public Works and Transportation.

By Mr. SKUBITZ:

H.R. 2211. A bill to amend the Watershed Protection and Flood Prevention Act for the purpose of improving procedures by which the Federal Government assists construction work relating to watershed areas; to the Committee on Agriculture.

By Mr. SOLARZ:

H.R. 2212. A bill to amend the Social Security Act to consolidate within a single comprehensive national welfare program all of the existing Federal public assistance and welfare programs, with all residents of the United States being guaranteed an adequate minimum income; jointly, to the Committees on Ways and Means, Agriculture, and Interstate and Foreign Commerce.

H.R. 2213. A bill to amend titles IV, XI, and XIX of the Social Security Act to increase the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance, and to require that the entire non-Federal share of such aid and assistance be paid from State (rather than local) funds; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

Mrs. SPELLMAN:

H.R. 2214. A bill to allow any chief of the Piscataway Indian Tribe to be buried at Piscataway Park in Oxon Hill, Md.; to the Committee on Interior and Insular Affairs.

H.R. 2215. A bill to provide for additional sentences for commission of a felony with use of a firearm; to the Committee on the Judiciary.

H.R. 2216. A bill to provide that salary cost-of-living adjustments for Members of Congress shall take effect at the beginning of the Congress in which they are proposed; to the Committee on Post Office and Civil Service.

By Mr. SPENCE:

H.R. 2217. A bill to establish an executive department to be known as the Department of Education, and for other purposes; to the Committee on Government Operations.

By Mr. STRATTON:

H.R. 2218. A bill to authorize an increase in retired or retainer pay for extraordinary heroism; to the Committee on Armed Services.

By Mr. TAYLOR of Missouri:

H.R. 2219. A bill to amend title II of the Social Security Act to provide that an individual may become entitled to child's insurance benefits on the basis of disability even though married if his or her spouse is also under a disability, and that any individual entitled to such benefits shall not lose

his or her entitlement by reason of marriage to another disabled person whether or not such person is also entitled to social security benefits; to the Committee on Ways and Means.

By Mr. TEAGUE:

H.R. 2220. A bill to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes; to the Committee on Science and Technology.

By Mr. TEAGUE (by request):

H.R. 2221. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Science and Technology.

By Mr. THOMPSON (for himself, Mr. FORD of Michigan, Mr. BIAGGI, Mr. KOCH, Mr. OTTINGER, Mr. BINGHAM, Mr. ZEFERETTI, Mr. ROSENTHAL, Ms. HOLTZMAN, Mr. RICHMOND, Mr. WEISS, and Mr. BADILLO):

H.R. 2222. A bill to amend the National Labor Relations Act to clarify the scope of its coverage; to the Committee on Education and Labor.

By Mr. THORNTON (for himself, Mr. FOLEY, Mr. BERGLAND, Mr. BROWN of California, Mr. JONES of North Carolina, Mr. JONES of Tennessee, Mr. BRECKINRIDGE, Mr. WEAVER, Mr. HIGHTOWER, and Mr. ENGLISH):

H.R. 2223. A bill to strengthen U.S. agricultural research and research education, to improve the policy formulation and coordination for agricultural research and education activities, and for other purposes; to the Committee on Agriculture.

By Mr. VANIK:

H.R. 2224. A bill to amend the Internal Revenue Code of 1954 to require taxpayers to provide on the first page of any income tax return certain information with respect to their interests in foreign bank accounts and their interests in foreign trusts; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 2225. A bill to provide for the reimbursement for losses sustained by persons injured by certain criminal acts, to make grants to States for the payment of such reimbursement, and for other purposes; to the Committee on the Judiciary.

H.R. 2226. A bill to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land resource programs and to assist Indian tribes to plan the use of tribal lands; to encourage expeditious energy facility sitting decisions; to coordinate Federal programs which significantly affect land use; to encourage research on and training in land resource planning and management; to establish an Office of Land Resource Planning Assistance in the Department of the Interior; and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. WHALEN (for himself, Mr. DUNCAN of Oregon, Mr. HARKIN, Mr. LUNDINE, Mr. ROE, and Mr. WIRTH):

H.R. 2227. A bill to provide that any increase in the rate of pay for Members of Congress proposed during any Congress shall not take effect earlier than the beginning of the next Congress; to the Committee on Post Office and Civil Service.

By Mr. WHITEHURST:

H.R. 2228. A bill to provide assistance to zoos and aquariums, to establish standards of accreditation for such facilities, and to establish a Federal Zoological and Aquarium Board, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 2229. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for State and local public utility taxes; to the Committee on Ways and Means.

By Mr. BOB WILSON:

H.R. 2230. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization in the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. WOLFF:

H.R. 2231. A bill to amend title 38, United States Code, to provide counseling for certain veterans; to permit acceleration of monthly educational assistance payments to eligible veterans and dependents; to revise the criteria for nonaccredited courses; to provide alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period; to provide for a conditional extension of the delimiting period; to provide for a conditional extension of the delimiting period for certain Vietnam-era veterans; to provide for the development of additional educational, employment and readjustment assistance programs for veterans; to provide for the correction and preclusion of, and protection against, abuses and misuse of veterans benefits; and to otherwise enhance and improve the effectiveness, integrity, and utilization of veterans readjustment assistance programs; to the Committee on Veterans' Affairs.

By Mr. WON PAT:

H.R. 2232. A bill to waive the visa requirements for aliens visiting Guam for not more than 15 days; to the Committee on the Judiciary.

H.R. 2233. A bill to provide for the payment of unemployment compensation to individuals residing in Guam on the basis of Federal civilian service or service in the Armed Forces; to the Committee on Ways and Means.

By Mr. WYDLER:

H.R. 2234. A bill to amend section 112 of title 28 of the United States Code to divide the Eastern Judicial District of New York into two divisions; to the Committee on the Judiciary.

By Mr. YATRON:

H.R. 2235. A bill to extend the emergency unemployment compensation program for an additional year; to the Committee on Ways and Means.

By Mr. YOUNG of Florida:

H.R. 2236. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

H.R. 2237. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2238. A bill to make Flag Day a legal public holiday; to the Committee on Post Office and Civil Service.

H.R. 2239. A bill to require the Secretary of Transportation to prescribe regulations requiring certain modes of public transportation in interstate commerce to reserve some seating capacity for passengers who do not smoke; jointly, to the Committees on Public Works and Transportation, and Interstate and Foreign Commerce.

H.R. 2240. A bill to amend titles II and XVIII of the Social Security Act to include qualified drugs, requiring a physician's prescription or certification and approved by a formulatory committee among the items and services covered under the hospital insurance program; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

H.R. 2241. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Education and Labor.

H.R. 2242. A bill to amend section 700 of title 18, United States Code, relating to desecration of the flag of the United States; to the Committee on the Judiciary.

By Mr. ANDERSON of California:

H.J. Res. 152. Joint resolution relating to the withdrawal of all minerals in certain areas of the Los Padres National Forest, Calif., from all forms of appropriation under the mining law and from disposition under all laws pertaining to mineral leasing; to the Committee on Interior and Insular Affairs.

Mr. ANDERSON of California (for himself, Mr. FISH, Mr. FLOOD, Mr. LAFALCE, Mr. BEVILL, Mr. SANTINI, Mr. MAGUIRE, Mr. IRELAND, Mr. MILLER of Ohio, Mr. CONTE, Mr. WEISS, Mrs. MIKULSKI, Mr. WINN, Mr. HORTON, Mr. AKAKA, Mrs. HECKLER, Mr. STARK, Mr. ERTEL, Mr. JONES of Tennessee, Mr. MATHIS, Mr. CARNEY, Mr. BRODHEAD, Mr. GUYER, Mr. BRINKLEY, and Mr. MCKINNEY):

H.J. Res. 153. Joint resolution to provide for the designation of a week as National Lupus Week; to the Committee on Post Office and Civil Service.

By Mr. BAUMAN:

H.J. Res. 154. Joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right of life to the unborn; to the Committee on the Judiciary.

By Mr. BOLAND:

H.J. Res. 155. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. DERWINSKI (for himself, Mr. LAGOMARSINO, and Mr. MOORHEAD of California):

H.J. Res. 156. Joint resolution calling upon the President to reduce drastically the amount of bureaucratic redtape which currently exists in the executive branch of the Federal Government; to the Committee on Government Operations.

By Mr. EDWARDS of Alabama:

H.J. Res. 157. Joint resolution authorizing the President to proclaim the month of February of each year as American History Month; to the Committee on Post Office and Civil Service.

By Mr. FUQUA:

H.J. Res. 158. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. GAYDOS:

H.J. Res. 159. Joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right to life to the unborn, the ill, the aged, or the incapacitated; to the Committee on the Judiciary.

H.J. Res. 160. Joint resolution proposing an amendment to the Constitution to provide that, except in time of war or economic emergency declared by the Congress, expenditures of the Government may not exceed the revenues of the Government during any fiscal year; to the Committee on the Judiciary.

H.J. Res. 161. Joint resolution proposing an amendment to the Constitution of the United States to permit voluntary participation in prayer in public schools; to the Committee on the Judiciary.

H.J. Res. 162. Joint resolution proposing an amendment to the Constitution of the United States relative to neighborhood schools; to the Committee on the Judiciary.

By Mr. HANLEY:

H.J. Res. 163. Joint resolution proposing an

amendment to the Constitution of the United States to provide for a single 6-year term for President and Vice President, to provide for 3-year terms for Representatives, and for other purposes; to the Committee on the Judiciary.

By Mr. LEVITAS (for himself, Mr. BADILLO, Mr. BINGHAM, Mr. BLANCHARD, Mr. DERWINSKI, Mr. DIGGS, Mr. EVANS of Georgia, Mrs. FENWICK, Mr. FISH, Mr. FLORIO, Mrs. HOLT, Mr. HORTON, Mr. HOWARD, Mr. KINDNESS, Mr. LAGOMARSINO, Mrs. LLOYD of Tennessee, Mr. LUNDINE, Mr. MATHIS, Mr. MINETA, Mr. MOAKLEY, Mr. NEAL, Mr. PEPPER, Mr. RICHMOND, Mr. SOLARZ, and Mr. YATRON):

H.J. Res. 164. Joint resolution to establish a National Commission on Social Security; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce

By Mr. LEVITAS (for himself, Mr. AMBRO, Mr. BAUCUS, Mr. BEDELL, Mr. BURGENER, Mr. DOWNEY, Mr. EILBERG, Mr. FISH, Mr. GILMAN, Mr. GINN, Mr. HANNAFORD, Mr. ICHORD, Mr. LUJAN, Mr. MARLENEE, Mr. MAZZOLI, Miss MIKULSKI, Mr. MURPHY of Pennsylvania, Mr. QUIE, Mr. RODINO, Mr. ROSENTHAL, Mr. STOKES, Mr. WEISS, Mr. CHARLES H. WILSON of California, Mr. WOLFF, and Mr. WON PAT):

H.J. Res. 165 Joint resolution to establish a National Commission on Social Security; to the Committee on Ways and Means, and Interstate and Foreign Commerce.

By Mr. LEVITAS (for himself, Mr. FLYNT, Mr. HAWKINS, Mr. ROE, Mr. SCHEUER, and Mr. WINN):

H.J. Res. 166. Joint resolution to establish a National Commission on Social Security; to the Committee on Ways and Means, and Interstate and Foreign Commerce.

By Mr. LEVITAS:

H.J. Res. 167. Joint resolution proposing an amendment to the Constitution of the United States relative to the balancing of the budget; to the Committee on the Judiciary.

By Mr. McCLORY (for himself, Mr. ADDABBO, Mr. BEARD of Rhode Island, Mr. BLANCHARD, Mr. CEDERBERG, Mr. CORRADA, Mr. HEFTEL, Mr. KETCHUM, Mr. MITCHELL of New York, Mr. LLOYD of California, Mr. MOTTL, Mr. NEDZI, Mr. PEASE, Mr. PURSELL, Mr. UDALL, Mr. WON PAT, Mr. YATRON, and Mr. DE LUGO):

H.J. Res. 168. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. MILFORD:

H.J. Res. 169. Joint resolution proposing an amendment to the Constitution of the United States relating to the busing or involuntary assignment of students; to the Committee on the Judiciary.

By Mr. MOSS:

H.J. Res. 170. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. NIX:

H.J. Res. 171. Joint resolution to authorize the President to proclaim the 22d day of April of each year as Queen Isabella Day; to the Committee on Post Office and Civil Service.

By Mr. RAILSBACK:

H.J. Res. 172. Joint resolution designating the first full week of April as National Drafting Week; to the Committee on Post Office and Civil Service.

By Mr. ROE:

H.J. Res. 173. Joint resolution to prevent the abandonment of railroad lines; to the Committee on Interstate and Foreign Commerce.

H.J. Res. 174. Joint resolution designating National Coaches' Day; to the Committee on Post Office and Civil Service.

H.J. Res. 175. Joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day"; to the Committee on Post Office and Civil Service.

H.J. Res. 176. Joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning May 9, 1977, as National Historic Preservation Week; to the Committee on Post Office and Civil Service.

H.J. Res. 177. Joint resolution to designate April 24, 1977, as "National Day of Remembrance of Man's Inhumanity to Man"; to the Committee on Post Office and Civil Service.

H.J. Res. 178. Joint resolution designating April 17, 1977, as "National Food Day"; to the Committee on Post Office and Civil Service.

H.J. Res. 179. Joint resolution to authorize the President to proclaim the last week in June of each year as "National Autistic Children's Week"; to the Committee on Post Office and Civil Service.

H.J. Res. 180. Joint resolution to provide for the designation of February 20 of each year as "Postal Employees Day"; to the Committee on Post Office and Civil Service.

H.J. Res. 181. Joint resolution to designate the fourth Monday in March of each year as "National Agricultural Day"; to the Committee on Post Office and Civil Service.

H.J. Res. 182. Joint resolution to designate the month of April 1977 as "Columbian Squires Month"; to the Committee on Post Office and Civil Service.

H.J. Res. 183. Joint resolution to provide for the designation of the second full calendar week in March 1977 as "National Employ the Older Worker Day"; to the Committee on Post Office and Civil Service.

H.J. Res. 184. Joint resolution to save the great whales from extinction by amending the Fishermen's Protective Act of 1967 to impose an embargo on the products of all foreign enterprises engaged in commercial whaling; jointly, to the Committees on Merchant Marine and Fisheries and Ways and Means.

By Mr. ST GERMAIN:

H.J. Res. 185. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. WHITEHURST:

H.J. Res. 186. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. YOUNG of Florida:

H.J. Res. 187. Joint resolution proposing an amendment to the Constitution of the United States with respect to the attendance of Senators and Representatives at sessions of the Congress; to the Committee on the Judiciary.

By Mr. COLLINS of Texas:

H. Con. Res. 67. Concurrent resolution to provide, subject to certain exceptions, that the House of Representatives may meet only on certain days; to the Committee on Rules.

By Mr. DERWINSKI (for himself and Mr. MOORHEAD of California):

H. Con. Res. 68. Concurrent resolution expressing the sense of Congress with respect to the complexity of Federal income tax forms; to the Committee on Ways and Means.

By Mr. EDWARDS of Alabama:

H. Con. Res. 69. Concurrent resolution relating to the authority of the Federal Trade Commission to prescribe rules preempting State and local laws; to the Committee on Interstate and Foreign Commerce.

By Mr. FUQUA:

H. Con. Res. 70. Concurrent resolution to collect overdue debts; to the Committee on International Relations.

By Mr. GAYDOS:

H. Con. Res. 71. Concurrent resolution to collect overdue debts; to the Committee on International Relations.

By Mr. GILMAN:

H. Con. Res. 72. Concurrent resolution urging the President to take certain measures against countries supporting international terrorism and persons e..gaging in international terrorism and to seek stronger international sanctions against such countries and persons; jointly, to the Committees on International Relations, and Public Works and Transportation.

By Mr. McCLORY:

H. Con. Res. 73. Concurrent resolution to provide for the purchase of a certain statue of George Washington and for the placement of such statute on the East Front of the Capitol Building, or in any appropriate location inside such building; to the Committee on House Administration.

By Mr. RODINO:

H. Con. Res. 74. Concurrent resolution authorizing a bust or statue of Martin Luther King, Jr., to be placed in the Capitol; to the Committee on House Administration.

By Mr. ROE:

H. Con. Res. 75. Concurrent resolution relative to the elimination of illegal drug traffic from Turkey; to the Committee on International Relations.

H. Con. Res. 76. Concurrent resolution expressing the sense of the Congress that the Holy Crown of Saint Stephen should remain in the safekeeping of the U.S. Government until Hungary once again functions as a constitutional government established by the Hungarian people through free choice; to the Committee on International Relations.

H. Con. Res. 77. Concurrent resolution to establish a joint committee to conduct an investigation of the U.S. Postal Service; to the Committee on Rules.

By Mr. COLEMAN (for himself, Mr. HYDE, Mr. SEBELIUS, Mr. BADHAM, Mr. RUDD, and Mr. TAYLOR);

H. Res. 121. Resolution expressing the sense of the House of Representatives that the incumbent Director of the Federal Bureau of Investigation be retained in that office and that the directorship be viewed as a professional position untainted by political consideration; to the Committee on the Judiciary.

By Mr. CONABLE:

H. Res. 122. Resolution that the House of Representatives disapproves that portion of the plan submitted by the Secretary of the Interior, pursuant to the provisions of the Act of October 19, 1973 (87 Stat. 460), providing for the distribution of funds appropriated in satisfaction of an award of the Indian Claims Commission to the Tonawanda Band of Seneca Indians in certain dockets; to the Committee on Interior and Insular Affairs.

By Mr. BEARD of Tennessee (for himself, Mr. SPENCE, Mr. TREEN, Mr. PATTERSON of California, Mr. KRUEGER, Mr. ALLEN, Mr. QUILLEN, Ms. MEYNER, Mr. FLOOD, Mr. MARTIN, Mr. BOWEN, Mr. EDGAR, Mr. JONES of Tennessee, and Mr. MCKINNEY):

H. Res. 123. Resolution providing for the establishment of a Select Committee on Narcotics Abuse and Control; to the Committee on Rules.

By Mr. DE LA GARZA (for himself, Mr. FUQUA, Mr. KREBS, Mr. HIGHTOWER, Mr. WHALEN, Mr. BINGHAM, Mr. ROE, Mr. DANIELSON, and Mr. ROSE):

H. Res. 124. Resolution providing for the establishment of a Select Committee on Nar-

cotics Abuse and Control; to the Committee on Rules.

By Mr. EDGAR (for himself, Mr. TSONGAS, Mr. MARKS, Mr. WEAVER, Mr. LEGGETT, Mr. LA FALCE, Mr. LEDERER, Mr. TUCKER, Mr. KILDEE, Mr. MARKEY, Mr. MATHIS, Mr. MINSH, Mr. LAGOMARSINO, Mr. GLICKMAN, Mr. MURPHY of New York, Mr. DAN DANIEL, Mr. HILLIS, Mr. ROONEY, Mr. BADILLO, Mr. HUGHES, Mr. VENTO, Ms. SCHROEDER, and Mr. BAUCUS):

H. Res. 125. Resolution condemning terrorist activities and the premature release of Abu Daoud; to the Committee on International Relations.

By Mr. EMERY (for himself, Mr. MOTTL, Mr. CLEVELAND, Mr. JACOBS, Mr. MURPHY of Pennsylvania, Mr. ABDNOR, Mr. FISH, Mr. ROBINSON, Mr. WALKER, Mr. PURSELL, Mr. WON PAT, and Mr. JEFFORDS):

H. Res. 126. Resolution disapproving the increase in executive, legislative, and judicial salaries proposed by the President; to the Committee on Post Office and Civil Service.

By Mr. GAYDOS:

H. Res. 127. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on International Relations.

By Mr. KETCHUM (for himself, Ms. PETTIS, Mr. QUIE, Mr. WEISS, Mr. BADHAM, Ms. HOLTZMAN, Mr. FRASER, Mr. DOWNEY, Ms. KEYS, Mr. GRASSLEY, Mr. CARTER, Ms. BURKE of California, Mr. SARASIN, and Mr. MARLENEE):

H. Res. 128. Resolution amending rule XXII of the rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution, and to provide for the addition and deletion of names of Members as sponsors after the introduction of a bill, memorial, or resolution; to the Committee on Rules.

By Mr. LAGOMARSINO:

H. Res. 129. Resolution disapproving the salary increase for Members of Congress proposed by the President; to the Committee on Post Office and Civil Service.

By Mr. McCLORY:

H. Res. 130. Resolution to provide that one-third of the funds for committee staff under primary and additional expense resolutions be allocated to the minority; to the Committee on Rules.

By Mr. OTTINGER:

H. Res. 131. Resolution expressing the sense of the House of Representatives that the Secretary of Health, Education, and Welfare should formulate and promulgate regulations governing all research involving recombinant DNA; to the Committee on Interstate and Foreign Commerce.

By Mr. ROBERTS:

H. Res. 132. Resolution to provide funds for the expenses of the investigations and studies to be conducted, pursuant to House rule XI by the Committee on Veterans' Affairs; to the Committee on House Administration.

By Mr. ROE:

H. Res. 133. Resolution to amend the rules of the House of Representatives to create a standing committee to be known as the Committee on Health; to the Committee on Rules.

H. Res. 134. Resolution creating the Select Committee on Nuclear Proliferation and Nuclear Export Policy; to the Committee on Rules.

By Mrs. SMITH of Nebraska:

H. Res. 135. Resolution to disapprove the increase in pay proposed by the President for Members of Congress; to the Committee on Post Office and Civil Service.

By Mrs. SPELLMAN:

H. Res. 136. Resolution relative to committee hearings on the Nation's future telecommunications policy; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself, Mr. DINGELL, Mr. MOSS, Mr. ECKHARDT, Mr. METCALFE, Mr. OTTINGER, Mr. BRODHEAD, Mr. MOFFETT, Mr. MAGUIRE, Mr. DRINAN, Mr. DICKS, Mrs. LLOYD of Tennessee, Mr. JEFFORDS, Mr. STRATTON, Mr. TRAXLER, Mr. FITHIAN, Mr. HARRIS, Mr. UDALL, Mr. BEDELL, Mr. BRECKINRIDGE, Mr. CORNELL, Mr. ALLEN, Mr. MOAKLEY, Mr. KOCH, and Mr. MOTTL):

H. Res. 137. Resolution to disapprove the proposed exemption of motor gasoline from the petroleum price regulations (energy action No. 9); to the Committee on Interstate and Foreign Commerce.

H. Res. 138. Resolution to disapprove the proposed exemption of motor gasoline from the mandatory petroleum allocation regulations (energy action No. 8); to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself, Mr. DINGELL, Mr. MOSS, Mr. ROSENTHAL, Mr. EDWARDS of California, Mr. WOLFF, Mr. PATTEN, Mrs. MEYNER, Mr. VANIK, Ms. KEYS, Ms. HOLTZMAN, Mr. BINGHAM, Mr. MARKEY, Mr. LAFALCE, Mr. STUDDS, Mr. HARRINGTON, Mr. DODD, Mrs. CHISHOLM, Mr. CONTE, Mr. KILDEE, Mr. STARK, Mr. LEDERER, Mr. OBERSTAR, Mr. MAZZOLI, and Mr. COTTER):

H. Res. 139. Resolution to disapprove the proposed exemption of motor gasoline from the petroleum price regulations (energy action No. 9); to the Committee on Interstate and Foreign Commerce.

H. Res. 140. Resolution to disapprove the proposed exemption of motor gasoline from the mandatory petroleum allocation regulations (energy action No. 8); to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself, Mr. DINGELL, Mr. MOSS, Mr. LUNDINE, Mr. ADDABBO, Mr. NEDZI, Mr. FORD of Michigan, Mr. LENT, Mr. SCHEUER, Mr. MITCHELL of Maryland, Mr. FRASER, Mr. HUGHES, Mr. ROYBAL, Mr. KOSTMAYER, Mr. BALDUS, Mr. NOLAN, Mr. PERKINS, Mr. KASTENMEIER, Mr. ST GERMAIN, Mr. BADILLO, Mr. BOLAND, Mr. EVANS of Georgia, Mr. KREBS, Mr. YATES, and Mr. JOHN L. BURTON):

H. Res. 141. Resolution to disapprove the proposed exemption of motor gasoline from the petroleum price regulations (energy action No. 9); to the Committee on Interstate and Foreign Commerce.

H. Res. 142. Resolution to disapprove the proposed exemption of motor gasoline from the mandatory petroleum allocation regulations (energy action No. 8); to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself, Mr. DINGELL, Mr. MOSS, Mr. PHILLIP BURTON, Mr. BLANCHARD, Mr. RANGEL, Mr. HANLEY, Mr. HOWARD, Ms. MIKULSKI, Mr. WEISS, Mr. MEEDS, Mr. FLOOD, Mr. CORMAN, Mr. LUKEN, Mr. WON PAT, Mr. CARNEY, Mr. VOLKMER, Mr. DOWNEY, Mr. CORRADA, Mr. MURPHY of Pennsylvania, Mr. ERTEL, Mr. ROE, Mr. DIGGS, Mr. LEGGETT, and Mr. GILMAN):

H. Res. 143. Resolution to disapprove the proposed exemption of motor gasoline from the petroleum price regulations (energy action No. 9); to the Committee on Interstate and Foreign Commerce.

H. Res. 144. Resolution to disapprove the proposed exemption of motor gasoline from the mandatory petroleum allocation regulations (energy action No. 8); to the Committee on Interstate and Foreign Commerce.

By Mr STAGGERS (for himself, Mr. DINGELL, Mr. MOSS, Mr. BRADEMAS, Mr. CONYERS, Mr. GAYDOS, Mr. AMBRO, Mrs. SPELLMAN, Mr. FORD of Tennessee, Mr. THOMPSON, Mr. CHARLES H. WILSON of California, Mrs. COLLINS of Illinois, Mr. HAWKINS, and Mr. McHUGH):

H. Res. 145. Resolution to disapprove the proposed exemption of motor gasoline from the petroleum price regulations (energy action No. 9); to the Committee on Interstate and Foreign Commerce.

H. Res. 146. Resolution to disapprove the proposed exemption of motor gasoline from the mandatory petroleum allocation regulations (energy action No. 8); to the Committee on Interstate and Foreign Commerce.

By Mr. TSONGAS (for himself, Mr. EDGAR, Mr. OTTINGER, Mr. MARLENEE, Mr. EILBERG, Mr. WAXMAN, Mr. RANGEL, Mr. BUCHANAN, Mr. DOWNEY, Mr. BAUMAN, Mr. YATES, Mr. GILMAN, Mr. COTTER, Mr. JENRETTE, Mr. LEACH, Mr. FUQUA, Mr. HOWARD, Mr. WIRTH, Mr. KOSTMAYER, Mr. EDWARDS of California, Mr. EDWARDS of Oklahoma, Mr. BROWN of California, Mr. HARRINGTON, Mr. AMBRO, and Mr. FOUNTAIN):

H. Res. 147. Resolution condemning terrorist activities and the premature release of Abu Daoud; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 2243. A bill for the relief of Peter Baglio; to the Committee on the Judiciary.

H.R. 2244. A bill for the relief of Wayne Mitcham Williams; to the Committee on the Judiciary.

H.R. 2245. A bill for the relief of Froso Efrosyne Pagonis; to the Committee on the Judiciary.

By Mr. CONTE:

H.R. 2246. A bill for the relief of Guillermo O. Rumingan; to the Committee on the Judiciary.

H.R. 2247. A bill for the relief of Febe Antolin Rumingan; to the Committee on the Judiciary.

By Mr. DAN DANIEL:

H.R. 2248. A bill for the relief of Dr. Mario Y. Dimacali; to the Committee on the Judiciary.

By Mr. DODD:

H.R. 2249. A bill for the relief of Lucia Faba; to the Committee on the Judiciary.

H.R. 2250. A bill for the relief of Hugo Mercardo Cadena, Leda Isabel Mercardo Cadena, Luis Otero, and Teresa Otero; to the Committee on the Judiciary.

H.R. 2251. A bill for the relief of Reinhard W. Lindner; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H.R. 2252. A bill for the relief of Bobby R. Prince; to the Committee on the Judiciary.

By Mr. HANLEY:

H.R. 2253. A bill for the relief of Ruben P. Din; to the Committee on the Judiciary.

By Mr. HARRINGTON:

H.R. 2254. A bill for the relief of K. C. Chan; to the Committee on the Judiciary.

By Mr. McFALL:

H.R. 2255. A bill to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Co.; to the Committee on Interior and Insular Affairs.

H.R. 2256. A bill for the relief of Edmundo Alfredo Oreiro Espinueva; to the Committee on the Judiciary.

By Mr. MILFORD:

H.R. 2257. A bill for the relief of Aurora Garcia Suarez; to the Committee on the Judiciary.

H.R. 2258. A bill for the relief of Manuel Suarez; to the Committee on the Judiciary.

By Mr. MOTTL:

H.R. 2259. A bill for the relief of Rogelio M. Encomienda; to the Committee on the Judiciary.

H.R. 2260. A bill for the relief of Radovan Velimanovic; to the Committee on the Judiciary.

By Mr. NIX:

H.R. 2261. A bill for the relief of Frances Silver; to the Committee on the Judiciary.

By Mr. RODINO:

H.R. 2262. A bill for the relief of Lucia Jurkauskas; to the Committee on the Judiciary.

By Mr. ROE:

H.R. 2263. A bill to authorize the Secretary of the Navy to convey certain lands at the Naval Air Station, Lakehurst, N.J., to the Airship Association as a site for an airship museum; to the Committee on Armed Services.

By Mr. VANIK:

H.R. 2264. A bill for the relief of Martin J. McKenna, Mary L. McKenna, and Steven M. McKenna; to the Committee on the Judiciary.

By Mr. YOUNG of Florida:

H.R. 2265. A bill to authorize the President to appoint Captain John E. Tsavaris, U.S. Navy Reserves retired, to the grade of rear admiral of the Reserves retired list; to the Committee on Armed Services.

By Mr. ZEFERETTI:

H.R. 2266. A bill for the relief of the estate of Nicholas A. Monfort; to the Committee on the Judiciary.

By Mr. McFALL:

H. Res. 148. Resolution referring the bill, H.R. 1935, for the relief of Stockton Townhouse, Inc., to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

By Mr. PATTEN:

H. Res. 149. Resolution to refer the bill (H.R. 1435) for the relief of the Zena Co., to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

By Mr. TEAGUE:

H. Res. 150. Resolution for the relief of C. L. Adkins and Son Construction Co., to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

CONSUMER UNION SUPPORTS FUEL SAVER DEVICES

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 17, 1977

Mr. OTTINGER. Mr. Speaker, I would urge my fellow colleagues to read the descriptions below of two important—and inexpensive—fuel saving devices. In our sense of frustration about the lack of a strong overall conservation policy in the country we sometimes overlook individual projects which could be put to use right now. In fact, this situation highlights our need for a dynamic information program about existing technology.

I received this information about Fuel Sentry from the company which is in my district and I am proud to spread the word:

[From Consumer Reports, January 1977]

FOOLING THE THERMOSTAT

The simplest method of conserving home fuel is lowering the thermostat setting—admittedly a cold proposition if carried too far. But some people like (and others can stand) cooler surroundings when sleeping, and of course, if no one is home, there is no one to complain about the cold. The only trouble is that people do get up and do come home. Turning up the thermostat then doesn't immediately bring the house temperature up to a level of comfort, so ideally you'd like the thermostat turned up some time before arising (or returning home).

There are thermostats that incorporate two temperature settings. A clock or interval timer switches back and forth between the two settings at either preset times or after a preset interval. But such thermostats are relatively expensive (often $50 or more) and may require some rewiring of the lines to the furnace. We bought and tested two devices that perform much the same function at approximately half the price and that work with the present thermostat on existing household circuitry.

Both the *Fuel Sentry* (approximately $25, Fuel Sentry Corp., Mount Vernon, N.Y.) and the *Heat Watcher* ($25, M. H. Rhodes, Inc., Avon, Conn.) contain two-watt heaters that are to be fastened to the wall just below the thermostat. They heat air around the thermostat, fooling it into acting as if the whole area is warmer than it really is. That trick can be pulled in any season—to turn down the furnace or to turn up the air-conditioner.

The *Fuel Sentry* consists of two units connected by a 12-foot length of lamp cord—the heater unit to be positioned directly under the thermostat and a timer to be plugged directly into any nearby wall outlet. It can be set to turn on and off at pre-established times once a day, day in and day out. You can change those times if you want to or turn the heater on and off by hand, but you'll need access to the timer in its outlet.

The *Heat Watcher* is a one-piece unit, much like a kitchen timer, with a 10-foot electrical cord. And like a kitchen timer, it has to be set manually for every time period in which it operates. Even though it lacks an automatic daily change feature, the *Heat Watcher* could be useful for many who lead irregular lives and would have to change the settings from day to day anyway. Access to the control is as easy as access to the thermostat itself. A possible drawback of the *Heat Watcher* is its annoyingly loud ticks.

A problem shared by both devices is difficulty in establishing the desired degree of setback. Heat emanating from the *Fuel Sentry* is controlled by a vane that can be opened and closed; from the *Heat Watcher*, by a sliding metal cover. Only by trial-and-error testing of various openings, checked by a room thermometer (not the one on the thermostat), can you arrive at a suitable setting. Still, it's worthwhile. In our judgment, a setback of 5°F—for instance, from 70° to 65° for eight hours a day—should save about 5 percent in heating bills in moderately cold climates.

SENIOR CITIZENS DESERVE GREATER ECONOMIC SECURITY

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 17, 1977

Mr. MOAKLEY. Mr. Speaker, Congressman ROSENTHAL has presented us with an excellent bill on a problem of national significance, that of dealing with the aged's fixed incomes. The issue is clear: elderly persons are increasingly approaching the poverty line, as growing unemployment takes their jobs and rising inflation reduces the worth of their dollars. Nationally, 13 percent of older Americans are currently living below the poverty line. In my own congressional district in Massachusetts, the figure approaches 40 percent. Moreover, our present means of assistance, through social security, takes no account of varying cost-of-living rates. Thus, a person in the Boston area receives the identical assistance that a person living in the rural South does, even though his expenses are generally much higher. Finally, the rate of assistance we now offer our older Americans is sadly inadequate, especially for those persons whose fixed allotments barely insure their most minimum needs.

Congressman ROSENTHAL's bill directly deals with these important problems. It establishes a minimum standard of income for all elderly Americans that is adjusted both for area cost-of-living figures and changing intermediate budget levels as determined by the BLS. In addition, its minimum level of $3,850 for an individual and $5,200 for a couple, better insures an appropriate standard of living for our aged.

All of us grow old. As we approach our "golden years," we should be freed of subsistence worries. Congressman ROSENTHAL's bill would help free many of our presently worried, barely subsisting, elderly Americans.

FBI DIRECTOR SHOULD BE LAW PROFESSIONAL

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. COLEMAN. Mr. Speaker, many Americans are deeply disturbed by the testimony of the Attorney General-designate Griffin Bell before the Senate Judiciary Committee indicating that he intends to replace Clarence Kelley as Director of the Federal Bureau of Investigation. I strongly feel such action would set a dangerous precedent leading to the politicization of the directorship of the FBI. Furthermore, Mr. Kelley has performed admirably since taking his oath of office in July 1973, and should be allowed to serve out the remaining portion of his term.

Mr. Kelley is recognized as a highly competent law enforcement professional. During the 12 years he served as Chief of Police at Kansas City, Mo., he helped pioneer the application of computer technology in the field of law enforcement. He placed heavy emphasis on

developing a strong community relations program as a means of restoring public confidence and trust in the effectiveness of his force. When he stepped down as chief of police, to head the FBI, the Kansas City Police Department was widely acclaimed as one of the best, if not the best, police departments in the country.

As Director of the FBI, Mr. Kelley has sought to insulate the Bureau from political considerations and to focus on the constitutional rights of the people of this Nation. During his tenure, the number of domestic security investigations has been cut from nearly 22,000 a year to less than 300. Furthermore, he recognized the need for greater congressional oversight of the operations of the FBI in the area of domestic surveillance and has appeared before congressional committees far more frequently than his predecessors.

While the FBI's reputation was being damaged by revelations of past misdeeds, Mr. Kelley was quietly working to improve procedures within the Bureau to assure that these mistakes would not be repeated in the future. His efforts have not only increased public confidence in the integrity of the Bureau, but have lifted the damaged morale of FBI personnel.

Recent history has proven the importance of having a FBI Director who is insulated from political pressure. The FBI Director must be a professional, nonpolitical, law enforcement executive.

Section 203 of Public Law 94–503, the Crime Control Act of 1976, provides that the FBI Director shall serve for a term of 10 years. The incumbent Director's term will expire on July 9, 1983. To replace Mr. Kelley as a new administration takes office would politicize the FBI's image and very possibly subject the agency to the political influence Congress sought to protect it from by adoption of the Crime Control Act of 1976. I am, therefore, introducing a resolution reflecting the sense of the House of Representatives that the incumbent Director of the Federal Bureau of Investigation be retained in that office and that the directorship be viewed as a professional position untainted by political considerations. The text of the resolution follows:

H. RES. 121

Whereas the United States government has been recently tested in respect to its internal ethical standards and has found the need for law enforcement officials who are above question and not subject to political pressures;

Whereas a Director of the Federal Bureau of Investigation serves as the most visible law enforcement official of the United States and must be a person free of political influence;

Whereas former Directors of the Federal Bureau of Investigation have been professional law enforcement executives and not political appointees;

Whereas a Director of the Federal Bureau of Investigation serves by law for a ten-year term and to replace an incumbent director during the transition of administrations would damage the public's perception of the Bureau as an institution insulated from political influence;

Whereas the incumbent Director of the Federal Bureau of Investigation is a proven law enforcement professional of widely respected credentials—having served the Kansas City area as Chief of Police in a most distinguished manner and having reorganized the Federal Bureau of Investigation into a more efficient, respected law enforcement agency: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the incumbent Director of the Federal Bureau of Investigation be retained in that office and that the Directorship be viewed as a professional position untainted by political considerations.

CONSUMER UTILITY TAXES

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. WHITEHURST. Mr. Speaker, each year, the residents of Norfolk and Virginia Beach, Va., pay millions of dollars in consumer utility taxes. These taxes, which are assessed by localities and collected by the utility companies, were once deductible from Federal income tax returns. The Revenue Act of 1964 substantially amended the Internal Revenue Code of 1954, making consumer utility taxes generally a nondeductible item. These taxes are by no means a pittance. Virginia Electric & Power Co., for example, collected over $9 million in consumer utility taxes for the city of Norfolk in 1975 alone. I might add, Mr. Speaker, that VEPCO is not the only utility charged with the collection of these taxes.

We all feel the pinch of rising utility bills each month. This is the unfortunate consequence of our Nation's dependence on foreign sources of energy. What is equally unfortunate for the consumer is the fact that regressive utility service taxes rise as a function of utility bills. Since the bulk of State and local taxes is deductible from Federal income tax returns, it is difficult to understand why consumer utility taxes are treated differently. It seems to me that the citizens of this country are entitled to some relief in this area. For these reasons, I have introduced a bill which would allow Federal income tax deductions for State and local consumer utility taxes.

Aside from being regressive in nature, consumer utility taxes are levied on a service that is rising rapidly in cost itself. This presents a very real hardship for those citizens at the lower and middle portions of the income spectrum. The tax is further complicated by the divergence in local rates. The tax burden for public utility service in one community may be significantly higher than another community in the same State. The city of Norfolk, for instance, levies a consumer tax on water, gas, electricity, and telephone at a rate of 25 percent of the first $6 of the bill on gas and up to 25 percent of the total bill on water. Arlington County in Virginia has no tax of this nature. Mr. Speaker, I am not suggesting that this tax should be repealed, only that reinstitution of its status as a deductible item on Federal income tax returns would be prudent at this time. In this way, the average consumer could enjoy a certain amount of relief from spiraling utility expenses, while allowing localities to maintain their necessary revenue levels. I hope my colleagues will join me in supporting this important legislation.

WHAT "ROOTS" MEANS TO AMERICA

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. CONYERS. Mr. Speaker, during the week of January 23, the American television viewing public will be able to see the serialization of Alex Haley's powerful book, "Roots." "Roots" is the monumental saga of an African-American family's struggle through 100 years of masters and slaves, tragedies, and victories. Mr. Haley's critically acclaimed novelization of the historically documented emergence of his own family, commencing with the arrival of one young slave, Kunta Kinte, in 1767, through to the family's freedom after the Civil War, is as one critic described, "an epic work destined to become a classic of American literature."

As a young boy in Henning, Tenn., Alex Haley's grandmother told him stories about his family, back through the generations to a man she called "the African" who as a boy, had been abducted by slave traders and dragged aboard a slave ship, bound for colonial America.

With these stories in mind, Haley began to search for documentation that might authenticate his grandmother's narratives. It took 12 years of researching to find it, and travel across three continents. But he discovered not only the true name of "the African", Kunta Kinte, but the precise location of the very village in Gambia, West Africa, from which he had first been abducted.

Alex Haley has done more than recapture the history of his own family, however remarkable such a feat in itself might be. He has given emotional depth and human insight into the too often untold history of black people here in America. He has told the story of at least 25 million African-Americans and their rich cultural heritage that slavery attempted to destroy. He is to be commended for riveting the attention of the public to the true human experience of the African-American, creating new paths of understanding between black and white here in America.

"Roots" vividly describes the agonizing years of pre-Civil War America, the lives of real people who experienced daily the cruel and dehumanizing effect of slave America on both blacks and whites, and the literal contributions of sweat and blood made by black Americans to this Nation's development. For people of all races everywhere, "Roots" is a powerful testimonial to the strength of the human spirit and its ability to face, and ultimately overcome, adversity.

Award-winning filmmaker David Wolper has produced on film the saga of "Roots" for the American Broadcasting Corp. The film story will be shown during the last week in January. I commend the

novel "Roots" and the film dramatization to my colleagues.

FURNISHING OUR AGED AND DISABLED WITH ADEQUATE SOCIAL SECURITY INCOME

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. ROSENTHAL. Mr. Speaker, today I am introducing comprehensive legislation to provide a minimum floor of income for aged and disabled Americans, remedy many of the inequities of the social security system and expand medicare coverage.

In America those 65 and older comprise 11 percent of the population, and, as we pride ourselves on our medical strides in lengthening human life, this proportion will continue to increase. Yet, we condemn our elderly to poverty, decrepitude, wretchedness and despair.

More than 13 percent of today's older Americans have incomes below the poverty threshold and thousands more subsist only slightly above that level. About 80 cents out of every dollar the elderly have must go for day-to-day survival. Disappointment rather than relief clouds the present, and decreased services rather than additional assistance lurks in the future. If we do not enact a bold, comprehensive and truly meaningful social security bill, many of our aged citizens may not have any alternative but to go on welfare, dealing a crippling blow to their pride and to the financial solvency of our cities and States.

To assure the aged and disabled a decent standard of living, I am proposing legislation to establish assured annual income benefits to them. My bill would:

First, establish a minimum standard of income for all elderly Americans of $3,850 for an individual and $5,200 for a couple.

Second, adjust this sum annually to reflect changes in the intermediate budget level for where they live.

Third, end discrimination against the working wife by providing payment of benefits to married couples based on their combined earnings record.

Fourth, extend social security coverage, including medicare, to local, State, and Federal employees, including postal workers, at their option.

Fifth, remove the limitations on outside earnings.

Sixth, improve and expand medicare coverage.

Recent increases in social security benefits have fallen far short of their intended goal of offsetting inflation. To combat this problem, my bill increases social security payments by a third of the present average amount. In addition, it provides for regional adjustment of this sum to reflect living costs more accurately.

The erosion of the purchasing power of fixed incomes is a relative problem. For $2,892 a year an elderly person living in a nonmetropolitan area of the South can have all the goods and services and enjoy the same standard of living that would cost him $3,675 in New York City. Yet, regardless of where he lives and what it costs to live there, his social security check is the same—$2,616 a year, for the average retired worker.

For the person living in the lowest cost areas, this means social security benefits cover the cost of his minimum needs. But that is not the case for a big city resident, whose cost of living is significantly higher. Monetary compensations must be made in our fixed income programs in order to equalize the difference in regional cost of living. It is essential that variations in actual dollar payments are permitted to insure equal purchasing power for recipients.

My bill also would lift the burden of high cost health care for those who cannot afford the price of adequate care by:

Reducing to 60 the age of entitlement to medicare benefits;

Eliminating the coinsurance payment requirement for supplemental part B coverage for persons with a gross annual income below $4,800;

Providing home care prescription drugs under supplemental coverage;

Offering free annual physical examinations.

This legislation stresses preventive as opposed to crisis medical treatment, thereby eliminating much of the pain and cost involved in treating serious diseases; the coverage of out-of-hospital prescription drugs will help patients avoid the cost and trauma of serious illness and the need for hospital care.

Every part of this bill affords effective, tangible and solvent ways of correcting the question it deals with. We all face a common aging problem. We must provide and plan for a retirement period of indeterminate length and uncertain needs. In 50 years, 15 percent of all Americans will be over 65 and a third of those will be over 75. My bill will help eliminate many of the spiraling problems faced by this ever-increasing group of people.

Mr. Speaker, the longer we delay in adopting a social security program that provides an adequate standard of living, the longer we delay in providing the decent and respectable income our elderly deserve. For this reason, I urge prompt passage of the bill I propose today.

UKRAINIAN INDEPENDENCE

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. GIAIMO. Mr. Speaker, it is my privilege to once again join my colleagues in commemorating the anniversary of the Proclamation of Ukrainian Independence. It has now been 59 years since the people of the Ukraine sought to throw off the bonds of their autocratic captors and pursue their individual lives in freedom. Their patience and dedication crowned a struggle which has been carried on for centuries against superior forces, yet which did not daunt these brave and confident people, united in their just cause.

This occasion also marks the 58th anniversary of the Ukrainian Act of Union, which united all the Ukrainian lands into an independent, sovereign state. Today, over 2 million Americans of Ukrainian decent and over 48 million captive Ukrainians on the Soviet Union remember the aims which led to their formation of the Ukrainian National Republic. They rededicate themselves to the effort to once again accomplish this momentous task, despite the brutal tyranny which robs them of their patriotic right.

Oppression has denied the Ukrainians the basic freedoms which we in the United States enjoy. This is nothing new to these people, who have maintained their cultural identity in the face of similar odds in the past. Still, they have a right to expect that their determination will be respected in the area of world affairs, and that their example will prove a beacon to all freedom-loving peoples throughout the world. Their dignity in this regard is unquestionable.

The world is witnessing a rebirth of awareness in the importance of human rights, spurred by a variety of enlightened interests. To the Ukrainians, the meaning of this renaissance will prove hollow until their right to choose their own destiny is acknowledged by the regime which enslaves them. I trust that our support for their self-determination will not falter, and that when we give thanks for our own freedoms, we shall not forget their unfortunate plight.

THE PUERTO RICO STATEHOOD ACT OF 1977

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. RUPPE. Mr. Speaker, by request of the President of the United States, Gerald R. Ford, I am introducing today a bill which would extend to the people of Puerto Rico the opportunity to achieve the status of statehood if they so desire. Within the framework of the U.S. Constitution and the Constitution of Puerto Rico, the bill institutes a sequence of steps requisite to the attainment of Puerto Rican statehood.

First, a Joint Commission would be established to enable the people of Puerto Rico to participate in determining the terms and conditions for Puerto Rico's proposed admission to statehood.

Second, Congress would review the Joint Commission's report and set the terms and conditions of statehood.

Third, a referendum would be held to determine whether the people of Puerto Rico desire to change their political status.

Fourth, if Puerto Rico chooses statehood, a convention will be called to frame a constitution for the proposed State.

Fifth, the constitution would then be submitted to the people of Puerto Rico for ratification.

Sixth, if ratified, the constitution would be submitted to the President and the Congress for approval.

Seventh, upon approval of the Constitution, the voters of Puerto Rico would elect two Senators and five Members of the House of Representatives.

Eighth, upon certification by the Governor of Puerto Rico as to the election results, the President would proclaim Puerto Rico a State.

Mr. Speaker, in my view, this is prudent legislation. A period of 40 to 70 months would be necessary to enact the above scenario, ample time to work out the complex details of this comprehensive legislation.

COMPREHENSIVE VETERANS READJUSTMENT ASSISTANCE ACT OF 1977

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. WOLFF. Mr. Speaker, as many of my colleagues are aware, I have today introduced legislation entitled the "Comprehensive Veterans Readjustment Assistance Act of 1977." The primary purpose of this legislation is to amend the present GI bill to make it more responsive to the educational needs of veterans. The present structure of the GI bill works unnecessary hardships on countless veterans who desire to pursue educational opportunities. In addition, the educational objectives sought to be encouraged by the GI bill have been both abused and misused in recent years. At this time I would like to insert into the RECORD excerpts from a series of articles which appeared in the Stars and Stripes and which illustrate the shortcomings of the GI bill and clearly demonstrate the need for change.

Mr. Speaker, the excerpts are as follows:

INADEQUACIES OF THE VIETNAM ERA VETERAN'S READJUSTMENT ASSISTANCE ACT

The Vietnam era GI Bill is one of the most ineffective programs administered by the Federal government. It is subject to massive abuses while the structure of the current GI Bill denies effective readjustment assistance to the most needy veterans. The Vietnam era GI Bill contradicts the Veterans Administration's mission "to care for him who has borne the battle and his widow and his orphan" and fails to effectively assist millions of veterans with the difficult transition from military to civilian life.

The Vietnam era GI Bill violates the intent of Congress for the Veterans Education Assistance Program:

"The Congress of the United States hereby declares that the purpose of the educational program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the armed forces of the United States, (2) extending the benefits of a higher education to qualified and deserving young persons who might otherwise be unable to afford such an education, (3) providing vocational readjustment and restoring lost educational opportunities to those servicemen and women whose careers have been interrupted or impeded by military service . . ."

THE USE OF THE CURRENT GI BILL IS VERY OFTEN INVERSE TO THE NEED FOR EFFECTIVE EDUCATION, TRAINING AND READJUSTMENT ASSISTANCE!

The current GI Bill has been reasonably effective for (and in many instances generous to) the most vocal and visible advocates for increases or amendments to the program, and has been least effective for and most discriminatory against those veterans who have the greatest need for readjustment assistance; but who have neither the understanding of the solutions or an advocate to make their needs known.

The assistance accorded by the Vietnam era GI Bill (in 1976) to single veterans (and many veterans with dependents) attending low-cost readily accessible community and junior colleges exceeds the assistance accorded any other generation of veterans.

The post-Korean, peace-time veteran has been the beneficiary of far more liberal and generous benefits than were ever accorded to veterans of the Korean war. The Korean war veteran was entitled to a maximum of $175; he had to initiate an education within three years after separation and complete within eight. Today a 37-year old post-Korean veteran separated from service 12 to 21 years ago is earning over $300 dollars a month for as little as 12 hours a week in a low-cost or free community college.

The GI Bill must be developed and implemented primarily as a readjustment program for veterans who served during a time of armed conflict and not as an educational subsidy for a unique peace-time veterans' special interest group. The veterans requiring and deserving the greatest readjustment assistance will never be a political force or have influential advocates.

The GI Bill must be structured on the basis of what the most needy and deserving Vietnam War veterans require for effective readjustment; and not on the basis of what special interest groups desire for themselves and their unique constituencies!

Most consideration of the current GI Bill is based on seven invalid assumptions:

1. The veteran is single.

Less than one-third of the veterans currently eligible for readjustment assistance are single. 75% of the Vietnam era veterans in training half time or more are receiving payments for one or more dependents. According to the VA, the average veteran has a wife and "1.4" children.

2. The Vietnam veterans readjustment needs are well served by a liberal arts education at a low cost community college.

Many Vietnam era veterans lack college preparatory backgrounds. There are very few jobs available to graduates of liberal arts educations. A liberal arts degree no longer means the opportunities it did 10 years ago. If a veteran is interested in using the GI Bill for supplemental income ($270 to over $400 a month tax-free for twelve classroom hours a week) he is served very well by a liberal arts education at a low cost community college.

3. Most of the veterans needing readjustment assistance are in school.

Many of the most needy and deserving Vietnam veterans are denied effective access to readjustment assistance and have never been in school or have dropped out of training.

4. Veterans administration participation rates are indicators of the GI Bill's effectiveness.

The Veterans Administration testified before the House Veterans Affairs Committee in September 1973 that:

"The Veterans Administration has used participation rates only as an indicator of what percentage of eligible veterans use their entitlement and not as a measure of whether the GI Bill education programs are serving their intended purpose."

The VA's participation rate statistics measure only the number of veterans who have received some benefits and NOT:

The number of veterans who have completed education and training programs.

The number of veterans who have terminated GI Bill programs and the reasons for their termination.

The number of months veterans have used benefits under the GI Bill.

Lastly, whether the GI Bill is providing the veteran with meaningful and productive readjustment.

OF THE CURRENT GI BILL

The veteran is only partially responsible for the problems and abuses of the current GI Bill. The VA has been little more than a "disbursing agent for a program of adjusted compensation for veterans with access to education". It has made little effort to develop or administer the GI Bill as a readjustment program, or to enforce laws and regulations that would preclude or eliminate abuse. State Approving Agencies and recognized accrediting associations have often done little to insure the quality or effectiveness of training under the GI Bill. Congress has demonstrated little sustained concern about abuses or structural problems in the GI Bill beyond that motivated by publicity or expediency.

6. That the most serious problem affecting the GI bill is the Post-Korean peace-time veterans delimiting date.

Far more serious than the termination of financial subsidization of peace-time veterans is the continued denial of effective readjustment assistance to needy wartime veterans, and the potential for massive abuse in the current program.

7. That the current GI bill is equally effective for all eras of veterans.

The current GI Bill currently serves or will serve veterans separated over a period of 32 years (1955 to 1967); yet it is least effective for those who served during the period of greatest armed conflict and have most need for readjustment assistance (1966 to 1972)!

These seven invalid assumptions must be discarded if the most needy veterans are to be accorded effective readjustment assistance.

The current GI Bill is MOST effective for the following:

Single veterans.

Veterans separated prior to 1966 or after 1972.

Veterans in states with low-cost public education.

Veterans in college programs.

Veterans using the GI Bill for supplemental income rather than readjustment assistance.

Veterans having the least need for readjustment assistance.

The Current GI Bill is least effective for the following:

Veterans with dependents.

Veterans separated during the height of the Vietnam War.

Educationally disadvantaged veterans.

Veterans in states without readily accessible low-cost public education systems.

Veterans desiring to attend private schools.

Veterans requiring trade, technical, vocational or professional training.

Unemployed or underemployed veterans.

Veterans having the greatest need for readjustment assistance.

ANALYSIS OF THE INEQUITIES AND INADEQUACIES OF THE CURRENT READJUSTMENT PROGRAM

I. DENIAL OF EFFECTIVE READJUSTMENT ASSISTANCE TO VETERANS WITH DEPENDENTS

The accessibility and effectiveness of the current GI Bill for veterans with dependent responsibilities is seriously constrained (with the possible exception of veterans with access to low-cost night school programs and veterans with working wives) when compared to the accessibility and effectiveness of the GI Bill for single veterans. In order to use their GI Bill benefits, veterans with dependents require substantial supplementary income. Excluding "educational expenses" (tuitions, books, fees and supplies) which are constant regardless of the veteran's dependency status; the current subsistence allowance for a single veteran ($270) is sufficient to meet most single veteran's "living expenses" (room, board, transportation, and other non-

educational expenses), whereas the veteran with one dependent requires an average of an additional $204 and a veteran with two or more dependents requires over $275 in supplemental income to meet "living expenses".

AVERAGE MONTHLY "LIVING EXPENSES" FOR VIETNAM ERA VETERANS ATTENDING SCHOOL[1]

	Single veteran	Married veteran	Married with children
Housing	$137	$191	$213
Food	51	150	210
Apparel and upkeep	23	38	48
Transportation	58	58	58
Medical	10	31	38
Child care			27
Miscellaneous	28	57	50
Total monthly expenses	307	525	644
Total montly GI bill subsistence payment	270	321	366
Supplemental income needed to meet monthly living expenses	37	204	278
Percent difference between subsistence allowance and veterans' average living expenses	13.7	63.6	76.0

[1] Source: "Educational Testing Service Report" (excluding educational expenses and adjusted to April 1976 Consumer Price Index).

However, if the married veteran does not have access to a community college offering the type of training necessary for his readjustment or does not have sufficient supplemental income to attend a higher cost school and support his family, he is denied access to effective readjustment assistance. The married veteran just does not have the mobility of the young single non-veteran student or that of the single veteran to take advantage of readjustment assistance.

Most tragic is the plight of the married Vietnam veteran. Forty percent of the enlisted men who served in Vietnam were married. Salaries for enlisted servicemen were well below the National poverty level (less than $250 a month for a married private, E 3). These veterans could not afford to enter training programs at the time of their separation. They had to seek immediate employment to pay off the debts incurred while in the service of their country. Readjustment benefits were insufficient to provide meaningful support without substantial income, especially for veterans requiring trade, technical, and vocational training. Many veterans who attempted to enter training programs were forced to terminate prior to completion of their objective.

One in five married Vietnam veterans was divorced or separated within six months of his return from Vietnam. (According to uncompleted studies, the divorce rate is nearing 50% for married Vietnam veterans.) The task of restoring emotional bonds severed by war's separation, of easing the psychosocial impact of the war, and of the difficult readjusting process was substantial; especially without benefit of the psychological counseling that had been available to the World War II veteran and his dependents. To have to work, hold a family together, and devote time to studies is often too much for a married veteran and his family; it adversely affects work, study, and the family, thereby compounding the problems of readjustment. Many Vietnam veterans are now paying alimony or child support which is an additional drain on their readjustment benefits.

II. DENIAL OF EFFECTIVE READJUSTMENT TO VETERANS SEPARATED DURING THE HEIGHT OF THE VIETNAM WAR

The principal intent of the GI Bill is to serve the readjustment needs of those who served during a period of armed conflict, especially those who saw combat. Vietnam veterans who served between 1964 and 1972 are the veterans least served and most discriminated against by the current GI Bill.

The current GI Bill has served, is serving, or will serve veterans separated over a 32-year period. Those veterans separated during the six years of the Vietnam War's greatest intensity will receive the least assistance of all if the current structure of the GI Bill is not reformed.

The peacetime post Korean veterans have been separated 10 to 20 years yet they received (until the May 31, 1976 delimiting date) the same benefits as Vietnam war veterans. Post Korean veterans were separated during a period of reasonable prospects for good employment and favorable public opinion towards veterans. Post Korean veterans have by and large secure careers, stable families, and few, if any, readjustment problems attributable to their military service. Post Korean veterans with access to low cost public institutions offering evening and weekend courses have ample educational opportunities as well as the potential of earning $270 to over $400 a month tax-free supplemental income for as little as 12 hours a week classroom participation. Over half of the post-Korean veterans receiving GI Bill benefits are in community colleges with tuitions averaging less than $300, according to the VA. Veterans Administration figures show a 73% increase from FY 74 to FY 75 in the number of post-Korean veterans enrolled in community colleges. Many, no doubt, motivated by the prospects of losing several thousands dollars in tax-free benefits from the government.

In contrast to the post-Korean veteran, the Vietnam veteran was separated with poor employment prospects and adverse public opinion toward the war and the Vietnam veteran. The GI Bill benefits during the peak years of Vietnam combat and separation totaled less than $180 for a single veteran, $230 for a veteran with a wife and family. Military salaries during the Vietnam War were one-half to one-third what they are today for low-ranking enlisted personnel ($102 for a private in 1968 versus $360 a month for a private entering the armed forces today).

Participation rates are not realistic indicators of effective utilization of GI Bill benefits by married veterans. Too often married veterans are using the GI Bill for supplemental income, because the current structure of the GI Bill denies them access to their principal educational or training objective. Many married veterans who ardently desire and need readjustment assistance through trade, technical, or vocational training, through private institutions, or through graduate programs are forced to attend an institution of marginal effectiveness and pursue a program of minimal utility or not use the GI Bill at all.

Many of the most needy and deserving Vietnam veterans could not afford to enter education and training programs at the time of their separation from the service. Readjustment benefits were insufficient to provide meaningful support without supplemental income, especially for veterans with families and veterans requiring trade, technical, and vocational training. Many veterans who did enter training were forced to terminate their training prior to completion of their objective.

Many Vietnam era veterans were drafted (or draft motivated), uprooted from their jobs, families, and studies, and sent to fight a difficult and unpopular war. Only one in eight eligible persons served in the military during the Vietnam era. They were highly unrepresentative of the American population. Vietnam veterans came from the socially and economically disadvantaged segments of society. They were basically the poor and lower middle working class. Men who would have encountered some difficulty in achieving the "American dream" even if they had not served in Vietnam. They were for the most part unprepared for or unable to pursue a college education. Had they been able to, they could have sought the sanctuary of student deferments as did their more affluent and sophisticated peers. It was the deliberate intent of the Government that these men fight the Vietnam war. They lacked the political sophistication, activism, and influence of the middle class. They presented the minimum threat to the government in the politically unpopular Vietnam war.

Vietnam veterans separating from the service between 1966 and 1972 were often denied admissions to colleges because they were overcrowded with "students" seeking deferments from military service, while trade, technical, and vocational training was impossible with their limited monthly benefits. Veterans who did enter college were often met with indifference, hostility, and abuse for their role in Vietnam.

As an integral part of his readjustment, a veteran may expect to encounter personal, psychological, or emotional readjustment problems as well as vocational and educational problems. While the GI Bill (now totaling $12,000 to $16,000) was intended to assist veterans in overcoming educational and vocational problems impeding his readjustment, the VA lacks the statutory authority to assist veterans with personal adjustment problems.

Many of the veterans with personal adjustment problems are unable to pursue or to complete education and training programs. Many veterans with personal adjustment and psychological problems are using the GI Bill at low cost community colleges to avoid adjustment and the responsibilities of a productive role in society because the GI Bill provides sufficient financial subsidization to maintain maladjusted lifestyles.

A substantial portion of the nearly $2 billion in GI bill overpayments can be attributed to the VA's failure to assist veterans in overcoming personal adjustment problems forcing them to terminate or fail in GI bill vocational and educational readjustment programs.

A very few post-Korean peacetime veterans or post-Vietnam veterans are experiencing significant personal or psychological readjustment problems as a result of their military service. They are thus emotionally unencumbered in their pursuit of education and training under the GI Bill.

Should Vietnam veterans with personal adjustment problems or those generally alienated from society use the GI Bill to subsidize alternative life styles, they often are further encumbered in their ability to readjust or assume productive roles in society.

In contrast to the Vietnam era veteran serving between 1966 and 1972, persons entering the service after 1972 did so voluntarily. They received salaries two or three times those of persons serving between 1966 and 1972. They have ample opportunity to utilize the many educational opportunities accorded servicemen. Most Vietnam era veterans, especially those who served in a combat situation, had little opportunity for anything outside of their principal military mission. A post-Vietnam veterans' GI Bill benefits far exceed those available to the Vietnam veteran at the time of his separation ($270 a month compared to $130 a month for a veteran separated prior to 1970). Post Vietnam veterans are no longer met with the hostility and indifference on college campuses, and in fact in many institutions, they are actively recruited to offset the declining enrollment of non-veteran students.

The year 1972 was a highly significant period in the nation's efforts to improve assistance to veterans. It was the year in which veterans' assistance efforts and outreach programs were initiated. Efforts prior to 1972 were largely token public relations, usually irrelevant and ineffective for the most needy Vietnam veterans. The outreach, Veterans Cost-of-Instruction Program, the VetRep on Campus, veterans' self-help groups, media efforts addressing the plight of the veteran did not go into effect until 1972, long after many of the most needy veterans requiring the

greatest readjustment assistance had been separated.

Tragically, the Vietnam veteran was being stigmatized extensively as an "unemployable, drug-addicted, psychologically disturbed, violence prone, poor risk whom employers and educators should beware of. Thus many of the efforts in outreach and veterans services designed to increase Vietnam veteran participation in GI Bill programs were most beneficial to settled post-Korean veterans and the recently released post-1972 veterans.

Since the major effective veterans' outreach program is the Veterans' Cost-of-Instruction Program (VCIP) based out of predominately low-cost public community colleges, veterans living within areas lacking community colleges or accessible public institutions are not accorded the services and assistance provided by the VCIP program.

Recently separated veterans are faced with serious employment problems. However, they are entitled to substantial unemployment compensation for 63 weeks (in many states veterans may receive both veterans benefits and unemployment compensation simultaneously, totaling $500 to $400 a month). In comparison, post Vietnam veterans often do not have the family responsibilities, psychological adjustment problems, financial obligations, and Vietnam war stigma which encumbers veterans who served between 1966 to 1972.

Recently separated veterans have sufficient time to pursue educations at less than full time basis without being terminated by their delimiting date. While many of the most needy Vietnam veterans denied effective readjustment assistance will soon be deprived of any further opportunity for education and training by their delimiting date.

THE MIDWEST DROUGHT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. OBERSTAR. Mr. Speaker, today I am introducing legislation to amend subtitle C of the Consolidated Farm and Rural Development Act to reduce the rate of interest on emergency loans, to increase the terms of such loans, to redefine the test for credit provisions, and to give the Secretary of Agriculture the authority to postpone the repayment of principal and interest in disaster situations.

As Minnesota farmers know, the current dry spell which started in the summer of 1975 is one of the worst in the State's history. In fact, not since the great Hinckley fire in 1894 has a drought had such devastating widespread effects. The conditions resulting from that drought sparked a great fire, which consumed 400 square miles of virgin timber and claimed the lives of 418 people.

It has been authoritatively established that severe drought strikes the central part of our Nation every 20 to 22 years—the dust bowl of the 1930's, the Texas-Oklahoma drought of the 1950's, and now the drought of the 1970's.

The current drought is taking a severe toll nationwide. Barges moving up the Mississippi River are only partially loaded to keep from hitting bottom. Investigations indicate that unless there is ample moisture during this winter and coming spring, there will be no corn crop at all next year for parts of Minnesota and Iowa. And Agriculture Department officials have expressed concern for the country's main wheat crop.

In countless cases across the country, and in my district, I have seen families who have worked a lifetime in farming, unable to maintain their operations.

Unlike weather patterns, over which we have no control, we do have the power to create an emergency loan program which adequately meets the needs of our farmers. The legislation I am introducing today would lower to 1 percent the interest rate on the first $50,000 of loss in emergency loan programs. This would provide needed assistance to new and small farmers.

Since the current "test for credit" provision disqualifies many farmers, my bill provides that no test for credit be applied to the first $50,000 of actual loss in any disaster. Loans in excess of $50,000 would have to stand the credit elsewhere test in the present law. The repayment schedule would be extended to 20 years on such loans to allow farmers ample time to recover from a bad year or a series of bad years.

Finally, the Secretary of Agriculture is given the authority to postpone, for a period he deems appropriate, the repayment of principal and interest on emergency loans. This provision is necessary since many farmers have had drought losses for 2 and 3 years in succession and are having a difficult time paying off past and present emergency loans.

These provisions are extremely important in light of the fact that in 1976, 28 of the 58 counties in California, and 69 of the 87 counties in Minnesota were declared agricultural disaster areas.

What the present situation should tell us is that we are going to have to take a comprehensive look at the water situation in the United States. We do not have a national water policy. It seems strange that the greatest food-producing nation in the world, a country with only 3 percent of available fresh water on Earth, does not have a water policy. The bill I am introducing will help alleviate one aspect of farmers' problems. However, the lack of water, which is the greatest threat to their economic stability, looms ominously and deserves to be given high priority by the 95th Congress.

MILTON LITTMAN

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. LEHMAN. Mr. Speaker, among the many visitors who have come to Washington for the inaugural festivities is Mr. Milton Littman, a member of the City Council of North Miami Beach. Mr. Littman has been officially designated as that city's ambassador at large for the inauguration of President-elect Jimmy Carter. I welcome Mr. Littman to Washington and join with him in extending best wishes to our new President on behalf of the citizens of North Miami Beach.

The text of the resolution appointing Mr. Littman to his position as ambassador at large is as follows:

RESOLUTION No. R77-1

A resolution appointing and designating councilperson Milton Littman, as Ambassador at large for the City of North Miami Beach to represent the city and its citizens and to bring good tidings and good wishes to the City of Washington, District of Columbia, and its citizens, as well as to the President-elect, Jimmy Carter, at his inauguration

Whereas, the Mayor and the City Council are of the opinion that it is only fitting and proper that the City of North Miami Beach and its citizens appoint and designate a Councilperson as their ambassador at large to represent the City and its citizens at the City of Washington, District of Columbia, during the inauguration of President-elect, Jimmy Carter; and

Whereas, the Mayor and City Council believe it is only fitting and proper to bring good tidings and good wishes to the City of Washington, District of Columbia, and its citizens, as well as to the President-elect, Jimmy Carter, during his inauguration through its personal ambassador at large.

Now, therefore,

Be it resolved by the City of North Miami Beach, Florida:

Section 1: That the Mayor and the City Council hereby appoint and designate Councilperson Milton Littman, as ambassador at large to represent the City and its citizens during the inauguration of President-elect, Jimmy Carter, in the City of Washington, District of Columbia, in order to personally express good tidings and good wishes from the City of North Miami Beach and its citizens.

POWER—A CHANGE OF FACES NOT HANDS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. HANSEN. Mr. Speaker, Inaugural Day is upon as and the reins of Government are about to be transferred, or are they? Many wonder if the establishment ever undergoes much of an electorate-dictated metamorphosis and if a political change of faces really means a change of hands where Government power is concerned.

"Politics makes for strange bedfellows" is an oft-used cliche which had various interpretations. Certainly there are an abundance of political hybrids, famous and powerful families of mixed and divided politics and philosophies, and difficult-to-explain political relationships.

Many people out of frustration say there is no difference between the two parties, that they are really just Republicrats or Demicans. Idealistically and philosophically this is not true as one look at the platforms of the two parties will evidence.

However, people and platforms are two different things and unfortunately the platforms and their many profound planks are too often little more than a showplace for pacification of the voting public while real policy is decided in other circumstances.

There are strong allegations made by some with considerable evidence to sup-

port their case that major affairs of government are really decided among the mighty in the private club atmosphere of a jet-set elite of self-proclaimed managers of our national and international destiny—the real shadow government which can materialize readily into the leadership of either party, and does.

Without question, preservation and promotion of the "establishment" can be easily expanded into power brokerage when great concentrations of corporate wealth, organized labor and communications networks act in concert. This combination can be set out in the equation m^3=M where money x manpower x media equals Manipulation.

To discuss this matter more fully, Mr. Speaker, I submit the following article from the January 16, 1977, Washington Post by staff writer William Greider:

TRILATERALISTS TO ABOUND IN CARTER'S WHITE HOUSE—BUT WHAT ARE THEY?

(By William Greider)

If you like conspiracy theories about secret plots to take over the world, you are going to love the administration of President-elect Jimmy Carter.

Right-wingers are going bananas over it. So are left-wingers. It looks to them like the apocalyptic piece of evidence that fits every wacky puzzle, the missing link in every weird scenario. Sound the alarm: the Trilateralists are coming? Good grief, the Trilateralists are taking over the government?

Trilateralists are not three-sided people. They are members of a private, though not secret, international organization put together by wealthy banker, David Rockefeller, to stimulate the establishment dialogue between Western Europe, Japan and the United States.

The Trilateral Commission holds meetings every nine months or so on one continent or another to discuss international problems. It hires various professors to write prolix reports with epochal titles. "The Crisis of International Cooperation" and "Towards a Renovated World Monetary System" and "A New Regime for the Oceans" and stuff like that. Most of these reports read like a big yawn, unless you are a freak for "global cooperation" rhetoric.

But here is the unsettling thing about the Trilateral Commission. The President-elect is a member. So is Vice-President-elect Walter F. Mondale. So are the new Secretaries of State, Defense and Treasury, Cyrus R. Vance, Harold Brown and W. Michael Blumenthal. So is Zbigniew Brzezinski, Carter's national security adviser, who is a former trilateral director. Also a bunch of others who will make foreign policy for America in the next four years.

At last count, 13 Trilateralists had gone into top positions in the administration, not to mention six other Trilateralists who are established as policy advisers, some of whom may also get jobs. This is extraordinary when you consider that the Trilateral Commission only has about 65 American members.

For the conspiracy chartists, it all fits. Militant political groups like the U.S. Labor Party have been predicting for months that Carter was hand-picked by Trilateral gnomes to deliver Rockefeller-dominated world fascist government, not to mention nuclear holocaust. On the far right, the John Birch Society substitutes communist for fascist, but comes up with a similar script, involving the same villains.

In the muddled middle ranges of opinion, the Trilateral connections seem a lot less spooky, but still significant. Its members are not drafting secret blueprints for running the world, but they are defining the perceptions that may dominate U.S. foreign policy in the next era, an amorphous process of "consensus building" which always seems to be in the hands of the same important folks.

In the simplest terms, the Trilateral Commission is an establishment booster club, a floating seminar for business and academic and political leaders. "These people are a bunch of very sophisticated Rotarians," said one Trilateralist, a foreign-policy scholar. "These are booster types, forward-looking businessmen, hopeful about the world."

On a deeper level, the Trilateral Commission is an effort to re-establish consensus in the American foreign-policy community, where even the harmony of that small club was shattered by Vietnam.

The new outlook, enunciated by Brzezinski, does not shut down the Cold War, but it directs our thinking to a second front—the demands for economic justice from the poor and developing nations, the Third World's capacity for disrupting the world, not to mention the advanced industrial economies.

In a sense, the established thinkers are playing catch-up ball, trying to understand a wide range of world problems which they once kissed off as secondary to the struggle with the Communist superpowers.

In any case, it is the Carter connection which insures that the Trilateral Commission will be important to history, not the other way around.

"If Carter had never been elected," said one politician who serves on the commission, "you'd never have heard of the Trilateral Commission again. It probably would have disappeared in the depths of the ocean, like everything else like this."

Freelance critic Roger Morris of the New Republic suggests that, just as the Harvard professor became the symbolic shorthand used to describe the Kennedy administration, the Rockefeller-Trilateral connection may become the equivalent image for Carter's, displacing the bucolic charm of South Georgia with a more worldly aura of high finance and international business.

At the very least, Carter's heavy reliance on the Trilateral membership list demonstrates what has long been true—that U.S. foreign policy is shaped by a very exclusive circle of people. This is not going to change under Carter, campaign rhetoric to the contrary notwithstanding.

The Trilateralists were picked originally by David Rockefeller, aided by Brzezinski and Rockefeller's foreign-policy assistant, George Franklin, longtime executive director of the Council on Foreign Relations (CFR). The organization has all the interlocking features which inspire the conspiracy theorizers—an overlap with the CFR and the Bilderberg Society, that Atlantic organization of movers and shakers which was tarnished somewhat when its founder, Prince Bernhard of the Netherlands, was exposed as a bagman for corporate arms bribery.

The American membership, which is said to be somewhat more establishment-heavy than the European section, mixes global thinkers (Harvard, MIT, Caltech, Brookings Institution and others) with multinational business executives (Exxon, Chase Manhattan Bank, Coca-Cola, Texas Instruments, Sears Roebuck, et al). There is a sprinkling from labor (AFL-CIO, United Auto Workers, the Steelworkers) and the civic sector (the League of Women Voters).

The business sector with the best representation, by far, is banking, followed closely by the news media (CBS, Times magazine, columnist Carl Rowan, The Chicago Sun-Times, plus directors from The New York Times and the Los Angeles Times). The media presence has an obvious importance: a consensus is a consensus in this realm only if the public knows about it.

The Trilateral Commission is not secretive about its doings, though it is not completely open, either. The press is always informed about its major meetings; selected reporters are even invited to sit in on them. But the discussions are private and off-the-record, so the reporters may quote statements from the meetings, but not who made them.

The notion that David Rockefeller is personally picking up the tab for all this is wrong, too. Rockefeller has made a "token" donation personally, according to the commission, but, most of the money comes from tax-exempt foundations, Ford, the Rockefeller Brothers, the Lilly Endowment, the German Marshall Fund, plus smaller gifts from corporations, Time, Wells-Fargo and Texas Instruments, among others.

The cost is small change, as these things go, because most Trilateralists pay their own travel and expenses. The commission picks up travel costs for academics and, occasionally, politicians and, of course, pays for the reports written by North American, Japanese and European scholars. Francois Sauzey, publications editor, said the budget for the first three years was a bit less than $1 million.

The selection of the politicians is the stunning feature—Rockefeller and his aides were either very lucky or extraordinarily prescient about the direction of American politics. Perhaps a little of both. They guessed right that Carter and Mondale were comers. They guessed wrong about Rep. Wilbur Mills and Sen. Robert Taft Jr. of Ohio. In the case of Bill Brock of Tennessee, they lost a senator but gained a GOP national chairman.

Sen. John C. Culver, an Iowa Democrat who was chosen because of his interest in foreign policy, regards the experience—attending several of the meetings, reading some but not all of the reports—as valuable but unexceptional.

"These kinds of efforts can be extremely beneficial, both for participants and in the published documents," Culver said. "But it's just part of the stimulative mix of considered judgments that you try to keep up with."

David, the youngest Rockefeller brother, must be deriving a little sibling gratification from his creation. The four brothers have always carefully delineated their individual areas of public concern, but David's Trilateral Commission simultaneously preempts John III's long-held interest in Asia and Nelson's franchise in politics. David, also a Republican, enjoys a new level of national prominence, just as his big brother, the Vice President, must leave the stage.

"David Rockefeller basks in the acclaim he gets around the world," explained one Trilateralist scholar. "In that sense, it's psychic reward and a form of conspicuous consumption."

In Carter's case, The Trilateral experience must have meant more. He was a not very famous governor of Georgia, interested in foreign trade and national politics, when Brzezinski, Franklin and Rockefeller went looking for a Southern governor to serve. They were impressed by his seriousness, and Carter did participate earnestly—attended all the North American meetings and the one international session in Japan before the presidential campaign swallowed up all his time. He phones personally to commission headquarters in New York to keep up with the latest studies.

The political symbiosis was perhaps more important to Carter than any educational qualities. It introduced him to a range of expert opinion which he needed for credibility as a presidential candidate, but it also gave him an opportunity to convince the corporate and media leaders that he was not a rustic yahoo, but a man to be taken seriously.

Brzezinski was among the early converts—he praised Carter lavishly at the commission's plenary meeting in Kyoto, Japan, in May of 1975, hailing him as at least one political leader with the courage to speak forthrightly on difficult issues. There was some grumbling about bad taste in the back benches, espe-

cially among other politicians, because Carter was already a declared candidate.

Brzezinski coined the Trilateral theology himself (a kind of geometric riposte to Henry A. Kissinger's "triangular" strategies, which concentrated on the three superpowers and often slighted the U.S. industrial allies in Europe and Japan). "I think it's fair to say the word Trilateralism has become a new word in the foreign policy vocabulary," publications editor Sauzey allowed.

What does it mean? The positive interpretation, as promulgated by Brzezinski and kindred academics, is that the three allied industrial regions must minimize economic friction among themselves, create new mechanisms for coordinated action, so they can deal equitably with the rest of the world. If they fail, Western wealth is threatened by "a denial of cooperation" from these poorer nations—anything from regional wars to nuclear blackmail to commodity disruptions like the Arab oil embargo of 1973.

A less charitable interpretation, advanced by suspicious Third World observers, is that the Trilateral Commission is the "rich man's club" trying belatedly to recapture the leverage lost by military defeat in Vietnam and economic defeat by Arab oil.

If one samples the Trilateralist papers, two themes are repeatedly expressed or implied, both provocative in the context of American politics but apparently accepted as beyond argument in the Trilateral viewpoint.

One is that American foreign policy, on the whole, has been a great success over the last 25 years. "A time of relative peace and prosperity without parallel," as one report called it. Foreign-policy critics outside the establishment might argue that this period was, more accurately, "a time of relative war."

The other controversial premise is that multinational corporations, except for rare lapses by a handful of them, are a blessing to mankind and possibly the bridge to world peace. Many of the proposals do suggest new international agreements to regulate the taxes, antitrust violations, and capital investment by these global giants.

Richard Barnet, co-author of "Global Reach," a critique of the multinational, said he fears that Trilateralism will attempt to jump over national control without replacing it with effective international controls.

"The possibilities of moving in new directions are there," Barnet said. "The danger is that we end up with two Cold Wars, a continuation of the one with the Russians and another with the developing nations. Unless we are willing to question the assumptions scattered through those reports, we're going to have another Cold War on our hands."

Nobody can say with any certainty, however, how much the details of those academic reports actually reflect the opinions of the commission members. The assumption is that the group is like-minded, generally, but sometimes that assumption proves wrong.

There are no roll-call votes, no attempt to alter the academic reports afterward to conform with the range of opinions expressed in the private meetings. All of the reports contain disclaimers—the views expressed belong to the authors only—but that doesn't always help.

"Ultimately," said one Trilateralist, "you always have a core group which does the hard work and they put the thing together. That's where it could be a potential problem or a deception."

As it happened, one Trilateral report did prove to be highly controversial with the commission's members—a study called "The Crisis of Democracy," co-authored by Samuel P. Huntington of Harvard, an old friend and co-author of Brzezinski, a leading academic apologist for the war in Vietnam.

Huntington's section on American democracy offered a provocative interpretation of recent history:

The great dislocations in American politics over the last 15 years did not stem primarily from Vietnam or Watergate, nor from deceptions by Presidents or law-breaking by government agencies. The problem was in the people themselves.

"A democratic distemper," Huntington called it. "An excess of democracy" which threatens the authority of government, "credal passions" which must be tempered or the United States will become ungovernable.

Huntington's essay is rich in disturbing themes, especially if one assumes that the Trilateralists share his views. He suggests, for instance, that a President must organize a "governing coalition" from key establishment leaders, not from voters. "Once he is elected President, the President's electoral coalition has, in a sense, served its purpose," the professor wrote.

He suggested several ways to restore authority to American government and reduce popular excesses. One is to trim back on higher education. Another is to regulate the news media, something like the way the Interstate Commerce Act attempted to regulate corporations in the 19th century.

The conspiracy watchers have read this book and see it as an ominous blueprint, confirming their worst suspicions. The problem is, when many Trilateralists read it they didn't like it either.

At the 1975 plenary meeting in Kyoto, a long line of commission members rose to protest the drift of Huntington's thinking. Some urged that it not be published, others complained that copies had already been distributed to the press.

Thomas L. Hughes, president of the Carnegie Endowment for International Peace, complained:

"Instead of criticizing the last two Presidents for grievously misgoverning the country, the burden of the Huntington message is to criticize the country for not submitting to the misgoverning. Recently, we have escaped the excesses of an immoral and unwinnable war and a cynical and criminal President. One might have thought that was the purpose of democracy—to make criminal government unmanageable. . . . But the wars and crimes are brushed over lightly while the 'democratic surge' that ended them is condemned as 'excessive.'"

Many of the Trilateralists predicted, correctly, that the Huntington report with its controversial proposals would be blamed on all of them. When it was published later by New York University Press, it contained a brief appendix which noted anonymous dissents from a number of commission members, but it still bears the imprimatur of a report to the commission.

"At least," said one member, "the Huntington business does put the lie to the image of the commission as a bunch of like-minded elitists who are multinational apologists."

It does, sort of. On the other hand, for those who are clinging to dark theories, there is this to add: Samuel P. Huntington, it is rumored, may join Brzezinski's national security staff in the White House, which would add another strand to the webs they are spinning.

CONTRACTS DISPUTES ACT OF 1977

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. RODINO. Mr. Speaker, last week I introduced H.R. 664, a bill to provide for the resolution of claims and disputes concerning contracts between Federal agencies and private firms.

This legislation, which I also sponsored in the 94th Congress, is the result of a 3-year study by the Commission on Government Procurement. Among its conclusions was one that there is a need to improve the existing system of resolving contractual disputes.

This bill is intended to allow the Congress to review the situation and make such improvements as are needed. A great deal of time and money has been wasted over the years as a result of disagreements and misunderstandings between the Government and private contractors.

I believe that the Congress should attempt to establish a more workable system, one that deals fairly with contractors and, at the same time, protects the public interest.

A SPECIAL INAUGURATION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. ANDERSON of California. Mr. Speaker, our system of government is often referred to as a "participatory democracy." However, for too many of our citizens, participating means only voting—sometimes—or paying taxes—all the time.

Elections give most Americans their main chance to truly take part in their own Government. Tomorrow's inaugural ceremony for President-elect Jimmy Carter, however, has also extended an opportunity for many of our citizens to go a step further—to take part in an event of historic significance in our Nation's Capital. No other inaugural in the 200 years of this country's existence can so truly be called "the people's inaugural."

I am sure that many of my colleagues have received many requests from constituents anxious to visit our Nation's Capital and watch the ceremonies at first hand. Out of the many such requests that our office received, the one that stands out the most in my mind came from Mr. Booker T. Davis, a resident of Long Beach, Calif.

On September 27, 1976, I received the following letter from Mr. Davis requesting a ticket to the inaugural. It was still a bit early to "call" the final results of the election, and, of course, no plans had yet been made concrete regarding the ceremonies.

SEPTEMBER 19, 1976.

DEAR CONGRESSMAN ANDERSON: I am a long time resident of your district and have been one of your enthusiastic supporters.

It's been the dream of my life to attend a presidential inauguration in Washington. The work I do is a cleaning man and I have been saving up my money to make the trip. I expect to go by airplane and spend a week looking around the capitol. Since I have no family and no dependents I am a free person.

I understand that you might be able to get me a ticket to watch the ceremony from the back of the White House. I know I'm nobody important and only a little working man but it sure would mean a lot to me if

you could get me this ticket and tell me how to get there.

Yours respectfully,

BOOKER T. DAVIS.

My office kept Mr. Davis' letter, along with similar requests from constituents, until details on the inauguration were finalized. Along with many other citizens who had never received an invitation from any official government function, Mr. Davis received his invitation to the festivities of January 20, 1977. The following letter was sent to him on December 17, 1976:

DEAR MR. DAVIS: We have just received definite information about inaugural tickets and we will reserve a ticket for the swearing-in ceremony for you. The ticket will be in the standing area.

The tickets will not be available until January 10. We will keep your ticket in the Washington office and you can pick it up anytime between 8:30 a.m. and 7:00 p.m. We will be in our new office by that time and the room will be 2410 in the Rayburn House Office Building.

If our office can help you make arrangements for special tours or provide information about sightseeing in Washington, please call or write Mrs. Evelyn Pearson, my appointments secretary, and she will be glad to help you.

Thank you for writing and we hope you enjoy your visit to Washington.

Sincerely,

GLENN M. ANDERSON,
Member of Congress.

Mr. Speaker, tomorrow's inauguration of President Jimmy Carter will be a momentous occasion in our Nation's history. I am pleased that many "ordinary" Americans will be able to attend it personally and take part in the celebrations and festivities that will mark this great event.

I strongly suspect that it will be especially significant to Booker T. Davis, and I wish him and all of our people much enjoyment and happiness as they take part in this inauguration.

I might add that Mr. Davis came to our office yesterday and it was my pleasure to meet him and welcome him to Washington.

Since tickets for the seated areas are scarce, we hope Mr. Davis' view from the preferred standing section—the steps of the Capitol—is a good one.

BROCK ADAMS DESERVES PRAISE NOT CRITICISM

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. SHUSTER. Mr. Speaker, I rise to take issue with a Washington Post article of January 13 by Mr. Robert Kaiser. The page 1 article criticized Transportation Secretary-designate BROCK ADAMS for choosing an eight-member management team which included six people who worked directly with Congressman ADAMS on Capitol Hill.

I believe BROCK ADAMS deserves praise, rather than criticism, for moving with dispatch to build a management team to aid him in his new and awesome responsibilities.

We should be thankful that Mr. ADAMS, who has been one of the most outstanding transportation leaders in the Congress, has seen fit to surround himself with people of known and proven competence in the field.

As the ranking minority member of the Surface Transportation Subcommittee and chairman of the National Transportation Policy Study Commission, I applaud the vigorous and prudent action of Secretary-designate ADAMS and I commend the President-elect for his wisdom in selecting Congressman BROCK ADAMS to head this important Department.

RECOGNIZING THE RIGHTS OF THE FRANCO AMERICAN

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. COHEN. Mr. Speaker, earlier this week I introduced legislation to extend and amend the Emergency School Aid Act so that Franco Americans are afforded the same benefits as other minority groups under the act.

Because certain historical and economic factors have tended to isolate Franco Americans in Louisiana and in the New England States, most Americans—and most of my colleagues—are unaware of the Franco-American situation in the United States. According to the 1970 U.S. census, however, Franco Americans constitute the sixth largest minority in America.

Furthermore, available evidence would also indicate that this minority is one of the more disadvantaged of the larger ethnic populations in New England and the United States. Among the nine largest of the self-identified ethnic origin groups examined in the Current Population Survey of the U.S. Census compiled in March 1972, the Franco American ranked only above the Spanish American in terms of median income and education for the United States as a whole. According to a study done at the University of Maine at Portland, second generation Franco Americans in New England ranked last among nine ethnic groups both in terms of education and income.

Despite these statistics and the size of the Franco-American community, Franco Americans have not been legally recognized as a minority under the Emergency School Aid Act, even though ethnic groups much smaller in number have been. The effect has been to deny Franco Americans participation in programs which could be vital to their success in our society.

No other public institution has a greater impact on our expectations for the future than the school. The Emergency School Aid Act was designed to deal with discrimination and foster equal opportunity in our public schools. While Franco Americans may not suffer from physical discrimination, they can be handicapped by a mental and spiritual discrimination which is far worse. We have discovered that mere physical integration is inadequate to remedy the discrimination suffered by the child who speaks and thinks in one language and is required to learn in another.

Ethnic students have special educational needs which have often impaired their ability to succeed in public schools. No longer can we assume that by providing a child with the same facilities, textbooks, teachers, and curriculum as other children, that the child enjoys an equal educational opportunity. If that child cannot understand the medium in which the material is taught, he is effectively excluded from the educational process and is a victim of fundamental discrimination.

Those of us who are fully matriculated into our monolingual, monocultural society find it hard to appreciate the problems which face the Franco American or other ethnic groups. Educators know that exclusion from one's own cultural heritage and history, from one's language and community, can be so destructive to the self-confidence of a student that he gradually loses his ability to learn. Ethnic students must be able to relate their mother tongue to their personal identity, because language and the culture it carries are at the very core of a child's self-concept. Held mentally captive by the myth of the American melting pot, whole generations of children have been denied an effective education without which the chances for upward mobility of our society are effectively blocked.

While we in America profess that we no longer follow our former melting pot philosophy of cultural eradication, we must now move forward to a philosophy of cultural pluralism. How we answer the needs of the Franco American and other ethnic groups is of prime importance. Officials within the Department of Health, Education, and Welfare succeeded in exercising the discretionary authority of the Secretary to include the Franco American under the Emergency School Assistance Act for a public broadcasting series developed in Maine for Franco-American children.

However, this process can only be undertaken on a case-by-case basis, holding up much needed programs for long periods of time. My bill allows Franco Americans to participate equally with the Nation's other recognized ethnic groups in programs of bilingual education, in new school curriculums of particular relevance and utility to the group, in training of professional staffs and teachers to help meet the specialized needs of Franco Americans, and in formulating programs to bring cultural and ethnic relevance to community activities.

Without this legislation, we blatantly choose to ignore one of the country's largest ethnic groups. More importantly, however, we deny the Franco American the tools afforded other groups in their quest for educational equality. While my colleagues knowledgeable of other ethnic groups may not be familiar with the Franco American, they are familiar with his problems. Justice demands that the Franco American have equal access to the compensatory education provided other non-English speaking groups.

DOES DEMOCRACY HAVE A CHANCE IN EL SALVADOR?

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. KOCH. Mr. Speaker, for more than a decade the United States has largely ignored the problems and potential of Latin America. When we have turned our attention to that area, it has produced disastrous results. Documents recently released indicate that the United States intended to supply military support to the leaders of the military coup in Brazil had they needed it in 1964.

The United States participated in a Vietnam-style counterinsurgency campaign in 1966–68 in Guatemala which resulted in the killing of thousands of Guatemalans and the strengthening of right-wing terrorist squads.

The Nixon years saw the promulgation of a "low profile" in Latin America, which translated itself into indifference and covert operations. Best known is the campaign to stop Salvador Allende from ascending to the presidency of Chile and then the effort to destabilize that government once he was elected. The goal of U.S. policy in these years has been stability at any and all costs. What has occurred is the death of democracy in several countries and the "stabilizing" of military dictatorships in many others. Most tragically, this policy has evolved, I believe, not out of rational calculation, but rather it is a program without a policy, which careens along out of control.

The advent of the new administration should be cause for celebration in this regard. President-elect Carter has stressed the need for greater attention to moral concerns in our foreign policy. This is most needed in Latin America. Obviously, it will take time and careful planning and execution to develop a policy which sets a reasonable and moral tone. Foreign governments need to be shown that "morality in foreign policy" is not simply hollow rhetoric saved for international conferences, but a policy consistently and fairly applied.

The first opportunity to demonstrate that we mean what we say about morality in foreign policy will be soon taking place in El Salvador.

El Salvador is a small little-known country in Central America, with a population of 4.1 million persons and a per capita income of $370. El Salvador is one of the very few Latin American countries on the U.N.'s "hunger list"; land is owned by small concentrated groups of people who grow crops for export. Since the late 1940's the government has been run, either directly or indirectly, by the military. In 1972 a coalition of opposition parties, the UNO, lead by the Christian Democrats, mounted a very strong campaign to unseat the military government in the presidential elections.

It is widely known that the military used intimidation, harassment, repression, and electoral fraud to narrowly win the election. I am told that the U.S. Embassy at that time uncritically accepted these results as legitimate.

Another Presidential election is scheduled for February 20, 1977. The same type of repression by the military is expected. What will be the response of the United States? Certainly, we should not intervene in a military or covert way. But we should clearly and unmistakably express our support for free and open elections in El Salvador. The State Department continues to state that we are now doing so. These pious statements are not borne out by the facts. In fact, I am deeply troubled by reports supplied to me by the Washington Office on Latin America, that at least part of our presence in El Salvador is actively backing the military government. Let me quote from a report I have received from a person recently returned from El Salvador:

> Interestingly, we were told that the U.S. military attache for a long time held off from indicating his preference since he saw neither candidate for president as suitable. He felt that Romero, (the military-backed candidate) still had too many enemies among the military. His own idea was an "institutional solution", i.e. coup. However, around early December of 1976 he began to back Romero openly.

This allegation, if true, represents the worst form of meddling. I do not believe our Ambassador, our military attaché, or any other American should express, in an official capacity or a personal one, a preference for one candidate or another. I think the American people have had enough of intervention in the internal affairs of other countries. It seems that the only time the State Department objects to "intervention" is when someone expresses concern about reports of torture or detention without trial.

It is going to take a great deal of patience, modesty, and real, yet nonpaternalistic concern, for the peoples of Latin America to turn our policy toward that area around. We must begin immediately by strong statements of support for democratic processes, where they are fledgling, and for protection of basic human rights where repression is entrenched. El Salvador is our first opportunity in Latin America. It is there that we must begin.

WORLD COUNCIL OF CHURCHES FUNDS REVOLUTIONARY TERRORISTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. McDONALD. Mr. Speaker, the World Council of Churches—WCC—recently announced a series of grants from its Special Fund to Combat Racism, some of which were awarded to organizations in this country. The World Council of Churches, of which the National Council of the Churches of Christ in the U.S.A. is a member, also contains delegates of the state-controlled churches of the Soviet Union and its satellites which form a strong and united internal WCC bloc.

During the past 15 years, the WCC has been careful to avoid public criticism of Soviet religious oppression—the U.S. National Council of Churches has a small unpublicized unit which attempts to report on religious persecution in Communist countries—and the WCC has provided monetary and other support for a number of Marxist revolutionary organizations which have consistently committed terrorist atrocities against civilian noncombatants, particularly in southern Africa.

The WCC has stated that the purposes of the organizations which receive its special grants "must not be in conflict with the general purposes of the WCC and its units." The World Council of Churches Central Committee, which approved the special fund grants, said that their emphasis on southern Africa was "recognized as a priority due to the overt and intensive nature of white racism and the increasing awareness on the part of the oppressed in their struggle for liberation." Apparently the WCC feels that the atrocities perpetrated by some blacks like Idi Amin against East Indians and Asians or the suppression of religion by the black Communist rulers of Mozambique is not worth mentioning.

It is noted without surprise that among the organizations not "in conflict with the general purposes of the WCC and its units" which qualified for special grants were two Soviet-backed terrorist movements, the African National Congress of South Africa, $50,000, and the South West African People's Organization, $85,000, which is being trained and equipped by Cuban mercenaries in Angola. Also receiving a $50,000 grant was the Peking-oriented terrorist Pan Africanist Congress of Azania, South Africa. Another $85,000 was earmarked for the "Zimbabwe Liberation Struggle" in Rhodesia but it was not specified which of the Marxist terrorist groups were to receive the grant.

Three British organizations received grants: one support group, the Anti-Apartheid Movement, $10,000; the Institute of Race Relations, $5,000; and the Race Today Collective, $30,000, a "revolutionary journal which sees its task as that of recording and recognizing the revolutionary potential of the black population in Britain."

The World Council of Churches grant criteria includes the statement that "in considering applications from organizations in countries of white and affluent majorities, we have taken note only of those where political involvement precludes help from other sources."

U.S. "support groups" receiving WCC special grants include the Washington Office of Africa, $5,000, the lobbying arm of the American Committee on Africa which promotes various revolutionary terrorist groups in southern Africa; Africa News, $5,000, a revolutionary "news service" disseminating communiques from and information about Marxist revolutionary movements; and Haitian Refugee Concerns, $10,000.

Grants to U.S. movements show $15,000 for the American Indian movement—AIM—which has received WCC grants

previously. In light of AIM's public record for violence and terroristic intimidation, and its notorious exercises in "armed struggle" as in the armed occupation of Wounded Knee, it is interesting that AIM is not "in conflict with the general purposes of the WCC and its units."

Presumably AIM's Canadian affiliate, the Committee for Original Peoples Entitlement—COPE—$10,000; the NAACP legal defense fund, $10,000; United Farm Workers Union, $15,000; Delta Ministry, $15,000; and the Puerto Rican Solidarity Committee, $15,000, a support group of Weather Underground associates and U.S. Castroites aiding the Puerto Rican Socialist Party, a violence-oriented Castroite Communist party, are also "not in conflict."

I understand that our colleague, the Honorable Mr. ASHBROOK of Ohio, will reintroduce his antiterrorism bill this session. This bill would have a number of provisions applicable against the funding of terrorist organizations.

CHRISTIAN FAITH AND PRINCIPLE WILL SUSTAIN AMERICA AS IT ENTERS THIRD CENTURY

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. EDWARDS of Oklahoma. Mr. Speaker, we have just entered into the third century of this great American experiment. It is my belief, my sad belief, that the most important opportunity which presented itself in our Bicentennial year, was simply ignored.

To be blunt about it, Mr. Speaker, America piddled away its Bicentennial year on inconsequential trivia and commercial carnivals, while we should have been concentrating on those traditional values which underlie the unique greatness of this very uncommon society.

America was built on two foundation stones: a political base of individual dignity and freedom, and a religious base which, through faith in the Christian message, underscored the same theme—that man, that great creation of God, was a being of individual worth and entitled to exist serving no master but He who is master of us all.

The American Constitution guarantees, as it should guarantee, a religious freedom unknown to most of the world since the earliest moments of recorded history. It is a freedom to be diverse religiously, or to be religiously uncommitted. It is a freedom to be devout or to be atheist.

But that does not mean that America, because it tolerates all views, has no partiality. No, Mr. Speaker, America is a nation built on religious faith, most particularly on the Christian faith, but on faith regardless of individual touchstone.

What is that faith, and how have we turned away from it in these secular times? How did it strengthen us in the trauma of our national emergence, and how can it sustain us as we enter the third century? Those are the questions too few Americans addressed in the year of the Bicentennial.

Fortunately, Mr. Speaker, one American writer is very conscious of the role of faith in this Nation's destiny. This past Christmas, reflecting on the birth of his first child, a daughter named Alexandra, syndicated columnist Allan Brownfeld wrote the following article, an article in which he calls again to our attention the great American role of faith in God and tells us, so very wisely, that how well we grasp that fact, will determine the kind of world in which his beloved Alexandra will grow up. Mr. Speaker, it will also determine the kind of world in which my own children will live, and their children as well.

For that reason, Mr. Speaker, I here enter for the RECORD Mr. Brownfeld's Christmas column. May it be a reminder for us all:

CHRISTMAS MESSAGE

(By Allan C. Brownfeld)

In many respects, the approach of Christmas causes thoughtful men and women to change their mindset, at least for a moment. While we usually think of this world, our own lives and ambitions and fortunes, Christmas speaks to another part of our being entirely, that which is eternal and not temporal, concerned with permanent things, not the passing fancy of an ever changing world.

Christmas, 1976 will be the first one in the life of our daughter, Alexandra, who was born in Alexandria, Virginia on October 12. She will, of course, not remember it in future years. She is too young to be impressed by the preparations her parents and grandparents are undertaking, by the gifts which have arrived, by the excitement which has even been transferred to the pets she has yet fully to appreciate—the dachshund, golden retriever, and white cat. Nevertheless, those who are old enough to discern the uniqueness of a new life and the beginning of the perilous journey through this world view things somewhat differently in that presence. In addition, a new life has some special meaning in an era when so many seem to have decided that the world is not a worthy place in which to bring children.

Americans, according to the statistics, go to church more often than people in any other country, and a larger percentage of them believe in both God and a life after death. What relationship churchgoing has to religion, however, is not clear. One cannot help but think of Alexander Pope's expression in his "Essay On Criticism" that, "Some to church repair, not for the doctrine, but for the music there." Daniel Defoe expressed a somewhat different, but equally appropriate, thought when he penned these lines: "Wherever God erects a house of prayer,/The Devil always builds a chapel there;/And 'twill be found upon examination,/The latter has the largest congregation."

And so Americans prepare to celebrate Christmas in this most religious and churchgoing society at the same time that crime in the streets makes it dangerous to leave home at night, that pornography is on sale at the local drug store, sex and violence fill screens in local movie theaters and on television sets at home—society in which in the nation's capital there were last year more abortions than births.

Do we, as we celebrate the birth of that One Life which has so illuminated the world for nearly two thousand years, any longer hold life to be sacred? This is a question the answer to which should be disturbing to thoughtful and sensitive people.

Many in today's world consider themselves too sophisticated to believe any longer in traditional religion. Christ has little to say to them for they have found other voices to follow . . . Marx or Freud or an Indian guru, or perhaps the nihilists who tell us that all is meaningless and momentary pleasure must be pursued whatever the cost to ourselves or others. Men and women in the once Christian Western world have, in many instances, adopted the new faith of materialism, and worship regularly at its altar. Everything, they tell us, can be explained by economics.

How simplistic such a view is, hardly the "sophisticated" notion of serious students of history. In his important book, The Everlasting Man, G. K. Chesterton says this of the materialist view of man: "The materialist theory of history, that all politics and ethics are the expression of economics, is a very simple fallacy indeed. It consists simply of confusing the necessary conditions of life with the normal preoccupations of life, that are quite a different thing. It is like saying that because a man can only walk about on two legs, therefore he never walks about except to buy shoes and stockings. Cows may be purely economic, in the sense that we cannot see that they do much beyond grazing and seeking better grazing grounds; and that is why a history of cows in twelve volumes would not be very lively reading. . . . But so far from the movements of man being economic, we may say that the story only begins where the motive of the cows and the sheep leaves off. . . . Nero could not hire a hundred Christians to be eaten by lions at a shilling an hour; for men will not be martyred for money. . . ."

Far from being an illusion, religion, Chesterton writes, is quite real—far more real than materialism or the other "isms" which men have devised to explain their own existence: ". . . religion is revelation . . . it is a vision, and a vision received by faith; but it is a vision of reality. The faith consists in a conviction of its reality. That is the difference between a vision and a daydream. And that is the difference between religion and mythology."

Many have turned away from faith in recent years because of the corruption of established religious institutions. How many churches have found it all too easy to cooperate and do business with the Nazis and the Communists? At the very moment, how many institutions which call themselves Christian turn their backs on the evil to be found—in Cambodia, in Laos, in the Soviet Union, in Communist China—sadly, the list is a long one.

Yet it is not those "churches" which represent the Christian faith. In many cases, it is the men who rebel against them. One such man was the Lutheran pastor, Dietrich Bonhoeffer, hanged for high treason by the Nazis. In prison, Bonhoeffer saw the difference between faith and religiosity. In a letter he wrote: "I shall not come out of here a homo religiosus! On the contrary, my fear and distrust of 'religiosity' have become greater than ever here. The fact that the Israelites never uttered the name of God always makes me think, and I can understand it better as I go on."

Asked by a fellow inmate in the Nazi prison how he could remain religious in the face of the barbarism at large in the world, Bonhoeffer responded: "I don't think much of religion either. Faith is what counts. Religion is man reaching for God on Sunday. It makes him feel virtuous. Faith is God reaching for man."

Fortunately, on her first Christmas, Alexandra will not be troubled by such questions. How we resolve them, however, will determine the kind of world in which she with grow up and live.

FRANCE—RETREAT FROM RESPONSIBILITY

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. HOLLENBECK. Mr. Speaker, on January 13, 1977, I joined a number of my colleagues in sponsoring a resolution condemning France for the premature release of Abu Daoud, the accused mastermind of the Munich Olympic massacre. I know that citizens worldwide share my disgust over France's obvious disregard for the European antiterrorist treaty. They demonstrated nothing more than an act of cowardice.

In this regard, I would like to recommend to my colleagues an editorial which appeared in a Bergan County newspaper, the Record, on Wednesday, January 12, 1977.

IN FRANCE, A FLINCH

The arrest and quick release by French authorities of Palestinian terrorist Abu Daoud is an act of cowardice. In giving in to Arab demands that this suspected mastermind of the Munich Olympic massacre be set free even before being tried, the French are guilty of "appeasement" in its most obvious and dangerous form: Hoping to spare themselves future trouble, they have turned their backs on crimes that have already been committed against others. What could be more classic—the police catch their man but the politicians, fearing the consequences, let him go.

The insult to justice is even sharper in that the French had been talking a good anti-terrorist game. Following last summers' Air France hijacking—the one that ended in the Israeli raid on Entebbe airport—the French government took an active role in writing an anti-terrorist treaty for the nations of Western Europe. This treaty calls for effective prosecution of suspected terrorists like Abu Daoud. Indeed, the treaty has already been technically approved by the members of Europe's Common Market, although it has yet to be formally ratified. But in the wake of the Abu Daoud incident, it takes an inveterate optimist to believe the treaty will be worth more than the paper it's printed on.

The decision by a special French court to release Daoud is all the more regrettable because the French did not have to bring him to trial themselves. Both the West Germans (who had issued a warrant for his arrest) and the Israelis (who lost 11 athletes at Munich to terrorists) had requested extradition, and the French have long-standing extradition treaties with both countries. But apparently even extradition of this man was considered too risky politically by the French government, which sought his release in court. The judge immediately granted the government's request.

The lesson that will be drawn from the French response is that terrorism and international blackmail can indeed pay off handsomely when the governments involved are weak. The technicalities on which Daoud was released—that the West Germans had not officially requested his extradition and that the Israelis' application was inappropriate—are contrived, particularly so since the court hearing on Daoud's extradition was not even scheduled to begin until next week. If the French had any desire at all to help bring Daoud to justice, he would still be in jail.

But with PLO leaders such as Farouk Kaddoumi saying things like "the Palestinian resistance movement will not tolerate the matter if the French government hands over Abu Daoud to West Germany," the French interest in justice proved to be only minimal. The fact that France gets most of its oil from the radical Arab nations of Iraq, Algeria, and Libya certainly played a role as well.

Another complicating factor that the French faced was that Abu Daoud was not just any old Palestinian terrorist. Because of his success in planning and leading attacks such as the one in Munich, he has reportedly risen to be one of the top officials of the PLO, with some referring to him as the organization's No. 4 man. With the French government dedicated to supporting the PLO and its drive for statehood, it would naturally be an embarrassment for Paris to help convict a PLO leader of mass murder. In this light, the release of Abu Daoud is consistent with France's Mideast policy.

Still, one would hope that governments—even those sympathetic to the Palestinian cause—could see the difference between supporting the Palestinian nationalist movement and supporting the slaughter of innocent men and women. This, in fact, is what the European anti-terrorist treaty was presumably all about—making it clear that political terrorism was going to be treated as common law rather than political crime. In their own way, even staunch anti-Zionists like the Syrians have made this differentiation—they publicly hang Palestinian terrorists—but the French have not.

It appeared for a while that the world was making progress in the battle against international terrorism. The Entebbe airport raid was a military strike against political hijacking, the European anti-terrorist treaty seemed to signify diplomatic movement in the same direction, and even the United Nations has been preparing an anti-hijacking proposal of some merit. The worldwide fear of terrorism—which was leading nations to condone what they knew to be morally wrong—seemed to be on the wane. The Abu Daoud episode, however, is a sad retreat from all this, signifying a grim triumph for bully-boy butchers.

IS THE U.N. ON ITS LAST LEGS?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. CRANE. Mr. Speaker, the time has come for Americans to begin to reconsider carefully their relationship with the United Nations.

Rather than being an institution whose role it is to safeguard the peace and tranquility of the world, the U.N. has become an instrument of political demagogy.

Not long ago, the U.N. passed a resolution condemning Zionism as "racism." Yet, it has said not a word about the slaughter of tens of thousands of men, women and children in Laos, Cambodia, and Vietnam. It remains silent while the Soviet Union persecutes Christians and Jews and denies all citizens even the simple right to leave the country if they wish to do so. It says not a word about the black racism of regimes such as those in Uganda, Mozambique, and Tanzania.

Recently, the United Nations moved even beyond the irresponsibility of its anti-Zionism resolution. The latest outrage is a resolution condemning South Africa, one of the founding members of the U.N., and declaring that the South African Government is "illegitimate" and has "no right to represent the people of South Africa." Goaded on by Third World nations, the U.N. not only condemned Israel and the nations of Western Europe for trade with South Africa but went one step further. It declared the "legitimacy of the struggle of the oppressed people of South Africa and their liberation movements, by all possible means, for the seizure of power by the people."

In an unprecedented act, the majority of the U.N.'s members have now gone on record advocating support for the violent overthrow of the Government of one of its members. The U.S. delegate, the Rev. Robert P. Hupp, quite properly called this language "tantamount to a call for an uprising in South Africa which would in effect be a racial bloodbath." The Washington Post, itself a critic of South Africa's racial policies and a supporter of the U.N., called the U.N. meeting an "orgy of irresponsibility." The New York Times, another critic of South Africa and supporter of the U.N., called the resolution "double faced hypocrisy" and said the anti-South Africa action will serve only to "enfeeble" the U.N.

Many long time supporters of the U.N. are finally coming to see that organization as hardly the hope for peace they initially hoped it would be. In a speech at the Virginia Military Institute, Colgate W. Darden, a former U.S. delegate to the General Assembly and former Governor of Virginia, said that,

> The U.N. has shown with its greatly enlarged membership a marked disposition to impose unreasonable burdens upon the more advanced industrial nations. . . . The structure of the present organization should be reexamined, and if it cannot be revamped . . . it should be abandoned.

During the last session of Congress I introduced legislation which would reduce contributions by the United States to the United Nations to 5.6 percent of the U.N. budget, representing our percentage of population. Last year, that bill had 44 cosponsors. This year it will be reintroduced on February 16 and I hope will be passed by the Congress.

The fact is that the U.N. is now in disrepute throughout the Western World. The United States has long supported the U.N. financially. In figures issued by the U.N. itself it is clearly shown that while the United States pays 24.9 percent of the total budget, 78 nonaligned nations together pay only 4.4 percent and 16 Communist nations pay 25.2 percent. Why should the United States finance a body which is damaging both to Western interests and to the cause of world peace? It is this question which the Congress must address during the current session.

I wish to share with my colleagues an article entitled, "Is the U.N. On Its Last Legs?," as it appeared in the September 27, 1976, issue of U.S. News & World Report and insert it into the RECORD at this time:

IS THE U.N. ON ITS LAST LEGS?

UNITED NATIONS.—Suspicion, enmity, confrontation—and very little hope of solid accomplishments to come.

That was the prevailing mood as delega-

tions gathered here for the September 21 opening of the 31st annual session of the United Nations General Assembly.

Many among the 144 member nations viewed the meeting as a yearly exercise in futility. Some even questioned whether the Assembly may not be on its last legs as a meaningful voice of the international community.

Others seemed to look at the three-month session solely as an opportunity to attack their enemies, to raise old and new demands and to embarrass richer, stronger nations, particularly the U.S., with charges of imperialism, colonialism and militarism.

Tensions and hostility bubbled everywhere beneath the veneer of diplomatic courtesy. Forgotten, in large part, was a goal established in the preamble of the United Nations Charter in 1945: "to practice tolerance and live together with one another as good neighbors."

The greatest source of antagonism in the Assembly stems from a collision of political and economic interests between the "third world"—the less-developed countries of Asia, Africa and Latin America—and the industrialized West. Using its so-called tyranny of the majority, the third world can, and does, ram through Assembly resolutions over objections of more-developed nations.

"Bloc voting," complains an Italian diplomat, "is the worst abomination ever foisted on international life."

Behind this face-off: rapid growth of the U.N. from 51 members three decades ago to 144 members today. Under the one-nation, one-vote formula, the smallest and poorest countries, which pay only a minor share of total U.N. expenses, have the same political punch in the Assembly as the large, wealthy nations, which pick up most of the tab.

Says a Canadian foreign-affairs official: "Whereas the U.N. was once the contrived preserve of a few superpowers, it is now becoming the contrived preserve of a whole bunch of little powers."

Yet the Assembly is not all-powerful, and its recommendations are not binding on the U.N. as a whole. Members can ignore Assembly resolutions, as did the U.S. last year in rejecting an Assembly declaration that equated Israel's Zionism with racism.

Real muscle in the U.N. lies in the 15-member Security Council where the five permanent members—the U.S. Britain, China, France and Russia—hold the power of veto.

Record for the most vetoes cast, 110, belongs to the Soviet Union. Yet most third-world criticism of the Council's veto right has been leveled at the U.S. which waited until March, 1970, to cast the first of 16 negative votes.

Coming under particular fire was Washington's announcent in mid-September that it would veto—for the third time—Communist Vietnam's entry into the U.N. Reason: Hanoi has failed to give a full accounting of American servicemen still missing in the Vietnam War. Faced with the U.S. decision, the Security Council delayed until after the American presidential elections its consideration of Vietnamese membership.

A MADDENING THING

The U.S. Government is very much aware that many Americans hold the U.N. in low esteem. Says one official: "The Assembly debate is a maddening thing for Americans inside and outside the Government."

Why does the United States continue to support the Assembly? The official explains: "We know there are disadvantages in being in the U.N. Many Assembly debates are hard to take. But advantages outweigh the disadvantages.

"For instance, the Assembly has its uses, and peacekeeping is one of them. Without participation in the U.N., we would be in little or no position to work for peace in the Mideast and Cyprus."

Western nations share U.S. annoyance with the Assembly, but also agree that it serves a useful purpose. The magazine's bureau chiefs in key capitals talked with top-level officials, cabled these capsule reports:

WHO PAYS FOR U.N.

Among key operations in 1976—	Total	U.S. pays	16 Communist nations pay	78 nonaligned nations pay
Regular budget	$370 mil	$92.3 mil., or 24.9 percent	$93.3 mil., or 25.2 percent	$16.4 mil., or 4.4 percent.
Development aid (est.)	$459 mil	$100 mil., or 22 percent	$12.5 mil., or 2.7 percent	$15.9 mil., or 3.5 percent.
Food and agriculture	$395 mil	$93.6 mil., or 23.7 percent	$10.7 mil., or 2.7 percent	$32.6 mil., or 8.3 percent.
Mideast force (year ended Oct. 31, 1975)	$80.0 mil	$23.1 mil., or 28.9 percent	$16.6 mil., or 20.8 percent	$0.6 mil., or 0.8 percent.
Palestinian refugees (1975)	$107 mil	$42.1 mil., or 39.3 percent	$25,000, or 0.02 percent	$16.2 mil., or 15.1 percent.
Education and social programs	$77.9 mil	$3.5 mil., or 4.5 percent	$19.6 mil., or 25.2 percent	$3.3 mil., or 4.2 percent.
Children's fund (1975)	$96.3 mil	$17.0 mil., or 17.7 percent	$2.0 mil., or 2.1 percent	$4.8 mil., or 5.0 percent.
Atomic energy	$34.2 mil	$9.5 mil., or 27.8 percent	$7.0 mil., or 20.5 percent	$1.2 mil., or 3.5 percent.

Note: Figures cover assessments and pledges in several cases, rather than funds paid. Food and agriculture funds include world-food-program pledges for 1975. In education and social programs, U.S. is paying only part of its $19,500,000 assessment as protest against United Nations Educational, Scientific and Cultural Organization's actions against Israel.

Source: United Nations.

Paris. France always has had few illusions about the U.N., but it believes the organization has a role to play in easing world unrest.

Rome. Italian officials downgrade the U.N. as a body through which to get things done. Yet they feel it has value as a global sounding board and as a limited instrument for peace.

Tokyo. "Something is better than nothing" is the attitude of the Japanese. Government analysts consider the one-nation, one-vote procedure the primary factor in crippling effective functioning of the U.N.

Ottawa. The U.N. was not designed to eliminate tensions but as a useful tool to reduce them. It's a forum where everyone can speak his piece.

Bonn. The U.N. is of little use in solving real problems. Its greatest value is to serve as a safety valve, to allow grudges to be channeled into bombast.

Moscow. Russia, like the U.S., does not regard the U.N. as an effective instrument of diplomacy. Its real importance to the Kremlin is as a propaganda forum that almost automatically lines up alongside Moscow's "three antis": anti-colonialism, anti-imperialism and anti-racism. The fact that the United States winds up on the losing side of almost every such U.N. argument is a welcome bonus to the leaders in the Kremlin.

American authorities predict that 1976 will be the "Year of Africa" in the Assembly. Resolutions put on the agenda by third-world nations include demands for an end to white-minority rule in Rhodesia, independence for Namibia and scrapping of South Africa's apartheid policy.

Western experts look for another round of heated rhetoric on the Mideast, with third-world delegates pushing for withdrawal of Israel from occupied Arab lands, creation of an independent Palestinian state and possibly even expulsion of Israel from the U.N.

Third-world nations also are expected to get in their licks at the U.S. by calling for a return of the Panama Canal Zone to Panama and withdrawal of American military forces from South Korea and by dragging their heels on U.S. efforts to promote joint action to curb international terrorism.

Friends of terror. European nations generally are in favor of a crackdown on violence, such as denying asylum to airplane hijackers. But some Arab and African nations oppose any antiterrorism measures because they back "people's liberation" movements.

For all the discord between third-world and Western nations over political issues, much of the future conflict in the U.N. is expected to center on demands by developing countries for a bigger slice of the world's wealth and economic power.

These countries, many of them newly independent, extremely poor and backward industrially, want a "new international economic order" to overcome what they denounce as years of domination and exploitation by major powers.

Some third-world proposals already on record call upon richer nations to:

Earmark 0.7 per cent of their annual gross national product to help less fortunate countries.

Delay repayment or write off completely their loans to poor nations.

Tear down trade barriers and give special advantages to raw materials imported from developing nations.

Pay compensation to developing countries whose natural resources have been exhausted.

Despite the toughness of third-world economic and monetary demands, some U.S. officials express cautious optimism about the future.

"For the moment at least," says one American expert, "the industrial countries and third-world nations seem to be trying to work out new arrangements that are acceptable to both sides."

Whether this third-world willingness to co-operate will be reflected in debate at the 31st General Assembly session is another question. To most U.S. officials, the odds are against it.

ONE NATION, ONE VOTE—WHAT IT MEANS IN U.N.

Seychelles

World's newest nation, British-owned islands until this June, now about to join the U.N. . . .

59,000 people.

National Output, $35 million a year.

Seychelles will have one vote in U.N. General Assembly.

United States

World's strongest, richest nation . . .

215 million people.

National Output, $1.7 trillion a year.

U.S. also has one vote in U.N. General Assembly.

U.S., in addition, is one of five nations holding veto power in U.N. Security Council.

JAMES E. GARDNER, ILLINOIS COMMUNITY LEADER VICTIM OF LEUKEMIA

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. MADIGAN. Mr. Speaker, this past week, I was saddened by the untimely death of James Gardner of Bloomington, Ill. Mr. Gardner was a highly respected, young community leader and well acquainted throughout downstate Illinois.

For the better part of 2 years, he had successfully fought a life and death battle with leukemia, and then in a period of low resistance, he was felled by pneumonia.

Jim had been a Jaycee president, elected school board member, and chairman of a Junior College Study Committee.

In addition to his professional work as an architect, for which he had received national recognition, he also found time to be chairman of the Board of Zoning Appeals and active in the renovation of his community's Miller Park Zoo.

The loss of Jim Gardner will be felt by a great many people, and among them will be this Congressman whose first successful campaign was managed by this 39-year-old model of unselfishness.

Mr. Speaker, it must be terribly difficult for Jim's wife and children to understand why they have been robbed of his presence.

Ultimately, they will find comfort in the knowledge that this man has already done more to better his community than many of the rest of us will do in a lifetime.

I would like to make a part of today's RECORD this editorial from the Bloomington Pantagraph of January 14, 1977:

GARDNER LEAVES MARK

Death is rarely welcome. When it comes to the young, its sting is all the more sharp. James E. Gardner died young, the victim of leukemia, a form of cancer. He was 39, a Bloomington architect.

The life which ended was dedicated to more than professional activity and advancement; one can suspect that Mr. Gardner had a good deal more to offer to the community in which he lived. But he gave much in the time he had.

There is no need, perhaps, to recite again here the civic record noted in his obituary. The point of this commentary is to note that, some are givers as well as takers; some find time for community as well as personal comfort. There are both tangible and intangible rewards to the community and to the person when the public and private person are in good balance.

Mr. Gardner was something more than a member of this, a chairman of that and a worker at another thing. He was bright, efficient and dedicated. His was more than a name on a public list to gain credit or publicity. We thought his best effort was one that ended in apparent failure.

The McLean County Area Junior College Feasibility Study Committee, of which he was chairman, turned in an excellent piece of work. The area has no junior college or college district, but Mr. Gardner was not the first to be a little ahead of his time

MEDICARE LONG-TERM CARE ACT OF 1977

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. CONABLE. Mr. Speaker, today I introduced the Medicare Long-Term Care Act of 1977. This proposal will establish a new program of long-term care of the elderly that will provide alternatives to expensive and confining medical care by expanding the options available. By including services as well as institutional medical care in the program, we can offer our elderly citizens who need it a more secure and less worrisome future, less family strain, and less demands on their savings.

The resources of older people can be wiped out by a long stay in a nursing home since neither medicare nor private insurance covers long-term care. The only program that does provide some funds is medicaid—the program of health care for the poor.

In too many cases what we are doing today amounts to incarceration, rather than considerable care, because too great a reliance is put on placing people in institutions when many of them could be cared for better in other surroundings, including their own homes. That is why the emphasis of the bill I have introduced is on care in the home or on an outpatient basis. This proposal calls for a system of community long-term care centers in every area of the country to coordinate and direct long-term care services for the elderly, including homemaker, health, nutrition, and day care, as well as institutional care.

In the past efforts to secure assistance for older Americans have not been successful mainly for three reasons. First, we do not have an effective and rational method of meeting the costs of long-term care services, including institutional care when it is required. Older people with chronic conditions have been left to their own devices because the costs to any public program of institutionalized care are prohibitive. So we have resisted program involvement and we have developed a defeatist attitude toward one of society's most vexing problems.

Second, a great majority of our communities do not have available the types of services which are better alternatives to institutionalization.

And third, in most communities, no single person or agency, public or private, takes full responsibility for helping older people and their families meet their needs as health and family status changes.

I have deliberately constructed the bill to deal directly with these problems. My bill is modeled on the medicare program and would meet the first problem by establishing a new program under medicare which would provide protection against the costs of long-term care, both institutional and noninstitutional, without concern about drawing an arbitrary and unnecessary line between health care services and nonhealth care services.

The bill would meet the second problem, the lack of adequate community services, in several ways. First, the benefits covered by the bill would include services which can be alternatives to institutionalization. Provision of these services can help people in their own homes or other family settings. Second, the bill would require that placement in an institution could occur only after all other avenues have been explored. And third, even when placement in a nursing home has been designated as the only possible alternative the patient will have a continuing opportunity to move out of the home or improve his situation in the home.

And finally, my bill would meet the third problem by creating for every community a long-term care center which would act as the coordinator and paying agency for long-term care services. Whenever a question arose in a family about what to do about a change in health or family situation, the center would be responsible for helping find the best answer and for providing the needed services, after careful consultation with the individual and his or her family.

The bill contains certain other features I would like to highlight.

While the program would be national in application, just like medicare now, the administration of the program would be decentralized and involve, on a local basis, the people who are to be served by the program. Specifically, a new State agency would be established which would divide up the State geographically, assure the establishment of a community long-term care center in each area, approve such centers for participation in the program, and pay the centers for services furnished.

The community long-term care center would be required to have a governing board with at least half of its members from among persons who are eligible for benefits. In addition, one-quarter of the board would be elected by eligible people in the area and one-quarter appointed by officials or local government.

The program would be financed by a $3 premium paid by those aged who choose to enroll in the program, by a contribution from States of 10 percent of program costs with the balance from Federal general revenues. My bill would increase by $3 the amount of SSI benefits to everyone receiving them so the program will represent no additional cost to these individuals.

No estimates of the cost of the bill have been made, largely because making estimates in this area is very difficult. However, the States and the Federal Government now pay more than $4 billion a year for nursing home care under the medicaid program. Medicare pays an additional several hundred million dollars for extended care services. Numerous studies have shown that large numbers of older people now in nursing homes do not need to be there, particu-

larly if realistic alternatives are available. Thus, I think it is fair to conclude that under my bill the costs of institutional care would be held in check.

But regardless of how the costs might turn out, the important point is that we need to rationalize the system of providing long-term care and I believe my bill has the potential to do that with possibly no increase in overall costs.

An outline of the bill is attached. I urge Members, people with special interest in the aging, and the general public to study the bill carefully. I have introduced this bill so that this subject will get the attention it deserves in a rapidly aging society. I am hopeful that hearings can be held on the bill so that it can be fully explored.

The information follows:

MEDICARE LONG-TERM CARE ACT OF 1977, INTRODUCED BY THE HONORABLE BARBER B. CONABLE, JR.

1. Brief Description: Amends the Medicare program by adding a new voluntary Part D to Title 18 of the Social Security Act which would:

Establish a comprehensive program of long-term care services available to those who enroll under the program;

Provide for the creation of community long-term care centers in all areas of the nation and State long-term care agencies as part of a new administrative structure for the organization and delivery of long-term care services; and

Provide a significant role for people eligible for long-term care benefits in the administration of the program.

2. Eligibility: Anyone who is (1) eligible for hospital insurance under Part A of Medicare (aged or disabled), or (2) is age 65 and a resident, or (3) is eligible for supplemental security income (SSI) benefits is eligible to enroll under the new program if he has also enrolled under the Part B medical insurance part of Medicare. Enrollment procedures are similar to those which now apply to the Part B program.

Premiums of $3 a month would be collected just as Part B premiums are now collected.

3. Financing: A Federal Long-Term Care Trust Fund would be established to handle the financial operations of the program.

The Trust Fund would receive its monies from the $3 premiums of those who enroll, 10% from the States and the balance from Federal general revenues.

4. Functions of Community Long-Term Centers: Provide directly or through arrangements covered items and services to each individual residing in the area who is eligible;

Provide evaluation and certify the long-term needs of individuals through a team approach involving the individual and his family;

Maintain a continuous relationship with individuals receiving any items or services; and

Provide an organized system for making its existence and location (which must be accessible in the community) known to the individuals in the service area.

In carrying out the above a community long-term care center shall not certify the need for inpatient institutional services for an individual unless a determination has been made that the needs of such individual cannot be met through covered types of care or other community resources.

5. State Long-Term Care Agency: Each State must establish an agency—either a separate agency, or major division of the health department—which will:

Designate service areas in the State;

Certify the conditions of participation for a community long-term care center;

Promote and assist in the organization of new community long-term care centers in areas where they do not exist; and make payments to and monitor the activities of all long-term care centers in the State; and

Provide local government offices where a nonprofit agency does not exist.

6. Conditions of Participation for Community Long-Term Care Centers: Community Long-Term Care Centers must:

Have policies, established by a group of professional personnel and approved by the governing board:

Maintain medical and other records on all beneficiaries;

Have an overall plan and budget;

Meet other conditions the Secretary may prescribe; and

Be either a public or non-profit organization.

The governing board of a community long-term care center must be composed as follows: one-half of people covered under the program who reside in its service area; at least one-quarter have been elected by the people covered under the program; and at least one-quarter appointed by locally elected government officials.

Members can serve only two terms and full membership must change at least every six years.

7. Detailed Definitions of Covered Services:

a. Nutrition Services.

Limited to meals on wheels and similar programs and services provided in the place of residences of such individual by a nutritionist.

b. Homemaker Services.

Services provided in the home designed to maintain the individual in his home.

Preparing and serving meals in the home of an individual.

c. Institutional Services.

Extended care benefits in a skilled nursing facility (same as social security definition).

Intermediate care services.

Institutional day care services.

d. Home Health Services. (Same as under present Medicare program.)

e. Day Care and Foster Home Care Services.

Care provided on a regular daily basis in a place other than the individual's home; and

Placement of individual on a full-time basis in a family setting.

f. Community Mental Health Center Outpatient Services.

8. Payment Method for Community Long-Term Care Centers:

Secretary will develop prospective payment methods after consultation with states and other interested parties, and States will follow them in paying the community long-term care centers.

9. Miscellaneous Provisions:

If an individual stays in a nursing home for more than 6 months, beginning with the 7th month his social security cash benefits are reduced by ⅔ (in recognition of such a person's reduced living costs) and the ⅔ is deposited in the long term care trust fund. As soon as the recipient leaves the nursing home, full benefits are restored immediately.

The bill would increase SSI benefits by $3 a month so that the premium payment could be met without a reduction in cash income.

10. Effective date:

Benefits would first become payable on July 1, 1979, thus allowing sufficient time for the organization of the new system.

MISREPRESENTATION BY OSHA

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. HANSEN. Mr. Speaker, it was recently brought to my attention that misleading statements concerning recent major Federal court decisions against OSHA have appeared in the CONGRESSIONAL RECORD and in official letters and releases from the U.S. Department of Labor. This is most dangerous and cannot be left unchallenged because of the effect it may have on those citizens seeking the truth to guide their actions in the conduct of their business relationships with the Government.

To illustrate a specific example I insert at this point in the RECORD a letter from OSHA Administrator Morton Corn addressed to all Members of Congress and dated January 12, 1977. I direct your attention to the second to the last paragraph:

DEAR MEMBER: As you may know, a three-judge Federal district court in Boise, Idaho recently raised questions regarding the Labor Department's authority to continue inspecting workplaces under the Occupational Safety and Health Act of 1970. The district court concluded that OSHA's power to inspect job sites without a warrant violates the Fourth Amendment's prohibition against "unreasonable" searches and seizures. The district court did not "repeal" the Act or declare it "null and void", and its order appears to have no legal effect beyond Idaho. But the uncertainty surrounding this case must be quickly dispelled to assure that more than 60 million American workers are protected from hazards and the Nation's employers have no doubt of their obligations under the Act. I am, therefore, providing you the information needed to place this event in context.

First and most importantly, the Department is appealing this decision to the Supreme Court and has asked for a suspension of the district court's order until the high court speaks. Pending the Supreme Court's answer we have halted OSHA inspections in Idaho. But inspections are continuing as usual in all other areas of the country, to discover and correct routine safety and health violations as well as investigate job-related fatalities, respond to worker complaints, and ensure compliance with past orders to abate hazards threatening employees.

Secondly, the district court's decision must be viewed in light of past determinations that warrantless civil inspections are necessary and proper under numerous Federal statutes. When Congress passed OSHA it described the Act as "the most important piece of legislation affecting American workers to be considered by Congress in many years." It also noted that "Each year over 14,000 Americans are killed at work, more than 2,000,000 suffer disabling injuries, and uncounted thousands fall victims to occupational disease.

There is no dispute that a strong Federal occupational health and safety program is necessary if we are to achieve a real diminution in this industrial carnage." And Congress backed up these words with actions, for it banned advance warnings of inspections because they had destroyed enforcement of previous safety statutes, stating that unannounced civil inspections were essential to this Act. Thus OSHA's inspection authority was not granted lightly, and should not lightly be regarded by the high Court.

In view of these facts, the effect of the Idaho decision is potentially ominous. If it is permitted to stand, OSHA could conduct no inspections with or without a warrant, either to discover violations, determine whether employers have obeyed past court orders, respond to imminent dangers and worker complaints, or investigate accidents, even those claiming hundreds of lives. And the decision's implications are equally ominous. If OSHA is required to obtain search warrants before inspecting work establish-

ments, its ability to ensure compliance with health and safety standards would be severely curtailed, since many civil warrants could not be obtained and most procedures to obtain them would give employers advance warning.

Experience has confirmed this belief, for over 70% of OSHA's routine, random inspections—those made without any accident or employee complaint—revealed occupational hazards which were significant enough to be ordered corrected, and which might be easily concealed if a plant manager knew an inspector was about to arrive. The resultant inspections would be virtually meaningless. For these reasons one court of appeals has recently overturned a similar district court ruling, concluding that "prompt, unannounced inspections without delay" are crucial to "prevent subversion of the program and encourage consistent compliance."

The Idaho court decision presents a direct threat to the health and safety of America's working men and women. It challenges the expectations expressed by Congress when it passed the Act. OSHA will do everything within its legal authority to continue safeguarding employees while seeking an authoritative resolution of this issue.

Sincerely,

MORTON CORN,
Assistant Secretary of Labor.

Upon receipt of the above letter from Dr. Corn on January 14, I was joined by my colleague from Idaho's First District, the Honorable STEVEN SYMMS, in a joint letter to OSHA Administrator with copies to the Secretary of Labor and the U.S. Attorney General the blatant misrepresentations of the agency specifically those regarding legal action as found in the second to the last paragraph. I submit the contents of this letter of protest for the RECORD and the benefit of my colleagues and all interested citizens:

JANUARY 14, 1977.

Hon. MORTON CORN,
Assistant Secretary of Labor, Department of Labor, Washington, D.C.

DEAR MR. SECRETARY: Having received your letter of January 12, 1977, generally addressed to the Members of Congress regarding your assessment of the *Barlow* v. *Usery* judgment declaring OSHA inspections unconstitutional, we, the Idaho delegation in the U.S. House of Representatives, do take strong issue to certain points and demand an immediate retraction and clarification to all recipients of your original letter.

Specifically, we refer to the statement contained in the second to the last paragraph of the letter: "For these reasons one court of appeals has recently overturned a *similar* district court ruling, concluding that 'prompt, unannounced inspections without delay' are crucial to 'prevent subversion of the program and encourage consistent compliance.'" [emphasis added] Conversations with your staff and investigations into Circuit Court of Appeals' decisions indicate the case referred to is *Usery* v. *Godfrey Brake & Supply Service.*

This case is not applicable to the present cases and the statement in your letter is misquoted, making it appear to be deliberately misleading. In Footnote number 1 in the *Godfrey* decision, the circuit court plainly states: "In the context of this case, the court will not meet the fourth amendment issue." The issue in the *Godfrey* case was one of delay, not a constitutional question. This clearly sets it apart from the *Barlow* decision.

Furthermore, Section II of the Idaho court's summary judgment states: "The Secretary of Labor of the United States of America, and all other defendants and their successors in office, and all other persons acting by, through or under them, are hereby forever and permanently restrained and enjoined from acting or attempting to act pursuant to or in furtherance of Section 8(a) of OSHA (29 U.S.C. 657(a))." This appears to us to be an injunction against the Secretary of Labor, *wherever he may be,* and not simply in the Idaho district. Further inspections of a non-uniform nature violate the equal protection of the laws guaranteed by the Constitution. It is entirely possible that the Secretary of Labor could even be cited for contempt of court if he persists in these unconstitutional inspections.

Your prompt attention to these issues will be greatly appreciated.

Sincerely,

GEORGE HANSEN,
STEVE SYMMS.

Mr. Speaker, to recap the situation as it currently exists, I submit the following January 15, 1977, newspaper article from the Idaho Statesman:

OSHA LETTER WARNS USERY OF CONTEMPT

(By Charles Etlinger)

Idaho's two congressmen said Friday the secretary of Labor could be cited for contempt of court if OSHA continues making "unconstitutional" safety inspections.

A federal court order in Boise appears to enjoin the secretary from inspections by the Occupational Safety & Health Administration "wherever he may be, and not simply in the Idaho district," Republican Reps. George Hansen and Steve Symms said in a letter to the agency.

In a suit brought by Pocatello businessman Bill Barlow, a three-judge panel on Dec. 30 declared unconstitutional a section of the Occupational Safety & Health Act authorizing the inspections.

The panel last Monday refused to stay its inspection ban during the government's appeal of the decision. As a result of the decision, the agency temporarily has suspended all inspection of Idaho businesses.

But OSHA Administrator Morton Corn, who resigned Thursday, has notified Congress the inspections will continue as usual elsewhere.

The Idaho congressmen said in their letter to Corn that another federal court decision, on which the continuation of inspections was based, is not applicable to the Barlow decision.

The Barlow ruling found the OSHA inspection law violated due-process guarantees, but the other opinion did not take up those Fourth Amendment issues, the congressmen said.

Ben Mintz, associate Labor Department solicitor, said the government plans to file with the U.S. Supreme Court next week a temporary request to permit inspections in Idaho while the decision is appealed.

The OSHA solicitor declined to comment on the scope of the panel's ruling.

But he termed the Barlow decision "a serious threat to the OSHA program (nationally), and for this reason, we are taking it up very quickly."

The three-judge panel, Circuit Judges Oliver Koelsch and J. Blaine Anderson and District Judge Ray McNichols, ruled the section on inspections null and void.

The section authorizes the agency to "enter without delay and at reasonable times, any factory, plant, establishment . . . or environment where work is performed by an employe for an employer."

Barlow had refused to allow an OSHA inspector to check his 35-employe heating, plumbing and electrical business without a warrant. He filed the suit after the government got a court order for an inspection.

Mintz and Boise attorney John Runft, who represents Barlow, declined to discuss plans for the appeals.

CORN WRITERS STALK THE PRESIDENT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. DERWINSKI. Mr. Speaker, Orv Lifka is a veteran journalist who approaches the Washington scene without any awe. In his article of January 12, which appeared in the Suburban Life Citizen, serving Cook County, Ill., he comments on the little problems that have beset President-elect Carter and other Chief Executives in their capacity as protected public officials.

The article follows:

CORN WRITERS STALK THE PRESIDENT

(By Orv Lifka)

Stonewall Jackson may not have turned over in his grave, but he probably shook the monument a little when President-elect Carter tried to out-maneuver a press army last week in Georgia.

Carter wanted to pay a quiet visit to his hospitalized mother, and the news corps isn't known for silence in any form. Using two carloads of Secret Service men and other allies as decoys, he sent them to the Plains airport, which he likes to use even though the sparrows had to land there single file.

The chase was taken up wholeheartedly by newsmen, especially those who had been losing in the penny matching games. Although hundreds of miles from New York, all they got for their efforts was a Bronx cheer.

In the meantime the President-to-be, grinning like a Chessie cat with new choppers over his strategy, headed for the hospital. But on arrival he was ambushed by other reporters who had camped there in the belief that he'd show up sooner or later. It was a bitter pill to swallow.

Like the bear that stole the honey, Carter must put up with the bees. For the next four years or more he will be shadowed by swarms of news personnel, many of whom would be better employed if they wrote photo captions for kindergarten yearbooks.

Presidents are always in the public eye even if some of them have been as welcome as a cinder. Newspapers, magazines and the broadcast media believe they must follow them like the oracles followed the ravens.

Unfortunately, this results in having every caw and ruffled feather reported.

Even newsmen get restless over being paid for doing nothing, although they do it extremely well. Those who cover the President when he's not cajoling Congress or whacking people with his seal of office finally conclude they'd better write something about him if only to mention that he's begun to wear his Christmas ties.

Media bosses encourage this costly pursuant because they think people are interested in such trivia and it keeps the more obnoxious reporters out of the office. Such stories do make better reading than household bills, insurance policies or gas meters, but not much more.

When President Ford got his legs tangled in his dog's leash it made the front pages throughout the country, but our dog used to trip me regularly in the alley and nobody ever mentioned it. Once a neighbor helped me up; I was in the way of his car.

Other celebrities are bird-dogged by news hounds, but not like the President. He must realize that the White House is a glass house and he's in the same class with Valeda, the Hinsdale health museum's transparent lady.

The President also must put up with a

brigade of Secret Service agents who know that he was elected but they are anointed. Even when far from water a Secret Service agent will brook no nonsense. In return for a badge he has surrendered his ability to smile.

To him everyone is a potential assassin or, worse still, a threat to his newly shined shoes. When a Secret Service man arrives nome and lifts the lids on the cook pots he's not interested in what's for dinner; he's looking for bombs.

President-elect Carter goes bareheaded because he got tired of them looking under his hat for the same reason.

He's not thinking about quitting office, but he must resign himself to being shadowed by people as hard to shake as a die-hard Republican's belief that the wrong man was elected.

HISTORIC ADDRESS PAYS TRIBUTE TO OLD STATE HOUSE IN BOSTON

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. MOAKLEY. Mr. Speaker, I would like to present to my colleagues in the Congress, the text of an address recently delivered by Mr. Justice Paul C. Reardon on the occasion of the induction of 34 new attorneys into the Massachusetts Supreme Judicial Court Bar.

I believe that Justice Reardon's address will be of interest in view of the fact that it was delivered at the Old State House in Boston. The Old State House was used by the Supreme Judicial Court in 1776 for the trials of the British soldiers involved in the Boston Massacre and defended by John Adams. In 1876, the Old State House was utilized by the Supreme Judicial Court while the New Court House was being constructed.

I wish to thank the Honorable John E. Powers, Clerk of the Supreme Judicial Court, for making the text of this address available to me:

ADDRESS BY HON. PAUL C. REARDON

Ladies and Gentlemen of the Massachusetts Bar: The Supreme Judicial Court returns today at the close of the Bicentennial Year to the scene of some of its greatest contributions to liberty and law. You who have been chosen from each of the counties of the Commonwealth, and each of its schools of law, thus join with the Court in a ceremony which is at once unique and memorable. You have just taken the ancient lawyer's oath administered to new attorneys throughout nearly all the years of the Province of Massachusetts Bay and the Commonwealth of Massachusetts. It was ordered that this be administered to you by vote of the executive branch and the General Court assembled on this site on June 20, 1701. We may choose to overlook the fact that in a separate section of that act the General Court seemed to mirror the statement of Samuel Eliot Morison about our early days when he remarked that "law was a low business in New England," for the act provided that "the fee to be allowed for an attourney in the superior court of judicature shall be twelve shillings, and in the inferiour court of common pleas ten shillings, and no more; and but one attourney to be paid for in any case." But however lawyers in those days may have been regarded, there is no question of the regard in which the law itself was held. Nor is there question that the rights now employed by all Americans were developed in large measure on this site. For today we return to most historic surroundings. In the old town house which preceded this building the General Court on May 19, 1658 ordered "that sufficient rooms in the said house shall be forever free for the keeping of all courts."

When the King's commissioners eight years later announced their intention to sit in Boston as a Court of Appeals from the General Court, as their authority from the King authorized them to do, the colonists here proclaimed by sound of trumpet "that the General Court was the supreamest judicatory in all that Province, and that the commissioners, pretending to hear appeals, was a breach of their privileges." At this location, and in the old town house which burned in 1711, the long contest between the Colony and the Crown began. It is not beyond truth to state that the American Revolution had its seminal beginnings here when Massachusetts, much alone, firmly faced the commissioners of Charles II and bravely stood for the right to govern itself under its charter.

The court, to the bar of which this afternoon sees you admitted, was born 284 years ago when on the twenty-fifth day of November, 1692 there was created under authority of the Province charter granted by William and Mary in 1691, the Superior Court of Judicature of which the Supreme Judicial Court is the direct descendant. It was provided that the court comprise one Chief Justice and four other Justices. This court can therefore lay just claim to being the oldest court in America in continuous existence. To those of you who now join us at the Bar and who have struggled in study to reach this day, it will come as no particular comfort to learn that of the thirty-three Justices, members of the high Provincial Court down to the Revolution, only four were trained in the law.

The early court was not unaccustomed to hardships and to reversal. In 1695 a statute discontinued its sessions in certain outlying counties "[f]orasmuch as it is hazardous for the justices of the superior court of judicature to ride the eastern and western circuits, by reason of the Indians lying sculking about the woods, and draws a great charge to the publick for a guard to attend them for their safe passing." And then in 1710 the General Court, sitting here in the last year of the town house, passed an act annulling all the convictions of witches which had occurred some twenty years before and making grants to the heirs of those who had been executed in acknowledgment of their pecuniary losses.

The building where we meet was built in 1713. The room to which the court returns today has surpassing importance in American history for the hearing on the Petition of Lechmere on February 24, 1761, over 215 years ago. In this room and on that day James Otis in unforgettable argument against the Writs of Assistance illumined the issue which eventually touched off the American Revolution.

By virtue of a series of acts of the British Parliament, the King's officers had commenced to employ general search warrants not limited as to scope and time. The argument of Otis was a constitutional one. He directed himself to basic questions dealing with the outer limits of legislative power and, beyond that, to the power of the judiciary to enforce those limits. As a young lawyer John Adams sat in this room and noted the argument in which Otis attacked the writs as universal, perpetual, without limit, and enforceable not only by deputies but by "their menial servants." In a letter to William Tudor written in 1817, Adams harked back to the scene where as a spectator he had sat fifty-six years before. With parochial pride he described the chamber in which we meet "as respectable an apartment as the House of Commons or the House of Lords in Great Britain, in proportion, or that in the State House in Philadelphia, in which the Declaration of Independence was signed in 1776. In this chamber, round a great fire, were seated five judges, with Lieutenant-Governor Hutchinson at their head as Chief Justice, all arrayed in their new fresh, rich robes of scarlet English broadcloth; in their large cambric bands and immense judicial wigs. In this chamber were seated at a long table all the barristers-at-law of Boston and of the neighboring county of Middlesex, in gowns, bands, and tie wigs. They were not seated on ivory chairs, but their dress was more solemn and more pompous than that of the Roman Senate, when the Gauls broke in upon them." Adams went on to describe the splendor of the portraits of King Charles II and King James II looking down upon the argument. "These," he said, "were as fine pictures as I ever saw." He then depicted Otis as he remembered him after nearly sixty years: "But Otis was a flame of fire. With a promptitude of classical allusions, a depth of research, a rapid summary of historical events and dates, a profusion of legal authorities, a prophetic glance of his eye into futurity, and a torrent of impetuous eloquence, he hurried away everything before him. American independence was then and there born; the seeds of patriots and heroes were then and there sown, to defend the virorous youth, the non sine Diis animosus infans. Every man of a crowded audience appeared to me to go away, as I did, ready to take arms against writs of assistance. Then and there was the first scene of the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born. In fifteen years he grew up to manhood, declared himself free."

Behind us in the street below, on March 5, 1770, occurred the Boston Massacre which again produced a tense and important hearing in this room, for on October 10 of the same year Captain Preston, who had given the order to fire, was brought to trial with six of the soldiers he had commanded, and before the second Benjamin Lynde, then Chief Justice, was defended by John Adams and Josiah Quincy, both patriots who did not shirk an unpopular work which took an enormous degree of courage and high sense of professional duty, qualities which those of us at the bar and who are today admitted would do well to keep in mind. At an American Bar Association meeting in Boston in 1919, Lord Finley referred to this case as illustrating "most singularly the fairness with which under the most trying circumstances justice is administered by the English-speaking race."

And so the years of the Provincial Court came to an end, the last Chief Justice under the provincial government being Peter Oliver who, living in Middleborough, customarily made his trip to and from the Court in Boston in a coach and four, with his coat of arms emblazoned on the door panels, with outriders and a postilion. After the provincial judges vacated their offices in 1775, great care was taken in the selection of the men in the reorganization of the court and the first Chief Justice appointed was John Adams, who proceeded to larger national duties and never took his seat. William Cushing, who had been a member of the Superior Court of Judicature and the only judge not a sympathizer with Britain, succeeded Adams as Chief Justice and is the individual who bridges our history from the provincial to the Commonwealth court. Those were haz-

ardous days for judges, and it was stated "that the office, if one of honor, was not unattended with danger to the incumbent, and it was well said that at that time the judges sat with halters around their necks."

We adopted our Constitution in 1780, some eight years before the Federal Constitution, and it now stands as the oldest working, written Constitution in the world. It is from these early days that the legal history of Massachusetts and, indeed, much of that of the United States as sprung. It is from these early Massachusetts judges and lawyers that have emerged so many of the constitutional concepts which we are prone to take for granted and which the courts ultimately alone preserve. From our court have gone to the Supreme Court of the United States such men as William Cushing, who served among the first judges on that court, whom President Washington appointed Chief Justice, and who declined for personal reasons; Horace Gray; and Oliver Wendell Holmes, who served as our Chief Justice until his long service in Washington on the Supreme Court of the United States beginning in 1902. Other Massachusetts legal luminaries, such as Story, Curtis, Moody, Brandeis and Frankfurter, we have also given to the Supreme Court of the United States. The long list of Massachusetts lawyers reaching back to John Read in the early eighteenth century includes the names of such individuals as Rufus Choate and Daniel Webster. It is to their bar that you before me have been called today. It is this building and this room which tend to give tremendous significance to this brief ceremony. We have gathered not only to induct you but to mark the close of that year which commemorates events which had their beginnings here. I represent here today a living court which welcomes you but I am certain that those who have gone before in your profession now long dead would wish me to remind you of the traditions and motives and love of the law which have animated Massachusetts lawyers from the earliest days. In taking these oaths you have subscribed to them. To you belongs the responsibility of insuring that they survive.

COMMONWEALTH OF MASSACHUSETTS,
SUPREME JUDICIAL COURT,
Boston, January 11, 1977.

Hon. JOSEPH MOAKLEY,
Congressman, Washington, D.C.

DEAR CONGRESSMAN: The enclosed speech by Mr. Justice Paul C. Reardon was delivered at the Old State House in Boston on December 29, 1976. It is one of the most cherished presentations ever made by a member of the Massachusetts Supreme Judicial Court in session.

The Old State House was used by the Supreme Judicial Court in 1776 for the trials of the British soldiers involved in the Boston Massacre and defended by John Adams. In 1876, the Old State House was utilized by the Supreme Judicial Court while the New Court House was being constructed, so, in order to continue the judicial history at the close of the Bicentennial, the Supreme Judicial Court used the Old State House last week. It was the last duty Mr. Justice Reardon performed as a member of this Court, as he resigned the last day of December. He will be taking his new duties as head of the State Courts at Williamsburg, West Virginia.

Thirty-four new attorneys were selected and it was during this induction that the presentation was made. It is a historic address and full of the history, as Boston played the part. I believe that it will be a cherished historical address worthy of inclusion in the Congressional Record.

Regards and best wishes,

Very truly yours,

JOHN E. POWERS,
Clerk, Supreme Judicial Court.

PRAYING FOR THE PRESIDENT OF THE UNITED STATES

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. CARTER. Mr. Speaker, on January 12 we were privileged to hear Gerald R. Ford, for the final time as 38th President of the United States, deliver his assessment of the state of the Union. Under his stewardship, as he reported, the state of the Union is good. In no small part the improvements that he chronicled have been the direct result of the decency and integrity that he restored to the highest office in our land, and to the measures that he initiated, particularly toward cutting the rate of inflation which has plagued our people.

When Gerald Ford was sworn into office on August 9, 1974, he asked for the prayers of the people. When he spoke as our President on January 12, he gave us his own prayer: "May God guide this wonderful country, its people, and those they have chosen to lead them. May our third century be illuminated by liberty and blessed with brotherhood, so that we and all who come after us may be the humble servants of thy peace."

Mr. Speaker, as President Ford returns to private life, and as Jimmy Carter takes office, it is perhaps especially fitting that we pause for a moment to consider a prayer litany authored by Dr. Thomas A. Carruth.

Dr. Carruth is on the faculty of the Asbury Theological Seminary in Wilmore, Ky., in the Fifth Congressional District which I represent. Dr. Carruth's litany calls for praying together for the President of the United States, and I am proud to offer this prayer so that we all might share in it:

A LITANY FOR PRAYING TOGETHER FOR THE PRESIDENT OF THE UNITED STATES OF AMERICA

SECTION I

The leader: Lord, have mercy upon us and incline our hearts to pray for the President.

The congregation: Our Father, we first offer ourselves to Thee, for cleansing, for renewal, for confession and rededication. Make us worthy instruments through which Thy grace and wisdom can flow to the President. Help us to offer ourselves to the President in sincere, loving service. Help us to know that he needs the sincere help of all of us to succeed in his great task.

The leader: Lord, have mercy upon us and incline our hearts to pray for the President.

The congregation: Our Father, help us to accept and recognize Thy will for the President and not try to impose our will on him through Thee. Save us from trying to play God. Let him know, and each of us know, how much we need Thy wisdom and guidance.

The leader: Lord, have mercy upon us and incline our hearts to pray for the President.

The congregation: Our Father, help each one of us to become a daily prayer partner with the President in his search for God's guidance and God's power in carrying out his task. Help us to know how important every single prayer person is in this total prayer task. May we never forget that his success is our success and his failure, our failure.

The leader: Lord, have mercy upon us and incline our hearts to pray for the President.

The congregation: Our Father, give us the kind of faith that can be honored by Thee. We want a faith that is based upon Thy Word. We pray that our faith can be relevant to the task the President faces. Help us not only to believe that God can help the President, but that God is now helping and will continue to help the President.

The leader: Lord have mercy upon us and incline our hearts to pray for the President.

The congregation: Our Father, we surrender our opinions to Thee. We want your opinions and Your will to dominate and saturate our thinking. Forgive us for being hardheaded and unyielding when we have wanted the President to do things our way. Help us to become so completely free from self-domination and pride that we can become humble, clear channels through which Thy will can be made known to the President.

The leader: Lord, have mercy upon us and incline our hearts to pray for the President.

The congregation: Our Father, save us from pious, sentimental affirmations about the President, and help each one of us to do our part to overcome such hatred by our love for Thee, for all people, and our love for the President.

The leader: Lord, have mercy upon us and incline our hearts to pray for the President.

The congregation: Help us, our Father, to put our whole selves in the prayer for the President. Just as our men offer themselves in military service of our country, may we offer ourselves in prayer service to our God for our President. Save us from secret reservations of resentment, pride, or political prejudices. May we be wholehearted and happy and effective in our prayers for the President.

The leader: Lord, have mercy upon us and incline our hearts to pray for the President.

The congregation: Our Father, help us to know how to commit the whole President to Thee in sincere prayer. We pray for his family as they sacrifice so much that he may give himself to others. We pray that he may take time to practice those intimate kindnesses and courtesies that mean so much to those who love him most. We pray for him in every dimension and relation of life that he may be the whole person you want him to be.

SECTION II

The leader: Lord, have mercy upon us and incline our hearts to pray for the President.

The congregation: Our Father, we realize that the use of time is a most significant factor in the life of the busy President. We thank Thee for his efficiency in getting so many things done so well with so many people. We thank Thee for his dedication of every hour and every day in the fulfillment of his task in leading our nation and helping to bring peace in the world. Guide the President moment by moment, hour by hour, day by day, that he may do the greatest good for the greatest number in the days he has ahead as our President. We make our prayer to the God of time and eternity, who giveth us the days in which we live, and who calleth us home when the day of life is over.

The leader: Lord, have mercy upon us and incline our hearts to pray for the President.

The congregation: Our Father, help us to know that we have no gift as a people or a nation that could make our prayers worthy as we pray for the President. We come to Thee in the name of God Almighty, in the spirit of Jesus Christ, and in the power of the Holy Spirit, asking for Thy help, Thy guidance, and Thy power for the President. Save

him from his friends who would flatter him and frustrate him. Give him that inner quietness that belongs to those who live close to God and find real life.

The leader: Lord, have mercy upon us and incline our hearts to pray for the President.

The congregation: Our Father, help us to follow the example of Jesus, who came not to condemn people but to love them and save them. Save our President from all those who condemn him in public and in private. Give him the patience to turn the other cheek and not to return evil for evil. Save our nation from the divisions that come because we condemn each other and our leaders. Help us to know that the way of condemnation is suicide. Help us to love, praise, and pray for our President.

The leader: Lord, have mercy upon us and incline our hearts to pray for the President.

The congregation: Our Father, give us grateful hearts for every good thing our President has done. We thank Thee for all his good thoughts, all his good works, all his good plans, and all his good deeds. We thank Thee for all the good he has done for the Negro race and for all races. We thank Thee for his endeavors to help the poor. We thank Thee for his efforts to improve wages and working conditions for so many people. We pray that all his good works shall be sustained and blessed of Thee.

The leader: Lord, have mercy upon us and incline our hearts to pray for the President.

The congregation: Our Father, we praise Thee for the moral courage of the President to stand for what he believes to be right, regardless of what people think or say. We praise Thee for the foresight of our President who sees the danger of communism around the world. We praise Thee for strength, wisdom, and poise that has enabled the President to stand the strain and go forward in his great program.

The leader: Lord, have mercy upon us and incline our hearts to pray for the President.

The congregation: Our Father, help us to become more Christlike as we pray for the President. Save us from prejudice, pride, faultfinding, and fatalism as we pray. O'Lord, raise up in our nation an army of Christlike intercessors who will pay the price in prayer that our President may be the most Christlike leader our nation has known. Amen.

HELSINKI'S BROKEN PROMISES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. ROSENTHAL. Mr. Speaker, political persecution still stands as a very real specter over the shoulders of citizens in the Soviet Union who dare to express dissent.

Amnesty International, an international human rights organization, recently reported that Soviet political prisoners are being harassed, reprisals are being taken against friends and relatives, and false charges are being brought in order to put political cases into criminal courts.

These stepped-up efforts at quashing human rights add a new twist to the old game of harassment played by the Soviet Union against its citizens. Their significance is that they have been in steady use since the Helsinki Accords were signed August 1, 1975.

At least 90 dissidents have been convicted by Soviet courts and 15 sane persons sent to mental hospitals or declared insane since the Soviet Union pledged itself to insuring greater civil liberties for its citizens and those of Eastern Europe. And in just the past week, Czech dissidents were sharply attacked and threatened in the official press of that country.

It would be easy to be misled by the splashy headlines that trumpet the release of well-known Soviet dissidents like Vladimir Bukovsky. The ugly fact is that many thousands of others are still denied their basic freedoms—those freedoms we meant to preserve and protect through the Helsinki agreement.

The concept of human rights recognizes no political or national boundaries. Human rights, simply, are those freedoms basic to human beings wherever they live, whatever religion they practice, whatever ideology they hold.

As such, human rights must be elevated to a prominent place in the conduct of our foreign policy. While foreign policy concerns the relationship of one political state to another it also tempers the relationship between peoples.

On November 29, Representative DRINAN gave the keynote address to the Second National Interreligious Consultation on Soviet Jewry at the University of Chicago. The speech, entitled "The Helsinki Accord, Human Rights, and Religious Liberty" and later reprinted in the Christian Century of December 29, expresses human hopes for the fulfillment of the Helsinki promises. As he ably notes, the protection of individual liberty is a moral responsibility that transcends any one people or religion. I reprint Father DRINAN'S address below so that others may share his thoughts:

HELSINKI'S BROKEN PROMISES

(By ROBERT F. DRINAN)

We can be certain that 1977 will constitute a crucial turning point in the life of the Helsinki Accord. At the Helsinki Conference in August 1975, President Ford said: "History will judge this conference not by what we say today, but by what we do tomorrow; not by the promises we make, but by the promises we keep." Since that time, it has become increasingly clear that the Soviet Union does not intend to keep its promises to permit full religious and cultural freedom and to allow its citizens the fundamental human right to rejoin their families abroad. The Soviet government has apparently adopted a policy of ignoring the human-rights provisions of the Helsinki Final Act, unless international pressure forces compliance. Now is clearly the time to exert such pressure.

Since the ratification of the Helsinski Accord, each positive step taken by the Soviet authorities has been matched by one or more negative actions. The modest reduction in the exorbitantly expensive emigration fee was matched by a steep increase in the tax on parcels received from abroad. This policy, adopted last June, was clearly aimed at the more than 1,000 Jewish families who applied for permission to emigrate, lost their jobs as a result, and now require these parcels in order to support themselves and their families. The number of Jews and others permitted to emigrate has not increased. The systematic harassment of those who apply for exit visas and passports continues. In October, authorities brutally beat and arrested a number of Soviet Jews peacefully protesting Soviet policy.

Even in this action, however, the Soviet government demonstrated that it is by no means immune to pressure from abroad. The mass arrests precipitated a great deal of criticism from the West. Along with other elected officials and citizens of the United States, I expressed my outrage to Soviet officials. A subsequent announcement—that two of those imprisoned would not be released but would be prosecuted for a criminal offense carrying a prison term of five years—provoked a second wave of protest. The Soviet government dropped the charges and released the two men. This was the first instance in which criminal charges against dissident Soviet Jews did not result in trial, conviction and imprisonment. Intense international pressure clearly had some effect.

In the coming year, we must seize other opportunities to focus world attention on the Soviet Union's failure to adhere to the human-rights provisions of the Helsinki Accord. We must apply organized, systematic and continuing pressure. The congressionally created Commission on Security and Cooperation in Europe has begun to exercise its responsibility to monitor, evaluate and report on compliance with the Helsinki Accord. Under the terms of the legislation that created the commission, the President is required to report to the Congress and the nation every six months on progress toward fulfillment of the goals and duties set by the Helsinki Final Act. The commission's activities and the presidential reports present us with new opportunities to emphasize the importance of the Helsinki Agreement and the U.S.S.R.'s inexcusable failure to comply with it.

President-elect Carter has stated his profound interest in international human rights in general and the plight of Soviet Jews in particular. He has also declared his firm intention to place America's traditional concern for individual liberty and human rights at the core of our nation's foreign policy. On November 24 William Scranton, U.S. ambassador to the United Nations, criticized the U.S.S.R.'s failure to adhere to the Helsinki Accord. At a speech before a U.N. General Assembly committee, Scranton warned the Soviet Union that the new administration would insist that Moscow live up to its promises on the free movement of people and ideas in considering "further normalization of relations with the Soviet sphere." He charged that the Soviet Union had engaged in destructive efforts to discredit the principles of individual human freedom, and he criticized the U.N. for its insensitivity to the U.S.S.R.'s "denial of freedom of thought, religious freedom, and emigration to its own citizens."

The incoming administration will, one hopes, elevate the human-rights provisions of the Helsinki Accord to a prominent position on the agenda of East-West relations, as part of our nation's fundamental commitment to the free movement of people and ideas. The U.S. and other nations should press for a thorough discussion of this issue in the U.N.

Still another opportunity to focus world attention on the human-rights section of the Helsinki Accord is presented by the first conference to review the Helsinki Act, scheduled to convene in Belgrade, Yugoslavia, in September 1977. A preliminary meeting to set the agenda for the conference will take place in June. The U.S.S.R. will undoubtedly attempt to demonstrate that it has complied with the agreement and to narrow the focus of the conference. The United States and the other Western signatories must be prepared to point out the Soviet Union's failure to live up to its obligations, and must draw the world's attention to the brutal denial of human rights in the U.S.S.R. The Belgrade Conference of all 35 nations which signed the Helsinki Agreement can serve as a forum to communicate to the Soviet Union and the rest of the world America's deep commitment to human rights.

In this context, it is essential that the U.S. comply fully with the terms of the Helsinki Final Act. To the extent that we are in violation of any of the act's provisions, our moral position vis-a-vis the Soviet Union is compromised.

Unfortunately, there are several respects in which the U.S. is at least arguably in violation of the accord. The McCarran Act, which prohibits alleged communists from emigrating to the U.S., and the State Department's authority to prevent certain individuals from visiting the country are unjust and unnecessary laws which could be construed as violating the Helsinki Final Act. We must not undermine our ability to call for strict adherence to the terms of the accord by retaining such policies.

When I was in the Soviet Union last year, a young man who had tried unsuccessfully to emigrate to Israel and lost his job as a result told me, "If it were not for the Congress and the people of the United States, we would all be in Siberia by now." The responsibility which we bear is an enormous one—and it is particularly acute for Christians, who can assert that these fundamental moral issues transcend any one religion or people. At the Second World Conference on Soviet Jewry in Brussels, Belgium, earlier this year, all Christians present issued a "Call to Christian Conscience," asserting that "this generation of Christians will not be silent as we raise our voices in support of the struggle to prevent the cultural and spiritual annihilation of the Jews of the Soviet Union. . . . We call upon the Soviet Union to implement those provisions of the Helsinki Agreement which relate to freedom of thought, conscience, religion, and belief, and to the right to emigrate. . . . We cannot remain silent or indifferent in the face of the continuing grave and dehumanizing injustices that have been inflicted upon the Jews and other groups in the Soviet Union."

Now, as the validity of the Helsinki Agreement remains to be determined, perhaps largely by the events of the coming year, none of us can remain indifferent. If we do all we can this year to encourage compliance, perhaps eventually we will witness the fulfillment of the biblical promise which concludes the Brussels Conference Call to Christian Conscience: "To open the eyes of the blind, to bring prisoners out from confinement, and from the dungeon, those who live in darkness" (Isa. 42:7).

COMPREHENSIVE MILITARY DISCHARGE REVIEW BILL

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. DOWNEY. Mr. Speaker, Mr. KASTENMEIER and I are submitting to Congress today a bill which offers to those ex-servicepersons who do not fall under consideration for a Vietnam war-related offense, a new hope for the administration of swift justice on a case-by-case basis. For all future military personnel who will face the consequences of a less than honorable discharge, this legislation represents the most significant and practical change in military discharge review procedures to come before the House in many years. It is designed to correct most deficiencies now built into discharge review deficiencies that have resulted in unacceptable case backlogs, and an acceptance of the attitude that discharges can be issued in an assembly line fashion without regard for the circumstances surrounding each particular case.

Our bill is designed to insure justice for the unsophisticated, the inarticulate, and the misfortunate products of a system which often fails to distinguish the innocent from the guilty, the malevolent from the misfortunate, and the incapable from the unwilling. It seeks to insure that in the future, our military discharge review boards, and panels will fully consider the circumstances, complexities and consequences of each case.

The discharge review procedures found within our legislation were developed after extensive informal consultations with the Department of Defense. They insure maximum compatibility with their existing discharge review procedures, and for the most part, reaffirm the already significant administrative steps taken by DOD to upgrade an inadequate discharge review system.

I hope that my colleagues would consider joining Mr. KASTENMEIER and myself in the task of seeing that the important charges proposed within this bill become a reality. A reprint of the comprehensive military discharge review bill follows:

H.R. 2039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1553 of title 10, United States Code, is amended to read as follows:

"§ 1553. Review of discharge or dismissal

"(a) ESTABLISHMENT AND ORGANIZATION OF DISCHARGE REVIEW BOARDS AND DISCHARGE REVIEW PANELS.—(1) The Secretaries of the various services concerned after consulting with the Secretary of Defense and the Administrator of Veterans' Affairs and such other persons deemed appropriate shall each establish a board of review and under the jurisdiction of such board of review as many review panels (hereinafter in this section referred to as 'review board/panels') as are necessary and appropriate to carry out the functions prescribed under this section. The headquarters of the review boards/panels shall be located for administrative purposes only in the Department of Defense.

"(2) The Secretaries of the services concerned shall—

"(A) determine the number of review panels in session at any time;

"(B) determine the locations where review panels shall conduct their business, such locations to be geographically disbursed on the basis of population concentrations of discharge applicants; and

"(C) to convene and dissolve review panels in accordance with the number of discharge review applications pending at any time.

In any area in which a review panel is not permanently located and a reasonable number of applications for review are filed from such area, a review board shall schedule and conduct review panel hearings in such an area to enable personal appearances by discharge applicants, their counsels, and witnesses on their behalf. Hearings shall be scheduled in penal institutions if there are sufficient discharge applicants to merit a hearing. When necessary and appropriate a review board may delegate hearing examiners to record personal statements and testimony of an applicant for subsequent presentation to a full panel of the board.

"(3) Each review board/panel shall be composed of five members to be appointed by the Secretary of the service concerned. Members shall be detailed on a full-time basis and their terms of office shall be determined by the Secretary of the service concerned. Membership on review boards need not be restricted to commissioned officers and may include civilians and enlisted personnel.

"(4) A review board/panel will be convened at the call of its president at the time and place indicated by him and will recess or adjourn on his order. A review board/panel will assemble in open or closed (at the applicant's request) session for the consideration and determination of cases presented to it. Open sessions at the applicant's request shall be open to the press and public. Determinations of findings shall be made in closed sessions. Cases in which no request for hearing in person is made by the applicant will be considered in closed session on the basis of all documentary evidence presented to the board/panel, including any briefs submitted on behalf of the applicant.

"(5) For the purpose of maintaining a board/panel of five members at all times as many additional members as are necessary may be appointed to the board/panel. In any proceeding before a board/panel a member who has not been present at a prior session of the board/panel may participate thereafter if that member has read or has read to him the record of the proceedings held during his absence or prior to his participation.

"(6) Members of review boards/panels appointed from private life (if any) shall receive compensation at a rate comparable to military members of the board, but not to exceed $100 for each day they are engaged in the work of the review board/panel and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by law for persons in Government service who are employed intermittently. Members of review boards/panels who are officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the official duties of the review boards/panels.

"(7) A vacancy on a review board/panel shall not affect its powers, and shall be filled in the same manner as the original appointment.

"(8) The Secretary of the service concerned shall appoint the senior military officer president of each review board/panel. The president of each review board/panel shall—

"(A) employ such additional personnel as may be necessary to carry out the functions of the review board/panel but no individual so appointed may receive compensation in excess of the maximum rate for GS-17 of the General Schedule under section 5332 of title 5, United States Code, and

"(B) procure temporary and intermittent services to the same extent authorized by section 3109 of title 5, but at rates for individuals not to exceed $75 per diem.

"(9) Each review board/panel shall have a legal advisor who shall serve full time and advise the board/panel on all legal matters relevant to the functions of the review board/panel. The legal advisor may also serve as a member of the review board/panel.

"(10) The head of any executive department or agency of the Federal Government may detail, on a reimbursable basis, any of its personnel to assist review boards/panels in carrying out their work.

"(b) DUTIES OF DISCHARGE REVIEW BOARDS/PANELS.—(1) Notwithstanding any other provisions of this title and regardless of any decision previously made by any discharge review board or board of correction of military records, the review boards/panels shall, upon application filed in accordance with regulations prescribed by the Secretaries of the services concerned, review any discharge or dismissal from the armed forces granted under other than fully honorable conditions

(other than a dishonorable discharge or dismissal by sentence of a general court-martial) of any former member of an armed force under the jurisdiction of their department, upon their own motion or upon the request of the former member or, if he is dead, his surviving spouse, next of kin or legal representative. In reviewing the discharge or dismissal of a former member of the armed forces, a review board/panel shall determine whether such discharge was fair and equitable, or in the interest of justice, by standards current at the time of review, taking into consideration all of the circumstances of the case. The Secretary of Defense in cooperation and consultation with the Secretaries of the various services and such other persons deemed appropriate shall establish such guidelines and directives as are necessary to insure equity and uniformity among the various services and review boards/panels in the review and upgrading of other than fully honorable discharges. Such guidelines shall include but not be limited to the following mitigating and extenuating factors. The presence of strong mitigating factors shall normally warrant the upgrading of an other than fully honorable discharge to an honorable discharge, unless offset by serious aggravating factors which have a direct relationship to the issuance of the other than fully honorable discharge. In making such determination the review boards/panels shall consider as guidelines the following mitigating circumstances—

"(A) denial of constitutional, legal, and administrative rights and safeguards inherent in administrative process involving stigmatization and property loss;

"(B) physical, mental, or emotional incapability of meeting standards or performing assignments required of an applicant by military service;

"(C) discharge or dismissal was primarily of inaptitude, unsuitability, or convenience of the government;

"(D) applicant's inability to know or understand because of lack of education or otherwise, his rights or obligations under law, or affects of, or alternatives to his other than honorable discharge;

"(E) serious personal or family hardship that contributed to the circumstances for which an other than fully honorable discharge was issued;

"(F) any honorable tour of service in a combat zone, and/or meritorious and faithful performance of hazardous and/or demanding duty assignments;

"(G) personal or procedural unfairness which influenced the issuance of the other than fully honorable discharge;

"(H) the denial on improper grounds, on grounds which have been held by the courts to be unlawful, or on grounds no longer used by the services, of a valid claim or request made under military law, regulation, directive, or custom for a hardship discharge, compassionate reassignment, emergency leave, conscientious objector status or discharge, or other relief, which significantly contributed to the issuance of an other than fully honorable discharge;

"(I) behavior which reflects physical or mental stress caused by combat or hazardous duty ('combat exhaustion' or 'acute situational maladjustment');

"(J) lack of 'constructive enlistment' in the armed forces;

"(K) an other than fully honorable discharge was issued because of sexual preference, sexual orientation, or homosexual behavior unrelated to criminal conviction;

"(L) discharge was issued because of or possession for personal use of a narcotic drug, marihuana, or alcohol, or for dependency on a narcotic drug or alcoholism;

"(M) a significant service-connected or aggravated disability of the applicant;

"(N) successful completion of alternative service and/or receipt of clemency or pardon under the Presidential clemency program, without regard to the offense or offenses for which the clemency or pardon was granted;

"(O) discharge or dismissal was issued in violation of or without compliance with appropriate regulations; and

"(P) any other facts, precedents, circumstances, or information the review board deems appropriate to consider as mitigating circumstance guidelines.

"(2) The presence of the following extenuating factor guidelines while not having the force of mitigating circumstance guidelines shall be considered favorably by the review boards in making their determination:

"(A) immaturity, educational or social disadvantage, or category IV AFQT (Armed Forces Qualifications Test) score;

"(B) entry into the armed forces under 'new standards' ('Project 100,000') program;

"(C) evidence that the applicant acted as a matter of conscience and not for selfish and manipulative reasons;

"(D) applicant's voluntary submission to authorities;

"(E) substantial period of creditable military service;

"(F) personal decorations and commendations received by the applicant while in military service;

"(G) failure of the armed forces to abide by commitments and promises made to the applicant regarding his enlistment, assignments, choice of station, training, or other factors which may have contributed to the grounds for which other than fully honorable discharge was issued;

"(H) evidence that racial, political, religious, sexual, or other prejudice affected the discharge or contributed to the grounds for which an other than fully honorable discharge was issued;

"(I) applicant's discharge was influenced by disciplinary, racial, or political problems within the separating command which otherwise might not have led to his separation from the service;

"(J) applicant's discharge was influenced by a reduction in force which otherwise might not have led to his separation;

"(K) applicant's discharge for 'unfitness' was caused or affected by the applicant's 'unsuitability' or 'inaptitude' for military service;

"(L) preservice history of applicant which reflects a history of problems or adverse circumstances which may have contributed to the grounds for which an other than fully honorable discharge was issued;

"(M) postservice history of applicant which reflects exemplary conduct;

"(N) postservice history of applicant which reflects serious consequences, burdens, or stigmas imposed by an other than fully honorable discharge; and

"(O) any other facts, precedents, circumstances, or information that the review board deems appropriate to consider as extenuating factor guidelines.

"(3) In making its determination a review board/panel shall not only consider whether a discharge was fair and equitable in its issuance, but also that it is in the best interest of justice, society, and the armed forces that the original character of the applicant's discharge remain in effect.

"(4) A 'general' discharge though considered by the armed forces to be issued 'under honorable conditions' is stigmatizing in its effects and thus punitive in its consequences, and shall be considered as such by the review boards/panels.

"(5) Participation in the Presidential clemency program, or acceptance or denial of clemency or pardon therefrom shall not be considered adversely by the review boards/panels.

"(c) HONORABLE DISCHARGE LIMITED.—(1) In the case of any individual heretofore and hereafter discharged or dismissed from any of the armed forces under conditions other than honorable (other than a discharge or dismissal by sentence of a general court-martial) the appropriate board/panel may issue to such individual an honorable discharge (limited) if, after taking into consideration in each case the reasons for the nature of the original discharge or dismissal, including, but not limited to—

"(A) all of the mitigating and extenuating factors in subsections (b)(1) and (b)(2) of this section;

"(B) the conditions that prevailed at the time of the incident, statement, attitude, or act which led to the original discharge or dismissal;

"(C) the age of the individual at the time of the incident, statement, attitude, or act which led to the original discharge or dismissal;

"(D) the normal punishment and length of sentence that might have been adjudged had the act or incident been committed in civilian life; to include but not limited to pardon, probation, suspension of sentence, sealing of records relevant to the offense, the setting aside of convictions, and the application of the provisions of the Federal Youth Corrections Act (18 U.S.C. 5021); and

"(E) the moral turpitude, if any, involved in the incident, statement, attitude, or act which led to the discharge,

it is established to the satisfaction of the board/panel by oral or written evidence, or both, which may include but shall not be limited to—

"(A) a statement from the chief law enforcement officer of the city, town, or county in which the individual resides attesting to the individual's general reputation insofar as police and court records are concerned;

"(B) a statement from the individual's employer, if employed, attesting to the individual's general reputation and employment record;

"(C) statements from individuals attesting that they have personally known the individual as a person of good reputation and exemplary conduct, and further attesting to the actual contact with the individuals concerned;

"(D) and by such independent investigation as the board/panel may make;

that such individual has rehabilitated himself, and that his character is good, and that his conduct, activities, and habits since he was granted his original discharge have been exemplary for a reasonable period of time.

"(2) Applications and reapplications for correction of records under this subsection may be filed at any time, but not before eighteen months have elapsed following the original discharge.

"(3) No benefits under the laws of the United States (including but not limited to pension, compensation, hospitalization, education loan guaranty, job preference) shall automatically be afforded any individual issued an honorable discharge (limited) under this subsection unless he would be entitled to such benefits under his original discharge or dismissal. The Veterans' Administration and other agencies of the Federal Government shall provide such benefits and services that an individual issued an honorable discharge (limited) would otherwise be entitled to had the character of his original service been under honorable conditions, and are deemed necessary and appropriate for such individual's readjustment or rehabilitation, from problems evolving from such person's service in the Armed Forces.

"(4) Under no circumstances shall an honorable discharge (limited) be issued in lieu of consideration and relief to which an individual might otherwise be entitled.

"(5) An individual issued a general discharge under honorable conditions and to the satisfaction of the board/panel fulfills the requirements for an honorable discharge (limited) shall normally be issued a fully honorable discharge.

"(6) An honorable discharge (limited) certificate shall be the same as a fully honorable discharge certificate and all records and information pertaining to the individual original conduct and characterization of service shall be considered confidential.

"(d) PROCEDURES AND CONDUCT OF HEARINGS.—(1) A review board/panel may review the discharge or dismissal of any former member of an armed force under its jurisdiction on its own motion or on the written request of the former member or if the former member is dead, his surviving spouse, next of kin, or legal representative. Applications for review shall be submitted in accordance with such rules and regulations as the Secretaries of the services concerned may prescribe. When appropriate, or as directed a board/panel may review and upgrade a discharge or classes of discharges on its own motion or upon the request of an applicant or his counsel, without a formal hearing. Under no circumstances shall an applicant(s) be denied a favorable decision without full benefit of the procedures prescribed under this section. Cases reviewed on a board/panel's own motion or upon applicant(s) request without benefit of formal hearing shall be reconsidered without prejudice upon request for a more favorable decision.

"(2) After an application has been submitted to a review board/panel for review, the review board/panel shall within one hundred and twenty days give thirty days' notice in writing to the applicant and his counsel of the date and place (and any other information relevant to the case) of the hearing to be conducted in connection with the requested review. Such hearing to be completed within one hundred and eighty days of the review board/panel's receipt of the applicant's initial request for review, unless an extension is deemed necessary and appropriate.

"(3) In any case in which the applicant requests an opportunity to appear before a review board/panel the board/panel shall do everything practicable to insure the applicant such opportunity. However, an applicant, who requests a personal appearance before a board/panel and fails to appear at the appointed time and place, without previous satisfactory arrangement with the board/panel shall be considered to have waived his right to personal appearance and his case shall be reviewed on the evidence contained in his military records and such other evidence as may be presented on behalf of the applicant.

"(4) An applicant may appear before a review board/panel in his own behalf or may be represented by counsel on his choice, by an accredited representative of a veterans' organization recognized by the Administrator of Veterans' Affairs under chapter 59 of title 38, United States Code, or by such other persons not barred by law, who in the opinion of the review board are considered competent to present equably and comprehensively the claim of the applicant for review. In cases of clear need the Government shall provide such counsel and/or assistance as is necessary to insure that an applicant is competent to present equitably and comprehensively his claim for review. Legal assistance as provided by the Legal Services Corporation Act (Public Law 93-355), title X of the Economic Opportunity Act of 1964, may be used by an applicant before a review board/panel. The Secretaries of the services concerned and the discharge review boards/panels when necessary and appropriate shall assist in the development and implementation of programs, information and training to facilitate sufficient and effective counsel before discharge review boards/panels.

"(5) An applicant and/or his counsel shall be given copies of all records, documents, and information seen by the review board/panel relating to the case. The Secretaries of the services concerned shall make appropriate arrangements in cases involving classified information but under no circumstances shall an applicant be denied a favorable determination by a review board/panel on the basis of information unknown to the applicant or his counsel. The testimony of witnesses may be presented in person, by deposition, or by sworn statements. If a witness testifies in person he shall be subject to examination by members of the review board/panel.

"(6) A review board/panel may continue a hearing on its own motion. A request for continuance by or on behalf of an applicant may be granted, at the discretion of a review board/panel, if a continuance appears necessary to insure a full and fair hearing.

"(7) An applicant may withdraw his request for review under this section at any time before the scheduled hearing without prejudice.

"(8) After all testimony and evidence has been received by a review board/panel in any case it shall assemble in private to make its findings and recommendations. Cases in which no request was made for a personal appearance by the applicant shall be decided on the basis of all documentary evidence presented to the review board/panel. The board/panel shall make a determination whether the nature of the discharge or dismissal under review should be changed and a new discharge issued.

"(9) A review board/panel shall promptly notify the applicant, his counsel, and the Veterans' Administration in writing with respect to the decision in his case. A review board/panel shall specify in writing the findings of facts and, reasons on which the decision was based. This requirement should not affect the confidentiality of the subjective decisionmaking process of the review board/panel in any case.

"(10) Whenever a review board/panel has reviewed the discharge or dismissal of any person as provided in this section and its recommendations have been approved or disapproved no rehearing shall be granted unless the basis of the request is the availability of material evidence that was not known to the applicant at the time of the regular hearing and such evidence could reasonably result in a decision contrary to the one reached at the original hearing, or unless a review board/panel determines there was a legal error which would likely change the decision reached at the original hearing, or such occasions deemed in the interest of justice or warranted by a review board/panel.

"(e) EFFECTS OF DECISIONS ON OTHER CASES.—(1) Whenever a decision or policy change by a review board/panel, a civilian or military court, the Department of Defense or other entity, affecting the functions of the review board/panels is of such a nature that it will have general application to other cases similar to the one in which the decision was reached or the policy change made, the Secretary of the services concerned shall have the review boards/panels apply the ruling to all other such cases on the review boards/panels own motion or to a specific case at the request of the appropriate party. Such rules and policy changes shall be published in the Federal Register.

"(2) The Secretaries of the services concerned concerning any ruling or policy change referred to in paragraph (1) shall take appropriate action to notify former members of the armed forces who would be affected by such ruling or policy change.

"(f) GENERAL POWERS OF REVIEW BOARDS/PANELS.—Review boards/panels shall have the power to—

"(1) administer oaths;

"(2) require from the head of any executive department or agency of the Federal Government available information which the board deems useful in the discharge of its duties; and

"(3) prescribe such regulations and procedures as may be necessary to carry out the purpcses of this section.".

SEC. 2. The Secretary of Defense in cooperation with the Secretaries of the services concerned shall carry out a public information program designed to inform former members of the armed services of the new discharge review program provided for in the amendment made by this Act. In formulating and carrying out such a program the Secretary shall consult with the Administrator of Veterans' Affairs and other relevant Government agencies. The Veterans' Administration and other relevant Government agencies shall use their personnel, services, and facilities to assist the Department of Defense in contacting veterans service organizations, former members of the armed forces, the news media, and other persons and organizations that would have an interest in such new program. The Secretaries of the services concerned shall prepare a semiannual report on the functions, problems, and accomplishments of the review boards/panels established under this Act. Such report shall include a request for appropriations or changes necessary and appropriate to carry out the functions of this Act.

EFFECTIVE DATE

SEC. 3. The amendment made by this Act shall become effective sixty days after the enactment of this Act. Any cases pending before any board of review under section 1553 of title 10, United States Code, prior to such effective date shall be transferred to a new review board/panel established under the provisions of this Act.

CONSTITUTIONAL AMENDMENT ON ABORTION

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. WHITEHURST. Mr. Speaker, I am today introducing a resolution to amend the Constitution of the United States to return to the States the authority to make laws governing the issue of abortion. Since the Supreme Court's decision on abortion 4 years ago, abortion has remained a public issue of intense interest to the American people. As constitutional amendments have been proposed and other legislative actions considered which deal with abortion, every Member of Congress has been lobbied extensively by individuals and groups holding widely divergent views of the abortion issue.

Shortly after the Court decision, I introduced a constitutional amendment which would return to the individual States full authority to make laws governing abortion. My primary purpose in introducing this amendment was to express my opposition to what Justice White characterized as "an extravagent exercise of raw judicial power." Since that time, legal scholars have written extensively on the question of whether

the Supreme Court exceeded its proper authority in the abortion decision, and I will not attempt to recite all the legal arguments here. But the fundamental—and I believe highly persuasive—contentions of those who argue that the Supreme Court erred are that the Court based its decision on scarcely any legal precedent and that the Court usurped authority properly belonging to the legislatures of the States.

The essence of the Court decision is that during the first 3 months of pregnancy, a woman and her physician may decide on an abortion free of any interference by the State; during the second 3 months the State may impose health regulations, but not forbid abortion; during the last 3 months, the State may if it chooses forbid as well as regulate. It is difficult to find justification for the Court's distinctions between the trimesters of pregnancy in the due process clause of the 14th amendment. In reality, the Court's judgment was based primarily on medical and social science information available to it. In my judgment, basing a decision on this type of information is far more appropriate for the legislature than for the judiciary.

A recent study published in the University of Virginia Law Review last fall bears out my view that the Court acted more like a legislative committee than a judicial body in deciding the abortion cases. Massive medical and social science documentation was presented to the Court by the attorneys for the private litigants, and the Court relied heavily on this data in reaching its decision even though it had little, if any, relevance to the specific cases actually before the Court. The information relied on by the Justices related only to the larger, more general questions of the case—those that applied to women generally, rather than Ms. Roe specifically. As the authors of the study concluded:

> By acting like counsel before a legislative committee, counsel were, in effect, asking the Supreme Court to make new social policy, rather than to rule in accordance with "the law."

In addition to my concern that the Supreme Court exceeded the scope of its legitimate authority, I also believe that the decisionmaking by the Court is not the most desirable means of resolving major social issues in our society. A decision of the Supreme Court is both more universal and more permanent than normal legislation enacted by State legislatures. Thus, it prevents the people from adjusting their laws to reflect the different attitudes toward abortion that exist in various parts of the country, and it also prevents future adjustments as these attitudes change.

The relative permanence of the Supreme Court decision also makes the abortion ruling less susceptible to change in reaction to new scientific breakthroughs. For example, science is pushing earlier and earlier the time when the fetus can survive apart from the mother. These advances could cast serious doubt on the validity of the legal rights provided the mother in each of the trimesters of pregnancy. Yet, most would agree that the Supreme Court would not be able to react to advances of this nature as readily as a legislative body.

Furthermore, the Court's abortion ruling by no means settled the abortion issue entirely. Difficult legal questions remain to be decided.

If the constitutional amendment which I have introduced is adopted, there would be no barrier to the actions which States might take with respect to abortion. Conceivably, the laws in many States could be even more permissive than the standards set by the Supreme Court. But, in our democratic system, the people should have the authority to decide issues as fundamentally important as what constituted protectable humanity. The decision of the Court has left the authority to make human life and death decision with private individuals. In my view, society as a whole has an overriding interest in establishing the outer limits of the human community.

I view my proposed amendment as a moderate one, which could win the support of the Congress and the American people. It does not attempt to impose any specific view of abortion on the American people, but it does recognize that the people through their elected representatives have a legitimate right to determine such a fundamentally important issue as abortion. I hope my colleagues in the House will join me in supporting this resolution.

GI BILL FAILS TO MEET THE EDUCATIONAL NEEDS OF VETERANS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. WOLFF. Mr. Speaker, the present structure of the GI bill is such that it does not meet the educational needs of many of those veterans who have served our Nation with honor and dignity. The Comprehensive Veterans Readjustment Assistance Act of 1977, which I have today introduced will restructure the GI bill to improve its effectiveness as a readjustment program. I would now like to insert into the RECORD excerpts from a series of articles which appeared in the Stars and Stripes and which address two of the glaring inequities in the GI bill. Mr. Speaker, the excerpts are as follows:

EXCERPTS

III. DENIAL OF EFFECTIVE READJUSTMENT ASSISTANCE TO VETERANS WITHOUT ACCESS TO LOW COST COMMUNITY AND JUNIOR COLLEGES

The World War II GI Bill paid the full cost of "educational expenses" (tuition, books, fees, and supplies) at almost every public and private educational, technical, vocational or professional institution in America. Regardless of his lack of financial resources, or place of residence, a World War II veteran needed only to meet the admissions requirements of an educational or training institution, and the GI Bill would pay his "educational expenses" up to $500 a school year. According to the VA, the $500 paid to WWII veterans for educational expenses is the equivalent of $2,860 (in constant dollars as of January 1975). The actual amount is much higher given inflation over the past 18 months and the inordinate rise in educational expenses in excess of normal inflation. In the few institutions where educational expenses exceeded $500 a school year, the veteran could accelerate the consumption of his 48-month entitlement.

The World War II GI Bill provided all veterans an equal opportunity to attend the educational or training program of their choice. Under the current GI Bill's structure, most of the private colleges, universities, trade, technical, and vocational institutions that educated WWII veterans are closed to Vietnam era veterans who can not pay their "educational expenses".

The current GI Bill pays only a monthly subsistence allowance to veterans enrolled in school. If a Vietnam era veteran can not pay the "educational expenses" needed to enter an education or training institution, he will receive none of the readjustment benefits he is entitled to.

"Educational expenses" were not a significant factor in a WWII veteran's choice of education and training programs and institutions because the GI Bill paid the full cost of "educational expenses".

"Educational expenses" are a major factor in a Vietnam era veteran's choice of educational and training programs and institutions because the veteran must pay for "educational expenses".

"Educational expenses" determine not only if a Vietnam era veteran will be able to use his benefits at all, but substantially limit the type of education and training programs and the number and locations of education and training institutions available to Vietnam era veterans without substantial supplemental income.

Under the WWII GI Bill, 50% of the veterans in college level programs attended private colleges and universities. The average cost of "educational expenses" at a private institute of higher learning under the WWII GI Bill was $446 for an ordinary school year (9 mos.) $64 under the $500 a school year GI Bill "education expense" tuition payment.

The 1974 cost of "educational expenses" at private college-level institutions is an average of $2568 a school year. This completely rules out a private education for veterans without substantial supplemental resources. "Educational expenses" at a private institution are greater than a single veterans total yearly GI Bill benefits. Only 18.4% of the veterans in college-level training are enrolled in private colleges and universities.

The accessibility and effectiveness of the current GI Bill is directly related to the availability of low-cost readily accessible community and junior colleges. The VA recognizes that:

"There is a marked difference in participation rates between states in the eastern section of the nation and the western section of the nation. This is due in part to low tuition costs, and greater access to public institutions (particularly junior colleges) in the west."

VETERANS ADMINISTRATION DVB INFORMATION BULLETIN, APRIL 1973

The Congressionally-commissioned Educational Testing Service study of the GI Bill confirmed the VA's contention that access to readjustment benefits was a function of ready access to low-cost public institutions:

"The accessibility of post-secondary education for the Vietnam conflict veteran is a function of not only his military service but also of his state of residence. The effectiveness of the benefits is directly related to the availability of low-cost readily accessible public institutions. The current veterans seeking to use their education benefits find that equal military service does not provide equal readjustment opportunities with respect to attendance at post-secondary schools.

"It appears that the states are subsidizing the cost of education for veterans of the Vietnam conflict as compared with earlier subsidization by the VA. Since higher costs of education appear to reduce participation, this is a significant factor in determining whether the veteran in a particular state will participate in education."

REPORT OF THE EDUCATIONAL TESTING SERVICE, SEPT. 19, 1973

Analysis of participation rates by states indicates a direct correlation between GI Bill college level participation and the availability of low-cost easily accessible community and junior colleges. The VA's "Veterans Benefits Under Current Educational Programs" Information Bulletin (DVB 18-20-76-3) accurately analyzes the utilization of community colleges:

"Junior college training: Junior college training has expanded faster than other types of college training so that it now constitutes the majority of the college level chapter 34 (Veterans Educational Assistance) trainees.

"Of the 1,294,517 chapter 34 trainees enrolled at the college level on November 30, 1975, 55% were in junior colleges. (The rate for peacetime post-Korean veterans is 70%)....

"One reason for this (the extensive use of community colleges) is that the benefit for veterans is a fixed amount per month to assist with tuition and subsistence expense and training in low tuition public junior colleges enables veterans to retain more of the benefit for subsistance purposes. The group that choose junior college training most often are the peacetime post-Korean conflict veterans.

"Growth: Over the 3 year period, Nov. 1972 to Nov. 1975, the number training in junior colleges grew from 279,935 to 711,413, an increase of 431,478. The total number training in college (including correspondence training) grew from 759,063 in Nov. 1972 to 1,294,517 in Nov. 1975, an increase of 535,454.

"This means that 80.6% of the increase in college training during this period can be attributed to the growth in the number of junior college trainees. There are several possible causes for the upsurge in junior college training when compared with other college training:

Junior colleges have continued to become more readily available in many communities all over the United States.

The substantial increase in monetary benefits in both October 1972 and December 1974 probably enabled many veterans to enter these primarily low-cost institutions who previously had felt unable to make it financially.

Junior college training is an alternative to unemployment, particularly for veterans with less than a high school education who have GI Bill benefits available. Untrained veterans are the most likely to be affected adversely by unemployment and many choose to train when unemployment rises. Junior college is more often the type of training chosen when this occurs, for the following reasons:

1. Junior colleges offer a low-cost way to train and receive needed financial assistance.

2. Junior colleges are usually in urban communities where they are readily accessible for training.

3. Most junior colleges offer practical vocational and technical training (this is particularly true in the South, other states the majority of veterans continue to pursue liberal arts programs) which on completion gives trainees a good chance for employment.

4. Junior colleges generally have lower academic standards and a more open admission policy, thereby attracting veterans who usually may not qualify for 4 year colleges. (NOTE: Many junior colleges also have liberal attendance requirements and lax standards of required progress, factors contributing substantially to the overpayment problem.)

Despite the many advantages offered by low-cost community colleges, there are also numerous disadvantages associated with the extensive reliance by veterans on junior college training:

1. There is the obvious incentive to attend a community college for the supplemental income accorded by the GI Bill.

2. While many junior colleges offer trade, technical or vocational training, there is still a heavy relience on liberal arts college level training (over 90% of the veterans in junior colleges are taking college level training). Job opportunities for liberal arts graduates are extremely scarce (15% employment rate for recent B.A. graduates). Veterans with dependent responsibilities often can not afford to accept the low entry salaries or job requirements of the younger nonveteran graduates.

3. The substantial attraction community colleges offer to earn supplemental income contribute to not only overpayment, but diminishes the incentive for the veteran to use his benefits for education and training that would facilitate his effective readjustment, and enhance his prospects for productive employment.

4. Community and junior colleges often enable veterans to use their benefits as a form of financial subsidy to perpetuate maladjusted or alternative life styles that will preclude their effective readjustment and reintegration into society once their benefits expire.

5. The many financial and other attractions of junior colleges often detour veterans from pursuing programs of education and training that would be far more beneficial to their readjustment and future employment needs.

4. Junior colleges being the reference point by which many persons measure the effectiveness of the GI Bill detracts from the attention and assistance required by veterans without access to low-cost community colleges. The principal advocates and organizations "representing the Vietnam veteran" are almost entirely based out of low-cost junior colleges.

7. With the proliferation of students in community colleges and their generally lower academic standards, a degree from a community college may have little value despite the expectations of the veteran and the expenditures by the taxpayer on GI Bill benefits.

8. Taxpayers in states without extensive junior college systems are subsidizing the benefits paid veterans in states with low-cost public education systems while the veterans in their own states are not only denied readjustment assistance but must pay for other veterans' educations in low cost states.

9. Taxpayers in states and communities with low-cost public junior colleges in many instances are not subsidizing educational programs but the most expeditious method for many veterans to collect their benefits. Unless educated or trained for productive and available employment, these veterans may become a future drain on community resources because they have failed to successfully readjust.

10. States with low cost or free educational systems tend to attract veterans from out-of-state to take advantage of the benefits low-cost schools offer. The state of California (with no tuition at its community colleges) accounts for the greatest number of veterans in training with 300,595 trainees. This is about two and one-half the number for the next largest states, New York and Texas, with 123,391 and 109,747 respectively.

Veterans needing trade, technical, vocational or professional training (in areas without low-cost, readily accessible public institutions) are the most discriminated against by the current structure of the GI Bill. They must not only pay "educational expenses" at proprietary institutions averaging in excess of their total yearly benefits ($2600), but they are also required 22 or more clock hours classroom attendance a week to qualify for full-time benefits (12 hours attendance is sufficient to qualify a veteran in a college-level program to full-time benefits). Most vocational programs are such that their hours and requirements are not sufficiently flexible to permit effective evening or weekend training.

Many of the most needy and deserving Vietnam era veterans would be far better served by a technical or vocational education. But because educational expenses consume most of their monthly GI Bill payment, they must find supplemental income of employment in order to meet their living expenses. This is often impossible. One consequence of the GI Bill's denial of effective access to trade, technical, vocational and professional programs is that it forces veterans to rely upon notoriously poor and ineffective correspondence courses. The completion rates for correspondence courses is 43.2%. Veterans Administration statistics show that over one-half a million veterans have failed to complete correspondence training costing the taxpayer close to a billion dollars.

In the Southeastern states where there are extensive and high quality public trade technical and vocational training programs, veterans have high participation rates in those institutions.

IV. DENIAL OF EFFECTIVE READJUSTMENT ASSISTANCE TO EDUCATIONALLY DISADVANTAGED VETERANS

The participation rates for the over 1,500,000 educationally disadvantaged veterans (veterans with less than a high school education) are only 38% compared to 55.5% for all other veterans. Thus the veterans with the greatest need for education and training and readjustment assistance are the least users of the GI Bill. This is attributable to many factors:

1. The structure of the GI Bill is geared to college level programs rather than the trade, technical, vocational, and professional training most educationally disadvantaged veterans require.

2. Many educationally disadvantaged veterans lack the preparatory background or basic skills and the necessary self-confidence to pursue GI Bill training.

3. Many educationally disadvantaged veterans have dependent responsibilities necessitating full-time employment and cannot afford either the time or the money to pursue educational training.

4. Many of the veterans' self-help assistance and outreach (particularly the Veterans Cost of Instruction Program) are based in areas where there is infrequent contact with educationally disadvantaged veterans This is particularly true of educationally disadvantaged veterans who live in states with high cost public education and lack community and junior colleges with trade and technical training.

5. Many educationally disadvantaged veterans are unaware of their benefits, unsure of their eligibility, or afraid to cope with the VA bureaucracy.

6. Educationally disadvantaged veterans are often the prime victims of unscrupulous proprietary and correspondence programs and thus are easily "ripped off" or are afraid to get involved in training programs.

7. Educationally disadvantaged veterans are more likely to have family or personal adjustment problems (many evolving from their military service, since they served disproportionately in combat situations) that interfere with the pursuit of GI Bill programs or force them to drop out of education and training readjustment programs because of psychological readjustment problems.

These individuals are often the most reluctant to seek counseling or help for personal adjustment problems or admit serious educational deficiencies.

8. Many educationally disadvantaged veterans require greater assistance in planning realistic career objectives and choosing training comparable with their abilities.

9. Many educationally disadvantaged veterans live in fixed locations and can not afford to move their families and belongings to a state or location with effective readjustment opportunities. Many of the low-cost community and junior colleges offering the best access to readjustment programs are located in the more affluent suburbs where educationally disadvantaged veterans can not afford to live.

While there has been a substantial increase in the participation rates for educationally disadvantaged veterans since 1973, the Veterans Administration attributes "much to the increase in training by educationally disadvantaged veterans to the PREP program and other programs such as 'Free Entitlement' and 'Tutorial' ".

These programs have been invaluable in attracting principally educationally disadvantaged veterans separated after 1972. But the programs have been substantially less successful in reaching or assisting veterans separated during the height of the Vietnam war (1966–1972). Many of the programs designed to assist educationally disadvantaged veterans are dependent upon access to low-cost community, junior or low-cost public institutions and colleges. In states without readily accessible low cost educational institutions, little assistance is available to the educationally disadvantaged veteran. Many of the most needy and deserving educationally disadvantaged veterans will be precluded from pursuing a four-year program by their delimiting date expiring.

V. DENIAL OF EFFECTIVE READJUSTMENT ASSISTANCE TO UNEMPLOYED AND UNDEREMPLOYED VETERANS

While it is not the intent of the GI Bill to be an unemployment compensation or income supplementation program, it is being used as such by many veterans denied access to effective readjustment assistance. Unemployed veterans without access to low-cost institutions cannot afford to pursue educations or training programs, support families and fulfill financial obligations such as mortgages, car payments, etc. Many of the most needy veterans denied readjustment assistance have strong roots in their communities and cannot relocate to areas offering effective readjustment opportunities. The vast majority of unemployed and underemployed veterans do not have the mobility traditionally associated with young, single veterans and non-veteran students.

Veterans forced to work at low wages or part-time (underemployed) are often reluctant to let go of their current jobs, fearing loss of any employment in the current labor market beset by high unemployment. The skills and training most unemployed and underemployed veterans require are trade, technical, vocational and professional rather than college level; the GI Bill is most discriminatory against these veterans.

UKRAINIAN INDEPENDENCE DAY, 1977

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Ms. OAKAR. Mr. Speaker, I am proud to join with the 2 million Americans of Ukrainian descent, and the friends of the Ukrainian people around the world, in observing Ukrainian Independence Day on January 22. When looking at the years that have elapsed since the independence of the Ukraine was declared in 1918, one can only marvel at the tremendous spirit of the Ukrainian people. Although subjected to Soviet tyranny, a war that absolutely destroyed everything in its path, and, for several years, the tyranny of Nazi Germany, the spirit of liberty and independence is as strong in the Ukraine today as it was on that day so long ago.

Indeed, each act of oppression has served not to snuff out this spirit, but only to make it grow stronger. It is difficult for many of us to imagine a country in which people are subjected to surveillance, harassed, and thrown into prison, merely for expressing their ideas. Yet this is occurring right now in the Ukraine. Hundreds of Ukrainian intellectuals, artists, and other have been imprisoned over the past several years just for this reason. The heroism of the Ukrainian people is shown most clearly in the case of the brillant historian, Valentyn Moroz, who is still serving a 14 year prison sentence for the so-called crime of "anti-Soviet agitation".

The spirit of liberty and independence in the Ukraine, which is so like the spirit felt in this land 200 years ago, commands the full support of the United States. I shall urge our new Chief of State, President Carter, to, in his dealings with the Soviet Government, speak for and work for the these desires of the Ukrainian people. Ours is a powerful country, and I believe we can further the cause of human rights in other lands, if only we will exercise our influence in this direction. As a Member of Congress, I intend to do all I can to see that this is done.

TRIBUTE TO PRESIDENT GERALD R. FORD

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BIAGGI. Mr. Speaker, tomorrow, Inauguration Day 1977, will be a day of mixed feelings for many of us. We welcome and wish the best to the new President, Jimmy Carter. We also realize with great sadness that it marks the end of one of this Nation's most outstanding Presidencies, that of President Gerald R. Ford.

For nearly 30 years, Gerald R. Ford has served his Nation with quiet but unparalleled distinction, first in the Congress then as Vice President and finally, as President. Ford's career has been characterized by his unwavering commitments to honesty, integrity, and dedication of purpose.

His 3 years as our 38th President have been truly outstanding. Gerald Ford assumed the Presidency following one of the most trying periods in our Nation's history. He inherited a Nation divided, whose prestige throughout the world had waned dangerously.

Gerald R. Ford was the right man for the challenge. He provided calm, honest, and strong leadership which allowed this Nation to heal the scars created by Watergate and start anew. He brought the Presidency back to the people. Candor replaced secrecy in the White House.

The results are obvious as we assess the state of the Nation in 1977. We are a strong nation at peace with the world and with ourselves. Our Government is again functioning for, rather than against, the people. We have much to be thankful for in having had Gerald R. Ford as our President.

Gerald R. Ford leaves a legacy of leadership and service which will endure for years to come. He has given his all to his country. He leaves with no remorse, but rather with a great sense of accomplishment. He returns to a closer relationship with his wonderful wife and children, all of whom have been inspirations in their own rights. I will be sad tomorrow when I see President Ford descend the Capitol steps as a private citizen. His public life has been an inspiration to many of us. It has been a living testimonial to how the combination of honesty and hard work can make for leaders among us. Gerald R. Ford is such a man.

The renowned poet, Rod McKuen, has written a moving tribute to President Ford. It touches on the varied and outstanding contributions which he has made to improving the quality of life in this Nation. I wish to insert this article for the consideration of my colleagues who, I know, join with me in expressing heartfelt gratitude to Gerald Ford for a job well done:

A TOUGH ACT TO FOLLOW

(By Rod McKuen)

BEVERLY HILLS, CALIF.—Thursday, when the strains of "Hail to the Chief" inaugurate the 39th President, they will also signal the return to private life of Gerald R. Ford, the Michigan Representative who became, with little notice and no such aspirations, our 38th head of state.

Historians will be taxed to find another man in this country's history who held its highest office under more difficult and challenging circumstances. Not Abraham Lincoln, winding down a great war, nor Harry S. Truman, remaining his own man while assuming courageously the responsibilities of another who perhaps held office too long.

Of the men who have so far inhabited the White House, none have brought more dignity, grace and a hard-working, business-like approach to the Presidency than Gerald Ford.

Indeed, with the country at its lowest ebb ever in prestige at home and throughout the world, President Ford managed in two years miraculously to bandage, heal and right America again for those of us who live here and for our friends everywhere. He even somehow managed to gain the respect of our so-called enemy.

Gerald Ford talked straight to us. When he felt he didn't know the answer to a question, or wanted to mull it over, he took the necessary time to do so and then informed us of his decisions, never keeping them a secret. For the first time in more than six years, the dollar became stable abroad, and it was fun last summer as a tourist in Europe not to be asked about Watergate.

Whatever some pollsters may say, he reduced unemployment. More people are working today than ever before in our country's history. If unemployment seems up, you have but to balance that with the number of people living in America now, including illegal aliens, many people holding down two or more jobs, and finding, work. Even employ-

ment among youths and so-called senior citizens has risen.

In his election campaign, Mr. Ford didn't promise a sweeping tax reform immediately, higher wages for everyone and a chicken in every pot. It would take time, he said. And so it will, agrees the new man, whose promises already have to be reconsidered and restructured.

I suppose, like many Americans, the most difficult thing I had to come to terms with was the Nixon pardon. I remember the day only too well. It was a hot Sunday, the same day Evel Knievel ripped off the country by making it only halfway across the Snake River Canyon in Idaho. I was working in a friend's soda fountain and was so disturbed when I heard the news that I opened the door and gave away my ice cream.

In retrospect, considering how little business you and I were able to get done in Washington during the Watergate aftermath, when all the politicians in the capital were focused on the-soon-to-be-the-outgoing President's troubles, I finally understood the pardon.

If Richard Nixon had not been put to pasture, imagine how much further down the hill America would have slid while those same politicians centered their attention on a long, bitter and divisive trial.

Certainly Gerald Ford must have had *justice for all* in mind when he got the very man who gave him the Presidency out of Washington.

It is perhaps a fitting memorial to this strong and able man that he is thought of as *decent* at a time when trust in politicians is only just beginning to come in favor again. A trust he helped create. Perhaps the word "decent" doesn't have the wink and flounce of "charisma."

After so many years of flamboyancy in Washington, President Ford was considered so colorless that it was front-page news if he slipped or stumbled. It became the only running gag comedians and politician cartoonists could fall back on in describing him.

While many of us would have liked to see the man who healed and held our country go on to carry out his plans and use his imagination to make it even stronger and straighter, it will be the very highest compliment to the incoming President if, at the end of his term or terms, he is remembered far less for his smile than his decency. All of us who love our country stand behind him and wish him the best. That certainly includes Gerald Ford.

But Mr. Ford, the country owes you a thank you and a very warm handshake. Not for just the dignity, the integrity, the stability and the quiet trust you brought back in Washington, but for caring for us and about us. Many Americans think you will be a tough act to follow. You do remind us of Truman in one way. It took years for him to be appreciated. Last year, in campaigns everywhere, he was canonized by both parties so that it was sometimes difficult to remember whether Truman was a Democrat or Republican. Your turn will come.

We like you, Mr. President, a lot. We enjoyed being privy to the affection between you and your family. You deserve a vacation—but don't go too far away or stay away too long.

PAUL SIMON: VOICE OF SANITY

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. O'BRIEN. Mr. Speaker, Congressman PAUL SIMON of Illinois has often been described as the "conscience of the Illinois Democratic Party." This speaker is not competent to judge the value of Mr. Simon's services to the Democratic Party, but I can testify that Mr. SIMON provides valuable insight and guidance to his Republican colleagues from time to time.

I am not personally as certain as Mr. SIMON that the Select Committee on Assassinations can serve no useful purpose at all. It seems to me that all the new leads that have been brought forth to justify a $13 million appropriation could probably be run down by a dozen competent criminal investigators. The whole exercise could be performed for the original price of $150,000. And without doing violence to the Constitution with a spook's delight of wire taps, phone bugs, lie detectors, stress analyzers, and the other tools of today's Torquemada.

Mr. SIMON has certainly added weight to the discussion of the proper role on the Select Committee. I am delighted, therefore, to share with the House an editorial from The Daily Journal of Kankakee, Ill., for January 12, 1977:

A LONELY VOICE OF SANITY

The Select Committee on Assassinations has asked the U.S. House of Representatives to appropriate $13 million to allow the panel to continue investigating the assassinations of President Kennedy and Martin Luther King.

Rep. Paul Simon of Carbondale, the conscience of the Illinois Democratic Party, has cast himself in a characteristic role—that of going against the crowd by opposing the appropriation.

Simon's point is simple—if the House believes sufficient doubt exists, the proper source of an investigation is the Justice Department.

He voted against the committee when it was created by the House in September on a then-modest budget of $150,000.

"But how that appetite has grown!" Simon observes wryly.

Simon notes that last year produced the latest in a series of books containing new theories about the assassination of Abraham Lincoln, and predicts that 100 years from now, there will be new books and new theories about the assassinations of Kennedy and King. He contends that the House investigation will result in some additional information, raise some additional questions, and will not lead to conclusive answers.

"We lost two great Americans," he says. "We honor their memory best by pushing for humanitarian goals which they sought.

"To dissipate the time and resources and attention of Congress and the American people on two brutal murders which occurred eight and 13 years ago will not discourage violence, will not add much to public knowledge, and will focus our attention on what might have been, instead of on what should be."

He is right. Unfortunately, the majority in the House of Representatives almost certainly will not be with him.

PROPOSES NATIONAL HOLIDAY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mrs. SCHROEDER. Mr. Speaker, pursuant to rule XXII, clause 1, I hereby submit a petition from the Denver City Council requesting that Congress designate January 15 as an annual national holiday in honor of the late Martin Luther King, Jr. I also request that the petition be referred to the Committee on Post Office and Civil Service.

RESOLUTION No. 1

A resolution locally designating January 15, 1977, and urging the Congress of the United States to set aside January 15, the birthday of the late Dr. Martin Luther King, Jr., as an annual national holiday honoring Dr. King

Whereas, the assassination of Dr. Martin Luther King, Jr., in 1968 deprived not only the United States of America but the entire world of a great leader; and

Whereas, many efforts have been made to obtain the designation of January 15, the birthday of Dr. King, as a national holiday in his honor; and

Whereas, in 1971, 1972 and 1973 the Council of the City and County of Denver by Resolution designated January 15 as "Dr. Martin Luther King, Jr., Day" in Denver, and in 1970 and 1972 the Council supported by Resolution such nationwide designation; Now, therefore, be it

Resolved by the Council of the City and County of Denver, Colorado:

Section 1. That the Council hereby designates Saturday, January 15, 1977, as "Dr. Martin Luther King, Jr. Day" within the City and County of Denver.

Section 2. That the Council hereby petitions the Congress of the United States to enact legislation declaring January 15 to be an annual national holiday in honor of the late Dr. Martin Luther King, Jr.

Section 3. That the Clerk of the City and County of Denver shall attest and affix the seal of the City and County of Denver to this resolution, and that copies hereof be transmitted to the Honorable Members of the Colorado delegations to the House and Senate of the Congress of the United States.

COUNCIL ON WAGE AND PRICE STABILITY ACT AMENDMENT

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I am today introducing a bill to amend the Council on Wage and Price Stability Act to require the preparation of economic impact statements respecting proposed rules and regulations of all Federal departments and agencies. These statements would document the impact rules and regulations have upon prices and employment in the economy. The need for this legislation is not without significance for the future of our economic well-being.

In 1975, the Federal Government spent more than $3 billion to carry out its regulatory activities. This operating cost figure of the Federal regulatory agencies is, however, only the tip of the iceberg. Far more important are those costs resulting from the consequences of the actions of the regulatory agencies that affect what goods and services are produced, the way those goods and services are produced, and the way they are distributed.

The Council on Environmental Quality, for example, estimates the Nation will spend at least $259 billion over a 10-year period on the environmental cleanup measures alone that are currently required by the Federal Govern-

ment. As important as Federal environmental regulations and their costs are, they do not represent the total of Federal regulatory activity or costs associated with that activity. In April of 1975, President Ford suggested that the gross cost of Federal regulation might be as much as $130 billion per year. On the basis of a GAO review of the data—August 1975—a figure of perhaps $60 billion might be a better indicator of the cost of Federal regulations to the economy.

What these cost figures show us is that pursuing social goals by means of Federal regulation is not an inexpensive exercise. Whether our target is clean water, clean air, or an industry rate structure different from that which the market would otherwise yield, we will have to pay for it. Put another way, "there is no free lunch" even when it comes to social benefits pursued through Federal regulation. Thus, there is a clear need for those responsible for formulating rules and regulations to be aware of the economic and social consequences of their actions.

Public concern with the cost of regulation and the apparent "heavy-handedness" of Federal regulators increases with each passing year. Few of us have not received comments and complaints citing overlapping and complex regulations or regulations that impose needless cost on business and private activities. More frequently the feeling is expressed that while the scope of Federal regulation has expanded, the growth of the benefits of that regulation has not been commensurate.

The problem does not seem to be with the goals of regulation. Rather, the problem is the seeming failure of regulatory decisionmakers to recognize the impact of their agencies' activities on the working and stability of our economy and on the lives of businesses and individuals. As President Ford noted in his economic report yesterday, there is a need to "make sure that the benefits—or regulation—are realized at the least possible cost."

What is at issue here is not the "worth" of the objectives of the regulation or the philosophical question: Is Government regulation "good" or "bad"? Nor are we concerned here with "less" regulation as opposed to "more" regulation. Our aim is modest. Given that regulatory activities generate costs as well as benefits, we need to be concerned with insuring that the benefits are pursued in an efficient manner; that is, at the least cost for a given level of benefit. This requires a process in which alternative ways of achieving given regulatory results can be identified and evaluated so that the alternative which is most "cost-effective" may be selected.

Mr. Speaker, the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs held hearings last September and December on the inflationary impact of Federal regulatory activity. In these hearings the focus of attention was on identifying:

First. The nature and scope of the problem.

Second. The measure of success enjoyed by the Council on Wage and Price Stability in reducing inflationary pressures stemming from Federal regulatory actions.

Third. Areas where the Council on Wage and Price Stability faced particular problems.

Material presented at these hearings confirmed the magnitude of the problem. They also identified the following shortcomings associated with the implementation of the Federal regulatory process:

Important regulatory decisions are often made on the basis of insufficient economic information.

Rules and regulations are promulgated where costs clearly exceed the benefits.

There was a failure on the part of regulatory agencies to consider the cost-effectiveness of component parts of proposed regulations, standards, and rules.

Regulatory agencies failed to consider alternative approaches.

There was a tendency to protect existing firms in regulated industries from the forces of competition.

The Council concluded, and I agree, that a vigorous pursuit of the inflation impact statement program established initially by an Executive order in November of 1974 would yield substantial benefits in terms of stemming the inflationary consequences of regulatory agency actions. The Council noted that one major shortcoming of the inflation impact statement program was its failure to cover the independent regulatory agencies.

Mr. Speaker, an Economic Impact Statement Act would enable the new administration of President Carter to vigorously pursue a program that until now has rested only on Executive order for its authority. By extending the requirement for economic impact statements to independent commissions, as well as executive departments and agencies, the act would expand the scope of the program to cover many of those instances that in the past could be dealt with only through the appeal of the Council on Wage and Price Stability to the independent commissions through regular rulemaking procedures.

It is important to recognize that this act does not put dollars and cents before human life and health or safety. The issue is not whether the regulatory goals should be pursued but how they can be pursued most efficiently. It is for precisely this reason that the proposed legislation does not call for a "cost-benefit" analysis of regulations. The proposed legislation was formulated in recognition of the fact that regulation was resorted to because the "worth" of human life, or clean water, or clean air, or a safe working place, does not lend itself to the calculus of the marketplace.

It is the goal of the proposed legislation that the kind of evaluation called for in the economic impact statement will become an integral part of every agency's decision process. The proposed legislation would assist in meeting the need for improved regulatory agency decisions that the Council of Economic Advisers called for in their economic report submitted yesterday. I would emphasize, however, that such considerations should not and need only delay agency regulatory decision processes.

It is time for Congress to act. Last year—1975—some 11,000 new Federal regulations were proposed. All of them had some impact on our society and economy. Many of these proposals promised higher consumer costs, higher taxes, and higher unemployment. If we are ever to minimize these costs of regulation, we need to introduce a mechanism into our regulatory process that insures that the regulators take them into account in their decision process. Only in that fashion can we achieve our social goals in an efficient manner, benefiting all of our society.

GAO AUDIT OF MEMBERS' ACCOUNTS

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. LEVITAS. Mr. Speaker, the public's confidence in its Government is basic to representative government. I am today reintroducing legislation which I originally submitted during the 94th Congress that will help restore an attitude of credibility on the part of the American people toward the Congress of the United States. It calls for an action which is long overdue.

My bill requires an annual audit by the General Accounting Office of the House Members' and committees' accounts. Prior to the events of last summer involving allegations of misconduct and misuse of funds by certain congressmen, it did not seem to me that such a bill would have much chance of being seriously considered. However, in the wake of that scandal, I feel we have a greater sensitivity in the House to the importance of the public's right to know that our accounts are being audited and that those audits are available for public inspection.

Presently, every appropriation made by the Congress for any function of the Federal Government is subject to an annual audit by GAO, with two exceptions—the Federal Reserve Board and the Congress of the United States. Our precedessors in the Congress established the GAO and required annual audits to insure that taxpayers' dollars were being properly spent. The Federal Reserve Board was exempted because at that time the Congress felt it ought to remain free from any kind of political influence. That rationale is today being questioned as evidenced by legislation introduced in both the 93d and 94th Congresses which would require a GAO audit of the Federal Reserve.

In my view, the congressional exemption should never have been granted in the first place. While we cannot speak for the other body, we in the House have an obligation to the taxpayer to let him know how we expend public funds to run our individual offices and our committees. Certainly, it is not too much to ask that those who set policy and appropri-

ate funds for other governmental functions to be subject to scrutiny on how we spend tax dollars to carry out our legislative functions.

Therefore, Mr. Speaker, I am introducing legislation today to require the General Accounting Office to perform an audit of any expenditures or financial transactions of each Member, officer, or standing committee of the House of Representatives involving disbursements from the contingent fund of the House during calendar years 1973, 1974, 1975, and 1976, such audit to be completed within 9 months. Beyond that, my bill would require beginning with calendar year 1977 and each calendar year thereafter, an annual GAO audit to be completed no later than 3 months following the close of the calendar year. Upon completion of any audit, the Comptroller General would transmit a report to the Speaker of the House with respect to the results of such audit and any such report would be made available to the public for inspection and copies furnished upon request for a reasonable charge.

Mr. Speaker, I urge consideration of this legislation in a timely manner.

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT ACT

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. RAHALL. Mr. Speaker, it has become increasingly clear to me while traveling in my district that the No. 1 problem facing America today is the need to create jobs and improve the economic well-being of our citizens.

Presently under consideration is a public works bill that strikes unemployment at its most diseased root—the building trades where joblessness hovers near 20 percent nationally and exceeds 40 percent in many localities. It puts to useful work an idle inventory of many hundreds of millions of dollars worth of construction equipment which has been sidelined for want of work.

At least 80 percent of the jobs generated are in the private sector, employed under contract with private firms. And each onsite construction job generates an additional job in the related supplies and materials industries.

This is not "make work." It is not leaf-raking. Every dollar spent is invested in adding to the Nation's physical wealth and to an infrastructure of local public services which often are conducive to private business.

Mr. Speaker, because this is a West Virginia problem and a national problem I am cosponsoring the Local Public Works Capital Development and Investment Act which with prompt action by this Congress will permit the Economic Development Administration immediately to release additional funds to begin work on many hundreds of additional local construction projects throughout the United States for which formal applications already are on file.

BICENTENNIAL HAILED FOR ITS LEGACIES

HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mrs. BOGGS. I rise today to share with my colleagues an excellent article about the highlights of the Bicentennial celebration which appeared in the Washington Post on New Year's Day, 1977.

Naturally, the story mentions many of the grand and inspiring events which took place on the Fourth of July and throughout 1976. But the reporter, Lynn Darling, justly gave special emphasis to the many projects inaugurated during the Bicentennial which will last throughout our third century as a nation. These tangible results of the Bicentennial commemoration—new museums, neighborhood renovations, miniparks, and other similar achievements—will benefit our children and grandchildren for many years to come.

One of the most outstanding features of the Bicentennial has been the tremendous amount of volunteer activities which made the massive observance possible, and I feel that the good citizens across our country who made the Bicentennial an enjoyable and lasting celebration deserve our gratitude and public recognition. Splendid, hard-working volunteers in every local community reminded us of the underlying values we all share and which enabled us to survive as an increasingly free people for 200 years. Now that the main events are completed, I believe we can look back on the Bicentennial year as a time when Americans rededicated themselves to the principles of the Declaration of Independence, resolving to make "Life, Liberty, and the Pursuit of Happiness" a reality by the Tricentennial.

The Congress has activated this type of citizen's celebration for all of the people, and all of the communities throughout the land. We in the Congress should feel proud that our encouragement has produced such a magnificent outpouring of public participation.

Therefore, I insert the following article:

BICENTENNIAL HAILED FOR ITS LEGACIES

(By Lynn Darling)

Faded as the bunting that once adorned much of the concrete and marble across the country, the Bicentennial ended yesterday, its legacies as disparate and as localized as the celebration itself.

The months marched officially by to the tune of fife and drum, as each day was marked somewhere, in some fashion, by ceremony and observation. The celebration shaped itself from as many cultural crosscurrents as there were people to fill them, and they filled them in ways that represented all the country's sense and lack of it.

The tall ships sailed into New York harbor on July 4, their sails filled not by the wind that was missing that day, but by all the romance and beauty they represented. Small towns that were marked only by prairie grass when the Declaration of Independence was signed brought out the bands, the flags, the boy scouts, the beauty queens and all the heartfelt sentiment John Adams could have wished for.

Wagon trains, freedom trains and armadas of bionic bicyclists crossed the country. Suburbanites stuffed muskets with buckshot and themselves into ancient uniforms and reenacted battles, some more apocryphal than historical. Learned symposia on the meaning of it all vied with rattlesnake roundups for the people's attention. And the nation's capital surprised itself by bringing a million people together at the Washington Monument and getting most of them—eventually—home again and not to jail.

It will take time and the theorists, of course, to see what the Bicentennial has truly bequeathed the nation, beyond a particularly significant warm summer night July 4. Before its meaning becomes clear, however, there are the memories and a variety of monuments to its success.

Some of the testimonies to the 200th year were as ephemeral as the fireworks that lit the skies. Like the man who pushed a watermelon on a lawnmower 800 miles to Philadelphia. Or the red, white and blue flotsam of all shapes and sizes that still sits forlornly on the shelves of souvenir shops.

But there were other, more tangible counterpoints to the festival. According to officials at the American Revolution Bicentennial Commission, 12,566 communities across the country participated in the Bicentennial Communities program, in which, said the officials, a community had to come up with a project which would "last into the third century" to participate. A project like the old train station in Centennial, Wyoming, that was converted into a museum for mining instruments by the less than 100 people who live there and who topped off the whole affair with a buffalo roast.

Director of the Office of Bicentennial Programs Knighton Stanley described the Bicentennial in Washington as "a good year, we accomplished what we set to do, once we scaled down our plans from those of the Nixon and Johnson administrations."

The grandiose dreams of a new and glossy Washington, said Stanley, "didn't take place—the renovation of uptown neighborhoods, the renewal of Pennsylvania Avenue, it didn't happen and of course I'm very disappointed, because I love this city."

Instead, said Stanley, "it was an intangible kind of thing, a lifting up of the diversity and ethnicity of the Washington area." A large part of his job, Stanley said, was justifying the Bicentennial "to a city whose residents are largely black." In the beginning, he said "there were a lot of reservations—with justification—that the flag waving and the hoopla were just for the tourists, and there were questions concerning what do we have to celebrate." But in the end, said Stanley, they couldn't have been more involved.

Among the nearly 400 officially recognized Bicentennial projects in the city that ranged from rock to Bach concerts, educational projects, oral histories and exhibitions of all kinds, the most important, said Stanley, were the 50 curb projects, where neighborhoods got together to clean streets, plant a "minipark" in an abandoned lot, or clean an alley.

Most important, however, said Stanley, was the peaceful nature of the July 4 celebration. "We had been very embarrassed nationally by what had happened on Human Kindness day" (when violence marred a city celebration), he said. "Now we've redeemed our image."

The Bicentennial brought a change to Washington's architectural landscape as well, with the addition of the phenomenally popular Air and Space Museum (5,519,065 visitors so far), the controversial Nation Visitors' Center (839,759 visitors including train passengers and not including the critics), Constitution Gardens, a $3.5 million renovation of the Mall; elevators for the handicapped in the Lincoln and Jefferson memorials, and roller skating and ice skating rinks in Anacostia's Fort Dupont park. "It's terrific," said George Berklacy of National Capital Parks. "The candles are out, but the cake's still here."

In addition, two of the Smithsonian's special Bicentennial exhibits, the one-acre sized "A Nation of Nations" exhibit in the Museum of History and Technology, and "1876: A Centennial Exhibition" at the Arts and Industries building, will remain a part of the museum's exhibitions for several years.

One hundred and one foreign countries took part in the Bicentennial as well, according to ARBA officials. "We tried to discourage gifts per se," said Herb Hetu, assistant administrator at ARBA. "If every one gave a statue, where would you put them all? Even if we had a statuary garden, which country would get the best spot?"

Even so, there was a bell from Great Britain, bonsai trees from Japan, an elephant from Sri Lanka, a sound and light show at Mt. Vernon from France, and a plethora of exhibits—silverwork from Argentina, Persian locks from Iran, toys from Switzerland, sculpture from Yugoslavia, and Roman and Byzantine artifacts from Tunisia.

Thirty-four nations also took part in the Festival of American Folklife, which was attended by about 4 million people in its 12-week stay on the Mall. The festival will return next year for a two-week stay, after an outpouring of public enthusiasm for the project helped to prevent its cancellation.

What there wasn't this Bicentennial year, was tourists—at least not in the numbers expected. Before the beginning of the Bicentennial, 40 million tourists were expected to visit the capital; 16.8 million actually showed up, according to Park Service officials.

The occupancy rate in the city's hotels was about 68 per cent, according to Leonard Hickman, executive director of the Hotel Association of Washington. "Once December's figures are in, we'll be lucky to meet last year's occupancy rate," Hickman said. "The publicity just frightened people away. It was not a back breaking year, but terribly disappointing."

Hope, however, springs eternal. With the new attractions in Washington, and the good publicity from the July 4th celebration, Hickman is optimistic. "God knows I don't want to create a new trend by saying that '77 is going to be crowded because '76 wasn't," he said, "but odd years are always better for some reason."

Not everyone, however, looks back on the Bicentennial with satisfaction. The People's Bicentennial Commission, a group which planned to educate the country to what it saw as the tyranny of corporate interests in America, is not feeling exactly complacent. Now called the People's Business Commission, its co-director, Ted Howard, said, "We looked at the Bicentennial not as a birthday party, but as a 200th anniversary of a revolution and we were advocating revolution. Obviously there's not one taking place."

Richard B. Morris, president of the American Historical Association, found the Bicentennial lacking in the thoughtful discussions of "our value system, the Revolution's relevance to our own day and of how its values can be preserved in our own day," that he hoped would be forthcoming. But he, along with what seemed to be most of the country, could find little fault in the day itself, the Fourth of July, when the bands, the flags, the sentiment and the song, had reached their crescendo. "It achieved," he said, "the kind of harmony and unity that we haven't seen in decades."

CARTER'S ECONOMIC PACKAGE

HON. LEE H. HAMILTON

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for January 19, 1977 into the CONGRESSIONAL RECORD:

CARTER'S ECONOMIC PACKAGE

The prevailing view in Washington is that economic growth in 1977 may be stronger than previously expected, but less than last year's 6% growth. Several recent signs support this view: strengthening consumer demand, slowing inflation, increased industrial production and a rise in the index of leading economic indicators.

Such signs of economic improvement, however, have not lessened the pressure upon President-elect Carter to propose stimulative economic measures. Economists at home and abroad continue to argue that the real danger in the present economic recovery is its flabbiness, evidenced by high unemployment and idle capacity. Without further stimulus they feel that the economic recovery will start to run out of steam in the second half of the year.

President-elect Carter, after consultation with the Congressional leadership, has announced an array of programs to stimulate the economy. The two-year, 30 billion dollar, package includes increased spending to create jobs, changes in the income tax system to lower taxes for business and for persons of low and middle income, and a one-shot rebate in 1977 for all individual taxpayers.

For fiscal 1977, which ends this September, Mr. Carter's economic package represents a fiscal stimulus of $12 to $16 billion depending on the size of the tax rebate. It includes four main elements:

Direct expenditures for job creation;

Tax cuts for individuals realized by simplifying the standard deduction;

Tax cuts for business realized either by reducing business' share of contributions to payroll taxes or by raising the investment tax credit; and

An income tax rebate for individual taxpayers.

For fiscal 1978 the composition of the stimulus would change, but the total stimulus would remain about the same. The tax rebate would be dropped, but direct expenditures on public works and public service employment would increase from $5 to $8 billion. Business-oriented tax cuts would increase $2 billion and tax cuts for individuals resulting from simplification of the tax code would climb to $6 billion. The total fiscal stimulus from fiscal 1978 would be $13 to $16 billion depending on the size of the job programs.

Mr. Carter's decision to spread the program over the two years is a key to the package. It reflects the belief that a shorter program, even a large one, is inadequate to get the economy back into a solid growth pattern. A two-year program also reduces the impact on this year's budget and provides continuous fiscal stimulus through 1978.

The emphasis in the package is on jobs and tax cuts for low income groups. Another feature of the program is its flexibility. Some of the two-year spending and tax reduction proposals have been left open pending the economy's performance. In addition, no final decision has been made on whether the permanent tax reduction for business will be a credit against business' share of contributions to payroll taxes for the social security fund or an increase in the investment credit.

The overall strategy of the Carter package is for steady, but moderate, stimulus for two years. The hope is that this will be effective enough to get unemployment below 7% by the end of 1977 and below 6% by the end of 1978. Like the Ford economic policy it is a "steady-as-you-go" policy, but unlike Mr. Ford's policy there is somewhat more push for stimulus, thus making the President-elect modestly more activist than President Ford in his approach to the economy.

President-elect Carter's plan has not fired the hopes of those who wanted a $30 billion stimulus this year. According to leading economists, like Walter Heller, the chief economist for Presidents Kennedy and Johnson, and Paul McCracken, the chief economist for President Nixon, Carter's proposals are too modest to reach his goal of lowering unemployment and boosting economic growth. Labor leaders have also criticized Carter's proposals as representing a retreat from his campaign promise to cut unemployment. Furthermore, the program will not allay all the fears of those who think no stimulus is needed in the economy.

The technique of the President-elect, however, is apparent. His economic plan is liberal in concept and conservative in size. It runs pretty much down the middle of the road. He balances his instincts to help the unemployed with a determination to be efficient and prudent on fiscal matters. His carefully balanced package contains something for labor, business, lower and middle income taxpayers and has clearly been designed to help restore confidence in the economy. Its principal feature is for steady stimulus over a rather long period, rather than one sudden large shot.

MOUNTAIN BROOK FOOTBALL TEAM IS NO. 1

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BUCHANAN. Mr. Speaker, my State of Alabama is justly famed for producing winning football teams. The University of Alabama at Tuscaloosa and Auburn University at Auburn are especially noted for the consistency with which they turn out champions, many of whom go on to win both fame and fortune in the professional leagues.

In the district which it is my privilege to represent in Congress, another winning tradition has been started. The Mountain Brook High School this year won the Four-A State Football Championship for the second year in a row.

The team and its coaches put in long, hard hours of arduous practice and performed brilliantly on the field. I want to extend my congratulations to Coach Rick Rhoades, the head football coach, and to Dr. Fred Roberts, the principal of Moun-

tain Brook High School, as well as to the players, other coaches, cheerleaders, and students for this great achievement.

ILLEGAL IMMIGRATION TO THE UNITED STATES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. EILBERG. Mr. Speaker, the need for legislation to stem the flow of illegal immigrants to this country has never been more apparent. Each year we admit some 390,000 persons as legal immigrants, but an estimated 500,000 illegal immigrants come here annually.

This flood of illegal aliens has been brought about almost totally by the worsening economic conditions in the Caribbean and Latin American nations and the only way we are going to stop it is to eliminate the economic incentives which make it attractive for these people to come here.

For this reason I have introduced legislation which is designed to make it unprofitable for the many employers who regularly hire illegal aliens at the lowest possible wages and force them to accept substandard and degrading working conditions which American workers would not tolerate. If the illegal aliens cannot get jobs the vast majority of them will not come here.

At this time I enter into the RECORD a copy of a recent column about this problem by James Reston of the New York Times, and a copy of my bill:

WHAT KIND OF AMERICA?

(By James Reston)

WASHINGTON.—President Ford's ski-slope invitation to Puerto Rico to become the 51st state was the most sudden and surprising notion he has had since he liberated Eastern Europe from the Soviet Union, but it has certain possible advantages.

It could, but probably won't, make this city think again about its immigration policy, which is a mess; about the Caribbean islands in general, which are beautiful jungles of economic and racial tension; and about the awkward and even alarming economic, social and strategic problems of our relations with Mexico and Panama. All this and Cuba, too, is some challenge.

The main fact about the movement of people into the continental United States is that it is out of control. Each year, more illegal aliens come into the United States, and remain here, than legal aliens.

The Immigration and Naturalization Service of the Department of Justice estimates that there are now between six and eight million illegal aliens residing permanently in the United States—roughly as many as the total number of unemployed in the nation at the beginning of 1977.

There are estimates, but there are some hard facts. In fiscal year 1975, 655,814 illegal aliens were arrested and deported without formal hearings, and 23,438 were deported after judicial proceedings, most of them from Mexico. This is a revolving door. The faster they are deported, the faster they return.

The movement of legal immigrants is a different and more manageable question. This is determined by the Congress of the United States. The Congress established a quota system which until 1965 followed the trend of immigration in the first half of this century—favoring applicants from Western and Eastern Europe, according to the immigration patterns of the past.

Since 1965, different quotas have been applied to Latin America and Asia, and the official figures for fiscal 1975 indicate a dramatic shift in the human traffic from abroad. For example, 62,000 legal immigrants from Mexico in fiscal '75—more than the total from Britain (12,000), Germany (5,000), France (2,000), Greece (10,000), Italy 11,000), and Portugal (11,000).

In this same year, of the total number of legal immigrants—386,194—31,000 came from the Philippines, 28,000 from South Korea, 14,000 from India, 3,000 from Taiwan, 12,000 from Hong Kong, and 4,000 each from Japan, and Thailand. By comparison: 11,000 from Canada, 25,000 from Cuba, 14,000 from the Dominican Republic, and 10,000 from Jamaica.

President Ford's suggestion of statehood for Puerto Rico did not affect this pattern. As citizens of the United States, Puerto Ricans have the same right of movement into the continental United States as the citizens of any state in the Union.

But Mr. Ford ignored the larger question that must be faced by President-elect Carter in defining the economic and social problems of the future: How to deal with the unemployment problems when there are more illegal aliens in the country than unemployed?

How to analyze the effect on this nation of the shifting pattern of immigration from Europe to Latin America and Asia?

And maybe more important, what to do about a nation with unacceptably high rates of unemployment that won't do its own work, but imports or tolerates an army of illegal servants to harvest its fruit and vegetables and serve its tables?

In short, these are fundamental questions of domestic and foreign policy which President Ford has touched on almost frivolously in the last days of his Administration. They are not primarily questions of the future of Puerto Rico, but of the future of the United States and its relations with its neighbors, the source of its immigrants, the integrity of its laws, the future of its economy, and the willingness of its own people to do its own work.

H.R. —

A bill to amend the Immigration and Nationality Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) is amended by deleting the proviso in paragraph 4 of subsection (a) and by redesignating subsection (b) as subsection (e) and adding subsections (b), (c) and (d) to read as follows:

"(b)(1) It shall be unlawful for any employer or any person acting as an agent for such an employer, or any person who, for a fee, refers an alien for employment by such an employer, knowingly to employ, continue to employ, or refer for employment any alien in the United States who has not been lawfully admitted to the United States for permanent residence, unless the employment of such alien is authorized by the Attorney General.

"(2) If, on evidence or information he deems persuasive, the Attorney General, after affording an opportunity to respond to and rebut such evidence or information, reasonably concludes that an employer, or a person acting as an agent for such an employer, or any person who, for a fee, refers an alien for employment by such an employer, employs, continues to employ, or refers for employment any alien in the United States who has not been lawfully admitted for permanent residence, or any alien whose employment has not been authorized by the Attorney General, the Attorney General may serve a citation on the employer, agent, or referrer containing a notification that the alien's employment is not authorized and a warning of the penalties and injunctive remedy set forth in this section. The procedure prescribed by and the provisions of chapter 7 of title 5, United States Code, shall apply to and shall be the sole and exclusive procedure for the judicial review of a citation served by the Attorney General. An action for judicial review of a citation may be filed in the appropriate judicial district not later than sixty days from the date of issuance of the citation.

"(3) If, in a proceeding initiated within two years after the service of such citation, the Attorney General finds that any employer, agent, or referrer upon whom such citation has been served has thereafter violated the provisions of paragraph (1), the Attorney General shall assess a penalty of not more than $500 for each alien in respect to whom any violation of paragraph (1) is found to have occurred.

"(4) A civil penalty shall be assessed by the Attorney General only after the person charged with a violation under paragraph (3) has been given an opportunity for a hearing and the Attorney General has determined that a violation did occur, and the amount of the penalty which is warranted. The hearing shall be of record and conducted before an immigration officer designated by the Attorney General, individually or by regulation, and the proceedings shall be conducted in accordance with the requirements of title 5, section 554, of the United States Code.

"(5) If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in any appropriate district court of the United States. In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(c) Any employer or person who has been assessed a civil penalty under subsection (b)(3) which has become final and thereafter violates subsection (b)(1) shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both, for each alien in respect to whom any violation of this subsection occurs.

"(d) The district courts of the United States shall have jurisdiction to enjoin violations of subsection (b)(1). Such actions may be brought by the Attorney General in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or any such court for the district wherein the defendant is found or transacts business.".

SEC. 2. Whenever the Attorney General has reasonable cause to believe that an employer or agent of the employer has failed or refused to hire or has discharged any individual, or that any person has failed or refused to refer any individual for a fee for employment, because of such individual's national origin, the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, an ac-

tion for a permanent or temporary injunction, restraining order or other order, as he deems necessary. The authority provided to the Attorney General under this section is in addition to any powers granted to the Equal Employment Opportunity Commission in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5).

SEC. 3. (a) Notwithstanding any other provision of law, an alien who has been continuously physic lly present in the United States (except Puerto Rico, Guam, and the Virgin Islands of the United States) since June 30, 1968, in an unlawful status and who on June 30, 1975, is the spouse, parent, son, daughter, brother, or sister of a citizen of the United States, and the spouse or child of such alien; or who on June 30, 1975, is the spouse or unmarried son or daughter of an alien who has been unlawfully admitted to the United States for permanent residence; or whose departure from the United States, in the opinion of the Attorney General, would result in unusual hardship, may have his status adjusted to that of an alien lawfully admitted for permanent residence by the Attorney General, under such regulations as he may prescribe, if the alien—

(1) makes application therefor within one year after the effective date of this Act; and

(2) is found to be admissible as an immigrant under the provisions of the Immigratin and Nationality Act, except for paragraphs (14) and (20) of section 212(a) of that Act.

(b) The provisions of this section shall not apply to any alien who ordered or participated in the persecution of any person because of race, religion, national origin, or political opinion.

(c) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of the Attorney General's approval of the application.

(d) For the purpose of this section the provisions of sections 101 and 246 of the Immigration and Nationality Act shall apply.

(e) Upon the filing of an application for adjustment made under subsection (a), the Attorney General shall authorize the employment of such applicant pending final action on the application.

SEC. 4. Section 290 of the Immigration and Nationality Act is amended by inserting a new subsection (e) to read as follows:

"(e) The Secretary of Health, Education, and Welfare shall disclose to the Attorney General the name and most recent address of record of any alien who has not been lawfully admitted for permanent residence or who is not lawfully residing in the United States under section 203(a)(7) or 212(d)(5) of the Immigration and Nationality Act and who is receiving assistance under the provisions of titles XVI (or titles I, X, XIV, and XVI as in effect for Guam, Puerto Rico, and the Virgin Islands of the United States), XIX, or part A, of title IV of the Social Security Act."

SEC. 5. The first paragraph of section 1546 of title 18 of the United States Code is amended to read as follows:

"Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or".

SEC. 6. Nothing contained in this Act unless otherwise specifically provided therein, shall be construed to affect the validity of any document or proceeding which shall be valid at the time this Act shall take effect, or to affect any prosecution, suit, action, or proceeding, civil or criminal, done or existing, at the time this Act shall take effect; but as to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters, the statutes or parts of statutes repealed by this Act are, unless otherwise specifically provided therein, hereby continued in force and effect.

SEC. 7. This Act shall become effective on the first day of the first month after the expiration of ninety days following the date of its enactment.

SEC. 8. Section 241(a)(8) of the Immigration and Nationality Act is amended to read as follows:

"(8) in the opinion of the Attorney General, has within five years after entry become a public charge from causes not affirmatively shown to have arisen after entry, regardless of whether such person is legally liable to repay any public support received, or whether any demand has been made for any such repayment;".

TRIBUTE TO GEN. JOHN R. DEANE, JR.

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. McFALL. Mr. Speaker, I would like to pay tribute to one of this country's foremost military leaders who is retiring after more than 34 years of dedicated service to this proud and strong Nation. His name is Gen. John R. Deane, Jr.—a leader of the best example, a hero in his country's battles and a friend of mine for many years.

This soldier's soldier enlisted in 1937, then entered the U.S. Military Academy, graduating in 1942. Jack Deane's numerous assignments reflect his unselfishness in the performance of his duty. It also shows how he was continually selected for positions of important responsibility. During his honorable career, he led infantry units into combat in three conflicts in support of our country.

This distinguished gentleman has served since February 1975, as the commander of the U.S. Army Materiel Development and Readiness Command. Through his tour there, I watched him provide leadership that directly effected the improvement of Sharpe Army Depot located in my district.

I first met Jack when he was a colonel and a neighbor of mine in Alexandria, Va. I was impressed immediately by his military bearing and his knowledge of defense matters. However, living near him showed me that he was not just another exceptional military officer, but a warm human being with hopes and ambitions for his family.

Over the years I took interest and pride in his accomplishments, which were many. I saw his career skyrocket due to his ability and his initiative. Now Jack's retirement is upon him and I look for him to accept new challenges in a new career.

On behalf of our citizens, I gratefully wish him the very best in his future.

THE ENERGY CRISIS IS ALIVE AND REAL

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. TEAGUE. Mr. Speaker, I wish to call the attention of all my colleagues to two provocative articles on energy carried in the October 4, 1976 issue of U.S. News & World Report. The articles are "Energy: Emerging Issue in Presidential Campaign" and "We Should Have Started Yesterday; to Meet Energy Needs—An Expert's View," the expert being Mr. George C. McGhee, a native Texan, petroleum geologist, and a distinguished public servant.

Obviously, energy problems are among the most pressing issues facing this Nation in this election year. I am very concerned that the Congress and the Executive have failed to shape a coherent national energy policy. Two recent examples of this continuing dilemma are the September 23, 1976 failure of the House by one vote to approve the rule for the consideration of H.R. 12112—to provide loan guarantees for new energy technologies—and the failure in the Senate on the last night of the session to approve the conference report on H.R. 13350—authorizing appropriations for the Energy Research and Development Administration.

I feel that the people of this country deserve a better national policy in the area of energy. Our energy problems are very real, and they should be at the forefront of our national debate. The energy position of the U.S. faces an ominous future, and we must keep the Nation focused on it. I strongly believe that we should attack these problems on all fronts, particularly through the development of alternate energy sources. Why, at least two OPEC countries have gone on record as favoring a 25 percent increase in oil prices at the December 15 meeting planned this year. But I will not recant our energy situation, because I think that, read together, the following articles do a good job of that, and I commend them to your attention:

ENERGY: EMERGING ISSUE IN PRESIDENTIAL CAMPAIGN

The nation's energy crisis is drifting from bad to worse, and those who chart America's fuel needs give these reasons:

Gasoline usage alone is breaking all records, averaging around 7.2 million barrels a day for much of the summer. That is 3.5 per cent above 1975 levels.

U.S. wells can't begin to supply the fuel for this driving binge and the nation's many other needs for oil. Production now is down to 8.1 million barrels of crude oil per day—a drastic drop from the 1970 peak of 9.6 million barrels.

Foreign oil is coming into this country in a flood tide to take up the slack. Imports, running a billion barrels a day above last

year's level, supply more than 40 per cent of U.S. needs.

Arab nations are providing more and more of the imported oil. Vulnerability to another embargo is far greater than during the 1973–74 stoppage by Arabs. Saudi Arabia has taken over from Canada and Venezuela as the No. 1 supplier of foreign oil to the U.S.

Another sharp boost in world oil prices seems almost certain when the Organization of Petroleum Exporting Countires—the OPEC cartel—meets December 15 in Qatar on the Persian Gulf. Present basic price of $11.51 a barrel is expected to rise by at least $1.50—adding as much as 2 cents per gallon to the pump price of gasoline in this country.

Oil from Alaska may not arrive on schedule in the "Lower 48" States in mid-1977 as had been promised. Faulty welds and other setbacks threaten to delay completion of the trans-Alaska pipeline on schedule. Use of California ports to handle oil that would be sent by pipeline to other parts of the U.S. is being fought by State officials.

Natural-gas production continues to dwindle. Interstate pipelines will curtail deliveries 27 per cent below last year. Even a normally cold winter may force some factories to shut down for lack of gas. Many plants are converting their operations to oil, a move that will mean the importation of even more petroleum into this country.

Use of electricity, after leveling off for two years, now is growing at the same rate as before the Arab embargo shocked Americans into the realization that this country could not meet all its own energy needs. Power use increased by 5.2 per cent in the first half of this year. If that rate of growth continues, widespread brownouts and blackouts are predicted in the early 1980s.

Little, if any, progress has been made toward production of synthetic fuels. Plans to wring oil from shale are in abeyance. Plants to produce gas and oil from coal are not off the drawing boards. Congress has refused to approve measures that have been proposed to encourage such ventures.

Given these discouraging trends, energy analysts are hoping that the candidates will come forward soon with more specific plans to bring the crisis under control than those presented in the first debate.

Many feel the President is vulnerable on this issue. He largely abandoned his original plan to deal with the crisis when he signed the Energy Policy and Conservation Act late in 1975. That measure rolled back oil prices at the start of the 1976 election year, and now lets them rise only gradually.

Before signing that bill, Mr. Ford had advocated sharply higher fuel costs as the best way to encourage both production and conservation of energy.

CANDIDATES' VIEWS

Mr. Carter, on the eve of the first debate, unveiled a plan to create a Cabinet-level energy agency. In the debate, citing the rising tide of imported oil, he said:

"We need to shift from oil to coal. . . . We need to shift very strongly toward solar power and have strict conservation measures and then, as a last resort only, continue to use atomic power."

Mr. Carter said, too, that he would require mandatory conservation of fuel, but did not spell out details. Nor did he outline specific plans to bring about the shift from oil to coal.

Earlier, the Democratic candidate had advocated continuing oil price control and a study of the possible breakup of big oil companies.

President Ford, in rebuttal to Mr. Carter, said: "I think you have to have greater oil and gas production, more coal production, more nuclear production, and . . . energy conservation."

Meanwhile, U.S. highways are again clogged with cars, campers and recreational vehicles—many of which get few miles to the gallon. The trend in auto sales has been in favor of large "gas guzzlers" and away from the high-mileage compacts.

The U.S. faces stiffer competition for the foreign oil on which it is increasingly dependent. With the worldwide business recovery, total demand has shot from around 52 million barrels a day to 57 million.

Nations in the OPEC cartel are stepping up output to meet this growing demand. But Walter Levy, a top international oil economist, is forecasting that the increase will not come fast enough to avert a temporary shortage in world supply starting in early 1977. Duration of the supply pinch will depend on how fast OPEC nations increase output.

A study made by Mr. Levy's London office predicts a worldwide shortfall of a million barrels or so a day unless Saudi Arabi lifts its self-imposed production ceiling.

The Saudis, with about a third of the world's proved reserves, could increase production by around 50 per cent. They are threatening, however, to reduce oil flow in retaliation against the U.S. for cracking down on American firms that observe the Arab boycott against doing business with Israel.

OFFICIAL APATHY

The majority in Congress has shown slight interest in measures to increase output of domestic oil and natural gas. A bill that would encourage development of synthetic fuel was turned down in this session, although only narrowly defeated in the House.

A fresh report by the General Accounting Office, which turns out studies for Congress, strongly recommends that no action be taken now to spur production of oil and gas from coal, or fuel from shale oil. The reason given is that such fuels would not be competiive in price to imported oil at this time.

Taking issue with the study is Robert C. Seamans, head of the Energy Research and Development Administration. He says it overemphasizes both the potential fuel savings to be had through conservation measures and the amount of oil and natural gas that will be discovered in years ahead.

Mr. Seamans holds that a start must be made now on development of synthetic fuels if the U.S. is to be turning out the needed volume in the 1990's when world oil supply begins to decline.

That development is analyzed in the article starting on this page by George C. McGhee.

Meanwhile, the flow of oil from Arab lands increasingly underwrites the freewheeling habits of Americans, who comprise only 5 per cent of the world's population, but use a third of its energy.

TO MEET U.S. ENERGY NEEDS . . . "WE SHOULD HAVE STARTED YESTERDAY"

(By George C. McGhee)

There is today no immediate problem about oil except its high cost to the consumer. Quadrupled by fiat of the OPEC [Organization of Petroleum Exporting Countries] cartel in 1973–74, the price to the United States and other importers is now around $12 a barrel.

While other nations—particularly the poor "third world" countries—are cruelly squeezed by this cost, the U.S. can pay the bill with little strain.

Supply of oil to meet worldwide demand of about 57 million barrels a day is not a worry. The OPEC cartel could produce far more. Saudi Arabia, the world's oil "jackpot" with 175 billion barrels of reserve supply, could itself increase output from the present 8.2 million barrels daily to more than 12 million.

According to recent studies, there could be a temporary shortage by mid-1977. And there could be temporary stoppages again, such as the Arab embargo of 1973–74.

However, the United States and its allies could weather these through sharing arrangements that have been worked out.

The real crunch lies ahead—in the not-too-distant future.

A critical turning point in domestic U.S. oil supply came in 1970, when production peaked at 9.6 million barrels a day. The annual rate of decline now is 4 per cent, and output is just above 8 million barrels a day. This decline will be interrupted only briefly when Alaskan oil comes in at 1.2 million barrels a day in late 1977. The United States has been changed from a "have" to an increasingly "have not" nation in oil, with a dramatic shift to dependence on Arabs and others in OPEC.

A similar turning point for the world lies not far in the future.

World oil production will peak around 1990, according to the respected energy authority, Walter Levy. At this point, there will still be large reserves that can be produced at declining rates for 50 to 60 years. But production will trend inexorably down.

Competition for remaining supplies will be intense, inciting price increases, rationing, political pressures and perhaps even armed force, as nations try to meet their needs for this vital energy source.

There is little indication that U.S. officials grasp how critical this problem will be. The 14-year grace period until the turning point in world oil supply provides scant time for long-lead-time projects which must be initiated.

We should have started yesterday to implement a plan that will carry the nation through the crisis ahead.

First, there are some myths about oil that must be dispelled. One is that we must reduce dependence on Mideast oil to alleviate effects of a possible future embargo and to force a reduction in the OPEC cartel price.

It goes without saying, of course, that we should eliminate waste in the use of oil. We should, moreover, make a major effort at energy and oil conservation, as President Ford has proposed. This is necessary if we are to level out our over-all requirements in anticipation of the hard days of oil scarcity ahead.

Had we continued increasing consumption at the 4.3 per cent rate projected before 1973, we would face a much more difficult problem in meeting our needs once world oil production starts down.

We should not, however, harm our economy by failing to import enough oil to meet our basic needs.

When the Arab producers denied us 1.9 million barrels of oil a day from October, 1973, to February, 1974, we survived. The cost, though, was 500,000 unemployed and 10 to 20 billion dollars lost in gross national product.

Also, it has been proven that decrease in demand does not result in a lower OPEC price.

To minimize the impact of another embargo, we should attain as soon as possible the initial target of 150 million barrels—enough to cover 75 embargo days—of standby storage, and then move on to the full billion barrels that would handle six months of import requirements. I believe this should be accomplished by buying foreign oil, rather than using the Elk Hills Naval Petroleum Reserve in California. Total U.S. reserves are 33 billion barrels. That will support our present production rate for only 11 years.

Despite claims to the contrary, the only really useful steps we can take at this time to increase domestic production is to decontrol the price of new gas to spur deeper drilling, and proceed to develop remaining virgin territories—the Atlantic, Pacific, deep Gulf of Mexico offshore areas, and the remainder of Alaska's North Slope.

It has been estimated that the U.S. has an additional 100 billion barrels yet to be dis-

covered. Adequate incentive exists at anticipated prices, as shown by the recent lease sales in the Gulf of Alaska and the Atlantic offshore. Unfortunately, production from these new areas will not be substantial enough to reverse our production decline for at least 10 years, when a second pipeline could be completed from the Alaskan North Slope.

But future U.S. discoveries will not add significantly to the world oil "pot" on which we are increasingly dependent and must share with others.

We will not be able to postpone the turning point when world oil production peaks around 1990.

There remains the important problem of assuring the exploration and production of the 900 billion barrels of undiscovered oil throughout the rest of the world, which is indicated by geological evidence as available over and above present proved reserves of 630 billion barrels.

The worldwide search for oil until recently was pressed by international companies.

Today, after nationalization of their major foreign concessions, the companies no longer have the incentive to make the large investment required. They are willing to risk modest exploration expenses in the tens of millions of dollars, but not development costs in the hundreds of millions in the face of certain nationalization once their fields are proven profitable.

The major firms are drawing back into safe political areas such as the U.S., Canada and the North Sea. And even in the North Sea, only the profitable fields are likely to be developed.

Unless some new sources of development funds are forthcoming through the World Bank or the proposed International Resources Bank, much oil that could be produced will not be touched.

Here in the United States, we should decontrol price to spur secondary and tertiary recovery of oil.

However, such measures already are used in most applicable fields—70 per cent in the case of one major company—and will not add enough to arrest the present production decline.

The most urgent problem we face is to make the necessary investment in alternative sources of energy to compensate for our dwindling domestic production and the ultimate end of world oil supply. Best estimates are that 600 billion dollars must be expended in this country for all forms of energy over the next 10 years—or $3,000 for every American—just to compensate for oil decline and to hold imports at the present level of 7 million barrels a day. I am confident that the technology required to accomplish this goal is in hand, or will be when needed.

Our energy companies, however, are making little progress in the development of alternative energy sources. Vital projects to mine additional surface coal, expand nuclear capability, win oil from coal, shale and tar sands, and to develop solar energy are being delayed or abandoned due to uncertainties of ecology and economics.

Adequate private capital should ultimately be available for oil, coal and nuclear development. Most agree, however, that the more exotic projects will inevitably require Government loans or guarantees and differential price arrangements through tax or subsidy.

Congress, however, has not agreed to any of the proposals that would guarantee the needed funds. The uncertainty as to the role the Government will play compounds the problems of the private sector.

History will look back on the sesquicentennial, 1900 to 2050, from the first spurt of oil at Spindletop [Texas] to the last slurp in Saudi Arabia, as the era when those residing on planet Earth consumed the 2 trillion barrels of crude oil which had required 3 billion years to create.

The facts are indisputable. The action called for is clear. The timetable is set by the inevitable extinction of world oil. Must we wait until the lights start going out across our country before we face up to the staggering task of creating replacement energy for the oil that has rightly been called "black gold"?

PLACE OUR MILITARY BEYOND ANY UNIONIZATION

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BOB WILSON. Mr. Speaker, there is a continuing dialog in both our Armed Forces and in the civilian sector concerning the possibility of unionizing the military. Quite frankly, such talk scares me, conjuring up visions of unions refusing to let soldiers make all-night marches because conditions are too harsh. Marines out of shape because their shop stewards insist that physical training is too strenuous. Fighters and bombers grounded until the union negotiates a new contract.

It is true that the military is suffering a continuous erosion of benefits. However, unionization is not and never will be the answer to this problem.

An effective military force is built on discipline, patriotism, and responsiveness to command. Clearly, unionization of the Armed Forces, through the dilution of discipline and command responsiveness could endanger the effectiveness of our defense.

There can be no limitations whatsoever upon the ability of the Armed Forces to respond swiftly and successfully to any military confrontation which could jeopardize this Nation's security. The command structure and disciplinary fabric of the Armed Forces must be continually strengthened and reinforced to meet all foreseeable challenges to the freedom of the United States.

The military service, by the very nature of their missions, do not lend themselves to many of the rules and regulations associated with labor unions. Even more basic is the effort to equate service in the Armed Forces as just another job or means of employment. Military service is a career service that, to function effectively, requires highly motivated, dedicated people. There can be no adequate payment for the hardships and dangers to which the military may be subjected. Nor can hourly wage scales be meaningfully applied.

The history of unions in the United States has amply demonstrated that they will strike if they think it is in their best interests, regardless of any existing prohibition in law. To deny a military union the right to strike would be no guarantee of its compliance with the law.

Mr. Speaker, any potential disruption of the ability of our Armed Forces to respond immediately to the country's needs is unthinkable. I therefore urge my colleagues, in the interests of our national defense to support this legislation and place our military beyond any unionization.

THANKS, "BUCK" GLADHILL

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BYRON. Mr. Speaker, last week the Frederick Post contained an editorial praising Mr. B. D. "Buck" Gladhill for his devotion to the people of Frederick. Buck Gladhill operated a bus service for the community not to make a profit, but because he knew many residents of Frederick needed this service badly.

I would like to share this story with my colleagues and all of the readers of the CONGRESSIONAL RECORD. The Frederick Post's tribute to Buck Gladhill was richly deserved and I include it in the RECORD:

THANKS, "BUCK" GLADHILL

The City of Frederick went into the transit business this week.

The move came reluctantly but of necessity, as over the years the number of passengers taking advantage of the service provided by free enterprise was not enough to make it a paying proposition.

But the fact that the bus system looping the City from the Square Corner north, then west to the Frederick Shopping Center, thence to The Mall, back to the Downtown and the Square, even managed to survive intact so that the City could take it over, is due to the generostiy of one man.

B. D. (Buck) Gladhill is a good businessman. He knew full well when he took over the lines from the previous owner, that it was a losing proposition. He expected to lose, but knew that the people who needed bus transportation would be seriously hurt without it.

Mr. Gladhill had hopes that with the energy crunch, the high cost of gasoline, parking problems and the like, that perhaps the use and popularity of the small transit system would pick up and that it could eventually break even or better. He said at the time he had no prospects of profit.

He even had hopes that the City Fathers would lend some sort of financial support to the bus line, to enable it to operate at least even, but that was not to be. The Mayor and Board of Aldermen ruled, perhaps properly so, they could not join in partnership with or help subsidize private enterprise. They even refused to pick up the cost of the insurance, which was about equivalent to the annual loss Mr. Gladhill was sustaining by keeping the blue buses running—mostly empty—for the handful of residents who held the transit system vital to their mobility. They simply had no other means of affordable transportation.

The venture cost Mr. Gladhill thousands of dollars, but he feels it was a good investment in his community and its people.

Now the City of Frederick has taken over the system, and some of the remarks of the passengers and the drivers have been recorded:

First, there have been no changes made in the operation of the transit system, although the drivers are now City employes and are making $1.30 more an hour.

The riders seem pleased with the service and Mrs. Beulah Price of Park Avenue sums it up this way: "I think it's all right just the way it is." Mrs. Mildred Sier of East

Patrick Street said: "I don't know what we'd do if there wasn't a bus."

Mrs. Wilma Brown of Lee Place calls the continuation of the bus service "a godsend."

For many who use the service, it is indeed a godsend.

Hopefully, the people will begin to use the buses more, to make it a paying proposition. Otherwise, the cost will fall, not on the pocketbook of one man, as it has done in the case of Mr. Gladhill's ownership, but on the pocketbooks of all City taxpayers.

We commend the City's action in taking over the bus line, and particularly we commend "Buck" Gladhill (who also operates Gladhill Tractor Mart) for his unselfishness in maintaining the busline during the transitional period from the time of the last owner until the City took it over.

There are not many businessmen in town who would take such a costly financial risk on a known losing cause just because they wanted to make sure the people who needed it had a mode of affordable transportation.

Mr. Gladhill, we thank you, and on behalf of those who used the buses, please be assured your efforts are appreciated. You have unselfishly, during a time when your family suffered its own great personal loss, given this community something that money alone could never buy—a genuine concern for the people.

AMENDMENT TO THE TOXIC SUBSTANCES CONTROL ACT

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. RUPPE. Mr. Speaker, passage of the long-delayed Toxic Substances Control Act by the last Congress gave the Environmental Protection Agency the tools it has said were needed for it to establish effective controls over substances that might pose an unreasonable risk of injury to health or to the environment. I well recall the attention given to this need during hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries when reviewing problems associated with the use of polychlorinated biphenyls, generally referred to as PCB's, which have had a serious impact on certain Great Lakes fisheries and the general welfare of that area and which are given special attention in this act.

One of the tools given to the Administrator of the Environmental Protection Agency was a committee of experts to make recommendations respecting the chemical substances and mixtures which should be given priority consideration. But a key ingredient in this arrangement was missing. There was no provision for representation from the Department of the Interior, the agency that had so staunchly supported and provided information influential in passage of the Toxic Substances Control Act.

My bill recognizes this deficiency and insures the input of expertise from an agency charged with responsibility for fish and wildlife conservation and with ongoing research in the biological sciences, with a broad concern for land and water related activities.

TRIBUTE TO RUTH MEISTER—WOMAN OF THE YEAR

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BIAGGI. Mr. Speaker, on Sunday, January 23, I will have the personal pleasure to attend a luncheon in honor of my valued aide and friend, Ruth Meister, at which she will receive the 1976 "Woman of the Year" award from the National Council of Jewish Women, Bronx section.

This prestigious honor is being awarded to a woman who has selflessly dedicated most of her adult life to serving others of her community. Her contributions and accomplishments read like a "Who's Who" in public service.

Ruth Meister's career in public service began more than 30 years ago during World War II when she served as a fund raiser and secretary for Red Mogan David, a voluntary organization which provided needed medical equipment and services to the nation which would become Israel shortly after the war.

Ruth's contributions to the community have been long and outstanding. She had lent her considerable talents to numerous local organizations including the Girl Scouts, where she served as deputy commissioner, and the Parents Association when she resided in the Rosedale section of Queens, N.Y.

A move to the Bronx by the Meister family provided Ruth with many new opportunities to help others in the community. She had a most outstanding and successful 10 years as president of the Parkside Tenants Council. During her tenure, she actively worked to make needed improvements in the community, and was successful with many project programs.

For the past 5 years, Ruth has been a member and leader of the National Council of Jewish Women, Bronx section. For 3 of these 5 years, she served with distinction as then president. Currently, she serves as vice president of administration.

Ruth has earned the lasting respect and love of all the members of the council who have to award her their highest honor. Ruth Meister has exemplified the highest qualities of dedication and service in the council and there are few as deserving of the designation as "Woman of the Year."

My 8 years in the Congress have been aided considerably by having Ruth Meister as a member of my staff. In her capacity as caseworker, she has provided my constituents with a consistently high quality of service. She has championed the rights of senior citizens and has worked to improve their quality of life. For example, her efforts proved instrumental in the senior citizens of the 2424 Boston Road Senior Citizen Center being provided a nutrition program. Ruth Meister has truly been an asset to my office and the people of the 10th Congressional District.

Ruth has also been actively involved in local politics in the Bronx, serving as a State committee member in both the 84th and 81st assembly districts of the Bronx.

It is my pleasure to pay tribute to Ruth Meister, an exemplary public servant, good friend, loyal aide and of course, a loving wife and mother. I extend my warmest personal congratulations to Ruth, her husband Louis, her daughter Ellen Schank, her son-in-law Paul Schank, and the youngest members of the Meister clan, grandchildren Michael and Lynn. They share a deep sense of pride for what Ruth has already accomplished and join with me in wishing her many more years of happiness and good health.

SOCIAL SECURITY EARNINGS LIMITATION RETIREMENT TEST

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. LEVITAS. Mr. Speaker, one of the worst inequities in the social security system is the one which financially discriminates against those who work in an effort to supplement their meager retirement benefits, while it continues to pay full benefits to those who are better off and enjoying "unearned" income from stocks, bonds, annuities, and the like.

Therefore, today I have introduced a bill which would provide needed financial relief to almost 1½ million social security beneficiaries.

Under present law, each beneficiary under age 72—except disabled workers or disabled children of retired, disabled, or deceased workers—may earn up to only $3,000 annually before suffering a reduction in benefits. If a beneficiary exceeds this limit, his benefits are reduced by $1 for every $2 of annual earnings. This is the so-called earnings limitation test which my bill would amend in order to add a degree of fairness and flexibility.

Specifically, the legislation I have introduced would require that the earnings limitation test be equivalent to 150 percent of the poverty-level income, as it is now determined by the Secretary of Health, Education, and Welfare. At the present time, this poverty level is approximately $3,420 a year for a two-person household, age 65 and over, and only $2,710 annually for a one-person household, age 65 or over.

Under my bill, the Secretary will use the poverty criteria developed by the Bureau of the Census and also take into account increases in the Consumer Price Index. In addition, the poverty level figure will reflect such factors as difference in family size and composition, differences in the cost of living between various regions and areas, fluctuations in economic conditions and levels during the year, and such other factors as may be appropriate.

It does not seem to be asking too much to let a retired person who wants to work and supplement his income make only half again as much as the very

meager poverty-level income before he begins to be penalized by social security. After all, persons living on unearned income can receive any amount—even a million dollars a year—without being penalized. Why not give the worker a break?

I recognize, of course, that there are many who feel that the entire concept of a penalizing earnings limitation is wrong, and that it should be eliminated entirely. This argument is based on the fact that such a limitation is inconsistent with the "insurance" design of the social security system. Put another way, this position holds that benefits are related to the employee's pre-65 contributions to social security, and that they should therefore be payable without regard to any post-65 income, whether "earned" or "unearned." As I have already mentioned, nonwork, or "unearned," sources of income such as savings, private insurance pension plans, stocks and bonds, real estate, and so forth, are not subject to the penalizing earnings limitation.

Further, it can be very persuasively argued that the earnings limitation creates a severe financial hardship for the very people who need their social security retirement benefits the most. In other words, those who are able to enjoy "unearned" income from various types of financial investment are almost always in much better shape moneywise than those who lack such investments and must supplement their monthly check through wages, instead of through dividends and private annuities.

Also, it is essential that we consider the rapidly rising cost of living when determining how much one may earn without suffering a reduction in social security retirement benefits. And by encouraging people to be gainfully employed, we help them fight inflation without having to raise social security benefits and, hence, social security taxes.

These well-reasoned and sound arguments for a complete abolition of the earnings limitation should be included in a comprehensive study and review of the entire social security system. For this reason, I have previously introduced another bill which would create a national commission of private citizens to study the whole social security program with the goal of insuring the eventual creation of a new and modern, workable and equitable system.

For the time being, though, it is clear that immediate action must be taken to respond to the plea of the more than 1.4 million social security beneficiaries who work to supplement their benefits, only to have their monthly social security checks minimized to the point where they are unable to acquire many of the items most other Americans consider essential in everyday life. The legislation I introduced today would be a much needed, although only partial, response to the pleas of elderly, hard-working Americans.

In conclusion, Mr. Speaker, those persons now receiving benefits under social security are rapidly losing confidence in the ability of their Federal Government to adequately help them maintain a decent standard of living. At the same time, those thinking about their retirement future are concerned over being forced to contribute—and to contribute substantially, I might add—to a system from which they never expect to receive full benefit. While the bill I have just introduced is admittedly a far cry from the overhaul that our social security system desperately needs, it nevertheless will go a long way toward rebuilding the confidence of present social security beneficiaries, and toward helping to persuade present contributors to the system that their funds are indeed going into a viable, dependable, and workable program.

ATTORNEY FEES FOR RECIPIENTS OF VA AND SOCIAL SECURITY BENEFITS

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. COHEN. Mr. Speaker, I am introducing legislation today which will shift the burden of attorney fees and related legal costs from the claimant to the Federal Government when a claimant succeeds in an appeal of benefit decisions by the Veterans' Administration and the Social Security Administration.

This legislation is intended to correct a situation which permits individuals to suffer because of Government mistakes.

During fiscal year 1976, 28,482 appeals were processed by the Veterans' Administration for denied benefits, of which 29.5 percent were reversed. Likewise, of the 101,128 claims processed by the Social Security Administration at the hearing, appeals and civil court levels of the appellate process, 38.8 percent were reversed.

The degree of error is disgraceful. Too often, it appears these determinations are the result of arbitrary interpretation and application. Furthermore, these figures do not reflect those veterans and social security recipients who would have pursued successful claims against the Government but lacked the financial resources to do so.

Unlike some Federal payments, social security and VA benefits are earned through a lifetime of work or through service to our country. Statistics show that the vast majority of these benefits go to those who are old, disabled and in financial need.

The Government has recognized financial need by applying a limitation to the amount an attorney can earn in a particular case. Without this limitation, the amount of benefits to be recovered in many cases would not be sufficient to cover the high costs of litigation. The lawyer's fee is, however, still paid by a successful claimant through a reduction of his benefit award and, as a taxpayer, a claimant is required by law to support, through his taxes, the legal expenses of the Government—the adversary who wronged him. In short, the law requires him to bear the financial burden of both sides of the litigation.

This inequity can be redressed if a claimant is reimbursed for the full cost of litigation when his claim is proven to be right. My legislation does just that. It does not alter the procedures whereby claims are adjudicated. Nor does it repeal the limitations on attorneys' fees. Consequently, my bill would impose only a minimal burden on the Federal budget.

At present, there are approximately 60 statutes which have established precedents for payment of attorney fees by the Government when it is wrong. Certainly, we can afford to pay these fees in the case of disabled and elderly persons who have been unjustly denied VA and social security benefits.

THE PRESIDENT THE COUNTRY NEEDED

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. ABDNOR. Mr. Speaker, two articles appeared in the Sunday, January 16, 1977, edition of the Washington Post in thoughtful appraisal of the Gerald Ford Presidency. Both articles recognized—somewhat belatedly, in my view—the qualities and abilities Mr. Ford brought to the White House which prompted many of us to believe merited a new, full term for the Chief Executive.

Respect for Mr. Ford's Presidency—for its conduct, its policies, and its achievements—will continue to grow. Indeed, he deserves the thanks for the entire Nation for what he has been and for what he has done. As David Broder noted: Gerald Ford * * * was, in truth, the President the country needed at this time * * *

[From the Washington Post, Jan. 16, 1977]

THE FORD YEARS

"At no point has he shown a keen or impressive grasp of the complexities of hard questions. Pedestrian, partisan, dogged—he has been the very model of a second-level party man. It is no accident that over his quarter-century of unremarkable service in the House, he has never been put forward for the presidency. . . ." So we spoke in this space a little over three years ago upon learning that Gerald Ford was about to ascend to the office of Vice President. We do not cite our despondent appraisal because we think it was on the money, but rather because we think it was not. Having been forced to replace his Vice President, and being in not-so-secure condition in office himself, Richard Nixon had just informed a waiting world that Gerald Ford was the one. Frankly, it did not occur to us that Gerald Ford was also the right one.

But we were wrong; he was. The President who will leave office this week brought precisely the needed temperament, character and virtues to the high offices he has temporarily held. These qualities are regularly subsumed under the familiar general heading of "decency," a word that does indeed fit the man. What is so revealing about the times in which we live—and the horrendous political circumstances surrounding Mr. Ford's accession to office—is the vaguely condescending way in which this particular tribute is paid to him: *Well, you have to admit he is a*

decent human being . . . or *. . . Don't get me wrong: Of course, I think he's a decent person . . .* and so on. Decency, in this context, becomes as an attribute something roughly comparable to good posture or punctuality. How odd that so few of us have been willing to acknowledge that decency in the White House can be regarded as a luxury or a bonus or a fringe benefit only at our peril.

It is central. And its absence was central to the sorrows this country endured in the years preceding Mr. Ford's presidency. In his first days and months, it was as if he had liberated Washington—from its personal fears and hostilities and suspicions, from the dark and squalid assumptions that people had come reflexively to make about one another and about the way things "really" worked. God knows who was (and is) still listening in on whose line or who is plotting what gruesome revenge against what political foe. Our point is merely that Gerald Ford brought to the White House an open, unsinister and—yes—decent style of doing things that altered the life of the city and ultimately of the country.

We have found many of the President's programs and positions (and lack of both in some cases) dismal news indeed. But that is yesterday's laundry list. Our summing up of the Ford presidency draws us only to the overriding legacy he leaves.

Will this city under the Carter Democrats be able to preserve that political and personal civility that Gerald Ford did so much, so unexpectedly, to revive? The Carter administration, more activist and energetic, we would guess, than its predecessor, faster-paced, more intellectually self-certain and combative, is almost by nature destined to put some of these homely, but hard-won virtues at risk. We can only hope the new administration will understand their indispensability. Mr. Ford has left it an incomparable gift in the detoxified political atmosphere of the place and the institutions it is about temporarily to inherit.

The outgoing President has also done a great deal for the honor of his party, although you wouldn't necessarily know it to listen to the samurai-like grunts and howls coming out to the struggle for party control. But Gerald Ford did in fact redeem the Nixon moral disaster. His two-and-a-half years gave point and purpose and respectability to the efforts of those innumerable straight-arrow Republicans who had come to work in Washington and who had been let down, in fact betrayed, by their own White House. And the exceptional quality of most of Mr. Ford's own high level appointments—John Paul Stevens, Edward Levi, William Coleman, to name just a few—went a long way to erase the memory of earlier indictment and disgrace.

We will leave it to others to tote up the pluses and minuses of the Ford administration in strict program and/or policy terms. We can frankly do without reviewing it ourselves. We think it is enough to point out that Gerald Ford had an all but impossible assignment—and that he did a hell of a job.

THE PRESIDENT THE COUNTRY NEEDED

(By David S. Broder)

In an odd, inexplicable way, the truth has begun to dawn on people in the final days of Gerald R. Ford's tenure that he was the kind of President Americans wanted—and didn't know they had.

After a decade of presidential excess, they wanted a man of modesty, good character, honesty and openness. They wanted a President who was humane and prudent, peaceable but firm. Especially, they wanted one uncorrupted by the cynicism and lust for power that they had come to associate with Washington politicians.

Jimmy Carter's campaign was the successful projection of these idealized qualities of the post-Watergate President. It was also a series of promises—to reform the government, end bureaucratic waste, provide an energy policy, curb the nuclear arms race, cure unemployment, etc.

How well President Carter measures up to these character tests and how many of his goals he achieves remains to be seen.

But Gerald Ford—even while acknowledging in his 1 st State of the Union address and in a series of valedictory interviews his disappointments in the fields of economics, energy and governmental reform—gave people a quiet reminder that he has been exactly the kind of personality they prayed to find in the presidency.

He did so in a variety of ways, large and small, not least of which was his demonstration of equanimity in the face of his first—and any politician's greatest—defeat. Both The Washington Post and the New York Times headlined the fact that Ford was "at peace" with himself and his fate, as if that were remarkable for a departing President.

And, of course, it is. Two of his three most immediate predecessors had left the White House as political exiles; the third had been murdered.

Ford leaves on a tidal wave of good will, of which the cheers in the House chamber the other night were vocal testimony. As he recalled in his farewell interview with The Post, he had originally planned to wind up his public service this January by making the 94th Congress his last as the representative from Grand Rapids.

As it works out, he is leaving only 17 days "behind schedule," having served 29 months as President and with the country the better for his service.

He leaves with the nation at peace, the international scene as tranquil as it is ever likely to be, and the American people more united and confident than at any time in a decade.

Some of that is luck. Some of it is the healing effect of time on the scars of Vietnam and Watergate. But Gerald Ford also leaves the presidency itself healthier than he found it, and that is because he thought hard about what was needed there—and did it.

Take, for example, the matter of the President's relationship to his Cabinet. One central aspect of the "imperial presidency" was the subordination of Cabinet officers to the arrogant whims of the White House staff.

Jimmy Carter has talked a great deal about his desire for strong, autonomous Cabinet officers, and in the final days before his takeover, was still trying to determine what kind of White House staff arrangements would encourage that decentralization of decision-making.

Yet, as James E. Connor, Ford's staff and Cabinet secretary, pointed out to a visitor the other day, almost no one has noted the extent to which Ford himself already demonstrated how to solve that problem.

Yet it is a fact that the outgoing Cabinet has been spared interference from officious White House staff members either in their departmental decision-making or in their access to the President.

Ford cured this ill by quite conscious, shrewd strategies. He required, for example, that no communication from a Cabinet member to the President could be delayed more than five days for White House "staffing." If the staff comments weren't ready in that time, the Cabinet member's paper went into the President's reading file on its own, rather than being pigeonholed endlessly in the White House bureaucracy.

Ford himself set the example for devolution of decision-making. In the face of heavy pressure to bring all major issues to the White House, he insisted, for example, that the Secretary of Transportation should decide the Concorde landing-rights question and that the Attorney General handle the government's response to Boston's anti-busing violence.

In these, and other ways equally important, he demonstrated in practice the virtues of which Carter spoke.

Oddly, neither he nor his advocates made much of this fact in the recent campaign. But Gerald Ford can leave office with some confidence that history will record that he was, in truth, the President the country needed at this time and knew that it wanted, even by another name.

THE BLACK LUNG ASSOCIATION OF WEST VIRGINIA

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. RAHALL. Mr. Speaker, on Saturday, January 15, I met with the West Virginia Black Lung Association and the West Virginia Miners and Widows Association and discussed the up coming legislation on black lung reform.

The membership of the associations shared their views and concerns about existing laws and the provisions that should be included in future legislation.

Mr. Speaker, today I would like to share with my colleagues the provisions the West Virginia Black Lung Association and the West Virginia Miners and Widows would like to see adopted for West Virginia and the Nation.

20-Year Rule—A miner who has worked in or around the mines should qualify for benefits without having to establish disability by medical evidence. A widow or other dependents should be eligible if the miner worked 20 years in or around the mines.

Medical Standards for miners with less than 20 years—Miners who do not qualify by the 20-year rule should qualify as miners do now—by medical proof, but the medical standards for deciding whether a miner is disabled by black lung would not be any stricter than the Interim Standards used by Social Security to judge claims on miners who applied before July 1, 1973. Further, the Blood Gas test and such additional tests as are reliable should be added to the provisions with standards no stricter than those used for the breathing test in the Interim Standards. In addition, all valid diagnostic values available from the Blood Gas test should be considered. The Administering Agency should be further required to consider the accumulation of evidence which supports a claim for disability.

No Re-reading of X-Rays—If a qualified physician interprets an x-ray as showing pneumoconiosis, Social Security and the Labor Department should not have the x-ray reinterpreted. A physician should be considered qualified if he/she is certified by NIOSH or the Board of Radiology.

National Black Lung Fund—Black Lung Benefits should be financed from a national fund supported by a tax on coal operators.

A Permanent Program—The Black Lung Benefits program should be permanent.

Current Employment No Bar to Eligibility—A miner should be able to find out while he is still working whether he will qualify for benefits if he stops working.

Mine Disaster Widows—Widows of mine disaster victims and other miners killed while working in the mines should not be excluded from benefits solely because the miner was working. The administering agency should be required to give weight and consideration

to lay evidence and any medical evidence relating to respiratory problems that may be on record. In considering medical evidence on record, the time the evidence was gathered and subsequent dust exposure should be considered.

Lay Evidence in Widows' Cases—In the case of deceased miners, affidavits from members of the miner's family and co-workers should be sufficient in themselves to prove a widow's claim for benefits.

Workmen's Compensation Offset—No state workmen's compensation payments except those made on the basis of lung impairment should be subtracted from federal black lung benefits.

Social Security Offset—There should be no offset between federal black lung benefits and Social Security Disability benefits.

Equal Treatment for Men and Women—Husbands and widowers of female coal miners should qualify for the same benefits as the wives and widows of male miners.

Appeals Council Review—Social Security's Appeals Council should not be able to reverse a favorable decision by an administrative law judge. Review should be used solely for monitoring purposes.

Permanent Administration by Labor Department—The Department of Labor should be given full authority to issue regulations and to decide claims. Social Security should have no further authority over the black lung program except to continue payments on claims that have already been awarded.

Time Limits—The Department of Labor should initially decide a case within 60 days after the claimant completes an application and should be required to pay interest in cases of delay. Hearings should be scheduled within 45 days after the claimant requests a hearing. These time limits should be strictly adhered to except when it would adversely affect the claimant or when the claimant requests a delay.

Public Information Program—The Department of Labor should notify all individuals who might be eligible for black lung benefits about their possible entitlement and about how to apply.

Review of Claims—All claims which have been denied by Social Security or the Labor Department should be reviewed automatically within six months from the passage of the Act. Retroactive benefits should be paid as if the Act had been in effect when the person applied.

Medical Benefits—The black lung program should pay for any medical treatment required as a result of a disabled miner's pneumoconiosis.

Black Lung Clinics—Congress should authorize an appropriation of $10 million annually for black lung clinics.

Research Advisory Council—More than half the members of the Coal Mine Health Research Advisory Council which decides how to spend federal money for research on black lung, should be working miners, disabled and retired miners or widows of miners.

Claims for Dependent Children of Deceased Miners—Benefits should be payable to children of deceased miners who were dependent on him for support without regard to dependency of children to the legal widow of the miner.

Dust Monitors on Equipment—Dust monitors should be installed on all dust producing mining tools or equipment used in mining or processing coal, inside or outside the coal mine. Any deliberate tampering with such monitors causing malfunction should be a criminal offense.

Mr. Speaker, I hope that my colleagues will join with me today and work in a united effort to resolve the differences that exist in the present black lung laws.

SOCIAL SECURITY EARNINGS LIMITATION

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. RUPPE. Mr. Speaker, I am today introducing legislation to repeal the earnings limitation now imposed on social security recipients.

Under existing law, $3,000 may be earned by senior citizens without penalty. After that, $1 is deducted for every $2 earned by the recipient. Cost-of-living increases in the earnings limitation will push the exempt income figure to $3,700 by 1980. The limitation does not apply to persons 72 years of age and older.

In my view, this limitation is unnecessary, uncalled for, and represents a serious limitation to the economic livelihood and lifestyle of senior citizens in northern Michigan. Employees who have paid "premiums" all their lives should be eligible to receive full benefits irregardless of their employment situation.

The fact of the matter is that what began as a social insurance plan has been sold to the American people as a full pension or retirement program. People are required to pay into the system based on their earned income and the money is held in trust by the Government until they reach retirement age.

In other words, social security beneficiaries are not welfare recipients by any stretch of the imagination. They are self-respecting Americans who have paid for the benefits they expect to receive at retirement age. In my view, senior citizens are entitled to receive full benefits as a matter of right irrespective of their employment status.

According to the Social Security Administration a minimum of 2 million elderly citizens and their families are injured by the earnings limitation. About 1.4 million persons lose all or some of their benefits while another 600,000 are not working or purposely restrict their income in an effort to stay under the ceiling imposed by the present earnings limitation.

Beyond this, there are additional reasons for removing the earnings limitation. First, the limitation arbitrarily forces early retirement upon thousands of people who may very likely wish to continue their regular employment. Census data shows a striking drop in labor force participation at age 65—the age when persons become eligible for full social security benefits. At the same time, gerontolgists are now telling us that productive employment, a worthwhile role in community and family life, and a feeling of individual value are absolutely essential to the leading of a happy and fulfilled life by our elderly citizens.

Next, I oppose the earnings limitation because it discriminates against those who can least afford to retire. The limitation penalizes wage earners only. Interest, rentals, dividends, and other non-wage sources of income are not included under the umbrella of the $3,000 limitation.

This is particularly evident in northern Michigan. Ours is an economically deprived region and many citizens live on relatively low incomes during their regular working years. Forcing them to accept an even lower standard of living through the earnings limitation is absolutely outrageous and must be changed.

Finally, I oppose the earnings limitation because it discourages productivity and has a negative impact on the American economy. One of my distinguished colleagues in the other body recently stated that studies conducted over the last 12 years have indicated that the earnings limit has resulted in a 2-percent decline in the GNP during the same time period. In a time when the Congress is concerned with continued economic expansion and employment the negative results of the earnings limitation should be recognized and remedied at once.

Mr. Speaker, my bill will remove the earnings limitation and allow senior citizens to receive full social security benefits regardless of their employment status. In my view, the legislation will remove a major inequity in the present social security system and will provide new economic flexibility to our older citizens.

TRIBUTE TO LINDA MEOLA—SEARS, ROEBUCK & CO. "CITIZEN OF THE YEAR."

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BIAGGI. Mr. Speaker, it gives me great personal pleasure to extend my congratulations and pay tribute to an outstanding member of my constituency, Linda Meola, winner of the 1976 Sears citizen of the year award. This prestigious national honor is being awarded to six exemplary Americans for outstanding work in their communities.

There are few as deserving of this award than Linda Meola, a woman who has dedicated most of her life to serving others in her community. She has served with distinction in various capacities including president and cofounder of the Mid-Tremont Association, an organization which provides a myriad of services to the community. This includes counseling services for troubled youths, assisting police in crime prevention programs, and protecting residents against health hazards by reporting health code violations to appropriate city agencies.

Among her other activities, Linda Meola organizes neighborhood cleanup projects and teaches religion to young adolescents in her local church. She is also an active member of a special committee I created to provide supplemental services to the communities of my congressional district.

Involvement, dedication, concern: These are the qualities which distinguish Linda Meola. She does not observe life in her community, she actively participates in it. She realizes that changes and improvements must come from within. Our Nation has been nourished by the strengths of its local communities and their leaders. Linda Meola is such a leader and her years of hard work have been recognized by Sears.

I would like to pay tribute to Sears, Roebuck & Co. as well, for their sponsorship of the citizen of the year program. It provides a great opportunity for outstanding Americans to gain national recognition for their contributions. The prestige in being honored by Sears as citizen of the year, is not soon forgotten.

I am proud to call Linda Meola a constituent and a friend. She has given countless hours of service to her friends and neighbors in the Bronx. She has earned their lasting respect and admiration. If more citizens of this Nation followed Ms. Meola's initiatives, our country would be an even stronger and better place in which to live.

NATURAL GAS SHORTAGE

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BROYHILL. Mr. Speaker, today I reintroduced, with 25 cosponsors, a short-term emergency natural gas bill to deal with the natural gas shortage which is occuring throughout our Nation. The severe winter has forced much of our Nation to suffer economic disruption and dislocation, and it is time for the Congress to respond with appropriate and immediate relief.

While the Nation has thus far been able to survive the winter despite congressional inaction, there is little assurance of continued supplies as the situation takes on crisis proportions. Deliveries of natural gas are being severely curtailed nationwide due to the weather as well as our regulatory structure's inability to cope with our natural gas supply situation.

My bill will provide a mechanism by which interstate pipelines will be able to tap surplus gas supplies in the intrastate market. For a renewable period of 180 days, interstate pipelines which presently are curtailing high priority consumers of natural gas—residential, small commercial, and small industrial users—will be permitted to purchase natural gas from the unregulated market and deliver it to areas of the country where gas is in short supply.

This legislation would combine the concepts of both consumerism and free enterprise by allowing interstate pipelines to negotiate purchases in the intrastate market and, at the same time, retaining Federal Power Commission jurisdiction over resale prices to the distributor.

There is little doubt that this Congress will spend much time debating solutions to our long-term natural gas supply situation. We must not allow ourselves in our deliberations, however, to forsake the welfare of hundreds of thousands of our citizens by neglecting their immediate and pressing economic and energy needs. I urge my colleagues to address the short-term natural gas shortages and consider this legislation with the dispatch it deserves.

IDAHO COURT LEAVES OSHA IN THE COLD

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. HANSEN. Mr. Speaker, recent court decisions prohibiting unconstitutional OSHA inspections have received great attention from the public and press. The following article from the New Hampshire Register of January 10, 1977, is an excellent statement on the situation which I submit for my colleagues' consideration and information:

"LITTLE MAN" WINS

(By John Chamberlain)

A little Bicentennial show of fortitude by a Pocatello, Idaho, businessman has just about killed the Occupational Safety and Health Act, known by the hated acronym of OSHA.

For upwards of four years OSHA inspectors have been descending on offices and factories, flashing their credentials, and demanding the privilege of conducting fishing expeditions that sometimes turned up unsafe procedures and sometimes did not. The cost of maintaining the OSHA bureaucracy exceeded 400 million dollars in four years, yet there was singularly little to show for the money. Factory bosses, lacking the time and the legal background to master the intricacies of an OSHA regulation book that runs to 800 pages and contains 3,400 regulations written not by Congress but by the administrators themselves, quaked at the appearance of the OSHA traffic cop. But now they will quake no more.

The David whose slingshot has just caught the OSHA Goliath between the eyes is F. G., or Bill, Barlow, who runs an electrical, plumbing and heating business in Pocatello, Idaho. Some time ago he let an OSHA inspector into his front office. But when the OSHA man, after introducing himself, said "I'm ready to go back into your shop," Mr. Barlow, who knew there was a Fourth Amendment guarantee against searches conducted without a warrant specifying probable violations of legality, said no. The inspector said he had the law on his side. But Barlow said, "According to my law, you don't."

In a lower court appearance Barlow's temerity got him cited for contempt. His Congressman, Representative George Hansen, an inveterate enemy of OSHA who happens to be heading a congressional task force working to limit regulatory agencies, urged him to fight the case through to the Supreme Court if necessary. A Boise, Idaho, law firm, Runft and Longeteig, brought suit against W. J. Usery, U.S. Secretary of Labor, in a district court and, after six months, a panel of three judges—two from the circuit court, one a chief district judge—handed down a decision that the OSHA section involving inspections was "void and unconstitutionally repugnant to the Fourth Amendment."

To be sure, judges in Texas, New Mexico and Ohio had previously ruled against OSHA on Fourth Amendment grounds. But the Idaho judgment represents what Congressman Hansen calls a difference in kind. In an earlier case, Brennan vs. Gibson Products, Inc. of Plano, Texas, the judges had accepted the idea that OSHA searches could be undertaken once a warrant had been obtained. But the Idaho decision reads that if Congress "had wished to do so," it was able "to employ language declaring that a warrant must first be obtained, the procedures under which it is to be obtained, and other necessary regulations."

Since Congress had not spelled anything out, the Idaho judges refused "to accept that duty." Judges must, so the Idaho decision says, "decline the invitation to judicially redraft an enactment of Congress." The effect of the decision is to throw the whole OSHA enabling law back into the lap of Congress for a total rewriting. Meanwhile, OSHA inspectors can be told to go fish in their own backyards even if they come armed with warrants showing "probable" cause.

Bill Barlow is a "little man" in the business world, and he risked going to jail for taking his stand on the obvious wording of the Bill of Rights. In a telephone conversation he expressed to this column a particular happiness that the decision in his favor had come on Dec. 30, as a year-end Bicentennial present.

Rep. Hansen, who has headed a "Stop OSHA" campaign for the American Conservative Union, was equally joyous. "A reckless Congress," he said, "caught trying to steal a constitutional base in the game of bureaucracy-building, has thankfully been called "out" resoundingly by the umpires in the Court."

Mr. Speaker, the questions involved regarding OSHA inspections are clearly constitutional in nature. Therefore, I again call upon the Secretary of Labor to extend the equal protection of the law to all citizens wherever they may be by suspending inspections in all areas under OSHA jurisdiction pending resolution of the matter by the Supreme Court.

I would like to remind the Labor Department that section II of the Idaho's court's summary judgment states:

The Secretary of Labor of the United States of America, and all other defendants and their successors in office, and all other persons acting by, through or under them, are hereby forever and permanently RESTRAINED and ENJOINED from acting or attempting to act pursuant to or in furtherance of Section 8(a) or OSHA (29 U.S.C. 657 (a)) . . .

It is apparent that this is an injunction against the Secretary of Labor, wherever he may be, and not simply in the Idaho District.

I must remind my colleagues that further inspections of a nonuniform nature violate the equal protection of the laws guaranteed by the Constitution. It is entirely possible that the Secretary of Labor could even be cited for contempt of court if he persists in these unconstitutional inspections.

TRIBUTE TO JOHN W. J. USERY, JR.

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. ERLENBORN. Mr. Speaker, I am pleased to note that many of my distinguished colleagues of both parties have risen to pay well-earned tribute to the departing Secretary of Labor, the Honorable W. J. Usery, Jr.

Without intending the slightest disrespect to his successor, I believe it is fair to say that Secretary Usery's unique talents as a mediator, as an innovator in the area of collective bargaining, will be sorely missed. However, I will leave it to others, more intimately acquainted with labor-management affairs, to expand upon that proposition.

I suggest, Mr. Speaker, that there is a far more fundamental point to be made at this time—one that transcends the relationships between management and labor, important as they are in the world of today.

To me, at least, the inspirational lesson of Secretary Usery's career—I should say his career to date, since he is just past his 53d birthday—lies not in what he has done, but rather in the fact that he has done it.

Mr. Speaker, most Americans have a sentimental affinity for the storybook image of our society, a mixture of Thomas Jefferson, Horatio Alger, Mark Twain, and Booth Tarkington, along with Frederick Douglas, George Washington Carver, W. E. B. DuBois, and many more.

From their very different standpoints, these observers and reporters, these philosophers and prophets, these dreamers and critics, envisioned an American society that rewarded merit rather than birth—a society in which every youngster could go wherever his inclination, determination, and talent entitled him to go.

For too many young people, and older ones, too, the vision has faded.

Compared to the 1960's, happily, there is a far greater interest today in mastering a trade or a profession, if only as an essential to personal freedom. Unfortunately, there is a pervasive conviction that "getting ahead" is a matter of birth, nepotism, good connections, political influence, or a combination of them all.

In rebuttal, Mr. Speaker, I offer to all the skeptics the career, to date, of W. J. Usery, Jr.

It started in Hardwick, Ga., in 1923, where he was born. But the nearby metropolis of Milledgeville, once the capital of a collapsing Confederate State, was where his parents worked and is the town he thinks of as home.

He went to Georgia Military College right there in Milledgeville.

Then he landed a job as a welder in the naval shipyards in Brunswick, Ga. When the war came along he served 3 years on a Navy repair ship.

Back home he took another job and found himself deepy involved in union affairs with the International Association of Machinists. His performance won him a staff job with the union and an "impossible" assignment to Cape Canaveral, Fla., where half a dozen rival unions had bargaining rights for various groups of workers at the space center.

Seven years later the machinists membership had grown from 17 to 4,600, and a new President, John F. Kennedy, named Usery to the missile sites labor committee. In 1967 he became chairman of the Cape Kennedy Management Relations Council. The transition from trade unionist to mediator was underway.

Two years after that, Usery accepted the post as Assistant Secretary of Labor, and the rest is recent history.

Mr. Speaker, let us consider this remarkable story.

In the 1930's we have a young man in a small town in Georgia—a boy without political connections, without family influence, with nothing but the opportunity to do as well as he was able.

Forty years later we find this same boy, long since a man, in the Cabinet of the President of the United States, a position he has earned by his own extraordinary abilities; a position he received although he had always been a member of the opposing political party and made no secret about it.

Mr. Speaker, I wish that the simple, unadorned story of W. J. Usery, Jr., could be told, without dramatics or moralistic trimmings, to every schoolchild in America.

It is truly the American story, as true now as it was 200 years ago, and an inspiration to us all. For that alone we should wish Bill Usery good wishes and godspeed.

THE 59TH ANNIVERSARY OF UKRAINIAN INDEPENDENCE

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. STOCKMAN. Mr. Speaker, on January 22, 1977, the Ukrainian community of southeastern Michigan will commemorate the 59th anniversary of the proclamation of Ukrainian independence. The 47 million people of the Ukraine constitute the largest captive nation in the eastern bloc. The Ukrainian people enjoyed a taste of freedom after the fall of the Czar. But rule from Moscow, this time imposed by Communist troops, crushed the independent Ukraine after only a few years. The Ukrainian people of the free world commemorate January 22 as Ukrainian independence day in order to keep hope in the hearts of Ukrainians under Soviet domination, who still await the rights of national, individual, cultural, and religious freedom.

Ukrainians and their descendents who have settled in the Fourth District of Michigan have made a tremendous contribution to the cultural, economic, and social life of the area, as they have in all other regions of the United States in which they have settled. I am sure that my colleagues join me in expressing their appreciation of the Ukrainian people in the United States and in expressing their hope that the oppression that forced many of them out of their country will one day be overcome by the resilience of the Ukrainian people.

STOPPING INTERNATIONAL TERRORISM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. GILMAN. Mr. Speaker, once again the threats of international terrorism has brought a free nation to her knees. The release of Abu Daoud by the French Government is a step backward in the fight against international terrorism.

Abu Daoud, the founder of the Palestinian Black September commando group, leader of the Al Fatah branch of the PLO and suspected mastermind of the 1972 terrorist attack on the Israeli Olympic team in Munich has, with his release, publicly forced the French Government to succumb to the pressures of Arab governments and the threats of the terrorist organizations.

This incident is only the latest on a long list of acts of terrorism that seek to impose their will on a world community that is either unwilling or unable to fight back and defend itself.

Now, at the beginning of a new Congress, it is an appropriate time to reiterate the determination of the Congress and the American people to eliminate the threat of international terrorism. As in the last Congress, I urge my colleagues to join with me in urging our new President to accelerate all efforts to negotiate agreements with other nations in order to prevent and punish acts of terrorism. I am today reintroducing a resolution I authored in the 94th Congress, urging the President to take certain measures against countries supporting international terrorism and persons engaged in international terrorism and seeking stronger sanctions against such countries and persons.

More specifically, the resolution urges the President to:

First, exercise his powers (under the Foreign Assistance Act of 1961, section 620A and the Federal Aviation Act of 1958, section 1114) to suspend air service and foreign assistance to countries collaborating with or granting sanctuary to international terrorists;

Second, seek the formation of an international commission to study and propose methods so as to try and prevent future terrorist incidents and to deal with such incidents when they do occur;

Third, urge the conclusion of an international convention—similar to the one begun but never concluded in Rome

by the International Civil Aviation Organization in 1972—providing aviation sanctions against those countries that refuse to punish or extradite persons responsible for unlawful acts against civil aviation;

Fourth, seek enforcement of the Convention for the Suppression of Unlawful Seizure of Aircraft by member nations and to obtain ratification by countries which are not presently party to this convention; and

Fifth, seek an international treaty to prevent and punish the taking of hostages—specifically those not already protected by the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons including Diplomatic Agents.

The United States must, in the strongest manner possible, impress upon the international community the collective threat posed by terrorism. We must let it be known that there is a dedicated, aggressive, coordinated multinational effort to apprehend and punish terrorists wherever and whenever they strike. We should seek to establish an appropriate forum within the United Nations framework, to undertake a study of the root causes of terrorism, and the most effective long-term proposals to eliminate this cancer from civilized society.

I urge my colleagues to join with me in support of this legislation. The full text of the resolution follows:

H. CON. RES. 72

Whereas abhorrent acts of international terrorism have resulted in the death and injury of many innocent persons and have caused serious disruption of the channels of international commerce and diplomatic discourse; and

Whereas international terrorism takes many shocking forms and continues to threaten the safety and well-being of citizens of all nations; and

Whereas previous efforts on the part of individual nations and of the international community as a whole to eradicate international terrorism have been unsuccessful: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the President should exercise his powers under section 620A of the Foreign Assistance Act of 1961 (relating to prohibitions against furnishing assistance to countries which grant sanctuary to international terrorists) (22 U.S.C. 2371) and section 1114 of the Federal Aviation Act of 1958 (relating to suspension by the President of air services to countries which grant sanctuary to terrorist organizations which use hijacking of aircraft as an instrument of policy) (49 U.S.C. 1514) whenever an act of international terrorism occurs.

SEC. 2. It is further the sense of Congress that the President should instruct the Ambassador of the United States to the United Nations to seek the formation of a permanent international commission to conduct an ongoing study for the purpose of—

(1) providing a definition of international terrorism;

(2) determining the underlying causes of international terrorism; and

(3) proposing methods for preventing future incidents of international terrorism and dealing with such incidents when they do occur.

SEC. 3. It is further the sense of Congress that the President should renew efforts begun at the air security conferences held in Rome during 1972 under the auspices of the International Civil Aviation Organization to establish an international convention providing aviation sanctions against countries that refuse to punish or extradite persons responsible for unlawful acts against civil aviation.

SEC. 4. It is further the sense of Congress that the President should use all available means to seek strict compliance with the Convention for the Suppression of Unlawful Seizure of Aircraft by each country which is a party to such convention and to obtain ratification of such convention by countries which are not parties to such convention.

SEC. 5. It is further the sense of Congress that the President should seek an international convention to provide for the prevention and punishment of the taking as hostages of persons who are not already protected by the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

TRIBUTE TO ARTHUR FIEDLER—AN AMERICAN MUSICAL INSTITUTION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BIAGGI. Mr. Speaker, on Sunday night October 24, I spent a most enjoyable evening at New York City's Carnegie Hall listening to the internationally renowned conductor of the Boston Pops Orchestra, Arthur Fiedler in one of his most memorable concerts.

Mr. Fiedler demonstrated on that night precisely why he continues to be one of this Nation's most popular and enduring musical personalities. His unique interpretation of the music of artists ranging from Bach to the Beatles has gained Fiedler a tremendous following among old and young music lovers of this Nation.

This outstanding night of entertainment also featured the outstanding talents of guest soloist Miss Lena Horne. Miss Horne gave an electrifying performance, one which I nor anyone who attended the concert is likely to ever forget. Carnegie Hall, which has played host to some of the world's great musicians over the years, was certainly at its best on Sunday night.

I am pleased to note that the American people recently shared this memorable evening on television, when highlights of this concert were shown to coincide with the 82d birthday of Arthur Fiedler.

Mr. Speaker, millions of Americans have enjoyed the music of Arthur Fiedler and the Boston Pops Orchestra. Many may recall his fabulous concert on the Fourth of July in Boston, which was shown on all the major television networks. His interpretation of the great American songs of our history was certainly a highlight of our Bicentennial celebration. I extend my warmest, best wishes to Arthur Fiedler and hope he will continue to provide his unique brand of entertainment for years to come.

THE FOREST SERVICE BUDGET AND THE NATIONAL FOREST MANAGEMENT ACT

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BAUCUS. Mr. Speaker, the newly enacted National Forest Management Act of 1976 presents special considerations which we must not forget as we deliberate on the fiscal year 1978 budget. Successful implementation of the act requires timely action by the 95th Congress in availing the Forest Service of the needed funding. If we fail to act, or if we delay, we will seriously dilute the effects of this legislation which we worked so hard to forge. Because the Nation's economy relies so heavily on delivery of forest resources, any failure to implement the new law immediately will translate directly into economic hardship.

Congress enacted the law; Congress must now follow through. Needed immediately is clarification of budgetary issues surrounding implementation of the National Forest Management Act. I have asked the Chief of the Forest Service to supply information which I believe we must have in order to act in a responsible, timely way. I urge my colleagues to communicate to the Forest Service their support of this effort as it is explained in the following letter:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 19, 1977.

Mr. JOHN MCGUIRE,
Chief, Forest Service, U.S. Department of Agriculture, Washington, D.C.

DEAR JOHN: As you know, I took an active role in formulation and passage of the National Forest Management Act of 1976. In my view, the key element of that Act is constructive planning as a guide to resource management policy.

An important part of constructive planning is conceptualizing the budgetary needs of the new policy, a factor for which I have a special appreciation since my Congressional District contains extensive Forest Service lands, and since I serve on the House Committee on Appropriations. While I am aware that the Ford Administration has proposed a budget for FY 1978 and that the Carter Administration may propose a budget with substantial differences, I feel a responsibility to gather information which will be useful to Congress in consideration of specific budget issues—notably those attendant to Forest Service policy as it is influenced by the National Forest Management Act of 1976. Toward this end, I solicit your views with respect to the following points.

1. Sections 14 (h) and (i) of the Act establish new procedures for salvage timber sales and road construction; the Forest Service may require purchasers to make monetary deposits into a special fund as part of the payment for salvage timber; the fund would in turn cover the cost of the sale. My question: Should we create a revolving fund to provide "seed money" in order to begin the program without temporarily using funds

designated for other purposes? Can the Forest Service establish such a fund without prior Congressional approval? If not, should we consider a supplemental appropriation bill early this year to meet this need? Finally, how much money would such a fund require?

2. Section 14 (1)—as I understand it—allows the small business purchaser the option of seeking a timber contract provision which places road-building responsibility for that particular sale on the Forest Service; currently available funds would, in turn, cover road-building costs; compensation would occur later through stumpage payments proportionally higher than those that would have been demanded had the purchaser opted for the "road allowance" and built the road himself. My questions: Can you estimate the extent to which qualified purchasers may elect to waive the "road allowance?" Would the revolving fund mentioned earlier facilitate initiation of the program by circumventing possible delays in using "currently available" funds?

3. As you know, the House debate over the National Forest Management Act revealed Congress' concern for ensuring competitive sales; subsequent Conference discussion underscored that concern. Since the new Act emphasizes well planned, carefully executed actions, I believe that targets should be set in advance—by Regions and National Forests—for funding sale preparation on the basis of projected levels of activity. Our goal must be prompt salvage of valuable material in which there is purchaser interest. Speaking for Montana, I can attest to tremendous interest by potential purchasers (such as Hoerner-Waldorf) in a more active, comprehensive salvage program. Because the spirit of the law precludes simply programing more timber sales, I believe that competitive sales can be ensured and a larger salvage program affected through setting the targets suggested earlier. Please furnish your thoughts on developing a long-term commitment to offer for sale volumes of timber that conform to management requirements, and that serve the need for economic development of the resource.

4. Section 4 of the Act calls for more substantial efforts in reforestation and stand improvement. My questions: Should Congress make a special effort to provide funds early in 1977 to cover the costs of seed collection, nurseries, site preparation and other activities associated with Section 4? If so, how much money is needed for these purposes?

5. Serious questions over the efficiency and effectiveness of harvesting methods and associated activities have been a major Congressional concern. In response to this concern, Section 6(g)(3)(C) of the Act requires research, monitoring and evaluation of management systems. I believe that the Forest Service should establish monitoring areas as soon as possible in order to implement this section of the Act. My question: What are the immediate budgetary requirements for earliest possible commencement of this program, and how best can these needs be met?

6. Your testimony before the House Agriculture Committee contained the suggestion that the Forest Service sell logs as well as standing trees, a procedure permitted by Section 14 of the Act. Implementing your suggestion, in my view, could aid research into new harvesting systems and equipment that minimize environmental damage and maximize fibre utilization. My questions: Can the Forest Service plan and implement such a policy in 1977? How best could funds be provided and how much would such an effort require?

7. Members of both Houses of Congress have expressed concern over the need for speed in updating and effecting management plans. My question: What are the budgetary needs for rapid implementation of the new Act and how can we meet these needs?

Since the Nation's economic health is inextricably intertwined with the management of our National Forests, I consider it vital to ensure orderly movement to new policies rather than allow sudden and disjointing actions. "Orderly movement," however, requires timely funding. Responsible Congressional action toward this end demands a working knowledge of internal shifts needed to effect programmed changes in Forest Service policy. Your insight and advice will be invaluable to our attempts at recognizing these changes and responding to the programmed needs.

In closing, let me emphasize that I do not expect the Forest Service to avoid the normal budget review channels within the executive branch in supplying answers to these questions. For this reason, I would certainly understand it if you decide to supply the requested information and views to the new Administration for possible conformance to its policies. I do ask, however, that you provide the requested information prior to January 31, 1977, since I wish to discuss these issues with several of my Colleagues and with appropriate people in the Carter Administration.

Thank you for your attention to these matters.

With best personal wishes, I am

Sincerely,

MAX BAUCUS.

THE ARROGANCE OF THE OFFICIAL LIE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. HANSEN. Mr. Speaker, I have long been outspoken in efforts to account for the Americans missing in action as a result of our military involvement in Southeast Asia, and as one of the leaders of a recent major debate effort in the House of Representatives protesting President-elect Carter's proposed plan to give a blanket pardon to those who illegally avoided military service.

In this respect, I have given considerable thought and study to the final report of December 1976 of the Select Committee on Missing Persons in Southeast Asia.

While I commend the conscientious and diligent labors of my colleagues, I cannot help but wonder if the real issue did not miss the spotlight it so rightly deserves. That issue, Mr. Speaker, is the Communist authorities' use of the official lie.

The official lie is an obstinate lie, a frustrating lie, a malicious lie, yes, even a deceptive lie told so blatantly in the face of truth that its arrogance allows it to stand.

Communist officials refuse accountability of Americans missing in the abortive Vietnam struggle even in the face of evidence as shown in the report that they could not help knowing. Facts such as this makes everything else they say suspect and makes the situation impossible to resolve with finality no matter how apparent it may be that few if any survivors still exist.

This evasiveness, deceit, and use of deliberate lies has created a grotesque nightmare for the families and friends of the missing, a horror that could only be created and prolonged by the sickest form of political establishment. The saddest point of all is that this type of inhumane activity has been repeated over and over by the politics of communism in all parts of the world to harass, disrupt, and demoralize.

Mr. Speaker, no horror story is complete without an ingredient of irony, and irony we do have. In the midst of this emotional atrocity being inflicted upon thousands of our citizens, Vietnamese officials call for our diplomatic recognition, membership in the United Nations, and billions in American aid. They ask as if they expect gratification and are broadly supported by their communist brethren across the world, and we extend them the satisfaction of a legitimate consideration. In fact, they get more than that since by joining international organizations, Vietnam in 1977 is expected to obtain indirectly at least $34 million in U.S. aid.

Where, Mr. Speaker, may I ask are the red-blooded citizens of the world who would rise in moral indignation at the abuse of human rights, dignity, and decency. When will there be enough collective backbone to demand accountability for the bereaved of those fallen or missing in battle? When will the brotherhood of man stand tall enough to insist that the concentration camps of the world be smashed or turned from the humiliation and degradation of people to purposes of charity and love and freedom?

It is time to close the brainwashing schools of the North Vietnamese and stop condoning and even assisting the political oppressors of the world. It is time to open the gates for the families of Americans, Vietnamese, and others involved to be united as they choose or given the truth if such is not possible. It is time, Mr. Speaker, for the great light of the Statue of Liberty to once again illuminate the world with hope, hope for a world free of oppression. I enclose an article dated January 14, 1977, from the Washington Star by syndicated columnist John P. Roche which makes several interesting points regarding "moral concern for the rights" of people:

HANOI'S 300,000 "STUDENTS"

(By John P. Roche)

This has to be written very delicately because my heart goes out to the families of the American servicemen missing in action (MIA) in Southeast Asia.

A good college friend was a World War II MIA—his B-24 went down raiding the Ploesti oilfield—and I recall the anguish of his family, the eternal hope for a miracle. Or at least for certain knowledge one way or the other.

I am afraid the Vietnam MIAs are dead, suspect Hanoi has unrevealed information on the subject, but believe it is a mistake for the United States to make the MIA issue central to our relationship with Vietnam.

Recently, U.N. Ambassador-designate Andrew Young stated that the United States has some sort of vested interest in a strong

Vietnam. Once the issue of the MIAs is settled, we should presumably put Hanoi on our foreign aid list.

I completely dissent. First, in the sense noted above, I am desperately concerned about what the Communists have done to millions of Vietnamese, not 800 Americans. Second, we have no more interest in a strong Vietnam than we do in a strong Uganda; the stronger the state, the more repressive.

There is, and always has been, a watershed between the pragmatic anti-totalitarians and the ideologues (like me). It has usually been overlooked because we come out about the same place, but for quite different reasons.

Let's take the Kennedys and Castro as a case in point. We Social Democrats were anti-Castro but also had been anti-Batista. Why? Because they were establishing a dictatorship over the Cuban people.

After the failure of the Bay of Pigs, the Kennedy-liberal complaint was that there was a Communist bastion 90 miles from the United States. It was a personal affront which led to a blood-feud.

Atty. Gen. Robert Kennedy and his Special Group (Augmented)—also known as the "Bobby Committee"—were out to get Castro. Hence "Operation Mongoose": poisoned cigars, Mafia contracts and God knows what else. Castro, a typical Latin fascist, decided about this time he was a Communist.

However, what bothered us anti-totalitarian ideologues was not that Castro won a macho contest over Jack and Bobby, but that he was installing in Cuba a savage police state, and that the kind of lunatic adventurism involved in the Bay of Pigs made it virtually impossible for anyone to look an authentic Cuban democrat in the eye and announce American support for democratic forces in the island.

The Kennedy honchos wrote us off contemptuously as woolly-headed Manichees who simply divided the world into goods and bads and had no sense of reality or for shades of gray. Doubtless true of some, but much of the criticism simply missed the point.

We were prepared, often with much anguish, to support an inefficient authoritarian South Vietnamese state because the option was the brutal, efficient totalitarianism of the North. (The same thing goes for Korea.)

But we recognized a real moral dilemma. The "best" and the "brightest" didn't know a moral dilemma from a fire hydrant.

To take an extreme case, a pre-emptive war against the Soviet Union in 1946—before the latter went nuclear—was arguably in the national interest. As Bertrand Russell argued persuasively at the time, such an action was, in utilitarian terms, the ultimate in vision.

Yet, assuming that Russell's calculations were right, a preventive war of this sort would have provided protection only at an incalculable cost in moral standing, a precious national asset. Who can put this into a computer?

Once we had some allies in Indochina, people whom we had made a moral commitment to defend from totalitarianism. Whether the commitment was wise or not is irrelevant. The fact is that we have deserted them, turned them over to a bunch of butchers who are "re-educating them." One-eighth of the Khmer have died in the schoolyard, Hanoi's firing squads are busy in Laos, and in the former Republic of Vietnam an admitted 300,000 "counterrevolutionaries" are doing penance.

American anti-Vietnam war leaders have asked for entry to investigate the conditions of these "students"; their request has been rejected on the ground there is nothing to investigate.

If they accept this answer, they demonstrate that from the outset their "moral" concern for the rights of Vietnamese was spurious and cynical.

A RESPONSE TO THE FORD BUDGET

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. CHARLES H. WILSON of California. Mr. Speaker: In response to the budget recently submitted by President Ford, I would like to state that I do not find Mr. Ford's proposals in harmony with the realistic needs of fiscal year 1978.

At the outset, it would appear Mr. Ford, as an outgoing President, is playing politics with the allocation of Federal dollars. Obviously, Congress and the new administration will restructure that budget and establish some of their own priorities.

The budget totals recommended by President Ford represent an increase of only 7 percent over this year. Based on past figures, that increase is approximately 3 percent below average, and it seems Mr. Ford is relying on current figures and not accurately projecting future needs. If we intend to reduce unemployment in this country and continue to meet specific needs in the areas of education, health care, and housing costs, that increase will go up.

As a whole, this budget does not differ from those of past years. We are still faced with a Federal deficit that will undoubtedly go over the $50 billion mark. The Congress has not had the opportunity so far to implement its own budgetary procedures in conjunction with an administration of the same party. How we respond to this new challenge will determine whether our actions match our rhetoric. President Carter has promised priority to solving the unemployment problem and providing stimulus to what is commonly called "the economic pause." President Ford, on the other hand, has responded to unemployment and economic growth by reducing jobs programs and putting his emphasis on individual and corporate tax reductions. By undercutting such programs as public works jobs and cutting back on social security, medicare and medicaid, Mr. Ford has seriously jeopardized the security and well being of the people in this country who are continually the hardest hit by the effects of unemployment and recession. A tax cut alone is not the answer. In my opinion, the answer lies in an effective balance between domestic assistance programs coupled with a tax cut.

A tax cut does provide relief to those people who find themselves in a higher tax bracket when salaries are raised to keep up with inflation. However, I think a 7.9-percent national unemployment figure would point to the need for additional stimulus. It is apparent that strict reliance on the private sector can not do the whole job.

Congress must redirect President Ford's priorities in this vital area and provide a mix between domestic assistance programs including a jobs program and a tax cut.

In the area of defense, I was happy to see a reverse in the trend toward continued reduction in the strength and capability of our military system through budget cuts. For the past several years, there has been a steady decline in real defense spending. I deplore waste and unnecessary spending in any area of government, but the defense department has for too long served as the whipping boy for cuts in the Federal budget. I certainly agree there is room for improvement, but that is true of the Federal Government in general, not one specific department. Although this country is fortunately not involved in any armed conflict abroad, it is important to remember we need a prepared and effective defense system. As a world leader, the United States must continue to maintain a position of strength.

President Ford's budget authorizes expenditures for the Trident submarine, the B–1 bomber, and the F–14 and F–18 Navy fighter planes. I do not consider spending for modernization of our military weaponry unnecessary, as some have stated in the past, but entirely necessary if we are to keep up with expenditures made by the Soviet Union for their defense system.

It is always difficult to decide who gets what share of the pie, but Congress and the administration have the responsibility to meet needs as they arise. We in the Congress have made a giant step forward with the implementation of our own budgetary procedure. By establishing proper priorities and setting realistic spending ceilings, I do believe me can achieve a balanced budget. My criticisms of President Ford's proposals are that they are unrealistic and too extreme. They would not put the money where it is needed.

MEDICAL RECORDS PRIVACY BRIEFING

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. WHALEN. Mr. Speaker, on January 12 I informed the House that I would be hosting a briefing on the National Bureau of Standards' new report, "Computers, Health Records, and Citizen Rights." See page 1046 of the RECORD of that date. Today, I am pleased to announce the details of that program, which is now being co-hosted by Senator MATHIAS.

The congressional briefing on the NBS study of confidentiality of medical records in a computer age will be held at 2 p.m. Tuesday, January 25, in room

2172 of the Rayburn House Office Building.

The principal speaker at the program will be Columbia University Prof. Alan F. Westin, author of the NBS report. Representing the medical profession at this session will be Dr. Vernon Wilson, vice chancellor for medical affairs at Vanderbilt University, Nashville, Tenn. Also speaking will be Dr. Ruth Davis, director of the NBS Institute for Computer Science and Technology, which sponsored the study.

While this briefing is intended primarily for Members of the House and Senate, it will be open to congressional staff and members of the press.

PUBLIC WORKS BILL

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. MAGUIRE. Mr. Speaker, the Public Works legislation focused on two persistent problems which have continued to plague our economy and have prevented a sustained recovery despite some erratic improvement: First, the continued high unemployment rate in the construction industry, and, second, the fiscal difficulties that local governments have been experiencing.

Local governments have been forced to increase local taxes in order to maintain services when the Federal Government has been cutting them to stimulate economic recovery. Local governments have been forced to delay or cancel construction projects at the very time when the construction industry is the most depressed segment of our economy. These necessary budgetary actions by local governments have reduced the impact of Federal measures designed to stimulate recovery.

In the last session Congress passed, despite opposition by the administration, legislation appropriating $2 billion for a nationwide public works construction program. Many worthy projects in areas of high unemployment still remain to be funded. We must move quickly to extend and appropriate additional funds for this program.

However, I think we have to take another look at how the program was administered and the funds allocated. I have talked with a number of local officials in my district. The following complaints were the most prevalent.

1. 70/30 SPLIT

According to law, 70 percent of a State's allocation was to be earmarked for areas with an unemployment rate in excess of the national average and 30 percent to areas in excess of 6.5 percent but below the national average. The competition was so incredibly high in the 70-percent category—particularly in a State like New Jersey where unemployment rates are extraordinarily high—that it was impossible for many needy towns to obtain funding. Because of the 70/30 split, a municipality with an unemployment rate of 6.68 and yearly per capita income of $5,498 received funds in the 30-percent category while a town with an unemployment rate of 12.36 and a per capita income level of $3,985 received nothing. We must reevaluate the 30-percent category.

2. CALCULATION OF UNEMPLOYMENT RATES

The present method established by the Bureau of Labor Statistics does not take into consideration those people who have exhausted their unemployment benefits.

BLS must establish a formula which would more accurately reflect true unemployment. Finally, if our intent is to reduce unemployment in construction and related industries then some provision should be developed to estimate unemployment in those trades and include this in the point system. To accomplish this I am cosponsoring a bill introduced by my New Jersey colleague, Representative FLORIO.

3. PRIORITIES

Many municipalities submitted more than one application. We should consider the possibility of allowing for the preferences of local officials. They are the most logical judges of the needs of their community and as such should be able to assist in prioritizing their own applications.

4. PROJECT AREA DEFINITION

Local governments were encouraged to be creative in drawing their project area yet this apparently resulted in a manipulation of statistics benefiting the most creative. EDA must establish clear concise guidelines for the definition of these project areas, to reduce the inequities which result from manipulation.

5. EDA ADMINISTRATION PROCEDURE

Many applicants complained that they were not notified by EDA when deficiencies were discovered in their applications that could have been easily corrected, until after the resubmission date. I understand that EDA did attempt to do this by phone but was unable to handle the volume. Some procedure should be developed to deal with this problem. Perhaps telegrams should be sent.

EDA continued to change regulations during the review process. I fail to see how a program can be equitably administered under these circumstances.

Finally, the application form itself was extremely difficult to follow without making errors. Surely this can be improved.

6. SCORING PROCESS

With regard to labor intensity I suggest that consideration be given to the utilization of a sliding scale formula on those projects which ranged from 35-percent to 80-percent intensity. It is inconsistent that a project with 39-percent labor intensity should receive the same score as a project that has a rating of 65 percent.

Second, the per capita income factor does not necessarily reflect the need or resources available to a local government to fund their own projects. Perhaps a more accurate picture could be drawn by utilizing the tax rates of a jurisdiction and the availability of tax ratables.

Finally, I would like to suggest that local governments receive more points than they do under the present rating systems. A local government receives a 5-percent increase while a regional authority may receive 3 percent. Since the intent of the legislation was to assist local governments, I think the 3-percent category should be eliminated or the local government score increased. Finally, many needed projects in my home county may not have been funded because of the approval of a State project. The State's project represented approximately 70 percent of the money that went into the county. Other local projects in the county were not funded because of a concentration of funds in the area. Not only that but many of these projects were more labor intensive than this admittedly desirable, but nonlabor intensive particular project.

I understand the need to move swiftly with this extension but the program must be administered equitably. We must learn from our previous experience and apply that knowledge to any extension of the program. Not to do so would defeat the purpose and intent of the legislation.

THE FORD FOUNDATION AND PRIVATE ENTERPRISE

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. GRASSLEY. Mr. Speaker, for many years, Ford Motor Co.'s Henry Ford II has been a maverick in the business world. He has never been afraid to speak his mind, even if it infuriated his colleagues or the public. Yet it was a surprise last week when Henry Ford announced he was resigning as a trustee of the Ford Foundation, the hugh charitable trust created by the Ford family.

Mr. Ford's resignation was designed to show his dissatisfaction with the direction in which the Ford Foundation has gone. He said the organization was funding programs designed to destroy the very American economic system which had provided those funds in the first place.

In his letter of resignation, Henry Ford wrote, and I quote:

> This foundation is a creature of capitalism. It is hard to discern recognition of this fact in anything the foundation does. It is even more difficult to find an understanding of this in many of the institutions, particularly the universities, that are the beneficiaries of the foundation's programs.
>
> Perhaps it is time for the trustees and staff to examine the question of our obligations to our economic system and to consider how the foundation, as one of the system's most prominent offsprings, might act most wisely to strengthen and improve its progenitor.

Henry Ford's concern that the foundation is supporting projects to undermine the economic system which created it could also be applied to many other pri-

vate groups and to our Federal Government.

Like the Ford Foundation, many Members of Congress and the Federal agencies frequently seem to forget that it was the private enterprise system which made this country great. It was the private system, our capitalistic society, if you please, which has provided the money to sustain Government and its programs.

Too many of our politicians, as evidently do the trustees of the Ford Foundation, seem to believe that capitalism is a dirty word, that profit is a dirty word, and that saving money is wrong.

Many Congressmen argue against a tax cut, saying people will only save it. Too many believe it is legitimate for the Federal Government to spend money it does not have, to continue borrowing and increasing our national debt, which is now a staggering $650 billion.

What these Congressmen forget is that the Government's borrowing money today means someone else must repay it in the next generation. As former President Herbert Hoover said:

Blessed are the young, for they shall inherit the national debt.

Mr. Hoover realized that continued deficits only result in more inflation. And inflation is just another form of taxation. He recognized the importance of eliminating deficit spending to curb inflation, a policy I advocate. President Hoover said there are only three ways to meet the unpaid bills of government—inflation, taxation, or repudiation. Each alternative is destructive to individual incentive and confidence in our economic system. All are morally and ethically wrong, for they would promote an amoral, materialistic, consumptive-prone society.

Unfortunately, the programs the Ford Foundation and many Members of Congress are promoting follow this unethical philosophy. They are encouraging the taking from those who work and giving to those who do not, which soon means that there is no incentive for anybody to work.

Our Government is already doing that to a great extent. Taxes on the middle class grow more burdensome annually. Taxes on business, both big and small, increase to the point where it no longer makes sense to expand and hire more workers, or, in some cases, remain in operation at all.

The philosophy that our political leaders and the Ford Foundation programs spread is that there is a free lunch. We are promoting this philosophy through bigger and more encompassing food stamp and welfare programs and through longer payment periods for unemployment compensation.

When will it end? Hopefully Henry Ford will succeed in turning around the Ford Foundation through his resignation. Hopefully, too, something will change the direction in which our Federal Government is headed, a direction toward socialism, less freedom, higher and higher taxes, and fewer incentives to work. It will only change, however, if people like you and me stand up and say, as Henry Ford did, "enough is enough."

NATIONAL COMMISSION ON SOCIAL SECURITY

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. LEVITAS. Mr. Speaker, together with a growing majority of other Americans, I have had no choice but to conclude that an absolute necessity exists for thoroughly overhauling our entire social security system. This is essential, both to head off the social security trust funds' projected "red-ink" operations within only 3 or 4 years, and also to remedy the program's many current inequities in coverage and benefits.

Accordingly, I am today introducing a joint resolution to create a National Commission on Social Security in order to provide a mechanism for achieving these reforms, and I am pleased to be able to advise that 53 of our colleagues are joining me in cosponsoring this important legislation.

Mr. Speaker, as you may recall, I first submitted this proposal in Congress 2 years ago, and I said at that time that there are too many warning signals about the system's very shaky fiscal ground which we can no longer afford to ignore or minimize. Those warning signals were loud then, 2 years ago, and they have now become clangorous. In fact, even the official experts on social security are beginning to admit that there is, indeed, cause for grave concern, as evidenced by this final paragraph of the 1976 report from the social security Board of Trustees:

The Board also recommends that the development of additional plans to further strengthen the long-range financing of the old-age, survivors, and disability insurance program be given high priority.

Further, these same trustees of the social security system, heretofore so sanguine about the inherent future strength of the program finally admitted in their report released last May that even under the most optimistic assumptions possible, the trust funds will be exhausted by the early 1980's. And predicting even further into the future, the report states:

The long-range actuarial cost estimates indicate that for every year in the future, under present law, the estimated expenditures will exceed the estimated income from taxes.

Turning for a moment now to the logical question of just what would be the impact if Congress does not correct the system's financial crises expeditiously enough, I want to point out that our social security system, with an average daily outlay of $192 million, is the world's largest social welfare program. With a current annual benefit payment of $70 billion, one-sixth of this year's Federal budget, social security furnishes $1 out of every $20 that the American people receive in income. In all, more than 32 million Americans, one-seventh of our total population, get a social security check each month.

In percentage terms, social security helps 91 percent of all persons over age 64, assures that 95 percent of all children under 18 and their mothers will receive benefits if the family breadwinner dies, and gives financial protection to 80 percent of the population between ages 21 and 64 in cases of severe and prolonged disability. Put another way, almost 90 percent of our work force, or 100 million working Americans, have social security coverage.

As we all know, social security was enacted in 1936 to meet an overwhelming need. Pensions and annuities used to be rare indeed, and mighty small when they did exist. In civilian life, the average person was on his own. Either he provided for his own old age—something few could do—or he faced such unwelcome alternatives as living in poverty, moving in with relatives willing to support him, becoming a public charge, or continuing to work, despite illness and old age.

But social security was never intended to be a complete retirement plan that would cover all of a person's needs. It was intended to be a supplement, to provide approximately one-third of what a retiree would need to maintain a comfortable standard of living.

Introduced in the early days of the Roosevelt administration, it was designed an an insurance program with mandatory premiums which would maintain actuarial integrity and would provide minimum subsistence. The system was really designed to help rural migrants to urban areas who had no means of providing for their own retirement and who constituted a potential heavy burden on society. A major failing of the concept, in my opinion, is that the supplementary nature of social security benefits has never been adequately publicized and is realized by only a few Americans. All too many people work the bulk of their lives, confidently expecting social security alone or in tandem with a pension to maintain them during retirement at their same level of living, and by the time they realize otherwise, it is too late.

Consequently, social security retirement benefits have had to rise over the decades to partially reduce what would otherwise have been a flood of applicants for State and local welfare programs. Instead of providing one-third of a retiree's income, social security for a low-paid worker now gives him about 60 percent of the wages he last got when he was working; those who were making a median wage receive about 40 percent; and the higher-paid obtain 30 percent or less of their retirement income from social security—a progressive benefit structure which to some extent offsets the regressive social security tax on employees.

This rise in benefits far beyond the increase in the cost of living over the past 40 years has obviously resulted in great changes in both the tax rate and the tax base—to the point where over half of the country's taxpayers pay more in social security taxes than they do in income taxes. By way of comparison, the social security tax rate in 1937 was 1 percent on a maximum base of $3,000, giving a total annual tax of $30 or less. These figures have now risen to a rate of 5.85

percent for social security and medicare combined, to a base of $16,500 and to a tax of up to $965.25—an increase of 3,200 percent.

Another way of illustrating this is to take the example of an employee who entered the work force shortly before 1937 and who has paid the maximum social security tax each year since then. His payment into the trust fund last year of $895.05 represented almost 9 percent of the total contribution he has made over the last 40 years—a total of $7,763.10 by the end of 1976, plus a matching sum from his employer.

For a number of years, those directly concerned with the social security trust fund have had a growing concern over the ratio of its income to outlays. And in 1975 this worry spread significantly and became full blown when for the first time, and well before the predictions of previous years, the trust fund paid out more than it collected. The unforeseen speed at which this materialized is illustrated by the fact that in March of 1975, the Social Security Advisory Council predicted a deficit of $2.5 billion, but just 2 months later, the Social Security Trustees estimated it to be $3 billion, a jump of 20 percent in just 60 days.

In any event, there currently seems to be unanimous agreement that, unless changes are made, the trust fund will be broke and start running in the red some time in 1980 at the latest. This means that social security will be paying out in benefits an average of about $10 billion more than it collects in taxes during each of the next 4 years. And this is in spite of the fact that the maximum annual contribution for individuals—excluding the medicare tax which was first added in 1966 and has since tripled—has increased almost 1,700 percent over the past 25 years, while the average benefit during that time has risen by a much lower 460 percent.

Two sets of reasons are seen for this bleak picture, one short ranged and the other long ranged. The short-term financing problems are created by higher-than-anticipated inflation, and higher unemployment with a resulting decrease in payroll-tax income for the trust fund —a decrease estimated at $6 to $7 billion for 1976 by the Social Security Advisory Council.

The long-range problems involve the "baby boom" that occurred in the years just after World War II and that was followed by the present decline in the birth rate which is expected to continue for an indefinite number of years. Since the post-WWII generation is big and the present generation is comparatively small, and since the former will be about to retire soon after the latter starts to work, there will be relatively fewer workers supporting more retirees.

As a solution, President Ford in his 1976 state of the Union address called for a .3-percent increase in the tax rate, an ineffective and very temporary remedy which, in my opinion, we should not even consider without an accompanying, comprehensive proposal for reforming, revising, and improving the entire system—a plan that was notably absent from Mr. Ford's 1976 speech.

A wide-ranging solution that I believe to be much more desirable than President Ford's "more tax" suggestion is contained in the bill I am introducing today. This bill is an attempt to examine thoroughly our present social security program in all of its aspects and to obtain viable alternatives to a system which many experts and a large, concerned portion of the public believe is no longer tolerable.

Specifically, my measure would abolish the present Social Security Advisory Councils whose members are too closely connected with the executive branch anyway in that they are appointed by the Secretary of Health, Education, and Welfare, with staffs primarily from Social Security Administration personnel. In their place, the bill provides for a national commission of nine citizens to make a careful and intensive study of the entire subject—not to be confined to the limits of the present program—and, after an interim series of reports, to recommend specific proposals for the type of system which will best suit the needs of Americans for the rest of this century and well into the next.

In comparison to the bureaucratic Advisory Councils at Social Security headquarters in Baltimore, this commission of private citizens will travel to all parts of the Nation and in addition to testimony from experts and economists, will hear from businessmen, retired persons, professionals, widows, working people, single-career persons—in short, from every element of our society.

The commission's final comprehensive report will set forth findings and recommendations including, but certainly not limited to, the following areas:

First, the adequacy of the fiscal condition of the present social security programs;

Second, any inequities in these programs based upon marital status, sex, or similar classifications or categories; and

Third, possible alternatives to the current programs, including a substitution of the payroll tax by general revenues, mandatory participation in a private insurance program, and a system permitting individuals a choice of public and/or private programs.

Mr. Speaker, we must assure those people now receiving benefits under social security that they will be fully secure and provided for. Further, we must assure those people looking to the future that the system to be devised will be at least as good as and, necessarily, more efficient, more productive, and less costly than the one we now have.

We have a national commitment to a retirement, survivor and disability benefits program, and we cannot allow that commitment to flounder because the existing delivery system has become unsuited to our current and future needs. Our responsibility is to develop an affordable and realistic program to provide true financial security for retirees and for families whose wage earner has died or become disabled.

The time for rhetoric and bandaid-and-aspirin solutions is past. The time for simply taxing people beyond the breaking point is past. Brave and bold and visionary solutions are needed. This bill provides the framework for such solutions. Americans are ready for this approach. A courageous Congress can provide these solutions, and the time for us to do so is now.

KEEPING FAITH IN AMERICA

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BIAGGI. Mr. Speaker, I would like to bring to the attention of my colleagues a very short but powerful letter which was written by an elderly gentleman from New York on the occasion of his 70th birthday.

Mr. Teplitsky discusses a problem which is of great concern to many Americans, the increasing rash of crimes against the elderly. Yet, Mr. Teplitsky does not despair, he shows his faith in his country and its abilities to solve its problems.

The hearings he referred to I conducted as a part of the House Select Committee on the Aging. I received testimony at the hearing from a Mr. John Gallo another private elderly citizen who had been victimized on several occasions, but refuses to imprison himself in his home.

For people like Mr. Teplitsky, it is our responsibility to enact strong and meaningful laws to punish the perpetrators of crimes against the elderly. We can begin by imposing stronger penalties against juvenile criminals, who are responsible for a large percentage of all crimes against the elderly. I have introduced H.R. 1461 and 1462 which represent new approaches for dealing with juvenile felony offenders. The first bill would lower to 15 the age under which juveniles can be prosecuted as adults for felony offenses H.R. 1462 would provide for the fingerprinting of juveniles convicted of felony offenses and would prohibit the withholding of previous juvenile records to courts. I welcome your cosponsorship of these measures.

It is my pleasure to bring Mr. Teplitsky's thoughts to the attention of my colleagues.

[From the New York Post, Dec. 23, 1976]

FAITH IN AMERICANS

This communication is the result of the recent New York congressional hearing on crime against senior citizens. I would like to speak about the sentiments of senior citizens who are imprisoned in their own homes, fearing to walk out in the streets and be mugged, beaten or even murdered. As a victim, having been mugged at knife point, I surely know from experience. The media has only been reporting one side. There is another side about the courage of old people to go on with life, to defy the criminals in spite of it all.

I will soon celebrate my seventieth birthday. My family was murdered in the Nazi holocaust so I am alone in the world. In 1930 to escape pogroms. I came from Russia to this great and only humanitarian country on the face of the earth. I was given a home when I had no home. I was given food when I was hungry. For that I am thankful to the American people and government who made this possible.—LOUIS TEPLITSKY.

VIKTOR BELENKO TALKS ABOUT CULTURAL DIFFERENCES

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BLANCHARD. Mr. Speaker, several months ago, Lt. Viktor I. Belenko flew his Mig-25 fighter out of the Soviet Union to Japan and freedom. Since that time, our intelligence experts have been questioning him at military installations in Japan and the United States.

Recently, a reporter from the New York Times interviewed Lieutenant Belenko. I believe Lieutenant Belenko's observations about contrasts between the West and the U.S.S.R. offer a good deal of food for thought as we approach what the late John F. Kennedy described as a "celebration of freedom"—the inauguration of the newly elected President.

Lieutenant Belenko describes not complex differences of philosophy or political system, but rather some of the simple, everyday contrasts which distinguish a free society from one ruled by a totalitarian regime. I commend his thoughts to the attention of my colleagues:

SOVIET DEFECTOR DEPICTS GRIM LIFE AT MIG-25 BASE

(By David Binder)

WASHINGTON, January 12.—When Viktor I. Belenko, the former Soviet Air Force lieutenant, recently visited the enlisted men's mess on a United States aircraft carrier, he expressed astonishment at the huge portions of food served "free and at all times" to the sailors.

The Soviet defector, who flew his MIG-25 to Japan last Sept. 6, found it an almost unbelievable contrast to the grim life of enlisted men at his former airbase near Sakharovka in Far Eastern Siberia.

As a MIG pilot, he ate his breakfasts on base under supervision of a flight surgeon concerned with nutrition, while his wife, Lyudmila, subsisted largely on a diet of potatoes occasionally supplemented by fish or meat in their small apartment.

The debriefing of Mr. Belenko has given United States intelligence officers an unusual picture of the life of a Soviet fighter pilot, characterized by what one official called "brutal discipline, distrust, extraordinary concern with safety and spartan living conditions."

Since arriving in the United States Sept. 9, Mr. Belenko has undergone almost continuous sessions of interrogation, psychiatric examination and observation by the Central Intelligence Agency, Defense Intelligence Agency and the Air Force.

In addition to his visit to the aircraft carrier, he has also spent time at Langley Air Force Base near Newport News, Va., and taken a brief fishing vacation in the Appalachian Mountains.

He has begun to study English and other subjects at the college level and has proved a "quick study" and "highly competitive," according to officials attending him.

In addition to the treasure of information provided by MIG–25, a high-performance craft designated Foxbat by the North Atlantic Treaty Organization, the 29-year-old pilot has proved to be "a gold mine of technical, tactical and operational information" about the Soviet Air Force, an intelligence officer said.

The American officials are not certain when the pilot began to think about defecting, but they know a seed was planted a little over a year ago when he encountered a foreigner who told him that "a MIG–25 would be worth a lot of money in the United States.

A TYPICAL WEEK IS DEPICTED

At the time the Soviet flier was on leave, on his way to his MIG–25 assignment in the Soviet Far East, having completed a tour as instructor on the older MIG–17. His request for transfer led to questioning by his unit's political commissar, who asked why he wanted to leave the "plush assignment and soft life" of a flying instructor to become a pilot on active duty in a frontier area.

Before being approved for the Far Eastern post, the pilot was interviewed by Air Marshal Pavel F. Batitsky, commander of Air Defense Forces. He was assigned to the air base at Sakharovka, 160 miles northeast of Vladivostok. The base was known as Sandogou until the early 1970's, when Russian names were given to Chinese-sounding place names in the Soviet Far East.

A typical week at the base began on a Monday morning when the pilot would be told he was to fly on Tuesday. He would spend the day drafting alternative flight plans. Then we would be given a cockpit checkout by his flight chief and a safety examination, and would meet with his squadron commander and regimental commander. Each officer had to certify the pilot's fitness and ability to fly.

On Tuesday morning the safety instructor would fly the intended route himself to check weather and then give another test on safety procedures. Finally the pilot received a preflight medical examination, including questions relating to psychological fitness, and would be off.

"If anything went wrong, everyone who certified him would get the ax," an intelligence officer said.

Mr. Belenko was baffled, his hosts said, when he encountered comparatively easy-going American military procedures on the aircraft carrier and at Langley air base.

He was astonished to find the carrier crew handling landings and takeoffs "without anyone shouting at them," he was quoted as having said, adding: I've never seen men work with such proficiency and coordination."

He repeatedly asked how much a portion of food cost. He sometimes took two heaping platters and consumed them as if to see whether he was being duped.

RESTAURANTEUR PICKED UP THE TAB

On one of the tours his three Russian-speaking hosts took him to Nick's Seafood Pavilion in Yorktown, Va., a well-known Greek restaurant. When the owner picked up the $75 tab, the pilot sprang to his feet, saying: "This is impossible. In Russia nobody gives anybody anything for nothing."

At Langley he was astonished to find a simulated flight trainer being manned by two sergeants. He was said to have told his interrogators that in the Soviet Air Force such a device would be supervised by "two colonels and a civilian with a Ph.D."

He was impressed by the informality of off-duty relations between American enlisted men and officers, recalling that in his own service there had been "no fraternization."

Seeing the relatively lavish enlisted men's facilities at Langley, he remarked that the enlisted men at the Far Eastern base were quartered behind barbed wire in barracks with 50 to 60 to a room, going for months without contact with their families outside the base.

He told his interrogators that sergeants and enlisted men of his regiment often committed suicide—"as many as five a month"—and that the desertion rate was high. He said he had witnessed the shooting of a sergeant who was captured after having deserted.

Infractions of discipline were punished with docking of pay, arrest and "brutal treatment," he told his hosts. He asked to see the brig on the American carrier and was surprised to find that sailors behind bars were not fed bread and water and did not sleep on boards.

COMMENTS ON FAMILY RELATIONSHIPS

The pilot was amazed by American films of the interior of his MIG–25, including the automatic flight computer, the radar and the circuitry that can distinguish friend from foe. "He had never been allowed to see much of the interior of the plane," an intelligence official said.

On leaving the Langley base, he told a companion: "If my regiment could see five minutes of what I saw today there would be a revolution."

The son of a factory worker and a farmer, Mr. Belenko was a member of the Young Pioneers, the Komsomol and DOSAAF, a paramilitary training organization, before being accepted for training as a mechanic. Through night school he obtained acceptance for pilot training.

He has told his hosts that he detests his wife and is cool toward his mother, and said his 3-year-old son, Dmitri, had been weaned away from him before his defection.

He had flown only 30 hours in the MIG–25 at the time of his defection, mainly because the plane is normally flown automatically by ground control except on takeoff or landing and does not require extensive flight time for the pilot.

He was indignant that Japan returned his plane to the Soviet Union on Nov. 12, after less than two months of study by American and Japanese specialists. United States military men said they could have spent two years examining the craft for knowledge about Soviet design. Mr. Belenko reported that an improved version of the MIG–25 was being fitted with improved radar, more powerful engines, better electronic guidance and a Gatling type of machine gun.

His hosts believe they will need at least one more year of talks with him to extract all the knowledge at his command.

"I didn't realize I knew so much," he recently told an interrogator.

TRIBUTE TO FRANK ZARB

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BROWN of Ohio. Mr. Speaker, for more than 2 years, the administration and the Nation have been fortunate to have at the head of the Federal Energy Administration a man of impeccable honor and outstanding ability, Mr. Frank Zarb.

Since the Arab oil embargo of late 1973, the United States and many of the world's industrialized, oil-consuming nations have been striving to set meaningful and effective long-term energy policies that will reduce their dependence on foreign oil imports for their energy supplies. The task of developing an energy policy for the United States has not been an easy one, and the battlelines of energy policy debate were starkly drawn between the advocates of competing, often contradictory, policy formulas. The Ford administration took a clear stand and just as staunchly the majority in Congress favored a different approach.

With a lesser man as the FEA Administrator than Frank Zarb, there would have been a complete standoff and total stagnation in energy policy. While we have far too much stagnation, such progress as we have made has been through his leadership. We in the Congress and the Nation as a whole are in his debt. His instinct for responsible compromise even as he held to his principles and those of the administration he served so eloquently were undoubtedly what made progress possible.

Mr. Speaker, we are further along the road to solving our energy problems than we might have been without Frank Zarb. Even with all that there is left to do, much has been done. I know that I speak for the whole House and not just my colleagues in the minority when I say thank you to Frank Zarb and his family and wish them well in their return to private life.

FREE MARKET CAUSED INCREASE IN FARM INCOME

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. FINDLEY. Mr. Speaker, "The goal of parity of income was never attained under 40 years of government farm income, but the free market got us there in a little over 3 years." These words were recently written by one of America's foremost farm policy experts and advocates of the free market system, Charles B. Shuman, former President of the American Farm Bureau Federation. His support of the free market has been vindicated by increased farm income. In a letter of the editor of the Prairie Farmer on November 6, 1976, Mr. Shuman, an Illinois farmer, issued a strong warning to policymakers who in the name of Goverment control would tamper with a system that has increased farm income so substantially in recent years. Mr. Shuman's letter follows:

STRONG EXPONENT OF THE FREE MARKET SEES VINDICATION IN FARM INCOME

Where are the prophets of doom and gloom who predicted the return of surpluses and a disastrous price collapse when price supports and acreage controls were ended?

I seem to recall that even Prairie Farmers had doubts whether farmers could cope with a free market without price protection. Now that we have had several years' experience with rain markets, largely directed by supply and demand rather than by politicans, it may be interesting to look at the results.

During the farm program years, net farm income seldom got above $15 billion. It has averaged more than $26 billion since the controls and price supports were ended. Per capita farm income during the 1960–69 period averaged only 65 percent of nonfarm income. Now it is averaging 98 percent.

The goal of parity of income was never attained during 40 years of government farm programs, but the free market got us there in a little over three years.

The proponents of government-managed agriculture were correct in one prediction—when farmers were turned loose to plant from fence to fence they increased crop plantings from 291 million acres to 355 million by 1976, but prices did not collapse—there was a market for every bushel.

Despite the terrible mistake of imposing export embargoes to please consumers and labor union bosses, foreign sales of farm products have increased from $6.7 billion in 1970 to over $20 billion this year.

As long as the Commodity Credit Corporation dominated the market, export sales languished—buyers were in constant fear of its recurrent dumping operations.

What will happen to the price of corn and beans if Congress should be so unwise as to go back to acreage controls and price supports or materially raise target prices? Based on four decades of experience, we could expect a 20 percent to 30 percent price drop, with corn at $1.60 to $1.85 and beans in the $3 to $3.25 bracket.

The problem is that every politican knows that 96 percent of the voters are consumers and he hopes to please them by keeping a lid on farm prices.

CHARLES B. SHUMAN.

DREW GILLEN

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. TEAGUE. Mr. Speaker, several weeks ago I lost one of my very good friends of long standing, and a most ardent supporter. His name was Drew Gillen of Blooming Grove, Tex.

Drew Gillen is one of the last of an old time breed, with an intense love of country and his fellow man. The old saying of "they just don't come like that anymore" is certainly a most apt description of Drew Gillen. He is going to be missed in Navarro County and Texas and there is none coming forward who could take his place. I mourn his passing and share the sorrow with his family; but I know that Drew, who was a devoutly religious man is happy, now that he is with his God.

Under leave to extend my remarks in the RECORD, I include an editorial from the Corsicana Sun eulogizing Drew Gillen:

WE'LL MISS DREW GILLEN

They came from Blooming Grove, Corsicana, Austin, Dallas, and Washington, D.C. They came from all parts of the United States. High public official and laborer alike mingled together in Blooming Grove, Texas, yesterday to pay their last respects to "Daddy" Drew Gillen.

The mourners represented the poor, the rich, and all colors and creeds. They came together in overflowing numbers to say a final farewell to a man they sometimes loved, sometimes disliked, but at all times respected.

Politically, he had an intense desire to see America returned to Her "rightful place" of leadership in the world. This desire gave him courage to stand firm in his convictions concerning the political scene and to speak out against the declining morality that he saw as the destroyer of our nation.

On one occasion during a particular political discussion that centered around a hotly contested point, he looked up and said very quietly, "This is America. We have the right to express our opinions and to hold our convictions without fear. We must not let this privilege slip away."

Spiritually, he was possessed with an inner force that drove him to live, as best he knew, a life that exemplified his strong personal faith and belief. Because of this, the services in his honor were a time of joy. Drew Gillen took joy in living, in taking care of "Mama" Gillen, in serving God, and in helping others.

His desire to share and help others was seen in the one moment of grief in the memorial service. A small newsboy passed by the casket, looked in, and try as he might could not hold the tears back. You see, that little newsboy had lost a friend, and it is tough to lose a friend.

That incident gave testimony to the life of Drew Gillen. He was loved, and respected. It can be said that he was a man who walked with presidents but was willing to bend a knee to help a child.

He will be missed.—Jerry Burney.

WHO IS NONPARTISAN?

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. COLLINS of Texas. Mr. Speaker. let us get action to clarify the 1976 Federal election finance expenditures. The Dallas Morning News speaks out most effectively from its editorial page:

The National Right to Work Committee, it seems to us, is trying to raise a fascinating and urgent point. But will anyone in Jimmy Carter's Washington, D.C., pause to listen? Let no one wager his last box of grits on such a possibility.

The right to work committee's point is that the AFL–CIO and its Committee on Political Education (COPE) stand in violation of the Federal Election Campaign Act.

This is a matter for judges, of course, but here is the NRWC's reasoning. The campaign act forbids outside groups to coordinate their activities with a presidential campaign without counting the money they spend against the overall total allowed the campaign. The NRWC maintains the AFL–CIO and COPE spent over $3 million on supposedly nonpartisan activities that in fact were directly aimed at boosting Carter, and that none of the $3 million was counted against the Carter campaign's spending.

Andrew Hare, vice president of the right to work committee, argues that "From top to bottom, officials (of the two labor groups) were publicly identified with and active in the Carter campaign. Some of them even drew salaries from the Carter political organization. Almost without exception, everything they said or wrote during the campaign had the same message—elect Jimmy Carter and defeat President Ford. For these same people to claim that their voter registration and get-out-the-vote drives were nonpartisan, as required by law, is patently absurd."

Of course the grievance has deep roots. While business and labor alike are forbidden by federal law to make direct contributions to political campaigns, labor has long circumvented the intent of the legislation by weighing its "nonpartisan" activities to help Democrats; in so doing, labor has become a formidable political force. Without labor's wholehearted backing, Carter would probably have lost. So would many Democratic congressional candidates.

There is not supposed to be any direct collaboration between outside groups and presidential campaign managers. The NRWC hopes to prove that such collaboration did in fact occur during the Carter campaign.

The point is that labor must play by the

rules even as business, its sometime opponent in the political game, is obliged to play by them.

An equal start at the political post is all that the right to work committee is asking—an equal start for everyone.

MANDATORY SENTENCING: A SINGLE, SEPARATE ISSUE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. ANDERSON of California. Mr. Speaker, today I am reintroducing legislation with 75 cosponsors that provides for an automatic 5-year prison term for the illegal use of a firearm during the commission of a Federal crime. We recognize the urgency, importance, and necessity of dealing with the rapid increase in violent crime.

Many of these violent crimes are committed with the aid of firearms: Most fatalities caused in the course of a criminal action are due to the use of guns. Today I offer a bill in behalf of the cosponsors that is not gun control but crime control. I hope the appropriate committee of the Congress will choose to recognize this fact and report mandatory sentencing legislation this session.

Mr. Speaker, I ask your consent to my publishing a letter from the executive director of the National Sheriffs' Association on this bill. Mr. Ferris E. Lucas' statement follows:

NATIONAL SHERIFFS' ASSOCIATION,
Washington, D.C., January 11, 1977.

Hon. GLENN M. ANDERSON,
Washington, D.C.

DEAR MR. ANDERSON: It is gratifying to learn that you have again introduced a bill that would provide for a mandatory sentence for anyone using a fire arm in the commission of a federal crime.

The vast majority of American peace officers will, I am sure, be overwhelmingly in favor of its passage. As violent crime increases as do the number of lawmen slain yearly, it appears obvious that half-measures must be abandoned.

The National Sheriffs' Association, during its 1972 Annual Informative Conference, unanimously approved a resolution similar to yours in regard to the several states.

It appears to be much more practical to curb criminal misuse of fire arms than it is to disarm the law-abiding citizen.

I congratulate you for your clear thinking and positive action. Your bill, if passed, will I am sure, lead to a measurable diminution of criminal activity.

Cordially,

FERRIS E. LUCAS,
Executive Director.

Mr. Speaker, crime has reached a crucial point in our country. The opinion of law enforcement experts are held in high regard by those of us who wish to see an end to the growth of violent crime. I urge my colleagues to join us in cosponsoring this important measure.

The thrust of this legislation is directed at the criminal who, through his own action, jeopardizes the rights and lives of law-abiding citizens. We must create an atmosphere in which it is known by everyone that using a gun illegally will be dealt with surely and effectively.

Mr. Speaker, fellow colleagues, I ask your support.

THE SUSPICIOUS INCREASE IN COFFEE PRICES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. ROSENTHAL. Mr. Speaker, something about the soaring price of coffee smells, and it is not the aroma of roasting beans.

Less than 5 years ago my constituents were paying 46 cents a pound for ground coffee, 18 months ago the price was $1.20; today it is over $3 and the end is nowhere in sight.

Consumers can expect the price of ground coffee to hit or even exceed $5 a pound this year and soluable—instant and freeze-dried—to go well over $10 a pound unless they take dramatic action, and soon.

During the past 18 months, the export price of Brazilian coffee beans has gone from 69 cents a pound to $2.47. Over the same period, the retail price rose from $1.20 to over $3. Industry and USDA sources say there is a 4- to 6-month lag in getting exports into the can we see on the retail shelf; thus we are yet to see the impact of today's export prices. There also is evidence that some of the coffee on retail shelves today may be several years old, yet selling at current exorbitant prices. Some companies are evidently not basing their prices on what they paid for the coffee but in anticipation of replacement of the items.

There is no question that about 70 percent of Brazil's coffee trees were destroyed by a severe frost in July 1975. There has been massive replanting, but it takes 3 to 5 years for a new tree to produce a harvest.

Supplies, however, are not as poor as would appear. This is because Brazil has been drawing on its already considerable reserves, beefing up its stocks with beans purchased abroad, and other countries are making up the difference in U.S. demand.

Other coffee-producing countries have sizeable reserves as well, which were probably grown when coffee was selling at a fraction of its present price. Although worldwide exportable production is below worldwide demand—44 versus 55 million bags—these reserves can more than fill the gap. After all, that is the purpose of building up reserves.

I wonder, Mr. Speaker, whether there really is a shortage of coffee or whether the frost is merely a convenient excuse for artificially pumping up prices.

Take a look at the proliferation by some food companies and retailers of discount coupons offering 40 cents or more off a pound of coffee. If there is such a shortage, why the discounts?

The American consumer has been slow reacting to soaring coffee prices. That is probably because consumers have become so accustomed to crises and shortages—oil, wheat, sugar, and meat among others—that they are becoming numb and it takes longer for something like this to cause a reaction.

On November 15, 1976, I urged consumers to boycott coffee and I am pleased at the widespread acceptance of the idea. But we still need some answers. The House Government Operations Subcommittee on Commerce, Consumer, and Monetary Affairs, which I chair, has been looking into the situation since November and will conduct hearings in the next few weeks.

The subcommittee investigation so far has involved discussions with representatives of the State Department, Agriculture Department, Commodities Futures Trading Commission, Justice Department, the industry, economists, and others.

The hearings will examine: Factors responsible for rapid price increases, including weather, politics, market speculation, producer profiteering, and retailing practices; U.S. domestic consumer price increases compared with other western countries; and whether coffee presently being purchased by consumers at inflated prices is made from beans purchased inexpensively months or even years ago by roasters.

Facts are needed to counteract the expensive advertising and promotion campaigning being waged by all facets of the coffee industry.

The latest evidence of this is a full page ad that appeared in the Washington Post, the New York Times, and four other major newspapers in the country last week. It stated coffee price increases are caused solely by natural disasters and war in Angola, which created "a worldwide coffee shortage."

Interestingly enough, the ad was placed by Hills Brothers Coffee, Inc., which is Brazilian owned.

The consumer, battered by one price increase after another, is told that it is merely the system of supply and demand at work. I suspect another system is at work—that of the speculator and the profiteer.

We are paying more for coffee than the laws of supply and demand require. Nearly every producing country is raising its export taxes to take advantage of the situation. Countries without the problems of frost, flood, earthquakes, or war are doing nothing to keep prices down.

When price fluctuations appear to have no basis in real events, there is another complicating result—panic.

The New York Times, January 7, 1977, reported:

Market speculators and consumers began to hoard supplies. Packers and importers started to bunch orders, instead of spreading them out in their traditional hand-to-mouth buying pattern. There was the feeling in many quarters that prices would be moving even higher, as they did. The actions of many made the price prophecy self-fulfilling.

No doubt there have been profiteers among the speculators, the hoarders and others. And the producing nations themselves jumped on

the bandwagon, imposing taxes on the exporter earnings and imposing various fees on their shippers to aid the inflation fight in their own countries and improve their international payments position.

The article reported that some trade sources feel—

There is a considerable amount of "clandestine" coffee that may have been outside official reserves in various parts of the world that may suddenly appear on the scene to capitalize on high market prices.

The quickest and surest way for consumers to avoid being squeezed to the last drop is to vote with their dollars—refuse to pay the prices. We brought the price of sugar and meat down and the people can do it with coffee. They have the grounds.

The country most likely to feel the impact of a boycott is Brazil, which traditionally has been sending about 30 percent of its coffee to the United States, although the figure this year is down somewhat. Brazil does not expect its crops to be back to prefrost levels before 1978–79 harvest, but just this month Brazil predicted next year's crop will be about double the 1976–77 harvest, that is, 12 to 14 million bags versus 6.4 million. However, USDA says this year's harvest will be 9.5 million. There appears to be no satisfactory explanation for the difference, but lower projections would appear to be in Brazil's interest because they could drive up demand for future contracts or improve reserves. Even with bigger crop forecasts—Brazil predicts 20 million bags for 1978–79 harvest—do not look for prices to start coming down in 1977. In fact, the export price may easily exceed $3 or $4—now $2.49—this year.

Brazil this month also announced record-setting coffee profits. Gross sales for 1976 reportedly will exceed $2.3 billion-dollar trade deficits, which help export sales of $900 million and more than a full billion ahead of the previous all-time record of $1.243 billion in 1973.

That country has severe inflation and is facing its fourth straight year of billion-dollar trade deficits, which help explain its recent increase of the export tax on coffee. The government, through its Brazilian Coffee Institute—IBC—sets a minimum export price for coffee. On December 13, that price was raised from $1.70 to $1.90 a pound for green coffee, according to USDA. IBC also sets an export tax—also called contribution quota—ostensibly to control inflation and raise revenues, though it also claims the tax's purpose is to keep demand down and thus control prices. This tax was just raised from $80 a bag—80 kilos or 60 cents a pound—to $100 a bag—about 76 cents a pound.

The export tax is theoretically paid by the exporter out of the minimum price, but the impact is to raise the export price so the exporter can continue getting his margin. Brazilian growers, USDA says, are getting between $1.30 and $1.42 a pound today, and the government—IBC—is taking 76 cents for the export tax; the difference between these figures and the export price is the exporter's margin.

I also question whether the industry that imports and roasts coffee is dominated by a few large firms without adequate competition to permit the free forces of the marketplace to prevail.

General Foods has 35 percent of the U.S. regular coffee market—plus 53 percent of the instant—and Folgers has 21 percent, giving these two giants the majority of the American regular coffee market.

Green coffee imports into the United States, which buys 35 percent of the world's imports, for the first 9 months of 1976 actually exceeded those for the same period of 1975. Although Brazil's share dropped, the slack was picked up by Mexico, Ivory Coast, Indonesia, Angola, and others.

It may very well be true that the Brazilians, as Cesar Gomez of the IBC indicated in a Washington Star interview, welcome a consumer boycott, temporarily, because they would rather see the market drop until they can increase their exports, rather than see the United States find other, permanent, sources.

Worldwide coffee production this year is expected to be about 62.1 million bags, compared to 728 million last year and 80.8 the year before. However, this year's figure is comparable to the harvest of 3 years ago and only slightly below the average for 1967–68 to 1971–72.

Meanwhile, coffee consumption has been decreasing in this country since about 1954 when we went through another period of soaring coffee prices—although they were well below present levels. Since 1962, the Pan American Coffee Bureau reports, consumption has dropped 32 percent in the United States, including 4.1 percent in 1975, the last year for which data is available.

Faced with a drop in demand and calls for consumer boycotts, the industry is taking several steps to boost consumption.

Ad Age reported in its December 6 issue that the National Coffee Association in cooperation with the International Coffee Organization is planning a $9 million promotion campaign for later this year to increase coffee drinking among young people in the 16 to 25 age group.

Manufacturers and retailers are passing out millions of cents-off coupons to encourage sales. This is cutting the margin on coffee at the retail level, and some economists suspect supermarkets are making up the loss by increasing margins on staples such as milk and meat.

Third, the producers/exporters are taking out 25 cents from the sale of every bag of coffee for a promotion fund to encourage greater consumption. Reportedly, this was done at the urging of the U.S. companies and is a part of the International Coffee Agreement.

Coffee, of course, is a non-nutritious beverage, and the health of continued consumption by some persons is being questioned by a public interest organizations, The Center for Science in the Public Interest, in a recent letter to the assistant HEW secretary for health, charged that caffeine may cause birth defects and reduced fertility in humans.

THE BALANCE(S) OF POWER: IV (XV-b)—TRYING TO THINK PAST THE PENTAGON DRAWING BOARD

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BRECKINRIDGE. Mr. Speaker, yesterday I was privileged to insert the first part of a two-part article on military strategy by Mr. Henry S. Bradsher of the Washington Star. The following section concludes Mr. Bradsher's article:

[From the Washington Star, Dec. 30, 1976]

TRYING TO THINK PAST THE PENTAGON DRAWING BOARD

(By Henry S. Bradsher)

The Pentagon and Congress have been trying to work out what ships the U.S. Navy should have. The continuing discussions will basically determine the size and composition of the American fleet in the 1990s, because ships ordered in the mid-'70s will form the backbone of naval strength two decades later.

A lot of consideration has been given to the number of ships both needed and affordable, and some thought to the military missions they should be capable of fulfilling.

But there has been almost no serious consideration of what kind of world those ships will be operating in by 1955, what countries might be allies or enemies then, what sealanes might need to be kept open—and, therefore, what kind of Navy will really be needed then.

The government is not set up to think that far ahead on the big problems. Instead, it tends to project current attitudes and programs into the future without much effort to figure out whether the future might be significantly different.

Other major weapons systems, most notably the B1 bomber, are being developed in a virtual vacuum of thinking about the ways in which needs for them might change over their lifetime of a quarter-century or so.

There is no over-all strategic concept of shifting security needs in a changing world. As a result, there is no intellectual framework within which policies can be formed as a guide to the selection of foreign relations positions or of weapons to defend those positions.

Some of the strategic concepts which are most treasured in the Pentagon are accidental. The prime example is the triad system of having three independent elements of strategic nuclear power to deter the Soviet Union: bombers, land-based ballistic missiles in fixed silos, and ballistic missiles in submarines. The elements came first, the theory was then developed to explain them.

There are now efforts to add additional legs to the triad, such as mobile land-based ballistic missiles, air-launched ballistic missiles, long-range cruise missiles both airborne and at sea, and anything else that appears as a gleam in the eyes of military scientists.

The Pentagon attitude generally is, if it is possible, build it—and the justification in terms of changing theoretical explanations can always be worried about later.

This situation makes it almost impossible for the U.S. government to plan ahead in a logical fashion to deal with its security problems, either in terms of rapidly mounting costs for ever more complex weaponry or of foreign political and domestic public opinion aspects of deploying new types of armaments. But the bigger part of the problem is that the government has never been properly set up to do any long-range thinking.

When a number of senior administration officials who are responsible for American foreign and military affairs are asked about long-range thinking on basic problems, they react with concern but discouraged resignation.

"Strategic thinking is one of the most difficult problems facing us," according to a man who carries a large part of the nation's security burden but declines to be identified by name. "The government bureaucracy just isn't capable of coping with it."

Various administrations have tried in the past to produce some farsighted ideas by selecting intelligent, perceptive people and giving them offices in which to think big thoughts. But, the burdened man says, one of two things invariably happens.

Either they write big, fat studies that draw conclusions but cover them with all sorts of qualifications, producing so much paperwork that the busy official who assembled them does not have time adequately to contemplate and assimilate the results. Or some crisis arises, the official needs extra manpower to deal with it, he looks around to see who is not busy, and the thinkers are dragged down from their ivory tower to fight a fire—never to return.

"That's ridiculous," snorts another official. He agrees that it happens, but says the basic fault is that top people do not appreciate the need for strategic thinking enough to keep their weight behind it.

John M. Collins endorses this view. Collins is a Library of Congress specialist who has been finding a widening audience during the past year for his preaching on the need to renew the nation's strategic concepts.

"Unless the president of the United States, or people close to him who can reach him, realizes the importance of an updated strategic framework for policies and takes positive action to get the right people into an environment conducive to creative thinking, nothing will get done—and we run the risk of ordering the wrong weapons, following the wrong policies in various parts of the world, wasting money and effort," Collins says.

The burdened official points out that formulating policies on the basis of original thinking about the world one or two decades ahead means putting the nation's money and security where the thoughts are. That is risky.

"The safest and easiest thing, in terms of the bureaucracy as well as getting anything through Congress, is just to continue straight-line actions, to go on doing what we have been doing because we've survived so far and that's always the most defensible argument for not making any major changes," the official says.

But, he adds, it can mean just letting problems build up until finally they burst upon us as insoluble crises because of a lack of foresight to prevent them. Or maybe we are unprepared to deal with them when they do burst because we have equipped ourselves in our psychological willingness to act, in armaments and in allies for different sorts of crises.

Another senior official who has had a major role in formulating security policies for the last eight years suggests that administrations "have life cycles, and the beginning of a new one is a time for fresh thinking."

This official cites National Security Memorandum No. 3 in 1969 as basic thinking at the beginning of the Nixon administration's life cycle. It set forth a view of the world as it was then perceived in Washington and provided guidance for formulating new policies to deal with it.

"Each administration gets a new start, but then it begins to get tied up in details, coping with short-term things, trying to sort out messes, filling in gaps in its original thinking, but never really taking a rigorous second look at its assumptions to find out if they have become out-dated," the official says.

And the burdened official concurs, saying that the key advisers to the president who should see the bigger picture are too tied down to all the pressingly immediate little demands for attention.

But what is basic thinking? Another important official in Washington dismisses memorandum No. 3 in any discussion of strategic concepts. "What the National Security Council is doing is just rearranging the pegs that everyone recognizes are already on the board," he says.

The real problem, he thinks, is "trying to figure out what the pegs will look like in 10 or 20 years—for that matter, what the board will look like. Nobody's doing that."

Memo 3 was written under the guidance of Henry A. Kissinger, one of the major figures in what is now considered "the golden age" of strategic thinking. Among a number of people around town who worry about the present absence of such thinking, however, there is a feeling that as national security adviser Kissinger proceeded to forget many of his own best, most cautious and farsighted precepts from the intellectual world once he was subjected to political pressures to produce applaudable results.

President-elect Jimmy Carter's designated national security adviser, Zbigniew Brzezinski, also comes from the intellectual world. His focus has been on international political relationships rather than Kissinger's nuclear relationships, but the two cannot be totally divorced.

Brzezinski has talked and written about the changing nature of world problems. How much this recognition will contribute to a White House stimulation of original work on long-term problems is a subject of intense curiosity among those who are worried about renewing American strategic concepts.

There is a small, spreading recognition in Congress of the situation.

The creation of the Congressional Budget Office was supposed to provide Congress with original inputs to balance against bureaucratic ideas. The office has taken some looks at strategic questions, but so far it has by the very nature of the demands on its time been unable to lift its eyes from current concerns to those concerns which are on—or still just over—the horizon.

"The nature of the congressional system tends to defeat any long-range thinking," one Pentagon official contends. "Congress has gone more and more to micro-management, examining items line by line, which distracts them and us both from broad conceptual approaches to what should be our underlying concerns."

An aide to Sen. Robert Taft Jr., William S. Lind, recently focused on this problem in a lengthy paper on defense.

"Only by getting down to the original ideas behind our present defense can the Congress hope to make its examination of the defense budget more than the exercise in futility it has so often been in the past," Lind wrote.

"We should not accept at face value the conventional dilemma that demands that we spend more money or risk an inadequate conventional arms defense structure. The dilemma ignores the alternative, that a fundamental restructuring of our armed forces and rethinking of our strategy might provide even better defense that would not entail greater cost to the taxpayers. . . ."

Congress "cannot permit major policy decisions to become the exclusive domain of a few officials who, left to themselves, tend to get caught up in their own preconceptions and lose sight of developments that may call for new strategic concepts and force structures," Lind said.

TRIBUTE TO GEN. FRED C. WEYAND

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. MONTGOMERY. Mr. Speaker, last September 30 marked the end of a brilliant and distinguished career in our Nation's armed services when Gen. Fred C. Weyand retired as Chief of Staff of the U.S. Army. I am pleased to rise at this time to commemorate his service to the American people and express my thanks for a job well done.

General Weyand's appointment as Chief of Staff, U.S. Army, was proof that in America ability and merit, not birth or position, are the important criteria for success.

Who could have foretold 36 years ago that a Reserve officer with a degree in criminology, from a nonmilitary family, could ever hope to be Chief of Staff of the Army? Even after his World War II experience and his integration into the Regular Army, who could have foretold that a former intelligence officer who had served in the obscure China-Burma theater could ever hope to rise to the top of the Army?

But Fred Weyand was not a careerist, he was a professional. He was not interested in looking for career "tickets" or the "right routes to the top." He was only interested in serving the American people to the best of his ability in whatever job he happened to be given. It is a credit to the American Army that his dedication and his professionalism were recognized and, lack of "tickets" notwithstanding, he was given increasingly important and difficult assignments.

Let me just remark on two such assignments. The first is his detail to the Paris negotiations on ending the war in Vietnam. I know from my own experience in attempting to resolve the problem of America's missing in action how hard it is to negotiate with the North Vietnamese. How much more it must have been for General Weyand, who had commanded the 25th Infantry Division and II Field Forces, Vietnam, in active combat against the very people he was now ordered to negotiate with, who had seen his own soldiers killed by those who sat across the table from him. Difficult as it must have been, he performed these duties in his usual exemplary manner.

Another such assignment was as the final commander of the Military Assistance Command, Vietnam, overseeing the withdrawal of American forces from that country. This was compounded when the President ordered him back to Vietnam in March 1975 to make a final assessment of the Vietnam war. How heart-wrenching this must have been for him as he witnessed the disintegration and collapse of all that he and hundreds of thousands of American soldiers had tried to build with their sweat and their blood.

Some things are measured by what happens—Fred Weyand's elevation to

Chief of Staff of the Army is the measure of his many years of devoted service to the Nation. Some things are measured by what did not happen—unlike France after Algeria or Portugal after Angola, the American Army did not question the orders they received from their elected and appointed civilian leaders. The American Army remained loyal to the Constitution and to the American people. And this, too, is a measure of the service General Weyand gave to the United States.

General Weyand's legacy remains with us, as the Army now builds on the foundation he laid for the total army of Active and Reserve forces necessary to defend this country and her interests.

The entire country owes a debt of gratitude to General Weyand. I wish him well in his retirement.

SOCIAL SECURITY PARTICIPATION BY CONGRESSMEN

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. LEVITAS. Mr. Speaker, today I am introducing legislation which would require Members of the Congress and employees of the legislative and executive branches of the Federal Government to participate in the social security program.

Very few citizens outside of the Federal Government realize that most Federal employees do not participate at all in social security, and when they do become aware of this fact, their first question, logically enough, is—

If the social security system is such a wonderful program, why do not Federal employees and those in Congress—which, after all, was the originator of the system and is now responsible for making desirable changes in it—participate in social security and come under its coverage? Is their own retirement system better and more beneficial?

It seems rather strange that the social security system, which supposedly is good enough to cover 100 million working Americans at the present time, is apparently not good enough for Congress or even for the Commissioner of Social Security himself.

The confidence of the American public in the future viability of the social security system is already rapidly evaporating, as evidenced by the fact that more than 200 local and State governments in the country have relinquished their membership, which is voluntary, in the system, and well over 200 others are now in the 2-year process of doing so.

We first heard testimony almost 2 years ago from actuarial experts that one and possibly two of the four social security trust funds will be absolutely depleted as early as 1980 unless present trends are reversed, something that is most unlikely to occur. This is a stark prediction to contemplate, and one which gives us less than 4 years in which to act.

But act we must because it is unthinkable to imagine even for a moment that this Nation ever could or would falter in fulfilling its firm and incumbent responsibilities to our impoverished elderly and disabled. We cannot let that commitment falter or fail because of a lack of concern or inaction on the part of the President and the Congress. And I can think of no better way for those of us who serve in Congress to demonstrate that we fully recognize this commitment and that we are totally resolved to carry it out than by placing ourselves under mandatory participation in the social security system, and thereby tying our own personal finances into the future of a program which already directly affects two-thirds of the country's population—100 million because they are paying into the system, and 32 million because they are receiving monthly benefits from it.

Congressional participation in social security, however, would in no way refuel the public's negative comments on so-called congressional perks. On the contrary, it is all too obvious that the program's benefits are paltry and inadequate, and that the inequities are manifold. At the same time, the cost is skyrocketing through constant increases in the country's most regressive tax—the social security payroll tax.

In short, there is very good reason why older people are concerned and anxious, and why younger people are cynical and angry.

Therefore, I have already reintroduced legislation which I first submitted early in 1975 to establish a 4-year, citizens' National Commission on Social Security, charged with the responsibility to make a thorough and independent study of the whole system and viable alternatives to it, possibly including a mix of public and privately financed retirement, disability, and survivorship plans.

There is no doubt in my mind that the inequities and financial strains in the social security system constitute a time bomb that is ticking away. We still have an opportunity, however, to act rationally and farsightedly in putting the system in order. I am convinced my commission legislation would put the machinery in motion to do just that.

Thus far, the only option that has been significantly discussed was President Ford's insensitive proposal to raise again the social security tax. If anything, though, Americans are already paying too much for too little. For instance, during the last 20 years, the taxpayers bill for social security grew from $5 billion annually to $64 billion, while the average retirement benefit check went from $55 per month to $207—less than one-third the tax rise and always below the poverty level. Equally startling is the fact that over half of the American taxpayers now pay more in social security taxes than they do in income taxes.

Merely pumping more social security taxes into the present inadequate, inequitable system simply will not work, and President Ford was just plain wrong in thinking it would. However, the only other option that has received tacit recognition is the one taken thus far by Congress: Burying our heads in the sand and doing nothing. Clearly, that too will not work.

The approach utilizing a private citizens' National Commission on Social Security is a long-range one which will not yield tangible reforms promptly. In the meantime, though, I believe enforced participation in the system by Members of Congress and other Federal employees would go a long way toward sensitizing the Congress and the executive branch as to what must be done.

After all, if the present system is so good, why should not we all pay for it and benefit from it? On that basis alone, I would confidently anticipate speedy and overwhelming passage of the legislation I am introducing today so that U.S. Representatives and Senators would be able to avail themselves of the social security system's present advantages and opportunities, providing, of course, that Members of Congress really do think that the program as it now exists is a good investment to make for one' future.

On the other hand, if enthusiastic congressional support for my legislation does not materialize after all, we should in all fairness explain to our constituents just why what is good enough for them is not good enough for us. We can certainly be quite confident that such an explanation will be requested, if not demanded, by our constituents. And if it is sought by enough people, the only justifiable and defensible response we can give will be to enact either the bill I have just introduced or the necessary remedial legislation.

In sum, Mr. Speaker, I submit that all of us in the Congress will have more incentive to promptly improve the social security system if we ourselves become part of it.

ASSISTANCE FOR ZOOS AND AQUARIUMS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. WHITEHURST. Mr. Speaker, I am today introducing legislation which would establish a Federal Zoological and Aquarium Board, consisting of members of humane societies and zoological and aquarium associations. The Board would be given the responsibility of setting voluntary standards for accreditation and would be empowered to make grants of funds for the training of staff members, humane research into methods of improving the welfare of animals, pilot projects, and survival centers for the breeding, care, and perpetuation of endangered species.

The criteria for making such grants would be accreditation standards set by the Board, and I would stress that animal experts from a wide range of fields, including humane societies, would be represented on the Board. Further, I have

worked in cooperation with the American Association of Zoological Parks and Aquariums on this bill and they have made valuable suggestions.

As our society becomes increasingly urbanized, zoos and aquariums will provide the only exposure to the world of nature for many children and their parents. The hundreds of thousands of citizens who visit our zoos each day demonstrate that people truly enjoy being able to view a wide range of animals.

While the zoos' primary purpose is to provide their visitors with a means of enjoyment and recreation, they also perform an important educational function. There can be no doubt that zoos and aquariums have enabled millions of children to satisfy their first glimmerings of scientific curiosity and acquire an appreciation for nature. However, in order to give children and adults alike a true understanding of animals, it is essential that zoos and aquariums provide facilities that are as similar as possible to the natural habitats of the animals, and that provide clean, humane, well-kept buildings and grounds. The Animal Welfare Act of 1970 gave the Department of Agriculture the authority to establish and enforce minimum standards for zoo facilities and animal care. Appropriate penalties were provided for, and as a result of the Department's efforts, many zoos have been upgraded and some unsatisfactory ones have been forced to close.

Having established the means of enforcing minimum standards, it is now time to turn our attention to aiding zoos and aquariums to upgrade their facilities. My bill would provide the necessary assistance. I believe that my bill would be a major step forward in insuring that our zoos and aquariums achieve high standards in order that both the animals themselves and those who visit can receive the maximum benefit. I urge my colleagues in the House to join me in cosponsoring this legislation.

NATIONAL MUSEUM OF AFRO-AMERICAN HISTORY AND CULTURE

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mrs. BURKE of California. Mr. Speaker, it is my great pleasure today to introduce a bill which would be the first step toward the creation of a National Museum of Afro-American History and Culture in Los Angeles, Calif.

This bill directs the Secretary of the Interior to conduct a 1-year study of the feasibility and suitability of establishing a repository in Los Angeles which would recognize the diverse contributions of black Americans to U.S. history and culture. The museum would preserve, collect and display representative samples of black contributions to the arts, science, religion, education, literature, politics, and entertainment.

Legislation authorizing a similar study to establish a National Museum of Afro-American History and Culture in the vicinity of Wilberforce, Ohio, passed the 94th Congress as part of an omnibus study bill, Public Law 94–518. This legislation was introduced in the House by Representative CLARENCE BROWN of Ohio and in the Senate by Senators ROBERT TAFT and JOHN GLENN. A study is currently underway under the auspices of the National Park Service.

I believe it is entirely appropriate at this time to seriously explore the possibility of establishing a comparable museum in Los Angeles for the benefit and appreciation of the population living in the Far West.

One of the most pressing reasons for advocating establishment of an Afro-American history and cultural museum in Los Angeles is the opportunity it provides to preserve manuscripts, documents, and memorabilia which may otherwise deteriorate or disappear entirely.

I am familiar with one especially outstanding collection of historical papers pertaining to black history which is owned by Mrs. Mayme Clayton of Los Angeles. Her Western States Black Research Center serves as a resource library for researchers of black history. But as her collection has grown and become more valuable, it has become increasingly difficult for Mrs. Clayton to keep up with the financial demands involved in properly housing and maintaining this collection. It is this type of collection which could be housed in the Los Angeles museum.

The Los Angeles area is also a rich reservoir of talented black artists across the spectrum of the arts. An Afro-American museum in Los Angeles would bring together under one roof a continuing representative exhibition of the artistic and cultural achievements of today's black artists.

The proposal for creation of an Afro-American history and cultural museum in Los Angeles is gaining widespread support in the Los Angeles area and throughout California. The University of Southern California has expressed an interest in participating in the operation and maintenance of such a museum. Establishing the museum on or near the USC campus would be a logical move since it is centrally located within the city and since it is situated in the heart of Los Angeles' predominantly black community.

This proposal also has the support and active involvement of community leaders in Los Angeles and an effort is underway to gain support in the California State Legislature through the enactment of State legislation.

On the Federal level, consideration and passage of the legislation I am introducing today is the first step in examining the feasibility of this project. Creation of a National Museum of Afro-American History and Culture in Los Angeles would be a worthy endeavor which would serve to broaden the appreciation of black heritage and would be an appropriate recognition of the past and present achievements and contributions of black Americans.

ANOTHER OSHA CASUALTY

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. ABDNOR. Mr. Speaker, a feature article in the January 12 edition of the Minneapolis, Minn., Star graphically demonstrates the path many small businesses are taking in the wake of the Federal bureaucracy. It is easier and more economical to quit rather than fight the mounting paperwork, compliance, and inspection they face.

There is no one who is against safe and healthful working conditions, but their achievement is possible without the nitpicking inspections and cumbersome, confusing regulations of the Occupational Safety and Health Administration. Those of us who have been fighting for OSHA reform to make it more tolerable for the widely varying business circumstances across the United States, were heartened by the recent Idaho Federal court decision declaring what most of us have felt: warrantless OSHA inspections are unconstitutional. We were heartened because it should provoke more meaningful congressional action than we have been able to obtain through regular legislative processes in recent years.

I would like to share with my colleagues the story of a South Dakota small business: The latest OSHA casualty:

SOUTH DAKOTA MAN GIVES UP FIGHT AGAINST BUREAUCRACY

(By Bernie Shellum)

Francis L. Kelly, contractor—"Under the growing bureaucratic system that keeps evolving, too many tax-paid freeloaders are making what I consider too many demands. And so, while I still have my trowel and my hammer, I am stopping."

BERESFORD, S. DAK.—There was a time when problems and solutions came to Francis L. Kelly in pairs. One was never far behind the other.

Take the rock, a 1,875-pound mass that blocked his access to a repaving project, Kelly drilled a hole through the rock, attached a steel hand and transformed it into a tool. Now, 10 years later, the rock still is used as a wrecking ball to break up slabs of old concrete.

Or the time Kelly started getting backaches from massaging newly poured cement with a hand-held bull float. Using a lawnmower engine and an unbalanced flywheel, Kelly invented and marketed a self-propelled vibrator that smooths and settles cement without strain on workmen's backs.

Kelly sold just 12 of the machines, called Screedmatics, the first year. Now he sells from 1,000 to 2,000 of them a year, and they are in use in India, Japan, Oman and 50 other countries.

But Kelly's heart, and most of his time, were in building, and as the proprietor of the ma and pa Kelly Construction Co. he was leading the kind of small-town life that politicians make Fourth of July speeches about. He was a self-made man, an entrepreneur who was doing good while also doing well.

By his own count, Kelly built 53 homes and about 200 commercial buildings, many of them in Beresford, a community of 1,800 about 30 miles south of Sioux Falls.

Gesturing toward a small yellow house on a corner, Kelly said, "This lady had $10,000 and wanted a house with a round glass block entry. I said I think I can do that. It was the dream of her life."

Then there was Al's Market, a motel, Truck Town and the first house in South Dakota with a stone roof. "I don't build gingerbread," Kelly told one prospective customer. But the man insisted, and showed Kelly a two-inch picture of what he wanted. Kelly, a man of the marketplace, built it.

"Oh, I take a little pride," Kelly acknowledged during a tour of his projects. "Wherever I go in town I built it or had something to do with it."

In his peak year as a builder, 1955, Kelly did $500,000 in business and hired 29 workmen. But he kept the company small enough so that his wife could keep the books while he did all the estimating, bidding, some of the designing and the building.

Kelly, who is 54 now and a chain smoker, doesn't try to pinpoint when the fight started.

There was a dispute with the federal officials who enforce wage and hour laws, but it didn't cost much because only one of his workmen claimed back pay for overtime.

"I never had a man ask for a raise in wages," Kelly said, "and I always paid the top wages in town." He still resents that the officials offered his workers free legal advice if they wanted to sue him for back pay.

Then Kelly embroiled himself in a long-standing controversy over school taxes and budget policy, won election to the school board and served one term. He didn't make any headway against the school administration, and was defeated when he ran for re-election.

Still, Kelly was a man who recognized an idea whose time has come. This time it was vegetables. Not seeds or seedlings, but potted plants—40 different varieties. People are getting lazier and lazier, he figured, and don't want to fuss with growing vegetables from seeds.

He built a greenhouse, in his backyard, and stocked it with produce from scattered plots he owns around town. He and his wife sold 23,000 potted plants the first year, for a return of $2,000.

Then the city officials came calling. "They found this one little paragraph on the bottom of page 71," he said, "that says you can't do it." Kelly dismantled his $3,000 greenhouse, but not his vegetables business. He moved that into his garage, which has been solar-heated for years, and which he thinks is beyond the reach of the planning commission. But his return dropped to $600 a year.

The first inspector from the Occupational Safety and Health Administration (OSHA) showed up on April 23, 1974.

At first, Kelly was confident. "I had studied all the pamphlets," he told a visiting reporter. "I had read every OSHA book that came out. There's never been an accident of any kind on any machine."

Indeed, Kelly had been awarded plaques by Associated General Contractors for operating without disabling accidents for all but two years, and both of the exceptions involved stepladders.

One week after the inspection, OSHA informed Kelly that his two companies—Kelly Construction and Kelly Industrial—were in violation of agency rules on 17 counts. He owed $140 in fines for five of the violations.

Some saws lacked blade guards. Other saws had blade guards of Kelly's own design and manufacture, but they didn't comply with regulations.

Kelly protested that his cement mixer was rented. The inspector cited him anyway.

"Guardrails for the open-sided platform were not of standard construction," the OSHA report said. "The work rest on the large stand-type abrasive wheel grinder on the east side of the factory was not adjusted to within one-eighth inch of the wheel, nor was said abrasive wheel grinder provided with an adjustable tongue for peripheral protection."

Kelly was, he recalled, "so mad I could hardly talk." Since he had tried to comply with OSHA regulations he "figured it was an affront to do that to me."

Records show that Kelly didn't pay the initial fines of $140. In early June, the OSHA office in Denver ordered him to pay within 10 days.

Six weeks after the first inspection, on June 5, 1974, another OSHA inspector came to Kelly's converted-lumberyard headquarters. This time, the agency fined Kelly a second time for two violations, and levied three new fines for matters that he hadn't corrected after the first inspection.

The second batch of fines totaled $240.

Five days after the second inspection, Kelly wrote to nine of his suppliers, asking for rush delivery of protective devices prescribed by OSHA. Some parts were unavailable, so Kelly snipped the electrical plugs from the machines or junked them.

A month later, he sent his checks to OSHA, along with a letter in which he said, "I have heard so many stories of your department's brutality I would like to be notified of what is next. I have in my office, incidentally, AGC (Associated General Contractors) plaques for no disabling injuries dating back to 1961, and have attempted to follow OSHA regulations, revision by revision . . ."

That ended Kelly's formal and official troubles with OSHA. But his anger didn't go away. "I still shake when I talk about it," he said in a recent interview, his leg twitching under the kitchen table.

A few months after his encounter with OSHA, in December 1974, Kelly notified his employees that he was quitting the construction business. By then he was embroiled in a new dispute, this time with the local industrial development promoters.

On March 27, 1975, the 27th anniversary of Kelly Construction, he wrote to the editor of the local newspaper.

"My decision to stop is a matter of priorities," he said. "I believe my time can be better spent than completing the ever-mounting paperwork required, such as forms, surveys, reports and questionnaires sent by state and federal bureaus and agencies . . . I hope by stopping one company I may cut the number of tax-paid workers who mail out, receive, tabulate and file this information, much of which appears to be trivia.

"I also hope to save money and considerable expense, both to myself as a businessman and to myself as a taxpayer, by removing one company from OSHA inspections.

"And so, while I still have my trowel and my hammer, I am stopping." At 5 p.m. that day, he did.

Now Kelly putters with his organic vegetables and markets his inventions.

There's a $100 birdhouse that attracts purple martins, who eat mosquitoes, and repel starlings. And there are a $179 stone cutter, a $345 rock splitter and the $264 Screedmatic.

The Screedmatic comes in two models. One contains a belt guard, and is sold mainly in the Midwest, where OSHA inspectors insist on it. The other is sold in the East, South and West, where OSHA inspectors don't seem to care. The model with the belt guard costs $29.50 more.

THE RIGHT TO CHOOSE

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. FORSYTHE. Mr. Speaker, recently I have had many constituents contact me in support of the right-to-life movement and advise me of their opposition to the decision handed down by the U.S. Supreme Court on January 22, 1973, legalizing abortion. My constituents have also expressed their concern about tax dollars being used to pay for abortions. Therefore, I would like to take this opportunity to once again publicly state my position on abortion.

Personally, I am opposed to abortion. I also believe, however, that one's belief about abortion and one's belief about when life begins is determined by one's religious and moral training. In a state where religious freedom is guaranteed, I do not believe that I have the right, as an American or as a U.S. Congressman, to impose my moral and religious beliefs on anyone else. In my view, government should not enter unduly into the moral religious lives of citizens. The 1973 Supreme Court decision prevents undue government interference by allowing an individual to make his own decision about abortion. I support the Supreme Court decision and I do not favor a constitutional amendment to prohibit abortion.

Furthermore, I believe that it is better to strictly regulate abortions for health and safety reasons than to allow abortions to be performer in dirty "backrooms" by incompetent practitioners. Prior to the 1973 Supreme Court decision, many thousands of illegal abortions took place and the women undergoing these operations frequently sustained permanent physical injury and death at the hands of incompetent personnel. I firmly believe that outlawing abortion will only return mothers with unwanted pregnancies to the dirty conditions and incompetent personnel that were their lot before the Supreme Court decision. In this regard it should be noted that abortions, where legalized, have almost universally reduced the maternal mortality rate and complications arising from incomplete abortions.

The individual rights of medical personnel are also involved and I was the sponsor of legislation that is now Federal law which prohibits any medical facility from compelling its personnel to perform abortions.

In the past I have opposed the use of Federal funds to provide abortions. However, when Congressman HENRY HYDE proposed his amendment to the Labor-Health, Education, and Welfare appropriations measure during the last session of Congress, I voted against the amendment. Mr. HYDE'S amendment prohibits the use of Federal funds for the performance of any abortion, including therapu-

tic abortions when the life of the mother is endangered. I could not, in good conscience, vote against funds for a medical procedure that would enable medical personnel to save the lives of women whose lives were endangered by pregnancy.

I recognize the importance of this issue to our citizens and the residents of New Jersey's Sixth District. Abortion is a very emotional issue about which each individual feels deeply. And, it is precisely these individual feelings and thoughts which I think are too important to legislate. Abortion is a moral, religious, and private decision which I believe is best left to the individual to decide. I do not believe that we can or should become involved in legislating which beliefs are right and which beliefs are wrong. Democracy cannot long withstand this type of legislating by the Government.

THE FORD YEARS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. CARTER. Mr. Speaker, it is passing strange and after the fact that the Washington Post should write an editorial complimentary to Gerald Ford. Nevertheless, it was refreshing to see the Post on Sunday, January 16, retract its previous statement that he "was a very model of a second-level party man" and admit that the paper was wrong and that Gerald Ford was the right man to succeed to the Presidency and that he brought the needed temperament, character, and virtues to the office he temporarily had held.

As for the ending of the editorial, the statement that Gerald Ford did "a hell of a job" in my opinion is not appropriate in an editorial or speech. It would have been much better to have said, as we all recognize now, that Gerald Ford did an excellent job.

After the many scurrilous editorials and offensive and degrading cartoons that the Post carried about this man who restored dignity, honesty, and integrity to the Office of President, it is certainly good to see the Post editorialists recognize their errors and eat crow.

In the same editorial section on Sunday, several other commentaries reflecting a similar, almost rueful revision of thinking about President Ford and his administration were striking also.

In particular, it was good to see the Post at last recognize the brilliant work of Secretary of State Henry Kissinger. As a history major in college, I submit that Henry Kissinger ranks in the class of, and probably exceeds, Disraeli, Metternich, and Talleyrand.

Even Post Writer David S. Broder apparently sees the light, as evidenced by his column headlined, "The President the Country Needed." Again, it is unusual that Mr. Broder should wait until after the election was over to say one word of praise for this truly good and kindly man who has served our country these past 2½ years. The question comes to mind: Why was Mr. Broder so belated with his comment? It reminds me of the words of Pilate at the trial of Jesus Christ: "For I find no fault with him."

Columnist Joseph Kraft, likewise after the fact, after the election was over and the votes were counted, says that President Ford "personally exemplified truth, openness, and affection for others." Why did you wait, Joseph?

Mr. Speaker, I would like to have the following belated editorials and columns entered into the RECORD for the perusal of the other Members of this body.

As for myself, I wish for the incoming administration success, for our people depend upon it. In the words of President Ford:

May God guide this wonderful country, its people, and those they have chosen to lead them. May our third century be illuminated by liberty and blessed with brotherhood, so that we and all who come after us may be the humble servants of thy peace.

The material follows:

THE FORD YEARS * * *

"At no point has he shown a keen or impressive grasp of the complexities of hard questions. Pedestrian, partisan, dogged—he has been the very model of a second-level party man. It is no accident that over his quarter-century of unremarkable service in the House, he has never been put forward for the presidency. . . ." So we spoke in this space a little over three years ago upon learning that Gerald Ford was about to ascend to the office of Vice President. We do not cite our despondent appraisal because we think it was on the money, but rather because we think it was not. Having been forced to replace his Vice President, and being in not-so-secure condition in office himself, Richard Nixon had just informed a waiting world that Gerald Ford was the one. Frankly, it did not occur to us that Gerald Ford was also the right one.

But we were wrong; he was. The President who will leave office this week brought precisely the needed temperament, character and virtues to the high offices he has temporarily held. These qualities are regularly subsumed under the familiar general heading of "decency," a word that does indeed fit the man. What is so revealing about the times in which we live—and the horrendous political circumstances surrounding Mr. Ford's accession to office—is the vaguely condescending way in which this particular tribute is paid to him: *Well, you have to admit he is a decent human being* . . . or . . . *Don't get me wrong: Of course, I think he's a decent person* . . . and so on. Decency, in this context, becomes as an attribute something roughly comparable to good posture or punctuality. How odd that so few of us have been willing to acknowledge that decency in the White House can be regarded as a luxury or a bonus or a fringe benefit only at our peril.

It is central. And its absence was central to the sorrows this country endured in the years preceding Mr. Ford's presidency. In his first days and months, it was as if he had liberated Washington—from its personal fears and hostilities and suspicions, from the dark and squalid assumptions that people had come reflexively to make about one another and about the way things "really" worked. God knows who was (and is) still listening in on whose line or who is plotting what gruesome revenge against what political foe. Our point is merely that Gerald Ford brought to the White House an open, unsinister and—yes—decent style of doing things that altered the life of the city and ultimately of the country.

We have found many of the President's programs and positions (and lack of both in some cases) dismal news indeed. But that is yesterday's laundry list. Our summing up of the Ford presidency draws us only to the overriding legacy he leaves.

Will this city under the Carter Democrats be able to preserve that political and personal civility that Gerald Ford did so much, so unexpectedly, to revive? The Carter administration, more activist and energetic, we would guess, than its predecessor, faster-paced, more intellectually self-certain and combative, is almost by nature destined to put some of these homely, but hard-won virtues at risk. We can only hope the new administration will understand their indispensability. Mr. Ford has left it an incomparable gift in the detoxified political atmosphere of the place and the institutions it is about temporarily to inherit.

The outgoing President has also done a great deal for the honor of his party, although you wouldn't necessarily know it to listen to the samurai-like grunts and howls coming out of the struggle for party control. But Gerald Ford did in fact redeem the Nixon moral disaster. His two-and-a-half years gave point and purpose and respectability to the efforts of those innumerable straight-arrow Republicans who had come to work in Washington and who had been let down, in fact betrayed, by their own White House. And the exceptional quality of most of Mr. Ford's own high level appointments—John Paul Stevens, Edward Levi, William Coleman, to name just a few—went a long way to erase the memory of earlier indictment and disgrace.

We will leave it to others to tote up the pluses and minuses of the Ford administration in strict program and/or policy terms. We can frankly do without reviewing it ourselves. We think it is enough to point out that Gerald Ford had an all but impossible assignment—and that he did a hell of a job.

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* * * AND THE KISSINGER CONTRIBUTION

More than any other administration figure of the Nixon-Ford years, Henry Kissinger dominated his chosen area of policy and became the focus of the public's judgment of it. Though later he rode on his own power, skill and legend, initially he rose as the favored aide of a President who had entered the White House determined above all to restructure relations among the great powers. With the European intellectual's bent for conceptualization and the European survivor's knack for maneuver, Henry Kissinger was precisely the man to elaborate and execute the Nixon design.

It consisted, quite simply, of playing China against Russia. Its most celebrated results were the opening to Peking, the consolidation of the European status quo, and the onset of across-the-board negotiations with Moscow itself. This last was called "detente." Mr. Kissinger, with his chief, sold it to a wary public as promising a "generation of peace." In fact, he seems to have understood it himself as a defensive strategy meant to carry a Vietnam- (and later Watergate-) weakened America through a period of growing Soviet power. He was brave and profoundly right, we believe, to try. But the debate raging even now about Moscow's ultimate political and military aims is vivid testimony that the Nixon-Kissenger "structure of peace" was, if "buildable" at all, not built in the last eight years. Finding ways consistent with American values and resources to cope with Soviet power remains the central task of American foreign policy—though it is far from this alone.

From the start, balancing off Soviet power

preoccupied Mr. Kissinger. To impress the Kremlin with American will, he felt, the unpopular war in Vietnam had to be ended on American terms. The policy flowed easily from his belief that diplomacy should be based not so much on the informed consent of others in government or society as on his own perception of the national interest. He was mistaken, of course, in his notion of how foreign policy ought to be or could be made, and in his notion of how much suffering Americans wished either to sustain or inflict on account of Vietnam. Thus was his Vietnam policy destroyed.

In Chile, Cyprus, Angola and elsewhere, Mr. Kissinger conducted a policy similarly intended to bolster the American position toward Russia. But whether the policy succeeded or failed in those terms abroad, it further eroded Mr. Kissinger's political capital and his good name at home. The public and the political opposition came increasingly to believe, not always fairly, that Mr. Kissinger regarded it as a distraction to follow an open concern for political rights or economic needs in foreign lands. All of this left him progressively less able to prepare and conduct negotiations on the central issues relating directly to Soviet-American detente, particularly the control of strategic arms. By way of further squeezing out Soviet power, he undertook two major regional negotiations, in the Middle East and southern Africa, which are promising in different ways but have not yet run their course.

The analysis of Henry Kissinger's personality, and the matching of his personality to his policy, has been a thriving Washington enterprise for years. His own memoirs should be an important contribution to it. We would note here only that the qualities that have led Americans variously to celebrate and curse him are not necessarily those we would underline ourselves. To us, the measure of the man as a public official was that he had a large and serious conception of the world and of the United States' place in it. He sought to build an international order to tame the terrors of war and deprivation, and if in the pursuit of that order he sometimes offended the values he meant to serve—and he did—then he did so not through a moral failing but through a political and human one. We think his Washington career has provided one of the true contemporary adventures of striving in public life. It will be a long time before any future Secretary of State is not measured against the reach, and the record, of Henry Kissinger.

The President the Country Needed

(David S. Broder)

In an odd, inexplicable way, the truth has begun to dawn on people in the final days of Gerald R. Ford's tenure that he was the kind of President Americans wanted—and didn't know they had.

After a decade of presidential excess, they wanted a man of modesty, good character, honesty and openness. They wanted a President who was humane and prudent, peaceable but firm. Especially, they wanted one uncorrupted by the cynicism and lust for power that they had come to associate with Washington politicians.

Jimmy Carter's campaign was the successful projection of these idealized qualities of the post-Watergate President. It was also a series of promises—to reform the government, end bureaucratic waste, provide an energy policy, curb the nuclear arms race, cure unemployment, etc.

How well President Carter measures up to these character tests and how many of his goals he achieves remains to be seen.

But Gerald Ford—even while acknowledging in his last State of the Union address and in a series of valedictory interviews his disappointments in the fields of economics, energy and governmental reform—gave people a quiet reminder that he has been exactly the kind of personality they prayed to find in the presidency.

He did so in a variety of ways, large and small, not least of which was his demonstration of equanimity in the face of his first—and any politician's greatest—defeat. Both The Washington Post and the New York Times headlined the fact that Ford was "at peace" with himself and his fate, as if that were remarkable for a departing President.

And, of course, it is. Two of his three most immediate predecessors had left the White House as political exiles; the third had been murdered.

Ford leaves on a tidal wave of good will, of which the cheers in the House chamber the other night were vocal testimony. As he recalled in his farewell interview with The Post, he had originally planned to wind up his public service this January by making the 94th Congress his last as the representative from Grand Rapids.

As it works out, he is leaving only 17 days "behind schedule," having served 29 months as President and with the country the better for his service.

He leaves with the nation at peace, the intentional scene as tranquil as it is ever likely to be, and the American people more united and confident than at any time in a decade.

Some of that is luck. Some of it is the healing effect of time on the scars of Vietnam and Watergate. But Gerald Ford also leaves the presidency itself healthier than he found it, and that is because he thought hard about what was needed there—and did it.

Take, for example, the matter of the President's relationship to his Cabinet. One central aspect of the "imperial presidency" was the subordination of Cabinet officers to the arrogant whims of the White House staff.

Jimmy Carter has talked a great deal about his desire for strong, autonomous Cabinet officers, and in the final days before his takeover, was still trying to determine what kind of White House staff arrangements would encourage that decentralization of decisionmaking.

Yet, as James E. Connor, Ford's staff and Cabinet secretary, pointed out to a visitor the other day, almost no one has noted the extent to which Ford himself already demonstrated how to solve that problem.

Yet it is a fact that the outgoing Cabinet has been spared interference from officious White House staff members either in their departmental decisionmaking or in their access to the President.

Ford cured this ill by quite conscious, shrewd strategies. He required, for example, that no communication from a Cabinet member to the President could be delayed more than five days for White House "staffing." If the staff comments weren't ready in that time, the Cabinet member's paper went into the President's reading file on its own, rather than being pigeonholed endlessly in the White House bureaucracy.

Ford himself set the example for devolution of decision-making. In the face of heavy pressure to bring all major issues to the White House, he insisted, for example, that the Secretary of Transportation should decide the Concorde landing-rights question and that the Attorney General handle the government's response to Boston's antibusing violence.

In these, and other ways equally important, he demonstrated in practice the virtues of which Carter spoke.

Oddly, neither he nor his advocates made much of this fact in the recent campaign. But Gerald Ford can leave office with some confidence that history will record that he was, in truth, the President the country needed at this time and knew that it wanted, even by another name.

Ford Looks to the GOP Future

(By Joseph Kraft)

Jerry Ford came to praise himself—and not to bury the Republican Party. He had a strong personal case to make, and he made it effectively in his third State of the Union message. If he exaggerated some, it was for the benign purpose of holding open the door to an eventual Republican comeback.

The undoubted accomplishment of the Ford presidency was the recovery of national morale. The White House, the main institutions of government, and the very concepts of national security and political authority had been used for criminal purposes by President Nixon. Ford reversed that degradation of the democratic process.

He personally exemplified truth, openness and affection for other Americans. He democratized the White House and appointed independent persons of rare quality to the highest offices. He delegated authority widely, including the authority to sit in judgment of his own actions. He kept faith with the Congress, even in the midst of the debacle in Vietnam.

Probably no other man in American public life could have played the role he played—the role, if I may mix the plays somewhat, of Laertes to Nixon's Iago. All Americans are in his debt. If, as he said Wednesday night, the state of the union is more perfect, it is due in large measure to the innate goodness of Jerry Ford.

Ford also staked two claims that require more careful inspection. He spoke of the "recovery from the recession and our steady return to sound economic growth." He said growth was "now continuing after the recent period of uncertainty, which is part of the price we pay for free election."

But recent economic growth has been neither sound nor steady. Growth is moving at about 4.5 per cent per year, which means that unemployment will stay well over 6 per cent for a long, long time. The recovery, which looked so robust at the turn of the year, suddenly went flat during the past summer and fall.

Against that background, Ford's claim that the recent economic slowdown is "part of the price we pay for free elections" seems very curious. The implication is that Jimmy Carter's campaign rhetoric caused businessmen and consumers to lose confidence, thus precipitating the economic pause. Which is very special pleading, indeed.

Equally doubtful are Ford's pronouncements on defense. He did, to be sure, arrest the steady drop in military spending—but mainly on the motion of former Defense Secretary James Schlesinger.

The shipbuilding program Ford developed is a chaotic mess that commits big money to the huge surface vessels that are especially vulnerable to the new equipment in the Soviet air and naval forces. Military sales abroad were made on an indiscriminate basis by private contractors who are only now being brought under the control of the Defense Department. Far from arranging for a steady American buildup, Ford showered the Pentagon with more funds than even the free-spending brass have been able to dispense smoothly.

Almost certainly Ford emphasized those controversial points because of party politics. The Republicans have lost the White House and been weakened in the Congress and in their recently developed Southern base. Inevitably a rebuilding period is required, and presumably the rebuilding will have to take place at the state level—in Illinois where a Republican governor has just taken over; in Pennsylvania where a Democratic split

makes a good opportunity; and in California, which might soon wise up to the superficial intellectualism of Jerry Brown.

Meanwhile, the party needs a national focus. Economic and defense policy are probably the best rallying points against the Democrats, and the stance taken in those areas by Ford is a model of enlightenment when set against the views of the party conservatives. It ought not to be forgotten that Ford ran so well against Carter thanks in large measure to a well-nigh brilliant campaign.

So two cheers, at least, are in order for Jerry Ford as a Republican. He has not—to reverse Goldsmith's judgment of Burke—rendered unto mankind what was meant for party.

A REVOLUTIONARY MOTHER

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. MONTGOMERY. Mr. Speaker, the following article appeared in the Neshoba Democrat in Philadelphia, Miss., following the adjournment of the Congress. Because of the continuing interest in our Nation's Bicentennial, I would like to share it with my colleagues by including it at this point in the RECORD. The article points out in vivid detail the heroism of one revolutionary mother, who was an ancestor of people living in my Third Congressional District. The article is as follows:

A REVOLUTIONARY MOTHER: THE HEROISM OF MRS. SLOCUMB OF NORTH CAROLINA

(Correspondence Goldsboro, Argus)

How many of the children of North Carolina, and especially those of Wayne County, the home of Mrs. Mary Slocumb, and where her descendents now live, know the story of the heroic part she took in the battle of Moore's Creek, which was fought February 27, 1776? She was the wife of Col. Ezekiel Slocumb and the part she bore in that memorable battle of Moore's Creek is best told in her own words—

"The men all left on Sunday morning. More than eighty went from this house with my husband. I looked at them well, and I could see that every man had mischief in him. I know a coward as soon as I set my eyes upon him. The Tories more than once tried to frighten me, but they always showed coward at the bare insinuation that our troops were about. Well, they got off in high spirits, every man stepping high and light. I slept soundly and quietly that night and worked hard all next day, but I kept thinking where they had got to, how far, where and how many regulars and Tories they would meet, and I could not keep myself from that Study.

I went to bed at the usual time but could not sleep. As I lay, whether walking or sleeping I know not, 'I had a dream, yet it was not all a dream.' (She used the words unconsciously of the poet who was not then in being) I saw distinctly a body wrapped in my husband's guard cloak, bloody—dead and others dead and wounded on the ground about him. I saw them plainly and distinctly. I uttered a cry and sprang to my feet on the floor; and so strong was the impression on my mind that I rushed in the direction the vision appeared and came up against the side of the house. The fire in the room gave little light; everything was still and quiet. My child was sleeping by, my woman was awakened by my crying or jumping on the floor. If I ever felt fear it was at that moment. Seated on the bed I reflected a few moments and said aloud; I must go to him. I told the woman I could not sleep and would ride down the road. She appeared in great alarm, but I merely told her to lock the door and look after the child. I went to the stable and saddled my horse—as fleet and easy a nag as ever traveled, and in one moment was tearing down the road at full speed. The cool night seemed, after a mile or two's gallop, to bring reflection with it; and I asked myself where I was going, and for what purpose?

"Again and again I was soon ten miles from home, I knew the general route our little army expected to take, and at daybreak I was 30 miles from home, and had followed them without hesitation. About sunrise I came upon a little group of women and children standing by the roadside, each one of them showing the same anxiety I felt. Stopping a few moments I inquired if the battle had been fought. They knew nothing, but had assembled on the road to catch intelligence. They thought Caswell had turned to the right of Wilmington Road and gone towards the northeast (Cape Fear).

"Again I was skimming over ground through a country thinly settled, and very poor and swampy, but neither my own spirits nor my beautiful nag's failed in the least. We followed the well-marked trail of the troop's. The sun must have been well up, say 8 or 9 o'clock, when I heard a sound like thunder, which I knew must be a cannon. I stopped still. Presently the cannon thundered again—the battle was then fighting. What a fool thought I, that my husband could have been dead last night and the battle only fighting now. Still, as I am so near, I will go on and see how they come on and how they come out. So away we went faster than ever, and soon I found by the noise of the guns I was near the fight. Again I stopped. I could hear muskets, I could hear rifles, and I could hear shouting. I spoke to my mare, and dashed on in the direction of firing and the shouts.

"The blind path I had been following brought me into the Wilmington road leading to Moore's creek, a few hundred yards from the road, under a cluster of trees were lying perhaps twenty men. They were the wounded."

"I knew the spot, the very trees, and the position of the men I knew, as if I had seen it a thousand times. I had seen it in my dream all night. I saw all at once but in an instant my whole soul was centered on one spot; for there, wrapped in bloody guard-cloak was my husband's body. How I passed the few yards from the saddle to this place I never knew. I remember uncovering his head and seeing a face clothed with gore from a dreadful wound on the bloody face; 'twas warm and an unknown voice begged for water. A small camp kettle was close by. I brought water, poured some into his mouth, washed his face, and behold it was Frank Cogdell. He soon revived and could speak. I was washing the wound in his head. Said he: It is not that; it is that hole in my leg that is killing me. A puddle of blood was standing on the ground about his feet. I took his knife, cut away his trousers and stocking, and found the blood came from a hole shot through and through the fleshy part of his leg; I looked about but could see nothing that looked as if it would do for dressing wounds, but some heart leaves. I gathered a handful and bound them tight to the holes, and the bleeding stopped. I then went to the others, and dressed wounds of many a brave fellow, who did good fighting long after that day. I had not inquired for my husband, but while I was busy Caswell came up. He appeared very much surprised to see me, and was, with his hat in his hand, about to pay some compliment, but I interrupted him by saying: "Where is my husband?" "Where he ought to be, madam; in pursuit of the enemy."

"But pray," said he, "how came you here?" 'Oh I thought,' I replied 'you would need nurses as well as soldiers, Sir, I have dressed many of these good fellows wounds, and here is one (going to Frank and lifting him up, with my arm under his head so that he could drink some more water), who would have died before any of you could have helped him.' "I believe you," said Frank. Just then I looked up, and my husband, as muddy as a ditcher, stood before me. "Why Mary!" he exclaimed, "what are you doing there? hugging Frank Cogdell, the greatest reprobate in the army." "I don't care," I cried, "Frank is a brave fellow, a good soldier and a true friend to Congress." It is true every word of it." said Caswell. "You are right madam," with the lowest possible bow. I could not tell my husband what brought me there, I was so happy, and so were all. It was a glorious victory; I came just at the height of the enjoyment. I knew my husband was surprised, but I could see he was not displeased with me. It was night again before our excitement subsided. Many prisoners were brought in, and among them some very obnoxious, but the worst of the Tories were not taken prisoners. They were for the most part, left in the woods and swamps, wherever they were overtaken.

"I begged for some of the poor prisoners, and Caswell readily told me none should be hurt but such as had been guilty of murder or house-burning."

"In the middle of the night I again mounted my mare and started home. Caswell and my husband wanted me to stay until next morning and they would send a party with me. But no; I wanted to see my child, and told them they could send no party who could keep up with me. What a happy ride I had back, and with what joy did I embrace my child as he ran to meet me."

There we have the devoted wife, the loving mother, ministering angel, and the courage of a Jennie McNeal.

Mrs. Slocumb was the mother of Hon. Jesse Slocumb, who served his country in Congress from 1817 to 1821, when he died in Congress, and lies buried in the Congressional cemetery at Washington.

The foregoing interesting account of the heroism and devotion of Mrs. Slocumb will be highly appreciated, when it is remembered that she was the great grandmother of our fellow townsmen, Mr. J. C. Gully and his brothers Messrs. William, Thomas and Nat Gully.

(The above article appeared in the Neshoba Democrat 32 years ago in the issue of May 2, 1891. J. C. Gully, above mentioned, has since passed away as have both William and Thomas Gully. Among relatives in the county now living are Mrs. Alice Walton of Neshoba, who preserved the article, and Mrs. R. F. Hays, Mrs. Andrew Yates and F. Gully; all four are grandchildren of J. C. Gully and great-great grandchildren of the author of the story.—The Editor).

PROTECT THE ENDANGERED CALIFORNIA CONDOR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. ANDERSON of California. Mr. Speaker, today I have introduced a bill to halt a proposal to mine phosphates near the California condor sanctuary in Los Padres National Forest.

Only 50 California condors are living

and the disruption of their environment could eliminate these unique creatures as efficiently as a hunter's gun.

Recently, a private firm filed a lease application to mine phosphates underneath the 2,434 acres in the Los Padres National Forest near the sespe and sisquor condor sanctuaries.

Although an environmental impact statement stated that strip mining "will adversely impact wildlife, particularly threatening the condor," a 1920 mining law gives the company the right to mine the deposits.

The Mineral Leasing Act of 1920 states that if discovery of a valuable mineral deposit is proven to the Secretary of the Interior, "the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit."

My bill, a joint resolution, would withdraw the proposed six open-pit areas from the jurisdiction of the laws covering mineral recovery on Federal land.

Believed to be the largest bird in North America, the California condor's wingspread sometimes extends to 9 feet. Although the specie was never abundant, the California condor once occurred all along the Pacific coast from southern British Columbia south into Baja California.

Now, in the entire condor population there are probably less than 20 breeding pairs. We want to save them from extinction.

The senior Senator from California, Senator ALAN CRANSTON, introduced this legislation on January 10, 1977. It was the third joint resolution submitted in the Senate of the United States, thus designated Senate Joint Resolution 3.

DEPARTMENT OF HEW—PERPETUATING THE BUREAUCRACY

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. TAYLOR. Mr. Speaker, during the past few weeks, I have received numerous communications from school administrators in my district who are totally frustrated, dismayed, and downright agitated over the tremendous amount of paperwork that is being demanded by the Department of Health, Education, and Welfare's Office for Civil Rights.

I have studied the forms in detail and as a former schoolteacher, myself, I can readily agree that the information demanded is not only time consuming and unnecessary but outrageous on its face.

I am certain that many of my colleagues have also received such letters but for those who have not, I am submitting two letters which vividly point up the problem. I am hopeful that during this session of Congress, the House in its wisdom, will seek to bring a little relief to those whose prime responsibility is the education of our children and not sitting in an office trying to comply with the wishes of a few bureaucrats who are seemingly trying to perpetuate their positions.

The letters follow:

THE SCHOOL DISTRICT OF JOPLIN R–VIII,
Joplin, Mo., January 5, 1977.

Hon. GENE TAYLOR,
House of Representatives,
Longworth House Office Building,
Washington, D.C.

DEAR GENE: In twenty-five years as a public school administrator, I have not felt it necessary to contact either State or Federal legislative officers over complaints of a significant nature to me; however, at this time I feel justifiably outraged at the latest request of the U.S. Department of Health, Education and Welfare Office for Civil Rights in their request for each of our schools to complete the enclosed Form OS/CR 102.

To preface my remarks, I would like to tell you that just last month we submitted to the Office of Civil Rights twenty-three survey forms (Form EEO–5), plus three additional forms for annexes on an enrollment of 8606 students, and a total certified and non-certified staff of 917 full-time and part-time workers. This form that has now been completed and forwarded to the proper Federal office had to do with the racial and ethnic balance of personnel employed in the Joplin R–8 School District. I will not go into more detail of this particular form, as I am sure you either have it or will have easy access to it. Needless to say, Form EEO–5 was one of "guesstimation" and one that took a tremendous amount of time of both the administration, faculty members, and clerical staff that could have been used, in my opinion, to a much better advantage.

Now, back to the form in question—OS/CR 102—which is enclosed. It is beyond my total ability to comprehend any part of the Federal bureaucracy requesting the public schools to complete a document such as this—a document which, if you have time to read, will require literally hundreds of hours to complete, and one in which there is no *conceivable* way we can truthfully and honestly fulfill. There is no state law or local law, or forms, that mandate that we keep the type of information that some of the questions demand. If we formulated the procedures and forms for said documentation it would be impossible to employ the personnel to detail the recapitulation of the information asked for this year as well as in the future.

In a letter dated December 29, 1976, from Commissioner Arthur L. Mallory, I would like to quote from Page 3 excerpts of a letter jointly written to President Ford by the Chief State School Commissioners concerning OCR Compliance Reports OS/OC 101 and OS/OC 102. The section I wish to quote is as follows:

"At its meeting in Salt Lake City, Utah, on November 14–17, 1976, the Council of Chief State School Officers reviewed the Office for Civil Rights' plans for the 1976–77 collection of data for elementary and secondary schools. The Council has concluded that the request is unreasonable for the following three reasons:

"(1) The data burden is excessive, requiring hundreds of thousands of person hours to provide information we believe goes far beyond what is reasonably necessary to comply with the law

"(2) The amount of advance notice and the time schedule make it virtually impossible to meet OCR requirements as schools conduct normal essential educational activities.

"(3) In many states the information requested by OCR is redundant, since similar information has already been collected for 1976–77.

"The Council of Chief State School Officers respectfully and urgently requests that you immediately direct the Secretary of Health, Education, and Welfare to postpone the 1976–77 reporting requirements of the Office for Civil Rights Report Forms OS/CR 101 and 102."

If the term, "perpetuating a bureaucracy within a bureaucracy" was ever more true by example, I have not seen it.

Just as one or two examples, I would like to call to your attention some of the questions on Page 2 of 9, such as, "How many students are enrolled in Home Economics, Industrial Arts, etc.?; Question 17a through 17i on Page 3 of 9; and ask that you realize that they not only want the breakdown by number of offenses, but by *sex* of the offendant and *ethnicity* of the *offendant*. Just how damned ridiculous can we be! I firmly believe that the great majority of school administrators and educators could care less whether or not we have 8606 Caucasians, Blacks, Orientals, American Indians, Alaskan Natives, Pacific Islanders, those of Hispanic origin, or aborigines.

Gene, if you have managed to get this far and waded through both the trivia of my letter and the document enclosed, and agree with at least a majority of it, it would please me, as well as countless other school superintendents I have visited with, if you could make a passionate and impressionable talk to your colleagues, for the record, against the impediment of the educational process with such timetaking and intimidating type of questions as contained in this report. I feel it is time to say that there are some worthwhile questions that I am sure will be of some value to people who are interested in the handicapped and under-privileged students. I guess I just totally resent the encroachment of both time, effort and insinuation that we are being supervised by an older brother who is not treating his younger brother properly.

As Commissioner Mallory said, "I believe in fulfilling my responsibilities and not breaking the law," and consequently, we will make an effort, albeit a slim one and a most inaccurate one, to fulfill this document. I would like to burn it, pitch it, or drag my feet until I am made to do it, but I am sure we will get it done.

I would be most appreciative if you, as an ex-school teacher, could become as incensed against this prolific and monumental amount of paperwork being shoveled at us by every agency under the sun in the name of Health, Education, and Welfare.

Respectfully yours,

JACK F. ALLMAN, Ed. D.,
Superintendent of Schools.

STOCKTON PUBLIC SCHOOLS,
Stockton, Mo., November 9, 1976.

Congressman GENE TAYLOR,
Washington, D.C.

DEAR CONGRESSMAN TAYLOR: I should like to draw to your attention an order from the Office of Civil Rights directing school districts to initiate a student record-keeping system concerning the number of suspensions and expulsions in each school. Information is requested as to race and ethnic categories of students with what I perceive as the intention to establish if school discipline is discriminatory against particular races or ethnic groups.

While I believe in and am sympathetic to the civil rights of all Americans, I feel that this directive is very unwise and impractical. Firstly, the costs to education will be large. Keeping records on discipline according to race or ethnic group and then filling out governmental forms as they now stand will be time consuming even in smaller school districts and in some schools may require staff additions.

Secondly, while nearly all school districts keep records of discipline, some are more in-

formal than others, especially in some of the smaller school districts. Record-keeping procedures may have to be revised, at additional cost to the school district and the tax payer. What types of files would have to be maintained and for how long? Would such data be a part of the personally identifiable data that is protected by the so-called "Buckley Amendment," and would it fall under those guidelines? If so, these probably would be a conflict of rules.

Thirdly, another point which I believe to be pertinent is the fact that most school personnel, and administrators in particular, have been trained in child psychology, the motivation of young people, and other fields which deal with the youngster as an individual and which are made a part of any discipline situation. In short, while I realize that administrators and others dealing with school discipline are not perfect nor infallible, I believe that they, as a group, probably exhibit less prejudice or similar attitudes than any segment of our society. If they did not, they simply could not enjoy teaching and in all likelihood would be rather quickly "weeded out" of the profession.

In addition, many of the rules and regulations of schools are set by local boards of education and discipline is dictated by the violation of those rules and regulations. Quite often, in fact, guidelines for discipline are also set by boards of education as board policy. As I often stress to students whom I have to discipline, our actions as disciplinarians are really nothing more than a reaction to the actions of the student. Quite simply, it doesn't matter what race or ethnic group a student is a part of, but his or her *actions* as a *student* that determine the type and severity of discipline.

In conclusion, I feel that the requirement of compliance reports OS/OC 101 (district) and OS/OC 102 (building) are unwarranted incursions into the realm of local control of schools and may even be an invasion of individual privacy which our government has traditionally supported in stating that students should not be separated or distinguished in regard to sex, race, religion, or ethnic background. We are defeating one of the goals of education if we begin to place people in groups for these kinds of purposes.

May I ask for your help in assisting the Office of Management and Budget and the Council of Chief State School Officers Committee in Evaluation and Information Systems to improve the design and format of any such report if it is deemed to be absolutely necessary? Thank you for your time and consideration.

Educationally yours,

G. DOUG NICHOLS,
Principal.

AMENDMENT TO THE GREAT LAKES FISHERY

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. RUPPE. Mr. Speaker, the Great Lakes Fishery Act of 1956—70 Stat. 242; 16 U.S.C. 931–939c—implements the Convention on Great Lakes Fisheries between the United States and Canada. The convention entered into force on October 11, 1955, and was amended on May 19, 1967.

The convention was concluded in order to recognize that joint and coordinated efforts between the United States and Canada are essential to determining the need for and type of measures which will make possible the maximum sustained productivity in Great Lakes fisheries of common concern. The convention called for the establishment of a "Great Lakes Fishery Commission" with the following duties:

First, to formulate a research program or programs designed to determine the need for measures to make possible the maximum sustained productivity of any stock of fish in the convention area which, in the opinion of the Commission, is of common concern to the fisheries of the United States of America and Canada and to determine what measures are best adapted for such purpose;

Second, to coordinate research made pursuant to such programs and, if necessary, to undertake such research itself.

Third, to recommend appropriate measures to the contracting parties on the basis of the findings of such research programs;

Fourth, to formulate and implement a comprehensive program for the purpose of eradicating or minimizing the sea lamprey populations in the convention area; and

Fifth, to publish or authorize the publication of scientific and other information obtained by the Commission in the performance of its duties.

Originally, and at a time when the upper Great Lakes were the focus of concern, the convention and the implementing act limited each country to three Commissioners. In December 1964 representatives of the respective Governments met to assess progress made under the convention and expressed general satisfaction but for a need to provide for better representation of fisheries interests in the lower Lakes, especially in the United States. Their recommendations resulted in an amendment to the convention on May 19, 1967, to provide for four Commissioners from each country. Inadvertently, the implementing legislation was not amended to reflect this change in number of Commissioners although four have been serving on the Commission.

In order to correct this discrepancy in the act and the convention, two technical amendments to the act are proposed. The first amendment would strike the word "three" before "Commissioners" in the first sentence of section 3, and insert in lieu thereof the word "four." The second amendment would strike the first word in section 3(b), "two", and insert in lieu thereof the word "three."

SPACE TECHNIQUES AID VIRGINIA FARMERS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. TEAGUE. Mr. Speaker, the space program continues to yield technology that applies to every citizen of this great land. A joint program is being funded by both NASA and VPI and the State University at Blacksburg, Va., to develop a network of data collection network which could possibly be of great help to the farmers of not only the State of Virginia, but also the total Nation. I urge my colleagues to take a minute and read this example of NASA's effort to help everyone.

Farmers may soon be depending on space flight techniques to tell them the best time to apply insecticides, herbicides, fertilizers, and irrigation water needed to increase and maintain maximum production of many field crops now being grown under less precise crop management practices.

Under a joint program funded by NASA's Wallops Flight Center, Wallops Island, Va., the Virginia Polytechnic Institute and State University at Blacksburg, Va., is constructing and will manage a network of data collection stations throughout the State of Virginia that will feed agro-environmental information to a central computer located at Blacksburg.

The experiment, known as the agro-environmental monitoring project, involves the integration of remotely collected bits of information into an automated data management network. It is a direct result of knowledge gained from NASA's automated data collection and processing systems developed for that agency's satellite and space exploration programs.

Data collected from five monitoring stations located throughout the State will be processed into a mathematical crop management model that will determine the timing and amount of insecticides, herbicides, fertilizers, and irrigation water needed to provide maximum growth conditions in each area monitored.

Dr. Norris L. Powell, principle investigator from VPI and SU, says that the possibility of pinpointing the times of disease and insect emergence is of paramount importance to the farmer. Under present conditions, to protect his crops from these problems, the farmer must spray them over a span of days or even weeks.

The agro-environmental monitoring system will automatically keep tract of the "degree-day" units required for the emergence of certain insects or diseases and when a sufficient number have accumulated, a "red flag" signal will be sent out notifying the farmer to spray his crop. The system should eliminate wasting spray during less effective periods. The result is a cash return to the farmer in the form of less use of insecticides, reduced labor and equipment requirements and reduced pollution potential. Information on the application of fertilizer and supplemental irrigation will be handled in a similar manner. Prediction of planting dates, crop maturity and yield may also be provided by this program since computers possess the speed to update predictions as rapidly as the information is processed. Dr. Powell expects many crop scientists to use information derived from this system to help solve other research problems.

Lloyd C. Parker, the project manager from the NASA Wallops Flight Center,

said design work has been completed and all hardware is being procured in time to provide five environmental monitoring stations and a central computing station by early spring.

The monitoring stations will contain various sensors that will feed information into a microprocessor—small computer—at 15 minute intervals where it will interrogate each of the microprocessors once every 24 hours and update each of the crop management models daliy.

Monitoring stations will be located at agricultural experiment stations throughout the State—Painter, Holland, Blackstone, Warsaw, and Orange. Scientists from these stations will provide backup information by direct "touch tone" telephone input to the central computer. Farmers in participating areas will also be asked to supply some additional information concerning local conditions and cultural practices.

PRESIDENT FORD: "A TOUGH ACT TO FOLLOW"

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. BROWN of Ohio. Mr. Speaker, while a lot of attention of the past few weeks has been properly focused on the arrival of the Carter administration, there have been many Members on both sides of the aisle who regret the departure from the White House of our former colleague and leader, Jerry Ford.

I wanted to express my thoughts on his retirement to private life and find a way to express my own gratitude, as well as the Nation's, for his sterling leadership of the past 2½ years. My personal friendship for him has been too deep to allow that to be done yet without a rational control of my own emotion. But someone else has said it eloquently who is less personally involved and less partisan. His comments may be more appropriate than anything I could have said.

In the January 18, 1977, New York Times, author Rod McKuen writes of President Ford as "A Tough Act to Follow." Mr. McKuen says almost all of it. I commend the following article to my colleagues on both sides of the aisle:

[From the New York Times, Jan. 18, 1977]

A TOUGH ACT TO FOLLOW

(By Rod McKuen)

BEVERLY HILLS, CALIF.—Thursday when the strains of "Hail to the Chief" inaugurate the 39th President, they will also signal the return to private life of Gerald R. Ford, the Michigan Representative who became, with little notice and no such aspirations, our 38th head of state.

Historians will be taxed to find another man in this country's history who held its highest office under more difficult and challenging circumstances. Not Abraham Lincoln, winding down a great war, nor Harry S. Truman, remaining his own man while assuming courageously the responsibilities of another who perhaps held office too long.

Of the men who have so far inhabited the White House, none have brought more dignity, grace and a hard-working, business-like approach to the Presidency than Gerald Ford.

Indeed, with the country at its lowest ebb ever in prestige at home and throughout the world, President Ford managed in two years miraculously to bandage, heal and right America again for those of us who live here and for our friends everywhere. He even somehow managed to gain the respect of our so-called enemy.

Gerald Ford talked straight to us. When he felt he didn't know the answer to a question, or wanted to mull it over, he took the necessary time to do so and then informed us of his decisions, never keeping them a secret. For the first time in more than six years, the dollar became stable abroad, and it was fun last summer as a tourist in Europe not to be asked about Watergate.

Whatever some polsters may say, he reduced unemployment. More people are working today than ever before in our country's history. If unemployment seems up, you have but to balance that with the number of people living in America now, including illegal aliens, many people holding down two or more jobs, and more women applying for, and finding, work. Even employment among youths and so-called senior citizens has risen.

In his election campaign, Mr. Ford didn't promise a sweeping tax reform immediately, higher wages for everyone and a chicken in every pot. It would take time, he said. And so it will agrees the new man, whose promises already have to be reconsidered and restructured.

I suppose, like many Americans, the most difficult thing I had to come to terms with was the Nixon pardon. I remember the day only too well. It was a hot Sunday, the same day Evel Knievel ripped off the country by making it only halfway across the Snake River Canyon in Idaho. I was working in a friend's soda fountain and was so disturbed when I heard the news that I opened the door and gave away my ice cream.

In retrospect, considering how little business you and I were able to get done in Washington during the Watergate aftermath, when all the politicians in the capital were focused on the-soon-to-be-the-outgoing President's troubles, I finally understood the pardon.

If Richard Nixon had not been put to pasture, imagine how much further down the hill America would have slid while those same politicians centered their attention on a long, bitter and divisive trial.

Certainly Gerald Ford must have had *justice for all* in mind when he got the very man who gave him the Presidency out of Washington.

It is perhaps a fitting memorial to this strong and able man that he is thought of as *decent* at a time when trust in politicians is only just beginning to come in favor again. A trust he helped create. Perhaps the word "decent" doesn't have the wink and flounce of "charisma."

After so many years of flamboyancy in Washington, President Ford was considered so colorless that it was front-page news if he slipped or stumbled. It became the only running gag comedians and politician cartoonists could fall back on in describing him.

While many of us would have liked to see the man who healed and held our country go on to carry out his plans and use his imagination to make it even stronger and straighter, it will be the very highest compliment to the incoming President if, at the end of his term or terms, he is remembered far less for his smile than his decency. All of us who love our country stand behind him and wish him the best. That certainly includes Gerald Ford.

But Mr. Ford, the country owes you a thank you and a very warm handshake. Not for just the dignity, the integrity, the stability and the quiet trust you brought back in Washington, but for caring for us and about us. Many Americans think you will be a tough act to follow. You do remind us of Truman in one way. It took years for him to be appreciated. Last year, in campaigns everywhere, he was canonized by both parties so that it was sometimes difficult to remember whether Truman was a Democrat or Republican. Your turn will come.

We like you, Mr. President, a lot. We enjoyed being privy to the affection between you and your family. You deserve a vacation—but don't go too far away or stay away too long.

THE AFRICAN-AMERICAN CONFERENCE

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. ANDERSON of Illinois. Mr. Speaker, from November 29 to December 2, 1976, I was privileged to be a participant in a conference on African-American relations held in Maseru, Lesotho, and sponsored by the African-American Institute. At this point in the RECORD I include my prepared remarks to a conference workshop in U.S.-South African relations and my summary observations on the conference which I prepared on my return:

CARTER, CONGRESS, AND MORALITY IN FOREIGN POLICY: WITH A VIEW TO U.S.-SOUTH AFRICAN RELATIONS

(By Congressman JOHN B. ANDERSON)

In the brief time allotted me, I thought it might be useful to approach today's topic of "South Africa" from the vantage point of Washington, D.C. as a new Congress prepares to convene and a new President is about to be inaugurated. So I have chosen as the title for my remarks, "Carter, Congress and Morality in Foreign Policy: With a View to U.S.-South African Relations."

At the outset, let me issue the disclaimer that I in no way presume to speak for President-elect Carter, especially since I am a member of the opposition party in the Congress. I did have occasion, along with other members of the Republican leadership in Congress, to meet with Mr. Carter last Tuesday, and prior to that we first met as fellow members of the Trilateral Commission. I think the President-elect is off to a very constructive and conciliatory beginning during this transition period in laying very careful groundwork for his Administration and the various relationships he must establish to ensure its success. While the name of the game in Washington today is "Who will be who in the Carter Administration," I thought it might be useful for the purpose of this workshop to look beyond the important Cabinet guessing game and consider what foreign policy directions the new Administration is likely to take, how they might diverge from the Ford-Kissinger policies, what role Congress will play in the Carter foreign policy process, and how all this will impact on Africa in general and on our dealings with South Africa in particular.

I appreciate that that's a tall order for ten minutes and I would hasten to reemphasize

that all this is being presented through the eyes of a member of the opposition party. But I have attempted to reread the important Carter foreign policy pronouncements during the campaign and relate these to the policies of my own Administration as well as the present mood in the Congress as I see it. I think we should be forewarned that campaign rhetoric does not always translate directly into a workable or realistic foreign policy or domestic policy, for that matter. President Johnson's press secretary, George Reedy, in a column published last week, reminds us that President Johnson pledged in the 1964 campaign that he would not send American boys to fight in Vietnam, and Richard Nixon promised in the 1968 campaign to restore confidence in the integrity of government. In Reedy's words:

"From my own experience, I doubt seriously whether these men were lying in the sense that they told deliberate falsehoods. It is closer to the truth to realize that no man really knows what he is going to do once he is inaugurated. Issues look a lot different to a man whose responsibility is to act upon them than to a man whose sole obligation is to comment on them. This does not alter the national skepticism toward campaign speeches."

So, I think it's advisable to maintain such a healthy skepticism as I summarize Mr. Carter's campaign pronouncements on foreign policy—not because any of them were duplicitous, but simply because, as Mr. Reedy points out, the world sometimes does take on a different shape when viewed through the window of the Oval Office of the White House.

I think the keynote of the Carter foreign policy is not only the need for a comprehensive and comprehensible foreign policy, but one which is based on a "new moral authority", dedicated to humanitarian principles and opposed to human injustice abroad.

The second major tenet of the Carter foreign policy is non-intervention militarily by the U.S. in the internal affairs of another nation unless the security of the United States itself is directly threatened.

And the third major foreign policy theme enunciated by Governor Carter during the campaign was a "new openness" in the foreign policy process—less secrecy, less "Lone-Ranger diplomacy", more involvement of the American people and the Congress in foreign policy decision-making, and a restoration of bipartisanship in foreign policy.

Several corollary themes flow from these three basic tenets of the Carter foreign policy: the need to treat developing nations as individuals and not as a bloc or as pawns in the U.S.-Soviet power struggle; the need for more attention to international economic policy, the realities of interdependence, the development needs of the poorer nations; greater cooperation and consultation with our allies, particularly in Western Europe and Japan; making the U.S. the bread basket of the world instead of the arms merchant of the world.

Turning to Carter's statements on U.S.-African relations, I think perhaps one of the best and most realistic pronouncements was made in his interview with *Africa Report*, published in the May–June issue this year. In that interview, Mr. Carter said our Africa policy should encourage "the process of needed change and orderly progress for the peoples of Africa" and be "aligned with the legitimate aspirations for self-determination and liberty of peoples all over the world. He favors increased U.S. assistance to African countries both through multilateral and bilateral aid channels.

And although Mr. Carter was critical during the campaign of large U.S. military sales abroad, he did recognize in this interview, and I quote, "When in our national interest, we may also enter into military aid programs whenever the national sovereignty of friendly nations is threatened by external powers." But he hastens to add, and again I quote, "We must refrain from covert activities which interfere with the internal affairs of friendly nations and should develop the kind of economic interdependence which would assure our ability to relate in a variety of ways to the nations of the world."

Mr. Carter goes on to recognize the extent of our interdependence with Africa. In his words: "Our economy needs the natural resources which Africa can offer, and we will not be able to solve our problems of unemployment and inflation until there is a worldwide market system in which the producers and the consumers share equitably in the earth's resources."

While many of Mr. Carter's campaign statements on foreign policy were couched in almost moral purism and altruism, his *Africa Report* interview contains perhaps a more realistic approach. In his words, "We must protect our own self-interest and give some priority to those nations who share the democratic principles and ideals which our nation tries to embody. However, we live in a world in which no nation can be completely written off as unfriendly. . . . While it is very difficult to export American concepts of democracy to another continent, we should always show preference for those democratic regimes that are based on majority rule and on the protection of minority rights. But we must not ignore political realities that may not conform to our ideals."

Turning specifically to the problems of southern Africa, Mr. Carter urged that the U.S. "move immediately toward using leverage on South Africa to encourage the independence of Namibia and the beginning of majority rule in Rhodesia." He expressed the view that the economic dependence of South Africa on the U.S. is such that "an aggressive diplomacy need not include economic sanctions" against South Africa; our influence on South Africa is greater than the influence of Vorster on Rhodesia's Ian Smith.

Mr. Carter went on to suggest that, "the experience which we have had with race relations in this country could also help South Africa to develop a system of guaranteed majority rule, while protecting minority rights. It is in the United States' interest to avoid further bloodshed in southern Africa. It is also in the interest of Black Africa to settle the question of African liberation without violence."

I think it should also be noted with regard to the subject of majority rule in South Africa, Mr. Carter said in a post-election interview with Time Magazine, November 15, 1976: "I strongly favor majority rule in Rhodesia *and South Africa*. I plan to let that be known to the world." I underscore this because it seems to represent a stronger statement on South Africa than Secretary of State Kissinger has ever made. While in his Lusaka declaration of April 27, 1976, Dr. Kissinger said, "We support self-determination, majority rule, equal rights, and human dignity for all the peoples of southern Africa—in the name of moral principle, international law, and world peace;" his specific statement on South Africa laid stress on racial justice and human dignity as opposed to majority rule and recognized the legitimacy of the South African government while calling for an end to its apartheid policy.

I'd like to close by making just a few comments on President-elect Carter's foreign policy goals, particularly with regards to Africa. While he was critical in his foreign policy debate with President Ford of a Ford-Kissinger foreign policy that was all style and spectacular with little substance, I would predict that the Carter foreign policy will ultimately differ little from that of the present Administration in substance, though the style may be different. I don't expect any radical departures in our foreign policy when Mr. Carter takes office. There will be great continuity and a continuing evolution in that policy. One must recognize that our foreign policy has been in a state of transition since our Vietnam involvement ended. The process toward greater economic interdependence has begun by necessity. We have a new awareness and interest in the problems and needs of the Third World in general and Africa in particular and our growing dependence on these nations. While our new Africa policy may have been prompted by outside intervention on the continent, the genuine concern runs much deeper than any fear of the remote possibility of foreign domination of the continent. Our own revolutionary and Civil War experiences have given us a natural sympathy with the aspirations of African peoples for self-determination, individual freedom and racial justice. Our humanitarian tradition makes us natural partners in development as we strive to help other nations help themselves.

I am confident that President Carter will pursue what he terms a quiet yet aggressive diplomacy to achieve these ends. I think members of my own party in the Congress will want to help that bipartisan foreign policy that he seeks. At the same time, it must be recognized that the Congress as an institution is a much more independent entity than it was after World War Two, even with regards to foreign policy. This has been a direct result of our Vietnam experience—what has been called a presidential war with congressional acquiescence. We have since passed a war powers act to insure that no President can reinvolve us in a war without the active consent of the Congress. Congress has become increasingly involved in various foreign policy issues through various legislative veto devices and conditions on the expenditure of foreign assistance monies. I think Mr. Carter may have some of the same problems with the Congress as did Mr. Ford and Mr. Nixon, even though the Congress will be overwhelmingly controlled by his own party. Any President naturally wants to have maximum flexibility to carry out negotiations and an aggressive diplomacy, and will resent interference from the Congress in the day-to-day conduct of foreign policy. I think a natural friction will continue to exist between the Executive and Legislative branches despite their control by the same political party. This will continue to be a source of confusion for other countries operating under a parliamentary system. But the framers of our Constitution intended there to be a system of checks and balances between our two great branches.

Even the issue of morality in foreign policy, on which Mr. Carter and the Congress seem to agree, may be a source of trouble when it comes down to practical implementation and the realities or world politics. I am reminded of a former Senator from my own state, Mr. Dirksen, who once said: "I am a man of principle; and one of my first principles is flexibility." No foreign policy can be so moralistic, so rigid and inflexible as to prevent a country from protecting its legitimate self-interests. What is needed in our country is a new recognition that our long-range self-interests coincide with the interests of other nations by virtue of our growing interdependence. Self-interest is not necessarily synonymous with callous selfishness and in fact may even be increasingly antithetical in today's world.

Turning finally to a closing comment on the subject of this workshop—South Africa—and for the purpose of kicking off a discussion, I'd like to quote from an article in the July-August, 1976, issue of *Africa Report* on Mr. Carter's approach to South Africa:

". . . we have no definitive clue as to how Carter would implement a policy supporting

'guaranteed majority rule, while protecting minority rights,' although 'an aggressive diplomacy towards Pretoria on Washington's part certainly has not distinguished past U.S. policy. Presumably, an aggressive diplomatic strategy towards South Africa by a Carter Administration would form our approach towards resolving the colonial problems of Namibia and Rhodesia."

We have already begun that process with Secretary's Kissinger's initiative on Rhodesia which has led to the present Geneva talks. It might now be asked what further diplomatic steps might be taken to not only break down the barriers of apartheid in South Africa but promote majority rule? With that question I'll conclude my presentation.

Some Personal Observations on the African American Conference: Maseru, Lesotho, November 29–December 2, 1976

THE CONFERENCE

(By Congressman John B. Anderson)

The seventh African-American Conference was held in Maseru, Lesotho, between November 29 and December 2, 1976. The conferences are sponsored by the African-American Institute as a continuing series of dialogues among friends having a common interest in Africa and in promoting African-American relations. Participants come as individuals and not as African or American delegations, or spokesmen or representatives of their respective governments or organizations. This year's conference was comprised of 116 delegates from 21 African nations and the U.S. The American contingent included 11 Members of the U.S. House of Representatives, two Senators, and individuals from government, business, academia, foundations, the press, labor and private organizations. All told there were 52 American participants and 64 Africans.

THE SETTING

Maseru is the capital of the Kingdom of Lesotho, an independent island country in the middle of the Republic of South Africa. Lesotho is slightly larger than the State of Maryland, having a population of approximately 1.2 million people. Formerly known as Basutoland, after the predominant Basuto tribe, the country was united under Chief Moshesh I in 1818. He successfully fought off South African attempts to absorb the territory, then sought the protection of the British who annexed the country in 1868.

The country gained its independence from the United Kingdom in 1966. Though a constitutional monarchy with the King as Chief of State, the country is ruled by decree of the Prime Minister, The Rt. Hon. Dr. Leabua Jonathan, who suspended the Constitution in 1970 when it appeared that his ruling party, the Basutoland National Party (BNP), might lose the first election held since independence.

Though politically an independent country, Lesotho is economically dependent on South Africa which surrounds her on all sides. Roughly half the male workforce of Lesotho works three to nine months in South Africa in mining, farming or industry.

It is especially significant and courageous for Lesotho to host this African-American Conference at a time when southern Africa is undergoing such a rapid and often violent transition from colonial to African rule. The overpowering symbolism of this site for the conference is to call attention to the plight of those nations which are so dependent on the economy of South Africa and are caught in the middle of this transition vise. They desperately want the world to know of their existence and plight, they would like to become more economically self-sufficient through international economic assistance and business investment, yet they realize that their hopes are not likely to be realized so long as southern Africa remains a powder keg about to blow-up.

GENERAL IMPRESSIONS

Having attended the last African-American Conference in Kinshasha, Zaire, two years ago, I was particularly struck by the new mood of the African delegates towards the U.S. While there was still considerable critical rhetoric directed at U.S. policies, the tone of the conference was much less strident than its predecessor conference. I think there are several explanations for this, though these are based more on instinctive impressions than on anything said directly by the Africans.

First, the U.S. has since disengaged from Vietnam. We are no longer viewed as the imperialist bully beating up on small nations. We are now less the whipping boy for global interventionism than for our nonintervention on the side of just causes. In this regard, there is some ambivalence towards the U.S. On the one hand, no African nation wants the continent to become a cockpit for a Big Power showdown. On the other hand, the Africans do not want the U.S. to turn its back on the continent and its needs for development, trade, investment and an offsetting balance to growing Soviet and Chinese influence. In short, the independent countries of Africa think they can maintain their independence and develop economically by constructively channeling the natural tension between the Big Powers to their own benefit. Should the U.S. not rise to this challenge and accept its share of the responsibility for assisting these developing nations, this creative balancing act would be thrown off the track and their independence might be jeopardized.

Second, I think the Africans have been encouraged by the "New African Policy" enunciated by Secretary Kissinger in Lusaka in April and his subsequent peace initiative for Rhodesia (Zimbabwe) in September. Though few Africans are willing to publicly praise or credit this new policy for making any difference, opting instead for giving full credit for any movement towards solutions to the liberation movements, there is no doubt in my mind that most are privately pleased with new U.S. attention and interest in Africa, though long overdue.

Third, at a time when events are moving so rapidly in southern Africa, there seems to be an acute awareness of the need for engendering a new understanding among Americans of African aspirations and problems. This cannot be accomplished by engaging in the traditional anti-American rhetoric. It instead requires engaging in a genuine mutual dialogue among friends having a common historical bond in securing freedom from colonial rule. I was particularly struck by the many references to our Bicentennial and our founding documents—the Declaration of Independence and our Constitution and Bill of Rights. Our country does still represent a beacon of freedom and individual liberty for citizens of other countries.

Fourth, there is an anxious anticipation of the Carter Administration and what foreign policy directions it will chart. There was an especial awareness of the role black Americans played in the election of Governor Carter and a hope that this in turn would translate into a more sympathetic policy toward black Africa. At the same time, there were no delusions that there would be any radical departures in U.S. policy towards Africa—that Africa would somehow become the top foreign policy priority of the new Administration or would become the recipient of substantial increases in assistance. Nor were there any expectations that the U.S. would align itself with any of the liberation movements through military assistance. But there was hope that the U.S. would continue to devote increased attention and economic assistance to the continent and would sympathetically view the liberation struggles on their own merits and not in Big Power terms.

ZIMBABWE

Despite the fact that some progress was made at the Geneva talks during our conference (the March, 1978, independence goal for Zimbabwe), most African delegates viewed the prospects for a peaceful settlement with extreme pessimism based on past false starts towards such a settlement. Most delegates viewed the Geneva talks as a face-saving gesture on the part of all parties involved so that none could later be blamed for failing to seek a peaceful solution. I was especially disturbed by the prevailing mood that there was no alternative to violence in securing majority rule for Zimbabwe and the remaining white ruled areas of southern Africa. I expressed the lone dissenting (and as I was to learn, unpopular) view that a peaceful settlement was both desirable and possible. I fear that the extreme pessimism about the prospects for a peaceful settlement will only lead to a self-fulfilling prophecy of violence and bloodshed on both sides, with thousands of Africans and whites losing their lives, the economy ruined, and a continuing violent power struggle between the competing Zimbabwe liberation movements after the Smith regime is overthrown. In short, Zimbabwe could easily become a replay of Angola, even including the possible intervention of Cuban troops.

NAMIBIA

All patience has run out on South Africa's reluctance to grant independence to Southwest Africa and include SWAPO (the U.N.-endorsed party) as the legitimate representative at the current peace talks. The African delegates were especially dismayed by what they perceived as a U.S. failure to use its leverage on the South African government to grant Namibia independence. One African speaker suggested that the U.S. had even accepted continuing South African control of Namibia in return for South Africa's assistance in bringing pressure to bear on Rhodesia. The current Turnhalle talks at Windhoek are viewed as a ruse and a mere extension of the "divide and conquer" policy of the South African government. The main objective of the South African government is to institute a type of "homelands" policy within Southwest Africa so that South Africa can continue to control the area both politically and economically. It is doubtful that South Africa will even permit SWAPO's full participation once an interim government is established.

SOUTH AFRICA

Perhaps the greatest suspicion and criticism of U.S. policy centered on our current relations with the South African government, both diplomatically and economically. There was considerable conjecture among some African delgates that some kind of deal had been cut with Vorster in securing his assistance on a Zimbawe settlement, that we were about to enter into a defense pact with South Africa, and that if a racial war broke out we would align ourselves with the white South African government.

There was a difference of opinion as to what the U.S. should do to bring about majority rule and the elimination of apartheid in South Africa, roughly split between the isolation and intervention schools. Some would have us withdraw all U.S. business investment from South Africa and engage in a complete military and diplomatic boycott against that country. Others would have us use our influence on South Africa to bring about racial equality through our considerable economic foot in their door.

While our policy has been one of bringing diplomatic pressure to bear on South Africa to eliminate its apartheid policy, this has not been successful either because the pressure has not been great enough or because no amount of U.S. pressure can bring about the desired change. The South African government is moving in the opposite direction

with its "homelands" policy or separate development policy—a mock democratic version of apartheid.

South Africa seems to be becoming more rather than less committed to racial separatism since the Soweto massacre in June of this year, and we heard personal accounts from black South Africans, including student exiles from Soweto, of the police state tactics employed by South African authorities. If the U.S. ever hopes for a peaceful resolution of the racial strife within South Africa, it must obviously embark on a much more aggressive diplomacy, enlisting the assistance of U.S. firms with investments in that country.

CONCLUSIONS

Perhaps the mood of the conference can best be summed up as a mixture of pessimism and hope—pessimism about any alternative to a violent transition from minority to majority rule in southern Africa; hope that the Carter Administration will carry forward the "new Africa policy" initiated by Secretary Kissinger by devoting increased attention and assistance to the continent.

While there were no illusions that the U.S. would more directly align itself with any of the liberation movements, there was perhaps an over-estimation as to how much pressure the U.S. could exert on South Africa to bring about the desired changes. There is a simplistic belief, for instance, that withdrawal of U.S. business investment from South Africa (about 16% of total foreign investment) would somehow topple the South African economy. Experience to date has shown, however, that such a vacuum does not lead to collapse, but rather is filled by investment from other countries.

All this is not to say that U.S. policy and public opinion cannot have some influence on South African policy. The U.S. should continue to express its strong abhorrence of apartheid through an aggressive diplomacy and "moral jawboning." But the limits of our influence in effecting internal change should be recognized and we should be wary of either interventionist or isolationist approaches which could prove to be counterproductive by only stiffening the intransigence of the Vorster regime.

GREATER BUDGET CONTROL

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. DERRICK. Mr. Speaker, we have all read stories about the profusion of budgets which Congress works with each year—

The November current services budget, required for the first time this year by the Budget Act.

The budget which President Ford submitted to Congress Monday.

The budget amendments which President Carter is expected to submit within the next 2 months reflecting his own spending priorities.

The congressional budgets set in the first and second concurrent resolutions in the spring and the fall.

In all, a total of 25 different kinds of budgets since last January.

These budgets differ in program levels or estimated amounts, in presentation, in scope, in timing, in focus. But all of these budgets have an important common characteristic—one which is particularly significant for us to recognize as legislators beginning a new session of Congress. In each of these budgets approximately 75 percent of the outlays in the current budget year are classified as "relatively uncontrollable".

This really means that unless Congress chooses to change the basic authorizing legislation on the books—which was sometimes enacted many years ago—that a large amount of the Federal budget is simply spent each year without any current action required by Congress. This is disturbing and frustrating, particularly because out constituencies hold us accountable for programs which may have been enacted many years before we got here and for which monies are automatically appropriated.

The crisp, newly minted budget document which is anxiously awaited by the Congress each year is largely old material, the product of decisions made in previous years and therefore often ignored or only routinely considered.

During the past decade, uncontrollable outlays have soared from $93 billion to an estimated $301 billion. This accounted for 59 percent of the total Federal outlays in fiscal 1976 but an approximate 73 percent in fiscal 1977. More than two-thirds of this amount is for mandatory entitlement programs such as revenue sharing, medicare and unemployment benefits. A mandatory entitlement is automatically paid out to a recipient who meets the requirements established by the particular law.

Another big factor leading to the size of the relatively uncontrollable category is the large number of permanent appropriations which take only one action by Congress to establish a program or activity which then receives appropriations each year, often without any further action by Congress.

This leaves only about a quarter of the budget in the category of "controllable". However, much of the $115 billion of controllable spending in the 1977 budget is for the continuing operation of Federal programs and agencies; more than two-thirds of this amount is for national defense. As a result, there is very little left in any current budget year to cut and pare, to serve as a forum for deliberation and discussion over national priority issues, to provide any necessary economic stimulus.

However, it is also important for us to recognize that this 75 percent—defined as relatively uncontrollable and often dismissed as a monolithic block—is composed of a range of decisions of varying difficulty which depend on the political, legal and policy questions surrounding them. In some cases there is a need for the continuity, certainly or efficiency provided by long term financing. In other cases, programs still continue to be automatically financed which are outdated, have grown in scope beyond any anticipated needs or were politically motivated.

Congress should begin looking at these items to determine whether the amount of funding or financing technique is appropriate or whether the program itself should continue to be funded.

As chairman of the Budget Committee Task Force on Budget Control, I have begun a series of studies on various financing techniques which are commonly used in Federal programs. The purpose is to gain a clearer working definition of the term itself and to understanding the magnitude of these uncontrollable programs as well as the advantages or disadvantages of possible alternatives.

As part of this effort I wish to call to your attention in the CONGRESSIONAL RECORD today, a list of key items in the proposed fiscal 1978 budget which fall into this category of "relatively uncontrollable". A full list of all the items defined in the President's budget as "relatively uncontrollable" may be obtained from the Budget Committee:

ESTIMATES OF MAJOR FEDERAL PROGRAMS IN PRESIDENT FORD'S FY 1978 BUDGET WHICH ARE CONSIDERED RELATIVELY UNCONTROLLABLE UNDER EXISTING LAW: [1]

(In millions of dollars)

Fiscal Year 1978	*Budget authority*	*Outlays*
1. Social Security and Railroad Retirement	91,128	95,691
2. Federal employees' retirement and insurance	26,078	20,259
3. Unemployment assistance	16,600	14,500
4. Veterans pensions, compensation, education and insurance	12,872	13,087
5. Medicare and Medicaid	40,475	37,897
6. Housing payments	612	3,644
7. Public assistance and related programs	22,223	22,674
8. Net interest	31,162	31,162
9. General revenue sharing	6,855	6,814
10. Farm Price supports (CCC)	1,234	1,033
11. Payments to the Postal Service	1,472	1,472
12. Other open-ended programs & fixed costs (net)	7,140	7,433
13. Outlays from prior-year contracts and obligations:		
National Defense	——	31,423
Civilian programs	——	43,807
Total	$257,851	$330,896

[1] Excludes the $1.542 million in outlays and $1.491 in budget authority for the Legislative and Judicial Branch from the OMB definition of uncontrollable.

FEDERAL GRAND JURY REFORM

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. EILBERG. Mr. Speaker, last year my Subcommittee on Immigration, Citizenship and International Law conducted hearings and received testimony on alleged abuses of the Federal grand jury system, and obtained a study of such abuses from the Library of Congress for inclusion in the hearing record.

I have recently introduced H.R. 1614, proposing extensive reforms in the Federal grand jury system to eliminate or lessen these abuses. I expect to hold further hearings on this and on other related bills this session and report out comprehensive legislation.

I would like to include in the RECORD a series of articles detailing alleged abuses and particularly in the cases of Phil Shinnick and Jay Weiner:

[From the New York Times, Dec. 26, 1976]

HOW WELL DO GRAND JURIES WORK?

(By Dena Kleiman)

On any weekday in New York City, as many as two dozen grand juries meet with prosecutors in secret to consider whether suspected criminals should be indicted and brought to trial.

In recent months, procedures used by prosecutors in questioning witnesses, presenting evidence and drawing indictments have been criticized as a number of indictments by Maurice H. Nadjari, the former Special State Prosecutor, and others have been dismissed because of prosecutorial misconduct.

These dismissals underscore what an increasing number of legislators, lawyers and judges believe is a need to revise the grand jury system and institute new safeguards to curb prosecutorial abuse.

In the last month, indictments brought by Mr. Nadjari against Justice Joseph A. Brust, Carmine De Sapio and Patrick J. Cunningham have been dismissed. In addition, a State Supreme Court Justice has indicated he would dismiss a perjury and bribery indictment against Justice Irving H. Saypol and the Appellate Division has upheld the dismissal of an indictment brought by Charles J. Hynes, now the Special Prosecutor, against Albert H. Blumenthal, the outgoing State Assembly Majority Leader.

In each case, judges said that prosecutors relied on insufficient evidence or that they misled witnesses into perjury charges when nothing more substantive could be established.

What is there about a grand jury proceeding that lends itself to prosecutorial abuse? How have critics said the system should be changed?

The grand jury, composed of 23 persons, is said to date from 1161 in England, the time of King Henry II, when it was formed to protect the power of the monarch. Over the years its purpose evolved into a safeguard against arbitrary prosecution. England abandoned the system in 1933 as outmoded and too costly. Charges now are made by prosecutors.

In the United States, the grand jury has come to serve two functions. One type of grand jury hears evidence after an arrest. The grand jurors must decide, by a vote of at least 12, if there is sufficient cause for an indictment. If the suspect is indicted, he faces trial.

A second type of grand jury investigates criminal wrong-doing and accordingly is vested with great power. It can subpoena and question anyone who may help its inquiry. Those who refuse to testify can be held in contempt and sent to jail.

In both, the prosecutor stands before the grand jurors as a legal adviser. Theoretically, he may not attempt to influence them. But in practice, there is often little doubt how a prosecutor feels about a case, and because grand jurors often look to prosecutors for guidance, much as petit jurors look to a judge during a trial, prosecutors can influence the outcome of an inquiry.

Critics contend that investigatory grand juries invite prosecutorial abuse—which can result in phony perjury indictments based on misleading questions—and that safeguards are needed to insure the system's integrity. They say that indicting grand juries have become archaic, mere rubber stamps for a prosecutor, and should be abolished.

"Prosecutorial abuse is real," said Assemblyman Stanley Fink, Democrat of Brooklyn, Chairman of the State Assembly's Codes Committee, which issued a report on such abuse last May and plans hearings this session on revising the investigatory grand jury. "Our feeling is that the grand jury was originally designed to serve as a buffer between the government and the people. It no longer does."

Mr. Fink's committee and one in Washington, a subcommittee of the House Judiciary Committee chaired by Joshua Eilberg, Democrat of Pennsylvania, are considering these proposals:

Permitting witnesses to have a lawyer inside the grand jury room. In 41 states, including New York, New Jersey and Connecticut, a lawyer must remain outside the room, so there is no one present to object to a misleading question. In 1974, the New York Legislature passed a bill providing for counsel inside the room, but it was vetoed by Governor Carey who said there was insufficient evidence that such a change was needed.

Informing witnesses of the line of inquiry before they appear so that they are better prepared.

Informing a witness of his rights, including the right to counsel and the right to remain silent if an answer would tend to incriminate him, before he is called inside the grand jury room.

Restricting rules of evidence and procedure to those that apply during a trial. A prosecutor is under less restrictions during a grand jury proceeding than he is at trial.

Those opposed to changing the investigatory grand jury system argue that it is not designed to be an adversary proceeding but rather a search for the truth. They say that the presence of a witness' lawyer might make for objections that could bog down the proceeding, and that a grand jury should operate with vast latitude and not be inhibited by the same restrictions imposed at criminal trials.

Critics of change also argue that historically the grand jury has worked well, that it is one of the rare institutions that provide for community participation in the administration of justice and that most prosecutors are responsible lawyers who conduct the proceedings accordingly.

With respect to the indicting grand jury, long considered a rubber stamp, twenty-nine states have allowed the prosecutor to bypass this panel and file charges in open court. In these states, including Connecticut, after a suspect has been arrested and probable cause has been established by the police, a prosecutor may file the charges by means of an "information." These states have retained the investigatory grand jury.

[From the Washington Star, Jan. 11, 1977]

PHIL SHINNICK GOES TO PRISON—PATTY HEARST GOES FREE

(By William Taaffe)

Before the student uprisings of the late 1960s, Phil Shinnick was a jock. The title wasn't as disparaging as it later would become, and Shinnick didn't mind being described that way. He was a winner and proud of it, forever demonstrating on the athletic field the kind of excellence so appreciated and rewarded in the America of the Kennedy years.

In his way, Shinnick was a kind of Renaissance athlete. He was a marvel of stamina and grace, competing in several track and field events within minutes of each other in a single meet.

In 1964, when he was 22, he set an unofficial world's record in the long jump and held Canada's record in the decathlon. That fall he flew to Tokyo to compete in the 18th Olympiad.

Twelve years later, Shinnick appeared before the gates of a federal prison in a place called Allenwood, Pa. No longer was he considered a model American by this nation's sports establishment, much less by those who enforce the country's laws.

Shinnick will never forget the date: Nov. 30, 1976. Before his two daughters, aged eight and 10, he was handcuffed and escorted into the prison to begin serving a sentence of indefinite length.

Phil Shinnick's voyage through the late 1960s and middle 1970s has been replete with irony. In the late sixties he tried to reform the very sports establishment that one year named him Athlete of the Year at the University of Washington.

He was sent to prison by the very country he served as a captain in the Air Force, and as a kind of goodwill sports ambassador in Africa and Latin America. And not least of all, he was jailed exactly one week after Patricia Hearst went free on $500,000 bond.

The Shinnick-Hearst connection is a tenuous one at best, an amalgam of allegations leaked by the FBI to the news media over the last 2½ years and the uncorroborated trial testimony of Hearst, who said Shinnick transported Symbionese Liberation Army member Emily Harris from San Francisco to Scranton, Pa., in the summer of 1974.

Federal prosecutors investigating the alleged harboring of Hearst at a farmhouse in South Canaan, Pa., have obtained no indictment of Shinnick and admit that he is not even a target of the investigation at this time.

Yet Shinnick now is in prison while Hearst is free. That fact may say something about the state of the so-called "athletic revolution" he and several other athletes tried to begin around the time of the Olympic Games in 1968. It is a circumstance that does say something about the administration of justice in America in 1977.

Shinnick was sent to prison on civil contempt charges stemming from his appearance before the federal grand jury in Scranton last August. U.S. Atty. S. John Cottone has said that Jack Scott and his wife, Micki, close friends of Shinnick and also radicals in the athletic movement, are the focus of the probe.

Cottone apparently called Shinnick before the jury because he believes the former athlete was involved in harboring Hearst or has knowledge the government could use in obtaining an indictment against others.

Shinnick was sent to jail not because he refused to testify before the grand jury under a grant of immunity (he was willing to answer all its questions), but because he refused to comply with a certain demand of Cottone, the prosecutor.

At the August session, Cottone handed the jury foreman instructions that Shinnick should be forced to supply the FBI with his fingerprints and samples of his handwriting and hair in a room near the jury chamber.

It so happens under the American system that the FBI itself has no power to subpoena evidence from a person who has not been convicted of a crime. The right to such protection from indiscriminate police power is a right guaranteed to all Americans, whether they be mafia dons, alleged murderers or the most peaceful of grandmothers.

Shinnick refused to comply with the jury's (initially Cottone's) request, arguing that the FBI could easily obtain his fingerprints and handwriting samples from the Air Force, where his job involved the preparation of hand-written reports.

Shinnick offered to provide the jury a sample of his hair that would be kept under the control of the U.S. District Court for comparison with any independent samples

the FBI may have. Such procedure would guard against any mix-up of hair samples, he felt.

Nevertheless, Shinnick was cited for contempt and sent to jail, where he will remain until the end of the jury's term July 31 or until he agrees to provide the FBI with his hair.

"Once a witness states the conditions under which the grand jury can receive evidence that it is entitled to, then the grand jury becomes less independent to that extent," said Cottone's assistant, Lawrence Kelly.

Also cited for contempt and sent to Allenwood was Jay Weiner, a 23-year-old sportswriter and friend of Scott and Shinnick. According to Hearst's testimony at her trial for bank robbery last year, Weiner once appeared at the Pennsylvania farmhouse where she was hiding from authorities. He refused to testify under a grant of "use immunity," which prohibits the government from using the words of his testimony against him at a later date.

The imprisonment of Shinnick, especially at a time when Hearst is free to return to her pre-revolutionary life and grant interviews on national television, has angered civil libertarians in this country as few other grand jury cases have in recent months.

Cottone and the FBI have served as judge and jury, they argue. For more than two years the government has been unable to indict Shinnick. His imprisonment for civil contempt is mere vindictiveness, the only way prosecutors can "convict" him, the government's opponents insist.

A group called the Coalition for Grand Jury Abuse, supported by former Atty. Gen. Ramsey Clark and dozens of other well-known lawyers, has denounced Shinnick's jailing.

"In our view," a spokesman for the coalition told Congress recently, "there is no process or institution in America today more potentially destructive than the unregulated, unchecked, unbalanced grand jury inquisition. With it prosecutors and police agencies have the power to compel the appearance of any person anywhere at any time, to introduce illegal evidence, to grill witnesses about *anything* in the absence of constitutional restraints and to jail without trial."

When Shinnick said goodby to his daughters and friends on that gray day in November, he entered a minimum security institution. The handcuffs, realy just a brutish ceremony, came off once Shinnick got inside the front door. He began to adjust; friends brought him running shoes for laps around Allenwood's track.

But the prosecutor wasn't quite through with Shinnick. On Dec. 16, the Philadelphia Daily News published an interview with Shinnick and Weiner. Although convicted prisoners have a basic right to speak to the press, Cottone promptly prohibited both men from talking to reporters.

Cottone was able to deny their First Amendment rights because of a loophole in the law. Felons fall under the jurisdiction of the U.S. Bureau of Prisons. Those cited for civil contempt technically are subject to the court and U.S. marshals, who take orders from the prosecutor. Several lawyers last week said they thought Cottone's order was unprecedented.

"It's an appalling procedure," said Richard Gerstein, a prosecutor for 23 years in Miami and chairman of the American Bar Association's grand jury committee. "There is no legitimate basis for it whatsoever. If you're conducting a prosecutor's office and conducting it fairly, you have nothing to fear by those cited for contempt talking to the press. I don't care if they're Mafia. It's still appalling."

"It's outrageous," Clark said. "These two men haven't even been convicted of a crime. I don't see how you can deny them access to the press."

Cottone defended his action by arguing that Shinnick and Weiner are involved in a case still under investigation and that if indictments are issued, any news stories could allow defendants to move for a mistrial on grounds of prejudicial publicity. But yesterday, Judge William J. Nealon overruled Cottone and ended the ban after it had been enforced for three weeks.

Friends of Shinnick and Weiner say they were greeted as heroes by Allenwood inmates (among them Bernard Bergman, the New York nursing home bandit, and G. Gordon Liddy of Watergate notoriety) because they had not been charged with any crime. Outside of prison, the lionizing of Shinnick and Weiner also has begun.

College students in New York have staged fund-raising races for the two men. Faculty and students at Rutgers University's Livingston College, where Shinnick is an assistant professor in a sports-sociology program, have demonstrated for his release.

New York Times columnist Tom Wicker recently featured Shinnick on the paper's op-ed page. There are reports that CBS is preparing a segment on Shinnick's plight for "Sixty Minutes." And finally, outgoing Atty. Gen. Edward Levi has decided to review the entire Shinnick-Weiner case—to determine, an aide said, "if the necessary evidence can be obtained any other way."

Shinnick has said from prison that he believes the government is "out to get" the critics of the sports establishment, not simply to build a case against Scott. But why the sudden attention surrounding Shinnick?

Part of it may involve the public's appetite for all things relating to Hearst. Some of it may stem from the arguable tactics the government has used against him. And much of it may be based on the metamorphosis of American Olympian into U.S. prisoner.

If you had written the story of the quintessential All-American youth in the early sixties, you would have written the story of Phil Shinnick. At Washington, he married a beauty queen who served as the head baton twirler. Amazingly, he won the school's best athlete award at a time when only football players were used to getting it. He belonged to the local Newman Center, a Catholic lay organization, and once spent an entire summer's vacation building a church in Alaska.

He loved Seattle and the city returned his affections. Just after College he went to work in the mayor's office and Seattle gave Shinnick its annual "distinguished citizen" award. At one time, he worked in the middle levels of Sen. Henry (Scoop) Jackson's campaign. Then he entered the Air Force, working behind a desk in Los Angeles and participating in State Department tours by athletes to what then were called the emerging nations.

Perhaps it was these trips that transformed his ideas about the way sports were administered and athletes were treated in the United States. When the Olympic Games were held in Mexico City in 1968, Shinnick, as an alternate member of the U.S. team, was one of few white athletes in this country who endorsed the black power salute of John Carlos and Tommie Smith on the reviewing stand.

After those games, Shinnick enrolled at Berkeley to pursue a doctoral degree in education psychology. It was now the late 1960s, the antiwar movement was consuming the nation, the feminists were crusading, and Berkeley offered such a ferment of ideas and radical politics that there seemed to be a campus chapter for every cause exposed in America.

It happened in Berkeley, 1969, that Shinnick crossed paths with Jack Scott. Scott had organized and grandiloquently named the Institute for the Study of Sport and Society, and he and Shinnick became close friends, both of them working toward one end—to stop the glorifying and the dehumanization they professed to see of amateur and professional athletes.

A few years later Scott accepted a job as athletic director at Oberlin College in Ohio, where he put some of his radical concepts of sport into effect. Shinnick went to Livingston. One of his first actions was to open the gymnasium to the local community and urge inner-city residents to participate in athletics.

"Phil always thought through his commitments," Scott says. "He came to identify with the type of commitment Phil and Dan Berrigan (the activist priests) had. He never identified with Che Guevara, for example, or the Yippies or the crazies."

Nevertheless, Shinnick had come full circle by last November. Marie Coles, a friend of Shinnick from Livingston, was one of several people who visited him just before Christmas. She recalls that Quincy Shinnick, his eight-year-old, was there to say hello.

"Daddy, you're going to be home for Christmas," she assured him.

Shinnick, who eventually was granted a five-day furlough for the holidays, "just was silent for a moment, not knowing what to say," Color recalls. "Then he said, 'Well, I might not be.' His daughter was just sitting there. Maybe it takes a parent to feel that. But it was sad."

[From the New York Times, Dec. 31, 1976]

A MODERN INQUISITION

(By Tom Wicker)

Patty Hearst is out of prison and Phil Shinnick is in, and thereby hangs a tale of American justice.

Mr. Shinnick, 34, once held the world record for the long-jump and twice represented the United States in the Olympic Games. In 1972, he became the athletic director at Livingston College of Rutgers University. But he is now off the university's payroll and in the Allenwood Federal Penitentiary in Pennsylvania.

No one contends that Mr. Shinnick is being punished for a crime. He is not even charged with a crime. He has been imprisoned on civil contempt charges growing out of his appearance before a grand jury in Scranton, Pa., last Aug. 13.

At that grand jury hearing, Mr. Shinnick did not refuse to answer questions. He did not refuse to give the grand jury any evidence that it required for its own deliberations. He refused, instead, to give the Federal Bureau of Investigation his fingerprints, samples of his handwriting and clippings of his hair.

When Mr. Shinnick appeared in the grand jury room—without a lawyer, as all witnesses must—a United States Attorney gave the foreman a statement to read. The statement instructed Mr. Shinnick to give fingerprints, writing samples and hair clippings to the F.B.I. in a room adjacent to that of the grand jury.

Now it happens that the F.B.I. does not have subpoena power. Outside the grand jury room, the bureau would have no legal way to get such exemplars from Mr. Shinnick or any other unconvicted citizen who did not want to provide them.

It happens, further, that the fingerprints of Mr. Shinnick, a former Air Force captain, are easily available to the F.B.I. through Air Force records. So are samples of his handwriting, since his Air Force job involved writing reports. And he offered to give the grand jury—not the F.B.I.—a hair sample, which would be sealed in an envelope and held in custody of the Scranton district court. If the Government had hair samples it wanted to match against his, he said, the Government's hair samples could be held in the same fashion, to guard against mix-up or misuse.

Upon Mr. Shinnick's inquiry, moreover, the grand jury could give him no reason why these exemplars were necessary to its investi-

gation. He had not been given "use immunity," a prosecutorial device that effectively removes the Fifth Amendment rights against self-incrimination of the person granted such immunity.

But Mr. Shinnick's refusal, not to answer grand jury questions but to give the F.B.I. materials it otherwise could not legally have obtained, has resulted in his imprisonment for civil contempt. His incarceration, which began Nov. 30, could last for the life of the grand jury—until next July—and could be resumed if the same drama is played out before a successor grand jury. Meanwhile Rutgers has announced that it "will stop payment of his salary for as long as he remains unable to meet his classes."

What is this Kafkaesque nightmare all about, and how could it happen in a country where, supposedly, grand juries are provided to protect citizens from the arbitrary use of government power?

Apparently, the F.B.I. suspects Mr. Shinnick of having been involved in, or at least of knowing something about, the alleged harboring of Patricia Hearst in a Pennsylvania farmhouse in 1974. The Government told his attorney that the Air Force fingerprints and handwriting samples would not be "good enough" to use in a trial—which makes it clear that the grand jury was being used to force Mr. Shinnick to provide evidence that might be used against him in court.

Mr. Shinnick, who is more radical politically than the F.B.I. thinks proper, in turn suspects that the F.B.I. wants the hair clippings and other exemplars in order to concoct a frameup linking him criminally to Patty Hearst or those who protected her. He contends also that the subpoena summoning him to the grand jury was based on a wiretap put on his telephone and another on his attorney's telephone.

However that may be, the Shinnick case is one more in a lengthening pattern of blatant government use of grand juries for inquisitorial rather than accusatory purposes. The late Senator Philip Hart once said that grand juries now were being commonly used "to conduct political surveillances and build dossiers in the guise of investigating specific offenses" and it seems clear that that is about what the Government tried to do in the Shinnick case.

Attorney General Levi nevertheless strongly resisted reform legislation debated in Congress last session. That legislation will be introduced again next year and the Shinnick case may give it new urgency—but hardly enough to get him out of prison before July.

OLYMPIC SPIRIT, FBI-STYLE—TWO FACE JAIL FOR RESISTING HARASSMENT

For star athletes the world over, summer '76 meant the glory of the Olympics. But for Phil Shinick, a 1964 U.S. Olympian and one-time world record holder in the long jump, summer '76 marked the climax of a grand jury inquisition.

As this Report goes to press, Shinnick and a 22-year-old friend, sportswriter Jay Weiner, are headed for jail. Officially, Shinnick and Weiner are going to jail because in August they refused to supply evidence to a Scranton, Pa. federal grand jury that is supposed to be investigating the harboring of one-time fugitive Patty Hearst.

Actually, Shinnick and Weiner are going to jail because silence and non-cooperation are their only ways of saying "no" to the FBI harassment which has, for the past 18 months, left their lives and careers in a shambles. The FBI suspects that Shinnick and Weiner were involved in the Pennsylvania farmhouse where Patty Hearst took refuge in 1974. Instead of indicting the two for their alleged role, however, and giving them a chance to defend themselves, the government has, in effect, already decided to punish them—with the grand jury.

The FBI first broke into Jay Weiner's life in February, 1975. Weiner was staying at his parents' Philadelphia home when agents approached and began questioning him about Patty Hearst. Weiner, who felt the FBI was trying to set his friends up for an indictment, exercised his legal right not to answer.

"We have other ways of getting it out of you," one of the agents then threatened, and the first "other way" came two weeks earlier. FBI agents forced Weiner's car off the road, threatened him with their guns and closeted him in a nearby office the rest of the evening for interrogation, all the while ignoring Weiner's repeated requests to see a lawyer. Two days later a thoroughly intimidated Weiner was hauled before a Harrisburg, Pa. federal grand jury where he answered questions.

Meanwhile, Shinnick got his first FBI visit March 4, the day after he had had a phone conversation with Weiner. Shinnick also refused to talk, but the FBI agents came back again—and again—to try to get him to change his mind.

"I was not merely visited," he remembers, "I was stalked."

The stalking wasn't enough to break Shinnick's silence, so the Bureau started leaking Shinnick's name to reporters covering the Hearst affair. That generated newspaper reports around the country linking Shinnick to Patty Hearst. The newspaper articles, coupled with FBI visits to the Rutgers University campus where Shinnick taught, cost the former Olympian his job as Rutgers' director of sport studies.

The FBI wasn't through. Shinnick learned that his friends had been contacted by FBI agents and told he was involved in the Hearst case. Other friends said that letters Shinnick had mailed to them arrived apparently already opened. On numerous occasions, clicks and other tell-tale signs of wire-tapping disrupted Shinnick's phone conversations.

As a crowning blow, the FBI had Shinnick subpoenaed before a federal grand jury. He refused to testify, and the FBI backed off—momentarily.

But a year later, in May, 1976, the Bureau renewed the subpoena pressure. Weiner, who hadn't been able to find a journalism job because of the adverse publicity, was called before a Scranton grand jury which had six more months to run than the Harrisburg panel that had been investigating the Hearst case. The switch to Scranton added six months to the contempt confinement hanging over Weiner's head if he refused to testify.

Shinnick, informed he was a target of the investigation, was ordered to provide the same grand jury with his fingerprints as well as samples of his handwriting and hair.

The two immediately challenged the subpoenas. Shinnick was an Air Force veteran, and the government already had his fingerprints and handwriting on record. Since hair samples are notoriously poor indices of personal identification, Shinnick's subpoena struck observers as retaliation for his earlier silence.

In Weiner's case, the government looked as if it was out to dress rehearse testimony from Weiner for use in the prosecution of his friends, Jack and Micki Scott. The Scotts, well-known sports activists, have not yet been indicted for their widely alleged role in harboring fugitive Patty Hearst, even though the government, judging from its leaks to the press, has had enough evidence to indict them for months. But grand juries are not permitted to investigate cases where an indictment has already been handed down—the government, if they were, could use the grand jury subpoena power to discover a defense's trial strategy—and the government's delay in indicting the Scotts seems clearly a move to sidestep this prohibition.

The supervisory court, however, refused to quash the subpoenas in September. It ignored the evidence of FBI misconduct and manipulation of the grand jury process—as have most courts in similar circumstances over recent years—and, by doing so, helped to encourage further abusive FBI behavior.

That's because FBI agents lack subpoena power of their own. In theory, at least, they must rely on persuasion to gain a witness' cooperation. In reality, however, FBI agents do control subpoena authority—the grand jury's. As long as courts permit the FBI to exercise this authority, agents can be as heavy-handed as they choose with witnesses. Should a witness object to "third-degree" treatment by refusing to answer questions, FBI agents need merely have the witness subpoenaed before a grand jury where he or she must testify or go to jail.

And so long as the FBI retains this access to the grand jury's subpoena power, there won't be much meaningful reform of the grand jury—or the Bureau.

HOUSE OF REPRESENTATIVES—*Thursday, January 20, 1977*

The House met at 10:25 a.m., called to order by the Speaker pro tempore, Mr. MAHON.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Blessed is the nation whose God is the Lord.—Psalms 33: 12.

O God and Father of us all, on this day of days when we witness the inauguration of our new President, we pray that in deed and in truth our Nation may be one people under Thee, united in liberty and with justice for all.

Bless our President with Thy most gracious favor. Give him courage and confidence, health of body and mind, wisdom to make sound decisions, and a vital faith in Thee which will enable him to lead our Nation in the ways of righteousness, peace, and good will.

Bless the Members of Congress.

"A time like this demands strong minds,
great hearts, true faith, and ready hands;
"Members whom the lust of office does not kill;
"Whom the spoils of office cannot buy;
"Members who possess opinions and a will;
"Who have honor, who will not lie;
"Tall Members, sun-crowned, who live above the fog
"In public duty and in private thinking."

In this spirit we face the new year with courage and faith and hope. Amen and amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

ANNOUNCEMENT

The SPEAKER pro tempore. The Chair desires to announce that Members must display their official tickets in order to have a seat on the platform. There are no extra seats available, so former Members cannot join the procession.

The same holds true for children. They can neither go with the procession nor be seated on the platform.

The area where Members of the House are to be seated is not covered. Members should keep this fact in mind in deciding whether to wear overcoats and hats.

The procession will be headed by the Sergeant at Arms bearing the mace. He will be followed by the Speaker pro tempore, then the chairmen of committees, and other Members in order of seniority.

The Chair would encourage Members, as they gather in order of seniority, to congregate by "classes" in the well.

Pursuant to House Resolution 113, the Members of the House will now proceed to the east front to attend the inaugural ceremonies for the President and Vice President of the United States.

Thereupon, at 10 o'clock and 30 minutes a.m., the Members of the House, preceded by the Sergeant at Arms and the Speaker pro tempore, proceeded to the east front of the Capitol.

ADJOURNMENT

At the conclusion of the inaugural ceremonies (at 12 o'clock and 28 minutes p.m.) the House, without returning to its Chamber, pursuant to House Resolution 113, stood in adjournment until Monday, January 24, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

446. A letter from the President of the United States, transmitting a draft of a proposed joint resolution to authorize the President to implement an agreement with the Government of the Republic of Turkey relative to defense cooperation pursuant to article III of the North Atlantic Treaty in order to resist armed attack in the North Atlantic Treaty area (H. Doc. No. 95–57); to the Committee on International Relations and ordered to be printed.

447. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Agriculture Adjustment Act of 1938, as amended, to change the basis for determining marketing quotas and acreage allotments for peanuts; to the Committee on Agriculture.

448. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Soil Conservation and Domestic Allotment Act to provide an updated national direction to the conditions under which the Federal Government will provide financial assistance to agricultural producers for needed soil, water, woodland, and wildlife conservation on agricultural lands; to the Committee on Agriculture.

449. A letter from the Assistant Secretary of Agriculture, transmitting the ninth annual report on operations under the Food Stamp Act of 1964, pursuant to section 16(a) of the act (82 Stat. 958); to the Committee on Agriculture.

450. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the proposed sale by the Department of the Army of certain defense stocks to Thailand (transmittal No. 77–7), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

451. A letter from the Administrator of General Services, transmitting the statistical supplement to the stockpile report for the transition quarter, pursuant to section 4 of the Strategic and Critical Materials Stock Piling Act [50 U.S.C. 98c]; to the Committee on Armed Services.

452. A letter from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 5 years the authority of Federal Reserve Banks to purchase U.S. obligations directly from the Treasury; to the Committee on Banking, Finance and Urban Affairs.

453. A letter from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation to repeal the requirements that the amount of U.S. notes outstanding at any time remain fixed; to the Committee on Banking, Finance and Urban Affairs.

454. A letter from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation to authorize further adjustments in the amount of silver certificates outstanding, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

455. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to extend certain FHA mortgage insurance programs, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

456. A letter from the Secretary of Labor, transmitting the annual report on fair labor standards in employment in and affecting interstate commerce, pursuant to section 4(d)(1) of the Fair Labor Standards Act of 1938, as amended [29 U.S.C. 204]; to the Committee on Education and Labor.

457. A letter from the Secretary of Labor, transmitting the annual report on the administration of the Age Discrimination in Employment Act of 1967, pursuant to section 13 of the act [29 U.S.C. 632]; to the Committee on Education and Labor.

458. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to extend the authorization of appropriations for the Comprehensive Employment and Training Act of 1973 (29 U.S.C. 801 et seq.) (Public Law 93–203) and for other purposes; to the Committee on Education and Labor.

459. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the program of financial assistance to local educational agencies in areas affected by Federal activity to eliminate entitlements based on children whose parents either reside or work on Federal property, and for other purposes; to the Committee on Education and Labor.

460. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to require the use of the Consumer Price Index for all urban consumers in certain Federal programs, and for other purposes; to the Committee on Education and Labor.

461. A letter from the Director of ACTION, transmitting a draft of proposed legislation to amend the Domestic Volunteer Service Act of 1973; to the Committee on Education and Labor.

462. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting the catalog of Federal education assistance programs for 1976, pursuant to section 423 of the General Education Provisions Act; to the Committee on Education and Labor.

463. A letter from the Director, Office of Regulatory Review, Department of Health, Education, and Welfare, transmitting a copy of the proposed interpretation regarding desegregation plans under section 706(a)(1)(A) of the Emergency School Aid Act, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

464. A letter from the Acting Director, Office of Regulatory Review, Department of Health, Education, and Welfare, transmitting a copy of 2 proposed final Emergency School Aid criteria and procedures, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

465. A letter from the Secretary of the Treasury, transmitting a quarterly report on antirecession fiscal assistance to State and local governments, pursuant to section 213 of Public Law 94–369; to the Committee on Government Operations.

466. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report on the Department's disposal of foreign excess property during the transition quarter, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

467. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to repeal provisions of law requiring the exclusion of certain Federal Government entities from the budget totals; to the Committee on Government Operations.

468. A letter from the Comptroller General of the United States, transmitting a report on the financial status of major acquisitions of the U.S. Government; to the Committee on Government Operations.

469. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Thailand (transmittal No. 77–7), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

470. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Greece (transmittal No. 77–8), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

471. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Spain (transmittal No. 77–9), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

472. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles to Greece (transmittal No. 77–10), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

473. A letter from the Director, Defense Se-

curity Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles to the Netherlands (transmittal No. 77–11), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

474. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles and services to Sweden (transmittal No. 77–12), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

475. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles and services to Spain (transmittal No. 77–13), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

476. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense articles to Korea (transmittal No. 77–16), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

477. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to consolidate Federal financial assistance to the 50 States, the District of Columbia, and the territories for programs in the field of health, to focus those programs on individuals most in need of them, and to eliminate unnecessary restrictions on the exercise of State responsibility for program administration; to the Committee on Interstate and Foreign Commerce.

478. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the Railroad Retirement Act of 1974 to provide that the amount authorized to be appropriated to the Railroad Retirement Account each fiscal year to pay the costs of windfall dual benefits shall not exceed $250 million; to the Committee on Interstate and Foreign Commerce.

479. A letter from the Chairman, Securities and Exchange Commission, transmitting a draft of proposed legislation to amend the Securities Exchange Act of 1934 to increase the amount authorized to be appropriated for the Securities and Exchange Commission for fiscal 1977; to the Committee on Interstate and Foreign Commerce.

480. A letter from the Under Secretary of Commerce, transmitting a draft of proposed legislation to amend the Marine Mammal Protection Act of 1972 in connection with the incidental taking of marine mammals with commercial fishing; to the Committee on Merchant Marine and Fisheries.

481. A letter from the Secretary of Transportation, transmitting three drafts of proposed legislation, "To revise and improve the laws relating to the documentation of vessels, and for other purposes," "To revise and improve the laws relating to the documentation of seamen," and "To simplify the tonnage measurement of certain vessels"; to the Committee on Merchant Marine and Fisheries.

482. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to implement article VI of the Convention on the International Regulations for Preventing Collisions at Sea, 1972; to the Committee on Merchant Marine and Fisheries.

483. A letter from the Assistant Secretary of Agriculture for Administration, transmitting a report on scientific and professional positions established in the Department during 1976, pursuant to 5 U.S.C. 3104 (c); to the Committee on Post Office and Civil Service.

484. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the act of August 25, 1958, as amended (the Former Presidents Act of 1958, 3 U.S.C. Sec. 102, note), by amending provisions relating to former Presidents' staffs; to the Committee on Post Office and Civil Service.

485. A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide for an increase in the number of positions which the Civil Service Commission may establish and place at GS–16; to the Committee on Post Office and Civil Service.

486. A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend subchapter IV of chapter 53 of title 5, United States Code, to improve the operation of the Federal wage system and for other purposes; to the Committee on Post Office and Civil Service.

487. A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment for appointments in the departmental service in the District of Columbia; to the Committee on Post Office and Civil Service.

488. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend section 311(k) of the Federal Water Pollution Control Act to increase the authorization of appropriations for the revolving fund established to finance the removal of oil and hazardous substances discharged into navigable waters, adjoining shorelines, and the contiguous zone; to the Committee on Public Works and Transportation.

489. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Science and Technology.

490. A letter from the Acting Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend chapter 23 of title 38, United States Code, to eliminate certain duplications in Federal burial benefits now payable for the same, or similar, purposes; to the Committee on Veterans' Affairs.

491. A letter from the Acting Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize a program of assistance to States for the establishment, expansion, improvement, and maintenance of veterans cemeteries; to the Committee on Veterans' Affairs.

492. A letter from the Acting Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to limit the circumstances under which the expenses of travel of certain veterans traveling to or from a Veterans' Administration facility in conection with the furnishing of medical care and treatment for a nonservice-connected condition will be reimbursed; to the Committee on Veterans' Affairs.

493. A letter from the Acting Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38 of the United States Code to require that certain veterans receiving hospital or outpatient medical care from the Veterans' Administration for nonservice-connected disabilities be charged for such care to the extent that they have health insurance or similar contracts with respect to such care, or, are entitled to such care under worker's compensation statutes of any State; to prohibit the future exclusion of such coverage from insurance policies or contracts written under these situations; and for other purposes; to the Committee on Veterans' Affairs.

494. A letter from the Acting Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to terminate the education loan program, and for other purposes; to the Committee on Veterans' Affairs.

495. A letter from the Acting Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38 of the United States Code in order to revise and improve the program of making grants to the States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans, and for other purposes; to the Committee on Veterans' Affairs.

496. A letter from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation to authorize the Treasury to invest for cash management purposes; to the Committee on Ways and Means.

497. A letter from the Secretary of Defense, transmitting a report on the proposed Defense budget for fiscal year 1978; jointly, to the Committees on Armed Services, and Appropriations.

498. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend section 25 of the Deepwater Port Act of 1974 by providing a permanent authorization of appropriations; jointly, to the Committees on Public Works and Transportation, and Merchant Marine and Fisheries.

499. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to provide a comprehensive system of liability and compensation for oil-spill damage and removal costs, and for other purposes; jointly, to the Committees on Public Works and Transportation, and Merchant Marine and Fisheries.

500. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to provide greater efficiency and equity in the operation and administration of Federal and federally aided income assistance programs; jointly, to the Committees on Ways and Means, Education and Labor, Agriculture, and Banking, Finance and Urban Affairs.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO (for himself, Mr. BURKE of Massachusetts, Mr. CARTER, Mr. CONTE, Mr. DUNCAN of Tennessee, Mr. FARY, Mr. GRASSLEY, Mr. HYDE, Mr. LAFALCE, Mr. MCFALL, Mr. MITCHELL of Maryland, Mr. MOFFETT, Mr. MOLLOHAN, Mr. MURPHY of Illinois, Mr. NIX, Mr. NOWAK, Mr. OBERSTAR, Mr. RINALDO, Mr. SLACK, Mr. STANTON, and Mr. TRAXLER):

H.R. 2267. A bill to increase for a 5-year period the duty on certain hand tools, and for other purposes; to the Committee on Ways and Means.

By Mr. HANLEY:

H.R. 2268. A bill to amend title 39, United States Code, to provide that certain property held by the U.S. Postal Service shall be subject to certain provisions of the Federal Property and Administrative Services Act of 1949 relating to surplus and excess property; to the Committee on Post Office and Civil Service.

H.R. 2269. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mr. ANDERSON of California, Mr. BLOUIN, Mr. DRINAN, Mr. DUNCAN of Tennessee, Mr. FLORIO, Mr. HAMILTON, Mr. HANNAFORD, Mr. HARRINGTON, Mr. HOWARD, Mr. HUGHES, Mr. LEGGETT, Mr. LENT, Mrs. MEYNER, Mr. MINETA, Mr. MOFFETT, Mr. RODINO, Mr. ROSENTHAL, Mr. ROYBAL, Mr. ST GERMAIN, and Mr. SCHEUER):

H.R. 2270. A bill to amend XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. JOHN L. BURTON, and Mr. SISK):

H.R. 2271. A bill to amend XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mrs. HOLT:

H.R. 2272. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

H.R. 2273. A bill to amend title 38, United States Code, to authorize a program of assistance to States for the establishment, expansion, improvement, and maintenance of veterans cemeteries, and to provide for transportation of bodies to a national cemetery; to the Committee on Veterans' Affairs.

By Mr. YATES:

H.R. 2274. A bill to establish in the Department of Housing and Urban Development a direct low-interest loan program to assist homeowners and builders in purchasing and installing solar heating (or combined solar heating and cooling) equipment; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2275. A bill to establish a national adoption information exchange system; to the Committee on Education and Labor.

H.R. 2276. A bill to designate the Indiana Dunes National Lakeshore as the "Paul H. Douglas National Lakeshore"; to the Committee on Interior and Insular Affairs.

H.R. 2277. A bill to amend subchapter XVIII, chapter 7, 42 U.S.C. to provide for the administrative and judicial review of claims (involving the amount of benefits payable) which arise under the supplementary medical insurance program; to the Committee on Interstate and Foreign Commerce.

H.R. 2278. A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, in any manner affecting interstate or foreign commerce, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, and pistol clubs; to the Committee on the Judiciary.

H.R. 2279. A bill to incorporate Recovery, Inc.; to the Committee on the Judiciary.

H.R. 2280. A bill to prohibit commercial flights by supersonic aircraft into or over the United States until certain findings are made by the Administrator of the Environmental Protection Agency and by the Secretary of Transportation, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 2281. A bill to amend chapter 1 of 26 U.S.C. to allow a deduction to tenants of houses or apartments for their proportionate share of the taxes and interest paid by their landlords; to the Committee on Ways and Means.

H.R. 2282. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

H.R. 2283. A bill to amend title 42, United States Code, chapter 7, subchapter II to increase to $7,500 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

H.R. 2284. A bill to encourage increased use of public transit systems by amending chapter 1 of title 26, United States Code, to allow a credit against individual income taxes for funds expended by a taxpayer for payment of public transit fares from his or her residence to his or her place of employment and from his or her place of employment to his or her residence; to the Committee on Ways and Means.

H.R. 2285. A bill to amend title 42, United States Code, to include qualified drugs, requiring a physician's prescription or certification and approved by a formulary committee, among the items and services covered under the hospital insurance program; to the Committee on Ways and Means.

H.R. 2286. A bill to amend title 42, United States Code, chapter 7, subchapter II to reduce from 20 to 5 years the length of time a divorced woman's marriage to an insured individual must have lasted in order for her to qualify for wife's or widow's benefits on his wage record; to the Committee on Ways and Means.

H.R. 2287. A bill to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes; jointly, to the Committees on Interior and Insular Affairs, the Judiciary, Merchant Marine and Fisheries, and Science and Technology.

H.R. 2288. A bill to provide that a finding of permanent and total disability under title II or XVI of the Social Security Act, chapter 13 or 15 of title 38, United States Code, or the Railroad Retirement Act of 1937 will be considered as a finding of disability under any of such programs, and for other purposes; jointly, to the Committee on Ways and Means, Veterans' Affairs, and Interstate and Foreign Commerce.

By Mrs. HOLT (for herself, Mr. DICKINSON, Mr. MARTIN, Mr. ROUSSELOT, Mr. BAUMAN, Mr. BYRON, Mr. BURGENER, Mr. SIMON, Mr. DEVINE, Mr. WAMPLER, Mr. CLEVELAND, Mr. VANDER JAGT, Mr. RUDD, Mr. JOHN T. MYERS):

H.J. Res. 188. Joint resolution to amend the Constitution of the United States to require a balanced Federal budget; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.J. Res. 189. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

H.J. Res. 190. Joint resolution proposing an amendment to the Constitution of the United States providing for the election of the President and Vice President; to the Committee on the Judiciary.

By Mr. YATES:

H.J. Res. 191. Joint resolution prescribing model regulations governing implementation of the provisions of the Social Security Act relating to the administration of social service programs; to the Committee on Ways and Means.

By Mr. DELANEY:

H. Res. 151. A resolution to designate January 22 as Ukrainian Independence Day; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. JOHN L. BURTON:

H.R. 2289. A bill for the relief of Teresa Rodriguez De La Torre; to the Committee on the Judiciary.

H.R. 2290. A bill for the relief of Ma Ho Lui; to the Committee on the Judiciary.

H.R. 2291. A bill for the relief of Carmen Cecilia Blanquicett; to the Committee on the Judiciary.

By Mr. TRIBLE:

H.R. 2292. A bill for the relief of Boulos Stephan; to the Committee on the Judiciary.

By Mr. YATES:

H.R. 2293. A bill for the relief of Phyllis T. Pontrelli; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII.

33. The SPEAKER presented a petition of Dennis L. Nygren, Royal Oak, Mich., relative to the Child and Family Services Act; to the Committee on Ways and Means.

SENATE—*Thursday, January 20, 1977*

(Legislative day of Wednesday, January 19, 1977)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of our Fathers, and our God, make sacred to all of us this solemn day of dedication. We pray especially for our President and for him who will preside over this Senate. Give them an understanding of our times, wisdom beyond themselves, and health of mind and body sufficient for their tasks. May the truths of the Bible on which their hands are placed be the guide of this Republic in the years to come. And may the oath of office taken by two men be for every citizen a new pledge of allegiance and a fresh dedication to "one nation under God," striving to set forward Thy kingdom on Earth.

We pray in the name of our Redeemer and Lord. Amen.

THE JOURNAL

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, January 19, 1977, be approved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries.

REPORT ON EMPLOYMENT AND TRAINING—MESSAGE FROM THE PRESIDENT—PM 30

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am transmitting to the Congress the annual *Employment and Training Report of the President*, pertaining to employment and training requirements, resources, and utilization, as required by sections 705(a) and 705(b) of the Comprehensive Employment and Training Act of 1973, as amended. This *Employment and Training Report of the President* also includes reports required by sections 209 and 413 of the same act.

GERALD R. FORD.

THE WHITE HOUSE, *January 20, 1977.*

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 31

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce:

To the Congress of the United States:

I am transmitting to the Congress the annual report of the Corporation for Public Broadcasting, describing its activities for the year ending June 30, 1976.

GERALD R. FORD.

THE WHITE HOUSE, *January 20, 1977.*

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

EC–441. A communication from the President of the United States transmitting a draft of proposed legislation entitled "Energy Independence Authority Act of 1977"; to the Committee on Interior and Insular Affairs.

EC–442. A communication from the President of the United States, transmitting the 16th annual report of the U.S. Arms Control and Disarmament Agency (with an accompanying report); to the Committee on Foreign Relations.

EC–443. A communication from the President of the United States, transmitting an alternative nuclear program, ship design characteristics (with accompanying papers); to the Committee on Armed Services.

EC–444. A communication from the President of the United States, informing the Senate of his intention to withdraw the designation of the People's Republic of the Congo as a beneficiary developing country for purposes of the generalized system of preferences; to the Committee on Finance.

EC–445. A communication from the President of the United States, transmitting a draft of proposed legislation to authorize the President to implement an agreement with the Government of the Republic of Turkey relative to defense cooperation pursuant to article III of the North Atlantic Treaty in order to resist armed attack in the North Atlantic Treaty area (with accompanying papers); to the Committee on Foreign Relations.

EC–446. A communication from the President of the United States, transmitting an alternative nuclear program ship design, cost, and schedule (with accompanying papers); to the Committee on Armed Services.

EC–447. A communication from the President of the United States, transmitting a report on the review of disaster loan authorities mandated in section 101 of Public Law 94–305 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

EC–448. A communication from the President of the United States, transmitting a draft of proposed legislation to authorize appropriations for the acquisition, improvement, rehabilitation, and maintenance of the National Park System and National Wildlife Refuges, and to increase grants to communities to improve park and recreation facilities (with accompanying papers); to the Committee on Commerce and the Committee on Interior and Insular Affairs.

Mr. CRANSTON. Mr. President, I ask unanimous consent that a communication from the President of the United States, relative to the National Park System and the National Wildlife Refuges, be referred jointly to the Committee on Commerce and the Committee on Interior and Insular Affairs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EC–449. A communication from the President of the United States, transmitting a report of the National Cancer Advisory Board for calendar year 1975 (with an accompanying report); to the Committee on Labor and Public Welfare.

EC–450. A communication from the President of the United States, transmitting a draft of proposed legislation to transfer certain functions from the Secretary of the Interior to the Secretary of Agriculture (with accompanying papers); to the Committee on Interior and Insular Affairs.

STATEMENT OF ACTING MAJORITY LEADER

Mr. CRANSTON. Mr. President, I would like to say that the majority leader is with the group that will lead the President-elect to the inauguration. It is for that reason that I am acting in the capacity of acting majority leader, which is a great thrill for me on this great day for our country when we join in the passing of leadership to the President-elect, Jimmy Carter, of Georgia.

ORDER OF PROCEDURE TODAY

Mr. CRANSTON. Mr. President, I have just a word on what will occur today.

It was originally announced that we would proceed in a body at 10:30 a.m. It will be more like 10:50 a.m. before we gather for that purpose. There will be a quorum call until that point after the present proceedings have been concluded.

The Senate will reconvene at 4 p.m. today to consider, first, the President's Cabinet nominations which are noncontroversial, and on which rollcall votes are not anticipated; and, second, the McGovern motion to refer Senate Resolution 18 on Vietnam draft evaders to the Judiciary Committee. The Executive Calendar presently has two nominations.

The Senate will meet tomorrow; the present plan as I understand it is to convene at noon, though conceivably that could be changed, and vote at 1 p.m. on the cloture motion to close debate on Senate Resolution 18.

This afternoon the Senate will be considering those nominations submitted by the new President on which no rollcall is desired.

Tomorrow the Senate will presumably consider some of the nominations on which rollcalls are desired.

I am informed, although I am not absolutely certain of this, that the Senate will not consider until Monday the nomination of the nominee for Secretary of Labor. I am not certain that that is the plan, but there have been some indications that that will be the case.

I have nothing further to say at this moment.

The PRESIDENT pro tempore. The minority leader is recognized.

COMPLIMENTARY STATEMENTS

Mr. BAKER. Mr. President, I shall not take very long, but I think it would be derelict of me if I did not compliment the distinguished Senator from California for his service today as acting majority leader and for his new position as majority whip of the U.S. Senate.

We are delighted to have the opportunity to work with such a great Member of this body now, as in the past.

Mr. CRANSTON. I thank the Senator very much. It is a great pleasure to work with him and the Senator from Alaska and the other leaders in the minority in the Senate.

COMMENTS ON THE INAUGURATION

Mr. BAKER. Mr. President, this is a solemn event that we are about to witness and in which we are about to participate.

There is no more fundamental and impressive, indeed, there is no more solemn constitutional function than the inauguration of a new President and Vice President of the United States.

In a few moments we will proceed as one of the two Chambers of one of the three coordinate branches of the Government to the inaugural platform where in the presence of all the principal officials of the three departments, the oath of office will be administered and the power of the executive department will pass by orderly transition to new hands.

We will also see the induction of a new President of this body, the Vice President of the United States.

Those of us on this side of the aisle will celebrate fully the inauguration of our new President.

While campaigns are partisan and nominees are designated by the two great parties, inaugurations are na-

tional and constitutional events, and we on the Republican side will join with you on the majority side in fully celebrating this event today and wishing President-elect Carter, soon to be President Carter, and Vice-President-elect Mondale, soon to be our presiding officer, the very best. We wish them well. We wish them Godspeed and God's blessing as they attempt in the next 4 years to direct so much of the affairs of this Republic.

Mr. President, I reserve the remainder of my time under the standing order.

Mr. CRANSTON. Mr. President, I respond to the generous and wise words of the leader of the minority in the Senate by welcoming his statement of intent to work with the new administration and with those on this side of the aisle to see to it that wise and sound steps are taken in connection with the leadership of our country.

I look forward to this opportunity for all of us in this body to work with the new President and do what we can to insure that when he is right he is given support and has the opportunity to lead our country out of the many difficulties and through the many difficulties that face us. At the same time, I know that all of us, both on this side of the aisle and on the other side of the aisle, recognize our constitutional responsibility to differ with the executive branch when that is felt to be in order.

I believe very deeply that our liberties rest most of all upon the Bill of Rights and on the separation of powers among the three branches of Government that insure that too much power never lodges in two few hands in our Government. For those reasons I know that we will see to it that the congressional branch serves fully in the decisionmaking process and makes its views known when it feels that it is necessary to suggest a different course from that proposed in another branch of our Government.

At this point, I am prepared to yield back the remainder of my time, if the Senator from Tennessee is prepared to yield back the remainder of his time.

Mr. BAKER. Mr. President, I have no further comment. I inquire of the acting majority leader if we might not reserve the remainder of our time under the standing order and suggest the absence of a quorum to ascertain further business of the Senate.

Mr. CRANSTON. That is fine.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 4 P.M.

The PRESIDENT pro tempore. The Senate will stand in recess until 4 p.m. this afternoon.

(Thereupon, at 10:48 a.m., the Senate recessed until 4 p.m.)

INAUGURATION OF THE PRESIDENT OF THE UNITED STATES AND THE VICE PRESIDENT

PROCESSION TO THE INAUGURAL PLATFORM

The Members of the U.S. Senate, headed by Senator JAMES O. EASTLAND, President pro tempore, Francis R. Valeo, Secretary of the Senate, and the Reverend Edward L. R. Elson, D.D., Chaplain of the Senate, proceeded to the inaugural platform and were seated in section 4.

The Members of the House of Representatives, headed by Representative GEORGE H. MAHON, Speaker pro tempore, Edmund L. Henshaw, Jr., Clerk of the House, and the Reverend Edward G. Latch, D.D., Chaplain, proceeded to the inaugural platform and were seated in sections 1 and 4.

The Governors of the States were escorted from the south corridor by the secretary of the majority of the Senate, Mr. J. Stanley Kimmitt, to the inaugural platform and were seated in section 3.

The members of the Diplomatic Corps were escorted from the Senate reception room by the Assistant Director of the Joint Congressional Committee on Inaugural Ceremonies, Miss Peggy L. Parrish, to the inaugural platform and were seated in section 2.

The Members of the Cabinet of the president-elect were escorted from the President's room by Mr. Chester B. Sobsey, administrative assistant to Senator CANNON, to the inaugural platform and were seated on the President's platform.

The Chief Justice of the United States and the Associate Justices of the Supreme Court, preceded by Mr. Michael Rodak, Jr., Clerk of the Court and Mr. Alfred Wong, Marshal of the Court, were escorted by Mr. Chester H. Smith, chief counsel of the Senate Rules Committee from the office of the Secretary of the Senate to the inaugural platform and were seated on the President's platform.

Mrs. Ford and Mrs. Rockefeller were escorted to their seats on the Presidential platform by Mrs. O'Neill.

Mrs. Carter and Mrs. Mondale were escorted to their seats on the President's platform by Mrs. Cannon.

Members of the Committee on Arrangements, accompanied by Deputy Sergeant at Arms of the Senate Robert C. Hough, Deputy Sergeant at Arms of the House Elwyn G. Raiden, and Mr. Larry E. Smith, minority staff director, of the Senate Rules Committee, escorted President Gerald R. Ford and Vice President NELSON A. ROCKEFELLER to the inaugural platform in the following order:

The President.

The Vice President.

Senator HATFIELD.

Representative RHODES.

(The U.S. Marine Corps Band played ruffles and flourishes—"Hail to the Chief.")

[Applause.]

Members of the Committee on Arrangements, accompanied by Sergeant at Arms of the Senate F. Nordy Hoffmann and Sergeant at Arms of the House Kenneth R. Harding, escorted Vice President-elect Walter F. Mondale to the inaugural platform in the following order:

The Vice President-elect.

Senator ROBERT C. BYRD.

Representative WRIGHT.

(The U.S. Marine Corps Band played "Stars and Stripes Forever.")

[Applause.]

The Committee on Arrangements, accompanied by Sergeant at Arms of the Senate Hoffmann, Sergeant at Arms of the House Harding, and Executive Director Cochrane, escorted President-elect James Earl (Jimmy) Carter to the inaugural platform in the following order:

The President-elect.

Senator CANNON and Speaker O'NEILL.

Senator ROBERT C. BYRD and Representative WRIGHT.

Senator HATFIELD and Representative RHODES.

(The U.S. Marine Corps Band played "The Navy Hymn.")

[Applause.]

THE INAUGURATION CEREMONIES

Senator CANNON. Mr. President, Mr. President-elect, Mr. Vice President, Mr. Vice President-elect, distinguished guests and fellow citizens:

In the highest tradition of our form of government, we are here today to inaugurate the 39th President of the United States. It is a great honor for me, as chairman of the Joint Congressional Committee on Inaugural Ceremonies, to begin our program by presenting the U.S. Marine Band under the direction of Lt. Col. Jack T. Kline, which will play "America the Beautiful."

(The U.S. Marine Corps Band played "America the Beautiful.")

[Applause.]

INVOCATION

Senator CANNON. For our invocation, I present Bishop William R. Cannon of the United Methodist Church, Atlanta, Ga., will you please stand.

Bishop CANNON. Let us pray.

O God, whom people of different persuasions call by different names, yet on whom we all alike depend for our lives, our land, and the opportunity for happiness: Grant us, we pray Thee, a new and vital realization of Thy sovereignty and our dependence, of what it means to be creatures responsible to their creator, and of our obligations, both as individuals and as a society, to Thee.

Save us as a nation from the arrogant futility of trying to play God: as if we knew everything there is to know; as if our wealth were so great that we could satisfy the needs of people everywhere over the world and buy their favor and support; as if our own power were limitless, so that we could manage and direct the affairs of humankind. The truth is that we are not able properly to manage and control ourselves, to guarantee to every American the full advantage of the fruits of his labor, so that each one of us may sit under his own vine and under his own fig tree, and none shall make us afraid.

The management of the world is Thy business, not ours, O God. Give us the humility and good sense to see this. Help us to deal with others as equals, seeking advice as well as giving it, receiving help from them as well as lending them our aid. Teach us that the only abiding

influence we can ever have in the world is the influence of a good example.

We ask Thy forgiveness for those sins that marred our national character and impaired the effectiveness of our Government in recent times. Help us as a people to confess our sins, not to blame our politicians alone for them. In their evil and wrongdoing Thou dost hold before our face a mirror in which we see our own misdeeds writ large. Teach us that a democracy is not sacred just because it is a democracy, and that a government of the people, by the people, and for the people is no better than the people themselves.

Let this the first administration in the third century of our national existence be the beginning of a new era—a time of rectitude, righteousness, prosperity for all our citizens based on their own toil and productivity, and peace.

Bless our outgoing President, Gerald Ford. Give him the satisfaction of knowing that he rendered inestimable service to our country under trying circumstances.

Bless the Congress of the United States, the newly-designated Cabinet, and all others, either elected or appointed to public office.

Lend Thy favor and Thine aid to our Vice President-elect, Walter Mondale, that he may support and complement in unselfish service the work of the President, and thereby make his own role in government indispensable.

Pour out the abundance of Thy grace, we pray Thee, upon Jimmy Carter, about to be inaugurated President of the United States. We pray for his family, especially Rosalynn, his wife, that they may support him in this most difficult task.

We thank Thee for his brilliant mind, his signal accomplishments in public service, his exemplar Christian life, and his devotion to Thee and to Thy people Give him the wisdom, the strength, and the goodness to take his place among the greatest of our Presidents; and grant him, like Solomon, an understanding heart to govern Thy people rightly.

Make our people governable, O God. Save our Nation from factionalism and from the divisiveness of those who exert pressure on Government for their own interests, seeking selfish gain more than the common good. Make us, we pray, one people under Thee, united for the good of the Nation and for the service of the world. Help us together to build a nation here on Eart that in its manner of life anticipates Thine everlasting kingdom in heaven.

All this we ask in the name of Jesus Christ, Thy Son and our Savior. Amen.

PRESENTATION OF "BATTLE HYMN OF THE REPUBLIC"

Senator CANNON. We will now have the pleasure of hearing the "Battle Hymn of the Republic" sung by selected voices from Atlanta University, Clark, Morehouse, Morris Brown, and Spelman Colleges, and the Interdenominational Theological Center. This chorus is conducted by Dr. Wendell P. Whalum and will be accompanied by the U.S. Marine Band.

(The "Battle Hymn of the Republic" was presented by selected voices from Atlanta University, Clark, Morehouse, Morris Brown, and Spelman Colleges, and the Interdenominational Theological Center, accompanied by the U.S. Marine Corps Band.)

[Applause.]

ADMINISTRATION OF OATH TO THE VICE PRESIDENT-ELECT

Senator CANNON. The Speaker of the House of Representatives, the Honorable THOMAS P. O'NEILL, JR., will now administer the oath of office to the Vice President-elect.

[Applause.]

Mr. O'NEILL. WALTER F. MONDALE, citizen of the State of Minnesota, duly elected Vice President of the United States, are you ready to take that oath of office?

The VICE PRESIDENT-ELECT. I am.

The Speaker of the House of Representatives, THOMAS P. O'NEILL, JR., administered to the Vice-President-elect the oath of office prescribed by the Constitution, which he repeated as follows:

I, Walter F. Mondale, solemnly swear that I'll support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

[Applause.]

(Ruffles and flourishes—"Hail Columbia.")

ADMINISTRATION OF OATH TO THE PRESIDENT-ELECT

Senator CANNON. My fellow citizens, I present the distinguished Chief Justice of the United States, the Honorable Warren Earl Burger, who will administer the oath of office to the President-elect.

[Applause.]

Chief Justice BURGER. Governor Carter, are you prepared to take the constitutional oath?

President-Elect CARTER. I am.

The Chief Justice of the United States, Warren Earl Burger, administered to the President-elect the oath of office prescribed by the Constitution, which he repeated, as follows:

I, Jimmy Carter, do solemnly swear that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States. So help me God.

Chief Justice BURGER. Congratulations.

[Applause.]

(Four ruffles and flourishes, "Hail to the Chief," and 21-gun salute.)

Senator CANNON. The President of the United States.

[Applause.]

INAUGURAL ADDRESS

President CARTER. For myself and for our Nation, I want to thank my predecessor for all he has done to heal our land.

[Applause.]

In this outward and physical ceremony we attest once again to the inner and spiritual strength of our Nation.

As my high school teacher, Miss Julia Coleman, used to say:

> We must adjust to changing times and still hold to unchanging principles.

Here before me is the Bible used in the inauguration of our first President in 1789, and I have just taken the oath of office on the Bible my mother gave me a few years ago, opened to a timeless admonition from the ancient prophet Micah:

> He hath showed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God. (Micah 6:8)

This inauguration ceremony marks a new beginning, a new dedication within our Government, and a new spirit among us all. A President may sense and proclaim that new spirit, but only a people can provide it.

Two centuries ago our Nation's birth was a milestone in the long quest for freedom, but the bold and brilliant dream which excited the founders of this Nation still awaits its consummation. I have no new dream to set forth today, but rather urge a fresh faith in the old dream.

Ours was the first society openly to define itself in terms of both spirituality and of human liberty. It is that unique self-definition which has given us an exceptional appeal—but it also imposes on us a special obligation—to take on those moral duties which, when assumed, seem invariably to be in our own best interests.

You have given me a great responsibility—to stay close to you, to be worthy of you, and to exemplify what you are. Let us create together a new national spirit of unity and trust. Your strength can compensate for my weakness, and your wisdom can help to minimize my mistakes.

Let us learn together and laugh together and work together and pray together, confident that in the end we will triumph together in the right.

[Applause.]

The American dream endures. We must once again have full faith in our country—and in one another. I believe America can be better. We can be even stronger than before.

Let our recent mistakes bring a resurgent commitment to the basic principles of our Nation, for we know that if we despise our own government we have no future. We recall in special times when we have stood briefly, but magnificently, united; in those times no prize was beyond our grasp.

But we cannot dwell upon remembered glory. We cannot afford to drift. We reject the prospect of failure or mediocrity or an inferior quality of life for any person.

Our Government must at the same time be both competent and compassionate.

We have already found a high degree of personal liberty, and we are now struggling to enhance equality of opportunity. Our commitment to human rights must be absolute, our laws fair, our natural beauty preserved; the powerful must

not persecute the weak, and human dignity must be enhanced.

We have learned that "more" is not necessarily "better," that even our great Nation has its recognized limits, and that we can neither answer all questions nor solve all problems. We cannot afford to do everything, nor can we afford to lack boldness as we meet the future. So together, in a spirit of individual sacrifice for the common good, we must simply do our best.

Our Nation can be strong abroad only if it is strong at home, and we know that the best way to enhance freedom in other lands is to demonstrate here that our democratic system is worthy of emulation.

To be true to ourselves, we must be true to others. We will not behave in foreign places so as to violate our rules and standards here at home, for we know that the trust which our Nation earns is essential to our strength.

The world itself is now dominated by a new spirit. Peoples more numerous and more politically aware are craving and now demanding their place in the sun—not just for the benefit of their own physical condition, but for basic human rights.

The passion for freedom is on the rise. Tapping this new spirit, there can be no nobler nor more ambitious task for America to undertake on this day of a new beginning than to help shape a just and peaceful world that is truly humane.

We are a strong Nation, and we will maintain strength so sufficient that it need not be proven in combat—[applause]—a quiet strength based not merely on the size of an arsenal, but on the nobility of ideas.

We will be ever vigilant and never vulnerable, and we will fight our wars against poverty, ignorance, and injustice—[applause]—for those are the enemies against which our forces can be honorably marshaled.

We are a proudly idealistic Nation, but let no one confuse our idealism with weakness.

Because we are free we can never be indifferent to the fate of freedom elsewhere.

[Applause.]

Our moral sense dictates a clearcut preference for those societies which share with us an abiding respect for individual human rights. We do not seek to intimidate, but it is clear that a world which others can dominate with impunity would be inhospitable to decency and a threat to the well-being of all people.

The world is still engaged in a massive armaments race designed to insure continuing equivalent strength among potential adversaries. We pledge perseverance and wisdom in our efforts to limit the world's armaments to those necessary for each nation's own domestic safety. And we will move this year a step toward our ultimate goal—the elimination of all nuclear weapons from this Earth.

[Applause.]

We urge all other people to join us, for success can mean life instead of death.

Within us, the people of the United States, there is evident a serious and purposeful rekindling of confidence, and I join in the hope that when my time as your President has ended, people might say this about our Nation:

That we had remembered the words of Micah and renewed our search for humility, mercy, and justice;

That we had torn down the barriers that separated those of different race and region and religion, and where there had been mistrust, built unity, with a respect for diversity;

That we had found productive work for those able to perform it;

That we had strengthened the American family, which is the basis of our society;

That we had insured respect for the law, and equal treatment under the law, for the weak and the powerful, for the rich and the poor;

And that we had enabled our people to be proud of their own government once again.

[Applause.]

I would hope that the nations of the world might say that we had built a lasting peace, based not on weapons of war but on international policies which reflect our own most precious values.

These are not just my goals, and they will not be my accomplishments, but the affirmation of our Nation's continuing moral strength and our belief in an undiminished, ever-expanding American dream.

Thank you very much.

[Applause.]

BENEDICTION

Senator CANNON. The Benediction will be offered by the Most Reverend John R. Roach, archbishop of St. Paul-Minneapolis, Minn.

Archbishop ROACH. May we join in prayer.

God our Father, we thank You now for this Earth, for its fertility and strength, for the green hills, the windy plains, the pounding of the sea and mountain forests, for the Earth's resources and its fragile beauty.

We thank You for the gift of life: May we reverence it and protect it: We thank You for the gift of peace which You have placed in our earthen hearts.

In our struggles to become a people You have given us in each age the leadership of men and women whose noble daring and peaceful ways have brought us to this time. We thank You for those who have gone before us. From many walks of life, and from many races and nations You have fashioned a country whose cultures have unfolded ever broader patterns of life, each reflecting its own brilliance and hope. For this variety we thank You.

We thank You, Lord, for the freedom we enjoy, to worship, to learn, and to use Your gift of talents to their full; for simplicity of life, to live our days in the company of friends, to work in peace in our homes, on our farms and in our cities. We remember, Lord, all these blessings You have given to us in the past. And we thank You.

Today we have come to celebrate our future. Each of us, Father, sets out a hope before You—for the days to come.

We beg Your special blessing on President Carter and Vice President MONDALE and their families. There is loneliness on the mountain. Grace that loneliness with Your presence.

Give us the strength to struggle beyond pain, to reach out our hands to the alienated and to the poor.

Where suffering and weak voices cry out, may we be present to nourish.

Where injustice speaks, may we have the courage to change it.

Where proper dissent is present may we have ears to listen.

Watch over the leaders of this Earth. Give them hearts for compassion and the fire of freedom. Give them the courage to speak out and to listen quietly.

Give them the humility of sincere faith and the vision of future good. And especially today, we ask You to watch over our new leaders, set them upon the right way.

For You are the Lord in whom we trust. You are the God of our faith. To You be praise and glory forever and ever. Amen.

PRESENTATION OF THE NATIONAL ANTHEM

Senator CANNON. Concluding the program, the National Anthem will be sung by Cantor Isaac Goodfriend of Atlanta, Ga., accompanied by the U.S. Marine Band.

(The National Anthem was sung by Cantor Isaac Goodfriend, accompanied by the U.S. Marine Corps Band, audience standing.)

[Applause.]

(The U.S. Marine Corps Band presented a medley of patriotic selections.)

The Committee on Arrangements, accompanied by Sergeant at Arms of the Senate Hoffmann, Sergeant at Arms of the House Harding, and Executive Director Cochrane, escorted the President and the Vice President from the President's platform in the following order:

The President and Vice President.

Senator CANNON and Speaker O'NEILL.

Senator ROBERT C. BYRD and Representative WRIGHT.

Senator HATFIELD and Representative RHODES.

(The U.S. Marine Corps Band played ruffles and flourishes—"Hail to the Chief.")

(The inaugural ceremonies were concluded at 12:25 p.m.)

(Following the conclusion of the inaugural ceremonies, the Senate reassembled at 4 p.m., when called to order by the Presiding Officer (Mr. FORD).)

QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

[Quorum No. 4 Ex.]

Allen	Glenn	McClure
Anderson	Hansen	Melcher
Baker	Hatch	Metzenbaum
Byrd, Harry F., Jr.	Helms	Morgan
	Humphrey	Moynihan
Byrd, Robert C.	Jackson	Nunn
Chafee	Javits	Proxmire
Chiles	Johnston	Sarbanes
Cranston	Long	Schmitt
DeConcini	Lugar	Scott
Domenici	Magnuson	Sparkman
Eastland	Mathias	Stennis
Ford	McClellan	Talmadge

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. BAKER. I announce the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), the Senator from Delaware (Mr. ROTH), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 69, nays 1, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—69

Allen	Byrd, Harry F., Jr.	Cranston
Anderson		Danforth
Baker	Byrd, Robert C.	DeConcini
Bayh	Case	Dole
Bentsen	Chafee	Domenici
Bumpers	Chiles	Durkin
Eagleton	Javits	Proxmire
Eastland	Johnston	Randolph
Ford	Laxalt	Riegle
Glenn	Long	Sarbanes
Gravel	Lugar	Sasser
Hansen	Magnuson	Schmitt
Haskell	Mathias	Schweiker
Hatch	Matsunaga	Scott
Hatfield	McClellan	Sparkman
Hathaway	McClure	Stennis
Hayakawa	McGovern	Stevenson
Heinz	Melcher	Talmadge
Helms	Metzenbaum	Thurmond
Hollings	Morgan	Wallop
Huddleston	Moynihan	Williams
Humphrey	Nunn	Zorinsky
Inouye	Packwood	
Jackson	Percy	

NAYS—1

Biden

NOT VOTING—30

Abourezk	Garn	Pearson
Bartlett	Goldwater	Pell
Bellmon	Griffin	Ribicoff
Brooke	Hart	Roth
Burdick	Kennedy	Stafford
Cannon	Leahy	Stevens
Church	McIntyre	Stone
Clark	Metcalf	Tower
Culver	Muskie	Weicker
Curtis	Nelson	Young

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

ORDER OF BUSINESS

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. Will the Senator suspend?

Will Senators take their seats? If they want to conduct their conversations they shall do that in the cloakroom.

The Senate will be in order.

The Senator from Tennessee.

VISIT TO THE SENATE BY GOVERNOR AND RESIDENT COMMISSIONER OF PUERTO RICO

Mr. BAKER. Mr. President, it is my privilege to announce that today in the Chamber is present with us the distinguished Governor of the Commonwealth of Puerto Rico, Gov. Carlos Romero Barcelo, accompanied by the Resident Commissioner of the Commonwealth of Puerto Rico, Mr. BALTAZAR CORRADA DEL RIO.

I hope as a mark of respect to our fellow citizens of the Commonwealth of Puerto Rico that we might extend our greetings, and I would like to introduce the Governor and then to ask the majority leader if we might stand in recess briefly so we may greet him.

Mr. President, I introduce to the Senate His Excellency, the Governor of the Commonwealth of Puerto Rico, Carlos Romero Barcelo.

[Applause.]

RECESS

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess for a period of 5 minutes while we pay our respects to our distinguished guests.

There being no objection, the Senate, at 4:49 p.m., recessed until 4:52 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session.

The motion was agreed to and the Senate proceeded to the consideration of executive business.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries.

The Presiding Officer laid before the Senate the following messages from the President of the United States:

To the Senate of the United States:

I nominate the following-named persons to the positions indicated:

Cyrus Vance, of New York, to be Secretary of State.

W. Michael Blumenthal, of Michigan, to be Secretary of the Treasury.

Harold Brown, of California, to be Secretary of Defense.

Griffin B. Bell, of Georgia, to be Attorney General.

Cecil D. Andrus, of Idaho, to be Secretary of the Interior.

Bob S. Bergland, of Minnesota, to be Secretary of Agriculture.

Juanita M. Kreps, of North Carolina, to be Secretary of Commerce.

Ray Marshall, of Texas, to be Secretary of Labor.

Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Health, Education, and Welfare.

Patricia Roberts Harris, of the District of Columbia, to be Secretary of Housing and Urban Development.

Brockman Adams, of Washington, to be Secretary of Transportation.

JIMMY CARTER.

I nominate Thomas Bertram Lance, of Georgia, to be Director of the Office of Management and Budget.

JIMMY CARTER.

I nominate Charles L. Shultze, of the District of Columbia, to be a Member of the Council of Economic Advisers.

JIMMY CARTER.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore laid before the Senate a message from the President of the United States submitting the nomination of ANDREW J. YOUNG, of Georgia, to be the Representative of the United States to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States in the Security Council of the United Nations, which was referred to the Committee on Foreign Relations.

SECRETARY OF DEFENSE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Mr. Harold Brown of California to be Secretary of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered. The nomination will be stated.

The legislative clerk read the nomination of Harold Brown of California to be Secretary of Defense.

Mr. STENNIS. Mr. President, after 3 days of hearings on this nomination, the Committee on Armed Services unanimously voted in favor of recommending the confirmation of Harold Brown as Secretary of Defense.

There are 16 members of that committee, and all 16 are recorded in favor of this report.

The resolution that passed the committee was that when the nomination came in, the chairman was authorized to say that testimony had been taken and the vote I have just referred to was made and that the chairman was authorized to make a report to the Senate, which I now do. I have a written copy of the resolution here should anyone wish it.

Mr. President, in anticipation of the nomination of Dr. Harold Brown to be Secretary of Defense, the Armed Services Committee has carefully and thoroughly examined his credentials. Open hearings were held on January 11, and a classified, executive session was held on January 13, during which time committee members questioned Dr. Brown at length on a variety of defense issues. Subsequent to those hearings the committee voted on the expected nomination of Dr. Brown, and I am pleased to report to the Senate that the committee vote to support Dr. Brown's confirmation was unanimous.

I think a word on the conflict of interest situation as it applies to this most important nomination is in order. There are, of course, statutes requiring responsible government officials to take certain actions to avoid conflict of interest situations. Very recently, President Carter has set forth his own new guidelines which go far beyond current law. However, the Armed Services Committee has traditionally applied a set of conflict of interest guidelines far more stringent than required by law or even by the new Carter guidelines.

We have done this because the decisions made by our key Defense Department civilian leadership cannot be made in an environment that would permit even the appearance of a conflict of interest. The committee guidelines require that a nominee divest himself of all securities in firms which during the last year received contracts of $10,000 or more with the Department of Defense. In addition, the committee has required that nominees resign from all posts in firms which during the last year received contracts of $10,000 or more with the Department of Defense. And finally, the nominees must not receive any compensation for services performed during their term of office from firms which during the last year received contracts of $10,000 or more with the Department of Defense.

Mr. President, Dr. Harold Brown, who is currently the President of the California Institute of Technology, is no stranger to Washington and the Defense establishment. He served as the Director of Defense Research and Engineering from 1961 to 1965 and as Secretary of the Air Force from 1965 to 1969. He brings with him to this post an excellent knowledge, not only of how the Defense Department operates, but also an understanding of the most important role that our national defense must play in world affairs. He has complied completely with committee guidelines regarding conflicts of interest.

Mr. President, Dr. Brown has the unanimous support and confidence of the Committee on Armed Services, and I predict he will be an excellent Secretary of Defense.

Mr. President, I yield the floor.

Mr. CRANSTON. Mr. President, I want to just say a word or two on behalf of the nomination of Mr. Brown.

He is an outstanding citizen of California with a remarkable background in the field where he will have responsibilities in the Department of Defense. He has formerly held a very high position in the Department of Defense which he handled with great distinction.

He is presently the president of California Institute of Technology in California and has wide background in all the matters for which he will bear responsibilities as DOD Secretary.

I recommend him very, very highly.

Mr. PROXMIRE. Mr. President, I shall be brief. Although I intend to vote for the confirmation of Secretary of Defense-designate Harold Brown, I do so with a number of reservations in mind. These reservations have nothing to do with his personal integrity or his very extensive experience in defense affairs.

But I am concerned about three matters. The Fitzgerald case, the B–1 bomber decision, and the pledge to cut $5 to $7 billion in defense funds.

THE FITZGERALD CASE

First is the Fitzgerald controversy. When Ernest Fitzgerald testified before the Joint Economic Committee on November 13, 1968, he committed one of the cardinal sins against any bureaucracy—he told the truth and it was embarrassing. The Secretary of the Air Force at that time was Harold Brown. Secretary Brown subsequently called Fitzgerald into his office and told him that his testimony has created a political problem.

After that meeting a series of calculated reprisals were lodged against Fitzgerald. He lost his tenure. His submissions for the record of the Joint Economic Committee were tampered with. He lost his job function. Secretary Brown requested a memorandum from his personnel officer Thomas Nelson on the subject of "what are his rights?" In testimony on May of 1971, this phrase was explained to mean "How can I fire him?" The resulting memorandum offered three methods to fire Fitzgerald.

Since that time, the courts have reinstated Fitzgerald to a position in the Pentagon. But administrative actions have denied him the right to carry on where he left off—examining wasteful practices in procurement and research and development.

In my opinion he should promptly be reinstated to his former position, with his former responsibilities and with the same chances for advancement. To do less is to further penalize this fine civil servant.

President Carter has offered a four-point program for improving the working conditions and rights of civil servants. In his point 4, the President's statement reads: "The Fitzgerald case, where a dedicated civil servant was fired from the Defense Department for reporting cost overruns, must never be repeated."

Who was the Secretary who first tried to fire Fitzgerald? Harold Brown, the man whose nomination is now before the Senate.

It is time for the new Secretary of Defense, Mr. Brown, to carry forthwith that pledge that the President has given us and reinstate Fitzgerald to his former position.

Mr. President, my second reservation deals with the much-debated B–1 bomber program.

Not since the ABM debates of 1969–70 has a defense issue created so much controversy. And not in recent memory has a major weapon decision been opposed by so many defense experts.

The President campaigned on the pledge that the B–1 was an example of a wasteful system that should not be funded.

President Carter was about as explicit and definite in his statement against the B–1 bomber as he could be.

The new Secretary of Defense-designate, however, does not display the same questioning quality about the B–1. In a letter to me of last summer, Harold Brown stated that he thought the Defense Department had the best arguments for the B–1. This was a strong signal that he probably will approve a decision to go ahead with full-scale production of the B–1 which according to the budget of the outgoing administration will cost at least $2.15 billion just for fiscal year 1978, and more than $20 billion over the next few years.

This would be a most unwise decision which actually could result in a less capable defense than other bomber-related alternatives. At $24 billion, the B–1 could price us out of an adequate military posture.

CUT IN THE DEFENSE BUDGET

The final item is the now questionable commitment to cut $5 to $7 billion out of the defense budget. From what appeared to be a clear statement of intent, that phrase has now become almost unrecognizable. The Secretary of Defense-designate has further confused the issue by speaking of savings in other years, or savings out of increases, or savings by efficiency that do not really show up, or savings by productivity. It no longer is clear whether or not the original concept of savings will be adhered to or not.

Certainly savings can be made in the defense budget. Congress finds a way each year to make savings and yet to

increase the capabilities of our fighting forces. In fact certain savings, by cutting out wasteful practices or reordering priorities, may of themselves improve our military capability.

In the days ahead I will be detailing just where a number of significant savings can be made in this year's defense budget. In the meantime, however, the statements by the Secretary of Defense-designate on the issue of potential savings do not give one cause for optimism.

At this time, Mr. President, I do not oppose this nomination, but I do have these serious reservations which I thought I should call to the attention of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I wish to speak in behalf of Dr. Brown as Secretary of Defense.

I became acquainted with him over the last few years as part of my association with the California Institute of Technology, which was a continuation of a long association with that institute.

I think probably the most important qualification that he has is a very modern and up-to-date understanding of not only the threat that we face from potential adversaries abroad, but the base of scientific research and technology that now exists within this country is partly the result of his administration of the California Institute of Technology, a base of research and technology that will allow us, if we properly use that base, to withstand threats to our security and to the security of free men everywhere in the world, if those threats are ever made a reality.

I urge all of us to support his nomination, to look very carefully at what he proposes, as we will in all nominations submitted by the President, but I hope that that base of research and technology which now exists in this country will, in fact, insure the survival of the country and free men everywhere.

Mr. President, I recommend the confirmation of Dr. Brown.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, last week, the Committee on Armed Services conducted closed hearings to inquire into the nomination of Dr. Harold Brown to be Secretary of Defense. During those hearings I had the opportunity to advise Dr. Brown of my strong belief in the need to make the Defense Department much more business-like and cost effective.

While I intend to vote to confirm Dr. Brown, I would like to insert an edited version of the remarks I made during those closed hearings into the RECORD.

Mr. President, I ask unanimous consent that my remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS ON CONFIRMATION OF HAROLD BROWN

(By Hon. HOWARD METZENBAUM)

I intend to vote for your confirmation. But having said that, I think I ought to advise you of my thinking because I don't want to spend your next four years, maybe my next six years in a constant confrontation with you.

Now frankly, I don't know nearly as much as the other members of this committee do about some of the matters about which they have been speaking. They are far more knowledgeable. They have expertise, and it has been a good learning lesson for me.

But I do have pretty good knowledge with respect to how to spend a dollar, and since your Department will be the largest spender of the American taxpayer's dollars, I am very much concerned about wastefulness in that Department.

You are opposed to waste. Of course we all are. You want to cut the budget. We all do.

But the fact is when it comes down to the hard questions: cost overruns, competitive bidding, military personnel winding up on the other side of the table three weeks after they leave the military department, protecting individuals who are willing to speak up about waste, frankly, Dr. Brown, your answers were less than what I had hoped they would be.

There are two ways improvement can be made. One is the way it should be done. And that is by you as the head of the Department, issuing orders within the Department saying DOD will require competitive bidding; the Department of Defense is not going to approve cost overruns; the Department of Defense is not going to continue old practices which have caused overruns.

The alternative method is for a Member of Congress to offer an amendment to a pending bill, ordering you to do that which you should have done in the first instance anyhow.

I just wanted to say that I would prefer not to have to force you to do your job. But I am determined that you can make cuts in the military budget if you eliminate some of the practices which presently exist. It is not a question of five billion or eight billion—it could be more—much more. But if you meet the problem squarely, then there will be no need for me to be a thorn in your side.

I would hope that while you are resolving some of the problems concerning the various matters that have been discussed by other members of the committee, that you would understand that there is one Senator out there on that floor who is going to be on you for a long period of time to see if we can't make this Defense Department more businesslike than it has been.

It is not an easy task. MacNamara tried it and failed. You are fighting an uphill battle, but I wanted you to know how strongly I feel about the subject before you are confirmed.

Mr. STENNIS. Mr. President, I will not detain the Senate. We had 1 day of closed hearings and two sessions of open hearings.

With reference to the $5 billion to $7 billion, that was discussed some there, and Dr. Brown was asked questions. But after that, as I have said, the committee voted unanimously, 16 to 0 in favor of the confirmation.

On the matter of the B–1 bomber, some on our committee oppose the B–1 bomber. That was discussed, as I said, as well as the $5 billion to $7 billion reduction. Still the vote was unanimous.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Harold Brown to be Secretary of Defense?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECRETARY OF THE INTERIOR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Cecil D. Andrus, of Idaho, to be Secretary of the Interior.

The legislative clerk read the nomination of Cecil D. Andrus, of Idaho, to be Secretary of the Interior.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, this nomination was reported unanimously. Governor Andrus has been a distinguished Governor of the State of Idaho and is in his second term. He was reelected by the largest margin in the State's history.

I believe he is uniquely qualified to serve as Secretary of the Interior. He is familiar both by his experience as Governor and as a distinguished citizen of the West with at least some of the fundamental problems facing the Department of the Interior.

We had a number of outside witnesses. There was no opposition to him. I urge the unanimous support of his nomination.

Mr. President, I ask unanimous consent that at this point there be printed in the RECORD an excerpt from the committee report on the nomination.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

COMMITTEE ACTION

President-elect Carter has publicly indicated that, upon taking the Office of President, he intends to nominate Mr. Andrus to be Secretary of the Interior. In anticipation of that nomination, the committee held public hearings on January 17 and 18, 1977. After full consideration of his record and credentials, the committee found Mr. Andrus qualified for the position of Secretary of the Interior. On January 18, 1977, the committee voted unanimously to report favorably on the nomination of Mr. Andrus, when received.

BIOGRAPHICAL SKETCH

Governor Cecil D. Andrus was born in Hood River, Oregon, on August 25, 1931, to Hal and Dorothy Andrus.

Following a year at Oregon State, the Governor served in the Navy during the Korean war, then returned with his wife, Carol, to Orofino, Idaho. They have three daughters, Tanna, Tracy, and Kelly.

Elected as Idaho's 25th Governor and inaugurated on January 4, 1971, Governor Andrus was re-elected on November 5, 1974, to a second term by the largest margin in the State's history.

As a freshman Governor, he was named to the Executive Committee of the National Governors' Conference. He served as chairman of the Rocky Mountain Federation of States (1970–1972) and until recently was chairman of the National Governors' Conference.

COMMITTEE HEARINGS

The committee held 2 days of public hearings on the proposed nomination of Governor Andrus. The Governor testified on January 17, 1977. A copy of his prepared statement follows:

STATEMENT OF HON. CECIL D. ANDRUS, GOVERNOR OF IDAHO, TO BE SECRETARY OF THE INTERIOR

Mr. Chairman, Distinguished Members of the Senate Interior Committee, and other Distinguished Guests:

My name is Cecil D. Andrus. I presently hold the Office of Governor of the State of Idaho. I have been Governor for the past six years.

I am deeply honored to have been nominated by President-elect Carter to be Secretary of the Interior. I am aware of the responsibilities given to the Secretary in administering the duties of the Interior Department. I am hopeful that you will judge my background and experience as a western Governor as positive qualifications for the Secretary's position.

I do not view my selection as a mandate to do as I please anymore than I viewed my election as Governor to be a mandate of this type. Rather, I accept it as an obligation to work with the President, the Congress, and the people in making the tough decisions and hard choices facing this nation.

The Department of the Interior, more than any other Department or agency of the Federal Government, can best be called the steward of our resource heritage. It is a heritage given us to use and to enjoy wisely, and yet to protect and pass on to future generations.

The Department is not only the steward of the country's natural resources, but also discharges trust responsibilities for large numbers of people.

I take these people responsibilities very seriously; they will have a high priority in my administration of the Department.

As Governor of Idaho, I consistently stressed one theme—that we must protect the quality of life we have in Idaho—and I have had full support of the people of Idaho on that concept.

If I am confirmed, my goal as Secretary of the Interior will be to protect and enhance the quality of life for all in the United States.

In Idaho, we have found ways to protect the environment while selectively developing our mineral wealth; to set aside wilderness areas while at the same time harvesting timber; and to manage our rangeland not only for livestock but for wildlife and other resource values as well.

You should know that I believe that conservation is no longer a pious ideal, it is an element of our survival. Many resources are limited and precious. My efforts will be focused on curbing old habits of overconsumption and misuse, seeking instead to use less and to use better.

I share the deep concerns of our citizens who want to know what our nation will be like when our children and grandchildren reach adulthood.

I support and believe in the National Park System and the Wild and Scenic Rivers of this Nation. Parks, wilderness and wild rivers are meaningful gifts for future generations and I intend to advocate these programs on behalf of the American people.

It is only in recent years that we have come to realize that too much of our environment has been wasted or destroyed or misused—and that we have not been good stewards.

Only as we began to near the end of the second century of this Nation's history did we begin to realize that we had been foreclosing an option that we should have been saving for our children and grandchildren—the option to place high values on clear air, on pure water, on wildlife, on outdoor recreation, and on unscarred nature. We were taking away from generations yet unborn the ability to make important decisions about their stewardship of the land, the water and the air.

I am hopeful that we are now entering an era when the concept of multiple use will be better understood.

That has not always been the case.

The problem is that multiple use does not mean that every acre should be logged, mined or grazed. Some areas are best used for one purpose, some for another. And, this is compatible with the intent of the multiple use concept.

In the era just beginning, I hope that confusion about the meaning of multiple use will be resolved.

It will be, *if* we get the broad vision of those who can see the entire horizon; not the tunnel vision of those who see only the portion of the horizon that is desirable to them.

In essence, we can, and we must, make certain that our natural resources are developed or not developed for the benefit of everyone and through such use, keep our nation strong and our quality of life high.

I am pleased to be part of the new Administration, particularly when our next President is a man who himself personnally has been involved in the protection of the heritage of America. We can all look forward to his personal involvement in decisions we make to protect clean air, clean water and uncluttered landscapes, but yet at the same time providing a progressive society where we can all make a living and have a living that is worthwhile.

I look forward to serving the American people. It is a noble challenge to attempt to maintain that delicate balance between progress and preservation. With your guidance and support, we are going to get the job done.

On January 18, 1977, the committee heard testimony from representatives of the following organizations: National Congress of American Indians, Sierra Club, American Horse Protection Association, Alaska Federation of Natives, Inc., U.S. Labor Party, Fusion Energy Foundation, and Defenders of Wildlife.

FINANCIAL STATEMENT AND ADDITIONAL INFORMATION

The committee rules require each Presidential nominee to submit a financial statement sworn to by the nominee as to its completeness and accuracy. Mr. Andrus agreed to the committee's request that his own financial statement be made public. A copy of the statement and the nominee-designate's responses to a standard series of specific questions is set forth below:

Financial statement of Cecil and Carol Andrus,[1] December 31, 1976

Assets:	
Cash on hand and in banks	$3,500
U.S. Government securities:	
Listed securities	23,000
Unlisted securities	18,850
Real estate interests, including mortgages	45,000
Personal property	20,950
Life insurance—cash value	3,300
Other assets: State of Idaho Pension Plan Employee Contributions	12,855
Total assets	127,455
Liabilities:	
Notes payable to others	10,000
Accounts payable	
Unpaid income tax[2]	840
Other unpaid tax and interest	
Real estate mortgages payable	7,800
Chattel mortgages and other liens payable	1,000
Other debts: Household expenses	200
Total liabilities	19,840
Net worth	107,615

[1] Carol Andrus and her sister, Sally Bouregois, are Co-Guardians for their Mother, Mildred May. In that capacity, they are responsible for the management of their Mother's assets totaling approximately $85,000. All of these funds are invested in time certificates of deposit.

[2] State and Federal taxes for 1976 which are due and payable Apr. 15, 1977.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.

Answer. I participate in the State of Idaho's Pension Plan. The value of my contributions to the Plan (as of January 1, 1977), is approximately $12,850.00. Under the Plan, I have earned an accrued retirement benefit at age 65 of $680.65 per month. The total potential value of my retirement benefit at age 65 is $121,537.00. I intend to maintain this retirement program. A total lump sum settlement is not available to me at the present time under this pension plan.

2. Are any assets pledged? (Add schedule.)

Answer. Yes. 2,000 shares of common stock of Sunshine Mining Company.

3. Are you currently a party to any legal action?

Answer. I am a party to various legal actions in my capacity as Governor of Idaho. I am not involved in any legal actions personally.

4. Have you ever declared bankruptcy?

Answer. No.

AFFIDAVIT

----------, being duly sworn, hereby states that he/she has read and signed the foregoing Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

CECIL D. ANDRUS.

Subscribed and sworn before me this ____ day of --------, 19--.

_____ _____,

Notary Public.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Andrus, Cecil Dale.

Position to which nominated: Secretary of the Interior.

Date of nomination: January 20, 1977.

Date of birth: August 25, 1931.

Place of birth: Hood River, Oregon.

Marital status: Married.

Full name of spouse: Carol M. Andrus.

Name and ages of children: Tanna Lee, 25; Tracy Sue, 20; and Kelly Kay, 16.

Education:

Eugene, Oreg.; high school, 1943–48.

Oregon State University, 1948–49. Degrees received none. Honors and awards:

Honorary Doctorate of Law, Gonzaga University.

Honorary Doctorate of Law, University of Idaho.

Idaho Man of the Year, 1971 and 1972.

Idaho Conservationist of the Year, 1972.

Many other lesser awards as Governor.

Memberships:

Veterans of Foreign Wars, past commander.

American Legion, AF/AM Lodge 69, Orofino, Idaho.

El Korah Temple, Boise, Idaho.

B.P.O.E. Lodge 96, Lewiston, Idaho.

The Poachers Club, Boise, Idaho.

Ducks Unlimited.

Arid Club, Boise, Idaho.

Crane Creek Country Club, Boise, Idaho.

Hillcrest Country Club, Boise, Idaho.

Idaho Taxpayers' Association.

Board of Directors of Idaho Youth Ranch.

Employment record:

1951–55—U.S. Navy.

1955–61—TRU-CUT Lumber Co., Orfino, Idaho, Lumberjack, woods work, equipment operator, sawmill construction, millright, production manager.

1961–63—Self-employed—Small wood by-products firm.

1963–67—Assistant Manager, Workmen's Compensation Exchange, Lewiston, Idaho. Managed self-insurance programs for Idaho firms in the lumber and logging industry.

1967–70—General Manager for the State of

Idaho for the Paul Revere Insurance Companies. Home office in Worcester, Massachusetts.

1970–77—Governor of the State of Idaho.

Government experience:

Member of Idaho Senate, 1961–67; 1969–70.

Governor of the State of Idaho from January 4, 1971 to the present.

President of the Idaho State Land Board 1971–77. Served on many other boards and commissions as Governor of Idaho.

Chairman of the Federation of the Rocky Mountain States, 1972–73.

Chairman of the National Governors' Conference, 1976–77.

Published writings: Inaugural Addresses, 1971 and 1975, published in "Great American Speeches"; other articles in various periodicals in my capacity as Governor.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

None.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

Shares of stock in the various mining companies listed on attachment 1.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None.

4. List and describe any lobbying activity during the post 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.

As a part of my duties as Governor of Idaho, I have been extensively involved in dealing with legislative matters at all levels of Government.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

See attachment 2.

ATTACHMENT 1

Schedule of securities

[Value at January 1, 1977]

Shares of common stock and company:	
Listed: 2,000, Sunshine Mining	$23,000
Unlisted:	
6,000, Silver Syndicate	13,500
25,000 Silver Buckle Mines	2,250
40,000, Placer Creek Mining	1,600
Investors Diversified Services Mutual Fund	1,500

SCHEDULE OF LIABILITIES

Notes payable: Piper, Jaffery, a brokerage firm. This is a margin loan secured by 2,000 shares of Sunshine Mining Co. stock	10,000
Real estate mortgages: Balance payable to Floyd Loomis, Cascade, Idaho, under a real estate purchase contract [1]	7,800
Chattel Mortgages, etc.: Automobile loan payable to Idaho Bank & Trust Co	1,000

[1] I own approximately ⅛ acre of land in Valley County, Idaho, adjacent to the Cascade Reservoir. The land was purchased from Lloyd Loomis and a summer cabin was constructed on the site several years ago (value $45,000).

ATTACHMENT 2

I will divest myself of all mining stocks listed in Attachment 1. The values of these securities are currently depressed because of a strike at the Sunshine Mine. Consequently, I will place these securities in a blind trust with instructions to the Trustee to sell these securities in an orderly way, with sales to be complete no later than six months from the date of my confirmation. A copy of the Trust is attached.

APPENDIX C

Trust agreement

We, Cecil D. Andrus and Carol M. Andrus, husband and wife of Boise, Ada County, Idaho (hereinafter called "Settlors"), hereby assign, set over, and transfer unto the Idaho Bank and Trust Company, Boise, Idaho, all of our interest in and to the marketable securities listed on Exhibit A attached hereto and incorporated herein, to hold the same as Trustee in Trust as hereinafter provided.

Article I

Settlors reserve the right at any time or times after six months from the date hereof, to amend, alter or revoke this trust, in whole or in part, or any provision hereof, by an instrument in writing signed by either of the Settlors and delivered to the Trustee during the lifetime of such Settlor.

Article II

During the existence of this Trust, the Trustee shall pay the net income of the Trust to the Settlors at least as often as quarterly. Upon the death of a Settlor, the income thereafter shall be so paid to the survivor.

Article III

Upon the termination of this Trust for any reason whatsoever, the Trustee shall pay the then remaining principal and any undistributed net income of the Trust, as follows:

(1) To the Settlors jointly, if both Settlors are then living;

(2) If only one Settlor is then living, then to such Settlor;

(3) If neither Settlor is then living, then to the issue of Settlors, then living, per stirpes.

Article IV

This Trust shall terminate, thirty days after the first of the following events to occur:

(1) upon revocation of the Trust as provided in Article I hereof;

(2) upon the death of Cecil D. Andrus;

(3) at such time as Cecil D. Andrus is no longer Secretary of the Interior.

Article V

During the existence of this Trust, the Trustee shall manage and invest the assets of this Trust as follows:

(1) The marketable securities listed in Exhibit A attached hereto shall be sold by the Trustee in an orderly manner in such a way as to realize the best possible price for such investments taking into account the limited markets for some of such investments and the status of operations at the respective companies; provided, however, that all of said securities shall be sold no later than six months from the date hereof.

(2) The proceeds of the sale of said securities shall be reinvested by the Trustee, in its sole discretion and without consultation with or notification to Settlors, in any one or more of the following:

(*a*) certificates of deposits issued by commercial banks;

(*b*) instruments of the United States Government;

(*c*) well diversified, no load, mutual funds.

Article VI

During the existence of this Trust, the Trustee shall not provide Settlors with any listing or accounting of the investments held in Trust provided, however, that Trustee shall provide Settlors annually and at such other times as Settlors may request, the total market value of the Trust assets. Trustee shall also provide to an accountant designated by Settlors such information as may be necessary for the preparation of Settlors' tax returns.

Article VII

In extension and not in limitation of the powers given by law or other provisions of this Trust, Trustee shall have the following powers with respect to the Trust created hereby and to the Trust property, to be exercised from time to time in the discretion of the Trustee, without order or license of Court and without the knowledge or consent of Settlors:

(1) To sell, exchange, transfer, convey and make contracts concerning the Trust property for such considerations and upon such terms as the Trustee may determine; to execute any instruments with regard thereto.

(2) To hold bonds, shares, or other securities in bearer form, or in the name of the Trustee or in the name of a nominee, without indication of any fiduciary capacity.

(3) To deposit cash in a checking account, savings account or certifications of deposit in a bank, including the Trustee bank, without indication of any fiduciary capacity. Trustee shall have custody of all Trust assets.

(4) To give general or special proxies or powers of an attorney for voting or acting in respect of shares of securities which may be discretionary and with power of substitution.

(5) To employ and pay custodians of Trust property, brokers, agents and attorneys.

Article VIII

The following provisions shall apply to the extent that they are not inconsistent with any of the preceding articles:

(1) Income or principal payable to any minor or to any other person who in the opinion of the Trustee is incapacitated through illness, age, or other cause may be applied by the Trustee at its discretion for the beneficiary's maintenance, support or education, by direct payment of such beneficiary's expenses or by payment to such beneficiary's legal guardian.

(2) Whenever distribution is to be made to designated "issue" on a per stirpes basis, the property shall be distributed to such persons by right of representation and not per capita.

In Witness Hereof, Cecil D. Andrus and Carol M. Andrus, Settlors, have hereunto set their hands and seals, and the Idaho Bank and Trust Company, Ada County, Boise, Idaho, in token of its acceptance of the Trust hereby created, has hereunto set its hand and seal, as of this __ day of _____, 1977.

CECIL D. ANDRUS,
CAROL M. ANDRUS.

IDAHO BANK AND TRUST COMPANY, BOISE, IDAHO.

By _____ _____.

Attest:

_____ _____.

EXHIBIT A—*Shares of common stock*

Company:	
Sunshine Mining	2,000
Silver Syndicate	6,000
Silver Buckle Mines	25,000
Placer Creek Mining	40,000

CONFLICT OF INTEREST

As indicated in Attachment 2 of the information submitted above, Governor Andrus agreed to divest himself of all mining stocks by placing the securities in a blind trust with instructions to the Trustee to sell them in an orderly way, with sales to be completed no later than six months from the date of his confirmation. The committee accepted the Governor's actions as a method to avoid the appearance of any conflict of interest, and in view of the uncertain market for the securities involved, extended the time for divestment to nine months.

CONCLUSION

The Committee agrees that Governor Andrus is qualified in all respects to serve as Secretary of the Interior and recommends that he be confirmed by the United States Senate, if nominated.

Mr. McCLURE. Mr. President, I would like to second what the distinguished chairman of the committee has said.

As members know, the nominee is the Governor and has been the Governor of my State. But beyond that, I have known him for a number of years, having been elected to serve in the State legislature at the same time in 1961 and having worked with him.

I was pleased to appear before the committee as a witness on his behalf, and I certainly support this nomination. I believe it was a fine choice on the part of the President.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Cecil D. Andrus to be Secretary of the Interior.

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President of the United States be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, the President will be notified.

SECRETARY OF THE TREASURY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Mr. W. Michael Blumenthal, of Michigan, to be Secretary of the Treasury.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of W. Michael Blumenthal, of Michigan, to be Secretary of the Treasury.

Mr. LONG. Mr. President, the Committee on Finance had the opportunity to interrogate Mr. Michael Blumenthal in depth. Almost all members of the committee were present. Each member interrogated him on about three occasions, and we were enormously impressed by Mr. Blumenthal. The Senate has read about his life. It is a modern Horatio Alger story and an inspiration to all members.

The vote of the committee was unanimous. We recommend that his nomination be confirmed.

Mr. JAVITS. Mr. President, I support the nomination of Michael Blumenthal. I would not take the Senate's time if I did not fully know him but also worked with him during his work in Europe in connection with the European community and the tariff and trade problems which exist there.

He brings with him an unusual dimension of experience, skill, and very high standing with the leaders of Europe who have negotiated with him. I believe that his appointment is one of the very fine appointments that have been made in the course of the history of this office. I commend it highly to the Senate.

Mr. MOYNIHAN. Mr. President, I support the nomination of W. Michael Blumenthal.

I had the privilege to serve with him on a three-man group that negotiated for President Kennedy the long-term cotton textile agreement of 1962.

Mr. Blumenthal is known, properly so, as a man greatly and wholly committed to the principles of expanding world trade. Yet, on that occasion he showed a most vigorous concern for the jobs of American workers who were in situations of particular disadvantage and need. He carried out that assignment by President Kennedy with the greatest distinction.

One of Mr. Blumenthal's monuments, we might say, was the Trade Expansion Act of 1962, which has served world trade well and has served this Nation well.

Mr. JACKSON. Mr. President, I have known W. Michael Blumenthal since he served as President Kennedy's trade negotiator. Mr. Blumenthal certainly has unique qualifications. He brings to the Treasury Department a background as a scholar. He received his Ph. D. in international trade at Princeton University.

He has been an outstanding and a most effective business leader of the Nation. He has a keen understanding of labor-management relations. He has a keen understanding of economics. I believe he will bring to the Treasury a much needed talent, both in the domestic area of finance-economics and the international side. I think the Nation is most fortunate.

Mr. BAYH. Mr. President, I am delighted to lend my strong support to the confirmation of W. Michael Blumenthal as Secretary of the Treasury. In recent years Mike Blumenthal has been the chief operating officer and then the chief executive officer of the Bendix Corp. Because the Bendix Corp. is a major corporate constituent in Indiana I was fortunate enough to develop an acquaintanceship with Mike Blumethal some years ago. He is a brilliant executive, a compassionate human being, a respected economist, and a public servant of proven skills.

The nomination of Secretary-designate Blumenthal by President Carter is strong testimony to the fact there not be the traditional tension between the business community and those concerned with providing necessary public services to the American people. The Secretary-designate has earned a just reputation as a businessman of great acumen. Similarly, he is highly regarded as an individual sensitive to the concerns and needs of working people.

Not only will Mike Blumenthal provide an important bridge between interest groups that are sometimes at odds, he will be a forthright member of the Cabinet who commands respect abroad as well as at home. The respect that Mr. Blumenthal commands abroad, largely on the basis of his role as chief U.S. negotiator at the Kennedy round of tariff negotiations in the 1960's, is extremely important because of the importance of international economics and foreign trade to U.S. foreign policy in the years ahead.

Increasingly the issues that confront our Nation in its relations with both our allies and our adversaries are economic issues. Under those circumstances we could scarcely hope for a more qualified person to serve as Treasury Secretary than Mike Blumenthal. Not only has he received both his undergraduate and graduate degrees in international economics, he has directed a major international corporation.

Among the more difficult tasks that the Secretary-designate will face will be the fulfillment of President Carter's pledge to achieve thoroughgoing tax reform. As President Carter has said, this is an issue about which we have talked the most and about which we have acted least. I am hopeful that the Carter administration will finally end the lipservice and provide the action necessary to correct gross inequities in our tax system, and look to Secretary-designate Blumenthal to provide key leadership in this regard.

I look forward to Mr. Blumenthal's tenure as Treasury Secretary with great optimism, and the sincere conviction that his selection by President Carter will prove to be one of the best, early decisions of the new administration. I am delighted to advise and consent to Mr. Blumenthal's confirmation.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of W. Michael Blumenthal to be Secretary of the Treasury?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECRETARY OF STATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Cyrus R. Vance of New York—of West Virginia—to be Secretary of State.

The PRESIDING OFFICER. The Senator may designate the residence of the nominee.

Mr. ROBERT C. BYRD. West Virginia.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read as follows:

The nomination of Cyrus R. Vance, of New York and West Virginia, to be Secretary of State.

Mr. SPARKMAN. Mr. President, I do not want to enter into debate as between West Virginia and New York.

I believe the record shows that our committee voted to confirm the nomination of Mr. Cyrus R. Vance of New York.

Mr. ROBERT C. BYRD. I withdraw my reservation for the moment.

[Laughter.]

Mr. SPARKMAN. We had extensive hearings on Mr. Vance's nomination. First, we handled it in a not completely usual manner. We decided to have Mr. Vance 1 day with the committee. We called it a get-acquainted meeting. We had him come before us so that the members could make such comments as they wished and could ask questions. This was just the committee. The next day, we had a formal hearing on his nomination.

It was a thorough and a rather lengthy hearing. He was straightforward in stating his principles and in answering the questions, and the committee was pleased with the testimony of Mr. Vance.

When Governor Carter—he was Governor then—called me to tell me that he was thinking of naming Cyrus Vance as Secretary of State, I had known Mr. Vance over the years. I told Governor Carter that I thought it would be an excellent choice, and he made this comment, which I thought was rather pertinent:

What we need in this position is a man who can negotiate.

Of course, we all know that Mr. Vance has carried on some of the most difficult negotiations we have had in recent years. We are getting an excellent negotiator. We are getting a hard working Secretary. I am glad to say that the committee was convinced, and we voted 15 to 0, a unanimous vote, in favor of the confirmation of his nomination.

Mr. JAVITS. Mr. President, again, I would not take the Senate's time, except that I know this man very well and have known him for many years. Hence, it is my duty to speak.

Of all the lawyers in New York—and we are a city of eminent lawyers—there is no one more eminent than Cyrus Vance, not only because of his legal ability but also because of his civic virtue. He has been critically important to our bar associations, to many areas of work in New York City which are the very essence of what is called decency.

I have had personal contact with him as a negotiator for Presidents. He has been splendid, always very outgoing and informative, so far as we are concerned. I think Senators will find that there are very few secrets with Cyrus Vance—certainly, from us.

To fill the shoes of Henry Kissinger, one of the most brilliant and historic Secretaries of State we have ever had, is an enormous job. Yet, considering the style of President Carter, which is very different from the style of former President Ford and former President Nixon, I believe that Cyrus Vance, within that context, can be as historic—not necessarily the same, not necessarily the same style, but as historic—and brilliant a Secretary as was Henry Kissinger.

Mr. PERCY. Mr. President, I have not known Cyrus Vance as long as my distinguished colleague from New York has, but it has been my pleasure to have known him for two decades.

Henry Kissinger is a hard act to follow, but I do not think anyone could have been appointed who would be more perfectly suited for the times in which we now live than Cy Vance.

The distinguished Senator from Connecticut (Mr. RIBICOFF) while he was in the Middle East, stated his hope that the new administration would make use of the skill and talent and extraordinary creativity of Henry Kissinger. I say to my colleagues that whenever I have heard this suggestion discussed, it has immediately elicited a favorable response and a remarkable enthusiasm.

The American people would like to see Henry Kissinger continue to make a great contribution. Cy Vance appreciates Dr. Kissinger's many fine qualities and I know he would want to draw upon his talents. Cyrus Vance is an excellent choice for Secretary of State. We all are most enthusiastic about it, and I commend the President for his selection of Mr. Vance.

Mr. MOYNIHAN. Mr. President, I most emphatically associate myself with the remarks of the chairman of the Committee on Foreign Relations, my colleague, Senator JAVITS, and the Senator from Illinois.

The PRESIDING OFFICER. The question is, will the Senate advise and consent to the nomination of Cyrus R. Vance, of New York, to be Secretary of State?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of Mr. Cyrus Vance, of West Virginia, to be Secretary of State.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECRETARY OF AGRICULTURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of BOB S. BERGLAND of Minnesota, to be Secretary of Agriculture.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of BOB S. BERGLAND of Minnesota, to be Secretary of Agriculture.

Mr. TALMADGE. Mr. President, on behalf of the Committee on Agriculture and Forestry, I support the nomination of BOB BERGLAND to be Secretary of Agriculture.

On Tuesday, January 11, 1977, the committee voted without objection to authorize the Chair to inform the Senate, at such time as the nomination is received, that the committee recommends confirmation.

Permit me to add that the committee's recommendation is an enthusiastic recommendation.

For nearly 4 hours, Secretary-designate BERGLAND met with the committee, and responded to questions from 17 Senators. It is likely that more than 200 questions were put to BOB BERGLAND, and his responses indicated that he has a detailed grasp of every facet of the Department of Agriculture and with the issues which will face the new Secretary.

Moreover, Secretary-designate BERGLAND's harmonious relationship with the committee demonstrates the poise and skill which he can bring to the leadership position in the Department of Agriculture.

Of course, he was no stranger to the members of the Committee on Agriculture and Forestry.

During the 6 years in which he has served as a Member of Congress, BOB BERGLAND had many occasions to work on conference committees with Members of this body.

Always, we found him eager and willing to listen, perceptive and reasonable, and able in a salutary way to help fashion the compromises which brought results in many legislative endeavors.

His background helps demonstrate how he has come to this role.

BOB BERGLAND is the son of Minnesota farmers of Norwegian heritage and is a farmer himself who, early in his adult life, assumed a leadership role in the farm organizations and political life of his community and his State.

He was chairman of the State committee of the Agricultural Stabilization and Conservation Service, and later served in an executive capacity with ASCS in the Department of Agriculture here in Washington.

His farm background, his experience in the executive branch, and his tenure in the House of Representatives qualify him for the nomination we consider today.

This nomination has won the support of the members of the House Committee on Agriculture, two of whom testified in his favor at the committee's confirmation hearing.

He has the warm endorsement of numerous farmers and farm organizations, of commodity and livestock organizations, of consumer groups and many others.

I urge that the Senate add its endorsement by confirming the nomination of BOB BERGLAND to be Secretary of Agriculture.

Mr. President, on January 11 the Committee on Agriculture and Forestry had extensive hearings on the qualifications of Mr. BERGLAND to be Secretary of Agriculture.

Some 17 or 18 Senators interrogated him for several hours. He responded to probably 200 to 300 questions in the area of agriculture. Some of them were highly complex, some controversial.

The nominee displayed enormous knowledge of every facet of American agriculture.

He himself is a farmer, the first farmer that has been nominated for the Secretary of Agriculture in more than 20 years, since I have been a Member of the Senate.

For the past 6 years he has been a member of the House Committee on Agriculture and Forestry.

Most of the members of our committee are acquainted with him, having dealt with him in conferences between the Senate and the House of Representatives. He is a man of enormous ability,

enormous capacity. Our committee voted unanimously to recommend to the Senate that his nomination be confirmed, and I urge the Senate to do so.

Mr. HUMPHREY. Mr. President, I shall just take a moment of the Senate's time.

I thank the distinguished chairman of the Committee on Agriculture and Forestry, the Senator from Georgia (Mr. TALMADGE), for his comments concerning ROBERT BERGLAND.

I have known Mr. BERGLAND for approximately 20 years, and I have known him not only as a man in public life, but as truly a fine gentleman, a good family man, and as has been said here, a farmer, a family farmer, from the northern part of our State, who has understood the pains and the sufferings of people in rural America as well as some of the achievements and accomplishments of family farmers.

Mr. BERGLAND also has had experience in the administrative areas of agriculture, having served for some years as a member of what we call the ASC committee system, the Agricultural Stabilization Committee, and, as the distinguished chairman noted, he served 6 years on the Committee on Agriculture.

It is a good appointment. He will do a remarkable job for us, and I am sure that the Senate will find out that he is easy to work with, he is a man who is open, he is characterized and known for his integrity and his basic sense of honesty and decency.

I hope the Senate will unanimously confirm him.

Mr. BAKER. Mr. President, I understand that the distinguished senior Senator from Oklahoma may wish to be heard on this nomination, I believe not in opposition, but to comment on it. I do not wish to delay unduly, but for the moment I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it is my understanding that the Senator from Oklahoma has no further remarks in this respect and whatever remarks he may wish to elaborate and extend he will do at a later time.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of BOB S. BERGLAND, of Minnesota, to be Secretary of Agriculture?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECRETARY OF COMMERCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Juanita M. Kreps, of North Carolina, to be Secretary of Commerce.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of Juanita M. Kreps, of North Carolina, to be Secretary of Commerce.

Mr. MAGNUSON. Mr. President, the Committee on Commerce held extensive hearings on Mrs. Kreps' nomination. The vote for her confirmation was unanimous. We found her to be a woman of great experience, great capabilities, and I am sure that she is going to make a good Secretary of Commerce.

I ask unanimous consent that other members of the Committee on Commerce as well as the Senator from North Carolina be permitted to have their remarks printed in the RECORD on this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Vote.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the constitutional duty of a Senator to give advice and consent to the principal appointments of the President of the United States is a duty which must be taken with great deliberation. I have always attempted to make this duty a serious attempt to assess the value and meaning of such nominees in the national interest.

Some Senators have said that they feel that it is their obligation to approve the nominee of any President unless that nominee is totally disqualified by reason of grave character defect or dubious conduct. Such a theory seems to hold that a President has the right to select persons with whom he is compatible in temperament and confident in judgment, and that such nominees ought to be approved forthwith by the Senate.

The Senator from North Carolina does not hold that view. I believe that the constitutional obligation is to give advice as well as consent, and I have, on a number of occasions and with different Presidents, withheld my consent whenever I thought that an appointment was wrong for the Nation. Sometimes a nominee may be not qualified for technical reasons, but sometimes a nominee may be symbolically wrong as well.

Therefore, it is not in a spirit of partisanship or in a desire to contest a new President that I wish the record to show that I am opposed to three of President Carter's Cabinet nominees: Cyrus R. Vance, Harold Brown, and W. Michael Blumenthal as Secretaries of State, Defense, and Treasury, respectively. When the nomination of Representative Andrew Young to be Ambassador to the United Nations comes up, the Senator from North Carolina also will vote "nay" if a rollcall vote is conducted.

I make these announcements all at one time because it is the pattern of the appointments which is disturbing, as well as the individual qualifications of the gentlemen in question. All of these will be directly concerned with shaping and executing U.S. foreign policy. They will help determine our role in the world, and the financial and military security of this Nation. In the present disorder of international affairs, their decisions could be crucial to the future survival of our Nation. Without assured national survival, all of our hopes and dreams will be in vain.

President Carter, if I understood him correctly, has promised us a new spirit, a new commitment, a new America. To millions of southerners who believe in a conservative political philosophy, the President's promises were interpreted to mean an end to the trends that have dominated our conduct of foreign affairs for years—the tendency toward concessession and surrender of our rights and of our leadership role, the giveaway of our assets, and the erosion of our military strength. Many believed that President Carter would put an end to the erosion of our strength and leadership.

But no sooner was the President elected than he began to sound different themes—themes hardly different from those of preceding Presidents. He appears to be ready, now, to give away the Panama Canal. He is anxious to conclude a SALT agreement with the Soviet Union and, indeed, to hasten into complete nuclear disarmament. He seems prepared to put the squeeze on Rhodesia, and to force South Africa to knuckle under to the United Nations.

If such policies seem no different than we had before, and, indeed, even a little more hasty in execution, the reason is not hard to find. The advisers and nominees whom he has chosen are chosen from a rather small group of potential candidates. They are chosen from the same circle of Wall Street bankers, lawyers, and establishment professors that has always seemed to dominate our foreign policymaking, and, in the opinion of the Senator from North Carolina, has always dominated it for the worse.

Once again we get the same old faces, the same old jobseekers, the same old so-called experts, that this Nation has learned to distrust from bitter experience. Thus we have Dr. Brown, the right-hand man of Robert McNamara in the Kennedy era; Mr. Vance, who was Deputy Secretary of Defense under McNamara during the development of the concept of the no-win war in Vietnam; Mr. Blumenthal, who, as president and chairman of Bendix, has been a leading proponent of trade with the socialist nations, including both the Soviet Union and mainland China; and Mr. Young, who began his career under the tutelage of organizations officially labeled as subversive.

Now it is true that men can learn from their past mistakes; but the statements these men have been making suggest that they will continue to make the same mistakes under the illusion that they are achieving success. Dr. Brown seems to think that the cruise missile can be dispensed with in a SALT agreement; Mr. Vance has pledged to give away the Panama Canal as soon as possible; Mr. Blumenthal has said that his goal is "zero" unemployment, which tends to confirm his subsequent statement that he does not know enough about the causes of inflation; Mr. Young is already acting as though he is the Third World Ambassador to the United Nations, instead of the U.S. Ambassador, and exhibits no

understanding of the strategic importance of southern Africa to the Soviet Union, and certainly to the West.

It is not simply that I disagree with these positions. The fact is that the American people have a right to expect something different. They were promised something different, but they are getting the same old thing. And it is not just the gentlemen mentioned already; we see other reruns from the past such as Joseph Califano, Zbigniew Brzezinski, Charles Shultze, Paul Warnke, and Theodore Sorensen, now withdrawn.

What is happening is that the will of the people is being set aside, now that the election is over, and a few Wall Street bankers, foundation heads, establishment lawyers, well-paid professors, and directors of multinational corporations are being brought in to control the Nation. It is an interest group that seems long ago to have given up on America, and seeks to have our independence subordinated to international trade and monetary agreements, multinational cartels, arms control, and restricted commodity distribution arrangements.

The role of the people—that is, the electorate—in this process was described as "irrelevant" over 2 years ago by Prof. Samuel P. Huntington of Harvard University. "Irrelevant" is the word, Mr. President, used by Professor Huntington who is even now being considered for high-level positions in the Carter administration—perhaps even for Deputy Secretary of Defense; yet his arrogant contempt for the ordinary voter is evident in his statement to the so-called Trilateral Commission organized by David Rockefeller:

> Since the 1930's . . . the demands on government have grown tremendously and the problems of constituting a governing coalition has multiplied commensurately. Indeed, once he is elected President, the President's electoral coalition has, in a sense, served its purpose. The day after his election the size of his majority is almost—if not entirely—irrelevant to his ability to govern the country. What counts then is his ability to mobilize support from the leaders of the key institutions in society and government. He has to constitute a broad governing coalition of strategically located supporters who can furnish him with the information, talent, expertise, manpower, publicity, arguments, and political support which he needs to develop a program, to embody it in legislation, and to see it effectively implemented. This coalition . . . must include key people in Congress, the Executive Branch, and the private Establishment. The governing coalition need have little relation to the electoral coalition. The fact that the President as a candidate put together a successful electoral coalition does not insure that he will have a viable governing coalition.

Mr. President, this is one of the most remarkable statements I have seen explaining what happens after every election, including the most recent. Notice carefully what Professor Huntington says:

> Once he is elected President, the President's electoral coalition has, in a sense, served its purpose. . . . The governing coalition need have little relation to the electoral coalition.

What he is saying is that once the election is over, the people no longer have any right or any say in governing the country. He is saying that the elite will take control away from the people, and the President will not be able to govern unless he allows the elite to make all the decisions—or, in the professor's words:

> He has to constitute a broad governing coalition of strategically located supporters who can furnish him with the information, talent, expertise, manpower, publicity, arguments, and political support which he needs to develop a program, to embody it in legislation, and to see it effectively implemented."

Mr. President, words were never clearer than these to explain what is already happening to the Carter administration; it is even more remarkable that they were written almost 2 years ago. This so-called governing coalition—as opposed to what the voters wanted—has seized control. The very narrow base of this so-called governing coalition is seen in the closely knit group of friends and acquaintances involved in the selection process.

For example, the Trilateral Commission, which is just one organization involved, has but 65 American members; yet those 65 include the President himself, the Vice President, the Cabinet nominees just mentioned, and nearly a dozen others who have been named or talked about for high position including Professor Huntington. In fact, it is not just that the Secretaries of State, Defense, and Treasury were all members of the Trilateral Commission; the runners-up in the competition for those posts were also members of the Trilateral Commission.

But the Commission itself is probably irrelevant to the process of selecting from such a narrow base. The network of friends, decisionmakers, and power brokers that has grown up in past decades is in itself small. The result has been well described recently by William Greider, one of the more independent and perceptive reporters now writing for the Washington Post. Mr. Greider writes:

> The Democratic Party traditionally harangues big business during campaign, but then turns to Wall Street and corporate boardrooms in search of administrative talent. Carter may have taken this practice a bit further than his predecessors.
>
> Two of his lawyers, for instance, are from law firms which have represented General Motors (Bell and Sorenson) and two are from firms which represent Coca-Cola (Bell and Califano).
>
> The Coca-Cola connection demonstrates what a small world Carter has selected from. Carter's good friend in Atlanta is J. Paul Austin, chairman of the Board of Coke. Coke is represented in Atlanta by Griffin Bell's law firm. Austin serves on the board of Cal Tech. The president of Cal Tech is the new Secretary of Defense. The new deputy secretary of defense is the former president of Coke. Coke's lawyer in Washington is the Secretary of HEW.
>
> If that leaves you a bit dizzy, drink a Dr. Pepper and consider the Carter administration's connections with important institutions of the news media. The Secretary of State-designate is a director of the New York Times. The Secretary of HEW-designate is lawyer for the Washington Post. The Secretary of Defense-designate is a director of the Los Angeles Times.
>
> The most interesting linkage among these people is neither soft drinks nor newspapers. It is Rockefeller philanthropy. The connection is so compelling in the foreign policy sphere that a cynic might suggest that this transition is not so much from Ford to Carter, but from Nelson to David.

Mr. President, I cannot challenge the President's right to seek advisers with whom he is compatible, men and women of a liberal political philosophy. Some of his nominees will exercise independent judgment. I can disagree with such people and know that I and others of all philosophies will get a fair hearing. I was delighted, for example, to join in commending the nomination as Secretary of Commerce of Mrs. Juanita Kreps, a distinguished North Carolinian, who is able, dedicated, and conscientious. I expect that Thomas B. Lance will have a distinguished career at the Office of Management and Budget. Dr. James R. Schlesinger is an able man who was inexplicably rejected by the previous administration. I do not anticipate that I will agree with everything that such public servants will propose, but I know that their proposals will be based upon their understanding of the Nation's needs.

Mr. President, it may be that some will feel that the Senator from North Carolina has been speaking too candidly of the President's nominees. I want to make it clear that I am not opposing them for personal reasons. But just as I was strongly opposed to the policies of former Secretary of State Kissinger—because they represented the policies of this small establishment elite—so, too, I must speak out against the continued control of our national destiny by such a tiny, inbred group. With a change of personalities, there naturally may be shifts of emphasis or tone. But there certainly will be no basic shift of direction, no new spirit, no new commitment in foreign policy. The Senator from North Carolina, therefore, cannot appear to agree to these nominations as they are being hastily approved by voice votes.

Mr. BAYH. Mr. President, it is with great pleasure that I will vote to confirm the nomination of Juanita Kreps as Secretary of Commerce. Her unanimous approval on Wednesday by the Senate Commerce Committee is an indication of the high level of confidence in this excellent Cabinet appointment.

I am particularly pleased with Dr. Kreps' appointment, not just because she is a symbol of the President's promise to seek out and appoint women to his Cabinet, but because she is also representative of his other campaign commitment—to seek out the best.

Dr. Kreps' testimony before the Senate Commerce Committee on a broad range of issues reflects her career-long devotion to social concerns. Her assurance before the committee that the Commerce Department under her direction would be more generous in administering Federal economic development and public works jobs programs; her commitment to an environmentally sound oceans policy; her stress on supporting the interest of consumers in the marketplace, all show her determination to revitalize the goals of the Department. Perhaps most significant was Dr. Kreps' pledge to support legislation which would bar U.S. companies from

cooperating in any way with the Arab boycott of Israel.

Juanita Kreps is used to being the "first woman to." She was the first woman to serve on the board of directors of the New York Stock Exchange. She has been the first and frequently only woman to serve on the boards of some of the Nation's largest industries. Throughout her career, she has demonstrated an independence of thought and commitment to serve the disadvantaged in the marketplace—particularly women and minorities. In addition to her corporate and academic posts at Duke University, she has served on the National Council on Aging, the North Carolina Manpower Commission, and the National Commission for Manpower Policy. When she is approved as Secretary of Commerce, she will again be making another historic first—the first woman to hold that position since the Department was created in 1913. I am delighted to have an opportunity to confirm her in that role.

Mr. RANDOLPH. Mr. President, as chairman of the Committee on Public Works it is a privilege to recommend the confirmation of President Carter's nominee, Mrs. Juanita M. Kreps, to be Secretary of Commerce.

The committee has a vital interest in the Commerce Department and in Mrs. Kreps' stewardship. Principal economic development programs are housed in that Department, in the Economic Development Administration as are the seven, soon to be eight, title V regional planning commission. These programs have been under the jurisdiction of the committee since their inception in 1965.

I attended the Commerce Committee's confirmation hearing of Mrs. Kreps last week and I was gratified to hear her say that she considered economic development to be one of the more important functions of the Department of Commerce. That, unfortunately, has not been the case in recent years. Evidence that she meant what she said seems apparent from the appointment this week of Robert Hall to be the new Assistant Secretary for Economic Development as one of the first sub-Cabinet appointments within the Department.

I am impressed that Mrs. Kreps has quickly grasped the importance of convening a White House Conference on Balanced National Growth and Economic Development by early 1978. Members recall that the Public Works and Economic Development Act Amendments of 1976 that became law on October 12, requested and authorized the President to convene a much needed conference on these issues within a year.

Mr. JACKSON. Vote.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Juanita M. Kreps, of North Carolina, to be Secretary of Commerce?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Patricia Roberts Harris, of the District of Columbia, to be Secretary of Housing and Urban Development.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of Patricia Roberts Harris, of the District of Columbia, to be Secretary of Housing and Urban Development.

Mr. PROXMIRE. Mr. President, Patricia Roberts Harris came before the Committee on Banking for confirmation, and I speak in two capacities.

Mr. President, with considerable reluctance I rise to oppose the nomination of Patricia Roberts Harris as Secretary of the Department of Housing and Urban Development.

Mrs. Harris has been recommended to this body by the Banking Committee by a 14 to 1 vote. I was the only member of the committee to oppose the nomination.

I oppose the nomination although Mrs. Harris is unusually intelligent, has achieved remarkable distinction as a lawyer, has impressive character, is enthusiastically committed to housing and urban development and was a smash hit in her appearance before our Banking Committee at her confirmation hearings.

Why then do I oppose her?

Because she clearly lacks the housing experience that I think is commensurate to HUD's success.

I do this for the same reason I opposed her two predecessors: James Lynn and Carla Hills. Both had backgrounds similar to Mrs. Harris. Both were brilliant lawyers. Both were bright, hardworking people of fine character. But in their administration of HUD the agency failed dismally to do its job.

The central responsibility for HUD, the touchstone by which its success or failure can be measured is whether it succeeds or fails in building the houses families with modest incomes in this country need.

In the Housing Act of 1968, the Congress set a goal of 600,000 such publicly assisted starts per year. The year before Mr. Lynn took office, 1972 we constructed 338,000 such starts. Then came the secretaries who were brilliant lawyers but lacked housing experience. Result: 1973, 234,000 publicly assisted housing starts; 1974, 84,000; 1975, 56,000; and last year 1976 for all America's millions of low- and moderate-income families—not the 600,000 the law calls for, but an incredible, pathetic 41,000 publicly assisted housing starts from HUD in the entire country.

Why this failure? A major reason, Mr. President is that this country needs a Secretary of HUD who not only has the experience, the track record in housing, the knowledge of the programs, the painful years of making mistakes as well as winning successes that alone can shape a Secretary that can do the job. We also need a Secretary in whom the President and the President's top economic advisers have full confidence as a housing expert with a winning record—one who can do the job and who knows from experience the economic as well as the social consequences of housing.

For all their fine qualities neither Mr. Lynn, nor Mrs. Hills had that experience or winning record in housing. They had virtually no experience. The result: they did not and they could not sell to the President a vigorous housing program—even though the times called out for it.

And while I hope Mrs. Harris will succeed where her predecessors failed, I doubt if she will, because she too—for all her fine qualities also has no real record in housing.

Anyone who thinks we will not have this kind of problem with President Carter and Mrs. Harris has only to open his eyes and see what happened with the first economic package recommended by the President. The purpose of that package was to stimulate the economy without inflation. A housing program is tailormade for such a purpose. Such a program could provide a million jobs at relatively little cost with very little inflationary risk and could do the job promptly. But where is the housing component in the 2-year $25 to $30 billion Carter economic program? Answer: it is not there.

And who was in the group of economic advisers that consulted with President Carter and advised him what it should contain? The Secretary of the Treasury-designate was there. The Director-designate of the Office of Management and Budget was there. The chairman-designate of the Council of Economic Advisers was there. Other advisers and consultants were there.

But Mrs. Harris, the Secretary-designate of HUD was not there. So this is not just speculation that Mrs. Harris will lack the kind of clout and believability to sell the kind of housing program to the new President. This judgment is based in part on the hard fact that President Carter has already omitted housing—which should be the centerpiece, from his first major economic initiative, and he did so after Mrs. Harris became his prime housing adviser.

The principal reason for my opposition is because I think that Mrs. Harris lacks any significant experience in housing.

We have had two Secretaries in a row now, Mr. Lynn and Mrs. Hills, both of whom had the same kind of background and ability as Mrs. Harris. They both are fine lawyers, both brilliant scholars, both knew nothing about housing and HUD is in a shambles and our housing program has failed.

I think it is vital that we have somebody with experience, with a winning record, not only so that he can do the job in HUD but far more important so they can sell the job to the President of the United States. That is what was lacking in the Lynn and Hills positions.

Mrs. Harris may be able to do that, but it is interesting that in the one meeting that Mr. Carter has had to put together an economic package there was no housing components. There should have been. It was a serious mistake by the President, and Mrs. Harris was not there and she should have been there.

So for that reason, I am going to indicate my opposition, although I would

hope that she will be confirmed. I must say that I must in all candor oppose the nomination.

Mr. President, I ask unanimous consent to print in the RECORD a copy of my opening statement at Mrs. Harris' nomination hearings. This opening statement spells out in more detail just why I oppose the nomination. And in fairness to Mrs. Harris I ask unanimous consent that her remarkable and eloquent response at the hearings to a question I asked her about the degree of her commitment to underprivileged citizens be printed in the RECORD at this point, too.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROXMIRE OPENING STATEMENT AT HEARING ON CONFIRMATION OF MRS. HARRIS AS SECRETARY OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mrs. Harris, we are honored to have you before us for consideration of your appointment by President-elect Carter to be Secretary of the Department of Housing and Urban Development.

Frankly, your nomination troubles me. It troubles me although you have an impressive record as a scholar, an author, a lawyer, a person who has been honored by many universities with their degrees, a strong and consistent advocate of civil rights, a fighter for a better opportunity for minorities and a record of support over the years for programs that would help the poor.

What troubles me about your nomination is the absence of any really significant experience in housing or urban development. You have no real record on which we can judge your performance.

Two years ago when Carla Hills, your predecessor, was before this committee, she was opposed by Mrs. Cushing Dolbeare, who was head of the National Rural Housing Conference. She was opposed on the grounds that the Secretary of HUD should have years of experience in housing. Learning is the long, tough, painful process of making mistakes as well as achieving successes. Mrs. Dolbeare said, "It took me at least 10 years before I felt any real confidence in my capacity to make judgments from conflicting advice and conflicting recommendations. Mrs. Hills will be given conflicting advice from her own staff, from industry and from public interest groups . . . Then she will be charged with giving advice and recommendations to the President and others in the Administration, acting as an advocate for housing. It is simply not responsible, nor reasonable, nor fair, in my view, to ask any amateur to carry out such responsibilities. Being an expert does not necessarily make a person right, but being an amateur much more likely one will be wrong."

As you may know, James Lynn preceded Carla Hills as Secretary. Both were brilliant lawyers. Both had fine academic backgrounds. Neither had any significant background or experience or training in housing or urban development. Both were amateurs. I voted against both. And in my judgment, both were failures.

After four years of their leadership as successive Secretaries of HUD, HUD is in a shambles. Its morale is low. Its accomplishments are pitifully inadequate. At a time when our cities constitute perhaps our greatest social-economic problem, HUD, the Department with primary responsibility for dealing with those problems is sound asleep. A prime responsibility for HUD is to provide publicly assisted housing starts for the millions of American families who can't afford a home unless the government provides some assistance. This is also the heart, the cornerstone of urban development. Employment is important. Education is vital. Crime prevention is essential. But the heart of HUD's responsibility for urban development is in publicly assisted housing.

In 1968 the Congress decided we needed six million such housing starts over the following ten years, or 600,000 per year of publicly assisted housing. In 1972 HUD had 338,000 such starts, and then came the scholarly lawyers, the amateurs. The results: 1973 234,000 publicly assisted housing starts; 1974 84,000; 1975 56,000; and this year, 1976, for all the millions of low and moderate income families—not the 600,000 the law calls for, but an incredible, pathetic 41,000 publicly assisted housing starts from HUD in the entire country.

Conventional housing has stumbled along erratically. The year 1975 was the worst housing year in the last forty. This year single family starts for housing that averaged over $40,000 each has been much better; but new housing that the average American can afford has almost disappeared.

It is true, of course, that the failure of HUD for the last four years has not been because of the character or intelligence of Lynn or Hills. Indeed, both get high marks in both regards. And both may have been reasonably efficient administrators. What HUD and the country lacked, and the reason housing and urban development have been such disaster areas has been because we didn't have in HUD a Secretary with sufficient knowledge and experience and a solid enough proven record in housing to be able to go to the President and win a vigorous and successful housing program.

I am confident that either President Nixon or President Ford could have been sold such a program if they had had a HUD Secretary in whom they had full confidence as a housing expert, a person who had fought for housing and for the cities and had won, a person who could have argued down Greenspan and Simon and convinced the President that it was in the national economic interest to have a vigorous, expansive housing program.

Such a program would have fitted like a glove the Republican preference for economic activity in the private sector—without inflation and for economic activity providing an urgent need. But neither Hills nor Lynn in my view had a sufficiently deep commitment to housing and urban development to make the fight. I think you may have that commitment, but what you like Lynn and Hills don't have is something else.

Because, Mrs. Harris, with all deference to you, and recognizing you may have a more sympathetic President and economic advisers of the President to confront, this selling of the kind of massive housing program we should have now to the President and his team should be done by someone who knows housing and urban development from long experience and with a track record in the field that will command attention and acceptance. Do you have that kind of track record? Frankly, I can't find it. It won't be easy for you. We already have I think the first major economic mistake by the President-elect. Mr. Carter has already made that mistake in announcing his principal two-year stimulation program and not including housing as an integral part of it as a cornerstone in fact. The housing program of sorts may come along today or tomorrow but that's not enough. Housing construction is a reasonably quick way to provide jobs in the private sector at relatively little public cost. We should have it as a central part of the economic stimulus program.

Mrs. Harris, we have tried twice now—for four years—to turn the management of the Department of Housing and Urban Affairs over to brilliant and scholarly lawyers who were amateurs in the housing field with appalling results.

In my view, you have a much better background, a much better record of commitment in this field than either Mr. Lynn or Mrs. Hills. You have given occasional support, sometimes significant support, to housing and the needs of our cities. You made a beautiful and wise statement of dissent on civil disobedience as a member of the Commission on Civil Disobedience. But you have never had anything to do with administering a housing program of any kind, or any size, or administering anything else except Howard Law School for one month, and about 25 people in the Luxembourg Embassy for two years. You have no experience as a mayor or public official.

You are nevertheless going to be confirmed—in my judgment—by this committee and the Senate overwhelmingly. Because anyone in the Senate these days who calls for qualifications other than brains and character for cabinet officers is regarded as somehow unrealistic, and you certainly have both brains and character.

Well, I take the Advice and Consent responsibility for this body very seriously. If the public business is is to be done efficiently, we need cabinet officers to handle these multi-billion dollar agencies who are able to hit the ground running: to start right out with the confidence that they won't need years of on-the-job training.

One final analogy. I'm an enthusiastic football fan. I played it in college. I have followed it for fifty years avidly. I'm reasonably intelligent. But if I were hired to coach the Washington Redskins or the Green Bay Packers, the country would view it as an outrageous joke. To coach the Skins or the Packers you obviously can't even think of taking an amateur; you need a pro.

And yet when the President nominates, as three Presidents now have, three successive persons who are bright and scholarly lawyers with no visible record or experience in housing and urban development to head HUD—an agency with 15,000 employees and a multi-billion dollar budget—and to run a far more complex and important operation than a professional football team, there is nothing but warm and happy applause. And, Mrs. Harris, from the rest of this committee and the Senate that's about what you can expect to get this morning. This morning I'm sure you will get only that and I'm sure you'll get that from the Senate. As I say. I'm sure you will be confirmed overwhelmingly. I'm happy to yield to the ranking Republican member of the Committee, Senator Tower.

The Chairman. President-elect Carter has said, "Too often in the past the White House has been surrounded by an impervious obstacle which is open to those more powerful and influential. It was not open to the average citizen. It ought to be changed and it will be changed if I'm elected President."

Mrs. Harris, civil rights and other advocates have frequently complained about their lack of access to HUD. You are a person of great accomplishment but the press reports indicate one criticism of you which you may have noted is you are not a "of, by and for the people" person. That may or may not be fair, but they indicate you're not one who has gone out to seek the position and opinion of the average citizen. As I say, I'd like you to defend yourself against that charge if that's not the case, but one of the problems certainly in HUD is that we have somebody who is sympathetic not only to the problems of those who are poor and underrepresented, but to listen to them, to find a way of seeing how they view their problems themselves, to really talk to people individually. I'm very sensitive about this because all of us are up here because we're politicians. We have to get elected. We have to go out and see all kinds of people and talk to them. The distinguished Congress-

man on your left has had that kind of experience, too, and perhaps you can reassure me on this. This is one of the things that troubles me about what I have read about your background.

Will you really make an effort to get the views of those who are less articulate and less represented and certainly less likely to be knocking on your door with outstanding credentials?

Mrs. Harris. Senator, I am one of them. You do not seem to understand who I am. I'm a black woman, the daughter of a dining car waiter. I'm a black woman who even eight years ago could not buy a house in some parts of the District of Columbia. Senator, to say I'm not by and of and for the people is to show a lack of understanding of who I am and where I came from.

The CHAIRMAN. Well, Mrs. Harris, I accept that to a very considerable extent, but I think you would agree perhaps—if not, I'd like to know whether you disagree—it's not enough to be black or to be a woman or to be poor or to have any particular kind of disability to understand the problem of so many people who don't get listened to, don't have an opportunity to represent their viewpoint. We have had in HUD a woman, not a black woman but a woman, who it has been pointed out has great abilities and great competence and yet we have this criticism and I think it's a criticism that has some merit and force, that HUD has not been listening to people who have these problems.

Your answer is that you have no problem with this because you're a black woman.

Mrs. HARRIS. No, that is not my answer.

The CHAIRMAN. Is that right? What is your answer?

Mrs. HARRIS. You spoke of the unrepresented and the poor and I said I'm one of them. I started, Senator, not as a lawyer in a prestigious law firm, but as a woman who needed a scholarship to go to college. If you think I have forgotten that, you're wrong. I started as an advocate for a civil rights agency, the American Council on Human Rights, that had to come before this body to ask for access to housing by members of minority groups. If you think I have forgotten that, Senator, you're wrong. I have been a defender of women, of minorities, of those who are the outcasts of this society, throughout my life and if my life has any meaning at all it is that those who start as outcasts may end up being part of the system, and I hope it will mean one other thing, Senator, that by being part of the system one does not forget what it meant to be outside it, because I assure you that while there may be others who forget what it meant to be excluded from the dining rooms of this very building, I shall never forget it.

The CHAIRMAN. That's a very reassuring and inspiring answer.

Let me ask you one more specific question. How do you propose to make your Department more open? I have heard some good words about the recent efforts of Mrs. Newman to involve HUD consumers in HUD decision making. Would you keep an office like that functioning? Would you try personally to have regular meetings with HUD consumer groups?

Mrs. HARRIS. Senator, starting this week I'm going to be meeting with—what I call for lack of a better term—constituent groups of HUD, on the basis I'm not confirmed and I may not be, but I'm going to start nonetheless, because I want to see what it is they would like and how they would like to identify with the office of HUD Secretary and how they would like to relate to the office. When I've talked to them, when I have talked with the top staff of HUD, I will make the judgment about how we can provide that openness which I happen to think is an essential of government in a democratic society.

Whether I will be the one all the time or whether others will fulfill that function, I do not know.

The CHAIRMAN. Well, that's reassuring, too, and I particularly like the latter point. I wouldn't expect you, of course, to be able to do that yourself. You'd have to delegate much of that authority, but I think it's useful to hear you will do your best to involve HUD in the concerns of consumers. I think they have been neglected and find a way to have them express their position to those who you will talk to as well as you, yourself.

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. JACKSON. Vote!

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Patricia Roberts Harris, of the District of Columbia, to be Secretary of Housing and Urban Development?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECRETARY OF TRANSPORTATION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to the consideration of BROCKMAN ADAMS, of Washington, to be Secretary of Transportation.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of BROCKMAN ADAMS, of Washington, to be Secretary of Transportation.

Mr. MAGNUSON. Mr. President, former Congressman Adams appeared before the committee on two occasions.

The PRESIDING OFFICER. Will the Senator suspend while we get order?

The Senator may proceed.

Mr. MAGNUSON. He appeared before the committee on two occasions, and the hearings were very extensive.

This is a very extensive, complex job, and the committee voted unanimously to approve his nomination.

I think, if I can sum up what the committee felt about Secretary Adams, it was that he probably was the most qualified nominee for this particular position to appear before the Committee on Commerce since the Department was created.

He brings a background of experience in housing, having served on the Committee on Interstate Commerce in the House of Representatives, and had a great deal to do with the shaping of policy regarding transportation in this country.

It was a pleasure for my colleagues and me because he does come from the State of Washington —to urge his nomination, and the committee did it unanimously.

Mr. JACKSON. Mr. President, will my colleague yield?

Mr. MAGNUSON. I yield.

Mr. JACKSON. Mr. President, I associate myself with the remarks of my senior colleague.

Former Congressman ADAMS was an outstanding scholar in college. He graduated No. 1 out of the entire University of Washington. He was an undergraduate of the class and top graduate of the Harvard Law School, a distinguished lawyer, U.S. attorney for the western district of Washington.

As my colleague pointed out, he served on the Interstate and Foreign Commerce Committee in the House. He pioneered and offered the key legislation in putting together the failing railroad systems in the Northeast.

Not only that, but he was the first chairman of the Budget Committee.

He is an outstanding economist and I think he brings to the office of the Department of Transportation outstanding qualifications.

I hope that this vote will be unanimous.

Mr. RANDOLPH. Mr. President, it is a privilege for me to have the opportunity to join the two able Senators from Washington, the chairman of the Commerce Committee (Mr. MAGNUSON) and the chairman of the Interior and Insular Affairs Committee (Mr. JACKSON), as they speak in positive terms of the ability and experience and understanding of the challenge of the important work that BROCK ADAMS will have.

I, too, strongly endorse approval of the nomination.

Mr. President, the Senate today is asked to confirm Representative BROCK ADAMS as Secretary of Transportation. I expect the Senate will give prompt and unanimous endorsement to this nomination of an experienced public leader, to pilot one of our most important departments. The Public Works Committee has jurisdiction over the Federal highway construction program and certain highway safety and environmental aspects which complement those construction activities. In addition, we are associated to a lesser degree with certain transit activities, of which the rural public transportation demonstration program is an outstanding example. I appreciated the opportunity to participate in his confirmation hearing, before the Senate Commerce Committee on January 7, and to speak on his behalf at this time.

The Members present at Representative ADAMS' confirmation hearing were unanimously satisfied with his responses. Even though some Members disagreed with him on specific issues, he was felt to be distinctly well qualified for this position. His nomination was favorably reported from the Commerce Committee by a vote of 18 to 0.

Transportation may be the single most important developmental aspect of our country over the last 200 years. The United States is the most mobile nation in history, and most Americans enjoy unlimited personal mobility. A good transportation network makes it possible for farmers to get seed to the farm, produce to the market and coal to industry. A sound transportation system enables families in rural and urban settings to get their children to school, wives to shopping centers and people to cultural, religious and medical facilities.

Our transportation system moves more goods and people than any other country more quickly, more efficiently and more safely.

This is possible because of a number of reasons—but the predominant one is the high caliber of people committed to transportation who make up our agencies associated with people and product movement. The man nominated for our next Secretary of Transportation is such an individual. Representative ADAMS is considered one of Congress leading advocates of a sound, coordinated national transportation system.

The Secretary-designate served as the chairman of the House Budget Committee during the 94th Congress, and has been a member of the Interstate and Foreign Commerce Committee and its Transportation and Commerce Subcommittee. Representative ADAMS has been very active in transportation affairs, particularly legislation dealing with railroads. He is the coauthor of the Regional Rail Reorganization Act of 1974, which opened the way to the Government takeover and consolidation of eight bankrupt northeast and midwest railroads into a unified system. He was one of the congressional members of the National Transportation Policy Study Commission, a provision of the 1976 Highway Act.

I believe BROCK ADAMS will approach his duties as Secretary of Transportation with the same seriousness of purpose; the same ability to perceive real issues; the same facility for finding answers to complex problems—in short the qualities that made him a key figure in committee work with which he became involved in the House.

I look forward to working with Representative ADAMS in his new role and exchanging views on such subjects as restructure of transportation financing, reorganization of certain transportation policy and regulatory fuctions within and without the existing Department of Transportation and expediting completion of our Interstate Highway System.

Mr. President, during his years in the House, BROCK ADAMS has served transportation well. I feel confident that the Members of Congress interested in transportation will recognize the Secretary-designate as a man who is both accessible and truly conversant in all areas of transportation.

Mr. BAYH. Mr. President, the Senate is today considering the nomination of Congressman BROCK ADAMS for the position of Secretary of Transportation in the Carter administration. The announcement of BROCK ADAMS' nomination for this position was greeted with almost universal enthusiasm by those people, both in Government and in the private sector, who are concerned with the future of this Nation's transportation policy.

Throughout his career in the House of Representatives, BROCK ADAMS has taken an active role in the development of transportation legislation. As the ranking member of the Transportation Subcommittee of the House Interstate and Foreign Commerce Committee, his legislative skill and vision made innumerable contributions to such landmark legislation as the Regional Rail Reorganization Act of 1973 and the Airport and Airways Development Act of 1970. In recognition of his leadership in this field, he was appointed by the Speaker of the House to the National Transportation Policy Study Commission.

In addition to his experience with transportation issues, Congressman ADAMS served as chairman of the House Budget Committee during the crucial first 2 years of its existence. His leadership on this committee contributed immeasurably to the successful launching of the new congressional budget process. As chairman, he demonstrated his ability to establish spending priorities and coordinate complex budgetary issues. This valuable experience will serve him well as the head of the Department of Transportation.

I am particularly pleased to be able to enthusiastically support this nomination because as chairman of the Subcommittee on Transportation Appropriations I will be working closely with BROCK ADAMS. During the 2 years that I have chaired this subcommittee, I have become increasingly familiar with the problem of developing a sensible transportation policy for this country and with BROCK ADAMS' expertise in these complex matters.

In the more than 100 pages of specific responses to questions posed by the Commerce Committee, BROCK ADAMS displayed his continuing commitment to the goal of a coordinated system of national transportation. I share this commitment and know that we both believe in the necessity to work to improve our Nation's rail network, to provide efficient, affordable mass transportation and to construct and to maintain a safe, efficient highway system. In short, we believe in the importance of the development of a balanced national transportation system so that our citizens, whether they live in the rural, suburban or urban areas of our Nation, have access to the necessary transportation modes to move themselves and their goods in the most effective manner possible.

In order to move toward the realization of these goals, we need decisive leadership from the Secretary of Transportation. This leadership should include a continuing dialog with our citizens, State and local governments and the Congress so that all segments of our society are able to participate in the important decisions affecting the direction taken by our national transportation policy. BROCK ADAMS made such a commitment in his opening remarks before the Commerce Committee during his confirmation hearing when he pledged "to seek the greatest amount of public comment and advice possible."

With his experience in transportation and his willingness to involve the public in his decisions, I believe that BROCK ADAMS will be the kind of Secretary of Transportation who can make the hard decisions to establish priorities and lead this country forward to a coherent, efficient, and innovative system of transportation. I look forward to the opportunity to work with him in pursuing this goal and am proud to support his confirmation as Secretary of Transportation.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of BROCKMAN ADAMS to be Secretary of Transportation?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

OFFICE OF MANAGEMENT AND BUDGET

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate proceed to the consideration of the nomination of Thomas Bertram Lance, of Georgia, to be Director of the Office of Management and Budget.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of Thomas Bertram Lance, of Georgia, to be Director of the Office of Management and Budget.

Mr. NUNN. Mr. President, just a brief word. I do not know if the chairman of the committee is here, but Mr. Lance was approved by a unanimous vote of that committee after rather lengthy hearings.

I have known Bert Lance for a period of years. He comes from a small town, Calhoun, Ga., where he started as a clerk in a bank there.

He later became president of that bank and later became president of one of the larger banks of Georgia.

In addition to that, he was head of the Department of Transportation for Governor Carter, now President Carter. He brought to that department a sense of management, a sense of planning, a sense of concise goals, adequate effectiveness and efficiency.

He is a man who is very active in religious and civic activity. He is a man of integrity. Most of all, I say to my colleagues, he has an abundance of commonsense and he is the right man for the right job. I urge his approval.

Mr. CHILES. If the Senator will yield, Mr. President, I just wish to associate myself with the remarks of the Senator from Georgia and say that sitting as a member of the Government Operations Committee I had a chance to hear the testimony and the questioning of Bert Lance. I think he has a remarkable aptitude for this job.

I was tremendously impressed by his willingness to work with the Congress.

As all of us know, the Office of Management and Budget has been one in which many of the holders of that have held utter contempt for the Members of the Congress and really could not find any real constitutional role that we had, whether it was in management of funds or in any other area.

Mr. Lance, I think, shows remarkable willingness to understand how our system works and to realize it does work with cooperation. I think we will receive much cooperation from Mr. Lance. I think he has certainly a knowledge of reorganization, a knowledge of management.

I am tremendously impressed that the OMB will have a Director who has the knowledge for management and that it will not be only an office for budget.

So I join with the Senator from Georgia and urge the confirmation of Bert Lance.

Mr. TALMADGE. Mr. President, I associate myself with the remarks of my colleague from Georgia and also the distinguished Senator from Florida.

I have known Bert Lance since he was a $90-a-month teller in Calhoun, Ga., a town of some 5,000 population.

Later, be became president of that bank. He increased the resources of that bank from $6 million to $56 million. It probably has more resources of any bank in a town of its size in the United States.

Some 2 years ago he acquired controlling interest of the National Bank of Georgia. At that time, the National Bank of Georgia had resources of a little more than $200 million. In 2 years' time he brought the resources of that bank to more than $400 million.

I think that clearly demonstrates that he understands something about economics, banking, and fiscal matters.

The Government of the United States is sorely in need of a man of that capacity today. I hope the Senate will unanimously confirm his nomination.

Mr. PROXMIRE. Mr. President, no doubt this nomination will be overwhelmingly confirmed, but it will not be unanimous. I will vote against it.

Mr. President, I rise in opposition to the nomination of Mr. Thomas Lance to be Director of the Office of Management and Budget.

Mr. Lance has some important qualifications for this position which have been stated very well by my colleagues but they are overwhelmed by his lack of other qualifications that in my view are essential.

It is true that Mr. Lance has been an eminently successful businessman. That is not only an indication of his competence, it is highly relevant to his new job as Director of the Office of Management and Budget. I am sure he understands the value of a dollar, the importance of holding down costs and the often painful problem of eliminating jobs and activities that cost more than their worth. Mr. Lance has also been responsible as a banker for saying both yes and no to requests for loans. These experiences will serve him well as the new Budget Director.

Mr. Lance has one other prime qualification. He is an old and trusted friend of the President of the United States. He and the President know each other, trust each other. He has been the President's banker. He will now be his principal adviser on the budget.

Why not?

Mr. President, I will tell you why not.

LANCE WITHOUT EXPERIENCE

Mr. Lance simply has no experience, or record of performance in what is in many ways the toughest job in the administration, except possibly for the President's. Think what the head of the Office of Management and Budget in this Federal Government is responsible for:

The budget of the United States is the priority document for our Nation. The one conscious way this country can move as an organized society is through the budget. How much or how little stress we as Americans put on education, on housing, on defense, on crime prevention, on welfare, on transportation, on health, on economic security is determined by the budget.

And who determines the administration's recommendations on the budget? Answer: The President as the part-time final authority and the OMB Director as the full-time expert. Sure the President is boss. But the President of the United States is an overwhelmingly busy man. He is Commander in Chief of the Army, Navy and Air Force. He is our principal negotiator with foreign countries. He is the head of the Democratic Party. As any Member of the Congress who has been here any length of time will tell you, he is the principal initiator of legislation. Because he is head of state, much of his time must be taken with ceremonial breakfasts, luncheons, dinners, visits, meetings with foreign heads of state.

PRESIDENT MUST DELEGATE BUDGET AUTHORITY TO LANCE

What this means is that the President of the United States—in this biggest job in the world—must delegate authority in a big, emphatic way. There is no way the President can painstakingly review the full details of his budget—vital as that review is. No way can he decide in all cases or in most cases which programs of HEW, or Defense, or HUD, or Transportation, or Housing should push ahead and which should be held back or killed.

Why cannot the Cabinet heads do that? The answer is simple. Most of them are likely to be gung-ho advocates for their agencies. They will want more money for defense, more for housing, more for health. President Kennedy called his Budget Director his "no" man. And that is what an OMB Director has to be.

But he has to be more than that. He has to be a "yes" man too. And when he says "yes" and when he says "no" will determine the course of this country for years to come.

KNOWLEDGE ESSENTIAL

Now what kind of person do you need for this vital decisionmaking? I submit the first quality you need is knowledge—someone who knows something about these programs, someone who has had some experience with these Federal programs, someone who has seen programs win and programs lose, and has observed the difference. We need someone who has worked with Federal programs long enough to make mistakes and learn from those mistakes. We need someone who can give the President options, tell him what the options will cost. Someone who can evaluate and rate the options. Someone who can listen to conflicting, expert advice and know enough to make a reasonable decision on it.

Is Mr. Lance that kind of person? What has been Mr. Lance's experience in the Federal Government?

Mr. President, you will wait a long time for the answer to that question.

He has had none—zero, zip, zilch, not 1 year, not 1 week, not 1 day. He has shown impressive skill in operating a middle-size bank. He has been a candidate for Governor of Georgia. He headed the transportation department in Georgia. And what else?

LANCE'S VERSION OF QUALIFICATIONS

Mr. President I do not want to be unfair to the nominee so I will let him state his experience, as he did not in an impromptu response in a hearing but in an exhibit supporting responses requested in advance by the Government Operations Committee before Mr. Lance appeared before the Committee in connection with this nomination.

This was Mr. Lance's response in writing to questions about his experience:

My experience includes:

a. 25 years in the banking industry, which involved employment by a small bank much of the time and a larger bank for the last two years;

b. government service as Commissioner of the Department of Transportation for Georgia;

c. political campaigns during which I learned a great deal about the people of Georgia.

These experiences have given me considerable ability in dealing with people and handling financial matters. These are the matters most involved in the operations of the Office of Management and Budget.

That is it. And Mr. President, that is an appallingly barren background. Of course, I realize that the President has had and should have great leeway in choosing his man for this particular job. But we in the Congress have found out that this job of Director of OMB has such power, such influence, that the OMB Director so centrally determines the course of this Government that we have wisely insisted that the Senate shall advise and consent to this nomination. We have the authority to say yes or no. And with that pitifully inadequate background, I do not see how we can say yes.

PRESIDENT CARTER INEXPERIENCED

Mr. President, Mr. Lance will not be working for a President with great experience in the Federal Government. President Carter was elected in part because of his great promise as an outsider, precisely because he had no experience in a Federal Government that had become too big, too inefficient, too burdensome; a Federal Government that seemed to throw massive sums of the public's money at problems like crime, inadequate education, substandard housing, wasteful misuse of precious energy resources—only to have the problems get worse.

We needed a change. President Carter was the answer to that call for a change. Of course, President Carter does not have experience in the gross mistakes—the protests against which brought him to the White House.

But what does this mean? It means that we have a President taking over the most complicated and difficult job in the world who has very little preparation. He comes to the White House as one of the most inexperienced Presidents in Federal Government affairs in this century and probably one of the three or four least experienced in our 200-year history. Under the circumstances that is the way the people wanted it and under the circumstances that is the way it

should be. And frankly, I think President Carter may well turn out to be one of the best Presidents. I certainly hope and pray so.

The President has both the strength of no identification with past mistakes and the weakness of no Federal Government experience.

STAFF AND CABINET HAVE LITTLE EXPERIENCE

How about the people surrounding him?

He has surrounded himself with a White House staff that has two conspicuous distinctions. First, they are very young. And second, they have virtually no background, no record, no experience in Federal activities.

The President has appointed a Cabinet of a little less than average experience in the Federal Government. Some of his appointees have none. Some have a little. A few have substantial experience.

The Senate is about to approve all of the Cabinet with one possible exception. And this Government is passing into untried, unproven, unblooded inexperienced hands.

Sure the people—including this Senator—voted for President Carter. I campaigned for him. But did that mean that with a few exceptions here and there the administration should be without any of the kind of training that only experience can provide?

Yes, the people of this country want a new approach. That is why they elected President Carter and a fundamental reason for his election was because millions of Americans felt that a new administration could do a better job of reducing or eliminating the old programs that do not work or are not needed. Certainly a major failure of past administrations has been their failure in managing the budget, in controlling the immense explosion of cost, in having more than the courage and the will to kill or cut programs that should have a lower priority, but also, having the knowledge that can only come from experience in knowing where to cut, and how to cut and how much to cut.

As far as Federal Government programs are concerned, Mr. Lance does not have inadequate experience, he just does not have any experience, none.

EXPERIENCE NEEDED IN PRIVATE BANKING—WHY NOT U.S. BUDGET?

Consider how shocked Mr. Lance—who is president of the National Bank of Georgia, a bank with several hundred millions in assets—would be if his directors replaced him with a man who had never operated a bank, never worked in a bank, knew nothing about Georgia, and whose experience had been confined to doing a great job handling his family charge accounts. Such a selection would be considered outrageous. But this is the kind of selection we confirm if we approve this nomination.

Mr. President, as Director of the Office of Management and Budget, Mr. Lance will not only be the principle architect of the administration's budget, he will also be the traffic cop for the most significant bills every Senator and Representative introduces. How often a promising legislative conception has been aborted by the one or two page memo of disapproval by the Office of Management and Budget. Frankly this is exactly what the OMB should do. The administration helps greatly in bringing order and discipline out of the vast number of legislative proposals the Congress engenders. The OMB recommendation—not always but usually—determines the life or death of major legislation. This will be particularly true when the President and the Congress are of the same party.

And the recommendation of the Director of the OMB to the President often is the vital determining factor in whether legislation is passed or vetoed. Now seriously, my fellow Senators, should we approve a man to make this decision who has absolutely no experience in the Federal Government, none?

IMMENSITY OF BUDGET

Finally, Mr. President, there is the enormity and complexity of the budget—this $400 billion monster.

Mr. President, can any one honestly believe that Director-Designate Lance has the experience that is so necessary to cope with the plethora of highly complex and abstruse budget issues confronting the Office of Management and Budget? No doubt he will come to grips with the importance of distinguishing new budget authority from obligations and obligations from outlays. In time he will learn the characteristics of permanent indefinite budget authority, revolving funds, liquidating cash accounts, apportionments, allotments, rescissions, deferrals, trust funds, supply funds, contract authority, and the like.

But is Mr. Lance really in a position to resolve the inconsistency of treating housing contract authority on a multiyear basis in arriving at budget authority totals while continuing to treat similar long term commitments for Maritime Administration operating differential subsidies and purchase contract payments under the Federal buildings fund on a year by year basis? I hardly think so. Does he comprehend the problem of rolling over long term contract authority following the expiration of existing contracts? I doubt it.

How about the issue of including loan guarantee authority within the budget so as to more clearly define Federal obligations? Does Mr. Lance understand the distinctions among full faith and credit guarantees, conditional or partial guarantees and indirect guarantees? How about the treatment of debts and loans of Government-sponsored credit enterprises, deposit insurance for financial institutions, and guarantees of special risks? Does Mr. Lance understand the subtle economic implications of these various types of Federal involvement in financial markets?

Mr. President, I could go on and on. I could cite the inaccuracy of treating the total long term contract commitment of the Federal Government under our assisted housing programs as budget authority when in fact the tenant pays part of this commitment. I could point out the fairly subtle but important budget distinction between funding FHA losses through Treasury borrowing as opposed to direct appropriations. I could point out the many groups excepted from budgetary consideration, including the Board of Governors of the Federal Reserve System and the Federal financing bank, despite massive budgetary impacts. I am trying to point out this is an enormously complicated job.

The question here is, does Mr. Lance really understand the problems, distinctions and occasional inequities involved in all of these and many more areas, despite his complete lack of Federal budget experience? The answer seems clear to me. It is an emphatic and resounding "no."

The first Carter budget, the 1978 budget—the first budget for which Mr. Lance will be principally responsible—will be crowding half a trillion dollars. In 1960, 16 short years ago that was the entire gross national product of this country. The budget has immense effect on the number or jobs in our economy. And it may have the most profound effect on inflation.

So Mr. President, by any measure, Mr. Lance is simply not qualified.

WHAT OMB NEEDS

We need a competent trained economist—in view of the vast economic effect of the budget. Mr. Lance is not.

We need a person who has had experience with legislation that has succeeded and legislation that has failed, legislation designed to cost little that has exploded in cost with over-runs that heavily burden the taxpayer. Mr. Lance has not had that experience.

We need a person who understands the complicated world of the Federal budget from long, hard experience.

Mr. Lance has had not 1 minute of such experience.

We need a person who has gone through the painful process of working on the budget of at least one and preferably several Federal Government agencies, either in the agency, in the Congress or as an outside expert analyst.

Mr. Lance has had no experience budget or other way with any Federal agency.

The first month or two or three of this administration is crucial. Mr. Lance is undoubtedly a highly intelligent, able man. But there is no way he is going to learn this for months, perhaps for years.

Of course, the budget is not everything. The spirit, the will, the inspiration of the President may enable him to be a good President even with a lame performance in Presidential determination of this Nation's priorities. But in my view the Lance appointment will handicap President Carter and this country seriously. The Lance nomination is a mistake. The Senate should not consent to it.

I could go on and on. I am trying to point out this is an enormously complicated job, a job for a veteran expert who knows what he is doing.

Mr. SCOTT. Mr. President, I am going to vote for the confirmation of the President's nominee, and yet I would commend to our newly elected President the remarks that were just made by the distinguished chairman of the Committee on Banking. I would express the hope that the new President will look to expertise and guidance from some of these

subordinate officers in the various departments and agencies of the Government.

I agree with much of what my distinguished colleague has said, even though he and I sometimes have differences of opinion. I am glad that he said the things he did say. Yet, our new President has a right, I believe, to choose people in whom he has confidence for Cabinet positions and for close associations, such as Director of the Office of Management and Budget. I believe that he should be given a chance, rather than voting down someone he does nominate on whom he seeks the advice and consent of the Senate.

Because I believe in the right of the President to choose his principal assistants—he is responsible for them; he is our Chief Executive—I commend to him the reading of the remarks of the distinguished Senator from Wisconsin. I hope that those who assist the Director of the Office of Management and Budget, those who assist other Cabinet officers in making important decisions involving billions of dollars, have the expertise and the knowledge and the background to pass good judgment on such matters.

Mr. SCHMITT. Mr. President, I think this may be one of a few occasions when I will wish to associate myself with the remarks of the distinguished Senator from Wisconsin. However, I do believe that the general thrust of his remarks was correct, that experience is extremely important in the Office of Management and Budget. As a member of the executive branch for a few years, it was all too clear that experience was a fundamental thing in that office.

However, I, too, will vote to confirm the nomination of Mr. Lance, because I think the President should have the opportunity to work with the people, in most cases, with whom he decides he can work.

However, I agree with the Senator from Virginia, that the remarks of Senator PROXMIRE should be read carefully and that the performance by Mr. Lance in the next year should be watched very closely. I commend the Senator for his remarks.

Mr. McCLURE. Mr. President, I say this only half facetiously. I note that a number of people who have associated themselves with the remarks of the distinguished Senator from Wisconsin have done so while noting the fact that perhaps the President who was elected, with absolutely no experience in the office, cannot afford a man in the Office of Management and Budget who likewise has no experience in the job.

Perhaps, had the election gone the other way, we could have afforded that lack of experience in the other job. [Laughter.]

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Thomas B. Lance to be Director of the Office of Management and Budget?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

COUNCIL OF ECONOMIC ADVISERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Charles L. Schultze, of the District of Columbia, to be a member of the Council of Economic Advisers.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of Charles L. Schultze, of the District of Columbia, to be a member of the Council of Economic Advisers.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the nomination.

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs has unanimously approved the nomination of Charles Louis Schultze to be Chairman of the Council of Economic Advisers, and I ask that the Senate confirm that approval.

Dr. Schultze brings to this position a superb background, in terms of academic preparation, experience, and knowledge of the Federal Government, and excellence of performance. He is a professional in the finest sense of the word. He has received his B.A. and M.S. degrees from Georgetown University and his Ph. D. in economics from the University of Maryland. He has served in many Federal agencies, including a period in the early 1950's on the staff of the Council of Economic Advisers, which he will return to head. One of Dr. Schultze's finest contributions in the 1950's was his paper on inflation, prepared for the Joint Economic Committee as part of Senator Paul Douglas' pathbreaking study of employment, growth, and price levels. Then, in the 1960's Dr. Schultze served first as Assistant Director and later as Director of the Bureau of the Budget. In that latter position, he bears some responsibility for the $10 billion understatement of the 1966 costs of the Vietnam war. But I accept his testimony that he advocated a tax increase at the time, long before it was proposed by the Johnson administration. In hindsight, it is clear that the consequent budgetary deficit at a time of high employment was a primary source of inflation. And yet it is likely that economic considerations were overruled without any recognition of the ultimate cost to the Nation.

When Dr. Schultze left Government service in 1968, he returned to academic life as a professor at the University of Maryland, and his research as a senior fellow of the Brookings Institution was focused mainly on issues of national economic policy, including editorship of the Brookings annual review of economic issues entitled "Setting National Priorities." Most recently, he delivered the 1976 Godkin lectures at Harvard University on "The Public Use of Private Incentives."

Dr. Schultze's career demonstrates that he is qualified for the chairmanship of the Council. What stands out, and was demonstrated very clearly at his nomination hearings, is the quality of the man—the vigor and directness of his views and the openness and absence of dogmatism that mark him as an adviser to be trusted.

I have high hopes that Dr. Schultze will give the same distinguished service in his new position as he has given to others in the past.

Mr. BAYH. Mr. President, a few weeks ago there was speculation that Charles L. Schultze would be nominated by President Carter for several different Cabinet positions. In the end, the President decided to name Charlie Schultze as Chairman of the President's Council of Economic Advisers, an excellent decision and a nomination to which I give my unqualified, enthusiastic support.

The fact that Mr. Schultze's name was mentioned for a number of different Cabinet posts is ample testimony to the high regard which he commands from all who know him. I am proud to count Charlie Schultze as a friend, and confess that many times in the 14 years that I have been in the Senate I have turned to him for advice on economic matters.

That advice has always been helpful. In remarkably few words Charlie Schultze can get to the essence of a problem, provide perceptive analysis, and propose alternative solutions with clarity. He is not only an excellent economist, he is a public policy analyst of the highest quality.

Mr. Schultze's prior experience as Director of the Bureau of the Budget, and his extensive work in recent years as a senior fellow at the Brookings Institution, provide conclusive evidence of his skill and abilities. I know he will provide our new President with valuable guidance in the years ahead as we take on the two-headed monster of unemployment and inflation, and I am confident that Charlie Schultze's presence in the White House will increase the chances of success in improving our Nation's economy.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Charles L. Schultze, of the District of Columbia, to be a member of the Council of Economic Advisers?

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, it is not the intention of the leadership to call up the nomination of Mr. Marshall today.

I ask unanimous consent at that time for a time limitation of 2 hours on the nomination, to be equally divided between Mr. WILLIAMS and the Republican leader, Mr. BAKER, and that the Senate proceed to the consideration of the nomination immediately after the two leaders or their designees have been recognized under the standing order on Monday next.

Mr. BAKER. Mr. President, I hope the majority leader will indulge me for a moment.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I had thought that I was fully in a position to recommend that unanimous-consent request. I just have been apprised of the interest of one other Member in this matter. I wonder whether we can postpone that for a moment.

Mr. ROBERT C. BYRD. Yes.

I withdraw my request, Mr. President.

Mr. President, it is not the leadership's intention to call up the nomination of Mr. Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Health, Education, and Welfare.

I ask unanimous consent that there be a time limitation of 2 hours on the nomination of Mr. Califano, to be equally divided between Mr. WILLIAMS and the Republican leader, Mr. BAKER, and that the Senate proceed to the consideration of the nomination immediately following the recognition of the two leaders on Monday next.

Mr. JAVITS. Mr. President, reserving the right to object, at what hour?

Mr. ROBERT C. BYRD. I would say approximately 2 o'clock.

Mr. JAVITS. That is, we will vote about 2 o'clock, or we will proceed at 2 o'clock?

Mr. ALLEN. Mr. President, reserving the right to object, what effect would this unanimous-consent agreement have on the cloture vote that might take place on Monday, if we go over to Monday?

Mr. ROBERT C. BYRD. It would not have any effect on the cloture vote, because under the rule, that vote would occur regardless of this order.

Mr. ALLEN. The Senator from West Virginia said 2 hours immediately after the recognition of the two leaders.

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. At what point, then, will the cloture vote be taken?

Mr. ROBERT C. BYRD. One hour after the Senate comes in, following the establishment of a quorum.

Mr. ALLEN. Even though that is in the midst of the 2 hours of agreed time. Is that correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. ALLEN. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I revise my request. The time on this side will be handled by Mr. LONG, I was in error.

The PRESIDING OFFICER. Without objection, the record will be corrected.

Is there objection to the request?

Mr. BAKER. Mr. President, reserving the right to object, we are speaking now of the Califano nomination?

Mr. ROBERT C. BYRD. That is correct.

Mr. BAKER. I think this is a good agreement, and I hope there will be no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. HARRY F. BYRD, JR. In regard to the nomination of Mr. Marshall to be Secretary of Labor, the committee report is not yet available. I assume that it will be available in advance of whatever time the majority leader might set for calling it up.

Mr. ROBERT C. BYRD. Mr. President, I do not know whether there is a committee report. I am in no position to know whether there is a report from the committee.

Mr. JAVITS. Mr. President, if the Senator will yield, I think I can help with that.

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. There will be a record, and the committee report is simply that, with two dissenting votes, we recommend to the Senate that the nomination be confirmed.

Perhaps Senator BYRD is thinking about the record. The record should be printed. We finished the hearings several days ago.

I will make it my business, I say to the Senator from Virginia—in the absence of Senator WILLIAMS—to see that that record is made available, and I will give the Senator word as to exactly when.

Mr. HARRY F. BYRD, JR. I thank the Senator from New York.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF RAY MARSHALL TO BE SECRETARY OF LABOR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the nomination of Mr. Joseph Califano, Jr., on Monday, the Senate proceed to the consideration of the nomination of Mr. Ray Marshall, of Texas, to be Secretary of Labor; that there be a time agreement thereon of 4 hours to be equally divided between Mr. WILLIAMS and Mr. JAVITS.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Mr. President, I announce that whatever time I have, as I am for Mr. Marshall, I will yield as the opponents of the nomination desire.

Mr. SCOTT. Mr. President, reserving the right to object, I have some definite reservations about this nomination.

It is my understanding from the news media that he favors repeal of section 14(b) of the Taft-Hartley Act and that he favors the common situs picketing. These are matters quite important to my State.

I have even heard the suggestion—and this may not be accurate, but I would like to see the record to verify that—he is in favor of unionizing the military. If that is true, I think his nomination should be rejected.

But I would hope that we could put this over, so I am constrained to object at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF GRIFFIN B. BELL, TO BE ATTORNEY GENERAL

Mr. ROBERT C. BYRD. Mr. President, it is not the intention of the leadership to call up the nomination today of Mr. Griffin B. Bell, of Georgia, to be Attorney General. I ask unanimous consent that there be a time limitation on the nomination of 8 hours, to be equally divided between Mr. EASTLAND and the Republican leader (Mr. BAKER), and that the Senate proceed on Tuesday next immediately after the two leaders or their designees have been recognized to the confirmation of the nomination.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, I might say there have been prolonged and extended negotiations between most of the parties in interest, I believe, on this nomination. It is a very long time for debate. It is a very delicate nomination. But I believe this is a good agreement. I commend it to my colleagues on this side of the aisle.

I would inquire of the majority leader what time this 8 hours might begin to run and how we might schedule the day.

Mr. ROBERT C. BYRD. It had been my plan, Mr. President, to come in at 10 o'clock on Tuesday morning next. Immediately after the leaders have been recognized the time would begin running, which means that if all the time were consumed, it would be approximately 6 o'clock p.m. that the vote would occur.

Mr. BAKER. Not later than 6 o'clock?

Mr. ROBERT C. BYRD. I would ask unanimous consent that the vote on the confirmation of the nomination occur not later than 6 p.m. on Tuesday.

Mr. MATHIAS. Reserving the right to object on that 6 p.m., I think it would have to be 8 hours.

Mr. ROBERT C. BYRD. I will say not later than 6:30 p.m.

Mr. MATHIAS. Would the distinguished majority leader add to that? I do not know that anybody will want 8 hours. I am trying to protect the maximum amount of time that could be needed. I do not know that it would be needed. I will not need it.

Mr. ROBERT C. BYRD. The Senator would be protected if we said not later than 6:30 p.m.

Mr. MATHIAS. Other extraneous matters may arise during the course of the day which may consume some time.

Mr. ROBERT C. BYRD. It is not the plan of the leadership to bring other extraneous matters in during that day.

Mr. BAKER. If I may speak to that point for a moment, Mr. President, I fully understand the concern expressed by the senior Senator from Maryland. But the idea of a time certain, I believe, greatly extends the convenience of the debate for Members. I recognize that other extraneous matters might intrude, that dilatory and delaying tactics might take time, or rollcalls would eat into the available time and make it substantially less than 8 hours. But 8 hours is a long time. That makes a long day.

My own personal preference would be to have it not later than 6 p.m. or 6:30 p.m. If there is serious objection to that, I would state that our undertaking originally was just for 8 hours and the 6 or 6:30 time came as an afterthought as a matter of convenience for certain Members.

Mr. MATHIAS. I have no great objection. As I say, I do not expect to spend a great deal of time myself. I am thinking of others who may have an interest. I think the 8 hours will protect them. I think if the majority leader and the minority leader undertake in sight of God and this company to insure us that if there are prolonged rollcalls, if there is some other urgent or extraneous business which intervenes and takes up a substantial amount of time, they will protect us, I would have no objection.

Mr. ROBERT C. BYRD. May I say in answer to the distinguished Senator that under a time agreement any quorum calls have to come out of the time of somebody who controls time. So if no one yields time on a quorum call, a quorum call could not be called until all the time is yielded back on the side. I think the Senator can be assured there will be 8 hours or not to exceed 8 hours on this nomination on Tuesday.

Mr. MATHIAS. With the assurance of the majority leader, I have no objection.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. HELMS. Will the distinguished majority leader be willing to assure that in the event of a cloture vote scheduled for Tuesday it would not be displaced or otherwise affected by this time agreement.

I am asking for the same assurance that Senator ALLEN received.

Mr. ROBERT C. BYRD. Let me respond in this fashion: If there is a cloture vote on Tuesday, and at this time I foresee none, that cloture vote occurs 1 hour after the Senate comes in, except otherwise by unanimous consent, less the time for the establishment of a quorum.

That rule is pretty clear.

Mr. HELMS. I just want to be reassured.

Mr. ALLEN. Mr. President, reserving the right to object, that is the tenor, then, of the Senator's request: that the unanimous-consent agreement to the contrary notwithstanding, if a cloture vote is scheduled and if the schedule would require it to be voted on during this period covered by the unanimous-consent agreement, notwithstanding the agreement, the cloture vote would come as scheduled. Is that correct?

Mr. ROBERT C. BYRD. Absolutely. In my judgment, there is no question on the matter. If any question should arise, I would stand with the Senator in taking that position.

Mr. ALLEN. That is part of the unanimous-consent agreement—that a cloture vote would come, even if it came in the middle of or inside the agreed time.

Mr. ROBERT C. BYRD. I do not think we should say it is part of the agreement, because if we do that, then we are laying the predicate for an argument to be made at some point that if there is a unanimous-consent agreement on a matter, rule XXII as it pertains to cloture is vitiated by that unanimous-consent agreement. I do not believe it is. I do not think we should lay that into this agreement.

Mr. ALLEN. The precedent is going to be established, then, that the cloture vote would come even though unanimous consent had been given that debate occur at that time on another subject.

Mr. ROBERT C. BYRD. I am not sure that we do not already have precedent to this effect. I am saying to the Senator that, in my judgment, no unanimous-consent agreement as I have thus propounded it here would vitiate the operation of rule XXII with respect to the vote on cloture. If I were to include in my unanimous-consent agreement that notwithstanding rule XXII, thus and so, that we will proceed with these nominations——

Mr. ALLEN. If that stipulation were not made, then it might vitiate the cloture. That is what the Senator is contending. Is that right?

Mr. ROBERT C. BYRD. I am saying that the agreement that I have propounded does not vitiate the operation of rule XXII with respect to a vote on cloture.

Mr. ALLEN. That is all I want to know on that point.

These agreements would seem to do away with the morning hour, then. Is that correct?

Mr. ROBERT C. BYRD. They would do away with the morning hour, yes.

Mr. ALLEN. And that would prevent a resolution coming over under the rule.

Mr. ROBERT C. BYRD. Yes. In any event, I intend to recess, so we would not have the problem of resolutions coming over under the rule.

Mr. ALLEN. Yes, but I assume the Senator will not recess for the next 30 days.

Mr. ROBERT C. BYRD. I doubt that we will be recessing for that many days.

Mr. ALLEN. I thank the Senator.

Mr. DOLE. Mr. President, reserving the right to object, will we have a copy of the report available on the Bell nomination?

Mr. ROBERT C. BYRD. Mr. President, I do not know that there is any such report from the committee.

Mr. DOLE. Is there any committee report on the Bell matter?

Mr. EASTLAND. It will be filed tomorrow.

Mr. DOLE. So it will be available.

Mr. MATHIAS. Mr. President, reserving the right to object, and I am very reluctant to do it, but in view of the question raised by the Senator from Alabama that there could be a cloture vote, that would be a substantial consumption of time. There could be a substantial amount of time consumed in that event. In that event, I think that a 6:30 time for voting could, in fact, substantially decrease the time that had been agreed upon.

Mr. ROBERT C. BYRD. I understand what the Senator is saying.

Mr. President, I ask unanimous consent that there be a time limit on the confirmation of the nomination of Mr. Bell of not to exceed 8 hours, to be equally divided between Mr. EASTLAND and Mr. BAKER, and that the Senate proceed to the consideration of the nomination on Tuesday next immediately after the two leaders or their designees have been recognized.

Mr. BAKER. Mr. President, reserving the right to object, I think that is the better way to handle it under the circumstances.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. Rule XXII still stands?

Mr. ROBERT C. BYRD. The Senator need have no concern about rule XXII.

Mr. President, I thank all Senators.

I think I should do this, however: We have no agreement on the nomination of Mr. Marshall, and I am not going to ask for a time agreement. I assured the distinguished Senator from Virginia (Mr. SCOTT) that I will not ask for a time agreement.

NOMINATION OF RAY MARSHALL

However, I ask unanimous consent that on Monday, upon the disposition of the nomination of Mr. Califano, the Senate proceed to the consideration of the nomination of Mr. Ray Marshall of Texas to be Secretary of Labor, without any time limit being agreed upon.

Mr. SCOTT. Mr. President, reserving the right to object, there are a number of matters that I am concerned about, and other Senators have probably expressed similar reservations. I hope that the distinguished majority leader will withhold any request regarding this nomination until Monday.

Mr. ROBERT C. BYRD. Very well. I will be glad to accede to the request of the Senator from Virginia (Mr. SCOTT).

Mr. President, I ask unanimous consent that the nominations of Mr. Califano and Mr. Bell and Mr. Marshall be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated.

By Mr. BURDICK:

S. 386. A bill to repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia; to the Committee on Post Office and Civil Service; and

S. 387. A bill to include unpledged deposits in the Bank of North Dakota, maintained by

any financial institution which is a member of a Federal home loan bank, or is an insured institution as defined in section 401(a) of the National Housing Act, as assets for purposes of meeting the liquidity requirements under section 5A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)); to the Committee on Banking, Housing and Urban Affairs.

By Mr. LAXALT (for Mr. BARTLETT):

S. 388. A bill to amend the Internal Revenue Code of 1954 with respect to income earned abroad by U.S. citizens living or residing abroad; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 389. A bill to amend the Internal Revenue Code of 1954 to exempt from excise tax certain buses purchased by nonprofit organizations or by other persons for exclusive use in furnishing transportation for State or local governments or nonprofit organizations; to the Committee on Finance.

S. 390. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a highway vehicle will be determined in the same manner as the business deduction for such expenses; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAXALT (for Mr. BARTLETT):

S. 388. A bill to amend the Internal Revenue Code of 1954 with respect to income earned abroad by U.S. citizens living or residing abroad; to the Committee on Finance.

Mr. LAXALT (for Mr. BARTLETT). Mr. President, I am today introducing legislation that will make certain changes in the Tax Reform Act of 1976 with respect to income earned abroad by U.S. citizens living or residing abroad. The bill will restore the treatment of such income to what it was prior to the passage of the 1976 Act.

I ask unanimous consent that the text of the bill as well as the remarks of and materials prepared by the Senator from Oklahoma (Mr. BARTLETT) be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of section 911(c) of the Internal Revenue Code of 1954 (relating to limitation on amount of exclusion) is amended to read as follows:

"(1) Limitations on amount of exclusion.—The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of—

"(A) except as provided in subparagraph (B), $20,000 in the case of an individual who qualifies under subsection (a), or

"(B) $25,000 in the case of an individual who qualifies under subsection (a)(1), but only with respect to that portion of such taxable year occurring after such individual has been a bona fide resident of a foreign country or countries for an uninterrupted period of 3 consecutive years.".

(b) The last sentence of subsection (a) of section 911 of such Code (relating to earned income from sources without the United States) is amended to read as follows:

"An individual shall not be allowed, as a deduction from his gross income, any deductions (other than those allowed by section 151, relating to personal exemptions) properly allocable to or chargeable against amounts excluded from gross income under this subsection.".

(c) Section 911 of such Code (relating to earned income from sources without the United States) is amended by striking out subsections (d) and (e) and by redesignating subsection (f) as subsection (d).

(d) Section 36 of such Code (relating to credits not allowed to individuals paying optional tax or taking standard deduction) is amended by striking out "sections 32" and inserting in lieu thereof "sections 32, 33,".

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1975.

STATEMENT BY SENATOR BARTLETT

Today I am introducing legislation that will correct one of the most misguided provisions of the Tax Reform Act of 1976. My bill will substantially return the treatment of individual earned income of Americans abroad to what it was prior to October 4, 1976.

The Tax Reform Act of 1976 amended Section 911(c) of the 1954 Internal Revenue Code so as to reduce the exclusion for income earned abroad by U.S. citizens from 20 thousand dollars to 15 thousand dollars and modified the computation of that exclusion in three ways. First, on individual entitled to the earned income exclusion may no longer credit or deduct foreign income taxes paid on excluded income. Second, income, derived by individuals beyond the income eligible for the earned income exclusion is now subject to U.S. tax at the higher rate brackets which would apply if no exclusion had been allowed. Third, income earned abroad which is received outside the country in which earned in order to avoid tax in that country is ineligible for the earned income exclusion.

My bill returns the exclusion to 20 thousand dollars and, save for the third modification mentioned above, returns the calculation of the tax liability to what it was befor the passage of the Tax Reform Act.

I find it distasteful to have to undo something that should have been done properly the first time, but in reviewing the legislative history of this provision, it is obvious to me that what we ended up with is a minced version of a half-baked idea. Section 1011 of the Tax Reform Act is punitive in its effects on individual Americans abroad and a great disservice to American business overseas generally. Unless corrected, its net effect will be that Americans will lose jobs and that American companies operating abroad will be forced to cut back their activities or increase their product prices.

Quoting from the Senate Finance Committee Report Number 94-938, the ostensible objectives of the Tax Reform Bill of 1976 were:

"1. To improve the equity of the income tax at all income levels without interfering with equally important goals of economic efficiency and growth;

2. To simplify many tax provisions, delete unnecessary language and encourage taxpayers to use the standard deduction;

3. To continue for the next 12 months the economic stimulus provided in the Tax Reduction Act of 1975 and extended through the first half of 1976 by the Revenue Adjustment Act of 1975; and

4. To make improvements in the administration of the tax laws, particularly to strengthen taxpayers' rights.

The effects of Section 1011 will be to undermine each one of these laudable ideals.

American citizens living and working abroad do not have the benefit of many services available at home that are paid for by taxes. When such services are provided by the employer in the form of living allowances, housing allowances, and educational allowances, they are included in the employees' calculation of gross income. The exemption of 20 thousand dollars from earned income was an attempt to partially compensate for this inflated calculation of personal income. Concern for equal treatment of taxpayers' demands that some attempt be made to realistically compensate individuals for cost of living and quality of living differentials.

The Halliburton Services Company of Duncan, Oklahoma, has provided the following information on what they expect the impact of the present law to be. It is obvious that equity for taxpayers overseas is being ignored and must be corrected before the tax collection deadline this year.

The attached computations are based on the following assumptions:

1. The employee in the foreign country will incur additional expenses living in the foreign country equal to the allowances paid to him.

2. Housing furnished the employee is usually inferior to housing in the United States and the rentals paid are greatly in excess of rentals on comparable housing in U.S. Also employee sometimes keeps a house in the U.S., therefore, all rentals paid abroad constitute additional expense to him.

3. Tuition for dependents paid by or on behalf of the employee is an additional expense, since such schooling is offered free in the U.S.

4. Vacation expense is the airfare of an employee and his family usually to a more developed country.

5. Based on the above assumptions, the take home pay of the employee while in the foreign country is equal to his base salary plus the overseas differential. The overseas differential is generally $150 per month increase in pay given an employee to induce him to go abroad.

COMPARISON OF UNITED STATES INCOME TAX EFFECT ON CEMENTER IN DUBAI TO CEMENTER IN UNITED STATES

	Computation of U.S. tax		
	If in United States	If in Dubai	Increase in tax
Base salary in United States	$11,260	$11,260	.....
Overseas differential	1,800	1,800	.....
Base salary in Dubai	13,060	13,060	.....
Add:			
Living allowance	.....	3,000	.....
Furniture allowance	.....	1,000	.....
Revaluation of currency allowance	.....	1,572	.....
Fair market value of housing	.....	12,000	.....
Tuition paid	.....	3,000	.....
Vacation paid	.....	2,000	.....
Total compensation	13,060	35,632	.....
Less IRC sec. 911 exclusion	0	20,000	.....
Adjusted gross income	13,060	15,632	.....
Less:			
Standard deduction	2,090	2,800	.....
Personal exemptions (4)	3,000	3,000	.....
Taxable income	7,970	9,832	.....
Tax (based on joint return rates):			
Under proposed law	1,374	1,783	$409
Under present law (with $15,000 exclusion and higher rates)	1,374	4,804	3,430

COMPUTATION OF UNITED STATES INCOME TAX EFFECT ON DISTRICT MANAGER IN ABU DHABI AS COMPARED TO DISTRICT MANAGER IN THE UNITED STATES

	Computation of U.S. tax		
	If in United States	If in Abu Dhabi	Increase in tax
Base salary in United States	$21,465	$21,465	
Overseas differential	1,800	1,800	
Base salary in Abu Dhabi	23,265	23,265	
Add:			
Living allowance		3,076	
Furniture allowance		750	
Revaluation of currency allowance		1,572	
Fair market value of housing		12,000	
Tuition paid		3,000	
Vacation paid		2,000	
Total compensation	23,265	45,663	
Less IRC sec. 911 exclusion	0	20,000	
Adjusted gross income	23,265	25,663	
Less:			
Standard deduction	2,800	2,800	
Personal exemptions (4)	3,000	3,000	
Taxable income	17,465	19,863	
Tax (based on joint return rates):			
Under proposed law	3,670	4,342	$672
Under present law (with $15,000 exclusion and higher rates)	3,670	9,068	5,398

COMPARISON OF UNITED STATES INCOME TAX ON FIELD SUPERVISOR IN QATAR TO FIELD SUPERVISOR IN UNITED STATES

	Computation of U.S. tax		
	If in United States	If in Qatar	Increase in tax
Base salary in United States	$17,400	$17,400	
Overseas differential	1,800	1,800	
Base salary in Abu Dhabi	19,200	19,200	
Add:			
Living allowance		2,800	
Furniture allowance		750	
Revaluation of currency allowance		1,350	
Fair market value of housing		12,000	
Tuition paid		3,000	
Vacation paid		2,000	
Total compensation	19,200	41,100	
Less IRC sec. 911 exclusion	0	20,000	
Adjusted gross income	19,200	21,100	
Less:			
Standard deduction	2,800	2,800	
Personal exemptions (4)	3,000	3,000	
Taxable income	13,400	15,300	
Tax (based on joint return rates):			
Under proposed law	2,610	3,085	475
Under present law (with $15,000 exclusion and higher rates)	2,610	7,036	4,426

COMPUTATION OF UNITED STATES INCOME TAX ON ASSISTANT DISTRICT MANAGERS IN SAUDI ARABIA AS COMPARED TO ASSISTANT DISTRICT MANAGERS IN UNITED STATES

	Computation of U.S. tax		
	If in United States	If in Saudi Arabia	Increase in tax
Base salary in United States	$19,370	$19,370	
Overseas differential	1,800	1,800	
Base salary in Saudi Arabia	21,170	21,170	
Add:			
Living allowance		3,000	
Furniture allowance		750	
Revaluation of currency allowance		2,381	
Fair market value in housing		12,000	
Tuition paid		3,000	
Vacation paid		2,000	
Total compensation	21,170	44,301	
Less IRC sec. 911 exclusion	0	20,000	
Adjusted gross income	21,170	24,301	
Less:			
Standard deduction	2,800	2,800	
Personal exemptions (4)	3,000	3,000	
Taxable income	15,370	18,501	
Tax (based on joint return rates):			
Under proposed law	3,103	3,960	$857
Under present law (with $15,000 exclusion and higher rates)	3,103	8,455	5,352

The present law concerning taxation of Americans abroad is more complex than it was, is economically constrictive rather than stimulative, and is of doubtful administrative efficiency. In short, this provision of the Tax Reform Act accomplished none of the announced aims of that act, and is positively mischievous in its effects upon individuals and companies alike.

To the extent that the current law forces American companies to forgo planned expansions or to increase their prices, it will hinder international economic recovery. Much of the world is depending upon the United States' economic ability and strength for much of their recovery. The present law will frustrate that expectation as American expertise and experience is drawn back to U.S. territory.

An additional mark against the present law is its retroactive nature, which if allowed to be carried out with this year's tax collections will unfairly and unduly burden thousands of Americans who have not been able to plan for the increased taxes. For all the above reasons I urge the earliest possible consideration and passage of my bill. I ask unanimous consent that the text of my bill and the following materials which include a sampling of the letters I have received from around the world, as well as editorials and statements on this problem, be included in the Congressional Record with my remarks.

FROM THE STATEMENT OF WALKER WINTER, FOR THE CHAMBER OF COMMERCE OF THE UNITED STATES, JULY 9, 1975, BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS

EXEMPTION OF EARNED INCOME FROM FOREIGN SOURCES

We reaffirm our position that the exclusion in section 911 of the Internal Revenue Code for earned income of citizens who are residents and/or employed abroad should not be reduced. Under existing tax law, United States citizens, who are bona fide residents of foreign countries for at least one full calendar year or who are physically present in foreign countries for 17 out of 18 consecutive months, may exclude from their federal income tax the first $20,000, or in some cases the first $25,000, of compensation received for services performed outside the United States.

This exclusion has been a part of our tax law since 1926. This issue was fully considered by both House and Senate in 1962, and the present law is a result, with the exception that in 1964 the $35,000 exclusion was reduced to $25,000. The tax benefit has been reduced substantially from an unlimited exclusion to the present $20,000 and $25,000 exclusion. Furthermore, the exclusion is limited sufficiently to prevent its use as a tax avoidance device.

Critics of the exclusion assert that it entices Americans, with technical and professional skills not available in foreign countries to work abroad by offering them tax-free earnings. This assertion completely overlooks that fact that the income of these employees may be subjected to foreign income taxes as well as other foreign taxes. Also, the foreign taxes attributable to income not taxed in the United States are not allowed as a credit or a deduction against United States taxes.

American citizens working abroad do not have the benefit of many services available at home that are paid for by taxes. As for the individual businessman overseas, the tax exclusion of $20,000 and $25,000 helps offset the additional costs of schooling, housing, travel, and other inconveniences. Such Americans overseas do not get the benefits of those things their taxes help pay for in the United States.

The exclusions in section 911 give some relief from this situation and represent a measure of justice for the American citizen abroad. Because of inflationary trends throughout the world, any adjustment in the exclusions should be up rather than down.

United States Government employees abroad remain subject to our income taxes on their earnings, but they are not taxed on fringe benefits such as shelter, cost of living, education, travel and other differential cost payments. On the other hand, cost-of-living allowances are taxable compensation to employees of private business.

Armed forces personnel enjoy facilities on foreign bases which provide an environment comparable to a base in the States. Civilians employed abroad must attempt to create a comparable cultural environment for their families on an individual basis. Reduction of the presently excludable portion of salary earnings would discriminate against non-government employees.

In order to operate on an international basis, American companies must employ some of our citizens to work in foreign subsidiaries and branches. These American employees are necessary because local nationals, in many cases, do not possess the needed skills, experience or familiarity with American business methods.

United States citizens representing American businesses abroad often have many years of experience with the language, law, customs, and techniques of the foreign country in which they live. The are invaluable and are as essential to companies operating abroad as American capital. It is absolutely essential to have American citizens in overseas positions to manage these investments, as well as to train local personnel.

A citizen employed abroad must receive compensation for special costs which do not represent real income. If he is given an allowance for tuition for his children to attend a private English language school, this does not represent any income to the individual, but the United States will tax such a tuition allowance.

As a revenue producing measure, the elimination of the exclusion would be largely ineffective. Corporate employers would be obliged to increase salaries or living allowances of their overseas American employees, thus diminishing corporate tax receipts. The net effect would be to make American business abroad less competitive with other foreign business, since other major industrial nations generally do not tax their overseas businessmen.

Increased costs are already having an adverse effect on employment by forcing a number of international companies to hire foreign executives, not necessarily of the host countries, to replace American executives. It has been estimated a United States company spends an average of $100,000 during the first two years when it sends a $20,000-a-year man abroad.

The long-range effect of any unfavorable change would be to jeopardize our competitive position abroad at a time when inflation and rising operating costs have made it increasingly difficult to compete in foreign markets. Additional costs could cut back on dividends and profits from foreign operations

which assist in solving our balance-of-payments problems.

[From the New York Times, Jan. 9, 1977]

TAX LAW: PUNISHING AMERICANS ABROAD

To the Editor:

The new Congress and the new Administration will have an opportunity to examine the recent changes in U.S. tax law that affect American citizens residing abroad. It is the general consensus of the American community in Brazil that the legislation is either deliberately punitive or utterly thoughtless.

The changes in question, by reducing the income earned abroad which is exempt from U.S. taxation and by greatly raising the effective tax rate on the non exempt income, expose Americans residing abroad to the certainty of real double taxation. This is because foreign countries, not unnaturally, themselves tax income earned by non-citizen residents from economic activity within the foreign country, sometimes (as in Brazil) at very high rates indeed.

Furthermore, Americans living abroad actually receive services—police, fire, sanitation, etc.—from the host nation, whereas they receive few if any from the United States. On top of this, Americans abroad often have to pay exorbitant amounts, none of them deductible, for services such as education which would be provided at government expense in the U.S. This is to be contrasted with the gentle treatment meted out to our diplomatic personnel, who have special allowances for just such items.

The net effect of the new tax law is to make it substantially more expensive for American companies to employ Americans abroad. Many will choose not to do so. The result will be a reduction of American influence abroad and of the beneficial spread of American technology and good will, a worsening of the U.S. balance of payments and of our ability to compete with other industrial nations, and the encouragement of taxpayer despair and prevarication. The increase in tax revenues will be negligible or non-existent. The only other country to tax on the basis of nationality rather than residence is Switzerland, which is hardly comparable.

Had Congress deliberately set out to pass a hopelessly misguided law, it could not have done better. I hope that this does not remain the case.

THOMAS J. SUTCLIFFE.

[From Wall Street Journal, Nov. 1, 1976]

TAXING INCOME EARNED ABROAD

One of the many reasons President Ford should have vetoed the tax bill last month instead of signing it is the provision that increases the tax burden on U.S. citizens working abroad. The taxwriters really goofed, for the net effect can only be that American corporations operating abroad will reduce the number of Americans they employ and either replace them with foreign nationals or shrink the level of U.S. business activity abroad.

Until 1962, the United States didn't tax its citizens on any wage and salary income earned abroad, and we are still one of the very few nations of the world who now do tax such income. Prior to 1962 we accepted the universal rationale, which was and is reasonable, that a worker will be taxed by the country in which he earns his income.

But when the law was changed, it was at least replaced with some relief on this score. Americans employed abroad could exempt the first $20,000 of income earned abroad from U.S. taxes, and after three years abroad could exempt the first $25,000. Now, not only has the figure been dropped to $15,000, but the non-excluded income must be taxed in the same tax brackets as if there were no exclusion.

The change will have enormous damaging impact on the competitiveness of U.S. business abroad as the tax liabilities of their American workers soar. The problem is magnified because a company usually has to pay roughly $20,000 to a worker just to finance his living-cost differential and home-leave expenses, which Internal Revenue counts as personal income to a worker.

Equity is best assessed in examining the after-tax effects. A company that pays $40,000 to a domestic employee gives him, say, $30,000 after tax. For that employee to be sent abroad and receive $30,000 after tax and living allowances, the company will have to expend $80,000, $90,000, or if he's stationed in Japan, $100,000. The company's foreign competitor is able to send in an employee of equal skill at much less total outlay because the employee does not pay domestic tax on foreign earnings. The competitor thus tends to win the contracts and get the business.

So if the taxwriters are counting on Treasury getting more revenue as a result of their "reform," forget it. Treasury will lose revenues on two counts: First, because U.S. foreign earnings will shrink as U.S. companies lose business to foreign competitors. Second, because the executives, engineers and hardhats will no longer be bringing home savings that can subsequently be taxed by Treasury as investment income.

The degree to which this increased tax burden prevents the United States from selling goods and services abroad, of course means that the cost of goods and services we buy from abroad will rise. The effect is the same as an embargo on labor or any other traded commodity. The foreign nation that otherwise would employ the talents and resources of U.S. citizens suffers because the tax differential makes such employment impossible.

What Congress should have done instead is double the exemption, to account for the inflation that has taken place since 1962, thereby expanding U.S. business activity abroad with its resulting beneficial feedback effects on the U.S. economy. As it is, this is one tax change that damages everyone's interest to nobody's benefit.

NOVEMBER 16, 1976.

Subject: Tax Reform Act of 1976; Changes in the Treatment of Foreign Income Affecting Individuals.

Senator DEWEY F. BARTLETT,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BARTLETT: I wish to express my views relating to certain provisions of the Tax Reform Act which was signed into Law by President Ford on October 4, 1976. The specific provisions deal with the changes in the treatment of foreign income affecting individuals.

I am not in favor of these changes because of the increased tax burden on U.S. citizens living and working overseas, as well as the fact, that these changes are retroactive to January 1, 1976.

The changes will be a significant deterent to promoting and maintaining U.S. business interests overseas. American firms cannot successfully compete in foreign markets if they cannot find personnel willing to work overseas. And, because there is notable relationship between Americans overseas, American direct investment overseas and U.S. exports, the U.S. balance of trade deficit can be expected to deteriorate.

As to the effective date of the taxation, I cannot understand how Congress could consciously approve a retroactive change in the tax burden of U.S. citizens! Would your fellow members accept a retroactive change in the election laws that placed them in Congress if such a change adversely affected their present position? I believe the answer would be a resounding No! But yet Congress expects the same logic to be accepted when it is applied in other areas.

I strongly urge you to introduce amendments in the next legislature which will not only rectify these unfair changes, but liberalize the conditions for U.S. citizens working overseas.

Thank you for your assistance, and consideration of my views.

Very truly yours,

DONALD W. PRESTON.

P.O. BOX 1177, HAMILTON 5, BERMUDA,
December 2, 1976.

Hon. DEWEY FOLLETT BARTLETT,
Russell Building
Washington, D.C.

DEAR SIR: The contents of this letter are to register a complaint as to the construction and passing of the latest Income Tax Bill.

I am an individual who works overseas for a foreign company, which does not pay to me any subsidies as in reference to paying an equivalent amount of U.S. taxes. I have to pay my U.S. taxes from my earned salary. With the new tax Bill, which has been passed, it will make it so that I cannot afford to continue in my overseas position. By the action of the new Bill I will be forced to return to the United States, whereby I will be placed into the job market and either I will be unemployed or I will displace someone from a position.

Is the objective of this Bill to create additional unemployment? It certainly appears that this is one of the objectives.

Further, you have made it so that the reduction in the overseas exemption is retroactive to January 1, 1976. This places such a severe burden upon my family that I, at this time, have doubts that I will be able to pay the retroactive taxes. Under the Internal Revenue Service Code, is it 100% legal to have a retroactive tax?

United States citizens who are working outside of the United States as part of the international operating work force are in a very good position to be excellent representatives for the United States. However, when the Congress passes unfair income tax laws I feel reasonably sure that these good representatives of the United States might have other thoughts.

It is my impression in general conversations with large major companies that these companies are going to have their United States citizens working overseas return to the United States. Foreign nationals will then be brought into the vacant positions. The end result is that in many cases the United States Government will lose not only more tax dollars but possibly good business sense from a standpoint of international dealing.

I will certainly appreciate a response from you in regard to the justification for this unfair tax law.

Very truly,

GERALD E. BROOKS.

BUTLER ASSOCIATES, INC.,
Tulsa, Okla., September 15, 1976.

Senator DEWEY F. BARTLETT,
Senate Office Building,
Washington, D.C.

DEAR DEWEY: The recent announcement regarding the change in the income tax position of Americans working abroad will create a very serious problem for companies such as ours. As you know, we are an engineering and construction management firm providing foreign governments, as well as private industries overseas, with technical services. The proposed revision in the tax law will eliminate any competitive position that we might have with the foreign firms, and for all practical purposes we will be out of business insofar as foreign projects are concerned.

The retroactive aspects of the proposed changes are especially unfair both to the corporation and to the individuals. The differential that we must pay our expatriates will rise substantially, and it is too late to renegotiate existing contracts. It might be interesting to you to know that a recent article in the "Wall Street Journal" quoted

Fluor Corporation as having 87 percent of their engineering backlog overseas. This alone should give you an indication of the impact that this change in the law will have on such firms.

If the objective of the law is to increase unemployment, it will succeed admirably. We are certain that this was not the intent and that this section of the proposed revision of the tax bill will be reconsidered. The change has the effect of removing any incentive for American personnel to go overseas. We would appreciate you opposing this change.

Very truly yours,

VINCENT E. BUTLER,
President.

PARKER DRILLING CO.,
Nairobi, Kenya, September 17, 1976.

Re: Tax reform bill.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: Attached you will find copies of recent articles from the International Herald Tribune giving notice to U.S. expatriates about the pending tax bill.

As I have written in earlier months, this reduction of tax excludable income will only hurt the U.S. consumer in one of two ways:

1. Expatriate employees will be forced to return to the U.S. because of the higher tax consequences to which they would be subject. This fact would be a negative force on the Country's unemployment percentage.

2. The U.S. firms operating abroad to import products into the U.S. will necessarily have to increase their prices to the consumer. The reason being that of increased wages, which they will have to pay to keep American expertise abroad.

When the Tax Reform Bill goes to a final vote, please consider whether the $1 billion in additional tax revenue will not be felt by the American public in a multiplier effect.

Sincerely yours,

JERRY W. HOLDER,
Assistant Division Manager.

TEHRAN, IRAN,
October 10, 1976.

Hon. DEWEY BARTLETT,
Senate Office Building,
Washington, D.C.

DEAR SIR: As an Oklahoman, and an American working and residing abroad, in Europe, Africa and the Middle East, I wish to complement the United States Congress on another unparalleled act of stupidity in the punitive tax legislation for U.S. Expatriates. These actions can only be greeted with joy by Western European and Japanese firms who will happily jump in to fill any void created by American firms being rendered uncompetitive by our own Congress.

The bill will certainly cause many Americans to return to the U.S. because of simple economics. These people will need jobs. The Bill will cause many "marginal" or new foreign operations to fold because of cost considerations. The net effect is that some manufacturers who enjoy a high level of employment due to foreign markets will now find it more difficult to retain this level. This is a potential cause of additional unemployment for workers in the U.S.

Competition from West German, Italian, French, English and Japanese concerns is keen. Any advantage our Congress may provide them will surely be appreciated and utilized to the fullest extent.

I do not understand how the logic in this legislation was derived. In a period where unemployment and "balance of payments" is a problem, this seems to me to be a counter productive action. I can assure you that it goes a long way for me in diminishing the credibility of the U.S. Congress.

Sincerely,

R. S. NICKEL.

FENIX & SCISSON, INC.,
Tulsa, Okla., September 13, 1976.

Hon. DEWEY BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR DEWEY: The September 10, 1976 issue of *The Wall Street Journal* indicates that the tax-revision bill as approved by the House-Senate Conference Committee contains the following provisions:

1. Reduces to $15,000 the amount of income U.S. citizens working abroad may exclude from their U.S. income for tax purposes. This reduction is to be retroactive to January 1, 1976.

2. Does away with the credit U.S. citizens working abroad have been able to take against their U.S. taxes for foreign taxes paid on the excluded income.

3. In the future, an American working abroad earning more than the excluded $15,000 will be subject to U.S. tax at the higher tax bracket that would apply if the $15,000 also were taxable.

Our company, among other things, sells engineering and construction management services in foreign countries. We have projects and/or assignments in England, France, South Africa and the Middle East. We have additional proposals outstanding in the Middle East and Japan. At the present time, we have ten U.S. citizens stationed abroad.

U.S. citizens generally will not accept foreign assignments unless their after tax income and benefits exceed those which they would obtain if they were employed in the USA. The tax exclusion, the credit for foreign taxes and rate applied against their USA taxable income are all factors that are considered in their employment contracts and in the charges that we must make for their services. Our standard employment agreement includes a provision that should the tax treatment change we will give additional compensation to allow them to have the same after tax income as before the change.

We have reviewed the impact of these proposed tax changes on the personnel we now have stationed abroad and find that our additional costs, due to these changes, are such that we must increase any charges to our foreign clients somewhere between $10,000 to $12,000 per year per man. In some cases this additional charge will make us non-competitive with our European (mostly French and German) competitors.

We feel the retroactive clause is particularly unfair as it gives us a substantial unexpected expense (in excess of $100,000) so late in the year that we have no opportunity to either (1) re-negotiate or withdraw from contracts that may no longer be worthwhile, or (2) replace our U.S. citizens with European employees.

I am in accord with the general intent of the tax-revision bill and in most instances agree that the proposed changes are well past due; however, I do not believe its intent is to deter companies such as ours from working abroad or to make us less competitive with foreign companies.

Very truly yours,

S. E. SCISSON,
President.

BELL HELICOPTER INTERNATIONAL,
Isfahan, Iran, September 12, 1976.

DEWEY BARTLETT,
U.S. Senate Office Building,
Washington, D.C.

DEAR SIR: It is my understanding that the Congressional Conferees have voted to reduce the foreign income tax exemption to $15,000.00. Also, all income over the $15,000.00 exemption would be taxed at the higher percentage as if the $15,000.00 was also taxable.

I feel that this proposal is unfair to those working overseas.

Although the base salary, cost of living allowance and etc. is higher than that paid for the same job in the U.S.: it is barely adequate to meet the high cost of living in Iran. For instance, my housing allowance is $325.00 and I pay $350.00. Others, with the same amount of allowance have to pay $600.00 and more; I was fortunate in that I had a friend in Isfahan (an Iranian) that helped me obtain my house.

If this passes into law the incentive for overseas employment will be gone entirely and there will be a mass return of Americans returning to the United States. This will put an extra burden on the employment situation that you now have in the States.

Please, consider the proposed reduction as a detriment to the well being of many Americans engaged in foreign work. I respectfully ask for your "no" vote when this matter comes before you.

Thank you for your consideration of this request.

Respectfully,

DON L. WILSON,
WILMA DEAN WILSON.

By Mr. MATSUNAGA:

S. 389. A bill to amend the Internal Revenue Code of 1954 to exempt from excise tax certain buses purchased by nonprofit organizations or by other persons for exclusive use in furnishing transportation for State or local governments or nonprofit organizations; to the Committee on Finance.

Mr. MATSUNAGA. Mr. President, I am introducing today two bills which are directed toward furthering the transportation services to the elderly.

My concern for the transportation needs of the elderly has been greatly reinforced from hearings and studies on this subject, which I conducted as chairman of the Subcommittee on Federal, State, and Community Services of the House Select Committee on Aging.

Older Americans presently encounter numerous difficulties in traveling to and from their destinations. Their paths are often impeded by income inadequacies—which often discourage frequent use of private or public transportation—by deficiencies in existing transportation programs and services—especially in isolated rural areas—and by the unaccommodative design of certain vehicles used by elderly and handicapped persons.

There are numerous program sources from which funds and services may be drawn for developing and operating transportation for the elderly. However, a number of important constraints have limited the range and level of such transportation services.

The bill I offer today would amend certain tax exemption provisions in order to facilitate easier access by the elderly to schoolbuses during periods in the day when such vehicles are not being used by the schools.

Prior to and since the 1971 White House Conference on Aging, the use of schoolbuses to meet the transportation needs of the elderly has been a constant and reoccurring recommendation. At issue is the fact that older persons are in great need of adequate and responsive transportation services. Schoolbuses continue to remain an important and untapped resource.

During hours of nonuse by students, schoolbuses could and would provide a

useful means of transporting the elderly to nutrition sites or senior centers.

In order to make schoolbuses more accessible for use by older persons, my bill seeks to remove a large obstacle blocking contractors' use of schoolbuses for nonschool purposes. Presently, schoolbuses owned by contractors are exempt from Federal excise tax—that is, 10 percent of the vehicle—if the contractor signs an affidavit at the time of the purchase that the vehicle will be used solely for trips to and from school. This exemption provides great savings to the contractor, particularly when there are large numbers of buses involved. Many contractors, however, are unwilling to jeopardize these savings in order to provide nonschool transportation.

As revealed in the House Aging Committee transportation study, an "informal interpretation" by an official of the Internal Revenue Service indicated that "if subsequent circumstances arise which would dictate that a bus purchased tax free can no longer be exclusively used for exempt purposes, then its diversion to other uses will not negate the exemption for that bus." Most bus contractors, however, tend to interpret the law more narrowly.

In light of the great uncertainty on the part of schoolbus contractors as to their tax exemption if schoolbuses are used to transport persons other than pupils, my bill would amend the Internal Revenue code to allow the transport of the elderly and other disadvantaged persons through publicly-supported programs without the loss of the exemption presently permitted in Sec. 4221(e)(1).

I believe this amendment to the law would remove schoolbus contractors' fears of any loss of exemption coverage in providing for the transportation of individuals during nonuse of schoolbuses by pupils. I believe this amendment would promote greater access to transportation resources for our Nation's immobilized elderly. It is my hope that this legislation will see early enactment.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (5) of section 4221(e) of the Internal Revenue Code of 1954 (relating to exemption for school buses) is amended to read as follows:

"(5) CERTAIN BUSES.—Under regulations prescribed by the Secretary or his delegate, the tax imposed by section 4061(a) shall not apply to a bus—

"(A) which is sold to any person for use exclusively in providing transportation for a State or local government or a nonprofit organization described in section 501(c) which is exempt from tax under section 501(a); or

"(B) which is sold to such a nonprofit organization for use by it or by any other such organization exclusively for purposes described in section 501(c)(3)."

(b) The amendment made by subsection (a) shall apply to articles sold after the date of the enactment of this Act.

By Mr. MATSUNAGA:

S. 390. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a highway vehicle will be determined in the same manner as the business deduction for such expenses; to the Committee on Finance.

Mr. MATSUNAGA. Mr. President, the second bill I am introducing today is another attempt to further transportation services for the elderly by extending tax deductions for expenses incurred by volunteers driving to and from charitable-service functions.

Our older Americans are important human resources. Many of the Nation's senior population have the desire to prolong their years of productivity and services. However, all too often, their contributions made as volunteers in local or State services, are stymied by the burdens of rising expenses in driving or being driven to their charitable activities.

Numerous programs and projects throughout the country rely upon the services of volunteer drivers. But frequently many volunteer drivers are forced to curtail their voluntary driving because of the imbalance between increasing costs in operating a vehicle and the limited, fixed income of the senior volunteer.

Volunteerism is usually effective when there is a potential to alleviate burdening costs to the volunteer, and when the out-of-pocket expenses of the volunteer is at a minimal. Consideration of incentives is an important aspect of promoting greater participation by volunteers and in strengthening the operation of senior projects.

One of the roadblocks deterring transportation services provided by volunteer drivers lies in our Federal tax law. One provision of our current Federal tax law permits individuals who itemize their deductions to include the mileage driven in bona fide volunteer activities at the rate of 7 cents a mile. A figure much more aligned to the real costs of operation is the business mileage deduction of 15 cents a mile. As indicated in the House transportation report by the Select Committee on Aging, "for even a middle-income elderly person, whose marginal tax rate is as high as 20 percent, the charitable mileage deduction amounts to less than a cent a half per mile."

By proposing to amend the tax law as it relates to tax deduction for charitable or volunteer mileage and equate such deductions with those for nonreimbursed business mileage deductions, my bill would trigger the transportation potential embodied in the use of volunteer drivers. The bill provides an incentive to volunteerism and should be enacted.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 170 of the Internal Revenue Code of 1954 (relating to charitable deductions) is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

"(i) AMOUNT OF DEDUCTION FOR EXPENSES OF OPERATING A MOTOR VEHICLE.—The amount allowable as a deduction under this section with respect to expenses incurred by the taxpayer for the operation of a highway vehicle—

"(1) shall include that portion of the costs of operating and maintaining such vehicle (including a reasonable allowance for depreciation) which is allocable to such operation; and

"(2) shall be determined in the same manner as if such operation were in connection with a trade or business of the taxpayer.".

(b) The amendment made by subsection (a) shall apply with respect to the operation of a motor vehicle occurring after the date of the enactment of this Act in taxable years ending after such date.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. JOHNSTON, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 15, the Federal Election Campaign Act Amendments of 1977.

S. 69

At the request of Mr. STEVENSON, the Senator from New Mexico (Mr. DOMENICI), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 69, to extend the Export Administration Act.

ADDITIONAL STATEMENTS

AN EXTRAORDINARY FEAT IN ANTARCTICA

Mr. SPARKMAN. Mr. President, I wish to call the attention of the Senate to a most remarkable achievement of a small band of extraordinarily skillful and dedicated men. This is the completion of the recovery of three ski-equipped C–130 Hercules aircraft which were wrecked in 1975 in a series of bizarre accidents at Dome Charlie in Antarctica.

Dome Charlie is about 625 miles from the main U.S. Antarctic base at McMurdo Sound. Its altitude is 11,000 feet and its average summer temperature is 22° below zero. It was recently described in a report to the Foreign Relations Committee by one of the committee's widely traveled staff members as "quite possibly the worst place I have ever been." Describing the work at Dome Charlie, this staff member reported,

The men live in canvas-covered huts and work 12-hour shifts in sub-zero temperatures made worse by high winds and an altitude of 11,000 feet. It has to be one of the most difficult aircraft repair jobs ever accomplished.

This salvage operation has spanned three austral summers. At a cost of $2.5 million it repaired three aircraft which would have cost $27 million to replace. The first aircraft was damaged while on a mission to pick up a five-person international Antarctic glaciological project

team doing research on Dome Charlie, which is one of three ice domes that rise out of the Antarctic Plateau and that are of particular interest to glaciologists because they contain some of the world's thickest known ice.

A second aircraft sent to pick up the glaciological team and the crew of the first aircraft also was damaged in attempting to take off from Dome Charlie. The team and crews were finally removed, and it was decided to try to salvage the two wrecked aircraft. In the austral summer of 1975–76, a third C–130 was damaged in the course of establishing the repair base.

Thus, there were three aircraft stranded at Dome Charlie. The third of these has now been repaired and flown back to the United States.

This is, indeed, an epic accomplishment, and I wish to pay tribute to all of the 40-odd men involved in the work which was carried out under most adverse conditions. In particular, I wish to recognize the following personnel who played a major role in this entire operation:

From the Naval Support Force, Antarctica:

Capt. C. H. "Lefty" Nordhill, U.S. Navy, commander.

Comdr. David D. Beyl, U.S. Navy, operations officer, project officer for the LC–130F recovery.

Lt. Robert L. Bellafronto, U.S. Navy, CES, officer in charge, Dome Charlie.

From Antarctic Development Squadron 6 (VXE–6):

Comdr. David Desko, U.S. Navy, commanding officer.

Lt. Comdr. Charles W. Miller, U.S. Navy, pilot.

Lt. (jg.) George N. Brinkley, U.S. Navy, pilot.

From Naval Air Rework Facility, Cherry Point:

Mr. John B. Allen, work supervisor at Dome Charlie.

Mr. George Wooten, work supervisor at Dome Charlie.

From Lockheed:

Mr. Larry T. Gonzales, project engineer at Dome Charlie.

To all of these men, I say well done and congratulations.

BELL PLEDGE ON U.S. ATTORNEY MERIT RETENTION AND SELECTION

Mr. SCHWEIKER. Mr. President, merit retention and selection of U.S. Attorneys is one of the most valuable reforms Judge Bell is publicly pledged to support as Attorney General. Too often in the past, effective and outstanding U.S. attorneys have been automatically replaced by incoming administrations simply because of their political registration. This practice is an unfortunate and unacceptable hold over from the pre-Watergate era. It should be ended.

The Justice Department has in some instances succeeded in moving appointment of U.S. attorneys from the realm of raw political patronage to a high level of professionalism. The growing number of outstanding U.S. attorney's offices around the nation is proof that this policy is sound.

I have been encouraged by Attorney General-designate Bell's public statements on the issue of merit retention. Respected columnist Neal Peirce wrote recently that the decision on this issue will be an "acid test" of whether or not President Carter intends to make good on his pledge to move the Federal Government to a higher ground of openness and morality. I emphatically agree!

During his confirmation hearings before the Senate Judiciary Committee, Judge Bell was asked specifically about the issue of merit retention. Judge Bell said:

> I happen to understand, with Governor Carter, that, if I am to be the Attorney General, we want to professionalize the Department of Justice. We want to depoliticize it to the extent possible. Otherwise, I would not care to be the Attorney General; he would not care for me to be the Attorney General, either. His ideas and mine are the same on that.
>
> If there is a United States Attorney who warrants retention on the merit system, as others who would be up for consideration, we would certainly give thought to retaining them. Otherwise, we would not be putting in a merit system.

Mr. President, I am heartened by Judge Bell's pledge to remove the office of U.S. attorney from the political spoils system. There is widespread support for such a move on both sides of the aisle, as evidenced by the statements of the junior Senator from New York (Mr. MOYNIHAN) this week. And the Senate, in considering the Bell nomination, does well to go on record in support of this timely reform.

Mr. President, I ask unanimous consent that the following material be printed in the RECORD: Excerpts from the hearing transcript on Judge Bell's remarks on merit retention, a copy of the National Association of Citizens Crime Commissions' letter to President-elect Carter endorsing merit retention, and the text of the aforementioned column by Neal Peirce.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOMINATION OF GRIFFIN BELL TO BE ATTORNEY GENERAL OF THE UNITED STATES

Senator THURMOND. The article further says, "The sampling showed a number of cases, such as one involving the Voting Rights Act, in which Bell voted to grant the claim of the civil rights advocates."

I just wanted to point those things out for the benefit of the record here.

I have just a few questions here I would like to ask you.

There have been press reports that the Carter administration will seek to institute some sort of merit selection process for United States judges and possible for U.S. Attorneys.

Judges, as you know, have lifetime tenure, whereas the U.S. Attorneys are appointed to a four-year term and confirmed by the Senate. Would you mind telling us your plans with regard to those U.S. Attorneys currently serving who you find have been doing an outstanding job and whose terms have not expired? Would you retain them until expiration of their terms, or would you seek to remove them from office prior to the expiration of their term regardless of the caliber of their service?

Judge BELL. With respect to United States Attorneys, we have not worked out a plan to have a selection commission. We expect to work with the senators in the states on a merit selection basis.

I have asked Judge Tyler, who is now the Deputy Attorney General, to send a message to all the U.S. Attorneys and the Assistant U.S. Attorneys that they should indicate, if they want to be retained on the merit system. That does not mean they will be retained, but they will have an opportunity to be considered for retention on the merit system.

I happen to understand, with Governor Carter, that, if I am to be the Attorney General, we want to professionalize the Department of Justice. We want to de-politicize it to the extent possible. Otherwise, I would not care to be the Attorney General; he would not care for me to be the Attorney General, either. His ideas and mine are the same on that.

If there is a United States Attorney who warrants retention on the merit system, as others who would be up for consideration, we would certainly give thought to retaining them. Otherwise, we would not be putting in a merit system.

Senator THURMOND. In other words, as I understand your position, if a U.S. Attorney has made a competent and meritorious record as U.S. Attorney, and if he desires to be retained, then you would give most careful consideration to him?

Judge BELL. That is exactly right.

Senator THURMOND. And you intend to establish a merit system, and this would be in line with such a merit system?

Judge BELL. Right.

I think if we are really serious about doing something about crime in this country, then we must go into some career service in the prosecutorial forces; just like we have a career service in the investigative area. I do not believe that we can make any progress until we do this.

This is just one phase of being serious about doing something about crime and about having a Federal criminal justice system and policy. That would be part of it.

Did you want to know about the district judges?

Senator THURMOND. How is that?

Judge BELL. I do not believe you asked me about district judges; excuse me.

Senator THURMOND. Go ahead and express yourself.

Judge BELL. I was going to say, on merit selection of judges—somebody is probably interested in this, so I might as well answer this now. We hope to have at an early date a system worked out where there will be a merit selection commission or committee in each circuit which will receive applications from all who want to be considered for vacancies on the circuit courts of appeals.

The present plan is that they would come up with five names, five nominees for the President; and the President will take one of those. That was the system we used in Georgia when Governor Carter was governor there; it worked very well. He would name the members of those circuit commissions.

This would enable us to have a merit system. Of course, the senators would retain their prerogative of saying that they did not like the nominee or did not like any of the nominees. There would be no disturbance of the present relationships under the constitution, where the Senate advises and consents.

With district judges, we are going to leave the selection just as it is, with the senators. But we are hoping, if the senators themselves would want to go to a merit selection commission; which would mean that if you had one in a state, then all who wanted to be considered would be considered.

In that regard, I have gotten a word now from several senators who want to go into

that system. I plan, when I can finish these confirmation hearings, to start working with the senators who are interested, and try to put that into effect.

Some senators will not want to do it; some will. Eventually, this is a way the whole judicial selection will go in this country, on a state basis and on a Federal basis. It is something we are working into, and we are making some progress.

NATIONAL ASSOCIATION
OF CITIZENS CRIME COMMISSIONS,
Philadelphia, Pa., November 29, 1976.

Hon. JIMMY CARTER,
President-elect of the United States, c/o Democratic National Headquarters, Washington, D.C.

DEAR PRESIDENT-ELECT CARTER: On behalf of the 25 independent, non-partisan Citizens Crime Commissions throughout the country, I respectfully urge that serious consideration be given to the retention of United States Attorneys on the basis of merit and, conversely, that replacements not be undertaken on the basis of political expediency.

While the turnover of federal offices by a new, incoming administration is justifiable in many respects, in the area of law enforcement the retention of competent, dedicated and courageous prosecutors must overshadow political considerations if the quality of our criminal justice system is to remain high.

Certainly, your personnel search team can determine which United States Attorneys, on the record, are doing the job for which they were appointed. Our citizens crime commissions are cognizant of federal prosecutors around the country who have developed very effective crime fighting programs and are aggressively investigating, indicting and prosecuting those linked to organized crime, white collar crime and political corruption.

To remove these high-minded crime fighters solely on the basis of political expediency would do a great disservice to our nation's law enforcement resources.

In the greater Philadelphia jurisdictions, most familiar since the Citizens Crime Commission with which I am affiliated serves this area, the two United States Attorneys responsible for New Jersey and Eastern Pennsylvania have been doing a commendable even laudatory, job. To remove these men because they are registered Republicans would only serve to deprive the jurisdictions of two viable, aggressive, able and experienced prosecutors.

We and other citizens have been heartened by your pledge to improve the federal criminal justice system. You can go far toward redeeming that pledge by retaining United States Attorneys of proven merit.

Sincerely,

IAN H. LENNOX,
President.

[From the Philadelphia Inquirer, Jan. 9, 1977]

THE U.S. ATTORNEYS: A TEST FOR CARTER

(By Neal R. Peirce)

WASHINGTON.—The level of integrity in the nation's state and local governments will be deeply influenced by decisions soon to be made by President-elect Carter and his choice for attorney general, Griffin Bell.

The question is: what kind of men and women will be selected to serve as the 94 U.S. attorneys—each a sort of mini-attorney general in his own judicial district—across the nation?

If there was one area in which the outgoing Republican administration indisputably served the public interest, it was in appointing U.S. attorneys who ferreted out official corruption in state and local governments, including some of the nation's most deeply entrenched Democratic machines.

Fired with prosecutive zeal, some went further and toppled leading Republicans—including a sitting Vice President, Spiro Agnew. Richard L. Thornburgh, chief of the Justice Department's Criminal Division, notes that without the prosecution by U.S. Attorney George Beall in Maryland, "you might well have had a President of the United States who was prone to accepting payoffs."

Never before in U.S. history have there been so many prosecutions of present and former local officials. And that wave of prosecution, according to Gov-elect James R. Thompson (R., Ill.) himself a former master prosecutor as U.S. attorney in northern Illinois, "can be traced—irony or ironics—to the Nixon-(John) Mitchell Justice Department. No administration ever did more to upgrade, professionalize and staff the U.S. attorney's office in the field, and then leave them unfettered in their choices of prosecution."

Literally hundreds including two former governors, state judges and cabinet members, legislators, mayors, county executives, councilmen, policemen and political leaders—were brought to the bar of justice and successfully prosecuted.

Now that checkrein—a Republican-controlled Justice Department keeping tabs on local Democratic machines and officeholders—will disappear.

All we have to go now is Carter's promise that he would appoint U.S. attorneys as well as judges "strictly on the basis of merit, not as chief political payoffs."

Traditionally, most of the men appointed U.S. attorneys—no woman has been appointed to that position since Congress created the post in 1789—turn in their resignations when a new President takes office.

But under law, U.S. attorneys serve four-year terms. Some top past U.S. attorneys—including Robert Morgenthau of New York in 1969, and Elliot Richardson in Massachusetts in 1961—tried to stay on but were eventually forced out.

Now two of the most outstanding U.S. attorneys, Samuel K. Skinner, Thompson's successor in Illinois, and David Marston in Eastern Pennsylvania—have said they will not resign, despite Carter's accession to the Presidency. Skinner has been a thorn in the flesh of the machine of the late Mayor Richard J. Daley; Marston has been pursuing allies of Philadelphia's Mayor Frank Rizzo, who claims major credit for carrying Pennsylvania for Carter.

Carter will be under tremendous pressure to replace Marston and Skinner with less aggressive political appointees. His decision will be an acid test of what he really means by "merit."

In addition, The New York Times has urged Carter to retain Robert Fiske in Manhattan, David Trager in Brooklyn and Jonathan Goldstein in New Jersey. There's also strong local support for retaining Terry Knoepp in San Diego.

Beyond these publicized cases, how will Carter, and Bell select most U.S. attorneys across the nation? In past years, both Republican and Democratic Presidents have accepted recommendations of each state's senior politicians of the President's party.

The Carter Administration could send out word that it will accept only recommendations of outstanding lawyers. It could—at the risk of offended sensibilities—junk the political referral system altogether.

If Carter goes in the other direction and appoints U.S. attorneys favored by local Democratic political bosses, his "clean" image could be irrevocably tarnished.

Such a strategy would, in fact, probably backfire. Any attempt to return to selective partisan prosecution and "put the kibosh on following the evidence where it leads," as Thornburgh puts it, would set off a storm of protest by the public and press. It might also trigger wholesale insurrection among assistant U.S. attorneys, now a professional group protected from indiscriminate firing by a recent court decision.

Even if Carter does nominate top-caliber U.S. attorneys, there's the remaining problem of the states' growing dependence on the federal government to expose and prosecute official corruption. Unfortunately, state attorneys general and district attorneys, American University Law Professor Anthony Morella notes, "more often than not are running mates and political allies of the office holders they should be investigating.

Even courageous and well-intentioned state and local prosecutors, Thornburgh says, "simply lack the tools that have made the federal operation a first-class one"—full-time staffs, adequate investigators, immunity and wiretap statutes, access to federal income tax returns, the services of the FBI and Postal Service inspectors.

With adequate resolve, the states' own powers—strong financial disclosure and conflict of interest laws, common law protections against abuse of office, special prosecutors—could be used to root out corruption. Federal law, constitutionally limited and designed for other purposes, is a blunt instrument by comparison.

But by "imagination, wit and daring," as Thornburgh puts it, federal anti-extortion, mail fraud and use immunity laws have been applied to state and local cases. "We aren't stretching the Constitution," he says, "but we certainly are stretching the law."

Some legal observers fear this will lead to a national police force, national set of courts and national criminal code, with possible Watergate-like abuses in a single, all-powerful U.S. Justice Department.

But without strong federal prosecution, there would be little to check ingrained corruption that has infected entire political systems, as in Maryland, Illinois, New Jersey, New York, Pennsylvania, Florida and West Virginia.

WORLD OIL AND FINANCE

Mr. STEVENSON. Mr. President, a short time ago the Banking Committee held hearings on OPEC oil pricing and the management of world debt. Those hearings made it clear that political stability and economic and financial well-being throughout the world are seriously jeopardized by continually increasing oil prices and the inflation, recession, and debt which they produce. The hearings also made it clear that the world is on a treadmill. Increased prices for oil add to OPEC surpluses. The OPEC surplus drains purchasing power from the rest of the world and, like a tax, dampens worldwide economic activity. A handful of the strongest countries and private banks assume the risks of channeling the surplus to the weakest, but the debtor countries' ability to repay is undermined by the oil-induced recession. Yet success in reviving economic activity inevitably strengthens OPEC's hand further. The cycle is thus perpetuated with each new cycle resting upon the unresolved problems of the last.

Walter Levy, a well-known oil economist, describes the problem well in a recent article in the New Yrok Times. I ask unanimous consent that the article be printed in the RECORD for the benefit of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WORLD OIL AND FINANCE

(By Walter J. Levy)

Some three years after the Organization of

Petroleum Exporting Countries' dramatic quadrupling of oil prices, uncertainties and dangers are still threatening the prosperity and stability of both oil-importing countries and OPEC alike.

With November 1976 production of around 33 million barrels per day, OPEC decided in December to raise oil prices: Saudi Arabia and the United Arab Emirates—accounting for about one-third of OPEC exports—by some 5 per cent as of Jan. 1, and the remaining 11 OPEC members by around 10 per cent now, plus 5 per cent more as of July 1.

The Saudis have also announced that they will raise their production as required, which in practical terms means that their output could increase in stages from some 9.3 million barrels per day to perhaps 11 to 12 million barrels per day by the end of 1977. (The Emirates' potential for increased production is comparatively small.) If the Saudis could, in fact, market these quantities, the production of the 11 in 1977 would decline by some three million barrels per day, to a level of about 17 to 18 million barrels per day.

But is this really likely to occur? The 11 are not going to watch passively any large-scale decline of their oil sales and revenues, on which a number of them have become desperately dependent. The Saudis, too, are bound to be concerned, as they would increasingly exchange oil reserves underground for surplus financial revenues, subject to erosion through inflation.

There is a danger that the tug of a supply-and-price war between the Saudi group and the 11 would be considered by either as a test of strength, with their prestige and credibility on the line. To avoid the danger of chaos, the most likely outcome would be some compromise.

But even if this split-pricing interlude should be resolved, there remain numerous other major problems. Within 10 to 15 years, in the absence of massive new oil discoveries, hydrocarbon production is bound to decline. As of now, nothing is in sight that would fill the energy gap of nearly every importing country in the world.

In the meantime, however, OPEC-cartel control, in the light of increasing oil demand and declining availabilities, is unlikely to collapse. Moreover, OPEC's pricing will openly or tacitly be supported by the governments of every non-OPEC country with substantial domestic energy production that applies OPEC pricing to its own production—such as the Britain, Norway, Canada, and probably, in due course, the United States. Also, any successful development of replacement energy would, barring a near miracle, be very exclusive.

This prospect for future oil and replacement-energy costs implies that for the foreseeable future the world faces foreboding financial problems, with the cost of oil imports from OPEC, in current dollars, possibly reaching $300 billion by 1985.

There are only very few importing countries that could benefit directly either from the financial deposits by OPEC countries, their investments, or their purchases of goods and services. Most of them will depend for their foreign-exchange revenues on the general improvement of their exports and the financial support from those few countries that will remain financially strong. These more-prosperous nations must thus "recycle" part of their revenues as grants or ever more dubious loans to the less-fortunate.

Much has ben said about the past success of recycling, implying that this is a phenomenon that would fade away in due course, like the Cheshire cat in "Alice in Wonderland." However, this sweeps aside the staggering increase in international indebtedness—especially of the less-developed countries—from about $90 billion in 1973 to some $170 to $180 billion as of now, involving, perhaps, close to 40 percent of private financing. Accordingly, each passing year, during which we have somehow managed to cope, makes the next one more difficult.

In the absence of an unprecedented expansion of world production and trade, we must thus establish the institutional and financial framework that could—if none of the existing institutions, such as the World Bank, International Development Association or the International Monetary Fund can appropriately undertake this task—handle the refinancing and new credit requirements of a large number of countries.

This presupposes that the financially strong members of the Organization for Economic Cooperation and Development and OPEC would be willing to support the most affected through their participation in international financial arrangements that would bridge the financial gap during an uncertain future. This must be done before large-scale defaults threaten a breakdown of confidence, with its nearly inevitable domino effect.

Governments are still watching a continuous erosion of the world's oil supply and financial systems, which, if nothing is done, could be comparable in its potential for economic and political disaster to the Great Depression. The time is late; the need for action, overwhelming.

DENVER HONORS MARTIN LUTHER KING

Mr. HASKELL. Mr. President, this week I received a copy of the first resolution adopted in 1977 by the Council of the City and County of Denver. The resolution designates January 15 as "Dr. Martin Luther King, Jr. Day" within the city and county of Denver and petitions the Congress of the United States to declare the same day an annual national holiday in honor of this great and good man.

I am proud that since 1971, Denver has set aside January 15 in memory of Dr. King. As a cosponsor of efforts to designate his birthday a national holiday, I hope the Congress will act quickly on this significant measure.

As we begin a new time in our national life—a time of healing and national renewal—it would be especially appropriate to honor this great American who, in the midst of strife and bitterness, preached love and brotherhood.

CONGRESS AND THE COURTS

Mr. STEVENSON. Mr. President, one of the Nation's most respected jurists, Justice Carl McGowan of the U.S. Court of Appeals for the District of Columbia, has written an article which warrants the attention of all the Members. He passes upon the long-range deterioration in the caliber of the Federal judiciary which results from a parsimonious congressional attitude toward salaries. And quite rightly he attaches larger importance to disabilities placed upon the Federal judiciary by a Congress which insistently delegates to the judiciary its own authority for which the judiciary is ill-suited and increasingly weighted down. It is an altogether thoughtful, dispassionate but provocative article about the relationship between the judiciary and the legislative branch. We would all profit from reading it and, therefore, Mr. President, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the American Bar Association Journal, December 1976]

CONGRESS AND THE COURTS

(By Carl McGowan)

The prevailing passion of Congress for judicial review is the central fact of life at the moment for federal judges at all levels of the system. It inevitably induces sober reflection by them about the current relationship between the Congress and the federal judiciary. On one aspect of that relationship, it is perhaps enough to note that, unlike other purchasers of services, Congress is in the uniquely happy position of being able to freeze the price. But, although many judges, including those so circumstanced as not to be under severe financial stress, are genuinely alarmed about both the immediate and the longer range deterioration in the calibre of the federal judiciary flowing from that policy, their abiding concern is with the more substantive question of the allocation of tasks by the Congress to the federal courts—their extent, their nature, and what they portend for the future.

The business of the federal courts, with the exception of the limited original jurisdiction reposed in the Supreme Court by the Constitution, depends on the affirmative action of Congress. The lower federal courts exist only by virtue of congressional action, as does the appellate jurisdiction of the Supreme Court. The business they do is restricted to what Congress authorizes and directs. What they in fact have been given to do has varied greatly since the first Judiciary Act of 1789, but the trend has been unmistakably, and now overwhelmingly, towards enlargement.

That trend is now vastly accelerating, as I myself can readily see when I compare the way I spent my working day on my entry into the system thirteen years ago with what I am doing now. My own court increasingly has become one preoccupied with civil litigation involving the federal government. During fiscal 1976 appeals of this nature constituted nearly three fourths of our business. They will soon become, I believe, more than 90 per cent of the total.

Paralleling the growth in the numbers of these appeals is an observable change in their nature—and in their novelty, complexity, and difficulty. And in their interest as well, perhaps I should add, at least for anyone with a fascination for the strange and wondrous workings of the far-flung federal establishment in both its executive and legislative embodiments.

This has been caused by a number of things. One is chargeable to the courts themselves. Progressive relaxation of judicially created requirements of standing has enabled almost any person to get into court to complain about almost any act or omission to act in the whole spectrum of federal activities. But the capacity of the courts to reverse that relaxation is now being impaired by a spectacularly increasing tendency on the part of the Congress to provide explicitly for federal court remedies and judicial review in every new federal statute.

This trend was impressively described and documented by Henry Friendly in his Carpentier lectures at Columbia in 1972. If you think Congress has heeded that or similar warnings, I can supply a long list of statutes enacted since then indicating that the current congressional love affair with federal jurisdiction is heating up rather than cooling.

There recently became effective the Social Services Amendments of 1974, which provide for civil actions in the federal district courts

to enforce state child support orders on certification by the secretary of health, education, and welfare. A few weeks earlier the president signed the Safe Drinking Water Act of 1974, which, after taking a deep breath, provides for (1) civil actions by the administrator to require compliance, (2) civil penalties, fines, and injunctive relief for failure to obtain permits, (3) exclusive review in my court of regulations promulgated under certain sections of the act and in other specified courts of appeals of regulations under other sections, (4) district court review of actions concerning variances or exemptions, and (5) civil actions by citizens in the district court without limitation as to the amount in controversy. The Endangered Species Act of 1973 also provides for citizens' suits in the district court without regard to jurisdictional amount, and the Older Americans Comprehensive Services Amendments of 1973 puts in the federal courts of appeals mandatory jurisdiction of appeals by states from the commissioner's actions.

These are but a handful of the newer jurisdictional grants, many of which deal with infinitely more complex, if indeed not more important, subjects.

CONGRESS APPLIES FEDERAL POWER

The pattern taking shape appears to be that of a Congress intent on bringing federal power to bear in an ever-widening range of human affairs but having no better answer for the monitoring, supervision, and enforcement of the exercise of that power than the employment of the federal courts. That is conceivably one way to govern the country, and perhaps we of the federal courts should be flattered by this seeming mark of confidence in our capacities. It may be, however, that it was not in this way or by heavy involvement in tasks of this nature that the federal courts achieved the prestige and popular acceptance they appear now to enjoy.

That prestige can only suffer if the federal courts are made to carry too active a role in what is surely in large part simply day-to-day public administration. A widely known statement of Charles Evans Hughes is, "We are under a Constitution, but the Constitution is what the judges say it is. . . ." What is less widely known is that those words were spoken by Governor Hughes in a speech to the Chamber of Commerce of Elmira, New York, in 1907. He attacked the railroads' effort to emasculate his bill to create a strong public utilities commission by hemming it in with sweeping provisions for judicial review. Those famous words were immediately followed by these:

". . . and the judiciary is the safeguard of our liberty and our property under the Constitution. I do not want to see any direct assault upon the courts, nor do I want to see any indirect assault upon the courts. And I tell you, ladies and gentlemen, no more insidious assault could be made upon the independence and esteem of the judiciary than to burden it with these questions of administration. . . .

"Let us keep the courts for the questions they were intended to consider. . . ."

We can believe that Hughes remembered these words when many years later as chief justice he faced and was instrumental in overcoming what was probably the most serious indirect assault ever made on the Supreme Court. Today, despite the fact that the prestige of the courts has never been higher, they are faced with a variety of widely differing "indirect" assaults. Some are of their own making. Those from without, happily, are mainly devoid of hostile purpose and often are the consequences of either indifference or exaggerated respect for judicial capabilities.

WHO IS MAKING THE LAWS?

The current congressional involvement of the federal courts in public affairs does not stop with their immersion in administration. It extends to the legislative process itself. A recurring phenomenon is for the legislative branch, in addressing itself to major areas of public concern, to finesse hard choices of policy that are likely to tie up elected legislators representing differing interests in knots of controversy and resulting inaction. Instead, it makes broad delegation of authority to department heads or newly created commissions to make those choices in the form of implementing regulations. In order to assure that the regulations are carefully scrutinized for conformity to the often dimly ascertainable congressional intentions, judicial review is provided by reference to variously articulated standards—arbitrariness, rational basis, or substantial evidentiary support in the record.

When that record is one made in informal rule making, it is indistinguishable in its content from the proceedings before a legislative committee hearing on a proposed bill—letters, telegrams, and written statements from proponents and opponents, including occasional oral testimony not subjected to adversary cross-examination. It is on that kind of record that members of Congress decide which way to vote on a bill, if they are among those who try conscientiously to inform themselves of anything other than the relative political weight of the lobbies at work. The resulting policy choices, when reflected in the statutes themselves, are virtually immune to judicial scrutiny except as constitutional barriers are transgressed. As Justice Brandeis said long ago, speaking for the Supreme Court, when dealing with statutes directly, courts presume that facts exist supportive of them.

The point is, thus, obvious. When by congressional delegation tantamount to abdication the policy choices are largely committed to agency rule making, the record before the reviewing court is essentially the same. No matter how the standard of review is articulated, there is wide latitude for judges to vote their policy views in the same manner as does the legislator. No matter how sensitive judges are of the necessity for restraint by a lifetime judge not accountable to the electorate, the opportunities and the consequent temptations are great to come down on the side of the judge's personal conceptions of policy. Even the humblest judges—and the most alert to the dangers of result-oriented adjudication—may slip, sometimes subconsciously, if their predilections are sufficiently engaged and thereby risk nullification of the principle that democracies are to be run in accordance with the majority will.

WHEN JUDICIAL REVIEW IS TRICKY

It is one thing for a federal judge to sit in judgment on an order of the National Labor Relations Board or of the Interstate Commerce Commission made in an adjudicated case on a record compiled in adversary proceedings under statutes concretely formulating legislative policy choices. It is quite another when the court is called on to review regulations made in rule making by an agency to which Congress has made a sweepingly broad delegation of power to put flesh on the bare bones of precatory prescriptions that there shall be cleaner air and unpolluted waters, or greater product safety, or working conditions less hazardous to health or safety, or greater conservation of energy.

This is a new kind of regulatory control that, as Prof. Murray Weidenbaum of Washington University has pointed out, departs widely from the older and more familiar model. The supervisory agency has no responsibility for the particular industry as a whole in its impact on the public. The focus is rather on a single aspect of its activities to the exclusion of everything else. Necessary as the new model may be thought to be in a physical environment staggering under the demands on it by a culture whose first law seems to be that the consumer must have what he wants, the problems inherent in it are not lessened by the second guessing of judges ill equipped by training or experience to make the judgments appropriate only for the elected representatives of the people, yet obliged to do so because of demand of the new model.

If federal judges hold a great potential of power to impose their views on many aspects of the modern economy, it is surely the Congress that has made them so by its penchant for combining broad delegation of law-making authority with sweeping, albeit sometimes inexpertly conceived, provisions for judicial review. In any event, my immediate concern is less with the implications of that approach for the philosophical underpinnings of our democracy than with its effect in adding new grist for the mills of an already overtaxed federal court system.

ALWAYS ADD, NEVER SUBTRACT

The prospect faced by the federal courts is that of a Congress always adding to their jurisdiction but never taking anything away. This is accomplished by a seeming indifference, as Chief Justice Burger has so justly complained, to the necessity of providing increased resources to enable the courts to cope with the rising tide. An example of this blithe approach is the Regional Rail Reorganization Act of 1973, the statute passed on an emergency basis to try to keep the bankrupt eastern railroads running while they could be reorganized on a unified basis. That act created a special three-judge district court to serve in effect as the reorganization court for seven railroads, including the Penn Central, with a very tight statutory timetable in which to get its work done. But no provision was made for additional judicial manpower or kindred resources. The system was somehow, presumably, supposed to absorb this additional task within its present capabilities, as it indeed has had to do.

At the same time, Congress seems unable to move on the pending suggestions to reduce the jurisdiction of the federal courts and to rationalize the means by which it is exercised. The American Law Institute's modest proposals for a more rational allocation of jurisdiction between the state and federal courts principally involve not a complete abolition of diversity jurisdiction, as should be done, but only closing the federal courts to resident plaintiffs. They have not been able in six years to reach the stage of final congressional committee consideration. In this instance the inertia of Congress is almost entirely attributable to a conspiracy of silence by the practicing bar. The politically sensitive legislators correctly interpret that silence as opposition, albeit one that must be largely covert because it cannot counter logically the reasonableness of the change.

The facts of life are that, with the average voter's understandable indifference to the intricacies of federal jurisdiction, the federal courts, with no lobby going for them, are vulnerable to any single special interest possessing some capacity, however slight, to punish at the polls.

What Congress was able to pass recently with no difficulty at all was a statute on judicial conflicts of interest—a subject that has about as low a priority as one can imagine in view of the comprehensive Code of Judicial Conduct proposed by the American Bar Association and embraced by the Judicial Conference of the United States as controlling on federal judges. Apparently members of Congress simply could not resist getting into that act. It did not cost anything, and it made it appear that they were alert to assure the better functioning of the federal courts.

Their other legislative achievement was to impose on the already struggling federal courts a rigid schedule for the disposition of federal criminal cases, and that at a time when the federal courts have been moving mightily and with visible success to bring this problem under control despite the dra-

matic increase in federal criminal prosecutions. No thought, of course, was taken as to how the courts could meet the new requirements without a substantial increase in judicial resources. Nor has any action been taken on the sweeping revision of the federal criminal code, including the elimination of a lot of offenses that do not require the exertion of federal power, proposed by a presidential commission a few years ago.

CONGRESS IN THE LITIGATION ACT

Meanwhile, there are to be seen in the burgeoning ranks of our litigants some new faces—those of members of Congress themselves. With the decline of standing requirements and the expansion of judicial remedies and review, a growing number of legislators have awakened to the political advantages of going to court to challenge executive, agency, and even legislative action. This attracts publicity and is likely to be popular with the constituents. It has few, if any, drawbacks, especially if there are *pro bono publico* groups or private law firms available, as there appear to be, to provide the legal representation.

I do not say that this is an undesirable development, but there may be implications of it not yet thought through with sufficient care. It might, for example, be unhealthy if the federal courts come to be regarded as a higher chamber where a legislator, who has failed to persuade his colleagues of the demerits of a particular bill, can always renew the battle before a tribunal that does not have to worry about re-election. And some might conceivably think that in certain contexts free legal services, if such there be, are perhaps indistinguishable in substance and effect from political contributions. In any event, this is one area in which the legislators are direct consumers of our product, and consumers peculiarly situated to do something about it if they are not satisfied.

The federal courts in Washington, because they are where they are, are undoubtedly more caught up in what may be called, for want of a better word, public interest or public affairs litigation. But we are not alone among the circuits in this respect. If what I see happening in our court is any guide, then it may be that private civil litigation is in for some hard times. For one thing, in the new regulatory statutes Congress is prone to provide that judicial review is to be forthcoming on an expedited basis and is to take precedence over other pending litigation. Already it is at least arguable that one who sues another to enforce a contract or to assert a tort or fraud liability is getting lost in the shuffle. He may be regarded at worst as a positive nuisance, or at best as a minor distraction of the court from the pressing public business at hand.

It has long been an article of faith, as Prof. Harry Jones of Columbia Law School reminded us in his excellent initiation of the John Dewey lectures on legal philosophy, that one of the great ends served by law and the courts is "the authoritative settlement of disputes beween individuals and between individual citizens and the state." In my own observation, it is that latter aspect that is pre-empting the time of the federal courts and very possibly to the subordination of the former.

Perhaps this was inevitable from the day we rejected the parliamentary system, electing to live under a written Constitution in which power is dispersed between three separate branches of government, and with one of those branches having, thanks to John Marshall, the authority to examine the actions of the other two by reference to that Constitution. Our revolutionary origins may explain why, in enacting a federal system, we tacitly accorded a primacy and priority to the individual's right to complain about his government over his grievance against his neighbor. Our colonial forebears may have felt that they usually could handle their neighbors by themselves but that standing up to George III called for something more than self-help.

However this may be, the preoccupation of federal jurisdiction with that primacy is large and growing, with inescapably adverse impact on the handling by federal courts of purely private litigation. This is something which, if I am right, the practicing bar must take into account in its own interest. Perhaps it may even decide that it has nothing to lose by speaking up on the subject of diversity jurisdiction.

DON'T DIM THE FLAME

The judiciary—at both state and federal levels—is an institution widely believed to be of critical importance to our national well-being. As the ultimate expositor and guardian of the Constitution, the federal judicial power has served for two hundred years as the torch that illumines the values embodied in that charter. Surely it is not the concern of lawyers alone that its flame be not dimmed by either congressional neglect or a too expansive concept by court or legislature of how far its light can reach.

THE FUTURE OF COMMON SITUS PICKETING

Mr. LAXALT. Mr. President, nearly 2 years ago an all-out attempt was started in the 94th Congress to enact a bill legalizing common situs picketing in the construction industry. That proposal, H.R. 5900, was ramrodded through the House of Representatives almost before anyone there could alert that body to the defects in that measure.

H.R. 5900 was a bad bill and it met the fate all bad bills should meet—it was stopped before it could become law. But stopping it required extended debate, two cloture votes in this Senate, and a Presidential veto.

I was opposed to passage of H.R. 5900, and I am proud to have been among the leaders in killing it. Evidence that our course was the proper course has accumulated in recent months. One of the best and most recent arguments against common situs picketing was published in the January 1977 issue of the Labor Law Journal.

Inasmuch as organized labor and many Democratic Party leaders are in favor of legalizing common situs picketing and secondary boycotts, I think it is safe to predict we will have another H.R. 5900 confronting us in the next few months. Lest anyone forgets how bad that legislation is, I ask unanimous consent to print the Labor Law Journal article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Labor Law Journal, December 1976]

THE FUTURE OF COMMON SITUS PICKETING

(By Stephen J. Cabot and Robert J. Simmons)

The Situs Picketing & Construction Industry Collective Bargaining Bill (H.R. 5900), vetoed by President Ford in a controversial decision last December, is a prize the building and construction unions have been seeking for the past 25 years. Under heavy pressure from many segments of the political, legal, and business communities, President Ford was backed into a politically explosive corner. Ford had given Secretary of Labor John Dunlop both public and private assurances that he would sign the bill. The political pressure of the President's strenuous campaign fight with Ronald Reagan for the Republican party's nomination and considerable reaction from the business community apparently had much to do with his decision to veto the bill. But that veto cost Ford the resignations of Dunlop and the eight union members of his Collective Bargaining Committee in Construction.

In his capacity as Secretary of Labor, John Dunlop vigorously promoted the proposed legislation. Dunlop based his support of the bill on the provisions which established the Construction Industry Collective Bargaining Act. The Act would have created a national commission to oversee wage settlements, modeled on the Construction Industry Stabilization Committee, an element of the Economic Stabilization Act of the early 1970's. It was Dunlop's position that this would stabilize wage rates in the industry and prevent "leap-frogging." To Dunlop, common situs picketing was the *quid pro quo* necessary to persuade labor to accept this commission.

The fallacy in his position lies in the fact that there is no logical or practical relationship between these two sections of the proposed law. They are not dependent upon one another or even complementary. The arrangement was purely political, designed to generate labor support for industry-wide collective bargaining by giving labor a juicy plum it has been trying to pick for 25 years.

Evidence of congressional support was strong enough, when the bill was recently passed by both Houses of Congress, to put opponents of the bill on notice that when Congress reconvenes after the presidential election, regardless of who the victor may be, the Common Situs Picketing Bill will surely resurface at an early date.

The common situs picketing legislation has been designed to overrule a long line of Supreme Court and National Labor Relations Board (NLRB) decisions. The bill would permit a union which has a dispute with a general contractor or a single subcontractor at a construction site (the "primary employer") to close down the entire project by picketing to prevent the employees of other subcontractors ("neutral" or "secondary employers") from working at that location. Present court rulings limit a union's lawful picketing of a construction job to the primary employer.

Legislation proposed at various times in the past would have permitted wide-open picketing of all employers at a construction project. The most recent bill included two relatively minor restrictions on picketing: ten days' notice to the parties involved and approval by the union's national office. These provisions were "designed to enhance the possibility of settling the dispute without a work stoppage."[1] Clearly, these provisions would have presented only minor inconveniences to the union.

The building trades unions view common situs legislation not only as a means for solving legitimate economic disputes, but primarily as a means to organize the construction industry. As a spokeseman for AFL-CIO President George Meany explained in the House hearings, the purpose of common situs is "to see every job in America a union job." Senate Committee Member Paul Laxalt (R. Nev.) correctly predicts that an extensive organization campaign in an industry 40% open shop by gross volume is likely to cause a "substantial escalation of strike activity."[2] Increased strike activity presents a serious threat to the already shaky economy of the construction industry.

LEGAL BACKGROUND

The proposed common situs picketing legislation addresses the law of secondary boycotts. A brief survey of the evolution of this

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body of law will place the proposed legislation in clearer perspective.

Secondary boycotts were first regulated under the federal system through the anti-trust laws. In *Duplex Printing Press Co. v. Deering*,[3] the Supreme Court held that the exclusion of labor union activities from the prohibition of the anti-trust laws effected by Section 20 of the Clayton Act was restricted to an immediate employer-employee relationship. Under that view, economic action by a union against an employer whose employees it did not represent, or whose wages and working conditions were not the subject of the dispute, was regarded as an unprivileged restraint of trade and, therefore, a violation of the Sherman Act.

Duplex was one in a series of opinions which led to a strong public reaction against the class bias of the federal courts in labor disputes. This finally culminated in the enactment of the Norris-LaGuardia Act in 1932. In *U.S. v. Hutcheson*,[4] the Supreme Court held that the rule of the Duplex case could not survive enactment of the Norris-LaGuardia Act. Similarly, the Court held that secondary boycotts were not regulated by the anti-trust laws.

THE TAFT-HARTLEY ACT

In response to the labor unrest at the end of World War II, which was evidenced by an increase in the number of secondary boycotts, Congress sought to limit the use of that economic weapon, not by re-introducing the anti-trust laws, but by adding § 8(b)(4)(A) (now § 8(b)(4)(B)) and § 303a to the federal labor law. The purpose of these sections, as enunciated by the late Senator Taft, is to protect a third person "who is wholly unconcerned in the disagreement between an employer and his employees." [5]

The particular aspect of secondary boycott law which has caused the repeated cry for common situs picketing legislation resulted from the Supreme Court's interpretation of § 8(b)(4) in *Labor Board v. Denver Building Trades Council*.[6] In that case, the general contractor on a construction project subcontracted certain electrical work to a non-union subcontractor who paid its workers less than union scale. When the non-union electricians reported to work, the Denver Building Trades Council picketed the entire job site. The union workers employed by the general contractor honored the picket line by refusing to enter the project. The Denver Building Trades Council wished to force the non-union subcontractor off the job, and the general contractor did, in fact, terminate his contract with the electrical subcontractor.

The Supreme Court affirmed a ruling of the NLRB which had held that because the general contractor and subcontractor on a building site were separate business entities, they were to be treated as neutrals with respect to each other's labor controversies. Thus, a union having a dispute with one subcontractor could not picket the other contractors and subcontractors at the job site without engaging in a secondary boycott under § 8(b)(4).

THE LANDRUM-GRIFFIN ACT

In 1959, Congress amended the Taft-Hartley Act to eliminate certain "loopholes" in the 1947 prohibition against secondary boycotts. These amendments enlarged the means and objects prohibited under § 8(b)(4) and added a new § 8(e) prohibiting agreements which were thought to facilitate secondary boycotts. In addition, violations of § 8(b)(4), as amended, but not of § 8(e), were made subject to suits for actual damages under § 303.

Section 8(e) makes it an unfair labor practice for any labor organization and any employer to enter into any contract or agreement whereby the employer agrees to cease doing business with any other person. This is called a "hot cargo" clause. A proviso to this section states that "nothing in this subsection (e) shall apply to an agreement between a labor organization and an employer in the construction industry relating to the contracting or subcontracting of work to be done at the site of the construction, alteration, painting or repair of a building structure or other work." Thus, construction unions were given a special exemption from the so-called "hot cargo" provisions of the Act.

A second decision which provides the framework for the continuing cry which resulted in the proposed legislation is *Electrical Workers v. Labor Board*,[7] (General Electric). The case arose out of a strike by General Electric employees at the General Electric Appliance Park in Louisville, Kentucky. The company utilized independent contractors for construction work on new buildings at its facility, and for work such as the installation and repair of ventilation and heating equipment, the retooling and rearranging of operations necessary to the manufacture of new models, and the "general maintenance work" at the plant.

To insulate GE employees from frequent labor disputes involving outside contractors, the company had set aside a separate gate for employees of such contractors. The union representing the manufacturing plant employees called a strike against the company and picketed all gates, including the separate gate. As a result of the picketing, a majority of the employees of the independent contractors refused to enter the company's premises. The Board found that the union's object in picketing the separate gate was to enmesh "employees of the neutral employer in its dispute with the company."

The Board held that this was a violation of § 8(b)(4)(A). The Court of Appeals for the District of Columbia Circuit granted enforcement of the Board's order. Review was then granted in the Supreme Court, which remanded the case to the NLRB with directions that the Board's original order be sustained unless the separate gate was used to a substantial extent by employees who performed work necessary to the normal operations of the manufacturer.

The Court recognized that the nature of the common situs problem called for the development of new concepts to protect the interests of both the neutral employers and the picketing union at the primary situs. The Court stressed the importance of the type of work being performed by those who use the separate gate and held that picketing a separate gate is primary strike activity when the work of the secondary employer relates to that of the primary employer. The Court also considered the implications arising from the mingled use of the gate by several independent contractors, some of whom perform related work. It was indicated that if there were a mingled use of the reserved gate, the picketing would be primary activity and permissible unless the work was so insubstantial as to be de minimis.

In *Building Trades Council (Markwell & Hartz)*,[8] the Board was presented with the opportunity to assess the applicability of the *General Electric* related-work concept to a primary employer in the construction industry. The Board held that *Denver Building Trades* prohibited the application of the related-work concept to the construction industry. The Court of Appeals affirmed, holding that General Electric did not deal with the construction industry and that the related-work rule was not one of general application. Had it been held that the related-work concept of General Electric applied to the construction industry, the Board would have been forced to reach one of two conclusions: either it would have had to ignore the realities of the construction picketing situation and hold that such work is unrelated and, therefore, that separate gate picketing is secondary; or it would have had to hold all such work to be related and, therefore, that all picketing at a separate gate is primary.

Proponents of various proposed common situs legislation which has been introduced over the years have felt that the distinctions between construction and manufacturing sites enunciated in the decisions of the NLRB and Supreme Court are without merit. They maintain that under the present law an independent subcontractor at a manufacturing site is not immunized from the labor dispute between the manufacturer and his employees if the work performed by the subcontractor is integrated into the normal operations of the manufacturer, while an identical subcontractor in the construction industry is so immunized. It is submitted that this analysis ignores the practical and economic differences between manufacturing and construction sites.

ECONOMICS

In its introductory comments on common situs picketing, the Senate Committee on Labor & Public Welfare noted that "[T]he present law ignores the economic reality of the integral relationship between contractors and subcontractors in construction, and imposes greater restrictions on the union right of concerted action in the construction industry than in other areas of employment." [9]

The "economic realities" to which the Senate Committee refers require careful examination. It is submitted that in reality the present state of the law does not ignore economic realities but, in fact, clearly reflects the unique problems and characteristics of the construction industry. It is further submitted that the union right of concerted action in the construction industry is not only less restricted than in other industries but also provides the construction worker with economic advantages not possessed by non-construction workers.

Proponents of common situs picketing argue that this measure is necessary to give construction workers equality with manufacturing workers in their ability to bargain with employers. One of the clearest indications of a union's bargaining power is the wages paid to its members. Even considering the seasonal nature of construction work, in strict monetary terms a construction worker makes far more money than non-construction workers and has enjoyed greater wage increases than his industrial counterparts. Average hourly construction wages increased from $3.70 an hour in 1965 to $7.17 an hour in 1975; the average increase for manufacturing wages was from $2.61 an hour in 1965 to $4.76 and hour in 1975. Other industries fare less well when compared with construction: the 1975 average hourly wage in mining was $5.20; in transportation $5.40; in finance, $3.81; in services, $3.74; and in the wholesale and retail trade, $3.47.[10] The wage settlements negotiated during the first half of 1976 illustrate that this trend has continued. A survey shows that, during the first half of 1976, 27% of manufacturing contracts included gains of 50¢ an hour; 37% of non-manufacturing contracts (excluding construction) included gains of 50¢ an hour; while 51% of construction contracts provided median gains of more than 50¢ an hour.[11]

In addition to enjoying higher hourly wages than other industries, construction unions enjoy special rights not available to other unions. Construction contracts are treated differently under the National Labor Relations Contract-bar rules. Construction unions have the right to pre-hire agreements, exclusive hiring hall agreements, and are exempt from the ban on "hot cargo" agreements.

Proponents of common situs picketing also advance the proposition that the relationship between contractors and subcontractors at a construction site is similar, if not identical,

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to the relationship among employers at a manufacturing site. In support of this reasoning, it is argued that contractors and subcontractors at a construction site are "joint venturers," rather than neutral employers.

An analysis of the relationship between contractors and subcontractors at a construction site reveals that this joint venture relationship does not, in fact, exist. The key to any joint venture relationship is control, more specifically the control that one joint venturer can exercise over the labor relations of one of the other joint venturers. Contractors and subcontractors negotiate and maintain independent labor policies. Therefore, one contractor cannot exert any effective measure of control over the labor relations of the other. The general contractor, although he usually must employ the services of one or more subcontractors and coordinate their work, has no direct contractual relationship with any of the employees of these subcontractors.

In light of their independent activities and lack of contractual relationship with, or effective control over, the employees of other contractors, the contractor and subcontractors at a construction site are not "joint venturers." The reasoning which the proponents of common situs picketing offer would make the employees of one contractor the employees of all the contractors at a construction site and, thereby, eliminate the status of each employer as an independent contractor.

IMPACT ON THE INDUSTRY

If common situs picketing legislation similar to the 1975 bill is passed by the next Congress, it will certainly have a disastrous effect on the construction industry, as well as on the nation's economic recovery. Common situs picketing legislation will not only cause an increase in the total number of strikes in the industry, but will also increase the extent of damage caused by each strike due to the conferral of secondary boycott power on the unions.

According to Federal Mediation & Conciliation Service Director James F. Scearce, as of June 1976 the incidence of strikes in the construction industry has been about half of what it was in 1975 due largely to the industry's slow recovery from the recession.[12] With the increased bargaining power of the construction unions made possible by common situs picketing legislation and the proposed use of common situs picketing as an organizational tool, it is clear that more frequent, more lengthy and more costly strikes are likely to occur.

Department of Labor statistics [13] graphically illustrate that the construction industry has been especially hard hit by the recent economic recession. Employment in all contract construction has dropped from 4,058,000 in May, 1974, to 3,465,000 in May, 1975. Unemployment in the industry was 21.8% in June, 1975, as opposed to 10.4% in June, 1974. During 1976, unemployment has remained at 18%, although this indicates a slight improvement in the industry's economy. If the projected increase in number and length of strikes due to common situs picketing occurs, it is likely that these figures will worsen and hinder the industry's economic recovery.

Perhaps the most alarming result of the enactment of common situs picketing legislation will be the increase in cost of each individual strike, and the resulting increased costs of construction as a whole. In the past, there have always been work stoppages which contractors have been able to plan around. There are various steps on the construction ladder which may be skipped and returned to as the need arises. Construction projects which previously could have continued to operate during strikes involving a few workers would be shut down completely. Contractors who in the past were able to calculate completion dates and costs based upon work stoppages due to contract expiration may now have to calculate for additional work stoppages for contracts which would have expired after the proposed completion date but which now will expire during construction due to extended delays caused by complete shut-down of the construction site.

Contractors' costs will rise according to the difficulties they encounter in completing their projects. Additional financing may become imperative. In industrial or commercial construction projects these increased costs will be reflected in increased rentals or costs of production. In turn, these increased rental and production costs will necessarily be reflected in the price of retail goods and services.

Figures supplied by the General Building Contractors Association, Inc. for construction during 1973–1975 [14] in the metropolitan Philadelphia area are illustrative. Metropolitan Philadelphia, consisting of the city and its four surrounding suburban counties, provides an excellent survey of the mixture of light and heavy construction projects found in a typical urban area. Within the city limits, an average of 88.3% of all projects over $50,000 were union jobs, compared to 43.3% non-union in the four-county area where light construction is paramount. However, based on dollar amounts, unions controlled virtually 99% of the work in Philadelphia and 72% of the work in the counties. In 1975 alone, union contracts accounted for over 550% more, in dollar amounts, than non-union projects in the metropolitan area.[15]

Translating these figures into forecasts, the urban areas, which traditionally experience a higher cost of living with a lower per capita income level, will suffer most from increased construction costs. Consumers in these areas will experience higher housing costs and higher costs of goods and services due to the increased cost of construction.

An area of particular concern is the light construction industry. The majority of non-union workers are concentrated in this area. If the organizational campaigns envisoned by the AFL–CIO occur as a result of the enactment of common situs legislation, this area of the industry would most likely bear the brunt of work stoppages. This would unsettle production just when the industry can least afford it.

Construction is the largest industry in the nation [16] and, as such, must play an important role in promoting over all economic recovery. The enactment of common situs picking legislation would cause costly disputes in this industry, thus delaying general economic recovery.

CONCLUSION

The fortuitous timing of the presidential election campaign is perhaps the only thing which prevented union success in this session of Congress. There is no question that the battle will begin with renewed vigor in the next session.

In this coming session, Congress can ill afford to ignore the nation's sagging economy; certainly it will seek to enact legislation that will promote economic growth. One of the key elements in the nation's economic growth is a healthy construction industry.

Common situs picketing legislation is not the answer to the problems that plague the construction industry, but will tend to exacerbate them. It is further submitted that, with the increased leverage that common situs picketing would give to the building trades unions, the construction industry's economic recovery would suffer a tremendous setback. Congress should not place the building trades unions' interest in strengthening their power before that of economic recovery of the construction industry and the nation.

FOOTNOTES

[1] Report with Supplemental & Minority Views (to accompany S. 1479), *Equal Treatment of Craft & Ind. Workers*, Committee on Labor & Public Welfare, Oct. 29, 1975, p. 43.

[2] *Ibid.*, p. 10.

[3] 254 US 443 (1921).

[4] 312 US 219 (1941).

[5] 93 Cong. Rec. 4198.

[6] 341 US 675 (1951) 19 LC ¶ 66,347.

[7] 366 US 667 (1961).

[8] 155 NLRB 319 (1965), enforced, 387 F. 2d 79 (CA–6 1967) 56 LC ¶ 12,322.

[9] Report with Supplemental & Minority Views (to accompany S. 1479), *Equal Treatment of Craft & Industrial Workers*, Committee on Labor & Public Welfare, Oct. 29, 1975, p. 10.

[10] "Monthly Labor Review," Bureau of Labor Statistics, August 1975.

[11] Median Negotiated Wage Gain, First Half 1976, Survey by the Bureau of National Affairs, Inc., 92 LRR 281.

[12] 92 LRR 120, June 7, 1976.

[13] "Monthly Labor Review," Bureau of Labor Statistics, August 1975.

[14] Commercial, industrial and institutional jobs only.

[15] Union contracts: $684,827,703; non-union: $80,703,585.

[16] At $135 billion-a-year total output, it accounts for approximately 10% of the GNP, according to the Dept. of Commerce. It employs about one out of every seven employed Americans.

SENATE VETERANS' AFFAIRS COMMITTEE

Mr. TALMADGE. Mr. President, the Georgia House of Representatives, now in session in Atlanta, has adopted two resolutions which, for myself and my colleague, Senator NUNN, I bring to the attention of the Senate, and ask unanimous consent that they be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

A RESOLUTION

Urging the United States Senate to retain the Senate Veterans Affairs Committee as a standing Senate committee; and for other purposes.

Whereas, members of Congress rely heavily upon their professional committee staffs to assist them in making decisions concerning legislation; and

Whereas, the members of both the Veterans Affairs Committees in Congress have capable, efficient and intelligent staff assistants to advise them; and

Whereas, if the Senate Veterans Affairs Committee is abolished and its function merged with other programs, the expertise of the present staff will be lost or mingled with other duties; and

Whereas, abolishment of the Veterans Affairs Committee in the Senate will seriously impede the ability of Congress to deal effectively with veterans' affairs, and such action by the Senate will constitute a major step backwards in our Nation's continuing efforts to provide quality care and service for our country's twenty-nine million (29,000,000) veterans.

Now, therefore, be it resolved by the House of Representatives that this Body does hereby urge the United States Senate to vote in favor of retaining the Senate Veterans Affairs Committee as a standing Senate committee and against all efforts to abolish or dilute the functions of the Senate Veterans Affairs Committee.

Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to transmit an appropriate copy of this Resolution to our two United States Senators from Georgia, the Honorable Herman E. Talmadge and the Honorable Sam A. Nunn, Jr.

A RESOLUTION

Urging the designation of the North DeKalb Human Service Center as a priority project to be funded with federal public works funds; and for other purposes.

Whereas, DeKalb County has applied for public works funds from the federal government; and

Whereas, DeKalb County received no funds despite considerable staff time and expenditures for plans; and

Whereas, it is the intention of DeKalb County to use these funds to construct the North DeKalb Human Service Center, a training center which is desperately needed for the profoundly retarded; and

Whereas, the present facility does not meet fire or health codes; and

Whereas, the property for the North DeKalb Human Service Center has been donated to DeKalb County by the federal government; and

Whereas, DeKalb County has expended public funds for demolition of the structure which was previously located on this property; and

Whereas, the Department of Health, Education and Welfare has notified DeKalb County of plans to reclaim said property unless a facility is built and is in operation by November 1, 1977; and

Whereas, a new public works bill is anticipated as a priority in the forthcoming Congress.

Now, therefore, be it resolved by the House of Representatives that the members of this body hereby urge the President-elect of the United States, the Honorable James E. Carter, Jr.; the Department of Commerce-Economic Development Administration; the Honorable Herman Talmadge; the Honorable Sam Nunn; the Honorable Elliott Levitas; and other members of the Congress of the United States to take all actions necessary to insure that the North DeKalb Human Service Center project be considered as a priority project to be funded with the next public works funds which become available and to insure that, in view of DeKalb County's expenditures, an extension be granted for the construction of the North DeKalb Human Service Center.

Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to transmit appropriate copies of this resolution to the Honorable James E. Carter, Jr., President-elect of the United States; the Department of Commerce-Economic Development Administration; the Honorable Herman Talmadge; the Honorable Sam Nunn; and the Honorable Elliott Levitas.

GENOCIDE AND THE BROTHERHOOD OF MAN

Mr. PROXMIRE. Mr. President, the Bible says "thou shalt not kill." Yet man goes on slaughtering his fellow companions. We are all brothers and sisters, regardless of race, color, creed, or nationality. Unlike Cain, we are our brother's keeper. Americans, as a nation, must show this in their actions concerning the Genocide Convention.

To overlook a crime is as bad as committing the crime yourself. We are overlooking the abhorrent crime of genocide. Americans, as a rule, have always been concerned with the little man—the oppressed peoples of the world. Yet for the past three decades, neglect has seeped into the Senate Chamber. In not ratifying the Genocide Convention, America has taken an "I don't care" attitude.

The Genocide Convention basically condemns genocide, and sets up structural guidelines for the trial and punishment of guilty offenders. It may not stop genocide, but it will lessen its occurrence. It is like the Geneva Convention, which lessened, but did not stop, POW abuse.

The Genocide Treaty is in the best interests of the United States. Signing the treaty would improve our international relations. Prospects of world peace stand to gain by an American signature. Mr. President, the eyes of the world, and more importantly, the eyes of God, are upon us. I urge the Senate to ratify the Genocide Convention.

VIETNAM U.N. MEMBERSHIP

Mr. STEVENSON. Mr. President, I believed it a mistake for the departing administration to deny U.N. membership to Vietnam last fall and said so at the time. It was an act which was seen by our allies as well as our adversaries as mean-spirited and petty. It was unworthy of a great nation with the responsibilities of world leadership. I am glad to see that William Colby, writing for the Washington Post, shares the view that Vietnam should not be barred from the U.N. Colby, with more experience and more of a personal stake in the Vietnam war than any of us in this Chamber, urges "a turn away from the past, from recriminations over broken promises and antagonistic policies, toward a future of mutual respect and repair of the damages of the war."

"The first step in such a process," he writes, "must be mutual recognition of the true future interests of each side, including the reality that neither should seek the humiliation of the other. Thus the new Vietnam properly asks recognition of its victory and identity in international circles such as the United nations. And the United States can properly ask that its recognition be received simply as such, and not cast in terms of American penance."

I hope that the new administration will find an early opportunity to indicate to the Vietnamese Government that opposition to its membership in the United Nations has been dropped. By this and other displays of concern for the future of a people whose blood we have shed along with that of our own we can mend some of the broken places in Southeast Asia as well as here at home. I am confident that a final accounting for the missing-in-action, still an unresolved agony for many American families, will follow, if we will show the new Vietnamese nation that we are prepared to, as Colby writes, "formulate a policy and program that will reflect the real interests of America—and of the Vietnamese people whose tenacity has carried their national integrity through more than 2,000 years of history."

Mr. President, I ask unanimous consent that William Colby's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VIETNAM: A WARRIOR'S PRESCRIPTION FOR PEACE

(By William E. Colby)

American MIAs, draft evaders and deserters dominate our policy discussions of how to close the book on our difficult Vietnam experience. Hundreds of returned POWs, thousands of relatives mourning the sacrifice of their loved ones, hundreds of thousands of Vietnam veterans all can for equal consideration as we attempt to put Vietnam in its proper historical perspective. But these are all Americans, and the Vietnamese also affected by the war are hardly part of our debates.

This American dimension to Vietnam long warped American policy. Our disdain for President Ngo Dinh Diem's Mandarin character led to his overthrow—and death. Our "smart bombs" destroyed trucks and trains but not bicycle porters. Our conception that modern war is fought by soldiers delayed for years our support for a "people's war" in South Vietnam.

Eventually, we turned to "Vietnamization." Five hundred thousand weapons were distributed to South Vietnamese villagers to use against those they viewed as enemies. Five hundred thousand American troops were removed from Vietnam. But even then we left American guns and tactics, useless when American ammunition and American-scale logistics were cut off.

As we formulate our policy for the future, will we make the same mistake? Will we concentrate on the American dimension and view Vietnam only as it affects America? Or can we formulate a policy and program that will reflect the real interests of America—and of the Vietnamese people whose tenacity has carried their national integrity through more than 2,000 years of history?

Yes, let us bind up our nation's wounds over Vietnam. Let us put behind us the division between those who believed they bore the "torch of freedom" in Vietnam and those who believed they lifted it in the anti-war protests. Let us honor those who answered the call to duty, and let us welcome back to the national family those who followed their consciences into disobedience or exile.

But let us not believe the task will be ended when its American dimension is complete. The burdens borne by Americans were small compared to those of Vietnamese. Families are still shattered, wounds unhealed, lives disrupted—on a scale that would have crushed a less stout people. These must receive equal attention when, as Lincoln said, we "care for him who shall have borne the battle, and his widow, and his orphan," and seek "a just, and a lasting peace, among ourselves, and with all nations."

The 130,000 refugees who fled Vietnam in April 1975 have been well received in America. Already, many are becoming productive members of the American community, as only that latest of the many waves of refugees, exiles and afflicted who contributed their talents to build this nation. But many did not escape in those last days. Some still put to sea in small boats hoping to be picked up by passing merchantmen or to circumvent Vietnamese and Cambodian patrols to reach sanctuary in Thailand or Malaysia. Some of these are coldly by-passed at sea, some reach the "sanctuary" to find that their presence is unwelcome either there or in farther ref-

uges, some die from the rigors of the sea or hostile patrols.

Many remain in Vietnam, if not being "re-educated" in camps, still held without communication or possibility of joining their families who were lucky enough to escape in April 1975. Many others are in Laos and Cambodia, where they too once looked to U.S. support of their struggle, if not with the pervasive American presence that characterized Vietnam. Some idea of the possible numbers of those who identified their cause with America can be judged from the 900,000 who chose to leave North Vietnam in 1954, when a three-month period of grace to do so was a provision of the accords that recognized that North Vietnamese victory.

And many others in all three Indochinese nations were affected by U.S. power: the bombed bridges and depot centers of North Vietnam, the wounded and maimed throughout the peninsula, the widows and orphans of our erstwhile enemies and allies. Debate about whether these injuries were caused by America's "best and brightest," North Vietnamese determination to dominate Indochina or anti-colonial revolutionary nationalism, can be left to the historians. The real challenge is whether the nation that rebuilt and repaired its allies and enemies of World War II can heal the wounds of its allies and enemies in Indochina, to achieve an equivalent relationship of respect and friendship with them. Can we apply another phrase from our Declaration of Independence so admired by Ho Chi Minh, that we hold Vietnam, "as we hold all Mankind, Enemies in War, in Peace Friends"?

The situation in Indochina is, of course, not the same as that after World War II. America faces a victorious rather than a defeated enemy. And the North Vietnamese David does not stand over a prostrate Goliath, but faces one with great remaining power and responsibility in the world. Neither can work his will over the other, and both can be prickly with pride in their future contacts. The way out, therefore, requires a turn away from the past, from recriminations over broken promises and antagonistic policies, toward a future of mutual respect and repair of the damages of the war.

The first step in such a process must be mutual recognition of the true future interests of each side, including the reality that neither should seek the humiliation of the other. Thus the new Vietnam properly asks recognition of its victory and identity in international circles such as the United Nations. And the United States can properly ask that its recognition be received simply as such, and not cast in terms of American penance. Intermediaries such as the World Bank and the Asian Development Bank are already acting to reduce the political frictions that direct dealings might bring, but nonetheless start the process of healing. And a group of American anti-war activists helped the process in their recent protest against violations of human rights by the victorious Vietnamese regime. They demonstrated that their opposition to earlier American policy was based on their view of principles, not blind support of the Vietnamese cause, then or in the future.

Each side in such a new relationship can ask actions by the other beyond mere recognition. Vietnam can ask assistance, direct or indirect, from the United States to rebuild. It can also ask assurance against efforts, overt or covert, against its new sovereignty, either by Americans or those benefitting from its protection.

On the other side, America has asked for an accounting of its MIAs. It also can ask for humanitarian treatment of its former allies and associates still within Vietnam, that silence from them does not mask retribution. In return for its assistance, it can ask that the family members of those who escaped in 1975 be permitted to leave and join their families. It could also request that those who served the United States during the war, or those closely associated with it in the South Vietnamese government, should also be allowed the 1954 option of exile from the new Vietnam. If the new masters of Vietnam truly wish to build a new society, they should release those who fought against it and will resist becoming a part of it.

As an aspect of the look ahead rather than backward, both sides could also agree to consign the misdeeds of the past to the mists of history, either air bombing or rockets, either grenades in marketplaces or "search and destroy." They could accept the impossibility of apportioning blame for the wrongs of more than a decade of war.

Within its own jurisdiction, each side can, of course, act on its own to repair the damage of the war. Vietnam's pride in its sacrifice and victory will become a chapter in the several millenia of Vietnamese history. "Re-education" as a genuine process and not a euphemism for imprisonment can lead many Vietnamese voluntarily to accept the new Vietnam, and with less cost than the brutal Cambodian tactic of class-elimination. America can give honor to those who responded to its call to duty to serve in Vietnam and to those whose consciences led them to protest or to refuse the call.

But America has an obligation not only to its own citizens and opponents with respect to Vietnam. To fulfill its commitments there, it must also rehabilitate those who fought beside us and looked, and still look, to a different future than the war's outcome has brought. Some may be rehabilitated elsewhere, but for many their only hope is to come to our shores, whether they are today in Thai refugee camps or looking out from the new Vietnam of which they will never be a part. When they, too, are part of the American community from which they had assurances of support in battle, then we can assert that we fulfilled our obligation to them in peace.

COMMENDATION OF BILL PARKER

Mr. PROXMIRE. Mr. President, in early 1971, the Cost Accounting Standards Board, which was established under Public Law 91-379, set about the task of promulgating cost accounting standards for national defense contractors and subcontractors. In the relatively brief period of time that has followed, the Board has promulgated a number of standards which I believe will profoundly affect the Government contracting business.

One of the charter members of the Board's small staff was William Parker who has been one of four project directors. Mr. Parker, in addition to the qualifications of a CPA, brought to the Board a broad base of experience and knowledge derived from important work that he had previously performed as a member of the staff of the Senate Committee on Aeronautical and Space Sciences and as a member of the General Accounting Office.

It is with substantial regret that I note the retirement of Mr. Parker. Throughout his years of service, he has epitomized the finest standards of public service. At the Cost Accounting Standards Board, he has been a key figure in the work of the Board in developing standards in a variety of important accounting areas. Each standard bears the hallmark of this highly skilled craftsman and his wide range of experience. While I have every confidence that the Cost Accounting Standards Board will continue to be the architect of standards of recognized quality, the task before them will be made more difficult by the loss of this valued staff member.

To a degree, not often applicable to people completing their careers, it can genuinely be said that William Parker has earned his retirement. Along with the many friends that he has made over the years, I want to add my congratulations and to wish him well in his future endeavors.

ORDER FOR RECESS UNTIL 2 P.M. ON MONDAY, JANUARY 24, 1977

Mr. ROBERT C. BYRD. Mr. President, now that we have reached agreements on time for debate on the nominations of Mr. Griffin Bell and Mr. Joseph A. Califano, Jr., I ask unanimous consent that when the Senate completes its business today, it stand in recess until 2 p.m. on Monday next.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR THE INTRODUCTION OF BILLS, RESOLUTIONS, AND PETITIONS WITHOUT A PERIOD FOR THE TRANSACTION OF MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday Senators may present statements in the RECORD, as in legislative session, introduce bills, resolutions, petitions and memorials without there being a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE INTRODUCTION OF BILLS, RESOLUTIONS, AND PETITIONS WITHOUT A PERIOD FOR THE TRANSACTION OF MORNING BUSINESS ON TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday Senators may present statements in the RECORD as in legislative session, introduce bills, resolutions, petitions and memorials without there being a period for the transaction of routine morning business.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, do I understand the request to be that there be authority for Members to introduce bills, memorials, petitions, and resolutions as if in morning business but there be no morning hour or morning business contemplated?

Mr. ROBERT C. BYRD. The Senator is correct, that there be no period for such but that Senators be permitted to include such in the RECORD as in legislative session.

Mr. BAKER. What about statements?

Mr. ROBERT C. BYRD. The same thing.

Mr. BAKER. They would be included?

Mr. ROBERT C. BYRD. They would be included in the RECORD.

Mr. BAKER. I thank the majority leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered, the Senate will stand in recess until Monday next at 2 p.m. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Very well.

Mr. BAKER. Mr. President, I have a unanimous-consent request, I believe, from the distinguished Senator from New Mexico, and, in the meantime, while he is reaching the floor, may I take 1 minute to report on a matter of importance I am sure to all of our colleagues?

Mr. ROBERT C. BYRD. Yes.

SENATOR BARTLETT

Mr. BAKER. Mr. President, it has come to my attention, and I wish to apprise our colleagues of the fact that the junior Senator from Oklahoma (Mr. BARTLETT) was today operated on at Sloan-Kettering Institute in New York City for a lung tumor. He was in surgery for a period of 6 hours and 20 minutes. They removed the top right third of the upper lobe of his lung. The operation was successful. Senator BARTLETT is in good shape, and it is anticipated that he will make a full recovery. He will be in the hospital there for a period of about 10 days and it will be about another 10 days or 2 weeks of recovery before returning to us for the transaction of business.

I am sure that all of us would like to convey our good wishes and ask God's blessing on him for speedy recovery.

Mr. ROBERT C. BYRD. Mr. President, I wish to associate myself with the remarks of the distinguished Republican leader.

We regret the fact that Mr. BARTLETT had to undergo such an operation. We are delighted to hear that his full recovery is expected, and we extend our good wishes on this side of the aisle for that early recovery and that complete recovery, we hope that these good wishes will be extended to him by the Republican leader.

Mr. BAKER. I thank the majority leader, and I assure him that they will be.

LIMITED RESERVATIONS—NOMINATIONS OF SECRETARIES BLUMENTHAL, KREPS, AND ANDRUS

Mr. SCHMITT. Mr. President, just very briefly, as a part of the RECORD, having to do with the nominations that were considered today and on which I voted positively in every case, I request unanimous consent that printed in that RECORD be some limited reservations that I have about several of the nominations, specifically that of Michael Blumenthal, of Juanita Kreps, of Cecil Andrus, and of BROCK ADAMS.

These are very limited reservations. I just think it is important that they be in the RECORD so that future evaluation can be correct and adequate.

Mr. President, I have voted in favor of confirmation of Juanita M. Kreps to be Secretary of Commerce; Cyrus Vance to be Secretary of State; BROCK ADAMS to be Secretary of Transportation; Thomas Lance to be Director of the Office of Management and Budget; W. Michael Blumenthal to be Secretary of the Treasury; Charles L. Schultz to be a member of the Council of Economic Advisers; Joseph A. Califano, Jr., to be Secretary of Health, Education, and Welfare; Cecil A. Andrus to be Secretary of the Interior; Dr. Harold Brown to be Secretary of Defense; and BOB BERGLAND to be Secretary of Agriculture.

As a member of the Senate Commerce and Finance Committees under temporary assignment, I had an opportunity to question Dr. Kreps, Congressman ADAMS, Mr. Blumenthal, and Mr. Califano during the confirmation hearings. During those hearings I urged each of them to develop efficient management systems within their respective departments and agencies and to eliminate overregulation of the lives and businesses of the American people whom they shall serve. I also urged them to use education, science and technology, whenever possible, to solve basic national problems, rather than merely to treat the symptoms of those problems with new regulations and spending programs.

Mr. President, in general the talent and experience that the nominees bring to the new administration is very great. I believe they are all qualified and satisfy the criteria for their jobs within the new Cabinet. I certainly believe that the President is entitled to have men and women working with him in whom he has complete confidence. However, I do have certain limited reservations concerning several of President Carter's choices which I believe should be entered into the RECORD.

Mr. President, I ask unanimous consent that the complete text of my statements concerning these nominees be printed in the RECORD at this point.

There being no objection, the reservations were ordered to be printed in the RECORD, as follows:

SECRETARY OF THE TREASURY—MICHAEL BLUMENTHAL

"My reservations are only that his concern about the effect of a large Federal deficit in Fiscal Year '77 as a consequence of President Carter's economic package seems to be inconsistent with his statements concerning inflation and the need for increased job creation within the private sector.

"Mr. Blumenthal testified that the Carter economic package would add possibly $15 Billion to the Federal deficit for FY77 which would be on top of an already projected deficit of approximately $60 Billion. A total debt of $75 Billion would seem to be a major pressure for increased inflation, and for a reduction in long-term job creation expenditures for new plant and production by the private sector.

"I hope that Mr. Blumenthal and the Carter Administration will move with great caution and restraint in attempting to stimulate an economy that appears to be recovering steadily. Too drastic a stimulus may throw us into another major cycle of increased unemployment that could far outweigh the short-term benefits."

SECRETARY OF COMMERCE—JUANITA M. KREPS

"In the case of Dr. Kreps, I do vote to confirm with some reservations. In particular, I am concerned that there is little in her background that provides experience in dealing with the overall duties and responsibilities of the Department of Commerce; even though that background is extremely impressive with respect to experience in management in corporate policy and in education. I hope that Dr. Kreps finds through the proper use of her subordinates a means to rapidly increase her capabilities with respect to the specific problems that will concern the Department of Commerce during her tenure as Secretary. I particularly hope that her knowledge will expand so that as she said at her confirmation hearing, she will be capable of 'asking the right questions.' She will find that the Congressional Committees dealing with Commerce will also be attempting to 'ask the right questions' as those Committees exercise their oversight responsibilities."

SECRETARY OF THE INTERIOR—CECIL B. ANDRUS

"New Mexico has learned to use coal responsibly without significant deterioration of the environment or land. I hope that Mr. Andrus will not advocate unnecessary restrictions on our ability to use the nation's energy resources in ways that are responsive to the needs of all regions and the security of the entire country."

SECRETARY OF TRANSPORTATION—BROCK ADAMS

"My vote to confirm Mr. Adams is cast with some major reservations about how he will actually perform as Secretary of Transportation. His abilities as a Congressman and his knowledge of the problems of transportation are without question. However, in one major area I will be looking very closely at his actual performance. This is the area of the application of the present technologies and future extensions of those technologies to solving fundamental problems in the field of transportation and in other fields related to the duties and responsibilities of the Department of Transportation.

"There has been a tendency in the past to attempt to solve major problems of transportation utilizing past or present technologies only. We often proceed without attempting to remove the roots of the basic problems through the long-term application of research and development, either within the Department itself or with the assistance of other agencies with expertise in the particular areas. For example: there has been a very strong attempt to regulate the efficiencies of the internal combustion engine, which is now the dominant means of moving individuals from place to place in this country, rather than attempting to assist the private sector in the development of new and more efficient propulsion systems. Such systems also can operate with much less environmental degradation than is possible with that engine.

"Mr. Adams seems to fit very well into the mold of the past. I would hope that through experience in his high office and through the recognition that there are new ways of doing things in this country of ours, ways which were not available just a few decades ago, that he will attempt to take the second step.

A step beyond the stabilization of a problem. A step that actually solves the problem.

"In transportation, as well as in many other fields of endeavor that are presently of great concern to this country, it is our fundamental technological base that will provide many of the solutions for which we seek. This technological base is our fundamental strength and has been for many, many decades. We must learn to use that base for the benefit of ourselves and mankind simultaneously. We must understand which technology can be used, not only to avoid environmental degradation, but to actually improve upon the environment for which we currently have such great concern. I commend to Mr. Adams a close examination, not only of what is possible in the present, but what could be possible in the future as he approaches the duties and responsibilities of the Secretary of Transportation."

Mr. SCHMITT. I thank the Chair.

Mr. BAKER. Mr. President, I might apprise the majority leader that there are no other requests for time or no other transactions for business on this side of the aisle.

Mr. ROBERT C. BYRD. I thank the Senator.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday is as follows:

The Senate will convene on Monday at 2 p.m., following a recess.

After the two leaders or their designees have been recognized under the standing order—and the Senate will be in executive session—the Senate will proceed immediately to the consideration of the nomination of Mr. Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of HEW, under a time agreement which is limited to 2 hours.

In any event, Mr. President, 1 hour after the Senate convenes—to wit, at 3 p.m.—the Chair will direct the clerk to call the roll to establish a quorum. Upon the establishment of a quorum, the Senate will proceed to vote on the motion which has been duly entered to invoke cloture on Mr. ALLEN's resolution, Senate Resolution 18.

If the cloture vote fails, the Senate will continue its consideration of the nomination of Mr. Califano, if it has not been disposed of prior to that moment. If it has been disposed of prior to that moment, it will be the intention of the leadership at that time to proceed to the consideration of the nomination of Mr. Marshall.

If the cloture motion is agreed to, then the Senate must proceed to the consideration of Senate Resolution 18 until action on that resolution is completed. That means that until the action on that resolution is completed, to the exclusion of all other business, the Senate could not return to the consideration of the nomination of Mr. Califano.

There will be at least one rollcall vote on Monday next, that being on the motion to invoke cloture. I anticipate that there will be a rollcall vote on the nomination of Mr. Califano.

Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the confirmation of the nomination of Mr. Califano.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on the confirmation of the nomination of Mr. Ray Marshall, of Texas, to be Secretary of Labor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask for the yeas and nays on the nomination of Mr. Marshall.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays at this time on the nomination of Mr. Griffin B. Bell to be Attorney General.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I ask for the yeas and nays on the confirmation of the nomination of Mr. Bell.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, we know that there will be at least one rollcall vote on Monday next. That will occur about 3:15 p.m. It is possible that a rollcall vote could occur on the nomination of Mr. Califano during the first hour after the Senate convenes; but if all time is used on that, under the time agreement, that rollcall vote would not come prior to the cloture vote. So there will be at least one rollcall vote, perhaps others, on Monday.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. SCOTT. I am a little concerned about the statement of the distinguished majority leader that after the action is taken on the Califano nomination, he would contemplate bringing up the nomination of Dr. Marshall. We are coming in at 2 o'clock on Monday, as I understand.

Mr. ROBERT C. BYRD. Yes.

Mr. SCOTT. We have agreed that on Tuesday we will spend 8 hours on the nomination of Judge Bell. I do not see where the time is coming from on the Marshall nomination, if the distinguished leader did bring that up. I just mention that as a concern.

It may be that there will be little discussion, but I believe there will be extended discussion. I am not talking about a filibuster. I believe that a number of Senators will want to speak on this matter. I know that we have no agreement as to that.

Mr. ROBERT C. BYRD. The Senator is not prejudiced by this statement of the program whatsoever. I have not asked unanimous consent that we proceed to the consideration of the nomination of Mr. Marshall on Tuesday following the disposition of the Califano nomination. I have asked for no time agreement.

I merely stated that it would be the intention of the leadership to attempt to get that nomination up on Tuesday if possible, and if it were to come up and were not to be disposed of on Monday, on Tuesday we have to take Mr. Bell and set aside Mr. Califano.

Mr. SCOTT. I appreciate the courtesy of the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank my friend.

RECESS UNTIL 2 P.M. MONDAY, JANUARY 24, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 2 p.m. on Monday next.

The motion was agreed to; and at 6:41 p.m., the Senate recessed until Monday, January 24, 1977, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate January 20, 1977:

THE CABINET

The following-named persons to the positions indicated:

Cyrus Vance, of New York, to be Secretary of State.

W. Michael Blumenthal, of Michigan, to be Secretary of the Treasury.

Harold Brown, of California, to be Secretary of Defense.

Griffin B. Bell, of Georgia, to be Attorney General.

Cecil D. Andrus, of Idaho, to be Secretary of the Interior.

Bob S. Bergland, of Minnesota, to be Secretary of Agriculture.

Juanita M. Kreps, of North Carolina, to be Secretary of Commerce.

Ray Marshall, of Texas, to be Secretary of Labor.

Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Health, Education, and Welfare.

Patricia Roberts Harris, of the District of Columbia, to be Secretary of Housing and Urban Development.

Brockman Adams, of Washington, to be Secretary of Transportation.

OFFICE OF MANAGEMENT AND BUDGET

Thomas Bertram Lance, of Georgia, to be Director of the Office of Management and Budget.

COUNCIL OF ECONOMIC ADVISERS

Charles L. Schultze, of the District of Columbia, to be a member of the Council of Economic Advisers.

U.S. REPRESENTATIVE TO THE UNITED NATIONS

Andrew J. Young, of Georgia, to be the Representative of the United States of America to the United Nations with the rank

and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States of America in the Security Council of the United Nations.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 20, 1977:

DEPARTMENT OF STATE

Cyrus Vance, of New York, to be Secretary of State.

DEPARTMENT OF THE TREASURY

W. Michael Blumenthal, of Michigan, to be be Secretary of the Treasury.

DEPARTMENT OF DEFENSE

Harold Brown, of California, to be Secretary of Defense.

DEPARTMENT OF THE INTERIOR

Cecil D. Andrus, of Idaho, to be Secretary of the Interior.

DEPARTMENT OF AGRICULTURE

Bob S. Bergland, of Minnesota, to be Secretary of Agriculture.

DEPARTMENT OF COMMERCE

Juanita M. Kreps, of North Carolina, to be Secertary of Commerce.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Patricia Roberts Harris, of the District of Columbia, to be Secretary of Housing and Urban Development.

DEPARTMENT OF TRANSPORTATION

Brockman Adams, of Washington, to be Secretary of Transportation.

OFFICE OF MANAGEMENT AND BUDGET

Thomas Bertram Lance, of Georgia, to be Director of the Office of Management and Budget.

COUNCIL OF ECONOMIC ADVISERS

Charles L. Schultze, of the District of Columbia, to be a member of the Council of Economic Advisers.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

OCEANIC OIL POLLUTION

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. WHITEHURST. Mr. Speaker, I have the privilege of serving as a member of the board of directors of the Oceanic Educational Foundation, an organization which has as its goal the establishment of world ocean education, covering the many aspects of the study of the sea, at all levels in the American school system, in order to bring the seas into educational balance with the land to sustain the future prosperity, safety, and security of citizens through knowledge of the world's oceans.

In that connection I recently received a copy of Oceans: Our Continuing Frontier, the courses by Newspaper Reader which is a project of the University of California, San Diego, university extension program. At this point in the RECORD, I would like to share with my colleagues one of the articles from that excellent book. It was written by Roger Revelle, Edward Wenk, Bostwick Ketchum, and Edward Corino, and it deals with the subject of oceanic oil pollution. It is well worth reading, as is the rest of the material in this book, and it points up the need for a concerted, international effort to prevent further damage to the oceans of this world.

I have previously mentioned my bills toward this end, H.R. 711 and 712, and House Joint Resolution 134, and I earnestly hope that legislation of this kind will receive favorable consideration in this session. Criteria for tanker safety must be established, and international treaties need to be brought up to date and promptly ratified. We have very little time left.

OCEANIC OIL POLLUTION

(By Roger Revelle, Edward Wenk, Bostwick Ketchum, and Edward Corino)

(Oil pollution is not confined to coastal areas; it poses an eventual threat to the ecosystems of the oceans of the world. Furthermore, as consumption of oil increases in our ever-expanding technological society, the problem of oil pollution is also likely to increase. In the following selection, Roger Revelle and three other experts analyze the extent and character of oil pollution—in which tanker accidents and offshore leaks play a relatively small part—and they suggest possible courses of action to control the problem. Revelle is director of the Harvard Center for Population Studies and former director of Scripps Institution of Oceanography; Wenk, a specialist in ocean engineering and public affairs, is a professor at the University of Washington; Ketchum is associate director of Woods Hole Oceanographic Institution; and Corino is with the Esso Research and Engineering Company.)

At the present time, the most conspicuously detrimental effects of oil pollution of the ocean are localized in extent and are caused by accidental spills in near-shore areas. These loci of concern, however, potentially include the coastal zones of every continent and every inhabited island so that the problem of accidental spills is of worldwide significance. Projections of future growth in ocean transport and offshore production of petroleum indicate that both the frequency and the damaging effects of local accidents are likely to increase.

Although accidental oil spills cause the most evident damage to ocean resources, they make up a small percentage of the total amount of oil entering the marine environment. At least 90 percent of this amount originates in the normal operations of oil-carrying tankers, other ships, refineries, petrochemical plants, and submarine oil wells; from disposal of spent lubricants and other industrial and automotive oils; and by fallout of airborne hydrocarbons emitted by motor vehicles and industry. The extent and character of the damage to the living resources of the sea from this "base load" of oil pollution is little known or understood. In the long run it could be more serious, because more widespread, than the localized damage from accidental spills.

The magnitude of oceanic oil pollution is likely to increase with the worldwide growth of petroleum production, transportation, and consumption. World crude oil production reached 2 billion tons per year in 1969, and production of 3 billion and 4.4 billion tons per year is predicted for 1975 and 1980, respectively.

SOURCES OF PETROLEUM HYDROCARBONS IN THE SEA

Petroleum hydrocarbons enter the sea:

1. Directly

a. in accidental spills from ships, shore facilities, offshore oil wells, and underwater pipe lines;

b. from tankers flushing oil tanks at sea;

c. from dry cargo ships cleaning fuel tanks and bilges;

d. from leakage during normal operation of offshore oil wells;

e. from operation of refineries and petrochemical plants;

f. in rivers and sewage outfalls carrying industrial and automotive wastes; and

2. As "fallout" from the atmosphere, probably as particles or in rain.

We shall consider all these sources except accidental spills as constituting the base load of oil polution in the sea.

ACCIDENTAL OIL SPILLS

At present, the average annual influx to the ocean from accidental oil spills throughout the world is probably about 200,000 tons. Most of these spills are relatively small. Out of 714 recorded accidental spills in U.S. waters in 1968, approximately half were from ships and barges, most of which were docked at the time of the accident. About 300 spills occurred from shore facilities of various types, and a few resulted from ships dragging anchor across submarine pipelines in bays.

Even under carefully controlled conditions accidental oil spills in port are negligible. Milford Haven, a relatively new British oil port, is adjacent to a national park, and great efforts have been made to control and prevent oil pollution. In 1966 the annual turnover at Milford Haven was 30 million tons with losses amounting to 2,900 tons or 0.01 percent of the total amount handled.

Accidental oil spills resulting from stranding or collision of large tankers and from accidents to offshore drilling or producing wells deservedly attract much public attention because of the extensive damage done to beaches, recreational areas, and harbors. The wreck of the *Torrey Canyon*, which discharged 118,000 tons of crude oil into the sea, is the best known example although somewhat smaller tanker wrecks have occurred elsewhere, such as off Nova Scotia and Puerto Rico. All large accidental spills to date have occurred fairly near shore, and the spreading sheet of oil has drifted or has been blown by winds onto beaches and into shallow water areas. Present efforts to contain and to dispose of the oil before it does extensive damage have been singularly ineffective. Agents such as talc, clay, and carbonized sand have been used to sink the oil. Various dispersing agents have been developed which break up the oil into minute droplets that are subsequently dispersed throughout the water. Earlier versions of these chemical dispersants were more toxic than the oil, but a number of essentially nontoxic dispersants are now available. Even with a nontoxic dispersant, dispersed oil is more toxic to marine life than an oil slick on the surface, primarily because of its increased availability to the organisms. With all our vast inventory of chemical agents, the best and safest means of disposal is apparently still absorption on chopped straw, if conditions permit.

The danger of large-scale accidents is increasing with the increasing size of tankers. Four 327,000-ton ships are already in operation; vessels of 500,000 dead weight tons will soon be constructed, and 800,000-ton vessels have been projected within the next few years. These monster ships have so much

draft and inertia and are so difficult to handle that a stranding or collision is more likely to result in a destructive wreck than with smaller ships. A loss of one of the new large tankers under conditions where it would be impossible to off-load the oil would add around 20 percent to the amount of petroleum entering the oceans in a single year.

Although handling difficulties increase with size, the increase is not directly proportional to size. Moreover, larger ships means fewer ships, and, therefore, traffic can be considerably reduced. Fewer ships also means crews can be limited to highly qualified personnel, and they can be better trained. The larger tankers could also afford to install highly sophisticated navigation gear which might be prohibitively expensive for the many smaller ships.

Spectacular "blowouts" from offshore oil well drilling and production make up a surprisingly small fraction of the total influx of oil to the ocean environment. For example, the widely publicized Santa Barbara blowout has so far produced only between 3,000 and 11,000 tons of oil. Similarly, the accident to a producing well off the Louisiana coast, which began on February 10, 1970, and lasted until the end of March, released only about 4,300 tons of oil. These figures emphasize the enormous amount of damage that can be done by a relatively small amount of oil concentrated over a relatively small, previously uncontaminated area. With present drilling and production technology, accidents of this kind are nearly inexcusable. Preventing them depends on institutional changes, not technical ones.

SOURCES OF THE BASE LOAD OF OIL POLLLUTION IN THE SEA

Most oil production occurs at some distance from processing and marketing areas and consequently much crude oil is transported in oceangoing tankers. In 1969, 1.3 billion tons, or about 65 percent of total oil production, was carried in tankers. Projections by the U.S. Department of Transportation indicate that the amount of oil moved by tankers will increase to 2.8 billion tons by 1980.

Normal tanker operations (ballasting, tank cleaning) were estimated to have introduced 530,000 tons of oil to the sea in 1969. Eighty percent of the world fleet used control measures ("Load on Top" or LOT). If LOT were practiced faithfully, these ships would contribute only 30,000 tons of the total losses compared to 500,000 tons from the 20 percent not using such measures. If LOT were used on all tankers, only 56,000 tons would be expected to be lost to the ocean through normal operations in 1975 and 75,000 tons in 1980. If 20 percent of the fleet continued to operate in the present fashion, total losses in 1975 and 1980 would be 800,000 and 1.06 million tons, respectively.

Nontankers, dry cargo ships of greater than 100 gross registered tons, are estimated to have discharged 500,000 tons to the ocean in 1969, primarily from pumping bilges and cleaning operations. This estimate is of low reliability because available data are very limited. The total amount, however, is comparable to that generated by the tanker fleet.

Offshore oil production is estimated to discharge during normal operations about 100,000 tons per year. At present, offshore production accounts for about 16 percent of total crude production. This percentage is expected to increase in the future, as new underwater fields are discovered and new technology permits extension of drilling and production into deeper water. Estimates of losses for 1975 are 160,000 to 320,000 tons and for 1980 are 230,000 to 460,000 tons. The smaller figures assume that offshore production will continue to represent 16 percent of world production, and the larger figures assume 32 percent. In both cases the assumption is made that no improvement in pollution abatement will occur. Many of the new wells will be drilled off the coast of nations that do not have the technological capabilities to enforce good drilling and production procedures or to deal with massive spills.

About 300,000 tons of oil are lost to the sea each year through normal operations of refineries and petrochemical plants. The estimate is based on extensive data from the American Petroleum Institute and private surveys by refineries and industry organizations. With present pollution control measures this figure could grow to 450,000 tons in 1975 and 650,000 tons in 1980. If some improvements in pollution control are made, as predicted by the U.S. Federal Water Quality Administration, oil lost to the sea from refineries and petrochemical plants could drop to 200,000 tons in 1975 and 440,000 tons in 1980.

Industrial and automotive waste oils and greases constitute a significant source of oil pollution in the marine environment. These include all petroleum products, except fuel, used and discarded in the operation of motor vehicles and industrial production, for example, spent lubricants, cutting and hydraulic oils, coolants, and solvents. Much of the disposal of these wastes occurs by dumping on land. An estimate of the quantity eventually finding its way into the ocean can be made from measurements of the hydrocarbon concentrations in river waters, multiplied by the total river discharge, plus the amounts contributed by sewage treatment plants which discharge directly to the oceans. . . . Rivers discharge . . . approximately 150,000 tons of hydrocarbons annually . . . to the oceans from the United States or about 450,000 tons for the entire earth. Perhaps as much as 150,000 tons of oil and grease are discharged to the ocean in municipal sewage effluents from U.S. cities and towns. A large fraction of oils and greases in sewage do not originate from petroleum. If we assume that one-third of sewage oils and greases are petroleum hydrocarbons and multiply by three to give the world total value we arrive at 100,000 tons per year from this source. Thus all industrial and automotive petroleum wastes entering the ocean may be about 550,000 tons. This amount should increase at about the same rate as total oil production, namely, to about 825,000 tons by 1975 and 1.2 million tons by 1980.

All the preceding estimated direct losses to the marine environment made up approximately 2.2 million tons per year in 1969:

[In millions of tons]

Accidental spills	0.2
Tanker operations	.5
Other ships	.5
Offshore production	.1
Refinery operations	.3
Industrial and automotive wastes	.6
Total	2.2

The total is expected to increase to between 3.3 and 4.8 million tons by 1980... Petroleum hydrocarbons entering the sea from all the above sources are about 0.1 percent of world oil production. If the possible fallout of airborne hydrocarbons on the sea surface is added, the total amount of oil and oil products contaminating the ocean may be as much as 0.5 percent of world production.

To give these figures perspective, we can make two historical comparisons.

Oil pollution of the marine environment existed long before the first oil well was drilled. This pollution came from natural seeps on the sea floor. There has never been any measurement of the quantity of oil entering the ocean from such natural seepage areas, but two lines of evidence indicate that it must be quite small, compared to the present amounts of oil entering the ocean because of human activities. First, if much oil had continually seeped into the ocean, all of the petroleum reserves would have long since disappeared. For example, if 100,000 tons of oil per year entered the ocean from natural seepages, within a few million years this would exceed the total estimated oil reserves of the entire earth. Second, we know from the Santa Barbara and Louisiana well accidents that any natural oil seepage producing even a few thousand tons of oil per year would have resulted in very conspicuous slicks of oil spreading over large areas of the surface. No such large natural slicks have ever been observed. Typically, natural seeps produce quite small quantities of oil which occasionally bubble up to the surface and produce small slicks. We estimate, therefore, that oil coming into the marine environment before the human use of petroleum began must have been considerably less than 100,000 tons per year, less than 5 percent of the present 2.2 million tons a year injected directly from land and marine sources.

Another point of comparison with today's annual influx of oil comes from the sinking of tankers and ships in World War II... The total quantity of oil lost in the ocean during the six years of World War II thus may have been about twice the annual direct influx to the ocean at the present time. As far as we know, no permanent damage was done to the ocean ecosystem by these rather large releases, perhaps in part because most of them occurred far from land in relatively deep water, and in part because much of the oil may have escaped into the sea very slowly, as the sunken tanks corroded away.

A great variety of hydrocarbons is produced by marine plants. . . . [It is estimated that] about 3 million tons of hydrocarbons enter the ocean from organic activity each year.

The direct influx of petroleum hydrocarbons to the ocean is small compared to the emission of petroleum products and chemically produced hydrocarbons to the atmosphere through evaporation and incomplete combustion. The emission of petroleum hydrocarbons to the air each year is about 90 million tons, roughly forty times the amounts of these substances entering the ocean directly from ships, shore installations, rivers, and the sea floor. Most of the hydrocarbons emitted to the atmosphere may be oxidized to harmless substances within a relatively short time. It is known that others are combined with nitrogen oxides and ozone to produce substances that are highly toxic to land plants. A fraction of the petroleum hydrocarbons emitted to the atmosphere exists as, or is absorbed on, very small particles, or becomes caught in rain, just as happens to DDT and other chlorinated hydrocarbon pesticides. Much of this fraction may settle out on the surface of the ocean. If 10 percent of the petroleum hydrocarbons emitted into the atmosphere eventually find their way to the sea surface in this way, the total hydrocarbon contamination of the ocean would be about five times the direct influx from ships and land sources. This quantity should be expected to increase about as rapidly as the total petroleum production, which means more than doubling by 1980.

PHYSICAL CONCENTRATION AND DISTRIBUTION OF OIL POLLUTION

Neither the base load of hydrocarbons nor the concentrated accidental sources can be expected to be distributed uniformly throughout the ocean. Obviously the intensity will be greatest near the sources and unloading points and the most heavily affected areas will be near the coasts.

It is likely that most of the oil entering the sea from ships, rivers, and the sea floor ends up in a narrow zone near shore at most only a few kilometers in width. Some of this oil will become absorbed on clay, silt, sand grains, and other particles and will settle to the bottom. The oil remaining in the water will evaporate or become oxidized. Biodegradation of the bottom-deposited oil will also gradually occur, but fractions of the bottom-deposited oil will continue to disperse into shallow overlying waters for

months or years. This inshore zone is the most sensitive to severe damage to the living resources of the sea from direct pollution by oil.

Submarine reservoirs of petroleum are likely to be found on the continental shelves of almost every continuent, and the incidence of local contamination from underwater drilling and production on the continental margins will ultimately be widespread.

Sources from ships as a result of tank cleaning, bilge pumping, and accidents will be expected to follow the pattern of tanker and other cargo routes, with the highest concentrations near ports and harbors and in semienclosed seas such as the Mediterranean, the Black and North Seas, the Persian Gulf, and the Gulf of Mexico. The total area of these water bodies is slightly over 2 percent of the area of the ocean, but perhaps one-fourth of the total oil pollution from ships and land sources may occur in them. The future development of oil production in the Alaskan North Slope and the Canadian Northern Archipelago may produce serious contamination in the Artic Ocean. Regional international agreements may be the most effective way to deal with the concentration of pollution in such semienclosed seas.

On the high seas, winds and ocean currents will bring about a convergence and retention of concentrations of hydrocarbons in the subartic and equatorial convergence zones such as the Sargasso Sea. Workers from the Woods Hole Oceanographic Institution have found that oil globules and tar balls are more abundant in the Sargasso Sea than the Sargassum weed for which the sea is named.

Probably most of the hydrocarbon fallout from the air onto the sea surface occurs in the mid-latitudes of the Northern Hemisphere. These latitudes contain the trajectories of the winds blowing from the industrialized countries. If hydrocarbons deposited from the air formed a surface film over most of the North Atlantic, its thickness might be about 1,000 angstroms.[1] Such a film should be detectable by suitable optical methods and might have physical as well as biological effects. It is more likely than most if the oil is in small particles, droplets, or tarry lumps, [. . .] and that much of it settles quickly below the surface. As we shall see, oil films and droplets near the surface and DDT and other oil-soluble chlorinated hydrocarbons may have combined effects on the high seas which may do serious damage to open ocean ecosystems.

MODES OF HYDROCARBON REMOVAL FROM THE OCEANS

Hydrocarbons in the sea are diluted and dispersed by natural mixing and eventually disappear by microbial or physical oxidation, evaporation, and burial in the bottom sediments.

Hydrocarbons dissolved or suspended in the water column are eventually destroyed by bacteria, fungi, and other microorganisms. Some workers have found that the most toxic compounds are also the most refractory to microbial destruction, though the evidence is somewhat conflicting on this point.

No single microbial species will degrade any whole crude oil. Bacteria are highly selective and complete degradation requires numerous different bacterial species. Bacterial oxidation of hydrocarbons produces many intermediates which may be more toxic than the hydrocarbons; therefore, organisms are also required that will further attack hydrocarbon decomposition products.

The oxygen requirement in marine bacterial oil degradation is served. Complete oxidation of one gallon of crude oil requires all of the dissolved oxygen in 400,000 gallons of air-saturated seawater at 60°F. (This is equivalent to a layer of water one foot deep covering 1.2 acres.) Oxidation may be inhibited in areas where the oxygen content has been lowered by previous pollution, and the bacterial degradation may cause additional damage through oxygen depletion.

The rate of oxidation is strongly affected by the temperature of the water, being at least ten times slower at 40°F than at 80°, and much slower still when the water is near freezing temperature.

[1] *Ed. note:* One hundred-millionth (10^{-8}) centimeter.

SORENSEN EVADES ISSUES OF SUBSTANCE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 20, 1977

Mr. McDONALD. Mr. Speaker, in an overwrought, highly emotional statement made before the Senate Select Committee on Intelligence Monday, Theodore C. Sorensen complained of "personal attacks on my integrity." However, Mr. Sorensen was appearing to make his statement before any witnesses were heard either on his behalf or in opposition to his nomination as Director of the Central Intelligence Agency and had not been the subject of any personal attack. But he was by then well aware of the evidence developed from his public acts and statements which proved his unsuitability for the post.

On Tuesday, January 18, Mr. Sorensen appeared on a national television program, and in the course of an interview said that those who opposed his nomination were "able to seize upon events in my life, which were totally innocent, and to distort them and to lie about them and spread these false accusations."

Making no attempt at refutation, Mr. Sorensen continued by making an attack on unnamed Members of the Senate saying,

> There is a different standard for Senators who are permitted to leak, permitted to have conflicts of interest, permitted to utter the most hypocritical statements, regardless of truth, and dissemble in other ways.

As one who respects our Senate, and also as one who vocally opposed the nomination of Mr. Sorensen, I believe that the record should be set straight, and his statement, a well-crafted exercise in evasion and innuendo, briefly analyzed.

First, Mr. Sorensen said that it was "totally false" that he had leaked classified information for political purposes. He then admitted that he had leaked classified materials to the press when directed to do so by the President. He admitted that he had removed classified material from the White House while he worked there and had taken it home. This is an exceedingly lax practice, yet Mr. Sorensen did not say whether in reflection he now considered that improper. It is not only improper, but indicative of those who feel that by virtue of high office they are above the law.

This arrogance is further demonstrated in Mr. Sorensen's sworn statement filed in 1971 in the case *United States* against *The New York Times Co.* in which he said:

> A determination by the Government or anyone else as to whether our nation's security requires the withholding from public view of any particular document or documents is not a matter requiring military or other highly specialized expertize.

Mr. Sorensen went on to say that his affidavits in the Pentagon Papers cases "accurately described the practices then prevalent in Washington." He also said he never "approved of anyone" who "compromised the national security of this country." Yet his affidavits were in support of the theft and dissemination of top secret Defense Department documents by Ellsberg and Russo, and his affidavits implied his own actions were somewhat similar.

Sorensen denied he improperly took classified and other Government documents with him when he left White House employment in 1964, but he went on to admit that although some of the documents had been produced by him, many of them had been produced by other people or had been made available to him only because of his White House employment. In the recent controversy over Secretary Kissinger's files, Mr. Kissinger had only claimed ownership of material he had produced.

Sorensen then went on to an involved attempt to justify his removal of an admitted 76 cartons of documents which indicates his double standard of public morality. He specifically stated that no "communications intelligence" documents were among the 76 cartons he removed from the White House. Yet among the documents in the two volumes among very many of the Pentagon papers which Sorensen specifically declared to be "innocuous" were communications which had been transmitted in our top codes marked "Top Secret—for the eyes of the President only." A foreign intelligence agency, by comparing the clear text with the coded transmission, can be aided greatly in breaking our cryptographic techniques. By his specific denial that he had removed communications intelligence documents for his own use, Sorensen shows clearly that he does understand the significance of communications intelligence documents to an enemy intelligence service: Why then did he defend Ellsberg's theft of the same sort of classified material?

When questioned by the press in a news conference immediately following his statement, Sorensen was asked as to whether he would condemn Ellsberg's actions now. He refused to answer saying that it was irrelevant in 1977 even though his support of Ellsberg was a major factor in his own unsuitability for high office.

In his attempt to shift his personal responsibility for the removal of White House and classified documents onto others, Sorensen stated that a General Services Administration official had informed him that the documents Sorensen had created and accumulated were his personal property. This appears to be a brandnew function for GSA, whose authority over building maintenance Mr. Sorensen would increase to include declassification of documents classified by

other and duly authorized Government agencies.

Mr. Sorensen admitted that after using those documents to write a book for his personal profit, he donated them to the National Archives and took a tax deduction reported in the New York Times as being $231,000.

Sorensen stated with regard to his two affidavits for the defense in the Pentagon papers cases:

I make no apology for having responded to the requests of counsel in both cases to attest to the inconsistencies and anomalities of government classification practices.

But Mr. Sorensen was not testifying about Government classification procedures.

Mr. Sorensen was testifying about the wanton violation of those classification procedures by persons taking advantage of their closeness to the President to avoid punishment for their actions. These people demonstrated they had no respect for the procedures instituted to protect our country's secrets. And in the New York Times Pentagon papers publication case, Sorensen testified he felt the release of the secret documents a benefit to the United States.

Further, as most of my colleagues who are lawyers by profession well know, in defending a criminal trial, the defense counsel is particularly careful as to what questions are asked of a friendly witness and how they are asked. In the Ellsberg case, Mr. Sorensen was cooperating with Leonard Boudin, for decades a member of the Communist Party's foremost legal bulwark, the National Lawyers Guild, whose firm has been the representative of the brutally repressive Communist regime of Fidel Castro in Cuba since 1961.

Both in his statement to the Senate Select Committee on Intelligence and on television, Mr. Sorensen made reference to his pacifist views and his former conscientious objector status as reasons for anonymous attacks on him.

Mr. Speaker, my statements regarding Mr. Sorensen's conscientious objector status and its implications were certainly not anonymous, and were clearly identified in the press and on the wire services as being made by me. Let me reiterate, I do not believe that the Director of the CIA, some of whose employees daily risk their lives in the service of their country, should be a conscientious objector. Mr. Sorensen registered as such 4 years before the outbreak of the Korean war; he made sure that he was not compelled to serve when that war broke out. Mr. Sorensen spoke of preferring service on the battlefield as a medical corpsman saving lives instead of taking lives but he performed no such service.

Mr. Sorensen also said that while he sought conscientious objector status for himself, he was quite prepared to advise the President to use his military options, in other words the lives of other men, in the furtherance of U.S. foreign policy. I maintain that it is the height of hypocricy to be willing to send other men to do what you say you find personally repugnant.

With regard to Mr. Sorensen's work for foreign principals, Mr. Sorensen stated on December 22, 1976, at a Plains, Ga., press conference that he had never registered as a foreign agent because there is an exemption for legal services under the Foreign Agent Registration Act. Yet in his Senate Intelligence Committee statement, Mr. Sorensen admitted that he had represented Iran, Zaire, Sierra Leone, and the Canadian province of Newfoundland in commercial disputes or negotiations. Under the law and as a matter of professional ethics, Theodore Sorensen should have registered as a foreign agent.

After asserting that all of these points about his past public activities—which contrary to logic, Mr. Sorensen insisted were private, Mr. Sorensen said there were only two legitimate questions which could be raised about his qualifications: "my experience in intelligence" and "the question of my views."

Mr. Sorensen stated in his Ellsberg affidavit that he had, during his employment by President Kennedey as White House Special Counsel, participated in National Security meetings. In his testimony for the defense in the trial of Daniel Ellsberg and Anthony Russo, Mr. Sorensen further stated:

I attended, after the Bay of Pigs [April 17, 1961], virtually all of the formal meetings of the National Security Council. I was not a statutory member, but was asked by the President to sit in and observe.

* * * * *

President Kennedy, very frankly, regarded the National Security Council formal meetings as something of a formal bore. He preferred to make real decisions on foreign policy in smaller sessions with those officials whom he regarded as being particularly informed and particularly concerned.

Mr. Speaker, it should be noted that I am only referring to the Russo/Ellsberg trial, a matter on which Mr. Sorensen complained at the Senate Intelligence Committee hearing, because Mr. Sorensen himself made no mention of any association with the National Security Council in his New York Times Pentagon Papers publication affidavit.

The transcript of a Plains, Ga., press conference on December 22, 1976, quotes Mr. Sorensen as saying,

I did serve on the Executive Committee of the National Security Council under President Kennedy.

Again, under oath, Mr. Sorensen spoke to the Senate Intelligence Committee of my service on the Executive Committee of the National Security Council.

The difference between being a nonparticipating observer and service on the Executive Committee is considerable; and this play with words was, I believe, indicative of Mr. Sorensen's imaginative skill to which I made reference in the testimony I prepared on his nomination. See CONGRESSIONAL RECORD, Jan. 17, 1977, pages 1341–42.

As he made clear in his Ellsberg testimony, Mr. Sorensen was not involved in setting policy. He was a White House speechwriter, responsible for articulating policies developed by others and explaining them to the press and public. Speechwriter to the President is an honorable position, but in no way can the reading of the daily CIA summaries and backgrounders provided to the White House be considered experience in intelligence.

Mr. Sorensen stated as part of his qualifications that he has written and lectured widely on international affairs. Again, that does not make Mr. Sorensen an expert in the principles of intelligence gathering. I would also note that among his lectures were speeches in 1967 and 1968 before businessmen's associations in which he advocated increased trade with the Soviet Union despite Russian equipping and sponsoring the North Vietnamese Communists who were killing U.S. servicemen in Vietnam. Mr. Sorensen stated he had met with Soviet Foreign Trade Minister Nikolai S. Patolichev who also, of course, supported U.S. sales of high technology items to the U.S.S.R. But Mr. Sorensen did not tell his audience that he was then representing American business interests seeking to expand their sales to the Soviet Union, and that an increase in such trade would be of direct financial benefit to him and his firm.

With regard to his views, a topic he feels is legitimate, Mr. Sorensen stated that he is not a pacifist. But I believe I have already sufficiently discussed the hypocrisy of a man who states he has been ready to risk other men's lives in military actions he personally finds morally repugnant.

Equally serious is Mr. Sorensen's statement that he would virtually abolish clandestine CIA activity. In his 1975 book, "Watchmen in the Night," Sorensen wrote:

The covert political and paramilitary operations of the CIA (as distinct from its foreign intelligence and analysis functions) still occupy too much of its budget and personnel. * * * The continuing value of these clandestine operations and their effect on U.S. foreign relations should be critically reexamined * * * in the light of progress toward detente, developments in international and constitutional law, the new technology of intelligence collection and analysis, and the demonstrated ineffectiveness of any foreign operations, overt or covert, which are not backed by a broad national consensus.

In his Senate statement, Sorensen said he favored a foreign policy that prefers where possible the risks of peace to the risks of war and that believed in:

The application of moral and legal standards to national security decisions, including the limitation of covert operations to extraordinary circumstances involving the vital national interests of our country, with timely review by the appropriate Congressional Committees and written authorization by the President and his senior Cabinet officials.

Here we have Mr. Sorensen advocating policies also pressed by groups reflecting the policies of Moscow and Havana such as the Institute for Policy Studies, Center for National Security Studies and Center for Defense Information, which hold that the United States should restrict its intelligence agency to mere collection of publicly available documents—a joke in Communist countries, and the long-range technical collection of information such as satellite photos and the monitoring of radio broadcasts.

Under these rules the United States may not develop another General Penkovsky or use any other person as a

covert intelligence agent; nor can the United States provide any covert assistance, financial, technical or whatever, to any free world ally, whether country, group or individual, who is fighting Communist subversion.

We have heard from representatives of the American Civil Liberties Union which is working closely with the above-named groups the bizarre morality used to condemn covert operations—that anything covert requires a cover story and that a cover requires deception, deception requires lies, and therefore all covert activities are "immoral" and must be abolished.

It is a perversion of morality to argue that in 1977, faced with the activities of hostile intelligence agencies in the service of aggressive totalitarian regimes who have vowed our ultimate destruction, the United States must forswear any secret methods of finding out what our enemies intend and of aiding our friends.

In commenting on the Senate Intelligence Committee hearing for the benefit of a TV audience Tuesday, Mr. Sorensen said,

> I worry about a country in which an individual who has done no wrong, who had not even been heard yet in his own defense, could be condemned and prejudiced on the basis of these false, anonymous accusations.

But it was apparent that Mr. Sorensen's statement and withdrawal from the nomination last Monday, and his press statements since have been designed to prevent the facts from being aired. He was not questioned by the Members of the Senate Committee; nor were those prepared to testify to the facts concerning him given the opportunity.

Mr. Sorensen acted so that only his own self-serving statements would appear on the hearing record; however, the Senate Select Committee on Intelligence did enter into the hearing record the affidavits Mr. Sorensen had made in the Ellsberg and New York Times Pentagon Papers cases.

THE SORENSEN AFFIDAVITS

Mr. Speaker, herewith are the full texts of the affidavits which Theodore C. Sorensen submitted in the two Pentagon Papers cases, United States against New York Times Company, et al., and United States against Russo and Ellsberg:

[In the U.S. District Court, Southern District of New York, Civil Action 71-2662]

UNITED STATES OF AMERICA, PLAINTIFF, v. THE NEW YORK TIMES COMPANY, ET AL., DEFENDANTS

STATE OF NEW YORK,
County of New York, ss:

Theodore C. Sorensen, being duly sworn, deposes and says:

1. I am a member of the law firm of Paul, Weiss, Goldberg, Rifkind, Wharton & Garrison, 345 Park Avenue, New York, New York.

2. Having served as a lawyer in both the Executive and Legislative branches of the Federal Government from 1951 to 1964, including more than three years as Special Counsel to the President, at which time I held a top security clearance, read classified documents daily, and drafted many such documents to or for the President, I am very familiar with the United States Government's practices regarding the classification of various papers in the name of national security.

3. Having read the materials appearing in the New York Times on June 13, 14 and 15, 1971, I am familiar in a general way with the Times' publication of summaries of, excerpts from and documents attached to a historical study of this nation's deepening involvement in the Vietnam War conducted by the Department of Defense.

4. A determination by the Government or anyone else as to whether our nation's security requires the withholding from public view of any particular document or documents is not a matter requiring military or other highly specialized expertise. The highly individual and frequently arbitrary opinion of the classifying officer is thus entitled to no or little more weight than the opinion of any other informed and concerned citizen. "Top secret" stamps are frequently and routinely applied with only the briefest and loosest consideration of what, if any, direct and concrete injury to the nation's security interest would result if the general public were to be granted access to the information; and, once applied, the tenure of such classification rarely if ever reflects a thoughtful reconsideration of whether the passage of time and events has altered the original grounds. The public's right to be informed, and the Congress' right to be informed, have not to my knowledge been regarded as important criteria by those determining classifications.

5. The nation's security does legitimately require the withholding from public view for an appropriate period and no longer certain documents, including those which if revealed could endanger or otherwise adversely affect the lives or movements of American military personnel. In addition, foreign governments are ordinarily entitled to expect that their confidential communications to our government will be treated with the same regard for their wishes as they provide for our confidential communications to them; and the President is ordinarily entitled to receive the kind of candid advice and reports from his top civilian and military subordinates which is possible only if they can be certain that words intended for his eyes alone are not shortly thereafter transmitted to the general public.

6. The question of whether any particular document or documents should remain secret today is thus one of balancing these interests, and the New York Times, a Federal Judge, a Senator or a citizen may be as capable of making that judgment as any one in the Executive Branch. My own judgment is that, on balance, publication by the New York Times of the documents in question in this case is not injurious to the national security. No current or future military operations or present top government officials appear to be involved in any way. No serious embarrassment to any foreign government appears to be involved. None of the information and opinions revealed appear to have any current facets requiring continued secrecy.

7. On the contrary I believe the national security interests of the United States will be irreparably injured if these documents are suppressed from public and Congressional view; if the United States, on the verge of several fateful decisions in the Middle East, Latin America and Asia, is thereby prevented as a nation from learning the true history of what went wrong in Vietnam; if the same policies of concealment and deception which prevented debate and produced mistakes in this nation's approach to Vietnam are thereby judicially encouraged to continue; if the very purpose of this objective historical study is thereby frustrated, and the cost in time and talent invested in its evolution wasted, by confining its circulation to a handful of high officials who largely supported the original policy; and if the courts of this country, by enjoining a free press and permitting the concealment of official error, thereby erase still one more important distinction between ourselves and our adversaries.

8. I understand that this affidavit will be submitted in opposition to the motion made on behalf of the Plaintiff for an order enjoining further publication by the New York Times of this material.

THEODORE C. SORENSEN.

NEW YORK, N.Y., *June 17, 1971.*

[U.S. District Court for the Central District of California, No. 9373-(WMB)-CD]

UNITED STATES OF AMERICA, PLAINTIFF, VS. ANTHONY JOSEPH RUSSO, JR., DANIEL ELLSBERG, DEFENDANTS

STATE OF NEW YORK,
County of New York, ss:

Theodore C. Sorenson, being duly sworn, deposes and says:

1. I am a member of the law firm of Paul, Weiss, Rifkind, Wharton & Garrison, 345 Park Avenue, New York, New York.

2. Having served as a lawyer in both the Executive and Legislative branches of the Federal Government from 1951 to 1964, including more than three years as Special Counsel to the President, at which time I held a top security clearance, participated in National Security Council meetings, read classified documents daily, and drafted many such documents to or for the President, I am very familiar with the United States Government's military, diplomatic and intelligence operations, policies and practices, as well as those regarding the classification of various papers in the name of national security. I regard myself as a devoutly loyal citizen who is proud of his years of public service and who recognizes the need for a limited amount of secrecy in government.

3. I can flatly state that "top secret" stamps are frequently and routinely applied with only the briefest and loosest consideration of what, if any, direct and concrete injury to the nation's security interest would result if the general public were to be granted access to the information; and, once applied, the tenure of such classifications rarely if ever reflects a thoughtful reconsideration of whether the passage of time and events has altered the original grounds. The public's right to be informed, and the Congress's right to be informed, have not to my knowledge been regarded as important criteria by those determining classifications. Nor is consideration given to the danger of irreparable injury to the national security interest of the United States if the public and Congress are denied facts necessary for an informed judgment, enlightened debate, the correction of mistakes, the discontinuation of invalid policies and strategies, and the prevention of a repetition of past errors.

4. I have frequently read classified documents containing information which was not secret, or the secrecy of which was not necessary for any conceivable purpose related to national security as distinguished from political embarrassment, or which the public and Congress had every right and reason to know in a democracy. Many such documents contained information which was well known to this country's enemies or adversaries who were involved therein; and thus the only people denied this information as a result of the classification of the documents were the members of the Congress and the general public.

5. During my years in the White House it was not unusual for me or other government officials to have photocopied or otherwise reproduced classified documents or excerpts therefrom; to take such documents home for review; or to quote from them, summarize them, or otherwise utilize them in "off-the-record," "background," or other kinds of sessions with one or more representatives of the news media and occasionally in speeches. No

formal authority was sought or obtained for such use, and no investigation or prosecution ensued. On the contrary, the President, Secretary of State, Secretary of Defense, Attorney General, Special Assistant for National Security Affairs, Director of C.I.A. and other members of the National Security Council knowingly and deliberately disseminated such information from time to time in order to advance the interests of a particular person, policy, political party or Department, or the Administration itself or, in their opinion, the national interest. Lesser officials often did the same for these reasons and others—including the maintenance of friendship with newsmen, a desire to demonstrate how much they knew or how important they were, a desire to undercut a rival official or agency, or a desire to oppose a policy or proposal with which they disagreed. While the President frequently expressed irritation over these "leaks" of classified information and documents, an investigation was rarely ordered and—even where the originator of the unauthorized dissemination was discovered—prosecution was never ordered.

6. It was the view of President John F. Kennedy "that the dangers of exclusive and unwarranted concealment of pertinent facts far outweigh[ed] the dangers which are cited to justify it . . . No President should fear scrutiny of his program. For from that scrutiny comes understanding; and from that understanding comes support or opposition. And both are necessary . . . I have complete confidence in the response and dedication of our citizens whenever they are fully informed . . . [G]overnment at all levels must meet its obligation to provide you [the press] with the fullest possible information outside the narrowest limits of national security . . ." (Address, American Newspapers Publishers Association, April 27, 1961.) Even this speech, in which the President at the height of the Cold War was concerned about the publication of necessarily secret information and appealed to the nation's press to voluntarily and privately consider its own responsibilities in this regard, he refused to propose, much less impose, any form of governmental restraint, and spoke sharply against censorship, concealment, the stifling of dissent and the covering up of mistakes, and urged only self-discipline and self-restraint as the basis for preventing harmful unauthorized disclosures. On the basis of many conversations with the President on this topic, I know that this was consistent with his belief and practice. He stated to me and others his belief that the press erred in withholding the advance information it possessed on the Bay of Pigs invasion, inasmuch as revelation of the real facts would have caused him to call off that ill-considered venture.

7. In the course of working on that speech for the President, and preparing for his subsequent meeting with the nation's top editors on this topic, the Central Intelligence Agency and others directed to my attention a long list of unauthorized disclosures to the press which, in the opinion of the C.I.A., seriously compromised our national security. Some of these examples were summarized in the aforementioned Presidential speech as follows:

"[D]etails of this nation's covert preparations to counter the enemy's covert operations have been available to every newspaper reader, friend and foe alike; that the size, the strength, the location and the nature of our forces and weapons, and our plans and strategy for their use, have all been pinpointed in the press and other news media to a degree sufficient to satisfy any foreign power; and that, in at least one case, the publication of details concerning a secret mechanism whereby satellites were followed required its alteration at the expense of considerable time and money."

Further examples provided to me after this speech included newspaper and magazine stories revealing details on new weapons; on U.S. methods of detecting Soviet missile and other tests; on SAMOS and other reconnaissance satellites; on the U.S. bargaining position in advance of the Test Ban talks in Geneva; on the internal memorandum regarding military strategy from the Secretary of State to the Secretary of Defense; on comparative U.S. and Soviet developments in the use of nuclear propulsion for submarines, carriers, aircraft, rockets and power plants; and on a variety of Soviet weaponry developments, publication of which revealed to the Russians our ability to monitor those developments. I was also informed that the technical details of a nuclear weapon triggering device had been leaked a decade earlier to Drew Pearson. Being generally familiar with the "Pentagon Papers" which appeared in the press last year, I know of nothing in those documents which compares in any way with the seriousness of some of the above mentioned disclosures. Revelations of past strategy, discussion, considerations, predictions, information, priorities, plans and assessments, unlike the then-current information and technology revealed in some of these cases, cannot compromise current national security. But no prosecution occurred in any of those cases.

8. Classified documents or the information contained therein also reached public view through the books and articles of former government officials. I have many times observed this practice and participated in it. In keeping with the long-standing practice that the papers and files of the President and his top appointees belong to them and may be removed from their offices at the conclusion of their service, I removed 67 cartons of papers, documents and files of all kinds (7 cartons of which were "classified") from my office in the White House upon my departure in February of 1964. I drew upon this material, keeping some of it in my own home, in writing the book "Kennedy," published in 1965. The classified material included copies of the Kennedy-Khrushchev correspondence, the transcript of their summit meeting at Vienna, secret memoranda and directives relating to the Cuban missile crisis, Berlin, Laos and Congo crises, and the Bay of Pigs, as well as other Presidential letters and memoranda of conversations. Although I generally did not use quotation marks when extracting classified material and submitted portions of the manuscript for informal review to individuals who then or previously served in high national security positions, I did not seek or obtain any formal clearance or approval from the government and was at no time questioned or reprimanded in this regard. The government, speaking through the National Archives, asked me as the lawful owner of these papers to donate them to the United States of America for eventual deposit in the John Fitzgerald Kennedy Library; and the government, acting through the Internal Revenue Service, recognized that these were my property in granting a tax deduction for this gift. The legislative history of the Presidential Libraries Act of 1955 and the Federal Property and Administrative Services Act of 1949 made clear that these were my papers to dispose of as I saw fit, much as Sherman Adams, Samuel Rosenman, Clark Clifford and a great many others had done before me.

9. I also served as unofficial editor of the posthumously published manuscript on the Cuban missile crisis by Robert F. Kennedy entitled "Thirteen Days." That manuscript quoted from previously classified letters of President Kennedy and Soviet Chairman Nikita Khrushchev, summarized a highly classified memorandum to the Attorney General from J. Edgar Hoover, and quoted a variety of extremely confidential conversations. No question was raised with respect to this publication.

10. What all of the above boils down to is this: The government has always recognized and accepted the fact that arbitrary, inconsistent and indiscriminate over-classification of documents exists; and that consequently large amounts of classified material are passed from the government to the public—sometimes to the government's embarrassment, occasionally even to its injury—as part of the system of governing and living in an open society. Because classified labels have come to mean so little in practice, and because the guidelines for classification, declassification and utilization of classified material are so vague and obscure that no one can be certain when they are violated, hundreds of violations of the letter of the law if it is broadly interpreted occur every month. The government has accepted this as an inherent part of our system and has relied on the support of subordinates, on their loyalty, consciences and self-discipline, and occasionally on administrative procedures to deter and correct the dissemination of those state secrets that are actually injurious to the national security.

11. I understand that this affidavit will be submitted by counsel for the defense.

THEODORE C. SORENSEN.

A DISTINCTIVE APPROACH TO ELECTORAL COLLEGE REFORM

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 20, 1977

Mr. VANDER JAGT. Mr. Speaker, with the convening of the 95th Congress and the 1976 contest for the Presidency behind us, we are once again hearing appeals for amending the constitutional mechanics of Presidential and Vice Presidential elections. Predictably, the proposal to establish a direct popular election in lieu of the Electoral College procedures is the focus of most discussion.

However, we should bear in mind the fact that while direct popular election is the most democratic means of selecting our highest officials, it is not the only approach which would overcome the perils of current practice. There are alternatives which would meet the problems of which astute observers every 4 years give warning, yet respect basic tenets of the American constitutional system.

In the event it goes forward in this area, whatever route Congress takes should eliminate the opportunity for electors to violate the wishes of their States' voters and by casting their electoral votes for someone other than their States' winners in the popular contests. The "faithless elector" poses unacceptable uncertainty in our election system. We can achieve a correction to the faithless elector problem by eliminating the Presidential electors as such, even while retaining the electoral votes and the positive values which they accord in our national political experience.

Also, we should seek to overcome the distortion of the national popular vote totals which commonly occurs within the Electoral College as a result of the "winner-take-all" nature of the States' procedures for choosing electors. Terminat-

ing this practice would also lessen the impact of those States now deemed to be "pivotal" in Presidential elections by virtue of an extraordinary weight which they carry in the Electoral College. Drawing the influence of these populous, industrial States closer to their proportionate share of the national population would not only advance the application of democracy's "one man, one vote" theme, but diminish the impetus for political parties to concentrate their campaigning in these areas of the country.

While the direct popular vote would achieve these objectives in the course of the total change that it would bring, this amendment proposal raises a number of sobering questions which should receive our attention. First, political scientists and other observers of American politics traditionally regard the Electoral College and its majority requirement as an extremely significant buttress supporting our stable, two-party system. Few people seem to have any desire to undermine the foundations of our traditional party system and bring on the characteristic instabilities inherent in multiparty systems.

Second, the direct popular vote totally nationalizes the Presidency's electoral base. Irrespective of sentiments in States, in theory a one vote margin in nationwide popular voting would determine a President. Without marked improvement in registration and voting procedures in the States, one could foresee very close elections to lead to charges of irregularity all over the country, and thus to substantial confusion as to the balloting's outcome.

Finally, as is implicit in the above comment, the direct popular vote would deprive the Presidency of one of the philosophical and practical premises upon which it now is founded, that of federalism. Such an amendment amounts to a further centralization of the Nation's political processes and institutions at a time when there is no apparent consensus that would support such a shift. The American people seem disinclined to extend the distance between themselves and their major political institutions.

In order to broaden Congress discussion of the complexities of modifying Presidential election mechanics and to place a distinctive approach before the House Judiciary Committee, I am today introducing a resolution proposing an amendment to the Constitution. Compared to our current procedures, the provisions of my proposal would carry us toward the objectives which advocates of the direct popular vote generally seek, even while respecting the strengths of the system we now enjoy. Unlike a number of other proposals advanced in recent years, this one has received little prior congressional consideration. However, its nonpartisan character is implicit in the fact that Senator HUBERT HUMPHREY, Democrat of Minnesota, introduced a comparable resolution during the Senate's debate of this subject in 1956.

Under my resolution we would eliminate the electors but retain the electoral vote in its present size, 538, a number which is the total number of Senators and Representatives in Congress as well as those to which the District of Columbia would be entitled if it were a State. Two votes would be awarded automatically to the candidates for President and Vice President winning the popular election in each State and the District. These 102 votes in all, constituting slightly less than 20 percent of the total electoral vote, would recognize the Federal foundation of our governmental system. The remaining 436 votes, or slightly more than 80 percent of the total, would be awarded to the candidates on the basis of the proportion of the national popular vote that they receive. This predominant segment of the total electoral vote would thus mirror national political sentiment in the same way that the more radical total substitution of the direct popular vote for the Electoral College would achieve.

The proposal includes a provision throwing the election into the Congress only in the event of a tie in the electoral vote. In such an unlikey instance, the House of Representatives would choose the President, with each Member having one vote as contrasted to the current provision assigning one vote to each State's delegation. The Senate would choose the Vice President. In both cases, two-thirds of the bodies would be required for a quorum rather than the routine number.

Dr. Ralph M. Goldman, a political scientist, discussed the implications of this approach in a 1958 article published in the Midwest Review of Political Science, and capsulized its merits in a recent letter to the Washington Post. In his article he indicated that he had applied the proposed procedure to the results of the 22 Presidential elections between 1872 and 1956, making the unlikely but necessary assumption that the factors giving rise to the results would not have differed. With the exception of the disputed election of 1876 which Congress ultimately decided in favor of Rutherford B. Hayes despite Samuel J. Tilden's popular vote victory, the winners would have been the same. However, reflecting a greater consistency to popular vote results than that of current procedures, the amendment's provisions would have yielded substantially narrower margins of victory in the electoral balloting.

Apparently, application of the amendment to more recent elections would also have yielded the same winners as actually occurred. This includes Jimmy Carter, whose electoral vote margin similarly would have been markedly reduced.

As I see it, this approach would serve well not only the cause of democracy, but also that of federalism. In contrast to the direct popular vote approach, it would encourage the perpetuation of our two-party system by according recognition to voter preferences within the 50 States and the District of Columbia. It would motivate our major parties to bring their campaign to all areas of the country. In eliminating the discouragement of voters that may occur by virtue of the "winner-take-all" effect, it would foster voter participation.

Despite the presumed popularity of the direct popular vote proposal and the fact that the House of Representatives in a prior Congress chose that approach to reform, the 95th Congress owes the Nation a careful analysis of all potentially fruitful alternatives before it would launch a national amendment effort. Toward that objective I am pleased to offer this proposal.

BOY SCOUT TROOP 147 PLEDGE OF GOOD CITIZENSHIP

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 20, 1977

Mr. PATTERSON of California. Mr. Speaker, on behalf of Boy Scout Troop 147, from Garden Grove, Calif., I am pleased to share with you today its pledge to President Ford and President-elect Carter of good citizenship and loyalty to this great country.

Troop 147, during the 1976 Orange County Scout-O-Rama on December 10, 1976, demonstrated computer and electronics equipment. The computer printout which follows is the result of this demonstration. It contains their pledge of good citizenship, significant parts of the Declaration of Independence and the Constitution, statements from other historical documents, as well as the members of Troop 147.

Mr. Speaker, as we embark upon a new era of democratic leadership, it is befitting that we recognize these fine young people who have pledged their loyalty to this country. It is with their support, enthusiasm, and fresh ideas that we can work together to strengthen our democracy, insure our freedom, and build an even better America.

The material follows:

DEAR MR. PRESIDENT: The Scouts of Troop 147, El Capitan District, Orange County Council of the Boy Scouts of America wish to extend to you their pledge to be good and valuable citizens of this great country of ours. To this end we have assembled what we feel are very significant parts of the Declaration of Independence, the Constitution of the United States and other statements of import in American history together with a statement of our support and allegiance. To these we inscribed our names and those of our friends in attendance at the 1976 Orange County Scout-O-Rama.

Troop 147 is demonstrating and displaying equipment from the fields of electronics and computers and it is with this equipment that we have caused these statements to be printed and these names inscribed.

Mr. President, it is natural to man to indulge in the illusions of hope. We are apt to shut our eyes against a painful truth. Is this the part of wise men, engaged in a great and arduous struggle for liberty? Are we disposed to be of the number of those, who, having eyes, see not, and having ears, hear not, the things which so nearly concern their temporal salvation? For my part, whatever anguish of spirit it may cost, I am willing to know the whole truth; to know the worst and to provide for it.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. And for the support of this declaration, with a firm re-

liance on the protection of divine providence, we mutually pledge to each other our lives, our fortunes and our sacred honor.

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

That this Nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth.

I believe in the United States of America as a government of the people, by the people, for the people; whose just powers are derived from the consent of the governed; a democracy in a republic; a sovereign nation of many sovereign states; a perfect union, one and inseparable; established upon those principles of freedom, equality, justice, and humanity for which American patriots sacrified their lives and fortunes.

I therefore believe it is my duty to my country to love it; to support its Constitution; to obey its laws; to respect its flag; and to defend it against all enemies.

To these preambles and statements of Patrick Henry, the Declaration of Independence, the Constitution of the United States, Abraham Lincoln, and the American's creed we pledge our support, our allegiance, and our honor as citizens of this great country of America.

Great conflicts have been waged to keep this Nation free from dependence on or to other nations of this world; and it must be realized by we, its citizens, that it is upon us that the United States of America is dependent.

This land is your land,
This land is my land,
This land was meant for you and me;
For we are America.

Martin Webb, Senior Patrol Leader; Bill Brogan, Patrol Leader, "76" Patrol; Brian Youn; Danny Fiegener; Eric Hartman; Shaun Lennert; Jeff Nelson; Gerard Waskiewicz, Patrol Leader, Beaver Patrol; Tom Brogan; Rob Blurton; Alex Bilbao.

Chris Lumbus; Don Boursier; Mark Phelps, Patrol Leader, Falcon Patrol; Brian Panter, Troop Scribe; Luke Bilbao; Scott Nelms; Chris Martz; Jeff Peterson; Loren Foy; Norman Webb, Scoutmaster; Ken Brooks, Assistant Scoutmaster; Jim Lennert, Assistant Scoutmaster.

Paul Webb, Junior Assistant Scoutmaster; Warren Young, Committee Chairman; Nancy Webb, Scout Coordinator; Sue Brogan, Secretry-Treasurer; Lynn Lennert; Doris See; Bill Brogan, Sr.; Marylou Baker, Committee Chairman, No. 29; Kevin Bullock, No. 1892; Craig Merkin, No. 296; Eric Takach, No. 75; David O'Brien, No. 75.

Mike Hopkins, No. 424; Briann Baudendistel, No. 588; John Baudendistel, No. 588; John Witmer; Gary Gieser, Treasurer, No. 296; Eric Brown, No. 278; Dan Asivid, No. 562; Brad Green, No. 800; Greg Merget, No. 800; Doug Welsh, No. 100; Dawn Baker, G. S. No. 44; Ron Keen, No. 510.

Bobby Benge, No. 510; Michael Allen, No. 658; Robert E. Lee, No. 114; Tom Coleman, No. 216; Grady Beasley, No. 216; Skater Everett, No. 510; Louie Haseltine, No. 273; Joe Stanczyk, No. 773; Chris Beaufort, No. 773; Eric Buzhne; Joel Greenberg No. 1509.

David Kelly, No. 216; Bob Carlson, No. 174; Bret Lonsway, No. 174; Alex Selley, No. 217; Billy Keys, No. 424; Mike Kelly, No. 225; Rusty Miller; Louie Black, No. 432; Mike Bennett, No. 1; Robert Hutchinson; George Kelly, No. 775; Jay Quinn, No. 1750; Mike Simanyi, No. 800.

Randy Slaughter, No. 273; Jennifer Quinn; Phillip Bastanchury, No. 75; Chris Linberg, No. 174; Kevin Shakley, No. 174; Craig Dotzaun, No. 484; Craig Odolecki, No. 508; Steve Kuentz, No. 508; Jerry Baker, No. 484; Danny Clayton, No. 125; Dennis Cassidy, No. 412.

Timothy Dodd, No. 290; Guy Thompson, No. 221; Jim Guillet, No. 526; Don Madczeski, Scoutmaster No. 515; Randy Butera, No. 575; David Laughlin, No. 1; Lee Coulter, No. 714; Bob Coates, Cubmaster No. 714; Steve Meyer, No. 558; Tony Stutzman, No. 526; Bart Limas; Brian John O'Leary.

Greg Wise; Ron Huntington, No. 526; Beverly Johnson, Roundtable Staff, C; Larry Kent, No. 357; Maynard Barber, No. 1165; Mike Debuck, No. 1165; Greg Anderson; Mary Kirle, No. 775; Mark Monroe; David Barney, No. 183; Robby Coppola, No. 850; Michael Aarnold.

Kirsten Ryder; Richard Stratton, No. 71; Valerie Dunn; Mike Tully, No. 151; Gordon Dunn, No. 850; Fred Riggs; Jeff Poppa, No. 138; Hank Sanchez, No. 138; Kevin Marx, No. 138; Jeff Wright; Mark Adkins, No. 114; Mike Fox, No. 424.

Glenn Moya, No. 216; Brian Burke, No. 296; Bill Payne, No. 100; Brenda Debuck; Eileen Debuck; Kathy Debuck; Paul Verschueren, No. 400; John McLuckey, No. 775; Andrew Franco, No. 1283; Ray McCauley, No. 1283; Robert Bents, No. 37; Ray Romero, No. 1509.

Russell Stoner, No. 71; Lorraine Waskiewicz; Mark Sanderson, No. 886; Thomas Waskiewicz; John Waskiewicz; Larry Dickerson; Al Waskiewicz; Jeff Young, Committeeman, No. 296; Chipper Fackrell, No. 488; Michael Kamenszki, No. 706; Joe Kamenszki, No. 778; Chris Gregg, No. 886.

Dale Welch, No. 138; Eric Daniels; Charlie Davis, No. 290; Billy Greenland, No. 274; Bob Salamon, No. 317; Sam Henderson; Eddie Casada, No. 52; Mike Sambrano, No. 714; David Feskanich, No. 189; Kevin Slumpff; Mitch Schmidt, No. 575; Paul Abshire.

Ron Smith, No. 640; Donald Slumpff, No. 575; Tim Lamb, No. 804; Jim Lamb, No. 804; Darren Morrill, No. 225; Darin Wolsleger, No. 225; Daine McHugh, No. 651; Darryl Owen, No. 543; Don Van Hoogmoed, No. 660; Gene Sollows, No. 685; Brian Persons, No. 778; Greg Stiles, No. 778.

Karl Blum, No. 208; Robert Brown, No. 138; Stephen Larsh, No. 723; David Amormino; Jeff Moersch, No. 807; Stephen Hileman, No. 723; Andy O'Leary; Chris Van Horn; Peter Van Horn; Richard Schroeder No. 807; George Hand, No. 90; Todd Parker, No. 155.

Robert Brown, No. 138; Tim Smith, No. 138; David Simon, No. 272; Tom Bugler, No. 408; Michael Baumann; David Irwin; Jon Owens, No. 38; Bud Weber; Jose Marquez, No. 357; Jim Raley; Jesse Raley; Kenny Champagne No. 270.

S. H. Fried, No. 208; Roger Monell, No. 615; Joey Lorenzini, No. 226; David Lorenzini, No. 226; Mason Ernest, No. 664; Mike Boland, No. 561; Kenny Warfeld, No. 60; Dana Tolman, No. 225; Sean Potourny; Don Strupp; Rob Bradley, No. 664; Kevin Campbell, No. 36.

Mario Valadez, No. 1218; Chkis Cinocco, No. 454, John Valadez, No. 1218; Millis Irwig, No. 145; Scott Irwig, No. 145; Doug Irwig, No. 145; Doug Britton, No. 145; Carole Payetti; Marion McCowen; Geneva Sherwood, No. 273; Christopher Peck, No. 1616; Carol Lascola, No. 412.

Gina Grundy, No. 290; David Mee. No. 272; Chris Inouye; Edith Sherwood, No. 273; Kelly Sherwood, No. 273; Eric Cinocco, No. 454; Michael Mailman, No. 568; Dan Rudat, No. 553; Jim Duncan, No. 484; Kenny Metro, No. 568; Bryan Montoya, No. 1069; Marsha Young, den leader coach, No. 296.

Darleen Moore; Michelle Ryan; Elizabeth K. Johnson; Alan Call, No. 531; Patrick Conaway, No. 773; Jon Benber, No. 434; Kirk Dumhart; Paul Mras, No. 120; Michael O'Dowick; Carl Miller, No. 60; Denise Solina; Maryann Healey; Hom Debellis; Pat Bulleit, No. 115; Anthony Debellis; Randy Rogers; Raymond Pearls; Robert Gold, No. 667.

Cavin Jones; Richard Razey, No. 241; Allan Fisher, No. 455; Ricky Nino, No. 232; Larry Ortiz, No. 148; Kyle Madigan, No. 217; Alberto Alonzo, No. 526; Ardath McLaughlin; Mike Blake, No. 219; Charles Coleman, No. 7388; Kent Bisel, No. 664; Brian Law, No. 216.

Mitch Clark, No. 36; Todd Scrantos, No. 640; Mike Caballero, No. 405; Sean Whaldon, No. 623; Oscar Romero, No. 1750; Bill Clark, No. 543; Alan Young, No. 1444; Mike Ehlers; W. S. Marcus; Ross Wilson, No. 488; David Berry, No. 1616; Morris Berry, No. 1616.

Robert Peck, No. 1616; Tony Peck, No. 1616; Todd Missler, No. 17; Troy Bush; Todd Bush, No. 216; Stephen Lopez, No. 61; Todd Murakomi, No. 271; Dennis Decker, No. 61; Eric Madigan, No. 217; Matt Caywood; Mark Wicks, No. 302; Mr. and Mrs. Roy Miller, No. 60.

Mike Garant, No. 516; Jeff Wagner, No. 148; Brian Kelly; Richard Dudra, No. 516; Tom Miller, Santiago District; Vince Greenlee, No. 638; Travis Greenlee; John Razey, No. 241; Mark Buehnerkemper, No. 671; Steve Schulz, No. 671; Billy Keys, No. 424; Eric Mokry.

Robert Shakleton, No. 778; John Nelson, No. 227; Erik Hatzenbuehler, No. 625; Renee Richerson, No. 412; Suzane Potter, No. 290; Kathy Fink; Steven Fink, No. 732; Brian Kelly, No. 225; Stephanie Rupiper, No. 290; Susie Litsch, No. 412; Kevin McCarthy, No. 151; Kelly Sland.

Jeff Swifka, No. 151; David Presly, No. 537; Craig Dall, No. 1572; Chuck Bengry, No. 516; Rico Thompson, No. 149; Steve Walker, No. 1424; Andy Walker, No. 1424; Gary Hartstein, No. 514; George Nauenburg, No. 562; James Nauenburg, No. 562.

Donald Hennagin, No. 226; John Seroggins, No. 175; Bobby Ferrington; Tim Swengel, No. 627; Andy McLaughlin, No. 167; Pete Krausert; Andy McLaughlin, No. 167; Kevin Indseter, No. 175; Jeff Chew, No. 271; Michelle Moreno, No. 804; David Smith, No. 732.

Michel Breithaupt, No. 147; Charles Norsdy, No. 502; Eric Matthila, No. 916; Ed Chew, No. 271; Tom Gruenbeck, No. 354; Tony Aguilera; John Harader, No. 354; Jimmy Brian, No. 354; Tim Bush; Greg Adams, No. 606; Brian Adams, No. 607; Chris Maki, No. 600.

Steven Contreras, No. 453; Maureen Johnson; Ruddy Chavez, No. 226; Jason Blake; Stacey Ollalloran; Farrah Gallo; Diane Gallo; No. 4621; Stuart Mencher, No. 798; Scott Williams, No. 187; Scott Valoff, No. 508; Randy Lukins; Louis Hungate, No. 422.

Steven Merrill, No. 49; Don MacElroy, No. 271; Tyrone Mangold, No. 75; Kim Williams; Mark Gorelick, No. 435; Becky Gorelick, No. 435; Robby Warren, No. 227; Jeffrey Miller, No. 125; Gene "Smokey" Bergner, Camp Director; Mike Dodson, No. 916; Eileen Dodson, No. 916; Michael Petrie, No. 283.

Lois Berger, No. 625; Derick Wolsleger, No. 225; Brian Adamicunst, No. 301; Robert Toepel, No. 514; Kieth Goss, No. 554; Scott Goss, No. 554; Dave Parque, No. 1892; Rachael Osborne, No. 28; David Petrie, No. 283; Nigel Osborne, No. 368; Stephen Vegh, No. 272; Ted Wingert, No. 670.

Steve Mascoli, No. 699; Mike Scheibel, No. 817; Charles M. Huntley; Linda Fort, No. 1058; Beth Josephson, No. 1058; Christian Miller, No. 455; Greg Garver, No. 455; Jeff Gambill, No. 455; John Lodin, No. 323; Angela Lodin, No. 323; Kevin Goss, No. 554; Susan Goss, No. 554.

Jamie Castonguay, No. 714; Gregory Fletcher, No. 223; Willie Flewellen, No. 223; Ron Erdrich, No. 611; John Fahland, No. 531; Pat Snedeker, No. 603; Chuck Snedeker, No. 1602; Fran Payette, No. 214; Larry Kaplan, No. 581; Randy Tee, No. 581.

Dennis Titzkowski; Colleen Carrington, No. 741; Daniel Carrington, No. 741; David Carrington, No. 741; Jeff Baerns, No. 205; Genee Phillips; Ted Nugget, No. 526; Richy West,

No. 784; Shana Norris; Lori Linebarger; Brandon McGrath, No. 784.

Bobby Enna, No. 227; Jimmy Page, No. 1345; Darin Norris, No. 784; Jimmy Enna, No. 227; Steve Grupenhagen, No. 183; Bryan Linebarger, No. 229; Steve Weiss, No. 581; Ian Anderson, No. 931; David Barney, No. 183; Robert Kunst, No. 301; Doug Tusji; Debbie Johnson.

David Brownstein, No. 527; Richard Franco, No. 1283; Susan Moore; Joseph Bacchi, No. 514; Jeff Patstone, No. 211; Leona Crespin; Norvin Lanz, No. 273; Jimmy Stapleton, No. 209; Ron Woods, No. 90; Sandy Herrera; Edward Gardner, No. 293; David Bush, No. 293.

Bill Farrel, No. 1170; Nari Naddafi, No. 723; Mike Naddafi, No. 723; Dave Andersen, No. 391; Julie Fisher, No. 391; Robert Brunner, No. 391; Warner Smith, No. 223; Eleanor Blurton, No. 147; Robert Blurton, No. 147; Marcia Andersen, No. 391; Stephan Motter, No. 293; David Gardner.

Keith Crespin; Wayne Crespin; Richard A. Gasper, No. 271; Jeffrey M. Gasper, No. 271; Kenneth M. Gasper, No. 271; Mike Libey, No. 526; Connie Libey, No. 526; Jefferson Young, No. 108; John Garrett, No. 75; Trent Binger, No. 456; Shawn Cunniff, No. 442; Rhett Binger, No. 456.

Edward Gonzales, No. 173; J. Jones; Luis Roncayolo; Pat Paulsen, No. 295; Louie Anderson, No. 220; Gary Goodner, No. 660; Jon Love, No. 1616; Craig Young, No. 147; Brad Williams, No. 71; Kevin S. Voas, No. 526; Karlo Holevas; Robert Toepel, No. 514.

Rick Holevas; Scott Lovette; James M. Akins, No. 104; Cynthia Akins, No. 104; Mike Floessir; Cheri Norris; Phil Brown, No. 778; Kenny Waddell, No. 265; Darrell Baldwin, No. 183; Lance Wantland, No. 524.

Linda Voas, No. 855; Russell Carpenter, No. 642; Bobby Groner, No. 670; Alex Bradley, No. 279; Alex Bradley, Sr., No. 279; Dennis Cassidy, No. 412; Robby Briethaupt, No. 147; Michael Briethaupt, No. 147; Ronnie Brooks, No. 147; Margie Byrne; Jeanne Byrne.

COMMUNISTS OPPOSE BELL NOMINATION AS ATTORNEY GENERAL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 20, 1977

Mr. McDONALD. Mr. Speaker, from the day that Judge Griffin Bell was nominated to be the next U.S. Attorney General he has been the subject of vicious and bitter personal attacks by alleged civil rights groups and by the Communist Party. Slander has been the principal weapon because there are no issues of substance with which to oppose Judge Bell.

While I and other conservatives and moderates respect his judicial competence although naturally there have been instances of disagreement with his decisions; but the ideologues of the left cannot tolerate the appointment to high office of a man whose well-reasoned decisions interfere with their political programs.

On Friday, January 14th, a top member of the Communist Party, U.S.A.—CPUSA—testified against the Attorney General-designate without revealing to the Senate Judiciary Committee that she was a member of an extremist totalitarian organization or that she personally advocated revolutionary armed violence.

In order to set the record straight, I have sent the following letter to Senator JAMES O. EASTLAND, chairman of the Senate Committee on the Judiciary:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 19, 1977.

Senator JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR EASTLAND: I would like to request that the following information be included in the record of your Committee which heard testimony on the nomination of Judge Griffin B. Bell as Attorney General of the United States.

On Friday, January 14th, Charlene Alexander Mitchell testified against the nomination of Judge Bell, according to press reports, representing the National Alliance Against Racist and Political Repression (NAARPR). This organization is a "front group" of the Communist Party, U.S.A. (CPUSA) and was so identified by the Committee on Internal Security of the House of Representatives in their hearings, Revolutionary Activities Directed Toward the Administration of Penal or Correctional Systems, Part 4, July 25, 1973.

Mrs. Mitchell has been a full time CPUSA organizer and member since the end of the 1940s, and has served as the executive secretary of the NAARPR since its formation in 1973.

In the context of her testimony against Attorney General-designate Bell, it should be noted that at a 1969 CPUSA National Convention, Mrs. Mitchell presented a report on "Armed Self-Defense" which was also printed in the Party's confidential internal publication, *Party Affairs*. In it she stated. "Our stand is forthright—we advocate armed self-defense as an increasingly important part of the black people's ability to continue and develop their struggle for complete liberation."

As the Attorney General will be responsible for decisions regarding prosecutions of violence-oriented and terrorist groups as well as decisions regarding future FBI surveillance of such groups, it is important that a man of high integrity who will enforce the law and protect the people of the United States from subversive and criminal violence. It is clear that the Communists consider Judge Bell to be such a man; that is why they have opposed his confirmation.

It is therefore incumbent on responsible Americans to rally behind Judge Bell and urge his confirmation by the Senate.

With best wishes and kindest personal regards, I am

Sincerely,

LARRY MCDONALD.

REBECCA REID OF DALLAS—MISS TEENAGE AMERICA

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 20, 1977

Mr. COLLINS of Texas. Mr. Speaker, Rebecca Ann Reid was chosen in December as Miss Teenage America for 1977. Rebecca is the daughter of Mr. and Mrs. Robert H. Reid of Dallas, Tex. She is a straight-A high school senior, a talented pianist and singer, 17 years old, 5 feet and 7 inches, 120 pounds.

Miss Teenage America was selected on her "positive image" from 20,000 entries. It's more than beauty, as this recognition is based on the girl with an all-around outlook. Miss Reid is attractive, gracious, charming, talented, and poised. I am mighty proud to have Rebecca Reid as a neighbor in the Third District of Texas.

The Dallas Times-Herald reported Rebecca's answers from a Press Conference at the National Pageant:

On women's lib. "Every woman should be free to pursue the career of her choice. She should have the same advantages and disadvantages as men. And if she wants to be a homemaker, she should have that right, too, and be proud of her accomplishments."

On premarital sex. "I can only answer for myself. I've been raised to believe that sex belongs only in marriage and I could never have premarital sex."

On drug abuse. "I go to a school (W. T. White High School) where a lot of students use drugs. It's their individual choice, but I don't think they'll find the answers to their problems there. I have never used drugs and feel it's not right for me."

On the future. "After my year as Miss Teenage America, I will go to SMU or Baylor to study piano pedagogy—playing and teaching piano. After I graduate, I would like to get married and have a family, and I feel that teaching piano is a profession that I could do with a family."

HOUSE OF REPRESENTATIVES—*Monday, January 24, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

In Thee, O Lord, do I put my trust; let me never be put to confusion.—Psalms 71: 1.

Eternal God, our Father, we commend our Nation to Thy loving care and this House of Representatives to the guidance of Thy Holy Spirit. With Thy redeeming and renewing power come Thou into the heart of our President and into the life of every Member of Congress that together they may labor for the highest good of our beloved Republic.

Write Thy law on our minds and work Thy love into our hearts that we may be loyal to Thee, true to promises made, faithful in our daily duties, and open to the needs of our people. May we so serve Thee and our country in these days that in the years to come our citizens may be thankful for the work done by this 95th Congress.

In the spirit of Christ, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation from the House of Representatives:

WASHINGTON, D.C.,
January 17, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I hereby inform you that I have transmitted to the Governor of the State of Washington my resignation as a Representative in the Congress of the United States from the Seventh District of Washington, and am by this letter confirming to you my resignation as a Member of Congress from the State of Washington.

The years I have spent in the House of Representatives will always remain in my memory as some of the happiest of my life. As I leave, I want to extend to you and my colleagues in the House every good wish for the future.

I look forward to working with you as the 95th Congress begins.

Very truly yours,

BROCK ADAMS,
Member of Congress.

WASHINGTON, D.C.,
January 17, 1977.

Hon. DIXY LEE RAY,
Governor, State of Washington, Olympia, Wash.

DEAR GOVERNOR RAY: I hereby resign my office as Representative in the Congress of the United States from the Seventh District of Washington, said resignation to take effect on January 22, 1977.

Very truly yours,

BROCK ADAMS,
Member of Congress.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation from the House of Representatives:

WASHINGTON, D.C.,
January 19, 1977.

Hon. THOMAS P. O'NEILL, JR.,
Speaker of the House,
House of Representatives.

DEAR MR. SPEAKER: This is to inform you that I have today submitted my letter of resignation as Congressman from the 7th District, State of Minnesota, effective Saturday midnight, January 22, 1977, to the Honorable Rudy Perpich, Governor of the State of Minnesota. A copy of this letter is enclosed.

Thank you.

Sincerely,

BOB BERGLAND.

WASHINGTON, D.C.,
January 19, 1977.

Hon. RUDY PERPICH,
The Governor, State Capitol, St. Paul, Minn.

DEAR GOVERNOR PERPICH: I hereby resign as Congressman from the 7th District, State of Minnesota, effective Saturday midnight, January 22, 1977.

I am sure you know what a privilege and a pleasure it has been for me to serve the State of Minnesota in my several terms in Congress. It is only because of the opportunity to serve directly in the Cabinet of President Carter, that my resignation occurs.

Thank you.

Yours truly,

BOB BERGLAND.

THE NATURAL GAS CRISIS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, we are now in the midst of this Nation's first severe energy crisis since the embargo of 1973. A cold, harsh winter has served to sound a warning America should heed. This Congress must be the first to take notice.

Natural gas, the cleanest and most efficient fuel thus far known, supplies one-third of the energy requirements of the United States. In some parts of this country, natural gas supplies nearly all of the energy required. In those areas, there are little, if any, conversion capabilities to other fuel sources.

Incredibly, this country has planned neither adequately nor intelligently for the natural gas crisis we now observe.

Reports daily tell of workers idled—a tragedy of neglect in an economy that already allows an unacceptably high 8 percent unemployment.

Children in Indianapolis, Cleveland, Kansas City—not to mention my home city of Wichita—face school interruption for want of gas for heating. Can we imagine the impact of such a crisis if residential natural gas supplies were seriously curtailed?

The prospect for the future—unless decisive and determined action is taken swiftly—is equally bleak. Officials now speculate that the serious shortage of natural gas will continue through 1978. Supplies of natural gas, as well as petroleum-based fuels, are dwindling rapidly.

The Congress must present a strategy to include a major initiative toward energy conservation, a development of new energy technologies, an assurance that all sections of the country will meet energy requirements, and a provision that the regulatory climate afford every reasonable incentive for producers to explore for new natural gas supplies.

While the weather may warm up, and the immediate crisis may temporarily fade away, this Congress must not forget the implications of neglecting this problem.

PUT AN END TO SUBTLE "HIGHWAY ROBBERY"

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. HANLEY. Mr. Speaker, I am introducing legislation to reimburse States which operate toll roads as part of the Federal Interstate System. I strongly believe that my bill can and should be approved. The time has come to put an end to the subtle "highway robbery" of the toll roads and to prevent further curtailment of the free movement of people and goods.

Ever since the concept of Federal aid for the construction of highways originated, the Federal Government has committed itself to toll-free highways only. The Federal Aid Road Act of 1916 established the policy of forbidding the use of Federal funds for any project on which tolls were levied, and this policy has continued to be expressed in all subsequent legislation. The Federal Aid Highway Act of 1956, which established the Interstate Highway System, declared it to be the intent of Congress that the system be toll free, and there certainly can be no doubt that free highways best serve the public by promoting economic development and assuring national security. However, there presently exists over 2,000 miles of toll roads on the Interstate System, and a reimbursement plan has yet to be established. It is the purpose of this bill to establish such a plan.

For many years Congress has avoided action which would eliminate the problem of toll roads on the Interstate Highway System. I believe that we should stop pretending that they are not a problem and move promptly to develop a reimbursement program which would eliminate the toll roads.

Although commonsense dictated the incorporation of toll roads into the Interstate System in order to avoid unnecessary duplication of facilities, most highway experts agree that toll roads are inequitable and uneconomic. The continued existence of toll roads on the Interstate System means double taxation for the user, higher costs, and stunted economic development.

The dis-economy involved in the existence of toll roads stems from a number of causes, not the least of which is the fact that toll revenue bonds constitute an inefficient means of financing highway construction. A 1967 report by the Subcommittee on Roads for the House Public Works Committee stated that the costs of financing are approximately 1.5 times greater if toll revenue rather than State-guaranteed bonds are used. This constitutes an exorbitant user tax when one considers that the State could have used its gasoline tax revenues to finance its 10 percent share of the construction costs under the 1956 act. Another uneconomic and unnecessary cost of toll roads is the cost of toll collection itself. The price of toll collection, on the average, consumes over 3 percent of revenues, and, when compared to the approximately 3 mills out of every dollar spent to collect the gasoline tax, the cost of toll collection is over 10 times higher. However, the worst cost of toll roads is undoubtedly the inestimable loss in economic development. Aside from the effects on shipping and interstate commerce, the limited access to the facility likewise limits the ability of local jurisdictions to reap concessionary benefits. For example, on the entire 241 miles of the Ohio Turnpike there are only 15 exists, which severely limits the number of gas stations, motels, and so on which can successfully operate near it. A free highway through the same area would undoubtedly have more interchanges, thereby vastly increasing the benefits of the road to local citizens and promoting economic development, particularly in rural areas.

This loss in economic development inflicted on the local citizenry is just one of the inequities involved in the existence of toll roads on the Interstate Highway System. Aside from this, there is the fact that the motorists who use toll facilities are taxed twice for their use of the road. The toll road user is not only

paying for the construction and operation of that road with his tolls, but he is also paying through the gasoline tax for the construction of similar toll-free roads in other States. In actual fact, the toll road user is paying approximately three times what motorists in other States pay to use comparable facilities, and there does not seem to be any end in sight.

The situation in New York State serves as a good illustration of the gravity of the situation. As of January 1, 1975, the New York Thruway Authority had paid off $303,000,000 of the original $1,260,000,000 cost of construction—a mere 29 percent. At this rate, even though tolls continue to rise—13.5 percent in New York this year alone—the debt on the facility will not be liquidated until 1997, and even that is an optimistic prediction. It does not take into account the increased costs of refinancing, which is a very real possibility over so long a period of time, and it also excludes the possible future use of toll revenues for special purposes or for general revenue. It should, therefore, be obvious that a great inequity has been visited upon the people of New York, along with the citizens of the other 17 States with toll facilities which have been incorporated into the Interstate System. If the Federal Government does not move to correct this situation, the enormity of this injustice will only increase.

If the Federal Government acted right now to reimburse the State of New York, it would have to pay $669,000,000 for 501 miles of excellent interstate highway. This is approximately 63 percent of the original construction cost, as opposed to the 90 percent it would have to pay if New York State had not had the foresight to construct this much needed facility before the passage of the Federal Aid Highway Act of 1956. However, this is not the point. The point is that this inequity exists, not only in New York but in the other 17 States also, and it is the responsibility of the Federal Government to correct this. We cannot allow this injustice to compound itself with each new year. It is time to act, and my bill will provide the basis for this action.

My bill would establish a 5-year plan for the reimbursement of those States with toll roads which have been incorporated into the Interstate System. It would also make it clear that it is the intent of Congress that all portions of the National System of Interstate and Defense Highways, excepting urban crossings, shall be free from tolls by the time the final payment is made, which in no case shall be later than fiscal year 1982.

I am excluding urban crossings, which would be defined as a tunnel or bridge within an urban area, because they, along with the revenues which they generate, perform important functions in contemporary urban life. These crossings not only provide much needed revenue for urban mass transportation and other services, but they also play an important role in shaping traffic patterns and relieving urban congestion. Therefore, because of these considerations, and the equally important financial and socio-political complexities, I believe that to mandate the removal of tolls on these crossings would be infeasible and foolish.

The mechanism for reimbursement would be put in motion upon the application of the State involved. Upon approval, the Secretary would be authorized to pay, out of the highway trust fund, 90 percent of the depreciated original construction costs plus all improvements, minus the principal already paid on its bonded indebtedness—provided that the facility becomes toll free upon completion of the payments. The term construction costs would include costs unique to toll facilities, such as toll booths, plazas, and so on, and also included in the Federal share would be the costs of removing those booths, plazas, and other appurtenances necessary for the collection of tolls. The States would pay the remaining 10 percent, as is now done under the interstate program, plus any other costs of retiring the bonds.

It is possible that some States might not want to relinquish their hold on these profitable facilities, even though it may be in the public interest, and I have therefore included within the bill a penalty for those States that decide against freeing their facilities. The bill provides that any State not freeing its toll facilities on the Interstate Highway System will have deducted from its highway trust fund allocation the estimated amount of Federal gasoline tax paid by the users of the facility since 1956. This would constitute a considerable sum, and should provide inducement enough for reluctant States to free their toll roads.

I am sure that people will argue that the costs of reimbursement will be too high, particularly at the present time, when the Federal Government is running a budget deficit, but I must point out that the reimbursed money would come from existing user taxes and the healthy highway trust fund. Therefore, reimbursement will impose no new burdens on the motorist—in fact it would relieve him of paying the inflated costs toll roads now impose on him, and it would not overburden the budget deficit either, since the money will come from a separate fund. I am well aware that the President is trying to cut into the revenues set aside for the highway trust fund, but to me this means that we have to act with that much more haste to insure that the subtle "highway robbery" of toll roads on the Interstate Highway System is done away with once and for all.

HARRIS OPPOSES REMOVING THE LID ON GASOLINE PRICES

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, I am opposed to President Ford's proposal, energy action No. 9, which lifts the lid on gasoline prices. Not only is gasoline decontrol not in the public interest, but President Ford had no business in sending this proposal to Congress the day before President Carter was inaugurated. To prevent President Ford's proposal from going into effect, I am joining Congressman STAGGERS, chairman of the House Interstate and Foreign Commerce Committee, Congressman DINGELL, chairman of the House Subcommittee on Energy and Power, Congressman Moss, chairman of the Oversight and Investigations Subcommittee, and over 90 other Members of the House in cosponsoring a resolution of disapproval. Unless Congress disapproves the decontrol proposal, gasoline prices can be expected to rise by 5 to 8 cents per gallon beyond what could be expected if controls remained in effect. This price rise would cost consumers between $6 and $9 billion.

I had hoped that President Ford would not submit this proposal. At a December 14, 1976, press conference with Congressman MAGUIRE of New Jersey, I urged the President not to send the decontrol proposal to Congress. At that time I announced that Congressman MAGUIRE and I had written the President advising him that it was our belief that exempting motor gasoline from the application of the mandatory petroleum allocation and price regulations would permit an upward manipulation of prices, would be harmful to the economy and to consumers, and would further endanger the maintenance of an economically sound and competitive petroleum market.

We stated in our letter to President Ford:

> It is inappropriate for your Administration to take such a major policy action, not necessitated by a national emergency, that must be considered by Congress before the inauguration of the new President. One of the major challenges facing the Carter Administration and the new Congress will be to formulate a comprehensive policy to resolve our nation's energy problems. In light of the uncertainties of OPEC's pricing policies, we believe that the decontrol proposal will unnecessarily complicate our task. More importantly, since increases in gasoline prices will offset the effect of a tax reduction of other stimulus to the economy, decontrol will frustrate our efforts to reduce unemployment.

Congressman MAGUIRE and I therefore urged President Ford not to propose lifting the lid on gasoline prices and advised him that should such a proposal be sent to Congress we would actively promote a resolution of disapproval.

Later, at a January 3, 1977, press conference, along with Senators JACKSON, of Washington, ZORINSKY, of Nebraska, and METZENBAUM, of Ohio, and Congressman MAGUIRE, I again urged President Ford not to send the gasoline decontrol proposal to Congress. At that press conference, we announced that a recent Congressional Research Service study supported our earlier projection that lifting the lid on gasoline prices would result in a price increase of 5 to 8 cents per gallon, which could cost consumers almost $9 billion.

I want to stress that the issue of gasoline decontrol is not an isolated policy question. This issue has direct impact upon our total energy policy as well as upon our efforts to revitalize our economy. If gasoline prices rise by $9 billion then the effect of the proposed stimulus program will be greatly reduced.

President Ford delayed submitting

his proposal to Congress until January 19, 1977. Instead of having to consider the decontrol proposal before the inauguration of President Carter, as would have been the case had President Ford sent his proposal to Congress on January 4, 1977, Congress must now consider this very important issue before the Congress and the new administration have had the opportunity to consider comprehensive energy and economic policies. It was inappropriate for President Ford, by Presidential action on his last full day in office, to unnecessarily force immediate consideration of such a major policy issue.

There is no reason why this proposal should be considered at the present time—certainly, the new administration should be given the opportunity to carefully study the issue in the context of our total energy and economic policies. If for no other reason, Congress should adopt a resolution of disapproval to give itself and the Carter administration time to consider and formulate national policies.

Moreover, Congress should reject the gasoline decontrol proposal because it makes no sense to allow the big oil companies to raise gasoline prices by 5 to 8 cents beyond what would be expected if controls remained in effect. A penny increase in gasoline prices will cost the American consumer approximately $1.1 billion; a 5- to 8-cent-per-gallon increase will cost consumers between $5.5 and $8.9 billion. A price increase of this magnitude will greatly exacerbate both unemployment and inflation. Even with a lid on product prices, real cost increases will result in higher prices. However, with a lid on gasoline prices, price manipulation can be prevented. The lid on gasoline prices is an insurance policy for the consumer. If it can save the consumer almost $9 billion, then the policy is well worthwhile.

I urge my colleagues to support House Resolution 136, which disapproves energy action No. 9, the proposed exemption of motor gasoline from the petroleum price regulations.

EMPLOYEES OF AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE SHOULD BE GRANTED TRANSFER BENEFITS

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Speaker, employees of the Agricultural Stabilization and Conservation Service are currently not permitted to carry their leave balances, leave earning capacities, years of service, and other governmental benefits to governmental departments other than the U.S. Department of Agriculture.

While I realize that the ASCS is unique in that it is organized from the grassroots at the county level up through the State, regional, and national offices rather than the top-down organization of all other Government agencies. I see no practical reason why the employees within this agency should not be granted the transfer benefits that are awarded other Government employees.

Therefore, I am today introducing an amendment to the Soil Conservation and Domestic Allotment Act to accomplish this purpose.

REQUEST FOR PERMISSION FOR COMMITTEE ON RULES TO HAVE UNTIL MIDNIGHT TUESDAY TO FILE CERTAIN PRIVILEGED REPORTS

Mr. DELANEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight on Tuesday to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, I object.

Mr. DELANEY. Mr. Speaker, if the gentleman from Maryland will withhold his objecton I would like to explain.

Mr. BAUMAN. Mr. Speaker, I reserve the right to object and I yield to the gentleman from New York.

Mr. DELANEY. Mr. Speaker, we would like to get this assassination appropriation resolution on the floor and give every Member of the House the opportunity to hear this discussion and to vote on the resolution. We have time now, and I do not think there will be any shortage of time. The committee is willing to meet until midnight tomorrow if necessary in order to get this legislation on the floor by Wednesday or Thursday, so if the gentleman from Maryland would withdraw his objection, I would say that is the only purpose in making this request at this time.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, if the chairman of the Committee on Rules could guarantee me the rule on the Assassination Committee would come to the floor in a form to permit amendments by all Members, I would have no objection.

Mr. DELANEY. Speaking as only one member, Mr. Speaker, I know of no reason why we cannot come in with an open rule and permit everyone to have a fair hearing right here on the floor.

Mr. BAUMAN. With a guarantee that we will have a full right to offer amendments on the floor I would not object.

Mr. DELANEY. Mr. Speaker, I have not spoken to the other members, but I feel assured that would be the case. I do not know of anyone who would want a closed rule on the opening day of the Congress.

Mr. BAUMAN. I would say with that guarantee I feel somewhat comforted, but I would feel more comforted if we would put it off until Thursday when we would know the action of the committee and we could bring the matter up on Thursday, and so I would object at this time.

Mr. DELANEY. It is in the interest of time saving. I know everyone wants to get started on this.

The SPEAKER. Does the Chair understand the gentleman from Maryland objects?

Mr. BAUMAN. Yes, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

COMMUNICATIONS FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *January 21, 1977.*

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 10:55 a.m. on Thursday, January 20, 1977, and said to contain a message from the President wherein he transmits the annual report of the Corporation for Public Broadcasting.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

ANNUAL REPORT OF CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I am transmitting to the Congress the annual report of the Corporation for Public Broadcasting, describing its activities for the year ending June 30, 1976.

GERALD R. FORD.

THE WHITE HOUSE, *January 20, 1977.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
January 21, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 10:55 a.m. on Thursday, January 20, 1977, and said to contain a message from the President wherein he transmits the Employment and Training Report of the President.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

ANNUAL EMPLOYMENT AND TRAINING REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

To the Congress of the United States:

I am transmitting to the Congress the annual *Employment and Training Report of the President*, pertaining to employment and training requirements, resources, and utilization, as required by

sections 705(a) and 705(b) of the Comprehensive Employment and Training Act of 1973, as amended. This *Employment and Training Report of the President* also includes reports required by sections 209 and 413 of the same act.

GERALD R. FORD.

THE WHITE HOUSE, *January 20, 1977.*

TEMPORARY NATURAL GAS EMERGENCY SUPPLY ACT

(Mr. WHALEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHALEN. Mr. Speaker, today I am introducing the Temporary Natural Gas Emergency Supply Act, to provide for allocation of natural gas during periods of natural gas supply emergency, such as that many portions of the Nation are now facing.

This year's unusually severe weather has created shortages of natural gas in many areas of the country which is now reaching crisis or near-crisis proportions.

Schools and factories are closed or in danger of closing and many metropolitan communities are faced with cutbacks in residential heating.

In Dayton, Ohio, in my congressional district, an emergency contingency plan is being studied which could include a 30-day closing of all public schools. In addition, General Motors has indicated that any additional curtailments of natural gas could close down the entire corporation, not only laying off 25,000 Dayton area employees, but 40,000 workers nationwide as well.

The Temporary Natural Gas Emergency Supply Act, which was introduced by Senator GLENN in the other body, is a one-time-only measure designed to provide the legal mechanisms to thwart an impeding tragedy if the recordbreaking low temperatures continue. All authority created by the legislation would expire on May 1, 1977.

The bill would empower the President to declare an emergency situation in severely affected States or areas. Upon such Presidential declaration, the Federal Power Commission then would have the authority to order the transfer of gas from pipelines in areas not facing crisis conditions to those in areas where emergencies do exist.

Further, the measure provides that companies operating pipelines affected by such an order would be free to negotiate their own rates. In the event, however, that they were unable to do so, the FPC would prescribe rates under existing procedures.

Finally, the legislation is drawn in such a way as to insure that, in helping one section of the country, another is not thrown into a similar emergency by losing excessive amounts of its own natural gas. In view of the widespread impact of this winter's cold temperatures, such consideration is vital to any short-term measure.

It is important to note that this legislation is intended to avoid the issue of deregulation which delayed and eventually killed emergency gas measures in the 94th Congress. Long-term legislation to set rate and regulatory policies must be addressed, but not at this time when immediate action is crucial.

The American people are rightly disturbed at lack of congressional initiatives to deal with the inequitable distribution and shortage of a vital fuel that is consumed by over 40 million residences, over 3 million commercial establishments, and almost 200,000 industrial users.

Quick passage of emergency natural gas legislation to relieve this crisis for which the Congress is partly to blame, will be a good first step in the legislative process needed both to correct the Natural Gas Act and to set an overall national energy policy.

THE UNLAWFUL EXPORTATION OF OUR ALASKA OIL

The SPEAKER. Under a previous order of the House the gentleman from Connecticut (Mr. MCKINNEY) is recognized for 5 minutes.

Mr. MCKINNEY. Mr. Speaker, before the end of this year, oil from the trans-Alaska pipeline will begin to flow. The unresolved issue is where that badly needed resource will be used. There is no question as to where it is needed. Perhaps more disturbing than the uncertain destination of the long-awaited yield is the ever-increasing consensus in favor of exporting the oil to Japan.

Three factors necessitate the development of a domestic distribution plan for Alaska's North Slope crude: This Nation's growing reliance on foreign oil imports—now at its highest level since the 1973 embargo; the country's ever-increasing consumption levels and; the most recent—but surely not final—oil price increase by the OPEC nations. Despite the glaring need for increased domestic energy development, plans for exportation of Alaskan oil are gaining support. Last month, a joint hearing of the Senate Interior and Commerce Committees, attended by representatives of the California and Alaskan State governments as well as environmental, industry, and Federal regulatory officials, concluded that an exchange agreement with Japan trading Alaskan oil for that country's OPEC supply would be satisfactory. Indeed, such a solution would be the easiest and perhaps the most immediate answer to the oil transportation problem, as well as the most profitable alternative for the oil industry.

However, Mr. Speaker, that proposal has three essential problems. First, any exportation arrangement places our already vulnerable energy supply in greater jeopardy of interruption. Those who claim that the flow of Alaskan oil could be diverted from foreign to domestic ports in the event of another embargo are naive. If domestic distribution could so easily be accomplished in the event of another embargo, why can it not be accomplished now? Second, a plan for temporary exportation—if there is such a thing—merely postpones the inevitable need to develop a domestic distribution system. Last, and most important, exportation of the Alaskan resource is unlawful under any interpretation of the intent and purpose of the Trans-Alaska Pipeline Authorization Act of 1973 (Public Law 93-153). Section 114 of the act subjects the exports of Alaskan oil to the limitations and licensing requirements of the Export Administration Act of 1969 which specifically provides for export controls:

> To the extent necessary to protect the domestic economy from excessive drain of scarce materials . . . and . . . to the extent necessary to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States.

In addition this section establishes as a prerequisite for exportation of Alaskan oil that—

> The President must make and publish an express finding that such findings are in the national interest.

Therefore, unlike the "1969 Export Act," the provisions of section 114 do not require an applicant for export license to demonstrate merely that such exports will not adversely affect the Nation. Rather, the provisions of that section place a more difficult burden upon the applicant for license—and ultimately the President: To definitively demonstrate that the export of North Slope crude will directly benefit this country.

Due to the energy crisis the 94th Congress went to great lengths to accommodate the oil industry by eliminating environmental regulation which blocked the construction of the trans-Alaska pipeline for 2 years. At the heart of the matter was a very simple point. Congress by enacting section 28 of the Mineral Leasing Act of 1920 allowed pipeline companies to use a certain amount of Federal land. In their plans for the Alaska pipeline those companies found the right-of-way permitted insufficient to satisfy their purposes. The companies, accompanied by representatives of the executive agencies, appealed to the courts in an effort to have legal obstacles to construction waived. In that case, Wilderness Society against Secretary Morton, the U.S. Circuit Court of Appeals for the District of Columbia found that there was no legal basis for a waiver of such restrictions. In response to the court's decision and cognizant of the need for increased domestic energy development, Congress enacted new legislation which expanded the authority of the Secretary of Interior and thereby waived existing laws to accommodate industry demands. Having accommodated those needs, passed over environmental considerations, and eliminated the right of citizens and/or groups to contest the decision, the Congress patiently awaited the completion of the $8 billion project.

Even in its haste to begin construction of the project, Congress never intended that the precious cargo from that pipeline be exported. A section-by-section analysis of the Trans-Alaska pipeline authorization—Senate Committee Report 93-207—clearly shows the committee's intention that Alaskan crude oil be used as a domestic resource. The committee stated that—

Because of uncertainty regarding the volume of the District v (West Coast) oil production and the imponderable but almost surely enhanced commercial attractiveness of oil exports to Japan in future years, the Committee is of the view that even though it has had repeated assurances from the oil companies and the Administration that the former "have no intention" to export crude oil produced on Alaska's North Slope, there should be a statutory check upon such exports.

Based upon those assurances, it was my "legislative intent" in voting for passage of the pipeline bill that Alaskan oil be used solely as a domestic resource. The American people have paid for that oil with the passage of extraordinary laws that foresake environmental concerns and suspend the right of the people to protest those decisions in a court of law. Having paid that price, we are now asked by the executive branch, Senate committee, and the oil industry to turn to the American people and say—despite our assurances to you, Japan will get the oil. The thought of it is a disgrace and an injustice.

In the last Congress I introduced H.R. 14025, a bill to temporarily suspend the Presidential export authority and to establish a consortium of energy regulators to develop a plan for domestic distribution. As you know, Mr. Speaker, H.R. 14025 did not reach the House floor. However, I was successful in amending the Alaskan Gas Transportation Act of 1976 (CONGRESSIONAL RECORD of October 1, pages 17725, 17729–17730) directing the issuance of a Presidential report on the distribution of Alaskan crude by April of this year. Having accomplished the goal of obtaining an executive branch analysis of the distribution consequences, we must now be sure that the small cracks in the trans-Alaskan authorization law do not become gaping holes through which exportation can be forced as a no-alternative proposal. As the present law reads, the President can approve of exportation pending congressional disapproval within 60 days. In addition to the questions which have recently arisen regarding the constitutionality of resolutions of disapproval, such a maneuver would be totally ineffective in dealing with the oil delivery problem. With no plans for domestic distribution, exportation of Alaskan crude becomes the only alternative. A decision to disapprove of the only plan available is no decision at all—exportation then becomes a foregone conclusion. By suspending the Presidential export authority of the trans-Alaska pipeline law we can halt the steamrolling plans to export the oil and force the hand of both the industry and our executive regulators to develop a system of domestic delivery.

Mr. Speaker, I am therefore introducing a bill to suspend the export authority of the Trans-Alaska Pipeline Authorization Act to insure that the intent and purpose of that law—equitable domestic delivery of Alaskan oil—are accomplished. The problems of domestic distribution are not insurmountable and it is time that a definitive, well coordinated system be devised. By suspending the export authority of the Pipeline Act we can prevent the circumvention of the law and assure the American people that which is rightfully theirs. Once the oil from Alaska is flowing down to the lower 48 States, then and only then, can we consider the reinsertion of an export medium to handle any Alaskan oil that is truly "extra."

With your permission, Mr. Speaker, I would like to include in the RECORD this article which appeared in the January 18, 1977, edition of the Washington Post and which is a further demonstration of the growing consensus for the exportation of Alaskan oil. The article follows:

SCHLESINGER WOULD NOT RULE IT OUT—OIL FROM ALASKA MIGHT GO TO JAPAN

Veering sharply from Ford administration policy, President-elect Carter's energy coordinator said yesterday he would not rule out sending Alaskan oil to Japan in exchange for more foreign oil for the United States.

James R. Schlesinger answered this controversial question for an energy committee of the U.S. Conference of Mayors.

Schlesinger also hinted he may not favor immediate removal of federal regulation over interstate natural gas prices. Carter previously endorsed a limited, five-year "deregulation" of new gas.

The Federal Energy Administration says a large part of the Alaskan oil will be surplus on the West Coast within a few years.

But former FEA Administrator Frank G. Zarb repeatedly pledged, up to his resignation last Saturday, that Alaskan oil would not go to Japan. He maintained that it would be nearly impossible to divert the oil to the U.S. mainland quickly in case of emergency, while any such abrupt cutoff of oil to Japan, which relies solely on imports, might strain relations.

Asked about the possibility of sending oil to Japan, Schlesinger said, "I would not rule that out at this time." He said "swapping arrangements" might be made, in which foreign oil otherwise destined for Japan would come to the United States.

Indicating possible opposition to ending federal curbs on the sales of natural gas, he noted the nationwide shortage and the inability of consumers to defend themselves against unfair price increases without regulation.

"There are not ideal circumstances to deregulate gas," he said. A better balance between supply and demand—a goal that is likely to take a long time—should be established before deregulation, he added. Asked later whether he was opposing immediate gas deregulation, Schlesinger told a reporter that "the Carter administration has no position on deregulation so far."

Schlesinger also repeated his and Carter's opinion that energy policy must rely in the short run, on energy conservation and a switch from oil and natural gas to greater reliance on coal.

He said Carter considered nuclear energy a "last resort" but it would still be needed in substantial amounts.

CONTROL OF THE COMMITTEE ON GOVERNMENT OPERATIONS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. MICHEL) is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, the New York Times, Thursday, January 6, 1977, carried two stories on page 19. The first was headlined, "Carter's 'First Step' To Prohibit Conflict of Interest in Government"; the second was headlined "Carter Planning Open Presidency."

The first Times article stated:

All through his campaign for Presidency, Jimmy Carter promised that if elected he would issue strict guidelines prohibiting conflicts of interest to end what he termed a 'sweetheart' relationship between the Federal regulatory agencies and the industries they regulate and to restore the confidence of the American people in public officials.

The second Times story stated:

"Key" figures in the Cabinet and the Congressional leadership will also have direct access to the President, "Not just a small clique" of Government advisers outside the White House staff. Mr. Carter will make a positive effort to communicate with a lot of people around the country and receive their opinions and suggestions and have their views to elaborate on how this might be accomplished.

I think it is safe to say that if those two articles were accurate, Governor Carter has publicly committed his administration to two major goals. First, the goal of making certain that any real or apparent conflict of interest in the new administration is eliminated and, second, tht every attempt is made to see to it that the new President is not just hearing what he might want to hear from political allies and aides, but what he has to hear if he is to govern effectively.

Let me say I agree with the new President and his fellow Democrats on these twin goals. I believe they are admirable. And that is why I am today introducing a bill which will serve to eliminate even an apparent political conflict of interest within branches of the Federal Government.

My bill would provide "the majority of the membership—including the chairman—of the Committee on Government Operations of the Senate and House of Representatives, respectively, shall be composed of members of a major political party other than the political party of which the President of the United States is a member."

Mr. Speaker, the bill I am proposing does not question the integrity or devotion to the public good of the members of the majority party who now dominate the Government Operations Committees. It simply reflects the down-home, commonsense wisdom that, as I see it, is at the heart of the consensus about the need for governmental reform: The only way we are going to restore the confidence of the American people in Government is if we make it clear that there is no "sweetheart" arrangement between the White House and the congressional committees that have the duty to oversee and investigate the departments and activities of the executive branch. Can citizens believe the public interest is truly being served when the Government Operations Committees of both the House and the Senate, charged with important oversight duties, are in the hands of the same party as that of the

President? How can the public be assured that the congressional committees so dominated are not simply acting out of partisan interest instead of really investigating and overseeing Government operation? My bill would go far to reassure the voters in this regard.

And then there is the question of openness. If the majority party agrees to this bill, that will put an end to charges of "one-party government," of dictatorial manipulation, of thwarting the public will, of overlooking or ignoring abuses in the executive branch. Needless to say, this bill will also apply when the Republican Party, now temporarily in the minority and out of the White House, regains its proper majority role along with control of the executive branch. For the present, however, it is the opportunity of the Democratic Party, whose leaders have spoken so eloquently of "openness" and avoidance of conflict of interest to show the American people that those words have meaning.

The President will also benefit by what he will learn from a Government operations committee dominated by members of the other party. Working in close cooperation with the members of the majority, the minority party committee members can examine and investigate and make public statements about situations in Government that the majority party, by itself, might not, for one reason or another, get around to investigating.

My bill will bring into interbranch relationships the high standard Mr. Carter wants to set for relationships between Government and the private sector. It will also give the President a chance to hear views he might not otherwise hear. All in all, I am firmly convinced that this bill will make Government truly open and—most important—will give the public every reason to believe that this is true.

The text of my bill follows:

H.R. 2338

A bill to provide that the majority of the membership (including the chairman) of the Committee on Government Operations of the Senate and House of Representatives, respectively, shall be composed of members of a major political party other than the political party of which the President of the United States is a member

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the respective amendments made by the following sections of this Act are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and shall be considered as one of the rules of that House of Congress to which specifically applicable; and

(2) with full recognition of the constitutional right of such House to change such rule at any time, in the same manner, and to the same extent, as in the case of any other rule of such House.

SEC. 2. Clause (j) of rule XXV of the Standing Rules of the Senate (relating to the Committee on Government Operations of the Senate) is amended by adding at the end thereof the following:

"(3) The majority of the membership (including the chairman) of such committee shall be composed of members of a major political party other than the political party of which the President of the United States is a member.".

SEC. 3. Clause 8 of rule XI of the Rules of the House of Representatives (relating to the Committee on Government Operations of the House of Representatives) is amended by adding at the end thereof the following:

"(e) The majority of the membership (including the chairman) of such committee shall be composed of members of a major political party other than the political party of which the President of the United States is a member.".

SEC. 4. The foregoing provisions of this Act shall become effective at the beginning of the next regular session of the Congress which follows the date of enactment of this Act.

STATE LEGISLATURES BARRED FROM RAISING OWN SALARIES—WHY NOT CONGRESS?

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, according to a report I received last week from the Library of Congress, "28 States have provisions in their constitutions which prohibit State legislators from raising their salaries during their term in office." Another nine States set the legislators' rate of compensation in their constitutions.

At least 85 percent of the Members of the House of Representatives come from the 37 States identified by the Libary of Congress study.

As we again grapple with the thorny issue of congressional salary levels, I recall my own experience in the Ohio General Assembly. There, legislators are prohibited by the State's constitution from changing their salaries during their term of office. How many other States, I wondered, had similar provisions in their constitutions?

At my request, the American Law Division of the Congressional Research Service, Library of Congress, recently reviewed the constitutions of all of the States. Donald Haines, a legislative attorney at CRS, found that the 28 States listed in the appendix had constitutional provisions barring legislators from changing their rate of compensation during the term in which they are currently serving.

The nine States which set their legislators' compensation in their constitutions also are included in the appendix. In these States it is impossible for officials to change their salaries by simple legislation and generally means that no increase can be ratified except by popular referendum.

Because of the short deadline imposed, the Library of Congress study covered only State constitutions and did not extend to the statutes of the various States. It is possible, therefore, that some of the 13 States whose constitutions do not preclude legislators changing their own salaries in mid-term, instead may have statutory prohibitions against this practice.

I believe, Mr. Speaker, that this Library of Congress study lends added weight to my call for action on the proposed Congressional Pay Raise Deferral Act, H.R. 1365.

As I have explained before, this legislation provides that any increase in congressional salaries automatically would be deferred until the start of the Congress following the one in which it is approved.

Passage of the Congressional Pay Deferral Act would remove Members of Congress from the obvious and otherwise unavoidable conflict-of-interest situation in which we now find ourselves every time we must consider the question of congressional salary levels. This proposal also would allow the public greater participation in deciding how much their elected representatives should be paid, and it would help to restore public confidence in the integrity of our system.

Although we might at some time consider adding a pay raise deferral provision to the U.S. Constitution—just as there are now such clauses in most of our State constitutions—for the time being there is a more immediate solution to our dilemma. We can do by simple statute what many of our States have done in their constitutions. We can enact the Congressional Pay Raise Deferral Act.

At this point in the RECORD, I wish to insert the list of States whose constitutions prohibit their legislators from raising their salaries during their current term of office. After each State is a citation indicating the appropriate constitutional provision.

(NOTE.—The most current compilations of State constitutions are up to date as of 1974 or 1975, depending on the State. Some minor changes may have occurred since these books were published, but it is believed that none affect the relevant portions of the constitutions.)

STATE CONSTITUTIONAL PROVISIONS PROHIBITING LEGISLATIVE SALARY INCREASES DURING THE TERM ENACTED

Arizona (Art. IV, part 2, sec. 17).
Arkansas (Art. V, sec. 16).
California (Art. IV, sec. 4).
Colorado (Art. V, sec. 9).
Hawaii (Art. III, sec. 10).
Illinois (Art. IV, sec. 11).
Indiana (Art. IV, sec. 29).
Maine (Art. III, part 3, sec. 7).
Kentucky (section 42).
Maine (Art. III, part 3, sec. 7).
Maryland (Art. III, sec. 15).
Minnesota (Art. IV, sec. 7).
Mississippi (Art. IV, sec. 46).
Missouri (Art. 3, sec. 16).
Montana (Art. V, sec. 5).
Nebraska (Art. III, sec. 19).
Nevada (Art. IV, sec. 33).
New Jersey (Art. IV, sec. 4, part 8).
New York (Art. III, sec. 6).
North Carolina (Art. II, sec. 16).
Ohio (Art. II, sec. 31).
Oklahoma (Art. V, sec. 21).
Pennsylvania (Art. II, sec. 8).

South Carolina (Art. III, sec. 19).
Tennessee (Art. III, sec. 23).
Virginia (Art. IV, sec. 5).
Washington (Art. XXVIII, sec. 1).
Wyoming (Art. III, sec. 9).

STATE CONSTITUTIONAL PROVISIONS IMPOSING SPECIFIC LIMITS ON LEGISLATIVE SALARIES

Alabama (Art. IV, sec. 49).
Georgia (Art. II, sec. 9).
Idaho (Art. III, sec. 23).
New Hampshire (Part 2, sec. 15).
New Mexico (Art. IV, sec. 10).
North Dakota (Art. II, sec. 45).
Rhode Island (Amend. XI, sec. 1).
Texas (Art. III, sec. 24).
Utah (Art. VI, sec. 9).

A NEAR DISASTER FOR OLDER AMERICANS: THE ADMINISTRATION'S FISCAL YEAR 1978 BUDGET

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 15 minutes.

Mr. PEPPER. Mr. Speaker, this week we received the outgoing President's proposed budget for fiscal year 1978, which begins on October 1, 1977. As chairman of the House Select Committee on Aging, I have examined that budget from the viewpoint of those concerned about the welfare of older Americans.

Particularly in social security and medicare, the new budget seems like nothing more than recycled retrenchment—the same ill-considered proposals Congress rejected a year ago.

Although there are some adequate proposals in President Ford's budget, which might earn him an "A" for effort, I am afraid that my judgment of the document gives him a "D" on overall substance.

He would roll back the calendar to eliminate altogether several programs Congress has funded, some for many years—senior employment under the Older Americans Act, senior opportunities and services, and, most strikingly, aid to multipurpose senior centers.

He would impose burdensome increases in health costs paid by medicare participants, at a time when medicare pays less and less of older persons' health bills.

He would increase regressive social security payroll taxes, the least desirable way to deal with long-term imbalances in the structure of the trust fund.

He continues to ignore the potential of home health care to stem the flow of the elderly to nursing homes and other institutions.

Many other programs would be reduced slightly, or held at 1977 levels, a de facto decrease in the face of rising prices.

Mr. Speaker, this is no time for retrenchment in Federal efforts to aid senior citizens. Rather, we should be looking at intelligent ways to broaden the coverage of relevant programs, and to raise benefit levels, in order to bring a measure of decency and security to the later years of 22 million Americans aged 65 or older.

But the 1978 administration budget offers older Americans little sustenance in such crucial areas as health, income, social services, and housing.

HEALTH

For 1978, as for 1977, the budget again proposes to lump medicaid and 19 other Federal health programs into a single bloc grant to the States for health care to low-income persons. Again the total funding proposed is insufficient—the whole is less than the sum of its parts. Some States would be hard pressed to maintain current service levels, others would have the freedom to cut back services severely to save State funds.

In medicare, the budget again proposes "catastrophic" coverage for those suffering extended illnesses—but also proposes again jacking up deductibles and coinsurance payments for every medicare participant, so that about 97 percent would end up paying more.

The budget proposes to remove medicare limits on hospital and nursing home stays, which is a step in the right direction.

But nowhere does it mention lifting the limit on home health visits, a cost-effective move that holds the hope of continued independent living for thousands of our senior citizens.

INCOME AND EMPLOYMENT

I am particularly disappointed in the budget's proposals in the field of income security and employment for the elderly.

The senior workers community service employment program will provide part-time work to more than 22,000 older workers in the coming year. Again, the budget requests phasing out this vital program.

For social security, the budget calls for increases in regressive payroll taxes to attain short-term improvements in the trust fund's balance. It would also slash certain benefits to student-children of covered workers and to new retirees.

The food stamp program is one of the most important to low-income elderly. Again, as for 1977, the 1978 budget proposes to slash 4 to 6 million recipients off the food stamp rolls, in the name of "reform." There have been abuses and scandals in the food stamp program, to be sure, but their incidence has been blown out of proportion by opponents of the program. In my mind, the true "scandal" regarding food stamps is that only one elderly person of every four eligible to participate actually receives food stamps.

OLDER AMERICANS ACT

As for the social service programs aimed exclusively at older Americans, the budget proposes "holding actions" for some programs and ignores others completely.

One that falls in the latter category is the funding of title V of the Older Americans Act, which helps finance multipurpose senior centers. These centers, where they already exist, have often become the focal point for the comprehensive, coordinated service delivery plans that the Older Americans Act is aiming at. Congress provided a modest $20 million for this effort in 1977. Yet the budget asks for zero dollars.

For community services plans, for the popular elderly nutrition programs, the budget proposes to hold steady in 1978 at 1977 operating levels. The net effect in these times of rising prices is to cut the service potential in all of these programs.

The Senior Opportunities and Services—SOS—program, run by the Community Services Administration, identifies and assures delivery of needed services to low-income elderly. After many years of ignoring the program, the administration in 1977 proposed a $10 appropriation for SOS. This year, however, the budget request is zero.

OLDER VOLUNTEER PROGRAMS

The budget does propose modest increases in funding for the three basic senior volunteer programs: Foster Grandparents, Senior Companions, and retired senior volunteer program—RSVP. An increase to full authorization is necessary in these areas, however, particularly the senior companion program, in order to coordinate better with foster grandparents and to give better geographic coverage to the senior companion effort.

HOUSING

The basic housing program for the elderly and handicapped is authorized under section 202 of the Housing Act of 1959. This "202" program is operating at a level of $750 million in 1977, and the budget proposes to stay at that level for fiscal year 1978. Such a proposal would leave such a large amount to be obligated in fiscal year 1979 that effective program management would be curtailed. At least half of the $2.55 billion available over the next 2 years should be planned for obligation in 1978.

Section 504 of the Housing Act of 1949 authorizes a program of grants to very low income rural families to finance needed repairs to their homes. This modest program is operating at a level of $5 million in 1977, with mostly elderly beneficiaries. The budget proposes to eliminate the program completely, and substitute a loan program over periods of up to 20 years.

I mention only these few items, Mr. Speaker, which were immediately evident to me in scanning these massive budget documents in the short time we have had them available to us. But I trust that I have pointed out some of the budget items of utmost concern to America's elderly, and that this will serve as a beginning point for a serious dialog on the vital issues involved.

I have compiled, Mr. Speaker, a chart showing how the 1978 administration budget request compares with the 1977 appropriation and, where applicable, the 1978 authorization level. In addition, I have added to the chart a column showing where appropriate, what I personally believe are prudent, defensible funding proposals for 1978. I include the combined chart at this point:

MAJOR 1978 BUDGET ITEMS AFFECTING OLDER AMERICANS

[In millions]

	1977 appropriation	1978 authorization	1978 Ford proposal	1978 Pepper proposal
OLDER AMERICANS ACT				
Title III	151	----------	151	184
Area planning and social services	(122)	287	----------	(150)
State administration	(17)			(20)
Model projects	(12)	[1] SS	----------	(14)
Title IV	26.5	SS	21.2	32
Training	(14.2)	----------	(14.2)	(18)
Research	(8.5)	----------	(7)	(9)
Geriatric centers	(3.8)	----------	(0)	(5)
Title V	20	SS	0	75
Title VII	[2] 203.575	275	225	275
Title IX	[3] 90.6	200	22.65	200
Federal Council on Aging	.575	SS	.450	.6
National Clearinghouse	----------	SS	2	2
OAA total	492.25	----------	422.3	768.6
ACTION Older Volunteer programs	56.8	65	61.6	65
RSVP	(19)	(22)	----------	----------
Foster Grandparents program	(34)	(35)	----------	----------
Senior Companions	(3.8)	(8)	----------	----------
Community Services Administration:				
Senior opportunity services	10	SS	0	15
Housing (sec. 202)	750	[4] 2,550	750	1,275
Rural home repair grants	5	SS	0	10
National Institute on aging	30	SS	[5] 24,933	50
Home health services	3	[6] 15	[6] 0	[6] 11

[1] SS means such sums as may be appropriated.
[2] Operating level $225.
[3] July 1977 through June 1978.
[4] 2 yr.
[5] Plus 9,567 in intramural funds.
[6] Autho.ization and amount proposed is to be included in supplemental appropriation for fiscal year 1977, the only period for which authorization already exists.

COMPENSATION FOR VICTIMS OF CRIME

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ), is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, in the last two Congresses I have sponsored legislation calling for compensation for victims of crime.

I am again proposing such a bill that would provide grants to States for the payment of compensation to these victims, and I am hopeful that this legislation will become law in this Congress.

It is a well-known fact that crime has increased in our country, and sociologists and psychologists have studied the matter, attributing the increase to factors ranging from the change in our life styles to unemployment. But unfortunately a serious aspect of the crime problem has been overlooked, and that is consideration for the victim of the crime. For him society has failed in its duty to protect him, and a State which has this responsibility cannot disavow it when failing to protect its citizens.

The concept of society having an obligation to help meet the needs of its citizens who encounter criminal violence is not a new one.

The code of Hammurabi of ancient Babylonia evoked communal responsibility for certain crimes where it was not possible to place individual blame. "If the robber has not been caught," the code specified, "the robbed man shall declare his lost property in the presence of the God, and the city and the Governor in whose territory and district the robbery was committed shall replace him for his lost property." In addition, the code ordered that "if it was a life that was lost, the city and Governor shall pay one mina of silver to the heirs."

If the Babylonians had such a system 4,000 years ago, surely our society, which prides itself on its civilized nature, could have such a system.

In the 16th century, Jeremy Bentham noted the plight of the victim of crime and suggested this rationale for compensation:

Has a crime been committed? Those who have suffered it, either in their person or their fortune, are abandoned to their evil condition. The society which they have contributed to maintain, and which ought to protect them, owes them, however, an indemnity, when its protection has not been effectual.

There are a number of States that currently have programs to compensate victims of violent crimes, but the bill I am introducing today will encourage all 50 States to have such a program. It calls for grants to States for the payment of compensation to persons injured by certain criminal acts.

Mr. Speaker, Congress has provided funds over the past few years to improve the criminal justice machinery, from addressing the needs of local police forces to improving the conditions in correction facilities, but we have ignored the innocent victim. He is the person who, because of one act of lawlessness, finds himself in a serious financial situation, sees his family deprived of a breadwinner, sees a promising career destroyed, or finds himself with serious medical problems that will be with him for the rest of his life. We cannot feel that we are really dealing with the crime problem until we have also taken steps to assist the victim.

I hope that every Member will lend his or her support to my bill, and hopefully compensation for victims of criminal acts will be available to Americans before this year has ended.

SENATOR PHILIP A. HART

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, there are few men and women in any age whose personal example is as important as the contributions of their work.

Phil Hart was such a person. Gentle and wise, he was also courageous without being intemperate, determined without being strident. In a complex and confusing age, Phil Hart knew how to make choices and decisions—without regard for their political cost—and he lived by them.

He became, in his own way, a leader by example. If others cared to follow he was pleased. But if they did not, he bore them no animosity.

I have never known a finer and kinder man, or one who was more devoted to equality and justice for all mankind. He lived his life simply and with dignity—and he died the same way.

Mr. Speaker, Philip Hart was a great man.

ADMINISTRATIVE RULEMAKING REFORM

The SPEAKER. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 10 minutes.

Mr. LEVITAS. Mr. Speaker, this Government belongs to the people of this country. It should not oppress them. It should serve them. It should be responsive to them. In recent years, this Government has not always acted in this fashion.

In an effort to help our Government return to its proper role, I am introducing three bills which would begin to restore to the people a measure of control over Federal agency rulemaking, because it is the rules spewing forth from these unelected bureaucracies that is a major cause of the problem.

Embodied in the principles of the Magna Carta, the Declaration of Independence, the Constitution and its Bill of Rights is the basic tenet that Government must be by the consent of the governed and that due process of law is fundamental and essential. Would any American citizen seriously argue that a person should be deprived of liberty or property under decrees which no elected official has participated in promulgating? Yet, today, the fact is that vastly more rules are made by the decree of the unelected bureaucracy than by the elected Members of Congress. In most instances, a consequence of violating these administrative rules is imprisonment or fine or both.

If you ask the man on the street, who

makes the law in this country, he would likely tell you that Congress does. But, he would be wrong, because more edicts regulating his life are promulgated by unelected officials than are passed by the elected Congress. An administrative rule is, in effect, a law. It has the same force and effect as a law. A person can go to jail, in many instances, for violating an administrative, bureaucratic rule just the same as if he had violated an act of Congress.

One has only to glance at the daily Federal Register to realize that Federal agencies have evolved into a fourth branch of Government with hosts of regulations which carry the force of law without legislative consideration. While it may be true that Congress has previously given—or abandoned—to the bureaucracy the power to enact these administrative laws, that does not justify continuing this practice. There is definitely a need to have administrative rulemaking to fill in the gaps between the broad principles embodied in acts of Congress, but this does not mean that Congress should leave it to civil servants or appointed officials to pass thousands upon thousands of far-reaching rules that can put citizens in jeopardy of losing liberty or property without having anyone elected by the people or answerable to them involved in the process.

The three bills which I am introducing will give the public, through their elected representatives, an input into and a control over the rules which govern their lives by means of a congressional veto procedure for administrative regulations. These bills will help cut down on bureaucratic redtape, reduce the regulatory outpouring from Government agencies and make the rules that are adopted more reasonable.

Congressional veto of administrative rules and regulations is not a new idea. On 10 separate occasions this idea was debated in the House during the 94th Congress and adopted as amendments to various pieces of regulatory legislation. Indeed, last year the Judiciary Committee reported a bill applying congressional veto of administrative rules and regulations across the board. This bill too was debated on the floor near the end of the session under suspension of the rules. Unfortunately, it failed by two votes to receive the necessary two-thirds vote for passage. However, the strong vote in favor, 265 to 135, shows the support this concept has. That support is bipartisan with 165 Democrats and 100 Republicans joining in voting for this bill. That support includes liberals, moderates, and conservatives.

A congressional veto of administrative rules and regulations provides an ongoing procedure whereby Congress may review and reject agency actions—a mechanism that is necessary to insure that the principles upon which our country was founded are upheld. The procedure set forth in these bills provides that whenever a rule or regulation is adopted under the Administrative Procedure Act, it will be referred to Congress for 60 days before it becomes effective. If during that 60-day period either the House or the Senate adopts a resolution of disapproval which is not rejected by the other body within 30 days, the rule in whole or part stands vetoed. While some critics have described this as a one-House veto, it is not, since both Houses of Congress could participate in the process. My proposal provides for an expedited procedure for bringing such resolutions to the floor of the House or Senate modeled after the procedures used for consideration of Presidential rescission and deferral messages.

This is not a startling new proposal. There is ample precedent for legislative review of executive actions in both Federal and State law. Since 1932, over 139 different acts of Congress, with nearly 200 separate provisions mandating some sort of congressional review of or consent to executive implementation of those laws, have been passed. Seven States have on their books laws which provide for legislative review of executive action.

Congress not only has repeatedly provided for congressional veto of administrative rules and regulations, but has exercised that power. Last year, on September 14, the House approved a resolution, House Resolution 1505, vetoing certain regulations of the General Services Administration pursuant to the Presidential Recordings and Materials Preservation Act which provides for this very type of congressional veto.

Congressional veto of administrative rules and regulations addresses a most serious question: Who makes the laws in this country? Is it the elected Congress or the unelected bureaucrats who rule by administrative fiat?

Time and time again the administrative agencies have usurped the authority of Congress through their quasi-legislative process of rulemaking. We have seen our legislative efforts frustrated or distorted when the implementing rules and regulations are published. The administrative agencies have oftentimes promulgated rules which are oppressive, arbitrary or go clearly beyond the intent of Congress in passing the enabling act. Once that pithy little clause, "The Secretary shall have the power to promulgate regulations . . .", is inserted in an act, it is your guess and mine how far the administrative agency will go, or, indeed, how lenient it will be.

What has resulted is a citizenry that is becoming increasingly cynical, frustrated and angry with their government. If we look just at the sheer number of regulations promulgated within a year, we can understand the extent of their anger. In 1974 the bureaucracy adopted 7,496 new or amended regulations. During that same year, Congress passed 404 laws—a ratio of more than 18 to 1. It becomes clear then who is running the lives and businesses of the citizens of this country—unelected bureaucrats, not elected representatives.

The means of recourse presently available to our citizens are limited. Judicial review is a costly process prohibitive to the average citizen when a decision may be put off for years and particularly when the scope of judicial review is circumscribed. This point is illustrated by a recent Supreme Court decision in Union Electric Co. against EPA that held the economic and technological infeasibility of regulations cannot even be considered in judicial determinations. The administrative comment period does afford the citizen the chance to express his views on a proposed regulation, but it does not require the agency to take serious note of the comments submitted. Moreover, unless the citizen reads the Federal Register daily, the comment period is likely to go by without his knowing about the rule until it becomes effective. Legislation can, of course, be introduced to clarify congressional intent, but we know too well that this is a cumbersome and time-consuming process which is not adequate to repeal or change an administrative rule. Also, why should the full mechanism of enacting laws be required to reject rules?

Congressional veto of administrative rules and regulations would have a two-fold effect. It would make the administrative agencies more responsive to the public and to congressional intent by establishing the unquestioned realization in each agency that they cannot promulgate regulations with impunity. It is axiomatic that we will see more carefully drafted regulations, as well as more attention being paid to the views of citizens during the comment period.

It would also force Congress to draft legislation more carefully and to spell out its intent more clearly. Congress is far too lax in delegating authority broadly and without guidelines to administrative agencies. When hard decisions have to be made, we pass the buck to the agencies with vaguely worded statutes. Who can or should vote against safe cars, clean air, or nondiscrimination? But when the implementing regulations are published loading cars up with expensive equipment of little benefit, or EPA imposes a parking ban on cities, or EEOC refuses to let a police department ask potential employees if they have a criminal record, the actual benefit of safe cars, clean air, or nondiscrimination is called into question. If we realize that we have the ultimate responsibility for the administrative rules that flow from these enabling acts, we will be more careful.

Moreover, the public will have a larger voice in the rulemaking process. Access to Congressmen and Senators is far easier than access to anonymous, faceless bureaucrats. Most Federal administrators are hard-working, dedicated, and talented people who conscientiously do their job and serve the public faithfully and well. Some few, however, are zealots who in some elitist way think they—not the people or the elected Congress—run the country. The purpose of a congressional veto is to deal with this problem, and to see that the public is given an input, through their elected representatives, in the promulgation of administrative rules. That is why so many organizations and individual citizens support this idea—because it gives them a say-so in the rules that run their lives. It provides a remedy to the citizens of this country for us, as their elected representatives, to say when the bureaucracy has gone too far, perverted the intent of Congress and promulgated arbitrary and oppressive rules.

Mr. Speaker, the reason I offer three

bills at this time is to cover the spectrum of needs addressed by this proposal and to meet, or at least point out, some of the objections that have been made to it. The three bills I am introducing provide for congressional veto of administrative rules and regulations according to the procedure I described previously. The first bill is identical to the one reported by the Judiciary Committee which was considered by the House last year. This bill applies the congressional veto concept to all rules and regulations, as well as containing a retroactive provision which will allow either House of Congress to review regulations previously adopted and, if necessary, refer them back to the administrative agency for reconsideration and repromulgation under the procedures of congressional veto.

The second bill I am introducing limits the scope of the Judiciary Committee bill by deleting the retroactive provision. While a section allowing reconsideration of prior regulations is important, it may be of benefit at this time to forgo this and give the agencies an opportunity themselves to reconsider previous regulations.

The last bill conforms to the idea of the original bill I introduced at the beginning of the 94th Congress applying congressional veto to rules and regulations which carry penalties of fines, imprisonment, loss of Federal funds, or civil penalties for noncompliance. This bill particularly serves to illustrate my point of the danger of rule-by-bureaucracy.

It must never be forgotten that administrative rules and regulations have the force and effect of statutory law. A citizen stands in jeopardy of losing property and sometimes liberty for violating an administrative rule. Yet, these rules have never been subject to review by an elected representative of the people. This is an affront to those who believe that the basic principles of the Declaration of Independence, the Constitution and its Bill of Rights are valid—that no person should be deprived of liberty or property without someone elected by and answerable to the people being involved in the adoption of a decree which can place him in jail or impose a fine upon him. It is interesting to note that one of the specific grievances enumerated against King George to justify American independence and revolution as penned by Thomas Jefferson in the Declaration of Independence was:

> He (King George) has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

Legislative veto of administrative rules and regulations is a way to make a start toward restoring to the people those rights for which the Declaration of Independence spoke over 200 years ago. It is our chance to restore to the people their right to govern themselves and to restore their confidence in their own Government. If we truly believe in a system of government by the people, our support of this principle is a way to make our words and beliefs match our votes and our deeds.

These bills cannot be termed liberal or conservative; they cross ideological lines. Indeed, the more than 200 Members of the House who joined me in cosponsoring my bill in the 94th Congress came from all across the political spectrum. I commend these bills to my colleagues and hope for a united front in reclaiming for ourselves and our citizens the right of rule by the people and not by bureaucracy.

I submit here a list of those Members who have already joined in cosponsorship of congressional veto of administrative rules in the 95th Congress:

Alexander, Ammerman, Andrew of North Dakota, Badham, Barnard, Baucus, Bauman, Beard of Rhode Island, Bennett, Bevill.

Blanchard, Blouin, Bowen, Breckinridge, Brinkley, Brodhead, Brown of Ohio, Burgener, Butler, Cavanaugh.

Chappell, Cleveland, Cochran, Collins of Illinois, Coughlin, Dan Daniel, Robert Daniel, Jr., Davis, Derwinski, Devine.

Dornan, Downey, Duncan of Oregon, Emery, English, Evans of Georgia, Evans of Indiana, Fish, Flynt, Fountain.

Frenzel, Fuqua, Gephardt, Ginn, Gradison, Hannaford, Hollenbeck, Holt, Hubbard, Hughes.

Hyde, Jacobs, Jenkins, Jenrette, Jones of Tennessee, Kemp, Ketchum, Keys, Kildee, Kindness.

Krebs, LaFalce, Lloyd of California, Lloyd of Tennessee, Long of Louisiana, Lott, McDonald, Mann, Martin, Mathis.

Mazzoli, Meyner, Mikulski, Milford, Mineta, Mitchell of Maryland, Moakley, Moore, Moorhead of Pennsylvania, Murphy of Pennsylvania.

Myers of Indiana, Neal, Nedzi, Nowack, Pepper, Price, Pritchard, Regula, Robinson, Roe.

St Germain, Santini, Scheuer, Sharp, Spellman, Steers, Studds, Stump, Traxler, Treible.

Waggonner, Walker, White, Whitehurst, Winn, Wirth, Wydler, Yatron, Young of Georgia, Zeferetti.

CONGRESSIONAL SPENDING—SOME UNWARRANTED CRITICISMS

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, in the last few years congressional spending has been a favorite target of political commentators, pundits and editorial writers. The image painted in the public's mind is one of free-spending Congressmen enjoying extravagant expense accounts, large, generously paid staffs, with richly appointed offices, given due recognition to their lordly and lofty position. While some criticism is indeed justified, I feel that on the whole the picture presented is inaccurate.

Recently, Harold Johnson, the highly respected editor of the Watertown Daily Times, shed such preconceptions and took a serious look at congressional spending. This resulted in an editorial at broad variance with the usual approach to such a subject. For example, "If an individual were running a business catering to half a million clients could he do it on a payroll allowance of $239,548?"

Because of the timeliness of such an editorial and the high interest among Members in this subject, I am inserting Mr. Johnson's editorial in the CONGRESSIONAL RECORD. I hope you will examine the article and perhaps make Mr. Johnson aware of your own thoughts on the subject:

[From the Watertown (N.Y.) Daily Times, Sept. 11, 1976]

SOME UNWARRANTED CRITICISMS

Congress, all of whose members are public figures, has become an ever-increasing target of critics. Particularly vulnerable are lawmakers in the House of Representatives. Each member represents a much smaller constituency than a senator and all his actions, therefore, lend themselves to easier exposure and, without adequate explanation, open to attack.

Criticism of congressional spending on itself, for example, is perfectly proper so long as all factors are taken into account. Expenditures by each representative and allowances provided for him to run his office are legitimate subjects for review. However, it should be accompanied by an understanding of the service performed and the fact that running an office is an expensive undertaking if the congressman is to do his job well.

An objective evaluation will soon reveal that a congressman from New York State needs substantial allowances to meet his obligations to a constituency that averages 465,000 individuals. Running an office to serve almost a half million people has to be a sizeable undertaking.

If an individual were running a business catering to half a million clients could he do it on a payroll allowance of $239,584? The answer is so patent as to be almost as ludicrous as the amount itself. Clearly, then, the allocation can hardly be called extravagant, as some critics either contend or imply. Is $41,000 for telephones too much? Certainly not when contacts with the people back home and with official Washington are plainly and constantly essential.

Has anyone purchased stationery lately? If they have, they could hardly conclude that $6,500 for letter writing is too much. Nor can it be doubted that district offices are essential and cost of maintenance not at all out of line.

Publications issued by the government and distributed by the congressman upon request are among some of the targets of these critics. Yet what is surprising is the congressman's ability to get along with the supply allotted him. Here in New York, the heart of the northeastern farm area, 400 Agriculture Yearbooks per congressman is scarcely outlandish. Indeed, it is a wonder the number is sufficient.

Again, library demands alone, for instance, would consume a great part of the supply of the 68 subscriptions to the Congresssional Record provided each lawmaker. Surely the $3,195 to finance them is in keeping with sensible requirements.

As for the other books, pamphlets and booklets, all printed by the government, they are there available and provided to schools, students and teachers or to anyone who has a need for them. Five hundred copies of the Constitution at 90 cents each are well within bounds as are 500 copies of How Our Laws Are Made.

It is well to be alert to extravagant congressional practices, but somehow concern, criticisms and demands for economies must be tempered by an understanding of constituency demands and desires and a congressman's responsibility to these same people, all of whom have every right to ask for his aid.

TRIBUTE TO MRS. ALBERTA CROWE

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, I am proud

to bring to the attention of this Congress and the Nation the outstanding achievements of a distinguished central New Yorker, Mrs. Alberta Crowe. In her many years of service to the game of bowling she has gained a reputation as a model career woman. For the past 17 years she has served as president of the Women's International Bowling Congress, the world's largest women's sports organization, and under her direction its membership has tripled.

Mrs. Crowe holds executive posts for several other national bowling organizations as well as being president of her own business in Liverpool, N.Y. Her success is not without sacrifices and rewards. Her schedule has been hectic, but Mrs. Crowe has had the opportunity to travel over 1 million miles across the Nation and to many foreign countries in her duties with the Women's International Bowling Congress. I commend her dedication and enthusiasm and ask you to join me in wishing her the best in the future. Here I would like to insert an article from the Syracuse Post-Standard recognizing Mrs. Crowe's many accomplishments:

[From the Syracuse Post-Standard, Dec. 4, 1976]

THIS LADY TRAVELS FAR

(By Ed Reddy)

In the history of bowling, which extends over some centuries, one of the most famous names is that of a Central New Yorker—Alberta E. Crowe.

Alberta has traveled more than a million miles in connection with duties as president of the Women's International Bowling Congress, president of the National Bowling Council, president of the National Bowling Hall of Fame, Inc., chairman of the board of the Bowlers Building Corporation; past-president and a member of the executive committee of the American Junior Bowling Congress; and also in other capacities during her remarkable service to the game of bowling.

She is also president of her own business, Alberta Crowe Letter Service, Inc., of Liverpool.

One of her duties is being national chairman of the NBC Bowlers Victory Legion committee which has raised millions of dollars to aid hospitalized war veterans.

The leader of the world's largest women's sports organization, the WIBC, Alberta recalls: "When the WIBC Tournament was staged in Syracuse for the first time, in 1940, the total WIBC membership was 81,776. That was a notable year for me because it was then that I became a member of the WIBC Board of Directors."

When Mrs. Crowe became WIBC president in 1960, succeeding the charming Jeannette Knepprath, there were 1,543,362 members. Now, during the 17th year of Alberta's regime, the membership has grown to 3,870,947 with the expectation that the four-million mark will be reached by midsummer of 1977.

Alberta's keen interest in bowling was expanded by her late husband, Arthur "Pat" Crowe who died in 1967. Pat, a member of the Syracuse Bowling Association Hall of Fame, had been a good athlete, an excellent bowler and a former bowling proprietor.

Syracuse has hosted the WIBC Tournament, the largest sports event for women in the world, on two occasions, in 1940 and in 1954.

During every WIBC tournament, there are heavy demands on the president. A glance at WIBC history shows the tournament cities to which Alberta traveled and spent much time.

In 1960, it was Denver. Following this site were Fort Wayne, Ind., Phoenix, Ariz., Memphis, Tenn.; Minneapolis, Portland, Ore., New Orleans, Rochester, San Antonio, Texas; San Diego, Calif.; Tulsa, Okla.; Atlanta, Ga.; Kansas City, Mo.; Las Vegas, Houston, Indianapolis and Denver again. This season (1977), it will be in Milwaukee.

"The entry at Las Vegas was amazing," says Alberta. "There were 48,220 women entered to bowl on 9,644 five-member teams. Thousands of them bowled in doubles and singles also. And, this year at Denver, there were 9,237 teams competing, which adds up to 46,185 entries.

A recipient of many honors, Alberta is a charter member of the Syracuse Women's Bowling Association Hall of Fame and is a member of the New York State Women's Bowling Association Hall of Fame.

She also enjoys honoring others. One of the awards which she created, in conjunction with the Ebonite Co., is the "Star of Tomorrow Award". It is limited to women 22 years of age and under.

Alberta praises her administrative assistant, her sister, Mrs. Barbara Rapp, for outstanding service in helping here to adjust her schedules to spend time and effort with the several organizations with which she is affiliated.

"She knows as much about the president's job as I do," comments Alberta, "and she is very valuable."

Asked about her journeys, Alberta replied: "I travel about 100,000 miles a year. There is no doubt that I have traveled more than a million miles."

"What are some of the places which you have visited?"

And the answer: "Let's see, I have never been asked for a list like that before. I have to think a little. There was Sweden, France, Austria, Spain, England twice, Copenhagen, Japan, Caracas, Venezuela, Guatemala, Puerto Rico several times; Honolulu several times; Alaska twice."

Talking about WIBC headquarters in Wisconsin, Alberta pointed out: "We have about 85 employed in the headquarters. Flora Mitchell is executive secretary and she makes her reports to me."

A trip this weekend will take Alberta to Detroit. "I'm going to attend the AMF Grand Prix of Bowling. It should be an exciting competition with the top men and women pros bowling for big money. It's too bad that it will not be carried on a major TV station in Syracuse. But I understand that it will be on cable TV for Syracusans to watch. Other cities will get the full treatment on TV."

Mrs. Crowe has been elected president of the National Bowling Council four times, having been chosen in 1950, 1955 and 1961 in addition to this year.

One of the several projects of the NBC is the Bowling Spectacular which took place in Dayton, Ohio, two seasons ago and in Oklahoma City last May.

Alberta reveals: "It will be in San Antonio this season, early in May, and will be a great show, as usual. In addition to the professional stars, the top amateurs and best college teams compete."

It would take many more pages to outline the many facets of bowling in which Mrs. Crowe is involved.

However, in addition to Central New Yorkers, those who live in the many cities and countries to which Alberta has carried her enthusiasm for bowling and her great organizational ability know that she has earned an outstanding place in bowling history.

FREEDOM FOR HUBER MATOS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the true heroes of our age are those who have stood up and spoken their minds in the face of certain Government repression. Solzhenitsyn, Sakharov, Bukovsky are names that come to mind. I would like to include another person in that group. That person is Huber Matos, a political prisoner held in Cuba since 1959. Ironically, Matos was a leader in the Cuban revolution and served as rebel military chief of Camaguey Province under Castro. He was sentenced to a 20-year prison term for counterrevolutionary activities after presenting a letter of resignation alleging Communist infiltration of the revolution and asking to return to private life as a schoolteacher. Matos took no action against Castro; rather, Matos was imprisoned for simply expressing his beliefs.

Amnesty International has adopted Matos as a prisoner of conscience and, in fact, named him political prisoner of the year. Matos has served 17 years of his sentence. Reports from Cuba indicate that his health is failing, particularly because of the horrid conditions under which he is held. Ted Jacqueney, a freelance writer who visited Cuba last autumn, described those prison conditions, in the article which I am appending.

Perhaps the greatest tragedy of this episode is that Matos is a Progressive Democrat who wants what is best for the Cuban people. He expressed his pain at being labeled an "enemy of the people" in a March 20, 1975, letter to his wife:

There is something in my situation which gives me more pain than imprisonment. It is to be labeled and treated as an enemy of the People, knowing as I do that I am part of that People, and that their cause is my cause, although considerable distance separates me from the system and the men that rule our country.

Nothing unites me to the latifundistas, the monopolies, the personages of the old order, nor to the crimes, vices and privileges that the Revolution destroyed. I would not give one drop of my blood or sweat to revive the "elected" and corrupt Republic which was born in 1902, a deformed creature of North American intervention on the ashes of the ideals and sacrifices of true Cubans.

I believe it is the responsibility of the United States to do what it can to obtain the release of Huber Matos and other political prisoners in Cuba. Along with 29 of our colleagues in the House, I am today sending a letter to Fidel Castro, asking that he free Matos. If we are serious about making human rights an important factor in U.S. foreign policy, we must apply it to ally and adversary alike, right-wing and left-wing countries. I will continue to express my concern about violations of human rights in Chile, Uruguay, Argentina, Nicaragua, and other repressive dictatorships of the right, but those expressions would be hollow if I did not speak out in behalf of Huber Matos.

The letter from the 30 Members of the House to Fidel Castro is appended. Following that letter is a letter by Matos to his wife:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., January 24, 1977,

President FIDEL CASTRO,
Havana, Cuba.

DEAR MR. PRESIDENT: In the nineteenth year of your government we hope that interna-

tional conditions will allow for a lessening of tensions between our two governments.

One problem that has received our attention is the issue of human rights and political prisoners. It is within this context that we call upon you to give serious consideration to releasing Mr. Huber Matos, serving a sentence in Cuba since 1959.

We are hopeful that such a release would prompt releases of prisoners held by other countries. Certainly, the release of Mr. Matos would serve the cause of peace, reconciliation, and international understanding.

Sincerely,

Rep. Edward I. Koch, Rep. Donald Fraser, Rep. Dante Fascell, Rep. Patricia Schroeder, Rep. Berkley Bedell, Rep. Thomas Downey, Rep. James Scheuer, Rep. Robert Duncan, Rep. Norman Lent, Rep. Paul Simon, Rep. Robert Nix, Rep. Newton Steers, Rep. Millicent Fenwick, Rep. William Broomfield, Rep. Morris Udall, Rep. Gladys Noon Spellman.

Rep. Don Bonker, Rep. Andrew Maguire, Rep. Stephen Solarz, Rep. Robert Drinan, Rep. George Brown (Calif.) Rep. Matthew Rinaldo, Rep. Herman Badillo, Rep. Richard Ottinger, Rep. Chris Dodd, Rep. William Lehman, Rep. Joseph Early, Rep. Max Baucus, Rep. James Florio, Rep. Edward Pattison.

[From the Washington Post, Dec. 27, 1976]

HUBER MATOS

(By Ted Jacqueney)

Matos was sent to a security hospital room sometime in September or October, 1976, according to information received from his cell. No one knew where, or why. There were no allegations of recent torture or beatings. Matos has been held incommunicado for the past six years. Members of his family in Cuba, including his father who is now over 90 years old, have tried repeatedly to visit Matos during this period—all unsuccessfully.

The "Matos cell" was described to me as 60 square meters, underground. During the past six years, from 7 up to 16 men have been crowded into the cell. Seven are there now. The cell is kept in total darkness: A canvas sheet fastened over the two windows to block the daylight has been replaced by metal sheets, which keep the room darker, hotter and more humid than ever. An interior hall provides the cell's only ventilation. The men are permitted to see the sunlight only three times a week, for two-hours periods. "In the summer they have to carry water into the cell to pour over themselves. Otherwise they could not live because of the heat," I was told.

Almost all of the 400 political prisoners in La Cabana—called "plantados"—have allegedly suffered the loss of many teeth, and a few have lost all. Prisons are also infested with rats, mice and "all kinds of insects." A biting bedbug was described as particularly troublesome.

From the Matos cell, prisoners report steadily worsening vision loss caused by lack of light, limb paralysis, hair and eyebrow hair loss, stomach ulcers and circulation problems. Another disturbing health crisis was described to me as extreme "nervousness," with symptoms explained as uncontrollable head-flickings, eye-dartings, rapid gestures and sleeplessness—some in the Matos cell are reported to wake up screaming through the night—symptoms possibly caused by longterm, closely packed, dark, hot, damp living conditions.

Political prisoners in La Cabana's "galleries"—prison wards sleeping 60–70 men in La Cabana, 100 or more in other prisons, usually with one toilet per ward—had been rejecting the food brought to them while I was in Havana. "Rotting maize porridge served with salt twice daily, with rice, meat, fish and vegetables served only rarely, producing severe protein deficiencies," I was told.

[From the New York Times]

LETTERS

(By Huber Matos)

Winter passes and I have had no further news from you or our children. The last news I have of you dates to October and November. Probably you, too, wait with empty hands for my letters. I write to you every month. When I know my letters reach you I'll write about other things; meanwhile I'll repeat myself over and over again always with the hope that at last, reading one of these depressing letters, you'll be able to know how I am and what I am thinking after more than 15 years of harsh imprisonment. And I'll speak here of my inner feelings as well—if I did not, this letter would not be mine.

To this very day I do not fear prison. Deprivation of freedom, lack of space, isolation, privations, etc., lessen happiness but do not impoverish the spirit. To the extent that circumstances tighten like a noose over the desires of the prisoner, the strengths of spirit grow. For this reason I have been able without fear to confront unpleasant situations throughout these years as a political prisoner; the bars and their shadows do not intimidate me.

I have a presentiment—no, something more than a presentiment—I am practically convinced that I shall spend my last days in these barred corners. But such a prospect does not take away a drop of my enthusiasm for life. There is no joy in my heart; neither do I mourn.

Why do I think of my freedom as something remote? You all believe that the day the Cuban Government will free its political prisoners draws nigh. We, who see this with the eyes of experience, think differently. We are certain that we are imprisoned for life. Your criteria are based on logical premises, but in the specific case of Cuba they are invalid.

In your October letter you point out that the revolutionary power has existed for a sufficient number of years to feel confident, and that the change in foreign policy of the majority of Latin-American countries toward the Cuban Government—finding concrete expression presently in the re-establishment of diplomatic relations and trade—must weigh equally in favor of a solution for Cuban prisoners.

I agree that the revolutionary power of our country has had enough time and accumulated sufficient resources to feel confident, and that the change in Latin-American foreign policy is significant—but neither seems to influence our fate. The reality we breathe tells us we belong to another world, that we are buried in the bowels of the earth.

There is something in my situation which gives me more pain than imprisonment itself. It is to be labeled and treated as an enemy of the People, knowing as I do that I am part of that People, and that their cause is my cause, although a considerable distance separates me from the system and the men who rule our country.

Nothing unites me to the *latifundistas*, the monopolies, the personages of the old order, nor to the crimes, vices and privileges that the Revolution destroyed. I would not give one drop of my blood or sweat to revive the "elected" and corrupt Republic which was born in 1902, a deformed creature of North American intervention on the ashes of the ideals and sacrifices of true Cubans. But, in sum, this is my fate and I am resigned to it.

It is hardly pleasant to expose you to these truths. I should like to offer a more optimistic picture—but I could only do so by putting on rose-colored glasses. What is true is that when they try to tarnish my "Cubanness" everything within me rebels.

And if I explain to you how I contemplate the future it is because here freedom is more a dream than a hope, and dreams are lost in infinity when confronted by the dawn of reality. Where more or less long-term prisoners are concerned, the system which reigns in Cuba leaves little margin for hope.

Of course there are prisoners who, either through naivete or self-deception, believe that the Government will not survive long and hope to be released from prison in a burst of happiness which cannot be far off. Others, the majority, simply hope for liberty.

My viewpoint is a minority one. If only it were mistaken! I know you are hoping I shall be free within the next few years; I know that you are making efforts to free me and relying on the help of apolitical organizations and people of good will. I am grateful for the good all those generous souls wish to do for me, but in truth it seems difficult to return to my home and life from the bowels of the earth.

If the spiritual state is holding up I cannot say the same for my physical state. I am old and ailing. I am a shadow of the man who entered prison in October 1959. Most of my hair has fallen out, and what remains is gray or white. Deep lines run from my eyes to chin. My thick dark eyebrows have completely disappeared. Only 56 years old, but I look like an old man.

The ups and downs of my health remind me of those old worn-out suits which, despite their many patches, still have a hole here and there. The good thing is that my spirit has no holes, nor will I allow them. And if my hair has fallen out, my energies have not gone with my hair. Privation and suffering, however hard, cannot undermine my spirit.

Even so, in recent months I have had the unpleasant experience of losing the use of my left arm, the result of an occurrence you already know about. Having experienced for a year and a half the loss of feeling in my arm, it became obvious that my shoulder had atrophied. I have been visited by more than one doctor, amongst them a captain, a specialist in orthopedics, who diagnosed atrophy in mid-November.

At the same time he explained that the condition was incurable and that the course of treatment I should follow should aim at preventing total loss of the arm's movement. I am following this course, which basically consists of exercises, heat and pills. I can definitely confirm that the exercises I do day after day according to the doctor's instructions permit me to retain such movement as I now have.

I do not give much importance to this circumstance since I was prepared for a greater loss of movement, and because my healthy spirits are not to be dampened by such clouds. From time to time I still amuse myself humming old songs. I still get up each morning and go to bed each night thinking of my dear wife and of the children.

NONSTOP MIAMI TO PARIS

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, it is with a great deal of hope and pleasure that I advise my distinguished colleagues in Congress of a recent development that holds great potential for the continued growth of Florida's economy.

Last week, National Airlines asked the Civil Aeronautics Board for temporary

exemption authority to begin nonstop Miami to Paris service on May 1.

National said it would operate four flights each way every week during the summer, and three a week the remainder of the year. And, it said it expects to carry almost 55,000 passengers on the route in the first year. Many of those people, of course, would be Europeans attracted to Florida and the Southern United States by the first truly convenient and direct service to the region ever provided by a U.S.-flag airline.

The Miami-based airline—which is, by the way, the only major U.S. airline that is a Florida corporation—has more than lived up to expectations on its highly successful Miami-London route in the last 7 years.

It may be anticipated, however, that because of the uncertain status of the air route agreement between this country and Great Britain, future growth on that route may be artificially constrained in coming months.

Not only would a Miami-Paris award help to insure that sufficient capacity from Miami to Europe exists during the upcoming peak summer travel period, it would likewise help insure continued growth of Miami as a major international gateway.

Any additional jobs created within the Florida tourism industry can only aid the economic rebound of the area, and would fit in directly with President Carter's stated goal of stimulating the Nation's economy and reducing unemployment.

The early grant of such authority to National would have many other advantages to both our State and to the Nation.

It would help the U.S. balance of payments, since the French already enjoy a significant advantage in revenues over their U.S. airline competition, and the only existing direct service between France and the entire South is provided by foreign air carriers.

It would also give the U.S. negotiating team another bargaining tool in the current discussions with the British as both sides seek to hammer out an acceptable new air transport agreement.

And Miami-Paris air service can be instituted without delay, in time to help bolster south Florida's summer tourist business.

In short, it will be good for everyone, detrimental to no one.

National's proposal is rapidly gathering support from community and civic parties throughout the South, in Florida particularly.

I would like to quote, just briefly, the remarks of just one of those supporters, Bill Colson, president of the Greater Miami Chamber of Commerce:

> We were delighted to hear that a nonstop Miami to Paris air service is being proposed by National Airlines. It's . . . another indication of efforts being made to enhance the stature of Greater Miami as an international center. We will vigorously support this service and urge the political leadership of Florida to do likewise.

Well, this is one representative of Florida who supports the proposal.

I know I speak for all of my colleagues in the Florida delegation, in both Chambers of Congress, when I urge the Civil Aeronautics Board to expeditiously examine the merits of National's proposal. And to take the appropriate action as soon as possible to insure the continued growth of Miami as an international air gateway.

CUBAN DECLARATION OF FREEDOM

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, yesterday was the 11th anniversary of a most significant expression of the spirit of freedom by thousands of Cubans in exile in the United States.

I wish to commend to our colleagues and to all who read this RECORD the inspiring words of the "Declaration of Freedom" adopted by these exiles at Key West, Fla., on January 23, 1966.

There can be no true peace in our hemisphere, I believe, until the spirit of this declaration is once again the guiding light of liberty for the Cuban people. I have embodied the declaration in a House joint resolution and I include the text of that resolution at this point:

H.J. RES. —

Whereas on January 23, 1966, a "Declaration of Freedom" was adopted by one thousand five hundred Cubans in exile meeting in Key West, Florida; and

Whereas this declaration was written at the San Carlos Club from which the great Cuban patriot, Jose Marti in 1898, turned the course of history by proclaiming the ideological basis of a free Cuba; and

Whereas Cuba once again has fallen victim to a totalitarian regime as embodied by Castro communism; and

Whereas the "Declaration of Freedom" reads as follows:

"In the city of Key West, Monroe County, State of Florida, United States of America, we, the Cuban exiles in the United States, in the name of God Almighty, and speaking both for ourselves and the oppressed people in Cuba, the martyr island, do say:

"That on January 1, 1959, the slavery yoke that came from Europe and was extinguished in Cuba at the end of the nineteenth century, was resumed.

"That those responsible for this high treason to our fatherland and to our people are just a score of traitors who, usurpating the government of the country have been acting as mercenary agents for the Sino-Soviet imperialism, and have surrendered to that imperialism our freedom and our dignity, also betraying the American hemisphere.

"That as a consequence of this high treason, those who are usurpating the power in Cuba (as they were never elected by the people), are imposing a regime of bloodshed, terror and hate without any respect or consideration to the dignity of the human being or the most elementary human rights.

That in their hunger for power, these traitors, following the pattern of totalitarian regimes are trying, within Cuba, to separate the family, which is the cornerstone of actual society, and at the same time, are poisoning the minds of the Cuban children and youth, in their hope of extending the length of time for this abominable system.

"That the rule of the law has been wiped out in Cuba, and it has been replaced by the evil will of this score of traitors, who are acting under orders from their masters, the Sino-Soviet imperialists.

"In view of the aforegoing, we declared:

"First. That the actual Cuban regime is guilty of high treason to our fatherland and to the ideals of the freedom revolution which was started on October 10, 1868.

"Second. That the score of traitors who have committed treason against our fatherhood, in case they survive the downfall of their regime, will have to respond, even with their lives before the ordinary courts of justice of Cuba.

"Third. That as the noble Cuban people will not ever surrender, because that nation was not born to be slave, we, the Cuban people, hereby make the present declaration of freedom.

"We hereby swear before God Almighty to fight constantly, until death comes to us, to free Cuba from communism.

"The fundamentals of this resolution for freedom are:

"First. God Almighty, above all things, in whom we believe as the essence of life.

"Second. The fatherland, with all of its laws, traditions, customs, and history as a spiritual value, only surpassed by the concept of God.

"Third. The family, as the cornerstone of the human society.

"Fourth. Human rights, for each and every citizen, regardless of race or creed.

"Fifth. The law as the foundation for the proper development of the human society.

"Sixth. Democratic government, with its three independent branches: Legislative, executive, and judicial.

"Seventh. Representative democracy, through the exercise of universal suffrage, periodically, free, and secretive, as the expression of popular sovereignty.

"Eighth. Freedom of worship, freedom of teaching, freedom of the press and free enterprise.

"Ninth. Private property and ownership, as the basic expression of liberty.

"Tenth. The improvement of living conditions for both rural and city working masses, with the just and necessary measures, keeping in mind the legitimate interests of both labor and capital.

"Eleventh. The derogation and eradication of anything which is opposed to the political and religious fundamentals aforementioned, and specifically, the abolition of communism and any other form of totalitarian manifestation.

"Signed and sealed in Key West, Fla., on the 23d day of January, 1966."

Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the House of Representatives that this inspiring declaration should be patriotically considered by all Cubans in exile and by all who wish to end the tyranny of Castroism and communism in Cuba and that the "Declaration of Freedom" should serve to unite those pledged to restoring Cuban liberty and independence, and that it should be the objective of the United States to commend and encourage recognition and respect for the declaration.

FLORIDA'S RECENT FREEZE

(Mr. IRELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. IRELAND. Mr. Speaker, on behalf of the State of Florida, I want to thank the many Members of Congress who have expressed their concern about the effect of the recent freeze on Florida's citrus and winter vegetable industries.

The Governor and the officials of the State of Florida are to be commended for the manner in which they are responding to this crisis. At this point, while the damage is still being assessed, everything

possible is being done to look after the food and shelter needs of workers who have been affected. Also, at this time, a massive salvage operation is underway to save the citrus and vegetables that meet Florida's high standards.

Fortunately, many people displaced from vegetable harvesting will be able to find employment in the salvaging of the citrus crop. Replanting of the vegetable crop will begin as early as possible.

Today Florida Agriculture Commissioner Doyle Conner and Tom Osborne, executive director of Florida Citrus Mutual, are in the city to acquaint the members of the Florida congressional delegation with the situation and what is being done, and the delegation stands ready to assist in the recovery from the freeze.

MIAMI NEEDS MIAMI-PARIS AIR ROUTE

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, last week, National Airlines filed an application with the Civil Aeronautics Board for temporary permission to fly nonstop between Miami and Paris starting May 1.

The approval of this route would have tremendous economic impact on the Greater Miami and south Florida area and I fully support it. Recently, President Ford returned the transatlantic route decision to the CAB calling for revisions in the recommendations made by that agency. It is likely to be some time before the Board can act on this case and return it to the White House. In the meantime, it is imperative that additional service between Miami and Europe be instituted.

U.S. Department of Commerce statistics show that Miami is the third largest entry point for French citizens visiting the United States. The approval of a Miami-Paris route would greatly increase European tourism to south Florida. It could also be expected to attract many Latin Americans, traveling to Europe via Miami, as well. Miami is already the gateway to Latin America.

The application takes on added significance when it is related to the lagging progress in renegotiation talks between the United States and Great Britain over expansion of the already existing Miami-London route. This points greatly to the need for an additional European point to service the rapidly expanding Miami market.

The application has the strong support and backing of the local community. Greater Miami relies heavily on tourism as its primary economic base. As an area of high unemployment, the additional tourist business which would be generated by approval of this route is badly needed. I hope the CAB will act expeditiously in considering the application for this route.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CAPUTO), to revise and extend their remarks, and to include extraneous matter:)

Mr. MCKINNEY, for 5 minutes, today.
Mr. MICHEL, for 5 minutes, today.
Mr. WHALEN, for 5 minutes, today.

The following Members (at the request of Mr. CORNWELL) to revise and extend their remarks and include extraneous material:)

Mr. AUCOIN, for 5 minutes, today.
Mr. PEPPER, for 15 minutes, today.
Mr. DRINAN, for 30 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. FASCELL, for 5 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. LEVITAS, for 10 minutes, today.
Mr. BINGHAM, for 20 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MILFORD and to include extraneous matter.

(The following Members (at the request of Mr. CAPUTO) and to include extraneous matter:)

Mr. FINDLEY.
Mr. STANTON.
Mr. TRIBLE.
Mr. MICHEL.
Mr. KETCHUM.
Mr. RHODES.
Mr. SYMMS.
Mr. COHEN.
Mr. HANSEN in six instances.
Mr. MCKINNEY.
Mr. STEERS in two instances.

(The following Members (at the request of Mr. CORNWELL) and to include extraneous matter:)

Mr. BARNARD.
Mr. MINISH.
Mr. ROSENTHAL.
Mr. HAMILTON.
Mr. MAZZOLI in two instances.
Mr. WEISS.
Mr. TEAGUE in 10 instances.
Mr. MCDONALD in 10 instances.
Mr. RICHMOND.
Mr. RODINO.
Mr. WIRTH in five instances.
Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. LEHMAN.
Mr. BINGHAM in 10 instances.
Mr. MOORHEAD of Pennsylvania.
Mr. DRINAN in 10 instances.
Mr. THOMPSON.
Mr. KASTENMEIER.
Mr. NOWAK in five instances.
Mr. RANGEL.
Mr. BYRON.
Mr. EDGAR in two instances.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced on Wednesday January 19, 1977, his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 12. Joint resolution to authorize the U.S. Secret Service to continue to furnish protection to certain former Federal officials or members of their immediate families.

ADJOURNMENT

Mr. CORNWELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until Wednesday, January 26, 1977, at 3 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[*Omitted from the Record of Jan. 20, 1977*]

501. A letter from the President of the United States, transmitting the 16th annual report of the U.S. Arms Control and Disarmament Agency, covering calendar year 1976, pursuant to section 50 of the Arms Control and Disarmament Act, as amended (75 Stat. 639, 89 Stat. 760) (H. Doc. No. 95–58); to the Committee on International Relations and ordered to be printed.

502. A letter from the President of the United States, transmitting the annual report of the National Cancer Advisory Board for calendar year 1975, pursuant to section 410B(g) of the Public Health Service Act, as amended (85 Stat. 784); to the Committee on Interstate and Foreign Commerce.

503. A letter from the President of the United States, transmitting proposed energy conservation contingency plans for emergency restrictions on heating, cooling and hot water, emergency commuter parking management and carpooling incentives, and for emergency boiler combustion efficiency, and a proposed gasoline and diesel fuel rationing contingency plan, pursuant to section 201(a) of the Energy Policy and Conservation Act; to the Committe on Interstate and Foreign Commerce.

504. A letter from the President of the United States, transmitting a report on the review of disaster loan authorities, pursuant to section 101 of Public Law 94–305; to the Committee on Small Business.

505. A letter from the President of the United States, transmitting notice of his intention to withdraw the designation of the People's Republic of the Congo as a beneficiary developing country for purposes of the Generalized System of Preferences, pursuant to section 502(a)(2) of the Trade Act of 1974 (H. Doc. No. 95–59); to the Committee on Ways and Means and ordered to be printed.

506. A letter from the President of the United States, transmitting a draft of proposed legislation to transfer certain functions from the Secretary of the Interior to the Secretary of Agriculture (H. Doc. No. 95–60); jointly, to the Committees on Agriculture and Merchant Marine and Fisheries, and ordered to be printed.

507. A letter from the President of the United States, transmitting a draft of proposed legislation to authorize appropriations for the acquisition, improvement, rehabilitation, and maintenanace of the national park system and national wildlife refuge system and to increase grants to communities to improve park and recreation facilities (H. Doc. No. 95–61); jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries, and ordered to be printed.

508. A letter from the President of the United States, transmitting a draft of proposed legislation to establish the Energy Independence Authority, a Government corpo-

ration with authority to provide financing and economic assistance for those sectors of the national economy which are important to the development of domestic sources and the conservation of energy and the attainment of energy independence for the United States in a manner consistent with the protection of the environment; to improve Federal Government operations so as to assist in the expediting of regulatory procedures which affect energy development; and for other purposes (H. Doc. No. 95–62); jointly, to the Committees on Interstate and Foreign Commerce, and Banking, Finance and Urban Affairs, and ordered to be printed.

509. A letter from the President of the United States, transmitting his certification that the conditions of section 302(h) of the Foreign Assistance Act of 1961, as amended, have been met by the United Nations Educational, Scientific and Cultural Organization, and requesting funds to make payments to the Organization (H. Doc. 95–63); to the Committee on International Relations and ordered to be printed.

510. A letter from the President of the United States, transmitting a report recommending the authorization and appropriation of funds to begin procurement of certain nuclear and nonnuclear vessels for the Navy, together with information on an alternative all-nuclear program, pursuant to section 804 of Public Law 93–365; to the Committee on Armed Services.

511. A letter from the President of the United States, transmitting a report recommending the authorization and appropriation of funds to begin procurement of certain nuclear and nonnuclear vessels for the Navy, together with information on an alternative all-nuclear program, pursuant to section 804 of Public Law 93–365; to the Committee on Armed Services.

512. A letter from the Assistant to the President for National Security Affairs, transmitting arms control impact analyses on the fiscal year 1978 defense and ERDA programs, pursuant to section 36 of the Arms Control and Disarmament Act, as amended (89 Stat. 758); to the Committee on International Relations.

[*Submitted January 24, 1977*]

513. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to repeal section 3(c)4 of the act of March 2, 1887, as amended (7 U.S.C. 361c (c)4); to the Committee on Agriculture.

514. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to reform the Food Stamp Act of 1964 by improving the provisions relating to eligibility, simplifying administration, and tightening accountability, and for other purposes; to the Committee on Agriculture.

515. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Department of Agriculture to award research grant funds to Federal agencies; to the Committee on Agriculture.

516. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Federal Crop Insurance Act, and for other purposes; to the Committee on Agriculture.

517. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting reports that the appropriations to the Department of Agriculture for the "Food Stamp Program" and to the Department of Health, Education, and Welfare for "Special Benefits for Disabled Coal Miners" for fiscal year 1977 have been apportioned on a basis which indicates the necessity for further supplemental estimates of appropriations, pursuant to section 3679(e)(2) of the Revised Statutes; to the Committee on Appropriations.

518. A letter from the Secretary of Defense, transmitting the third annual report on standardization within NATO, pursuant to section 302(c) of Public Law 93–365, as amended, and section 814(b) of Public Law 94–106, as amended; to the Committee on Armed Services.

519. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of a construction project proposed to be undertaken by the Navy, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

520. A letter from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 5 of title 37, United States Code to extend the special pay provisions for reenlistment and enlistment bonuses; to the Committee on Armed Services.

521. A letter from the Attorney General, transmitting the annual report for calendar year 1976 on enforcement of the Truth-in-Lending Act, pursuant to section 114 of Public Law 90–321; to the Committee on Banking, Finance and Urban Affairs.

522. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend the National Housing Act to increase maximum mortgage amounts and reduce downpayment requirements under certain FHA single-family mortgage insurance programs, to permit full implementation of the graduated payment mortgage program, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

523. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to amend the Bank Holding Company Act Amendments of 1970; to the Committee on Banking, Finance and Urban Affairs.

524. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–161, "To amend the District of Columbia Public Postsecondary Education Reorganization Act to change the date for submission of the initial annual consolidated budget for the University of the District of Columbia, and to change the date of the consolidation of the University, and to change the terms of certain members of the Board of Trustees first appointed to the Board," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

525. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–163, "To clarify the Affirmative Action in District Government Employment Act (D.C. Law 1–63)," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

526. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–169, "To grant non-profit home delivery food services for the elderly and handicapped an exemption from the sales tax," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

527. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–171, "To permit patrons of restaurants and hotels to be served alcoholic beverages while standing up," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

528. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–172, "To provide for the uniform management of instiutional funds," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

529. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–175, "To provide that certain disabled persons with respiratory disorders shall be authorized to receive special parking privileges granted to the physically disabled," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

530. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–177, "To establish a Commission in the District of Columbia and vesting the same with the power to authorize and regulate private educational institutions and agents thereof in the District of Columbia; assigning powers and duties to such agency; regulating the granting of academic degrees and the naming of educational institutions; providing for the preservation of records; and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

531. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to consolidate Federal financial assistance to States for chld nutrition programs, to focus such assistance on children most in need and to simplfy the administration of such assistance; to the Committee on Education and Labor.

532. A letter from the Under Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Higher Education Act of 1965 to simplify the procedure for making reductions in grant amounts in the case of insufficient appropriations; to the Committee on Education and Labor.

533. A letter from the Under Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to consolidate the administration of certain programs of financial assistance to States for educational purposes; to the Committee on Education and Labor.

534. A letter from the Chairman and Executive Director, National Commission on Libraries and Information Science, transmitting the fifth annual report of the Commission, covering fiscal year 1976, pursuant to section 5(a)(7) of Public Law 91–345; to the Committee on Education and Labor.

535. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report on actions taken on recommendations contained in the report of the President's Labor-Management Committee entitled "Recommendations on Housing," dated November 5, 1975, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

536. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report on the Department's disposal of foreign excess property during fiscal year 1976, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

537. A letter from the Acting Director, U.S. Information Agency, transmitting reports on the Agency's disposal of foreign excess property during fiscal year 1976 and the transition quarter, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended, to the Committee on Government Operations.

538. A letter from the Administrator of General Services, transmitting a report on the disposal of surplus Federal real property for historic monument purposes during fiscal years 1973 through 1976, pursuant to section 203(o) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

539. A letter from the Secretary of the Interior, transmitting the annual report on the state of the domestic mining, minerals and mineral reclamation industries, pursuant to section 2 of the Mining and Minerals Policy Act of 1970 (Public Law 91–631); to the Committee on Interior and Insular Affairs.

540. A letter from the Secretary of the

Interior, transmitting a draft of proposed legislation to repeal portions of the Water Resources Planning Act of 1965 and to amend the Federal Nonnuclear Energy Research and Development Act of 1974, and the Water Resources Development Act of 1974, and for other purposes; to the Committee on Interior and Insular Affairs.

541. A letter from the Deputy Assistant Secretary of the Interior, transmitting the biennial report on continuing studies of the quality of water of the Colorado River basin, pursuant to 70 Stat. 105, 76 Stat. 96 and 389, and 88 Stat. 274; to the Committee on Interior and Insular Affairs.

542. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

543. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Israel (transmittal No. 77–14), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

544. A letter from the Secretary of Agriculture, transmitting his certification that humanitarian food purposes require that food be made available to Lebanon under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, pursuant to section 111 of the act (89 Stat. 853); to the Committee on International Relations.

545. A letter from the Under Secretary of Health, Education, and Welfare; transmitting the annual report on activities of the National Health Service Corps for 1974–1975, pursuant to section 336 of the Public Health Service Act, as amended (90 Stat. 2277); to the Committee on Interstate and Foreign Commerce.

546. A letter from the Under Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to enable the Secretary of Health, Education, and Welfare to alter the services provided at, transfer control of, or close hospitals of the Public Health Service identified in section 818 of Public Law 93–155; to the Committee on Interstate and Foreign Commerce.

547. A letter from the Secretary of Transportation, transmitting a report on the study of Federal aid to rail transportation, pursuant to section 902(d) of Public Law 94–210; to the Committee on Interstate and Foreign Commerce.

548. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii)(b) of the Immigration and Nationality Act (66 Stat. 182); to the Committee on the Judiciary.

549. A letter from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 5519 of title 5, United States Code, relating to crediting amounts received for certain reserve or National Guard service; to the Committee on Post Office and Civil Service.

550. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the entitlement of air traffic controllers who are separated under section 3382 of title 5, United States Code, to training under section 3381; to the Committee on Post Office and Civil Service.

551. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize the Secretary of Transportation to enter into a contract or contracts for experimental aeronautical satellite communications services without regard to the provisions of 31 U.S.C. 665(a) or 41 U.S.C. 11; to the Committee on Public Works and Transportation.

552. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to provide for the collection of waterway user charges, and for other purposes; to the Committee on Public Works and Transportation.

553. A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

554. A letter from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 3 of title 37, United States Code, to adjust the pay of cadets and midshipmen at the U.S. Military, Naval, Air Force, and Coast Guard Academies, to equalize the pay of members of, and applicants for, the Senior Reserve Officers' Training Corps while attending field training or practice cruises, and for other purposes; jointly to the Committees on Armed Services, and Merchant Marine and Fisheries.

555. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to authorize exploration, development and production of the National Petroleum Reserve in Alaska by such ongoing governmental programs or nongovernmental entities as the Secretary of the Interior shall designate, and for other purposes; jointly to the Committees on Interior and Insular Affairs, and Armed Services.

556. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Consolidated Farm and Rural Development Act; jointly, to the Committees on Agriculture, and Banking, Finance and Urban Affairs.

557. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting a draft of proposed legislation to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and International Relations.

558. A letter from the Comptroller General of the United States; transmitting a report on safeguarding taxpayer information and an evaluation of the proposed computerized tax administration system; jointly, to the Committees on Government Operations, and Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severely referred as follows:

By Mr. ADDABBO:

H.R. 2294. A bill to amend section 403(b) of the Federal Aviation Act of 1958 to require reduced-rate transportation for certain disabled veterans of the Armed Forces of the United States; to the Committee on Public Works and Transportation.

H.R. 2295. A bill to amend title 38 of the United States Code in order to provide outpatient dental services and treatment to any veteran who has a service-connected disability rated at 60 percent or more; to the Committee on Veterans' Affairs.

H.R. 2296. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system; to the Committee on Ways and Means.

By Mr. ANNUNZIO:

H.R. 2297. A bill to continue the national insurance development program by extending the present termination date of the program to April 30, 1982, and by extending the present date by which a plan for the liquidation and termination of the reinsurance and direct insurance programs is to be submitted to the Congress to April 30, 1985; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BOWEN:

H.R. 2298. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CARNEY:

H.R. 2299. A bill to amend the act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes; to the Committee on Agriculture.

H.R. 2300. A bill to require no-fault motor vehicle insurance as a condition precedent to using the public streets, roads, and highways in order to promote and regulate interstate commerce; to the Committee on Interstate and Foreign Commerce.

H.R. 2301. A bill to regulate lobbying and related activities; to the Committee on the Judiciary.

H.R. 2302. A bill to discourage the use of painful devices in the trapping of animals and birds; to the Committee on Merchant Marine and Fisheries.

H.R. 2303. A bill to amend title 5, United States Code, to provide that any Federal employee retiring with accrued sick leave shall be entitled to elect to receive payment for such leave (in lieu of having such leave used in determining his retirement annuity); to the Committee on Post Office and Civil Service.

H.R. 2304. A bill to provide for the issuance of a commemorative stamp in honor of the approximately 6 million Jews killed by Nazi Germany during World War II; to the Committee on Post Office and Civil Service.

H.R. 2305. A bill to provide chiropractic treatment when requested for veterans eligible for outpatient medical care; to the Committee on Veterans' Affairs.

H.R. 2306. A bill to amend title 18, United States Code, and title 23, District of Columbia Code, to grant to courts power to deny pretrial release to persons charged with the commission of certain crimes of violence; jointly, to the Committees on the Judiciary, and the District of Columbia.

H.R. 2307. A bill to amend title II of the Social Security Act to provide that full-old-age, survivors, and disability insurance benefits (when based upon the attainment of retirement age), and medicare benefits, will be payable at age 60 (with such insurance benefits being payable in reduced amounts at age 57), to provide a minimum primary benefit of $150 a month, and to liberalize the earnings test; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

H.R. 2308. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. DON H. CLAUSEN:

H.R. 2309. A bill to establish a method whereby the Congress (acting in accordance with specified procedures) may prevent the adoption by the executive branch of rules or

regulations which are contrary to law or inconsistent with congressional intent or which go beyond the mandate of the legislation which they are designed to implement; jointly, to the Committee on the Judiciary, and Rules.

By Mr. COHEN:

H.R. 2310. A bill to amend title 18 of the United States Code in order to provide for greater penalties for persons convicted of conspiring to commit any offense against the United States or to defraud the United States; to the Committee on the Judiciary.

H.R. 2311. A bill to codify, revise, and reform title 18 of the United States Code; to make appropriate amendments to the Federal Rules of Criminal Procedure; to make conforming amendments to criminal provisions of other titles of the United States Code; and for other purposes; to the Committee on the Judiciary.

H.R. 2312. A bill to amend title 18, United States Code, so as to establish certain guidelines for sentencing, establish a U.S. Commission on Sentencing, and for other purposes; to the Committee on the Judiciary.

H.R. 2313. A bill to provide for additional sentences for commission of a felony with use of a firearm; to the Committee on the Judiciary.

By Mr. COHEN (for himself, Mr. MAZZOLI, and Mr. PREYER):

H.R. 2314. A bill to enact the National School-Age Mother and Child Act of 1977; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. BRODHEAD, Mr. BURGENER, Mrs. BURKE of California, Mr. FORD of Michigan, Ms. HOLTZMAN, Mrs. KEYS, Mr. MCKINNEY, Mr. NEAL, Mr. NOLAN, Mr. ROE, and Mr. WIRTH):

H.R. 2315. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. BALDUS, Mr. BRODHEAD, Mr. BURGENER, Mrs. BURKE of California, Mr. FORD of Michigan, Mr. HOLLAND, Ms. HOLTZMAN, Mrs. KEYS, Mr. NEAL, Mr. NOLAN, Mr. ROE, and Mr. WIRTH):

H.R. 2316. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. DRINAN:

H.R. 2317. A bill to authorize grants under the Safe Drinking Water Act to public water systems to clean and update waterlines for purposes of meeting requirements under such act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. EDWARDS of Alabama:

H.R. 2318. A bill to amend the Wild and Scenic Rivers Act (82 Stat. 906); to the Committee on Interior and Insular Affairs.

By Mrs. FENWICK:

H.R. 2319. A bill to provide that rates of pay for Members of Congress shall not be subject to adjustment under the Federal Salary Act of 1967 or subject to any other automatic adjustment; to the Committee on Post Office and Civil Service.

By Mr. FISH:

H.R. 2320. A bill to amend the Internal Revenue Code of 1954 to allow individuals who have attained age 65 a deduction for certain social security taxes; to the Committee on Ways and Means.

H.R. 2321. A bill to amend title II of the Social Security Act to increase to $5,200 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted an individual each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

H.R. 2322. A bill to amend title XVIII of the Social Security Act for the purpose of providing payment for one physical checkup a year for any individual eligible for Medicare benefits; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. GONZALEZ:

H.R. 2323. A bill to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes; to the Committee on the Judiciary.

By Mr. HANLEY:

H.R. 2324. A bill to amend title 23 of the United States Code relating to highways to provide that all sections of the officially designated National System of Interstate and Defense Highways shall become toll free for public use; to the Committee on Public Works and Transportation.

By Mr. KASTENMEIER (for himself, Mr. RAILSBACK, Mr. ANDERSON of California, Mr. ANDERSON of Illinois, Mr. BAFALIS, Mr. BINGHAM, Mr. BLANCHARD, Mr. BLOUIN, Mr. BONIOR, Mr. BOWEN, Mrs. BURKE of California, Mr. COHEN, Mr. CORMAN, Mr. DELLUMS, Mr. DIGGS, Mr. DODD, Mr. DOWNEY, Mr. EDWARDS of Alabama, Mr. ERLENBORN, Mr. EVANS of Indiana, Mr. HEFTEL, Mr. HIGHTOWER, Mr. HOWARD, Mr. KOSTMAYER, and Mr. LUNDINE):

H.R. 2325. A bill to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions; to the Committee on the Judiciary.

By Mr. KASTENMEIER (for himself, Mr. RAILSBACK, Mr. MCCORMACK, Mr. MARKEY, Mr. MARTIN, Mr. METCALFE, Ms. MIKULSKI, Mr. MIKVA, Mr. MILLER of California, Mr. MURPHY of Pennsylvania, Mr. NEAL, Mr. NIX, Mr. PANETTA, Mr. PEASE, Mr. PURSELL, Mr. RANGEL, Mr. ROYBAL, Mr. SCHEUER, Mr. SHARP, Mr. TRIBLE, Mr. VOLKMER, Mr. WALKER, Mr. WEISS, and Mr. WON PAT):

H.R. 2326. A bill to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions; to the Committee on the Judiciary.

By Mr. KREBS (for himself and Mr. SISK):

H.R. 2327. A bill to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among producers of the pro rata costs of such promotion; to the Committee on Agriculture.

By Mr. LEGGETT:

H.R. 2328. A bill to amend title 10, United States Code, to remove the restriction on the use of certain private institutions under the dependents' medical care program, and for other purposes; to the Committee on Armed Services.

H.R. 2329. A bill to improve the administration of fish and wildlife programs, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 2330. A bill to amend title II of the Social Security Act to permit a State, under its section 218 agreement, to terminate social security coverage for State or local policemen or firemen without affecting the coverage of other public employees who may be members of the same coverage group (and to permit the reinstatement of coverage for such other employees in certain cases where the group's coverage has previously been terminated); to the Committee on Ways and Means.

By Mr. LEVITAS (for himself, Mr. LOTT, Mr. BUTLER, Mr. HYDE, Mr. WAGGONNER, Mr. PRICE, Mr. MINETA, Mr. FOUNTAIN, Mr. BEARD of Rhode Island, Mr. YATRON, Mr. MILFORD, Mr. SCHEUER, Mr. DUNCAN of Oregon, Mr. JONES of Tennessee, Mr. BAUMAN, Ms. COLLINS of Illinois, Mr. EMERY, Mr. AMMERMAN, Mr. ENGLISH, Mr. MURPHY of Pennsylvania, Mr. MITCHELL of Maryland, Mr. DOWNEY, Mr. BAUCUS, Mr. KEMP, and Mr. DAVIS):

H.R. 2331. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of agency rules, and by expanding judicial review, and for other purposes; jointly, to the Committees on the Judiciary, and Rules.

By Mr. LEVITAS (for himself, Mr. LOTT, Mr. BUTLER, Mr. HYDE, Mr. WAGGONNER, Mr. PRICE, Mr. MINETA, Mr. FOUNTAIN, Mr. BEARD of Rhode Island, Mr. YATRON, Mr. MILFORD, Mr. SCHEUER, Mr. DUNCAN of Oregon, Mr. JONES of Tennessee, Mr. BAUMAN, Ms. COLLINS of Illinois, Mr. EMERY, Mr. AMMERMAN, Mr. ENGLISH, Mr. MURPHY of Pennsylvania, Mr. MITCHELL of Maryland, Mr. DOWNEY, Mr. BAUCUS, Mr. KEMP, and Mr. DAVIS):

H.R. 2332. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of future agency rules, and by expanding judicial review, and for other purposes; jointly, to the Committees on the Judiciary, and Rules.

H.R. 2333. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of agency rules imposing certain sanctions, and by expanding judicial review, and for other purposes; jointly, to the Committees on the Judiciary, and Rules.

By Mr. LEVITAS (for himself, Mr. FLYNT, Mr. BRINKLEY, Mr. YOUNG of Georgia, Mr. GINN, Mr. MCDONALD, Mr. BARNARD, Mr. JENKINS, Mr. EVANS of Georgia, Mr. FISH, Mr. SANTINI, Mr. PRITCHARD, Mr. REGULA, Mr. HUGHES, Mr. BEVILL, Mr. DEVINE, Mr. BLOUIN, Mr. BOWEN, Mr. ANDREWS of North Dakota, Mr. JACOBS, Mr. DAN DANIEL, Mr. NOWAK, Mr. KILDEE, Mr. MYERS of Indiana, and Mr TRIBLE):

H.R. 2334. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of agency rules, and by expanding judicial review, and for other purposes; jointly, to the Committees on the Judiciary, and Rules.

By Mr. LEVITAS (for himself, Mr. FLYNT, Mr. BRINKLEY, Mr. YOUNG of Georgia, Mr. GINN, Mr. MCDONALD, Mr. BARNARD, Mr. JENKINS, Mr. EVANS of Georgia, Mr. BLOUIN, Mr. BOWEN, Mr. COCHRAN, Mr. PRITCHARD, Mr. REGULA, Mr. HUGHES, Mr. BEVILL, Mr. JACOBS, Mr. DAN DANIEL, Mr. NOWAK, Mr. KILDEE, and Mr. MYERS of Indiana):

H.R. 2335. A bill amending title 5 of the United States Code to improve agency rule making by expanding the opportunities for public participation, by creating procedures for congressional review of future agency

rules, and by expanding judicial review, and for other purposes; jointly, to the Committees on the Judiciary, and Rules.

By LEVITAS (for himself, Mr. FLYNT, Mr. BRINKLEY, Mr. YOUNG of Georgia, Mr. GINN, Mr. MCDONALD, Mr. BARNARD, Mr. JENKINS, Mr. EVANS of Georgia, Mr. LONG of Louisiana, Mr. LAFALCE, Mr. BLOUIN, Mr. BOWEN, Mr. COCHRAN, Mr. PRITCHARD, Mr. REGULA, Mr. HUGHES, Mr. DAN DANIEL, Mr. BEVILL, Mr. JACOBS, Mr. NOWAK, Mr. ROBERT W. DANIEL, JR., Mr. FRENZEL, Mr. BRODHEAD, and Mr. KILDEE):

H.R. 2336. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of agency rules imposing certain sanctions, and by expanding judicial review, and for other purposes; jointly, to the Committees on the Judiciary, and Rules.

By Mr. MCKINNEY:

H.R. 2337. A bill to amend the Mineral Leasing Act of 1920 as amended by the Trans-Alaska Pipeline Authorization Act to insure domestic distribution of Alaskan crude oil through clarification of the 1973 Trans-Alaska Pipeline Authorization Act; jointly, to the Committees on Interior and Insular Affairs and International Relations.

By Mr. MICHEL:

H.R. 2338. A bill to provide that the majority of the membership (including the chairman) of the Committee on Government Operations of the Senate and House of Representatives, respectively, shall be composed of members of a major political party other than the political party of which the President of the United States is a member; to the Committee on Rules.

By Mr. JOHN T. MYERS (for himself, Mr. ABDNOR, Mr. ANDREWS of North Dakota, Mr. CORNWELL, Mr. DAN DANIEL, Mr. HAGEDORN, Mr. HEFTEL, Mr. LAGOMARSINO, Mr. MURPHY of New York, Mr. NEDZI, Mr. QUIE, Mr. ROBINSON, and Mr. TAYLOR):

H.R. 2339. A bill to amend title 18, United States Code, to prohibit the transportation of stolen livestock and the sale or receipt of such livestock; to the Committee on the Judiciary.

By Mr. NEAL:

H.R. 2340. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide that rescue squad members are entitled to death benefits made available under such act; to the Committee on the Judiciary.

H.R. 2341. A bill to amend title 28, United States Code, to provide for the appointment of one additional district judge for the Middle District of North Carolina; to the Committee on the Judiciary.

H.R. 2342. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. PRESSLER:

H.R. 2343. A bill to provide loan guarantees to restock foundation herds, to provide operational loan guarantees after disaster loss to crops, to provide direct loans to farmers in disaster areas, and for other purposes; to the Committee on Agriculture.

By Mr. RANGEL:

H.R. 2344. A bill to amend the U.S. Housing Act of 1937 to provide that a tenant in a low-rent public housing project may not be evicted therefrom without a public hearing; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2345. A bill to establish a National Rebuilding and Development Bank, to provide for a long-range program to assist in assuring decent neighborhoods for all citizens, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2346. A bill to authorize grants to States for the establishment of vision screening programs for public school students; to the Committee on Education and Labor.

H.R. 2347. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Administration for the purpose of administering a voter registration program through the Postal Service; to the Committee on House Administration.

H.R. 2348. A bill to provide the Secretary of Health, Education, and Welfare with the authority to make grants to States and local communities to pay for the costs of eye examination programs to detect glaucoma for the elderly; to the Committee on Interstate and Foreign Commerce.

H.R. 2349. A bill to amend the Public Health Service Act to provide for the establishment of a National Sickle Cell Anemia Institute; to the Committee on Interstate and Foreign Commerce.

H.R. 2350. A bill to amend title 28, United States Code, to provide more effectively for bilingual proceedings in certain district courts of the United States, and for other purposes; to the Committee on the Judiciary.

H.R. 2351. A bill to strengthen the economy; to help to achieve a fuller and more effective use of clothing abundances; to provide for improved levels of clothing purchasing power among low-income households through a cooperative Federal-State program of clothing assistance to be operated through normal channels of trade; and for other purposes; to the Committee on Ways and Means.

H.R. 2352. A bill to amend title XVI of the Social Security Act to authorize the prompt issuance of duplicate supplemental security income benefit checks to individuals whose original benefit checks are lost or delayed and who are faced with financial hardship as a result; to the Committee on Ways and Means.

H.R. 2353. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system; to the Committee on Ways and Means.

By Mr. ROGERS:

H.R. 2354. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

By Mr. SAWYER (for himself and Mr. PURSELL):

H.R. 2355. A bill to name a certain Federal Building in Grand Rapids, Mich., the Gerald R. Ford Building; to the Committee on Public Works and Transportation.

By Mr. SEBELIUS:

H.R. 2356. A bill to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes; to the Committee on Post Office and Civil Services.

By Mrs. SPELLMAN (for herself, Mr. BEARD of Rhode Island, Mr. BRODHEAD, Mr. BROWN of California, Ms. COLLINS of Illinois, Mr. CONTE, Mr. DOWNEY, Mr. DRINAN, Mr, ERTEL, Mr. FISHER, Mr. GEPHARDT, Mr. GONZALEZ, Mr. HAWKINS, Mr. LAFALCE, Mr. MAGUIRE, Mr. MCHUGH, Ms. MIKULSKI, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. MURPHY of New York, Mr. NEAL, Mr. NIX, Mr. PANETTA, Mr. PATTEN, and Mr. PATTERSON of California):

H.R. 2357. A bill to amend the Public Health care services for pregnant adolescents before and after childbirth; to the Committee on Interstate and Foreign Commerce.

By Mrs. SPELLMAN (for herself, Mr. RICHMOND, Mr. SCHEUER, Mr. STARK, Mr. THOMPSON, Mr. WAXMAN, Mr. WIRTH, and Mr. WON PAT):

H.R. 2358. A bill to amend the Public Health Service Act to provide health care services for pregnant adolescents before and after childbirth; to the Committee on Interstate and Foreign Commerce.

By Mr. STUDDS:

H.R. 2359. A bill to authorize payment of costs incurred in the alteration or replacement of certain municipal waste incinerators for the purpose of controlling air pollution; to the Committee on Interstate and Foreign Commerce.

H.R. 2360. A bill to increase the subsistence payments to students at State maritime academies; to the Committee on Merchant Marine and Fisheries.

H.R. 2361. A bill to amend title 39, United States Code, to increase to 60 days the period before an election during which a Member of, or Member-elect to, the Congress may not make a mass mailing as franked mail if such Member or Member-elect is a candidate in such election; to the Committee on Post Office and Civil Service.

H.R. 2362. A bill to amend title II of the Social Security Act to increase to $7,500 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

H.R. 2363. A bill to amend the Tariff Schedules of the United States to repeal the special tariff treatment accorded to articles assembled abroad with components produced in the United States; to the Committee on Ways and Means.

By Mr. STUDDS (for himself, Mr. HOWARD, Mr. FASCELL, Mr. GILMAN, Mr. GIAIMO, Mr. DOWNEY, Mr. BEARD of Rhode Island, Mr. MCKINNEY, Mr. UDALL, Mr. LENT, Mr. RICHMOND, Ms. MIKULSKI, Ms. HOLT, Mr. ANDERSON of California, Mr. ANDERSON of Illinois, Mr. D'AMOURS, Mr. RINALDO, Mr. JENRETTE, Mr. ST GERMAIN, Mr. STARK, Mr. WEAVER, Mr. THOMPSON, Mr. DE LUGO, Mr. WEISS, and Mr. SEIBERLING):

H.R. 2364. A bill to establish a comprehensive legal regime governing liability and compensation for removal costs and other damages caused by oil pollution, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, and Public Works and Transportation.

By Mr. STUDDS (for himself, Mr. HOWARD, Mr. OTTINGER, Mr. BURKE of Massachusetts, Ms. HOLTZMAN, Mr. DICKS, Mr. SOLARZ, Mr. GINN, Ms. JORDAN, Mr. YATRON, Ms. SPELLMAN, Mr. PANETTA, Mr. MOAKLEY, Mr. PATTERSON of California, Mr. HAWKINS, and Mr. MITCHELL of Maryland):

H.R. 2365. A bill to establish a comprehensive legal regime governing liability and compensation for removal costs and other damages caused by oil pollution, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, and Public Works and Transportation.

By Mr. WHALEN:

H.R. 2366. A bill to amend the Natural Gas Act; to the Committee on Interstate and Foreign Commerce.

By Mr. PRESSLER:

H.J. Res. 192. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT (for himself, Mr. BARNARD, Mr. TREEN, Mr. BURGENER, Mr. DORNAN, Mr. MANN, Mr. EDWARDS of Oklahoma, Mr. LAGOMARSINO, Mr. GARY A. MYERS, Mr. BURKE of Florida, Mr. CHARLES WIL-

SON of Texas, Mr. RUDD, Mr. WALKER, Mr. DAN DANIEL, and Mr. JOHN T. MYERS):

H. Con. Res. 78. Concurrent resolution expressing the sense of Congress in opposition to the grant of blanket amnesty or pardon for Vietnam related draft or military absence offenses; to the Committee on the Judiciary.

By Mr. PRESSLER:

H. Con. Res. 79. Concurrent resolution expressing the sense of the Congress that the President should not transmit to the Congress any recommendations with respect to rates of pay for Members of Congress; to the Committee on Post Office and Civil Service.

H. Con. Res. 80. Concurrent resolution to disapprove the determination of the President denying import relief under the Trade Act of 1974 to the U.S. honey industry; to the Committee on Ways and Means.

By Mr. PRESSLER:

H. Res. 152. Resolution disapproving the pay recommendations transmitted to the Congress by the President which related to Members of Congress; to the Committee on Post Office and Civil Service.

By Mr. STUDDS:

H. Res. 153. Resolution providing monetary allowances for toll-free telephone service for telephone calls to the district offices of Members of the House, and for other purposes; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO (by request):

H.R. 2367. A bill for the relief of Mauritz A. Sterner; to the Committee on the Judiciary.

H.R. 2368. A bill for the relief of Samuel H. Williams of Saint Albans, N.Y.; to the Committee on the Judiciary.

By Mr. LEGGETT:

H.R. 2369. A bill for the relief of Natividad Casing and Myrna Casing; to the Committee on the Judiciary.

H.R. 2370. A bill for the relief of Mary Anne Siguenza Come; to the Committee on the Judiciary.

By Mr. O'BRIEN:

H.R. 2371. A bill for the relief of Antoine Dessolis; to the Committee on the Judiciary.

By Mr. RANGEL:

H.R. 2372. A bill for the relief of Milo E. Chisholm, Elfreda V. Chisholm, and Norma V. Chisholm; to the Committee on the Judiciary.

By Mr. ROGERS (by request):

H.R. 2373. A bill for the relief of Miguel Guillermo Correa; to the Committee on the Judiciary.

H.R. 2374. A bill for the relief of Olga Lucia Calad de Correa; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII:

34. The SPEAKER presented a petition of MCI Telecommunications Corp., Washington, D.C., relative to requesting an investigation of alleged improper political activities of the American Telephone & Telegraph Co., and the Bell System Co.'s, which was referred to the Committee on Interstate and Foreign Commerce.

SENATE—*Monday, January 24, 1977*

(Legislative day of Wednesday, January 19, 1977)

The Senate met in executive session at 2 p.m., on the expiration of the recess, and was called to order by Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend L. R. Elson, D.D., offered the following prayer:

O God, whose rulership transcends all earthly powers, whose law is supreme and in whose will is our peace, guide we beseech Thee, all who bear the responsibilities of government in this land. Sanctify our love of country that our patriotism may be transformed into service to all mankind. Be with the President of this Senate on his mission across the continents carrying the good will and hopes of this Nation to many peoples and many nations. Grant him safe travel, good health, and wisdom in all his actions. Bestow Thy blessing upon all Members of this body, granting unto them grace and wisdom to be effective legislative craftsmen for the well-being of the whole Nation.

Through Him who showed us the way of the Servant. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 24, 1977.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. MATSUNAGA thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, January 20, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate having recessed in executive session Thursday last, the session is resumed in executive session.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk report the nominations placed on the Secretary's desk in the Coast Guard and in the National Oceanic and Atmospheric Administration.

NOMINATIONS ON THE SECRETARY'S DESK—COAST GUARD AND NOAA

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard for appointment to the grade indicated.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

The second assistant legislative clerk proceeded to read sundry nominations in the National Oceanic and Atmospheric Administration for appointment in the grade indicated.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

(All nominations confirmed today are printed at the conclusion of the Senate proceedings.)

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to my distinguished senior colleague 2 minutes of my time.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

LOWERING THE THERMOSTAT

Mr. RANDOLPH. Mr. President, I am appreciative to the leader for providing me this opportunity to call attention to something that perhaps might seem insignificant, but which I believe is important.

I carry with me from committee to committee and in the Senate Chamber this thermometer, that I hold in my right hand. The temperature in the Senate today, as we begin our session is 76 degrees. President Carter has mandated that thermostats in Federal buildings be set at 65. This would be 10 degrees cooler than our Chamber.

Of course, a little later, with vocal warmth and body heat, the 76 degrees will perhaps rise to 80 degrees.

Members will remember that last year and the year before I carried this thermometer on the Hill, and will continue to do so, after today—I hope with good grace—to call attention to the overheated conditions in the Senate Office Buildings and in the Capitol itself.

We hope there can be cooperation and compliance with this goal. We can

conserve energy and be comfortable in our work.

Mr. ROBERT C. BYRD. May I say to my colleague that the appropriate personnel are being instructed on the Senate side of the Capitol to take action to conform with the President's request.

Mr. President, I reserve the remainder of my time.

Mr. RANDOLPH. I commend the leader, Mr. ROBERT C. BYRD, for this action.

ORDER FOR RECOGNITION OF SENATOR HATFIELD TOMORROW

Mr. BAKER. Mr. President, I have a unanimous-consent request of the distinguished senior Senator from Oregon for a special order for 15 minutes tomorrow.

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, Mr. HATFIELD be recognized, as in legislative session, for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, might I ask the distinguished majority leader, is it his intention now to proceed immediately under the unanimous-consent agreement, to the consideration of the confirmation of Mr. Califano?

Mr. ROBERT C. BYRD. Yes. May I say to the distinguished Republican leader, I am ready to yield back my time under the standing order if the Senator would wish to do so, and the Senate will then proceed on the nomination.

Mr. BAKER. Mr. President, I have no request for time as if in the morning hour. I yield back the remainder of my time under the standing order.

The ACTING PRESIDENT pro tempore. The leadership time has been yielded back.

APPOINTMENT BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice President, pursuant to the provisions of title XX, United States Code, sections 42 and 43, appoints the Senator from Washington (Mr. JACKSON) and the Senator from Rhode Island (Mr. PELL) as members of the Board of Regents of the Smithsonian Institution.

SECRETARY OF HEALTH, EDUCATION, AND WELFARE

The ACTING PRESIDENT pro tempore. Under the previous order of the Senate, the Senate will now proceed to the consideration of the nomination of Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Health, Education, and Welfare. Time for debate on this nomination is limited to 2 hours, to be equally divided and controlled by the Senator from Louisiana (Mr. LONG) and the Senator from Tennessee (Mr. BAKER).

The Chair recognizes the Senator from Louisiana.

Mr. LONG. Mr. President, I yield myself such time as I may need.

President Carter has nominated for the post of Secretary of Health, Education, and Welfare Joseph A. Califano, Jr., a man whose background and capabilities fully qualify him for that job. He has enjoyed a highly distinguished career both within and outside of Government. During the administration of President Kennedy, he served in a number of capacities within the Defense Department including a term of General Counsel of the Army. Under President Johnson, Secretary-designate Califano was the President's major adviser on domestic affairs.

In accepting President Carter's invitation to take on the responsibility of running the Department of Health, Education, and Welfare, Mr. Califano has set for himself a formidable task. That Department has more than 140,000 employees, and it is responsible for well over a third of the entire Federal budget—some $160 billion. Simply on this basis of its mammoth size and the diversity of its programs, the Department of Health, Education, and Welfare is frequently called "unmanageable."

In his appearance on January 13 before the Committee on Finance, Secretary-designate Califano convincingly indicated that he does not share this pessimistic view. He is a man who has both the capability and commitment to manage the Department.

While size and complexity may be the most immediately striking characteristics of the Department of Health, Education, and Welfare, they are not its most important characteristics. The reason why that agency has so many employees and spends so much money is that Congress has entrusted to it some of the most vital responsibilities which Government today has undertaken on behalf of the people whom the Government serves. Virtually every American is personally and deeply affected by one or more of the programs which this Department oversees. Thus, while it is important that the Department of Health, Education, and Welfare have at its head a man of managerial competence, that ability is not enough. The Secretary of Health, Education, and Welfare must also be a person of compassion and commitment—a person who sees the job not merely in terms of running one of the biggest agencies in Government, but also in terms of carrying out faithfully and humanely the mission of dealing with the health, education, and welfare needs of the American people.

On the basis of his record and on the basis of his appearance before the Committee on Finance on January 13, I am convinced, and a majority of the committee is convinced, that Joseph A. Califano, Jr., should be confirmed as Secretary of Health, Education, and Welfare. He has the necessary ability to manage the Department well, and he has the necessary commitment and character to see that his administration of that Department is not only efficient but also effective. I think his attitude toward the task before him was well expressed in his words to the Committee on Finance:

> The opportunity to lead this Department is the opportunity to help to do the noblest work of a civilized nation—to help educate the young, to help improve the health of our citizens, and to help provide the income security to enable the old, and the poor, and the disabled to live their lives in human dignity and with peace of mind.

Mr. President, the Committee on Finance conducted a hearing on the qualifications of Joseph A. Califano, Jr., to be Secretary of Health, Education, and Welfare and subsequently voted, with one dissenting vote, in favor of approving that nomination. I urge the Senate to confirm the nomination of Mr. Califano.

Mr. BAKER. Mr. President, I yield myself such time as I may require.

Notwithstanding that the remarks I am about to make are in support of the nomination of Mr. Califano, I have yielded myself the time to do that and I ask unanimous consent that at the conclusion of my remarks I may transfer control of the time in opposition to the distinguished junior Senator from Oregon (Mr. PACKWOOD).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, will the Senator give me 1 minute when he gets through?

Mr. LONG. Mr. President, I suggest that the time be charged to those who favor the confirmation.

Mr. BAKER. Mr. President, I have talked to Senator PACKWOOD about it and there is no difficulty in that respect.

Mr. President, today the Senate turns its attention to the nomination of Joseph A. Califano to be Secretary of Health, Education, and Welfare. The Califano nomination was reported from the Finance Committee by a vote of 15 to 1 and is scheduled for consideration during this legislative day, pursuant to a unanimous-consent order limiting the time of debate to 2 hours.

Mr. President, I have known Joe Califano for many years. I count him as a personal friend; I esteem him as a distinguished lawyer; I admire him as a skillful and capable Democratic politician. He served as a trusted adviser to former President Lyndon Johnson for many years. Many of the programs which Secretary Califano will be called upon to administer were born of his originality. I believe Joe Califano has the courage, the conviction, the strength, the compassion, the realism, and the understanding to be a great Cabinet officer and to serve with unique distinction as Secretary of this Department. I trust that the Senate will confirm him by an overwhelming vote and I extend to him in advance my congratulations.

Mr. President, I have a request for 1 minute from Senator CURTIS. I yield control of the time to the Senator from Oregon with the understanding he might accommodate our distinguished colleague from Nebraska (Mr. CURTIS).

Mr. PACKWOOD. Yes. I yield a minute to the Senator from Nebraska.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, I shall support this nomination. In doing so, I want to state my feelings about the matter.

I believe that the responsibilities on the President of the United States, regardless of who he may be, are so great and so heavy in the discharge of that office—the most powerful office in the world—that he is entitled to a Cabinet of his own choosing.

I believe the free selection of that small group of intimate advisers and helpers should belong to the President.

I do not believe that I should interpose my judgment as to their qualifications. In some instances I might very well disagree with them. I might very well believe they are not a wise choice or not the best choice.

Nevertheless, the general rule that I choose to follow is that for the Cabinet—and this does not apply to other officers—that I shall grant that right to the President to have a Cabinet of his own choosing.

I thank my distinguished colleague.

The ACTING PRESIDENT pro tempore. The time of the Senator from Nebraska has expired.

The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to have printed in the RECORD a letter to Senator WILLIAMS from the National Abortion Rights League questioning Mr. Califano's views on abortion, not opposing him, but questioning his views on abortion; together with a list of other organizations having the same questions; and a letter from the Women's Lobby of January 21, 1977.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ABORTION RIGHTS ACTION LEAGUE,
Washington, D.C., January 14, 1977.

The National Abortion Rights Action League presented testimony before the Senate Labor and Public Welfare Committee on January 13, 1977. The attached testimony in the form of a letter to Committee Chairman Senator Harrison A. Williams, Jr. outlines our opposition to the anti-abortion statements by Secretary-designate of DHEW, Joseph Califano.

The following organizations join NARAL in taking issue with the discriminatory remarks made by Mr. Califano regarding public funding for abortion:

Religious Coalition for Abortion Rights.
National Organization for Women.
National Women's Political Caucus.
Coalition of Labor Union Women.
Democratic National Committee Women's Caucus.
Democratic Farm Labor Feminist Caucus.
National Organization of Non Parents.
Planned Parenthood/World Population.
Alan Guttmacher Institute.
National Black Feminist Organization.
Washington Women's Representative.
American Civil Liberties Union.
Women's Lobby.

NATIONAL ABORTION RIGHTS ACTION LEAGUE,
Washington, D.C., January 13, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: As you undertake the confirmation hearings upon the appointment of Joseph Califano, Esquire, as Secretary of Health, Education and Welfare, there are certain concerns which we believe must be openly expressed.

It has become clear that Mr. Califano is personally deeply opposed to abortion for his own moral and religious reasons and opposes federal funding for all abortions. What is not clear, however, is what effect Mr. Califano's personal beliefs may have upon official government policy regarding funding of abortion services for the disadvantaged of this country. Our concerns about the conflict between Mr. Califano's personal views and policy decisions he will be called upon to make in his official capacity are threefold in nature.

Mr. Califano's strong commitment to civil rights in guaranteeing the same civil liberties to all Americans regardless of race, religion, or economic status has long been recognized. This is in direct conflict, however, with his apparent willingness to openly discriminate against indigent women by denying them access to legal abortion services readily available to other women. It is unthinkable that someone who has fought for the rights of the underprivileged could now be blind to the discriminatory nature of his statements against funding abortion services for the poor.

Secondly, it is surprising that a leading civil rights attorney would make such emphatic statements knowing that federal courts have consistently held that withholding of funds for abortion services is unconstitutional when funding is available for prenatal and delivery care. These courts have determined that such prohibitions are discriminatory and in violation of the equal protection clause of the Constitution. To us, such prohibitive actions are coercive in that pregnancy, is a condition which requires medical treatment regardless of the outcome. Therefore, the poor are not allowed a choice and are unable to fully exercise their constitutionally guaranteed right to choose abortion.

Thirdly, because of the inherent conflict between Mr. Califano's own beliefs and the current government policy in providing Medicaid reimbursement for abortion, it is imperative that he be publicly able to distinguish clearly between these two opposing interests. It would be deeply disturbing to see a Secretary attempt to undermine or restrict current policy solely upon the basis of moral and religious beliefs not shared by the majority of the American public.

We hope that Mr. Califano will be cognizant of these apparent inconsistencies and will attempt to examine all aspects of the issue carefully as it affects the entire nation, with its many different moral and religious persuasions.

President-elect Carter has often referred to his hope of minimizing the need for abortion through improved contraceptive and family planning services. It is our sincere hope that the religious convictions of Mr. Califano leading him to his opposition to abortion will not block his enthusiasm in promoting Governor Carter's concern that all those who need and desire family planning services be able to receive them.

These are matters which deeply affect the lives of millions of Americans. We believe they merit frank and open discussions.

Sincerely,

KAREN MULHAUSER,
Executive Director.
CAROL WERNER,
Legislative Director.

WOMEN'S LOBBY, INC.,
Washington, D.C., Jan. 21, 1977.

DEAR SENATOR: The Women's Lobby is opposed to Joseph Califano's nomination as Secretary of Health, Education, and Welfare because he is unalterably against federal funding for abortions. Twice last year the Senate voted against the Hyde Amendment, incontrovertible evidence of broad Senate disagreement with his views.

300,000 Medicaid abortions are performed each year. Califano would force these women to bear unwanted children or resort to back alley abortions. The cost of an abortion is $150; that of a live birth $600. It costs $1,000 per year for a poor child. These women depend on you for their health care.

The Supreme Court will not have time to consider the constitutionality of the Hyde Amendment in this term. Therefore, when appropriations will next be considered, funding of Medicaid abortions will once more become problematical. In addition, the Carter administration has promised some sort of National Health Insurance package by the end of the year. In both instances, the Secretary of HEW would be in a powerful position to affect a poor woman's access to the right to an abortion as guaranteed by the Supreme Court, through his recommendations.

We urge you to vote against the confirmation of Joseph Califano. It is vitally important to all women, rich or poor.

Sincerely,

CAROLINE BODE,
Director of Abortion and Health Projects.

Mr. PACKWOOD. Mr. President, I would normally share the view of the Senator from Nebraska about not voting against a Cabinet nominee, giving the President the Cabinet that he wants.

I feel so strongly about this issue, however, of legalized abortion, that I cannot bring myself to vote for Mr. Califano—and it is solely because of that issue.

When he appeared before the Finance Committee, I questioned Mr. Califano very closely on this subject.

To review the law before we get into this, I mean the current law, the Supreme Court decision standing at this moment has legalized abortion.

In addition to that, there is now pending in the courts, the resolution of the so-called Hyde amendment which was inserted in the Labor-HEW appropriation bill last year, barring the use of any Federal funds for abortion. That issue has not yet been resolved by the Supreme Court.

But in questioning Mr. Califano, I asked him some questions and I want to read those specifically into the RECORD, with his answers:

Senator PACKWOOD. "What would your recommendation be as far as authorizing similar types of amendments [i.e. similar to the Hyde Amendment restricting the use of Federal funds for abortions] to appropriation legislation next year? . . .

Mr. CALIFANO. It would be exactly what Governor Carter's would be, that he repeatedly said during the campaign. We would recommend that Federal funds not be used to provide abortions.

Senator PACKWOOD. In the Medicaid or any other Federally funded program?

Mr. CALIFANO. That is correct.

Mr. President, what that means, first, is no Federal money in any of the foreign aid appropriations would be used for abortions, no money for medical research if it involved research on abortion, no money to the veterans' hospitals for abortions.

Even in States where abortions were legal before the Supreme Court decision, no federally funded program of any kind shall be allowed to use any money for abortions if Secretary-designate Califano and President Carter have their way.

To quote further from the hearings:

Senator PACKWOOD. I want to be sure that

what you are saying is laid out clearly. If you had a choice—not a law—but you have a choice to make a recommendation, your recommendation would be that no Federal funds will be used for those 250,000 or 300,000 poor women, medically indigent, mostly minorities, who could not otherwise afford abortions?

Mr. CALIFANO. That would be my position. That would be my recommendation and the position of the Carter Administration.

Senator PACKWOOD. What we are saying, as far as the Carter program goes, with all the Planned Parenthood facilities, all the homes for unwed mothers, all the decent facilities to take care of them, if that woman wants to have an abortion and is poor and cannot afford it, tough luck.

Mr. CALIFANO. Senator, what I am saying is that we should reduce those cases to the greatest extent possible.

Senator PACKWOOD. Still, tough luck, as far as Federal help is concerned.

Then I changed to the subject of the actual constitutionality of legalized abortion and I asked Mr. Califano as follows:

Senator PACKWOOD. Is it your position that you are opposed to an amendment to overturn the Supreme Court's position?

Mr. CALIFANO. I oppose any amendment.

Senator PACKWOOD. You would leave the Supreme Court decision which says that a woman as a matter of right can have an abortion?

Mr. CALIFANO. I would leave that standing.

* * * * *

Senator PACKWOOD. The conclusion comes down to this. You are personally opposed to any Constitutional amendment to change the decision, leave it as it is, the woman has a right to an abortion.

If the woman is poor and has no other access to an abortion, she will not get Federal funds for it?

Mr. CALIFANO. Federal funds are not appropriate for it, to use Federal funds for an abortion, for women rich or poor.

I cannot emphasize the passion that Mr. Califano displayed in the answering of these questions. I cannot emphasize how often he indicated that his position and that of President Carter are identical on this issue.

At the end of the cross-examination, there were some who support my position on legalized abortion who came up to me and congratulated me for having painted Mr. Califano into a corner. I shook my head and said, "No; he was not painted into a corner, he went there voluntarily." Because in his testimony before the Finance Committee, and before the Labor and Public Welfare Committee in his other nomination hearing, any time he wanted to avoid a question, he did. Any time he was not prepared to answer, he did not. But when it came to the issue of abortion, he was waiting to answer, willing to answer, wanting to answer; and so passionately, so vigorously, that I think it is impossible that Mr. Califano, as Secretary of Health, Education, and Welfare, will be able to fairly administer the laws involving abortion, assuming that the Supreme Court says women in this country continue to have a right to an abortion, and that they continue to have a right to Federal funds to help them.

With feelings that passionate—and he is sincere—I think it unwise to have a man in the Cabinet position most sensitive to this issue of abortion.

For that reason, I will oppose his nomination.

Mr. GRAVEL. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. GRAVEL. Mr. President, I was not there at the hearing, the beginning of it, when the question was posed. I was there when a line of questioning was posed by colleagues on our side of the aisle.

As I recall his response with respect to abortion, he said that he personally disagreed with them. I could understand that. But he also said he would obey the law of the land.

Maybe my colleague is aware of something I am not aware of.

However, I share the same view as that of the distinguished Senator from Oregon, and I have a great deal of respect for the leadership he has shown in this area. I feel very strongly about this matter. I went to the hearings with some very strong views.

I heard Mr. Califano's response, that he held a personal view; and he is entitled to hold that personal view. But when he stated, with respect to Federal policy, that in his position as Secretary of HEW he would follow the law of the land, I was assuaged with respect to the difference between my views and his.

I wonder whether the Senator from Oregon will elucidate for me where he undoubtedly parts company with me in this regard.

Mr. PACKWOOD. First, I suppose we are far enough removed from Cabinet officials who were violating the law of the land so that we do not find it necessary to ask a Cabinet official, "Will you uphold the law of the land?"

I can understand why they all have said, "Yes, I will enforce the laws."

I hope that the trust in our Government will increase rapidly enough so that this kind of answer will not be necessary.

What bothered me was the passion in his statements, his feeling, his vivid description of his innermost feelings, that within whatever discretion the law allowed, he would bring the weight of his office, the weight of his personality, and the weight of President Carter's prestige to limit abortions in any fashion possible. That bothered me, first.

Mr. GRAVEL. Did he say that?

Mr. PACKWOOD. Oh, yes, very clearly.

He is opposed to the use of any Federal money. It is his personal opinion.

I asked him about the situation, if the Hyde amendment is found to be constitutional, and we are in a position to add this restrictive language to every kind of authorization or appropriation bill that comes along, be it medical research, foreign aid—if there is the discretion to make that recommendation. He will push that. He will attempt to stop Federal funds for any purpose in which abortion is related.

Of course, we do not know the outcome of the Hyde case, because it is now before the court

I hate the thought of having somebody in that position who is going to speak on behalf of himself and on behalf of the administration and at every opportunity urge Congress to pass restrictive anti-abortion legislation.

Mr. GRAVEL. That, of course, is a policy position. I certainly cannot fault Mr. Califano.

My colleague may be right in the interpretation of a passionate statement. It is a very passionate subject. We had 40,000 people here over the weekend to prove how passionate it was, and still is.

I do disagree with him, but he says that he is going to obey the law of the land. People may disagree with capital punishment, but if a person is in charge of execution, he can step away from the job or follow the law. In his case, he has given us assurance that he will follow the law of the land. If that law becomes ambiguous in many areas, it will not be only he who will be vigilant in this process, but so will the Senator from Oregon and I. I think it is incumbent upon us to see that the law is very precise and that it is interpreted by the judiciary in the way we feel it should be. We should keep passing laws until we get that interpretation. But I do not think we can disqualify a person of the caliber of Mr. Califano. I was very impressed with the rest of his responses. In fact, I was impressed with his candor.

He was party to the Great Society; yet, he was the first one to recognize that this has led us into some difficulties. He was not glib with his answers.

So I think we have a mature individual who, as a matter of conscience, answered the Senator from Oregon in a very honest and straightforward fashion. I would be more suspicious if he gave the Senator a very political answer and then the Senator knew privately the view that Mr. Califano held.

Mr. PACKWOOD. I say to the Senator from Alaska that last year there was a matter that never got to the Senate floor; but twice, as I recall, committees turned down nominees of President Ford. In one case it was the nomination of Joseph Coors to the Board of Directors of the Public Education Broadcasting System. He was turned down because he was regarded as too philosophically conservative. I thought it was a mistake.

In the Committee on Banking, Housing and Urban Affairs, on which I serve, we turned down former Representative Ben Blackburn to be a member of the Federal Home Loan Bank Board, mainly because of his racial views and racial statements. It was not a question of competence. We felt that a man who feels that strongly should not rise to the dignity of having his nomination sent by the committee to the floor of the Senate.

So it is not unusual for Members of the Senate to look at a nominee and consider only whether he is going to uphold the law. I hope they all will. But we just find his personal views so out of touch, so persona non grata, and so irrelevant to what is going on today, that we cannot find him a suitable appointee. That is the way I feel about Mr. Califano

Mr. GRAVEL. I respect the view of the Senator from Oregon, who is a very fine Member of this body. On exactly the same pattern of questions, I can only say that I fall on the opposite side. I think it happens frequently in this body.

Mr. Califano, as a matter of moral belief, is entitled to hold some very strong views that may be at variance with my views, particularly with respect to abortion. I am persuaded that when he appeared before us and when he paid a courtesy call in my office—as I am sure

he paid to my colleague from Oregon—he responded to the questions in an honest and straightforward fashion, as I am sure he responded to the Senator.

I am impressed by Mr. Califano's humility, by his recognition that he does not have all the answers, by his recognition of what the major problems are in our society today, in the fact that he is going to proceed in a very deliberate and very open fashion to address himself to those problems.

I hold the same views as does the Senator from Oregon, very strongly, that the poor should be entitled as a matter of right to the same privileges as those who are better endowed financially in our society.

Perhaps the record in the future with respect to Mr. Califano might warrant my changing my mind. I do not think so. On that premise, I will support him very strongly and very aggressively and enthusiastically. I think he can provide leadership in the difficult office of Secretary of HEW.

I respect the views of the Senator from Oregon, who I respect very deeply. I thank him for yielding to me.

Mr. PACKWOOD. I thank the Senator from Alaska. He and I have fought many battles on the same side, and I know we will do so again in the ensuing Congress. He holds his views as sincerely as I hold mine. I regard him as a friend.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield to the Senator from New York 3 minutes.

Mr. JAVITS. Mr. President, I have the same problems with this nomination as does the Senator from Oregon.

The ameliorating difference is very much like that of the Senator from Alaska.

I see my colleague from New York sitting in the manager's chair, and I congratulate him. He perhaps feels the same way.

In any case, Mr. Califano has so many advantages over that disadvantage that I shall vote for the confirmation of his nomination. I heard him thoroughly. I respect his views. They are sincere on the issue of abortion. I could not disagree with him more.

We have faced the struggle on the floor of the Senate because of the distortion which is involved in thinking that we are legislating something. We are preventing a curbing of individual human rights—to wit, the right of a woman to decide what will happen to her.

The Supreme Court has decided very effectively, and I think appropriately, the issue of the public interest which arises at a given point in a pregnancy and has laid down appropriate rules to deal with that particular contingency.

I believe that we have an opportunity to get an excellent Secretary of Health, Education and Welfare and to stand our ground with respect to this individual human right of abortion as it has been defined by the U.S. Supreme Court.

In every other respect, Mr. President, I find him an admirable candidate. He is the first one who perceived the true limits of the alleged counterfeiting and cheating in welfare as being confined to a very limited class, while we threatened to be unjust to the overwhelming majority of those who really need it—those who could not manage themselves, the handicapped, the blind, infants, and so forth. That was very perspective. He is a very able man.

I believe he will manage a good department. He will be humane, and at the same time he will be hardheaded.

We shall work with him a great deal in the Committee on Labor and Public Welfare, where I have the honor to be the ranking member at this time, and I look forward to it.

So, Mr. President, I commend him to the Senate, on balance, even though I thoroughly disagree with him on the subject of abortion; and I will fight him tooth and nail, whatever position he may take to seek to hinder or hamper the individual human right which is involved in that particular issue.

Mr. DOMENICI. Mr. President, will the junior Senator from New York yield me 5 minutes, to speak in favor of Mr. Califano?

The PRESIDING OFFICER. Does the Senator from New York yield?

Mr. MOYNIHAN. I yield.

Mr. DOMENICI. Mr. President, I thank my good friend from New York.

At the outset, I regret to say that I have very opposite views from the distinguished Senator from Oregon. I greatly respect his convictions and his views and those of the senior Senator from New York on this issue. But I could not agree more with those who support Mr. Califano wholeheartedly, for I do not think there are any disabilities expressed here in his testimony, and I reviewed that carefully, also.

I find it difficult to oppose him on the question of abortion both insofar as he personally disagrees with abortion and on the point that he would not recommend the use of Federal funds to finance abortions if the Hyde amendment were stricken down by the courts, because I summarized in these next two or three sentences what I think he has said.

Here is what I believe has been said about this nomination by its opponents; when the heated rhetoric is stripped away, this is what they are really saying.

This man agrees with the majority of Congress, No. 1, which passed the Hyde amendment. This man agrees with the position on abortion expressed by the immediate past President of the United States, Gerald Ford. This man agrees with the position expressed by our new President, President Carter, and by a large number of Americans.

So, it seems to me that this nominee's personal views could not interfere with the proper discharge of the law of the land because he has said that. And so long as he says that, how could we deny this man an appointment when he agrees with the majority of Congress that passed the Hyde amendment, when President Ford, the outgoing President, agreed precisely with his views, and when our new President agrees precisely with his views?

It seems to me that it is indeed rhetoric to attack him on this particular issue.

Mr. President, I have a rather detailed statement, but I wish to exchange views on this subject particularly with my good friend from Oregon, because I do believe that having been here for 4 years in this Senate we are confusing the exercise of a right, when we speak of abortion, and the concept of equal access to rights.

What we seem to be saying is that because our Supreme Court determines that there is a right somehow or another this institution, directly or indirectly, is compelled to pay for the exercise of that right.

And I find that a very strained interpretation of the constitutional concept of rights in this country, where I think we are libertarian but not egalitarian where everyone is supposed to have equal access.

I will ask: Are there not many who claim that freedom of the press is exercised by a small group? And for those who say rich people can get abortions I would say, do rich people not own the press? There are those saying that because it is a right we have to pay for the exercise of the right so that it will be equally available to all. I do not find that to be part of the American doctrine of equal rights.

It appears to me that this body for 4 years has played ostrich, because the Supreme Court ruled that this was a right, we had a medicaid program in place and we assumed that we would wash our hands of it and let it take its normal course.

The right thing would have been to conduct hearings immediately after that and let this institution, the institution representing the people, determine whether or not we wanted to pay for the exercise of those rights under an ongoing kind of omnibus medical program. And we have yet to do that.

We stand here and say he is going to violate a law. He is talking about how well we give people access to a right, which is a continuing problem in America, and we do not stand on our feet and fund every denial of a right by paying for its exercise.

So it appears to me that the issue is not whether Mr. Joseph Califano is suited for the position. In all other respects he is an admirable man. His testimony is significant on the idea of commitment and concern for the goals and objectives of the Department of HEW. I do not believe we have one iota of business in turning him down because of the way he feels about this subject when no one here has ever conducted a full hearing on what the taxpayers' dollar ought to be spent for in terms of the practice of that right which has many overtones, moral and otherwise, that many are concerned about.

How can we deny him that when, as a matter of fact, as I said before, the outgoing President is for it, the new President is for it, and as a matter of fact, if one wants to count heads, the majority of Congress is for it?

I support the nomination of Joseph Califano to be Secretary of Health, Education, and Welfare.

I have listened to the arguments of my colleague from Oregon and have completely reviewed the transcript of exchanges between the nominee and my colleague during the committee hearings.

If we intend to oppose this nomination, I believe we must do so on the strength on an impairment so central to the discharge of the Secretary's duties as to constitute a barrier to adequate performance. We should oppose this, or any other, nomination on the basis of a matter essentially decided by the American people, by the Congress, and by the executive branch.

I find it difficult to oppose Mr. Califano on the question of abortion, both insofar as he personally disagrees with abortion and as he would not recommend the use of Federal funds to finance abortions if the Hyde amendment were stricken down by the courts.

Here is what has been said about this nomination by its opponents when the heated rhetoric is stripped bare: This man agrees with the majority of Congress, which passed the Hyde amendment; this man agrees with the position on abortion expressed by the immediate past President of the United States, by the new President of the United States, and by a large number of Americans; and, this nominee's personal views will not interfere with his proper discharge of the law of the land, regardless of what that law may turn out to be.

In sum, we have before us a man fully qualified by past experience, by intelligence, by integrity, and by commitment. He happens to disagree with some of my colleagues on a question of the most serious moral nature. He happens to believe as I do, although I would oppose him, despite our similar feelings, if he were sufficiently deficient in those skills and attributes central to the job President Carter has offered him.

But, he symbolizes the truly deep tension that now characterizes the American people on the question of abortion. He has no wish to impose his views on others. He will carry out the law of the land. He recognizes the ambiguity of feeling even among some proponents of abortion.

Above all, Mr. Califano has shown a moral sensitivity that may be the prime requisite of his proposed post.

For a moment let me address the specific question of Federal funding on abortion. The Supreme Court has said that American women have a right to abortion. But, the court has not said that the Federal Government, that is, the taxpayers of this Nation, must fund that right.

We hear today that fatal extension of the argument of equal rights, the libertarian argument upon which this Nation was founded, to an argument of equal result—the egalitarian argument. This Nation has embarked tentatively upon a crusade for equal results among all citizens that those who founded this Nation would find curious, at best. I can find little historical justification for the argument that without equal access to a right, one of the strangest of phrases ever uttered, one does not have that right. A right exists regardless of its use. And equal results as a national goal smacks of totalitarianism and a tyranny of social planners; while equal rights and freedom to exercise those rights seems to adhere to the Constitution.

Has this Government taken to subsidization of the first amendment rights of free speech, freedom of religion, and freedom of petition?

Is not the logical extension of this egalitarian argument that soon the Government should mandate public subsidy for printing presses, radio transmitters, and television towers for all citizens who believe their rights to full free speech abridged by failure to have such devices? Are we to next subsidize buses to various churches on the grounds that those who cannot get to church are being deprived of their rights to a free expression of their religious views? Shall we next offer taxpayers' moneys to help print petitions of grievances?

Surely the very absurdity of such thoughts mitigates against the notion of equality of result, as opposed to equality of opportunity and equality of rights.

Mr. President, I close by merely noting that in every important facet of his career, Mr. Califano has shown himself as excellent choice for the post of Secretary of Health, Education, and Welfare. Until this Congress shows by majority vote that it disagrees with him on his views, I would recommend that we reject the current objections to him and confirm him posthaste.

I thank my good friend from New York.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, let me, if I might, put the remarks of my good friend from New Mexico in perspective.

First, the Hyde amendment, per se, has never passed the Senate. Every time we had a straight up and down vote on it, it failed overwhelmingly, and only in conference between the House of Representatives and the Senate, where we had the entire HEW appropriation bill to consider, did the Senate finally give in. But every time we had a chance in the Senate to vote on the pure Hyde amendment it was turned down, and turned down overwhelmingly. Do not talk about that being the majority view in the Senate.

As for the majority view in the country—and I am not going to get into an argument about public opinion polls—every public opinion poll taken in the last 2 years shows the majority in favor of legalized abortion. I do hope, however, that we rise to a higher standard in this body than just the whims of current public popular opinion. But if we are going to go on that popular opinion, popular opinion favors the position of legalized abortion and does not oppose it.

As far as Mr. Califano obeying the law, he did say he would obey the law. I assume he will obey the law. I hope he will obey the law because if I thought he would not, I would vote against him on that basis alone.

If anyone would come before the Committee on Finance or any other committee and say, "No, I do not think I would obey the law," he ought to be turned down. That is the minimum that he can say.

All I am saying is that when we get to the subject of abortion, regardless of what the Supreme Court may decide on the Hyde amendment, if there is any room for tilting one direction or another on abortion, after the Hyde amendment is decided, Mr. Califano is going to tilt against it as strongly as he can and recommend against it as long as he can.

The Senator from New Mexico talked about rights, and whether just because you have them should the Federal Government fund them.

It is an interesting argument.

The normal position that this Congress has taken over the years is that the poor should not be deprived of at least the privileges, or call them the rights, that others have in this Nation, have because they cannot afford it. So we set up legal assistance, welfare, and medicaid to provide them medical assistance because they are too poor to have adequate medical help of their own. We say no one should be denied medical help because they are poor, because, basically, all Americans have a right to medical help. But, aha, for abortion that is different.

We all sit in this body and vote to give the poor money to protect themselves against a variety of oppressions, to give them money to insure that they can protect the rights that the rest of us take for granted. And if on any issue we were to stand in this body and say, "Oh, well, the poor are entitled to their rights but, too bad, we are not going to vote the money for them to protect those rights," we would be booed out of this Chamber. We would be shamed by every editorial writer in this Nation, and rightly so—until we come to abortion, and then you say that is a right the poor are all entitled to, but there is no obligation for the Federal Government to vote money for them to obtain that right.

I find that argument a solarism. If the Senator from New Mexico and others want to follow that with consistency, I shall vote against them and admire their consistency. I have yet to see anyone else in this Chamber consistently say, "No, we are not going to vote money for the poor to protect their rights."

I reserve the remainder of my time.

Mr. HUMPHREY. Mr. President, I applaud President Carter's nomination of Joseph A. Califano, Jr., to be Secretary of Health, Education, and Welfare.

Mr. Califano served ably as top White House staff aide to President Lyndon B. Johnson, and was the Chief Presidential Adviser on Domestic Issues during 1965–69. Previously, he had filled important and complex assignments in the Department of Defense.

In the White House, he initiated a major program to rationalize the budgeting and planning process of the Government and he gained invaluable experience in the problems and complexities of executive branch reorganization. He clearly demonstrated a creative mind in his efforts to stimulate programs to help the handicapped, the sick, and the disadvantaged.

More recently, he has expressed a serious interest in matters relating to the family, an issue of growing national concern and importance. While expressing his personal views of concern about certain health programs administered by HEW, in the course of recent committee

hearings on his confirmation, Mr. Califano also affirmed his commitment to upholding and enforcing relevant laws on these programs.

Mr. President, I believe that Joseph Califano is well prepared to assume the highly important job of Secretary of Health, Education, and Welfare, by his excellent experience in Government, by his educational background, and especially by his temperament for administering the vast scope of agencies and programs which will come under his responsibility. I shall vote to confirm his nomination.

Mr. PERCY. Mr. President, I intend to cast my vote for the confirmation of Joseph A. Califano as Secretary of Health, Education, and Welfare with one note of concern.

In his confirmation hearings, Mr. Califano stated and reiterated his very strong opposition to the use of Federal funds for providing abortions. His testimony further indicated that the Carter administration would work actively, initiating action if necessary, to bar abortions under all Federal health programs, including any national health insurance plan that is enacted, if the law permits. Where the law permits federally financed abortions, Mr. Califano would enforce the law.

Mr. Califano's position raises two serious questions. First, has Mr. Califano taken care to separate his personal views from his public policy decisions? Understanding the depth of feeling surrounding the issue of abortion, Mr. Califano's personal convictions on this matter are to be respected. As Secretary of Health, Education, and Welfare, however, Mr. Califano has the responsibility to insure that his personal convictions do not interfere with public policy decisions that affect the well-being of the people he is charged to serve.

Second, has Mr. Califano fully thought through the implications of his position for the poor. His position, in effect, would deny to the poor what is available to the nonpoor as a result of a decision by the Supreme Court. As Secretary of Health, Education, and Welfare, administrator of the Nation's social programs, Mr. Califano has a special need to be sensitive to the needs of those least able to help themselves.

On this one important issue I have confidence that Mr. Califano will do justice to his confirmation by keeping an open mind on this issue so that equity and justice will be served.

This is the only reservation I have about Mr. Califano in this position of immense responsibility. I have known him for years and look upon him as one of our Nation's most gifted and dedicated public officials. I look forward to working closely with him and helping him to the extent of my ability in his new capacity in the Carter administration.

Mr. JAVITS. Mr. President, I am in profound disagreement with Secretary-designate Califano with respect to the right of individual women as a matter of free choice and without regard to their economic status to seek abortion under the Supreme Court's decision as to time.

When Mr. Califano appeared recently before the Labor and Public Welfare Committee, of which I am ranking minority member, I questioned him closely about many social issues, including his position, which I oppose, against the use of Federal funds for abortion.

Mr. President, I ask unanimous consent that such appropriate portions of the transcript of proceedings by the Committee on Labor and Public Welfare at the hearings on the nomination of Joseph A. Califano, Jr., to be Secretary of Health, Education, and Welfare be printed in the RECORD at this point.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY

Senator JAVITS. Now, finally, on the matter on which you are said to have a hang-up, which you testified to this morning, to wit: abortion, and any Federal money being used for that purpose.

I know how controversial it is, and I am not going to debate the issue with you. That would not be neither here nor there. But insofar as the law allows just because you could afford to go to a Park Avenue doctor doesn't mean you can have it, and if you can't doesn't mean you should not have it, nor is it in the public interest that there be such discrimination for social or economic reasons—as the Supreme Court tells us, this is a legitimate matter within the decision of the individual prospective mother, and social policy should accord with the law.

Now, I know what you testified—that you would see that the law is obeyed; but I do believe that we should question you on that. You're a lawyer, and a very good lawyer, and there is one way of leaning into a statute, and there is another way of leaning against it.

You're going to be the top man, and it's going to be a very hard role for you, because of the depth of your feeling. I know what you have already said, so tell us whatever you can, in all decency and conscience, as to your ability to objectively carry out the law, and not be holding back or anything like that, in fairness to those who don't agree with you.

Mr. CALIFANO. Senator, let me speak to that and also make clear my views on that subject. I have thought about this matter seriously, and over an extended period of time. I have no question about my ability to enforce the law, whatever the law is. If courts order that we are constitutionally required to provide the Federal funds for abortions, or if the Congress decides to change the law passed last year, and provide such funds, I have no qualms of conscience about enforcing that law vigorously, as vigorously as I intend to enforce all the laws that I am charged with, whether it is Title 9 or Title 6 or any other statute.

I recognize what a searing and difficult issue abortion is. I understand the views of various people on this issue and the depth with which they hold them. There are strongly held positions on all sides.

I have thought about it, and I would not have gone and even been interviewed by Governor Carter had I not been prepared to enforce a law allowing federal funding and if that is what the law becomes.

My own personal view, which is the same as Governor Carter's—and we come to the problem from entirely different cultural, social and religious backgrounds—is as follows as best and as clearly as I can set it forth.

That abortion is wrong, that Federal funds should not be used for abortion, but that alternatives should be sought vigorously to prevent abortion situations—alternatives ranging from improving our programs for teenage pregnancies, to foster care, day-care, family planning, a broad sex education, improved and facilitated adoption procedures, and what have you.

This is a free country in which every man and woman is free to express their views, and in which we are constantly seeking to legislate or adjudicate morality and fairness. If the courts of this country and the legislatures of this country decide that Federal funds should be provided for abortion, I will enforce those laws just as I will enforce every other law.

Senator JAVITS. And as a lawyer, in deep conscience, do you feel you could do that without, as I say, leaning against them because of your personal views?

Mr. CALIFANO. Absolutely, Senator. I would not sit here before this Committee if I did not feel that way.

Senator JAVITS. My last question goes to the fact—or leads to the question of conflicts of interest.

Apparently you have represented clients who have challenged the idea of using animal testing for various Pure Food and Drug purposes, and that, again, has worried a lot of people; at least that's the charge. It may not be valid, but that's what you're here to tell us—and in other ways, you know, have challenged the operation of the Pure Food and Drug Act, representing chemical companies, pharmaceutical companies, et cetera.

You know, I was a big business lawyer long before I was a Senator; I know exactly what that situation is. Everybody is entitled to a lawyer; that does not necessarily mean you agree with the client.

But now you're going to be in a very different cast, and I think the public is entitled to be satisfied. But again, you can be completely objective. We have no particular hostages to these people, or anything else, that you do your job in a decent way, and again that you won't lean against this because of your past experience.

Mr. JAVITS. Mr. President, I am satisfied that his personal views on this issue will not prevent him as Secretary from following the law respecting abortion as laid down by the U.S. Supreme Court. On balance, therefore, and in view of his other strengths and experience, I shall vote for his confirmation.

My position on abortion, which I have stated many times, is clear: I fully support the decision of the Supreme Court leaving this difficult decision to the individual woman who must bear the responsibility under the timing established by the Court. Because I believe in individual freedom and because I support voluntarism and reject social coercion with respect to this issue, I have proposed amendments not to inhibit any hospital or any individual who, because of his convictions, felt that they did not want to have anything to do with abortion. But, at the same time, this same freedom of choice relates to the enfranchisement of women who have been subjected to conditions which began in the most abject slavery and have gradually developed a freedom to be themselves and to have their own lives and to make their own decisions and to develop in the way in which they wish.

To deny abortion to any woman—particularly of the poor—would set us back generations to the Dark Ages—and be rank discrimination.

Mr. President, I know, because I was born in and lived the early part of my life in the slums of New York City. I have seen the deformations, the deaths, the

peritonitis which come from kitchen-table operations by families who simply cannot have another child, and never even had the means to prevent it from being conceived. That represents the kind of desperation which is inhuman, Mr. President. That is why the Supreme Court decided as it did, and I am with that decision.

The Supreme Court, in an exercise of great wisdom, has made a fair definition here of what is the law and what is not the law, what States may prevent and what they may not prevent. It is a compromise. It does not go all the way with either side. It tries to accommodate the national law to the exigencies of the national situation.

It is unconscionable, in my view, that a woman who is poor and, therefore, dependent on Federal funds for health care, should be denied the freedom of choice available to others who are fortunate enough to have private means to pay, and I must oppose such gross discrimination along economic lines.

Mr. President, I hope that my colleagues will join me in supporting the nomination of Mr. Califano. I wish him the best success in carrying out the social policies that are so vital to the Nation and particularly to the disadvantaged, who properly look to the Government for leadership toward change. The task he assumes is a difficult one that will challenge his many talents. I shall hope to assist him, but I shall be monitoring vigilantly, as my distinguished colleagues Senators PACKWOOD and HATHAWAY have stressed, to insure that he keeps an open mind and vigorously enforces the law of the land for all women, regardless of their economic status.

Mr. SCHMITT. Mr. President, in my view, President Carter is entitled to have persons in whom he has complete confidence as members of his Cabinet. However, I do wish to express some reservations about Joseph A. Califano, Jr. to be Secretary of Health, Education, and Welfare.

During the Finance Committee's confirmation hearings I had an opportunity to question Mr. Califano and hear his answers to numerous questions on a variety of matters. Mr. Califano clearly has the background and experience appropriate to the issues that are the responsibility of Health, Education, and Welfare and I will vote to confirm him. However, it was not made clear from his testimony that he presently has an up-to-date understanding of either the needs for efficient management of the Department or the great concerns of the American people about the over-regulation of their lives as a consequence of the activities of that Department. I sincerely hope that Mr. Califano's first priority as the new Secretary of HEW will be to recommend to the President and Congress a management structure for his Department that will eliminate the problems of inefficiency and over-regulation that individual citizens and local officials are experiencing.

Mr. WILLIAMS. Mr. President, I am delighted to have this opportunity to speak in support of the President's nomination of Joseph A. Califano, Jr. to be Secretary of Health, Education, and Welfare.

On January 13 the Committee on Labor and Public Welfare held a lengthy hearing to meet with the nominee and discuss some of our common areas of concern. And I am pleased to report that Mr. Califano demonstrated that in this most difficult of Cabinet assignments the President has made the best possible choice.

Mr. President, it is the Secretary of Heath, Education and Welfare who is vested with the authority and responsibility to act as an advocate of the needs of the people of this Nation who would otherwise have no place else to turn. The Secretary of this great Department must represent a constituency as broad as the Nation itself—including 66 million children and young people 22 million senior citizens, 23 million persons with physical and mental handicaps, 26 million poverty-stricken, and the millions who have suffered disadvantages as members of minority groups. And it is this Secretary who must work to assure that it is these people who come before any other interest or institution if our society is to meet the goals which were established for our Nation some 200 years ago.

It is my view—and I believe it is a view shared by most of my colleagues—that Mr. Califano fully understands the enormity of the task before him. And, of greater importance, I believe that Mr. Califano has the wisdom, compassion, and enthusiasm to responsively and responsibly fulfill his new mission.

Mr. President, Joe Califano is not new to the intricacies and the tough decision-making needs of running the Government. From 1961 to 1965 he served in various policymaking positions in the Department of Defense including the jobs of General Counsel of the Department of the Army and Special Assistant to the Secretary and Deputy Secretary of Defense. And, in 1965 he was appointed as Special Assistant to President Lyndon Johnson who charged him with developing the President's legislative program. He served there until January 20, 1969, and in addition to his enormous day-to-day responsibilities he worked on many special problems including the Northeast power failure, the water drought in the Northeast, labor-management relations, balance of payments, and numerous urban issues.

Joe Califano has also known that he can bring fairness and balance to the decisionmaking process. In perhaps one of the most difficult periods in the history of the Democratic Party, from 1971 through 1972, he served with distinction and evenhandedness as general counsel for the Democratic National Committee. And he further demonstrated his commitment to this approach in response to heavy questioning about the controversial issues of busing and abortion. Although Mr. Califano may differ with some of us in his personal views on specific matters, his overriding philosophy is very clear. In response to Senator HATHAWAY and Senator JAVITS he stated unequivocally:

> I do not think I should go around imposing or even trying to impose my personal, moral or ethical views on anyone else. . . . I would not have gone and even be interviewed by Governor Carter had I not been prepared to enforce the law . . .

Mr. President, I have every confidence that Joe Califano will be one of the finest Secretaries the Department has had since its creation two decades ago. His response to every question posed by the members of my committee showed him as a man of great compassion. He has made clear that he intends to make his decisions based on the interests of all the people of the United States. Indeed, his own words best sum up the need for us to swiftly act on his confirmation:

> I call this the "people's department"; I consider the opportunity to serve there the greatest opportunity of my life. The opportunity to lead the Department is the opportunity to do the noblest work in this civilized nation—to help educate the young, to help improve the health of our people, to help provide income security to enable the old, the poor, and the disabled—the vulnerable Americans—to live their lives in human dignity and with peace of mind.

Mr. BROOKE. Mr. President, I have met with Mr. Joseph Califano and studied the committee hearings on his nomination to be Secretary of Health, Education, and Welfare with great care. As ranking minority member of the Senate Labor-HEW Appropriations Subcommittee, I have been very encouraged by Mr. Califano's grasp of HEW programs and by his expressed willingness to work closely with Congress not only in funding and implementing programs but in formulating them as well. His concern for the least fortunate in our society is impressive. However, I am disturbed by Mr. Califano's strong opposition to Government financing of abortions.

The Supreme Court has ruled that within certain limitations a woman has the right to an abortion. However, when a woman does not have the money for an abortion, that right becomes moot. The lower courts have recognized this. They have also steadfastly ruled that the Government must not discriminate against women who, for one reason or another, feel that they must choose abortion. The lower courts have thus ruled that when the Government chooses to finance maternity care, it cannot then refuse to finance abortion services. This is crucial for the many poor women who can afford abortion only because of the availability of medicaid funds.

I have fought to assure that Federal funds would be available for abortions for poor women. To have done otherwise would have been a denial of constitutional rights. Therefore, I can only be disturbed by a policy aimed at denying those funds, a policy which would go even further by refusing in the future to cover abortions under national health insurance. To claim that funds other than those from the Government would be available for abortions is specious. But this is now the policy, the insensitive policy I feel, of the Carter administration. If it were not Mr. Califano espousing this policy for the new administration, it would simply be someone else.

Mr. Califano, however, has categorically promised to uphold the law regarding Federal financing of abortions and we are now awaiting the Supreme Court decision as to what that law is. Therefore, despite my strong disagreement with Mr. Califano about Federal policy

on Federal funding of abortions, I will vote for his confirmation based on that promise. I shall, however, continue actively to fight to insure a woman's freedom of choice, and hope that the administration and Mr. Califano will come to see the wisdom and necessity of this stand.

Mr. RANDOLPH. Mr. President, I support the nomination of Joseph A. Califano, Jr., to be Secretary of the Department of Health, Education, and Welfare. HEW is the largest spending agency of Federal Government; it is the "people's" department which deals with human problems in thousands of ways.

HEW is so large and comprehensive in its administration of the many laws we in Congress have passed to cope with people problems that it has been called "unmanageable." I do not feel this is true. It is the responsibility of the Congress and the HEW Secretary to work together to trim the unworkable programs and give new emphasis and direction to those vital programs which can and do reach people and help those in need of services.

If HEW is to be efficiently managed, Joseph Califano is the person to do it. His affirmative response to the question of manageability during hearings in the Committee on Labor and Public Welfare was most gratifying. Some might say that it is historic irony that Mr. Califano, who was so closely involved in the conception and execution of "Great Society" programs during the Johnson administration, must now be burdened with administering the burgeoning bureaucracy spawned in the 1960's. He freely admits to the challenge, and looks forward toward alining HEW to the true intent of the programs created.

Joseph Califano was born in a close-knit ethnic neighborhood of Brooklyn. He recalls that his mother, a schoolteacher, taught in the area now known as Bedford-Stuyvesant. He knows the conditions and problems of the ghetto, and particularly the chaotic events that drained these neighborhoods of vitality and hope. "We had schools of excellence then," he says, "and I am hopeful that we can once again achieve a high quality of learning in our schools system."

During his earlier service as Special Assistant to the Secretary of the Army, Mr. Califano served as a member of the President's Appalachian Regional Commission. He is sensitive to, and aware of, the special needs in health, education and other social services to the disadvantaged in rural areas as well as in major urban areas.

I was particularly pleased with Mr. Califano's testimony before our committee when he expressed "grave reservations," about replacing certain narrow categorical aid programs under HEW with block grants.

As chairman of the Subcommittee on the Handicapped, it is most gratifying to know that he believes, as do I, that certain categorical programs are necessary in order to assure direct benefits to those who are too often overlooked in our zeal to serve special interest groups, those needy persons without special clout or pleading such as the blind and physical, or mentally handicapped.

I look forward to working closely with Mr. Califano toward our mutual goal of supporting the basic human needs of the American people. I believe his pledge of close cooperation in policymaking and performance during the new Carter administration will give true meaning to those too-frequently abused and derided words, health, education, and welfare.

Mr. BAYH. Mr. President, it is with great pleasure that I express my support of Joseph Califano to be Secretary of Health, Education, and Welfare. I know Joe Califano well, I have known him for many years, I am proud to call him a friend, and I am looking forward with great hope to his tenure as Secretary of HEW.

There are few persons in our country that have the knowledge and expertise in the field of domestic policy as does Joe Califano. Serving as a Navy legal officer, with liaison responsibility between the Pentagon and the White House from 1955 to 1958, was only the beginning of Mr. Califano's long and illustrious career in Government. One need not reiterate all the ways in which this outstanding American has served his country. One need only recall his service as Special Assistant to former Secretary of Defense Robert McNamara, as well as his position as Chief Presidential Adviser on Domestic Issues to former President Lyndon Johnson, to realize that Mr. Califano will make an outstanding member of the Cabinet.

During the years that Mr. Califano served as Domestic Adviser to President Johnson, he participated in the reorganization of the Office of Management and Budget, and in the formulation of the Department of Transportation. One of President Carter's promises to the American people is to reorganize the executive branch of the Government. Given Mr. Califano's background in Government and his work for reorganization, he appears to be the perfect choice for Secretary of Health, Education, and Welfare. For this particular executive agency needs great attention in the reorganization of the executive branch. And Joe Califano is the right man in the right job at the right time.

I know the Secretary-designate shares with our President a concern for revamping the complicated and burdensome process by which we presently administer our welfare programs. I offer my support of Mr. Califano with the firm belief that he will make every effort possible to establish a more equitable and efficient method of aiding those Americans who, unfortunately, are unable to care for themselves and for their children. It is my firm conviction that such reorganization should proceed in a manner so as to achieve greater consolidation of the presently fragmented welfare system. For it is only through some form of federalization of these programs, that our State and local governments can realize essential fiscal relief and benefits can be balanced among different regions.

I am also sure that Mr. Califano will recognize the need for this administration to take positive steps in the area of medical research. There are few greater priorities than the protection of our citizens from deadly and crippling diseases. I look forward to the day when the Department of Health, Education, and Welfare will once again seek the proper level of funding for medical research in such fields as cancer, heart disease, and the many other diseases that attack, cripple, and/or kill thousands of our citizens every day.

However, I must make it quite clear that I do have one serious reservation concerning this nomination. My reservation has to do with Mr. Califano's stated position before the Finance and Labor and Public Welfare Committees on the use of medicaid funds for abortions. I found Mr. Califano's comments before these committees to be deeply distressing.

The issue of medicaid funds for abortions is not an issue which can be easily resolved merely because of one's own personal views for or against abortion. The issue is much deeper. It involves the very core of a constitutional guarantee of equal protection to those poor and indigent women who are dependent for medical assistance upon the Federal Government.

I understand that Mr. Califano has given his commitment to enforce the law of the land. If the Supreme Court rules positively on the issue of medicaid funds for abortion, Mr. Califano has indicated that he will see that the programs of the Department of Health, Education, and Welfare will carry out their legal mandate. I know Joe Califano has too great a respect for the Constitution to do otherwise. And I further know that he has the kind of respect and admiration for his country and its people that is needed in order for any man or woman to occupy an office in the President's Cabinet.

It is with great pride and considerable confidence in him that I wholeheartedly support the nomination of Joe Califano to be the next Secretary of Health, Education, and Welfare.

The PRESIDING OFFICER. Does the Senator from Louisiana yield back the remainder of his time?

Mr. LONG. Mr. President, I have no more requests for time. I am prepared to yield back the remainder of my time.

Mr. PACKWOOD. Mr. President, I am prepared to yield back the remainder of my time.

I do want the yeas and nays.

Mr. LONG. Mr. President, have the yeas and nays not been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. LONG. Then I yield back the remainder of my time.

Mr. PACKWOOD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is, will the Senate advise and consent to the nomination of Mr. Joseph A. Califano, Jr., of the District of Columbia, as Secretary of Health, Education, and Welfare?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senators from South Dakota (Mr. ABOUREZK and Mr. MCGOVERN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) is necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 95, nays 1, as follows:

[Rollcall Vote No. 7 Ex.]

YEAS—95

Allen	Goldwater	Morgan
Anderson	Gravel	Moynihan
Baker	Griffin	Muskie
Bayh	Hansen	Nelson
Bellmon	Hart	Nunn
Bentsen	Haskell	Pearson
Biden	Hatch	Pell
Brooke	Hatfield	Percy
Bumpers	Hathaway	Proxmire
Burdick	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Ribicoff
Byrd, Robert C.	Helms	Riegle
Cannon	Hollings	Roth
Case	Huddleston	Sarbanes
Chafee	Humphrey	Sasser
Chiles	Inouye	Schmitt
Church	Jackson	Schweiker
Clark	Javits	Scott
Cranston	Johnston	Sparkman
Culver	Kennedy	Stafford
Curtis	Leahy	Stennis
Danforth	Long	Stevens
DeConcini	Lugar	Stevenson
Dole	Magnuson	Stone
Domenici	Mathias	Talmadge
Durkin	Matsunaga	Thurmond
Eagleton	McClellan	Tower
Eastland	McClure	Wallop
Ford	McIntyre	Weicker
Garn	Melcher	Williams
Glenn	Metcalf	Young
	Metzenbaum	Zorinsky

NAYS—1

Packwood

NOT VOTING—4

Abourezk	Laxalt	McGovern
Bartlett		

So the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. One hour having passed since the Senate convened, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a closed debate upon Senate Resolution 18, expressing the sense of the Senate relating to opposition to Presidential pardon for Vietnam era draft evaders.

Jesse Helms, Clifford P. Hansen, Malcolm Wallop, Harrison H. Schmitt, Orrin G. Hatch, Strom Thurmond, Carl T. Curtis, Bob Dole, Peter V. Domenici, John C. Danforth, Milton R. Young, William L. Scott, Paul Laxalt, Richard Stone, Robert P. Griffin, Jake Garn, Richard G. Lugar.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 5 Leg.]

Allen	Gravel	Muskie
Anderson	Griffin	Nelson
Baker	Hansen	Nunn
Bayh	Hart	Packwood
Bellmon	Haskell	Pearson
Bentsen	Hatch	Pell
Biden	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Hayakawa	Randolph
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Huddleston	Sarbanes
Case	Humphrey	Sasser
Chafee	Inouye	Schmitt
Chiles	Jackson	Schweiker
Church	Javits	Scott
Clark	Johnston	Sparkman
Cranston	Kennedy	Stafford
Culver	Leahy	Stennis
Curtis	Long	Stevens
Danforth	Lugar	Stevenson
DeConcini	Magnuson	Stone
Dole	Mathias	Talmadge
Domenici	Matsunaga	Thurmond
Durkin	McClellan	Tower
Eagleton	McClure	Wallop
Eastland	McIntyre	Weicker
Ford	Melcher	Williams
Garn	Metcalf	Young
Glenn	Metzenbaum	Zorinsky
Goldwater	Morgan	
	Moynihan	

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is. Is it the sense of the Senate that debate on Senate Resolution 18, expressing the sense of the Senate relating to opposition to Presidential pardon for Vietnam-era draft evaders, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

Mr. ALLEN. May we have order first, Mr. President?

The PRESIDING OFFICER. Will the Members of the Senate return to their seats and the attendants sit in the rear of the room, please?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senators from South Dakota (Mr. ABOUREZK and Mr. MCGOVERN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) is necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The yeas and nays resulted—yeas 53, nays 43, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—53

Allen	Griffin	Pell
Baker	Hansen	Randolph
Bellmon	Hatch	Roth
Bentsen	Hathaway	Sarbanes
Biden	Hayakawa	Schmitt
Bumpers	Helms	Schweiker
Byrd, Harry F., Jr.	Hollings	Scott
Chiles	Jackson	Sparkman
Clark	Long	Stafford
Curtis	Lugar	Stevens
DeConcini	McClure	Stone
Dole	McIntyre	Talmadge
Domenici	Melcher	Thurmond
Ford	Metzenbaum	Tower
Garn	Morgan	Wallop
Glenn	Nunn	Weicker
Goldwater	Packwood	Young
	Pearson	Zorinsky

NAYS—43

Anderson	Gravel	McClellan
Bayh	Hart	Metcalf
Brooke	Haskell	Moynihan
Burdick	Hatfield	Muskie
Byrd, Robert C.	Heinz	Nelson
Cannon	Huddleston	Percy
Case	Humphrey	Proxmire
Chafee	Inouye	Ribicoff
Church	Javits	Riegle
Cranston	Johnston	Sasser
Culver	Kennedy	Stennis
Danforth	Leahy	Stevenson
Durkin	Magnuson	Williams
Eagleton	Mathias	
Eastland	Matsunaga	

NOT VOTING—4

Abourezk	Laxalt	McGovern
Bartlett		

The PRESIDING OFFICER. On this vote, there are 53 yeas, 43 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

SENATOR PELL'S VOTE TO INVOKE CLOTURE

Mr. PELL. Mr. President, today I cast my vote in the affirmative on the question of whether the Senate should invoke cloture on Senate Resolution 18, the so-called antiamnesty resolution.

In so doing I have followed my consistent practice of voting for cloture whenever the question is before the Senate.

I wish to state, however, that in voting to bring to a close the debate on this resolution, I in no way approve of the merits of Senate Resolution 18, for I believe very strongly that the action taken by President Carter was correct, compassionate, and courageous.

Although the President did not go as far as some would have liked, and of course, disappointed many others in granting a pardon at all, I believe he has adopted a moderate and sensible approach to a complex and troubling problem.

The tragedy of Vietnam will be debated for years, in this Chamber and elsewhere. I doubt that any among us can predict what history's judgment will be. At this time, however, there is one thing we can do and President Carter said it correctly:

I think it's time to get the Vietnam War over with.

His pardon goes a long way toward fulfilling that goal.

LT. COL. RAYMOND C. SCHRUMP SPEAKS ON AMNESTY

Mr. HELMS. The Senate just voted in an unmistakable fashion on the resolution cosponsored by the able Senator from Alabama and myself with reference to amnesty for draft dodgers. The vote of 53 to 43 is impressive, Mr. President, in terms of the attitude of the Senate on this question.

As the vote was being taken, Mr. President, my mind raced back in time to 1972 when I received a call from the young wife of Lt. Col. Raymond C. Schrump, of Fayetteville, N.C.

Colonel Schrump at that time was a prisoner of war in Vietnam. I drove down to her home in Fayetteville. We sat in her yard one sunny afternoon as this lovely, dedicated lady discussed her husband who had then been a captive of the Communists for some 4 years.

I recall her saying, Mr. President:

I love Ray more than life itself. I want him home more than anything else that I have

ever wanted. But when he comes home—and I pray to God that he will—I want him to come home in honor.

You can imagine, Mr. President, how those words burned into my consciousness. I have remembered them—and Ann Schrump's courage—ever since.

Col. Ray Schrump did come home, he did come home in honor, and he is now a distinguished private citizen of my State.

This afternoon at 1 o'clock in Fayetteville, Colonel Schrump called a news conference—it is the first time in his life he has ever done so—during which he read the text of a telegram that he sent to the President of the United States this morning.

The telegram, Mr. President, speaks eloquently for itself:

4512 CAY COURT,
Fayetteville, N.C.

DEAR PRESIDENT CARTER: I am Lieutenant Colonel Raymond C. Schrump USA retired, a returned prisoner of war from Vietnam, I was so shocked by your recent decision to pardon all draft evaders that it has taken me two days to gather my thoughts and respond, America is the only country in the world that knows the true cost of freedom and that cost can only be measured in human life and personal sacrifices, how will you explain your pardon to parents and relatives of those who gave their life in defense of this great Nation and to those who only have love to keep alive their hope for a loved one listed as POW or missing in action, only God knows how many men are trying to stay alive on memories only of such a love, the men who fought in Vietnam left this country in good faith to endorse our Nation's commitment to its ally. That endorsement was not accomplished merely by a signature on a bill or a treaty but by personal sacrifice of life and freedom, now their sacrifices and endorsement has been forfeited with your pardon to those who refused to support our national interest.

It is not the men who served that should be insulted and disgraced but the leaders in our country who asked these men to serve and now will not take a stand on their behalf, some of these men died in my presence and I assure you not one repeat not one ever lost faith in his God his country or you or Mr. President his fellow man, I spent twenty four and one-half years in the service of my country with the last five years being spent in prisoner of war cages in the jungles of South Vietnam and Cambodia, I have no regrets nor do I feel that I made any sacrifices that any other American would not or has not made under similar circumstances, I do not consider myself a hero but simply an American who tried to do his duty to God, country and his fellow man under the most extreme conditions one can imagine.

I attribute my homecoming to three basic faiths, faith in my God, faith in my country and faith in my fellow man, these faiths were learned from my parents, home town, churches, schools and neighbors. Your pardon has eliminated two of these faiths, for now I have only Jesus Christ to turn to. Your pardon is an insult and a disgrace to every American who has died, been maimed, wounded or served his country during war or peace, you have also belittled the decorations they have received for conspicuous bravery, the late President Kennedy stated "ask not what your country can do for you but what you can do for your country," it is statements like this that rally America and it is pardons like yours that tear it apart. Follow your own declaration and let all Americans stand equally before the law.

My family is the only thing that has more value to me than the decorations that I have received during my military career, since your pardon these awards no longer have any value and it is for that reason I respectfully request an appointment with you at the earliest possible date so that I might return them, this is a very painful and emotional thing for me to do, but I know of no other way for me to show my opposition to your pardon of the draft evaders. I could take them to the White House and throw them over the fence but I would never lower myself to the actions of those you pardoned. I would like to have the opportunity to return them with the same dignity with which they were presented, I am of the personal belief that you will not allow me this opportunity therefore I am holding a press conference at 1 p.m., 24 January 1977 to read this telegram.

Sincerely,

RAYMOND C. SCHRUMP,
Lt. Col. USA (retired).

Mr. President, I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, the Senate is still in executive session.

I believe that we can work out an agreement on the nomination of Mr. Marshall, having discussed the proposal with the distinguished Republican leader and with the distinguished chairman of the Committee on Labor and Public Welfare (Mr. WILLIAMS) and with other Senators on both sides of the aisle.

Mr. President, I ask unanimous consent that on Wednesday, immediately after the Senate goes into executive session, there be a time limitation of 5 hours on Mr. Marshall, 2 hours under the control of Mr. WILLIAMS, 3 hours under the control of—

Mr. BAKER. If the Senator will yield, normally under the control of the distinguished senior Senator from New York.

Mr. JAVITS. Will the Senator yield?

Mr. BAKER. Yes.

Mr. JAVITS. I intend to yield on the time as the opponents may wish, or anyone.

Mr. BAKER. Mr. President, will the Senator yield further?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I hope it might be understood the junior Senator from Virginia would be in effective control.

Mr. JAVITS. This is entirely satisfactory to me, assuming all the opponents——

Mr. ROBERT C. BYRD. So this would mean there would be not to exceed 5 hours on the nomination of Mr. Marshall, and 5 hours, or such time thereof as had to be consumed, would be used on Wednesday.

If the agreement is entered into, it would not be my intention to keep the Senate in much longer today.

Mr. SCOTT. Mr. President, reserving the right to object, I commend the distinguished majority and minority leaders for their cooperation in this matter so that we will have further time to prepare our remarks, and the amount of time allocated seems reasonable.

I have discussed it with a number of the opponents to this nomination and they seem to be in agreement.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, I would like to propound a parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Does the Senator from West Virginia yield for that purpose?

Mr. ROBERT C. BYRD. Yes, I yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. I shall not object, but, Mr. President, it seems that we are going to be in executive session for some days, possibly, now.

I would like to propound the parliamentary inquiry that when and if——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. May we have order in the Senate on both sides of the aisle?

Mr. ALLEN. When and if we return to legislative session, will Senate Resolution 18, the antiamnesty resolution, immediately become the unfinished business of the Senate?

Mr. BROOKE. Mr. President, reserving the right to object——

Mr. ALLEN. I merely asked a parliamentary inquiry.

If not the unfinished business, then would it be the pending business?

The PRESIDING OFFICER. If the Senate resumes legislative session and if it is outside the morning hour, then it would be the pending business before the Senate if the Senate continues to recess.

Mr. ALLEN. Mr. President, we have adopted a motion that the Senate proceed to the consideration of this matter not in the morning hour but generally. How would the Chair make such a ruling? Such consideration is not confined to the morning hour.

The PRESIDING OFFICER. If the next legislative session of the Senate follows an adjournment in legislative session, it would not come down automatically until the end of the morning hour as the unfinished business.

Mr. ALLEN. Yes, but at the end of the morning hour it would again be before the Senate if it is in legislative session.

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. I thank the Chair.

Mr. BROOKE. Mr. President, is it the majority leader's intention to have a time certain for the vote on Mr. Marhall on Wednesday?

Mr. ROBERT C. BYRD. I beg the Senator's pardon. Will he repeat his question?

Mr. BROOKE. Is it the intention of the majority leader to have a time certain for the vote on Mr. Marshall on Wednesday?

Mr. ROBERT C. BYRD. Not a time certain, but if the Senate were to come in at 10 o'clock, which I would anticipate its doing—at 10 o'clock or earlier, but I am thinking now in terms of 10 o'clock—or at least getting on the nomination by 10 o'clock, then the Senate would vote no later than 3 p.m. on the nomination.

Mr. BAKER. Mr. President, reserving the right to object, I agree that that would be the interpretation to be placed on the request. I think it should be clearly understood that we are not asking for a 3 o'clock time certain.

Mr. ROBERT C. BYRD. Exactly.

Mr. President, was the request agreed to?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest that Senators not leave yet. Conceivably, there could be another roll-call vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate, when it completes its business today, stand in recess until the hour of 10 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have a request from the distinguished senior Senator from South Carolina to speak as in legislative session.

Mr. ROBERT C. BYRD. Today?

Mr. BAKER. Today.

Mr. ROBERT C. BYRD. How long does the Senator wish to speak?

Mr. BAKER. I think 25 minutes.

Mr. THURMOND. I thank the Senator.

ORDER FOR IMMEDIATE RECOGNITION OF SENATOR THURMOND TODAY

Mr. ROBERT C. BYRD. Mr. President, in view of the fact that all executive business has been completed for today, I ask for unanimous consent that Mr. THURMOND may proceed at this time as in legislative session for not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. CRANSTON. Mr. President, will the Senator from South Carolina yield 2 minutes to me to make a brief statement?

Mr. THURMOND. Mr. President, I am pleased to yield if it is not counted against my time. I am running on a close time limit.

Mr. CRANSTON. Mr. President, I ask unanimous consent that it not be charged against his time.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR TESTING

Mr. CRANSTON. Mr. President, one of the most heartening developments to occur in years in the struggle to control nuclear weapons is announced on the front page of this afternoon's Washington Star.

In an interview with the wire services, President Jimmy Carter has called for a halt to all nuclear testing "instantly and completely" as part of a broader program to curb the dangerous spread of nuclear weapons and ultimately to eliminate them from the face of the Earth.

Mr. President, I hereby pledge my wholehearted support to the President's efforts.

In his first interview as President, Mr. Carter also expressed optimism that there will be "fairly rapid ratification" of a new SALT treaty with the Soviets. Further, he stated that the National Security Council is in agreement on the need to reduce overseas sales of conventional weapons, and he expressed confidence that a Middle East peace conference is likely to occur this year.

Mr. President, I ask unanimous consent that the article from the Washington Star be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STOP ALL NUCLEAR TESTS, CARTER ASKS—SAYS SOVIET HAS SENT ENCOURAGING MESSAGE

President Carter is calling for a halt to all nuclear testing, "instantly and completely," as part of a broader program to curb the spread of nuclear weapons and ultimately ban them from the earth.

In his first interview as President, conducted yesterday for publication today, Carter acknowledged that he did not know whether the Soviet Union would agree to his proposal for a quick halt that would stop even underground testing. But, he said, "They have sent an encouraging message back."

The fledgling President, meeting in his Oval Office with four reporters for The Associated Press and United Press International, also expressed optimism that there will be "fairly rapid ratification" of a new strategic arms limitation treaty with the Soviets.

And he said his National Security Council is in agreement on the need to reduce overseas sales of American-made weapons, but that he does not anticipate "a moratorium" on such sales.

On strategic arms talks, Carter hinted that he might be willing to by-pass for later consideration a long-standing East-West debate over how to deal with the U.S. cruise missile and Soviet Backfire bomber in any new strategic arms pact. He declared: "I would not let those two items stand in the way of some agreement."

Asserting that he "very deeply" meant what he said in his inaugural address about ultimately eliminating all nuclear weapons everywhere, Carter, in his most detailed national security-foreign policy statement to date, envisioned a three-step effort aiming toward that end.

First, he said, the two superpowers would have to "put firm limits on ourselves," as the objectives of a new Strategic Arms Limitation Treaty (SALT).

Then the United States and the Soviet Union would go a step further and actually reduce their own stock-piles of atomic weapons which would, he said, "demonstrate to the world we are sincere."

From that point he would seek "reductions including all nations, even those who have a relatively small inventory now."

"I would like to proceed quickly and aggressively with a comprehensive test ban treaty," he said. "I am in favor of eliminating the testing of all nuclear devices, instantly and completely." He said this included underground testing as well.

And, the President said, the United States will use "every means available to us" to keep nuclear arms from spreading to countries that do not have them now.

Carter's apparent optimism about prospects for negotiations with the Soviets was matched by an expression of confidence that a Middle East peace conference is "very likely this year."

Asked if he would approve Palestinian representation at such a meeting, the President said the matter has not been decided but that Palestinian participation "would probably be a part of one of the Arab delegations."

In a relaxed mood, Carter spoke softly, discussing these other topics, ranging from personnel problems to a self-confessed awe at finding himself living in the home of past presidents:

"I feel quite at ease about the percentage of blacks" named to high administration posts, he said, but declared, "I wish that we could get more women, in particular, in the top levels of government.

"I am not completely satisfied with what we have done, but I am satisfied about the effort we have made," he said, promising he "will try to compensate" for not having named more women "as we go along."

He expressed no surprise at the reaction both for and against his blanket pardon Friday of Vietnam-era draft evaders who were not guilty of violent acts. Carter said: "It is something that should have been done. I was very grateful to be the one to do it."

Asked about the likely result of a Pentagon study he has ordered of the status of deserters and others not covered by the pardon, Carter said there might be an upgrading of less-than-honorable discharges given to alcoholics, mental incompetents and some others whose violation of military rules related only to their personal lives, not their military conduct.

Saying he would let most other cases be handled under existing Defense Department procedures, Carter said: "I don't have any inclination to upgrade those who received a bad conduct discharge or a dishonorable discharge. They have been tried in a military court. They have been convicted of a crime."

"Within the next week or two," he said, "I will make my first report to the American people on what we have already achieved and the time schedule for additional proposals."

He predicted that a comprehensive welfare overhaul plan will be ready by May 1 and promised a comprehensive energy proposal within 90 days. In addition, he said he will be proposing "very shortly" legislation authorizing a reorganization of the federal bureaucracy.

Scoffing at reports that he has gone too far to accommodate Congress in recent weeks, Carter acknowledged "I want to get along with Congress" and said he is "not searching for ways to demonstrate that I am obstinate in dealing with the Congress."

However, he said that "on something where I am committed because of conviction or because of a commitment to the American people, I will be very strong and very aggressive and very adamant about pursuing my position."

He expressed confidence that clashes with Congress can be minimized by consulting its leaders in "initial stages of proposed change." But, Carter said, "I am the leader of our country, elected as President. I have got my promises to fulfill and I intend to fulfill them." He defended his "economic stimulus" plan, which could cost as much as $30 billion over two years, and indicated there could be room for some give-and-take with Congress, particularly if economic circumstances should change in the next few months.

But he said, if Congress tried to drastically alter what he is proposing, "it would delay the beneficial impact of the economic stimulus package and hurt our country."

Some senators and House members have said they want to expand the jobs program Carter favors, but the President contended, "even if substantial amounts of additional money were appropriated for those programs, it would be very difficult to administer them effectively."

Carter disclosed that, at his first National Security Council meeting Saturday, members were unanimous in embracing "the necessity for reducing arms sales or having very tight restraints on future commitments" to deliver weapons to other countries.

"I have asked," he said, "that all approvals of arms sales, for a change, be submitted to me directly before the recommendations go to Congress."

The President said Vice President Walter F. Mondale, who is on a globe-circling trip this week, will be asking allies who are heavy arms exporters to join the United States in curbing the arms traffic.

Also, Carter said, Secretary of State Cyrus Vance will be visiting the Middle East in March and will ask leaders there "to hold down their own purchases of arms from us and other countries."

Discussing the U.S. role in Black Africa, Carter complimented former Secretary of State Henry A. Kissinger for spelling out a basic premise that "is a proper one." That is to let Great Britain take the lead in promoting negotiations for black majority rule in Rhodesia "and let us help when requested to do so."

He reaffirmed what he said was a very strong belief "in majority rule, which means relinquishing the control of the government by the white minorities in the countries affected."

Expressing concern about the reprocessing of spent fuel from nuclear power plants into radioactive material that can be used in nuclear weapons, Carter said, "We would like to have this put under international control."

He also voiced opposition to the building of nuclear reprocessing plants in any countries that don't already have them.

As for his reaction to his first days in the White House, Carter said:

"I haven't been disconcerted or surprised. . . . I feel good about it. I have enjoyed it so far. . . . I think I will like it very much. Good working conditions."

At the same time, Carter conceded, "I can't say that I feel completely at ease with it yet."

Moving into the White House was "awe-inspiring," he said. "I have been around just to look at and open and close the writing desk that was designed by Thomas Jefferson and built for him and used by him."

HERE'S HIS TIMETABLE

Within a week or two "I will make my first report to the American people on what we have already achieved and the time schedule for additional proposals."

By May 1, the administration will have "a comprehensive welfare proposal."

Within 90 days, "we will have a comprehensive energy proposal . . . one that has not been done in the last three or four or five years."

"We will be proposing to Congress the reorganization legislation (to revamp the executive branch of government) very shortly."

ECONOMIC AID TO VIETNAM

Mr. THURMOND. Mr. President, I wish to express my alarm at two astonishing announcements of the last 10 days. First, officials of the World Bank revealed that the Bank is sending a mission to Hanoi to study the economic conditions and needs of Communist Vietnam. The work of this mission is a preliminary step toward a program of reconstruction to be underwritten by the Bank.

Then, only a few days later, the International Monetary Fund, the sister organization of the Bank, disclosed that it has made a $35 million loan to the Hanoi regime.

I have no intention of reviving old arguments about the tragic Vietnam conflict, but the action of the IMF, and the proposed action of the World Bank, are outrageous. I fail to see what claim the present Government of Vietnam can possibly have on the generosity of the other nations of the world, especially the United States.

It has been urged that we must be compassionate in dealing with a nation that has suffered so much. Certainly, Vietnam has suffered. But who was responsible for the suffering? Regardless of what view is held of American involvement in Indochina, there is no denying that the Communist leaders in Hanoi must take a major share of the blame for lengthening and intensifying the war. I would like to know how much of the $35 million already granted will be used to replace losses suffered in the infamous spring of 1975, when the Communists brutally invaded the independent nation of South Vietnam.

Are we supposed to be sorry for the sufferings of an aggressor? I might point out that compassion was not conspicuous in the conduct of the Vietnamese Communists when they were violating the peace treaty, conquering their neighbors, and subsidizing civil conflicts elsewhere.

Some may argue that any aid that goes to Vietnam will benefit not only the aggressors of the north but the victims of aggression in the south. Furthermore, they may say, denial of aid will unjustly penalize the common people, who should not be blamed for the crimes of their rulers. This point of view is naive. In the light of past performance, there is no justification at all for supposing that the Communist leaders will make a fair distribution of aid, or that it will produce any tangible benefits for the common people. For all we know, our dollars may find their way into the hands of the Soviets and the Communist Chinese, as repayment for the munitions they supplied to help kill, among others, American servicemen.

I am not proposing that this Nation should emulate the Communists' inhumanity. I am only saying that we should not reward them for it. In the first place, we should be setting a precedent that would be noticed and welcomed by violence-prone regimes in other parts of the world. We would also be throwing away the only inducement we still have to get the Hanoi government to act more moderately. For make no mistake: the Vietnamese Communists have not reformed.

Ironically, less than 1 month before the two developments to which I have referred, a coalition of former peace leaders in this country formally and publicly denounced the Vietnamese Government for its flagrant violations of human rights. These are the people who, not so long ago ,were proclaiming the moderation and wisdom of the Vietnamese Communists. Now they were admitting that they were wrong. How did the World Bank and the IMF react to charges which, under the circumstances, have to be considered highly reliable? They said, in effect, "So what?"

The United States has another strong motive to discountenance this kind of economic aid. We still have not obtained an accounting for hundreds of our servicemen missing in action in Indochina. Here again we see the kind of men with whom we are dealing. The conflict has ended, entirely to their satisfaction, and yet the anguish continues for American mothers, fathers, wives, and children, all because the Hanoi government will not let them know what has become of their loved ones.

They could do this quickly and simply. The reason they do not do it is that they regard this information as a bargaining counter they can use to extort concessions from us—including, no doubt, economic aid. They must be informed that, as far as the United States is concerned, there will be no bargaining. What sort of a bargain is it when one party promises to do something kind if the other party will stop doing something cruel? Again, it is not a matter of imitating their lack of compassion. It is a matter of forcing them to show some minimal compassion toward those among us who have been most sorely afflicted by the war.

I am well aware that the United States alone cannot block the action of the World Bank or the IMF. We do, however, provide approximately 20 percent of the financial support of these two institutions, and our opinions have to be given due deference.

Accordingly, I was deeply disappointed to read, in newspaper accounts, that the World Bank mission and the IMF loan were approved without dissent.

Mr. President, I dissent. I believe we should have strongly opposed these two moves, just as we have opposed the admission of Vietnam to the United Nations. I believe we should oppose any aid program, whether sponsored by the World Bank, the IMF, or anyone else, with so cruel and irresponsible a government. They have not come anywhere close to establishing that they are friendly or reliable. They have not even established that they are decent.

Mr. HARRY F. BYRD, JR. M. President, will the Senator from South Carolina yield?

Mr. THURMOND. Mr. President, I am pleased to yield and ask unanimous consent that the time taken by the Senator from Virginia not be counted against my time.

Mr. HARRY F. BYRD, JR. I just wanted a moment to commend the Senator from South Carolina for the remarks he has just made and to associate myself with them.

Mr. THURMOND. I thank the Senator.

THE NOMINATION OF DR. F. RAY MARSHALL TO BE SECRETARY OF LABOR

Mr. THURMOND. Mr. President, I shall support the nomination of Dr. Ray Marshall to be Secretary of Labor.

At the outset, I had significant reservations about this nomination, but I had a chance on Friday, January 21, 1977, to discuss several problem areas with Dr. Marshall. I was impressed with his candor, intellect and, in particular, his perspectives on the mission of the Labor Department. We discussed such diverse issues as veterans employment matters, the right-to-work laws, and public employee and miliary unions.

First, I am gratified that Dr. Marshall has given a high priority commitment to the problems of unemployed veterans. Last year the Congress passed legislation to create a Deputy Assistant Secretary of Labor for Veterans Employment but, frankly, that legislation was inadequate. It did not go far enough. Dr. Marshall has told me that he personally favors an Assistant Secretary of Labor for Veterans Employment. He has further assured me that the Labor Department will make new initiatives with private industry to hire veterans, and he has told me that whoever is charged with veterans employment matters in the Labor Department will have direct access to him.

Second, I am pleased that Dr. Marshall has indicated to me that he will take no part in pushing for repeal of section 14B. While he personally favors repeal of section 14B, he has told me that it is a legislative matter which should be left to the discretion of Congress, and which is not important within the scope of the Labor Department. Likewise, he has advised me that public employee collective bargaining and military unionization matters are not important within the scope of the Labor Department's mission.

Frankly, Mr. President, I was pleasantly surprised by the refreshing approach taken by Dr. Marshall in distinguishing between what may be his personal views and his official duties. Often, lesser men are unable to make the distinction.

In view of the commitments Dr. Marshall has made to me, I am pleased to support his nomination.

Mr. President, although I do not know Dr. Marshall personally, I am told that he bears a reputation for honor and integrity, that he has compassion for his fellow man, that he possesses a keen intellect, and that he is an energetic and innovative professional. Mr. President, I offer him my support and willingness to cooperate with him in his difficult Cabinet assignment.

DEREGULATION OF NATURAL GAS

Mr. THURMOND. Mr. President, our Nation is in the grips of the most serious and ominous energy shortage since the Arab embargo of the winter of 1974. The direct cause of this problem is a severe winter, but central to the shortage is not nature's wrath, it is the failure of the Congress to enact a realistic energy policy for America.

Oil imports now exceed 40 percent of our consumption. Domestic production continues to erode under the double-barreled limitations of unrealistic Federal price controls and unthinking environmental roadblocks.

Alaska oil will be available for our consumption later this year, but is 5 years late and billions more expensive than it would have been without the unwarranted delays of environmentalists.

Coal, our most abundant and versatile energy resource, is crushed between strict emission controls on burning and prohibitive restrictions on mining clean burning grades from the western reserves.

Nuclear development has been stymied by a combination of distortions, scare tactics, and outright demogoguery. The news media have played these views with great emphasis on all those who oppose nuclear energy development.

Solar energy has been heralded as the cure-all to our energy needs, but the fact is solar and other exotic energy sources are years away from significant contribution to our national energy needs.

Natural gas is the most mishandled of all our energy resources. However, natural gas prices have been controlled by the Federal Government since 1954, and the production picture has steadily deteriorated since that year.

Last year America had a relatively mild winter. Yet, more than 400 plants were closed in North Carolina, hundreds of others were closed in South Carolina and Virginia and Ohio's Gov. James Rhodes has stated his State lost 6,100 man-days of employment due to natural gas shortfalls.

This year, however, the experience is far more severe. Temperatures are averaging 12 to 20 degees colder than average. Many areas are marking their worst winters since records have been kept. Fires are claiming a destructively high toll in human and property suffering. Schools are closed in Kentucky and other States due to energy shortages, specifically natural gas shortages. Jobs are being lost, and family incomes are being sliced.

Natural gas is the energy resource most obviously in short supply.

Mr. President, the reasons rest with those Members of Congress who oppose deregulation not with the producers, the consumers, or those currently suffering the consequences of our actions.

No, we are critically short of natural gas due to five major factors.

First. Price controls since 1954 have meant natural gas has been sold for more than 20 years at below its replacement cost, driving thousands of producers out of business. In 1956, there were more than 18,000 producers drilling over 58,000 wells, while by 1971, there were only 4,000 producers drilling only 27,000 wells.

Second. Gas has been used for inferior purposes because it has been artificially cheap and clean burning. When plants using boilers in Pennsylvania found it cheaper to use gas from interstate pipelines than the coal in their own backyards, the coal industry was put out of business, and more natural gas supplies were depleted.

Third. Supplies have not been replaced simply because exploration, production, and marketing cost more than the artificially low price of the Federal controls. Natural gas wells produce less from their first day of production, so with fewer wells producing, the clear result will be diminishing supply.

Fourth. Environmental radicalism has impeded development of the vast domestic gas and oil reserves of America. Five years of delay on the Alaska pipeline, offshore drilling along the Outer Continental Shelf tied up by countless court cases and endless additional examples of energy production projects, blocked by specious environmental challenges, have all contributed to greater reliance upon natural gas and consumption of current supplies as well as further dependence upon the OPEC nations for our energy needs.

Fifth. So-called "consumer advocates," both within and outside the Congress, have fought all efforts to deregulate prices. They have created sensational false scapegoats for the problems caused by price controls, only to later ignore the truth once it has been established. Today, rather than finding solutions, they are once again hunting skeletons for blaming others.

These are the root causes for our current morass, but they tell only a part of the total problem.

Shortages of natural gas at the controlled interstate gas price of 52 cents per million cubic feet—MCF—are nothing new. They are often made up by the use of synthetic fuels costing up to $5.35 per MCF, or by the importation of liquified natural gas from Algeria at a price of $3.80 per MCF. Intrastate prices, which are currently uncontrolled, are only $2 per MCF on the average, and thus are far below the prices charged home and industrial users when the foreign and man-made products are added to the pipelines to cover shortages.

A 60-day permit from the Federal Power Commission—FPC—for industrial users to purchase natural gas at intrastate prices, and thereby to insure delivery and protect many thousands of jobs, expired recently. In hearings held by the FPC for review of a 60-day permit extension, one so-called "consumer group," the Consumer Federation of America, actually opposed this action.

If consumerism means shortages and higher prices through foreign imports and high-priced synthetic fuels, then the "Consumer Federation of America" is a consumer advocate. But I feel the consumer and the Nation are best served by realistic policies which provide adequate supplies to the consuming public at a reasonable rate of return for the producer for the service.

Industry depends on natural gas for 52.5 percent of its energy nationally. Forty one million homes are served by natural gas. Agriculture depends on natural gas for its fertilizers, herbicides and pesticides. The textile industry, so vital to South Carolina and the Nation, provides one out of every eight jobs in America, and is heavily dependent on natural gas. Other major industries require similar natural gas supplies, and are hurt by such shortages.

Current prices for natural gas are merely a fraction of equivalent energy from other sources, thus encouraging further dependence upon and use of this evermore scarce resource. This grave imbalance of energy availability for each dollar must be ended.

Decontrol of natural gas prices can no longer be questioned, but must be accomplished at once. All charges of "doom forecasting" can be cast aside, for the situation today is far worse than anyone predicted.

With the beginning of a new national administration and a new Congress, we must make the crucial decisions which will assure America's future energy needs are met responsibly and with the least possible disruption of our economy and environment. We can begin along that road by decontrolling natural gas prices.

Mr. ROBERT C. BYRD. Will the Senator yield for a request only?

Mr. THURMOND. Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The Senate transacted the following routine morning business today:

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

EC–451. A letter from the Acting Secretary of Agriculture transmitting drafts of proposed legislation to amend the Consolidated Farm and Rural Development Act and Section 521(a)(1) of the Housing Act of 1949 (with accompanying papers),

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Agriculture transmitting drafts to amend the Consolidated Farm and Rural Development Act and section 521(a)(1) of the Housing Act of 1949 be referred jointly to the Committees on Agriculture and Forestry and Banking, Housing and Urban Affairs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EC–452. A letter from the Secretary of Transportation transmitting a draft of proposed legislation relative to a Comprehensive Oil Pollution Liability and Compensation Act (with accompanying papers).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Transportation relative to a Comprehensive Pollution Liability and Compensation Act be referred jointly to the Committees on Commerce, Public Works, and Interior and Insular Affairs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EC 453. A letter from the Assistant Secretary of the Department of Agriculture transmitting, pursuant to law, the ninth annual report on operations under the Food Stamp Act of 1964 (with an accompanying report); to the Committee on Agriculture and Forestry.

EC 454. A letter from the Acting Secretary of Agriculture transmitting a draft of proposed legislation to amend the Soil Conservation and Domestic Allotment, as amended (with accompanying papers); to the Committee on Agriculture and Forestry.

EC 455. A letter from the Acting Secretary of Agriculture transmitting a draft of proposed legislation to amend the Agricultural Adjustment Act of 1938, as amended (with accompanying papers); to the Committee on Agriculture and Forestry.

EC 456. A letter from the Acting Secretary of Agriculture transmitting a draft of proposed legislation to amend the Food Stamp Act of 1964, as amended (with accompanying papers); to the Committee on Agriculture and Forestry.

EC 457. A secret communication from the Secretary of Defense transmitting a report entitled "Rationalization/Standardization Within NATO" (with an accompanying report); to the Committee on Armed Services.

EC 458. A letter from the Acting General Counsel of the Department of Defense transmitting a draft of proposed legislation to extend the special pay provisions for reenlistment and enlistment bonuses (with accompanying papers); to the Committee on Armed Services.

EC 459. A letter from the Acting Under Secretary of the Air Force transmitting, pursuant to law, a report on the Air Force military construction contracts awarded by the Department of the Air Force without formal advertisement for period July 1, 1975 through June 30, 1976 (with an accompanying report); to the Committee on Armed Services.

EC 460. A letter from the Acting General Counsel of the Department of Defense transmitting a draft of proposed legislation to adjust the pay of cadets and midshipmen at the U.S. Military, Naval, Air Force and Coast Guard Academies, to equalize the pay of members of, and applicants for, the Senior Reserve Officers' Training Corps while attending field training or practice cruises (with accompanying papers); to the Committee on Armed Services.

EC 461. A letter from the Deputy Assistant Secretary of Defense, Installations and Housing, transmitting, pursuant to law, notice of the construction project to be undertaken by the Navy; to the Committee on Armed Services.

EC 462. A letter from the Director of Defense Security Assistance and the Deputy Assistant Secretary for Security Assistance transmitting, pursuant to law, information concerning the Department of the Army's proposed letter of offer to sell ammunition stocks located in Thailand (with accompanying papers); to the Committee on Armed Services.

EC 463. A letter from the Secretary of the Interior transmitting a draft of proposed legislation to authorize exploration, development and production of the National Petroleum Reserve in Alaska by such ongoing governmental programs or nongovernmental entities as the Secretary of the Interior shall designate (with accompanying papers); to the Committee on Armed Services.

EC 464. A letter from the Secretary of Housing and Urban Development transmitting a draft proposed legislation to permit full implementation of the graduated payment mortgage insurance program (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 465. A letter from the Administrator of the General Services Administration transmitting a draft of proposed legislation to amend the Bank Holding Company Act Amendments of 1970 (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 466. A letter from the Acting Secretary of the Treasury transmitting a draft of proposed legislation to extend for five years the authority of Federal Reserve Banks to purchase United States obligations directly from the Treasury (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 467. A letter from the Secretary of Housing and Urban Development transmitting a draft of proposed legislation to extend the authority of the Secretary of HUD to insure mortgages or loans under HUD–FHA mortgage or loan insurance programs contained in the National Housing Act (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 468. A letter from the Acting Secretary of the Treasury transmitting a draft of proposed legislation to repeal the requirements that the amount of U.S. notes outstanding at any time remain fixed (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 469. A letter from the Acting Secretary of the Treasury transmitting a draft of proposed legislation to authorize further adjustments in the amount of silver certificated outstanding (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 470. A letter from the Acting Secretary of the Treasury transmitting a draft of proposed legislation to authorize the Treasury to invest for cash management purposes (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC 471. A letter from the Assistant Secretary of the Interior transmitting a draft of proposed legislation to amend the Migratory Bird Hunting and Conservation Stamp Act (with accompanying papers); to the Committee on Commerce.

EC 472. A letter from the Secretary of Transportation transmitting a draft of proposed legislation to authorize the Secretary of Transportation to enter into a contract or contracts for experimental aeronautical satellite communications services without regard to the provisions of 31 U.S.C. 665(a) or 41 U.S.C. 11 (with accompanying papers); to the Committee on Commerce.

EC 473. A letter from the Secretary of Transportation transmitting a draft of proposed legislation to implement article VI of the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (with accompanying papers); to the Committee on Commerce.

EC 474. A letter from the Secretary of Transportation transmitting, pursuant to law, a report entitled "Final Standards, Classification and Designation of Lines of Class I railroads in the United States" (with an accompanying report); to the Committee on Commerce.

EC 475. A letter from the Chairman of the Federal Maritime Commission transmitting, pursuant to law, a copy of the 15th annual report of the Federal Maritime Commission (with an accompanying report); to the Committee on Commerce.

EC 476. A letter from the Secretary of Transportation transmitting, pursuant to law, a study of Federal Aid to Rail Transportation (with an accompanying report); to the Committee on Commerce.

EC 477. A letter from the Director of the Office of Management and Budget transmitting a draft of proposed legislation to repeal provisions of law requiring the exclusion of certain Federal Government entities from the budget totals (with accompanying papers); to the Committee on Government Operations.

EC 478. A letter from the Secretary of the Interior transmitting a draft of proposed legislation to repeal portions of the Water Resources Planning Act of 1965 and to amend the Federal Non-Nuclear Energy Research and Development Act of 1974, and the Water Resources Development Act of 1974 (with accompanying papers); to the Committee on Interior and Insular Affairs.

EC 479. A letter form the Acting Assistant General Counsel for International, Con-

servation and Resource Development Programs for the Federal Energy Administration transmitting, pursuant to law, notice of a meeting related to the International Energy Program (with accompanying papers); to the Committee on Interior and Insular Affairs.

EC 480. A letter from the Assistant Secretary of the Interior transmitting a draft of proposed legislation to repeal section 317 (c) of the Federal Land Policy and Management Act of 1976 (with accompanying papers); to the Committee on Interior and Insular Affairs.

EC 481. A letter from the Under Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to simplify the procedure for making reductions in grant amounts in the case of insufficient appropriations (with accompanying papers); to the Committee on Labor and Public Welfare.

EC 482. A letter from the Under Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to consolidate the administration of certain programs of financial assistance to States for educational purposes (with accompanying papers); to the Commitee on Labor and Public Welfare.

EC 483. A letter from the Secretary of Labor transmitting, pursuant to law, the January 1977 report pertaining to fair labor standards in employment in the affecting interstate commerce (with an accompanying report); to the Commitee on Labor and Public Welfare.

EC 484. A letter from the Secretary of Labor transmitting, pursuant to law, the January 1977 report pertaining to activities in connection with the Age Discrimination in Employment Act of 1967 (with an accompanying report); to the Committee on Labor and Public Welfare.

EC 485. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to amend the program of financial assistance to local educational agencies in areas affected by Federal activity to eliminate entitlements based on children whose parents work but do not reside, on Federal property (with accompanying papers); to the Committee on Labor and Public Welfare.

EC 486. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to consolidate Federal financial assistance to the 50 States, the District of Columbia, and the territories for programs in the field of health, to focus those programs on individuals most in need of them, and to eliminate unnecessary restrictions on the exercise of State responsibility for program administration (with accompanying papers); to the Committee on Labor and Public Welfare.

EC 487. A letter from the Under Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to enable the Secretary of HEW to alter the services provided at, transfer control of, or close hospitals of the Public Health Service identified in section 818 of Public Law 93–155 (with accompanying papers); to the Committee on Labor and Public Welfare.

EC 488. A letter from the Director of the Office of Management and Budget transmitting a draft of proposed legislation to provide that the amount authorized to be appropriated to the Railroad Retirement Account each fiscal year to pay the costs of "windfall" benefits shall not exceed $250 million (with accompanying papers); to the Committee on Labor and Public Welfare.

EC 489. A letter from the Secretary of Labor transmitting a draft of proposed legislation to extend the authorization of appropriations for the Comprehensive Employment and Training Act of 1973 (with accompanying papers); to the Committee on Labor and Public Welfare.

EC 490. A letter from the Acting General Counsel of the Department of Defense transmitting a draft of proposed legislation relating to crediting amounts received for certain Reserve or National Guard Service (with accompanying papers); to the Committee on Post Office and Civil Service.

EC 491. A letter from the Secretary of Transportation transmitting a draft of proposed legislation to increase the authorization of appropriations for the revolving fund established to finance the removal of oil or hazardous substances discharged into navigable waters, adjoining shorelines, and the contiguous zone (with accompanying papers); to the Committee on Public Works.

EC 492. A letter from the Acting Administrator of the Veterans' Administration transmitting a draft of proposed legislation to authorize a program of assistance to States for the establishment, expansion, improvement, and maintenance of veterans cemeteries (with accompanying papers); to the Committee on Veterans' Affairs.

EC 493. A letter from the Acting Administrator of the Veterans' Administration transmitting a draft of proposed legislation to require that certain veterans receiving hospital care from the Veterans' Administration for non-service-connected disabilities be charged for such care to the extent that they have health insurance or similar contracts with respect to such care, or, are entitled to such care under worker's compensation; to prohibit the future exclusion of such coverage from insurance policies or contracts written under these situations (with accompanying papers); to the Committee on Veterans' Affairs.

EC 494. A letter from the Acting Administrator of the Veterans' Administration transmitting a draft of proposed legislation to limit the circumstances under which the expenses of travel in connection with medical treatment for a non-service-connected condition will be reimbursed (with accompaying papers); to the Committee on Veterans' Affairs.

EC 495. A letter from the Acting Administrator of the Veterans' Administration transmitting a draft of proposed legislation to revise and improve the program of making grants to the States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans (with accompanying papers); to the Committee on Veterans' Affairs.

EC 496. A letter from the Acting Administrator of the Veterans' Administration transmitting a draft of proposed legislation to terminate the education loan program (with accompanying papers); to the Committee on Veterans' Affairs.

EC 497. A letter from the Acting Administrator of the Veterans' Administration transmitting a draft of proposed legislation to eliminate certain duplications in the payment of Federal burial benefits, now payable for the same, or similar, purpose (with accompanying papers); to the Committee on Veterans' Affairs.

JOINT REFERRAL OF A COMMUNICATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that a communication from the Department of Labor, EC 424, January 19, 1977, reltive to unemployment compensation, be referred jointly to the Committee on Labor and Public Welfare and the Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

POM–58. A petition calling for the consideration of a bill entitled "The Personal Income Tax Repeal, Trade Review and Social Welfare Reorganization Act of 1977; to the Committee on Government Operations.

AUTHORITY TO FILE REPORT ON NOMINATION

Mr. EASTLAND. Mr. President, I ask unanimous consent to file later this day with the Senate the Judiciary Committee's report on the nomination of Griffin Bell to be Attorney General. The report will contain additional views.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

S. Res. 48. An original resolution with respect to the release of Abu Daoud (Rept. No. 95–1).

EXECUTIVE REPORTS OF THE COMMITTEE ON COMMERCE

Mr. MAGNUSON. Mr. President, as in executive session, I, from the Committee on Commerce, report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 10, 1977, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated.

By Mr. CULVER:

S. 391. A bill for the relief of Brigitte Marie Harwood; to the Committee on the Judiciary.

By Mr. CULVER (for himself, Mr. CLARK, and Mr. MAGNUSON):

S. 392. A bill for the relief of Carmichael C. Peters; to the Committee on the Judiciary.

By Mr. METCALF:

S. 393. A bill to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CULVER (for himself, Mr. RANDOLPH, Mr. CLARK, and Mr. CHURCH):

S. 394. A bill to amend title 23 to provide a comprehensive bridge replacement and rehabilitation program; to the Committee on Public Works.

By Mr. HART:

S. 395. A bill to authorize the Secretary of Housing and Urban Development to make direct low-interest loans to assist homeowners and builders in purchasing and installing solar heating (or combined solar heating and cooling) equipment; to the Committee on Banking, Housing and Urban Affairs.

By Mr. DOMENICI:

S. 396. A bill to amend part A of title XVIII of the Social Security Act to cover certain additional inpatient hospital services furnished outside the United States to individuals insured for benefits provided under such part A; to the Committee on Finance.

S. 397. A bill for the relief of Luisa C. Luang; to the Committee on the Judiciary.

By Mr. PEARSON:

S. 398. A bill to amend the Airport and Airway Development Act of 1970 to bring about increased levels of employment in the construction trades on an emergency basis, and for other purposes; to the Committee on Commerce.

By Mr. YOUNG:

S. 399. A bill for the relief of Dr. Manuel Javier Mariano and his wife, Lilia Zapanta Mariano; to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 400. A bill for the relief of Min (Kim) Bokshil; to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 401. A bill for the relief of Ramesh Motwani; to the Committee on the Judiciary.

S. 402. A bill for the relief of Chao-Hsiung Chang; to the Committee on the Judiciary.

By Mr. PEARSON:

S. 403. A bill to regulate the flow of interstate commerce by establishing programs, standards, and procedures for determining responsibilities and liabilities arising out of product related injuries, and for other purposes; to the Committee on Commerce.

By Mr. ALLEN:

S. 404. A bill for the relief of Ricardo S. Flandez; and

S. 405. A bill for the relief of Chong Cha Williams; to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 406. A bill to encourage financial institutions to help meet the credit needs of the communities in which they are chartered, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

By Mr. CHURCH:

S. 407. A bill to provide that time spent by American civilians in enemy prisoner-of-war camps and similar places shall be creditable (as though it were military service) toward pensions, annuities, or similar benefits under various Federal retirement programs; jointly, by unanimous consent, to the Committees on Finance, Labor and Public Welfare, Post Office and Civil Service, and Armed Services.

By Mr. HUDDLESTON (for himself and Mr. DOLE):

S. 408. A bill to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. CURTIS (for himself and Mr. ZORINSKY):

S. 409. A bill to designate the Meat Animal Research Center located near Clay Center, Nebr., as the Roman L. Hruska Meat Animal Research Center; to the Committee on Agriculture and Forestry.

By Mr. HANSEN (for himself, Mr. DOLE, Mr. INOUYE, Mr. MATSUNAGA, Mr. MELCHER, Mr. METCALF, Mr. STAFFORD, and Mr. THURMOND):

S. 410. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by optometrists in the peer review and related activities under such part; to the Committee on Finance.

By Mr. PROXMIRE (for himself and Mr. BROOKE):

S. 411. A bill to encourage localities to develop strategies and to use available Federal assistance for the preservation of neighborhoods and the reclamation of existing housing stock to the Committee on Banking, Housing and Urban Affairs.

By Mr. HUMPHREY:

S. 412. A bill to provide for congressional reforms, to strengthen the role of Congress as a coequal branch of Government, and for other purposes; to the Committee on Government Operations.

By Mr. DOLE (for himself and Mr. BENTSEN):

S. 413. A bill to amend title 5, United States Code, to provide for the payment of overtime to certain personnel employed in the Animal and Plant Health Inspection Service of the Department of Agriculture; to the Committee on Post Office and Civil Service.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. DOLE, Mr. HATFIELD, Mr. LEAHY, and Mr. RANDOLPH):

S. 414. A bill to require a health warning on the labels of bottles containing certain alcoholic beverages; to the Committee on Commerce.

By Mr. LEAHY (for himself and Mr. STAFFORD):

S. 415. A bill to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn; to the Committee on Commerce.

By Mr. LEAHY:

S. 416, A bill to amend the Land and Water Conservation Fund Act of 1965 in order to increase the amount of a State's allocation which may be used for certain sheltered facilities; to the Committee on Interior and Insular Affairs.

By Mr. PROXMIIRE (for himself, Mr. GARN, Mr. BROOKE, and Mr. HUDDLESTON):

S. 417. A bill to establish a National Commission on Neighborhoods; to the Committee on Banking, Housing and Urban Affairs.

By Mr. BAYH:

S. 418. A bill to provide for the establishment of multipurpose service centers for displaced homemakers, and for other purposes; to the Committee on Labor and Public Welfare.

By Mr. HASKELL:

S. 419. A bill to test the commercial, environmental, and social viability of various oil shale technologies, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RANDOLPH:

S. 420. A bill to provide authority to institute emergency measures to minimize the adverse effects of natural gas shortages and curtailments, and for other purposes; to the Committee on Commerce.

By Mr. RANDOLPH (for himself, Mr. ABOUREZK, Mr. ALLEN, Mr. BURDICK, Mr. HARRY F. BYRD, JR., Mr. CASE, Mr. CANNON, Mr. CLARK, Mr. GRAVEL, Mr. HASKELL, Mr. HATFIELD, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JACKSON, Mr. JOHNSTON, Mr. LAXALT, Mr. MAGNUSON, Mr. MATHIAS, Mr. MCCLURE, Mr. MCINTYRE, Mr. MORGAN, Mr. MUSKIE, Mr PEARSON, Mr. PELL, Mr. RIBICOFF, Mr. STONE, Mr. THURMOND, and Mr. WILLIAMS):

S.J. Res. 13. A joint resolution designating "Energy Conservation Month"; to the Committee on Interior and Insular Affairs.

By Mr. GARN (for himself, Mr. BARTLETT, Mr. CURTIS, Mr. DANFORTH, Mr. EASTLAND, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. LUGAR, Mr. PROXMIRE, Mr. YOUNG, and Mr. ZORINSKY):

S.J. Res. 14. A joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. GARN (for himself, Mr. BARTLETT, Mr. CURTIS, Mr. DANFORTH, Mr. EASTLAND, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. LUGAR, Mr. PROXMIRE, Mr. YOUNG, and Mr. ZORINSKY):

S.J. Res. 15. A joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METCALF:

S. 393. A bill to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes; to the Committee on Interior and Insular Affairs.

MONTANA WILDERNESS STUDY ACT OF 1977

Mr. METCALF. Mr. President, I introduce for appropriate reference the Montana Wilderness Study Act of 1977.

This bill, with some variations, was first introduced in the closing days of the 93d Congress as S. 4066, and again in the 94th Congress as S. 393. It would require the Forest Service to conduct wilderness studies on nine areas in Montana totaling approximately 973,000 acres.

Since its original introduction, the language of the bill has been sharpened and refined. Principal objections voiced in the Washington hearings in May of 1975 focused on interim-use provisions and the bill's potential impact on timber harvesting. The first issue was resolved in conversations I had with representatives of the Gallatin Valley Snowmobile Association on the eve of the hearings. I was impressed with the group's sincerity and the validity of its arguments. I readily agreed to amend the bill to permit the continuation during the study period of those uses which, in the opinion of the Forest Service, do not do permanent damage to the land or compromise its pristine character.

The timber controversy took longer to resolve. At my request, Dean Robert Wambach of the University of Montana's School of Forestry conducted a study of timber volumes. He concluded that there was less than half the amounts claimed by both industry and the Forest Service, and that most of that was of sufficiently low grade to make harvesting undesirable. He said he preferred to see much of the total area administered in a subwilderness "back-country" category but agreed that only a wilderness study would insure that the full range of land-use policy options would be considered.

Given the findings on saleable timber, the Senate Interior Committee gave its unanimous endorsement of S. 393 in July of 1976. The bill likewise received unanimous approval of the entire Senate in August.

Although S. 393 went to the House of Representatives too late in the 94th Congress to receive its full attention, one of the study areas—the Elkhorn Mountains—was extracted and included in an omnibus national bill which was eventually signed into law. Credit for this action goes to my colleague, Senator JOHN MELCHER, who was at that time Representative Melcher, chairman of the Subcommittee on Public Lands of the House Interior Committee. With his assistance, a law was passed requiring a 2-year study of that deserving 89,000 acre area.

Mr. President, I submit that the same types of threats which led to a study on the Elkhorns are present to a greater

or lesser degree on the other nine areas. All I am asking is that the Forest Service be required to conduct hearings involving the public on each of the areas. For too long, Montanans have learned of developments impacting their State only after the major decisions have been made secretly in distant corporate boardrooms. I say that the Forest Service should be required to ask Montanans for their views on development—not after the fact or on piecemeal segments of large potential wilderness areas. I am simply asking that the owners of public lands be consulted far enough in advance of development so that all alternatives are explored.

I stress that this bill is not a wilderness bill. It is a wilderness study bill, with emphasis on the word "study." After the studies are completed, another decision would have to be made whether to introduce in the Congress one or more "instant" wilderness bills. Such a decision would come well in the future, after I have departed from the Senate and after Montanans from all walks of life have had a chance to give their views.

Mr President, before listing the areas and their acreage, I wish to emphasize two things: I am not denigrating Forest Service staff in the region for failure to date to conduct these studies. Field personnel are guided by Washington directives and budget considerations. Also, the areas listed in this bill do not exhaust those in Montana deserving of similar formal study. There are at least that many more which qualify and others could be added to the list as time passes.

The areas chosen and their approximate sizes are:

	Acres
West Pioneer Wilderness Study Area	151,000
Taylor-Hilgard Wilderness Study Area	289,000
Bluejoint Wilderness Study Area	61,000
Sapphire Wilderness Study Area	94,000
Mt. Henry Wilderness Study Area	21,000
Ten Lakes Wilderness Study Area	34,000
Middle Fork Judith Wilderness Study Area	81,000
Big Snowies Wilderness Study Area	91,000
Hyalite-Porcupine-Buffalo Horn Wilderness Study Area	151,000

They were selected on the basis of their major importance for wilderness and undisturbed wildlife habitat, watershed value, threats of logging or other development which would sacrifice their natural values without a comprehensive wilderness study, and substantial local support in nearby communities.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD, and that a description of each area be printed immediately thereafter.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Montana Wilderness Study Act of 1977".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132), the Secretary of Agriculture (hereinafter known as the "Secretary") shall, within five years after the date of enactment of this Act, review certain lands designated by this section, as to their suitability for preservation as wilderness, and report his findings to the President, as follows:

(1) certain lands in the Beaverhead National Forest, Montana, which are generally depicted on a map entitled "West Pioneer Wilderness Study Area; and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the West Pioneer Wilderness Study Area;

(2) certain lands in the Beaverhead and Gallatin National Forests, Montana, which are generally depicted on a map entitled "Taylor-Hilgard Wilderness Study Area" dated April 1976, comprising approximately two hundred and eighty-nine thousand acres, which shall be known as the Taylor-Hilgard Wilderness Study Area;

(3) certain lands in the Bitterroot National Forest, Montana, which are generally depicted on a map entitled "Bluejoint Wilderness Study Area" and dated April 1976 comprising approximately sixty-one thousand acres, which shall be known as the Bluejoint Wilderness Study Area;

(4) certain lands in the Bitterroot and Deerlodge National Forests, Montana, which are generally depicted on a map entitled "Sapphire Wilderness Study Area" and dated April 1976, comprising approximately ninety-four thousand acres, which shall be known as the Sapphire Wilderness Study Area;

(5) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Mt. Henry Wilderness Study Area" and dated January 1974, comprising approximately twenty-one thousand acres which shall be known as the Mt. Henry Wilderness Study Area;

(6) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Ten Lakes Wilderness Study Area" and dated April 1976, comprising approximately thirty-four thousand acres, which shall be known as the Ten Lakes Wilderness Study Area;

(7) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Middle Fork Judith Wilderness Study Area" dated April 1976, comprising approximately eighty-one thousand acres, which shall be known as the Middle Fork Judith Wilderness Study Area;

(8) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Big Snowies Wilderness Study Area" and dated April 1976, comprising approximately ninety-one thousand acres, which shall be known as the Big Snowies Wilderness Study Area;

(9) certain lands in the Gallatin National Forest, Montana, which are generally depicted on a map entitled "Hyalite-Porcupine-Buffalo Horn Wilderness Study Area" and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area; and

(10) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Mt. Henry Wilderness Study Area" and dated April 1976, comprising approximately twenty-one thousand acres, which shall be known as the Mt. Henry Wilderness Study Area.

(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of subsections 3(b) and 3(d) of the Wilderness Act, except that any reference in such subsections to areas in the national forests classified as "primitive" shall be deemed to be a reference to the wilderness study areas designated by this Act and except that the President shall advise the Congress of his recommendations with respect to such areas within seven years after the date of enactment of this Act: *Provided, however,* That the Secretary shall give at least sixty days' advance public notice of any hearing or other public meeting concerning such areas.

(c) The maps referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 3. (a) Except as otherwise provided by this section, and subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(b) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

(c) Nothing herein contained shall (1) limit the President in proposing, as part of his recommendation to Congress, the alteration of existing boundaries of any wilderness study area or recommending the addition to any such area of any contiguous area predominantly of wilderness value, or (2) limit the authority of the Secretary of Agriculture to establish, protect, study, or make recommendations to the President and Congress with respect to additional wilderness study areas within national forests in the State of Montana.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

DESCRIPTION OF PROPOSED STUDY AREAS

West Pioneer, 151,000 acres, Beaverhead National Forest:

The West Pioneer unit is a highly scenic wildland of natural lakes and streams containing the indigenous and endangered Montana grayling and cutthroat trout. It is important elk and moose summer range. Occasional mountain goats are also seen in the area. Commercial timber is scattered and limited in volume, consisting primarily of pole-sized lodgepole pine.

In addition, in the northern part of the West Pioneer area on Effie Creek exists the world's oldest known stand of living lodgepole pine trees. Described by Mason in 1915 as being over 450 years old, the most ancient lodgepole pine in the stand now exceeds 500 years in age.

Another outstanding feature of the West Pioneers is the presence at the headwaters of Osborne and Stone Creeks of a relic stand of alpine larch (Larix lyallii), believed to be the easternmost stand of these trees in existence. Some of these trees were found by increment borer in 1972 to be more than 700 years old.

It would seem that these two outstanding biological aspects, along with the presence of the endangered grayling and cutthroat trout, would add decisive weight to the importance of the Forest Service giving the area a formal wilderness study.

Moreover, the area has been used for many years by residents and visitors alike for wilderness recreation—camping, quality hunting, fishing, hiking, backpacking, and sightseeing. This wilderness recreational use is growing rapidly each year.

Recommended for wilderness study by the Forest Supervisor, this pristine unit and the East Pioneer roadless area are the two largest and finest potential wilderness areas in the Beaverhead National Forest. Despite the fact that 75 per cent of the 2.1 million-acre Beaverhead Forest is undeveloped and roadless, the only designated wilderness acreage in the Forest is a small part of the

Anaconda-Pintlar Wilderness. In fact, although numerous outstanding opportunities exist, the entire southwestern region of Montana is virtually devoid of established Wilderness Areas. With the major Montana population centers of Butte, Anaconda, and Dillon situated in the region, this unfortunate situation must be corrected if the wilderness study process is truly to achieve the Forest Service principal objective of "locating some new wilderness areas closer to the places where people live, so that more people can directly enjoy their benefits."

Although in fact one roadless unit, the Forest Service at Regional or Washington level has incorrectly broken the West Pioneer area up into several smaller roadless areas—Bobcat Mountain, Odell Mountain, and Deer Peak—which has resulted in greatly reduced Quality Index ratings for each area. Since the Forest Service has given major importance in its analyses and selection process to size, the arbitrary fracturing of the total area into segments has adversely affected its wilderness consideration by the Chief Forester. The Forest Supervisor had properly considered the areas as one unit, and it was in this homogeneous form that the area was tentatively selected by him for further wilderness consideration and public meetings. At those meetings and on subsequent occasions, the Montana Wilderness Association, Montana Wildlife Federation, Sierra Club, The Wilderness Society, local guide and outfitting industry, Montana Fish and Game Department, and others representing in total the overwhelming sentiment of conservation-minded citizens of Montana, have continuously expressed their desire that this magnificent potential wilderness be given a wilderness study.

Taylor-Hilgard, 289,000 acres, Gallatin and Beaverhead National Forests:

The Forest Service has proposed a wilderness study of only 79,000 acres in the Hilgard areas, whereas the entire roadless area inventoried by the Forest Service in 1971 contains 289,000 acres. The greater roadless area is pristine, superb wild country that is highly deserving of a wilderness study. It is, in fact, one of the largest and finest potential wilderness areas left in Montana. At the Forest Service roadless area public meeting in Bozeman, Montana, on April 18, 1972, the entire area received overwhelming support for a study.

The eastern half of the greater area, which is contiguous to the northwestern part of Yellowstone National Park, was unfortunately excluded by the Forest Service from the proposed study, as was the northern part.

Furthermore, the greater Taylor-Hilgard roadless area has a long record of strong Forest Service and public support for a wilderness study. For many years, Gallatin conservation groups, local ranchers, the Montana Wildlife Federation, Montana Wilderness Association, The Wilderness Society, and other organizations have urged the Forest Service to study the area for wilderness purposes. The Forest Service formally recognized its great wilderness potential and widespread public support as early as 1958. In that year, Regional Forester Charles L. Tebbe wrote a letter—a copy of which is included with this report—to the Montana Wilderness Association announcing the establishment of a "hold" area of some 150,000 acres in the Taylor-Hilgard country, in addition to the adjacent Porcupine-Buffalo Horn area, in which he agreed that the Forest Service would forego roading, logging, and other development, pending completion of a wilderness study. A copy of the map, encompassing the total area which the Regional Forester agreed in 1958 to give a wilderness study, is also included.

The entire area is critically important habitat for major populations of elk, bighorn, sheep, mountain goat, moose grizzly bear and other wilderness species. It serves as a vital migation route to and from Yellowstone National Park for several of these wild animals. Parts of the roadless area represent important fall and winter range, as well as calving grounds, for elk. The bighorn sheep is officially rated as seriously reduced in numbers and vulnerable, subject to possible extinction. The grizzly is in the vanishing category. Both require a wilderness environment to survive.

The 79,000-acre Hilgard portion includes primarily the alpine Hilgard Basin and Taylor Peaks along the high crest of the Madison Range. Although spectacular and beautiful in its own right, this portion—if studied and designated by itself—would only represent a "wilderness on the rocks." The more eastern half of the greater roadless area is characterized, in general, by lower and more gentle terrain. It possesses high wilderness and wildlife values and is ecologically an essential part of the whole area. It also provides necessary natural foreground to the spectacular Hilgard and Taylor Peaks. The northern part of the area extends along the Madison crest to the undeveloped Jack Creek area.

The entire area supports a substantial guiding and outfitting industry. Thousands of visitors make wilderness use of the area each year. Timber volumes—largely lodgepole pine with some Douglas fir and Englemann spruce—are limited and scattered. No mineral or water development conflicts exist. The area encompasses a major part of the watersheds of the Madison and Gallatin Rivers, world famous for their trout fisheries and other recreational attributes. Wilderness status would give added protection to the watershed, fisheries, wildlife, and wilderness values of the scenically magnificent Madison Range.

In view of these facts and the tremendous wilderness resources involved, it would seem that the citizens of Montana and the Nation could properly expect the Forest Service to keep its longstanding commitment to conduct formal wilderness studies of both the greater Taylor-Hilgard and Porcupine-Buffalo Horn roadless areas.

Forest Service plans for an immediate timber sale on Big Teepee Creek on the extreme southeast corner of the Taylor-Hilgard area would infringe on this unit and threaten destruction of part of its wilderness potential.

OCTOBER 17, 1958.

Mr. KENNETH K. BALDWIN,
General Chairman, The Montana Wilderness Association, Bozeman, Mont.

DEAR MR. BALDWIN: I wish I could have been with you and the group of people who looked over the proposed recreation area in the Upper Gallatin early in September. I have heard that it was a very good meeting which should result in a better understanding by all concerned of the problems to be worked out if a wilderness, wild or recreation area were to be established there.

I am informed that for some years the desire of interested local people for such an area in the Upper Gallatin has been recognized and discussed, and that until such time as a comprehensive study is made, the Service would refrain from logging or road development. The record shows earlier discussions and agreements related to a much smaller area than outlined on the map accompanying your letter, and as you say, Supervisor Duvendack himself suggested the inclusion, for study, of the Porcupine-Buffalo Creek country.

The enlarged study area and the restraint on development until the study is made, have been discussed with me and my staff. We accept the proposal because you urge it, because we too are interested in delineating boundaries along proper and defensible lines, and because for the time being at least there are no pressing needs for nonrecreational developments in the area under discussion.

We must and we will get on with the study. But in the meantime, and later when we come to discuss it and act upon the findings, it must be recognized that no significance attaches to the lines as drawn, insofar as the ultimate boundary of a wild, wilderness or recreation area is concerned. We are simply going to stay out of the area with roads and logging, except as they might be dictated by some emergency situation such as fire or serious insect infestation, so that a free hand may be taken after the facts are in, in making the most of this area from a recreation and multiple-use standpoint.

Very sincerely yours,

CHAS. L. TEBBE,
Regional Forester.

Bluejoint, 61,000 acres, Bitterroot National Forest:

Bluejoint is one of extremely few undeveloped "islands" in a sea of clearcuts on the Bitterroot National Forest southwest of Hamilton, Montana.

The area is situated along the Montana-Idaho border south of Nez Perce Pass. It is contiguous on its west border to the Magruder Corridor's Hells Half Acre roadless area which adjoins the Salmon River Breaks Primitive Area. Thus, Bluejoint, Hells Half Acre, and the Salmon River Breaks could all be joined together in a magnificent primeval wilderness of more than 350,000 acres.

Bluejoint and Deer Creeks are the principal streams in the proposed wilderness study area. Tributaries of the recreationally-important Bitterroot River, they contain excellent wild trout fisheries. The area is undisturbed habitat for major populations of elk, as well as deer, bighorn sheep, and bear. The large, moist alpine meadows along the creeks furnish the elk herds with excellent summer and fall range. Prominent landmarks of the area are Razorback Mountain (8,637 feet elevation), Deer Creek Point (8,367 feet), and Razorback Ridge.

The area burned over in the 1910–1919 fires. Despite the limited volume of new growth timber, the Bluejoint area is likely to be one of the units that will be scheduled by the Forest Service for roading and logging in the future.

Its important wildlife and wilderness values, in addition to its relationship to the adjoining Hells Half Acre roadless area (which the Chief Forester has placed on his wilderness study list) fully justify a formal wilderness review.

Sapphire, 94,000 acres. Bitterroot and Deer Lodge National Forest:

The proposed Sapphire Wilderness Study Area is located along the crest of the Sapphire Range which separates the scenic Bitterroot Valley on the west from the Rock Creek Valley to the east. The range, which includes parts of the Bitterroot and Deer Lodge National Forests, tapers to foothills on the north at the confluence of the Bitterroot and Clark Fork Rivers near Missoula, Montana. That portion which is proposed for wilderness study is the undeveloped higher southern part which abuts the Anaconda Range. The proposed study area is contiguous to the Anaconda-Pintlar Wilderness and would make a logical addition to it. The unit lies generally south of Skalkaho Pass.

This undeveloped, magnificent high country is situated in the headwaters of Rock Creek, one of Montana's blue-ribbon trout streams—and at the headwaters of the East Fork of the Bitterroot River, nationally famous for its fine elk herds.

Here, one can tread the crest of grassy alpine ridges, look down on a dozen beautiful glacial lakes and tarns, gaze to the west at the grandeur of "Montana's Alps"—the Bitterroot Mountains—or look to the east to the Flint Creek Range and south to the

Beaverhead, Pioneer, and Anaconda Mountains.

In the meadows, made lush by numerous streams and lakes, one can see elk feeding on their summer range. Some 800 to 1,000 of these majestic wilderness animals are found in the proposed study area. The swampy areas provide ideal habitat for moose. The shy, elusive mountain goat is often seen working its way along a rocky escarpment. In the clear, cold headwaters of Rock Creek and the East Fork of the Bitterroot, the angler can test his skill on four native species of fish—westslope cutthroat and Dolly Varden trout, grayling, and whitefish. Wherever development has occurred in similar areas, these indigenous species have suffered.

The magnificent expanse of primeval forest land is also the last frontier for wildlife that has been unable to endure the crunch of civilization—the rare or threatened lynx, pine marten, fisher, and wolverine. A remnant herd of bighorn sheep is occasionally seen summering in the unit.

No significant minerals are known to exist in the area. Stands of slow-growing timber are scattered throughout the area. Although requiring two or three centuries to mature, the limited volume of timber nevertheless is viewed as a commercial product by the lumbering industry. Despite the overwhelming opposition of conservation groups and the Montana Fish and Game Department, the Forest Service is proceeding with imminent plans to road and log the Moose Creek unit in the southern part of the proposed Sapphire Wilderness Study Area.

Logging has already approached the study area from the east and west. On the eastern side, the coarse, sandy soils have started to erode and clog the streams with sediment that, if not halted, will eliminate much of the fisheries value of Rock Creek. To the west, even more timber harvest threatens the summer habitat of elk. If we are to protect our wood fiber needs into the future, then we should also contemplate our wilderness needs for the years ahead and determine where each might best be accommodated.

With a 1,400 percent increase since 1946 in the use of officially established Wilderness and Primitive Areas—as reported by Dr. Robert C. Lucas of the Forest Sciences Laboratory maintained at Missoula in cooperation with the University of Montana—presently designated wilderness most assuredly will not be adequate to meet the demand in the future.

In summary, the proposed Sapphire study area has prime wilderness values that should not be overlooked or considered lightly. A formal wilderness study would give them proper recognition.

Ten Lakes, approximately 34,000 acres, Kootenai National Forest:

The Ten Lakes Wilderness Study Area is located in northwestern Montana in the highly scenic Whitefish and Galton Ranges, approximately five miles northeast of Eureka. It encompasses the undeveloped 6,195-acre Ten Lakes Scenic Area and adjoining 23,500-acre Ksanka Peak-Mt. Gibralter-Mt. Wam roadless area. The Ten Lakes Scenic Area was administratively designated for hiking and horseback use in May 1964. Its northern boundary is located on the Canadian border. The Ksanka Peak-Mt. Gilbralter-Mt. Wam roadless area is a logical southern extension of the scenic area.

A number of prominent peaks over 7,000 feet in elevation dominate the high country. The proposed study area contains numerous glacial lakes and streams which provide quality fishing for the wilderness angler. Species of fish present include the endangered west-slope cutthroat trout and mountain white-fish, as well as Dolly Varden, rainbow, and eastern brook trout. Ecologically, the westslope cutthroat and Dolly Varden trout are wilderness species.

A wide variety of wildlife inhabits the area. Among the wild creatures are mule deer, whitetailed deer, elk, moose, grizzly bear, black bear, mountain lion, lynx and wolverine. Except for deer and black bear, all of these species require wilderness to prosper. Development of any part of the present roadless area would adversely affect the grizzly bear and other wilderness species. Most of the area is forested. Tree species are primarily spruce, sub-alpine fir, and alpine larch. However, over two-thirds of the Ksanka-Mt. Gibralter-Mt. Wam roadless area is highly marginal or unsuitable for timber production under present harvesting methods because of low productivity, steep slopes, and unstable soils. Timber harvesting is not permitted in the Ten Lakes Scenic Area.

Because of the thin soil covering, lack of binder, and low organic material content in most of the proposed study area, the soil is easily damaged by over-use. Precipitation in the proposed study area varies from approximately 20 inches in the lower areas to more than 80 inches in the higher elevations, where most of the precipitation is in the form of snow. About 80 percent of the unit lies above 5,000 feet in elevation and produces an average of nearly four acre-feet of high quality water per acre. Extremely few areas in the West produce more water per acre than this part of the Whitefish Range. The area serves in part as a municipal watershed for Eureka. It provides water for ranches, the Kootenai River, and the Columbia River Basin.

The recent construction of Libby Dam and recreational development of the Kooncanusa Reservoir are expected to attract increasing numbers of visitors to the area. Much of the proposed study unit is an important viewing area from Highways 93 and 37, as well as from Eureka and the Tobacco Valley The unit receives significant wilderness use. Trails for foot and horseback travel are ideally situated throughout most of the area.

According to a May 15, 1974, Forest Service draft Environmental statement for the Eureka-Grave Creek Multiple Use Plan, part of the Ksanka Peak-Mt. Gibralter-Mt. Wam roadless area is scheduled to be roaded and logged.

The entire roadless area, combined with the Ten Lakes Scenic Area, represents one of the few outstanding potential wilderness areas left on the Kootenai National Forest. It should be given the benefit of a wilderness study.

Middle Fork Judith, approximately 81,000 acres, Lewis Clark National Forest:

The proposed Middle Fork of the Judith Wilderness Study Area is located about forty miles southwest of Lewiston in the Little Belt Mountains. Near the center of Montana, the Little Belts are an isolated mountain range separated from the Big Belt Mountains by the Smith River Valley.

The proposed study area provides irreplaceable spring, summer, and fall range for the largest and only sizeable elk herd remaining in the eastern portion of Montana. The thriving herd is estimated at approximately 1,000 head. It has one of the highest calf-cow ratios in the state. Mule, deer, black bear, and numerous smaller wildlife also inhabit the area. The unit sustains a large amount of quality big game hunting. Yogo Peak, at 8,846 feet elevation, is one of the highest landmarks on the edge of the area. The peak historically furnished habitat for a band of bighorn sheep. Restoration of this magnificent wilderness animal to the area has been under consideration by the Montana Fish and Game Department.

The Montana Fish and Game Department acquired and has maintained for many years the 5,000-acre Judith River State Winter Game Range as an adjunct to the Middle Fork of the Judith roadless area.

The study area is vegetated in part with stands of Douglas fir, Ponderosa pine, and lodgepole pine interspersed with large, grassy parks. Cattle share the forage with the elk. With proper management, livestock grazing can continue in the area.

The native cutthroat trout, along with other species, is found in the Middle Fork of the Judith River and tributaries within the proposed study area. The Middle Fork is a small but beautiful river, and the canyon through which it flows is bordered by sheer limestone cliffs and is rated by the Forest Service as "very scenic." In fact, the Forest Service says of the entire study area, "The country is highly scenic and has recreation appeal." The area has been used for several generations as wilderness or back country.

Although a few mining claims are located at the head of King Creek, and a strip of mineralized land crosses the upper reaches of the Middle Fork, there is no current mining activity, and no operable minerals are known to exist in the area.

The study area is basically undeveloped and essentially in a natural condition. Old wagon roads, now used occasionally by four-wheel-drive vehicles, penetrate a small part of the unit. Two small parcels of privately owned inholdings lie near the center of the area. One inholding includes the Middle Fork Ranch which is operated as a summer cow-camp. The other serves as an outfitting camp. Except for limited building structures, the inholdings are laregly undeveloped. Within the study area, a possible timber harvest has been planned.

Local citizens have strongly opposed roading and logging of the area because of the extremely adverse impact that such development would have on the major elk herd, quality hunting, and other wilderness uses. As the Lewistown Rod and Gun Club has pointed out, "the elk is ecologically a wilderness animal and will not tolerate increased disturbance" of roading, logging, and associated uses. This is the last undeveloped national forest area in the Judith River drainage.

The early life of Charles M. Russell, famed western artist and sculptor, was closely associated with the area. Russell Point, a rocky promontory on the nearby developed South Fork of the Judith, marks the approximate location of the log cabin where Russell lived as a youth with the old fur trapper, Jake Hoover.

Development of the study area would eliminate its outstanding wilderness potential, decimate the thriving elk population, destroy quality hunting and other undeveloped recreation, and render virtually useless the extensive adjoining Judith River State Winter Game Range. Four-wheel-drive vehicular use could be terminated, the inholdings acquired, and the proposed Middle Fork of the Judith study area considered for a wilderness designation. In the entire eastern part of Montana no wilderness areas have yet been designated, and few opportunities remain. This is one of the best.

Big Snowies, 91,000 acres Lewis and Clark National Forest:

The Big Snowies Wilderness Study Area is located approximately 15 miles south of Lewistown, Montana. It encompasses most of the national forest lands that are essentially roadless and undeveloped in the Big Snowy Mountains.

The area contains numerous drainages with intermittent streams in deep, well-defined limestone canyons. The crest of the Big Snowies runs in a general east-west direction for more than 12 miles through the middle of the area. Both the upper reaches of individual drainages and the crest of the Big Snowy Mountains are rated by the Forest Service as "quite scenic." Among the outstanding landmarks of the area are Greathouse Peak (8,730 feet elevation), Big Snowy Peak (8,600 feet), Lost Peak (8,333 feet), and

Lime Cave Peak (7,005 feet). Interesting limestone ice caves are found within the unit.

Mule deer and white-tailed deer inhabit parts of the area and provide high quality hunting. Mountain goats were introduced in the 1950's and are occasionally seen along the crest of the Big Snowies.

Timber volumes are very small and largely inoperable on account of sparse, isolated stands, extremely steep terrain, and high cost road construction.

A limited amount of grazing by cattle and sheep is permitted in the proposed study area. Grazing is restricted to a very short season because of insufficient water. Under the 1964 Wilderness Act, grazing would continue. A few stock water developments are located in Horsethief and Halfmoon Canyons on the eastern side. Unimproved jeep trails are found in the same vicinity. Existing stock water developments are allowable under the Wilderness Act, but the jeep trails would be closed and allowed to revert to nature.

Roads from all sides provide good access to the edges of the study area. One road to Crystal Lake forms a non-wilderness corridor into the northwestern part of the area and puts the user within convenient hiking distance of the crest of the range. Major use of the area is dispersed recreation in the form of hiking, backpacking, and horseback riding. Its proximity to Lewistown makes it popular to thousands of Montana citizens and non-resident visitors.

Although the Forest Service has no plans at present to build roads and otherwise develop this area, it will ultimately be developed and rendered unsuitable for wilderness classification unless specifically classified to retain its wilderness character.

The Big Snowies Wilderness Study Area is one of extremely few potential wilderness areas in central Montana—a region which presently is completely lacking in designated wilderness.

Hyalite-Porcupine-Buffalo Horn, approximately 150,000 acres, Gallatin National Forest:

The proposed Hyalite-Porcupine-Buffalo Horn Wilderness Study Area encompasses the spectacular Hyalite Peaks approximately 15 miles south of Bozeman and extends southward along the crest of the Gallatin Range including the Porcupine drainages and the Buffalo Horn sector, which joins the northwestern part of Yellowstone National Park.

Although it is a magnificent mountainous area entirely without roads or other significant signs of man's works, the Chief Forester in October, 1973, placed only the 22,268-acre Hyalite Peaks portion on his final wilderness study list. Earlier, failing to recognize that this entire portion of the Gallatin Range was roadless, the Forest Service had listed Hyalite Peaks and Porcupine-Buffalo Horn as separate roadless areas. The undeveloped, 24,000-acre Porcupine-Buffalo Horn, with its connection to Yellowstone Park and its lower Gallatin drainages, is critically important as a wintering and calving range for the large North Yellowstone elk herd.

As an indication of this importance, the Montana Fish and Game Department long ago acquired and has maintained the Porcupine State Winter Game Range on state lands in the Porcupine Creek area. In addition to elk, the wildlife-rich study area provides irreplaceable undisturbed habitat for moose, bighorn sheep, mountain goat, deer, grizzly bear, mountain lion, black bear, and other wild creatures. Because of its undeveloped conditions, these wild species move freely between the Hyalite-Porcupine-Buffalo Horn and Yellowstone Park.

As the Montana Fish and Game Department has pointed out, roading, logging, and other activities that would tame this wild country would inevitably disrupt and destroy these desirable movements, with extremely adverse effects on the wildlife populations themselves.

Numerous high quality streams drain into the famed Gallatin River from the western slope of the proposed study area. The Gallatin River is a blue-ribbon trout stream, known nation-wide for its outstanding trout fishing and other outdoor recreation. The trout fishing, as well as the superb quality and stability of this free-flowing river could be irreparably damaged by roading, logging, and other man-made developments on the tributary drainages in the proposed study area.

Also aware of its significance in an undeveloped state, Montana conservation groups and Forest Service officials have for a quarter of a century agreed that the Porcupine-Buffalo Horn area, along with the nearby Taylor-Hilgard, should be studied for a wilderness designation. To this end former Regional Forester Charles L. Tebbe's October 17, 1958, letter to the Montana Wilderness Association formally committed the Forest Service to place both areas in a "hold" status, without roading and logging, pending the completion of wilderness studies. Despite this solemn commitment, the Forest Service has recently proposed timber sales on the South Fork of Swan Creek within the proposed study area.

A request for road access across Forest Service lands to log Burlington Northern Railway Company inholdings poses another immediate threat to the area.

The principal difficulty that confronts wilderness consideration is the extent of land owned by the Burlington Northern within the proposed study area. These Burlington Northern lands appear in a checkerboard pattern throughout much of the proposed study area, although Forest Service acquisitions have consolidated most of the national forest acreage in the northern part around Hyalite Peaks. Also, in the southern portion, around the Porcupine-Buffalo Horn, state acquisitions by the Montana Fish and Game Department have eased the problem, since the Department's object in acquiring these lands was to keep them in a natural condition for their major wildlife values.

A possible solution to the Burlington Northern inholdings problem exists. There is a need for national forest land to allow the town of West Yellowstone to expand. It has been reported that Burlington Northern has informally expressed interest in exchanging approximately 11,000 acres of its land in the Porcupine-Buffalo Horn sector for Forest Service land adjacent to West Yellowstone.

Englemann-spruce, lodgepole pine, and a limited amount of ponderosa pine grow especially along the tributary drainages and lower slopes of the area, while large parts of the upper reaches are characterized by open grass parks, rock outcrops, and alpine tundra.

The proposed study areas, with its proximity to both Yellowstone Park and the population center of Bozeman, is substantially used and recreationally important for its quality hunting, fishing, backpacking, horseback packtrips, and wilderness camping. The continuation of these uses is dependent upon retaining the area in a wilderness condition.

Dr. Harold Picton, Associate Professor of Biology, Montana State University, Bozeman, in his research on the West Gallatin elk herd, has placed a monetary value of $647,000 spent per elk harvested in that area in 1972. At that rate, 100 elk harvested would mean that hunters would spend $64,700.00. Since a harvest would normally occur each year, the monetary value alone on harvested elk extended over a crop rotation of 200 years for Englemann-spruce and ponderosa pine, or even 120 years for lodgepole pine, could greatly exceed the monetary value of timber harvested.

Montana conservation groups believe that a comprehensive resource study would disclose that the watershed, wildlife, and Wilderness values of the proposed Hyalite-Porcupine-Buffalo Horn Wildernes Study area are easily paramount and should be protected by a wilderness designation. The Gallatin Sportsmen's Association, Montana Wildlife Federation, Montana Wilderness Association, The Wilderness Society, the Montana Fish and Game Department, ranchers and many other Montana citizens strongly support a wilderness study for the Hyalite-Porcupine-Buffalo Horn area.

Mount Henry, approximately 21,000 acres, Kootenai National Forest:

The Mount Henry Wilderness Study Area is in the upper Yaak River drainage near the Canadian border and approximately 35 miles north of Libby in the extreme northwestern correr of Montana.

The area includes national forest lands around Mount Henry (elevation 7,200 feet). The upper West Fork of Basin Creek, Vinal Creek and Turner Creek are the main streams in the area. A number of beautiful natural lakes, including five Fish Lakes and Henry Lake, dot the forested landscape. The largest of the lakes furnish quality trout fishing. Turner Falls is a scenic point. The zone around the Fish Lakes encompasses a precipitous narrow canyon with rocky cliffs. The Mount Henry portion is high with steep slopes and rugged, rocky, topography. The rest of the area (60%) is rolling and heavily timbered general forest.

Mule deer, white-tailed deer, and elk are found in the area, providing quality hunting. Although small, the area is also attractive to the hiker, backpacker, and horseback rider.

The Forest Service has active plans to log in the vicinity of Vinal and Turner Creek. Montana conservation groups, Sierra Club, and The Wilderness Society are protesting timber sales in the proposed study area and urging a wilderness review. The proposed study area is needed to add to the short supply of classified wilderness in the extreme northwestern Montana-Idaho panhandle region. In the large Kootenai National Forest, only 94,272-acre Cabinet Mountains Wilderness, southwest of Libby, has been designated to date, and the Forest Service has taken no action to recommend other areas.

By Mr. CULVER (for himself, Mr. RANDOLPH, Mr. CLARK, and Mr. CHURCH):

S. 394. A bill to amend title 23 to provide a comprehensive bridge replacement and rehabilitation program; to the Committee on Public Works.

BRIDGE REPLACEMENT AND REHABILITATION ACT OF 1977

Mr. CULVER. Mr. President, today I introduce legislation to authorize a more extensive Federal program for replacing and rehabilitating deficient and obsolete bridges throughout our Nation.

In general, we have one of the finest and most modern road systems in the world. It has been a major factor in the development of America's economy and the physical growth of our country, as well as the convenience of recreational driving. One of the most important links in any effective road system is sound, well-constructed bridges. As a matter of fact, a road or highway is only as good as its bridges. Unfortunately, it is becoming more and more evident that our bridges have been neglected for too long and are in a serious state of disrepair.

After the tragic collapse of the Silver Bridge in Point Pleasant, W. Va., in 1970, the Congress established the special

bridge replacement program to provide Federal assistance to States for upgrading unsafe bridges on the Federal-aid highway system. Developed under the leadership of the distinguished chairman of the Senate Public Works Committee, Mr. RANDOLPH, this program has progressed well over the last few years, and the States are actively applying for funds. Funds under this highway category are allocated to States according to a ratio comparing a State's bridge replacement needs to national needs, and the Federal share of project costs can be as high as 75 percent.

There is no dobut that funds under this program have contributed substantially to improvements in the condition of our bridges, but more must be done. When compared to unmet needs, it is obvious that the present level of funding for the special bridge replacement program is woefully insufficient. During the first 5 years, only $475 million was authorized, with $180 million currently being spent annually. The demands for replacement far outstrip the financial resources available. Frankly, the figures are shocking. The U.S. Department of Transportation—DOT—has classified 34,696 bridges on Federal highways as critically deficient and it will cost $10.4 billion to replace them. At the present rate of financing, it will take over 60 years to replace these bridges. This is simply too long to wait.

No practical solution would solve the backlog overnight, of course. But the increased authorization of this bill, coupled with intelligent use of other funding sources should bring the workload within rational planning and managerial limits.

Many of the bridges needing replacement or repair were built over 40 years ago before uniform design and construction standards were imposed. They were designed for traffic that is much different from that of today. Although many were located on low-volume roads, their continued serviceability is essential for local economy and public service. Among the unsafe bridges in the DOT report, 250 are closed to all traffic and 31,000 have lower limits than the highways they serve. The full significance of the need for a more comprehensive program was stated by the GAO in 1975:

> The estimated cost of $10.4 billion to replace those (bridges) identified, plus additional costs as others become unsafe could not be met within this century except by a massive increase in the annual funding level of the program. The potential danger of collapse, the traffic hazards of narrow and/or poorly aligned bridges and the lower load and speed limits of these bridges reduce both safety and the efficiency of the Federal-aid highways.

Every State has a number of defective and hazardous bridges which need to be reconstructed and my own State of Iowa serves as an excellent illustration of the magnitude of the problem. The transportation of grain and other commodities from farms to markets is important to Iowa and the Nation, and Iowa's agricultural economy is highly dependent upon an efficient and timely transportation system. Bordered on the east and west by our two greatest national rivers—the Mississippi and Missouri, Iowa has unique bridge requirements. In addition, my State has over 900 bridges on the Federal-aid system which need to be replaced, a number that places Iowa 13th among the 50 States in terms of the numbers of bridges that need to be rebuilt. Finally, testimony last year before the Senate Transportation Subcommittee indicated that Iowa has posted 10,400 bridges on local road systems for less than legal loads, and that it would cost over $550 million to replace them.

Mr. President, in many ways, Iowa's needs are reflected by the other States of our Nation. That collective experience makes it clear that we must undertake a thorough reexamination of the special bridge replacement program. Though States should be encouraged to use other Federal-aid category funds and local government financing to renovate bridges, the cost of replacing deteriorating bridges clearly exceeds the current capacity of this program.

The legislation I introduce today will help States meet the financial difficulties of replacing bridges and will reaffirm a strong Federal commitment to this urgent problem. This legislation would increase the authorization of the special bridge replacement program from $180 to $600 million annually for fiscal years 1977 and 1978. Of this $600 million figure, $200 million would come from the trust fund and $400 million would come from the general fund. This level of funding is much more realistic and will substantially enhance the Federal commitment to a bridge replacement program. In addition, this bill increases the Federal share of projects approved under this program from 75 to 90 percent for that portion of funding from the general fund, which makes it easier for States to participate in the cost of constructing the most expensive replacement projects.

Mr. President, this bill also addresses the very special needs of rural areas by setting aside 15 percent of the funds allocated to each State to be used on bridges under the authority of county officials. Although the smaller scale of these bridges may make them seem less dramatic, their needs are no less real. To the many towns and markets whose economic viability and community well-being depend on an adequate transportation system, modernized and safe bridges are absolutely essential. Yet the recurring testimony and supporting evidence received from county officials indicate that full financing of the bridge costs is beyond their means. The matching provisions in this measure should remedy that shortcoming. Finally, this bill clarifies congressional intent that these funds can be used to rehabilitate as well as replace deficient bridges. To that end, this measure changes the title of the program to the special bridge replacement and rehabilitation program.

This legislation represents a major effort to make the special bridge replacement program more consistent with the national needs. To protect the safety of all travelers and to continue the uninterrupted flow of goods and commodities throughout our country, I hope it will receive early and full consideration.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bridge Replacement and Rehabilitation Act of 1977".

Section 2(a). The first sentence of Section 144(a) of title 23, United States Code, is amended by

(1) inserting after "replacement", the following "and rehabilitation"; and

(2) inserting after "replace", the following "or rehabilitate".

(b) The first sentence of Section 144(c) of title 23, United States Code, is amended by

(1) inserting after "replacing" the following "or rehabilitating"; and

(2) inserting after "facility" the following "or rehabilitation of the same structure".

(c) Section 144(c) of title 23, United States Code, is further amended by adding the following at the end thereof:

"Not less than 15 percentum of the funds authorized to any State to carry out the provisions of this section may be expended for the emergency replacement or rehabilitation of bridges on and off the Federal-aid system, as determined by the State Highway or Transportation Director in consultation with county officials to have the greatest need for replacement or rehabilitation, which are under the sole jurisdiction of the county authority in any State.".

(d) Section 144(d) of title 23, United States Code, is amended by

(1) inserting after "replacement" the following "or rehabilitation"; and

(2) striking "of the cost thereof." and inserting in lieu thereof "for funds obligated from the Highway Trust Fund and 90 per centum for funds appropriated from the General Fund of the cost thereof.".

Section 3(a) Section 144 of title 23, United States Code, is amended by striking subsection (f) and relettering subsection (g) as (f).

(b) Section 144(f), as relettered, is amended by inserting after "reconstructed" the following "or rehabilitated".

(c) Section 144 of title 23, United States Code, is further amended by adding the following new subsection:

"(g) For the purposes of this section, the term 'rehabilitation' shall include but not be limited to replacing the pilings, steel supports or otherwise strengthening the structure to restore the bridge to a usable condition.".

Section 4. The analysis of Chapter 1 of title 23, United States Code, is amended by striking out

"144. Special bridge replacement program."

and inserting in lieu thereof

"144. Special bridge replacement and rehabilitation program."

Section 5. Section 202(5) of the "Highway Safety Act of 1976" is amended to read as follows:

(5) For bridge reconstruction, replacement, and rehabilitation under section 144 of title 23, United States Code, out of the Highway Trust Fund, $200,000,000 for the fiscal year ending September 30, 1977, and $200,000,000 for the fiscal year ending September 30, 1978; and there is hereby authorized to be appropriated $400,000,000 for the fiscal year ending September 30, 1977 and $400,000,000 for the fiscal year ending September 30, 1978.

Mr. RANDOLPH. Mr. President, I am gratified to join with my diligent col-

league from Iowa (Mr. CULVER) in the introduction of this bill to enlarge our commitment to repairing and replacing deteriorating and inadequate bridges throughout the Nation.

Approximately 70 percent of our bridges were built prior to 1935. Other than the obvious safety hazards to our citizens, the loss of a bridge by closure or failure can have a serious adverse economic impact on the communities it serves.

The Federal-Aid Highway Act of 1970 included the special bridge replacement program, which I authored, to help the States establish a program to replace bridges on the Federal-aid system which were no longer capable of safely handling traffic.

The original authorization totaled $150 million through fiscal year 1973. In the Highway Acts of 1974 and 1976 authorizations were increased. By October 1, 1977, $835 million will have been authorized for the special bridge replacement program, the Federal share being a maximum of 75 percent.

The program is entering its 6th year. The program has provided State transportation agencies with a mechanism to finance bridge replacement on a limited scale. The cost of replacing major bridges over waterways and other topographical barriers is so great that most States are financially unable to undertake significant replacements, without severely limiting the other portions of their highway program.

The first annual report to Congress on the special bridge replacement program estimated that there were 24,000 deficient bridges on the Federal-aid system, requiring $6 billion to replace. This estimate was made before the national bridge inventory was implemented as called for under the 1970 Highway Act.

With this inventory 95 percent complete, according to the fifth annual report on the program received in January 1976, 36,696 bridges on the Federal-aid system need to be replaced at a cost of about $11 billion.

Mr. President, there are 13,000 more bridges needing replacement than originally estimated in 1971 at about twice the cost. To date a total of 679 projects out of 37,000 needing replacement have been funded under the special bridge program. An additional 500 bridges have been replaced both with and without Federal participation.

Mr. President, this bill represents an orderly progression of this useful and essential program.

The original special bridge replacement provision indicated that program funds could only be used on those structures where total replacement was being planned. Many bridges can be restored to a serviceable condition by replacing or strengthening only certain parts of the bridge, rather than the entire structure. A provision permitting rehabilitation as well as replacement of certain bridges in this proposal will give the Federal Government more flexibility in approving project applications, and will give States if they choose, greater ability to utilize their limited funds on a more diversified and advantageous basis.

The bill gives the State secretary of transportation or the director of highways the discretion to make available 15 percent of the funds received by any State under the replacement program, to the counties who have sole jurisdiction over deficient bridges, either on- or off-system in that particular State. Providing more Federal aid for off-system structures hopefully will encourage States or local communities to use a larger portion of their own resources to repair some of the most deficient off-system bridges.

Mr. President, I have continued to advocate the replacing of obsolete and critically unsafe bridges since my original bridge replacement proposal was included in the 1970 Highway Act. A total of 39 States have more than 100 unsafe bridges on the Federal-aid system alone within their boundaries. Eleven States have over 1,000 unsafe bridges on the Federal-aid system. Senator CULVER would provide a mechanism by which we can make inroads into our Nation's bridge replacement problems without subjecting ourselves to continuing cost increases. Members of the Senate will, I know, carefully review the measure's provisions.

PREVENTING A PENN CENTRAL OF THE HIGHWAYS

Mr. CHURCH. Mr. President, I am pleased to join in introducing the Bridge Replacement and Rehabilitation Act of 1977 which addresses an immediate problem facing much of our Nation's highway system.

For years, the Federal Government has been putting up 70 cents for every 30 cents the States have spent on primary and secondary road construction, and 90 cents for every 10 cents on the 42,500-mile Interstate Highway System. This emphasis on construction has, however, ignored the need for maintenance and has left the States to finance 100 percent of upkeep and repair work.

Although Congress set aside some $350 million from the highway trust fund over 2 years to help pay for limited rehabilitation of the Interstate System and there is presently some $180 million per year budgeted for bridge reconstruction and replacement, the amount is not nearly enough to meet current, let alone future needs.

We cannot afford to let a national investment of billions become impaired through deterioration and neglect. I do not think anyone wants the highway trust fund to pay for the paving of the entire country and now that the bulk of the Nation's highway system has been built, we must change our focus to maintaining that system and avoiding a Penn Central of the highways.

The most pressing need is to remedy the sorry condition of some 40,000 bridges on the million-mile Federal-aid highway system which have been found to be critically deficient by the Federal Highway Administration.

In Idaho, we have identified 203 bridges across the State that are in immediate need of attention. These bridges often form the primary link between communities in our rugged State. The disrepair of our State's bridges, seriously imperils the lives and economic well-being of Idaho citizens.

The Idaho Transportation Department has often expressed concern about the condition of Idaho bridges. I ask unanimous consent that a letter from the Federal Highway Administration concerning the replacement of the Kootenai River bridge on U.S. 95 and the most recent letter from the Idaho Transportation Department outlining a program of repair and replacement of deficient bridges be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
January 14, 1977.

HON. FRANK CHURCH,
U.S. Senator,
Moscow, Idaho.

DEAR SENATOR CHURCH: This is in further reply to your letter of December 6, 1976, to the Office of Congressional Relations, Department of Transportation, transmitting correspondence from Mr. James F. Lyons of Bonners Ferry, Idaho, concerning the replacement of the Kootenai River bridge. We acknowledged your letter on December 20, 1976.

Our field representatives in Boise, Idaho, have informed us that the 1,256-foot-long Kootenai River bridge on U.S. 95 was built in 1933 and consists of five steel through trusses for the main spans and six concrete approach spans. The roadway width between curbs is 19.8 feet and the vertical clearance is 14 feet 11 inches. The average daily traffic is 5,200, which consists of many large logging trucks. Much of the traffic is intercity with the county hospital and some schools on the north side of the river and the central business district on the south side. The bridge is the only highway crossing of the river for many miles with a bypass detour length of 99 miles.

The bridge is at the bottom of a better than 1-mile downgrade of 5 percent. On several occasions runaway trucks have blasted through Bonners Ferry's main street. Truss members have been battered by trucks and extensive repairs raise much question as to their load carrying ability. The minimal clearances cause this to be a continuing problem.

The latest National Bridge Inspection Program sufficiency rating for this bridge is 6.7 which indicates a critical need for replacement. The State has had environment and design studies underway for several years but, primarily due to lack of funds, the project has not been advanced to a construction program.

The estimated cost for a replacement bridge is $6 million. Idaho's allocation of Economic Development Act (EDA) and Special Bridge Replacement funds is not enough to feasibly fund such a project and the available funds have been obligated to other projects. Also, the status of project development is not advanced enough to meet the EDA requirement for contracting within 90 days of the receipt of the Federal grant.

The State and the Federal Highway Administration are fully aware of the need for a replacement bridge and studies for the design of a project are underway. Based on current funding levels, it is expected to be several years before a project will be underway. This picture could change if additional funds become available.

We hope this information is of assistance to you and appreciate the opportunity to be of service.

Sincerely yours,

W. J. WILKES,
Director, Office of Engineering.

BOISE, IDAHO,
January 10, 1977.

HON. FRANK CHURCH,
U.S. Senator,
Russell Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: The Idaho Transportation Department strongly supports the need for a substantial increase in federal-aid highway authorizations for replacement of critically deficient bridges in the next federal-aid highway act.

The State of Idaho has serious need for replacement of obsolete bridges. The following tabulation indicates our situation.

Priority and estimated remaining life	FA highway system	Number of structures	Estimated cost (millions)
(A) Less than 10 yr	State	203	$122.42
	Local	76	25.79
(B) 10 to 20 yr	State	199	52.53
	Local	(1)	(1)
Total		478	200.74

[1] Not available.

Attached is a copy of our proposed "Critical Bridge Replacement—Twenty Year Program." An explanation accompanies the illustration.

An annual program expenditure of $6.12 million is required to replace the bridges in this program. Including those critical bridges on the local federal-aid highways produces an annual requirement of $7.55 million. This indicates a minimum five fold increase from the current $180 million to $900 million in national authorizations with periodic adjustments for inflation would be justified for this program. A ten fold increase to $1.8 billion would allow replacement within the estimated remaining life span of the bridges and result in substantial savings in maintenance costs.

Your support for any legislation to increase federal-aid authorizations for bridge replacement is urged. The value of such an increase to the State of Idaho cannot be over emphasized.

Sincerely,

DARRELL V. MANNING,
Director.

By Mr. HART:

S. 395. A bill to authorize the Secretary of Housing and Urban Development to make direct low-interest loans to assist homeowners and builders in purchasing and installing solar heating (or combined solar heating and cooling) equipment; to the Committee on Banking, Housing and Urban Affairs.

Mr. HART. Mr. President, this country has committed itself to a goal of achieving energy independence by reducing imports of expensive foreign oil. Unfortunately, many of the programs which have been proposed to achieve this goal would have adverse impacts on both the Nation's economy and the environment. The development of solar energy, however, is one way this country can reduce its dependence on foreign oil without disrupting the economy or polluting the environment. This bill will further that development by establishing low-interest loans to finance the construction of solar heating and cooling in private homes and in multifamily apartments. The attraction of this bill is that once a solar system is installed and the loan is paid for, the cost of solar energy to the individual homeowner, as well as damage to the environment, is virtually nil.

Solar energy for heating and cooling can prove to be an important contribution to energy self-sufficiency in the short term and should supply a large fraction of new energy requirements in the long run. Power for solar home and water heating is not a fictional energy source of the future. Solar power can be tapped with today's technology. As long ago as 1972, before the so-called energy crisis, a National Science Foundation panel on solar energy stated that—

There are no technical barriers to the wide application of solar energy to meet U.S. needs.

Mr. President, solar energy systems require larger initial investments than conventional hot water and home heating systems. However, unlike conventional energy sources, there are no fuel costs associated with solar systems, and thus operating costs are negligible when compared to conventional sources such as electricity, oil, and gas. Thus, even though a solar system may cost more to install, homeowners realize an overall net saving after several years of operation. This fact is documented by a recent study prepared for the Energy Research and Development Agency—"An Economic Analysis of Solar Water and Space Heating," Mitre Corp. and ERDA, November 1976. According to this study, solar energy can compete economically with alternative energy.

I have extracted some typical results from this study and ask unanimous consent that these tables be printed at this point in the RECORD:

Economics of solar hot water and heat [1]

	Years to pay back	
	Electricity	*Oil*
Atlanta	12	16
Bismarck	13	16
Boston	12	[2]
Charleston	10	15
Columbia	12	[2]
Dallas/Ft. Worth	12	17
Grand Junction	10	14
Los Angeles	8	15
Madison	12	[2]
Miami	7	16
New York City	10	[2]
Seattle	[2]	[2]
Washington, D.C.	13	[2]

[1] From "An Economic Analysis of Solar Water and Space Heating," ERDA, November 1976. This analysis uses fuel costs escalated at 10 percent per year from 1976 to 1980 and a 15 $/FT² installed system cost.

[2] Insufficient solar load, i.e., less than 50 percent hot water and heat or less than 50 percent hot water.

Economics of solar hot water [1]

	Years to pay back	
	Electricity	*Oil*
Atlanta	11	17
Bismarck	11	15
Boston	10	19
Charleston	9	16
Columbia	10	17
Dallas/Ft. Worth	11	17
Grand Junction	8	13
Los Angeles	7	16
Madison	11	18
Miami	7	16
New York City	8	19
Seattle	[2]	[2]
Washington	11	19

[1] From "An Economic Analysis of Solar Water and Space Heating," ERDA, November 1976. This analysis uses fuel costs escalated at 10 percent per year from 1976 to 1980 and a 15 $/FT² installed system cost.

[2] Insufficient solar load, i.e., less than 40 percent hot water and heat or less than 50 percent hot water.

Mr. President, as these tables show, the ERDA report studied 13 cities around the United States. In all but one of these cities, solar hot water and heating systems pay for themselves in less than 20 years when compared to electricity. The payback time in these cities reduced to less than 11 years for simple hot water systems.

In spite of the fact that solar energy is economical, several barriers keep this country from realizing the potential of solar heating and cooling. First, current unsubsidized solar energy must compete with conventional energy sources which are subsidized by the Government. Second, although solar heating and cooling systems cost virtually nothing to operate, construction and installation of such systems involve significant amounts of initial capital. A potential consumer, willing to buy and install a solar unit economically competitive with alternate technologies, most likely will have difficulty in obtaining the sufficient front end capital in today's tight money market. Furthermore, even though solar technology is economical, the general public, and more importantly, commercial lending institutions, have limited experience with solar equipment.

Today, I am introducing a bill which will eliminate these barriers by providing a shortrun boost to the development of solar power in the form of low-interest Government loans. The interest rates on these loans will be pegged to the rate at which the Federal Treasury can borrow money. Thus, the long-term effects on the U.S. economy and the national debt will be minimal. Such loans will be available to both individual homeowners and to persons engaged in building residential structures. Consequently, the loan program will have a broad impact on the home improvement, residential, and apartment construction industries.

A fully implemented program of the sort created by this bill will stimulate interest in solar equipment, encourage demand for such equipment in the private market place, cause mass markets and mass production to be established, and thus, eventually drive down the per-unit cost of solar equipment. This is the entire purpose of the bill.

Unlike many incentive programs which use tax rebates or tax exemptions, this program will not benefit the rich at the expense of the poor. Use of the tax system to enhance demand by providing subsidies for various sectors of the economy have had an unpleasant history of destroying the progressive character of our tax system. As a result of tax loopholes that allow the rich or special interests to escape carrying their share of the tax burden, public confidence in our tax system has been eroded. Loan programs do not have this drawback. They pro-

duce equal incentives to a wider range of income groups.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that the heating and cooling of private homes accounts for a significant portion of our national energy consumption, and that the expected substantial increases in the cost of oil, gas, and electricity will significantly and adversely affect millions of American homes. The Congress further finds that, with technologies for solar heating having developed to the point of commercial application and improved solar heating units becoming increasingly available, and with technologies for solar cooling expected to reach the point of commercial application within a relatively few years, a program of Federal assistance in purchasing and installing solar heating equipment or combined solar heating and cooling equipment can provide a new opportunity for the efficient heating and cooling of homes despite the energy shortage.

(b) It is the purpose of this Act to provide a source of financial assistance for homeowners and builders to enable them to purchase and install solar heating equipment or combined solar heating and cooling equipment while substantially reducing energy use.

AUTHORIZATION OF LOANS

SEC. 2. (a) In order to carry out the purpose of this Act, the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make loans as provided in this section to individuals and families owning and occupying one- to four-family residential structures, and to persons engaged in the construction of residential structures of any kind, to assist them in purchasing and installing qualified solar heating or qualified solar heating and cooling equipment in such structures.

(b) A loan made under this section with respect to any residential structure shall—

(1) be in such amount, not exceeding 75 per centum of the cost of purchasing and installing the equipment involved, and not exceeding—

(A) $8,000 in the case of a one- to four-family structure,

(B) $7,500 per dwelling unit in the case of a multifamily structure containing five or more but less than twenty-five such units,

(C) $7,000 per dwelling unit in the case of a multifamily structure containing twenty-five or more but less than one hundred such units,

(D) $6,500 per dwelling unit in the case of a multifamily structure containing one hundred or more but less than two hundred such units, or

(E) $6,000 per dwelling unit in the case of a multifamily structure containing two hundred or more such units,

as may be necessary to enable the owner or builder of such structure to purchase and install qualified solar heating or qualified solar heating and cooling equipment which is suitable and appropriate for such structure, including the cost of any necessary modifications in the structure itself, taking into account the climatic, meteorological, and related conditions prevailing in the region where the structure is located, as established by the Secretary in regulations prescribed by him and in effect at the time of the loan;

(2) bear interest at a rate equal to the average market yield (computed as of the end of the calendar month preceding the month in which the loan is made) on all marketable interest-bearing obligations of the United States then forming a part of the public debt (with such average yield, if not a multiple of one-eighth of 1 per centum, being adjusted to the nearest such multiple), plus one-half of 1 per centum for administrative costs;

(3) have a maturity not exceeding fifteen years, except that if the loan is made to the builder of a structure which is sold to another person for occupancy, rental, resale, or any other purpose, the maturity of the loan shall not extend beyond the date of the sale to such other person; and

(4) be subject to such additional terms, conditions, and provisions as the Secretary may impose in order to assure that the purpose of this Act is effectively carried out.

(c) Each application for a loan under this section shall be accompanied by detailed plans for the purchase and installation of the proposed equipment and an estimate of the costs involved. No such application shall be approved unless the Secretary finds that the proposed equipment is suitable and appropriate and will be effective, that the costs will not be excessive, and that the purchase and installation of the equipment will not involve elaborate or extravagant design or materials.

(d) In making loans under this section, the Secretary shall impose such standards and take such actions as may be necessary or appropriate to assure that the funds provided for such loans under section 6 are allocated equitably to both one- to four-family structures and multifamily structures.

QUALIFIED SOLAR HEATING AND QUALIFIED SOLAR HEATING AND COOLING EQUIPMENT

SEC. 3. (a) For the purpose of this Act—

(1) the term "qualified solar heating equipment" means equipment which utilizes solar energy, to provide heating for a residential structure (including all necessary fittings and related installations) and which is certified by the Secretary—

(A) as being designed to meet more than 40 per centum of the total heating needs (including domestic hot water) of the type of structure for which it is intended, or substantially all of the needs of such a structure for domestic hot water (where its remaining heating needs are met by other methods), and

(B) as meeting minimum standards (as developed under the Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93-409) with respect to durability of parts, efficiency, ease of repair, availability of spare parts, acceptability of cost, technical feasibility of design or proven workability, and such other matters as the Secretary may consider relevant or appropriate; and

(2) the term "qualified solar heating and cooling equipment" means equipment which utilizes solar energy to provide both heating and cooling for a residential structure (including all necessary fittings and related installations) and which is certified by the Secretary—

(A) as being designed to meet both the heating needs of the type of structure for which it is intended, to the extent required by paragraph (1)(A) of this subsection, and substantially all of the cooling needs of such a structure, and

(B) as meeting minimum standards (as developed under the Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93-409)) with respect to the matters specified in or under paragraph (1)(B) of this subsection.

(b) In carrying out its functions under the Solar Heating and Cooling Demonstration Act of 1974 and in support of the objectives of this Act, the Energy Research and Development Administration shall—

(1) establish a mechanism or procedure (or both) for the inspection and evaluation of each type or model of solar heating and solar heating and cooling equipment, making provision for dealing with applications received from manufacturers and for the consideration of comments received from homeowners already using such equipment,

(2) review each new solar heating or solar heating and cooling unit, system, or component entering the market,

(3) periodically (no less often than once every three years) review all outstanding certifications granted with respect to solar heating or solar heating and cooling equipment, and recommend the prospective rescission of such certifications (or appropriate modification in the equipment involved) whenever it finds that such equipment no longer meets applicable standards or criteria,

(4) periodically transmit its findings and recommendations under this subsection to the Secretary for use in the performance of his functions under subsection (a) of this section, and

(5) take such other actions, and impose such other conditions and requirements, as will promote the objectives of this Act.

DISSEMINATION OF INFORMATION

SEC. 4. The Secretary shall provide to any person upon request by that person (without regard to whether or not such person is making or proposes to make application for a loan under section 3) full, complete, and current information concerning recommended standards and types of qualified solar heating or solar heating and cooling equipment appropriate for use in residential structures of varying sizes and types and in various regions of the country.

PENALTIES

SEC. 5. Any person who makes any false statement or misrepresents any material fact for the purpose of obtaining a loan under this Act, or who violates any provision of this Act or of a loan contract entered into under this Act, shall be fined not more than $1,000 or imprisoned not more than one year or both.

APPROPRIATIONS; REVOLVING FUND

SEC. 6. There are authorized to be appropriated not to exceed $100,000,000 to provide an initial amount for the program under this Act, and such additional sums thereafter as may be necessary to carry out such program. Amounts appropriated pursuant to this section and any amounts received by the Secretary as repayments of loans made under this Act shall be placed in and constitute a revolving fund which shall be available without fiscal year limitation to the Secretary for use in carrying out this Act.

EFFECTIVE DATE

SEC. 7. The authority of the Secretary to make loans under this Act shall become effective six months after the date of the enactment of this Act, and shall expire ten years after such date. Upon the expiration of such ten-year period, the revolving fund established under section 6 shall be transferred into the general fund of the Treasury, and any amounts received thereafter as repayment of loans shall be paid into the Treasury as miscellaneous receipts.

By Mr. DOMENICI:

S. 396. A bill to amend part A of title XVIII of the Social Security Act to cover certain additional inpatient hospital services furnished outside the United States to individuals insured for benefits provided under such part A; to the Committee on Finance.

Mr. DOMENICI. Mr. President, last year I introduced a bill which would fill a small but important gap in the health insurance protection for the elderly and

disabled under the medicare program. As action was not taken before the 94th Congress adjourned, I am reintroducing the measure in the hopes this necessary legislation will be enacted soon.

S. 396 will provide full medicare coverage to beneficiaries who are temporarily visiting another country. Hospital benefits, ambulance service, and physicians' payments will be extended to a beneficiary if a medical emergency makes it necessary to be hospitalized outside the United States.

Under the present medicare law, hospital and related services furnished abroad are covered only when provided in Canada or Mexico, and only where the beneficiary is hospitalized in Mexico or Canada as the result of an emergency that arose in the United States. This coverage applies only where the foreign hospital is either nearer to, or more accessible than, the nearest suitable U.S. hospital.

Social security legislation enacted in 1972 added two more exceptions to the general exclusion of services rendered abroad. One permits payment to be made for a U.S. resident in a border State who lives nearer to a suitable foreign hospital than to the nearest U.S. hospital that is adequately equipped to meet his needs. For these beneficiaries, benefits can be paid without regard to whether an emergency existed or where the illness or injury took place. The 1972 social security legislation also provided for U.S. residents who are forced by a medical emergency to be hospitalized in Canada while traveling from Alaska to another State.

These various provisions for paying medicare benefits for people who are hospitalized in a foreign country meet very real and very serious problems for the individuals involved. However, they do not go far enough. Many American residents, especially people living in the border States, have friends and relatives in the neighboring country whom they visit; others travel abroad on vacations or in the course of their business. Under present law, these people leave their medicare protection behind when they leave the United States. If they have a medical emergency during their temporary absence from the country, they run the risk of incurring very substantial expenses that will have to be paid out of the pocket—usually out of fixed, limited incomes.

I can offer an excellent example illustrating the need for this legislation. An elderly couple, residents of New Mexico, were recently visiting their son in Buffalo, N.Y. While in that part of the country, they decided to extend their visit to see the Shrine of St. Anne de Beaupre in Quebec, Canada. Shortly after arriving in Quebec, the husband began suffering acute abdominal pains. Immediately, this couple canceled their original plans and made a "run" for the border. Soon the pains became too severe to ignore, and it was necessary to stop for a physician's assistance. The doctor immediately placed the patient in the hospital for surgery. The operation was a success, but the bills have been mounting ever since. Medicare obviously will not cover these expenses as they were incurred out of the country. This couple only receives a small social security check each month. They saved a long time for this trip, not foreseeing the medical emergency.

Private health insurance plans generally are sensitive to this problem and cover their own policyholders during temporary absences from the country. I am proposing that similar protection be extended to the aged and disabled under social security who are permanent residents of this country and who have been physically present in the United States within the preceding 6-month period. As in the case of benefits now provided for services furnished outside the United States, this bill would cover the related ambulance and physicians' services as well as the hospital services themselves.

Mr. President, the bill I am introducing today would affect relatively few medicare beneficiaries. But those who would benefit would be relieved of a potentially large financial burden that could, through no fault of their own, spell financial disaster. I urge that the proposed legislation be enacted as soon as possible. I ask unanimous consent that the text of S. 396 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 396

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1814(f)(2) of the Social Securty Act is amended—

(1) by striking out clause (ii) of subparagraph (A) and inserting in lieu thereof the following:

"(ii) at a place outside the United States;",

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu of such period "; and", and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) in the case of an individual described in subparagraph (A)(ii), such individual (1) had, as of the date he first began to receive such emergency inpatient hospital services, been physically present in the United States within the preceding 6-month period, and (ii) such individual maintains a residence in the United States.

(b) The amendments made by subsection (a) shall apply only with respect to services furnished in the case of admissions to hospitals occurring after the date of enactment of this Act.

By Mr. PEARSON:

S. 398. A bill to amend the Airport and Airway Development Act of 1970 to bring about increased levels of employment in the construction trades on an emergency basis, and for other purposes; to the Committee on Commerce.

EMERGENCY CONSTRUCTION TRADES EMPLOYMENT AND AIRPORT DEVELOPMENT ACT OF 1977

Mr. PEARSON. Mr. President, I introduce for appropriate reference a bill, the Emergency Construction Trades Employment and Airport Development Act of 1977, to amend the Airport and Airway Development Act of 1970 to bring about increased levels of employment in the construction trades on an emergency basis.

Mr. President, unemployment in this country is the No. 1 problem facing the 95th Congress. Current data indicates that almost 8 percent of the work force, or 7.5 million Americans are out of work. This situation is intolerable in view of the productive capacity and resourcefulness of the labor force in this country. Further complicating these circumstances is the projection that the civilian labor force will experience a 2.5-percent growth rate this year due primarily to the upward trend in the rate of labor force participation by women and youth.

The Congress shares President Carter's concern about the state of the economy. The President has indicated that increased public works-type construction will be part of his program to stimulate new job opportunities.

There are many highly productive programs in existence in this country today which could be stimulated by the injection of more Federal participation. It is my judgment that to the greatest extent practicable, such existing Federal programs should be utilized as the vehicle for the implementation of national efforts to reduce unemployment.

There are two compelling reasons for this approach. First, these programs have already passed muster in the Congress with respect to their purpose and need; and second, the infrastructures are already in place to facilitate timely economic improvement.

The airport development aid program, ADAP, an ongoing effort to expand, improve, and develop the Nation's airport and airway system, presents an excellent opportunity to implement any national effort to reduce unemployment. Airport and airway development projects employ thousands of construction trades workers. With the 1976 amendments to the ADAP law, terminal development became eligible for ADAP funding in addition to "airside" improvements.

Mr. President, there is no doubt that ADAP has been one of the most successful Federal programs. Its benefits to the air traveler and general aviation user are beyond dispute. But the task of airport development is far from complete. The applications for ADAP funding—proposed projects throughout the country at large airports and small alike—far exceed the present availability of funds.

At present, ADAP obligations are estimated to be $510,000,000 in fiscal year 1977 and $465,000,000 in fiscal year 1978. Requests on hand as of December 31, 1976, were $518,561,872 for air carrier airports and $209,877,432 for general aviation, for a total of $728,439,304. In Kansas alone, ADAP requests currently on hand total approximately $19.5 million. The needs are great, but the funds are scarce. Although ADAP authorizations and appropriations were increased substantially only last year, the demand for the ADAP program among the States and localities has increased even faster The fiscal year 1977 apportionment for general aviation and air carrier development, together, is only $3.2 million. Thus, it is clear that increases in ADAP, such as I am today proposing, could prudently be expended to increase job op-

portunities and meet urgent airport development needs at the same time.

There are data available from the Office of Productivity and Technology, Bureau of Labor Statistics, Department of Labor, indicating that employment generation from airport development construction is significant. In view of the economic multiplier effect of such construction activity, additional ADAP funds at this time would generate more new jobs than perhaps any other economic stimulus, and promote an immediate and direct benefit to employment levels and the economy in general.

Available statistics show that for each billion dollars spent on airside construction or on highway projects, 21,167 construction jobs are created and maintained for 1 full year, and that 22,442 manufacturing jobs are created and maintained for a total of 43,609 full time jobs of 1 year's duration. For each billion dollars spent on landside construction—analogous to terminal construction—20,389 construction jobs are created and maintained, and 12,707 manufacturing jobs are created and maintained for a total of 33,096 jobs. These amounts do not consider the economic multiplier effect. Inflation has, of course, reduced the jobs per dollar spent ratio in current dollars. But, the statistics are significant in spite of inflation.

Mr. President, the bill I introduce today would amend the Airport and Airway Development Act of 1970 so as to increase the authorizations for construction projects at air carrier and general aviation airports by 50 percent in fiscal year 1977 and fiscal year 1978. The total increase over current authorization would be $255,000,000 for fiscal year 1977, and $270,000,000 for fiscal year 1978. Based on the above quoted 1974 statistics, these increased amounts alone should, over the 24-month period, create or maintain approximately 20,000 jobs in airside construction, or 15,000 jobs in landside construction.

There are more than enough projects already planned and awaiting funding to create each one of these potential jobs. I urge my colleagues to consider this vital step toward reducing unemployment and to search other existing construction programs with which they are concerned for potential fiscal stimulation for our troubled economy and employment situation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Construction Trades Employment and Airport Development Act of 1977".

SEC. 2. DECLARATION OF POLICY

The Congress hereby finds and declares the following:

(1) The Nation is experiencing unacceptable levels of unemployment which threatens the economic well-being of the country, reduce national productivity, seriously impact the balance of payments, and contribute to the economic hardships of many Americans.

(2) The Congress must in the proper exercise of its fiscal responsibilities act on an emergency basis to stimulate increased levels of employment in those sectors of the economy most likely to yield the greatest and most immediate economic return.

(3) To the greatest extent practicable, existing Federal programs should be utilized as the vehicle for the implementation of all national efforts to increase levels of employment.

(4) The Airport Development Aid Program, an ongoing effort to expand, improve, and develop the Nation's airport and airway system, presents an excellent opportunity to implement the policy established in paragraphs (1) through (3) of this section by providing an orderly and productive stimulus for increased levels of employment in the construction trades.

SEC. 3. AIRPORT AND AIRWAY DEVELOPMENT PROGRAM.

Section 14(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended as follows:

(1) by amending paragraph (3) of the subsection by striking out the following: "$440,000,000 for fiscal year 1977, $465,000,000 for fiscal year 1978," and inserting in lieu thereof the following: "$630,000,000 for fiscal year 1977, $697,500,000 for fiscal year 1978,"; and

(2) by amending paragraph (4) of the subsection by striking out the following: "$70,000,000 for fiscal year 1977, $75,000,000 for fiscal year 1978," and inserting in lieu thereof the following: "$105,000,000 for fiscal year 1977, $112,500,000 for fiscal year 1978,".

By Mr. PEARSON:

S. 403. A bill to regulate the flow of interstate commerce by establishing programs, standards, and procedures for determining responsibilities and liabilities arising out of product related injuries, and for other purposes; to the Committee on Commerce.

NATIONAL PRODUCT LIABILITY INSURANCE ACT

MR. PEARSON. Mr. President, I introduce for appropriate reference a bill, the National Product Liability Insurance Act, designed to promote a comprehensive Federal response to the emerging problems related to product liability insurance.

Mr. President, about 2 years ago I began hearing about the problems that Kansas manufacturers have been experiencing in obtaining product liability insurance. The Kansas companies, in correspondence with my office, cited escalating costs for adequate coverage, and the refusal of some underwriters to renew coverage. After these problems came to my attention, I learned that consumer groups in Kansas and throughout the Nation have become concerned about the inability of some plaintiffs to obtain adequate compensation for economic losses sustained as a result of product-related injuries. From the consumer perspective, some manufacturers have failed to obtain adequate insurance coverage for product liabiilty, some losses are not compensated until after years of expensive litigation, and the laws in the several States and the Federal system have evolved into a helter-skelter pattern where no rule of law, no principle of recovery, can be relied upon to govern in a particular case or controversy.

Mr. President, I concluded that Congress should attempt some responsible initiative to stabilize product liability insurance rates, to increase the availability of product liability insurance at reasonable cost, and to promote reliance among consumers upon prompt, more certain and more uniform standards of recovery for economic losses sustained as a result of product-related injury to person or property.

This conclusion was complicated by the fact that, to my knowledge, there has never been seriously proposed in Congress a comprehensive bill designed to address this diverse range of problems. It was further complicated by the fact that the regulation of insurance has been delegated by Federal statute to the several States. It is not likely that Congress will be willing to assume the primary responsibility for insurance regulation, nor is it in the public interest for the Congress to do so.

Nevertheless, Mr. President, the Congress has in the past estabilshed worthwhile programs designed to facilitate the availability of insurance, at reasonable rates, for unique hazards that ordinary insurance, under ordinary circumstances, simply cannot cover. Flood insurance is a case in point. The catastrophy of a major flood, or earthquake, or similar circumstance, cannot be factored into the rate base in a flood prone, or earthquake prone, area without escalating the cost of insurance beyond the reach of middle income citizens.

The Congress further has considered seriously proposals to improve the lot of consumers who suffer personal injury or loss of property when they seek to recover for their economic detriment. The Committee on Commerce, upon which I serve as the ranking member of my party, has considered improvements for small claims courts, reform of auto insurance, and other bills designed to help the consumer when he needs help the most. These reforms were considered in the context of the traditional State prerogative to regulate insurance within its jurisdiction.

These bills also recognize the inherent power of all the States to establish their own court systems and rules of procedure consistent with the mandates contained in the Federal Constitution.

Therefore, Mr. President, based upon the limited experience that we have, I have drafted an initial proposal designed to alleviate the problems that have emerged in recent years in the product liability area. This bill should be considered only a first draft—I look forward to hearings on its provisions and close cooperation with the distinguished chairman of the Commerce Committee (Mr. MAGNUSON), and others, in fashioning an appropriate Federal policy in relation to product liability insurance.

BACKGROUND INFORMATION

Mr. President, product liability lawsuits arise not only from the manufacturing process, but also from product design, packaging, advertising, sales, and service. The manufacturer is not isolated in his concern about product liability. There are perhaps 11,000 consumer products in the stream of commerce at this

time; the affluence of our society and mass production and distribution techniques escalate the danger of a single product defect or failure.

The Consumer Product Safety Commission has estimated that, in 1973, there were 20 million injuries in American homes that required at least some medical treatment. There were 110,000 disabilities sustained in the home and 30,000 deaths. The estimated economic loss to the American economy from home injuries was $5.5 billion. And in 1973, the Occupational Health and Safety Administration estimated that 5.9 million injuries occurred in the working place.

This enormous economic loss, increasingly, has been allocated by courts to product liability. But the system of compensation, and the determination of liability, has been haphazard. Some plaintiffs undoubtedly recover excessive judgments in product liability cases; others are inadequately compensated for their basic economic detriment. The need for reform is apparent.

There is no compelling justification for heavyhanded Federal involvement in the areas of responsibility traditionally left to the States. But there is a need for Federal leadership in the Federal court system; and there is a need for Federal assistance in promoting insurance availability. There is further a need for Federal grants-in-aid to those States which establish, on their own, programs for product liability reform that are consistent with the Federal standards.

The centerpiece of the product liability crisis, from the perspective of manufacturers, is the escalating cost of coverage—when it is available at all. In 1975 alone, it has been estimated that average premium rates, from industry to industry, increased from 100 to 1,000 percent. Cumulative increases in premium rates, over the past 7 years, have averaged 5,000 percent in some industries.

These rising insurance costs have hit small businessmen, particularly small manufacturers, the hardest. But it must be recognized, of course, that the consumer pays for it all in the end. When premium rates increase, the manufacturer either passes along the increased cost of doing business, or goes without insurance. And when the manufacturer goes without insurance, those who may be injured or whose property may be damaged often find their claim to be worthless in the courts. The uninsured manufacturer imposes the cost of product liability judgments upon himself until he runs out of money. Thereafter, he will be judgment-proof and those who are injured will sustain the losses alone.

CLAIMS EXPERIENCE

Mr. President, comprehensive data on claims experience is not available. It is clear from sketchy data, however, that product liability claims are increasing quite rapidly in number. The average loss per claim, most significantly, has increased from $11,644 in 1965 to $79,940 in 1973. This increase in the average loss per claim amounts to an increase of 686 percent, compared to an increase in general inflation of 60 percent within the same time period. The Government should be concerned not only about the manufacturer or other business who must pay, either individually or collectively through insurance, these claims upon judgment, but also our concern should extend to those consumers who, through the quirks and irregularities of the system, receive inadequate compensation, or no compensation at all, for their bona fide economic losses in product-related injuries to property or person.

INTER-AGENCY TASK FORCE

Mr. President, the Inter-Agency Task Force on Product Liability, chaired by the Under Secretary of Commerce, has recently issued its preliminary findings. The major points include the following:

First, in the years 1974–76, product liability insurance premiums appeared to increase substantially in selected industries. Among those most severely affected are industrial machinery, industrial chemicals, and high risk consumer goods such as pharmaceuticals, automotive parts, and medical devices. Anecdotal data show a similar impact on sporting goods and ladder manufacturers.

Second, the problem of increased product liability insurance costs has been more acute for the smaller firms in those industries.

Third, a number of companies, large and small, are going without product liability insurance. This trend will adversely affect injured consumers because it is unclear whether these companies have adequate resources to withstand substantial product liability judgments.

Fourth, the rate of increase of product liability claims appears to have been accelerating faster than the rate of increase of actual product injuries.

Fifth, the concern about product liability has caused some manufacturers, for example, pharmaceuticals, to forego or delay the introduction of new products. It is uncertain whether such decisions are beneficial or harmful to society. Each would have to be evaluated on a case-by-case basis.

TRENDS IN THE LAW OF PRODUCT LIABILITY

Mr. President, there have been general trends in the law of product liability which should be understood in the context of this legislation. The emerging legal concepts include diminution of the right of privity, the trend toward absolute liability, and the increased tendency toward class actions. These trends have, generally, made it easier for a claimant to sustain a legal action and to collect damages. It should be noted that I make no value judgment, in this statement, about these emerging legal concepts. More study is needed. Suffice it to say that these trends have served to make industry more responsible for its actions when products are introduced into the marketplace.

Mr. President, the shift toward strict liability of manufacturers has occurred at a time when employees are electing to receive workmen's compensation benefits which must be provided by employers. Thus, an injured worker brings an action against the manufacturer of the product that caused his injury in his working place. To the extent that the injured worker is compensated in the product liability action for his economic losses, that loss is shifted through subrogation from the workmen's compensation underwriter to the product liability underwriter.

CONCLUSION

Mr. President, this confluence of events in the courts, in the home and in the working place, has perhaps disproportionately increased the burden on the product liability system in recent years. Before our manufacturers, in more and more industries, are forced to reduce their insurance coverage, or eliminate it, as a result of unreasonably high premium costs, the Congress should move to establish both a system of reinsurance, comparable to the flood insurance program, and a system of reforms in the Federal courts to insure more consistent recovery of actual economic losses on a more uniform basis to injured consumers.

The bill I am today introducing attempts to accomplish this result. I do want to stress that hearings will be required to explore the problem in more detail in order to refine the legislation. Consultation with the broad range of interests affected will be required to fashion the appropriate Federal response.

The section-by-section summary of my bill, which will follow this statement in the RECORD, serves to explain the major provisions as introduced. I would invite the detailed evaluation of this proposal by all of those who are concerned about product liability, both consumers and businessmen, throughout our Nation.

After we have solicited and received the thoughtful comments of experts in the various affected industries and interest groups, we will know better how to proceed.

Mr. President, I ask unanimous consent that the text of the bill, together with a summary analysis of its major provisions, be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act together with the following table of contents may be cited as the "National Product Liability Insurance Act".

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TITLE I—GENERAL PROVISIONS

SEC. 102. DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) annual losses throughout the Nation from product defects or failures are increasing at a substantial rate;

(2) Federal rules and regulations together with industrywide standards are often determinative factors in the manufacture of products which are reasonably free of defects and unlikely to fail;

(3) compensation to consumers for losses of life and property caused by product defects or failures is often frustrated by an inability on the part of the courts to establish consistently and predictably the limits of liability of the manufacturer of products for injuries caused by such products;

(4) it is in the public interest for manufacturers to have both an opportunity to obtain product liability insurance at reasonable rates and access to more adequate limits of coverage so that they will be indemnified for their losses in the event of defect or failure of their products; and

(5) consumers are adversely affected by increased costs or unavailability of product liability insurance to manufacturers because (A) such costs are reflected in the price of consumer goods, (B) competition may be lessened and a narrower range of choices may be available if manufacturers choose to suspend operations rather than to sustain increased costs or operate without product liability insurance, and (C) an inability to recover judgments may occur when firms become insolvent.

(b) PURPOSE.—The purpose of this Act, therefore, is to expedite the resolution of cases and controversies arising out of the defect or failure of products in interstate commerce by—

(1) establishing a National Product Liability Insurance Administration;

(2) establishing a National Product Liability Arbitration Program;

(3) encouraging States, through Federal financial assistance, to participate in product liability arbitration programs with effective enforcement and judicial provisions consistent with national standards for such programs; and

(4) establishing a National Product Liability Insurance Pool to increase substantially the availability and coverage of product liability insurance.

SEC. 103. DEFINITIONS.

As used in this Act the term—

(1) "Administration" means the National Product Liability Insurance Administration established in section 201 of this Act;

(2) "Administrator" means the Administrator of the National Product Liability Insurance Administration established in section 201 of this Act;

(3) "Board" means the Board of Directors of the National Product Liability Insurance Administration as established in section 201 of this Act;

(4) "commissioner" means the commissioner of insurance or the head of the department, commission, board, or other agency of a State which is charged by the law of that State with the supervision and regulation of the business of insurance;

(5) "industrywide standards" means those standards for any particular industry to which the members of such industry normally subscribe in the fabrication or creation, sale, or use of their products;

(6) "manufacturer" means the fabricator of any product or the assembler of a number of component products whose product is either a component itself or a final product and such term includes, for all purposes of this Act other than the provisions of title III, retailers of any such product;

(7) "product" means any tangible object or goods but excludes any service;

(8) "product defect or failure" means a product defect or failure which results in injury or death to any person or damage to any property;

(9) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

(10) "state of the art" means in conformity with the highest recognized and prevailing standards and practices technically and economically feasible in existance within the relevant industry at the time of use of the relevant plan or design and methods, standards, and techniques of manufacturing inspection, and testing; and

(11) "stream of commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation.

TITLE II—NATIONAL PRODUCT LIABILITY INSURANCE ADMINISTRATION

SEC. 201. ESTABLISHMENT.

There is established as an independent instrumentality in the executive branch of the Federal Government a National Product Liability Insurance Administration for the purpose of—

(1) administering a joint underwriting authority to provide product liability reinsurance to manufacturers as authorized under title III of this Act;

(2) issuing Federal charters to captive insurance companies under the provisions of title III of this Act; and

(3) reviewing the National Product Liability Arbitration Program established under title IV of this Act and State product liability arbitration programs which may be established in accordance with title V of this Act.

SEC. 202. BOARD OF DIRECTORS.

(a) COMPOSITION.—The Administration shall be under the general direction and supervision of a Board of Directors which shall be composed of the Secretary of Commerce, who shall act as Chairman, the Assistant Secretary of Labor in charge of the Occupationl Safety and Health Administration, the Chairman of the Consumer Product Safety Commission, the Commissioner of the Food and Drug Administration, the Chairman of the National Transportation Safety Board, and 12 nongovernment individuals appointed by the President, by and with the advice and consent of the Senate, three from each of the following groups:

(1) attorneys at law who have had extensive experience in product liability litigation;

(2) engineers and scientists who by reason of their education, background, and experience are particularly capable of assessing product design, engineering, and use hazards;

(3) physicians who by reason of their education, background, and experience are authorities on the general category of medical and psychological disabilities caused by product defects or failure; and

(4) persons who by reason of their education, background, and experience are recognized as effective and responsible representatives of the interests of consumers.

(b) TERM.—The terms of the nongovernment members of the Board shall be for 6 years, except that for those initially appointed the terms of one-third of the members so appointed, one in each category set forth in subsection (a) of this section, shall expire in 2 years, one-third in 4 years, and one-third in 6 years.

(c) COMPENSATION.—The nongovernment members of the Board shall be compensated for each day spent in the execution of their duties on behalf of the Administration at the highest daily rate applicable to those employed intermittently in the Government service under section 3109 of title 5, United States Code. The members of the Board, while so serving away from their homes or regular place of business, may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

SEC. 203. POWERS AND DUTIES OF THE BOARD.

The Board shall establish the priorities and policies of the Administration with respect to all functions of the Administration under this Act. The Board may, in its discretion, by a majority vote, change in such fashion as it deems appropriate any policy, rule, regulation, or order of the Administrator.

SEC. 204. ADMINISTRATION.

(a) ADMINISTRATION.—The Administration shall be under the general supervision of an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 8 years, which appointment may be renewed in the same manner as the original appointment and compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Administrator shall appoint, except as provided under subsection (b) of this section, such other personnel as he deems necessary to carry out the responsibilities of the Administration.

(b) GENERAL COUNSEL.—There shall be a General Counsel for the Administration who shall be appointed by a majority vote of the Board and who shall be compensated at the rate provided for in level V of the Execu-

tive Schedule under section 5316 of title 5, United States Code.

(c) SUBPENAS.—For the purpose of any investigation or any other proceedings under this Act, the Administrator, or any officer designated by him, is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, contracts, agreements, or other records, which the Administrator determines relevant or material to the inquiry. Such attendance of witnesses in the production of any such records may be received from any place in any State or in any other place subject to the jurisdiction of the United States at any designated place of hearing. In case of contumacy by, or refusal to obey a subpena issued to any person, the Administrator may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. Any such court may issue an order requiring such person to appear before the Administrator or officer designated by the Administrator, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question, and any failure to obey such order of the Administrator may be punished by such court as contempt thereof. All process in any such case may be served .n the judicial district whereof such person is an inhabitant or wherever he may be found. Any person who without just cause, shall fail or refuse to attend and testify or to answer any lawful injury or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records if it is in its possession or power so to do, in obedience to the subpena to the Administrator, shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not more than $5,000 or imprisonment for a term of 1 year or both.

SEC. 205. AGENCY HEAD RESPONSIBILITY.

For the purposes of establishing finality of agency action for review of the actions of the Administrator under chapter 7 of title 5, United States Code, the Administrator shall be held and considered to be the agency head.

TITLE III—NATIONAL PRODUCT LIABILITY INSURANCE POOL

SEC. 301. AUTHORITY.

(a) REINSURANCE.—The Administrator is authorized to offer to any insurer or pool reinsurance against losses resulting from product liability claims, and for such purpose the Administrator is authorized to enter into any contract, agreement, or other arrangement with any insurer or pool for reinsurance coverage, in consideration of payment of such premiums, fees, or other charges by insurers or pools which the Administrator deems to be adequate to obtain aggregate reinsurance premiums in excess of the estimated amount of losses reinsured against hereinunder.

(b) CRITERIA.—In establishing premiums the Administrator shall consider among other things the applicant's product liability claim record, risk management program including quality control procedures, or other product defect and failure prevention programs.

SEC. 302. DEFINITIONS.

As used in this title, the term—

(1) "affiliated company" means any company that directly or indirectly owns, controls, or holds with power to vote 10 percent or more of the outstanding voting securities of a pure captive insurance company, or any company, 10 percent or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by a parent, subsidiary, or associated company;

(2) "associated company" means any company in the same corporate system with a pure captive insurance company;

(3) "association" means any association or group of corporations, partnerships, or associations which has been in existence for at least 1 year, the member organizations of which collectively own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company;

(4) "captive insurance company" means any domestic insurance company chartered under the provisions of this Act for the purpose of making either insurance or reinsurance which is limited to the risks, hazards, and liabilities of the member organizations of the association or parent, subsidiary companies of its parent, and associated and affiliated companies;

(5) "insurer" means any insurance company, or group of companies under common ownership, which is authorized to engage in the insurance business under the laws of any State;

(6) "losses resulting from product liability claims" means losses resulting from product liability claims under policies for standard lines of product liability insurance for which reinsurance is offered under this title:

(7) "member organization" means any corporation, partnership, or association which belongs and has belonged for a period not less than 1 year to an association;

(8) "parent" means a corporation, partnership, or individual who directly or indirectly owns, controls, or holds with power to vote more than 50 percent of the outstanding voting securities of a pure captive insurance company;

(9) "pool" means any pool or association of insurance companies which is formed, associated, or otherwise created for the purpose of making product liability insurance more readily available at reasonable prices; and

(10) "subsidiary company" means any corporation of which 51 percent or more of the outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by a parent or by a company which is a subsidiary of such parent.

SEC. 303. LIMITATION.

Reinsurance offered under this title shall reimburse an insurer or pool for its total proved and approved claims for covered losses resulting from product liability claims during the term of the reinsurance contract, agreement, or other arrangement, in excess of the amount of the insurer's or pool's retention of such losses as provided in the reinsurance contract, agreement, or other arrangement entered into under this section. A contract, agreement, or other arrangement may be entered into under this section without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)).

SEC. 304. NEGOTIATION.

The Administrator is authorized to negotiate an excess loss agreement, from time to time, under which the amount of insurance retained by the pool, after ceding reinsurance, shall be adequate to further the objective of maintaining appropriate financial participation and risk-sharing to the maximum extent practicable on the part of participating insurance companies and other insurers.

SEC. 305. CLAIMS.

All reinsurance claims for losses in excess of losses assumed by the pool shall be submitted on a portfolio basis by such pool in accordance with such terms and conditions as may be established by the Administrator

SEC. 306. ADVISORY COMMITTEES.

(a) ESTABLISHMENT AND DUTIES.—The Administrator shall appoint a Product Liability Advisory Committee, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such committee shall advise the Board and the Administrator in the preparation of any regulations prescribed in accordance with this title and with respect to policy matters arising in the administration of this title and shall perform such other responsibilities as the Administrator may, from time to time, assign to such committee.

(b) COMPOSITION.—Such committee shall consist of not more than 15 persons and such persons shall be selected equally from among representatives of—

(1) the insurance industry,

(2) State and local governments, and

(3) organizations which are recognized as effective and responsible representatives of the interests of consumers.

(c) COMPENSATION.—Members of the committee shall, while attending conferences or meetings thereof, be entitled to receive compensation at a rate fixed by the Administrator, but not exceeding $100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

SEC. 307. DISSEMINATION OF PRODUCT LIABILITY INSURANCE INFORMATION.

The Administrator shall from time to time take such action as may be necessary in order to make information and data available to the public, and to any State or local agency or official, with regard to the coverage and objectives of the reinsurance program established pursuant to this title. The Administrator shall serve as the coordinator and provider in the Federal Government of appropriate product defect or failure prevention technique information and technical assistance to businesses and other interested parties. In fulfilling this responsibility the Administrator shall seek advice and assistance from those Federal agencies, offices and other persons represented on the Board established pursuant to section 202 of this Act and the Product Liability Advisory Committee appointed pursuant to section 306 of this Act.

SEC. 308. AUTHORIZATION FOR APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as may be necessary to make compensation for actual losses under this title that exceed in any fiscal year the aggregate reinsurance premiums collected by the Administrator.

(b) REIMBURSEMENT.—Through a power of renegotiation of contract agreements or other arrangements for reinsurance entered into by the Administrator, which shall be an express power in all such arrangements, the Administrator shall provide for reimbursement to the Government of all actual losses sustained for which appropriations are made. Such reimbursement shall be made over a period of time not to exceed 5 fiscal years following the fiscal year in which such appropriations were made for such purposes.

SEC. 309. CAPTIVE INSURANCE CHARTERS.

(a) AUTHORITY.—The Administrator is authorized to grant a Federal charter to a captive insurance company which has been organized to make insurance on risks, hazards, and liabilities—

(1) of its parent, subsidiary companies of

its parent, and associated or affiliated companies; or

(2) of the member organizations of an association, and such captive insurance company may not make reinsurance on personal motor vehicle or homeowner's insurance coverage or any component thereof, and may not provide personal insurance coverage for individuals except where the individual is a parent.

(b) CAPTIVE INSURANCE COMPANY STANDARD.—Any captive insurance company applying for a Federal charter must demonstrate to the satisfaction of the Administrator that adequate insurance markets in the United States are not available to cover the risks, hazards, or liabilities of the parent, affiliated and associated companies or associations and member organizations to be insured or that such needed coverage is only available at excessive rates or with unreasonable deductibles and (1) the total insurance coverage necessary to insure all risks, hazards, and liabilities of the parent and companies to be insured would develop, in the aggregate, gross annual premiums of at least $500,000 and (2) the total insurance coverage necessary to insure all risks, hazards, and liabilities of the association and its member organizations would develop, in the aggregate, gross annual premiums of at least $1,000,000.

(c) NAMES OF COMPANIES.—No captive insurance company shall adopt the name of any existing company transacting a similar business, nor any name so similar as to be calculated to mislead the public.

(d) AUTHORITY TO DO BUSINESS.—No captive insurance company shall transact any insurance business in any of the States unless it meets the requirements of the laws of each of the States in which it conducts its business with respect to such insurance business.

(e) SUSPENSION OR REVOCATION OF CHARTER.—

(1) A Federal charter may be revoked or suspended by the Administrator for any of the following reasons:

(A) insolvency or impairment;

(B) failure to comply with the laws in the States in which it conducts its business;

(C) failure to comply with the provisions of its own charter or bylaws, if such failure renders its operation contrary to the interest of the public or its policyholders; and

(D) failure to submit to examination by the State in which it conducts business or any legal obligation relative thereto.

(2) If the Administrator finds upon examination, hearing, or other evidence that any captive insurance company has committed any of the acts specified in paragraph (1) of this subsection, the Administrator may suspend or revoke such charter if he deems it in the best interest of the public and the policyholders of the company, notwithstanding any other provision of this title. Notice of any revocation or suspension shall be published in the Federal Register. Before suspending or revoking any certificate of authority of an insurance company, the Administrator shall grant the company 15 days in which to show cause why such action should not be taken.

TITLE IV—NATIONAL PRODUCT LIABILITY ARBITRATION PROGRAM

SEC. 401. ESTABLISHMENT.

The Administrator, in consultation with the Director of the Administrative Office of the United States Courts and with each of the circuit executives of the several circuits of the United States, shall establish a National Product Liability Arbitration Program (hereinafter referred to in this section as the "program") in each of the district courts of the United States.

SEC. 402. PRODUCT LIABILITY ARBITRATION PANEL.

The program shall provide for the establishment in each judicial district of the United States on a permanent or temporary basis, as the needs of the several judicial districts may require, a product liability arbitration panel (hereinafter referred to in this title as the "panel").

SEC. 403. PANEL COMPOSITION AND SELECTION.

Each panel shall be composed of three individuals appointed to arbitrate all actions to recover damages for injuries alleged to have been caused by a product defect or failure. The panel in each judicial district may sit in divisions of three members each, if the needs of such judicial district, as determined by the chief judge, should require more than one panel of three members. Each panel, or division thereof in judicial districts in which more than one division is necessary, shall be composed of three individuals selected by the chief judge of the judicial district in which the panel, or division thereof, sits from the following groups—

(1) one from a list prepared by the clerk of the United States district court of such judicial district of attorneys at law admitted to practice before the bar of such court and who have had at least 2 years trial experience;

(2) one from a list of physicians who regularly practice within the geographic confines of the judicial district from among individuals listed on a list compiled by the medical association of the State in which the judicial district is located; and

(3) one, from among the members of the public at large who are citizens of the United States and reside within such judicial district, who is not otherwise eligible for such selection under the provisions of paragraph (1) or (2).

SEC. 404. PAYMENT AND COSTS.

(a) COMPENSATION.—Members of the panel shall, while engaged in the duties of the panel, be entitled to receive compensation at a rate fixed by the Admnistrator but not exceeding $100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5. United States Code, for persons in the Government service employed intermittently.

(b) SOURCE OF COMPENSATION.—Except as provided in subsection (a), all costs associated with the appointment and functioning of the panel shall be paid out of the annual appropriations for the United States courts.

SEC. 405. LIMITATIONS ON PROCEDURES AND REMEDIES.

(a) CONSTRUCTION.—Nothing contained in this Act shall be construed as a limitation on procedures and remedies in product liability actions except as provided in this section and section 601 of this Act.

(b) ARBITRATION ELECTION.—The failure of a party in a product liability action to serve upon the other parties a demand in writing for a trial by jury of any issue triable of right by a jury at any time after the commencement of the action and not later than 10 days after the service of the last pleading directed to such issue and to file such demand with the court shall constitute a waiver by him of trial by jury and a binding election by him to place the matter under arbitration.

(c) BINDING ARBITRATION.—All complaints or petitions for equitable relief filed in the district courts of the United States which allege a cause of action arising out of the defect or failure of any product may be referred to a panel, or division thereof, for arbitration, in accordance with provisions of this Act shall be binding upon all parties and judgment upon the award rendered by a panel may be entered in any court otherwise having jurisdiction thereof unless fraudulent, the decision is otherwise against the weight of the evidence, or prejudicial error at law or equity has occured. All proceedings before the panel shall be conducted according to the Commercial Arbitration Rules of the American Arbitration Association as amended and in effect on November 1, 1973. Such rules may be amended, as the needs of justice may require, in the same form and manner as provided under rule 82 of the Federal Rules of Civil Procedure under the provisions of title 28, United States Code.

(d) STANDARDS.—Arbitration panels established under this title shall adhere to the national standards set out in title VI of this Act.

TITLE V—STATE PRODUCT LIABILITY ARBITRATION PROGRAMS

SEC. 501. STATE PLAN.

Any State may establish a State product liability arbitration program in accordance with this title. Upon the establishment of such a program, the commissioner shall submit to the Administrator a certified copy of such program, together with all relevant information which is requested by the Administrator.

SEC. 502. DETERMINATION BY ADMINISTRATOR

Within 90 days after the Administrator receives a copy of a State program established pursuant to section 501 of this Act, the Administrator shall make a determination whether such State has established a program in accordance with this title. Unless the Administrator determines pursuant to this section that a State program is not in accordance with this title, the program shall go into effect in such State on the date designated in the program. On such date, such State shall be eligible for Federal Financial assistance in accordance with the title.

SEC. 503. PERIODIC REVIEW.

The Administrator shall periodically, but not less than once every 3 years, review each State program which has been approved pursuant to section 502 of this Act to determine whether such program is still in accordance with this title and to evaluate the success of such program. To facilitate such review the commissioner in each such State shall submit to the Administrator periodically all relevant information which is requested by the Administrator. The Administrator shall report to the President and Congress simultaneously on October 1 on the results of such reviews, including any recommendations for legislation.

SEC. 504. STATE PROGRAM NO LONGER IN ACCORDANCE.

If after a State program in accordance with this title is in effect in a State the Administrator makes a determination, pursuant to section 503 of this Act that such State program is no longer in accordance with this title, then the program shall cease to be in effect on a date to be designated by the Administrator in accordance with section 505 of this Act.

SEC. 505. PROCEDURE.

(a) PUBLICATION.—Before making any determination under sections 502 and 504, the Administrator shall publish a notice in the Federal Register and afford the State and all interested parties a reasonable opportunity to present their views by oral and written submission.

(b) NOTIFICATION.—The Administrator shall notify in writing the commissioner of the affected State of any determination made under this section and shall publish such determination with reasons therefor in the Federal Register.

(c) JUDICIAL REVIEW.—Any determination made by the Administrator under section 53 shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code, in the United States Court of Appeals for the circuit in which is located the State whose program is the subject of such determination or in the United States

Court of Appeals for the District of Columbia circuit. Any such review shall be instituted within 60 days from the date on which the determination made by the Administrator is published in the Federal Register.

SEC. 506. REPORTING REQUIREMENTS.

The Administrator, in cooperation with the Governors of the States, shall annually review the operation of State programs established in accordance with this Act and report on—

(1) the cost-savings resulting from the institution of any such program which meets or exceeds the national standards set forth in this Act and any subsequent savings resulting from the continuing operation of such programs;

(2) appropriate methods for refunding to the public any cost-savings realized from the institution and operation of such programs;

(3) the impact of such programs on the duplication of benefits when an individual has other insurance coverage which provides for compensation or reimbursement for lost wages or for health and accident (including hospitalization) benefits;

(4) the effect on such programs on court congestion and delay resulting from backlogs in State and Federal courts;

(5) the impact of such programs on injury rates and product safety; and

(6) the impact of such programs on competition within the insurance industry, particularly with respect to the competitive position of small insurance companies.

The Administrator shall make an annual report to the President and Congress on October 1 of the results of such review and determination together wtih his recommendations thereon.

SEC. 507. FINANCIAL ASSISTANCE TO STATES.

The Administrator is authorized to provide grants to any State for the purpose of reimbursing such State for any direct costs resulting from the implementation or administration of a program in accordance with this Act. The Administrator shall, by rule, establish procedures for awarding such grants on a fair and equitable basis among the States.

SEC. 508. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to the Administrator to carry out his responsibilities under this title such sums as may be necessary, not to exceed $20,000,000, to remain available until expended.

SEC. 509. NATIONAL STANDARDS.

A State establishing a product liability arbitration program in accordance with this title shall enact a law which incorporates at a minimum the provisions of title VI of this Act. The provisions of title VI, taken together, shall be known as the national standards for a State product liability arbitration program.

SEC. 510. STATE FULFILLMENT OF NATIONAL STANDARDS.

A State program is in accordance with this title if its standards conform with or are substantially comparable to the national standards. Any provision in a State program for which there is no corresponding provision in the national standards shall not be evaluated in determining whether such program meets or exceeds national standards, unless such provision is inconsistent with the national standards or the policy set forth in section 102 of this Act.

TITLE VI—NATIONAL STANDARDS FOR PRODUCT LIABILITY ARBITRATION PROGRAMS

PART A—LIMITATIONS ON PRODUCT LIABILITY LITIGATION

SEC. 601. APPLICABILITY OF MANUFACTURING STANDARDS.

It shall be a defense to any action seeking legal or equitable relief which alleges a product defect or failure resulting in injury, death, or property damage that the manufacturer or seller thereof complied with all Federal or State laws, including administrative regulations which prescribe standards for design, testing, labeling, inspection, performance, or manufacture of any such product at the time of its design and manufacture, except upon proper proof that such injury, death, or property damage was caused by the failure of such manufacturer or seller to comply with such Federal or State or administrative laws and regulations.

SEC. 602. STATE OF THE ART DEFENSE.

No judgment of any court or arbitration award of any panel established under the provisions of titles III or IV of this Act may be enforced against any manufacturer or seller if any such judgment or award was determined on the basis of the liability of the manufacturer or seller and the standard of decision for such determination was any other than the state of the art with respect to current manufacturing standards and procedures applicable or relevant to such product on the date it entered the stream of commerce.

SEC. 603. ALTERATION OF PRODUCTS.

No judgment of any court or arbitration award of any panel established under the provisions of titles III or IV of this Act may be enforced against any manufacturer or seller if the injury, death, or property damage, which was the basis of the judgment or award, was found to be caused by the misuse of the product or a modification or alteration of the product or any changes in the warnings, labeling, or instructions for use of the product by one other than the manufacturer or seller and which was not made at the direction, or with the consent, of such manufacturer or seller or was not reasonably foreseeable by such manufacturer or seller.

SEC. 604. STATUTE OF LIMITATIONS.

(a) ARBITRATION.—No action may be brought against any manufacturer or seller alleging a product defect or failure if any such action was brought after the 10th anniversary of the date on which such product was placed in the stream of commerce. Any actions brought after such date must be submitted to the arbitration programs provided for in titles III or IV.

(b) USEFUL LIFE OF PRODUCT.—No action or arbitration may be maintained if the court or panel finds the injury or damages sustained were sustained after the time period which a reasonable person would expect to be the ordinary useful life of such product.

SEC. 605. JUDGMENTS.

Payments in satisfaction of judgments or arbitration awards made in any action alleging a defect in a product or liability on the part of the manufacturer or seller of a product may be made in installments or on a partial or progress basis or otherwise as the court or panel may order. Each such periodic payment upon becoming due and payable under the terms of any such judgment or award shall constitute a separate judgment upon which execution may issue. Whenever the court or panel orders that judgments or arbitration awards be paid in the manner provided in this section such payments shall bear interest set at the annual rate the Secretary of the Treasury pays on outstanding obligations of the Federal Government from the day on which judgment or arbitration award is rendered.

PART B—FEDERAL PRODUCT LIABILITY COMPENSATION FUND

SEC. 606. FEDERAL PRODUCT LIABILITY COMPENSATION FUND.

(a) ESTABLISHMENT.—There is established in the Treasury a Federal Product Liability Compensation Fund which shall be available without fiscal year limitation to make full and complete payments in satisfaction of all judgments or awards made under the provisions of title IV, title V, or any judgment made by any court of the United States or of any State or any arbitration award made under the laws of the United States or of any State and which is entitled by law to enforcement by a court of the United States or of any State upon certification to the Administrator that the manufacturer or seller against whom such judgment or award is made cannot without undue hardship fully satisfy such judgment within 6 months of the date of its rendering and that it is in the public interest that such judgment be fully and promptly satisfied.

(b) PAYMENT FROM FUND.—Upon receipt of a certification by the Administrator, in such form and content as he may require approval thereof, and transmission to the Secretary of the Treasury, the Secretary of the Treasury shall pay out of the fund a sum equal to the amount of the amount of the judgment or award.

(c) COLLECTION FROM MANUFACTURERS.—The Administrator shall collect from the manufacturer or seller in partial, periodic, or progress payments determined by the Administrator to be just and equitable for the preservation of the sound business condition of such manufacturer or seller the full amount of the judgment or award certified under subsection (a) and paid under subsection (b) together with interest on the outstanding uncollected balance at the daily rate of interest for outstanding obligations of the United States, as determined by the Secretary of the Treasury, together with all costs associated therewith including reasonable attorneys fees, if any.

(d) AMOUNT OF FUND.—The fund established under subsection (a) shall initially be funded by a deposit of $30,000,000 from the general fund of the Treasury. Such sum shall be covered into the general fund of the Treasury from the fund when the aggregate amount in the fund exceeds $90,000,000 except that the fund shall be maintained at the level of $30,000,000 by subsequent deposits from the general fund of the Treasury as in the judgment of the Administrator from time to time may be necessary.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. TECHNICAL AMENDMENTS.

(a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(105) Administrator, National Product Liability Insurance Administration.

"(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(137) General Counsel, National Product Liability Insurance Administration.".

SEC. 702. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act except as may otherwise be provided under section 509 of this Act.

SEC. 703. SEPARABILITY

If the application of any provision of this Act to any person is held to be unconstitutional, such holding shall not affect the operation or validity of any other provision of this Act.

ANALYSIS OF MAJOR SECTIONS OF THE NATIONAL PRODUCT LIABILITY INSURANCE ACT

Declaration of Policy.—The Congress finds that annual losses throughout the nation from product defects or failures are increasing at a substantial rate.

Federal rules and regulations together with industry-wide standards are often determinative factors in the manufacture of products which are reasonably free of defects and unlikely to fail.

The nation cannot afford the tragic losses

of life nor of property caused by product defects or failures and compensation for such losses to individuals is frustrated by inability on the part of the courts to establish consistently and predictably the limits of liability of the manufacturer of products for injuries caused by such products.

It is in the public interest for manufacturers and sellers to have both an opportunity to obtain product liability insurance and access to more adequate limits of coverage so that they will be indemnified for their losses in the event of defect or failure of their products.

National Product Liability Insurance Administration.—There is established an independent National Product Liability Insurance Administration for the purpose of administering a joint underwriting authority to provide product liability reinsurance; supervising a National Product Liability Arbitration Program; and issuing Federal charters to captive insurance companies.

This Administration shall be under the general direction and supervision of a board of directors chaired by the Secretary of Commerce and composed of members of those Federal agencies concerned with product safety and twelve individuals appointed by the President and confirmed by and with the advice and consent of the Senate who are either attorneys who have had extensive experience in product liability litigation, engineers and scientists who have had background and experience in assessing product design, engineering, and use hazards; physicians who have also had experience in our authorities on the general category of medical and physiological disabilities caused by product defects or failure; and persons who are recognized as effective and responsible representatives of consumer interests.

National Product Liability Insurance Pool.—The Administrator of the National Product Liability Insurance Administration is authorized to offer to any insurer or pool, reinsurance against losses resulting from product liability claims.

Reinsurance offered under this title shall reimburse an insurer or pool for its total proved and approved claims for covered losses resulting from product liability claims during the term of the reinsurance contract, agreement, or other arrangement, in excess of the amount of the insurer's or pool's retention of such losses as provided in the reinsurance contract, agreement contract, or other arrangement entered into under this title.

The Administrator may negotiate an excess loan agreement under which the amount of insurance retained by the pool, after ceding reinsurance, shall be adequate to further the objective of maintaining appropriate financial participation and risk sharing to the maximum extent practicable on the part of participating insurance companies and other insurers.

In addition, the Administrator shall appoint a Product Liability Advisory Committee which shall advise the board of directors and the Administrator of the National Product Liability Insurance Administration in the preparation of any regulations and policy matters. This committee shall be composed of persons selected equally from among repreesntatives of the insurance industry, state and local governments, and consumer groups.

The Administrator shall also have the responsibility of disseminating information of product liability insurance and shall be the coordinator and provider of appropriate product defect prevention technique information and technical assistance to businesses and other interested parties. Other Federal agencies may participate and offer assistance in the furtherance of this function.

Captive Insurance Charters.—The Administrator is authorized to grant a Federal charter to a captive insurance company which has been organized to make insurance on risks, hazards, and liabilities of its parent or subsidiary companies of its parent or of the member organizations of an association. In order to obtain such a charter, a captive insurance company must demonstrate that adequate insurance markets in the United States are not available to cover the risks, hazards, and liabilities of the parent companies or association members to be insured or that such coverage is only available at excessive rates or with unreasonable deductibles. The Administrator must follow prescribed standards in supervising capitive insurance companies.

National Product Liability Arbitration Program Establishment.—There is established a National Product Liability Arbitration Program in each of the Federal district courts of the United States. The National Product Liability Insurance Administration in consultation with the Director of the Administrative Office of the U.S. Courts and each of the circuit executives of the several circuits of the United States shall plan the establishment of this program.

A product liability arbitration panel is established in each judicial district on a permanent or temporary basis. Each panel is composed of three individuals appointed to cover all actions to recover damages for injuries alleged to have been caused by product defect or failure. Each panel shall be selected by the chief judge of the judicial district from the following groups: attorneys-at-law admitted to practice before the bar of such court; a list of physicians who practice within the geographic confines of the judicial district; and, from the members of the public who reside in the judicial district. The panel shall receive compensation for their time in serving.

A party in a product liability action must serve upon the other parties a written demand for a jury trial within 10 days after the service of the last pleading directed at such issue. Failure to do so shall constitute a waiver by him of a jury trial and a binding election by him to place the matter under arbitration.

State Product Liability Arbitration Programs.—Each State may establish a program patterned on the Federal Product liability panels. Once the program is established, the Commissioner of Insurance in that State shall submit to the Administrator a certified copy of such program or relevant information which is requested by the Administrator. The Administrator has 90 days to determine whether a State has established a program in accordance with this title.

The Administrator shall review these programs once every three years to determine whether such program is still in accordance with this title and to evaluate the success of such program. The Administrator shall report to the President and Congress the result of reviews of State programs including any recommendations for legislation.

States are permitted to establish additional requirements as long as they are not inconsistent with the provisions of the programs and the policy set forth and declared in this Act.

The Administrator shall review the operation of the State programs to determine: the cost-savings resulting from the institution of such program; appropriate methods for refunding to the public any cost-savings realized for the operation of the program; the impact of such programs on the problem of duplication of benefits when an individual has other insurance coverage which provides for compensation or reimbursement for lost wages or for health and accident benefits; the effect of such programs and court congestion and delay resulting from back-logs and State and Federal courts; the impact of such programs and injury rates and product safety; and the impact that such programs have on competition within the insurance industry, particularly with respect to the competitive position of small insurance companies.

The Administrator is authorized to provide grants to States for the purpose of reimbursing such State for any cost resulting from the implementation or administration of a product liability arbitration program. Initially, $20,000,000 is authorized to be made available for grants to the States. As a condition for receiving Federal financial assistance a State must incorporate at a minimum the national standards for product liability arbitration programs by this Act.

A State program is in accordance with this title if its standards conform with or are substantially comparable to the national standards.

National Standards for Product Liability Arbitration Programs.—The following defenses are made available under this program.

1. *Applicability of manufacturing standards.*—The manufacturer's compliance with all Federal or State laws including administrative regulations which prescribe standards for design, testing, labeling, inspection, performance, or manufacture of any product at the time of its design and manufacture is a defense except upon proof that the injury, death, or property damage caused by a product defect or failure was due to a failure on the part of the manufacturer or seller to comply with such Federal or State or administrative laws and regulations.

2. *State of the Art.*—The manufacturing standards and procedures applicable or relevant to a product shall be those in use on the date such product entered the stream of commerce. It must be shown that these standards and procedures were in conformity with the highest recognized and prevailing standards and practices technically and economically feasible in existence within the industry at the time the relevant plan or design and methods, standards, and techniques of manufacturing, inspection and testing were used.

3. *Alteration of products.*—The misuse of the product or a modification or alteration of the product by one other than the manufacturer or seller and which was not made by or at the direction of or with the consent of such manufacturer or seller shall be a defense. This includes the misuse, modification, alteration and any changes in the warning, labeling or instructions for use of the product or change in the manner of use of the product from that which was reasonably foreseeable by the manufacturer. Other provisions of this title included:

Statute of Limitations.—A ten year statute of limitations is provided for the bringing of any actions alleging product defect or failure from the time the product was placed in the stream of commerce. Any actions brought after this date may be submitted to the arbitration programs provided for in Titles III and IV of this Act. In addition, no action may be maintained or arbitrated if the court or panel finds the injury or damages were sustained after the time period which a reasonable person would expect to be the ordinary useful life of the product.

Installment Payments of Judgments.—Payments in satisfaction of judgments or arbitration awards made in any action alleging defect in a product or liability on the part of the manufacturer or seller of product may be made in installments or on a partial or progress basis or otherwise with interest as the court or panel may order.

Product Liability Compensation Fund.—This Fund shall be available to make full and complete payments in satisfaction of all judgments or awards where the manufacturer or seller against whom a judgment or award is made cannot without undue hard-

ship fully satisfy the judgment within six months. The Administrator shall collect from the manufacturer or seller partial, periodic or progress payments with interest and with consideration for the preservation of the sound business condition of such manufacturer or seller.

By Mr. PROXMIRE:

S. 406. A bill to encourage financial institutions to help meet the credit needs of the communities in which they are chartered, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

Mr. PROXMIRE. Mr. President, the Community Reinvestment Act, which I am introducing today, is intended to establish a system of regulatory incentives to encourage banks and savings institutions to more effectively meet the credit needs of the localities they are chartered to serve, consistent with sound lending practices.

Although communities depend on their local institutions to supply capital for economic development, home mortgage loans, consumer credit, municipal finance, and a variety of other needs, the "convenience and needs" criteria as applied by regulators in their allocation of charters and branch approvals, have focused almost exclusively on deposit services.

An applicant must show that the growth of deposits in the service area is sufficient to justify another facility without unduly harming established institutions. But the other side of the coin—the credit needs of the locality and the applicant's capacity to service these needs—have been almost ignored by the regulatory agencies. If an applicant is deemed competent and the community's deposit base sufficient to justify his entry into the market, the financial institution has license to all but ignore the credit needs of the locality.

The Community Reinvestment Act is based on four widely shared assumptions:

First, because of our mixed economic system and the limited volume of tax revenues, the public sector cannot—and should not—finance all capital needs.

Second, private financial institutions are the main source of capital for domestic economic development, housing, and community revitalization, both in urban and rural areas.

Third, investment by financial institutions in their communities need not involve risks greater than those normally taken by prudent lenders, and often involves less risk because of the lender's firsthand knowledge of his community.

Fourth, a public charter conveys numerous economic benefits and in return it is legitimate for public policy and regulatory practice to require some public purpose, without the need for costly subsidies, or mandatory quotas, or a bureaucratic credit allocation scheme.

The bill focuses on depositary financial institutions—primarily commercial banks, mutual savings banks, and savings and loan associations. These institutions supplied $382 billion of new credit during the last 4 years, or 55 percent of the total amount extended in U.S. credit markets. Of the $382 billion, $55 billion was loaned abroad. During the same period, depositary institutions obtained consumer savings deposits of $301 billion from individual depositors. These institutions thus play a strategic role in allocating the public's savings. Their collective decisions help to shape the communities we live in, our economic well-being, and have a profound impact on our daily lives.

The Federal bank regulatory agencies have considerable influence over financial institutions. One of the most significant powers is the authority to approve or deny applications for deposit facilities. Persons wishing to organize a bank or savings institution must apply for a charter. Once established, the institution can apply for branches or remote terminals with the ability to accept deposits. It can request the relocation of its home office or branch. It can seek to acquire another institution through merger. Or it can form itself into a holding company and acquire other financial institutions as holding company subsidiaries.

The authority to operate new deposit facilities is given away, free, to successful applicants even though the authority conveys a substantial economic benefit to the applicant. Those who obtain new deposit facilities receive a semiexclusive franchise to do business in a particular geographic area. The Government limits the entry of other potential competitors into that area if such entry would unduly jeopardize existing financial institutions. The Government also restricts competition and the cost of money to the bank by limiting the rate of interest payable on savings deposits and prohibiting any interest on demand deposits. The Government provides deposit insurance through the FDIC and the FSLIC with a financial back-up from the U.S. Treasury. The Government also provides ready access to low cost credit through the Federal Reserve Banks or the Federal Home Loan Banks.

In return for these benefits, financial institutions are required by law and regulatory policy to serve the "convenience and needs" of their communities as a condition for acquiring new deposit facilities. The "needs" of a community clearly include the need for credit services as well as deposit services. However, in practice, the regulators have tended to ignore credit needs and have focused primarily on deposit needs. An applicant for a deposit facility is required to demonstrate in great detail that the community needs additional deposit services. However, the regulators do not require any comparable analysis of the community's need for credit and how the applicant proposes to meet that need.

In practice, applicants for a charter may be interested in meeting the communities' credit needs—or they may be interested primarily in financing their own outside business interests; or they may wish to invest the community's savings in farflung ventures. Under present practice, their inclinations do not weigh heavily in the decision to award a charter or a branch.

The regulators have thus conferred substantial economic benefits on private institutions without extracting any meaningful quid pro quo for the public. Other regulatory agencies have not been as timid when awarding charters. For example, the FCC requires radio and TV license applicants to indicate how much public service broadcasting they will provide. Further, FCC licenses must be renewed periodically and renewals can be denied for failure to serve the public.

The proposed legislation directs the bank regulatory agencies to use their influence to award applications for deposit facilities in a way that will benefit local communities as well as bankers. An applicant for a deposit facility would be required to:

First, designate the area from which it expects the deposit facility will draw more than one-half of its deposit customers—primary savings service area;

Second, analyze the deposit and credit needs of that area and how those needs would be met by the new charter or branch;

Third, indicate the proportion of consumer deposits obtained from the primary savings service area that will be reinvested in that area; and

Fourth, demonstrate how the applicant is meeting the credit needs of the areas in which it has already been chartered to do business.

An application for a deposit facility is defined to include applications for: First, new Federal charters; second, deposit insurance by newly chartered State institutions; third, branches, including remote terminals with the ability to accept deposits; fourth, home office or branch relocations; fifth, mergers with existing institutions; and sixth, acquisitions of existing institutions by financial holding companies. The requirements in the bill apply only to applications otherwise required under existing law or regulations and do not provide any new authority to the bank regulatory agencies.

The bill states that in carrying out their existing authority to approve applications for deposit facilities, the regulatory agencies shall give due consideration to the applicant's past record in meeting community credit needs and its willingness to do so in the future. This does not mean that the regulators would consider community credit services as the only factor in approving or denying deposit facility applications.

On the contrary, the agencies would continue to apply the criteria they have traditionally used for approving deposit facility applications, as spelled out under existing law and regulations. These include the financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, and the convenience and needs of the community to be served.

The bill would not inject any significantly new element into the deposit facility application approval process already in place. Instead, it merely amplifies the "community need" criteria already contained in existing law and regulation and provides a more explicit statutory statement of what constitutes

"community need," to make clear that it includes credit needs.

In order to give the regulators a better picture of community credit needs, the bill directs the regulators to encourage testimony from community organizations at deposit facility application hearings. These hearings will afford the regulators an opportunity to assess how well an institution is meeting the credit needs of the communities in which it is already chartered to do business and how the community regards its proposal for a new deposit facility. Those who testify can be representatives of the communities already served as well as the community to be served. The deposit facility approval process can thus be systematically used to reward those institutions with a good record of community services.

The bill is not intended to force financial institutions into making high risk loans that would jeopardize their safety. Indeed, the bill specifically requires that any action taken by the bank regulators must be "consistent with safe and sound" banking practices. Moreover, there is no reason to assume that a higher degree of community reinvestment is incompatible with bank safety. Rebuilding and revitalizing communities threatened by decline is good for the communities and good for banking. Financial institutions cannot prosper in the long run unless we have balanced growth and development throughout America.

Finally, there is no evidence that banks or thrift institutions have gotten into financial difficulty by overinvesting in their local communities. On the contrary, most of the recent financial difficulties suffered by banks arose from making insider loans to affiliated persons and speculative loans outside the community in which the bank was chartered.

The bill also does not substitute the judgment of the regulator for the judgment of a banker on individual loans. Each bank or savings association will be free to exercise its best judgment on individual loan applications. However, a bank's overall community lending record would be reviewed when it applied for new deposit facilities and this record would be considered along with other factors in deciding on the application.

The bill should also be helpful in paving the way for a liberalization of branching restrictions at the State or Federal level, should Congress or the States decide to ease those restrictions. One of the most persistent arguments against branching is that outside institutions might use their branches to siphon deposits away from local communities. The policies contained in the Community Reinvestment Act should be useful in alleviating any fears that a more liberal branching policy would be inimical to community welfare.

By Mr. CHURCH:

S. 407. A bill to provide that time spent by American civilians in enemy prisoner-of-war camps and similar places shall be creditable—as though it were military service—toward pensions, annuities, or similar benefits under various Federal retirement programs; jointly, by unanimous consent, to the Committees on Finance, Labor and Public Welfare, Post Office and Civil Service, and Armed Services.

CIVILIAN POW RELIEF

Mr. CHURCH. Mr. President, today I am reintroducing legislation to provide retirement credit for time spent as prisoners of war by civilians after December 7, 1941. This bill is identical to legislation which was strongly supported by former Congresswoman Patsy Mink, whom I joined in introducing it in the 94th Congress. It would provide credit toward social security, railroad, civil service and military retirement to civilian prisoners of war for the time they spent imprisoned.

Among those who would benefit from this bill are a group of civilians employed by contractors at Pacific naval air bases during World War II. Many in this group were captured on Wake Island, Guam, and Cavite by the Japanese at the outset of that conflict.

These gallant Americans endured grievous suffering during their lengthy internments. Their numbers and the numbers of their survivors are small. As Congresswoman Mink has observed, providing retirement credit to them for these terrible years would be consistent with the purposes of the section of Public Law 92–603 which extends social security credit for the time spent by Japanese-Americans in American detention camps during this same period.

Although some Federal benefits are available to civilian POW's, I believe that allowing retirement credit for their internments is an eminently fair measure. Although the rules of the Senate mandate that it be considered by several Senate committees, I hope that it will receive the Senate's most sympathetic attention.

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask unanimous consent that a bill introduced by Senator CHURCH relative to retirement credit for American civilians in prisoner-of-war camps be referred jointly to the Committees on Finance, Labor and Public Welfare, Post Office and Civil Service, and Armed Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. HUDDLESTON (for himself and Mr. DOLE):

S. 408. A bill to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8 (b) of the Soil Conservation and Domestic Allotment Act, and for other purposes; to the Committee on Post Office and Civil Service.

Mr. HUDDLESTON. Mr. President, the Agricultural Stabilization and Conservation Service is the agency of the U.S. Department of Agriculture that administers specified commodity and related programs designed for production adjustment, resource protection, and price, market, and farm income stabilization. County ASCS employees are employed by county ASCS committees established pursuant to section 8(b) of the Soil and Domestic Allotment Act as amended. Although county ASCS employees help administer Federal programs assigned to the committees by the Congress, Secretary of Agriculture, Executive order, et cetera, they are not included under the civil service system, because the act specifies that these programs shall be administered at the county level by farmer elected committmen.

The Congress has extended to county ASCS employees the same retirement, leave, insurance, and other benefits provided civil service employees, as well as the opportunity to transfer to other agencies within the USDA. The legislation which I am introducing today, if enacted, would permit county office employees of the Agricultural Stabilization and Conservation Service to carry their leave balances, leave earning capacities, years of service, et cetera, to governmental departments other than USDA.

Mr. President, ASCS county employees help administer Federal programs. They are qualified, skilled, and competent and they should be afforded the same transfer opportunities available to other Federal employees. I would like to point out that this legislation would not permit county ASC employees to bypass any eligibility requirements or give them any privilege to "bump up."

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5334(f) of title 5, United States Code, is amended by striking out "under the Department of Agriculture".

(b) The first sentence of section 6312 of title 5, United States Code, is amended by striking out "in the case of any officer or employee in or under the Department of Agriculture".

(c) Section 3502(a)(C) of title 5, United States Code, is amended by striking out "who is an employee in or under the Department of Agriculture".

SEC. 2. The amendments made by the first section of this Act shall take effect on the date of the enactment of this Act.

By Mr. CURTIS (for himself and Mr. ZORINSKY):

S. 409. A bill to designate the Meat Animal Research Center located near Clay Center, Nebr., as the Roman L. Hruska Meat Animal Research Center; to the Committee on Agriculture and Forestry.

Mr. CURTIS. Mr. President, as we begin this new session of Congress, I wish to take a few minutes to remember a distinguished Member of the previous Congress. Senator Roman Hruska retired last month after years of fine service in the Senate. Today we want to call attention to one of his most important achievements for the State of Nebraska.

The chief economic asset of our State is the beef cattle industry. Nebraska has for many years ranked at the top in beef production. The Omaha Livestock Market was for a number of years regarded as the largest in the world.

To preserve the vitality and success of

the American beef cattle industry, there has been established near Clay Center, Nebr., the U.S. Meat Animal Research Center, a facility under the administration of the Agricultural Research Service of the U.S. Department of Agriculture.

What began in the early 1960's as a farsighted idea for the improvement and advancement of meat animal research has now become a 35,000-acre reality. The center, authorized by the Congress on June 16, 1964, has been developed as a result of the active and enthusiastic cooperation between Nebraska agricultural officials and the U.S. Department of Agriculture. No one person has had more to do with the creation of this facility than our former Senator from Nebraska.

The Meat Animal Research Center came about after a decision in 1959 by the Department of Defense to close the Naval Ammunition Depot at Hastings, Nebr. A gradual phaseout was to be completed by July 1, 1966. The depot comprised some 48,000 acres of land. The General Services Administration notified the various Federal agencies of this fact and asked if any of them had a need for the property.

The Agricultural Research Service responded to this offer. Negotiations were held, plans were drawn, and approval by the Secretary of Agriculture was received. The first 10,000 acres were transferred to the Department of Agriculture, the planning of phases I and II of a meat animal research center was accomplished by the Agricultural Research Service and Nebraska officials, and a Director was appointed.

Mr. President, it was at this point that the project appeared to be well established. One crucial item, however, was still in doubt—adequate funding. As a member of the Subcommittee on Agricultural Appropriations, Senator Hruska saw the potential benefits such a project would have for not only Nebraska, but the entire Nation.

Included in the submission of the 1966 fiscal year budget to the Congress, the Bureau of the Budget requested $3.5 million for the Clay Center facility. The request included $1.5 million for laboratories, offices, a heating plant, and feed processing and storage areas. Also planned were $1 million for beef cattle housing and $500,000 for swine and sheep housing.

Throughout the planning and construction phases of the center, Senator Hruska—from his vantage point on the Appropriations Committee—kept a constant eye on the progress and activities of the new project. As each phase unfolded, and appropriations were needed to meet rising costs or added personnel, he was there to insure that adequate funds would be made available.

His tireless work for the Meat Animal Research Center did not go unnoticed by his colleagues on the Appropriations Committee. They quickly came to realize that this facility would some day become one of the finest and most effective of its kind in the world.

Mr. President, in announcing the Department of Agriculture's decision to go ahead with the project in November of 1965, Senator Hruska stated:

With our economy so emphasizing livestock and feed grains, it is imperative that we apply this same kind of technology and research that has gone into other aspects of agriculture.

The work that was begun nearly 12 years ago has reached fruition and is providing scientific information that has proved invaluable to the meat animal industry in this country.

Mr. President, because of the longstanding contributions of Senator Hruska to the U.S. Meat Animal Research Center, I am proposing on behalf of Senator ZORINSKY and myself that the facility be designated as the Roman L. Hruska Meat Animal Research Center.

To those in Nebraska and elsewhere who know how greatly this facility contributes to the improvement of the meat animal industry, it is entirely appropriate that this designation be made. It would be but a small tribute to the personal time, effort, and energy that Senator Hruska has expended through the years on this Center. It would serve to remind all those who visit the Center and come into contact with its outstanding work that our friend and colleague from Nebraska devoted himself to the establishment and operation of such a worthy and lasting facility.

Mr. President, on behalf of myself and my colleague, Senator ZORINSKY, I send to the desk a bill to redesignate the above-mentioned facility the Roman L. Hruska Meat Animal Research Center.

By Mr. HANSEN (for himself, Mr. DOLE, Mr. INOUYE, Mr. MATSUNAGA, Mr. MELCHER, Mr. METCALF, Mr. STAFFORD, and Mr. THURMOND):

S. 410. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by optometrists in the peer review and related activities under such part; to the Committee on Finance.

LEGISLATION SEEKS TRUE PEER REVIEW

Mr. HANSEN. Mr. President, in 1976, I introduced legislation directed toward my concern over the present status of true peer review procedures under the Professional Standards Review Organization section of the Social Security Act.

I am concerned that the procedures outlined by this act do not make true peer review a reality for the independent health profession of optometry.

The primary care profession of optometry was a leading proponent of the true peer review concept. Therefore, optometry was understandably disturbed when current language of the Social Security Act excluded optometrists from any meaningful participation in the program.

The legislation that I am introducing today addresses my concern and is designed to accomplish two major objectives:

First. Insure that the public benefits from quality health care at reasonable costs by assuring that true peer review takes place. This would be best accomplished by specific provisions that require each independent health care profession evaluate their own specialties.

Second. Insure the continuity of minimum cost quality care by the viability and creation of independent primary care advisory groups composed of optometrists, dentists, and other health care providers.

Optometry is the only professional health group qualified to review the care given by optometrists. By virtue of their specialized education, training and practice, they are capable of fully reviewing optometric patient care situations to guarantee that each individual receives the quality care he needs at a reasonable cost.

According to the current act, a profession which is not familiar with the education and procedures of another profession would be establishing criteria for evaluating and finally reviewing that profession. Evaluation implies that judgments made will be based on the evaluator's own professional background and experience. Thus, the patient cannot receive the highest quality care an optometrist is trained to offer when the final criteria for evaluating that care is established by another professional who is unfamiliar with the full scope of optometric care and procedures.

I believe that coordinating the peer review program with advisory groups is also imperative and can prevent potential difficulties as the review process enlarges and includes outpatient services. Such coordination with advisory groups would eliminate the strife between the PSRO and other health advisory groups.

Mr. President, the costs of health care are rising rapidly today. By establishing true peer review, we can assure that the individual patient receives the highest quality health care at reasonable costs. The Senate Finance Committee report clearly intended that health care professionals of like education and training should comprise each profession's review group, but unfortunately this was not carried into law.

I urge speedy consideration of this amendment to correct this language and make the Professional Standards Review Organization more attentive to individual patient needs. This was, after all, our ultimate goal when we originally enacted this legislation.

I ask for my colleagues' prompt attention toward the enactment of this amendment.

By Mr. PROXMIRE (for himself and Mr. BROOKE):

S. 411. A bill to encourage localities to develop strategies and to use available Federal assistance for the preservation of neighborhoods and the reclamation of existing housing stock to the Committee on Banking, Housing and Urban Affairs.

NEIGHBORHOOD PRESERVATION ACT OF 1977

Mr. PROXMIRE. Mr. President, today Senator BROOKE and I are introducing the Neighborhood Preservation Act of 1977. On the basis of the committee's hearings on the use of community de-

velopment bloc grants, on redlining, and on the problems of neighborhoods generally, I am convinced that we must give more attention to preserving and revitalizing our existing housing stock and our vital, diverse urban neighborhoods.

I am planning to submit several pieces of legislation to encourage neighborhood preservation. A renewed emphasis on preservation is appropriate at a time when many people are looking for a sense of community and stability and when older neighborhoods have taken on a new attraction. Further, a conservation strategy is especially timely now, when the money simply is not there to launch sweeping, expensive new urban programs to rebuild from scratch.

I believe that this scarcity can be converted into a virtue if it leads us to make better use of our resources. The legislation we are proposing today would not involve new spending authority, but it would require localities to devise better strategies for preserving neighborhoods and saving existing housing stock, and to emphasize preservation goals in their expenditure of Federal subsidy dollars.

The 1974 Housing and Community Development Act was a necessary move away from the maze of overlapping categorical programs. I believe it has had the effect of invigorating local government by encouraging citizens to look to local officials rather than to Washington for the specifics of local urban programs. But our oversight hearings last year showed that in many communities the impact of CD dollars is far too diluted. Understandably, local elected officials are under pressure from their constituents to spread the dollars around.

While I firmly believe that the details of community development must be left to local officials and community residents, it is clear that there needs to be a greater degree of congressional guidance. Otherwise, we may find that the impact of CD block grants has been so diluted in many cities as to have no real impact at all.

The bill we are introducing today does three things.

First, it requires the Secretary of HUD to encourage cities to give a higher priority to the preservation and rehabilitation of existing housing than they have in the past. Many cities have had great success in using both traditional public housing and section 8 assistance as mechanisms to acquire and restore decaying buildings. We need to build on this experience. When low-rent housing is provided through rehabilitation of buildings that otherwise would soon be lost to abandonment, this not only creates decent homes, it also shores up entire neighborhoods. And it provides jobs. Rehabilitation is even more labor intensive than new construction, and it creates jobs right in the communities where unemployment tends to be highest. I believe it is time to give rehabilitation a higher priority.

Second, the bill would require localities to provide as part of their housing assistance plans a plan to identify and reclaim deteriorated housing stock where feasible. Under present law, localities must devise a plan for housing people of low and moderate income. Our bill would add a second dimension. Communities would also be required to formulate a strategy for reclaiming decaying housing, as a major part of its strategy for housing low- and moderate-income families.

The bill includes a list of acceptable approaches for achieving this objective.

Third, the legislation requires a greater degree of targeting, both in the use of community development block grant funds as well as section 312 loan funds. A strategy for revitalizing neighborhoods requires a "critical mass" of visible improvements in a neighborhood with the active participation of neighborhood residents. In this way, confidence is restored, people begin to take pride in their community, and the neighborhood is again seen as a place that is "coming back up" rather than continuing to decline. When confidence returns, it is not necessary to rely so heavily on huge public expenditures, because it is possible to leverage local private sector money. But the public money can serve as a catalyst, if it is wisely spent.

The bill requires localities to designate "concentrated revitalization areas," in which at least 90 percent of section 312 loans must be allocated. This approach is a return to the time when the section 312 program was used only in concentrated code enforcement areas. Since the program became divorced from the old concentrated code enforcement areas, its impact became so diffused that it now has little use as a neighborhood preservation device.

The section 312 program has also led to windfalls, because there have been no income limits for the recipients of the 3 percent loans. Therefore, in addition to requiring that 312 loans be concentrated, the bill also substitutes a sliding scale for the old 3 percent rate, and it limits the program to homeowners with incomes of less than $20,000, except in unusual circumstances.

By requiring communities to target community development funds more effectively, I am not embracing what has been called a "triage" approach, which simply writes off the worst neighborhoods as hopeless cases. On the other hand, I do believe it is useful for localities to adopt a long-range plan, which concentrates assistance into particular neighborhoods for a period of time, and then moves on to other neighborhoods. In this way, over a period of time, assistance can have significant impact on most needy communities. But rather than giving every area a little bit every year, this approach maximizes the impact of assistance by concentrating on a few neighborhoods at a time.

The bill I am introducing today is not the only change I believe is needed in the 1974 Housing and Community Development Act. The formula needs to be modified to ensure that assistance flows to areas of greatest need, and there is a need for other technical revisions as well.

I plan to introduce additional measures to encourage neighborhood preservation, including legislation to encourage financial institutions to reinvest in their communities, and legislation making the neighborhood housing services program permanent. I will also reintroduce the National Neighborhood Policy Act, which passed the Senate unanimously last year.

Mr. BROOKE. Mr. President, I join today with our Banking Committee Chairman, Senator PROXMIRE, in cosponsoring two important bills which will assist in the preservation of our urban neighborhoods and the rehabilitation of our existing housing stock—the Neighborhood Preservation Act of 1977 and the National Neighborhood Policy Act.

The Neighborhood Preservation Act will encourage local communities to develop strategies for housing preservation by using all available Federal assistance to revitalize declining neighborhoods. The bill provides that communities shall emphasize the rehabilitation of existing housing in their low-rent, housing programs and maximize the use of neighborhood preservation strategies in their applications for funding under the community development block grant program.

To accomplish this objective, communities will be required to identify their rehabilitation needs in a "housing preservation plan" which will be submitted as part of their housing assistance plan—HAP—in applying for community development funding. This emphasis on rehabilitation is fully consistent with the primary objectives of the community development program—to benefit low- and moderate-income families and aid in the elimination of slums or blight.

This bill also amends the section 312 rehabilitation loan program, which has been used with much success by many communities in Massachusetts and throughout the country. Under this bill, each community must target its loan activity primarily in low- and moderate-income neighborhoods, which have a large housing stock suitable for homeownership. The revised loan program will have a flexible interest rate—from 3 to 7 percent depending upon family income. This bill will help our cities develop rational strategies to deal with one of their great untapped resources—the large number of existing buildings which are suitable for rehabilitation and can provide decent, affordable housing for residents of our cities.

At the same time, we must explore the broader issues of the future of our neighborhoods. All levels of government are beginning to recognize that our cities' neighborhoods are valuable resources which must be preserved and conserved. We must develop a comprehensive policy to encourage conservation of existing urban neighborhoods. The National Neighborhood Policy Act will establish a National Commission on Neighborhoods composed of 20 members, including two Senators, two Representatives, and 16 public members appointed by the President. The Commission will investigate the factors contributing to neighborhood decline and revitalization, and develop recommendations for changes in laws, policies, and programs to encourage neighborhood preservation. The Com-

mission will report to the Congress and the President within 2 years.

The National Neighborhood Policy Act passed the Senate last session and was favorably reported by the House Committee on Banking, Currency and Housing but not acted upon by the House during the last session.

Mr. President, I believe that the enactment of these two bills will not only provide a focus for the rehabilitation efforts now underway in many communities throughout the country, but also stimulate neighborhood revitalization in areas where such activity is not currently taking place. I urge my colleagues to give these two measures their serious consideration.

By Mr. HUMPHREY:

S. 412. A bill to provide for congressional reforms, to strengthen the role of Congress as a coequal branch of Government, and for other purposes; to the Committee on Government Operations.

MODERN CONGRESS ACT OF 1977

Mr. HUMPHREY. Mr. President, the U.S. Senate is currently engaged in an ambitious effort to modernize and rationalize its procedures and to reorganize its committee system.

The reorganization is based on Senate Resolution 4, the resolution embodying recommendations of the Temporary Select Committee To Study the Senate Committee System, and subsequently revised as the result of hearings before the Rules Committee.

The select committee was created to address the generally acknowledged problems of too many conflicting responsibilities confronting each Senator, and fragmented and overlapping committee jurisdictions that often work against prompt, thorough, and integrated treatment of national policy issues.

We are now working to refine this broad package of proposals to adopt the most promising innovations, and to preserve and invigorate those elements of our current structure that demonstrably work.

At the same time, we are considering important rules changes to strengthen the role of party leadership, increase the flexibility of Senate procedure, develop a consistent and rational policy for bill referrals, and encourage a coordinated and long-range approach to programs and policies whose implications go beyond the scope of any single standing committee jurisdiction.

The effective function of the Senate depends not just on structure and organization, but also on the management tools, techniques, and resources available to provide each Senator with complete and current factual information to respond to the increasing complexity of issues.

This implies the need to overhaul some of our more antiquated and cumbersome practices, both procedural and administrative. To review this aspect, the 94th Congress established a Commission on the Operation of the Senate. The Commission has submitted its final report. The Senate will be considering a number of proposals based on Commission findings and recommendations and designed to economize time and space, to improve legislative and oversight functions, to codify ethical standards, to improve internal and external communications, and to apply technology to informational needs intensified by the increasing scope and complexity of the issues confronting the Senate.

The select committee and the Commission are to be congratulated on identifying the problems inherent in current practices, and presenting possible solutions. Their work will put a lasting imprint on how this Senate institution works.

In a piecemeal fashion, most of us have offered, and seen adopted, limited improvements in Senate operations over the years. We have been chipping away at the patina of tradition and inertia that seriously cripples the ability of the Senate to perform wisely and well, and to maintain the respect and power commensurate with its role in our system of checks and balances. To fail to address this challenge is to acquiesce in a shift in the balance of power to the executive branch at the expense of the people's representatives.

Since I first introduced the Modern Congress Act, some of its original tenets, such as open committee meetings, have been adopted along with other reforms which have materialized or are underway. The systematic, periodic review and evaluation of Government programs; financial disclosure; and an office of congressional legal counsel were embodied in major legislation which passed the Senate last year and which stand an excellent chance of being enacted in this Congress.

And now the Senate has established a special committee to draw up a code of conduct. To develop such a code is to acknowledge the legitimate interest of the public in honest and effective government. But it also serves the interest of the Congress by setting clear and specific standards by which Members' conduct can be guided and judged.

I have revised the Modern Congress Act to reflect these developments. I introduce it again because we are moving on a wave of reform, and I would like to insure that the proposals in this bill are high on the agenda. They are essential to help Congress set its house in order, improve its working tools, respond to justifiable public concern for economy, and buttress the special strengths and virtues of legislative debate and decision.

Title II of my bill calls for a formal State of the Congress report by the congressional leadership. By formalizing this customary report, we will underline the stature, independence and viability of our institution. It can focus both congressional and public attention on objectives, achievements, and priorities. The report, in the form of speeches, would be presented within the first 10 days of each session of Congress, and it would help both to define a work agenda within the broad context of national policy and to enlist informed public participation in the legislative process.

Title III creates a 24-member bipartisan Federal-State Legislative Council for intergovernmental exchange between the national Congress and State legislative bodies. Six Senators and six Representatives would serve on the Council, along with 12 State legislators.

Many of my colleagues have, at one time, served as members of State legislatures. Their experience verifies the complementary and related role of the two levels of government. By this pooling of local and national resources and perspectives, the Council could bring a new dimension to American federalism.

Title IV of my bill creates an Office of Congressional Communications. The quality of congressional information and communications system has a major, direct bearing on the decisions we make in this Chamber. The Legislative Reorganization Act of 1970, the Technology Assessment Act of 1972, and the Congressional Budget and Impoundment Control Act of 1974 all significantly improved and expanded research and analytical resources available to Congress. But Congress still confronts the problem of getting the needed information promptly in usable form for decisions.

A part of this problem results from our failure to employ innovations in the field of communications. Large organizations have benefited from modernized technical facilities but, in some ways, Congress continues to function as a collection of small, independent operators.

Advances in the field of video recording offer great potential to congressional offices. The OCC would include a video library of news programs, documentaries and other appropriate broadcasts. The OCC would establish a network of television facilities within the Capitol itself and in Members' offices to allow monitoring of congressional hearings, floor proceedings, and other congressional business. It also would conduct a full-scale experiment of wider broadcasting of floor proceedings. As pointed out in the Hughes commission report, televised floor proceedings, in some form, are permitted in the legislatures of more than 20 nations, the United Nations, and 44 State legislatures.

Reflecting proposals by both the select committee and the Commission, title V calls for the creation of a computerized clearinghouse for committee meetings. It is my understanding that such a system is now being developed, and this legislation specifies its scope and operation.

As I did in the previous bill, I have addressed, in title VI, the Senate's need for independent legal counsel to represent it in court proceedings involving other agents of the Government. In addition to the growing volume of litigation involving Congress and its Members, Congress should have the capability to institute appropriate litigation to assure that the intent of Congress in legislation enacted into law is fully carried out.

A provision creating a congressional counsel was included in the Watergate Reorganization and Reform Act which passed the Senate last year, and this serves as my model. However, my bill would not defer its creation until the House concurs, but would designate a

Senate Office of Legal Counsel, which could be consolidated into a Congressional Legal Counsel at such date as the House may pass comparable legislation.

In line with the established need to strengthen congressional support agencies, I include, as title VII, new powers for the General Accounting Office, one of the main fact-finding arms of the legislative branch. Current limitations inhibit the GAO from obtaining information vital to the operation of Congress. My bill gives the GAO new powers, such as the ability to subpena information and the power to bring individuals to court.

Mr. President, my proposals address specific problems and challenges that face Congress. They are necessary to maintain the vigor and the status of a cherished American institution. Americans are proud of the tradition of a Congress in which great men have debated issues, crystallized public opinion, forged public policy, and acted with responsibility, courage, wisdom, and proud independence.

A Congress which is fumbling, powerless, and inept may retain some sentimental value as an institutional curiosity or a historical artifact. But in a true sense it would not be tradition. It is, and must remain, traditional for Congress to respond with imagination and leadership to the particular problems and challenges of its era. In the Modern Congress Act, I am proposing measures to help us achieve this aim.

Mr. Preisdent, I ask unanimous consent that the text of the Modern Congress Act of 1977 be included at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 412

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 101. This Act may be cited as the "Modern Congress Act of 1977".

POLICY AND PURPOSE

SEC. 102. It is the policy of the United States Congress that the public is entitled to the fullest practicable information regarding the initiatives, priorities, and the decisionmaking process of the Congress.

SEC. 103. The role of the United States Congress as a coequal branch of Government should be strengthened so that it may more effectively carry out its constitutionally delegated responsibilities.

SEC. 104. Existing methods and procedures need to be modified or new ones introduced to transform the United States Congress into an up-to-date institution able to effectively meet the challenges of the 20th century.

SEC. 105. Intergovernmental communication between legislative institutions at all levels should be encouraged because similar problems, outlooks, and goals are of mutual concern.

TITLE II—"STATE OF THE CONGRESS" REPORT

SEC. 201. To establish a tradition of significance and to increase public awareness of the role played by the United States Congress, the majority and minority leaders of the Senate and the House of Representatives shall, either jointly or individually, submit to the Congress and the President a "State of the Congress" message with respect to each session.

SEC. 202. (a) Each such message shall include statements, with respect to each session, concerning—

(1) those matters about which Congress has taken the initiative;

(2) priorities established by the Congress;

(3) matters not acted upon by Congress but upon which Congress should act or have acted; and

(4) those other matters in the foreseeable future to which Congress must address itself.

(b) The "State of the Congress" message will be prepared at the end of each regular session of Congress and presented to the Nation within the first ten days of the subsequent session.

TITLE III—FEDERAL-STATE LEGISLATIVE COUNCIL

SEC. 301. (a) A Federal-State Legislative Council (hereinafter referred to as the "Council") is hereby established which shall be composed of twenty-four members appointed to achieve a geographic balance and representation as follows:

(1) six members to be appointed by the President of the Senate from the United States Senate;

(2) six members to be appointed by the Speaker of the House of Representatives from the United States House of Representatives;

(3) six members to be appointed by the President of the Senate from among a list of twenty-four persons nominated by the National Legislative Conference and the State legislative leaders organization from among the members of the upper legislative bodies of the several more States; and

(4) six members to be appointed by the Speaker of the House from among a list of twenty-four persons nominated by the National Legislative Conference and the State legislative leaders organization from among the members of the lower legislative bodies of the several States.

(b) Of the members enumerated in subsection (a) (1) and (2) of this section, three shall be from the majority party of each House and shall be appointed from Members designated by the majority leaders of the respective Houses and three shall be from the minority party of each House and shall be appointed from Members designated by the minority leaders of the respective Houses. Of the Members enumerated in subsection (a) (3) and (4) of this section, not more than six shall be from any one political party.

(c) The term of office of each member of the Council shall be four years; members may serve until their successors are appointed, except that in any case in which any member ceases to serve in the official position from which he was originally appointed under this section, his term of office on the Council shall terminate at the time he ceases to serve in such official position. No member may serve for more than two terms.

(d) Any vacancy in the membership of the Council shall not affect its powers and shall be filled in the same manner as the original appointment was made.

(e) The Council shall select a Chairman and Vice Chairman from among its members annually. The Vice Chairman shall act in the place of the Chairman in the absence of the Chairman. The Chairman shall alternate between members of the Council appointed from the United States Congress and members appointed under subsection (a) (3) and (4) of the first section of this title. The Vice Chairman shall be chosen from the category of members other than the category from which the Chairman was selected.

(f) Seven members of the Council shall constitute a quorum, but two or more members shall constitute a quorum for the purpose of conducting hearings.

SEC. 302. (a) The Council shall form substantive committees to conduct studies to identify and investigate problems common to the legislative process and are of mutual concern to the legislatures of both the Federal and State Governments. Based on such studies, the Council shall make such recommendations from time to time for the solution of these problems as it deems appropriate. The Council shall also develop and prepare proposed legislation to carry out its recommendations.

(b) The Council shall meet at least once quarterly but may hold such additional meetings as it deems necessary. At least one-half of the meetings held by the Council shall be held outside Washington, D.C.

(c) The Council may issue such reports regarding its findings and recommendations, and shall submit an annual report of its findings and recommendations to the President and the Congress, the State Governors, and each State legislature not later than the first day of February of each year.

SEC. 303. (a) The Council or, on the authorization of the Council, any committee or members thereof, may, for the purpose of carrying out the provisions of this title hold such hearings, take such testimony, and sit and act at such times and places as the Council, committee, or member deems advisable. Any member authorized by the Council may administer oaths or affirmations to witnesses appearing before the Council or any committee or member thereof.

(b) Each department, agency, and instrumentality of the Federal Government, including each independent agency, is authorized and directed to furnish to the Council, upon request made by the Chairman or Vice Chairman, such information as the Council deems necessary to carry out its functions under this title.

(c) Subject to such rules and regulations as may be adopted by the Council, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

SEC. 304. (a) A member of the Council who is a Member of Congress or a full-time salaried official of the body of which he is a member when appointed to the Council shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Council.

(b) A member of the Council other than one to whom subsection (a) of this section applies shall receive $100 per day when engaged in the actual performance of duties vested in the Council and shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

TITLE IV—OFFICE OF CONGRESSIONAL COMMUNICATIONS

SEC. 401. (a) There is established for the Congress, under the Architect of the Capitol, an Office of Congressional Communications, which shall be subject to the supervision and control of the Architect.

(b) The Office shall—

(1) maintain a library of video tapes of all television network news programs and television programs of significant public interest;

(2) provide for closed circuit telecasts and tape of committee proceedings and the floor and other proceedings of the Senate and House of Representatives;

(3) provide equipment in the office of each Member of Congress to receive telecasts of any such proceedings and for the viewing of any tapes referred to in clauses (1) and (2) of this subsection;

(4) have installed, at appropriate places throughout the Capitol Building and the office buildings of the two Houses of Congress (including, if appropriate, in the office of each Member), equipment to receive information transmitted by any of the major news wire services;

(5) upon request, assist Members with respect to press, photographic, recording, taping, radio, and television matters; and

(6) provide for other measures to modernize the communication-information service available to Congress including the viewing of congressional documents and legislation and the providing of timely information with respect to the status of all legislation.

(c) The House Recording Studio and the Senate Recording Studio, and all their records, property, assets, and personnel are transferred to the Office and are made a part thereof.

SEC. 402. The Architect is authorized—

(1) to appoint, on a permanent basis, without regard to political affiliation, and solely on the basis of fitness to perform his duties, a Director of the Office to serve as the head of the staff of the Office and such personnel as he deems necessary;

(2) to prescribe the duties and responsibilities of such personnel;

(3) to fix the pay of such personnel in accordance with the schedule of rates of pay for other personnel in the Office of the Architect, except that any person transferred from the House or Senate Recording Studio to the Office of Congressional Communications shall not be paid at a rate less than the rate he was last paid while employed by such studio; and

(4) to terminate the employment of such personnel.

SEC. 403. Nothing in this title shall be held or considered to require the use of the facilities of the Office by any Member, committee, or officer of the Senate or House of Representatives, if, in the opinion of such Member, committee or officer, the use of such facilities is inappropriate.

SEC. 404. For purposes of this title, "Member of Congress" means a Senator, Representative, Delegate, or Resident Commissioner.

TITLE V—SCHEDULE OF COMMITTEE MEETINGS

SEC. 501. (a) In consultation with the Majority Leaders and the Minority Leaders of the Senate and House of Representatives, the Office of Congressional Communications (established under section 401(a) of this Act) shall establish and maintain a computerized schedule of all meetings of committees of the Senate and House of Representatives and subcommittees thereof, and of all meetings of joint committees of the Congress and subcommittees thereof. Such schedule shall be maintained online to terminals in the offices of all Members of Congress, committees of the Senate and the House of Representatives, and permanent joint committees of the Congress, and shall be updated hourly.

(b) Each committee of the Senate and the House of Representatives, and each subcommittee thereof, shall notify the Office of Congressional Communications of each meeting of such committee or subcommittee, including the time, the place, and the purpose of such meeting. Eacn joint committee of the Congress or subcommittee thereof shall cause notice to be given to such office of each meeting of such joint committee or subcommittee, including the time, place, and purposes of such meeting. Notice under this subsection shall be given immediately upon scheduling a meeting.

(c) Each committee of the Senate and the House of Representatives, and each subcommittee thereof, shall notify such office immediately upon the cancellation of a meeting of such committee or subcommittee. Each joint committee of the Congress or any subcommittee thereof shall cause notice to be given to such office immediately upon the cancellation of a meeting of such joint committee or subcommittee.

SEC. 502. For purposes of this title, the term "joint committee of the Congress" includes a committee of conference.

TITLE VI—OFFICE OF SENATE LEGAL COUNSEL

SEC. 601. (a)(1) There is established, as an office of the Senate, the Office of Senate Legal Counsel (hereinafter referred to as the "Office"), which shall be headed by a Senate Legal Council (hereinafter referred to as the "Counsel"), and which shall include a Deputy Senate Legal Counsel (hereinafter referred to as the "Deputy Counsel") who shall perform such duties as may be assigned to him by the Counsel and who shall serve as the Acting Counsel during any absence, disability, or vacancy in the Office.

(2) The Counsel and the Deputy Counsel each shall be appointed by the President pro tempore of the Senate from among recommendations submitted by the majority and minority leaders of the Senate. Any appointment made under this subsection shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. Any person appointed as Counsel or Deputy Counsel shall be learned in the law, a member of the bar of a State or the District of Columbia, and shall not engage in any other business, vocation, or employment during the term of such appointment.

(3)(A) Any appointment made under this subsection shall become effective upon approval, by resolution, of the Senate. The Counsel and the Deputy Counsel shall each be appointed for a term which shall expire at the end of the Congress following the Congress during which the Counsel is appointed except that the Senate may, by resolution, remove either the Counsel or the Deputy Counsel prior to the termination of his term of office. The Counsel and the Deputy Counsel may be reappointed at the termination of any term of office.

(B) The first Counsel and the first Deputy Counsel shall be appointed and take office within 30 days after the beginning of the session of Congress immediately following the session of Congress in which the Act is agreed to. Thereafter the Counsel and the Deputy Counsel shall be appointed and take office within 30 days after the beginning of the session of Congress immediately following the termination of the term of office of the Counsel and the Deputy Counsel or within 30 days after a vacancy occurs in either office.

(4) The Counsel shall receive compensation at a per annum gross rate equal to the rate of pay payable to the Legislative Counsel of the Senate. The Deputy Counsel shall receive compensation at a per annum gross rate equal to the rate of pay payable to a Senior Counsel in the Office of the Legislative Counsel.

(b) The Counsel shall appoint and fix the compensation of such Assistant Senate Legal Counsels (hereinafter referred to as "Assistant Counsels") and of such other personnel as may be necessary to carry out the provisions of this title and may prescribe the duties and responsibilities of such Assistant Counsels and personnel. Any appointment made under this subsection shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. Any person appointed as Assistant Counsel shall be learned in the law, a member of the bar of a State or the District of Columbia, and shall not engage in any other business, vocation, or employment during the term of such appointment. All such employees shall serve at the pleasure of the Counsel.

(c) In carrying out the functions of the Office, the Counsel may procure the temporary (not to exceed one year) or intermittent services of individual consultants (including outside counsel), or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72(a)(i)).

(d) The Counsel may purchase such furniture, office equipment, books, stationery, and other supplies, as may be necessary for the proper performance of the duties of the Office and may provide for reimbursement for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Office.

(e) The Counsel may establish such procedures as may be necessary to carry out the provisions of this title.

(f) The Counsel may delegate authority for the performance of any function imposed by this Act except any function imposed upon the Counsel under section 605(b) of this title.

DUTIES AND FUNCTIONS

SEC. 602. (a) The Counsel shall report to the President pro tempore of the Senate and the majority and minority leaders of the Senate (hereinafter referred to as the "Joint Leadership") with respect to his duties and responsibilities under this title.

(b) The Joint Leadership shall—

(1) oversee the activities of the Office, including but not limited to, consulting with the Counsel with respect to the conduct of litigation in which the Office is involved;

(2) pursuant to section 603(a), make a recommendation with respect to representation of an office, committee, subcommittee, Member, officer, or employee of the Senate in a civil action;

(3) pursuant to section 609 of this title, recommend the appropriate action to be taken to avoid or resolve a conflict or inconsistency; and

(4) pursuant to section 605(b), cause the publication in the Congressional Record of the notification required of the Counsel under that section.

(c) Whenever the Senate is not in session, the Joint Leadership may, in accordance with the provisions in section 603(b)(2), authorize the Counsel to undertake his responsibilities under section 603(a) in the absence of an appropriate resolution but only for the period beginning on the day of such authorization and ending ten days after the Senate reconvenes.

DEFENDING THE SENATE OR A COMMITTEE, MEMBER, OFFICER, AGENCY, OR EMPLOYEE OF THE SENATE

SEC. 603. (a) Except as otherwise provided in subsection (b), the Counsel, at the direction of the Senate shall—

(1) defend the Senate or an office, a committee, Member, officer, or employee of the Senate in any civil action pending in any court of the United States or of a State or political subdivision thereof in which the Senate or such office, committee, subcommit-

tee, Member, officer, or employee is made a party defendant and in which there is placed in issue the validity of any proceeding of, or action, including issuance of any subpena or order, taken by the Senate, or such office, committee, subcommittee, Member, officer, or employee in its or his official or representative capacity; or

(2) defend the Senate, or an office, committee, subcommittee, Member, officer, or employee of the Senate in any civil action pending in any court of the United States or of a State or political subdivision thereof with respect to any subpena or order directed to the Senate, or such office, committee, subcommittee, Member, officer, or employee in its or his official or representatives capacity.

(b)(1) Representation of a Member, officer, or employee under section 603(a) shall be undertaken by the Counsel only upon the consent of such Member, officer, or employee.

(2) The Counsel may undertake his responsibilities under subsection (a) in the absence of an appropriate resolution by the Senate if—

(A) the Senate is not in session;

(B) the interest to be represented would be prejudiced by a delay in representation; and

(C) the Joint Leadership unanimously authorizes the Counsel to proceed in his representation as provided under section 602.

INSTITUTING A CIVIL ACTION TO ENFORCE A SUBPENA OR ORDER

SEC. 604. (a) The Counsel, at the direction of the Senate, shall bring a civil action under any statute conferring jurisdiction on any court of the United States to enforce, or issue a declaratory judgment concerning the validity of any subpena or order issued by the Senate or a committee of the Senate or a subcommittee thereof authorized to issue a subpena or order.

(b) Nothing in subsection (a) shall limit the discretion of—

(1) the President pro tempore of the Senate in certifying to the United States Attorney for the District of Columbia any matter pursuant to section 104 of the Revised Statutes (2 U.S.C. 194); or

(2) the Senate to hold any individual or entity in contempt of the Senate.

INTERVENTION OR APPEARANCE

SEC. 605. (a) The Counsel, at the direction of the Senate, shall intervene or appear as amicus curiae in any legal action pending in any court of the United States or of a State or political subdivision thereof in which—

(1) the constitutionality of any law of the United States is challenged, the United States is a party, and the constitutionality of such law is not adequately defended by counsel for the United States; or

(2) the powers and responsibilities of Congress under article I of the Constitution of the United States are placed in issue.

(b) The Counsel shall notify the Joint Leadership of any legal action in which the Counsel is of the opinion that intervention or appearance as amicus curiae by the Senate is necessary to carry out the purposes of subsection (a). Such notification shall contain a description of the legal proceeding together with the reasons that the Counsel is of the opinion that the Senate should intervene or appear as amicus curiae. The Joint Leadership shall cause said notification to be published in the Congressional Record.

(c) The Counsel shall limit any intervention or appearance as amicus curiae in an action involving a Member, officer, or employee of the Senate to representation with respect to constitutional issues relating to the constitutionality of statutes or the powers and responsibilities of Congress.

IMMUNITY PROCEEDINGS

SEC. 606. The Counsel, at the direction of the Senate or any committee of the Senate, shall serve as the duly authorized representative of the Senate or such committee in requesting a United States district court to issue an order granting immunity pursuant to section 6005 of title 18, United States Code.

ADVISORY AND OTHER FUNCTIONS

SEC. 607. (a) The Counsel shall advise, consult, and cooperate—

(1) with the United States Attorney for the District of Columbia with respect to any criminal proceeding for contempt of Congress certified by the President pro tempore of the Senate pursuant to section 104 of the Revised Statutes (2 U.S.C. 194);

(2) with any Member, officer, or employee of the Senate not represented under section 603 with regard to obtaining private legal counsel for such Member, officer, or employee;

(3) with the President pro tempore of the Senate and the Secretary of the Senate regarding any subpena, order, or request for withdrawal of papers presented to the Senate; and

(4) with any committee or subcommittee of the Senate by assisting in promulgating and revising their rules and procedures for the use of congressional investigative powers and by answering questions which may arise in the course of any investigation.

(b) The Counsel shall compile and maintain legal research files of materials from court proceedings which have involved Congress, a House of Congress, an office or agency of Congress, or any committee, subcommittee, Member, officer, or employee of Congress. Public court papers and other research memoranda which do not contain information of a confidential or privileged nature shall be made available to the public consistent with any applicable procedures set forth in such rules of the Senate as may apply and the interests of Congress.

(c) The Counsel shall perform such other duties consistent with the purposes and limitation of this title as the Senate may by resolution direct.

DEFENSE OF CERTAIN CONSTITUTIONAL POWERS

SEC. 608. In performing any function under sections 603, 604, or 605, the Counsel shall defend vigorously when placed in issue—

(1) the constitutional privilege from arrest or from being questioned in any other place for any speech or debate under section 6 of article I of the Constitution of the United States;

(2) the constitutional power of the Senate to be judge of the elections, returns, and qualifications of its own Members and to punish or expel a Member under section 5 of article I of the Constitution of the United States;

(3) the constitutional power of the Senate to except from publication such parts of its journal as in its judgment may require secrecy;

(4) the constitutional power of the Senate to determine the rules of its proceedings;

(5) the constitutional power of Congress to make all laws as shall be necessary and proper for carrying into execution the constitutional powers of Congress and all other powers vested by the Constitution in the Government of the United States, or in any department or office thereof;

(6) all other constitutional powers and responsibilities of the Senate and of Congress; and

(7) the constitutionality of statutes enacted by Congress.

CONFLICT OR INCONSISTENCY

SEC. 609. (a) In the carrying out of the provisions of this title, the Counsel shall notify the Joint Leadership and any party represented or entitled to representation under this resolution of the existence and nature of any conflict or inconsistency between the representation of such party and the carrying out of any other provisions of this title, or compliance with professional standards and responsibilities.

(b) Upon receipt of such notification, the Joint Leadership shall recommend the action to be taken to avoid or resolve the conflict or inconsistency. The Joint Leadership shall cause the notification of conflict or inconsistency and the Joint Leadership's recommendation with respect to its avoidance or resolution to be published in the Congressional Record. If the Senate does not direct the Counsel within fifteen days from the date of publication in the Record to avoid or resolve the conflict in another manner, the Counsel shall take such action as may be necessary to avoid or resolve the conflict or inconsistency as recommended by the Joint Leadership.

(c) The Senate may by resolution authorize the reimbursement of any Member, officer, or employee who is not represented by the Counsel as a result of the operation of subsection (b) or who is not represented pursuant to section 603 for costs reasonably incurred in obtaining representation. A resolution introduced pursuant to this subsection shall be referred to the Committee on Rules and Administration of the Senate. Such reimbursement shall be from funds appropriated to the contingent fund of the Senate.

PROCEDURE FOR DIRECTION OF SENATE LEGAL COUNSEL

SEC. 610. (a) Directives made pursuant to sections 603, 604, 605, and 606 of this title shall be made as follows:

(1) Directives made by the Senate pursuant to sections 603, 604, 605, and 606 shall be authorized by adoption of a resolution of the Senate.

(2) Directives made by a committee of the Senate pursuant to section 605 shall be in writing and approved by an affirmative vote of two-thirds of the members of full committee.

(b)(1) A resolution introduced pursuant to subsection (a) shall not be referred to a committee, except as otherwise required under subsection (c)(1). It shall be in order (even though a previous motion to the same effect has been disagreed to) to move to the consideration of such a resolution (other than a resolution described in subsection (c)) at any time after the earlier of (A) a period of 10 calendar days (excluding Saturdays, Sundays, and legal holidays) since the day on which such resolution was introduced, or (B) the Joint Leadership has agreed to allow such motion. It shall be in order (even though a previous motion to the same effect has been disagreed to) to move to the consideration of a resolution described in subsection (c) at any time after such resolution has been reported by such committee. Debate on a motion to proceed to the consideration of a resolution shall be limited to not more than one hour which shall be divided equally between, and controlled by, those favoring and those opposing the motion. An amendment to such motion shall not be in order, and it shall not be in order to reconsider the vote by which such motion is agreed to.

(2) If the motion to proceed to the consideration of the resolution is agreed to, debate thereon shall be limited to not more than ten hours, which shall be divided equally between, and controlled by, those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to the resolution shall be in order. No motion to recommit the resolution shall be in order, and it shall not be in order to reconsider the vote by

which the resolution is agreed to. Any debate with respect to any appeal from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to the resolution shall be included in the ten hour time limitation for debate on the resolution.

(3) Motions to postpone, made with respect to the consideration of the resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(c) It shall not be in order in the Senate to consider a resolution to direct the Counsel to bring a civil action pursuant to section 604(a) to enforce or secure a declaratory judgment concerning the validity of a subpena or order issued by a committee or subcommittee unless (1) such resolution is reported by a majority vote of the members of such committee or committees of which such subcommittee is a subcommittee, and (2) the report filed by such committee or committee of which such subcommittee is a subcomittee contains a statement of—

(A) the procedure followed in issuing such subpena;

(B) the extent to which the party subpenaed has complied with such subpena;

(C) any objections or privileges raised by the subpenaed party; and

(D) the comparative effectiveness of bringing a civil action to enforce the subpena, certification of a criminal action for contempt of Congress, and initiating a contempt proceeding before the Senate.

(d) The extent to which a report filed pursuant to subsection (c) is in compliance with such subsection shall not be reviewable in any court of law.

(e) For purposes of the computation of time in sections 602(c)(1) and 609(b)—

(1) continuity of session is broken only by an adjournment of the Senate sine die; and

(2) the days on which the Senate is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period.

(f) For purposes of this title, when referred to herein, the term "committee" includes standing, select, and special committees of the Senate, and members of the Senate on a joint committee of Congress, established by law or resolution.

REPRESENTATION BY DEPARTMENT OF JUSTICE

SEC. 611. After the date on which this resolution is agreed to, no Member, officer, or employee of the Senate shall make any request to be represented by the Department of Justice pursuant to section 8 of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes", approved March 3, 1875, as amended (2 U.S.C. 118) or otherwise.

EXPENSES

SEC. 612. The expenses of the Office shall be paid from the contingent fund of the Senate upon vouchers approved by the Counsel, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENSE OF CONGRESS

SEC. 613. It is the sense of the Congress that the enactment of this title shall not preclude the consolidation of the Office created by this title with any similar Office of the House of Representatives which may be created after the date of the enactment of this Act.

TITLE VII—GENERAL ACCOUNTING OFFICE

SEC. 701. The Budget and Accounting Act, 1921, as amended (31 U.S.C. 42), is further amended by adding at the end thereof the following new sections:

"SEC. 320. (a) Whenever the Comptroller General, in the performance of any of his functions authorized by law, has reasonable cause to believe that any officer or employee of the executive branch is about to expend, obligate, or authorize the expenditure or obligation of public funds in an illegal or erroneous manner or amount, he may institute a civil action in the United States District Court for the District of Columbia for declaratory and injunctive relief. If the Attorney General is in disagreement with the Comptroller General he is authorized to represent the defendant official in such action. Other parties, including the prospective payee or obligee who shall be served with notice or process, may intervene or be impleaded as otherwise provided by law, and process in such an action may be served by certified mail beyond the territorial limits of the District of Columbia.

"(b) Upon application of the Comptroller General or the Attorney General an action brought pursuant to this section shall be heard and determined by a district court of three judges under section 2284 of title 28, United States Code. An action brought under this section shall be expedited in every way.

"(c) In actions brought under this section, the Comptroller General shall be represented by attorneys employed in the General Accounting Office and by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title relating to classification and General Schedule pay rates.

"(d) In the event the institution of suit under this section serves to delay a payment beyond the date it was due and owing in payment for goods or services actually delivered to and accepted by the United States, then such payment when made by the agency involved shall include interest thereon at the rate of 6 per centum per annum for the time it has been withheld. Otherwise, no court shall have jurisdiction to award damages against the United States, its officers or agents as a result of any delay occasioned by reason of the institution of suit under this section.

"(e) This section shall be construed as creating a procedural remedy in aid of the statutory authority of the Comptroller General and not as otherwise affecting such authority.

"SEC. 321. No action may be instituted by the Comptroller General under section 320 until the expiration of a period of thirty calendar days (excluding the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die) following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated has been filed with the Committee on Government Operations of the Senate and the House of Representatives and during such thirty-day period the Congress has not enacted a concurrent resolution stating in substance that it does not favor the institution of the civil action proposed by the Comptroller General.".

SEC. 702. To assist in carrying out his functions, the Comptroller General may sign and issue subpenas requiring the production of negotiated contract and subcontract records and records of other non-Federal persons or organizations to which he has a right of access by law or agreement.

SEC 703. In case of disobedience to a subpena issued under section 702 the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the records involved. Any district court of the United States within the jurisdiction in which the contractor, subcontractor, or other non-Federal person or organization is found or resides or in which the contractor, subcontractor, or other non-Federal person or organization transacts business may, in case of contumacy or refusal to obey a subpena issued by the Comptroller General, issue an order requiring the contractor, subcontractor, or other non-Federal person or organization to produce the records; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

TITLE VIII—APPROPRIATIONS AUTHORIZED

SEC. 801. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. DOLE (for himself and Mr. BENTSEN):

S. 413. A bill to amend title 5, United States Code, to provide for the payment of overtime to certain personnel employed in the Animal and Plant Health Inspection Service of the Department of Agriculture; to the Committee on Post Office and Civil Service.

OVERTIME PAY FOR APHIS EMPLOYEES

Mr. DOLE. Mr. President, the bill I am introducing today will correct an inequitable condition with regard to overtime payments for certain professional personnel employed in the Animal and Plant Health Inspection Service of the Department of Agriculture.

As conditions now exist, nonmanagerial personnel in grades GS-14 and lower who perform inspectional or supervisory functions in the APHIS divisions of meat and poultry, plant protection and quarantine, and veterinary services, do not receive true time-and-one-half salary for their overtime work. As "professionals" in their field, they were necessarily exempted from those provisions of the Fair Labor Standards Act Amendments of 1974. Instead, when performing overtime work under the provisions of title 5, United States Code, section 5542, these employees are limited to only 1½ times the minimum rate of basic pay for GS-10. This means that employees paid at GS-12, step 6, and higher actually receive less than their regular hourly rate.

UNIQUE SITUATION OF APHIS EMPLOYEES

It is my understanding that normally a Federal employee who earns less than his regular hourly rate when performing overtime work is granted compensatory time off in lieu of monetary payment. But in this case, the Inspection Service informs me, these particular programs are not staffed sufficiently to replace employees on extended leave, and compensatory time off is thereby impractical and seldom granted.

Professional employees in this situation have little control over their own overtime schedules, unlike those in some other fields. Federal veterinarians who must be present to supervise commercial slaughtering processes are subject to the often lengthy schedules of the packing plants to which they are assigned. During emergency disease epidemics, animal disease and plant protection and quarantine personnel must participate in all-

out efforts with long hours of duty to prevent the spread of a disease and to bring it under control. What this all means, in effect, is that the employees who are designated here have little or no control over their overtime requirements, yet are expected to work at salary rates incomparable to, and often less than, that of the subordinates whom they supervise. The Inspection Service has advised me that—

There are occasions when professionals and nonprofessionals are engaged in similar work in close proximit to each other and the professional is paid at a lower rate due to his professional status.

The inequity of this situation is obvious.

PRECEDENT EXISTS

The remedial legislation which I set forth here has precedent. In 1968, Public Law 90–556 established true time-and-one-half pay for overtime ordered and worked by air traffic controllers through GS–14. Like APHIS personnel, the air controllers were responsible for substantial overtime duties at reduced rates, yet were seldom given compensatory benefits. At that time, the legislation was supported by the Department of Transportation and met no objections from the Bureau of the Budget.

The action we take to correct this inequity will cost the Federal Government very little. In current practice, most of the overtime services required of APHIS professionals are reimbursable from the meat or poultry packers, importers, or exporters requesting the service. Fees are established by the Secretary of Agriculture for each program and are uniform throughout the program. That fee covers the actual cost of reimbursement to the employee plus overhead charges necessary for providing the service. None of this would be changed under the provisions of my bill.

It is my understanding that the U.S. Civil Service Commission has for several years been engaged in a study of the whole area of premium pay for professional and administrative Federal personnel and may eventually make comprehensive legislative recommendations in this regard. This seems to indicate that the Commission at least recognizes the existence of inequities, and I am glad to know of their attention. But the particular injustice now experienced by APHIS employees, and which compounds with every passing day, needs correction as soon as possible, in my opinion.

Let me emphasize that only nonmanagerial professionals are to be included in this measure—those whose duties are critical to insure the wholesomeness of our food products, the humane treatment of animals, or the proper control of animal and plant diseases. Furthermore, these time-and-one-half provisions apply in most instances to overtime work which is performed without cost to the Government, and which is performed at a time not subject to control by the Department of Agriculture or by the employee himself.

Mr. President, I hope that prompt consideration will be given to this measure which will establish equitable and just salary conditions for APHIS employees across the country.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5542(a) of title 5, United States Code, relating to premium pay, is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding paragraphs (1) and (2) of this subsection, for an employee of the Animal and Plant Health Inspection Service, Department of Agriculture, who occupies a position, as determined by the Secretary of Agriculture.

"(A) the duties of which are critical to the inspection services provided by the Department of Agriculture to assure wholesome food products, humane treatment of animals, or to control or eradicate animal or plant diseases;

"(B) in which the operating requirements cannot be met without substantial overtime work; and

"(C) in which a substantial portion of the overtime work is (i) performed at a time not subject to the control of the Department of Agriculture or the employee, or (ii) required by emergency needs created by disease outbreaks; the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay."

SEC. 2. Section 5547 of such title is amended by inserting after "An employee" the following: "(other than an employee to whom section 5542(a)(4) applies)".

SEC. 3. The amendments made by this Act shall take effect—

(1) on the first day of the first pay period which begins on or after the thirtieth day after the date of enactment of this Act, or

(2) October 1, 1977,

whichever is later.

By Mr. THURMOND (for himself Mr. HATCH, Mr. DOLE, Mr. HATFIELD, Mr. LEAHY, and Mr. RANDOLPH):

S. 414. A bill to require a health warning on the labels of bottles containing certain alcoholic beverages; to the Committee on Commerce.

Mr. THURMOND. Mr. President, during the 92d, 93d, and 94th Congresses, I introduced a bill to amend section 5(e) of the Federal Alcohol Administration Act which would require a health warning on the labels of bottles containing alcoholic beverages. On all three occasions, the bill was referred to the Senate Commerce Committee, and the full Senate did not act on the proposed legislation in any of these Congresses.

Almost 6 years have passed since I originally introduced this bill, and during this time, the facts have verified that alcoholism is an ever increasing problem that is destroying more and more lives with each passing day.

As a result, I am reintroducing this legislation today, and I urge my colleagues to give this bill very careful consideration and join me in supporting it.

Alcoholism is a disease that can strike at any social or economic level, and the result is tragic. No one really knows how many lives it has ruined, how many homes it has broken, or how many healthy people it has adversely affected. Perhaps as many as 10 million people in the last year alone have fallen prey to drinking problems that have touched their lives and the lives of countless others.

Mr. President, all of us are aware of the dangers of drinking and driving. In a report to Congress last year by the Department of Transportation it was stated that more than 23,000 individuals died in automobile crashes in which the driver had been drinking. About 66 percent of all driving deaths are problem drinkers, this report noted. The mixing of alcohol and automobiles has become a killer of major proportions, and it is high time that we warn drinkers of the hazards which result from the use of alcohol.

A health warning label for all bottles of alcoholic beverages containing more than 24 percent of alcohol by volume will be an effective method of informing the public of the dangers involved.

Mr. President, of the approximate 10 million people affected by alcohol, many are women and mothers. Dr. Marvin Block, former chairman of the American Medical Association's Committee on Alcoholism, estimates that fully 50 percent of alcoholic people in the United States are women. If that is true, some 5 million women in America today—about 1 out of every 20 women may be facing some kind of alcohol problem.

Doing something about this growing problem is what this bill is all about. If such a warning label deters a potential alcoholic from taking their first drink, or prevents a casual drinker who drives from having "one for the road," then this legislation will be effective and worthwhile.

Mr. President, I request that this bill, with Senators DOLE, HATFIELD, LEAHY, and RANDOLPH as cosponsors, be appropriately referred and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be received and appropriately referred.

Mr. THURMOND. I might say that the label on bottles containing 24 percent or more would read this way:

The use of alcoholic beverages may be hazardous to your health and may be habit forming.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 414

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(e) of the Federal Alcohol Administration Act (49 Stat. 982, as amended; 27 U.S.C. 205(e)), is amended by inserting the following new paragraph immediately before the last full paragraph of such section:

"It shall be unlawful to sell or ship or deliver for sale or shipment, or otherwise introduce in interstate commerce or foreign commerce, or receive therein, or to remove from customs custody for consumption, any bottle containing a beverage having more than 24 per centum of alcohol by volume, unless the label of such bottle contains the

following statement: 'Caution: Consumption of alcoholic beverages may be hazardous to your health and may be habit forming.' Such statement shall be located in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label."

By Mr. PROXMIRE (for himself, Mr. GARN, Mr. BROOKE, and Mr. HUDDLESTON):

S. 417. A bill to establish a National Commission on Neighborhoods; to the Committee on Banking, Housing, and Urban Affairs.

NATIONAL NEIGHBORHOOD POLICY ACT

Mr. PROXMIRE. Mr. President, last session, the National Neighborhood Policy Act, sponsored by the Senator from Utah (Mr. GARN) and myself passed this body unanimously. It was favorably reported by the House Banking Committee, and was 30th in line on the House consent calendar when the clock ran out.

The Senate Banking Committee has held extensive hearings on the problems of urban decay and on disinvestment in cities. We find that the housing programs of the past 40 years tend to exclude one element essential to a sound urban policy. I am speaking of the need to conserve and revitalize what exists: to preserve housing and revitalize neighborhoods. Existing housing is the largest single component of national wealth, yet we have no coherent strategy for conserving it.

The number of new housing starts has rightly been the focus of much attention. Millions of families need homes. But another number has continued to grow throughout the past decade, to the point where it is hovering around 50 percent of the annual housing starts. I am speaking of homes lost from the inventory of housing stock. Last year, the Library of Congress estimated the annual loss at nearly 800,000 such housing units.

We can never know how many of these homes could have been saved, but the figure must be several hundred thousand. And when a unit is lost, we lose more than that individual house. There is a blighting effect on the surrounding community.

I believe it is time to devise a strategy for the conservation of existing neighborhoods. Until now, the main thrust of Federal policy has been to promote growth, mostly through suburban expansion. We have emphasized highways, to the neglect of mass transit. The urban renewal program emphasized slum clearance, and often bulldozed sound, vital neighborhoods in the process. The tax code rewards demolition of sound structures, but it often punishes good maintenance.

There is a need for a systematic assessment of the needs of existing neighborhoods, and the creation of a national policy of housing conservation. This will not be done by establishing a new rehabilitation agency, but rather by analyzing and where necessary modifying policies that impact neighborhoods.

The National Neighborhood Policy Act will establish a National Commission on Neighborhoods, to evaluate the impact on neighborhoods of public policies, laws, and programs. The Commission has 2 years to recommend policy changes to better adapt public policy to neighborhood preservation; to promote reinvestment by the private sector; to encourage better maintenance of existing rental housing; to promote urban homeownership; and to assist and support local efforts toward neighborhood revitalization.

The Commission is to include 16 public members drawn from neighborhood organizations, local government, business, finance, civic and academic circles, who shall be appointed by the President, and four Members of Congress.

I do not see this Commission as an excuse to wait 2 more years to avoid helping neighborhoods survive. There are things we can do right now. I am also introducing legislation to require localities that receive community development block grants to devise local strategies for the conservation of existing housing stock and the preservation of neighborhoods. I will be offering another bill to promote reinvestment by banks and thrift institutions in the communities they are chartered to serve, consistent with sound lending practice. And I will propose legislation to make permanent, and expand, one experimental program that has proven its worth—the Neighborhood Housing Service.

Yet at the same time, I look forward to the development of a long-range comprehensive neighborhoods policy. The National Neighborhood Policy Act will begin that process.

I ask unanimous consent that the text be included in the RECORD. I am also including an excellent paper by Dr. Arthur Naparstek of the University of Southern California Washington Public Affairs Center, who has provided much of the intellectual framework for a national policy to revitalize urban neighborhoods.

There being no objection, the bill and document were ordered to be printed in the RECORD, as follows:

S. 417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Neighborhood Policy Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that existing city neighborhoods are a national resource to be conserved and revitalized wherever possible, and that public policy should promote that objective.

(b) The Congress further finds that the tendency of public policy incentives to ignore the need to preserve the built environment can no longer be defended, either economically or socially, and must be replaced with explicit policy incentives encouraging conservation of existing neighborhoods. That objective will require a comprehensive review of existing laws, policies, and programs which affect neighborhoods, to assess their impact on neighborhoods, and to recommend modifications where necessary.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) There is hereby established a commission to be known as the National Commission on Neighborhoods (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members, to be appointed as follows:

(1) two Members of the Senate appointed by the President of the Senate;

(2) two Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

(3) sixteen public members appointed by the President of the United States from among persons specially qualified by experience and training to perform the duties of the Commission, at least five of whom shall be elected officers of recognized neighborhood organizations engaged in development and revitalization programs, and at least five of whom shall be elected or appointed officials of local governments involved in preservation programs. The remaining members shall be drawn from outstanding individuals with demonstrated experience in neighborhood revitalization activities, from such fields as finance, business, philanthropic, civic, and educational organizations.

The individuals appointed by the President of the United States shall be selected so as to provide representation to a broad cross section of racial, ethnic, and geographic groups. The two members appointed pursuant to clause (1) may not be members of the same political party, nor may the two members appointed pursuant to clause (2) be members of the same political party. Not more than eight of the members appointed pursuant to clause (3) may be members of the same political party.

(c) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the public members.

(d) The executive director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals recommended by the Commission.

DUTIES

SEC. 4. (a) The Commission shall undertake a comprehensive study and investigation of the factors contributing to the decline of city neighborhoods and of the factors necessary to neighborhood survival and revitalization. Such study and investigation shall include, but not be limited to—

(1) an analysis of the impact of existing Federal, State, and local policies, programs, and laws on neighborhood survival and revitalization;

(2) an identification of the administrative, legal, and fiscal obstacles to the well-being of neighborhoods;

(3) an analysis of the patterns and trends of public and private investment in urban areas and the impact of such patterns and trends on the decline or revitalization of neighborhoods;

(4) an assessment of the existing mechanisms of neighborhood governance and of the influence exercised by neighborhoods on local government;

(5) an analysis of the impact of poverty and racial conflict on neighborhoods;

(6) an assessment of local and regional development plans and their impact on neighborhoods; and

(7) an evaluation of existing citizen-initiated neighborhood revitalization efforts and a determination of how public policy can best support such efforts.

(b) The Commission shall make recommendations for modifications in Federal, State, and local laws, policies, and programs necessary to facilitate neighborhood preservation and revitalization. Such recommendations shall include, but not be limited to—

(1) new mechanisms to promote reinvestment in existing city neighborhoods;

(2) more effective means of community participation in local governance;

(3) policies to encourage the survival of economically and socially diverse neighborhoods;

(4) policies to prevent such destructive

practices as blockbusting, redlining, resegregation, speculation in reviving neighborhoods, and to promote homeownership in urban communities;

(5) policies to encourage better maintenance and management of existing rental housing;

(6) policies to make maintenance and rehabilitation of existing structures at least as attractive from a tax viewpoint as demolition and development of new structures;

(7) modification in local zoning and tax policies to facilitate preservation and revitalization of existing neighborhoods; and

(8) reorientation of existing housing and community development programs and other tax and subsidy policies that affect neighborhoods, to better support neighborhood preservation efforts.

(c) Within two years after the date on which funds first become available to carry out this Act, the Commission shall submit to the Congress and the President a comprehensive report on its study and investigation under this subsection which shall include its findings, conclusions, and recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

COMPENSATION OF MEMBERS

SEC. 5. (a) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission.

(b) Members of the Commission, other than those referred to in subsection (a), shall receive compensation at the rate of $100 per day for each day they are engaged in the actual performance of the duties vested in the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provision of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, but at rates not in excess of a maximum rate for GS–18 of the General Schedule under section 5332 of such title.

(b) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission but not in excess of $100 per day, including traveltime. While away from his or her home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(c) Each department, agency, and instrumentality of the United States is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this Act. The Chairman is further authorized to call upon the departments, agencies, and other offices of the several States to furnish, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title.

(d) The Commission may award contracts and grants for the purposes of evaluating existing neighborhood revitalization programs and the impact of existing laws on neighborhoods. Awards under this section may be made to—

(1) representatives of legally chartered neighborhood organizations;

(2) public interest organizations which have a demonstrated capability in the area of concern;

(3) universities and other not-for-profit educational organizations.

(e) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act; hold hearings, take testimony, and administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or member thereof. Hearings by the Commission will be held in neighborhoods with testimony received from citizen leaders and public officials who are engaged in neighborhood revitalization programs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated not to exceed $2,000,000 to carry out this title.

EXPIRATION OF THE COMMISSION

SEC. 8. The Commission shall cease to exist thirty days after the submission of its report under section 4.

POLICY OPTIONS FOR NEIGHBORHOOD EMPOWERMENT

(By Arthur J. Naparstek)

OVERVIEW

Several chapters in this book address the question of how to improve responsiveness and accountability in the delivery of public services. This chapter will investigate proposals to achieve that result by devolving some powers to citizens at the neighborhood level, focusing on citizen involvement as a critical element in improving responsiveness and accountability in urban government.

Within this general context, the following areas will be discussed:

(A) The movement toward neighborhood decentralization, emphasizing the three philosophical bases that have structured its growth;

(B) specific approaches to decentralization with their respective limitations, successes, and failures, and a look at regional metropolitan strategies;

(C) a model for local government that synthesizes existing approaches; and

(D) principles that guide devolution of power, obstacles to devolution, and policy options for federal, state, and local governments to overcome these obstacles.

The overriding concern is how best to involve citizens in the process of urban governance for, despite some failures, citizen-oriented, community-based programs contain a potential that can and should be tapped in improving urban governance.

BACKGROUND

Despite myriad urban problems developed over the past 15 years, American cities are still faced with enormous problems; middle-class flight to the suburbs, erosion of economic and tax bases, deteriorated housing, decline of the quality of life, and more. Not only are cities confronted with decade-old concerns, some—particularly in the Northeast and industrial midwest—are now caught in a worsening economic trend.

National economic problems have exacerbated the difficulties by reducing city income from local sources while simultaneously raising city costs: The federal government moves funds from one level to another with little guidance on priorities. The result is that many human needs go unmet and economic necessity encourages "lifeboat" strategies in which some urban areas are written off as unsalvageable. While this approach may seem rational in economic terms, it ignores the attendant human tragedies and costs.

The deterioration of cities has resulted from a convergence of factors; regional economic shifts within the nation itself, intrametropolitan job dispersal, the mismatch between municipal and state fiscal systems and urban settlement, housing obsolescence, demographic changes, and real estate management practices. Many policies and programs designed to solve these problems have failed. This chapter contends that these failures result from a lack of consideration of the systemic origins of urban decline. The decline of the city is rooted in certain institutionalized policies, attitudes, and practices; but the tendency has been to respond to symptoms.

A second reason for the persistent failure of programs directed at curbing wholesale deterioration has been the tendency to view the problem on a grand scale. Virtually all natural policy initiatives have failed to serve the varied needs of differing neighborhoods. The neighborhood must be recognized as the key to preconditions required for effective change. Keller notes: ". . . people do not live in a city, but in a neighborhood or more accurately, in part of a neighborhood."[1] In real terms, their investment—emotional as well as economic—is in their neighborhoods, and the city cannot survive if its neighborhoods continue to decline.

ALTERNATE IDEOLOGIES

Three major ideological perspectives have influenced proposed forms of devolving political and administrative control to neighborhoods.

Leading proponents of the neighborhood movement, such as Milton Kotter, Karl Hess, Andrew Greely, John McClaughty, and James Cunningham, return to the principles of Jeffersonian Democracy and the conceptual notions put forth by Lewis Mumford and Jane Jacobs.[2] These scholars define the problem in humanistic and moral terms and argue that centralized government increases alienation, that family and community life suffers, and that people do not cope well with the diversity and pressures of the city.

Senator Mark Hatfield, in a July 1972 speech to the Platform Committee of the Republican National Convention on Neighborhood Government, best represents this point of view. Hatfield argued that processes of governance in American cities have failed:

"It is clear today that the great experiment of our cities is a failure. We must return to a scale of government which is comprehensible to our citizens. By developing neighborhood government—not by fiat but by an organic evolution from community organization—we can develop a sense of community through the state and a sense of individualism and neighborhood through the nation. To date, the centralization of government has destroyed community self-management and citizen participation. We must reverse this trend and develop our cities along the lines of neighborhood government and intermetropolitan cooperation."

Implicit in Hatfield's statement are assumptions that people's lives will be better if they have options for control, if they can be involved in and take responsibility for the processes of community life. It is further assumed that the way to achieve this is by a return to small units of government. Milton Kotler explains this position in this excerpt from his "Citizen Liberation" speech presented to the Citizens Neighborhood Councils Coordinating Committee on February 22, 1975, in Washington, D.C.:

Footnotes at end of article.

"For centuries of human history, it was the conventional wisdom that small areas and small populations were capable of self-government and further, that this smallness of size and population enabled a greater liberty of participation. The second point is that in the smaller municipality a greater proportion of citizens to population held responsibility. . . ."

For Karl Hess, neighborhoods are places where people can belong. He recently wrote in Neighborhood Power: "When people . . . then say 'my neighborhood,' it usually means that they have found a place to live where they feel some sense of belonging, some human sense of being part of a society no matter how small, rather than just being in a society, no matter how large." This humanistic argument postulates that people are interested in and capable of exerting influence and initiative in matters affecting their lives.

A second group of scholars concerned with the neighborhood also decries the trend toward centralization and bigness, but defines the problem within the context of American Federalism, as represented by James Madison. This group extends the values of America's "good government movement" of the early 20th century and builds on the theoretical framework of contemporary public administration. Their functional, structural approach is best represented by Howard Hallman, John Mudd, Rober Yin, Douglas Yates, George Washnis, and Vincent Ostrom.[3]

Emphasis is on identifying the tasks which can best be carried out by small service areas (neighborhoods) and the best means of reforming the bureaucratic infrastructure which supports current decentralization efforts. Problems are generally defined in terms of accountability and access to services with specific attention directed to resource allocation within the city, bureaucratization of administrative and service functions, and centralization of decision-making and control.

Examples of this approach include the hundreds of cities which have established neighborhood preservation and conservation programs. New administrative mechanisms have been installed on the local level which permit government to exercise more flexibility to meet the service requirements of different types of neighborhoods [4] and which force city administrators to address issues of centralization and decentralization by determining which services are most effectively delivered on the neighborhood, city, or metropolitan levels.[5] Clearly, neighborhood conservation projects are stimulating new partnerships between the public, private, and community sectors. A host of local initiatives such as neighborhood approaches to crime prevention, commercial and economic revitalization, housing, and human services delivery have and are now taking place.

A third group concerned with the neighborhood as an arena for social and political action are those community organizers who came out of the civil rights movement. That era witnessed the emergence of community organizations committed to halting the decline of inner-city neighborhoods. The most visible and perhaps the most effective of these efforts were the interracial coalitions formed to combat inner-city investment decline generally and "redlining" in particular. These grassroots efforts demonstrated that an organized, mass-based community effort could reverse abusive policies.

Significantly, modification of the confrontational tactics and strategies of the sixties has resulted in new models for social action and change. These new models for citizen organization are issue-oriented and aimed toward policy and services delivery objectives.

In order to perceive the new role of community organizations, it is important to understand the negative impact Great Society programs had on decentralization. Rather than introducing neighborhood programs through successive stages of accomplishment and functional expansion, the reverse occurred: a full dosage of decentralization was introduced to an unorganized and often overwhelmed neighborhood populace. When neighborhood residents were unable to fulfill the mandate of decentralized programs, municipal systems retrenched into greater centralization, tightening their own administrative controls over resource allocation processes.

Great Society programs tended to be defined in the context of race. Thus, programs originally intended to serve the poor were quickly perceived as programs designed primarily for poor blacks. Though in most cities these categorical programs began on a small scale, in time they grew and attained high visibility. Neighborhood residents became actively involved and anxiously waited for neighborhood conditions to improve. But by 1968, subjective judgments evaluating impact were harsh. Tom Wicker, writing in the New York Times on July 28, 1968, commented that the War on Poverty "somehow managed to wind up alienating many of the black and poor, as well as [the] white conservative . . . and Members of Congress," and Lee Rainwater noted that "though the [OEO] made promises to the black community through its pseudo-radical rhetoric, it angered and insulted the working class, and at the same time delivered no more than symbolic resources to black people." [6]

Important lessons may be learned from these experiments in decentralization. Robert Wood stated that a critical policy issue raised in the sixties involved the complications inherent in a majority system working on a minority problem. He pointed out that policies which fail to take into account the economic and social needs of a majority are likely to stimulate fears which, in turn, override minority needs:

"The critical factor is how minority needs are presented to a majority and coupled with them, not the impossibility of gaining majority approval. This requires skill and leadership of special proportions." [7]

Implicit in Wood's analysis is the notion that a neighborhood approach cannot be cast in policy and program terms exclusively. Rather, it is a process requiring involvement from all concerned sectors operating pluralistically to meet the needs of diverse groups of people.

Regardless of the dominant philosophical approach, the trend is toward political and administrative decentralization. Cities such as Newton, Honolulu, Detroit, Pittsburgh, and Washington have revised their charters to decentralize political control through neighborhood advisory bodies; other cities and counties have focused on decentralization through public actions—ordinances, resolutions, and executive policy decisions. Still others are in the process of developing different models for decentralizing services delivery and increasing citizen input into planning and decision-making processes.

If the successes and failures of neighborhood-level approaches teach only one lesson, it is the need for "approachable scale." Some activities are best carried out at a larger scale than the neighborhood where conventional notions of "economies of scale" come into play. But at the same time Hallman writing in Neighborhood Government in a Metropolitan Setting, believes that in many circumstances . . . small scale administration, though contrary to the cost-effective ideology of contemporary public administration, can achieve comparable results that in some cases are cost-savings over the centralized approach."

The discomfort of America's urban populace is not solely related to quantifiable issues such as deficiencies in services delivery and high tax rates. A profound alienation operates in the city, a feeling that combines a vision of an unrepresentative government with the perceptions of citizens that they are powerless to effectuate desired changes.[8] The ensuing discussion will analyze varied administrative and political approaches to decentralization with particular emphasis on the efficacy of each in dealing with this human problem.

PAST APPROACHES TO DECENTRALIZATION AND THEIR EFFECTIVENESS

Causative factors in the decentralization movement

The concept of decentralization has arisen in response to a number of overlapping and ill-defined pressures and forces, some of which are at work in federal, state, and municipal governments themselves. As a result, it is now possible to document a distinct tendency toward the devolution of municipal control and accountability to the citizen level in several arenas, and it is important to understand the factors responsible for this trend.

A major factor is the perceived and often real lack of effectiveness of existing centralized services delivery systems. The failure of urban services delivery bureaucracies to meet the needs of neighborhood clienteles derives largely from the centralization trend which has marked most public administration and governmental reform movements in this country. Centralization is unfit to deal with the multitude of complex and unique neighborhood problems because, almost by definition, it has meant the application of unified systematized approaches when diversified, flexible ones would have been better. It has also led to a concomitant overbureaucratization placing additional layers of administrators between the clients and the services they seek.

Centralization is particularly ill-suited to the delivery of human services: Kahn and others have pointed this out. Postwar emigration resulted in the juxtaposition of numerous ethnic groups living in relatively small areas, each having its own needs and methods for coping with crises.[9] A companion fact is the differing problematical and complex ways in which diverse classes and age groups are affected by modern urban life.

A second force generating decentralization has been the loss of what Yin and Yoes call "social symmetry"—the alignment of an empathy between public servants and citizens (Street Level Governments, pp. 16–17). This loss of social symmetry has been posited as a principal cause of the pervasive sense of alienation the citizen feels vis-a-vis municipal government. As Kotler, Hallman, and others note, the authorized or institutional linkages between the citizen and his government have deteriorated to the point where the individual often feels an absence of control over his life. This sense of alienation is magnified by the problem of scale: the size of government—the total of its parts, as well as the size of its individual component agencies—often precludes the individual from identifying with the goals of government.

Such concerns lie at the core of the humanistic and individualistic arguments presented by Kotler and others. The gulf between the citizen and the administrative apparatus may often be ambiguous, but it is nonetheless real: time and again city residents complain that government cannot be trusted, clearly indicating an "us and them" perspective.

A third force is the real inequities in the distribution of public services and resources among a city's neighborhoods. The result is a competitive climate where alienation is further encouraged when the residents of one neighborhood feel their community is getting less than a "fair deal" relative to others.

Footnotes at end of article.

They articulate the problem in terms of political clout, and the perception of its absence does little to enhance their faith in "downtown" concern or capability.

The forces behind decentralization are not limited to the failure of centralized bureaucracy. There are ulterior forces at work as well which have to do with the potential for political manipulation in decentralization efforts. Many mayors and other urban politicians have been quick to see the potential for improved public relations and political gain attendant on decentralization programs. Thus, it is important to distinguish between pseudo-decentralization drives motivated by political self-interest and genuine decentralization efforts and to recognize that manipulative potential is also part of the trend.

Finally, the tendency toward decentralization has received additional impetus from the federal sector in the form of funding. Great Society programs, with their emphasis on citizen involvement and "maximum feasible participation," set the foundation for legitimate citizen-client involvement in the process. These requirements legitimized citizen activity and even created a revolution of rising expectations among those citizens who believed they really should be involved in the processes by which their lives were affected.

Forms of decentralization

The response to these forces has taken the form of a variety of decentralization approaches, not all focused on the neighborhood. They can be classified under the definitions of administrative and political decentralization put forth by John Mudd:

Administrative decentralization—the devolution of power and responsibility from higher to lower levels within an existing bureaucratic hierarchy.

Political decentralization—the legal grant of authority to invoke new community representatives or clients in the local planning and operation of programs.[10]

Mudd's classifications must be augmented with a third: citizen organizing. These efforts move distinctly in the direction of decentralization, though they differ from Mudd's definitions in that they are attempts at local control of public services and programs in lieu of formal legal authority. Extralegal rather than illegal, they include both administrative and political decentralization in their objectives.

Administrative Decentralization

The most common of the institutional strategies is administrative decentralization, largely because it involves internal administrative change rather than legal revision, and because it is generally less threatening to empowered administrators. It is broadly representative of the Federalist approach noted earlier.

In "Beyond Community Control," Mudd identifies four types of administrative decentralization strategies attempted thus far:

(1) Physical decentralization: the devolution of specific services to the neighborhood level for the purpose of efficiency and administrative convenience. Examples include neighborhood field offices of various service agencies, police and fire stations, and administrative district offices.

(2) Multifunctional services decentralization: location of offices of several agencies in the same community center to solve immediate, short-range problems and increase client convenience, i.e., neighborhood multiservices centers.

(3) Mayoral outreach programs: designed to facilitate citizen responsiveness and communication, and to provide citizens with greater access to municipal government, these programs are best represented by "Little City Halls."

(4) Comprehensive decentralized services: the devolution of decision-making power to neighborhood-level bureaucrats to promote citizen-government integration and the coordination of services. Examples include Neighborhood Cabinets and Managers such as the New York Office of Neighborhood Government.

The mayoral outreach and comprehensive decentralized services approaches both attempt to bring city functions closer to the consumer and to facilitate city response to citizen complaint. Generally they affect only the governmental apparatus: little city halls are outposts of the central bureaucracy in the neighborhood, neighborhood cabinets are regular meetings of district-level administrators, and neighborhood managers are individual representatives of the city executive. The idea was first suggested by the National Advisory Commission on Civil Disorders as a means of responding to local grievances before they escalated into violent confrontation.

Their common objective is to increase the city's ability to respond to citizen complaints and to enhance the timeliness and quality of services delivery. Thus, the citizen's role is effectively restricted to providing the city with grassroots "feedback."

These approaches share other important limitations. Most notably they are "top-down" approaches, and their effect is constrained by the extent of the city's willingness to listen and respond. Such approaches provide much apparent change but little real structural revision. In effect they actually strengthen existing institutions and policies: by providing an illusion of change they tend to defuse community tensions while simultaneously presently little threat to internal bureaucratic interests. The fundamental inertia of the bureaucracy is untouched and actually camouflaged as street-level bureaucrats scurry about cajoling, policing, and prodding the lethargic governmental giant. Additionally, although outpost bureaucrats have some discretionary powers, ultimate authority still rests at the top.

Interestingly, the life and efficacy of these strategies comes only from without. The onus for action is still on the citizens, for without their complaints the neighborhood office would have little effect on "status quo" policies and strategies. It is not in the repertoire of city officials to seek out and mobilize resident dissatisfaction, and it is thus unlikely that understaffed little city halls would shake the reform bushes very vigorously.

A final structural limitation impeding the efficacy of such administrative decentralization strategies is that they require a kind of participatory expertise generally available only to more affluent neighborhoods. Accustomed to articulating their demands and needs and to participating in civic affairs, representatives of these areas are better able to translate grievances into productive pressure. Though neighborhoods of a lower socioeconomic status may be seething with dissatisfaction, their lack of experience in traditional grievance procedures often weakens their advocacy potential. Stylistic and language differences may constitute barriers to effective dialogue, too often with the result that their needs are by-passed in favor of the demands of more privileged areas.

Numerous community-relations programs around the country constitute a second broad category of administrative decentralization efforts. They involve more citizen participation as a rule but stop far short of citizen control. Their objective is to increase the level of citizen confidence in government employees, and thus they address a different aspect of the overbureaucratization problem.

Such programs, on the one hand, serve to humanize and personalize formal faceless bureaucracies. On the other, through using mechanisms like citizen advisory boards, they help city administrators respond to the differing needs of differing neighborhoods (Zimmerman, The Federated City, pp. 40–44) The positive result is that line administrators vary their programs from community to community; the negative effect occurs when the neighborhood is "pacified" by a visible (though marginal) impact on the character of the services received. Though the neighborhood may feel better about increased communication with some municipal servants, actual changes in administrative behavior may be negligible.

Citizen advisory boards, community councils and neighborhood policy boards clearly lack political power and control. With some exceptions, such structures are not democratically constituted neighborhood instruments but new forms of city government whose members are usually appointed by the mayor and city council. Though the Committee for Economic Development recommended in 1968 that neighborhood board members be popularly elected, in view of their frequent lack of political power and resources, this would afford little additional legitimacy.[11]

In sum, the neighborhood or community boards have proved ineffective in reviewing and commenting on city policy affecting the neighborhood. The volume and magnitude of decisions and concomitant information requirements have in most cases proved to be too much for their structure. However, they had three levels of success: the boards have acted as forums for neighborhood grievances, they have served as clearinghouses for information on city programs and decisions, and in some instances, they have acted much like ad hoc protest groups in reacting to specific municipal decisions.[12] In general, however, their low public visibility, lack of mobilized community support, and tendency to focus on broad community interest while avoiding factional conflict have led to overall ineffectiveness.

Political Decentralization

Requiring as they do greater change in the status quo, political decentralization efforts have met appreciable resistance from municipal authorities threatened with a perceived erosion of their discretionary powers. Political decentralization means that affected communities have some measure of authority for the formulation and implementation of particular programs and, with that authority, a proportionate share of responsibility for their success or failure or at least continuance. Predictably, cities have been reluctant to grant such wide discretion to neighborhood authorities with the result that much of the support for self-regulatory efforts has come from either extramunicipal or indigenous neighborhood resource (Kotler, Neighborhood Government, pp. 39–59).

Two noteworthy attempts at political decentralization are neighborhood corporations and community school boards. Neighborhood corporations combine local government characteristics with those of a private corporation. Due to their private nonprofit nature, they function outside city hall and are capable of offering services not explicitly proscribed by law. Thus, they can establish delivery systems which parallel traditional municipal ones and provoke change by creating a basis for comparison. Moreover, as community development corporations, they can undertake economic functions on behalf of the neighborhoods they serve.

Neighborhood corporations are generally those engaged in the provision of community services (family counseling, youth summer employment, neighborhood planning, low-income housing rehabilitation) and those engaged in economic development (entrepreneurial functions from local food corporations and credit unions to garden apartment complexes and shopping centers)

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(Hallman, Neighborhood Government in a Metropolitan Setting, pp. 151–158). They are usually governed by a board whose members are residents of and elected by their client neighborhood. Some, such as the Philadelphia Progress Movement, were initiated, financed, and governed by community residents; others were products of Ford Foundation "Gray Area" programs (Action for Boston Community Development) and OEO efforts of the sixties (Cincinnati's East Central Citizens Organization).

Neighborhood corporations have enjoyed success in a variety of endeavors ranging from housing to day care to economic development. Despite these successes, their viability has been vitiated to some extent by two phenomena. In the first place, the source of much of their strength is their extramanagerial nature which allows them to by-pass traditional services delivery systems and establish their own avenues. That very capability has posed a threat to municipal governments. City authorities are often unwilling to contract for the services of neighborhood corporations precisely because they are perceived as competitors rather than collaborators in solving common problems. Secondly, many neighborhood corporations find themselves caught between meeting the requirements of their funding sources and fulfilling the expectations of their constituents (Yates, Neighborhood Democracy, pp. 52–53). The result is often a patchwork of long-range plans pleasing to federal or private funding sources and visible short-term services pleasing to local clients.

The second principal manifestation of political decentralization is the community school board. Generally established as components of the city school system, either through state legislation or charter revision, their purpose is to increase local school responsiveness to local needs and to insure greater accountability. Such boards are funded by a central school board. Some may be delegated wide discretion in the use of provided monies. Both Detroit's neighborhood school boards and the New York City Ocean Hill-Brownsville experimental board have full authority in personnel and budget matters.

Though initiated to reorient education policies to neighborhood priorities and needs, the boards tend to be consumed by day-to-day school management concerns, a dilemma which has a great deal to do with improper alignment of tasks and capabilities (whether fiscal and material or conceptual) (Yates, Neighborhood Democracy, pp. 58–60). Additionally, board elections often produce a controlling body whose composition is not representative of its assumed constituency. The tendency has been toward underrepresentation of minorities, even when the local school district comprises predominantly minority populations.

COMMUNITY ORGANIZING

The third category into which decentralization approaches can be classified is community organizing, a term here used to designate extralegal, mass-based citizen involvement options. Unlike the salient characteristics in political and administrative decentralization (authorization, limited input, and delineated control), this approach is more extreme and pluralistic. Mass-based community organizations are most frequently formed to seek or demand solutions to specific problems. Often very political in thrust, they achieve their goals through a variety of confrontative and collaborative techniques. Though many of the more sophisticated ones have moved in the direction of the neighborhood corporation, the majority still rely on the clout that comes of numbers acting in concert to reach their goals.

Metropolitan government as a decentralization model

All of the strategies described above are limited in some critical aspect: field of endeavor, orientation, goal, or technique. But another series of efforts, largely the result of pressure for more comprehensive regional solutions to problems, provide a model for cooperative problem-solving through dual authority and accountability. While not specifically a decentralizing force, these efforts provide some insights into the question of how to suit tasks to capabilities. They might be termed the broad metropolitan approach.

The most popular kind of broad metropolitan strategy is the two-tier federated system. Bruce Smith correctly points out that it unites contradictory tendencies: centralization and decentralization.[13] Essentially it is an attempt to achieve citywide systems coordination while maintaining local government autonomy. Since it involves the merger of the city government with those of neighboring communities, it requires legal authorization from the state legislature.

Two tier-government is not a functional desegregation of control between regional and local units; rather, its key characteristic is the assignment of parts of both control and responsibility to each level of government. The Committee for Economic Development called it a sharing of power, for theoretically the two tiers should be largely co-equal (Reshaping Government, p. 45). Such a structure encourages negotiation as the means for resolving disputes and implementing metropolitan policies. Moreover, this system requires both tiers of government be directly accountable to their respective constituents.

A two-tier prototype is found in Toronto's "metro" government, which functions under the authority of the provincial legislature. Beginning with the acceptance of the Cumming Report in 1953 (Committee for Economic Development, Reshaping Government, p. 73), Toronto embarked on the federated system under the legal authority of the Metropolitan Toronto Act of 1953.[14] Metro Toronto was an upper tier of representatives from the city of Toronto and 12 (later consolidated into 5) suburban municipalities and a lower tier of representatives from existing municipal governments (Committee for Economic Development, Reshaping Government, p. 78). Functions were allocated to each tier according to what was administratively and politically feasible, usually resulting in shared control.

In The Federated City, Joseph Zimmerman charges that although the two-tier system may effectuate change at the top, the suburban or neighborhood level of the structure will remain relatively untouched. Toronto provides an illustration of Zimmerman's complaint: the lower tier was left largely unaltered. Municipalities (except under the 1966 reorganization of the suburbs) were free to continue as they always had. Real neighborhood decentralization, apart from calls for increased citizen participation, never materialized, and "two-tier federation" actually translated into increased centralization without any significant decentralization (ACIR, Substate Regionalism, Vol. III, p. 97).

A second broad metropolitan strategy is the two-tier urban-county structure. Similar to the Toronto prototype, here the county assumes some of the functions of its constituent municipalities, leaving their structure relatively intact. Dade County, Florida, is the foremost example of this approach. This strategy was primarily a move toward centralization. Its only manifestation of decentralization was the creation of four multipurpose subregional centers to serve those populations farthest from the central city hall. According to an ACIR case study:

"Dade County has not generally addressed itself to the question of decentralizing resources and policymaking except through the Community Action Agency and the Model City organization, both of which function as divisions of the county manager's office." (Substate Regionalism, Vol. II, p. 12).

In short, the obstacles to achieving this form of government, even if the neighborhood dimension were to gain functioning power, are immense. Usually such a restructuring requires amendments to the state constitution, or at least a locally drafted charter referendum which would require majority approval both inside and outside the county's central city (ACIR, Substate Regionalism, Vol. III, p. 96). Although provided for in concept, the lack of real formal decentralization to complement centralization at the county level is a serious flaw.

A third variety is the metropolitan umbrella, such as the structure established by the Minnesota leigslature in 1967. It differs from the two previous types in that the upper tier is an instrument of the state, responsibile to the state legislature and not directly to the citizens of the Twin Cities region (ACIR, Substate Regionalism, Vol. III, p. 96). It is not an implementing governmental unit which shares responsibility with lower tier units but rather a review structure for the proposals of municipal units. As such, it possesses some limited veto power. However, the Twin Cities experience did spawn a reaction in the municipalities in the direction of "community councils as a way of better representing minorities . . . in decision-making, and partly as a way of getting participation in decisions on major city projects from the neighborhoods" (ACIR, Substate Regionalism, Vol. II, p. 134).

All two-tier system concepts involved the notion of a strengthened neighborhood or community capacity for input; and in each case the notion was relatively unheeded. Public hearings were presumed to be adequate barometers for neighborhood sentiment. In some cases federally supported neighborhood organizations well into the process of phasing out were included for lack of a better conception of what the role of the neighborhood should be.

In no instance have the initiated systems addressed themselves to resource imbalances among neighborhoods or between neighborhoods and the central city. Although the appearance of redistribution was presented in both Toronto and Dade County, the fiscal approach was to "balance" the needs of the constituent municapalities. Even if a redistribution of resources had occurred, it is difficult to imagine that the benefits would have accrued to the neighborhoods: they would first have had to break out of the still-centralized political and administrative control operating at the municipal or city level.

The two-tier federated city approach, as it has been practiced, has not contributed to devolution of responsibility to lower levels. In fact, existing systems have ignored the fact that the success of the areawide organization could be significantly enhanced by strengthening the role of constituent neighborhood units. The two-tier idea in its many forms focuses on city-region relations rather than neighborhood-city relations; thus it decreases the neighborhood-oriented citizen's potential for assuming an effective role in urban policy implementation.

(1) City-county consolidation as a decentralization model. This proposal merges a county's constituent municipalities into a single unit of government. It has enjoyed greater success in terms of implementation and acceptance than federation.

The Indianapolis consolidation is perhaps a representative example of what could occur in other areas. Under the Unigov Bill, the consolidation was carried out in response to pressures from outside the city—from the suburbs and the state legislature—without much involvement on the part of urban residents. Low-income minority groups were particularly opposed.

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Though at first glance the Indiana approach is similar to federated models, it actually allows far more metropolitan decision-making discretion. At first it called for the creation of community councils to represent neighborhood viewpoints (ACIR, Substate Regionalism, Vol. II, p. 93.) Subsequently, the state authorized a system of community boards which could both contract with the city-county to perform certain neighborhood services and could also review metropolitan policy from the neighborhood perspective. The extracity members of the consolidated county, however, balked at th's movement toward more community input. Even after such proposals were modified they still refused to implement them by failing to designate community or neighborhood boundaries.[15]

Several apparent objectives guide those in favor of consolidation: a political desire on the part of extra-city residents to defuse the impact of burgeoning minority and community groups in the city, and a belief that local government is less efficient than regional-metropolitan government.

Conversely, the strength inherent in the consolidation approach is its potential for achieving a really comprehensive redistribution or resources among city neighborhoods and the suburbs. Certainly, the theoretical relationship between neighborhoods and suburbs in consolidation is one of legal equality (whereas in the federated system, suburbs are granted more local autonomy than neighborhoods).

(2) Urban charter movement as a decentralization model. One of the first examples of the urban charter movement was in Newton, Massachusetts, in November 1971. A provision in the new charter allowed the City Council to establish service area boundaries within which, through petition from 20 percent of the area voters, a Neighborhood Area Council could be established. Such NACs were vested with authority to administer a number of city functions in cooperation with the City Council. Newton's charter is one of the nation's clearest city mandates in support of neighborhood government. Because the onus is entirely on the residents, no neighborhoods have yet petitioned for that power.

Although it is through charter revision that neighborhoods can become real components of government, a major obstacle is the idea of a new charter commission and a popular referendum. An exorbitant amount of time, energy, and money is required to establish and implement charter commissions, and the myriad issues commonly brought up in a charter referendum often obscure the neighborhood decentralization question.

(3) Home rule legislation as a decentralization model. Such a strategy in recent years has encouraged the establishment of neighborhood advisory councils or other forms of city hall outreach efforts, including the establishment of "little city halls." Yet, home rule movements are not as strongly oriented toward the neighborhood as other charter or ordinance approaches. They usually are a step toward increasing the powers of city government and more often than not are a mechanism for more centralization at the city executive level.

(4) Municipal ordinances as a decentralization model. These approaches are not overly diverse. For example, Portland's City Ordinance 137816 established neighborhood associations and empowered them to serve as boards of review on policies and projects directly affecting themselves. Both Eugene, Oregon, and Chula Vista, California, have established similar procedures. Without an amendment to the city charter or a revision in the state legislature, a city ordinance can do little more than formalize a cursory citizen participation process.

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A POLICY FRAMEWORK FOR DECENTRALIZATION AT THE LOCAL LEVEL

Clearly, the primary focus of any decentralization strategy must be the city. New forms of neighborhood decentralization must be prudently phased in so that the capacity of neighborhood-level government is carefully developed through incremental successes, and residents are not overwhelmed by excessive demands for sophisticated participation. Similarly, the payoff from decentralization does not occur overnight. Any restructuring of city government must undergo a period of gestation and maturation before its planned results can be seen.

A phased neighborhood decentralization efforts is a process. Each program recommendation in urban decentralization is double-edged: on the one hand it is a concrete activity designed to yield some major improvement in the administrative delivery of services, while on the other it contributes to the process of bringing more democracy and control to the people of urban neighborhoods.

A neighborhood decentralization model: Phase I—Political

Restructuring city government should ideally occur in two multidimensional phases. The first phase should lay the building blocks for the long-range success of the program. Objectives should include a functionally adequate definition of neighborhoods, an initiation of services delivery and political decision-making at the neighborhood level, and the development of a plan to guide neighborhood decentralizaton toward fruition.

Political decentralization must be encouraged gradually: thus, the first step in Phase I would be the creation of neighborhood boards where no advisory structure exists, both to work with officials administrators of city agencies toward identifying current municipal services inadequacies and unmet needs and to begin studying the neighborhoods to see how much responsible control and authority the local areas really want.

On both the administrative and political level, decentralization must be a pluralistic strategy sensitive to neighborhood differences. Neighborhoods not at the state of seeking local self-government need not be forced to match the mode of decentralization in more self-supportive neighborhoods. But no neighborhood should be allowed to opt out of the decentralization process completely because the resulting structural imbalance could cripple the effectiveness of the overall policy. Formation of these advisory boards is a step toward identifying the range of compatible forms of decentralization.

Though only advisory, the neighborhood boards should be vested with some executive powers as soon as possible to begin testing and refining their roles. Support may wane after the initial mobilization of residents unless the boards find substantive functions to serve.

The electoral track record of new neighborhood units has not been impressive until they have been accorded legitimacy of role and function. Therefore, in their advisory form, neighborhood boards would best be filled by mixing appointments by the mayor or city council with candidates elected by neighborhood residents. This avoids embarrassing the new neighborhood organization by the low electoral turnout normally garnered by any new institution. Further, experience has shown that unless a strong and cohesive community grass-roots organization is already in existence, an elected board chosen by local residents in a small voter turnout and the election of relatively unrepresentative board members. The mayor's appointments show support of the program and lend the boards an aura of credibility.

Another key aspect of the initial phase of decentralization is the installation of a neighborhood manager to facilitate administrative aspects of the process. Initially, this individual would be appointed by the mayor because day-to-day neighborhood management and advocacy are difficult without established effective access to the existing bureaucracy. A manager experienced in dealing with the bureacracy will be in a much better position to garner governmental response than one isolated from the central apparatus.

Though appointed by the city executive, the neighborhood manager must be responsible to the neighborhood board. Interaction with the board should include reporting on programs and decisions that impact upon the neighborhood, receiving the advice and comments of the neighborhood on possible implementation of these issues, and assisting the boards to define the nature of the neighborhood and its desire for administrative and political decentralization. Assuming that routine functions can be handled easily, the board's concentration on significant policy issues would make its right of review almost tantamount to a local veto of mayoral decisions.

The manager should not serve as a complaint center or "little city hall." His appointment is a first step toward neighborhood government. His duties are to begin the devolution of the administrative dominance of the central bureaucrecy and to refocus resources on neighborhood needs. Certain measures must be taken to ensure positive functioning of the district manager's office.

All citizen boards within a defined area should be geographically coterminous so that that fragmentation and conflict do not occur.

Administrative tasks best accomplished at the local level should be identified as early as possible and services delivery restructured accordingly.

Identification of relevant personnel in each services delivery agency should be undertaken so that, as services are decentralized, each neighborhood can communicate with appropriate administrative decision-makers.

As a framework for these first steps, the city should establish an office of neighborhood government to serve as referee in cases where the central bureaucracy balks at the activities of managers and boards and to plan the transition between Phase I and Phase II activities.

A neighborhood decentralization model: Phase II—Administrative

As neighborhoods organize and become aware of their potential roles in decentralization, the advisory nature of neighborhood boards can give way to greater local control over services delivery. in other words, the beginnings of a linkage between political and administrative decentralization can be made.

Several necessities for a Phase II program of administrative decentralization are apparent.

(1) Statutory identification of local service districts as coterminous with city neighborhoods. Two criteria would influence the identification of districts: Is it a "natural" neighborhood clearly known and appreciated by its residents? And does the district make sense from the standpoint of municipal services delivery? Expanding the criteria merely complicates the standards of neighborhood deviation, opening the process to politically gerrymandered boundary identification and other distortions.

(2) Neighborhood advisory boards reconstituted as neighborhood councils and vested with local legislative and executive powers. Having gradually assumed more responsibility for local decision-making and implementation of municipal programs, an advisory board soon becomes an untenable governmental mechanism. Representatives of wards or precincts should be elected to a council and vested with the authority to govern the neighborhood in a manner similar to the city council. Because a number of city functions are best left at the mayoral level, neighborhood governments should exercise self-governance within a framework of partnership with city government, other levels of government, and other neighborhoods (Mudd, "Beyond Community Control," p. 60 and Zimmerman, The Federated City, p. 24).

(3) The city council reconstituted as a council of neighborhoods. Two methods could achieve this restructuring: city council members could be elected from districts comprised of groups of neighborhoods, or the council could be reconstituted as a congress of city neighborhoods, where each neighborhood either elects or appoints a representative to his body. The latter option is more unwieldly and adds one more layer of municipal elections. Nonetheless, it is a major step toward a more direct democratic or representative form of city government.

In addition, such a council could be of sufficient size to allow a committee structure better able to assist the mayor in treating major policy questions than could a much smaller city council. As a body of neighborhood representatives, it would also be in a better position to articulate detailed neighborhood problems than council members elected from larger districts or on an at large basis.

(4) The position of Neighborhood Manager, previously only advisory, formalized to a responsibility for the performance of municipal functions at the neighborhood level. A neighborhood manager might be selected by local election similar to choosing a mayor; appointment by the neighborhood council, much like the appointment of a city manager; or designation of the president of the neighborhood council as the local chief executive officer. Variations from neighborhood to neighborhood can easily be tolerated.

(5) Municipal services appropriately performed on a neighborhood level devolved to neighborhood council control. The neighborhood is not totally capable of self-governance; nor for that matter, is the city. However, in Phase I the City Office of Neighborhood Government should have evaluated the needs, desires, and administrative capabilities of all neighborhoods to identify which functions can be assumed on a local level and which should be retained by the city. Allowing for variation in local demand and structure, this need not be the same for all neighborhoods. Neighborhoods should also be allowed the option of contracting either to the city or to a private firm to provide certain neighborhood services.

(6) Neighborhood councils authorized to raise revenue, receive budgetary grants from the city government, and spend those monies in a manner appropriate for the functions they are to perform (Zimmerman, The Federated City). It is not sufficient for neighborhood councils to control local resources; for underprivileged neighborhoods that only places the poor in charge of their own poverty. The process of funneling monies to neighborhoods must be redistributive in nature, designed to rectify previous imbalances. Provision must also be made for the neighborhood unit to be able to raise additional funds within the district (through such devices as user charges, service fees, and property tax surcharges) to supplement basic neighborhood revenues.[16]

Footnotes at end of article.

(7) The role of the city government and executive reoriented. This reorientation would specify overall city policy and future planning; would resolve neighborhood disputes, with the assistance of the Office of Neighborhood Government; and would administer the responsibilities assigned to the city level in the functional disaggregation of municipal services.

Elimination of routine bureaucratic duties by transferring program responsibility from city hall to neighborhood councils frees the city executive for the policy planning and political spokesmanship needed to confront some of the more critical problems frequently lost in preoccupation with pressing minutia.

(8) The city's budget or fiscal office authorized to perform a regular audit of neighborhood governmental finances. To guarantee fiscal responsibility at the neighborhood level, the legislative mandate should spell out standards of anticipated fiscal responsibility. Failure to meet these standards would call forth a warning, and failure to comply would be cause for the auditing agency to ask the city council either to mandate changes or to dissolve the neighborhood government and call for new elections.

Costs of decentralization

The outlined strategy for decentralization creates linkages between administrative and political aspects and both permits and encourages citizen participation. Yet this or any strategy will only succeed if it meets the preconditions for change. Failure to meet these preconditions will destroy incentives for reinvestment and vitiate any chances for effective decentralization.

This decentralization program is a partial attempt to deal with a major group of preconditions—the provision of effective public services. Citizens and city officials together must undertake comprehensive reviews to determine the connections between public actions, credit policies, and the viability of neighborhoods. Then they must ensure that these policies are aligned with and supportive of decentralization efforts. For example, tax policy, zoning, and licensing procedures must be appropriate, and the city must use its powers to assure an adequate credit supply from the private sector. Finally, the city must provide resources for decentralized neighborhood government.

Decentralization of municipal services and urban decision-making will alter the expenditure structure of the average city. During Phase I the largest obstacle is start-up cost since a new city agency must be staffed and financed, neighborhood manager slots filled, and financially reimbursed neighborhood residents elected or appointed to local boards. In addition, initial research and program costs must be funded.

As a proportion of the total city budget, however, these costs are relatively low. For New York's recent charter proposal, total cost to effectuate decentralization amounted to less than one percent of the total budget. A more critical issue, though, is the potential economies to be achieved through an appropriate scale of municipal governance and services delivery. Start-up costs should be viewed as an investment to be repaid through higher quality services, decreased resident alienation, and mobilized community support.

A new system of municipal revenue distribution must accompany the process of neighborhood decentralization. The redeployment of finances should consider these three basic needs.

First, despite variations in neighborhood size, structure, and desired responsibility, a minimum threshold of resources should be set to ensure that neighborhoods are able to provide a basic level of services. Just as there are probable size boundaries below which the provision of public services is neither efficient nor feasible, a minimum budget threshold is also necessary.

Second, that portion of city revenues not needed to finance city hall operations should be distributed to neighborhood councils on a formula basis. Suggested components of such a revenue-sharing formula might be population, poverty, and/or housing condition (abandonment rate, amount of substandard housing). Obviously, a formula must redress the imbalance of resources and services in the city.

The stress on poverty, through both income and housing criteria, has a two-fold rationale: treating poverty requires a major commitment of resources in disproportionate amounts (poverty has always outlasted underfunded and underfocused ventures) and the key to addressing poverty and its most visible manifestation, urban decay, is through reliance on the neighborhood. Neighborhood preservation efforts which half the deterioration and abandonment of inner-city housing stock have been due, in part, to the concentration of public resources in neighborhood units. A formula distribution of funds, including revenue sharing funds, should be associated with neighborhood decentralization. This will increase the potential for leveraging private investment.

Third, neighborhood priorities may warrant other expenses not covered in the formula allocation. Some of these costs should properly be included in state and federal categorical grants. Neighborhood government, like centralized city government, will need the assistance of other governmental units to meet unexpected costs or special purpose activities. However, neighborhood governments should be authorized to raise additional revenues locally (Hallman, Government by Neighborhoods, p. 56).

PRINCIPLES, OBSTACLES, AND POLICY OPTIONS AT STATE AND FEDERAL LEVELS

Most decentralization efforts fail because of two interrelated problems: first, in most cases, local efforts do not deal directly with the issues of devolving power to citizens on a neighborhood level; and second, the administrative and political arrangements among city, state, and federal government units are not supportive of such a process. This discussion defines the problem of devolving power in more specific terms and identifies several policy options at the state and federal level which support the devolution of power.

Principles of guiding the devolution of power

Resource allocation under citizen control must be a fundamental component of any decentralization strategy. While most governmental units follow a strategy of allocation of some resources to neighborhoods, distributed monies and service relate to perceptions of a fairly small number of public officials. Often the criteria for defining need are predicated on a complex convergence of administrative, political, and economic forces having little to do with reality.

Citizens determine their resource needs quite subjectively, guided by three interrelated principles: equity, security, and sufficiency.

Citizen definition of the principle of equity is their investment (objective or subjective) being equal to their return and their neighborhood getting its fair share of resources compared to other parts of the city. Thus, when citizens invest through the tax system, they expect a return in services and amenities; or when such neighborhood institutions as local banks or small businesses are patronized, there is an expectation that the bank or business will reinvest in the neighborhood.

The return is not within the complete control of the citizens or even local officials. On the contrary, it is often influenced by local and regional external market characteristics and perceptions of risk. In neighborhoods

where the risk is higher, less reinvestment occurs and money flows out of these areas. When an actual or perceived state of inequity exists, the following usually occurs:

(1) If residents have sufficient resources, they will opt out of the neighborhood or refuse to invest socially, physically, and economically;

(2) the private sector will further exploit the neighborhood by utilizing real property for purposes of tax write-offs or engaging in speculation by holding property without making improvements for gain in the distant future; and

(3) the public sector is more likely to provide minimal services as there is less accountability to the neighborhood.

The citizen defines the principle of security in terms of economic, physical, and social factors.

In terms of economic security, the issue is whether the neighborhood has the infrastructure to support the economic needs of its residents—available credit and various forms of subsidies. The economic infrastructure comprises those institutions such as local banks, community development corporations, and community credit unions which can provide credit at reasonable interest rates. Likewise, a neighborhood infrastructure is imperative if such subsidy programs as food stamps, concentrated code enforcement, and high risk revolving loan funds are to function effectively.

Physical security is defined by the level of confidence residents and merchants have toward the public safety and criminal justice systems. When police and citizens are alienated from each other, a breakdown in mutual accountability can be expected Consequently, insecurity among citizens increases and results in limited support of the criminal justice system—unwillingness to participate on juries, report crime, and serve as witnesses. Police react by further isolating themselves from the neighborhood, which reinforces the entire process. The public safety and criminal justice system infrastructure is composed of those neighborhood-based networks, organizational and cultural, which can increase accountability between the system and the citizenry and provide support for each sector.

Residents define issues of social security in the context of a broad range of health, human services, and educational programs. Although several factors determine where a person falls on a security-insecurity continuum, the level of security in this area is almost always influenced by rate. At issue is the fact that the methods different groups of people use to solve social problems and cope with crises in a racially and ethnically diverse society are unknown.

Human service systems are often developed without regard for the unique elements of neighborhood life, resulting in a quasi-apartheid system of human services delivery—neighborhood approaches through community multiservice centers for minorities and the traditional institutional or agency system for whites. The consequences are that minorities receive inadequate care and poor and working-class whites are caught in between, too poor to afford their own physicians but unwilling to attend a public-supported clinic. For security needs to be met in this area, the delivery system must be fully integrated with the neighborhood cultural and organizational infrastructure.

Sufficiency is defined in terms of people feeling a sense of security so that they are able to participate in the processes of governance, deal successfully with problems confronting their community, and exercise some degree of control over locality-relevant institutions. In the absence of these conditions high levels of alienation eventually lead to social disorganization.

The degree to which people feel "sufficient" is often determined by how the neighborhood defines itself and how others view it. Those neighborhoods with strong ethnic, racial, or class identities have more ability to influence and deal with their problems. Yet public officials and scholars often view these communities in perjorative terms. A result is that policymakers do not build on the neighborhood strengths and often initiate policies with negative impacts. The need to understand the social and cultural dynamics of neighborhoods is perhaps the most significant challenge confronting the decentralization movement.

Obstacles inhibiting neighborhood change

Experience of the sixties suggests that a resource approach to neighborhoods by itself will not support viable neighborhood decentralization. Structured into the system are a complex set of legal, administrative, and fiscal disincentives which independently and collectively make it difficult to effectuate change. They determine the extent to which people evaluate and react to their equity, security, and sufficiency needs.

These policies can be group into the broad categories of public actions, public services, and credit. The three are inextricably related and failure in any area can jeopardize the long-term chances of success for any form of administrative or political decentralization.

Public actions are local and state tax policies, ordinances, regulations, executive orders, and judicial decisions which impact the neighborhood.

Municipal officials and courts' officers pass local ordinances and make judicial decisions on the basis of discrete problems. These decisions are often implemented in isolation from activities occurring in the city as a whole or in particular neighborhoods. Thus local laws and judicial decisions can serve either as incentives for improvement or change or as disincentives that exacerbate decline.

An Office of Minority Business Enterprise report points to a number of laws and administrative procedures which contribute to decline. For example, a major problem in many inner-city neighborhoods is the absentee landlord. In most cities, however, municipal record of property ownership is dependent upon the good will of property owners: there is no compulsion in the system to force a landlord to disclose ownership. Moreover, the report observes that the system embodies a "Catch-22" mechanism. The basic record system is organized by name of owner rather than land parcel and one must know the owner's name to deal with the system. Thus citizens and political leaders concerned with abandoned or deteriorated properties in neighborhoods are often prevented from making absentee owners of those properties accountable for their condition (James McClaughry, "Obstacles to Neighborhood Revitalization," pp. 4–6).

Few cities have been able to deal with this problem successfully. A recent report by the National Endowment for the Arts on neighborhood conservation states:

"The key problem remains a dearth of new potential owners. Many localities find few alternatives to the proverbial slum lord. Homesteading, co-oping and community ownership are frequently explored alternatives, but most experience to date indicates that these have worked only in a limited number of cases and then only when property has not substantially deteriorated prior to conversion . . . Failing such tools, local government often finds itself with no option but to refrain from using the legal powers to take property, and to deal instead with an owner in whom it has little confidence." [17]

A second problematical area concerns existing statutes governing physical improvements. In this context McClaughry points to two distinct disincentives: increased tax assessments on improved properties and the gap between building codes and construction technology. In the first instance, McClaughry cites Philadelphia and notes:

"One deterrent to property improvement in the inner city has been the present system of real estate taxation. . . Until recently, whenever any property was substantially improved, its assessment increased. In inner-city neighborhoods, an increased assessment is a penalty which often causes the owner either to forego making improvements or, in the extreme, disinvest. . . In other words, the priorities must be reversed in the inner city: those who improve their properties should be rewarded . . . and those who choose to let their properties run down . . . should pay more." ("Obstacles to Neighborhood Revitalization," pp. 30–31).

In periods of economic scarcity the property tax generally, and taxes on improvements specifically, hit those homeowners and landlords with marginal incomes the hardest. The NEA report notes that the property tax is designed to extract the maximum revenue out of improvements. Unfortunately, in a depressed economy it serves to accelerate decline by creating a climate which discourages structural or other improvements (Chapter II, p. 19). Further, local ordinances do not differentiate between tax on land and tax on improvements. This gives an advantage to speculators who own inner-city "cow pastures" which remain fallow for years and contribute to the general depression of a neighborhood.

Code enforcement can contribute to neighborhood decline through housing abandonment if not properly utilized. However, without code enforcement housing deterioration probably would increase. Code enforcement can serve as a catalyst to property improvement where the housing market is stable, but in declining areas it often serves to weaken the market since owners perceive any investment as a serious risk.

If code enforcement is to be effective, it must be implemented through cooperative efforts with residents. But McClaughry's "Obstacles to Neighborhood Revitalization" indicates that codes can inhibit citizen involvement in neighborhood improvement (p. 18). He notes that building codes were formulated in other eras in response to then existing construction competencies. These building codes today can prohibit perfectly sound and cost-effective physical improvements.

"In the first instance, the codes can be an obstacle because their rigidity does not allow them to keep up with construction technology . . . If a citizens' group wants to redevelop a parcel of land, they have to meet the current building codes. In Chicago, for instance, the group could not put up low-cost modular or prefabricated dwelling units because such construction is not in conformity with the code."

Zoning is possibly the most signficant public action in any strategy to revitalize a neighborhood. In most cities with strong mayors, zoning ordinances and variances are generally influenced by political forces. However, if utilized properly, zoning powers serve as a major incentive for neighborhood restoration. Elliott and Marcus in an article for the Hofstra Law Review note the following:

"The concept of incentive zoning is based on the premise that certain uneconomic uses and physical amenities will not be provided in new development without an economic incentive. By amenity, we refer to a non-revenue producing building feature, be it plaza, park, covered pedestrian space, arcade, on-site subway access, etc. By incentive, we mean economic advantage to a developer not present under traditional zoning, such as additional floor area beyond the district's stipulated maximum." [18]

Incentive zoning can be used as a tool to

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protect the character of a neighborhood, as well as inducing the provision of community services and physical amenities. Many communities have not fully realized the potential of incentive zoning and still have on the books clauses which favor industrial and discourage residential properties in older, inner-city neighborhoods. Other cities encourage "over-zoning" practices, which cause unnecessary expansion and new construction and encourage speculation at the expense of stable residential use. (NEA, Neighborhood Conservation, Chapter II, p. 13)

Many other public actions serve as obstacles to neighborhood revitalization. Examples include processes of foreclosure, tax delinquency procedures, eminent domain in urban renewal, and licensing.

Public services delivery is the primary role of municipal government. However, the problems of delivery are often complicated by the functional organization of the city's management system. Often cities view their service functions (e.g., sanitation, police protection, fire protection, public works, parks, and recreation) as discrete functions designed to give either convenience or services to their residential or business population, and not part of an integrated process meeting the varied needs of different neighborhoods.

Decision-making among managers and line workers in a municipal system is influenced by perceived and actual socioeconomic weights given to particular neighborhoods. Differential socioeconomic ranking results in differential service patterns which in turn influence the perceived value of neighborhoods by public officials, businessmen, and investors. On a citywide basis, decisions are biased toward higher socioeconomic groups. The inequitable distribution of city services stimulates conditions in which declining equity occurs in given sectors of the city and this, in a vicious circle, negatively affects considerations of reinvestment on the part of residential and commercial property owners, banks, financial institutions, and businesses.

As these dynamics become more pervasive, community and private sectors of the city come to depend upon public services. Concurrently the city loses its financial base, real property declines, and the demand for services increases. A process of insolvency is established. Such conditions lead to triage strategies. The NEA report states:

"The city must then choose between the politically equally hazardous alternatives of focusing its efforts on a neighborhood well down the road of decay, or one whose fate lies in the balance, and where a judicious use of tools could swing it back to health . . . the answers are elusive and costly." (Chapter I, p. 5).

Citizen organizations seeking to reverse these inequities must deal with overbureaucratized city agencies and a maze of red tape. McClaughry notes that community organizations do not usually have the expertise to handle the bureaucracy ("Obstacles to Neighborhood Revitalization," p. ii). It becomes even more complicated as the conditions responsible for inequity inextricably link public actions and public services and influence credit decisions of local financial institutions.

Credit policies directly influence the relationship between actions of financial institutions and the process of neighborhood decline. Lack of institutional investment is, if not the principal cause of decay, an important contributor to inner-city decline.

This disinclination to invest is a series of progressive steps by which lending institutions extricate themselves from neighborhoods they predict will deteriorate. One of the leading tactics is "redlining," so called because more blatant practitioners draw red lines on area maps around negatively targeted neighborhoods.

Redlining may consist of outright refusal to accept mortgage or home improvement loan applications, or it may involve a number of subtler forms of discrimination including awarding mortgage loans for inordinately short terms and high downpayments, refusing to lend on properties older than a prescribed number of years, stalling appraisals to discourage potential borrowers, underappraising, refusing to lend amounts below a minimum figure, and fixing unusually high closing costs. As a policy it is defended on the grounds that investment in high-risk areas is equivalent to mismanagement of depositor funds and is ultimately counterproductive, both for the depositor and for the lending institution.

Because of the immediate consequence of a decision to redline is the withdrawal of monies required to maintain a community's health, disinclination to invest insures that decline will occur. Local depositors living in a target area find that their savings, instead of being converted to mortgage and home improvement loans for local use, are directed to less risky areas—often new suburbs. The residents of a redlined neighborhood are thus doubly victimized, by the bank insuring the neighborhood's gradual decline and then depriving them of the use of their own savings.

Neighborhoods in which private funds are not available lack the economic infrastructure to meet a variety of loan demands. A goal in these neighborhoods is to build a mechanism which can accumulate enough capital through member deposits to meet loan demand and achieve economic sufficiency.

Policy options at State and Federal levels

Just as city policies must support decentralization efforts, so must state and federal policies aim at revolving disincentives while fulfilling various preconditions appropriate to each level of government. At federal and state levels, major efforts must encompass removal of legal barriers to decentralization, provision of resources, and reorientation of agencies and programs. The following discussion presents several policy options.

A principal problem in writing legislation has been to define the appropriate role of the federal government. For the purposes of this chapter, we define the role as having three major areas of concern: structuring financial resources, reorientation of federal programs and agencies, and provision of technical assistance through model legislation.

(1) Structuring Financial Resources. Policy must support programs which can redistribute resources and provide subsidies and general incentives for reinvestment. Resource allocation must be a fundamental part of any decentralization strategy; here the federal government has the most direct impact.

The national tax system handles redistribution most efficiently. The Neighborhood Government Act of 1975 (S. 2192) introduced by Senator Mark Hatfield amends the Internal Revenue Code of 1954 and is intended to encourage neighborhood control by returning tax monies to the local level. First introduced in 1971, the bill would turn over approximately 60 percent of federal tax revenues to local corporations. Although fraught with serious problems, the bill offers a working model and should be considered a vital preliminary step.

Neighborhood conservation and improvement through federal subsidy has been a part of urban-oriented legislation since World War II. The current Revenue Sharing Act provides a suitable framework for subsidizing neighborhoods. Toward this end, the Alliance for Neighborhood Government, which represents over 40 neighborhood organizations, approved two relevant resolutions: to support amendments to the proposed Revenue Sharing Act of 1976 that would insure "pass-through" funds to neighborhood groups and to amend the 1974 Housing and Community Development Act to require it to recognize and fund neighborhood organizations.[9] Inherent in each proposal, however, is the development of criteria to determine equitable subsidies for differing neighborhoods. Funding guidelines would have to be developed and a formula for allocating money defined to distribute funds with sufficient flexibility to meet varied needs.

A multiplicity of federal subsidy programs impact directly or indirectly on the neighborhood. However, no comprehensive analysis of their effect has been made. Before future options are developed, a comprehensive assessment of current practices in code enforcement, urban homesteading, and mortgage insurance is needed. Further, criteria for utilization of revenue sharing funds, community development block grants, and Title II special revenue sharing for social services at the neighborhood level must be developed.

Unless policies stimulate confidence, provide incentives and capital investment, and can offset the complex web of structured disincentives and neighborhood disinclination to invest, early neighborhood decentralization efforts cannot succeed. For neighborhoods to remain viable, a financial climate must be created which can attract both large and small scale reinvestment. Given the expectation that public subsidies will be limited, policy options should provide direct incentives to lenders at a neighborhood level (NEA Neighborhood Conservation). A possible mechanism is the Financial Institutions Act of 1975.

This bill (S.1267) expands competition, provides improved consumer services, strengthens the ability of financial institutions to adjust to changing economic conditions, and improves the flow of funds for mortgage credit. Titles III, V, and VI of this act are particularly relevant to neighborhood decentralization.

Title III (lending and investment powers) represents a comprehensive revision of the Home Owner's Loan Act of 1933. That Act mandates that savings and loan associations invest only in residential real estate financing. Title III sets forth a new category of permissible investments. Thirty percent of assets from federal associations would be available for educational loans, consumer loans, development and construction loans on residential property, and community development loans. The Act also allows savings and loan associations to invest unlimited sums in assets other than residential mortgage loans.

Title V (credit unions) amends a number of sections of the Federal Credit Union Act. Key amendments permit more flexible procedures for organizing credit unions and modernizing their organizational structure. These amendments provide a basis for neighborhood corporations to establish community development credit unions. Nonetheless, a key policy still remains the capitalization of credit unions in poor and workingclass neighborhoods.

Title VI (government insured and guaranteed mortgage loans) amends the National Housing Act to improve the flow of funds for mortgage credit. The bill grants savings and loan associations new powers to invest in commercial paper, corporate, state, and local bonds, and removes percentage limitations on investments in nonhousing loans. These new powers can have a negative effect on the availability of mortgage credit. Although it is difficult to assess the impact, a recent HUD study estimated a withdrawal of between $15 and $20 billion from the resi-

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dential mortgage market.[30] Because the Act increases deposit powers for thrift institutions and enables these institutions to compete with commercial banks, a larger amount of loanable funds could well be available for mortgage loans; thus offsetting the possible negative effects resulting from alternate investments by savings and loans.

(2) Reorienting Regulatory Agencies and Programs. If certain regulatory agencies do not function adequately, policy options promoting incentives and redistribution are meaningless. Of critical concern is the Federal Home Loan Bank Board, which would be given increased powers through the Financial Institutions Act.

Congress empowered the Board to safeguard citizen housing needs. However, evidence presented during House and Senate hearings on redlining and disinvestment indicate that the FHLBB has been more vigilant in attending the safety and soundness of its member savings and loan associations than it has in encouraging them to meet the housing needs of their respective communities. Board representatives testified against the Home Mortgage Disclosure Act of 1975 (S. 1281), which would improve public understanding of the role of depository institutions in home financing. During the hearings testimony clearly showed that the regulatory agency did not actively intervene in those cases in which savings and loan associations were discriminatory in their lending patterns.

Another problem is that regulatory agency board members are often retired savings and loan association officials or others with close ties to the industry. While their accumulated expertise is of vital importance to effective regulation, nevertheless, their relationship to the industry makes objectivity difficult.

Since incentive programs must directly confront and offset disinvestment practices, the role played by regulatory bodies is crucial. Therefore, practices of the following agencies should also be assessed: the Federal Deposit Insurance Corporation (FDIC), the Federal Savings and Loan Insurance Corporation (FSLIC) (which regulates not only federal institutions but also the majority of state-chartered institutions utilizing their deposit insurance), and the Federal Reserve Board (FRB).

Although the transition from categorical programs to community development block grants has virtually eliminated direct federal funding of neighborhood programs most agencies are still engaged in various research and demonstration projects which impact on neighborhoods. The Department of Housing and Urban Development, in collaboration with the FHLBB, has funded Neighborhood Housing Service demonstration programs in 20 cities. The Department of Commerce, through the Economic Development Administration and the Office of Minority Business Enterprise, has sponsored several economic revitalization projects. The Department of Health, Education and Welfare has carried out many demonstration programs on neighborhood approaches to human services, health care, mental health, and drug abuse. The Law Enforcement Administration Agency, under the National Priorities Program, has allocated funds for citizen initiative programs in crime prevention, criminal justice, and corrections.

Unfortunately, federal demonstration programs are guided by no comprehensive policy. Agencies have no program priorities. Most of the money is discretionary and not subject to Congressional oversight.

(3) Future Directions. The problems of decentralization are myriad. They relate to the degree of autonomy to grant neighborhoods, the separation of overlapping jurisdictions delivering city services, and conditions appropriate to meaningful citizen participation. Clearly, the federal government must provide technical assistance and guidance in dealing with these issues.

An Omnibus Neighborhood Act needs to be enacted to serve as a model for a comprehensive approach to restructuring procedures of governance. This Act could help cities and their residents define a workable mix of centralization and decentralization of services, necessary financial systems providing subsidy and incentive programs, federal programs appropriate to local conditions, and strategies generating relevant oversight of regulatory bodies, given neighborhood problems and priorities.

To begin to developed such an Act, the Senate Committee on Banking, Housing and Urban Affairs should hold hearings on neighborhood-related issues. These hearings should focus on the full range of existing programs; assess city and state laws pertaining to neighborhood decentralization; and identify legal, administrative, and political obstacles. Further, a Presidential Commission on Neighborhood Life should be convened to develop a more refined set of policy options.

The role of state government centers on enabling legislation, the reorientation of regulatory agencies, and the provision for technical assistance through programs. States have only recently become actively involved with decentralization.

(1) Enabling Legislation. In 1970 the Advisory Commission on Intergovernmental Relations put forth model legislation which would enable cities and counties to devolve power to the neighborhood. Since then, action on various decentralization models has occurred in Minnesota, Indiana, Pennsylvania, New York, Michigan, and California.

A review of these legislative actions suggests that the state must take the lead role in providing the legal framework for neighborhood decentralization by strengthening cities' home rule powers. State enabling legislation on home rule must include or be accompanied by amendments to state statutes in areas as disparate as land use controls, uniform health codes, taxation codes, and licensing requirements. Since congruence between local decentralization objectives and state law is necessary, the latter must be sufficiently flexible to insure that the varied needs of different cities in the state are met.

Provision of financial resources is crucial to the existence of any decentralized unit of government. State governments have an important role in funding neighborhood governments, both through direct provision of monies and structuring the tax system to remove disincentives for individual and corporate investment in neighborhoods. Numerous supportive tax incentives are possible (e.g., tax credits for businessmen and landlords who improve properties and deductions on individual state income taxes for contributions to community organizations).

Policy issues concerning home rule have implications beyond financing. Localities need many powers to support decentralization, but in most states these powers can only be delegated if authorized by the state constitution or by statutes. At issue are the range of police powers like eminent domain, promotion of public health, safety and general welfare, as well as bonding and lending authority. Considerable devolution of legal powers must be forthcoming from state government.

Citizen leadership from neighborhood organizations must also become involved on a state level if appropriate linkages between state law and the goals of decentralization are to be made. A practical way to effectuate this through a citizen commission authorized to study the linkages and insure congruence between local needs and state law.

(2) Regulatory Agencies and Programs. Regulatory agencies have the power to remove obstacles to neighborhood development in land use, planning, housing and building, as well as banking. States can play an important role in the area of credit for home mortgages and home improvement loans. Often state banking officials do not see community development as a priority. However, Massachusetts, Illinois, and the District of Columbia have taken actions toward reversing these trends. Illinois has passed a mandatory disclosure bill, and in 1975 the District of Columbia considered withdrawing funds from institutions with poor lending records in the inner city. Massachusetts adopted by executive order the views of a special task force on mortgage disclosure. In New York, several bills on increasing mortgage dollars to neighborhoods have been introduced.

States must begin to investigate methods for reversing disinvestment and removing investment barriers. States should also consider appropriate strategies with respect to deposit and use of their funds. They could align the distribution for deposit of state monies with goals of greater credit availability for neighborhoods. Another strategy being discussed in New York and elsewhere is the creation of state banks to hold the majority of state deposits and coordinate, based on their deposits, the availability of credit.

State programs also can support reinvestment in older neighborhoods. State housing and financing agencies are developing a promising group of programs with a full range of services. Recently, it was shown that an HFA can assist in rehabilitation, provide direct loans to developers or, as in Minnesota, develop mortgage purchase programs. These agencies can be an important force in assisting neighborhoods to deal with problems of aged, handicapped, and racially mixed housing. (At this time, however, HFA's are primarily servicing suburban housing needs and are not being utilized in inner-city neighborhoods.) Modification is imperative.

Several states, including Massachusetts, Pennsylvania, and New Jersey, have developed various demonstration grant programs, but eligibility is generally restricted to redevelopment authorities in municipalities. For these programs to support decentralization more effective, direct "pass-through" to neighborhood groups is important. Equally important is the provision of technical assistance to neighborhoods. Clearly, state support of the work of the proposed City Office of Neighborhood Government should have high priority.

Although neighborhood approaches to governance and services delivery do not represent a panacea for all problems, it is an area of overriding concern for urban policymakers. The challenge to government at all levels is to devise creative policies which can support political and administrative decentralization. This chapter has presented several conceptual schemes in order to provide a foundation for possible city, state, and federal policy options.

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[20] U.S. Congress, Senate, Committee on Banking, Housing and Urban Affairs, Report on Financial Institutions Act of 1975: Hearing on S. 1267, 94th Cong., 2nd Sess., p. 61.

By Mr. BAYH:

S. 418. A bill to provide for the establishment of Multipurpose Service Centers for displaced homemakers, and for other purposes; to the Committee on Labor and Public Welfare.

DISPLACED HOMEMAKERS ACT OF 1977

Mr. BAYH. Mr. President, we have taken several steps forward in recent years toward achieving greater participation by women in the labor force. Changes in laws governing discrimination in education and employment combined with a heightened awareness on the part of the public as to the value of women in the work force has resulted in women accounting for three-fifths of the increase in civilian employment in the last decade. Unfortunately, one class of women has not as yet benefitted from this progress—the so-called displaced homemaker. These women, who have been homemakers for a majority of their lives, face a myriad of problems when death, divorce, or loss of other family income forces them back to the labor market. In order to help these women become self-sufficient, productive members of the labor force, I am introducing today the Displaced Homemakers Act of 1977.

This legislation has had an eloquent spokesperson in the House of Representatives, Congresswoman YVONNE BURKE. Congresswoman BURKE introduced the displaced homemakers bill in the 92d Congress and reintroduced H.R. 28 on January 4, 1977, a similar bill was introduced in the Senate last Congress by Senator Tunney. Hearings were held in the House last Congress by Congressman HAWKIN'S Equal Opportunity Subcommittee, and we are looking forward to further hearings in both the House and Senate early in this session.

I. NEED FOR LEGISLATION

The middle-aged woman who has spend most of her adult life working in the home often finds it very difficult to take on the role of providing support for herself or her family following divorce or the death of her spouse. She is often unprepared to overcome the barriers of entering the labor force without marketable skills or training. Too often these women fall between the cracks of Federal programs. They are frequently ineligible for social security benefits because they are too young, or they are divorced from the wage earner. They are ineligible for Federal welfare assistance if they are not physically disabled and their children are past a certain age. They are unable to apply for unemployment insurance because they have engaged in unpaid labor in the home.

Who qualifies as displaced homemaker? Displaced homemakers are those women who are not in the labor force, who are between the ages of 35 and 64, and who are single, widowed, divorced, or separated. In order to serve potential displaced homemakers before they are destitute, the definition employed by the legislation now also includes those mothers who are being supported by governmental assistance or spousal support but whose children are within 2 years of reaching their majority.

It is difficult to pinpoint exactly how many people would qualify as displaced homemakers because homemakers do not often appear in Government statistics and their contributions to the economy is not recognized. However, the Alliance for Displaced Homemakers of Oakland, Calif., has estimated that over 2.2 million women fell into this category as of March 1973. Additionally, a large number of women can be categorized as potential displaced homemakers. Married women between the ages of 34 and 64 who are not in the labor force and who have no children under 18 totalled 7.5 million in March 1973. Moreover, 15 million women out of the labor force who currently have minor children will be without benefits when their children reach the age of 18.

Statistics on women in the middle years speak dramatically on the need for displaced homemakers legislation.

In 1973 there were 9,851,000 widows and 3,275,000 divorced women, a 41-percent increase in widows since 1950 and 166-percent increase in divorces since 1950.

Between the ages of 40 and 54, the number of widows increases more than five times and the number of divorces doubled;

Thirty percent of the unemployed women looking for part-time jobs were 55 years old and over;

Thirty-five percent of female heads of households were widowed in 1975;

Over the past decade, single parent families headed by women have grown 10 times as fast as two-parent families;

Only 47 percent of all divorced mothers are awarded child support and only 21 percent collect support regularly;

The highest rate of labor force participation for the women family heads was among those 45 to 54 years of age where nearly 7 out of every 10 of these women worked.

II. SUMMARY OF LEGISLATION

The bill I am introducing today is identical to the legislation introduced by Congresswoman BURKE, H.R. 28. Specifically, this legislation provides for the establishment of multipurpose service centers to offer job training and placement services, counseling and referral services in health care, education, legal problems and financial management as well as outreach and information services relating to already existing programs.

Under the provisions of the bill, the Secretary of Health Education and Welfare may award up to $10 million in fiscal 1978 in matching grants for the creation of 50 multipurpose centers; 90 percent of the funds will be provided by the Federal Government, with 10 percent of the funds allocated by the State. Sites for the centers are to be determined by the Secretary with special attention being paid to existing services and facilities for displaced homemakers and needs of both urban and rural communities.

The bill also calls for a 1-year study and report to the Congress on the feasibility of the appropriate procedures for including displaced homemakers under unemployment compensation programs. While homemakers make an invaluable contribution to the welfare and economic stability of this country, there is no unemployment insurance for a homemaker who is "laid off".

III. SUPPORT FOR LEGISLATION

The concept of assistance to the millions of displaced homemakers in our Nation has received a great deal of support. At the national level support has come

from a broad range of groups including:

Alliance for Displaced Homemakers;
American Association of Retired Persons (AARP);
Association of Family Conciliation Courts;
B'nai B'rith Women;
California Rural Legal Assistance Agency;
California State Commission on the Status of Women;
Church Women United;
Grey Panthers;
National Association of Social Workers;
National Commission on the Observance of International Women's Year;
National Council of Negro Women;
National Council of Senior Citizens;
National Organization for Women and N.O.W. Task Force on Older Women;
National Women's Political Caucus;
Sociologists for Women in Society;
Wider Opportunities for Women (W.O.W.);
Women's Equity Action League;
Women For;
Women in Communications, Inc.;
Women's Lobby;
YWCA.

Presently, California and Maryland have established centers similar to those called for in our legislation, and I understand the Florida Legislature has authorized a center for that State.

Statistical evidence indicates clearly that women are entering the labor force in increasing numbers for basic economic reasons. Older women, whether to support their children or themselves, are often ill-prepared to enter the job market. If they do breach the barriers of agist and sexist discrimination they are still likely to be employed at menial, low level occupations which provide only marginal income. This cycle can be broken only by supplementing their inadequacies of earlier education and training with counseling and training programs designed to provide better paying job opportunities. It is this need which would be addressed by the Displaced Homemakers Act of 1977.

In order that my colleagues can further understand the need for such legislation, I ask unanimous consent that a number of articles dealing with displaced homemakers be inserted in the RECORD at this time.

I also ask unanimous consent that a copy of the legislation itself be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Displaced Homemakers Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds that—

(1) homemakers are an unrecognized and unpaid part of the national work force who make an invaluable contribution to the welfare and economic stability of the Nation but who receive no health, retirement, or unemployment benefits as a result of their labor;

(2) an increasing number of homemakers are displaced in their middle years from their family role and left without any source of financial security because of divorce, the death of their spouse, or the loss of family income;

(3) displaced homemakers often are subject to discrimination in employment because of age, sex, and lack of any recent paid work experience; and

(4) displaced homemakers often are without any other source of income because—

(A) they are ineligible for social security benefits because they are too young, or because they are divorced from the family wage earner;

(B) they are ineligible for Federal welfare assistance if they are not physically disabled and their children are past a certain age;

(C) they are ineligible for unemployment insurance because they been engaged in unpaid labor in the home.

(b) It is the purpose of this Act to require the Secretary of the Department of Health, Education, and Welfare to establish Multipurpose Service Centers to provide necessary training, counseling, and services for displaced homemakers so that they may enjoy the independence and economic security vital to a productive life.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "displaced homemaker" means an individual who—

(A) has worked in the home for a substantial number of years providing unpaid household services for family members;

(B) is not gainfully employed;

(C) has had, or would have, difficulty in securing employment; and

(D) has been dependent on the income of another family member but is no longer supported by such income, has been dependent on Federal assistance but is no longer eligible for such assistance, or is supported as the parent of minor children by government assistance or spousal support but those children are within two years of reaching their majority;

(2) the term "Secretary" means the Secretary of the Department of Health, Education, and Welfare.

MULITPURPOSE SERVICE CENTERS

SEC. 4. (a) The Secretary is authorized and directed to establish a minimum of fifty Multipurpose Service Centers for displaced homemakers (hereinafter referred to as "Centers") not later than two years after the date of enactment of this Act.

(b) Each Center shall include the following services:

(1) job counseling services which shall—

(A) be specifically designed for displaced homemakers; and

(B) operate to counsel displaced homemakers with respect to appropriate job opportunities;

(2) job training and job placement services which shall—

(A) develop, by working with State and local government agencies and private employers, training and placement programs for jobs in the public and private sectors;

(B) assist displaced homemakers in gaining admission to existing public and private job training programs and opportunities; and

(C) assist in identifying community needs and creating new jobs in the public and private sectors;

(3) health education and counseling services in cooperation with existing health programs with respect to—

(A) general principles of preventative health care;

(B) health care consumer education, particularly in the selection of physicians and health care services, including, but not limited to, health maintenance organizations, and health insurance;

(C) family health care and nutrition;

(D) alcohol and drug addiction; and

(E) other related health care matters;

(4) financial management services which provide information and assistance with respect to insurance, taxes, estate and probate problems, mortgages, loans, and other related financial matters;

(5) educational services, including—

(A) outreach and information about courses offering credit through secondary or postsecondary education programs, including bilingual programing where appropriate; and

(B) information about such other programs which are determined to be of interest and benefit to displaced homemakers by the Secretary;

(6) legal counseling and referral services; and

(7) outreach and information services with respect to Federal employment, education, health, public assistance, and unemployment assistance programs which the Secretary determines would be of interest and benefit to displaced homemakers.

(c) Supervisory, technical, and administrative positions relating to Centers established under this Act shall, to the maximum extent feasible, be filled by displaced homemakers.

(d) Trainees in a program established under subsection (b)(2) of this section, who have demonstrated a financial need to the satisfaction of the Secretary, shall be paid a stipend not less than the Federal minimum wage, established by the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) while engaged in such program.

SELECTION AND ADMINISTRATION OF CENTERS

SEC. 5. (a) In selecting sites for the Centers established under section 4 of this Act, the Secretary shall consider—

(1) the location of any existing facilities for displaced homemakers and of any existing services similar to those listed in section 4(b), which might be incorporated into a Center;

(2) the needs of each State, and of the various regions of the country for a Center (although the Secretary shall not be required to select a site in each State); and

(3) the needs of both urban and rural communities.

(b) As soon as possible after the selection of a particular site for a Center under subsection (a), and in any case not later than two years after the date of enactment of this Act, the Secretary shall select a public or nonprofit private organization to administer each Center. The selection of such an organization shall be made after consultation with State and local government agencies, and shall take into consideration the experience and capability of such organizations in administering the services to be provided by the Center.

(c) The Secretary is authorized to make grants to the organizations selected under subsection (b) for the purpose of establishing and maintaining the Centers created under this Act. Each organization shall be eligible for grants equal to 90 per centum of the total cost of establishing and maintaining a Center under the following circumstances:

(1) an initial grant equal to 90 per centum of the total cost of establishing a Center shall be made when funds equal to 10 per centum of such costs have been committed by the State;

(2) grants equal to 90 per centum of the total cost of maintaining a Center shall be made for each fiscal year, or part thereof, after the enactment of this Act, when funds equal to 10 per centum of such costs have been committed by the State during that fiscal year.

(d) As soon as practicable and in any case not later than six months after the date of enactment of this Act, the Secretary shall issue regulations prescribing the standards which shall be met by each Center in accordance with the policies set forth in this Act, Continuing grants for the maintenance of each Center shall be contingent upon the determination by the Secretary, based upon evaluations under section 6 of this Act, that the Center is in compliance with the regulations prescribed by the Secretary.

(e) The Secretary shall consult and cooperate with the Secretary of Labor, the Commissioner of the Social Security Administration, the Commissioner of the Administration on Aging, and such other persons in the executive branch of the Federal Government as the Secretary considers appropriate, to facilitate the coordination of Centers established under this Act with existing Federal programs of a similar nature.

EVALUATION

SEC. 6. (a) The Secretary, in consultation with appropriate heads of executive agencies shall prepare and furnish to the Congress evaluations of the Centers established under this Act including—

(1) a thorough assessment of each Center; and

(2) recommendations concerning the administration and expansion of such Centers at the local, State, and Federal levels.

(b) The Secretary shall submit to the Congress the first of the evaluations required by subsection (a) of this section not later than eighteen months after the date of enactment of this Act. Subsequent evaluations shall be made every two years.

STUDY OF FEDERAL PROGRAMS

SEC. 7. (a) The Secretary, in consultation with appropriate heads of executive agencies shall prepare and furnish to the Congress a study to determine the feasibility of and appropriate procedures for allowing displaced homemakers to participate in—

(1) programs established under the Comprehensive Employment and Training Act of 1973 (29 U.S.C. 801 et seq.);

(2) work incentive programs established under section 432(b)(1) of the Social Security Act;

(3) related Federal employment, education, and health assistance programs; and

(4) programs established or benefits provided under Federal and State unemployment compensation laws by consideration of full-time homemakers as workers eligible for such benefits or programs.

(b) The Secretary shall submit to Congress the reports required by subsection (a) of this section not later than one year after the date of the enactment of this Act. The final report shall contain a detailed statement of the findings and conclusions of the studies conducted under section 7, together with such recommendations for legislative or other action as the Secretary may consider appropriate.

CONTRIBUTIONS

SEC. 8. The Secretary may, in carrying out the provisions of this Act, accept, use, and dispose of contributions of money, services, and property.

NONDISCRIMINATION

SEC. 9. No person in the United States shall on the ground of sex, age, race, color, religion, or national origin be excluded from participating in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There are authorized to be appropriated such sums, not to exceed $10,000,000 for the fiscal year ending on September 30, 1978, and not to exceed $15,000,000 for the fiscal year ending September 30, 1979, as are necessary to carry out the provisions of this Act. Any funds appropriated but not expended during a fiscal year may be used, to the extent provided in an appropriation Act, in any subsequent fiscal year.

[From the Cleveland Plain Dealer, Jan. 16, 1976]

"DISPLACED HOMEMAKERS" ORGANIZE: MIDDLE AGE ISN'T THE END OF THE ROAD

(By Glenda Daniel)

Middle-aged women are the last hired and first fired. Somewhere between 3 and 6 million of them are looking for work right now, and an energetic crusader named Laurie Shields, who heads an "old girl network" called the Alliance for Displaced Homemakers, is determined to help them find it.

"We're a minority you may not have thought much about," she said. "But our plight is very real—especially those of us recently divorced or widowed.

"People our age (she is 55) were raised to believe marriage meant security. Most laws still seem to assume that. The assumption, unfortunately, is unwarranted."

Mrs. Shields, a former advertising copywriter and marketing specialist, began digging into statistics five years ago.

A new widow who hadn't worked for money since 35, she learned from prospective employers that she was highly qualified but unemployable because her age put her into an "over the hill" category and because she had "no recent employment history."

She found she was far from alone in her predicament. There are 12 million widows in the country, many of whose husbands made no financial provisions for them.

Among women over 65, some 47% have incomes of less than $2,000 a year and only 12% receive $5,000 a year or more.

Divorce in the middle years is becoming more common, too. Census bureau figures show a quarter of divorces filed are after 15 or more years of marriage.

Only 66.5% of women aged 55 to 64 are still living with husbands. And alimony has become unfashionable, because so many younger women are declaring they don't need it.

Laurie Shields jokes about the problem. "What's a mother to do?"

She could have stayed home and cried—because she was too young to get Social Security—might never get it, in fact, because she "fell between the cracks" of the system.

Because her previous work as a homemaker involved no direct cash payments and left her ineligible, therefore, for unemployment benefits.

Because her health insurance, a fringe benefit of her late husband's job, had expired when he did.

Instead, she contacted her local (Alameda County, Calif.) chapter of the National Organization for Women and asked what could be done for her and all the women like her.

Through Tish Sommers, who headed NOW's Task Force on Older Women, she learned a bill had been introduced in the California legislature which would set aside funds for a pilot project, a training and job placement center in Oakland to serve "mature women."

Tish Sommers told her: "We need to come out of the closet on age. Although our role has changed, we are not disposable."

"I bought a pair of tennis shoes to capitalize on my little old lady image, borrowed my daughter's yellow Volkswagen and started to barnstorm the state," Mrs. Shields said.

Women she met were encouraged to call or write all their friends, and the "old girl network" was born. The bill passed both legislative houses with huge majorities.

"How could I oppose it?" one senator remarked to Mrs. Shields. "It would be like voting against my mother."

Gov. Edmund G. Brown Jr., pressured by tons of mail, signed the bill into law an hour and half before his deadline. Many of the women who lobbied for the measure had never been involved in politics before.

"They got a real charge out of the experience. It was direct confirmation; they could really affect their own destiny," said Mrs. Shields.

Money for the center was allocated this month. There will be four full-time employes, and the rest of the funds will be used to pay women in training for job placement.

"We don't want to take jobs away from other people who need them," Mrs. Shields said. "But we have made up a list of 23 occupations for which displaced homemakers are most likely to be qualified. Our six-month training program will reinforce that qualification."

She lists a few that she discussed at a meeting this month in Washington, D.C., with the Homemakers Committee of the National Commission on Observance of International Women's Year.

Marital dissolution counselor.

"Her in-service training," said Mrs. Shields, "would take place at the center. Assisted by a law student, under supervision of a lawyer, the trainee will coordinate a divorce counseling group within the center.

"She will attend specific courses on domestic law, engage in supervised study and visit legal aid offices. We expect to place her in a legal aid office or with a private law firm."

Widow-to-widow counselor.

"The trainee will coordinate a widows' service group at the center. She will become expert in specific areas of law dealing with probate and other legal and personal problems related to widowhood.

"Within six months, we expect to place her at a senior center, legal aid office or women's center.

"You can see that in each of these cases, as with all the others, the trainee becomes an auxiliary staff member of the center. Also, during the six months she will be training her successor."

Aging programs information specialist.

"She will learn to set up information and referral services dealing with questions on Social Security, Medicare, rehabilitation, etc. She should eventually be a valuable staff addition to any programs funded by the Older Americans Act."

Other job categories for which the women at the Almeda Center will be trained include home health care technician, nursing home ombudsman, self-employment specialist (to counsel women interested in setting up their own businesses in such areas as house repair and painting, plant care or bookkeeping), crafts exchange coordinator, government funding specialist and money management specialist.

"Homemakers are invariably adept at the fine art of stretching a buck," Mrs. Shields pointed out.

The Alliance for Displaced Homemakers was the official lobbying body for the California bill. It could have been disbanded when that bill became law, but Laurie Shields had other ideas.

Thanks mainly to her organization's efforts and those of NOW's Task Force on Older Women, bills similar to the California one are being introduced in two other state legislatures (Maryland and New Jersey).

Minnesota, Pennsylvania and Arizona are reported to have parallel bills under study, and federal bills are pending in both houses of Congress.

Rep. Yvonne Braithwaite Burke's (D-

Calif.) bill in the House has been referred to the House Committee on Education and Labor and assigned to that body's subcommittee on Equal Opportunities.

Sen. John V. Tunney's (D-Calif.) Senate bill has been referred to the Senate Committee on Labor and Public Welfare but hasn't been assigned yet to a subcommittee.

Laurie Shields has returned her daughter's Volkswagen and opted for a plane ticket instead. She hopes to meet with women's organizations in the home states of all the congressmen and senators who are on the crucial committees that will consider the two bills.

"The old girl network is getting bigger every day," she said proudly.

The address of the Alliance for Displaced Homemakers, also NOW Task Force on Older Women, is 3800 Harrison Street, Oakland, California 94611.

[From the Ladies' Home Journal, February 1976]

THE DISCARDING OF MRS. HILL

Dorothy Hill's husband died of stomach cancer last February. Mrs. Hill was 53. Her two daughters flew in for the funeral and spent a few days in the Hill house, to keep their mother company. Then they went home. And Mrs. Hill, who had been a housewife for 31 years, began trying to cope by herself.

What follows is not about personal loss. It is more basic than that. It is about survival. What happened to Dorothy Hill could have happened anywhere in this country; the details would vary from state to state, but the story would end the same way.

One morning, shortly after the funeral, Mrs. Hill sat down at her husband's big steel desk to think about money. The private insurance was gone after three months of medical bills. The savings account was close to empty; the mortgage payment alone would finish it off within a few months. And there was no widow's pension: Mr. Hill had died before retirement, which, according to his company's plan, did not entitle her to any money.

Mrs. Hill made a list. She always made lists when she felt panicky. On one side of the paper she wrote "Out," and underneath that, "House. Utilities. Taxes. Food." On the other side she wrote, "In," and under that, "Social Security. Part-Time Work?"

She paused. They had talked about this before he died, but only briefly; he had been so sick. She had not been able to be practical. She had not been able to think.

Mrs. Hill called the Social Security office. Her voice was apologetic. "I realize I'll have to come down there and fill out forms and so on," she said to the woman who answered. "I just wondered approximately how much I'm entitled to."

"How old are you?" the woman asked.

"Fifty-three," said Mrs. Hill.

"Minor children?"

"No."

"Are you disabled?"

"Not that I know of," Mrs. Hill said.

"Your monthly benefit will depend on your husband's average earnings, of course," said the Social Security woman. "But you will not begin receiving the benefit until your 60th birthday."

Mrs. Hill was silent for a moment. She transferred the receiver from her right ear to her left and waited until her voice was steady. "I'm sorry," she said. "Would you say that again, please? I don't think I understand."

"Widows without minor children are eligible for Social Security at age 60," the woman said.

"*Sixty,*" Mrs. Hill repeated, almost whispering.

"Disabled widows may collect at 50," the woman said. She spoke patiently, with the stiffness and impersonality of a government pamphlet. "Widows caring for minor children may collect at any age. But in your case the eligibility age would appear to be sixty."

"What about that special new thing?" Mrs. Hill asked. "What do they call it? The supplemental program?"

"SSI," the woman said. "Supplemental Security Income. That's available to those who are blind, disabled or over 65."

"What about housewives?" Mrs. Hill asked, her voice rising. "What about women who were completely dependent on their husbands for support? Isn't there any coverage in the meantime? Is this just a hole they get dropped into ?"

"The period before sixty is—" the woman hesitated, "one of noncoverage."

"But I'm only fifty-three!" cried Mrs. Hill. "I don't have any income! What am I supposed to do for seven years?"

"I'm sorry," said the Social Security woman.

Mrs. Hill hung up.

Two weeks later she began looking for a job. She made an appointment with an employment agency, one of the few that did not list openings for *Brite Gals, Attractive* in its newspaper classifieds. The employment counselor, a smiling young woman, met Mrs. Hill at the front desk. "We'll just do a preliminary interview this time, Dot," she said, smiling. Mrs. Hill winced; only her closest friends called her Dot. "Let's go over your work history and goals."

Work history. Mrs. Hill had typed in a steno pool for two years before her marriage, a job she had not particularly liked; after that, 30 years at home.

"I'm a housewife," she said. "I did some typing a long time ago, but my husband and I agreed that I would quit when we married. My work history is as a housewife."

The young woman's smile disappeared. "No recent outside work at *all?*"

Mrs. Hill tried to improvise. "I was very active in the Red Cross. I helped organize free public lectures."

"I mean paid work," the young woman said.

"No," said Mrs. Hill.

The young woman sighed. "Dot, we're going to have some problem placing you. Our employers almost always want recent work experience." She opened a large black book and began leafing through pages of job descriptions. "We do run into this from time to time—the woman returning to the work force—and it's a real problem. There's the factor of health—"

"My health is fine," Mrs. Hill said, more sharply than she had intended.

"I'm sure it is." The young woman smiled again. "But the nature of secretarial work has also changed quite a bit since you got your experience. The demands are different. Technological changes and so forth."

"I'm perfectly willing to learn," Mrs. Hill said. "I have a good memory. I learn quickly."

There was a pause. Then Mrs. Hill said, "It's more than that, isn't it? Employers want young people, don't they?"

"Perhaps it might be wise for you to consider alternatives, in light of your particular kind of experience," the young woman said. Her cheeriness had become brisk, signaling dismissal. "Have you thought about volunteer work?"

Mrs. Hill stood up quickly. "I *can't* do volunteer work," she said. "I have to *eat.*" She was so angry that her hands were shaking. "I have spent the last thirty years of my life doing work that I thought was productive and important. Sometimes I liked being a wife and mother, and cooking dinners, and washing clothes and dishes, and keeping the house clean. Sometimes I hated it. But I always assumed that it was something worthwhile, something that needed to be done." She took a deep breath, "Now you tell me that my experience is only good for volunteer work; that I'm expected to go on working without pay."

"OUGHT TO BE INSULTED"

Mrs. Hill was afraid she might start to cry in public. "I ought to be insulted. But I have a house payment due in nine days, and $400 in the bank, and I don't know how I'm going to live. I'm too frightened to be insulted."

She spent her morning with the classified section of the newspaper and a pen, circling ads that looked promising. A sales company wanted trainees: NO EXP. NEC. Mrs. Hill called to ask for an application, "I'm 53," she said, bracing herself. The man on the other end said he was sorry, but the program was only open to those under 35—being an apprenticeship and so on. It wasn't much good training people who were going to retire right off, after all.

If housewives made a salary, she throught one night, *I'd be eligible for unemployment insurance.*

She called the Welfare Department. It was just out of curiosity Mrs. Hill told herself. She was not serious about welfare, but she was curious. "I just wondered," she said to the man who answered, "what I'd be eligible for, if I were thinking about applying, I mean."

The man asked what her income was.

"I don't have one," said Mrs. Hill. "I don't have any money." She was appalled by the simplicity of it.

Family and marital status?

"Widowed," Mrs. Hill said. "My children are grown. They live out of the state."

FEW ALTERNATIVES

Well, the man explained, that eliminated Aid to Families with Dependent Children. "Your alternative would be General Assistance. Provided you meet all the requirements, you would be eligible for around $115 a month, and food stamps."

One hundred fifteen dollars a month.

"What are the requirements?" asked Mrs. Hill.

"We'd send some forms off to your children first, just to make sure they are unable to support you," the welfare worker said. "Then we'd make sure that your housing payments don't exceed $96 a month, and that there is no other source of income for you."

"Wait a minute," said Mrs. Hill. "What if my housing costs more than that? I mean, I have a home, and my payments are more than $96."

It would be necessary, the man said delicately, for her to find other living arrangements.

Mrs. Hill closed her eyes. "For $96 a month?"

Sometimes public housing is available if private apartments prove too expensive, the man said.

"Thank you," said Mrs. Hill. She put the receiver down. *I'm going to be sick,* she thought.

Mrs. Hill wrote to her daughters. "You know I am not a woman's libber," she told the younger one, who was. "But I feel as though after a life of contributing to my home and family, I've been left hanging in mid-air. I can't believe this is happening." They sent checks, for $75 and $150, which Mrs. Hill did not deposit. She put them under the glass paperweight and tried not to look at them.

Someone suggested part-time baby-sitting. Mrs. Hill made up some 3x5 cards that said, "Childcare, In Your Home. Experienced Older Woman. Reliable." She tacked the cards up in laundromats and supermarkets, and placed an ad in the newspaper. The next week a woman called to ask whether Mrs. Hill would come look after her son on Thursday afternoon. Mrs. Hill spent four hours with the child, a docile, five-month-old baby who needed his diapers changed twice. She made $6.50. She deposited her daughters' checks.

Mrs. Hill has a part-time job now, in a small nursing home near the hospital where her husband died. She makes $260 a month, and is not eligible for medical benefits because she works only 25 hours a week. The nursing home employs nine older women under similar conditions; they can give work to more ladies that way, the owner explains, even though they have a limited budget.

She will probably lose the house.

I know Dorothy Hill. Her name is different. We met in California, where I worked with a mutual help employment center for women over 40. I was young enough to be her daughter, young enough to be granddaughter to some of the bewildered and angry women who came in because they suddenly had no means of support. Often they had not yet realized what would happen to them. *I've been a homemaker all my life,* they'd say, *I lost my husband, no insurance. Tell me what I can do.* And others would have to tell them, slowly, that if they are under 60 they may not collect Social Security; that they are probably not eligible for welfare; that all they can do is plunge into a job market that has no use for women whose experience consists of a lifetime as wife and mother. The center tries to help. It was founded by two older women who know a great deal about constructive anger. They organize weekly discussion groups, conduct a revolving-door system of staffing to provide the women with job references, and explain how to file charges of sex and age discrimination. All useful. Sometimes productive. But the essential exhausting work, is listening.

Over and over, the women tell different versions of the same story. *I thought I was going to be taken care of.* Twenty, 30 years ago, they made a deal, entered into the contract: I'll stay home and you support me. This is my occupation: Homemaker. It was supposed to be a fine thing for women to do—arguably, the only thing, for women not possessed of a certain selfish fever—rewarding, vital, patriotic, a pedestal buttressed by magazines and television programs and textbook illustrations.

WOMEN IN THE MIDDLE

But the change has begun. The roles are shifting. And there are women among us who have been caught in the middle; the pedestal has been jerked out from under them, without warning: the 44-year-old housewife who is denied alimony by a "with-it" judge; the 53-year-old widow who has lost touch, in these days of isolation and groping for self, with the church or family that might once have taken her in.

Displaced homemakers, my friend Tish Sommers call them. Tish is 60. A displaced homemaker herself (she was divorced at 57, after 20 years without paid work), she is one of the founders of the older women's employment center, head of the N.O.W. Task Force on Older Women and a thoroughly committed feminist. Tish spends most of her time organizing now. *This is what it's like,* she tells lawyers and church groups and gerentology conventions, *to be a dependent woman suddenly thrust out on your own.* And to everyone, she gives the statistics: 37 percent of American women over 40 have no husbands, according to the March 1974 census. More than a million women under 60, without minor children, widowed or divorced, are out of the labor force. One out of three marriages ends in divorce. Perhaps most chilling: a "prime risk" group of 6.1 million, married women under 60 is not in the labor force. Six million potential Dorothy Hills.

Think of the displaced homemaker as temporarily disabled. It is not a physical disability, but a woman who agrees at 22 to forego the paid labor forces for a lifetime as homemaker may be crippling herself as surely as if she had lopped off one hand. Even those women eligible for government programs—S.S.I., welfare's Aid to the Totally Disabled, Social Security's special provisions for disabled widows—may not pursue these options. For most of the women I talked to, women who refuse to abandon their belief in America, government money is still laced with shame. Charity. The dole. Besides, they want *jobs,* something to relieve the special ache that Mrs. Hill's story does not talk about: the need to matter, to be useful again.

That means job training. Last year the federal government allocated $3.6 billion to the Comprehensive Employment and Training Act (CETA), a program of job development for the disadvantaged. But CETA is geared toward the young unemployed—many of the jobs are industrial or involve apprenticeships with age limits. So N.O.W.'s Task Force on Older Women and Rep. Yvonne B. Burke (D., Calif.) have worked up their own legislative alternative, using the principle behind CETA. According to Rep. Burke, "There was a time when your relatives took you in. Today, that is no longer prevalent. We have to put in a system to take over the role the family once played."

The proposed legislation she has sponsored is titled the Equal Opportunity for Displaced Homemakers Act. It calls for federally-funded job training and the development of special community service positions for older women. "It is the purpose of this Act," the bill reads, "to provide the necessary training, jobs, services and health care for displaced homemakers, so that they may enjoy the independence and economic security vital to a productive life. Homemakers are an unrecognized part of the work force who make an invaluable contribution to the welfare of the society as a whole." It is a serious piece of legislation and, coupled with enforcement of existing laws against age and sex discrimination, a possible answer.

When Tish was on TV, as a guest on a national morning news program, she gave a little speech about displaced homemakers. At the end, she mentioned the address of the N.O.W. office in Chicago. Two days later, the onslaught of letters began: 500 by the end of the week. 300 the following week.

One letter is special in its despair. The handwriting is neat at first, careful, round penmanship; then, as the story unfolds, the words jumble together and the script becomes harder to read, until by the last paragraph it has dissolved into a savage scrawl. "My divorced husband is dead," this woman writes. "I am not eligible for Social Security. No one wants to hire an older woman. No one even wants one around. I find I have no courage even to keep on trying. I am so tired of being old and being fat . . . I am beginning to think that Russia is more humane than the United States. It allows older women to earn money for their own support, cleaning streets."

WHAT TO DO IF YOU ARE A "MRS. HILL"

1. Contact one of the following groups for information and moral support:

The Alliance for Displaced Homemakers, 6422 Telegraph, Oakland, Calif. 94609. (Write them for the address of the branch nearest you.)

The Gray Panthers, P.O. Box 3177, Washington, D.C. 20010.

National Organization for Women, Task Force on Older Women, 434 66th St., Oakland, Calif. 94609.

Jobs for Older Women, 3102 Telegraph Ave., Berkeley, Calif. 94705.

Widows Consultation Center, 136 E. 57th St., New York, N.Y. 10022.

Family Service Association of America. (For your local branch, check in the yellow pages or write the national office, 44 E. 23rd St., New York, N.Y. 10010.)

Also, *Prime Time,* a publication "for the liberation of women in the prime of life" costs $7 for 11 issues, with special rates available for those unemployed or on Social Security. Write: *Prime Time,* 168 W. 86th St., New York, N.Y. 10024.

2. Remember age and sex discrimination are against the law. You do not need absolute proof to file a complaint, but it helps to have written records of names, dates and who said what.

If you suspect sex discrimination, contact your local Department of Labor Equal Employment Opportunities Commission. If you suspect age discrimination, call your State Fair Employment Practices Commission, or the Wage and Hour Division of the nearest Department of Labor Office. A clue to age discrimination might be an interviewer's frequent references to night hours or "the strenuous demands of the job." Mysteriously, some employers seem to find secretarial work more taxing than the 80-hour week you put in as a homemaker.

3. Don't isolate yourself. Don't wait for a friend to call; dial her yourself. Consider a semi-communal housing arrangement with friends or neighbors in similar circumstances. Organize a political action group, a discussion group, by advertising in the local paper or by working through existing organizations.

IF YOU ARE A POTENTIAL "MRS. HILL"

1. Know what could happen if you lost your husband through death or divorce. You might start by answering these questions:

What insurance policies name you as beneficiary? Are they straight-life or term (your insurance agent can explain the difference—and what it means in dollars and cents)?

If your house is mortgaged, is there insurance on the mortgage?

Does your husband have a pension plan? If so, what are the eligibility provisions?

If you lost your husband, would you and your family be eligible for Social Security?

If you need expert advice, see an insurance agent, a bank officer or a financial counselor.

2. Get work experience *now.* Volunteer work can get you training and references and should be listed on a resume as the solid experience it is. Also, courses at community colleges or high schools—usually inexpensive or free—can help you brush up on old skills or learn new ones. Ask if the school assists with job placement.

IF YOU SUPPORT THE DISPLACED HOMEMAKERS BILL

1. Write your own U.S. Representative and Senator urging them to co-sponsor the bill (House Bill 7003, Senate Bill 2353). You can also obtain copies of the bills from them.

2. Write Rep. Augustus Hawkins, Chairman of the House Equal Opportunity Subcommittee, requesting public hearings on the bill so that opinions can be voiced and suggestions made.

[From the San Francisco Chronicle, Oct. 5, 1976]

WHERE OLDER WOMEN LEARN NEW SKILLS

(By Ruthe Stein)

Margaret Harralson felt like "a fish out of water" two years ago when, after 39 years of being a homemaker, her marriage broke up and she was forced to look for another job.

Harralson, who at 59 had reared two children, now grown, had never worked and was convinced she had no marketable skills, a feeling reinforced by the counselors at job placement agencies who told her that employers were not interested in hiring older women.

But she had to find a job—her spousal support would run out in three years, and the payments on her San Ramon house ate up most of what there was.

By the time she found her way to the

Displaced Homemakers Center, an employment training and placement program for women in Harralson's situation, "I was grasping at anything that might give me a feeling of security—financial as well as emotional."

That's far from the image Harralson projects these days. Dressed in a crisp print dress, looking well-groomed and self-assured, she talked with confidence about her plans for a career as a paralegal, making use of the considerable knowledge she acquired going through her own divorce.

"I'm hoping to help other women facing a divorce, by taking time to listen to their personal fears and problems and by demystifying the law for them," said Harralson, who also heads workshops on family law at the Displaced Homemakers Center.

There are between 3 and 7 million displaced homemakers in this country—women like Harralson, who, after being wives and mothers for all their adult lives, suddenly find because of a divorce or the death or unemployment of their spouse that they are forced to look for jobs.

A group of persistent older women decided this was a problem the California legislature should be aware of. They formed the Displaced Homemakers Alliance last year and successfully lobbied for a state bill providing $190,000 for the two-year pilot program which Harralson participated in. Maryland and Florida have passed similar bills, and legislation is in the works in 17 other states.

The Displaced Homemakers Center, which opened in May on the Mills College campus in Oakland, has been more successful than its optimistic founder Tish Sommers had hoped.

The first group of 14 interns made it through a six month job counseling and training program in half that time, and ten of them are already employed in jobs ranging from printer's apprentice to paralegals in a senior center, Sommers said.

The women, who are in the 40 to 60 age range, were selected over dozens of applicants because of the ability they had demonstrated in the past to cope with problems. They are paid a stipend of up to $300 a month (depending on their financial needs) while they go through the program.

Aliyah Stein, who is coordinator for the interns, recalled that when they begin self-awareness and assertiveness training workshops at the center, most were in sorry shape. "They came in feeling incredibly vulnerable. Ofter their husbands had just left them for a younger woman." By discussing their common experiences, they were able to help each other make the adjustment to living alone.

In a workshop called "Creative Job Focus," the women were asked to look at the skills they had acquired during their years as homemakers and to determine how those could be translated into jobs. Stein recalled one woman who came in saying, "I haven't done anything. I've only raised 11 children on food stamps."

"We had to make them realize they had been wearing a thousand hats," Stein said.

Two graduates of the Displaced Homemakers Center are putting their skills to work at a nutrition site for Spainish-speaking senior citizens, Edie Fiorentino, who used to regularly cater dinner parties for 50 to 100 people in the Native American community, of which she is an active member, thinks nothing of serving lunch to the 30 senior citizens. "The only difference I can see is that now I'm getting paid for it." Regina Contreras, who reared nine children "so I'm pretty well organized," is now coordinating the recreational activities at the site.

Milo Smith, director of the Displaced homemaker, said they have had exceptional cooperation from employers in providing on the job training and even creating jobs for the women. All she has had to do is remind them that it could be their mother. "Once they get the picture it's hard for them to turn us down. It's like turning down apple pie and motherhood."

Several social service agencies are training a new crop of interns as paralegals, community workers and in the home health care field.

A little assertiveness training has gone a long way for several of these older women. Counselor Stein delights in telling the story of one of their interns who had helped her husband build a successful contracting business, only to have him leave her for his secretary.

Three months at the Displaced Homemakers Center helped her to realize that she was eminently qualified to apply for a job as a bookkeeper for an apartment management firm.

"An article had just appeared in Newsweek about the center in which she was quoted," Stein said, "and when the man she was applying to walked in she was thumbing through the magazine. She said to him, 'Oh, I just found out I'm in Newsweek.' He was very impressed.

"When she came back to the center she told us she had the courage to ask him how she should feel about her chances of getting the job. The phone call came through while she was here—she had been hired."

[From Response, United Methodist Women, September 1976]

NOT A HANDOUT BUT A HAND UP

(. . . any human being anywhere will blossom into a hundred unexpected talents and capacities simply by being given the opportunity to use them."—DORIS LESSING.)

(By Laurie Shields) *

Today's homemaker, particularly the woman in her middle years, who through death or divorce finds herself without the security of an income, is becoming painfully aware that unpaid work, the labor of love in home and community, have no marketable value when she needs a job.

The expectations and planned futures of many women are being frustrated by a variety of social forces and natural events. Women are outliving men. The Department of Labor indicates there are 12 million widows in this country and their median age is 56.

The rise of "no fault" divorce laws has caused a jump in the divorce rate from 34 divorces per 1,000 in 1960 to 63 per 1,000 in 1974. Last year the divorce figure topped a million for the first time. One fourth of the divorces filed in this country are after 15 or more years of marriage.

Late in 1974, a handful of older women in Oakland, Calif., some widows, some divorced, but al. of them frustrated in their attempts to get jobs which would provide an honest living, decided their court of last resort was the state legislature. Led by Tish Sommers, then national coordinator of the Task Force on Older Women, of the National Organization for Women (NOW) they spelled out their plan to a young feminist attorney, Barbara Dudley, who drafted the first "Displaced Homemakers" bill. The title was deliberately chosen to make the point that women in their middle years, formerly full-time homemakers, were forcibly exiled through no fault of their own from the mainstream of society.

Designated SB825, the first Displaced Homemakers Bill was introduced in the California State Senate April 10, 1975. It called for setting up just one multipurpose center geared to meet the needs of older women who had found all existing programs ineffective and particularly deficient in job placement.

The bill called for testing a theory of creating new jobs within communities—jobs that wouldn't simply create another layer of bureaucratic slots, but would instead fill unmet community needs. A provision for a well-woman health clinic was added since preventive care during middle years cuts down the incidence of illnesses often termed chronic in old age.

The two-year test program was to be funded for a total of $200,000, a figure based, not on experience since there was no precedent for this innovative legislation, but on the practical "we'll-make-do" philosophy of former homemakers who had dealt with tight budgets all their married lives. Newly-inaugurated Governor Jerry Brown had stated he would not approve any new legislation funded in excess of $200,000.

In May 1975 the Alliance for Displaced Homemakers was formed to organize support for passage of the California bill and to form a network within other states to generate interest in the national bill (HR7003/10272) introduced in the House of Representatives by Rep. Yvonne B. Burke. (A companion bill was filed in the Senate in September by Senator John V. Tunney.) I was asked to head the group, not because I had any record of political experience, but I was a widow with a need to supplement a fixed income and I had politics as a life-long avocation.

Our first office was a single desk in a community center established by Congressman Ron Dellums of Oakland. Word of the intent of the bill and the existence of ADH spread as we gradually were "discovered" by the media.

Letters began to flow in, convincing proof that the problem was neither confined to one county in northern California nor to the state boundary lines:

" I have just read a story and it sure describes me. I am divorced, will be 59 in June, haven't worked in 30 years and am ill, which worry and stress isn't helping. I'm supposed to receive spousal support but it's sporadic. He says if he's pushed he'll leave the country. Before this happens I need to find an alternative if there is one."

" a widow after 39 years of marriage I've got a bleak outlook for the future. After medical bills, funeral and umpteen other bills, it left me with no home or money and scared to death to go out to look for a job I don't even know how to do—especially at 57 . . "

Knowing the problem existed was one thing; how to organize action was another. Homemaking is an isolated occupation. Most of the women writing believed theirs to be a unique experience. Moving them to collective action in their own behalf could follow only after they realized the common problem called for a common solution.

We didn't believe the displaced homemakers bill offered an answer to every problem but we felt it did serve as a vehicle to focus attention on the special needs of women we described as "falling through the cracks" of existing assistance programs, all of which were geared either to the very young or the very old.

As quasi-lobbyists we were ineligible for funding through traditional sources such as foundations. We knew we had to take the message "to the people" as politicians are fond of saying. With minimal private dona-

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* Ms. Shields is a 56-year-old widow. A Midwesterner by birth, she was a journalism major who headed for New York to pursue a career in advertising and merchandising. In the late sixties she began work with her husband on a book dealing with Ireland's Abbey Theatre and the acting careers of her husband, Arthur Shields and his brother, Barry Fitzgerald. Following her husband's death in 1970 she moved to Ireland and continued work on the book. Late in 1974 her mother's illness brought her back to the U.S. Needing to supplement her income, she experienced first-hand the barriers many older women face if they try to re-enter the labor market after years of homemaking.

tions and the commitment of one member who assumed a bank loan, we decided to concentrate our organizing efforts in the districts of legislators sitting on committees scheduled to hear the bill. I didn't know it then, but it was the beginning of my own new career as a traveling organizer.

Within the districts an effort was made to contact every woman's group: NOW chapters, other feminist organizations, and in particular, the "traditional" women's groups, church women, "Y" members. Every woman was asked to form a link in the "old girls' network" and using her own contacts of friends and relatives, help to spread the word. In short order, a massive letter-writing campaign was under way.

Confounding even the experts, SB825 passed in California with near unanimous decisions in each of the committees, by a large majority in the Assembly and unanimously in the full Senate. In 121 working days after its introduction, SB825 was signed by Governor Jerry Brown on September 25, 1975. At the time he told the press, ". . . this bill appropriates a modest sum for one project in one county in one state."

Yet by the spring of the following year Maryland had passed its Displaced Homemakers Act. six other states had bills filed pending legislation action, four others were in the process of drafting. National groups such as the American Association of Retired People (AARP), the National Council of Senior Citizens (NCSC) and the President's National Commission on the Observance of International Women's Year endorsed the need for such legislation.

With mail often running as high as 300 to 400 letters a month, the Alliance for Displaced Homemakers quickly outgrew the single desk office. By pooling resources, the Task Force on Older Women, NOW and the Alliance transformed an old flat in Oakland into a shared office. (It also became my home when I gave up a studio apartment and moved into the one and only bedroom.)

In Oakland we had started with the premise that we had a right to work, to use our years of homemaking in new ways to fill a socially useful function while at the same time providing independence for ourselves. Our experience with the California bill convinced us that where there's a bill, there's a way. Our daily mail clearly indicated a need for action in every state, encouraging state bills and generating national pressure for passage of a federal bill.

A New York woman wrote:

". . . I don't know where to turn. I'm 57, alone with no assets. Except for part time jobs as a waitress I've never worked outside the home and find now that I am not qualified for a self-supporting job. I can't bear the thought of welfare."

From Texas:

". . . My husband died about three years ago. Since then I've been very discouraged. We were married almost 32 years and I worked out very little. I enjoyed my home and family. I only want a chance to prove myself . . . there's bound to be a number of things I could make a good living at if I only knew where to start. . . ."

One of the more poignant letters came from a small Midwestern town:

"To me the future looks pretty dark. I am a widow, age 45, I have three married daughters. One lives 130 miles from me. Another lives 100 miles away. My youngest lives 3 miles away. I quit school at the age of 16. The population of my town is 136. I don't work. I lost my husband three years ago. My mother-in-law lives next door. She lost her husband one year ago. I guess that has no bearing on the subject."

In January, 1976 ADH submitted a proposal to the women's divisions of some of the country's leading religious denominations. We asked for a minimum grant which would allow me to travel across country publicizing the legislation and organizing women to act in their own behalf One of the first to respond was the Women's Division, Board of Global Ministries, The United Methodist Church.

At the request of the Women's Division, Board of Global Ministries, I did a swing through some of the Southeastern States-Louisiana, Mississippi, Florida, Georgia and South Carolina. The format was basically the same at each stop. Interviews by local media people followed by an afternoon or evening of explanatory talk. Some of the visits were coordinated by local United Methodist women, others by members of local NOW chapters. Some were the result of combined efforts. If the goal was to encourage individual state bills, the trip was successful. Florida's bill, introduced April 19 quickly moved through committees and as of this writing seems certain to become the third Displaced Homemaker Act in the country.

Louisiana had a drafted bill ready to file when the session re-convened shortly after the visit. There was hope of one being prefiled in Mississippi for consideration in January. Rep. Eleanor Richardson of Georgia, whose occupation in the State Roster is listed as "homemaker," publicly expressed her support of the legislation on a radio program prior to her departure to attend the United Methodist General Conference in Portland.

Later trips scheduled for May and June carried me through the Southwest (funded by the Council on Women and the Church, United Presbyterian Church of the U.S.A.) and the upper Midwest and Northwest (funded by NOW national Action Center) As this article is being read I will again be on the road, visiting Mid-Western and Southern states not covered in the earlier trips. At least one of these journeys will be financed by the original grant from the Women's Division, Board of Global Ministries.

All of the existing bills and acts call for a two-year test project. The national legislation similarly outlines a two-year testing of one or more centers in each of the states. What is the goal of such programs? We see it as being two-fold: changing the women as we change the social setting.

Efforts have been made in the past to tackle the problem of jobs for the mature woman. They failed because they were limited to readying women (through education or counseling) for an unreceptive job market. Such services are essential but they are only half the solution. The other half calls for defining and developing new jobs which are not in competition with others who need to work also. There is little, if any, social value in splitting the pie into even smaller pieces.

The centers envisaged would focus on employment, either full or part-time, but would offer supportive services as well: to build self-esteem, to explain woman's changing role and status, to develop a positive attitude toward aging and to learn the fundamentals of health care. The heart of such experiments will be a trainee program for displaced homemakers who are willing to pioneer new jobs.

In California, where the first center opened its doors May 15, trainees are being readied for such positions as:

Marital dissolution counselor attending specific courses on domestic law at community colleges, with supervised study and apprenticeships in local legal aide and private practice offices;

A crafts exchange coordinator developing and exploring outlets for self-employed older women to produce crafts and promote mail order services for their products;

A money management specialist working as an apprentice with experts in the field, organizing money management workshops and assisting other trainees on financial matters.

All trainees receive stipends while learning All administrative costs have been kept to the lowest figure There are only five paid staff members at the California center and each receives the same salary

Homemaking is still, and no doubt will continue to be, the occupational preference for a majority of women Fifty-seven percent of married women are still employed full-time as homemakers. What we in the Alliance for Displaced Homemakers believe and are working with total commitment to achieve is a revitalized awareness of the contribution to the welfare and economic stability homemakers contribute to the nation

We do not feel that the love and devotion of the wife and mother who "looketh well to the ways of her household and eateth not the bread of idleness" should be rewarded with a struggle for survival or a place on the welfare rolls when her days as wife and mother are over.

Emotional judgments aside, there is ample reason why the special problems of the woman in her middle years should be of concern to the nation as a whole. It has been projected that by the year 2000 twenty percent of the population will be women over 60. We might not have all the answers, but we had better start asking the questions!

Shortly after my trip through the South, I received a letter from a woman who attended one of the meetings.

"You're right—there are a lot of good resources with a world of experience and wisdom going to waste with the 'older' women who just don't know how or where to apply for work. Even worse, we haven't yet learned to work together. We are still bound into our tight little groups. We're not always open to working with women who don't fit our mold. But most, if not all of us. have several good years left. I like being busy and constructive. I would like to see my life constructive to the end. I think most women want that and I want to work with them toward that end."

By Mr. HASKELL:

S. 419. A bill to test the commercial, environmental, and social viability of various oil shale technologies and for other purposes: to the Committee on Interior and Insular Affairs.

FEDERAL OIL SHALE COMMERCIALIZATION TEST ACT

Mr. HASKELL. Mr. President, I am introducing today legislation entitled the Federal Oil Shale Commercialization Test Act. This bill is needed because of the failure of past attempts by the Federal Government and private industry to supply national energy policymakers with a definitive answer to the question of whether our oil shale can be developed on a commercial scale with acceptable environmental and social consequences.

Oil shale is a national energy resource of enormous proportions. It is estimated that there are some 600 billion barrels of oil contained in high grade and medium shale. An additional 1.2 trillion barrels are contained in lower grade shale deposits. This compares with the Saudi Arabian reserves of about 150 billion barrels and a total of 368 billion barrels in the entire Middle East. As we struggle to solve our energy problems, it is essential that we continue to explore all potential sources. The magnitude of the oil shale resource demonstrates that it is potentially a major contributor to our energy supply picture.

Development of oil shale has had a history of false starts dating to the 1860's. The discovery of oil in Pennsylvania put

an end to this early interest. Cheap east Texas oil cut short a revival of interest in the 1920's. Shortly after World War II, the Bureau of Mines tested a series of retorting methods at its Anvil Points facilities in Colorado. Since that time there has been intermittent interest in shale, both in private industry and the Government.

The most recent Federal attempt to test the commercial viability of oil shale began in earnest in 1971 with Interior Secretary Rogers Morton's announcement of the prototype oil shale leasing program. The primary purpose of this program was to ask private industry, in Secretary Morton's words: "Are you ready?" The unanimous request for suspension of the shale leases last summer suggests that the answer is "No." Although there are still some encouraging signs of life in certain projects, the Federal effort to test the commercial viability of oil shale through making choice Federal lands available to private industry has failed. While the leases are in suspension, we cannot obtain the information necessary to make a national policy decision regarding oil shale development. The bill which I am introducing today will cause the necessary research to move ahead in a timely fashion. With the Federal Government supplying all of the capital necessary, we are sure we will obtain the answers we need.

The purpose of the legislation is to establish a program within ERDA to test two—possibly three—oil shale retorting technologies to determine whether they are commercially and environmentally feasible. The program will also evaluate the social impacts which would result from oil shale commercialization. Should a technology tested prove workable on a commercial and environmental basis, it is the intent of the legislation to make it available to anyone who wishes to use it, subject to the patent provisions included in the bill.

Finally, the test program is to be carried out with the maximum possible public participation and access to information. It is my belief that much of the opposition to oil shale development has resulted from the feeling on the part of local governments and public interest groups that they are being shut out of the process. This should not continue to be the case. Therefore any information developed by this program or brought to it by the contractors will be available to the public.

The proposals from non-Federal entities for oil shale commercialization tests will be selected by the Administrator of ERDA in accordance with his evaluation of the commercial potential and the social and environmental impacts of the proposals submitted. One would use the in situ or modified in situ oil shale retorting technology. The projects selected should be only so large as necessary to test the commercial and environmental viability of the process. The projects would be limited in size to restrict the social and environmental impacts of the program to only those which are necessary to provide us with the needed information.

After the selection of the proposals, the Administrator would enter into contracts with the private firms. The facilities would be located on Federal land and the entire cost of each would be paid by the Federal Government. The Secretary of the Interior would be directed to enter into an agreement with the Administrator to make Federal land available to him for the duration of the program.

Although the costs of a two-test program would depend upon the actual projects selected, I estimate that the in situ test would cost between $80 and $100 million, while an aboveground retorting facility would cost between $330 and $400 million. Thus, the full cost of such a program would probably range between $410 and $500 million.

In determining the location of the test facilities, the Administrator must consider the social and environmental impacts of both the tests and of the full-scale commercial operation which might follow. The facilities are to be located on areas of Federal land which contain sufficient oil shale resources to permit commercial operation of the plants, should the facilities tested prove viable. The Administrator must also choose sites which contain medium-grade shale. A true test of the economics of oil shale development, one which will give us an indication of the commercial potential of an industry, will require the use of oil shale of a grade which is typical to the resource.

One of the keys to the success of any oil shale venture is the active involvement of the State and local governments as well as the public-interest groups. Therefore, the bill contains a provision which requires the Administrator to notify local government representatives as soon as he determines the location of a facility. Moreover, he must continue to work with the local representatives both directly and through the mechanism of the Social Impact and Environmental Advisory Panel which is established by the bill. I believe these provisions will permit citizen environmental groups and local officials to participate in the planning and decisionmaking process which affects them so directly.

At the conclusion of the tests, the Administrator is to decide whether either of the facilities tested is commercially and environmentally viable. This determination is to be made only after at least one public hearing is held in the areas most directly affected by potential oil shale development. The decision process will center around a set of specific criteria for evaluation which are set forth in the legislation. It is my hope that the Office of Technology Assessment, which is now studying oil shale technology and programs at the request of Senators JACKSON, METCALF, and myself, will assist us by supplying information as to how these criteria might be amended so all parties concerned will be able to objectively evaluate the success or failure of the processes tested.

One of the most often voiced complaints about the prototype oil shale leasing program is that the stated purpose and the criteria for evaluating whether that purpose was being accomplished were not specific. Some have asserted that the Department of the Interior, rather than admit the failure of the program, has changed its definition. Whatever the validity of this assertion, the specific criteria for evaluation of the processes tested as a result of this legislation are included precisely to avoid this question. I view the criteria for evaluation as an important and essential part of this legislation, and I hope that those who testify on the bill will direct their attention to this section.

If the Administrator determines that either or both of the processes is commercially and environmentally viable, he will offer the Federal facility for sale on a competitive basis. The Secretary of the Interior will lease a tract of land to the successful bidder in accordance with the provisions of section 21 of the Mineral Lands Leasing Act of 90. The tract is to be big enough to permit the commercial operation of an oil shale plant.

I regard it as essential that if, in fact, there can be a shale industry, it be operated by private industry.

The patent provisions of the legislation are structured such that the results of the test program will be available to anyone who wishes to develop oil shale. All patents which result directly from the program will belong to the Federal Government. For the purposes of this legislation, the Administrator cannot exercise the discretion permitted him under the Federal Nonnuclear Energy Research and Development Act of 1974 to grant exclusive license for any process. This restriction is consistent with ERDA's present regulations in that no private capital will be required for the program. Therefore, the incentive of granting exclusive licenses is not needed.

Any non-Federal participant in the program will be required to license, for a reasonable fee, any background patents which are essential to the commercial operation of the technology developed by the program. Again, this is generally consistent with ERDA's position that the purpose of Federal energy research, development, and demonstration efforts is to develop technologies which will be generally available. It is specifically not the purpose of this legislation to develop a successful technology the use of which is legally restricted to one corporate entity.

As a matter of fact it is my hope that the program envisaged by this legislation, if successful, will enable many new companies to enter the shale business and thus foster competition.

The successful bidder for the demonstration facilities, should they prove commercially viable, will have free use of any patents developed during the test program. In addition, he will be able to obtain a license upon payment of a reasonable royalty, from the non-Federal participant for any process brought to the project by the participant.

Another issue which has been of particular interest to State and local government officials throughout the debate on energy development, especially in the West, has been the question of how to handle the social and economic impacts caused by energy facilities. The 94th Congress passed several measures aimed

at dealing with this problem. One such measure, which I had sponsored since my first days in the Senate, was the amendment to the Mineral Lands Leasing Act of 1920 which permits some of the money received by the States under that law to be spent for purposes other than schools and roads. However, this provision alone may not be sufficient to deal with all of the problems. Therefore, the bill includes a series of impact assistance provisions which will permit the State and local governments to deal effectively with the impacts which will be a result of the facilities authorized.

The Administrator is to submit a report to Congress within 180 days after enactment of the legislation. This report is to include a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the program. The Administrator is also directed to submit an annual report on the status of the program.

It is my hope that as consideration of this legislation proceeds the study now being undertaken by the Office of Technology Assessment will provide us with assistance in determining the final form of the bill. Their technology assessment of the various oil shale processes, as well as their analysis of past Federal programs should prove very valuable.

I should emphasize that the legislation which I am introducing today will and should of necessity be modified and refined as a result of the hearing and markup process. On Friday January 14 I met with a great many representatives of the industry in Denver on the general concept of the legislation. The participants in this discussion raised several points which probably should be carefully considered.

The first of these was that the sale price of a plant assuming viability should probably not be, as provided in the legislation, the full investment made by the Federal Government. The reason for this is that in the course of a demonstration plant a great deal of experimental work has to be done which would not be necessary if the plant were not in effect a test and that therefore some lesser upset price than the full investment might be appropriate when the plant is disposed of to a private organization.

The second of these raised the question as to whether private land and also Federal land now subject to lease should be considered as a possibility for locating a demonstration plant. This suggestion raises a great many complexities, and I make no comment on the value of the suggestion except to point it out.

The third principal suggestion made by the participants in the conference related to the lead time necessary to prepare the requisite environmental impact statements. It was pointed out that since one of the principal purposes of the program is to test the environmental impact and viability of a process, it might be appropriate to shorten the initial impact statement process. I have not had a chance to think this through but certainly it seems logical that when the actual activity is an experiment in environmental consequences the matter is placed in a different perspective than the normal situation of a major Federal action which does not have as its purpose a test of environmental consequences.

These were the principal points made at the meeting in Denver, and I feel sure that these and others will be raised during the hearing and may serve to modify the proposed legislation.

By Mr. RANDOLPH:

S. 420. A bill to provide authority to institute emergency measures to minimize the adverse effects of natural gas shortages and curtailments, and for other purposes; to the Committee on Commerce.

NATURAL GAS EMERGENCY ACT OF 1977

Mr. RANDOLPH. Mr. President, we are aware that the eastern two-thirds of the United States is being affected by severe natural gas curtailments. Shortages are extending to residential as well as other priority users.

The Federal Power Commission has estimated that approximately 200,000 to 300,000 workers have been idled by natural gas shortages caused by the prolonged cold wave.

Following a meeting at the White House on last Friday, the press reports that the Carter administration is considering limited emergency legislation. Because of my similar concern, I sent a telegram to President Carter last week urging his support for immediate enactment of Federal authority providing for 120-day purchase of intrastate natural gas by priority pipelines and high priority customers. Other Members of this body including the Senator from South Carolina (Mr. HOLLINGS) support similar authorities.

Mr. President, on January 14 it was my privilege to introduce a more comprehensive measure, S. 271, which is consistent with broader emergency natural gas legislation previously approved by the Senate. This measure, however, contains some controversial provisions which would sufficiently delay its enactment and would be of limited value in coping with our present natural gas shortages. For this reason, it is my purpose today to propose a minimum measure containing 120-day emergency purchase authority. On January 21, I approved a "Dear Colleague" letter requesting the support of other Senators to achieve enactment of such essential legislation. Cosponsorship is being sought at this time.

I recognize that several more comprehensive measures also have been introduced. Some of these contain allocation authority which is controversial. Enactment of allocation authority could delay Senate approval of this essential legislation. However, it is recognized that there may be limited situations where allocation is necessary to avoid adverse effects upon public health.

I ask unanimous consent that the text of this measure as well as my telegram to the President and the Federal Power Commission release of January 11, 1977, setting forth State-by-State summaries of natural gas curtailments be reprinted in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 101. This title may be cited as the "Natural Gas Emergency Act of 1977".

FINDINGS AND PURPOSES

SEC. 102. (a) The Congress finds and declares that the Nation will suffer severe shortages of natural gas during the heating season from the date of enactment through March 1977. The Congress further finds and declares that such imminent shortages in our Nation's natural gas supply constitute an emergency which can be alleviated by providing for limited exemptions from regulation of natural gas.

(b) The purpose of this Act is to grant the Federal Power Commission authority to allow natural-gas companies which transport natural gas in interstate commerce with inadequate quantities of natural gas to meet the requirements of their high priority consumers of natural gas to purchase natural gas from sources not in interstate commerce and from other such companies on an emergency basis free from the provisions of the Natural Gas Act (15 U.S.C. 717 et seq.), except for the reporting requirements of such Act.

DEFINITIONS

SEC. 103. For the purposes of this Act—

(a) The term "natural-gas distributing company" means a person involved in the distribution or transportation of natural gas for ultimate public consumption for domestic, commercial, industrial, or any other use, but such term does not include a natural-gas company as defined in section 2(6) of the Natural Gas Act (15 U.S.C. 717a(6)).

(b) The term "high priority consumer of natural gas" means an essential user whose supply requirements cannot be served by an interstate pipeline which is a priority interstate purchaser as determined by the Commission.

(c) The term "independent producer" means a person, as determined by the Commission, (1) who is not affiliated with a person engaged in the transportation of natural gas in interstate commerce, and (2) who is not a producing division of such a person engaged in the transportation of natural gas in interstate commerce

(d) The term "United States" means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(e) The term "Administrator" means the Administrator of the Federal Energy Administration.

(f) The term "Commission" means the Federal Power Commission.

(g) The term "essential user" means a user, or a class of users, who satisfies criteria to be established by the Commission, by rule, as indicative of a user for which no alternative fuel is reasonably available and whose supply requirements must be met in order to avoid substantial unemploymnet or impairment of food production or the public health, safety, or welfare.

EMERGENCY EXEMPTIONS

SEC. 104. Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by designating the two unnumbered paragraphs thereof as paragraphs (1) and (2), by deleting the period at the end of paragraph (2) as designated hereby, and inserting in lieu thereof the following: ": *Provided further*, That within 15 days after the enactment of the Natural Gas Emergency Act of 1977, the Commission shall by regulation

exempt from the provisions of this Act, except for reporting requirements, any activities, operations, facilities, or services relating to the transportation, sale and delivery, transfer, or exchange of natural gas from any source, other than any offshore Federal lands, by an independent producer, a natural-gas company which transports natural gas in interstate commerce, a person who transports natural gas in other than interstate commerce, or a natural-gas distributing company to or with a natural-gas company which transports natural gas in interstate commerce which does not have or which under reasonably foreseeable circumstances may not have, a sufficient supply of natural gas to meet the requirements of its high priority consumers of natural gas and which is curtailing during the heating season from the date of enactment through March 1977 pursuant to a curtailment plan on file with the Commission. Exemptions granted pursuant to this proviso shall be for periods of no more than 120 consecutive days. Persons who are exempt under section 1 (b) or (c) of this Act shall not have their exempt status affected in any way by making the sales or deliveries contemplated by this subsection: *Provided further*, That the Commission shall have no power to deny, in whole or in part, recovery by any natural-gas company in its jurisdictional rates of the amount paid by it for natural gas delivered to it pursuant to sales and contracts as described herein, except to the extent that an interstate transporter purchases natural gas from an affiliate at a rate in excess of the price paid by the transporter to nonaffiliated sellers in comparable sales transactions: *Provided further*, That natural gas sold and delivered or transported pursuant to any exemption granted under section 104 of the Natural Gas Emergency Act of 1977 shall not be or become subject to the jurisdiction of the Commission because of such sale and delivery or transportation whether or not such sale is a sale for resale in interstate commerce or such transportation is in interstate commerce: *Provided further*, That any contractual provision prohibiting sales or transportation entitled to any such exemption or terminating any other obligations of any gas supply or sales contracts as a result of such sales or transportation shall be unenforceable in respect to any such sale or transportation: *Provided further*, That it shall be a violation of the Natural Gas Act (as amended) for any natural-gas distributing company to charge residential users and small users (as defined by the Commission) rates which reflect any costs incurred by an interstate transporter as a result of purchases of natural gas made pursuant to an exemption granted under this section: *And provided further*, That no first sale of natural gas after enactment and prior to expiration of the Natural Gas Emergency Act of 1977 shall be made at a price which exceeds the highest wellhead price (as determined by the Commission) at which natural gas was sold during the period of November 1, 1975, through December 31, 1976, in the State in which such first sale is made.".

EMERGENCY PURCHASES BY CURTAILED CONSUMERS

SEC. 105. (a) The purpose of this section is to allow curtailed high priority consumers of natural gas to purchase natural gas from the intrastate market by enabling them to arrange for the transportation of such gas by regulated interstate pipeline companies.

(b) The provisions of the Natural Gas Act shall not apply to the use of the facilities of a natural gas distributing company for the transportation of natural gas produced by an independent producer from lands, other than any land or subsurface area within the Outer Continental Shelf as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), and sold by such a producer directly to a high-priority consumer of natural gas: *Provided*, That the rates applicable to the use of such facilities for the transportation of natural gas described in this subsection are subject to regulation by a State commission. The transportation of natural gas exempted from the provisions of the Natural Gas Act by this subsection is hereby declared to be a matter primarily of local concern and subject to regulation by the several States. A certification from such State commission to the Commission that such State commission has regulatory jurisdiction over rates and service of such person and facilities and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction.

(c) Pursuant to the substantive and procedural provisions of this section the Commission may in its discretion issue a certificate of public convenience and necessity upon filing of an application by a natural-gas company to transport natural gas produced by independent producers from lands, other than any land or subsurface area within the Outer Continental Shelf as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), and sold by such producers directly to existing high-priority consumers of natural gas whose current supply of natural gas is curtailed due to natural-gas company curtailment plans on file with the Commission: *Provided, however*, That in issuing a certificate pursuant to this subsection, the Commission need not review or approve the price paid by a high priority consumer of natural gas directly to an independent producer.

EXPIRATION DATE

SEC. 106. (a) This Act shall expire on midnight April 4, 1978.

(b) The expiration of this Act and the authority granted under this Act shall not affect any action or pending proceedings not finally determined on the date of such expiration, or any action or proceeding based upon any act committed prior to such date.

JANUARY 21, 1977.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: Due to extremely cold weather, natural gas curtailments are now affecting residential as well as other priority users. Shortages are so severe that schools and public buildings are being forced to close in West Virginia and the Eastern two-thirds of our country.

Approximately 1,000 homes in the Bradley, Maple Fork and Prosperity regions of West Virginia were without natural gas supplies last week and some 40 Fayette County schools closed, with a student enrollment of 12,793. These are a few examples of the much larger national problem.

Because of my concern, and in anticipation of this problem, in September, 1976, I urged enactment of the emergency natural gas legislation which had been previously approved by the Senate. Subsequently, on January 14, 1977, I introduced S. 271, the Natural Gas Emergency and Conservation Act. The critical provisions of this measure concern emergency purchase of intrastate natural gas. Your support for immediate enactment of such 120-day purchase authority for priority pipelines and high priority customers is essential. I am prepared to introduce such a bill early next week and ask for its immediate consideration.

JENNINGS RANDOLPH,
U.S. Senator.

FPC RELEASES STATE-BY-STATE SUMMARY OF GAS CURTAILMENTS

The Federal Power Commission today released a report prepared by its staff summarizing on a state-by-state basis the net natural gas requirements, curtailments, and deliveries projected as of September 30, 1976, for the 1976–77 winter.

The report was prepared by FPC's Bureau of Natural Gas based on data filed with the FPC (Form No 16) by interstate pipeline companies.

The summary also includes the difference between 1976–77 winter requirements, curtailments, and deliveries, as projected April 30, 1976, and September 30, 1976. The FPC on December 6 (Release No. 22761) published statistical information on curtailments by major companies. That release did not contain a state-by-state breakdown.

Printouts of additional FPC Form 16 detailed information are available for public inspection in the Commission's Office of Public Information. Arrangements can be made through that office to purchase copies of the printouts or of the computer tape.

The staff summary accompanies this new release.

FEDERAL POWER COMMISSION—SUMMARY BY STATE OF ACTUAL FIRM DELIVERIES, FIRM CURTAILMENTS, AND FIRM REQUIREMENTS FOR 1975–76 WINTER COMPARED TO PROJECTED FOR 1976–77 WINTER

On December 6, 1976, in News Release No. 22761, the Federal Power Commission released statistical information on requirements and curtailments as reported by interstate natural gas pipeline companies in their Form 16 reports.

At page 5 of the staff report accompanying the news release was a statement indicating that additional reports based on the Form 16 data but showing substantially more detail were in preparation. This report provides a detailed breakout of net deliveries, curtailments and requirements for each state comparing actual for the heating season 1975–1976 and projected for the heating season 1976–77. Additional detail of deliveries, curtailments and requirements by each pipeline company for each state on an annual as well as heating season basis is available in the Commission's Office of Public Information as a computer printout.

There are some differences in calculated net total volumes between the December 6, 1976 report and the total volumes related to this more detailed report. These differences are attributable to rounding error and certain reporting inconsistencies between the Form 16 Summary Schedule No. 1 and Customer Schedule No. 1A. Staff is currently revising the format of both these schedules in an attempt to eliminate these inconsistencies in the future.

It should be noted that the projected data are based on occurrence of normal weather, and supply-demand factors projected as of September 1976. Weather experienced to date for the current heating season has been considerably below normal. Further, in evaluating the increased requirements shown by the report for the 1976–1977 heating season, in comparison with the 1975–1976 heating season, it should be noted that a warmer than normal heating season was experienced and may be an important factor in the increased requirements shown for the 1976–1977 heating season.

It should be carefully noted that the curtailments shown in this report represent curtailments by interstate natural gas pipeline companies to their customers. Since about 90 percent of gas sold by interstate pipeline companies is delivered to distributors who in turn provide natural gas to ultimate consumers, the curtailments shown in this report are largely curtailments at the wholesale level.

Several major factors served to ameliorate the impact of pipeline curtailments upon the ultimate consumer in the past winter. These factors include warmer-than-normal winter

weather, continued conversion to alternate fuels, conservation by fuel consumers, reduced gas demands due to industrial activity impacted by economic recession, increase in privately owned natural and synthetic gas supplies by distribution companies, emergency purchases or transportations of natural gas by or through interstate pipeline companies, and continued expansion of underground storage capability by interstate pipelines and distribution companies.

The impact of interstate pipeline curtailments upon ultimate consumers cannot be determined from this report. However, the Commission currently participates on a joint basis with the Federal Energy Administration in developing information directed at the end-user level to determine the impact of the curtailments to ultimate consumers. The results of the most recent survey, based on FPC Form No. 69, and FEA Form No. G-101-P-1 were released November 12, 1976, by the Federal Energy Administration in a report entitled, "Projected Natural Gas Curtailments and Potential Needs for Additional Alternate Fuels, 1976-1977 Heating Season".

In addition to this joint survey, the Federal Power Commission published on October 6, 1976, Commission staff reports in Docket No. RP76-16, *et al.*, (the so-called omnibus hearings) which examined among other things the end-use impact of curtailments on the customers of 19 pipeline companies whose FPC Form No. 16's had projected the most significant levels of curtailments this winter. A summary of these reports was issued December 9, 1976, FPC News Release No. 22765.

The omnibus report concluded that if winter weather is normal, the impacts of natural gas curtailment would generally be manageable but that colder than normal winter weather could result in industrial production losses and possibly unemployment. Recognizing the need for an information-gathering technique to understand the general nature of curtailment impacts as a result of colder than normal weather as the current winter progresses, the Commission on December 17, 1976, issued a letter order which was sent to 28 major interstate pipeline companies. The letter order indicated that information concerning certain curtailment impact areas would be requested every two weeks (or more frequent if necessary) to assist the Commission in monitoring the ongoing operation of curtailment programs, and to determine the existence or imminence of significant dislocation such as production losses or unemployment due to natural gas curtailment by interstate pipelines.

COMPARISON OF ACTUAL (1975-76) AND PROJECTED (1976-77) INTERSTATE PIPELINE NATURAL GAS FIRM DELIVERIES, FIRM CURTAILMENTS, AND FIRM REQUIREMENTS BY STATES

[For winter period November through March (volumes in million cubic feet)]

	Actual winter, 1975-76	April projection, winter 1976-77	September projection, winter 1976-77	Increase or (decrease) from April projection
Alabama:				
Deliveries	109,750	108,270	107,118	(1,152)
Curtailments	24,568	30,303	39,340	9,037
Requirements	134,318	138,573	146,458	7,885
Arizona:				
Deliveries	61,407	58,391	60,780	2,389
Curtailment	28,920	47,884	45,495	(2,389)
Requirements	90,327	106,275	106,275	0
Arkansas:				
Deliveries	91,734	88,693	90,587	1,894
Curtailments	56,893	64,719	66,776	2,057
Requirements	148,627	153,412	157,363	3,951
California:				
Deliveries	620,836	535,185	552,915	17,730
Curtailments	94,315	168,294	150,564	(17,730)
Requirements	715,151	703,479	703,479	0
Colorado:				
Deliveries	127,082	128,947	135,141	6,194
Curtailments	15	11,036	33	(11,003)
Requirements	127,097	139,983	135,174	(4,809)
Connecticut:				
Deliveries	36,639	37,445	37,293	(152)
Curtailments	4,473	5,295	4,603	(692)
Requirements	41,112	42,740	41,896	(844)
Delaware:				
Deliveries	1,573	832	790	(42)
Curtailments	708	770	1,625	855
Requirements	2,281	1,602	2,415	813
District of Columbia-Maryland-Virginia: [1]				
Deliveries	62,940	65,610	66,870	1,260
Curtailments	10,523	7,339	6,583	(756)
Requirements	73,463	72,949	73,453	504
Florida:				
Deliveries	32,055	32,597	33,342	745
Curtailments	13,438	15,030	14,898	(132)
Requirements	45,493	47,627	48,240	613
Georgia:				
Deliveries	139,779	142,937	146,432	3,495
Curtailments	7,432	8,502	26,319	17,817
Requirements	151,439	151,439	172,751	21,312
Idaho: [2]				
Deliveries	32,589	32,613	33,013	400
Curtailments	7,777	9,140	0	(9,140)
Requirements	40,366	41,753	33,013	(8,740)
Idaho and Washington: [2]				
Deliveries	16,910	17,829	17,764	(65)
Curtailments	3,566	2,780	2,903	123
Requirements	20,476	20,609	20,667	58
Illinois:				
Deliveries	580,559	551,052	554,552	3,500
Curtailments	61,887	82,979	70,666	(12,313)
Requirements	642,446	634,031	625,218	(8,813)
Indiana:				
Deliveries	267,323	250,529	269,812	19,283
Curtailments	83,622	107,119	84,134	(22,985)
Requirements	350,945	357,648	353,946	(3,702)
Iowa:				
Deliveries	152,317	151,480	152,300	820
Curtailments	[3] 16,712	25,824	23,932	(1,892)
Requirements	169,029	177,304	176,232	(1,072)
Kansas:				
Deliveries	149,517	149,932	148,586	(1,346)
Curtailments	50,688	61,223	60,776	(447)
Requirements	200,205	211,155	209,362	(1,793)
Kentucky:				
Deliveries	110,571	106,325	107,795	1,470
Curtailments	23,002	29,590	28,313	(1,277)
Requirements	133,573	135,915	136,108	193
Louisiana:				
Deliveries	111,869	103,201	102,794	(407)
Curtailments	123,315	140,981	141,030	49
Requirements	235,184	244,182	243,824	(358)
Maine:				
Deliveries	1,006	1,020	1,020	0
Curtailments	0	0	0	0
Requirements	1,006	1,020	1,020	0
Maryland: [1]				
Deliveries	52,279	50,453	52,841	2,388
Curtailments	16,750	17,813	16,432	(1,381)
Requirements	69,029	68,266	69,273	1,007
Massachusetts:				
Deliveries	82,266	86,753	87,906	1,153
Curtailments	7,165	8,249	7,009	(1,240)
Requirements	89,431	95,002	94,915	(87)
Michigan:				
Deliveries	270,467	255,247	254,916	(331)
Curtailments	22,812	23,660	36,212	12,552
Requirements	293,279	278,907	291,128	12,221
Minnesota:				
Deliveries	155,575	151,427	148,911	(2,516)
Curtailments	14,483	21,091	19,551	(1,540)
Requirements	170,058	172,518	168,462	(4,056)
Mississippi:				
Deliveries	66,750	61,986	61,707	(279)
Curtailments	57,839	67,965	69,297	1,332
Requirements	124,589	129,951	131,004	1,053
Missouri:				
Deliveries	190,351	203,573	203,152	(421)
Curtailments	35,672	39,791	35,903	(3,888)
Requirements	226,023	243,364	239,055	(4,309)
Montana:				
Deliveries	7,760	8,239	8,453	214
Curtailments	0	0	0	0
Requirements	7,760	8,239	8,453	214
Nebraska:				
Deliveries	74,386	74,351	76,622	2,271
Curtailments	7,820	10,690	11,455	765
Requirements	82,206	85,041	88,077	3,036
Nevada:				
Deliveries	10,134	6,989	7,172	183
Curtailments	8,499	13,030	12,846	(184)
Requirements	18,633	20,019	20,018	(1)
New Hampshire:				
Deliveries	4,524	4,664	4,691	27
Curtailments	121	143	116	(27)
Requirements	4,645	4,807	4,807	0
New Jersey:				
Deliveries	134,834	127,106	126,831	(275)
Curtailments	40,321	49,130	47,516	(1,615)
Requirements	175,155	176,236	174,346	(1,890)
New Mexico:				
Deliveries	17,169	14,739	14,763	24
Curtailments	8,415	9,187	8,851	(336)
Requirements	25,584	23,926	23,614	(312)
New York:				
Deliveries	360,467	367,528	369,487	1,959
Curtailments	45,589	64,688	62,510	(2,178)
Requirements	406,056	432,216	431,997	(219)
North Carolina:				
Deliveries	51,096	36,434	38,940	2,506
Curtailments	33,451	48,891	48,321	(570)
Requirements	84,547	85,325	87,261	1,936
North Dakota:				
Deliveries	13,696	14,179	13,201	(978)
Curtailments	0	0	0	0
Requirements	13,696	14,179	13,201	(978)
Ohio:				
Deliveries	440,510	460,630	478,876	18,246
Curtailments	156,846	153,371	132,476	(20,895)
Requirements	597,356	614,001	611,352	(2,649)
Oklahoma:				
Deliveries	26,742	26,815	26,484	(331)
Curtailments	2,799	3,706	4,001	295
Requirements	29,541	30,521	30,485	(36)
Oregon: [4]				
Deliveries	3,861	3,818	3,908	90
Curtailments	976	1,081	1,026	(55)
Requirements	4,837	4,899	4,934	35
Oregon and Washington: [4]				
Deliveries	58,720	58,483	59,994	1,511
Curtailments	15,176	16,481	15,512	(969)
Requirements	73,896	74,964	75,506	542

	Actual winter, 1975–76	April projection, winter 1976–77	September projection, winter 1976–77	Increase or (decrease) from April projection
Pennsylvania:				
Deliveries	326,689	320,827	325,451	4,624
Curtailments	84,228	109,454	100,335	(9,119)
Requirements	410,917	430,281	425,786	(4,495)
Rhode Island:				
Deliveries	11,910	13,492	13,650	158
Curtailments	1,665	1,928	1,704	(224)
Requirements	13,575	15,420	15,354	(66)
South Carolina:				
Deliveries	40,179	37,436	38,219	783
Curtailments	7,922	8,940	9,843	903
Requirements	48,101	46,376	48,062	1,686
South Dakota:				
Deliveries	14,668	15,277	15,925	(252)
Curtailments	785	1,117	998	(119)
Requirements	15,453	16,394	16,023	(371)
Tennessee:				
Deliveries	107,493	103,619	103,683	64
Curtailments	22,978	33,468	33,421	(47)
Requirements	103,471	137,087	137,104	17
Texas:				
Deliveries	50,539	54,206	54,511	305
Curtailments	6,593	10,607	12,268	1,661
Requirements	57,132	64,813	66,779	1,966
Utah:				
Deliveries	416	791	923	132
Curtailments	0	0	0	0
Requirements	416	791	923	132
Vermont [5]				
Virginia: [1]				
Deliveries	51,021	48,453	51,082	2,629
Curtailments	20,017	23,888	22,166	(1,722)
Requirements	71,038	72,341	73,248	907
Washington: [2 4]				
Deliveries	39,866	39,614	38,933	(681)
Curtailments	8,764	5,692	3,514	(2,178)
Requirements	48,630	45,306	42,447	(2,859)
West Virginia:				
Deliveries	64,934	65,321	68,281	2,960
Curtailments	18,716	19,768	16,832	(2,936)
Requirements	83,650	85,089	85,113	24
Wisconsin:				
Deliveries	203,506	206,401	205,189	(1,212)
Curtailments	8,665	9,444	21,109	11,665
Requirements	212,171	215,845	226,298	10,452
Wyoming:				
Deliveries	22,046	22,713	21,677	(1,036)
Curtailments	2,748	3,132	2,683	(449)
Requirements	24,794	25,845	24,360	(1,485)
Combination: [6]				
Deliveries	10,614	10,657	8,313	(2,344)
Curtailments	0	0	0	0
Requirements	10,614	10,657	8,313	(2,344)
Total:				
Deliveries	5,671,926	5,515,108	5,602,695	87,587
Curtailments	1,269,669	1,595,210	1,521,897	(73,313)
Requirements	6,941,595	7,110,318	7,124,592	14,274

[1] Columbia Gas Transmission Corp. did not provide a breakout between District of Columbia, Maryland, and Virginia, for Washington Gas Light Co.
[2] Northwest Pipeline Corp. did not provide a breakout between Idaho and Washington for Washington Water Power Co.
[3] Corrected value.
[4] Northwest Pipeline Corp. did not provide a breakout between Oregon and Washington for Cascade Natural Gas Co. and Northwest Natural Gas Co.
[5] Vermont is served by locally manufactured gas and imported Canadian gas.
[6] Columbia Gas Transmission & Trunkline have reported a small volume of gas not attributed to any State.

By Mr. RANDOLPH (for himself, Mr. ABOUREZK, Mr. ALLEN, Mr. BURDICK, Mr. HARRY F. BYRD, JR., Mr. CASE, Mr. CANNON, Mr. CLARK, Mr. GRAVEL, Mr. HASKELL, Mr. HATFIELD, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JACKSON, Mr. JOHNSTON, Mr. LAXALT, Mr. MAGNUSON, Mr. MATHIAS, Mr. MCCLURE, Mr. MCINTYRE, Mr. MORGAN, Mr. MUSKIE, Mr. PEARSON, Mr. PELL, Mr. RIBICOFF, Mr. STONE, Mr. THURMOND, and Mr. WILLIAMS):

Senate Joint Resolution 13. A joint resolution designating "Energy Conservation Month"; to the Committee on Interior and Insular Affairs.

ENERGY CONSERVATION

Mr. RANDOLPH. Mr. President, for myself and 27 cosponsors, I introduce a joint resolution of importance, not only to the Members of the Senate, but to the American people as a whole.

Besides this Senator there are 20 Democrats and 7 Republicans who are cosponsors of this resolution in support of an Energy Conservation Crusade and Energy Conservation Month.

As the first energy action of the 94th Congress, on February 5, 1975, this body approved a similar resolution introduced by this Senator and cosponsored by 67 Members of this body.

Mr. President, the joint resolution I introduce today is cosponsored by 27 Members of this body in recognition of the importance of energy conservation as a fundamental element of a national energy policy.

Speaking about natural gas shortages, President Carter declared last Friday that, "without public—energy—conservation, there may not be enough energy to allocate." The Chief Executive instructed Dr. Schlesinger to work with congressional leaders to develop emergency legislation to augment or legal means to distribute equitably our available supplies of natural gas.

Recognizing the importance of energy conservation the President also directed officials of all Government facilities to turn their thermostats down to 65 degrees in the daytime and lower at night. He also called on all Americans to do the same.

The resolution I introduce today endorses this proposal by President Carter by calling for an Energy Conservation Crusade. The measure would declare as Energy Conservation Month the period from February 16 to March 15, 1977, to reemphasize our national commitment to eliminate wasteful uses of energy.

With effective national leadership by Federal, State, and local governments and by all segments of business and industry, the American people can achieve an estimated energy savings equivalent to 5 million barrels of oil per day.

However, achievement of any substantial savings through energy conservation will involve millions of individual decisions by American consumers and, in particular, by the business community. A major national commitment will be required by American business.

I hope that this Energy Conservation Crusade resolution will receive prompt consideration and vigorous implementation.

Mr. President, I ask unanimous consent to have printed in the RECORD, at this point in my remarks the names of the Senators who are cosponsors of this resolution.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Mr. Abourezk, Mr. Allen, Mr. Burdick, Mr. Byrd of Virginia, Mr. Case, Mr. Cannon, Mr. Clark, Mr. Gravel, Mr. Haskell, Mr. Hatfield, Mr. Huddleston, Mr. Humphrey, Mr. Jackson, Mr. Johnston, Mr. Laxalt, Mr. Magnuson, Mr. Mathias, Mr. McClure, Mr. McIntyre, Mr. Morgan, Mr. Muskie, Mr. Pearson, Mr. Pell, Mr. Ribicoff, Mr. Stone, Mr. Thurmond, Mr. Williams.

Mr. RANDOLPH. Mr. President, this sponsorship indicates that there is no partisanship whatever in this approach. We are not pointing the finger at anyone. Frankly, we are pointing our fingers at ourselves.

We all realize that an Energy Conservation Crusade with the Energy Conservation Month, will help us realize that we are challenged in a voluntary way to make this effort. Thus Americans can be made more aware that the problems related to the importation of oil from abroad can in a large measure be solved, by beginning our independence here, with the disciplines that we can build into our daily lives.

The resolution is in no way a gesture. If the President of the United States will proclaim this Energy Conservation Crusade, if he will designate the month indicated as Energy Conservation Month, and will call upon the American people, through his leadership, then we, through our cooperation, can do much in our hour of need.

Mr. President, I ask unanimous consent that the resolution be reprinted in the RECORD.

S.J. RES. 13

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That it is hereby declared to be the sense of the Congress that wasteful energy consumption in the United States must be eliminated at this time when our country is experiencing unprecedented economic and energy problems and is faced with severe shortages of energy, and requests the President to issue a national proclamation calling for a National Energy Conservation Crusade and declaring the period from February 16 to March 15, 1977, as "Energy Conservation Month." In

the observation of Energy Conservation Month—

The President is called on to publicize information for government, industry, and consumer use on appropriate energy conservation measures and to direct the Federal establishment to institute all available actions to reduce energy consumption without reducing the level of essential services being provided to the American people;

Governors, county executives, mayors, and other responsible officials are called on to examine the activities of State and local government and wherever possible institute comparable measures to those of the Federal government to promote energy conservation;

Business and industry are requested to examine their energy consumption practices and institute measures to eliminate unnecessary energy consumption and improve efficiency of use of available energy supplies, to curtail ornamental lighting and nonessential lighted advertising, to adjust business hours to reduce energy consumption, and to modify building operating and maintenance practices to promote energy conservation; and

The American people are called on to take the initiative in conserving available energy supplies by observing the 55 mile per hour speed limit on highways, by reducing the use of energy to heat and cool homes, offices, schools, and commercial establishments, by increasing the utilization of mass transportation facilities, carpools, compact cars, and stick-shift motor vehicles, and by installing insulation in their homes.

SEC. 2. The President is requested to report to Congress by March 31, 1977, on the steps taken to promote energy conservation and their results and on any recommendations for legislation he believes necessary to implement a continuing program of energy conservation.

SEC. 3. The President is requested to report monthly to the American people and the Congress on the status of energy conservation initiatives and their effectiveness, domestic energy supplies, domestic energy shortages on the economy of and employment in the United States.

By Mr. GARN (for himself, Mr. BARTLETT, Mr. CURTIS, Mr. DANFORTH, Mr. EASTLAND, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. LUGAR, Mr. PROXMIRE, Mr. YOUNG, and Mr. ZORINSKY):

Senate Joint Resolution 14. A joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. GARN (for himself, Mr. BARTLETT, Mr. CURTIS, Mr. DANFORTH, Mr. EASTLAND, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. LUGAR, Mr. PROXMIRE, Mr. YOUNG, and Mr. ZORINSKY):

Senate Joint Resolution 15. A joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

Mr. GARN. Mr. President, today I join with my colleagues, Senators BARTLETT, CURTIS, DANFORTH, EASTLAND, HATCH, HATFIELD, HELMS, LUGAR, PROXMIRE, YOUNG, and ZORINSKY, to introduce two life-protecting amendments to the U.S. Constitution. These amendments are identical to Senate Joint Resolutions 140 and 141, and Senate Joint Resolutions 10 and 11, which were introduced during the 94th Congress by Senator Buckley and many of the same cosponsors who join me today.

The amendments are essentially the same, although there is one potential major difference and several nuances which are related to style and drafting preferences. The potential major difference is found in the "private action" clause of the second proposed resolution. The language giving rise to the private action is found in section 2 and reads in relevant part, "No unborn person shall be deprived of life by any person . . ." This clause is important because it makes clear that the "right to privacy" upon which the Supreme Court based Roe against Wade and Doe against Bolton is subordinated to the right to life and permits "the Congress and the several States . . . to enforce [the amendment] by appropriate legislation" as provided by section 3 of the amendment without the requirement for "State action." The "private action" clause would therefore permit Congress to provide for Federal remedies against a private party—that is a doctor or hospital—permitting abortions contrary to the rights established by this amendment without regard to State involvement.

The first proposed resolution may also permit legislation aimed at private action. There is some precedent for this if such legislation is based on the "enforcement clause" of section 3.

It should be noted that both of these amendments provide an "exception clause" which clearly protects the rights of a mother whose death would be caused by continuation of the pregnancy. I believe a specific exception clause should be contained in any constitutional amendment designed to protect the right to life and that those amendments setting forth a specific clause of exception are preferable to those not containing such an exception and relying on the traditional legal doctrines of self-defense or legal necessity. There is some fear that without a specific exception clause in a constitutional amendment, the courts may overturn statutory enactments containing such clauses. This point can be clarified by requiring an exception clause. Also, the inclusion of the exception will increase the likelihood that the courts will interpret the amendment narrowly and not judicially enact exceptions not anticipated or desired by the Congress or the State legislatures which ratify the amendment. If exceptions to a human life amendment are to be limited to maternal lifesaving conditions, then that single exception should be clearly included in the language of the amendment itself.

Mr. President, while it is true that complexity and controversy surround many aspects of the human life amendment issue, I do not plan to present an extensive and detailed analysis at this time. This issue provokes high interest, intense emotion, and thoughtful analysis on both sides. The arguments cannot be adequately dealt with in an introductory speech and, indeed, it is my intention to cover here only a few of the most important questions raised by the proposed amendments, and then to briefly address myself to the question of why my colleagues and I are reintroducing them. The explanation will be relatively brief, but I trust it will go to the heart of the matter. Now, for some of the issues specifically raised by these amendments:

I do not believe that a States rights amendment is an adequate response to this country's present abortion law. One reason for that belief is that an amendment providing that the States may regulate abortion is unlikely, I think, to be on point with respect to Wade and Bolton. Suppose that a States rights amendment were ratified and that State X passed a restrictive abortion law and that such a statute were challenged in the courts of State X. The challenge could be based, for example, on the due process clause of the State's own constitution. As Prof. Robert M. Byrn has pointed out, in such a circumstance, the court may use Roe against Wade to invalidate the statute, reasoning that since the States rights amendment to the U.S. Constitution neither first, amended the State's constitution nor second, provided a Federal constitutional right of unborn children to live, that its decision must be based on the earlier U.S. Supreme Court precedents of Wade and Bolton.

The foremost reason, however, that I find a States' rights amendment inadequate is that it fails to account for the superior value of the right to life—a value which must not be subordinated to lesser claims, a right which should be protected by the supreme law of the land, a right which rises above the legitimate claims which are made in our federal system for "States' rights." I believe, and my belief is supported by a long history of rational humanitarianism and Judeo-Christian ethics, that certain rights are supreme and unalienable. There is no greater phrase in the political literature of this country than Jefferson's—

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."

One of the purposes of our Constitution is to recognize such noble rights and to codify them on our highest jurisprudential plane—to withdraw them and protect them from the vicissitudes of political controversy. The right to life must be cherished and protected because it is the right upon which all other rights are predicated. Who can dispute the fact that any other right is insignificant and, in fact, a nullity, unless it is preceded and founded on the right to life.

It has been alleged that a human life amendment such as those I am introducing, will disrupt American constitutional, property, tort, and other law. Let me emphasize that these amendments are carefully drafted to protect an unborn person's "right to life." The amendments refer to the 5th and 14th amendments to the Constitution, in which a right to life is inherent. I do not expect significant change in the tort and property rights of the unborn; there is no reason that a human life amendment would require that such rights be diminished or enlarged. It is well to re-

member in this regard that many of the limitations on tort actions with regard to the unborn are based on difficulties of proof rather than on a conclusion that the unborn child is not a being to whom legal duties are owed. Objections to the amendment on grounds that it will change requirements for census and congressional apportionment are without merit. These legal objections and others have been raised and rebutted and, as with other legislative questions, will never obtain a definitive answer until a court writes a definitive decision. Some apparently need to be reminded, however, that there is no basis in legal precedent or legislative intent to do other than protect the lives of the unborn. No one can say with certainty what a generation of judges may conclude on particular points that will be litigated, but we can make our intentions clear and support those intentions with law and reason. I believe the proponents have met this responsibility.

Some opponents of a human life amendment have alleged that all illegal abortions will become first degree murder if an amendment is ratified. I will again rely on Professor Byrn's research to refute such a claim. First, the law recognizes "degrees of evil" or degrees of malice. A State may exercise its police powers with discretion and it may single out certain classes of defenders for special treatment. There is extensive precedent showing that States have concluded that killing an unborn child is deserving of different punishment than killing a child after birth. State courts have also spoken of the life of an unborn child as "sacred and unalienable," yet they were not compelled to treat abortion as first degree murder. While it is true that legislatures have latitude in exercising their judgment, it must be remembered that the downgrading of a homicide from first degree to some other degree is not founded on any conclusion that a victim or class of victims are less than human beings. Legislative distinctions are based on degree of malice and public policy. The public policy aspect of such decisions may be illustrated by those homicide statutes exacting a more severe penalty for killing a policeman or a penal officer than for killing some other person.

It must be emphasized that although legislatures will be granted their traditional degree of discretion in grading homicides, a human life amendment will not permit a legislature to circumvent the clear intent of the amendment by enacting "farsical, grossly disproportionate and obviously inadequate penalties." The courts can be expected to pierce any veil of superficial compliance which denies the class of unborn persons the equal protection of the laws with regard to the right to life. Legislatures may legitimately downgrade the crime for rational reasons; they may not remove an entire class of persons from the protection of the law.

The related area of the effect a human right amendment would have on the rights and liabilities of women has also raised many questions, and justifiably so. Proponents of human life amendments are often accused of focusing solely on the fetus and never on the woman. This is an unjustifiable accusation. The rights, privileges, immunities, and protections of the law for women are of great concern to each sponsor of these amendments and similar amendments. It is unfortunate that some opponents have made right to life a "woman's" issue Our only intention in introducing and promoting a human life amendment is to expand to all human beings coming within the jurisdiction of the United States a right to life, irrespective of sex, race, political power, or any other criteria.

Generally, and in brief, rights of women under a human life amendment will be what they were in a State with restrictive abortion laws prior to Wade and Bolton. Some States penalized the woman consenting to an illegal abortion and others did not. There is no reason to believe that she will be subject to increased civil or criminal liability. Women's rights will likely be adjudicated in the same context in which homicide choices are made, and which are discussed above. Legislatures will have discretion in enacting legislation to effectuate purposes of the amendment, but legislatures will not be permitted to ignore the language and intent of the ratified amendment.

It is a widely held belief that if there is going to be equality between the sexes that a woman ought to be able to use her body in any manner she sees fit It is argued that a woman should be free to either carry the fetus to birth or to abort the unborn child, and that such a decision should be completely personal.

This argument has a certain appeal because we are all interested in maintaining personal privacy and personal integrity with decisions uncoerced by government. But the fetus is not just another part of a woman's body. The fertilized ovum which develops into a separate living human being cannot be considered a mere appendage to the woman's body. The columnist George Will recently said, the abortion issue is "being trivialized by Cant about 'a woman's right to control her body.' Dr. Leon R. Kass—a University of Chicago biologist—notes that 'the fetus simply is not a mere part of a woman's body. One need only consider whether a woman can ethically take thalidomide while pregnant to see that this is so.' Dr. Kass is especially impatient with the argument that a fetus with a heartbeat and brain activity 'is indistinguishable from a tumor in the uterus, a wart on the nose, or a hamburger in the stomach.' But that argument is necessary to justify discretionary killing of fetuses on the current scale, and some of the experiments that some scientists want to perform on live fetuses.

". . . Abortion advocates become interestingly indignant when opponents display photographs of the well-formed feet and hands of a 9-week-old fetus. People avoid correct words and object to accurate photographs because they are uneasy about saying and seeing what abortion is. It is not the 'termination' of a hamburger in the stomach."

Abortion-on-demand must not be equated with the advancement of the women's movement. On the contrary, abortion is an exploitation of the very dignity of womanhood. Permissive abortion makes possible the ultimate degradation of women. Fortunately, growing numbers of women are coming to this realization and groups of "feminists for life" are springing up around the country as women strive for equal rights and the protection of innocent life.

Another issue that has been raised regarding a human life amendment is the effect such an amendment would have on the poor. Again, this is a legitimate concern and one which must not be ignored. This country is dedicated to providing equal justice under law and to providing equal opportunities for the poor. These are noble goals.

It is often alleged that if a human life amendment is passed the rich will continue to have their abortions while the poor will be prevented from doing so. Even if this were true, it is irrelevant. This country cannot predicate its laws upon the practices of the wealthy, particularly when such practices deprive humans of their lives. "Equal justice under law" does not mean that the legislatures and the courts must legitimize the foibles, attitudes, and evils of the rich. The rich can obtain "quicky" divorces in foreign countries; they can fly to Las Vegas and gamble; they can obtain the best drugs; they can commit innumerable follies because of their wealth. There is no requirement to legalize such folly and, indeed, legislatures and courts have a responsibility to protect society from such errors. This point is made even more powerful by the fact that in the area of abortion we are dealing with human life.

I wish we would no longer hear that the standard of the decadent wealthy ought to be the standard for all, but I am afraid the argument will continue. In fact, it is now being argued that the Federal Government has a responsibility to pay for such decadence.

I will conclude this first part of my presentation, Mr. President, with reference to the charge that a human life amendment will have the effect of enacting religious dogma into law. I reject such a claim, but let me briefly address it. The Supreme Court has said that for a statute to "pass muster under the establishment clause" the law in question must first reflect a clearly secular legislative purpose; second, have a primary effect that neither advances nor inhibits religion; and third, avoid excessive Government entanglement with religion. I think this is a fair test also for a constitutional amendment and I believe there is no conflict between this test and a human life amendment.

Can any of us think of a legislative purpose more legitimate—and certainly secular—than the protection of innocent human life? If such a purpose is impermissibly shot through with religious dogma, then what will become of our criminal laws? Will it soon be alleged that homicide statutes are so rooted in religious tradition and teaching that they are constitutionally impermissible? Such an assertion would simply be nonsense

and the analogy to the abortion situation should be unmistakable.

It is difficult to see how a human life amendment would have a primary effect that either advances or inhibits religion. We are aware of the long lists of religious groups that favor permissive abortion because such lists have frequently been read on the floor of the Senate. If I were to follow the simplistic arguments of some who invoke the first amendment's establishment and free exercise clauses to oppose a human life amendment, I could argue that the Supreme Court's decision was constitutionally impermissible because of the large number of religious groups which favor it. Such an argument ignores secular reality and the constitutional truth that a law which has a valid secular purpose will not be struck down because it coincidentally embraces a religious view. Have we now reached the point where we shy from legislation based on moral principle? Will morality be rejected as a basis for American law? I hope not, for it must not. American law cannot be devoid of conscience.

Now that I have dealt with some of the particular issues raised by a constitutional amendment, I will address myself to a few facts and beliefs which impel my colleagues and me to support a human life amendment. Let me begin with evidence which I believe clearly shows the need for the law to protect the lives of the unborn as vigorously as it protects the lives of the born. The first piece of evidence is provided by a fetologist, a developmental biologist, an obstetrician-gynecologist, and a cytogenicist, and their statements may be found in the jurisdictional statement of the appellant in Byrn against New York City Health and Hospitals Corporation.

The jurisdictional statement compared an 8-week, "unquickened," "nonviable," unborn child—the unborn—a typical candidate for abortion—with an 8-day newborn—the newborn. The composite picture was set out in the affidavits as follows:

1. The newborn is genetically human; so is the unborn.

2. The newborn is genetically complete, unique and distinguishable from his mother; so is the unborn.

3. The newborn has a strongly beating heart pumping blood through his own circulatory system which is distinct from that of his mother; so does the unborn. The newborn's blood can be separately grouped; so can the blood of the unborn. The newborn can bleed; so can the unborn. The blood pressure and heart rate of the newborn are measurable; the same is true of the unborn. One of the indicia of human death is the irreversible cessation of the spontaneous functioning of the circulatory system. Conversely, the presence of spontaneous circulation signifies the presence of life. Both the newborn and the unborn are alive.

4. The newborn possesses a well-developed (though not completely developed) brain; so does the unborn. The brain of the newborn sends out impulses which are recordable on an EEG; but the same is true of the brain of the unborn, and there is substantial evidence that conscious experience is possible for the latter as well as the former. Another of the indicia of human death is the irreversible cessation of the cerebral function as evidenced by a flat EEG. Conversely, the presence of recordable brain impulses signifies the presence of life. Both the newborn is connected by an 'umbilical cord' to the 'mother' ship and if the cord should be cut the (nonviable?) astronaut dies and the mission is said to have been 'aborted'. Earthbound human beings may also be dependent on substitute life support systems—the newborn is an incubator, the intravenously-fed adult in an oxygen tent. Yet withal, they are live human beings—as is the unborn.

"(c) The newborn is not a part of his mother; neither is the unborn. The baby is never a part of the mother. In the biological sense, he is always a complete individual. An abortive act leaves the mother entire and whole and simply removes the baby from the life support system she had provided.'[62] (Developmental biology.) 'This emphasizes the biological separateness of the baby and the mother since the baby has a completely difference set of blood groups . . . .'[63] (Fetology.) 'Its existence is a biologically separate-existence from that of its mother.'[64] (Cytology-cytogenetics.) The unborn has his own 'individuality'.[65] (obstetrics-gynecology.)

"(d) Whether or not an individual is a live human being in fact does not depend on the number of people who are hypothetically and atlernatively available to provide him with nourishment and a healthful environment. There is no basis in science or elsewhere for the proposition that the more specifically dependent an individual is, the less human he is."

11. The newborn has been born; the unborn has not been born. But "[t]he life history of an individual is a genetic and biological continuum in which intra-uterine existence and birth are only events." "The prenatal period is now biologically regarded as part of the total lifetime of an individual. To a biologist birth is merely an event in an individual's total life." Puberty, too, is an event but the child before puberty is no less a live human being.

12. Quickening, viability, birth—none of these will make the unborn more alive, more human, more individual, or more in being—more of a living human baby—than he is at eight weeks. From this point of view, infanticide of the newborn and abortion of the unborn are indistinguishable.

13 Nor are the newborn, at eight days postnatal age, and the unborn, at eight weeks prenatal age, any more human, alive, or in being than younger unborn children. For instance, the unborn of four weeks gestational age, "has developed distinct organ situations with a beating heart and blood circulation." "Various tissues are interacting, one with another, and the result is a physiologically well-functioning total." "The primary brain is present . . . and shortly the fore-brain ultimately leading to the cerebral cortex, the highest and best developed region of the brain, will appear The baby now has its own blood and circulatory system and does not exchange blood with the mother."

14. Neither can the unborn of less than four weeks gestational age be called anything less than a live human being:

"My efforts have been directed primarily in the area of developmental physiology, molecular embryology and genetic theory. My work includes examination of the interaction of genes in the human individual. The moment of fertilization is, strictly speaking, the point wherein the sperm nucleus coalesces with the female nucleus in the ova. At that moment a new individual's life has commenced. Its genetic endowment is complete, determined, unique and distinguishable from the genetic endowment of the mother.

"Genetically and biologically, there is complete separability between the mother and the new individual The mother's role from that point is to provide nourishment and safe environment until birth. The life history of an individual is a genetic and biological continuum in which intra-uterine existence and birth are only events."

One of the most compelling statements in the affidavits supporting the jurisdictional statement came from the fetologist who said sometimes the unborn child receives intrauterine blood transfusions and that the unborn child "receives all the care and attention that any baby would receive after birth. In a real sense, these babies are my patients, indistinguishable in the womb from when they are born."

I find this short but thorough comparison between the unborn and the born powerful and compelling.

The important link between the medical facts and their necessary moral and legal implications has also been excellently expressed by Dr. Andre Hellegers, Director of the Kennedy Institute for the Study of Human Reproduction and Bioethics. Dr. Hellegers said:

. . . That the fetus is alive and not dead is undoubted. If it were dead, abortions would not need to be performed and there would be no child to raise. That the fetus is biologically human is also clear. It simply puts it into a category of life that is different than the cat, the rat or the elephant. So the human fetus represents undoubted human life and genetically it is different than any other animal life.

But I think what those who do not oppose abortion mean to actually convey is that this life is not sufficiently valuable to be protected. It has no value, no dignity, no soul, no personhood, no claim to be protected under the Constitution. That is not a biological question. That is a value issue. The issue hidden under such language as 'meaningful' life or 'potential' for life, or 'quality' of life. What is at stake goes far beyond the issue of abortion. The question is this: are there to be live (not dead) humans (not rats, cats, etc.) who are to be considered devoid of 'value', 'dignity', 'soul', meaningfulness', 'protection under the Constitution' or whatever phrase or word by which one wants to describe the inclusionary or exclusionary process?

"This is fundamentally why I am opposed to abortion. It is because it attaches no value to live biological human entities . . .

As the evidence continues to grow, I am gratified to see people of good faith change their attitudes toward abortion. One of the most notable of these is Dr. Bernard Nathanson, M.D., who once headed the Center for Reproductive and Sexual Health. Good Housekeeping called the center "the busiest licensed abortion facility in the Western World—where—from eight in the morning until midnight, 7 days a week, doctors working in 10 operating rooms performed vacuum aspirations on an endless parade of pregnant wombs. In peak months, more than 3,000 patients paying $150 apiece passed through."

After a long day at work, Dr. Nathanson faced himself in the mirror and remembers:

I said to myself: "All that propaganda you've been spewing out about abortion not involving the taking of human life is nonsense. If that thing in the uterus is nothing, why are we spending all this time and money on it?"

I became convinced that as director of the clinic I had in fact presided over 60,000 deaths.

He elaborates: "As early as six weeks we can detect heart function in embryos, with an electrocardiograph. We can record brain activity at eight weeks. Our capacity to measure signs of life is becoming more sophisticated every day, and as time goes by we will undoubtedly be able to isolate these signs at earlier and earlier stages in fetal development. To vehemently deny that life begins when conception begins is absurd!

The product of conception is a human being in a special time of its development, part of a continuum that begins in the uterus, passes through childhood, adolescence and adulthood, and ends in death. The fact that a fetus depends on the placenta for life and can't survive independently doesn't nullify its existence as a human being. A diabetic is wholly dependent on insulin, but that doesn't make him less human.

I had to face that fact that in an abortion, human life of a special order is being taken.

Finally, I quote from an editorial of California Medicine, the official journal of the California Medical Association. The editorial points to the relationship between medical knowledge and ethics and renders a precise and concise explanation of an emerging ethic which abandons intrinsic human worth and substitutes a graduated scale of "meaningfulness."

In defiance of the long held Western ethic of intrinsic and equal value for every human life regardless of its stage, condition or status, abortion is becoming accepted by society as moral, right, and even necessary. It is worth nothing that this shift in public attitude has affected churches, the laws and public policy rather than the reverse. Since the old ethic has not yet been fully displaced it has been necessary to separate the idea of abortion from the idea of killing, which continues to be socially abhorrent. The result has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continuous whether intra- or extra-uterine until death. The very considerable semantic gymnastics which are to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forward under socially impeccable auspices. It is suggested that this schizophrenic sort of subterfuge is necessary because while a new ethic is being accepted the old one has not yet been rejected.

The medical evidence is overwhelming. The "thing" that is aborted is a tiny, helpless, developing human being. All other considerations must be subordinated to this fact. Privacy cannot be more important; convenience cannot be more important; the elimination of poverty cannot be more important; nor can any other concern override what must be our preeminent concern—life. Not the "quality of life," but existence itself. Not the "meaningfulness of life," but being itself. Life, existence, being: That essence upon which all rights are dependent must itself be reenshrined as a constitutional right because of the blindness of the court.

It has been said that the essence of civilization is the "agreement together in concord and amity respecting certain moral values." This common morality is frequently expressed in terms of law, and in law frequently in terms of "rights." We accept the premise that there are certain fundamental, inalienable rights which attach to human beings without regard to station or status in life. The just society attempts to define and secure such rights and to do so broadly and evenly.

As with other civil rights issues, what is at stake is the practical application of the right to life and all that right carries with it. Theory and sermons about rights and justice and equality are fine, but we are increasingly coming to the point where we deny in practice what we pronounce in theory. "The principle which has animated our society and which has a ring of absoluteness about it is that innocent human life may never be taken. That is something which is violated in practice, but which has never been violated in theory." Now, however, even the theory is being violated. The growing numbers of aborted babies which now reach into the millions, and the growing elective-abortion mentality are stabbing that animating principle. A human life amendment is intended to stop the assault on that principle and heal its wound.

Regarding the right to life, we may paraphrase a statement by Sir Patrick Devlin, a distinguished English judge:

It has got there because it is moral—but it remains there because it is built into the house in which we live and could not be removed without bringing it down.

The right to life is a great beam which runs through the house of this Republic and of all societies justly seen as good and worthy of imitation. I fear for the stability of the structure if that beam is removed. If the beam should be removed and the walls still stand are those who live therein safe?

Norman St. John-Stevas, M.P., has made the following conclusion which I find precise: "The acceptance of this concept—that is, the right to life—by the law has made a profound difference to our society. It is the premise not only of liberty, but perhaps even more of equality, and, above all, of fraternity. There have been, we should recall, other legal systems which have consigned the right to life to a class, and have excluded whole sections of society from its application. The great slave empires of the past—the Greek and Roman empires—were examples of such societies. We have had the recent example of the Third Reich of Hitler, which was based on the limited idea of the right to life." Today, great as well as insignificant countries are engaged in conscientious efforts to deprive their citizens of basic human rights, including the right to life.

It is the challenge of America to set the world's standard for human rights—a standard at once historical and timely, noble and egalitarian; a standard to which good men and women everywhere may rally; a standard based on the inalienable rights of life, liberty, and the pursuit of happiness—a human life and a human rights standard, a standard now requiring the ratification of a human life amendment and a standard to which we invite all to adhere.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. DOLE, the Senator from Florida (Mr. CHILES), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Maryland (Mr. SARBANES), the Senator from Wyoming (Mr. HANSEN), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 4, to amend the Internal Revenue Code.

S. 21

At the request of Mr. DOMENICI, the Senator from Alabama (Mr. SPARKMAN) was added as a cosponsor of S. 21, to amend the Occupational Safety and Health Act of 1970.

S. 82

At his own request, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 82, to amend title 18, United States Code.

S. 94

At the request of Mr. HOLLINGS, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 94, the Postal Reorganization Act Amendments of 1977.

S. 146

At the request of Mr. GOLDWATER, the Senator from New Jersey (Mr. CASE) and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 146, to repeal the earnings limitation of the Social Security Act.

S. 170

At the request of Mr. HUMPHREY, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 170, to amend the Comprehensive Employment and Training Act.

S. 242

At the request of Mr. CHURCH, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 242, relating to the determination of nonexcess acreages under Federal reclamation laws.

S. 243

At the request of Mr. NELSON, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 243, to amend the Small Business Act and the Small Business Investment act.

S. 256

At the request of Mr. PEARSON, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 256, the Natural Gas Act Amendments of 1977.

S. 257

At his own request, the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 257, to establish incentives for energy conservation.

S. 260

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be made a cosponsor of S. 260, a bill to amend title 18, United States Code, so as to impose mandatory minimum terms with respect to certain offenses.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, while I have some questions that the specific minimum sentences imposed in sections 4 through 7 of this bill may be too short, I am confident that the hearings on this bill will focus and resolve this question. Further, Mr. President, I feel very strongly that this type of legislation is necessary as an important part of our attempt to curb the soaring rise of violent crime. I, for example, have already introduced in this session S. 31, which provides for a separate and consecutive sentencing in felonies involving the use of firearms. Section 3 of S. 260 is almost identical to my S. 31.

Mr. President, in my view, the concept of minimum mandatory sentences needs to be quickly implemented and S. 260 is clearly a step in the right direction in our attempts to legislate comprehensive reform of our criminal justice system.

S. 268

At the request of Mr. LEAHY, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 268, to establish an office relating to the fuel and energy needs of rural residents.

S. 273

At his own request, the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 273, a bill relating to energy conservation.

S. 325

At the request of Mr. GLENN, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Ohio (Mr. METZENBAUM), and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of S. 325, relating to the allocation of natural gas.

S. RES. 43

At the request of Mr. JACKSON, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Resolution 43, disapproving Energy Act No. 8.

S. RES. 44

At the request of Mr. JACKSON, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Resolution 44, disapproving Energy Act No. 9.

SENATE RESOLUTION 48—ORIGINAL RESOLUTION REPORTED RELATING TO THE RELEASE OF ABU DAOUD

(Placed on the Calendar.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following resolution:

S. RES. 48

Resolved, That it is the sense of the Senate that the release of Abu Daoud, a known terrorist who is accused of planning the murder of Olympic athletes in Munich in 1972, is harmful to the efforts of the community of nations to stamp out international terrorism.

SEC. 2. It is further the sense of the Senate that the United States should consult promptly with France and other friendly nations to seek ways to prevent a recurrence of a situation in which a terrorist leader is released from detention without facing pending criminal charges in a court of law.

SENATE RESOLUTION 49—SUBMISSION OF A RESOLUTION RELATING TO INTERNATIONAL ENVIRONMENTAL IMPACT STATEMENTS

(Referred to the Committee on Foreign Relations.)

Mr. PELL. Mr. President, last August 25 I introduced Senate Resolution 521 urging that the United States seek the agreement of other governments to a treaty requiring the preparation of an International Environmental Impact Statement for any major project, action, or continuing activity which may reasonably be expected to have a significant adverse effect on the physical environment or environmental interests of another nation or a global commons area. It was not possible for the Senate to act on that resolution because of the crowded calendar at the end of the 94th Congress. Accordingly, I am introducing my resolution again today.

Last December 10, the United Nations General Assembly approved by a 96-to-8 vote—with 30 abstentions—a draft treaty to ban the use of environmental modification techniques in warfare. This development is a great source of satisfaction to me, as this treaty appears to have come about as a result of Senate Resolution 281, including a draft treaty, which I introduced in 1972. That resolution was endorsed unanimously by the NATO North Atlantic Assembly on November 21, 1972, and, after being reintroduced as Senate Resolution 71, passed the Senate on July 11, 1973 by a vote of 82 to 10. With the entry into force of that treaty, a major step forward will have been taken to insure that the emerging sciences of environmental modification will be used solely for peaceful purposes to benefit mankind. But the dedication of most of the nations of the world to peaceful uses of environmental modification techniques—weather and climate modification for example—by itself will not insure that such techniques will be employed in such a way as not to cause harm to or even wreak devastation on another nation or on a global commons area such as the oceans even if there is no aggressive military motive involved.

Similarly, and perhaps more important, large-scale economic projects—for example, dams, canals, nuclear reactors, waste disposal systems and the clearing of virgin jungle and tropical rain forest land for agricultural development—could have unintended or unforeseen effects of a significant nature beyond the borders of the countries in which these projects are being conducted. In the most extreme case, a nation may adopt a self-serving policy and undertake a project for nonmilitary purposes knowing full well that it could have disastrous environmental consequences for a neighboring country.

That is why I am introducing today a Senate resolution calling upon the President to take the initiative in proposing multilateral negotiations on a treaty which would require the preparation of an international environmental impact statement for any activity which may reasonably be expected to have a significant effect on the environment of other nations or a global commons area. In the draft treaty which accompanies my resolution, no activity likely to have a significant environmental impact outside the borders of the conducting state may go forward until the office of the United Nations Environment Program—UNEP—and any other affected party to the treaty have an opportunity to make their views known. Neither

UNEP nor the government of an affected country could stop a state from conducting such an activity, but consultations would be required with a view toward finding ways to prevent or minimize the adverse environmental consequences across international boundaries.

A treaty along the lines of the one I have suggested would establish the principle that environmental modification activities cannot be carried out without considering the consequences of such activity beyond a nation's own territory.

The need for such a treaty has already been foreseen in part in Public Law 94–490, the National Weather Modification Policy Act of 1976 which became law on October 13, 1976 and of which I am proud to be a cosponsor. That act calls for the information of a national weather modification policy and program and requires the Secretary of Commerce to make recommendations for any legislation which may be required to implement such a policy and program "or for any international agreement which may be appropriate concerning the peaceful uses of weather modification." This act also states that it is the purpose of the Congress that one element in a national weather modification policy should be "to develop both national and international mechanisms designed to minimize conflicts which may arise with respect to the peaceful uses of weather modification."

More broadly speaking, the need for an international environmental treaty is based on the expectation that science and technology are going to be increasingly looked to for solutions to the problems of meeting the food, energy, resource, and transportation needs of a rapidly growing world population. Futurologists are already telling us that parts of the world are being transformed into postindustrial societies with "technotronic" economies far different from the kind of industrial economies we have known in the past. At least one eminent member of this fraternity, Herman Kahn, has stated recently that technology will make it possible for our planet to support a population of some 15 billion by the year 2176—or about four times the current world population—in reasonable comfort.

I am concerned, however, that the world will become so dazzled by and committed to technological solutions to problems without having a clear idea as to the totality and predictability of the effects which will be brought about in the environment. In an increasingly crowded and interpendent world, any misconceived or badly controlled application of technology is likely to have far-reaching—and often uncertain—effects on many parts of the world.

Mr. President, I would now like to cite some examples of the kinds of activities—some far in the future, some of a more here-and-now nature—which ought to be carefully scrutinized and to which world opinion ought to be brought to bear.

The examples which I wish to cite fall roughly into six general categories: transportation, energy production, resource development including sources of energy, waste disposal, disaster prevention, and food production.

Under the first category, transportation, if new canals are to be built—and from time to time there is talk of new canals being built through Central America and across the Kra Isthmus shared by Malaysia and Thailand—thought must be given to the effects of the interchange of marine systems created by the new waterways. In building the Suez Canal, engineers and government officials apparently gave no thought to the effects of mingling Red Sea and Mediterranean marine life. The hybridization of Red Sea and Mediterranean sardines has, for example, produced a smaller, less commercially attractive species. Similar considerations are involved in contemplating the building of oil and gas pipelines in the Arctic, in jungles, and perhaps also on the sea bottom.

In the field of energy production, the location of a nuclear powerplant near the border of another nation could, in the event of an accident or bad construction, cause radiation damage in the neighboring country or thermal pollution as water used for cooling is released into a lake, river, or estuary shared by several nations. Similarly, the construction of a dam to generate electricity could, as in the case of the Aswan Dam, greatly upset the marine ecology downstream. In the case of the Aswan Dam, the cutoff of nutrients flowing from the Nile into the Mediterranean has reduced the sardine catch in that sea to 3 percent of its pre-1965 level according to one authority.

The development of new mineral and energy producing resource supplies is proceeding apace. Deep sea mining for manganese nodules could begin on a large scale in the next 5 years, and the capacity for oil exploration companies to drill farther and farther out to sea is also increasing. But what changes will such activities create in the delicate ecologies of the deep seabed and the superjacent waters? Similar considerations are involved if mining is undertaken in Antarctia.

The disposal of wastes of all kinds, human as well as industrial, is going to be one of the major concerns of governments in the future as populations and economies expand. If a system of international environmental impact statements had been in effect 25 years ago, governments may have looked more seriously at alternatives to proposals to dump sewage at sea, chemicals into international rivers, and permit the construction of plants which rain acid on their neighbors.

Looking to the future, I am concerned about where the mounting radioactive wastes from nuclear powerplants are going to be dumped. I am also concerned about the consequences of the world's shipping fleets continuing to have accidents such as the one involving the Liberian tanker *Argo Merchant* off Nantucket Island and to dump into the oceans the quantities of oil permitted under the 1954 Convention for the Prevention of Pollution of the Sea by Oil. The world's merchant marine fleet has grown from 14,600 vessels with a tonnage of 121,900,000 in 1954, when the pollution convention was adopted, to 22,900 vessels and 556,600,000 tons in 1975. A Soviet scientist working for the U.N. recently reported that an oil slick on a square mile of water may reduce evaporation by as much as 50 percent, and the reduction of evaporation caused by oil slicks may help to explain current drought conditions throughout the world. I fear, also, that supposed antidotes to air and water pollution may be developed, the use of which may result in the cure being worse than the disease.

Preventing natural disasters is an age-old quest of man who has employed both shamans and science in an effort to escape the destructiveness of storms, drought, earthquakes, and floods. While the possibility of dealing effectively with these phenomena is currently either nil or uncertain, storm-steering, the release of geological tensions and modulation of precipitation may be possible in the future, but the confinement of the results of such activities to one nation may be impossible.

Finally, vast modifications of the environment could take place as part of the effort to feed the world's hungry. As one eminent scientist said recently,

> We have to find in the next 25 years, food for as many people again as we have been able to develop in the whole history of man 'til now.

The pressure of population growth could cause tropical nations to develop projects for the clearing of rain forests to create agricultural land without regard for what such activity might do to the ecology of an entire river valley in which many nations have an interest. As an example, the careless clearing and use of such land could lead to the formation of laterite, a brick-like substance which contributes to an increase in the run-off of rain and, therefore, flooding. Also, a country in a dry region may, in an attempt to increase food production, be tempted to steal rain by seeding clouds which normally drop rain over other countries as well.

More ominously, projects may be undertaken to counter the impact on food production if the cooling trend which climatologists have detected continues. If they are correct in their predictions of a return to the cooler climate which prevailed in the 17th to the 19th century, within two decades a shorter growing season would drastically restrict grain production in the high latitude areas such as Canada, the Soviet Union, and Northern Europe; and more frequent monsoon failures in South and Southeast Asia would significantly reduce output there. According to a 1974 unclassified CIA report based on a study by the University of Wisconsin, India would have a major drought every 4 years and could support only three-fourths of her

present population, China would have a major famine every 5 years, the Soviet Union would lose Kazakhstan for grain production, and Canada would lose over 50 percent in production capability and 75 percent in grain exports. Northern Europe would lose 25 to 30 percent of its present production. All told, as many as half a billion people could starve in the next two decades or so.

The recent droughts in the African Sahel region and in Western Europe have already generated speculation and anxiety about changes in the world's weather patterns. If nations perceive that the climatologists' predictions are correct, they may be tempted to take matters into their own hands and attempt to counteract the cooling trend and avoid the disastrous effects on their food production capability. One scheme to accomplish this is the melting of the polar ice cap. The ice that floats on the Arctic Ocean caps the vast moisture of that body and makes the polar area 20 degrees colder, because of reflected sunlight, than it would normally be if the ocean ice were melted. One way to melt the ice cap would be to divert southward the rivers in the Soviet Union that now bring fresh water, which freezes faster than salt water, into the Arctic Ocean.

The problem with such a scheme is that while the higher latitude areas of the world would be warmed, the totality of the effects produced are not known. For example, the entire grain production area of the Northern Hemisphere could be shifted substantially northward.

A more extreme approach to countering the cooling trend would be to melt continental glaciers which, unlike melting the Arctic Ocean ice cap, would add water to the ocean and flood coastal cities.

In proposing this treaty requiring international environmental impact statements, it is my intent to raise international consciousness as to the threats to the environment inherent in the search for technological solutions to such problems as food, energy, and climate change. Now is the time to begin the process of establishing international rules of the game in the field of environmental modification. By requiring international environmental impact statements—in effect internationalizing the basic elements of the National Environmental Policy Act in this country—it is my hope that the need for further international agreements and institutions to protect the world environment will be demonstrated. In the meantime, it is my hope and intention that the requirement for international environmental impact statements will serve to make governments and corporations more cautious in proceeding with projects which have significant environmental effects and to give serious consideration to alternatives.

Mr. President, twice before in the past decade I was involved in efforts to reverse the normal constitutional procedures by introducing resolutions calling upon the executive branch to negotiate treaties along the lines of draft texts included in those resolutions. In 1967 I introduced Senate Resolution 186 proposing a treaty governing the activities of nations in ocean space. Then in 1972, as I mentioned earlier, I introduced Senate Resolution 281 urging a U.S. initiative to seek negotiations for a ban on the use of environmental modification techniques in warfare.

The administrations of the day initially scorned both proposals but eventually came to recognize the merit in them. The ocean space resolution was followed in 1972 by the conclusion of a multilateral treaty banning the emplacement of nuclear weapons and other weapons of mass destruction on the seabed, and by the convening in 1973 of the Third Law of the Sea Conference which is still underway. The environmental warfare resolution led to treaty negotiations which began in 1975 and concluded successfully last year.

Today, I urge my colleagues to join me in a third effort.

In closing, I would like to share with my colleagues a statement which former EPA Administrator Train made during a May 5, 1976 Foreign Relations Committee hearing on the world environment. Although his remarks were unconnected with my current resolution, the treaty I am proposing is consistent with what he said. Mr. Train stated that:

> Increasing international cooperation on safeguarding our lifesupport systems is an urgent necessity. The alternative is to set back and wait for global disaster to overtake us. International environmental cooperation must be an integral part of American foreign policy.

Mr. President, I ask unanimous consent that the text of my resolution on a treaty to require international environmental impact statements be printed in the RECORD.

S. RES. 49

Whereas there is a vast potential for human betterment through those projects, actions, and continuing activities that modify the Earth (its land, its water, and its atmosphere) in environmentally sound ways that are consistent with the Earth's natural ecology and under careful controls designed to avoid or minimize any adverse environmental effects; and

Whereas there is potentially great danger to the world ecological system and to the well-being of individual nations if such activities are not controlled or conducted with sufficient regard to their potentially adverse effects on the physical environment or environmental interests of other nations or a global commons area: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States Government should seek the agreement of other governments to a treaty along the following general lines.

"The Parties to this Treaty,

"Recognizing the vast potential for human betterment through those projects, actions, and continuing activities that modify the Earth (its land, its waters, and its atmosphere) in environmentally sound ways that are consistent with the Earth's natural ecology and under careful controls designed to avoid or minimize any adverse environmental effects; and

"Aware of the great danger to the world ecological system and to the well-being of individual nations if such activities are not controlled or conducted with sufficient regard to their potentially adverse effects on the physical environment or environmental interests of other nations or a global commons area,

"have agreed as follows:

"ARTICLE I

"(1) No State shall undertake, nor permit to be undertaken, any major project, action, or continuing activity within its territory, the territory of another State, or upon any global commons area, as defined by conventional and customary international law, which may be reasonably expected to have a significant adverse effect on the physical environment or environmental interests of another State or States Party to this Treaty or on a global commons area unless these activities are carried out in accordance with the provisions of this Treaty.

"(2) No State shall undertake, nor permit its nationals or others subject to its jurisdiction or control to undertake activities referred to in paragraph 1 unless such activities are carried out in accordance with the provisions of this Treaty.

"(3) Before authorizing an activity referred to in paragraph (1), a Party to this Treaty will ensure that an International Environmental Impact Statement regarding the potential adverse physical environmental effects of such activity is prepared and submitted to the United Nations Environmental Program (UNEP) and to any other Party to this Treaty whose physical environment or environmental interests may be adversely affected by such activity, in cooperation with such Party and/or UNEP. The Parties to this Treaty also agree to prepare such a statement upon the request of UNEP or a potentially affected State.

"(4) The Party considering such an activity will not make a final decision to proceed until it has provided a reasonable opportunity for UNEP and any potentially affected State to make their views known as to the desirability of undertaking the activity. The Party considering the activity will also consult with UNEP and other concerned States with a view toward preventing or minimizing any adverse environmental consequences beyond the borders of the conducting State. Moreover, if the recommendation of UNEP or an affected State is negative, the States Party to this Treaty pledge themselves not to move ahead with the projected activity without prior international consultations in accordance with procedures to be recommended by UNEP.

"(5) In the event of an emergency affecting the safety of life or property, a Party may undertake a paragraph (1) activity before preparing an International Environmental Impact Statement or complying with the notification and consultation provisions (3) and (4) above. Any Party taking emergency action shall notify UNEP and other affected States forthwith that such emergency action is being taken. The Party claiming an emergency will also prepare an International Environmental Impact Statement as soon as possible after the activity is initiated, will provide a copy of the statement to UNEP and other potentially affected Parties, will give UNEP and such Parties the opportunity to comment, and will indicate what emergency conditions necessitated immediate action and what measures are being taken to assure that International Environmental Impact Statements will be prepared in a timely fashion in the future.

"ARTICLE II

"The States Party to this Treaty shall have a compulsory obligation to settle any dispute between them relating to the interpretation or application of this Treaty, including the need for and adequacy of an International Environmental Impact Statement, by a decision of the International Court of Justice or any other mutually acceptable, arbitral or

judicial body if the Parties to the dispute fail to reach agreement on a bilateral basis within 90 days of notification to UNEP by a Party to this Treaty that a dispute exists.

"ARTICLE III

"Five years after the entry into force of this Treaty, a conference of Parties shall be held at Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review shall take into account relevant technological developments and consider the need for any compensatory claims arrangements arising from damages to a nation's physical environment or environmental interests resulting from activities of another State.

"ARTICLE IV

"(1) Any Party may propose an amendment to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to this Treaty. Thereafter, if requested to do so by one-third or more of the Parties, the Depositary Governments shall convene a conference, to which they shall invite all the Parties, to consider such an amendment.

"(2) Any amendment to this Treaty shall be approved by a majority of the votes of all the Parties to this Treaty. The amendment shall enter into force for those Parties accepting the amendment upon the deposit of instruments of ratification by a majority of all the Parties.

"ARTICLE V

"(1) This Treaty shall be of unlimited duration.

"(2) Each Party shall, in exercising its national sovereignty, have the right to withdraw from the Treaty upon 90 days notice to one or more of the Depositary Governments.

"ARTICLE VI

"(1) This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

"(2) This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America,
, and, which are hereby designated the Depositary Governments.

"(3) This Treaty shall enter into force after its ratification by one-fourth of the signatory States.

"(4) For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

"(5) The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Treaty, the date of its entry into force, and the date of receipt of any requests for conferences or other notices.

"(6) This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.".

SENATE RESOLUTION 50—SUBMISSION OF A RESOLUTION DISAPPROVING THE PAY RECOMMENDATIONS OF THE PRESIDENT

(Referred to the Committee on Post Office and Civil Service.)

Mr. ALLEN (for himself, Mr. DOMENICI, Mr. BARTLETT, Mr. HELMS, Mr. HATCH, Mr. MCCLURE, Mr. HANSEN, Mr. DANFORTH, and Mr. WALLOP) submitted the following resolution:

S. RES. 50

Resolved, That the Senate disapproves all of the recommendations of the President with respect to rates of pay which were transmitted to the Congress pursuant to section 225(h) of the Federal Salary Act of 1967 on January 17, 1977.

SENATE RESOLUTION 51—SUBMISSION OF A RESOLUTION DISAPPROVING DEFERRAL OF CERTAIN BUDGET AUTHORITY

(Referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Interior and Insular Affairs.)

Mr. DOMENICI (for himself, Mr. MAGNUSON, Mr. JACKSON, Mr. BAKER, Mr. SASSER, and Mr. SCHMITT) submitted the following resolution:

S. RES. 51

Resolved, That the Senate disapproves the proposed deferral of budget authority (deferral numbered D 77–51) for operating expenses for Program Support-Community Operations for certain communities associated with facilities of the Energy Research and Development Administration set forth in the special message transmitted by the President to the Congress on January 17, 1977, under section 1013 of the Impoundment Control Act of 1974.

Mr. DOMENICI. Mr. President, in a message to Congress last Monday, January 17, President Ford announced a series of rescissions and deferrals reducing fiscal year 1977 spending levels for a number of Federal departments and agencies. Several of the deferral actions represent proposed cuts in programs of the Energy Research and Development Administration, which if allowed to stand by congressional inaction, will serve to partially thwart the energy research, development, and demonstration programs carefully developed, and subsequently mandated by the Congress in the appropriation process. In addition, Mr. President, I know that deferral of these funds at a point this far into the fiscal year will, at least in some cases, create severe hardships and disruptions for the personnel attempting to carry out these programs.

As you know, Mr. President, under the Budget and Impoundment Control Act of 1974, these deferrals will take effect automatically unless in each case at least one House of Congress passes an appropriate disapproval resolution.

At this time, I would particularly like to call the attention of my colleagues to one of the ERDA-related deferrals, D77–51, which would withhold $5.4 million of ERDA funding for program support-community operations. The impact of this deferral will be felt in three geographic areas, Richmond, Washington, Oak Ridge, Tenn., and Los Alamos, N. Mex., where Federal Government in-lieu-of-taxes funding has traditionally provided support essential for local school and community operations. This program and these impact funds are necessary, and indeed essential, if the Federal Government is to be able to continue to attract and retain key scientists and technicians for the energy and defense programs at the outstanding national laboratory complexes in these communities.

In funding this program through Public Works Appropriation Act, Public Law 94–355, Congress provided a policy direction in which the administration subsequently concurred. This deferral action represents an arbitrary change in this policy taken without congressional approval.

Also, the affected communities and school systems have been counting on the availability of this money during the current fiscal year. Removal of these funds at this point in the fiscal year will severely upset ongoing programs, render useless much previous planning, and impose considerable financial hardships. Contrary to assurances in the Presidential message, the bulk of these funds are very much needed.

Mr. President, I believe these are compelling reasons for speedy congressional action to disapprove deferral of these program support-community operations funds. Accordingly, I am pleased to introduce, on behalf of Senators MAGNUSON, JACKSON, BAKER, SASSER, SCHMITT, and myself, a resolution disapproving Deferral 77–51. I urge my Senate colleagues to support this resolution.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

Mr. HUDDLESTON. Mr. President, many grain elevator operators and grain inspection services have expressed concern over the fee schedule and record-keeping requirements announced by the Federal Grain Inspection Agency. Therefore the Senate Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, which I chair, will hold a hearing Thursday, February 3, 1977, at 10 a.m. in room 6202, Dirksen Senate Office Building, regarding implementation of Public Law 94–582, the U.S. Grain Standards Act of 1976. Those wishing to testify please contact Hearing Clerk, Committee on Agriculture and Forestry, room 322 Russell Senate Office Building, Washington, D.C. 20510, (202) 224–2035. Witnesses are requested to limit their oral presentation to 10 minutes.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. JACKSON. Mr. President, in accordance with the rules of the Senate Interior and Insular Affairs Committee, I wish to advise my colleagues and the public that the following hearings have been scheduled before the committee:

January 26. Full Committee, 10 a.m., room 3110, hearing, nomination of John O'Leary to be Administrator of Federal Energy Administration.

February 7. Minerals, Materials and Fuels Subcommittee, 10 a.m., room 3110, hearing, S. 7, strip mining legislation.

March 24. Full committee, 10 a.m., room 3110, hearing, oversight and informational hearing on Palau deepwater port.

DIRECT POPULAR ELECTION OF THE PRESIDENT

Mr. BAYH. Mr. President, the Subcommittee on Constitutional Amend-

ments has previously scheduled hearings on Senate Joint Resolution 1, proposing a constitutional amendment on the direct popular election of the President, for Thursday, January 27, 1977, and February 1, 2, and 3, 1977. There has been an additional day scheduled which will be February 7, 1977, beginning at 2 p.m. The hearing will be held in room 2228, Dirksen Senate Office Building, the Judiciary Committee hearing room.

Any persons wishing to submit written statements for the hearing record should send them to the Subcommittee on Constitutional Amendments, room 108, Russell Senate Office Building, Washington, D.C. 20510.

ADDITIONAL STATEMENTS

IN OPPOSITION TO THE CONFIRMATION OF F. RAY MARSHALL TO BE SECRETARY OF LABOR

Mr. HARRY F. BYRD, JR. Mr. President, in my entire tenure in the Senate, I have never cast a dissenting vote against a Cabinet nominee simply because I disagreed with some of his or her views.

Indeed, I have voted to confirm every Cabinet nominee of President Johnson, President Nixon, President Ford, and President Carter, although in several cases I have questioned the soundness of judgment which some of these Cabinet officers have subsequently exercised.

I shall break with that tradition when the Senate votes on the nomination of Dr. F. Ray Marshall to be Secretary of Labor.

I do not oppose the Marshall nomination because of his personal qualities of character.

I shall oppose the Marshall nomination because his stated positions on issues which will come before him—taken as a whole—constitute nothing less than extremism.

I would list particularly four areas of basic disagreement I have with Dr. Marshall. Their combined impact, in my view, renders him unsatisfactory for the post of Secretary of Labor.

First. Dr. Marshall has testified as to his intention to work actively to repeal section 14(b) of the National Labor Relations Act, the provision authorizing States to enact "right-to-work" laws. Virginia has such a law and is a right-to-work State. That philosophy of government and of individual freedom is deeply rooted in Virginia.

Second. Dr. Marshall has repeatedly voiced his support for collective bargaining for public employees, including the right to strike. Such activities are against the law and public policy of the Commonwealth of Virginia. The Virginia Supreme Court earlier this month ruled that such agreements were not legal under present Virginia law.

Dr. Marshall's testimony during his confirmation hearings suggests little faith in State and local control of government employment practices and policies. In that regard, he has expressed unequivocally what many of his present and former counterparts harbor privately but are reluctant to state publicly: The belief that all knowledge reposes in the Federal bureaucracy and that the States and localities are capable of little more than implementing those policies under the constant and watchful eye of the Federal Government.

Third. Dr. Marshall has strongly endorsed the "common site picketing" proposal, which was successfully vetoed by President Ford after a nationwide outpouring of public opposition.

Fourth. As a further indication of the extremist attitudes held by Dr. Marshall, he testified before the Committee on Labor and Public Welfare of his support for unionization of the military.

Dr. Marshall's candor is notable. However, his willingness to venture into policy statements on matters over which the Labor Department would have absolutely no control suggests a philosophy of adventurism and union-oriented zeal which is unprecedented in the history of that Cabinet post.

For a high official of Government to approve of unionizing the Nation's military force is to me not only astonishing, but reckless.

A "shopping list" of the legislative goals of the national labor unions could not have been more bluntly expressed than the stated positions of Dr. Marshall, had the union bosses themselves done the drafting.

I submit that the statements of Dr. Marshall show his philosophy of government to be one of massive federalism dominated by Big Labor.

Such extremism shows a total disregard for the avowed sentiments of the people across this Nation who are fed up with domination of Federal policies and legislation by big pressure groups and special-interest groups who serve not the common good but their own self-interests.

In my view, we already have too much bigness, too much Big Government, Big Business, and Big Labor.

From his stated views, Dr. Marshall would make both Government and the labor unions more powerful.

I shall vote against his confirmation.

HOW CAN IT BE?

Mr. GOLDWATER. Mr. President, in light of President Carter's order pardoning all Vietnam draft evaders it behooves us today to think back at how things were with our fighting men in the late 1960's. If we do, we will find that many of the men who were fighting in the miserable jungles of Southeast Asia have very strong opinions about some of the things that were happening here at home.

To refresh our memories Mr. President, I should like to call attention to an editorial which appeared in the Indianapolis Star of June 10, 1968. It contained a letter written by a Marine sergeant in Vietnam and asks the question, "My God, how can it be?"

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HOW CAN IT BE?

Marine Sgt. James R. Smith is a member of the Third Marine Brigade in Vietnam. He wrote a letter not long ago to his home town newspaper, The San Bernardino (Calif.) Sun. The letter was read into the Congressional Record June 3 by Representative Jerry L. Pettis (R-Calif.). The letter contains a vital and vibrant message for today. We would like to share it with you.

"My God, how can it be:

"That one boy lies rotting from malnutrition and torture in a jungle prison camp in North Vietnam—and another boy spits and tramples on the flag of this country on the steps of a university of learning.

"That one boy lies sightless in a U.S. Naval hospital from Communist-inflicted face wounds and another boy uses a Communist flag to drape himself in defiance of the laws of this country.

"That one man of medicine begins his 13th straight hour standing over an operating table in pursuit of life for men serving this country—and another man of medicine implores crowds of young men to refuse to serve their country.

"That one Negro holds the face of his dead white comrade in arms and cries pitifully in a dirty mudhole in Vietnam—and another Negro screams with hate against his white brother in the streets of countless American cities.

"That one boy lies in a coffin beneath the ground because he believed in duty to country—and another boy lies on a dingy cot giving blood to the enemies of his country.

"That one man of God shields a wounded boy from an enemy bayonet with his body and dies—and another man of God uses his cloth as a shield to preach hate, dissension and lawlessness.

"My God, how can it be?"

WHERE A THREE-DOG NIGHT MEANS IT

Mr. GRAVEL. Mr. President, on the front page of the Washington Post last Saturday there appeared an article titled "Where a Three-Dog Night Means It," by Howard Weaver.

In the article, Mr. Weaver has expanded on this winter's unusual weather—both here and in Anchorage, where the story is datelined—to discuss some weather related problems which are especially severe in Alaska.

Most significantly, Mr. Weaver shows the connection between a harsh environment and problems of alcoholism and mental health in my State.

I was happy to see the article published in Washington, because even though Federal health assistance is particularly important in Alaska, I think some of the unique conditions which make that assistance important are not sufficiently appreciated here.

Mr. Weaver is a well-known journalist in Alaska. He was part of the team of reporters whose investigative work brought the Pulitzer Prize to the Anchorage Daily News last year. He and several colleagues have recently launched a new statewide newspaper called the Alaska Advocate.

I ask unanimous consent that the article from the Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHERE A THREE-DOG NIGHT MEANS IT

(By Howard Weaver)

ANCHORAGE, January 21.—Don't tell Alaskans about your frozen water pipes. Our psyches are being destroyed because it's been too warm here to ski.

As Washington shivered through the inaugural chill, Anchorage had to deal with the cancellation of the Palmer Classic sled dog race up in the Matanuska Valley last weekend. Not enough snow.

If you lived in Alaska, you'd know how to handle the cold weather. What you might not know is what to do with your goose-down parkas during this, Alaska's warmest winter in years.

It's easy to live in the cold, you see. Nothing to it.

I won't bother mentioning the electric heaters which we have built into our auto engines. There probably isn't anywhere to plug them at your shopping centers anyhow. You probably can't even buy thaw-line, the special electric cables with which we heat water pipes.

That's not important anyway. What you have to worry about is your mind.

It is not true that cold weather shrinks your brain. None of us here believes that. What it does is shrink your options, move them indoors and focus them on people, not places or machines. A good friend will prove far more reliable than a V-8.

The sociological theory currently in vogue holds that bitter weather "enforces a sense of community." For most of us, that means that it gets too cold to play outdoors and so somebody throws a party. There is a great comfort to be found in friends, fireplaces and hot buttered rum when the weather is as cold as a bill collector's heart. You start by being glad to be indoors anywhere, and then begin to enjoy being indoors where you are.

That leads to another item, and the sad but provable statistic is this: alcoholism rates climb in rough proportion to the parallel of latitude; the farther north, the heavier the drinking. It is true in many Scandinavian countries, and it's true in Alaska. Although this state does not always lead the nation in per capita drinking, it's always close. And it is very consistent.

Bars in Anchorage and most other Alaska cities stay open until 5 a.m. and reopen at 8. The old navy custom of abstaining until the sun is over the yardarm is a poor rule in a town where the sun sets at 3:30 p.m. in December.

But drinking need not be your only winter pursuit. Alaska is the only state to have legalized possession of marijuana in one's own home. The connection between the weed and the weather is conjectural, but it does reflect a northern belief that there is, in the words of a state supreme court justice, "a fundamental right to be left alone."

Another method of whiling away the winter is reflected in the statistics a leading Anchorage hospital compiled. Last September, nine months after the cold month of December, 139 babies were born. Nine months after August, the total was 98.

Even considering those alternatives, it is good to get outdoors as often as possible. Indoor recreation, while interesting, is limited.

Regardless of what your body tells you, you are unlikely to freeze to death walking around at 20 degrees. Learn to develop an "it's cold but I'm tough" attitude. There is a lot of machismo involved in cold weather survival.

There has to be in Fairbanks, where winter weather of 60 degrees below zero shatters car tires. If you start feeling really cold, think about that. Or pretend you're a Mt. McKinley climber, where sudden summer temperatures of 20 below combine with bristling winds to make climbing axes splinter like icicles.

"We see a lot more use of all the antidepressants [drugs] in the middle of the winter," said the manager of the pharmacy of the local Fred Meyer Discount Store, "and a lot more sinus problems, too, of course."

"Our heaviest runaway month is January," said the program director at an Anchorage youth service bureau. "Kids don't run away in the summer. And this is a hell of a place to run away in in January."

When I was a boy here the house I considered running away from—but never did—was constructed more to Washington's standards than those of Anchorage. On the coldest night we turned off the heat in the living and dining rooms, hung blankets across the hallway and called the front bedroom "the parlor." Or we ate in the kitchen. And after all, it "enforces a sense of community."

On nights like that, look in the toy box or up on a shelf in the kid's room. A battered Monopoly set or Risk game can work wonders. Backgammon, of course, is not only entertaining, but chic. At least it's still chic in Anchorage.

You must understand of course, that in Alaska "Three-Dog Night" is not thought of as the name of a band. It refers to the number of huskies you invite up onto the bed to keep you warm. In such circumstances, even Backgammon is uptown.

Cabin fever is what it's called, and it may comfort you to know that even the heartiest homesteader and sturdiest sourdough fall prey to it. My best friend, an Alaska-born fisherman who built his home with a chain saw and an ax, spent last winter in Nicaragua. He is now in Ireland: no place on earth is "off season" to an Alaskan in January.

If nothing else helps, consider the plight of those Alaskans whose long-planned vacations now are taking them south—to colder weather.

A change may be forced in the statistics the Anchorage suicide prevention center reports. Calls are up around Christmas, they say, but they are not generally higher in the winter than the summer.

"The increases come in the spring, when people see things don't get better even though it's warm," said a counselor.

CAREER AMBASSADORS

Mr. MATHIAS. Mr. President, ever since 1973 there has been an effort in the Senate to impose some sort of a percentage limit on the number of noncareer ambassadorial appointments any President could make.

Senator J. William Fulbright, formerly chairman of the Foreign Relations Committee, introduced the idea in 1973 but it died in committee. In 1974, I proposed to the Senate that a 20-percent limit be placed on noncareer appointments. This proposal did not survive conference. In 1975 the idea was revived again both in my bill, S. 202, and by a separate Foreign Relations Committee proposal. These were considered by committee but not adopted.

Last year, I introduced an amendment to the State Department authorization bill proposing a limit of 15 percent which I subsequently raised to 25 percent in the hope of improving its chances for adoption in the Senate. It did make its way to conference and a trace of it—the merest trace—can be found in Public Law 94-350 of July 12, 1976. Section 120 of that law declares:

It is the sense of the Congress that a greater number of positions of ambassador should be occupied by career personnel in the Foreign Service.

I will continue to pursue the idea in this Congress. To lay the groundwork for such an effort, I would like now to call the attention of my colleagues to the proposals for reform of the ambassadorial selection process recently adopted by the American Foreign Service Association.

It seems to me that these proposals provide both a creative and constructive approach to the problem and that they deserve our support. I ask unanimous consent that the following materials bearing on those proposals be printed in the RECORD: Report of the AFSA Committee on Presidential Appointments, and AFSA editorial, "Foreign Service Journal," December 1976; New York Times article of December 19, 1976, "Why Not Send the Best As Ambassador?"

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Foreign Service Journal, December 1976]

AFSA EDITORIAL

OPEN LETTER TO THE PRESIDENT-ELECT

On behalf of the American Foreign Service Association, and at the direction of its Governing Board, I am writing to congratulate you on your election.

For more than 50 years our Association has been the principal professional representative of Foreign Service people. And under Executive Order 11636 (Employee-Management Relations in the Foreign Service of the United States of America) we are the elected representative of the Foreign Service in the Department of State and the Agency for International Development. In that capacity we participate in consultations with management on personnel policies and working conditions.

Historians tell us that successive Presidents have taken office with a distrust for the career Foreign Service, believing it to be stuffed with holdovers from the previous Administration who want to make him look bad, and mandarins who regard him as an interloper in foreign policy matters. In fact, the Foreign Service which we represent is a nonpartisan professional cadre that works for only one President at a time, fully recognizes his or her primacy in foreign policy, and has served successive Presidents and Secretaries of State as a motivated and disciplined force for implementing national policy.

The Association enthusiastically welcomes your repeated declarations that Presidential diplomatic appointments must be based on merit. While we fully appreciate the contributions of certain distinguished noncareer diplomats, we have long opposed politically-motivated appointments of noncareer incompetents, and we have enough self-confidence to believe that in a competition based on merit, the Foreign Service can produce winners most of the time. We look forward to developing, with your transition team and other interested persons and organizations, criteria for such appointments and procedures for evaluating potential Presidential nominees.

The Association is also impressed with your systematic approach to the organization of the federal government, and we be-

lieve we may be able to make a useful contribution to a review of our foreign policy bureaucratic structures. We have noted your practice of seeking information and advice from all responsible sources before making up your mind, and have for many years strongly supported the maintenance of institutions whereby the President can receive the best possible information and advice from the Foreign Service, including alternative views.

As exclusive employee representative for the State and AID Foreign Service, we have many matters to raise with you. For example, we hope that you will authorize a review of our policy toward terrorists who kidnap American diplomats, and the governments who support or provide sanctuary to these terrorists. We hope that AID Foreign Service will be given a permanent career status commensurate with that of their State and USIA colleagues, and with the long-term nature of the international development challenge facing the United States.

We earnestly hope that we can avoid the traditional phase of suspicion between new Presidents and the career Foreign Service, and make a smooth transition to a productive relationship which serves the national interest. For this purpose, the Association has established a Transition Task Force which will be available to work with your transition officials in any manner you may desire.

ON WITH THE JOB

The AFSA membership, loyal to the Association throughout its long leadership crisis, has expressed itself decisively to resolve that crisis.

The remaining months of the Governing Board's term, until July 1977, are important ones for all of us, and the advent of a new Administration offers us an opportunity to push for Foreign Service pay comparability with the Civil Service and private sector, ambassadorial appointments on the basis of merit and elimination of politically motivated abuses of lateral entry, and full career status for AID Foreign Service personnel. A unified Governing Board and its Committees can press more effectively on such issues as due process in suitability criteria and disciplinary procedures, better promotion and career opportunities for secretaries and communicators, fairer and more rational policies on tours of duty, and a more meaningful life overseas for spouses and dependents.

Nevertheless, our effectiveness depends also on greater support from the Foreign Service. Over the past year, the loss of the USIA representation election, and our highly publicized internal difficulties have led to a steady attrition in our Membership. The decline in our State and AID membership means that each constituency will have one less Representative to elect in next year's Board elections. Today we represent only about one-third of active-duty Foreign Service people, yet we bear the entire burden of representation of Foreign Service professional and employee interests; and while all Foreign Service people have the right not to join AFSA, we know of none who has turned down any of the benefits which we have negotiated for them.

We are entering the most important membership drive in our organization's history. We strongly urge all Members to persuade at least one Foreign Service colleague to join us, to share in the burden of responsibility of collective action for the good of our professions and our careers.

AMBASSADORIAL APPOINTMENTS

"For many years in the State Department we have chosen from among almost 16,000 applicants about 110 of our nation's finest young leaders to represent us in the international world. But we top this off with the disgraceful and counterproductive policy of appointing unqualified persons to major diplomatic posts as political payoffs. This must be stopped immediately."—Jimmy Carter, "Why Not The Best?" page 169.

AFSA warmly seconds the views of the President-elect and proposes the following reforms to effect the needed overhaul of the ambassadorial selection process:

A non-partisan advisory panel, patterned on the American Bar Association's Committee on the Federal Judiciary, should examine the credentials of ambassadorial nominees—career as well as non-career.

The President, as part of the standard nomination process, should inform the Senate Foreign Relations Committee what special foreign affairs qualifications and skills a proposed political appointee would bring to the assignment.

Congress and the Executive Branch should agree on guidelines to limit appointment of non-career ambassadors to ten per cent globally and fifteen per cent in any geographical region.

The report of the AFSA Committee on Presidential Appointments can be found elsewhere in this issue of the Foreign Service Journal.

REPORT OF THE AFSA COMMITTEE ON PRESIDENTIAL APPOINTMENTS

President-elect Jimmy Carter has promised to appoint competent, capable people to senior posts in his administration. One area of major reform, he has said on several occasions, will be in the choice of ambassadors. Reform is badly needed to give our country better representation abroad.

The traditional practice of naming large numbers of political ambassadors—the average since FDR took office has been 37 percent—has been a disservice to the nation as well as to the career foreign service. The competence of an ambassador to handle his responsibilities well has a direct bearing on the success or failure of foreign policy. A qualified professional who has served in various foreign posts and has experience in policy formulation in Washington should be better prepared for these responsibilities than the non-career envoy. It makes little sense to recruit and train a corps of foreign service professionals to give them years of experience at their trade and then to shunt them aside to make room for unqualified political ambassadors.

As Sir Harold Nicolson says in his classic work "Diplomacy":

"It will always be desirable that the foreign policy of any great country should be carried out by professionals trained in their business. Amateur diplomatists (as the United States and USSR are coming to recognize) are prone to prove unreliable. It is not merely that their lack of knowledge and experience may be of disadvantage of their governments, it is that the amateur diplomatist is apt out of vanity and owing to the shortness of his tenure to seek for rapid successes; that he tends, owing to diffidence, to be oversuspicious; that he is inclined to be far too zealous and to have bright ideas; that he has not acquired the humane and tolerant disbelief which is the product of a long diplomatic career and is often assailed by convictions, sympathies, impulses; that he may arrive with a righteous contempt for the formalities of diplomacy and with some impatience of its conventions; that he may cause offence when he wishes only to inspire geniality . . ."

We agree with the soundness of Nicolson's basic point even if he was a product of a different social system than ours. In foreign affairs as elsewhere professionalism results in superior performance. In the American context, however, we believe that diplomatic professionalism gains by the infusion of highly qualified non-career ambassadors. The leavening keeps the Foreign Service current with the mainstream of American thought and prevents the development of mandarin tendencies. Some of our non-career envoys have been among our most distinguished representatives—David Bruce, Ellsworth Bunker, Averell Harriman, Douglas Dillon, John Kenneth Galbraith, and Edwin Reischauer—all come readily to mind. The practice of choosing outstanding men and women from business, politics, and academia should be continued because it enriches the career service with outside expertise. But the notorious "sale" of ambassadorships is an offensive anachronism and should be ended once and for all. We can no longer afford the Maxwell Glucks, whose 1957 confirmation hearings revealed his ignorance of the Ceylonese Prime Minister's name, or the Vincent deRoulets, the Nixon nominee, whose gauche conduct strained relations with Jamaica. We also can no longer afford the Pat Hurleys, whose wartime blunders in China and unfair attacks on his career staff cost our nation dearly.

The American practice of sending such a large proportion of non-career representatives abroad is unique among the major powers. Great Britain has only one non-career envoy at the moment, West Germany two, France has three. As the tables below show, the percentage of non-career ambassadors since 1933 has averaged 37 percent. The statistics show little variation between Democratic and Republican administrations. As the theme from "Casablanca" goes, "It's still the same old story."

We think the time has come to set a limit to the number of non-career appointees as a percentage of the overall total. Ten per cent globally and 15 per cent in any region strikes us as a good mix. The present 33 per cent seems too high (Regional percentage breakdown: ARA 48, EUR 42, EA 27, NEA 23, and AF 12.) In particular, however, we do not believe that the nation has anything to gain from the continuation of political appointments of the more traditional, or "hack" sort. Non-career ambassadors should be chosen only when they can bring special strengths to the conduct of foreign policy.

WHAT THE STATISTICS SHOW

The percentage of career ambassadors increased after World War II, but no President varied more than a few points from the average, even though the number of missions jumped from 50 to over 120 as former colonies became independent states. The global numbers mask substantial regional variation: political appointments have been heaviest in Europe and fewest in Africa and the Near East and South Asia.

CHIEF OF MISSION APPOINTMENTS, 1933-76, BY PRESIDENT

President	Career	Noncareer	Percent noncareer
FDR	117	92	44
Truman	115	63	35
Eisenhower	156	72	32
Kennedy	72	52	42
Johnson	94	56	37
Nixon	157	73	32
Ford	47	29	38
Total	758	437	37

LATIN AMERICA

Over the years, a preponderance of professionals have headed our missions to Latin America. FDR's pattern of roughly two career for each non-career envoy was followed until the Ford administration which reversed field to appoint 62 percent non-career ambassadors.

CHIEF OF MISSION APPOINTMENTS TO LATIN AMERICA, 1933-76

President	Career	Noncareer	Percent noncareer
FDR	54	29	35
Truman	26	19	35
Eisenhower	38	22	37
Kennedy	16	6	27
Johnson	20	12	38
Nixon	35	11	24
Ford	6	8	62
Total	204	107	34

EUROPE

Europe has been the happy hunting ground for the political appointee. Harry Truman was the only President to send less than 40 percent non-career envoys. FDR sent the largest number with 58 percent, but Nixon followed closely with 55 percent. The non-career share of Western European posts is probably greater today than in FDR's day since in the 1930s it was common to send nonprofessionals to Eastern Europe.

CHIEF OF MISSION APPOINTMENTS TO EUROPE, 1933-76

President	Career	Noncareer	Percent noncareer
FDR	39	53	58
Truman	37	24	39
Eisenhower	37	25	40
Kennedy	17	16	48
Johnson	17	20	54
Nixon	24	29	55
Ford	12	11	48
Total	183	178	49

AFRICA

Following the surge of new states in the 1960s, Africa now has a quarter of our embassies. Under Kennedy, a third of ambassadorial appointments were non-career. The figure has dropped sharply since. In FDR's day the percentage of non-career appointees was substantially higher, but we had missions in only three countries—Ethiopia, South Africa, and Liberia.

CHIEF OF MISSION APPOINTMENTS TO AFRICA, 1933-76

President	Career	Noncareer	Percent noncareer
FDR	4	3	43
Truman	5	2	29
Eisenhower	15	4	21
Kennedy	17	9	35
Johnson	31	7	18
Nixon	50	9	15
Ford	16	2	11
Total	138	36	21

NEAR EAST/SOUTH ASIA

Like Africa, NEA has had 79 percent career envoys. The data show little variation between administrations. Today all ambassadors to Middle East countries are career officers with the non-career ambassadors principally in South Asia.

CHIEF OF MISSION APPOINTMENTS TO THE NEAR EAST/SOUTH ASIA, 1933-76

President	Career	Noncareer	Percent noncareer
FDR	13	3	19
Truman	25	6	19
Eisenhower	33	8	20
Kennedy	14	5	26
Johnson	15	3	17
Nixon	23	8	26
Ford	10	2	23
Total	133	36	12

EAST ASIA

East Asia has fewer posts than the other regions and the table indicates the widest fluctuation between administrations. Eisenhower sent only 17 percent non-career envoys, but none in his second term. Kennedy sent 63 per cent. In recent years, Australia and New Zealand have become favorite outposts for political appointees. Canberra was the intended recipient of one of FDR's more exotic political payoffs—Ed Flynn, the Democratic "boss" of the Bronx. This was one of the few times that the Senate refused to go along.

CHIEF OF MISSION APPOINTMENTS TO EAST ASIA, 1933-76

President	Career	Noncareer	Percent noncareer
FDR	7	4	36
Truman	10	8	44
Eisenhower	30	6	17
Kennedy	6	10	63
Johnson	10	7	41
Nixon	20	6	23
Ford	3	1	25
Total	86	42	32

MULTILATERAL ORGANIZATIONS

Few career officers have been assigned to head our missions at multilateral organizations.

CHIEFS OF MULTILATERAL MISSIONS (NATO, OAS, OECD ETC.), 1933-76

President	Career	Noncareer	Percent noncareer
FDR			
Truman	2	4	67
Eisenhower	3	7	70
Kennedy	2	6	75
Johnson	1	7	88
Nixon	5	10	67
Ford	1	4	80
Total	14	38	73

The United States did not always follow the current practice. In the early days of the nation, ambassadors included some of our most distinguished leaders: Benjamin Franklin, Thomas Jefferson, John Adams, James Monroe, Albert Gallatin and John Quincy Adams. But by the 1840s the spoils system enveloped diplomatic assignments along with domestic jobs.

The United States created a career diplomatic service in the 1920s but this has had limited impact on the pattern of ambassadorial appointments. Since World War II, there have been periodic calls for reform. In the 1950s the Gluck affair focused attention on the problem, but resulted in no change. In 1973, Senator Fulbright advocated stricter standards and a ceiling on non-career envoys. The Nixon administration opposed Fulbright. In 1976, the Senate adopted Senator Mathias' proposal to limit non-career ambassadors, but the measure was dropped in conference. Now the President-elect in his book, "Why Not the Best? and during the campaign, most notably in the third debate, has urged an end to the ambassadorial spoils system.

James Reston wrote recently that Jimmy Carter will inherit the finest Foreign Service in the world. It is our hope that the new President will put this statement to the test and give career officers the opportunity to prove their competence.

[From the New York Times, Dec. 18, 1976]

WHY NOT SEND THE BEST AS AMBASSADORS?

(By Olcott Deming)

WASHINGTON.—Publicly lecturing the incoming Carter Administration on what it should do has become a national pastime. With respect to ambassadorial appointments, several commentators have urged the President-elect to confine his nominations to career officers. On the other side, one New York Times columnist has characterized the call by the American Foreign Service Association to stress professionalism in ambassadorial appointments as a "power grab."

I write not only to defend our proposals but to clarify what is at stake. The issue is not who is in charge. There is no doubt who is in charge of America's foreign policy and the Foreign Service: the President is in charge, assisted by his Secretary of State.

The Foreign Service after all is the only group of Government professionals serving always "at the pleasure of the President." Thus, the question is not whether Jimmy Carter will put "his own people" in charge of the foreign affairs shop, because the professionals in the American diplomatic service are, by law and in fact, his "own people."

Mr. Carter has recognized the problem of professional ambassadors versus the spoils system. In his book "Why Not the Best?" he states: "For many years in the State Department we have chosen from among almost 16,000 applicants about 110 of our nation's finest young leaders to represent us in the international world. But we top this off with the disgraceful and counterproductive policy of appointing unqualified persons to major diplomatic posts as political payoffs. This must be stopped immediately."

The American Foreign Service Association, long concerned over the career issue, has now given the President-elect its best judgment on how he can make this pledge a reality.

The Association would:

1. Urge the formation of a nonpartisan, distinguished advisory panel to review the credentials of both career and noncareer ambassadorial nominations.

2. Endorse the appointment of a limited number of qualified noncareer ambassadors, to enrich the career service and broaden the base from which to choose this country's representation abroad.

3. Discourage, on the other hand, ambassadorial appointments as a means of paying off political debts.

4. Work for acceptance of the principle of 10 percent of the total as a reasonable proportion of noncareer ambassadors.

Advancement in the Foreign Service is based on merit measured by achievement. When the Service performs well, it does so in good part because high standards and performance are demanded and met. The shunting aside of experienced professionals in favor of political appointees as chiefs of mission frustrates the competitive career system and damages the quality of our diplomacy. In 1883 the spoils system was ended in the civil service. In 1976 it is high time to end it in the appointment of ambassadors.

All citizens should ponder, as has the President-elect, why we design a system that attracts outstanding young people to the Foreign Service, trains them at great expense, seasons them by experience and then wastes this valuable resource by denying them the top rung of responsibility in our missions around the world.

Americans would be shocked if we were to deny command of our major military units to professional soldiers and give them to political appointees. Yet we have been doing just this in manning ambassadorial posts. In this shortsighted practice, we stand alone among the major powers of the world.

President-elect Carter has done a service to the nation in calling national atention to this "disgraceful and counterproductive policy." We in the Foreign Service Association hope to cooperate with the new Administration in achieving a long-overdue reform.

SOVIET-AMERICAN RELATIONS

Mr. SPARKMAN. Mr. President, I have received a letter from Ambassador Anatoly F. Dobrynin of the Soviet Union with which he sent a copy of a recent speech by General Secretary Leonid Brezhnev on the international situation.

I ask unanimous consent to have printed in the RECORD the letter to me and the Brezhnev speech.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EMBASSY OF THE
UNION OF SOVIET SOCIALIST REPUBLICS,
Washington, D.C. January 21, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Foreign Relations Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR, I am sending you a copy of a major speech on the prospects of Soviet-American relations made by General Secretary Leonid I. Brezhnev on January 18, 1977.

In this statement of the General Secretary replied to many questions raised in this country during and after the election campaign with regard to the foreign and defense policy of the USSR and the concept of détente in general. He also reaffirmed the desire of the Soviet Government jointly with the new US Administration to move forward in the relations between our countries and proposed a program of concrete steps.

Since the full text of the speech was not published here, it will be appreciated if you, as Chairman of the Senate Foreign Relations Committee, make it known to the members of the Committee as well as to other Senators.

Sincerely yours,

Enclosure.

ANATOLY F. DOBRYNIN,
Ambassador.

LEONID BREZHNEV ON THE INTERNATIONAL SITUATION

(TULA, January 18.—The following is the text of a speech made by Leonid Brezhnev, the General Secretary of the Central Committee of the Communist Party of the Soviet Union, at a celebration meeting, devoted to the presentation of the Gold Star Medal to the Hero City of Tula.)

Everywhere our great people are absorbed in peaceful creative work and are engaged in an undertaking of tremendous scope and historic importance. They do not want the threat of war to weight down on them as a heavy burden. The 25th Congress instructed the Central Committee undeviatingly to build up efforts in the struggle for lasting peace and that is what we are doing, acting persistently and consistently.

Soviet people ardently approve of the party's foreign policy. They know that this policy safeguards their motherland from war, accords with the interests of all nations, opens up the scope of friendship and cooperation among them and serves the cause of social progress throughout the planet. At numerous meetings and rallies, in thousands upon thousands of letters to the CPSU Central Committee, to newspapers and to radio and television stations the people give the credit to the Central Committee, its Political Bureau, and the government for their tireless struggle for peace.

No country has ever offered mankind such a sweeping, concrete and realistic program of lessening and then fully eliminating the danger of a new war, as has the Soviet Union.

This program includes such a global measure as the World Treaty on the Non-Use of Force in International Relations. It assembles all major problems connected with the arms race and outlines effective steps towards curbing it, towards disarmament. It is directed at preventing the appearance of new types and new systems of weapons of mass destruction and at complete prohibition of nuclear tests. The Soviet Union has offered to refrain on a mutual basis with the United States from the development of new types of submarines and strategic bombers.

All our peace initiatives are in accord with the common line of fraternal socialist states in the international arena. We struggle together for their implementation. The proposals by the Soviet Union and its friends are supported by dozens of states in the United Nations organization and by the popular masses of all continents.

The important proposals set forth at the recent meeting of the Political Consultative Committee of the Warsaw Treaty Organization are new convincing proof of the peaceful nature inherent in the defensive organization made up of Bulgaria, Hungary, the German Democratic Republic, Poland, Rumania, the USSR and Czechoslovakia. It was proposed that every participant in the European Conference undertake the obligation not to be the first to use nuclear weapons against each other and not to enlarge the number of members of the Warsaw Treaty Organization or NATO.

We are firmly convinced that, in the long run, the lofty ideas of peace upheld by the Leninist party and the Soviet state will be implemented.

But this can be achieved only through struggle, precisely through struggle, comrades, because our constructive proposals often encounter a mute resistance and even open opposition.

For instance, when the members of the Warsaw Treaty Organization raised the question of not being the first to use nuclear weapons, NATO's reply was more or less as follows: No. This does not suit us. We must retain the ability to threaten the Soviet Union with the use of nuclear weapons. We hope, however, that those who ultimately determine the policy of nations will display a reasonable approach to our proposal.

Here is another example. At the talks on the reduction of armed forces and armaments in Central Europe, we are told, in effect, the following: You reduce more, while we will reduce less. Such a stand, of course, cannot advance the negotiations.

It is felt that behind all this is the pressure of the more aggressive forces of imperialism, of the military and military-industrial circles and politicians bogged down in anti-Sovietism and of the "hawks," as they are usually called in the West. It is precisely on their order that intelligence agencies, headquarters and various institutes compose thick reports and treaties in which they arbitrarily interpret the Soviet Union's policy and the measures taken by it to strengthen its defense capabilities. As though by command, this misinformation is circulated throughout the world by news agencies, the press, radio and television.

Frankly speaking, this noisy and idle talk has become quite tiresome. In the West, too, when serious politicians are asked whether they are alarmed by the prospect of "Soviet aggression," they answer with a confident "No."

Of course, comrades, we are perfecting our defense. It cannot be otherwise. We have never sacrificed and will never sacrifice the security of our country or the security of our allies.

But the allegations that the Soviet Union is going beyond what is suitable for defense, that it is striving for superiority in armaments with the aim of delivering "the first strike" are absurd and totally unfounded. Not so long ago, at a meeting with prominent representatives of the American business community, I said and I want to emphasize it again that the Soviet Union always was and continues to be a convinced opponent of any such concepts.

Our efforts are directed precisely at avoiding either the first or the second strikes and at avoiding nuclear war in general. Our approach to these questions can be formulated as follows: The Soviet Union's defense potential must be sufficient to deter anyone from taking a chance at violating our peaceful life. Not a course towards superiority in armaments, but a course toward reducing them, at lessening military confrontation—such is our policy.

On behalf of the people I declare that our country will never embark on the road of aggression and will never raise the sword against other nations.

It is not we but certain forces in the West that are adding ever newer spirals to the arms race, first of all the nuclear arms race. It is not we but these forces that are the initiators of selling military budgets by throwing hundreds of billions of dollars into the bottomless chasm of military preparations. It is these forces, acting under the false pretext of the "Soviet menace," that represent the aggressive line in the international politics of today.

And if this line is left without a rebuff it deserves, the threat of war will grow again. This line is equally dangerous for the peoples of both the East and the West. The Soviet Union will oppose it in every way and expose its dangerous essence.

From the experience of recent years we know that the policy of capitalist states can also be determined by those who realize the danger of playing with fire and are capable of taking into account the realities of the contemporary world. We hope that, notwithstanding all the vacillations and proneness to "phrasemongering" which is often dictated by domestic considerations, they will keep their good sense and a sober approach to problems of world politics.

For it is precisely due to this that the change in relations between the USSR and France became possible in its time, that the known treaties with the Federal Republic of Germany, the four-sided agreement on West Berlin, important agreements between the Soviet Union and the United States and other capitalist countries were concluded; and the European Conference on Security and Cooperation was held. In other words, detente was set in motion.

What is detente or relaxation of tensions? What meaning do we invest in this term? Detente means, first of all, the overcoming of the cold war and the transition to normal, stable relations among nations. Detente means willingness to resolve differences and disputes not by force, not by threats and "saber-rattling," but by peaceful means at a conference table. Detente means a certain trust and ability to take into consideration each other's legitimate interests.

Life has shown that the atmosphere of international relations can be noticeably changed within a short period of time. Contacts between countries in the political, economic, cultural and in other fields have expanded. And what is most important, comrades, is that the danger of a new big war has been pushed back. People now draw an easier breath and began to look to the future with greater hope.

That is what detente or relaxation of tensions means and these are its inevitable results.

As we all know, the relaxation of international tension was achieved at the price of tremendous effort. And it is not easy to preserve the accumulated political capital of detente. But no difficulties and obstacles will force us to retreat. There is no more pressing and vitally important task than that of making peace lasting and inviolable.

Statesmen who are aware of their responsibility to millions of people and of their responsibility for the destinies of nations must consider the will of the peoples for peace. As for the Soviet Union, we will not be found wanting.

We are prepared, jointly with the new administration in the United States, to accom-

plish a new major advance in relations between our countries.

First of all, as we are convinced, it is necessary to complete in the nearest future the drafting of the agreement on limiting strategic armaments on the basis that we reached in Vladivostok at the close of 1974. Some politicians in Washington now express regret that this agreement has not yet been signed but, whatever the regrets, lost time cannot be regained for and it is important that practical conclusions be drawn from this.

The question is also being asked in the United States about possible developments if such conclusions are not made. An influential American newspaper wrote recently that, in such an event, the Soviet Union and the United States will start creating a new generation of nuclear weapons which, in practical terms, will be impossible to control.

Such a prospect does not suit us. I repeat that time will not wait and the conclusion of the agreement must not be postponed.

The Soviet Union, naturally, is prepared to advance further in questions of limiting strategic armaments. But first it is necessary to consolidate what has already been achieved and to implement the accord reached in Vladivostok, especially since the interim agreement expires this October. Then we could immediately move to talks on more far-reaching measures. Otherwise it may happen that, by adding new questions to those that are being currently discussed, we will only further complicate and procrastinate the solution of the task in general.

The need is ripe to more reliably prevent the proliferation of nuclear weapons and to make more effective the reign of nonproliferation established by the known treaty. We are prepared to conduct businesslike talks on this matter.

We would like to reach an early agreement on the reduction of armed forces and armaments in Central Europe. We have no objections to discussing the related questions at any level and at any venue: in Vienna, in Bonn, in Washington, in Moscow—anywhere.

Standing now in the center of European politics is the task of fully implementing the accords reached by 35 states a year and a half ago in Helsinki. We regard the Final Act of the European Conference as a code of international obligations aimed at ensuring lasting peace. Of course, all its provisions should be fulfilled and that is our daily concern. The Central Committee attaches much political importance to this work, and many of our ministries and agencies are involved in it.

It is quite natural that more has been accomplished by now along this direction, while along other directions the necessary measures are being carried out gradually or are only being drafted. Much depends here on the overall state of political relations between nations or on the level of the relaxation of tension. By poisoning the international atmosphere the opponents of detente only impede this work.

In Western countries individual elements are often taken from the Final Act and a big controversy started over them. The purpose of this is obvious: to impede the positive processes started by the European Conference. Such people, judging by everything, care little about ensuring lasting peace in Europe. Another thing occupies them. They would like to pressure us, to teach us to live according to rules that are incompatible with socialist democracy and with socialist law and order. I would like to say that this is a futile attempt.

In Helsinki, socialist states and countries with differing social systems worked together and achieved big results. This was a serious, business-like cooperation based on a common interest in success. Now this cooperation should be developed further. We are prepared for this, as is known, and have already made a number of concrete proposals, particularly on some economic problems.

We regard as a big and important task the further development of bilateral relations with France, the Federal Republic of Germany, Italy, Britain and other European and non-European nations. We have based and will base our relations with them on the principle of peaceful coexistence. This is a Leninist principle, and we sacredly preserve and augment Lenin's heritage, all of it.

We stand for the most vigorous measures to liquidate the military "hotbed" in the Middle East. The bloodshed in Lebanon, which was stopped with great difficulty, has demonstrated once again the dangers that are fraught in further procrastination on the Middle East conflict.

The Middle East needs a lasting and just settlement that would not impinge on the vital rights of any nation and any people. Israel of course has the right to national independence and a secure existence. But the Arabs have a similar right.

The road to a settlement of the Middle East problem, and we have stated this many times, lies in the Geneva Middle East Peace Conference. It now appears that all the interested sides are inclined to resume their work. And this implies a still further increase in the importance of cooperation between the co-chairmen of the Geneva Conference—the Soviet Union and the United States. Given the mutual desire, they could do much to find acceptable solutions.

Such is our position on a number of major international issues.

Such are the intentions with which our country entered the new year, 1977. The Soviet Union will strive this year to bring better results than the previous one in the cause of strengthening peace and security of the peoples and in the development of peaceful cooperation between states. We will make our constructive contribution and have the right to expect the same from those to whom we address ourselves.

PENSION PROTECTION FOR HOMEMAKERS

Mr. ROTH. Mr. President, since the enactment of the Tax Reform Act of 1976, a considerable amount of interest has been expressed in a provision in the bill which establishes an opportunity to provide retirement security for housewives. This provision, which I drafted as an amendment to the tax bill, expands the coverage of the individual retirement account law to enable millions of nonworking spouses to begin building pension savings.

Under the previous IRA law, workers not covered by a regular pension plan could contribute, tax free, 15 percent of earned income up to $1,500 a year into a retirement account. But housewives, who do household work valued at between $5,000 and $10,000 a year, had no opportunity to set up retirement accounts for their old age.

Under the new provision, however, housewives can now begin to benefit from the IRA law. The new law enables workers who are eligible for an IRA, and who have nonworking spouses, to contribute up to $1,750 a year into a retirement account. These savings plans could either provide separate $875 a year accounts in each spouse's name, or a $1,750 joint account.

Under current estimates, there are more than 9 million families who are eligible to participate in this expanded retirement program, and I believe it is a major breakthrough. For the first time, the Federal Government is giving recognition to the economic contribution the housewife makes to her family and to the fact that she is entitled to more protection as she grows older.

This new pension provision is a modified version of the housewife pension bill which I originally introduced in December 1975. That legislation would have permitted any worker to establish a full $1,500 individual retirement account for his or her spouse. Although the limited version enacted into law is a worthwhile step in the right direction, I intend to continue working to promote and expand individual retirement savings plans.

Mr. President, the New York Times recently had an article describing the impact of the new law. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 22, 1976]

PERSONNEL FINANCE: AND FOR RETIREMENT PLANS

(By Richard Phalon)

Housewifery has never been long on fringe benefits—a potted plant on Mother's Day, maybe, and a couple of weeks off in August if there is some place to park the children.

Beginning Jan. 1, though, millions of housewives who do not hold a paying job will become eligible for a perquisite their husbands have been enjoying for almost three years—the right to build up tax-sheltered individual retirement accounts in their own names.

Congress included in the new tax amendments a provision designed to recognize the value of the services provided in the home by a nonworking spouse of either sex.

The prime beneficiaries will be wives, although homemaker-husbands stand to benefit, too.

"There was a real concern to give a housewife a chance to build up a retirement account in her own name so that if she is divorced or her husband dies, she can have some resources to call her own," said Earl McGuire Jr., a senior vice president of the Bank of Asheville, N.C., and former chairman of the American Bankers Association committee on individual retirement accounts.

The new legislation on I.R.A.'s (pronounced like the man's name) extends to nonworking housewives the benefits of a plan that has gained steadily in popularity since it first went on the books.

The benefits are enjoyed by more than 1.2 million individuals who have socked away a tax-free total of $1.8 billion in a variety of Internal Revenue Service-approved plans, including commercial bank and thrift institution savings accounts, insurance annuities and mutual funds.

All of the participants have in common one qualification: All are employed by organizations that do not offer pension, profit-sharing, thrift or stock bonus plans.

By way of protection against an old age without pension, Congress gave a special break to individuals who do not have other retirement alternatives. It authorized them to take a tax deduction of 15 percent of whatever they earned or $1,500, whichever is less. The only condition is that the money has to be put in a plan approved by the I.R.S.

Before the recent changes in the law, a husband could make his wife the beneficiary of his I.R.A., but it was hers only if he died. Joint accounts were illegal and the account belonged exclusively to the person who opened it.

The new law attempts to cure that defect

by giving husbands a positive incentive to open accounts for their wives. The attraction is a bigger tax deduction.

Anyone who opens a regular I.R.A. is held to the old maximum deduction of $1,500 a year. Anyone opening an account for a nonworking spouse, on the other hand, is entitled to a maximum deduction totaling $1,750.

There is a catch, though. The contribution, whatever its size, has to be split evenly between two separate accounts—one for each spouse.

Each can make the other a beneficiary, but the cash deposited in a nonworking wife's name is, as Mr. McGuire put it, "irrevocably hers."

The new legislation opens up for nonworking housewives the benefits of tax-free compounding. "It's not just the tax deduction every year," said Robert Parks of Mason & Company, a New York City accounting firm. "Whatever interest or dividends the account earns continue to grow tax-free until you're ready to retire."

The same advantage applies, of course, to standard I.R.A. plans, but they do not offer the incentive of the extra $250 exemption. A person who presently maintains an I.R.A. in his own name would have to open a second account to take advantage of the new law.

How many husbands will find in that $250 enough incentive to give away as much as $875 to their wives, no strings attached?

"I think it all depends on the marriage," said Mr. McGuire of the Asheville bank. "If it's a solid marriage and the husband wants his wife to have some protection in her own name, I would think he'd jump at the chance."

There is one potential disadvantage. The money in an I.R.A. is frozen. An account cannot be drawn against before its owner reaches age 59½ without a penalty.

The withdrawal in such a case would be taxed at regular income-tax rates, plus a 10 percent surcharge. Thus, a premature withdrawal would cost a person in the 25 percent tax bracket $35 on every $100 taken out of the account.

There is another advantage, however, under the new law. Until now, I.R.A.'s have been subject to estate taxes. Beginning next Jan. 1, they will be free of these levies, too. The only condition is that payments from the plan be spread over a three-year period.

THE NEW SECRETARY OF THE INTERIOR

Mr. BAYH. Mr. President, last Thursday the Senate unanimously voted to confirm the nomination of Cecil D. Andrus to be Secretary of the Interior in the Carter administration.

As Governor of the State of Idaho, Cecil Andrus became intimately involved in the process of establishing priorities between the often competing interests of environmentalists and developers. His skill in handling these controversial decisions was demonstrated by the lack of opposition to his nomination.

In an increasingly complex world, it is my belief that environmental policy must be viewed as much more than Government action to protect the environment. A true environmental policy includes not only the continuation of efforts to clean the air and water and protect our land and wildlife but also a recognition that related national problems—such as energy development and recreational needs, both urban and rural—are an integral part of our environment.

For too long we have heedlessly pursued a course of using up natural resources while compounding the damage to our environment by dumping waste materials onto the land, into the air and water. We must develop new balance between the need to develop and use our natural resources and the necessity of conserving these resources for future generations of Americans. Solutions to these complex problems must advance simultaneously on many fronts if we are to insure a healthy quality of life for all our citizens.

Cecil Andrus understands the enormity of this task and is committed to protect and wisely use our national resources. As he stated to the Committee on Interior and Insular Affairs, he views the responsibility of the Secretary of the Interior as "a noble challenge to attempt to maintain that delicate balance between progress and preservation."

The new Secretary of the Interior is well prepared to meet this challenge successfully. His excellent background and sensitivity to the major issues confronting the Department of the Interior will serve him and the Nation well in the years to come.

I was pleased to be able to enthusiastically support the nomination of Cecil Andrus and look forward to working with him as we forge national environmental policies.

THE DECLINE OF THE AMERICAN FAMILY

Mr. HEINZ. Mr. President, in recent years the American people have developed a sophisticated understanding of the limits on Government's ability to solve problems. Americans realize it is impossible for Government to become all things to all people, and they increasingly have rejected attempts by some to pretend otherwise. This new sense of realism is a healthy sign for the future, and I hope those of us in public service will be able to follow the lead of the American people in adapting to the realities of our time.

In discovering that Government cannot be all things to all people, we have also begun to learn that Government is incapable of replacing some older and more cherished institutions. In particular, Americans have become more and more aware of the fact that Government cannot take the place of the family in our society or serve the purposes that families traditionally have served.

It is clear, for instance, that family life remains the single most important and positive force for protecting and enhancing the well-being of our children. Families are best equipped to insure that children are provided with basic human needs, such as food and shelter. But more than that, family life is uniquely suited to providing children with love and care, which are both essential to developing healthy and productive individuals. No matter how hard we try, we cannot develop a satisfactory substitute for the devotion that parents feel for their children and we cannot replace the special depth of concern that parents invest in the futures of their sons and daughters.

Since families obviously play a decisive role in promoting the well-being of young Americans, we have a national interest in preserving and strengthening the vitality of family life. Any action of Government that undermines the quality of family life also undermines the quality of life for millions of children and weakens their potential for facing the challenges of the future. Unfortunately, Government has not always seen this connection and by its policies has contributed to what some observers have called "the decline of the American family." In some cases, the absence of policy in areas such as welfare reform, health care, and child care services for working mothers has also detracted from the potential benefits of family life.

Family life, of course, contributes to the quality of American life in many ways that go beyond the immediate question of child rearing. Families are the most effective means by which we transmit the values of our society. From one generation to the next, families have demonstrated and communicated the importance of compassion, personal discipline, and individual responsibility. Just as family life has given direction to the lives of our children, it has given purpose and meaning to the lives of older people. In times of personal need, families have been a source of strength and solace that have allowed individuals to survive the day-to-day struggles of the human condition. In each of these functions, the family has played a vital and irreplaceable role that has helped our society progress as far as it has.

In an era when the limits on Government are becoming increasingly clear, it is more important than ever that Government understand the strength of family life and build upon that strength. Instead of undertaking new efforts to find substitutes for family life, Government must begin to work hand in hand with the family, to support family life, and provide families better opportunities for doing the things they do best. A respect for family life and an appreciation for its worth should underlie the work of Government and be reflected in the policies that the Federal Government adopts.

Mr. President, a recent article by Urie Bronfenbrenner discussing the decline of the American family appeared in the Washington Post. Dr. Bronfenbrenner is a distinguished expert in the field and is currently professor of human development and family studies at the College of Human Ecology at Cornell University. I ask unanimous consent that the text of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CALAMITOUS DECLINE OF THE AMERICAN FAMILY

(By Urie Bronfenbrenner)

Americans like to talk a lot about "progress," "improving the quality of life" and "meeting the challenges of tomorrow." All these depend on our ability to raise today's children well. The future belongs to those countries that make their primary commitment to the cultivation of the minds, character and creative vigor of the young. Therefore, the United States should take the up-

bringing of its children at least as seriously as it does landing on the moon or Mars.

In the upbringing of today's children numerous factors play a role: their neighborhood or town, schools, friends, religious institutions, games, work, the television and films they watch, the papers, advertising, magazines and books they read, role models and their family. But in the recent years nearly every line of social and psychological research points to the family as the foremost influence in what the Germans call *erziehung*, the Russians *vospitanie*, the French *elevation*, the Greeks *paideia*, and we might call "character formation," "cultural education" or "upbringing."

That the family is the central institution comes as no surprise to most anthropologists, ethnic patriarchs or social historians because the family is the only social institution that is present in every single village, tribe, people or nation-state we know throughout history. But that the family is the core institution in every society may startle and annoy many contemporary Americans. For most of us it is the *individual* that is the chief social unit. We speak of the individual vs. the state, individual achievement, support for disadvantaged individuals, the rights of individuals, finding ourselves as individuals. It's always the individual, with "the government" a weak second. The family is not currently a social unit we value or support.

This fact is reflected in the scholarly research of the United States. Until recently, there has been only sporadic research on the history, significance or changes in the family. And it is reflected in our national, local and business policies, where a father, mother, son and daughter are usually treated as four individuals rather than as a family.

Thus, we have the following situation. At a time when our nation more than ever needs a public-spirited and enlightened young, and when the best new research is pointing to the critical role of the family, our nation pays little attention to the family as a key social unit, and there are mounting indications that the American family as we know it is falling apart.

I realize that at several times in the past century observers have wailed about the decline of the family. Historian Charles Thwing, for example, wrote in his 1913 book on the family: "The individual has come to be regarded as the crown and center of social and legal order. The family, as an institution of prime importance, has passed away." But what has happened in the United States since the 1950s really adds up to a rapid and radical change in American family life. And the consequences for the young, and for society as a whole, are approaching the calamitous. Let me explain what I mean.

There was a kind of family stability in the late 1940s and early 1950s. The extended family still existed in places; one out of 10 families had another adult relative living under its roof. After the shakeout year of 1946, the divorce rate was quite low, especially among families with young children. Only one mother in four was working outside the home. And fewer than 4 per cent of all children born were illegitimate. Parents fought for a better education for their children, kicking off a school and college-building boom. Television, which became commercially available to households in 1948, was almost unknown. Mass magazines wrote of "togetherness" and radio soap operas featured families. Hollywood made films about young Andy Hardy, Shirley Temple and young Dorothy from Kansas, who went to see the Wizard of Oz but longed to return to her family.

In the past 25 years, however, the change has been dramatic. The dimensions of this change can be illustrated by some data that I and others have gathered about two categories; the number of parents and other adult relatives in the home and the amount of attention that parents devote to genuine relationships with their children.

As for adults in the home, there has been a further decline in the number of grandmothers, uncles or unmarried sisters in the home. From roughly 10 per cent of all homes having a third or fourth adult in 1950, the percentage has dropped to half that. Compared to 50 years ago, the change is even more considerable. For example, in the 1920s half the households in Massachusetts included at least one adult besides the parents; today the figure is 4 per cent.

That leaves Mom and Dad. But Mom is increasingly not found at home either because she's out working, as well as attending meetings or shopping several nights a week. In 1975, for the first time in American history, a majority of the nation's mothers with school-age children—ages 6 to 17—held jobs outside the home. In fact, women with school-age children show the highest labor force participation rate, 54 per cent, compared with 28 per cent in 1950.

For preschool children the change is more startling. In 1975, 39 per cent of mothers of children under 6 were working, more than three times as many as in 1948. As for mothers with children under 3, nearly one in three is working—an amazing jump from 1950.

Of course, the increase of women in the work force is one of the most significant social and economic facts of our time. While the number of working husbands has risen from 29.8 million to 37.8 million between 1947 and 1975, or 27 per cent, the number of working wives has shot up frm 6.5 million to 19.8 million, or 205 per cent—nearly 10 times as much. It began before the so-called women's liberation movement, and has unquestionably brought many new opportunities and greater satisfaction to numerous wives and mothers. But it has also had a major impact on American child-rearing.

ONE-PARENT FAMILIES

The parents not only have been leaving the home to work; they have increasingly been disappearing. The number of children under 18 living with only one of their parents—now one out of six—has almost doubled in the past 25 years. And the change has been most rapid for children under 6. In 1974, 13 per cent of all infants under 3—nearly 1 million babies—lived with only one parent.

Three of the main contributors to the rise of one-parent homes have been divorces, illegitimate births and desertions.

The divorce rate has risen appreciably in the past 25 years, but especially since the early 1960s. Last year, for the first time in U.S. history, the number of divorces exceeded 1 million—twice the number of a decade earlier and almost three times that of 1950. Nearly 40 per cent of all marriages now end in divorce; three out of 10 women separate from their husbands before the age of 30. The number of children from divorced families is twice that of a decade ago.

And a growing number of divorces are now accompanied by a new phenomenon: the unwillingness of *either* parent to take custody of the children.

Next to divorce, illegitimate births are the fastest growing contributor to one-parent homes. In the past 25 years the rate of illegitimacy has more than doubled, from 4 per 100 live births to 10 per 100 live births. And in addition to the more than 350,000 babies born out of wedlock last year, another 65,000 pregnancies were halted by abortions to teenagers alone. Thus, a growing number of children are being born to unmarried women, 80 per cent of them under 25 years old.

As for desertions, the male has long been a frequent deserter of his wife and children—male desertion accounted for 49 per cent of divorces in the United States in 1900—and males continue to flee. But wives have begun deserting in far greater numbers, too. Police department reports are suddenly full of notices of missing mothers, and detective bureaus indicate a quantum leap in the number of runaway wives.

Single-parenthood is especially common among the poor, although it is becoming more frequent among the lower and upper middle classes. And it is particularly prevalent among black Americans, many of whom are poor. In 1974 only 56 per cent of all black children under 18 lived with both parents, down from 71 per cent in 1965. (Recent research by Herbert Gutmann and others has found that black families have been more stable until recently than many believed.) Specifically, between 1960 and 1970 the percentage of single-parent families among blacks increased at a rate five times that for whites—a baffling fact since it was a period of considerable economic and education gains for blacks. Today, the proportion of single-parent families among blacks is three times that of whites.

Two things are noteworthy, however. White families are being fragmented progressively as well as black families. And middle-class families are now approaching the social disintegration of lower-class families a decade ago.

TIME WITH CHILDREN

The other broad category of change is the amount of attention that one or both parents give to affectionate child-raising when the children and adults are not separated by school or work. Here too there has been a sharp decline.

With demands of a job that sometimes claim the evening hours and weekends, with increasing time spent commuting and caring for automobiles, with entertaining and social visits as well as meetings and community obligations, parents spend less and less time working, playing, reading and talking with their children. More and more children come home to an empty house or apartment.

In some homes a child spends more evenings with a passive, uninterested babysitter than with a participating parent. One study of middle-class fathers of 1-year-old infants found that they spent an avearge of only 20 minutes a day with their babies. When a recording microphone was attached to each infant's shirt, the data indicated that in terms of true, intimate interaction between father and child the average daily time together was 38 seconds. One survey I did of child rearing practices in the United States over the past 25 years reveals a decrease in all spheres of interaction between parents and their children. (The same trend is appearing in Europe, according to cross-cultural studies.)

An increasing number of parents enroll their children in day-care centers—enrollment doubled between 1965 and 1975 alone—and then preschools. And they sit them in front of television. It is estimated by experts that preschool children—under 6—spend an average 50 hours a week watching TV. By the time the average American youngster graduates from high school he has spent more hours watching the television screen than he has spent in school, or in any other activity except sleeping.

Gone increasingly are family picnics, long Sunday dinners, children and parents working together fixing the house, preparing meals, hiking in the woods, singing and dancing with other families or friends. And we are paying a price for this growing inattention, even hostility, to our children.

Accidents among children appear to be increasing. Accidents are now the chief cause of death for persons under 18, and about 15 million days of school are lost annually because of accidental injuries to youngsters.

Child abuse by parents has become a national problem. A 1970 survey projected that at least 2 million battered-child cases a year may be found annually now, nearly 200,000 infants and children a year are being killed

by their supposed caretakers. A more gruesome trend shows that the killing of infants under 1 year of age has been increasing since 1957. The infanticide rate has risen from 3.1 per 100,000 in 1957 to 4.7 per 100,000 in 1970. Sadly, 90 per cent of these incidents take place right in the home; the most severe injuries occur in single-parent homes, and many brutalities are inflicted by the frazzled mother herself.

SOCIETY'S NEGLECT

It is not only the parents of children who are neglecting them. Society does so, too. As the 1970 White House Conference on Children reported:

"A host of factors conspire to isolate children from the rest of society. The fragmentation of the extended family, the separation of residential and business areas, the disappearance of neighborhoods, zoning ordinances, occupational mobility, child labor laws, the abolishment of the apprentice system, consolidated schools, television, separate patterns of social life for different age groups, the working mother, the delegation of child care to specialists—all these manifestations of progress operate to decrease opportunity and incentive for meaningful contact between children and persons older or younger than themselves."

James Coleman's fine 1974 study, "Youth: Transition to Adulthood," documented the same new conditions.

Nor should all the blame fall on the heads of the parents themselves. In many ways, the crux of the problem is not the battered child but the battered parent. To quote from the same 1970 Report to the President:

"In today's world parents find themselves at the mercy of the society which imposes pressures and priorities that allow neither time nor place for meaningful activities and relations between children and adults, which downgrade the role of parents and the functions of parenthood and which prevent the parent from doing things he wants to do as a guide, friend and companion to his children . . . The frustrations are greatest for the family of poverty where the capacity for human response is crippled by hunger, cold, filth, sickness and despair."

What has replaced the parents, relatives, neighbors and other caring adults? Three things primarily: television, peer groups (same-age cliques or gangs) and loneliness.

A recent study found that at every age level, children today show a greater dependency on their age-mates than they did 10 years ago. And, increasing numbers of lonely "latchkey children" are growing up with almost no care at all, often running away—at the rate of more than 1 million a year now—to join colonies of other solitary juveniles and to experiment with drugs, crime, sex, religious cults and the sheer restless busy-ness of Kerouac-like movement over the American landscape. These "latchkey children" contribute far out of proportion to the ranks of young persons who have reading problems, who are dropouts, drug users and juvenile delinquents.

What is not often recognized is that the social fabric which so many feel is tearing around them is to a large extent a result of the deteriorating family life and the conditions that undermine declining care for our children. Look at what has been happening to America's youth.

The first consequence is that many of them die at birth or soon thereafter. America, the richest, most advanced scientific and medical country in the world, stands 17th among nations in combating infant mortality. The offspring of young, black mothers face an expecially frightful prospect: Babies of black mothers are today still dying at the rate at which white babies died in the 1940s.

Crime in America is increasingly a youth problem. Crimes by children—those under 18—have been growing at a higher rate than the juvenile population. According to FBI data, arrests of children for serious crimes—murder, assault, robbery and rape—have jumped about 200 per cent in the past 15 years, and arrests for lesser crimes—larceny, burglary, auto theft, forgery—have doubled. Arrests for juvenile prostitution have increased 286 per cent, those for trafficking and use of drugs, 4,600 per cent.

This increase of crime by children is three times that of adults over the same period. In 1973, 1.7 million children were arrested for criminal actions—one-fourth of the total arrests in that year. At the present rate, one of every nine teenagers can be expected to appear in court before 18. And since many criminal offenders tend to be repeaters, the depressing prospect is for an expanded adult criminal population in the years ahead. And crime is already costing Americans an estimated $80 billion a year.

School vandalism has become in some areas as American as apple pie, soft drinks and aspirin. A good deal of the blame put on teachers for failing to instruct our youth adequately belongs with parents and their increasingly resentful and violent children, and on the rest of us for failing to give both our teachers and our families adequate support, especially of the non-monetary kind.

The suicide rate for young people 15 to 19 has more than tripled in less than 20 years, leaping from 2.3 per 100,000 in 1956 to 7.1 in 1974; and in recent years there has been an increase in suicides among younger children, some as young as 10. Suicide is now the third leading cause of death among young American whites; the rate for young blacks is lower but increasing faster. For young American black males, homicide is now the leading cause of death. Death from violence in some form—suicide, homicide, auto and other accidents—now accounts for two out of three deaths of those between 5 and 18. The self-destructiveness of our children has become a truly serious problem.

ACADEMIC DECLINE

Well-known by now is the decline in academic capability among the nation's young during the past 15 years or so. According to the College Entrance Examination Board, average scores on the scholastic aptitude tests have dropped in the past 12 years 44 points (from 478 to 434) in the verbal skills and 30 points (from 502 to 472) in math, on a scale of 200 to 800. Teachers and professors have in recent years become alarmed at what they experience as their students' growing inability to write decently, refusal to be rigorous in their work and inability to use common sense reasoning about everyday adult affairs of life.

In a 1976 Gallup Poll conducted for the Phi Delta Kappan, a professional education journal, two-thirds of the Americans sampled blamed parents for these test score declines because they did not provide enough attention, help and supervision for their children. And an impressive series of investigations, most notably by James Coleman and Christopher Jencks, have demonstrated that it is not so much the schools that determine academic achievement or character as a student's family life and the conditions undergirding a strong life within the family: employment, health services, work schedules, child care, neighbors who care and the like.

In addition, the alienation, antisocial behavior and disorientation of the young have made an ever larger minority of them unemployable, without training or self-discipline. Half the unemployment in our country today is among young persons under 25.

What are we as a nation to do?

I conducted a study recently for the National Academy of Sciences that tried to determine how successful all of America's early intervention programs such as Head Start really were. The results, sad to admit, were disappointing—except in places or in programs that involved the *parents* in the effort.

It's transparent now that the family is a critically important institution in shaping our children's minds, values and behavior. But it's equally clear that the American family is distintegrating. That's what I'd call a collision course for our our society. It must be reversed. But how?

There is no space here for concrete suggestions, but I would like to offer a few thoughts. I think the main causes of the change in family life are three in number. So perhaps our remedies need to take three paths.

One cause is our attitudes. America has temporarily lost its balance. Today what matters most for many people is their own growth and happiness, their own self-fulfillment, doing their own thing, finding themselves. We seem to be sunk in individualism. We so much want to "make it" for ourselves that we have almost stopped being a society that cares for others. We seem to be hesitant about making a commitment to anyone or anything, including our own flesh and blood.

To be sure, individualism has helped bring about extraordinary solo efforts by many Americans—in art, science, business and other areas. But we have entered a period of history when we need to put other, neglected values on the scale, too.

We have many other traditions in the American past: our social welfare schemes, our great public education system, our way or helping our neighbors—or foreign peoples—in times of catastrophe, our volunteer organizations that Tocqueville found so outstanding, our scholarships and other help for the poor but able, our quicknesss in extending friendship and care to strangers. Like individualism, they too are American traits, and we should draw upon them also. It's a matter of more balanced attitudes.

The nealthy growth of each child requires a commitment of love, care and attention from someone. Neighbors, day-care leaders and school teachers can help, but most of the enduring, irrational involvement and intimate activities must come from parents. No one else can ever care so much or so continually. We need to get out of ourse'ves and into the lives of our children more than we do.

A second cause is our socio-technical structure—the network of work schemes, social dances, travel patterns, telephones and other social patterns and apparatus that conduce us to separate and fragment rather than come together. We need to reshape parts of this socio-technical structure to meet the new needs of today's parents and children.

MORE PRAGMATISM NEEDED

As a nation we are superb at scientific technology. In this area we are pragmatic. We try new things to see if they work. But when it comes to social technology, we are stuffy, rigid, pessimistic. We often refuse to try little experiments in human affairs to see if our society can be more harmonious and our children happier. Little things, like more part-time work schemes to allow mothers, students and fathers to have more flexible schedules for greater human contact, seem so difficult.

Our welfare system is a disaster, actively abetting the dissolution of our families. It's chaotic and was designed by no one. Do we redesign it? No, we prefer to continue to muddle through, even though the cost in human lives is staggering.

I would suggest that the United States can no longer afford to be so methodical, precise, pragmatic and research-oriented solely in its technological advances, and continue to be so sloppy, neglectful, cautious and fatalistic in its social programs.

Last, our national rules and policy are a cause of family trouble. The United States is now the only industrialized nation that does

not insure health care or a minimum income for every family with young children, and the only one that has not yet established a program of child care services for working mothers.

In the controversial gun control legislation we support the rights of each individual to bear arms but not the rights of our people—or our police—against being shot to death more easily each year.

We care more fervently about keeping our wilderness wild, our favorite fishing holes intact and football than we do about the condition of our families or the gradually spreading cancer among our children.

In our taxes, our plane fares or our government welfare policies we pay close attention to each individual's privileges and pay little attention to family rates or policies that would help build more cohesive families. We are not only "far out" in some of our individual behavior; among the advanced nations of the world the United States is "far out" in its national permissiveness toward individuals and its national neglect of the upbringing of its children.

Obviously, we cannot go back to the family life of an earlier age—nor should we wish to do so, given some of the oldtime family's inequalities and authoritarian practices. But we can design and put into practice new attitudes and structures appropriate for our time.

Among all the talk about returning to decency and fundamental values after Vietnam and Watergate, none ought to be more dear than that of a renewed concentration on the proper care, instruction, guidance and values of America's young people and the families in which they are raised.

The bodies, minds and emotional health of our children demand it. And the ability of our country to cope with its awesome future demands it.

TRIBUTE TO M. W. THATCHER

Mr. HUMPHREY. Mr. President, I wish to share with my colleagues in the Senate an article in the January 3, 1977, Co-Op Country News which noted the outstanding life and career of Mr. M. W. Thatcher.

This capable individual as a dear friend of mine, and a devoted friend of the American family farmer.

At his eulogy on December 28 I stated:

There is no doubt that Bill Thatcher was a businessman. He understood the economics of our time. There is no doubt that he was a gifted organizer. I've often thought what that man would have done in politics if he had ever sought a role in public office.

He was a leader, he cut away the doubts and fears and he opened up new vistas. That's what leadership is all about. A leader is one who asks people to follow him, who dares to try, who is unafraid of the future, who spends very little time wondering about the yesterdays. I think Bill Thatcher was a born natural leader.

I have noticed that he was an advisor, consultant and confidant to so many of us that are here today—to presidents, senators, congressmen, governors and legislators, people in all walks of life. He wasn't always knocking at their door, we came to him.

I know he was a political maverick. I never was able to quite tag him. His only ideology was helping the family farmers. Helping them to organize, to build cooperatives.

Bill Thatcher looked upon the family farmer and the family farm as the under-pinning, stabilizing, the bedrock granite on which we built the great cathedral of American democracy. And Bill Thatcher was not only the farmers' friend, he was a spokesman, an advocate, protagonist. He was a vital orator, he had a brilliant mind and he knew what to do to help those to whom he had dedicated his life.

Now, what I like more than anything else about him was that he was an optimist. Never a quitter. There was always something to do, he was always an optimist about the United States of America at critical times of our inadequacies and injustices. He was as any real patriot ought to be, because patriotism is not a sudden outburst of emotion, but the tranquil and steady dedication of a life. And he represented that in his work.

We will miss this thoughtful and forward-looking American. But we can still remember him and learn from his observations and example.

Mr. President, I ask unanimous consent that an article on M. W. Thatcher's life and contributions be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

M. W. THATCHER, 1883–1976

M. W. (Bill) Thatcher, first general manager of the Grain Terminal Association, the far-flung regional grain marketing and processing cooperative he helped create in 1938, died in a St. Paul hospital December 25. He was 93.

Mr. Thatcher's colorful career on the agricultural front spanned more than 50 years—during which he championed the cause of the family farm and parity of income for farmers. He influenced farm legislation for 40 years and was involved in farm programs with Presidents Herbert Hoover, Franklin Roosevelt and Harry Truman.

Mr. Thatcher worked mostly with congressmen and had scores of friends in both political parties. One of his long-time friends was Senator Hubert Humphrey of Minnesota who said in his recent book that the veteran cooperative leader would have been "an incredibly charismatic political leader" had he not chosen to go with the cooperative movement.

Throughout his career, Mr. Thatcher had the ability of leading people, talking to people and holding them spellbound. He could make each farmer and his wife in a large audience feel his personal concern for them, or could be thoughtful about small details in the lives of those he met. Associates feel this is why he chose to become a cooperator and could lead thousands of others to do so.

Old-timers in the cooperative movement and long-time GTA employees remember him as one of the last of the old-line stump speakers. He spoke unhurriedly in a deep, resonant voice, building up to shouting climaxes and asking questions of the audience which invariably brought audible responses.

Mr. Thatcher retired as GTA general manager in 1968 after serving in the position for 30 years. It was in 1938, with an handful of co-sponsors, that he organized the Grain Terminal Association to handle the grain produced by cooperative farmers in the Dakotas, Minnesota and Montana. With the widespread support of cooperative producers, GTA grew from an original capital investment of $30,000 (borrowed from the Farmers Union Central Exchange) to a wide-ranging network of elevators and processing plants.

Mr. Thatcher was born in Valparaiso, Indiana, not long after his father, Samuel, had left the farm and moved to town. Although born in town, all his Scotch-English-German relatives were farmers and he grew up in close contact with a rural economy.

He was christened Myron and his twin brother was named Marvin, names which neither fancied. One of his farmer-uncles had a span of horses, Tom and Bill, which the twins loved dearly. They insisted people call them Tom and Bill just like the horses. So Bill it was. Later he incorporated the borrowed Bill into this legal name and made it Myron William Thatcher.

It was also on a visit to a relative's farm that Mr. Thatcher's basic farm philosophy began shaping—although he was only seven and wouldn't recognize it for many years. The youngster asked his father why he'd left farming for the city and got this reply: "I quit because I was tired of raising crops when I had no idea what I'd get for them. Contracting and selling in town offered some security."

That statement, Mr. Thatcher said, became one of the motivating factors in his work. "I'm not mad at anyone," he would tell newsmen. "But I feel farmers have had a lousy deal."

M. W. Thatcher studied accounting in Chicago as a young man, and was employed by a Chicago auditing firm when he had his first contact with the grain industry. It was in 1906 when he was sent to the Upper Midwest to audit books for grain and milling firms in Minneapolis and Duluth.

He returned to the region in 1909 to work for a bank which sent him to Osceola, Wisconsin, to reorganize a failing grain and milling firm. This introduced him to grain management and brought him in contact with Equity Cooperative Exchange of St. Paul, the nation's first cooperative grain commission firm. When Thatcher returned to his auditing job in Minneapolis in 1914, Equity asked him to audit its books.

Equity came under attack by private grain and financial interests in 1915, and there was a lawsuit to dissolve the co-op. Thatcher had to choose between his job as an auditor and appearing as a witness for Equity. He chose the co-op. His testimony helped dismiss the suit.

Equity, however, had other difficulties and entered voluntary receivership in 1923. Thatcher was named to oversee its dissolution. He had worked for North Dakota's Industrial Commission in 1920 and 1921 and then started working with the cooperative movement.

As an outgrowth of Equity, the Farmers Union Terminal Association (not the same as GTA) was formed. The terminal association was eventually absorbed by the Federal Farm Board and later became part of the Farmers National Grain Corporation.

That organization came about with Hebert Hoover's election in 1928. During the campaign Thatcher outlined for Hoover what he thought would win the farm vote Hoover needed for election. Hoover promised to call a special session of Congress to get a farm marketing act. The Agricultural Marketing Act of 1929 was passed and a Federal Farm Board was begun to administer the act. Under the act, Farmers National Grain Corp., made up of regional cooperatives, was organized.

While Equity was folding, Thatcher became an organizer for early grain marketing cooperatives. He helped organize the Farmers Union state organizations in Minnesota, Wisconsin, North Dakota and Montana, worked for continuing aid to co-op livestock marketing and took a leading national role to secure legislation for all farmers.

From 1932 to 1937 he worked as a lobbyist for the Farmers National Grain Corp. in Washington. It was a period he often called his most satisfying. While in Washington, Thatcher helped prepare, testify and lobby for the wheat-processing tax and benefit payment for the first Agricultural Adjustment Act, the wheat loan and parity payments that replaced it in 1938, and various credit acts.

Thatcher is credited with a major role in three farm laws. The first was the 1935 amendments to reduce federal farm mortgage rates to 3.5 percent which saved farmers $334 million and helped lower all in-

terest rates. Second, he worked three years to pass the Commodity Exchange Act of 1936; it guaranteed farmer co-ops entrance to commodity market. Third, he saved what became the Farm Security Administration (now Farmers Home Administration) from oblivion in 1936 so it could continue loans to hundreds of thousands of needy farm families.

Liquidation of Farmers National Grain Corp. was started in 1937 and Thatcher returned to the Twin Cities to help. But it was a time of drought and depression and the grain corporation's regional co-op members were without funds to carry on co-op grain marketing.

Thatcher went to President Roosevelt, who on Dec. 29, 1937, inscribed on Thatcher's short memo "HW: Try to work something out, FDR." HW was Secretary of Agriculture Henry A. Wallace. It was done. The new Banks for Cooperatives helped the regionals start again.

Liquidation of Farmers National was completed May 31, 1938. The next day Thatcher began GTA with the $30,000 borrowed from the Central Exchange; later it got loans from the Farm Credit Administration.

Emil Loriks of Arlington, South Dakota, who served on the GTA board of directors for 27 years, ten as its chairman, recalled the meeting in 1937 when Thatcher presented his plans for organizing GTA to state farm leaders. "I was anxious to see my state get into the organization," Loriks said, "be cause the leadership was there."

GTA was started with 121 local association members. Today, it includes 600 owned or affiliated elevators, operates eight terminals, two oilseed processing plants, three malt plants, 12 feed plants, a durum mill and 119 lumber yards.

In 1941 a dream held by Upper Midwest farmers since 1891 became reality with the building of the 4.5-million-bushel GTA elevator at Superior, Wisconsin. At the time it was the tallest, fastest operating elevator in the world and was not to be matched for many years.

In May, 1942, GTA took over a durum wheat mill at Rush City, Minnesota, to become the first U.S. grain cooperative to go into milling, and foreshadowed later moves in to feeds and oilseed processing.

In May, 1943, GTA bought the St. Anthony and Dakota Elevator Company with its 135 elevators and 38 lumber yards. Foes of co-ops began a long battle through their National Tax Equality Association to oppose the co-op movement. Thatcher played a key role in setting up state cooperative associations and national committees to answer the NTEA.

Earlier, Thatcher sought to give grain marketing co-ops a common voice in Washington with the formation of the National Federation of Grain Cooperatives. This was accomplished in February, 1939, when nine regionals got together and formed the federation. Thatcher was elected NFGC president every year until he retired.

Thatcher continued his farm advocacy during the Truman and Eisenhower administrations. His famous slogan "Farm Prices Are Made in Washington" was born during this time.

Meanwhile GTA continued to grow and became the world's largest grain cooperative, with annual sales of $1 billion.

"I don't think there was a co-op leader that served as Bill Thatcher did," said Jewell Haaland of Clarkfield, Minn., chairman of the GTA board of directors. "He was the proper guy at the proper time to carry the thing out. We're going to continue to develop on the foundation he laid for us and go beyond his dreams."

WE'RE GOING DOWN THE SAME ROAD AS BRITAIN

Mr. GOLDWATER. Mr. President, all Americans today should be paying close attention to the plight of Britain. As we look across the Atlantic, we see this once great empire suffering from a loss of position in world trade, a devalued currency, high inflation and a drastically falling standard of living. And we begin to understand that Britain's experiment with socialism and wealth sharing has been disastrous.

If we look closely at the British experience, we can see many danger signs for the United States, because whether we like it or not we are tending toward the same socialistic direction that Britain followed to its sorrow.

Mr. President, an extremely fine analysis of the British condition and our own dangers appeared recently in the magazine "Industry Week" and I ask unanimous consent that this magazine article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"WE'RE GOING DOWN THE SAME ROAD AS BRITAIN," MANY AMERICANS SAY

Loss of position in world trade, a devalued currency, high inflation, and a falling standard of living are persuasive evidence that Britain's experiment with wealth-sharing is not working.

Its attempt to spread a net of minimum living standards under everyone has darkened the lives of more people than it has helped. What's more, it has nearly destroyed its wealth-producing industry. Britain's blend of public and private enterprise has settled into a mixed economy too weak to match the international competition.

Americans generally blame the lingering crisis on Britain's "Socialism" or on side effects such as the loss of drive and the willingness to work. In turn, they read into the British situation many warnings for the U.S.

There are some similarities in what the U.S. has done or is contemplating doing. And there are some differences. But those differences could disappear, depending on the course of American politics in the next few years.

It takes little imagination to conclude that the U.S. and the U.K. could have similar economic systems "at the end of the day," as the British would say.

That's why the success or failure of the British experiment bears close watching. Can it back away from economic disaster? And if it does, will its Socialistic attributes save it? Or will they be shelved as too idealistic for such critical times?

The British, who don't blame their problems on outside influences and don't look for outside help, will tackle the problem themselves. Despite their economic ailments, which they readily admit exist, Britons remain confident they will work themselves out.

But whether they work things out by staying on their present course or by reversing it is something they haven't agreed on yet. Will they rely more and more on government services, ownership, and control or will they restore more initiative to individuals and private enterprise?

"We still look to you as the bastion of free enterprise, says a construction company owner from the lake country of England. For him, the only way to avoid disaster is through a stronger private enterprise system—a reversal of the 30-year march toward Socialism.

Like many Americans, however, he fears that the U.S. may be abandoning its private enterprise system. Heavily regulated U.S. industries might become nationalized, and the individual may become too dependent on government.

The causes of Britain's economic ills are manifold and they have been emerging for decades. But, just as its troubles are self-inflicted, the U.S. could cripple itself in the same way.

CRIPPLED GIANT

The United Kingdom entered the post World War II period as something far different from the once classic empire. Bombs and rockets had devastated its industrial heart. Making good on promises and plans hammered out during the war, the new government laid out monumental social welfare programs that diverted money and manpower from wealth renewal. And Britain began the process of shedding its world empire, which had furnished a captive source of raw materials and a ready market for its manufactured goods.

Class barriers could no longer contain the pressures for equalization. The tight British system split open. The "have-nots" clamored for social programs while the "haves" clung to memories of empire.

Rather than rebounding like defeated Germany and Japan, Britain shuffled along, half-heartedly expecting to rebuild its economy along old lines. Old equipment and old methods were retained. "After the war, industry was still geared to supplying goods to the Commonwealth," says Joel Barnett, Member of Parliament and Chief Secretary to the Treasury. "It continued buying goods even though it could get better prices, products, and delivery elsewhere."

Meanwhile the U.S. burst from World War II as an industrial giant rich in resources and welcomed by an eager domestic market. The opportunity for individual economic betterment seemed virtually unlimited. A hidden layer of minority deprivation would not express itself for another decade or two.

SOCIAL CONCERN

Many of Britain's social services originated in the 19th century when reforms were made to attack the sorry conditions created by the Industrial Revolution. By the early 20th century, the nation had turned frequently to government for reform and services. World War II pressures brought plans for more comprehensive programs, which were implemented during the late 1940s.

By then, worker-management relations had a long history of confrontation. Labor chose the political route to obtain satisfaction. The Labor Party, founded by trade unions in 1906, came to power in 1945 to deliver "cradle to the grave" services at the expense of individual and corporate gain.

Post-war recovery focused on redistributing rather than generating wealth. There are at least two reasons.

First, even today in Britain, one can sense a strong compassion for one's neighbor. Virtually all segments of society share the belief that the nation should provide a safety net of income and services below which no one need fall. Even a director sitting high in the corporate towers of London can be heard to say, "we must help those who suffer from the free market." When some Britons use the term "Socialistic," one gets the feeling they are referring to this social concern rather than the standard Socialist ideology with its statism and government ownership of production.

Marching some ten or twenty years behind Britain, Americans, too, have begun to hoist

a safety net to protect those who are hurt by—or "left out of"—the system. Less revolutionary and less extensive so far, the direction is the same.

A second reason for the dividing-the-pie approach is less admirable. Although the first reason may have supported change, the second was the driving force: self-interest. For people on the low end of the economic scale, the social programs were a way to equalize things. They had enough votes to demand short-term solutions.

TOO MUCH, TOO FAST

Britain might be considered one of man's finest experiments in conducting himself as a social creature and in an economic democracy. But it has to be regarded as an economic disappointment. Going overboard in sharing the wealth, it has allowed the generation of greater wealth to wither.

Last year, the gross national product (GNP) per capital in the U.S. was nearly $7,900; in Britain it was less than $3,400. On a per-capita basis, Americans have twice as many cars, twice as many telephones, half again as many TV sets, and a fifth again as many doctors as the British.

"The basic problem is that, over the last 20 years, growth has been steady but lower than, for example, in the U.S.," says Mr. Barnett. "Despite that lower level of growth, we have insisted on growth in living standards and services that, to a degree, have not been earned."

Public-sector spending in 1975 ran at nearly eight times the 1955 level in the U.K., although the total economy had grown only a little more than five times.

Public expenditures now equal 60 percent of the gross domestic product, and "this can't go on much longer," one corporate director points out. The private sector has been so weakened and so blocked from restoration that it stumbles under the weight.

Wage earners and industry in the U.S. don't carry that much weight, but they seem to be following in the footsteps of their British counterparts.

And they may not be as far behind as they think.

A few Americans may be aware that purchases by local, state, and federal governments now total nearly $400 billion—between a fourth and a fifth of their GNP. But this does not reflect total expenditures by government, which in 1975 reached $585 billion—equal to 39 percent of the GNP.

The bulk of that differential was consumed by transfer payments for insurance, retirement, unemployment, and other welfare programs which totaled $172 billion in '75.

Transfer payments, for which U.S. governments act as redistribution centers, have soared to that level from $40 billion in 1965. The ratio of these payments to the GNP is now 11 percent—double what it was ten years ago.

If the 60 percent ratio of public expenditures to gross domestic product is too high for Britain, is the U.S. safe with its 39 percent ratio? If its present course takes it to 50 percent by about 1985, will that be safe?

Americans are already being forewarned by internal events that public services do have limits. The future of the Social Security program is in jeopardy. The maximum tax paid by both employee and employer rose from a nominal $30 in 1937–49 to $84 in 1956, $277 in 1966, and $895 in 1976. Yet, revenues fell $5.4 billion short of the benefits paid in '75.

The financial crisis in New York City serves as an even more dramatic warning that there are limits to government services.

Overload of services snuffs out productivity

Increased public spending has drained money from Britain's private industry, potential investors, and skilled working people. And taxes, laments one tool and die maker, are one of the biggest causes of inflation. He earns 67 pounds a week—50 percent more than he did a few years ago, but his take-home pay has increased only 28 percent.

Britain's progressive income tax structure, which ranges up to 83 percent maximum rate, has an immeasurable effect on people's ability to save and invest and on their incentive to advance and take on more responsibility. A person earning the equivalent of $10,000 a year finds himself close to the 50 percent tax bracket.

There's still a strong feeling in Britain that labor must wrest power from the "owners," says an American observer of the U.K. The labor government, from 1964 to 1970, progressed dramatically toward solidifying the welfare state. The prevailing view was: industry is in search of profits with no regard to anything else.

In the U.S., too, both profits and above-average individual earnings are often used as political targets. Zealousness to equalize incomes rips into the investment or seed money of a nation. The U.S., with its fast-growing economy, has not been subjected to these pressures as much as Britain has. But with the prospect of slower growth in the decades ahead, it can expect increased demands for income or wealth redistribution.

When each price and each wage has more and more tax built into it, it tends to rise. And Britain's inflation rate has been cause for concern for years. Consumer prices have quadrupled in the postwar years. (In the U.S., they have doubled.)

The pound sterling—once the benchmark for currencies around the world—has steadily lost value. It slipped from a pre-war $4.80 to about $4 at the end of the war and to $2.80 by late 1949, reflecting the ravages of war, welfare, and loss of empire. It was devalued to $2.40 in 1967, ranged above that during the early seventies, but fell to below $1.60 in 1976. The recent slippages reflect a basic failure of Britain—the failure to create wealth as fast as it was consuming it and to stimulate a demand for products bearing pound sterling pricetags.

Devaluations have served only to cover up problems. As the devaluations lower the relative price of Britain's exports, they also raise the price of its imports. "There is no full pass-through," says Al Dittrick, vice president, manager-Europe, Republic National Bank of New York.

Another American observer notes that in a previous round of devaluation many British manufacturers merely adjusted the price of their exports. Rather than let the effective price fall, they enacted price increases to offset the devaluation. Furthermore, this analyst points out, price was not the chief reason for the insufficiency of British exports. "They are not designed or marketed in a manner that creates a 'pull' for them."

WORKSHOP NATION

Britain regards itself as a "workshop nation." Even life's essentials—food, clothing, and shelter—involve it in international competition. It must import most of its raw materials, and it must pay for them with exports of manufactured goods or international services such as transportation or insurance.

"Britain has to live on what it produces," observes Drago Volowsek, director-axle operations worldwide, Eaton Corp. "The U.K. is in a post colonial state. It used to have the power to dictate world trade. The world still thinks of British products as firstclass, says this manager who has worked in many countries, most recently in the U.K. But the British are slow to market their goods and sometimes they can't supply them once demand has been established, he says.

One raw truth is making itself felt throughout Britain: the nation is not producing efficiently compared with other industrialized nations.

Britain's situation is a "function of productivity," says Lionel "Len" Murray, general secretary, Trades Union Congress. He thinks the productivity problem has many causes:

"Deficient management in industry." And this applies to some trade union leaders, too, he adds.

"Failure on the training side." The educational system is not preparing people for work in industry.

"Class relics in our society." Class distinctions are fading in industry, but some of their effects linger on.

"The serrated curve of stop-and-go economics."

"Unions, or working people, have sometimes resisted change when growth was slow and there were threats to employment.

"Lack of investment in manufacturing" and improperly used investment.

FOR WANT OF INVESTMENT

Talking with workers, managers, or government officials in Britain today, one repeatedly hears expressions of the need for investment.

At Glacier Metals Co. Ltd., J. I. Hampshire, director of industrial relations says, "We're paying now for the lack of investment."

Across the room from him, George Hawkins, chairman of the shop stewards committee and a leftist, considers Britain's relatively low wages and other conditions and concludes: "Our production must be too expensive."

Although people seem to be nearing a consensus that investment is the key to the long-range solution of their economic ills, agreement has yet to be reached on how to stimulate investment and where to apply it.

"Profitability of the industrial sector has been in a long-term decline," says the Div. of the Treasury. Return on capital is less than half what it was a decade ago.

The annual growth rate of fixed investment fell from 5.7 percent in the 1960s to 0.75 percent in the 1970–75 period, notes the Organization for Economic Cooperation & Development. And manufacturing, which accounts for about half of this investment, has been downtrending since 1970.

In the late sixties, the Labor government advanced the welfare state at the expense of industry, says an American observer. Companies had inadequate earnings to plow back into investment. Managers and salesmen were overtaxed and underpaid. "The idea of economic reward for inventiveness and effort had disappeared."

In 1970, when the Conservatives returned to power, Prime Minister Heath tried to create a counter-revolution by tending to the needs of business. By the end of 1973, a boom was in full swing, the inflation rate was held to 7 percent, and an incomes policy was in effect.

But the miners defied the incomes policy and demanded a 35-percent wage increase. Ancient class hatreds received part of the blame, and some observers believe the Communist element in the union egged the miners on, hoping to break the government.

LABOR MANIFESTO

"Who runs the country, government or the unions?" Mr. Heath asked. His answer came in an election which his party lost. A minority Labor government came to power. After seven months, Prime Minister Harold Wilson called for another general election and solidified his power by picking up more popular votes and more seats in Parliament. The labor unions had demonstrated clearly that they were now the key to political power.

While out of power during the early seventies, the Labor Party had adopted a manifesto which was so far to the left that it quite likely did not reflect what the majority of the party members actually wanted. But when the party found itself in power in 1974, the manifesto was its only platform.

Another development in early 1973 that pulled government farther from industry was the groundwork laid by the Trade Unions Council for what was to become a year later

a "Social Contract" with the Labor Party. This offer of cooperation in the attack against inflation committed the government to an additional extension of social services, further nationalization of industry, more equitable sharing of wealth, and maintenance of employment.

To outsiders, the ensuing situation strongly suggested that the British tradition of responsible government was being discarded. The whole tenor of the manifesto was the redistribution of income and the destruction of private wealth.

Unions "went wild" in their wage demands. Other workers fell behind as consumer prices leaped 16 percent in 1974 and were racing at the breathtaking pace of 30 percent as 1975 began. The Social Contract was not working.

Pay for some workers was being permitted to soar with no ties to productivity improvement, observes John Pearson, Management/Union Relations Dept., Industrial Society. The Labor government had been talking about productivity, he says, but rather than cooperation there was conflict.

A welcome breakthrough came in the form of an agreement by the Trade Unions Council to get unions to support a six-pound-a-week limit on pay increases for the year beginning Aug. 1, 1975. The voluntary limit worked. Weekly wage rates, which had advanced nearly 34 percent in the second half of 1974, eased to a little over 30 percent in the first half of 1975 and to 24 percent in the second half.

The limit on wage increases succeeded in reducing the inflation rate to 13 percent in 1976 from 24 percent in 1975. And, beginning in August 1976, a second round of wage limits held pay hikes to 5 percent (about half the increase allowed under the six-pound-a-week limit).

By late 1976, the stout-hearted British people were fed up with the wage limits but bearing up under them. They were falling behind the rate of inflation and making very apparent reductions in their standard of living. Unemployment had jumped to a post-war high.

An American can't help wondering whether his own country would be willing to make similar sacrifices. By comparison, the U.S. experience with inflation has been mild and even with mandatory wage and price controls—rather than voluntary limits—sacrifices were not extreme.

WRONG PRIORITY?

When any nation turns its attention to crushing inflation, one must ask whether symptoms or causes are being treated.

In Britain, wage rates aren't the basic problem. Productivity is. And the flat wage limit aggravates that problem. Earners at the bottom of the scale are pulling closer to those up the line. Together with the progressive income tax, wage limits are compressing the differentials between management and worker and between skilled and unskilled workers.

"The lack of pay differential will destroy British industry," warns Glacier Metals' Mr. Hampshire. It hurts the young developing workers who are locked into lower pay than the less productive people working beside them, he points out.

"Our priorities seem to be wrong," says Industrial Society's Mr. Pearson. "We're working on inflation, but we haven't done anything about productivity."

Mr. Barnett, as a member of the Labor Party which is struggling to maintain union support while facing economic realities, says, "For the short term, inflation fighting had to take priority. We have had the good fortune of a Society Contract with the trade unions," he says, referring to the ability to hold things together despite high unemployment, 13 percent inflation, and cuts in living standards.

The Labor government is further risking the loss of labor support by trimming public spending. The proposed cuts are not as drastic as might be expected and are still largely out into the future. "We could not have a crash program," explains Mr. Barnett. "To attempt massive change would have been an enormous threat to social cohesion. We didn't try big cuts in 1975 because, with the world recession, we would have had a huge hole in the economy, huge unemployment."

When Britain sought approval for a $3.9 billion International Monetary Fund loan in 1976, there was much suspicion that it would be forced to drastically change its economic strategy. But Mr. Barnett believes: "They are not going to insist on our doing something that we would not want to do politically."

Another outside organization, however, has expressed concern about Britain's economic direction. The Organization for Economic Cooperation & Development suggested that Britain study the "desirability of reducing the public sector's share of total resources in the medium term, thus ensuring sufficient room for the growth of productive investment. . . ."

CAN STRATEGY PROVIDE THE SPARK?

Since late 1975, the government has been pursuing a strategy designed to shift resources into productive investment and exports. Even labor, in its own way, wants to assist the process of investment.

At the planning or policy-making level, the government has revived the National Economic Development Council (NEDC)—a body established by the Conservatives in the early 1960s.

NEDC selected 30 industries for study because they are key elements in economic development. Not all of them will necessarily be favored; some may even decline in importance in the long run.

Each of these sectors (the list has grown to 39) has a working group representing labor, management, and government. Hopefully, the industries will benefit from these parties working together and learning to appreciate one another's problems.

"In the first stage, we were looking at the short term; we were looking for possible bottlenecks and how to deal with them," says a Dept. of Industry official. "The market hasn't worked sufficiently well to give us the results we need in terms of a rate of growth. Thereafter, we want to move into a higher gear to get the sector-working parties to see how they may be expected to develop over the next three to five years and what strategy is appropriate for them."

As the working parties study industrial relations, export potential, market share, competitiveness, and so forth, some problems may work themselves out. But primarily, the government intends to aggregate the findings to "get a clearer picture of where our strengths and weaknesses are and where government policies may be best applied."

The Confederation of British Industry, representing private industry, favors this voluntary planning by sectors to improve productivity. And it says it will "take account" of any strategies developed. The question is whether it will support any national plans that could stem from the NEDC findings.

American business managers may one day find themselves in a similar position. Some of them favor such things as a national energy policy or a national materials policy. But, although they would welcome a sense of direction and some guidelines, they fear that government would step into the driver's seat.

Crowded in by environmental considerations and natural resource limitations, the increasingly interdependent sector of American society wonder about the need for national planning. In fact, a national planning bill has been under consideration.

As the U.S. fashions any kind of forum or agency for coordination or planning, it can draw some lessons from the U.K. Bogged down in plans that didn't work and in plans yet to come, British industry has been forced to inch forward in tentative defensive steps. Up and down cycles of business brought on by political changes have discouraged long-range capital investment programs and manpower planning. It has meant a misallocation of investment, resulting in the ability to deliver goods not needed and an inability to meet delivery dates on goods that are in demand.

PUBLIC GOES PRIVATE

The new industrial strategy employs a device that goes beyond studying and planning.

The National Enterprise Board (NEB) was established in 1975 "to assist the economy of the U.K., to promote industrial efficiency and international competitiveness, and to provide productive employment."

NEB is a public company designed to invest in private industry. With a billion pounds in hand, its top officials say they intend to get a "good return" on the taxpayers' money. They make no bones about going after an equity interest in high-potential ventures. Although NEB can afford to take "the longer view" and invest for long-range potential, it will not support lame ducks, its officials say. Its biggest holdings so far, however, were inherited from government—the troubled British Leyland Ltd. and Rolls-Royce (1971) Ltd.

The stated strategy calls for NEB to inject capital into promising industries and provide the expertise to help manage firms in which it takes an equity interest. But the Confederation of British Industry doubts that any independent body can possess sufficient expertise to share in the managing of a large group of companies.

The missions of the NEB could conflict with one another. British labor could push the government into pressuring the NEB to create jobs and forget about promoting efficiency.

In its "Economic Review" last year, the Trades Union Congress pointed out "The Industry Act of 1975 [which created the NEB] is quite specific in putting employment creation on a par with purely financial objectives. The NEB's employment creation role will be particularly important in the coming few years."

The NEB, then, could become a means of propping up unproductive industries in order to preseve payrolls. It could be sidetracked from fostering viable, competitive industries which provide jobs that pay their own way.

"Britain's prosperity and welfare depend on the wealth generated by its industry. . . . We need both efficient publicly owned industries and a vigorous, alert, responsible, and profitable private sector," the current government has said. In a 1974 paper, "The Regeneration of British Industry," it said: "The government's main proposals for extending public ownership were set out in the manifesto on which the Labour Party fought the last general election and are now being presented to Parliament and the public. . . . They include proposals for community ownership of development land, the establishment of the British National Oil Corp., the nationalization of the shipbuilding and aircraft industries, the extension of public ownership in the road haulage and construction industries, and schemes for bringing commercial ports and cargo handling activities under public ownership and control."

In the past, industries which came under public ownership were of a utility nature, heavily regulated, or in economic trouble. In the late 1940s, there was a wave of nationalization in coal, electricity, gas, and trans-

portation. In the late 1960s, the iron and steel industry and freight services saw large segments bought for the public. Greater public control of offshore oil and gas came in 1975. Next in line: the aircraft and shipbuilding industries. And the NEB could lead to public ownership in any industry.

UNACCEPTABLE POWERS

The Confederation of British Industry charges that the NEB holds some unacceptable powers and that its extension of government ownership into profitable industry smacks of political ideology. Although some people view the NEB as a compromise between the ailing private system and nationalization, others see it simply as "backdoor nationalization."

Americans don't like the word "nationalization." It's not politically smart for them to talk about it. But they have moved toward it with the establishment of Conrail and Amtrak. And legislation has been proposed for a government-owned oil company. Increasing regulation in shoving utilities toward government control, if not government ownership. Even the U.S. auto industry finds its product increasingly dictated by government.

When an industry is heavily regulated in product or price, judged irresponsible, or loses its economic viability, it becomes ripe for nationalization in many Western nations.

It can even be argued that nationalization can shore up that industry to preserve the remaining private sector. But change in the form of ownership does not in itself ensure the viability of an industry. In fact, Britain's nationalized industries rank at the bottom of the list in productivity compared with their counterparts on the continent.

A nation cannot hide its inefficiencies. They spread into the fiber of other industries, and eventually the nation faces a test from the outside: the world market.

NORTH SEA OIL

The likelihood of becoming self-sufficient in oil by 1980 will greatly help the U.K.'s world competitiveness—at least insofar as that cost advantage can offset some other inefficiencies. North Sea oil is already lifting Britain's morale. The national pride generated by the impressive engineering feats and skilled management that brought the fields on stream on an accelerated schedule may bring a higher regard for the productive sector.

On the other hand, the development could be detrimental if it serves merely to cover up continuing inefficiencies elsewhere in industry. Nor can North Sea oil offset stagnation in investment and organization.

Britain has reached the chicken-or-the-egg situation as to pinning the blame for inadequate investment. Does public ownership have to be extended because investors don't want to put their money into Britain's industries? Or are investors unwilling to put their money there because of the poor opportunities for good return and the threat of nationalization?

British-based multinational companies are accused of not supporting the home economy. "There's a great suspicion that our multinationals have withheld investment in the U.K. and accelerated it elsewhere as a judgment on the political and economic climate," says Dr. John Stopford, professor of business policy, London Graduate School of Business. "It's fearsd that, because they've got the foreign option, they've been damaging to the prospects of . . . recovery.

Dr. Stopford, who has extensively studied multinational companies, believes that this charge is "without foundation. The rate of investment among the British-based multinationals in the U.K. has been far higher than it would have been had they not been international companies. Most leading companies are more profitable outside the U.K., but still the major share of the investment is in the U.K. despite the profitability gap."

But the strengths that accrue to some industries through international operations are as hard to explain in Britain as they are in the U.S. These companies are often accused of exporting jobs, although their net effect is beneficial to the home economy.

Dr. Stopford cites another important contribution of the multinationals. "Given the fact that we're a fairly low mechanical country—our demand for machines of the newest type is lagging behind—we need to have a manufacturing and design presence abroad to keep up with the latest developments in industry which we can filter back to the U.K. much faster through a multinational system."

Britain is hospitable to multinationals based elsewhere. And foreign-owned operations have helped Britain. A study by J. H. Dunning and R. D. Pearce of the Economist Advisory Group shows, for example, that U.S. affiliates in British manufacturing accounted for 12 percent of all production there in 1973–74. Over the last 24 years, they say, U.S. affiliates have consistently earned higher rates of return on capital than their U.K. counterparts. They also export a higher percentage of their output.

However, a number of the U.S. managers with plants in Britain are unhappy with their operations there. Some say they are considering pulling out; others admit they'd like to. The reasons range from the weakness of the British home economy to a productivity situation that restricts competitiveness in exports to the continent.

AIR NEEDS CLEARING FOR SHOP FLOOR PROGRESS

The productivity problem in Britain is more than a matter of who is investing and how much. Virtually every ingredient for poor productivity is there.

Industrial equipment is largely obsolescent. Plant layout and material handling are relatively inefficient. Many companies lack management depth; their top layers may be competent, but the middle level is short of talent.

Communications between labor and management lags far behind that in the U.S. or Japan. Unions abound, and one plant may have to deal with a host of them. Management rigidity, union work rules, and snarls of union "demarkation" or jurisdiction stand in the way of job redesign. Overtime is widely practiced as a means of earning a passable week's pay.

"Before we go a long way down the road to really productive industry we need a lot more shop floor education," says Dr. Stopford. In Britain, industry's poor image, as well as the poor image of the manager, the engineer, and the skilled craftsman impair efforts to revitalize operations. "As a nation that is trading on its technological skill, it is a curious paradox that we have such low regard for our technologists," he notes.

GRASS-ROOT TROUBLES

Regardless of the form of ownership and the amount of capital investment, British industry will become productive only through the efforts of an enlightened, energetic, and involved workforce. Without changes in job structure, corporate organization, and equipment, no progress can be expected.

Unfortunately, people tend to get "dug in" during a period of rising unemployment. They don't want to change jobs, and they don't want their jobs redesigned.

"So it's very hard to be optimistic about major changes on the shop floor in the short run when you have an economic situation that inhibits that development and a trade union development that has got to work through a little longer before the leaders want to come back down to the grass-roots level," Dr. Stopford says. It's difficult to explain that you don't create jobs by being less productive than other countries, says Mr. Barnett, Chief Secretary to the Treasury.

Despite Britain's economic ills over the years, unemployment has, until recently, remained well below the levels of other industrialized nations.

This year, unemployment could climb well past 2 million. The rate reached about 6 percent of the labor force late in 1976 versus a 4 percent average in 1975 and a 2.6 percent average for the preceding decade.

As in the U.S., unemployment has not put an end to recurring shortages of skilled labor. "A shortage of skilled labor is consistently important factor affecting the level of all industrial output in the U.K., says Gerry Eastwood, general secretary, Assn. of Patternmakers & Allied Craftsmen, in a study done for the British-North American Committee.

"The shortage is caused partly by overmanning, which is as much an indication of weak management as it is of strong unions," he concludes.

If that criticism strikes a familiar chord to Americans, the other causes of the skills shortage will draw even more nods of recognition:

The education system is not preparing people for industry and, in fact, fosters a strong anti-industry bias.

There is only a nominal wage differential between the apprentice skilled tradesman and a manual laborer.

There has been a decline in pay differentials between skilled and unskilled workers.

Workforce immobility must also be added to that list. An inadequate supply of housing—aggravated by rent controls and high interest rates—has shackled workers and managers for years. To meet the problem, which it helped to create, government has been in the housing business for a long time. Nearly a third of the dwellings in the United Kingdom are rented from public housing authorities. A worker often cannot move to a new job location because there is no housing allocation for him. Or a company may lose a good employee if he finds he can get better housing by taking a job in another city. Many people are reluctant to move from a flat where they are protected by rent controls.

INDUSTRIAL DEMOCRACY

The down-to-earth problems of workers in British industry will require more attention if the productivity crisis is to be turned around. The trade unions are out to get that attention with their drive for "industrial democracy." Two prongs of the attack: worker representation at the company board level and disclosure of information to employees for use in contract negotiation.

A high-level committee is conducting a broad study of industrial democracy to determine what legislation should be recommended. There is widespread recognition that industry could benefit from more participation by workers in some decision-making. In comparison with the U.S., workers have little to say in the day-to-day management of their work. Shop floor communications is poor, many managers admit.

Greater work participation may help, but the matter should be approached at the grass-roots level, not rammed down from the top via legislation, most managers and even many labor unionists feel.

"We need experimentation before legislation, not arbitrary imposition of laws based on conditions quite different from ours," Sir Frederick Catherwood, chairman, British Institute of Management, told the inquiry group last summer.

But pressure for and examples of worker participation on company boards are spreading from the continent. The two-tier board used elsewhere in Europe seems to be an unlikely bet for British acceptance. Even a one-board structure with workers serving as directors doesn't seem to have much support. The labor unions themselves are divided over the issue.

Unionist Mr. Hawkins at Glacier Metals,

who regards himself as a leftist, is "utterly opposed" to worker-directors. Like many labor leaders, he favors "strong and fair union control and strong and fair management." They fear that worker representatives on the board would lose their identity as workers and would have to be party to decisions not always favorable to employees.

Headway is being made on the disclosure of information to employees. Some companies are beginning to inform all employees about company performance. By U.S. standards, these employee communications efforts are fairly primitive. But they symbolize good intentions.

At Eaton Ltd., Roy Rushton, director of U.K. personnel, says, "We should educate our people, not because of legislation, but ahead of it." He adds. "We have to separate communications and negotiations."

Many—but not all—American managers recognize that an informed, involved workforce is essential both for productivity improvement and for establishing a climate in which a profitmaking company can survive.

MANAGEMENT WALKS A BED OF COALS

Britain's history of poor communications and confrontation stemmed from management's being drawn largely from the aristocracy. Britons joke about the idiot-son manager. Well-to-do families steered their accomplished sons into government, law, the clergy, medicine, or science; running the plants was left to the "idot sons." No special education, No special education, they thought, was needed for management.

Although trade unionists sometimes resurrect that class relic, the more enlightened of them say this has all but faded out. "There has been a significant improvement in management over the last 20 years," says Mr. Murray of the Trades Union Congress. "Nepotism is not as bad as it was."

"A totally new generation of management is breaking up through to the boardroom," says Allan Gregory, a director of British Petroleum Co. Ltd. "Management is becoming more dynamic, more open-minded," observes Republic National Bank's Mr. Dittrick.

"What we are witnessing today is an important change in the role of the manager. Years ago, he was often something of an autocrat, firing and hiring at the snap of his fingers. Those days are gone and will never return. Today, we no longer live in a hierarchical society. The manager's role is nowadays more complex and difficult. In the modern enterprise the manager must be even more of a leader than before. . . ." The observer: Prime Minister James Callaghan.

"Managers now have to justify things that were formerly taken for granted," comments Mr. Murray.

"I find that when I go to the States their communications within the firms are much better," says an official in the Dept. of Industry. "U.K. managers are rather more shy and reserved than the American. This has resulted in less readiness by managers to go on the shop floor and talk to the chaps and tell them what the firm is doing, why it's doing it, what it means. But that's changing."

WHO WANTS TO MANAGE?

Transfusing new blood into management ranks doesn't promise to get easier. The lack of adequate pay differentials discourages new management candidates and dampens the incentive to advance. Real take-home pay for managers is less than in continental Europe because of taxes, says Mr. Murray. "We've got to do something about tax levels for upper and middle management, but how can we cut workers' income to relieve upper incomes?" puzzles Mr. Barnett. Mr. Murray figures that the best people, the innovative managers, take a promotion because of the challenge; "Salary comes second."

A fairly broad anti-business sentiment has caused too many bright young people to turn from industry to public-sector jobs. Even government and trade union leaders realize this is a situation that needs correcting. "We need to pay more esteem to those in our society, whether in management or on the shop floor, who are responsible for the function of production," says Prime Minister Callaghan.

Until British industry attains a greater depth of management, many of its self-admitted faults will be perpetuated.

"If you're looking at the best of management, you'll find plenty of it here," says Dr. Stopford of the London Graduate School of Business. "But we don't have the depth of skill here. We don't have the same kind of teams as in the U.S. Management structure is more rigid. Functions are specialized, and persons in one function don't know much about the other functions.

"It is often said in this country that we're very good at research, but the transfer of new-product and new-process ideas into hardware is, by and large, badly done when measured against the international competition."

At the British Institute of Management (BIM), director-general Roy Close says it's his impression that "U.K. managers are no less efficient than managers anywhere else. They may be more resourceful. They are not quite so detailed or systematic in their approach.

"It's often said that we're not expert in marketing. I'm not sure this is so. A lot of companies have moved successfully into international marketing. Maybe we don't put as much resource into marketing," he allows.

"We're good engineers, chemists, and accountants, but not managers," argues John Pearson at the Industrial Society. For one thing, "we're ineffective in the way we plan and organize our work."

The British are frequently criticized for poor deliveries, for overselling their capacity, and for failure to adapt products for foreign markets.

ENDLESS PUZZLE

Although management admits to some of these faults even during the best of postwar political conditions, much of the blame for poor management practices has to fall on the twists of the economy.

"Tight exchange controls and the opening and shutting of the door on economic growth have caused business to be continually puzzled on whether to expand or modernize," says Republic National Bank's Mr. Dittrick. "It has been hard to get money out to set up business elsewhere and capitalize on growth in other countries."

In the U.S., too, managers have increasingly looked to Washington for turns in the business picture. In both countries, one can see business increasingly reacting to business conditions rather than shaping them.

The more politics determines the business outlook the less effective business planning becomes. A company following the conventional business signals may find itself investing too much or too little.

Unless Britain includes the business manager in its strategy for industrial regeneration, it will leave a large part of the productivity problem unsolved.

"There is a feeling of frustration—certainly at the middle and junior level of management," says BIM's Mr. Close. To turn frustration into positive action, the institute last fall changed its constitution to permit it to present the views of managers to government and to work for greater recognition of the importance of the manager's role.

Sir Derek Ezra, BIM's chairman, says that because this role is vital to economic recovery, managers "should be among those consulted in the formulation of major policies. In such matters as the strategy for industrial regeneration, the more efficient use of resources in both the public and the private sectors, and the move toward a greater participation of employees in decision-making, success will largely depend on the understanding, commitment, and competence of managers."

Management's views, if sought, certainly will not carry the numerical weight of the trade unions, which represent half of Britain's workers—including many managers. But increased recognition of the contribution that management can make to the very things labor is seeking may change the color of industrial relations.

UNIONS SET WRONG KIND OF FIRE

Industrial relations in Britain is too politicized, says Kim McKinlay, assistant secretary, Union of Post Office Workers. "It's based on confrontation. Management approaches it that way, and the unions like to feel they are banding together." That attitude stands in the way of genuine communications, she believes.

This confrontation has carried the unions into the political arena. On that count, British and American history differ widely. U.S. labor unions have made a "special contribution" to economic and social history, says Sir Reay Geddes, chairman, Dunlop Holdings Ltd. "About 100 years ago, workers combined into labor unions. In Europe, the tensions developed—as in Italy and France—into political parties pledged to replace competitive enterprise or—as in Sweden and Germany—into a tendency toward workers' control. Both affect Britain today, and the latter may prove the more seductive. But, after a rough start, you avoided both, ensuring that your labor unions, like almost all your minority groups, want to be more fully in the system, rather than to pull it down."

The awesome power of British trade union leaders contrasts with the arms-length relationship of U.S. labor leaders to politics. But Americans have no reason to believe that this will always be the case. The '76 elections saw the backing of labor unions go a long way in putting a number of candidates in office. And the AFL–CIO's George Meany soon made it clear that labor has some ideas that it expects to receive attention.

Most union members, in both Britain and the U.S., don't want to run the political system through their unions. They don't share identical political views, for one thing. But they are heavily influenced by what union leadership says. And they tend to follow their leaders' suggestions in voting.

Despite the apparent pipeline to power in Britain, many workers feel they are not represented. They fall both to the left and to the right of the Labor government.

VOCAL MINORITY

"'Apathy' might not be the right word," says a British union official, "but most union members have permitted a vocal minority to spearhead union activity." Another trade unionist says, "The left-wingers are the ones who keep the meeting running so late that the rest of us go home; then they put themselves into power."

For one reason or another, people have let union officials determine how they will vote, says Ms. McKinlay. "But if people voted the way they really felt, things would be different. The rank and file have an awareness of the problems today." If there was a violent change in political-economic direction, "this country would go right, not left," she asserts. "Idealistic luxuries would be forgotten."

Phrases such as "workers owning the means of production" are in essence simplistic, she charges. "Even if everyone does own them through the government, you would still have the 'haves' and the 'have-nots.' Sure, you have to harness things so everyone can have a reasonable life, but you have to

leave room for incentives for individual growth or the whole system breaks down."

Productivity depends heavily on what is worked out at the grass-roots level between labor and management. When industrial relations become politicized by government's stepping into the bargaining or by union control of government, productivity is in danger of becoming a forgotten issue.

LESSONS IN PROGRESS

One can be critical of Britain, because Britons will readily supply the ammunition, pointing out their own faults. Their awareness of the problems and their willingness to swallow unpleasant medicines strongly suggests that "there will always be an England."

Just as Britain led the world in the Industrial Revolution it tried to lead the world to the post-industrial state. It made a bold attempt at massive social welfare programs that overtaxed its industrial sector.

The U.S. should learn from Britain that a powerful industrial machine cannot be neglected or taken for granted. It should learn, too, that no matter what is determined at the national level, productivity depends on the performance of individuals. Britain has demonstrated that if a nation attends only to man's problems it can destroy his opportunities.

Its people are coming to realize that unless a nation becomes more efficient in its production of wealth its standard of living cannot rise.

U.S. concern over Britain's future should not dwell on whether it will avoid economic disaster in the short term. It should stress: what have Britain and the U.S. learned for the long haul?

As the Assn. of Patternmakers' Mr. Eastwood asks in the conclusion of his study of U.K. labor: "Can the country begin to understand that an efficient and profitable ... manufacturing industry is the essential base on which to build a prosperous and compassionate society?"

NATIONALIZATION TIMETABLE

1940—British Overseas Airways Corp. took over operations of two private lines.

1946—British European Airways established. Together with BOAC, became divisions of British Airways in 1971.

1946—Entire stock of the Bank of England was acquired by the government.

1947—Coal mines passed into public ownership under the National Coal Board as a result of the Coal Industry Nationalization Act of 1946.

1947—Transport Act brought the railways under public ownership as a single enterprise—British Railways.

1948—Municipal and private electric utilities were vested in the British Electricity Authority after acquisition under the Electricity Act of 1947.

1949—The gas industry came under public ownership through the Gas Act of 1948.

1966—British Airports Authority was created to own and operate three London airports and one in Scotland.

1967—Iron and Steel Act brought 13 steel companies into public ownership and created British Steel Corp.

1968—National Freight Corp. was established to operate road and intermodal freight services.

1969—Post Office Act transformed a government department into a public authority. (The Post Office also operates the nation's telephones and telegraph systems.)

1971—Most assets of Rolls-Royce Ltd. were transferred to a publicly owned company, Rolls-Royce (1971) Ltd., for the manufacture of aircraft engines.

1975—Aircraft and Shipbuilding Industries Bill proposed to take a large part of those industries into public ownership.

1975—Petroleum and Submarine Pipelines Act provided for greater public control of offshore oil and gas resources.

ENERGY SUBCOMMITTEE HEARINGS—"ENERGY INDEPENDENCE OR INTERDEPENDENCE: U.S. POLICY CHOICES"

Mr. KENNEDY. Mr. President, at hearings on U.S. international energy policy last week, the Subcommittee on Energy of the Joint Economic Committee heard testimony on alternative strategies for this country gaining access to assured supplies of imported oil at reasonable prices. Assuming, as I do, that the United States will be dependent upon imported oil for a significant portion of its petroleum needs, it is essential that we develop a far more coherent and consistent policy toward oil-exporting countries, as well as working more closely with our fellow oil-importing nations and the developing countries.

The witnesses who appeared before the Energy Subcommittee last week set forth a range of policy choices that should be considered in formulating such a policy. These witnesses included:

Howard Kauffmann, president, the Exxon Corp., New York, N.Y.

Anne Carter, Professor, Brandeis University, Waltham, Mass.

John Sawhill, president, New York University; former Administrator of the Federal Energy Administration.

John Sewell, Vice President, Overseas Development Council, Washington, D.C.

Paul Davidson, professor, Rutgers—the State University of New Jersey, New Brunswick, N.J.

I ask unanimous consent that excerpts from the testimony of these witnesses who appeared before the Energy Subcommittee on January 13 be printed in the RECORD.

There being no objection, the testimoney was ordered to be printed in the RECORD, as follows:

STATEMENT BY JOHN C. SAWHILL

The issue of how best to ensure that the U.S. national interest is protected in commercial transactions with oil-producing countries has never been more important. The domestic economic and foreign policy implications of oil dealings make petroleum far more than simply a commodity. And, they make it far more likely that the public and the private interest will diverge in negotiations for foreign supplies. The U.S. Government's concerns of necessity go beyond such variables as price, sulfur content, and refining characteristics, and encompass a whole range of political, economic, and national security interests as well. These include the damaging impact of higher oil prices on the economies of many of our OECD allies, the potential disruptive effects on international finance and international political stability of the mounting debt burdens being incurred by the non-oil producing LDC's, and the increasing vulnerability of the major oil importers (including the U.S.) to another oil embargo.

It is not difficult to cite cases where public and private interests might diverge. For example, a given oil company or group of companies may prudently seek to assure a stable, long-term source of supply from one country and might make certain concessions in the form of higher prices in the interest of insuring supply continuity. From the company's point of view, the absolute level of prices is less important than that the terms of acquisition be no worse than its competitors. Actually, a sharp reduction in prices could even be detrimental in the short run since it would result in large inventory losses. The interest of the U.S. Government, on the other hand, might be to maintain diverse sources of supply and to do everything possible to reduce prices. The Government and the companies in this case, therefore, would approach the problem from an entirely different perspective and employ quite different negotiating strategies.

Historically, the companies dominated international oil negotiations. Today, however, control of world oil supplies and prices has passed into the hands of the oil-producing countries. As a result of this change in the balance of power, it is probable that noncommercial factors will be increasingly important in determining oil prices and production levels, and for this reason, there are both short-term and long-term reasons why Government must make its presence felt more strongly at the international oil bargaining table than it has in the past. In the short term, our undue reliance on imports from the Arab States makes both our domestic economy and our foreign policy vulnerable to manipulation by these states. For example, it is probable that the price of Saudi Arabian oil next fall will be determined less by market conditions than by the progress in negotiations on a Mid-East settlement. The point is that we are dealing with more than just an economic cartel, and the U.S. Government brings more chips and a different perspective to the bargaining table than the oil companies. Whether these chips represent arms sales, diplomatic initiatives, or agreements affecting international investments and technology transfer, the higher stakes of today's oil game suggest that they be more visible in negotiations than previously.

There is a longer-term problem, too, with which the government must concern itself. We must find alternative sources of energy to sustain the world economy in the next century, when oil and gas supplies are depleted. If we do not, we will have great difficulty in maintaining a rising standard of living, once liquid hydrocarbon reserves are exhausted. It is essential that the government begin now to plan for this transition to a new energy base. Part of this planning will necessarily involve the type of commercial contracts we should establish with the oil-producing countries in the intervening period. In the years ahead, we will run up against natural rather than contrived production limits among oil producers. If we should decide as a matter of national policy to see our domestic petroleum reserves stretched as far as possible for future use in petrochemicals, pharmaceuticals, and other non-energy applications, we will necessarily be asking others to deplete their supplies more rapidly than might otherwise be the case. Such a strategy would require delicate and far-ranging negotiations which would require significant government involvement.

The question before us then is that given the new world energy realities, how best might private industry and government participate, and with what relationship to each

other in dealings with foreign oil suppliers? There is no question that the government-industry relationship which has prevailed for so many years—and on balance served the public interest quite well until the late 1960's—can and must change. The issue before the country is how to preserve the technical and managerial strengths of the companies while giving a greater voice to government.

It may be that we do not know enough today about the consequences of the alternatives which have been proposed to date to specify in detail the best possible working relationship for the years ahead. It should probably fall somewhere between a government-run oil purchase operation at one extreme or, at the other, simply having the private oil companies provide more complete and timely information on their arrangements with foreign suppliers, existing and proposed. But just where on the spectrum we should be is difficult to answer in the short time allotted for this presentation.

It is clear, however, that we cannot afford to delay new initiatives indefinitely. Congress should begin immediately to analyze how a government-run oil company might work, studying the experience of foreign governments such as Canada, Italy, and Great Britain with these arrangements and determining the relevance, if any, of their experiences in the American context. Why did other countries first exercise this option? How have they operated domestically and internationally, and what has been the scope of their activities? How have their operations been monitored or supervised? How have their goals been met and how have these goals evolved over time? How has the national company related to the private sector? What special strengths or vulnerabilities has it had in dealing with foreign producers? Has the experience of other countries with national companies shown that it provides the way to bring the political and economic clout of government effectively to the bargaining table? Would it serve as a useful "yardstick" for the private sector or would it inevitably substitute for private sector initiatives?

One way to reach conclusions on these issues quickly would be to test them on a small scale. We could construct a prototype national oil-purchasing agency for the limited purpose of building all or some portion of our national oil stockpile. This prototype agency might experiment with sealed competitive bidding and test the effectiveness of this approach as a way of holding down oil prices and widening any cracks which might be forming in the OPEC cartel. Alternatively, it might apply, in awarding contracts, other criteria which are definably in our national interest, both domestic and international. Or, it might purchase a portion of the stockpile through the companies rather than directly from the producing governments and compare the results. In either event, we could monitor its operation closely, and hopefully learn from its experience. The risks of failure are almost nonexistent, and the potential gains as we acquire more expertise in dealing with new forms of institutional arrangements are significant. In the worst case, we would end up building our stockpile more slowly than desirable, and we would learn a great deal in the process.

In the meantime, however, I think it is important that the government learn more about oil company arrangements with foreign suppliers than it does now. The proposed FEA reporting requirements for existing arrangements seem to me reasonable provided that careful procedures to maintain confidentiality are devised. As to documentary reporting on ongoing negotiations, I can understand the oil companies' reluctance to go beyond briefings and consultations to the filing of documents as a matter of routine. I am well aware of how publicity, or the expectation of publicity, can disrupt ongoing negotiations. And I understand that public disclosure could harm not just the competitive position of a given company, but might damage the interest of their country or its allies by inducing face-saving rigidity into the position taken by suppliers, or "leapfrogging" of unfavorable terms agreed to by one company. Nevertheless, I believe it inevitable that government will move to protect the public interest by intruding more into private international bargaining over oil. Intrusion in the form of a government oil procurement agency would be far more burdensome to the private sector than detailed data-sharing would be. If detailed government knowledge of current and prospective arrangements now negotiated privately is prerequisite to an informed decision on creating such an agency, then I think we must insist on generating this knowledge. Of course we should take concurrently every practicable measure to assure confidentiality of individual company data.

Before closing, let me say that the more quickly we can define the new way in which government will make itself felt at the oil bargaining table, the better off we will be. In many aspects of our energy dilemma—power plant siting, strip mining of coal, offshore oil and gas exploration, to name a few—uncertainty over government intent, or vacillating government policy, has paralyzed the industries concerned said stifled initiatives. As a result, our energy problem today is more acute than ever before.

We should set a tight timetable on the study of alternatives, proceed immediately to require reasonable reporting of international oil negotiations, and establish a program to test out government purchasing procedures for all (or a portion of) the stockpile requirements. Any enabling legislation which may be required to implement these steps should be passed within the next several months. In matters of energy policy—and surely this must be a vital facet of that policy—we can no longer afford the luxury of indecision.

STATEMENT OF JOHN W. SEWELL

ENERGY INDEPENDENCE OR INTERDEPENDENCE: U.S. POLICY CHOICES

Specifically, I would like to make the following observations which may be useful for your deliberations:

1. The relationship between the decisions of the members of the Organization of Petroleum Exporting Countries on the price of oil and the proposals of the developing countries for a greater voice in the management of the world's political and economic systems, and for a greater share of the resulting material rewards, is complex and difficult to assess. A positive U.S. response to the proposals of the developing countries probably would not be the dominant factor in future decisions by OPEC on oil prices. However, a continued reluctance by the industrialized countries, and particularly the U.S., to negotiate seriously with the developing countries can provide OPEC with greater freedom for larger price increases in the future.

The experience since 1973 indicates that OPEC countries make their pricing decisions based on a variety of factors including global inflation and the state of health of the world's economy. Their identification with the oil-importing developing countries seems to be a part but not a major factor in these decisions. Yet for reasons discussed below, there is a close political, economic, and psychological linkage between the oil-exporting and non-oil-exporting developing countries and both favor using the power of OPEC to pressure the industrialized countries to negotiate seriously on these issues. Sheikh Yamani made it quite clear that Saudi Arabia's current moderation on price increases should result not only in progress in the Arab-Israeli dispute, but also in the North/South Dialogue now going on at the Conference on International Economic Cooperation (CIEC) in Paris. And indeed many other OPEC leaders from countries who chose the higher price increase have expressed dismay at the lack of progress at the Paris talks.

While a positive U.S. approach to the North/South Dialogue may not in and of itself determine price decisions, a continuing reluctance on the part of the U.S. to engage fully in discussions with the developing countries will give OPEC greater freedom to increase prices in the future. The shaping of a new relationship with the developing countries is of intrinsic importance for the United States, as will be discussed later, but it is important to underline that the members of OPEC are willing to use their leverage to enhance the bargaining strength of other developing countries. And I think it is fair to be concerned that we may see much higher price rises in the future if some progress is not made in the negotiations between the developed and the developing countries.

There also may be secondary benefits from a positive U.S. response to the demands of the developing countries. In the event of another oil embargo stemming from renewed conflict in the Middle East, oil supplies from non-Arab OPEC members will again be of crucial importance to the U.S. In 1976 some 40% of U.S. imports of crude oil came from non-Arab OPEC members. Our leading suppliers from this group—Nigeria, Indonesia, and Venezuela—all put a high priority on the issues being discussed in the North/South Dialogue. To the extent that we respond positively in this area, our relations with these countries will be improved. Finally, a forthcoming U.S. response to the needs of the developing countries may lead to some degree of increased pressure from the developing countries for a more positive OPEC response to their needs. This response, however, probably will not be reflected in the price of oil paid by the industrialized countries but rather in aid and other financial measures for the developing countries. Even then, however, I understand the financial capacity of the major oil exporters to exand such programs may diminish greatly in the future.

2. Both OPEC and the oil-importing developing countries see their continuing alliance as a major asset in persuading the industrial countries to negotiate changes in existing international economnic and political arrangements. This political and economic alliance is enhanced by an intangible psychological and emotional identification that will mean attempts to split the two groups through confrontation will be both unwise and unprofitable.

It is worth noting that the complex series of proposals by the developing countries for a "New International Economic Order", which are now under negotiation between the industrial "North" and the developing "South", did not emerge de novo in late 1973. Rather, they result from a long series of deliberations and discussions stemming back to the establishment in the early 1960s of the Group of Non-Aligned Countries and the United Nations Conference on Trade and Development (UNCTAD). These groupings have brought together a group of seemingly disparate states which now have a coherent and well-formulated series of proposals for change. These proposals are the predictable outcome of more than a decade of fruitless efforts to evoke a significant response from the developed world to what they see to be their central problem: the fact that they are being unfairly treated, in a variety of ways, by the industrial world on which they are highly dependent for their economic well-being. They maintain that by and large they are receiving less for their exports, mainly raw materials and commodities, and paying more for the industrial goods they import. In addition, they feel that very little has been done by the developed world to

remove the obstacles to their access to developed country markets for the increasing amounts of manufactured goods they produce.

The strength of this alliance should not be underrated. Indeed, it is important to realize that the OPEC countries see themselves as members of the developing world and have been perfectly willing to use the leverage provided by the dependence of the industrialized world on their petroleum supplies to support the current demands of the developing countries. There have been a number of attempts to split the two groups, and their cohesion has not been substantially affected by the rather severe impact of higher oil prices on the oil-importing developing countries. It is estimated, for instance, that if the current price increase ends up averaging 10 percent, an additional $1 billion will be added to the oil bill of the developing countries which already are in severe financial distress.

The Ford and Nixon Administrations first sought to break OPEC by denying the oil-importing developing countries any relief from the burdens posed by higher prices for both oil and industrial goods in the hopes they would turn against the oil exporters. Since then the policy has been to carefully separate the issue of oil prices and the negotiations with the developing countries. Both policies have failed. Oil prices have not gone down and the problems of the developing countries remain largely unresolved. Indeed, the recent experience with the Council of International Economic Cooperation in Paris indicates that despite a series of stresses and strains within the group of developing countries, the cohesion between the developing countries and OPEC has been maintained.

3. A U.S. policy which sought to deal with OPEC by strengthening bilateral relationships with individual countries may not necessarily have much impact on oil pricing policies in the absence of a serious domestic conservation program and a variety of other measures, will not measurably diminish the cohesion between OPEC and the oil-importing developing countries, and will not address some of the pressing global problems now facing both developed and developing countries of which energy is just one.

As the linkages between OPEC and the oil-importing developing countries are likely to remain intact, strengthened bilateral relationships between the United States and individual OPEC countries are not likely to diminish their collective desire to force changes in the existing international economic and political systems. Some analysts have suggested an alternative which would be to seek active cooperation with OPEC members and with one or two of the major powers within each geographical region of the developing world. The U.S., therefore, might seek to deal with a group which might include Nigeria and Zaire in Sub-Saharan Africa; Egypt in the Middle East (as well as Saudi Arabia and Iran from OPEC); Mexico and Brazil in Latin America; and perhaps India or Indonesia in Asia. These countries would be considered as surrogates for the remaining developing countries, and the rich and more powerful of this group would be given a greater voice in the various international institutions now dominated by the industrialized world.

This policy, however, still would have to involve concessions on a number of issues now in contention between the developed and the developing countries. Trade and commodity issues, for instance, are important to countries like Brazil and India and for this policy to succeed the current U.S. positions on these issues would have to change. Such a policy would, in my judgment, involve all of the costs of responding to the demands of the developing countries without some of the long-term benefits that could be derived from the global approach outlined below.

4. Relations with the developing countries have to be considered in their own right and not either as an adjunct to our relations with OPEC or, as in the Cold War period, as a derivative of American interests in some other part of the world. Rather, relations with the developing countries should become one of the major concerns of American foreign policy in the years ahead.

The world Americans face in 1977 is in a state of rapid change. Global economic growth and expanding population have put severe strains on the multiplicity of economic and political institutions created after World War II which contributed so greatly to growth and progress among the industrialized countries. At the same time the world's political environment has changed drastically and the developing countries are now demanding a greater voice in the management of and benefits from the world's economic and political systems. There also is a growing realization that the situation of the billion people living in the world's poorest countries will worsen unless special measures are taken by both rich and poor countries to enable these countries to meet the most basic minimum needs of the majority of the people within a reasonable period of time. These developments are forcing a major restructuring of the world's political and economic systems, a restructuring in which developing countries are playing a major role. Therefore, relations with the developing countries must become a major concern of American foreign policy, joining relations with our industrial partners and with the Soviet Union and China as one of the central issues for Americans for the next decade and beyond.

The developing countries will be of importance if the global problems now facing both rich and poor countries are to be resolved by all nations working together. We now are in the midst of slowly creating a new monetary system and negotiating a new regime for the oceans. In addition, there is discussion of the need to consider more comprehensively than heretofore the world's food and energy problems. Many Americans also now perceive that the social cost of problems such as terrorism or the narcotics traffic cannot be handled unless there is cooperation between nations, both rich and poor. We also have a growing economic interest in the economic progress of the developing countries. More of our exports now go to the non-oil producing developing countries than to the members of the European community, Eastern Europe, and the Soviet Union combined. Our exports to these developing countries country's export industries and these industries now provide a large number of jobs in this tries should continue to expand in the future. In addition, the developing countries are continuing to grow in importance as sources of raw materials and consumer goods, both of which can affect inflation in the U.S. For all of these reasons we should consider our U.S. relations with the developing countries as of intrinsic importance and not merely as an adjunct to our relations with the OPEC countries.

5. The U.S. and the Carter Administration have a major opportunity to transcend the current strained relationships between the U.S. and the developing countries, and to take the lead in reforming and restructuring many of the world's political and economic systems so that they provide maximum benefits for all countries, whether developed or developing. One element of such a policy could include a global approach to world energy needs which might have the promise in the long-run of helping to meet this country's need for energy (but not just oil) security.

There are a number of tangible and intangible benefits to be derived from a new U.S. foreign policy which has as its goal what the political scientist Stanley Hoffman recently called "world order politics." It would involve in the case of the developing countries creating a new series of cooperative global policies and institutions which are designed for the needs of the next decade and beyond. These policies will be spelled out in detail in the Councils forthcoming Agenda 1977, but in essence they would involve three elements: first, a response to the proposals of the developing countries for changes in the worlds trade, commodities, and monetary systems; second, a global approach to food, oceans, and energy; and third, a concerted address of the problems of the worlds poorest people, who live mainly within the world's 40-odd poorest countries. To do so would involve a number of changes in current U.S. policies on issues of trade, commodities and debt; it would imply full implementation of the recommendations of the Rome World Food Conference; renewed attempts at reaching agreement on an oceans regime; a global attack on energy security; and an increase in U.S. development assistance focussed on the poorest countries.

A global approach to energy patterned after the approach taken in the field of food may be of particular interest. It would recognize that the goal of energy interdependence is impossible to achieve, but that the possibility of achieving energy security through an approach that more clearly recognizes the realities and opportunities of our energy interdependence is a possibility. It would include the following elements which are drawn from the work of my colleagues at the Overseas Development Council and which are spelled out in detail in an attachment to my testimony. It includes initiation of global energy analysis and planning; cooperation in the exploration for additional fossil fuel resources in order to increase the existing supply, not only of oil but also of coal and other fossil fuels; collective reconsideration of the nuclear option which recognizes the dangers inherent in continuing reliance on nuclear energy; redirecting world energy research and development toward a much greater emphasis on renewable sources of energy which would benefit both the U.S. and give the developing countries an alternative to continued reliance on petroleum; and finally, the convening of a world conference on energy alternatives analogous to the recent U.N. conferences on population, food, and housing. An interdependent approach to energy is not a threat to our energy security. Energy independence would be far more costly to the U.S. and could itself lead to deepening global economic confrontation. It is time to recognize the opportunities implied in a global approach emphasizing energy interdependence.

A global approach to restructuring our relations with the developing countries recognizes the changing nature of international politics and sets the pattern for the future rather than the past. It would largely defuse the danger inherent in the growing confrontation between the North and the South with subsequent savings for both sides. It also quite frequently recognizes that developing countries are not monolithic but that the developing countries are maintaining a common front so long as the U.S. and the industrialized countries will not enter into serious negotiations. Finally, it would put the U.S. in a position of leadership that this country has not envisioned since the late 1960s.

Let me say in conclusion that the U.S. will not have the luxury of making decisions on all of these issues in a leisurely fashion. Currently we are committed to participate in at least three major meetings in the early months of 1977 at which both OPEC and the developing countries will be looking for indications of changes in current U.S. policies. These are the postponed ministerial meetings of the CIEC, the opening of the com-

mittee negotiations agreed to at the meeting of UNCTAD last May in Nairobi, and the resumption of the United Nations General Assembly. Therefore, decisions will have to be made early in this Administration about how the U.S. will respond to a drastically changed international environment.

SUBMISSION OF H. C. KAUFFMANN

I welcome the opportunity to be here today and to express my views on how members of the oil industry and the government can best work together in addressing our international energy problems. I particularly welcome the opportunity to lay out systematically important issues which are sometimes lost in the emotion which surrounds them.

Among the many questions about national energy policy which have been posed by the Subcommittee, the most basic is what governmental policies are most likely to assure U.S. consumers adequate supplies of energy at reasonable prices. If we are to agree to an answer to this question, I believe that it must start with a joint realization that what is reasonable in today's world is in many respects far different than it was five to ten years ago. As consumers of energy, few of us may be convinced that it is reasonable that oil which can be produced in some places for twenty cents-per-barrel should be sold into export markets for more than $12 a barrel. The fact is, however, that whether measured by the cost of alternative energy development or by the power of OPEC, oil prices are now calibrated on a new and different scale. Our national energy policy can have an effect on price—at a minimum it can retard price increases—but I believe there is no reasonable prospect for a major decrease in price. To assume otherwise is more likely to frustrate policy deliberations than to produce useful results.

But, being realistic does not mean being passive. Effective national energy policies are urgently needed, and the relationship of the companies and of our government with OPEC is clearly an important aspect of these policies. It is important to other countries as well. Nations everywhere, industrialized and less-developed alike, share concerns about the price and security of oil supplies. In many cases, their problems are greater than our own, for they have fewer domestic alternatives. They are, therefore, keenly aware of the importance to them of actions and decisions taken by this country. As the world's largest consumer of energy and its most powerful economy, the United States bears a special responsibility to see that its policies adequately reflect these shared concerns. I believe that the initiative of this country in establishing the International Energy Agency and its active participation in it since have helped to demonstrate our commitment to our friends abroad. However, the continuing delay in developing a coherent set of domestic energy policies has left a different impression.

The nature of the international energy problem is clear. In your own words, Mr. Chairman, "No economically acceptable combination of policies can eliminate this country's need for imported oil by the mid-1980's." Nor for many years beyond the mid-1980's, in my judgment. Our forecast at Exxon sees U.S. oil consumption over the next fifteen years growing at less than half the historical rate. This change reflects the substantial impact of price increases on demand, amounting by 1990 to a twenty percent reduction in demand from what it would otherwise have been. It also reflects a major increase in reliance on coal and nuclear energy. But even at this low rate of growth in oil consumption, the amount of oil which the U.S. must import is expected to double by the early 1980's, and to hold at this level through the decade. Even more imports will be needed if the many obstacles which stand in the way of coal and nuclear expansion are not overcome or if significant new domestic discoveries of oil and gas are not made.

The story on where these imports must come from is familiar. OPEC nations hold more than 80 percent of proved oil reserves in the non-Communist world and account for almost 70 percent of current production. All major consuming areas in the free world are dependent on oil from these countries. Even with the development of the North Sea, two-thirds of Europe's oil is likely to be coming from OPEC sources by 1985. In Japan, the dependence will be close to 100 percent. But, it is in the United States that the greatest increase in dependence on OPEC takes place. We estimate that OPEC oil will account for more than 50 percent of domestic consumption by 1985, as compared with about 30 percent in 1975. The increase in U.S. imports from OPEC over this period will be almost three times as great as the increase in Europe and Japan combined. Clearly, the United States is the new actor in this drama, and it has a leading role.

Whatever the exact magnitude of these numbers, it is clear that the world will be operating within a framework of OPEC decisions on oil price and on expansion of productive capacity. The question, therefore, is how best to insure that producing-nation decisions reflect the interests not just of themselves but of consumers as well.

Producing nations and consuming nations have some interests in common and some which diverge. Consumers have an interest in supplies growing as they are needed at prices which do not cause economic hardship. Producers want income to support ambitious development plans, and some of them want opportunities to invest in industrialized nations. At the same time, the producers recognize that oil will not last forever, and they see the advantage of stretching out the life of their reserves. The chances of long-term OPEC actions which undermine reserve values are therefore small.

Within this framework, the oil market will be influenced by the various factors which affect energy supply and demand, and particularly by the policies which consuming nations see fit to adopt with regard to energy use and alternative supply. I believe that these policies will be of far greater importance in determining the terms of oil trade than attempts to modify the mechanics of oil trading. However, the oil market will also be influenced in a major way by broad economic and political considerations which go well beyond the oil trade as such, and there is no question of the importance of a government presence in these areas. The issue for our country, and for the world, is where within the spectrum of interests involved can we find a course which minimizes the risks and maximizes the benefits of the interdependence between producing and consuming nations.

In elaboration of these basic issues, Mr. Chairman, you have asked for Exxon's views on various possible actions which our country might take, and I should like now to turn to these. An uncertainty which runs through the proposals is how explicitly, and aggressively, the United States should contrast its interests, as a consumer, against those of the producing nations. It would seem to me that since large imports of oil are vital to us and to all consuming nations, a posture of confrontation should be avoided if at all possible. This is particularly true since some of the major producers on which we rely for oil can afford to cut back on their production, for conservation or other reasons, even if they lose short-run revenues by doing so. America must pursue its legitimate interests, and pursue them vigorously, but my conviction is that this will best be done by an approach which fully recognizes the interdependence between consuming and producing nations.

You asked, first, whether the government should approach the oil problem by seeking a broad economic settlement, perhaps within the framework of the Conference on International Economic Cooperation, which would encompass the interests of the producing, consuming and developing nations. I lay no claim to expertise on broad international agreements, but I'll offer a few observations. It seems to me that the greater the number of issues which are linked in a search for solutions and the greater the specificity with which they are treated, the less the likelihood of success in a broad negotiating forum.

Even if the focus of a CIEC Agreement could be narrowed just to oil, I am not optimistic about what might be accomplished because of the complex issues involved. Nevertheless, CIEC does afford an important meeting ground where the concerns of all parties can be expressed and areas of possible agreement explored. The U.S. role in shaping the positions expressed by the IEA is important to this dialogue. Outside the formal sessions, our government can pursue quiet diplomacy in an effort to achieve a better understanding of the thinking of other nations, and to emphasize to them the potential impact of their decisions.

An obvious alternative, or supplement, to a multinational approach is bilateralism. Hence, your question, "Should the United States move more aggressively in bilateral negotiations with OPEC members, linking our needs for oil with their need for U.S. supplies, capital equipment and technical expertise?" I believe, first, that whatever is done bilaterally should not ignore the obvious interests of other consuming nations. In any case, it's easy to expect too much of bilateral arrangements. By and large, the goods and services which the U.S. has to offer the OPEC countries are less vital than the oil we need from them. They have alternative suppliers. We do not. An attempt by the U.S. to trade too hard on its position as a supplier, therefore, could eventually result in reduced OPEC purchases from the U.S., to the ultimate detriment of our negotiating and trading positions.

I am particularly concerned that an emphasis on bilateral arrangements would signal an every-man-for-himself approach which, if generalized, would be disruptive both to alliances with other nations and to the world economy. For forty years now, since the great depression of the 1930's, the United States has successfully taken a different approach to its international economic problems. What we should rather emphasize to OPEC is the mutual interest of our nation in a prosperous world economy in which the goods and investments of both sides are allowed access to the markets of the other on a nondiscriminatory basis. Given the surplus funds which some OPEC nations are accumulating from oil earnings in excess of their fiscal requirements, and acknowledging that even more oil is required to satisfy the energy needs of the U.S. and other consuming countries, it may be that greater attention needs to be given to providing investment outlets. Bilateral arrangements might well help in this respect. Where I believe bilateralism may have a greater and more useful role to play, however, is in the political and diplomatic arena.

A third question posed by the Subcommittee is whether, in the new circumstances of international energy, the government should become more directly involved in the day-to-day operations of the business itself. Should it, for instance, establish a U.S. National Oil Company to deal directly with the governments of producing countries? My answer is, no. I share the conclusion of Robert Krueger, consultant to the FEA, who advised that whether viewed economically, functionally or from the standpoint of the overall public interest, there appears to be no

convincing basis on which to recommend a U.S. Government oil company to participate in international petroleum transactions.

An argument sometimes given for a U.S. National Oil Company is that by centralizing imports, it could achieve greater leverage in bargaining with OPEC. But in the circumstances which the member countries of OPEC present to us, the difference in the bargaining power of a centralized import agency of political origin and of the commercial companies now making purchases cannot be great. If there is a difference, it may not be positive. It can be argued that setting up a government agency, with the avowed purpose of getting lower prices out of OPEC, would worsen the U.S. bargaining position, since the likely result would be a further drawing together of OPEC nations in the face of an obvious threat. If this happens and the OPEC response takes the form of administering prices selectively to different nations, it is not at all clear that the U.S. will be among the favored. The OPEC countries could decide, for instance, that if the U.S. wishes to be treated differently from other nations, they will accommodate us, perhaps offering oil at a price above the world level in recognition of our allegedly profligate use of energy. What would the U.S. do in these circumstances? Do without? Ration? Take a loss in economic growth?

Beyond these considerations are the almost limitless practical difficulties which a centralized purchasing agency would encounter. The reality of the oil business is that there are many different crude oils, differing widely in quality, and many different refiners with specific crude needs that change as product demand varies. It would be a bureaucratic nightmare, if indeed it could be done at all, for a government agency to attempt to acquire and distribute all the types of crude oil, in the needed volumes, to allow U.S. refiners to respond rapidly and flexibly to changing consumer requirements. It is this variability of company circumstances which has sometimes been used to persuade producing country negotiators to agree to terms more favorable than those initially proposed. Such possibilities would be greatly reduced in the case of a single government purchaser.

A different approach, which recognizes some of these difficulties, calls not for a centralized purchasing agency but for a government role limited to the auctioning of import tickets. Proponents argue that this would provide countries with excess producing capacity an incentive to seek additional outlet. Presumably, they could acquire import tickets secretly and thus escape the wrath of their fellow OPEC nations. I doubt very much that this scheme would work. By examining data on international oil movements observers would be able to detect extraordinary volume changes. Secrecy would therefore be hard to maintain.

For such a scheme to have any chance of working, the necessary condition is widespread desire among producing countries for additional outlet, not the mere existence of spare producing capacity, of which in any case there will be less and less as the world's demand for oil inexorably grows. Because OPEC does not operate with fixed production quotas, any member with idle capacity and a desire for more revenue has already been free to increase production, and the availability of import tickets would create no new incentive. One would have thought that if ever there were an incentive for individual OPEC countries to cut prices to gain business, it would have been a year to eighteen months ago when there was substantial excess capacity. In fact, individual countries did vary the relative prices of their crudes in response to market pressures and there were significant shifts in volumes of production among countries. But the basic price level was unaffected. As long as one country, Saudi Arabia, holds such a dominant position within OPEC, and is producing well above its immediate need for income, it will be difficult to break the organization through bargaining tactics against that nation's will. On the other hand, if that nation becomes convinced, for whatever reason, that price moderation is desirable, it may be able to achieve it, at least in part.

Some have suggested that even though an auction ticket scheme may not work, it should be tried nevertheless because it is a low-cost option. I do not believe this to be the case. The administrative burden could be substantial. Moreover, any scheme which depends upon anonymity for its operation and rationale is potentially open to manipulation. The added costs to U.S. consumers of an apparently simple experiment could therefore be considerable.

Still another form of direct involvement in the operations of the oil industry, which has been suggested from time to time, calls for U.S. Government participation in the negotiations which the companies conduct with foreign producing governments. In an earlier communication to Senator Kennedy, Cliff Garvin, Chairman of our company, explained why we believe this would not be desirable. They bargain within the limits of what it is possible for them to achieve. For some years now, this has not included a say in the basic price of the oil they purchase, although we at Exxon have continuously urged moderation. It is also true that the companies have been able to influence the prices of various grades of crude oil relative to the basic price by adjusting purchases in response to market conditions. The OPEC countries have made it abundantly clear, however, that the basic price level is a matter for their determination alone.

What the companies have bargained about has been the terms under which company assets are being nationalized, the volumes of oil which the companies wish to buy to meet the needs of their customers, the various conditions associated with those purchases and the fees to be received by the companies for management services to the producing governments. For the commercial give and take on the issues where the companies retain a voice, they are well equipped, and it is hard to see how more direct U.S. Government involvement would help. By introducing politics more obviously into the process, the result could instead be both a hardening of positions and the injection of extraneous issues which could prove very troublesome.

If, then, there are good reasons for questioning most forms of direct U.S. Government involvement in international oil operations, as I believe there are, what is left for government to do? I believe that there is a great deal for it to do and that it is enormously important. In the first place, there will be occasions when some variety of direct action is justified. For instance, it makes sense that the government should move directly to acquire oil for strategic storage. And I recognize that if the circumstances are compelling, it will intervene for other purposes. In general, however, it is my view that direct government involvement in the commercial operations of the industry is neither necessary nor desirable.

What is necessary and desirable is, first, that government should establish a realistic and consistent set of energy policies and, second, that it should utilize its resources of diplomacy and international economic policy to influence the broad framework within which transactions with foreign firms and governments are conducted. The importance of energy policy is paramount, both domestically and internationally, and I shall have more to say on this in a moment. But the arts of diplomacy can have an impact as well.

The oil price issue is a case in point. Although the producing governments are unwilling to negotiate the basic price of oil with the companies, they are sensitive in varying degrees to the impact which higher prices might have on the world economy and on particular consuming governments. In forming their judgments, they keep an ear open for views expressed by this government and others. We have seen some evidence in recent weeks of how this process works. OPEC prices went up but not by as much as they might have, with the result that the industry and the world now find themselves in an anomalous two-tiered pricing situation. How this will be resolved remains to be seen, but for our purposes today, it does show that the concerns of the consuming nations are not ignored in OPEC deliberations.

Whatever the companies can do to keep the government informed about international oil developments will enable it to state its concerns and express its views more forcefully. In a recent submission to the FEA, a copy of which is attached, my company offered some thoughts on how the flow of information to the government could be improved. Although in that document we expressed certain concerns about the consequences of confidential information being inadvertently leaked, we strongly endorsed the need of the government for information and the responsibility of the companies to provide it.

In the long run, however, the resolution of U.S. reliance on OPEC oil, and the higher prices which this has brought, must be rooted in the basic decisions of energy policy, and it must begin with the right kind of policy here at home. Without this to signal our nation's intent and seriousness, OPEC will never be much impressed. So, while imports from OPEC are sought on the best terms achievable, steps must be taken at a more fundamental level to reduce our reliance on those imports. This means that, within the limits of acceptable economics and environmental restraints, we must both conserve in the use of energy and develop new sources.

So far, our nation has not faced up to the politically difficult steps needed to accomplish these objectives, and has instead chosen the path of relying on increased imports, while hoping to find ways to break OPEC or to harness new energy sources quickly and cheaply. The sense of urgency and the willingness to accept the painful side effects of a straightforward pursuit of conservation and high-cost supply development have been missing. Hence, price controls on oil and frequent objections to energy development proposals on environmental grounds persist. I do not wish to minimize the concerns which have led to these results. They are real. But they divert us from what must be done if the energy problem is to move toward resolution.

By keeping the price of energy below its replacement cost to the economy, the nation encourages consumption while disccuraging the development of new sources, and needlessly complicates the energy enterprise through layers of regulations which require patch upon patch to keep them from falling apart. If this is being done for fear that the oil companies will reap excessive profits, or because of the possible impact on low-income consumers, surely there are simpler and better ways to handle such matters. The paradox, as Professor Adelman has said, is that the higher the price for oil imposed by OPEC, the greater the need for decontrol in the U.S. and the less the chance of getting it. Similarly, the lack of resolution of the many environmental issues which affect energy development adds uncertainty and delay to decisions which must be taken.

Wise energy policy, then, must sort out what is basic from what is peripheral and find a way of getting us moving. The more I listen to what people in the energy business have to say about energy and to what government representatives and public interest groups have to say, the more I become convinced that what the nation needs is a bipartisan, or multipartisan approach to the problem. We need fewer decibels, less polar-

ization of views, and a lot of hard thinking. Those of us who have extensive experience is energy affairs feel a responsibility to see that this is done. We look forward to working with this Subcommittee and others in Congress who have special knowledge about energy matters.

I thank the Members of the Subcommittee for listening to me, and I shall be happy to answer your questions.

STATEMENT BY ANNE P. CARTER

OIL PRICES, TERMS OF TRADE AND REGIONAL DEVELOPMENT IN THE WORLD ECONOMY

My testimony will be focused not on the United States but on the broader perspective of the world economy. In this context I want to emphasize that the effects of tripling the world price of crude petroleum have been far from trivial and that a further increase of 25 percent would also have major implications for the course of development in the various regions of the world. The general logic is straightforward. Between 1970 and 2000 we can expect the OPEC countries to export something in the neighborhood of 700 billion barrels of petroleum. Let us reckon in terms of 1970 price levels. At $2.64 per barrel this would have yielded almost 2 trillion dollars. At $7.88 per barrel (the "deflated" 1976 OPEC price) it would yield 5.5 trillion dollars. A 25 percent increase over the 1976 price would bring the sum to 6.8 trillion dollars. That is roughly seven times the United States Gross National Product in 1970 and well over 100 times the Gross National Product of all the OPEC countries combined in 1970.

Selling this asset gives OPEC substantial purchasing power. Countries faced with higher oil bills must either export more to cover them, cut back on other imports, or sustain increased balance of payments deficits. OPEC countries are not yet sufficiently developed to absorb enormous volumes of additional imports, especially those from developing countries. Thus the bulk of the reaction will have to take the form of import curtailments, balance of payments difficulties, and reduced growth potential. Developing countries are dependent on imports for equipment and even for food and other essentials. Since their options are the most restricted, these regions are the most vulnerable. Industrial countries can take advantage of OPEC markets for capital goods (and arms) but the former are limited by OPEC's absorptive capacity. OPEC purchasing power can be "recycled" through aid to developing regions and by OPEC investments in developed regions but the stream of capital flows from OPEC to other regions is not running smoothly and steadily as yet.

In today's discussion, I want to sketch out some alternative consequences of increased petroleum prices in rough quantitative terms. The evidence I shall present is based on simulations using a 15 region model of the world economy built at Brandeis University for the United Nations Economic and Social Council.

I have chosen to focus on two sets of questions for today's discussion. The first concerns the effects of increased prices for crude petroleum on the terms of trade, on regional balances of payments, and on growth prospects for developing countries. How do changes in OPEC oil prices affect the prices of other products? How do the changes in relative prices affect the abilities of developed and developing regions to pay for their imports with their exports at a given set of target growth rates? By how much would those target growth rates have to be reduced in order to achieve balance for developing countries in the international payments system? How do trade liberalization policies work with rising petroleum prices? The answers to these questions sketch out the implications of OPEC pricing decisions for the future of the world economy.

The second set of questions concerns the dependence of OPEC on the world economy. However rich, OPEC does not function in isolation from the economies of the rest of the world. By examining the quantitative ties of the Middle East oil exporters to the rest of the world, we can develop a clearer sense of our own options and the context within which we choose our course.

1. The effects of increased petroleum prices on regional balances of payments and growth

A. Changes in Relative Prices of Traded Goods

To analyze the effects of rising petroleum prices on the near term picture, we focus primarily on the 1980 solutions of the world model. As in the three other benchmark years, the outputs, imports, exports and other variables are studied in real terms, i.e. in physical units valued at constant 1970 prices. Estimates of current (1980) relative prices, normalized to eliminate any inflation, enter as coefficients to revalue trade in the balance of payments equation. Thus, while the system does not deal with changes in price levels, it does estimate the effects of changes in the relative prices of traded goods on the balance of payments. Relative prices were estimated in a separate price model based on the projected 1980 input-output system for North America. In the original 1970 world system, 1970 imports and exports of petroleum were valued at observed 1970 prices that differed from region to region. Prices to value the 1980 trade were derived by multiplying the original region-specific prices by a factor of roughly 1.3 to allow for trends of rising extraction cost. Thus the base or "reference" system represents price conditions as they were expected to develop prior to the 1973–74 embargo.

Current petroleum price conditions were simulated in two stages. First, we fixed the price of crude petroleum at 1976 levels ($11.50 per barrel in 1976, or $7.88 at 1970 price level) and solved for a second set of prices. The newly estimated prices were normalized using 1970 consumption weights.[1] . . .

Increasing petroleum prices tends to increase the prices of those other commodities that are petroleum-intensive and, since the prices are normalized to retain a constant average level, to decrease the relative prices of all other goods. Specifically, we find that sizable increases appear in the prices of petroleum refining margins, fertilizer, chemicals and plastics, and transportation as well as crude petroleum. Since higher petroleum prices push up the prices of fertilizers, they also produce increases in the prices of four of the principal agricultural commodities: grains, high protein crops, root crops and other agricultural products.

B. Changes in the Terms of Trade

Changes in prices affect the balances of payments of each region by changing its terms of trade, i.e., the ratio of the prices received for the goods it exports to those paid for the goods it imports. Regions differ widely in the relative importance of individual commodities among their imports and exports. Thus, some import a lot of machinery, others, primarily raw materials. Because the composition of their trade varies, relative price changes shift their terms of trade by different amounts and even in different directions. . . .

As might have been anticipated, a rise in petroleum prices improves the terms of trade for net exporters of petroleum: Middle East and Latin America (low income) and the Soviet Union and deteriorates it for most other regions. Regions that are net exporters of grain and chemicals and fertilizer stand to gain because of the increases in the prices of those products. Japan, which is a net importer of both petroleum and agricultural products, and Latin America (medium) face the sharpest deterioration in their terms of trade.

C. Changes in Regional Balances of Payments With Fixed Growth Targets

In earlier applications of this model for the United Nations we computed the various regional output, trade, investment, employment and resource use levels implied by prespecified regional growth targets. These solutions are labeled "Scenario X". The targets were chosen so as to reduce substantially the gaps between per capita income levels of developed and developing countries by the year 2000. Growth rates in Scenario X for the developing regions are in the neighborhood of the United Nations Development Decade targets and not far out of line with the actual growth rates achieved in the mid and late 1960's. Growth rates for the poorer African regions are assumed to be somewhat lower in view of their histories of slower development. Economic growth in developed regions is assumed to be somewhat below the trends apparent in the 1960's. . . .

Because target growth rates for Latin America (medium income), Asia (low income), and Southern Africa are somewhat above accustomed rates, it is not surprising that these regions show substantial balance of payments deficits in the 1980 Scenario X projections.[2] In the absence of substantial increases in available aid or credit, such deficits could not be sustained. Thus their appearance in the solutions casts doubt on whether the target growth rates are achievable.

A modification of Scenario X, called Scenario M was designed to see how trade policies favoring increased export shares and import substitution for Latin America (medium), Asia (low) and Arid Africa would affect the balances of all regions. The computation showed that increasing export shares of light manufacturers and reducing import dependence in light manufactures, machinery and equipment, and industrial materials at the rate of one percent per year would reduce the payments deficits for these three regions to reasonable levels.[3] Arid Africa, which initially had balanced trade, would achieve a moderate surplus. Since the specified improvements in the trade positions of developing countries would cut into the markets of the developed regions, the trade balances of the latter would deteriorate correspondingly. . . .

If balance of payments deficits made the achievement of rapid economic growth in developing regions difficult under the earlier price conditions, the new set of prices has put these growth targets out of reach and a 25 percent increase over the present petroleum price makes the situation even worse. The more industrialized developing regions, Latin America (medium) and Western Europe (medium) are more sensitive to petroleum prices than the poorer regions because they use more energy. Arid Africa, which uses very little energy, is assumed to be self-sufficient in petroleum. Hence it is not sensitive to rising costs of petroleum imports.

It is, of course, important to remember that businesses and individuals do adjust by reducing their purchases of those items whose relative prices have risen. Thus, we

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[1] To eliminate the influence of inflation, prices were scaled down so that the average estimated price for 1980 equals the average price for 1970.

[2] Centrally Planned Asia shows a large percentage deficit because its trade volume (exports) is very small.

[3] Exports of agricultural products from Latin America (Medium) were also increased at 3 percent per year.

might expect imports of petroleum to decrease as use is curbed with rising prices. Unfortunately, it is difficult to know what is the actual "elasticity of demand" under given conditions. Some economists talk of an elasticity of —.5 for oil in the world as a whole. Presumably there is much more opportunity for discretionary curtailment in North America than in most industrialized regions and more in industrialized regions than in those whose energy consumption is still very low. Even the most optimistic reductions in the physical volume of petroleum purchases by developing regions, in response to increased petroleum prices, would still leave their balance of payments in far worse shape than they were with 1970 relative prices.

D. Changes in Regional Growth Potential

It is difficult for a nation in substantial arrears to obtain additional loans to cover its growing deficits. Second, loans carry sizeable interest charges that further intensify the balance of payments problem.[4] Thus the availability of foreign exchange often becomes a constraint on the growth potential of developing regions. This is particularly true for resource-poor areas. Developing regions with substantial resource or other export potential are less constrained by lack of foreign purchasing power. They are more likely to be limited by the availability of capital for necessary investment or by a network of bottlenecks in skilled labor and management talent and construction lags, called "absorptive capacity".

Thus different economic constraints are likely to bind in different regional economics. These varying regional development conditions are simulated in Scenario A. Under Scenario A income targets are not preassigned. Instead it is assumed that resource-poor developing regions must limit their imports to keep their international payments in balance. In resource-rich developing regions, investment is set equal to available savings coming from abroad and from domestic sources. Developed regions' growth trends are assumed to depend primarily on the productivity of the available labor force. Developed regions can, at least to a limited extent, adapt to adverse balance of payments conditions by devaluation or other measures that promote exports at the expense of consumption. It is very difficult to quantify the absorptive capacity that constrains the development of the Middle East region. For this reason the preassigned growth goals of scenario X are retained for the Middle East in the Scenario A computation.

To the extent that certain developing regions are required to keep their payments in balance, the income levels they can achieve will depend on their terms of trade—on the relative prices of the products they buy and sell. . . .

2. Dependence of OPEC on the world economy

At the new relative prices the growth potentials of many regions of the world are substantialy lower than they were prior to the price increase. At the same time, the transfer of wealth has certainly augmented the OPEC countries' own growth potential.

Development for OPEC countries means that they will become major customers for the exports of the rest of the world. . . . By 2000, the Middle East can be expected to absorb 21 percent of world imports of machinery, 26 percent of world imports of electrical machinery, 7 percent of world imports of textiles and 6 percent of world imports of grain. Since the Middle East will be developing very rapidly, it will be a relatively good customer for capital equipment which is sold primarily by the developed world.

As the Middle East expands economically, the opportunity to increase exports to a wealthy rapidly developing region should ease the balance of payments problems of the developed world. The less developed regions will not have a significant share in these benefits unless policies to increase their exports of manufactures are successful.

On the other hand, experience suggests that the potential growth rate of OPEC countries is limited by their absorptive capacity. Thus it does not seem to be possible for OPEC to make use of all of its newly realized purchasing power in the development of its own economies. It must take its wealth transfers at least partly in the form of assets and equities in other regions of the world.

Rough calculations indicate that OPEC foreign investments will be 1.5 trillion dollars in 1990 and 4 trillion in 2000 (at 1970 price levels). These estimates of OPEC foreign investments are based on the assumption that present OPEC prices were initiated in 1975 and will prevail until the end of the century.

Even under these conservative oil price assumptions, projected OPEC foreign investments are enormous, amounting to 1.5 times the value of their domestic reproducible capital stock in 1990 and 2000. These investments amount to roughly 15 percent of the estimated world stock of reproducible capital installed between 1970 and the year 2000. If this occasions considerable concern for domestic economic autonomy in the developed countries, it may also give some reassurance. Those who own a 15 percent share in the world economy should have a vested interest in its viability.

Conclusions

It is clear that the world economy has suffered from a severe jolt that has altered the course of regional development. It is only natural to wish that we could put it back on the old course. And there are plans under discussion to do so. For example, it has been suggested that the heavy dependence of OPEC on imports of food and machinery makes them vulnerable to retaliatory cartelization. . . . North America does not have the dominance in any of the broad product classes that the Middle East has in oil. There may, of course, be specific products within the broad groups: specific types of machinery or military equipment, where we do have substantial monopoly. But the outstanding exception is food. North America supplies a major proportion of world grain exports and is expected to continue to do so.

Bargaining on the basis of our own market dominance in food or high technology equipment might be helpful in maintaining our political strength but it holds out little hope for lowering the world oil price. To take advantage of our monopoly position in food, we would have to be prepared to maintain monopoly food price levels in world markets and to take responsibility for the impact of a second major jolt to the world economy. The strain on the developing world and on other developed regions would be much greater than that on our wealthy OPEC customers.

In general, I fail to see any policy options that will restore the world economy to its pre OPEC state. OPEC or no, world energy prices had been expected to rise to present levels over the next 20 years as demand rose and the most accessible resources began to run out. A more gradual price increase would have allowed time for smoother transitions to new sources and to new technologies and consumption patterns. With the abrupt OPEC stimulus, the substitutions and adjustments required to restore balance in the world economy seem to be very slow. Substitutes for OPEC oil either in the form of new petroleum discoveries or of "alternative" forms of energy supply will limit the level to which petroleum prices can rise. New sources of petroleum are being developed in Europe, Latin America, China and elsewhere but it takes time for that oil to reach the market. Energy saving technologies and consumer practices would also serve to limit petroleum prices. Their emergence is hindered, in part, by all-too-necessary short run measures to cushion the distributional and social impact of the price rise.

In terms of the world model, adaptive changes to the new world economic situation should be translated into revised input structures, prices and trade coefficients. Right now we have some general impressions about new energy technologies and energy saving measures and have inserted some allowances for them into the world system. But the information on new processes and sources and the timing of their availability is still very sketchy. I look forward to the time when our best guesses give us new solutions with more reasonable balance of payments accounts and more optimistic prospects for developing and developed countries. I see no reason to believe that those solutions will match those of the cheap energy era.

STATEMENT OF DR. PAUL DAVIDSON

. . . Recently I have engaged in two major studies involving (a) price incentives and oil gas supplies and (b) the time allocation of the production of crude oil. The results of these studies led me to conclude:

(1) If monopoly power in energy markets were the same as in the 1960's, domestic petroleum supply would be price elastic, i.e. a one percent increase in price will bring forth more than a one percent increase in oil supply. (An elastic supply was implicit in the Cabinet Task Force projections reported above.) In terms of ultimate supplies of indigenous fossil fuels, there is no danger that the United States will be depleted in the next 100 years even if present demand trends continue. Furthermore, Western Europe is likely to be nearly self-sufficient in fossil fuels in the 1980's. Thus there is no danger that most of the Free World will be running up against a Malthusian Constraint in the foreseeable future.

The energy crisis, whatever else it may mean, does not mean that the age of "cheap" fossil fuels is over—at least, not in terms of cheap economic real costs of finding, producing, or distributing oil. Nor does it mean, on either worldwide or North American basis—at least if history is a basis for judgment—that large increases in market prices are necessary to bring forth additional reserves to meet growing petroleum consumption demands. For example, during the years 1962 through 1972 (where until the very end of the period prices were not rising) world consumption of petroleum increased by 107.4% while crude oil proved reserves increased by 108.5% during the same period. In other words, the world was not facing any greater threat of running out of crude oil in 1972 than it was in 1962.

What had happened was that the worldwide distribution of proved reserves had shifted as North American proved reserves increased by only 18 percent from 40 to 47 billion barrels, while Middle Eastern reserves climbed spectacularly from almost 200 billion to over 350 billion barrels. This modest rise in North American reserves vis-a-vis the Middle East should not be interpreted as meaning that this Continent is "running out" of oil. During this period, all rational producers who could afford it preferred to invest their time and money to find cheap reserves in the Middle East (10 to 20 cent per barrel) rather than more expensive reserves in North American ($2 to $4 a barrel). This shift in reserves, however, did promote the possibility of what in the olden days economists referred to as "cornering the market." It has created what is clearly the most powerful cartel in history—OPEC. But the

[4] In the present model deficits are cumulative from 1970 on and subjected to interest charges of 8 percent.

U.S. because it is such a large producer of fossil fuels as well as consumer could, with a concerted effort and proper government policies, reduce or eliminate the power of the OPEC cartel, whereas the oil producing companies, on their own cannot (or will not).

(2) The energy question, of course, is merely at what price are American consumers going to get all their energy needs filled. Neither the oil industry spokesmen nor academics will deny there is plenty of domestic energy as well as foreign energy sources for decades to come; the only question is the price.

The economic evidence is clear. Current free market prices of energy are primarily a reflection of man-made constraints on supplies and not nature's. Hence a rational energy policy should be developed which reduces sellers powers in energy markets and creates profits opportunities which will be earned by increasing production rather than limiting supplies.

PROPOSAL FOR A NATIONAL ENERGY POLICY (NEP)

The sudden quadrupling of the world crude price during this 1973–74 period is at least partially responsible for the severity of the 1974–75 world-wide recession and the slow recovery which consuming countries have been experiencing. Moreover OPEC's future oil price actions constitute a serious threat to the survival of consuming nations' economies.

In this section I propose to outline a nine point National Energy Policy (NEP) for the United States which will have both short run and longer run implications. In the appendix to this statement I spell out the rationale and provide some supporting data for this NEP package.

In the short run we should not undertake policies which are likely to exacerbate the current problems of unemployment and inflation. In the longer run, our policies should be oriented towards breaking up the OPEC cartel and the growing monopolistic control of domestic energy sources.

A nine-point National Energy Policy (NEP) which could provide U.S. consumers with sufficient energy while allowing producers to earn a competitive return rather than permitting them to share in cartel profits would include: (1) extensive antitrust action to break up conglomerate energy companies and to create competitive alternative sources of energy (competitive to OPEC sources and the major oil and gas producers), (2) governmental coordination and regulation of wellhead prices of oil and natural gas so that any necessary price increases occur at such low annual rates as to make speculative withholding unprofitable (and in no case should wellhead price of oil and gas be suddenly decontrolled), (3) prohibitive capital gains taxes on oil and gas properties to catch any speculative profits which avoid other policy nets, (4) the changing of leasing policies on federal properties in order to reduce the financial constraint of the front-loaded bonuses and permit independents to develop offshore properties, (5) policies which encourage and require accelerated exploitation of old and new properties, even if in certain situations such policies were to encourage flows in excess of MER, (6) policies which prohibit the "shut-ins" and other practices which permit speculative withholding, (7) an announced increasing schedule of import taxes on foreign crude oil and products over the next three or four years. Such an import tax schedule must be phased in with growing U.S. production while U.S. wellhead prices are controlled as suggested in (2) above, (8) a federal sponsored corporation which at a minimum would aid in financing the development of new properties and might even enter into joint ventures with independents; in other words, a Federal Oil and Gas Corporation (FOGCO); (9) the adoption of an import auctioning system with unidentifiable foreign sellers to supply the diminishing share of the U.S. market as we approach self-sufficiency in the next few years is desirable. Such a program will create a positive incentive for members of OPEC to break with the cartel. (This last point could be especially effective now that the OPEC nations have begun to haggle about the magnitude of income and wealth they should extort from consumers.)

If, on the other hand, the government permits an unregulated market price for oil without altering existing market institutions and conditions, then the 1980 domestic wellhead price for crude oil will in essence be set by the Sheiks on the Persian Gulf. I see no economic reason to believe that the OPEC cartel will necessarily unravel of its own accord. The OPEC nations are engaged in an economic war with the major consuming nations over the distribution of the world's wealth. Existing economic and political conditions in consuming nations such as the U.S. have made the OPEC cartel's job of preventing price cutting competition from alternative sources easier. Until the consuming nations recognize that the dispute underlying this economic warfare can only be negotiated from a position of internal strength, the consuming countries will remain at the mercy of the producing nations and domestic conglomerate energy companies and royalty owners who have a vested interest in redistributing future income and wealth from consumers to producers and property owners.

Reliance on higher energy prices (either through a large gasoline tax or unregulated domestic energy price) to encourage "conservation", i.e., to reduce U.S. consumption will not in itself create economic forces which will lead to a break up of the OPEC cartel. Such a conservation policy might make economic sense if there was a Malthusian: shortage of fossil fuels or if you wanted to reduce gasoline fumes pollution (which may explain why many environmental groups find common ground with the major oil companies in urging higher energy prices). But industry proponents of higher (unregulated) prices to "conserve" our energy resources often imply that this will also aid in breaking up the OPEC cartel. From an economic standpoint, this is unlikely since a high-price conservation policy to destroy the cartel assumes that merely by driving up the price to the consumer in order to reduce the quantity demanded of imported oil (but without altering the price inelasticity of demand which is the economic factor creating monopoly), the cartel will break as the result of Arab squabbling over the spoils extorted from the consuming nations. Since such a policy does not directly change the demand curve of OPEC oil (except perhaps in the "long run" when we will all be dead), it merely requires consumers to move along a short run price inelastic demand curve; its potential for success due to economic forces is very low.

From the economists's viewpoint, a more certain way of breaking the cartel is to alter the demand curve for imported oil, that is to create conditions which all recognize cause the demand for OPEC oil to become price elastic in the relevant range in the near future. Such a price elastic demand will occur when there are potentially significant quantities of alternative sources of energy available which are (1) profitable to produce at less than the cartel price and (2) whose production rates are not controlled by managers who have a vested interest—and by their own actions can force the market price to the same level as the cartel price.

OPEC's price can be brought down by government policies which foster increased domestic production of oil and other fossil fuels by producers who have no legal way of providing market support for world oil prices in the U.S. and who operate under laws which make it unprofitable to either speculate or create additional monopoly revenues by withholding energy supplies or slowing development of energy resources. Simultaneously our laws should create incentives for increased domestic production of oil and other fossil fuels at prices which permit fair competitive profits while such prices are significantly below OPEC's prices. This availability of additional domestic production at profitable but controlled prices well below the OPEC cartel level will create an elastic demand for OPEC oil and hence aid in the reduction of world oil prices.

Thus the basic economic condition which is necessary and sufficient to break the OPEC cartel's extortion of the world's energy consumers is to create a price elastic demand for OPEC oil at current market prices. At the same time we wish to minimize the economic costs and dislocations of changing this price elasticity of demand. The NEP policy package suggested in this testimony is designed to accomplish these results. Adoption of this policy will alter the demand for OPEC oil and in so doing will create market forces which will create a market supply price response for energy which more closely reflects nature's stinginess in providing non human energy resources at close to their long run real costs (including a competitive profit) of finding, developing and producing.

I should caution that the entire package of policy actions must be undertaken if success is to be assured within a reasonable period of time. Adopting one or two parts of my suggested NEP may not, by themselves, significantly improve the current situation. For example, one of the 9 points of my NEP proposal involves the divestiture of the major energy companies in order to create competitive markets in energy available to all buyers. Divestiture, however, is only part of an entire policy package; divestiture is a necessary but not a sufficient condition for establishing a market in energy supplies whose price will ultimately more closely reflect long run marginal costs rather than monopoly rents. Solution to the energy crisis requires extensive action on many policy fronts and not just on one. Nevertheless, let me discuss in some more detail the relationship of divestiture to the OPEC cartel.

OPEC AND DIVESTITURE

The economic fulcrum upon which OPEC's cartel power and hence worldwide energy prices are based depends in large measure on the current price facing consumers and ultimately on the supply price at which an alternative source of energy will become a significant substitute for OPEC oil. Many major suppliers of substitutes for OPEC oil, however, have an economic interest in OPEC's petroleum reserves or other large proved oil reserves. These suppliers are typically conglomerate integrated energy companies with significant facilities to produce coal, shale, uranium and even domestic oil as substitutes for OPEC oil. If these suppliers are rational profit maximizers, they will anticipate a positive user cost (in the loss of monopoly rents from future oil production) if large scale production of their substitutes at a price above all production costs but below the OPEC price (on an equivalent basis) will cause the future price of oil to decline relative to costs of finding, developing and producing oil. This expectation of a positive user cost in marketing a substitute at any price which threatens to reduce the future price of the company's existing reserves of oil will force any rational entrepreneur to raise his supply price (above resource costs) of the substitute till the expected profit from marketing the substitute embodies all the expected discounted monopoly rents which can be expected to be earned in oil production over time, if the substitute energy source were not available. In other words, profit maximizing conglomerate energy corporations would not find it profitable to make large quantities of a substitute to the cartel's oil available, if the re-

sult was to inflict a capital loss on the present value of existing underground reserves (which already reflect expected monopoly rents).

In these circumstances this positive user cost of substitutes internalizes a cost that in a competitive economy would be external to an independent producer of a substitute energy source. Independent producers of domestic oil, shale, tarsands, coal, uranium, and so on (provided they were not permitted to share the monopoly returns of the major energy companies), would not care if they inflicted capital losses on the value of foreign underground reserves of petroleum by providing a cheaper energy source. Most reasonable people would argue that society is the beneficiary of a decision to produce a less expensive substitute even though the oil producers and property owners would suffer a capital loss. The existence of rational, multi-source, energy-producing conglomerates, however, constrains production of substitute fuels, makes monopolistic control and exploitability of all markets easier. The ability of conglomerates to maintain high prices for the substitutes tends to reinforce monopoly power in the market for oil.

If at the current price consumer demand for OPEC oil is, therefore, still in the exploitable inelastic range, a strong cartel of oil-producing nations will encourage integrated energy companies to limit current production in order to bring substitute energy prices up to parity with OPEC oil, even if real resource costs of producing the substitute does not increase.

For example, the July 28, 1976 issue of The Wall Street Journal reported "The average price of coal has gone up 145% during the past three years—to an estimated $18.75 per ton—compared with a rise of only 50% in the previous 25 years." At the same time, according to the Journal, U.S. coal production has increased by less than 15%. Thus, either the supply elasticity of coal due to diminishing returns is either very inelastic (in the neighborhood of 0.1) or else the rapid increase in coal prices reflects in large measure the spilling over of monopoly power from the oil market.

Given the high level of technology which already exists in the coal industry and the hundreds of years of known, easily recoverable coal reserves, it is difficult to believe that the elasticity of the supply of coal is anywhere as near the 0.1 range, or even that coal supply is price inelastic. It seems more reasonable to deduce that with the onset of the energy crisis in oil, if the coal market was competitive, then coal production would have expanded sufficiently in the last three years to limit coal price increases to much less than 145%. Even if one were to accept the argument that the 145% price rise was a short run (temporary) inelastic response while the long run response will be elastic, then in a competitive market we should expect coal price to decline substantially in the next few years, while production expands dramatically even if there is no additional technology progress. Since most observers, according to the Journal article, do not expect this latter scenario to occur, the inevitable conclusion for any objective student of the coal industry is that the rapid rise in coal prices over the last three years is due primarily to the user cost of substitutes which entered into the profit calculations of conglomerate energy companies. Hence divestiture and not additional R and D expenditures is more likely to bring about lower coal prices and greater production.

As the consuming nations continue to recover from the current recession we can expect the OPEC nations to continue to probe via higher crude prices as to whether any additional exploitable monopoly power exists or has been created. For any given demand situation with any degree of elasticity, however, higher prices require production restrictions, and hence at least tacit market-sharing arrangements to prevent one member of the cartel from increasing its gains at the expense of others. This requires some institutions to limit producers' access to marketing outlets. The vertically integrated energy companies also have vested interests in maintaining the current present value of their foreign and domestic oil and other energy reserves. As long as the present value of these energy reserves already reflect some monopoly rents based on expectations that the existing monopolistic structure and control of energy supplies will not be dismantled, then the vertically integrated companies who are the major instruments for ultimately marketing the products will be willing instruments in maintaining "orderly" markets in all energy sources so that there will not be any decline in expected oil (and other energy) prices over time.

To permit energy prices to fall from present and expected future levels will involve the production departments of integrated energy companies in large capital losses on the value of their reserves. Thus, in the current situation current monopolistic and cartel control of energy supplies and speculative withholding of energy supplies based on the consensus expectation of future monopoly rents reinforce each other and merge into an almost irresistable force which contributes to the strength of the OPEC cartel. In other words, given the current integrated structure of the energy industry there is disincentives for (i) potential producers of substitutes to compete on a price basis with OPEC, and (ii) for major marketers of the products to search the market for lower price alternatives to OPEC oil.

From the consumers' standpoint, any solution must, therefore, involve altering the structure of the industry so that there are many suppliers of energy who (a) have an incentive to earn a competitive return by underselling OPEC and (b) who believes that it will be impossible to obtain current levels of monopoly rents from consumers of energy since control of supplies will be so widespread that no small group of producers can limit production and proration market demand by controlling marketing and distribution channels. Divestiture of both vertically integrated petroleum producers and conglomerate (horizontally) integrated oil companies is one small step forward in this direction.

THIS WINTER'S LESSON: TIME FOR ACTION ON ENERGY

Mr. HEINZ. Mr. President, I want to bring to my colleagues' attention the severe difficulties the city of Erie—indeed all of western Pennsylvania—is experiencing due to the unusually cold winter.

After several exceptionally warm winters many people have apparently been lulled into a false sense of security regarding natural gas supplies. Warning of shortages for the past two winters had proved inaccurate, and as a result, this winter's ice and cold hit all the harder. The result has been serious natural gas shortages which, as the attached article points out, mean curtailments of industrial production and curtailments of jobs in an area already hard hit economically.

This economic devastation should not have been allowed to occur, and it should not be allowed to continue. It is past time to end the congressional stalemate regarding natural gas and pass legislation that will provide full incentives for new exploration and production while at the same time providing full protection for consumers from company profiteering. I have consistently supported price deregulation of new gas from new fields as the proper incentive to stimulate production.

Simultaneously, of course, we must encourage and even mandate conversion of industries using natural gas as a boiler fuel to other fuels. But if we are to prevent future gas curtailments that could include residential heating, deregulation legislation along the lines I have suggested is clearly in order as an equally high priority.

Mr. President, action is long past due in this area, and I urge the new administration and the Congress, particularly the relevant committees, to begin work on natural gas legislation immediately. Mr. President, I ask unanimous consent to have printed in the RECORD an article from the January 31 issue of Newsweek concerning the plight of Erie.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WINTER WASTELAND

(One of the areas hardest hit by the deep freeze was the Great Lakes basin. To see how Americans there were coping with the cold, NEWSWEEK's Tony Fuller visited Erie, Pa., and filed this report:)

Downtown Erie was a snowswept wasteland last week, its streets and sidewalks buried beneath mountainous drifts. Lake Erie itself was frozen from bank to bank, and in the harbor at the foot of Holland Street, the Stewart J. Cort, one of the longest ore boats on the Great Lakes, lay temporarily abandoned, her 1,000-foot hull hopelessly wedged in the ice. "Savage Lust," a triple-X-rated movie, did a brisk business, but most city residents huddled at home, swathed in coats, sweaters and blankets against the cold. Leonard Daley, who had braved the weather for a beer at the drafty Play Pen Lounge, surveyed the city gloomily: "They call it 'dreary Erie, the mistake by the lake.' We always get the worst of everything, including the weather."

Even by Erie's standards, this winter has been the worst ever. November's temperatures were the lowest on record, and were followed by the coldest December since 1958. Already, the city has accumulated 83.9 inches of snow—more than usual for an entire winter. Last week's cold front brought record temperatures of 10 below zero and a windchill factor of minus 52. One woman died of exposure, and at least one house burned to the ground after firemen's hoses froze. For the first time in city history, Erie was declared "dangerously cold" by the National Weather Service.

Almost simultaneously, the National Fuel Gas Distribution Corp., Erie's main supplier of natural gas, announced that it had insufficient fuel to meet the city's needs. National Fuel asked residents to turn their thermostats down to 55 degrees and ordered a shutdown of local industry. As a result, nearly 3,500 were out of work. Schools and municipal buildings had to close. And though the standstill lasted only 24 hours, National Fuel imposed an indefinite 40 per cent reduction on Erie's gas supplies.

Jobs: To a heavily industrial city already beset by economic woes, the long-range impact of a gas shortage looked ominous. "The only way you can have a 40 per cent curtailment is through a curtailment of production," said Ray Weber, the head of Erie's Manufacturers' Association. "That, it seems to me, will mean a curtailment of jobs." The short-term effects were already perfectly clear. Trade at some establishments had been cut in half. "There isn't any business,"

said Mack Schoenberg, a jewelry salesman. "There's just snow and cold."

A few Erie residents accused the gas company of "scare tactics" and refused to cooperate with the emergency conservation measures. But most turned their collars up and the heat down and prepared to wait out the gas shortage—and the weather. Rose Irving, 85, who has lived in Erie all her life, declared that it was just plain inconvenient. Wise to the ways of Erie's winters, Mrs. Irving owns special shoes, complete with cleats, that help her negotiate the treacherous trip between her apartment building "for widow ladies" and her senior citizens' center. Last week, even Mrs. Irving had to stay at home and watch television. "What a bore," she sighed.

A BRITISH VIEW OF RELATIONS WITH THE DEVELOPING COUNTRIES

Mr. HUMPHREY. Mr. President, on January 5, the Honorable Frank Judd, newly appointed British Cabinet Minister for Overseas Development, addressed a meeting of the Developing Nations Committee of Members of Congress for Peace Through Law. The Minister's remarks dealt with the British Government's policies toward developing nations in Asia, Africa, and Latin America and his Government's views toward what has come to be known as the North-South relationship—the relationship between the rich and the poor nations. Mr. Judd provided those in attendance at the meeting with a very thoughtful insight into his own thinking and that of many of his countrymen who deal with international development issues.

He spoke of "* * * new dimensions, new imperatives, and new perspectives on the international scene." He stressed the new elements in the North-South dialog: The "New International Economic Order" concept and its accompanying demands for a fairer share of the world's wealth. He suggested that debt service relief, increased local processing of primary products in the developing nations, and better access to developed country markets for their products will go a long way toward helping to resolve the current confrontation between rich and poor nations.

The world economy, he suggests, cannot be healthy and expanding—to the benefit of all nations—unless the Third World's economies receive the resources and capital necessary to maintain a reasonable rate of growth and reasonable rates of improvement in their citizens' living standards.

Mr. Judd said much more that I commend to the attention of my colleagues who share my own concern for a peaceful and productive global economy. I am happy to provide the text of the Minister's remarks, and I hope we will keep the points he makes in mind when we deal with legislation in the coming months which will have a profound effect on our relations with the developing countries.

Mr. President, I ask unanimous consent that Minister Judd's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

MR. FRANK JUDD, M.P., MINISTER FOR OVERSEAS DEVELOPMENT, ADDRESS TO CONGRESSIONAL GROUP FOR PEACE THROUGH LAW

I don't want you to get the impression that this address to you today is in the nature of a self-righteous exercise when I tell you, at a time that Britain is coping with financial and economic problems on the domestic front, how marvellous we are at appreciating the needs of developing countries, and how assiduous we are in helping the poorer nations to overcome them. What I really want to do today is to give you a kind of package tour around my thinking, and indeed that of many of us in Britain who are engaged in overseas development, on the challenges of the rich/poor, or North/South, relationship. You see, I am one of those who cannot escape the view that we are witnessing new dimensions, new imperatives and new perspectives on the international scene. International affairs in the post-Second World War period have been characterised, indeed largely dominated, by the question of coexistence between the communist nations and those of the western world—E–W relations. But international activities over the last five years or so also have become increasingly concerned with relations between the richer nations and the poorer, that is, the industrialised and the developing. These have covered a wide range of vital questions encompassed in the phrase "world development", which are leading towards the questioning of established patterns of international relations.

The decision by the oil producers in the developing world enormously to increase the price of oil in 1974 not only had the effect of forcing industrialised countries to examine more carefully their energy policies, it also created a new ethos in the relationship between the richer and poorer nations. The Sixth and Seventh Special Sessions of the United Nations General Assembly, followed by UNCTAD IV in Nairobi, it seems to me left no room for doubt that a new impetus was characterising third world actions and reactions. We have had to recognise that the world's less developed nations are no longer satisfied that financial and technical assistance from the developed nations, however, generous in volume and terms it may seem to the public in our counrties, will improve their situation at a fast enough rate. They have come around to demanding what all poorer people eventually demand; a bigger share of the cake: a fairer deal. This is the real meaning of the New International Economic Order about which we are hearing so much these days. And, as UNCTAD IV has shown, the developing nations are putting their demands with more cohesion and political muscle than has ever been the case before. In this context I submit that it is somewhat naive for those engaged in world affairs to complain—as they often do with some indignation—about how the representatives of the third world have introduced "politics" into the meetings of UN specialised agencies and other international fora. All such bodies are concerned with economic and social affairs. What is politics basically about but economic and social affairs. We will condemn negotiation to immobility if we go on expecting discussion to centre only on technicalities.

In international relations all these discussions and demands are now called the North/South Dialogue. And this in turn was given formal recognition at the Conference on International Economic Co-operation (CIEC) which met for most of last year in Paris.

The CIEC was originally intended to be a consumer/producer dialogue on energy—but, at the insistence of the oil producers, was broadened to cover the whole range of North/South issues. The points which have emerged as those to which the developing countries attach the greatest importance are indebtedness and protection of developing countries' purchasing power. The developing countries have asked creditor countries to agree to across the board measures of relief from debt service obligations for whole groups of countries. Most industrialized countries regard these proposals as misconceived, not least because they would seriously risk undermining the confidence on which international credit—and indeed the whole system of international trade and payments—rests. Nevertheless, we recognize that individual cases have arisen, and will arise, of acute or structural balance of payments difficulties, of which debt service problems represent one element which will call for exceptional remedial measures. The solution to the question of purchasing power in our view lies in completion of recovery in the world economy and the continuance of its growth. In this framework there should be increased local processing of primary products in the LDCs and better access to markets for their manufactures. The improvements in the IMF's compensatory financing facility, effected last March, have already been of considerable help.

Given an accommodation on these two points, we believe the remaining issues at the CIEC will fall into place without too much difficulty.

Against this background of complex subjects which comprise the North/South dialogue, it is an over-simplification to characterize it as a confrontation between two world blocs—the developed and the developing countries—in the political sense; at the extremes it is not difficult to define a very rich country and a very poor one, but the different interests of certain countries are not so clearly defined between the more better off and the less better off. And in terms of economic arrangements there are at least three world groups: the developed market economies (Western powers), the centrally planned economies (the Communist bloc) and the developing countries (the Third World). There are, moreover, obvious divergencies within each group in terms of political and economic structures, income, religious affiliations, producer/consumer status and so on. As an example, it is still accepted that the majority of the oil producing countries come into the category of developing countries although some of their incomes per head of population are the highest in the world. The majority of the developing countries, however, range from being poor to extremely poor, with those in the latter category having an average income of under $200 per head a year. This poorest group comprises one-third of the world's population: 1,200 million people.

It is therefore incorrect to see the Third World as a block of nations with a totally common interest. But from their point of view they think of the world today as being one where all the machinery of relationships, of economic and monetary exchange, of the terms of trade, is weighed towards the one-third of the world which comprises the industrial nations. The developing countries as a group are convinced that international relations today, in the last quarter of the 20th century, are geared to exploit them and their societies, and they consider themselves as the under-privileged of the world: they do not identify very many changes from the days of colonialism and empire to the days of emergence and independence. They see international organizations like the IMF and the World Bank, GATT, and private bodies like the great Trans-National Corporations, as instruments for exploiting their already under-privileged position. They are also of the view that what the Western democracies call "the free flow of information" is a device for publicizing western values. And they believe that as a consequence of all these mechanisms and attitudes, the gap in living

standards between the rich and poor has inevitably become wider.

It would of course be foolishly short-sighted for us in richer countries to discount the significance for our societies of the stark differences between the way we live and the way those in developing countries little more than exist. We in the developed countries comprise about 32 percent of the world's population, but we consume over 75 percent of the world's total resources. There are experts who argue that the developed nations are approaching the outer limits of resource and environmental boundaries, so that it is simply not possible for the total population of the world to live at the standards enjoyed at present by those in the better off societies. Water and mineral scarcities, pollution, inadequate amounts of food—all pose limits to world growth. This thesis inevitably leads to the view that further development in our western societies will be at the expense of the poorer countries.

In challenging the existing international order the Third World has examined, and even proposed, various alternatives. All the developing countries are not, however, totally unanimous on the preferred solution. One model is "collective self-reliance" on a kind of Chinese model through which the Third World would establish its own values independent of the consumer societies of the West. An alternative general strategy, pioneered by the oil producing countries of the Third World, is to seek to take over some of the levers of power from the industrialised countries, and redistribute world income in favour of the poorer, producer nations by means of a much more managed approach leaving less scope for the free play of economic forces. This approach shows itself in the call for the proportion of world industrial production in Third World hands to increase from 7 percent in 1974 to 25 percent in the year 2000; more free access for the primary products of developing countries to the markets of the industrialised world; preferential access for Third World manufactured goods to those markets; a moratorium on their debt; increased and more automatic transfers of financial aid from the rich to the poor countries.

Frankly, I cannot escape the conclusion that is is going to become increasingly necessary in the self-interest of the industrialised world, and in securing for ourselves a stable future, that we in the richer societies come to terms with a number of the Third World's objectives even though we may often have doubts whether the specific mechanisms they have proposed for change will actually work, and work to benefit the poor in those countries and not just those that hold the economic power. If we can be seen genuinely to have come to terms with at least some of their principal objectives we are more likely to be listened to in any honest criticism we may offer of particular techniques. Without a change of heart our criticisms will never be treated at face value, earning us the contempt of those who inevitably interpret them as delaying tactics. Interdependence in the world economy is now so strong that no country can isolate itself from developments elsewhere. Grinding poverty in a third of the world, which is associated with high birth rates and further pressure on world resources, threatens the entire world population.

Phrases like "the world's poor" tend to run off our tongues too easily. We increasingly look at statistics of Third World poverty with little more than academic interest. But I think we should all keep repeating to ourselves the words of Robert McNamara at the World Bank meeting in Manila: "We must try to comprehend what in fact we mean when we speak of poverty. . . . The word itself has become almost incapable of communicating the harshness of the reality. Poverty at the absolute level—which is literally what hundreds of millions of men, women, and most particularly children are suffering in these countries—is life at the very margin of physical existence."

If the lot of the world's poor is to be alleviated there will need to be a redeployment of economic activities across national boundaries. Countries like Britain for example will need to concentrate on industries which have a high input of skill leaving many of our traditional industries to the Third World. We may have to accept that a change in roles, a blurring of the traditional concept of nations divided into primary producers and industrialised countries, will call for changes in international institutions. The challenge to the dominance of the developed countries in these institutions cannot be shrugged aside—if they cannot be adapted they will lose relevance to the ordering of international relations.

For the people of Britain, once the centre of a great Empire, it is no simple matter to come to terms with a new role in the economic and political structures of this small planet. No longer the colonial master, a small island with few untapped natural resources, depending for its existence and prosperity on the ability to trade overseas. During our present economic problems, the calls are there to put up the shutters, to bring in heavy import controls, to still drastically further curtail overseas aid, to try to be self-sufficient. Most of these are very short-term answers—if answers they are at all. My conviction is that some of them would tend to lead us into still greater problems in the longer term. We will be deceiving ourselves if we think them to be the real answer. Indeed, our failure in the past to look far enough into the future has been a major cause of our present economic difficulties.

No. I believe the developing countries are central to our future. We must look forward much more to the longer term, adopt a new realism in our view of the world and our place in it. I remember some years ago meeting the then administrator of UNDP, that distinguished American, Paul Hoffman, to whom we Europeans have grateful memories when the managed Marshall Aid. He was in hospital at the time with a broken leg hoist up on a pulley, and we were exchanging views about attitudes to aid. He almost shook his leg free with forthrightness and enthusiasm as he declaimed that it was wrong for anyone to believe that aid was charity. When he was in the automobile industry, he said, he considered it right to set aside a reasonable part of his budget for market development. And that, he announced, "is all I'm asking the industrialised nations to do now in providing assistance to developing countries."

And I also believe it makes sense in terms of security. I respect the position of those who are persuaded to pacificism, but I'm not one of them. I see defence as necessary. But I see economic aid to developing countries as the same kind of insurance policy as our defense commitment. In one sense, my move from being a junior minister in the Department of Defense to my present Ministry was a logical translation from dealing with a possible threat to our security to coping with a situation that, if allowed to continue and fester, will create the kind of tensions that enhance the threat, and could make traditional tensions seem like child's play by comparison.

In all this, the role of aid is scarcely likely to diminish. But it is surely right for President Nyerere, Mrs. Gandhi and other leaders in the developing world, to constantly remind their people that self-respect, and the reality of their independence, demand that they never lose sight of their aim of self-reliance. And I think we must not be too anxious to interpret this attitude as ingratitude. We must not let it influence our expectations that the transfer of financial resources and of know-how must continue to be major elements in world development in the last quarter of the 20th century. Certainly we in Britain do not envisage the need for less aid in the foreseeable future—though we expect to continue seeking the most effective and realistic ways of using it.

The improvement in the living standards of the world's poor is one of the major challenges of our time. Looking back over the last 25 years of development efforts, both national and international, we can see that much has been achieved. Developing countries have improved their basic infrastructure, railways, roads, and the rest, and they have developed the skills of many of their people to provide the basis of higher levels of economic activity. This has, of course, been assisted by technical co-operation and financial aid programmes. Few developing countries had, in the past, a faster growth of their national output than they recorded in these years. Major progress has been made so that, for example, over the last 16 years the aggregate GNP of developing countries, taken as a whole, more than doubled in real terms.

These figures are open to revision, and I note that recently the World Bank stated that there had been virtually no growth in per capita income in the poorest developing countries over the past 5 years. As part of the positive attitude towards development that needs encouraging, it is necessary to point out that all the assistance from the richer world has only been responsible for about 20 percent of the poor world's growth over the past couple of decades. We know our help is vital, but it is no more than marginal. Eighty per cent of the growth has been generated by the developing countries' own energy and efforts.

In Britain we have over the past few years become increasingly concerned at the development prospects of the poorest countries, and we gave expression to this concern 16 months ago in the publication of an official document showing that as a matter of policy we would be putting a new emphasis in our aid programme on helping the poorest countries and the poorest people in those countries. And we defined the poorest countries as those whose GNP per capita was $200 a year, or less. A few months before our announced change of emphasis we decided to provide almost all new aid commitments to the under $200 countries in the form of grants and not loans. Since most of the poorest live in the rural areas greater emphasis is now being placed in our disbursements and commitments upon channelling aid into rural development.

We must never lose sight of the fact that aid and development policy is about people, about human beings. It must inevitably therefore be concerned with the rights to which they are entitled as human beings. In Britain the extension of proper health service facilities, better housing and more educational opportunities to the widest possible cross-section of the British population has been a practical manifestation of commitment to freedom and human rights in our own society. We believe, therefore, the same opportunities must apply in our development policy and perhaps the first priority of all is the right to be adequately fed. The key objective must be an extension of the right to live creatively and with dignity as distinct from the de-humanising struggle to survive.

Our new aid and development strategy is specifically designed to break free of any self-deceptive preoccupation with abstract statistics. We believe that the way in which to measure the effectiveness of aid programmes is the degree to which the poorest countries and the poorest people within those countries are becoming less poor and enabled to live in dignity rather than to exist in squalor. Because development is a fight for human emancipation in its fullest sense we

must not turn aside from potential contradictions. I am unequivocal in the belief that it would be as wrong to allow our co-operation in development policies overseas cynically to be used by ruthlessly repressive regimes as a means of bolstering their authority, as it would be to use the most disadvantaged and poor sections of the community in such countries as a means of putting pressure on political tyrants. However tempting the argument may sometimes be to cut off aid to this country or to that, as a means of expressing moral disapproval and hopefully provoking change, we must not lose sight of whom it is we may be asking to pay the price. We could too easily be accused of heaping still greater hardship on already oppressed peoples.

The more successful we become in the implementation of the new aid strategy, the more effective we become in ensuring that it really gets through to where it is most needed, the more acute this moral dilemma will become in certain circumstances. This whole question of whether aid for the poorest should be used as a political weapon is, in my view, a completely different issue from the question of general economic—let alone military or for that matter sporting and cultural—relationships with repressive regimes. The crucial point about our aid policy is that its objective is now to be deliberately discriminating in favour of the areas of greatest economic and social justice.

In the context of current concern about the abuse of human rights in parts of Latin America, Asia and Africa it has been represented to me that this kind of argument is all very well but that it can become an excuse for not putting pressure on reactionary governments. If we in fact *made* it an excuse for such passivity this would of course be indefensible. Naturally, as a democratic socialist administration the British Government believes that the principles of human dignity and human rights have no convenient geographical frontiers and are by definition universal in their application. We are therefore always looking for meaningful opportunities to speak out against tyranny and repression wherever it exists and where necessary to examine appropriate methods—but I underline appropriate—of backing our words with action. What matters is that we must look at every case on its merits, taking all the considerations to which I have just referred, and more, into account, and we should be certain that whatever we are doing is on balance justifiable in terms of human emancipation and agreed social progress; that it is not by contrast counter-productive in the achievement of these objectives.

As one of the younger (or perhaps I should say less old) British Labour politicians, nurtured in the post-colonial era, against the background of East/West tensions, I am deeply concerned at the condition of this small planet in the last quarter of this century. One of your great statesmen, Adlai Stevenson, likened the present-day world to a spaceship hurtling on its journey with one-third of its crew enjoying resources more vast and prolific than mankind had ever known, while the other two-thirds barely subsisted. No spaceship, he said, could be expected to survive such contradictions.

Candidly, in subjective terms, I am morally and politically affronted by that situation, and consequently we cannot turn a deaf ear to the call by the third world nations for a greater share of the world's resources. I believe in co-operation and co-ordination; not in confrontation. My conviction is that all of us who try to cope with world development are not in the charity business. We are in the world survival business. Clearly, people in our societies have not yet sufficiently grasped the dramatic challenge presented by the inescapability of international interdependence. No one should expect that coping with such a challenge will be easy. And all of us in the richer societies—politicians as well as other people—must resist the sometimes overwhelming urge to bury our heads in the sand and wave our flag-bedecked backsides in the air. Frankly, if we do, they are more likely to be kicked than to be saluted.

We cannot have it both ways. If we wish to lay claim to the designation "civilised" we have relentlessly to ask ourselves what civilised values demand of us in terms of shouldering our international responsibilities.

ALEX ROSE—LIBERAL—A POWER IN POLITICS

Mr. JAVITS. Mr. President, the recent death of Alex Rose, founder of the Liberal Party in New York, left the political world in my State bereft of one of its most colorful and important figures. And, liberal and independent thinkers in my State have lost also a most intelligent and articulate spokesman.

Alex Rose's guiding light was an unusual blend of pragmatism and idealism, but he never allowed expediency to interfere with his vision of justice. He will be deeply missed by his devoted family, by those of us fortunate enough to have worked with him and to have been his friends, and by all who have followed his remarkable career.

If I may quote his beloved son Herbert, who was with Alex Rose when he died:

It's not what he died of that matters, the man's life is really the story.

I ask unanimous consent that obituaries from the New York Times, the Daily News, and the New York Post, which chronicle Alex Rose's unique life be printed in the RECORD.

There being no objection, the obituaries were ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 29, 1976]

ALEX ROSE OF LIBERAL PARTY, A POWER IN POLITICS, IS DEAD

(By A. H. Raskin)

Alex Rose, leader of a tiny millinery union, who built the Liberal Party into a significant and often-decisive force in New York City, State and national politics, died yesterday at his home in Washington Heights. The 78-year-old confidant of Presidents, governors and mayors had been ill for nearly a year, first with septicemia, a blood infection, and in recent weeks with viral bronchitis, but cancer was the cause of death.

His last public appearance was at the Liberal Party's $125-a-plate campaign dinner, with Jimmy Carter, the party's nominee for the Presidency, seated at his side. For Mr. Rose the dinner, three weeks before Election Day, was a characteristic personal triumph, with notables of both the Democratic and Republican Parties crowding the grand ballroom of the Americana in tribute to the clout of a man who performed major and minor political miracles as vice chairman of a party with only 108,000 enrolled members.

On Election Day, Mr. Rose awoke too ill to go to the polls, the first time he had failed to cast his vote in a half century. He was scheduled to go to Albany Dec. 13 to cast an Electoral College vote for Mr. Carter. It would have been his fifth experience as a Presidential elector, but illness obliged him to designate a substitute.

His choice was another reflection of his power—Raymond B. Harding, former Bronx Liberal leader, who now serves as special assistant to Governor Carey, a Rose intimate.

Mr. Rose's death leaves cloudy the future of a party that increasingly has been shaped in his image. Whom the Liberal Party will back in next year's election for Mayor may become a pivotal element in its development. An even bigger question is whether the Liberal nomination will mean as much as it once did without Mr. Rose's political skills to reinforce it.

Through all his months on the sick list, Mr. Rose kept in touch with the Governor and other close political associates, notably former Mayor Robert F. Wagner, whom he rescued from political annihilation in 1961 by masterminding a successful beat-the-bosses campaign after Tammany Hall decided to deny Mr. Wagner a third term at City Hall.

Mr. Rose also maintained daily phone communication with his offices as president of the United Hatters, Cap and Millinery Workers International Union. Hatlessness and intensified import competition have shrunk that union, which once had a membership of close to 100,000 to a present level of only 16,000.

In recognition of that precipitous cut in union size, Mr. Rose in the mid-1960's rejected a convention proposal that his own salary be increased by $10,000 a year. Instead, he cut his $20,000 pay to $17,500, the lowest salary for any international union president in the country.

He continued to draw that amount through all the inflationary years until his death. Since he passed his 72d birthday, the financial strain was eased by his ability to receive his full Social Security entitlement of roughly $7,000 a year for himself and his wife. He received no salary from the Liberal Party.

HIS LAST PROJECT, A BOOK

For 35 years, the Polish-born unionist and political strategist lived with his wife, the former Elsie Shapiro, in the apartment where he died at 200 Cabrini Boulevard, overlooking the Hudson River, north of the George Washington Bridge. He had hoped to write a book recounting his political experiences, but had dictated only a few pages before he was hospitalized in Florida last January. He could never get back to the project on a sustained basis.

The funeral will be at 11 a.m. Thursday at the Metropolitan Synagogue, 40 East 35th Street. Former Mayor Wagner will deliver the eulogy.

Mr. Rose is survived by his wife of 56 years; a son, Herbert, a New York lawyer; a daughter, Mrs. Carmi Schwartz, whose family moved last year from Scarsdale, N.Y., to Israel, and four grandchildren.

A shrewd blend of idealism, intelligence and political cunning enabled Alex Rose to make much out of little in both politics and labor. He was never able to command the entrenched loyalties of mass movements such as the major parties founded on ingrained party ties. He had no vast financial resources or wealthy backers to call on in bucking the dominant Democrats in New York City or the dominant Republicans upstate.

Yet, even when the Liberal Party's sturdiest supporter, the International Garment Workers Union, broke away from the party after the retirement of David Dubinsky 10 years ago, Mr. Rose remained skillful enough at political manipulation to elect John V. Lindsay to a second mayoral term in 1969 on the Liberal line alone. He played a vanguard role in winning national labor support for the Democratic Presidential candidacy of John F. Kennedy long before the 1960 nominating convention in Los Angeles. And at his death he was deeply involved in complex maneuvers affecting the 1977 New York City mayoral designation.

The organization Democrats in city and state always hated him because they felt his party was "stealing" their votes. They called him the last of "the big-city political bosses" and ridiculed his contention that the Liberal Party existed only to advance

good government—in Mr. Rose's words, "the watchdog and the conscience" of the political process.

Even within his own party Mr Rose was often regarded as autocratic and, increasingly in recent years, as old-hat, out of touch with such new waves in politics as the youth and women's movements. Eldon R. Clingan, who had been elected minority leader of the City Council as a Liberal, led a revolt within the party six years ago in protest against the Rose policies. In the last campaign, many progressives in the party grumbled at Mr. Rose's decision to deliver its Senatorial nomination to Daniel Patrick Moynihan after the former United Nations Ambassador defeated Representative Bella S. Abzug for the Democratic designation.

Mr. Rose's influence was almost as consequential within the general labor movement, even though his international union was smaller than most local unions in the mass-production and civil-service fields.

He was a pattern-setter in labor-management cooperation, a reflection of his belief that job security of union members depended on the economic health of their industries.

To combat the adverse trade conditions that were killing the hat industry, Mr. Rose in 1960 sponsored a promotion fund aimed at fostering fashion shows and other spurs to increase hat sales for both men and women. The union's members are still contributing 2 percent of their wages to that fund.

When the Merrimac Hat Company in Amesbury, Mass., an important maker of felt hat bodies, was threatened with liquidation, he saved the jobs of its workers by arranging for the company's purchase by the millinery union. For a decade, the company was kept alive, with Mr. Rose serving as chairman of the board and negotiating contracts that gave regular wage increases to the Merrimac employees.

However, a flood of Czech imports finally forced it to close. "It was the one victory the Commies ever had in our union," Mr. Rose used to tell his associates, many of whom had worked alongside him in routing Communist elements from the union in the 1930's

OUSTER OF THE TEAMSTERS

His strong stance against racketeering in organized labor led George Meany, president of the American Federation of Labor and Congress of Industrial Organizations, to designate Mr. Rose as chairman of a special committee in 1957 to consider whether the scandal-scarred International Brotherhood of Teamsters should be expelled for gangster domination.

Jimmy Hoffa had just been elected president of the truck union, the federation's biggest and strongest affiliate. The five-member Ethical Practices Committee of the A.F.L.-C.I.O., on the basis of its own inquiry into corruption and disclosures by a Senate antiracket committee, had called on the teamsters to clean up or get out.

The function of the Rose group was to review the ouster recommendation. Mr. Rose joked about his role as "Lord High Executioner," but behind the scenes of the A.F.L.-C.I.O. convention in Atlantic City he sought to negotiate an accommodation that would have made it possible for the teamsters to stay in the federation.

That accommodation would have involved Mr. Hoffa's stepping down as president, and other reforms. The teamster chief was on trial for wiretapping in New York at that time, but arrangements were made for him to drive to the convention one night to confer with Mr. Meany. Snow kept his car from getting through, and the next day the convention endorsed a Rose call for expulsion.

"If Hoffa had done what we told him to the teamsters would still be in the federation and he would still be alive," said Mr. Rose shortly after the Detroit unionist disappeared last year under circumstances indicating gangland murder.

Mr. Rose was born Olesh Royz on Oct. 15, 1898, in Warsaw, the son of a well-to-do Polish tanner and dealer in raw hides. One advantage his father could not give him was a college education, since Jews in Poland in that Czarist period were not often admitted to the universities. At the age of 15, Alex was sent to New York, with the thought that he would prepare for a career in medicine.

The outbreak of World War I forced his father to stop sending funds for his support. The youth, now using an English transliteration of his Polish name, took a job as sewing-machine operator in a millinery shop at $6 a week and also became active in the Labor Zionist movement. In 1918 he enlisted in the Jewish Legion of the British Expeditionary Forces for duty under Viscount Allenby fighting to free Palestine from Turkey.

RESPONSIBILITY DELEGATED

On his return to New York two years later, he married Elsie Shapiro, a Russian-born colleague in the Zionist movement. She was short and retiring; he was tall and assertive. It made for a durable marriage.

In 1927, he became vice president of the hat union, and assisted its president, Max Zaritsky, in repelling incursions by Communists and racketeers. In 1950, Mr. Rose moved up to the presidency in his own right.

Mr. Rose took his first important plunge into the political mainstream in 1936, when he joined in the formation of the American Labor Party in this state. The American Federation of Labor and the Committee for Industrial Organizations had split a year earlier on the issue of craft versus industrial unionism, and fear was felt that their civil war would interfere with the mobilization of labor votes in support of a second term for President Franklin D. Roosevelt.

The American Labor Party also provided a vehicle for enabling old-line Socialists, strongly represented in the leadership and rank and file of New York City's powerful needle-trade unions, to register their enthusiasm for the Roosevelt New Deal without violating their life long aversion to voting on the "capitalist" line of either the Democrats or Republicans.

The success of the American Labor Party in both respects caused its sponsors to decide to make the party a permanent "balance-wheel" in metropolitan politics, but internal politics quickly intervened.

Mr. Rose and his principal ally in the party, David Dubinsky, whose garment union was the largest of New York labor organizations, became increasingly distressed at the influence within the party of left-wing elements. The Transport Workers Union and National Maritime Union, both products of what became the Congress of Industrial Organizations were viewed by the Rose faction as leaders in Communist infiltration of the American Labor Party.

Sidney Hillman, president of the Amalgamated Clothing Workers of America, who was devoting most of his energies to wartime duty with the Roosevelt Administration, opposed any showdown with the leftists as an impediment to national unity at a time when the United States and the Soviet Union were allies.

The upshot was a test in the American Labor Party's 1944 primary. When the Hillman-leftist coalition won, Mr. Rose and Mr. Dubinsky led a walkout and founded the Liberal Party. Both parties designated Mr. Roosevelt as their Presidential candidate for a fourth term, and he accepted both designations.

In that first toe-to-toe contest, a half-million New Yorkers voted on the American Labor Party line as against slightly over 300,000 for the infant Liberal Party. But with the coming of the cold war after V-J Day, the tide swiftly shifted in favor of the Rose faction.

The coup de grace of the American Labor Party came in 1948, when it became the New York affiliate of the Progressive Party, formed to back the Presidential candidacy of former Vice President Henry A. Wallace against President Harry S. Truman. The Democrat Party in New York State, convinced that Truman could not win, did little in his behalf. That thrust the Liberal Party into the role of mainstay of the successful Truman campaign in the State.

Mr. Rose kept playing his political cards with astuteness in the years that followed, using the club of Liberal endorsement of an independent or a Republican as a threat to hold over his party's normal teammates, the Democrats. That lever proved a potent force in winning the Democratic gubernatorial nomination for W. Averell Harriman in 1954. Franklin D. Roosevelt Jr. had the inside track for the designation, but Mr. Rose's view that he was too much of a dilletant finally prevailed, and the nomination went to Mr. Harriman. He won in November while Mr. Roosevelt, given the Attorney General nomination as a consolation prize, lost.

REASON FOR ROOSEVELT

However, 12 years later, Mr. Rose decided to make Mr. Roosevelt the Liberal Party's nominee for Governor as an independent candidate. Two factors when into that choice. One was a belief that Mr. Roosevelt had become a serious politician interested in public service. The other was annoyance with the Democratic leaders who had put Frank O'Connor up as their candidate in pursuance of what Mr. Rose considered a cynical political deal.

President Lyndon B. Johnson called Mr. Rose personally to urge that the Liberals support the O'Connor designation. But even though Mr. Rose placed great store by his friendship with the President, he rejected the suggestion. He sought the help of Senator Robert F. Kennedy in persuading the Democrats to switch to Mr. Wagner or State Comptroller Arthur Levitt.

When Mr. Kennedy declined to intervene, the Liberals mounted their third-party campaign. More than 500,000 votes were cast on their line. The result was a victory for Gov. Nelson A. Rockefeller, which many observers suspected had always been the Rose-Dubinsky design.

Mr. Rose's proudest achievement was his defeat of all five county leaders of the New York City Democratic Party when they sought to get rid of Mr. Wagner as Mayor in 1961. Carmine G. DeSapio was then at the height of his power in the Manhattan organization, and the Mayor was prepared to toss in the towel until Mr. Rose persuaded him to fight against "bossism."

The result was re-election for Mr. Wagner and a defeat for the organization. However Mr. Rose emerged with one lasting regret.

"I am responsible for Abe Beame's mayoralty," he used to confide to friends after Mr. Beame moved into City Hall in 1973. "When Bob Wagner decided to stand up against the bosses, I urged him to identify with career technicians.

"Beame, who had developed a considerable reputation as an expert in municipal finances during his service with Wagner as Budget Director, was drafted to run for Comptroller on the 'beat-the-bosses' ticket. He won. That was one of my good ideas that didn't work."

The hostility between the two men, sharpened by the endorsements the Liberals gave Mr. Lindsay for Mayor in 1965 and 1969, carried up to Mr. Rose's death. He excluded Mr Beame from the invitation list for the Amer-

icana dinner, even though Mr. Beame had been among the first mayors in the country to endorse Mr. Carter. Governor Carey and Mr. Moynihan, as well as Mr. Carter, were speakers.

[From the New York Times, Dec. 29, 1976]

NEW YORK'S POLITICAL LEADERS LAUD ROSE IN TRIBUTES

Following are tributes made to Alex Rose, the key architect of the Liberal Party, who died yesterday:

Governor Carey: He has achieved good beyond measure for the people of New York, both city and state, as a trade union leader and as the conscience and strategist of the Liberal Party, which he helped found in the mid-1940's and which has exerted an affirmative impact on our political processes.

Mayor Beame: A tireless leader and dedicated trade unionist, he was a potent force for the furtherance of liberal ideals and humane government.

Former Mayor John V. Lindsay: Our community will forever miss his special touch upon the life of the city, the state and the country.

George Meany and Lane Kirkland, AFL-CIO secretary treasurer: Alex Rose was a great patriot, a fine trade unionist and an unusual political leader. His service was not only to his own members but to the entire trade union movement. We have lost not only a colleague but a close friend.

Attorney General Louis J. Lefkowitz: His deep concern for his fellow man and for justice in every part of our society marked him as an individual of great dignity and one who was esteemed and loved by all who were privileged to know him.

Senator Jacob K. Javits: He was the consummate liberal and a born politician. His contribution to ridding the United States trade union movement of the danger of Communist control assures him of a place in the labor history of the United States.

Amalgamated Clothing and Textile Workers Union: Alex Rose will long be remembered for his selfless devotion to the cause of labor. He was a skilled political leader and was the architect of the Liberal Party, which has made an outstanding contribution to political action in this state.

Vice President Rockefeller: Alex Rose combined independence of character, poltical sagacity and complete devotion to New York to become one of the most influential and imaginative leaders in the city's history. He was both a champion of working men and women and a master of the politics of a free society.

Former Mayor Robert F. Wagner: Our friendship goes back many, many years and through many political storms for what we believed were the right ideals for our city, state and country. To say that he will be missed hardly could fit the picture.

City Council President Paul O'Dwyer: Aside from being a master politician he was a force for good and he loved the battle. He typified the New York he loved.

Vincent F. Albano, Jr., chairman of the New York County Republican Committee: His word was his bond, all too often a rarity in government. To me, he was an elder statesman in this business of politics.

J. Daniel Mahoney, chairman, New York State Conservative Party: Alex Rose was a dynamic force in New York politics for many years. He leaves a legacy of distinction and accomplishment to the Liberal Party which he guided so surely.

Mario M. Cuomo, New York State Secretary of State: Alex Rose was living proof that integrity and dedication can be as important as numbers in politics.

[From Daily News, Dec. 29, 1976]

LIBERAL PARTY FOUNDER, CHIEF ALEX ROSE IS DEAD AT 78

(By Owen Fitzgerald and Donald Flynn)

Liberal Party leader Alex Rose, a political David who wielded enormous power by playing off the Democratic and Republican Goliaths against each other, died yesterday at 78.

Rose died at his home at 200 Cabrini Blvd. in Washington Heights at 9:15 a.m. With him were his wife of 56 years, Elsie; his daughter, Carmy Schwartz; his son, Herbert, an attorney, and several of his grandchildren.

Rose, vice president of the Liberal Party for more than 30 years, died "very quietly and peacefully," his son said. He had been ill for nearly six months and developed an undisclosed infection on Monday. The veteran politician underwent surgery for cancer of the colon last spring.

Word of Rose's death quickly reached Gov. Carey and Mayor Beame at St. Simon's Island, Ga., where they are meeting with President-elect Carter.

HE HELPED CAREY

"I feel a great sense of personal loss," said Carey. The Liberal Party leader played a key role in Carey's 1974 election.

Mayor Beame said: "Alex Rose was a man who left his mark on the political life of this city. A tireless leader and dedicated trade unionist, he was a potent force for the furtherance of liberal ideals and good government. His impact on the political and government life of this city and this state will be missed."

Rose's position as president of the 32,000-member United Hatters, Cap & Millinery Workers and as only one of 13 vice chairmen of the 100,000-strong Liberal Party provided barely a hint of his true power as a political kingmaker.

He began by managing a maverick named Fiorello LaGuardia into City Hall in 1937, and at the end he was powerfully entrenched in the camp of Jimmy Carter.

"We're a small party," he once said, "but we enjoy the confidence of a great many people, based of course on the record. As I once said, we're really like a Better Business Bureau. Only we're the Better Political Bureau."

Rose was born Olesh Royz Oct. 15, 1898, in Warsaw, Poland, the son of a well-to-do tanner and hide-dealer. He came to New York as a youth of 15, intent upon studying medicine, but became a $6-a-week sewing machine operator instead.

$18,000 A YEAR

By 1927 he had organized the United Hatters, and he headed it the rest of his life. His current salary was $18,000 a year.

Rose founded the Liberal Party in 1944 after Communists had gained control of the predecessor American Labor Party. He never took any title except vice chairman, but there was never any doubt who ran the Liberal Party.

After the LaGuardia campaign, Rose became involved with Presidents Franklin D. Roosevelt, Truman, Kennedy and Johnson. When Mayor John V. Lindsay lost the GOP mayoral primary in 1969, Rose masterminded Lindsay's reelection on the Liberal and independent lines.

This year's general election was the stage for Rose's latest coup—the engineering of the Liberal nomination for U.S. Sen.-elect Daniel P. Moynihan.

Rose's Liberal line pulled in 184,000 votes for Moynihan, better than the 143,000 votes won by Carter on his Liberal line.

Services will be held at 11 a.m. tomorrow at Metropolitan Synagogue, 40 E. 35th St.

[From the New York Post, Dec. 28, 1976]

ALEX ROSE IS DEAD

(By Judith Michaelson)

Alex Rose, founder of the Liberal Party and a powerhouse in New York politics for more than four decades, died today in his home in Washington Heights. He was 78.

Rose died at 9:15 a.m. surrounded by his family—his wife of 56 years, the former Elsie Shapiro, his daughter Carmy Schwartz, who had flown in from her home in Israel; his son Herbert, who is a lawyer here, and several grandchildren. He is also survived by a great-granddaughter.

For months Rose had been ailing with septicemia, a form of blood poisoning. He also suffered from cancer, and had two operations on his colon, the second in May.

Over the last several months he had grown noticeably thinner and paler, but at one of his last political dinners—the Liberal Party's fete for candidate Jimmy Carter—he made the rounds of friends and supporters as if nothing were wrong.

"It's not what he died of that matters," said his son Herbert. "The man's life is really the story."

Services will be held at 11 a.m. Thursday at Metropolitan Synagogue, 40 E. 35th St.

Rose's support helped put his friend Hugh Carey in the Governor's office, and Rose became a major power in the Carey Administration.

In 1961 he helped Robert F. Wagner win his third term as Mayor in his fight against the city "bosses." In 1965 he joined the Republicans to help elect John Lindsay to his first term, and in 1969 when the Republicans deserted Lindsay, Rose was the major force in helping him win as a Liberal and Independent.

He also had close ties to former Gov. Nelson Rockefeller. In 1966, his party nominated Franklin Delano Roosevelt Jr., a move many political observers believe kept Democratic nominee Frank O'Connor from winning. That gave Rockefeller his third term.

Although he ran a minor party in one state as its vice chairman, and although he headed a small union—the United Hatters, Cap and Millinery Workers—Rose's political power far exceeded his titles.

He made—and advised—mayors, governors, and at times Presidents, dating back to 1937 when he managed Fiorello LaGuardia's winning Fusion campaign for mayor.

His support helped John F. Kennedy carry New York, and he had close links with Lyndon Johnson.

"We're a small party," he said in a 1973 interview, "but we enjoy the confidence of a great many people, based of course on the record."

Tributes to Rose poured in from city and state politicians, several of whom were in St. Simons Island, Ga., for talks with President-elect Carter.

Carey, who along with Mayor Beame, had spoken with Carter on the city's fiscal crisis, said he was "stunned and saddened" by the news of Rose's death.

"He was a dear friend and counselor for whom I had the highest professional admiration and deepest personal affection . . . He stood tall among political leaders, and his integrity towered equally as high. We shall not see his like again in our time."

Beame said in a statement released by his office: "Alex Rose was a man who left his mark on the political life of this city. A tireless leader and dedicated trade unionist, he was a potent force in the furtherance of liberal ideals and humane government."

Lindsay, who is vacationing on St. Simons, said: "I have lost a dear and valued friend. More importantly, our community will for-

ever miss his special touch upon the life of the city, the state and the country."

Sen. Javits, who received Liberal endorsement in his own election battles, said:

"He was the consummate liberal and a born politician. His contribution to ridding the U.S. trade union movement of this danger of Communist control assures him of a place in the labor history of the U.S. He was also a wise and compassionate friend to me and many others, and he had a keen eye for political talent."

City Council President Paul O'Dwyer called Rose's role in city affairs "unequalled in the political history of this nation. His endorsement carried with it a recommendation to be an independent voter. Aside from being a master politician, he was a force for good and loved the battle. He typified the New York he loved."

Manhattan GOP leader Vincent Albano said: "Although I sometimes disagreed with him, I had a great deal of respect for Alex Rose. His word was his bond, all too often a rarity in government."

Wagner said he was "deeply grieved to learn of the death of my old friend and colleague, Alex . . . To say that he will be missed hardly could fit the picture. A great man has left us but we are better for having known him." Wagner will deliver the eulogy at Rose's funeral Thursday.

Almost routinely—consulted in election years, his analytical ability and his party's endorsement could—and often did—snatch victory out of defeat. His admirers saw him as an idealist and a reformer. His critics charged he was a political boss.

"A political boss is a man who acquires both privileges for himself and power for himself that he uses selfishly," Rose said. "A political boss is a man who worships the machine and not principles. A man who promotes power and not public good. And no such thing exists in our party.

"To me, a political boss is a man—number one—who's a professional in politics. Who doesn't have to sit, like I do in the union, and worry about my industry and my problems. A political boss is a man who's in politics from morning to night, not a man to whom politics is extracurricular. Number two, who is there to gain out of it. No one can point out I benefitted personally from anything."

Tall, gaunt, with a rumpled owlish expression, a bulldog mouth and a mild manner, Alex Rose, the son of a tanner, was born Olesh Royz in Warsaw Oct. 15, 1898. He retained to the end the Polish-Jewish rhythms and accent of his childhood.

Lavish with words, he used them to build effects, piling sentence on sentence with more vigor than precision. With his complex mind and benign manner, he infused vitality and color into the abstractions of the political game.

An indifferent pinochle player, he excelled at chess. "That's probably where I acquired some of the ability to think through problems," he said. "In a chess game you've got to figure out five, six moves in advance."

In a sense, Rose was the prototypical American of the early 20th century. He arrived in the U.S. at 15 to earn $6-a-week at his first millinery job. Within a couple of years, he had plunged wholeheartedly into the trade-union movement.

"I came over with an uncle," Rose told The Post's Jerry Tallmer in 1966. "My father was not only a tanner but a dealer in rawhides. We lived in comfort, but in Poland they would not allow Jews to go to college. As soon as I got here, I went to night school on Houston Street. My immediate objective was medicine." Small smile. "The medical world lost a doctor."

Caught up in labor Zionism, Rose never did manage to enter college. At the outbreak of World War I, devoted to the concept of a Jewish homeland, he joined the Jewish Legion of the British Army and fought two years in Palestine. "It was called the Jewish Legion but it was really the Royal Fusiliers of the British Expeditionary Forces," Rose told this reporter in 1970.

"I was 18, 19. A private, but a very conscientious soldier. Most of our privates, they didn't like the kipper herring, they used to make a strike. I used to preach to them that this is not what we're here for." The Royal Fusiliers left their imprint on Rose; 50 years later, he was still having tea every afternoon at four.

Back in New York after his military stint, Rose was elected secretary of the city's largest Milliners local. After work came night school. After night school came union meetings. He rationed his time, allowing himself 15 minutes for dinner.

Somewhere around 1925, Rose encountered another young Jewish immigrant with strong convictions and an agile brain—David Dubinsky, who was to mastermind the ILGWU. Later on, the two activists mapped out a two-front war against "the common enemy," the Communists and the racketeers infiltrating labor.

Dating back to that period is the story (dear to several generations of reporters) of Rose the unionist who packed a gun and moved from hotel to hotel to throw gangsters off his trail. He coped with big-fry types like Louis (Lepke) Buchalter of Murder, Inc., Little Augie Orgen and Jack (Legs) Diamond. How did he handle them? Said Rose, who could on occasion rise to the laconic, "I argued on the issues."

Rose and Dubinsky participated in the formation of the American Labor Party, pulled out when it became a battleground for Communists and anti-Communists, then served as a pair of founding fathers to the Liberal Party in 1944.

"I always said to people that society consists of two forces fighting one another, good and evil," Rose liked to explain. "There's talent on both sides but there's more talent on the side of evil.

"Make no mistake. They hire the best brains, the best people. Now the good people in society have to organize themselves to create a balance. And I consider myself as one of those men who will, all his life, try to unite as many people of good will to fight evil as is possible."

Not everyone agreed with his methods of combatting evil. But almost no one denied that the candidate who could claim Rose as an ally acquired an invaluable weapon.

It was Alex Rose who conceived the historic beat-the-bosses crusade that enabled Robert F. Wagner to return from the land of the political dead in 1961. It was Rose who drummed up enough Liberal ballots to shoehorn John V. Lindsay into City Hall in 1965. It was Rose who kept him there in 1969 by furnishing Lindsay with his big line on the voting machine after the GOP had brushed him off.

"A legend developed that I support somebody, he's going to win," Rose once said. "But it's purely coincidental. In our party, we are all in politics not to be clever but to be right. You know? Frequently, when you do what is right, it turns out to be also clever. So my name became a little involved with mircales."

His record was so dazzling that even his defeats were widely interpreted as calculated maneuvers. And, of course, some of them were.

In 1968, when the Democrats defied the Liberals and nominated Frank O'Connor for Governor, Rose retaliated by engineering the candidacy of Franklin Delano Roosevelt Jr. Roosevelt lost, but so did O'Connor; and Nelson Rockefeller swept on to his third term in Albany. The Democrats learned in blood that lesson that underestimating Alex Rose was like stabbing themselves in the back.

Rose didn't pretend he was infallible. In a retrospective mood, he cited "our terrible blunder" in supporting James B. Donovan for Senator against Jacob Javits in 1962. "To be honest with you," Rose confided, "we made that decision with eyes closed, not eyes open, though ignorance is no excuse.

"And I must tell you that after I heard his first speech on TV, appealing to the Conservative vote, I never went near him again. Donovan is the only candidate of our party that I never even met."

The election of Mayor Beame without Liberal sanction might have pushed the Liberals' vice-president into political obscurity but it didn't work out that way. True, he was banished from City Hall. But Hugh Carey moved into Albany and Rose emerged triumphantly as one of the Governor's two closest advisers. With Carey reportedly conferring with Rose and Bob Wagner before making any major decision, the Liberal patriarch basked in his favorite role of behind-the-throne guru.

Even his detractors never accused Rose of angling for a buck. Monetary gain had little allure for him. For close to 40 years, he lived in a Castle Village apartment in Washington Heights with his wife, the former Elsie Shapiro. He was unsalaried in his Liberal Party capacity, although his name was virtually a synonym for that organization.

In his union post, he earned $20,000 a year until he ordered a $2500 cut for himself in 1964 to cover his share of the office car and chauffeur. A year later, he vetoed a unanimously-approved $10,000-a-year increase for himself "because our industry is suffering."

Elder Statesman Rose reveled in reminiscences about FDR, Harry Truman, John F. Kennedy and Lyndon Johnson, all of them friends and cohorts. "I remember when once I had a visit with Roosevelt," Rose said. "And he was boasting to me that he never votes regular, he votes for the candidate. I said to him, 'You know, Mr. President, we made a regular party out of irregularities in New York.'"

In his final years, Rose was a grandfatherly figure, mellow, philosophical, very sure his Liberal Party could and would prosper after he was gone. He was proud of his son, Herbert, a lawyer; of his daughter, Carmy (Mrs. Joshua Schwartz); of their spouses and his flock of grandchildren.

He loved music and reading. His deafness deprived him of pleasure in theater. But his sense of humor popped like the cork of a champagne bottle. Once he was discussing the diminishing size of his union. "Don't judge us by our membership," Alex Rose urged, "but by our deficit."

[From the Daily News, Dec. 29, 1976]

CITY HALL COULD RIDE ON ROSE HEIR

(By Sam Roberts)

Alex Rose, who became a kingmaker with mirrors, planned methodically even at the very end. Just before the Liberal Party leader died early yesterday, he informed his son that he wanted former Mayor Robert F. Wagner to deliver the eulogy at his funeral.

And without Alex Rose, the splinter party that played a pivotal role in New York State politics since Rose helped found it in 1944 faces a critical power struggle that could also decide the outcome of next year's mayoral campaign.

"He was certainly against Beame, but he thought that the next mayoral election had to be won in the Democratic primary," a confidant recalled yesterday. And Manhattan

District Attorney Robert Morgenthau was the man who Rose believed stood the best chance of beating Beame.

It was because of that early assessment of the mayoral landscape—and his closeness to Democratic Gov. Carey—that he was cool to candidacy. Just how well his younger survivors can rally the party around Goodman may be determined by the reach of Rose's shadow.

"We play classical music on the harmonica," Rose once said of the party, which boasts an enrollment of just over 100,000 and has attracted a progressive, anti-Communist coalition that has included such diverse individuals as Mayor Beame's father and Nelson Rockefeller's first wife.

Rose wielded power in a number of ways, engineering Wagner's remarkable "beat-the-bosses" mayoral win in 1961; running Franklin D. Roosevelt Jr. on the Liberal line in the 1966 gubernatorial race, thereby doing in Democract Frank O'Connor and reelecting Rockefeller; sticking with John Lindsay after he lost the 1969 Republican mayoral primary, and endorsing Charles Goodell in the 1970 Senate race—ironically helping Conservative James Buckley to slip into office.

"There were a fairly large number of races where we had a very dramatic result, even if it was in a negative way," said Edward Morrison, a former deputy mayor and now a front-runner to be Rose's successor.

Rose was renowned as a savvy political practitioner who could size up candidates and campaigns long before his counterparts in other parties.

In May 1974 he cast his lot with Carey after Councilman Robert F. Wagner Jr. told him about a Manhattan poll that gave 35% of the vote to Howard Samuels, 12% to Ogden Reid and 6% to Carey. Rose concluded that if 35% was all Samuels could muster in Manhattan, Carey would win the nomination and the governorship.

He was also known for modesty and for keeping his commitments—increasing rarities among political leaders—and for a zealous pursuit of "good government." Rose also "did pretty well" when it came to patronage, the elder Wagner recalled, always carrying "his little book with him in a very business-like way and always insisting that his people were of the best quality."

Rose's political power was, on the surface, obscured by his title—vice chairman, under the Rev. Ronald Harrington—and by the fact that Councilman Henry Stern is the only elected official who is an enrolled Liberal.

"We will miss Alex sorely, but in the final analysis, this is a movement," Morrison observed.

Pollster Louis Harris described Rose as "the stategic glue that held the party together." And party Secretary Ben Davidson explained that "people referred to him as a strategist, a tactician. But whatever you call it, we all realize that he was the political leader of the party—and we all knew it."

[From the New York Post, Dec. 29, 1976]

ALEX ROSE (1898–1976)

Alex Rose played a decisive role in the political life of the city and state and, at crucial intervals of the nation, that may defy the comprehension of future historians. Nor is it likely that we will soon see his counterpart. Even his detractors were obliged to admit that this was an extraordinary man.

He was the leader of the numerically small Liberal Party and the even more diminutive Hatters Union. But his influence planly bore no relationship to the numerical size of his troops.

He achieved widest media recognition as "a master tactician," a sort of continuing consultant to incumbent presidents and aspiring politicians alike. Although his judgments were hardly infallible, the description had incontestable validity. His realistic sense of the possible mingled with a daring instinct for the implausible became legendary.

But to portray him, as some of his critics often did, as primarily a highly skilled craftsman in the industry of politics is to miss the depth, breadth and totality of the man.

He admittedly revelled in the chess-playing aspects of election years. But to Alex Rose, politics was much more than fun and games. He had profoundly progressive convictions, and he cared deeply about the human condition.

More often than not, he translated his beliefs into concrete crusades—from the time he enlisted in the Jewish Legion of the British Army in World War I and fought in Palestine in the cause of labor zionism to his latterday battles, in warm alliance with David Dubinsky, against both underworld and Communist infiltration of the union movement here.

He derived legitimate pride from the knowledge that no taint of financial corruption ever touched his leadership of the Liberal Party or the Hatters Union. He lived modestly, in contrast to the style of many modern labor barons, obtaining his highest satisfactions from the success of his political and social initiatives.

He was not a charismatic orator; he functioned most effectively behind the scenes of many political dramas, including early sponsorship of Hugh Carey's gubernatorial campaign. His avoidance of headline-hunting no doubt helped to explain why presidents and other high officials welcomed and valued him as confidant.

Not until the memoirs of many other men are written will the full story of Rose's place in history be unfolded. Although he disclaimed autocracy, there will be immediate speculation about whether the Liberal Party can survive as a significant force within him. But there will be other days for such reflections.

For the moment it is more fitting to dwell on the dedication of his commitment to both his party and his union and his unfaltering vision of a more equitable, rational world.

[From the New York Post, Dec. 29, 1976]

ALEX ROSE: A LAST VISIT

(By James A. Wechsler)

Death did not come as an unexpected intruder to Alex Rose. He had seen its shadow approaching for a long time, and resolved to face it with dignity and stoicism.

He talked about his preparation for it in almost detached tones when I saw him for the last time. The time was the evening of May 4 in a room at Columbia Presbyterian Hospital.

He had telephoned me from there on the previous afternoon and quietly suggested that he would welcome a visit. He emphasized then, however, as he did after I arrived, that he assumed I would not divulge where he was.

The motive for secrecy was not elusive. He was hardly an innocent about the behavior of political animals; he knew that if the word of his illness spread, his influence in many areas would be quickly written off.

He said almost matter-of-factly that he had been told he might not survive an imminent operation for what he described as a recurrent "small polyp in the esophagus." (It was an understatement; I later learned that it was a malignancy of the colon.) A previous operation, he said, had been apparently successful. This time, however, he was still recovering from a blood ailment—septicemia—and his doctors feared his weakened heart might not endure the ordeal of surgery.

"To be perfectly honest with you" a phrase he so often used—he said, "I'm not afraid. I have faced death before—when I was a young boy fighting in Palestine for labor zionism in 1918 and when we fought the union gangsters here in New York."

Through most of his political existence, Alex Rose had made an art of political anonymity.

This is not to suggest that he was a man without pride of achievement or devoid of vanity. He was simply wise enough to know that boasting was counterproductive.

He was indeed a mover and shaker, and a man for many seasons. But he was also, as he whimsically acknowledged in private conversation, the product of a journalistic myth. The myth was that he was the man behind everything who, in any clouded political picture, was serenely manipulating events and would eventually show his hand.

Probably more often than that, there was some truth in that characterization. But there were the occasions, such as the early maneuvering for this year's Senate Democratic nomination, when he would say off-the-record:

"Please don't give away my secret—but I can't figure out an answer yet."

On that evening in May, however, with the warning that death might be near, he wanted to reminisce about days of quiet glory and talk about the memoirs he had begun writing. He had fastidiously resisted many headlines he could have won; he did care about history's view of him.

He recalled how he had implored Bob Wagner to run as the "anti-boss" mayoralty candidate in 1961, telling him: "You're too young to die politically." He recounted a hitherto unrevealed story of how, during the 1956 convention, he persuaded Estes Kefauver to withhold a blast against Adlai Stevenson's convention operatives, paving the way for Kefauver as vice-presidential choice in an open competition.

The recollections were a blend of nostalgic episodes and critical events in which he had been a participant. He cited with visible pleasure a private letter hailing his part in the shaping of the Carey gubernatorial candidacy.

* * * * *

Since he had introduced the subject of death, I finally asked him what fate he envisaged for the Liberal Party.

He said much of the book he was writing was devoted to what he believed was the enduring function of the Liberal Party as a "good government" force. He refused to concede that his loss would decisively change things; he said there were "good people" who would rule it "as a committee." It was not a subject that I could press in that setting.

In fact the prophesies of sudden death were wrong. He not only survived; he became absorbed in the intrigue surrounding next year's mayoralty campaign, but his activity was largely confined to the telephone.

Except for an appearance at the annual Liberal Party dinner, he was rarely seen in public. He told me once not long ago, "I don't want people to see how thin I am—they might take something for granted." Yet as recently as Monday he was still in active political phone dialogues.

The "devil theory" of Alex Rose has long been popular among some journalists. There is much more to be written about his career; he made no claims to sainthood. But, beyond all the controversial political sagas, there is a valued memory of his personal warmth, his wry wit and his concern for the have-nots of the universe. There was also a tolerance too rarely found in the political species.

He fought hard; he forgave generously. Two days after I had written a column sharply criticizing his role in arranging the Liberal Party endorsement of Pat Moynihan, he called to "make sure" I had received an invitation to the Liberal Party dinner. There was no reference to the abrasive column. It is my sorrow that I was unable to get there to glimpse him for a final moment.

[From the New York Post, Dec. 30, 1976]

ALEX ROSE: THE LAST TRIBUTES

(By Judith Michaelson)

Alex Rose will be remembered, Robert F. Wagner says in a eulogy today, "less for his power, less for his deeds—than for his friendship, his kindness, his humanity, his principles, and his basic innocence in an often corrupted world."

But Wagner did not neglect the power or the deeds of the Liberal Party leader who preferred to stay in the background while raising others—like the former mayor—to high political office.

Rose, said Wagner, who was hand picked by the 78-year-old ailing Liberal vice-chairman before his death to deliver the major address at his funeral today, "made things happen."

Others tapped by Rose at one point or another for high office who are expected to speak at the funeral at Metropolitan Synagogue, 40 E. 35th St., include:

Gov. Carey, whose election Rose masterminded two years ago and whose administration he influenced until his death Tuesday morning.

John Lindsay, whom he supported for mayor in 1965 against Abraham Beame when Lindsay was still a Republican and once more in 1969 when the GOP shunned him.

Also speaking will be the Rev. Dr. Donald S. Harrington, state chairman of the Liberal Party and pastor of Community Church—which shares the same chapel with Metropolitan Synagogue; and Nicholas Gyory, acting president of the United Hatters, Cap and Millinery Workers, the union Rose led.

With politicians of several parties, union leaders, rank and file, and other friends present, Rose's funeral is expected to be a major New York event, despite some notable absences.

Mayor Beame, who paid a condolence call on the family Tuesday night, is in Florida on vacation. And Vice President Rockefeller, who sent a telegram of condolence, is vacationing in Venezuela.

President-elect Carter sent a half page telegram to Rose's wife of 12 years, Elsie. Wagner will read it at the opening of his remarks.

"Alex was one of the legends of the political life of our country," Carter began. "His courage was the conscience of his community. . . . He sought no offices or titles for himself but gave abundantly of his wisdom, experience and insight to those who shared his ideals.

"As a labor leader, as a guiding force of an important political party, as a devoted supporter of Israel, Alex will be remembered for his genius and leadership. But all of us who benefited by the warmth of his friendship, will treasure his wit, his humor and his kindness as well."

Wagner, who said he felt "much more a mourner than a eugolist," spoke of these and other characteristics of Rose in his prepared remarks.

"He could be obscure, direct, byzantine, straight-forward, remote, accessible, depending on the need of the moment. . . He had an almost uncanny sense of timing. He knew how to build coalitions and sometimes, when necessary, how to tear them down."

But to concentrate, Wagner says, on the politician alone—and he was "a grand master, a brilliant strategist, a shrewd technician"—is to "miss what he was really all about."

Rose, Wagner says, was a man of "good humor" and "ready wit," who loved to laugh and be laughed with.

"Alex was a man of style and grace. He rarely raised his voice about an even tone. Often one had to strain to hear him, which was not unpremeditated. He was gentle. His manners were impeccable and even courtly in the presence of strangers.

"He loved beauty, art and good music. He was a cultivated and cultured man.

"Alex was both honest and honorable. He would admit mistakes. His word, once given, w s his bond, and never broken."

Last night at Riverside Chapel there was a private visiting of Rose's friends, relatives, Hatters Union and Liberal Party members, who called on the family. Besides his wife, Rose is survived by his daughter, Mrs. Carmi Schwartz, who lives in Israel; his son, Herbert, a lawyer here; four grandchildren and one great granddaughter.

ARE AMERICA'S AIRLINES AFRAID OF COMPETITION?

Mr. KENNEDY. Mr. President, Mr. Fred Smith, who is chairman of the board of Federal Express Corp.; recently delivered an address which should serve as a healthy reminder that our economic system of private enterprise might function better if those who serve in industry would support efforts in the Congress to reduce Government regulation that interferes with the free market.

Mr. Smith uses the example of Federal airline regulation through which the Civil Aeronautics Board sets the prices and limits the markets in which private firms can offer their service. As practiced by the CAB, airline regulation is a rigid form of Government price control. CAB rules also severely limit the ability of corporate management to respond to changing economic or market conditions. Nevertheless, many of those who run the airlines support rigid control by the Federal Government. One reason is because the CAB protects airlines from competition by other firms. The effect of protection is to stamp out price competition and raise air fares to the public.

Mr. Smith in his address challenges the airline industry to take a closer and longer range look at the question of regulatory reform. His conclusions support the position that I, Senator HOWARD CANNON, Congressman GLENN ANDERSON, and others have argued for sometime—that less regulation will help consumers who will get more efficient service often at lower prices, and help the airline industry itself which will enjoy more corporate freedom and better profits to attract capital.

I ask unanimous consent that Mr. Smith's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ARE AMERICA'S AIRLINES AFRAID OF COMPETITION? "THE CASE OF ADAM SMITH VERSUS CAB"

(By Frederick W. Smith)

Today our economic system is under its greatest strains since the early days of the Great Depression. Perhaps our greatest national challenge will be the resolution of how much government is necessary to meet our social goals while still preserving the vitality and benefits of the free enterprise system. This debate besets virtually every aspect of our national life. We in the air transport business may be in the vanguard of decisions on these questions which will transcend the esoteric effects of our particular industry.

As a consequence, I believe these issues are so important that they should engender an abiding interest by every concerned citizen. Their resolution is of very direct concern to federal express, and our experiences in Washington provide an insight into the shape of the much larger questions besetting our national society as a whole.

To understand the issues in our industry, I ask you to review with me several basic aspects of our economic history. As I think you will see, the role of regulation and competition within our industry might aptly be called the case of Adam Smith vs. Civil Aeronautics Board.

Nineteen seventy-six marked the Bicentennial not only of our national independence, but of our economic philosophy as well. If you will recall, two hundred years ago the publication of Adam Smith's iconoclastic book, "The Wealth of Nations," literally shook the world. In this work, Smith upset the centuries-old belief that any economic system was simply a "zero sum" game. First articulated by Aristotle, this concept held simply that societal organization required that some be winners and others, losers. Logic held that one man's gain necessarily resulted in another's loss. And let us not forget, that the doctrine of the greatest believer in "zero sum" economics, Karl Marx, holds sway today over half of our global population.

Adam Smith's concept was almost incredibly simple: leave men to the unfettered pursuit of their own enrichment and their aggregate inventiveness will result in a system of exchange which will allow all men to prosper. The requirements were simple—a medium of exchange (namely money) which enjoyed the confidence of all; a system of governmental rules which respected the right of property; and an unfettered opportunity for any individual to pursue the accumulation of wealth. Smith reasoned that such a system was the best protection of individual choice and liberty since it diffused power into the hands of many "competing ambitions".

Certainly the prosperity of this country, and the unprecedented standard of living for even its poorest citizens, has proved that Smith's basic contention was valid. And this is in drastic contrast to the proletarian revolutions predicted by Marx. In fact, his theories have been adopted not in the industrialized world at all—only in the agrarian-based economies such as Czarist Russia and China. And as opposed to our system of property, in these countries a small elite, with the control of all property, denies individual liberties as a cornerstone in perpetuating their governmental systems.

Despite the good which has developed from Smith's laissez-faire doctrine, there were shortcomings as well since certain individuals often suffered severe temporary hardship as the exchange economy was influenced by technology and changing desires. This became apparent to the extreme during the great depression of the 1930's which proved conclusively the need for some national or governmental involvement in the complex economic processes of the modern world to insure both stability and the protection of national social goals.

It was in this context that our airline system was forged. Reacting to the debilitating excesses of competition that marked the air transport industry during the 1930's, the Congress regulated the industry in 1938 to provide a sound national air transport system and to assure the public that it would have a dependable stable transport utility. Creating the Civil Aeronautics Board to govern the industry's activities, the system chosen was one in which the government would grant licenses, or certificates of public convenience and necessity. The CAB was

also given a severely limited exemption power as well.

It should be remembered that the original legislation was intended to provide a rational framework for a fledgling industry, based on an emerging technology, to grow in accordance with the public need. The 16 trunk carriers in operation in 1938 were given "grandfather" certificates, but it was recognized that some degree of competition was necessary to promote innovation and insure efficiency. To these ends, one of the authors of the original aviation act, Senator McCarran, noted that, "in the proposed bill there is nothing to prevent a little fellow with a new idea, with plenty of capital, from establishing an airline."

Now each of you can personally attest to the revolutionary development of our airlines since that act was passed almost forty years ago. Thirty passenger DC-3's which could cruise at 150 mph have given way to such marvels as the giant Boeings which can travel at 600 mph, carrying over 400 people in pressurized comfort around the globe. The industry is now a $15.0 billion mature business.

But have you ever reflected as to what really caused this transportation revolution? Certainly those daring aviation enterpreneurs of the early days had a significant hand in this dramatic story, but far more importantly, two other factors overshadow the most important of their contributions.

First, the aggregate product of demand predicted by Adam Smith caused millions of people to need to get to distant points in pursuit of their individual fortunes. Secondly, the inventive genius of the American aircraft manufacturers created marvelously efficient and comfortable flying machines which permitted the airlines to carry their increasing passengers at affordable rates. Perhaps nowhere are the merits of Smith's doctrine so pervasive as they are in the aviation industry. For virtually everyone has prospered as a result of our air transportation revolution, and the price for these services has risen only 22% in the last quarter century compared to a rise in the overall consumer index of over 200%.

Building around the desires of frequent and repetitive business travelers, the original fledgling airlines existing in 1938 have become giant transportation enterprises such as United, Trans World, American, and Eastern. And what of Senator McCarran's ideas? In 1938 there were 16 trunk airlines—today there are 10. Moreover, there have been 79 consecutive applications from new applicants which have been denied!

But there have been innovations in air transportation:

Local service carriers emerged after World War II with the idea of providing convenient air travel to the small and remote areas of our country.

All cargo airlines, led by the Flying Tiger Line, began the vigorous promotion of the advantages of shipping by air.

Supplemental or charter airlines were created to promote low-cost vacation travel.

Air freight forwarders came on the scene to provide ancillary ground services to make the convenience of door-to-door shipping a major element in selling air freight services.

Commuter airlines, moving into the void created by the local service carriers' decision to become smaller trunk, or long haul, carriers, have begun to provide new levels of air transport service to communities bypassed by the airlines' large jets, which cannot economically serve thin, short haul routes.

Intrastate airlines such as PSA in California and Southwest in Texas have promoted frequent, low fare service between large, synergistic markets with astounding stimulation of their respective markets.

And lastly, our company, Federal Express, has pioneered a new concept in the distribution of critical air express shipments, giving overnight service throughout the United States on a door-to-door basis to these critical items.

Our growth has been dramatic. When we began our service in April of 1973, we served 17 points: Flew 10 aircraft; employed 150 people; and we carried 24 shipments. At the end of November, 1976, we find ourselves flying into 75 airports with 44 aircraft, employing over 2,400 people, and carrying over 25,000 shipments per day. For the last six months, we will have generated revenues in excess of $52.0 million with profits of over $4.0 million. Our fiscal year ending next May should see us reach over $110.0 million in revenues and book over $8.0 million in earnings.

What do we have in common with the other innovative developments in air transport mentioned before?

First, not one of these endeavors was created or initiated under the licensing or certification procedures provided by Congress. Each and every one of these ventures was launched outside of the primary legal framework under some form of exemption—usually an exemption which did not contemplate the type of service which was eventually provided. There have been virtually no de novo licenses granted by the CAB. Only after establishing these services through virtual loopholes in the law, and proving their worth, were they sanctioned with licenses by the CAB.

Secondly, each and every one of these innovations was bitterly contested and fought by either the entire trunk airline industry or a majority of its members with an eye to destroying these encroachments—despite the fact that the airlines themselves had never attempted to develop these market needs.

Last, and most important, after the tremendous efforts used to stop these endeavors, it has been the trunk airlines who have reaped the major benefits from the development of these new markets for air transportation.

Thus, last year the combination airlines, in domestic service, carried over 16 billion revenue ton miles of freight compared to the all-cargo carriers share of 450 million rtm's.

Millions of local service and commuter passengers, first drawn to the air by these promotion-minded carriers, journey on connecting long haul trunk airline flights.

The air freight forwarders provide over 40% of all of the cargo carried by the trunk airlines.

The trunks carried over 1.5 million charter passengers in the domestic markets compared to less than 400,000 for the original supplementals who truly developed the market.

And finally, despite Federal Express' dramatic growth, the airlines today carry more express traffic than ever before.

Last year, our company tried first with the CAB to get an exemption to fly several large aircraft to augment the small, 7,500 pound payload jets, that our existing exemption as an "air taxi" permits us to use. The airline industry opposed our request with an almost hysterical frenzy as to the dangers of such tampering with the certification system. The CAB said they lacked the authority to grant us such an exemption.

We then tried to get legislation through the Congress which would have given us capacity relief and permitted us to expand our service and lower our rates while we went through the laborious and lengthy certification proceedings required under the still unchanged 1938 law. Here we met a legion of airline lobbyists who opposed us. Even so, we only narrowly failed in these efforts.

And I might point out that the CAB had given virtually identical authority to the all-cargo carriers and the supplementals before the trunk airlines closed that door through the courts in a 1956 challenge as to the scope of the CAB's exemption powers.

Now over the past year there has been a much larger debate in the halls of Congress over what, if any, reform measures should be made in our aviation laws. These proceedings have erroneously been called deregulation attempts rather than a reform movement which they truly are. In lengthy hearings, the airlines argued persuasively that under the existing controlled revenue structure, their totally uncontrolled costs had squeezed profits to the point that reinvestment in new equipment was impossible. In fact, the Air Transport Association, the industry group of the certificated carriers, has noted that between now and 1990 the industry will need almost $60.0 billion to re-equip its aging fleets. More importantly, failure to increase the airlines' level of profitability may cause our air transport system to be incapable of meeting our air travel needs by a factor of 50% by 1985!

Equally important, the airlines rightly noted that the incredible delays in the CAB made rational management almost impossible. And you should note, that it is because of this same crippling regulatory lag that Federal Express requested relief.

Monumental problems. And the airlines' answer to date? Almost total opposition to any change.

Now I do not believe anyone could reasonably argue that there should not be some degree of regulation of the airline industry. The quasi-public utility nature of the industry demands some degree of protection for the Nation's commerce as a whole. But it does appear to be fairly obvious that the airlines' most serious problem could be solved by allowing some degree of price freedom. But with that freedom, of course, comes the requirement that either real or potential competition will hold prices to a reasonable level for the traveling public.

The airlines' should devote their attention, it seems to me, toward obtaining flexibility in pricing which they need to cover their rising costs at some level of competitive risk. To do otherwise would be to virtually guarantee nationalization when the industry has failed to equip to the level required by the Nation's commerce.

But it should be remembered, according to Adam Smith, that with competition and innovation comes opportunity, and new sources of revenue, which inure to the benefit of all. Using prior experience as a guide, it should be remembered that neither Hertz nor Avis lost their "war"—they both won. And despite their attempts to the contrary, the inventive genius of the promotors of new air transportation ventures have benefited everyone in the air transport industry—especially the original airlines.

And this, of course, is where Adam Smith, the CAB, and Federal Express all tie together.

Our economic system today can never, despite some politicians' simplistic and appealing rhetoric, return to the simplicities of the good old days of totally free enterprise. Our national commitment to social and humanistic goals, quite rightly, necessitates a mixed economic system with some measure of governmental control.

The real test of whether this Nation will continue to prosper will be decided by how well we mix the needed protection of these controls against the vitality of "competing ambitions" which have served us so well over these last two hundred years. And so, the airlines of this country provide an instructive case on the shape of things to come.

When reviewing Federal Express' flight to fly larger aircraft, I can honestly say that everyone lost—particularly the airlines that opposed us. And if it should come to pass that the basic freedom of property, the basic guarantor of our national liberty, should eventually be taken from us, I wonder who the historians will mark with the greatest blame: The bureaucrats—I doubt it; the radicals—

almost certainly not; foreign interests—never.

They will note that the captains of our largest accumulations of property, our biggest companies, forgot those basic lessons of Adam Smith. And that faced with the necessity of some governmental regulation, these should-have-been leaders opted for the protection against any and all competition in the mistaken belief that any free market test was the most terrible of all threats.

And the bewildered irony that will confront those distant scribes will be that those who have benefited most from the genius of Adam Smith's competitive system will surely have been the architects of its demise.

I, for one, hope that Adam Smith wins his case before the Civil Aeronautics Board.

CONFIRMATION OF THE ATTORNEY GENERAL

Mr. MATHIAS. Mr. President, on Tuesday, January 25, the Senate will take up the nomination of Griffin B. Bell for the Office of Attorney General.

The record of the Judiciary Committee's hearings is extensive, comprising more than 1,000 transcript pages, and testimony from over 23 witnesses.

To assist my colleagues in reviewing this record, I ask unanimous consent that an informal index to the hearing record be printed at this point in the RECORD.

There being no objection, the index was ordered to be printed in the RECORD, as follows:

JUDICIARY COMMITTEE HEARING RECORD, JANUARY 11–14, 17, 19, 1977

I. BELL'S ROLE AS "CHIEF OF STAFF" AND LEGAL ADVISOR TO GOVERNOR ERNEST VANDIVER, 1958-1961

A. December 1958: Bell's Trip to Virginia and Mississippi, December 1958, to study State laws on school segregation.

(1) Testimony of Bell, January 11, pages 139–140, January 12, pages 35–36.

(2) Testimony of Mitchell, January 12, page 174.

(3) Testimony of Rauh, January 13, page 109.

B. February-March, 1959: Bell's Role in Recommending some or all of the bills introduced and signed by Governor Vandiver, which:

(1) Authorized the Governor to close any public school within a school system to preserve the peace, dignity and good order of the State.

(2) Authorized the Governor to close any unit in the State University system to preserve the peace, dignity and good order of the State.

(3) Prohibited any city or county having an independent school system from levying ad valorem taxes to support integrated schools.

(4) Set age limits on those in the university system.

(5) Facilitated establishment of private schools by allowing taxpayers credits on state income taxes for contributions to such private schools.

(6) Authorized the Governor to appoint and compensate legal counsel representing schools defending against desegregation suits:

(a) Testimony of Bell, January 11, pages 140–141, January 12, pages 36–44.

(b) Testimony of Mitchell, January 12, pages 174–180.

(c) Testimony of Rauh, January 13, pages 109–112.

C. July 13, 1959: Vandiver meets at Governor's mansion with Bell and others to discuss District Court order in *Calhoun* v. *Lattimer*, (ordering Atlanta to produce desegregation plan by December 1, 1959):

1. Testimony of Bell, January 12, pages 106–108.

2. Testimony of Mitchell and Document introduced into Record (Handwritten notes referring to Bell's role in meeting), January 12, pages 179–183.

D. February-April, 1960: Sibley Commission:

1. Testimony of Bell, January 11, pages 110–114.

2. Testimony of Rauh, January 13, pages 113–125.

3. Testimony of Cochrane, January 13, pages 176–189, 205–211.

4. Testimony of plaintiffs in 1958 Atlanta school desegregation suit, January 19, pages 144–171.

5. Testimony of Mitchell, January 19, pages 171–175.

E. September 13, 1960: Federal District Court postpones desegregation of Atlanta schools (*Calhoun* v. *Lattimer*) to permit further study of Sibley Report 188 F. Supp. 412 (1960).

F. Was Judge Bell a moderating force during the Vandiver years?

1. Testimony of Bell, January 11, pages 38, 133, 135–36.

2. Testimony of Mitchell, January 12, pages 177–78.

3. Testimony of Rauh, January 13, pages 171–72.

II. TESTIMONY ON ISSUE OF JUDICIAL CONFLICTS OF INTEREST

A. Did Judge Bell comply with laws and regulations concerning reporting of financial benefits received from private clubs?

(1) Testimony of Bell, January 17, pages 40–53, 84–87.

(2) Testimony of Monroe Freedman, Dean, Hofstra School of Law; former Chairman, Federal Bar Association's Committee on Disciplinary Standards and Procedures; author, Lawyers' Ethics in an Adversary System; qualified expert witness on legal ethics, January 19, pages 118–127.

B. Should Judge Bell have participated in *Golden* v. *Biscayne Bay Yatcht Club* 530 F. 2d 16 (5th Circuit 1976) (whether private club action in barring Blacks and Jews from membership constitutes state action):

(1) Testimony of Bell, January 12, pages 130–31.

(2) Testimony of Monroe Freedman, January 19, pages 112–27.

(3) Testimony of Joseph Rauh, January 13, page 104.

C. Should Judge Bell have participated in *Calhoun* v. *Lattimer?* 321 F.2d 302 (5th Circuit 1963) (Atlanta School Desegregation case):

(1) Testimony of Bell, January 12, page 159.

(2) Testimony of Clarence Mitchell:

1. July 13, 1959 meeting of Vandiver, Bell and others to discuss *Calhoun* v. *Lattimer*, January 12, pages 180–183.

2. Handwritten notes of July 13, 1959 meeting January 12, pages 180–183.

(3) Testimony of Monroe Freedman, January 12, pages 104–107, 127–139.

III. TESTIMONY ON ISSUE OF JUDGE BELL'S LETTER CONCERNING CARSWELL NOMINATION

1. Testimony of Bell, January 11, pages 25–27, 51–59, 108–110, 131–132; January 17, page 52.

2. Testimony of Rauh, January 13, pages 96, 100, 102.

3. Testimony of Aaron Henry, January 19, pages 19–20, 34–35.

IV. TESTIMONY RE JUDGE BELL'S CIVIL RIGHTS DECISIONS ON FIFTH CIRCUIT

A. Julian Bond case:

1. Testimony of Bond, January 14, pages 116–18.

2. Testimony of Bell, January 11, pages 19–22.

3. Testimony of Rauh, January 13, pages 132–133.

B. School Desegregation cases:

1. *United States* v. *Texas Education Agency* 467 F.2d 848 (5th Circuit 1972) ("Austin Case"):

a. Testimony of Bell, January 17, pages 17–21.

b. Testimony of Rauh, January 13, pages 128–132.

c. Testimony of Mitchell, January 12, pages 184–6; January 19, pages 221–2.

d. Testimony of Plaintiff Volma Olverton, January 19, pages 178–190.

2. *Cisneros* v. *Corpus Christi* Independent School District 467 F.2d 142 (5th Circuit 1972):

a. Testimony of Rauh, January 13, pages 128–132.

b. Testimony of Clarence Mitchell, January 12, pages 184–186.

c. Testimony of Plaintiff, Mr. Lavernus Royal, January 19, pages 210–221.

V. TESTIMONY ON RETENTION OF CLARENCE KELLEY AS DIRECTOR OF FBI

1. Testimony of Bell, January 12, pages 68–70, 154–56; January 17, pages 81–84.

Mr. MATHIAS. Objective coverage of the hearings is provided by a series of articles on the hearings which appeared in the St. Louis Post-Dispatch, and I ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SENATORS PRESS BELL ON OPPOSITION TO INTEGRATION IN GEORGIA

(By Richard Dudman)

WASHINGTON, January 12.—Critical Senators are continuing to press Griffin Bell for an explanation of his role in efforts opposing the racial desegregation of Georgia public schools in the late 1950s.

Bell appeared today for the second day of hearings by the Senate Judiciary Committee on his confirmation for Attorney General.

Senator Charles M. Mathias (Rep.), Maryland, has put into the record six bills enacted by the Georgia Legislature in 1959 on the recommendation of Gov. Ernest Vandiver. Bell was then Vandiver's personal counsel and had the title of chief of staff.

Bell insisted yesterday that he had been a moderate by Georgia standards at the time and had helped to guide the state through a time of great tension so that all the schools remained operating and were desegregated.

One of the laws authorized the governor to close any public school if its continued operation threatened to lead to "violence or public disorder" in the community.

Another provision of that law provided for public financial grants to any student in a school that was closed who could not be transferred to an existing public school. This amounted to state financing of private schools in such cases.

Another law permitted the governor to close any branch of the University of Georgia for the same reason.

Still another permitted any city or town to increase taxes to support "separate public schools for the white and colored races" and prohibited any school-taxing power "if it shall be held by any court of competent jurisdiction that the support of separate public schools for the white and colored races is illegal or violative of the constitutional rights of any person."

One law authorized the governor to continue paying the salary of any teacher prevented from teaching by the governor's closing of a school. The salary could continue for the remainder of the current year and through the next year.

Mathias noted that the events in the Vandiver administration had occurred nearly 20 years ago. He said the committee was inter-

ested "not to what happened then, but in how you view it now."

He recalled that Bell had said he had acted as a friend and lawyer, not as a public official in the Vandiver administration and not in a policy role. He asked if Bell had any documents that bore on his activities in the period.

Bell replied that he had obtained copies of all the bills, some correspondence and newspaper clippings. But he said he had found no reference to statements he had made at the time. This was not surprising, he said, because he was a lawyer and there were public officials present.

Defending the end results of his efforts, he said:

"We kept the schools open. The only thing we could have done better would have been to let them desegregate on a local option basis. It was two years before that was done."

Earlier, he had claimed credit for seeing to it that Georgia closed only the individual schools that were desegregated, rather than the entire school district where one school was desegregated. Eventually, not even the individual schools were closed, and all became desegregated, he said.

Mathias quoted a newspaper interview with Vandiver praising Bell and saying that he had "transformed an honorary post, chief of staff, into an activist post."

Bell denied that he had been an activist and said the position had been something like that of a Kentucky Colonel, amounting to no more than getting "a certificate you put on the wall."

He stirred general laughter by saying that "someone started a Georgia navy, and they had an admiral, but I was never an admiral—I was just a colonel."

He denied a statement made by Richard Ashworth, Vandiver's press secretary, in another newspaper article quoted by Mathias. It described Bell as Vandiver's top legislative aid. Bell said he would not have had time for that as a senior partner in an Atlanta law firm.

Another newspaper clipping, dated Nov. 18, 1958, quoted Gov.-elect Vandiver as saying his legal advisers at the time, including Bell, were considering legislation that would close the schools if they were forced to desegregate.

Bell said he could not recall drafting the bills. He said many persons were involved in drawing them, and he observed that "legislators themselves sometimes come up with an idea of their own."

"It has been known to happen," Mathias said, joining for the moment in the general laughter.

On other matters, Bell refused repeatedly to repudiate G. Harrold Carswell, whose nomination by President Richard M. Nixon for the Supreme Court Bell had supported. He asserted at one point that his letter of support had been a recommendation rather than an endorsement, but he later acknowledged that it was not useful to argue about a difference between the two words.

Asked if he would back Carswell if he had it to do again, he said: "If I knew then what I know now, I'd have to reconsider."

Bell had indicated earlier that his position on the Carswell nomination would have changed because of a morals case in which Carswell recently was involved.

Senator Birch Bayh (Dem.), Indiana, disagreed with that stand, saying the Carswell nomination was "symbolic of the whole attitude of the Nixon Administration, its insensitivity toward racism." The Senate refused to confirm Carswell after a long fight.

Senator Edward M. Kennedy (Dem.), Massachusetts, elicited statements from Bell that as Attorney General he would enforce the open housing laws and various fair employment practices laws and would pursue investigation of illegal mail openings by the Federal Bureau of Investigation and payments to Congressmen by the government of South Korea.

Bell said he had never taken a position on the Equal Rights Amendment, but he volunteered the view that it filled a gap that had been left in the Fourteenth Amendment and was probably an orderly way to extend civil rights to women.

At one point, Bell interrupted the interrogation to say he did not feel "put upon" by the questioning.

"I think it serves a public purpose to have me examined as thoroughly as I'm being examined," he said. "When I'm Attorney General, if I get there, I want to be trusted by the people."

RIGHTS LAWYER ASSAILS BELL'S RECORD

(By Richard Dudman)

WASHINGTON, January 13.—A prominent civil rights lawyer charged today that Griffin Bell "as lawyer and judge for 14 years gave aid and comfort to the segregationists of this country."

Joseph L. Rauh Jr., a Washington lawyer and national vice president of Americans for Democratic Action, was one of several witnesses who testified before the Senate Judiciary Committee on the third day of hearings on Bell's confirmation as Attorney General.

Rauh said that Bell's assistance to the segregationists began at least as early as 1958, when there was not one black child attending school with whites in the South, and extended at least into 1972.

Rauh divided this 14-year period into four phases: "First they tried massive resistance. When that didn't work, they turned to massive recalcitrance. When that didn't work, they went to freedom of choice. And when that failed, they resorted to roadblocks to desegregation."

Rauh described a series of bills, on which Bell has acknowledged he worked as chief of staff to Gov. Ernest H. Vandiver of Georgia, an outspoken segregationist. The bills provided for the closing of the public schools if they were ordered to integrate and the substitution of state-supported segregated private schools.

In the second phase, Rauh said, Bell developed the Sebley Commission which Rauh said recommended "maintaining segregation within the law" but then went on to make proposals that were were clearly illegal.

In his prepared testimony, Rauh said he was not accusing Bell himself of being a segregationist. But he said Bell had consistently assisted segregationists from at least 1958 through at least 1972.

Rauh quoted John Minor Wisdom, also of the Fifth Circuit Appellate Court, in a critical dissent to a majority opinion written by Bell in a 1972 Texas school desegregation case.

Bell had held, in reversing a district court decision, that the case should merely be remanded to the lower court for a new trial without recommendation.

Judge Wisdom, referring to Bell's opinion, wrote, "The looseness of the language opens the way for recalcitrant school boards to evade the Supreme Court's mandate."

Judge Wisdom said sarcastically that Bell's opinion "may have some value to first-year law students—except for the defects I have pointed out—as an example of how a reviewing court can pass the buck, give the school board a delay, and confuse the district courts on remand."

Leon Jaworski, the former Watergate special prosecutor, supported Bell.

Jaworski submitted to the Senate Judiciary Committee a report he had made in 1961 for the American Bar Association on Bell's qualifications for appointment to the United States Court of Appeals for the Fifth Circuit, a position Bell later held for 14 years.

Senator Charles M. Mathias Jr. (Rep.), Maryland, who has been Bell's principal critic in three days of hearings, noted that Jaworski's report made no mention of Bell's service in 1958 and 1959 as adviser to Georgia's segregationist governor, Ernest H. Vandiver.

Mathias and other Republican Senators told reporters they were asking Jaworski why his long account of Bell's career had omitted any mention of Bell's part in drafting and recommending laws intended to delay school desegregation in Georgia.

Jaworski, in a strong endorsement of Bell, said: "I am convinced he is a thoroughly qualified man for this post. I would be shocked if this man ever yielded to pressure—he's just not built that way."

Clarence Mitchell, director of the Washington Bureau of the National Association for the Advancement of Colored People, delivered a blistering attack on the Atlanta lawyer to the Senate Judiciary Committee yesterday.

"If he were a Republican, you would have given him the kind of going over that would convince the country he is not a proper nominee for Attorney General," including Senator Edward M. Kennedy (Dem.), Massachusetts.

"You have been asking gentle, leading questions that make the nominee look good."

He asked that the hearings be postponed to permit the full airing of Bell's record as a legal adviser and "chief of staff" to Vandiver and as a federal judge.

Mitchell ridiculed Bell's faulty memory as to which segregationist laws he might have drafted and recommended to Vandiver in the late 1950s and his failure to find any written record of his actions and views at the time.

Mitchell likened blacks from Atlanta who support Bell to puppies whose eyes have not yet opened and to elephants that have been chained so long that a small stake in the ground is enough to restrain them.

He called it "incredible" that President-elect Jimmy Carter would name Bell as Attorney General over such distinguished Southern judges as Wisdom and Elbert P. Tuttle of the same court on which Bell served.

Mitchell accused Bell of being one of those segregationists who "still seek ways of turning back the clock or slowing down progress."

Mitchell presented from the Georgia state archives a photocopy of a court decision ordering integration of the Atlanta schools. He said it bore what appeared to be Gov. Vandiver's written notes.

One note said that Bell "doubts advisability of appeal—might put us in worse shape." Another indicated that several lawyers, including Bell, were being instructed to "make recommendations for legislation if needed and report to me."

Mitchell said Bell had been evasive in discussing his role in resistance to school integration and in minimizing his position as Vandiver's chief of staff by likening the job to an honorary Kentucky colonel citation, when he had listed it quite seriously in his entry in "Who's Who In America."

Referring to Bell's testimony that he had been working behind the scenes to keep the schools open and ease the path toward desegregation, Mitchell said that the result had been prolonged delay and that Bell's role had been like that of "people in Nazi Germany who stood aside when people were being put into gas ovens."

Kennedy asked what value Mitchell would place on Bell's testimony that delay was the price of orderly desegregation in Georgia, that he believed in voting rights laws and that he had promised to oppose racial discrimination as Attorney General.

"I'm sorry to say I don't place any value on it, and I'll tell you why," Mitchell said. "If a man stole a jewel and he said he wouldn't do it again, you might believe him

but you wouldn't make him the night watchman. We have a jewel—equal rights under the law. Griffin Bell may have reformed, but you should not make him the watchman for the jewel of freedom."

Mitchell told the Senators that, whenever they said Bell's segregationist actions had been committed 20 years ago, he realized that there was a deep gulf between them. He said he doubted that a 20-year time lapse would make any difference to them if the actions had been embezzlement from a bank or an antitrust violation.

BLACK LEADER SAYS SENATE MAY REFUSE BELL'S CONFIRMATION

(By Richard Dudman)

WASHINGTON, January 14.—A prominent civil rights leader says there is a good chance that the Senate will refuse to confirm Griffin Bell as Attorney General.

Clarence Mitchell, director of the Washington bureau of the National Association for the Advancement of Colored People, made that estimate in an interview as hearings on the nomination in the Senate Judicial Committee went into their fourth day today.

Mitchell, who had assailed Bell's record and accused liberal Democrats of feeding him leading questions to make him look good, said some of them would begin wavering if the hearings were prolonged and additional details could be presented on Bell's record as an Atlanta lawyer and federal judge.

Although few other participants or observers in the hearing room drama this week saw any chance that Bell would be rejected, Michell has a good record. He accurately predicted rejection of the nominations of Clement F. Haynsworth Jr. and then of G. Harrold Carswell for the Supreme Court in 1969 and 1970.

Several Democrats replied to Mitchell's criticism yesterday with assurances that they were judging Bell just as strictly as they would a Republican nominee. Some seemed to sharpen their questions.

They appeared to take somewhat seriously a complaint by Joseph L. Rauh Jr., a Washington civil rights lawyer, that opponents had little time to arrange for witnesses to come from Georgia to tell about Bell's role in a campaign against school desegregation by former Gov. Ernest H. Vandiver.

Georgia witnesses who appeared yesterday were on Bell's side.

Warren Cochrane, former secretary of the Negro Voters League in Atlanta, said Bell had invited him and other blacks to a series of secret meetings in the late 1950s and early 1960s to tell them what Vandiver was doing to prevent integration.

Bell was Vandiver's "chief of staff" at the time, a title that Bell says was insignificant but that others may made him a top legislative adviser and strategist.

Cochrane recalled that Bell had told the group he was trying to get Vandiver to change his position and accept gradual integration.

In return, Cochrane said, Bell asked the black leaders to try to prevent any mass demonstrations and avoid bringing any new lawsuits involving the schools "until they could work something out."

"The idea was to accept segregation for a time?" He was asked.

"We never accepted segregation as a group," Cochrane replied. "We tolerated it for a time."

Under further questioning, Cochrane said the black group had thought it might take a year or a year and a half to integrate the schools—not the 10 years it eventually required.

"If someone wants to call me an appeaser, in terms of the circumstances of the times that's what we had to go through," he said. "We had to go step by step. If you want to call it survival, yes."

Lonnie C. King Jr., former president of the Atlanta chapter of the NAACP, testified that many of Bell's critics were "applying 1977 standards of morality to 1959 conditions and circumstances."

He said there was such racial hysteria in Georgia in 1959 that any person who advocated integration was called a 'nigger-lover' and often was run out of town." He said neither Bell nor anyone else could have openly advocated integration at that time.

King denied earlier testimony that Bell, in a meeting of black and white Atlanta leaders in 1972, had suggested that parties to an Atlanta school desegregation case meet without their attorneys to arrange a settlement.

"Judge Bell on the Atlanta plan is getting a bum rap," King said.

A. Jay Cooper Jr., mayor of Prichard, Ala., and president of the National Conference of Black Mayors, supported Bell strongly as a person "committed to working toward a biracial future."

Cooper said he had a different view of the civil rights struggle than did some who live in Washington or New York. As an Alabama Mayor, he said, "I have to struggle on a daily basis with reconstructed and unreconstructed white folk."

Earlier, Rauh, national vice president of Americans for Democratic Action, returned to Bell's opinion upholding the expulsion of Julian Bond from the Georgia Legislature. The United States Supreme Court later reversed the decision, and Bell said this week that he had made a mistake in that case.

"What scares me is that person who could yield to that kind of hysteria could also yield as Attorney General," he said. "If we'd had a strong Attorney General in either the Truman or Eisenhower Administration, we might have been spared the evil of McCarthyism. Both yielded to (Senator Joseph R.) McCarthy."

SOUTHERN PAST HAUNTING ATTORNEY GENERAL NOMINEE

(By Richard Dudman)

WASHINGTON.—The fight over whether Griffin B. Bell should become the next Attorney General of the United States grew serious this week, much to the surprise of most political observers and Bell supporters.

Bell, an Atlanta lawyer and former judge of the United States Court of Appeals for the Fifth Circuit, was expected to win easy confirmation in the Senate Judiciary Committee, despite the announced opposition of some civil rights groups.

In fact, opponents were talking about how Democrats on the Judiciary Committee friendly to President-elect Jimmy Carter were going to railroad the nomination through, regardless of the critics who wanted more time to build an opposition case and arrange for witnesses to testify against Bell.

There was talk for a while of a committee vote Friday, before the new President had been installed to send up a nomination and before the committee had been legally constituted to receive it.

By late Friday, however, the pace had been slowed. New recruits, including the National Organization of Woman, were joining the opposition. The Rev. Mr. Jesse L. Jackson of Chicago, head of People United to Save Humanity (PUSH) asked to testify on Monday.

Finally, Chairman James O. Eastland (Dem.), Mississippi, an outspoken Bell partisan, announced that the hearings would be extended into a second week with Bell being called back as the first witness.

At the start of the hearings last Monday, Senator Charles M. Mathias (Rep.) of Maryland at one point held up this thumb and forefinger a quarter inch apart to show how thin the record was on the committee's hearing eight years ago into the qualifications of one of Bell's predecessors. John N. Mitchell wound up with a conviction as one of the Watergate criminals.

As the week progressed, Mathias asked by far the most searching questions. The committee's conservative Southern Democrats said at the outset they planned to vote for confirmation, and the friendly leading questions by the liberal Democrats led observers to believe that they, too, had already decided in Bell's favor.

Some of Bell's opponents believe that President-elect Jimmy Carter decided on Bell for Attorney General some time ago and deliberately floated other names as trial balloons to confuse the opposition.

The National Association for the Advancement of Colored People began a thorough investigation of Bell's background several weeks ago but dropped it when Carter's campaign director, Hamilton Jordan, said he didn't think Carter would choose him. Jordan said the choice would smack of nepotism, since Bell was a member of the same law firm as Carter's senior adviser, Charles Kirbo.

The nominee was introduced by Georgia's senior Senator, Herman E. Talmadge, who, as governor of Georgia 22 years ago, pushed through a state constitutional amendment that permitted the "massive resistance" to school desegregation that Bell helped organize as a young man.

Instead of calling on two other nationally known lawyers who had agreed to appear if needed, the Carter team placed its greatest reliance on Leon Jaworski, the former Watergate special prosecutor.

Jaworski's chief credentials were his assignment in 1961 to investigate Bell's background, experience and character for the American Bar Association when Bell had been nominated for the U.S. Court of Appeals for the Fifth Circuit.

But, as critics quickly pointed out, Jaworski's report contained no mention of Bell's service as legal adviser and "chief of staff" to Georgia's die-hard segregationist governor, Ernest H. Vandiver. In fact, Jaworski's testimony omitted any mention of Bell's record or attitude on civil rights.

Jaworski's chief sources of information about Bell, moreover, were two Atlanta lawyers who had served Vandiver along with Bell in the maneuvers to block school integration in the late 1950s and early 1960s.

The case for Bell, aside from his being a widely respected lawyer and judge, is that he is an old and trusted friend of Jimmy Carter. They have known each other from boyhood, when they grew up in towns eight miles apart.

Choosing such a confidant as Attorney General has become standard practice. Presidents Truman, Eisenhower, Kennedy and Nixon all chose their campaign managers as Attorney General. Kennedy's was also his brother.

In the case against the nominee, Bell's close association with Carter is likewise a factor. Critics have argued that their close personal ties might conflict with other important aspects of the job. An Attorney General must be the legal conscience of an administration and the "people's lawyer."

At the heart of the controversy over Bell's nomination are conflicting views of the same set of facts in the decade of turmoil and struggle over the desegregation of Georgia's public schools.

Gov. Vandiver was elected in 1958, four years after the U.S. Supreme Court had ruled that the schools had to be desegregated "with all deliberate speed."

The governor campaigned on a platform of keeping the schools segregated. He sent Bell

and other lawyers to Virginia to study that state's "massive resistance" campaign, in which the public schools were closed and private white academies were set up.

Two days after his inauguration he introduced a package of what he called the "Vandiver segregation bills," stemming from "a distinguished committee selected by me of the best legal minds in the state." Bell was a member of the group, although he testified that he could not remember working on some of the bills.

The new laws, passed within three weeks, authorized the governor to close the schools and the University of Georgia rather than integrate them, provided tax credits for individual contributions to private schools, provided funds to hire lawyers to defend desegregation suits, cut off school taxes if schools were integrated and set age limits for admission to the university. The last was to block most blacks from admission.

Massive resistance became impossible, however, when the Supreme Court ordered a faster pace of integration and when the Federal Government showed at Little Rock that it would enforce the courts' orders.

Bell has claimed credit for devising the next phase, creation of a special commission to hold hearings around the state and advise the Legislature. He testified that this commission was a force for moderation, for gradual integration and for keeping the schools open.

The majority report, however, denounced the 1954 Brown v. Board of Education decision as "a usurpation of legislative function through judicial process" and recommended a number of steps including a "freedom of choice" plan assuring that "no child will be required to go to school with a child of a different race except on a voluntary basis."

Bell and his supporters, including some black witnesses from Atlanta, say he helped prevent chaos and performed a role of moderation. His detractors say he was fighting a rearguard action against integration, maneuvering for obstruction and delay through the entire period.

Critics, including Clarence Mitchell, director of the Washington Bureau of the National Association for the Advancement of Colored People, and Joseph L. Rauh, national vice president of Americans for Democratic Action, believe much more time should be allowed to explore Bell's entire record, including the Vandiver era and his 14 years on the court.

One of Rauh's concerns, as he wages a somewhat lonely campaign, with many of his liberal friends supporting the nomination, is that Bell's record showed that he yielded to the pressure of racist hysteria in a time of turmoil in the South.

He asks how such a person, as Attorney General, could stand up to whatever emotional pressures may arise in the next four years.

Hearing on Griffin Bell Is Recessed in Senate

(By Richard Dudman)

WASHINGTON, Jan. 17.—Senator James O. Eastland (Dem.), Mississippi, recessed the hearing today on Griffin B. Bell's nomination as Attorney General without indicating whether or not additional would-be witnesses were to be heard.

After Bell had testified for two hours on a fifth day of the hearings, the 72-year-old chairman of the Senate Judiciary Committee abruptly mumbled "We'll go over until the call of the chair" and walked from the room.

Senator Donald W. Riegle (Dem.), Michigan, who happened to be presiding at the time, said, "I take that to mean the committee is in recess."

Clarence Mitchell, director of the Washington bureau of the National Association for the Advancement of Colored People, renewed his request to the committee staff for additional time to hear witnesses from Georgia and other parts of the country in opposition to the nomination.

Eastland was expected to call for a vote tomorrow if most Senators are present. But Mitchell said he hoped members of the committee would vote to hear the additional witnesses and give them 24 hours notice to reach Washington.

Several of those who have asked to testify were involved in the prolonged Atlanta school desegregation case in which Bell is said to have helped arrange a settlement.

Bell acknowledged today under questioning that he had not filed required reports with the U.S. Judicial Conference, disclosing complimentary private club memberships worth about $2000 a year that he had received as a member of the U.S. Court of Appeals for the Fifth Circuit.

He would not commit himself on whether he would rejoin the clubs, which he has promised to resign from, when he leaves office.

Among the clubs in question were the Capital City Club and the Piedmont Driving Club of Atlanta, which discriminate against blacks and women.

When Bell was nominated by President-elect Jimmy Carter, he first said he would not resign and later said he would, in effect, take a leave of absence while serving as Attorney General so as not to lose his $10,000 initiation fee.

When Bell began testifying before the committee last Monday, he said he would resign from the clubs if and when he received Senate confirmation.

When Reigle asked what Bell would do about the club memberships after leaving the Government, Bell replied:

"I've made no decision. I don't know if I'm going to be confirmed. I don't know if I'm going to be Attorney General. I don't want to say what I'd do as a private citizen."

He went on to say that he hoped to make the Department of Justice a place where trust in Government would be restored. He said he thought he would not be trusted fully if he remained a member of clubs that had discriminatory practices.

Riegle suggested that Bell might not be fully trusted if it were known that he was, in effect, putting his memberships in trust while serving as Attorney General.

Bell replied, "We don't have a system of Government that makes you promise something for the rest of your life as if you're serving in the penitentiary."

Senator John H. Heinz III (Rep.), Pennsylvania, carried the issue further by asking whether Bell's tax-free honorary memberships in two of the clubs, worth about $1000 a year, should not have been disclosed to the plaintiffs in a Florida case in which he ruled against someone excluded from the Bay Biscayne Yacht Club for reasons of race.

Bell answered that most judges in the South belonged to such clubs. He said that if he had disqualified himself almost every judge on the United States Court of Appeals for the Fifth Circuit would have been disqualified and "there would have been nobody to try the case."

Senator John H. Chafee (Rep.), Rhode Island, questioned Bell's assertion that he had been a moderating influence in the late 1950s and early 1960s on then-Gov Ernest H. Vandiver, a bitter-end opponent of school desegregation. Chafee noted that a series of harsh segregationist laws were enacted, at least partly with Bell's advice, and asked "where was the moderation?"

"The moderation was in the fact that we did not close the schools and we have had no violence of any sort," Bell replied. "In Georgia that was a moderating influence. In Rhode Island, I don't know."

Bell offered to produce witnesses about the Georgia school dispute if necessary, but said he did not want to extend the hearings. He said Attorney General Edward H. Levi and deputy attorney general Harold R. Tyler Jr. wanted to depart.

"Somebody has to run the department," Bell said.

At the start of today's hearing, Bell noted that he alone of many witnesses in five days of hearings had been put under oath," he said.

"I don't mind being put under oath, but people who testified against me for four or five hours have not been put under oath," he said.

The committee chairman, Senator James Eastland (Dem.), Mississippi, is expected to call for a vote possibly as early as tomorrow, despite efforts by persons opposing Bell's nomination to have the hearings extended to permit further witnesses from the South to testify.

Bell Back on Stand; Inquiry May Be Extended

(By Richard Dudman)

WASHINGTON, January 17—Griffin B. Bell was back for a fifth day of hearings today on his nomination as Attorney General, with opponents pressing for a further extension of the inquiry.

Senator James O. Eastland (Dem.), Mississippi, chairman of the Senate Judiciary committee, said last week that he was thinking of calling for a vote this afternoon.

But Clarence Mitchell, director of the Washington bureau of the National Association for the Advancement of Colored People, said yesterday that he would ask for additional time to bring witnesses to testify about three controversial opinions by Bell when he was a judge of the United States Court of Appeals for the Fifth Circuit.

Mitchell said he would ask that the witnesses be given 24 hours' notice. That would mean an extension of hearings through tomorrow or possibly Wednesday.

Mitchell said in a telephone interview that he had received many calls expressing opposition to Bell on the basis of his civil-rights record as a lawyer and as a judge.

"This is getting through to the country," he said. "If my telephone calls are any indication of the mood of the people, they are getting more and more concerned about this sort of person being made Attorney General."

Mitchell dismissed testimony in Bell's favor by some blacks from Atlanta as being from "go-slow faction" that generally takes its cue from the white power structure in Atlanta.

"Their approach is to say just what the white people told them to say," he said.

He said he wanted to call witnesses who would give details of school desegregation lawsuits in Atlanta and in Austin and Corpus Christi, Tex.

Those who oppose the nomination have been concentrating on the liberal Democrats on the committee, hoping to make them uncomfortable in failing to join the attack on a nominee accused of having given aid and comfort to segregationists for at least 14 years.

That charge was made by Joseph L. Rauh Jr., a Washington civil rights lawyer who is national vice president of Americans for Democratic Action.

Senators Edward M. Kennedy of Massachusetts, James Abourezk of South Dakota and Birch Bayh of Indiana have usually sided with Mitchell and Rauh in the past.

This time a Republican, Senator Charles M. Mathias of Maryland, has led the way in posing critical questions about Bell's background.

Bell has come under fire for his role in the long dispute over school desegregation for court opinions in cases dealing with other matters for his membership in Atlanta clubs that exclude women and blacks and for this

close political relationship with President-elect Jimmy Carter.

Bell has stated that he would resign from the segregated clubs if confirmed by the Senate. Asked if he would rejoin them after he ceased being Attorney General he replied by saying that they might be integrated by that time.

BELL IS UNREPENTANT SEGREGATIONIST, SAY 2 BLACK LEADERS

(By Richard Dudman)

WASHINGTON, January 19.—Two black civil rights leaders charged today that Griffin B. Bell is an unrepentant segregationist who could not be expected to change his views as Attorney General under a liberal President.

The Rev. Jesse Jackson of Chicago, president of People United for Self-Help (PUSH), appealed to President-elect Jimmy Carter to "be morally consistent" and withdraw Bell's nomination.

Aaron E. Henry, president of the Mississippi state conference of the National Association for the Advancement of Colored People, said of Bell, "I would be very hesitant to rely on his words when his actions don't show that he has done what he says he will do."

The two were the first of eight opposition witnesses appearing today in what was expected to be a sixth and final day of hearings before the Senate Judiciary Committee. A vote was scheduled for late this afternoon.

Jackson assailed Bell for what he called a record as lawyer and judge of obstructing school desegregation and other forward moves in the civil rights field.

"The Confederacy is still very deep in this man's chest," Jackson said. "He may never trust him."

Jackson asked committee members how seriously the Senate was taking the issue of Bell's confirmation and asked whether "we are in some kind of honeymoon period."

"We are wondering if enough cement can be poured in 100 days to lock our ankles for another 100 years," he said.

Jackson noted that Bell and "some others" were no longer in the hearing room as the black witnesses testified. The committee chairman, Senator James O. Eastland (Dem.), Mississippi, had sent word by an aid to Henry that he would be unable to attend today's session.

Black observers at the hearing noted that Eastland had absented himself whenever black witnesses opposing Bell were to be heard.

Calling attention to Bell's reluctant resignation from private clubs that discriminate against blacks, Jews and women, Jackson said: "Mr. Bell doesn't express any regret about his past, but only moves forward under the most political and opportunistic circumstances."

Henry, a pharmacist in Clarksville, Miss., who led a successful insurgent black delegation to the 1964 Democratic national convention, traced Bell's record as a judge for 14 years on the U.S. Court of Appeals for the Fifth Circuit.

Especially in cases involving school segregation and the Voting Rights Act, Henry said, "We always knew we would not have Judge Bell's vote . . ."

Henry said that in superintending the desegregation of about 30 school districts in the South, Bell always had provided for "as little desegregation as possible." The witness said all but 10 or 12 high schools in the entire state of Mississippi still had white principals, although most of the schools are predominantly black.

Henry characterized Bell as one of the "swing judges" on the Fifth Circuit in civil rights cases. He said Bell frequently voted with the majority whether for or against civil rights, but never, to his knowledge, wrote a pro-civil rights dissent when the majority decided against a civil rights case.

Henry noted that in 1972 Austin school desegregation case Bell held that there was no obligation to eliminate system-wide segregation. He recalled that liberal members of the court called Bell's view "destructive" and described his language as "blatant euphemisms to avoid desegregating the system, preserving the whiteness of certain schools."

Senator Edward M. Kennedy (Dem.), Massachusetts and Birch Bayh (Dem.), Indiana, questioned Henry's statement that Bell as Georgia Gov. Ernest H. Vandiver's chief of staff in 1960 had told the Georgia Legislature he would resist school desegregation in the state by "every legal means and remedy available to us."

Henry said the statement had been quoted in a publication called Southern School News. Kennedy and Bayh said they understood that Bell never had addressed the Legislature and that the statement may have been made by Gov. Vandiver.

"If you can find someone who heard Judge Bell say it, I think we've got a smoking gun," Bayh said.

PANEL APPROVES GRIFFIN BELL, NOMINATION GOES TO SENATE

(By Richard Dudman)

WASHINGTON, January 10.—Griffin B. Bell's nomination as Attorney General was expected to go before the Senate today after the Judiciary Committee voted 10 to 3 late yesterday to approve his confirmation.

Three Republicans opposed the nomination—Senators Charles M. Mathias of Maryland, H. John Heinz III of Pennsylvania and John H. Chafee of Rhode Island. One Democrat, Donald W. Riegle, Jr., of Michigan, voted "present."

The committee's approval, barely in time to permit the Senate to act today and Bell to join other Cabinet members in a group swearing-in ceremony tomorrow, came at the end of the sixth day of hearing.

Civil rights leaders said they would take the fight against Bell to the Senate floor.

Clarence Mitchell, director of the Washington Bureau of the National Association for the Advancement of Colored People, said he was "disappointed and chagrined" by the committee vote. He said he was particularly dismayed that Senators Edward M. Kennedy (Dem.), Massachusetts, and Birch Bayh (Dem.), Indiana, had voted for Bell.

Mathias said he had been troubled by the nomination and had wavered as the hearings progressed.

"Finally this afternoon I asked myself if this nomination had been made by a Republican President, would I advise him to go forward with it," he said. "I must say, I thought of the votes I cast against Judge (Clement) Haynsworth and Judge (G. Harold) Carswell (Supreme Court nominees), and I must say I found it impossible to go forward with this nomination."

Riegle said he was prepared to vote to refer the nomination to the Senate but not to join in recommending its approval.

Kennedy said he, too, was troubled about his vote but had become convinced that Bell was "a man of very considerable integrity" who would abide by assurances he gave the committee on such issues as civil rights, wire taps, voting rights and antitrust policy.

Mitchell returned to the witness chair to tell the committee members that they as well as President-elect Jimmy Carter would be responsible if Bell became Attorney General.

"You will be saying to the people, 'We will put in charge of your rights one of your chief opponents when you were trying to get what you should have'," he said.

Heinz said Bell apparently had violated a federal law when he cast the deciding vote and wrote the majority opinion approving Atlanta's school desegregation plan in 1963.

Heinz cited a statute that required a federal judge to disqualify himself in any case in which he earlier had served as a lawyer He said it was clear that Bell had been "of counsel" in the same case when Gov Ernest H. Vandiver of Georgia was considering whether to appeal a lower court decision.

One of the last witnesses, Monroe Friedman, dean of the Hofstra University Law School in Hempstead, N.Y., said Bell had violated the code of judicial conduct adopted by the United States Judiciary Conference.

Friedman said Bell should have disclosed his membership in private clubs that discriminate against blacks, Jews, and women before hearing a case last year in which the Biscayne Bay Yacht Club was charged with discrimination against blacks and Jews.

On another point, Friedman said Bell should have disclosed in 10 or 12 semiannual reports that he was receiving complimentary memberships in the private clubs, worth about $2000 a year.

SENATORS SEEK DELAY ON BELL

(By Richard Dudman)

WASHINGTON, Jan. 20—Republican Senators moved today to block immediate confirmation of Griffin B. Bell as Attorney General this afternoon in time for a group swearing-in tomorrow of President Jimmy Carter's new Cabinet.

Senator Edward W. Brooke (Rep.), Massachusetts asked for a "hold" on the nomination until Monday to provide time for the Senators to read the record of six days of hearings on the nomination.

He objected to a plan by the Democratic leadership to have 100 copies of the transcript specially made up and placed on the Senators' desks just before the nominations were to be taken up this afternoon.

"How are they supposed to absorb it—by cosmosis?" a member of Brooke's staff asked.

Several other Republicans reportedly were prepared to ask for a roll call vote on Bell's nomination. One senator said this would have the effect of postponing consideration until Monday, since many senators will be away from Washington tomorrow.

A spokesman for Senator John C. Danforth (Rep.), Missouri, said Danforth expected a rollcall vote and had not yet made up his mind how to cast his own vote. Danforth's reservation stemmed from a question of Bell's position on Clarence M. Kelly, director of the Federal Bureau of Investigation, who is a former chief of police of Kansas City

Danforth objected to reports that Bell had indicated he would fire Kelly if confirmed as Attorney General. Bell has pointed out since then that he made no such statement but said merely that Kelly would be retiring "before long."

Danforth has been awaiting a direct reply from Kelly to a letter of inquiry on the matter. Government sources say Kelly probably will retire soon after next Oct. 1, when he will obtain certain pension advantages.

The blocking of the Bell nomination today opened the way for development of bipartisan opposition for a debate Monday or later on the Atlanta Jurist's qualifications and record. Senators William Proxmire (Dem.), of Wisconsin, and Daniel Patrick Moynihan (Dem.), New York, have joined the growing opposition to Bell.

The Judiciary Committee had voted 10 to 3 late yesterday to recommend that the Senate confirm Bell's nomination

Three Republicans opposed the nomination—Senators Charles M Mathias of Maryland, H. John Heinz III of Pennsylvania and John H. Chafee of Rhode Island One Democrat, Donald W. Riegle Jr. of Michigan, voted "present."

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swearing-in ceremony tomorrow, came at the end of the sixth day of hearings.

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Riegle said he was prepared to vote to refer the nomination to the Senate but not to join in recommending its approval.

Kennedy said he, too, was troubled about his vote but had become convinced that Bell was "a man of very considerable integrity" who would abide by assurances he gave the committee on such issues as civil rights, wire taps, voting rights and antitrust policy.

Heinz said Bell apparently had violated a federal law when he cast the deciding vote and wrote the majority opinion approving Atlanta's school desegregation plan in 1963.

Heinz cited a statute that required a federal judge to disqualify himself in any case in which he earlier had served as a lawyer. He said it was clear that Bell had been "of counsel" in the same case when Gov. Ernest H. Vandiver of Georgia was considering whether to appeal a lower court decision.

CHALLENGE POSSIBLE ON BELL

(By Richard Dudman)

WASHINGTON.—President-elect Jimmy Carter's selection of Griffin Bell as Attorney General has raised the first threat of a major confirmation fight against the new administration.

The announcement yesterday caused surprise and consternation among civil rights leaders. They had been opposing the Atlanta lawyer and former federal appeals court judge and had been led to believe that he had been dropped from consideration.

They long have considered him a skillful opponent and obstructor of school desegregation. With Bell's appearance at Carter's press conference in Plains, Ga., yesterday, they had new grounds for opposition.

Bell said he had no regrets for having supported the 1970 nomination of G. Harrold Carswell to the Supreme Court. The nomination was defeated by those who opposed Carswell's anticivil rights record as well as by those who questioned his competence.

Bell was criticized also for citing a Supreme Court decision signed by only three Justices as an indication that the court agreed with his restrictive views on school desegregation, favoring school busing only as a last resort.

Clarence Mitchell, director of the Washington bureau of the National Association for the Advancement of Colored People, said that "these two assertions raise very serious questions about his competence, aside from his racial point of view."

Mitchell said he had sent for an opinion in a Corpus Christi, Tex., case that Bell said expressed his views on pupil transportation. In addition, Mitchell resumed a canvass of Bell's other opinions that had been suspended two or three weeks ago when it appeared that Bell was out of the running.

"As of now, it appears he ought not to be Attorney General," Mitchell told the Post-Dispatch.

Another civil rights leader who opposes Bell, Nate Jones, the NAACP's general counsel described Bell as "basically the person who erected obstacle courses in the path of persons who wanted their rights validated."

One of his objections was that Bell had set up court-appointed biracial councils to assist all-white school boards in carrying out desegregation programs. Although the system might have been good in principle, he said, it worked out as "just another layer of exhaustion the plaintiffs had to run through." Questions of the make-up and behavior of the councils provided new subjects for litigation and new cause for delay.

A second objection raised by Jones and others was something Bell did in connection with the Atlanta school desegregation case. In 1973, Bell appeared as guest speaker at the Atlanta Downtown Action Forum, a group of black and white business leaders.

Although the meeting was supposedly off-the-record, it was reported afterward that Bell had proposed that the parties to the 14-year-old lawsuit meet without their lawyers to try to reach a settlement.

Although the Atlanta case was not pending before the Fifth Circuit Court of Appeals, on which Bell sat, he was a member of a three-judge panel that had the so-called Atlanta Metro case, an effort to desegregate the schools of the whole metropolitan area.

The Atlanta school board had been considering joining the plaintiffs in the Metro case. But when Bell's suggestion was followed and the Atlanta case was settled, the school board dropped the idea.

Bell rejected a motion that he disqualify himself from the Metro case. His written statement explaining his conduct at the meeting did not dispute the facts as stated. It said he was trying to overcome the uncertainty and instability that had been caused by years of litigation, in which white attendance in the city's schools dropped to 22 per cent from 67 per cent and 20,000 students were lost from the school system.

The staff of the Lawyers Committee for Civil Rights Under Law was preparing to study Bell's background and possibly gather information for presentation to its board for another possible challenge to the nomination.

Carl J Character, of Cleveland, president of the National Bar Association, an organization of black lawyers, in a message to Carter Sunday, said the proposed appointment "alarms the black bar and is harmful to the black community." He said Bell's record "demonstrates his total lack of sensitivity to the legitimate rights of black citizens."

When a civil rights lawyer telephoned an acquaintance on the transition staff Sunday to quote a radio report that Bell was to be appointed, the staff member said, "That can't be true—not after the memo we wrote to Carter."

But the memorandum is not publicly available. In fact, the staff member who blurted out that comment said yesterday, after the Bell announcement, that she knew nothing about any unfavorable material developed on him.

Carter's associates had calmed the concerns of civil rights leaders by saying that Bell's two recent visits to Carter's headquarters were merely for consultation on other likely appointments.

Hamilton Jordan, Carter's chief recruiter for top administration jobs, had added to this impression by saying that he thought it would "smack of nepotism" if Bell were named Attorney General, because Bell is a law partner of Carter's old friend and senior adviser, Charles Kirbo.

The firm, old and prestigious, represents General Motors, Coca Cola and other large corporations. Another partner is Jack H. Watson, Jr., who headed transition preparations during the campaign and now heads the issues side of the operation.

Bell is 58 years old. He was born in Americus, in Carter's home county of Sumter. It was Bell who introduced Carter and Kirbo.

He obtained his bachelor's degree at Georgia Southwestern College and his law degree from Mercer University in Macon, Ga.

Bell was Georgia chairman of John F. Kennedy's presidential campaign. Kennedy named him a federal judge a year later. He resigned early this year to re-enter private practice.

Mr. MATHIAS. I also ask unanimous consent that a telegram I received from Prof. Vernon Countryman of the Harvard Law School be reprinted in the RECORD. In his telegram, Professor Countryman raises a most serious issue which deserves the careful study of the Senate as it prepares to consider the Bell nomination and I ask that it be printed at this point.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

[Telegram]

Senator CHARLES MCC. MATHIAS, JR., *U.S. Senate, Washington, D.C.:*

In view of obvious improprieties of Bell in sitting as Judge on appellante court which ruled on validity of school desegregation plan in a case in which he provided legal advice and on the desegregation of a Biscayne Bay Yacht Club while he maintained membership in 3 clubs with similar segregationist policies, as well as his failure to report free and discounted club memberships to judicial conference even after its advisory committee had specifically ruled such memberships should be reported, cannot reconcile his confirmation with the Senate's vote on Judge Haynsworth. Confirmation of Bell would make mockery of President Carter's conflict of interests guidelines. Please circulate this message to other Senators.

VERNON COUNTRYMAN,
Harvard Law School.

Mr. MATHIAS. Additional information on the issue raised by Professor Countryman is provided in an article in Newsday of January 24, 1977 by Monroe Freedman, dean of Hofstra Law School and an expert on judicial ethics. Professor Freedman testified before the Judiciary Committee during its hearings on the Bell nomination. Mr. President, I also ask unanimous consent that this article by Professor Freedman be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsday, Jan. 24, 1977]

(By Monroe H. Freedman)

A DISSENTING VOTE FOR JUSTICE

Testifying before the Senate Judiciary Committee last week, the dean of Hofstra Law School claimed that Griffin Bell's conflicts of interest disqualify him from being confirmed as attorney general. Here are some of his reasons.

When campaigning for the presidency, Jimmy Carter emphasized that the attorney general, above all others, should be "removed from politics" and independent of the White House. President Carter then nominated Griffin Bell, a personal and political friend, to be attorney general. Bell observed that the attorney general is a symbol of equal justice before the law—the context was the controversy over his memberships in three country clubs that exclude blacks and Jews from membership.

I agree with President Carter and Griffin Bell. The attorney general should be removed from politics and is a symbol of equal justice. On those standards, Bell is clearly unqualified to be attorney general.

In addition, Bell, while a federal appellate judge, committed serious violations of the federal conflict-of-interest statutes and canons. Those ethical violations are viewed by some senators as the "smoking gun" in the case—misconduct going beyond a mere "po

litical" disagreement with the president over his choice of attorney general. The cases of conflict-of-interest violations are these:

1. THE ATLANTA SCHOOL CASE

In a school desegregation case in Atlanta in June, 1959, the Federal District Court judge ordered the school board to present a desegregation plan by Dec. 1. A group of lawyers met at the mansion of Gov. Vandiver to discuss litigation strategy in the case. One of the members of that group was Griffin Bell, who was on leave from his law firm to serve as the governor's lawyer.

Some members of the group favored an immediate appeal in the case. Bell disagreed, however, urging that an appeal "might put us in worse shape." Instead, Bell supported the view that a committee should be appointed to develop a plan that might be acceptable to the trial judge. That counsel was followed, and subsequently Bell was involved to some extent in legislative changes that were necessary to implement the plan.

Bell's strategy worked. The district judge accepted the plan, despite the fact that it delayed complete integration of the schools for several years and imposed special requirements for black students seeking transfer in white schools (e.g., a personality interview and a higher score than half the white students had to achieve on a standardized test). Thus, the proponents of desegregation were compelled to take the appeal in that case.

On the appeal, the three-judge panel split 2 to 1. The judge who wrote the opinion in the case—*Calhoun v. Latimer*, 321 F. 2d 302 (1963)—and whose vote was decisive in approving the school plan, was Judge Griffin Bell. At that time, a federal statute—28 USC 455—required a federal judge to disqualify himself in any case in which he had been "of counsel." Judge Bell clearly violated that conflict-of-interest statute.

2. THE BISCAYNE BAY YACHT CLUB CASE

In 1976 Judge Bell participated in deciding a test case attacking the exclusion of blacks and Jews from what the defendants claimed to be a private club. At the time, Judge Bell was a member of three clubs which had the same exclusionary policies, and which could have been adversely affected if the dissenting judges' position in that case had prevailed. In addition, Judge Bell was receiving about $2,000 worth of free membership privileges in two of the clubs. Because Judge Bell failed to divulge his relationship to the clubs, the plaintiffs were deprived of the opportunity to move for his disqualification, which they have stated they would have done.

3. VIOLATION OF DISCLOSURE REQUIREMENTS

Beginning in June, 1970, Judge Bell was required by the Judicial Conference of the United States to report semiannually any gifts he received of a value greater than $100. The Judicial Conference prepared and distributed forms for that purpose. Instead of reporting the free club privileges he was being given, Judge Bell falsely wrote "None" in the applicable space.

4. BELL'S ATTITUDE TOWARD CONFLICT-OF-INTEREST GUIDELINES

When questioned about his failure to comply with the disclosure rules of the Judicial Conference, Judge Bell replied, "I am subject to the Judicial Conference, to the extent that I am willing to comply." (Transcript of testimony before Senate Judiciary Committee, page 87, Jan. 17, 1977)

Those words convey two thoughts. Either Bell considered himself to be above the rules—an attitude of which we have had enough in recent times—or he was saying, "I got away with it, didn't I?" In either event, Bell's attitude toward such rules raises serious questions concerning the good faith with which President Carter promulgated his new conflict-of-interest guidelines for his top political appointees.

As one who supported Jimmy Carter for the presidency, believing his assurances of higher ethical standards in public life, I feel that my trust has been betrayed by the nomination of a man like Griffin Bell to be attorney general of the United States. The Senate should refuse to confirm his nomination.

THE MYTH OF VOTER APATHY

Mr. BAYH. Mr. President, in the January 24 issue of Newsweek, Alexander E. Barkan authored a thought-provoking column entitled, "The Myth of Voter Apathy." I am proud to count Al Barkan as a friend and the perceptiveness of this article is typical of his willingness to consider new and innovative concepts.

He suggests that one major reason for low voter turnout in U.S. elections is the overly complex and time-consuming methods of registering voters. Although registration by mail has been successfully tried in several States, the institution of such a procedure in large industrial States could prove to be an administrative nightmare.

Therefore, Al Barkan suggests that we consider instituting the registration procedure currently being used in Wisconsin and Minnesota. In those States, a voter has only to appear at a polling place on Election Day with a driver's license or other proof of age and residence and he or she is allowed to vote without prior registration. In the 1976 election, Wisconsin's voter participation of 54.4 percent was 10 points higher than the national average and in Minnesota more than 22 percent of the 1.9 million who voted in that State were persons who had not registered before Election Day. Neither State appeared to experience increased problems with voter fraud as a result of this procedure.

One of the most important cornerstones of this Nation is the participation of all citizens in the process of choosing their elected officials. The Constitution has been amended and laws written to enfranchise large segments of our population who originally were denied the right to vote. It is important, therefore, that it be made as simple as possible for all Americans to exercise their right to participate in elections.

During his entire career, Al Barkan has been committed to furthering the rights of all our citizens to vote. His commitment to this ideal is further demonstrated by the ideas raised in his article. I commend Mr. Barkan's cogent article to the careful attention and consideration of my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MYTH OF VOTER APATHY

(By Alexander E. Barkan)

We've just come through a national election. Many concerned with it were preoccupied not so much with the question of who would win but whether anybody would show up. "What if we hold the election," they asked, "and nobody comes?" As many bets were placed on the come-out as on the outcome. Newspaper headlines and other media comments on "apathy" in the Presidential race were so common some thought it must be a third-party candidate.

That's a joke. Apathy, voter frustration and mistrust are quadrennial stories, dusted off in Presidential-election years. I'm convinced they're inflated. Almost always in an election year, voter interest is slow to generate. While the media and the candidates are all in a dither and immersed in political matters, voters—many of them—keep one eye on the pennant races, the World Series, other concerns. In the last few weeks, their interest picks up perceptibly, then peaks in the final days of a campaign.

One problem is that by then registration in all but a few states has closed out—and millions of citizens have not registered. Meanwhile, millions of others have been discouraged from registering by archaic laws that make registration at least inconvenient and often a challenge to one's ingenuity and perseverance. A postelection New York Times poll found large numbers failed to register because "it was too hard for them."

PERFORMANCE

It's been too hard for too many too long, and the labor movement believes it's high time to erase the pointless laws that limit voter participation. It is time to enact a universal voter-registration law. The Federal government should take on the responsibility of registering voters. Our people will vote if it's made easier for them.

This year, approximately 150 million Americans were of voting age and eligible. About 70 per cent, or 105 million of them, were registered. On Nov. 2, more than 80 million voted—which was a record number, if not percentage.

So, almost 80 per cent of those who were registered voted. Not so bad, and good enough to suggest that millions more would have turned out had they been able simply to get in line Election Day and make their choice known.

Strong evidence undergirds this belief. In Wisconsin, a recently enacted state law permits voters to forget about registration entirely, just walk up on Election Day, provide a driver's license or other proof of age and residence and go into the booth and pull the levers. About 200,000 unregistered Wisconsinites voted Nov. 2, creating an actual increase in voting percentage over 1972. Voter participation was 10 points above the national average of 54.4.

In Minnesota, the case was made as compellingly Under a similar state law, more than 22 per cent of the 1.9 million persons who voted had not registered beforehand. Minnesota's voting performance of 75 per cent-plus was 7 points up from 1972 and more than 20 points over the national average. It was the highest in the nation. Walter Mondale's presence on the national ticket surely helped, but not that much.

REGISTRATION BY MAIL

In neither Wisconsin nor Minnesota was there fraudulent voting. Administrative headaches, if any, were minor. It cost nothing extra.

As an interim step to universal registration, the trade-union movement has supported, enactment of registration-by-mail laws. In the past two years, sixteen states have adopted them. In most, experience with the law supports the belief that they're a step in the right direction. In Texas, Tennessee, Maryland, Oregon and Kentucky, new registrations in 1976 alone approached or exceeded the number of citizens who had become newly eligible to vote in the 1972–76 period.

It is conceded the experience was less impressive in other states. But the program is recent, and logistical problems, particularly in big industrial states, are enormous even for the simplified procedure of mail registration.

The labor movement was the only organization fully promoting use of this new tool, and we registered some 6 million of our members for an over-all AFL-CIO member-registration rate of 80 per cent, 10 points higher than the electorate at large. The political parties and other interest groups almost uniformly ignored the availability of mail registration, and election officials with few exceptions failed to stimulate its use adequately.

But the labor movement seeks a quantum leap beyond registration by mail. We look at Canada and other nations where the government says to the citizen, "Don't worry about registration, we'll handle that—all you have to do it show up at the polls and vote Election Day." We look at the fact that citizens in these nations *do* show up Election Day in percentages far higher than our own. We think this is exactly how it should, and would, work here.

Argument has raged unremittingly throughout our 200 years over voting rights and voting performance. At first, voting was restricted to property owners. For nearly a century and a half, it was a club for men only, and white men at that. Women—white women—finally got the vote, but for nearly 50 years beyond that, minorities were effectively barred from voting by poll taxes, literacy tests and often violence. Now, with the Voting Rights Act—for which the labor movement fought—that has changed.

OPENING THE POLLS

Some argue we have come as far as we should in opening up the process. They lament that further efforts will only encourage more voting by the poor and the undereducated, who, they seem to think, are incapable of making wise political decisions. Personally, I find their political judgment as sound as that of lawyers, bankers, corporate leaders, professors and—yes—even media commentators.

However, I'm willing to leave the debate to those who pontificate regularly in this and similar journals. With or without their counsel, I am convinced the more citizen participation we have the healthier and stronger our democracy will be, and that all reasonable steps should be taken to increase it.

We need a universal voter-registration law. Any eligible citizen should be entitled to enter the voting booth on Election Day, his or her registration having been duly handled, without aggravation or inconvenience, by the government. The trade-union movement looks forward to the day when the question will be not, "What if we hold an election and no one shows up?" but, "What if we hold an election and practically everyone does?"

THE 28TH ANNUAL REPORT—1976

Mr. JAVITS. Mr. President, today I am submitting my 28th annual report to the people of New York State on my activities in the second session of the 94th Congress. In this report I wish to review the year 1976, its historical importance, the activities of Congress, and my role in these congressional activities.

Free men and women throughout the world joined with the American people in celebrating our Nation's Bicentennial in 1976. As a nation we celebrated this anniversary with a joyous and hopeful spirit.

For the first time in many years Americans were filled with the real Spirit of '76. We were a nation at peace at home and abroad. Pride in the United States and all we have accomplished in our relatively short but marvelous history filled the hearts of millions of Americans.

Much of the world witnessed spectacular events and celebrations throughout the United States on July 4. But perhaps the most significant event of all took place when the majestic tall ships sailed into New York Harbor.

The Bicentennial did much to improve our outlook on the future, and to help us move on constructively from the difficulties of the past few years. Even the strains of New York's fiscal crisis, with its personal consequences to each citizen, took on a new meaning with the generous and cooperative effort of so many New Yorkers to see us through. This spirit will be the salvation of our great city, and New York City will emerge from the current difficulties stronger and prouder, just as America will go forward into her third century, mindful of her problems, but with a renewed faith in the principle under which we were founded. To be a part of the Bicentennial has meant a great deal to me, and I look forward to all that can be accomplished, to the dreams that can be realized in our next century.

1976 was also the year of a Presidential election. The Nation owes a deep debt of gratitude to President Ford and to those who worked with him; they served the Nation during a tumultuous period, when our ship of state came perilously close to foundering, and they served with singular distinction.

We look forward with hope and expectation to President Carter's administration. I shall continue my every effort to help our new President achieve the best interests for our Nation, our State, and city and our people. I will cooperate with President Carter in every way that is proper and in accord with conscience and national policy.

FOREIGN AFFAIRS AND WORLD PEACE

For more than three decades I have dedicated myself to help bring peace to the world. Ironically, I suffered a personal tragedy this year in the murder of Hal Rosenthal, a member of my foreign affairs staff, during a terrorist attack at Yesilkoy Airport in Istanbul, Turkey. It is bitterly ironic that this young man, who devoted his career to international understanding, should lose his life to exactly the senseless violence he was committed to eradicating. In response to this tragedy, I introduced a Senate resolution calling on the President to enforce more strictly the provisions of the Anti-hijacking Act. I was also able to have a strong antiterrorism plank adopted into the national platform of my party.

THE MIDDLE EAST

Last spring, I traveled to the Mideast to confer with heads of state in Israel, Egypt, Syria, and Jordan. I returned to the United States with a cautious optimism that a beginning toward peace might now be possible.

Following my return to the United States, I worked to achieve assurance from the administration that there would be restraint on further sales of C–130 aircraft to Egypt, and I helped to work out with the President and Secretary of State Kissinger a reduction of a proposed sale of 2,000 Sidewinder and 1,500 Maverick missiles to Saudi Arabia to 850 and 650 respectively. I also helped to guide through Congress the necessary military and economic aid for Israel to meet her severe defense and economic needs.

The major legislative product of the Foreign Relations Committee this past year was the International Security Assistance and Arms Export Control Act which, although initially vetoed, is now Public Law 94–329. I was one of those who drew up the bill and I sponsored the adoption of three amendments: a resolution calling for a peaceful settlement of the civil war in Lebanon; an amendment to promote respect for human rights in countries that receive U.S. arms aid; and an amendment to prevent nuclear proliferation through the sale of nuclear power facilities.

ADDITIONAL FOREIGN AFFAIRS LEGISLATION

With Senators KENNEDY and HUMPHREY, I sponsored a resolution calling for a moratorium on the testing of strategic cruise missiles. I also authored a resolution calling on the Organization for Economic Cooperation and Development to set forth guidelines governing multinational corporations. In addition, I supported a Senate resolution offered by Senator CRANSTON, setting out goals of détente with the Soviet Union. In this connection, I issued a statement calling on the Soviets to abide by the human rights provisions of the Helsinki Agreement, particularly with regard to the emigration of Soviet Jews.

I persevered in a struggle I have carried on for many years by sponsoring S. 3155, a bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide. The bill was referred to the Foreign Relations Committee. I will continue my efforts to have this vital agreement implemented in the 95th Congress and the Genocide Treaty ratified by the Senate—it has now been pending for almost 30 years.

The Japan-United States Friendship Commission, of which I am a member, as well as author of the law, began its first year promoting scholarly, cultural, and artistic activities between Japan and the United States. This Commission will do much to further the cultural alliance between the United States and our most important ally in the Orient.

This year I had the opportunity to attend the United Nations Conference on Trade and Development in Nairobi, Kenya, as congressional adviser to the U.S. delegation. At this conference, the United States presented major initiatives for economic relations between the developed and underdeveloped nations.

Pursuant to my interest in this area, I worked to develop a method to encourage greater private enterprise participation in economic development in the developing countries; and I continued to support Senate Concurrent Resolution 66, the right to food resolution, which provides funds to underdeveloped countries to feed their people.

I have a keen interest in the affairs of the African nations. These nations are rich in the natural resources, but their

ability to market them is severely restricted by the lack of capital. Consequently, with energy costs up more than 400 percent since the oil embargo of 1973–74 the Third World nations of Africa are experiencing enormous economic difficulties. We must do all we can to help bring these countries into the economic mainstream of the world. However, the United States must receive guarantees of a steady supply of raw materials at reasonable prices. In addition, these nations must be cooperative with the affirmations of peoples for peace and social justice for their people and the people of neighboring nations.

ECONOMIC ACTIVITY

One of the Nation's and New York State's most pressing concerns in 1976 was the continued economic recession. To improve the economy, it is essential to reduce unemployment and utilize a greater percentage of our productive facilities. Toward these ends, I sponsored several pieces of legislation to deal with unemployment and stimulate growth.

I introduced the Full Employment and Balanced Growth Act of 1976 to establish a national policy and program to achieve full employment of all Americans able and willing to work.

Also, the balanced growth and economic planning bill, which I wrote with Senator HUMPHREY, is seen as an alternative to the full employment bill. It provides a mechanism for long-term consideration of economic issues in the Federal Government. I plan to reintroduce this bill in the next Congress.

The emergency jobs program extension of public service employment under title VI of the Comprehensive Employment Training Act for fiscal year 1977 became Public Law 94–444. This stopgap measure contained three important provisions I introduced: targeting public service employment to long-term unemployed low-income people; designing and operating local projects of 1 year's duration for the long-term unemployed; and setting up a National Commission on Employment Statistics to study and analyze the methodology and validity of employment statistics.

With Senator HUMPHREY, I wrote and introduced the Employee Stock Ownership Fund Act. This legislation would facilitate broadened employee stock ownership through voluntary labor-management-collective-bargaining negotiations.

The Nation's economic needs of increased productivity, of enhanced capital investment in U.S. business, and the major reduction of unemployment and inflation can all be helped through expanded stock ownership by the rank-and-file American worker—people's capitalism. This measure also will create a framework for negotiation through collective bargaining of employee stock ownership trust funds along the same lines which have led to the vast networks of jointly trusteed pension and health and welfare plans throughout the United States. The stock ownership bill would allow for the equal participation of employer and employee representatives on the trust funds that manage security portfolios.

Hearings on this bill are planned before the Joint Economic Committee and the Labor and Public Welfare Committee early in this session. I serve on both of these committees and I look forward to favorable consideration of this bill. I believe this bill, when passed into law, will be milestone legislation perhaps as important and far-reaching as the Pension Reform Act which I authored and which was signed into law on Labor Day, 1974.

ENERGY

It is one of our greatest national disasters that we still have no comprehensive national energy policy, that we continue to import ever-increasing quantities of oil, and that we are thus dependent on an outside body—OPEC—for what is essential to our national interest.

I continued development of the effort to have a comprehensive energy program this year with the Energy Conservation Act—S. 3424. I coauthored this bill's basic feature mandating a complete energy reorganization, and I added amendments relating to a major energy conservation program in housing, an annual national energy conservation report, an increase in domestic oil refinery capacity, and a ceiling on oil price increases. This bill will be reintroduced in the 95th Congress.

Under the Tax Credits and Allowances Act, now Public Law 94–455, I cosponsored a tax credit for energy conservation improvements.

Also in the energy area, I introduced an amendment to the Nuclear Explosive Proliferation Control Act to slow the proliferation of atomic weapons by initiating a thorough review of our nuclear reactor—for power—agreements to make sure that no activities are permitted by the recipients which might lead to development of atomic bomb capacity.

LABOR AND JOBS

The common situs picketing bill (S. 1479) and the Construction Industry Collective Bargaining Act (S. 2305) which I cosponsored as a unit, were designed to equalize collective bargaining rights between industrial and construction enterprises and labor unions. Passed by Congress, they were vetoed by the President. Their purpose was to reform the collective bargaining structure of the construction industry which has been plagued by excessive fragmentation and frequent and prolonged work stoppages.

With Senator HARRISON A. WILLIAMS, I authored the National Workers Compensation Act (S. 2018), which is designed to establish minimum Federal standards for State workers' compensation programs. The Labor Subcommittee held extensive hearings on the bill, and amendments were developed to its provisions. I will reintroduce the revised bill in the next Congress, and I am hopeful that this will be the latest legislation in the area of improved benefits for workers who are unable to work because of industrial or work-related illness or injury. These are frequently required by justice and humanity.

Previously passed by the House, the Black Lung Benefits Reform Act of 1976 (H.R. 10760) was the subject of lengthy consideration in the Committee on Labor and Public Welfare. This bill was almost completely rewritten as a result of numerous amendments which I authored, but it failed to receive final action and must be reintroduced in this Congress. My amendments are designed to provide fair treatment to the victims of black lung disease, and to shift the Federal cost to the coal industry.

The Emergency Unemployment Compensation and Special Unemployment Assistance Amendments of 1976 (S. 3262), which I cosponsored, would establish a special unemployment assistance program of Federal unemployment benefits for those denied coverage under the regular Federal-State unemployment insurance system. This proposal would improve the special unemployment assistance program and extend it through next year. This bill was also pending at the end of the session and must be reintroduced this year.

The Federal Mine Safety and Health Amendments of 1975 were intended to bring all mining activities under one legislative framework with the Department of Labor, and to improve and strengthen Federal standards and enforcement authority to protect miners. I cosponsored the Senate bill which was still pending at the close of the session.

The Labor and Public Welfare Committee plans oversight hearings on administration of the Employment Retirement Investment Security Act—ERISA—landmark pension legislation which I authored with Senator WILLIAMS. We are surveying the need for technical amendments in addition to amendments to improve the efficiency of enforcement of the act by both the Labor Department and the Internal Revenue Service.

The committee also commissioned a General Accounting Office study of investment standards employed by public employee pension funds, and will move to design legislation to reform public employee pension funds in light of the Supreme Court's decision to strike down Federal regulation of State and local minimum wages and overtime pay.

SMALL AND MINORITY BUSINESS

As a member of the Small Business Committee, I was deeply involved in a variety of measures of both a technical and a policy nature. The Small Business Export Development Act, Public Law 94–305, which I cosponsored, provides for the President to undertake a comprehensive review of all Federal disaster loan authorities and provide the Congress with recommendations and legislative proposals, including recommendations for possible consolidation of Federal disaster loan authorities. Title II of the bill deals with the study of the Small Business Administration and establishes within the SBA an Office of Advocacy, which will assess the effectiveness of general assistance programs for small business, measure the costs and other effects of regulation of small businesses, determine the impact of the tax structure on small business, study the ability of financial markets to meet credit needs of small business and evaluate Federal and business efforts to assist minority enterprises.

The Equal Opportunity Enterprise Act of 1976 was introduced to amend the Small Business Act to expand assistance to business concerns owned by socially and economically disadvantaged Americans. The bill, which I cosponsored, would create an advisory committee on minority business enterprise under the direction of the SBA and the President to explore and provide solutions for the problems of minority business. In order to maximize efficiency and effectiveness the bill would restructure and transfer programs within the Small Business Administration. Though no action was taken on this legislation in the last Congress, it will be reintroduced next session. Small business and minority businesses are two economic areas that offer unlimited opportunities. Not only are they essential to the long-range economic growth of this Nation, they offer a prime opportunity for the reduction of unemployment for both minorities and those currently seeking employment in the job market. Despite the increased emphasis on funding for small business and minority enterprise, much more needs to be done. I am thankful that the Congress and the administration share this belief.

ANTITRUST AND TAX REFORM

The implications of the antitrust laws both nationally and internationally have caused considerable concern. Consequently, the Senate, at my urging, passed S. 3799, a bill to establish a Presidentially appointed Antitrust Review and Revision Commission, to study the antitrust laws, their applications, and consequences, and to report to the President and Congress on necessary revisions. Upon its completion, the study may provide the Congress with the essential data it needs in order to embark on the arduous task of rewriting our archaic antitrust laws. This bill passed the Senate, but failed to pass the House. It will be reintroduced in the 95th Congress, and stands a good chance of passage then.

The tax bill passed last year, Public Law 94–455, contained several amendments which I sponsored. These included: an amendment to restore tax incentives which are vital to the construction of rental housing; an amendment providing tax breaks for energy conserving alteration of principal residences; an amendment which allows deduction of taxes, interest, and business depreciation by tenant stockholders of cooperative housing corporations to include banks or other lending institutions as tenant stockholders; an amendment which provides tax incentives to encourage the preservation and rehabilitation of historic structures.

HEALTH

During the last session, I was very active in developing legislation which will bring us a comprehensive national health plan, which I believe is essential if this Nation is to provide the medical care our people need and deserve. I introduced two bills, the Comprehensive Maternal and Child Health Practice Act, and the National Health Insurance for Mothers and Children Act, to establish a system of national health insurance for mothers and children and to develop a program of comprehensive maternal and child care. If enacted, these measures would begin a long overdue shift of emphasis from episodic illness treatment to preventive medicine and health maintenance. They were not acted on in the last Congress. I will reintroduce both bills in this Congress.

Finally, I introduced the Consumer Food Act, providing consumers increased protection from unfit and adulterated food, and requiring disclosure of ingredients on food labels. This bill will be reintroduced and I am optimistic that it will be enacted into law in this new Congress.

I also sponsored the Clinical Laboratory Improvement Act of 1976. This bill is designed to establish a national commitment to provide quality laboratory testing and honest laboratory business administration. This measure passed the Senate but not the House and will also have to be reintroduced.

A number of health bills did become law and were the result of legislation I authored, introduced or cosponsored:

Public Law 94–278, the Heart, Lung and Blood Research, Training and Genetic Diseases Act assures continuation of the National Heart and Lung Institutes and the National Research Service Awards, and establishes a national commitment for diagnosis, control, and prevention of fatal genetic diseases.

The Disease Control Amendments Act of 1976, Public Law 94–317, establishes community health education and prevention programs and assures continuation of immunization and other disease control programs.

The Nurses Training Act, Public Law 94–63, provides assistance for comprehensive public health services, family planning programs, continuation of community health care, neighborhood and migrant health center programs and support for nursing education.

The Medical Device Amendments of 1976, Public Law 94–295, assures the safety and effectiveness of medical devices; and Public Law 94–380, the swine flu immunization program, established an inoculation program to protect the American people from the threatened swine flu epidemic.

In 1976, I was the chief sponsor of several other Senate-passed bills, including Public Law 94–573, which continues the safeguards and the protection of the rights of people involved in biomedical research; Public Law 94–573, the Emergency Medical Services Amendments; and Public Law 94–484, Health Professions Educational Assistance Act, providing support for medical and other health professions with improved geographic and specialty distribution of physicians.

NUTRITION

I introduced the Food Stamp Reform Act in the closing days of the first session of the last Congress. Provisions of this bill would correct inequities in the food stamp program, and it was ultimately one of six major bills used as the basis of the bill reported by the Senate Agriculture Committee. I cosponsored the compromise package which was approved by the Senate in April.

I joined Senator KENNEDY in proposing an amendment to the supplemental appropriations bill to increase funding for the supplemental food program for women, infants, and children and the funding was increased.

SOCIAL WELFARE

CHILD CARE, THE ELDERLY, THE HANDICAPPED

Throughout all of my public life I have been an outspoken advocate for those in society who need Government assistance in the area known as social welfare, which includes child care, aid to the elderly and the handicapped, housing and welfare. In the 94th Congress I submitted numerous bills in these areas, some of which passed and are now law and others which will again be introduced in this new Congress.

The Senate held extensive hearings on the Child and Family Services Act, of which I was a cosponsor. This legislation was designed to provide comprehensive child care. Unfortunately, final action on the bill was not taken, but increased funds were obtained for day care for children under title XX of the Social Services Amendments. This additional funding is essential for thousands of mothers in New York who are attempting to provide for their families and themselves as working mothers.

Of special concern to senior citizens was S. 599, which became law. It amends the Older Americans Act of 1965 by extending appropriations for 2 years and requiring that organizations and projects serving low-income, racial minority, or limited English-speaking individuals be given preference with respect to certain grants and contracts.

I was also successful in amending title XX of the social services amendments to eliminate the demeaning means tests for senior citizens who participate in senior citizens centers—a matter of great concern to thousands of our elderly citizens.

Both of these amendments are now law.

I was active in the passage of several bills to assist the handicapped. The Developmentally Disabled Assistance and Bill of Rights Act (Public Law 94–103) embodies my bill of rights for the mentally retarded. Both the statement of rights of the mentally retarded and the system of advocacy are landmark provisions which can serve as models for innovative State-Federal relationships for systems for social service delivery.

I was also a cosponsor of Education for all Handicapped Children Act, Public Law 94–142, which will begin a massive national effort to provide equal education for the handicapped.

HOUSING

One of the most serious problems in the State of New York is the lack of adequate housing for hundreds of thousands of citizens of all ages and income groups.

I strongly supported the Housing Authorization Act of 1976 which is now law. Amendments to this act include provisions to allow nonelderly single persons eligibility for section 8 rent subsidies. In addition the amendments disregard social security supplemental income pay-

ments for the purpose of qualification to receive section 8 benefits.

It is important to note that this act also increases mortgage limits for FHA-insured mortgages by 50 percent for efficiency units, which is important for single persons and married couples—including the elderly—without children. Finally, as I mentioned previously in the area of tax reform, I introduced an amendment to the tax bill, which is now law, that provides added incentives for the construction of apartment buildings, row houses, and other living facilities.

WELFARE

Early in the year I was joined by Senator McGOVERN in introducing legislation to federalize welfare benefits. I was realistic about this legislation's chances of passage, due to the controversial nature of some of its provisions and the cost to the Federal Government, but I intended that the dialog on this issue begin and that the bill be used as a starting point—it is critical for our cities.

I sponsored the Tax Credits and Allowances Act which amends the Internal Revenue Code to create an allowance for basic living expenses, amends the Social Security Act with respect to the supplemental security income program; and requires supplemental payments by the States for certain families with dependent children. Since there was no favorable action in the past Congress on these provisions, I plan to reintroduce them.

EDUCATION, ARTS, AND HUMANITIES

During this past session, the Congress completed the most comprehensive education legislation in a decade, the Education Amendments of 1976, Public Law 94-482. This was an omnibus bill which reauthorizes and expands programs in higher education, vocational education, and education research. In higher education, the bill extends the Federal policy of financial aid going directly to students who are then free to choose their own college—a "consumers'" choice. Additional amendments I introduced reformed the student loan program, and update and expand Federal programs for graduate education.

In addition, I sponsored the Student Consumer Information Act, which assures that every student participating in Federal aid to higher education programs is provided with complete information about the programs, enabling students to function as informed "consumers" of the programs and grants available to them.

The 94th Congress established the strongest record in supporting cultural activities of any Congress in the last decade.

In January 1976, the President signed the Arts and Artifacts Indemnity Act which provides a Government indemnity on exhibitions of foreign art treasures. In the future, such presentations as the Chinese Exhibit and the Scythian Gold Exhibit will have the Federal Government protecting overseas owners from loss or damage. This will encourage foreign museums and private collectors to lend their collection to American museums due to heavy insurance costs otherwise required.

In September, the Congress completed and sent to the President the Arts, Humanities, and Cultural Affairs Act of 1976, which has since become law. This cultural legislation extends authority for 5 years for the National Endowment for the Arts and the National Endowment for the Humanities. It also establishes a new Museums Services Institute and it authorizes a new challenge grant authority in the arts and in the humanities, including the Bicentennial Challenge Grants which will stimulate a renewal of public participation in the principles established by our Founding Fathers. This legislation will continue Federal funding for the highly successful New York State Council on the Arts, and also strengthens the companion State program in the humanities—while it continues on a constantly expanding level the highly popular and prestigious Federal arts and humanities programs.

CRIME AND SOCIETY

The 94th Congress acted to reauthorize the Law Enforcement Assistance Administration, legislation to which I added a major amendment creating a program of community anticrime assistance within the LEAA. This program requires the participation of community organizations in the local criminal justice planning process, and encourages neighborhood participation in crime prevention. The amendment provides funding for such essential crime prevention features as escort services for the elderly, youth diversion projects, child protection services, neighborhood watch programs, court watch programs, block mothers, youth advisers to courts, volunteer probation aide programs, and volunteers in gang control.

In the all-important area of gun control, I sponsored two measures, not yet acted upon, the Intergovernmental Handgun Control Act, and the Intergovernmental Law Enforcement Cooperation and Reorganization Act. One of these bills would transfer Federal responsibility for firearms from the Treasury Department to the Justice Department; and the other would prohibit the possession, sale, importation, or delivery of handguns in certain standard metropolitan areas. Persons exempt from these restrictions would include law enforcement officials, licensed security guards, and military agencies. The measures were referred to the Judiciary Committee and to the Government Operations Committee. I serve on this committee, and was pleased that the proposed legislation was the subject of 4 days of widely publicized hearings, where the substance of the legislation was vigorously endorsed by local law enforcement officials. I expect to return to this measure in this new Congress.

The Marihuana Control Act, which I originally introduced in 1972, would decriminalize the personal private possession and use of 1 ounce or less of marihuana. People found to be in possession of such small amounts of the drug would be subject to a civil penalty of up to $100 and commercial sale for profit would remain a Federal criminal offense. Hearings were held on this bill in the Senate Juvenile Delinquency Subcommittee, and I am hopeful that action may be forthcoming in the 95th Congress.

WOMEN'S AND CONSUMER RIGHTS

The National Center for Women Act, which I cosponsored, would establish a National Center for Women, to review and coordinate Federal programs to insure equal opportunity for women and to serve as a clearinghouse for information on public programs and legislation of interest to women. The National Center would recommend to the Congress and the President proposals to improve the status of women. The act calls for each Federal agency to review regulations, policies, and procedures to permit full participation and equal opportunity for women. I will pursue it.

With respect to women in business, I chaired hearings on women and the Small Business Administration to explore the issue of the limited number of women in small business—especially proprietorship—and to develop additional opportunity.

Senator RIBICOFF and I originally introduced the Consumer Protection Act in 1969. Then we joined with Senator PERCY and it was reintroduced in this past session, and passed the House and the Senate, but was never brought to conference, because of administration opposition. The measure would establish an independent consumer protection agency. This whole concept will be followed up in this Congress.

GOVERNMENT REFORM

The Watergate investigations resulted in a commitment by Congress to establish certain Federal Government reforms. The Watergate Reform Act, S. 495, provides for the appointment of an independent special prosecutor whenever the Attorney General and the President have a conflict of interest with respect to a particular investigation or prosecution of certain high Federal officials. The act also establishes an Office of Congressional Legal Counsel; and it provides for the most comprehensive financial disclosure requirements for executive officials and Members of Congress ever proposed. I floor-managed this bill, which passed the Senate, but did not come up in the House before adjournment. It will be reintroduced.

On May 19 of 1976, the Senate passed a resolution to establish a Select Committee on Intelligence Activities, a standing committee to oversee and make continuing committee studies of U.S. Government intelligence activities—including the CIA—and programs.

The Lobbying Disclosure and Reform Act (S. 2477) represents the first effort to revise and strengthen the 1946 Federal lobbying law, by providing a system of disclosure and reporting requirements for traditional as well as grassroots lobbyists. The bill, derived from one I introduced in 1975, passed the Senate but did not receive final House action. It will be reintroduced in the 95th Congress.

The Government in Sunshine Act, now

Public Law 94-409, requires that meetings of Government agencies generally be held in public, and prohibits secret communications from participants in proceedings to agency members.

THE CRISIS OF THE CITY

The financial situation in New York City continues to be a major concern. Two working groups have been established to harness the talent of the business community and citizen volunteers to help the city through its fiscal crisis. I am active in both of these groups, the Emergency Financial Control Board, and the Citizens Committee, which was described by the New York Daily News as the largest volunteer effort in history short of wartime.

New York is not the only city beset by economic problems, and the Congress must address the needs of all such older and larger cities. These areas suffer from higher unemployment rates and higher inflation than other areas of the country, and are adversely affected by the maldistribution among the regions of Federal grants-in-aid and Federal payrolls. The new Congress and the new administration must recognize these problems in order to bring economic equity to the troubled urban areas.

One of the first efforts that can be made is in the area of revenue sharing. I have introduced amendments to the revenue sharing legislation calling for a speed up of payments to jurisdictions such as New York. This would save cities in fiscal difficulty millions of dollars in interest costs. My legislation would also develop formulas for distribution of revenue sharing funds which would greatly aid these older urban areas.

Also relative to the New York City situation I wrote jointly with members of the New York congressional delegation to Secretary of the Navy Middendorf to protest a recent decision to move the Navy Resale Systems Office from Brooklyn. As a result of this action, the General Services Administration lowered the rent it charges the Navy Resale Systems Office for its facility, and the Navy has subsequently recommended that the facility remain in Brooklyn.

In September, I introduced the Urban Trees Act, which authorizes the Secretary of Agriculture to make grants on a matching basis to provide financial assistance to urban areas for planting, maintenance, and protection of trees and shrubs.

OF INTEREST TO NEW YORK STATE

As New York's Senator, I also worked to obtain legislation of special interest to the State. I have long urged Federal funding for Westway, New York's replacement for the derelict West Side Highway. My efforts—and many others including the Governor and Mayor—were recently rewarded when Secretary Coleman approved the application for funding. Westway will provide a desperately needed impetus to our construction and related industries, and it holds the potential for significant new housing and commercial development.

In October, the Federal Department of Transportation awarded the city of Buffalo $8 million for construction of a subway system. This will also provide much needed employment in the area.

In connection with Operation Sail—July 4, 1976—the Senate passed a joint resolution providing for the dredging of New York harbor to insure safe entry and passage of the Tall Ships.

Other bills included S. 867, which provides additional money for land acquisition for Fire Island National Seashore. This bill was passed by the Senate and was pending in the House Interior and Insular Affairs Committee at the close of the last session. I am hopeful that it will be revived and passed in the 95th Congress.

I also sponsored a joint resolution to preserve St. Paul's Church in Eastchester as a national historic site. This beautiful church came very close to destruction before being rescued by the joint resolution.

I also introduced a bill, now Public Law 94-427, to authorize funding for the 1980 winter Olympic games at Lake Placid; $49 million is provided for this project, with special consideration being given to strict environmental safeguards on any construction in the area.

I introduced an amendment to alleviate noise pollution by retrofitting all airplanes with sound suppression equipment, but unfortunately the measure was defeated in the Senate. However, it did help to prompt a Presidential directive to diminish aircraft noise which is now being implemented and also recommends retrofit.

To insure that New York and other urban areas will not be discriminated against in Federal funding formulas, I sponsored an amendment to the mid-decade census bill providing that determination of the eligibility of States, local governments, and other recipients of Federal benefits be based on the most recent data. The census of population would be taken every 5 years instead of once a decade.

In November, I attended the Conference of Northeast Governors at Saratoga. New York State forms an integral part of this area which is under siege from high unemployment rates, scarce and expensive energy supplies, and an aging industrial plant. The conference was very productive, particularly with regard to energy proposals for the area. I have pledged my support to this group, and I will continue to fight in the Congress on issues that affect the Northeast.

CASEWORK AND PROJECTS

The ability to be of service to the citizens of New York State in their dealings with the Federal Government is one of the greatest satisfactions of my work.

My activities in this field range from helping an individual citizen with a social security, veteran, immigration, discrimination, and poverty problem to assisting cities in obtaining loans; or helping an employee group with the multimillion dollar purchase of a company about to leave a community, saving thousands of jobs.

Hundreds of applications for Federal grants and loans receive my personal support each year. Each case has an impact on the employment and economic climate of the individual community, and represents a return of Federal tax dollars to the State.

Here are some especially successful efforts of the past year:

I was gratified to have a leading role in the purchase of Allegheny Ludlum's steel bar plants in Dunkirk and Watervliet. The plants were bought by Al-Tech, an employee-based new firm. Al-Tech was formed after Allegheny Ludlum indicated its desire to close the two plants which employed over 2,200 people. With my assistance, the new firm was successful in obtaining an Economic Development Administration grant for $10 million in the form of a loan to assist Al-Tech in making the purchase. The repaid loan will go into trust funds to benefit future economic development in Chautauqua and Albany Counties.

The difficulties of several areas in obtaining Federal rental subsidy—section 8—assistance for housing, especially for senior citizens, also attracted my efforts. Communities as diverse as Lockport, Elmira, Binghamton, Heuvelton, Star Lake, Rochester, and Buffalo were among the many areas which my office assisted.

The new community of Gananda in Wayne County, which has been in financial difficulties, received the concerted help of myself and Congressman HORTON. Gananda is now in the process of a negotiated settlement taking into account the interests of the local communities, school district, and creditors. Reaching that point took much work and personal meetings with the Secretary of Housing and Urban Development, and the Comptroller General.

In addition to these large cases and many more like them, my office handled over 19,000 individual constituent problems in roughly the following proportions:

	Percent
HEW, social security, medicare and medicaid, State social services	32
Military and veterans	28
Visa, immigration and labor certifications	30
Miscellaneous—Post Office, Civil Service, etc	10

CONCLUSION

During this Congress, I intend to focus my attention on initiatives that were not acted upon by the 94th Congress. The major concerns, as I see them, are improved health and medical care for our citizens, especially to begin with pregnant mothers and children; realinement of the formulas to provide New York State additional funds for housing, education, revenue sharing, et cetera; a massive jobs program targeted to the hard core unemployed and to youth, including 1 million public service jobs to put our unemployed back to work; provision of more housing for citizens in all income brackets; and, finally, dealing forcefully with the crisis of our cities.

While I recognize the agenda represents a long litany of priorities, it is a list of issues to which I have dedicated myself for all of my years in the Senate. We have made some significant progress in the past but we still have much more to

do. I am hopeful that this Congress, working with the new President, will finally, recognizing the condition of our country, put forth the effort needed to solve those major problems. Given the resources of the United States in terms of talent, wealth, and natural resources, these problems can be solved. But it takes only the will to pursue them aggressively; and this I will press to do in this new Congress.

SECRETARY OF STATE CYRUS VANCE

Mr. BAYH. Mr. President, it was indeed a privilege to support the confirmation of Cyrus R. Vance to be our next Secretary of State. Cy Vance brings to this office a wealth of experience in Government service. His positions of special counsel to the Preparedness Investigating Subcommittee to the Senate Armed Services Committee, Secretary of the Army and later a deputy Secretary of Defense have provided the nominee with a background and appreciation of the national security dimension of foreign policy. His efforts in the Panama negotiations of 1964, Dominican crisis in 1965, Cyprus in 1967, Korea, and Vietnam in 1968 have likewise provided examples of his diplomatic expertise as a tough, competent manager and negotiator in the field of international diplomacy. The praise in this country and abroad which accompanied President Carter's selection of his Secretary of State also testifies to the high esteem and solid reputation which Cyrus Vance enjoys.

In addition to Cyrus Vance's distinguished record of public service, I was also deeply impressed by his opening statement to the Senate Foreign Relations Committee. As my colleagues know, the panel unanimously recommended that he be confirmed as Secretary of State. In his first reply to the committee's questioning, the Secretary outlined a principled foreign policy committed to the maintenance of peace through improving relations with our allies and pursuing in an "active and aggressive" way a lessening of tensions with the U.S.S.R. He went on to emphasize how the importance of developing a close partnership with Congress, an openness in the foreign policy process and winning the public trust are indispensable to successful diplomacy.

The long-term objectives which bear reference to international decisionmaking were touched upon in Secretary Vance's testimony as well. Foremost among these are our arms control efforts, resolute attempts to stop the spread of nuclear weapons, control of unbridled arms sales and international economic development. Indeed, it is a sobering thought to realize that since 1960 the capacity of the nuclear arsenals of the world to kill every human-being on Earth has increased from 7 times to 632 times. To make no less than a total effort to manage the doomsday problem of nuclear proliferation will jeopardize our best efforts in so many other areas. As Secretary Vance stated:

These are the global issues which will determine how the next generation lives, and even whether it lives.

If we can secure the survival of mankind into the next century, it is necessary as well to forge a partnership of mutual trust and mutual responsibility with the developing nations of the world. While protecting our own interests and tending to the problems confronting our own society, we must realize that the United States cannot "go it alone." Yes, we are the most powerful country in terms of sheer economic product. But that fact provides no justification of an American foreign policy of fortified retreat.

The long nightmare of the war in Southeast Asia is over for America. With it has come a new awareness of the limitations of American power and influence, of our capacity to determine the destiny of nations on the periphery of our national security interests and the realization that a successful American foreign policy can enjoy lasting success only with the support of the American people.

Despite the general recognition of the catastrophic effects of the Vietnam misadventure, real dangers in the world remain. Trouble spots abound no less in the late 1970's than they did in the early 1960's. The focus of attention has changed. Some areas, like the Middle East will require the very best we have to offer in facilitating but not imposing a settlement which will permit Israeli and Arab to live in peace. In South Africa and Rhodesia the integrity of our commitment to majority rule will be tested. Cyprus continues to be a source of deep humanitarian concern as well as of diplomatic importance to the NATO alliance.

The Panama Canal issue presents us with yet another urgent challenge. In our relations with governments which do not fully share our commitment to fundamental human rights, it is essential that our policies continue to make meaningful reference to our fundamental democratic values.

These concerns which I have expressed in a general way and which the new Secretary of State has addressed himself to cannot be overestimated. Make no mistake about it, we face great challenges in the world. As I express my strong support for Secretary Vance, I am expressing my belief that our Nation—the greatest on Earth—can become even greater through the tough-minded pursuit of realistic policies in a wor'd full of both danger and promise. I wish Secretary Vance well in discharging the duties of this high office.

WEST POINT HONOR CODE AND THE NEED FOR PERSONAL VALUES

Mr. PERCY. Mr. President, many Americans have been deeply and understandably concerned about the West Point honor code problem—and the growing moral relativism in our society which this problem seems to symbolize.

The January 16, 1977, Chicago Daily News carries an interesting commentary by a gifted columnist, Georgie Anne Geyer, describing efforts that are being made to forge new ethical standards, not only at West Point but in other U.S. military institutions as well. I would particularly underscore her comment that it is "very hard for societies to have institutional morality when the individual does not have personal morality based on some kind of personal belief."

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHEATING AT WEST POINT: IS IT TOO LATE FOR A NEW MORAL CODE?

(By Georgie Anne Geyer)

WASHINGTON.—Lawyer Martin Hoffmann is a man with bright, vivid eyes and a bright, vivid mind, belying the popular wisdom that only graybeards can be secretary of the army. Even more unusual—though a hard man, he is a thinker.

Sitting recently in the incongruous homeyness of his grass-cloth-papered Pentagon office, he thought aloud about West Point and the gradually resolving moral horrors there.

"West Point represents a monument to established values," he mused. "The values have not changed, but some of the young men coming in have. The whole thing upsets many people greatly because basically people want West Point to stand for values."

Then he went on to some of the causes of the greatest scandal in West Point history. His eyes were intense. "At least two-fifths of the cadets of the classes of '76 and '77 at West Point, when asked what the causes were, brought up removal of mandatory chapel."

Mandatory chapel? When it was eliminated several years ago, he went on, it had the effect of "removing limits." He threw up his hands. "Who among us would have thought of this effect of removing chapel?" he asked in wonderment.

"They felt the sanctity was driven out of the moral code."

While the cheating scandal had many and complicated roots, the chapel issue apparently did become symbolic. It exemplified the fact that it is simply very hard for societies to have institutional morality when the individual does not have a personal morality based on some kind of personal belief. This pinpoints one of the major problems of an increasingly secularized society.

So last week Hoffmann moved somewhere in the middle. In not immediately readmitting the 151 ousted cadets, while accepting many of the recommendations of the study panel, he demonstrated a good blend of openness to change with a hard line on basic morality.

At the same time, he is doing something else. "We are beefing up the curriculum on ethics—the morals side—so you have more than the honor code," Hoffmann explained. (The report of the panel headed by former astronaut Frank Borman required that "all cadets should be required to have formal ethical studies on problems likely to be faced by military officers.") In effect, they are trying to insert moral precepts, formerly the realm of religion, into the program on other levels. What is so interesting is that, very quietly, the military is going ahead with this in places other than West Point.

Three years ago, for instance, I was invited to a seminar at the Army War College in Pennsylvania. For someone like me, who had been in Vietnam and knew what moral agonies the best of military officers went through, it was a dramatic time.

Night after night at gatherings, Vietnam veterans would discuss with me the terrible slippage of military honor in Vietnam. At that time, they were being assaulted for this very same slippage by the captains who came up from Fort Benning.

Today, this particular era is past. Instead, the War College is holding seminars dealing with practical ethical questions regarding, as Hoffmann puts it, "society and the individual coming into it."

And is this not of a piece with the attempts of Jimmy Carter to promulgate new ethical guidelines for himself and his people? And the attempts to restructure the FBI? I think it is.

It also seems that, despite a corrosive moral relativism among many of the young, there is a great yearning for clear moral lines. At West Point, for instance, it was the cadets themselves who voted by a small margin for continuation of the "single sanction" (expulsion), although Hoffmann amended it to read that a cadet would "hormally" be expelled for violation of the code, thus opening the gates to mercy.

The questions all of this raises are these. Is it possible, once religion is no longer operative for a good many people, to "create" a new moral code? Can moral relativism be turned back, or is it too far gone? Are we so far sold on the virtue of personal relationships and values, as sociologist Richard Sennett so brilliantly argues, that we have lost all sense of public and institutional values—the structure of civilization?

The hope lies in great part in these plodding, difficult, self-conscious, tiresome, noble attempts to design this new moral code, divorced of a religious base.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification from the Department of Defense of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the two notifications I have just received. A portion of the notifications, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

There being no objection, the notifications were ordered to be printed in the RECORD, as follows:

TRANSMITTAL No. 77–8

(Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act)

(i) Prospective Purchaser: Greece.

(ii) Total Estimated Value: $27.5 million.

(iii) Description of Articles or Services Offered: Thirty-five (35) UH–1H helicopter.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid:

A. (Deleted).

B. (Deleted).

C. (Deleted).

E. The information contained in paragraph (v) consists of proprietary data within the meaning of 18 U.S.C. 1905, and, accordingly may not be disclosed except pursuant to the provisions of the Code.

(vi) Date Report Delivered to Congress: 19 January 1977.

TRANSMITTAL No. 77–14

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Israel.

(ii) Total Estimated Value: [Deleted].

(iii) Description of Articles or Services Offered: [Deleted] guns [deleted], radio equipment, tools and spare parts.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 19 Jan., 1977.

PROPOSED ARMS SALES

Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification from the Department of Defense of proposed arms sales under that Act in excess of $25 million or, in the case of major defense equipment as defined in the Act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the Chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the Record at this point the 7 notifications I have just received.

TRANSMITTAL No. 77–7

Notice of Proposed Issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Thailand.

(ii) Total Estimated Value: $42.5 million.

(iii) Description of Articles or Services Offered: Various types and quantities of conventional ammunition ranging from 30 caliber to 155mm.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 19 Jan. 1977.

TRANSMITTAL No. 77–9

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Spain.

(ii) Total Estimated Value: $11.0 million.

(iii) Description of Articles or Services Offered: Eighteen (18) self-propelled, 8" Howitzers (M110), spare parts and communications equipment.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 19 Jan. 1977.

TRANSMITTAL No. 77–10

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Control Act

(i) Prospective Purchaser: Greece.

(ii) Total Estimated Value: $7.5 million.

(iii) Description of Articles or Services Offered: Three-hundred (300) AIM–9J–1 Sidewinder Missiles.

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: January 19, 1977.

TRANSMITTAL No. 77–11

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Netherlands.

(ii) Total Estimated Value: $21.2 million.

(iii) Description of Articles or Services Offered: Eight-hundred (800) AIM–9J–1 and forty (40) AIM–9J–1 captive training Sidewinder missiles.

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: January 19, 1977.

TRANSMITTAL No. 77–12

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Sweden.

(ii) Total Estimated Value: $22.0 million.

(iii) Description of Articles or Services Offered: One-hundred (100) Improved Hawk missiles, modification kits to convert three basic Hawk batteries to improve Hawk configuration, repair parts and 18 months of engineering assistance.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 19 Jan. 1977.

TRANSMITTAL No. 77–13

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Spain.

(ii) Total Estimated Value: $25.5 million.

(iii) Description of Articles or Services Offered: Technical assistance support of the Spanish Naval Coastal Escort Program including four (4) ship sets of the following types of equipment: interrogation friend or foe, navigation, communications, sonar system equipment (less sonar) torpedo tubes and control panel and associated logistic items.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 19 Jan. 1977.

TRANSMITTAL No. 77–16

Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Korea.

(ii) Total Estimated Value: $10.2 million.

(iii) Description of Articles or Services Offered: Two hundred (200) air-to-ground Maverick missiles, support equipment and spare parts.

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 19 Jan. 1977.

LESS AIRLINE REGULATION, LOWER PRICES, BETTER SERVICE

Mr. PERCY. Mr. President, John Robson, Chairman of the Civil Aeronautics Board, recently wrote an excellent piece which appeared both in the Chicago Daily News and the New York Times on

competition in the air travel industry. This thoughtful and timely article should be required reading for anyone interested in reform of Federal regulation.

Chairman Robson effectively refutes the notion that relatively modest price rise in airline tickets over the past decade indicates the present regulatory system works well. He points out that enormous savings resulting from advances in technology in the 1960's were not passed on to consumers through lower prices. Rather, they were squandered as airlines overscheduled flights, flew planes with plenty of empty seats, and competed to give away free drinks, movies, and the like.

Today's regulatory system encourages inefficiency. By limiting the number of airlines which can provide service between different cities, such regulation discourages airlines from lowering ticket prices. Less regulation will not lead to destructive competition as some maintain, but instead will encourage cost-efficient, innovative practices. Chairman Robson feels that this is especially important now that the "financial bloom has [come] off the airline industry's rose."

It is time we in Congress reexamined the 1938 airlines regulatory legislation. All Federal regulatory agencies need a fresh look. The Regulatory Reform Act of 1977 is a refinement of last year's bill (S. 2812) which mandated a comprehensive overhaul of the regulatory system. It will be introduced in the 95th Congress this week. In the interest of consumers, working people, business continuing and a strong, vigorous, competitive U.S. commercial airline service, recognized as the best in the world but, with further improvements possible. I urge my colleagues to give careful consideration to this measure upon introduction.

I also hope all my colleagues will read Chairman Robson's valuable essay. Mr. President, I ask unanimous consent for "Competition Needed Now in Air Travel," appearing in the Chicago Daily News editions of January 15–16, 1977, to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COMPETITION NEEDED NOW IN AIR TRAVEL

(By John E. Robson)

WASHINGTON.—Defenders of current aviation regulation warn of a "naive and dangerous" idea reforming the 1938 federal regulatory laws to make air transportation more competitive.

The reforms contemplate fewer restrictions against entering the airline business and more freedom to lower or raise fares and expand or contract service. They are embodied in legislation supported by President Ford, congressional aviation leaders of both parties and the Civil Aeronautics Board.

Because airlines fares have historically risen less than the consumer price index, opponents of reform argue that fares cannot be considered "too high." In the highly competitive electronics business, a technological revolution made hand-held calculators available to the consumer at a fraction of their introductory price. In 1959, jet aircraft brought a technological revolution to the airlines. Yet from 1958 to 1968—while airlines enjoyed spectacular operating-cost savings and the consumer-price index inched up at an annual average barely over 1 per cent—regulated airline fares were basically static. Even the historically favorable comparison to the general price index despite airline complaints that the CAB unconscionably suppresses fare levels.

If airlines fly fewer empty seats, fares can be lowered or stabilized. Yet, even during the dramatic airline passenger growth of 1960–1970, "load factors" declined. ("Load factor" is the percentage of seats flown occupied by passengers.) The reason was that the airlines went on an overscheduling binge, mounting many more flights than were needed to handle the traffic.

Indeed, a pernicious airline tendency under current regulation is to compete by trying to outfly or out-gimmick the other guys instead of beating their basic price.

There is a dizzying variety of "discount" air fares, customarily restricted to particular markets or time periods and by other conditions. But no federally regulated scheduled airline ever sought to reduce regular coach fares throughout its route system.

Under the existing regulatory structure, a limited number of airlines are authorized to fly each route and price-cutters can't jump in. So incumbent airlines have little incentive for basic price competition. Instead, they compete with some flights or other enticements. Too many flights and "freebies" raise costs and, ultimately, fares. One airline official called the current New York-to-Florida airline war being waged with complimentary lox, bagels, drinks and movies a "giveaway scramble" that will "be passed on to the customer."

But there are notable exceptions outside the federally regulated scheduled air system where carriers provide excellent, low-fare service and can make money at it.

In a genuinely competitive system, limited instances of short-run over-capacity might occur. But, in the long run, the efficient carriers will set the competitive benchmarks and no airline could long afford wasteful forms of competition. To argue, as some regulation opponents do, that airlines would pursue long-term self-destructive competitive practices seems a most damning assessment of the industry.

Defenders of the status quo claim that America's air system would wither without federal regulation. What built and sustains our air system is not regulation but the tremendous demand for air travel in a geographically immense, affluent, travel-minded nation. The CAB doesn't make people buy airline tickets. And reducing CAB regulations would not curb either the public's appetite for air travel or the airlines' motive to furnish it.

In recent years, the financial bloom has been off the airline industry's rose. And, during the last quarter-century the airlines earned the currently authorized return on investment only three times. With their subpar historical earnings record and a need for greatly improved future earnings if they hope to attract adequate capital, one wonders why the airlines cling so doggedly to the old regulatory regime.

The regulatory laws were passed in 1938 when air transportation was an infant industry. It is now mature. And many see the airlines' future economic environment as much less salubrious than the past: more modest traffic growth, rapidly rising costs and limited productivity gains. These changes require changes in the regulatory system.

Advocates of a more competition-oriented regulatory system have not promised magic. We maintain that, in the long term, it should foster a more efficient air-transportation system that can be reflected in fare levels, can stimulate growth, can enable airlines to attain more consistent profitability, and meet the demands of the flying public.

Admittedly, the transition from the present protective regulatory system to a more competitive one poses uncertainties for the airlines. Nonetheless, the potential benefits seem strongly to warrant the change. It is relevant that, following the Northeast railroads' financial collapse, federal rail regulation was relaxed to stimulate a more competitive climate.

CAPITOL POLICE PRAISED

Mr. ALLEN. Mr. President, the past Thursday's activities here in the Nation's Capital were heartwarming and stirring with tens of thousands of Americans from every State gathered for the inauguration, for the parade and for the other activities associated with what I consider to be one of the most important days in our country's political life.

I had the pleasure of attending our open house Thursday afternoon in the Dirksen Senate Office Building sponsored by the Alabama State Society. Hundreds of Alabamians who reside in this area were present as were additional hundreds of Alabamians who made the long trip from home just for the inauguration.

Mr. President, I wish to pass on to the Senate some observations from my fellow Alabamians relating to the reception which they received here in the Capitol complex—the Capitol and the Congressional Office Buildings. Without exception these comments were in praise of the calm, gentlemanly and gentlewomanly help provided them by members of the Capitol Police Department. Amid all of the day's activities—with tens of thousands of people pressing to get close to the inaugural ceremony on the Capitol steps; with thousands of visitors asking directions or seeking lost members of their parties or trying to find parking spaces and then later trying to remember where they had parked—amid this turmoil the Capitol police remained calm, pleasant, and helpful. Visitors from my home State, and I am sure visitors from each of the other States, have gone home with a good feeling about the helpful treatment accorded them by the Capitol police. In behalf of Alabamians who came to participate and to view the past week's events, I want to express my appreciation to our Capitol police and to commend them for a job well done.

EGYPTIAN DOMESTIC DISTURBANCES

Mr. PERCY. Mr. President, from foreign intelligence sources, and other sources available to me, I have confirmed that the riots in Egypt, begun by students, were quickly exploited and expanded by well-prepared urban leftists, then rightists, attempting to embarrass the administration of President Sadat. It is obvious that these are extremist elements who are hostile to President Sadat's efforts to seek peace and stability in the Middle East.

The origin of the agitation, of course, was in the decision to raise the prices of certain food items and other products. Gasoline, for example, was raised 31 percent, and bottled cooking gas 46 percent. Under pressure from international monetary institutions and certain na-

tions to end the heavy subsidization of food prices for lower income people, President Sadat was obliged to take this action. Some have observed in hindsight that he should have raised prices more gradually, but he chose to move boldly.

Certainly this action would have come much sooner had it not been for the beneficial and essential economic assistance that Egypt has been receiving from the United States, Iran, Arab countries, Japan and the OECD. Egypt has many friends in the world. It will continue to be a high priority with them to provide economic assistance to Egypt, both for the welfare of the Egyptian people and in support of President Sadat's efforts to achieve stability in the region.

This will probably not be the last time that extremist elements of left and right seek to make political hay at the expense of reasonable leaders of the area. I would hope that responsible people in all the countries of the Middle East would give support to those leaders such as President Sadat, whose highest priorities are to improve the lot of their people through economic development and by constructive moves to achieve regional peace and stability.

SENATOR JACKSON CONGRATULATES PRESIDENT CARTER ON WITHDRAWAL OF GASOLINE DECONTROL PROPOSAL

Mr. JACKSON. Mr. President, earlier this afternoon President Jimmy Carter's decision to withdraw the Ford administration's gasoline decontrol plan was announced at the White House. I want to congratulate President Carter on a forthright and statesmanlike action. The withdrawal of these 11th-hour Ford proposals shows that President Carter understands the essential importance of credibility in Government. It shows that he is prepared to act on this understanding.

There is simply no way to make reasonable the effort by Mr. Ford—acting on the last day of his authority as President—to remove mandatory price and allocation controls from sales of motor gasoline. Acquiescence by Congress or the new administration in a plan of such uncertain and complex impact, submitted in this fashion, would really be unthinkable. I am gratified that President Carter moved quickly to retract an inappropriate and unfortunate proposal.

The legacy of the FEA's management of domestic petroleum supplies and prices deserves early consideration by the Carter administration and the 95th Congress. The regulations now in existence were written by the Nixon and Ford administrations in response to a congressional mandate to control domestic prices and preserve competition in the petroleum industry. It is no secret that these administrations were staffed by reluctant regulators. The energy policy advice which has emanated from the FEA for the past 3 years has been a drumbeat for decontrol. A direct result of this attitude has been a regime of controls which is in many respects inconsistent with the intent of Congress.

The solution to the problems with FEA regulations, however, is not total decontrol. Removal of all protection against unwarranted price increases is no solution. Removal of all effective guarantees to supply to independent businessmen at competitive prices is no solution.

I believe we can devise equitable ways to deal with the real problems associated by past FEA regulation without the extreme measure of total decontrol. I believe we will obtain the cooperation and assistance of the FEA under President Carter in this effort. President Carter's action of today is a positive and welcome beginning for this cooperation.

I ask unanimous consent that the letter to Vice President Mondale from Gorman C. Smith, Acting Administrator of the Federal Energy Administration, rescinding the gasoline decontrol amendments proposed in energy actions numbered 8 and 9 be printed in the RECORD, at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., Jan. 24, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I have today directed FEA's Acting General Counsel to rescind the amendments which were issued January 19, 1977 exempting motor gasoline from the Mandatory Petroleum Allocation and Price Regulations. This action is intended to withdraw from congressional consideration Energy Actions Nos. 8 and 9 which were transmitted to the Congress on January 19, 1977 under the provisions of the Emergency Petroleum Allocation Act of 1973, as amended by the Energy Policy and Conservation Act.

Accordingly, I wish to inform you by this letter of our withdrawal of Energy Actions Nos. 8 and 9.

The reason for this action is to provide an opportunity for the new Administration to determine whether the exemption of motor gasoline would be consistent with the energy policy proposals, which are currently being developed for submission to the Congress. This action is not intended to constitute any position regarding the merits of Energy Actions Nos. 8 and 9, but is instead taken only to afford the opportunity for full consideration of the implications of the exemption of motor gasoline from price and allocation controls in the context of the comprehensive national energy policy now being developed.

Sincerely,

GORMAN C. SMITH,
Acting Administrator.

SECRETARY OF DEFENSE HAROLD BROWN

Mr. BAYH. Mr. President, I was delighted with the action of the Senate in giving unanimous support to the nomination of Dr. Harold Brown to be Secretary of Defense. The qualifications which Dr. Brown brings with him to this high office are impressive: 24 years of involvement in national security policy, nuclear weapons expert, Director of Defense Research and Engineering for the Department of Defense at age 33, Secretary of the Air Force, delegate to the 1969 SALT negotiations where he was the "unofficial" representative of the scientific community, and president of the California Institute of Technology.

During his testimony before the Senate Armed Services Committee, Dr. Brown states that he views the high post for which he is being considered as an "intimidating responsibility." Based on his previous record as an outstanding physicist and his sensitivities to arms control policies that reflect our national security considerations, I believe Harold Brown possesses both the necessary technical expertise and sufficient political awareness which will enable him to shoulder this responsibility.

No one in this Chamber would challenge Dr. Brown's statement that the preservation of our national security is the foremost responsibility of a national administration. But this task has become increasingly difficult as the issues associated with it have become more complex. Greater demands are being made on our resources to the point where "guns and butter" are not possible in unlimited combinations. A new awareness, which is not so new to some of us, has been articulated by a new administration which says that the strategic balance cannot be measured in terms of military arsenal alone. National leadership, economic strength, reliability of allies, public trust in Government and an open Government which trusts the public are also necessary indicators of national strength. I believe that Secretary of Defense Harold Brown understands this. His knowledge of the limitations and capabilities of weapons of mass destruction in no way renders him incapable of understanding the human dimension of national security.

We must leave no room for doubt that we are committed to a defense posture that will continue to deter even the thought by a potential adversary that a successful attack on our country is possible. To this extent disarmament can never be an adequate substitute for defense. Still, the Strategic Arms Limitation Talks must continue to occupy the foremost place in the consideration of a force structure appropriate to our security needs. SALT II negotiations must be pursued vigorously and a final agreement must be fully considered by the American people.

Our present defense establishment must also make constant reference to the real world, to the capabilities of the Soviet Union, and to the doctrine which guides the U.S.S.R. in its defense policies. While this latter point regarding intentions may force us to live in ambiguity, as Dr. Brown insightfully noted, it is important that we recognize that important differences exist in our view of the world and in the global outlook of the Soviet Union. This is important if we are to avoid making the mistake of "mirror-imaging" our chief competitor in the world arena. It also emphasizes the need to better understand our own role in the world and fashion our capabilities to support that role. We have had enough instances of "weapons in search of missions."

More specifically, I hope Secretary Brown makes the determination that we

do not need to spend some $2 billion on 244 B–1 bombers to maintain a credible deterrent posture. This is simply not the wisest way to spend defense dollars; nor is it the best way to accomplish a significant savings in the defense budget while maintaining adequate defense capabilities. It has been pointed out in Senate debate that the funds proposed for the B–1 could be used to support 1 armored division for 5 years, reengine our B–52 strategic bomber fleet, and pay for 10 Trident underseas long-range ballistic missile submarines equipped with 200 missiles and 2,000 nuclear warheads. I hope that Secretary Brown will carefully consider these alternatives.

An important study on the role of the U.S. Navy which was recently completed by the Congressional Budget Office also merits consideration by the Secretary. This is especially important in view of the growing Soviet presence and the need to protect the sea lanes which are so vital to our national security. In this regard, we must examine thoroughly the combat readiness of the fleet and its ability to perform a sea control mission with the flexibility to project political presence. It is in this context that I am skeptical about the legitimacy of the Aegis air defense system in fulfilling this mission. The study I am referring to states with regard to the "sea control" navy that:

> Neither AEGIS, an air defense system geared to carrier protection in high-threat environments associated with the projection mission, nor its possible platforms, whether conventional or nuclear would be required for this navy.

Knowing of Secretary Brown's stated view that one of the principal responsibilities of the Secretary of Defense is to determine the most cost-efficient force structure, I hope that he will thoroughly review the Aegis concept as it applies to our strategic needs. I am confident that he will evaluate every program and weapons system on its national security merits, from the largest aircraft carrier to the smallest caliber lightweight gun.

As the conventional balance of forces becomes more important in political terms with the nuclear balance of power being stabilized, we must also look at our military presence in Europe, the advantages of greater weapons standardization to NATO and the possibility of moving some of our tactical nuclear weapons there out of exposed forward positions. Also, as a strong advocate of effective tactical air defenses and as a strong opponent of the SAM-D air defense missile system—now named Patriot—I am anxious to see a hard look taken at the adequacy of our capability in dealing with a Soviet air assault against our positions in Europe. I want to be sure that we do not invest billions of dollars in a system that will not survive to perform its mission. Unfortunately, this appears to be what Patriot holds the potential of doing. Again, we must ask ourselves if this is the best way to spend our defense dollar.

As we work to find ways of saving the taxpayers' dollars by scrutinizing the economy of our nuclear and general purpose forces, we should also examine present manpower policies to determine where costs can be cut and efficiency improved. Implementing fully the industrial funding concept for certain defense activities is one way to begin. I hope that Secretary Brown and his personnel who are in charge of management problems will carefully review shortcomings in these areas of Defense Department operations.

Surely there are other areas worthy of discussion. Let me just say that I know Secretary Brown will be confronted—or plagued—with each of them. I do not wish him "happiness without sorrow" because the problems he will face are of the utmost gravity. Nor do I promise not to argue with him or President Carter when policies are advocated with which I disagree. I do offer him my strong support and my pledge to work with him to provide for the common defense.

THE GENOCIDE CONVENTION AND ITS LESSON FOR THE NEXT GENERATION

Mr. PROXMIRE. Mr. President, almost every day the Senate has been in session during the past 10 years, I have urged my colleagues to take affirmative action on the ratification of the Genocide Convention.

The pros and cons of this convention have been debated for years. Many issues and questions have been raised by this treaty. Although much of the initial opposition to it has lessened over the years due to a greater understanding of its objectives and provisions, the treaty has not yet been ratified. Why? Apparently its significance still needs to be clarified.

Under the provisions of the treaty, genocide is defined as an act committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group. Whether committed in time of peace or in time of war, genocide would be considered a crime under international law. This provision alone is reason enough for ratification.

The most important of the convention's objectives is the preservation of what I consider a person's most precious right: The right to live—and to live peaceably. It is time now to protect this basic right, a right that will always exist with future generations. In failing to ratify this convention, the United States has also failed to uphold the morals and beliefs of its people.

As Sigmund Freud once said:

> The history of the world which is still taught to our children is essentially a series of race murders.

Let us teach our children something else: That we care about our people. Make genocide an international crime! Mr. President, I urge the Senate to ratify this convention at once!

NOMINATION OF PATRICIA ROBERTS HARRIS

Mr. BAYH. Mr. President, it was with extreme satisfaction that I joined with my colleagues in unanimously approving the nomination of Patricia Roberts Harris for the office of Secretary of the Department of Housing and Urban Development—HUD. It has been my pleasure to know Pat Harris for more than a decade, and it is an honor to be able to refer to her as a friend. I am definitely looking forward to working closely with her, as we strive to implement housing policy that will improve the quality of life for all our citizens.

Undoubtedly, the confirmation of this outstanding American shall prove to be among the finer Cabinet appointments that any President has made in our 200-year history. I have absolute and total confidence in Ms. Harris' ability to conduct the affairs of her office in an impeccable manner. She has a long and impressive history of being successful and aggressive in every endeavor that she has undertaken. Mr. President, it is not necessary for me to extol this lady of great accomplishments. She is well-known and admired; the record speaks for itself. For example, she has served as our country's Ambassador to Luxembourg, as a delegate to the United Nations, as a member of the Council on Foreign Relations, director of the Twentieth Century Fund, as a member of the executive board of the National Association for the Advancement of Colored People's legal defense fund, and as a member of the board of directors of International Business Machines, Chase Manhattan Bank, and the Scott Paper Co.

One might argue that Ms. Harris' background and training does not qualify her for the position for which she has recently been confirmed. Let me, Mr. President, go on record as a staunch supporter of this appointment. Patricia Harris is a black woman who has lived and struggled all her life with the problems confronting our urban areas, and thusly, has a sensitivity and concern for such problems that most people cannot duplicate. She is acutely aware of the necessity for HUD to take a leading role in the implementation of programs that will solve the terrible conditions under which millions of our citizens live and struggle each and every day of their lives.

In essence, Pat Harris has synthesized the practical experience of life with a well-rounded educational and professional career. This synthesis uniquely qualifies her to serve in this challenging position in the President's Cabinet. I commend the President for his outstanding choice of Patricia Harris for the position of Secretary of HUD and offer my wholehearted support to her.

ATTORNEY GENERAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, without any time being consumed thereon today, that the Senate proceed to the consideration of the nomination of Mr. Bell.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

The nomination will be stated.

The legislative clerk read as follows:

> The nomination of Griffin B. Bell, of Georgia, to be Attorney General.

Mr. ROBERT C. BYRD. Mr. President, has the nomination been laid before the Senate?

The PRESIDING OFFICER. It has.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will recess shortly and go over until 10 o'clock tomorrow morning, under the order previously entered.

When the Senate convenes on tomorrow morning, it will be in executive session. Immediately after the two leaders or their designees have been recognized under the standing order and the 15-minute order for the recognition of Mr. HATFIELD, which was entered previously, has been consummated, the Senate will proceed to the consideration of the nomination of Mr. Griffin Bell for the office of Attorney General of the United States, under a time agreement which provides for not to exceed 8 hours of debate thereon. If the 8 hours run their course, this would mean that the Senate would vote circa 6:15 or 6:30 p.m., but it is quite possible that not all the time will be used. Hence, the rollcall vote could come prior to that time.

Whether or not there will be other rollcall votes on tomorrow, I am in no position to say that this moment.

I think that about sums it up so far as tomorrow's program is concerned.

Mr. BAKER. Mr. President, I thank the distinguished majority leader for that view of tomorrow.

PROPOSED COMMITTEE REORGANIZATION

I wonder whether the majority leader can give us any idea about the progress toward the consideration and disposition of the so-called Stevenson report.

Mr. ROBERT C. BYRD. The Committee on Rules and Administration, under an order of the Senate, must report that resolution no later than midnight tomorrow night. The chairman of the committee, Mr. CANNON, hopes to be able to report the resolution today; but if that is impossible, it will be reported prior to the deadline of midnight tomorrow night.

Mr. BAKER. I wonder whether the majority leader could have some indication of whether we will proceed immediately to the consideration of the Rules Committee report or whether there will be the requirement of the 3-day rule.

Mr. ROBERT C. BYRD. I hope that in due time a time agreement can be secured on the Stevenson proposal. I believe that the Senate would be more willing to enter into such a time agreement, if it is possible to do so, if Senators were allowed the full 3 days under the rule for consideration of the committee report. Therefore, it will not be the intention of the leadership to move to proceed to the consideration of the Stevenson proposal this week.

Mr. BAKER. I think that is a wise and prudent judgment. This is an important and fundamental change in the structures of the Senate organization, and I hope that we can in fact have the committee report in hand for the full 3 days before we proceed to its consideration.

I assume, then, that that would put the matter over effectively until, say, Monday of next week, before we could take up and attempt to dispose of the Stevenson matter.

I hope, Mr. President, that the distinguished majority leader will attempt to formulate a unanimous-consent request to limit the time for debate on this report from the Rules Committee. We have a group of freshmen on our side who are eagerly awaiting their permanent assignments. We have other Members who cannot make their wishes known until that matter is disposed of. So I wonder whether the majority leader can give us his indication that he would plan to ask for a limitation of time in that respect.

Before he answers, I will hastily pledge my cooperation and efforts to try to find some workable agreement.

Mr. ROBERT C. BYRD. I thank my friend, the distinguished Republican leader. Beginning next week, I will make an effort to work out a time agreement, and I will be working with him. But until then, I think we might just be touching bases in order to see what might be feasible.

Mr. BAKER. Mr. President, if the distinguished majority leader will yield for one more inquiry, since we have the Marshall time limitation agreement in order, the Griffin Bell nomination, and it appears that the report of the Committee on Rules and Administration will go over until Monday, might I inquire what the majority leader sees in prospect for the latter part of this week?

Mr. ROBERT C. BYRD. I am not in a position to respond beyond saying that it is the present intention of the leadership to proceed to the consideration of the nomination of Mr. Marshall on Wednesday. If I could elaborate on that answer, I would do so, but I am unable to at this point.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Republican leader.

RECESS UNTIL 10 A.M. TUESDAY, JANUARY 25, 1977

Mr. CRANSTON. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 4:15 p.m., the Senate recessed in executive session until Tuesday, January 25, 1977, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 24, 1977:

DEPARTMENT OF HEALTH, EDUCTATION, AND WELFARE

Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Transportation.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE COAST GUARD

Coast Guard nominations beginning John H. Guest, to be captain, and ending Richard H. Berry, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

National Oceanic and Atmospheric Administration nominations beginning Donald R. Tibbit, to be captain, and ending John D. Friend, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

EXTENSIONS OF REMARKS

STONEWALL JACKSON—ILLUSTRIOUS SON OF WEST VIRGINIA—WAS BORN 153 YEARS AGO—WE SHALL REMEMBER HIS GREATNESS

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, January 24, 1977

Mr. RANDOLPH. Mr. President, the long march of history includes many stellar individuals in its ranks, and it is proper that we pause to note their presence in our past. We have recently marked the commemoration of the 153d anniversary of the birth of one of the illustrious sons of West Virginia and of our country. On January 21, 1824, Thomas Jonathan Jackson was born in the western region of Virginia, in what is now Clarksburg, W. Va.

His grandfather, born in England, came to America in 1748. Young Jackson was reared by his uncle for 12 years following the death of his parents, who died in poverty.

From this underprivileged and disadvantaged background, and with a poor preliminary education, Jackson entered West Point in July 1842. He later admitted that he "studied very hard for what he got." By 1846 he was graduated in the top third of his class.

Stonewall Jackson was a born fighter. He earned the colorful sobriquet of "Stonewall" for his tenacious defense of positions during the Civil War. His poverty-stricken youth contributed to his stern self-discipline.

Stonewall Jackson demanded much of himself, and of his subordinates. Yet he was respected and popular with his staff and troops.

Although he fought for an unpopular cause in a losing war, Stonewall Jackson earned his place in military history in less than 25 months as a leader of the Confederate Army. He was one of our great military strategists. He mastered the art of initiative and surprise in battle.

Gen. Stonewall Jackson died on May 10, 1863, at the age of 39. His short but spectacular career ended when, during the famous Battle of Chancellorsville, Jackson was mortally wounded by fire from his own men while returning to the battlefront. He had led a rear attack on the large Union forces to help Gen. Robert E. Lee achieve perhaps his most decisive victory.

Jackson usually is portrayed as a stern militarist and a man of Spartan character. However, he deplored the prospect of war as the "sum of all evils." On the eve of a battle, he prayed several times during the night. He was deeply religious. His favorite conversation was theology. Both of his wives were the daughters of Presbyterian ministers. His first wife died during childbirth 14 months after their marriage. His interests in life ranged beyond military theory and tactics; he was a loving father to his daughter. He enjoyed art and read poetry.

General Jackson was reared in what is now Lewis County in West Virginia, an area where our State 4-H camp is located at Jackson's Mill. He was 18 years old when he was elected to the position of constable of that county. On the original 5 acres of his boyhood home, which was destroyed by fire, is located the restored gristmill and sawmill, completed in 1937. It is listed on the National Register of Historic Places by the National Park Service. A careful reproduction of the original mill was built by Jackson's grandfather on the West Fork river before 1800.

Mr. President, the city of Clarksburg, first settled in 1773, honors the historic occasion of Stonewall Jackson's birth with appropriate ceremonies. The United Daughters of the Confederacy has placed a wreath on the bronze plaque at the birthplace site in the 300 block of West Main Street. The Stonewall Jackson Civic Club placed a wreath on the Stonewall Jackson equestrian statue on the plaza of the Harrison County Courthouse, across the street from the Stonewall Jackson Hotel, and near the location of Jackson's birthplace. These events were coordinated through the leadership of S. J. Birshstein, chairman of the Stonewall Jackson Historical Committee of the Clarksburg Chamber of Commerce for 37 years.

We express tribute to this great American and we remember two of his favorite maxims: "You may be whatever you resolve to be," and "Never take counsel of your fears."

As we begin the third century of this Nation's history, it is fitting that we read and learn of those men and women who contributed to the shaping of this great Nation. Gen. Thomas J. "Stonewall" Jackson was a military genius. His personal strength, his conduct and character and his indelible memory as a leader with "soul of fire" shall not be forgotten. "There stands Jackson like a stone wall" it was said by Gen. Bernard Bee, as a battle raged.

PIERRE TOURAINE

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. RHODES. Mr. Speaker, on January 11, 1977 it was my deep honor to accompany Mr. and Mrs. Pierre Touraine of Scottsdale, Ariz. to the White House for a meeting with President Ford.

A native-born Frenchman, Mr. Touraine brought his considerable skills as a jeweler to the United States and is a citizen of our country. The meeting with the President was arranged so that Mr. Touraine could present an extremely beautiful and valuable necklace on the occasion of our Nation's Bicentennial. The necklace will become a part of the permanent White House collection, where it will be placed on display for visitors from around the country to see and enjoy.

Mr. Ben Cole of the Arizona Republic has written an article describing the genesis of Mr. Touraine's gracious gift, as well as his memorable meeting with President Ford.

Mr. Speaker, it makes me proud as an American to know that we have citizens such as Pierre Touraine whose love of country knows no bounds. That he is a constituent of mine makes me doubly proud.

The article follows:

[From The Arizona Republic, Jan. 12, 1977]

VALLEY JEWELER GIVES U.S. COSTLY NECKLACE

(By Ben Cole)

WASHINGTON.—A Scottsdale jeweler presented the White House a $100,000 diamond-ruby-sapphire-and-platinum necklace Tuesday as a token of his love for the country he adopted 38 years ago.

Pierre Touraine learned his art as an apprentice in France, earning five French pennies a week. Now a successful American businessman and creative jeweler, Touraine wanted to show how much he loves America. He proposed making a Bicentennial necklace for the first lady.

Although his gift could not be accepted by Mrs. Gerald R. Ford, it can be placed in the White House collection. Touraine and his wife made the presentation Tuesday to President Ford in his Oval office.

For the creator, it was an emotional moment. Rep. John J. Rhodes, R-Ariz., at the last moment, had to propel the Scottsdale man into the President's office. He was afflicted with sudden fright and could not move.

But Ford quickly put him at his ease, relaxing in the comfortable sofas before the Oval Office fireplace. The President inquired about Touraine's former home in France, his talent for creating exquisite jewelry pieces, and his life in America.

The Touraine necklace was offered to the first lady through Mrs. Mary Crisp, the Arizona Republican national committeewoman. She inquired of Rep. Rhodes how such a gift might be made.

"Have you had it appraised? How much is it worth?" Rhodes inquired.

"In the neighborhood of $100,000," Mrs. Crisp said.

Rhodes explained that President and Mrs. Ford could not legally receive so handsome a present. It would have to be turned over to the Department of State, which would sell it at auction. Obviously, this would be a shame.

Rhodes then conferred with Philip Buchen, the President's legal counsel, who said such a present could not be given to the first lady, but it could be given to the White House collection.

Between them, Rhodes and Buchen worked out the presentation.

After the White House presentation, Rhodes returned to the Capitol with Mr. and Mrs. Touraine, took them to a luncheon in the House restaurant, and escorted them on a tour of the building.

"It makes you feel good just to know there are people like them," Rhodes said of his visitors.

THE COMMERCIALIZATION OF SOLAR ENERGY

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. STEERS. Mr. Speaker, the States of Ohio and Pennsylvania have declared energy emergencies in the past week. Perhaps the Speaker should declare such an emergency in the House of Representatives. We do not seem to have the energy to come to the aid of the American people in helping them solve their day-to-day fuel problems. The chief problem for most people at this time of year is heating their homes economically. For the people of Ohio and Pennsylvania, it is heating their homes at all.

The American people are very patriotic and prudent. My office gets calls every week from constituents who would like to help the country and help themselves by installing solar energy systems in their homes. They point out, rightfully, that such systems might aid our foreign policy and balance of trade by lowering our imports of foreign oil. They also point out that if natural gas supplies are to continue to rise in price, solar energy would be a wise economic move from an individual point of view.

Yet, though solar heating systems in homes and buildings are feasible, desirable, and desired, the Congress has yet to act to encourage homeowners and builders to invest in such installation. In how many other areas does the Congress have the possibility of writing legislation that will be good for the Nation as a whole, and that so many individuals perceive as being in their own best interests? This happy coincidence does exist in the area of solar energy legislation. And a significant effect can be achieved with a relatively small governmental investment.

Senator GARY HART and I are today jointly introducing legislation aimed at enabling the homeowner and builder to come to his or her own and the country's aid by installing solar heating equipment. This bill would create a low-interest loan program, administered by the Department of Housing and Urban Development, that would allow loans of up to $8,000 for up to 75 percent of the cost of purchasing and installing of solar heating and cooling equipment that meets the specifications of the Solar Heating and Cooling Demonstration Act of 1974.

These loans would be made available from a $100,000,000 revolving fund administered by the Secretary of HUD. This legislation has several virtues. It would be relatively easy to administer, it would have more effect than a tax credit because it would advance the individuals the capital they need to make the improvements, and it would be a great boon to small business.

As most of us know, the solar energy industry is still in its embryonic stages and is considered a high-risk investment by the banking industry. Legislation like the bill that Senator HART and I are proposing would go a long way toward assur-

ing the investment community that solar energy is a "good bet."

This bill, then, seeks to increase this country's international independence, to enable our hard-pressed citizens to solve their own energy problems, to improve the climate for small businesses, and to do all of this by relying on the individual initiative of the American people.

QUESTIONS ABOUT RICHARD SPRAGUE'S BACKGROUND

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. WIRTH. Mr. Speaker, on January 11, I expressed grave concerns over the way the Select Committee on Assassinations had begun.

I also said Members of the House have a right to know more about the committee's staff director and chief counsel, Richard Sprague, before the committee is permanently funded.

Since that time I have exchanged letters with the Justice Department about Mr. Sprague's role in the Federal prosecution of W. A. "Tony" Boyle. The correspondence indicates that Mr. Sprague was appointed Special Assistant to the Attorney General for purposes of the Boyle prosecution but that no background check on Mr. Sprague was made in connection with his appointment. At this point I would like to insert those letters in the RECORD:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 17, 1977.

DEAR MR. UHLMANN: Pursuant to a conversation between Robert Sachs of my staff and Larry Callaghan, I would like to obtain some information about Richard Sprague, chief counsel of the House Select Committee on Assassinations.

In a floor statement last week, Representative Henry Gonzalez noted that Mr. Sprague "was Special Assistant to the Attorney General of the United States in charge of the Boyle prosecution." Mr. Gonzalez then went on to say, "I think it only fair to conclude that if the U.S. Department of Justice found Mr. Sprague to be of questionable integrity or ability the appointment would never have been made."

I am curious to know what Mr. Sprague's exact role was in the Boyle prosecution, how long he was employed by the Department of Justice and whether a background check on Mr. Sprague was performed prior to his employment. If a background investigation was done, I would like to know how comprehensive it was.

Since the House Rules Committee may take up the question of re-constituting the Select Committee next week, I would appreciate receiving a response from you by January 21. Thank you very much.

Sincerely yours,

TIMOTHY E. WIRTH.

DEPARTMENT OF JUSTICE,
Washington, D.C., January 21, 1977.

Hon. TIMOTHY E. WIRTH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN WIRTH: This is in response to your January 17 letter to Michael M. Uhlmann concerning Richard A. Sprague.

On September 6, 1973, W. A. Boyle and William J. Turnblazer were indicted in the Western District of Pennsylvania on single counts of violating 18 U.S.C. 241. The charge centered on a scheme to deprive Joseph Yablonski of his civil rights. On that same date, the State of Pennsylvania issued three first-degree murder warrants against W. A. Boyle. The State Attorney General had appointed Richard A. Sprague, then First Assistant District Attorney of Philadelphia, as Special Prosecutor on the murder charge. Because both the Federal and State charges were based on the same facts and because the Department attorney who had obtained the Federal indictment subsequently resigned, Mr. Sprague was offered and accepted an appointment, without compensation, as Special Assistant for the purpose of trying the Federal case if that became necessary. As Mr. Sprague was being retained only for the trial of a single case, no background investigation was requested.

Mr. Sprague made two appearances pursuant to his special appointment: once on a motion to dismiss the Boyle indictment, and secondly, when William Turnblazer was sentenced pursuant to his guilty plea.

Thereafter Mr. Sprague succeeded in obtaining a guilty verdict against Boyle in State court on the murder charges. After return of the State verdict, the Department, pursuant to its dual prosecution policy, moved for the dismissal of the Federal charge. The motion was granted on April 17, 1974 and Mr. Sprague's appointment as Special Assistant was terminated on May 30, 1974.

If I may be of further assistance, please let me know.

Sincerely,

LAWRENCE A. CALLAGHAN,
Special Assistant to the Assistant Attorney General.

Since I first raised questions about this subject I have also received two editorials concerning Mr. Sprague. They were sent to me by Creed Black, vice president and editor of the Philadelphia Inquirer, and I thought they would be of interest to my colleagues.

The earlier editorial, dated April 4, 1973, followed revelations about the so-called Applegate case, a homicide case handled by Mr. Sprague and involving the son of one of his good friends.

The editorial called for a full independent investigation of a 10-year-old case lest it become "Philadelphia's Watergate." It also raised questions about Mr. Sprague's position on the issue.

The second editorial, dated July 27, 1973, followed that independent investigation—and called for Mr. Sprague's removal from office for what is described as Mr. Sprague's improper handling of the Applegate case. I ask that they be placed in the RECORD at this point:

[From the Philadelphia Inquirer, Apr. 4, 1973]

APPLEGATE CASE DEMANDS SWIFT ACTION BY MR. SPECTER

Last Sunday, The Inquirer published a detailed article on the death 10 years ago of a man named John R. Applegate. It is a complicated case. The time that has passed may tend to dim its circumstances.

Nonetheless, several things are clear and simple:

Mr. Applegate's death was recorded as a homicide, due to a blow to the head.

Three other men—one his roommate and two who, according to one of them, were involved in violent fighting with Mr. Applegate—were present at the time.

There was never any determination by a grand jury or a court of record that anyone was responsible for the death.

There is no statute of limitations on homicide. This and the clear and simple facts above make it the unavoidable duty of Philadelphia District Attorney Arlen Specter to order a full investigation of the case and to see that the public has an unequivocal and detailed report on the findings—or, if it is supported by the facts and the law, that an indictment is returned.

But there is an additional element to the case that will make Mr. Specter's clear duty more complicated: One of the men who was involved is the son of Rocco P. Urella Sr., controversial former head of the Pennsylvania State Police; and the official who was directly responsible for the fact that no charges were pressed and no judicial finding was made was Richard A. Sprague, now first assistant district attorney and, by Mr. Sprague's own description "an exceedingly close" friend of the senior Urella.

Mr. Sprague has many friends, as does Mr. Urella. There is nothing sinister about those relationships.

But the association of Mr. Sprague and Mr. Urella does impose a difficult test on Mr. Specter: Mr. Sprague is Mr. Specter's immediate subordinate and as such has authority second only to the district attorney over the operations and careers within that office. Thus it is necessary that the investigation, as a first step, be independently managed by an outsider, qualified and experienced, but free of any connection with the parties involved.

Mr. Sprague himself seemed to endorse such an investigation when he wrote in a letter to Eugene Roberts, executive editor of The Inquirer:

"There is nothing in the least improper that occurred in the handling of the Applegate case, and I would be happy to have that case reviewed by any impartial, independent individual."

But Mr. Sprague's enthusiasm for a review has stopped far short of openness about the matter, for he has steadfastly refused for four weeks to answer specific, written questions put to him by The Inquirer or to be interviewed on the subject.

The longer that adamant silence—and the silence by Mr. Specter himself—continue, the deeper public doubts about the entire matter, and about Mr. Sprague's and Mr. Specter's credibility, will become.

Mr. Specter will serve himself and the community by moving forcefully and unequivocally, lest the Applegate case become Philadelphia's Watergate.

[From the Philadelphia Inquirer, July 27, 1973]

THE APPLEGATE REPORT IS IN; MR. SPRAGUE SHOULD BE OUT

Now we know why District Attorney Arlen Specter was so reluctant to have an outside investigation of the way his first assistant, Richard A. Sprague, handled the case of the death of John R. Applegate 10 years ago.

For now that such an investigation has been made by the State Justice Department, it is clearly impossible for Mr. Specter to maintain his earlier insistence that "there is nothing in the least improper that occurred in the handling of the Applegate case . . ."

And it becomes equally impossible for him to retain any public confidence in the district attorney's office so long as he allows Mr. Sprague to remain as the second in command there.

Mr. Sprague, himself, according to the Philadelphia Bulletin, professes to find indication of his role in Attorney General Israel Packel's decision not to bring any charges in the case at this late date.

But what Mr Packel said was that "I am of the view that at this time there is not available sufficient evidence to warrant the bringing of a criminal charge." And the rea-

son such evidence is lacking, it is abundantly plain, is that it was not pursued when it was available when the incident occurred 10 years ago.

"It is unfortunate," Mr. Packel concludes, "that various matters were not properly pursued in 1963 immediately after the death of Applegate. The reports, for example, detail the following matters: inadequate taking of fingerprints; failure to observe and investigate a metal sink stopper control knob, a potential weapon; differences and conflicts in the stories of the witnesses; mistakes concerning blood tests; inadequacies as to the taking and analysis of lie detector tests; and failure to interview additional potential witnesses."

"Unfortunate" is hardly the word for such gross dereliction in a homicide case in which no one was ever brought to trial even though three other men were present during a fight preceding Mr. Applegate's death.

But that is only part of the story. Consider these other findings in the Justice Department's report:

Mr. Sprague himself told the investigators he was particularly interested in this case because of the possible involvement of a son of Rocco Urella Sr., a friend and associate of his and a state police captain at the time."

William D. Harris, who was the district attorney's office chief of trials in 1963, told the investigators that "he felt it was unusual for Sprague to have become involved in the interrogation of witnesses as well as personally handling the prosecution at the district magisterial level."

The detective in charge of the 1963 investigation, Sgt. Edward Brooks, conceded that the investigation "didn't resolve certain aspects which appear to be significant."

The magistrate who accepted Mr. Sprague's recommendation that charges be dropped on grounds of self defense now believes that the facts in the case "do not appear to apply to the 'back to the wall' philosophy of self defense."

A new analysis of lie detector tests by an independent expert contradicts the police department's 1963 finding that there were no attempts at deception.

The investigators conclude that "normal investigative techniques required in a homicide investigation" were slowed down and impeded.

There is more, but this should suffice to show that the handling of the case was anything but proper. If it is too late now to bring charges, it is not too late to remove from his place of public trust the man who was so "particularly" interested that he failed in his duty to see justice done.

It is particularly painful for this newspaper to find in the results of an independent investigation of the Applegate file, which we had pressed for factors which inescapably lead to the conclusion that Mr. Sprague should not remain in office.

Mr. Sprague has built a national reputation as a brilliant career prosecutor and as a public official who, it was thought, Philadelphia could be proud of. Against the background of what is coming out about our public officials in Washington holding the highest positions of public trust, it is disheartening to find that Mr. Sprague, too, was willing to compromise his official obligations when personal interests and the desires of his close friend, Rocco Urella Sr., led to pressures to cover up a matter so important as the investigation of the taking of a human life.

But the record is now in, and the course is clear. Since Mr. Sprague apparently has no intention of resigning, the next move—which is to dismiss him—is Mr. Spencer's.

Mr. Speaker, from time to time, I hope to be able to add further information concerning these issues, while still hoping the significant questions I originally raised will be answered by March 31.

LONG RISE TO TOP FOR AUTO EXECUTIVES

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. NEDZI. Mr. Speaker, as the son of a tool and die maker, my point of view of the automobile industry invariably started from the point of view of the auto workers who have always been my personal and political friends.

Most observers would agree, in any event, that management has become progressively more socially aware over the years. They are not an implacable enemy.

There is a lot of talent in the middle and top ranks of the Big Three and this deserves our acknowledgment.

Accordingly, I have no qualms in submitting for the RECORD a very interesting recent article by Robert Irvin of the Detroit News which deals with five of the top executives at General Motors, Chrysler, and Ford. They all came up the hard way and they all are uncommonly talented.

Under leave to extend my remarks, the article follows:

[From the Detroit News, Dec. 26, 1976]

LONG RISE TO TOP FOR AUTO EXECUTIVES

(By Robert W. Irvin)

To look at them now in their plush paneled offices or traveling like heads of state aboard million dollar company jets, it's hard to picture them as they were 35 or 40 years ago.

This is a story about some modern-day Horatio Algers, about some men who worked their way to the top of America's giant auto firms without the benefit of pull or a prestigious family name.

Gene supported himself from the age of 16. John worked in a bicycle shop and drove trucks on the Burma Road. Tom didn't have enough money to go to college so he worked in an ice house. Pete labored in a creamery for $1 a day and then washed dishes in the school cafeteria to pay for his education.

Today, they travel in a style befitting the President of the United States. Company jets fly them around the country. Limousines meet the planes to take them to their offices.

Yet, they leave the impression these trappings of their jobs—and the hefty salaries as well—are just so much window dressing, things they take for granted.

The Tom is Thomas A. Murphy, chairman of the board of the powerful General Motors Corp. Murphy probably made about $1 million this year.

Pete is E. M. "Pete" Estes, GM president. His salary isn't far behind Murphy's.

The Gene who was on his own from the age of 16 is Gene Cafiero, the president of Chrysler Corp. He will earn more than $600,000 this year.

John is John J. Riccardo, Chrysler's chairman, who also earns a salary of more than $600,000.

The name of Ford President Lee A. Iacocca, son of an Italian immigrant who had a meteoric rise at Ford, should be added to this list of Horatio Algers of the auto industry.

While all five men came from different backgrounds, they have in common a burning desire to work that fueled their rise to the top.

They started out doing manual labor, the kind of muscle-bending work like the men on the auto assembly lines they now command.

These executives are paid handsome salaries because their decisions on new cars and trucks and production plants affect the welfare of some 700,000 auto workers in the United States alone. Their board room decisions extend to tens of thousands of workers in Canada and overseas nations.

What comes across as really important to them is the challenge of running huge far-flung enterprises. They seem to live for their jobs and thrive on making billion dollar decisions. They boast of working day and night on their jobs.

They all complain about myriad new federal rules. But the fact the auto business is now the newest government regulated industry is taken as just one more challenge—like moving the cross bar up another notch for a high jumper.

They have a strong vision for their firms and the industry which has just come through its worst slump since the Depression and has recorded an upsurge this year

Murphy can be found at 8 a.m. daily in his top floor corner office building of the GM Building in Detroit—the one with the desk so full of work that he keeps a plaque on it that says: "Bless This Mess."

Riccardo and Iacocca—like Murphy and fellow auto leaders—prefer to get to work before others are out of bed. They are considered cold and tough, fiercely dedicated to their jobs.

Murphy, 61, a native of Hornell, N.Y., spent his youth in Buffalo and Chicago, where he graduated from high school in 1932.

"I didn't have enough money to go to college so I worked the summers of 1932–34 in the ice houses in Cicero, Ill.," Murphy recalls.

"Most of the winters I loafed around the house living on the money I had made during the summer. A friend of mine at the ice house who was at the University of Illinois encouraged me to enroll there so that I 'could be something more than an ice jockey.'

He enrolled in the Illinois business school, a last second decision as he was standing in line to register in 1934. He worked in the summer of 1937 as a college trainee in the General Motors financial office and was hired full-time by GM when he graduated in 1938.

He was with GM 29 years in the corporation's New York financial office, then was tapped as a vice-president in Detroit and given experience in the operating end of the business.

In 1974, he was chairman of the board.

He will serve until the end of December 1980, retiring a month before Estes.

Estes will be 61 in January. He became president of GM the same time Murphy rose to be chairman.

Estes is a native of Mendon, a small community in western Michigan. He worked for $1 a day in a creamery after graduating from high school. He quit when the pay was $3 a day, after discovering his boss was making only $5.

That didn't seem like much of a future and so when he read a newspaper article about the General Motors Institute in Flint he applied. He was eventually accepted after several tries.

He moved up through the engineering ranks at GM, becoming chief engineer of Pontiac in 1956, heading Chevrolet in 1965–69, running GM's overseas operations in 1970–82, before moving up to the presidency two years ago.

Then there is Riccardo, 52, a native of Little Falls, N.Y., a second generation American.

Riccardo worked for a while in a bicycle ship with his father who had emigrated from Italy. World War II came along and Riccardo was sent to the China-Burma-India Theater with the U.S. Army Quartermaster Corps.

That's a fancy way of saying he was a truck driver. He was a sergeant and drove the perilous Burma Road, carrying supplies.

Afterwards, Riccardo went to the University of Michigan where he earned bachelor's and master's degrees in business. He was an accountant for Touche, Ross, the firm which audited Chrysler's books.

He joined Chrysler's financial staff in 1959. Riccardo moved up through various jobs before becoming president in 1967. He was elected chairman in 1975.

Early in his career, Riccardo was nicknamed the "flame thrower" for the way he barked decisions. He was the protege of now retired Chrysler Chairman Lynn A. Townsend.

He was a natural successor to Townsend, who took an early retirement a year ago, at a time when Chrysler was in the midst of its worse financial losses.

Cafiero, 50, grew up in the tenement section of Brooklyn. His father was a truck driver and in recalling his background he proudly declares, "from the age of 16 I supported myself."

He combined part-time college studies while he was in the service, aided by veterans benefits, and received a bachelor's degree in psychology in 1946 from Dartmouth.

He wanted to go into advertising or sales and got a job selling steel in the New York area for $50 a week in 1947.

"One of my customers was a Ford plant in New Jersey. I was always curious about factories so I went there every chance I got," he said.

"The work intrigued me. I found they were hiring trainees so I applied. I took a cut in pay but I got the job."

He recalls that in those days "anyone in the plants who smacked of a college education was suspect and they put me in some hard jobs." He later was transferred to Ford Division in Dearborn. After that, he quit to become an industrial engineer with Briggs. He joined Chrysler when the auto firm bought Briggs in 1953.

He has never forgotten his early experiences in the plants and he probably spends more time than any of the other current top auto executives trying to improve factory life.

"I've always been concerned about adequate training because I know how intimidating a factor can be to a newcomer," he said.

"I have a great deal of empathy with a guy on the machine and I'm concerned about the way we treat workers."

Probably the most colorful among the top auto chiefs is Iacocca of Ford. He is an outspoken, cigar-chewing executive who has on the wall behind his desk a big bronze sculpture of the car which made him famous—the original Mustang. He brought out the car in 1964 when he headed Ford Division.

Iacocca, 52, another son of an Italian immigrant, is a native of Allentown, Pa. His father was a successful builder and contractor. He doesn't trace his success back to a bout with manual labor, but with rheumatic fever.

A seven-month attack when he first entered high school kept him out of sports and work, and eventually out of the Army. So, he said, "I pushed myself especially hard in studies." And it paid off.

He went to both Lehigh University and Princeton on full scholarships.

After receiving bachelor's and master's degrees in engineering, he joined Ford as a sales trainee in 1946. He rose through the ranks rapidly, heading Ford Division at the age of 36. He became company president at 46.

Iacocca's formula for success is "do your homework."

He is said to have established a timetable when he went to work at Ford for rising to the presidency—and to have stayed pretty much on that timetable.

OPPOSES REESTABLISHMENT OF SELECT COMMITTEE ON ASSASSINATIONS

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. MILFORD. Mr. Speaker, I will be appearing before the Rules Committee tomorrow speaking in opposition to House Resolution 9 which will reestablish the Select Committee on Assassinations. At this time, I would like for my testimony before that committee to appear in the Extension of Remarks:

TESTIMONY OF HONORABLE DALE MILFORD BEFORE THE HOUSE COMMITTEE ON RULES, JANUARY 25, 1977

Mr. Chairman, I come before you today to speak in opposition to H. Res. 9 which would establish the House Select Committee on Assassinations for the purpose of reinvestigating the assassination of President Kennedy, Martin Luther King, Jr., and any others deemed appropriate by the Committee.

While I know that several conscientious, sincere and dedicated Members have sponsored this resolution including Mr. Gonzalez, my distinguished colleague from Texas, I must respectfully disagree with their effort.

As a Representative of the City of Dallas, I can assure you that I have an intense interest in this matter. That city bore the brunt of national and international criticism—much of it in a vicious and vindictive way—in the aftermath of the Kennedy assassination. Although this may have faded from the memories of many in this country, it is still fresh in the minds of those who live in Dallas.

Furthermore, I was personally and technically involved in this investigation from the time of the event through the findings of the Warren Commission. At the time of the assassination, I was a professional member of the news team at WFAA-TV in Dallas and I was intimately involved in press coverage of this event for several years. The vast majority of the news films which were reviewed by the Warren Commission came from our station.

I bring this to your attention to emphasize that I have a more than passing interest in this proposed Committee. Indeed, this is a matter which has directly affected my constituents in a very real and personal way. If there is anything to be gained by reopening this investigation, I am certain that the people of Dallas would greatly welcome it.

My purpose here is to examine realistically the proposition: "Should the House of Representatives appoint a committee to reexamine the Kennedy assassination?"

In responsibly facing this question, we must thoroughly study the difference between the Warren Commission and this Select Committee. Never before in our history has there been a more thorough investigation of a murder. Literally every investigative resource of the United States Government and the State of Texas was concentrated on this case including the Dallas Police Department, the Dallas County Sheriff's Department, the Texas Department of Public Safety, the F.B.I., the Secret Service, and the C.I.A.

To insure that every possible scrap of evidence was properly evaluated, the Warren Commission was appointed to evaluate the evidence gathered by the massive law enforcement investigative efforts.

A careful study of the membership on the Warren Commission will show that the best legal, law enforcement and governmental brains of this nation had been assembled. A careful "political" balance insured that all aspects of any possible political implication were considered, even so far as to retain a "defense counsel" for Lee Harvey Oswald.

There are a number of other important factors that must be recognized concerning the original investigations and the Warren Commission; (1) all witnesses were then alive, with fresh memories and good recall of important facts, (2) all physical evidence was present for careful examination, and (3) all possible theories and hypotheses could be evaluated against the then-present witnesses and physical evidence.

Mr. Chairman, I do not want to leave the impression that I have a closed mind on this subject or that I blindly accept the Warren Commission's findings as gospel—absolute and infallible. I am simply saying that before we begin a new investigation, we should have some hard evidence to indicate that the Warren Commission's conclusions were substantially in error. We must have convincing reasons to indicate that a new investigation could be more efficient and effective than the Warren Commission.

If there exists one single shred of legally acceptable physical evidence or one credible eye witness or one piece of definitive, scientific evidence to point to an alternate conclusion from that of the Warren Commission, I would be the first to sponsor a resolution to reopen the investigation.

A multitude of writers, investigators, theorists, college students and politicians have offered theories counter to the Warren Commission's findings. Many have authored books and periodicals on the subject. The news media has carried stories about these theories.

All of these theories have been carefully investigated by the F.B.I. and other nonfederal police agencies, as well as the press. All were either shown to be false, inapplicable, or discovered to be a hypothesis that could neither be proved or disproved.

Mr. Chairman, the point I am trying to make is that there is a great deal of difference between "evidence" and a "hypothesis or theory". "Evidence" requires that there must be a physical manifestation, a credible witness with sworn testimony or a scientifically provable assumption.

On the other hand, "hypothesis or theory" simply means an "idea" or "proposition" that no one else can disapprove. The hypothesis or theory is not evidence.

I have carefully read the theories presented by those who want to reopen the Kennedy assassination investigation. None contain credible evidence that can be directly tied to the assassination or admitted in a court of law. As of this day, no one seems to have either hard evidence to discredit the findings of the Warren Commission or evidence to indicate that a new investigative body could produce a new finding.

I would like to make another point: the Select Committee on Assassinations in its report of December 31 indicates that one of the new issues which the Committee should investigate is whether or not the Central Intelligence Agency deliberately withheld critical information or acted improperly. In fact, this seems to be one of the major issues discussed by the Committee's Chief Counsel, Richard Sprague, in many news articles I have since read on the subject.

In this regard, I would like to point out that President Ford on January 4, 1975 established a Commission on C.I.A. Activities Within the United States which was chaired by Vice President Rockefeller. This Commission looked into the matter of the Kennedy assassination and reached the conclusion that, though many allegations had been made that the C.I.A. played a role in this assassination, the Commission had to conclude that there was no evidence that the C.I.A. had any improper involvement.

Again the matter of C.I.A. involvement in the Kennedy assassination was investigated by the Select Committee on Intelligence, of which I was a member, and reached the same conclusion. I am advised by my colleagues in the Senate that the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities also investigated the possibility of critical evidence being withheld by the F.B.I. and also reached the conclusion that there had been no improprieties by the F.B.I. in that area.

The resolution itself declares that the express purpose of this Select Committee would be to assess whether or not statutes already on the books need to be changed or new legislation enacted to enhance the protection of the President.

I would like to bring the Committee's attention to the fact that the Warren Commission during its investigation required the Secret Service to submit a detailed report regarding its policy and procedures for Presidential protection. The Commission's review of these procedures led them to make a series of recommendations to deal with the deficiencies they found—six involving internal procedural changes and one which later became Public Law 89-141, making it a federal crime to attempt to assault, assassinate, or kidnap the President or other government official in line for the Presidency and establishing penalties for conviction of such acts.

Also as a result of the Kennedy assassination, President Johnson ordered a broad assessment of Presidential protection to be undertaken—known as Project Star. This project incorporated reports, studies and recommendations from numerous Federal agencies and private research institutions and took two years to prepare.

Mr. Chairman, the assassinations of President Kennedy and the murder of Dr. King produced painful traumas for the American people in general and the cities of Dallas and Memphis in particular. These crimes were investigated by both state and federal institutions with an intensity unequaled in our national history.

If there are reasons to discredit the investigations and findings of our state and federal institutions, these reasons must be clearly stated and they must be obvious to the American public. I contend that no substantial evidence has been offered to discredit the Warren Commission findings nor the findings of our judicial system.

I would further point out that the likelihood of a small Congressional Committee being able to come in 13 years later—with limited resources—and make significant findings, is indeed very slim.

In the alternative, if—in the wisdom of this Committee and this House—a Select Committee on Assassinations is established, then it must be provided with adequate resources to completely reinvestigate both the Kennedy assassination and the King murder. In other words, if we are to discredit the State police agencies, the F.B.I., the Secret Service, the C.I.A., our Federal court system and the Warren Commission, then the House must be prepared to produce investigative funds and facilities to replace the work done by all of them. To do less, would be to perpetuate a hoax on the American people and to revive cruel pains of the past.

If we are to take this alternative plan, I can assure you that the $13 million requested by the proposed Select Committee on Assassinations is woefully inadequate.

I plead with this Committee and the House to vote down H. Res. 9. No one has come forward with a single shred of creditable evidence to show that a new investigation is needed. Existing standing committees already have the necessary jurisdiction to make any needed changes in our laws dealing with assassination.

The Kennedy and King murders were followed by another national trauma that tore our nation apart—Watergate. Our people lost faith in our government institutions. If there exists creditable and legally acceptable evidence to show that our State and Federal institutions have erred, then spell it out—in spades—so the American public can understand, and provide the Select Committee with the necessary funds and resources to do a creditable reinvestigation of the entire matter.

EXTENSION OF FEDERAL EMERGENCY LOANS TO NEW YORK CITY

HON. THEODORE S. WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. WEISS. Mr. Speaker, the following letter was sent by me to Senator WILLIAM PROXMIRE expressing my grave concern regarding the report soon to be released by the Senate Banking Committee:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 24, 1977.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Senate Office Building,
Washington, D.C

DEAR SENATOR PROXMIRE: I was taken aback today reading the comments in the New York Times signaling your opposition to extending for five years the $2.3 billion of seasonal emergency Federal loans to the City of New York. I fully share your attitude with the banks of New York presuming to dictate to the City, State, and federal governments, the nature of governmental assistance before playing their proper role in participating in the program. However, I cannot understand your attack upon the only real life line the City of New York has at this time; the extension of the federal loan program.

Recommending denial of the loan program is a draconian measure totally unjustified considering the City's record. As you know, the City of New York has paid back all of the loans made by the Federal government; in a number of instances, ahead of time. These loans you know have been made at interest rates above prime. I would like to reiterate some of the hard facts of the budget cuts that have been instituted by the City to date; a total personnel cut of approximately 60,000 and budget reductions in excess of nearly $800 million.

Without a loan extension, the 1977-78 budget would mandate as much of a cut in the coming fiscal year as was cut in the past two fiscal years. Considering the fragile state of the City's life at all levels, be it the Fire Department, health services, education, or police protection, all of which are critical to the survival of the City and its residents, it is unthinkable that the City can cut $700 million in the next year and still survive as a viable entity.

Given this background, while many of us have come to the unhappy conclusion that the financial institutions care little whether the City lives or dies, we have come to expect that someone such as yourself would offer a greater understanding of where we are and what we have accomplished to date.

I urgently suggest that your remarks as quoted in todays Times foreclose any further deliberations by you, the Senate, and the House, in essence signaling the end of whatever hope New York City has for survival. I respectfully request that if that is not your intention, that you correct the impression which has been created.

Sincerely,

TED WEISS,
Member of Congress.

TAX PROBLEMS OF THE DISABLED FEDERAL RETIREES

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. STEERS. Mr. Speaker, I am introducing, along with Mr. JACOBS of Indiana, a bill that I hope will not have to be passed. This legislation would postpone the date on which disabled Federal retirees will have to pay tax increases mandated by the Tax Reform Act of 1976. The reason that I hope this measure will not have to be passed is that I would rather see this tax assessment eliminated altogether.

Prior to the 1976 law, all disabled Federal retirees could claim a $5,200 exclusion on their taxable income. The Tax Reform Act seriously restricted the availability of this tax exclusion. Now only those disabled retirees who are both "permanently and totally" disabled, and whose joint income is under $15,000 can claim the full tax exclusion.

While I realize that some disabled retirees might have abused this provision in the past, the current law imposes hardships on many persons in my district. In areas where the cost of living is as high as it is in Montgomery County, a joint income of $15,000 does not make a family affluent; especially if there are large medical bills to pay. Many of my constituents needed this helping hand. They earned it by many years of public service. Not only is this effective tax increase a hardship, but it is a retroactive one at that. My constituents must come up with a year's back taxes, and with a penalty for not having had sufficient withholding for 1976.

This leaves my constituents in the Kafkaesque situation of having been penalized for not making provision to pay a tax that was not yet in effect at the time they would have had to make such provision. If this sounds confusing to the Members of this House, imagine how it sounds to a disabled retiree who has to come up with the money.

Several bills have been introduced to try and remedy this situation: A bill by Mr. FISHER to "grandfather" the tax exclusion, which I support; a bill by Mr. ROBERT W. DANIEL, JR. of Virginia, to remove the retroactive portions of the law, which I will support in the event that Mr. FISHER's bill does not past; and the bill that I am currently introducing, with Mr. JACOBS, to postpone payment of the extra taxes until 1979. I see this bill as a last resort. I will work for its passage only if the others are found unacceptable by the Ways and Means Committee. I hope this will not be necessary, but I do want to try to make sure that my constituents get some relief from this change in the tax laws. I will also be working with the IRS to attempt to change the absurd situation under which my constituents are penalized for the Government's error.

I certainly hope that the House will pass one of the relief measures, preferably the bill to "grandfather" the tax exclusion so that those who have made their retirement plans based on the old

system will not have the rules of the game changed now.

ENERGY: PROBLEM, POLICY, AND PROGNOSIS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. HAMILTON. Mr. Speaker, I prepared the following keynote address for delivery at Energy Fair '77, a symposium held at Indiana University Southeast in New Albany, Ind. The address, entitled "Energy: Problem, Policy, and Prognosis," is inserted in the RECORD for the benefit and use of my colleagues:

ENERGY: PROBLEM, POLICY AND PROGNOSIS

I. THE ENERGY PROBLEM

Although many of us refuse to believe it, there is a serious and continuing energy problem in this country. The problem has assumed proportions so alarming that it clearly deserves to be called a "crisis."

It is due to the rising consumption of energy and the increasing difficulty in acquiring energy, including its high cost.

A. Rising consumption of energy

The rising consumption of energy is due to two principal factors:

1. Economic Expansion

Ever since its birth 200 years ago, the United States has been a growing nation. Our population has increased from a comparative handful of colonists and indigenous peoples in 1776 to over 215 million inhabitants in 1976, and it is still expanding. Our economy has kept pace, and it is supplying us with one of the highest standards of living in the world. The replacement of manual labor with the work of machines has been sought both to increase productivity and to reduce the number of unpleasant, tiresome jobs. However, such a high standard of living for so many people, a standard squarely based on the "energy-intensiveness" of industry and agriculture, can only be sustained with ever greater use of energy.

2. Waste of Energy

Growth and high standard of living alone cannot account for the high rate of energy consumption in the United States, where a small portion of the world's people use a large share of the world's energy.

Regrettably, American waste this previous resource.

We use more energy per capita than any other nation in the world. Among the developed nations our record is poor: for example, we use twice as much energy per capita as do the West Germans, and a full three times as much per capita as the Japanese, in spite of the fact that their industrial development and standard of living are comparable to our own.

Among the developing nations our record is dismal: last year we wasted as much energy as the poorest ⅔ of the world's population consumed.

There is unfortunately no sign that we are changing our profligate habits. Although U.S. energy consumption dropped 2.2 percent in 1974 and another 2.5 percent in 1975, decreases most likely due to the economic downturn, we are currently using more energy than we have used at any other time in our history.

Electric power consumption is up 6 percent over this time last year, completely wiping out any recession-induced savings.

Levels of petroleum consumption push constantly upward: during the four-week period ending December 17, 1976, Americans burned oil at a rate of 19.13 million barrels per day, an all-time high.

Consumption of heating oil alone has jumped 25 percent over last year's rate.

Demand for natural gas is so heavy that the Federal Power Commission has projected more curtailments in service this year than ever before, perhaps as much as 29 percent of all contracted deliveries.

B. Acquisition of energy

The acquisition of energy is becoming increasingly difficult due to sagging domestic production, an imbalance in the use of energy, the cost of it, and the need to import more and more of it.

If the United States had more energy resources than it has there would be no energy crisis. But the sad facts are these:

A. Petroleum

Domestic production of oil and natural gas has fallen by 13 percent and 11 percent, respectively, and proven reserves of both fuels are shrinking rapidly.

While oil reserves are certainly a matter of concern, the status of natural gas reserves is critical: experts now estimate that the U.S. can sustain production of natural gas at current levels, i.e., 21.2 trillion cubic feet of gas per year, for only nine more years.

B. Coal

The production of coal, our most abundant natural fuel, has increased only 25 percent in the last decade to 646 million tons per year, but present projections of demand indicate a potential need for a doubling of coal mining capacity to some 1.3 billion tons per year in the next decade.

There are ample supplies of coal in the ground (over 280 billion tons, enough to last 450 years at present rates of consumption), but not all of it is easily extracted nor is all of it desired quality.

C. Water power

Our underdeveloped hydroelectric capacity, which today accounts for a mere 15 percent of our total electric output, could supply the electrical needs of 40 million people and replace 2 million barrels of oil per day.

But hydroelectric facilities are models of capital-intensive public works whose ecological effects are far-reaching, so Americans are reluctant to build such facilities for both economic and environmental reasons.

D. Nuclear Power

Our supplies of uranium, in the fissionable form required for use in conventional nuclear power plants, will begin to run low unless new enrichment facilities can be brought into operation by 1983.

But the "nucelar option" is embroiled in controversy at all levels of American society and the necessary enrichment facilities are still on drawing boards.

2. Energy Use Imbalance

Compounding the problem of dwindling domestic supplies of energy is a serious imbalance in the kinds of fuels we use to meet our needs.

The United States relies most on the least plentiful domestic energy resources, and it relies least on the most abundant. Over 75 percent of the nation's energy comes from oil and natural gas, while coal supplies a mere 20 percent.

This lopsided dependence is most visible in the electric power industry. In 1945 52 percent of all our electricity was generated from coal, but by 1975 the total slipped to 44 percent, with oil and natural gas taking up most of the slack. Motivated primarily by economics (the availability of cheap petroleum from abroad) and concern for the environment (oil and natural gas are cleaner than coal), this shift has been most pronounced in the New England States, where 95 percent of all electrical power plants are fired by oil or natural gas.

3. Oil Imports

To meet our energy needs in the light of domestic shortages and an imbalance in use, we have resorted to a policy of importing ever greater quantities of oil.

These imports, mainly from Canada and Venezuela at first, were more than 40 percent of domestic oil production by 1972. The amount of oil imported from the Middle East has risen from an insignificant level only in the recent past. However, by the fall of 1973 our Middle East imports reached 1.6 million barrels per day, approximately 10 percent of our total consumption.

This policy of oil imports seemed to be working well until the Arab members of OPEC hit us with an embargo in the fall of 1973 and subsequently quadrupled oil prices to $11.65 per barrel. To make things even worse, Canada and Venezuela began to cut back on their oil exports to the United States a short time later, thereby substantially increasing U.S. dependence on uncertain Arab supplies.

Oil imports now represent over 42 percent of all U.S. petroleum consumption. Conservative estimates put this figure at 50 percent by 1980. We are now more dependent on imported oil, and much, much more dependent on Arab oil, than we were before the embargo. And all the time foreign oil ministers, complaining of higher prices for Western technology and goods, clamor for higher and higher oil prices.

We know all too well what the consequences of such figures and events are and will be.

A. Trade deficits

The oil import bill is so high—expected to be $40 billion next year—that exports of American goods no longer can compensate and the U.S. trade deficit is slipping deeply into the red.

Spotty performance between 1970 and 1975, with surpluses in 1970, 1973, and 1975 (of $2,603, $0 911, and $9.030 billion, respectively) and deficits in 1971, 1972, and 1974 (of $2,260 $6,416 and $5,369 billion, respectively) has given way to a headlong slide in 1976. During the first three quarters of last year we racked up a $6.442 billion deficit, $4,750 billion of it in the third quarter alone. The outlook for the fourth quarter is grimmer still: Trade figures for November, 1976 showed a record $906 million deficit. This drop in 1976 was undoubtedly due in large measure to surging petroleum imports.

Such a massive outflow of dollars, $34 billion in 1976, a full eleven times greater than in 1972, means lost business and jobs.

B. High prices

Every American consumer has shouldered the burden of our import bill.

The average cost of gasoline to motorists has increased from 39 cents per gallon to 60 cents per gallon. There is talk of $1 per gallon gasoline in the not-too-distant future.

Similar hikes for kerosene and industrial-grade oils have hit hard at many home owners and business enterprises.

Rates for electricity, 33 percent of which is generated by oil or gas, have edged up 25 percent per year for the last two years.

There are correspondingly higher prices for virtually all petroleum-based products, such as plastics and chemicals. The money we pay out for oil from abroad has sent an inflationary shudder through our economy.

C. Susceptibility to foreign pressure

Obviously, our dependence on foreign oil reduces our flexibility in foreign affairs.

The Arab members of OPEC have shown their willingness to make use of the "oil weapon" in the international arena. A "carrot-and-stick" psychology has so far characterized their approach. Importing nations that follow the Arab lead in foreign affairs,

such as India, receive preferential treatment in the form of rebates on their purchases, while importing nations with an independent stance or contrary interests, such as the United States and Israel, respectively, are subject either to temporary embargoes or complete refusals of sale.

So awesome is the power of the oil weapon that a major industrialized nation can be forced to capitulate and disavow its foreign policy objectives: such as the case with Japan during the 1973 oil embargo. There can be no doubt that our dependence on oil from wells abroad has serious national security implications.

II. THE ENERGY POLICY

It is clear that our energy problem could be managed if we were to implement Draconian conservation measures of the sort seen only in times of war. It has been estimated that such a radical conservation effort could trim 13 percent from our consumption of gasoline, 10 percent to 15 percent from our consumption of heating oil, and 15 percent from our consumption of electricity, but the resulting social and economic dislocation would not be acceptable to us.

So what should the goals of our national energy policy be? We want, above all, an adequate and secure supply of energy at reasonable prices.

It seems to me that we ought to recognize several goals:

To maintain the security and independence of the nation,

To maintain a strong and healthy economy which provides adequate employment opportunities,

To provide enough energy so that styles of life remain a matter of choice and are not limited by the unavailability of energy,

To contribute to world stability through cooperative efforts with other nations, and

To protect and improve the quality of the environment.

A. Government inaction

The five general goals just set out are fine in theory, but you may well ask what has been done to reach them in practice.

Regrettably, far too little. Despite repeated warnings from the President, endless debates in Congress, and volumes of public and private studies, a comprehensive national energy policy is not yet in place.

1. The Administration

President Ford's response to the energy problem has been to drive up energy prices in the hope of holding down energy consumption, thereby lessening our dependence on foreign oil and supplying much-needed capital for the development of domestic energy reserves.

The core of his program included:

A $3 per barrel tax on imported oil,

A $2 per barrel tax on domestic crude oil with a similar levy for natural gas, and

The decontrol of gas and oil prices.

Supplementary items were:

A back-up oil import control program to curtail oil imports in extreme circumstances,

Expanded leasing of oil and natural gas tracts on the outer continental shelf and leasing of coal tracts on public lands, and,

The commercial sale of oil from the Naval reserves.

There has been considerable resistance to the President's program in Congress.

Many Representatives and Senators dislike the idea of placing the burden of resolving the energy crisis so squarely on the shoulders of the average consumer. They also believe that the inflationary effects of his proposals, especially the first three points above, could either abort or severely weaken the economic recovery.

Other Members of Congress dispute the President's savings claims, and some have even gone so far as to suggest that the curtailment of oil imports should not be an objective of our short-term policy in any case.

2. The Congress

A frustrating struggle with energy questions has been a distinguishing feature of the 94th Congress.

Against the President, Congress has tended to argue for solutions to the energy crisis which included price rollbacks, price ceilings, import quotas and mandatory conservation, all in an effort to limit energy consumption without forcing energy prices up.

However, Congress has been unable to forge a unified and comprehensive national energy policy; a Presidential veto has stood athwart its path since its solutions have not been in line with the President's own.

The failure of Congress to produce a national energy policy is understandable, if not excusable.

It is one thing for a President to propose an energy policy, but quite another for 535 Members of Congress, representing widely varying constituencies, to do the same.

The Congress is a more representative body than most Americans generally acknowledge, and the task of reaching a consensus on energy, when there is no consensus in the country, is extremely difficult. We should also remember that Congress generally is hindered in its task by its own organization. In all, 14 House committees, 28 House subcommittees, 16 Senate committees, 30 Senate subcommittee, 3 Joint Congressional committees and 10 Joint Congressional subcommittees claim some jurisdiction over the Energy Research and Development Administration alone. And other committees claim jurisdiction in other areas of energy legislation.

Small wonder that the President and Congress are deadlocked.

B. Policy implemented

In spite of these difficulties, we are farther down the path toward a national energy policy than many persons recognize.

Let me give you a brief survey of policy that has been implemented.

1. Stringent Conservation

A. Congressional Policy

Congress has recently formulated its intention to give energy conservation a high priority.

The Federal Nonnuclear Energy Research and Development Act of 1974, P.L. 93-577, states that it is a policy of Congress urgently to develop the technological capabilities to support the broadest range of energy policy options through conservation of domestic resources by socially and environmentally acceptable means.

The heart of this important pronouncement of Congressional policy is found in Sec. 5 (a) (1): energy conservation shall be a primary consideration in the design and implementation of the 10-year, $20 billion nonnuclear energy program.

Also, the measure defines energy conservation as both the improvement in efficiency of energy production and use as well as the reduction of energy waste. Thus, a switch from a scarce fuel (natural gas) to a plentiful one (coal) does not count as conservation if there is no improvement in efficiency of, or reduction of waste in, coal production and use.

B. Specific conservation efforts

1. Mass transit.—If we can terminate the American "love affair" with the automobile and get our citizens to use mass transit facilities, millions of barrels of oil can be saved.

Consequently, Congress has passed the Federal-Aid Highway Act of 1973, P.L. 93-87, which authorizes $22.9 billion over three years for mass transit systems.

Another measure, the Urban Mass Transportation Act, P.L. 93-503, provides a direct operating subsidy from the Federal Assistance Program for mass transit.

Also, the Energy Supply and Environmental Coordination Act, P.L. 93-319, requires the Secretary of Transportation to submit a plan for expanding and improving mass transit systems and encouraging increased ridership as alternatives to automobile travel.

2. Lowered speed limits.—Americans not only drive too much; they drive too fast.

To increase efficiency in the use of gasoline Congress enacted P.L. 93-239, which set a national speed limit of 55 miles per hour. The Department of Transportation estimates, given 1973 levels of consumption, that some 200,000 barrels of oil per day, i.e., 3 percent of the total amount of oil consumed on the nation's highways, could be saved if everyone obeyed the new speed limit. The savings in human lives is even more significant: between 1974 and 1976 there were approximately 10,000 less highway fatalities per year than there were in 1973, when 55,000 Americans died in traffic mishaps.

3. Automobile efficiency.—From 1969 to 1974, the newer the car, the lower the gasoline mileage it delivered. The sources of this frightening trend are obvious: more air conditioning, automatic transmissions, and other comfort features, plus emission controls required by air pollution legislation and additional weight.

With some hundred million cars on our roads today, each of them travelling an average of 10 to 12 thousand miles per year, changes in fuel economy of this magnitude have led to sharply increased rates of gasoline consumption.

These facts and figures prompted Congress to pass legislation requiring a minimum average fuel economy of:

18 miles per gallon for 1978 models,

19 miles per gallon for 1979 models,

20 miles per gallon for 1980 models,

and 27.5 miles per gallon for 1985 models and models for each subsequent year.

The Environmental Protection Agency will monitor compliance through its automobile emission-testing program. The relevant measure in this instance is the Energy Policy and Conservation Act, P.L. 94-163.

4. Appliance efficiency.—Currently, only 2.7 per cent of the nation's energy is consumed by home appliances, but nonetheless there is waste here to be trimmed.

Under P.L. 94-163, the measure just cited, the Federal Energy Administration will implement test procedures to determine exactly how much agency will establish targets for improved efficiency.

The Federal Trade Commission will initiate a program to label different home appliances with cost-of-use information.

5. State conservation programs.—Not all conservation efforts can be successfully directed from Washington, so Congress has authorized $150 million ($50 million in each of three years beginning in fiscal year 1976) to assist States in developing and administering energy conservation programs.

These programs will have as a target a 5% reduction in energy consumption by 1980 below levels projected for that time.

Congress identifies conservation measures to be implemented by the States, among them the formulation of lighting efficiency standards and energy efficiency requirements for new and remodelled buildings, but calls for administration of the programs at the State and local levels. Again, the relevant measure is P.L. 94-163.

6. Conservation by Federal agencies.—The Federal government is a major user of energy so Congress has mandated all Federal agencies to develop a 10-year plan for energy conservation.

P.L. 94-163 specifies that these plans should include lighting standards, restrictions on hours of operation, construction guidelines, thermostat settings and other conditions re-

lated to the operation of government buildings.

The energy savings that have already been achieved under these plans are gratifying and set a good example for the private sector.

7. Conservation in residential and commercial buildings.—Over ⅓ of the energy used in the United States is consumed in residential and commercial buildings, but according to most experts substantial reductions in energy use could be achieved in existing and future structures.

Adequate conservation could mean a potential saving of 1.1 million barrels of oil per day in future buildings.

The Energy Conservation and Production Act, Public Law 94–385, provides a strong program to encourage conservation in this area. Among its provisions are:

Performance standards for energy efficiency in new residential and commercial structures,

A $200 million grant to permit low-income persons to weatherize their homes,

A State-administered program to educate people as to the benefits of weatherizing their homes,

A $2 billion loan guarantee program to encourage investments in conservation technology by business enterprises, and

A $200 million demonstration program.

2. Deregulation of the Energy Industry

A second aspect of energy policy is reregulation.

Government regulation of industry is intended to promote the common good, but business conditions change and sometimes regulation fails to have its intended effect.

Let us consider a recent instance of regulation in the energy industry.

A. The two-tier oil price system

Most people would agree that the two-tier price system for oil in effect before December, 1975, was inadequate.

Old oil, defined as that extracted from fields in production before 1972 at levels not in excess of 1972 levels, was pegged at a price of $5.25 per barrel. New oil and oil from stripper wells (wells whose production was marginal) sold at the domestic free market price, approximately $13 per barrel in December, 1975.

It is not hard to see why this two-tier system was unacceptable: at a time when the United States needed increased production of domestic oil to offset reliance on foreign sources, the oil companies had an incentive to keep their old oil in the ground.

Congress responded by attempting to eliminate the punitive character of this price system.

B. Decontrol of oil prices

Under provisions of the already mentioned Energy Policy and Conservation Act, a composite price of $7.66 per barrel was set for all domestic production.

The President was allowed to set prices for the various categories of oil as long as the composite price remained within the statutory upper limit of $7.66 per barrel.

In addition to the establishment of the composite price, Public Law 94–163 created two bases for its upward adjustment:

A 3% per year production incentive for the development of high-cost and high-risk oil,

And an adjustment for inflation, up to 7% per year.

Furthermore, the act ordered all oil price controls to be lifted by April, 1979.

The subsequent enactment of the Energy Conservation and Production Act, P.L. 94–385, altered this scheme a bit. A flat 10 percent per year upward adjustment was provided, and oil from stripper wells was released from the composite price formula.

There is some evidence that the oil industry has responded to this partial deregulation. The number of domestic exploratory wells drilled in 1975 was 8,619, up from the 7,466 exploratory wells drilled in 1974.

Increased exploration at home holds the promise of reduced dependence on oil from abroad.

3. Research and Development of Alternative Energy Sources

A. Nuclear power

Proponents of nuclear power view it as an essential part of the national energy strategy, and President Ford has set a target of 200 operational nuclear power plants by 1985.

The nuclear power industry, with 53 plants now operational, has already committed over $100 million to production and has planned a major expansion.

Everyone agrees that the nuclear option offers the potential for meeting a significant part of our energy needs far into the future. It is clean, requires less land, and avoids many of the problems of fossil fuels.

Its development has been dogged by controversy, however, and Congress' policy is somewhat tentative.

The cause of this controversy is well known: Many people believe that nuclear power generation is a highly dangerous activity. While there are good arguments on both sides of the issue, it must be admitted that many problems remain unsolved. For example, how shall we prevent nuclear calamities resulting from equipment failure, natural disturbances such as storms and earthquakes, espionage, theft of nuclear materials, etc.? Or again, how shall we mitigate the environmental effects of thermal pollution, transportation and long-term storage of radioactive wastes, etc.? Though the solution to some of these problems is a purely technical matter, the solution to others involves important policy decisions. The Congress must face these decisions squarely.

The Atomic Energy Act of 1946, which established the Atomic Energy Commission, stands at the beginning of our nuclear development. This measure was amended in 1954, and again in 1957. The latter amendment, the so-called Price-Anderson Act, ensured participation of the private sector in nuclear development by providing nuclear liability insurance and indemnification above the amount of $560 million to nuclear energy licensees. The Price-Anderson Act has been twice extended, and will be in force until 1987. Though it is evident that Congress bears a limited commitment to the nuclear option, no one is about to force Congress' hand. The power to fashion nuclear-related legislation was recently taken from the Joint Committee on Atomic Energy, a strongly pro-nuclear enclave in the Congress. This move demonstrated a new attitude in the House on the matter of nuclear energy development.

Public demand for increased oversight and control of the nuclear power industry led to the Energy Reorganization Act of 1974, P.L. 93–438.

Under this measure the Atomic Energy Commission was abolished. Its research activities were transferred to the Energy Research and Development Administration and its regulatory functions to the Nuclear Regulatory Commission, two newly created agencies. They are currently charged with the management of our nuclear energy program. Without doubt we shall be hearing more of them in the days ahead.

B. Oil shale

Oil shale is an abundant but undeveloped energy resource the exploitation of which raises many unanswered questions.

For example, we want to know what role the Federal Government will play in its development, and what the environmental consequences of large-scale oil shale processing will be. We also want to see if the mining of oil shale can be made commercially attractive. With oil from processed shale currently costing $22 per barrel there is no incentive to produce it.

Oil shale holds the promise of a supplemental and secure supply of liquid petroleum and gas. Production could reach 50 to 200 thousand barrels per day by 1985. In the States of Colorado, Utah and Wyoming high-grade oil shale reserves contain the energy equivalent of 600 billion barrels of crude oil, nearly as much as the proven world reserves of crude oil. Moreover, underground and deep mining technologies may make possible the recovery of liquid petroleum and gas from much lower grade oil shale located in many parts of the United States.

The Federal Coal Leasing Amendments Act of 1976, P.L. 94–377, will aid the States in reducing the impact of oil shale development. P.L. 94–377 directs that 12.5 percent of all moneys received from sales, bonuses, royalties and rentals of public lands under its provisions be paid to the States for such purposes.

C. Solar power

Solar radiation represents a widely distributed and virtually inexhaustible energy resource. Its potential as a supplement to conventional energy sources is great, but unfortunately limitations in technology have not enabled us to tap that potential.

The management of the U.S. solar energy program is presently in the hands of the Energy Research and Development Administration. The agency estimates that solar power will meet 0.8% of the nation's energy demand by 1985, 7% by the year 2000, and a full 25% by the year 2020.

This contribution will be most noticeable in the areas of hot water heating, space heating, and the combined heating and cooling of buildings.

The Solar Energy Research, Development, and Demonstration Act, P.L. 93–473, provided the impetus for the establishment of a national solar energy program. It is the purpose of P.L. 93–473 to pursue a vigorous course of research and development in solar technology and to demonstrate the benefits of solar power to the public.

Also worthy of mention is the Solar Heating and Cooling Demonstration Act, P.L. 93–409. This measure expresses a commitment to the economic viability of solar heating and cooling for buildings, and establishes a program to demonstrate this viability by 1979.

The increase in funding for solar energy development has been dramatic. It has risen from $1.23 million in FY 1971 to $290.4 million in FY 1977. In spite of this increase, however, spending for solar energy development in the coming year will be a mere 8% of spending for nuclear energy development.

D. Geothermal power

Lately, there has been much interest in the practically untapped, natural geothermal energy resources of the United States.

Geothermal energy is that which can be extracted from the steam and hot water emitted from the earth in geysers and hot springs.

Experts tell us that the U.S. may be able to generate 20,000 to 30,000 megawatts of electricity from geothermal sources by 1985.

The U.S. Geological Survey estimates that as much as 1.8 million acres of land, mostly within the western ⅓ of the country, offer some promise for the development of these sources. The most attractive sites are on Federal or public lands, and are being made available for prospecting and development under the Geothermal Steam Act of 1970, P.L. 91–581.

Congressional interest in geothermal energy resources culminated in the Geothermal Energy Research, Development, and Demonstration Act 1974, P.L. 93-410. This measure placed an aggressive geothermal energy program under the jurisdiction of the Energy Research and Development Administration.

Funding for geothermal energy development has reached $54.7 million in FY 1977. This is a significant amount, but it is a mere 1½% of the amount to be spent for nuclear energy development in FY 1977.

E. Waste oil refining

Many people are surprised when they hear that over one billion gallons of waste lubricating oil are generated in the United States every year.

The major sources of this waste oil are automobiles (600 million gallons) and industrial and aviation operations (400 million gallons). A mere 10% of this quantity is re-refined, though 44% of its is burned as heavy fuel oil and 18% of it is used as road oil or asphalt. The reasons for this low proportion of re-refining include Federal disincentives for the re-refining industry, problems with the collection of waste oil, and technical problems in present waste oil re-fining processes.

In light of the environmental consequences of waste oil disposal and our energy shortage, Congress has moved to encourage increased re-refining of waste oil.

Sec. 383 of the Energy Policy and Conservation Act, P.L. 94–163,

Requires the National Bureau of Standards to develop test procedures for determining equivalency of re-refined oil with new oil, and

Mandates all federal officials to encourage Federal procurement of re-refined oil and to educate the public as to the merits of re-refined oil use.

The hope is that more re-refined oil will be consumed in the months and years ahead.

4. Increased Use of Publicly Held Energy Sources

There is another area of energy policy, i.e., the increased use of publicly held energy sources, that must be considered. Here two initiatives stand out:

Oil and gas development on the outer continental shelf and

Commercial exploitation of the naval petroleum reserves.

A. Oil and gas development on the outer continental shelf

Recent demand has increased for production of oil and gas from the sea floor adjoining the coasts of the United States.

There is particularly avid interest in offshore development along the Atlantic Coast, where the construction of deepwater ports and intensive exploratory activities are being considered. U.S. Geological Survey estimates put our total offshore recoverable reserves at 10 to 48 billion barrels of oil and 34 to 188 trillion cubic feet of gas, while National Petroleum Council estimates put the same totals at 71 billion barrels of oil and 400 trillion cubic feet of gas.

Despite these incredible potentials, only 3% of the U.S. continental shelf has been leased to developers. From this 3%, we obtain nearly 18% of our petroleum production and 15% of our gas production.

There is clearly room for great expansion here if nagging environmental problems can be overcome.

Congress has provided some impetus by passing P.L. 94–370, an amendment to the Coastal Zone Management Act of 1972, P.L. 94–370 established a Coastal Impact Fund to assist States affected by the development of offshore energy reserves, and authorized assistance for interstate coordination and planning, coastal research, protection of access to public beaches, and preservation of islands.

It is likely that there will be more and more leasing of offshore tracts in the future.

B. Naval petroleum reserves

The naval petroleum reserves are seven tracts of land in the Western United States whose deposits of oil and natural gas have generally been set aside for use by the U.S. Navy.

They attracted national attention in 1973 when President Nixon called for increased production at the Elk Hill reserve in California. In 1975 the Ford Administration repeated the call for more active exploration in and exploitation of the naval petroleum reserves.

Shortly thereafter Congress responded with P.L. 94–258, which authorized increased production at Elk Hills and transferred custody of the Alaskan reserve to the Department of the Interior.

There is some concern that commercial development of the naval petroleum reserves will weaken our military preparedness and thereby our defense posture. This concern is understandable, but energy use by the Department of Defense gives us a reason for optimism. In 1967 the Department of Defense consumed 8 percent of our total energy, but by 1975 it consumed a mere 3.5 percent. Such savings would seem to license limited exploitation of the naval petroleum reserves for commercial purposes.

5. Strategic Reserve

One of the provisions of the Energy Policy and Conservation Act of 1975 mandated the creation of a 150 million to 1 billion barrel strategic reserve of petroleum.

This reserve was to be created in two stages: (1) an early stage, to be completed by December, 1978 and to contain 150 million barrels of oil; (2) a final stage, to be completed by December, 1982 and to contain approximately 500 million barrels of oil. It was also stated that the United States should achieve a storage capacity of not less than 1 billion barrels.

The idea behind the reserve is simple: With such a huge quantity of oil on hand we could withstand a short-term embargo without appreciably reducing consumption. A long-term embargo would present further problems, but it is likely that any embargo lasting longer than a few months would have economically unacceptable consequences for oil exporters.

Another less obvious benefit of the reserve would be its stabilizing effect on world oil prices: with such a massive amount of readily salable oil on tap in the United States, oil exporters would be reluctant to raise prices too high for fear that we might respond by "dumping" oil on the world market at vastly reduced prices.

The strategic reserve is a good idea, but this idea is one whose implementation will require some time.

We do not yet have sufficient aboveground storage capacity for an additional 150 million barrels of oil, and we fall far short of our 1982 target. It has been suggested that the reserve be stored in empty salt domes or mines, but technical obstacles must first be overcome.

The reserve is growing very slowly for the moment. We cannot say when it will finally be in place. President Ford's recommendation that we begin a vigorous "early storage program" may take us a step closer to completion.

C. Policy to be implemented

The bits and pieces of policy that I have just described (and some others that I have had to omit) constitute the first steps of Congress toward a unified and comprehensive national energy policy.

Of course, there is so much more to be done. It is my hope that President-elect Jimmy Carter, a man who is very sensitive to our energy problem, will work hand-in-hand with Congress to do what needs to be done.

1. The Administration

Although Mr. Carter's position on specific energy issues is necessarily sketchy at this point, certain broad outlines of his preferences are emerging.

Like his predecessor, Mr. Carter has spoken out time and again against our growing dependence of foreign oil. The appointment of Dr. James Schlesinger as "energy czar" clearly reflects this attitude: Dr. Schlesinger is strongly committed to the view that large-scale dependence on foreign oil is both economically and politically indefensible.

Unlike his predecessor, however, Mr. Carter appears to be wholeheartedly behind efforts to crack down hard on energy waste and to preserve and protect the environment.

On conservation, Dr. Schlesinger has said that the first emphasis of the incoming administration will be the curtailment of growth in energy demand, and on the environment.

Mr. Carter himself has said that he "will go for beauty, clean air, water, and landscape" rather than allowing untrammeled energy development to take precedence.

In general, then, we can expect Mssrs. Carter and Schlesinger to promote energy development quickly but cautiously, with energy conservation always of primary concern.

In a few months time we shall have a much clearer picture of the Carter program. Some key executive decisions to watch for will be:

A. Nuclear power

Anticipated proposals to speed up licensing and site selection for nuclear power plants and to develop new "breeder reactor" technology will provide an early indication of the depth of Mr. Carter's commitment to the nuclear option.

His support for these proposals would make many environmentalists uncomfortable with him, while his opposition to them would set the nuclear power industry and the construction, machinery and electrical trades against him.

B. Alternate energy sources

Mr. Carter's response in the face of anticipated proposals to make federal grants, loans and loan guarantees available for the construction of pilot oil shale and coal conversion processing plants will reflect his attitude toward alternative sources of energy in general and synthetic fuels in particular.

There is evidence that his response will be positive but, in light of pressing economic problems, deliberate.

C. Solar power

Solar power may be on the verge of cost competitiveness with certain kinds of electric power.

A recent ERDA study conducted by the Mitre Corporation has shown that home heating systems powered by the sun are on an economic par with the well-known electrical baseboard systems in 12 of 13 major U.S. cities.

We can expect proposals for large increases in funding of solar power projects. Again Mr. Carter's response will be a sign of his dedication to alternative energy sources.

D. Conservation of energy and the substitution of coal for oil and gas

Here the choice is between compulsion and incentive.

Will Mr. Carter seek to prohibit new industrial facilities from burning oil by law, as Senator Jennings Randolph of West Virginia would do?

Will he ask Congress to strengthen auto efficiency standards and put penalties on individual gas-guzzling models?

Will he seek mandatory improvements in the energy efficiency of appliances and penalties for noncompliance?

Answers to these questions will tell us how Mr. Carter perceives the role of the Federal government in the area of energy policy. They will show us what form our national energy policy may very well take.

E. Federal energy reorganization

During his campaign for the Presidency Mr. Carter repeatedly expressed his belief that the energy agencies of the federal government were in hopeless disarray.

He cited many examples of overlap and duplication among such agencies as the Federal Power Commission, the Nuclear Regulatory Commission, the Energy Research and Development Administration, the Federal Energy Office, etc., and he maintained that this inefficiency could be eliminated if the agencies were consolidated into a single entity.

He promised to try to organize a Department of Energy in the Cabinet. The appointment of Dr. Schlesinger as "energy czar" gave him a strong administrator to put at the helm of the new department. Look for Mr. Carter to push for this reorganization early in his first term.

2. The Congress

What can we expect to see from the Congress? In my estimation there will be activity in at least three important areas of energy policy, as Congress searches for the appropriate "mix" of energy options.

A. Conservation

Congress has been right to insist on a firm commitment to the conservation of energy. I do not doubt that this commitment will remain firm.

A reasonable target for Congress would be to keep the annual rise in energy consumption down around 2 percent per year. This rate of increase would still require higher energy production, but it would be manageable and consistent with sound environmental practices.

The ways in which energy could be saved are almost limitless:

Smaller cars,

Less unnecessary lighting,

Doubling the number of passengers travelling in cars,

Colder homes in winter and warmer homes in summer,

Modernizing factories,

Improving mass transit systems,

Using waste heat to supply domestic hot water,

Recycling cans and paper, etc.

Legislation pertaining to any of these items would come as no surprise.

B. Deregulation of the energy industry

As concerns deregulation of the energy industry, look for a proposal to deregulate the price of natural gas.

Clearly, such a proposal would raise tough questions. Proponents of deregulation, including the producers of natural gas and many economists, contend that artificially low prices have resulted in a squandering of this resource and a lack of capital for new development. They also claim that deregulation would not increase prices for the consumer very much, in part because most gas would still be under contract at old prices.

Opponents of deregulation point out that the regulated price has almost doubled in the last few years, and they believe that such a doubling is all that should be allowed in an economy struggling to recover. They also argue that the industry is not a free market, and that therefore monopoly pricing would result from deregulation.

The natural gas pricing debate is complex, but there is room for accommodation and compromise.

One solution would be to deregulate permanently the price of new gas while leaving the price of old gas under controls, at least for residential customers. This compromise would shift the burden of the cost of more expensive new gas to industrial users.

But whether Congress opts for complete deregulation, partial deregulation of the sort just described, or continued controls, the outlook appears to be higher prices for the nation's most desired fuel.

C. Alternative Energy Sources

Congress also has a firm commitment to the development of alternative energy sources.

Its already described initiatives in the fields of nuclear power, oil shale, solar power, geothermal power and waste oil re-refining testify to this. Further policy advances in any or all of these fields are certainly possible.

Although I cannot predict exactly what will be done, some Members of Congress are studying truly "exotic" alternative energy sources. Among these sources are:

Fusion power (fusion is the process of hydrogen-to-helium conversion which occurs in stars)

Ocean-generated power (from both tides and thermal gradients),

The use of alcohol as a fuel to replace gasoline,

Power production from organic wastes, and

Magnetohydrodynamic power generation (a very efficient way of producing electricity by burning coal).

The use of hydrogen as a fuel.

The technologies necessary to make these exotic energy sources widely available do not yet exist, but their development is not beyond our means if we have the will.

III. THE ENERGY PROGNOSIS

I have spoken to you about the energy problem and the energy policy, but what can be said about the future? That is, what is the energy prognosis?

Let me sketch in a very cursory manner what the future must hold for us if we are to emerge from this crisis a whole and resilient nation.

A. The conservation of energy and the elimination of waste

It is mandatory that we pursue promptly and unflaggingly effective nationwide policies and programs to eliminate waste and inefficiency in all energy use.

We can no longer afford to squander our increasingly scarce and costly fuel resources, especially oil and natural gas—if we are to make substantial progress toward energy self-sufficiency. There simply are not enough of these precious fuels left.

While conservation is absolutely necessary, certain conservation practices are difficult and expensive to carry through in a rigorous way. There are practical limits to what conservation alone can accomplish, especially if we are to keep our economy in a healthy state.

Conservation practices must be accompanied by an equally serious commitment to develop our domestic energy resources. This development breaks down into two distinct time scales; the near-term and the long-term.

B. *Near-term development*

Even if the rate of growth in overall energy consumption were cut to half of the historical rate of approximately 4% per year, this nation would still need to undertake enormous numbers of new energy projects without delay.

These projects are necessary to provide minimum energy supplies for certain conservation efforts, a productive economy, and job opportunities for all Americans. Even if full-scale programs were launched today and were given the highest priority, it would take years to fulfill the energy requirements we already have.

In the near-term, therefore, we have no choice but to concentrate our greatest efforts on, and allot our major technology to, using those domestic energy sources which are available now.

In specific terms, we need to put more management, money and manpower into:

Developing our vast coal reserves,

Making nuclear power serve us more adequately and safely,

Increased exploration for oil and gas, especially on the continental shelf.

Experience demonstrates that we can do this without adversely affecting the environment.

C. Long-term development

In the long-term, government and the energy industry must continue to focus intensive research and development programs on the most promising of the various alternative energy sources.

Other less proven concepts, such as fusion power should be vigorously explored to determine their economic feasibility. If these less proven methods of energy production begin to show promise, they should be developed to the fullest possible extent.

Experience has shown that it will take many years, substantial financing and strong commitments of other resources before broad use of exotic sources can be achieved.

Consequently, it is imperative that we place our greatest emphasis on using the expertise and production capacity that we already possess.

D. Presidential leadership

The time has come for us to realize that we are in the midst of a grave energy crisis. The time has come for strong leadership and extensive planning in the area of energy. But no such leadership or planning has existed. One of the greatest failures of national leadership is the failure to convince the American people of the urgency of our energy problem.

Any consistent and effective program will be achieved only by strong Presidential leadership. Only the President can compromise or choose among competing views in the Executive branch. Only the President can persuade Congress and the public of the necessity of his proposals in the interest of the future security and for the benefit of all Americans.

UKRAINIAN INDEPENDENCE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. RODINO. Mr. Speaker, the people of Ukrainian descent are commemorating the date 59 years ago when they attempted to win freedom and become an independent nation.

Here in America, there are millions of citizens of Ukrainian descent. For them this is a time of sadness and of pride. They remember the terrible sacrifice of their former countrymen, but they also recall with pride the great courage and love of liberty that still lives in their homeland so far away.

Mr. Speaker, these men and women of Ukrainian descent also can be proud of the contribution they have made to America where their devotion to the cause of human rights has never wavered.

They have set an example for all of us, and because of them those who live under oppression anywhere are not forgotten. We who are fortunate to live in freedom must continue the struggle to insure that someday freedom and justice are won for those who now endure the tyranny imposed upon the Ukraine.

JULES AND LOUISE JUNKER CELEBRATE 50TH WEDDING ANNIVERSARY

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. LEDERER. Mr. Speaker, it is fitting that I honor Mr. and Mrs. Jules Junker on their 50th wedding anniversary.

For over 50 years, Jules Junker has made outstanding and selfless contributions to both his community and to Philadelphia. Because of his community services, we pause in the business of this House to pay him and his bride of 50 years honor and to record his many accomplishments before this august body.

Jules and Louise Junker were married on February 5, 1927, and have together prospered and raised a family over the last 50 years which is a credit to themselves and their love for each other. Their children range in age from 31 to 47 and they have 19 grandchildren. They have two sons, Jules, Jr., and Joseph, and four daughters, Mary Lou, Patricia, Emelya, who is deceased, and JoAnne.

Jules Junker is the product of a fine old Philadelphia family which settled there in the early 1800's and founded the famous Philadelphia bakery, Junker's Bakery. Mr. Junker attended Roman Catholic High School and graduated in 1924. After graduation, Mr. Junker worked for Junker's Bakery which merged in 1941 with Virnelson's to be one of the most prominent bakeries in the Delaware Valley. Jules Junker has been the catalyst for fund raising events with the Roman Catholic High School Alumni Association since the 1940's. Because of Mr. Junker's tireless efforts, the association has been responsible for the financial solvency of Roman Catholic High School. He originated the Cahill Field Enterprises which conducted an annual fair for improvements at the high school. Mr. Junker is honorary life president of the alumni association. He is also chairman of the Bakeryman and Dairymen's Health and Welfare Association.

Finally, Jules Junker, in the true Christian spirit, has made it possible for many young men and women of the Philadelphia community to receive an education. Because of his professional and personal philanthropic efforts in the education of our young, many good and decent men and women have gone on to serve the needs of the people of Philadelphia and the Nation.

I am honored to call Jules Junker my friend, and I am sure the people of Philadelphia and America are proud to pay honor to Jules and his wife who both most fittingly deserve the very best.

FINAL REPORT OF THE NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. STANTON. Mr. Speaker, as a member of the National Commission on Supplies and Shortages, I have the pleasure of presenting for the RECORD a copy of the Commission's press release which summarizes their final report, "Government and the Nation's Resources."

The National Commission on Supplies and Shortages was established in the wake of the Nation's oil supply problems. Unlike previous materials commissions, however, the National Commission on Supplies and Shortages was directed to examine not only the Nation's resource position, but more importantly, to propose institutional adjustments necessary to predict and forestall shortages of essential resources.

I encourage all Members of Congress, the next administration, and the business community to review the following release, especially the recommendations. These recommendations represent important steps toward removing needless resource shortages and bottlenecks within our economy. Following the release is a list of the Commission's members.

The report follows:

[From the National Commission on Supplies and Shortages]

SUPPLIES, SHORTAGES REPORT: COMMISSION URGES GOVERNMENT PREPAREDNESS FOR SHORTRUN SHOCKS TO U.S. ECONOMY

WASHINGTON, D.C., January 10.—Any significant materials shortages in this country over the next 25 years—"and probably for generations thereafter"—will not be due to resource exhaustion, but to short-run shocks to the economy.

And government must sharply upgrade its ability to deal with these shocks, lest its involvement in the economy be more harmful than helpful.

The bipartisan National Commission on Supplies and Shortages sets forth those views along with plans for such an upgrading in a 200-page report, *Government and the Nation's Resources*, released here today following more than a year of study.

The report has been transmitted to the President and the Congress by Dr. Donald B. Rice, president of The Rand Corporation, who chaired the commission of four Ford Administration officials, two Senators, two Congressmen and five private citizens.

Declaring that "the standard against which we have measured proposals is not whether they look good in theory, but whether they are likely to work in practice," the commission called for these institutional changes:

Major restructuring of the commodity-related data collection, data analysis and policy analysis activities of the Departments of Agriculture, Commerce and Interior.

A beefing-up of the Council of Economic Advisers' ability to conduct sectoral and industry analyses.

Replacement of some existing Executive Office staff with a unit in the Office of Management and Budget to monitor industries and sectors of the economy.

A substantial improvement in the government's ability to undertake long-range comprehensive policy planning.

Implementation of multi-year budgeting.

Restructuring of the Congress to permit more effective consideration of complex and interrelated policy issues.

The commission, while confining its institutional recommendations to existing agencies, said that creation of a Department of Energy and Natural Resources "would be sound and sensible and that the nation should move toward its eventual establishment."

But its recommendations for improvements within the Departments of Commerce and Interior "are intended as interim steps in this direction," the report says.

In treating policy issues, the commission urged:

Limited stockpiling of materials to protect the country against the impact of disruption in the flow of key imported raw materials and to deter threatened cartel actions by foreign materials producers.

United States leadership in negotiations to establish multilateral grain stockpiles.

Removal of the percentage depletion allowance for minerals.

Enactment of mandatory deposits on beverage containers, excise taxes on non-returnable containers, and product disposal charges on other consumer packaging and on paper.

Established in the aftermath of the 1973–74 shortages, the commission found that these shortages had little or nothing to do with any actual or potential deficiency of material within the earth's crust.

But the commission warns that the potential for similar shortages exists "from short-run shocks that produce shifts in demand or supply large and abrupt enough to exceed the immediate adjustment capabilities of the materials-producing and materials-using industries."

While some of those shifts are not fully understood and some are beyond human control, "a surprisingly high number of them are related, either directly or indirectly," the report says, "to the actions of government(s)."

In this connection, the commission noted the recent growth in U.S. government actions, often uncoordinated, affecting specific sectors of the economy.

The commission's report goes on to say that:

"The institutional and policy recommendations we have made are designed to increase the likelihood that our government does not inadvertently generate disruptions as a consequence of being unaware of the impact of its actions.

"They are also designed to improve our intelligence concerning possible disruptive actions by foreign governments so that these can either be deterred or their effects moderated."

What actually set off the 1973–74 shortages "was the worldwide surge in demand that began in 1972," the report says. "When supplies became tight in the United States, this country could not relieve the pinch, as it sometimes has done in the past, with relatively cheap imports."

"A shortage mentality" developed, the report says, adding that the term "in no way implies irrationality."

"If there are predictions that we are about to run out of resources, and if responsible government officials lend credibility to such talk," the report says, "it is only natural for businessmen to be apprehensive. And when they see a signal of impending scarcity—or believe they see it—they are bound to take steps to protect themselves, thereby producing a classic 'run on the bank.'"

"In such times," the commission advises, "it is essential that the government be aware of the true situation in key industries so

that the potential impacts of its actions or inactions can be fully foreseen."

In giving little credence to "doomsday" forecasts that the world is running out of resources, the commission pointed out that current estimates showing no more than 25 years' reserves remaining for several key materials are misleading.

These estimates "no more represent the ultimate stock of materials available than does the stock of food in a pantry represent the ultimate quantity available to a family," the report says.

Nevertheless, the commission warns against complacency:

"If population growth is not checked and if our energy supplies are not made more adequate and more secure, serious problems will eventually result. Issues such as these, not worries about the current quantity of raw materials in our 'pantry,' should occupy our attention."

The commission also attempts to put to rest the worry that we are becoming dangerously dependent on imported raw materials.

"Except for petroleum," the report says, "our dependence has increased only modestly." And it will continue gradual growth "unless we decide for environmental reasons to limit the growth of mineral production in this country or to increase our self-sufficiency through major government support programs"; the commission does not favor the latter policy.

"Rather than become overly worried about dependence," the commission goes on to say, "we should consider the issues recently raised by the Third World countries concerning the production and sale of raw materials and work with them toward viable solutions."

To protect ourselves against the effects of "actual or threatened supply disruptions," the commission observes that "limited economic stockpiles are an appropriate tool . . ."

However, the commission also recommends that "Congress explicitly prohibits the use of any public stockpile (of non-food materials) to subsidize a domestic industry or to influence domestic prices in the absence of an actual or threatened severe supply disruption."

In the case of grain, however, the commission recommends "that the United States actively promote international discussions leading to negotiation of a multilateral grain stockpiling agreement."

Noting that stable grain prices "are of greater benefit to grain consumers than to grain producers" because food prices often tend to follow fluctuations in cereal prices, the commission said grain stockpiling serves both as a price stabilizer and as a humanitarian hedge against famine.

In reviewing the international market picture, the commission found that "neither embargoes nor OPEC-like cartels of nonfuel minerals producers effectively threaten the American economy."

One way to quiet the concerns generated by import dependence, however, the commission says, "is to negotiate international rules covering export agreements. We believe that an international convention on export controls is a worthwhile negotiating objective."

At the same time the commission expressed its doubts that many more international commodity agreements can be successfully negotiated.

The commission finds that the government must restructure itself if it is to handle effectively the problems raised both by its decision to intervene much more actively in the day-to-day operation of the domestic economy and by the growing interdependence of major world economies.

Citing examples from its studies of the shortages of 1973–74, and observing that "uncoordinated ad hoc intervention often creates more problems, including shortages, than solutions," the commission says:

"Our evaluation of the current adequacy of government institutions led us to conclude that improvements are both warranted and feasible in several areas."

To improve the government's understanding of its impact on the economy, the commission recommends:

"Materials data collection, data analysis, and policy analysis capabilities must be strengthened at the departmental level and integrated with broader policy concerns.

"A sectoral analysis capability must be established within the Executive Office of the President.

"Finally, the amount of long-range, comprehensive policy planning must be increased" both within the government and by "tap(ping) the substantial capabilities of private sector institutions, and through experimentation with new institutional forms."

As an example of the latter, a commission-appointed advisory committee, whose report is being made public separately, has proposed creation of an independent organization within the executive branch—called the "National Growth and Development Commission"—to choose intermediate or long-range policy issues of national significance for comprehensive analysis.

In submitting the commission's report, Chairman Rice noted that where commissioners had not agreed with some of the recommendations, they had presented additional views appended to the report.

Commissioner Nat Weinberg filed an extensive statement on "indicative planning" which is summarized in the commission report and published in full as a supplementary document.

Serving on the commission with Chairman Rice were:

Sen. Bill Brock, R-Tenn.; Alan Greenspan, chairman of the Council of Economic Advisers; Hendrick S. Houthakker, professor of economics, Harvard University; George Kozmetsky, dean of the College of Business Administration and Graduate School of Business, University of Texas;

James T. Lynn, director, U.S. Office of Management and Budget; Rep. Thomas M. Rees, D–23rd Dist., Calif.; L. William Seidman, Assistant to the President for Economic Affairs; William E. Simon, Secretary of the Treasury (vice chairman); Rep. J. William Stanton, R–11th Dist., Ohio;

Philip H. Trezise, senior fellow, The Brookings Institution; Sen. John V. Tunney, D-Calif.; Nat Weinberg, director, special projects, United Auto Workers (retired).

The commission's staff was headed by Dr. George C. Eads as executive director.

INCREASED FUNDING FOR SOYBEAN NEMATODE NEEDED

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. FINDLEY. Mr. Speaker, the great American soybean is under attack. The culprit is not competition from other oilseed products but a soybean parasite, the cyst nematode. The attack justifies increased funding for research on the nematode by the Department of Agriculture. In fiscal year 1976, the Department of Agriculture spent approximately $183,000 on this work, but the problem remains. At stake is a $7 billion crop.

I am alarmed at the increasing evidence of northward movement of this soybean parasite. The infestation has the potential of decreasing yields by as much as 90 percent.

It is obvious that more resources must be put into research to curb this threat.

Because of the importance to the Nation's economy of soybeans, the development of new strains resistant to the cyst nematode is important to the well-being of every citizen.

The following is an estimate of crop losses from nematodes in 13 States by Inter-Agriculture, Inc., of Chicago. It emphasizes the need for increased research on the cyst nematode:

SOYBEAN LOSSES DUE TO NEMATODES (1975) [1]

	Total acres	Severely infested	Loss all acreage (millions)
Missouri (bootheel only)	1,700,000	1,000,000	$80
Arkansas	4,300,000	1,500,000	125
Florida	387,000	220,000	10
Kentucky	1,200,000	150,000	11
Louisiana	1,760,000	500,000	25
North Carolina	1,450,000	650,000	38
South Carolina	1,250,000	750,000	60
Virginia	430,000	75,000	8
Tennessee	1,600,000	300,000	20
Georgia	1,010,000	325,000	30
Mississippi	2,630,000	260,000	23
Oklahoma	237,000	25,000	4
Texas	275,000	30,000	5
Total			440

[1] Estimates gathered by Inter-Agriculture, Inc., Chicago Ill. Losses from all nematodes, not just soybean cyst nematode.

TESTIMONY OF HON. HELEN MEYNER

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. THOMPSON. Mr. Speaker, on January 13, 1977, our colleague, HELEN S. MEYNER, testified before the Subcommittee on Military Construction of the Senate Appropriations Committee in support of the appropriation of $7.3 million in reprograming funds for the establishment of the Armament Research and Development Command at Picatinny Arsenal in Dover, N.J. As the Congresswoman states in her testimony the establishment of ARRADCOM at Picatinny affects not only New Jersey, but our entire national defense effort. The financial and organizational efficiency that the consolidation would bring should serve as a prototype for future savings in the defense budget. Helen Meyner has done an admirable job in presenting the arguments for the reprograming funds in a clear and concise manner. Her statement is worthy of review by those persons seeking a credible discussion of the issue. I hope that Mrs. Meyner's testimony will be of interest to my colleagues:

TESTIMONY OF HON. HELEN MEYNER

Mr. Chairman and Members of the Subcommittee: I want to thank you very much for the opportunity to testify before you today on a matter of vital importance to both the people of New Jersey and the nation, and to our nation's defense effort. I am here to urge you to approve the Army's request to reprogram, under authority of

Sec. 102, P.L. 92-107, seven million, three hundred thousand dollars for the purpose of construction and modification of facilities for the establishment of its Armament Research and Development Command—also known as ARRADCOM—at Picatinny Arsenal in Dover, New Jersey.

And, I want to tell you why you should approve this request.

Gentlemen, the history of developments that bring us here today is long. The ARRADCOM proposal is not—I repeat, it is not—a proposal conceived in impulse and the result of slipshod decision-making.

It goes back over a period of four years. Current plans are the result of exhaustive study by two blue-ribbon panels established by the Army, and have received the endorsement of all relevant executive agencies. They comply with the desire on the part of the incoming Carter Administration to reduce unnecessary military expenditures. They reflect a concept which I for one wholly support. What we need is not more military spending, but more efficient military spending.

Four years ago, the Defense Department ordered all of its branches to study ways and means of economizing. In the Army, this prompted the creation of the Army Material Acquisition and Review Council, or AMARC.

AMARC studied different Army commands, looking for ways to cut back on costs, to streamline operations and to make the delivery of its services more efficient.

In studying the Armament Command, AMARC concluded early in 1975, that it was necessary to consolidate certain research, development and engineering functions within the Armament Command. The Army suggested a number of alternatives for doing this, and then asked for the input of Congressional delegations affected by its proposals.

Several months later, the entire New Jersey Congressional Delegation submitted a report in behalf of what was then known as Alternative 5-A, a proposal to consolidate large and small caliber weapons systems at Picatinny, and to make it the new command headquarters. Chemical systems and ballistics research were to be consolidated at Edgewood Arsenal, Aberdeen, Maryland.

I would like, at this point, to insert into the record this report. In essence, the New Jersey delegation report supported the arguments of the Army's own study of the needs and benefits of the Armament Command.

If nothing were done, the Army pointed out, the existing arrangement of operations and personnel allowed for overlapping of functions and fragmented production capability. For instance, it was pointed out that the manufacture of a 155 millimeter Howitzer Cannon required six operations at five military installations scattered across the country.

Briefly, let me touch in some salient points.

First: The great bulk of the development work under ARRADCOM is already performed at Picatinny Arsenal. More than 43 percent of the armament development budget currently is allocated to Picatinny. More than 41 percent of the armament development personnel are now at Picatinny. It would be simply illogical to move them to another location.

Furthermore, many people have already made commitments, bought houses and changed schools for their children. Consideration of the families involved is in order. Any delay in receiving the reprogramming funds would not only affect 5,000 employees at Picatinny, but also 2,300 at Frankford and 600 people at Rock Island.

Second: Picatinny Arsenal has a history of successful performance. Picatinny was once a forge that produced cannnon shot for George Washington's troops when they were stationed at Morristown, New Jersey. It became a full-fledged military installation in 1880, and has since grown to become an integral part of what Franklin Roosevelt described during World War II as the "arsenal of democracy." Its employees are responsible for numerous weapons developments and patents, for innovative management techniques and for a computer system so sophisticated that installations throughout the country now tie into it to solve complex engineering problems.

Third: The location of related functions at Picatinny reinforces efficiency and allows for greater work force flexibility. Splitting up large and small-calibre weapons systems, or returning to the old, overlapping and inefficient ways of dealing with these systems inhibits the constant flow and availability of technical information and professional communication. This is underscored in the AMARC report of 1975.

Fourth: A very important consideration . . . COST. Given the mandate to cut back, streamline and make Army operations more efficient, the plan to locate ARRADCOM and the two weapons systems at Picatinny involves the least movement of personnel, the most efficient application of the Army's budget, and the greatest short and long-term savings possible. The data clearly supports this conclusion. But there is one added note, gentlemen. The cost of re-tooling Picatinny, closing it down or dedicating it for some other use would be enormous.

Parts of the 10 square miles of Picatinny serve as a repository for ballistic "waste." To remove this so-called waste and make the tion of the economic impact of any other functions involves a cost that would involve millions of dollars.

Finally, Mr. Chairman, there is the question of the economic impact of any other decision but the one the Army has chosen to implement on the greater Picatinny community. During this nation's military involvement in Indochina, over 9,000 persons were employed at Picatinny. That figure now hovers around 5,000. Without ARRADCOM, attrition would drive the figure down further. With any other decision but the one the Army has taken, the impact on the greater Picatinny community would be devastating to the economy of northern New Jersey. In April, 1975, the New Jersey Department of Labor and Industry prepared a report outlining the consequences of the Army's decision and the importance of Picatinny to New Jersey's economy. I would like, at this point, to submit a copy of the report.

The evidence clearly supported the Army's decision in December 1975 to establish ARRADCOM at Picatinny. To do otherwise would have been a contradiction of the logic of three years of work and study.

And, when the Army announced its plans to seek approval for its reprogramming request, your companion subcommittee in the other body of Congress did indeed grant its approval. During consideration in the House, I submitted several items that I believe are worth the attention of this body. They are:

The New Jersey Congressional Delegation letter urging approval of the $7.3 million reprogramming funding.

A response to allegations that other Arsenal personnel are unwilling to move to Picatinny.

A letter from Mr. J. Richard Hall of the National Federation of Federal Employees.

Gentleman, we are too far along the course of developments to turn back now. Already, an ARRADCOM advance team is on the scene at Picatinny. And, contrary to what you may hear elsewhere today, surveys at the other installations affected by the Army's decision have shown that many would enjoy, indeed prefer, relocating at Picatinny.

The Army's budget is geared to an operational ARRADCOM by the end of this month.

The Army needs your approval in order to comply with budget regulations. It needs your approval to proceed with a plan already four years in the making.

Let me add this one note: Those who seek to halt or delay this reprogramming funding are, ironically, adding to the waste and inefficiency that we all seek to avoid.

Rejection of this $7.3 million request will not halt the development of ARRADCOM, nor will it ensure that other arsenals remain open.

The Army, with the approval of Congress and the Executive Branch has made its decision. Stopping or delaying reprogramming funds to Picatinny Arsenal in Dover would mean that the consolidation would still proceed, but with inadequate financial support. The resulting confusion and inefficiency would be bad for the American taxpayer, bad for national defense, and bad for the soldier in the field.

As I have said before, the Army made the decision over a year ago to locate the Armament Research and Development Command at Picatinny Arsenal. Rejection of these funds would result only in a sloppy reorganization. Those who make this demand may be misleading their constituencies to believe that somehow someday, this action would help save their local arsenals. It will not.

Rather, to turn aside the Army's request would be to pull the linchpin from a carefully constructed proposal requiring smooth implementation and turn it into shambles.

And, finally, Mr. Chairman and members of the subcommittee, our national defense effort needs your approval of this request if our nation is indeed going to be successful in the attempt to reorganize the Army's Armament Development capability so it will function at a greater level of efficiency and a lesser cost to our defense budget. It is time to get on with the unfinished business of providing adequate funds for the ARRADCOM consolidation.

Mr. Chairman, I thank you for your attention, and I welcome the opportunity to be of further assistance in this matter, if I can. I would refer your questions of a technical nature to General Ben Lewis, Commander of the Armament Research and Development Command.

HOW DO WE FACE THOSE WHO SERVED?

HON. DOUG BARNARD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. BARNARD. Mr. Speaker, I was deeply disappointed in President Carter's decision to pardon Vietnam-era draft evaders. Col. George Day, who won the Medal of Honor for his conduct as a prisoner of war in Vietnam, best sums up the case against blanket pardons and amnesty when he asks:

> If there is no reward for loyal service or sanctions against those who disobey selective service laws, how can we expect high standards of performance in future military conflicts?

Indeed, when one considers Colonel Day's question, it is difficult to imagine how we will face those who made tremendous personal sacrifices in obeying the orders to battle in Vietnam

H.R. 1—THE FINANCIAL DISCLOSURE ACT

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. KASTENMEIER. Mr. Speaker, more than 120 Members have now cosponsored H.R. 1, the Financial Disclosure Act which Congressman TOM RAILSBACK and I introduced on the opening day of this new Congress. Public financial disclosure by high level Government officials is urgently needed, and I trust this legislation will be the subject of congressional consideration early in this session.

Mr. Speaker, the list of our colleagues who have cosponsored the Financial Disclosure Act follows:

Glenn Anderson, California.
John Anderson, Illinois.
Thomas Ashley, Ohio.
Les AuCoin, Oregon.
Herman Badillo, New York.
L. A. Bafalis, Florida.
Alvin Baldus, Wisconsin.
Max Baucus, Montana.
Jonathan Bingham, New York.
James Blanchard, Michigan.
Michael Blouin, Iowa.
Richard Bolling, Missouri.
David Bonior, Michigan.
Don Bonker, Washington.
David Bowen, Mississippi.
William Brodhead, Michigan.
Clair Burgener, California.
Yvonne Burke, California.
John Burton, California.
Phillip Burton, California.
Bob Carr, Michigan.
Shirley Chisholm, New York.
Thad Cochran, Mississippi.
William Cohen, Maine.
John Conyers, Michigan.
James Corman, California.
Robert Cornell, Wisconsin.
Ronald Dellums, California.
Charles Diggs, Michigan.
Christopher Dodd, Connecticut.
Thomas Downey, New York.
Robert Drinan, Massachusetts.
Robert Edgar, Pennsylvania.
Don Edwards, California.
Jack Edwards, Alabama.
David Emery, Maine.
John Erlenborn, Illinois.
David Evans, Indiana.
Dante Fascell, Florida.
Millicent Fenwick, New Jersey.
Paul Findley, Illinois.
Hamilton Fish, New York.
Harold Ford, Tennesseee.
Donald Fraser, Minnesota.
Benjamin Gilman, New York.
Willis Gradison, Ohio.
John Hammerschmidt, Arkansas.
Mark Hannaford, California.
Tom Harkin, Iowa.
Michael Harrington, Massachusetts.
Cecil Heftel, Hawaii.
Jack Hightower, Texas.
Elwood Hillis, Indiana.
James Howard, New Jersey.
William Hughes, New Jersey.
James Jeffords, Vermont.
John Jenrette, South Carolina.
Robert Kastenmeier, Wisconsin.
Martha Keys, Kansas.
Edward Koch, New York.
Peter Kostmayer, Pennsylvania.
John Krebs, California.
William Lehman, Florida.
Norman Lent, New York.
Jim Lloyd, California.
Stanley Lundine, New York.
Mike McCormack, Washington.
Matthew McHugh, New York.
Edward Madigan, Illinois.
Andrew Maguire, New Jersey.
Edward Markey, Massachusetts.
James Martin, North Carolina.
Romano Mazzoli, Kentucky.
Lloyd Meeds, Washington.
Ralph Metcalfe, Illinois.
Helen Meyner, New Jersey.
Barbara Mikulski, Maryland.
Abner Mikva, Illinois.
George Miller, California.
Norman Mineta, California.
Joe Moakley, Massachusetts.
Anthony Moffett, Connecticut.
Ronald Mottl, Ohio.
Austin Murphy, Pennsylvania.
Stephen Neal, North Carolina.
Robert Nix, Pennsylvania.
Richard Nolan, Minnesota.
James Oberstar, Minnesota.
Richard Ottinger, New York.
Leon Panetta, California.
Edward Pattison, New York.
Donald Pease, Ohio.
Joel Pritchard, Washington.
Carl Pursell, Michigan.
Albert Quie, Minnesota.
Tom Railsback, Illinois.
Charles Rangel, New York.
Henry Reuss, Wisconsin.
Frederick Richmond, New York.
Matthew Rinaldo, New Jersey.
Robert Roe, New Jersey.
Benjamin Rosenthal, New York.
Edward Roybal, California.
Jim Santini, Nevada.
James Scheuer, New York
John Seiberling, Ohio.
Philip Sharp, Indiana.
Paul Simon, Illinois.
Gladys Spellman, Maryland.
Fortney Stark, California.
William Steiger, Wisconsin.
Gerry Studds, Massachusetts.
Charles Thone, Nebraska.
Bob Traxler, Michigan.
Paul Trible, Virginia.
Morris Udall, Arizona.
Charles Vanik, Ohio.
Harold Volkmer, Missouri.
Robert Walker, Pennsylvania.
Henry Waxman, California.
James Weaver, Oregon.
Theodore Weiss, New York.
Charles Wilson, Texas.
Larry Winn, Kansas.
Timothy Wirth, Colorado.
Lester Wolff, New York.
Antonio Borja Won Pat, Guam.
Clement Zablocki, Wisconsin.

AMNESTY

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. KETCHUM. Mr. Speaker, I had promised myself that I would make every effort not to be critical of our new President regardless of the motivation until he had had the opportunity to fully warm the seat in the oval office. However, his very first official act after having assumed the Presidency is one I consider so appalling that I must break that resolution.

I cannot sit silently by, leaving my views unspoken on the issue of Mr. Carter's "full, complete, and unconditional" pardon of Vietnam-era draft evaders.

Two and one-half hours following his inauguration, our new President has fulfilled a promise which, to my way of thinking, establishes an ominous precedent. What is to occur in the years to come if, God forbid, we should find ourselves engaged in another conflict? Will not those young men who elect to ignore their Nation's mandate feel perfectly free to thumb their noses and refuse to serve? The prevailing attitude can only be one of "So what, I'll be pardoned."

I consider President Carter's action offensive to the memory of all those who gave their lives in Vietnam; to those who spent so many years as prisoners of war; to those who remain unaccounted for even today. As a veteran of two wars, as a man with three nephews and a son who served readily during the Vietnam era, and as an individual who has always been proud to call myself an American, I am insulted, embarrassed, offended, and outraged.

I repeat that I fought the impulse to criticize very strongly, but silence refused to prevail. I can only say that our President's premier action rates a zero in my book, and I regret that I must now explain it to my constituency.

THE RELEASE OF ABU DAOUD

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. GLICKMAN. Mr. Speaker, I appreciate the opportunity for discussion provided by the gentleman from New York (Mr. WEISS) regarding the release by French authorities of the accused terrorist, Abu Daoud.

In my mind, the issue at hand is far greater than the release of this one man. It relates to the preservation of international sanity in the face of terroristic actions which jeopardize the lives of innocent persons.

This world cannot countenance the actions of international criminals who commit atrocities to others, no matter what alleged ends are sought to be justified.

The cavalier release of terrorists only adds fuel to the fire of those who believe that international morality is nonexistent. This entire episode is dramatic evidence that an international treaty, with sufficient teeth to make terrorism a nonpalatable activity and sufficient incentive to spur all nations to join, should be a top priority of the Carter administration.

EDITORIAL TRIBUTE TO JIMMY CARTER AND GERALD FORD APPEARING IN AUFBAU

HON. THEODORE S. WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. WEISS. Mr. Speaker, I would like to bring to the attention of my colleagues and our constituents a moving and eloquent editorial written in English by Mr. Hans Steinitz who is editor of Aufbau—a German-language newspaper which is published in New York City.

In this distinguished literary comment, Mr. Steinitz elucidates the nature of the transfer of office from President Ford to President-elect Carter—the sense of expectation and loss as a new leader takes office and another leader steps down.

I highly recommend this article to Members of Congress and their constituents:

[November 12, 1976]

GOODBYE, MR. FORD, AND GODSPEED!

(By Hans Steinitz)

DEAR MR. PRESIDENT: I want to pay my honest respects and express my candid admiration for what you did and what you stand for, and I believe the time to do so is now, as you are preparing to leave the White House and return home to Grand Rapids. I sincerely feel that you have been the right man at the right time in the right position; and I agree completely with what Vicepresident Nelson Rockefeller said about you just a few days ago: "As President, you took us out of a period of crisis, disillusionment and discouragement." That's right: when the man who held the highest office of the land before you, and who had soiled and disgraced it, had eventually to quit, this country needed desperately a man of honesty and integrity: a straightforward man without malice and falsehood. You were that man, you restored respect to the Oval Office, and I, for one, started to breathe easier.

Yet, Mr. President, I voted against you last week, and I am happy that my man won. I voted for him, in spite of some hesitation in the early days of the campaign, for quite a number of reasons. One, because the Democratic Party has a great tradition of being the haven for the immigrants from abroad, opening to them the gates to the mainstream of America and leading them into the great community of the American family, and I always try to be loyal to that party. Second: because whenever a Conservative and a Liberal (or in this case I ought to say: a Populist) face each other, everything else being equal, my heart beats for the Liberal. Three: because your opponent had picked a much better man as his running mate than you had; his Number Two man is one of the brightest stars in the country and a man with a great future, while yours did nothing but out-agnew Spiro Agnew. For me, he did not measure up to my standards.

Still, my decision to vote for your opponent did not come easily. Because, you see, Mr. President, I like you as fellow-pipe-smoker and a fellow-skiing enthusiast, I like you as an exemplary family man and a man of integrity, and I was happy to see how, in Kansas City, you carried the day over that second-rate right-wing actor from Hollywood. I was also very happy when you stood up for Secretary Kissinger—at a time when it was fashionable to pour dirt on him. Pity you had to run on a Republican platform which contained an anti-Kissinger plank; but at least, you played that down and did not throw your Secretary of State to the howling wolves. All that deserved recognition, and I am not going to withhold that from you.

On the other hand, Mr. President, there were moments when you made it hard for me to go on liking you. That was when you pardoned your predecessor in office in an uncalled-for hurry; or when you vetoed dozens of bills which I thought were useful measures of social commitment, or, again, when you picked your running mate. Also in the TV debates you proved to be a masterful guardian of the people's purse, always insisting on saving money and reducing taxes, with a wealth of figures and statistics you quoted out of your head; while your opponent insisted on human needs and human tragedies and human aspirations and human problems all over the country. You were full of facts and figures and tax receipts; he was full of warmth and compassion and heart. Thus, I made up my mind to vote for a warm heart, and against a computer.

But now, I like you again, more than ever. You showed genuine greatness when you conceded defeat and wished the winner well; when you offered him your assistance and support and when you expressed the hope that our wounds be healed and our country be firmly led forward. Your attitude in defeat showed greatness and statesmanship and dignity and decency and the rest of it, and I want to tell you, Mr. President, that I am profoundly grateful for that. You showed in defeat the impressive greatness of American democracy; you proved that there is no better system of government than the one that is built on fairness and respect. In defeat you confirmed once more to me (and others) how truly proud we may be to belong to this country, and what a blessing it is to have been granted American citizenship.

You assumed the reins of leadership in greatness, and you turn them over in equal greatness. In between I may often have had reason to shake my head; but now, Mr. President, in saying Goodbye, I wish you Godspeed, and I mean it with all the sincerity at my command.

VOTING REPRESENTATION FOR THE DISTRICT OF COLUMBIA

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. McKINNEY. Mr. Speaker, one of the fundamental principles on which our country was founded was the principle of "no taxation without representation." As our country commences its third century we can look proudly at the adoption of constitutional amendments providing the franchise to the Nation's blacks, women, and youth. Unfortunately there is still one group that is denied the right to elect voting representatives in the Congress. It is a national disgrace that here in the Nation's Capital the citizens are denied the fundamental right of no taxation without representation. The citizens of the District of Columbia pay the same taxes as do all other citizens of the United States, but unlike all other citizens of the United States, they have no say in what those taxes will be or how they will be spent.

Both political parties included in their platforms a statement in support of voting representation for the citizens of the District of Columbia. Therefore, I am hopeful that the 95th Congress will act expeditiously to pass the constitutional amendment which I am introducing today and that the requisite number of States will quickly ratify it.

LET US RATIONALIZE OUR REGULATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, on January 19, I introduced legislation which, if enacted, would require the preparation of economic impact statements regarding proposed rules and regulations of all Federal departments and agencies. The intent of the legislation is to have these agencies measure the effect their rules and regulations have upon prices and employment in our economy.

The need for this legislation is made even more obvious when it is realized that 11,000 new regulations were proposed last year alone. In a recent article, Sylvia Porter pointed out that mere completion of the forms requires 130.5 million work-hours annually.

Because of the pertinence of her analysis of the need to consider the economic impact of Government regulation, I would like to share her comments with my colleagues:

LET US RATIONALIZE OUR REGULATION

(By Sylvia Porter)

Item: Deaths by swallowing aspirin among children under 5 have been reduced 58 percent in the two years since the Consumer Product Safety Commission has required child-resistant closures for aspirin products.

This regulation is clearly saving precious lives as well as countless millions of dollars in unnecessary physicians' fees and hospital costs.

Item: To protect workers from accidents, the Occupational Safety and Health Administration (OSHA) now requires all vehicles at construction sites to be equipped with an audio-alarm signal, such as a buzzer or horn.

But to protect the hearing of those same workers from noise-related injury, the government agency also requires workers endangered by the vehicles to wear earplugs. These regulations just as clearly are working at cross-purposes.

Are you getting tangible benefits for the dollars you invest, as a taxpayer, in government regulations? Do the regulations work?

The answers to the questions (and others of similar type) are yes, no, and maybe.

A primary goal of President-elect Carter as soon as he takes over the White House will be a thorough probe of our regulatory agencies on the premise that they can be effectively reorganized and streamlined for the benefit of all of us.

And for good reasons, indeed. Since the first federal regulatory agency (the Interstate Commerce Commission) was established in 1887, agencies have been piled on top of each other with what often seems to be wanton disregard for costs and logic.

Roughly 25,000 federal regulations were issued in 1974 alone! Every year, 5,146 different federal reporting forms are distributed.

Completing these forms (not including tax reports) absorbs about 130.5 million workhours annually. Involved in this task are an almost incredible 74,000 federal employes.

Who pays for this regulatory apparatus? You and I, of course. We finance the federal government's part as taxpayers—and the costs here are estimated at more than $3 billion a year. And we pay as consumers via higher prices of products and services we buy.

Whether or not business could absorb the costs of compliance, the acknowledged fact is that it doesn't.

General Motors, for instance, calculates its compliance costs at a whopping $1.3 billion annually—a cost inevitably passed on to us in the form of higher-priced cars and trucks.

As merely one illustration of the unseen impact the federal regulations may have on prices we pay for products apparently far removed, consider how a minor regulation affecting a steel mill can ultimately increase the price of clothes you buy.

First, the cost to the steel company of a modification in a steel mill will be passed on to direct buyers of the steel.

Second, if the steel is used, say, in the construction of delivery trucks, the cost will show up in the price of the trucks and trucking services.

Third, if the clothes you buy are shipped in one of those trucks, the cost will show up in the prices of those clothes.

Federal expenditures plus the costs of compliance add up to an estimated $60 million to $300 billion annually.

"We are on the verge of what amounts to a regulatory crisis," emphasizes James L. Hayes, president of the American Management Association, a not-for-profit organization that conducts worldwide management training programs for public and private sector executives.

"It's a nightmare for all concerned, especially for the consumer, because the consumer pays for the regulation."

It had come down to this, I suspect—even though, as Hayes notes, "the benefits of many regulations far outweight their costs."

Thus, even before Carter, as President, can act, the association is sponsoring its First National Forum on Business, Government and the Public interest in Washington, starting tomorrow and running through Dec. 3.

The objective is to begin a dialog aimed at meaningful regulatory reform. Attending the conference will be representatives of government, business and consumers, who are often adversaries; prominent participants will range from Ralph Nader to John Byington, chairman of the CPSC, to Cornell Maier, president of Kaiser Aluminum & Chemical Corp.

If you want more facts about this attempt at promoting understanding among conflicting forces, contact the American Management Association at 135 West 50th St., N.Y., N.Y. 10020 (212) 586-8100.

FREE ANATOLY SHARANSKY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. LEHMAN. Mr. Speaker, the Jews of the Soviet Union have been waging a long and hard struggle for human freedom and dignity while trapped in the Soviet police state.

Soviet officials use many cruel tactics including the separation of families in their drive to stamp out such dissent.

I recently learned of one of the saddest incidents of separation, involving Anatoly and Natalia Sharansky of Moscow.

After only one day of marriage, Natalia was given permission to leave the Soviet Union. If she did not leave immediately, without her husband, she would never be allowed to leave.

Natalia has been waiting in Israel for 2 years for Anatoly, who is still not allowed to leave. Back in Russia, Anatoly has spent more than 100 days in prison during the last 2 years, just because he applied for an exit visa.

Now we have news that Natalia has decided to return to be with her husband in the Soviet Union rather than endure what may be an endless separation. Natalia Sharansky would return to be with the man she loves in a country which despises them both.

The Soviets must not be allowed to win their evil game. I join with freedom-loving men and women throughout the world in calling upon the Soviet Government to free Anatoly Sharansky.

The story of Anatoly and Natalia Sharansky follows:

THEY GOT MARRIED BECAUSE THEY WERE IN LOVE AND SEPARATED BECAUSE THEY WERE JEWISH

On July 4, 1974, Anatoly and Natalia Sharansky were married in a traditional Jewish ceremony in Moscow.

On July 5, the honeymoon was over.

Because it was on that day that Natalia Sharansky left the Soviet Union after receiving an ultimatum from the government. She had to leave the country then. Or never be allowed to leave it again.

Anatoly wasn't allowed to leave. And still hasn't been.

Despite the fact that leaving a country is a right every individual has under The Universal Declaration on Human Rights.

What's worse is that ever since applying for a visa, Anatoly has been continually harassed by the secret police (KGB). And over the last two years, has spent more than 100 days in jail. In fact, Anatoly was recently thrown in jail again simply for asking Soviet officials why he's never been allowed to leave.

Natalia Sharansky's life hasn't been a bed of roses either.

She's spent the last two years in Israel trying to establish some type of contact with her husband. Living every day with thoughts about his well-being, wondering if he's even alive and if she'll ever see him again.

This dreaded existence has finally driven Natalia Sharansky to apply for a visa that will allow her to return to the Soviet Union to visit her husband. The toughest decision she's ever had to make.

Between leaving the country she's grown to love in search of the man who is her whole life.

And returning to the country that's ruined it.

I would like to see Anatoly Sharansky released from the Soviet Union and reunited with his wife in Israel. To help:

I am writing a personal appeal to Ambassador Anatoly Dobrynin, Soviet Embassy, 1125 16th St. N.W., Washington, D.C. 20036, to permit Anatoly Sharansky to emigrate to Israel.

I am enclosing a $——— contribution (tax deductible) so this advertisement can be run again.

(Please make checks payable to National Conference on Soviet Jewry, Suite 1075, 11 W. 42nd St., New York, N.Y. 10036.)

I would like more information concerning Soviet Jewry. (Send coupon to National Conference on Soviet Jewry, Suite 1075, 11 W. 42nd St., New York, N.Y. 10036.)

Name _____

Address _____

City _____

State _____ Zip _____

This advertisement made possible through the support of friends of the Sharanskys, National Conference on Soviet Jewry, Greater New York Conference on Soviet Jewry, Student Struggle for Soviet Jewry, and Union of Councils for Soviet Jews which are dedicated to protecting the religious, cultural and human rights of Soviet Jews.

Please post.

LIFTING EARNING LIMITS FOR SOCIAL SECURITY RECIPIENTS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. RAHALL. Mr. Speaker, I am cosponsoring legislation to remove the ceiling on outside earnings of social security recipients because I find the Federal Government laws are discriminatory and must be abolished.

At present the law restricts outside earnings for social security recipients to $3,000. Every dollar earned above this limit is taxed at the confiscatory rate of 50 percent. In other words, for every dollar earned over $3,000, a recipient forfeits 50 cents in social security income.

The law discriminates against the elderly by discouraging social security recipients, most of whom are over 60, from working. And it discriminates against the poor, who might otherwise try to boost their earnings after retirement, since retirees with substantial earnings or sizable investments do not lose their social security benefits.

By placing a limit on the amount of money a recipient can earn, we are defeating the original intent of our social security system, to supplement a retiree's income.

And finally, with our high rate of inflation, it is impractical and unfair to maintain any kind of limit on the earnings of social security recipients.

Mr. Speaker, I urge my colleagues to strongly support this legislation so that it may give our senior citizens the break that is needed and deserved. The senior citizen has contributed greatly to America's greatness.

JOBS AND INFLATION: CARTER'S CHOICES

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. WIRTH. Mr. Speaker, the formulation of sound economic policy requires an awareness of the structural problems existing in an economy of our magnitude.

With the change of administrations, a new and healthy focus is being placed on these problems, which tend to inhibit the thrust toward full-employment and a stable level of prices for the goods we purchase.

I am inserting the following interview, published in Sunday's Washington Post, with the new Chairman of the Council Economic Advisers, Charles Schultze, which reflects a concern over this fundamental problem:

JOBS AND INFLATION: CARTER'S CHOICES

(By C. Robert Zelnick)

As an economist at the Brookings Institution, you contributed to several annual editions of "Setting National Priorities." As the chairman of President Carter's Council of Economic Advisers, you will have a considerable voice in the actual setting of national priorities. What are the economic priorities of the Carter administration over the next four years?

Clearly, the first and most immediate one is to get the national economy back on the track of a sustained recovery in which the rate of unemployment can steadily be pushed down toward a more reasonable level, and at the same time doing this in a way which does not reignite inflationary pressures. That's the number one priority: jobs and getting jobs in a way which avoids inflation and keeps the recovery going.

You've used the term "reasonable level" and I guess that would apply both to employment and inflation. What are the realistic targets in both these areas?

Well, I think you have to define your employment target in two parts. First, by the standard tools of overall economic policy, such as tax reduction, specific governmental expenditure programs, monetary policy and the like, it's possible to stimulate the general economy, creating more markets, more demand for labor and thereby generally pushing down the rate of unemployment to somewhere in the 5 to 5½ per cent range through these general tools.

The unemployment that remains when the overall unemployment rate has been pushed down to that level is heavily what economists call "structural" unemployment. That is, it is highly concentrated among particular groups—young people, minorities, and also to some extent concentrated in particular areas of the country. To get unemployment lower than that 5 or 5½ per cent then requires various kinds of pinpointed programs for training, for matching the unemployed with specific jobs, all sorts of things pinpointed on the remaining groups of the unemployed.

That doesn't mean you wait until the unemployment rate is down to 5 to 5½ per cent before you begin these pinpointed measures. They can go along simultaneously. We have to try a number of different pinpointed measures, selecting ultimately the ones that appear to be working best and concentrating our efforts there. I don't think we ought to set our sights on an unambitious number and then stop there. I think that what we really must do is to keep trying, to keep improving and modifying programs, to do the best conceivable job we can, in which case the unemployment rate can be pushed down significantly below that 5 to 5½ per cent.

What about inflation? What, in your view, is an acceptable rate?

I don't think you start by saying there is any one acceptable rate. At the present time, there are two kinds of problems you have to face with respect to inflation. The present rate of inflation, with some variations month to month, is somewhere in the 5 to 6 per cent range. It has nothing whatsoever to do with an overheated economy or too much money chasing too few goods. It's sheer inertia and momentum. That is, wages and fringe benefits are going up at about 7½ to 8 per cent a year because prices in the past have been going up so much and workers are trying to catch up. Conversely, with wages going up at that rate, prices then go up, which pushes wages up again and so on and so forth. It is sheer momentum. It's very difficult to crack that momentum, but that's what we have to work on. The second problem is to design a responsible steady recovery which doesn't reignite inflation so that it goes back up above the current level.

Therefore, there are two different things to work on. First, during the next several years, while clearly there are no major demand pressures in the economy, we ought to try to get that momentum inflation edged down, and secondly, we must avoid the resurgence of inflation as the economy moves back up into prosperity again. Here is where there is a link between the pinpointed measures to reduce unemployment and the prevention of inflation. That is, if we can match jobs and workers better, then we can get the unemployment rate down further without running into very tight labor markets which tend to bid up wages and prices.

Why is this rate of what you call structural unemployment—minorities, women, young people—so much higher than it used to be in this country?

I can't pretend I know the full answer to that, but there are some very obvious things. In the first place, the proportion in the labor force of young people and of women is much higher than it used to be. Take the case of young people. In the normal course of events, young people are likely to change jobs more frequently. In the normal course of events, many women—for various reasons—are in and out of the labor force. Their unemployment rates, for that reason alone, tend to be somewhat higher than for those who have a long-time—10, 20, 30-year—attachment to a particular job. As a consequence, the simple change in the population structure, the change in the structure of the labor force, with a much larger proportion of young people and women than used to be the case, tends to lead to a higher unemployment rate.

Secondly, some of the highest unemployment rates are in the central cities, and particularly the older, large central cities where jobs are not being created. In other words, the jobs are not being created where the highest unemployment problem exists. The jobs are being created elsewhere. Both of these things have tended to lead to a higher structural rate of unemployment than we had 10, 20 years ago. The huge disadvantages of growing up in a poor neighborhood in an inner city make it harder for people who have done so to get good, steady jobs.

The 1955 federal budget was $68.5 billion. This year it's going to be well over $400 billion, with a projected deficit larger than the entire 1955 budget. As a percentage of the gross national product, the federal budget went from 18.4 per cent in 1955 to about 22.4 per cent this year. In view, do these figures support the political rhetoric of the past eight years about a federal government running virtually out of control?

No, I don't think they do. In the first place, the ratio of federal expenditures to GNP has a numerator and a denominator. Federal expenditures are the numerator and the GNP is the denominator. And we have just been through, and have not yet recovered from, the worst recession in 40 years, in which the GNP denominator has been pushed down. That ratio of federal spending to a depressed GNP has partly risen not because of the rise in federal expenditures but because of the decline in GNP.

Also, as recession occurs, federal spending for unemployment compensation rises temporarily. For these reasons, a recession -and particularly a long recession -pushes the ratio of federal spending to GNP up above its "true" long-term level. If you look at the ratio of federal expenditures to the long-term trend in GNP—in other words, making an adjustment for the recession—then you find the growth in the share of GNP going to federal expenditures has been much more moderate, from something a little over 18 per cent 20 years ago to something in the neighborhood of 20 per cent now. That's a rise, but a very small one.

Then the inflation of 1973-74 which reached double digits was, in your view, not a product of enormous federal expenditures?

That's right. I think if you look at the reasons for that big upsurge in inflation, you can break it down into a number of causes. A small part of it may have been an excessive rise in governmental expenditures or an excessive deficit in late 1972 and early 1973. But the biggest things that happened were the quadrupling of world oil prices, the large rise in farm and food prices during 1972 and '73 because of world crop shortages and the Russian purchases, a world-wide boom which drove up raw material prices all over the world very rapidly, the ending of price controls and finally, on top of that, a very small component of the inflationary upsurge being due to the old classical excessive demand stimulated by too much government activity.

So you feel the $15 billion or so package of economic stimulus that the Carter administration announced two weeks ago will not trigger another inflationary spiral?

With an unemployment rate edging 8 per cent, with only 80 per cent of industrial capactiy used, with a large gap between what we're actually producing and our capacity to produce, clearly it should not. With so many people unemployed, a faster pace of output and hiring won't run into labor shortages and won't force employers to bid against each other for scarce labor. With so much idle plant capacity, widespread bottlenecks and shortages won't crop up.

Assuming that the recent OPEC price rise levels out at about 5 per cent, is this going to be a contributing factor to U.S. inflation?

Well, on a mechanical calculation, a 5 per cent increase in imported oil prices means something in the neighborhood of perhaps one-tenth to two-tenths of 1 per cent additional cost and, therefore, price push. And this is clearly not an important inflationary factor. On the other hand, you know every little bit hurts and, both from the point of view of the world economy I think it is very helpful and also hopeful that the increase is probably going to be held to 5 per cent rather than the 10 per cent that a number of OPEC members wanted.

Isn't this type of inflation that we're now in, which you've described as "momentum" or "inertia" inflation, the type that most lends itself to what economists call an "incomes policy" and what laymen think of as

wage-price controls, guidelines, or at least jawboning?

I think one ought to make a big distinction between controls and jawboning. First, it is indeed true that this is precisely the kind of situation which lends itself to some form of national incomes policy in which the government tries to get from business and labor simultaneously the kind of wage and price behavior which moderates the spiral. Let me put it another way: If wages are going up, say 8 per cent, and with some productivity and efficiency growth, prices going up somewhat less—say 6 per cent—both business and labor would lose nothing and, in fact, both would gain if instead of going up at 8 and 6, they went up at 6 and 4. But neither party wants to take the first step, and nobody can blame them.

What methods are you now discussing to harness this tendency of the concentrated industries and big unions to steeply raise prices and wages?

Well, this is precisely the sort of thing we are just beginning. We've got to think our way through. And it's too early at this stage to say exactly what the results of that thinking will be. I think that any kind of an incomes policy must have several components.

One, it should not and cannot encompass formal wage and price controls, nor should it somehow be tied to one or two simple numerical guidelines that everybody's supposed to follow rigidly. Nor can it be laid down unilaterally by the government. Somehow—and I realize the word "somehow" covers a lot of territory—any attempt along these lines has to meet several criteria. Those who are going to be affected by it must participate in the process of drawing it up. There must be some participation, some give and take.

Secondly, it has to be fairly flexible. We are not in a period of zero inflation trying to devise guiding principles for voluntary behavior to prevent inflation from going from 0 to 1 or 2 per cent. We're in the midst of an ongoing inflation which has left different groups in different positions. Some have done better than others, and hence, one must allow for—in any kind of general principles—things like catch-up on the part of some groups of workers. There are some areas of business which have done quite well in terms of profit margins and there are others which haven't.

A former colleague of yours at Brookings, George Perry, has suggested three sorts of approaches. One is tax incentives for workers who keep their wage demands reasonably modest. A second is tax rebates for workers whose wage boosts fail to keep pace with inflation. And a third involves tax penalties for employers who yield to unreasonable wage demands.

I'm not sure I'm prepared to comment terribly definitively about any of those. Really, you can think of it in two ways rather than the three. First, there is the explicit tax suggested by some economists on wage increases above a certain level. When you begin to think through the difficulties of doing something like this through the tax code, the problems are very great. In addition, it's hard to take into account, in that kind of a program, the complexities I mentioned earlier of not starting from an even base, where everybody's on an even line. You've got all sorts of inequities and everything else which you have to allow for and that kind of a program couldn't do it. The other approach is simply to recognize that tax reductions can be looked at as the equivalent of real wage increases and hence be a consideration in whatever discussions and whatever general principles are laid down in terms of appropriate wage and price behavior. I think, therefore, you have to distinguish between mechanical sorts of approaches on the one hand and taking into account the impact of taxes on real wages as part of an overall set of guiding principles.

The figure of 5 to 5½ per cent unemployment which you said earlier you can achieve through standard fiscal and monetary measures hides a great deal of social and human misery: declining cities, inadequate medical care; stunted educational experiences, delinquency, crime, the job problems of teenagers, women and minorities. After the Carter Administration gets through priming the economic pump, how much money will really be left over for dealing with these problems in the next four years?

In the first place, insofar as one is going after that structural unemployment by measures which deal directly with the labor force—training, matching the skills with job vacancies, trying to induce employers to give career jobs to the disadvantaged—those sorts of measures—the problem in my judgment is not so much the money. These are not huge money costs. It is a problem of designing the right programs and managing them well. And this is something to which Secretary of Labor [F. Ray] Marshall is turning his attention as a matter of top priority. So in that area my judgment is that it isn't so much money that's the central problem, it's getting the right programs and managing them well.

With respect to the fundamental social problems, quite apart from the labor market itself, of central cities, housing and the like, then there is indeed a problem of very careful management and very careful program design because as you look down the road three to four years there are funds available but they are by no means unlimited. The amounts are what I guess I would call moderate and hence one has to go forward with a very careful selection of priorities and careful design and careful program management in order to try to do the things that need to be done within the limits of the resources available.

If you're going to keep federal expenditures at about the level of 20 per cent of the gross national product, and, second, if you're going to have even a modest increase in real military spending, isn't there virtually nothing left over, as you wrote in "Setting National Priorities," for these new types of programs?

I didn't remember that I wrote there was virtually nothing left over. I think I wrote that, if one looks at the revenues yielded by the current tax laws, that by the fiscal year 1981, those revenues, compared with a continuation of existing spending programs, would yield, in a high-employment economy, a margin of available resources. The tax revenues from current laws in a high-level economy would be larger than the cost of continuing existing programs by an amount sufficient to yield a moderate chunk of resources in the $40 to $50 billion neighborhood for new programs or for some tax reduction and reform. The current economic stimulus package provides for a long-run tax cut in the neighborhood of $6 billion. So $6 billion will no longer be available.

On the other hand, most of the expenditure programs for public service employment and public works which are in the proposed economic stimulus program of President Carter are temporary and will phase out as the economy recovers to high levels. Hence they do not fundamentally cut into that margin of resources. So there is a margin left. The point is, it's not a large margin and it has to be used very carefully

Is it accurate to conclude that what we're really talking about, at least during the next four years, is a delay in returning to the social goals of the 1960, the Great Society period?

No, I don't see any reason for that. As a matter of fact, it is not that society doesn't have the resources to move ahead and do those things. Indeed, it is precisely in a time of recession, with a lot of unemployed resources, that you can afford to move faster than you otherwise would, paradoxically enough. So the point is not the speed with which one can move toward these objectives, like welfare reform.

I think you have to go back and look at that another way What you want to do is to have programs, some of which, at least, if they can be designed and carefully prepared in time, can move ahead from an economic standpoint fairly quickly It's a management design problem and not an economic problem. The economic constraint is that those programs, taken all together, should not, by the time the economy is back to full employment, be so large in the aggregate as to more than use up the fiscal resources which will then be available.

Let me say this another way: During the period in which the economy is recovering, well designed long-range programs can go in and be launched. They don't have to wait for 1980 and '81. What is essential is that you look ahead to the cost that those programs will impose on the budget in 1980 and '81. In the aggregate, they should not over-exhaust what we'll have available then, but that doesn't mean they can't be started soon, if they can be designed well.

Can we look forward then to a major welfare reform proposal from the Carter administration during this first term?

Oh, surely.

Can we look forward to a national health insurance program—mandatory, all-inclusive—during the first Carter term?

Well, I don't want to describe the outcome of the health insurance deliberations, so I don't know what kind of program it's going to be in that sense. But again, it seems to me there is no reason that one cannot design, work with the Congress and other groups to launch a health insurance program in the first term. No reason at all. Now, one may indeed, after deliberation, come up with a program which phases in gradually in a number of steps, for all sorts of reasons. But it seems to me clear that one can move ahead in that kind of way: you don't have to wait for the second term to do that.

GOVERNMENT ECONOMY AND SPENDING REFORM ACT

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. RAHALL. Mr. Speaker, I rise in strong support and sponsorship of H.R. 85, the Government Economy and Spending Reform Act.

This bill has been referred to as zero-base budgeting and sunset legislation. The central concept is a simple one to insure that each and every Government spending program is fully reviewed at regular intervals, so that waste can be cut and duplication avoided. Every Federal program that delivers services to the American citizens would be subject to a full review every 5 years.

The review of a program is to include:

First. Questioning and identifying the original goals of the program;

Second. Determining to what extent those goals are being achieved;

Third. Looking at the performance and cost of the program over the previous 4 fiscal years;

Fourth. Assession the program's staff costs, the paperwork it generates, the number of people it serves, and so forth; and

Fifth. Aanalyzing the effect of reducing the funding level.

Mr. Speaker it is my opinion that H.R. 85 will result in some hard questions about spending programs.

I urge my colleagues to support this sunset legislation for zero-based budgeting.

GEORGE HANSEN 1—OSHA-CRATS 0

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. SYMMS. Mr. Speaker, in the interests of limited government, more specifically limited OSHA, the advocates have struck another blow. I am speaking of my colleague from Idaho, Mr. HANSEN. Through his efforts, we are now one step closer to the future control of the evergrowing, mammoth OSHA bureaucracy.

In the State of Idaho, for example, OSHA has, in my estimation, overextended its constitutional prerogative. The only catch, is that now they have been ordered by an Idaho court decision to halt their actions of search, seizure and conviction which had long continued seemingly out of control.

The following is a reprint of an article that appeared in the Caldwell-News-Tribune of January 6, 1977. I highly recommend this article for consideration by my colleagues; I would hope that Congress carefully follows the future developments concerning OSHA:

GEORGE HANSEN 1, OSHACRATS 0

(By George Hansen)

"We sure bombed 'em."

Thus spoke Congressman George Hansen when asked his reaction to a court decision which bars the Occupational Safety and Health Act from doing its thing in the state of Idaho.

Hansen, who has taken plenty of abuse the past few years from organized labor and a couple of Idaho newspapers called the decision "one of the bigger thrills I've had in Congress."

The Pocatello man said he has been attacking OSHA on all fronts in Washington during his time in Congress. "You always hope that your efforts are successful or you wouldn't try. I've tried fighting this thing through the Executive Branch, the Legislative Branch and the Judicial Branch. Finally, I got somewhere."

Hansen is known as Congress' foremost opponent of OSHA and its searches without warrants, trials without juries and so forth. And in the end, it was the court that found OSHA to be just what Hansen has been saying it is for several years—an illegal and unconstitutional invasion of privacy.

OSHA can do whatever it wants—search, seize, fine, convict, etc., outside the scope of the law. OSHA is judge, jury and executioner. It is the closest thing to the Gestapo and the SS that this country has ever seen.

Why did Hansen's court fight prevail when other efforts didn't? "George Meany virtually owns Congress," according to Hansen. "His money has elected a lot of people and some in Congress didn't want to offend him and take on OSHA."

Despite that reluctance, Hansen can point to a couple of victories in Congress against OSHA. "We have had some measured success in Congress," said Hansen, who is chairman of an ad hoc committee created to do battle with the federal agency.

"We gained some concessions for the farmer and the small businessman which got OSHA off their backs some. But George Meany's influence in Congress was just too much to overcome. So we had to go through the courts and hope our argument about the unconstitutionality of OSHA and its tactics would succeed."

Obviously it did succeed with the biggest success coming here in Idaho where the entire OSHA program was, in essence, booted out of the state.

But there were lesser victories leading up to the crowning moment in Idaho, according to Hansen. "We won some court battles in Texas, Ohio and New Mexico but not to the same degree as in Idaho where the whole act was ruled invalid.

"In the other states, for example, the courts ruled that searching a business for violations without a warrant was illegal but the courts said it was okay with a warrant."

The Idaho decision differed from the others, noted Hansen, "in that the ruling nullified the entire act because of the unconstitutional means used to enforce it."

OSHA, of course, plans to appeal the decision. And Hansen doesn't plan on rolling over and playing dead now that he has won a major victory. Already he has introduced a resolution in Congress asking that OSHA be wiped out based on the decision by the courts in Idaho.

"We are demanding equal justice for all," said Hansen. "If OSHA can't operate in Idaho then it shouldn't be allowed to operate in any other state either."

Hansen said the "OSHA decision makes being a congressman worthwhile. There was a lot of toes stepped on to get this decision and believe me, I know firsthand the consequences you can suffer when you step on some of those big toes. But it is great fun to win a battle like this."

Hansen said reaction in Congress has ranged from "amazement and delight to chagrin." Some of the losers are really trying to deal in emotional overkill. They are saying that if OSHA dies all types of inspections will die.

"That just isn't so. This decision won't have hearings on things like fire inspections and general inspections. What this decision does to stop OSHA and its unconstitutional tactics from operating."

Though Hansen is happy to accept congratulations for his work in fighting OSHA, he is quick to point out that it took some other people to make it happen.

"When it was decided to pursue this thing through the courts we had a hard time finding legal counsel willing to handle the case. We really needed a Perry Mason-type lawyer and we got it finally. And some of that help came from some Boise attorneys. They deserve to be congratulated."

The lawyers in the case went to bat for Pocatello businessman Bill Barlow who employs 35 men in his plant. "It is a great tribute to Bill Barlow for standing up and fighting this thing. He refused to let OSHA inspectors in his business because he said it violated the fourth amendment which forbids unreasonable searches.

"He lost at the district court level but one year to the day later he won retribution from a higher court. Barlow knew this would cost him money and time and that he might have to go to jail but the freedom ideal was important enough to him to stand up and fight."

The OSHA question will no doubt come determination. Hansen thinks his side will before the U.S. Supreme Court for a final win there too but, in the meantime, George has a big smile on his face that only the Supreme Court can alter.

TASK FORCE ON THE NEW YORK CITY CRISIS: MEDICAID

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. BINGHAM. Mr. Speaker, yesterday, and Monday I placed in the CONGRESSIONAL RECORD reports on certain root causes of New York City's financial crisis prepared by the Task Force on the New York City Crisis made up of the heads of 18 major city volunteer human service agencies. As I mentioned in my previous remarks the task force reports are the result of a study of the city's and State's proposed financial plans to close budget gaps by cutting back on services, payments and eligibility levels under Federal-State public assistance and welfare programs. Believing that all governments should consider the "human impact" of their actions, the task force determined such cuts were unacceptable in terms of human cost and offered alternative suggestions for effecting savings in these programs through administrative reform and more equitable cost-sharing arrangements among the three levels of government involved.

The final task force paper I am inserting in the RECORD concerns medicaid, which was enacted by Coungress in 1966 and is the only means the poor have for obtaining health care. Its costs are shared by the Federal, State and sometimes local governments under plans approved by the Federal Government. As we all are painfully aware, health care costs for both the public and private sectors have been skyrocketing over the last few years. Cost control efforts by Government and private insurance companies have met with little success. This situation has resulted in cries for major structural reform in the delivery of health care to the poor and the public at large through a system of national health insurance, a program which I strongly support. But this kind of major change will take thought and time. Meanwhile, States and cities like New York need additional help from the Federal Government to meet their health care commitments to the poor mandated and encouraged by Federal law. This help should be both financial and administrative in form. The task force believes that substantial savings in medicaid costs can be realized in the not too distant future by tuning up the multilevel medicaid administrative system into a more efficient, and accountable service delivery mechanism.

The present system actually encourages medicaid fraud and abuse which are costing New York State alone an estimated $1 million a day, and New York City about $70 million annually. Until ad-

ministrative reforms can be made, more equitable cost-sharing arrangements of the medicaid financial burden should be enacted. As my colleagues consider changes in the medicaid program during this Congress, I hope they will keep the following portion of the task force report in mind:

EXCERPT FROM THE TASK FORCE POSITION STATEMENT ON MEDICAID ELIGIBILITY AND SERVICE LEVELS

Alternatives to Cuts in Medicaid Eligibility and Service Levels: Shifting Costs Now Inequitably Borne by New York City to Higher Levels of Government.

Like public assistance, Medicaid is funded through a combination of federal, state and local financial contributions that place an unfair burden on New York City and other counties throughout New York State.

The current federal reimbursement formula for Medicaid discriminates against states like New York, because the state's ability to pay for the cost of medical services to the poor is determined exclusively by its per capita income in relation to a national average. The formula does not take into consideration geographical variations in the cost of living, number of recipients, or local economic conditions, favoring states with low per capita income and minimal welfare payments. As a result, many of these states benefit from a reimbursement rate of 70% or over, while New York State receives only 50%.

New York State, in turn, compels New York City to satisfy one-quarter of the total Medicaid funding burden for its recipients. No other city in the nation bears proportionate or absolute costs of such high magnitude. Were the federal and state arrangements for financing Medicaid made more equitable, New York City and other localities throughout the state would save millions of dollars, and the tax levy portion of the local budget now set aside for Medicaid could be greatly reduced or redirected to fund other services.

The members of the Task Force on the New York City Crisis maintain that both the fiscal needs of government and the health care requirements of citizens can be met effectively and equitably by preserving the current eligibility and service levels for the Medicaid program while moving expeditiously to implement [administrative] recommendations outlined in this paper. The Task Force invites other groups and individuals with similar convictions to join in developing the broad-based support essential to the achievement of these objectives.

RANGEL URGES SUPPORT OF HOUSE RESOLUTION 77

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. RANGEL. Mr. Speaker, on Wednesday, January 5, 1977, my colleague from New York, the chairman of the Select Committee on Narcotics Abuse and Control, Mr. WOLFF, introduced House Resolution 77.

This resolution reconstituted the Select Committee on Narcotics Abuse and Control. I would like to thank my colleagues in the House who voted in favor of this resolution.

I have served on this committee since its conception and know its existence to be necessary in today's society.

Being the Representative from Harlem, the largest narcotic-prone community in the United States, my constituents are constantly plagued by the problems of narcotics abuse and control.

During the past year, the Select Committee on Narcotics Abuse and Control authorized me to hold hearings in New York City on its problems in enforcing the narcotics laws.

As a result of this hearing and the efforts of community leaders, the New York Police Department initiated "Operation Drug" which has resulted in over 1,521 arrests since late November 1976.

Had the Select Committee on Narcotics Abuse and Control not had these hearings this kind of action would never have occurred.

With results like this, I feel my colleagues should be commended on reconstituting this exceptionally effective committee.

SUPPORTS PAY ADJUSTMENTS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. MAZZOLI. Mr. Speaker, former President Ford submitted to Congress a recommendation that high-level Government officials—to include Members of Congress—receive substantial pay increases.

Mr. Ford recommended these pay increases with the express stipulation that they be tied to a firm commitment that each branch of Government submit to a strict code of personal and official ethics.

One could gain the impression from all this that Congress is only now coming to grips with its ethics problem and only then in connection with a salary increase. That is a wrong impression.

During the 6 years I have served in the House, there has already been much progress made in upgrading the professional as well as the personal conduct of Members of Congress.

The death grip of seniority has been loosened, all votes are recorded and open to public scrutiny, all committee meetings, and even the sensitive caucuses, are largely open to the world.

A strong and effective law was adopted requiring strict accounting, disclosure, and reporting of all election finances.

In 1976, in the wake of the Wayne Hays scandal, former Speaker Albert established the Committee on Administrative Review—called the Obey Committee after its chairman—to make recommendations for tightening the procedures whereby House Members handle and account for their office expenses and staff salary allowances.

And, just recently, Speaker O'NEILL urged the Obey Commission to recommend House rule changes which would, after adoption, be implemented by legislation issuing from an ad hoc committee to be chaired by Representative PREYER of North Carolina.

So, the subject of congressional ethics existed long before the subject of pay increases for Members of Congress came up. And, it is a separate subject entirely.

As I see it, the matters before Congress are divisible: First, establishment of adequate compensation for the executive and judicial branch; second, establishment of adequate compensation for the legislative branch; and third, establishment of a strict, comprehensive code of official conduct for all three branches of Government.

As to the first question, I support pay increases for high-level executive and judicial branch employees. The last pay increases these employees received—with the exception of a 5-percent adjustment in 1975—was in 1969. To attract and retain employees of high competence and talent, a substantial pay increase—of the magnitude suggested by Mr. Ford—is indicated.

And, as to the second question, my inclination is to support a pay increase for Members of Congress. We also—except for the 5-percent adjustment—have not received any salary increase since 1969.

Pay adjustments are a particularly important matter to Members who, like myself, abandoned outside business activities upon election to Congress and who have growing families to educate.

However, I am convinced that we Members have the duty to vote for a salary increase in full public view—and not have the question decided, as is presently the law, automatically upon the expiration of 30 days following receipt of Mr. Ford's pay increase proposals.

I am in the process of preparing legislation which will: First, sever Members of Congress from other Federal employees in pay raise questions; and second, will require a recorded vote before any congressional pay increase could become effective.

With respect to the question of the strict code of ethics, my record and my actions stand as concrete evidence of my commitment toward the adoption of such a code—regardless of whether or not the pay raise becomes effective.

I have made voluntary financial disclosures since coming to the Congress. I have voted to reform the laws governing lobbying and to establish public financing of congressional campaigns.

I support a ban—or a sharp limitation—on the amount of outside income a Member of Congress may earn as well as action to bar office "slush" funds and to set new rules governing foreign and domestic travel by Members of the House and Senate.

So, whether or not a pay raise comes to pass, my commitment to support an effective ethics package is on the record.

But, once again, I believe the questions of pay raises for Members of Congress and adoption of a code of congressional ethics are divisible and should not be coupled.

UKRAINIAN INDEPENDENCE DAY

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. MINISH. Mr. Speaker, January 22 marked the auspicious occasion of the 59th anniversary of Ukrainian Independ-

ence Day. I feel it is fitting to pay tribute to all freedom loving Ukrainian people both here and abroad.

Their love of freedom and national self-consciousness is an example to behold as we here in the United States end our own year-long celebration of independence.

However, the Ukrainians no longer enjoy their freedom as we do. They suffer under the repressive policies of the Soviet Union. Clearly, however, this oppression has not caused them to lose their heroic nationalistic spirit.

A person who exemplifies this noble spirit is Valentyn Moroz, the Ukrainian historian, who is presently imprisoned in the Soviet Union on charges of anti-Soviet agitation. This man has shown undaunted courage as the spokesman for the cultural integrity of the Ukrainian people.

I am confident that the Soviet Union's unscrupulous attempts to destroy Ukrainian culture will not succeed, becase the Ukrainians are adamant in their brave efforts to liberate themselves.

Americans, fortunate in their guaranteed freedom, must find empathy in their hearts to appreciate the nature of the Ukrainian struggle and join with me in the hope that these people will once again enjoy the taste of freedom's richness.

AID FOR SCHOOL-AGE MOTHERS

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. COHEN. Mr. Speaker, today I have reintroduced a bill with Mr. MAZZOLI and Mr. PREYER which is designed to reduce the problems associated with the growing number of adolescent pregnancies. Our legislation seeks to strengthen family life by encouraging the provision and coordination of comprehensive health, education, psychological, and other social services to adolescent parents and their children.

Hearings held last year disclosed that increasingly large numbers of teenage girls become pregnant each year. These young girls must, for the most part, resign themselves to a bleak future, or choose the alternative of abortion.

Despite the fact that only two-thirds of all mothers aged 19 or under elect to carry their babies to term, this is the only group in our society in which the number of births shows a continuing increase. According to the National Center for Health Statistics, over 600,000 babies were born to teenage girls in 1973. One of every five births that year was to a teenager.

A significant part of the overall problem is the large percentage of these births which are illegitimate. In my own State, according to the latest statistics, approximately half of the illegitimate births were to teenage mothers. This however, does not take into account the number of pregnant girls who marry before the birth of their child. While the strains on the unwed mothers are very great, we must recognize also the nature of the strains imposed by early marriage. A full two-thirds of school-aged marriages end in divorce within the first 5 years. Lacking education and committed to the care of their own children, it is no wonder that the birth of their child begins a cycle of dependency on public welfare for many of these girls. At this crucial point, counseling on family planning, vocational counseling to encourage the mother to remain in school and to prepare herself for a useful career, and personal counseling to further enable her to come to grips with her situation and to find a place in society will all help the young mother and her child enter society as useful citizens. Bills providing alternatives to abortion have been passed in a number of State legislatures, indicating constituent interest in services in these areas. For example, the Maine State Legislature has passed a bill requiring health insurance plans to provide maternity benefits regardless of marital status.

From a health standpoint, it is well known that the younger the mother the more likely the child is to be born prematurely, thus underweight and subject to a wide variety of health and other social disadvantages. The National Foundation-March of Dimes Annual Report for 1974 states that "low birth weight is the underlying or contributing cause of half the deaths of U.S. infants." Without additional help from other competent agencies, both the mother and the child will remain disadvantaged, imposing additional burdens on society which in the long run will prove more costly than the provisions of timely help at the very beginning.

It is obvious that it will not be sufficient to attack only one or a few of these problems which recognize no economic, social or geographic boundaries. Rather, a solution to the more general and growing problem requires coordination of the array of health and social services that are all directed to meeting the very special needs of this group of vulnerable young mothers who are most in need of a helping hand.

Finally, it must be emphasized that this legislation will not be costly in terms of the Federal funds involved, but will have an immeasurably large impact upon the problem. One of the major aims of this bill is to encourage State and local agencies, public and private, to coordinate their efforts in this area, and to maintain and expand those efforts already underway in the delivery of health and social services to the young mother and her child. Thus, the value of each Federal dollar will be multiplied for the benefit of this extremely vulnerable high-risk group of persons.

The statistics I have cited today show that our present efforts have not succeeded. In the absence of a coordinated, comprehensive program as envisioned by this bill, teenage girls, particularly the poor, will have only the "freedom" to seek abortions.

Last Saturday marked the fourth anniversary of the Supreme Court decision which gave women an absolute right during the first trimester of pregnancy to elect an abortion. Surely, the right to choose should include the right to choose to continue the pregnancy. As the courts and the Congress continue to grapple with the legal aspects of the Court's decision, it is in our best interests to encourage other approaches to the problem of teenage pregnancy and thereby diminish the need for abortion.

FRENCH AMBASSADOR REPLIES TO POST EDITORIAL

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. EDGAR. Mr. Speaker, as the coauthor of a resolution with Mr TSONGAS protesting the release of the PLO terrorist Abu Daoud by the Government of France, I was very interested in the letter to the Washington Post by the French Ambassador which appeared in yesterday's edition. I believe that it merits the attention of all of our colleagues who have been interested in this matter.

Over 90 of our colleagues have cosponsored House Resolution 105. The chairman of the House International Relations Committee, CLEMENT ZABLOCKI, has given his assurance that the resolution will be considered by the committee on a priority basis. I know that the committee will thoughtfully consider the comments by the Ambassador.

For the benefit of my colleagues who have not had the opportunity to read this letter, I ask that it appear at this point in the RECORD:

THE ABU DAOUD AFFAIR: "WHAT IS TRUE, WHAT IS JUST"

I am shocked by your editorial of Jan. 19 entitled "Giscard's Complaint."

I am leaving aside the terms in which you speak of the Chief of State of a friendly and allied country Mr Giscard d'Estaing is above insults of this kind.

However, your account of Abu Daoud's expulsion is so inaccurate and your description of French policy so distorted that I feel bound to set the facts right for your readers.

(1) It is not true that the German government had 20 days. This period is only allotted for the transmission of documents concerning the request for extradition and only begins once that application has been formally submitted. Article 9 of the French-German extradition agreement stipulates that the judicial request for temporary arrest "must be confirmed, at the same time, through diplomatic channels." We proceeded to make the arrest, which is the first step in extradition proceedings.

Diplomatic confirmation was needed

These are points of law that Abu Daoud's lawyers, very active men and highly reputable, pointed out in the Paris Court of Appeals when they requested that he be released on the grounds that his detention was arbitrary In view of the importance and the urgency of the matter, the head of the Foreign Minister's staff drew the attention of the German Charge d'Affaires in Paris—not a "German clerk"—to the problem so that he could immediately inform the Foreign Ministry in Bonn The German Ministry could thus, simply by sending a telegram, at any time of the day or night, confirm the request for the provisional arrest and its intention to request extradition As you know very well, nothing was received from the Ministry of Foreign Affairs of the Federal German Republic The

judge was therefore bound by law and the court had no choice but to order the release of Abu Daoud.

It is perhaps regrettable that moral principles at times conflict with the Law and the Constitution, and that legislation passed to protect individual liberties can be applied to suspects who are perhaps not worthy of such protection; but France, like the United States, is a law-abiding country.

When Abu Daoud's chief, Arafat, came to New York in 1975 to attend the U.N. session, did you arrest him? No, because he was protected by international law.

Maybe you think French justice should have found procedural expedients, "technicalities" to keep Abu Daoud, an official member of a PLO delegation, in prison against the law?

Our democracies cannot allow themselves such a breach of justice. Therein lies their greatness and their weakness, however painful the consequences of upholding the law may sometimes be.

(2) You cast doubt on France's independence and imply that our government yielded to pressure from the Arab countries.

You know full well that the guidelines of our Middle East policy were set by General de Gaulle in 1967, at a time when there was neither an energy crisis nor any problem of oil supply. We had been aiding Israel for a long time to insure its independence, security and integrity within its own borders.

We have not changed, and we will not change our balanced peace policy, regardless of misinterpretations and outcry.

(3) We are just as determined as you are to fight international terrorism.

Parliament recently strengthened our national legislation, but these new provisions cannot be applied retroactively. Our government and our European friends recently adopted a convention on the suppression of terrorism. But this convention will not be open for signature until the end of the month.

May I nevertheless point out to you that legislation, however perfect, can only deal with the effects of terrorism? The real problem lies in treating the causes. So we come back to the political problem: Peace in the Middle East lies in the dual and mutual recognition of the Palestinians by the Israelis, and of the Israelis by the Palestinians. That is France's policy. I am convinced that every reasonable American understands this.

(4) One last word: As the President of France said, it is to the families of the victims of terrorism that we want to express our compassion. We understand their reactions. It is to prevent more grief, more victims and more fighting that we are constantly working for peace and reconciliation.

But we despise the cynicism of people who exploit the most legitimate emotions for political ends. Real courage shows itself not in fueling passion in the newsrooms but in seeking what is true, what is just and in stating it.

So I ask the editorial writer of The Washington Post, please, be more responsible.

JACQUES KOSCIUSKO-MORIZET,
Ambassador of France.

WASHINGTON.

WAR AND PEACE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. MICHEL. Mr. Speaker, the Peoria Journal Star recently published an editorial which contains two facts I had not previously come across. The Peoria Journal Star states:

It is, indeed, odd . . . but it remains the hard fact of record that when Gerald Ford steps down he will join Richard M. Nixon and Dwight D. Eisenhower as the only Presidents to leave office with the country at peace in the last 44 years . . .

When he takes the oath of office in a nation at peace, Jimmy Carter will be the first Democrat President since Grover Cleveland in the 1890's who has not been a War President . . .

Of course, he won't have had time at that point, but the cold fact is that every previous Democratic President in this Twentieth Century has become a War President and hence Carter will be the only Peace President in the whole chain as he occupies the White House . . .

No, Mr. Speaker, I am not charging that one major party is the "war" party. Such a simplistic explanation of the complexities of international affairs in this century is absurd. I am simply pointing out what I consider to be a set of facts that my colleagues should find of interest. It is, of course, possible that when historians look back at our troubled century and examine the facts dispassionately, there may well be a case that can be made to show that one major party's policies and attitudes and leadership always led in one direction while the other major party's qualities always led in another in questions of war and peace. History may show that deliberate policy and not coincidence is responsible for the facts I have presented to you.

But we must leave that to the historians. For the rest, all we can say is that these are the facts as we know them. They give us much to contemplate.

I insert into the RECORD "The First Peace Democrat," an editorial published in the Peoria Journal Star, January 20, 1977:

THE FIRST PEACE DEMOCRAT

(By C. L. Dancey)

It is, indeed, odd . . . but it remains the hard fact of record when Gerald Ford steps down he will join Richard M. Nixon and Dwight D. Eisenhower as the only Presidents to leave office with the country at peace in the last 44 years.

Franklin D. Roosevelt died passing the torch to Harry S. Truman in the midst of World War II. Truman handed it over to Ike during the Korean War.

Kennedy was assassinated while American combat pilots and others were fighting in Vietnam, and Johnson handed over the White House to Nixon with 500,000 Americans up to their arm-pits in the Vietnam War.

In that whole period and sequence, only Eisenhower had turned over (to Kennedy) a nation at peace.

Then, when Nixon was ousted, our people were out of Vietnam and a "peace treaty" was signed—but there are those who argue it wasn't a "real" peace, yet.

There's no doubt that it is a "real peace"—with total conquest of the South after total supply abandonment by the U.S. as Ford hands over the administration to Jimmy Carter.

And, indeed, the surrounding world is also more at peace than at any time in those past 44-plus years.

Indeed, the world at large has a wider peace than it has known in over half a century.

Which brings us, inexorably, to another odd and startling fact. It is a fact to which we ascribe no conclusions, but cannot be avoided as a bare fact of history.

When he takes the oath of office in a nation at peace, Jimmy Carter will be the first Democratic President since Grover Cleveland in the 1890's who has not been a War President.

Of course, he won't have had time at that point, but the cold fact is that every previous Democratic President in this Twentieth Century has become a War President and hence Carter will be the only Peace President in the whole chain as he occupies the White House.

As a candidate, Carter was himself a break with tradition that was 100 years old—in coming from the Deep South—and a break with traditions almost as old in several other ways. His primary compaign was also a tradition-breaker—at least for winners.

(We had hoped he would also break with tradition in his cabinet selection—but he didn't. Perhaps, he couldn't.)

We do, devoutly, hope and expect that he will "break the chain" that has haunted Democratic Presidents throughout this century—and be able to keep the peace.

There is a way to do it.

George Washington counseled "peace through strength," and our 200 year history demonstrates, again and again, that such is often the difference between a major crisis and a war.

Yet, there is, in truth, the opposite hazard as well—such as the Spanish-American war.

It is this risk of leaning too far, one way or the other, that has teeter-tottered us from war to war.

But all the zealots adopt "one side" or the other and nobody seems to opt for balance in policy.

It takes a strong man like Eisenhower to accomplish that—and his eight year term is the only such period, amazingly, in the entire modern era, of peace.

Carter will need to develop the combination of strength and balance. We do not dare "take peace for granted."

It should have a high priority.

AN ELOQUENT PLEA FOR WILDLIFE PRESERVATION

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. WIRTH. Mr. Speaker, last fall, I received an unusually moving letter from a constituent of mine, Sally Ann Strojny, who is a graduate student in wildlife education at the University of Colorado. In her letter, Ms. Strojny makes an eloquent plea for the preservation of America's wildlife. I commend her letter to the attention of my colleagues:

DEAR REPRESENTATIVE WIRTH: Please listen to the voices of many Americans who are deeply concerned about the future of one of America's most priceless treasures—our endangered wildlife. In this year of our Bicentennial, please give some thought to whether our great-grandchildren will ever be able to see grizzly bears, wolves, otters,

mountain lions, and other wild creatures in the American wilderness of our Tricentennial year of 2076? Have we the right to rob them of the thrilling sound of timber wolves howling in the lonely night? Or of the thundering hoofbeats of a herd of wild mustangs racing across the desert? Or of the excitement of watching a mighty brown bear snatch salmon from a rushing stream?

When these magnificent creatures are gone from our land, no amount of technology or sorrow can ever bring them back. What shall our answer be to the children of the future, when they ask us why we have harpooned all the great whales of the sea and silenced the happy play of all the splashing sea otters? Who shall try to explain to them of the majestic grace of the proud bald eagle soaring high above the deep canyons? Would we even be celebrating our Bicentennial this year if our forefathers had been so careless about our future?

We Americans have always prided ourselves on our sense of justice and our belief in protecting those who cannot speak for themselves. If you help to defend the right of all creatures to live, your name may not be praised by those who cannot understand the fear and pain of a dying bobcat whose legs lie crushed between the cruel jaws of a steel trap. But a child of the future who watches the wild creatures scamper through the forests and meadows of America, will surely whisper his thanks to you.

Please give our great-grandkids a chance to see a living wilderness, and lend your support to these important wildlife issues:

(1) Permanent ban on the hunting and trapping of wolves on all federal and state lands.

(2) Permanent ban on the use of poison and other methods of predator control that indiscriminately kill millions of innocent animals.

(3) Complete protection for all endangered and threatened wildlife species from hunting and trapping.

(4) Permanent ban on the cruel and inhumane trapping of our fur-bearing animals who suffer agonizing deaths to become next year's coats.

(5) Permanent ban on hunting and trapping in our designated wildlife refuges and wilderness areas to preserve their balanced ecosystems.

(6) Stronger legislation and strict enforcement to prohibit the killing of all Cetacean species (whales, dolphins, porpoises), and the application of strong political and economic pressures against those nations who continue to commercially exploit these highly intelligent marine mammals.

Thank you very much for listening. Their future is in your hands.

Sincerely,

SALLY ANN STROJNY.

A PROPOSAL TO PRESIDENT-ELECT CARTER

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. EDGAR. Mr. Speaker, colleagues who have been following the deliberations of the 3-year-old United Nations Conference on the Law of the Sea may be interested in a law of the sea policy proposal which one of my constituents has made to President-elect Carter. It appeared in the December 1976 issue of WORI Report, a publication of Villanova University's World Order Research Institute.

Dr. John J. Logue's essay has a long title and that reveals its basic thesis. The title is, "A Proposal to President-Elect Carter: A Bold and Statesmanlike Law of the Sea Policy Should Be the Centerpiece in President Carter's Long-Range Foreign Policy."

I believe that the article merits the attention of my colleagues:

A PROPOSAL TO PRESIDENT-ELECT CARTER: A BOLD AND STATESMANLIKE LAW OF THE SEA POLICY SHOULD BE THE CENTERPIECE IN PRESIDENT CARTER'S LONG-RANGE FOREIGN POLICY

(By John J. Logue)

When President Carter takes office in January he will be confronted with foreign policy problems in dozens of areas. Most of the "solutions" which are proposed for these problems share several faults. They are complex. They depend on too many external factors. And they are temporary, subject to changes in personalities and/or perceptions in the governments, including our own, which have negotiated them. Most of the "solutions" are hard to sell, whether to the American people, to the Congress, to our Allies or to the other nations in the world community. Finally, all too often these foreign policy problems and "solutions" are approached—or seem to be approached—separately, giving the impression that they are not really related to each other. Yet, nothing could be farther from the truth.

A MAJOR CATALYST FOR CONSTRUCTIVE CHANGES

One foreign policy area, law of the sea, has a great potential for avoiding many of these difficulties and becoming instead a major—perhaps the major—catalyst for peaceful and desirable change. Properly approached, law of the sea policy can make a major and continuing contribution to the solution of such central problems as development, economic cooperation, peacekeeping and protection of the human environment. For if the nations will work together on sea problems they are more likely to work together on land problems. The great work which the European Coal and Steel Community and later the European Economic Community did to promote peace and prosperity in a divided Europe can be imitated on the world level if we will make bold and imaginative use of the great opportunity inherent in the Law of the Sea Conference. To get essential public support for the new policies that are needed government leaders here and abroad will need to tap some of the great dramatic potential in the ocean problem. The tremendous interest in "Operation Sail", the gathering of tall ships in New York City on July 4, 1976, suggests that potential.

THE CRISIS IN THE LAW OF THE SEA CONFERENCE

The Third United Nations Conference on the Law of the Sea (UNCLOS III) is set a crucial turning point. When it resumes its work on May 23, 1977, the three-year Conference will have a last chance to reverse the nationalistic tide which has plagued it since it began its work in New York in December of 1973. Today there is a general disillusionment with the Conference and a general cynicism with respect to what will probably be its most important action, i.e., a yielding of many trillions of dollars of ocean resources—once regarded as "common property"—to a few long coastline states, at least half of them in the developed world. This gigantic grab overshadows the very worthy but difficult effort to establish institutions to regulate exploitation of the wealth of the deep ocean, wealth which does not, however, compare in value with that of the area within 200 miles of shore. The form this grab will take is the 200-mile exclusive economic zone (EEZ), ostensibly good for all states, ostensibly good for the Third World, but actually a device which enriches one-half of the developed world but only one-sixth of the developing nations. It contradicts the bold and inspiring idea of the oceans as "the common heritage of mankind", a concept which many hoped would give a new direction to international politics. For the overwhelming proportion of exploitable ocean wealth is within 200 miles of shore. To give this immense wealth to "the coastals"—and especially the long coastline states—would widen the development gap since it would give very little to the geographically disadvantaged states, including the many landlocked states.

TURNING THE CONFERENCE AROUND

Turning the Conference in the direction of a meaningful "common heritage policy" would seem to be an impossible task, given the lateness of the hour and the number of countries which apparently favor the 200-mile EEZ. But there is good reason to believe that with bold and thoughtful leadership the impossible is in fact possible. However it cannot, of course, be achieved by the United States alone. Far from it. A broadly representative group of nations would have to agree on the substance of the reform proposals. And it would have to support them with arguments which would appeal to all members of the Conference. Devising such proposals and winning acceptance for them will require all the intelligence and good will that President Carter and other heads of governments can muster.

One plan which might command broad support is the so-called "Barba Negra Formula." It can be found in the "Appeal" adopted by the UN delegates and other prominent individuals who sailed a square-rigger from UN Headquarters to Manasquan on the seacoast of New Jersey. Their fifty-mile voyage on the tall ship Barba Negra took place on August 22, 1976. The Barba Negra Formula provides that a certain portion—1 to 20 percent, depending on per capita income—of the revenues from mineral exploitation within the 12 to 200-mile economic zone be given to a World Common Heritage Fund. These revenues would be used by the World Ocean Authority to aid development, to fight pollution and—a small amount—to subsidize some United Nations undertakings. Because of its "graduated sharing" feature, the Barba Negra Formula should be easy for the Third World to accept and difficult for the developed world to agree to. Paradoxical as it may seem, the opposite may prove to be the case. By now the EEZ has become an article of political faith in parts of the Third World. But in the developed countries not a few citizens feel that it is wrong for their countries to grab the immense riches which for centuries were regarded as common property. Thus, among the endorsers of the Barba Negra Appeal are ocean explorer and anthropologist Thor Heyerdahl of Norway; Nobel prize-winning economist Jan Tinbergen, Netherlands; Charles Yost, former U.S. Ambassador to the UN, Lord Wilberforce, UK, and Maxwell Cohen, Chairman, Canadian Section, International Joint Commission, Canada and the United States.

PAST UNITED STATES LAW OF THE SEA POLICY

U.S. law of the sea policy has been the work of a dedicated team of intelligent and knowledgeable negotiators. But it has suffered greatly from a lack of interest and attention on the part of Presidents Nixon and Ford as well as Secretary of State Kissinger.

One hopes and prays that President Carter will learn from their mistakes. In the Nixon and Ford administrations U.S. policy makers neither sought nor received broad or deep support from the Congress, from interest groups, from the general public or even within the executive branch itself. Perhaps the central fault of U.S. policy was its lack of imagination and its timidity. Although they realized the necessity for a "comprehensive" law of the sea treaty, our negotiators had no broad vision, no unifying concept or ideal to inform their negotiations. And that is the major reason why they so often found themselves reacting to the pull and haul of interest groups in the United States—and in the Conference—rather than giving a lead.

Our negotiators did not seem to see or articulate the interrelatedness between law of the sea problems and the many other key issues with which U.S. foreign policy is concerned, e.g. arms control, nuclear proliferation, economic development, raw material supplies and pricing, and the other hopes and dreams and fears of the Third World. The U.S. has made its most important mark on the Conference by a unilateral grab of fish resources, against the advice of both the State and Defense Departments. Predictably—and tragically—that grab has been widely imitated. U.S. policy makers have been unable to act boldly or resolutely except when, deus ex machina, the Secretary of State decided to fly into town and take personal charge. Unfortunately, in this as in so many other problem areas, Mr. Kissinger has had a deep fear of institutionalizing solutions and a strong addiction to virtuoso performances which seldom have lasting impact.

A DESIRABLE U.S. LAW OF THE SEA POLICY

Using ocean resources to build peace, development and ecological sanity should be the heart of the policy the United States recommends to the Law of the Sea Conference. We should make it clear that we do not fear but rather welcome the economic power and prestige it gives to ocean institutions and to the countries which are the major beneficiaries of such a policy. To this end we should make it clear that we favor:

a. "Graduated sharing" (see Barba Negra Formula above) of offshore mineral revenues by all coastal states. These revenues should be contributed to a World Common Heritage Fund to aid development and environmental protection and to make a modest contribution to the budget of the United Nations. That sharing should generate at least two billion dollars a year for the Common Heritage Fund by 1980.

b. A workable world-wide plan to fight ocean pollution and appropriate financing for it. Since some 90% of ocean pollution is land-based it is essential that there be large-scale funding to deal with it. However there is no reason to believe that the Conference will do much that is meaningful about this kind of pollution unless it has the kind of revenue base we have indicated.

c. Strong ocean institutions which permit exploitation of deep ocean minerals by private, state and international enterprises according to agreed rules. As Secretary Kissinger has indicated, the U.S. and other developed countries should be ready to see that the ocean authority's own exploiting arm ("The Enterprise") has the finances, skills and equipment to play a major role in exploiting the deep ocean. We should pay special attention to the very legitimate concerns of nations which mine hard minerals on land. Careful thought should be given to giving additional responsibilities to these institutions, e.g. serving as a continuing forum for discussing marine-related problems. The Ocean Authority would be a major force for building trust, peace and prosperity.

d. While adhering to the idea of a 200-mile fishing zone under coastal state administration, we should favor permitting foreign vessels, under appropriate conditions, to take those fish, up to the maximum sustainable yield, which the coastal state does not take.

e. A worldwide scientific effort to increase the yield of marine species—and thus of protein—through aquaculture, etc. Common heritage funding should be helpful here.

f. A major effort to assist the "transfer of technology," i.e. marine-related technology, from developed to developing states. Common heritage funding should also be helpful here.

g. A 12-mile territorial sea but unimpeded transit through traditional international straits.

h. As much freedom of scientific research as possible. If the treaty is generous in other areas it may be generous in this one. If not, there is reason to believe that coastal states will demand complete control over research off their shores.

i. Dispute settlement procedures which are fair, equitable and binding. Binding procedures will probably be unachievable unless part of a treaty that is a major step toward a just world.

SOME CONCRETE STEPS TO DEVELOP AND IMPLEMENT THE NEW LAW OF THE SEA APPROACH

1. President-elect Carter should appoint a Presidential Commission on Law of the Sea Policy to make recommendations for a bold and statesmanlike law of the sea initiative. He should choose appropriate people in the executive and legislative branches and in the private sector (labor, business, and universities, the foundations, major law firms, and media, etc.) who are likely to support such an approach. One important source for such names would be the U.S. membership of the Trilateral Commission which recently issued the excellent report "A New Regime for the Oceans." Its members include such prominent Americans as Jimmy Carter, Walter Mondale, Cyrus Vance, David Rockefeller, I. W. Abel, Hedley Donovan, Sol Linowitz and Don Fraser. (The Commission's report proposed that wealthy coastal states share as much as one-half the royalties between 12 and 200 miles from shore. Obviously this is a much more generous proposal than the one in the Barba Negra Formula.)

2. In a "Charge to the Commission" indicate some general guidelines along the lines indicated above. Put special emphasis on the problem of how to win public support for such a bold new initiative.

3. In the State of the Union and/or the Inaugural Address indicate that law of the sea is a major concern of the new President and the new Administration and that U.S. policy will be guided as much as possible by the concept of the oceans as "the common heritage of mankind."

4. By a series of gestures, the President, the new Secretary of State and the new Ambassador to the United Nations should indicate their interest in and commitment to this new approach to law of the sea. These might include any or all of the following:

a. A major address of the new ocean policy at the U.S. Naval Academy on "The New World of the Seas." Other addresses at other symbolic locations, e.g. Woods Hole Oceanographic Institution.

b. Appointment of a well-known, well-regarded and dynamic internationalist as head of the U.S. Law of the Sea delegation.

c. White House dinner for ocean internationalists such as Thor Heyerdahl, Jacques Cousteau, leading figures from "Operation Sail" and key figures in the UN Law of the Sea Conference.

d. A well-prepared White House Conference on the Law of the Sea, is a la the very successful 1965 White House Conference on Natural Beauty. Broad participation, including youth.

e. A short presidential voyage on the Norwegian square-rigger Barba Negra. That tall ship has been host to two sails of UN delegates from UN headquarters.

f. Encourage all government officials to "think law of the sea," i.e. to see how their special policy area might profitably affect or be affected by marine development.

g. In relevant presidential and other major speeches bring in law of the sea—and its implications for other policy areas—as frequently as possible. Where appropriate, use nautical terms and analogies, e.g. crew, ship, new wind, storms, fair seas etc. etc.

5. Carefully craft major addresses and messages to suggest the general outlines of the policy we seek. Find and use arguments to support it from a variety of fields and from the national positions or arguments or histories of the many nations we will be working with.

6. Give the most careful thought to the selection of the U.S. Law of the Sea delegation. Appoint more "public interest members" and fewer "special interest" members. From time to time the President should meet personally with key members and give them public and private support and encouragement.

7. Work as closely as possible with key Senators and Congressmen on both sides of the aisle and with staffs of key committees. Encourage and assist old ocean internationalists in the Congress e.g. Hubert Humphrey, Claiborne Pell, Pete McCloskey, Don Fraser etc.

As we Americans "think anew" our ocean policies we should encourage all countries—and especially Third World countries—to do the same. Hopefully together we will find new ways to give substance to the bright vision of the oceans as "the common heritage of mankind." The United States should put special emphasis on the interests and concerns of the Third World—and especially those Third World nations which entered the UN in 1960 or later. Many of those new nations have begun to question law of the sea policies which are sold as "good for the Third World" or "a step in the direction of the new economic order." They have begun to see that one of those policies, the 200-mile EEZ, would undermine and all but destroy the idea of the common heritage, that it would reinforce the old economic order and freeze out most, if not all, the many Third World countries which are not blessed with long coastlines.

Let us hope that President Carter will see—and seize—the fleeting opportunity which the spring session of the Law of the Sea Conference presents. Let us hope that he will authorize—and take part in—a searching reexamination of U.S. policies and goals in the Conference. And let us hope that he will initiate a constructive "ocean dialogue" with all nations to see how the oceans and their immense wealth can be used to promote peace and justice on land as well as on sea.

SOME SECOND THOUGHTS ON THE SPECIAL COMMITTEE ON ASSASSINATIONS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. McDONALD. Mr. Speaker, I was one of the Members of the House that cosponsored the resolution to establish the Special Committee on Assassinations during the 94th Congress. I felt then, as I do now, that the Warren commission did an inadequate job in the investiga-

tion of the murder of President Kennedy. Many questions were left unanswered and the Warren commission had a preconceived belief that Lee Harvey Oswald was the sole assassin.

A number of things, which have happened since the establishment of the committee, have disturbed me, however. One of these is certainly the excessive budget: $13 million over 2 years is far too much to spend of taxpayers money. But more to the point, the plan to have 50 attorneys to work with the 50 investigators for the committee is completely unrealistic. Congressional investigations in the past have usually had a number of investigators gathering data for each, usually underworked, counsel. If these attorneys are to be used instead as researchers, to read and evaluate the voluminous literature available on the subject, then they are the wrong people, with the wrong training for this assignment. Experienced researchers are needed for such a project.

Of greater significance to me, however, has been the problem of leaks from the committee staff, even before they have hired their full quota. The leaking of information obtained by a committee in the course of an investigation, or in executive session is a violation of the House rules. The most recent leak has been the appearance in the Jack Anderson column last week of information which had purportedly been given to the committee in sworn testimony at an executive session. According to Anderson, a mystery witness testified before the committee linking Oswald with the CIA. I have no way of knowing whether this witness is creditable or not, although similar stories have surfaced in the past and been proven false. The proper handling of this testimony would require a careful background investigation of the witness to determine his reliability, as well as, further investigation to corroborate his story. Leaking the story to the press not only violates House rules, but interferes with further investigation by the committee staff. A number of other pieces of information provided to the committee staff in confidence, including the names of witnesses appearing in executive session, have found their way into the press.

I am also concerned about reports that the committee staff has requested transmitters and other devices for surreptitious surveillance. I do not feel that that is a proper function of such a committee.

One of the things that has caused second thoughts about support for this committee was the appearance on Capitol Hill of Mark Lane lobbying for the committee, its excessive appropriations request and its Staff Director Richard Sprague. On January 7, 1977, Lane appeared at a room in the Rayburn Building after a leaflet had been distributed in offices inviting members and staff to hear him speak and to view a copy of the Zapruder film. The leaflet also claimed that Lane had recently interviewed James Earl Ray and his brother, Jerry Ray.

As I was interested in this subject and wished to see the Zapruder film, I attended the meeting. Most of those present were young congressional staffers. We were treated to a lengthy monolog by Lane, who for the most part repeated the same stale cliches that he has used on the lecture circuit for the past 13 years. He did add some new charges, one of which was that the FBI had a special squad targeted against Martin Luther King. However, Lane in naming this group, called it variously the Kill King Squad, the Get King Squad, and the Destroy King Squad. As Lane rambled on, he apparently was unaware that he kept changing the name of this supposed FBI unit. Purporting to be quoting from the report of the Senate Committee on Intelligence, Lane stated that the FBI had sent doctored tapes of King's hotel room activities to his wife. The committee in fact had never charged that any tapes were doctored, but stated that—

> The FBI mailed Dr. King a tape recording made from microphones hidden in his hotel rooms which one agent testified was an attempt to destroy Dr. King's marriage.

While we cannot condone this act, it would have been much worse if in fact the evidence of King's activity had been fraudulent.

Lane's speech contained nothing about his alleged interviews with James Earl Ray or his brother. I waited for the question period to ask Lane about this. I did not want to needle him, but I did want to learn about the subject. However, after the showing of the film, the audience began to break up and there was no question period.

Lane took credit during his speech for recommending Richard Sprague to the committee as staff director. The recommendation of such an irresponsible does no credit to Sprague. Coupled with the problem of leaks from the committee staff, it raises the possibility that the fantasies of Mark Lane and his ilk will be leaked to the press as information gathered by the Committee on Assassinations.

During his speech, Lane admitted that he did not know who killed President Kennedy. Yet, years ago in a speech in Europe, Lane claimed that he knew the name of the murderer, but could not reveal it. He has never revealed it.

When Lane testified before the Warren Commission, he claimed to have a witness that would tie Jack Ruby to certain conservatives. When pressed by the Commission to identify his supposed witness, Lane refused. This witness has never appeared and Lane has dropped the story of Ruby's contact with conservatives.

Lane has a long record of far-left activities including service as an officer of the National Lawyers Guild, which has been cited by the House Committee on Un-American Activities as the "legal bulwark of the Communist Party." In 1948, Lane enrolled as a member of the American Labor Party. That organization had fallen under Communist control in 1944, and shortly before Lane joined, the last liberals had left the organization. Lane has made a reputation as being one of the most irresponsible of the assassination buffs.

I have not yet decided whether to support the reconstitution of the committee in the 95th Congress. I am sure that I will vote against a $13 million budget. I still believe that we need a proper investigation of the political assassinations that have taken place. There are sources of information that should be properly developed. One area of investigation, overlooked by the Warren Commission, is the possible role of both domestic and foreign Communists in the assassination of President Kennedy.

The Senate Intelligence Committee revealed the fact that the CIA had plotted the assassination of Fidel Castro. It also revealed Castro's response. According to Book V of the final report of the Senate committee:

> Late in the evening of September 7, Premier Castro held an impromptu, three-hour interview with Associated Press reporter Daniel Harker and in that interview warned against the United States "aiding terrorist plans to eliminate Cuban leaders." He stated, according to Harker, United States leaders would be in danger if they helped in any attempt to do away with leaders of Cuba. "We are prepared to fight them and answer in kind. United States leaders should think that if they are aiding terrorist plans to eliminate Cuban leaders, they themselves will not be safe." (Pg. 14)

On November 27, 1963, Fidel Castro made a speech about the assassination. A copy of that speech was distributed by the Cuban Mission to the United Nations. On page 6, Castro says:

> Well now, on Saturday night, barely 24 hours after Kennedy's death, Mexican Federal Police agents arrested a Mexican woman employed at our Consulate, as well as her husband. What was the reason for the arrest? Why was she arrested? They arrested her to question her, and to question her in a brutal way, ill treating her, insinuating supposed personal relations with President Kennedy's alleged killer, trying to obtain some information from her, through coercion.

Castro admitted that Oswald had visited the Cuban Consulate in Mexico City, but claimed that he was not given a visa and slammed the door when he left. The possible Cuban involvement in the assassination requires a thorough investigation.

Another area that requires investigation concerns the lies told by domestic Communists and Castroites about their relationships with Oswald. Immediately after the assassination Arnold Johnson, on behalf of the Communist Party USA, and V. T. Lee, on behalf of the Fair Play for Cuba Committee, denied that their organizations had been in contact with Lee Harvey Oswald. After the FBI had obtained Oswald's correspondence from his wife, both Johnson and Lee provided copies of this correspondence, from their files, to the Warren Commission. Both Johnson and Lee had been the individuals in their organizations that had exchanged correspondence with Oswald. When Johnson and Lee testified before the Warren Commission, they were not questioned about their earlier lies.

These are areas that the American people have a right to have fully investigated. I am not sure that the House Committee on Assassinations is prepared to do this investigation.

SENATE—*Tuesday, January 25, 1977*

(Legislative day of Wednesday, January 19, 1977)

The Senate met in executive session at 10 a.m., on the expiration of the recess, and was called to order by Hon. DONALD W. RIEGLE, JR., a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we open our hearts to Thee seeking to know Thee better, to love Thee more sincerely, and to serve Thee more faithfully. As we listen to one another, may we be attuned to hear Thy voice above all others. We want to do right and to be right. Take from us all that obstructs the awareness of Thy presence and the will to obey Thy guidance. Be to us our unseen Friend, our silent Helper, our constant Companion.

In Jesus' name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 25, 1977.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DONALD W. RIEGLE, JR., a Senator from the State of Michigan, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. RIEGLE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, January 24, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Tennessee desire recognition?

Mr. BAKER. Mr. President, I have no request for time and I have no statement. I reserve my time under the standing order.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be permitted to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oregon (Mr. HATFIELD) is recognized for not to exceed 15 minutes.

SENATE JOINT RESOLUTION 16—RESOLUTION TO RESTORE POSTHUMOUSLY CITIZENSHIP TO JEFFERSON F. DAVIS

(Referred to the Committee on the Judiciary.)

Mr. HATFIELD. Mr. President, I send to the desk a joint resolution to restore the citizenship of Jefferson Davis, former U.S. Congressman, U.S. Senator, and President of the Confederate States of America.

Last year, Mr. President, this body and the House of Representatives passed a bill, sponsored by the senior Senator from Virginia, to restore the citizenship rights of that most able general, Robert E. Lee. That bill had its genesis in the discovery of a loyalty pledge signed by General Lee which entitled him to an amnesty and restoration of rights long overdue. This bill is based on no such claim. Mr. Davis, believing he had committed no crime, and he was never convicted of one, never asked for pardon, and he was specifically excluded from the general amnesty bill of 1876. Rather, this legislation seeks to right a glaring injustice in the history of the United States.

It is said that history is written by the victors. In this case, it could also be said that the history of this man was written by the vanquished, for Jefferson Davis, perhaps more than Abraham Lincoln, was beset by critics in the Confederacy jealous of his position or outraged at his politics. This criticism from within and without has relegated Davis to at best the misguided champion of a losing cause, and at worst the traitorous defender of an abominable institution.

But Davis was neither of these. He was instead an honorable public servant of principle the like of which is all too rare in these days when expedience is more ardently practiced than conviction defended.

Most of us remember Jefferson Davis as the President of the Confederacy, and I suspect his stature suffers by that association. Nonetheless, his election to the office met with acclaim both in the North and the South, and he acquitted himself well in a nearly impossible job. Woodrow Wilson, in the fourth volume of his "History of the American People," speaks of "the masterful characteristics of Mr. Jefferson Davis":

> He had the pride, the spirit of initiative, the capacity in business, which qualify men for leadership, and lacked nothing of the indomitable will and impervious purpose to make his leadership effective. He moved, direct, undaunted by any peril, and heartened a whole people to hold steadfast to the end.

There is more, much more, to the distinguished career of Jefferson Davis than his leadership of a benighted cause. He was a graduate of the U.S. Military Academy at West Point, which he attended with Lee and Joseph Johnston. After accepting his commission as a second lieutenant, Davis went west for a tour of duty in Illinois and Wisconsin, and saw service in the Black Hawk War. He met and married the daughter of then Col. Zachary Taylor, resigned his commission, and retired to Mississippi to lead the life of a planter in 1835.

Ten years later, in 1845, Jefferson Davis entered the House of Representatives as a Congressman from Mississippi. The New York World declared that he was "the best-equipped man intellectually, perhaps, of his age, in the country." Before the force of that intellect could make its mark on the House, however, the United States was at war with Mexico, and Davis resigned his seat to accept a colonel's commission and lead a unit from Mississippi. He fought under Zachary Taylor, by then a general, and alongside a lieutenant named Ulysses S. Grant. He became known as the hero of Buena Vista for his actions in that battle, in which Taylor defeated Santa Anna despite being outnumbered 4 to 1.

In 1847, still suffering from a wound inflicted at Buena Vista, Davis returned to Washington, this time to take a seat in the Senate. Because of his demonstrated intellect and varied interests, he was made a regent of the Smithsonian and appointed to the Library committee. More important, he was made chairman of the Senate Military Affairs Committee, a singular honor for a freshman Senator.

Davis resigned his seat in 1851 to return to Mississippi and attend to local political matters as well as his plantation, Brierfield. In 1853, however, he was again called to serve, this time as Secretary of War in the administration of President Franklin Pierce. It is one of the many ironies in his life that as Secretary he helped build the arsenal that was later turned against the South, and pressed for the expansion of the railroads. In any event, he was in his element and did an outstanding job. When Buchanan took office in 1857, Mississippi was quick to return Davis to the Senate.

Again he achieved preeminence in a chamber where the presence of Calhoun, Clay, and Webster loomed large. Horace Greeley, the abolitionist editor of the New York Tribune, wrote:

> Mr. Davis is unquestionably the foremost man of the South today. Every Northern Senator will admit that from the Southern side of the floor the most formidable to meet in debate is the thin, polished, intellectual-looking Mississippian with the unimpassioned demeanour, the habitual courtesy and the occasional unintentional arrogance which reveals his consciousness of the great commanding power. He belongs to a higher grade

of public men in whom formerly the slaveholding democracy was prolific.

Unfortunately, however, Davis' time in the Senate was cut short by events. Mississippi seceded shortly after South Carolina did, and in January of 1861 Davis bid farewell to the Senate and returned to his plantation, where on February 10 he was informed he had been declared President of the Confederacy by a convention of the seceding States.

All of this history is available to anyone willing to take the time to study it. It alone should rescue Davis from obscurity. But the purpose of the joint resolution I offer today is to correct a grave injustice inflicted upon Davis by a vindictive conqueror.

After Petersburg fell and Richmond was evacuated, Davis and his government fled west. Upon learning of Lee's surrender at Appomattox, he turned south, and was eventually captured by Union forces in Georgia. Under military guard, he was taken to Fort Monroe at the mouth of the James River in Virginia. Even those grown accustomed to the modern-day horrors of political imprisonment and torture would be appalled at Davis' treatment there.

As he well knew from his tenure as Secretary of War, Fort Monroe was perhaps the most redoubtable fortress of the U.S. Army, with walls up to 95 feet thick, and surrounded by a moat of equally great proportions. Davis could not have escaped from such a prison. Nevertheless, his captors were not satisfied with merely keeping him within the fort, and instead locked him into an inner cell with only one stoutly barred window, with a lamp ordered to be kept burning day and night at his head, and with a guard detail of 70 soldiers, 2 of whom placed incessantly in the cell itself. He could receive or send no mail, and had only his Bible to read. And for the final insult, Secretary of War Stanton had Davis placed in irons. As the New York Herald put it, Davis had been—

. . . committed to that living tomb prepared within the impregnable walls of Fortress Monroe . . . He is buried alive.

Though the conditions of his imprisonment gradually improved, thanks to the protests of military doctors who believed he would die unless given some relief, Davis was held in close custody in Fort Monroe for 2 years. An indictment was brought against him, but he was never tried, for the prosecutors never settled on the charges. As Chief Justice Salmon Chase said—

If you bring these leaders to trial, it will condemn the North, for by the Constitution secession is not rebellion . . . We cannot convict him of treason. Secession is settled. Let it stay settled.

Finally, Davis was released from Fort Monroe in May 1867. A bond of $100,000 pending trial was posted, with Horace Greeley and Cornelius Vanderbilt among those contributing.

Jefferson Davis had 22 years of life remaining. In 1868 the indictment against him was quashed, and through a general amnesty declared by President Johnson on Christmas Day, 1868, he was no longer a prisoner on bail. But he was still without his rights as a citizen, and they were never restored. He was specifically excepted from the general amnesty of 1876 by the demagoguery of James G. Blaine, who falsely alleged that Davis was "the author, knowingly, deliberately, guiltily, and willfully, of the gigantic murders and crimes at Andersonville."

Mr. President, Jefferson Davis died in 1889, much mourned in the North as well as the South, and still without the rights of a citizen in the Nation he had served so well.

In his memoirs, Davis declared it his purpose to "keep the memory of our heroes green. Yet they belong not to us alone; they belong to the whole country; they belong to America." So it is with Jefferson Davis, and with this joint resolution I seek to keep his memory green, and restore to him the rights due an outstanding American.

I introduce this legislation at this particular time, Mr. President, because it can serve as one more symbol of the reunification of the South with the rest of our Nation, an event eloquently manifested in the election of Jimmy Carter. Furthermore, President Carter has now pardoned Vietnam era draft evaders. I trust we will continue to debate his action. This resolution may give us some historical perspective on the issue, and perhaps a greater understanding of its meaning and purpose.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. ALLEN. Mr. President, I commend the distinguished Senator from Oregon (Mr. HATFIELD) for his very fine speech and for the resolution and the spirit which prompted the resolution.

I appreciate his reporting the life and career and the statesmanship and the patriotism of Jefferson Davis. I do not believe the Senator quoted—possibly he did—from the massive work on Jefferson Davis by Hudson Strode of Alabama. I feel that everyone would be benefited by reading this great work, which does show that Jefferson Davis was a great man, a great southerner, a great American, and that history, in the past, has not been kind to him. Fortunately, however, a different view now is being taken of Jefferson Davis; and in the words of Stanton as to Lincoln when the latter died, certainly now Jefferson Davis does belong to the ages.

He is one man who was chosen as President of a people and of a government who did not seek his office. As a matter of fact, he did not want it; he did not want the burdens of heading the Confederate States of America.

The Confederate States of America was formed in the Alabama State Senate chamber, I believe, on February 5, 1861. The month before that, in the house chamber of the Alabama State Capitol, the Ordinance of Secession was passed which took Alabama out of the Union of States; and it was then in the senate chamber in the Alabama State Capitol that Jefferson Davis was named as President of the Confederacy.

I think this is a great humanitarian and patriotic act that the Senator is taking at this time, and I commend him for his efforts. I hope that the resolution will be adopted unanimously by the Senate.

Mr. HATFIELD. I thank the Senator from Alabama. I am grateful that he made mention of the great three-volume work of Hudson Strode, from which I received the inspiration and the basic information incorporated today in my remarks.

Mr. ALLEN. I thank the Senator.

ATTORNEY GENERAL

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the nomination of Griffin B. Bell, of Georgia, to be Attorney General of the United States.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. EASTLAND, I yield myself not to exceed 15 minutes from the time under his control.

Mr. MATHIAS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Kelley, of my staff, have the privilege of the floor during the entire proceedings on this nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair inquires of the Senator from West Virginia whether it is his intention to commence the debate at this time.

Mr. ROBERT C. BYRD. The time is now running, so I am yielding myself 15 minutes from Mr. EASTLAND's time, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATIONS ON THE SECRETARY'S DESK—COAST GUARD

Mr. ROBERT C. BYRD. Mr President, there are certain nominations on the Secretary's desk in the Coast Guard that have been cleared on both sides of the aisle.

I ask unanimous consent that the Senate proceed to the consideration of those nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report the nominations.

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard for appointment to the grade indicated.

Mr. ROBERT C. BYRD. Mr President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

(All nominations confirmed today are printed in the RECORD at the end of Senate proceedings.)

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be notified of the confirmation of the nominations pertaining to the Coast Guard.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, again on my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ATTORNEY GENERAL

The Senate continued with the consideration of the nomination of Griffin B. Bell, of Georgia, to be Attorney General of the United States.

Mr. ROBERT C. BYRD. Mr. President, I yield.

Mr. HEINZ. Mr. President, I thank the distinguished majority leader for yielding. I have a unanimous-consent request. I ask unanimous consent that Geoff Garin, of my staff, have the privileges of the floor during the consideration and the debate on the nomination of Griffin Bell.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, before we proceed might I propound a unanimous-consent request?

Mr. President, I ask unanimous consent that I may be permitted to yield control of the time on this debate under the standing order to the senior Senator from Maryland (Mr. MATHIAS).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MATHIAS addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MATHIAS. I yield.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RIEGLE, I ask unanimous consent that Susan Poor of his staff be granted the privileges of the floor during the consideration of the nomination of Mr. Bell.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Michael Klipper, a member of the staff of the Judiciary Committee, be allowed the privileges of the floor during this debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, the question before the Senate is whether the Senate should give its advice and consent to the President on the nomination of Griffin Bell, of Georgia, to be the Attorney General of the United States.

I think it is important for us at the very outset to ask ourselves what does that mean? What does it mean that the Senate is going to give its advice and consent to the nomination of Griffin Bell to be Attorney General? Does it simply mean that after the President of the United States has had an opportunity to exercise the broad and plenary power to choose from among 215 million Americans, that we then merely have to ascertain whether his choice is a convicted felon or a committed lunatic, and if we find that that is not the case, we then have to automatically grant confirmation?

Well, I would say certainly not. This was one of the questions that arose during the debates on the adoption of the Constitution and which was discussed by Alexander Hamilton in No. LXXVI of The Federalist Papers. He said:

> To what purpose then require the cooperation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. In addition to this, it would be an efficacious source of stability in the administration.

I think that Hamilton has spoken for us as well as for his own time in an important way. It seems to me that we have a responsibility under article II of the Constitution to take part in what is, in effect, a two-pronged appointment process, a process in which the power of appointment is clearly divided, one part being the power of nomination, which is assigned to the President, and the other part being confirmation, which is assigned to the Senate.

We are not given this power just as a matter of show, of exhibition; we are not given this power just so that we have something to do to fill in these days. This is a serious responsibility, and it is one I think we have to discharge in a serious way.

I know the question will be raised here today, as it has been in the press today and in the last few days on the subject of comity with the Executive, of what we owe to a President to accede to his wishes, to give him officers to carry out his administration with whom he is comfortable and in whom he has particular personal confidence.

Of course, this argument is made very strongly when we are in a honeymoon and, I think, it is not without some force. But, on the other hand, I think we have to remind ourselves it is not the President's qualifications that are under review here today; it is the qualifications of his nominee.

The separation of powers, which is a very fundamental principle of our government, does not require that one branch dominate another branch but rather that we share coequally in the responsibilities assigned to us. And this, in fact, is what we propose to do here today in this debate, to look very carefully at the appointment which we will be making with the President by the act of confirmation.

To simply confirm this nomination out of some sense of comity with the Executive would, I think, very seriously erode not only the powers of the Senate but the constitutional responsibilities of the Senate, and I do not propose to do that today.

But if we are going to judge a nominee, any nominee, not just the one before us today, what kind of standards should we apply and what sort of tests should we apply?

I think we have some precedents and guidelines from the past. For example, I think we can ask, on the question of personal integrity, and personal honesty, whether the nominee has taken those precautions, and care in his personal, professional, and financial relationships which would avoid any charge of impropriety or which would avoid, in fact, even the appearance of impropriety. In the case of the great officers of our Government the appearance of impropriety, as well as the existence of impropriety itself, is a very grave matter because it goes to the question of confidence in Government.

The problem of conflict of interest arises. In the case of a nominee who has been a judge, there is a very clear necessity to make an inquiry as to whether he has sat in cases in which he has had an interest of some kind. If the nominee has a previous record of performance as a public official we ought to examine it very carefully. I must say, that this kind of examination presents some difficulty, when that record of prior public service is as a judge, because I believe very strongly in the principle of judicial independence. It is a very ancient and fundamental principle which has been important in our Government from its very beginning. But very often the decisions of a former judge are the most important guides we have to his philosophy and his thinking; therefore. I believe that we have to take a look at what a judge has done. If in fact that judge has shown some reluctance to accept the rulings of higher courts or the clear precepts of the Constitution, and in fact he has shown some ingenuity in avoiding or evading those rules and those precepts, then I think we have to weigh that.

I think we have to look at past mistakes because all of us make mistakes as we go through life, and we have to make some judgment as to what weight to give those past mistakes.

I do not think that because someone has made a mistake or even several mistakes in the past which he has admitted and which he has stated clearly that he has repented that record should be an albatross around his neck forever.

But I do think that there has to be some ample evidence that, in fact, there has been repentance and a change of heart, and I think the evidence has to be very clear if we are to accept that as, in fact, the basis for our decision.

One of the factors, it seems to me, that is important is how the public is going to accept such a nomination because every appointment of a higher public official has an effect on public confidence, and we have an interest in public confidence.

On this subject I am going to quote from the speech that was given in this Chamber by one of the most beloved Members of the Senate ever to sit here, Phil Hart of Michigan. During the debate on the nomination of Judge Carswell to be a Justice of the Supreme Court, Phil Hart addressed himself to this question of the effect of a nomination on public confidence, and he said after some discussion of Judge Carswell's record that we can debate whether or not Judge Carswell had a change of heart.

> We can debate that as white Americans. But what if one were a black American? We have a responsibility to evaluate the judgment of black Americans on our action and their future attitude * * *

He said:

> I am willing to accept . . . Judge Carswell's statement of his change of heart . . . as descriptive of his present attitude, but what do you say to the 20 million blacks? To what extent should we be concerned with their feelings on that kind of speech?

And then he went on to say in a very poignant way:

> We are all part of what we were. That pledge is a part of that nominee.

So I think we do have to take into account the past and how that will be viewed by the public. We have to take into account intentions. In this case the record shows that Judge Griffin Bell has made a number of pledges, pledges that I welcome, pledges that I think are good as to how he will run the Justice Department, how he will interpret the law, and the kind of appointments that he will make. He has expressed some intentions that I find less welcome, intentions which would seem to abrogate the judgment of the Senate when it adopted the amendment offered by the distinguished majority leader last year providing for a 10-year term for the director of the FBI. But these intentions, both welcome and unwelcome, both good and bad, are part of what we will have to judge.

But the final test really comes down to that expressed by the present distinguished senior Senator from Montana, who was the junior Senator at the time, when he was summing up his thoughts in the Carswell debate. He said:

> It is not a challenge of the integrity or the popularity of the President. I vote the conscience of the junior Senator from Montana.

And ultimately that is where we all have to end up. We have to vote our conscience.

Very briefly, I have tried to evaluate the record of this nominee on the question of the propriety of his past actions. I have to say that I think he has lacked sensitivity. He sat as a judge in the Atlanta school case and in the Biscayne Bay case and under circumstances in which I believe he clearly should have recused himself. This is not a personal judgment of mine. It is the judgment of many in the country, including distinguished legal experts.

I submit at this time a telegram which came to me from Vern Countryman, professor of law at Harvard Law School, who concludes:

> I . . . cannot reconcile his confirmation with the Senate's vote on Judge Haynsworth. Confirmation of Bell would make mockery of President Carter's conflict-of-interest guidelines.

I ask unanimous consent that the full text of the telegram be printed in the RECORD at this point.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

> CAMBRIDGE, MASS., *January 21, 1977.*
> PMS Senator CHARLES MATHIAS, Jr.,
> *Senate Office Building,*
> *Washington, D.C.*
>
> Attention Robert Kelley: I applaud your courageous and principled stand in voting against confirmation of Griffin Bell as Attorney General. In view of obvious improprieties of Bell in sitting as judge on appellate court which ruled on validity of school desegregation plan in a case in which he provided legal advice and on the desegregation of a Biscayne Bay yacht club while he maintained membership in 3 clubs with similar segregationist policies, as well as his failure to report free and discounted club memberships to judicial conference even after its advisory committee had specifically ruled such memberships should be reported, cannot reconcile his confirmation with the Senate's vote on Judge Haynsworth. Confirmation of Bell would make mockery of President Carter's conflict of interests guidelines. Please circulate this message to other Senators.
>
> VERN COUNTRYMAN,
> *Professor of Harvard Law School.*

Mr. MATHIAS. I look at his record of public service, including nearly 15 years on the bench of the Circuit Court of Appeals for the Fifth Circuit; and I do not find that his record there is one which encouraged the march of the law toward the goal of equality and justice in which so much of this country was engaged in the decade of the sixties. In fact, I think an argument can be made that much of that record is a record which was designed to retard the march of the law toward equality and justice at a difficult time in our history; and we will discuss that here today.

I have considered the effect on the public, and of course the effect is clearly to raise some grave doubts among a substantial number of our people—to raise grave doubts as to whether they can look to the Justice Department in the future as a citadel of justice, where all of our people can appeal with the knowledge that their appeal will be met impartially, promptly, and vigorously.

So for these reasons, Mr. President, I cannot advise that this nomination be confirmed. I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. EASTLAND. Mr. President, I yield to the Senator from Indiana. How much time does the Senator want?

Mr. BAYH. Mr. President, I shall take about 5 minutes right now, and then use more time later on.

Mr. EASTLAND. Take what time you want.

Mr. BAYH. Mr. President, I have listened with great interest to the analysis of the issue before us by my distinguished friend and colleague, the Senator from Maryland. Having had the opportunity of serving with him in a number of capacities on various committees and subcommittees, I have to say that there is no Member of this body whose judgment I respect more highly, and I am confident that he is aware of my sincerity in this regard.

It is because of this deep feeling of respect and admiration for him that it is difficult for me to have sat through the same hearings, looked at the same set of facts, listened to the same nominee, considered the same life history and qualifications, and find myself coming to a different conclusion concerning the merits of the nomination. I think if the Senator and I were to look over the record of our tenure in the Senate, we would find many more times on which we have agreed than on which we have disagreed.

So the fact that the assessment that I make is different from that of the distinguished Senator from Maryland is in no way anything other than the differing judgments of two men conscientiously seeking the right answer to a very important question: I must say I would concur in the assessment made by our friend, now the senior Senator from Montana, that what we all do and what we are charged with doing is not to meet some test, either accurately or inaccurately interpreted here 200 years later, as laid down by our Founding Fathers, but indeed to use our own individual tests and to vote our individual consciences.

I think all Members of the Senate will do that, even those who might reach a different conclusion than I.

Mr. President, I suppose I spent as many hours in that hearing room as any other Member of the Senate. As one who has been intimately involved in the advise and consent process for past nominations, I felt a great deal of responsibility not only to spend time there, but to study the merits of the issue, and to try to glean from personal conversations with the nominee answers to questions that all of us in this body have a responsibility to answer before we put our seal of approval on any nominee.

I have to say, Mr. President, that after long and careful consideration of this nomination, I am pleased to be able to express my support for Judge Griffin Bell to be Attorney General of the United States. As the Judiciary Committee in the Senate advised and consented to the nomination of Judge Bell, I was glad to join in that confirmation, with confidence that Judge Griffin Bell has the capacity to be a truly great Attorney General.

It seems to me, Mr. President, that this is the test that all of us have to apply. We are not looking for someone without

imperfections. We have not had anyone who has met that test on this Earth for better than 1,900 years. We are not looking for someone who might meet all of the qualificatons that we would set forth if we were to set about picking the perfect Attorney General. In fact, I think in all candor and honesty to the committee Judge Bell himself pointed out that he had recommended, early in this election process, a number of outstanding attorneys that he thought would make good attorneys general.

In spite of all this, I felt that the question before all of us is: Would the man be a good Attorney General? I think we can confidently say that he will be.

As we began his confirmation hearings before the Judiciary Committee, Mr. President, I told Judge Bell that I would be less than candid if I did not acknowledge serious reservations about some of his activities and decisions in the past.

There is no point in avoiding the fact that I had reservations.

Judge Bell has taken some positions and expressed some beliefs with which I disagree. Among those was his support of G. Harrold Carswell for appointment to the Supreme Court, his decision which upheld the Georgia State Legislature's denial to Julian Bond of his duly elected seat, and his dictum in the Brown case implying that the President has broad inherent authority to authorize warrantless electronic surveillance of American citizens in spite of fourth amendment protections, when national security is involved. Some accusations about his activities for former Georgia Governor Ernest Vandiver also caused me concern. But the judgment that we must make in the Senate is, as I mentioned a moment ago, not whether Judge Bell's record is without flaws, nor if he is a perfect human being. None of us could pass that test—at least, speaking, as I suppose I should, for this Senator from Indiana, I certainly could not pass that test.

Rather, the judgment we must make is whether Judge Griffin Bell, has the ability and strength of character to recognize and to admit his errors of the past, to grow, and aggressively to pursue his pledges and the pledges of President Carter to enforce the laws, to assure equal justice and to protect individual liberties.

I certainly agree with my friend from Maryland that mistakes do not necessarily recommend one. But we must start from the foundation that whoever is nominated will have made some mistakes. We have to look at the kinds of mistakes, whether the mistakes now are acknowledged, and whether the nominee has learned so that he will not make the same mistakes again. Some of us may measure these mistakes differently. I must say that, having gone through the Haynsworth and Carswell nominations, I took some comfort in findng that in Judge Bell we have a man who does not try to hide and run away from his mistakes.

One of the major reasons that Clement Haynsworth was denied confirmation by the Senate was that he tried to make serious errors look as if they were the standard, accepted conduct of members of the Judiciary and people with good judgment.

On most of the instances that were presented to the committee in which I believed Judge Bell had error in the past, he acknowledged either that he had made a mistake or that circumstances had changed so that, given the 20–20 view of hindsight, he would now reach a different conclusion. I must say I took some significant comfort in this.

Judge Bell willingly responded to the accusations of his sharpest critics during the Judiciary Committee hearings on his confirmation.

To just touch on some of those criticisms, he said that his decision in the Julian Bond case was wrong. Clearly it was. He admitted that events subsequent to his decision in the Brown case have shown that his dictum on that case was too broad, and he expressed the belief that the President should voluntarily act within the constraints of the fourth amendment warrant clause to protect the civil liberties of American citizens. He pledged that, even if the President has constitutional authority to authorize warrantless electronic surveillance, he would try to assure that the President would not use that power with respect to American citizens.

As one who has been personally involved as a member of our Select Committee on Intelligence, working with the distinguished Senator from Massachusetts (Mr. KENNEDY), we have tried to place careful restrictions on electronic surveillance and other violations of privacy of our citizens in the area of national security. I again felt comforted by the fact that the Attorney General nominee said he not only believed there was room for Congress to act but that he would cooperate with us in placing constitutional guidelines on the snooping and invasions of privacy of Americans that have gone on for all too long.

Let me say to the Senate that Judge Bell did not repudiate his recommendation of Mr. Carswell for a seat on the Supreme Court. I wish he had. It would have been politically expedient for him to do, let me say. He did promise, however, that he would not recommend persons with records such as Carswell's for consideration for judicial appointments during his tenure as Attorney General.

After some members of the Judiciary Committee may have tired of hearing me ask him to repudiate Mr. Carswell, I finally came to the conclusion that perhaps this is a test of the character of the man; that he was unwilling to repudiate a man who was a friend and who now has fallen on unfortunate times. Judge Bell had been a personal friend of Harrold Carswell. He had gone to law school with him. Judge Bell's support had been solicited by other contemporaries on the fifth circuit court. He gave his recommendation in support of Mr. Carswell. That was a mistake.

But, rather than repudiate an old friend he chose, in the Judiciary Committee hearings, to look instead at his present thinking and to look to the future. He said he would not consider any person for a judicial appointment who had a civil rights record like Carswell's. Perhaps that speaks more of the man than easy refutation of past friendships and past support.

In any event, Judge Bell's commitments for future high quality judicial appointments are clear. I think we can rest confident in that fact.

It was important to me in weighing this nomination to give careful attention to the opposition to Judge Bell voiced by several individuals and groups whom I respect greatly.

Just as some of my colleagues who on the floor today are going to take issue with the qualities of this man—a judgment that I respect, having fought many tough battles on the same side with those colleagues—there are some organizations and some leaders outside this body with whom several of us have marched arm-in-arm in trying to see that certain goals were obtained and certain negative steps were not taken successfully.

Among those, without naming the entire list, are Clarence Mitchell, Aaron Henry, and the NAACP, Representative PARREN MITCHELL and the Congressional Black Caucus, Joseph Rauh and the Americans for Democratic Action, Jesse Jackson and PUSH, just to try to name a few of those whose value judgments I find over a period of time to be very close to the mark.

I know these men and the organizations that they represent to be thoroughly sincere in their dedication to civil rights and equal justice. Their testimony in opposition to Judge Bell, very frankly, gave me pause.

But I also took note of the strong support Judge Bell received from people whom I also respect, including many who dealt with him personally while he was a Judge on the fifth circuit court of appeals and as far back as the late 1950's, when he was a counsel to the former Governor of Georgia. Ernest Vandiver.

If the candidate before us was Governor Vandiver, with all he said and did, I feel we would have a different problem. That is not the case. We have a man who worked in a capacity which has been described differently by different people.

I must say the conflicting testimony from honest, able and fair minded people, many of whom have labored for much of their lives for civil rights, seems to demonstrate that well motivated people can look at the same information and reach different conclusions.

One of the things I struggled with, and I assume others struggled with and came to different conclusions, is how heavily to weigh a person's past record. I think that record is fair game to consider, as we look at a nominee some 20 years later.

But unless we accept the standard that one is to be forever foredoomed for value judgments that he made two decades ago, then it seems to me we have to look at the capacity of a man to grow. Even more significantly, some of us in this part of the country perhaps ought to try

to put ourselves in the shoes of persons making decisions two decades ago under entirely different circumstances than most of us in this body, who did not live in that part of the country, have experienced.

There have been a lot of changes in the South. We now have a man from Georgia sitting in the White House. Let me say very frankly, at one time there would have been very few people in the country who would have imagined it possible, not only for the man now there, but for anybody from Georgia to be sitting in the White House.

I think the President's election reflects a change in national attitude. We have put the country back together again and we want to keep it that way.

It seems to me that although national leaders who are concerned about civil rights have a sober responsibility, perhaps we should not be so pious as to establish our own judgments on standards that were met by people 20 years ago and who lived in a different part of the country than most of us have lived.

So I must say, as I tried to weigh this, I gave significant weight to the value judgments that were made by black leaders in the Georgia-Atlanta community who had worked with this man. To me, the appraisal that they made had value. Having worked with the man in struggling and trying to crack the door and let some fresh air into those dungeons of segregation 20 years ago, they were in a good position to test what the man was really made of and how conscientious he was in moving toward ultimately wiping away this blight on American society. They are better qualified than I am or some other well-intentioned leaders are who were not there and are applying a different standard with the 20–20 vision of hindsight.

Without at all being disparaging toward those who made this assessment and have come to a different conclusion, I wish to say it is awfully easy for those of us who have not been there to judge others who have. To me, to listen to those black leaders who had worked with Judge Bell and who concluded that not only did he do a passable job, but that he did a good job, made an impression upon at least this one Senator.

To look at some other aspects of Judge Bell's record, he has been praised for his accomplishments in seeking to improve the processes of the judiciary to serve the end of justice more efficiently for all Americans.

His skills and his devotion to that goal will be of great value to our country in reconciling the important need to improve access to the courts for resolving legitimate claims with the important need also to reduce court backlogs and caseloads which are often too heavy to allow careful deliberation.

Judge Bell also is firmly committed to the full implementation of the Juvenile Justice Act, for which I and other members of the Subcommittee To Investigate Juvenile Delinquency have worked so long. I am confident that we now can look forward to a new day in juvenile justice in which the prevention of juvenile crime will be a top priority of the Department of Justice. I am pleased that Judge Bell also intends to concentrate the Federal Government's drug enforcement efforts on the international kingpins of drug traffic who continue to cause such great tragedies in our country, especially among the young.

In making my assessment of Judge Bell's qualifications to be Attorney General, I have given substantial weight to his pledges to fulfill the promises of the Carter administration and especially to his specific pledges of strong enforcement of civil rights laws; protection of individual liberties; dedication to absolute integrity by public officials; monitoring of intelligence activites to prevent abuses; improving access to our judicial system for enforcement of important constitutional, consumer, and other individual rights; aggressive enforcement of antitrust laws; and assuring minorities and women their rightful places in the Department of Justice and the judiciary.

Of course, we all have to face the fact that pledges are merely empty words unless they are accompanied by the personal qualities that will assure their realization. Insofar as I have been able to determine, Judge Griffin Bell has the character, integrity, intellectual ability, and attitude toward public service which make his pledges worthy of our confidence.

I suppose that when you get right down to it, Mr. President, with the concerns that I had from the beginning, the thing that allayed them more than any other was the type of value judgment I tried to make of the man. History and testimony and promises are for naught unless the man involved has the character and determination, is made of the kind of stuff that understands that what he said and what he says are a great responsibility heaped on his shoulders, that the Office of Attorney General assume the importance that the Members of this body demand that it assume.

I came to the conclusion, both while sitting in hearings and through personal conversations with the nominee, that he is indeed that caliber of human being.

As always, I value the dissent of those who disagree with me, and I respect and honor our system which has not only permitted, but has assured, that those with differing opinions have had a complete opportunity for their opinions to be aired and considered. The process in which the Judiciary Committee considered this controversial nomination is a tribute to our system of Government. I cannot help but believe that the process also has been valuable for Judge Bell. From his experiences of the last few weeks, I am confident that he is more sensitive to the hopes and concerns of his fellow citizens as he undertakes the highest law enforcement office in the land.

For my part, I look forward to the years of the Carter administration with great hope.

I am anxious to get on with the unfinished business confronting our country. A good deal of that unfinished business is going to go through the Department of Justice. I offer my encouragement and support to Judge Bell as he undertakes to fulfill the commitments of the Carter administration to the American people. That will not be an easy job. I have every reason to believe that Judge Bell has the capacity to direct the Justice Department to the goals set forth by our new President. I am confident that we in Congress will be able to work together closely with Judge Bell in the years ahead to see that the Government of the American people never wavers from pursuit of the ideal of equal justice under law for all our citizens.

Mr. President, before concluding my statement, I would like to say to the distinguished chairman of our committee that I have sat in on a number of hearings before our Committee on the Judiciary in the 14-plus years I have been in the Senate. I want to compliment him for the openness, the accessibility, and the availability to that hearing on the part of the American people. I think we also owe a word of commendation to the members of the press. We kick them at times, and at times they deserve it, just as we deserve it. But I do not know of a hearing I have been involved in that has had the kind of constant attention through which the American people have had a better chance to see what is going on. I think more people in America today are able to make a judgment on the merits of this nominee than in any hearing I have ever sat on in 14 years in the Senate. If it had not been for our chairman opening up those hearings and making them available, this would not be possible.

I would like, before concluding, to ask unanimous consent to have printed in the RECORD at this time an editorial which appeared in this morning's Washington Post, entitled, "The Case for Griffin Bell."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE CASE FOR GRIFFIN BELL

As the Senate takes up the nomination of Griffin Bell to be Attorney General, the pending question is not whether he is the ideal candidate but whether, as the President's choice, he ought to be confirmed. The distinction matters. We would hardly call Mr. Bell—as Mr. Carter did—"the most qualified person" in the country for the post. Indeed, Mr. Bell himself last fall suggested several people whom he considered well qualified. Mr. Carter may have settled on Mr. Bell, a long-time friend, as one among all reasonable choices with whom he felt most comfortable and compatible.

This emphasis on personal affinity between a President and the nation's top legal officer is rather discomfiting. Yet when compared with others, such as Robert Kennedy and John Mitchell, who came to the office by a similar route, Mr. Bell does have several points to his credit. Some are virtues of omission: he has not been the President's campaign manager. And it is not impossible to believe that he does want to run the Justice Department in a political way. Then there are the positive points; he does have judicial experience and is far better acquainted with constitutional law and the

problems of the legal system than either Mr. Kennedy or Mr. Mitchell was when appointed to the post.

Mr. Bell's record, specifically on civil rights matters, is of course what the critics find most troubling. The dispute is not over where he stands today, but over where he has been in the past. It is true that, as an aide to Georgia Gov. Vandiver in the late 1950's, and in dealing with desegregation cases on the circuit court, Mr. Bell did favor slow progress. By the benchmarks of today, and from the viewpoint of northern liberals, he seems to have advocated too little too late. Yet in evaluating what he did, it is essential to remember where he was. And we are impressed by the testimony of a number of Southern civil rights activists, black and white, that in the context of that region at that time, Mr. Bell was a constructive influence.

Thus, in our view, his civil rights record is not at all disqualifying. Moreover, in other areas Mr. Bell's statements have been very commendable. He has shown a refreshing sensitivity to problems of civil liberties. He clearly recognizes what kinds of changes need to be made at the FBI and seems determined to supervise that agency as closely as necessary. He wants to sharpen the Justice Department's crime-fighting abilities, improve the delivery of legal services and select better judges and U.S. attorneys. His one personnel announcement so far, that of Circuit Judge Wade H. McCree Jr. to be Solicitor General, is a high-quality choice. As we said the other day, it may be that Mr. Bell—far from being too political—is not yet sensitive enough to the political intricacies involved in every aspect of Justice Department business. But he seems to be a quick student whose practical education has already begun. Moreover, he is a man of substantial intelligence and staunch personal integrity. The nomination should be confirmed.

Mr. BAYH. Also, I ask unanimous consent that Fred Williams, Howard Paster, Nels Ackerson, and Irene Margolis be granted the privilege of the floor during debate and vote on this measure.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, will the distinguished chairman of the Committee on the Judiciary yield me 6 minutes?

Mr. EASTLAND. I yield whatever time the distinguished Senator from Georgia wishes.

Mr. TALMADGE. I thank the Senator.

Mr. President, I urge the Senate to advise and consent to the nomination of Griffin Bell to be Attorney General of the United States.

I have known Judge Bell for at least 30 years. He is qualified in every manner possible to be Attorney General. He has compiled a record of almost three decades of outstanding legal and judicial experience. In addition, he is recognized as an extremely able administrator.

Griffin Bell is a man of impeccable character and integrity. He is respected by members of the bar and the bench throughout the entire United States.

Judge Bell served approximately 15 years on the U.S. Fifth Circuit Court of Appeals. He was appointed to that position by the late President John F. Kennedy. The Senate confirmed him at that time, without dissent, and he served with honor and dignity in that position.

I am confident, Mr. President, that he will deal with an able and even hand with all matters that come before him and the Department of Justice, and that he always will uphold the letter and the spirit of the Constitution. He was a man of principle as Federal judge. He will be a man of principle as Attorney General.

Judge Bell, before the Judiciary Committee and in the news media, has been criticized by some civil rights groups. I may say that none of those groups or none of the civil rights leaders are from Georgia. In fact, the Honorable ANDREW YOUNG, Congressman from the Fifth District of Georgia, who has been nominated U.S. Ambassador to the United Nations, and who worked and marched alongside the late Martin Luther King, Jr., during the civil rights struggles of the 1960's, has expressed great confidence in Griffin Bell as Attorney General.

When the Supreme Court in 1954 handed down its decision in Brown against The Board of Education, it upset the statutory and constitutional system of school segregation in some 17 or 18 States in the Union that had been in existence since 1896, under the Plessey against Ferguson decision. This was a particularly traumatic occurrence in the South and, to a lesser degree, throughout the United States.

Judge Griffin Bell was a voice of moderation. He was a leader to whom people of both races listened during this critical time.

When Ernest Vandiver took office in 1959 as Governor of Georgia, laws on the statute books in the State required the closing of any school that was desegregated. Georgia was not alone in this situation. Many other States were in similar positions.

Judge Bell knew that the State of Georgia was about to reach an impasse. He very wisely sought to pour oil on troubled waters. He helped conceive the idea of organizing what became known as the Sibley Commission, which held hearings on public education throughout the length and breadth of the State of Georgia. The hearings were widely reported in the press and on television.

As a result, after the voice of the people had been heard, the General Assembly of Georgia repealed the law requiring the closure of desegregated schools. So, Judge Bell was primarily responsible for helping to remove the State of Georgia from the terrible dilemma it faced at that time.

His record speaks for itself. It indicates beyond doubt that he will be firm but fair in administering the Department of Justice, and in setting an example for all of the Nation in law enforcement.

Judge Bell exercised wisdom and leadership during a tumultuous and even inflammatory era in the States of the South. He has every right to be proud of the role he played as a moderating force at a time when moderation was sorely needed, and we are indebted to him for it.

I was very interested to read an editorial column in the Washington Post of January 6 by Eugene Patterson, who is presently editor and president of the St. Petersburg Times.

During the most troublesome years to which I have just referred, Mr. Patterson was editor of the Atlanta Constitution. He came to that position following the death of the highly respected, internationally renowned human rights advocate, Ralph McGill.

From 1964 to 1968, Mr. Patterson served as Vice Chairman of the U.S. Civil Rights Commission. Mr. Patterson wrote in this column:

When the dust settles, Bell is likely to be seen for what he is—an able and incorruptible lawyer of the highest character and integrity and a principled man, who on the balance of his actions over the past two decades, can be depended upon to demand that Civil Rights laws be obeyed.

This is an oustanding and well-deserved testimonial to which I fully subscribe. I ask unanimous consent that Mr. Patterson's entire column be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BELL: "A GOOD MAN FOR A CLEANUP JOB"

(By Eugene Patterson)

Carter's larger reasoning in picking Griffin Bell, knowing in advance he would draw a troublesome reaction, is more reassuring than disturbing to those of us who have known Bell well over the last 20 years. Carter's whole cautious approach to his Cabinet selections shows he's not inclined to gamble or attract controversy lightly to his appointments. Why, then, did he expose himself deliberately to the heat he knew Bell's apointment as Attorney General would bring, with its surface overtones of political cronyism once again at Justice?

Chances are, the appointment signals a Carter determination to clean house at the department, including the FBI. For, when the dust settles, Bell is likely to be seen for what he is: An able and incorruptible lawyer of the highest character and integrity and a principled man, who on the balance of his actions over the last two decades, can be depended upon to demand that civil rights laws be obeyed.

If this runs counter to the impression given by the single-shotting of his background, his overall record need only be examined.

To comprehend what has happened during the last 15 years in Dixie, it is necessary to understand who, including Carter and Bell, made it happen. These are men who turned against Southern popular custom and their own ancestry to work toward rectification, in one generation, of racial wrongs spanning two centuries. Until that fact sinks in, along with the magestic meaning of it, the nation will continue to find it hard to understand the Southern administration that leads it.

True, there were greater white heroes than Carter and Bell in moving the South toward desegregation in the 1960s. But the pace of the march was less important than the direction the few leaders took in that time when too many politicians and judges were clinging to the safe popularity of the past. To go back from the present and glean isolated errors from the past of such men is to lose sight of their true measure: The sustained thrust of their courage and commitment in a time when it took courage to have courage. Bell qualified, as did Carter, and we Southerners

who watched them through those years know them for what they are.

I watched Bell come out of an Atlanta establishment law firm in the 1950s to serve as chief of staff to an upright but segregation-trapped governor of Georgia, Ernest Vandiver. Bell helped ease Vandiver into appointing a blue-ribbon panel, called the Sibley Commission, to hold hearings across Georgia for the purpose of educating the segregationists on the inevitability of public school desegregation. And when Alabama-style riots broke out when the University of Georgia was forced by the courts to desegregate, Bell was among the few who persuaded Vandiver not to follow George Wallace's example of inaction in the Autherine Lucy riot, but to send in the state patrol, which reclaimed the Georgia campus from the mob and protected the black students there.

These were critical, almost politically suicidal steps in that time, primitive as they may seem now. But they marked out the men of the future. Southerners measure men now on where they stood then.

Bell took the Georgia chairmanship of John F. Kennedy's campaign before it was by any means certain a Catholic and a "liberal" on civil rights could carry that state in 1960.

And once on the bench of the federal Circuit Court of Appeals, where he perceived himself to be a moderate bridge between the liberal judges and the conservatives who didn't want to move on civil rights, Bell wrote a strong record of upholding black rights to vote and to go to integrated schools.

Nobody's perfect. I felt Bell voted wrong in finding that the Georgia constitution empowered its legislature to deny a seat to an elected representative, Julian Bond. He didn't address the right or wrong of the legislature's act, as I recall. He simply felt it had the power to act, rightly or wrongly. The Supreme Court reversed him. So he erred. So that was one case. His record shows a voluminous and unswerving series of opinions requiring justice for blacks, including a period when, as he says, he was practically acting as "the superintendent of schools for Mississippi." That record deserves a fair examination by the hawks swooping at his Southern head.

Last February, when Bell resigned from the federal bench to re-enter private practice, I interviewed him and printed his own words, which state his philosophy at a time when he had no pressure on him and no reason to dissemble:

"The type of case coming to us has gotten mighty routine," he said, explaining his resignation at age 57. "I'll bet 40 per cent of them are criminal cases involving narcotics. It got to be a production line. There was little time to reflect. This was not the reflective court I went on 14½ years ago, judging great issues. . . . [T]he pace was too slow after the cases I'd known with larger meaning for the society and the nation. . . ."

Bell went on to recall with pride his part in ending the notorious county unit system of elections in Georgia; in helping to reapportion state legislatures and force just representation for all; in giving life to the Voting Rights Act for blacks in the South; and, exceeding all others in stress, in requiring desegregation of the schools of his native South.

"We contained a social revolution," Bell said 11 months ago. "The law did that. It was one of the most remarkable achievements in history when you look back on it. The federal court system proved to be a great instrument for the general good."

Taken whole, Griffin Bell is a level-headed lawyer of dependable character whose tough commitment to the principles of political rectitude and racial justice were case-hardened in the pressures of the 1960s when commitment counted. The Senate and the nation most likely will come to see that the President-elect has nominated a pretty good man for a cleanup job that can lead to restoration of faith in the Justice Department.

Mr. TALMADGE. Mr. President, it is my earnest hope that Judge Bell will be confirmed as U.S. Attorney General without further delay.

I thank the distinguished chairman of the Judiciary Committee for yielding this time.

Mr. President, I yield back the remainder of my time.

Mr. MATHIAS. Mr. President, I wish to join with the distinguished Senator from Indiana in acknowledging the impartiality and fair manner in which these hearings were held. There were, in fact, witnesses who were not accommodated in the first couple of days of the hearings and the chairman extended the hearings and called witnesses and instructed the staff to make the arrangements for witnesses.

So that I am not aware of any witness who wanted to appear who did not have an opportunity to appear. That is not to say there might not have been some witnesses we would like to have heard from that we did not hear from. We made some efforts to reach Governor Vandiver and others, and we found we were unable to do that. But the chairman, for his part, bent over backwards to make sure everyone who wanted to be heard was heard.

I want to join in the testimony of that fact and thank the chairman for his courtesy to every member of the committee.

Mr. President, the question of the attitude of the black community in Atlanta has been raised by both the Senator from Indiana and the Senator from Georgia.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a telegram from the board of directors of the Atlanta branch of the National Association for the Advancement of Colored People. This telegram states that they oppose the nomination of Griffin Bell to be Attorney General of the United States.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

ATLANTA, GA., *January 19, 1977.*

Senator CHARLES MATHIAS,
Senate Judiciary Committee, Senate Office Building, Washington, D.C.

The board of directors of the Atlanta branch of the National Association for the Advancement of Colored People opposes nomination of Griffin Bell to be attorney general of the United States, Griffin Bell's key role as architect of the State's resistance to integrated education makes him unqualified to fill this post, the Attorney General is the Nation's lawyer, called upon to enforce the laws without partiality or regard to race, creed, sex or color. No one who joined those who said "never" or who stood in school house doors, or who gave aid and counsel to those who tried to thwart the Constitution of the United States, should be allowed to hold this high office.

JULIAN BOND,
President, NAACP.

Mr. MATHIAS. Mr. President, I yield 20 minutes to the Senator from Massachusetts (Mr. BROOKE).

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I thank my colleague.

Mr. President, I ask unanimous consent that Ralph Neas and Fran Farmer be granted privilege of the floor during the debate and votes on this particular matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I rise, reluctantly, to speak against the immediate confirmation of Griffin Bell as Attorney General. I am well aware of Presidential prerogative and the concomitant discretion and latitude which this prerogative gives to the President in selecting his Cabinet. In fact, I have never voted against the Cabinet nominee of any President, no matter what his party. But, I feel that the Senate would be remiss in its constitutional responsibilities if it did not carefully scrutinize the qualifications and also the performance and the promises of a candidate for the office of Attorney General. For that office, perhaps more than any other Cabinet post, requires great integrity as well as great sensitivity to the rights of the oppressed and the disenfranchised.

I will not speak to the merits of the confirmation at this moment. Indeed, I doubt that many persons in this Chamber could speak of the merits. For I feel confident that few of us have read the over 900 pages of testimony. Yet, it is critical that we take the time to do so. The integrity of the confirmation process demands it.

Unfortunately discussions about this particular confirmation show that a remarkable polarity along party lines exists about the fitness of this nominee. It would be shameful if partisan politics were allowed to mask the fundamental questions which we should be asking, the information and witnesses we should be seeking.

I fear that a double standard may be developing for nominees who appear before democratically controlled Congresses. One for Republican nominees and one for Democratic nominees. No one should be more mindful than we of the need to carefully examine those who will be in sensitive positions in our Government. Our recent troubles with Watergate, conflicts of interest, impropriety in financial arrangements cry out for us to exercise great caution and great care in selecting Attorneys General, judges, heads of regulatory agencies. Indeed, that is the very purpose and the very essence of the Senate confirmation process.

Regrettably I do not believe that the Senate in this instance has yet lived up to its "advice and consent" responsibilities. Indeed I think that a Republican nominee who had engendered this kind of controversey and contradictory testimoney may have been summarily rejected by this Congress.

I have studied the record, and find it replete with omissions, cavalier answers, factual disputes, and insensitive responses. I must wonder why persons

who—from their own knowledge—should have been mandatory witnesses were not called. Who, better than former Governor Vandiver himself, could describe the extent and quality of Judge Bell's participation in formulating massive resistance tactics for Georgia? Who, better than persons who clerked for Judge Bell or who argued cases before his court, can attest to his judicial temperament and can state whether allegations about his intemperate comments about integration, the poor, the rights of criminals, and access to the court are accurate. If allegations of conflicts of interest, breaches of the judicial canon of ethics, and unethical campaign activities from the bench have been raised, can any one of us feel reassured that these allegations have been successfully refuted?

To rush into a confirmation of a nominee for this high and sensitive post is simply too important to the future aspirations of millions of Americans, not just black Americans, but the poor, the disenfranchised, consumers, prisoners, laborers in the work force, and every citizen who is concerned about the integrity and the advocacy of the Department of Justice.

A scant few years ago, we sat in judgment on the fitness of not one, but two, Republican nominees for the Supreme Court. After exhaustive examination, we found them unfit. I strongly opposed those men, and I feel that their failure to win confirmation represented a triumph of process over lack of qualifications, shoddiness, and partisan interests. The hearings on those two individuals spanned months. And none of us felt compelled by partisan considerations or sectional balance to rush the process. I believe that same high standard of caution must prevail today.

To be sure, I recognize some distinctions between Cabinet confirmations and Supreme Court confirmations. Yet I feel that the Attorney General is the most important and highest Government official developing policy with regard to the legal rights of all citizens. That person must be an attorney of distinction, a person of principle, integrity, vision, and courage.

While these terms may apply to Judge Bell, I am concerned about a record which, on the eve of confirmation, is still murky and laced with charges and countercharges. We should be absolutely certain, absolutely convinced, absolutely and inalterably persuaded that Judge Bell is the man to guide the Justice Department in a new and more difficult era. For today, the status of our civil rights, rights to freedom of expression under the first amendment, rights of access to the courts, rights of the Government to demand dissolution of megacorporations, rights of prisoners, rights to demand remedial and affirmative action, have never been more important, more confused and more questioned.

These problems with the record give rise to several questions about the evidence and procedures used in the Judiciary Committee hearing, which I wish to pose to my colleagues on the committee. Unfortunately, the present record gives the appearance of a pro forma and even perfunctory hearing. The length of the hearings should not delude us. At many critical points in the transcript, the extent to which witnesses were pressed for corroborating evidence, or the lack of other corroborating witnesses is disturbing. It is true that the committee was able to elicit several glowing statements about future policies of the Justice Department and Judge Bell's willingness to be a strong advocate for certain important principles. But where there were factual disputes about Judge Bell's conduct or attitudes, the record indicates that the committee did not probe thoroughly nor adequately solicit witnesses to confirm or deny the allegations.

Mr. President, I hope that these questions can be answered to the satisfaction of all of us. If they are not, I will feel compelled to move to recommit the nomination of Judge Griffin Bell.

1. SHOULD JUDGE BELL HAVE PARTICIPATED IN CALHOUN V. LATTIMER, 321, F. 2ND 302 (FIFTH CIRCUIT 1963) (ATLANTA SCHOOL DESEGREGATION CASE)

My first inquiry is whether Judge Griffin Bell should have disqualified himself from sitting on the fifth circuit panel considering Calhoun against Lattimer, the Atlanta school desegregation case. The hearing record indicates that his legal involvement in the Atlanta case preceded by several years his appointment to the Fifth Circuit Court of Appeals.

According to the record, in January of 1958 a desegregation suit was filed in Atlanta. In November of 1958 Judge Bell and other lawyers traveled to Mississippi and to other Southern States to investigate the techniques of massive resistance. On February 3, 1959, the Georgia Legislature passed a package of antidesegregation legislation which has been the subject of considerable testimony and which the lawyers' group, including Judge Bell, apparently in whole or in part recommended.

On July 13, 1959, Governor Vandiver appointed a group of what were described in the Atlanta Constitution as segregationist lawyers and called them into a meeting at the Governor's mansion to discuss, among other things, the recently decided Calhoun case. A memorandum regarding that meeting was introduced as evidence during the hearings which discloses the views that were expressed by each of the participants in that meeting, including Judge Bell. Judge Bell is quoted as advising that he "doubts advisability of appeal—might put us in worse shape."

And then on June 17, 1963, Judge Bell, now elevated to the bench, cast the deciding vote in Calhoun in favor of the school board and actually wrote the decision approving the Atlanta plan.

Various witnesses before the Judiciary Committee, including Monroe Freedman, an acknowledged expert on legal ethics, have testified that Judge Bell's participation in a decision on a case in which he had previously been involved as a lawyer was a clear violation of the Canons of Judicial Ethics and the Federal recusal laws.

The relevant statutes and canons appear to support their argument. According to 28 U.S.C. 455—as it read in 1963:

> And Justice or Judge of the United States shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related or connected with any party or attorney so as to render it improper in his opinion to sit on the trial, appeal or other proceeding therein.

And the Judicial Canons of Ethics have long stated that—

> A Judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned.

Some may argue that Judge Bell was not actually of counsel within the meaning of section 455. However, the memorandum introduced in the record certainly indicates that Judge Bell gave counsel as to what course of action should be taken with respect to the appeal of the Atlanta school desegregation case. And as Monroe Freedman stated in his testimony:

> Presumably Judge Bell was talking to someone who was in a position to make the decision to take the appeal; otherwise, that language would appear to be in context nonsensical.

This recitation of the facts and the appropriate statutory and canon provisions deeply disturb me. There appears to be a violation of law or at the very least a marked insensitivity to judicial conflict of interest provisions regarding impartiality or the appearance of impartiality.

Unfortunately, the Senate Judiciary Committee report does not discuss this issue.

Mr. President, I would appreciate it very much if a member of the committee would explain on this floor now how they judged the evidence on this issue.

Mr. MATHIAS. Mr. President, if the Senator will yield, he is referring to the majority report, not to the separate views of the members of the committee which did raise the question.

Mr. BROOKE. The distinguished Senator from Maryland is correct. My question is referred to majority members of the Judiciary Committee.

Mr. BAYH. Mr. President, if the Senator is posing a question, I would be glad for him to go back and read that report and further to ask him to reread the hearings. Also he might reread, if he was not here, the acknowledgment by the Senator from Maryland of the kind of thorough hearings that were held.

The length of those hearings and the process we undertook and went through is a matter of record. The matter of procedure and coming to a different conclusion after having read the evidence are two entirely different things.

I want to say to my friend from Massachusetts, I do not think it is quite fair to challenge our thoroughness. If he will reread the record, he will find the point he raises mentioned. The conclusion of the majority was that that point, as well

as others with which many of us were concerned, was not sufficient to deny the President the advise and consent of the U.S. Senate on this nomination.

Mr. BROOKE. May I say to my friend from Indiana I have read and reread the record. I ask the distinguished Senator to point out that portion of the record, to which he refers, to enlighten me as to that portion of the record which he says supports the findings of the committee on that particular issue.

Mr. MATHIAS. Mr. President, if the Senator will yield again, the RECORD of yesterday includes on page 2037 an article written by Dean Monroe Freedman, who testified before the committee, in which he says:

> Judge Bell clearly violated that conflict-of-interest statute.

Now that is the record as it stands. The conclusions may be different. The Senator from Pennsylvania has been particularly active in this aspect of the case, and I think has been very helpful in making clear the problems propriety and ethical conduct which are presented by the nomination.

Mr. BROOKE. Mr. President, I would be very pleased to hear from the Senator from Pennsylvania if he would address that particular question.

Mr. HEINZ. I thank my distinguished colleague from Massachusetts for referring to me. I will be making a fuller statement in a few minutes.

Does the Senator have any questions which he would like me to respond to?

Mr. BROOKE. The answer to my question is not properly addressed to the Senator because he was a member of the minority, and as I understand it, the Senator wrote a minority view. The question was really posed to the majority, and I ask them again if they could explain how they judged the evidence on this issue.

I do not accept the response which was given to me by my dear friend from Indiana as really being responsive to the question.

Mr. BAYH. I do not expect my friend from Massachusetts to accept much of the response of the Senator from Indiana on this particular point since the Senator from Massachusetts says incorrectly that the whole hearing process was, I think to quote him, pro forma and perfunctory.

May I say to my friend, that I sat there and struggled and tortured myself throughout the hearings. If the Senator will go back and read the questions I asked Judge Bell he will see that it was not an effort by somebody acting in a pro forma and in a perfunctory way.

Perhaps if the Senator from Massachusetts had written the report it would have been more detailed because he was concerned about specifics and would have itemized them. But the report did generally touch on, recognize and then discount the concerns expressed by the Senator from Massachusetts with the following language:

> There was conflicting testimony by witnesses, both black and white, who had studied or been involved in the political situation in Georgia during the term of Governor Vandiver and who had been involved in school desegregations before Judge Bell. Some opponents also raised questions of judicial propriety in connection with Judge Bell's membership in certain private clubs from which he has now resigned.
>
> In light of Judge Bell's responses, the committee does not believe those questions are sufficient to deny confirmation.

Now, perhaps, that does not go as far as the Senator from Massachusetts wants.

Mr. BROOKE. What was the basis of that conclusion? That is the question. What was the basis of the Senator's conclusion that there was not sufficient evidence? The canons of ethics were before the Senator. The Federal code provisions were before the Senator. The appropriate questions were before the Senator. What was the basis of his conclusion?

Mr. BAYH. What does the Senator mean? We do not have any evidence that the nominee had violated the code of ethics. We had the judgment of Monroe Freedman who, frankly, I think is a very substantial scholar in ths area. That is a matter which, if the Senator will look at the record, obviously concerned the Senator from Indiana, having been intimately involved in other nominations involving conflicts of interest. Perhaps the Senator recalls the conflict of interest with respect to Mr. Haynsworth, for example, who had been recommended for appointment to the Supreme Court of the United States. Here was a man who was on the board of directors, one of seven, was a vice president, was a founding director of a company, and who sat on about half a dozen cases involving companies that did more than $1 million worth of business with this corporation with which he was intimately involved.

There is nothing close to that here. Compared to that we do not have a scintilla of conflict. There may be enough to make one a little uncomfortable; enough to make one ask penetrating questions. But in the school case, as the Senator from Massachusetts pointed out, the nominee never was a lawyer, never was a constituted counsel for any party involved. That is a fact.

I appreciate the fact that the Senator from Massachusetts raises the question. But to say we can really nail down a conflict of interest, I will say to my friend, is going beyond the evidence.

Mr. BROOKE. Mr. President, is the Senator from Indiana saying that the case for a conflict of interest is without a scintilla of evidence. Are you saying that in the Calhoun case, where Judge Bell had previously given legal counsel, and where he subsequently sat on the case and wrote the opinion, that there is no appearance of a conflict-of-interest?

Mr. BAYH. What does the Senator from Massachusetts say was counsel? He was part of a committee.

Mr. BROOKE. Is that the opinion of the Judiciary Committee? Does the committee believe that they did not have sufficient evidence, that Judge Bell did not act as counsel or did not give counsel?

Mr. BAYH. He did not act as counsel. The Senator is talking about legal canons of ethics. I assume he is not trying to reach out here and stretch for straws.

Mr. BROOKE. Not at all.

Mr. BAYH. The fact of the matter is the legal canons of ethics say that if you are a counsel in a case you shall be prohibited from participating on the bench in action on such a case.

Is the Senator from Massachusetts indicating, or suggesting, that Judge Bell was counsel in this case? The fact of the matter is that he was not.

The PRESIDING OFFICER. The Senator from Massachusetts' 20 minutes have expired.

Mr. MATHIAS. I yield 5 additional minutes.

The PRESIDING OFFICER. The Senator from Maryland yields 5 minutes to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I just cannot agree with my friend from Indiana. I guess this is about the first time we have not been on the same side of this issue. Maybe it is the first time we have ever had a Democrat nominated to be Attorney General since I have been in the Senate, and we have not had this issue before us.

I would like to move on because of the time limitations to some of the other issues and maybe we might get a clearer understanding of what the committee based its decision on.

Mr. BAYH. If the Senator will permit me just to interject 1 minute on my own time here, I will say to him, as I said to my friend from Maryland, it is disconcerting to me to find someone like the Senator from Massachusetts, with whom I have fought a lot of tough battles—we have won some and we have lost some—on the other side of this issue. But before he comes to the conclusion that this is a Democratic Congress or a Democratic majority of the Judiciary Committee going out here and rubber-stamping the suggestion made by a Democratic President, I wish he would go back and look at some of those questions asked of Judge Bell. They are not the kind of questions that are asked by Senators who have a preconceived notion of the direction the hearings are going to take.

Mr. BROOKE. I will point out to my dear friend and colleague that even on the question that was just raised in Judge Bell's testimony—and this is from the committee record—Judge Bell said

> I was not hired as its lawyer. I was selected as a lawyer, but I was not paid. The firm contributed my services as a public service. I was acting as a lawyer in every respect except that we did not charge for my services

I just cannot believe my colleague from Indiana is saying he was not of counsel because he was not paid. There are many lawyers who serve as counsel who do not get paid for it, but you certainly would not say he was not serving as counsel.

I mean if time permitted we could go right down question by question and answer by answer, and I am sure the Senator recognizes we cannot here draw the distinction that Judge Bell was not coun-

sel because he did not receive any remuneration for his services.

Mr. BAYH. That is not what the Senator from Indiana is saying. I did not wish to take any more of the Senator's time.

Mr. BROOKE. We are on the time of the Senator from Indiana and not on my time, are we not?

Mr. BAYH. We are looking at questions of violations of the canons of ethics. Judge Bell was not of counsel to a party in the case on which he sat as a judge. If that is what the Senator is talking about, those are the facts. Judge Bell was hired by the Governor to do a number of things. He was involved in a committee of lawyers that advised the Governor. If we are talking about whether the man actually violated the canons of ethics, the definition of counsel there, in my judgment, does not cover the services of the judge.

Mr. BROOKE. Mr. President, I just respectfully disagree with the judgment of the Senator from Indiana. He said he was correcting Mr. Freedman.

Mr. Freedman again, in the record, said:

> Therefore, it seems to be beyond question that he was acting of counsel with respect to that appeal.

I cannot see for the life of me how the Senator can stand and say that because he was not receiving remuneration he was not of counsel. I do not know what it takes to be of counsel in the mind of the Senator from Indiana. If he was giving legal counsel, he was of counsel. Even though he was not paid for his services, he was of counsel and he was giving legal counsel, and that legal counsel may have been taken. Then he turned around and sat as a judge on the same case on which he had given legal counsel. That is clear on the record. To me that is a conflict of interest. It ought to be to the Senator from Indiana a conflict of interest, and I think in any other case it would have been a conflict of interest.

Mr. HEINZ. Mr. President, will the Senator from Massachusetts yield?

Mr. BROOKE. I yield.

Mr. HEINZ. My recollection by way of the testimony is that Judge Bell, then Attorney Bell, indicated that while he was not receiving payment, and I believe I quote, "His services were contributed by the law firm."

Under those circumstances, I say to my good friend I think he is on the right track.

Mr. BROOKE. That is my recollection of the testimony, that his services were contributed by his law firm. As the Senator from Pennsylvania very well knows this is not unusual for law firms to contribute, particularly in cases involving municipal, State, and Federal Governments. Many times their services are contributed.

But one certainly cannot say that because they are contributed that that is not legal counsel. That is legal counsel, always has been, is, and I presume always will be, regardless of remuneration.

But I shall move on.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. BROOKE. I hope the Senator will be using some of his time. That is all.

Mr. BAYH. I shall be glad to deal with this question later on. I apologize.

Mr. BROOKE. I am very grateful to the Senator attempting to answer these questions. I know they are very difficult questions to answer.

Mr. BAYH. They are not difficult to the Senator from Indiana.

It is difficult for the Senator from Indiana to get the Senator from Massachusetts to understand his point of view.

Mr. BROOKE. When I get a logical answer to my question, I assure the Senator I will accept it.

Mr. BAYH. I am glad to give an answer now if the Senator wishes me to give it.

Mr. BROOKE. I will on the Senator's time.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

Mr. MATHIAS. Mr. President, I yield 5 additional minutes to the Senator from Massachusetts.

Mr. BAYH. I shall yield 2 minutes of my time so that the Senator does not feel I transgressed on his time.

The PRESIDING OFFICER. The Senator from Massachusetts has 5 minutes.

Mr. BROOKE. Plus the 2 minutes of the Senator from Indiana, which I accept.

No. 2. Should Judge Bell have participated in *Golden* v. *Biscayne Bay Yacht Club* (530 F. 2d 16 5th Circuit 1976) whether private club action in barring blacks and Jews from membership constitutes State action?

The second issue which I raise also involves the question of disqualification. In 1976 Judge Bell sat on an appeal regarding the Biscayne Bay Yacht Club's practice of excluding Jews and blacks from membership. Judge Bell at that time belonged to three clubs with exactly the same membership policies, and was receiving gift memberships from two of them. Judge Bell ruled in favor of the yacht club, and did not disclose his memberships to the lawyers in the case.

Witnesses before the committee have testified that Judge Bell violated the canons and Federal refusal statutes by sitting on this case.

The two relevant citations on this issue are 28 U.S.C. 144 and canon 3(c)1 of the Code of Judicial Conduct. 28 USC 144 states that where the judge has a personal bias or prejudice "either against a party or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceedings."

Canon 3(c)1 provides that "a judge should disqualify himself where his impartiality might reasonably be questioned."

In his testimony Judge Bell stated that the Biscayne Bay case simply involved a judicial determination of the extent to which the yacht club had a nexus with a Government unit. Thus he felt that since the clubs to which he belonged did not fit into that category, the case did not involve a broader challenge of discrimination by private clubs and therefore his clubs, the Dining Club and the Capital City Club, would not be involved.

Judge Bell also testified that the fifth circuit judges had voted not to exclude themselves from such cases as a matter of principle. The question of disqualification and membership in the club was left to the judge in question unless it was the club of the judge. Judge Bell added that "nearly every judge would have been disqualified if I was disqualified."

But other witnesses testified that not only did Judge Bell belong to the clubs, but that he also received free memberships from two of them. This compounds the issue in my opinion. The fifth circuit did not discuss or vote in this aspect of club membership.

Several witnesses pointed out that at the very least Judge Bell should have put the facts on the record and given the parties an opportunity to consider whether to move for disqualification or whether to follow the statutory and judicial code procedure of waiving that disqualification—canon 3(d) of the Code of Judicial Conduct.

Indeed, Monroe Freedman testified that he had called the lawyer representing the plaintiff in the Biscayne Bay case and asked whether he would have moved for disqualification of Judge Bell had he known the facts relating to the possible conflict of interest. The lawyer told Freedman that—

> Not only did he feel very strongly about it and was confident that he would have done so but that he was even more certain that his client had extremely strong feelings about the matter and would have made such a motion.

The committee report states that "in light of Judge Bell's responses" to the questions of judicial propriety in connection with Judge Bell's membership in certain private clubs, "the committee does not believe those questions are of sufficient substance to question seriously his confirmation."

That is the majority speaking, not the minority. That is the majority speaking again.

I concur that the issue of Judge Bell's membership in private clubs alone, regrettable as it was, is not of sufficient substance to bar his confirmation. However, I do not address myself to that issue. My question to the Senator is: What is the committee's opinion of Judge Bell's apparent violation of 28 U.S.C. 144 and canon 3(c)1 of the Code of Judicial Conduct?

No. 3. Did Judge Bell comply with laws and regulations concerning reporting of financial benefits received from private clubs.

The record indicates that from 1961–76, while serving on the Fifth Circuit Court of Appeals, Judge Bell received gift memberships in the all-white Piedmont Driving and Capitol City Clubs of Atlanta. These gift memberships were worth about $2,000 a year.

While these gift memberships were not

illegal, witnesses during the hearing pointed out that since 1970 Federal judges have been required to file a form setting forth such gifts. It appears that Judge Bell either failed to file the form for a period of 5 or 6 years semiannually, which means 10 or a dozen such forms, or else in filing them he did not report the gifts.

In addition, canons on this subject were first adopted by the American Bar Association in 1972 and then adopted by the Judicial Conference in 1973. Canon No. 5(c)4 states that:

Neither a judge nor a member of his family residing in this household should accept a gift, bequest, favor, or loan from anyone except as follows:

(c) A judge or a member of his family . . . may accept any other gift, bequest, favor, or loan only if the donor is not a party or other party whose interests have come or are likely to come before him, and if its value exceeds $100, the judge reports it in the same manner as he reports compensation in Canon 6(c).

The record shows that at least 2 years elapsed between passage of the code and the first reporting by Judge Bell, at which time the judge did not report the private clubs as an outside income.

Judge Bell's responses to these allegations deeply disturb me. He stated:

I am subject to the Judicial Conference to the extent that I am willing to comply. Some judges have refused to comply with the Judicial Conference and never filed anything at all.

This response appears to indicate a startling lack of sensitivity. The canons of judicial ethics, although they do not have the force of law, have established accepted guidelines for the conduct of judges. Judge Bell seems to have almost a cavalier regard for their importance and applicability.

Unfortunately, the Judiciary Committee report does not address these important issues either. My question: How did the committee weigh the evidence regarding these allegations?

Mr. BAYH. Let us look at the Alabama school case.

I am not too sure we are going to reach similar final conclusions. But certainly I respect the judgment of the Senator from Massachusetts and know that he and all Members of this body will act as a matter of deep conscience.

Mr. BROOKE. I thank the Senator.

Mr. BAYH. What is the relationship that the judge had that makes the Senator believe in that Atlanta school case, the Calhoun case, he should have disqualified himself?

Mr. BROOKE. Are we back to the Calhoun case now?

Mr. BAYH. Both that and the Alabama case. There is no reason for the Senator from Massachusetts to have to sit here and labor through them with me; after all we are talking about a judge who has been on the bench and decided 5,000 cases. You are picking out two cases here to tell this Senate that the nominee does not have proper standards of judicial ethics, and I tell the Senator both of them are marginal, even if one were to come down on the side of the Senator from Massachusetts.

Mr. BROOKE. I cannot see how the Senator can say they are marginal. In the first case, the Calhoun case, very clearly Judge Bell was of counsel. He gave legal counsel, and he then subsequently sat as a judge on the same case on which he had given counsel. It seems to me, even leaving out the canons of ethics, and leaving out the appropriate Federal statue, any judge would say, "I have given counsel in this case; I, therefore, disqualify myself," and let another judge be appointed to sit in that particular case.

No judge should sit in judgment on a case in which he has been a party in interest or in which he has given legal counsel. The judicial canons of ethics and the relevant statutes are clear on this point.

Mr. BAYH. I am trying to get the Senator to answer a question here on why he believes Judge Bell should have disqualified himself on these cases.

Mr. BROOKE. That is my answer.

Mr. BAYH. The Senator does an eloquent job of trying to say we should not nominate Judge Bell, but he does not answer the question.

Is the answer to my question of why Judge Bell should not have sat on that case, that he represented a party in interest?

Mr. BROOKE. Because he was of counsel. Because he gave——

Mr. BAYH. Wait a minute.

Mr. BROOKE. In the Calhoun case. On this case——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BAYH. I yield myself a couple more minutes. He was of counsel to whom?

Mr. BROOKE. To the State.

Mr. BAYH. Was the State involved in the Calhoun case? The Senator is talking about a case in which the State was not involved, the Calhoun case, and in which the judge did not, as a lawyer, represent any party to the case.

Mr. BROOKE. I did not state that he was active as an attorney in the trial of the case. He gave counsel in a case in which the State was involved as an interested party.

Mr. MATHIAS. Mr. President, if I may interject—I think we are on the Senator from Indiana's time—I think it might be helpful to set the stage. The question of whether he was counsel or not seems to me to be strongly influenced by the fact that he went to Georgia, to Virginia, and to Mississippi to try to help devise the very laws which would govern the operation of the school systems.

Mr. BAYH. I think to accept the assessment of the Senator from Maryland, you have to accept the very strong feeling——

The PRESIDING OFFICER. The additional 2 minutes of the Senator from Indiana have expired.

Mr. BAYH. I will yield a couple more here, I guess.

You have to accept the very strong and eloquent position espoused by about half the witnesses that were familiar with the situation in Georgia.

We talked to some of the black people down there who were with the judge when all this was going on, who suggested that he was the voice of moderation.

You know, sitting up in Terre Haute, Indiana, I would exercise a different standard, or sitting in Boston, Massachusetts, I would exercise a different standard, but this all took place almost 20 years ago in Atlanta, and it seems to me we have to determine in our judgment right now whether the sensitivity evidenced by Judge Bell 20 years ago in Atlanta shows he is made out of the caliber of human being and sensitivity that will cause him to make the right decisions today as Attorney General of the United States.

Mr. BROOKE. To what standard of sensitivity is the Senator from Indiana referring? Certainly, I hope, not the standard of sensitivity of one who, knowing that he has served as counsel, would sit as judge on the same case. That is the sort of sensitivity we are talking about.

I would agree we have to look back to the time at which Judge Bell made some of his decisions. If we were to judge the decisions alone, they would not serve as much as these apparent conflicts of interest to illustrate the difficulties inherent in what he has done.

Mr. MATHIAS. Mr. President, if I may interrupt for a moment, in considering what standard we should apply, the standard was enunciated by the Supreme Court in 1958, in the case of Cooper against Aaron. The standard is this:

It was made plain that delay in any guise in order to deny the constitutional rights of Negro children could not be countenanced, and that only a prompt start, diligently and earnestly pursued, to eliminate racial segregation from the public schools could consitute good faith compliance. State authorities were thus duty bound to devote every effort toward initiating desegregation and bringing about the elimination of racial discrimination in the public school system.

That, I would submit to the Senator from Indiana, was the standard which prevailed all across the country in 1958.

Mr. BAYH. Mr. President, I am going to stop interrupting the Senator from Massachusetts' argument. Maybe I did not interrupt him; he asked me a question which I have been attempting to answer.

Mr. BROOKE. That is correct; the Senator did not interrupt me. He just failed to answer my question.

Mr. BAYH. No; I think the Senator is partly right. I failed to answer it the way he wanted it answered.

I am going to just answer the question, and then not speak to it any more, because it is obvious that the Senator from Massachusetts does not agree with me.

If we are talking about what constitutes a violation of the canon of ethics, it says, "Thou shalt not sit in judgment on a case in which you have been of counsel, or been a party in the case."

All of the allegations and indictments—accepting them at face value, as expressed very strongly and very eloquently by the Senator from Massachusetts—about his being of counsel and giving advice, he gave that advice to the Governor of Georgia, and neither the Governor of Georgia nor the State of Georgia were a party in the Calhoun case. One may say he should not have done it, but if we are talking about violating a canon of ethics, I do not see how you can say a man violated a canon of ethics when he represented someone who was not even a party to the case on which he subsequently sat as judge.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. Mr. President, Judge Bell's role as legal adviser to Governor Vandiver is important for three reasons. First, he has denied participating in a program of massive resistance to the desegregation of Georgia's public schools and states initially that he urged compliance with the law. Under questioning by the committee, he altered his stand somewhat. There is a disturbing lack of corroborating evidence and testimony in this regard. Yet, we know that a body of law was drafted, did pass the Georgia legislature and was signed into law. And we do know that the laws were segregationist in their intent and in their impact. Briefly, those laws:

First, authorized the Governor to close any public school within a school system to preserve the peace, dignity, and good order of the State, meaning schools under desegregation orders.

Second, authorized the Governor to close any unit in the State university system to preserve the peace, dignity and good order of the State.

Third, prohibited any city or county having an independent school system from levying ad valorem taxes to support integrated schools.

Fourth, set age limits on those in the university system.

Fifth, facilitated establishment of private schools by allowing taxpayers credits on State income taxes for contributions to such private schools.

Since the actual bills are so patently illegal and anti-integration, a second issue is raised about the extent of Judge Bell's participation. The record is singularly unhelpful in this regard, and more evidence, deeper and more pointed questions should be posed. More testimony should be solicited. If the committee develops a more extensive record on this issue, we can ascertain Judge Bell's candor and veracity. This is truly critical, because the Attorney General, above all, must be a man of integrity and truth. His answers are somewhat evasive, confusing, and incomplete on the issue of his participation in the development of these laws, and give rise to the following questions:

Why did the committee fail to call Governor Vandiver?

Mr. BAYH. No one requested that Governor Vandiver be called.

Mr. BROOKE. No one requested it?

Mr. BAYH. That is right.

Mr. BROOKE. As a lawyer, Governor Vandiver certainly was a person who had a most unique knowledge of the facts. It seems to me he was the most logical witness the committee could have called. Why was he not called?

Mr. BAYH. If the Governor——

Mr. BROOKE. In the interest of an objective inquiry into the facts, why was he not called?

Mr. BAYH. I am sure the Senator can go down a list of 50 people who may have had some familiarity with the case. The question was whether Vandiver could have given us better information than other witnesses could have. Frankly, I do not think anybody even requested that Vandiver be called so he was not.

Mr. BROOKE. What efforts were made to search the Georgia Archives for records pertaining to the meetings, activities, and strategies employed in formulating the Georgia legislative package?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BROOKE. Mr. President, I ask for an additional 5 minutes.

Mr. MATHIAS. I yield.

Mr. BROOKE. Will the Senator from Indiana be kind enough to answer that question?

Mr. BAYH. I think in deference to my friendship with my friend from Massachusetts I would prefer to let him finish the questions. I will take note of them and answer them on my own time. I do not like to get involved in a shouting match with him of all people. When operating on my own time I can answer the questions in my own way without the Senator from Massachusetts feeling compelled to rebut my answers at this moment. I will be glad to answer the questions when the Senator has completed.

Mr. BROOKE. I will continue to pose the questions and I would be grateful if the Senator will answer them.

Mr. BAYH. Let me just suggest that I in no way feel my friend from Massachusetts believes that I am about to back away from a question, but I hate to try to answer a question at the same time he is rebutting it before I even get it answered. Could the Senator go ahead and make his case? I will be glad to answer his questions. I am sure the Senator feels very strongly about this. I will do my best to answer his questions as I see them. I am sure they will not be answered to the satisfaction of my friend from Massachusetts, but that is what makes the Senate like it is. We come to different conclusions and have different judgments.

Mr. BROOKE. Having no alternative, Mr. President, I will proceed.

Why were no witnesses called who could clarify the extent of Judge Bell's role in drafting the bills, and specifically testify as to the origin of the concepts embodied in those bills?

Why did the committee fail to call Richard Ashworth, Governor Vandiver's press secretary during the period in question. We have been informed that Mr. Ashworth would have firsthand knowledge about many of the events which occurred, and that he is presently working in Washington. It appears that it would not have been unduly burdensome on him or for the committee to hear his testimony.

Can the committee explain its failure to call Hankum Perry, an Albany, Ga., attorney who allegedly worked with Judge Bell in formulating the Georgia legislative package?

Did any person on the committee examine and evaluate the fragmentary documentation which Judge Bell states would shed no light on the issues?

Can the committee state where Judge Bell searched for these documents? Did the committee also perform a document search?

Can the committee describe its action with regard to the so-called privileged letter which Judge Bell did find in the files? Did the committee attempt to reach Governor Vandiver, to seek a waiver of the privilege from him? Why was there no challenge to this very attenuated claim of privilege by a committee member?

Did Judge Bell produce any evidence which corroborates his testimony that he was a moderating influence?

The committee apparently was satisfied with the level of candor and with the answers of the nominee. But the record does not reflect the basis for that acceptance. First, Judge Bell insisted that he was in favor of complying with the law in 1958–61. And let me remind my colleagues that the law at that time was Brown against Board of Education of Topeka, Kans. Brown held that separate is inherently unequal, and that integration was required. Yet, later on, Judge Bell alters his stance somewhat, stating that he was a "moderating influence," that everything he did was to keep the schools open. And this may be so. But, did the committee press the nominee as to what he personally did to insure that the schools would be open, and integrated, not open and segregated? Judge Bell elaborated further, stating that the laws were admittedly segregationist, but were "less so" than other laws on the books. And finally, he says if there was wrongdoing, it was in ignorance. I remind my colleagues of Governor Vandiver's own characterization of Judge Bell as "one of the best legal minds in the State."

Ignorance in that event, and for a circuit court of appeals judge and possibly the next Attorney General of the United States, seems a strange defense. I believe that these equivocal answers further confuse an already cloudy situation. My question is can the committee cite any concrete evidence which corroborates Judge Bell's characterization of his participation?

OTHER ISSUES

First. Judge Bell refused to repudiate Judge Carswell. Yet, his explanation of relationships among brother judges and his motivations in writing the letter were never satisfactorily explored. In addition, while he explained his mistake about the timing of his endorsement, I am deeply

concerned about what his recommendation says about his perceptions on standards of judicial excellence and preservation of the integrity of the judiciary, even where friends and political associates are involved. How did the committee evaluate the evidence on this issue?

Second. During the hearings, controversy and questions were raised about the possibility that Judge Bell had urged in a speech before the Atlanta Forum in 1972 that the parties to the Atlanta school case get together and settle it without their attorneys present. This suggestion from a sitting judge would have been highly irregular and highly improper. Yet, the committee only received testimony from a supporter of Judge Bell about this meeting. And, the committee report is absolutely silent on this issue. Did the committee attempt to identify or call other objective corroborating witnesses who were present at the event or lawyers who were parties to the subsequent settlement?

Mr. President, the distinguished Senator from Maryland, the floor manager of the opposition side of this nomination, has been most gracious and generous in his time and I will not go on much further.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I yield 5 minutes to the Senator from Michigan.

Mr. RIEGLE. Mr. President, may I inquire of the chairman of the committee if he might give me 10 minutes' time at this point to reply to the Senator from Maryland.

Mr. EASTLAND. All right, we will give the Senator 10 minutes.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Michigan is recognized.

Mr. RIEGLE. I thank the chairman. I thank the Senator from Maryland as well.

If I may address my first comment to the Senator from Massachusetts, I want to indicate to him that there have been a number of important points he and the Senator from Maryland have raised which trouble me as well. I must point out to the Senator that not all of us on the majority side did vote affirmatively on the Bell nomination. Just for the sake of the record I voted present in the committee and will be voting today differently than my majority colleagues on the committee.

Mr. President, I rise to speak today only after long and sober thought. As I just said, I was the only majority party member of the Judiciary Committee to withhold my recommendation that we confirm Attorney General-designate Griffin Bell. I deeply feel the weight of responsibility to set forth as clearly as I can the reasoning and basis in facts for that judgment.

As is well known, the Judiciary Committee conducted extensive hearings on this nomination—hearing and cross-examining Judge Bell at length under oath—as well as a broad range of witnesses testifying both in favor and in opposition. I was present for most of those proceedings and I made a determined effort to hear and evaluate each and every point advanced.

While I am not a lawyer by professional training, I have spent 10 years in the other body and have participated in a vast number of committee hearings of all types. I have applied that experience in this case.

From the outset it had been my hope to reach a firm conviction that Griffin Bell deserved my support—the formal stamp of approval the Constitution requires me to either give or deny. That responsibility for judgment, while in the end mine alone, is something I must exercise in trust for the 9.4 million constituents I represent—and in a larger sense for the Nation as a whole. I have weighed this matter in that light.

Let me also say that I have found it very difficult to set to one side my personal feelings for Griffin Bell, which I have been developing on a one-to-one basis. On that level, I feel a kindness and friendship toward him. From all appearances, he is honest and forthright. I do not sense in him a capacity knowingly and actively to inflict hurt on another. I believe his honest intention, if confirmed, is to serve with honor and equity. In fact, he has made a number of important pledges on the record to be active in the pursuit of the rule of law and the equal application of justice. These are encouraging signs.

Having said these things, I have nevertheless come to the conclusion that this nomination falls short of what is needed—what was promised during the campaign—and of what I can, with a clear conscience, accord my own stamp of approval.

The reasoning which I am about to set forth is not designed to try to persuade others here how to vote. I understand and respect the fact that each of the 100 of us must and will reach a private judgment on this matter. Today, I seek only to share with you my own reasoning for casting a dissenting vote for a nominee I had hoped to support.

During the past 10 years, I have served in Congress under six different Attorneys General. Two of them have been convicted of crimes and one is now on his way to prison. To me, the Attorney Generalship is the most important of all the Cabinet posts at this time.

Because the Attorney General becomes the top law enforcement officer in the country, he must seek to extend the rule of law and equal justice to all our citizens. National progress to legally end any and all forms of discrimination based on race, religion, sex or age depends primarily on the forceful efforts of the Attorney General. Rigorous enforcement of the antitrust laws, and responsibility for firm management over the FBI also rests on the shoulders of the Attorney General. We hardly need remind ourselves that the Attorney General also must act against any illegal actions undertaken by the executive branch or anyone in it.

To my mind, a suitable nominee ought to: First, meet the very highest standards of independence; second, have a proven record of the aggressive pursuit of justice; third, consistently display human sensitivity; fourth, possess exceptional and distinguished professional ability; fifth, possess a record that does not cause serious national divisiveness; and sixth, be someone whose qualifications, when taken as a whole, are fully consistent with the stated pledges and promises of the Carter Presidential campaign. Only by substantially meeting the above criteria could a particular nominee keep faith with a solemn commitment made and remade during the long campaign months of 1976—and which was bonded and sealed by a common exchange of voting faith last November 3.

To my mind, there is no justifiable reason for us to be asked or compelled to accept any Attorney General nominee who is not a towering figure—and one who does not fully meet all of the abovementioned criteria.

I know some may say that maybe these are different criteria than we have applied in the past. I hope they are, because I do not think our criteria in the past have been good enough. I do not think John Mitchell ever should have been confirmed as Attorney General in this country, but he was. So I hope we are changing and lifting the criteria. That is one of the reasons I am here, to try to help do that.

As a nation of some 215 million citizens, we are rich in talent. Yet the new administration claims that it could not—in the whole length and breadth of our Nation—find any candidate for Attorney General superior to Judge Bell. I find that an unacceptable assertion. I have yet to talk to a single person who does not concede that an array of able men and women exists whose overall qualifications exceed Judge Bell's. Why were these people either not considered—or passed over? No acceptable answer has been offered by the administration or its spokesmen. That is because there is no good answer.

When former Special Prosecutor Leon Jaworski appeared as a supporting witness for Judge Bell, he was asked whether Judge Bell was the best person available. He was frank to say that Judge Bell was not the best that could have been found. His exact quote was this:

> I would be prepared to say that Judge Griffin Bell, despite my high regard for him, as you have heard, is not necessarily the best qualified man that could be found.

This question has nagged at me; Why not the best? Why not the best when we are talking about the Nation's chief law enforcement officer—and the one Cabinet office most degraded and abused in recent years. The rights and hopes and lives of millions of our people are directly involved here. Where then in the entire Cabinet is there a greater need for someone of unassailable excellence? To my mind, looking across the entire Carter Cabinet of 1977, we ought to find, sitting in the Attorney General's chair, an individual who is the best of the best.

So I have tried to reconstruct the process of how Judge Bell was selected to find

out what special and compelling reasons warranted his being named. And here the evidence is disturbing. Let us take first the test of independence.

The record shows that, rather than establishing clearly an unquestionable independence from the President, we instead find both the appearance and fact of a direct personal relationship. Judge Bell was a financial contributor to the Carter Presidential campaign—and assisted in the process of raising money from others. Further, his association with the President was close enough that Judge Bell was directly involved in constituting a list of prospective Attorney General nominees. And of course, we have the well-known connection to the Kirbo law firm. Here again, we have a close personal tie-in; a community of interests which links Judge Bell to the President—indirectly through Mr. Kirbo, Mr. Carter's close friend and personal adviser.

By pointing out these relationships, I am not suggesting wrongdoing or any belief on my part that the executive branch would ever behave outside the law, or that it would not be brought to account by Mr. Bell if it did.

But I am bothered by the appearance of cronyism—by the fact that the personal relationships are closer than I am comfortable with. And, lest someone think otherwise, if I were today faced with the 1960 situation of confirming a President's brother as Attorney General, regardless of the individuals involved, I would unquestionably vote against confirmation.

So, on the matter of certifiable independence from the President, it is not sufficiently clear cut for me to believe that all citizens could rest easily on this point. In fact, to many I have spoken with, this appointment, for this reason, has actually created some new cynicism. Some thoughtful critics of the Bell nomination have asked me pointedly what exceptional qualifications he brings as a clear offset to the appearance of a personal closeness to the President and the President's friends. I have found myself at a loss to identify these exceptional qualifications. As a result, some have concluded that Mr. Bell's exceptional qualification is his relationship to the President and the President's friends. I am hurt by this, as I do not want my President's effectiveness and ability to lead impaired by executive decisions that lend themselves to this perception.

To me, this is no small matter, because it creates public doubt. We ought not have to settle for public doubt on so profound an appointment and I cannot put my stamp of approval on a nomination that has that effect.

The second criteria for me is what I term a proven record of the aggressive pursuit of justice. Here, several things trouble me. The first of these is Judge Bell's role as the leader of the Governor's legal task force during the Vandiver years in Georgia, where every legal means was used to prevent or delay the end of racial segregation of the public schools. Judge Bell's personal efforts at that time are ambiguous at best—but no verifiable evidence was found to show that Judge Bell was a dissenting voice within the Vandiver inner circle—or that equal access to public schools without regard to race was achieved through his participation even one day sooner than massive resistance within the law would allow.

The committee was not helped much by Judge Bell in this area because his personal recollections were least clear for this period of his past public involvement—and he could find no written records or other memoranda to indicate exactly what part he did play during the Vandiver years.

In sum, the record is unclear—the questions left without satisfactory answers. I again ask why should we be required to accept a nominee whose record is ambiguous on so vital a matter? I find no good answer to this question.

On the matter of his judicial opinions in the fifth circuit, I have not examined the legal record myself and have had to rely on the advice of other legal scholars I have counseled with. While some I spoke with gave him low grades when the measuring rod was the "aggressive pursuit of justice," I tend to put greater weight on another point. It is that no one has come forward to cite Judge Bell's judicial record as one of uncommon excellence or as evidencing a grasp of the law that would have earned him a general reputation as a great jurist. From what I have been able to learn, Mr. Bell seems to have been a courteous, workmanlike judge with a generally undistinguished record one way or the other. He voluntarily left the Federal bench early in 1976 to resume the private practice of law.

Several criteria are involved in the issue of Judge Bell's membership in private clubs that practice discrimination based on race. As is generally known, Mr. Bell just days ago reached a personal decision to resign from these clubs, but for reasons unclear to me he delayed taking that step until the very day the Judiciary Committee was originally scheduled to vote on recommending his confirmation. Moreover, Mr. Bell has made it quite clear to me in his testimony that he will most likely resume membership in these clubs when he ends his term of service as Attorney General.

When I asked Mr. Bell his intention on the matter, he responded saying:

> I will not say what I am going to do when I get out and become a private citizen again. We do not have any sort of system in this country where one gives up rights for life like you send them to the penitentiary or something like a felon, and from then on you are on some kind of restriction.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RIEGLE. Will the Senator yield me 5 additional minutes at this point?

Mr. MATHIAS. How much more time would the Senator like?

Mr. RIEGLE. Probably at the most, 10 minutes.

Mr. MATHIAS. May I yield at this time?

Mr. RIEGLE. I thank the Senator.

Mr. MATHIAS. I think what the Senator is saying is extremely important. It needs more time and we will try to find it.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mr. RIEGLE. Continuing the colloquy, Judge Bell commenting further said:

> I think I have gone beyond the call of duty.

And later with some feeling he concluded:

> I do not know of anybody who has had to agree with what they will do for the rest of their life just to hold some government job.

To my mind, of course, the Attorney Generalship is not just "some Government job" as Mr. Bell himself later acknowledged. But what is the point here? Mr. Bell in my opinion seems to lack an understanding of the meaning of his membership in private clubs that practice race discrimination.

At no time did he say clearly and forcefully that he objected to these practices, that he had fought actively to change them, or that the rejection of members based on race troubled him deeply. At no time did extensive questioning in this area touch any nerve of outrage about the practice of race discrimination in this form. Rather, the tone of his responses were much more that of one who was grudgingly surrendering membership in these clubs—and would most likely later rejoin them when no longer Attorney General.

Mr. Bell's manner and method of handling this issue troubles me. To my mind, it shows a lack of sensitivity in the area of equal rights—and taken with his service for Governor Vandiver and his conservative record of judicial findings in human rights cases, I find a basis for the concern that has been openly expressed by various civil rights groups.

I do not think we can ever again afford an Attorney General in America who has a blind spot when it comes to moving aggressively in any and all cases where someone's full and equal rights are being denied. Minority people, who in countless instances have never been able to secure a full and equal share of civil rights here in America, have learned from painful and bitter experience that they must judge very carefully any individual in whom they must entrust their legal fate. It is significant to me that the most active national civil rights organizations have enough apprehension about Judge Bell that they have come forward and are openly opposing him.

I deeply feel that we deserved an Attorney General who was clearly on the side of finally and fully achieving a complete and equal share of civil rights for all our people. I expected an Attorney General that could unite us as a people—one that would not be a divisive figure—one whose record could readily earn the full faith and confidence of all reasonable observers. Griffin Bell's nomination is greatly deficient in this respect, and

I find no compelling reason for his selection in the face of this handicap.

This leads me finally to the issue of whether the Bell nomination keeps faith with the recent promises and representations of the Carter Presidential campaign—a campaign I strongly and openly supported. The Carter campaign was one of new hope—most especially to minority groups who for long centuries have been denied the basic rights and full citizenship accorded the rest of us. I believe the Carter campaign promised us far more than Griffin Bell as Attorney General. To my mind it promised a towering figure as Attorney General, one with an unambiguous record, someone clearly independent of personal ties with the President, who would aggressively pursue justice for all. It would also be someone who could unite the country—one worthy of strong support from all the major interest groups most readily affected. But no, we are being asked to accept and place our stamp of approval on something far different.

I cannot find within me the justification for doing so.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MATHIAS. Mr. President, I yield the Senator 3 additional minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 3 additional minutes.

Mr. RIEGLE. I thank the Senator.

To my mind, with 215 million Americans to choose from, we owe it to ourselves to find the best. That has not been done in this case. For this reason and the others I have cited, I must vote against confirmation.

I say in addition that I very much wanted to vote for this nominee and I take no pleasure in voting against him today. But I think this is a deadly serious matter. I think the Attorney Generalship is the most important post in the entire Cabinet.

I appreciate the courtesy and interest of my colleagues in hearing me out on this matter. I yield back the remainder of my time to the Senator from Maryland.

Mr. MATHIAS. Mr. President. I thank the distinguished Senator from Michigan for his very thoughtful, very comprehensive statement.

I know the kind of personal anguish and pain that such a statement costs. In the past 8 years, I have stood in the same shoes in the case of Judge Haynsworth and again in the case of Judge Carswell in which I had to differ with the judgment of a President I had supported.

It is not an easy thing. It takes great courage and great dedication. I thank the Senator for both these qualities which he has exhibited here today.

The PRESIDING OFFICER. Does the Senator from Maryland care to yield time?

Mr. MATHIAS. Yes. I yield 5 minutes to the distinguished Senator from Illinois (Mr. PERCY).

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. PERCY. Mr. President, after extensive examination of the evidence concerning Griffin Bell's qualifications to serve as Attorney General, I have regretfully decided to vote against the confirmation of his nomination.

I state now the principal concerns that I have.

In reaching this decision, I have applied the same standards I have followed for a decade in measuring my own recommendations to the Federal bench. I believe the nomination of the Attorney General requires more stringent standards than any other Cabinet post.

Taking into account the trauma and tragedy that we experienced in recent years involving the Justice Department, one question stood out in my mind above others: Will the Attorney General-designate be independent of all political outside forces? In the past, we have had such nonpartisan independence in the Justice Department, most recently under Attorney General Edward Levi. We have learned at great cost to the Nation that we should not retreat from that principle.

Griffin Bell has known the President since childhood. He is reported to be closer to the President personally than any other Cabinet appointee. He is also a close friend and partner of the President's chief political adviser, Charles Kirbo. Unfortunately, Judge Bell's close personal and political friendship with the President could give the appearance of being inconsistent with the President's promise of an independent and nonpolitical Attorney General. And it is also the closeness between these two men that has caused me the greatest anguish and difficulty in arriving at my final decision.

In addition to my concern about Judge Bell's independence is what I perceive as Judge Bell's attitude about civil rights. I believe that Judge Bell could lack the sensitivity so vital for the position to which he aspires. I am particularly concerned that while he has admitted that his decisions in several important cases were "mistakes," he has given us no evidence that he fully understands today the corrosive nature of those decisions. I refer specifically, as an example, to the Bond decision unanimously reversed by the Supreme Court though there are others which are also compelling.

His decisions in some cases indicate that he may have gone along too much with the temper of the times, rather than adhering to the law. Such a flaw, if continued, in the Attorney General could only risk the rights constitutionally guaranteed to all of the American people.

This administration has promised us the best. Yet, even Judge Bell's strongest supporters were less than enthusiastic. His proponent whom I so greatly admire, Leon Jaworski, said:

> Judge Griffin Bell, despite my high regard for him, as you have heard, is not necessarily the best qualified man that could be found.

Jesse Jackson, along with several other prominent black leaders, voiced fear that those who speak out against Griffin Bell's nomination will suffer reprisals and will lose favor with the new administration.

I do not believe this. The Carter administration is not an administration of vindictiveness such as we experienced several years ago. I am confident that there will be no retribution to anyone, including Jesse Jackson, for voicing one's conscience and exercising one of our most precious rights, the freedom of speech.

The confirmation process is an essential part of our constitutional responsibilities. It was established by our Founding Fathers as a necessary check against Presidential authority and as a way to review the qualifications of public servants who are not subject to the "honing down" process sometimes painfully and frequently experienced by an elected public official. We must grant confirmation with the utmost care.

I deeply regret that I have not had the chance to discuss these concerns directly with Griffin Bell, but I look forward to that opportunity in the near future.

My friend and valued fellow Illinoisan, Justin Stanley, president of the American Bar Association, believes that Judge Bell will be a fine Attorney General. Mr. Stanley also believes that Judge Bell has a great capacity for growth; he properly informed the Judiciary Committee of Judge Bell's many accomplishments as a lawyer and as a judge on the Fifth Circuit Court of Appeals. Leon Jaworski commented that Judge Bell was known during his term on the bench as a "fairminded" jurist. These are hopeful signs. No one will be more pleased than I if Judge Bell turns out to be a great Attorney General.

I have no doubt that his nomination will be confirmed. However, based on my reading of the evidence, I feel compelled to oppose his nomination as the best way of evidencing my concern. It is the only negative vote that I have or will cast on the Carter Cabinet. I believe that, on balance, President Carter has attempted to select the best.

I shall amplify one point, with respect to the immense power assumed by a Cabinet official and head of a major department such as the Justice Department. The process that publicly elected officials go through is a humbling process. It brings us down to size. It causes us to reexamine everything we have done or thought and puts us to the test. The confirmation process is in a sense a substitute for that.

In this case, I hope I will be proven wrong. I pledge to take the floor every time I see evidence that Mr. Bell, as Attorney General, has proven me so. I hope and pray that I can take the floor many times.

Mr. BAYH. Mr. President, I yield 10 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, I will be voting "aye" on the nomination of

Griffin Bell to be Attorney General of the United States. I have decided to support Judge Bell's confirmation after thorough analysis of his personal and professional attributes, including his honesty, integrity philosophy, professional qualifications and past activities.

The importance of the Office of the Attorney General cannot be underestimated Although the Department of Justice is one of the smallest departments of the Government, the leadership of the Attorney General in establishing Government legal policy and enforcing Federal laws inevitably affects every other department and agency. In this sense the Attorney General establishes for an entire administration the attitude and approach that will be taken to the rule of law.

At the same time, the President should have some latitude in choosing his Cabinet—in appointing persons he knows and has confidence in, and who are committed to carrying out his programs and policies. Senator Phil Hart used to remind us frequently that members of the Cabinet serve at the pleasure of the President and, therefore, the Senate should give its consent to a nomination unless there is a conflict of interest or other impropriety, or a lack of qualification of the nominee. The nomination of Judge Griffin Bell should be judged against these standards. Judge Bell was a practicing lawyer with a leading Atlanta law firm until appointed to the fifth circuit court of appeals by President Kennedy in 1962. He served for 14 years on the bench, and only last year returned to his law practice.

Attorney General Robert Kennedy was pleased with the President's choice of Judge Bell for the circuit court. The new Attorney General's first public address after assuming the office in 1961 was given on Law Day in Augusta, Ga. It was a hard-hitting speech. It emphasized the commitment of the new administration to securing equal rights under the Constitution for black Americans. And it challenged the people of Georgia to participate in bringing about desegregation in a timely and effective fashion. Atlanta attorney Griffin Bell was on the rostrum with the Attorney General. While some in the legal and political establishment of the State blanched, Griffin Bell stood up to be counted amongst the supporters of the new administration's civil rights policies.

Judge Bell's experience on and off the bench provides him with a broad perspective on the many problems confronting the Department of Justice. His honesty and integrity go unchallenged. And his attitudes and beliefs have been fully explored in 6 long days of hearings before the Judiciary Committee. Judge Bell was asked to restate his views on significant issues several times, and he returned for a second round of questions after opposition witnesses were heard. On the basis of this entire record, and applying the standards which I believe appropriate to this important post, I have reached my conclusion to support the nominee.

There is one troublesome aspect of Judge Bell's record which cannot be ignored. While he may have enforced and applied the law, he did not exercise leadership in the development of civil rights law at a time of critical and rapid change. Furthermore, before he became a judge, Judge Bell was closely associated with the Georgia Governor's resistance against desegregating that State's schools. These concerns were underscored by the testimony of witnesses long active in the civil rights field, with whom I have had a long association, and who I respect and admire.

But the Senate must judge the nominee not only on his past activities, but also on his present commitment to enforce the laws vigorously and fairly and to exercise leadership as Attorney General, in light of his demonstrated integrity. Throughout the hearings I was favorably impressed by many of the positions Judge Bell took, and by his candor in expressing his views. Judge Bell was questioned at length on his activities and attitudes regarding civil rights, and his responses reflect no reservation or hesitation toward using fully his authority as Attorney General to achieve equal rights for minorities.

On the important questions that were asked of Judge Bell in this regard, he said he would personally insure vigorous enforcement of the Federal civil rights laws and the Constitution. He demonstrated that he recognized the difference between his past role as a judge deciding cases, and his future role as the chief legal officer of the United States. In the latter role, he recognized and emphasized that his responsibility is to be a positive, strong advocate for civil rights. I asked Judge Bell numerous questions on this topic; in responding to my questions, he said that, if confirmed, he would—

Move to strike down zoning and other laws used to prevent minority families from securing housing of their choice;

Oppose legislation that would interfere with the power of the Federal courts to design remedies for desegregation;

Actively assure that Federal programs do not subsidize discriminatory activities, and promote equal rights within the Federal Government;

Carry out fully contract compliance requirements and other Federal laws to promote equal employment;

Insure that the Justice Department's policy would be to treat "sex" as a suspect classification, subject to a "compelling interest test" under the equal protection clause of the 14th amendment;

Support providing attorney's fees in important public interest cases.

I find these views to indicate a strong commitment to civil rights.

Let me turn to the broader range of issues facing our next Attorney General. In his answers to questions asked by members of the Judiciary Committee, Judge Bell indicated his sensitivity to the many issues that the members of the committee, and I particularly, view as vital if our system of justice is to operate effectively and fairly and in a manner that will protect the constitutional rights of citizens.

Judge Bell affirmed his commitment to legislation requiring judicial warrants for national security wiretapping; to giving high priority to investigations of organized crime and Government corruption; to developing an effective national policy on handgun control; to establishing charters for the FBI and intelligence agencies; to strong enforcement of the antitrust laws; and to developing workable class action procedures.

Judge Bell has shown his awareness of the issues facing us, and a commitment to seeking reform of our civil and criminal justice systems. I sincerely believe that Judge Bell will, to the best of his ability, seek to have the positions he stated in his testimony regarding these matters and those relating to civil and constitutional rights adopted as departmental policy or enacted into law.

In sum, I have concluded that Judge Bell is qualified to serve as Attorney General. No one has questioned his legal ability. No one has raised any question regarding his integrity. No one has challenged the policies he has stated he would pursue—including full enforcement of the civil rights laws—which are the policies many of us believe should be of highest priority to the new Attorney General. If Judge Bell fulfills his own commitments and the pledges of President Carter, then he will have gone beyond the standards established by his critics, and my own as well. I have confidence that he will.

Therefore, I will vote to confirm the nomination of Griffin Bell to serve as Attorney General.

Mr. BAYH. Mr. President, I yield 5 minutes to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 5 minutes.

Mr. DANFORTH. Mr. President, on January 14 on the Senate floor I expressed some concerns about Attorney General-designate Bell on the basis of comments made by him before the Judiciary Committee with respect to appointing a new Director of the Federal Bureau of Investigation.

My concerns were twofold: First, I had worked as attorney general of the State of Missouri with Clarence Kelley when he was the police chief of Kansas City, Mo. I believe Clarence Kelley to be a first-rate law enforcement official, a very decent human being, and a very excellent public servant.

But more important than my personal regard for Director Kelley was my concern for what I considered to be a very bad precedent of compelling or requesting the resignation of a person who is the Director of the Federal Bureau of Investigation and replacing the Director with changes in the White House and with changes of the party in power.

Yesterday afternoon, Director Kelley wrote Attorney General-designate Bell and stated in his letter that he, Director Kelley, intended to retire as Director of the Federal Bureau of Investigation effective January 1, 1978.

I have spoken with Mr. Kelley about this letter twice on the phone. I have pressed him on it as hard as I can press any man, and I have concluded on the basis of my conversations that his letter stating his desire to retire is, in fact, a voluntary act on his part; that this letter does, in fact, reflect what he wants to do with his life, and that he is not responding to some pressure, direct or subtle,

from Attorney General-designate Bell or from anyone else. Therefore, I honor that desire from the standpoint of Clarence Kelley.

I have also spoken at some length with Judge Bell on this matter. He has stated to me most emphatically that he agrees with the principles set forth in the 10-year act respecting the Federal Bureau of Investigation, and he has pledged himself to faithfully abide by the letter and the spirit of the 10-year statute.

In addition, Mr. President, I have over the past month or so had the opportunity of speaking with individuals who, in other capacities, have worked most closely with Judge Bell in several matters. I spoke with Judge James Finch of the supreme court of the State of Missouri, a very excellent jurist himself, who has worked with Judge Bell on matters of court reform. Judge Finch went out of his way to praise Judge Bell as being a very progressive and active force in the field of reforming the judiciary.

This morning I spoke on the telephone with Dr. Benjamin Mays, formerly the president of Morehouse College in Atlanta, Ga., now the president of the school board of Atlanta, a leading black educator for many, many years, and a person who, for many years, has been in the forefront of the civil rights movement, and I asked Dr. Mays his reaction and his impression of Judge Bell.

Dr. Mays was highly complimentary of Judge Bell and stated that he has had several occasions to work with him and to be exposed to him, and that he would recommend the confirmation of Judge Bell.

For these reasons, Mr. President, it is my intention to vote in favor of confirmation.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I yield 10 minutes to the distinguished Senator from Pennsylvania (Mr. HEINZ).

I might say, in yielding this time to him, that I think the committee owes a particular debt of gratitude to him. He was, in effect, cast up upon our shores by the peculiar process by which new Senators were assigned to committees. He rendered a signal service to the committee. He has been unusually diligent, and I want to recognize the very fine contribution he has made.

I yield him 10 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 10 minutes.

Mr. HEINZ. Mr. President, I take this opportunity to compliment our distinguished colleague from the State of Maryland (Mr. MATHIAS) for the outstanding work he has done in the Committee on the Judiciary. Indeed, working with him has been a very valuable experience for me.

It is true that by the luck of the draw I was appointed to the Committee on the Judiciary and found myself immediately faced with the considerable responsibility of examining the qualifications of Judge Griffin Bell to be Attorney General of the United States. Quite frankly a month ago I would never have dreamed that today I would find myself in the middle of the controversial fight we have here today over Judge Bell's confirmation.

But since I have had the opportunity to participate in the extensive hearings of the Committee on the Judiciary on this nomination, and since I have had the opportunity to listen to the testimony of 23 witnesses as well as the tesimony of Judge Bell himself, I feel compelled to inform our distinguished colleagues of the reasons I concluded that Mr. Bell should not be confirmed for this important post.

In listening to the debate a moment ago I was reminded of a familiar quotation, namely:

> . . . the Constitution makes clear that we are not supposed to be a rubberstamp for White House selections. We are not intended merely to be an outer boundary to prevent the appointment of thieves, madmen, or fanatics. We do not meet our duty if we place the sole burden on those who question a nominee's qualifications, and no burden on those who propose him.

Mr. President, those words are not mine. They were uttered on the floor of this Senate several years ago by the distinguished Senator from Massachusetts, Senator Kennedy, when he was opposing the nomination of Judge Haynsworth.

I think all of our colleagues today agree that the Attorney General of the United States must be a strong and dynamic symbol of equal justice for all under law. The man or woman who holds that office must be an individual of unquestioned integrity, and now more than ever he must be a figure who can help restore public faith in the integrity of our Government and the fairness of our legal system.

Through a series of absolutely tragic episodes, faith in our legal system, and in our system of Government has been undermined. Confidence has been undermined by those who held positions of trust at the very highest reaches of authority. In the last 8 years, two men who have held the position of Attorney General have been convicted of crimes. It is in this context that we must approach the nomination before us today.

In the past 8 years, abuses occurred in the administration of justice because justice became a means to be manipulated by willful men rather than an end in itself to be secured for the American people. On repeated occasions, men who served as the highest law officers in the land degraded the Office of Attorney General by failing to carry out their trust with the independence that the job demands. Rather than looking to the law and to a sense of justice for guidance, these men looked to partisanship and friendship as the stars by which they steered their course. By doing so, these men steered our Nation to the brink of tragedy and to a national crisis of confidence.

If confidence is to be restored, then independence must be fully restored to the administration of justice. In considering this nomination and this nominee, every Member of this body must ask himself whether we are confirming an individual who represents our determination to make the Department of Justice a politically and administratively independent servant of the people.

Fortunately, in making this judgment we are not asked to explore unchartered waters. The Senate has spoken on this subject, the new President has spoken on this subject and the legal profession has given us guidance on what we have a right to demand from our next Attorney General.

The Senate spoke on this subject only last year, when it adopted the Watergate reform bill. As our colleagues know, we set a high standard for the next Attorney General in that bill when we passed an amendment prohibiting a President from appointing a senior campaign official to that post. In adopting this amendment, the Senate recognized that politics has no place in the administration of justice. We recognized that the public is ill-served when the President is served by an Attorney General who is a political ally and who has been sensitized by the President's political needs. Today is the first opportunity that this body has had to apply both the letter and the spirit of that amendment, and it is a decision we must each make in good faith with the American people.

President Carter has set what can be called a clearer and even higher standard. Speaking before the American Bar Association on August 11, 1976, the President said:

> But following the recent presidential elections, our Attorney General has replaced the Postmaster General as the chief political appointee, and we have on recent occasions witnessed the prostitution of this most important law enforcement office . . . As much as is humanly possible the Attorney General should be removed from politics and should enjoy the same independence and authority and should deserve as much confidence as did the special prosecutor during the last few weeks of the Watergate investigation.

I for one applaud the high standard that the President has set for us in these deliberations. My decision to oppose this nomination is a decision to support these specific principles on which the President ran and was elected. I agree that we should try "as much as is humanly possible" to insure that the Attorney General is removed from the arena of politics. I agree that the next Attorney General should deserve as much confidence as did the special prosecutor. But I do not believe that this particular nominee represents our best effort to remove the taint of politics and cronyism from the administration of justice. And I do not believe that this particular nominee will begin as he would want to and should begin from the position of confidence that the American people have a right to expect from the highest law officer in the land.

Some of our colleagues may not be familiar with the work of the American Bar Associations' Special Committee To Study Federal Law Enforcement Agencies. I shall inform our colleagues about this committee's work and its report as briefly as I can because the conclusions in this report address the specific task which we face today. This bar association committee stated that removing partisan politics from the Attorney Gen-

eral's office "is the essential precondition for restoration of public confidence in the administration of justice." Again, I ask each of our colleagues to consider whether this nominee meets this "essential precondition," because we can have no greater goal than restoring public faith in the system by which justice is administered in this great Nation.

For the benefit of our colleagues who have not had a chance to hear the record on Judge Bell's relationship with President Carter, let me take a brief moment to recount it to them.

First, Mr. Bell acknowledges that he is a close personal and family friend to the President. President Carter and Judge Bell grew up close to one another, their families were close, and the two men have retained this closeness and affection for one another throughout their adult life. I think this degree of affection and personal loyalty speaks well for both men.

Second, Judge Bell is a friend and a law partner to one of the President's closest political advisers, Mr. Charles Kirbo I do not mean to imply in anyway that there is something insidious about this relationship, but it undeniably draws the Attorney General-designate closer to the President in a personal sense and closer to his circle of intimate political advisers.

Finally, Judge Bell has himself acknowledged on the record in the committee that he played an active role in President Carter's recent campaign—a more active role than I had been aware of prior to our hearings. According to Judge Bell's testimony, he served the campaign in the following ways:

First, he helped raise money prior to the Pennsylvania primary.

Second, he wrote a campaign speech for Mr. Carter which the Democratic nominee subsequently delivered in Detroit.

Third, he helped prepare another campaign address that President Carter delivered to the American Bar Association in Atlanta.

Fourth, he prepared the questionnaire which President Carter used to interview prospective Vice-Presidential candidates; and

Fifth, he helped advise the President on the development of his position on amnesty during the campaign.

In view of the fact that each of us is concerned about the need to restore independence to the Justice Department, I think it may be appropriate to take a hard look at Judge Bell's close personal and political alliance with the President. Just as we would have a negative presumption against any nominee who came to us with a record of racism and racist statements, I think we must also have a similar negative presumption against any prospective Attorney General who comes to us with a close personal and political relationship with the President whom he is to serve.

The PRESIDING OFFICER (Mr. SASSER). The Senator's time has expired

Mr. HEINZ Mr. President, will the Senator from Maryland yield me 5 additional minutes?

Mr. MATHIAS. I yield 5 additional minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator has 5 additional minutes.

Mr. HEINZ. Of course, this negative presumption must be rebuttable, if the proceedings of this body are to be fair. But in view of the fact that this nominee will be faced with many instances when his public duties may run contrary to his obligations to a long-standing friend and ally, I think each of us must take a hard look at Judge Bell's record in resolving conflicts of interest and his sensitivity to this critical aspect of the job.

I think we have seen far too many instances of the attitude that to get along, you have to go along. I would like there to be no doubt about the ability of the next Attorney General, our Nation's chief law enforcement officer, to say, "No," and mean it and make it stick, to a President of the United States.

As a member of the Judiciary Committee, I have had an opportunity to examine this question closely. I regret to report to my distinguished colleagues that the results of my examination are not positive ones. In too many instances, Judge Bell broke the spirit, if not the letter, of the canons and laws covering judicial ethics. And on repeated instances, he has not demonstrated the sensitivity to conflict-of-interest questions that his new duties would demand of him.

One particularly troublesome example is the Biscayne Bay Yacht Club case. Briefly, the circumstances surrounding that case are that in 1976, Judge Bell sat on an appeal of the Golden against Biscayne Bay Yacht Club case, regarding the yacht club's practice of excluding Jews and blacks from membership. Judge Bell at that time belonged to three clubs with generally the membership policies similar to those of the Biscayne Bay Yacht Club, and he was receiving gift membership from two of those three clubs.

Judge Bell subsequently ruled in favor of the yacht club, but did not disclose his memberships in the three clubs to the lawyers in the case before his sitting on the case.

Dean Freedman, of the Hofstra School of Law, testified that Judge Bell violated the canons and the Federal recusal statutes by sitting on this case.

The second matter of concern to me is that of Judge Bell's role in the now famous case of Calhoun against Latimer. I would like to briefly, describe the conflicts that arose in this case. In 1963, Judge Bell sat on the fifth circuit panel considering Calhoun, the Atlanta school desegregation case. In 1959, however, Mr. Bell had given legal advice to the Governor of Georgia and to the Georgia officials on how the school board should handle the litigation involving Calhoun against Latimer, and from 1958 to 1961 he had given the Governor of Georgia legal assistance in preparing laws in response to, and largely intended to frustrate, this lawsuit.

Judge Bell cast the deciding vote in Calhoun in favor of the school board. His participation in the decision in the case of Calhoun against Latimer, in which he had previously been involved as a lawyer and of counsel, was, according to Dean Freedman a violation of the canons of judicial ethics and of Federal recusal laws.

In both of these cases, a leading expert on judicial ethics has concluded that Judge Bell violated the dictates of law as well as the canons of judicial ethics. I respect Dean Freedman's views. He was formerly the chairman of the Federal Bar Association's Committee on Disciplinary Standards and Procedures. He is the author of "Lawyer's Ethics in an Adversary System," a book which won an award of distinction from the American Bar Association. He is a qualified expert on judicial ethics in both Federal and State courts.

The PRESIDING OFFICER. The Senator's 5 minutes have expired. Who yields time?

Mr. MATHIAS. I yield the Senator 5 additional minutes.

Mr. HEINZ. I thank the Senator.

I think Dean Freedman's conclusions must be cause for concern. But even if I do not accept his conclusion that Judge Bell in fact had broken the law with regard to judicial ethics and conflict of interest questions, it is clear to me that Judge Bell has not exhibited the sensitivity to these questions to avoid the appearance of impropriety. And as my colleagues know, the appearance of impropriety in this case can be as critical as an actual impropriety, especially at a time when we are trying to reestablish public confidence in our system of justice.

The distinguished senior Senator from Indiana made this point clear during his discussion of an earlier Presidential nominee. He has said that "the appearance of bias is as important as actual bias." He criticized an earlier nominee for failing to have taken "those precautions in his personal and financial relationships which are necessary to avoid even the appearance of impropriety in the eyes of those who might appear before him." These are relevant criticisms, these are important criticisms, and they apply now in this case as clearly as they have in any other.

There is another problem in Judge Bell's record which I feel compelled to discuss with my colleagues. That is Judge Bell's failure to report his free memberships in private clubs, as required by the Canons of Judicial Ethics as adopted by the U.S. Judicial Conference in 1973.

Specifically, from 1961 to 1976, while serving as a Federal judge, Judge Bell received gift memberships in the all-white Piedmont Driving and Capital City Clubs of Atlanta. These memberships were worth about $2,000 per year. While merely accepting these gift memberships was not illegal, Bell was required, in the opinion of Dean Freedman, to report them, at least from 1970 on. All during the 6 years that Judge Bell filed reports with the U.S. Judicial Conference, he failed to disclose these gifts.

I might add, Mr. President, that when I questioned Judge Bell about his failure to report these free memberships, as he was required to do, he simply stated that he was "subject to the Judicial Confer-

ence to the extent that I am willing to comply." These words deeply trouble me, because they reflect an attitude that does not belong in our Government. Either Judge Bell was saying that he was above the rules of the Judicial Conference or that he need not have complied with the rules because the Judicial Conference had no enforcement authority. Either way, his answer is unacceptable and should not be accepted by this body.

I am not saying to you today that Judge Bell is a dishonest man. All I am saying to my distinguished colleagues is that Judge Bell's record on questions of conflict of interest show a lack of sensitivity—a lack which we cannot accept in our Attorney General. Judge Bell, if confirmed, may be a great Attorney General, because men can grow, but after listening to him and more than 20 other witnesses, I must say that enough reasonable doubts have been created to warrant concern. In my view, if I were to vote in favor of Judge Bell's nomination, I would be taking a calculated risk with the hopes and aspirations of the American people. I am not willing to take this risk. I think we must do better than that. I think we owe it to the American people to live up to the standards we have set for ourselves, that President Carter has set for us and that the American people demand.

Mr. President, I would be less than candid if I did not admit that my opposition and vote against Judge Bell is a difficult one.

I have personally found Judge Bell to be a man of considerable candor and charm. I know that he is the new President's personal choice, and that many sincerely believe this lodges a strong presumption in his favor.

Indeed, I sincerely wish, as I expect the vast majority of the American people do, that President Carter will be a good and hopefully a great President. I wish to promote, not frustrate, our new President's successful performance of his great responsibility.

Notwithstanding these concerns, I must vote against Judge Bell's confirmation. To fail to do so would be to fail my convictions that the Senate must set the highest attainable standards for our chief law enforcement official, to fail in the expression of my reasonable doubts as dictated by my conscience, and to fail my obligations to 12 million Pennsylvanians and to the Nation we represent. For these reasons, Mr. President, I will be voting with sincere and deep regret against the confirmation of Judge Bell.

Mr. MATHIAS. Mr. President, does the Senator have any time remaining?

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MATHIAS. Mr. President, I yield 10 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the Senator, and I will tell him I do not intend to use all 10 minutes.

First, Mr. President, I commend the distinguished Senator from Pennsylvania (Mr. HEINZ) for an excellent statement, to which I subscribe wholeheartedly.

Mr. President, the first reason I oppose Judge Bell for this nomination is that the Attorney General should not be a close friend or close associate of the President of the United States. Watergate most recently taught us that the immense power of the Presidency can be corrupted and made vivid the fact that the President of the United States could violate the law with serious consequences for our country.

In all fairness, Mr. President, President Nixon was not the first President to play fast and loose with the law and, unfortunately, he will not be the last.

Mr. President, when anyone breaks a Federal law, the responsibility to act is the Attorney General's.

This body should not have to review the President firing the Attorney General of the United States in the infamous Saturday night massacre to remind it of that.

The Attorney General should be separate and apart. He should not be a brother of the President, or an ex-law partner, or a campaign manager, or an old and close friend of any kind.

The Attorney Generals in this century who typify the kind of independence I am talking about have been men like Edward Levi, who has just finished a distinguished term under President Ford; Homer Cummings, who was Franklin Roosevelt's Attorney General, and Harlan Stone who served in Coolidge's administration and prosecuted the Teapot Dome felons.

Mr. President, the distinguished Senator from Pennsylvania has pointed out the close relationship with the President of Mr. Bell. They did share a near lifelong friendship. It was Judge Bell who introduced Mr. Carter to Charles Kirbo, widely known as the President's closest confidante.

Mr. Bell and Mr. Kirbo are law partners in the same Atlanta firm.

Judge Bell promoted Mr. Carter's Presidential candidacy, and offered his advice during the campaign.

As Mr. HEINZ has just said, we need an Attorney General who will say "No" to a President, mean it, and make it stick.

The Attorney General should be a vigorous champion of equal justice and equal opportunity for all in this country, regardless of race or creed.

Anyone who believes we now have that kind of equal justice in America is blind. We have indeed passed into law a series of statutes designed to provide equal educational opportunity, equal opportunity in housing, in employment, in credit, in public accommodations, as well as in voting and holding public office.

But we have a long, long way to go to enforce these laws. The next few years provide a great opportunity for vigorous, aggressive action by the Attorney General of the United States to make the promise of racial justice these laws imply a reality.

In too many cases the laws have had no enforcement. The equal access to credit for example in borrowing for home mortgages has been on the books since 1968, for more than 8 years. But banks and savings and loans do not even keep records of turn-downs by race—the first and the vital element in any kind of enforcement of that law. Study after study has indicated that gross discrimination against blacks continues in lending.

It is almost twice as hard for a black to get a mortgage with the same income, the same stability in his job, and the same kind of credit as a white. This is against the law, and the law has not been enforced.

In this area as well as in many others we need an Attorney General who will enforce the law.

Judge Bell may be a reasonable arbiter, but I am opposed to his nomination because there is nothing in his record to show that he will be the kind of champion of civil rights that the principle law-enforcement official of the Federal Government must become.

For these reason, Mr. President, because Mr. Bell's association with President Carter has been too close and because there is no indication he will enforce the civil rights laws with vigor we need and have not had, I must oppose him.

I yield back the remainder of my time to the Senator from Maryland.

Mr. MATHIAS. Does the Senator from North Dakota want to proceed at this time?

Mr. BURDICK. I would like to be granted about 5 minutes.

Mr. MATHIAS. The Senator may go forward, and the Senator from Kansas will follow.

Mr. BAYH. Mr. President, I yield 5 minutes to the Senator from North Dakota.

Mr. BURDICK. Mr. President, there has been some discussion in the Chamber about the effect of honorary and complimentary memberships in private clubs and how it might affect this nominee.

At this time I would like to read into the RECORD the Advisory Opinion No. 47 which was adopted on October 14, 1975, by the Advisory Committee on Judicial Activities of the Judicial Conference. Bear in mind the date of this document is October 14, 1975.

There has been some reference by various speakers to the point that there were some rules involved applying to honorary memberships prior to that date. But this is the Judicial Conference Advisory Opinion. I read the following:

ACCEPTANCE OF COMPLIMENTARY MEMBERSHIPS IN PROFESSIONAL AND SOCIAL CLUBS

A judge inquires as to the propriety of accepting an honorary or complimentary membership or the use of club facilities without membership in a purely social club, in this instance a social club which has recreational facilities including a golf course. He would pay the usual fees and charges for meals, greens fees and other services but would not be required to pay dues or an initiation fee. Similar inquiries have been made regarding other social and professional clubs.

It appears to be a rather common and long-standing practice in some communities to extend honorary memberships to judges, members of legislative bodies, high-ranking members of the executive branches of government, members of the clergy, military officers and college or university officials.

The honorary or complimentary membership is a gift or favor and the propriety of its receipt is most directly covered by Canon 5C(4), which provides in part:

C Financial Activities.

* * * * *

(4) Neither a judge nor a member of his family residing in his household should accept a gift, bequest, favor, or loan from anyone except as follows.

(a) a judge may accept a gift incident to a public testimonial to him . . .;

* * * * *

(c) a judge or a member of his family residing in his household may accept any other gift, bequest, favor or loan only if the donor is not a party or other person whose interests have come or are likely to come before him, and, if its value exceeds $100.00, the judge reports it in the same manner as he reports compensation in Canon 5C(4)(c).

The receipt of an honorary membership in a purely social club would be permitted under Canon 5C(4)(c).

Before accepting such membership the judge should ascertain that the club is not involved or likely to become involved in litigation in the federal court.

He must also consider whether the offer of the honorary membership is designed to exploit his judicial position. Just as a judge may not utilize the power and prestige of his office to persuade others to contribute to a charitable enterprise, he must be sure that the honorary membership is not being offered to persuade others to become members of the club, or lend the presitge of his office to advance the private interests of the club.

If the club offers such memberships to a broader group of public servants than judges, i.e legislators, clergy, etc. or, if it has a tradition of extending such memberships and offers them to all persons holding that position, there is less likelihood that the appearance of influencing the judge will arise. If he has not previously been a member of the club and is singled out for such treatment, he should consider carefully how the receipt of this gift membership may appear to others. The judge must be especially cautious in this respect if the officers or directors or the members of the committee conferring such membership are attorneys practicing before him whereby the membership could convey the impression that some lawyers are in a special position to influence him.

If the value of the honorary or complimentary membership exceeds $100.00, it must, of course, be reported as a gift on the Semi-annual Public Report of Extrajudicial Income.

CROSS REFERENCES

Canons 2, 5C(4) and 6.
Advisory Opinions Nos. 17 and 19.

Mr. President, this did not become effective until October 14, 1975. Judge Bell retired from the bench, as you know, in March of 1976 It is quite correct that in his reporting at the end of the year 1975, this membership was not reported. That was an error. But this was a new ruling, a new advisory opinion. It was issued only as of October 1975.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I yield 10 minutes to the distinguished Senator from Kansas (Mr. DOLE).

Mr. DOLE. Mr. President, I rise reluctantly to oppose the nomination of Griffin Bell to be Attorney General. I have studied the record, and find myself, for once, in agreement with Joseph Rauh. It is because he seems to be consistent, when I see so much inconsistency on the floor. It is refreshing, it is heartening and it is encouraging to note that, despite the very difficult decision he had to make, he stuck by principle and made the hard decision. Having supported Governor Carter, it must have been difficult.

Not having supported Governor Carter, I, too, find that it is quite difficult, because I share the view expressed by every Senator, that a President should have the right to name his Cabinet officers. In fact, I have not opposed and do not intend to oppose any other nominee advanced by President Carter. But there are at least three areas that trouble this Senator with this nomination.

I am familiar with a letter written by Clarence Kelley, which Senator DANFORTH, the distinguished Senator from Missouri, referred to earlier. Before the Committee on the Judiciary, Griffin Bell made it very clear that he planned to dismiss FBI Director Clarence Kelley, and I believe this may have forced his early departure. It is known as the squeeze play. Whether they have given him 1 year to pack, I do not know. Whether it is an independent decision of Clarence Kelley, I do not know. But the point was that Judge Bell made the statement in public hearings that Clarence Kelley would be removed. I think Mr. Kelley heard it on television. Apparently, no one contacted him in advance. This does not indicate a sensitivity that many feel should be required.

I feel that Clarence Kelley has done an outstanding job, that he has directed the FBI in a fair and nonpartisan manner. He came to the Nation's top law enforcement agency at a time when Bureau morale was at its lowest level.

In the early 1970's, attempts by the White House to exert political pressure on the FBI and its then Director, L. Patrick Gray, brought home to us all the need to insulate this sensitive agency from political pressures. As a result, Congress passed section 203 of the Crime Control Act of 1976, prescribing a fixed 10-year term for the Director of the Federal Bureau of Investigation. The concept of a single 10-year term, which I support, was designed to shield the FBI Director against undue political pressure from the executive branch and, at the same time, minimize the chances that the Director himself would become too powerful. Because of this statute, some doubt exists as to the legality of removing Mr. Kelley before his term expires, but I assume that question is now moot, as Mr. Kelley indicates that he plans to leave in January 1978.

In response to a question from Senator KENNEDY on January 12, Judge Bell admitted that this could pose a problem. He said:

With regard to the director, as you know, he is serving under a ten-year term and can be removed for cause. The legislative history is not too clear on what "cause" is.

Nevertheless, Judge Bell hinted strongly that he will force Director Kelley to resign prior to the termination of his term.

During the same exchange with Senator KENNEDY, Judge Bell stated:

(Director Kelley) wants to assist in the transition which will have to come because of his age and the retirements in the management of the FBI.

I do not know whether we will come to the point where Director Kelley would do anything more than at some appropriate time ask that he be permitted to assist in the transition period.

So, I think we will look forward to having a new Director of the FBI before too long. That is the way I see it now. That is after having met with him and having talked with him.

In my view, Judge Bell's announced intention to oust Director Kelley without cause would contravene the spirit of the 1976 Crime Control Act and would be a gigantic step backward in establishing a truly independent Federal Bureau of Investigation.

Despite the fact that Director Kelley has now indicated he intends to retire next January, Judge Bell's previously announced intention to force the FBI Director to resign demonstrates a lack of sensitivity on the need for a fair, impartial, and nonpolitical Federal Bureau of Investigation.

A second aspect of this nomination that troubles this Senator has been referred to by other Senators. That is Judge Bell's close political association with the President. I am in no way implying that the political connection between Judge Bell and President Carter has been in any way improper. But if we have learned anything from the Watergate scandals, and we were told much about these scandals throughout the campaign, I think it is that the Department of Justice should be totally nonpolitical, a view voiced often by President Carter himself during the 1976 campaign.

The President set a high standard for the next Attorney General. On August 12, 1976, then-Governor Carter said:

As much as humanly possible, the Attorney General should be removed from politics, and should enjoy the same independence and authority and should deserve as much confidence as did the special prosecutor during the last few weeks of the Watergate investigation.

Then-Candidate Carter said, time after time, we had to end the buddy system in Washington. I think that we could say very honestly that Judge Bell and President Carter have been or were at one time or are now buddies in the proper sense.

On many occasions, the President called for a Department of Justice shielded from political pressure and influence. In my view, Judge Bell's nomination does not quite measure up to the standards enunciated by the candidate who is now President of the United States.

Judge Bell is by no means nonpolitical. He contributed money to the President's campaign, raised funds from other sources, wrote campaign speeches, and was involved in the Vice-Presidential selection process. He is, in the words of Joe Rauh of the Americans for Democratic Action, "part of Governor Carter's political group."

Judge Bell has been very candid with the committee in explaining his political activities. In response to a question from

Senator HEINZ on January 11, Judge Bell outlined his political ties with the President:

Governor Carter has said that he wanted to appoint an Attorney General who was non-political. On one occasion I think he said he would appoint someone who had no major role in his campaign.

During the campaign the few things I did all had to do with the role of lawyer. I prepared the questionnaire which was used in propounding questions to the people who were being interviewed to serve as the Vice Presidential candidate.

On one occasion I wrote a legal memorandum on the difference between a pardon and amnesty. I helped prepare the speech that Governor Carter gave at the annual meeting of the American Bar Association in Atlanta. I helped prepare the speech that he gave on crime in Detroit toward the end of the campaign.

I did raise some money at one point. It was during the Pennsylvania primary which woud have been in April or May. I was back in the law firm. They had a Georgia fund raising. They were trying to raise money in Georgia.

I had that role in that breakfast, and I also, myself, gave $100 to the campaign *at that time*

That may not indicate direct control of the campaign, but it does indicate a rather active participation by Judge Bell.

Mr. President, the President should be able to select an individual in whom he has absolute trust and confidence. He has that trust and confidence in Judge Bell. But, as has been said by Martin Nolan of the Boston Globe, the nomination of Judge Bell smacks of "political cronyism," the very kind of appointment which President Carter himself criticized during the campaign.

DOUBLE STANDARD

In the final analysis, Judge Bell's nomination troubles me because of the double standard for confirmation of political appointments which is evident today and which permeated the scrutiny of Mr. Bell in the Judiciary Committee.

Let me pose a few hypothetical questions. They will serve to illustrate what I mean and hope to suggest what I mean by the emerging double standard.

The distinguished junior Senator from Massachusetts (Mr. BROOKE) touched on this earlier today.

I have no doubt that Mr. Bell's nomination will be supported by the majority of this body. But would this Senate be as eager to confirm this nomination if last November's election had turned out differently, if President Ford had won and nominated a man with the same background as Judge Bell to be Attorney General?

I do not think so.

Would the same Senators who are prepared to vote for confirmation today have voted the same way for a nominee of a Republican President who belonged to restrictive country clubs?

I do not think so.

Would not this body be more troubled by a Nixon or Ford nominee who upheld the right of a southern legislature to ban from its membership a duly elected black citizen?

Oh, yes, I think so.

Would the Senate confirm a Republican President's appointment of a close political associate, a man who contributed a sizable sum to the President's campaign, a man who raised money from businessmen, a man who wrote campaign speeches, a man who the Americans for Democratic Action labeled a part of the President's "political group"?

The answer is obvious.

I suggest, as has been suggested in hearings, that of all the Cabinet nominees, the nomination for Attorney General should be held to a higher standard for the reasons stated on this floor.

This Senator can remember standing here during the deliberations on the distinguished jurist from South Carolina, Clement Haynsworth. I recall being rather active and participating in that debate. I frankly felt a mistake was made and said so at the time. I supported as strongly as I could the efforts of the two distinguished Senators from South Carolina because I believed they were right.

I had the same feeling about Mr. Carswell at the time.

The standards have changed even since then.

We have elected a President who made Watergate an issue in the campaign, who talked about all the things that happened in the Republican administration, about the Attorneys General, about how they were appointed, about the need to insulate the Attorney General from politics.

JUDGE BELL'S INTEGRITY

Mr. President, I have no doubt that Judge Bell is an honorable man, unquestionably a man of character and high integrity. He will be confirmed. I do not doubt for a moment that he will attempt, to the best of his ability, to provide fair, evenhanded leadership at the Department of Justice.

As I stated, I am troubled on three different fronts. One, by his announced intention to remove or fire Clarence Kelley. Two, I resent the double standard for confirmation for Presidential appointments. Three, as has been stated by many on this floor with reference to the civil rights record.

I feel I must register my protest.

The PRESIDING OFFICER. The Senator's additional time has expired.

Mr. MATHIAS. I yield 3 additional minutes to the Senator.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. DOLE. For these reasons, I will vote against the confirmation of Judge Bell to be the Attorney General of the United States.

I yield back the remainder of my time.

Several Senators addressed the Chair.

Mr. MATHIAS. Does the Senator from South Carolina wish to speak at this time?

Mr. HOLLINGS. Yes. I had checked around a bit. I did not check thoroughly enough.

Mr. MATHIAS. The Senator from Indiana has the time on the Senator's side, unless he wants to come to our side.

Mr. HOLLINGS. I ask the Senator from Indiana to yield me 10 minutes.

Mr. BAYH. I yield the Senator from South Carolina 10 minutes, or as much as he needs.

The PRESIDING OFFICER. The Senator from South Carolina

Mr. HOLLINGS. Mr. President let me say at the very outset that in this 10 minutes alone I will not have sufficient time to cover all the points.

Now I can get to my distinguished friend from Kansas. Mr. President, in order to clarify a record that I read recently in a review. they said some deal had been made at one time whereby the distinguished senior Senator from South Carolina was to be able to make an appointment to the U.S Supreme Court and his recommendation was Clement F. Haynsworth.

The fact is that I was the junior Senator who recommended Clement F. Haynsworth through the President, Richard Nixon, at the time that my senior and distinguished colleague (Mr. THURMOND) recommended Donald S. Russell.

Now, of support, I do not want to have any misunderstanding there. But having handled the Haynsworth appointment on the floor of the U.S Senate, I am fully aware of who helped and who hindered, and there was so little help at the particular time that those who did come to our assistance on the Republican side of the aisle were singular and I do not forget for a second and I am still just as grateful as I ever was for the Senator from Kansas assistance.

Senator DOLE was very instrumental in helping us try to hold the line at the time that the minority leader and the minority whip were day in, day out, saying, "Mr. President, withdraw the nomination."

We were not having our trouble in those days from the Democrats. We were having our trouble from the Republicans on their side of the aisle

So I listened as advisedly as I could when my friend from Kansas (Mr. DOLE) started speaking about private clubs and who would recommend and who would vote for whom.

Now, the record would show I voted for Attorney General Mitchell and I was entertained at a private club that was restricted by John Mitchell. I could go down all the little items now that we are going to be pick, pick, picking on

I am glad in a way, perhaps that he raised the issue of private clubs, because if we went through the Senate and got all out of the Senate who belonged to private clubs, then we could all adjourn and go home, because there would not be a quorum here.

That subject has been dropped almost dramatically ever since Mr. Bell himself withdrew from those two private clubs.

I think back historically as we have come into the full bloom of civil rights and equal justice under the law as to who would ever be qualified under the measure given by my friend the Senator from Maryland, and now the Senator from Kansas I am amazed at both of them. They are brilliant, objective very able colleagues and I just did not think they would engage in this kind of nonsense.

No. 1, as I sat at the counsel table in December of 1952 when we argued the case of Brown against the Board of

Topeka, the issue at that time, Mr. President, was "separate but equal."

It was not after Chief Justice Vinson had withdrawn and Justice Earl Warren had been made Chief Justice and then told us to go back out and come in later to argue, in and of itself, that segregation was unconstitutional.

So the very issue that we argued in December of 1952 would disqualify all the judges and all the courts and everybody connected therewith.

In fact, I met Thurgood Marshall one day—if we are going to start disqualifying historically—and we had breakfast in the old Union Station down here. I do not believe you can do that any more. They broke it up at a cost of about $30 to $40 million. At that time, we both got in early, about 5:30 one morning, and we ate breakfast together. Admittedly, it was a sort of dramatic experience. We were not in 1952 eating with blacks, I say to the Senator from Kansas, but Thurgood sat down along with Dean Robert Figg of the University Law School.

As attorneys on the case, we talked, and Mr. Marshall said:

> You know, I don't guess it's generally known what problems we have. A few weeks ago, I advised Governor Adlai Stevenson to take a black family in Cicero, Illinois, and send them back down to Mississippi for safe keeping. Governor Stevenson heeded my advice, and the family was sent down, because it was too terrible and traumatic a situation in Cicero.

Under historical balance and the record now, we have to disqualify Governor Stevenson, disqualify Justice Marshall, or anyone else, because that was the wrong thing to do. We purists of 1977 just will not look at the history and the record made in this country.

I would go right on down the line to Roy Wilkins, himself. We went to the head of the NAACP. After we had lost the case, we said:

> Mr. Wilkins, we've got to do this with all deliberate speed. Let's integrate the first grade the first year; the second year, the second and third grades; the third year, the fourth and fifth grades and so on.

He though it was a good idea. But it could not be accepted on the floor of the Senate, because it was not accepted by some of his counsel. One of them was Miss Greenberg. She raised the question that we were going to give out the constitutional rights on the installment plan, and that was totally unreasonable and unconstitutional, and they could not stand for that for a second.

So, whereas, for a 12-year period, from 1954 to 1966, we could have had the elementary and secondary grades totally integrated in my State and every other State, we had to wait for Martin Luther King to start the bus boycotts, the demonstrations, and then, unfortunately, we saw the outright murders and burnings and everything else. We had not learned anything.

I hope we can sit down and learn what was observed only a week ago by Johnny Poppin, formerly of the New York Times and now publisher of the Chattanooga Times, of Chattanooga, Tenn. I started this political game back in 1947, and Johnny Poppin was a stringer down South.

Incidentally, the publisher of the Chattanooga Times owns the New York Times. I have a hard time for the New York Times to understand that. I tried to get treatment there, I say to the Senator from Wisconsin, from the New York Times, but they do not act like we in Chattanooga or the southland have any effect whatever.

Mr. Poppin went to Jackson, Miss., two or three Fridays ago. I do not know the exact date. He was a guest speaker in Jackson, at the same place he had been the guest speaker in 1948.

He said that in 1948, there was a totally white segregationist, irate mob that he had to address, and they had blood in their eyes and lynch in their hearts. He went there only a few Fridays ago, and he said:

> Look at it. It was a totally integrated audience. There were black political leaders, more than in any other State in all of America.

I wish the Senator would rise and try to counter that statement. Whether one is from New York, Wisconsin, Michigan, or wherever, see how many blacks there are in public office and see how many Mississippi has. He said:

> I looked at the business leaders and the educational leaders; and looking over that audience and addressing them at the time, I said to myself, and then later in the speech, "where else but in the United States of America could this whole change come about in a 25-year period, where we can accept each other and live with pride with each other and finally have equal justice under law?"

The PRESIDING OFFICER. The Senator's 10 minutes has expired.

Mr. MATHIAS. Mr. President, this is a fascinating social review of what has been happening in this country. It does not have a great deal to do with the nomination before the Senate, but I will be happy to yield 2 additional minutes.

Mr. HOLLINGS. I will take 3 or 4 additional minutes.

Mr. BAYH. Mr. President, I yield the Senator from South Carolina 5 minutes. The Senator from Maryland has been very generous.

Mr. HOLLINGS. The Senator from Maryland is going to get judicious. The issue has been private clubs. The issue has been where you have been going and who is really accepting his fellow man. The issue is, who has been able to take advantage of this change over the past 25 years. It is a social thing, and it is a legal thing. When the social matter becomes constitutional, then I say to my colleague that we have equal justice under law. So I do not yield a second on the social change.

We did not rewrite a single word in the Constitution from Plessy against Ferguson, in 1896, until May 17, 1954. This was not changed. So do not get legal or constitutional with me.

We began to look at the people of America and we sat at the place. I will never forget Hays, the lawyer, and Spottswood Robinson, how they could fight in the frontline trenches and have to sit on the back of the bus when they got back to America. As a young segregationist lawyer who had made talks, that had an effect on me, and I hope it will have some effect on my colleagues.

I happen to know Griffin Bell, and I know Governor Vandiver. I do not know whether my friends from Georgia have had an opportunity to talk, but it is good for a fellow Governor from South Carolina, and I am sure the former Governor of Oregon, Mr. HATFIELD, and the former Governor of Connecticut, Mr. RIBICOFF, will tell Senators that our friend Ernie Vandiver was an outstanding Governor. He was not a redneck Governor. This kind of virus is spreading throughout this body, that somehow Griffin Bell had on his hands a George Wallace standing in the doorway—segregation now, segregation forever. That is totally untrue of Ernie Vandiver. The truth is that he did an outstanding job as the Governor of Georgia.

Yes, his counsel and chief adviser was Old Grif. Now let us carry that down, because we are going to have to disqualify some other people.

How did Griffin Bell ever come to the brench? Incidentally, this is the first time we had a fellow who served 11 years in the judiciary. All of them have been political henchmen, relatives, or otherwise. Here is one with 11 years of distinguished service. I know. I have had hearings, as acting chairman of the State-Justice-Commerce Committee on Appropriations, and have been in the forefront, and I have it in this prepared talk, as to the leadership given in the judicial branch by Griffin Bell of Georgia.

Back in 1960, we had, if we might refer to it as the opposition did even in the primary, this wet-behind-the-ears Senator from Massachusetts who had made his money on Scotch whisky. He had gotten out of Harvard. He had a very poor record in the U.S. Senate. It was not easy to support Jack Kennedy down South against Lyndon Johnson.

We were in the background, Old Grif and myself. We worked. As a result, I went to President Kennedy, and to Bobby Kennedy to ask for Griffin Bell's appointment to the Circuit Court of Appeals.

Should we besmirch the memory of both Jack and Bobby Kennedy in this body, because they took all these things we are talking about? No one said there is anything wrong with his judicial temperament or his record for 11 years on the Fifth Circuit Court of Appeals, but they all want to go back. He had that record when John Fitzgerald Kennedy found him adequate and outstanding enough to be made a judge of the circuit court, and this body confirmed his nomination.

Mr. NUNN. Mr. President, will the Senator from South Carolina yield for just an observation?

Mr. HOLLINGS. I am delighted to yield.

Mr. NUNN. I want to concur in what the Senator from South Carolina is conveying to this body, that it is very easy to look back in 1976 and judge actions that took place in 1960.

I happened to run against former Governor Vandiver in 1972 for the U.S. Senate seat. He is one of the most respected men in Georgia, a man who served as Governor, and he is respected not only in Georgia but in the whole South. Because he served during a period of time which was the most difficult time in the history of Georgia for at least the last 100 years, I want to concur in what the Senator from South Carolina is saying, that it is awfully easy now, but it was very difficult to be in the arena back then making those judgments. Both former Governor Vandiver and Griffin Bell had as much to do with the moderating influence in the South and in Georgia as any two people I know of. So I want to join my colleague in his comments.

Mr. HOLLINGS. I thank my distinguished colleague from Georgia.

We worked together and we made a lot of mistakes. We do not have total integration by any manner of means. We have removed the kidney stone, but there are still pains there, and we have got a lot of good work to do. We will never get it done with the measure of those who oppose Griffin Bell.

Now, to go to the matter of schools, I was glad to find out, since I saw that momentarily——

Mr. MATHIAS. Mr. President, will the Senator yield at this point, because he says Governor Vandiver was not one of those Governors who stayed at the schoolhouse door and said, "Stay out." I would just like to recall to him what Governor Vandiver did say. I am quoting from his inaugural address in 1960.

The PRESIDING OFFICER. Is the Senator from Maryland speaking on his own time?

Mr. MATHIAS. I asked the Senator to yield.

Mr. HOLLINGS. The Senator from Maryland has the time.

Mr. MATHIAS. This is what he said:

We are going to resist and we are going to resist again and again and again, and we will exhaust every legal means and remedy available to us, and when I say every legal means and remedy I mean every legal means and remedy.

By that emphasis in my voice, I am trying to transmit to the Senator what is printed in this official document here.

Mr. HOLLINGS. Please credit old Griffin Bell for being foursquare about it. He said what he was doing at that particular time. But in 1976, 16 years later, do the Senators say in their mail-out, which I do not have before me, and I have a little meeting on natural gas so I do not want to make any wisecracks about that because, if I do, they will get ahead of me in the meeting, but, on this matter of private schooling, I had a little documentary sent around to me by Senators, those who are opposing Griffin Bell, and it had on there how "We are going to make it easy for you to find these sins in the record." One of the sins was supporting private schools.

I looked at the list of Senators and I said, "You know, that strikes me." I knew that one of the Senators went to Phillips Exeter.

I wonder how much, talking about what Griffin Bell said—by their acts shall ye know them—what about all this talk by these fellows around who are going to support public schools? I say to them do not be mailing out these documents, coming out here from Phillips Exeter and all of the private academies and colleges in America, talking about "We have to vote against Griffin Bell because I am for equal education."

How many of you fellows have had a daughter attend the District of Columbia public schools? I had my daughter attend. She went to Woodrow Wilson which had a black principal, Carl Rowan, Jr., by the way, was her classmate, and they are good friends.

Since we have to find out who are supporting private clubs and schools, she attended that school. They had riots in the halls. She told me, "Daddy. I am staying there because it has a good principal and they are good teachers."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAYH. Mr. President, I will yield the Senator from South Carolina whatever time he needs.

Mr. HOLLINGS. Just a couple of minutes.

I did not want to disregard the sham we are seeing going on now of pick, pick, pick, on a fellow who has really proven his worth, a fellow who has really proven his mettle with 11 years on the fifth circuit court.

Incidentally, about his letter with respect to Carswell, go ahead and impeach every judge if you really believe what you are saying. Impeach every judge who also wrote a letter about Harold Carswell. I think there were 44 or 45 Senators who voted for Carswell, and let us vote them unfit to sit, and get rid of those votes too as we are getting ready to get rid of this man.

I would like to say to the Senator from New York, he said we should have one standard, we do not have one standard overseas. We should have one standard here in this body. I could take rule after regulation on equal employment in the Senators' offices, on OSHA—on OSHA we would all go off to jail if that safety crowd came around and looked at my office. But we always put out all these measures like a bunch of sanctimonious souls racing around, pick, pick, and picking like we are the only ones with a conscience, we are the only ones with a record of decency and equality and justice, and I get a little fed up with listening to that.

When you get an outstanding man like this gentleman from Georgia who has got commonsense, he is long on it, he has been through all of these things, and he has made 140 integration decisions so that they call him the school integration judge—he has worked and been appointed—my gosh, we have got to get rid of Chief Justice Burger because he has appointed—I have it in my record here, he has appointed Judge Bell to the Judicial Council to make certain studies and surveys and report back. Judge Bell was responsible for tremendous progress.

That is within our judicial branch. But here we have a man voting for him, here is a man appointing him, the Chief Justice himself, so you had better get rid of him, too. If we are going about this appointment that way let us stand up and we will go about it and we will call the roll and see who is in the clubs and see who has one standard that the distinguished Senator from New York talks about, and let us bring that standard home to this body and quit making the record for later elections, and running us down and disparaging us like we are a bunch of redneck, bigoted southern politicians trying to get one of their crowd in as the Attorney General so that we can lynch the judicial process of the United States. That is pure poppycock.

The fact of the matter is Jimmy Carter looked them all over and picked out a good one.

Mr. President, I support Griffin Bell's nomination to be Attorney General of the United States. This is an outstanding selection, and I commend President Carter for the wisdom of his choice. In Jimmy Carter and Griffin Bell, we have leadership which can and will do much to polish the tarnished image and substance of our system of justice.

No one has to be told that our judicial system today stands indicted in the eyes of many Americans. Years of wrongdoing at the very top—in the Justice Department, in the White House itself—underminded our traditional American confidence. White collar crime in the top-most corporate based rooms call into question the workings of our economic system. Crime in the streets continues to make most of our big cities unsafe and unpleasant. The new administration has an unparalleled opportunity to enhance the substance of justice, thereby to polish its image and to restore to the average American a feeling of trust in the basic rightness of what goes on in law enforcement and criminal justice.

For several days, Griffin Bell has been testifying before the Senate Judiciary Committee. A look at the transcript of these hearings shows an astonishing depth and breadth of knowledge of the law, and of what needs to be done to make equal justice for all a reality across this land of ours.

It is unfortunate that media coverage of the hearings focused almost exclusively on one single facet of the Justice Department's responsibilities. It is a vital facet, of course, but the preoccupation with this one area necessarily denied the general public a look at Judge Bell's beliefs and proposals across the whole spectrum of the Department's jurisdiction.

Judge Bell has been criticized by several witnesses on his civil rights enforcement. However, it is his stated position that ". . . I intend to have a vigorous Civil Rights Division. I intend to have people there who will carry out the law. I have no hesitancy about that at all."

On sex discrimination he has expressed an opinion that the 14th amendment should be interpreted to make sex discrimination constitutionally suspect criteria, as in the case of racial discrimination. Since the Supreme Court has not so interpreted the amendment, he sees a need for the equal rights amendment.

Judge Bell has stated his intent to use open housing laws against restrictive

zoning that has excluded minority housing. His belief is that breaking up residential segregation is preferable to placing the burden of desegregation on schoolchildren. In the voting rights area, Judge Bell expressed that the right to vote is "the most important right" of Americans and he has promised to argue for the constitutionality of the Voting Rights Act. However, he further states, and I agree, that coverage should be extended to the entire country so that no one's right to vote is interfered with.

Now, does this sound like a man who should be criticized for his civil rights enforcement? I say no. Judge Bell has participated in over 140 school desegregation cases while serving on the fifth circuit. The record shows that he is credited with changing the course of school desegregation in the fifth circuit by his order in Alexander against Holmes County to desegregate now rather than maintain the status quo and remand to the district court for the development of a new plan as had been the prior practice.

The cases go on and on showing Bell's participation and enlightened decisions in many diverse cases involving prior restraint, loyalty oaths, the right to be served in public places, voters registration, reapportionment, equal employment opportunities, jury selections and prisoners' rights.

Also, as for his years as adviser to Governor Vandiver, the record shows Judge Bell was a counselor in moderation. These were the days of "massive resistance" to integration and yet Georgia survived this period without violence. Judge Bell instigated and conducted biracial meetings to keep black leaders informed and it has been stated that these were the first biracial meetings of any kind in Georgia. Warren Cochran, executive director of the Atlanta Negro Voters' League and one of the participants in these meetings, testified that Judge Bell had voluntarily convened the meetings and that Bell stated, "I am trying to convince Ernest Vandiver to change his position."

Now the record is in, and the volumes of evidence confirm what I have known for a long, long time—that Griffin Bell not only believes in, but has labored effectively for, equal justice for all Americans. He began those labors before it was considered the vogue thing to do. He began because he believed. And working with those whose attitudes had to be changed, he helped bring about that profound alteration which has liberated black and white together in the South. It was through the long, arduous, often behind the scenes toil of men like Griffin Bell that the South achieved so much. And while we still have a long way to go, it is now generally accepted that the Georgias and South Carolinas of our land have gone farther and done better than most of the States in the other regions of the country. I am encouraged by what Griffin Bell had to say at his confirmation hearings. I do not find any equivocation, any back tracking, anything at all which would make me suspect that he was less than 100 percent committed to the concept of equal justice for each and every one of America's 215 million citizens. I find Judge Bell, on this score as well as the others, to be eminently qualified for confirmation as Attorney General.

Let us look now, in the few moments I have, at some of the nominee's attitudes toward his other responsibilities as the President's chief law enforcement officer. Judge Bell realizes full well that justice delayed is justice denied, and he means to do something about it. The problem is too easily diagnosed as overcrowdedness—where case upon case remains on the court dockets despite our judges' best efforts to keep up with their exploding caseloads. But even when the judge finally reaches a case for disposition, litigants are still often deprived of justice by procedural rules that often appear to delay merits and keep the case at the pretrial state for interminal months and sometimes years. And as many others have recently emphasized, there are additional roadblocks in the paths of justice. The Court has rewritten the law of standing, to block many worthy lawsuits at the door of the courthouse; it has interpreted the class action rules in such a way that a number of worthwhile consumer suits are often too expensive to litigate; it has interpreted the rules governing the award of attorneys' fees in such a way that many persons cannot afford to pay their lawyer to pursue a case. In short, the sum of all these, and other, procedural, nonsubstantive roadblocks is the thwarting of justice at the courthouse door.

The crisis might be one where the focus must be not only on justice as an end product but on the delivery of justice to all citizens. I am particularly impressed with Judge Bell's determinations to do something about the delivery of justice in America. For nearly 15 years, he has been an outstanding jurist on the Nation's largest appellate court, the U.S. Fifth Circuit Court of Appeals.

Judge Bell has served several years on the Board of Directors of the Federal Judicial Center here in Washington. This is the arm of the Federal court system devoted to finding ways to improve that system. He has also served as chairman of the Judicial Center's Committee on Innovation and Development.

Just this past year, Judge Bell became chairman of the American Bar Association's Standing Committee on Judicial Administration, testimony to his standing among his judicial associates.

Chief Judge John R. Brown of the fifth circuit has called Judge Bell the father of two significant innovations in that court which have resulted in an increase in the number of cases that actually get decided by the court, and therefore, the number of parties who ultimately receive a resolution of their cases. One such procedure is what is called "screening." By the use of special panels where unanimous consent is required, many cases are decided without the necessity of oral argument. Another innovative rule allows the court to decide some cases without a written opinion. In some instances, appeals are made in cases where oral argument simply will not help the ultimate disposition of the case and in others an opinion will serve absolutely no precedential value. Both measures conserve the judges' valuable time for the actual decisionmaking process.

Most recently, and at the request of Chief Justice Warren Burger, Judge Bell served as chairman of a task force which studied various problem areas in our judicial system and made specific recommendations on how to deal with them. The current president of the American Bar Association, Justin Stanley, praised Judge Bell's work on that task force during the confirmation hearings.

During the course of the confirmation hearings, Judge Bell discussed at length some of his very definitive ideas on how to improve the delivery of justice on this country.

I would like to highlight just a few of these:

First, Judge Bell very eloquently described the difficulties faced by persons in urban communities simply because the courthouse is so far physically from their homes. To meet this problem, he described an idea that he first discussed in his task force report. Judge Bell suggests the creation of what he calls "neighborhood justice centers," where people could take their everyday disputes to be resolved by whatever means is most appropriate—an example is arbitration or mediation, or of course in some instances before a judge. Such a system would insure that many more people would get their disputes settled. In many ways such a system would allow the benefits of the justice-of-the-peace system of an earlier era, but with the modernization and consistency which modern jurisprudence demands.

Judge Bell is aware of the need to open our courts up again to actions by defrauded consumers and others whose grievances too often go unredressed today. He agreed with Senator KENNEDY'S statement in one portion of the hearings that Congress should pass legislation to empower courts to award attorney's fees to litigants to bring lawsuits that benefit the general public interest—which of course might dictate different results than the Supreme Court's recent decisions that disallowed such fees in such circumstances.

Judge Bell also spoke of his desire to make a class action device workable. As we all know, a class action today never reaches the merits in most cases because courts find that the size of the plaintiff class makes the suit "unmanageable." Judge Bell would work with Congress and the courts to introduce new procedures that would allow the size of the class to be reduced in court at any time. Such rules are far too complicated for extended discussion for our purposes now, but in Griffin Bell our country has the opportunity to utilize the services of one who is experienced, capable, and dedicated to the proposition of improving the peoples' justice.

A fundamental component of a free society is a free market. Antitrust laws are intended to insure vigorous but fair competition in trade and commerce. Consumers benefit from such competition by getting the best quality goods and services at the lowest price.

But not all the markets in America are truly competitive. A high-ranking Government official estimated about 2 years ago that antitrust lawbreakers were costing American consumers over $80 billion each year.

Judge Bell has promised a vigorous antitrust enforcement policy. He would personally review policies and practices of the Antitrust Division and its regional offices to insure that a course of vigorous enforcement is being followed. Many officials have talked a good game of antitrust, but previous few have followed through. I believe Judge Bell is determined to follow through.

Several specific proposals will be carried out to promote antitrust enforcement:

First. Judge Bell will work to simplify complex litigation. Often the most important antitrust cases are the most complicated, consuming extraordinary judicial resources, lawyers' time and taxpayers' dollars. Judge Bell will work to find procedures which will simplify and expedite such cases.

Second. In order to dramatize to a judge the need to move any antitrust matter through the courts, Griffin Bell has stated that as Attorney General he would appear personally in key cases to urge a judge to get a case moving that had been unduly delayed.

Third. Judge Bell proposes to hire expert trial lawyers with antitrust experience, on a temporary basis, to litigate important cases which are unusually complex.

Fourth. Too often the antitrust criminal is permitted to go free or is punished by a slap on the wrist. Not too long ago a judge imposed a sentence which required the lawbreakers, not to go to prison, but to make speeches to business and civic groups about the seriousness of antitrust enforcement. But who could take such a sentence seriously as a deterrent?

Judge Bell will seek severe penalties for price-fixers—and he has stated that he will appear personally at sentencing hearings to dramatize the important point that antitrust criminals are just that—criminals.

This discussion of just a few of Judge Bell's plans in the field of antitrust enforcement show that he recognizes the necessity of vigilance and strong action. He is committed to taking an activist approach to antitrust matters. His testimony shows that he cares about those who are cheated by the white-collar criminals in the corporate board rooms. Here, as elsewhere, I am confident of real progress by a Justice Department under the capable leadership of Griffin Bell.

I wish I could continue, Mr. President, but in closing let me just say that I find Griffin Bell to be uncommonly well-qualified for the task ahead. He has the head and he has the heart to accomplish great things and to widen the vistas of justice for all Americans. I cast my vote for confirmation with genuine enthusiasm and confidence, and I urge my colleagues to approve this good and able man as the next Attorney General of the United States.

I have already taken advantage of the time given me by my distinguished colleague from Indiana, so I will yield back the remainder of my time.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. HOLLINGS. Yes, I will be glad to yield.

Mr. DOLE. The Senator from Kansas shares the same opinion about Griffin Bell, his integrity and honesty, as the Senator does. But I am concerned about the FBI and Judge Bell's comments that Clarence Kelley would be removed.

Does the Senator have any quarrel with the way Clarence Kelley has performed his service as FBI Director?

Mr. HOLLINGS. I am not a good witness because I have mixed feelings. When I saw Watergate and furniture and everything else, we have had furniture——

Mr. DOLE. That was something——

Mr. HOLLINGS. Let me complete the answer. We have had these things with respect to furniture and various emoluments. We have not seen a boosting, let us say, of the morale at the FBI. Now, maybe that is Clarence Kelley's fault. I think President Ford did all he could in a 2-year period bringing back respectability. In the 2 years given Clarence Kelley, he had personal illness in his family and a loss and everything else of that kind, and I would not judge him harshly.

I have never thought it through thoroughly. He certainly has not come forth now in the FBI—since we have had hearings—the FBI has not really regained its prestige, its credibility that I think it should have regained, and perhaps someone else could do a better job, but I have not looked at that.

Mr. DOLE. As a matter of principle the question may not be Clarence Kelley, but should an incoming President have a right to remove the FBI Director? Should it be political? That is the broader question.

Mr. HOLLINGS. Well, we voted on it that it should be 10 years. I think the Senator from Kansas supported that, and I supported that in order to get it away from Presidential appointment.

Mr. DOLE. It shall be a 10-year term. It does not say the President shall have a right to remove him without cause.

Mr. BAYH. Mr. President, will the Senator allow me to interject a thought, since our good colleague from Missouri has had more extended conversation with Director Kelley than anybody here——

Mr. DOLE. I am not from Missouri.

Mr. BAYH. No, I know the Senator is not, the Senator is from Kansas. I do not think the Senator from Kansas was on the floor at the time and that is why I interjected this. The Senator from Missouri has had a couple of rather extensive conversations with the distinguished Director of the FBI and is convinced that the letter which Director Kelley sent suggesting his desire to retire was totally and completely voluntary and was not the squeeze play that our friend from Kansas suggested, and everybody can look at that as they see fit. But I thought perhaps at this time it would be important to note that the Senator from Missouri had talked to the man and did come to the conclusion that this was a voluntary resignation letter.

Mr. DOLE Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield Thank you very much.

Mr. DOLE. May I have 2 minutes to pursue this?

The PRESIDING OFFICER Who yields time?

Mr. DOLE. May I just have 2 minutes?

Mr MATHIAS I yield 2 minutes to the Senator from Kansas.

Mr DOLE. If the Senator from Indiana will agree I shall pursue this one step further.

Let us forget for a moment that it is Clarence Kelley. Let us just say that it is a member of the Federal Bureau of Investigation who has 7 years left on his term. Does the Senator from Indiana believe that the President has a right to remove him without cause?

Mr. BAYH. No.

Mr. DOLE. That he has a 10-year term?

Mr. BAYH I supported that act

Mr. DOLE. That if he wished to stay he could unless cause was shown?

Mr. BAYH. Yes I do not think that is the question or point here Let me say that I can see how after Mr. Kelley has gone through what he has gone through and been subjected to what he was subjected to he would be in a position of looking for a rest I say honestly I have not talked to Director Kelley, and that is why I interjected the information garnered from at least, as I understand it two conversations one of our colleagues had with Director Kelley, in which he suggested very strongly that this was a voluntary resignation; it was not a kind of squeeze play thing. To answer the Senator's question I agree with him on the 10-year term

Mr. DOLE. The follow-up question is: If Director Kelley should change his mind, having written the letter, would he have the support of the Senator from Indiana?

Mr. BAYH. I assume so yes I would like to see that man who changes his mind as the seasons change I should look at that.

Mr. DOLE. He may feel better. He has been under some distress, with backaches and other things

Mr. BAYH. Perhaps the Senators from Kansas and Indiana feel better

Mr. DOLE. I am feeling better each day.

Mr. BAYH. The Senator from Georgia has been patient here I yield him time How much time does he need?

Mr. NUNN. Five or six minutes

Mr. BAYH. I yield 7 minutes to the Senator from Georgia

The PRESIDING OFFICER The Senator from Georgia

Mr. NUNN. Mr. President 2 weeks ago I had the privilege along with my senior colleague, Senator TALMADGE, to appear before the Judiciary Committee to introduce President Carter's nominee for Attorney General, my good friend, Judge Griffin Bell I regret that this nomination was not considered by this

body last week. However, I take this opportunity to share some of the thoughts which I expressed before the Committee on the Judiciary to the full Senate today.

In recent years the character and integrity of our law enforcement institutions, and the individuals who administer them have been severely questioned. As a result, Federal efforts to combat the increasing crime rate in this country have been undermined and the confidence of the American people in their Federal law enforcement officials has gone to a low level.

President Carter's selection of Judge Griffin Bell as our 72d Attorney General was encouraging to me because of my confidence that Griffin Bell possesses the qualities and capabilities that will enable him to reverse these negative trends and restore the confidence of the American people in our system of justice.

This country needs an Attorney General who has a proven record as a leader, innovator, and administrator. The Attorney General must be a person who has the confidence of the President. He should be dedicated to the rule of law, vigorous in spirit, and able to effectively organize and administer the many facets of the Department of Justice. Judge Bell unquestionably in my opinion, possesses these qualities.

He is a man noted for his candor, quickness of mind, and possessed of the highest character and integrity—a man of principle and independence. His record as a lawyer and jurist is prodigious. His public career is as well documented as any person ever to be considered for this high post. Judge Bell is well-known in Georgia, in the Fifth Judicial Circuit and throughout the Nation for his service as a judge and innovative leader in the area of judicial administration.

Griffin Bell's public career began on a note that marked his interest and devotion to public education. During the time I was a law student at Emory University in Georgia, Griffin Bell, as a lawyer and later adviser to former Georgia Gov. Ernest Vandiver, was the architect of the Sibley Commission which is universally credited with being the vehicle that saved the Georgia Public School System during those tumultuous and potentially explosive times.

It is sometimes difficult to truly appreciate the significance of these events without putting them in the proper context.

I was very interested in the dialog between the Senator from Maryland and the Senator from South Carolina about former Governor Vandiver in those times that took place then, and I think people have to realize that the quote of the Senator from Maryland was an accurate quote that reflected a mood of a great majority of the people of Georgia, when Governor Vandiver was inaugurated, and to his great courage Governor Vandiver, with the help of Griffin Bell, decided that that was not the appropriate course for Georgia. With Griffin Bell's help, instead of closing the public school systems, which was the mood when he took office, the school systems of our State were kept open so that black and white alike could get an education.

One person who watched these facts transpire was the Pulitzer prize winning former editor of the Atlanta Constitution, Eugene Patterson. He recently wrote the following words in the St. Petersburg Times:

> But the pace of the march was less important than the direction the few leaders took in that time when too many politicians and judges were clinging to the safe popularity of the past . . . to go back from the present and glean isolated errors from the past of such men is to lose sight of their true measure: The sustained thrust of their courage and commitment in a time when it took courage to have courage. Bell qualified . . .

Biracial meetings were virtually unheard of in those days in the South, but it is characteristic that even then, Griffin Bell led blacks and whites to talk, and meet together in order to move toward common goals. There are many citizens, both black and white, in Georgia, who remember and applaud Judge Bell's role in preserving public education in Georgia and in counseling the rule of law. One of Georgia's premier black colleges, Morris Brown, recently honored Judge Bell with an honorary doctorate of humane letters. In presentation of this degree, the college emphasized the impact of the Sibley Commission, for which Judge Bell was responsible, on the resolution of these events. And I quote the black college in Georgia that gave this award in the fall of 1976:

> At a time when the entire South was emotionally supercharged over the issue of school integration, the Sibley Commission held a series of public hearings throughout the State in favor of public education rather than closing schools in the face of desegregation. This vote was one of the crucial steps in helping to preserve public education for all Georgia children.

In 1961, President Kennedy appointed Judge Bell to the U.S. Court of Appeals for the Fifth Circuit, the Nation's largest. Much could be said about the next 14½ years of Judge Bell's tenure on the fifth circuit bench. He wrote over 500 opinions, and during that time participated in thousands of cases. As Bill Shipp wrote in the Atlanta Constitution on January 1, 1977:

> Griffin Bell not only witnessed his South land in torment, he played a significant role insuring equal rights for all in restoring a measure of tranquility and order to the seething region

Bell's record as a Judge in the fifth circuit demonstrates a major leadership role in the development of school desegregation, voting rights, employment discrimination, labor cases, and cases involving the jury selection process. To my knowledge, no Federal judge in the United States has been involved in more school cases than the 140 which Judge Bell has had to consider. His dedication to the public school system was typified in his recent remarks at Morris Brown when he closed his address with the following message:

> I revere public education as we know it in America. It is the passport of every American child to the social and economic mainstream. I pledge to do whatever I can to see that public education is improved and maintained as a great public institution.

The PRESIDING OFFICER (Mr. ANDERSON). The Senator's 10 minutes have expired.

Mr. NUNN. Mr. President, will the Senator yield me 2 additional minutes?

Mr. MATHIAS. I will lend the Senator 2 additional minutes and try to get them out of the Senator from Indiana.

Mr. NUNN. I will take it from this side.

The PRESIDING OFFICER. The Senator from Georgia is yielded 2 additional minutes.

Mr. NUNN. Apart from his formal participation on the bench, Judge Bell took an early interest in innovating reforms in judicial administration to aid and effectuate the administration of justice. The Fifth Circuit's Chief Judge Brown, for example, has called Judge Bell the father of many of the Fifth Circuit innovative screening and expediting procedures.

These experiences, within his own circuit, and his growing national reputation in the judicial administration field led to his appointment in 1973 to the board of directors of the Federal Judicial Center in Washington. He also served as chairman of the Committee on Innovation and Development. In 1976, he became chairman of the American Bar Association Standing Committee on Judicial Administration. Also in 1976, he chaired a task force of the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice which made concrete recommendations designed to improve the administration of justice.

Mr. President, in closing, I believe that it is important to bear in mind the fact that it is much easier to sit back in the protected confines of 1977 with the perspectives provided by hindsight, and criticize decisions made as much as a decade ago than it is to sit in the chair of the decisionmaker with the crisis at hand and fulfill the responsibilities imposed by our Constitution.

As Theodore Roosevelt said:

> It is not the critic who counts; not the man who points how the strong man stumbled, or where the doer of deeds could have done them better. The credit belongs to the man who was actually in the arena.

Mr. President, Griffin Bell has been in the area. I believe that he possesses the experience, vision, dedication, and character to bring about the restoration of faith in our judicial system and in the Department of Justice.

I urge colleagues in the Senate to support his confirmation.

I say to the Senator from Indiana that the Senator from Maryland graciously yielded me 2 minutes, and I hope that the Senator from Indiana will have enough time remaining to take those minutes out of the time on this side.

Mr. BAYH. I will be glad to more than compensate our friend from Maryland. It is pretty hard, however, to keep up with his graciousness.

Mr. MATHIAS. Mr. President, I yield 10 minutes to the distinguished Senator from Connecticut (Mr. WEICKER).

Mr. WEICKER. Mr. President, with the exception of their judgment, that of President Carter in offering the nomi-

nation and that of Judge Bell in accepting it, it is not my intention to direct criticism toward either of those gentlemen, but rather to discuss the principles that are involved in the course of this nomination.

I can assure the Senate, Mr. President, that I am as tired as my colleagues probably are of reminding them of the years past, in playing the constitutional "grump," in being the skunk at the confirmation garden party, but the fact is that it really does not do us much good to gain the knowledge we have over the past several years if we do not make use of it. And I can assure you that that truth, much of which was brought forth by Members of this body, is going to be ignored with approval of this nomination.

We are not involved here in an historical review. The issue is not racial equality. The issue is not private schools. The issue which is the largest spiritual problem facing the country today is a lack of belief in the justice system. Too many Americans believe there are two standards of justice, one for the powerful and one for the weak. One for friends. One for enemies. Such a belief, if allowed to continue, will be the cause of our own demise.

I came to Washington in 1968, at a time of violence and confrontation, here as in other parts of the country. I remember the establishment, be it the political establishment, the media establishment, or the educational establishment, trembling in its boots as to whether or not the Nation was going to survive, and, as a final, last, desperate step, I remember that establishment turning to the Nation and saying two things: "Work within the system" and "believe in our system of justice."

More so than the National Guard, the D.C. police, the Army, or anyone else, it was that reservoir of belief, which managed to right the ship of state in those violent times. Now the question has to be asked, in the light of what it is the country has learned since 1970, if confronted with such a crisis again, and the establishment once again turned to the American people and said, "Believe in our system of justice," in the light of facts now known, would there be a positive response on the basis of the condition of our justice system, or would the response depend on who it was that was asked.

Unfortunately, in the country today it probably would depend on the person being asked. Because the fact is that individual after individual—based on knowledge, no longer on speculation—believes that political friendship, personal friendship, economic status, political power—that is what determines justice in the United States.

You know, the significance of Watergate for this body was not the guilt or the innocence of Richard Nixon. That was not our mandate. It was not our directive. The significance was the assault on our institutions and principles. And certainly one of those institutions was the Justice Department.

Let me read to the Senate, if I might, the few pages that covered this point in my own report:

ENUMERATED POWERS AND DUTIES

The so-called enumerated powers and duties of the President's office are set forth beginning with Section 2 of Article II. That Section grants the President direct power over Cabinet officers, and much testimony before this Committee demonstrated how those officers were used on behalf of the President's office.

An Attorney General, for a significant period of time, ran the President's re-election campaign while still in office at the Justice Department. His reason for this role was that, "it is very, very difficult to turn down a request by the President of the United States," even though the Attorney General himself later testified that he felt such a role in politics while still in office was wrong. Memos from CRP, such as one entitled "Grantsmanship", suggesting an effective method of "insuring that political considerations" be used in Federal programs, were sent to the Attorney General from May 1, 1971, onward. At one point, it was even suggested that the Attorney General wield the power of his office to keep a Republican contender off the primary ballot in Florida. That campaign role also included an extraordinary meeting in the Attorney General's very office, to review plans for bugging, mugging, burglary, prostitution, and kidnapping.

Another Attorney General was placed in the awkward position of being asked immediately after the Watergate break-in to help get Mr. McCord out of jail before he was identified. He was soon thereafter warned of White House concern with a too aggressive FBI investigation. He was then asked to provide raw FBI Watergate files, perhaps improperly, to the White House. That same Attorney General was later used as a secret contact with this Committee's investigation of Watergate, and was then removed from office in an apparent connection with the Watergate affair. He eventually became the first Attorney General in history convicted of a crime, for his testimony about the ITT matter.

A third Attorney General was forced to resign his office when he backed the Special Prosecutor's procedure for obtaining Watergate evidence from the White House.

An Assistant Attorney General was also asked to provide raw FBI Watergate files, again improperly, to the White House, and was later told by the President not to investigate the Ellsberg break-in. Another Assistant Attorney General was forced to resign when he backed the Special Prosecutor's decisions in the Watergate case. Still another Assistant Attorney General gave confidential Justice Department and FBI intelligence information to the President's re-election campaign, at the direction of the White House.

Three Attorney Generals and three Assistant Attorney Generals. And all this was done on behalf of the presidency, which has a Constitutional responsibility to "take care that the Laws be faithfully executed." [111]

Subsequent revelations by other committees and other institutions spelled out other abuses of that office. I am amazed with the preoccupation with law and order on the part of the powerful, while the weak, the small, and the powerless in this Nation are unable to articulate their resentment at the special lawless and orderless justice practiced by those powerful.

That is why it was important when former President Ford put Edward Levi into the position of Attorney General, because for once it was not a brother, it was not a campaign manager, it was not a personal friend, it was an individual of high professional competence and independence who filled one of the most powerful offices in the land. And so, in a very practical way, that very important corner of Watergate, had been turned.

And there was a realization in this body as to the special demands of the office of Attorney General. I remember when we tried to put the limitation on the term of the FBI Director. Why? Because we did not want that office politicized. And I remember the Bentsen amendment, which I opposed, which specifically would deny anybody involved in politics from ever being considered as Attorney General, because certain of our Members tried to articulate their newly found reverence for the power that was invested in the Attorney General's office.

In that same Watergate report that I wrote, I recommended that the Office of Attorney General be elected. I dropped that aspect in committee because people said to me, "We will do this by Executive order or we will put into place the necessary legislation to make sure that never again will this office fall into the hands of political friends, relatives, or close personal friends."

Well, I have learned the lesson.

I ask for an additional 5 minutes, Mr. President.

Mr. CHAFEE. Mr. President, I yield 5 minutes to the Senator from Connecticut.

Mr. WEICKER. I thank the Senator. The promises of my colleagues are not enough and Executive orders are not enough. Unless reform is in writing, it is not going to happen.

Does everybody in this body really understand the deep cynicism that exists among the American people when it comes to our system of justice?

It is not a cynicism with Republicans. It is not a cynicism with Democrats. It is a cynicism with an establishment that writes its own rules.

When will we stop paying in the currency of the Constitution and its principles the price of quiet for our time.

With the Nation still plagued by a perception of unequal justice in America, it is vital that the country's chief law enforcement officer not be chosen from among a President's pals or politicos.

The Attorney General, above any other appointed official, must be an individual who not only is impervious to the political and personal demands of a President, but also appears impervious as well.

Although I am concerned by Mr. Bell's mediocre record on civil rights, my opposition to his nomination is based on the urgent necessity to correct in style and substance the widely held belief that there are two standards of justice in the United States.

The American people are tired of watching brothers, campaign managers, law partners, and old friends sprinting the inside track to the Justice Department. The truth that has been gained over the past several years is not much good unless we act on it. Unfortunately, more often than not, blindfolded Justice has not been holding scales, but rather the President's hands.

[111] U.S. Const., Art. II, sec. 3.

This ended with the appointment of Edward Levi—a brilliant lawyer, educator, and free spirit. With the nomination of Griffin Bell, how soon these lessons are forgotten.

It may be said of Mr. Bell and President Carter, with no slight to either man, that when viewed in light of recent history, extending their old, personal, political friendship into the office of Attorney General perpetuates rather than dispels the image of old, personal, political justice.

The travesties and the injustices of the past several years did not go away with the election of a new Congress or a new President, and they cannot all be cured by legislation. So many have to be rectified by sound commonsense judgments. The Bell nomination is not such a judgment.

There is going to be another time of difficulty as there was in the late sixties and early seventies. I hope to God that when the establishment turns to the American people and says, "Believe in our system of justice," the facts will support belief. Up to this moment I see little to support it, including this nomination.

Mr. President, I yield back the remainder of my time.

Mr. MATHIAS. Mr. President, I yield 5 minutes to the Senator from Rhode Island (Mr. CHAFEE).

Mr. CHAFEE. Mr. President, my vote on this matter is a particularly difficult one. I as a temporary member of the Judiciary Committee, I sat through many hours of testimony. We listened to more than a score of witnesses. Judge Bell came through as a man of integrity, intelligence, and ability.

I certainly respect the desirability of granting the President the greatest possible leeway in the selection of his cabinet. However, I do think that the criteria for judging a nominee for Attorney General are stiffer than that for judging other Cabinet members.

The Attorney General is more than just the attorney for the President or for the Government; he has a special role in that he is the attorney for all the people. This special role goes further than that. It seems to me he has to have a deep concern for the minorities, because he is the spokesman for them as he attempts to enforce the laws that are to protect their rights.

To me, this issue was not one of private clubs, Judge Carswell, or the FBI. It is in the area of civil rights that Judge Bell's record troubles me.

His role as voluntary legal adviser to Governor Vandiver in the 1958–61 period has been discussed, and we are constantly told to appreciate the temper of the times. I think that is a fair admonition. But as we read the statements that were made by the Governor as we review the laws which were submitted at that time in which Griffith Bell had a hand, it does not seem to me that was the voice of reason.

Then we proceed to the consideration of Judge Bell's role in the civil rights cases, especially those dealing with school desegregation. I found them troubling.

There undoubtedly is a lack of confidence as regards the nominee among the minority groups, as was evidenced by the flow of witnesses who came before the committee. It would not be fair to label that just a concern. It is far deeper than a concern, as we heard from Mr. Mitchell, from representatives of PUSH, the ADA, and the other groups.

I do not think for 1 minute we should be controlled by the opinions of those groups. But I do believe they should be taken into consideration. Those opinions are of consequence.

I believe it is important, as President Carter said less than a week ago in his inaugural address, that there be "a serious, purposeful rekindling of confidence." In this nomination we do not have that rekindling of confidence for our Nation.

For those reasons, I am opposed to the nomination of Judge Bell.

Mr. THURMOND. Mr. President, who is handling the time?

Mr. BAYH. Mr. President, I would be glad to yield to the Senator. How much time does he desire?

Mr. THURMOND. I believe 5 minutes.

Mr. BAYH. I yield 5 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the Committee on the Judiciary had lengthy and indepth hearings on the question of whether Judge Griffin Bell is qualified to serve as Attorney General of the United States.

No single bit of testimony can be singled out to determine whether Judge Bell will be a good Attorney General. No single case can be singled out to determine whether Judge Bell will be a good Attorney General. To achieve balance and justice, the whole man and his complete record must be placed on the scales.

Judge Bell was born in Americus, Ga., on October 31, 1918. He was graduated cum laude from the Walter F. George School of Law, Mercer University. He served his Nation in the U.S. Army during World War II, rising to the rank of major. Judge Bell spent over 12 years in the private practice of law in Savannah and Atlanta, Ga. President John F. Kennedy, in 1961, nominated Griffin Bell to the Fifth Circuit Court of Appeals. He spent over 14 years on that bench.

I have carefully reviewed the record of Griffin Bell as a Federal judge, a lawyer, and a man. In addition to my review, I have had the benefit of the views of his critics and supporters who have seen fit to comment on his nomination. My evaluation leads me to conclude that Judge Griffin Bell will make an able Attorney General of the United States.

Frank T. Read, dean of the Law School, Tulsa University, is reported to have recently completed a 5-year study of the desegregation decisions of the U.S. Fifth Circuit Court of Appeals.

Through interviews and analysis, Dean Read found Griffin Bell extremely influential and a leader of the center—I repeat, of the center—of the 15-judge court whose members run the spectrum of judicial philosophy. Judge Bell presided over 141 school integration cases between 1961 and 1975. He was supervisory judge for 150 school districts in Mississippi and was a member of the panel of judges charged with enforcement of the Supreme Court desegregation rulings for large cities such as Mobile, Ala.; Jacksonville, Fla.; and Orlando, Fla. His record is there and it is called mixed by some on civil rights issues; it is called good by others. Some say his record is bad. To me, his record is that of an independent thinker—I repeat, an independent thinker. He is his own man.

Griffin Bell is a man of keen intelligence and high integrity. Almost all who have known him longest and best say he is a man with sensitivity toward civil rights and individual rights.

Judge Bell has for years been active nationally in efforts to streamline the judicial system. As Attorney General, he will be able to devote his time, intelligence, and energy to the problem of overcrowded court dockets.

As a skillful negotiator, I am sure that he will cut litigation where it should be cut by negotiation and settlement.

Mr. President, President Carter said:

> My prediction is that Griffin Bell will be a great Attorney General.

I, too, am convinced that he will do a good job for our country. Thus, my vote will be cast for his confirmation.

Mr. President, an editorial appears in the Washington Post today concerning the nomination of Griffin Bell. I had intended to put it in the RECORD, but I believe it has already been submitted by the distinguished Senator from Indiana.

Mr. President, I shall not take time to go into this full record, but I wish that every Member of the Senate had the opportunity to read the testimony of Mr. Jaworski, which begins on page 48 of the transcript of the hearings in the Committee on the Judiciary and ends on page 92. Mr. Jaworski has studied carefully the record of Griffin Bell and he investigated Griffin Bell before he was appointed to the circuit court. He has been in touch with him on many other occasions. Mr. Jaworski's opinion is a resounding yes, that he is a man of capacity, a man of courage a man of character and Mr. Leon Jaworski feels that he should be confirmed.

Mr. President, I shall not take time to go into all of this record, but I want to say that I understand some of my colleagues have brought out a comment of Mr. Jaworski on page 60:

> I would be prepared to say that Judge Griffin Bell, despite my high regard for him, as you have heard, is not necessarily the best qualified man that could be found.

Mr. President, I repeat that statement:

> . . . despite my high regard for him, he is not necessarily the best qualified man.

He did not say he was the best or not the best. He said he was not necessarily the best. But I am afraid those who quoted Mr. Jaworski stopped there. He goes on to say:

> At the moment, there comes no one to mind. But I would be surprised if there were not others in this land who, in my experience, may well be better qualified. But I am convinced that he is a thoroughly qualified man for this post.

Mr. President, how can you say any one man is the best qualified man in

the United States? The point is, is he a qualified man? Mr. Jaworski says he is a qualified man. President Carter says he will make a great Attorney General.

Mr. President, he made another good point here which I think is important. He says:

I would be shocked if this man ever yielded to pressure.

To me, that is very important. Courage is a quality around which all others rest, probably the most important quality of a man. If Mr. Griffin Bell has the courage to resist pressure and stand up for what he thinks is right, that is, indeed, a very top quality.

He made another point here, too, that Mr. Griffin Bell is the kind of man who would seek the best advice he could get. Mr. Bell realizes that he is not infallible. He realizes that he does not know it all, so to speak. He would not hesitate to seek advice. Mr. Jaworski says that, in his opinion, he would seek the best advice possible. I think that is important, too.

Mr. President, I could go ahead here and quote many, many things from this record which are very favorable to Judge Bell, but I do not think it is necessary. I believe that the Senate wants to be fair on this nomination. I want to say that Mr. Bell, although he grew up in the South years ago and there was segregation of the schools in the South because the laws required it—the Federal law was in accord if there were equal facilities. When the law changed, the South has obeyed the law. There is no section of the country today where the law is respected more than in the South. There is no section of the country where race relations are better than in the South. We are proud that we have not had many of the troubles in the South that have occurred in other parts of the country.

Although Griffin Bell comes from the South, no one can accuse him of discrimination or can it be said that he would act in any way other than a fair and just manner. I hope the Senate, without hesitation, will approve this fine man who has such an excellent record as a lawyer, as a judge, and as a man.

I ask unanimous consent that Mr. Jaworski's entire testimony follow my remarks in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF LEON JAWORSKI, HOUSTON, TEX.

Mr. JAWORSKI. Mr. Chairman, my name is Leon Jaworski. I am a practicing attorney with the firm of Fulbright and Jaworski, with offices in Houston, Washington, and London.

I first became acquainted with Judge Griffin Bell when I was requested by the then Chairman of the American Bar Association's Federal Judiciary Committee, Bernard G. Segal, in July of 1961, to investigate Judge Bell's background, experience in the practice of law, his character and other matters pertaining to his qualifications, to sit as a member of the United States Court of Appeals for the Fifth Circuit.

It was stated to me by Chairman Segal that the then Deputy Attorney General, Nicholas Katzenbach, had requested, on behalf of then Attorney General Robert Kennedy, that the committee conduct such an investigation and that if Griffin Bell was found to be qualified, it was the intention of President Kennedy to appoint him. Inasmuch as I was the member of the American Bar Association's Standing Committee on the Federal Judiciary, representing the Fifth Circuit, the matter was placed in my hands for the mentioned investigation report and recommendation.

I am attaching to this statement, as Exhibit A, a copy of the report that I filed on July 25, 1961. These reports go to each member of the committee and based on it, as well as other information that may come into the hands of members of the committee, a vote is taken.

Judge Griffin Bell was unanimously approved for a well-qualified rating and this was reported to Deputy Attorney General Nicholas Katzenbach and, in due course of time, Griffin Bell was appointed to the judgeship on the Fifth Circuit Court of Appeals.

When these reports are compiled and forwarded to the Chairman of the Standing Committee on Federal Judiciary of the ABA, they are considered confidential. Because of the lapse of time, the fact that Judge Bell is no longer on the court and for other good and sufficient reasons, I have removed the stamp of confidentiality from this report. Before doing so, I had the approval of the present president of the American Bar Association.

Although Attorney General Robert Kennedy did not undertake to dictate or to influence the findings of the American Bar's Committee on the Federal Judiciary, I was aware—as were others on the committee—that the Attorney General did not want appointees to the Federal judiciary who had any notions or concepts of racial discrimination.

Griffin Bell, at that time, was not personally known to me and I had to depend upon others to furnish me the information that would enable me to come to a conclusion as to his qualifications.

The report speaks for itself, but it is of significance that Judge Bell, after full investigation, was given a well-qualified rating. That is a somewhat unusual rating for one who has not sat as a judge before. The only rating given higher than this one is that of "exceptionally well-qualified" and it is given—as I think you know—in rare instances and then where unusual experience, such as a period of service on the bench, exists.

Had not both Attorney General Robert Kennedy, as well as Deputy Attorney General Nicholas Katzenbach, been convinced that Griffin B. Bell was fair-minded and possessed no racial prejudices, his name would never have been submitted to the President of the United States for appointment.

May I add that had I believed, as a result of the investigation I conducted, that Griffin Bell was biased on the isuse of civil rights, I would have found him to be disqualified and so recommended to the committee.

May I also add that, after witnessing his performance on the bench and the personal experiences I had with Judge Bell at the time of the contempt proceedings against Ross Barnett for violating the orders of the Fifth Circuit Court of Appeals in the admission of James Meredith to an institution of higher learning in Mississippi, I am convinced that my appraisal of him in 1961 was accurate.

Without entering into a prolonged review of the unfortunate conditions that existed, resulting in the bringing of civil as well as criminal contempt proceedings against Governor Ross Barnett and Lieutenant Governor Paul Johnson, let me allude briefly, if you please, to a summary of what is important in the consideration given to Judge Bell's qualifications for service as Attorney General.

Because Attorney General Robert Kennedy, Deputy Attorney General Nicholas Katzenbach, Assistant Attorney General Burke Marshall and Assistant Attorney General John Doar had personal contacts and made official decisions relating to the position of the United States Government in the Meredith matter, Attorney General Robert Kennedy asked me to serve as Special Assistant Attorney General in representing the United States Government in these contempt proceedings.

The Chief Judge of the Fifth Circuit Court of Appeals, Judge Elbert Tuttle, approved of this appointment. I was called to Washington to talk with Attorney General Kennedy and with Nicholas Katzenbach and concluded it was my duty to serve in this capacity. I did so as a public service, without compensation.

Before the Fifth Circuit Court of Appeals, sitting en banc, considered the criminal contempt proceedings, a number of hearings were held relating to the taking of steps to restrain Governor Barnett and others from interfering with the admission of James Meredith to college. It so happened that in the early stages of the issuing of restraining orders and injunctions, Judge Griffin Bell was one of three judges who participated in these proceedings.

I have attached, as Exhibit B, to this statement that part of the Fifth Circuit Court's own recitation of these early proceedings, restraining orders and injunctions, which antedated the bringing of the contempt proceedings and which were embodied in the certification by the Fifth Circuit Court to the United States Supreme Court.

In several instances before the final hearing, which the court entertained en banc, Judge Griffin Bell was one of three members who sought to restrain and to enjoin Ross Barnett, Paul Johnson, and administrative officials from barring James Meredith from the university.

The certified question, you may recall, related to whether Governor Barnett should be entitled to a jury trial. By a narrow margin, the United States Supreme Court held that so long as the term of confinement, if found guilty, would not exceed six months, the respondent would not be entitled to a jury trial. It is significant to point out that both Mr. Justice Black and Mr. Justice Douglas joined in the dissent, urging that the respondent, Governor Barnett, be accorded a jury trial, regardless of the punishment.

When the certified question was answered by the United States Supreme Court and the matter was returned to the United States Court of Appeals for the Fifth Circuit, the Fifth Circuit Court, with Chief Judge Elbert Tuttle still presiding, appointed Judge Griffien Bell to represent the court in working with counsel on both sides in determining the procedures that should be followed in bringing the respondents, Barnett and Johnson, to trial.

Chief defense counsel, Charles Clark, now a member of the United States Court of Appeals for the Fifth Circuit, and I, along with my associates, Burke Marshall and John Doar, had informal conferences with Judge Griffin Bell for the purpose of determining the procedures to be followed and to agree on a solution of some of the problems that existed as to how the trial was to be conducted and where, and so on.

Judge Bell was completely objective and fair-minded in the consideration of the various matters that arose in these conferences and I represent to this committee that, as the chief representative for the United States Government in these conferences, I was completely aware of how judicious was the conduct of Judge Bell and the fairness with which he approached the problems that arose. I believe you will agree.

It was an accolade to Judge Bell that he was selected by the court as a whole and, especially, by Chief Judge Elbert Tuttle to work with counsel in the solution of some of the problems that existed prior to trial and after working with Judge Bell in several

sessions, I could well understand why this selection was made.

As conferences were being held and steps taken to set up the trial for criminal contempt, Governor Ross Barnett and others made full compliance with the court's orders and purged themselves of the contempt for which they had been cited. The court then determined that there was nothing to be accomplished by holding the trial. One morning I received a copy of an order of the court dismissing the case.

I am here for only one purpose. I offered to come to represent to you that in my experience with Judge Griffin Bell he exhibited open-mindedness, fairness and a commendable judicial approach. I have never known him to do other than to embrace the rule of law and, after all, this is the test to be applied to appraising the work of a man on the bench.

In sitting as a judge, he may have made mistakes. But I would like to ask what judge is there who has not made mistakes?

I think that we would all want to bear in mind that apparently justices on the United States Supreme Court have made mistakes from time to time, at least in the eyes of their successors. Otherwise, we would not have the changes in judicial decisions that we see from era to era.

Even beyond that, I know that I have had occasion to change my views on matters of policy, and of law; and if Judge Griffin Bell had not had occasion to do so, I would not be enthusiastic about him as the Attorney General.

I have brought for the record today statements which include such parts of the court's own certification that recite what happened in the Meredith case. These recitations point out the activities of Judge Bell as a member of the three-judge court and also as a member of the court sitting later en banc.

Thank you very much, Mr. Chairman.

Senator BAYH (acting chairman). We will, without objection, put in the record the additional matters that you have attached to your statement.

[Material follows:]

Senator BAYH (acting chairman). Mr. Jaworski, I do not need to go on at great length relative to the importance of sensitivity in the area of human rights. It is probably the most important responsibility of the Attorney General to be an advocate in support of these.

I assume from what you said, from your personal and professional contact with Judge Bell, you feel he would meet the standard being an advocate in support of and to protect the rights of those citizens whose rights might be threatened.

Mr. JAWORSKI. I do so, sir.

Senator BAYH. Are you familiar with the Cisnero case, the Corpus Christi case in 1972?

Mr. JAWORSKI. I took a look at a few of the cases.

Senator BAYH. I bring that out because that was used by a preceding witness. I am not familiar with all the facts of the case, but that was used by a preceding witness who opposed Judge Bell as evidence of his lack of this kind of sensitivity.

Mr. JAWORSKI. I just do not think that conclusions can be drawn on the basis of a result of any one decision.

I would be inclined to agree that, if there existed a pattern of decisions that indicated a certain attitude consistently, this is something that could be taken as an index of that man's heart and mind. But just because a lawsuit is lost, one cannot draw that conclusion.

Certainly, those of us who believe strongly in civil rights are bound to be in error at times in the positions we urge. It would be very strange if we were always correct.

So the fact that there can be pulled through the computer or otherwise some decisions in which Judge Bell did not hold with the advocates who espoused certain positions on civil rights just does not impress me at all.

Senator BAYH. Senator Mathias?

Senator MATHIAS. Mr. Jaworski, it is a great pleasure to welcome you back to this committee. I am happy that you are here under happier circumstances than some of the previous visits that you paid to us.

Mr. JAWORSKI. I want to take occasion again to thank you, as I also want to thank Senator Bayh and others present here, for having permitted me to come to you and sit down and talk with you during the dark days that I faced. This committee as a whole have backed me up to the point that I was enabled to do the job that I was asked to do.

Had it not been for this committee under a special arrangement, my fate may well have been otherwise.

Senator MATHIAS. I do not think this is an occasion to simply trade compliments, but I think the committee had a certain basic confidence in you which made it possible for all of us to do a hard job at a hard time.

What I suppose we are here for today—and I said this last night to Clarence Mitchell and to Judge Bell, who were both in the room at the time—is to avoid another hard time like that. Whatever the disposition of this nomination may be, we want to make a record which is so clear that the guidelines will be apparent to both the Attorney General, his subordinate in the Justice Department, to those of us who have some oversight responsibilities here, and to the whole American public.

We examined Judge Bell's record in some detail. There was a colloquy yesterday in which I did not participate. I may not be able to quote directly; the clerk has not yet provided us with the transcript of yesterday's testimony. It went to the point that the nominee was about the only qualified lawyer that they could find.

Perhaps some of the other members of the committee might be able to quote that more correctly. I have trouble with that——

Senator BAYH. If I may interrupt my friend?

Senator MATHIAS. Yes.

Senator BAYH. I think that question was directed at the judge. He was quick to point out that he did not believe that was the case. He thought there were others who were equally well-qualified and perhaps better qualified than he, but the President had a number of considerations that he based his final judgment on.

I do not think it would be fair to suggest that that was the conclusion.

Senator RIEGLE. Would the gentleman yield on that point?

Senator MATHIAS. Yes.

Senator RIEGLE. That did arise on two occasions. The first time around was the first day, for which there was a transcript. There was a response by Judge Bell to the effect that they had a hard time finding candidates. They had some difficulty in filling this particular job.

When we got into that in more detail is the second day; it developed that there had been a list of people put forward and that he himself had advanced a list. In the end, he was asked to accept this job.

But it is clear from the early part of the record they were having some difficulty with the process in coming up with enough people that met whatever the criteria were that were being applied. We never did really pin that down.

Senator MATHIAS. That is very helpful. That is exactly the part of the colloquy to which I was referring.

Mr. Jaworski has been a president of the American Bar Association. He has had an extremely distinguished career and practice of law in his home state and throughout the country.

He might be able to enlighten the committee a little bit on whether you think, given the standards of excellence that are available in the American Bar Association and the American bar, that this nominee is on a par with the most excellent candidate that could be submitted to this committee.

Let me say that there are tough questions ahead. I do not have to tell you that. I mean questions in the business field and antitrust questions. We may not be handling them right at all. Maybe even the approach that we are making to monopoly questions may be wrong. We have not done serious legislating in that field for a hundred years.

There are many questions which affect the lives of every American that are going to be dealt with by the next Attorney General. So the complexity of these problems surpasses anything which we have had experience with in the past.

Given the kind of standard of performance that is going to be required and given the kind of standard of excellence among lawyers at the bar with whom you have been associated throughout your life, what sort of a rating would you give this nominee?

Mr. JAWORSKI. Senator Mathias, as you were speaking I was running through my mind possible appointees. I would be prepared to say that Judge Griffin Bell, despite my high regard for him, as you have heard, is not necessarily the best-qualified man that could be found.

At the moment, there comes no one to mind. But I would be surprised if there were not others in this land who, in my experience, who may well be better qualified. But I am convinced that he is a thoroughly qualified man for this post.

I know one thing that has not been mentioned. I would be shocked if this man ever yielded to pressure. He is just not built that way.

The other matter that I am completely certain of is that he would seek the best advice that he could get. If he were in doubt about a course to follow, in doubt about what his judgment should be, he is not an arrogant or opinionated individual.

I can say this further. Among the lawyers who practice in the Fifth Circuit and some of them who came from other circuits, Judge Griffin Bell was rated very, very highly, perhaps as highly as any member of the court.

I want to add one matter that indicates how difficult his position was when he sat so early in his experience as a member of the court that had to deal with the Meredith matter. There were two judges, both from the South, who dissented in the granting of these restraining orders and these injunctions and took the action that was taken.

So, despite his background and despite the fact that he comes from the South, he had the courage of his convictions. As a consequence he went right down the line in the issuance of these restraining orders in support of the rule of law.

So I came back to this. I am satisfied that he is qualified. I am satisfied he would make a very fine Attorney General. I cannot conceive of anything ever going on in this office that has gone on in the office as we recently became familiar with.

This is about the best way I can answer the question, Senator.

Senator MATHIAS. The orders that you refer to were orders that would clearly have been dictated by the existing opinions of the Supreme Court.

Mr. JAWORSKI. I think you mean by decisions that had antedated the Meredith experience.

Senator MATHIAS. Yes.

Mr. JAWORSKI. The Supreme Court decision that I referred to came along after these orders that Judge Bell had entered. But, you see, they all related not only to civil contempt but criminal contempt also.

A court has to go quite far in order to

determine that these restraining orders should be issued and that this contempt action should be taken. He never did waver on that. He had his own views with respect to where the trail should be held. I am not so certain that he was not right about it. He felt it was a matter that should go back to the District Court and that the District Court should hold the contempt proceeding rather than the Circuit Court. He was not the only one who felt that way about it.

Senator MATHIAS. One of the problems that you faced as Special Prosecutor was that of troublesome issues had been swept under the rug. After the initial sweeping, any good housekeeper is embarrassed about that; so you begin to cover up, cover up, cover up. Instead of grappling with the problem initially, you put it aside and cover it up.

Do you think that there is any likelihood of that occurring in the Justice Department with Griffin Bell?

Mr. JAWORSKI. I think the likelihood of that happening, whether Judge Griffin Bell is the appointee or whether someone else is, I just cannot conceive of that happening. This is due largely to the position that this group and other groups have taken in government.

I think the leaning might be in the other direction of perhaps not facing an issue quite as boldly, for fear that somebody might misunderstand. I have said once or twice before that one of the results of Watergate may have been that the pendulum, in the eyes of some people, has gone too far in the other direction.

I am talking about a feeling of unwillingness to hold certain conferences with certain people except under certain conditions, for fear that it might be misunderstood.

I just cannot conceive, and I would be terribly disappointed if Judge Griffin Bell ever participated in any of the conduct that——

Senator MATHIAS. I want to make this clear. I am not talking about criminal conduct. I am talking about postponing dealing with a problem which later can be found extremely troublesome. In other words, are you going to grasp the problems?

Mr. JAWORSKI. You used a good expression. It was swept under the rug; it was forgotten deliberately in the hope that it would pass on.

Senator MATHIAS. I do it myself sometimes. One hopes that a thing will go away, or on the road to Damascus you will have some sudden light. Lo and behold, it becomes a pretty big problem.

Mr. JAWORSKI. I am a little bit surprised at your confession, Senator Mathias, because I did not find you that way when I was talking with you about some of the Watergate problems.

I guess it is a way of life. Probably all of us are guilty of it at times.

You were one of the first senators to whom I had to talk in confidence. I came to see you because I felt a need to talk with you. It was when I first discovered what I was up against. I had the same privilege with the entire committee and the same privilege with Senator Bayh.

Senator MATHIAS. Thank you, Mr. Jaworski.

Senator BAYH (acting chairman). Senator Riegle, do you have a question?

Senator RIEGLE. I appreciate your coming and sharing your thoughts with us today.

I want to be just a little bit clear on the depth of your firsthand knowledge of Judge Bell. I listened to most of your statement; I was called out of the room for the first part of it.

Can you, in just a brief summary, give me a clear sense for the length and depth of the insight, based on your own personal experiences and chances to see him in action?

Mr. JAWORSKI. Thank you, sir.

I shall explain my principal participation in the practice of law over the last ten years. I argued more cases in the Fifth Circuit Court of Appeals than anyone from my part of the country, as far as I know. This came about, Senator, because in a number of instances where a case had been lost in the lower court by other attorneys, I was then employed to handle the case in the Fifth Circuit Court of Appeals and several times in the United States Supreme Court because my work had been swinging in the direction of Appellate Court arguments.

As you know, the court has been sitting in numbers of three unless they had a very unusual case. But in quite a few of these I did draw Judge Bell as one member of the court. I never would know until I got ready to argue the case. This was their system.

What impressed me was how fair he was in getting to the heart of a question. He had studied the case in advance. He always asked very penetrating questions, sometimes questions that were a little embarrassing to my side of the case, they were so penetrating.

So I did form a very high regard for him as a judge. There has been no personal relationship in the sense of personal visitation in my home or in clubs together, whether integrated or not. We just did not have that sort of a friendship.

I saw him from time to time. I saw him twice within the last year. Once was at the convention in Atlanta. He participated primarily in putting on this case that was reenacted. It was Rex versus Preston. It arose out of the Boston Massacre. The American Bar put this on. We had an English judge and an English council and so on. I was one of the defense counsels. Judge Bell was chairman of the particular committee that was responsible for that.

The other time I saw him was, very frankly, when I was pushing my book. I was in Atlanta. The owner of a bookstore there—may I add that it does not mean anything to me personally because all of this goes to a charitable foundation.

But I was there. Without my knowing it, the owner of the store had invited for lunch several of the lawyers in Atlanta. He was one of them.

Senator RIEGLE. I think the last time you and I saw one another was on an airplane when you were going somewhere in the process of speaking in behalf of your book.

Let me ask two other things.

Senator BAYH. Excuse me. Would the witness care to mention the name of his book so we could have that in the record at this time?

[Laughter.]

Mr. JAWORSKI. It is "The Right and the Power." It is an interesting name because in one of the letters that I wrote to the White House when I was in a very, very stern exchange with them over my right to sue the President, which I had been promised and on which the White House was reneging, I used that expression. I had the right and the power to take him to court.

The publishers thought that was a good title to use. Readers Digest Press is one of the publishers.

Senator RIEGLE. I think it is an established tradition of the committee that whenever a distinguished author appears here and mentions the book, there is an obligation to send each member of the committee an autographed copy.

Mr. JAWORSKI. I think that can be arranged, as a matter of fact.

[Laughter.]

Senator RIEGLE. There has been some discussion over the last two days about the difference between what is required for someone who would be a good judge in applying the rule of law versus someone who would be in a different kind of job capacity as Attorney General, where there is a whole advocacy kind of responsibility that is quite a different kind of responsibility than one who tries to sit between two competing views.

I wonder, as you had a chance to view Judge Bell, how you think he would handle that kind of a change of role, because it is quite a different job. I think, particularly given your own references even to the sort of tortured history of the Attorney Generalship over the last several years, that there is a clear hope by most Americans that someone will step into that job who will move forward fairly but aggressively.

I am wondering if you think he can make that transfer role, as different as those two things are. What would be your judgment on that?

Mr. JAWORSKI. Senator, had he spent his entire professional career on the bench, I would be less enthusiastic about his appointment for the very reason that you mention. But he practiced law before that time. He was a very successful trial lawyer prior to that time. Prior to the time he went on the bench, he had practiced for fourteen years.

In addition to it, he has returned to a very outstanding group of lawyers. He is a partner in that firm. He has been practicing since he left the bench.

I have seen judges and have argued to judges, and I think you have had the experience where you felt that it would have been very helpful if they had a little bit more experience on the outset and not just sitting on the bench the whole time.

I think it is an important point that you raise.

But he has had the experience on both sides. I think he could approach these matters objectively without letting his judicial experience interfere. It can be a great help, of course, because you learn a lot being a judge that you can apply helpfully and constructively.

Senator RIEGLE. Does that mean that you in your own mind are prepared to take the leap of faith in terms of feeling that this would be an activist, forceful leader as an Attorney General?

Mr. JAWORSKI. I think he would. I think he would do his duty. I do not think that you would ever find him taking a position or doing something just for the sake of making headlines. We have all been through those experiences. I probably could have made one or two that I did not make when I was in the Watergate process.

I do not think he would do that.

Senator RIEGLE. The other thing that is a question that arises in some minds is something that I think you touched on in passing. That is the whole matter of independence.

You said that you felt that this was one individual that would not be subject to pressure and would resist it.

There is a bit of a problem with respect to the history, I think, in the terms of the way this nomination came about. Senator Mathias made some reference to it. The selection process, however it went forward, ended up where someone who had something of an acquaintanceship was picked for this post.

I think we are all especially sensitive to any kind of relationship of that kind in light of recent history. One of the things that I am especially concerned about is this issue of independence and whether we have here someone tough enough who would be entirely willing to draw the line quickly and firmly in each and every case where that needed to be done.

I think if there is even the suggestion that friendship might play any part—connection through the law firm or any of that—and I think that this particular candidate start with that as a burden because of the appearance of the connection. I am sure he feels that. I feel it for him. I feel it for the country.

It seems to me that that carries with it then sort of an added measure of responsibility to be so clearly independent that no question could ever really arise about it

I wonder if you think, based on your experience, that he would meet the kind of test, that kind of exceptionally high standard of independence.

Mr. JAWORSKI. I really think that the judicial experience of which you and I spoke moments ago help give him independence. No man, as all of us know, is more independent than a Federal judge, especially one who sits on the Court of Appeals.

I would be surprised if he did not follow a course of complete independence as Attorney General.

I say this to you, sir, if I may inject a note personally. I would not think of going to this man and asking him for anything that I did not believe was 100 percent just and fair. I can tell you further that, even at that, it would not surprise me if he turned me down.

This is my own appraisal of the situation.

Senator RIEGLE. I appreciate your taking the time to come and to give us your advice and thoughts. I also want to take the occasion again to thank you for your previous service to this country of ours.

Mr. JAWORSKI. Thank you very much.

Senator BAYH (acting chairman). Senator Chafee?

Senator CHAFEE. Mr. Jaworski, I want to join in welcoming you here and thanking you for the wonderful service you gave to our country.

I would like to ask you one question. You reviewed in some detail the Barnett case that you dealt personally with Judge Bell on. Are there any other civil rights cases, particularly dealing with school integration, that you are familiar with that he made decisions on?

Mr. JAWORSKI. Not in the sense that I could discuss them with you now; no, sir. I have not reviewed them. I did not have the time to review them.

I can say this. The many people with whom I have talked about the rulings of the Fifth Circuit Court of Appeals—I know that I have heard no criticism at the time these decisions were rendered by Judge Bell. I have just not heard that. I have heard criticism of other judges who sat on that court.

Senator CHAFEE. I thought one of the points you made was an interesting one. That was the high regard with which the presiding judge of the circuit had for Judge Bell. I guess it was Judge Tuttle who assigned him to work out the procedures in connection with the Barnett case.

That was rather unusual, was it not? Judge Bell had just briefly been associated with the Fifth Circuit at that time.

Mr. JAWORSKI. The other members of the court had a very, very high regard for him. I heard a number of them speak of him from time to time.

If you will notice in Exhibit A, which is the investigation that I made of Judge Bell before he was appointed to the court, I mention in there, not by name, but several of the judges and lawyers who had held positions of one kind or another with whom I talked before I made this report. One of these was Judge Elbert Tuttle, who has one of the finest records of courage of any judge on that court.

Judge Elbert Tuttle I refer to at the top of page two as the Chief Judge of the United States Court of Appeals for the Fifth Circuit. He was among those I consulted in connection with determining Judge Bell's qualification. Judge Tuttle felt very favorably inclined to Judge Bell. Of course, this had a whole lot to do with my determination of the eventual rating that I suggested for him.

Senator RIEGLE. Thank you very much.

Mr. JAWORSKI. You are welcome.

Senator BAYH. Senator Sasser?

Senator SASSER. Mr. Jaworski, I, too, want to join with my colleagues in thanking you for the splendid service that you rendered this country as Special Prosecutor in years past.

I would like to ask you just one or two questions that deal with the qualifications of Judge Bell for the office of Attorney General.

During the course of these hearings, Judge Bell has been asked many, many questions by the members of this committee with regard to what he would do in the event he is confirmed and becomes Attorney General of the United States.

My question to you, sir, is this: Can we rely on the representations that Judge Bell has made here over the last two days as to what his course of conduct would be as Attorney General?

Mr. JAWORSKI. In my opinion you could. I personally would rely on them.

Senator SASSER. I notice in a letter which you have appended to your testimony and marked Exhibit A, dated July 25, 1961, addressed to the American Bar Association——

Mr. JAWORSKI. The Chairman of the Standing Committee on the Federal Judiciary; yes, sir.

Senator SASSER. It dealt with Judge Bell's qualifications to then be named to the Fifth Circuit Court of Appeals.

Mr. JAWORSKI. That is correct, sir.

Senator SASSER. I note you also in this letter analyzed his professional qualifications, and also his personal qualifications. I note on page two you say: "I am assured that he is fair-minded and possesses a temperament exceptionally well-suited to service on the Bench."

Mr. Jaworski, I might ask you how you came to that conclusion that Judge Bell was a fair-minded man.

Mr. JAWORSKI. By talking to these gentlemen, who I do not identify by name but I identify as Chief Judge, United States Court of Appeals—who was Tuttle—and Associate Justice of the Court of Appeals for the Fifth Circuit. I honestly have to say at this late date I do not know who that was.

The United States District Judge who sits in Atlanta was another; and I am not certain that I could identify him by name. I talked to Smythe Gambrell, the former president of the American Bar Association, who is from Georgia.

I talked to a member of the house of delegates to the American Bar Association; I cannot tell you who that is. I talked with three members of the American College of Trial Lawyers, which you know is a group where a man has to practice actively in court for fifteen years before he can be invited. You do not join it; you are invited. They must have handled some of the most important litigation in the state.

A number of these, as I point out, opposed him in litigation. Then I mention one man by name; that is Charlie Bloch, who was my predecessor on this committee and who is really tough. He came from Georgia, also. Charlie Bloch is one of those who gave him a high recommendation.

Of course, not knowing Mr. Bell, I had to rely on what these people told me about him. But the very offices that they hold, I think, is of significance.

Senator SASSER. Mr. Jaworski, there have been no allegations, as I recall the testimony, that Judge Bell was not qualified by way of professional qualification or that he was not qualified by way of integrity.

But there have been some suggestions that he may not have moved as fast as the witnesses would have wished in the field of advancing the civil rights of black Americans in the State of Georgia.

I will ask you, sir, in your investigation in preparation for making this recommendation in 1961, did you find any evidence of racial bias on the part of Judge Bell?

Mr. JAWORSKI. There was none mentioned to me, sir. If there had been, I could not have written this recommendation. I also would have had to disclose it to Attorney General Robert Kennedy and to Deputy Attorney General Nicholas Katzenbach. I knew how they felt about this matter. I would have disclosed it to them if there had been the slightest reference in that respect.

You remember also that the FBI makes its own investigation. It reports to the Attorney General on the man that is to be nominated. I have not seen and no one else on the committee would see that particular report of that investigation.

But remember also, Senator, that everyone who wanted to comment because they felt that Griffin Bell was one to have such a bias was free to report that either to the committee or the Attorney General.

I do not think Griffin Bell would ever have been appointed if it had been reported by reliable sources that he was unfair in the area of racial matters.

Senator SASSER. Mr. Jaworski, this letter was written on July 25, 1961. I assume that it was well-known at this time that the Justice Department under Attorney General Kennedy intended to launch out in the field of civil rights, advancing the rights of black Americans in this country. Is that true?

Mr. JAWORSKI. That is certainly true.

May I add this, too, Senator. I cannot say that it happened in this instance. I do know of another instance in which I made the investigation of a man in the South who was up for appointment as District Judge where Attorney General Kennedy on his own picked up the telephone and made some inquiries to make certain that there were no evidences of racial bias. But whether it was done in this case I do not know.

Senator SASSER. So I think we can conclude from that that certainly then Attorney General Robert Kennedy and the Justice Department were particularly sensitive to any accusations of racial bias that would be leveled against a prospective nominee for the Federal bench.

Mr. JAWORSKI. I do not think that it existed then. Obviously conditions were different. It is very difficult for some people to fully appreciate what the situation was like in 1961.

My close friends would not speak to me for many, many months for taking this assignment. It really was no more than standing up for the rule of law.

It is hard to put it back in the proper perspective.

Senator SASSER. Let me say this, Mr. Jaworski. There has been much talk before this committee about Governor Vandiver in the years in Georgia in the late fifties and early sixties, and you, sir, lived through those years in the South. It might be helpful for us if you could just characterize those years and put them in perspective.

Perhaps we would be in a better position to judge Judge Bell's conduct during those years.

Mr. JAWORSKI. Well, I assume that probably the most reliable testimony I could give along those lines is to allude to some of my own experiences, as embarrassing as it is, and to some of the situations that occurred at that time when I accepted this appointment which I felt I had to do. It was a matter of being a lawyer and one who believed in upholding the law and upholding court decrees.

I found, much to my surprise, that there were not only many laymen but many lawyers who had such strong feelings of racial prejudice that they were absolutely unforgiving about one's actions in doing no more than upholding the law.

There were resolutions introduced in the legislature of my state condemning me for having taken this particular position. It was almost unbelievable. The announcement was made on a Saturday. The Bluebonnet

Bowl game was being played that afternoon. The papers in the morning carried the headline story that I was to serve as Special Prosecutor. That afternoon you would have thought that I had the plague. Nobody would speak to me.

As I say, I would have withdrawn from the law firm if the law firm had found it objectionable; but there were clients who withdrew their business from the firm. There were a number who would not have anything to do with me.

But I must say this. I could go on and describe those conditions; today they seem almost unbelievable. The gratifying phase of it is that after a period of time these people no longer found it to be the terrible act of conduct they thought I was guilty of at the time. They began to change their minds. They saw reason for having done what I undertook to do.

These were difficult days. They were almost unbelievable. Men who are highly regarded today and who are in public office and who serve well in those days were so prejudiced and so determined to be unfair to members of the black race that one almost has to blink his eyes to disbelief that they are the same individuals.

Senator SASSER. And you are describing, Mr. Jaworski, conditions of less than fifteen years ago.

Mr. JAWORSKI. Yes.

I did not say too much about this, but the fact that Griffin Bell, coming from Georgia, was taking actions that the appointee from Alabama would not take and the appointee from Mississippi would not take. I say that is one of the real tributes to be paid to Griffin Bell.

He stuck with this Meredith case from beginning to end and did the thing that was right. Yet he had two colleagues who had the same difficulties that he probably had in his state who did not do so.

Senator SASSER. This was the case of James Meredith in trying to enter the University of Mississippi, the first black man to enter that university.

Mr. JAWORSKI. Correct.

Senator SASSER. Thank you, Mr. Jaworski. I look forward to reading your book.

Mr. JAWORSKI. Thank you, sir.

Senator BAYH. Senator Heinz?

Senator HEINZ. Thank you, Mr. Chairman and Mr. Jaworski.

I would like to ask you some questions about your letter of July 25, 1961, the formal report on Griffin Bell. At the end of it you say that "because his practice of law had been confined to fourteen years" you were not sure whether he was entitled to more than a "qualified" rating. Then you say, "After a more extensive investigation," you felt he was "well qualified."

Is it fair to say then that this report represents a tremendous amount of work on your part?

Mr. JAWORSKI. Yes, sir.

May I explain how we go about doing it. Initially, we do not even go into the idea of a formal report if a pulse feeling of a few men in whom we have confidence indicates that the man is probably not going to be considered qualified.

So what we do first is I make a verbal report in which I say, "Well, he is qualified." When I get a green light as a member of the committee, then comes the intense investigation. This means that you call on these individuals, whose names I do not give but I list their titles, and visit with them personally or by telephone. Usually we do it personally.

We assure them that what they say will be kept in confidence except as far as the members of the committee are concerned. Of course, if there are some things said that are of the type that are completely personal, the report would not have been presented to you today. But you see there is nothing along that line in there.

I can only say that my initial investigation, the quick one, which enabled me to talk to only a few, out of an abundance of precaution I was not willing to say that he was well-qualified. I was willing to say he was qualified.

But after going into it—and I might say we spent several days doing this—I was convinced that he was "well qualified."

Senator HEINZ. Did you consult with either the Georgia branch of the N.A.A.C.P. or the national N.A.A.C.P.? I would think that would have been one of the few organizations that might fall into the category of public interest law firms at that time. Or any other public interest type of law firm?

Mr. JAWORSKI. There were almost none at that time.

Senator HEINZ. The N.A.A.C.P. did exist I would think.

Mr. JAWORSKI. I was trying to recall; I did in some instances. I don't recall whether I did in this instance or not. I do know that I raised the question with each one of these people with whom I talked.

Of course, I was particularly impressed with what Judge Tuttle had to say because I knew exactly what his feelings were. He had felt the brunt of criticism for his attitude toward the civil rights of others.

Senator HEINZ. You do mention on page two, and I quote, "he presently holds the position of Chief of Staff to the Governor of Georgia, which is an honorary position usually given to a lawyer who is a close friend of and personal counsel to the Governor."

Did you talk to the governor or any of his people or any people who might be close observors of the Georgia political process about Judge Bell's service in that regard?

Mr. JAWORSKI. I did not regard the Governor as a good source of input as to Judge Bell because they were so close. Here he was the chief of staff. I knew what the governor would say. I did not think the committee would pay very much attention to that.

I was more interested in certain individuals in whom I had full faith of getting a true reading and not one based solely on friendship. I mean, for instance, a man like Smythe Gambrell. He is former president of ABA. He has his own large law firm in Atlanta. One might say a competitor of the firm with which Judge Bell has been associated.

He gave him the highest recommendation. He is a man who is quite critical of individuals. He is a task master and he demands much of his fellow lawyers.

Senator HEINZ. How did you evaluate Judge Bell's service as "Chief of Staff and as a personal counsel to the Governor"?

Mr. JAWORSKI. Well, the only way I could do it is by what people in Atlanta like Smythe Gambrell told me.

Senator HEINZ. Did you talk to them about his service as chief of staff and as personal counsel to the Governor?

Mr. JAWORSKI. Oh, I cannot say definitely, sir, that I did. I would be surprised if I had not. Certainly it would have been one of the matters that I would have inquired about.

Senator HEINZ. It is an important issue obviously of concern to the committee.

Mr. JAWORSKI. It is. It is mentioned specifically for the purpose of pointing out that——

Senator HEINZ. So you are not prepared to say, if I understand you correctly—and I do not intend to put words in your mouth, but what I understand you to say is that you are not prepared to say that you specifically asked anybody to evaluate his service to the governor as his chief of staff. You may have, but you are not prepared to say that you did.

Mr. JAWORSKI. That is correct. I will add, however, if you will permit me, that I feel that I did do so. My best judgment is that I did.

Senator HEINZ. It would be very hard, Mr. Jaworski, to challenge your integrity.

Mr. JAWORSKI. Thank you, sir.

I do not want to enlarge upon what I specifically remember. I certainly do not want to enlarge upon what I put in this report.

Senator HEINZ. Let me ask you a different kind of question. Probably more than any American, maybe living or dead, that I am aware of, you certainly understand the potential for tragedy that exists if a Justice Department is not fearlessly and faithfully independent.

One sort of independence that was can, and I think we should, demand from the Justice Department and the Attorney General is political independence. I think you personally know what the experience of the eight years has meant to this country as well or better than anybody else.

Yesterday I asked Judge Bell whether he thought this committee should hold a negative presumption against any nominee for the post of Attorney General who worked in the campaign of the President he will serve.

I would like to ask you that same question. Should this committee, as a matter of principle, demand that the President send us a nominee who has worked in politics and who has worked in his own campaign? Or should we set a higher standard?

I am reminded of two things. The present Attorney General, Mr. Levi, when questioned in the hearing record, apparently had a fairly nonpolitical history. Indeed, it could not be demonstrated that he had voted in the primary of either the Republican or Democratic party since World War II.

You have indicated that there very well may be people as well or better qualified than Judge Bell for the post of Attorney General. Should this committee seek someone who has not had a personal political relationship with the new President?

What is your feeling about that very sensitive question? It involves setting a standard, of course.

Mr. JAWORSKI. I had thought about this subject some because, as you may recall, there had been an espousal of the elimination of the campaign manager, for instance, from consideration for the post of Attorney General. That has been a matter that has been mentioned and has been fostered by some groups.

I did not join in doing that.

I have to tell you very frankly that, if I were the President of the United States of America, I would want as my Attorney General someone in whom I had complete faith and trust and not a stranger. That just happens to be my own reaction to it.

Senator HEINZ. Is the only way you can achieve complete faith and trust to have them work in a political campaign?

Mr. JAWORSKI. No; but that is the best way. You know the man.

I am not saying it was necessary for him to work in the campaign. I am saying that I would want a man whom I know personally, whose habits I knew, whose thinking, and whose character I knew something about. This is what I would want if I were President of the United States.

Senator HEINZ. Thank you, Mr. Jaworski.

Senator MATHIAS. Mr. Chairman, I have just one follow-up question.

Mr. Jaworski, in responding to Senator Heinz and I believe earlier to either Senator Sasser or Senator Riegle, you mentioned the name Charlie Bloch. Is that Mr. Charles Bloch of Macon, Georgia?

Mr. JAWORSKI. I believe it is; I believe you are right, sir. He was my predecessor on this committee serving the Fifth Circuit.

Senator MATHIAS. In your discussions with Mr. Bloch—I know of no way you could have known this if he did not tell you. Did he ever tell you that he and Griffin Bell had been members together on the committee of four lawyers who were appointed by Governor Vandiver to travel—well, the headline here in the Atlanta Constitution for November 18,

1958 says, "Legal aides scan Dixie for ideas," looking for ways to implement the policy which in those days was called massive resistance.

Mr. JAWORSKI. He never did mention it, nor did I ask any questions about it. I did not know Charlie Bloch that well.

The reason that I talked to Charlie Bloch is because he was my predecessor on this committee.

Senator MATHIAS. As I say, there is no way you would have known it if he did not tell you.

But I think it is perhaps pertinent to the inquiry of this committee that some of your information reflected in your letter of July 25, 1961 did derive from the source Charles Bloch.

Thank you very much, sir.

Mr. JAWORSKI. Thank you, sir.

Senator BAYH. Are there further questions?

Senator Thurmond?

Senator THURMOND. We have several committees going on which I had to divide my time to.

We are delighted to have you here. I have not had a chance to hear your statement.

Is it your opinion that Judge Bell is qualified to be Attorney General of the United States?

Mr. JAWORSKI. It is, Senator Thurmond.

Senator THURMOND. Do you feel he is able, a man of capacity?

Mr. JAWORSKI. I do, sir, and have so testified.

Senator THURMOND. Do you feel that he is a man of character and integrity?

Mr. JAWORSKI. Yes, sir.

Senator THURMOND. Do you feel that he is a man who would be fair and not permit discrimination?

Mr. JAWORSKI. I do feel so. I have put into the RECORD a statement here, Senator, that deals with that. I point to his conduct during the days of the Meredith admission and all the controversy in Mississippi and his conduct on the bench and his rulings and the opinions he wrote, all of which show he was completely objective and fair-minded in that situation.

Senator THURMOND. Do you recommend his approval by this committee to be Attorney General?

Mr. JAWORSKI. I would, if the committee asks for my opinion. I have certainly in all of my testimony indicated that I thought he was qualified and that he would make a good Attorney General.

Senator THURMOND. Do you know anything against him as to why he should not be confirmed for Attorney General?

Mr. JAWORSKI. About the only thing I know, Senator, is something I alluded to earlier. I think he decided one case against me, if I recall correctly. I have not quite forgiven him for that yet. [Laughter.]

But I must say we like to talk about the cases that we have won, as you know. We seldom mention those that we lost.

Senator THURMOND. Do you feel he made a good record as a Circuit Court of Appeals judge?

Mr. JAWORSKI. I do.

Senator THURMOND. Do you feel his decisions were fair and just to litigants?

Mr. JAWORSKI. I am not familiar with all of his decisions. Those that I am familiar with, I do think that he was fair. I had a very high regard for his demeanor on the bench. He always was well prepared. He was very thorough and very searching in his questions.

I never saw him in any way show some of the arrogance and some of the attitudes that some Federal judges show.

Senator THURMOND. Could you tell us his reputation while he was a Circuit Court of Appeals judge?

Mr. JAWORSKI. He was highly regarded by his colleagues. I have mentioned this. He also was very highly regarded by the bar, those that I heard express themselves. I never heard anything that was derogatory of him.

Senator THURMOND. So far as you know, he is a man of unblemished character and capacity, and you feel he would make a good Attorney General.

Mr. JAWORSKI. I do feel that; yes, sir.

Senator THURMOND. That is all. Thank you very much.

Mr. JAWORSKI. You are welcome, Senator.

Senator HEINZ. Mr. Chairman, might I be recognized?

Mr. BAYH. Yes.

Senator HEINZ. Mr. Jaworski, I have one last question.

Although I was not a member of the Senate and therefore not of this committee at the time, I guess this committee confirmed for the post of Attorney General two people who turned out to be something of a national disappointment as well as to me.

Is there anything we should do as a committee, are there any unusual tests we should apply to make sure that we do not have another John Mitchell kind of situation; or, for that matter, some of the similar situations that we had?

I appreciate what you have said, that a President should have someone in the post of Attorney General in whom he has full faith and trust. We did have such faith and trust in President Nixon and his two Attorneys General.

Did we make a mistake somewhere as a Judiciary Committee? Is there anything we can do to prevent such mistakes, or are there certain limitations that ultimately result in the final responsibility being placed with the President who makes the nominations to us?

Mr. JAWORSKI. In the first place, I think that this committee is to be highly commended for the manner in which it has conducted this examination and these hearings. I have followed it in the newspapers for the last few days. It has been very thorough and it is still going on. Apparently you are very thorough before reaching your final determination.

I do not know how you can do more than that. You are calling whatever witnesses seem to have some input on this matter. In the final analysis you sit as fact finder. You have to make up your mind yourself as to how you regard the testimony of some of these witnesses.

I do not know what else you can do. You can conduct these hearings for months, and you are still not going to be able to dig up everything about a man who may be considered for appointment. If you look far enough, you would find some things that you would not be very happy over that I had done in my life.

So you come finally to exercising your judgment based upon the best evidence that you can accumulate. That is exactly what you are doing now.

Senator HEINZ. Thank you.

Senator BAYH. Are there any more questions?

Mr. JAWORSKI. I want to thank all of you for your courtesies and for the kind and generous statements that you have made.

Mr. DOLE. Will the Senator from South Carolina yield for a question?

Mr. THURMOND. I shall be very pleased to yield.

Mr. DOLE. The Senator from Kansas is interested in section 203 of the Crime Control Act of 1976, which provides a fixed term for the FBI Director. Clarence Kelley still has several years on that term. My question of the Senator from South Carolina is, Do you agree or do you believe that he has a right to serve out that term, or can he be removed by the President, before that term expires?

Mr. THURMOND. Mr. President, in reply to the able and distinguished Senator from Kansas, I say that I think the distinguished Senator from Missouri answered that question just before lunch, when he stated that he had contacted Mr. Kelley. Mr. Kelley stated that his resignation was entirely voluntary, that he did not care to serve any longer.

Senator DANFORTH brought this point out just before lunch. I think that answers the question.

Mr. DOLE. If the Senator will yield further, let us just assume that the Director might change his mind. He has written a letter saying that he would like to leave in January of 1978. But assume in the interim that the Director, Mr. Kelley, should have a change of heart and he decides to stay on. Would the Senator agree he would have a right to stay on unless there is cause he should be dismissed?

Mr. THURMOND. As I understand it, that is the law and I feel Judge Bell would follow the law.

Mr. DOLE. I thank the distinguished Senator.

Mr. SCOTT. Will the Senator yield 10 minutes?

Mr. BAYH. I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, I appreciate the courtesy of my colleague from Indiana.

I wish to speak very briefly in favor of Griffin Bell to be Attorney General.

I had not met Judge Bell until he came by the office on a courtesy call, as he did on all members of the Judiciary Committee. But having worked with the Department of Justice for a little more than 21 years, I am familiar with the operation of the Department.

Therefore, I did question Judge Bell at some length about his views as to the Department, and found him to be a very affable individual, someone who was quite frank in stating his opinions on the matters discussed. He did not appear to cover up his opinions or to shade them so as to be acceptable to my point of view.

Later one of my staff members checked his background and found that he had been in private practice for a number of years, that he had been rated by Martindale, a publishing house that rates members of the legal profession. They rely on the opinions of the leading lawyers in the area. He had been an AV lawyer before he was elevated to the bench and then served more than 14 years as a member of the Circuit Court of Appeals for the Fifth Circuit, the court next in rank to the Supreme Court of the United States. Judge Bell resigned voluntarily from the Bench to return to private practice.

I believe he indicated in testimony before the committee that he became a little tired of sitting on the Bench and wanted to go back into private practice, and at the present time, or until his nomination to be Attorney General, he remained in the private practice of law.

Among other things, I questioned him as to who his principal assistants would be. He indicated that he had only spoken to one and that was his choice to be Solicitor General of the United States

I believe if we reflect a moment we will know that this is a very important post. The Attorney General does not represent the Government in cases before Federal courts as a general matter, he does not make the decision as to what cases shall be appealed and what cases shall not be appealed. It is my understanding that by statute this is a matter determined by the Solicitor General.

He has chosen as Solicitor General another circuit court judge, a gentleman from the Sixth Judicial Circuit Court of Appeals, Judge Wade H. McCree, Jr. This is referred to in the editorial that the Senator from South Carolina referred to that is in the Washington Post.

There have been charges that he might have some racial leanings. Yet, he has selected a black man to be Solicitor General of the United States, to handle law suits and to make the important decisions as to whether an appeal shall be taken or not be taken from trial courts and whether or not certiorari should be requested to the Supreme Court of the United States.

I say that some believe that the chief law officer of the United States is the Solicitor General, that the Attorney General's post is, in part, administrative. He is the chief executive as far as the Department of Justice is concerned, but he is not the chief lawyer for the United States.

I believe that this is a matter that could well be considered by the Senate when we are determining whether or not we should advise and consent to the nomination of the President. I am of the opinion that the President has a right as a general matter to choose his own Cabinet.

I say this with the knowledge that tomorrow I am going to vote against another nominee of the President. I am going to do it because I feel that I have sufficient reason to do so. But I urge that each Senator check into the background, look at this transcript of the testimony that came before the committee.

I am satisfied that Griffin Bell is as good a selection as President Carter could make to serve as Attorney General of the United States. He has had broad trial experience in private practice. He has had broad experience as a member of the circuit court of appeals. I believe he has all of the qualifications.

I share with others the last portion only of the Washington Post editorial. It concludes by saying:

> Moreover, he is a man of substantial intelligence and staunch personal integrity. The nomination should be confirmed.

Oftentimes, I do not find myself in agreement with editorials in the Washington Post. But this is the newspaper that was very much involved in the Watergate situation that some Senators have referred to. Yet the editorial says that this is a man of integrity, that he should be confirmed, and if the Washington Post makes a statement like this about the gentleman, a judge from Georgia, I consider that is considerable praise.

I join with the newspaper at this time and urge that my colleagues vote in favor of confirmation of Judge Bell. I believe that we will be pleased with his performance in office.

Mr. MATHIAS. Mr. President, I express my appreciation to the distinguished Senator from South Carolina for having put all of the Jaworski testimony into the RECORD. I hope Senators will particularly look at those portions which indicate that Mr. Jaworski, as he told us very frankly, had obtained most of his information about Judge Bell, in his original recommendation of him for the circuit court, from a man identified as Charlie Block. Charlie Block was, of course, one of the same group of lawyers who were described in the press at that time—in the Atlanta Constitution and other papers—as segregationist lawyers who had been asked by Governor Vandiver to help mount the massive resistance campaign there. All that now is in the RECORD, and I am grateful for the Senator having put it there.

I now yield 10 minutes to the Senator from New York.

Mr. THURMOND. Mr. President, will the Senator yield me 5 seconds?

Mr. JAVITS. I yield.

Mr. THURMOND. Mr. President, I ask unanimous consent that Eric Hoffman and Mary Stedman, of the Committee on the Judiciary, have the privilege of the floor during the consideration of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH addressed the Chair.

Mr. JAVITS. Mr. President, I have the floor.

I ask unanimous consent that Chuck Warren have the privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, this is a close one, and it has caused me a great deal of pain and consideration. I should like to go with the President, if I could, but I cannot.

My reason is that this is an appointment different from that of other Cabinet appointees. I have been an attorney general myself, and I know the power that resides in this office. A prosecutor—and that is what he is; that is what I was, and others like me who were attorneys general—is between a political Cabinet officer and a judge. Whatever the law may say about the fact that there is no presumption of guilt by indictment, the fact is that an indictment or even an investigation in the Federal Establishment can have the same damaging effect on a career or on a life or on an opportunity granted to all of us under the Constitution as a conviction itself. Conversely, failure to indict or to investigate also can have the same effect on justice and on the individual.

I have looked very carefully at Judge Griffin Bell's record over the last two decades, and serious questions have been raised in my mind as to a continuity of legal philosophy which troubles me greatly.

We understand where he started. He started back in 1950 with Governor Vandiver, of Georgia, admitting that he was extensively involved at that time in the preparation of laws which amounted to massive resistance to the desegregation that had started in the Brown decision in 1954.

So it seems to me that the burden is on him to show that that basic philosophy, that basic approach to life and society, no longer exists in his mind, and I do not think that burden has been borne. Fortunately for us, his basic philosophy is spelled out in a whole series of cases in the 15 years in which he was on the bench. A study of those cases, in my opinion, leads me to this conclusion.

In a close and in a difficult question on individual human rights or civil rights, where the whole record of a public man is so vital, I cannot in all conscience be sure about the nominee's decisions. I cannot be sure, notwithstanding that I believe that Judge Bell means to honor the promises and the commitments he has made to the Committee on the Judiciary and the President and the country. Because of these reservations, Mr. President, I cannot in good conscience defy them; hence, I must vote "no."

The nomination of Judge Bell doubtless will be confirmed; that seems very clear. I can only hope that his tenure will be constant and overwhelming disproof of my own reservation.

Finally, Mr. President, I know very well that President Carter is very desirous of having Griffin Bell as his Attorney General, and he undoubtedly will have that even without my vote. But that is why we are sent here. We are sent here to speak our consciences, so that even if we stand alone, that judgment may be recorded for two purposes; one to indicate the individual disapproval of the individual Senator; but, even more important, to indicate that we are vigilant and on guard, that we take nothing for granted, that it is a fact that a President shoud have the Cabinet he wants, subject to the duty of the Senate to examine his nominees, to determine that they are in the best interests of the country.

A nominee of the President was just withdrawn—Mr. Sorenson. I happened to be very much for him, and my views are recorded in writing before the appropriate committee. The President will have an opportunity to send us the name of someone else. He exercised his privilege to withdraw when it was clear that he could not win there. Other Members will vote against other Cabinet appointees.

The essentiality of the process is that the country should know when we have doubts and that the country should share those doubts with us.

In so critical a function as this one, involving individual lives and fortunes and constitutional rights, I cannot vote with reservations, not even to obligate President.

So far as the President is concerned, I want very much, in every way, to cooperate with him, and I have done so. So far, we have had nine Cabinet-level officials before us. I voted for all of them. We are going to have more, and I am going to vote for them. So I hope the President of the United States will realize that over .900 is a pretty good batting average for supporting him. I hope that

he makes it, but I cannot go with him on this one.

Mr. BAYH. Mr. President, a moment ago, I just wanted to correct the record.

I am sure the Senator from Maryland would not intentionally misspeak. However, if we look at the Jaworski testimony, we will find, first of all, that Mr. Jaworski was serving as the chairman of the screening committee for the American Bar Association in the fifth circuit. In that capacity, he talked to a number of people in the fifth circuit, one of whom was Mr. Block. Mr. Block had been his immediate predecessor in the same capacity, and it was for that reason that Mr. Jaworski had talked to Mr. Block.

If one examines the hearings, he will find the names of several other individuals who also were consulted by Mr. Jaworski.

Mr. MATHIAS. Mr. President, does the Senator from Indiana wish to go forward with any other speakers? We have had several on this side.

Mr. NELSON addressed the Chair.

Mr. MATHIAS. Mr. President, I yield 10 minutes to the Senator from Wisconsin.

Mr. NELSON. Mr. President, I will cast a negative vote on the confirmation of the nomination of Mr. Bell because of my concern about where he will come down on certain vital decisions that he will have to make as Attorney General.

My reservations about this appointment are prompted by decisions made and positions taken by Mr. Bell in the past on important constitutional questions. Involved were major questions of civil rights, free speech, and rights of privacy. These issues run to the very heart of what this country and its Constitution are all about.

I have no doubts about Mr. Bell's integrity, intelligence, or dedication to public service. My objections are not personal. They are philosophical. Some of the same issues touching the same constitutional questions that were before Mr. Bell as Federal judge will be before him again in his capacity as Attorney General.

It is my hope that President Carter's judgment will be rewarded and all my doubts happily resolved when Mr. Bell deals with these issues in the future.

I am not unmindful that, particularly in the realm of politics, it is not possible to predict with any certainty from history how an individual in a different era, in different circumstances, with different responsibilities, will in fact perform in the future.

It is probably unnecessary for me to say that if this were a Republican Presidential appointment I would vote against it as I did on two previous occasions involving two of the same issues at stake as in this appointment. Obviously, I cannot properly defend two standards for Presidential appointments, one for Democrats and another for Republicans. I voted against a Republican nominee for Attorney General because of my reservations about his position on civil rights questions and against a Republican nominee for Secretary of State because of my concern about his lack of understanding of constitutional rights in the area of wiretapping.

In fairness it must be said that in his 14½ years on the bench, Judge Bell wrote many opinions protective of constitutional rights. In many of the cases however, the record and the applicable law was clear. It is the difficult cases presenting novel or unresolved questions of law, which may best convey a sense of Bell's thinking and an indication of outlook he would bring to the Attorney General's office. I find two such difficult cases—Bond against Floyd and Brown against United States—to be particularly troubling.

In *Bond* v. *Floyd*, 251 F. Supp. 333 (1965), Bell wrote the opinion for the majority of the three-judge court, upholding the right of the Georgia House of Representatives to exclude Julian Bond because of his endorsement of a strong statement by SNCC criticising U.S. policy in Vietnam and the American treatment of minorities at home and abroad. The Georgia House excluded Bond on the ground that the principles of the SNCC statement which he endorsed indicated that he could not sincerely take the oath of loyalty to the Constitution which the Georgia House required. Bell recognized that Bond's first amendment rights were involved, but he concluded that the right of the Georgia House to pass on the qualifications of its members overrode Bond's constitutional rights:

> We hold that the free speech issues should be resolved in the context of giving effect to the separation of powers principle, and our system of federalism the extent that it permits self-government to the states under the supremacy of the federal Constitution . . . .

Based on the content of the SNCC statement, Judge Bell found the Georgia House had a rational basis for its decision and that was all it needed. He also concluded that a legislator had less right to free speech than a private citizen noting that—

> Mr. Bond's right to speak and to dissent as a private citizen is subject to the limitation that he sought to assume membership in the House.

The Supreme Court reversed, 9 to 0, 385 U.S. 116 (1966). The Court pointed out that Bond was willing to take the loyalty oath; that the State admitted that his expression of admiration for those who opposed the war and resisted the draft would not have violated the selective service laws. The Court went on:

> The requirement (of an oath) does not authorize the majority of state legislators to test the sincerity with which another duly elected legislator can swear to uphold the Constitution. Such a power could be utilized to restrict the right of legislators to dissent from national or state policy to that of a majority of their colleagues under the guise of judging their loyalty to the Constitution.

The Court flatly rejected the notion that the State could grant its legislators less freedom than other citizens. Those seeking or holding office needed freedom to express themselves about important issues of Government policy; otherwise the representative would be effectively chilled from meeting his responsibilities.

In his apparent desire to uphold the State legislature's action, Bell designed a novel doctrine of first amendment law. No case before Bond, or since, has ever held that the State government can proscribe or limit speech under the justification of separation of powers. The argument is indefensible on its face. The first amendment protects freedom of speech against infringements by the Government. This protection applies as much to the action of the State legislature when it tries to exclude a member as it would when the State legislature passes a law. The first amendment certainly prohibits the legislature from punishing a person from exercising his first amendment rights. In general, regulation touching on first amendment rights must serve a compelling interest and be as carefully drawn as possible so as to leave the breathing room needed for first amendment rights to flourish. Bell certainly knew these general principles of the first amendment, and has written many opinions upholding first amendment rights.

It is hard to avoid concluding that Bell allowed his personal distaste for Bond's opinions to color his judicial judgment. After balancing Bond's first amendment rights against the State legislature's prerogatives, Bell proceeds to write a statement that is nothing short of astonishing:

> The SNCC statement is at war with the national policy of this country: To make certain that every citizen stands equal before the law; to make certain that every citizen has a fair chance to benefit in the freedom and opportunities and bounties of this country; to export these same principles of democracy to the balance of the world wherever and whenever possible, even to the extent of lending military assistance where self-determination is denied in order that those denied may choose freedom if they so desire.
>
> But the statement does not stop with this. It is a call to action based on race; a call alien to the concept of the pluralistic society which makes this nation. It aligns the organization with "* * * colored people in such other countries as the Dominican Republic, the Congo, South Africa, Rhodesia * * * It refers to its involvement in the black people's struggle for liberation and self-determination * * *". It states that "Vietnamese are murdered because the United States is pursuing an aggressive policy in violation of international law." It alleges that Negroes, referring to American servicemen, are called on to stifle the liberation of Viet Nam.

We all hope that the Carter years will be a period of domestic tranquillity. However, in assessing the qualifications of the chief law enforcement person in the United States, we must allow for the likelihood of future unrest and pay close attention to the attitudes of that person toward peaceful dissent. We must also recognize that first amendment rights of speech and assembly are implicated in many of the major tasks facing the Attorney General, such as the enactment of legislative controls on the FBI's gathering of domestic intelligence and the recodification of the criminal code. On this score, the Bond opinion is not reassuring.

In *United States* v. *Brown*, 484 F. 2d 418 (5th Cir. 1973), in the course of reviewing a criminal conviction, Judge Bell encountered the claim that the President had "inherent" authority to authorize

warrantless wiretaps against American citizens for foreign intelligence purposes. The fifth circuit had faced the question once before, in the case of *United States* v. *Clay*, 430 F. 2d 165 (5th Cir. 1970), and had withheld the President's right to authorize warrantless surveillance based on his status as Commander in Chief. In the interim, however, the Supreme Court had decided *United States* v. *United States District Court*, the Keith case, 407 U.S. 297 (1972), holding that the President had no inherent power to disregard the fourth amendment and authorize warrantless electronic surveillance in cases involving internal security. Despite the Keith case, Judge Bell upheld the doctrine of "inherent" Presidential power without the slightest consideration of the countervailing fourth amendment rights.

It is extraordinary that Judge Bell could fail completely to consider the analysis of the Supreme Court in Keith. Although the Keith case dealt only with internal security, the Court's balancing of fourth amendment rights against the reasons asserted by the Government for warrantless surveillance was clearly relevant to the issue of foreign intelligence taps.

In Keith the Justice Department advanced three reasons why a warrant should not be required in an intelligence tap: First, the purpose of the surveillance was to gather intelligence, not evidence for prosecution; second, the judicial expertise at evaluating threats to the security of the Nation was inadequate; and third, there was a danger of security leaks if this information had to be disclosed in Court. The Court rejected each of these, singly and collectively, as insufficient to justify overriding the target's fourth amendment rights. In reaching its conclusion, the unanimous Court made a number of statements suggesting that the fourth amendment rights of Americans could not be disregarded simply because the President invoked the justification of "national security:"

> If the legitimate need of Government to safeguard domestic security requires the use of electronic surveillance, the question is whether the needs of citizens for privacy and free expression may not be better protected by requiring a warrant before such surveillance is undertaken. We must also ask whether a warrant requirement would unduly frustrate the efforts of Government to protect itself from acts of subversion and overthrow directed against it.
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> National security cases . . . often reflect a convergence of First and Fourth Amendment values not present in cases of "ordinary" crime. Though the investigative duty of the executive may be stronger in such cases, so also is there greater jeopardy to constitutionally protected speech . . . History documents the tendency of Government—however benevolent its motives—to view with suspicion those who most fervently dispute its policies.
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> * * * * *
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> These Fourth Amendment freedoms cannot properly be guaranteed if domestic security surveillances may be conducted solely within the discretion of the executive branch. The Fourth Amendment does not contemplate the executive officers of Government as neutral and disinterested magistrates. Their duty and responsibility are to enforce the laws, to investigate and to prosecute. But those charged with this investigative and prosecutorial duty should not be the sole judges of when to utilize constitutionally sensitive means in pursuing their tasks. The historical judgment, which the Fourth Amendment accepts, is that unreviewed executive discretion may yield too readily to pressures to obtain incriminating evidence and overlook potential invasions of privacy and protected speech.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON. Mr. President, will the Senator yield 2 or 3 additional minutes?

Mr. MATHIAS. I yield the Senator 3 additional minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. NELSON. In sharp contrast to Judge Bell's treatment of the issue, when the Court of Appeals for the District of Columbia faced the question of whether warrantless electronic surveillance in foreign intelligence cases could be squared with the fourth amendment, it carefuly considered the reasoning and effect of Keith and held that a warrant was required for a foreign intelligence tap against an American citizen, at least when there was no collaboration with a foreign power. *Zweibon* v. *Mitchell*, 516 F. 2d 594 (D.C. Cir. 1975).

I recognize that the Supreme Court has not yet ruled on the constitutionality of warrantless foreign intelligence wiretaps against American citizens. If Judge Bell had carefully analyzed the impact of Keith and concluded that foreign intelligence taps were different enough from domestic security taps to justify dispensing with a warrant, the opinion would have had some plausibility—although I would not have agreed. Handled as it was, however, Brown demonstrated a disturbing willingness to accede to the claim of Presidential power without careful analysis.

Judge Bell's statements about the issue of inherent Presidential power at his hearings before the Judiciary Committee were more encouraging. While he refrained from judging whether the constitutional power existed, he expressed support for legislation to establish a warrant procedure for all electronic surveillance in the United States to gather foreign intelligence. He also said that he would counsel President Carter not to assert any claim to inherent Presidential authority.

The PRESIDING OFFICER. The Senator's additional time has expired.

Mr. NELSON. Mr. President, will the Senator yield 2 additional minutes?

Mr. MATHIAS. I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator is yielded 2 additional minutes, and he may proceed.

Mr. NELSON. Nevertheless, the Brown and Bond cases cannot be overlooked. They did not involve petty, peripheral or minor matters. Mr. Bell did not address these issues in some casual, informal environment. These cases were tried in formal judicial proceedings with arguments made and briefs filed. These decisions represented a carefully considered judgment of the merits. Fundamental first principles were at stake. Of all the rights shielded by the Constitution none are at parity with the rights of privacy under the fourth amendment or the right of free speech.

The question, in my mind, still remains—How, in the future, will Mr. Bell construe and interpret these constitutional rights when the occasion arises? Though I am encouraged by Mr. Bell's testimony before the Judiciary Committee, my reservations impel me to vote in the negative.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I yield 10 minutes to the distinguished Senator from New Mexico (Mr. SCHMITT).

Mr. SCHMITT. Mr. President, I came to this Chamber this morning undecided as to the question of the nomination of Griffin Bell to be Attorney General. I have been listening to the arguments for and against with considerable interest, I think with the net result that I have been educated greatly by the distinguished Senators on both sides of the aisle and both sides of the issue.

I find, however, that the arguments for the nomination of Mr. Bell have, in my judgment, come out circuitous and seem to be an attempt to rationalize in not very convincing ways certain problems in the record that Mr. Bell has presented to us.

On the other hand, the arguments against the nomination, as much as I hate to be against things—I would much rather be positive in my actions as a Senator—nevertheless, the arguments against the nomination seem to be based solidly in fact, and seem to create a fairly consistent pattern of activity by Mr. Bell that mitigates against his future performance as Attorney General.

I emphasize that they seem to represent a pattern rather than isolated instances or isolated problems which can be rationalized away.

So, Mr. President, reluctantly I will not vote to confirm Mr. Griffin Bell as Attorney General, not because I do not want the President of the United States to have Cabinet members in whom he has complete personal confidence, but because I believe Mr. Bell's record does not demonstrate the required impartiality and adherence to ethical standards. I hope that we will all consider his record with the same nonpartisan wisdom that eventually came to bear on events surrounding the Watergate affair.

I am particularly concerned by first, his failure to disqualify himself as a judge in the school desegration case of Calhoun against Latimer in which he had originally been "of counsel" to the Governor of Georgia; second, his failure to disqualify himself as a judge in a test case involving the exclusion of certain ethnic groups from a private club while at the same time being a member of such clubs; third, his admitted error in judgment in the case of seating Julian Bond in the Georgia State Legislature; fourth his failure to report certain gifts as required by the Judicial Conference of the United States; and fifth, his general attitude toward ethical conduct, as reported in the record of the Senate Judiciary Committee, is not the attitude this

country needs in its highest law enforcement officer.

However, Mr. President, my greatest concern about Mr. Bell's nomination is that it contributes to the appearance of a pattern of appointments which are contrary to President Carter's public statements. He has stated publicly that Cabinet appointments will be removed from politics and independent of the White House in the performance of their statutory duties. Also, they represent a pattern that is disturbingly reminiscent of portions of a recent Cabinet and White House staff which, by a lack of impartiality and ethics, put this great Nation through one of the most traumatic periods of our history.

The new President has selected a White House staff composed largely of close associates from his home State and his recent political campaign. He has asked that in several key Cabinet positions we in the Senate confirm men who are close personal and political friends.

Although I voted to confirm Mr. Bert Lance, another close associate and friend of Mr. Carter, as Director of the Office of Management and Budget, I expressed great reservations about his experience to carry out his duties and responsibilities. My reservations about Mr. Bell are much deeper and I cannot support his nomination.

Mr. President, if this nomination is not confirmed, although I believe it will be, I hope the President of the United States will live by his own words and submit to us a truly qualified and impartial nominee for Attorney General.

I thank the Senator from Maryland very much, and I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Does the Senator from Indiana wish to advance a speaker? The last few speakers have all been in opposition, Mr. President. We do not wish to monopolize the debate. If the Senator from Indiana has a speaker prepared, we will be glad to have them go forward at this time.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I make the point of order that a quorum is not present, and ask unanimous consent that the time for the quorum call be taken out of neither side.

The PRESIDING OFFICER. Neither side? Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BAYH. Mr. President, I yield myself such time as I may consume.

Earlier in the day, the distinguished Senator from Massachusetts asked a series of questions——

Mr. MATHIAS. Mr. President, will the distinguished Senator from Indiana use his microphone?

Mr. BAYH. The Senator from Indiana is flattered that the Senator from Maryland, at this stage of the afternoon, cares to hear what he has to say.

The Senator from Massachusetts asked a number of questions that he felt very strongly about. The discussion was rather heated at that time, and the Senator from Indiana attempted to answer the question, but it seemed that before he could get it answered, the Senator from Massachusetts wanted to proceed elsewhere, and I told him that after he got through with his speech I would then try to go through the questions and at least advise the Senate what I thought the right answers should be, realizing full well that the Senator from Massachusetts, feeling as strongly as he does and as sincerely as he does, would not necessarily agree.

The major thrust of the questions was that the committee hearings had not been complete and that a number of other witnesses should have been called.

As I pointed out to my friend from Massachusetts, the Senators from Maryland and Michigan, both of whom are opposing this nominee, mentioned that we have had very extensive hearings.

The people the Senator from Massachusetts suggested be called—a fellow by the name of Nathan Perry, Richard Ashworth, Governor Vandiver—would have been credible witnesses.

I do not think the hearing was improperly short because those witnesses were not called. To my knowledge everybody who wanted witnesses called had a chance to have those witnesses heard. We even had an extra day of hearings in which we opened the remarks up again and let others be heard.

It seems to me that the question is not whether we could have stayed there for another couple of weeks and listened to witnesses, but whether or not we received a true picture on both sides.

Frankly, in those areas I found perplexing, what added to the confusion was that we had witnesses of equal credibility on both sides.

Inasmuch as there has been a great deal made of the witnesses who were not called, I would just like to mention something else for the record, for those who might be reading, to show who was called.

A young man by the name of Billy McKinney, as I recall, a State legislator, a bright young black man, argued very persuasively about the positive qualities of Judge Bell. He seemed to speak with authority as a citizen of Atlanta. Mr. McKinney was not only a State legislator, he was the first black policeman in the city of Atlanta. In trying to judge how to value people's opinions on Judge Bell, I give a guy like State Representative Bill McKinney pretty high marks.

He pointed out, as has been pointed out previously, I believe, by our distinguished colleague from Georgia (Mr. NUNN), that last year Judge Bell was honored by Morris Brown College, a black college over 100 years old.

I just do not believe that the good folks of Morris Brown pass out honorary degrees to someone who has been a racist or who has been timid in the battle against racism. Certainly, the people who made that decision knew something about Judge Bell's background.

Mr. McKinney went on and said Judge Bell was honored for his role in establishing the Sibley Commission. "That is just how important black people in Georgia figure the Sibley Commission was and the significant role that it played," said Mr. McKinney.

He went on and said quite a bit. I refer Senators to the record if they wish to read it.

I was particularly impressed with the fact that here was a guy who had a good idea of what Griffin Bell had to go through, experiences I never had to go through. I stand up here and vote 100 percent for civil rights. I have to confess that I was living in a township where, when I went to high school, we did not have a black family on the west side of the river. I really did not have a feel for these issues when I was growing up.

Here again, as I said earlier, the last thing I am going to do is stand up here and say what the perfect standard was in Atlanta 20 years ago. But then Mr. McKinney says something like, "Do you know that white rednecks in Georgia ride with pickup trucks and carry shotguns as an intimidation to black people? You would have to have been down there to see what it was to live in the South at that time. So when you say moderation you are talking about something that we thought was excellent, and Judge Bell was moderate. Judge Bell was a man who was working behind the scenes trying to take care of some business for black people. Not only did he do it then; he has been doing it down through the years."

Maybe by our standard that was not enough. Maybe it would not be enough in Terre Haute, Ind. But here was a man, Mr. McKinney, appointed as the first black policeman in the city of Atlanta who, when all that was going on, thought Judge Bell's conduct deserved high marks.

We had another witness there by the name of Warren Cochran. Cochran was equally complimentary of the role that the judge played in Atlanta.

Here was a fellow by the name of Cochran who ran a YMCA down there, and was active in the Voters' League, who was involved in the citizens group, who had continuous discussion with Judge Bell. He said specifically that Judge Bell was working, trying to improve the position of blacks, doing everything that was possible, and keeping the black citizens informed.

Here, again, was a black who came up here from Atlanta, who paid his own way, and said:

I think this man ought to be the Attorney General.

Lonnie Cain, who was the head of the NAACP at the time of the school case, which has been the source of some controversy here, spoke eloquently of his judgment in favor of Judge Bell.

Mayor A. J. Cooper, of the Southern Black Mayors Conference, spoke.

I was really torn on this nomination. When one has to weigh off credibility of

witnesses, it seems to me in a case like this one does not go to the personal integrity and the credibility of the witnesses involved, because I gave them all due credit. There were people like Clarence Mitchell. I do not know if he is still in the gallery or not, but he was earlier. I do not know of anyone who is more credible than Mr. Mitchell.

We are talking about people who were on the streets and in the jails of Atlanta working for civil rights, who had a basis for knowing Judge Bell, and who testified that the nominee was honestly concerned with civil rights.

Also, I would like to reemphasize a matter that has already been put into the record. I do not think I need to tell this Senate who Eugene Patterson is, the former editor of the Atlanta Constitution. He was there during this difficult time.

Why would Eugene Patterson come out with an unqualified endorsement of Judge Griffin Bell? He has been one of those people who has stood up and taken the brickbats down there. The column by Mr. Patterson that is now in the record, which some Senators may have read in the Post, I thought was eloquent. Frankly, I think it is more credible, because a man like Mr. Patterson can look back and see what was going on in 1959 and 1960 and say here in 1977 what it was like.

I have here, Mr. President, and I would like to ask unanimous consent to have it printed in the RECORD, an editorial dated May 2, 1960, in the Atlanta Constitution, edited by Ralph McGill stressing the importance of the Sibley Commission.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CLOSING THE SCHOOLS PROTECTS NO RIGHTS

Citizens should not lose sight of the basic aspect of the Sibley Commission's majority report in the flow of words which are bound to come during the coming weeks. Briefly it is this:

Whether one likes it or not, state laws in conflict with federal laws are unenforceable. And while the commission, including its chairman, John A. Sibley, questions the wisdom of the 1954 Supreme Court decision, they accept it as a fact which cannot be evaded and to which adjustment must be made if we are to continue public education.

In telling the people that Supreme Court decisions are the law of the land, the commission thus performed an educational service of great value. Politicians who have misled them on this point have been guilty of a cruel deception. The commission, in setting the record straight, has performed a service for them, too.

We can deplore the decision and the Supreme Court itself but the decision stands. "The Constitution of the United States," says the majority report, "as interpreted by the Supreme Court, is controlling and binding upon the courts and the people."

Two weeks ago the executive committee of the Atlanta Bar Assn. said the same thing in declaring that current decisions of the Supreme Court are controlling on this issue. It added that "unless some plan is accepted in accordance with orders of the federal courts, all public schools of the state will be closed."

So the commission tells us to face facts and offers a way to adjust to them. Mr. Sibley himself gave the best advice in declaring citizens of the state should not exhaust themselves in futile defense of laws already declared illegal when to do so may cost them the public schools they have. He phrased this clearly:

"I think the better policy is to protect, preserve and reserve the rights the people now have under the law rather than to take the risk of losing those laws by asserting rights under laws that have been declared unconstitutional by the Supreme Court. . . . You might dwell on whether it is wise to claim rights that do not exist and thereby risk rights which you do possess."

This is straight thinking and leadership of the higher order.

The majority report provides a way to "protect, preserve and reserve the rights the people now have." It offers a means of keeping the schools open with safeguards that will "protect the right of free choice of both the parents of the child and of the local community and that will guarantee that no child in Georgia will be compelled to go to a mixed school against the wishes of his parent or guardian."

Even should the courts grant further time, the decision ahead is inevitable. Focal point of the commission's reasoning—that state laws in conflict with federal laws are unenforceable—still will apply, this month, next month or next year. We must find a way to adjust to this fact or prepare to end public education.

Mr. BAYH. The Atlanta Constitution stressed the importance of what the Sibley Commission really did, in relation to the times. As we look back on it 17 years later comparing it to things that were done elsewhere, we could use a different standard.

Mr. President, I have already spoken too long today. I only rise to point out that some of the witnesses we did hear did make a good case. I think both sides were well represented.

Just to reiterate what I said, it seems to me the question is not whether Griffin Bell is perfect, because he is not. Perhaps the only person who can judge the nominee by that standard is one who meets the identical standard himself. That means there are going to be very few Members who can decide for or against the nominee on the floor of the Senate.

I do not think we are looking for a man of perfection. Nor are we looking for a man who used a perfect standard for performing certain duties as we now assess those duties.

I intend to support Griffin Bell for Attorney General for one basic reason: I think the man is going to be a good Attorney General. In talking to him I believe he is honest; I believe he is sincere. Contrary to some of the other judges that the Senator from Wisconsin and I were deeply concerned about, one thing Griffin Bell was willing to do, was to say "I made a mistake," and not make something bad look like something good. I wonder, in the light of the tremendous changes that have taken place over the past 17 years, if this does not perhaps recommend the man very highly. I think he is made out of the stuff, personally, and has the kind of integrity that will serve this country—not just the President—and will serve the country well.

That is the standard I am going to use in voting, just as one Senator, not sit up here in the Nation's Capital representing the great State of Indiana and try to apply a test in 1977 which may or may not have been applicable in Atlanta, Ga., back at the turn of the fifties and sixties.

I appreciate the courtesy of the Senator.

Mr. RIEGLE. Will the Senator yield to me?

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. I would appreciate it if the Senator would yield me some time so I may engage in debate for a few seconds.

Mr. BAYH. Yes. I am happy to yield some time.

Mr. RIEGLE. Let me say I have great regard for the Senator from Indiana and I respect his view in this matter, though I hold a different point of view. As I listened to some of the points he made just now, there were two or three things I wanted to comment on.

One was with respect to the honorary degree that he pointed out was conferred on Griffin Bell by one of the black colleges in the South. I do not know that this relates directly to that instance, but it may, and therefore I think it is an important point. If I am not mistaken, I heard somebody today point out that the Kirbo law firm has for some years represented black colleges and universities in the South, has been the legal counsel, I gather, for some number of them—perhaps this one, perhaps not. The point is that there obviously has been some relationship established along those lines which may or may not bear on why he would have been cited and given an honorary degree.

Mr. BAYH. Does the Senator from Michigan feel that is the reason a judge of 14 years—that is a pretty serious charge. Fourteen years ago, he was in that law firm.

Mr. RIEGLE. But he is back in it now.

Mr. BAYH. He served 14 years as a judge. To suggest that a black college such as Morris College is up for hire or buying—I do not think the Senator from Michigan wants to suggest that.

Mr. RIEGLE. I am not suggesting that. What I am saying here is that I am not sure that we have the kind of separation and independence of relationships that could endow that act with the kind of meaning that I think the Senator was suggesting earlier. Perhaps that is all there is to it.

What I am saying is that in light of the fact that the law firm was involved in that fashion, it would make me want to inquire further before I necessarily drew the conclusion that this is a significant sort of civil rights approval of Griffin Bell. It may or may not be. I am just saying that the question arises in my mind.

Mr BAYH. Did the Senator from Michigan say that he had heard others remark here that the Kirbo law firm represented black colleges or that it did in fact represent Morris?

Mr. RIEGLE. No; I do not know with respect to this particular institution. I only raise the question with the Senator, and if the Senator can answer it for me, that will put it to rest. I suspect neither of us can answer it.

The second point I wanted to make is this: With that whole list of witnesses that came before us, I was wracking my

brain to think if we had one national civil rights figure of consequence, outside of the immediate area of either Atlanta or other parts of Georgia, who came forward to speak in Griffin Bell's behalf.

Mr. BAYH. Yes, there were a number of people who, because of duty—I have a list of those here—could not be with us at the particular time. The first one that comes to mind is Andy Young, and Vernon Jordan.

Mr. RIEGLE. Let me just inquire. Andy Young, I guess, would meet the test—he is a great friend of yours and mine—of being from the Atlanta community. I am wondering if there was anybody from outside that area.

Mr. BAYH. Let me just suggest——

Mr. RIEGLE. If the Senator will pardon me, I do not know that Vernon Jordan, though, has recommended or conveyed any letter or statement to the committee indicating that he or the Urban League were supporting this nomination.

Mr. BAYH. Yes, Vernon Jordan has a statement in the record that he submitted, being unable to be there. It is in the record.

Mr. RIEGLE. I thank the Senator for enlightening me as to that fact. I was not aware of that.

I am wondering if there are any other national civil rights figures of consequence who have likewise come forward to endorse this nomination?

Mr. BAYH. Yes, Mr. Morgan, Charles Morgan, who is one of the real gutsy guys from the standpoint of the civil rights movement. He has some eloquent testimony, also submitted, in the record supporting the nominee.

Mr. RIEGLE. Can the Senator tell me what position he holds?

Mr. BAYH. He has been actively involved. I have that here, if the Senator will just permit me to look. I thought I had it at my fingertips, but I have had some things.

Charlie Morgan has been one of the real tigers of the civil rights movement down there when they were facing police dogs and jail cells and all that that involved.

Mr. RIEGLE. While the Senator looks for that, let me raise one other issue, not to needlessly prolong the debate at this time. That is this: I had the clear sense, I say to the Senator from Indiana, as I listened to the witnesses who came, that those black witnesses from the Atlanta area and civil rights people from the Atlanta area had quite a different perspective, not just for the reasons of proximity to Griffin Bell over the years and the issues that took place that have been described here, but also because they very much have a piece of the action in this administration, and they have had a piece of the action in terms of the political arrangements in that area for some time.

I recall specifically when Mr. Cochran, whom you cited earlier, appeared before us as a witness. He was later identified by another black witness who came from Georgia as the person who, over the years past, was a sort of black political boss of the city of Atlanta and was the person that those people in the white power structure at that time would deal with as the sort of figure to deal with in behalf of the black community. I recall different points he made with respect to positions that were taken in meetings with Judge Bell and so forth.

The long and short of it is this: It seems to me that to invoke some special weight and meaning to their testimony—separate and apart from the very substantial apprehensions that were expressed by other black national leaders who have been in the forefront of the civil rights movement—does not seem to me to be worth equal weight. It seems to me that there is a kind of tie-in there that really causes me to discount, at least slightly, some of the observations that were made because of the fact that those particular individuals were very much at the center of the new power relationships that exist.

The Senator from Indiana may not see it that way and that is certainly his right to see it however he does. But that is the thing that concerned me as I listened carefully to those witnesses testifying.

I appreciate the Senator yielding me the time so I might make those points.

Mr. BAYH. Certainly, I respect the opinion of the distinguished Senator from Michigan. He listened very carefully and, of course, came to his own conclusions. I have to be a bit disturbed by at least some of the inferences he made here—first of all, that a black college which may or may not have been represented by the law firm of the judge is going to hire out an honorary degree. I do not know how any black college board can live with that. They have a constituency. I do not really think that is a fair assessment. But, of course, we are all free to make that judgment.

Vernon Jordan of the Urban League, is one of the most articulate spokesmen for equality in America, I know. I do not know whether the Senator knows him but I have known him for some time. I would stake my life on that man.

Mr. RIEGLE. I know him well. I have great respect for him.

Mr. BAYH. Mr. Cochran I do not know very well. Chuck Morgan I know very well. Chuck has gone to jail for a lot of people.

To suggest that the only people who can speak with authority about what Griffin Bell did have to be black civil rights leaders who came from Atlanta is going to narrow the field significantly. I have the greatest respect for those who have been out there in the trenches from all over this country, regardless of their color, in the civil rights movement.

It seems to me that the question I am asking myself, and everybody has to ask this question or a different set of questions of himself, is: I want to know what this man is made out of. I want to know how far he is going to go to protect the rights that the Senator from Michigan and I have fought for. I do not think you can really get a sense of that from San Francisco or Washington. Somebody who is right down there in the community, somebody who was appointed as the first black policeman in Atlanta, has a lot more credibility to me to tell me what Griffin Bell is made out of than someone who is recognized all over the world as an international or national civil rights leader.

Mr. MATHIAS. Will the Senator yield on that point?

Mr. BAYH. Yes.

Mr. MATHIAS. Mr. President, I yield myself 3 minutes so that I do not use the Senator's time.

The Senator placed a great deal of emphasis on people who were there on the spot. I think that is an accurate judgment. Among those people there on the spot, in the trenches, and deeply involved, were Julian Bond. He came up and testified very eloquently against this nomination. Another was Aaron Henry, for 15 years the president of the NAACP of Mississippi, who said they never went into the fifth circuit with a feeling other than Judge Bell's vote would be cast against them. In fact, that is the way the cases turned out.

Mr. BAYH. Also the people who were active in desegregating the Atlanta schools and who testified for Judge Bell had solid civil rights experience.

Mr. MATHIAS. Those are the people who testified.

The Senator in his remarks, which were very forceful, was really an echo of some years ago, a great Presidential campaign, when he was making a virtue of moderation.

Mr. BAYH. Who was making a virtue of moderation?

Mr. MATHIAS. The Senator said that Judge Bell had been a moderate in these matters.

Mr. BAYH. Now, let us not get involved in another Charlie Block interpretation.

I was interpreting State Representative McKinney. What he said was that during those times, a moderate in Atlanta, with a white face was a rare breed.

Mr. MATHIAS. That is good, fine. We are settled on that. Now, what does it mean to be a moderate in Atlanta? Jesse Jackson said that moderation of southern justice is what we had to struggle against in order to have a measure of freedom in the South.

So to make moderation a virtue in this particular situation, I think, is a great mistake.

Mr. BROOKE. Will the Senator yield on that point?

Mr. MATHIAS. Yes, I yield.

Mr. BROOKE. The Senator from Indiana talked about State Representative McKinney. I never had the pleasure of meeting him, but I do know Julian Bond.

I refer again to the record of the Senate Judiciary Committee, and I quote from Julian Bond when he said:

> In deciding this issue I hope you will remember that there were whites in the South during the difficult years we have been discussing who stood up and openly urged that Georgia obey the law: integrate the schools thoroughly, promptly, and without waiting for the Federal Courts to order it.
>
> Griffin Bell may have been one of those who did. He may have courageously told Governor Vandiver to do what Governor McKeldin had done several years earlier: to obey the law without delay. Whether Judge Bell did that is for you to decide. But we would dishonor the memory of those who

bravely fought for what was right, some of whom paid for their valor with their lives, if we were to pretend that there was no choice in Georgia in 1960 but silence, segregation, and subversion of the law.

I think that is the pertinent point, the point that illustrates that there was a choice in Georgia in 1960, and that we have no evidence in this record to indicate that Griffin Bell advocated pursuing that choice, the right choice, the legal choice.

The PRESIDING OFFICER. The Senator from Maryland's 3 minutes have expired.

Mr. BAYH. I will be glad to yield, if we have time. I do not want to shut off debate.

I would be honored if the Senator from Maryland and the Senator from Michigan would put me in their category as being equally concerned about the kind of sensitivity the Attorney General is going to have.

Mr. MATHIAS. We would not only put the Senator in that category, we would welcome the Senator from Indiana into this side of the issue and be as concerned as we are.

Mr. BAYH. I think I am equally concerned. I know I am; although I am looking at a different part of the elephant, or the donkey, as the case may be, and thusly coming to a different conclusion.

I say in answer to the suggestion made by the Senator from Michigan that in one instance some time ago, the King firm, which is a bond specialist, did represent the college on one bond issue. The firm of Kennedy and Rubin is the normal counsel.

Mr. RIEGLE. I think the Senator misunderstood what I was saying. My understanding was that the Kirbo office, the law firm which Mr. Bell was——

Mr. BAYH. That is the King law firm.

Mr. RIEGLE. I see.

Mr. BAYH. I do not think Kirbo's name is in the title. King and Spaulding.

Mr. RIEGLE. I see.

Mr. BAYH. King and Spaulding is not traditional counsel for the college. It is Kennedy and Rubin.

In one instance—that firm apparently is a topflight bond counsel in the Southeast—they did a bond issue for them.

I wanted to lay that at rest.

Mr. RIEGLE. While the Senator and I were engaged with one another, I was told there is not a letter in the record, but rather, a press account, and that no effort was made insofar as I have been able to establish for Vernon Jordan to convey it.

Mr. BAYH. Vernon Jordan, as was said publicly, is for Judge Bell.

I read in the paper what I knew was in the record, of his own personal feelings.

Mr. HUMPHREY. Will the Senator yield?

Mr. BAYH. Yes.

Mr. HUMPHREY. I had a visit with Vernon Jordan about a month or 3 weeks ago. He told me he was for Judge Bell. I asked him his view because of my very great respect for this distinguished citizen.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I yield 10 minutes to the distinguished Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. McGOVERN. Mr. President, this is a very difficult decision for all of us. I personally have come down on the side of voting against this nomination. But I certainly do not do it with any sense of condescension toward those Senators who have reached a different conclusion, some of whom have been in the civil rights movement longer than I have and who deserve our respect.

But 7 years ago, meeting in this Chamber, we undertook the never happy task of critically appraising, and ultimately rejecting, two nominations for high office which had been sent to us by the President of the United States. Reluctantly and painfully we delineated the required standards of probity, sensitivity, and commitment to social justice. We then measured against them the records of Clement Haynsworth and G. Harrold Carswell, and found both men wanting. Those of us who were then in the opposition party were not unconcerned about the price we might pay for voting against those nominees, but we thought the matter of such consequence as to warrant an appeal across the aisle to those for whom such a vote was even more perilous.

Those unfortunate nominations could not have been defeated without the votes of those members of the other party with the special valor required to stand against the wishes of their nominal leader. And the senior Senator from Indiana, who had led the fights against confirmation with such skill and tenacity, spoke for all of us when he looked across the aisle and praised the junior Senator from Massachusetts, saying "I salute the Senator from Massachusetts for the determination and raw courage he has evidenced. I would suppose—not having been in his position, I would have to suppose—it would be much more difficult to oppose a nomination from a President of his own party."

We need no longer suppose how difficult it must be to contemplate opposing the nomination of a President of our own party, for that is the position those of us on this side of the aisle are in today, and I can attest to the fact that it is an uncomfortable position to be in.

Although some facts regarding the nomination of Judge Bell are in dispute, enough is already clear to cause me to vote with regret against his confirmation.

My regret is deepened by the fact that while I did not sit in on the hearings during this confirmation, I did watch a substantial portion of them on public television and I was impressed with the gracious personal demeanor of Judge Bell.

I feel sure that I would enjoy his company as a man, but personal liking is not the issue. We know that Judge Bell accepted gift memberships in two discriminatory clubs, with a cumulative value over the years in excess of the sum paid to Justice Fortas, and that he failed to report those gifts as required by law. We know that Judge Bell sat on a case in which he had, only 4 years earlier, provided legal advice to one of the litigants, and that he cast the deciding vote in favor of his former client. We know that he has exhibited a lack of sensitivity to the appearance of propriety fully as serious as that of which Judge Haynsworth was accused. We know that Judge Bell helped to write laws intended to prevent, delay, or minimize the integration of the Georgia public schools. We know that those laws did far more effectively to obstruct the law of the land than did the racist remark made by Judge Carswell 12 years ago.

Mr. President, there is another matter which concerns me deeply and which, even after all these years, I simply cannot abide. In 1966, a young, articulate black man, Julian Bond, was elected to the Georgia House of Representatives. But he was refused his seat because he had endorsed a statement criticizing the war in Vietnam and expressing sympathy for people who resisted the draft which would have sent them to fight in that conflict. Julian Bond filed suit to claim the seat to which he had been elected.

In a decision which was subsequently overturned by the U.S. Supreme Court, the Federal district judge—Judge Griffin Bell—held that it was entirely proper for that legislature to exclude Mr. Bond, solely because he held and expressed what was then an unpopular view. Others may disagree, but I regard the first amendment as so vital, and and so central to our democratic system, that I cannot fathom such a decision, even in the less tolerant atmosphere of 10 years ago.

We can forgive the mistake, but we do not need to elevate the perpetrator to the highest law enforcement office in the land.

The position to be filled by the present nomination is no less trying, no less vital to public confidence in our Government, than the position to which Judges Haynsworth and Carswell aspired. The Attorney General of the United States is naturally the focal point of public concern with the integrity of our legal system. The Attorney General faces every day opportunities to tilt decisions in favor of partisan or personal interests of himself or his party, a chance which only infrequently presents itself to a member of the Supreme Court. The Attorney General, serving at the pleasure of the President, must constantly resist the inevitable inclination to put the well-being of the Chief Executive ahead of the well being of the country.

The Attorney General must be a person of unique probity and independence, for that person must resist temptations unknown on the bench, and must do so without the natural constraints of precedent and eight coequal colleagues.

These points refute the suggestion that the Attorney General is the "President's lawyer" and therefore should be someone close to the President, someone he can trust. The Attorney General is the Government's lawyer—and his job is not to

defend the President but to keep him, too, within the bounds of the law.

The question posed by this nomination is simple, yet one which will recur in varying forms over the years ahead—whether the standards, independence and stature which Congress has labored to acquire over the last difficult decade—and which the senior Senator from Indiana has done much to advance—are now to be abandoned merely because we now have a President who belongs to the majority party in Congress. The similarity of this nominee to those whom we have rejected in the past casts that question in the starkest possible light.

What happened on January 20 to so drastically alter our principles and procedures? Does not the Constitution still require our advice and consent to this nomination? Are not the canons of judicial ethics still the standard by which we assess the conduct of a Federal judge? Does not public confidence in our legal system still require an Attorney General whose conduct and demeanor are beyond reproach? Are not millions of black Americans still poor, still undereducated, still struggling to overcome the obstacles and effects of discrimination, and still entitled to an Attorney General whose personal commitment to the cause of equality is beyond dispute?

It is too soon to forget the lessons of the last decade. It is too soon to place in the highest councils of government a man who does not understand that a member of the Federal judiciary should not belong to a club which judges Americans by the color of their skin or the way in which they worship. It is too soon to grow indifferent to the widespread doubts that our laws are enforced in a fair and evenhanded manner. It is too soon to forget the courage of men like Charles Goodell, who stood with us against an errant President of his own party and forfeited his political career in that cause.

However much I might wish to accommodate the President, I cannot support this nomination without applying a double standard, lowering the requirements set in the past merely because this is a Democratic nominee selected by a Democratic Chief Executive. There can be but one standard for a man who files inaccurate financial disclosures omitting thousands of dollars in gift memberships. There can be but one standard for a judge who sits on cases where the canons of judicial ethics and the laws of the United States demand he step aside. There can be but one standard for a lawyer who has used his skills to obstruct the command of the Supreme Court that black children no longer be relegated to separate schools because of their race.

Much has been said, and more has been thought, about the deference that may be due the wishes of the new administration. But what we owe the President is not our loyalty—but our judgment—seasoned, critical, concerned above all with the well-being of the Nation. In the long run, I am convinced that we will do the President the greatest service when we give him the benefit of our most critical judgment, not when we go along to serve our convenience or his.

Our duty in a case such as this is to search out facts, possibly unknown to the President when he made his initial decision, and cast our votes as those facts require. We have an obligation to the President and to the American people to maintain the vigor and independence of the Congress so that the natural competition and disagreements between ourselves and the executive branch will increase the ingenuity and thoroughness of all concerned. We must help the President restore and renew public confidence in our system of government, and we will not set the new moral tone to which he aspires if we begin by abandoning the standards we fought to establish 7 years ago.

My sense of responsibility to the President, no less than to the millions of men and women whose lives and liberties will be affected by the next Attorney General of the United States, compel me to vote against the confirmation of the nomination of Griffin Bell.

Mr. President, I ask unanimous consent that an article by Mr. Anthony Lewis appearing in the New York Times of December 30, 1976, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 30, 1976]

GRIFFIN BELL'S RECORD

(By Anthony Lewis)

BOSTON, Dec. 29.—In 1966 the Georgia House of Representatives refused to seat Julian Bond, a newly elected black member. The reason was his endorsement of a statement by the Student Non-violent Coordinating Committee criticizing the war in Vietnam and sympathizing with men who resisted the draft for service there.

Mr. Bond sued, claiming a violation of his right to free expression under the First Amendment. He lost in the Federal District Court. An opinion coauthored by Judge Griffin Bell said: "The S.N.C.C. statement is at war with the national policy of this country . . . We are committed in Vietnam."

A legislator has less right to free speech than a private citizen, the opinion reasoned, because he takes an oath to support the Constitution. The court said the Georgia House could properly find Mr. Bond's endorsement of the S.N.C.C. statement inconsistent with the oath, and could exclude him.

That decision was quickly and unanimously reversed by the Supreme Court. Read today, just 10 years later, it seems like something from the dark ages of judicial jingoism during World War I. No one would bother to read such an anachronistic, discredited opinion now—except that it so recently was the considered judgment of the man named to be the next Attorney General of the United States.

Mr. Carter says that Griffin Bell is superbly qualified. With most nominees, such a claim would be hard to test. But a man who sits on the bench for fifteen years, as Mr. Bell did, leaves a record—his opinions in the law reports. I have read a very small part of Judge Bell's large output, but I think enough for a fair impression of his work.

The Bell opinions I have read are singularly opaque. They show none of the intellectual command, the marshaling of language that mark a great appellate judge. They ring of no passion for justice. They are unanalytical, almost inarticulate. So far as one can tell, the quality of mind behind them is second rate.

Mr. Carter, in addition to praising Judge Bell's intellectual qualifications, has implied that he was a judicial leader in bringing the South into a new age on race relations. The record is otherwise.

The United States Court of Appeals for the Fifth Circuit, on which Judge Bell sat, was at the center of the struggle over segregation in the South. But other judges led the fight for compliance with the Constitution. They are among our great contemporary judicial heroes, and their names are no secret: among them Richard T. Rives, Elbert P. Tuttle and John Minor Wisdom.

Judge Bell often disagreed with Judges Rives, Tuttle and Wisdom on racial questions. As the Supreme Court spelled out the law, closing more and more loopholes, Judge Bell wrote opinions complying in narrow terms. He by no means defied the law in the name of segregation, but it is a travesty to class him with his legendary colleagues on the Fifth Circuit.

Those impressions of Griffin Bell as a judge were checked with people who know the man and his work intimately. The unhappy but unavoidable conclusion is that he is an undistinguished legal thinker, a conservative in instinct, with no demonstrated breadth of moral or philosophical outlook.

Much of the criticism has focused mistakenly on Griffin Bell's personal friendship with Jimmy Carter. A President must have confidence in his Attorney General, and friendship need not be disabling. The real question is whether the friend has the needed qualities of mind and heart. Herbert Brownell Jr. had the credentials on paper when President Eisenhower named him, but he turned out to be an opportunist. Robert Kennedy had few on paper, but he had an open mind and compassion that made him a humane influence on his brother.

Griffin Bell has a reputation as a skilled negotiator. The chances are that he will be a better Attorney General than some. He is not likely to sink to the corrupt level of say, Richard Kleindienst or John Mitchell. But will he have the independence and the moral conviction and the intellectual self-confidence to resist pressure from the intelligence agencies as Edward Levi has? Will he give the President imaginative and courageous advice on the judicial appointments that are so important in our system? The record is not encouraging.

An Attorney General of unassailable quality is more central in this country now than in the past. After Watergate, we need a reaffirmation of law—law in its moral and human dimensions, not as a mere instrument of power. And Jimmy Carter promised just that.

Asked about the criticism of Griffin Bell, Mr. Carter said the other day that it seemed to come from disappointed backers of other possible nominees. That nasty crack reflects only on the President-elect. There are dozens of lawyers in this country better qualified to be Attorney General than Griffin Bell—and better for the real interest of Jimmy Carter.

Mr. McGOVERN. Mr. President, I thank the Senator from Maryland for yielding to me.

Mr. MATHIAS. I thank the distinguished Senator for his very thoughtful statement.

At this time, I yield 10 minutes to the distinguished Senator from Kansas (Mr. DOLE).

Mr. DOLE. Mr. President, a member of the party in power has a special responsibility and right to see to it that the President keeps the promises he made to the electorate. A member of the party in power has a special interest in the fitness and presentability of cabinet members,

since he will be held accountable for the mistakes of the administration and its officials. And a member of the party in power enjoys a special relationship to the national leader of that party, entitling him to be consulted in advance about Presidential decisions which may imperil his political life.

But, as chance, and a small majority of the electoral college, would have it, I find that the heavy burdens of membership in the President's Party, which I bore as best I could as recently as last week, have suddenly been lifted from my back. Carried by the zephyrs of change to this new situation, I find myself forced to reassess my previous positions and attitudes.

I take consolation, however, in the fact that many of my colleagues have also been compelled by circumstances to reassess these positions. Members of this body who recently shrunk with horror from the smallest transgression of legal ethics have suddenly acquired a wonderfully fresh and more realistic perspective. Colleagues who once could not bring themselves to forget a 22-year-old campaign speech by Judge Carswell have converted to a marvelous belief in forgiveness and redemption. Men long addicted to a prideful independence of the executive branch have at last discovered the virtues of humility and cooperation. It is all a happy sight, and one which comes none too soon for Griffin Bell, though a trifle late for one member of the fourth circuit court of appeals.

Mr. President, as I indicated this morning, there are three areas that trouble this Senator. One has been discussed in great detail—the civil rights record of Judge Bell. Another that has not been discussed and somehow ignored in most of the debate is that of cronyism. Is there this tie between President Carter and Griffiin Bell that somehow might cast a cloud on his ability to serve as an independent Attorney General.

I recall the debate in 1969 with reference to Judge Haynsworth. I recall statements made by many colleagues at that time, and suggest that now, in the year 1977, there is even a higher degree of accountability.

And I was surprised to read this morning in the Washington Post "The Case for Griffin Bell" because of this higher accountability, this higher duty, this higher responsibility. And I commend the reading of that editorial to Senators, not so much for what it says, but for what it does not say.

It may not come as a surprise, but it indicates again that, perhaps, we have overlooked one very important matter, and that is the political relationship: a man who made campaign contributions, a man who raised money, a man who wrote speeches, a man who helped in the selection process of a Vice President. The Senator from Kansas believes that is a fairly close political tie. Having been on the campaign trail day after day, and having heard the now Vice President and the now President of the United States criticize the past it comes as somewhat of a disappointment, because they talked and discussed with the American people the idea of an independent Attorney General insulated from improper political pressures.

I could quote the statement of President Carter. But it seems to me that after the campaign—and again with nothing but the highest regard for the honesty and integrity of Mr. Bell—he is a friend of the President, he may be a buddy. We heard many comments about the buddy system in Washington. Some may think that buddy poppies originated in the Senate Chamber. We heard so much discussion about congressional buddies in last year's campaign.

And, finally, a matter of great concern to many in this Chamber and many on this side of the aisle is the future of Clarence Kelley. We were concerned about the independence of the Federal Bureau of Investigation. We passed an act in this Congress to make it a 10-year term. That act said the Director shall serve for 10 years. Now we are told that Director Kelley has written a letter saying he wishes to retire in January.

Well, I will only say that this letter was written following testimony of Judge Bell wherein Mr. Bell said he would remove Clarence Kelley. I am not really certain what options Mr. Kelley had.

But it seems to this Senator, who voted for that act, that we meant what we said. We were concerned about the independence of the Federal Bureau of Investigation. We wanted no tampering by the President of the United States, be he a Democrat or a Republican.

We were concerned about the integrity of that great agency. So we believed, although the legislative history is not clear, that the Director could not be removed without cause.

I am pleased that the distinguished senior Senator from Indiana, in response to a question posed this morning, said that should Director Kelley change his mind, it was his view that he could stay until his 10-year term expired. I am not certain that that is the opinion of Griffin Bell. This Senator is not certain that that is the opinion of the President of the United States.

It seems what has been suggested is the politicizing of the FBI. It does no good now to cite some letter written by the Director of the Federal Bureau of Investigation after it has been stated publicly, that he was going to be removed.

So for these reasons it seems to this Senator we should vote for the motion to be offered by the distinguished Senator from Massachusetts (Mr. BROOKE) to recommit this nomination and go into the matter of the Director of the Federal Bureau of Investigation and, perhaps, have more testimony on the relationship between the President and the nominee for Attorney General as well as other areas still in doubt.

I yield back the remainder of my time.

Mr. MATHIAS. Mr. President, the Senator from Kansas has pointed out a certain change in attitude which seems to have overtaken both the press and the Senate.

I am happy this debate today has evolved in a way which would lead us to believe that this is not a purely partisan kind of change because there have been some distinguished Senators on the Democratic side who have risen to express the doubts that lay upon their consciences.

In an effort to try to understand what is really happening in the mood of the country, I recall an article which appeared in last Sunday's New York Times by the distinguished former Secretary of Commerce, Mr. Elliott L. Richardson, entitled "The Sexless Orgies of Mortality."

In that article Mr. Richardson says that as a result of Watergate, Vietnam and other problems we have had in the last 10 years we have gotten into an area of reaction in which we questioned perhaps too much.

I think what we are seeing here today is, perhaps, a reaction to the reaction. People are saying "Well, let us just slide over this. We do not want to have any more trouble. We have had a lot of trouble over the past few years, so let us just pass everything over lightly."

Well, I wish it were possible to pass things over lightly. But if the Members of the Senate had been with those of us who serve on the Judiciary Committee and had seen some of the plaintiffs in these cases, plaintiffs who came from Atlanta, from Corpus Christi to tell us about what it was like in the South in those days—because that is the kind of standard we have been asked to apply, not the standards of Washington, D.C., 1977, but what it was like in the South in those days—these were little people who came to Washington to tell the committee what it was like, people whose children never did get the advantage of an integrated education, although the Supreme Court had said in 1954 that that was the law of the land; people who had taken to the courts to secure their rights and who had suffered threats of bodily injury, who had been the subject of attempted bribes, people whose lives had been made miserable simply because they wanted to avail themselves of the equal protection of the laws, little people, not civil rights leaders, not national political leaders, but the people about whom this is—the important people about whom this is—really all concerning, the people whose rights are at stake, these were the people really who were the most compelling witnesses before the Judiciary Committee. They were there, they were there during the pertinent years, they were there on the spot that mattered.

I am not going to review all of the evidence that has been before us and all the arguments that have been made here today.

I will say there is a very deep vein of opposition to this nomination. It is not blind, stubborn opposition. It is opposition based on concern. It is opposition based on the fact that people are worried. I hope those worries are unfounded. I hope if the Senate should confirm this nomination that Griffin Bell becomes a very great Attorney General. But that is a question only the future can determine, and we here have to take account of the very serious doubts that are raised by the record.

I think President Carter should have all the support all of us can give him in

restoring the unity of the country, in increasing confidence in government. But I am not prepared to say this afternoon that this appointment will further those ends.

Therefore, I yield 10 minutes to the distinguished Senator from Massachusetts.

Mr. BROOKE. I thank our colleague.

Mr. President, the Office of the Attorney General of the United States is a high and sensitive post. The Attorney General is the chief law enforcement officer of our Nation. He is the people's advocate, the people's lawyer.

No other position in our Federal Government is closer to the Supreme Court of the United States, the final arbiter of our legal rights and responsibilities.

And so it is an office which is of great concern to all American citizens. We who have the responsibility of rendering "advice and consent" have a duty to see that every "i" is dotted and every "t" is crossed in investigating and in questioning those who would fulfill this high office.

Mr. President, this morning I asked many questions of the distinguished members of the Committee on the Judiciary. I asked them specifically to those who were in the majority and who voted out the name of Griffin Bell for us to consider in this Chamber.

I reluctantly said that I could not immediately vote to confirm Mr. Bell, for after reading the record I found that there were great gaps, many unanswered questions, and many essential witnesses who had not been called.

Mr. President, after putting those questions to the majority of the Committee on the Judiciary, I received no answers or unsatisfactory answers. And I would suggest that I received these responses because there are no answers. The job simply was not done.

There is no excuse for having failed to call former Governor Vandiver. He was by all objective analyses an essential witness in the hearings on Griffin Bell. There were other witnesses who were not called and other conflicts of interest or potential conflicts of interest, let me say, that were passed by lightly.

I frankly do not know whether Griffin Bell is capable of serving as the Attorney General of this great Nation. And, I certainly would not know it if I were to read the report of the Committee on Judiciary because it is confusing and in many instances showed an inability or an unconcern on the part of some members of that committee to actually ascertain all of the facts.

I did refer to partisanship, something I do not like to refer to on the floor of this Chamber. In fact, I do not believe in the 10 years in which I have served that I have referred to partisan politics on the floor.

But I would be remiss if I sat by quietly and did not point out to our colleagues that there does appear to be a double standard in the confirmation proceedings on Griffin Bell. I get a sense that he is being rushed through the Senate, rushed because there were serious allegations made without an opportunity to check and to find out whether these allegations were weighty, meritorious, or factual.

The double standard to which I referred reluctantly is even more pertinent because I remember very vividly the expanded hearings and debates which took place on the nominations of Haynsworth and Carswell for the Supreme Court. Some of the very so-called liberal Senators who in this Chamber today showed such a minimum concern for some of the same type problems alleged against Griffin Bell were so vociferous in their condemnation of the nominees Haynsworth and Carswell.

Mr. President, if the law applies to one, it must apply to all. If we are going to have standards and guidelines by which we govern ourselves, they must apply to all. Whether we sit in judgment on the merits of Griffin Bell or Haynsworth and Carswell, we must still use the same standards.

I suggest most respectfully that equivalent standards have not been used in this case. So I think we perform a great service not only to our Nation and to the high office of Attorney General, but also to Mr. Griffin Bell himself by asking for a fuller exposition of the issues. Maybe he has the answers to some of the questions I have raised. Maybe if Governor Vandiver had been called, he would have supported and strengthened the case of Griffin Bell. Maybe Mr. Ashworth would have strengthened the case of Griffin Bell. But who knows, if they were not called?

So, I must reluctantly conclude that there is indeed a double standard. I must point out that this is a bad precedent for the Senate, a precedent with which I would not think we really want to live.

My friend, the Senator from Indiana, said that a black college, Morris Brown, had given Mr. Bell an honorary degree. He named some other blacks who support Griffin Bell. And he said that that indicated that Griffin Bell was not a racist. That is not the issue. I do not know anyone who stood on this floor who has alleged that Griffin Bell is a racist. That is not the question here before us. The question before us is: Is Griffin Bell qualified to be the Attorney General of the United States of America?

Because of serious allegations made against him, the questions are: Was he guilty of a conflict of interest? Should he have disqualified himself in several cases? Did he give counsel to the Governor of the State of Georgia in developing massive resistance? There are these, and other collateral questions which are pertinent to his ability to serve as our Attorney General.

Mr. President, I could go on, but I shall not. The questions have not been answered. I said earlier today, if the questions were not answered I would feel compelled to make a motion to resubmit this nomination to the Judiciary Committee for further consideration.

It is because these questions have not been answered and it is because I feel so strongly that we in the Senate at this time do not have sufficient facts and sufficient evidence upon which to make that judgment that, Mr. President, I now move to recommit.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BROOKE. I yield to the majority leader without losing my right to the floor.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator that his motion to recommit will not be in order until all time has expired or been yielded back.

Mr. BROOKE. Mr. President, I yield back the remainder of my time.

Mr. SASSER. Mr. President, we yield back the remainder of our time.

Mr. BROOKE. Mr. President, all time having been yielded back I move to recommit the nomination of Griffin Bell to the Committee on the Judiciary for further consideration, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to recommit the nomination to the Committee on the Judiciary. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. HATHAWAY), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 24, nays 71, as follows:

[Rollcall Vote No. 9 Ex.]

YEAS—24

Bellmon	Hatch	Nelson
Brooke	Hayakawa	Packwood
Case	Heinz	Percy
Chafee	Javits	Proxmire
Culver	Lugar	Riegle
Dole	Mathias	Schmitt
Domenici	McClure	Wallop
Hansen	McGovern	Weicker

NAYS—71

Allen	Ford	McClellan
Anderson	Garn	Melcher
Baker	Glenn	Metzenbaum
Bayh	Goldwater	Morgan
Bentsen	Gravel	Moynihan
Biden	Griffin	Muskie
Bumpers	Hart	Nunn
Burdick	Haskell	Pearson
Byrd, Harry F., Jr.	Hatfield	Pell
	Helms	Randolph
Byrd, Robert C.	Hollings	Ribicoff
Cannon	Huddleston	Roth
Chiles	Humphrey	Sarbanes
Church	Inouye	Sasser
Clark	Jackson	Schweiker
Cranston	Johnston	Scott
Curtis	Kennedy	Sparkman
Danforth	Laxalt	Stafford
DeConcini	Leahy	Stennis
Durkin	Long	Stevens
Eagleton	Magnuson	Stevenson
Eastland	Matsunaga	Stone

Talmadge	Tower	Young
Thurmond	Williams	Zorinsky

NOT VOTING—5

Abourezk	Hathaway	Metcalf
Bartlett	McIntyre	

So the motion to recommit was rejected.

(Subsequently the following occurred:)

Mr. BIDEN. Mr. President, I ask unanimous consent that my vote on the last vote be changed from "aye" to "no."

The PRESIDING OFFICER (Mr. MORGAN). Is there objection?

Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent to change my vote from "aye" to "nay." I thought I was voting on confirmation, rather than recommittal.

The PRESIDING OFFICER. Is there objection? Without objection, the vote will be so changed.

(The foregoing tally reflects the above changes.)

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Griffin B. Bell?

Mr. CHURCH. Mr. President, I should like to put some questions to the Senator from Indiana, on the assumption that those questions might follow this vote.

Mr. ROBERT C. BYRD. Mr. President, all time has expired. I wonder if, in view of the fact that the Senator from Idaho wants to ask a few questions, we could get just a little time by unanimous consent?

How much time does the Senator need?

Mr. CHURCH. I should think that these questions and the answers could be accommodated in 10 minutes, 15 at the most.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. BAYH may have an additional 10 minutes—that there be not to exceed 15 minutes, to be equally divided between Mr. BAYH and Mr. MATHIAS.

Mr. BUMPERS. Is it anticipated there will be a rollcall vote?

Mr. ROBERT C. BYRD. Oh, yes, there will be rollcall votes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. HATFIELD. Will the Senator yield for a unanimous-consent request?

Mr. BAYH. I yield.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. Let us have order in the Senate.

Mr. BAYH. Mr. President, I ask unanimous consent that Mr. Ken Feinberg of Senator KENNEDY's staff be permitted the privilege of the floor during the remainder of this matter?

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BAYH. I yield to the Senator from Idaho.

Mr. CHURCH. Mr. President, I have read the excellent brief prepared in support of the nomination of Judge Bell. I call the attention of the Senator from Indiana to that portion which deals with intelligence operations, accountability and control, beginning on page 1 and extending through page 2 and parts of page 3. I read from the brief:

> Judge Bell pledges to control intelligence operations under his authority in a manner which would protect the rights of American citizens while, at the same time, being careful to protect the security of the Nation.

Of course, that statement is so general that it needs further amplification.

On page 2, the subject of wiretapping legislation and warrant procedures is discussed. The brief reads:

> Judge Bell said that he believed that electronic surveillance could be conducted under some restraints where you would safeguard the rights of American citizens. As a general opinion, he opposes warrantless wiretapping of American citizens.

Under the criminal law, as I understand it, it is not possible to lawfully wiretap an American citizen without a warrant issued by a court, upon a finding that probable cause exists to believe that a crime has been committed or is about to be committed. In the course of our investigation of the intelligence agencies, we found widespread abuse in the electronic surveillance of young student groups who were not suspected of crime, but who were protesting against the war, which the Constitution entitled them to do. We found months of harassment conducted against Martin Luther King, Jr., not because he was suspected of crime, but for political reasons. We found other minority groups harassed unlawfully, not because crimes were being committed, but because they sought recognition of their rights under the law. All these improper activities were conducted under the guise of national security.

My first question is what the testimony showed with respect to Judge Bell's feeling about establishing a sufficient court test in this broad national security field that would adequately safeguard the liberties of the American people?

Mr. BAYH. First, let me say that I would like to speak from the standpoint of a personal conversation I had with Judge Bell, as well as the matter that is in the record. As the Senator knows, I happen to be one of the Senators who has been chosen to serve on the Select Committee on Intelligence with the distinguished Senator from Hawaii, our chairman. In that capacity, I was called on, as chairman of the Subcommittee on the Rights of Americans to give study to a wiretap bill that was reported out of the Committee on the Judiciary. We worked with the Senator from Massachusetts and several other colleagues and, I think, did a very credible job of strengthening the provisions of that bill. Because of this experience, I was concerned with Judge Bell's background.

His decision in the Brown case caused me concern. As the Senator knows, the law is unclear regarding warrant requirements for electronic surveillance in national security cases. There is the Zweibon rule, which I am more comfortable with, and I think the Senator from Idaho is more comfortable with, and the Brown rule, which Judge Bell wrote. In the conversation I had with him, I expressed concern over his unwillingness in the Brown case to provide the kind of protections that I thought were necessary. He was quick to point out that if he had to write that Brown decision today in light of everything that had happened, he would not provide for broad power to the Government as he did.

As I recall, we had no problem with Judge Bell's attitude as far as domestic cases are concerned. He recognized what the law is there—you need a warrant.

The only issue in question is in the international field, the national security field. The judge said that he would urge the President to work with Congress to provide proper safeguards by law against the kind of abuse that we have seen.

He went further, in response to my questions regarding surreptitious entry, mail opening, and other violations of the right to privacy. He stated that they should all be covered by the same warrant procedures.

Mr. CHURCH. The critical question, as the Senator knows, is not obtaining a warrant, but what standard the court will apply in granting a warrant. If it is simply an affidavit that the case falls within the broad purview of national security, the court's act is then purely ministerial, it means nothing. We must find a suitable standard. I recognize that the Senator from Indiana has been seeking such a standard. In my opinion, he greatly improved the original bill which came out of the Judiciary Committee last year by attempting to define a very narrow class of cases where electronic surveillance might be authorized without need of showing probable cause. I wonder if the Senator will tell me his general impression of Judge Bell's view, with respect to the need to write that kind of narrow standard into the law.

Mr. BAYH. I asked him specifically whether he thought the provisions of the bill to which I alluded, which was a product of the work of our subcommittee, assisted by the Senator from Massachusetts and the Committee on the Judiciary, was the kind of safeguard that he was talking about, and he said "Yes."

Now, generally, as I think the Senator from Idaho knows, I would feel much more comfortable, if we applied a standard of probable cause of crime across the board to electronic surveillance. I have to say, however, that, from a very practical standpoint, there is a narrow area regarding foreign intelligence, where it is difficult to apply that severe a standard. So in that bill, we required the same standard for foreign intelligence gathering as for domestic intelligence gathering, except where it could be proved that a person was an agent, of a foreign power, transmitting information in a clandestine manner to the detriment of this Nation's security. That person would be a spy. When you can prove somebody is a spy, even if he is an American citizen, if you can prove he is on the payroll of another government as part of their intelligence network, transmitting material and operating secretively,

then I am prepared to establish a different standard.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mr. MATHIAS. Do the Senators require more time?

Mr. CHURCH. Just 1 minute, if the Senator will allow me, to conclude this colloquy.

Mr. MATHIAS. I yield that time.

Mr. CHURCH. I take it, from what the Senator has said, that in his judgment Judge Bell, as Attorney General, will cooperate with the committees of the Senate in attempting to work out a standard of the kind the Senator has described, and that he will also work with the new Intelligence Committee for the purpose of writing basic charters which define the jurisdiction of the FBI, the CIA, and the NSA, which will take into consideration the recommendations of the select committee I chaired?

Mr. BAYH. Yes. In fact, I have to say that was one of the first questions I asked about, even before the hearings started.

I was concerned about the Brown decision and our job of drafting legislation.

If I were not convinced in my own mind that Judge Bell would establish that high standard and urge the President to follow his lead, I would not be standing here supporting his nomination.

Mr. CHURCH. I thank the Senator very much for his responses to these questions.

I conclude by saying, Mr. President, that I have reviewed carefully the objections raised by the distinguished Senator from Maryland. I believe that if this nomination were for the Supreme Court of the United States, I would have to cast my vote against it, mainly on the basis of the Bond decision. But since it is for the Office of Attorney General, and since the Attorney General functions at the pleasure of the President and under his general direction, I have concluded that my doubts should be resolved in favor of the President.

On that basis, I will vote for the nomination of Judge Bell.

ADDITIONAL STATEMENTS SUBMITTED ON BELL NOMINATION

Mr. TALMADGE. Mr. President, I received today a letter from Mr. Hal Suit of Atlanta with respect to the nomination of Griffin Bell to be Attorney General of the United States.

Mr. Suit, as he points out in his letter, was a journalist in Atlanta during the difficult years in Georgia and the South in which Judge Bell occupied a role of leadership and moderation. Mr. Suit describes Judge Bell as a "dedicated servant" who had the "moral courage to stand up and be counted among those who sought reasonable, practical and peaceful means of complying with Federal court decisions." Mr. Suit urged Senate approval of Judge Bell as Attorney General. I bring his letter to the attention of the Senate and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 19, 1977.

HON. HERMAN E. TALMADGE,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR TALMADGE: It appears from press reports that the Senate Judiciary Committee is going to recommend to the full Senate that Griffin Bell become the Attorney General of the United States. When Griffin Bell's nomination reaches the Senate, would you please enter the following statement on my behalf in the official Senate record:

As the Republican candidate for Governor of Georgia in 1970, I was defeated in the General Election by the man who is now the President of the United States.

While there may still be many areas of political disagreement between myself and President Carter, I do not disagree with his nomination of Judge Griffin Bell to serve as the Attorney General of the United States. Prior to entering the political arena in Georgia in 1970, I worked as a journalist in the state for more than 16 years and became familiar with and I believe knowledgeable about Griffin Bell's honorable service in former Governor Ernest Vandiver's administration and later as a distinguished member of the Court of Appeals.

I sincerely believe Mr. Bell contributed substantially toward helping resolve many of the difficult problems faced by the citizens of Georgia during the initial desegregation of the state's public school system.

During a time when it was politically expedient to keep quiet about one's views regarding the integration of Georgia's schools or to play the role of a segregationist demagogue, Griffin Bell had the moral courage to stand up and be counted among those who sought reasonable, practical, and peaceful means of complying with Federal Court decisions.

It would be dishonest to pretend I agreed with every decision rendered by the Appeals Court during Griffin Bell's service on that judicial body; it would be more than dishonest to pretend that intelligent and sincere men and women do not find themselves in honest disagreement on many controversial matters.

I respectfully urge the members of the United States Senate to unanimously approve Griffin Bell as the Attorney General of the United States because I believe he will conscientiously carry out the duties of that office as a fair, impartial, and dedicated public servant.

Sincerely,

HAL C. SUIT.

Mr. EASTLAND, Mr. President, I would like to say a few words on behalf of Judge Griffin Bell. The Committee on the Judiciary held full and complete hearings on this nomination, and the members interrogated Judge Bell in depth. In addition, the committee heard 37 witnesses both pro and con. We scheduled an extra day of hearings in order to hear some opposition witnesses who had not been scheduled. The committee voted to recommend that Judge Bell be confirmed as Attorney General.

I am not going into any detail on Judge Bell's background, as that is set out in the committee's report. I will say that the nominee served for 14½ years on the U.S. Court of Appeals for the Fifth Circuit.

Several areas were raised by some opposition witnesses which I shall touch on briefly.

First, was Judge Bell's civil rights record, and particularly the area of desegregation of schools. I will point out here that Judge Bell came before the committee with one attribute which no other nominee for this office has had in this area, a public record. Judge Bell's years on the bench have resulted in a full and complete record of opinions on this and other subjects.

Second, the opposition centered on certain opinions of Judge Bell, and witnesses included plaintiffs in some of the school cases. In rebuttal to these witnesses other black leaders testified on behalf of the nominee and recommended him highly. They included participants in the law suits and observers on the scene at the time.

Lonnie King, former president of the Atlanta chapter of the NAACP, contradicted the conclusions of opposition witnesses. A J. Cooper, mayor of Pritchard, Ala., also chairman of the Southern Black Mayors Conference, testified on behalf of Judge Bell. Mayor Cooper had been counsel in several lawsuits, including school cases, before Judge Bell, and described him as fair, willing to listen and change his views when given a solid legal peg on which to proceed. Mayor Cooper testified that Judge Bell was forceful in insisting that defendants comply with the law.

Other opposition centered around Judge Bell's service as a lawyer for Governor Vandiver from 1959 to 1961. Bell was appointed along with other lawyers to advise the Governor on the question of school desegregation. Judge Bell advised the Governor on how to keep the schools open and remain within the law. He was instrumental in establishing the Sibley Commission, led by a distinguished citizen of Atlanta, which met with black and white groups throughout the State and allowed the views of the people to be heard. The schools remained open. Bell testified that he was a moderating influence in this time and that he was proud of his accomplishment. This view was supported by Warren Cochrane, a black leader in Atlanta, who pointed out that Judge Bell had continually met with black groups, the first time such a thing had happened. He felt that Judge Bell, by his actions, furthered the cause of education, helped prevent violence, and began the movement to compliance with the law.

I feel that it is impossible to judge these actions without reference to the political tenor of the times. The testimony was persuasive on that issue. I feel that in a situation of great social tension, Judge Bell was a moderating influence on those who might have violated the law, and that he was attempting to change the prevailing attitude in Georgia because he was committed to the observance of the law.

Questions were raised during the hearing concerning Judge Bell's majority opinion for a three-judge court which upheld the right of the Georgia Legislature to deny Julian Bond his seat in that body. The question in the case was the power of the legislature to pass on the qualifications of its own members. Citing precedents involving the U.S. Senate, the court upheld the legislature.

The Supreme Court reversed the decision on the basis of balancing legislative power against first amendment rights. First amendment rights prevailed. Judge Bell testified that since that time many decisions have strengthened the first amendment. He stated that it was quite obvious he had been wrong and that the Supreme Court was correct.

Finally, Justin A. Stanley, president, American Bar Association, testified that Judge Bell was progressive and open-minded, a person of outstanding capacity, of unquestioned integrity, and of complete fairness.

Leon Jaworski of Houston, Tex., former president of the American Bar Association and practicing attorney in the U.S. Court of Appeals for the Fifth Circuit, testified that he had never known Judge Bell in the performance of his duties to follow any course other than the rule of law. He said that he believes Judge Bell is fair-minded, possesses no racial prejudices and has the personal traits necessary to avoid the potential for political abuses in the Department of Justice. I agree with these views.

At several points during his testimony Judge Bell addressed the need for an independent Justice Department wholly divorced from political activity. Judge Bell related that the Department would function as an independent legal counselor rather than as an organization prepared automatically to do the Executive's bidding. He also said that he would not participate in the 1978 or 1980 elections, and that he would be prepared to resign rather than carry out a Presidential directive that he considered improper.

I believe that Judge Bell will pursue an independent course of action as Attorney General and would not yield to pressure from the White House.

One witness suggested that Judge Bell's membership in Atlanta private clubs raised a question of impropriety or appearance of impropriety concerning his participation in the Biscayne Bay case, which involved a private club. Judge Bell pointed out: First, that the Biscayne Bay case involved only the question of whether the Biscayne Bay club lost its private status by building a boat dock in public waters, whereas none of the Atlanta clubs used public facilities; and second, that all but one or two judges of his court were members of private clubs, and therefore would have been barred if disqualification had been required.

I feel that it is important to note that Judge Bell remained in the hearing room throughout the proceedings with the exception of the last day, which had been unscheduled. He thus heard the testimony and the doubts and fears expressed by some witnesses. In this light his promise to conduct an open Justice Department and his assurance that he would be ready and willing to listen to all groups are reinforced. I have seen him listen and I believe he will continue to do so.

I recommend that the Senate confirm Griffin Bell as Attorney General of the United States.

Mr. BELLMON. Mr. President, I have studied the proceedings relating to the appointment and confirmation of Judge Griffin Bell as Attorney General with great interest and concern. The office of Attorney General is clearly one of the most important positions in Government. It is greatly in the national interest to have this position filled by a person of the highest ability and integrity. In addition, it is essential that American citizens look upon our Attorney General with confidence and that they place in him the highest possible degree of public trust.

So far as I can find, everything in Mr. Bell's background indicates that he possesses the intelligence, the legal training, and the experience required for the office of Attorney General. However, the fact that in the past he has been closely identified with efforts to frustrate and immobilize progress toward racial equality causes me great concern.

As a citizen and former Governor of a Southern State, I fully appreciate the pressures which Mr. Bell must have felt during the difficult days of the 1960's. Those same pressures were felt by countless public officials and community leaders in every part of the South. However, there are scores of cases where government officials, as well as community leaders, took courageous positions in support of the laws. The evasive course chosen by Judge Bell is hardly a recommendation to the highest law enforcement office in the land.

As Attorney General, Mr. Bell would face an impossible situation. Should he strive for evenhanded administration of the civil rights laws, his past record would subject him to severe criticism by the more activist civil rights elements in our society. This would create excessive controversy and slow down the desired progress toward eliminating the remaining vestiges of segregation and inequality.

An equal danger is that, in order to escape criticism, Judge Bell might choose to overcompensate for his past record of passive resistance. To prove his new found commitment toward ending inequality, he might become far more vigorous as Attorney General than prudence dictates. Neither course of action is in the national interest. The Nation needs an Attorney General who will be guided by law and not by the device to prove or disapprove his critic's contentions. The Nation needs an Attorney General who has no reason to compensate for past indiscretions with the law.

It is for these reasons and not because of any questions as to Judge Bell's professional qualifications that I cast my vote against his confirmation.

Mr. HATFIELD. Mr. President, in reviewing Cabinet appointments, whether or not they are before a Senate committee where I serve, I try to follow a certain philosophy. Basically, I think any President is entitled to have as Cabinet members the men and women he chooses to assist him in carrying out his policies. It is the President, and not the Cabinet member, whose policies are implemented, discussed, or criticized. The President deserves his team. Thus, over the years, I have supported Cabinet nominees several times with whom I have disagreed philosophically. Although they would not have been my choices for the positions involved, they were the President's choices. As a result, I examine the integrity and background—as well as the basic competence — of the nominees closely. I review the person's record in detail when their nomination comes before a committee on which I serve. I have followed this same approach with the current Carter nominations, as I have over the past 10 years.

I would draw the distinction again between what I see to be the role of the Senate on Supreme Court appointments, as contrasted with Cabinet appointments. With men and women nominees to the Supreme Court, we are discussing a lifetime appointment to a coequal branch of our Government. That certainly is not the same as a Cabinet appointment. With such Supreme Court nominations, the Senate has a particular responsibility to the country that differs from that concerning Cabinet officers.

Even with this philosophical attitude toward all Cabinet nominations, I recognize a special circumstance surrounds nominations for Attorney General. They are more than just another Cabinet member, for they represent the chief law enforcement official in the country. As such, they occupy a unique position.

It is not the Senate alone, however, which must recognize this. I believe President Carter considered carefully this unique aspect of the role of the Attorney General. Again, if as Attorney General, Griffin Bell acts or does not act in a particular manner, it is the President who must accept the consequences. Griffin Bell would not have been my choice as Attorney General, but he was the President's choice.

The public debate surrounding this nomination will help insure that Mr. Bell acts as Attorney General in a manner befitting his office.

In closing, I state that I will vote for confirmation of Griffin Bell, although it is with some reservations. My reservations I hope will be erased by his record of service in this post. If he does not live up to the hopes of his supporters, including the President, I trust he will not continue.

Mr. PELL. Mr. President, today I cast my vote for the confirmation of Griffin Bell of Georgia, to be Attorney General of the United States.

The opposition to Judge Bell centers around several issues: His role as legal counsel to Governor Vandiver of Georgia in the late 1950's; his opinions on civil rights and civil liberties delivered while a member of the Fifth Circuit Court of Appeals; his cosigning of a letter of support for Judge G. Harrold Carswell to be an Associate Justice of the U.S. Supreme Court; alleged instances of conflicts of interest while on the bench; his testimony on removal of Clarence Kelley as FBI Director; and allegations of "cronyism" with President Carter and associates. He has been questioned extensively on these and other issues by the Senate Judiciary Committee.

The accumulation of evidence presented 6 days of hearings is most significant. I would briefly like to discuss the issues raised as I see them and present the reasons why I believe Judge Bell is qualified to be Attorney General.

Although we do not want to make too much of ancient history, I believe a person's past conduct is very reflective on what he might do in the future. From the testimony presented it seems clear to me that Judge Bell was serving in the role of a lawyer in advising Governor Vandiver of ways to keep the Georgia public schools open. As he explained to the committee, his job was to assist the Governor in complying with the fast-changing law of that time. The fact that the Georgia Legislature enacted some laws that, with hindsight, were obstructive to the cause of desegregation, cannot be directly attributable to Judge Bell. As Eugene Patterson stated in the editorial quoted from at length by various witnesses:

> But the pace of the march was less important than the direction few leaders took in that time when too many politicians and judges were clinging to the safe popularity of the past. To go back from the present and glean isolated errors from the past of such men is to lose sight of their true measure the sustained thrust of their courage and commitment in a time when it took courage to have courage. Bell qualified.

The proof of the worth of Judge Bell's actions is that the Georgia public schools remained open. Today, Georgia schools are integrated as much or more than anywhere in the Nation. That is a record of accomplishment, and Judge Bell can take part of the credit for getting his State and its people through those early, tumultuous days. I believe Senator TALMADGE's statement on this point is very pertinent:

> He acted as a moderating force at a time when moderation was sorely needed.

Although some groups have testified against Judge Bell on the basis of his civil rights opinions while he served on the fifth circuit, by no means is that view unanimous. Other blacks have come forth and spoken on behalf of Judge Bell for his efforts toward progress in civil rights. Nor are his civil liberties opinions slanted in any one direction. In the American Civil Liberties Union's excellent analysis of Judge Bell's fifth circuit opinions, there are numerous examples of Judge Bell's moderation. He is accurately portrayed as one of the centrists on the fifth circuit during some very turbulent years. It seems to me that, rather than being a disqualification for the office of Attorney General, a nonideological identification is an asset, so long as one is committed, as Judge Bell is, to strong enforcement of the law and protection of indiivdual rights.

On the Carswell matter, I believe Judge Bell explained very well his participation in cosigning a letter on behalf of his fellow fifth circuit judge. I opposed the nomination of Judge Carswell, but I believe this was a proper thing for him to do.

Also, I believe that the controversy over alleged judicial conflicts of interest while Judge Bell served on the fifth circuit has been quelled by his testimony. We now view such matters in a more glaring light than before, and I believe we have all learned from past experiences. Certainly President Carter's disclosure and conflict-of-interest requirements for himself and the members of his administration have set a high standard in this regard. In his testimony, Judge Bell set out quite clearly the guidelines he will institute as Attorney General to prevent conflicts of interest personally and for his staff. I commend him for these actions.

I know there are some who are upset by Judge Bell's desire to relieve FBI Director Kelley of his responsibilities. Although I believe Mr. Kelley has done a commendable job of trying to restore the Bureau's credibility and respect after its recent turbulent past, we must nevertheless remember that the decision on Mr. Kelley's part to retire was entirely his, and the President has the power to appoint someone he thinks is best qualified for the job, subject to Senate confirmation. I think that Judge Bell's assurances about the type of person he wants to run the FBI are encouraging.

Another charge against Judge Bell has been "cronyism." There is really no way to guard against this possibility given present law on the subject. Judge Bell promised to keep all transactions between the Department of Justice and the White House recorded and above board. This is one way of guarding against Oval Office abuse. The ultimate safeguard, however, is the integrity of the person occupying the office of Attorney General. To my mind, Judge Bell possesses the requisite character and integrity to keep the Nation's law enforcement apparatus free from political interference.

I do have very real concerns about some areas of Judge Bell's record in the most important and sensitive field of civil rights. We have come too far in this Nation in assuring equal opportunity for all citizens to fall back now. I am confident Judge Bell is sensitive to this fundamental goal of our society. I know the President is.

The proof of Judge Bell's philosophy can be found in numerous passages in the record of his confirmation hearings. I find these statements heartening. He considers the Department of Justice as the people's law department, an open place where the people and groups would be welcome. In response to a question about where his interests would lie, given a choice between the people and the President, he stated:

> I would be with the people, because I believe in the Bill of Rights. I think the essence of our constitutional system is to protect the individual.

Many of us who struggled with a President of our own party over Vietnam can appreciate the difficulty of making such an assertion, and carrying it out.

In another instance, responding to a question on individual rights versus Government intrusion, Judge Bell stated:

> I would be on the side of those who would be trying to maintain our rights of privacy and all of our rights under the Bill of Rights.

I was glad to read his ideas on professionalizing and depoliticizing the Department of Justice; on allowing the National Bar Association, composed primarily of black lawyers, to participate along with the American Bar Association, in the screening process for Federal judges; on having the screening commissions he proposes for circuit appointments to be composed of lawyers and nonlawyers alike.

Another area of great importance in these days of pending Government reorganization and efficiencies is the applicant's qualifications as an administrator. Judge Bell's record is undisputed on this point. His experience and understanding of this important area show he will be an excellent administrator.

We also must keep in mind that we are voting on his confirmation as Attorney General, not a judicial position. He has pledged to serve all the people, including the poor, the minorities, those outside of the system who rarely have a voice in governmental matters. I believe him. Although he may not have been another President's choice for this high office, he is President Carter's, and I believe that, given the high standards the Senate has set in the confirmation process, Judge Bell has passed the tests very well. In short, Mr. President, Judge Griffin Bell has testified exhaustively on all topics on which concern has been expressed. He has responded fully, patiently, and I think, most adequately. I believe he should be confirmed.

STRONG SUPPORT FOR GRIFFIN BELL

Mr. TALMADGE. Mr. President, Georgia State Representative Billy McKinney, one of our State's several black members of the general assembly, testified Tuesday, January 11, before the Senate Judiciary Committee in strong support of former Federal Judge Griffin Bell for Attorney General of the United States.

In my own statement before the committee, and in that of Senator NUNN, and others testifying in behalf of Judge Bell, he was described as a moderating force in Georgia and the South during some of our Nation's most difficult years. Representative McKinney was there and he recounts in his committee statement how he worked with Judge Bell in working out the model Atlanta compromise plan. He told the committee that "Griffin Bell's level-headed, moderate voice working behind the scenes has played a major role" in Atlanta's success story.

I bring Representative McKinney's very forceful and very telling statement to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF REPRESENTATIVE BILLY MCKINNEY

During the latter part of 1972 the City of Atlanta was faced with a crisis that nobody knew how to remedy. The Courts had in its bosom the Atlanta School suit which had been pending for a long time. At the direction of the court, a Florida college professor named Stollee had devised a plan calling for the mass busing of 35,000 students and the closing of West Fulton, Douglass and Price High Schools. Throughout the desegre-

gation era blacks had witnessed the closing of black schools with the loss of principals' and teachers' jobs and black children bussed to white schools in the quest for quality education. Although blacks resented this, they did not know how to resist it because it was national policy and ordered by the courts.

Black parents called me to lead the fight against the closing of the high schools and the busing of their children. A main concern was the loss of the school basketball, football and track teams and the school tradition. As momentum gained I called press conferences in all sections of the city and held mass rallies at all of the schools. Although we wanted to preserve our schools, we wanted to obey the law, yet avoid the violence and chaos that had been experienced in other parts of the country.

Judge Griffin Bell, who had no official status in the suit, but who had strong influence at that time, put together a bi-racial group of black and white leaders to hammer out a compromise. This group was sanctioned by the court and had official powers. The national NAACP attempted to take charge of the suit. Black groups from all over America converged on the city and filed briefs to enter the suit. The local branch resisted the national and was expelled. All officers were thrown out of office.

Atlantans reached what is known as the Compromise Plan. It called for minimum busing, volunteer transfers, and black control of the school system. It called for a black Superintendent, equal black and white assistants. It called for blacks to deliver quality education to a predominantly black school system. Today we have a black President of the School Board, five blacks on a nine member board, and above all, peace and tranquility.

The Atlanta story must be told to all of America. It could be a pattern for other localities. Atlanta is the mecca of the South and is not dying like other cities. We are attracting people in droves. It is the usual success story.

Griffin Bell's level headed, moderate voice working behind the scenes has played a major role in this story. He is supported by all of black Atlanta's leadership. Any objection to his nomination should come from the South. We are the people most affected by his decisions. One thing we proved in Atlanta is that national policy cannot be imposed on us, when black and white citizens work together for a common goal and when the federal judge is not a wild eyed liberal whose decisions do not reflect the conscience of the community.

Griffin Bell should be commended and his nomination confirmed.

RESIGNATION OF ATTORNEY GENERAL EDWARD H. LEVI

Mr. KENNEDY. Mr. President, we would be remiss to continue the debate over the appointment of a new Attorney General without first commenting on the recent retirement of Edward H. Levi as Attorney General of the United States. Attorney General Levi entered office under the most difficult and trying circumstances, yet he leaves a Department once again characterized by integrity, intellectual honesty, and commitment to equal justice. He has served his country with great distinction and will be sorely missed.

I was most fortunate to work with Attorney General Levi on various matters—the Argentine parole program, release of the Selective Service violators lists, handgun control—and found him to be most cooperative and understanding. I came to know him best when we worked hand-in-hand to introduce the Foreign Intelligence Surveillance Act of 1976. This legislation, which would for the first time place meaningful statutory restrictions on the power of the Executive to engage in electronic surveillance for purposes of obtaining foreign intelligence information, was introduced over the strenuous objections of various members of the intelligence community. That the bill received bipartisan endorsement and strong backing from the administration was due in no small measure to the dedicated efforts of the Attorney General.

Two qualities of Attorney General Levi stand out above the rest—a rigorous intellectual honesty and an unrelenting commitment to the rule of law. I did not always agree with the Attorney General, but on every issue which concerned us it was the merits of the argument that mattered. This is not surprising; for a distinguished law professor and president of a great university it could hardly be otherwise. Coming to Washington changed the man's role; but it did not change the man.

I wish Attorney General Levi good health and happiness in all future endeavors. I am sure that, whatever the tasks he assumes in the years ahead, he will bring to them those same characteristics of integrity and dedication which have highlighted his years in Government.

More than 60 years ago Louis D. Brandeis said:

> If we desire respect for the law we must first make the law respectable.

Edward H. Levi has restored respect to the office of the Attorney General, the chief law enforcement officer of our land. And that is a fitting legacy.

Mr. BROOKE. Mr. President, I regret that the Senate did not vote to recommit the nomination of Judge Griffin Bell. I sincerely believe that the Senate acted precipitously in this matter. Sufficient questions and contradictions, coupled with a lack of corroboration by witnesses and concrete evidence, and a record replete with evasion mandated a fuller hearing by the committee and a more thorough analysis of the record by my colleagues. I do not believe that partisan considerations should force us to abrogate our Constitution and senatorial responsibility in this regard, and I am disappointed that our deliberations assumed a partisan cast.

Judge Bell has now been confirmed as Attorney General. It is a difficult job, requiring great sensitivity, courage, discretion, and integrity. I am certain that we all wish him well, regardless of our position on his confirmation.

But I am equally confident that Judge Bell has promises to keep. He has pledged the Justice Department's vigorous advocacy for civil rights, for a judiciary and an FBI with integrity, vigor and authority. He has promised that he will avoid politicization of his high and important office. He has promised to avoid conflicts of interest, and to enforce this precept throughout the Department of Justice.

These glowing promises are part of the record. You can be sure that this part of the record will be vigilantly and consistently monitored by all of us who believe that the Attorney General, as the highest legal officer in the land, must restore the confidence of the American people in our legal institutions, must be above reproach and must be dedicated to many of the principles which Judge Bell himself now espouses.

Mr. GRIFFIN. Mr. President, I have carefully studied the committee's report including objections raised in the separate views filed by several of our colleagues.

There are matters in the record that disturb me, including the failure of Judge Bell to recuse himself from participation in the decision of *Calhoun* v. *Latimer*.

However, on the whole, I am impressed by the record and performance of Mr. Bell as a judge. For example, in a voting rights case, entitled *Toney* v. *White*, 488 F2 310 (1973), Judge Bell wrote an opinion which is worthy of attention by those who seek to evaluate his attitudes and judgment in the civil rights area.

The opinion held that where there was preelection activity having the effect of disqualifying a disproportionate number of black citizens, even though such activity was unintentional, it was a violation of the Voting Rights Act (42 U.S.C. 1973 et seq.)

The remedy applied in that case was unusual and extreme: an election for mayor, alderman, and members of the Democratic Executive Committee was voided, and a new election was ordered.

In my view, the opinion in this case tends to reflect a judge who is fully aware of the fundamental rights of each citizen, and who is willing to insist upon the protection of those rights. In the case Judge Bell pointed out:

> The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government. p. 314.

While the Toney decision is only one example, I find it quite typical of the record of Griffin Bell as a judge. If he can be criticized because of earlier activities as a lawyer, his subsequent record as a judge has generally demonstrated an admirable sensitivity to the rights of black citizens.

I ask unanimous consent that the text of the opinion of the Court of Appeals for the Fifth Circuit in the Toney case, written by Judge Bell, be printed in the RECORD.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

[No. 72-3307]

UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT, DECEMBER 3, 1973

Albert C. Toney et al., Plaintiffs-Appellees, v. N. A. White et al., Defendants-Appellants.

United States of America, Plaintiff-Appellee, v. Myrtis Bishop et al., Defendants-Appellants.

Consolidated actions by private plaintiffs under Voting Rights Act for declaratory and injunctive relief. The United States District Court for the Western District of Louisiana, Benjamin C. Dawkins, Jr., Chief Judge, 348 F. Supp. 188, set aside the election and a

panel of the Court of Appeals, 476 F.2d 203, affirmed in part and reversed in part. On rehearing en banc, the Court of Appeals, Bell, Circuit Judge, held that where action of registrar of voters in purging the voter rules for failure to vote and for failure to report changes of address had discriminatory effect against Negro voters and suit of private plaintiffs was filed promptly after the election as was the suit of the Justice Department, each suit was filed with diligence and there was no deliberate bypass of preelection judicial relief, and it was not error to set aside the primary election.

Modified and affirmed.

Coleman and Gee, Circuit Judges, concurred in the result and filed opinions.

Clark, Circuit Judge with whom Simpson, Circuit Judge, joined, filed dissenting opinion.

John T. Seale, Asst. Dist. Atty., Tallulah, La., for defendants-appellants.

George M. Strickler, Jr., Asst. Atty. Gen., New Orleans, La., for Toney and others.

J. Stanley Pottinger, Civil Rights Div., Dept. of Justice, David L. Norman, Asst. Atty. Gen., Civil Rights Div., Dept. of Justice, M. Karl Shurtliff, Gerald W. Jones, Attys., Civil Rights Div., Dept. of Justice, Washington, D.C., Donald E. Walter, U.S. Atty., Shreveport, La., for U.S.

Lloyd N. Cutler, David S. Tatel, Washington, D.C., Herman Wilson, Jackson, Miss., for amicus curiae—Lawyers Committee for Civil Rights, etc.

Before Brown, Chief Judge, and Wisdom, Gewin, Bell, Thornberry, Coleman, Goldberg, Ainsworth, Godbold, Dyer, Simpson, Morgan, Clark, Roney and Gee, Circuit Judges.

Bell, Circuit Judge:

This appeal arises out of suits filed to set aside the results of a Democratic primary election on the basis of discriminatory conduct against black voters by the Voter Registrar.[1] The primary was conducted on April 4, 1970 in Tallulah, Louisiana, for Mayor, Town Marshall, Members of the Board of Aldermen, and Members of the Democratic Executive Committee. The black candidate for the office of Town Marshall was successful, as was one of the black candidates for the three positions on the Democratic Executive Committee. All other races were won by whites with margins ranging from 24 to 140 votes.

The discrimination occurred within a thirty day period immediately prior to the election. On September 13, 1972, the district court enjoined defendants from engaging in further discriminatory practices, voided the primary election results, except as to the office of Town Marshall, and ordered that a new primary election be held with the voters limited to those persons eligible to vote in the 1970 primary. Toney v. White, W.D.La., 1972, 348 F.Supp. 188.

A panel of this court affirmed on March 19, 1973 as to the prospective injunctive relief but reversed that portion of the judgment which voided the election and ordered the primary races to be rerun. Toney v. White, 5 Cir., 1973, 476 F.2d 203. On June 1, 1973 the court, on motion of plaintiffs, determined to rehear the matter en banc. It was heard on October 17, 1973, and, after due consideration, we vacate that portion of the panel decision which reversed the district court. The result is that the district court judgment voiding the primary election as to certain races and ordering those primary races to be rerun is reinstated but with the modification, due to the passage of time, that the next regular primary election, which under the Louisiana statutes will be held in March 1974, be substituted for the special election ordered by the district court.

The panel decision rests on the two-pronged approach that (1) the discrimination in question was not "gross, spectacular [and] completely indefensible", and (2) that it did not appear that no effective judicial remedy was available to plaintiffs prior to the holding of the election, 476 F.2d at 209, citing Bell v. Southwell, 5 Cir., 1967, 376 F.2d 659, 664.

Reference is made to the prior opinions, 348 F.Supp. 188, and 476 F.2d 203, for a full statement of the facts. It is sufficient for our purposes to set out the operative facts. The facial discrimination in issue consisted of the Registrar purging the voter rolls in a manner directed at black voters but not at white voters. This discrimination was compounded by the use of purging procedures which were not consistent with Louisiana law from the standpoint of notice and opportunity of the registrant to be reinstated. In addition, the list of those voting by absentee ballot, mainly white voters, was not purged as required by Louisiana Law. In connection with this later fact, the district court made the well supported finding that the results of the election could well have depended on the absentee vote and thus on the failure to purge this list.

The pertinent findings and conclusions of the district court are as follows:

(Findings of Fact)

"2. We find that the record does not reveal that the acts of commission and omission of the Registrar were conducted for the specific purpose of diminishing the number and efficacy of black votes and inflating the number of white votes."

(Conclusions of Law)

"8. Notwithstanding the fact that the record does not reveal any calculated racially motivated purpose for the acts and omissions of the Registrar, the acts and practices of this defendant constitute an unlawful deprivation of the right of qualified Negro voters to vote regardless of race or color as provided by the Fifteenth Amendment and the Voting Rights Act of 1965, especially in light of the State Attorney General's opinion as to the timing of these acts and practices."

"10. Where, as here, there has been a history of racial discrimination in the voting process, and a public official applies or neglects to apply the laws pertaining to the purging of voter rolls contrary to the spirit of Louisiana law, the result of which is that a substantial number of Negroes are purged and few whites are purged, when by proper application of the law fewer Negroes would have been purged and more whites would have been purged, we conclude here that Negroes have been discriminated against in the administration of the voting process in violation of the Fifteenth Amendment and of Sections 2 and 11(a) of the Voting Rights Act of 1965 and 42 U.S.C. § 1971(a)."

It was the view of the district court that the remedy of voiding an election was appropriate regardless of the good faith intention of the election officials once discrimination in fact was proven in the administration of the election process. The election was thereupon voided except as to the office of Town Marshall.

There are three approaches which would lead to affirming the district court's action in voiding the election. One would be to approve the view of the court that a new election was required, *ipso facto*, regardless of good faith on the part of the Voter Registrar, once the proof established, as it did, that the voting process was infected with racial discrimination. We pretermit examining this broad rule which does not appear to have a nexus to the substantiality of the discrimination or its effect on the results of the election.

Another would be to examine the finding and conclusion of the district court that the acts of commission and omission of the Voter Registrar were not racially motivated.[2] Finding of Fact 22 and Conclusion of Law 8, *supra*. Such an examination would be for the purpose of determining the validity of the first premise of the panel decision, that there was no gross discrimination. We also pretermit this approach, given our view, hereinafter set out, that the second premise of the panel decision, i.e., that plaintiffs were not diligent in seeking available pre-election judicial relief, is without adequate foundation. We thus proceed to an examination of this premise of the panel decision.

We reach our decision in the frame of reference of the decided cases involving the question whether to void an election in the face of a finding of racial discrimination in the voting and election process. The first category of cases is represented by Hamer v. Campbell, 5 Cir., 1966, 358 F.2d 215, where pre-election injunctive relief was sought and post-election relief in the form of voiding the election was ordered on the basis that pre-election relief should have been granted. The court said:

"This action does not mean that we necessarily would set aside every election in which a substantial number of citizens have been denied the right to vote. This is not a case where an election is challenged for the first time after it is held. Here appellants attempted to enjoin the election, and failing where they should have succeeded, they were diligent in seeking to have this failure rectified by our reversal prior to the election." 358 F.2d at 22.

A new election was also ordered in Hadnott v. Amos, 1969, 394 U.S. 358, 89 S.Ct. 1101, 22 L.Ed.2d 336, where pre-election relief was sought and the Supreme Court reversed the decision of the district court which had denied pre-election relief. Hadnott v. Amos, M.D.Ala., 1968, 295 F.Supp. 1003.

Hadnott v. Amos involved the right of black citizens to be candidates. *Hamer* involved the right of black citizens to become voters and to be candidates. The facts demonstate in each case that the discrimination could have affected the results of the elections. There is no finding in either case of an intent to discriminate or of gross or spectacular discrimination. They simply turn on affording post-election relief in the form of a new election where error was found in the denial of pre-election relief sought.

Bell v. Southwell, 5 Cir., 1967, 376 F.2d 659, is a case of a wholly different type. There the racial discrimination occurred on election day and in the method of holding the election. There was no opportunity to seek pre-election relief, and it was likely that the result of the election would have been the same notwithstanding the discrimination. The court fashioned a new rule in these circumstances: A new election if the racial discrimination was gross, spectacular and wholly indefensible. 376 F.2d at 664.

The holding of Bell v. Southwell is to be compared with Hamer v. Ely, 5 Cir., 1969, 410 F. 2d 152, where we affirmed the refusal of the district court to set aside an election. We agreed that the discrimination did not reach the level of those serious violations of voting rights where a state election should be voided, citing Bell v. Southwell, 410 F. 2d at 156.

The principle of requiring diligence is seen in McGill v. Ryals, M.D. Ala., 1966, 253 F. Supp. 374, appeal dism'd, 385 U.S. 19, 87 S. Ct. 212, 17 L. Ed. 2d 17, in which a new election was denied where no particular election was attacked, where the complaints of racial discrimination were of long standing and where judicial relief had not been sought prior to the election.

The requirement of diligence was also in issue in Smith v. Paris, M.D. Ala., 1966, 257 F. Supp. 901, where the district court found racial discrimination in an election but refused to set aside the election because plaintiffs had known of the discrimination for six or seven weeks. They had waited until the election was in progress before seeking judi-

Footnotes at end of article.

cial relief. Hamer v. Campbell, *supra*, was cited as the basis for requiring diligence. On appeal, however, this court modified the district court order to restrict the terms of office involved to two rather than four years by requiring new elections at the next regular elections which were to be held in 1968. Smith v. Paris, 5 Cir., 1967, 386 F. 2d 979. The 1968 elections were thereafter set aside on a petition of the United States filed five days before the election. The district court found that the United States was diligent when the question was considered in light of the defendant's failure to have corrected the system after the district court's 1966 finding of unconstitutionality. United States v. Democratic Executive Committee, M.D. Ala., 1968, 288 F. Supp. 943.

The instant case does not fit the mold of any one of these cases. It does not fit Bell v. Southwell because of the findings of the district court of no racial motive, a finding which we, as stated, need not consider.[3]

It does not fit within the teaching of Hadnott v. Amos, and Hamer v. Campbell because of the missing element of failure to seek pre-election judicial relief. It clearly contains the other element of those cases: racial discrimination which might have affected the election results.

[1] This leaves then the question of what diligence in seeking pre-election judicial relief was required of plaintiffs under the circumstances. Upon reflection, we conclude that the panel requirement unduly freighted the Fifteenth Amendment right to equal treatment in the election process. As the Supreme Court said in Hadnott v. Amos in the Fifteenth Amendment context of disparate treatment on the grounds of race: "Unequal application of the same law to different racial groups has an especially invidious connotation." 394 U.S. at 364, 89 S.Ct. at 1104, 22 L.Ed.2d at 341.

[2] The right to vote on an equal basis with other citizens is a fundamental right in a free society; indeed, in any viable form of representative government. It is preservative of all governmental rights. Yick Wo v. Hopkins, 1886, 118 U.S. 356, 370, S.Ct. 1064, 30 L.Ed. 220, 226. "The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government." Harman v. Forssenius, 1965, 380 U.S. 528, 537, 85 S.Ct. 1177, 1183, 14 L.Ed.2d 50, 57 (poll tax).

[3] We agree with the panel that the law imposes the duty on parties having grievances based on discriminating practices to bring the grievances forward for pre-election adjudication. We also agree that the failure to require prompt pre-election action in such circumstances as a prerequisite to post-election relief may permit, if not encourage, parties who could raise a claim "to lay by and gamble upon receiving a favorable decision of the electorate" and then, upon losing, seek to undo the ballot results in a court action. 476 F.2d at 209.

This reasoning is sound in the abstract but it must be applied to the facts and circumstances obtaining in the particular case. Here we have a gray area where the discrimination, even if known before the election, was discovered at a late hour.

The district court made no finding on the availability of pre-election judicial relief. The failure of plaintiffs to seek such relief was not asserted as a defense—it was raised for the first time in this court. Ordinarily we would remand for findings of fact but the record here makes it plain that there is no merit in this defense and remand is not warranted. The burden to establish such a defense would be on the Voter Registrar and we turn to the undisputed facts to test the merit of this belated defense.

Footnotes at end of article.

[4] It was the Registrar who was charged by law, state and federal, with administering the voted registration process. It was the Registrar's duty to discharge her official duties for the benefit of the electorate and in a lawful manner. Any error of commission or omission on the part of the Registrar giving rise to racial discrimination would result in the loss of constitutional rights to the black voters wholly through the acts of fault of the Registrar. To excuse such conduct on the part of a public official would tend to exalt misfeasance or nonfeasance. On the other hand, citizens having grievances may not lay by to see how the election will turn out before complaining. Given these alternatives, we hold that there is a heavy burden on the Voter Registrar to show that there was a deliberate bypass of pre-election judicial relief.

[5] The facts here make it appear as a matter of law that there was no such bypass. The racially discriminatory purge, for failure to vote and for failure to report changes of address, began only thirty days before the election. While the notice procedures were inadequate, they nonetheless extended for several days the time required to complete the process. Further, the record does not show that the other discrimination, the failure to purge the absentee voter roll, was known at all to plaintiffs prior to the election. Indeed, the position of the Voter Registrar was that she did not know that she was required by law to purge this list.

We must have in mind that it would have been necessary for the private plaintiffs to obtain counsel or the assistance of the Department of Justice and, in either event, it would have been necessary for counsel to investigate the facts before filing suit. Here an investigation would have entailed a study of all records having to do with purging, or the absence of purging, for failure to vote or to report changes in address. An investigation would have required a study of absentee voting records for recent elections to determine whether the rolls were purged, under Louisiana law, of those who had voted only by absentee ballot and had failed to show good cause for such continued absentee voting. La.R.S. 18: § 1080. It would have been exceedingly difficult for counsel to have had sufficient facts in hand prior to the election to warrant signature of counsel certifying, under Rule 11, F.R.Civ.P., that there was good ground to support claims made in the complaint.

The suit of private plaintiffs was filed promptly after the election, as was the suit of the Department of Justice. Given the facts, we think that each suit was filed with diligence.

[6] We must take care not to hamstring the administration of the Voting Rights Act or to deny rights under the Fifteenth Amendment on a standard less stringent than that of requiring public officials in charge of voting registration and the conduct of elections to show by clear and convincing proof that there was in fact a deliberate bypass of a pre-election judicial remedy. The record precludes such a showing on the part of the Voter Registrar in this case. This leaves a case of discrimination based on race and of such a substantial nature as possibly to have affected the outcome of the election. Thus the district court did not err in setting aside the primary election.

[7] We are advised that the next regular election in Tallulah begins with a primary on March 23, 1974. There has been a lapse of more than one year since the district court entered its order, and only five months remain before the next primary election. In these circumstances, given both the expense of holding a special election and the short terms of office which would remain between the special election and the normal expiration of the present terms of office in July, 1974, we conclude that it is appropriate to modify the order of the district court to permit the 1974 regular elections, primary and otherwise, to be substituted for the special elections required under that order.[4]

As modified, the judgment of the district court is

Affirmed.

Coleman, Circuit Judge (concurring in the result):

Even for an election controversy, this is an unusual case. The District Court held the municipal primary election in Tallulah, Louisiana, to have been a lawful one as to the nominee for Town Marshal but void as to all nominees for other offices. This on its face is a *non sequitur*. I assume the *en banc* Court did not mean to affirm that aspect of the judgment below.

Leaving that aside, I do not see that the *en banc* opinion does any harm to basic legal principles. Most assuredly it reaches a *harmless result*, so I concur in the result.

The opinion scrupulously avoids any appearance of denigrating the unassailable principle that pre-election grievances allegedly fatal to the validity of an entire election must promptly be asserted if they are to furnish the catalyst by which that election is to be set aside. Any other rule would make a shambles of the highly esteemed right of franchise and would consequently reduce the lofty language of Yick Wo v. Hopkins to a cynicism. So, I heartly agree with the declaration of the *en banc* opinion that "citizens having grievances may not lay by to see how the election will turn out before complaining". At least, it is fortunate that this principle is not to be sacrificed upon the altar of political dissensions existing in one small city in a six state Circuit.

It appears that the sole precedential impact of the decision is to be found in its elaboration upon where the burden of proof lies in cases involving a "lay by". I doubt that the record appropriately raises this question for our review. If it does, then I would hold that a "lay by" clearly appears from the evidence. It was an undisputable fact that the Registrar pursued a purge not permitted by Louisiana law. Notice appeared in the public press. No more than minimal diligence could have been required to obtain an order in either the state or the federal courts nullifying a purge which was per se illegal. It is equally clear that the objectors waited until they could see how the election came out. Losing by a very narrow margin, they then rushed, as usual, to the federal courthouse. Such maneuvers ought to be discouraged.

In any event, the en banc opinion concludes with the only sensible solution reasonably available at the eleventh hour and fifty-ninth minute—a solution which inevitably would have occurred by operation of law if this case had never been docketed.

Therefore, I concur in the result.

Gee, Circuit Judge (concurring in the result):

I concur in the result reached by the Court but would go by another way. To me, the record presents overwhelming evidence of a selective application of state law, done out of time and when relief could not be had, to deprive sufficient Negro voters of their franchises to have affected the election results. I find this gross, spectacular and completely indefensible and would proceed upon that established ground.[5] I also agree that, the next regular election impending so nearly, a special election should not now be called in this troubled parish to fill terms which could not exceed a few months.

The majority opinion is cogent and persuasive, yet it seems to me necessarily to rest upon reasoning that, though no intent to discriminate existed, and although the state laws applied are color-blind and valid, yet where their application produces an unequal disenfranchisement between the races, the Constitution is offended. It is true, as the

opinion notes, that the purge of voter lists was carried out at an illegal time, but I do not read this as significant to the rationale of the majority opinion.

In such a context as this, we are on sound footing when we admit extreme statistics as evidence of intent to discriminate. But where, as here, we leave undisturbed a specific finding of want of discriminatory intent and proceed on the effect *alone* of what was done, I fear we are planting dragon's teeth. For the most punctiliously even-handed and color-blind culling of voter lists may—indeed very nearly must—have a disproportionate effect on one segment or another of the electorate. I can find no footing on this logical precipice except at the top or at the bottom; either a discriminatory intent was present or it was not. If it was not, as the majority says is the case here, I am unable to grasp the constitutional offense. It is well to say, and noble, too, that thoughtlessness can be as disastrous to private rights as willful schemes. But the Constitution does not adopt all noble thoughts, and I am not persuaded that it has adopted the concept that unintentional "discrimination" is offensive. Discrimination—in the sense of disproportionate effect—there will be. What we seek is that, when it occurs, it will be just that: unintentional.

Clark, Circuit Judge, with whom Simpson, Circuit Judge, joins, dissenting:

The en banc opinion "voids" this election under a novel and, I submit, unsound rule. The court holds that in a post-election suit involving *unintentional* pre-ballot activity which has a disappropriate racial effect,[4] the election may be set aside unless the defendant Voter Registrar meets "a heavy burden" of showing that plaintiff knowingly, deliberately by-passed pre-election judicial relief. I continue to opt for the more restrictive rule applied by the panel—where a party challenges the pre-election activity of registration personnel, the plaintiff must show that such practices were not known to him, or discoverable with reasonable diligence, in time to have sought relief before the vote was taken.

In addition to placing the burden of proof on the party who possesses the facts, the panel rule reinforces the solemnity of the electoral process by cutting off ex post facto attacks from those chargeable with constructive knowledge of inadvertences or errors. As the concluding paragraph of Judge Gee's concurrence aptly demonstrates, application of the anomalous principle of "unintentional discrimination" is particularly paradoxical in election cases. Certainly its use to require elections to be rerun should be restricted to the smallest ambit practicable.

Furthermore, I cannot concur in the en banc opinion on the facts either. The record in this case simply will not support any other determination than that the plaintiffs well knew the essential facts which formed the basis for their belated complaint long enough before election was held to have permitted recourse to the courts without waiting to see if the returns from the polls were to plaintiffs' liking. The district court and panel opinions make it abundantly plain that everything done by the Registrar, Mrs. Bishop, was suspect by both white and black citizens of Tallulah because of the town's long history of racial controversy concerning voting. Her publication of the purge notice containing the names of 130 blacks and 11 whites was an immediately recognized red flag which plaintiffs sought to investigate. Indeed, the notice was improper on its face under Louisiana law. Her office was open for reinstatement on only four of the ten days required. Counsel for private plaintiffs advised this court on oral argument that when he attempted to view the registration books he was physically ejected from Mrs. Bishop's office. Taken together, these facts, which were known to the plaintiffs more than three weeks before the election, certainly formed a sufficient predicate for legal action. That still other improprieties regarding absentee balloting were later discovered is cumulative and in nowise detract from a determination that judicial assistance could have been invoked before the voting took place.

With regard that the court cannot discern the hazard to the practical functioning of the political process created by the sweeping rule it has adopted, I respectfully dissent.

FOOTNOTES

[1] The complaint of private plaintiffs was filed on May 4, 1970. The complaint of the United States was filed on June 8, 1970 pursuant to the Voting Rights Act of 1965. See 42 USCA, §§ 1971 (a) and (c), 1973 and 1973j(d).

[2] The panel decision points out that there was no appeal by plaintiffs from the finding of the district court that the record did not establish racial motivation on the part of the Voter Registrar.

[3] The Voter Registrar here was under a permanent and specific injunction not to discriminate against voters on the basis of race, which injunction was entered at the specific direction of this court. United States v. Ward, W.D.La., 1963, 222 F.Supp. 617, rev'd, 349 F.2d 795 (5 Cir. 1965) modified on reh., 352 F.2d 329 (5 Cir. 1965).

[4] In view of this modification we do not find it necessary to consider the action of the district court in bifurcating the primary election by holding it null and void as to all offices save that of Town Marshall, which was won by a black. Cf. Perkins v. Matthews, S.D.Miss., 1971. 336 F.Supp. 6. The inexplicability of this holding is that a black also won one of the other races.

[5] See the discussion of Hadnott v. Amos, 394 U.S. 358, 89 S.Ct. 1101, 22 L.Ed.2d 336 (1969) and United States v. The Democratic Executive Committee of Barbour County, 288 F. Supp. 943 (M.D.Ala.1968), in the panel opinion herein. 476 F.2d, at 210–211.

[6] All but one member of this court affirm the trial judge's determination that intentional or gross discrimination is not involved here; neither is this case concerned with incidents occurring during the voting process. We are well committed to the proposition that wrongs of both these sorts may be attacked after an election is held without regard to any bypass or election of remedies rule.

The PRESIDING OFFICER (Mr. MORGAN). Does the Senator from Maryland yield back his time?

Mr. MATHIAS. Mr. President, I yield back all time.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Griffin B. Bell, of Georgia, to be Attorney General of the United States? On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I simply wish to announce there will probably be other rollcall votes following this one.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota, (Mr. ABOUREZK), the Senator from Maine (Mr. HATHAWAY), and the Senator from New Hampshire (Mr. MCINTYRE), are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) would vote "yea".

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 75, nays 21, as follows:

[Rollcall Vote No. 10 Ex.]

YEAS—75

Allen	Goldwater	Moynihan
Anderson	Gravel	Muskie
Baker	Griffin	Nunn
Bayh	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Randolph
Bumpers	Hatfield	Ribicoff
Burdick	Helms	Roth
Byrd, Harry F., Jr.	Hollings	Sarbanes
Byrd, Robert C.	Huddleston	Sasser
Cannon	Humphrey	Schweiker
Chiles	Inouye	Scott
Church	Jackson	Sparkman
Clark	Johnston	Stafford
Cranston	Kennedy	Stennis
Curtis	Laxalt	Stevens
Danforth	Leahy	Stevenson
DeConcini	Long	Stone
Domenici	Magnuson	Talmadge
Durkin	Matsunaga	Thurmond
Eagleton	McClellan	Tower
Eastland	McClure	Williams
Ford	Melcher	Young
Garn	Metcalf	Zorinsky
Glenn	Metzenbaum	
	Morgan	

NAYS—21

Bellmon	Hayakawa	Packwood
Brooke	Heinz	Percy
Case	Javits	Proxmire
Chafee	Lugar	Riegle
Culver	Mathias	Schmitt
Dole	McGovern	Wallop
Hansen	Nelson	Weicker

NOT VOTING—4

Abourezk	Hathaway	McIntyre
Bartlett		

So the nomination was confirmed.

(Later in the day the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination of Mr. Bell.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EASTLAND. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

THE RELEASE OF ABU DAOUD

Mr. CASE. Mr. President, I wonder whether the majority leader will tell what his intention is with respect to the resolution concerning the release of the prisoner by the French?

Mr. ROBERT C. BYRD. I have not had an opportunity to talk with the chair-

man of the Committee on Foreign Relations. At this point I will be unable to respond to the Senator.

Mr. CASE. With all deference and friendliness I call the attention of the majority leader to the fact that this was up a couple of times before and it was understood we were going to have another meeting on a certain date. We did not meet, and so forth. So will it be possible to get an answer to that before the Senator is finished?

Mr. ROBERT C. BYRD. Let me see if I can get an answer.

Mr. CASE. Very well.

PARDON OF VIETNAM ERA DRAFT EVADERS

The PRESIDING OFFICER. (Mr. MORGAN). The pending business is Senate Resolution 18, and the pending question is the motion to refer it to committee.

Mr. ROBERT C. BYRD. Mr. President, it is my intention to move to table the resolution that has been offered by the distinguished Senator from Alabama (Mr. ALLEN).

May I say, in prefacing my motion, I was opposed to the action taken by President Carter. I so informed him prior to his inauguration. Yet, he had the constitutional power to do what he did. He exercised his authority under the Constitution. There is nothing we can do about it now. Therefore, I would hope we could table the resolution and get on with the Senate's business.

If we fail to table the resolution, I am quite sure there will be another cloture motion entered. This will mean that we will have to vote again the day after tomorrow on such cloture motion.

I am sorry to have to do this but, in the interest of expediting the Senate's business, I feel it my duty to move to table the resolution. The President did what he said he would do during the campaign.

I am 100 percent in disagreement with the President's action, but there is not a thing I can do about it. He has taken the action, as I say, and the matter is now moot.

I yield to the distinguished Senator from Louisiana (Mr. LONG).

Mr. LONG. Mr. President, I will vote for the Senator's motion. I voted for cloture and I favored the Allen resolution. I am still very hopeful the President will not pardon deserters because this is an entirely different issue. It has to do with one who made a contract to serve his country in time of war and then refused to abide by his contract, and it could have very serious repercussions far beyond what the President has done here.

But I really think there is nothing more to be accomplished by dragging this thing along, and we really ought to be getting on with something that might be productive and achieve something.

So having voted for the cloture motion, and making, I hope by now, it clear that if it came to vote I would vote for the Allen proposal, I think if we are not going to devote any time to it soon, I hope we can get on and do the Senate's business.

Mr. ROBERT C. BYRD. I thank the Senator.

I yield to Mr. ALLEN and then to Mr. DURKIN.

Mr. ALLEN. I understood there was to be a division of time before the Senator made the motion.

Mr. ROBERT C. BYRD. Yes. I do not intend to make the motion until I ask for a division of time.

Mr. ALLEN. I have nothing to say at this time in view of that.

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be not to exceed 40 minutes—I have discussed this with Mr. ALLEN and I believe 40 minutes would be agreeable to him—I ask unanimous consent that there be a time limit of not to exceed 40 minutes on the resolution, and that I then be recognized to move to table, and that if there is a motion to reconsider following that vote that there be no time on the motion to reconsider but that the matter be disposed of—if my motion to table carries that the matter be disposed of—following that without any further debate.

The PRESIDING OFFICER (Mr. MORGAN). Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask that Mr. ALLEN have charge of half of the time and that I control the other half.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays now on my motion to table when it is made.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, this resolution, even though this Congress has been in session only 3 weeks, has had a long legislative history. The distinguished majority leader requested Senators not to introduce measures or resolutions during the first week we were in session.

On the 11th of January I made a speech here in the Senate and attached to my speech a copy of the resolution which I proposed to introduce at the first opportunity the majority leader gave us.

On the 11th I introduced the resolution, and on Friday the 14th the resolution came over under the rule.

There have been 10 votes in the Senate during this session. Two of them had to do with sending the Sergeant at Arms after absent Senators; two had to do with Mr. Bell, Judge Bell; one had to do with Mr. Califano. Five rollcall votes here in the Senate had to do with this resolution. There have been dilatory tactics adopted throughout.

But, Mr. President, the votes on these various motions that were made, were made on a motion to table the McGovern motion to commit, a motion to table a motion to proceed, a motion to table a motion to proceed then the motion to proceed carried, and then the cloture vote. The vote has been consistently on the rise in favor of the position of the resolution, starting off with 37 votes; the next vote was 40 votes in favor, the next vote was 45, the next vote was 50, and the next vote was 53. So some of the Senators apparently have been hearing from home in this matter.

Mr. President, yes, the President had unquestionably the constitutional right to take this action. But Senators have some responsibility in this connection also. We know that whatever action the Government takes up here, whether it be by the Federal bureaucracy, by the executive branch, by the judicial branch, by the other House of Congress, by the Senate, whatever is done, if the public disagrees with it, it is laid at our door, and they ask us what have we done to rectify the situation, what have we done to counteract these things that are taking place here in Washington.

So I feel, Mr. President, the Senate had and has the responsibility of giving its advice in this most important matter which, I believe, is ill-advised action that the President has taken. The action which he is considering taking, I feel, would be against the national interest. I feel it would be an affront to the 3 million men and women who served in Vietnam, to the 300,000 who were wounded, to the memories of the families of the 50,000 who were killed in Vietnam.

Now the distinguished majority leader, and also the distinguished Senator from Louisiana (Mr. LONG), says that action has already been taken, but yet the Senator from Louisiana says that he hopes that he does not pardon the deserters.

That is a very important part of this resolution. The President has not acted in the whole area that he has contemplated acting in because this sense-of-the-Senate resolution also urges him not to give blanket amnesty, not only to draft evaders, but also to deserters. So he has this matter under consideration. I think it would be well for the Senate to give its view in this matter.

Newspaper accounts indicate that the President was advised to act quickly in this matter before the Senate could express its will.

What sort of procedure is that for the Senate to be considering a resolution that is being delayed here in the Senate by the leadership and then for the President to be advised to hurry up and take this action before the Senate acts, undercutting the action of the Senate itself? What sort of procedure is that, Mr. President?

Why has not the Senate allowed to express its will on this important issue? Why has this matter been delayed from the very day that we entered upon the 95th Congress? Why have we been prevented from coming to a vote on this most important issue? Even now we are not offered an up-and-down vote. It is going to be a motion to table, and I know the leadership has been calling upon Members to stand by the leadership in this matter.

Let me tell you something, Mr. President: The leadership might protect the individual Senator here in this Chamber but the leadership is not going to do any good for Senators when they are back home among the people. The leadership cannot protect Senators there. The leadership cannot protect Senators from an overwhelming public opinion against this action, and Senators, according to my conception of our responsibility, are supposed to represent the Nation. They are supposed to represent the people of this country, and they are not supposed to represent the will of the leadership. The will of the people, yes; the will of the leadership, no.

This resolution states the view of the Senate with regard to the granting of blanket amnesty. It says that these matters ought to be decided on an individual basis. It does not say do not take any action at all, but decide these matters on an individual basis; and it definitely has advice, the opinion of the Senate, with regard to taking action with respect to deserters. That is something that the President has under consideration at this time. This resolution is not moot. The matters expressed in the resolution have not already taken place.

Several other phases of amnesty and pardon have not been touched upon. The matter of the upgrading of discharges has not been acted upon, nor the matter of deserters.

So what we have here is a motion to table coming on that would prevent the Senate from reshaping this resolution to suit the existing facts, to redraft the resolution in the light of the President's action to date.

But the motion to table would cut off any right of the Senate to express itself, and if the resolution is tabled it would give cause to say: "The Senate did not even want to express itself on deserters. They tabled the motion expressing the will of the Senate or the sense of the Senate on deserters. Therefore, with impunity and with the passive consent of the Senate we can go ahead and pardon them, too."

So, Mr. President, a motion to table cuts off all rights that will exist to Senators in this Congress to express their opposition to the granting of blanket amnesty for evaders and for deserters.

Never again in this Congress are we going to have an opportunity to vote on an issue of this sort. This is it. If we vote to table this resolution we are saying that the Senate does not want to give any advice on deserters; it has not got a position; it has no position about blanket amnesty for draft evaders; it has no position on action to be taken with regard to deserters; it is without an opinion; the Senate has no opinion on this important subject. That is what a motion to table would say.

I hope the Senate will not table the resolution. I hope that it will defeat the motion to table and that if the resolution needs reshaping or redrafting let Senators, exercising their best judgment, offer appropriate amendments. But do not say that the Senate shall not have the power to express itself on this most important issue. This resolution is not moot. It is very much alive. And Senators are going to find out how much alive it is if they cut off the right of the Senate to express itself on these important issues.

I reserve the remainder of my time.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, as cosponsor of this resolution, I certainly concur in the statement of the Senator from Alabama that this question is not by any means moot. It may be moot among those who are most concerned about the politics of the Senate. But if Senators will go out in this country—as sooner or later they must—and if they will consult the American people concerning the action by the President, then you will find that this matter is anything but moot. Senators will at their own peril will misjudge the mood of the people. I hope Senators will bear in mind that they will become a part of what they condone and they will be condoning the action of the President of the United States if they vote to table this resolution.

Mr. President, yesterday in this Chamber I read into the RECORD a telegram sent to the President of the United States by a distinguished North Carolinian, Col. Raymond C. Schrump. It appears on pages 1934 and 1935.

I think it is the last paragraph that Colonel Schrump's telegram to the President sums it up.

He began by saying:

> My family is the only thing that has more value to me than the decorations that I have received during my military career. . . .

He was referring to numerous decorations that he received as a prisoner of war in Vietnam for 5 years.

Colonel Schrump continued in his wire to the President:

> I respectfully request an appointment with you at the earliest possible date so that I might return them, this is a very painful and emotional thing for me to do but I know of no other way for me to show my opposition to your pardon of the draft evaders.

And then he said:

> I could take them to the White House and throw them over the fence but I would never lower myself to the actions of those you pardoned. I would like to have the opportunity to return them with the same dignity with which they were presented.

Mr. President, Colonel Schrump speaks the attitude of countless thousands of Americans who served in Vietnam. He speaks the attitude of countless thousands of other Americans—the mothers, fathers, wives, brothers, and sisters of men who served there. I say again that Senators who vote to lay on the table the resolution of the Senator from Alabama will be voting to condone the action taken by the President of the United States. I join the Senator from Alabama in expressing the hope that this resolution will not be tabled.

I thank the Senator from Alabama.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I am prepared to yield back the remainder of my time.

Mr. ALLEN. Mr. President, I yield myself 15 seconds for the purpose of asking unanimous consent that a chart that I have written out here as to the legislative history of this resolution be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

LEGISLATIVE HISTORY—S. RES. 18

Friday, January 14:

Anti-amnesty resolution comes over under the rule and is before Senate.

Move to commit to Judiciary by McGovern.

Motion to table McGovern motion to commit (failed), *37 to 41.

Motion to proceed made.

Motion to table motion to proceed (failed), 37 to *40.

Motion died with adjournment.

Motion to proceed made before 2:00 nondebatable.

Wednesday, January 19:

Motion to table motion to proceed, 42 to *45.

Motion to proceed, *50 to 41.

Cloture filed.

Monday, January 24:

Cloture vote, *53 to 43.

Mr. RANDOLPH. Mr. President, it is with real reluctance that I shall cast my vote to table the resolution of the able Senator from Alabama (Mr. ALLEN). I earnestly commend him for focusing attention on the ill-timed and unjustified decision by President Carter to grant a pardon to Vietnam-era draft evaders. On five prior votes, I supported Senator ALLEN.

However, I now feel that we are moving toward a situation in which the Senate could become ensnarled in this issue. We must recognize also that the President in accordance with his authority has acted on this matter.

It is my hope, however, that the appropriate legislative committee will undertake a review of this issue, particularly in view of the many facets of the problem of pardons that were not resolved by the President's directive and are now being studied by the administration.

Mr. President, I ask unanimous consent that my statement on Mr. Carter's decision be printed in the RECORD.

There being no objection, the statement is ordered to be printed in the RECORD:

JANUARY 21, 1977.

WASHINGTON.—"I do not believe that President Carter's decision to grant full, complete and unconditional pardons for tens of thousands of Vietnam-era draft evaders will bring the Nation together. Rather, I fear it will have a divisive effect among our citizenry.

"I have been and continue to be opposed to amnesty. In my opinion, the granting of amnesty to draft evaders and deserters cannot be justified when thousands of other Americans have served in military duty, in many cases at great sacrifice, great suffering and all too often with the loss of life.

"I believe the President's action to be ill-time and unjustified."

The PRESIDING OFFICER. Is all remaining time yielded back?

*Anti-amnesty vote.

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. I yield back the remainder of my time.

Mr. President, I move that the resolution be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Maine (Mr. HATHAWAY), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Colorado (Mr. HASKELL) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 48, nays 46, as follows:

[Rollcall Vote No. 11 Leg.]

YEAS—48

Anderson	Hart	Metzenbaum
Bayh	Hatfield	Moynihan
Brooke	Heinz	Muskie
Burdick	Huddleston	Nelson
Byrd, Robert C.	Humphrey	Pearson
Case	Inouye	Pell
Chafee	Javits	Percy
Church	Johnston	Proxmire
Clark	Kennedy	Randolph
Cranston	Leahy	Ribicoff
Culver	Long	Riegle
Danforth	Mathias	Sasser
DeConcini	Matsunaga	Sparkman
Eagleton	McGovern	Stevenson
Glenn	Melcher	Talmadge
Gravel	Metcalf	Williams

NAYS—46

Allen	Garn	Roth
Baker	Griffin	Sarbanes
Bellmon	Hansen	Schmitt
Bentsen	Hatch	Schweiker
Biden	Hayakawa	Scott
Bumpers	Helms	Stafford
Byrd, Harry F., Jr.	Hollings	Stennis
Cannon	Jackson	Stevens
Chiles	Laxalt	Stone
Curtis	Lugar	Thurmond
Dole	Magnuson	Tower
Domenici	McClellan	Wallop
Durkin	McClure	Weicker
Eastland	Morgan	Young
Ford	Nunn	Zorinsky
	Packwood	

NOT VOTING—6

Abourezk	Goldwater	Hathaway
Bartlett	Haskell	McIntyre

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

The following routine morning business was transacted by the Senate today:

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–498. A letter from the Acting Secretary of Agriculture transmitting, pursuant to law, the fourth annual report on rural development progress (with an accompanying report); to the Committee on Agriculture and Forestry.

EC–499. A letter from the Acting Secretary of Agriculture transmitting a draft of proposed legislation to remove the requirement that 20 percent of the funding increase must be for marketing research (with accompanying papers); to the Committee on Agriculture and Forestry.

EC–500. A letter from the Acting Secretary of Agriculture transmitting a draft of proposed legislation to authorize the Department of Agriculture to award research grant funds to Federal agencies (with accompanying papers); to the Committee on Agriculture and Forestry.

EC–501. A letter from the Acting Secretary of Agriculture transmitting a draft of proposed legislation to consolidate Federal financial assistance to States for child nutrition programs, to focus such assistance on children most in need and to simplify the administration of such assistance (with accompanying papers); to the Committee on Agriculture and Forestry.

EC–502. A letter from the Chairman of the Nuclear Regulatory Commission transmitting, pursuant to law, proposed legislation to authorize appropriations for fiscal year 1978 and fiscal year 1979 for the Nuclear Regulatory Commission (with accompanying papers); to the Joint Committee on Atomic Energy.

EC–503. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act adopted by the Council on October 12, 1976, and signed by the Mayor on November 8, 1976 (with accompanying papers); to the Committee on the District of Columbia.

EC–504. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act adopted by the Council on October 12, 1976 and signed by the Mayor on November 8, 1976 (with accompanying papers); to the Committee on the District of Columbia.

EC–505. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act adopted by the Council on October 12, 1976, and signed by the Mayor on November 9, 1976 (with accompanying papers); to the Committee on the District of Columbia.

EC–506. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act adopted by the Council on September 15, 1976, and signed by the Mayor on October 18, 1976 (with accompanying papers); to the Committee on the District of Columbia.

EC–507. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act adopted by the Council on September 15, 1976, and signed by the Mayor on October 20, 1976 (with accompanying papers); to the Committee on the District of Columbia.

EC–508. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act adopted by the Council on October 12, 1976, and signed by the Mayor on November 12, 1976 (with accompanying papers); to the Committee on the District of Columbia.

EC–509. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act adopted by the Council on October 12, 1976, and returned by the Mayor without signature of approval or disapproval on November 18, 1976 (with accompanying papers); to the Committee on the District of Columbia.

EC–510. A communication from an Assistant to the President transmitting, pursuant to law, arms control impact analyses on fiscal year 1978 Defense and ERDA programs (with an accompanying report); to the Committee on Foreign Relations.

EC–511. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Financial Status of Major Acquisitions, June 30, 1976" (with an accompanying report); to the Committee on Government Operations.

EC–512. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The U.S. Fishing Industry—Present Conditions and Future of Marine Fisheries" with an accompanying report); to the Committee on Government Operations.

EC–513. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Safeguarding Taxpayer Information—An Evaluation of the Proposed Computerized Tax Administration System" (with an accompanying report); to the Committee on Government Operations.

EC–514. A letter from the Joint Committee on Congressional Operations transmitting, pursuant to law, a report identifying Court proceedings and actions of vital interest to the Congress, Final Report for the 94th Congress (with an accompanying report); to the Committee on Government Operations.

EC–515. A letter from the President of the Legal Services Corporation transmitting, pursuant to law, the Corporation's Budget request for fiscal year 1978 (with an accompanying report); to the Committee on Labor and Public Welfare.

EC–516. A letter from the Acting Director of the Office of Management and Budget transmitting a draft of proposed legislation to amend the Act of August 25, 1958, as amended (the Former Presidents Act of 1958, 3 U.S.C. Sec. 102, note), by amending provisions relating to former Presidents' staffs (with accompanying papers); to the Committee on Post Office and Civil Service.

EXECUTIVE REPORT OF COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of January 24, 1977, the following executive report was submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Griffin B. Bell, of Georgia, to be Attorney General (Exec. Rept. No. 95–4).

REPORTS OF COMMITTES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration, with an amendment:

S. Res. 4. A resolution reorganizing the committee system of the Senate, and for other purposes (Rept. No. 95–2).

EXECUTIVE REPORTS OF COMMITTEES

Mr. STENNIS. Mr. President, from the Committee on Armed Services, I report favorably the nominations of Lt. Gen.

William G. Moore, Jr., U.S. Air Force for confirmation of recess appointment as senior U.S. Air Force member of the Military Staff Committee of the United Nations; and Maj. Gen. Edward C. Meyer, Army, to be lieutenant general; and Maj. Gen. Marvin D. Fuller, U.S. Army, to be lieutenant general. Also, there are four in the Army National Guard for appointment to the grade of major general—list beginning with Brig. Gen. Thomas C. Armstrong; and Gen. John R. Deane, Jr., Army to be placed on the retired list; and Vice Adm. Marmaduke G. Bayne, U.S. Navy, for appointment to the grade of vice admiral on the retired list. Also, Vice Adm. Bernard B. Forbes, Jr., U.S. Navy, for appointment to the grade of vice admiral on the retired list. I ask unanimous consent that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. In addition, there are 299 in the Air Force for promotion to the grade of colonel—list beginning with Philip Alder, Jr.; and 2,355 in the Air Force for promotion to the grade of lieutenant colonel and below—list beginning with Rallin J. Aars; and 75 in the Air Force for promotion to the grade of lieutenant colonel—list beginning with Jack C. Aarestad. Also, there are 23 in the Air National Guard for promotion to the grade of lieutenant colonel—list beginning with Maj. Walter A. Baker; and 2,680 in the Air Force for promotion to the grade of major and below—list beginning with Rallin J. Aars; and 40 in the Air Force for promotion to the grade of lieutenant colonel and below—list beginning with John R. Anderson. Also, there are 208 in the Air Force for appointment to the grade of captain and below—list beginning with Elizabeth A. Alexander; and 92 in the Army for appointment to the grade of colonel and below—list beginning with Milton T. Smith; and 218 in the Army for reappointment from the temporary disability retired list to the grade of colonel and below—list beginning with Edward E. Bennett. Also, there are 86 in the Army for promotion to the grade of colonel and below—list beginning with Ronald R. Baskin; and 336 in the Marine Corps Reserve for temporary appointment to the grade of lieutenant colonel and below—list begining with Nicholas J. Adamo; and 132 for appointment to the grade of second lieutenant in the Marine Corps—list beginning with Andrew M. Allen. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 6, 10, and 11, 1976, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated.

By Mr. PEARSON (for himself and Mr. SCHMITT):

S. 421. A bill to provide for a comprehensive and coordinated national climate program, and for other purposes; to the Committee on Commerce.

By Mr. FORD (for himself and Mr. HUDDLESTON):

S. 422. A bill for the relief of the First Baptist Church of Paducah, Ky.; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 423. A bill for the relief of Peter Juergen Wiedemann and Maria del Carmen Castellanos de Wiedemann; to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. ALLEN, Mr. BIDEN, Mr. CURTIS, Mr. EASTLAND, Mr. FORD, Mr. GARN, Mr. HANSEN, Mr. HELMS, Mr. HUDDLESTON, Mr. LAXALT, Mr. MCCLURE, Mr. NUNN, Mr. THURMOND, and Mr. TOWER):

S. 424. A bill to clarify the jurisdiction of certain courts with respect to public schools, and for other purposes; to the Committee on the Judiciary.

By Mr. GOLDWATER:

S. 425. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal, to Lt. Gen. Ira C. Eaker, U.S. Air Force—retired; to the Committee on Banking, Housing and Urban Affairs.

By Mr. SPARKMAN:

S. 426. A bill for the relief of German Perilla; to the Committee on the Judiciary.

By Mr. RANDOLPH (for himself, Mr. STAFFORD, Mr. BURDICK, Mr. CULVER, Mr. DECONCINI, Mr. GRAVEL, Mr. HART, Mr. HEINZ, Mr. HUMPHREY, and Mr. KENNEDY):

S. 427. A bill to provide additional authorizations for the public works employment program, to authorize a program for employment of teenaged youth in community improvement projects, and for other purposes; to the Committee on Public Works.

By Mr. MCCLURE:

S. 428. A bill to amend the Natural Gas Act to extend its application to the direct sale of natural gas in interstate commerce, and to provide that provisions of the act shall not apply to certain sales in interstate commerce; to the Committee on Commerce.

By Mr. RANDOLPH (for himself, Mr. DOMENICI, Mr. FORD, Mr. HUDDLESTON, and Mr. JACKSON):

S. 429. A bill to amend the Federal Nonnuclear Energy Research and Development Act of 1975 to provide assistance to the Energy Research and Development Administration for the advancement of research, development, and demonstration of nonnuclear energy technologies, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RANDOLPH (for himself, Mr. DOMENICI, Mr. FORD, Mr. HUDDLESTON, and Mr. JACKSON):

S. 430. A bill to amend the Federal Nonnuclear Energy Research and Development Act of 1975 to provide generic authority to the Energy Research and Development Administration to utilize loan guarantee assistance to advance research, development, and demonstration of nonnuclear energy technologies, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CHILES (for himself, Mr. WEICKER, Mr. MUSKIE, Mr. ROTH, Mr. GLENN, Mr. HATHAWAY, Mr. MCINTYRE, Mr. NUNN, and Mr. PERCY):

S. 431. A bill to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes; to the Committee on Government Operations.

By Mr. SCHWEIKER:

S. 432. A bill for the relief of Rosalinda Flores Vaow; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 433. A bill to amend title 10 of the United States Code relating to retention in active status of certain officers; to the Committee on Armed Services.

S. 434. A bill to amend title 38 of the United States Code in order to entitle veterans with service-connected disabilities rated as total to domestic and overseas travel on military aircraft on a space-available basis; to the Committee on Veterans' Affairs.

S. 435. A bill for the relief of Mr. Sushil Kumar Garg; and

S. 436. A bill for the relief of Antoinette Hazel Gopaul; to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 437. A bill to clarify and reaffirm the intent of Congress with respect to the transmission and sale of electric power and energy generated or purchased in the southwestern power area; to the Committee on Interior and Insular Affairs.

By Mr. STEVENS (for himself and Mr. CULVER):

S. 438. A bill to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges; to the Committee on Finance.

By Mr. WILLIAMS:

S. 439. A bill to reorganize the executive branch of the Government to centralize Federal energy conservation and research and development policies in a National Energy Center; to the Committee on Interior and Insular Affairs.

By Mr. KENNEDY (for himself and Mr. BROOKE):

S. 440. A bill to amend the Cape Cod National Seashore Act, as amended, to provide additional authority to the Secretary of Interior to carry out the purposes of the act, to provide a reserve fund, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PACKWOOD (for himself and Mr. HATFIELD):

S. 441. A bill to amend Public Law 566, Watershed Protection and Flood Prevention Act, as amended, to raise the limitation of any single loan or advancement for watershed works of improvement; to the Committee on Agriculture and Forestry.

S. 442. A bill to amend title III of the Bankhead-Jones Farm Tenant Act, as amended, to increase the amount of any loan for which funds may be appropriated without prior approval of such loan by congressional committees; to the Committee on Agriculture and Forestry.

By Mr. CHILES (for himself, Mr. STONE, and Mr. MCCLURE):

S. 443. A bill to prohibit travel at Government expense outside the United States by Members of Congress who are not reelected to the succeeding Congress; to the Committee on Government Operations.

By Mr. JOHNSTON (by request):

S. 444. A bill to credit certain service performed by National Guard technicians prior to January 1, 1969, as Federal employment

for the purpose of civil service retirement benefits.

By Mr. INOUYE:

S. 445. A bill to amend title 32 of the United States Code to authorize the establishment of a National Guard for Guam; to the Committee on Armed Services.

By Mr. WILLIAMS:

S. 446. A bill to authorize the Secretaries of the military departments to reimburse nonappropriated fund instrumentalities located in the Ryukyu Islands and Daito Islands, Japan, for increased costs in severance pay entitlements of their Japanese employees incurred as a result of the reversion of those islands to Japan; to the Committee on Armed Services.

By Mr. HATFIELD:

S.J. Res. 16. A joint resolution to restore posthumously full rights of citizenship to Jefferson F. Davis; to the Committee on the Judiciary.

By Mr. ROTH (for himself and Mr. THURMOND):

S.J. Res. 17. A joint resolution proposing an amendment to the Constitution of the United States to guarantee the human rights of pupils attending public schools; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PEARSON (for himself and Mr. SCHMITT):

S. 421. A bill to provide for a comprehensive and coordinated national climate program, and for other purposes; to the Committee on Commerce.

Mr. PEARSON. Mr. President, I am introducing today for myself and Senator SCHMITT, for appropriate reference, the National Climate Program Act, a bill that would authorize and direct the Secretary of Commerce to establish and operate a comprehensive national climate program.

Mr. President, climate, and its variability, affects the basic lifestyles and well-being of all individuals throughout the world. Basic societal needs and relationships are linked, often critically, to existing climate patterns. Energy production and demand, world food production, transportation and communications patterns and schedules, water availability and distribution, and population levels and densities are but a few of the important factors affected by climate.

Natural fluctuations in the climate of local and regional areas have sharply intensified short-term problems associated with two of the most important issues facing the world today—energy and food. The effects on U.S. food production, first, of last summer's drought weather conditions in many areas of the Midwest, and second, of the drought conditions currently being experienced throughout the Western United States, and on supplies of natural gas as a result of this winter's frigid temperatures, are recent examples of how vulnerable we are to even minor short-term climatic changes. Longer term changes in climate, whether naturally occurring or resulting from man's activities, or both, may in fact be leading to a new global climate regime that could have far-reaching implications for this Nation and the rest of the world community.

Given the important relationship existing between climate and man's well-being, it is, therefore, surprising that we understand so very little about basic climate processes and the profound effects even minor changes in existing climatic patterns or increased climate variability have upon our lives. Unfortunately, the Federal Government has failed to develop a comprehensive and coordinated climate program and has not promoted or funded atmospheric research activities at a level commensurate with the extremely high benefits that could accrue to the United States as a result of the implementation and operation of such a program. This deficiency has been highlighted in recent reports issued by the National Academy of Sciences, the Subcommittee on Climate Changes of the Domestic Council, the National Advisory Committee on Oceans and Atmosphere, and the Congressional Research Service.

Mr. President, the state of knowledge in the field of atmospheric sciences is such today that scientists cannot even agree on the very basic issue of whether the Earth's climate is cooling off or heating up. This is not to be regarded as a criticism of the intellect of our scientists, but a recognition of the complexity of obtaining a thorough understanding of basic climatic processes and the low priority that has been attached to supporting research in the atmospheric sciences. For example, observations for climatic purposes, which are the basis for much of our understanding of basic climatic processes, are now being made over only 22 percent of the Earth's surface; of such observations, only 2 percent are made in oceanic areas that cover over 70 percent of the Earth's surface.

Climate problems and processes recognize no national boundaries and, if we are to make real progress in our ability to understand the climate process, we must increase both our own atmospheric research efforts and our efforts to coordinate the activities of our national climate program with similar programs of other nations and international agencies and organizations. Similarly, additional emphasis has to be placed on educating increased numbers of highly qualified scientists and technicians in the areas of climatology, meteorology, and oceanography.

The costs of our lack of knowledge of the workings of the natural climatic system, to say nothing of our ignorance of man's effect on climate change and variability, are unacceptably high. We simply cannot continue to assume that the relatively favorable climatic conditions of the past several decades will continue indefinitely. The climatic events of the past several centuries, with associated changes in climatic patterns and increased climate variability, are quite likely to recur in the future. Development and implementation of a national climate program, as provided for in my bill, is a much needed step to provide us with the knowledge necessary to minimize the potentially high costs associated with such changes and to provide us with the basic knowledge necessary to understand both natural and man-induced climate changes and climatic processes.

Mr. President, I ask unanimous consent that the text of my bill, together with a section-by-section summary of its provision, be printed at this point in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 421

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Climate Program Act".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

(a) FINDINGS.—The Congress finds and declares the following:

(1) The present ability to anticipate and explain either natural fluctuations or man-induced changes of climate is insufficient to proviae meaningful contributions to policy formulation concerning agriculture, energy, transportation, and other critical sectors of the economy.

(2) The Earth's climate has been and is in a constant state of change. Such changes, even if sustained for short periods of time or if only of small magnitude, could pose serious problems for a world increasingly sensitive to climate change. Climate change can significantly alter land and water use patterns, energy consumption levels and use patterns, population distribution, and world food production and have far-reaching consequences to our national economy, security, and well-being.

(3) The prospect for providing accurate monthly and seasonal forecasts is scientifically promising, provided an accelerated program of basic and applied research is established and adequately funded. Such forecasts would yield enormous benefits to virtually all sectors of the economy.

(4) Climate is a worldwide phenomenon. Large spatial gaps exist however in the existing global climate monitoring system, particularly in less-developed countries and in the 70 percent of the Earth's surface covered by the oceans. Particular emphasis needs to be given to increasing domestic efforts and international cooperation in the collection, distribution, and analysis of climatic data from such areas.

(5) Additional individuals need to be trained and educated in scientific fields dealing with climate research and development.

(6) The effects of man on the world's climate are little understood and represent a potentially significant variable in determining climatic conditions. Such effects may indeed prove to pose unreasonable risks to human health and the environment. Much additional research, on a high priority basis, needs to be done on this issue.

(7) Existing Federal efforts dealing with climate research, monitoring, and analysis are inadequate to meet existing and future needs of the Nation.

(8) The development and operation of a comprehensive and coordinated national program of climate research, monitoring, and analysis is needed. Potentially high benefits could derive to the Nation as a result of the implementation of such a program. The objectives of a national climate program are to enable the Nation to (a) better understand natural and man-induced climatic processes, (b) relate climate change information to its implications and effects on man and his welfare; and (c) respond more effectively to climate-induced problems.

(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act—

(1) to take immediate action to plan and implement a comprehensive national climate program that will enable the Nation to better understand climatic dynamics and to more effectively prepare for changes resulting from climatic variables, and

(2) to promote the education and training of highly qualified scientists and technicians in the fields of meteorology, climatology, and oceanography.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "program" means the national climate program.

(2) The term "Secretary" means the Secretary of Commerce.

SEC. 4. AUTHORIZATION AND MANDATE FOR DEVELOPMENT AND OPERATION OF A NATIONAL CLIMATE POLICY AND PROGRAM

The Secretary is authorized and directed to coordinate the establishment and operation of a comprehnsive national climate program. The program shall include, but not be limited to, the following elements:

(1) Establishment and operation of a climatic impact advisory system to provide both real-time alerts and assessments of the risks and benefits associated with current and future climate impacts.

(2) Improvement in the reliability of monthly and seasonal predictions, with particular emphasis placed on the effects such climate patterns would have on global food production; the availability and distribution of water resources; energy consumption; and other key national programs and policies.

(3) Development and operation of more sophisticated mathematical-computer systems to assist in the prediction of climate and simulation of man's effect on climate.

(4) Development and operation of a global climate monitoring system, including the adoption of policies designed to (a) transfer where appropriate, climate technology to developing nations; (b) train additional scientists and technicians in the areas of climatology, meteorology, and oceanography; and (c) increase international cooperative efforts in the areas of climate research and monitoring.

(5) Development and utilization of climate risk-benefit analyses that analyze and describe the effects of climate change on man and his activities.

(6) Development and operation of a comprehensive and coordinated climate research and data management program, with appropriate involvement of affected Federal, State, and data management program, with approcies, academia, and the private sector, designed to assist in a timely achievement of the objectives of the national climate program.

SEC. 5. CONSULTATION WITH EXPERTS AND WITH FEDERAL DEPARTMENTS AND AGENCIES AND INTERAGENCY COOPERATION

(a) The Secretary shall establish and maintain such advisory committees as are necessary or appropriate to assist him in carrying out his responsibilities under this Act. The Secretary shall appoint, as members of such committees, experts in the field of climatology and related fields and representatives of departments, agencies, and other instrumentalities of the Federal Government which are interested in or affected by the national climate program.

(b) Members of such committees who are not employed by the Federal Government may receive compensation at the daily rate for GS-16 of the General Schedule when engaged in the actual performance of duties for the committee and while so serving away from their homes or regular place of business may be allowed travel expenses, including per diem in lieu of subsistence.

(c) Each department, agency, and other instrumentality of the Federal Government is authorized and directed to assist the Secretary in formulating and implementing the national climate program.

SEC. 6. INTERNATIONAL COORDINATION AND COOPERATION.

The Secretary shall cooperate with the Secretary of State in (a) providing representation at all climate related international meetings and conferences in which the United States participates, and (b) coordinating the activities of the national climate program with the climate programs of other nations and international agencies and organizations, including the World Meteorological Organization, the International Council of Scientific Unions, the United National Environment Program, and the Intergovernmental Oceanographic Commission.

SEC. 7. PREPARATION OF ANNUAL PLAN AND REVIEW OF THE OFFICE OF MANAGEMENT AND BUDGET.

(a) The Secretary, in conjunction with all other Federal agencies responsible for constituent programs of the national climate program, shall prepare and submit each year to the Office of Management and Budget, on or before the date for submission of departmental requests for appropriations to the Office, an annual plan and request for appropriations for the national climate program for the subsequent fiscal period. In preparing the budget, the Office of Management and Budget shall review the plan and the request for appropriations as a coherent, multiple agency request.

(b) Section 304 of the Act of October 18, 1962 (76 Stat. 1097), is amended—

(1) by striking out "for fiscal year 1964 and each succeeding year" and inserting in lieu thereof "for the fiscal period beginning October 1, 1976, and ending September 30, 1977, and each succeeding fiscal year";

(2) by adding "and of the national climate program established under the National Climate Program Act" after "meteorology"; and

(3) by striking out "program" and inserting in lieu thereof "programs".

SEC. 8. ANNUAL REPORT.

The Secretary shall prepare and submit to the President and the Congress, not later than January 30 of each year, a report on the activities conducted pursuant to this Act during the preceding fiscal year. The report shall include, but not be restricted to, the following:

(a) a summary of the achievements of the program during the previous fiscal year;

(b) a review and analysis of the progress made toward achieving the objectives of the program;

(c) a review and analysis of the activities conducted under the constituent elements of the program;

(d) a summary and evaluation of difficulties encountered in administrating this Act;

(e) a summary of the plan and request for appropriations submitted for the upcoming fiscal year to the Office of Management and Budget pursuant to section 7 of this Act; and

(f) any recommendations for additional legislation which may be required to assist in achieving the objectives and carrying out the elements of the program.

SEC. 9. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, for the use of the Secretary and other Federal departments and agencies participating in the program, for the purpose of carrying out the provisions of this Act, sums not to exceed $10,000,000 for the fiscal year ending September 30, 1977; not to exceed $16,000,000 for the fiscal year ending September 30, 1978; and not to exceed $20,000,000 for the fiscal year ending September 30, 1979.

SECTION-BY-SECTION SUMMARY OF THE NATIONAL CLIMATE PROGRAM ACT

The National Climate Program Act would—

Section 2(a)—make Congressional findings that the present ability to anticipate and explain changes in climate is insufficient to provide meaningful contributions to policy formulation; climate change can have far-reaching consequences to our national economy, society, and well-being; existing Federal efforts dealing with climate research, monitoring, and analysis are inadequate to meet existing and future needs of the Nation; and the development and operation of a comprehensive and coordinated national program of climate research, monitoring, and analysis is needed.

Section 2(b)—declare that the purposes of Congress in this Act are to take immediate action to plan and implement a comprehensive national climate program and to promote the education nad training of highly qualified scientists and technicians in the fields of meteorology, climatology, and oceanography.

Section 3—define the terms program and Secretary for purposes of this Act.

Section 4—authorize and direct the Secretary of Commerce to coordinate the establishment and operation of a comprehensive national climate program that shall include, but not be limited to, establishment and operation of a climate impact advisory system; improvement in the reliability of monthly and seasonal predictions; development of more sophisticated mathematical-computer systems; development and operation of a global climate monitoring system; development and utilization of climate risk-benefit analyses; and development and operation of a comprehensive and coordinated climate research and development program.

Section 5—require the Secretary of Commerce to establish and maintain such advisory committees as are necessary or appropriate to assist him in carrying out his responsibilities under this Act and direct each department, agency, or other instrumentality of the Federal Government to assist the Secretary in formulating and implementing the national climate program.

Section 6—require the Secretary of Commerce to both cooperate with the Secretary of State in providing representation at all climate related international meetings and conferences in which the U.S. participates and to coordinate the activities of the national climate program with the climate programs of other nations and of international agencies and organizations.

Section 7—require the Secretary of Commerce, in conjunction with all other Federal agencies responsible for constituent programs of the national climate program, to submit each year to OMB an annual plan and request for appropriations for the national climate program.

Section 8—require the Secretary of Commerce to prepare and submit to the President and the Congress, not later than January 30 of each year, a report on the activities conducted pursuant to this Act.

Section 9—authorize to be appropriated to the Secretary of Commerce and other Federal departments and agencies participating in the national climate program for the purpose of carrying out the provisions of this Act sums not to exceed $10,000,000 for the fiscal year ending September 30, 1977; $16,000,000 for the fiscal year ending September 30, 1978; and $20,000,000 for the fiscal year ending September 30, 1979.

By Mr. FORD (for himself and Mr. HUDDLESTON):

S. 422. A bill for the relief of the First Baptist Church of Paducah, Ky.; to the Committee on the Judiciary.

Mr. FORD. Mr. President, for myself and Senator HUDDLESTON, I introduce a bill for the relief of the First Baptist Church of Paducah, Ky., and I ask unanimous consent that a chronology of happenings to the First Baptist Church of Paducah, Ky., be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A CHRONOLOGY OF HAPPENINGS TO THE FIRST BAPTIST CHURCH, PADUCAH, KY., 1964–1976

This will document in a concise manner the sequence of events wherein two agencies of the Federal Government entered into the life of the First Baptist Church of Paducah, Kentucky, causing it substantial damage.

The unfortunate sequence of events started on March 23, 1964 when a news release from Washington through Congressman Frank A. Stubblefield, announced that the Post Office Department would expand and modernize the Federal Building in Paducah, which would require the taking of the Elks Building and the First Baptist Church property.

On July 7, 1964 Mr. John J. Kaspryk, representing the General Services Administration, Chicago, visited the church to explain the procedures of the Federal Government in appraising of the property and the taking. He explained their negotiating purchase price based on appraisal and their right to exercise eminent domain. He estimated that the entire process would require about six to eight months to complete.

By letter to the church dated September 9, 1964, Mr. Donald McDonald, Chief, Acquisition Branch, General Services Administration, Chicago, stated that "the Government will soon construct an extension to the U.S. Post Office at Paducah, Kentucky, and will require the land at the Southeast corner of 5th and Jefferson Streets. (First Baptist Church site) We desire to purchase this property. . . ." The letter further explained the appraisal process and states "We will do everything possible to complete the acquisition of the property with the least amount of inconvenience to you . . ."

At request of GSA the church executed a "Right to Entry" form for the benefit of the appraiser and a GSA Form 1226, "Contract to Sell Real Property", wherein the church agreed to a 360 day option to the Government to sell for $267,000. The basis of this figure was a letter to the church appraising the property for that amount for "insurable" value.

It so happened that the church had started construction on a new building in May 1963, estimating that it would take two years to complete. The Government announcement to acquire came at the very time the church was considering its method of selling the property. Two of its options were:

1. There were several smaller churches that were prospective purchasers of the property including all tables, chairs, pews, pianos, pipe organ, central air conditioning and many other church related items. The church was prepared to take one-third cash and two-thirds on a note and mortgage.

2. A number of the congregation preferred to remain at the old church and continue a church organization. Similar financial arrangement could have been made with this group.

All plans to market the site terminated with the announcement that the Federal Government was taking the property.

In December, 1964, Mr. Orrion W. Kattmann, MAI, from Evansville, inspected the building for the purpose of making an appraisal for the General Services Administration. His report was due in Chicago by January 10, 1965.

By letter dated February 12, 1965, the GSA notified the church that our offer to sell for $267,000 exceeded the value as determined "by an independent appraisal" and that "if you will furnish us with a written offer to sell the property for $180,000.00, we would be willing to give consideration to this proposal".

At time of receiving this letter from the GSA the church had no information of the value as established by the appraisal. With knowledge that the GSA procedures authorized negotiating an agreed sale price from 10 percent below the appraisal to 10 percent above appraisal the church responded by letter of February 22, 1965 offering to sell at price of $198,000. This amount was arrived at by adding 10 percent to the GSA suggested price, assuming it was the appraised value.

This letter from the church was delivered to Mr. Donald McDonald, Chief, Acquisition Branch, GSA, Chicago, by a member of the First Baptist Church, Febraury 24, 1965. Mr. McDonald said that within 24 hours he could advise the agent of the church if the counter offer was acceptable. On February 25, 1965 Mr. Donald McDonald informed the agent of the church that "the counter offer of $198,000 had been approved by both the Cincinnati and Washington offices".

It was with the above assurances that two banks in Paducah advanced the church $130,000, unsecured, towards completion of the church under construction.

The First Baptist Church of Paducah moved to its new building and held its first service March 14, 1965. All personal property of the old church was removed leaving the real estate secured and all utilities disconnected. The church started waiting for the Federal Government to carry out its verbal and written commitments.

A GSA letter dated July 16, 1965 stated "we anticipate that the revaluation of this property by the Post Office Department will be completed within ten days". GSA letter of October 20, 1965 stated "The revaluation of the extension and modernization of the Post Office Building in Paducah has not been completed. We will be glad to keep you informed at such time as a decision is reached by the Post Office Department". GSA letter of March 21, 1966 stated "As a result of this revaluation the extension and modernization project for the existing building has been cancelled . . . and we are sorry for any inconvenience caused you as a result of this change of plans."

Congressman Frank A. Stubblefield received a letter from J. E. Moody, Deputy Administrator, GSA, dated July 15, 1966 which had the sentence "As you know, the original plans to extend and modernize the building were based on a firm request and commitment for funding from the Post Office Department" . . .

A front page news story of the local paper quoted Walter Lutz, director of engineering and facilities for the Cincinnati Postal Region, as saying "the present Post Office facility would be converted into federal offices and the church property would be purchased, leveled and used as federal building parking lots."

Communications from Washington through Congressman Frank A. Stubblefield, Senator John Sherman Cooper, and Senator Thurston B. Morton stated that when the Post Office relocated, the General Services Administration would need the property for additional parking and that the church site would be needed. It was recommended that the church wait for this occasion, which should take place within the next year or two.

The last ten years has been a history of studies, plans, new plans, bids taken, cancelled and finally a contract and construction of a new building. It took the Post Office eleven years to relocate from the making of the decision to do so.

The church has been damaged by the fact that it could not be restored to its 1964 position of offering a church building in excellent condition with all mechanical equipment operational. The opportunity to offer a viable church building with church related personal property had been thwarted by actions of the Federal Government.

In November of 1965 on a visit to Washington by representatives of the church, Joseph P. Doherty, Executive Assistant to the Assistant Postmaster General, stated "I realize that our actions have damaged the church but there is nothing we can do about it".

The church was approached by national representatives of the J. C. Penney Company who were inquiring about possibilities of acquiring the church site for installation of an automotive supply store in conjunction with the main store opposite church site. They were informed that the church was anxious to sell but when they learned of the Government correspondence and publicity relating to the site all interest ceased. The property was saddled with a stigma of eminent domain.

The church knows that there was never in existence what is known as a legally binding contract to purchase. However, when the Federal Government sends a representative to the church to explain their procedures in taking the property and then follows up with letters stating "the Government will soon construct . . . will do everything possible to complete the acquisition of the property with the least amount of inconvenience to you . . . were based on a firm request and commitment for funding from the Post Office Department" . . . we and the community believed them!

The church is grateful that the General Services Administration has today the authorization to acquire our church site it proposed to purchase in 1964. The GSA appraisal of January 1965 was $182,000 and the GSA agreed purchase price was $198,000. The offering price of the GSA today is $41,500.

The irony of this offer is that the church property appraised in June 1976 is the handiwork of actions of the Federal Government. During the last 11 years the building has been vacant and the elements and vandals have gnawed constantly at the structure. An analogy of the offer today is a bulldozer accidently smashing into an automobile properly parked on the side of a street and to compensate the owner of the auto he is offered the cash value of the wreck.

In order to compensate, in part at least, for the damage wrought to the congregation of the First Baptist Church of Paducah, I am offering a bill to pay the church $263,000, $198,000 for the figure advanced for purchase of the church property, plus $65,000 to reimburse the church for interest paid on the purchase of the new church property it was forced to acquire because of Government action.

By Mr. ROTH (for himself, Mr. ALLEN, Mr. BIDEN, Mr. CURTIS, Mr. EASTLAND, Mr. FORD, Mr. GARN, Mr. HANSEN, Mr. HELMS, Mr. HUDDLESTON, Mr. LAXALT, Mr. MCCLURE, Mr. NUNN, Mr. THURMOND, and Mr. TOWER):

S. 424. A bill to clarify the jurisdiction of certain courts with respect to public schools, and for other purposes; to the Committee on the Judiciary.

By Mr. ROTH (for himself and Mr. THURMOND):

S.J. Res. 17. A joint resolution proposing an amendment to the Constitution of the United States to guarantee the human rights of pupils attending

public schools; to the Committee on the Judiciary.

Mr. ROTH. Mr. President, the American people are angered and frustrated by the social experimentation being forced on our children in the guise of equal educational opportunity.

The polls indicate that the vast majority of Americans favor desegregation yet oppose busing. What the American people are telling us is that they want desegration and quality education for all our children, not arbitrary racial balance without quality education for any of our children. What the American people oppose is the divisive remedies being employed to achieve coerced integration—something that goes far beyond the concept of equal opportunity. The American people are opposed to the disruption of their neighborhood schools—incensed at having no say as parents as to which school their children shall attend—outraged by constitutional interpretations that equal educational opportunity can only be achieved if schools and classrooms are racially balanced.

It is time the busing issue be laid to rest. The issue has tortured Americans long enough. It is time the Congress took meaningful action to end this problem.

It is to put this issue to rest that I now introduce a joint resolution providing for a constitutional amendment to preclude the busing of schoolchildren to a particular school because of his or her race, color, national origin, creed or sex. My proposed amendment merely adopts the Supreme Court's interpretation of the 14th amendment to the Constitution as it relates to equal educational opportunity: The Constitution prohibits the use of race or color as a basis to designate which school a pupil shall attend.

Mr. President, since adoption of a constitutional amendment takes time, and because I believe the Congress must take more immediate steps to curtail Federal court-ordered busing, I also send to the desk a bill which removes the authority of the lower Federal courts to order busing as a remedy to carry out a plan of racial desegregation of any school or school system.

Many people today are critical of the Federal judiciary. I, for one, believe the Federal courts have usurped prerogatives properly belonging to the elected representatives of the people. The Federal courts have become a superlegislature responsible to no one. But, while I am critical of the courts' repudiation of the principles of federalism and the separation of power which lie at the heart of our democratic form of government—I must also place responsibility on the Congress.

The Constitution grants all legislative power to the Congress. The Constitution allows the Congress, in its wisdom, not to exercise the power granted. However, the Constitution does not allow another branch of government to exercise legislative power. Just as the courts must check the Congress or the President for acting beyond the scope of legal authority, so must the Congress check judicial excess. To do otherwise equally repudiates the principles of federalism and the separation of power.

Too many Federal judges today believe they have a moral or legal obligation to require, by any means necessary, a "proper" racial mix in our public schools.

In ordering sweeping changes in our school systems for this purpose, without regard for costs or disruptions, these judges ignore several basic social and legal facts:

First. Concentrations of blacks in our schools—or, for that matter, concentrations of Irish, Italians, Germans, or any other ethnic groups—reflect residential concentrations that have always existed in American cities and towns.

They are a natural outgrowth of group loyalties, cultural bonds, similar income and educational levels and the like.

For most groups, these residential concentrations have usually brought increased political and economic influence. Today, for example, many blacks feel that gaining a larger voice in the operation of inner-city schools is more important than achieving racial balance.

The Constitution does not require that ethnic or racial communities be destroyed. It requires only that no individual be confined to them by law. Our whole history has been to allow individuals full freedom to maintain or abandon their ties with such communities.

Second. In assigning students to schools solely on the basis of race, the courts are standing the Constitution on its head. The landmark desegregation ruling of 1954 held that no child could be excluded from a public school on account of race. But the courts today are declaring that the 14th amendment, far from prohibiting the assignment of students on the basis of race, actually demands it. From an effort to expand the freedom of one group, they have gone far beyond the Constitution to the point where they are now restricting the freedoms of other groups. From a position that the Constitution is colorblind, they have moved to a preoccupation with race, creating a tangled web of statistical requirements based solely on group affiliation.

Third. No hard evidence can be found to support claims that the educational achievement of either black or white children is improved when they are shuttled from school to school to promote racial balance.

In truth, it is a form of racism to assume that blacks must share classrooms with whites in order to learn, or to assume that every black school is inferior to every white school. By some measures, blacks have made greater educational and economic progress in recent years than some white ethnic groups.

The courts, in ordering massive busing, have cited social theories and assumptions that have come into serious question. Among those who believe the courts have erred grieviously are such leading social scientists as Nathan Glazer of Harvard and James S. Coleman, the University of Chicago sociologist whose earlier studies were cited by the courts as justification for busing.

Instead of promoting better race relations, compulsory busing has bitterly divided communities. It has set back race relations by creating new tensions, and has led to greater separation of races as middle-income whites have fled to other school districts or systems.

Fourth. By seeking to promote special benefits for one group, the courts have penalized other groups and have created resentment and hostility. In the 1960's there was a clear consensus in this country that Jim Crow laws must be eliminated. And since then immense gains have been made by blacks. But public support has declined sharply as the courts have gone far beyond constitutional requirements to the dubious use of statistical distributions as the test of discrimination.

Court-ordered busing creates bitter opposition because it denies many families a cherished part of the American dream: the right to improve their lot, live in as desirable a neighborhood as they can afford, and send their children to good schools of their own choice where the parents can have a voice in how they are run. This is extremely important to people. It is one thing for children to be bused if that is necessary to get them to the nearest school or to the school of their choice, but it is quite another thing if the purpose is simply to provide an arbitrary racial mix.

Today, I am pleased to introduce with my distinguished colleagues, Senators ALLEN, BIDEN, CURTIS, EASTLAND, FORD, GARN, HANSEN, HELMS, HUDDLESTON, LAXALT, MCCLURE, NUNN, THURMOND and TOWER, a bill which exerts the prerogative of the Congress to eliminate the judicial authority of the lower Federal courts to order the transportation of students or teachers as a remedy to carry out a plan of racial desegregation of any school or school system. State courts, which are closer to the people and more cognizant of the local impact of court-ordered remedies, would retain jurisdiction. Hopefully the judges in State courts would be more thoughtful in their deliberations before ordering sweeping social reforms for the State over which they preside. The lower Federal courts would continue to have concurrent jurisdiction with the State courts where busing is not an issue. Furthermore, the Supreme Court's appellate jurisdiction would be unaffected. The right to appeal from the State courts to the Supreme Court would be preserved, thereby insuring conformity with constitutional standards.

The bill further provides for the termination of all lower Federal court orders, in force prior to enactment, which require busing as a remedy to carry out a plan of racial desegregation of any school or school system. Upon application of a party, the State courts may assume jurisdiction of the case for purposes of entering an order of appropriate remedial relief.

The history and precedents under article III, having to do with the creation of lower Federal courts and their jurisdiction clearly establish that Congress has the authority to enact this legislation. At the Constitutional Convention, the framers rejected a proposal that would have required Congress to establish Federal tribunals inferior to the Supreme Court. Instead, the Convention

adopted the present provision giving Congress discretion with respect to creation of the lower Federal courts. And while Congress in the Judiciary Act of 1789 created the lower courts, it did not vest them with all the jurisdiction they might have received under article III. For example, it did not confer "Federal question" jurisdiction—that is, cases involving the Constitution, treaties, and laws of the United States—but left litigants to remedies in State courts with appeals to the Supreme Court. General Federal question jurisdiction was not conferred until 1875 and then it was coupled with jurisdictional amount limitations so that claims involving amounts below a certain value had to be brought in State courts. These limitations remain in the law to this day. Moreover, the practice from the beginning has been to make Federal court jurisdiction concurrent with that of the State courts. As Justice Frankfurter stated in *Brown* v. *Gerdes*, 321 U.S. 178, 188 (1944) concurring:

> Since 1789, right derived from Federal law could be enforced in State courts unless Congress confined their enforcement to Federal court.

In a related line of decision, the Supreme Court has sustained an expansive view of Congress authority to limit and define the jurisdiction and remedies available in the lower Federal courts. Typical is the Court's ruling in *Gary* v. *Curtis*, 44 U.S. 236, 244–245 (1844) where it is stated that—

> The judicial power of the United States, although it has its origin in the Constitution, is (except in enumerated instances applicable exclusively to this Court), dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who has the sole power of creating tribunals (inferior to the Supreme Court), for the exercise of the judicial power, and with vesting them with jurisdiction either limited, concurrent, or exclusive, and withholding jurisdiction from them in the exact degree and character which to Congress seems proper for the public good.

See, also, *Lauf* v. *E. G. Skinner and Co.*, 303 U.S. 323 (1938).

It thus seems clear that Congress may constitutionally leave to enforcement in State courts a class of rights, or a specified remedy, which it might have given to the lower Federal courts. This is precisely the result that would be achieved by my bill.

I urge my colleagues to join me in assuring that these bills are passed. Our public school system is rapidly deteriorating. School tests demonstrate that children are not learning the basic skills of education. The results of the Scholastic Aptitude Tests taken recently by nearly 1 million college-bound seniors dropped sharply to the lowest level in more than two decades. Once we have curtailed this divisive issue of busing, we can get on with the very necessary job of providing quality education for all our children.

I ask unanimous consent that the joint resolution and the bill be printed at this point in the RECORD.

There being no objection, the bill and joint resolution were ordered to be printed in the RECORD, as follows:

S. 424

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no court created by Act of Congress and having general jurisdiction, original or appellate, with respect to cases or controversies arising under the laws or Constitution of the United States, shall have any jurisdiction to enter a decree requiring, directly or indirectly, the transportation of students or teachers in order to carry out a plan of racial desegregation of any school or school system. The jurisdiction terminated by this Act shall be vested in the courts of the several States, and, with respect to such cases or controversies arising in the District of Columbia or in any other territory or possession of the United States, in the Federal courts of an essentially local jurisdiction in such District, territory, or possession. In each such case or controversy, there is vested in the Supreme Court of the United States appellate jurisdiction by writ of certiorari from the highest State or territorial court exercising jurisdiction over such case or controversy.

SEC. 2. No order of any court, created by Act of Congress, requiring directly or indirectly the transportation of students or teachers to carry out a plan of racial desegregation of any school or school system operated by a local educational agency which is in effect on the day before the date of enactment of this Act shall remain in force or effect. On the application of a party, any State court of appropriate jurisdiction in the State wherein such local educational agency is located shall assume jurisdiction of the case for purposes of entering an order for appropriate remedial relief.

S.J. RES. 17

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date and final passage of this joint resolution:

"ARTICLE—

"SECTION 1. No public school pupil shall be transported to a particular school because of his or her race, color, national origin, creed, or sex.

"SEC. 2. Congress shall have the power to enforce this article by appropriate legislation."

By Mr. GOLDWATER:

S. 425. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold meal to Lt. Gen. Ira C. Eaker, U.S. Air Force (retired); to the Committee on Banking, Housing and Urban Affairs.

Mr. GOLDWATER. Mr. President, I am reintroducing today a bill to authorize the President of the United States, on behalf of the Congress, to present a gold medal to retired Lt. Gen. Ira Eaker in recognition of his distinguished career as an aviation pioneer and Air Force leader.

Now Mr. President, few Americans have contributed more to the development of the U.S. Air Force and to our country than Ira Eaker. This is not just an expression of my personal feelings about this dedicated American, but represents the feelings of many, many others who have spoken and written to me over the years.

Mr. President, a brief summary of the accomplishments of Ira Eaker would include the following landmarks of his career:

Became a military pilot in 1918.

Was chief pilot in January 1929 of a Fokker C–2 which flew over 150 hours.

Set an endurance record by using in-flight refueling techniques.

Flew the first blind instrument transcontinental flight in June 1936.

Served with the RAF in early World War II studying their air operations to help develop the air arm of the United States.

Commanded the Eighth Air Force in World War II, along with Mediterranean Allied Air Forces, both being vital to the allied victory.

Designated by General Arnold to argue the case for a return to daylight bombing, following allied air losses in 1943. By helping to successfully persuade Prime Minister Churchill of this course of action, he helped pave the way to the allied victory.

Following World War II, served as Deputy Commander of the Army Air Force and Chief of the Air Staff until his retirement as a lieutenant general in 1947.

Mr. President, there is nothing unusual now about the type of medal I have proposed, although they were not available at the time General Eaker retired. For example, the Senate agreed to a House-passed bill in December of 1975 which provided for the presentation of a similar medal to Brig. Gen. Charles Yeager.

The previous administration and the Department of the Treasury submitted a favorable report on the proposal just last year, and I hope my colleagues will approve the special recognition that is due to an outstanding American.

Mr. President, I ask unanimous consent that the report on my bill submitted to the Committee on Banking, Housing and Urban Affairs be printed at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

EXECUTIVE BRANCH REPORT ON GENERAL IRA EAKER MEDAL BILL

From: The General Counsel of the Treasury.
To: The Senate Committee on Banking, Housing and Urban Affairs.
Date: April 30, 1976.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 2093, "To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lieutenant General Ira C. Eaker, United States Air Force (retired)."

The proposed legislation would authorize the President to present, on behalf of the Congress, a gold medal to Lieutenant General Ira C. Eaker, U.S. Air Force (retired), in recognition of his distinguished career as an aviation pioneer and Air Force leader and for his current support of the airpower mission of the Nation. The bill would authorize and direct the Secretary of the Treasury to strike the gold medal with suitable emblems, devices and inscriptions to be determined by the Secretary of the Air Force with the approval of the Secretary of the Treasury. For the purpose of designing and manufacturing the medal, the bill would authorize the appropriation of $5,000. It would also authorize the Secretary to manufacture and sell to the general public bronze duplicates of the medal at a price sufficient to cover the cost of manufacture

including labor. The gold medal and its bronze duplicates would be national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

The Department has no comments to make on the merits of the proposed legislation. The facilities of the Bureau of the Mint would be made available for the purpose of designing and striking this medal. The appropriation of $5,000, which would be authorized by the bill, would be sufficient to cover the cost of the medal, including the preparation of designs, models and master dies. The Department would also have no objection to adding this medal to those regularly struck for sale to the public, as provided in subsection (b) of the bill.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

RICHARD R. ALBRECHT,
General Counsel.

By Mr. RANDOLPH (for himself, Mr. STAFFORD, Mr. BURDICK, Mr. CULVER, Mr. DECONCINI, Mr. GRAVEL, Mr. HART, Mr. HEINZ, Mr. HUMPHREY, and Mr. KENNEDY):

S. 427. A bill to provide additional authorizations for the public works employment program, to authorize a program for employment of teenaged youth in community improvement projects, and for other purposes; to the Committee on Public Works.

PUBLIC WORKS EMPLOYMENT ACT OF 1977

Mr. RANDOLPH. Mr. President, today I introduce the Public Works Employment Act of 1977, a bill to authorize an additional $4 billion for the public works jobs program. Two billion dollars are authorized for the period ending September 30, 1977, and another $2 billion is authorized to be available for appropriation through September 30, 1978.

This legislation has strong endorsement from both Democratic and Republican members of the Committee on Public Works, and other Members of the Senate. The measure was drafted to be consistent with the proposal for public works jobs advanced by President Carter as part of his economic stimulus package, to the extent details of that proposal have been developed.

This bill contains as title II a new youth community improvement employment program for young men and women of the ages of 16 through 19. This title was separately introduced by Senator STAFFORD, the ranking minority member of the Committee on Public Works, and myself, with cosponsors. Title II authorizes $1.5 billion, to be available through fiscal year 1978.

The purpose of title I is to provide $2 billion for early appropriation and speedy grants to projects already submitted but not funded in the first round of the local public works program. An additional $2 billion would be authorized for another round of projects if the economy requires additional stimulus. New applications would be submitted for grants under this authority.

In addition to new authorizations for public works jobs, this legislation contains some amendments designed to improve the administration of the second and possible third phases of the program.

Undoubtedly, we will make other improvements in the present program as we examine the analysis and recommendations of those persons who give us the benefit of their views.

Many applicants were unhappy with the first round, now coming to a close. I myself have questions relating to the program in our own State of West Virginia. Yet I understand that it is inevitable that there will be disappointment when so many areas seek a limited amount of funds.

Nearly 25,000 applications were received by the Economic Development Administration in the Department of Commerce. Slightly less than 2,000 were chosen. Nearly $25 billion in project applications competed for $2 billion. The Economic Development Administration had temporary personnel assigned to the task of processing these applications. I have been told that throughout the holiday weeks of December, many, many dedicated hours of overtime were required, including weekends.

Mr. President, the Economic Development Subcommittee, with Senator QUENTIN BURDICK presiding as acting chairman, will hold hearings on February 2 and 3, 1977, on this bill and S. 306. In those hearings we will examine the performance of the Department of Commerce in the first round of grants now nearing completion. We will receive testimony on the administration position on additional authorizations for public works jobs. Witnesses representing organized labor, cities, counties, and States also will be invited to present their analyses of the first round and their recommendations for the second and possible third rounds.

Several questions and recommendations have emerged as a result of the first experience with this program. Some of these are included in the legislation I propose today. These will be explored further, with other recommendations, in the committee hearings. In particular, I invite witnesses to provide their views on these questions:

Should the program give a higher weighting to the long-term benefits of projects proposed for funding under title I?

Should the unemployment data used in the program be the previous 12 months rather than the most recent 3 consecutive months as now required in the law?

Should project areas be so defined in the second round of funding to assure that projects are funded only in areas of the most severe unemployment? The bill directs the Economic Development Administration to provide for this result in the third round; is the potential delay associated with such a change in the second round worth the possible benefits?

Should a local match be required of project applicants, except where the jurisdiction has exhausted its effective taxing or borrowing capacity, in order to assure selection of those projects which meet urgent local needs and local priorities?

Even as the new administration prepares its economic stimulus package, there are those who say that public works investment is an inefficient way to create jobs. I do not believe President Carter shares that view. Neither Secretary of Labor Marshall nor Secretary of Commerce Kreps share that view, nor, I believe, do the majority of the Members of the Senate.

Mr. President, this program provides a much needed stimulus to the economy, and particularly to the construction industry that still suffers ill health. That industry normally produces about 10 percent of our gross national product, rising as high as 12 percent in good years. It is now only about 8.6 percent of the gross national product. Paul W. McCracken, former chairman of the Council of Economic Advisers, writing in the Wall Street Journal January 17, 1977, convincingly describes why public works now is a wise investment:

> There is, however, a case for stepped-up public works, and that case is quite simply that public works outlays have been lagging. The volume of public construction is now, in real terms, about 25% lower than a decade ago—in an economy that, in real terms, is 30% larger. Public construction is now so low, in fact, that the real value of public capital is probably now being maintained.

Nor should we lose sight of the fact that these projects have an importance that transcends the immediate new jobs created. Valuable and much needed as the backlog of 25,000 applications suggests, community facilities are built that may indeed endure for generations.

Unemployment remains too high across the country, particularly in the construction industry. This measure is but one of the creative ways of grappling with high unemployment in a sagging economy. It is intended to be a Senate initiative in responding to President Carter's call for $4 billion in additional public works jobs. I hope our colleagues will support it overwhelmingly and that we can present it to the President in a few short weeks.

Mr. President, I ask unanimous consent that an outline of the legislation and the text of the bill be printed in the RECORD at the conclusion of the remarks of my colleagues.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I am pleased to join Senator RANDOLPH and Senator STAFFORD in cosponsoring the Public Works Employment Act of 1977, which is being introduced today. This bill would increase to $6 billion the authorization for jobs-producing public works projects under the Local Public Works Capital Development and Improvement Act of 1976, instead of the $2 billion currently authorized, and would establish a youth employment program.

I am cosponsoring this legislation, despite reservations I have with the youth employment title, because I think it will be a swift and effective way of getting this economy moving again.

THE ECONOMIC SITUATION

Nineteen hundred and seventy-six was a disappointing year. We achieved very few of our economic objectives. We did a relatively good job on inflation, but a very poor job on employment.

When Congress voted on the fiscal 1977 budget last year, we established a goal of reducing unemployment to 7 percent by the end of 1976 and to 6 percent by the end of 1977. To do this, we needed a 7-percent growth in real GNP for both 1976 and 1977.

But we fell short. From the fourth

quarter of 1975 to the fourth quarter of 1976, real GNP only grew by 5.1 percent. Much of this growth was concentrated in the first half of 1976, with the growth rate falling to an anemic 3.9 percent during the third quarter and 3 percent during the fourth.

As a result, the unemployment rate fell nicely from 8.3 percent in December 1975 to 7.3 percent in May 1976, but then rose steadily to 7.8 percent in December 1976, for an overall reduction during the year of only half a percentage point. This was still a full percentage point above our goal.

Part of this disappointing performance can be attributed to inadequate business investment, part to a poor recovery in the housing sector, and part to a slowdown in the growth rates of our major trading partners.

But a good part of our failure was the result of an inadequate budget policy—we underestimated the amount of real growth needed to reduce unemployment to our goal and we failed to make sure that everything we appropriated was actually spent.

We cannot afford to repeat this in 1977. Already, we have had to scale up our unemployment goal to 6.5 percent by the end of this year, and even that looks pretty much like pie in the sky unless we move now to achieve it.

MORE PUBLIC WORKS JOBS

Although we do not have President Carter's budget recommendations in hand yet, he has indicated he will ask for a 2-year stimulus package of about $30 billion. I think this is an appropriate level of stimulus. But I think more of the stimulus could and should come during this year, and more of it should be directed toward job creation programs.

We can do this very easily, simply by increasing the authorization for local public works projects, and the bill does that by authorizing an added $4 billion.

There is no doubt that this amount can be gotten into the channels quickly to create new jobs in the areas and occupations where unemployment is just too high. When the Economic Development Administration received its current $2 billion spending authority for this program, is was flooded with applications. Today, EDA has on hand $20 billion in applications representing 20,000 projects from all over the country which could be approved and funded immediately. In addition, there are another 4,000 applications for over $4 billion which need some changes but which could be ready for approval within 1 week.

This is $24 billion worth of public works projects which are ready to go and put people back to work. These are not projects that will take a long time to start up and stimulate the economy only when we get back to full employment. They are ready to go now. The law requires that construction begin within 90 days.

And the Economic Development Administration assures me that they have the staff and time to evaluate and aplion right away, and $2 billion within another month or two.
prove $4 billion of new projects—$2 bil-

Now, I know that there are some problems with the allocation formula, and that we have heard about some areas getting too much money and some not getting enough. I would support the efforts of the Public Works Committees to improve the formula. But we cannot let this problem prevent us from authorizing and appropriating the amounts needed to get our economy back on its path toward a full recovery and full employment.

And we cannot let this problem prevent the funding of valuable and needed local public works projects. There are thousands of worthy projects lying on the desks at the EDA, waiting for the green light. For example, there is an application from Branford, Conn. for $2.7 million to construct a hospice, a facility to provide dignity and comfort during the last days for those who are terminally ill. It will be the first in the country. There is an application from De Kalb County, Ga., right outside Atlanta, for funds to build a facility for severely retarded children, who have nowhere else to turn. And in my own State of Minnesota, there are a number of worthy projects which are just waiting for approval, including a $293,000 application from the town of Melrose to improve and extend the town's sewer main, and a $379,500 application from the town of Lindstrom for storm sewers.

The $4 billion in the Public Works Employment Act would create a significant number of jobs and move us a long way toward the 6.5 percent unemployment goal President Carter has recommended for the end of this year. Each $1 billion spent on the public works projects in this legislation would create 75,000 jobs directly on the construction projects, plus another 75,000 in offsite jobs providing support and materials. With an additional $4 billion, as this bill authorizes, we can create 300,000 onsite jobs plus 300,000 offsite jobs.

This will be enough jobs to reduce the unemployment rate by almost 0.7 percentage points, or one-half of the President's goal.

YOUTH UNEMPLOYMENT

Youth unemployment in this country is a national crisis, and I welcome the concern and initiative of Senator RANDOLPH and Senator STAFFORD in trying to alleviate it through the creation of public works projects for youths aged 16 to 20 years old. Although I do not believe that title II of the Public Works Employment Act is wholly adequate to relieve this complex problem, I join in cosponsoring it because I want to emphasize my own concern for this very important issue.

On Tuesday, January 11, my good friend Senator JAVITS and I introduced a major youth employment bill which attacks all aspects of the youth unemployment problem—the Comprehensive Youth Employment Act of 1977. Although title II of the Public Works Employment Act would create a public service jobs programs for youths very similar to the youth community service program of the Comprehensive Youth Employment Act, youths have a wide variety of other needs that we must meet as well—including help in finding private sector jobs, job experience while they are still in school, good job counseling and guidance in their schools, and special programs to keep 14- and 15-year-old youths in school. In addition, I believe that any new programs for youths should be fully integrated with the training and counseling services already funded under the Comprehensive Employment and Training Act.

The Comprehensive Youth Employment Act would establish many of the programs needed to reduce youth unemployment—a youth community service program to create employment for youths on local community projects; a youth opportunities in private enterprise program to create jobs and help youths find jobs in private businesses; a work experience for inschool youth program to provide job experience prior to secondary school completion; and occupational information and career counseling program to provide youths with the job counseling and information needed to make informed career choices; a National Conservation Corps to provide jobs for youths on conservation projects; and an expansion of the Job Corps for severely disadvantaged youths.

I support the Public Works Employment Act and its funding of public works projects. I hope, in addition, that the Public Works Committee and the Labor and Public Welfare Committee will find a way to meld the various efforts to reduce youth unemployment and provide us with a comprehensive approach as soon as possible.

Mr. STAFFORD. Mr. President, I join today with the distinguished chairman of the Public Works Committee (Mr. RANDOLPH), in introducing a bill to extend the Public Works Employment Act of 1976, and to establish a youth community improvement program.

The response to the local public works program enacted last year has been overwhelming. Nearly 2,000 public works projects across the country have been selected, exhausting the appropriation for the program.

The bill introduced today authorizes an additional $2 billion for the program for the remainder of this fiscal year and another $2 billion in standby authority for fiscal year 1978. Because of the interest in and need for this legislation, the committee plans to give early consideration to the bill. Hearings have been scheduled for the 2d and 3d of February.

I am pleased that the bill also includes the youth community improvement program which I introduced last week, with several cosponsors, including the chairman.

The purpose of the youth community improvement program is to provide employment and early job experience to youths ages 16 through 19 on community improvement activities. Eligible activities would include work on community facilities, neighborhood projects, including repairs of low-income housing, and conservation and maintenance work on lands owned by the Federal Government, States and local communities. These would be activities which need to be done and would not otherwise be carried out.

Unemployment among the Nation's young people ages 16 through 19 stands at 19 percent. This age group alone constitutes about 24 percent of the total number of unemployed persons—this is

nearly a full quarter of the national unemployment figure.

The long-term impact of the joblessness facing our young may be quite adverse. In the teen years, most young people begin the transition from an academic environment to adult society. Early job experience provides the essential link between school and the adult world of work. This is the time to instill the value of work.

Without these early job opportunities, many young persons become frustrated, alienated from the work force and many reach their early adult years with no real connection with work and no sense of responsibility. Not only do they lack skills but they lack an adult, pragmatic view of what is required of them to obtain or hold a permanent job.

There is much work to be done in this country. All communities have such activities, which usually receive low priority, particularly in times of economic distress, and remain undone. These are, nevertheless, valuable projects which enhance the community and extend the useful life of many facilities and services. Not only does the community benefit from these improvements, which remain long after the project has ended, but the young people also have the satisfaction of serving their community.

Maximum flexibility is given each local sponsor in designing a program, allowing them to match local opportunities with the needs of youth. Also, efforts would be made to link activities funded under this program with other similar Federal programs. For example, the local sponsor is authorized to enter agreements with the National Park Service and National Forest Service for work on lands administered by these agencies. Youth could also be used for weatherization projects, supplementing the program operated by the Federal Energy Administration.

As I stated when I first introduced this proposal, it does not attempt to address the full range of long-term questions which must be faced in dealing with the problems of youth, including the role of the education system in facilitating the transition to permanent jobs and adult life. My bill is designed to address a limited but important aspect of the problem. The intent is to initiate jobs quickly, to provide a realistic job experience and training while at the same time serving the community in a concrete and meaningful way.

I ask unanimous consent that an article from the Valley Voice, published in Middlebury, Vt., be printed in the RECORD at this time. I believe the article, based on the personal experience of the author, clearly points out the importance and value of a youth employment program of this type.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Middlebury (Vt.) Valley Voice, Dec. 15, 1976]

"LEAF-RAKING"

(By R. W. van de Velde)

Almost whenever the discussion turns to unemployment in this country and what to do about it, someone says something about "leaf-raking" or uses the term "dead-end jobs." In such a context, the scornful tone in which such terms are used is supposed to scare off any proposals for "make-work" projects or programs.

It seems to me that those who would dismiss all such job-finding or job-creating ideas—a new Civilian Conservation Corps (CCC) modeled from New Deal days, or some sort of government subsidies for work in the private sector—are doing us all a great disservice.

There aren't enough jobs now, and particularly jobs for the unskilled or semi-skilled—and that includes most young people. That's quite plain to anyone who looks at the figures. Some northeastern states as unlike one another as rural Vermont and urban New Jersey have overall unemployment, in double digits—10 percent to 13 percent depending on whose figures you use.

But if you select young people within the unemployed rolls, you find the percentages rising into the range of 18 to 25 percent. And if you select still further and look at inner-city young people, and especially at black young people, you get appalling figures like 40 to 60 percent. No society or sizeable segment of it can sustain its health with those numbers of unemployed among its physically most able age group.

The sense of "nothing to do," which so often seems to pervade students after school and on weekends, is usually the result of a lack of ingenuity, imagination, or gumption. Among young people who are both out of school and out of work (who probably have never been able to get even a "first" part-time job), that silly verbal surrender to boredom becomes a very acute cry for help. And we'd better heed it.

As a new Army officer in the mid-1930s, my first assignments were to a series of CCC camps (where the administration was the responsibility of the Army, and the work was supervised by either the U.S. Forest Service or the National Park Service). I have never forgotten that experience.

Nor, I dare say, have the thousands of kids who enrolled in the 3Cs. They came to us usually rather thin and sometimes frail, always very poor, often exhibiting an attitude of fear and suspicion. Almost always, they left us in better physical condition; almost always the rather hangdog demeanor, the suspicious glance, the distrustful sneer, had been replaced by a new-found self-confidence and self-respect; they looked you in the eye, and they smiled.

They had earned their keep, and they knew it. They had sent money home to unemployed or poverty-stricken parents, and they were proud of it.

Leaf-raking? Sure, you might say that, because it was work that didn't *have* to be done, at least didn't have to be done right then. But it was nationally useful work. Millions of trees were planted, thousands of miles of trails were built, thousands of acres of topsoil were saved; and so on. But almost all of it was nationally useful work because it helped "conserve" a very large segment of one whole generation.

Dead-end jobs? Sure, you might say that too, because there was no "future," no career-ladder to climb in the CCC. But the young people who entered the camps as bedraggled and "beaten" boys, left the program as young men with knowledge that they could work and the sense that their country—their fellowman—did care and would help.

This time, I think a "CCC" should include the work of cleaning up and rehabilitating city slums and rebuilding railroad roadbeds, for instance, as well as work on public parks and in public forests.

Healthy cities are a national resource which we need, and their rapid decay is a *national* disease we must no longer countenance.

Railroads also are a *national* resource, and we proved we now realize it by inventing Amtrack and Conrail. One way to help them keep on being a resource is to keep them physically fit. If we can put public employees to work maintaining our highways for private use, because we believe that sort of mobility to be essential to our economic health and national security, we can put some public employees to work helping the semi-public, semi-private railroads keep those economic sinews healthy and working for our national health and security too.

It would cost more (and be more "artificial," like "made-work," if you wish), but I believe it would be useful to the sense of oneness of the nation for part of a young person's enlistment to be in a setting very different from the home one. Thus, for half the term I'd send city young people to the hills and woods and put rural young people on slum work. They would all benefit from knowing more about the nation, from learning "how the other half lives." But they'd also gain a sense of personal independence and self-confidence from learning to live and work in a "foreign" setting.

It would, I am convinced, be beneficial for these neo-CCC young people to work the last half of their terms in or near their home settings. I think the sense of helping to repair or rebuild some aspect of "home" would create a sense of pride as well as of accomplishment in a personally known "stake" which would go a long way toward their never again letting anyone wantonly destroy resources or ravage neighborhoods.

It's worth trying, I think, even if some will call it leaf-raking.

(NOTE.—R. W. van de Velde is a professor in and director of The Woodrow Wilson School of Public and International Affairs at Princeton University. He owns a home in Middlebury.)

Mr. GRAVEL. Mr. President, I am pleased to join my colleagues as a cosponsor of legislation extending the local public works program authorized under title I of the Public Works Employment Act of 1976 and creating a new program of employment for teenaged youth through community improvement projects and projects for conservation and restoration of natural resources.

The local public works program has several attractive features that recommend it for extension. The emphasis of the program is on job creation in the private sector. These are not make-work jobs that merely provide a wage until funds run out. Projects under this program can include construction and renovation of municipal offices, courthouses, libraries, schools, police and fire stations, detention facilities, recreation facilities, civic and convention centers, and museums. These facilities in turn create staffing and maintenance jobs in the locality and income is generated and recycled on the local level. The National Council on Employment Policy, a group of academic manpower experts, noted in July 1975 that "public works yield a lasting product with an immediate impact on the private sector. Although the direct job creation per dollar of outlay may not be as great as in other strategies, the multiplier effect of public works may be greater than that of other job-creation measures."

Another attractive feature is the presence of projects that are ready to go. Under the first round of title I funding, EDA received 25,477 applications representing $23.9 billion in projects. Considering the huge backlog of applications already submitted, EDA could move rapidly to finance additional local public

works projects if Congress approves the extension.

The Public Works Committee is well aware of the problems with the formula used to allocate funds under this program. In many areas of the country, inadequate data has brought about some unusual instances of misallocation of funds. However, I feel confident that the Public Works Committee will exercise its oversight function in such a way as to insure proper distribution of funds for the future.

Title II of this bill would create a youth community improvement program. The program would provide EDA with $1.5 billion to make grants to States, local government, and Indian tribes for employment of youth aged 16 to 19 in community improvement projects.

The legislation addresses the severe problem of youth unemployment. The unemployment rate for youths, particularly inner-city blacks, has been extremely high for some time. In 1975, youths from 16 to 24 accounted for almost half of the total unemployment rate, although they constituted only a fourth of the labor force. In November, the unemployment rate for black youths from 16 to 19 was 35.5 percent.

Community improvement projects eligible for grant funds include rehabilitation, alteration or improvement of public buildings or other public facilities; neighborhood improvements—including basic repairs to low-income housing—and projects for conservation, maintenance, or restoration of resources on publicly owned lands.

Of particular interest to me is the provision allowing eligible applicants to enter into agreements with the National Park Service and U.S. Forest Service to carry out community improvement projects on lands administered by those agencies. Alaska has 20 million acres of National Forest Service land and 7 million acres of National Park Service land. There is a distinct need for work in the areas of reforestation and soil erosion control.

I am pleased that the Public Works Committee is addressing the issue of unemployment in a comprehensive manner and look forward to early congressional consideration and approval of these matters.

PUBLIC WORKS EMPLOYMENT AND YOUTH COMMUNITY IMPROVEMENT PROGRAMS

Following is the outline of a proposed bill authorizing an additional $4 billion for the local public works program under title I of the Public Works Employment Act of 1976, and creating a new program of employment for teenaged youth through community improvement projects, authorized at $1.5 billion. The total authorization in the bill is $5.5 billion. This legislation is consistent with the proposal for public works jobs advanced by President-elect Carter, to the extent details of that proposals are known.

TITLE I—PUBLIC WORKS EMPLOYMENT

(A) $2 billion are authorized for immediate grants to projects already submitted under title I of the Public Works Employment Act of 1976.

(1) Eligible projects are all those in the first round (about 20,000 projects totaling $18 billion) plus those for which applications had been received by EDA by December 23, 1976, the first round selection announcement date.

(2) 2½% of the appropriation would be set aside for Indian projects.

(3) Funds would be distributed and grants awarded in accordance with the provisions of title I of the Public Works Employment Act of 1976, except that:

(a) 85% of the funds in a State would be reserved for applicants with unemployment above the national average and 15% would be reserved for applicants with unemployment data between 6.5% and the national average (current law requires 70% and 30%, respectively, to be reserved).

(b) EDA may require all applicants to update their unemployment data to the most recent available statistics.

(c) EPA may require all applicants to update their project cost data.

(d) In determining whether there has been an undue concentration of funds in an area, EDA may take into consideration project awards in the previous round relative to the severity of unemployment in the area.

(B) $2 billion are authorized for possible future grants for local public work projects, if the state of the economy requires.

(1) Eligible projects include newly submitted applications, as well as those for which applications have already been received (which would have to be updated and reformulated).

(2) Eligible applicants are expanded to include private nonprofit health care and rehabilitation facilities.

(3) 2½% of the appropriations would be set aside for Indian projects.

(4) Funds would be distributed and grants awarded in accordance with the provisions of title I of the Public Works Employment Act of 1976, as modified under (A), and in addition:

(a) EDA would be directed to set limits on the definition of project areas to prevent gerrymandering the unemployment data.

(b) The Federal share of project costs would be 80%, except that for Indian tribes and where the Secretary determines that taxing or borrowing capacity has been exhausted, the non-Federal share can be reduced or waived.

TITLE II—YOUTH COMMUNITY IMPROVEMENT PROGRAM

(A) $1.5 billion are authorized through fiscal year 1978 for a program to provide employment for youth aged 16–19 in community improvement projects.

(1) States, local governments and Indian tribes are eligible to sponsor projects.

(2) Each sponsor establishes a non-profit corporation to administer the local projects, with representatives from government, labor, business, educators and community organizations.

(3) The Department of Commerce administers the program and makes grants.

(B) Community improvement projects eligible for grant funds include rehabilitation, alteration, or improvement of public buildings or other public facilities; neighborhood improvements (including basic repairs to low income housing); and projects for conservation, maintenance or restoration of natural resources on publicly owned lands, which:

(1) would not otherwise be undertaken.

(2) prinicpally provide employment opportunities for youth aged 16–19 (whether in school or out-of-school).

(3) provide skill development for such youth and qualified supervision.

(4) offer employment for a twelve-month period.

(C) Youth participants would receive the minimum wage, reduced by an amount to partially offset the administrative expenses of the program; supervisory and skilled labor involved in training would receive the prevailing wage for the area.

(1) Provision of food, shelter and transportation costs would be possible where a project is away from the usual residence of most of the participants.

S. 427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PUBLIC WORKS EMPLOYMENT

SEC. 101. This title may be cited as the "Public Works Employment Act of 1977".

SEC. 102. (a) There are authorized to be appropriated not to exceed $2,000,000,000 for the period ending September 30, 1977, for the purpose of making grants for projects for which applications have been submitted under title I of the Public Works Employment Act of 1976 (90 Stat. 999).

(b) Projects eligible for such grants shall be those projects considered under title I of the Public Works Employment Act of 1976 (90 Stat. 999) prior to December 23, 1976, and not selected for funding and those projects for which applications under such Act were submitted prior to December 23, 1976, and not considered for funding under such Act because such applications were not received in a timely manner or in the judgment of the Secretary of Commerce were improperly rejected for consideration.

(c) Up to 2½ per centum of the funds appropriated under this section shall be available for projects requested by Indian tribes or Alaska native organizations; and such funds shall be set aside as the exclusive source of funds for such projects before any allocation of the funds appropriated under this section among the States is made.

(d) Funds appropriated under this section shall be distributed and all grants under this section shall be made in accordance with the provisions of title I of the Public Works Employment Act of 1976 (90 Stat. 999), except that:

(1) In lieu of the provisions of section 108(d) of such title, eighty-five per centum of all amounts appropriated to carry out this section shall be granted for projects given priority under clause (1) of the first sentence of section 108(c) of such title, and the remaining 15 per centum shall be available for projects given priority under clause (2) of the first sentence of such section 108(c);

(2) The Secretary of Commerce, acting through the Economic Development Administration, may require all State and local governments that have submitted applications eligible for funding under this section to submit the most recent unemployment data that are available, before consideration for grants under this section. Such Secretary may also require all such State and local governments to revise estimates of project cost, as appropriate; and

(3) In determining whether certain possible grants may result in an undue concentration of funds under this section in a particular area, the Secretary of Commerce, acting through the Economic Development Administration, may take into consideration grants made in such area under title I of the Public Works Employment Act of 1976 (90 Stat. 999), relative to the severity of unemployment in such area.

SEC. 103. (a) There are authorized to be appropriated not to exceed $2,000,000,000 for the period ending September 30, 1978, for the purpose of making additional grants under title I of the Public Works Employment Act of 1976 (90 Stat. 999).

(b) Projects eligible for grants under this section shall include projects eligible for grants under the provisions of title I of the Public Works Employment Act of 1976 (90 Stat. 999) and projects for construction, ren-

ovation, repair, or other improvements of health care or rehabilitation facilities owned and operated by private nonprofit-making entities. The Secretary of Commerce, acting through the Economic Development Administration, shall receive and consider new applications for grants under this section in addition to applications received under title I of the Public Works and Economic Development Act of 1976 (90 Stat. 999). Any projects for which applications have been submitted prior to enactment of this section shall be revised and new information required to be submitted, as appropriate.

(c) Up to 2½ per centum of the funds appropriated under this section shall be available for projects requested by Indian tribes or Alaskan native organizations; and such funds shall be set aside as the exclusive source of funds for such projects before any allocation of the funds appropriated under this section among the States is made.

(d) Funds appropriated under this section shall be distributed and all grants under this section shall be made in accordance with the provisions of title I of the Public Works Employment Act of 1976 (90 Stat. 999), except that:

(1) In lieu of the provisions of section 108 (d) of such title, 85 per centum of all amounts appropriated to carry out this section shall be granted for projects given priority under clause (1) of the first sentence of section 108(c) of such title, and the remaining 15 per centum shall be available for projects given priority under clause (2) of the first sentence of such section 108 (c);

(2) The Secretary of Commerce, acting through the Economic Development Administration, shall require all State and local governments that have submitted applications eligible for funding under this section to submit the most recent unemployment data that are available, before consideration for grants under this section. Such Secretary shall also require all such State and local governments to revise estimates of project cost, as appropriate;

(3) In determining whether certain possible grants may result in an undue concentration of funds under this section in a particular area, the Secretary of Commerce, acting through the Economic Development Administration, may take into consideration grants made in such area under title I of the Public Works Employment Act of 1976 (90 Stat. 999), relative to the severity of unemployment in such area;

(4) The Federal share for any project for which a grant is made under this section shall be 80 per centum of the cost of the project, except that in the case of an Indian tribe or Alaska native organization or in the case of a State or local government which in the judgment of the Secretary has exhausted its effective taxing or borrowing capacity, the Secretary may reduce or waive the non-Federal share; and

(5) The Secretary of Commerce, acting through the Economic Development Administration, shall promulgate regulations with respect to section 108 (e) and (f) of title I of the Public Works Employment Act of 1976 (90 Stat. 999) to assure that reasonable project areas are identified, for which the unemployment statistics supporting individual project applications are submitted. Such regulations shall follow the intent of such section 108 (e) and (f) to assure that grants are made under this section to the areas with the most severe unemployment.

TITLE II—YOUTH COMMUNITY IMPROVEMENT PROGRAM

SEC. 201. This title may be cited as the "Youth Community Improvement Act of 1977".

SEC. 202. The Public Works and Economic Development Act of 1965, as amended, is amended by adding the following new title:

"TITLE XI—YOUTH COMMUNITY IMPROVEMENT PROGRAM

"STATEMENT OF PURPOSE

"SEC 1101. It is the purpose of this title to establish a program of community improvement projects to provide employment, work experience, and skill training to youths in areas of aggravated unemployment.

"DEFINITIONS

"SEC. 1102. As used in this title the term—

"(1) 'eligible applicant' means any State of local government or Indian Tribe or Alaska Native organization;

"(2) 'youth' means an individual who has attained the age sixteen but not age twenty;

"(3) 'Secretary' means the Secretary of Commerce;

"(4) 'State' includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1103. There are authorized to be appropriated $1,500,000,000 for the period beginning on the date of enactment of this title and ending September 30, 1978, to carry out the provisions of this title.

"ALLOCATION OF FUNDS

"SEC. 1104. In allocating funds appropriated under this title, the Secretary shall take into consideration the severity of unemployment among youths eligible for assistance under this title residing in the areas under the jurisdiction of each eligible applicant: *Provided, however,* That not less than one-half of 1 per centum of all amounts appropriated to carry out this title shall be granted under this title for programs within any one State, except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, not less than one-half of 1 per centum in the aggregate shall be granted for such projects in all four of these jurisdictions.

"COMMUNITY IMPROVEMENT YOUTH EMPLOYMENT PROGRAM

"SEC. 1105. (a) The Secretary is authorized in accordance with the provisions of this title, to make grants to, and to enter into contracts with, eligible applicants to pay the costs of community improvement projects to be carried out by youths employed by such applicants. Community improvements projects include work on community capital improvements, which would not otherwise be carried out, including the rehabilitation, alteration or improvement of public facilities, neighborhood improvements, including basic repairs to low income housing; and conservation, maintenance or restoration of natural resources on publicly-held lands. Any eligible applicant may enter into agreements with the National Park Service or the United States Forest Service to carry out community improvement projects on lands administered by such agencies. Eligible applicants shall undertake to develop sufficient projects to provide twelve months of employment and training for each enrolled youth.

"(b) No grant may be made, and no contract may be entered into, under the provisions of this title unless the agreement evidencing such grant or contract provides assurances that—

"(1) the community improvement project is an eligible project which will be conducted in such manner as to permit the youth employed in that project who are in school to coordinate the job with classroom instruction and, to the extent feasible, to permit such youth to receive credit from the appropriate local educational agency or school involved;

"(2) youths employed in community improvement projects under this title shall be paid wages which are not lower than (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(1) of such Act applied to the youth and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable employment, or (C) the prevailing rates of pay for persons employed in similar public occupations by the same employer, except that the eligible applicant may make provisions to offset such wages by the reasonable cost of supervisory or administrative expenses and, where necessary food, shelter, and transportation costs related to the employment of such youth, pursuant to such regulations as the Secretary may prescribe;

"(3) persons employed in necessary technical and supervisory positions assisted under this title shall be paid the prevailing rates of pay for persons employed in similar activities in the area. In the case of persons performing work of the type to which the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5) applies, the prevailing wage will be determined in accordance with that Act;

"(4) the activities of the project subject to such agreement (A) will result in an increase in employment opportunities over those which would otherwise be available, (B) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of non-overtime or wages or employment benefits), (C) will not impair existing contracts for services or result in the substitution of Federal or other funds in connection with the work that would otherwise be performed, and (D) will not substitute jobs assisted under this title for existing federally assisted jobs; and

"(5) no person with responsibility in the operation of such an agreement will discriminate with respect to any youth or any applicant for participation in any eligible project because of race, creed, color, national origin, sex, political affiliation, or beliefs.

"APPLICATIONS

"SEC. 1106. (a) Financial assistance under this title may be provided by the Secretary only pursuant to an application which is submitted by an eligible applicant and which is approved by the Secretary in accordance with the provisions of this title and in accordance with the rules and regulations which the Secretary has promulgated governing programs to be funded under this title.

"(b) Each such application shall—

"(1) provide a description of the jobs to be filled, a listing of the major kinds of work to be performed to carry out eligible projects, and the approximate duration for which the participants would be assigned to such jobs;

"(2) provide a description of job training and skill development opportunities that will be made available to participating youth, as well as a description of plans to coordinate the training and work experience with school related programs including vocational training and the awarding of academic credit;

"(3) describe the wages or salaries to be paid youths and other persons employed in jobs and supervisory positions assisted under this title.

"(4) set forth assurances that there will be an adequate number of supervisory personnel on an eligible project and that the supervisory personnel are adequately trained in skills needed to carry out the project and can instruct participating youths in skills needed to carry out a project;

"(5) set forth assurances that any income generated by the project will be applied toward the cost of the project; and

"(6) set forth such other assurances, arrangements, and conditions consistent with the provisions of this title, as the Secretary deems necessary, in accordance with such regulations as the Secretary shall prescribe.

"(7) describe the organization and responsibilities of the administering local corporation required under section 1109 of this Act.

"PAYMENTS

"SEC. 1107. (a) The Secretary is authorized to pay any eligible applicant having an agreement under this title for that fiscal year the amount necessary to carry out that agreement, as determined by him.

"(b) Payments under this title may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

"REVIEW AND AUDIT

"SEC. 1108. The Secretary and the Comptroller General of the United States, or any duly authorized representatives, shall have access for the purpose of audit and examination, to any books, documents, papers, and records of a grant or contract entered into under this title that are pertinent to the grant or contract.

"LOCAL CORPORATIONS

"SEC. 1109. To carry out the activities funded under this title, each eligible applicant shall establish or designate a local nonprofit corporation. The corporation shall include at least one representative for each of the following interests: the local government, local educational institutions, the business community, labor organizations, community based organizations, and the local manpower office. The Secretary in issuing guidelines and regulations shall include regulations concerning the organization and responsibilities of such local corporation.

"EDUCATION CREDIT

"SEC. 1110. The Secretary of Commerce in carrying out the purposes of this title, shall work with the appropriate State education agency to provide that academic credit be awarded for work experience gained through this program.

"UTILIZATION OF OTHER FEDERAL AGENCIES SERVICES AND FACILITIES

"SEC. 1111. In addition to such other authority as he may have, the Secretary is authorized, in the performance of his functions under this title, and to the extent permitted by law, to utilize the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and utilize the services and facilities of the agencies of any State or political subdivision of a State, with their consent: *Provided, however,* That where any such facilities are not adequate or available, the Secretary is authorized to provide for the housing, food, transportation, and medical needs of youth employed in the national parks and national forests.".

Mr. HEINZ. Mr. President, I am pleased to join my distinguished colleagues from the Committee on Public Works, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Vermont (Mr. STAFFORD), in cosponsoring the Public Works Employment Act extension.

We are all very much aware of the fact that millions of Americans need jobs. This Congress and the Carter administration have made a commitment to the American people to work together to reduce the tragic problem of unemployment which now stands at 7.9 percent. Last year we spent $19 billion on unemployment compensation, but still every month, 200,000 more workers are exhausting their unemployment benefits.

The 94th Congress enacted a $2 billion public works employment program and the Economic Development Administration subsequently awarded grants to communities shortly before Christmas, 1976. This was a start that we needed to make, but in light of the massive number of men and women who remain out of work, we must continue to press on in our efforts to put people back to work.

The response to the Public Works program has been overwhelming, which indicates a great need for additional funding. Within 60 days of enactment of the legislation authorizing $2 billion for this program, 25,000 applications totaling some $24 billion for local projects had been received. These applications, 12 times the number which could be accommodated, included such vital public facilities as hospitals, schools, libraries, and sewage and water treatment facilities.

This program, however, was not administered without any complications. Not only was the Economic Development Administration faced with the problem of establishing fair and comprehensive guidelines for processing grant applications to meet all the dictates of Congress, but the individual applicants were confronted with a lengthy and extremely complex form to complete.

Many communities in Pennsylvania have expressed their hope that the Congress consider a more equitable distribution of funds if this act is to be extended. Unfortunately, there were many communities in Pennsylvania and across the country that have unreasonably high unemployment rates and did not receive any funding under the 1976 act. Because of formula and regulation deficiencies, areas in my home state like Erie, Scranton, Lancaster, York, and Wilkes Barre, all of which have an unemployment rate in excess of 10 percent, did not receive 1 cent of the money in this program. Most of these areas have submitted projects that were designed to provide the basic needs of the community and were in desperate need of an economic boost.

Erie, Pa., for instance, has submitted a vocational training center project which would not only have the benefit of employing people to construct this facility, but would have the added benefit of being a job training center. Erie has an unemployment rate of 10.5 percent, but neither this nor any other grant was approved for the city of Erie.

Wilkes-Barre, Pa., has applied for a grant to construct a new police station. The current station is in such a deteriorated state that it has caused serious safety hazards. Wilkes-Barre has an unemployment rate of 10.03 percent but received no funds under the Public Works Act of 1976.

York, Pa., applied for a $1.6 million grant for much needed street repairs and storm drainage facilities. This project would have employed 74 people. York has an unemployment rate of 10.54 percent, yet no grants were approved for the city of York.

Pittsburgh, Pa., applied for a $1.6 million bridge repair project which would have created 100 jobs and assisted that city with one of its most serious problems unsafe bridges. This is just one of the many bridges in Pittsburgh that has been classified as critically deficient and presents a daily threat to motorists. Pittsburgh has an unemployment rate of 9.16 percent. No funds were approved for the city of Pittsburgh under the 1976 act.

Obviously, there have been some problems in implementing this jobs program, but I think we can learn from our mistakes and make the necessary changes prior to extending this program for another year. There is no doubt that a real need exists for an extension and I am proud to be a cosponsor of the legislation that will help meet that need.

People need jobs and the mechanism to provide those jobs is already in place. It will be our task to make sure that the mechanism works, that it is fairly administered and that it meets the goal of providing work in those areas of high unemployment. I look forward to working with my colleagues in the Senate and on the Public Works Committee to eliminate the discrepancies that have prevented many worthwhile projects from being funded and providing the funds necessary for putting people to work.

By Mr. McCLURE:

S. 428. A bill to amend the Natural Gas Act to extend its application to the direct sale of natural gas in interstate commerce, and to provide that provisions of the act shall not apply to certain sales in interstate commerce; to the Committee on Commerce.

NATURAL GAS CONSERVATION ACT OF 1977

Mr. McCLURE. Mr. President, the present crisis in natural gas deliveries is resulting in political demands for more of the poison which brought us to this point—increased Government control of the natural gas market. Despite the warnings of the past 6 years—and even longer—the Congress has insisted on maintaining price controls on natural gas, resulting in increased demand and constantly decreasing supply. The situation has reached such a desperate level that the natural gas companies have requested authority from the FPC to use a portion of the natural gas in the ground required to maintain field pressure for production. The FPC has granted permission to extract this necessary base for future gas deliveries.

To those not familiar with natural gas field operations, what this amounts to is that the companies are "eating their seed grain." If farmers could not meet food demands and had to resort to selling their next year's seed grain, the seriousness of the shortage would be obvious to all. Getting through one crisis by guaranteeing another during the coming year should alert even the most biased opponents of industry to the outlook for the future.

But, obviously it has not. Instead of demands for logical action—removal of the Government controls which created this crisis—we hear demands for even more controls. The people and their elected Representatives have to make a decision now: Are they going to continue to listen to those who have claimed that there is no danger of a shortage of natural gas, that the shortage is "phony," or will they finally decide to disregard those discredited claims and to turn to those who have accurately predicted the results of Government controls.

The advocates of more controls now want to add "allocation" to "price control." We know, of course, that price controls lead to shortages, which in turn lead to demands for "allocations," or rationing. It is time to turn away from the discredited advocates of controls and turn to the job of increasing supplies of natural gas while we work to conserve existing supplies.

Mr. President, any objective analysis of the present energy crisis must conclude that one basic cause was the 1954 Supreme Court decision concerning price regulation of natural gas. In this decision, concerning Phillips Petroleum Co. against Wisconsin, the Court held that the Federal Power Commission had authority to regulate the prices at which natural gas field producers sold their production to interstate pipeline companies. The Warren Court came to this conclusion despite the explicit intent of Congress, expressed by the Natural Gas Act of 1938 in these terms—(15 U.S.C. 717(b) The provisions of this chapter * * * shall not apply to the production or gathering of natural gas.

I will not go into the sorry record of the attempts by the Federal Power Commission to regulate wellhead prices. Whether based on some unwieldy costs of service procedures or on setting area-wide ceiling prices, involving distinctions between old gas and new gas, the results speak for themselves. The residential natural gas consumer has not been helped by political efforts to hold down prices. These efforts have led directly to the present shortage of fuel oil, gasoline, and technology for removing sulfur from coal and sulfur dioxide from powerplant exhaust gases.

The time has come to reverse this decline in natural gas reserves. And the first step in this process is to remove the authority of the Federal Power Commission to regulate wellhead prices for new supplies of natural gas. This will accomplish these vital objectives.

First, it will stimulate exploration and development of new gas fields, plus increase the economic feasibility of existing marginal wells. Second, it will conserve new supplies of natural gas, by discouraging wasteful uses—uses which were created by the cheapness of price-controlled gas. And, third, it will stimulate the search for new sources of clean fuel, particularly from coal, and new techniques for existing reserves.

My proposal, the Natural Gas Conservation Act of 1977, exempts only gas from new wells, not rededicated supplies. This will, I believe, stimulate necessary exploration and development without imposing additional economic burden on the consumer.

Second, my proposal would leave jurisdiction for a 3-year period over price ceilings with the Federal Power Commission. I believe that this 3-year transition is necessary to protect against possible exorbitant price increases of a temporary nature. After 3 years, supply and demand should maintain competitive levels without this ceiling-setting authority.

Mr. President, to summarize my objection to the present system of regulation and to lend further argument for my proposal, I quote from an article entitled, "The Natural Gas Shortage and the Regulation of Natural Gas Producers," written by Stephen Breyer, professor of law at Harvard Law School, and Paul W. MacAvoy, professor of economics at MIT. This article, printed in the Harvard Law Review, is adapted from a book on energy regulation by the authors, funded by the Brookings Institution:

In sum, the arguments against the present system of gas field market regulation are compelling. Price control is not needed to check monopoly power, and efforts to control rents require impossible calculations of producer costs and lead to arbitrary allocation of cheap gas supplies. In practice, regulation has led to a virtually inevitable gas shortage. It has brought about a variety of economically wasteful results, and it has ended up by hurting those whom it was designed to benefit. Thus, less, not more, regulation is required.

I recommend the complete article to my colleagues as an excellent analysis of this complex subject, and hope that the authors will have the opportunity to testify before the appropriate committees on the proposed legislation.

Conservation of natural gas demands that Federal Power Commission price controls on wellhead production of new supplies be removed. Despite statements to the contrary, the residential consumer will not be hit with outrageous price increases, since higher priced new gas will be rolled in with lower priced existing supplies. In that manner, a further deterioration of the existing natural gas supply situation—with its attendant harmful effects on other forms of fuel and energy—can be reversed and future consumers of this clean, valuable energy source will be protected. I urge immediate attention to this legislation, in light of the continuing energy crisis in our Nation today.

Mr. President, I ask unanimous consent that two articles from the Journal of Commerce, detailing the impact of the present shortage, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

COLD WAVE HAS MANY IN "SWEAT"

(By Charles A. Fuller)

The brutal cold wave gripping most of the nation is hitting the nation's economy with sledgehammer force, idling tens of thousands of workers as factories are forced to close because of shortages of electricity and natural gas.

Automakers alone temporarily laid off 50,000 workers on Tuesday while United States Steel laid off 4,000 of its 10,000 workers at the company's Fairfield Works in Birmingham, Ala., and more layoffs were expected.

MORE CASUALTIES

As the day wore on, more economic casualties surfaced as a result of the bitter cold and energy shortages which are mounting ominously with the passage of time. Among the severe developments Tuesday were:

Pennsylvania Lieutenant Governor Ernest Kline said his state would declare "a state of extreme emergency" with the establishment of mass care centers in case natural gas supplies are cut off to residential users. He said the gas companies are simply unable to get enough gas into the lines.

Nearly half of the 14,000 carpet workers in Dalton, Ga., were thrown out of work because of gas shortages at their plants, and the lack of gas is expected to continue there for at least two to three more weeks.

Philadelphia Electric Co. said it will curtail natural gas supplies for 29 big industrial customers in the Philadelphia suburbs including a U.S. Steel Co. plant at Morrisville, Pa., Alan Wood Steel Co., Standard Pressed Steel Co., Phoenix Steel Co. and Scott Paper Co.

Peoples Gas Light & Coke reportedly was cutting as much as 50 per cent of the power going to large industrial customers in the Chicago area.

Dayton Power and Light Co. declared a power emergency for 24 Southwestern Ohio counties.

NEW JERSEY STATE OF EMERGENCY

Governor Brendan Byrne declared a state of emergency in New Jersey after pipeline suppliers cut gas supplies by more than one third, closing the plants of 15 large industrial customers of South Jersey Gas Co.

Virginia Electric and Power Co. shut off electricity of nearly one-third of its one million customers.

Citrus fruit and vegetables froze in massive quantities in Florida fields, a situation which could force up food prices.

Commercial shipping between Lake Superior and the rest of the Great Lakes was suspended because of worsening ice conditions while traffic on the Mississippi River is virtually non existant because of ice.

But despite all of the above events and more, the full economic impact cannot be measured as of this time. Of perhaps even greater damage than the outright layoffs of workers, is the fact that hundreds of thousands of workers in many states did not go to work on Tuesday simply because their autos would not start in the extreme cold.

The mercury in Cincinnati dropped to 25 degrees below zero Tuesday, an all-time low for that city, while Watertown, N.Y. shivered with an even colder temperature, 32 degrees below zero.

HEATING BILLS SOARING

Heating oil bills for millions of Americans from New England to the southern states are soaring, putting greater pressure on wage earners, many of whom are only just making ends meet economically. This is certain to have a substantial impact upon the ability of Americans to buy other products such as autos, appliances, vacations, etc.

One New York area woman whose take-home pay is less than $150 a week, said her heating bill for last month alone was $150, and this month she expects the cost of heating to at least double.

If the cold continues, more economic damage is bound to pile up. But the National Weather Service is not very optimistic, with expectations that the polar air will stay around for some time longer, perhaps even weeks in some areas.

The weather, it seems, has gone crazy by normal standards. Snow fell in Northern Florida, six inches blanketed Northern and Central Mississippi and Alabama. Record low temperatures were reached Tuesday from Indiana to North Carolina and up North to New England.

SOUTHEAST STATES MAY GET ENOUGH GAS

While federal officials plead for conservation and some industry leaders gripe about government regulation, there are signs southern homes and businesses may soon get sufficient emergency supplies of natural gas to avert further crises.

More than 8,000 Alabama and Georgia workers have been laid off because gas service to their factories were turned off, and hundreds of industrial and commercial operations in North and South Carolina are scheduled to have their gas cut off in the next few days.

The Federal Power Commission Friday gave the green light to more emergency supplies at prices above the government ceiling from the Houston Pipeline Co., after hearing appeals from state officials of Georgia, Maryland, North Carolina and South Carolina.

But it was uncertain how soon they would be available and whether there would be enough.

Gas distributors across the nation have dipped deep into their reserve supplies because of the higher demand caused by an unusually cold winter. In some southern states, those reserves are nearly depleted and firms have begun turning off supplies to all but residential customers and smaller businesses.

In Dalton, Ga., nearly one-third of the 14,000 employes at carpet plants were laid off, and 400 persons in nearby Cartersville were also out of work temporarily.

In Birmingham, Ala., more than 3,000 workers were laid off from a U. S. steel plant and the company expected more furloughs this week.

"We're surprised about the gas shortage coming all of a sudden like it did, said Frank Waters, 51, who was laid off from a Dalton carpet firm last week.

"It was a big shock to me and a big shock to everyone here in Dalton . . . we all go back to work (at this plant) Monday morning because we converted to electricity. But a lot of plants can't."

The plants in Georgia and Alabama are supplied by Southern Natural Gas Co., which said it did not expect to be able to resume service to industrial customers for at least three weeks. Southern Natural officials said they were still unsure of the effect the FPC decision would have on their company.

After approving the Houston sale Friday, FPC chairman Richard L. Dunham urged Americans to "conserve natural gas in every way" and urged Congress to act to ease the crisis.

By Mr. RANDOLPH (for himself, Mr. DOMENICI, Mr. FORD, Mr. HUDDLESTON, and Mr. JACKSON):

S. 429. A bill to amend the Federal Nonnuclear Energy Research and Development Act of 1975 to provide assistance to the Energy Research and Development Administration for the advancement of research, development, and demonstration of nonnuclear energy technologies, and for other purposes: to the Committee on Interior and Insular Affairs.

By Mr. RANDOLPH (for himself, Mr. DOMENICI, Mr. FORD, Mr. HUDDLESTON, and Mr. JACKSON):

S. 430. A bill to amend the Federal Nonnuclear Energy Research and Development Act of 1975 to provide generic authority to the Energy Research and Development Administration to utilize loan guarantee assistance to advance research, development and demonstration of nonnuclear energy technologies, and for other purposes; to the Committee on Interior and Insular Affairs.

SYNTHETIC FUELS ACT OF 1977

Mr. RANDOLPH. Mr. President, if synthetic fuels are to contribute to the U.S. energy supplies the Congress must make the basic decision to direct the course of national energy policies.

Energy conservation can minimize the economic impact of energy independence but alternative energy supplies also are needed to support our economy, particularly our transportation system. Renewable resources such as biomass and solar and geothermal energy are of limited value to transportation. The principal domestic options are synthetic fuels from coal by gasification and liquefaction and, eventually, in situ oil shale conversion.

EARLY FEDERAL PROGRAMS

The use of Federal incentives for this purpose is not a new idea.

The first congressional initiative to develop nonnuclear energy technologies was in the mid-1940's when Senator Joseph O'Mahoney of Wyoming and I introduced in the Senate and House the Synthetic Liquid Fuels Act, which was signed into law on April 5, 1944. That law authorized the first Federal programs for gasification of coal, liquefaction of coal and lignite, and production of synthetic crude oil from oil shale.

Under the Synthetic Liquid Fuels Act of 1944 the Bureau of Mines continued preliminary investigations begun in 1916 on oil shale and begun in 1926 on synthetic oil from coal. Demonstration was undertaken of coal gasification and oil shale extraction.

In conjunction with the Department of Agriculture, the Bureau of Mines initiated new technologies to produce alcohol and other liquid fuels from agricultural residues.

Experience under this program led Secretary of the Interior Julius Krug to conclude in January 1948 that—

> The establishment of a synthetic fuel industry is far too large an operation . . . to be undertaken under emergency or war conditions . . . It should be undertaken now when the country is at peace and completed over a period of five to ten years.

The extensive knowledge and skill acquired in the conversion of coals and oil shale into liquid and gaseous fuels, for the most part, has been lost in the intervening years. This is sad to remember.

These nonnuclear technologies did not become realities in the United States due to economic factors. But these same technologies were pursued to commercial realities in such oil deficient but coal abundant countries as South Africa. The American corporation, M. W. Kellogg Co., designed and supervised construction of the facilities in South Africa that are often cited as an example of the potential for coal liquefaction. But we did not proceed in the United States. We should have done so.

During the 11 years of the program under the Synthetic Fuels Act about $82 million of Federal moneys were expended out of appropriations totaling $85.2 million. So little done, my colleagues, and then came the realization, in part, of the wasted years from the standpoint of an energy policy and a national security posture.

By comparison, over the 27-year period from 1948 to 1974 more than $47 billion were expended by the Federal Government on nuclear reactor development programs.

CREATION OF ERDA

In October 1974 the Congress created the Energy Research and Development Administration to assure that nonnuclear energy alternatives would receive their equitable share of Federal moneys for energy research, development and demonstration. The Federal Non-Nuclear Research and Development Act of 1974 subsequently authorized the use of such Federal incentives as direct grants, contracts, and loans for development of nonnuclear new energy technologies.

Besides this general authority special economic incentives were provided in the Solar Energy Research, Development and Demonstration Act of 1974, in the Solar Heating and Cooling Demonstration Act of 1974, and in the Geothermal Energy Research, Development and Demonstration Act of 1974.

However, since creation of ERDA expenditures on nuclear power have continued to dominate the Federal energy budget. Approximately $1.1 billion and $1.3 billion were spent in fiscal years 1975 and 1976 respectively, on nuclear related research and development. And approximately $1.3 billion are programmed for fiscal year 1977 for a total of approximately $50.7 billion since 1948.

The report of the Interior Committee on S. 598, the 1976 ERDA authorization bill, declared:

> Greater Federal incentives are needed to cut the Gordian Knot of economics for the first generation of pioneer synthetic fuels plants in this country. The market place does not now provide sufficient incentives or an adequate mechanism for encouragement of the establishment of this industry.

The economic incentives available to ERDA must be restructured and broadly applied to assure the commercial development of synthetic natural gas and oil in the United States. We must act.

Flexible Government incentives are essential to remove the uncertainties surrounding commercialization of many new energy technologies. ERDA needs a range of incentives, or combination of incentives, so that it can tailor Federal support to enable the minimum Federal support required to attract proposals from qualified operators.

General authority is not available to ERDA to minimize Federal participation by such means as loan guarantees or possible grants which are convertible to commercial demonstration facility.

COAL GASIFICATION AND LIQUEFACTION

As natural gas production declines, substitute energy supplies must be found. The United States presently has over $100 billion invested in its gas transmission, distribution, and end-user equipment system. On an economic basis, keeping these gas pipelines full, even

with higher priced synthetics, may be cheaper for the American consumer. Extension of the useful life of present pipeline systems is cheaper than creating new systems—cheaper by far—yes, cheaper by far.

A frequent criticism of coal gasification is cost. However, synthetic natural gas, while more costly than natural gas from the suppliers' point of view, is significantly cheaper than electricity—one-third the cost—for home cooking, clothes drying, space and hot water heating. The production, transportation, and distribution of natural gas also is more efficient—67 percent for synthetic natural gas compared to 37 percent for electricity.

The capital required to produce and deliver a unit of energy in the form of synthetic natural gas from coal also is less than that required to produce electricity from coal. With the utility-financing mechanisms available to the pipelines the costs of fuels could be reduced by one-third, compared to 100 percent equity financing as employed by oil companies.

For residential customers, synthetic natural gas is more efficient and less costly than electricity. Should we fail to act and deny American consumers synthetic substitutes we would commit them to conversion to higher cost alternatives, either oil or electricity.

In the longer term, coal liquefaction also will be important in the production of chemicals and similar specialty products.

Mr. President, the need for synthetic fuels is greatest for transportation. As the Senator from Kentucky (Mr. FORD) stated to this body on October 1, 1976—

Our entire transportation system and our economy are vulnerable, exposed by our own shortsightedness. If the American people fully realized the extent of our vulnerability, I believe there would be an immediate outpouring of national concern.

The Subcommittee on Aerospace Technology and National Needs, which our able colleague chairs, had just completed hearings on "Alternative Fuels for Aviation." Navy witnesses had explained that 95 percent of the petroleum consumed by our U.S. Pacific Command is foreign oil; 81 percent by our European Command. Should foreign oil become unavailable to us, our Armed Forces would look to America where our domestic production meets only half our needs.

The Senator observed that this situation is alarming—

The point is, our transportation system runs on liquid fuels. Liquid fuels are what we're short of now. Oil—our primary liquid fuel—is what the world is running out of. That is the heart of the energy crisis and many people miss that point. To be sure we will need these other sources of electric base power, but if commerce is to continue in this country then we need liquid fuels on which to run our transportation system.

Senator FORD then added—

A massive program to build a synthetics fuels industry in this country will not be inexpensive.

But if we are to reduce our vulnerability to embargoes, arbitrary price increases, and eventual depletion of the oil reserves, we must act with dispatch.

Mr. President, I agree with the judgment of the Senator from Kentucky (Mr. FORD).

Clearly the inadequate Federal commitment to the development of coal gasification and liquefaction does not reflect the urgency of our country's energy problems. Because of the small Federal nonnuclear energy research programs, the United States must now stockpile high cost oil in an attempt to neutralize oil against the possibility of another embargo.

The Energy Policy and Conservation Act directs that strategic oil reserves be established to assure 90-day supplies. By the end of 1978 approximately 150 million barrels of crude oil will be stored at Federal expense to protect our country in the event of future oil supply interruptions. Eventually the full strategic reserve system could be as large as a billion barrels.

These emergency stockpiles will cost about $12.5 billion. An identical Federal investment could construct coal gasification facilities capable of supplying the equivalent of 1 million barrels of oil per day for at least 20 years. Logic is on the side of investing now in coal gasification facilities.

Let us examine the national effort that would be required to replace imports of 1 million barrels of oil per day with synthetic gaseous and liquid fuels. Let us also assume that commercially available Koppers-Totzek gasifiers will be used. In order to meet our goal approximately 25 different plants would be required, each employing about 20 gasifiers. Therefore, some 500 gasification units would be required.

Because the cost of each gasifier is approximately $25 million, a typical plant would cost about $500 million. To achieve our production goal of 1 million barrels of oil per day, about 25 plants would be required, a capital investment of about $12.5 billion.

Construction of each plant would take about 1,800 craftsmen and journeymen, working for 3 years. All of the plants could not be built at the same time; no more than three or four plants could be constructed at a given time.

FEDERAL INCENTIVES NEEDED

The January 1976 report of the Congressional Budget Office on Commercialization of Synthetic Fuels characterized the circumstances under which a Federal program can be justified:

A synthetic fuels commercialization program can be justified if the production of some amount of synthetic fuel in an appropriate time frame is itself considered worthwhile. The two relevant time frames are 1975 to 1985 and beyond 1985. Production of synthetic fuels would be worthwhile if their costs (at some point, presumably beyond 1985) were lower than the costs of equivalent quantities of energy provided through alternatives . . . where the costs . . . reflect the possibility of embargo or further price increases.

Clearly these circumstances now exist in the United States.

The principal obstacle to the commercialization of synthetic fuels is the scale of the capital required. This was graphically set forth by the Congressional Budget Office which estimates that—

The total investment in every production needed to keep petroleum imports in 1985 at current levels is $560 billion. Individual projects are also costly. A single high-Btu synthetic gas plant will cost approximately $1.0 billion.

To place those costs in context, the Budget Committee notes that in 1975 only 162 industrial corporations have assets greater than $1 billion, and only 30 have assets over $4 billion. The Budget Committee states:

Major oil firms and utilities are the most likely participants in synfuel ventures, although various manufacturing companies and smaller oil and coal companies have expressed interest . . .

A major consortium would have to be assembled to spread risk adequately.

Moreover, some potential participants in synfuel development face particular financial constraints. Electric utilities, for example, are having difficulty raising capital for construction of new generating plants.

Among the regulated natural gas utility companies, 10 had net plant and stockholder equities in 1975 greater than $1 billion. The largest, Columbia Gas, had plant assets of only $2,171 million, and a net worth of only $1,063 million. Clearly such regulated companies will face great difficulty financing synthetic fuels such as coal gasification without Federal incentives.

Mr. President, I ask unanimous consent that a table listing these 10 companies be printed in the RECORD at this point in my remarks:

1975 NET PLANT AND STOCKHOLDER EQUITY OF LARGEST GAS UTILITY COMPANIES

Rank (net plant) and gas utility company	Net plant [1] (millions)	Stock holder equity [2] (millions)
1—Columbia Gas	$2,171	$1,063
2—Texas Eastern	1,979	901
3—El Paso Co	1,788	530
4—American Natural	1,773	709
5—Peoples Gas (Illinois)	1,570	684
6—Consolidated Natural	1,462	706
7—Transco	1,343	455
8—Northern Natural	1,248	650
9—Pacific Lighting	1,217	614
10—Panhandle Eastern	1,133	491

[1] Depreciated value of plant assets.
[2] Net worth.

Source: Moody's Public Utility Manual 1976.

Mr. President, a number of factors are effectively restricting commercialization of synthetics by the private sector. As the August 1976 report of the Congressional Budget Office notes—

Projects that are in the national interest but have an unfavorable risk/return ratio are not ordinarily undertaken by private industry.

Mr. President, development of a synthetic fuels capability in the United States is in the national interest. Faced with present uncertainties this development is not proceeding in a timely manner as a replacement for oil imports. Among the more significant impediments are:

First. Legislative and regulatory uncertainties.

Second. Financial uncertainty. Synthetics are inherently capital intensive. Investors also may be unwilling to provide capital because of the uncertain legislative and regulatory environment.

Third. Technological uncertainties. Although processes have been proven in laboratory or even pilot-scale operations, substantial uncertainties remain about commercial-scale operations.

Fourth. Timing uncertainties. Abnormally long leadtimes complicated by delays in approvals, environmental reviews and litigation.

These uncertainties compound the risks inherent in the tremendous investments required by private industry to advance new energy technologies beyond the precommercial stage. For these reasons the report of the Congressional Budget Office recommends that—

If it is decided that a commercial synthetic fuels industry should be established immediately, a choice must be made among Government-ownership, provision of loan guarantees alone, or provision of loan and price guarantees.

As mentioned, 2 years ago the Congress created the Federal Energy Research and Development Administration to foster nonnuclear energy alternatives. Subsequently, the Federal Non-Nuclear Research and Development Act of 1974 authorized the use of such Federal incentives as direct grants, contracts, and loans. The 1974 act also authorized Federal purchase of products and the creation of Government-industry corporations.

These Federal programs and incentives now must be restructured to include Federal loan guarantees. If we wait until the economics are precisely defined, conventional oil and gas supplies will be on their deathbed. Our economy will be in chaos. The United States cannot afford to wait. We must act now to commercially demonstrate known technologies.

Construction of a limited number of first generation systems can provide us with financing as well as operating experience. To provide an additional financial incentive I introduced legislation in the 94th Congress to provide Federal loan guarantees for the commercial demonstration of synthetic fuels from coal as well as other new energy technologies.

Recently, Governor Lamm of Colorado, endorsed such Federal loan guarantees as necessary for the orderly development of a synthetic fuels industry in the United States.

Loan guarantees are modest incentives, particularly applicable to utilities-tvpe operations wherein costs can be rolled into a rate structure. Federal loan guarantees are important and necessary aids to encouraging energy industries to invest in new energy techologies.

Other aids such as investment tax credits and accelerated tax writeoffs are available to all industries, not just energy industries. As such they do not provide the added incentives needed to foster adoption of new, as opposed to conventional energy alternatives. As the August 1976 report of the Congressional Budget Office notes—

General tax incentives, such as increased investment tax credit or accelerated depreciation, could in principle provide adequate incentives if specifically aimed at synfuel projects. However, they would not help firms with low taxable income. It would be difficult to control program size with such incentives. Tax incentives and programs that would rely on increasing all energy prices—deregulation of natural gas or oil prices, tariffs, or import quotas—to increase synfuel production share a common drawback. They are indiscriminate, subsidizing investments that would be made anyway as well as those for which the program was conceived.

The Senate Budget Committee report adds—

Unlike tax incentives . . . which are available to all investments that satisfy stated criteria, these (loan) guarantees are made available only to selected projects. Thus, they are appropriate to remedy specific obstacles to investment, rather than obstacles arising from general economic conditions.

The merits of Federal loan guarantees for financing energy development are cogently stated in the 1976 report of the Senate Committee on Budget which states—

Underlying the increasing use of guarantees in the energy area is the need to finance new sources of energy. So far, the private sector has for the most part been hesitant to develop new energy sources such as synthetic fuels, the sun, and geothermal heat. The obstacles to private investment are the scale of the capital required, the uncertainty of future prices for petroleum energy, technological uncertainty, and regulatory policy.

The August 1976 report notes these obstacles exist for solar and geothermal energy as well as synthetic fuels, adding—

Loan guarantees can reduce 'front-end' risks, especially those due to uncertainty about the cost or performance of new technologies. Government construction of a synthetic fuel plant, with later sale to a private firm, can perform a similar service.

By utilizing Federal loan guarantees the Government enters the private financial market in such a way as to reduce or remove the risks associated with these obstacles, thereby allowing the private sector to proceed with the capital investment. As the Congressional Budget Committee report observes—

When the government uses such guarantees, private participants in a selected venture are protected from some or all of the effect of its economic failure. By employing such guarantees direct Federal expenditures appear to be avoided and a major private role is assured.

With guarantees the Federal Government can assure the ultimate financial viability of a particular enterprise and at the same time avoid direct Federal expenditures. A major private role also is assured.

A frequent criticism of Federal loan guarantees that deserve response is that the principal proponents, and likely recipients of guarantees for coal gasification, will be natural gas transmission companies—not the multinational oil companies.

However, competition would be stimulated between the pipelines and major oil companies. For this reason, in part, Exxon opposed such legislation. On the other hand, the expertise on synthetic fuels technologies resides in the larger companies. To restrict their participation in Federal programs would not provide the Government with the best expertise and would increase the risk of failure and default on federally guaranteed loans. Moreover, the profits of interstate natural gas pipelines are regulated by the Federal Power Commission. The consumer would be protected against windfall profits associated with Federal loan guarantees.

SYNTHETIC FUELS ACT OF 1977

Mr. President, because of my continuing concern for the timely development of a synthetic fuels capability for the United States, I introduce S. 429, the Synthetic Fuels Act of 1977. This measure is structured to reflect similar measures considered by the Senate during the 94th Congress. The principal difference is that this bill does not authorize funds for Federal loan guarantees, but makes such authorizations subject to the annual authorizations and appropriations process now followed by ERDA. This amendment to the Federal Nonnuclear Energy Research and Development Act of 1974 would enable ERDA to request loan guarantees for new energy technologies on a project-by-project basis. Such requests, as part of the annual authorizations and appropriations process, would then be reviewed by the appropriate jurisdictional committees of the Congress. Each proposal thus would be reviewed by the Congress and would require a line item authorization and appropriation.

Moreover, authorizations for loan guarantees would become budget items at the time the loan guarantees are awarded. This revision to the earlier measure is in response to concerns expressed by the Senate Budget Committee.

This legislation did not commit the Congress to a large program of loan guarantees for synthetic fuels development. As each proposal is submitted to the Congress by ERDA it would be subject to the normal checks involved in the process for the authorizations and appropriations of funds.

The effect of this revision is to convert S. 2869 and H.R. 12112 as considered by the 94th Congress into generic authority for ERDA to request funds to support Federal loan guarantees. The bill thus sets forth the necessary conditions for receipt of such loan guarantees and the procedures to be followed by ERDA in their administration.

Similar generic authority passed the Senate on June 25, 1976, in an abbreviated form by a vote of 65 to 15. This minimum provision was subsequently incorporated in the conference report on H.R. 13350 which the Senate was unable to consider due to time limitations during the closing days of the 94th Congress.

Mr. President, I introduce two measures to provide ERDA with general loan guarantee authority for new energy technologies. The first, the Synthetic Fuels Act of 1977, is the revised bill to which I referred earlier. This measure is cosponsored by Senators DOMENICI, FORD, HUDDLESTON, and JACKSON.

The second is the conference agreement reached on H.R. 13350, which did

not receive final consideration by the 94th Congress. This measure is cosponsored by Senators DOMENICI, FORD, HUDDLESTON, and JACKSON.

I ask unanimous consent that these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. That this Act may be cited as the "Synthetic Fuels Act of 1977".

SEC. 102. Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees: *Provided,* That all of the other provisions of this Act apply to such guarantees and commitments to guarantee in the same manner and to the same extent as they apply to demonstrations under this Act.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce synthetic fuels from coal, oil shale, and other domestic resources, to employ biomass and renewable and geothermal energy sources to produce synthetic fuels and other desirable forms of energy, and to assure the availability of energy-efficient industrial equipment and facilities;

"(2) to authorize assistance, through loan guarantees and commitments to guarantee under subsection (b) for construction and startup and related costs under section 7 of the Federal Nonnuclear Energy Research and Development Act of 1974 (43 U.S.C. 3901, et seq.) to demonstration facilities (A) for the conversion of domestic coal, oil shale, biomass, and other domestic resources into synthetic fuels; (B) for the demonstration of synthetic fuels and other desirable forms of energy from renewable and geothermal sources; and (C) for the demonstration of energy-efficient industrial equipment and facilities; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities;

"(b)(1) Except as provided in paragraph (5) of this subsection, the Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of (A) financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into synthetic fuels, including, but not limited to, such synthetic fuels from coal as high Btu gaseous fuels compatible for mixture and transportation with natural gas by pipeline; gaseous, liquid, and solid fuels suitable for boiler use in compliance with applicable environmental requirements; liquid fuels for transportation users; and petrochemicals: *Provided,* That no loan guarantee for a full-sized oil shale facility shall be provided under this section until after successful demonstration of a modular facility producing between three and twelve thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socioeconomic impacts on local communities: *Provided further,* That no loan guarantee shall be available under this clause for the manufacture of component parts for demonstration facilities eligible for assistance under this clause; (B) financing the construction and startup costs of demonstration facilities to generate desirable forms of energy (including synthetic fuels) from direct solar, wind, ocean thermal gradient, bioconversion, or other renewable energy resources; (C) financing the purchase, construction, installation, and startup costs of energy-efficient industrial equipment and facilities for demonstration by small business concerns and others for general use; and (D) further implementing the financing of geothermal resource development under the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101, et seq.): *Provided,* That the indebtedness guaranteed or committed to be guaranteed under this subsection which may be outstanding at any time in any fiscal year shall not exceed the aggregate of the total amount authorized pursuant to this section for that fiscal year and all preceding fiscal years. With regard to such limitation the Administrator shall make no new commitments for loan guarantees after September 30, 1984, and shall furnish no guarantees after September 30, 1986. The authorized indebtedness to be guaranteed under clauses (A), (B), and (C) of this paragraph shall be allocated by the Administrator so that no more than 50 per centum is for high Btu coal gasification, no more than 30 per centum for other fossil based synthetic fuels, and no more than 50 per centum for renewable energy resources, including biomass, urban and other waste, direct solar, wind, ocean thermal gradient, bioconversion, and for industrial energy conservation. All guarantees or commitments to guarantee authorized by this section shall be made only for demonstration facilities constructed within the United States or in waters contiguous to its territory. Loan guarantees for geothermal resource development under clause (D) of this paragraph shall be carried out pursuant to the authority and provisions of the Geothermal Energy Research, Development, and Demonstration Act of 1974: *Provided,* That paragraphs (2) and (4) of this subsection, and subsections (g)(2), (h), (j), (n), (s), and (v) of this section, shall also apply to such guarantees: *Provided further,* That the limitations in section 201(e) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1141 (e)) shall not apply to such guarantees.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such consent as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of the loan to which such guarantee applies. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to synthetic fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular size, to enter into a cooperative agreement with the applicant in accordance with section 8 of this Act and the other provisions of this Act to share the estimated total planning, design and construction costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), (x), (y), and (z) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) After successful demonstration of such modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full-sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of such facility is determined not to be warranted by the Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof, after expenses of such disposal, to the applicant in proportion to the applicant's share of the costs of such facility.

"(C) There is authorized to carry out the purposes of subparagraph (A) of this paragraph, cost-sharing agreements as provided therein or through other forms of Federal assistance authorized by section 7 of this Act.

"(6) To the extent possible, loan guarantees and cooperative agreements shall be issued on the basis of competitive bidding among applicants in a particular technology area.

"(7) With respect to any demonstration facility for the conversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended), the Administrator, prior to issuing any guarantee under this section, must be in receipt of a certification from the Administrator of the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that the proposed application for a guarantee is consistent with any applicable suggested guidelines published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended and any applicable State or regional solid waste management plan.

"(c)(1) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) or enter into a cooperative agreement only if—

"(A) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(B) the Administrator has determined, taking into consideration all reasonably

available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(C) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(2) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(A) the amount guaranteed to any borrower at any time does not exceed—

"(i) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to synthetic fuel; and

"(ii) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued;

"(B) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(C) the obligation is subject to the condition that it not be subordinated to any other financing;

"(D) the maximum maturity of the obligation does not exceed thirty years, or 90 percentum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(E) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal amounts payable at equal intervals; and

"(F) the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Administrator is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligation to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement in excess of $100 million the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment, or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official, within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement and, if for reasons of national interest, the Administrator recommends that a guarantee or commitment or agreement be provided, the proposed guarantee or commitment or agreement shall then be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed commercial demonstration facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section or section 7 of this Act he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee a loan or enter into a cooperative agreement under subsection (b) of this section if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. The Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706(2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivision and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribes by such facility, and costs of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of synthetic fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(e) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee a loan made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection or section 202(b) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1142(b)), the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or any other property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c)(2)(B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of

the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver was made by the Administrator under section 9 of this Act, and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to, the Administrator to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall be available to the United States and its designee on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the fund established by this section or from the Geothermal Resources Development Fund, as applicable, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within two hundred and forty days after enactment of this section, except as provided in subsection (t) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by classes (A), (B), (C), and (D) of subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of project costs guaranteed. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credit over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) The amount of obligations authorized for any guarantee and commitment to guarantee under paragraph (1) of this subsection which may be outstanding at any time in any fiscal year shall not exceed the aggregate of the total amount authorized pursuant to this subsection for that fiscal year and all preceding fiscal years, and shall be included in the limitation on outstanding indebtedness set forth in subsection (b)(1) of this section.

"(4) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(5) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administrator to be appropriated for such inclusion shall be included in the total costs of the demonstration facility.

"(6) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(7) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(8) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occur outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(9) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(10) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(11) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually for the duration of the program authorized by this section and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for use by the United States, of all or a portion of the products of any synthetic fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environ-

mental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of synthetic fuels; and

"(viii) the methods and procedures to insure that (1) the use of Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (2) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (3) the granting of Federal loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop synthetic fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) The activities of the funds referred to in subsection (n) of this section during the preceding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Interior and Insular Affairs of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a full and complete report on the proposed demonstration facility and such guarantee or agreement. Such guarantee or commitment to guarantee or cooperative agreement shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That where the cost of such demonstration facility exceeds $200,000,000, such guarantee or commitment to guarantee or cooperative agreement shall not be finalized if prior to the close of such ninety-day period both Houses pass a resolution stating in substance that the Congress does not favor the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by clauses (A), (B), and (C) of subsection (b)(1) and subsections (g) and (h) of this section. The Geothermal Resources Development Fund established by the Geothermal Energy Research, Development, and Demonstration Act of 1974 shall be available for the purpose of carrying out the geothermal loan guarantee program as established by that Act and as further implemented by this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses such funds as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund or in the Geothermal Resources Development Fund, as applicable.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations or from the Geothermal Resources Development Fund, as applicable. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund or in the Geothermal Resources Development Fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, or the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101), as the case may be, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by clauses (A), (B), and (C) of subsection (b)(1) and subsections (g) and (h) of this section, and from appropriations or other moneys available under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 for loan guarantees described in clause (D) of subsection (b)(1) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act; and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(o) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States.

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (1) the citizenship of officers or directors of a corporation, and (2) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section: *Provided*, That project agreements entered into pursuant to this section for any commercial demonstration facility for the conversion or bioconversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended) shall be administered in accord-

ance with the May 7, 1976, 'Interagency Agreement Between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy From Solid Wastes', and specifically that in accordance with this agreement, (1) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (2) all energy-related portions of projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; and (3) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended, and any applicable State or regional solid waste management plan.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(s) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided,* That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (1) on obligations of said issuer, if any, or (2) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

"(t)(1) Each officer or employee of the Energy Research and Development Administration who—

"(A) performs any function or duty under this section; and

"(B)(i) has any known financial interest in any person who is applying for or receiving financial assistance for a demonstration facility under this section; or

"(ii) has any known financial interest in property from which coal, natural gas, oil shale, crude oil, or other energy resources is produced in connection with any demonstration facility receiving financial assistance under this section,

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator shall—

"(A) act within ninety days after the date of enactment of this Act—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator may identify specific positions within the Administration which are of a nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection shall be fined not more than $2,500 or imprisoned not more than one year, or both.

"(u) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with applicable Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(v) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1906 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided,* That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, and Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further,* That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman, For the purposes of this subsection, the term 'person' shall include the borrower.

"(w) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee to enter into cooperative agreements under subsection (b)(1), to make guarantees or commitments to guarantee, or to make loans or grants, under subsection (K), to make contracts under subsection (h) to use fees and receipts collected under subsections (b) and (j) of this section, and the authorities provided under subsection (n) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(x) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided,* That Indian tribes are exempt from the operation of this subsection: *Provided further,* That such exemption shall be limited to the planning and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(y) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(z)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used, and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within six months after the date of enactment of this section and at six-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section, except that the Comptroller General may, at his discretion, make audits at longer intervals for community assistance and smaller projects. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).".

ASSISTANT ADMINISTRATOR FOR COMMERCIAL DEMONSTRATION

SEC. 802. (a) The first sentence of subsection 102(d) of the Energy Reorganization Act of 1974 is amended by deleting the words "six Assistant Administrators" and inserting in lieu thereof "seven Assistant Administrators", and adding after "fossil energy," the words "another for commercial demonstration".

(b) The first sentence of subsection 102(f) of the Energy Reorganization Act of 1974 is amended by deleting the word "eight" and inserting in lieu thereof "nine".

(c) Subchapter II (Extensive Schedule pay rates) of chapter 53 of title 5, United States Code, is amended as follows: paragraph (100) of section 5315 "Assistant Administrators, Energy Research and Development Administration (6)" is amended by deleting "(6)" and inserting in lieu thereof "(7)"; paragraph (135) of section 5316 "Additional Officers, Energy Research and Development Administration (8)" is amended by deleting "(8)" and inserting in lieu thereof "(9).".

S. 430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees: *Provided*, That all of the other provisions of this Act apply to such guarantees and commitments to guarantee in the same manner and to the same extent as they apply to demonstrations under this Act.".

Mr. DOMENICI. Mr. President, again newspapers are focusing on the severe adverse impact resulting from the worsening shortages of natural gas. Factories are closing causing as many as 200,000 people to lose their jobs, and schools are being closed for a lack of an adequate supply of natural gas.

U.S. energy demand increased at nearly a 5-percent rate from 1965 to 1970. In recent years the rate of growth has slowed to 3 percent. However, in order to maintain and improve the economy we must expect continued energy growth rates in the future.

Natural gas supplies are declining and there will be intense competition for the remaining gas supplies.

Mr. President, the Congress must do something affirmative to assure a continuing supply of energy for the Nation. I believe that the bill which my distinguished colleague from West Virginia (Mr. RANDOLPH) is introducing today may very well be a partial solution to the problem of our growing energy needs. The bill would provide for loan guarantees for the commercial synthetic fuel program.

Synfuel plants could augment a rapidly depleting natural gas supply which would be free from foreign control. In addition, with proper resource management and careful planning to assure the quality of our environment, these projects could bring many social benefits to the Four Corners area and the State of New Mexico if we so choose to implement construction of such projects.

New Mexico and the Navajo Indian people will have ample opportunity to decide whether they want such payments, but if they do loan guarantees will be available.

Mr. President, it has become apparent that financial incentives will be necessary in order to permit private industry to undertake this type of capital intensive, risk venture. It is important to note that the proposed loan guarantee program does not commit the Federal Government to create a synthetic fuels industry. Instead, it is designed to promote the early construction of a commercial coal gasification plant which will act as a catalyst for development of future synthetic fuel plants.

The main constraint to development of this known technology is availability of enough capital at reasonable interest rates. Therefore, if we are to benefit from development of a viable synthetic fuel program, the Federal Government must encourage the commercialization of the first generation technologies.

Mr. President, the Senate favorably considered a similar loan guarantee bill during the 94th Congress and I would hope that the committee will act quickly on this bill.

By Mr. CHILES (for himself, Mr. WEICKER, Mr. MUSKIE, Mr. ROTH, Mr. GLENN, Mr. HATHAWAY, Mr. MCINTYRE, Mr. NUNN, and Mr. PERCY):

S. 431. A bill to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes; to the Committee on Government Operations.

FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT

Mr. CHILES. Mr. President, on behalf of myself and the Senator from Connecticut (Mr. WEICKER), the Senator from Maine (Mr. MUSKIE), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. GLENN), the Senator from Maine (Mr. HATHAWAY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Georgia (Mr. NUNN), and the Senator from Illinois (Mr. PERCY), I am introducing a bill to bring some long needed discipline to the way the Federal Government spends over $135 billion each year on contracts and grants, spending mechanisms which have become confused, misused, and abused.

The Federal grant and cooperative agreement of 1977 is identical to S. 1437, the Federal Grant and Cooperative Agreement Act of 1976, a bill that passed both Houses of the 94th Congress without dissent. Despite the unanimous approval of Congress, S. 1437 was opposed by top leadership within the Office of Management and Budget. Consequently, President Ford's last pocket veto was applied to S. 1437 last October 22.

Companion legislation has already been reintroduced in the House (H.R. 1503).

This legislation would implement two key recommendations made by the Commission on Government Procurement that resulted from its 2½-year study. Since the Commission reported in 1972, 6 days of joint hearings have been held by the Government Operations Subcommittee on Federal Spending Practices and Intergovernmental Relations. Two days of hearings have been held by the House. The bill has generated considerable support from chief executives at the State and local levels of government, among business groups in the private sector, volunteer human service organizations, and the Comptroller General. The bill has received bipartisan sponsorship in both Houses.

I am reintroducing the legislation because I feel that it represents a necessary and constructive step to prevent certain abuses that occur when agencies are allowed to arbitrarily switch between their use of either "Grants" or "Contracts," and will provide a basis to cut redtape and better manage Federal assistance programs.

BILLS PROVISIONS

The Federal Grant and Cooperative Agreement Act of 1977 would take two steps.

First, it would establish Government-wide criteria for selecting the appropriate class of legal instruments to achieve standard terminology and use by executive agencies. It would not dictate the specific terms or conditions placed on contracts or grants, but rather would, for the first time, reflect the type of relationships expected between the Federal Government and recipients.

Second, the bill would mandate a study to examine alternatives for implementing Federal assistance programs and to begin the development of a comprehensive system of guidance for the management of grants, cooperative agreements, and other forms of assistance.

NEED FOR LEGISLATION

A brief look at the historical development of Federal grant programs in the last 15 years demonstrates the need for this legislation. Federal grants to States and localities alone rose from $2.2 billion in 1950 to $6.8 billion in 1960, to over $65 billion in this fiscal year. Within the past 5 years, grant-type disbursements have expanded at an annual rate of 17 percent. When grants to nongovernmental institutions such as nonprofit organizations, universities, and individuals are added to these figures, the growth is even more apparent.

The increase in the number of grant programs corresponds to the growth in dollar amounts. There are now over 500 different program authorizations that Congress has promulgated and the Federal Domestic Catalog of Federal Assistance lists over 1,000 separate programs that have evolved from these authorizations.

As the Commission on Government Procurement concluded, Federal grant-type activities have become a vast and complex collection of assistance programs, functioning with little central guidance in a variety of ways that are often characterized as being consistent only in their inconsistency. Similar programs or projects have often been left to "do their own thing," in a manner which, when viewed from an overall perspective of Federal spending, leads to undue complexity, confusion, and uncertainty for recipients who must work with these programs; for parts of the executive branch that must coordinate these programs; and significantly, for the Congress that must exercise effective oversight of Federal spending.

HEARINGS AND FINDINGS

The Commission on Government Procurement focused upon several major causes for this disarray. They were:

Confusion of grant-type assistance relationships and transactions with procurement relationships and transactions; and

Failure to recognize that there is more than one kind of grant-type relationship of transaction; and

Lack of Government-wide guidance for Federal grant-type relationships and transactions.

Some agencies admit that they use grants instead of procurement contracts to avoid certain requirements such as advance payment justifications. Some program officials who have responsibility

for negotiating and administering grants, but not contracts, tend to shift to contracts when they are busy in order to place the workload elsewhere.

Some agencies use more grants in June to obligate funds before the end of the fiscal year because grants are quicker to process than contracts. Figures show that during one fiscal year, the Department of Health, Education, and Welfare issued about three grants for each contract over the course of the fiscal year. But, in June, that ratio jumped to 7 to 1 while total outlays in grants and contracts exploded 800 percent—from an average of $300 million per month to over $2.4 billion in June alone.

With the lack of congressional guidance and under circumstances such as these, the potential for the misuse of grants is enhanced.

Moreover, as was revealed in subcommittee hearings, the lack of congressional guidance as to when grants or contracts should be used has allowed grants to be used to avoid the competition required in Federal procurement or, more generally, to avoid other controls of the Federal procurement system.

For example, HEW has acknowledged that many agencies use grants to obtain goods and services in direct support of agency operations. Specifically, grants instead of procurement contracts are being used to obtain consulting studies, technical assistance, collect data, perform surveys, studies and training programs for agencies.

On the other side of the coin, we have found instances where procurement contracts are being used simply to avoid cost-sharing requirements of grants. Failure to distinguish between procurement and assistance relationships has also led to the adding of unnecessary redtape to grants. The Department of Labor, for example, has ceased managing some of its manpower programs to State and local governments as procurement contracts and now manages them as grants.

This bill should discipline Federal agencies to consciously decide what the principle purpose of a transaction will be and what requirements are or are not needed. In the absence of congressional guidance, agencies today are able to employ practices which give them administrative discretion not intended by Congress.

This bill will both eliminate the use of grants in procurement situations and will contribute to the lessening of "red tape" in grant programs.

Part of the confusion that exists is the result of both enabling and appropriation statutes for grant programs. As a group they lack consistency in requirements, terminology, level of detail, and emphasis. No uniform statutory guidance exists in specifying the circumstances under which procurement contracts, grant, or cooperative agreement instruments should be used.

Consequently, grants and contracts are often used interchangeably within agencies and among agencies for similar types of projects—not because of different demands on controlling spending but for the reasons of administrative expediency.

This bill would establish broad congressional guidance by defining the circumstances under which agencies should employ procurement contracts or grant and cooperative agreements and by empowering them to do so. It represents a beginning step in bringing about some overdue discipline. When one considers that one-third of the Federal budget is spent through outlays on procurement contracts—$70 billion—and grants $65 billion, the importance of this measure is highlighted.

The need for a Government-wide system of guidance for Federal assistance programs is analogous to the need for the Office of Federal Procurement Policy for procurement. The primary concern is to get a "handle" on the entire process for Federal assistance and to promote better understanding and guidance. Compared to the Federal procurement system, the so-called grant system is primitive, underdeveloped. The bill's required study should lead to additional improvements in the overall management of assistance programs.

Witnesses who appeared before the subcommittees strongly supported the need to make the Federal assistance system more rational and more understandable. State and local government witnesses were particularly emphatic on this point. The study mandated by this bill should not only serve as a follow-up to the basic definitions set forth but should also provide an additional ray of sunshine in an area which is presently clouded with complexity and confusion.

ARGUMENTS

In withholding approval, the President expressed certain reservations. I want to mention them because the subcommittees gave all these concerns due consideration many times in passing this bill through the Senate unanimously in both the 93d and 94th Congresses. In the process, several changes were made, some at the behest of the executive branch, to improve the bill.

One concern expressed was that no matter how careful the drafting, the bill would probably result in limiting the flexibility of Federal agencies in administering their programs. A particular difficulty was cited for basic research programs.

The issue was a direct concern of the committee and was addressed in the committee report. Examples provided by the executive branch were examined. No problem was seen in requiring agencies to label their transactions according to the broad criteria contained in the bill. Moreover, section 9(d), which authorized the Director of OMB to exempt individual transactions, was added to the bill during deliberations of the 93d Congress.

As for the basic research programs, programs that were cited as presenting problems were also examined and, again, no problems were found. The Energy Research and Development Administration, for example, plans to implement the concepts contained in the bill anyway.

The criteria in sections 4, 5, and 6 clarify the meaning of the terms "contract," "grant," and "cooperative agreement" by requiring that the terms be consistently Government-wide and the legal instruments employed by executive agencies reflect the character of the relationships. While the bill will bring basic discipline to Federal agencies, it also provides them with needed flexibility to select the proper instrument and determine its precise provisions.

Objection to the section 8 study of the bill was based on the grounds that OMB is already conducting the activity contemplated. This is the posture the executive branch has taken for the past 4 years since this legislation was introduced. Little progress has been made despite repeated promises. The Commission on Government Procurement, witnesses from State and local government, and groups representing the private sector strongly urged that the study be given priority. The legislative mandate of section 8 will meet this need.

SUMMARY

The support for this legislation has been overwhelming. The Congress has already passed this bill without dissent. What opposition there was to this bill was a natural resistance to change on the part of the executive agencies. As the Comptroller General commented in House hearings on this bill, the executive agencies have traditionally resisted any kind of guidance from Congress along these lines.

I urge my colleagues to join in supporting and cosponsoring this legislation. I feel confident that the new administration will view this measure differently.

Today's times demand more accountability for Federal expenditures. This bill will improve the Congress' and the public's capacity to understand what is happening with Federal expenditures and will prevent some wasteful and abusive practices that have developed.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of supporters of this legislation, a letter from the Comptroller General, and the text of the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Federal Grant and Cooperative Agreement Act of 1977".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" and the relationships they reflect causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and

concluded that a reduction of the existing confusions, inconsistencies, and inefficiencies is feasible and necessary through legislative action.

(b) The purposes of this Act are—

(1) to characterize the relationships between the Federal Government and contractors, State and local governments, and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government so as to promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements on recipients of Federal awards;

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of types of contract, grant agreement, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guidance for the use of grant and cooperative agreements, and other forms of Federal assistance in carrying out such programs.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has government functions;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, other interstate government entity, or any other instrumentality of a local government;

(3) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance or procurement contracts and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a wholly-owned Government corporation; and

(5) "grant or cooperative agreement" does not include any agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided.

USE OF CONTRACTS

SEC. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

USE OF GRANT AGREEMENTS

SEC. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose of support of stimulation authorized by Federal statute, rather than acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act.

(b) The authority to make contracts, grants, and cooperative agreements for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such funds.

STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The Director shall consult with and to the extent practicable, involve representatives of the executive agencies, the Congress, the General Accounting Office, and State and local governments, other recipients and other interested members of the public. The result of the study shall be reported to the Committee on Government Operations of the Senate and the House of Representatives at the earliest practicable date, but in no event later than two years after the date of enactment of this Act. The report on the study shall include (1) detailed descriptions of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of sections 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

REPEALS AND SAVINGS PROVISIONS

SEC. 9. (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; 42 U.S.C. 1891, 1892, and 1893), is repealed, effective one year after the date of enactment of this Act.

(b) Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

(c) Nothing in this Act shall require the establishment of a single relationship between the Federal Government and a State or local government or other recipient or a jointly funded project, involving funds from more than one program or appropriation, where different relationships would otherwise be appropriate for different components of the project.

(d) The Director of the Office of Management and Budget may except invidiual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one hundred and eighty days after receipt by the Congress of the study provided for in section 8 of this Act.

LIST OF SUPPORTERS FOR THE FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT

Federal Paperwork Commission.
Council of Jewish Federations and Welfare Funds.
National Conference of Catholic Charities.
National Urban League.
The Salvation Army.
American Bar Association.
National Governors' Conference.
State of Florida.
Commonwealth of Virginia.
Commonwealth of Pennsylvania.
State of Michigan.
State of Minnesota.
American National Red Cross.
American Road Builders Association, Contractors Division.
Boy Scouts of America.
Girl Scouts of the U.S.A.
Girls Clubs of America.
Good Will Industries of America.
United Way of America.
U.S. General Accounting Office.
Camp Fire Girls.
The Child Welfare League of America, Inc.
Family Service Association of America.
McGraw-Hill, Inc.
National Association of Counties.
National Association of Life Sciences Industries.
National Association for Mental Health.
Stanford Research Institute.
University of Tennessee.

National Association of State Budget Officers.
National Board of the YMCA's.
National Board of the YWCA's of the U.S.A.
National Council of Professional Services Firms.
National Federation of Settlements and Neighborhood Centers.
National Security Industrial Association.
Travelers Aid International Social Service of America.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C. November 29, 1976.

Hon. LAWTON CHILES,
Chairman, Subcommittee on Federal Spending Practices, Efficiency and Open Government, Committee on Government Operations, U.S. Senate.

DEAR MR. CHAIRMAN: I am very disappointed with the President's action on October 22, 1976, when he withheld his approval of S. 1437, the Federal Grant and Cooperative Agreement Act of 1976.

As indicated by the President in his memorandum of disapproval, this legislation had a laudable goal—to clarify and rationalize the legal instruments through which the Federal Government acquires property and services and furnishes assistance to State and local governments and other recipients. The bill would establish three categories of legal instruments which Federal agencies would be required to use: procurement contracts, grant agreements, and cooperative agreements. These categories would be defined according to their different purposes.

S. 1437 would have also required the Director of the Office of Management and Budget to undertake a study which would (1) "develop a better understanding of alternative means of implementing Federal assistance programs * * *," and (2) "* * * determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs."

Enactment of the bill would have had the effect of adopting the substance of two recommendations (F–1 and F–2) of the Commission on Government Procurement. As you know, I was a statutory member of the Commission and supported each of the two recommendations.

On July 10, 1974, we testified before the Ad Hoc Subcommittee on Federal Procurement and the Subcommittee on Intergovernmental Relations, Senate Committee on Government Operations, regarding the then proposed similar bill S. 3514. On November 25, 1974, we also testified before the House Subcommittee on Legislation and Military Operations, regarding S. 3514 as it passed the Senate on October 9, 1974. Again, on September 13, 1976, we testified before the Subcommittee on Legislation and National Security, House Committee on Government Operations, regarding H.R. 15499, which was identical to S. 1437 as it passed the Senate on August 31, 1976.

We supported on these occasions, and support now, the adoption of both Commission recommendations, as was provided for in S. 1437 and for the same basic reasons offered by the Commission. We believe enactment of S. 1437 would have been a significant step forward and that the study called for by section 8, addressing the matters set forth in the relevant part of the Commission's report, would have set the basis for further significant progress.

In summary, we urge the introduction of bills similar to S. 1437 in the House and the Senate for consideration by the 95th Congress and the new Administration. We continue to stand behind the two recommendations of the Procurement Commission and will be happy to testify further to that effect if called upon.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

By Mr. EAGLETON:

S. 437. A bill to clarify and reaffirm the intent of Congress with respect to the transmission and sale of electric power and energy generated or purchased in the southwestern power area; to the Committee on Interior and Insular Affairs.

Mr. EAGLETON. Mr. President, today I am reintroducing a bill to prohibit rate discrimination among customers of the Southwestern Power Administration—SPA.

The need for this legislation arises from a decision by SPA in 1970 to impose a special transmission charge on its rural Missouri customers for service identical to that provided in other States without such a charge. For the 350,000 Missourians affected, this special charge will add $80 million to utility bills by the year 2000. More importantly, the SPA action has the effect of unilaterally canceling a contractual obligation to Missouri cooperatives the agency undertook in 1950 at congressional direction.

That obligation stemmed from a decision by Congress not to appropriate further money for construction of Federal transmission lines in Missouri. Instead, SPA was directed to use lines which the cooperatives would build with money borrowed from REA. SPA, in turn, was to pay rentals adequate to service that REA debt, as well as operation and maintenance costs.

Except for that rental payment, rural electric cooperatives customers in the 114 Missouri counties were to be treated just like other customers in the SPA system. All were to pay the same basic SPA rate for power delivered to load centers. The Appropriations Committees even insisted this assurance of nondiscriminatory rates be written into the SPA-Missouri cooperatives contract.

That is how the matter stood until 1970 when the Nixon administration, taking note of growing SPA deficits, ordered a special transmission charge levied on Missouri cooperatives above and beyond the basic SPA rate charged everywhere else.

The rationale was that the payments made by SPA for lease of the Missouri lines was a cost, and since the Agency was charged by law to recover all costs, it was only appropriate to offset the lease payments by levying a transmission charge on the cooperatives receiving those payments.

The net effect of this circular argument is that Missouri cooperatives are providing transmission service free of charge to SPA. In the other States served by SPA, transmission lines either were built with Federal funds or leased from private power companies, but no special cost-recovery charge is levied on customers. Only in Missouri has that been the case.

To add to the inequity, Missourians continue to pay the basic SPA rate which is designed to recover all costs of the system, including amortization of the Federal investment in transmission lines outside of Missouri. In short, Missourians are helping to shoulder the cost of delivering power to other States but are being asked to assume the total cost of delivering SPA power in their own State.

This discriminatory transmission charge would increase the cost per kilowatt to Missouri cooperatives more than 60 percent above the price per kilowatt charged to users of peaking power in other States.

Commitments made by SPA to deliver power to all customers at the same basic rate without distinction as to whether the users were served over Government-owned or Government-leased lines were simply ignored. The long history of congressional approval of the arrangement between SPA and Missouri cooperatives was shunted aside.

With the imposition of the transmission charge, SPA effectively relieves itself of its obligation to compensate Missouri cooperatives for use of their transmission facilities. The cooperatives, however, remained obligated to repay the REA debt which they incurred to build the lines for SPA.

Not surprisingly, Mr. President, Missouri cooperatives went to court and in 1973 won a summary judgment in district court. However, that decision, was reversed in 1974 by the court of appeals on grounds the Administrator of SPA had not exceeded his ratemaking authority. The Supreme Court refused to review the case and the matter is now back in district court for a factual determination on what the exact amount of the charge should be.

Mr. President, the courts have held that SPA acted within its legal powers but I do not believe it acted fairly or in keeping with the expressed intent of Congress. I am confident that, upon the review of the facts, the Congress will agree and insist on an end to the discriminatory rate.

By Mr. STEVENS (for himself and Mr. CULVER):

S. 438. A bill to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges; to the Committee on Finance.

Mr. STEVENS. Mr. President, the legislation which we introduce today would amend the tariff schedules of the United States to provide for the duty-free entry of bobsleds and luges.

Bobsledding and luge are two winter sports that involve racing down a run of snow and ice at high speeds. They are dangerous and exciting sports, which demand a great amount of skill. Split-second timing is required as the sled must be maneuvered through hairpin turns and down high-speed straightaways. Both are Olympic sports in which U.S. athletes compete. However, the United States has not won a medal in bobsled

competition since 1956. We have never won an Olympic medal in the luge event.

In the fall of 1975, Senator CULVER and I were appointed to serve on the President's Commission on Olympic Sports. The Commission was charged by the President to examine the problems associated with amateur athletics in the United States. One of my functions as a member of that group was to look into the problems besetting bobsledding and luge. During my investigation I spoke with many participants of these two sports. Two problem areas became evident. One was the lack of bobsled and luge runs. The other was the high cost of participation which is burdened by each athlete. One of those costs is the duty which must be paid when a bobsled or luge is imported into the United States.

The modern bobsled is a highly specialized and complicated steel and aluminum machine. It has two sets of runners; the front set is used for steering whereas the rear set is attached solidly to the frame. Retractable push handles are mounted on the sides of the sled to help the crew get off to a running start. All sleds are designed so that wind resistance is reduced to a minimum. The luge is a much smaller sled of wood and iron construction with wide runners faced with steel. It is ridden in a sitting position and steered with the feet and a hand rope.

One of the single most important elements determining the success of a bobsled team or luge competitor is the sled. Presently there are no bobsleds or luges manufactured in the United States. Almost all bobsleds are made in a small Italian village. Luges are manufactured in various European and Eastern European countries. This means that U.S. bobsledders and lugers have to import their sleds if they wish to train and compete. The duty on these items can be high. The tariff schedules of the United States impose a duty at the rate of 9 percent ad valorem for sleds coming from countries with most-favored-nation status. Sleds imported from other countries are charged duty at the rate of 45 percent ad valorem. A four-man bobsled can cost up to $5,000. Duty on such an item, if imported from a country with most-favored-trade status, would be $450. Although luges are less expensive, the duty charge can still be burdensome.

On January 13, 1977, the Commission on Olympic Sports submitted its final report to President Ford. In its report the Commission recommended that bobsleds and luges be exempted from duty charges. Exemption from these charges would help reduce the expenses which our athletes must pay in order to compete. Further, it would not hinder any U.S. enterprise because competition bobsleds and luges are not manufactured in the United States. If the United States is to develop topflight competitors for Olympic and other international competitions, it must support those athletes who give their time and efforts to compete. Athletes who represent the United States in bobsled and luges have to spend large sums of money in order to obtain equipment and use of training facilities. We should not penalize them by requiring duty charges on bobsleds and luges imported into the United States. Rather, we should reduce the hardships and encourage participation. This legislation would be a step in that direction.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart D of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out item 734.97 and inserting in lieu thereof the following:

"	734.97	00	Bobsleds and luges designed for use in competition	No	Free	Free
	734.98	00	Other	X	9% ad val.	45% ad val. ".

SEC. 2. (a) The rate of duty prescribed in rate column numbered 1 of the Tariff Schedules of the United States for item 734.97, as amended by this Act, shall be considered to have been proclaimed by the President as necessary or appropriate to trade agreements to which the United States is a party, not as a statutory provision enacted by the Congress.

(b) The amendments made by this Act apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of enactment of this Act.

By Mr. WILLIAMS:

S. 439. A bill to reorganize the executive branch of the Government to centralize Federal energy conservation and research and development policies in a National Energy Center; to the Committee on Interior and Insular Affairs.

NATIONAL ENERGY CENTER ACT OF 1977

Mr. WILLIAMS. Mr. President, I am introducing today legislation to create a National Energy Center within the Energy Research and Development Administration. I sponsored an identical bill in the 94th Congress and I am hopeful that Congress will more thoroughly evaluate this proposal when it considers energy reorganization and consolidation legislation in this session. The Energy Center would serve as the focal point for the formulation and implementation of energy research and development strategies. An energy conservation office would be established within the center for providing services which would contribute significantly to our conservation efforts. The center would be a link between the Federal Government's energy conservation programs and research and development planning and the implementation of energy techniques and technology.

Our reliance on imported energy and dwindling conventional fuel sources has been dramatically demonstrated in the past several years. The realization that our traditional energy resources were truly finite has resulted in concerted congressional action to develop a coherent national energy policy. Congress has made great strides but much remains to be done.

In an effort to determine where we stand in terms of energy supply and where we are headed, Congress established the Energy Research and Development Administration. This agency is charged with forming public policy to manage our energy supply and use, and to develop new energy sources to deal with our long-term needs. It has made considerable efforts to meet the policy goals mandated by Congress. And when we consider the relatively short life of the agency, the complexity of the problems, and the uniqueness of its task, we must, in all fairness commend ERDA for its efforts.

However, ERDA's energy policies have not resulted in an aggresive or effective energy-conservation and research program. Several key gaps in the previous administration's set of national energy goals still exist. The measure being introduced today seeks to create a mechanism which will assist ERDA in closing these gaps.

To accomplish this task, the center would advise and assist ERDA in its endeavor to comply with the congressional mandate to act as the lead energy research and development agency. It would not usurp any of the responsibilities of ERDA but complement the agency's energy efforts.

The National Energy Center would fulfill the needed requisite for a consistent national energy policy. It would house a headquarters for the development, collection, and dissemination of an energy conservation program and an office to oversee the development of an integrated energy research policy.

Energy conservation is of crucial importance. No longer can programs related to end-use demand reductions take a backseat to programs designed to increase energy supplies. The two strategies are indispensable for achieving effective energy programs, and they must be pursued with equal vigor.

The bill creates an Energy Conservation Service within the center to develop and coordinate a comprehensive energy conservation plan to encourage the maximum use of limited energy supplies. As headquarters for such a service, the energy center would develop, collect, evaluate, and disseminate energy conservation programs and concepts to citizens and communities as well as to the industrial and commercial sectors on a national scale. Training programs would be provided at the facilities—and other regional centers to be located throughout the country—to instruct field representatives in the most advanced methods of energy conservation and efficiency These field representatives would then be sent to operate out of metropolitan city, suburban and rural offices to advise and provide assistance and technical expertise to all sectors of the community. This assistance would come in varied forms including, individual assistance, general distribution of energy conservation guidance materials, seminars and training sessions for civic and public leaders and organizations, and use of the media when appropriate.

A similar concept was favorably received by both the House and the Senate

in the 94th Congress. Unfortunately, Congress did not take final action on this legislation. In addition, ERDA has revised its earlier energy research and development strategy to include a greatly expanded energy conservation program. Clearly, there is a unanimous recognition of the importance of conservation in meeting short-term objectives.

By creating an effective energy conservation ethic, we can both reduce our current energy consumption and provide the time for an orderly reassessment of the direction of our energy development program. This would provide a period to weigh thoughtfully our opinions and avoid irrevocable commitments to hazardous or improbable energy sources. The faster we as a nation move toward firm policies of energy conservation, the greater the flexibility we will have in choosing among energy sources, and the less compulsion we will feel to use supplies that unduly stress the environment or risk national security.

A second function of the Energy Center would be the development and implementation of new energy sources. It would serve as an energy policy clearinghouse to formulate, evaluate and implement alternative energy policies and strategies which are consistent with social, institutional and other factors and constraints related to the implementation of alternate energy technologies.

One of the principal findings in a study issued by the Office of Technology Assessment in the 94th Congress cited the absence of a mechanism to evaluate nontechnical or institutional constraints which may be inherent in any particular new energy alternative:

> Simply establishing technical feasibility is insufficient as nontechnical constraints may prohibit implementation. Such constraints could include any or all of: transportation, resource, manpower, and capital availability; public acceptability; or institutional, jurisdictional; economic, and environmental compatability. If ERDA confines its activities predominantly to the proving of the feasibility of technological options, some other entity should address the more complex issues underlying energy solutions. In such a case, clear coordination with ERDA would be essential.

The center would be charged with the responsibility to determine the impact of such nontechnical constraints. For example, according to the nuclear task group of OTA, the primary obstacle to achieve nuclear objectives are financial and institutional. The solar geothermal and advanced system task group of OTA indicated that rapid implementation of geothermal resources is hampered primarily by legal and institutional constraints. The conservation task group reported that the ERDA plan does not sufficiently consider political, economic, and environmental constraints inherent in the implementation of energy conservation technologies. With no mechanism in existence to orchestrate the administration of these various areas, counterproductive efforts result, frustrating progress toward national energy goals.

A more recent OTA report on offshore energy facilities reveals that implementation of such systems may prove objectionable because we have not adequately considered possible conflicts among users and the potential excessive burdens on ocean and coastal environments. The study further cites the absence of a structure to evaluate these impacts and develop a coordinated well-planned offshore energy strategy. A primary function of the center I am proposing would be to integrate these type of energy systems within the framework of a national energy policy.

It is imperative that our search for alternate technologies be conducted under the guidance of a single research center. While such a center is responsible to determine the feasibility of new technology, it would also conduct the research to expedite utilization of a new technology. This research should take into account global energy considerations such as international cooperation with regard to coping with environmental effects of energy generating technology, addressing security issues such as the management of nuclear materials and waste, and the management of the oceans.

In addition, socioeconomic research and analysis must be considered in identifying obstacles to acceptable energy solutions. Effective commercialization policies must be coordinated with business and industries. A research program must seriously address these factors in order to introduce commercially feasible and institutionally acceptable advanced technologies.

The center would also be responsible for establishing techniques for the accurate and timely assessment of existing energy resources. This would help insure that policy analysis is based upon reliable resource availability data. It should also expand the development of net energy analysis methodologies in order to establish it as a consistent and acceptable tool for aiding in setting priorities for existing and developing technologies. The more precise the criteria for decisions, the more productive and cost-effective our energy development will be.

Our national energy research and development effort certainly requires the highest public profile not only to mobilize the support of the electorate which must ultimately pay the bill for developing new energy sources, but also to provide public accountability for the decisions which must be made that will have a profound effect on the quality of all of our lives in the decades to come. The creation of a center for the high-level activities of our energy agencies is an essential step in providing it with the profile necessary to galvanize public support.

The conclusion obviously is that there is a serious lack of a cohesive national energy policy in the Federal energy program. The resources to establish a national policy exist, but at present, the efforts have been piecemeal and uncoordinated. It seems clear that the creation of an Energy Center would facilitate much needed policy coordination and provide the impetus for a full scale national energy conservation program, while enhancing the profile of our national energy efforts as a means toward generating both public support and participation.

The National Energy Center conceptualized in this bill would be located at a site to be determined by a site selection board. In designating the location of the center, the board should keep in mind the objectives of the center and the characteristics of a particular region which would enhance these objectives.

A primary consideration should be the functional needs of the center and its representative staff. Particular attention must be given to the availability of an extensive scientific and engineering community and a substantial on-site technical support. The location of the center should also maximize the opportunity for interaction between the center and the business and industrial community.

In addition, realization of energy development and conservation strategies will greatly rely on effective implementation programs. Therefore, site selection should consider the proximity to financial centers, auxiliary research institutions, universities, and industrial complexes in order to facilitate the transfer of research and technological developments into commercial products and services.

Climatic factors should also be taken into account. The siting of the center in a four-season climate representative of that in which the majority of the population of the United States resides would certainly contribute to the reliability of technologies and strategies under most weather conditions. This could significantly reduce the time for practical implementation.

It must be recognized that a national energy research center such as proposed is essential to this country's energy program regardless of where it is finally located. However, it must also be recognized that the optimal site location of such a center can contribute significantly to the achievement of goals to be accomplished there and I believe that New Jersey offers many of the criteria which would make it an optimal location.

New Jersey is located at the center of the largest megalopolis in the world. It is also the center of one of the largest market places in the world. Therefore, New Jersey would be uniquely suited as a testing ground for policies developed by the National Energy Research Center.

New Jersey is in many ways an ideal microcosm of this Nation. Within its borders thrive virtually every form of industrial activity from agricultural to heavy manufacturing, most notably a well developed oil refinery complex and a diverse energy research and development sector. New Jersey reflects a full cross section of community structures ranging from sparsely populated rural and agricultural areas to densely populated industrial and urban centers. These aspects of New Jersey make it particularly well suited for the study of social and economic impacts of alternative energy policies and strategies. Thus, the State could serve as an excellent laboratory for the evaluation of

any proposed strategies before implementation on a national scale.

In addition, New Jersey is a State which relies almost exclusively upon imported energy resources. This places New Jersey in a very vulnerable position with respect to future energy shortages, which in turn creates a great interest in the national goal of energy self-sufficiency. There is also an acknowledged need to transform new product technology into new products and new markets. This fact, viewed in terms of its analytical potential, is yet factor which makes New Jersey a prime location for alternative energy policy evaluation and implementation.

Furthermore, New Jersey provides a typical four season climate ideal for testing new technologies and conservation strategies under all climatic conditions, and has a full range of energy uses.

New Jersey is one of the world's leading research and development centers, boasting more than 70,000 scientists, engineers, and technicians involved in public and private research and development programs in New Jersey. This industry's annual expenditures in New Jersey are estimated at over $3 billion a year, a significant percentage of the Nation's total research and development spending. Close to 80 percent of these funds emanate from the private sector. No other State in the Nation can come close to matching this figure.

New Jersey can further boast of an exceptionally strong system of higher education. Princeton University has attracted some of the world's most brilliant scholars and scientists. Additional scientific and intellectual resources can be found at Rutgers, the State University, Stevens Institute of Technology, Seton Hall University, the Institute for Advanced Study in Princeton, and many others.

Another significant attraction of New Jersey is the critical role New Jersey will inevitably play in the development of offshore oil drilling technologies. Off the coast of New Jersey, below the Atlantic Outer Continental Shelf, is the potential for as much as 8 billion barrels of oil and 22 trillion cubic feet of natural gas. These areas will soon be exploited by new technologies and New Jersey will be the chief State to bear the impacts of these technologies whether for better or for worse. Thus New Jersey offers an excellent opportunity to study these impacts.

With the assets and resources available, in New Jersey, in terms of manpower, skilled labor, intellectual atmosphere, energy-related activity, and the capacity to supply and service laboratories of any size, it is indisputable that New Jersey offers an ideal location for a National Energy Research Center.

Mr. President, the need to sustain an effective national energy policy convinces me that a central resource is needed for all phases of energy development. Considering the complexity of the problems and tasks confronting ERDA, a National Energy Center operating under the authority of ERDA would assuredly improve our energy development posture. The National Energy Center I propose would help ERDA respond to congressional mandates for a consistent and coordinated energy effort. Perhaps equally important, the Center would be a symbol of this Nation's effort to seek solutions to its energy problems. I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Energy Center Act of 1977".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress recognizes that the conservation of conventional energy resources and the development and implementation of alternate energy technologies, strategies and policies will have a profound impact on technological, economic, social, environmental, health, institutional, and other factors relating to the quality of life.

(b) Congress hereby finds—

(1) that the efficient utilization of energy requires a vigorous, coordinated national conservation effort;

(2) that the many diverse energy research and development programs presently in effect would best be served by establishing an energy analysis center to identify, compile, define, categorize, evaluate, and disseminate energy-related technological data and energy conservation techniques; and

(3) that such a center should integrate a concern for the quality of life with the pursuit of alternative energy technology and conservation practices.

(c) It is the purpose of this Act to establish a National Energy Center within the Energy Research and Development Administration to serve as the focal point for the formulation and implementation of energy research and development and to contribute to the national goal of energy self-sufficiency by—

(1) providing leadership in the implementation of new energy technologies by integrating energy strategies and policies;

(2) assisting the Administrator of the Energy Research and Development Administration in developing an integrated, comprehensive framework of energy policy by formulating, evaluating, and demonstrating alternative national energy strategies to supplement energy conservation efforts;

(3) establishing a national program to manage the efficient use of available energy resources; and

(4) fostering international cooperation in developing worldwide energy strategies.

NATIONAL ENERGY CENTER

SEC. 3. There is established in the Energy Research and Development Administration (hereinafter referred to as the "Administration") a National Energy Center (hereinafter referred to as the "Center") to be composed of an Energy Conservation Service and an Office for Energy Research and Policy Analysis to formulate, evaluate, and implement energy research and development policies, and conservation programs related to—

(1) energy technology, techniques, concepts, and programs for the development of alternative energy resources, increasing the efficiency with which energy resources are used, and improving energy conservation practices; and

(2) economic, social, environmental, health, institutional, and other factors which must be taken into account if successful alternative energy technology and energy conservation strategies are to be implemented successfully.

ENERGY CONSERVATION SERVICE

SEC. 4. (a) There is established in the Center an Energy Conservation Service (hereinafter referred to as the "Service") through which the Director shall establish and implement comprehensive programs for the identification, development, and demonstration of energy conserving practices, techniques, materials, and equipment for—

(1) agricultural, industrial, governmental, and educational institutions, small business concerns, and private citizens; and

(2) residential, industrial, governmental, commercial, or agricultural buildings or structures.

Such programs shall provide for technical assistance, instruction, and practical demonstrations in energy conservation methods and practices.

(b) accomplish the purposes of this Act, the Service shall establish service extension offices consisting of metropolitan city offices, county agents, and technical staff assistants.

(c) In establishing such service extension offices, the Director is authorized to enter into agreements for the utilization of existing Agriculture Extension Service resources, or such other offices and personnel as may be appropriate, and to provide funds for such operations.

(d) Service extension offices shall disseminate information and provide advice and assistance under this section to individuals, groups, and units of States and local government by means of—

(1) specific studies and recommendations applicable to private residences, businesses, and agricultural or commercial establishments;

(2) demonstration projects;

(3) distribution of studies and instructional materials;

(4) seminars and other training sessions for State and local government officials and the public; and

(5) other programs designed to provide assistance to the public.

(e) The Service shall also identify, compile, evaluate, index, categorize, and disseminate energy conservation related data. Such information shall be made available to the public including but not limited to—

(1) agricultural, commercial, residential, and industrial sectors; and

(2) private citizens.

OFFICE FOR ENERGY RESEARCH AND POLICY ANALYSIS

SEC. 5. There is hereby established in the Center an Office for Energy Research and Policy Analysis through which the Director shall—

(1) oversee the development of an integrated energy research policy;

(2) serve as principal adviser to the Administrator on matters relating to the development of new energy sources, including specifying alternatives for prospective policy decisions, assuring the anticipated impact of new energy sources, and monitoring and evaluating the coordination of a national energy effort;

(3) improve coordination of energy policy-making of Federal agencies;

(4) develop a capability to collect, analyze, and interpret data and evaluate energy research and development programs; and

(5) determine the effect of existing or proposed energy systems including economic, social, environmental, health, and other related impacts.

OFFICERS

SEC. 6. (a) The Center shall be headed by a Director (hereinafter in this Act referred to as the "Director") who shall be appointed by the Administrator. The Director shall be a person who by reason of training, experience, and attainments is exceptionally qualified to implement the program of the Office. The Director shall be compensated at a rate equal to that for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) There shall be in the Office a Deputy

Director who shall be appointed by the Administrator, who shall perform such functions, powers, and duties as may be prescribed from time to time by the Director, and who shall act for and exercise the powers of the Director during the absence or disability of the Director, or in the event of a vacancy in the office of Director.

DUTIES

SEC. 7. (a) The Director shall consult with the Secretary of Housing and Urban Development, the Administrator of the Federal Energy Administration, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies administering energy-related programs, with a view toward achieving optimal coordination of programs administered by the Office with such other programs, and shall promote the coordination of programs under this Act with other public or private programs or projects of a similar nature.

(b) Federal agencies described in subsection (a) shall cooperate with the Director and the Administrator in disseminating information with respect to the availability of information and services under this Act, and in identifying energy-related interests of individuals, groups, or business and commercial establishments eligible for information or assistance under this Act.

(c) The Director shall promulgate such regulations as may be necessary to carry out the functions of the Office.

(d) The Director may employ such personnel, and retain such experts and consultants under section 3109 of title 5, United States Code, as may be necessary to carry out the functions of the Office as provided in sections 4, 5, and 6 of this Act.

CENTRAL RESEARCH FACILITY

SEC. 8. (a) The Administrator shall develop a plan for the purchase or construction of a Central Energy Research Facility (hereinafter referred to as the "central facility") consisting of a central laboratory, research facility, research and testing site, housing for employees of the Energy Research and Development Administration employed at the central facility and their families, and such other special-purpose structures, facilities, or real property as the Administrator deems to be necessary. The Administrator may revise the unexecuted portions of the plan from time to time in accordance with changes in national energy requirements and scientific and technical advances.

(b) The Administrator shall conduct such tests, demonstrations, and pilot programs and may construct such facilities as may be necessary for the evaluation of the effects of alternative energy policies and strategies on the various sectors of the economy and society, and the effectiveness of proposed conservation measures.

(c) All Federal energy research relating to any of the goals set forth in paragraphs (1) through (5) section 5 shall be carried out at the central facility, unless the Director and the Administrator specifically authorize such research to be undertaken at some other facility because of conditions requiring the use of such other facility. The Administrator shall transmit notice of any such determination in writing to the Chairman of the Committee on Government Operations of the Senate, the Chairman of the Committee on Government Operations of the House of Representatives, the Secretary of the Interior, and to the Secretary of Labor.

(d) The central facility shall be established at that location, recommended by the site selection board established by section 9, in the continental United States in an area which meets the site selection criteria which reflects a broad cross-section of the Nation's demographic and economic configuration, and includes the availability of a full range of nearby industrial, residential, and commercial communities which may be used to evaluate the effects of alternative energy policies and strategies on various sectors of society and the economy and the effectiveness of proposed conservation measures.

SITE SELECTION BOARD

SEC. 9. (a) There is hereby established as an independent organization within the Administration a Central Energy Research Facility Site Selection Board (hereinafter referred to as the "Board") which shall be composed of three individuals appointed by the President by and with the advice and consent of the Senate.

(b) A member of the Board who is not an officer or employee of the Federal Government shall receive compensation at the rate of $200 for each day he is engaged in the performance of duties of the Board.

(c) All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred in connection with their activities as members of the Board.

(d) The Board shall transmit to the President, the President pro tempore of the Senate, and the Speaker of the House of Representatives a report containing its site selection together with a justification of such recommendation.

REPORTS

SEC. 10. The Administrator and the Director shall submit a joint report to the Congress at the end of each calendar quarter covering the progress of the various stages of planning, design, and construction, of the central facility and, upon completion of construction, shall submit reports semiannually covering the programs of research at the central facility and the progress of other programs undertaken there.

ANNUAL CONTRIBUTIONS FOR SUPPORT OF THE CENTRAL ENERGY RESEARCH FACILITY

SEC. 11. (a) The Administrator may make annual contributions to the municipal, county, or State government which has jurisdiction of the location at which the central facility is established. Contributions payable annually under this section shall not exceed such amounts as the Administrator determines are required to compensate any municipal, county, or State government for the provision of such services as are necessary to accommodate the increased demands on municipal, county, and State services caused by the presence of the central facility. The Administrator shall enter in a contract with the municipality, county, and State governments which contains provisions for such annual contributions in order to guarantee their payment, subject to the availability of funds. For purposes of making payments under this section, the Administrator shall establish standards for the cost of such services, taking into account the character and location of the services required.

(b) Every contract under subsection (a) shall provide that no annual contributions by the Administrator shall be made to the government which is a party to the contract unless such central facility is exempt from all real and personal property taxes levied or imposed by that government. If the central facility is not exempt from such real and personal property taxes, the contract shall provide, in lieu of the requirement for tax exemption and payemnts in lieu of taxes, that no annual contributions by the Administrator will be made.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. KENNEDY (for himself and Mr. BROOKE):

S. 440. A bill to amend the Cape Cod National Seashore Act, as amended, to provide additional authority to the Secretary of Interior to carry out the purposes of the act, to provide a reserve fund, and for other purposes; to the Committee on Interior and Insular Affairs.

CAPE COD NATIONAL SEASHORE

Mr. KENNEDY. Mr. President, on August 7, 1961, President Kennedy signed into law the Cape Cod National Seashore Act, a new, innovative, and unprecedented approach to the problems of preservation and conservation in a populated area. President Kennedy when he was in the Senate, with the distinguished Senator Leverett Saltonstall and Congressman BOLAND, O'NEILL, Philbin, BURKE, and Keith had worked for 4 years on the Cape Cod Seashore legislation to assure that the remarkably beautiful cape would be protected against overdevelopment while at the same time assuring that the rights of property owners within the seashore boundaries would be recognized.

Working with State and local elected officials, the Interior Committees of the Senate and House, and the residents of Cape Cod, they settled on a formula which would prohibit industrial and commercial development within the seashore with the exception of those cottage trades which are indigenous to the cape; would prohibit all development in the most fragile areas; and would impose a regulatory scheme on residential development which would assure that the unique qualities of the cape were not devastated by profit-hungry developers.

The Cape Cod National Seashore Act has accomplished its major preservation goals. The forecast of what lay ahead for the cape if the legislation were not enacted permeates the legislative history of this act. I quote from the Senate report of June 20, 1961:

> The need for conservation and protection is urgent. House lots and cottages, which have already blanketed the south shore and left only isolated areas for public enjoyment, are fast converging on the outer Cape. . . . New residential units mean more roads, destruction of native flora and range for wildlife, and stark intrusions on the natural landscape. . . . The manmade modifications that are taking place are severe and continuing. Although these changes may seem harmless individually, collectively, they will soon destroy much of the cape's natural appeal. . . . The increasing popularity of Cape Cod is jeopardizing its natural values. The charms of the area are being obliterated by developments. . . . Without immediate preservation of the Cape's natural features, however, there is great danger that the recreational qualities which have drawn insoon be lost for all time, consumed by commercialization and real estate subdivisions.

These dire predictions did not come to pass because the Congress acted quickly to avert the devastation by overwhelmingly approving the establishment of the Cape Cod National Seashore.

Anyone who has visited the Cape Cod Seashore in the recent past has had the opportunity to appreciate its striking beauty, participate in the recreational facilities made available to the public, and come to an understanding of the history and character of the cape which has charmed visitors for 200 years.

But I report with great sadness to my colleagues, that a few selfish and profit-

eering individuals have managed to skirt the intent of the Congress and obliterate the values of the cape by development which is neither consistent with the Cape Cod National Seashore Act nor helpful in attaining the preservation goals which the taxpayers of the United States have paid to realize.

We in the Congress owe an enormous debt of gratitude to the Cape Codder and its outstanding journalists, particularly Greg O'Brien and Charles Robb, for investigating and reporting a series of abuses which have disturbed and saddened all of us who love the cape. Those abuses fall into two general categories:

First, the acquisition of improvements constructed after the 1959 cutoff date with the granting of use and occupancy rights to the owners; and

Second, the number and type of alterations, remodeling, and expansions to improved property within the seashore.

I ask unanimous consent to have printed in the RECORD at this point an editorial from the Cape Codder of October 14, 1976 highlighting the disturbing trends in development which appear clearly at cross purposes with the goals of the Cape Cod National Seashore legislation.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Cape Codder, Oct. 14, 1976]

THE SEASHORE: WHAT HAS HAPPENED TO "THE SPIRIT AND INTENT"?

The Cape Codder in its past three issues has been presenting a documented picture of tolerated development within the boundaries of the Cape Cod National Seashore which clearly breaches the "spirit and intent" of those who conceived it as the conservation and preservation of some 27,000 acres of Cape Cod and of the Congress which legislated it into existence.

No one could have read the series of three stories without agreeing with the conclusion that a serious breach of propriety has occurred. Readers could and probably are asking the valid question: How come this has been going on for years without our knowing about it? The answer is that it has happened in bits and pieces, an exception granted here and another there, without anyone taking the trouble to look at the whole picture. For this failure we are as guilty as anyone else.

Two outstanding US Senators, John F. Kennedy and Leverett Saltonstall, and an earnest if skeptical Congressman, Hastings Keith, drafted the creative piece of enabling legislation for the Cape Cod National Seashore. It had to be creative because the proposal was unique in National Park Service experience in that the boundaries of the proposed Park encompassed many private residences. The Cape Cod project was made politically possible by creating a precedent: all existing residences were exempted from federal taking and only open land could be subject to condemnation. The residences were to be under strict zoning controls as to change of use or alteration. And a very wise and necessary cut-off date of September 1, 1959 was announced early on to avoid an abuse of the residence provision before the Seashore could be established. It was made very clear that any building started after the cut-off date was done at the peril of the builder.

The spirit and intent, expressed and implied, of the good men who drafted the legislation which was approved by the Congress and accepted as a trust by the National Park Service was to keep the area within the 27,000 acre perimeter as it was, certainly without any further development, and even with the prospect of returning parcels to their natural state as the Seashore acquired homes which the owners decided to sell to the government. The operative phrase in the enabling act is, "in order that the seashore shall be permanently preserved in its present state."

The Cape Codder series has shown the extent to which this "spirit and intent" has been subverted. At least 85 dwellings were constructed within the Seashore after the 1959 cutoff date. Far from turning out to have been at the peril of the owners who decided to take the risk of building anyway, it was the taxpayers who were imperiled financially. The government has paid the owners of 68 of those peril-fraught properties $2,071,308 and the Seashore has given the owners tenancy rights for periods of years to boot. It is estimated that the total cost to the taxpayers for all 85 properties is close to $3 million.

In addition, our series of articles show instance after instance where owners of existing and legal residences have been permitted "alterations" which have turned shacks into palatial summer homes going far beyond the liberal guidelines set by the Seashore. At least one entirely new large house was allowed to be built.

So much for seeing to it that "the seashore shall be permanently preserved in its present state."

To put it bluntly, we do not believe the public treasury was intended to be used, nor should have been used, to establish park-like surroundings for a few well-off property owners. To build big year round homes, at substantial expense, with or without Park knowledge or consent, in an area taken by the federal government to save it from exploitation is to exploit the taxpayers, in our view of the matter.

We think the Park Service has slipped into laxness in defending the area from such exploitation. And we think that those who built after the cut-off date or who altered properties beyond recognition were defying or ignoring what all the rest of us assumed would be a National Park, not a private park.

Some of those whose identities have been made public in these stories are reported to be miffed at the publicity. We regret their displeasure and possible embarrassment but would point out that we are not the cause of it. The facts are the cause of it. Our intent was not to embarrass but to publish; just as their intent was not to go public but to make a nice place for themselves.

In any case, our focus is not on individuals at all but on a practice which has been going on in the Seashore that we think needed airing. The suggestion has been made that a Congressional investigative hearing should be held on the situation. We agree that Congress should take a good look to see whether the spirit and intent of what it created has indeed been breached.

Mr. KENNEDY. Mr. President, following that series of articles, Senator BROOKE and I requested a complete report from the Department of Interior on the management of property within the seashore. That report was furnished to us December 15, and unfortunately it raised more questions than it answered. The Department of Interior concludes that its mandate to preserve the seashore "in its present state" has been met and "given that legislative mandate and the existing zoning standards, my review of the management of improved properties within the seashore leads me to conclude that the spirit and intent of the legislation has not been violated."

I would like to take a brief period of time here to discuss in some detail the analysis by the Department of Interior which leads to their conclusion that the intent of the Cape Code National Seashore legislation has not been violated.

Interior's report concedes that "a review of the existing zoning standards needs to take place," that the "Park and the Advisory Commission are currently reviewing those standards," and that "should clarification be necessary, we will take administrative action to promulgate new or amended standards." The likelihood that improved standards will result is undercut by a later statement in the report:

> An effective counter argument to very rigid standards can be made, however, given the clear intent of the original legislation to preserve private property within the boundaries of the Seashore. Rigid and detailed standards could be construed as diminishing "for its owners or occupants the value or enjoyment of any improved property located within the Seashore."

The Department of Interior points out that the zoning standards that have been promulgated "lack clear and specific definition of either the character of; that is, style, design, architecture, or extent to which; that is, size of addition, improvement or alteration relative to the size of the original structure, an owner may enlarge, remodel, or otherwise alter an existing dwelling. Furthermore, the standards lack a definition of a "studio" or "guest house," each of which has generally been accepted as a permissible accessory structure on "improved property," and fail to specify the maximum number of accessory structures that may be allowed on "improved property."

Yet the Department's response to the gross alterations taking place within the seashore conveys no sense of urgency. We are told "the matter" was placed on the agenda of the Advisory Commission on November 7, 1975, and as of this date over 1 year later, no recommendation has been made. And the Secretary has taken no action.

In dealing with those property owners who constructed homes after the 1959 cutoff date, but prior to the time the Park Service acquired the properties, the Department of Interior reports:

> . . . the National Park Service concluded that it was reasonable to grant use and occupancy rights to owners of such properties just as such rights were guaranteed by the Act to the owners of "improved property."

There is nothing in the Cape Cod National Seashore Act, nothing, which required the Park Service to grant occupancy rights to those who chose to build after the cutoff date. In other words, the best and most profitable course for property owners was to quickly begin construction before the Park Service was in a position to acquire the property, then have the improved property acquired at taxpayer expense, receive the fair market value of the property, and then be allowed to continue living in the home. There is no provision in the act, nothing in the legislative history to suggest this was the proper course; and there was

never an inquiry from the Department of Interior to the Congress or its committees on the propriety of such action.

The legislation we introduce today in the Senate and Congressman STUDDS is introducing in the House attempts to correct the abuses which have marred the wishes of the American taxpayers, the hopes of the drafters of the seashore legislation, the intent of the Congress, and the dreams of Cape Cod residents This amendment to the Cape Cod Seashore Act includes the following provisions:

First. Under no condition will use and occupancy privileges be granted in the future to property owners who have constructed homes during a period of suspension of the Secretary's authority to acquire by condemnation.

Second. Size and design requirements must be included in new standards issued by the Secretary of Interior for zoning bylaws.

Third. Within 6 months of passage of this legislation, the Secretary of Interior must complete a review of all existing zoning bylaws to determine if they are consistent with the new standards.

Fourth. Within 30 days of that review, the Secretary of Interior must report to the Senate Interior Committee and the House Interior and Insular Affairs Committee a list of the required amendments to existing bylaws and his recommendations for appropriate Federal, State, and local government action to see that the purposes of the Cape Cod Seashore Act are carried out.

Fifth. If the Advisory Commission is unable to make a recommendation to the Secretary within 45 days on any matter presented to it relating to the seashore, the Secretary shall act without further delay.

Sixth. Ten million dollars is authorized to complete acquisition within the seashore and an additional $5 million is set aside in a reserve fund for emergency use by the Secretary to acquire property threatened with immediate development.

Mr. President, I ask unanimous consent that the complete text of the bill be printed at the conclusion of my remarks.

We look forward to working with the new Secretary of Interior to assure that the legislation we have introduced gives him the authority he needs to assure that the management of the Cape Cod National Seashore measures up to the goals outlined in the original legislation. And we look forward to testimonv during congressional hearings on this bill from the Advisory Commission, the elected officials from the seashore towns, and the residents of the seashore to guarantee that we have the most effective amendment for protecting the unique resources of the Cape Cod seashore.

President Kennedy said on September 3, 1959 in introducing the Cape Cod National Seashore Act:

We are confident that as a result of the protections which are clearly written into the law and the spirit which we know animated both the authors of the original proposal and of this legislation, that it will be possible to establish a great national park in an area which may otherwise be increasingly blighted by the relentless and sweeping advance of commercial development. If a park of this nature is not established on Cape Cod, there is every danger that much of the Cape will become a mere extension of the suburban civilization which typifies so many of our lives. If we act sensibly now, while the opportunity remains, we shall have preserved for America and for our people a priceless heritage to be enjoyed many times over, not only by this generation but by those which follow.

We act today to assure that the dream which President Kennedy and Senator Saltonstall shared with the residents of the Cape will be renewed and protected against those few who have sought to destroy it.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 2. Section 4(a) of the Cape Code National Seashore Act, as amended, is amended by adding a new paragraph (9) at the end thereof to read as follows:

"(9) In any instance in which the Secretary acquires by condemnation a property upon which construction of a new building has begun after January 25, 1977, or with respect to which he has terminated the suspension of his authority to acquire by condemnation in accordance with the provisions of section 5(c) of this Act because of any variance issued or use begun after January 25, 1977, the beneficial owner or owners shall not be entitled to any privileges otherwise granted to them by paragraphs (1), (2), or (4) of this subsection."

SEC. 3. (a) Section 5 of the Cape Cod National Seashore Act, as amended, is amended by deleting from the last sentence of Subsection (a) the words "as approved" and inserting in lieu thereof, "unless amended by the Secretary's action pursuant to the authority granted to him in subsection (f) of this Section."

(b) Section 5(b) is amended by inserting in lieu thereof the following:

(b) The standards specified in such regulations and amended regulations for approval of any zoning bylaw or zoning bylaw amendment shall contribute to the effect of (1) prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property within the boundaries of the seashore which is situated within the town adopting such bylaw; (2) promoting the preservation and development in accordance with the purposes of this Act, of the area comprising the seashore, by means of acreage, frontage, setback, size, and design requirements and other provisions which may be required by such regulations to be included in a zoning bylaw consistent with the laws of Massachusetts.

(c) Section 5 is further amended by adding new subsections (e) and (f) as follows:

(e) In order to insure that the purposes of this Act are carried out, the Secretary shall, within 180 days complete a review of all existing zoning bylaws and zoning bylaw amendments in order to insure that they are consistent with new regulations issued under his authority in Section 5(b)(2) of this Act.

(f) The Secretary shall forward to the Interior Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives within 30 days of the review completed under subsection (e) of this Act, a report which includes the required amendments to existing zoning bylaws and zoning bylaw amendments, his recommendations for appropriate legislative and administrative federal, state, and local government action to assure that the purposes of this Act are carried out, and his recommendations for relief if he has determined that actions have occurred which violate the provisions of this Act.

SEC. 4. Subsection (f) of Section 8 of this Act is amended by adding the following sentence:

If the Secretary or his designee the Superintendent of the Cape Cod National Seashore determines that the Advisory Commission is unable to make a recommendation within 45 days on any matter presented to the Advisory Commission for its consideration with respect to carrying out the provisions of this Act, the Secretary shall act without the advice of the Advisory Commission.

SEC. 5. Section of this Act, as amended, by adding the following:

There are authorized to be appropriated $10,000,000 to carry out the provisions of this Act for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of this Act. In addition, there shall be authorized to be appropriated and set aside in the Treasury of the United States, a reserve fund of $5,000,000 for use by the Secretary when he shall determine that existing funds are inadequate to purchase those rights and interests which are necessary to assure that the purposes of this Act are carried out.

Mr. BROOKE. Mr. President, I am cosponsoring the legislation Senator KENNEDY is filing today to change certain procedures with respect to the administration of the Cape Cod National Seashore. As a result of investigation by a local newspaper, the Cape Codder, we have discovered that a number of private landowners who still have holdings in the seashore have become substantially wealthier as a result of the vague regulatory mechanism established by the Secretary for managing private lands in the seashore. While some of these inconsistencies with the original intent of the act could be remedied by executive action we feel that it is so important that the management of these lands be reviewed and revised that we are filing legislation to provide a clear mandate to the Secretary of the Interior to do so. I have sent a detailed letter to the Secretary of the Interior outlining my perception of what has gone wrong at the seashore and the steps that need to be taken to remedy the situation. I ask unanimous consent that a copy of this letter be printed in the RECORD following my remarks. I also ask unanimous consent that a copy of the editorial from the Cape Codder entitled "The Seashore Problem" and a copy of the news analysis entitled "NPS Report" of the Cape Cod National Seashore's report on these problems which was also printed in the Cape Codder both be printed in the RECORD following my remarks and the letter to Secretary Cecil Andrus.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
January 24, 1977.

HON. CECIL ANDRUS,
Secretary of the Interior, Department of the Interior, Washington, D.C.

DEAR MR. SECRETARY: The National Park Service has prepared a detailed report on its policies toward acquisition of privately held properties in the Cape Cod National Seashore. I and my colleague, Senator Kennedy had requested this report following a local news-

paper series containing well-documented evidence that substantive residential development had taken place on some private lots after 1959 without their having been acquired by the Park Service or with a significant cost being imposed on the taxpayer because of the value added to those properties which were acquired. Senator Kennedy and I inquired into both the facts in these cases and into the general question of whether Park Service policy violated the spirit and intent of the 1961 Act establishing the Cape Cod Seashore.

The Park Service response, dated December 15, indicates to me that some fundamental changes in land management policies at the Cape Cod Seashore should be implemented without delay. While there is no indication of any wrongdoing in the report, it does nevertheless indicate that unnecessary regulatory ambiguity has been tolerated for many years. The failure to set clear standards for evaluating development on private lands in the Park has created a climate in which many development decisions were resolved in favor of private parties at some substantial cost to the public both in financial terms and in terms of forfeited natural resources.

I am cosponsoring legislation with Senator Kennedy which mandates changes in the way the Secretary's discretionary authority to promulgate land use standards is exercised. But I am convinced that the main provisions in our legislation could be entirely carried out by you without further action by Congress under the general authority provided in the 1961 Act. It is only because the Department has not moved in the past, during the fifteen years in which we have had insufficiently clear standards, that we have come to the point where the Congress is forced to act.

In its report, the Park Service points out quite correctly that the two-fold purposes of the original Act, namely the preservation of the Seashore and the continuing protection of most existing private property rights can lead to conflicting pressures in individual cases and that the Act itself is general with respect to resolving those tensions. But the Secretary is, in Section 5 of the Act, given the responsibility for promulgating standards by which town zoning bylaws affecting post-1959 development are to be judged. Those standards should set forth, with particularity, the Park Service's concept of reasonable accessory uses, nonconforming uses, permissible special permit review standards, and such precise traditional limitations as intensity of use restrictions, site planning and layout, height, setback and bulk. But while a need for such unequivocal standards became obvious to all those involved in managing the Seashore, no changes to the vague standards presently in effect were made.

The Park Service makes the entirely legitimate point that without acquisition funds, no violators' properties could be acquired in any case. But the Park Service did not come to the Congress in a timely fashion for new monies. And it is my firm belief that even without immediately available funds for acquisition, a clear finding against certain proposed building plans made explicit new standards might well have deterred some of the development which did occur and for which the taxpayer will ultimately pay.

Furthermore, the adoption of the policy that builders of improvements after 1959 were to be given the same terms of purchase, including extended occupancy rights, may have itself created incentives for new building. Although the policy was clearly designed to lower acquisition costs, the virtual guarantee to the owner of a generation of an enjoyment of the new resort home may well be counterproductive. I hope you will re-examine this policy, also.

I would urge you not only to promulgate specific new standards but also to reconsider the way similar decisions are made at all our national parks. First, the Seashore has been slow to recommend action after the problems were first realized. Second, the fact the Seashore lacks certain basic information on some of the developments studied leads me to believe we need a new and more rigorous system of documentation, reporting and inspection prior to, during and after any construction.

Third, and most puzzling is the apparent role of the Seashore's Agvisory Commission as a policy making body. For one, this body has on occasion been unable to reach any decision on important cases put to it, and it has been charged for over a year with proposing new standards for the Secretary which are not yet ready. But the real problem is that the Park Service is placing responsibilities on this body which go far beyond its mandate or capacities. It is the Secretary, or in some cases the Superintendent of the Seashore, who is responsible for policymaking. While he or she should clearly be responsive to any initiatives proposed by the knowledgeable citizens on this Commission, an absence of action by the Advisory Commission in no way relieves the official in charge of responsibility for identifying problems and making decisions. The provisions in our bill to encourage prompt action by the Commission and the Park Service are, again, an expression of deep concern over current practices which could be reformed without legislation if the Department so chooses.

As a member of the Senate Appropriations Committee, I am eagerly awaiting the supplemental budget request by the Park Service which will include the estimate of the funds needed to complete acquisition of private lands in the Seashore. You may be sure I shall work for its prompt appropriation as soon as it is received in the Congress.

In closing, I would like to reiterate that I believe the problems at the Seashore can in no way be attributed to any individual or individuals acting improperly or in a covert manner. Rather, these relationships between private interests and the federal government have never been directly addressed during the fifteen years the Park has existed. I trust you will not only act promptly to change practices at this park but that you will review the management of acquistions at all recently created federal recreation and conservation areas for similar problems.

I look forward to your early response to these difficulties and to their prompt resolution.

Sincerely,

EDWARD W. BROOKE.

[From the Cape Codder, Jan. 6, 1977]

THE SEASHORE PROBLEM CANNOT BE EXORCISED

The Cape Cod National Seashore has issued the report requested by Senators Edward Brooke and Edward Kennedy on the building which has been going on within the Park boundaries brought to public attention in a series of articles in The Cape Codder. We are sorry to say that the report is long on words and short on clarity. The result is obtuseness and evasion where frank and open discussion of an obvious problem is called for.

This unfortunate tone starts in the introduction. "The Cape Codder articles raise the general issue of the spirit and intent of the act creating the Cape Cod National Seashore," the report says. "The mandate given to the National Park Service was to preserve the Seashore permanently 'in its present state'." This is followed immediately, in the second paragraph, by the assertion, "my review of the management of improved properties within the Seashore leads me to conclude that the spirit and intent of the legislation has not been violated."

This is nonsense! And it is rather insulting nonsense to deliver this type of material to the brother of one of the drafters of the legislation creating the Cape Cod National Seashore.

The full operative clause in the legislation passed in 1961 is: "In order that the seashore shall be permanently preserved in its present state, no development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing . . ."

This is about as clear as the English language can be. The spirit and intent of the legislative fathers was that the owners of existing homes within the Seashore should enjoy them as long as they wished, basically in their existing state. And they placed a cut-off date on this protection of September 1, 1959, after which any construction would breach the law's spirit and intent.

The Seashore itself reveals that 88 houses have been built within its boundaries since the cut-off date in 1959. If language is to mean anything, there is no other way to describe this construction than as a violation of the law's spirit and intent. Of course, there are reasons why the construction has been allowed, mainly the lack of condemnation funds to be used before the construction started. But there is no question that the existence of these buildings violates what the bill's drafters intended.

We have presented case after case in which "improvements" to the existing legitimate buildings within the Park have abused the Seashore's own original and liberal guidelines. What has happened is that owners of small shacks have been allowed to "alter" them into palatial and expensive summer homes. These property owners thus have succeeded in capitalizing on the remoteness and protection of the Seashore which they themselves have breached. We even found and reported the example of one property which was "altered" from a small studio on one part of the property to an entirely new, large and luxurious house on a completely new location.

The effect of all this has been to create special conditions for the favored wealthy to develop leisure homes while protecting the Seashore only from the less fortunate who could afford to enjoy only more modest seaside subdivisions which are unavailable.

There is no way that Park Service spokesmen can now convince anyone that this sort of thing doesn't violate the hell out of any interpretation whatsoever of "spirit and intent".

What the Senators have been given by the Park Service report is casuistry and speciousness. This bit of reasoning, for example: "An effective counter argument to very rigid standards can be made, however, given the clear intent of the original legislation to preserve private property within the boundaries of the Seashore. Rigid and detailed standards could be construed as diminishing 'for its owners or occupants the value or enjoyment of any improved property located within the Seashore'."

No one is asking for rigid standards, of course. All that has been suggested is adherence to the very simple principle that property within the Seashore be kept "permanently preserved in its present state" as stated in the law.

The simple and undeniable fact is that land which has been taken by the Federal government on behalf of the people to save it from exploitation has been exploited for the benefit of certain landowners. To add salt to the wounds, the people as U.S. taxpayers have had to pay for valuable properties and see the owners enjoying long occupation leases from the government. Building supposedly undertaken at the owner's risk has turned out to be only at the risk of the taxpayer.

The National Park Service has not presided over this unfortunate record out of any sense of evil intent or of deliberateness. It has indeed been denied the funds to acquire properties by condemnation, funds which could

have been applied before the bulldozer blade dug in. But neither have we seen any real leadership coming out of the Interior Department to convince the Congress of the crying need.

We pointed out editorially back in August, 1961 the mischief that has indeed developed from a crucial decision in Congress on the National Seashore legislation. At the insistence of the House conferees, the so-called contract authority was dropped from the Senate version of the bill. This authority would have enabled the Park Service to negotiate contracts for land purchases on the Cape before appropriations were approved by Congress. Perhaps the Congress should now reconsider some form of contract authority to take away any further Park Service excuse for violating the spirit and intent of the act.

In the meantime, the very least we should expect from Park officials is frank acknowledgment of a situation which threatens the good work and clear intentions of John F. Kennedy, Leverett Saltonstall and then-Director Conrad Wirth of the National Park Service.

[From the Cape Codder, Jan. 6, 1977]

NPS Report Backs Park Management Blames Development on $$ Shortage

(By Charles C. Robb)

Following a request by Senators Brooke and Kennedy, the National Park Service has completed a report on the handling of private property development within the National Seashore Park.

The report generally defends the Park's management of private development, but it concedes that unwanted development has taken place. It blames the Park's inability fully to limit private development to a lack of funds for acquisition of property and to vagueness of zoning standards.

The two Senators had demanded the report last October, in response to a series of articles in The Cape Codder which disclosed that a large number of new homes had been built in the park after a 1959 cutoff date for new buildings. The Cape Codder series also revealed that a number of property owners had converted small summer cottages into substantial year-round homes.

In addition to an accounting of its management policies, the two Senators asked the Park Service to explain each case of property development that had been cited in the Cape Codder series.

The report was prepared largely by the staff at the Seashore Park headquarters in Wellfleet. It was reviewed by the Park Service's regional office in Boston and went to the Senators just before Christmas, under the signature of Regional Director Jack E. Stark.

"NOT VIOLATED"

The principal conclusion was that development in the Park has not violated the 1961 Seashore Act's mandate that the Park preserve the seashore permanently "in its present state," develop public use consistent with that purpose, and do both without diminishing use of enjoyment of existing private property.

"Given that legislative mandate and the existing zoning standards," said Mr. Stark in an introduction to the report, "my review of the management of improved properties within the Seashore leads me to conclude that the spirit and intent of the legislation has not been violated."

Despite this conclusion, however, the report acknowledged that new construction had occurred in the Park when funds were not available to acquire the properties. It also stated that some existing properties had been added to and "substantially altered."

"In some instances these alterations have been extreme," the report said. However, it added, "They do not violate the existing zoning standards."

The report proposed two remedies. First, it was suggested, new funding by Congress is needed to replenish the Park's presently empty treasury for acquisition of properties on which development is planned or has already taken place improperly. Second, the report said, a review of zoning standards is needed to put precise limits on the extent to which existing properties may be enlarged.

Some qualification of the claim that the "spirit and intent" of the Seashore Act had not been violated was provided this week by Dennis Galvin, the Park Service's assistant regional director and one of the report's authors. Mr. Galvin told The Cape Codder it was not intended to claim that no change had occurred in the park's "present state" as of 1961.

"Our feeling of the spirit and intent was that if you were to build after 1959 you would be subject to condemnation," he said.

Mr. Galvin pointed out that properties had been condemned and acquired, in the spirit of the act, although the acquisition program had been limited by shortage of funds.

"Ideally, if funds are available, the minute a building permit appears on the desk, a property can be acquired," he said. "It's unfortunate that funds have not always been available, and people did build."

THE ACT

Under the 1961 act, any single-family residence on which construction had started prior to Sept. 1, 1959 could remain in private ownership and could be expanded or altered as long as the changes complied with existing zoning regulations. These were defined as "improved properties." Any dwelling built after the cutoff date, or any pre-1959 "improved property" altered in violation of zoning standards, was made subject to condemnation.

The law authorized $16 million for acquisition of property. Initially the Park concentrated on buying up open space, rather than developed property, and did not move to curb the building that continued after the 1959 cutoff. By 1968 the initial $16 million was spent, and the acquisition program ceased.

In 1970, an additional $17.5 million was authorized by Congress, and the park resumed acquisition and moved at last against the post-1959 properties. The Park had a list of 89 such dwelling, all but five of which had been built in 1959–62, around the time the Park was created. Condemnations were completed in 1973 and 1974 of 88 of the properties, at a total cost of $2,845,821. The single remaining dwelling is one of the problem cases which was reported in the Cape Codder series.

In most cases, owners of condemned properties were granted occupancy rights for periods from 10 to 25 years, with 25 years being the usual time. They were paid the appraised market value of the properties, less one percent for each year of permitted occupancy.

The report stated the Park Service concluded it was "reasonable" to grant use and occupancy rights to owners of these condemned properties, just as such rights were guaranteed to owners of pre-1959 properties acquired by the Park. The formula for payment "has long been accepted and applied in the land acquisition programs at many National Park System areas," the report said.

In June, 1974, the acquisition program ceased again, when all available funds had been expended, except for $2.5 million required to cover final court judgments on pending condemnation cases. The Park Service intends to ask the new Congress for enough new funds to complete the acquisition program.

MAJOR PROBLEM

At present, the report indicated, the major problem is how to deal with pre-1959 "improved properties" that have been altered or expanded. Such properties made up the majority of the 13 specific cases cited in The Cape Codder series.

"The Cape Codder articles," said the report, "suggest that the changes that have occurred over time on 'improved properties' are generally contrary to, if not a subversion of, the purposes of the Act. That view can be sustained only by a finding that the Seashore management and town officials consistently have acted without reference to either the Seashore Act or the town zoning bylaws enacted subsequent to and in accordance with it in evaluating building construction proposals on 'improved property.'"

The report continued: "Neither the Seashore Act nor the zoning standards define an appropriate limitation on the extent to which an existing dwelling may be enlarged by additions and remodellings."

The Seashore Act provided that renovation of existing dwellings in the Park may be permitted under zoning bylaws of the separate towns, with the proviso that the town bylaws must conform to zoning standards set by the National Park Service.

The Park Service's current standards state that "the distinctive Cape Cod character of existing residential structures will be maintained."

The standards require that enlargement of a dwelling must meet certain setback requirements. They also provide that "other uses" may be permitted, "provided such other uses are traditional to these seashore communities, are customarily incidental to the principal residential use and do not alter the essential character of the dwelling and premises as a private residence."

NOT CLEAR

The report pointed out that the zoning standards "lack clear and specific definition" of the extent to which an owner may enlarge or remodel a dwelling. Further, the report states, "the standards lack a definition of a 'studio' or 'guest house,' each of which has generally been accepted as a permissible accessory structure on 'improved property, and fail to specify the maximum number of accessory structures that may be allowed on 'improved property.'"

"This is the nub of the problem," said Park Superintendent Lawrence Hadley, in commenting on the report this week.

Mr. Hadley, who is charged with monitoring the alterations Park residents make to their properties, said that he and his staff review building permits relayed for approval by town building inspectors. From 1973 through 1976, according to the report, 83 such permits were submitted by the towns for review.

This process leads to problems, Mr. Hadley said. First, there is the difficulty of determining whether a permit which appears proper under a town zoning bylaw might involve enlargement of a property beyond what would be appropriate under the Seashore Act. Second, there is the question whether the actual construction follows the building permit.

In several cases cited by The Cape Codder series, property owners enlarged their dwellings beyond what was indicated in building plans on which permits were issued.

The report to the senators noted that this problem came sharply to the attention of the park staff in September, 1975, "as a result of the remodelling and enlarging of a relatively modest cottage by Mr. Ancil Chasteen in a manner seemingly wholly different from that depicted in plans reviewed and approved by the National Park Service."

Mr. Hadley and James Killian, the park's land use specialist, brought the matter to the attention of the Seashore Advisory Commission at a meeting Nov. 7, 1975. As The Cape Codder reported at that time, Mr. Killian told the Commission he had investigated complaints from neighbors about Mr. Chas-

teen's construction and had found that none of the material from the original cottage was being used in the new house. He said he told Mr. Chasteen that unless the new structure was an enlargement of the old, it might be subject to condemnation by the park.

The part officials asked the Advisory Commission to study and draft precise standards to control such cases, but the Commission could not reach consensus whether the Chasteen case was a violation. Mr. Hadley repeated his request at the Advisory Commission's meeting last April 16, at which he said there were a number of similar cases that could not be settled until precise standards were set.

The Advisory Commission finally took up the issue at its meeting last Oct. 8, when a three-member subcommittee was assigned to study the problem.

THE CASES

The other cases referred to by Mr. Hadley were among those cited by The Cape Codder, and each of them was discussed in the report to the Senators.

Of the 13 cases, five, according to the report, are regarded as undecided and subject to the review by the Advisory Commission. In addition to Mr. Chasteen, these involve the following property owners:

Dr. Robert J. Lifton, whose renovation of a one-room cottage into a five-bedroom house with separate studio was said "to substantially enlarge the modest structure which existed on the property." The construction took place in 1965 and was approved by the park. "Despite the Superintendent's expressed concern for the size of the addition, the structure would, and has, continued in use as a single-family dwelling," the report said. "The record in this case may permit an interpretation that the property does not meet the definition of 'improved property' in that construction of the dwelling post dates Sept. 1, 1959 as specified in the Act," the report adds.

Ann Peters, who in 1973 renovated a small, one-story cottage by adding bedroom and kitchen wings with basement. According to the report, Miss Peters was advised that the original dwelling should be retained and incorporated into the new structure. "Our records, including file photographs, suggest that the Seashore's advice was not heeded regarding the retention of the original structure," the report said. "If such be the case, it may be found that the property no longer qualifies as 'improved property' and is therefore subject to condemnation."

John C. Phillips, who in 1971 constructed a four-room "studio" as an accessory to a dwelling, despite advice by the Park Service's regional solicitor that the new construction ". . . had the effect of subjecting the property to possible condemnation . . ." According to the report, "Consideration whether to proceed to acquire the property will not be made until acquisition funds become available."

Donald R. Giles, who in 1973 enlarged a three-room cottage without heat to a "substantial" two-story year-round house. "Seashore records indicate that the finished dwelling does not contain ready visual evidence of the original structure," the report said. "Despite the fact that the property contains one single-family dwelling in conformance with provisions of the Seashore Act, there is basis for question whether the property may qualify as a 'post-1959 property' if the selling is of wholly new construction dating from 1973."

Four other cases cited in The Cape Codder series had been reviewed by park officials and deemed to be acceptable. These, according to the report, involved the following property owners:

Lee S. Halprin, who expanded his Truro residence twice: first in 1963, when a living room, bedroom and bath were added, and again in 1973, when a second-floor bedroom and bath were built. Of the second addition, the report stated, "The Seashore voiced no objection as the proposed work was judged to be in conformance with town zoning by-laws for the Seashore District."

John David Cist, who in 1972 enlarged his residence after modifying the design to meet the advice of park officials that the new structure should incorporate the old. "Although the present dwelling is considerably modified in size and appearance from the original, the use continues as a single-family dwelling and there is no basis for acquisition by the National Park Service," the report stated.

Joseph Jay and Catherine Deiss, who made three improvements to their home in Wellfleet: a garage in 1931, a "studio-bedroom" in 1972, and a two-stall horse shed in 1974. All were approved by the park. According to the report, in December, 1975, a neighbor phoned the park office to complain that the studio-bedroom at the Deiss residence constituted separate living quarters and was therefore in violation of zoning. The Wellfleet building inspector was asked to inspect the property. "He reported that all construction had been properly approved by the town and that the use of the property was considered in keeping with the zoning for the Seashore District."

Charles Alexander Jencks, who last August and September built a one-room studio with toilet and sink on the back of his lot in Truro. According to the report, a neighbor phoned the Park to protest that the new building would intrude on the caller's privacy. Two letters of protest were received also. However, the Park found that the building was permitted under zoning bylaws, provided no kitchen or other facilities were added which would make the studio a second residence.

OTHER CASES

Three cases cited in The Cape Codder series concerned properties acquired by the Park. They involved these owners:

Dr. and Mrs. Martin Peretz, who in 1971 had purchased a home in Truro which had been built in 1961, after the cutoff date. The report said that on Sept. 1, 1971, Dr. Peretz was notified his property was subject to condemnation. Negotiations were started, and on May 4, 1973, Dr. and Mrs. Peretz signed an agreement to sell the property for $37,875, with the right of 25-year occupancy. Subsequently, Dr. Peretz offered to donate the property to the Park, in return for a life occupancy for himself and his wife. The Park rejected the offer, on grounds the agreement to sell was binding and that occupancy could not be granted for more than 25 years. Title passed to the Park on July 30, 1974.

Charles and Evelyn Tanis, owners of a parcel in Wellfleet, on which they intended to build a new dwelling. According to the report, the Park advised that since a house already existed on the property, the second dwelling would be subject to condemnation. The Tanises, however, contended the parcel comprised two lots, and a building permit was issued by the town of Wellfleet on Jan. 8, 1975. On the same day, Park Superintendent Hadley requested the regional office to proceed immediately to condemnation. The property passed to the Park on July 11, 1975.

Felix S. Vecchione, who in July, 1969, purchased a parcel in Eastham with the expressed purpose of building a cottage. The report said that Mr. Vecchione was advised the property would be subject to acquisition. On Dec. 3, 1969, the Eastham Board of Appeals granted a building code variance to allow the building, which was then built. On Dec. 16, 1969, Mr. Vecchione was notified by the Park that the property would be acquired as soon as funds were available. Acquisition was completed on Feb. 1, 1974, for $19,338, with occupancy rights for 15 years.

Another case cited in The Cape Codder series involved a dwelling known by the Park to have been built after the 1959 cutoff date but not yet acquired. The explanation of this lapse is not altogether clear.

The report stated that the house, owned by Hayden Walling, is one of two on separate tracts owned by Mr. Walling, the other house having been built in 1959. "Mr. and Mrs. Walling separated, and Mr. Walling retained the structure he says was built in 1959, whereas his wife retained the structure built in 1961." That statement seems clear enough, but the report goes on to suggest there is some confusion as to which of the two houses is the 1961 dwelling subject to condemnation. "We will conduct further investigations as to the date of construction of the various structures," the report adds.

By Mr. PACKWOOD (for himself and Mr. HATFIELD):

S. 441. A bill to amend Public Law 566, Watershed Protection and Flood Prevention Act, as amended, to raise the limitation of any single loan or advancement for watershed works of improvement; to the Committee on Agriculture and Forestry.

S. 442. A bill to amend title III of the Bankhead-Jones Farm Tenant Act, as amended, to increase the amount of any loan for which funds may be appropriated without prior approval of such loan by congressional committees; to the Committee on Agriculture and Forestry.

Mr. PACKWOOD. Mr. President, the continued health and vitality of our agricultural community depends, in part, on the health of vitality of the laws governing land and water conservation projects. The Senate found those laws to be in disrepair last year and passed two bills of immediate importance to these projects, S. 2484 and S. 2485.

The first of these bills would have removed the $5 million dollar limitation on any single loan or advancement for watershed projects under the Watershed Protection and Flood Prevention Act, and replaced it with a $10 million dollar limitation. Increasing this maximum limitation on the amount of a loan is absolutely required since the cost of these projects has increased so tremendously over the past few years. Watershed improvement plans have been brought to a virtual standstill because of a restrictive $5 million limitation.

The second, prohibits appropriations for any Resource Conservation and Development Loans in excess of $500,000—presently $250,000—under the Bankhead-Jones Farm Tenant Act, without prior approval of the Committee on Agriculture and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. In addition it extends the loan-making power of the Secretary of Agriculture to include loans for the conservation, development, and utilization of water for agricultural purposes. Generally, the increase of this limitation would also facilitate conservation and development loans since it would not require smaller projects to meet specific prior approval by the respective Committees on Agriculture.

I commend the Senate for passing these bills last year, and hope they receive similar consideration at an early time in the 95th Congress.

By Mr. CHILES (for himself, Mr. STONE and Mr. MCCLURE):

S. 443. A bill to prohibit travel at Government expense outside the United States by Members of Congress who are not reelected to the succeeding Congress; to the Commitee on Government Operations.

Mr. CHILES. Mr. President, during the 94th Congress I introduced a bill which would prohibit travel at Government expense outside the United States by Members of Congress who will not be members of the next Congress. Unfortunately no action was taken on this bill.

Every 2 years we bear witness to the familiar mass exodus of lameduck Congressmen on trips abroad, and it is in an effort to bring a halt to this unwarranted expenditure of public funds that I am introducing this bill again today.

As you are well aware, Mr. President, our Nation is currently going through a period of severe economic strain. We are facing the combined threats of inflation, recession, and unemployment. Prices are on the rise and at the same time assembly lines are closing down.

In order to help weather this economic crisis we have called upon the American people to tighten their belts and make sacrifices where it hurts—in their pocketbooks. Under these circumstances, it is especially incumbent upon us in the Congress to set our own house in order.

This legislation is by no means intended to prevent Members of Congress from fulfilling their constitutional responsibilities. I am fully aware of the important benefits to the legislative process which can be derived from congressional travel. Senators and Congressmen can use these opportunities to gather valuable background information for their committee work, lay the foundation for new legislative initiatives, and exercise their investigative powers and responsibilities over programs which Congress has instituted. This bill is not meant to interfere in any way with the normal workings of this legislative process.

But it is hard to imagine what purpose is to be served by a trip of this nature when a man's term of office is about to expire and he is not returning to the new Congress. This is the area about which the public feels very uncomfortable and over which they have every right to hold us accountable.

Mr. President, it is imperative during this difficult economic period to set an example of prudence and self-restraint with respect to our own expenditures. This legislation I am reintroducing today represents a small, but hopefully an important step in that direction. I might add that it is my sincere hope that the executive branch will take note of this action, and that this effort on the part of the Congress to limit its own spending will serve as an example to other Government agencies to similarly curtail any superfluous travel by lameduck officials.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, after the date on which any general election is held for election of Members of the House of Representatives and the Senate, no part of any appropriation and no local currency owned by the United States shall be available for payment of any expenses, nor shall transportation be provided by the United States, in connection with travel outside the fifty States and the District of Columbia of any individual who—

(1) is a Member of, or Delegate to, or Resident Commissioner in, the House of Representatives, or

(2) is a Member of the Senate whose term expires at noon on January 3 following the date of such general election,

unless such individual is reelected or elected as a Member of, or Delegate to, or Resident Commissioner in, the House of Representatives for the succeeding Congress, or is reelected or elected as a Member of the Senate for a term which begins at noon on January 3 following the date of such general election.

SEC. 2. The first section of this Act shall not apply with respect to utilization of funds for travel authorized by law for any Member of the House or Senate, or any Delegate to, or Resident Commissioner in the House, between the District of Columbia and the district, State, commonwealth, or possession which he represents.

By Mr. WILLIAMS:

S. 446. A bill to authorize the Secretaries of the military departments to reimburse nonappropriated fund instrumentalities located in the Ryukyu Islands and Daito Islands, Japan, for increased costs in severance pay entitlements of their Japanese employees incurred as a result of the reversion of those islands to Japan; to the Committee on Armed Services.

NONAPPROPRIATED FUND FACILITIES ON OKINAWA

Mr. WILLIAMS. Mr. President, I have become aware of a serious situation which is threatening the financial soundness of some of the PX facilities used by American service people in Japan. Apparently, the U.S. Government has forced the servicemen and women to pay substantially higher labor costs for the employees in nonappropriated fund facilities, but refuses to permit Japanese Government funds provided for this purpose to be used to reduce the onerous burden on our Armed Forces personnel. I am afraid that many will see this as a callous disregard by our Government for the welfare of those who serve in our armed services abroad.

Many people do not realize that a vast number of the activities which provide for the convenience and morale of our armed services are actually paid for by the troops themselves, not by the taxpayers. These include the service clubs, messes, and PX systems. It is a serious violation of our responsibilities to permit the imposition of an unreasonable, financial burden on these facilities and those who must support them; it is especially scandalous when we refuse to correct that injustice by merely authorizing the spending of money that the Japanese gave us for that purpose.

On May 15, 1972, control of the Ryukyu Islands and the Daito Islands, which had been under U.S. control since World War II, reverted to Japan. At the same time, the system governing employment of the approximately 20,000 Ryukyuan workers employed by the U.S. force on Okinawa changed. Previously, these workers had been directly employed by the various U.S. military commands and nonappropriated fund instrumentalities. But, on the date of reversion they became subject to the same indirect hire system under which local national workers of the U.S. forces were employed elsewhere in Japan.

There is a uniform system of employment conditions, pay, benefits and allowances applicable to all Japanese employees of the U.S. forces in that country, however, the pay and benefits of local national workers in Okinawa had been generally less than those prevailing in the rest of Japan. Conversion of the Okinawan employees to the Japanese system resulted in significant increases in pay and other benefits for most of them. Labor costs for the U.S. military commands and nonappropriated fund instrumentalities in Okinawa rose correspondingly.

The Japanese Government had insisted that Japanese employees of the U.S. forces on Okinawa be provided the same pay, benefits and allowances as those elsewhere in Japan. Since this would result in increased labor costs for the U.S. forces, Japan agreed to make cash payments of $74 million because of these increased labor costs.

Although the nonappropriated fund activities on Okinawa were burdened by the same increase in liabilities for severance pay as the U.S. forces employers there operating with appropriated funds, the former are now disadvantaged since they have had to rely on their own resources to satisfying this obligation. The sudden increase in the severance pay obligations of the various clubs, messes, PX's, and other nonappropriated fund activities on Okinawa, has created serious financial difficulties for many of them, and it may require curtailment of services rendered to U.S. military and civilian personnel and their dependents.

Since there is no specific authority, either in the reversion agreement or in any statute for the transfer of the Japanese funds from the U.S. Treasury, where the Japanese cash payments are deposited, to nonappropriated fund instrumentalities, the only way these facilities can obtain their proper share of the cash settlement provided by Japan for the increased severance pay costs is through legislation. The events which generated the need for this legislation were unique, and the proposed bill is not in any way to be considered as precedent-setting.

Mr. President, in recent years our military personnel have been subjected to repeated instances of threatened reductions in benefits. It is incumbent on us to meet faithfully the obligations which have been promised. But it is even more important that we do not inflict these unintended and unnecessary burdens on them.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 446

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That under such regulations as the Secretary of Defense may prescribe, the Secretary of a military department may, from appropriations made specifically available for the purpose, reimburse nonappropriated fund instrumentalities located in the Ryukyu Islands and Daito Islands, Japan, or their designated fiscal successor-in-interest accounts, for any increase in severance pay entitlement of Japanese employees who were employed by such instrumentalities on May 15, 1972, and whose severance pay computation formula was changed, effective on such date, as a result of the agreement entered into by the United States and Japan entitled "The Agreement Between the United States of America and Japan concerning the Ryukyu Islands and the Daito Islands" (signed at Washington, D.C. and Tokyo on June 17, 1971).

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of the first section of this Act.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. JOHNSTON, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 15, the Federal Election Campaign Act Amendments of 1977.

S. 21

At the request of Mr. DOMENICI, the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of S. 21, to amend the Occupational Safety and Health Act.

S. 92

At the request of Mr. WILLIAMS, the Senator from Idaho (Mr. CHURCH), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mr. JACKSON), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 92, to amend and extend the Export Administration Act of 1969.

S. 107

At the request of Mr. PEARSON, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 107, a bill to avoid reductions in veterans' pensions concomitant with increases in social security benefits.

S. 121

At the request of Mr. BIDEN, the Senator from Minnesota (Mr. ANDERSON), the Senator from New York (Mr. JAVITS), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 121, the Federal Oil Pollution Liability and Compensation Act of 1977.

S. 123

At the request of Mr. INOUYE, the Senator from Indiana (Mr. BAYH) and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of S. 123 a bill to amend the Social Security Act.

S. 175

At the request of Mr. SCHWEIKER, the Senator from Alabama (Mr. SPARKMAN), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of S. 175, a bill to provide a special program of financial assistance to opportunities industrialization centers, and to other national community based organizations.

S. 182

At the request of Mr. KENNEDY, the Senator from Minnesota (Mr. ANDERSON), the Senator from Michigan (Mr. RIEGLE), the Senator from Maryland (Mr. SARBANES), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 182, the Federal Tanker Safety and Marine Anti-Pollution Act of 1977.

S. 311

At the request of Mr. ROTH, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 311, a bill entitled the College Tuition Tax Relief Act of 1977.

S. 317

At the request of Mr. MCGOVERN, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 317, to provide service pensions to certain veterans of World War I.

S. 367

At the request of Mr. MCGOVERN, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of S. 367, to authorize the Secretary of the Interior to guarantee certain bonds issued to finance water resource facilities.

S. 398

At the request of Mr. PEARSON, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 398, the Emergency Construction Trade Employment and Airport Development Act of 1977.

S. RES. 7, S. RES. 8, AND S. RES. 9

At the request of Mr. HATFIELD, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of Senate Resolution 7, Senate Resolution 8, and Senate Resolution 9, amending rule XXII of the Standing Rules of the Senate.

SENATE CONCURRENT RESOLUTION 6—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE PLACING OF A STATUE OF MARTIN LUTHER KING, JR., IN THE CAPITOL

(Referred to the Committee on Rules and Administration.)

Mr. BAYH. Mr. President, it is with great pleasure that I introduce today a resolution, introduced in the House by Representative JONATHAN BINGHAM and cosponsored by 157 Members of the House, including all members of the Black Congressional Caucus, to authorize the commissioning of a bust or statue of the Rev. Dr. Martin Luther King, Jr., for placement in the U.S. Capitol.

Evidence of the strong support this resolution has is indicated by the fact that last year it passed both Houses, falling short of final passage only because the House refused to accept a Senate amendment, and the 94th Congress adjourned before the two Houses could go to conference on the resolution.

It seems only fitting and proper that Congress pass this resolution as a gesture of our respect for a great American. Furthermore, I wholeheartedly agreed with my colleague from the other body, Mr. BINGHAM, when he so eloquently stated that the absence of any statue or portrait of a distinguished black American among the 681 statues and portraits in the Capitol is a disgrace to a nation striving to correct the legacy of 200 years of racial injustice. This resolution would not only be a mark of respect for the memory of the Rev. Dr. Martin Luther King, Jr., it would be a means of expressing our appreciation for the important role of black Americans in our Nation.

For too many years the history of the black American's accomplishments in this country have been ignored. Black children have been denied the proud pleasure of reading in the history books of the great accomplishments of their ancestors. Recently, many schools have attempted to remedy this unpardonable omission through the creation of black studies courses and through the inclusion of black Americans in the history books. Now it is time for the U.S. Congress to do the same. Black children must be able to feel the same kind of pride when they walk through the Halls of Congress as they do when they sit in a black studies class or read in the history books about the great deeds of Frederick Douglass, Harriett Tubman, Sojourner Truth, or Booker T. Washington. A bust or statue of Dr. King would be the first step in achieving such a feeling of pride among our black citizens when they visit their Nation's Capitol.

A cultural legacy is a key variable in any people's struggle for ethnic or racial identity. For this body not to pass this resolution, and thusly deny more than 22 million people the right to a feeling of their own racial pride, would be unjust. All Americans should and must share in the cultural heritage of America. A bust or statue of the Rev. Dr. Martin Luther King, Jr., certainly would represent a rich and rewarding symbol of what our country is all about. Such a gesture would furthermore move us closer to recognizing that black Americans have played a major role in the development of America. And finally, by placing a bust or statue of Dr. King here in the Capitol, we will help move our black citizens away from a feeling of alienation toward their country and their government, and closer to a feeling that their deeds shall not go unheeded as has too often been the case in the past. I urge prompt adoption of the resolution.

I ask unanimous consent that the text of this resolution be printed at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. CON. RES. 6

Resolved by the Senate (the House of Representatives concurring), That the Joint Committee on the Library is authorized and directed to procure a bust or statue of Martin Luther King, Junior, and to cause such sculpture to be placed in a suitable location in the Capitol as determined by the Joint Committee on the Library.

SEC. 2. Expenses incurred by the Joint Committee on the Library in carrying out this concurrent resolution, which shall not

exceed $25,000, shall be paid out of the contingent fund of the Senate on vouchers approved by the chairman of the Joint Committee.

AMENDMENTS SUBMITTED FOR PRINTING

COMMITTEE SYSTEM REORGANIZATION AMENDMENTS OF 1977—S. RES. 4

AMENDMENT NO. 15

(Ordered to be printed and to lie on the table.)

Mr. McGOVERN (for himself, Mr. DOLE, Mr. KENNEDY, Mr. JAVITS, Mr. PERCY, Mr. RIEGLE, Mr. ABOUREZK, Mr. CASE, Mr. HUMPHREY, and Mr. CHURCH) submitted an amendment intended to be proposed by them jointly to Senate Resolution 4, the Committee System Reorganization Amendments of 1977.

NOTICES OF HEARINGS

GOVERNMENT OPERATIONS COMMITTEE

Mr. GLENN. Mr. President, on December 13, 1976 I chaired oversight hearings in the Government Operations Committee on the licensing procedures for nuclear powerplants as carried out by the Nuclear Regulatory Commission. In my capacity as the chairman of the Ad Hoc Subcommittee on Nuclear Matters I would like to state that the hearing record shall be considered closed as of February 1, 1977.

SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

Mr. McGOVERN. Mr. President, I wish to announce that the Senate Select Committee on Nutrition and Human Needs has scheduled 2 days of hearings on "Diet Related to Killer Diseases, II." The first of these will be held on Tuesday, February 1, 1977, at 9:30 a.m., in room 1202 of the Dirksen Senate Office Building, and will investigate the relationship between diet and cardiovascular disease. On Tuesday, February 2, at 9:30 a.m. in room 1114 of the Dirksen Senate Office Building, the committee will investigate the problems related to obesity.

SPECIAL COMMITTEE ON OFFICIAL CONDUCT

Mr. NELSON. Mr. President, for the information of the Senate, the Special Committee on Official Conduct held its first organizational meeting this morning. The committee has agreed to hold public hearings on February 1 and 2 and plans further hearings, if necessary, during the week of February 7.

It is our hope that Senators who are interested in offering testimony will be able to appear on February 1 or 2. Those Senators who do testify should address themselves specifically to the six areas of concern detailed in Senate Resolution 36.

Please contact me or Ira Shapiro of my staff at 45323 if you wish to submit testimony or be scheduled as a witness.

ADDITIONAL STATEMENTS

NO NEW DREAM

Mr. GOLDWATER. Mr. President, what I am about to say is no way a reflection on the speech that President Carter made at his inauguration. Frankly, I thought it was a good speech, made at the right time, a speech made in a general way to invite the people of our country to help him. There are those, however, who feel that there are answers to the challenges that face this country if we only have the courage and the farsightedness to get on with the job.

I think Robert Hotz expressed this feeling, the feeling that those of us who are greatly interested in science and technology have, in an editorial appearing in Aviation Week and Space Technology on January 24 of this year. There is no question that Mr. Hotz hit it when he talked about the breakthroughs of new energy sources, the full exploitation of space technology, and the development of the full spectrum of the technological frontier. These are challenges, and I think President Carter knows enough about them with his nuclear training background, his military background and his seeming insatiable desire for more knowledge, to really begin prodding his Democrat majority in the Congress to do something about it. We are literally on the verge of a new way of life, we are on the verge of new energy sources that can make oil literally useless or meaningless. But unless the Congress, controlled by his party, gets off its political duff and does something about these things, we can in 5 years suffer greatly because the President or the Congress didn't push hard enough. Again, this is not critical of the President's speech. I had hoped that he would have been more specific in these fields, but I guess I naturally would. I have had a long-time feeling that the United States is still the most technologically advanced country in the world, still a country with foresight, courage and ambition, and a country that can solve the immediate problems that face us today. It only takes the action of men. We in this chamber are but a few of them. The President is only one, but his challenge is to lead the rest of us, some 230 million of us, to get the job done. I ask unanimous consent that the editorial entitled "No New Dream" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NO NEW DREAM

(By Robert Hotz)

It was another of those bitterly cold, brilliant sunny days that seem to welcome new Democratic presidents to their office as Jimmy Carter laid his hand on his mother's Bible and took the oath of office as the first American President in this nation's third century. Much of the panoply was familiar to veteran inaugural reporters—the massed flags with battle streamers whipping in the chill wind, the blare of the bands, the booming cannon of the presidential salute and the solemn moment of drama as the departing President hears the fanfare of "Hail to the Chief" played for the last time in his honor and the ceremony ends with a new chief of state marching briskly to his destiny.

But there were some new notes sounded by President Jimmy Carter in his inaugural addresses delivered in the flat staccato phrases of what one student of the South terms the "red clay rhythm." One that struck us as particularly odd was his announcement that "I have no new dream to set forth today." The United States was built on dreams, many of them fulfilled beyond the wildest expectations and some of them still unfulfilled strivings toward a better future. There are a great many dreams that Americans should be dreaming as they start the third century of their national existence that has been a beacon of hope for the rest of the world, and we find it disconcerting that our new leader urges us to look backward not forward for the pattern of our third century.

Contrast startles

It was a startling contrast to that equally cold and brilliant day in January, 1961, when the late President John F. Kennedy flung out a challenge to his fellow citizens to abandon their smug complacency and get their nation moving again. We have the feeling that the huge audience on Capitol Hill and the millions of citizens watching television across the land were hoping for some new spark that would get this nation moving again after the twin traumas of Vietnam and Watergate.

During the presidential election campaign, we sensed that the tide that swept Jimmy Carter into the White House was stimulated by a feeling that he represented a new and fresh approach to national leadership. The citizens' rejection of incumbent Gerald Ford was based not so much on any policy or program he espoused as on the gut feeling that he represented the worn out traditional political game that had led to the tragedies of Vietnam and Watergate. If President Carter has any new and fresh approach or new spark with which to ignite national leadership, he did not share it with his fellow citizens on his inaugural day.

We hope he will rectify this omission in the days ahead as he outlines the policies of his new Administration. For there are many dreams that Americans should be dreaming in their third century to build on the foundations of their first two.

Among them are:

Breakthroughs in the field of new energy sources that will free the world from dependence on a diminishing finite supply of fossil fuels.

Full exploitation of space technology to improve further life on the planet earth and unravel the mysteries of the solar system.

Development of the full spectrum of the technological frontier to produce a more stimulating economy and a better life in harmony with the ecology the planet.

Genuine problems ahead

An inauguration day is only the beginning of a new Administration, but very often it portends the tone for what will follow and provides a broad feeling of how the new boys in town are going to tackle running the government. President Carter's inaugural fell a little flat—like a bottle of champagne left uncorked too long. The crowds were smaller and less enthusiastic than normal. If it was a "peoples' " inaugural, the peoples' response was only lukewarm. Applause was sparse, and even the traditional parade was much shorter.

The Carter Administration and this nation are facing a multitude of genuine problems. We are not among those who share the view that this nation has reached its zenith and now can look forward only to a slow decline and eventual inundation by the barbarian hordes from the steppes of Muscovy.

But to move into their third century with the vigor and perception required, we also think Americans need to dream new dreams and achieve new goals, not simply look backward on the precepts that served their forefathers.

OPEN MEETING RESOLUTION

Mr. STONE. Mr. President, I would like to add my comments to those of my colleague from Florida, Senator CHILES, who addressed the Senate last Tuesday, on the recent attempt to circumvent the open meeting resolution which the Senate unanimously passed last session.

On Friday, January 14, the distinguished chairman of the Rules Committee asked for a unanimous-consent request to enable the Rules Committee to meet in closed session while marking up the committee reorganization resolution. This request, to which I would have objected had I been present, had the effect of nullifying Senate rule 40 and Senate Resolution 9 of the 94th Congress for the consideration of this matter.

Mr. President, this request sets a very dangerous precedent. Last session the Senate approved a resolution which was intended to govern open meeting procedure in every instance. Very specific exceptions were set out which would allow a meeting to be closed. By no stretch of the imagination would any part of the discussion on the Stevenson proposals fall within any of the specific exceptions in Senate Resolution 9. And, in fact, nothing was discussed during the markup of the proposals which could not have been discussed in public. Fortunately, there were enough Members of the Rules Committee present who felt that the markup sessions should be open, to prevent it from being closed in this fashion.

Using unanimous-consent requests to destroy the intent of Senate Resolution 9 makes a mockery of our stand on openness last session. Senate Resolution 9 allows closed meetings for every legitimate reason that the committees might want them closed. Closing a meeting because some legislative decisions are difficult to make in the glare of the public eye is just what Senate Resolution 9 seeks to preclude. We cannot hide behind closed doors—we have to take responsibility for our actions. I thought we had accepted that responsibility last session.

I intend to object whenever I am present and such unanimous-consent requests are made. I hope that other Members who supported Senate Resolution 9 will be prepared to do the same.

MADAME CHIANG EXPOSES SOVIET AMBITIONS OF WORLD CONQUEST

Mr. GOLDWATER. Mr. President, recently, Madame Chiang Kai-shek disclosed several notable conversations which she had in 1926 with the Russian Communist, Mikhail Borodin, which exposed the blatant Soviet goal of world conquest. At that time, Mr. Borodin was serving in China as a representative of the U.S.S.R. Politburo and of the Third International. He had first come to China as an advisor to the Father of the Chinese Republic, Dr. Sun Yat-sen, who had issued a call for international assistance to China's national resurgence. That is, Mr. Borodin ostensibly was aiding the Chinese National Government, when in actuality he was working to build up a powerful Communist Party in China.

In this capacity, Mr. Borodin was unusually open in holding conversations with Madame Chiang when both were at Whuhan, the acronym for Hankow and Wuchung, the twin cities in eastern central China which were the sites of the Nationalist government and executive government offices. Madame Chiang explains that as children of a revolutionary family whose father was a close associate of Dr. Sun, she, her sisters and brother saw much of the Borodins, who were known to her family for all the years they were in China. Because of his acquaintance with the family and his zeal to enlist an important government family in his schemes, Borodin engaged in long and candid conversations with Madame Chiang and her family. These conversations, which were conducted in English and thus were unbroken by the impediment of an interpreter, give a rare glimpse into Russian aspirations for China and the world.

Fortunately for us today, Madame Chiang kept notes after each conversation and has been able to reconstruct the highlights of the discussions. It is distressing, however, that she felt a need to reveal these important conversations at this time in part because of her grave concern that the United States, the greatest resource of freedom in the world, is going through a period of decline in worldwide respect. Reading between the lines, I suspect that Madame Chiang published her recollection of the conversations she held with Borodin as a timely warning of the reality, and true nature, of Communist plans for the enslavement of the world under Soviet dominance.

For those Americans who believe that Soviet communism is guided by rational and humanitarian principles, Mikhail Borodin's open blue print of Russian global imperialism and strategems will come as a shock. To all who hold a faith in the Supreme Being, the Communist view of the religious teaching of forgiveness as being the single greatest enemy of Communism will be an eyeopener.

For those in America who advocate constantly swelling Federal budgets and taxes, and who view the central government as the cureall for every one of human kind's illnesses, the specific Russian Communist aim of subverting foreign societies by encouraging legislation with spend, spend, spend as the motto, by creating inflation and by accustoming the people to look to the government for solutions instead of to their own initiative, will also find much food for thought. And those idealists who view communism as seeking to bring equality and justice to the masses of people will be surprised at the cynical Russian view of the great majority of the people as being simple-minded and selfish sheep who need decisions made for them in all areas of human activity by a small group within the Communist leadership.

Mr. President, Madame Chiang's article is a devastating account of the preposterous and heinous propositions and justifications of Soviet communism. Using words that Madame Chiang uses in another context, I would ask how any sane person could read her article and accept the premise, as the Communists do, "that men are by nature vile and lowly and are content to remain servile with not a desire to exercise their will but would be content to remain as serfs to the new Communist aristocracy."

Mr. President, in order that the truly important message of Madame Chiang Kai-shek may be known to my colleagues and to more of the American people, I ask unanimous consent that the article by her, entitled "Conversations with Mikhail Borodin," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From China News Special Supplement, Friday, October 29, 1976]

CONVERSATIONS WITH MIKHAIL BORODIN

(By Madame Chiang Kai-shek)

The year was 1926, a momentous year in the surge and sweep of evolutionary modern China. It was a landmark year in which the revolutionary Nationalist movement under the leadership broke away from the talons of Soviet Russia in her aim to vassalize China.

It was also the year in which I had several notable conversations—interestingly long and ingenuously revealing, on the nature of Communism with Mikhail Borodin. Thinking back and collating what was expounded by him in much detail, the technique of action has proven not only that it is the overall blue print of Russian Communist global imperium but how well and closely the U.S.S.R. and The Third International have achieved their aspirations thus far in their dominance, applying at times stark brute force, at other times a technique so deft in its vitiation that it is often imperceivable except to the practiced eye and mature judgment.

In this connection, let me recall to memory some idea of the Union of Soviet Socialist Republics' success in geographic expansion alone. An article in the U.S. News & World Report of March 29, 1976, with a pictogram graphically illustrating "Russia's Drive for a Global Empire" since 1939 reads:

"All told, the Soviet empire, run by Moscow, controls, dominates or has strong influence over 425,400,000 people—or 10.7% of the world's population. The area of 9,986,952 square miles in that empire represents 18.9% of the world's total land mass."

Since 1939, Russia has absorbed three whole countries as well as parts of six others in Europe and Asia. She controls six East European countries and Outer Mongolia, and has placed five Asian and African countries, besides Cuba, under strong Soviet influence. To put it in another way, from November of 1917 until the latest conquest of Laos in 1975, seventeen countries have been Sovietized or under Sovietizing over the years.

The Leninist-Stalinist brand of le bonheur commun with its alternating use of force, deceit cum cunning psychology upon individuals and upon people-en-masse, totaling up its results, is a phenomenal success.

WUHAN VISIT

In the winter of 1926 my mother, eldest sister, Madame K'ung, and I left Shanghai for Hankow to visit our brother T. V. and our other sister. Hankow and Wuchang, the twin cities in eastern Central China, often shortened to the acronym Wuhan, made ever famous in Chinese history and folklore by the tales of the Three Kingdoms, are situated on the opposite banks of the Yangtze River. Wuchang in that year became the provisional situs of the Nationalist Government while Hankow was where most of the executive

government offices were located. For those who were yet unborn or who are too young to remember or know much about that period, let me give you a little background on Mikhail Borodin—Borodin being his nom de guerre (surname Grutzenberg). Mr. Borodin was Dr. Sun Yat-sen's adviser-in-chief, sent by the U.S.S.R. after Joffe's famous meeting with Dr. Sun in Shanghai to help China unify herself and throw off the scourge of warlordism and the yoke of extraterritoriality which meant that foreign nationals in China were not governed by Chinese laws. Extraterritoriality meant enjoying special privileges through unequal treaties imposed upon China during the pre-revolutionary period under the Manchu Emperors. Upon Dr. Sun's passing in 1925 in Peking, Borodin who had come with the credentials of representing the U.S.S.R. Politbureau and as a high functionary of The Third International, became the chief adviser to the Nationalist Government in Canton, and in this capacity he virtually became Russia's pro-consul in Nationalist China.

Both Mr. and Mrs. Borodin were known to our family for all the years they were in China, and if I am not mistaken, Mrs. Borodin was related to the old-time Hollywood comedian Buster Keaton. For one who is unfamiliar with that era, one may well ask: How come that Mr. Borodin became Dr. Sun's adviser from Russia. The answer is, Russia was the only country which heeded Dr. Sun's call for China's national resurgence. All other countries turned a deaf ear to his call. As children of a revolutionary family whose father was a close associate of Dr. Sun, we saw much of the Borodins, be it in Peiping (then called Peking), during Dr. Sun's last illness in that Northern city or in Canton when it was the center of the Nationalist movement and government, or still later in Wuhan of which point in time I shall be writing.

GAPING CHASMS

It was in Wuhan where we spent some three months that the divergencies between our National policy and the policy of The Third International became most apparent. These cleavages soon developed into gaping chasms due to the pervasive excesses of Communist cadre when they preempted in knee-jerk fashion the functions of local governments from local functionaries by indiscriminate arrests, public lashings, illegal searches and seizures, kangaroo courts and executions, and the recruitment and the building up of their local private armies. The chaos purposely accelerated and exacerbated by the Communists over Nationalist controlled territory and the surfacing of the Communists within our Party to subvert the Kuomintang, and an overt seizure of power in spite of their earlier public avowal and oath to subsume Communism and abide by the discipline of the Kuomintang for the heartwhole re-building of China—these made the sunder all but irreparable.

This open parting of the ways came about When Russian advisers, military and political, under the guise of helping China in the completion of her revolution, were ordered by The Third International to surreptitiously hamper and hinder us wherever and whenever possible and at the same time organize armed insurrections to do their bidding. The quickened pace of alarm on the part of The Third International was prompted by events in that in a period of about nine months the Northern Expedition of the Nationalist Army under the leadership of its Generalissimo Chiang Kai-shek had traversed from Kwantung to Kiangsu province of China—where the first metropolis, Shanghai, is situated. Furthermore, the Nationalist forces had vanquished and disarrayed the main armies of the warlords in the most populous coastal provinces of China and arrived in Nanking, the designated capital-to-be of the National Government. This swiftness of accomplishment was too brilliantly executed to suit the Communist nonce. The time schedule of advance both surprised and dismayed the Russians. Even their military advisers had not counted on it in their most "generous" estimate. It was of a speed that not only would inhibit greatly their plans for the take-over of China by Communism in an overnight cou-de-main way when they were good and ready. Therefore they must proceed post-haste to reverse matters.

BROWN TUNICS

As I recollect, even now I can see Mr. Borodin in my mind's eye in his pearl grey, blue serge, green-magenta, light or dark brown Sun Yatsen tunics (now suddenly fashionably called Mao tunic by those who are doing their level best to please) on different occasions, pacing to and fro in my brother T.V.'s apartment living-room. (The building was formerly the Russo-Asiatic Bank of Hankow.) Ponderously or swiftly, slowly or quickly as his mood of discutation changed, he spoke with his inveterate cigarette dangling between his index and middle finger of his left hand, with the British-made Garrick or 555 brand cigarette smoke curling up to further stain his fingers as he proceeded to propound the Russian game plan for China and for world-wide Communism. Oftentimes his right hand would be gripped into a first close to his tunic chest buttons, moving downward heavily or quickly to stress the points he was making, or again lifting up his clenched fist swiftly and deftly suspending in air as a punctuation in time in preparation for his next downward movement of the first for emphasis. At intervals he would turn upward the palm of his left hand while still holding his cigarette and use the palm as a landing surface for his right first. Seldom would he sit down during his perorations for any length of time although now and then he would to chain-light another cigarette and dexterously permitted his cigarette ash to lengthen until it was almost ready to fall onto the floor when he would flick it away just in time into one of the several ash trays on his pacing route without giving the cigarette a glance. I mention this little portraiture of the man in that from these several tableaux of behaviorism in smoking it showed that his was the practiced mannerism of a man attuned over the years to talking, expounding, elucidating, guiding, evangelizing policies, strategy or tactics to the cadre before their being sent or returned to various stations and posts around the world. Furthermore, it mirrored a man who was accustomed to working under furtive pressure of surreptitious assemblage with floating meeting places, with the barest of tables, chairs and ashtrays, yet still glued to smoking cigarettes with neat habits. This behavioristic pattern contributes to an insight in gauging the measure of the man, for from early childhood I had heard and had occasions to observe with fascination how revolutionists instinctively behave from force of habit and, interestingly enough, Borodin fell into that certain modality.

LEONINE HEAD

In person he was of a tall, commanding presence with a leonine head, with a shock of neatly coifed, long, slightly wavy dark brown mane that came down to the nape of his neck, with an unexaggerated but ample moustache that French generals of that time feigned. He was rather heavyset with strong regular features. When he talked at times an officious serious mien would cross his face, at other times his eyes would have that certain bland look which I detected hid his dissembling words and masked his true thoughts most competently. Speaking in a resonantly deep, clear, unhurried, baritone voice of mid-America intonation without a trace of Russian accent, he lowered still more his voice into a slow basso profundo when emphasizing the importance of a certain point he was making. He was a man who gave the impression of great control and personal magnetism. But it was his unfolding of the Communist Weltanschauung, its plans of procedure and actions that were both so grippingly provocative and dispassionately revealing. No one could deny they were well thought out and obliquely educational, all be it Mephistophelian and savagely insensitive to humanity and human aspirations.

In my discussions with Borodin, he began to subvert quietly and negate subtly my political philosophy and beliefs by reviewing the Platonic definition of democracy as anarchy or polyarchy. Anarchy by definition signifies that there is no one element that is dominant in the governance of the state. It can also be polyarchy with many elements dominant simultaneously, which is equivalent to anarchy. Thus there is an inbuilt conflict in itself since dominance presumes the preeminence of one. Alternatively, it is a hydraheaded being that, when translated, because of its multi-headedness can only equate itself to anarchy. Democracy to Plato is like an embroidered robe "spangled with all manner of characters," "a medley of types," a bazaar of constitutions."

Plato, in his Republic, calls democracy the Third Corruption after Timocracy and Oligarchy. The better form of government is a Republic and democracy its degenerate form, and the best form of government is government of a philosopher-king. As for Aristotle, he too regards democracy as the perverted form of government which he calls "Polity."

For my part, I did not dispute with political theorists and historians that democracy was easier to function in Greek city-states because of its small population and its homogeneity with a simple life style and the shared common interests. True, in a city-state the people could discuss their communal business in the Agora or some other forum. However, this does not stand to reason that what is successful in microcosm will necessarily fail in macrocosm. Borodin continued by drawing attention to the fact that the Roman Republic which was proclaimed five centuries before the Christian era was possible only because it, too, was governmentally comparatively small and administratively uncomplicated. And that in the latter days of the Republic under Caesar and Pompey they saw to it that only those who voted as they directed should receive the corn dole. History proved that they had a political machine more efficient and corrupt than Tammany Hall during Boss Tweed's reign in New York city.

MAGNA CARTA

He continued by citing that the Magna Carta, often spoken of as one of the earlier exemplars for democracy, was no more than the coming to terms between John Lackland and the obstreperous and recalcitrant Barohs at Runnymede. The purpose of this compact was not to militate to the benefit of the common Englishman as it was to strengthen the bondage of the ordinary man to his liege lord. Even the much-touted gain of the right of juridical judgment by one's peers and the habeas corpus were intentioned primarily for the benefit of the aristocracy—the landed class. What redounded to the common man was happenstance, not by explicit design.

As regards the United States, he opined American history books taught at schools are replete with bold-faced prevarications of the truth. For in reality:

1. In 1776 half of the Americans in Pennsylvania, New York and New Jersey were loyal to George III. Independence to a vast majority of the colonists was regarded as a Presbyterian plot.

2. By 1776, although Americans were the

richest people in the world, they paid the lowest taxes in the Western World. Englishmen in England were required to pay the same taxes which the colonies refused to pay. Therefore the colonials' claim that they were mistreated was fabrication that suited the purpose of a few recalcitrant leaders who bore England a grudge.

3. The so-called Revolutionary War, fought almost entirely outside New England in the Middle Colonies and the South, was more of a civil war than a revolution in that at least half of the people were quite satisfied to be ruled by George III and the British Parliament.

HISTORICAL EPISODES

He continued to give off more historical facts: The Stamp Duty Act was levied for the defraying of costs of English troops stationed in the new world which the colonists requested for their own protection against the marauding Indians and the French in Canada. Yet demagoguery of the purposed called the revolt a rebellion against tyranny. The greatly dramatized Paul Revere ride from Cambridge to Lexington presumably to warn of the coming of the Red Coats (British soldiers of that day wore red coats, hence the name Red Lobsters or Red Coats.) that is taught in grade school textbooks was not successfully completed by Revere. The often quoted "shot heard around the world" as heralding the commencement of the American Revolution began in a desultory on-and-off fashion. The men of the famed Boston Tea Party who threw overboard the tea must have wished to put the onus on the innocent Indians by donning feathers, buckskins and war paint, and Patrick Henry, remembered for his memorable ringing words "Give me liberty or give me death,' was a successful dry goods merchant who found the British Customs imposts were cutting too deeply into his profits to his liking and therefore the mother country became intolerable. And Tom Paine, the pamphleteer, famed for his fiery rabble-rousing writings in "Common Sense" and "The Crisis," lacking in common sense to keep in order his own affairs, was a bankrupt. He did not do well in Lewes of his native England. Paine's original name was Pain and he was regarded by the loyalists as a real pain in the neck. His was a cantankerous nature which could get along with few people; besides, his own private reputation was far from savory. And Betty Ross who, legend has it, made the original flag of the Thirteen Colonies from her skirt, did nothing of the sort. It must be remembered there were also active protesters to independence. Initially it was John Dickenson of Pennsylvania who stood before the Second Continental Congress and made his last protest against the Declaration of Independence authored by Thomas Jefferson and at the time the document was only signed by John Hancock while others felt that discretion was the better part of valor, held back and only affixed their signatures much later in time to this "seditious document." Hancock had his good and sufficient reason to turn against the British Crown as he was caught smuggling a cargo of mederia with the seizure of the ship "Liberty" by the Colonial Customs.

As for Jefferson, Adams, Madison and others of the Pennsylvania House of Burgesses, while declaiming to high heaven the inalienable equal rights of all men as proclaimed in the concept of democracy, they were large plantation owners who found no contradiction and no pangs of conscience in keeping negroes in bondage as slaves to be bought and sold as chattel. Would it not be nearer the truth to label the Founding Fathers of America as real and great hypocrites?

AMERICAN REVOLT

Historians of repute on both sides of the Ocean have recorded that the revolt of the American Colonies was not inspired by a belief in certain political principles and social equality of persons although it ended with a form of government that took on the semblance of a republic and therefore its facade. For essentially the American Revolution was but the manifestation of the dissatisfaction of a comparative few of the haute bourgeoisie who became the leaders together with a sizeable number of the minority who followed the shepherds. It is also a matter of historic fact that many, very many, of the leaders had no faith in or belief in the principles of democracy and no love for its interfacial implications. Their attitude was that any instrument, be it material, theoretical, polemic or syllogistic, that came to hand was a good means to further their life style and ambience.

This is why Communism sees through the shards of hypocrisy and is amused at the little games those eighteenth century liberals played but later apotheosized in American history books. It would be nearer the truth for American children to be taught that American liberals as a breed were intellectually both corrupt and corruptors. They were corrupt in that they fantasized and manipulated ideas at will to suit their purpose of the moment. They corrupted themselves by justifying their thinking. They were corruptors when they influenced others to adopt their specious thinking. Enamored of themselves to different gradations of conceit, these eighteenth century liberals produced instant reasoning to attack or support a position, be it perverse or impractical. Their ideas could often be so paradoxical to their previous postulate that they could be in serious ideological conflict with or within themselves. Knowing this all too well, they mounted arguments either with colossal Jesuitical casuistry or by outright bold-faced denials or feigned misquotations or misunderstandings or by adopting the "propositional function" in logic of being neither true nor false. In other words, it was a denial of a material assertion—material in the sense of total relevancy since in the interplay of ideas, polemicists could fashion, distort or diminish true ideals and perspectives. But is talking, doing? Can talking be equated to tangible results of doing?

LONG DIATRIBE

A coup d'ceil, the above posits of close reasoning by Mr. Borodin were devastating indictments of the Founding Fathers and of eighteenth century democracy and its motivating forces of liberal socialism. I well understood his long diatribe was "put down" tactics with regard to nationalism and democracy as well as political salesmanship of an experienced mind. It is what is known in today's language as "phyching up" to make his points, and the facts he recounted were nothing new to me. Borodin on the other hand conceded to the essentiality of liberal participation in the Communist plan. He professed that were it not for historicity and the firmer and greater liberal influence and power in key parts of the world which were not Communist (as Communism then was aligned in most people's minds with the nihilistic extremes), and were it not for the intercession of the millionaire German Socialist Godfather Parvus (Alexander Helphand), the deus ex machina in the transforming of Vlademir Ilyich, the bedraggled, obscure expatriate and fugitive, into the great Lenin, the German General Staff in conjunction with Wilhem II and Zimmerman of the Foreign Office would not have sent Ulyanov alias Lenin and his associates in a sealed train to Russia via Sweden to take Russia out of the war and to alleviate the Russian hate sentiment for the Germans after the disastrous series of defeats Imperial Russia suffered from 1916 onwards. In 1917 in East Prussia alone, Germany captured one hundred thousand Mujiks as prisoners of war. Thanks to the bickering of the Kadets, (In Russian politics, members of the former Constitutional Democratic Party.) the Centralists, the other Socialists of the right and left, together with the various shades inbetween in the Duma, and above all, the vacillations of the various Soviets and the democratic qualms of Alexander Kerensky—"I shall not become the Marat of the Russian Revolution"—as well as the in-fighting at crucial moments among the Mensheviks, the minority who were really in the majority while the Bolsheviks, the majority, were in the minority. He admitted that had the Menshheviks succeeded with temporizations the "great Russian Revolution of Communism" would have been compromised.

He defended Lenin's New Economic Policy (NEP) which was in truth a policy of retreat and a compromise of his avowed policy, as re-grouping and consolidation in order to launch a yet greater advance. As Lenin said, the true revolutionaries are those willing to use all sorts of strategems, artifices, illegal methods, evasions and subterfuges. He added that historians interested in researching that period could rightfully ask: How is it that you who were in the minority call yourselves Bolsheviks? This was because we understood one sliver of human psychology of what is known as wishing-to-belong, to belong to the winning side. Except for those comparative few with strong and definite convictions, the world is full of ambivalents, the jump-on-the-wagonites. We accommodated them by becoming the real majority Bolsheviki) although we were numerically actually in the minority (Mensheviki).

WINNING SIDE

For those of us who were "all outers," being on the winning side was important but less important than maintaining our Communist principles. We believe that if we were fated to lose we might as well lose with our ideological passion intact. This is what martyrs are made of. This is a passion that ninety-nine per cent of intellectuals can rarely understand, much less suffer for it.

We were also quick in perceiving and adapting opportunities to our needs. When the Socialists under Kerensky cast off the hated Czarist secret police, the Okhrana, as if at last shedding some contagious disease, Lenin quickly took them into his fold with open arms to serve our purpose and used them more widely and effectively than before. They were permitted latitudes of which the Czars were so chary and queasy. Again, after the Treaty of Versailles when the Weimar Republic of Germany was disallowed to have an army of over one hundred thousand men, we had the foresight to invite over the German General Staff officers to collaborate with us in large-scale corps-size autumn maneuvers with our troops in Russia. We sent our staff officers to Germany for staff officer coordination training. New German weaponry which was not permitted to be manufactured and tested in their own country was given tests under simulated battle conditions of weather and efficacy in Russia. We recognized the Germans were better at planning, training and in warfare, therefore we did not let ideology stand in our way to affect our needs and our ends. We did not detest or hate the German General Staff mentality because they existed and we needed them and we made use of them.

Borodin noted too that within the Socialist confused and conglomerate ranks there have been many doctrinal turncoats in the world. The Socialist leaders of England, France, and other European countries with party appellations such as Socialists, Christian Socialists, Radical Socialists, were anything but Socialists. English Labor's Ramsey

Macdonald (Macdonald, when he became Prime Minister in 1924, exulted by saying, "Tomorrow all the Duchesses in England will want to kiss me,") and France's most eminent Socialist politician and leader of the time, Leon Blum, dressed, thought and lived a life style no different from dyed-in-the-wool capitalists. They gloried in being written up as aristocrats consorting or comporting with aristocracy. Even Mussolini with his Socialist beginnings soon turned against all the hallmarks of Socialism with a vengeance while the nascent stirrings of National Socialism in Germany which at core was Socialistic were beginning to show signs of anything but Socialism.

FACISM AND SOCIALISM

Although denouncing Fascism and incipient Hitlerian Socialism as betrayors of Socialism Borodin asserted that they who have turned their backs on Socialism have their well-founded and shrewd reasons. For even Socialism elsewhere in the world in the nineteen-twenties has become different from the Socialism of the Union of Socialist Soviet Republics. Men like Macdonald and Blum and generations of many other Socialists, together with the parties they lead and their own reputations would naturally enough not disavow the platforms and postulates which had brought them fame, leadership, success as well as titillation to their egos. Yet from what I (still Mr. Borodin speaking) come to see and know, the Socialists in their heart of hearts are well aware that their brand of Socialism in the long run is unworkable and will gradually and tangibly minimize and diminish their following and influence in the countries they rule. Only Mussolini with his exaggerated self-confidence and heightened sense of patriotism, inspired by the Garibaldean slap-dash adventurism, the amalgamating statesmanship of Cavour, his own instinct of the theatrical and militant make-up, decided upon a clean break from inane Socialism and became a twentieth century dictator with a flair of a poseur. It must be said that Socialists are not the only culprits, for Liberals are also corruptors in that capitalizing on human nature's insatiable avarice, they nurture these human frailties by turning it to their advantage for votes and more votes with promises and yet more promises to get themselves installed in power. By keeping alive the lorelei-like lure with attractive but impossible prolix of deceit the Socialists continue to fool the people. This is why, where and when Communism comes in to rectify the hypocrisies, dry rot, decadence and abuses of democracy.

The proof can be found in what Lenin wrote in Iskra (Spark) and Zarva (Dawn) in 1914: We desire a Great Russia, proud, republican, democratic, free and independent which, in her relations with her neighbors, will be based upon the human principle of equality, not on the feudal principle of privilege. But by 1917 Lenin was openly adjuring his followers in extremely positive writings and speeches to refuse support to the Provisional Government of Prince Lvov and later of Alexander Kerensky, his fellow provincial from Simbirsk. This presumed change in Lenin's thinking all came about within the period of three years. Lenin the "great ultimatist," the progressive revolutionary, became more and more convinced of the unworkability of democracy and pronounced his change of heart openly.

UNIVERSAL COMMUNISM

In order to achieve a reversal of the declension of peoples under Western Socialism and Liberalism, and to achieve universal Communism, our methods are to work with religious organizations and with men and women who are of the leftist bent. For they are least suspect and can best serve as our advance troops.

Much is made of our atheism. We are anti-religion not only because we are atheists but because religion prohibits people from what we fondly wish them to accomplish. The priests of the Russian Orthodox Church were especially obnoxious when they betrayed their trust by giving gathered from mothers and wives of revolutionaries—information from "Confessions" to the Czarist Secret Police. Many of our valued comrades were apprehended because of the unscrupulous behavior of the priests. Furthermore since we hold no brief of the fact that we do not believe in God, all religions in the world are against us, but fortunately, because of religious superficiality in belief, greed for money, hierarchical concept and worldly vanity, they were, are and will be ineffective in countering us and in time we shall overcome all religions from within. They will be our willing tools some day. We must in our zeal be an anti-God Jesuit order in dealing with the monolithic Catholic Church. As for the Protestant Churches, since they are divided into many denominations and not politically as sensitive or as active as the Catholic Church, they are much easier to cope with than the Vatican or Mecca. But what is really dangerous to Communism is not the Christian concept of love, for even the teaching "love thy enemy" is not potentially as dangerous because one can love and still be on the qui vive. Moreover, we Communists can also love, even love our enemies when necessity dictates. What we regard as truly dangerous is the teaching of "Forgiveness" in Christianity.

RELIGION, OPIUM

Marx said that religion is the opium of the people. This catch phrase in time could demolish religions, and people would come to look upon our Communism for spiritual comfort taking the place of religions. Under emotional stress people go for maudling sentimentalities, hence they draw spiritual strength and comfort from this nebulous something which supposedly has super and natural powers, namely religion. Therefore Forgiveness, from our Communist point of view, is a cursed spoiler.

Islam is less difficult to contend with because it is comparatively simplistic in composition and rigid in thought. As a religious influence, it is less important for many years to come. What is the urgent problem is that we must find ways and means to either deal with, neutralize or expose Judeo-Christian thought as a phony, a bogus belief designed to make people resign to their fates in life. Politically, Judeo-Christianity is dangerous because it governs much of the Western World and permeates the two great imperialist anti-Communist citadels, namely, the British Empire and the United States of America.

We must also work to extinguish the competitive instinct as well as the incentive bribery scheme in the capitalist world. We must terminate the highly industrialized and complex economic swindle system of banks, factoring institutions, savings and loans associations, stock and commodity exchanges, postal savings, and turn back to the street bazaars. This determination may sound drastic backwardation, but we think it is necessary to administer a strong purgative to a capitalist society in order to cleanse the inside of the putrid body polity of a democracy. We believe that capitalism in a democracy as in America is only encouraging people on the road of more sinister cupidity, and greater dishonesty.

SOCIALIST THINKING

We of the Communist Party in Russia now realize that after the clan of the short-lived Hungarian Communist experience of Bela Kun and the Spartacus League in Germany—and indeed Germany even before World War I was more advanced in Socialist thinking than all of Europe and America—Germany was regarded as the fountainhead of Socialist thinking and Russia was the most backward. Still it is extremely difficult for Communism to come within the next fifty or seventy-five years in Europe, especially in France and England; more so in France because of Gallic characteristics, unless due to some presently unseen turmoil or chance revolution.

Marx was correct in gauging England's ripeness for Communism not only because of her sweat shops and general conditions of despair of the working class, but because huge number of acreages in Great Britain are owned by the landed class—the aristocracy—who are very caste conscious as well as land conscious, while property ownership instinct is not strong among the proletariat or with the large blue-collar class in England. Ironically, England should have been fertile ground for Communism except that the characteristics of the people and the confluence of events dictated otherwise. The total physical exhaustion and the crushing spiritual defeat followed by despair suffered by us in World War I and the extremely active cellular Communist Party within the country and Lenin's clarion call of hope made us the first country to turn to Communism. In more ways than one Russia has become the pioneer in actual practice as well as the laboratory of the world for Marxian pragmatics.

In our giving cognizance of the difficulty of communizing the two staying bulwarks of England and France in Europe, we have devised seemingly innocuous yet potent measures to be instituted as opportunities afford themselves in the governments and societies of those countries. Through our Socialist and Liberal friends we have used the legislative route—Parliament—to turn the countries in the direction we wish them to go by encouraging more socialistic legislation with spend, spend, spend as the motto. This would enable the national economic policy of the country to be acclimated to deficit spending, thus benefitting the masses of people who would not have benefitted otherwise. True it will make them more dependent on hand-outs but it will achieve, three cardinal purposes: (1) By diluting the money we are taking away money from the rich and giving it to the poor; (2) By creating inflation, we create a climate favorable to our goal; (3) By accustoming the people to look to the government for solutions and not depend on their own initiative—the Horatio Alger complex, we accustom them to the use of government as a crutch.

In the private sector, again wherever possible, we encourage and help in the proliferation and growth of trade or workers' unions wherever we can. These need not be Communist affiliated or Communist motivated nor need the union officials feel beholden to us for our help. We encourage these organizations to demand higher and even higher wages and peripheral benefits and fewer and fewer working hours which is always welcome to all workers. We help them financially sub-rosa whenever we can so that they could strike and go on striking.

LOGICAL END

Throughout the ages and from our experience and associations with the Liberals around, we find that by and large because of their manifold ideas vectored in whichever direction, they cannot or will not follow a goal to a logical end. Call them fertile of mind, if you will, but having so many ideas they become self-contradictory in their thinking and the many goals they wish to achieve so that they are automatically and mutually self-destructing. Therefore in training our cadre we forewarn them of Liberal foibles.

Furthermore, Liberal intellectuals have the

fatal desire to individually outshine their confreres. They will irrepressibly carp, cavil, criticize, in a hair-splitting manner their comrades and associates. Yet more probably than not, they will miss the broad sweep of the momentous while entangled in niggling picayunes of irrelevance. In such a situation they invariably offer no contribution to a cause, let alone a constructive and workable solution.

We have also found that in our cooperation with Liberals all over the world they distort or diminish their effectiveness to a cause since they oftentimes in the spur of the moment wish to add to or subtract from a preagreed plan of operation. Yet let it not be misunderstood for a moment that Liberals are all clumsy blunderers and mala froits. In fact they are often very clever and ingenious; certainly they are necessary forward troops attired in camouflage to achieving success in world revolution. They are all-important, too, in (1) laying the ground work, and (2) clearing the mine fields, so to speak, and (3) generally softening-up resistance and prejudice against Communism. In the words of Lenin, Socialism is impossible without democracy. In other words, Liberalism must be made the spearhead for Communism. Witness again what Martov, Kerensky, the Liberals, the Mensheviks et al. did for us in the initial stages of completion of our Revolution internally in 1917. We are strongly convinced that the Liberals of the world are and will continue to be useful and even of greater use to us in the evolvement of World Revolution. Personally I (Borodin speaking) find them most attractive in their Hamlet-like equivocations and provocative intellectual gymnastics. I do not regard them as only good for the "elegant sneers" as most Leninists do.

COMMUNISM'S GOAL

Now the pursuivant question is: What follows after stating Communism's goal of World Revolution? The answer is action, fomenting first, discontent, cleavages in thought whenever and wherever opportunity affords. This is to be followed by small and large social upsets, demonstrations and the spreading of dissatisfaction and dissension on a nation-wide scale. This sounds futile and nihilistic, but it must be constantly realized that revolution means to revolute, to turn the wheel 360 degrees around, and anything that revolves 360 degrees to travel all the way from its original point of departure is by its very nature drastic. Being thoroughly drastic, it involves the purging of the whole body politic as well as whole society and its various stratum from top to bottom. Regrettable and paradoxical as it may seem, CHAOS is the key to revolution. For chaos brings purification and it is through chaos, the cleaning and rinsing processes, that Marxism-Leninism can bring order and sanity into society—a self-purification process. In other words, to build anew the new order in society requires a freedom to destruct, unfettered by past fetishes of stultifying mores and referrals to old traditionalism. The past is to be obliterated to make Russia a nation not of Nitzschean Supermen, but of Russian Communist Supermen. While remoulding our own country we will turn evangels in the world either through sending out our missionaries to preach the Communist Gospel, by making converts in the indigenous countries or by getting their people to come to Russia to be educated. This is not to say that we do not realize that our missionaries and converts of the first generation are all men of impeccable quality, zeal or convictions, but we plan to quickly improve with time. Secondly, we are not unaware that human nature, being ingrained with thousands of years of selfishness, avarice and conceptualized ways of thinking with their stunted petrified modus operandi, is all so antithetical to Communism. As the saying goes, Rome was not built in a day, and it will be far from easy to remould human nature, but we shall have all the courage and patience needed to guarantee that all humanity will turn into a Civitas Communismus—and that it will not turn into an Augustinian Civitas Dei—City of God (sec!)—which has proved to be representative of privileges for the comparative few and the oppression of imperialism to the conquered!

COMMUNIST NIRVANA

The next question that will surely come to mind is: How to achieve the Communist Nirvana on Earth? We must correct human weaknesses. They are: (1) gullibility, (2) emotionalism—at the wrong time or on the wrong issues, (3) apathy, (4) moral and/or physical cowardice, (5) excitement-seeking syndrome, (6) griping and dissatisfaction, (7) vain self-gratification, (8) competitive cruelty, (9) greed and intrigue, (10) jealousy, (11) a desire to belong, to the old order of things, (12) insecurity and anxiety, (13) a need of recognition of every success, and (14) vacillation. These are human instincts which are inborn and have been fostered by circumstances to varying degrees in all civilizations, cultures and subcultures. These frailties exist even among the cannibals and head-hunters in the remotest corners and jungles of the world. With these parameters of insight, we can correct these human deviations through Communism. Of these frailties, amazingly enough, the Intellectuals are the worst offenders to a high degree. However, in a larger sense, it must be said of Intellectuals, once they are committed to us, ninety-nine per cent stay committed for the very good reason that they are too proud or too intellectually fearful to admit that they want to back-track or that they were "intellectually bought" by Communism. The most obvious attribute among the other attributes of an Intellectual is his heavy investment in his own ego. The fact that he, an Intellectual, had come to espouse a faulty idea, let alone a dynamic doctrine such as Marxism, without going through a prolonged process of arduous and weighty thinking, would be tantamount to accusing him of most heinous crime of being a fake, a numbskull, or a confused intellectual nonentity. For him to own up to his mistake would be almost as agonizing as a tortured death itself. It is the gravest insult with which one could possibly accuse an Intellectual or a self-anointed Intellectual. It is also the cause of many a hatred-laden terrible denunciation and heated polemics that Intellectuals are embroiled in interminably. It poisons the air and engenders such venom which ironically oftentimes redounds to our advantage. It is interesting to watch on the sidelines the bulldog-like never-let-go fights with never-ending vituperations and insolent reciprocating accusations between two Intellectuals.

PROPAGANDA MACHINERY

Through the technique of propaganda first used to great advantage by the religions of the world, especially by the Catholic Church—the Congregation of Propaganda—from which came the best features we adopted eclectically for our use, we honed our own propaganda machinery accordingly. Propaganda, like bread or rice, serves the need of the people who throughout history want to be guided, solaced and led by the hand. We and we alone provide these needs

And it is in a democracy where free speech abounds that intellectualism flowers best with its many hues and subtle shadings and layers of nuances which are mostly self-serving or self-negating in their own circle, ideas which cancel out other ideas. In the meeting and melding with other streams of ideas that come splattering down helter-skelter into the torrents of the intellectual river, theirs are lost into a sea of ideological confusion even before reaching the end of their intellectual journey. As for example, after an attempt was made on Lenin's life on August 30, 1918, by a socialist revolutionary, Dora Kaplan, we used the opportunity to systematically ferret out and clean up sizable numbers of intellectuals and bourgeois of all types. Unfortunately, it was misunderstood and referred to abroad as the "reign of terror." From our point of view it was to serve notice to the whole world that this was necessary in order to stem all opposition to the work that Lenin and our comrades were accomplishing for Russia and laid out for the world.

To achieve the greatest possible dissemination of our ideology, we have to rely on the news media of the world. We gradually channel our sympathisers to think our way by first putting up with their inaccurate thinking, idiosyncracies and complexes, and then swiftly but gently through persuasion, quid pro quos, lead them to work with us for the common cause. We have observed happily that gradually the mass media of the press and the radio in Europe and in the United States are beginning to come around and become "us oriented." Some are even more openly radical, which is as it should be. But as Communists, what we must always beware of is when they start protecting their own pet little interests and turf. They often defend them with fierce rabidity, tooth and nail. This is taboo with us because it brings out to the fore selfish interest, and it develops into personal vendettas, losing sight of the great issues at stake. We do not want them to be feuding within our discipline. As to the postulate that basically most Intellectuals have an innate sense of intellectual honesty, we are on very moot ground.

FLEXIBLE PRINCIPLES

Let me say that I agree with you and say that intellectualism per se is wonderful as is preached and practiced in the civilized world today, but it has the formulation of the concept of immediacy, rooted in the uncertainty of changing, flexible opportunistic principles as contracted with the intellectualism of purpose and action in Marx, Plakhanov and Lenin. The parlour room Socialists talk endlessly often in brilliant phillipics without showing results while Marx is the only socio-economic-political prophet who systemized and defined parts to the whole and designated where each part played in the whole.

To put it in another way, Communism is the only doctrine which embraces completely politics, social phenomena and economics all integrated into the best possible system. Communism is the only doctrine which recognizes the importance of economic and social reforms. As Marx is inclusively integral in his doctrine, others are at best fractionated and mutually exclusive of sociopoliticoeconomic interactions. Plakhanov, the father of Russian Marxism, augured Lenin in proclaiming that it is explicit and implicit that every principle of liberty, individual rights, decency, democracy and justice should be subordinated to the Revolution, and it is along these lines that we have put maxim into action.

Here I would like to interject by saying that while Borodin continued on with his thinking-aloud soliloquy, in my mind I was not a little surprised that he had made no mention of the contribution of Gracchus Babeuf. Leon Trotsky at the Communist International of 1919 had hailed this French revolutionary leader and insurrectionist not Plakhanov nor Lenin, as one of the great founding fathers who had prepared the ground for the Bolshevik triumph in Russia and the imminent World Revolution. Some of Trotsky's paeans of Babeuf I had retained in my mind especially because at the time when I read it cursorily I thought of Trotsky as being

perhaps exaggeratingly horatory. Yet by Mr. Borodin's not mentioning Babeuf, by hindsight I wonder whether it was that like a good Communist bureaucrat, he already had sensed that Trotsky was on the skids, as were Zinoviev, Kamanev and Bukharin, who were in time labelled "October deserters," ("October deserters" were those who wavered or supposedly wavered at the time of the Revolution in October 1917—a serious crime of betrayal) or was it merely inadvertence or was he, too, an expert in survival?

GREAT LEADER

Mr. Borodin continued Lenin was not only the leader who made the Revolution of the proletariat come to pass but made it work by sensing that for the Revolution to endure in the face of British, French and Japanese allied military pressure both on the Eastern Front—Siberia—and on the Western Front, the Poles led by (the French General) Maxime Weygand, as well as the many-faceted civil war, internal opposition of Semenov, Kolchak, Denniken, Yudenich and Wrangel, he needed to temporize and dissemble for the moment. But he never lost sight of the ultimate goal he wanted to achieve.

Lenin's success in a backward, mainly agricultural country contrary to Marx's prognostication shows that Communism is flexible, and not at all rigid as some portray it to be. The New Economic Policy (New Economic Policy, known as N.E.P., in which Lenin slowed down the confiscation and communization of the land.) and Brest-Litovsk (The Treaty of Brest-Litovsk in which Lenin compromised with the Allies.) are examples par excellence of this flexibility. The Third International (Founded on March 2, 1919.) in instituting total World Revolution prepared individual game plans of action for various countries by first purchasing the services of the Intellectuals through various means, not necessarily with the material but by convincing them to work for the poor and the underprivileged, by buttering up to their pride, and flattering their idealism towards a better society through Communism, or by enrolling the help of the rich who have or are induced to have a guilt complex about their wealth or who are sympathetic to our pronounced aims in propitiation of their wastrel lives. By dwelling on their guilt feelings that their forebears had exploited and squeezed the poor, a feeling especially acute in those who had never known a day's honest work, or by making them probe their own inferiority or callow superiority complexes—complexes that are enlisted to insinuate into various callings and levels of society such as religious hierarchies and organizations, academe of middle and university levels, non-profit foundations large and small, mass communications media such as newspapers, publishing houses, radio stations, magazine, galleries, theatres, cinemas, lecture bureaux and most important, into all kinds of unions, etc., etc., etc., in a word, all visual and audio media—we awaken them to their former evil ways. All these methods must have certain definite objectives in mind, firstly to work up the necessary imagination and indignation synchronized to whatever theme or cause we espouse for the moment, and secondly to complicate facts, figures and events so that we shall decide for them right from wrong, what we want and do not want for our Party. Above all, they must be good soldiers. It is of great moment that various newspapers, magazines and radio news commentators are imbued with the correct notion that being a little left is chic but that being more left is more chic, and that for the dedicated, being an outright Communist left is to assume heroic proportions and stature.

If you will but notice in our propaganda paintings on the outside walls with murals of houses in China and in Russia, the soldiers, workers and farmers are all depicted with enormous muscular arms and hands, square shoulders, big craniums and an intense purposeful squint of the eyes. This is to give them the impressive larger-than-life look which impreses the ordinary man and woman.

We also realize the human wish for singular identity. By criticizing and arrogating faults to others, the critic immediately feels that he is free of those failings and instantly assumes a better-than-thou near-perfection mental attitude. He is above any of the faults of the person under criticism. Making use of this human trait, we go a step further by allowing the critic to criticize others and then gradually let it be veered on to the critic by slowly or suddenly leading him onto the path of self-criticism—self-flagellation if you will. It has proven to be a wonderful method of keeping our comrades on the straight and narrow and to instill humility in the tiny cadre as well as keeping in check the obstreperous.

In the United States free speech and free press are guaranteed by the First Amendment of the written Constitution while in England it is guaranteed by tradition—there is always the soap box in Hyde Park and one can declaim against the government and the established order of things. To the intellectually inclined and the Intellectuals, holding forth is to let off steam to their yearnings and frustrations, but to us, it must be realized that it is very unwise to set off emotions. People's emotions must be kept in check by various means. We came to succeed by this very road and we frown upon anything that incites our own people.

WORLD DICTATORSHIP

For our next objective, to achieve world dictatorship of the proletariat, we must dismantle first, the British Empire, and free all of the colonial peoples of the world. Britain as a colonial power has ruled on the whole with moderation and great wile. They have seemingly a gift to rule by their knowing political laissez faire, cunning and temperance. Britain is already remarkable in that it produced enough men with vision and talent in governance for almost five centuries, but her basic inbuilt weakness is her geographic insularity. Limited by her own small national territory composing of only the islands in the North Sea, ruling her huge empire is like a bob-tail wagging a huge mastiff. Russia wants India to be free not because we merely wish her to become another Communist state, but because we think she should not be exploited by England for her manpower to work the factories and dockyards, etc., in the event of war, nor do we think England should use Indian sepoys to garrison her Empire.

The continent of Africa should be set free instead of being mainly divided between England and France with little European countries such as Belgium and Portgual owning huge territories and exploiting for their own enrichment the mineral and natural wealth that do not belong to them and far in excess of their capability to use this wealth wisely. Africa should become as many countries as the various tribes wish so that they will achieve their native and tribal aspirations.

EUROPEAN EXPLOITERS

Moreover, all the wealth accumulated by those European exploiters not only does not elevate the livelihood of native Africans from whom it has been taken by force, nor has it basically benefitted the British, French, Belgian and Portuguese peoples except the few exploiting companies and their hangers-on. Naturally some wealth does trickle down to the lower levels but by and large the "goodies" go to the haute and petite bourgeoisies.

As I have said, the first urgent task for great world progress is to dismantle the "coolie power" of India from the British Empire, to be followed by the dissolution of English colonialism in other parts of Asia; next in Africa, where she plunders mercilessly. Once Britain is divested of her Colonial Empire. France's colonial power will wither quickly enough. Africa with its many tribes, different dialects, diverse traditions, animosities and sub-cultures should not and shall not be a source for coupon clippers ("Coupon clippers" are those who live in England but get a regular income in dividends from India.) to live high on the hog just because there is a propped-up artificial British Empire—artificial in the sense that she does not have the endemic where-withal to sustain her as an empire. She should be made ready for an awakening by her Socialists. And the U.S.S.R. will contribute much towards the great days of emancipation of the oppressed peoples from British colonialism.

In retrospect, anyone can see how carefully The Third International studied and researched in its carefully laid plans for the truncation of Africa into many fractioned and fractious countries, presumably to whet the political appetite of the many tribes but in actuality to render Communist domination and take-over so much easier in the future.

To return to Borodin: But for the World Revolution to reach its zenith and most meaningful conclusion, we must address the United States, the strongest bastion of capitalism and of free enterprise—in other words, the greatest obstacle to overcome in our reaching the goal of World Communism.

TROUBLESOME IMPEDIMENT

France is a relatively troublesome impediment to Communism. Basically the Frenchman is self-centered and is leary of team spirit and views the world with a cynical if not too jaundiced an eye. The French make-up is a man enamored of property, movable or immovable, with a tremendous desire for ownership of all types of material things, be it gold or silver, yet frugal and careful in ministering what he has. Evasion of taxes is a great sport in France and almost no stigma is attached to it. In fact it is very much a national pastime. The concept of tax evasion is entirely divorced from the French concept of French honor. But French poetry, literature and history are built around French glory and grandeur—of the Maid of Orleans, Rouget de l'Isle and Napoleon.

Through her thrifty and saving habits France has developed a very large class of highly property-conscious bourgeoisie and petit bourgeoisie from its working classes, be it white or blue-collared. Thus it would be more difficult to turn France communistic than it is to turn England, for the middle and lower class Englishmen do not seem to hold the same keen personal acquisitive instincts of the French.

LENINIST PRAXIS

With the United States, the task of fostering the Leninist praxis of dictatorship of the proletariat is even more difficult—"a truly tough nut to crack"—in that the petit bourgeoisie and the upper middle class are proportionately even of greater wealth and number and are on an ever-increasing higher standard of living. Until we are capable of excinding ultimately this baneful capitalistic system of the bourgeoisie, its philosophy of the toxic free enterprise system and the illusion that everyone can clamber up the ladder of success as far as his luck and brain power would permit him, the United States will present immeasurable problems. Fortunately she is a country without ethnic homogeneity. People had gone to the United States mostly because of the fabled streets of gold. Due to her wealth and pretensions to inno-

cence, she is called the land of opportunities—yes, opportunities for the carpetbaggers and the unscrupulous.

For example, Custer's last stand at Little Big Horn gave the impression that he and his cavalry were massacred by Sitting Bull's Indians while carrying out pacification of the marauding Sioux war parties. Actually the massacre was the direct result of the whites who encroached on the Indian Reservation of the Black Hills, a reservation guaranteed by a treaty concluded and sanctified by the U.S. Government with the Indians. And the reason why the white man had broken the Treaty was gold. Gold was found in "them thar hills" in the Indian Reservation that needed pacification. American history books lied to justify the treatment dealt to the Indians that it was to teach them a lesson.

There are examples after examples of the general meanness of the white man, the intolerance of the bourgeoisie be they of the haute bourgeois or the petit bourgeois mentalities. They share a common sin—avarice, the touch-stone of all their points of departure in the approach to any and every motivation of their activity. Were it not for the premeditated imperialistic expansionism of the United States against Mexico much of the State of California would still belong to Mexico. And whenever Texas is mentioned Sam Houston, San Juan Hill, General Santa Ana come to mind. Should one talk to Mexicans and to American historians of true metier, they would agree that California, at least Southern California which includes Los Angeles, is in Mexico.

The United States because of her greater wealth and the greater number who are in the ranks of the middle class, the wellspring and bulwark of bourgeoisie thinking and life style, must be expunged and made amenable to Commnism. Only then will Communism be safe from the pernicious influence of bourgeois mentality in America.

As I (Borodin) have previously stated, it is because of the short-comings of human nature which are bred, encouraged and perpetuated by capitalism into human misery that Marxism comes to radicalize this great evil. Marx has mapped out and advocated a system of government and livelihood for the common people whereby all facilities, all wealth should be concentrated in the hands of the state and apportioned out by the state so that all would share and share alike. In order to achieve this equality the government should be the disciplinarian and administrator of such an egalitarian policy, carrying out the program without fear or favor. Stringent dispositions must be made through the anxiety of otherwise inevitable consequence.

GOOD THINGS

But it as it may, we Communists are also realistic enough to know that the better and good things of life are yet at a premium. Therefore we have to reserve a judicious portion to the deserving—our managerial cadre. The cadre and the leaders of our revolutionary movement unhappily must have the better things given to them for their toil for the proleteriat, not because they are of another class such as the n'er-do-well aristocrats who were the parasites and incubuses—the blood-suckers of society. What rhyme or reason is there for the aristocracies of wealth in the capitalistic system to be permitted to enjoy the fat of the land while in truth it should be our Communist cadre that should enjoy the good things of life so that they can be preserved from generation to generation to work for the well-being of Communist society. It is we who are for the common good of the common people.

Again unfortunately, the important task and sacred responsibility should and can only rest in the hands of a relatively small group of a proven few—the leadership and the cadre. It can never rest in the hands of the populace as the hypocritical concept of democracy wishes to impart. Moreover, we do expose, through and through, the fallacy of the concept of the rule of the majority. For since when has there been majority rule anywhere in the world except for the postage stamp sized Greek city-states which we know were experiments in failures of democracy? True, there are many examples of minority rule cloaked in the guise of majority rule, but they are shams. To achieve the aim of turning a country into a happy Communist state, the following steps must be taken:

We Communists must act as the indispensible leavener (1) to forment a sensitivity and a consciousness of discontent within a country; (2) to permit our-so-called "agents provocateur" to commit calculated indiscretions to establish confidence for the advancement of Communism; (3) to occasion the camouflage of our real purpose whenever needed and whenever possible; (4) to design anti-Communist behavior and action even to the point of expendability and regard our comrades as sacrifices for the cause in order to augment our power structure from within; (5) to propagate and create sympathetic and humane ideas in our adversary countries with the aim of spending the country into greater yet greater national deficits—over a period of years or decades—if at all possible, funnelled through power groups and social institutions; (6) to expose wherever possible the Achilles' heel, malfeasance and embezzlements in a country, wherever and whenever we find them; (7) to exploit to the fullest cultural and social dichotomies wherever they exist within a geographic area, such as differences of patois, customs, racial prejudices in a given area; (8) to create or take to the fullest advantage political scandals as well as exposing them so as to undermine public confidence in known personages or regimes; (9) to bare social scandals in order to show up politicians and the idle rich who are no better than parasites living off of the toiling proletariat; (10) to heighten, foment and influence sentiment thinking at political, social or policy-making levels; (11) to engender public opinion through greater activities among the various minorities. first by raising the anxiety of insecurity among the minorities through rumors and fabrication and exploiting innate conflicts by pamphleteering, demonstrations, writings, theaters and radio broadcasting, etc. In short, to formulate and bring into the forefront a sense of scute awareness of uncertainty. insecurity. indeterminacy peculiar to the various minorities and situations; (12) to justify unjustifiable obvious mistakes or simply repeated non-admission of mistakes.

PERENNIAL LIARS

As the saying goes, the great lie—such as religion, becomes the great truth. This again is not because we Communists prevaricate easily or are perennial liars but because it is for a higher ethic and a higher cause. And for this high ethic and cause we cannot afford to admit mistakes, for admitting mistakes undermines confidence. Why should we admit to the kind of mistakes made by the liberal intellectuals who have oftener than not presented our high aims badly, wrongly or unwisely to the capitalist democratic world? In a democracy whatever its shade, when opposition to and advocation of a political policy is proven wrong, the men responsible are not held to account unless in the case of flagrant dereliction. With us we do not tolerate opposition to our policy any more than we tolerate a wrong policy. A wrong policy connotes definite lack of understanding of correct analyses of a problem and therefore a wrong approach. Hence it signifies that not enough care, attention and time are given to studying the problem. This is irresponsibility. And we do not hold brief for nor do we permit irresponsibility. With this policy we have been able to eradicate greatly irresponsible policy-making and behavior amongst our comrades. We have also made our comrades more dedicated, more conscientious, and more responsible.

READY INSTRUMENTS

Liberals, liberal-intellectuals and intellectuals are all ready instruments to be used for the advancement of our beliefs and cause. From what we read and hear, modern day Liberals of all shades and nuances pre-empt our theories in parroting us. But they distort or diminish them in substance. This is because Liberals as intellectuals manipulatively play with doctrines and political theories. Thus their beliefs cannot be consistent. Their premises cannot but be contradictory to their conclusion. Therefore they oftentimes do not stand up to sustained analyses. In our revolutionary experience which spanned three decades (Borodin dates it from May of 1887 when Lenin's brother Sasha-Alexander Ulyanov was hanged.) before the Revolution of October 1917, except for the few anarchists who had no comprehensive plan of action to follow through other than resorting to occasional bomb throwing and assassinations as a means of registering protest, we were doers while the Liberals could only talk away. They have been most disappointing, as talk to them is action, and talk is result. In times of crises we find Liberals to be unreliable fellow travellers with every tendency to desert when events go badly. Our jails were filled with "October deserters" of many hues. They function only under ideal, controlled conditions such as in the democracies. Leadership demands unfortunately the stomach to withstand reverses and dangers. Intellectual doctrinal apostacy will never do.

RED LEADERSHIP

True, Communist leadership requires a total imperviousness to assaults and opprobrious invectives by others. We do not quail before bitter criticisms and verbal attacks by Rightists, Liberals and Intellectuals of any color. On the contrary, from attacks we gather strength and grow stronger for we realize that ultimately, if not sooner, the whole world will come to adulate us and pay us homage. Democracy on the other hand just does not have the staunchness of purpose and robustness of spirit since democracy is malleable to criticisms and swayed by pressure. To be otherwise is to betray the ideals of democracy.

Marx and Lenin in their wisdom in breaking down autocracy knew democracy in theory and in actuality—pronunciamentoes and actual practice are miles apart. Democracy in practice is a figment because (1) politicians in their pretense are forever vainly calling upon the people; (2) open politics as in open diplomacy are not workable in that they reveal to friend and foe alike. Oftentimes, indiscreet, premature or inopportune disclosure can be harmful; (3) the naive assumption that a group, let alone a whole nation, can keep a secret is a bad joke; (4) in a democracy 50.1% can constitute a majority which means that 49.9% can be ruled by the majority against their will and they are as ineffectual politically as they are in political limbo; (5) the phraseology, consultation with the people, is another farce of democracy; (6) only the capitalists, the organized unions, guilds and groups, the vociferous, be it only a minute minority or the majority of one as the writers of editorials in prestigious newspapers, presume unto themselves to be "public opinion." It is those few who wield great influence and power by

paying glib lip-service to democracy—who are the true rulers of democracy.

MOUNTAIN GOATS

Liberal intellectuals can be intellectually as freely obstreperous and cantankerous as mountain goats when the political climate is like that in England and the United States. Others take to liberalism as if they were going through a gold plating bath—a thin veneer with base metal inside, yet they fancy themselves to be made of pure gold—intractible and obdurate Liberal Intellectuals.

Lenin, indebted to his years of bitter experience with Liberals while in and out of Russia, entertained his boundless loathing, hatred and contempt for them; he vented and expostulated his scorn in his utterances and letters. Many among our comrades who had experience with Liberals look upon them with pathological curiosity. I personally find them oftentimes stimulatingly amusing and interesting as intellectual jousting companions but not to be taken too seriously and to be borne in mind that they are fair weather friends.

Therefore to our Communist comrades, to achieve our world goal we must not only insist on exposing the pretense of the capitalist world, we must also expose the vacillating liberal flunkies who actually are exploiting Communism, growing fat and insolent in the process by appropriating our thoughts and accomplishments and acting on our behalf as if they are really bleeding hearts for the poor oppressed masses in the capitalist societies. As to the riposte that we Communists are also hypocrits because of our well-founded, sensible tents let it be understood that we have always openly and guilessly said that our means justify our end. Can it be expressed in plainer language? And if the Liberals still persist in being supportive of us, can it be said fairly by our enemies that it was our Cyrene songs that enticed them? Can we be made culpable when Liberals do harm until liberalism? We Communists know that for liberalism to stay alive, let alone flourish, it needs the Anglo Saxon type of conditioned hot-housed jurisprudence. What did Thoreau's Civil Disobedience achieve in bettering the United States capitalistic system? Capitalism in the United States was as mercenary and greedy as ever after Walden Pond appeared. This is the sort of pampering and coddling we Communists do not expect and can ill afford. Fortunately for our Party, Communism thrives and grows best in the soil of capitalistic chaos—"chaos and cold night" as the saying goes, and not in a controlled ideal climate.

LAW AND ORDER

To us there is no more fertile ground for revolutionary growth than the reversal of the odious "law and order" cant so endearing to the imperialistic and capitalistic world of the West. Freedom in democracy both implicit and explicit gives it the right to success as well as the right to failure. Democracy is failing while Communism does not choose to fail. For those who sing the praise of democracy let me recall for you the recent experience of Portugal. In 1910 Portugal wanted to be politically chic by essaying democracy. Between that year and this year, an elapse of approximately fifteen years, the economy is in ruins and politically there have been forty-odd (Actually between 1910 and 1926 there were 45 cabinets until Salazar came to power in that year. He was in power until 1968.) cabinet changes!

Much as we decry Fascism, Mussolini—the Socialist foxy turncoat—knew that in order to govern half efficiently he had to turn his back from the parlor games that Liberals play. We understand his shrewd reasons for rejecting Socialistic Liberalism. One need but go to Southern Italy to see for oneself the poverty and misery of people living in caves to know that they are ripe for Communism yet because of Mussolini and Fascism, Communism will be delayed in Italy.

I want to emphasize we are not bigots. We are not ghouls. We only choose what is best for the people and for our Party. We can be very openminded in being eclectic. But we Communists cannot permit vacillation and ambivalence in our Revolution. Our is an ism which goes forward and must pervade the whole world just as capitalism will decline and eventually fall as had been presaged for the future by its own intense rivary and propensity for self-devourment. It does not mean, however, that we are blind to the fact that some people are not gullible, emotionally immature, politically ignorant and cannot be easily manipulated. It is our duty to be prepared to lead them to a happier life.

Apart from people's discipline, as a matter of fact, in our own Revolution, for a time we were able to put to good use many of the so-called an-idea-a-minute Intellectuals to reach the people. They were of every shade, from the Turgenev nihilists on the extreme left to the Constitutional Royalists or to the erstwhile dyed-in-the-wool Royalists of the extreme right.

RED STRIVINGS

On our part we Communists were never neutral, although in our strivings to reach our goal we may zig or zag, but we always advance. We have strict norms of right or wrong. We promulgate and propagate our ideas through logic so that our political ism alone will inherit the earth. We recruit youth who are inexperienced but bubbling with enthusiasm, attractive in their very spirit of restlessness and rich with the imagination for daring and adventure. They are precious to us because they can always be like selected sturdy seeds that would yield manifold at harvest time. They know instinctively that we know best and that we can do all the thinking for them and by casting their lot with us they are following the path of glory. Theirs will be the greatest reward in the knowledge that they have served our common Communist cause well.

Much has been made of the fact that Communists are atheists. One of the many reasons given is because of the repressive measures of the police everywhere in the world when we wish to stoke up resistance against oppressive governments. It is true that anti-repressiveness is something to which the common man can naturally and fully relate. The real motive of our atheism resides on a loftier plane. It is because of a litle word, Forgiveness. The Christian doctrine of Forgiveness, so little practiced, yet so often preached and seemingly so innocuous, is the single greatest enemy to the dissemination of Communism. We too are capable of love for those who follow our tenets and discipline. But forgiveness is not love, it embraces love, hope, faith, charity, and all other human foibles of penitence; therefore, with forgiveness forever troubling the being of a person it could not make a truly new and unblemished Communist man. Forgiveness throughout the ages has proven to be the ready-made excuse for sloth, sloppy wilfulness and compromise which incidentally also exist in the Confucian teachings of Chung-she. It counters and negates all that we wish to instill in the people. The debilitating germ must be quickly and terminally purged—decimated—so that the moulding of the paradigmatic man can go forward apace without let or hindrance. Lenin has taught us that we build with one purpose in mind and it is our hope that within half a century it will have converted much of the world. If not the whole world steadily if not stealthily, and if possible without much proportionate blood-letting.

By that time the hemophilia of capitalism and imperialism, if not entirely eradicated, will have hemorrhaged enough for us to tackle the last bastion of this craven system—the archenemy of the dictatorship of the proletariat, the United States of America. In view of this great task ahead of us, the U.S.S.R. has dedicated itself to helping China so that our two peoples will work together for the coming completion of the Revolution of the world. Sic!

THREE PRINCIPLES

With regard to Dr. Sun's Three Principles (San Min Chu I) we readily agree with one: People's Livelihood. As to the other two, Nationalism and the Power of the People, they are not in congruence with Marxist-Leninist doctrine. For Nationalism evokes ethnicity and emotions of native soil and country while we are for international proletarianism—the breaking down of narrow compartmentalized national states and the alliance of the world of the proletariat. Dr. Sun's nationalism advocates a sense of love of country which is antithetical to internationalism of the proletariat.

To advocate nationalism is to intentionally advocate apartness. On the principle that power rests with the people, I (Borodin) again go back to what I initially called attention to with regard to the Greek city-states. They were the dreams of impractical idealists. It is the proletariat dictatorship which was an effective vehicle that made the gift of Communism to the Russian people. But perhaps (still Borodin speaking) for a period of time Dr. Sun's Three Principles will be good and purposeful in unifying China, as the Chinese people, led by the literati, feel the frustration and humiliation of extra-territoriality and foreign domination ever since they were made captive by the Western type of capitalistic nationalism. The Chinese people having suffered under corrupt and inept central, regional and local governments and having gone through tremendous devastating and traumatic rebellions and the indignities of Western imperialism, are chafing at the bit for a change as was with Russia under the backward Czarist regime for a different set of corrupt reasons. The Chinese Revolution was something new, something exciting, something vibrant and not really on the whole understood by the people. The Chinese people went along with revolution without really understanding revolution, just as the Russian peasants did not understand our Revolution. It took one small Communist Party, our Party, to make what Russia is today and what Russia of the future will be.

The above are the salients of the evocative game plan of The Third International for China first and for the rest of the world to follow as was expatiated upon in the conversations with Borodin in 1926.

It is superfluous to say that my nature and instinct, in effect my whole being, and my convictions were revulsed and repelled by what Mr. Borodin propounded. His calmly postulated propositions were mostly preposterous and his justifications were outrageous. If democracy with its shortcomings was deceiving as a system of governing, what was presented by Communism had a never-never land scenario and ethos to it. If anything, Communism as delineated by our subject was a mirror of abject human intellectual despair and the harbinger of total despondency. Over the many years, it has crossed my mind innumerable times how could a sane, mature, well-read man, wise in the ways of the world, like Borodin and his ilk, accept the premiss that men are by nature vile and lowly and are content to remain servile with not a desire to exercise their will but would be content to remain as serfs to the new Communist aristocracy.

SPIRIT OF QUEST

Schooled in academic broadmindedness, a spirit of quest made me a tolerably tolerant listener to the ventilating of much venal humbuggery of double-tongued doctrines.

Communism as stridently enunciated by Lenin, specially after 1917 in Soldatskaya Pravda and in Pravda, really takes the cake in literally dripping vitriolic venom. At times it was hard to keep a straight face and not smile at the willfulness of blatant oratorical moonshine. At other times I felt the gradual elevation of my pulse as it quickened to the beat because of its out-and-out reprehension. Borodin's denigration of the United States was no surprise. To me he was merely reciting facts that the founding fathers as human beings were imperfect. Many of the facts I had long before already known. What was important to me was that in spite of their infirmities, they were achievers, be they imperfect achievers in elevating human dignity and the concept of freedom. They at least did something about them.

Our conversation began on a basis of China's future prospects in the world after the passing of colonialism and of Russia's real motivations in her professions of altruism in helping weaker countries to liberate themselves from imperialism. As our conversation progressed with time, I could perceive that our subject had a purpose that was interesting in its format but eclectically informative in revealing its content.

To be sure, I was disturbed in what he had told me. For had it been practiced in any other prevenance it would be denounced as cold-blooded, arrant, inhuman cruelty on a massive scale. What went through my mind was, could what he was recounting be quietly accepted as the necessary terrible ordeal that a whole people must go through in order to enjoy the ultimate Marxian Utopia of the "withering away of the state?" The revelations troubled me because of Russian Communism's unconscionably devastating approach to human problems it professes to solve by ensconcing them in deliberately flagrant lies and perverted reasoning based on tendentious premises. It reminded me so much of the so-called "spiel" of the proverbial medicine men of the American West when they sold snake oil or some such elixir that promised to be the panacea—the all-time cure.

INTELLECTUAL INTEREST

In retrospect, any dispassionate intellectual interest evinced in hearing out the Comintern's processional plan was very worthwhile in that first, I had gained the greater actual insight from a more than "usually reliable source" into the sub-rosa purpose of "proletarian internationalism."

It meant that substantively we should ask ourselves, do we want Soviet imperialism in exchange for English and French and other forms of Western imperialism from which we were trying to extricate ourselves? To hear directly from a responsible and high Comintern official in China their apologetics an their reasons to "save us as well as the rest of humanity" (sic!), I need not say that this imperialism is more embracive, more insidious and more quidit than all the imperialisms that went before in our history.

Fifty years have passed. Euro-Communists, headed by Italy's Sr. Enrico Berlinguer, France's M. Georges Marchais and Spain's still exiled Communist leader, Sr. Santiago Carillo, are saying in substance, "The only sensible way to progress toward Socialism and Communism is by a gradual multiparty and progressive system." To some people this meant that Russia was at long last told off. In answer, Mr. Brezhnev in the more recently convened East Berlin Communist summit has ostensibly made concessions to this erstwhile heresy of the Euro-Communists. Yet should we pause and refresh our memory, it must be remembered that since World War II the Russian Communist Empire has geographically grown larger, ever larger, in the world. It also means she has more manpower to do her bidding. In power both overt and covert and in influence also both overt and covert, Russia globally today is greater than she ever was under generations of expansionist Czars; yet Communist political and territorial ambitions remain insatiable.

Evans and Novak in the New York Post of Thursday, July 29 of this year report: The Soviet Admiral of the Fleet Sergei Gorshkov, known as the father of the modern Soviet Navy, wrote in the "Sea Power of the State" that Soviet naval power is to be used effectively around ". . . World Ocean in the interest of building Communism." Mr. Brezhnev puts it rather well when in toasting French President Giscard d'Estaing he said, "Relaxation of international tension in no way cancels out the struggle of ideas." Translated into the more mundane language of his predecessor, Nikita Khrushchev, "Do not believe we have forgotten Marx, Engels and Lenin. They will not be forgotten until shrimp learn to sing."

Anyone reading this piece of recall aided by my notes will have valid reason to ask: Since a conversation is a colloquy, why is it not in that form? My reasons are threefold:

QUESTIONS AND ANSWERS

One: The conversations took place some fifty years ago. They were conversations brought on as much by my queries as by Borodin's purpose to "sell" Communism. Our revulsions to imperialism, no matter what the brand, made Russia's Third International reprehensibly obnoxious, if not more so because of the guise it took and its callous and insensate regard for human life. But it allowed that The Third International's external cloak of imperialism is more subdued and with a finer cut, their method is more sophisticated than the unadorned gunboat policy or the stark and brutal force of the imperialistic brand as practiced by the West of those years. Allowing that democracy is in many aspects hyprocritical yet how much more deceiving when the wolf is in sheep's clothing.

Two: Unlike a question and answer seance, it was an outwardly congenial conversation mostly by two people, with my elder sister Madame K'ung listening to the conversations and occasionally remarking (Time and space do not permit me to include what my sister said in this article.) while my brother T.V. literally commuted between his study and the living room whenever matters needing his attention slowed down, permitting him to join us to listen in. We three and Borodin were poles apart basically in thinking—the goals of Dr. Sun's Three Principles for a better life versus Communism's pie in the sky nebulous promises. No notes were taken at the time of the conversations. It was only after each conversation that I made exegetical jottings, some days in greater detail than other days when the demand on time with other matters of that day was not as great. I took down such notes that I regarded as interesting in sparse fashion, only recording what struck me on that day as outstanding, extensive, portentous, pretentious, gross or inhumane or what I thought was an induced arbitrary value of right or wrong as well as the illogic logicality in its enormity in crassitude.

CONVERSATION HIGHLIGHTS

Three: Half a century has elapsed. I readily say that it is impossible for me to recall the catented sequence of questions and answers in its proper time frame as they were asked and answered. Refreshed and fortified by my notes in which were occasional direct quotes and the enumerated pointers, I am able to recall much and reconstruct as faithfully as possible the highlights that are still vivid in my memory. Should I have erred, I have erred in understating rather than overstating the matter-of-fact, across-the-board Communist disregard for human life and The Third International's maniacal zeal to communize the world.

The reader will also wonder as to why only until now, after such a considerable time had elapsed before my committing down on paper the conversations. Again there are three reasons. First, I believe there are not many people living anywhere in the world today who will have known Mr. Borodin of that day. Still fewer people who are "outsiders," let alone those of the "opposite camp," would have perhaps heard him expound so candidly and in English (unbroken by the irritant yet unavoidable impediment of an interpreter when no common vehicle of communication between the communicants is available) on Russian aspirations for China and the world. Second, by assessing Communism-in-action with historical remove, one cannot but be struck by the near identity of Soviet philosophical behavior and action since those years after 1917 to what Borodin outlined in 1926. Third, for those who might ask as to why I did not make known before now The Third International grand design for world conquest, especially since I have been working, writing and speaking on the dangers of Communism these many years, I can only give a simple answer. The notes were put away with some of my many other papers and were not found until quite recently.

To the peripatetic on the move and to one who is constantly preoccupied and occupied with the flow of matters of the day, together with what one has to do to keep up with current as well as with contemporary affairs, voluminous number of pieces of paper and documents of the day of a more recent vintage are all that one can contend. And without the notes, rough as they were, I could scarcely put together faithfully and accurately the expositions as they were related. Even so, I have avoided possibly direct quotes (when quotation marks were missing) with what I had committed to paper even though the terminology and expression used could but be from the responder.

EDUCATED MAN

And, to be equanimous to Mr. Borodin, I must say that he personally was a brilliant, deep-thinking (but not profound) and well-educated man, not at all like what Lenin said of Stalin or what Svetlana wrote of her father—a rude and uncouth person. He was capable, able, shrewd if entirely cynical, perhaps "with ice water in his veins," to use today's parlance. He could see cruelty, injustice and degradation committed with detached coolness. He acted out his misguided role as the instrument of The Third International with aplomb and with dedication.

That he had failed in his surreptitious mission on behalf of Moscow was an irrefutable fact, yet to attribute Borodin's failure as a personal failure in leadership would be extremely simplistic and an extremely naive assessment. He was a very complex and complicated man. The Third International, gauging from afar in Moscow how Communism in China should come about and how the Kucmintang was to be subverted, decided upon the technique of seizure of power through the labor unions and the workers in the cities (that were already infiltrated by the Communists)—the orthodox road traveled by the Communists in Russia in 1917 and onwards. It failed due to the timely excision of the cancerous growth at the time.

In order to get a better idea of 1926, let me give you the general atmosphere prevailing in Hankow. During our sojourn in the twin cities we stayed at my brother's apartment at the Central Bank building, at one time the Czarist Russo-Asiatic Bank in Hankow situated on the Bund of the former Russian Concession. Never a week passed when there was no demonstration of thousands upon thousands of Communist union controlled workers shouting slogans of down

with such and such a person, some tradition or mores, or some imperialistic country. It was usually down with English imperialism, while the trade unionists and workers militia in uniforms of indenthren dark blue cordoned off traffic or protected the marching columns. For hours on end one could hear the deafening shouting of thousands reach a crescendo as each unit marched past the Bank building led by a group leader with a megaphone. The cacophony of noise made by bugles, drums, gongs and brass cymbals was drowning. It was a time when the Communists controlled unions all over Nationalist-controlled territories, and surreptitiously in yet to be liberated warlord-controlled cities. They set up kangaroo courts and ran the local governments, replacing or interfering at will county or district magistrates in the Naionalist-controlled central provinces of our mainland. One can best imagine the chaos in East Central and South China provinces in 1926 by visualizing the chaos of the Paris Commune of 1793 of which much has been written.

PREVIOUS ORDERS

Borodin's previous orders from The Third International were for a more quiet imperceptible erosion and gradual diminishment until extinguishment of the Nationalist Party (the Kuomintang) and the take-over of territories under the control of the Nationalist Government. What so alarmed them was the unenvisioned swift advance of the Nationalist Army under its Generalissimo, Chiang Kai-shek, an advance much sooner than their minimal educated guess of time needed to complete the defeat of the warlords' armies.

It was as startling to the Russian military advisory group as it was to the Russian political advisers who took pride in their prognoses of situations. In Russia herself even with the political commissars presumably in full control, the Naval mutiny of Kronstadt which broke out in February of 1921—a full three years after Lenin had built up supremacy from November 7 of 1917—was put down with much bloodshed and great difficulty. The fact is that Kronstadt had happened. Anti-Russian imperialism in China also happened.

The precipitousness of the Nationalist advance alarmed Trotsky, Radek et al and disconcerted Moscow greatly. They hurriedly gave Borodin instructions to hasten the time schedule of Communist takeover. Abruptly he was told the smiling mask of cooperation and bonhomie was to be discarded soonest possible. It was just at this juncture in time when we arrived in Hankow. And for arcane reasons best known to Mr. Borodin, he was very much interested in talking at length on Communism and China's part in this grandiose task to members of our family. Often he would say that the Soongs should become more involved and take a more active part in the government by giving our service and whatever talent we are ascribed to have for "the cause." To make his point, he spoke of the crucial part and contributions that some women played in the Russian Revolution. He particularly mentioned Krupskaya (Nadezhda Krupskaya, often referred to as Nedya, was Lenin's wife.), Stasova (Elena Stasova was Party Secretary until Jacob Sverdlov took over the Party post. She then became Lenin's principal assistant.), Kamenev (Olga Kamenev was the sister of Trotsky.), Bonch-Brueviches (Vera Bonch-Brueviches had been among the twenty-two people who formed the nucleus of Lenin's Bolshevik faction in Geneva after the 1903 split.), Sumenson (Eugenia Sumenson was Lenin's conduit and link to the Germans.), Armand (Inessa Armand was French by birth. She was fluent in five languages and translated many of Lenin's writings, mostly from Russian to French and German. She was also sent on secret missions by Lenin from Switzerland to various destinations.) and a host of others.

Borodin never tired of repeating that there was a dearth of the right kind of revolutionary spirit and talent in the world. He knew of my interest in the working conditions of factory workers. I had spent much time in visiting various factories in Shanghai and was repelled at the long hours (12 hours each shift) and poor working conditions of women and children in the so-called International (but mainly run by the British) Concession of Shanghai. The sanitation was appalling, and little babies were lying in the aisle as their mothers worked on the machines. In the silk factories, the women's hands were purplish-red and often blistered by having to work with hot vapor issuing forth from open vats.

The Shanghai Municipal Council invited me to be a member of the Child Labor Commission. In our conversation he referred to workers reforms per se with a great circular wave of his arm as "futile, futile." His reasoning was whatever laws could be enacted could be as easily neutralized or nullified by other laws in a democratic system. To be occupied in reform was time ill spent. The best and only real permanent cure was Communism. He would far better wish to see me use my talent in reaching more people and awakening them to the blessings of egalitarian Socialism—his euphemism on this occasion for Marxist-Leninism.

CLOSE RELATIONS

Aside from sermonizing us, he was of course on close working relations with my elder brother T. V. and was forever dinning into him the importance of his remaining as Minister of Finance. He made it very plain that now with Shanghai in Nationalist hands and unification of China within the foreseeable future, the Nationalist Government (Borodic meant the government in Wuhan) would need more than ever modern minds who understood the Western mind, and in the realm of finance the need for proficient minds to deal not only with the complexities of the center of finance and economy of China, Shanghai, but in other fields as well. He knew from his own observations, reports from Hankew banking circles and from foreign banking assessments that T. V. Soong would be invaluable to the Nationalist Government as Finance Minister. He repeated the pedestrian that the most crucial organs of any government are finance, the armed forces and administrative personnel. While reserving relicence in his instructions from Moscow he discussed with us extensively his concern of China's paucity in modern talent not only in finance but talent in other callings.

It was only months later that the Russian frantic alarm signals to Borodin and the precipitation of their time table came to light when the opportunist Wang Ching-wei, who went specially to Iiankow to cooperate with Borodin and the Chinese Communists, found out that the Communists were intriguing to "do away" with him and General Tang Shen-chi once they were through using them. Wang Ching-wei and Tang Shen-chi's (whose troops Borodin had counted on to buttress his intrigue) honeymoon with The Third International quickly soured and ended. Contemporaneously, Communist quickened tempo ran rampant. Communist kangaroo courts in those provinces where they held sway were putting on mock trials and executing the indigenous squirarchy and literati indiscriminately. The much fevered scholar Yih Teh-hui of Changsha, Huran with myriads of others were tortured and killed because they dared to dispraise the Communists and in fact scoffed at and reviled them as animals of the most scurrilous breed. The "open trials" of landlords, officials and even of their kith and kin such as their mothers—we Chinese have a special niche in filial piety reserved for our mothers—all these committed grotesqueries induced common anger. Should anyone doubt that such things could have happened fifty years ago, let me remind you that all this again happened in the nineteen-fifties and sixties when the Communists took over the mainland and when children were encouraged to snitch on their elders and parents and report to the Communist authorities.

VALID AND COGENT

I recall I was incensed as well as amazed many a time during the conversations by Borodin's ingenuousness. I thought it valid and cogent to ask of him: Why had he (Borodin) been so categorically forthright not only with his views and thinking of Communism but also in revealing the Politbureau and The Third International's dark and crepuscular plan for the world? He denied the plan was ebon and benighted and said that on the contrary, proletarian internationalism was and would be the greatest blessing for the common man. Time and time again, he repeatedly said that it is the bedrock Communist belief that the real and ultimate need of the common man is a full stomach, job security, guidance and a spiritual haven—all of which, even the spiritual need, the Party can well provide.

He emphasized that history attests to the fight against hunger as the greatest need of mankind. It is only the firebrands, the slick shysters who for their self-serving and petty purposes use the fanciful shibboleths of political democracy, and the folderol that freedom is the victual the people crave. People do not need the hocuspocus, the abracadabra of religion, for religion is superstition which has no substantive or intellectual basis. It is only the true historian who can bring into focus the past, and the intellectuals who twist facts to show their forensic brilliance, to justify a cause they may wish to play with or espouse.

As to the reality of Communist amibitions of world conquest, he gave candid answers. They were:

One, we Communists have never attempted to hide our call to world revolution. If the capitalists and liberals do not choose to believe what we say so often and so openly and interpret us as they wish to see us, it is their doing not ours.

Two, we believe that it is "necessitous policy" as well as good strategy not to deceive on matters of high policy to certain intelligent people who are not of our persuasion. For "camouflaging" our aim, even should it succeed for a time, will only make them turn against us with ferocity. Hiding our goal is only for people-at-large, as they do not wish to or cannot understand the intricacies of politics. Therefore it is kinder that they should not be burdened with them. All these people need are simple slogans to chirrup and direct targets to assault. Moreover should we dissemble on high policy as differentiated from day-to-day policy, we would lose the respect and credibility of foes and comrades alike—respect of our foes and credibility with our comrades.

Three, it has been our experience on innumerable occasions that when we bare our hopes and goals, we have found the non-Communist intellectuals, unless they are out-and-out anti-Communist, in sympathy with us, oftentimes explaining away intricacies and bottlenecks encountered with more eloquence than many of our own comrades could. Be that as it may, our standing caveat to our own is beware of their doctrinal and intellectual duality as well as their long-term untrustworthiness, which we despise.

The behavior and ideas of the Intellectuals which many Communists call "a goulash"—a mish-mash of ideas—were something which Borodin found both amusing at

times and impossible to fathom at other times. He relegates these Intellectuals into the realm of emotional orphans, since they were unwanted by the left and were anathema to the right, yet they take on the pose as being in total rapport with Russian Communism and even fighting spiritedly against the right as if they were truly in one with the Communists but actually exprobated and expugned by the left.

In this sense, they have been aptly called the hermaphrodites of the intellectual world. Swallowing the bitter tears of humiliation in relative silence whilst still putting up a haughty front for the benefit of the unknowing, such is their pitiful plight.

For the non-Communist we might get some understanding and insight into the undeserved contempt most Liberal Intellectuals had earned for themselves. The Italian critic Nicola Chiaromonte writing on what Communism means to Italian Intellectuals says that Communism offers to the Intellectuals a substitute for social conscience without any testing or criticism of ideas, a new conformism, a way of putting oneself in the service of progress, the history of the proletariat, yet without making the slightest change in one's way of living or thinking. Like the critical arm-chair strategist, Intellectual Liberals aspire to be leftist and fashionable as our subject quoting Lenin typified them without having to suffer the ordeal by fire—Communist fire.

COMMUNIST PURVIEW

It is according to the Communist purview of human shortcomings that there is no formula in which the fulfillment of a need can elicit repletion without soon spawning another need. And by its very repletion it creates a sentence of self-defeating disappointment-in-paradox unless another need or needs yearned for are forthcoming. This penumbral as well as distrustful view of mankind runs through the whole gamut of Lenin's and Stalin's thinking as to become now a universal silent phobia in the Communist world. We see it in Russia, in the repression of Communist Hungary, Poland, Czecho-Slovakia, East Germany, North Korea, Cambodia, Laos, Indo-China, mainland China. We see it behind the Iron Curtain time and time again in the same dreary common pattern whenever uprisings or dissatisfaction occur. Yet the inordinately taut rein is always clothed in impressive lofty rhetoric of "eternal vigilance against imperialism," vigilance against the agent provocateurs of the imperialist capitalist West. It is also always interesting to note it is the U.S.S.R. which is the aggressed, not the aggressor. Curiously or perhaps uncuriously, Communist regard for man is quite akin to the Nazi view. Martin Heidegger in his often perceptive (although not always optimistic) book BEING AND TIME (ZEIN UND ZEIT), so lauded by the Nazis at the time of its publication, writes interestingly: "Massenmensch" is so entrenched in banalities of every day life that he is doomed to mediocrity and will never understand the real roots of his Being.

It is a rare person who can sustain even a fleeting insight into himself long enough to make a difference in his life. Heidegger, the thinker in substance, is saying that since very few men can know themselves—again strong shades of the Nitzschean superman seem to emerge!—they should follow a rare person who can sustain some insight, fleeting though it may be, since a degraded man cannot even hope to rise above mediocrity, let alone capturing a moment to know himself. It stands to reason that a common mind would be better off to have a superior mind do his thinking and guide him! What a cynically misanthropic philosophy of human nature! Does leadership encourage mediocrity and knavery so that it can rule the roost?

NAZISM AND COMMUNISM

As I have noted in the above paragraph, there is deep similarity between Nazi thinking and Communist thinking. Only Communist policy is dressed more enticingly and more appealingly, and therefore easier for the common man to understand or be hypotized by it. Yet, ironically, classless Communism is itself an elitist concept of exclusivity in that it composes of one class—proletariat—whereas Nazism is a racist club which appertain presumably only to those of Nordic Germanic blood. Were such two philosophies of governance the only philosophies it would be consigning all human hope forever to the limbo of the damned. In connection with this thought there is much wisdom in the succinct Chinese saying: No sadness is greater than the death of the heart.

Should International Communism ordain for time everlasting a moribund heart for the world, will it not be proof enough that retrorevolutionary is not progress but retrogression into another Dark Age?

I should recall for you also that Communism in the writings and instructions of Lenin and Stalin condemned profusely bureaucracy and its bane, yet the fact is that Lenin and Stalin themselves were the greatest culprits, since it was they who established and proliferated in the best tradition of bureaucracy the most swollen, arcane and stultifying bureaucracy in the world, on the other hand, as for the total dissolution of bureaucracy as perceived by Marx, it could mean one of two things: One, that people would be so well trained that they would all know instinctively exactly what to do, how to act, and what is expected of them, and to accomplish their tasks symbiotically and in toto at a given point in time so that not even a simple coordination function need exist—a true "withering away of the state", two, it could mean total and utter confusion would come into being in the absence of a bureaucracy. This ideal non-bureaucratic concept could exist only in theory, for no matter how tiny a society, to corroborate and regulate the flow of production to the consumer ugly bureaucracy must come to exist. Therein we find the example par excellence—the duplicity through rhetoric to deceive by Russia's two most well-known Soviet leaders—Lenin and Stalin.

TOTAL CONTROL

Communism in the personification of the state arrogates unto itself total control over the implex diversities of human activity as well as the inter-relationships between individuals. Thus, Communist pronouncements and actions, theory and practice, more often than not do not and cannot coincide. It condemns Fascism, yet it is more Fascist in its malevolence than Fascist Italy was and just as infernally sordid as Nazi Germany was. It calls itself a Union of Soviet Socialist Republics; but in fact it is neither a union nor socialistic nor a republic. It pays lip-service to democracy, yet it has no iota of democracy within her political thought, system and practice. It has the temerity to have East Germany, her puppet, call the Berlin Wall erected under Russion instigation the anti-Fascist Wall as if West Germany were Fascist and they in essence not.

All Russia's spiritual, social and cultural areas of human activity are regulated to a fault. It still wears the facade in its Constitution that every individual is free and is protected by law but in fact every one of the common people stays in his assigned slot, and they cannot travel without specific permission. The ruling class, the new nobility supported by the privileged cadre which constitutes the minor nobility enjoy special privileges in Protean guise and are in effect the self-appointed protectors of the people—the new peons—the people under Communist control. Time has proven their proficiency in working for the people. Russia with Communism governing the country some sixty years has not been able to solve the most fundamental problem—food—food to feed herself. From year to year in recent years Russian has had to buy wheat from Canada, Australia and the United States, from countries she in the same breath condemns as capitalistic and exploiting societies—a trenchantly disillusioning commentary on Russian Communism and practicing facsimile of all Communistic states.

Marxism-Leninism has been able to sell itself well because it took recurring ills of the time to diagnoses in greater minutiae and projected them as prognoses, and many unthinkingly took diagnoses as prognoses and fell into step with the pied pipers. Marx and Lenin played on the all too common assumption that since the premis-in-fact is correct, it follows that the conclusion must also be correct.

By using adroitly mass communication to serve their case-by-case specific purpose, and by touching the tender exposed nerves of society or by using constantly imputations, denunciations and imprecations in their plan of repeated attacks, Lenin and his followers built up enough credibility quickly or gradually as the situation demanded. Repeated onslaughts on the psyche had made inroad on a segment of the vulnerable public. By marinating the Liberal elite in cupfuls of cajolery and smarm or by shock treatment, they manipulate the thinking-to-capture and tilt it in the desired direction. With the advent of relatively inexpensive availability of electronics in the form of telephone, telegram, radio and television, cheap newsprint and cheap inflammable reading materials, it has made the conversion task by far easier and the amenability of emotional eclat so much more formidable.

STRENGTH AND WEALTH

Admittedly the United States having the endemic strength and wealth within her continental confines possesses the spiritual, technological, economic and mineral resources which are the necessary components that have made her the great power she is. Yet it must be borne in mind that the threshold of the United States to withstand constant abuse and spiritual debility, however high, has its "ceiling"—a point in tolerance which it must not pass.

Mr. Carl Rowan the columnist, writing in the New York Post of June 9th of America's Bicentennial Year in connection with racial discrimination in the U.S. Marine Corps, quotes the noted Finnish foreign affairs analyst, Colonel Wolf H. Halsti: "I am a military man and I may have a military bias, but it takes no military expertise to see that the effectiveness of the United States conventional forces is very low. An army that murders its officers and counts its deserters by the tens of thousands, an army whose men refuse to go into battle and get away with it—well, can that random collection of men still be called an army?

"I would not have thought so; I would call it a rabble, and anyone who relies on it for his protection does so at his own peril."

Let me give you another commonly held view so well expressed by Mr. W. R. Keevers in the open editorial page, June 30, 1976, of the New York Times. He cites the malaise that now confronts the United States externally. In the past, because America would not put up with any "guff" and stood up for her rights, she was respected in the world. He continues to say:

"Today, its different. Americans are no longer respected. Everybody pushes us around. Our ambassadors and diplomats are brutally murdered by selfness dissidents of doubtful ancestry, in little countries, where these hostile actions will draw no retaliation from the big knuckle-headed boob, that Uncle Sam has become. Murder an Israeli,

and you'll have swift, punishing retribution, kill an American or two, the State Department says 'forget it. They're only Americans.'

WORLDWIDE RESPECT

"Most of our loss in worldwide respect lies with a cowardly Congress. Our elected representatives have only one thing in mind: their own reelection. When an arrogant little nation slaps us in the face we run for cover, Congress says: 'Remember Vietnam.' It should be saying: 'Remember Valley Forge and Yorktown and Iwo Jima. . .'

"To our shame, we let outlaws in Lebanon murder our Ambassador and his aide. We even let them fire on our refugee train, without retaliation. They wouldn't fire on the British knowing full well that British troops would wipe out this stateless vermin . . .

"American nationals have been murdered or kidnapped in other places. Our American strength, moral character, our national fiber has deteriorated. This is not 1776. Uncle Sam is a tranquil weakling, interested only in appeasement. An arrogant Marxist military dictator in pygmy Panama tweaks our nose with insulting, pipsqueak threats to throw us out by force . . ."

I quote the article in great length so that the reader can judge the extent of its veracity. In contrast, no Russian diplomat is killed, for most countries in the Third World and the Free World as well as the terrorists realize the heavy consequences they have to pay should they incur the wrath of the big Communist countries.

As Mr. Patrick J. Buchanan writes in the New York Times: "The psychological defeat of the U.S. intellectual establishment and the growing isolation of the American people were established facts"—a sad but correct comment of the middle sixties up to the middle seventies.

But recently there are brighter aspects and happier phenomena afoot, for men of high public morality and courage are once more speaking out and setting the patriotic tone and pace by their meaningful warnings. A few quotations will suffice. Mr. Max Lerner in his article on April 7, 1976, of the New York Post quotes Norman Podhoretz in the Current Commentary in which he lashes out in many directions, mainly with scorn, Liberal intellectuals and politicians who leave America's allies open to Soviet expansionism.

Henry Fairlie, famed as the coiner of the phrase "the establishment" in his treatise on America, said: "The Spoiled Child of the Western World" has come to honor such men as Jefferson and the philosopher Dewey and dismisses gurus such as Galbraith, Mailer and Vonnegut. He is unequivocal in his view that the U.S. is being betrayed by its leading intellectuals through their "outlandish advocations."

Ambassador Daniel Patrick Moynihan, some months ago U.S. Ambassador to the United Nations, doughtily warned that the U.S. has lost confidence in its foreign policy occasioned by the Vietnam war and that "democracy is fading," while Professor Sidney Hook in his article in the New York Times of May 1, 1976, reminds us that from de Toqueville to Walter Lippman, democracies have been faulted for their inability to conduct timely and intelligently foreign policies. We should take especially the erstwhile doyen of leftist intellectuals Mr. Lippman's mots juste to heart. The receding tide of democracies all over the world as well as the cross currents and undertow since World War II bespeak the cogency and urgency the future differentiae hold.

OUTSTANDING COURAGE

Writings and protestations in action in recent years by such men of outstanding moral and physical courage in the persons of Pasternak, Solzhenitsyn, Sakharov, Sinyavsky, Daniel, Bogatyryov, Rilke, Amalrik, Marazim, Maximov, and the host of other Samizdat writers without and within Russia, demonstrate once more that while the human spirit of freedom can be diminshed for a time it can never ever be extinguished for good.

During each of the many long colloquies, I queried or with animus disagreed, where by Mr. Boridin expatiated and in turn took a dichotomous view from mine as to the designs which The Third International had meticulous.y laid out to a nicety not only for China but universal in scope. To make his point as authoritatively as possible as object lessons for revolutionaries, he kept on asseverating and reasserverating Lenin's preachment that the true revolutionaries are those who are willing to resort to all sorts of strategems, illegal methods, * * * evasions and subterfuges, and that the Communist end justifies the Communist means. For in opening up of opportunity brought about by cataclysmic happenings, the Communist revolutionary must be ready and able to grasp, seduce and exploit to the fullest all such major occasions offered by events. Forcefully and repeatedly, untiringly, Lenin again and again exhorted in his writings a need for obliteration of scruples and moral inhibition. No doubt his was a pragmatic philosophy of duplicity, violence and destruction. Yet ironically, Communism hiding behind its own immortal driving motivation turns around to accuse democracy with a moral judgment.

But above all else Communism makes it brazenly clear its extreme aspersiveness towards established human values by its altogether caitiff disregard of human dignity and life. It is this dastardly cynicism that the G.P.U., the Russian Secret Police (now changed to the acronym NKVD), became the self-appointed professional "enquirers of souls," and killed off thirty thousand victims in the Red Army and Navy alone. It was said that Stalin was duped by the Germans in 1937 that the Russian Generals were plotting a coup against him. The Nazis forged documents for Stalin's benefit, and the much vaunted G.P.U. was outsmarted by the Gestapo. The German General Staff in conjunction with Hitler wanted Russia to be stripped of experienced officers before the Fuhrer invaded Russia, and Stalin the tyrant always quaking in fear of coups swallowed the bait hook, line and sinker.

Marshall Tukhachevsky, Generals Yakir, Kork, Eideman, Feldman, Primakov, Putna and Uboreviche, all well-known "heroes of the civil war," all decorated with the Order of the Red Flag, all partisans of Stalin against Trotsky, to mention but a few, were tried in camera without witness or defence and quickly executed within forty-eight hours. So was Blucher (Galen, who was previously in China during the Northern Expedition), as the incumbent Commander-in-Chief of the Soviet Army in the Far East, Shot. He was suspected without proof of collusion with the Japanese.

PROMINENT MEN

With regard to the prominent men of the Communist Party that were sent to China, Joffe, Leminadze (Stalin's special personal agent in China) committed suicide while the well-known diplomat of that day Karakhan, who never belonged to any opposition, was executed. Borodin, one of the last important survivors of The Third International, disappeared. Tens of thousands were executed for having committed so-called "professional errors." To give the reader an idea of what professional error meant, as was related to me, Dr. Sun Fo who was sent to Russia by our Government in 1939 inquired about Bogomolov (Soviet Ambassador to China prior to his recall in 1937). Stalin repeated the name several times as if attempting to recall who the person was until Dr. Sun Fo identified Bogomolov. With a sudden look of recollection. Stalin answered in a matter-of-fact voice that: Ah, he was shot! When asked why, Stalin countered that he (Bogomolov) reported that you (China) would not fight Japan. How truly said that the Communists devour their own!! Liu Shao Chi, Peng Cheng, Chen Pai Ta,, to mention but a few, came to mind.

The same barbaric method was adopted internally to stimulate production when Molotov reported that production fell off in food, steel and cast iron to below pre-World War I level after the Bolshevik take-over, that elicited Stalin to utter his famous epigram, ". . . blood-letting is a necessary part of political doctoring." Stalin believed that punishment of the harshest form is the best cure to inspire leading personnel with leadership in industry. What a macabre and bloody cure it is! Again to give you some idea of the fastasticity of crassitude and of violence, Balitsky, head of the G.P.U. in the Ukraine, estimated eight to nine million died in the Ukraine alone in the nineteen-thirties, not to mention those who died of starvation in the Urals, Trans-Volga and Eastern Sibera.

SLAVES AND DOGS

In the concentration camps prisoners were made to work like slaves and whipped like dogs. Such was Russia under Stalin's "classless society." Let, excepting a few, most Liberals and Intellectuals for reasons best known to their conscience, maintain deep and censcrious silence over the years.

As Thomas G. Marsaryk, the first President of Czechoslovakia after World War I who had intimate knowledge of Communism noted. "The Bolshevik half-culture is worse than the absence of all culture."

There is a procrustean* (Procrustes was a brigand who put his victims on his iron bed. He would cut off any length that protruded from his bed.) philosophy that people must be cut down to size and constantly supervised living under what is euphemistically called "structured lives," for their own good. In juxtaposition to the duplicitous yet idealistic theory of the "withering away of the state," it is the catechism of practicing Communism that there should be ever more control of the individual by the state to insure its survival. To proselytize that people can function with a minimum of guidance is rank heresy.

By demographic liquidation through starvation and with the instituting of Goulags dotted over Russia complemented by wholesale executions, Stalin believed he could pour into the image of his making new generations of youth who would be the new Stalinist youth unrelated to the past. This electrifying notion of the new Stalinist youth sprung from the statistical report to the Congress of Soviets in 1936 that forty-three per cent of the population had been born since the Revolution of 1917. It meant also that each year there was an increase of nearly three million births—equivalent to the whole population of Finland that could be moulded to the great father Stalin's liking.

But alas! "the ultimatist" Stalin's innovatively sinister notion of doing away with the older generation through his particular type of generation renewal—genocide—produced two antithetical and disappointing types (1) The "Soviet Youth" has turned out to be uniformed of the real outside world, crass, avaricious boastful and parrot-like in his utterances. His is a head filled with dessicated sloganeerings as fed to him. (2) The pseudo-Soviet youth on the other hand is non-conformist, dissatisfied with the present yet hides his true opinions on politics. He avoids official influence while keeping up appearances. Neither type fulfills Stalin's fond dream of the new Soviet man. For by allowing both the serious-minded youth as well as the imitators to become imbued with primitive sophism, schematic idiocies and ni-

dehissent group experience, they produced divergent types of sterile automators. Thus the richness of the human spirit, the creativity in ideas, and cultivation of thought and talent by all logic shall have been made barren for generations to come.

IRONY AND TRAGEDY

In relation to the ideals upon which the United States was founded, it is the greatest of irony and tragedy that those forebears, who fled Europe to a new land primarily in search of freedom of person and thought as well as freedom in religious worship, should have descendants that are working perhaps unwittingly to diminish those very freedoms which their forefathers through undergoing hardship had gained and paid for so dearly in misery and sorrow. It makes one wonder why the illogicality of this "Sampson complex" for self-destruction.

A year-and-a-half ago, in putting down my observations "We Do Beschrei It," I wrote in a tentative and sombre mood of the ills of our time. I could not but be cognizant of three malaise that afflicted us in the Free World. True, many did speak out, albeit in sotto voce their anxiety in the loss of faith in the Free World especially the United States. I must say this loss of faith was not confined to the countries of Southeast Asia, for too many countries in the democratic column were ready to consign the buttresses of the Free World to the Tarpeian rock of perdition.

It seems Yeats' hexametric words applied to the sixties and the seventies were certainly most appropos

"Things fall apart; the center cannot hold;
Mere anarchy is loosed upon the world. . . .
The best lack all conviction, while the worst,
Are full of passionate intensity."

The Chinese dictum of one-on-one human relationship mirrors the truth that only with the fullness of admiration will the people willingly follow the leadership. This is surely the direct opposite of what Communism is.

However flawed and cumbersome democracy is, the essence of progress of human beings and human society, to use Walter Bagehot's words, after all still resides in "the policy of discussion.

TRIBUTE TO GEN. JOHN R. DEANE, JR.

Mr. McCLELLAN. Mr. President, I take this opportunity to pay tribute to a most distinguished gentleman and military leader, the Commanding General of the U.S. Army Materiel Development and Readiness Command, Gen. John R. Deane, Jr. General Deane will retire at the end of this month after serving faithfully and honorably for 35 years in the Army.

From the time he enlisted in 1937, he relentlessly pursued a long and outstanding career in service to his country. He was educated at the U.S. Military Academy, at the senior military schools, and at George Washington University. He held positions of great importance during three major conflicts in which the United States was involved. He has served in peace and he has served in war. He was the Commanding General, 173d Airborne Brigade, U.S. Army, in Vietnam, Commanding General, 82d Airborne Division, Fort Bragg, N.C., and held high staff positions in the Departments of Defense and Army. General Deane assumed command of the U.S. Army Materiel Development and Readiness Command in February 1975 after serving as Deputy Chief of Staff for Research, Development and Acquisition, Department of the Army, Washington, D.C.

As chairman of the Senate Committee on Appropriations I have witnessed on many occasions General Deane's great leadership and management capabilities. During his current tour of duty he was charged with the massive and complex effort of reorganizing and streamlining the U.S. Army Materiel Development and Readiness Command. He has successfully completed the major part of this reorganization and established the plans for those actions yet to be completed. These changes will result in major economies and increased effectiveness for our fighting men of the Army.

I applaud General Deane for his long, loyal, and brilliant career and salute him as a distinguished military officer of the U.S. Army.

AGRICULTURAL INDEBTEDNESS

Mr. HUMPHREY. Mr. President, I wish to share with my colleagues an article in the Sunday Pioneer Press of December 12, 1976, entitled "Farmers' Debts Setting Records," and a January 1977 Farm Journal article, entitled "You're Welcome at the Bank in '77."

These two articles highlight the increasing importance and volume of credit in agriculture today. The total assets held by farmers are likely to reach $634 billion this year, up 8.3 percent from last year.

At the same time, farm indebtedness rose $11 billion during the past year from $90.6 billion on January 1, 1976.

These basic facts indicate the trends which have been developing in agriculture. Farmers have been consolidating their operations and using larger and more costly machinery. Many of our older farmers who were without debt for many years are now heavily mortgaged as a result of these recent trends.

For our younger farmers, who have acquired land and machinery recently and have major debts, recent trends on crop and livestock prices pose major problems. For many of my farmers in the drought belt, continuing to service their outstanding debt is a major problem. Some farmers are convinced that banks are willing to lend them credit even if it ultimately means that the bank may take over the farm.

This is a problem to which we need to give close attention. Obviously, the "debt to asset ratio" will need to be followed carefully.

Mr. President, I ask unanimous consent that these two informative articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

FARMERS' DEBTS SETTING RECORDS

(By Don Kendall)

WASHINGTON.—By Jan. 1, 1977 the amount of money owed by the nation's farmers is expected to total a record $101.5 billion, a gain of 12.1 per cent from last Jan. 1 and the sharpest one-year increase in three years.

But Agriculture Department analysts say total assets held by farmers—their land, buildings, bank deposits and other property—also will be up to a record $634 billion, an 8.3 per cent increase from last Jan. 1.

Put another way, farm debt rose about $11 billion this year from $90.6 billion last Jan. 1, while the value of farm assets climbed about $49 billion.

One of the significant points, however, involves a so-called "debt-to-assist ratio" used by USDA to measure how much farmers owe against the value of their assets. This increased slightly in 1976 to about 16 per cent.

Last Jan. 1 when farm assets totaled $585.4 billion, farmers owed about $90.6 billion. Thus, the debt-to-asset ratio was 15.5 per cent. It was 15.7 per cent at the start of 1975; and 15.6 per cent in 1974.

Economists say the rise in the ratio this year is not in itself cause for alarm since, for about a decade, the amount of money farmers owe has been a fairly stable percentage of assets.

But there have been some interesting changes over the years' involving the ratio and how assets and debts have increased.

For example, on Jan. 1, 1961, farm assets were about $204.7 billion—less than one-third of what they are today—and debts totaled $26.2 billion, about one-fourth of their present level. The ratio was 12.8 per cent.

During the four years 1969 through 1972, farm debt climbed faster than assets and put the ratio at more than 17 per cent in each of those years.

But soaring farmland values helped offset spiraling costs after Jan. 1, 1972—when the debt-asset ratio was 17.2 per cent—and helped cool things off. Higher-priced land was a main factor in the soaring value of farm assets the past five years, and USDA specialists say this helped inflate total debt.

"These higher-valued assets are sometimes used by land owners to obtain additional financing, and the continued rise in values has encouraged lenders to provide additional loan funds," the department's Economic Research Service said last week.

Still another measure is a "debt-to-equity ratio" which measures how much farmers actually own outright of their total assets.

For example, in 1961 when assets were about $204.7 billion, farmers owned an equity of $178.6 billion, leaving a debt of about $26.2 billion. Thus, the debt-equity ratio was 12.8 per cent.

This ratio grew to a peak of 20.9 per cent on Jan. 1, 1970 and again to that mark at the start of 1972. Last January it was down to 18.3 per cent.

But by the first of next month the debt-to-equity ratio will rise to about 19.1 per cent, reflecting farmers' owned equity of $532.5 billion out of total assets of $634 billion.

Looking ahead to next year, department analysts expect farm real estate values to continue to rise, but at a slower rate than in 1976. Thus, there will be a smaller increase in 1977 farm assets.

Meanwhile, farm debts also will rise again next year at a faster pace and that will put the balance sheet farther in the red.

By Jan. 1, 1978, USDA says, farm debts probably will rise by nearly 11 per cent to $112.6 billion. Meanwhile, farm assets are expected to gain only about 7.1 per cent to a projected $679.3 billion by Jan. 1, 1978.

That will mean a further increase in the debt-to-asset ratio to 16.6 per cent and a further boost in the debt-to-equity ratio to 19.9 per cent, according to USDA calculations.

Despite the rise in farm debt and the slight climb in the ratios used to measure it against total assets, it appears that farmers generally have been much better off in terms of ready money and other financial assets than they ever have been.

According to USDA analysts, farmers on Jan. 1, 1977 will have an estimated $16.1 billion in commercial bank deposits and currency, compared with $15.6 billion available last Jan. 1.

Other financial assets, which include U.S. savings bonds and investments in farmer co-ops, total another $17.3 billion, against $16.1 billion last Jan. 1.

YOU'RE WELCOME AT THE BANK IN '77

DON'T BE SURPRISED TO FIND LENDERS BIDDING FOR YOUR BUSINESS. THEY HAVE AMPLE FUNDS, STRONG COMPETITION AND THERE ARE SOME NEW ENTRANTS IN FARM LENDING

(By Joe Dan Boyd)

The New Year shapes up as one in which to dust off conservative game plans that have proved workable in good times and bad.

That was the mood at the American Bankers Association's (ABA) 25th national ag conference, held recently in New Orleans, La.

A Federal Reserve economist pegs the U.S. in an economic slowdown or "pause," at least temporarily.

But lenders are not stragged for cash to loan and will actually be out beating the bushes for farm business.

Outstanding farm loans were expected to be about 13% higher than a year ago on the first of this year.

"The fact that the American economy is in trouble should come as no surprise to anyone here," declared Sheldon Stahl, Federal Reserve Bank economist based in Kansas City.

Still, he does not necessarily see a return to such economic headaches as recession or double-digit inflation over the next year or two. "Anyone who predicts double-digit inflation and a recession in 1978 has a lot more courage than I do," he says.

Stahl suggests keeping an eye on developments such as oil price increases by the OPEC countries for the first solid clue. "That could affect our economy more than the switch to a Democratic Administration," he told the bankers.

For instance, an oil price increase closer to 20% than, say 10%, could put another brake on economies in Western Europe, dampening our export prospects there while cost of our own oil imports would also zoom.

"Look for a tenuous balance during 1977 and into 1978," he says.

Tenuous?

"Hard to sustain," he explains.

But it won't be hard to get farm credit if you're a good risk. In fact, unless you're already loaned "up to your limit" or having trouble paying off 1976 notes, don't be surprised to see several lenders make a bid for your bsuiness.

Expect to pay about the same interest rates that you got in '76. Competition for ag loan business could make it worth your while to dicker a bit on interest rates, and shop around to find the best deal.

"Almost all the chain banks are competing aggressively to lend money to agriculture," admits Walter Minger, Bank of America vice president in San Francisco, Calif.

Minger says that most of his borrowers' loans are "tied to prime" in some manner: "So our production loan interest rates are down moderately now—ranging from 7¾% to 9%," he explains.

Small country banks aren't as likely to tie rates to the going prime interest quote by the big "money centers," a figure that was down to 6½% during the New Orleans session. In fact, unless you bring it up yourself, chances are that prime won't even be mentioned at many banks.

"I don't see money center prime having any effect on our loan rates," explains C. P. "Buck" Moore, president of Northwestern National Bank of Sioux Falls, S.D. "By the same token, however, we didn't push our interest rates up in '72–'73 when prime went unusually high."

Moore points out that his bank has a high percentage of time money deposits which translates to a relatively fixed cost for available loan funds.

"Time certificates are also the basis for establishing our loan rates," agrees Charles Finson, president of the National Bank of Monticello at Monticello, Ill. "We try to develop a margin of profit of not more than 1%," he explains.

But, some bankers—like Leslie Peterson, president of Farmers State Bank at Trimont, Minn.—concede their interest rates could take a dip later if the reduction holds firm for money center prime—or continues to go down.

"Big city prime reductions could mean farm loan interest rates under 9%, compared with our present range of 9% to 10%," agrees T. E. Hankins, vice-president of the Bank of Dixie at Lake Providence, La.

"Actually, the Farm Credit System (FCS) tends to set rates," contends California banker Minger, who recalls that banks have been competing "nose to nose" with Production Credit Associations since he has been in the business. "But, with increased interest in agriculture by all lenders, we have to offer better terms to a shrinking base." What's more, Production Credit Associations and Federal Intermediate Credit Banks can reflect interest rate changes faster than banks because their funding structure is different, contends Minnesota Banker Peterson.

The 1977 outlook seems to boil down to this: "Plenty of competent farmers will have a choice of funds available to them," says Illinois banker Finson. "There's good fund availability from banks and FCS."

"But, bankers supply over 50% of the money for production agriculture, and the demand for farm loans is still very strong," Peterson maintains. However, he cautions that more borrowers than usual may already be loaned up to their practical debt loads, partly because many Midwest farmers are still holding substantial volumes of farm commodities in storage.

Loan demand isn't overly brisk right now in the area served by South Dakota banker Moore, who reminded us that drouth has resulted in a light grain crop and heavy movement of cattle to feed in Nebraska, Missouri and other points.

"But they'll come back when it rains. Bank funds are already committed to those farmers and ranchers when they're ready," he says.

Moore emphasizes that not everyone in his area is in trouble. "In fact, a high percentage of our customers didn't need to borrow money at all this year and may not need to in '77."

Bankers can cite a long list of reasons for all the competition for loan funds for agriculture. Minger nails down one of the most important:

"Agriculture is one of the least leveraged businesses in the country," he contends. "The national farm average is only $19 in liabilities for every $100 in assets."

That could be one reason for another credit source that's gaining ground: "Life insurance companies are making a new commitment to agriculture," observes Peterson. "But they're more interested in long-term and good-sized loans."

You may be able to capitalize on the competitive farm loan atmosphere by combining some of the available credit sources.

Joint loans through bank-FCS agencies aren't exactly new, but appear to be gaining ground with innovative bankers.

And new legislation during 1976 opens up yet another approach: You can now apply through your bank for a loan guaranteed by the Small Business Administration (SBA). This program—unlike Farmers Home Administration (FmHA)—is available not only to individuals, but also to farm partnerships and to family farm corporations. The SBA loan limits are higher than FmHA.

"Both SBA and FmHA are working closely to avoid any overlap, and the banking industry has pledged to help make the new SBA program work," explains Minnesota banker Peterson, who expects highly concentrated livestock loans to be among the first processed under the new program. "Custom feeding operations would be likely candidates," he speculates.

THE NATURAL GAS SHORTAGE

Mr. JAVITS. Mr. President, here in Washington we have witnessed the cause of what may turn out to be the most severe natural gas shortages in the Nation's history. The abnormally severe cold weather that is gripping the entire north central and northeast sections of the country is making demands on our limited natural gas supplies that simply cannot be met. Schools and factories are closing, businesses are cutting back their hours of operation, and residential users are being asked to turn their thermostats down to 55 degrees. In what I believe is an unprecedented action by the Federal Power Commission, pipelines have been told that interruptions to homes will be allowed.

As many in this Chamber will recall, we faced a very similar situation 1 and even 2 years ago. Last year, in response to considerably less severe shortages, the Senate passed an emergency natural gas supply bill that would have permitted pipelines to secure temporary emergency supplies by going directly into the intrastate market and purchasing gas at unregulated prices. I supported that concept and believe we must take similar action now if we are to have any chance to ease the situation this winter and prevent another, and possible worse, shortage next year.

Unfortunately, the emergency provisions became entangled last year with the debate over permanent natural gas pricing. Despite efforts by myself and others, we could not separate the emergency from the permanent provisions, with the result that the entire bill became deadlocked and no useful measure was enacted.

I hope we have learned that lesson. We cannot continue to let the controversy over natural gas deregulation become the cause of further natural gas shortages.

Senator RANDOLPH has introduced a bill, S. 271, very similar to the one adopted last year, that could help greatly during this emergency period. I urge that bill be used in an effort to move directly and quickly on this problem—not to embroil ourselves over the pricing issue until after we have legislated some partial solution to the present emergency.

On a parallel track, I want to reaffirm my commitment to the concept of tax credits for residential energy conservation efforts by homeowners and apartment owners. Last year, in the tax reform bill, we passed provisions for such conservation incentives. Unfortunately, they were stricken from the bill in conference. Chairman LONG promised to

take action separately, and a bill was reported, H.R. 6860, to grant tax credit incentives for many energy conservation measures, but the bill never reached the floor.

We must move quickly on this issue again this year. Senator GRIFFIN has introduced a bill (S. 198) that not only provides these incentives to homeowners but also provides additional incentives to utilities to market insulation materials to their customers. I believe the entire residential conservation effort depends on the active involvement of the utilities and the fuel oil marketers, and until they are given reason to sell conservation materials, we may be doomed to failure.

I believe that the assurances provided to utilities in S. 198 will spur their involvement in conservation and save us millions of cubic feet of natural gas and many thousands of barrels of oil. Each is precious and we should do all that is feasible to preserve and conserve them.

GAO REPORTS ON COST OVERRUNS FOR CIVILIAN AND MILITARY PROJECTS

Mr. PROXMIRE. Mr. President, the General Accounting Office has concluded an audit of 753 major civilian and military projects which shows an almost unbelievable cost overrun of $176 billion—64 percent more than original estimates.

The GAO figures show that these 753 projects were expected to cost $276 billion but have ended up with a price tag of $452 billion. The difference is enough to fund the entire Agriculture budget for over 13 years.

A total of 148 civilian projects had cost overruns of over 100 percent. The agency with the highest total of 100 percent overrun projects was the Army Corps of Engineers with 83. The corps received my "Golden Fleece of the Year" award last December for just that reason.

Of the $176 billion in cost overruns, the Defense Department represents $74 billion, followed closely by the Federal Highway Administration at $60.6 billion and then the Army Corps of Engineers at $14 billion.

One thing about cost overruns—they are common to just about every Government agency. The new figures show the Washington Metropolitan Area Transit Authority with an overrun of $3 billion. The Tennessee Valley Authority has a $2.9 billion cost growth problem on its hands. The Energy Research and Development Administration has $3 billion in cost overruns, and the Bureau of Reclamation of the Department of the Interior comes in with $5.5 billion. The extension of the Dirksen Office Building is up 78 percent to $85 million.

In fairness to all these agencies, inflation has played a role in the increased costs. But inflation is by no means the only culprit. When the GAO examined the reasons behind the projects averaging over 100 percent increases, they found inflation accounted for 47 percent. This left plenty of room for unanticipated development difficulties, faulty planning, poor management and underestimating.

The message of the GAO report is that cost overruns have become a way of life for the Federal Government.

These figures show just how badly the Congress and the taxpayer have been taken in by low estimates and promises of efficient operations. If we started saying no to projects with dramatic cost overruns, we would not only save money but also encourage proper management.

DR. MARTIN LUTHER KING, JR.

Mr. BROOKE. Mr. President, I am pleased to enter in the RECORD the remarks delivered by Senator EDWARD KENNEDY during ecumenical services in the Ebenezer Baptist Church of Atlanta, Ga., on January 15, 1977.

Senator KENNEDY's remarks fully describe the magnificence of Dr. King by explaining how this extraordinary man contributed so very much to this country.

As a cosponsor of Senate Joint Resolution 9, Senator Kennedy is one of over 50 Senators who support the effort to establish January 15, Dr. King's birthday, as a national day of commemoration in honor of this great American.

I ask unanimous consent that Senator KENNEDY's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR EDWARD M. KENNEDY

It is a distinguished honor for me to stand in the pulpit of the Ebenezer Baptist Church on the 48th anniversary of the birth of Dr. Martin Luther King, Jr. It is with a feeling of humility that I take part in this ecumenical service. For we worship in the House of the Lord and we commemorate the extraordinary life of the man who believed that the crises that divide Americans are not nearly as important as the qualities that unite us.

This day recalls the ancient verse from the book of Psalms: "They shall abundantly utter the memory of thy great goodness and shall sing of thy righteousness." He was a righteous man and a good man who refused to "accept the view that mankind is so tragically bound to the starless midnight of racism and war that the bright daybreak of peace and brotherhood can never become a reality."

This year, we must pledge to rekindle the spirit of peace and justice that is the enduring legacy of Dr. Martin Luther King, Jr.

For Dr. King awakened America. He was the heart of a mighty engine that moved this country toward a new revival of spirit and hope. He was the center of a stirring panorama that included names and symbols of a remarkable movement.

Brown v. Board of Education and Little Rock; Rosa Parks, Charlayne Hunter, Autherine Lucy; the Freedom Rides; Albany, Georgia; Orangeburg State College; John and Robert Kennedy and John Doar; Frank Johnson and Medgar Evers; the Edmund Pettus Bridge at Selma; Schwerner, Goodman and Cheney; Earl Warren, Whitney Young and Philip Hart; the Lincoln Memorial in 1963; Adam Clayton Powell and Andy Young; James Meredith, Watts and Resurrection City; CORE and SNCC; the NAACP and the leadership conference on Civil Rights.

And among these symbols of Civil Rights, there is Martin Luther King, Jr. his name leads all the rest.

His dream guided us when our vision dimmed. His courage inspired us when the sacrifices seemed too great. His ideas guided us when our footsteps faltered. His memory summons us again to action. It sounds the trumpet for new battles, for fresh assaults on the walls of racism and discrimination.

That trumpet reaches through the silence of the past eight years. Those who had shared his dream—and they were black and white, Christian and Jew, Northern and Southerner—they mourned for the man and for themselves. The oppressed throughout this land saw their dream shattered into thousands of tiny, personal nightmares.

And we heard the words of Langston Hughes, "what happens to a dream deferred? Does it dry up like a raisin in the sun? . Maybe it just sags like a heavy load. Or does it explode?"

Dr. King believed that the most powerful explosion was the force of nonviolence. That it was not sterile but a powerful force that could transform America.

He believed that "in a dark, confused world the kingdom of God may yet reign in the hearts of men."

But, at his death, official America began with a heavy hand to write an epitaph for black Americans. It was at a time when the words of Dr. King went unheeded

Dr. King preached that " I have the audacity to believe that peoples everywhere can have three meals a day for their bodies. education and culture for their minds, and dignity, equality and freedom for their spirits."

In a nation where we can explore the frontiers of space, surely, we can bring hope to the inner cities.

In a land that can produce food for millions around the world, surely we can end hunger around the next corner.

In a country that can produce machines to sustain life, surely we can provide basic care to every sick child whether he lives in Georgia or Massachusetts.

Dr. King believed we could do that. He called for an end to racism, for a new commitment in our inner cities, for new jobs for our young people and for new hope for the poor in our midst. But that call remains unanswered.

He wanted the black child to have the same chance to enter the best colleges as the white child, but that cause remains unfulfilled. He asked that a sick child have the same chance for quality care whether he lives in a tenement or in a luxury tower. But that too remains undone.

Even his call against the war remains incomplete. Dr. King sounded America's early warning signal, that the war in Vietnam was unjust, immoral and corrupt. He was in the vanguard for justice at home and peace in Indochina.

We have ended the fighting. We must keep faith with his call and end the divisiveness that lingers, with amnesty and pardon for draft evaders and deserters, with full benefits for the veterans, and compassion for those who received less than honorable discharges and carry a weight on their future For all of those let us hear the words of reconciliation.

From this pulpit, on this morning, I call out to America to begin a new revival. On this anniversary of Dr. King's birth it is fitting for us to begin again the work that Dr. King initiated.

Just 20 years ago blacks and whites would not have worshipped together in this very church.

Fifteen years ago, blacks in this State could not have gone to the polls to put Andy Young in the Congress or to put Jimmy Carter in the White House.

Even five years ago, the citizens of Boston—black and white—had not yet seen their constitutional rights protected.

As America begins its third century, we have a fresher understanding of the challenges before us. The Bicentennial Year has given all of us a new and deeper awareness of our heritage and history. Our task in the final quarter of this century is to breathe new life into the American Revolution, and breathe new meaning into the timeless principles by which America was born.

Both of these sons of Georgia have felt the greatness that our country can attain.

Both of these sons of the State of Georgia refused to accept things as they were.

When he was inaugurated as governor of this great State—President-elect Carter said, "The time for racial discrimination is over . . . no poor, rural, weak or black person should ever have to bear the additional burden of being deprived of the opportunity of an education, a job or simple justice."

Those are the words to bring to every State in this Nation, not just for the next four years or the next eight years, but for all time.

Frederick Douglas said it well: "If there is no struggle, there is no progress. Those who profess to favor freedom and yet deprecate agitation are men who want crops without plowing up the ground. They want the rain without thunder and lightning. They want the ocean without the awful roar of her mighty waters. Power concedes nothing without a demand. It never has and it never will."

Martin Luther King, Jr., during his lifetime, plowed up the ground of injustice and discrimination. He instilled in his followers a faith that made their voices roar like thunder and lightning in a clamor to be set free.

Despite the gloom of these past years, let our voices sound once more like thunder. Let our hands join to build a new order for a new age, and let us reach once more into the soul of America and find our future together in the words of Martin Luther King, Jr.:

". . . when the blazing light of truth is focused on this marvelous age in which we live—men and women will know and children will be taught that we have a finer land, a better people, a more noble civilization—because these humble children of God were willing to suffer for righteousness sake."

JACK CAVANAUGH EULOGY

Mr. ZORINSKY. Mr. President, at this time I would like the Senate to note the death of Mr. Jack Cavanaugh, father of Representative JOHN CAVANAUGH and a distinguished citizen of the State of Nebraska. Mr. Cavanaugh died of a heart attack Saturday at his home in Omaha. Mr. Cavanaugh made a tremendous contribution to good government in Douglas County, Nebr., as a member of its board of commissioners for 18 years until his retirement in 1974.

Mr. Cavanaugh instilled in his family the highest respect for representative government. He ran unsuccessfully for the seat in the House of Representatives that his son now holds. His dream, however, was realized on January 4 when he watched from the House Gallery as his son was sworn in as a Member of the 95th Congress. Jack Cavanaugh was a man, who through a lifetime of hard work, left this world a better place than when he entered it 56 years ago. He will be missed.

WHAT THE GENOCIDE TREATY WILL NOT DO

Mr. PROXMIRE. Mr. President, since 1967 I have stood almost daily before this distinguished body and urged its Members to ratify the Genocide Convention of 1948. During that time I have heard every conceivable argument which could be used against ratification and not one has proved convincing.

The Genocide Convention is purely and simply an initial attempt by the international body of man to outlaw a most heinous crime, that of mass murder of a specific racial, political, or cultural group.

This fact stands in sharp contrast to any of the arguments posed by the opponents of the Genocide Convention.

Contrary to the dissenters' opinions, the Genocide Convention does not hinder the right of free speech in this country. That is a right which can only be affected by our own Nation's courts, as the Supreme Court has shown time and time again.

Contrary to the arguments of the treaty's opponents, the Genocide Convention will not allow individual Americans to be harassed in other countries. Those persons or groups which are motivated to harass Americans in foreign countries will find the means to do so, with or without this body's ratification of the Genocide Convention.

And contrary to the argument made by some of the Convention's foes, ratification of the Genocide Treaty does not violate any of our Nation's constitutional processes. Even the American Bar Association has dropped that argument and its opposition to the treaty's ratification.

In summary, Mr. President, none of these arguments are, by any stretch of the imagination, applicable to the Genocide Convention or its ratification by this body. There is nothing standing in the way of our taking our responsible place among the world's nations by ratifying the Genocide Treaty. I urge that we take action immediately.

NATIONAL ORGANIZATIONS CALL FOR 1 MILLION JOBS FOR YOUTHS

Mr. HUMPHREY. Mr. President, early this month a group of prominent, national youth-serving organizations sent President Carter a position paper on youth employment calling for the creation of 1 million service jobs for the Nation's unemployed youths.

The organizations—including the National Child Labor Committee, the National Urban League, the National Boards of the YWCA and the YMCA, the Boys Clubs of America, the Recruitment and Training Program, the National Federation of Settlements and Neighborhood Centers, and the New York Coalition for More Jobs—urged that:

A public service youth employment program of one million jobs, at least three-quarters of which would be for out-of-school, out-of-work youths should be launched immediately, through the Comprehensive Employment and Training Act, other existing mechanisms, new contractual arrangements or a combination of these. Preference in the program should be given to those youth who are members of minority groups, to women, and to those others whose employment problems are manifestly greater.

Such a program should provide socially useful work serving community needs, and prepare enrollees to move on to jobs in both the private and public sectors of the economy.

On Tuesday, January 11, I introduced a bill (S. 170) which would establish just such a program of community service jobs for up to 1 million youths, as well as establish a wide variety of other programs to assist youths in their preparation for the world of work. This bill, the Comprehensive Youth Employment Act of 1977, was coauthored by my good friend Senator JAVITS, and has been cosponsored by Senator ABOUREZK, MATSUNAGA, CASE, INOUYE, ANDERSON, and MOYNIHAN.

Among the programs that would be created by enactment of the Comprehensive Youth Employment Act are:

First, a youth community service program to create productive jobs for youths on local community projects;

Second, a youth opportunities in private enterprise program to help youths find jobs in private enterprise and to reimburse industry for on-the-job training costs;

Third, a work experience for in-school youths program to provide youths with job experience before secondary school completion;

Fourth, an occupational information and career counseling program to provide youths with the job counseling and information needed to make informed career choices;

Fifth, a national conservation corps to provide jobs for youths on national and local conservation corps projects; and

Sixth, an expansion of the Job Corps for severely disadvantaged youths.

I welcome this group of organizations' call for a significant youth employment program and I welcome their support.

Mr. President, I ask unanimous consent that the position paper be printed in the RECORD at this point.

There being no objection, the position paper ordered to be printed in the RECORD, as follows:

POSITION STATEMENT ON YOUTH EMPLOYMENT

We believe that a major assault on the problems of youth employment is essential, and that this effort must begin in the very near future. To begin to meet the immediate needs of today's unemployed youth, a carefully planned, one-million-job public service youth employment program should be implemented as soon as is feasible; and a Presidential Youth Commission with the full backing of the President and with considerable authority should be created within the next six months for the purpose of long-range, comprehensive planning, coordination and youth advocacy.

The millions of young people who are unemployed cannot be adequately absorbed by the private sector, nor can they be reached by the standard remedies for adult unemployment and a flagging economy—increased employment among adults does not benefit young people, and tax cuts do not filter down to them. If we are to reduce the national tragedy of massive, chronic youth unemployment the special needs of youth must be confronted directly.

Furthermore, if young people are to be prepared for productive adulthood we must recognize that youth employment problems encompass many groups: the unemployed, the underemployed, those seeking part-time work, and all younger children who are uninformed about the world of work. If the

federal government is to launch a truly meaningful effort to reduce youth unemployment for the present and insure jobs for youth in the future, the neglected needs of all of these groups must be met.

Dealing with all these needs would require a massive effort, including the creation of between four and five million jobs, which cannot realistically be expected at this time. However, a limited approach, considering a hierarchy of needs should be undertaken as quickly as possible, with long-range plans prepared by the Presidential Youth Commission to meet the needs of those young people not immediately served.

PUBLIC SERVICE YOUTH EMPLOYMENT PROGRAM

A public service youth employment program of one million jobs, at least three quarters of which would be for out-of-school, out-of-work youth should be launched immediately, through the Comprehensive Employment and Training Act, other existing mechanisms, new contractual arrangements or a combination of these. Preference in the program should be given to those youth who are members of minority groups, to women, and to those others whose employment problems are manifestly greater.

Such a program should provide socially useful work serving community needs, and prepare enrollees to move on to jobs in both the private and public sectors of the economy.

PRESIDENTIAL YOUTH COMMISSION

A Presidential Youth Commission, housed in the White House, should be created to provide overall direction and planning for youth programs, greater coordination among operating departments (e.g. the Departments of Labor and Health, Education and Welfare) and greater adherence by all concerned to the developmental needs of youth. Equally important, the Commission would be a focal point for youth advocacy within the federal structure.

The PYC should be given Cabinet-level status, and its Commissioner included in Cabinet meetings. Its mandate should require the development of comprehensive, long-range plans for federal action, to be presented to the President within one year of its creation.

The Commission in its planning should, through conferences and workshops, seek input from and consultation with a broad spectrum of groups in our society, including business, labor, education, voluntary organizations and youth. Voluntary agencies, in particular, have had significant success in youth program operations, and should be given a major role in both planning and conducting future efforts.

All of the organizations endorsing this statement stand ready to assist in the planning and implementation of federal efforts made on behalf of youth, and we are prepared to provide additional specifics upon request.

RECOMMENDATIONS ON PUBLIC SERVICE EMPLOYMENT PROGRAMS FOR YOUTH

1 That jobs be developed in line with an analysis of current and projected labor market needs to insure that Public Service Employment participants will be able to compete for jobs upon leaving the program, and that the labor market needs be quantified and placed in a time frame.

2. That in developing these jobs for youth, task analysis be used to identify training needs, specify skill levels, and prepare job descriptions.

3. That separate data on youth be gathered measuring employment, underemployment and unemployment by census tract, race, sex, age, education, previous work experience and usable skills.

4 That a national monitoring and evaluation effort be part of the overall program from its inception to insure continuous program improvement and progress, and that it be conducted by non-government organizations.

5. That every program established by any department of government contain a youth employment section in its manpower impact statement.

6. That there be a significant role for voluntary and community-based organizations in planning and implementing youth employment programs, both on national and local levels.

7. That the Public Service Employment Program, to insure community participation, require local communities to establish a cooperative network of agencies and institutions for comprehensive planning, implementation, and evaluation.

8. That individual programs be small in size and located as close to home as possible, eliminating the need for residential services, at least in urban areas.

9. That training slots and jobs be focused on areas of social need and on labor-intensive occupations.

10. That wherever possible young workers be integrated with the regular adult work force and not segregated with their peers.

11. That every local program be mandated and funded to provide reasonable and related education and training.

12. That competent counselors and supervisors be provided in every program, and that the ratio of such staff to enrollees be established on the basis of work requirements and enrollees' needs.

13. That at least the minimum wage be paid to all enrollees, with the possible exception of those who may be engaged in a carefully supervised, legally authorized, apprenticeship training program.

14. That no job in the program be created by laying off a regular employee.

UNITED STATES–CANADIAN RELATIONS

Mr. PEARSON. Mr. President, I take this opportunity to commend the Canadian Government for making 250 million cubic feet of natural gas per day available for export to the United States. At a time when shortages of natural gas in the United States are at emergency levels, the decision of the Canadian National Energy Board is particularly welcome and significant. Utilities in eastern Canada will reduce their consumption from the trans-Canada system so that the Columbia Gas Transmission Corp. might purchase the vitally needed gas for distribution to gas-deficient areas in our Nation.

Mr. President, as a result of the record cold wave, the United States is experiencing a natural gas shortage that has idled over 200,000 workers and closed hundreds of schools. Many States have declared energy emergencies and have called for voluntary conservation measures by homeowners, stores, and industries.

In my home State of Kansas, the Energy Office predicted that natural gas curtailments would be 63.5 billion cubic feet—a shortfall of 29.65 percent. However, due to the severe conditions, the actual curtailments for the first 2 months of this winter are running at a shortfall of 37 percent.

Although the amount of natural gas imported by the United States from Canada is only 4 percent of our total consumption, it is vitally important to many regional markets. Canadian natural gas accounts for 71 percent of the gas consumed in New Hampshire, Vermont, and Maine; 60 percent of the gas in Montana; 30 percent of the total natural gas used in California, Washington, and Oregon; and over 15 percent of the natural gas in Minnesota, Wisconsin, and Michigan. The increased availability of Canadian natural gas will allow the United States to better distribute its own supplies to those areas of the Nation that need it most.

Mr. President, this sale should be viewed within the context of our overall relations with Canada. The United States and Canada have a unique relationship. We share the world's largest unarmed border. Over 70 million people cross this 5,500 mile frontier each year. Canada and the United States have the largest bilateral trading pattern in the world, amounting to over $40 billion annually. There is a network of relationships—personal, family, business, financial, formal, and informal—which affect life in both countries. Since World War II, the two nations have entered into formal mutual security and special trade relationships.

We are so accustomed to the friendship and interdependence of the United States and Canada that we tend to overreact when differences between the nations arise. But we must become aware of the fact that our relationship is changing.

Canada is seeking to reduce its dependence on the United States and establish a distinctive national identity. Canadians are becoming more nationalistic. At the same time, the United States is continuing to stress the importance of political and economic cooperation. The ensuing conflicts have strained our friendship. At times, the tensions between the two nations have tended to obscure a fundamentally sound relationship. The good relationship must be preserved—we must make constructive efforts to solve our differences.

Canadian nationalists have attacked American dominance of the Canadian economy. Many Canadians feel this dominance cuts short their bid toward a separate identity. They back their feelings by pointing out that Americans own 80 percent of the long-term foreign investment in Canada; they control 96 percent of the auto industry; 90 percent of the electrical equipment industry; and 50 percent of all manufacturing.

A recent Gallup poll indicated that 58 percent of all Canadians would prefer to see their country buy a majority control of U.S. companies operating in Canada, even if this meant a reduction in their own standard of living.

The Canadian government has reflected this public opinion by imposing trade restrictions curtailing American imports of both capital and agriculture.

Let me briefly list just a few of the other issues that are presently increasing United States-Canadian tensions. Both nations present conflicting claims regarding the extension of their maritime jurisdictions. There are differences in approach to the issues presented at the Law of the Sea Conference. Americans are concerned that Canadian cable television stations pick up American pro-

grams, but blackout the commercials and replace them with Canadian sponsors. Both nations are upset that the other is polluting the Great Lakes. Americans are concerned about plans to nationalize American-owned potash companies in Saskatchewan. There is disagreement whether natural gas from Alaska should be piped through Canadian territory.

Mr. President, Canadian-United States energy relations are also causing tensions. Canada has always been considered the most reliable and secure source of imported energy for the United States. The new Canadian energy policies are an integral part of the official "Canada First" program. The Canadians now state that only energy sources found to be in excess of domestic needs will be exported.

Mr. President, it is in light of these recent events that the decision of the Canadian National Energy Board to release the needed gas supplies must be seen. Certainly, the two nations have their differences. But we must remember that in times of emergency our cooperation far exceeds our conflicts. Mr. President, we have often overacted to some of our differences. We must remember that our relationship with Canada remains sound. The release of the natural gas is most appreciated, and it is a positive sign that we can work out our common differences.

UKRAINIAN DAY OBSERVANCE

Mr. ZORINSKY. Mr. President, 59 years ago this week, the freely elected parliament and Government of the Ukraine declared itself to be a free and independent nation.

As we discuss modern issues like the "Vladivostok and Helsinki Agreements," "detente" and "SALT," we might do well to remember that Soviet Russia among others recognized the fledging nation. We all know what happened. Almost immediately, the Soviet Government moved overtly and covertly to incorporate the sovereign Ukrainian state as a constituent member of the Soviet Union.

As the United States of America moves into its third century of democracy and freedom, we should not forget the millions of people whose aspirations for national self-determination have either been crushed or never realized.

A TRIBUTE TO THE UKRAINIAN NATION

Mr. ROTH. Mr. President, January 22 marks the anniversary of the independence of the Ukraine. The Ukraine occupies a large area in eastern Europe, and its people are one of Europe's most numerous national groups. They have a distinguished and important place in world history, beginning with the flowering of Kiev as a center of cultural enlightenment in centuries before the Mongol conquest in the 13th century.

Unfortunately, the Ukraine enjoyed independence for only a brief period after the first World War. In 1921, the invading Red Army crushed the Ukrainian Republic and a Communist-controlled puppet regime was established. In 1923, the Ukraine was merged into the Soviet Union, thus betraying the Ukrainian people's desire for freedom and independence. Since then the Ukrainian people have suffered many hardships including famine, invasion, and political and cultural repression.

Despite Soviet repression, the Ukraine continues to produce courageous and articulate spokesmen, such as Valentyn Moroz and Svyatoslav Karavansky. I am pleased to join the many thousands of Americans of Ukrainian descent in Delaware and the other 49 States in once again paying tribute to these individuals and the great Ukrainian nation. I am confident that they will one day regain their legitimate rights.

STATEMENT BY SENATOR ABOUREZK

Mr. McGOVERN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from South Dakota (Mr. ABOUREZK).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR ABOUREZK

I have asked my colleague Senator McGovern to insert this statement into the RECORD today because it was necessary for me to be absent. I thought it was important to express my feelings about the position Mr. Califano, the new HEW Secretary, has taken in regard to the use of public funds for abortion.

Mr. Califano's stated opposition to the use of Medicaid funds for abortions runs counter to my feelings on this subject but also runs counter to what I think is required by the equal protection clause of the 14th Amendment to the Constitution.

If Mr. Califano, in his position of HEW Secretary, does in fact restrict the use of Medicaid funds for abortion, it is clear he would be placing the government of the U.S. in the position of discriminating against the poor who cannot afford to pay the cost of an abortion.

Mr. Califano would not be putting an end to all abortions in this country because abortions would still be available for those who could afford it. Abortions will also continue to occur because poor women will again obtain their abortions from backroom abortionists in both unsafe and inhumane conditions.

Mr. President, I want to urge Mr. Califano not to restrict the progress we have made in the country toward realization of equal rights for every American.

HOW TO SUCCEED AT HUD

Mr. BROOKE. Mr. President, as we go through this period of transition from one administration to another, there is time to make an assessment of the state of the government being handed over from the Ford administration to the Carter administration.

As the ranking Republican on the Housing Subcommittee, I am particularly interested in the state of the Department of Housing and Urban Development. In this regard the January 24 Washington Post contained two excellent articles—the first by Charles Krause titled "What Mrs. Hills Did," and the second by Carrie Johnson titled "What Mrs. Harris Faces." I shall ask unanimous consent that these two articles be printed in the RECORD following my remarks.

Both of these women are talented lawyers with forceful personalities. I think Mrs. Hills' service in Government has given her a deserved reputation for both competence and an ability to achieve results. And there is every reason to believe that if Mrs. Harris does as well in administering HUD as she did in fielding questions at her confirmation hearings she will be more than qualified to carry on what Mrs. Hills has so ably begun.

Mr. President, I ask unanimous consent that the two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WHAT MRS. HILLS DID

(By Charles A. Krause)

Before Carla Anderson Hills slips from the public eye, her almost two years of service as Secretary of Housing and Urban Development should be appraised.

Sen. William Proxmire (D-Wis.), chairman of the Senate Banking, Housing and Urban Affairs Committee, was wrong when he said during confirmation hearings for Patricia Roberts Harris, the new HUD Secretary, that Mrs. Hills was "a failure."

Proxmire and other critics of Mrs. Hills say that she never demonstrated a real concern for the housing needs of the poor, that not enough subsidized housing was built during her tenure and that she was unable to get more money from the Ford administration for the cities.

But Secretary Hills didn't see her role that way. She saw it as straightening out demoralized, inept and confused department to provide the framework for effectively delivering the programs HUD already has.

It is now generally recognized by almost everyone who deals with HUD, from the president of the Mortgage Bankers Association of America to the director of Ralph Nader's Housing Research Group, that she was right: HUD had to be cleaned up administratively before there was any point in dumping more programs in its lap and before more ambitious goals could be pursued. And Carla Hills was right for the task.

As Secretary, she was tough. She accepted none of the gobbledygook that some HUD bureaucracy predictably tried to push on her. She had a command of the department's programs that seems to have awed even the oldest HUD veterans. And she tried valiantly to make those complicated programs work.

Specifically, Mrs. Hills managed to get HUD's billion-dollar rent-subsidy program off the ground, no mean feat considering that the program, passed by Congress in 1974, did not even have published regulations when she came to HUD in 1975.

She also succeeded in getting a financial-counseling program for thousands of HUD-insured homeowners who are on the brink of defaulting on their mortgages. She started the federal government's successful urban homesteading program, which allows families to buy homes for $1 if they will fix them up and live in them for three years.

Finally, she earned the respect of mayors, congressmen, housing industry representatives and the press for her truthfulness, her unwillingness to promise more than she could deliver and her insistence on delivering what she promised. All too often she spoke in legalese, but she could be eloquent on the subject of revitalizing the nation's cities.

At the end, this smart lawyer, who knew nothing about housing when she was ap-

pointed, was able to make program decisions based on a keen understanding of the problems inherent in providing housing for the poor and lower-income families.

She could not do everything in less than two years time. But that had more to do with the sorry state she found HUD in when she came than with any inability or unwillingness on her part to grapple with hard issues and demand results.

Proxmire called Mrs. Hills a failure because HUD was able to produce only 41,000 new subsidized units last year under the new Section 8 rent subsidy program. He should have complimented her: It is amazing that any new units were produced at all, given the many serious administrative and programmatic problems she found at HUD

There is no question that, despite Mrs. Hills' best efforts, HUD is still in many ways a troubled, wasteful, often unproductive agency that wraps its programs in red tape.

Just one example: It now takes three years from the time regulations are published to the time a new public housing unit is completed. Trying to understand all of the procedures would give anyone a headache. And this program was begun 40 years ago, plenty of time, it would seem, to untangle the bottlenecks and streamline the requirements.

One top HUD official recently likened the department to a battleship: hard to stop, hard to start and almost impossible to turn quickly. HUD's waves (in the form of bad programs, bad administraiton and even corruption) have swamped whole cities (one needs only visit Detroit to see how HUD's old home-ownership program for the poor has created terrible waste and destruction).

But that was not Carla Hills' fault. She came to clean up the mess and she succeeded beyond most people's dreams. Toward the end, in fact, several influential Democrats were urging President Carter to keep her on.

HUD may still be a clumsy battleship, but no one can say that Carla Hills was not a tough and talented captain.

WHAT MRS. HARRIS FACES

(By Carrie Johnson)

The incoming Secretary of Housing and Urban Development, Patricia Roberts Harris, has started off with two smashing performances. First she invoked her experiences as "a black woman, the daughter of a Pullman-car worker," to demolish Senate Banking Committee chairman William Proxmire's criticisms of her ability to represent the urban poor. Then she won rave reviews from big-city mayors last week by promising vigorously—though predictably—to channel more funds to the cities and to act as their "aide," not their "adversary."

Yet a basic question remains. It is not whether an aggressive lawyer with a sharp mind and rhetorical flair can be effective at HUD. It's how do you tell?

How do you measure success in the murky arena of urban affairs? Proxmire's favorite gauge is how many subsidized housing units get built. By that standard the best HUD Secretary was George Romney. But that expansionist era (1969-73) was soured by massive scandals and mismanagement. Hundreds of thousands of homes and apartments underwritten in the Romney years have come back to HUD in default, causing enormous damage in cities like Detroit, plus federal losses that may exceed $1.8 billion.

Well, HUD is supposed to be more than a housing agency, so perhaps some broader index of urban progress can be applied. Yet the HUD Secretary does not have full command of federal urban policies; key programs such as jobs, welfare, revenue-sharing and public works are run elsewhere. Even in the housing planning and development areas where HUD is engaged, what happens often depends more on economic conditions and local leadership.

Are we left, then, to judge Mrs. Harris' performance only by whether she can keep the mayors contented and hold her own on Capitol Hill? Not at all. There are some tough tests on which she can be graded. Here are three:

(1) Whether she can run HUD at least as well as her predecessor, Carla A. Hills, whose greatest achievement was devising a management system that worked. She negotiated specific performance goals for HUD personnel and monitored progress so effectively that she could tell Proxmire this month, for instance, that "we said we would reserve 400,000 units or rental assistance by September 30—and we reserved 492,000." Overall, the Hills staff calculated that 40 of her 61 targets were met, with minor problems in 17 areas and major snags in only four.

Careful readers will have caught one jarring word there: "negotiated." Does a HUD Secretary really have to negotiate goals with her subordinates? Certainly—if she wants to set attainable targets and mobilize a bureaucracy that is far-flung and was so recently demoralized.

Moreover, there is no faster way to find out where HUD's limits are. For instance, Secretary Harris has said that she wants to reach the 1968 housing act's goal of 600,000 subsidized housing starts per year—which involves more than doubling production. HUD budget officers estimate that to do that under current programs, she would need 1,600 to 2,000 more personnel. A few such figures should make it clear why Mrs. Hills put such emphasis on modest promises and sharp management.

(2) How well she can make the housing subsidy programs work. This is not just a matter of getting more resources and minimizing scandals and defaults. Two other problems need to be addressed. One is that HUD's regulations and guidelines need to be pruned. The programs' complexities make many builders and investors reluctant to participate.

A larger problem is the perennial conflict between building housing and housing people. Emphasizing subsidized construction is the best way to please the housing industry and its congressional champions. But subsidizing lower-income families in decent existing housing costs much less per unit and may be more beneficial for the cities and the poor whom Mrs. Harris regards as her prime constituents. To help stabilize neighborhoods and enable more families to find decent homes, she will have to persuade Congress to make the programs more flexible.

(3) Whether she can persuade local officials, especially in the suburbs, to accept lower-income families where they are now shut out. Since the Supreme Court has discouraged legal challenges to restrictive zoning, the best tool for opening up the suburbs may be the popular program of block grants for community development. To qualify for aid, jurisdictions must file plans that include housing for the lower-income families "expected to reside" there. Many suburbs have submitted plans and gotten sizable grants—while doing nothing to provide the homes.

By enforcing the law sternly, the new Secretary could force such communities to choose between providing some lower-income housing and losing their grants. This is, however, a very delicate exercise. If HUD comes on too strong in favor of economic integration, many jurisdictions might simply pull out of the program—and President Carter or Congress might well pull out the rug from under HUD. Thus, if she wants to open up new housing opportunities for poorer families, Mrs. Harris cannot afford to be too much their champion. How she handles this prickly problem will be the hardest test of her political astuteness and persuasive powers.

PRELIMINARY NOTIFICATION: PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that five notifications were received on January 19, 1977.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S116 in the Capitol.

REAPPRAISING NUCLEAR WEAPONS POLICY

Mr. HATFIELD. Mr. President, a recent issue of Army magazine contained a thought-provoking article on nuclear weapons policy. Specifically the article questions the wisdom of our substantial reliance upon nuclear weapons, both tactical and strategic, for response to a wide variety of conflict situations. As the author, Dr. Harvey A. DeWeerd, points out—

> Policies which call for the use of nuclear weapons for any purpose but to deter or defend against a direct nuclear attack on one's homeland will become increasingly open to question.

Mr. President, as we contemplate estimates of Soviet capabilities and assess our own, I believe it is most important that we evaluate the role of nuclear weapons in our defense posture. I believe that this article will be helpful in that evaluation, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Army magazine, January 1977]

IS IT TIME UNITED STATES REAPPRAISED ITS NUCLEAR WEAPONS POLICIES?

(By Harvey A. DeWeerd)

Should the nuclear weapons policies developed by the United States from 1945 to 1976 be reexamined or revised?

To judge from what is being written in the press and said over the air, many Americans feel that as soon as the Carter Administration can divert its attention from urgent

domestic problems, it would be in the national interest to reexamine the extent to which nuclear weapons should be relied upon to support American foreign-policy objectives.

Existing policies about the use of nuclear weapons were importantly influenced by the events of World War II, particularly by the strategic bombing campaigns against Germany and Japan. The surrender of Japan, coming immediately after nuclear air strikes against Hiroshima and Nagasaki, led some to believe that strategic nuclear bombing operations would "revolutionize" warfare and reduce the need for large armies, navies and air forces.

They believed that a few bombers carrying nuclear weapons would be able to accomplish what immense fleets of planes carrying "high-explosive" bombs failed to accomplish in World War II: defeat the enemy quickly by destroying his military, industrial and population bases of power.

In their enthusiasm men wrote books and articles about what they called "the ultimate weapon."

In "the gunpowder era," the utility of a new weapon was determined by the extent to which it could help defend a country and further its foreign policy objectives. The nations of the world have had centuries to adapt to the invention of gunpowder, but the United States has had only three decades to adjust its foreign and defense policies to the invention and proliferation of nuclear weapons.

A study of political-military history from 1945–1976 leaves one with the impression that the United States rushed into a reliance on nuclear weapons in hope of realizing simultaneously great economies in defense expenditures and increased security. The results have been both unexpected and disappointing.

In what we now know was the false hope of big-three unity after World War II, the United States demobilized its great armies, naval and air forces with a speed unequaled in history. The government reduced defense expenditures on conventional forces to a point where it could not carry out President Harry S Truman's "contain communism everywhere" doctrine announced in 1947.

Three years later, in the spring of 1950, the National Security Council made a study of the defense implications of the Truman doctrine. Its findings, revealed in the recently declassified (formerly top-secret) report, NSC–68, were that the weakness of the United States in conventional forces would prevent it from offering resistance to the Soviet Union at "any of several vital pressure points in the world."

This being the case, the only deterrent to Soviet aggression the United States could present, NSC–68 states, "would be to make any of the vital pressure points it could not hold the occasion for a global war of annihilation."

A number of factors led the United States to decide on nuclear weapons as the cornerstone of its defense policy: the cold war behavior of the Soviet Union; the fear of "bankrupting the country" by trying to support conventional forces, and the seductive appeal of nuclear-deterrence theories which held that nuclear weapons are so destructive they would deter aggression and thus "do away with war."

The decision was also influenced by the then current belief in the "monolithic" character of the communist threat under Stalin, in the "indivisibility of peace," and the anticipated "total" character of the next great war, commonly referred to as "World War III."

In the late 1940s and early 1950s, it was widely assumed that World War III would happen as soon as the Soviet Union developed a strategic nuclear capability to attack the United States and would be accompanied by a Red Army invasion of Western Europe.

Instead of World War III, the United States in the 1950s and 1960s became involved in limited conventional wars in Korea and South Vietnam, fighting against the proxy powers of the Soviet Union and the People's Republic of China. While the last of these long and costly wars was being waged in Vietnam, thousands of miles from the United States, we accepted the communization of Cuba less than 100 miles from the coast of Florida.

We also accepted a détente with the Soviet Union which helped that country support our enemies in Vietnam, and we also accepted a great shift in the strategic balance favoring the Soviet Union.

For a free and open country like the United States, one of the major problems presented by the decision to rely on nuclear weapons was to develop policies under which these weapons could be used to defend the homeland and protect American interests abroad—policies that would be credible to our adversaries, our allies and our own people.

The use of nuclear weapons to defend the United States itself was never a matter of much doubt. What was always in doubt, even in periods of American monopoly or great superiority over the Soviet Union, was the extent to which they could be used to defend third world areas important to the United States.

By the mid-1960s, the strategic nuclear capabilities of the Soviet Union had increased to where there seemed to be few places outside the United States worth defending at the cost of an all-out nuclear war.

There have been great differences concerning the use of nuclear weapons between the declarations of the Soviet Union and those of the United States. U.S. statements have always implied the deterring of war rather than fighting one with nuclear weapons; the Soviets have rather emphasized the necessity of fighting and "winning" a nuclear war.

American policy statements have changed frequently from 1945 to 1976; Soviet statements have not. They have consistently declared that any great war with the West would involve the use of nuclear weapons, and that tactical use of nuclear weapons would inevitably lead to all-out nuclear war.

The United States has been at a disadvantage in the battle of words about nuclear weapons. Because the United States fought two large-scale limited wars in Korea and Vietnam and accepted a less-than-favorable outcome of those wars without using nuclear weapons, U.S. statements on nuclear weapons have been tested in ways that Soviet statements have not.

One consequence has been to raise questions about the certainty that the United States would use nuclear weapons to defend its major allies. Lord Louis Mountbatten, after he had retired from the post as chief of the British Defence Command and no longer had to support the official position of NATO on tactical nuclear weapons, wrote a letter to the London *Times* (23 February, 1970) which said: "No one in his right mind would contemplate the use of tactical nuclear weapons [in Europe] because this would lead to total global nuclear destruction."

Gen. Alfred G. M. Perétié of the French Army expressed much the same view in sardonic language in the July, 1975, issue of the *Revue de Défense Nationale*. With exquisite understatement, he wrote: "The thinking of those who recommend the nuclear initiative does not seem to be particularly felicitous."

While some critics have pointed to inconsistencies between what the United States has said about nuclear weapons and what it has done in the years 1945–1976, there is a grim consistency about what Soviet leaders have said on the subject of nuclear weapons in war and what they have done to prepare for it.

They have pushed through to near completion an immense but unpopular civil defense program. They have created a large militia force to supplement the regular military establishment in order to maintain order in the event of a nuclear war. They are taking steps to protect vital industries and raw materials in order to ensure a successful post-attack recovery program.

They are reported to have protected food reserves from nuclear contamination. All that remains to be done in order to demonstrate their "war survival capability" would be to do what some Kremlinologists predict they will do at some time of maximum political impact in the future—evacuate the population of some of their large cities.

All this does not mean that the Soviet Union will employ its growing strategic nuclear forces to launch an all-out attack against the United States. They will not have to pay the costs of such a course of action to extract concessions from the United States in salami fashion—all of which they will probably describe as "contributions to detente" and "steps toward peace."

The difficulties involved in arriving at credible American policies for the use of nuclear weapons are illustrated by the tortuous series of changes made in post-World War II policy statements issued by the United States.

These statements ranged from John Foster Dulles' 1954 Massive Retaliation doctrine to President Dwight D. Eisenhower's 1955 assertion that nuclear weapons are the "same" as conventional weapons and would be used in the same way; to Adm. Arthur Radford's 1958 pronouncement that "our whole military program is based on nuclear weapons"; to Robert S. McNamara's 1962 "city avoidance" policy statement and to his 1964 "flexible response" statements; to Melvin Laird's 1969 "assured destruction" policy statement, through James R. Schlesinger's 1974 plea for "limited nuclear options" and his agonizing statement in 1975: "There is a residual possibility that in the event of a major aggression against the United States and its allies, the United States may have to employ nuclear weapons."

Small wonder that our allies and our own people have been confused by the changes expressed in these statements.

One important factor behind the series of changes in American policy statements has been the enormous growth in numbers and effectiveness of nuclear weapons in the stockpiles of the Soviet Union and the United States and uncertainties about the consequences of their use in war.

A 1975 study conducted by the National Academy of Sciences strongly suggested that environmental consequences of the gravest nature might follow the explosion of large numbers of high-yield nuclear weapons in the atmosphere.

These adverse environmental consequences are expected to be so widespread and unavoidable that the country launching a large-scale nuclear attack upon another country woud suffer serious physiological, economic and environmental damage—even if there were no nuclear response from the country which had been attacked.

As these prospects are studied here and in the Soviet Union, policies which call for the use of nuclear weapons for any purpose but to deter or defend against a direct nuclear attack on one's homeland will become increasingly open to question. French Gen. Pierre Gallois, writing in *International Security* (Fall, 1976), expressed a view held by many West Europeans when he said: "Countries which possess nuclear weapons foresee their use only for the direct protection of their territory."

This is likely to be the case no matter what policy statements are issued about the use of nuclear weapons.

McGeorge Bundy, who served as national security adviser to Presidents John Kennedy and Lyndon Johnson, wisely discounted the views expressed by "defense intellectuals" about the willingness of U.S. (or Soviet) leaders to use nuclear weapons against the other country's cities. He wrote:

"There is an enormous gulf between what political leaders really think about nuclear weapons and what is assumed in the complex calculations of relative advantage in simulated strategic warfare. Think-tank analysts can set "acceptable" damage levels well up in the tens of millions of lives. They can assume that the loss of dozens of great cities is somehow a real choice for sane men. They are in an unreal world. In the real world of real political leaders—whether here or in the Soviet Union—a decision that would bring even one hydrogen bomb on one city of one's own country would be recognized in advance as a catastrophic blunder . . . and a hundred bombs on a hundred cities are unthinkable. Yet, this unthinkable level of human incineration is the least that could be expected by either side in response to any first strike in the next ten years, no matter what happens to weapons systems in the meantime. . . . In sane politics, therefore, there is no level of superiority which will make a strategic first strike between the two great states anything but an act of folly."

Present U.S. alliance commitments to South Korea and NATO would require the employment of tactical nuclear weapons by the United States if conventional theater forces were unable to stop a communist advance into their territory. If theater nuclear forces should fail, then strategic nuclear forces would be expected to come into action. The ultimate, if somewhat irrational, threat in that case would be nuclear attacks on the aggressor's cities, with all that this would imply.

The U.S. Army would be vitally involved in the first two stages of such a tragic chain of events. Among the armies of the great powers, the U.S. Army is the only all-volunteer force. In existing circumstances, the United States must tell its small volunteer Army that it must train and prepare for conventional operations in which it is likely to be outnumbered.

Then, when things go wrong and—in former Secretary of Defense Schlesinger's words, "circumstances [are] indeed so desperate that there seemed to be no other alternative"—tactical nuclear weapons would be used.

That is not an attractive prospect for any army. You cannot plan in a responsible fashion for such a war, to say nothing of preparing troops to face the ordeal of such uncertainties. This writer has taken part in a great many war games in which the opening scenario told the Blue team that it must conduct the defensive phase of a campaign on the assumption that conventional weapons are to be used in the initial phases, but that nuclear weapons might be used after the conventional war had essentially been lost.

Such a scenario presents impossible problems to soldiers, planners and operational officers. While war games cannot simulate what would happen in a real war, Blue players invariably conducted the conventional phase of these war games with the objective of putting their surviving forces in the best condition to face the changeover to tactical nuclear war.

In many instances, this prevented them from getting the best defense possible out of their conventional forces before the changeover took place.

In many instances, this prevented them from getting the best defense possible out of their conventional forces before the changeover took place.

The situation is not the same for the Soviet Union. With its conscript forces and its police-state discipline, it can and does tell the Red Army to train and prepare for war with the West on the assumption that nuclear weapons would be used. It conducts its maneuvers in ways consistent with this assumption.

Yet, it maintains conventional forces large and powerful enough to attain some of its foreign-policy objectives without requiring the support of tactical nuclear weapons. Thus far, this fact has provided all the rationale needed to satisfy its thoroughly indoctrinated and disciplined armed forces.

One strong incentive for reexamining U.S. nuclear weapons policies would be the possibility of lessening the burden under which our armed forces are compelled to operate, which arises from the inconsistencies and irrationalities inherent in these policies—as compared to the elements of consistency which seem to exist between Soviet statements and preparations for war.

Even Secretary of State Henry Kissinger, who has tried to carry out U.S. foreign policy while Soviet strategic nuclear capabilities are rapidly increasing, has expressed doubts about the usefulness of nuclear weapons. Exasperated by Soviet unwillingness to agree on reductions of nuclear weapons—or even parity of strategic nuclear forces—in the Moscow arms limitation talks of July 1974, he asked the questions: "What in God's name is strategic superiority and what does one do with it?"

Speaking in San Francisco on 3 February, on the "new requirements" of U.S. foreign policy, he said:

"Today, while we still have massive strength, we no longer enjoy meaningful nuclear superiority. . . . Today, for the first time in our history, we face the stark reality that the challenge is unending; that there is no easy and surely no final answer; that there are no automatic solutions. We must learn to conduct our foreign policy as other nations have had to conduct it for so many centuries, without escape and without respite, knowing that what is attainable falls short of the ideal, mindful of the necessities of self-preservation, conscious that the reach of our national purpose has its limits. This is a new experience for Americans.

The fact that Dr. Kissinger felt compelled to say these things in 1976 suggests that they were not fully understood or acted upon in earlier years when the United States decided upon the use of nuclear weapons as the chief support of its foreign policies.

Some observers of the American scene look forward to the year 1977 as a possible turning point in U.S. nuclear weapons policies. During the Presidential campaign, President-elect Jimmy Carter spoke out about the dangers of nuclear proliferation inherent in U.S. nuclear power export proposals.

This was followed on 28 October by a major announcement by President Ford of new criteria to be applied to possible American exports of nuclear fuel and equipment, especially those related to national reprocessing or fuel-enrichment activities which might lead to the production of nuclear weapons.

President-elect Carter raised questions about the continued basing of American tactical nuclear weapons in South Korea. By passing the War Powers Act of 1973, Congress acted to restore its constitutional responsibilities for the declaration or initiation of war.

Several bills were before committees of the last Congress, which would have required its approval before the President could authorize the use of nuclear weapons in war. The American Federation of Scientists has mounted a strong campaign to have the United States adopt a resolution preventing a first use of nuclear weapons.

It is to be hoped that these and other developments will lead to a great national debate on what our foreign policy should be and how we should attempt to implement it. Whatever the outcome of such a debate, the U.S. Army stands to gain from it.

SENATOR JAMES ABOUREZK: ESTEEMED COLLEAGUE

Mr. McGOVERN. Mr. President, South Dakota will lose an effective and forceful voice in the U.S. Senate when Senator JAMES ABOUREZK steps down. He is one of the most courageous men ever to serve in the U.S. Senate.

His decision not to seek reelection to the position he has filled with such distinction will be disappointing to his many friends in South Dakota and to his colleagues in the Senate. But having sustained many of the personal and professional pressures of his office, I can readily understand the reasons for his decision.

Senate service, as Senator ABOUREZK has noted, requires a total commitment, and all too frequently it is the family of the public servant that must suffer his absences and the lack of daily attention to their needs.

In the compassionate way that has marked his entire public career, Senator ABOUREZK has timed his decision so that those who may have an interest in running for the U.S. Senate can make their plans well in advance.

As a Senator from South Dakota and as a friend of JIM ABOUREZK, I regret that he will not seek reelection—but as a father and a grandfather, I can understand his decision.

It will require a strong and eloquent public servant to take his place. JIM ABOUREZK will be keenly missed in the Senate.

Mr. President, I ask unanimous consent that Senator ABOUREZK's statement concerning his decision not to seek reelection be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JAMES ABOUREZK

I am announcing today that I will not be a candidate for re-election to the United States Senate in 1978. I have spent long, sometimes painful hours discussing this decision with my family and my staff. But in the end it was a decision which had to be made, and could only be made, by my wife and me together.

I have been active in politics since 1968. When I ran for the House of Representatives in 1970, and again for the Senate in 1972, I made only one promise—I promised that I would work as hard as I knew how to represent the people of South Dakota. I believe I have fulfilled that promise.

But I have fulfilled it at great cost.

During the time I have served our State I have had, to my sorrow, to watch my children grow up from a distance. I have seen my wife and my children endure, in silence, while my work has kept me from fulfilling my responsibilities to my family.

While I consider it the public duty and responsibility of every citizen to work for the benefit of others within our society. I have another duty—a duty which I have neglected—and that duty is to my family.

Together, Mary and I have decided to live more normally as a family, to put our children through college, and to try to know our grandchildren better. We have decided after eight years of truly fulfilling, but personally draining public service, that it is time to meet our responsibilities to one another, and to the children. These are the responsibilities I will assume when my term in the United States Senate ends two years from now.

Some have told me that I could spend much less time on my Senate duties, more time at home, and still remain in the Senate. I do not believe this. I have always given a total commitment to this job. I could not, and would not, give it anything less.

Others have suggested that I should wait until next year to announce my decision not to seek re-election. But I believe this would be dishonest. My Party, the Democratic Party, have a great many capable men and women, people who are willing to offer their talents to the citizens of this State. They deserve the opportunity to prepare themselves for public service free of uncertainty about my own future intentions.

I have considered the time I have spent in public service to be a contribution to my State, to my country, and to its people. I came into politics with the idea that I had a contribtuion to make. I never had the idea that I should perpetuate myself in office. I realize that it has become normal procedure for those successfully elected to office to run for term after term. The temptation is great, and few are able to resist it. But I've never believed that I am indispensable.

I have sought especially to help those citizens without the wealth or power to easily secure the good things in life for themselves. But I believe others can provide that help as I did.

What troubles me most about the decision I announce today is not some exaggerated view of my own worth. It is rather the hundreds of truly good friends and supporters whose encouragement has sustained me in this job, and whose disappointment I feel so heavily. To them, and to the dedicated staff that has worked so capably for me and for the people of South Dakota, I can only say that I know they will understand. This has been a difficult decision, a very personal decision, a decision I had to make and one which I can only hope my friends will understand.

I have been honored to serve as a colleague with one of the greatest leaders of our State and country, George McGovern. I am proud to have represented the people of South Dakota.

Finally, I want to emphasize, and emphasize strongly, that my term in the United States Senate does not end until January 3, 1979. When I assumed this office I promised to fight just as hard as I knew how for the people of South Dakota. I intend to keep that promise each and every day I am a United States Senator.

I leave today for three days of public meetings across the State on the subjects of drought relief, water resources and agriculture. I hope that South Dakotans will join with me at these meetings so that we can develop together the kinds of legislation you want me to seek for you in the U.S. Senate.

That kind of partnership with you is what my job has always been about, and that is what it will remain until the day I leave office in 1979.

Thank you very much.

WORLD BANK PRESIDENT ISSUES URGENT PLEA TO MOVE INTERNATIONAL ECONOMIC NEGOTIATIONS FORWARD

Mr. HUMPHREY. Mr. President, in a speech on January 14, Robert S. McNamara, President of the World Bank, issued a plea for the creation of a new private commission to break the current impasse in the economic relationships between the rich and poor nations.

Mr. McNamara pointed out that after more than a year of intense debate in various international forums, there still was no substantial agreement between the developed and developing nations on what should be done next.

I share Robert McNamara's concern that a successful resolution of the outstanding differences between the developed and developing nations on global economic problems need to be resolved as quickly as is practicable. The current impasse only exacerbates the plight of 2 billion of the world's poorest people, while increasing the prospects for further international economic instability which, in turn, will have a detrimental impact on our own economic well-being.

Mr. McNamara emphasized that it is essential to determine:

The overall volume of additional financial and trade support that developed nations should apply;

The additional policy reforms and structural changes the developing nations should undertake; and

How these two mutual efforts can be more effectively applied to meeting the needs of the 2 billion people in the developing world.

Mr. President, Robert McNamara's recommendation certainly bears our attention, particularly in light of his sensitivity to bridging the widening gap between the rich and the poor.

Mr. President, I ask unanimous consent that Mr. McNamara's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF ROBERT S. MCNAMARA ON THE OCCASION OF RECEIVING THE WORLD AFFAIRS COUNCIL CHRISTIAN A. HERTER MEMORIAL AWARD, BOSTON, JANUARY 14, 1977

Ambassador Lodge, Ladies and Gentlemen: I am deeply honored and grateful for this award.

Honored and grateful, because Chris Herter was—by any of half a dozen criteria—one of the great public servants of his era.

He was an immensely versatile man: diplomat, magazine publisher, Harvard lecturer, State legislator, Member of Congress, Governor of Massachusetts, Secretary of State.

He was a man who never allowed partisan considerations to shape his views of the proper relations between this country and the rest of the world. No one in the postwar period was a more effective proponent of bipartisan support for the broad central goals of U.S. foreign policy.

As a Republican Congressman in the Truman Administration he helped secure essential G.O.P. approval for the Marshall Plan.

As Secretary of State in the Eisenhower Administration he mustered support in the Democratic Congress for continuity in U.S. relationships abroad.

And in both the Kennedy and Jonhson Administrations—indeed, until the day he died—he served as Special Representative, and head of delegation, in the international trade liberalization negotiations.

Chris Herter was a man whose personal warmth and unfailing courtesy were founded on a tough inner core of courage. And his civility illustrated a great truth in human affairs: that magnanimity, and compassion, and concern for others are not traits born of naviete or weakness, but of realism and strength.

For all these reasons—and more—Governor Herter was a great credit to his state, to his country, and to the postwar world that he helped reconstruct.

It is a tradition of service that the men and women of Massachusetts know well.

Ambassador Lodge—in a pre-eminent way—personifies that tradition. His long service to the nation as legislator and diplomat, and particularly his willingness to serve not merely once, but twice, in what was at the time surely the most demanding and difficult U.S. diplomatic post in the world—wartime Saigon—is a measure of his dedication.

Senator Brooke and other members and and guests of this Council display that same sense of dedication, and that is why I am particularly grateful for this opportunity to speak to you briefly about the problems of international development.

It is, as you know, a very complex subject.

However, as I pointed out recently in Manila, there is one central issue which more and more is affecting the thought and actions of peoples all over the globe. Equality of opportunity among men, both within nations and between nations, is becoming a major concern of our time.

It is an issue that has been gathering momentum for a century or more. The rise of the labor union movement, the drive against racial discrimination, the expansion of civil rights, the enhancement of the status of women—these and similar movements have all had an ingredient in common: the surge toward greater social justice and more equitable economic opportunity.

This broad thrust is growing more insistent today in all nations. It is searching for new solutions to the intolerable problems of poverty.

What are the dimensions of that poverty?

Let me begin with the situation of the poorest of the developing countries—those countries in which the per capita incomes are below $200. More than a billion people live in these countries. And their per capita incomes have virtually stagnated over the past decade. In statistical terms they have risen only about two dollars a year: from $130 in 1965 to $150 in 1975.

But what is beyond the power of any set of statistics to illustrate is the degradation—the inhuman degradation—the vast majority of these individuals are condemned to because of their poverty.

Malnutrition saps their energy, stunts their bodies, and shortens their lives. Illiteracy darkens their minds, and forecloses their futures. Preventable diseases maim and kill their children. Squalor and ugliness pollute and poison their surroundings.

The miraculous gift of life itself, and all its intrinsic potential—so promising and rewarding for us—is eroded and reduced for them to a desperate effort to survive.

Compared to us sitting in this room—by an accident of birth enjoying life in a developed nation—individuals in the poorest nations have:

An infant mortality rate eight times higher;

A life expectancy rate one-third lower;

An adult literacy rate 60% less;

A nutritional level, for one out of every two in the population, below the minimum acceptable standards; and for millions of infants, less protein than is sufficient to permit the optimum development of the brain.

The blunt fact is that poverty tends to perpetuate itself, and unless a deliberate intervention is designed and launched against its internal dynamics, it will persist and grow.

At present, the outlook for these poorest countries is appalling: over the next decade, income per capita is projected to grow at no

more than 2% a year. For hundreds of millions of human beings that means at most an advance in income of only one or two dollars a year.

What we must understand is that unless a specific effort is made to bring these people into the development process, no feasible degree of traditional welfare, or simple redistribution of already inadequate national income, can fundamentally alter the circumstances that impoverish them.

The responsibility for such an effort lies first, of course, with the governments of the poorest countries themselves. By and large they are making that effort—on the whole far more so than most people in the developed world realize. In the past decade, the poor nations have financed over 90% of their development investments out of their own small incomes. But it is true that they must make even greater efforts. They have invested too little in agriculture, too little in population planning, and too little in essential public services. And too much of what they have invested has benefited only a privileged few.

Yet whatever the degree of neglect the governments in the poorest countries may have been responsible for, it has been more than matched by the failure of the international community to assist them in the development task.

The central point is that the plight of the poorest nations can only be remedied by deliberate action, and that action must be taken at both the national and international levels.

The governments of the poorest nations have to redirect their own efforts so that they will both accelerate economic growth and reduce absolute poverty. A reasonable objective for them would be to meet the basic human needs of all their peoples by the end of the century. They must begin by changing national investment priorities and by putting greater emphasis on assisting the poor to become more productive.

This will involve:

Intensifying their efforts to expand food production;

Placing a higher priority on the expansion of exports;

Taking more determined action to moderate population growth;

And directing social services more equitably towards the poor.

But although nothing can be accomplished unless these governments themselves act, they clearly cannot meet such an objective without outside assistance. Therefore the international community must help them, and help them generously.

There are four principal ways the industrial nations can make this help available:

By additional transfers of concessional assistance;

By reallocation of some of their existing assistance;

By easing the burden of present and potential debt;

And by reducing the tariff and non-tariff barriers that continue to discriminate against many of the exports of the poorest countries.

In particular, if poverty is to be reduced, then developed nations must squarely face the fact that current and projected levels of Official Development Assistance (ODA) for the poorest countries are disgracefully inadequate.

In 1975, ODA amounted to about .36% of the GNP of the industrialized nations—one-half of the target set by the General Assembly five years before. Moreover, on the basis of present plans, not only is there no hope that the target can ever be reached, but there is a serious possibility that performance over the remaining years of the decade may erode even further.

It may be of interest to the members of this Council that the United States—the country with the largest GNP in the world—is currently one of the poorest performers in the matter of Official Development Assistance. Among the developed nations, Sweden, the Netherlands, Norway, Australia, France, Belgium, Denmark, Canada, New Zealand, Germany and even—with all its economic problems—the United Kingdom: all of these nations devote a greater percentage of their GNP to Official Development Assistance than does the U.S.

In 1949, at the begining of the Marshall Plan—the Marshall Plan for which Chris Herter as a Republican Congressman in a Democratic Administration worked so hard—U.S. Official Development Assistance amounted to 2.79% of GNP. Today, it is one-tenth of that: .27% of GNP. And this after a quarter-century of real growth in personal incomes in the United States, which has more than doubled the standard of life for the average American in any terms in which you want to measure it: salaries, ownership of homes, automobiles, second television sets, beef consumption, leisure-time activities; almost any category you can name.

Even dogs and cats in America today have a better standard of nutrition than tens of millions of children in the developing nations. But U.S. Official Development Assistance to those nations has not only not kept pace with its own growing domestic affluence. It has very substantially declined.

The economies of the developed nations—already immensely productive—will become even more productive over the next few years. For them to increase their help to the poorest countries would not require them to diminish in the slightest their own high standards of living, but only to devote a tiny percentage of the additional per capita real income they will earn over the decade.

If the governments of the poorest countries do not take the internal measures they must, and if the developed nations do not help them with the development assistance they so seriously need, then the outlook for three out of every four of the more than one billion human beings who live in these disadvantaged countries is unspeakably grim.

These, then, are the elements of a program to accelerate economic growth and to reduce absolute poverty in the poorest nations. What is the situation in the developing countries with per capita incomes over $200 per year—the so-called middle-income developing countries—The Brazils, Mexicos, Turkeys, and Koreas?

The outlook for them is much more favorable. As a group, they have achieved an overall growth rate during the past decade of almost 7%—about 4% in per capita terms.

As compared with the poorest nations, they have been able to take advantage of their more favorable endowment in resources, better market opportunities, and increased capital flows.

Their 900 million citizens now enjoy an average per capita income about 50% higher than ten years ago. On the whole, it is fair to say that the middle-income developing nations have begun to establish a promising structure for high economic growth rates.

They face, however, two serious problems.

The momentum of their growth has been sharply interrupted since 1973. On a per capita basis, it fell to 1.5% last year as a direct consequence of the recession in their export markets, the increase in their energy costs, the deterioration in their terms of trade, and the persistent worldwide inflation.

And equally disturbing is the fact that in many of these countries there has been a serious neglect of equity in the distribution of employment opportunities, and in the allocation of public services that affect productivity. The inevitable result has been a severely skewed pattern of income distribution.

They have increased their gross national products over the decade, but the benefits of this growth have accrued disproportionately to the already more favored upper-income groups in their societies, and broadened rather than narrowed the gap between the privileged and deprived.

Though these countries do enjoy some distinct advantages over the poorest nations, the fact remains that collectively they, too, contain large numbers of individuals—some 170 million—trapped in absolute poverty.

There are hundreds of millions more in what I have termed "relative poverty"; that is, persons with incomes somewhat above the absolute poverty level, but less than one-third of the national average. These individuals may feel even more frustrated than those in the poorest nations, since they live in an environment of visible economic growth. Their societies are progressing rapidly, but they are not.

The governments of these nations must recognize the necessity of assuring broader participation of the peoples in the process of development. That means assisting the poor to become more productive at the same time as steps are taken to increase the mobilization of internal resources, to broaden the range of export products, and to expand the coverage of export markets in order to accelerate national growth rates.

In turn, the developed nations must find practical ways to assist these developing countries by allowing them more equitable access to markets, and by making available additional development capital on reasonable terms.

Although the formula for economic advance in the middle-income countries differs from that applicable to the poorest nations, the action required is similar in one important respect: both groups of nations need additional support from the developed world if they are to achieve acceptable rates of growth.

It is the recognition of this fact which led a year ago last September to the Seventh Special Session of the General Assembly; to the meeting of UNCTAD in Nairobi last spring; and to the North-South Dialogue which continues in Paris.

And yet, to date, after more than a year of intense debate, there has ben no agreement on the level of additional assistance to be provided to the developing nations.

The reason for the lack of agreement is, I think, obvious: the discussions have focused far too much on details rather than on fundamentals.

What is needed is a basic understanding among the parties as to:

The nature and magnitude of the problem.

The action required to address it.

The relative responsibilities of the parties for taking such action.

The costs and benefits to each of doing so.

Once the broad limits of such a meeting of minds have been established—a global compact, if you will—then the specific forms of assistance to be provided by individual developed nations to particular developing countries could be examined. It would then become apparent very quickly that it is relatively unimportant whether the assistance is to take the form of commodity agreements, debt relief, trade concessions, bilateral aid, or multilateral financing—or any particular combination of these—provided the overall total is adequate.

In view of the continuing impasse at official levels, it seems to me that the chances of reaching such an understanding might be improved if a high-level, but deliberately unofficial, commission were organized to analyze the problem, and to recommend action to be taken by both developed and developing nations.

Such a private commission should clearly be drawn from individuals—from both the

rich and poor nations—who have either had practical political experience in dealing with development issues, or who have demonstrated outstanding professional competence in development economics.

The chairman and convener of such a commission ought to be a person of the great political experience and stature, say, of a Willy Brandt, the former Chancellor of the Federal Republic of Germany.

The chairman and members of the commission would have the advantage of collaborating not as official representatives of particular countries, or blocs of nations, but rather as international figures of reorganized competence and in dependent judgment, whose mandate it would be to formulate those basic proposals on which global agreement is both essential and possible.

The funding required for the commission's work would be modest, and to ensure the commission's independence the cost could be shared by a number of governments, international institutions, and private foundations. I have already received indications from Minister Pronk of the Netherlands, and Mr. David Hopper, President of Canada's International Development Research Center, that they would be willing to consider participating in such financing.

Such a commission cannot be expected, of course, to provide an instant, comprehensive, all-purpose solution to the problems of development—for none exists.

But what one could realistically expect from such a private, high-level independent group is the careful identification of those political decisions which can command public and legislative support in rich and poor countries alike, and hence enable the international community to break out of the current impasse.

There will be some critics who say that it is fanciful to suppose that the rich and poor nations—all of them politically sensitive over their own national prerogatives—can come to any meaningful understanding over development issues.

I do not believe that is true.

What I do believe is that such an understanding is unlikely to come about in the current international climate of contentious debate.

And I want to stress again that what is essential is to determine the overall volume of additional financial and trade support that the developed nations should supply; the additional policy reforms and structural changes the developing nations should undertake; and how these two mutual efforts can be more effectively applied to meeting the needs of the two billion people in the developing world.

It would be the commission's role to help make that happen.

It is true that the world today is divided on a whole spectrum of issues; political, economic, ideological, cultural.

It would be naive to pretend otherwise.

But surely there is one issue on which none of us can disagree.

And that is that a greater degree of equity must be achieved both within nations and among nations.

The commission's task, the international community's task—indeed, the task of all of us here in this room—is to help move that forward.

HEARINGS ON DISCRIMINATION AGAINST U.S. CITRUS EXPORTS

Mr. GOLDWATER. Mr. President, it was my pleasure today to appear as a witness before the section 301 committee. This is an interdepartmental panel of the executive branch chaired by the Office of Special Representative for Trade Negotiations.

The hearings were conducted under section 301 of the Trade Act of 1974 to determine whether U.S. citrus is being improperly denied access to the European community. The panel will forward its findings to President Carter and recommend solutions to the trade restrictions and discriminatory acts that are the subject of its hearing.

For there is no question that U.S. citrus is running afoul of discriminatory practices in the European community which are totally unjustifiable and unreasonable and which are restricting exports of fresh and processed citrus from our country. In fact, the burden of these discriminatory trade policies is so severe that the survival of the citrus industry in Arizona may depend upon their elimination.

Although it is not well known, Arizona is the second largest fresh citrus exporter in the United States. In all, Arizona packinghouses shipped $41 million of fresh fruits during the 1975–76 crop year and diverted the equivalent of $5.6 million to juice and byproducts.

What we must remember about this is that for every dollar received at the packinghouse, another $5 is generated in related sectors of the economy. On this basis, the Arizona citrus industry created an impact of $223 million upon our total economy in the last crop year. When one citrus grower is hurt by unfair trade barriers, it triggers an economic chain reaction that reaches across the State and Nation.

And to indicate the importance of exports to my State's citrus industry, let me reveal that foreign sales of Arizona citrus totaled $19.2 million. This represents nearly half of all shipments from Arizona packinghouses.

Now, what has happened is that U.S. exports of fresh citrus are directly threatened with destruction because of discrimination against our fruit by the world's largest citrus importing area—the European Economic Community. The EEC has granted a sizable tariff preference to major competitors of U.S. citrus growers, but has not given the same treatment to U.S. exports.

The preferences are not something the EEC bargained for and won at the last round of world trade negotiations. In fact, the EEC accepted oranges as an item on which the duty rate is bound at a specified level. Yet, in total disregard of their treaty obligations, the EEC is allowing entry of oranges from nine Mediterranean nations at a duty which is two to five times less than that assessed against our fruit.

American fresh oranges are particularly affected. Our oranges shipped to Europe must compete with fruit which enjoys a price advantage of as much as 80 cents a carton, and this is before even considering the relative freight and distance advantages which the Mediterranean producers have. I might note, for example, that it is at least four times more expensive to ship oranges from Long Beach, Calif., to Rotterdam, than it is to ship the same quantity of oranges from Morocco to Rotterdam.

Even if, for the sake of argument, we should assume that the agreements are legal, I would insist that our Government should mount just as strong pressure for their removal because we would suffer the same damage in either case. But section 301 does not require that the preferences be illegal as a precondition to Presidential action. It is enough that the preferences are discriminatory and are unjustifiable or unreasonable—which they are.

Also, I might note that there is reason to believe the concessions by the European Community are an effort to lock into the normal trade system a scheme under which U.S. citrus imports are forced into the narrow marketing period of 5 months out of the year on a permanent basis. This would disregard the fact that oranges historically have been exported to Europe by us on a 10-month basis. About one-third of our orange shipments to the EEC have traditionally been made outside the 5 months when the duty is the lowest.

Mr. President, American citrus is of high quality and normally commands a premium price. Thus, when discriminatory trade practices give our competitors an unnatural advantage, it prices our fruit out of the market. This is what is occurring in Europe.

The impact of the discriminatory tariff preferences upon American exports of fresh oranges was immediate and drastic. Our producers lost over $2¼ million in sales within the first year after the preferences went into effect. By 1972, U.S. exports of fresh oranges to the European Community were down 51 percent. The injury is felt most severely in Arizona because our marketing season occurs when duties are the highest. From March through May, when Arizona valencia oranges are at the peak of their quality, U.S. fresh orange shipments to the EEC were down by two-thirds from the same months of 1969.

Although U.S. negotiators obtained a substantial reduction in 1974 in the tariff rates on fresh oranges and grapefruit entering the European Community, the worst effects of the preference system have not been removed. Moreover, every time our negotiators gain one step forward, the European Community pushes us another step back. The preferences given by the EEC are constantly being increased and extended to additional products and countries. Accordingly, our negotiating goal must be the complete elimination of the preferences, not just partial adjustments.

Now, I know the European Community claims these preferences will help the developing countries. But, in the long run, they will not. In fact, the preferences have a colonialist tinge. They encourage the less developed nations to stay locked into an agricultural condition and to slight their industrial development.

Unfortunately, the citrus preferences are not aimed at lifting local consumption in those countries. They maneuver the beneficiary countries into producing a fruit for export which will likely be in great oversupply within a few years if the artificial stimulus of the preferences continues.

Thus, the United States has a unique reason for protecting from discrimination the investment it has made in desert agriculture.

In conclusion, Mr. President, I have urged that the trade panel recommend to President Carter that strong action be taken by the United States to restore most-favored-nation treatment to U.S. citrus. If trade discrimination cannot be eliminated by negotiations, then our only recourse is the imposition of sanctions which the law provides to enforce our trade rights.

HOBOKEN SHOWS HOW TO MAKE GOOD

Mr. WILLIAMS. Mr. President, Hoboken, N.J., is rapidly gaining a reputation for its success in dealing with urban problems. Beginning about 6 years ago, the city launched a dynamic program of comunity development and neighborhood revitalization. In the years since, Hoboken has demonstrated the kind of progress that can be made when federal dollars are combined with intelligent, creative, local leadership. The renovation and rehabilitation of older, deteriorating structures has received special emphasis in Hoboken. The Clock Tower Apartments is a project in which an old factory was converted into a fine, attractive group of rental units for moderate income people, and is an excellent example of the strides that Hoboken is making toward providing safe, decent housing and a wholesome living environment for all of its people.

On Wednesday, January 17, 1977, the Wall Street Journal carried an article entitled, "Hoboken, the Target of Bad Jokes, Shows How To Make Good," which describes Hoboken's success story, and tells why it richly deserves the recognition it has received for its community development activities. Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

HOBOKEN, THE TARGET OF BAD JOKES, SHOWS HOW TO MAKE GOOD

(By James Carberry)

HOBOKEN, N.J.—Cathy and Mel Garfinkel moved here from Manhattan a few years ago, bought a rundown, vacated church and are busy converting it into an attractive home for themselves and their four-year-old daughter.

"We love the town," says Mr. Garfinkel, a 34-year-old free-lance television cameraman. So do many other residents of this mile-square city of 45,000 across the Hudson River from Manhattan. They are working hard to rescue Hoboken from the blight afflicting many inner cities. Although other cities, such as Boston, Atlanta, St. Paul, Dallas and San Francisco, have begun housing rehabilitation programs, Hoboken is achieving a rare measure of success, and with it national attention.

"Hoboken has proved to be one of the best cities in using public funding" to stimulate private investment in housing renovation, says David O. Meeker, Jr., formerly an assistant secretary in the U.S. Department of Housing and Urban Development.

In so doing, Hoboken—whose name comes from an Indian word meaning "land of the tobacco pipe"—is giving housing experts some ideas to ponder on. For example, it has selected a single firm to run most programs for renovating tenement buildings, and the concentration of effort and responsibility seems to have proved beneficial.

SIZABLE OUTLAY

In the past six years, about $50 million in public and private capital has gone into community-improvement programs here, principally the rehabilitation of Hoboken's aging but sturdy housing stock. About 500 two-to-four-family brownstones and a number of big tenement buildings accounting for 15% of the city's housing supply have been renovated, and work is continuing. A 71-year-old former factory has been converted into comfortable rental housing for 173 moderate-income families. A community center has been built, the local water supply system is being modernized, and health and job-training programs have been established.

Other programs are in the works. The architectural firm that designed San Francisco's Ghiradelli Square is preparing plans for restoration of Hoboken's deteriorating Erie Lackawanna Railway terminal, a copper-clad historical landmark through which thousands of commuters pass daily for the 13-minute train ride to Manhattan under the Hudson River. The city has applied for an initial $4 million in federal money for restoration work, which will include the opening of shops, stores, theaters and a farmers' market in and around the terminal.

Amid all this activity, Hoboken is being "discovered" by middle-class New Yorkers whose only previous contact with the town often was from watching television reruns of the 1954 movie, "On the Waterfront," a portrayal of Hoboken's corrupt seaport of yesteryear. Stockbrokers lawyers and writers from Manhattan are moving in next door to blue-collar workers descended from the town's German, Irish, Italian and Puerto Rican immigrants.

STILL A BARGAIN

The reason for the influx of newcomers, says Maureen Singleton, a real estate saleswomen and enthusiastic Hoboken booster, is that even though housing prices have risen here, they still are lower than in many of New York's better neighborhoods. And Hoboken, with its easy access to Manhattan and "lots of great old ethnic restaurants," offers many of the benefits of urban living without some of New York's problems, she says, adding: "The streets are safe. People are friendly. They help one another.

Mrs. Singleton and her husband, Don, a New York Daily News reporter, moved here from a New Jersey suburb about seven years ago partly because Mr. Singleton felt he was losing touch with the urban environment about which he had written extensively. The Singletons paid about $23,000 for a four-story brownstone on tree-lined Bloomfield Street, where Hoboken's brownstone revival began in 1971. They put in a new kitchen and other improvements for about $8,000. Mrs. Singleton estimates the property's current value at $50,000.

Despite its attractions, however, Hoboken does suffer from some common urban ills. Many of its citizens are poor; median family income is about $7,200. Its unemployment rate is around 16%, twice the national average. It has declined as a manufacturing center. And its waterfront, which employed 100,000 during World War II, is dying from lack of business.

But many of Hoboken's natives have chosen to stay in the city. "People here have a civic pride that borders on chauvinism," says Bob Armstrong, Hoboken's former director of planning and redevelopment and now a law student. "They think Hoboken is better than New York or London or Tokyo or anywhere else."

This boosterism isn't surprising for a city whose citizens have included independent-minded people like Col. John Stevens. Originally settled by the Dutch, Hoboken in 1784 came into the hands of Col. Stevens, an inventor who built the first steam locomotive in the U.S. He developed Hoboken as a summer resort for New Yorkers, and one of his sons founded Stevens Institute of Technology, today a respected engineering school on Castle Point overlooking Hoboken. The city's most famous son, however, is Frank Sinatra. While growing up here, the singer was known as "Slacksey O'Brien," because his mother, who recently died in a plane crash, dressed him in Little Lord Fauntleroy suits and his father once was a professional boxer using the name O'Brien.

LEADER IN REHABILITATION

In the early 1970's, Hoboken became one of the first U.S. cities to begin a housing rehabilitation program, as part of a broad attack on mounting economic and social problems. City officials believed that rehabilitation—rather than demolition of existing housing to make room for new units—would preserve the stability and charm of Hoboken's neighborhoods, with their stately brownstones, cobblestone alleys and historic sites like St. Paul's Episcopal Church. And rehabilitation is cheaper than building anew.

One rehabilitation program here offers federally insured home-improvement loans from a local bank to the 60% of residents who own their homes. To encourage homeowners to borrow, the interest rate is reduced to an effective 3% from the normal 9% or more; the difference is subsidized by federal funds. The city also provides technical advice on rehabilitation. And it gives informal assurances that rehabilitated property won't be immediately reassessed and taxes raised—an important consideration, even though the tax break is only temporary, because Hoboken has one of the highest property tax rates in New Jersey.

About 500 such loans have been made. The most unusual was a $12,500 loan to enable Mr. Garfinkel to renovate his 96-year old church, which he had bought from a Baptist congregation. Renovation included installation of new plumbing, electrical wiring and a kitchen.

HELPING PUERTO RICANS

The other rehabilitation program is aimed mainly at the city's Puerto Rican community, currently about 40% of the population. Many Puerto Ricans lived in deteriorating tenements like "Tootsie Roll flats" which originally housed workers in a since-departed candy factory. The city proposed that more than 800 tenants be relocated so that rehabilitation work could be started.

If the relocation were bungled, "we knew the potential for social conflict was great," says Michael Coleman, formerly director of the city's Community Development Agency and now a city consultant. "We had to do things right."

With federal assistance, the city hired a mostly Puerto Rican relocation staff and offered each tenant generous relocation terms: a $4,000 cash grant plus moving expenses, help in finding new quarters and consideration for residence in the renovated buildings. As a result, the transition went smoothly, Mr. Coleman says.

About $25 million in tenement rehabilitation has been carried out in Hoboken so far, principally by Applied Housing Associates, a private firm. Work has been financed through sale of limited-partnership interests and through federally insured loans from banks and other sources. The federally subsidized interest rate on the loans is less than conventional rates; the saving in interest costs is passed on to tenants in reduced rents, which currently run $166 for a one-bedroom apartment to $229 for a four-bedroom unit.

CHOOSING CAREFULLY

Walter Barry, Applied's president, says the firm selected for renovation tenement build-

ings in neighborhoods still spared from complete physical and social decay. And it was careful in choosing tenants—mostly lower-to-middle-income, working-class families. Tenants were educated in the upkeep of their apartments; "some were afraid of the pilot light in stoves and didn't know what the garbage compactor was for," he says. Applied's 54 tenement buildings have, in fact, been well maintained. More tenements are being renovated.

Applied's work has attracted a lot of interest, and Joseph Barry, a partner in the firm, has been on the lecture circuit, describing how to lure private investment into federally subsidized housing. He blames past failures in low-income housing partly on government policies that enabled "every Tom, Dick and Harry housing developer," with little investment of their own, to build subsidized housing, take profits and bail out quickly, with the property often left in poor financial shape.

Joseph Barry proposes that two or three experienced developers in each city be given practically a monopoly on developing subsidized housing. These housing "utilities" would be required to have the capital and experience to build and operate such housing, and their profits would be keyed partly to their efficiency.

Observers of Hoboken's home-improvement programs over the years say generally attractive buildings have resulted. "We've had some homeowners who have been insensitive to esthetics—shaving cornices off their buildings to put up sheet-metal siding, that sort of thing. But, on the whole, it's gone well," says Sally Aaronson, formerly with the Community Development Agency.

ONE PUZZLING PROBLEM

With housing rehabilitation moving along, city officials these days wonder what to do next.

That question invariably gets around to how Hoboken can attract business and cut its persistently high unemployment rate. Louis DePascale, a former mayor instrumental in the housing rehabilitation thinks the city should provide high-rise office space for the brokerage houses that he believes will continue to flee Manhattan for less-expensive quarters and lower taxes elsewhere. "From here, they'd have a great view of Manhattan," he jokes. "Over there, they pay more and what have they got to look at? "Hoboken!"

At city hall, the current mayor, Steve Cappiello, wonders what can be done with the 37% of the city's waterfront property that lies unused. A proposal for an oil-tank farm was killed a few years ago when a citizens' group protested, and the city now is exploring other ideas. "I think I'd give that waterfront to a developer if he'd do something with it," Mayor Cappiello says in a moment of frustration.

Nevertheless, there is widespread feeling here that down-at-the-heels Hoboken—long the butt of corny jokes—is making a comeback. The mayor, a former policeman and the last of 12 children of an Italian bootblack, naturally reflects this optimism. People in Hoboken, he says, "are the true heroes of the '70s, who have scuffled and fought to maintain their dignity, their cherished lifestyle, their homes and their neighborhoods."

NATO AND THE NEW SOVIET THREAT

Mr. HUMPHREY. Mr. President, our distinguished colleagues from Georgia and Oklahoma (Mr. NUNN and Mr. BARTLETT) have just released a report to the Senate Armed Services Committee on "NATO and the New Soviet Threat."

Based upon a recent inspection trip to Europe, this report examines Soviet military capabilities and the problems facing the NATO alliance in responding to that threat.

Since there is widespread public and congressional interest in this most significant report, I ask unanimous consent that the major portions of the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Letter of transmittal

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., January 24, 1977.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: At your request, I traveled to Europe in February of 1974 to examine a number of issues surrounding our troop deployments there. In view of your continuing concern and the interest of the Committee with the NATO military posture, I undertook a similar trip on October 31–November 14, 1976.

On this recent trip, I was accompanied by my colleague from the Committee, Dewey F. Bartlett, who has a long-standing interest in NATO. His hard work and diligence in defense matters has made him an invaluable member of the Committee. During our discussions with American and Allied officials, his expertise in conventional weapons and forces was extremely useful.

In Brussels, we met with General Haig, Supreme Allied Commander Europe, and his staff to discuss the current military situation and major issues facing the Alliance. We would like to thank General Haig and his staff for their splendid cooperation. General Dr. Schnell and Lieutenant General Schulze discussed Allied interdependency and readiness with us. We also met with the U.S. Ambassador to NATO, Mr. Strausz-Hupe. We were able to get different perspectives on the NATO Alliance from the British, Belgian, French and German Ambassadors to NATO and from NATO General Secretary Luns. Admiral Sir Peter Hill-Norton, Chairman of the Military Committee, provided us with informative views on the NATO military situation.

In Bonn, we had the opportunity to exchange views with high military and government officials. We had frank and useful discussions with Defense Minister Leber and Foreign Minister Genscher. Lieutenant General Wuust, Deputy Chief of German Armed Forces, pointed out a number of important aspects of the military situation in Central Europe.

We also visited our senior commanders in Europe. General Blanchard of the Army discussed the current U.S. conventional posture, General Ellis of the Air Force reviewed United States and Soviet air capabilities and Admiral Turner of the Navy presented an overview of the situation in the Mediterranean. In addition to visits to Allied and U.S. Army and Air Force installations, we observed carrier operations of the Sixth Fleet at sea.

In Vienna, we met the U.S. Ambassador to the MBFR negotiations, Mr. Resor. He gave us an informative report on the current negotiations.

In Spain, we visited with King Juan Carlos, Prime Minister Suarez, Deputy Prime Minister Osorio and Foreign Minister Oreja to discuss Spain's movement toward democracy and its role in the defense of Europe. Ambassador Stabler provided us with his first-hand observations of problems and progress in Spain.

Mr. Chairman, we have attempted in the attached report to bring together the military and political problems of the Alliance inherent in confronting the new Soviet threat. The purpose of this report is to examine and to discuss the Soviet military capabilities, not Soviet intentions.

A debate on these and related issues within the Alliance and within each member country is imperative if NATO is to develop a credible conventional deterrent. It is, therefore, essential that the Armed Services Committee, the Congress and the American people be fully apprised of the new problems facing the Alliance

Our observations and this report are based on an exhaustive military study and upon numerous discussions with American and Allied officials, both in Washington and in Europe. The report provided to the Committee by Lieutenant General James F. Hollingsworth (Ret.) was of great value during our trip. This study was conducted by General Hollingsworth at my specific request while he was still serving in the Army. General Hollingsworth's expert assistance throughout our trip and as a consultant to the Committee have been invaluable. We are also grateful to Secretary of the Army Martin Hoffmann and former Army Chief of Staff Fred Weyand for authorizing the Hollingsworth study.

Finally, we would like to commend the staff who accompanied us on the trip or assisted us in the preparation of this report: Mr. Frank Sullivan, staff director, and Miss Louise Hoppe of the Armed Services Committee staff, Dr. Jeff Record of my staff and Mr. Fred Ruth of Senator Bartlett's staff. They are outstanding staff members and their efforts were extremely valuable. We would like to express our appreciation to Colonel Hank Steenstra, who was escort officer for our trip, and to Senior Master Sergeant Rasem Malley. They juggled a complete and demanding schedule, all without a hitch.

Sincerely,

SAM NUNN.

INTRODUCTION

It is the central thesis of this report that the Soviet Union and its Eastern European allies are rapidly moving toward a decisive conventional military superiority over NATO. This trend is the result of NATO's failure so far to modernize and maintain its conventional forces in response to the Warsaw Pact's buildup and modernization of conventional forces.

In an era of nuclear parity between the United States and the Soviet Union, the importance of a capacity to wage war successfully below the nuclear threshold has mushroomed because of the declining credibility of nuclear responses to non-nuclear aggression.

The viability of current NATO force posture in Europe and perhaps even NATO's strategy of flexible response and forward defense is questionable. There now exists a disparity between the Alliance's declared strategy and the ability of NATO forces to implement this strategy.

To meet the new Soviet threat, substantial alterations in current NATO force posture are necessary. Unless changes are made, the Alliance will become increasingly important as a vehicle for the collective security of its members.

The importance of NATO

The North Atlantic Treaty Organization was founded on April 4, 1949, to preserve the territorial and political integrity of Western Europe. That Western Europe twenty-eight years later remains free, democratic, and shielded from unacceptable external pressures is in no small part attributable to this Alliance, which for all its faults and problems, is still the primary guarantor of its members' security.

NATO is the most important of all of America's military alliances. If there is one place outside the territorial confines of the North American continent where our interests may

be regarded as truly vital, that place is Europe. It is for this reason that the possibility of another war in Europe—however remote it might appear to some in an era of détente and after three decades of peace on that Continent—remains the principal determinant of the size and structure of our armed forces.

The U.S. stake in Europe

The importance of U.S. security interests in Europe cannot be exaggerated. Together, NATO's European members possess the world's largest industrial plant, a population greater than that of the United States or the Soviet Union, and an aggregate gross national product larger than the American GNP and over double that of the U.S.S.R. Western Europe's loss to any power or group of powers hostile to the United States would be unacceptable. Control of Western Europe would give an adversary a magnitude of human and industrial resources which we could not counterbalance. However, these facts also demonstrate that NATO has more than enough resources to counterbalance the U.S.S.R. militarily. NATO must demonstrate the will to convert these resources to a credible conventional deterrent.

Overlaying America's security interests in Europe are a host of political, cultural, historical, and commercial ties spanning the North Atlantic which gave NATO the character of a genuine community of nations. These ties are such that events on the European continent have and will continue to affect the United States in a way that events in no other part of the world can. The United States has fought two major wars in Europe in this century. The cost in blood and treasure of a third war would dwarf the price of deterring a future conflict upon that Continent. The defense of Europe is our defense. The issue is not whether the United States should be committed to Europe's defense. It is rather how best to enhance the effectiveness of that defense.

The state of alliance defenses today

Unfortunately, NATO defenses today are not what they should be. In the crucial Central Region,[1] which would be the decisive arena of combat in any future military conflict in Europe, declining real defense expenditures over a period of years and shrinking active force levels, relative to the increasing Warsaw Pact buildup have hampered efforts to maintain a credible deterrent to aggression by the Soviet Union and its Warsaw Pact allies. The continued refusal of France to participate in NATO's integrated military commands is cause for serious concern, as is the pulling back of key formations to the Low Countries. Furthermore, the continued dissipation of NATO combat power through reliance upon a multitude of different weapons, tactics, procedures and supplies must be reversed.

Questions mount—as indeed they should—as to whether the current posture of NATO's conventional forces in the Central Region is capable of dealing with a dramatically altered Soviet threat in Eastern Europe. The Warsaw Pact forces which confront NATO today across the inter-German border represent more than simply an enlarged threat. It is a threat whose character has been deliberately re-tailored to exploit fully the very weaknesses in NATO's conventional postue which have always plagued the Alliance. This threat challenges not only the viability of NATO's conventional deterrent but also the capability of NATO's political machinery to authorize the mobilization of that deterrent in time to meet the likely demands of a future military crisis.

The problems confronting NATO forces in the Central Region, although serious, are not insurmountable. They can be overcome within the framework of the political, economic, and military resources now available to the Alliance. Moreover, solutions are at hand which would entail no major expansion of NATO's active manpower levels. For NATO, the issue is not one of simply increasing numbers of men, tanks, ships, and aircraft. The principal task before the Alliance is improving the firepower and making better use of the forces it already has.

NATO weaknesses in the Central Region are compounded by the erosion of Alliance defenses in the Mediterranean. Combined, weaknesses in Central Europe and disarray in the south could threaten the vital interests of both Europe and the United States.

Indeed, NATO's Southern Flank can be regarded as little more than a shambles. Against a background of expanding Soviet naval power in the Mediterranean, NATO's Mediterranean members appear to be abdicating their responsibilities under the North Atlantic Treaty. Although the quality and performance of the Italian Navy remain impressive, Italy, buffeted by a worsening economic crisis, has announced plans to cut the size of its army by one-third. Greece has withdrawn from military participation in NATO. Turkish and Greek armed forces, which together muster almost 700,000 men, continue to betray no more enlightened objectives than preparation for war against one another.

The situation along NATO's Northern Flank is little better. The defense of the Northern Flank is more heavily dependent upon early reinforcement than the defense of any other military sector of the Alliance. Yet, in the face of a growing Soviet threat on the Kola Peninsula and in the Norwegian Sea, neither Norway nor Denmark as yet appear predisposed to undertake the initiatives necessary to facilitate the full exploitation of reinforcements.

THE NEW SOVIET THREAT

Soviet conventional forces in Europe have undergone significant expansion during the past decade and are now being qualitatively improved. Against a background of strategic nuclear parity with the United States and substantial advances in their tactical nuclear capability, the Soviets have provided their non-nuclear forces deployed opposite West Germany an ability to initiate a potentially devastating invasion of Europe with as little as a few days' warning. This is evident in a growing emphasis upon firepower and readiness of ground forces and in the dramatic transformation of Soviet tactical aviation from a defensive force into a hard-hitting offensive air armada of extended reach.

While Soviet forces in Eastern Europe can initiate a conflict from virtually a standing start, NATO forces continue to require warning time of a duration sufficient to permit the Alliance to mobilize and deploy to the center of conflict its ultimately greater but typically less ready and poorly deployed forces. As the Warsaw Pact capability to attack from a standing start grows relative to NATO's defensive capacity, so does the likelihood that the Warsaw Pact would already be on the Rhine when the NATO decision is made to use tactical nuclear weapons.

Ground force expansion

Prior to the Soviet invasion of Czechoslovakia in 1968, Soviet Army forces in Eastern Europe contained over 400,000 men organized around 26 divisions. Since then, approximately 100,000 men (including five divisions) have been added to that deployment. This sharp increase has been attributable primarily to the introduction of a major Soviet force presence in Czechoslovakia following the invasion, and to an expansion in the personnel authorized for both Soviet armored and motorized rifle divisions pursuant to their recent reorganization. It is estimated that thousands of men have been added to Soviet ground forces in Eastern Europe since the beginning of the MBFR talks in 1973. It is worthwhile to note that the latest NATO proposal at MBFR calls for the removal from East Germany of 69,000 Soviet troops—a Soviet tank army.

Ground force modernization

Following this quantitative expansion, the Soviets have pursued a program of organization and modernization designed to provide Warsaw Pact ground forces the capacity to wage successfully the kind of blitzkrieg called for in Soviet doctrine. Among the highlights of this program are:

(1) The T–72 main battle tank has been introduced into the Group of Soviet Forces in Germany. This improvement in tank quality has been coupled with an increase of 60 to 80 tanks in the standard inventory authorized for their 16 motorized rifle divisions in Eastern Europe. Together, these improvements have greatly strengthened Pact armor, which today outnumbers NATO's by almost three to one.

(2) The replacement of armored personnel carriers with the BMP–60 mechanized infantry combat vehicle. This has granted Soviet infantry an ability to fight without dismounting—a capacity denied to almost all of NATO's mechanized infantry (German infantry being the sole exception). For the most part, NATO is still tied to the technologically obsolescent armored personnel carrier.

(3) The shift from towed to self-propelled artillery, which permits artillery to keep pace with advancing armor, thus significantly enhancing the tank's survivability. This shift has been accompanied by an estimated expansion of at least 50 percent in the number of Soviet artillery tubes in Eastern Europe in recent years.

(4) The proliferation throughout Soviet ground forces of a formidable array of tactical air defense systems. Better air defense could result in a severe loss of NATO aircraft during the opening stages of hostilities.

(5) The impressive growth of Soviet ability to neutralize NATO's anti-tank capabilities.

The transformation of Soviet tactical airpower

The simultaneous quantitative and qualitative upgrading of Soviet ground forces in Eastern Europe during the past eight years has been accompanied by a dramatic transformation of Soviet tactical aviation. In 1968, Soviet tactical air forces were oriented primarily toward the defense of air space over Pact territory, and accordingly were composed largely of short-range, low-payload aircraft possessing only incidental ground attack capabilities. Since then, Soviet tactical air forces have been fundamentally restructured with the apparent objective of acquiring a powerful offensive force for both close air support along the entire breadth of the battle area and deep interdiction throughout NATO Europe. This could threaten vulnerable fixed-site targets such as nuclear weapons facilities, supply bases, airfields, and air defense sites.

The rapid introduction on a large scale of a host of longer-range, heavier-payload aircraft and strike helicopters—the MIG–21J, K, and L, MIG–23, SU–17, SU–19, Backfire bomber and MI–24—greatly reduces NATO's traditional advantage in tactical air power. According to the latest U.S. estimates, the Soviets have increased their deployment of new fighter-bomber aircraft in Eastern Europe by 200 percent in the past two years. Moreover, recent Pact air exercises appear to be focusing more and more upon simulated long-range strikes against vital NATO military targets.

NATO's technologically superior tactical air forces continue to possess greater staying power than those of the Pact. NATO also

[1] Defined as the territory of the Federal Republic of Germany south of the Elbe, Belgium, Netherlands, Luxembourg, France, and the United Kingdom.

has an advantage in pilot training and experience. However, as a ranking NATO air officer recently concluded, "the air war in the Central Region has shifted westward, and although the ultimate mission of NATO's air forces remains that of providing the Army firepower, we must now first save ourselves before we can save the Army." If this assessment is correct—that the new and emerging character of Soviet tactical aviation has deprived NATO's own air power of its traditional role as the great "equalizer" of Pact preponderance on the ground—the size and role of NATO's air forces demand a thorough re-evaluation.

The new threat: Decreased warning time

The precise consequences for NATO of each of these numerous improvements in Soviet conventional forces remain speculative. However, taken together, the size and capabilities of Soviet ground forces in that region and the new power accorded to Soviet tactical air forces has fundamentally altered the character of the threat to NATO in the Central Region.

Soviet forces deployed in Eastern Europe now possess the ability to launch a potentially devastating conventional attack in Central Europe with little warning. Such an attack might be unattended by the telltale prior callup and transfer to the Central Region of Soviet divisions stationed in the western military districts of the U.S.S.R.

NATO's conventional force posture in the Center remains predicated upon the presumption that, for Pact forces to have any reasonable chance of overwhelming NATO, they would require, prior to hostilities, substantial augmentation by Soviet reinforcements drawn from the U.S.S.R.'s western military districts. Based on this assumption, these transfers, and the likely accompanying mobilization of less ready divisions throughout Russia would take weeks. They could not escape early detection by NATO. If acted upon promptly, this would give the Alliance a degree of warning time sufficient to mobilize fully its forces already deployed in NATO Center and to transfer and assemble there crucial reinforcements from the United States, Canada and the United Kingdom.

If, however, Pact forces in Eastern Europe alone now possess a substantial conventional capability independent of prior augmentation, then NATO is confronted with the prospect of warning calculable in days, not weeks or months. The significance of a Pact capability to launch such an attack from virtually a standing start cannot be exaggerated. Such an attack would hit the Allies in a reduced state of readiness. The Pact could also employ an attack to divide the Allies, particularly if the attack were launched against one member rather than against the Alliance as a whole. For NATO, the political and military implications of sharply decreased warning time are profound. They call into question whether NATO's present conventional force posture is adequate to meet the new threat.

IMPLICATIONS OF DECREASED WARNING TIME

Major Warsaw Pact aggression preceded by perhaps just a few days' warning would exploit certain political and military weaknesses which continue to plague NATO. For this reason, it is hard to entertain the notion that the fundamental alterations in the character of Soviet force posture in Eastern Europe registered during the past eight years have been anything but deliberate.

We are neither suggesting any intention on the part of the Soviets to invade Western Europe nor predicating an invasion. Divining ultimate intentions is an arcane if not occult endeavor which defies scientific precision. However, we are persuaded that Soviet military capabilities, which *are* identifiable, do indicate the kind of conflict the Soviets would wage should they choose to make war.

Implications for strategy

Military strategy should serve as an impetus and a basis for planning and structuring forces to meet a military threat. However, NATO conventional forces have not been adequately changed to meet a shifting Soviet conventional threat. Therefore, it is time for a careful rethinking of NATO's capabilities to meet the new Soviet threat and to take advantage of the major developments of conventional military technology in the areas of firepower, mobility, and command and control. Some of the latter developments were evident in the 1973 Mid-East war. The principal issue is not the stated principles of NATO strategy, but rather the ability of the Alliance to implement them. In our view, there is a grave disparity between expressed NATO strategy on the one hand, and NATO force posture on the other.

History of NATO Strategy

Strategy for the defense of Europe has changed markedly since the formation of NATO. Until the mid-1960's, America's overwhelming strategic and theatre nuclear superiority was believed alone sufficient to deter any form of Soviet aggression in Europe. Although the Soviets and their East European allies maintained, as they do today, a preponderance of conventional forces on the Continent, the threat of massive nuclear retaliation against the Soviet Union itself was adequate to deter the use of those forces by a country incapable of responding in kind. The function of NATO's conventional forces, such as they were, was primarily that of a trip-wire designed to establish the fact of aggression and thus to ensure an immediate nuclear response by NATO.

By the mid-1960's, however, the credibility of the U.S. strategic nuclear guarantee to Europe was under serious challenge. Confidence that nuclear weapons alone could continue to deter hostile Soviet military action across the full spectrum of threats ranging from nuclear attack to limited conventional aggression had markedly declined. The emergence of formidable Soviet strategic nuclear retaliatory capabilities, although still inferior to those of the United States, had rendered the American homeland itself a potential target in the event of war in Europe. Doubts arose in Europe, voiced most strongly by French President Charles De-Gaulle, over whether any American president would risk a nuclear holocaust for his own country in defense of anything other than American territory.

These developments strongly argued for the creation a genuine capacity to defend Western Europe before resorting to nuclear weapons. The result was the formal adoption by NATO in 1967 of the current strategy of flexible response.

Present Strategy

Flexible response calls for the development of strategic nuclear, theatre nuclear, and conventional capabilities sufficient to provide NATO an ability to deter, and if necessary, to defeat Pact nuclear and conventional aggression. The basic premise underlying flexible response is that the emergence of secure Soviet nuclear retaliatory capabilities at both the strategic and tactical levels has lessened the credibility of NATO's nuclear deterrence of non-nuclear aggression against Western Europe. We believe that the essence of flexible response is the altered role of NATO's conventional forces: no longer simply a trigger to automatic nuclear escalation, they are today charged with the task of halting a conventional attack *without* an immediate resort to a theatre or strategic nuclear response. NATO's conventional forces are further charged with the mission of presenting a defense which would require the Warsaw Pact to use such massive conventional forces in any invasion as to pose grave risks of escalation to nuclear war.

An integral part of NATO's flexible response strategy is the doctrine of forward defense—the requirement that defense against conventional attack be waged as far eastward (forward) in West Germany as possible. Tactically, according to the U.S. Army, the forward defense of NATO Center [2] would be implemented as follows:

Phase I

A non-nuclear Pact invasion of NATO Center would be met initially by a NATO "covering force", consisting largely of armored cavalry formations deployed well forward along the inter-Germany border. The covering force trades space for time. These forces today represent approximately one-quarter of all active NATO ground forces deployed in NATO Center.

Phase II

The second phase of the defense calls for waging the main defensive battle, with the aim of halting the advance of Pact forces. This battle would be fought by a combination of major NATO combat formations in Europe and reinforcements brought in from the United States, Canada, and the United Kingdom during Phase I. Unless there is nuclear escalation, the location of the battle would depend on the degree to which covering forces could slow the pace of advance of attacking Pact forces during the first phase.

Phase III

The third phase hinges upon the outome of the main defensive battle. Should NATO succeed in stopping the Pact's advance, a major counter-attack would be launched, designed eventually to rid all NATO territory of hostile Pact forces. Should NATO conventional forces be threatened with destruction, immediate consideration would be given to using theatre nuclear weapons. Thus, even if unsuccessful, NATO's conventional forces would at least "buy time" for the Alliance to ponder the alternative of nuclear escalation.

Problems of Flexible Response and Forward Defense

Several observations may be made about flexible response and forward defense without questioning the political and military necessity for either NATO possession of a wide range of defense options or for a conventional defense as far forward as possible. We do not question the desirability of NATO's commitment to forward defense. We endorse this commitment. We do, however, question NATO's capacity to carry out this commitment.

First, inherent in the concept of the "covering force" operation is an at least temporary loss of some German territory. Currently, this risk is compounded by deficiencies in the posture of NATO's deployed forces which threaten both the ability of the covering force to provide the time needed to mount a main defense, and the capacity of the covering force to hold forward positions. Together, these conditions could result in a loss of territory so substantial as to demoralize Germany's civil and military authority. This could result in early loss of NATO's most powerful continental member. Even if the Soviets stopped their attack at that point to negotiate (perhaps the most valuable option for the Soviets), it might be only a matter of time before all Western Europe would be dominated by the Soviet Union. We wonder about the value of a "forward" defense which is insufficient to protect crucial forward areas.

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[2] Defined as the territory of the Federal Republic of Germany south of the Elbe and the Benelux countries.

Second, the proposition that retreating NATO forces, which up to the main defensive battle had suffered the agony of defeat, could suddenly halt, regroup, defeat, and eject a vastly larger enemy flushed with the thrill of victory borders on the fantastic. In 1914, the so-called "Miracle of the Marne" was attributable more to mistakes made by invading forces than it was to any intelligent defense. In the 1940 campaign against France and the Low Countries, the invader made no mistakes.

Third, whatever chances NATO's conventional forces might have for success under current tactical doctrine may depend upon the amount of warning time preceding the outbreak of hostilities. Insufficient warning could preclude both the full mobilization and deployment of European-based forces and the arrival on the Continent of adequate reinforcements from the United States, Canada, and the United Kingdom.

Finally, recent developments in Soviet theatre nuclear force posture, particularly when coupled with Soviet achievement of parity at the strategic nuclear level, suggest that the Soviets are striving to neutralize NATO's tactical nuclear options under "flexible" response. During the past several years the Soviets have expanded their theatre nuclear forces in Europe to the point where they may now credibly deter a NATO first use of tactical nuclear weapons. The bulk of Soviet tactical nuclear weapons are more destructive and longer-ranged than NATO's. They could be used against most large European cities. Moreover, the Soviets have, to a much greater extent than NATO, organized and equipped their conventional forces to continue to operate and fight on a nuclear battlefield.

In sharp contrast, the comparatively short reach and low yield of most of NATO's tactical nuclear weapons would restrict their employment primarily to NATO territory, particularly if NATO's conventional forces had been driven deep into the rear of Germany. As one knowledgeable German recently remarked, "During the past eighteen months NATO has played five war games, and my country has been 'defended' five times and destroyed five times."

Political implications

The political implications for the Alliance of decreased warning time relate to NATO's capacity to fund and station adequate forces in peacetime and to decide to act once warning is received. Failure to do either could invite major Soviet escalation in a crisis.

Decisionmaking in Crises

First among the political implications of short warning time is the need to improve current procedures within the Alliance to obtain the political authority for timely and coordinated mobilization and reinforcement of NATO's conventional deterrent. The present formal structure of collective political decisionmaking within NATO is so complex and cumbersome that it raises the catastrophic prospect of hostilities preceding even a NATO *decision* to mobilize. Moreover, the entire structure rests upon the willingness of each member state to accept the judgment of NATO's international military commanders and staff, which may or may not be in accord with those of national intelligence services. This complicated procedure not only lengthens the decision process but also risks disjointed mobilization.

The current means of mustering adequate political authority for comprehensive military mobilization may have been tolerable at a time when NATO could justifiably count upon weeks if not months of military warning. They are clearly unacceptable against the threat of unexpected attack.

Forward Stationed Peacetime Forces

Decreased warning time severely limits the reinforcements that could be moved from North America and the United Kingdom to NATO Center. This greatly magnifies the importance of forces *already* in place on the Continent, the bulk of which are and of necessity must be European. Yet there has been a contraction of active forces forward deployed in the Central Region.

At a minimum, Allied contributions to the defense of NATO Center should be stabilized and improved both in strength and location. U.S. and German forces in the Central Region are the only ones that have not been reduced. Indeed, present plans call for the addition of another entire U.S. tactical air wing. The British Army of the Rhine has been sapped by the demands in Northern Ireland. Dutch and Belgian contingents forward deployed in Germany have been weakened. The French have announced plans to cut their Army forces in Germany by almost 25 percent. Each country has its own immediate political reasons for these actions, but the cumulative long term effect of weakening conventional forces could be disastrous for Europe.

The outcome of modern war is no longer decided simply by masses of men, tanks, airplanes, and ships. But at some point numbers do count, especially in the face of an eroding NATO technological superiority no longer capable of offsetting, to the degree it once did, the Pact's widening quantitative preponderance of forces.

Equitable burden sharing

Primary responsibility for the defense of Europe below the nuclear threshold is, and must be, a European one. The defense of Europe is vital to the United States; but it should be even more vital to Europeans. Although no member of NATO (including the United States) is doing all it could to confront the Pact with a credible conventional deterrent, the gap between potential and actual contributions is widest among our European allies, none of whom have either significant security commitments outside Europe or major strategic nuclear responsibilities.

Contributions to NATO's conventional deterrent cannot and should not be measured solely by quantitative "bean counts" of men, tanks, aircraft, and ships. Numerical comparisons serve to inflate European contributions while ignoring significant differences in actual combat power between U.S. and Allied military forces deployed in the European theatre. The truth of the matter is that, in terms of such crucial factors as firepower, mobility, and readiness, U.S. ground and tactical air forces deployed in Europe are decidedly superior to those of most of our Allies. Thus, purely quantitative comparisons of U.S. and European contributions to the defense of the Continent do not provide an adequate foundation for any discussion of conventional defense burden sharing within NATO. We plan to issue a subsequent report to the Committee for the purpose of discussing this concern more thoroughly.

Military implications

The military implications for NATO of decreased warning are no less grave. If current trends continue, the credibility of the Alliance's present conventional force posture will be increasingly subject to question. The decreased warning time implicit in the changing character of the Soviet threat in Eastern Europe in the last eight years may be said, militarily, to represent a Soviet invitation to a "come as you are" party. It is an affair which NATO, unless improved, cannot extend because it is inappropriately dressed and lacks transportation.

Tactical Doctrine

The pitfalls of a so-called "forward" defense doctrine without adequate forward deployed forces to carry it out are apparent. The inability to implement this doctrine could result in a withdrawal from rather than a major defense of Germany east of the Ruhr. Such a doctrine will not work if the invasion is launched (1) *before* in-place forces can be mobilized and moved forward, and (2) *before* adequate United States, Canadian, and British reinforcements can begin to be transferred to the Continent. There is comparatively little space in NATO Center to trade for anything. It is doubtful whether NATO's present covering forces possess sufficient mass and firepower to impose a substantial delay upon a highly mobile armored juggernaut estimated to contain as many as 58 Pact divisions. This implies that current tactical doctrine may give insufficient attention to developments in firepower, mobility, and command and control which, if exploited, are capable of bringing massive conventional firepower to bear quickly on any attack.

Deployment Patterns

The maldeployment of NATO forces already located in the Central Region further reduces the readiness of the Alliance. It is widely recognized that the deployment of the entire U.S. Army, Europe (USAREUR) in southern Germany is not a product of contemporary tactical considerations but rather a legacy of World War II logistics arrangements and of postwar occupation agreements. Yet it is the North German Plain which is the most likely principal axis of Pact aggression, and where the Soviets have deployed fully two-thirds of all their forces in Eastern Europe. In short, despite a larger and more immediate Soviet threat in northern Germany, NATO remains stronger in southern Germany.

Less well recognized is the East-West maldeployment of NATO forces. The peacetime positioning of major combat units well to the rear, beyond the reach of the Pact's initial onslaught, does not support a forward defense strategy. In some corps areas, formations are withheld so deep in the rear that it is questionable whether they would be available in time to participate in major defensive operations against a sudden or unexpected blitzkrieg. For example, five of the six Dutch brigades committed to the "forward" defense of the crucial 1st Dutch Corps area along the Elbe remain in Holland. The French Army in Germany, the Canadian Battlegroup, and substantial Belgian, German, and U.S. forces also are stationed west of the Rhine or in the distant southwest corner of Germany.

The successful movement of these forces to their assigned wartime positions east of the Rhine, as is called for in present doctrine, would be doubtful in the face of a warning of only a few days. Moreover, once hostilities were initiated by the Pact, the probable destruction of many of the bridges across the Rhine would severely delay this movement.

Finally, even forward deployed units are not without problems. Urban sprawl and growing German safety and environmental restrictions have led to the separation of many combat units from even their initial supplies of ammunition, thus imposing further delays upon their redeployment to assigned wartime positions.

Reinforcements

As for the timely introduction of United States, Canadian, and British reinforcements, decreased warning makes clear the inadequacy of the present pace at which they could now be transferred to the Continent. For example, the time required for the projected buildup of the British Army of the Rhine, once parliamentary approval was obtained, would be insufficient against the new Soviet threat. Decreased warning imposes even greater restraints upon the movement of adequate U.S. forces in Europe. They would have to move exclusively by air since forces moved by sea would not arrive in time.

The problem is compounded by an already inadequate U.S. strategic airlift capability

and by an acute shortage of key arms and equipment prepositioned on the Continent and earmarked for use by U.S. forces to be transferred to Europe by air. Thus, in the face of decreased warning, the demand for existing strategic airlift resources is likely to exceed the availability. Moreover, those units which do arrive in Europe before D-Day may be compelled to "fall in" upon depleted sets of equipment which would preclude them from realizing their full combat potential. Finally, it is not clear that U.S. reinforcements, once in Europe, would have available to them sufficient tactical airlift resources to permit their rapid tactical positioning and resupply. The U.S. Army has, as yet, specified no tactical airlift requirement for Europe, although a study on the subject is reportedly nearing completion.

Firepower and readiness

Another significant military implication for NATO of decreased warning time is the woeful inadequacy of the current level of firepower readily available to NATO forces in the Central Region. The immediate application of immense firepower upon Pact forces along both sides of the inter-German border may be the only means of halting an invasion well forward. Yet there is a general shortage of armored fighting vehicles, artillery, missiles, and other high priority items throughout NATO Center. Ammunition stocks are grossly inadequate in the light of expanded consumption rates projected for modern combat in Europe. Shortages in artillery shells are especially acute. Finally, the disparity between authorized and actual levels of equipment maintained in U.S. war reserve and prepositioned stocks is nothing short of a disgrace.

In this regard, the plight of the U.S. Army, Europe is especially illustrative, USAREUR today is short of its authorized ammunition, of which a substantial percentage is stored at a few vulnerable locations west of the Rhine. However, pursuant to a recent Department of Defense reassessment of the likely rates of ammunition consumption in a high intensify conflict in Europe, USAR EUR's authorization has been dramatically expanded. Therefore, if DoD's new projections are correct, USAREUR now has on hand but a fraction of the ammunition it will need during the first thirty days of war.

The separation of many USAREUR combat formations from immediate access to their ammunition; the concentration of ammunition storage sites in a manner which represents a standing temptation to a preemptive Soviet air attack; and the disposition of much of USAREUR's ammunition west of the Rhine (including England) all combine to raise serious questions about USAREUR's true readiness for combat.

The state of USAREUR's war reserve and prepositioned equipment is appalling. War reserve stocks are general stocks maintained to replace equipment expenditures or losses in combat; prepositioned equipment, or POMCUS (prepositioned overseas materiel configured to unit sets), is equipment specifically withheld for use of U.S. reinforcing units flown in from the United States. Yet, current shortfalls in both types of stocks are of such magnitude that deployed USAREUR combat units and initial reinforcements might not be able to sustain more than a few days of high-intensity combat.

Compounding the problem with the POMCUS equipment is the incompleteness of "unit" sets. Some equipment that is listed as "in stock" may not be operationally ready because there may be other integral equipment associated with it such as radios or batteries that are either not in stock or not operationally ready.

The principal cause of these shortfalls is a comparatively low production base in the United States for many items of equipment coupled with transfers and foreign military sales to other countries. These actions appear to place a higher priority upon equipping the forces of foreign countries than our own. The present shortages in stocks of such high-technology weapons as improved Hawk air defense missiles, AIM-7 and AIM-9 air-to-air-missiles, and TOW and Dragon anti-tank missiles could be eliminated with a small percentage of these weapons the United States has recently sold (or undertaken to sell) to a handful of Middle Eastern countries. In some cases, equipment already authorized by the Congress for the Army or the Air Force has been abruptly siphoned off the production line by one foreign military sale or another deemed "critical to the national interest". We wonder what national interest could be more critical than that of supplying U.S. fighting men with equipment sufficient to survive on the battlefield. We wonder who has higher claim on America's arsenal, our own forces or those of the Middle East?

The war reserve and POMCUS equipment that is present is more often than not poorly maintained or placed in the category of deferred maintenance. We wisited a POMCUS site where, for example, armored fighting vehicles were stored in open fields completely exposed to the elements, while such non-essential items as tent pegs, tents, garbage cans, and field kitchens were neatly tucked away in climate controlled shelters. In some cases, vehicles lacked workable vital components such as radios and batteries. We plan to file a more detailed report on the status of POMCUS and war reserve stocks at a later date.

Anti-Tank Capability

NATO's all too often casual confidence in the ability of its preponderance of anti-tank weapons to offset the Pact's advantage in armor may be unjustified. The Soviet Union's inventory of main battle tanks—conservatively estimated at 42,000—(of which over 15,500 are deployed in Eastern Europe) is alone of sufficient magnitude to absorb a very high loss rate, perhaps even higher than that sustained by both sides during the Yom Kippur War of 1973.

Moreover, even the latest generation of Western anti-tank systems, such as the wire-guided TOW, Dragon, HOT, and Milan missiles have severe disadvantages which can be exploited by an alert enemy. Most are "line of sight" weapons requiring not only visual acquisition of a target but also sustained and uninterrupted visual observation of the target from launching to impact, during which time the anti-tank "gunner" and crew must remain exposed to the threat of hostile fire.

Unlike Middle Eastern battlefields, the terrain and vegetation of Central Europe, together with the prevalence of inclement weather throughout the Region for much of the year, inhibit the full exploitation of these weapons, particularly at extended ranges.

The pronounced and deliberate Soviet emphasis on camouflage, smoke, night operations, and on prodigious use of their overwhelming preponderance of long-range artillery to suppress anti-tank defenses further reduces the potential effectiveness of these weapons. This is not to suggest that NATO's heavy investment in these weapons is or has been misdirected. It is to say, however, that their contribution to the defeat of Pact armor probably will fall short of expectations derived from the Middle East experience.

AIR DEFENSE

The new Soviet threat also poses serious problems for NATO's air defenses. As we noted earlier, the Alliance's longstanding confidence in its tactical air power to offset Pact preponderance on the ground must be reassessed. The emergence of a Soviet air force capable of conducting wide-ranging offensive operations suggests a need for heightened NATO attention to air defense. U.S. ground forces have historically been accustomed to fighting without the serious threat of air attack, and the goal of achieving air superiority would be extremely important in any confrontation in Central Europe. We urge the U.S. Department of Defense and NATO to study intensively the various ground and air options for greatly increasing air defense capabilities in Central Europe. In particular, better integration of ground air defenses with the new highly capable F-15 and F-16 aircraft is essential.

Ground air defenses are particularly thin in the CENTAG area, and much of the great U.S. logistics infrastructure in southwest German, such as the mammoth Kaiserslautern Army depot, is poorly defended. Moreover, a significant proportion of NATO's air defenses are tied to fixed-site weapons, like the Nike-Hercules, whose vulnerability to preemptive air attack greatly reduces their potential contribution to the protection of U.S. ground forces.

A major deficiency in NATO's ground air defenses in a crucial shortage of surface-to-air missiles. One example will suffice. According to USAREUR authorities, the "basic load" of improved Hawk missiles for U.S. Hawk batteries assigned to the defense of the Fifth and Seventh U.S. Corps areas is today adequate to sustain combat against a high-intensity Pact air threat for only a few days, after which the batteries would be compelled to draw upon ware reserve stocks. Yet Hawk missiles withheld in war reserve represent only a small percentage of the level authorized, and most are older unimproved Hawks. As of the third quarter of 1976, the United States under the Foreign Military Sales Program had sold or had contracted to sell over 2,000 Hawks—most of theim improved—to Iran, Israel, and Jordan alone.

Command, Control, and Communications

A final implication for NATO of the new Soviet threat is the inadequacy of the Alliance's current command, control, and communications capabilities, which one senior NATO commander recently declared to be "the fundamental deficiency within NATO today."

The threat of an immense blitzkrieg preceded by little warning places upon NATO stringent demands for these capabilities. The anticipated intensity and breadth of combat, as well as it rapidly changing character will require a capacity not only for instant communication among NATO's various national forces operating in the battle area, but also for rapid, efficient, and coordinated allocation of the Alliance's military resources. Only in this way can both ground and air targets be quickly acquired and destroyed without the confusion, delay, and duplication which would inevitably accompany reliance on NATO's present command, control, and communication capabilities.

These capabilities are constrained by the scarcity within NATO of all-weather reconnaissance and attack aircraft; the absence of easy communication among tactical units of differing national armies; the acute shortage of sophisticated information processing systems; continuing obstacles to efficient air-ground communications; and what appears to be unnecessarily large and unwieldly staffs at some headquarters.

Implications for MBFR

The Mutual Balanced Force Reduction (MBFR) negotiations have been underway since January, 1973. No reduction of NATO and Warsaw Pact general purpose forces in central Europe has yet been made as a result of these talks.

In our view, the manpower disparities between NATO and the Warsaw Pact in the

designated reduction area (formally known as the NATO Guidelines Area) are not the major NATO problem. Of great concern, however, is the Pact's superiority in firepower, greater readiness, and unsurpassed mobility. These are the true pillars of success in modern war, as was dramatically demonstrated in the October War of 1973. In our opinion the main objectives of MBFR should be to reduce Soviet firepower in the Guidelines Area, to provide the necessary verification means to insure it is not reintroduced, and to take steps which would improve early warning of impending attacks. We plan to file a more detailed report on the MBFR situation at a later date.

TASKS BEFORE THE ALLIANCE

In lieu of eliminating the threat of decreased warning through negotiation, it is imperative that NATO alter its own conventional force posture to offset the military benefits the Pact now enjoys as a result of decreased warning. The tasks before NATO are formidable. But they are unquestionably within the economic resources of the Alliance. NATO encompasses the greatest economic and industrial constellation on the planet. NATO does not lack the means; NATO must demonstrate that it does not lack the will. Moreover, the tasks cannot be fulfilled on the national level. They can be only as part of a comprehensive, coordinated, and concerted program undertaken by the Alliance as a whole. The failure of any member to do its part could jeopardize the efforts of others.

Work in progress

We agree with the general concepts of a truly flexible response and a conventional defense as far forward as possible. The issue is the ability of present NATO forces really to provide these capabilities.

Many of the deficiencies in present NATO force posture discussed in this report are both longstanding and recognized by the Alliance. Some have for years been the object of great concern within the Alliance, and this concern has heightened sharply in the face of the new Soviet threat. Moreover, many of the corrective actions we propose have at one time or another been entertained within NATO at the national or international level, and some are currently under intensive study.

Promising initiatives have been undertaken by the Alliance and its member governments which, if carried to fruition, could to some extent reduce some of the advantages conferred upon Soviet and Pact forces by decreased warning. Prominent among these initiatives, planned or in progress, are:

1. the reorganization of the U.S. Army, Europe, the British Army of the Rhine, the Bundeswehr, and the French Army to improve the immediately available combat power;

2. the relocation of some critical stocks of ammunition and other stocks to forward sites closer to combat units;

3. the assignment of three new brigades (one U.S. and two German) to northern Germany;

4. the development of an improved, more reliable, and integrated command and control system supported by an expanded secure voice network and by enhanced protection of critical international command headquarters;

5. the revision of logistic consumption planning rates and stockpile guidance to reflect recent reassessments of the needs of modern combat;

6. the expansion of the capacity of NATO airbases to cross-service (including ordnance re-arming) aircraft of various national air forces;

7. the creation of an integrated tactical air command system;

8. the addition of an F–111, and an F–15 air wing; and

9. the possible procurement of the Airborne Warning and Control System (AWACS).

As commendable as these initiatives are, however, they are not enough. Even together, these efforts to increase the effectiveness of NATO's conventional forces will not compensate for the new threat posed by the Soviets. More—much more—must be done.

Political tasks

The NATO allies would be most vulnerable to an intense conventional attack with short warning at a time of political weakness or transition when the decision to mobilize or to use nuclear weapons might be delayed. To meet the new threat confronting the Alliance requires changes not only in military posture but also in political attitudes. The political leadership and the general public must understand the implications of the new Soviet conventional threat. It appears that public opinion in some NATO countries is ahead of political leadership in this regard. Our NATO Allies and the United States must devote enough resources to provide a credible conventional deterrent to the threat of attack with little warning. Additionally, top priority attention should be given to developing ways to speed up the political decisions required to meet unexpected Warsaw Pact mobilization. We recommend that a conference of key NATO military and political leaders be convened as soon as possible to identify the steps needed to meet this challenge.

Military task

First, *current U.S. force planning assumptions as to the prior warning time and likely duration of a future conflict in Europe must be revised.* Although some individual NATO and national commands have undertaken such revisions on their own, there is still no common, Alliance-wide agreement on the issue.

For example, for planning purposes the Department of Defense continues to project over three weeks warning time followed by a conflict of up to six months. These assumptions appear to be increasingly unrealistic in the light of the new Soviet threat. Serious consideration should be given to establishing for NATO as a whole planning factors which would encourage coordinated preparation for an intense war preceded by perhaps as little as a few days' warning. This should be done without weakening powerful hedges in NATO force structure against a protracted war. Against the economic and industrial might of the West, the Soviets would be foolish indeed to risk a long war. Yet for NATO to continue to focus so much of its planning on this unlikely scenario is to presume that the enemy will cater to our strengths and ignore our weaknesses. What good are NATO hedges against a long war if the Alliance cannot survive a short war?

Second, *current postural deficiencies which threaten NATO's ability to conduct a successful forward defense should be corrected with the aim of permitting the Alliance to wage the main defensive battle close to the inter-German border.* NATO forces currently deployed along that border which are designated as "covering forces", and designed to slow but not stop a Pact invasion, should be strengthened to the degree necessary to compel the Pact forces to deploy for major battle *before* they enter NATO territory. This may require a redeployment of selected combat formations now located along the Rhine or to the west of it to forward assigned wartime positions. It may also necessitate the transfer of forces more northward along the likely principal axis of major Pact aggression.

We realize that formidable political and economic obstacles stand in the way of redeployment. There is a severe shortage in Germany of land suitable for military purposes, and German safety and environmental laws and regulations cannot be ignored. Moreover, the repositioning of U.S. combat units from CENTAG to NORTHAG could be interpreted by the United Kingdom, Belgium, and the Netherlands as evidence of American willingness to assume military responsibilities which those countries currently bear, and serve as an excuse for reduction in deployed Allied forces. NATO should not be permitted to degenerate into little more than a United States-German military combination.

Therefore, consideration of the militarily sound proposal to establish a second and even a third U.S. brigade in northern Germany, must be approached with political caution. Yet, whatever the nonmilitary obstacles to redressing the maldeployment of forces in NATO Center, there can be little doubt that it must be redressed if NATO is to confront the Pact with a truly forward defense of NATO territory.

Corrective action in this regard should not be misinterpreted as a call for the creation of a Maginot Line along the inter-German border at the expense of powerful active forces withheld in the rear as a flexible reserve. The Maginot Line concept of defense was discredited thirty-seven years ago. It is a call, however, for a shift in the weight of NATO's combat firepower deployed in the Central Region to the east and to the north.

Third, *a quantum jump is needed in NATO's conventional firepower.* In the short term, this can be accomplished by procuring additional artillery, anti-tank, and air defense systems. Top priority should be given to artillery, which is a comparatively cheap source of firepower and one of the most longstanding and pronounced deficiencies of NATO ground forces. Ammunition stocks also should be brought up to authorized levels based upon revised requirements. Artillery ammuntion stocks must be increased, since current stocks in some corps areas would cover only a few days' expenditure at projected rates. The fulfillment of these short-term objectives for U.S. forces should not be permitted to fall victim to commercial or foreign military sales. The lives of American fighting men must take precedence. Restoring and maintaining U.S. POMCUS and war reserve stocks must be given top priority.

In the long term, the quantum jump in NATO firepower necessary to counter the new Soviet threat can be obtained only by accelerated exploitation of ongoing technological advances in munitions and delivery systems. Representative of these advances are cannon-launched guided projectiles, air- and artillery-delivered mines, laser-guided weapons, and tactical applications of cruise missile technology. The new potential of multiple rocket launchers also should be explored.

Fourth, *the readiness for immediate combat of deployed U.S. and Allied forces must be improved.* In addition to the permanent eastward repositioning of selected U.S. and Allied combat units to their assigned wartime positions, this aim can be helped by the collocation of combat units with their initial supplies of ammunition.

Fifth, *NATO's air defenses must be transformed into a capability to inflict unacceptable losses upon intruding Soviet tactical air forces.* This can be achieved through better integration of existing air defense systems: surface-to-air, air-to-surface, air-to-air, and surface-to-surface. The critical shortage of surface-to-air missiles must be remedied.

Sixth, *the Alliance's present command, control, and communications capability must be substantially enhanced to accommodate the demands of the modern battlefield.* There is an impressive concensus within NATO that procurement of the Airborne Warning and Control System (AWACS) is essential to realization of this objective.

Seventh, *the pace at which U.S. and British*

reinforcements can be transferred to the Central Region must be hastened. This can be accomplished only through an expansion of airlift resources available to NATO and prepositioned stocks of equipment that are both sufficient and properly maintained.

Finally, *interoperability of arms and equipment within the Alliance must be relentlessly pursued.* NATO can no longer afford to pay the stiff military and economic price of dependence upon a museum of national armaments inventories incompatible with one another. Lack of interoperability serves the interests only of the Warsaw Pact. Although progress has been made, much more needs to be done.

Serious consideration should be given to establishing within each ministry of defense powerful bureaucratic constituencies committed solely to achieving standardization and interoperability. For the Department of Defense, this might entail creation of an office of standardization in both the Office of the Secretary of Defense and with each service. The institutionalization of the impetus toward standardization would provide a major counter-weight to contrary parochial political and economic interests. Progress toward comprehensive Alliance-wide interoperability of arms and equipment can be facilitated by the development of a common tactical doctrine and by testing it through joint exercises. Ultimately, however, progress will require discarding of the notion that logistics should be exclusively a national responsibility.

WAMI: PROGRESS IN RURAL HEALTH CARE

Mr. CHURCH. Mr. President, on January 5, I spoke of a medical program jointly sponsored by the States of Washington, Alaska, Montana, and Idaho—the acronym is WAMI—which seeks to increase the number of primary care physicians in the four-State area and to bring first-class medicine to underserved rural communities. I reported that the program is highly successful, and I quoted at length from a survey evaluation made by a liaison committee of the American Medical Association and the Association of American Medical Colleges which enthusiastically commended the WMAI program and its results. This report was a broad overview in terms of statistics and technological standards, a macro analysis if you will. It is interesting to compare it with a microscopic view of WAMI, as it is seen from below by patients and doctor in a remote town in the northwestern tip of the United States. Natalie Davis Spingarn dispatched such a report from Forks, Wash., to the Washington Post. It appeared on December 5, 1976. Mrs. Spingarn is a talented journalist whose articles on medical topics appear frequently in the Outlook Section of the Washington Post, and who has recently published books on the confidentiality of medical records and on the politics of health research. Her story adds another dimension to the bright picture of WAMI, and shows how legislative decisions actually affect people. Because I think the WAMI experience might be worthy of emulation in other parts of the country, I ask unanimous consent to print the Post article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 5, 1976]

A DOCTOR'S CHOICE: FORKS, WASH., AND NOT THE BIG TIME

(By Natalie Davis Spingarn)

FORKS, WASH.—One might think this small logging town at the northwestern corner of the United States would have had little trouble attracting a new doctor. It boasts many attractions: Towering dark firs. Clean air. Clear streams and lakes you can fish. Dramatic beaches with huge rocks jutting into the Pacific. A new community hospital and clinic, and the veteran doctor, who had served the 10,000 people hereabouts for a quarter century, getting ready to retire.

But potential replacements came—and did not stay. For more than four years, the hospital stood virtually empty, and people here began calling it the "million band-aid station." Expectant mothers and injured loggers had to travel 60 miles around Lake Crescent to the hospital at Port Angeles. Forks (pop. 2,000) put up a sign at the edge of town: "Welcome to Forks, Doctor Needed."

The faded sign is gone now. Dr. Stephen H. Kriebel settled in after completing his residency in July, 1975. Now this bearded, 30-year-old physician runs a five-person medical team and serves as chief of staff at the hospital. Before he arrived, not one child had been born at Forks Community Hospital. In the first half of this year, 60 babies were delivered. The number of surgical procedures—appendectomies, hernia repairs, cyst removals—has risen from zero to more than 70.

The doctor's wife, Lela, conducts childbirth education workshops at the clinic for prospective parents. This summer the Kriebels and their 2-year-old daughter moved into a new home on a 15-acre riverside spread just outside Forks. It looks as though Forks has its new young doctor at last.

The success story was due in large part to WAMI, a decentralized regional medical educational program which takes its name from its four participating states—Washington, Alaska, Montana and Idaho. WAMI whetted Kriebel's appetite for modern rural practice and gave him the chance to find out if he was suited to it.

GREEN TWIGS

Whether the overall doctor shortage is a thing of the past is a matter of controversy. But one can definitely say there is a need for more rational doctor distribution. Nearly two and a half times as many physicians practice in metropolitan areas as in small towns and rural America. The proportion of doctors who consider themselves general practitioners dropped from 50 to 16.4 per cent between 1949 and 1974, while the proportion of specialists rose from 37 to 80 per cent.

WAMI was founded in 1971, with funds from a private foundation and the Department of Health, Education and Welfare, as a regional effort to address such problems. It is a vast region with five time zones, 6 million people (most of them in the Puget Sound area), 20 per cent of the U.S. land mass—and one medical school, at the University of Washington in Seattle.

"When the twig is green, we begin to bend it." So says M. Roy Schwarz, the University of Washington physician who runs WAMI. Experience has shown that half the medical students from rural areas return there to practice and 70 per cent of those who complete the last phase of their training in a rural area become country doctors. WAMI is built around these two findings, together with the fact that building a medical school at a cost of $60 to $100 million was simply not an option.

Participants are admitted as regular U. of Washington students, but many begin their education away from Seattle—at the Universities of Alaska and Idaho, Montana State and Washington State at Pullman. There, in addition to their basic science studies, they spend half a day once a week working alongside a local physician or preceptor. They visit remote Alaskan villages, Indian reservations in Idaho and Montana and migrant farm camps in Washington.

Romance is a word Dr. Schwarz uses a good deal when he talks about WAMI: "We don't expect students to learn about diagnosis and treatment of disease in that first year. It's romantic at that point. We only expect doctors to enthuse their students. Show them what rural practice is like. Simply, what's their lifestyle? Are the people happy or aren't they? What do they do for cultural experience and education?"

In the second and third years, students return to Seattle for more traditional training in a major medical center. After the second year they choose a "pathway" or major field of study.

Then, when the students have gained more medical sophistication, they go back into the small communities for from six weeks to several months' clerkships in family medicine, pediatrics,, obstetrics/gynecology, internal medicine and psychiatry at community clinical units (CCUs) in 14 towns across the region, towns such as Kodiak, Alaska, or Missoula, Mont. Supervised by community physicians, they work in doctors' offices, in community clinics, hospitals and emergency rooms.

It takes a long time to make a doctor like Stephen Kriebel, and the students who enterd WAMI's first year will not finish their training until 1978. But the WAMI clerkships are also open to post-M.D. residents.

Kriebel, a graduate of the University of Pennsylvania medical school in Philadelphia, was tired of the hassle and dirt of urban life when he and Lela moved to Seattle for his residency in family medicine. But he had never seriously considered small town practice—probably, he believes now, because, like most young doctors, he had trained at a big city academic medical center and thought you had to practice near such a center to offer patients the advantages of modern quality care.

MEETING THE COMMUNITY

That changed when he spent two months at the WAMI Community Clinical Unit at Omak, an isolated little town in north central Washington. There WAMI students deal with everyday medical problems: An elderly lady feels queasy; a man suffers severe stomach pains; a new patient comes in for a complete workup; a baby falls down or suffers convulsions. They work as team members with practicing doctors and other health workers, such as nurse practitioners.

They also get a taste of life outside the office. They attend the county medical society meetings, meet local bigwigs, get to know how the school board and chamber of commerce are structured. They visit the mills and stores where patients work. They sample local hiking, fishing or hunting.

If the WAMI student is married, the program pays transport for his or her spouse to and from the clerkship assignment and provides the couple with a furnished apartment. Dr. Schwarz explained: "If a doctor's wife doesn't like it, he'll either leave or get himself a new wife. Neither is desirable."

Pointing to the conservatism of small towns, Schwarz said, "We have to be careful not to send any 'arrangements' out there." But sometimes different lifestyles can be accommodated. A women in labor rejected a WAMI student with a lengthy hairdo and other counterculture accoutrements. "I have enough troubles," she told him. "I don't want you and your lifestyle." The student consulted his supervisor, shaved off his beard, changed his clothes—and delivered the baby. Now the two couples—doctor and patient and their respective spouses—are good friends.

What drives most doctors away from rural practice—and what probably kept a new doc-

tor away from Forks for so long—is the isolation; they feel alone out there. At Amak, Kriebel liked his first encounter with a well-run modern rural practice. He was part of a team; he did not feel isolated from the medical mainstream.

Through WAMI's continuing education program, University of Washington faculty members visit the community clinics each month. Courses are offered in subjects from "Alcoholism" to "Treating the Untreatable." In addition, community clinic doctors, holding part-time appointments on the university faculty, visit Seattle for conferences and courses and can consult specialists there through a 24-hour-a-day telephone hookup called Med-Com.

SPREAD THE WORD

Before he completed his medical education, Steve Kriebel signed up with the National Health Service Corps, a U.S. Public Health Service program which recruits doctors for underserved areas and guarantees them a minimum salary. Upon completion of his residency, he examined the Corps' list of communities in need, noticed the name of Forks and remembered that years earlier, while passing through on a backpacking trip, he and Lela had noticed that sign: "Welcome to Forks, Doctor Needed." They decided to give it a try.

Steve could have fulfilled Corps regulations by going to work in a city slum or a larger country town. He has, he believes, made the right choice: "The more I live here the more I appreciate it. You have to be honest because everyone knows everyone else. You have to be open and friendly. You can't hold grudges because you run into the same people every day. There's space."

"It's a great place," Lela said. "Spread the word—the people are great, the closeness is nice. You have to be good to your neighbors because they know everything about you. If you need help, people are ready to help."

True, it rains too much, and school is not a big priority; with $100 a day to be made in the woods, there is a high dropout rate. But classes are small and, the Kriebels feel, the teaching is better than in many big city schools. They have had no trouble making friends. The average age in this community is 25, and the doctor and his wife enjoy working with young families. Obstetrics, the doctor said, is a happy part of practice.

Forks too remote? Why, they can get cable TV in town, and travel abroad with more ease than most of us (from Port Angeles to Victoria in British Columbia in two hours). They can drive to Seattle in four.

Forks' macho reputation? "There's no more frontier violence here than there is in Washington, D.C.," Lela says. You don't have to lock your car or even your house, Steve adds.

Lela's worries center around her husband: "I'm afraid he'll work too hard and we will never see him. I'm afraid that we won't be able to find a doctor who will be willing to stay and share the responsibility." Though veteran Dr. Edwin Leibold has not yet actually retired, he is tapering off and Kriebel had a taste of 20-hour days before Dr. John Hemmen, another NHSC recruit, joined the Forks clinic team this past summer. "You cannot really practice alone here," Kriebel says. But he knows that Dr. Hemmen may leave for further residency training next summer when he fulfills his work obligation in return for the Corps' financial help toward his medical tuition.

Still, Kriebel is practicing family medicine now in the way he wants, treating patients regardless of age, sex or disease and emphasizing continuous care and maintenance of good health. Patients—about 40 a day—get an introductory slip of paper when they come into the office. "Family Practice," it reads, "is a revitalized concept of General Practice. Professionals being trained in Family Practice today are trained not only for the usual acute type problems, but also for preventive care and behavioral and emotional support for the family."

Kriebel's job satisfaction is partly, he says, a personality thing. "I'm attracted to a challenge" and he finds family practice a challenge. "I like having long-term direct contact with patients, with whole families and with a community. In other people-oriented specialities, even in psychiatry, you don't get to know people over a whole lifetime."

The hospital emergency room sees about 600 patients a month. Specialists now visit Forks on a regular basis—a general surgeon twice and an orthopedic surgeon once a week, and an optometrist and several pediatricians periodically. But 95 per cent of the care Dr. Kriebel and his team offer is, he says, "definitive." If he needs a consultation, he can get the best via two toll-free lines to Seattle.

The clinic charges patients a fee for services averaging $9.25 per patient visit. Most patients' bills are covered by private or public health insurance, including Medicare, Medicaid and the Indian Health Service.

There are, of course, some problems: slow paying patients, an important local insuror who balks at the rates for paraprofessionals. On the whole, however, the clinic is doing well. It is attracting federal grants, including HEW funds to hire a badly needed counselor for alcoholics, and it is reimbursing the NHSC which supplied the start-up funds most young doctors need to launch a practice. The way things are going, it will turn into a self supporting group practice, with Dr. Kriebel doubling his present $20,000 salary.

A WORKABLE FORMULA

So, no expensive Park Avenue practice, no big shot super-specialty. The Kriebels seem satisfied with that prospect, and they may be more representative of the contemporary ethic than most people realize. Only four or five members of Steve's med school class were attracted to family medicine; this year 60 per cent of all graduating medical students chose to specialize in internal medicine, family medicine, obstetrics/gynecology or pediatrics. "Its a generational thing," Steve believes.

Here in the Northwest, WAMI's leaders are encouraged by results of their program thus far. More medical students are opting for primary care practice; the number in the three classes who chose the family practice "pathway" after WAMI got started was 147 as compared to 88 in the three pre-WAMI groups. Evaluation seems to demonstrate that there is no difference between the academic performance of the students who spend their first year at the medical school in Seattle and those who spend it out at the cooperating universities. And the attrition or dropout rate is no different (a law 3 per cent across the country). After some misgivings, the University of Washington Medical School faculty has come to accept and support the program, and it has gained accreditation for the full seven years.

Without a cent spent on expensive brick and mortar, the number of far Northwest residents who have had the chance to attend medical school has increased enormously (40 per cent in Washington, 500 per cent in Montana and 90 per cent in Alaska). And almost two out of three of the doctors who, like Kriebel, have been through the WAMI training program and completed their residencies have begun to practice in rural areas—45 per cent in town of less than 5,000 like Forks, and 15 per cent in towns of 5,000-15,000.

This fall, after three years of wrangling, largely over the extent to which the government can influence medical education, Congress enacted a new three-year, $2.3-billion health manpower act. President Ford signed the measure with some complaints about its size of the funds authorized. Among many other provisions, the act beefs up both the National Health Service Corps program and WAMI-like decentralized education projects called Area Health Education Centers.

Under the law, medical schools continue to receive "capitation" funds for each student enrolled (now more than $1,000 each), and students are not required to join either program. But there is a *quid pro quo;* the medical schools must train a portion of their residents—half by 1980—for primary care.

In the next decade, then, we will probably see many more doctors like Stephen Kriebel practicing in communities that desperately need them—in big city slums as well as isolated rural towns.

URGENT HELP NEEDED FOR MIGRANT WORKERS LEFT JOBLESS BY WINTER FREEZE

Mr. WILLIAMS. Mr. President, the distinguished Senator from Wisconsin (Mr. NELSON) and I have sent an urgent letter to the Acting Secretary of Labor, the Honorable Alfred G. Alberts, requesting that the Department take immediate steps to alleviate severe problems that face as many as 130,000 migrant and seasonal workers as a result of the destruction of vegetable and citrus fruit crops in Florida and other Gulf States in recent days.

We have requested that the Department not only allocate its own available resources in an emergency effort, but also take the lead in coordinating the resources of other departments and agencies of the Federal Government in providing assistance. This latter request, I believe, is entirely reasonable in that it is based upon the established intent of the Congress in assigning to the Department of Labor the activities of other agencies, in particular the former Office of Economic Opportunity, when the migrant programs were reorganized in 1973.

In addition, we have requested that the Department, and in particular the U.S. Employment Service, make exceptional effort to implement outreach procedures for locating, identifying, and referring affected migrant workers to other agencies for necessary services. In this connection, we have also requested that unobligated fiscal 1976 funds in the Migrant Worker Division of the Department be allocated immediately to provide emergency food, medical and transportation services. In both of these respects, the Department has been less than diligent in carrying out the intent of the Congress—or, in fact, the directive of the courts—in recent years.

Mr. President, a new administration is ascending to assume these responsibilities. I am personally confident that we will begin to see new attention, commitment, and compassion focused on the problems of migrant and seasonal workers. The crisis of these workers at this time, which may be the worst to engulf them in several years, provides a test that the new administration must not fail.

Mr. President, I ask unanimous consent that the letter of the Senator from Wisconsin (Mr. NELSON) and I to the

Acting Secretary of Labor be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON
LABOR AND PUBLIC WELFARE,
Washington, D.C., January 25, 1977.

Hon. ALFRED G. ALBERT,
Acting Secretary of Labor,
Department of Labor,
Washington, D.C.

DEAR MR. ACTING SECRETARY: The winter freeze that struck the vegetable and citrus fruit crops in Florida and portions of other Gulf States has confronted tens of thousands of migrant and seasonal farm workers and their families with grave problems. There are reports that at least 80,000, and perhaps has many as 130,000 farm workers will be indefinitely unemployed.

Although more normal warm weather has returned to these areas, the prospects of the workers and their families have not brightened. Lacking jobs, many are in need of immediate food assistance. Thousands may be forced to leave their temporary housing, because they cannot afford the rent or the utility costs they are expected to pay. Many of the workers have brought their entire families with them from homes as far away as Texas. For them, the crisis may be the worst in several years.

We therefore urge you to take all feasible steps and allocate all available resources of the Department of Labor immediately on behalf of these workers and their families. In addition, we request that the Department take the lead in coordinating the urgent efforts of other departments and agencies of the Federal government in providing assistance.

We would strongly suggest that you take steps to insure that Special Unemployment Assistance payments can be made within a few days at the full entitlement level of each eligible worker. As you know, a major impediment and serious delaying factor in determining eligibility of farm workers for SUA payments has been the difficulty of collecting earnings histories from multiple employers and frequently from several States. The Unemployment Insurance Service should move immediately to assist in expediting the processing of interstate claims for unemployment assistance. Unless the claims process is streamlined with utmost urgency, the workers may be forced to move northward to harvest other crops before they can receive any of the SUA payments to which they are entitled under the law; the result would be not only the lost benefits for the workers, but wasted administrative resources of State and Federal employment security offices as well. Your efforts in this regard would also facilitate the payment of disaster unemployment benefits if and when a Federal disaster declaration is made; we understand that these benefits are based upon the provisions of the State unemployment compensation laws in essentially the same way as the SUA program is, indicating that delays in interstate claims processing would hamper this program as well.

We would further suggest that the United States Employment Service make extraordinary efforts, both at the Federal level and through the associated State offices, to locate and indemnify the workers affected so as to insure (1) that they are promptly referred to any job opportunities available in the region in work for which they are trained or experienced and (2) that they are referred to other agencies that can provide food, health care, temporary housing, transportation and other necessities.

We believe it is essential that you take immediate steps to determine what assistance you can provide under the Comprehensive Employment and Training Act, both directly and through the system of prime sponsors. We understand, for example, that several million dollars of unobligated funds under Title III were carried over from fiscal 1976 and are available to provide emergency food, medical and transportation assistance. In addition, the Department has yet to allocate approximately $17.3 million of discretionary funds under Title VI and $80 million of discretionary funds under Title II; a portion of these resources might be committed to providing emergency public service employment for the jobless farm workers. Other discretionary funds under Title I should be evaluated as a means of establishing emergency programs of skill training, including subsistence payments as authorized by law.

Especially in the absence of a Federal disaster proclamation, the resources of other Federal agencies should be mobilized to the full extent of their authority and available funding. The Department of Labor, because of its special responsibilities for assisting migrant and seasonal farm workers, should assume the leadership in coordinating these efforts. Among the alternatives, the following should be explored immediately:

(1) the Department of Agriculture's authority, under an agricultural disaster proclamation of the Secretary, to provide emergency free food stamps for a 30-day period;

(2) the authority of the Community Service Administration to provide cash or vouchers for the purchase of food;

(3) the authority of the Department of Health, Education and Welfare under Part A, Title IV, of the Social Security Act to provide emergency assistance to needy families with children.

The large number of workers who are facing the despair of unexpected joblessness is more than sufficient justification for taking exceptional and urgent steps to assist them. The need is magnified further by the fact that women, children and elderly persons are traveling with the migrant workers. In addition, the reliance of the Nation's food-producing industries on these workers makes it all the more necessary to prevent further deterioration of the health and well-being of these valiant workers. As we help to see them through their current, and hopefully temporary hardship, we will contribute to maintaining the work force needed to harvest crops in future growing cycles.

Your earnest and immediate attention to these matters would be deeply appreciated.

With sincere best personal wishes,

HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare.

GAYLORD NELSON,
Chairman, Subcommittee on Employment, Poverty, and Migratory Labor.

ELECTIONS IN INDIA

Mr. KENNEDY. Mr. President, like many Americans who have followed developments in India with concern and hope, I greatly welcome the announcement last week by Prime Minister Indira Gandhi that elections will soon be held, and that some terms of emergency rule are apparently coming to an end.

The actions of the Government of India last week—in releasing many political detainees and restoring some constitutional rights—could represent a very first step to redeeming Mrs. Gandhi's pledge in 1975 to remain faithful to India's democratic tradition.

All friends of India, and of democratic government, must welcome these actions by Mrs. Gandhi.

Particularly at this time—as we have watched the democratic transfer of power in our own land—we can share the spirit of Mrs. Gandhi's speech to her nation last week, that elections are the legacy of India's freedom struggle, and the life's work of Mahatma Gandhi and Jawaharlal Nehru. They give meaning to the fact that India's system "rests on the belief that governments derive their power from the people and that the people give expression to their sovereign will every few years freely and without hindrance by choosing the government they want and by indicating their preferences for policies."

Mr. President, as Mrs. Gandhi has stated, "every election is an act of faith." As India prepares again to meet one key test of democracy, its friends must wish it well and hope that this important step will contribute to a return to full democratic practices.

I would like to share with the Senate the important remarks of Mrs. Gandhi in announcing elections, and I ask unanimous consent that her statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[January 18 broadcast to the nation by Prime Minister Gandhi—recorded]

GANDHI ADDRESSES NATION, ANNOUNCES MARCH ELECTIONS

It is some time since I last spoke to you on the radio. However, through my continuous travels in various parts of the country and through the groups and large number of individuals whom I meet in Delhi and elsewhere, I have continued to be in close touch with you all. Your support, your affection and your trust enabled me to serve India to the best of my ability. On my journeys up and down the country I have been glad to find that our people have shaken off the sense of defeatism and gloom. There is a new pride in being Indian. Indeed, it can be said that in the year just completed the nation has rediscovered its sense of purpose and its potential strength.

Some 18 months ago our beloved country was on the brink of disaster. Violence was openly preached. Workers were exhorted not to work, students not to study and government servants to break their oath. National paralysis was propagated in the name of revolution. The democratic way would have been to work toward the next elections, which were not far off. The government had to act and did act. Without purposive government, a nation, especially a developing one, cannot survive.

At that time I made it clear that the restrictions imposed would be temporary. They have been gradually eased. The leaders and many of the rank and file who had been detained have been released. For some time past, press censorship has been relaxed and newspapers have been reporting the activities of the people and the parties. Restrictions could have been lifted earlier had violence and sabotage been given up, had there been no attempt to stir up communal and other unrest.

This discipline and feeling of hope enabled us to initiate and pursue new policies to help those sections of the population who have not greatly benefited from development plans. The constitution has been amended to

remove impediments to policies which are designed to serve the people. We have also undertaken programs to combat social evils such as dowry, which is a burden on our middle classes, and [have instituted] family planning, which aims at healthier and better cared-for children. Any act of compulsion or harassment would be dealt with severely.

May I remind you that the emergency was proclaimed because the nation was far from normal. Now that it is being nursed to health we must insure that there is no relapse. Normality means the orderly conduct of business. This is possible only if people live by certain codes and norms of behavior. Democracy also has certain rules. The government's functioning cannot be obstructed. None should imperil the welfare of any section of the people or the safety of the nation. If India is to live and prosper, there can be no preaching of hatred, no practicing of violence, no encouragement of subversive activities or lowering of standards of public life.

The economic situation has vastly impoved. Others are studying our anti-inflationary strategy.

Production has increased, thanks mainly to the new spirit of dedication which we see in our farms, in our industrial workers and in our scientists, technicians, managers and administrators. The public has cooperated despite difficulties. We have resumed work on many development plans which had been interrupted by the economic crisis and political disturbances. The 20-point and the 5-point programs have shown tangible results. Even though much remains to be done, they have generated an attitude of confidence and have galvanized young and old. In spite of criticism, there is a new respect for our country abroad.

I am conscious of the difficulties which farmers, industrial workers and some other sections of our population are experiencing. We are studying each problem so as to find quick solutions. Cyclones, droughts and floods have caused hardships in some areas. My sympathy to all those affecetd.

In recent months prices of a few commodities have increased, but we have already initiated corrective action which will soon show results. We have the largest grain stocks in years. Elements which wish to stir up economic trouble will be sternly dealt with. As long as there is close cooperation between the government and the people, our economic battle can and will be won. Anyone can see that today the nation is more healthy, efficient and dynamic than it has been for a long time. The question now before us is how to restore substantively those political processes on which we were compelled to impose some curbs.

Change is the very law of life. This is a time of great fluidity in the world. Contemporary society is beset with dangers to which developing countries are especially vulnerable. Hence all change must be peaceful. This is the legacy of our freedom struggle and of Mahatma Gandhi and Jawaharlal Nehru. Our system rests on the belief that governments derive their power from the people and that the people give expression to their sovereign will every few years freely and without hindrance by choosing the government they want and by indicating their preferences for policies. The government so chosen has their complete mandate to carry out such policies.

The present Lok Sabha was elected in 1971. The clear-cut mandate of the people enabled the country to meet a combination of challenges—those created by the events in Bangladesh, by the international economic crisis, by the drought of 1972–73 and by the political events of 1974–75. Legally, the present Lok Sabha can continue for another 15 months. But we also strongly believe that Parliament and the government must report back to the people and seek sanction from them to carry out programs and policies for the nation's strength and welfare.

Because of this unshakable faith in the power of the people, I have advised the president to dissolve the present Lok Sabha and order fresh elections. This he has accepted. We expect polling to take place in March. The rules of the emergency are being further relaxed to permit all legitimate activities necessary for recognized parties to put forth their points of view before the people. I earnestly counsel the political parties to eschew violence and refrain from vilification and calumny. People should neither believe in nor give currency to rumors and gossip.

Every election is an act of faith. It is an opportunity to cleanse public life of confusion. So let us go to the polls with the resolve to reaffirm the power of the people and to uphold the fair name of India as a land committed to the path of reconciliation, peace and progress. My good wishes to you. For the people of India, may 1977 prove to be a year of added stability, strength and continuing achievements. Jai Hind [Hail India]!

PROPOSED INFORMATION TECHNOLOGY ASSESSMENT

Mr. KENNEDY. Mr. President, the proposed assessment will provide an analysis of prospective developments in information technologies, prospective applications of these technologies, and the likely impacts, for the period 1977–90. The assessment will examine the adequacy of existing institutions and policies in the light of alternative plausible information futures, and will identify and evaluate policy options. The emphasis will be on issues that cut across traditional jurisdictional lines, both in the Congress and the executive branch.

During the past two decades there have been major advances in computer and communications technologies, leading to new forms of information transfer and the availability of new information services. These developments are likely to continue at an accelerated pace during the next two decades. It is said that an information revolution is occurring, comparable in importance to the industrial revolution. The issues raised by this information revolution will need to be addressed by Congress. The proposed assessment will provide Congress with information and analysis bearing upon these issues.

The Board is asked to approve the initiation of this assessment and the resources required to conduct it.

BUDGET

The Board is asked to approve an initial budget of $173,000 for fiscal year 1977 and $130,000 for fiscal year 1978 for project development. It is estimated that approximately $370 in additional funds would be required for transition to full project status in fiscal year 1978.

SENATOR NUNN'S AND SENATOR BARTLETT'S REPORT ON NATO

Mr. HART. Mr. President, two of my colleagues on the Armed Services Committee, Senator NUNN and Senator BARTLETT, yesterday released their report on NATO. In my view this report is one of the most thorough, most perceptive, and most important studies ever made on the needs and problems of the NATO alliance. It is a document which should be read by every Senator, and by every American concerned with our national security.

Senators NUNN and BARTLETT present a comprehensive view of the alarming increase in Warsaw Pact capabilities. They note, correctly in my view, that the achievement of strategic parity by the Soviet Union has greatly altered various theater balances, including that in Central Europe. Previously, we relied on our strategic superiority to counterbalance Soviet and Warsaw Pact conventional superiority. Now, we no longer have the first, but they will have the second. Clearly, this results in a lessening of theater-level deterrence.

Not only has the Warsaw Pact maintained its conventional superiority in Central Europe, but as Senators NUNN and BARTLETT note, they appear to have increased that superiority to a substantial degree. Warsaw Pact manpower in the theater has increased; levels of equipment have increased even more; and the newer Pact equipment seems qualitatively equal to or, in some cases, superior to NATO equipment. This must raise concern on our part, concern not only as to Pact capabilities but also Pact intentions. If the Soviet Union is truly committed to a policy of détente, why does it seek military preponderance in Central Europe? Is the magnitude of the Soviet military effort compatible with détente? These questions must be addressed by all members of the NATO alliance, and by the Members of the Senate.

The Nunn-Bartlett report makes several specific points which are particularly perceptive and worthy of further note and discussion. One of these is that light antitank weapons, which some have presented as a panacea for the threat of Warsaw Pact armor, are in fact of very limited capabilities. They are subject to countermeasures of known types, especially artillery, which the Soviets have in abundance. Moreover, while such weapons in some degree improve the firepower of infantry forces, they in no way improve the infantry's two main deficiencies lack of tactical mobility and lack of protection. This is not only relevant to our forces in Europe, but even more to light infantry forces, such as the 82d Airborne Division, the 101st Airmobile, and the Marines, which believe they can place heavy reliance on light antitank weapons to meet an armored threat. In fact, those forces which either inherently cannot be mechanized, such as the Airborne, or which now resist mechanization, such as the Marines become less and less cost/effective as more countries field modern armored and mechanized forces.

Another excellent point raised by the Nunn-Bartlett report is that NATO forces remain much inferior to Soviet and Warsaw Pact forces in defensive preparation for tactical nuclear warfare

Soviet tanks, and mechanized infantry combat vehicles have protective filtration and pressurization systems to defend their crews against radiation, chemical weapons and bacteriological weapons. Most modern European equipment has similar defensive systems; but neither the new XM-1 tank nor the planned U.S. Mechanized Infantry Combat Vehicle has such protection. I hope the Armed Services Committee will, during this year's hearing, explore the issue of why the U.S. Army plans to remain deficient in this critical respect.

There are, however, several issues on which points raised by Senators NUNN and BARTLETT should perhaps be the subject of further discussion and debate. Their report stresses the need for more NATO firepower to counter the growing Warsaw Pact threat. This follows the basic U.S. understanding of war as being the application of firepower to cause attrition of enemy personnel and equipment. But there is another, different understanding of war: that which sees maneuver rather than firepower as decisive. It may well be that the best answer to the Pact threat is not more firepower—although more firepower is certainly desirable—but a change in strategy which stresses maneuver by NATO forces. Maneuver, rather than firepower, is the main creator of uncertainty in war, and uncertainty produces the deterrence which is NATO's goal. The Soviet blitzkrieg doctrine stresses maneuver, with firepower used to create opportunities for maneuver, rather than maneuver serving firepower as it does in U.S. Army doctrine. The Germans found during the Second World War that a defensive maneuver doctrine was the best answer to the Soviet offensive maneuver doctrine, and it may also be the best answer for NATO today.

The question of firepower versus maneuver doctrine relates to another point raised in the Nunn-Bartlett report: the NATO commitment to forward defense. The report states that Senators NUNN and BARTLETT continue to support forward defense, and it suggests ways forward defense can and should be strengthened. It also notes, however, that we must not support forward defense at the expense of creating a Maginot Line, and that we also need "powerful active forces withheld in the rear as a flexible reserve." Indeed, if the Warsaw Pact blitzkrieg is to be stopped, it would appear from the previous lessons of armored warfare that the main need is for such reserves rather than for a forward defense. A blitzkrieg type attack concentrates forces in a narrow sector, which bypasses most of the forces deployed for a forward defense and renders them irrelevant to the conflict.

Forward defense is inherently firepower, not maneuver oriented, and of necessity has the liner defense characteristic of a Maginot Line. Ideally NATO should have both the forward defense, for its political significance to the Germans, and strong reserves of mobile ground forces. But if, as seems to be the case, there is little chance of having enough forces for both, should we choose the politically desirable but militarily ineffective forward defense over the militarily more promising concept of mobile defense based on strong active reserves?

The issue of standardization has one important aspect which was not fully dealt with in the report. This is the problem that weapons systems are seen domestically not only as defense requirements, but also as contributors to the economy. Thus, there is substantial resistance within each nation to standardization. Even when licensing and coproduction arrangements can be made, each nation retains the suspicion that it could have benefited its own economy more with a purely national program. And even with such multinational production arrangements costs are often greater than if one nation served as the producer of a given system for all the consumers. The political leadership of all the NATO nations must come to realize that we cannot afford to regard defense as a "pork barrel." Important as domestic jobs and profits are, they are no answer to the continuing rise in Soviet military capabilities.

I am also hopeful that, as our colleagues turn their attentions to these important NATO issues, we include in our deliberations future naval force structure considerations. Our future NATO posture cannot be determined separately from the configuration of our Atlantic and Mediterranean fleets. As I indicated in a recent report to the Armed Services Committee, some of our most difficult decisions are in this area.

Finally, the Nunn-Bartlett report urges the acquisition of more airlift capability so that U.S. forces stationed in the continental United States can be moved to Europe quickly enough to participate in a conflict that comes with little or no warning. I agree with the distinguished Senators that we are likely to have little or no warning of a Warsaw Pact attack. But if we look more closely at airlift, we see that, with our CRAF fleet, we already have sufficient airlift capacity to move all the personnel we might need to Europe in a short time. On the other hand, the capability of aircraft to move heavy battle equipment, such as tanks and artillery, or large quantities of munitions and POL is inherently severely limited by the capacity of even the largest aircraft.

Is it logical to think that we can move any significant quantity of equipment to Europe in a short time even with a massive increase in airlift assets? Or must we rely on more prepositioning, plus possibly the special organization of selected sealift assets so that they can be deployed quickly or even predeployed? Similarly, it is not clear that the tactical airlift for which the report calls could be used in central Europe in the face of the Soviet's capability to project tactical aircraft into that region.

While I believe these and other points should be debated, it is clear that Senators NUNN and BARTLETT have done the Senate and the American people an immense service with their report. It comprehensively addresses a series of the key issues in the defense of NATO, and offers needed criticisms and suggestions. I sincerely hope that every Member of the Senate will take the time to read this vitally important study, and to think about the national security issues that are involved.

A MYTH IN THE MAKING: THE SOUTHERN ECONOMIC CHALLENGE AND THE NORTHERN ECONOMIC DECLINE

Mr. JOHNSTON. Mr. President, in the last few years, much publicity has been given to the economic, political and social resurgence of the South. At the same time, the economic problems of the North have been given needed attention. A disturbing and erroneous linkage of these two issues has been made and I am distressed by reports of increased regional tensions and inflammatory rhetoric stemming from competition for Federal funds.

The popular belief that northern losses are a direct result of southern growth and Federal fiscal policies simply does not hold water. A study undertaken by two economists, Dr. Carol L. Jusenius and Dr. Larry C. Ledebur, for the Office of Economic Research of the Economic Development Administration clearly demonstrates that Northeastern population losses are more attributable to lower fertility rates than to outmigration. On the other hand, some 65.5 percent of southern population growth rates are a result of natural population increases. Similarly, northern industrial decline cannot be attributed to movement of businesses south. In fact, over 50 percent of the North's employment losses occurred as a direct result of the "death" of firms while 64.3 percent of southern employment gains were due to existing firms' expansion. "Inmigration" of businesses to the south accounted for a mere 1.2-percent increase in employment while "outmigration" in the North resulted in a 1.5-percent loss of employment opportunities.

The Jusenius-Ledebur study also examines Federal fiscal policies. The data analyzed show that the North has not suffered at the expense of the South. For example, per capita Federal Government expenditures in the South did not meet the national average even though southern States are among the poorest in the Nation. Furthermore, the slightly lower percent of income paid in taxes in the South—23 percent in the South as compared to 24.9 in the North in 1975—can be explained by the South's lower per capita income—$5,288 compared to $6,265 in the North—and our progressive income tax structure.

This cursory summary highlights only a few of the factors examined. Because copies of the report are in short supply, I am asking that this well-reasoned and informative study be reprinted in the RECORD. I sincerely hope that my col-

leagues will review this study and join me in trying to develop new initiatives from a national perspective, rather than enacting short-sighted parochial efforts which would, in my opinion, be counterproductive to long-run balanced economic growth. The South has shed many shackles of the past, but despite its recent growth and development, many crippling legacies remain. The South still has a lower per capita income than the North; poverty in the South is more widespread than in the North—43.6 percent of the poverty population resided in the South in 1970 compared to 36.9 percent in the North—and income distribution is more unequal in the Southern States. While I personally sympathize with the plight of all Americans who are unemployed, with our older industrialized regions suffering from high unemployment and lack of growth, I think we should work together to develop positive policies to solve these problems and not hastily opt for punitive measures which would help one area at the expense of another.

Mr. President, I ask unanimous consent that the Jusenius-Ledebur study to which I have referred may be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

A MYTH IN THE MAKING: THE SOUTHERN ECONOMIC CHALLENGE AND NORTHERN ECONOMIC DECLINE

(By C. L. Jusenius and L. C. Ledebur,* Visiting Scholars, Office of Economic Research, Economic Development Administration, U.S. Department of Commerce, November, 1976)

This Publication was prepared for the Office of Economic Research, Economic Development Administration, U.S. Department of Commerce. The statements, findings, conclusions, recommendations, and other data in this report are solely those of the authors and do not necessarily reflect the views of the Economic Development Administration.

ABOUT THE AUTHORS

In 1975, the Office of Economic Research of the Economic Development Administration introduced a visiting scholar program. This is a resident research program whereby scholars of demonstrated competence are invited to undertake research in the areas of urban and regional economic research.

Dr. Carol L. Jusenius is Assistant Professor of the Department of City and Regional Planning, Ohio State University, Columbus, Ohio and is a Brookings Fellow for 1976–1977. She has served previously as Research Associate at the Center for Human Resource Research, Columbus, Ohio, and as Assistant Professor, Department of Economics, Smith College.

Dr. Jusenius attended Mills College, Oakland, California, received her B.A. in Economics from Washington Square College, New York University, and her M.A. and Ph. D. degrees from the Graduate School of Arts and Science, New York University. Her publications include:

"Economists' Approaches to Sex Segregation in the Labor Market: An Appraisal" (with Francine Blau). Presented at the Workshop on Occupational Segregation, May 1975, sponsored by the AEA Committee on the Status of Women in the Economics Profession. Published in *Women and the Workplace*, University of Chicago Press, 1976.

"The Influence of Work Experience, Skill Requirement and Occupational Segregation on Women's Earnings". Presented at the American Economic Associations' meetings, Dallas, December 1975. Forthcoming in the *Journal of Economics and Business* February 1977.

Dual Careers, Vol. III. (with Richard Shortlidge), Manpower Administration Research Monograph No. 21, Fall 1975. Vol. IV (with Herbert Parnes et al.), Employment and Training Administration R&D Monograph No. 21, 1976.

"The Influence of Human Capital and Occupational Distribution Upon Black-White Wage Differentials" (with Arvil V. Adams). To be presented at the 1977 Western Economic Association Meetings.

Dr. Larry C. Ledebur has been Associate Professor of Economics at Denison University, Granville, Ohio, since 1971. He has served as Director of the Denison Program on Learning Through Simulation and Dean of Men.

Dr. Ledebur received his B.A. degree in Economics from Austin College, Texas, and his M.S. and Ph.D. degrees from Florida State University. His publications include:

Economic Disparity: Problems and Strategy for Black America (with William L. Henderson). New York, The Free Press. 1970.

Urban Economics: Processes and Problems (with William L. Henderson). New York, John Wiley & Sons, Inc. 1972.

"Regional Economic Development and Human Resources Requirements" in *Human Resources and Regional Economic Development*, Paul Braden (ed.), Economic Development Administration, forthcoming Winter, 1976.

"The Viable Alternatives for Black Economic Development" (with William L. Henderson) *Journal of Public Policy*, Vol. 18, Spring, 1970.

"Government Incentives for Black Economic Development" with William L. Henderson. *The Review of Social Economy*, December 1969.

INTRODUCTION

The relative economic decline of the Northeast and the contrasting economic growth of the "Sunbelt" recently have been a focus of attention in the media and in political forums. It is being argued that over the past few years population migration to the South has become a "flood-tide" and that industry migration to this region has "burst beyond the bounds than can be accommodated by existing political institutions".[1] According to this view, the Northeast, as a consequence, has been left with a declining population and a decreasing number of employment opportunities for its populace.

It is argued also that in spite of the economic problems of the Northeast in recent years, the Federal government has done little to alleviate the situation.[2] The Northeast continues to pay into the Treasury a higher per capita level of Federal income taxes than it receives in Federal expenditures per person. Members of Congress from the Northeastern and Midwestern States have formed a coalition to protest this flow of funds and to "insist on equity." [3] They have been joined by at least one policy analyst who has recommended that "the hemorrhage of funds from the Northeast and Midwest be reduced.[4]

The manner in which information has been reported on the economic positions of these two "super regions" is unfortunate. It has created misleading impressions about the two geographic areas' comparative levels of development and economic distress. The statements and articles imply policy imperatives that may be erroneous, harmful to many constituents of the population who are in poverty, and counterproductive to long-run balanced regional growth.

This paper examines the comparative levels of economic development as well as the economic disparities between the two regions. It concludes that the recent arguments regarding the relative economic positions of the Northeast and the South are, at best, tenuous; at worst, they are severe distortions of reality.

THE REGIONS

The two regions examined in this paper are the "Northern Industrial Tier" and the "Sunbelt-South". The Northern Tier is composed of the East North Central and Middle Atlantic State census regions and Connecticut, Massachusetts, and Rhode Island of the New England Region. Maine, Vermont and New Hampshire are not included because the industrial bases of these States differ in kind and degree from the rest of the major region.

The Sunbelt-South is composed of the West South Central and East South Central census regions and the South Atlantic with the exceptions of Maryland, Delaware and Washington, D.C. These latter three areas have been excluded in order to focus on those States which are considered generally as the "Old South".

It should be noted that the Southwestern and Far Western States, also typically considered part of the Sunbelt, have been excluded from this analysis. In part, this was done so that the differences among the "Sunbelt" States would be highlighted. In addition, a focus on the Southeast has been suggested by such titles as "The Second War Between the States" and the attention the Southeast has been receiving recently in the press.[5]

(NOTE.—Figures 1–17 omitted.)

POPULATION

It is common knowledge that between 1970 and 1975 the population of the Sunbelt-South increased more rapidly than that of the Northern Industrial Tier (8.9 percent versus 1.0 percent). Less well known is the fact that by far the greatest rate of increase was in Florida (22.9 percent), a State which, due to its large proportion of retirees, is in many ways an anomaly even in the South. Florida alone accounted for over 30 percent of the population increase in the Sunbelt-South. The rate of growth of this region was approximately 7 percent when Florida is excluded.

Migration

Recently attention has been focused on migration as a major factor causing this differential in growth rates. It has been noted that while the North historically experienced net in-migration from the South, over the last five years this trend has been reversed. By 1975 the Industrial North had lost through migration 1.8 percent of its 1970 population base; the Sunbelt-South had experienced a 4.6 percent increase over its 1970 population through in-migration.

These net migration figures mask some of the underlying dynamics of these movements. As indicated in Table 2, from 1973 to 1974 the Sunbelt-South experienced an in-migration of 358.8 thousand Social Security covered workers from the Northern Tier, but during the same period lost 266.7 thousand workers to the Northern region.[6] Thus, there were significant movements in both directions, but the South was the net beneficiary by 92.1 thousand workers. It is important to mention however, that the Industrial North drew 74 percent as many workers from the South as the North lost to the South.

*On leave of absence from the City and Regional Planning Department, Ohio State University, and the Department of Economics, Denison University, respectively.

Footnotes at end of article.

TABLE 1.—COMPONENTS OF POPULATION CHANGE BY REGION, 1970–75

	Number of persons			Percent of 1970 base		
	Total change	Natural increase	Migration	Total change [1]	Natural increase	Migration
Northern Tier	933,000	2,504,000	−1,571,000	1.0	2.8	−1.8
New England	168,000	211,000	−43,000	1.7	2.2	−.5
Middle Atlantic	52,000	807,000	−755,000	.1	2.1	−2.0
East-north central	713,000	1,486,000	−773,000	1.8	3.7	−1.9
Sunbelt-south	5,123,000	2,491,000	2,632,000	8.9	4.3	4.6
South Atlantic	2,841,000	976,000	1,865,000	[2] 11.2	3.8	7.3
East-south central	735,000	532,000	203,000	5.7	4.1	1.6
West-south central	1,529,000	965,000	564,000	7.9	5.0	2.9

[1] Percent change due to natural increase plus percent change due to migration equals total percent change in population between 1970 and 1975.
[2] Percent change in components does not sum to total percent changes due to rounding of data by the Bureau of Census.

Source: Current Population Reports, Estimates of Population of States, 1975, U.S. Bureau of the Census.

TABLE 2.—THE MIGRATION OF WORKERS BETWEEN THE SUNBELT SOUTH AND THE NORTHERN INDUSTRIAL TIER, 1973–74

[In hundreds]

Migration to	New England	Middle Atlantic	East-North Central	Total
Northern Tier:				
Migration from—				
South Atlantic	200	517	588	1,305
East-South Central	43	165	445	653
West-South Central	77	287	345	709
Total	320	969	1,378	2,667

Migration to	South Atlantic	East-South Central	West-South Central	Total
Sunbelt south:				
Migration from—				
New England	286	37	56	379
Middle Atlantic	1,092	189	262	1,543
East-North Central	778	522	366	1,666
Total	2,156	748	684	3,588

	In-migration	Out-migration	Net migration
Net migration between north and south:			
North tier	2,667	3,588	−921
New England	320	379	−59
Middle Atlantic	969	1,543	−574
East-North Central	1,378	1,666	−288
Sunbelt South	3,588	2,667	+921
South Atlantic	2,156	1,305	+851
East-South Central	748	653	+95
West-South Central	684	709	−25

Source: Social Security Continuous Work History—1-percent sample, U.S. Department of Commerce.

This net in-migration into the Sunbelt-South from the Northern Tier States is a reversal of the dominant trend prevailing in this Century. However, the extent to which it represents a new long-term trend—rather than a cyclical response to the recent severe economic recession—is unclear.[7] Workers, reacting to unemployment in highly industrialized areas, may be returning *temporarily* to their place of origin where a network of friends and relatives as well as marginal employment opportunities exist. Such a phenomenon is not without historical precedence: it occurred extensively during the Great Depression.

At this point the evidence is inconclusive regarding the degree to which the in-migration into the Southern States is a new, long-term trend or is a short-term response to the recent cyclical downturn in the Industrialized North. This uncertainty argues for, at least, a reasonable amount of caution in the creation of public policy based on the current migration experience.

Footnotes at end of article.

Natural increases

While net in-migration was a factor contributing to the population growth rate of the Sunbelt-South, natural increases in the population accounted for almost 49 percent of the population increase in this region between 1970 and 1975. When Florida is excluded (because 90.3 of its population increase was due to in-migration), the figure is even higher: 65.5 percent of the total population increase in the South was attributable to natural population increase. *Thus, even if no migration had occurred, population would have increased more rapidly in the Sunbelt-South.*

The cause of this difference in natural growth rates is located in differential fertility rates. While the differences in mortality rates is small, the fertility rate is 1.5 percentage points greater in the Sunbelt-South (Table 3).[8] The natural rate of increase in the South over the five-year period exceeds that of the North by 1.4 percentage points.

As a result of both migration and natural population increases, the share of the total population found in the Northern Tier decreased by 1.9 percentage points while the share of the South increased by 1.7 percentage points between 1970 and 1975. The proportion of the U.S. population located in the North has decreased, but at a relatively low average annual rate of four-tenths of one percent. Given this rate of decline and the extent to which it is attributable to low fertility rates, it is difficult to construe the change as a "flood tide"[9] of the Northern population to the South. It is also difficult to take this statement seriously given the fact the Northern Tier continues to contain 41 percent of the total U.S. population, and the South 30 percent of the population.

TABLE 3.—REGIONAL RATES OF BIRTH, DEATH, AND NATURAL INCREASE, 1970–75

Region	Birth rate	Death rate	Rate of natural increase
Northern tier	8.0	5.1	2.9
New England	7.2	5.0	2.2
Middle Atlantic	7.5	5.3	2.2
East-North Central	8.6	4.9	3.7
Sunbelt—South	9.5	5.2	4.3
South Atlantic	9.2	5.3	3.9
East-South Central	9.5	5.3	4.2
West-South Central	9.9	4.9	5.0

Source: Calculated from current population reports, U.S. Bureau of the Census, series P–26.

MEASURES OF COMPARATIVE REGIONAL WELL-BEING

Income

The most commonly employed measure of economic well-being is per capita income. When this measure is indexed as a percent of average per capita income in the United States, the income disparities between the Northern Tier and the Sunbelt-South are dramatically highlighted. While every State in the South fell below the U.S. average in 1975, only two States, Wisconsin and Indiana, did so in the North, each being 4 percentage points below the National average. In contrast, eleven of the 14 Southern States were more than 10 percentage points below this average and 4 of these were more than 20 percentage points below.

When per capita income figures are adjusted for cost of living differentials and compared as a percent of the United States average, the magnitude of the income gap between the two regions is somewhat diminished. In the North, Indiana and Wisconsin remain below the U.S. average and Massachusetts and Rhode Island fall below (10 and 6 percentage ponts respectively). In the South, three States, Texas, Florida and Virginia, had adjusted per capita incomes above the national average. However, nine of the 14 Southern States still had averages 5 percentage points below the U.S. average and four of these were 10 percentage points or more below.

Thus, adjusting per capita income figures for cost of living differentials does not change significantly the overall picture of relative regional well-being. Adjusted per capita incomes in the North are generally higher than those in the South.

A great deal of the recent controversy has centered on the differential regional impacts of Federal taxation and expenditures. While this question is examined in greater detail in a subsequent section, it is important to note here that the fiscal policy impacts on regional per capita incomes. At the outset, the argument concerning greater Federal expenditures in the Sunbelt-South should be laid to rest. While per capita Federal expenditures for all programs combined are greater in this region than in the Northern Tier, these expenditures are incorporated in the per capita income figures. (For example: retirement, welfare, military expenditures, etc.) Adding Federal expenditures to per capita income would be "double counting", i.e., adding in Federal expenditures twice. *Thus, even with the greater Federal expenditures in the South, per capita incomes in the Sunbelt-South are generally lower than those in the Northern Tier.*

The impact of Federal taxes can be addressed by examining disposable per capita income (per capita income minus per capita Federal taxes). Disposable income is below the national average in four States in the Northern Tier (Wisconsin, Indiana, Ohio, and Rhode Island), but only by an average of 3.25 percentage points. However, no State in the Sunbelt-South had a per capita disposable income above the U.S. average. Eleven States are five or more percentage points below this average and, of these, nine are 15 or more percentage points lower. *Thus, the impact of Federal taxes has not been to significantly decrease the regional per capita income gap, or to offset this "gap", as implied by much of the current literature.*

Adjusting per capita disposable income figures for cost of living differentials does not change the picture significantly. Four States in the Northern Tier remain below the national average with Massachusetts replacing Ohio. Massachusetts has the lowest adjusted disposable per capita income in the Northern Tier. Only three States in the Sunbelt-South (Texas, Florida and Virginia) had adjusted per capita incomes above the U.S. average. *On the basis of this evidence it seems clear that regional differences in rates of inflation have contributed to a diminishing of the regional per capita real income differentials.*

Although the North has had historically, and continues to have, substantially higher per capita incomes than the South, this differential has been declining over the past 45 years. *However, in 1975 the trend toward a convergence of regional per capita incomes was reversed.* In this year the per capita incomes of the two regions as a percent of the U.S. average diverged.

An examination of rates of change in disposable per capita incomes reveals that *between 1973 and 1975* States in the Northern Tier (with the exceptions of Michigan, Indiana and New Jersey) experienced a growth in disposable per capita income which was greater than the national average. In contrast six States in the Sunbelt-South had greater than average increases. The remaining eight Southern States experienced less than average per capita income growth.

In spite of these recent growth rates, over the five year period 1970–1975 the share of total personal income which accrued to the North decreased by 3.2 percentage points while the share captured by the South increased by 2.4 percentage points. It should be noted that these Southern gains were relative to the North, a region which did experience gains in total and per capita personal income greater than the National average. Even with these changes in relative income shares, 44 percent of the personal income generated in the United States in 1975 accrued to the Industrial North compared to the 25.4 percent which went to the Sunbelt-South.

Distribution of income

An investigation of the relative economic positions of the populations of the two regions also requires consideration of the distribution of income within each. The economic well-being of a population depends, in part, on the manner in which total income is distributed among constituent groups. For example, it is possible that a region whose population has a higher per capita income but a more unequal income distribution might be suffering greater economic distress than a region with a lower per capita income but a more equal income distribution.

It has already been noted that the South has a lower per capita income than the North. The South has a more unequal distribution of income as well. Even the relatively low per capita income of the South overstates the economic welfare of its population compared to that of the higher income Northern population.

According to the data provided in Table 4, in the Industrial North 20.1 percent of all families received incomes less than $6,000 in 1969. In contrast, 36.2 percent of all Southern families fell below this income level. This is a differential of 16.1 percentage points. In Alabama and Mississippi, two of the poorest Southern States, almost 50 percent of total families had incomes of less than $6,000 in 1969.

Poverty

An examination of the geographic distribution of the poverty population confirms the information on the relative income distributions of the two regions. In contrast to rather widely held beliefs, the problem of poverty is more pervasive in the South than in the North. In 1970, 36.9 percent of the poverty population resided in the Northern Industrial Tier, but 43.6 percent was located in the Sunbelt-South. This regional distribution is at variance with the view that the post-World War II migration of the Southern poor to the North resulted in a concentration of poverty in the North. The statement "the large cities of the Northeast and Midwest have become the Nation's new cottonfields . . . . the rural poor of the South and elsewhere now reside in the cities of the Northeast"[10] distorts the actual regional incidence of poverty in the United States. For example, while New York State had a relatively large share of the population below the poverty line (7.3 percent), a greater share of the poor (7.6 percent) resides in Texas.

The incidence of poverty in the South relative to the North becomes more apparent when examined in terms of the proportion of each State's population which is below the poverty line. A comparison of the two regions reveals that States which have a higher proportion of the poor than the average for the Nation are located in the South, not the North. In the South, 20.9 percent of the population was in poverty in 1970. The comparable figure for the North was less than half that of the South (9.7 percent). Indeed, one-third of the Southern States have populations of which 25 percent or more were living in poverty in 1970.

Footnotes at end of article.

TABLE 4.—PERCENT DISTRIBUTION OF FAMILIES BY INCOME, 1969

	Less than $1,999	$2,000 to $3,999	$4,000 to $5,999	$6,000 to $7,999	$8,000 to $9,999	$10,000 to $11,999	$12,000 to $14,999	$15,000 to $24,999	$25,000 to $49,999	$35,000 or more
Northern tier	4.2	7.1	8.8	11.8	14.2	14.0	15.6	18.8	4.5	1.
New England	3.3	6.1	7.9	11.0	14.0	14.5	16.1	20.3	5.2	1.0
Connecticut	3.1	4.9	6.5	9.4	12.9	14.5	17.5	23.1	6.6	1.5
Massachusetts	3.3	6.5	8.3	11.4	14.4	14.5	16.3	19.6	4.7	.9
Rhode Island	4.8	7.7	10.0	13.6	15.9	14.5	14.5	14.8	3.2	.8
North Atlantic	4.3	7.4	9.3	12.3	14.0	13.5	14.7	18.6	4.9	1.0
New York	4.7	7.6	9.2	11.6	12.8	13.0	14.5	19.7	5.6	1.2
New Jersey	3.4	5.9	7.8	10.4	13.1	13.6	16.4	22.5	6.0	1.1
Pennsylvania	4.3	8.0	10.3	14.6	16.3	14.2	14.0	14.4	3.2	.7
East-north central	4.3	7.2	8.5	11.5	14.5	14.4	16.1	18.8	4.0	.7
Ohio	4.4	7.2	8.5	12.1	15.4	14.8	15.9	17.3	3.5	.7
Illinois	4.3	6.9	8.2	10.8	13.2	13.9	16.4	20.6	4.9	.9
Indiana	4.2	7.5	9.0	13.2	15.5	14.8	15.6	15.9	3.0	.5
Michigan	4.2	6.8	7.7	10.3	13.8	13.9	16.6	21.4	4.5	.8
Wisconsin	4.2	8.3	9.2	12.0	15.7	15.1	15.6	15.8	3.3	.6
Sunbelt—South	9.2	12.9	14.1	14.7	13.5	11.0	10.6	10.7	2.6	.6
South Atlantic	8.2	11.9	13.9	14.7	13.7	11.3	11.1	11.5	2.8	.6
Florida	7.1	12.5	14.3	14.3	13.0	10.9	11.2	12.4	3.5	.9
Georgia	8.9	11.8	13.7	14.3	13.3	11.3	11.4	11.9	2.7	.6
North Carolina	8.8	12.2	15.2	15.5	14.5	11.7	10.6	9.0	2.0	.5
South Carolina	10.2	12.2	15.0	15.4	14.0	11.6	10.4	8.9	1.7	.4
Virginia	6.5	9.7	12.4	14.1	13.6	11.7	12.2	15.2	4.0	.6
West Virginia	10.3	14.6	14.1	15.9	15.4	10.9	9.3	7.8	1.5	.3
East-south central	11.9	14.6	14.8	14.8	13.1	10.4	9.4	8.6	1.9	.5
Kentucky	11.2	14.6	14.0	14.3	13.5	10.9	10.0	9.2	2.0	.4
Tennessee	10.5	13.4	15.1	15.2	13.8	10.8	9.7	9.0	2.1	.5
Alabama	11.4	14.4	14.7	15.1	13.2	10.5	9.5	8.9	1.9	.5
Mississippi	16.6	17.2	15.7	14.6	11.3	8.8	7.6	6.4	1.5	.4
West-south central	8.8	13.2	13.8	14.4	13.4	11.1	10.7	11.2	2.7	.6
Arkansas	12.6	18.1	11.2	15.6	12.4	8.8	7.4	6.2	1.5	.4
Louisiana	11.7	14.2	13.6	13.8	13.1	10.6	10.2	9.9	2.3	.6
Oklahoma	8.0	14.6	14.2	15.3	13.7	10.7	10.4	10.1	2.3	.6
Texas	7.4	11.7	13.1	14.1	13.6	11.7	11.8	12.7	3.1	.7

Source: Bureau of the Census, "Census of Population: 1970," vol. 1; "Characteristics of the Population," pt. 1, U.S. Summary section, p. 1-539.

Personal wealth

Personal wealth or assets is another measure of relative regional welfare. An examination of these data reveals that the distribution of national wealth and of the number of wealthholders in the Nation are both skewed in favor of the Northern Industrial Tier.

As Table 5 indicates, in 1972, 48.5 percent of total wealthholders with assets valued in excess of $60,000 resided in the Northern Industrial Tier and controlled 45.0 percent of the personal wealth in this asset category in the Nation. In comparison, the Sunbelt-South claimed only 22.6 percent of these wealthholders, with total assets amounting to 25.1 percent of the Nation's total of wealth in this category.

TABLE 5.—PERSONAL WEALTH BY REGION, 1972 [1]

Region	Number of tax wealth-holders	Percent of United States	Total assets (dollars)	Percent of United States
Northern industrial tier	6,222.8	48.5	967,769	45.0
New England	656.8	5.1	126,913	5.9
North Atlantic	2,940.5	22.9	433,790	20.2
East-north central	2,625.5	20.5	407,066	18.9
Sunbelt-South	2,893.8	22.6	540,506	25.1
South Atlantic	1,444.0	11.3	278,566	12.9
East-south central	558.2	4.3	89,489	4.2
West-south central	891.6	7.0	172,461	8.0

[1] Estimated personal wealth of individuals with more than $60,000 gross assets in 1972.

Source: Personal wealth estimated from Estate Tax Returns, Internal Revenue Service, Department of the Treasury.

In the Northern Tier, one out of every 14 thousand individuals had assets in excess of $60,000 (1972 assets divided by 1970 population). The comparable figure of the Sunbelt-South was one in every 20,000 persons. The average value of assets per resident population in the North was $11.0 and $9.46 in the South.

Summary: Personal well-being

In sum, the relative per capita income in the Northern Industrial Tier is greater than that in the Sunbelt-South. Even with an adjustment to per capita incomes in order to reflect cost of living differentials, the per capita income of the North remains above that of the South. In fact, the size of the actual disparity in economic well-being indicated by the comparisons of per capita income, adjusted or unadjusted, is understated because of the more unequal income distribution in the South and the greater incidence of poverty in this less developed region.

UNEMPLOYMENT

A major cause of the recent controversy regarding the economic positions of the Northern Tier and Sunbelt-South is the difference in unemployment rates experienced by the two regions during 1975.[11] When the national unemployment rate was 8.5 percent, 9.9 percent of the labor force in the Northern States was looking for work. Furthermore, the States with the highest unemployment rates in the Nation were located in this part of the country: Rhode Island and Michigan. In contrast, while three States in the Sunbelt-South had unemployment rates of 9.6 percent or more in 1975, as a region the South had an unemployment rate slightly less than the national figure, 8.3 percent.

An examination of the unemployment experiences of the two regions between 1970 and 1974 lends an important perspective to the North's recent problems. Over this four-year period, the unemployment rate for this region did not differ greatly from that of the Nation. While the average unemployment rate for the U.S. economy was 5.4 percent, the unemployment rate for the Northern region averaged 5.6 percent. Of course, variations among the States did appear. Most notably, the average unemployment rate of the three New England States of Massachusetts, Connecticut, and Rhode Island was 6.5 percent.

As in 1975, the unemployment rate of the Sunbelt-South between 1970 and 1974 was substantially lower than that of Nation: it averaged 4.6 percent. While West Virginia and Louisiana had unemployment rates averaging above 6.0 percent, the remainder of these Southern States had less than five percent of their labor force out of work.

Even though the South has had relatively low unemployment rates and the Northeast, relatively high rates, this differential does not imply necessarily that the Sunbelt-South has been shifting its unemployment burden to the Northern Industrial Tier.

The shares of total U.S. unemployment absorbed by both the Southeast and the Northeast increased between 1970 and 1975. Almost 50 percent of all unemployed persons in 1975 were located in the Northern Tier, more than six percentage points higher than in 1970. In turn, the Sunbelt-South had 28.3 percent of all the unemployed workers, up 2.7 percentage points from 1970.

EMPLOYMENT

Given the relatively high unemployment rates of the Northern Tier in 1975, it is not surprising that concern has risen over the causes of this dilemma. A point frequently made in discussions of the problem is that the currently high unemployment rates reflect the historically low growth rate of employment opportunities in the North relative to those in the South.[12] For example, between 1970 and 1975, when total nonagricultural employment in the U.S. increased by 8.6 percent, employment in the North grew by only 1.3 percent and employment in the South increased by 16.7 percent. (Table 6).

The breakdown by industry of these aggregate figures reveals that the recent low employment growth rate in the Northeast stems in part from both the importance of Manufacturing to the regional economy and the large employment losses sustained by this industry during the recent recession. In 1970, the base year, employment in Manufacturing accounted for almost one-third of the total nonagricultural employment in the North, a larger proportion than was found in the Nation. Moreover, reflecting this industry's experience at the national level, Manufacturing in the Northern Tier had greater employment losses (in absolute terms) than any other major industry.

In turn, the South's employment expansion seems to have been attributable partially to the relatively low share of its total employment which is located in Manfacturing. In contrast to the North, in 1970, only 26 percent of all nonagricultural employment was in this industry. Approximately equivalent shares of employment were located in other industries (Wholesale and Retail and Government) which experienced relatively high rates of employment expansion in both the Southern and the National economies.

The impact of public employment

The Sunbelt-South has experienced a relatively high rate of growth in public sector employment (Table 6). While in the North, government employment increased by 11.8 percent, employment in this sector in the South grew at twice that rate (23.5 percent).

Footnotes at end of article.

TABLE 6.—PERCENT CHANGE IN NONAGRICULTURAL EMPLOYMENT AND LOCATION QUOTIENTS [1] FOR THE UNITED STATES, THE NORTHERN INDUSTRIAL TIER, AND THE SUNBELT SOUTH, 1970–75

Industry	Percent change in employment: 1970–75			Location quotient			
				Northern industrial tier		Sunbelt South	
	United States	Northern industrial tier	Sunbelt South	1970	1975	1970	1975
Total nonagricultural	8.6	1.3	16.7				
Mining	19.6	13.6	21.5	0.44	0.40	2.0	1.90
Construction	−2.2	−13.6	−.1	.84	.80	1.18	1.29
Manufacturing	−5.2	−12.7	14.6	1.17	1.16	.96	.96
Transportation and public utilities	−.1	−5.7	9.0	.95	.98	1.02	1.03
Wholesale and retail trade	12.7	6.4	21.6	.96	.97	1.00	1.00
Finance, Insurance, and real estate	14.5	6.7	29.1	1.04	1.04	.90	.95
Services	20.4	14.6	30.8	.99	1.01	.88	.89
Government	17.3	11.8	23.5	.87	.89	1.06	1.04

[1] A location quotient is the ratio of the proportion of a region's total employment which is located in a particular industry to the proportion of the Nation's total employment which is located in the same industry.

Source: U.S. Department of Labor, Bureau of Labor Statistics "Employment and Earnings," vol. 19 (May 1973), pp. 128–137; vol. 22 (May 1976), pp. 49 and 126–135.

When these figures are disaggregated by level of government (Federal, State and local employees), it is evident that for both regions (as well as for the Nation as a whole), public employment expansion was attributable to increases at the State and local levels (Table 7). The relatively low growth rate of government employment in the North was due to *both* a decline in Federal employment *and* a smaller than average increase in employment at the State and local levels. In the South, while the rate of increase in Federal employment was greater than the national average, the real expansion occurred at the State and local levels. State and local government employment in the South expanded by 27.6 percent between 1970 and 1975.

This relatively large expansion of State and local employment in the South may have been a necessary adjunct to the increases in

population and private sector employment over the period 1970–1975. For example, in 1970 when the North had .049 State and local employees per capita, the South had only .047 such employees per resident (Table 8). The expansion in the South permitted parity with the North by 1975: both regions had .055 persons employed in state or local government per resident—a figure which, it should be noted, was still lower than the national average.

In addition, neither the growth in Federal employment in the South nor its decline in the North appears to have been unduly precipitate. As a result of these changes, the North's share of Federal employment did decline slightly (from 30 percent to 29 percent) and the South's share did increase (from 28 to 29 percent). Yet, these changes in shares seem to reflect the simultaneous redistribution of the national population, for the number of Federal government employees per capita in each of the two regions remained constant. In both 1970 and 1975, the South had .013 and the North .009 civilian Federal employees per resident.

TABLE 7.—FEDERAL, STATE, AND LOCAL EMPLOYMENT BY REGION: 1975 LEVEL AND PERCENT CHANGE, 1970–75

Region	1975 level	Percent change 1970–75
CIVILIAN FEDERAL EMPLOYMENT		
Sunbelt-South:	804,500	5.4
South Atlantic	383,800	7.2
East-south central	170,800	10.5
West-south central	249,900	−.3
Northern industrial tier:	794,800	−3.0
New England	89,800	−10.2
East-north central	325,800	−2.3
Middle Atlantic	379,200	−1.7
U.S. total	2,744,800	1.1
STATE AND LOCAL EMPLOYMENT		
Sunbelt-South:	3,422,564	27.6
South Atlantic	1,564,505	32.0
East-south central	706,954	21.7
West-south central	1,151,105	25.8
Northern industrial tier:	4,804,256	12.8
New England	514,437	19.2
East-north central	2,252,147	14.9
Middle Atlantic	2,037,672	9.1
U.S. total	12,096,572	19.2

Sources: U.S. Bureau of the Census, Public Employment in 1970 Series GE 70–No. 1, 1971, table 5, p. 11; U.S. Bureau of the Census, Public Employment in 1975, Series GE 75–No. 1, table 6, p. 12.

TABLE 8.—FEDERAL, STATE, AND LOCAL EMPLOYMENT PER PERSON [1] BY REGION, 1970 AND 1975

Region	1970	1975
CIVILIAN FEDERAL EMPLOYMENT		
Sunbelt-South	0.013	0.013
South Atlantic	.014	.014
East-south central	.012	.013
West-south central	.013	.012
Northern, industrial tier	.009	.009
New England	.010	.009
East-north central	.008	.008
Middle Atlantic	.010	.010
U.S. total	.013	.013
STATE AND LOCAL EMPLOYMENT		
Sunbelt-South	.047	.055
South Atlantic	.047	.055
East-south central	.045	.052
West-south central	.047	.055
Northern industrial tier	.049	.055
New England	.045	.052
East-north central	.049	.055
Middle Atlantic	.050	.055
U.S. total	.050	.057

[1] Calculations are based on resident population. Significant differences did not appear when civilian population figures were used.

Sources: U.S. Bureau of the Census, Public Employment in 1970, Series GE70–No. 1, 1971, table 5, p. 11; U.S. Bureau of the Census, Public Employment in 1975, Series GE75–No. 1, table 6, p. 12; and U.S. Bureau of the Census, Population, Estimates and Projections, Current Population Reports Series P–25, No. 615, November 1975.

Dynamics of employment changes

The contrasting employment experiences of the North and South, mentioned at the outset of this section, have been attributed primarily to recent migration of firms out of the older industrial areas of the Northeast. For example, it has been stated:

"As long as the migration of industry and population was gradual from what was a relatively rich Northeast to what was a relatively impoverished South and Southwest, it helped to unify the Nation. But within the past five years the process has burst beyond the bounds that can be accommodated by existing political institutions".[13]

A second author has claimed that "throughout much of the U.S. history, economic investment, jobs and population have been shifting from the Northeast to the West and South".[14]

The problem with this point of view is that it does not coincide with the evidence. It is true that the Northern Tier's share of total U.S. employment declined between 1970 and 1974, and the South's share of employment increased. Between 1970 and 1975, the Northeast's share of all nonagricultural jobs declined by 3.1 percentage points and the South's share increased by 2.0 percentage points. It is not true that migration of firms over the past few years has caused these employment changes in the two regions.

Migration of firms has played a minor role in the changing employment situations of the Northern Industrial Tier and the Sunbelt-South. Over the past few years the primary cause of declining employment in the North has been the "death" or closure of existing firms.[15] In the South, the primary cause of the increasing employment has been the expansion of existing firms.

The data demonstrate these points quite clearly (Table 9). Over 50 percent of the employment losses which occurred in the Northern Tier between 1969 and 1972 was attributable to the death of firms. Only 1.5 percent was due to the outmigration of firms.

TABLE 9.—DISTRIBUTION OF EMPLOYMENT GAINS (LOSSES) BY BEHAVIOR OF FIRMS WITHIN REGIONS, DEC. 31, 1969 TO DEC. 31, 1972—Continued

Region	Total employment gains	Percent of employment gains due to—			Total employment losses	Percent of employment losses due to—		
		Births of new firms [1]	Expansion of firms	Inmigration of firms		Deaths of firms [2]	Contraction of firms	Outmigration of firms
Northern industrial tier	3,516,603	28.6	70.1	1.3	4,672,977	53.8	44.7	1.5
New England	419,614	30.4	68.9	.7	660,934	53.4	45.8	.8
East-north central	1,599,179	28.7	70.4	.9	1,976,375	53.6	45.8	.7
Middle Atlantic	1,497,810	27.9	70.1	2.0	2,035,668	54.3	43.2	2.6
Sunbelt	2,634,250	34.5	64.3	1.2	2,570,544	57.0	42.5	.4
South Atlantic	1,206,301	34.5	63.9	1.6	1,172,641	56.5	43.1	.4
East-south central	543,436	32.5	66.7	.5	518,122	59.2	40.3	.5
West-south central	884,513	35.8	63.4	.8	879,781	56.5	43.1	.5

[1] "The appearance in the 1972 file of a firm with a new DUNS number, for which the started was 1970–72" p. 4 of source.
[2] "The disappearance from the file of a firm with a particular DUNS number" p. 4 of source.

Source: Peter M. Allaman and David L. Birch "Components of Employment Change for States by Industry Group, 1970–72," Joint Center for Urban Studies of MIT and Harvard University, September 1975. The study uses Dun & Bradstreet data.

In the South, 64.3 percent of the employment growth was caused by the expansion of existing firms. Only 1.2 percent resulted from the immigration of firms to the region.

This same point regarding the relative unimportance of firm migration is demonstrated in Table 10. This table shows employment gains and losses as a percent of the 1969 employment base which resulted from births and deaths of firms, expansion and contraction of firms, and in- and out-migration of firms to and from the regions. These data indicate that if employment changes in the Northern Industrial Tier had been caused only by in- and out-migration of firms, then the number of jobs in 1972 would have been only 0.1 percent lower than in 1969. On the other hand, if only deaths of firms had occurred, employment in the Northern Tier would have been 11.4 percent lower than its 1969 base.

In the South, if migration of firms had been the only cause of recent employment growth, the number of jobs in 1972 would have been only 0.2 percent greater than in 1969. In contrast, if expansion of firms had been the only cause of employment change, there would have been 14.5 percent more jobs in 1972 than in 1969.

Whether employment opportunities in the North will continue to increase at their relatively low rates is not clear. While projections indicate that this will be the case,[16] low growth rates do not appear to be inevitable. Policy directives are possible which might alter the historical trends.

For example, two industries projected to grow rapidly over the next decade are Services and Finance, Insurance and Real Estate.[17] These are industries in which the North has specialized historically relative to the South (see Appendix Tables C 1 & C 2). Moreover, they are industries in which the New England and Middle Atlantic regions in particular (regions with the slowest and even negative growth rates in the North) have specialized relative to the Nation as a whole. It is possible that the slow growth in Manufacturing, projected for the next ten years, could be more than offset by increasing employment in these industries.

Footnotes at end of article.

TABLE 10.—EMPLOYMENT CHANGE BETWEEN DEC. 31, 1969, AND DEC. 31, 1972 BY REGION

Region	Total employment 1969	Net change 1969–72		Employment change as a percent of 1969 employment—Attributable to:					
		Number	Percent	Births of new firms [1]	Deaths of firms [2]	Expansion of firms	Contraction of firms	In-migration of firms	Out-migration of firms
Northern industrial tier	22,117,930	−1,129,933	−5.1	4.5	−11.4	11.2	−9.4	0.2	−0.3
New England	2,772,286	−214,846	−7.8	4.6	−12.7	10.4	−10.9	.1	−.2
East-north central	10,054,259	−379,890	−3.8	4.6	−10.5	11.2	−9.0	.1	−.1
Middle Atlantic	9,291,385	−535,197	−5.8	4.5	−11.9	11.3	−9.5	.3	−.6
Sunbelt—South	11,720,065	67,654	.6	7.8	−12.5	14.5	−9.3	.3	−.1
South Atlantic	5,343,026	36,490	.7	7.8	−12.4	14.4	−9.5	.4	−.1
East-south central	2,452,959	25,931	1.1	7.2	−12.6	14.8	−8.5	.2	−.1
West-south central	3,924,080	5,233	.13	8.1	−12.7	14.3	−9.7	.2	.1
U.S. total	45,339,792	−1,314,854	−2.9	5.9	−12.1	12.7	−9.6	.3	−.2

[1] See note 1, table 9.
[2] See note 2, table 9.

Source: Same as table 9.

DISTRIBUTION ASPECTS OF FISCAL POLICY

One of the functions of fiscal policy is to redistribute income among groups according to goals determined by society. One of these redistributive goals, however well met, has been to close the gap between "the rich" and "the poor." In part, the Federal government has attempted to meet this goal through the Federal income tax system: taxpayers with higher income levels also pay relatively higher proportions of their incomes in taxes. On the expenditures side, public policy has been directed toward raising the real income of the lowest socio-economic groups. Fiscal policy also serves to redistribute income among geographic regions.

Since the Sunbelt-South has a lower per capita income than the Northen Industrial Tier, it is not surprising that in 1975 the average tax payment per capita in the Southern States was $1,188 and the average tax payment per person in the North was $1,561 (Table 11). The fact that the South paid less, and the North paid more, than the national average ($1,412) reflects their relative income positions.

Table 12 indicates that, in 1975, Federal tax payments as a percent of personal income were slightly lower in the South than in the North. Given the progressive nature of the Federal income tax system, the small difference in the proportion of taxes paid (1.9 percentage points) by the two regions strongly suggests that, on average, the South is paying its "fair share."

This does not imply that there were no variations among the States in their relative burdens. For instance, in the South, both Texas and Kentucky paid 22.5 percent of their income in Federal taxes, even though the per capita income in Texas is more than $700 higher than in Kentucky. In the North a similar situation appears: Pennsylvania paid proportionately less in taxes than Indiana, even though Pennsylvania's per capita income was almost $300 higher. As a final illustration of the variations among States in relative tax burdens, Tennessee and Wisconsin paid almost equal proportions of their incomes in taxes, even though the per capita income of Tennessee is more than $700 less than that of Wisconsin.

TABLE 11.—FEDERAL GOVERNMENT SPENDING AND TAXES (PER PERSON),[1] 1975

Region	Federal Government	
	Spending [2]	Taxes
Sunbelt—South	$1,356	$1,188
South Atlantic	1,392	1,249
Florida	1,379	1,378
Georgia	1,402	1,217
North Carolina	1,124	1,145
South Carolina	1,240	1,041
Virginia	1,809	1,355
West Virginia	1,318	1,091
East-South Central	1,377	1,060
Alabama	1,374	1,026
Kentucky	1,327	1,094
Mississippi	1,599	908
Tennessee	1,296	1,147
West-South Central	1,295	1,187
Arkansas	1,202	907
Louisiana	1,236	1,064
Oklahoma	1,443	1,181
Texas	1,296	1,264
Northern industrial tier	1,260	1,561
New England	1,564	1,611
Connecticut	1,800	1,800
Massachusetts	1,456	1,535
Rhode Island	1,457	1,457
East-North Central	1,128	1,518
Illinois	1,230	1,704
Indiana	1,027	1,411
Michigan	996	1,539
Ohio	1,010	1,441
Wisconsin	996	1,331
Middle Atlantic	1,325	1,594
New Jersey	1,154	1,760
New York	1,449	1,636
Pennsylvania	1,241	1,426
National average	1,412	1,412

[1] Resident population.
[2] Excludes interest payments.

Source: "Federal Spending * * *," p. 881. Original figures given in U.S. Bureau of the Census "Population Estimates and Projections," current population reports series P-25, No. 615, November 1975; Community Services Administration, "Federal Outlays in Summary," fiscal year 1975, State summaries by Federal Agency Operations. Taxes were taken from preliminary 1975 figures provided by the Office of Management and Budget and the Tax Foundation Inc., "Memorandum on Allocation of the Federal Tax Burden and Federal Grants-in-Aid by State, Fiscal Year 1975," Feb. 15, 1975.

TABLE 12.—PER CAPITA PERSONAL INCOME AND PERCENT OF INCOME PAID IN FEDERAL TAXES BY REGION, 1975

Region	Per capita personal income	Federal taxes as a percent of income
Sunbelt—South	$5,176	23.0
South Atlantic	5,288	23.6
Florida	5,638	24.4
Georgia	5,086	23.9
North Carolina	4,952	23.1
South Carolina	4,618	22.5
Virginia	5,785	23.4
West Virginia	4,918	22.2
East-South Central	4,676	22.7
Alabama	4,643	22.1
Kentucky	4,871	22.5
Mississippi	4,052	22.4
Tennessee	4,895	23.4
West-South Central	5,347	22.2
Arkansas	4,620	19.6
Louisiana	4,904	21.7
Oklahoma	5,250	22.5
Texas	5,631	22.5
Northern industrial tier	6,265	24.9
New England	6,358	25.3
Connecticut	6,973	25.8
Massachusetts	6,114	25.1
Rhode Island	5,841	24.9
East-North Central	6,121	24.8
Illinois	6,789	25.1
Indiana	5,653	25.0
Michigan	6,173	24.9
Ohio	5,810	24.3
Wisconsin	5,669	23.5
Middle Atlantic	6,398	24.9
New Jersey	6,722	26.2
New York	6,564	24.9
Pennsylvania	5,943	24.0
National average	5,902	23.9

Sources: "Federal Spending * * *" and U.S. Department of Commerce, Bureau of Economic Analysis, "Survey of Current Business", vol. 56 (August 1976) table 2, p. 17.

It is important to note that the Federal Government spent *less* per person in both regions than in the Nation as a whole. *While the Southern States are among the poorest in the country, they received less than the national average in per capita Federal government expenditures.* The result of these expenditure patterns has already been shown. In spite of the Federal government's higher per capita spending in the South, these States still have, on average, a lower per capita personal income than the Northern States. Without the current flow of monies to the South, the income disparity between the two regions would be even greater. To imply that the North's share of expenditures received relative to taxes paid is unfair, is only reasonable if one simultaneously suggests that an even more inequitable situation exists for the South.[18]

Even though the Federal government's per capita spending in the Sunbelt-South is higher than in the North for all programs combined, these expenditures are not higher in the South for each program (Tables 13 and 14). In addition, the data indicate that neither region systematically received lower per capita expenditures than the national average. Finally, the data indicate that substantial variations exist among States within each of the two regions on all five expenditure programs examined.

For example, on average, both the North and South received less than the per capita national average for expenditures on Defense Contracts. However, Mississippi and Virginia within the South, and Massachusetts and New York within the North, received per capita expenditures on Defense Contracts that were higher than the national average.

The Sunbelt-South was well above, and the Northern Industrial Tier well below, the national average on per capita spending on Defense Salaries. Even so, within the South,

Footnotes at end of article.

one-third of the States were below the national average of $132 per person.

It is argued that infrastructure, or public works, investment is a catalyst for economic development of local areas.[19]

Highways and waste disposal facilities, for example, are major components of Federally provided regional infrastructure. In the case of Highways and Sewers, the South did receive greater per capita expenditures than the North ($48 versus $45). However, *both* regions were below the national average of $54.

Footnotes at end of article.

TABLE 13.—FEDERAL GOVERNMENT SPENDING ON DEFENSE CONTRACTS, DEFENSE SALARIES, AND HIGHWAYS AND SEWERS PER PERSON, FISCAL YEAR 1975 [1]

Region	Defense contracts [2]	Defense salaries [3]	Highways and sewers [4]
Sunbelt South	$161	$188	$48
South Atlantic	152	222	51
Florida	137	131	40
Georgia	167	197	55
North Carolina	87	199	50
South Carolina	98	266	34
Virginia	297	473	49
West Virginia	60	20	120
East-south Central	170	134	48
Alabama	167	161	46
Kentucky	76	190	45
Mississippi	446	147	63
Tennessee	93	57	45
West-south Central	167	178	44
Arkansas	63	84	50
Louisiana	171	118	58
Oklahoma	128	244	39
Texas	192	198	40
Northern industrial tier	$178	$54	$45
New England	434	59	41
Connecticut	783	36	32
Massachusetts	314	56	46
Rhode Island	90	158	40
East-north Central	120	52	54
Illinois	60	62	66
Indiana	164	62	55
Michigan	89	34	66
Ohio	124	64	37
Wisconsin	55	18	38
Middle Atlantic	175	55	36
New Jersey	146	77	39
New York	213	31	27
Pennsylvania	135	77	47
National average	201	132	54

[1] See table 11, n.a.
[2] Includes civil functions prime contracts, military prime construction contracts, military prime R.D.T. & E. contracts, military prime service contracts, military prime supply contracts, and prime contracts of less than $10,000.
[3] Includes civilian pay, military active duty pay, military reserve and National Guard pay.
[4] Includes highway planning and construction, FHWA (DOT); and construction grants for waste water treat works WHM (EPA).

Source: See table 11.

TABLE 14.—FEDERAL GOVERNMENT SPENDING ON WELFARE AND RETIREMENT PROGRAMS (PER PERSON), [1] FISCAL YEAR 1975

Region	Welfare programs [2]	Retirement programs [3]
Sunbelt—South	$114	$398
South Atlantic	103	434
Florida	91	570
Georgia	139	351
North Carolina	101	330
South Carolina	119	337
Virginia	80	449
West Virginia	108	459
East-South Central	135	369
Alabama	132	383
Kentucky	150	378
Mississippi	158	352
Tennessee	114	360
West-South Central	115	368
Arkansas	144	434
Louisiana	144	316
Oklahoma	123	441
Texas	100	356
Northern industrial tier	120	382
New England	116	396
Connecticut	86	361
Massachusetts	128	403
Rhode Island	143	464
East-North Central	101	359
Illinois	117	360
Indiana	55	363
Michigan	123	343
Ohio	85	362
Wisconsin	111	375
Middle Atlantic	143	403
New Jersey	105	387
New York	181	394
Pennsylvania	108	427
National average	115	392

[1] Resident population.
[2] Includes food stamp bonus coupons FNS, other food stamp program costs FNS (DOA); food stamp assistance MA, unemployment insurance MA (DOL); supplemental security income SSA, medical assistance program SRS, public assistance—social services SRS, public assistance—maintenance assistance (State aid) SRS, (HEW).
[3] Includes military retired pay (DOD); veteran's disability compensation, veteran's disability pension (VA); social insurance—railroad workers, retirement (RRB); Civil Service retirement and disability fund (CSC); Social Security—disability insurance SSA, retirement insurance SSA, and survivors insurance SSA (HEW).

Source: See table 11.

This comparative level of spending should not be surprising since the purpose of Federal expenditures on Highways and Sewers is to construct new facilities rather than maintain those already in existence. Implied arguments that the Northern Tier does not receive its "fair share" of spending on these facilities are difficult to sustain in this context.[20] The need of the Nothern States, among the most highly developed in the Nation, lies not in the area of *new* highways and sewers. Rather, funds are needed for the maintenance and upgrading of ageing infrastructure already in place.

In view of the earlier evidence on the pervasiveness of poverty in the South relative to the North, it is curious to note that the South received less than the North in per capita expenditures on Welfare (Table 13). As an illustration, Mississippi has a larger proportion of its population in poverty than New York. Yet this Southern State received $23 per person less in welfare spending than New York, the State with the highest per capita level of spending in this category.

This does not imply that the Northern States should receive less money, rather that it is quite probable that the economic needs of the poverty population in the South are not being met.

This situation exists, in part, because of the low level of commitment to social welfare programs on the part of State and local governments in the South.[21] For this reason, the Federal Government is to be commended, not criticized, for expending proportionately more funds in the South on programs which do not require matching State monies than on programs which have this stipulation.[22]

Finally, the relatively high per capita expenditures on Retirement found for the Sunbelt-South are attributable to the large percentage of retirees residing in one State, Florida. If Florida is excluded, the South Atlantic States received $377 per person for retirement programs in 1975, an amount less than two out of the three Northern regions. Moreover, the Sunbelt-South received $372 per person, $10 less than the Northern Industrial Tier.

CONCLUSIONS

It is evident that, by almost any measure used, the Northern Industrial Tier possesses a significant lead in the level of economic development both in aggregate and per capita terms.

It is also evident that the Northern Tier States presently confront serious economic difficulties. The degree to which these are critical for both the region and the Nation should in no way be minimized.

Footnotes at end of article.

The improving economic performance of the Sunbelt-South indicates only that the wide disparities between the two regions are diminishing to some degree. The bottoming out or divergence in regional per capita incomes as a percent of the national average in 1975 suggests that the relative position of the South declined in that one year.

The United States is emerging from the worst recession since the Great Depression. It is inevitable that the highly industrialized regions of the economy would be impacted more heavily in the course of this recession. Therefore, conclusions on the relative performance of these two regions recently should be regarded with some caution. It may well be that the relative improvement of the Southern States is, in part, a cyclical phenomenon which may not be sustained through the full recovery of the economy.

Policy decisions based on the assumption that the experience of 1970 through 1975 represents a new trend may be ill-considered and counter-productive in the longer run.

An implicit and often explicit premise or goal of public policy in the United States has been to attempt to redress the imbalance in the distribution of economic welfare among regions. Undoubtedly, the Northern Industrialized States are undergoing economic difficulties which are unprecedented in a period of relative economic prosperity. *However, it is not clear that the situation of these States today is more adverse economically than that which the Southern, less developed, States have experienced historically even though they are now experiencing an increasing rate of income, employment and population growth.* At best, the evidence is mixed and fails to support the unequivocal claim that the Northern Industrialized States should benefit from a reallocation of Federal program benefits which diminishes the flow of benefits to States in the South.

The regional economies of the United States are highly interdependent. Rhetoric and biased studies which encourage a growing sense of economic competition between these two regions do a disservice to the overall goal of balanced economic growth for both regions. The economic futures of the two super-regions are inseparably intertwined. A balanced and carefully conceived

approach which mitigates economic distress in particular regions and harmonizes regional growth is essential. The current debate which focuses on the rate of growth of the Sunbelt as a partial explanation of the economic difficulties of the Northern States is detrimental to the goal of achieving National policies that facilitate overall growth among all regions of the United States.

APPENDIX A—POPULATION

TABLE A-1.—THE MIGRATION OF WORKERS FROM THE SUNBELT-SOUTH TO THE NORTHERN TIER, 1973-74; MIGRATION TO NORTHERN INDUSTRIAL TIER

[In hundreds]

Migration from sunbelt-south	New England				Middle Atlantic				East-north-central						Grand total
	Total	Conn.	Mass.	R.I.	Total	N.Y.	N.J.	Pa.	Total	Ohio	Ind.	Ill.	Wis.	Mich.	
South Atlantic	200	59	109	32	517	240	96	181	588	249	83	135	27	94	1,305
Florida	74	30	40	4	119	77	21	21	275	99	39	71	16	50	467
Georgia	29	3	21	5	91	52	15	24	77	29	10	22	5	11	198
North Carolina	28	11	11	6	87	32	12	43	68	20	8	22	2	16	186
South Carolina	31	2	25	4	57	27	9	21	28	7	7	8	0	6	118
Virginia	34	12	11	11	119	51	33	35	55	20	14	11	4	6	203
West Virginia	4	1	1	2	44	1	6	37	85	74	5	1	0	5	133
East-south central	43	11	19	13	165	59	54	52	445	126	106	128	17	68	653
Alabama	10	1	5	4	53	27	12	14	51	9	5	22	2	13	114
Kentucky	15	7	7	1	29	19	4	6	219	83	75	38	8	15	263
Mississippi	7	1	2	4	37	11	6	20	66	14	4	26	3	19	110
Tennessee	11	2	5	4	46	2	32	12	109	20	22	42	4	21	166
West-south central	77	16	49	12	287	150	44	93	345	92	40	116	23	74	709
Louisiana	9	5	3	1	46	32	7	7	44	13	10	10	2	9	99
Arkansas	14	0	14	0	14	6	7	1	55	11	5	22	4	13	83
Oklahoma	14	0	14	0	24	13	4	7	42	9	5	18	1	9	80
Texas	40	11	18	11	203	99	26	78	204	59	20	66	16	43	447
Total	320	86	177	57	969	449	194	326	1,378	467	229	379	67	236	2,667

Source: Social Security Continuous Work History 1 Percent Sample; Bureau of Economic Analysis, U.S. Department of Commerce.

TABLE A-2.—THE MIGRATION OF WORKERS FROM THE NORTHERN TIER TO THE SUNBELT-SOUTH, 1973-74; MIGRATION TO SUNBELT-SOUTH

[In hundreds]

Migration from northern tier	South Atlantic							East-south-central				West-south-central					Grand total
	Total	Fla.	Ga.	N.C.	S.C.	Va.	W. Va.	Total	Ala.	Ky.	Miss.	Tenn.	Total	La.	Ark.	Okla.	Tex.	
New England	286	119	54	58	22	29	4	37	12	8	3	14	56	7	4	6	39	379
Connecticut	85	42	12	13	7	10	1	14	6	4	0	4	23	2	1	4	16	122
Massachusetts	188	72	41	40	15	17	3	19	6	2	3	8	28	5	2	2	19	235
Rhode Island	13	5	1	5	0	2	0	4	0	2	0	2	5	0	1	0	4	22
Middle Atlantic	1,092	526	140	160	47	151	68	189	41	32	24	92	262	38	18	20	186	1,543
New York	597	306	83	93	29	64	22	104	20	14	12	58	151	23	13	11	104	852
New Jersey	225	100	36	37	9	34	9	34	9	5	3	17	51	8	3	3	37	310
Pennsylvania	270	120	21	30	9	53	37	51	13	13	8	17	60	7	2	6	45	381
East-north central	778	396	120	80	33	75	74	522	81	232	65	144	366	39	54	42	231	1,666
Ohio	274	119	37	18	7	29	64	148	17	75	25	31	83	17	17	4	45	505
Indiana	131	63	26	15	7	16	4	141	11	94	13	23	82	7	8	12	55	354
Illinois	169	91	28	23	9	18	0	153	30	44	18	61	111	6	13	13	79	433
Wisconsin	37	22	5	3	1	4	2	15	6	3	1	5	30	1	6	5	18	82
Michigan	167	101	24	21	9	8	4	65	17	16	8	24	60	8	10	8	34	292
Total	2,156	1,041	314	298	102	255	146	748	134	272	92	250	684	84	76	68	456	3,588

Source: Social Security Continuous Work History 1 Percent Sample; Bureau of Economic Analysis, U.S. Department of Commerce.

TABLE A-3.—SUNBELT-SOUTH POPULATION AND COMPONENTS OF CHANGE 1970 AND 1975

Region and State	July 1, 1975	Apr. 1, 1970	Change 1970-75		Components of Change 1970-75			
			Number	Percent	Births	Deaths	Net migration	
							Number	Percent
Sunbelt-South	62,711,000	57,582,200	5,128,000	8.9	5,468,000	2,977,000	2,632,000	4.6
South Atlantic	28,311,000	25,449,664	2,860,000	11.2	2,338,000	1,344,000	1,865,000	7.3
Florida	8,346,000	6,791,418	1,554,000	22.9	586,000	436,000	1,404,000	20.7
Georgia	4,926,000	4,588,000	338,000	7.4	465,000	224,000	97,000	2.1
N. Carolina	5,451,000	5,034,411	367,000	7.2	470,000	243,000	139,000	2.7
S. Carolina	2,818,000	2,590,835	227,000	8.8	264,000	125,000	89,000	3.4
Virginia	4,967,000	4,651,000	315,000	6.8	401,000	211,000	125,000	2.7
W. Virginia	1,803,000	1,744,000	59,000	3.4	152,000	105,000	11,000	.7
East south central	13,544,000	12,808,315	736,000	5.7	1,217,000	685,000	203,000	1.6
Alabama	3,614,000	3,444,297	170,000	4.9	328,000	180,000	22,000	.7
Kentucky	3,396,000	3,221,000	175,000	5.4	295,000	177,000	57,000	1.8
Mississippi	2,346,000	2,217,000	129,000	5.8	242,000	123,000	9,000	.4
Tennessee	4,188,000	3,926,018	262,000	6.7	352,000	205,000	115,000	2.9
West south central	20,856,000	19,324,221	1,530,000	7.9	1,913,000	948,000	564,000	2.9
Arkansas	2,116,000	1,923,322	193,000	10.0	181,000	114,000	125,000	6.5
Louisiana	3,791,000	3,642,463	148,000	4.1	363,000	178,000	−37,000	−1.0
Oklahoma	2,712,000	2,559,463	152,000	6.0	226,000	141,000	67,000	2.6
Texas	12,237,000	11,199,000	1,037,000	9.3	1,143,000	515,000	409,000	3.7

Source: Current Population Reports, U.S. Bureau of the Census Series P-25.

TABLE A-4.—NORTHERN INDUSTRIAL TIER POPULATION AND COMPONENTS OF CHANGE, 1970 AND 1975

Region and State	July 1, 1975	Apr. 1, 1970	Change 1970–75		Components of change 1970–75			
			Number	Percent	Births	Deaths	Net migration	
							Number	Percent
Northern Tier	88,085,000	87,149,173	935,827	1.0	6,943,000	4,439,000	−1,571,000	−1.8
New England	9,840,000	9,671,110	169,000	1.7	696,000	485,000	−43,000	−4.4
Connecticut	3,095,000	3,032,217	63,000	2.1	216,000	138,000	−15,000	−0.5
Massachusetts	5,818,000	5,689,170	129,000	2.3	411,000	298,000	15,000	0.3
Rhode Island	927,000	949,723	−23,000	−2.4	69,000	49,000	−43,000	−4.5
Middle Atlantic	37,267,000	37,213,350	49,000	0.1	2,780,000	1,973,000	−755,000	−2.0
New York	18,122,000	18,241,584	−119,000	−0.7	1,373,000	956,000	−537,000	−2.9
New Jersey	7,316,000	7,171,000	140,000	2.0	538,000	357,000	−37,000	−0.5
Pennsylvania	11,829,000	11,800,766	28,000	0.2	869,000	660,000	−181,000	−1.5
East north-central	40,978,000	40,264,713	713,000	1.8	3,467,000	1,981,000	−773,000	−1.8
Ohio	10,759,000	10,657,423	102,000	1.0	910,000	527,000	−281,000	−2.6
Indiana	5,311,000	5,195,610	116,000	2.2	466,000	256,000	−94,000	−1.8
Illinois	11,145,000	11,112,859	32,000	0.3	950,000	575,000	−342,000	−3.1
Wisconsin	4,606,000	4,417,821	188,000	4.3	355,000	216,000	48,000	1.1
Michigan	9,157,000	8,881,000	275,000	3.1	786,000	407,000	−104,000	−1.2

Source: Current Population Reports, U.S. Bureau of the Census Series P-25.

APPENDIX B—INCOME

TABLE B-1.—PER CAPITA INCOME BY STATE, 1975

Region	Per capita income, 1975	Implicit PCI adjuster [1]	Adjusted per capita income, 1975	Per capita Federal taxes	Disposable per capita income [2]	
					Unadjusted income	Adjusted [1] income
NORTHERN TIER						
New England:						
Connecticut	6,973	0.9572	6,674	1,800	5,173	4,951
Massachusetts	6,114	.8692	5,314	1,535	4,579	3,980
Rhode Island	5,841	.9535	5,569	1,457	4,384	4,180
Middle Atlantic:						
New York	6,564	.9422	6,184	1,760	4,795	4,518
New Jersey	6,722	.9413	6,327	1,636	5,086	4,787
Pennsylvania	5,943	.9975	5,928	1,426	4,517	4,506
East-north-central:						
Ohio	5,810	1.0316	5,994	1,441	4,369	4,507
Illinois	6,789	1.0097	7,003	1,704	5,085	5,134
Indiana	5,653	1.0406	5,882	1,411	4,242	4,414
Michgan	6,173	.9985	6,164	1,539	4,634	4,627
Wisconsin	5,669	1.0118	5,736	1,331	4,338	4,389
SUNBELT-SOUTH						
South Atlantic:						
Florida	5,638	1.0901	6,145	1,378	4,260	4,643
Georgia	5,086	1.1122	5,557	1,217	3,869	4,303
North Carolina	4,952	1.1093	5,493	1,145	3,807	4,223
South Carolina	4,618	1.1116	5,133	1,041	3,577	3,976
Virginia	5,785	1.0536	6,095	1,355	4,431	4,568
West Virginia	4,918	1.1187	5,502	1,091	3,827	4,281
East-south central:						
Kentucky	4,871	1.1093	5,403	1,094	3,777	4,189
Tennessee	4,895	1.1085	5,426	1,147	3,748	4,155
Alabama	4,643	1.1008	5,111	1,026	3,617	3,981
Mississippi	4,052	1.1309	4,582	908	3,144	3,555
West-south central:						
Arkansas	4,620	1.1178	5,164	907	3,713	4,150
Louisiana	4,904	1.1014	5,401	1,064	3,840	4,229
Oklahoma	5,250	1.1053	5,804	1,181	4,069	4,497
Texas	5,631	1.1056	6,226	1,264	4,367	4,828

[1] Per capita income adjusted for regional cost of living variations. Per capita income by State inflated or deflated by the national cost of living indices to that of the State. The index used was the annual budget for an intermediate standard of living for a 4-person family. See appendix B, table 2. Bureau of Labor Statistics, Budget Studies, "News", Washington, D.C., May 5, 1976.

[2] As used here, disposable per capita income is derived by subtracting per capita Federal taxes from per capita income.

TABLE B-2.—*Cost-of-living adjustments*

REGION AND ADJUSTMENT

Northeast: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont:
Metropolitan, .9836.
Non metropolitan, 1.0101.

North Central: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin:
Metropolitan, 1.0036.
Non metropolitan, 1.0870.

South: Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia:
Metropolitan, 1.0856.
Non metropolitan, 1.1494.

West: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming:
Metropolitan, 1.0101.
Non metropolitan, 1.1111.
Alaska, .7194.
Hawaii, .8197.
Source: See Table B1.

TABLE B-3.—*Definition of poverty*

Poverty Status in 1969: The 1969 poverty statistics presented are based on a definition originally developed by the Social Security Administration (SSA) in 1964 and revised by a Federal inter-agency committee in 1969. The SSA poverty index provided a range of income cutoffs adjusted by such factors as family size (from one person to a family of seven persons or more), sex of the family head, number of children under 18 years old, and farm-nonfarm residence (see Table A). At the core of this definition of poverty was a nutritionally adequate food plan (economy plan) designed by the Department of Agriculture for emergency or temporary use when funds are low. The SSA poverty cutoffs also took into account differences in the cost of living between farm and non-farm families. Annual revisions of these cutoffs were based on price changes of the items in the economy food budget.

APPENDIX C—EMPLOYMENT

TABLE C-1.—PERCENT CHANGE IN NONAGRICULTURAL EMPLOYMENT AND LOCATION QUOTIENTS FOR THE UNITED STATES AND THE CONSTITUENT REGIONS OF THE NORTHERN INDUSTRIAL TIER, 1970–75 [1]

Industry	Percent change in employment, 1970–75				Location quotient					
	United States	New England	East north central	Middle Atlantic	New England		East north central		Middle Atlantic	
					1970	1975	1970	1975	1970	1975
Total nonagricultural	8.6	2.2	3.9	−1.67						
Mining	19.6	(2)	15.0	11.8	0	0	0.56	0.50	0.44	0.40
Construction	−2.2	−23.1	−7.2	−17.3	.90	.76	.82	.82	.82	.78
Manufacturing	−5.2	−10.1	−10.5	−16.1	1.17	1.18	1.26	1.25	1.07	1.06

Industry	Percent change in employment, 1970–75				Location quotient					
					New England		East north central		Middle Atlantic	
	United States	New England	East north central	Middle Atlantic	1970	1975	1970	1975	1970	1975
Transportation and public utilities	−.1	−4.2	−2.4	−8.9	.77	.79	.91	.93	1.05	1.07
Wholesale and retail trade	12.7	7.2	9.9	2.3	.98	.99	.98	1.00	.94	.95
Finance, insurance, and real estate	14.5	10.7	11.8	2.1	1.10	1.13	.85	.87	1.24	1.22
Services	20.4	12.6	20.2	10.3	1.13	1.13	.89	.93	1.06	1.07
Government	17.3	13.3	10.8	12.4	.78	.81	.87	.86	.88	.94

[1] The location quotient is the ratio of the proportion of the region's total employment which is located in a particular industry to the proportion of the Nation's total employment which is located in the same industry.

[2] Combined with services.

Source: U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings," vol. 19 (May 1973), pp. 128–137; and vol. 22 (May 1976), pp. 49 and 126–135.

TABLE C-2.—PERCENT CHANGE IN NONAGRICULTURAL EMPLOYMENT AND LOCATION QUOTIENTS FOR THE UNITED STATES AND THE CONSTITUENT REGIONS OF THE SUNBELT SOUTH 1970–75 [1]

Industry	Percent change in employment, 1970–75				Location quotient					
					South Atlantic		East South Central		West south central	
	United States	South Atlantic	East south central	West south central	1970	1975	1970	1975	1970	1975
Total nonagricultural	8.6	16.4	13.9	19.0						
Mining	19.6	21.9	44.8	16.6	1.11	1.11	1.44	1.70	3.67	3.20
Construction	−2.2	7.5	16.1	22.7	1.24	1.29	1.00	1.13	1.22	1.38
Manufacturing	−5.2	−.8	0.2	7.4	1.02	1.00	1.17	1.18	.75	.77
Transportation and public utilities	−.1	8.7	6.7	10.5	.98	1.02	.86	.90	1.13	1.16
Wholesale and retail trade	12.7	20.7	20.4	23.2	.99	.99	.91	.92	1.08	1.08
Finance, insurance, and real estate	14.5	31.7	20.6	30.3	.90	.96	.79	.78	.96	1.00
Service	20.4	35.0	26.7	27.6	.86	.90	.83	.83	.95	.90
Government	17.3	29.2	18.8	19.1	1.01	1.05	1.08	1.06	1.10	1.02

[1] The location quotient is the ratio of the proportion of the region's total employment which is located in a particular industry to the proportion of the Nation's total employment which is located in that same industry.

Source: U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings," vol. 19 (May 1973), pp. 128–137; and vol. 22 (May 1976), pp. 49 and 126–135.

FOOTNOTES

[1] "The Second War Between the States," *Business Week*, May 17, 1976, p. 92 and 95.

[2] "Federal Spending: The North's Loss Is the Sunbelt's Gain," *National Journal*, June 26, 1976, pp. 878–891.

Representative Michael J. Harrington, "Regional Economic Trends: A Profile of Problems," August 1976, unpublished monograph.

[3] "Congressmen From Northeast and Midwest Establish Economic Coalition," *New York Times*, September 2, 1976, p. 17.

"House Group Wants to Stem Sunbelt Flow", *The Washington Post*, September 2, 1976, pp. B1 and B3.

[4] Press release, the Academy for Contemporary Problems, Columbus, Ohio, September 1, 1976, p. 4.

[5] "The Second War . . ."; *Time Magazine*, "The South Today", September 27, 1976, and Douglas Carter, "How Different is the South", *Washington Post* (October 10, 1976), pp. C1 and C2.

[6] These data are drawn from the Social Security 1/100 sample. Only those covered by Social Security are included. The data omit the self-employed, agricultural, railroad and public employees not participating in the Social Security Program.

[7] For example, see John F. Kain, "Implications of Declining Metropolitan Population on Housing Markets." In George Sternlieb and James W. Hughes, eds., *Post-Industrial America: Metropolitan Decline and Inter-region Job Shifts* (New Brunswick, New Jersey: Rutgers Center for Urban Policy Research 1975), p. 224; and Calvin L. Beale, "A Further Look at Nonmetropolitan Population Growth Since 1970," August 1976.

[8] This finding is not surprising since in the North the labor force participation rate of women, the educational level of the population and the per capita income are all higher than in the South. These factors are negatively related to high fertility rates.

[9] Term used in "The Second War" p. 95.

[10] "Federal Spending: The North's Loss . . .", p. 879.

[11] See for example, "Congressmen from the Northeast. . . ."

[12] For example, see "The Second War. . . ." and "Regional Economic Trends. . . ."

[13] "The Second War. . . ." p. 92.

[14] "Federal Spending. . . ." p. 879.

[15] A firm can "die" for one of several reasons. For example, bankruptcy can occur in spite of the intentions of the owners. Alternatively, bankruptcy could be "purposeful": an owner could run-down the existing capital stock, declare bankruptcy and re-establish related operations in a new firm and location. Additionally, a conglomerate could close a firm which was unprofitable *relative* to its alternative investment opportunities.

[16] Bureau of Economic Analysis, U.S. Department of Commerce, *Survey of Current Business*, Volume 54, Number 41 (April 1974), p. 22.

[17] See U.S. Department of Labor, *Employment & Training Report of the President*, 1976 Table E–10, p. 314.

[18] For example, see the Press Release of the Academy for Contemporary Problems, p. 4 and "Congressmen from the Northeast . . ."

[19] For example, see "Federal Spending. . ." p. 882.

[20] "Federal Spending. . .," pp. 881–882.

[21] U.S. Bureau of the Census, 1972 Census of Governments, *Government Finances*, Volume 4, Number 5, p. 61.

[22] "Federal Spending. . .," p. 882.

SPEECH TO DEMOCRATIC CAUCUS, MONDAY, JANUARY 24, 1977

Mr. ROBERT C. BYRD. Mr. President, on Monday, January 24, I made a statement at the Senate Democratic caucus on President Ford's recommended pay increase and on a Senate code of conduct. I ask unanimous consent to insert that statement in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD as follows:

SENATOR ROBERT C. BYRD'S SPEECH TO DEMOCRATIC CAUCUS

Gentlemen, on January 17, President Ford submitted to the Congress a proposal to raise to appropriate levels the salary for all the major officers of the Federal Government except for the President. President Ford's proposal was based upon the recommendation of the Peterson Commission.

During my 24 years in Congress, I have never voted for a Congressional pay raise, but I believe that the time has come to face hard facts.

In the last 8 years, there has been only one 5% increase for the top officials of the Federal Government despite the fact that, during that period, the cost of living has increased more than 60%, general schedule Federal employees have had their pay increased by 66%, and compensation for private non-farm employment has increased more than 70%.

Because of this salary lag, the Federal Government is losing some of its best people. In the last 3 years, 4 of the 11 Institute directorships at the National Institutes of Health—including the Director of the National Cancer Institute—have become, and remain, vacant. 85 out of 87 outside candidates have refused the positions due to the low pay. The Social Security Administration lost 9 out of 19 of its most senior civil service employees at one time last year, and was unable to fill the position of Chief Actuary for more than a year, with 30 candidates refusing the job because of the low pay.

The Legislative Branch continuously loses some of its most able and experienced support personnel because of higher salaries available to them in the business community.

While some Members of Congress are more able than others to meet their commitments at the present salary levels, many members find that the present salary level, incumbent on serving in Washingon, D.C., caring for their families, and the added financial burden of the offices they hold, together with maintaining two residences—as many of them do—so severely strains their budgets that they are forced to go on the speaking circuit in order to make ends meet. In so doing, they are forced to absent themselves from committee meetings and Senate sessions, and the business of the people is sometimes delayed thereby.

This pay increase involves 2,496 individuals in high policymaking positions directly. Indirectly, 20,365 additional upper grade government personnel, whose pay is tied to Congressional salary levels, will be affected.

President Carter supports President Ford's proposed pay increase, the joint leadership

in the House supports it, and the joint leadership in the Senate supports it.

I have called this caucus together today to ask you to support the leadership in its efforts to implement the pay increase recommended by President Ford and President Carter.

I realize that it is difficult for each of us here to vote for a pay increase. But, unless we face up to the situation, this is a crisis in government that will continue to grow. It will not go away, and, more and more, only the wealthy will be able to render government service.

This is the first time, in my recollection, that the leadership will come down on all fours in support of a general pay increase for Executive, Judicial, and Legislative personnel. I urge each of you to join with the leadership in a united effort in this regard. After all, the people get just what they pay for, as a general rule, and I believe that it is in the best interests of the people that this pay increase go into effect.

President Ford coupled his pay increase proposal with a code of conduct proposal, also based upon the recommendation of the Peterson Commission. Without a code of conduct, the Congress cannot expect to give its members a pay raise without raising further institutional questions.

Consequently, last week, the Minority Leader and I appointed a temporary special committee to be known as the Special Committee on Official Conduct, composed of 15 members of the Senate—eight Democrats and seven Republicans—to propose a code of conduct for members, officers, and employees of the Senate in the performance of their official duties. I designated Senator Nelson to be the Chairman of the select committee, and the other Democrats on that committee are as follows: Mr. Ribicoff, Mr. Inouye, Mr. Eagleton, Mr. Nunn, Mr. Glenn, Mr. Clark, and Mr. Melcher. The resolution creating the committee mandates the committee to report legislation by March 1 establishing a code of conduct.

That legislation will immediately become the pending business before the Senate under a time agreement limiting debate thereon.

Your leadership, therefore, is not only committed to the pay increase but also to the enactment of a code of conduct for the Senate. The House of Representatives is already moving toward the enactment of a code of conduct for that body.

I believe that the great majority of the people of this country will be willing to accept the principle of a pay raise for Members of Congress, and policymaking officials in the Executive Branch, and members of the Federal Judiciary, especially in view of the fact that Congress is moving swiftly to enact, hand in hand with the pay increase, a code of conduct for itself. President Carter has already taken steps to establish a code of conduct to cover actions of officials in the Executive Branch.

In closing my remarks on this subject, I realize that not every Senator will see eye to eye with the leadership on this matter, but I urge each of you to give this your best judgment, lean over backwards if you can to support the leadership, and the leadership in turn will stand four-square and firm on behalf of the proposed increase and an official code of conduct.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

COMMITTEE REPORT ON SENATE RESOLUTION 4—REORGANIZING THE COMMITTEE SYSTEM OF THE SENATE

Mr. CANNON. Mr. President, pursuant to the order of the Senate on January 19, 1977, I now file the report of the Committee on Rules and Administration on Senate Resolution 4. This resolution has been reported with an amendment in the nature of a substitute for the resolution.

To simplify the procedure in handling Senate Resolution 4 when it is brought up for debate on the floor, I ask unanimous consent that the substitute amendment for the resolution be considered as having been agreed to and, as thus amended, be treated as original text for the purpose of further amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The report will be received.

Mr. BAKER. Will the Senator yield further?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Referring now to the filing of the report of the Committee on Rules, I note there was no further action taken beyond the filing of the report, which is acceptable to the Senator. Do I understand, then, that no effort is contemplated by the majority leadership to waive the 3-day rule following the filing of the report?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. So the practical effect of that would be to put over until Monday the consideration of that report.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. I thank the majority leader.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 70–770, appoints the Senator from Colorado (Mr. HASKELL) to the Migratory Bird Conservation Commission, in lieu of the Senator from North Dakota (Mr. BURDICK), resigned.

The Chair, on behalf of the Vice President, pursuant to Public Law 79–585, appoints the Senator from Washington (Mr. JACKSON) as the vice chairman (temporary) of the Joint Committee on Atomic Energy.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session.

There being no objection, the Senate proceeded to the consideration of executive business.

SECRETARY OF LABOR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, without any action being taken today and without any time running against the time on the nomination, that the Senate proceed to the consideration of the nomination of Ray Marshall of Texas to be Secretary of Labor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination will be stated.

The legislative clerk read the nomination of Ray Marshall, of Texas, to be Secretary of Labor.

ORDER FOR RECOGNITION OF SENATOR THURMOND ON TOMORROW AND THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized, Mr. THURMOND be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make the same request for Mr. THURMOND for Thursday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR CHURCH AND SENATOR PELL TOMORROW, AND FOR A PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the recognition of Mr. THURMOND on tomorrow, Mr. CHURCH be recognized for not to exceed 5 minutes and that he be followed by Mr. PELL for not to exceed 5 minutes; that there then be a brief period for the transaction of routine morning business for the purpose only

of entering statements in the RECORD, and entering bills and resolutions, petitions, and memorials.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TIME LIMITATION FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, with respect to the period for transaction of morning business tomorrow, I ask unanimous consent that that period be limited to not to exceed 10 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF NOMINATION OF RAY MARSHALL TO BE SECRETARY OF LABOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following that period for the transaction of routine morning business, the Senate then proceed to the consideration of Mr. Marshall, with the time then to begin running.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, that just about states the program so far as I know it for tomorrow.

I yield to the Senator from Tennessee.

Mr. BAKER. We have a resolution from the Committee on Foreign Relations. Is it the intention of the majority leadership to call it up tomorrow?

Mr. ROBERT C. BYRD. Yes, I am glad the distinguished Republican leader reminded me of this.

ORDER FOR CONSIDERATION OF SENATE RESOLUTION 48 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, upon the disposition of the nomination of Mr. Ray Marshall tomorrow, the Senate resume legislative session immediately and without any intervening motions or debate, and that the Senate proceed immediately to the consideration of Senate Resolution 48, the resolution with respect to the release of Abu Daoud.

Mr. HELMS. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator yield for that purpose?

Mr. ROBERT C. BYRD. Yes, I yield.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I repeat my request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

NATURAL GAS SHORTAGE

Mr. ROBERT C. BYRD. I think I should state that it is possible, certainly to be hoped, that the Senate can find a way to act on the emergency legislation that will be sent up tonight or early tomorrow morning by the President to deal with the shortage of natural gas. I am in no position to state at this time what the prospects are, at least until we can see the legislation and Senators may have an opportunity to study it.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. BAKER. I share the hope that we can turn to the prompt consideration of the President's proposal in this respect. There are few things that are more urgently important than the preservation of the health and comfort of the people of our country and the warmth of our citizens. From that standpoint, I can assure the majority leader that the Members on the Republican side of the aisle will do their very best to try to read, digest, and understand the proposal when it is sent to us by the President. We do not yet have a copy of it. Parenthetically, I hope the White House will get that to us yet tonight so we can study it overnight. Then we can consider the procedural question of whether or not to refer it to one of the committees, perhaps the Committee on Commerce, to proceed to its consideration. I hope we can arrive at an agreement whereby we can proceed to its consideration on tomorrow or the day following.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Republican leader. I share that hope. Perhaps tomorrow, we shall be in a position to see what the realities of the situation may be.

Mr. President, the Senate is recessing in executive session, is it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and at 6:12 p.m., the Senate recessed in executive session until tomorrow, Wednesday, January 26, 1977, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 25, 1977:

DEPARTMENT OF JUSTICE

Griffin B. Bell, of Georgia, to be Attorney General.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE COAST GUARD

Coast Guard nominations beginning Allan H. Gifford, to be captain, and ending Robert W. Sprick, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on January 10, 1977.

EXTENSIONS OF REMARKS

DOES ANYBODY REALLY LIVE IN QUEENS?

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. ROSENTHAL. Mr. Speaker, many people are familiar with the borough of Queens as the home of Archie Bunker from "All in the Family." But Queens is much more than that: It is the home of two world's fairs—1939 and 1964—the New York Jets and the Mets; two of the world's busiest airports, Kennedy and LaGuardia; the Queens Botanical Gardens; and Flushing Meadow-Corona Park, the city's largest park.

Originally a collection of villages going back to 1683, Queens today consists of numerous communities that still retain much of their original character. According to Prof. Andrew Hacker of Queens College, many residents choose to live in Queens because "it is a set of suburbs within the borders of the city."

I wish to share with my colleagues the unique atmosphere of this borough which offers both city and suburban life for its citizens. For those who enjoy walking, there are scores of bakeries, clothes shops, movies, restaurants, and groceries which can fulfill this pleasure. On the other hand, Queens provides suburban breathing space for those who wish to live in such an environment. Proof of this is that a majority of its citizens reside in single- or two-family homes, many owning two or three cars. Queens is situated in such a fashion that both the bustling life of Manhattan and the more relaxed surroundings of the suburbs are easily accessible to its residents.

I am proud to represent, along with my colleagues JOSEPH P. ADDABBO, JAMES J. DELANEY, LESTER L. WOLFF, MARIO BIAGGI, and JAMES H. SCHEUER, the 2 million residents of Queens. Our county provides an alternative for those citizens who do not want to reside in the center of a city but wish to partake of its assets.

Professor Hacker has written a delightful, intriguing article about this borough which bridges city and suburbs. I wish to share his article, which was published in Newsday, January 9, with my colleagues:

DOES ANYBODY REALLY LIVE IN QUEENS?

(By Andrew Hacker)

Nobody lives in Queens.

Nobody, except for 2 million residents of New York City who make their homes and receive their mail in communities like Woodside and Sunnyside, Rosedale and Glendale, Jackson Heights and Cambria Heights, Richmond Hill and Forest Hills. (Address a letter to "Queens, New York" and you risk having it returned "No Such Place.") There is a College Point which never had a college. Long Island City, which was really once a city. And Flushing, named after the Dutch town of "Vlissingen," which has nothing to do with plumbing.

Queens began as a collection of villages, and it retains that character today. Indeed, that is why most residents choose to live there. It is a set of suburbs within the borders of the city. And city life with suburban breathing space. A majority of the citizens live in the borough's 282,360 single and two-family homes, plus an occasional "illegal three" in what was once the two-car garage. The borough has eye-catching high-rises, especially along Queens Boulevard. But complexes of over 100 units house less than a tenth of the total population. Most people sleep close to the ground and wake up looking at a lawn.

Still, Queens is very much a city. Perhaps its most striking urban characteristic is the number of people one sees walking. As it happens, a majority of families own cars. (In fact, 79,902 households have two; and 9,956 claim three.) Nevertheless, people are constantly on the streets, en route to shops or a movie or a meal. True to its village tradition, each community has a central crossroads; Roosevelt Avenue and 82nd Street in Jackson Heights; 71st Avenue and Austin Street in Forest Hills; Ditmars Boulevard and 31st Street in Astoria. The stroll to the bakery, the dry cleaner or the drugstore is a daily household institution. The suburbanite surrenders to his car; walking takes place chiefly in shopping center parking lots. (Hence the need for tennis, to make up for the lack of exercise.)

Queens owes much of its charm to several centuries of isolation. For the first 226 years of its history, it could only be reached by ferry. The borough began life in 1683 as a colonial county, named for Queen Catherine of Braganza, the consort of England's Charles II. (Catherine, a Portuguese princess, was accused of trying to poison her husband, as part of the so-called "Popish Plot." Happily for local history, she was exonerated of all charges.) Until 1898, when it joined New York City, Queens included all of what is now Nassau County. As a price of becoming a borough, it set its Nassau portion adrift—a decision some later came to regret. Even so, Queens remained largely a countrified cousin. The Queensborough Bridge, completed in 1909, was intended to relieve Manhattan's congestion. However it failed to bring out an immediate influx of migrants. For one thing, the bridge let out on 59th Street on its Manhattan side, still well north of most shops and offices and factories. (Bloomingdale country was still far in the future.) To commute from Sunnyside to a desk down on 23rd Street might take two hours and three changes of trolleys. The first subway, now the No. 7 line to Flushing, opened in 1915. Nevertheless, the borough's growth remained gradual. It took until 1939 to reach the one million mark, and to 1960 to come close to two million.

Because it had space to spread—the borough covers 120 square miles and runs 15 crow-miles from Steinway to the Rockaways—Queens never built the physical contours of a city. It lacks Brooklyn's serried ranks of brownstones, or the Bronx's acres of six-story apartments. The borough has few architectural landmarks, apart from some early churches and the 47th Avenue gingerbread firehouse. The shopping complexes in Rego Park and Jamaica cannot count as urban centers; in fact, the borough has no geographic midpoint. When Queens residents want to be in the middle of things, they journey into Manhattan. However, those trips tend to be fewer and farther between than the price of a subway token might suggest.

To begin with, over a third of the 759,587 employed residents have their jobs in Queens itself. (Almost 40,000 work in Nassau; and—so says the census—335 are employed in Ohio.) The borough makes Bulova watches, Swingline stapler, Dentyne chewing gum and Bestform undergarments. Dannon churns out several million yogurts every week, while Steinway handcrafts 3,800 pianos annually—some with price-tags approaching $15,000. But aviation is the borough's biggest industry. Adding Kennedy and LaGuardia together, Queens leads the nation in takeoffs and landings.

However, half of all Queens dwellers work in Manhattan, mostly in managerial or other white-collar occupations. Of this group, about 40 per cent are women, almost half of whom are working wives. Queens provides a solid and indispensable phalanx of the city's administrators, salespeople and service workers. For the great majority, the ride to work is on the subway, which usually means standing as one travels. Another 43,112 come by car; 21,222 take a bus; and an intrepid 682 say they walk—no small feat, since the Queensborough Bridge is now closed to pedestrians. Moreover, these Manhattan workers return home in the evening. For entertainment, they tend to prefer the amenities closer to home.

Queens is commonly called a middle-class borough. In fact it is more of a mixture. In a not untypical family, the father may be a foreman at a factory in Hollis, while the mother heads a typing pool on Wall Street. There are plenty of comfortable households, but few rank as really rich. According to the 1970 census, Queens had only 4,668 families with incomes exceeding $50,000. The well-off do not cluster in a single Gold Coast section—Douglaston would be the closest contender—but rather scatter across most of the borough. Of course Queens has people at the other extreme. The census found 3,362 homes still using coal-fuel furnaces, and 55 cooking with woodburning stoves. A total of 3,143 shared their bath or shower with a neighbor; while 1,916 made do with only cold water. But if 56,504 Queens families lack a telephone, another 32,269 own a second home.

Much is made nowadays of ethnicity. People, we are told, like to live among "their own kind." Queens can be seen as an ethnic borough; still the point should not be pressed too far. For example, long stretches of Bayside, Whitestone and Little Neck combine a variety of religions and national origins. Many streets in Flushing and Jamaica alternate Jewish and Italian families, not to mention intermarried households. Nor has Queens the kind of Old World enclaves still found in Brooklyn and the Bronx. It has no counterpart to Williamsburg's Hasidim, or the Sicilian flavor of Belmont in the Bronx. The borough's black neighborhoods tend to be sedate, certainly when compared with Harlem and Bedford-Stuyvesant.

Perhaps the best way to put the matter is to say that Queens offers an ethnic freedom of choice. A family of Irish origins wishing to keep attuned to its Hibernian heritage can settle down in Woodside and send its children to St. Sebastian's. Parts of Ozone Park are almost exclusively Italian; and Far Rockaway is mainly Jewish. Astoria has risen as a new Athens, with Greek movies playing next to the local McDonald's. Queens also has a French colony in Sunnyside, which boasts a well-recommended restaurant called Les Halles. There one can dine pleasantly on *Coquilles Saint-Jacques* or *Canard Grand Marnier*, while watching the Flushing line thunder overhead.

One of the most impressive immigrations has been among Hispanic-Americans. On the whole, Queens has fewer Puerto Ricans than most of the other boroughs. The new arrivals, clustering mainly in East Elmhurst, hail from Cuba, Colombia and the Dominican Republic. Indeed, Queens is now the chief port of entry for all of America's immigrants. Kennedy Airport has replaced Ellis Island. The International Arrivals Building has etched on its wall Emma Lazarus' stirring words, "Give me your tired, your poor, your huddled masses yearning to breathe free." (Left off is her next line: "The wretched refuse of your teeming shore." Current immigration legislation sets higher standards than prevailed in our grandparents' day.)

Queens politics defy prediction. Once again, it would be misleading to theorize in ethnic terms. If Staten Island remains a Republican stronghold, and Manhattan is reflexively Democratic, Queens keeps even the experts in suspense. Over the past dozen years, its voting has covered a broad ideological spectrum. Back in 1965, the borough's choice for mayor was a little-known Republican congressman, who happened to be named John Lindsay. Queens was then traditional GOP territory where one voted the party line on faith. It took less than a year to realize that Lindsay was not quite what they had bargained for. In a raucous 1966 referendum, Queens turned down Lindsay's pet project, civilian review for the police, by an overwhelming margin. Observers saw that vote as a conservative catalyst: Tantamount to firing on Fort Sumter, it was an act of secession from Gracie Mansion. The mayor was advised to make any trips to the airport via a Brooklyn back entrance.

Undaunted, Lindsay decided to run for reelection. His own party refused to nominate him. Queens Republicans rejected him in their primary, with a scorn reserved for renegades. The 1969 mayoral contest offered some choices that finally made sense. Everyone who was anybody knew that Queens would go for either John Marchi or Mario Procaccino, candidates who understood the feelings of the neighborhoods. But of course the analysts were wrong. Running as an independent, Lindsay actually topped his two opponents, both in Queens and across the city. Indeed he improved his performance, compared with the review board referendum, in Woodhaven, Maspeth and Ozone Park, not normally liberal outposts. One survey showed that Lindsay, a Social Register Protestant, received a third of his votes from Catholics. So much for ethnic explanations.

But a year later the borough was giving a solid plurality to James Buckley, the Conservative Party's candidate for senator. And in 1972 its choice was Richard Nixon, with a very impressive majority. Queens, we were told, was the urban arm of Mid-America. CBS started "All in the Family" and chose to place Archie in Glendale. Yet by 1976, the borough had become Carter country. And voters dismissed James Buckley, a man almost typecast to represent them, for a Harvard professor from Cooperstown. (As it happens, Daniel Patrick Moynihan spent a bit of his boyhood in Astoria. But not many voters knew that.)

So where stands Queens on the political spectrum? A borough that chooses a Nixon, a Buckley and a Lindsay is hard to fit to a pattern. Clearly it is not in the hip pocket of any political party. The impression arises that voters feel they cast their ballots in good faith, only to get candidates lacking competence or character. Queens residents believe they contribute much to their city and their country, and receive less back from politics

than is their due. Yet anyone predicting a conservative resurgence would do well to examine the figures on the Equal Rights referendum of 1975. Queens rallied behind that amendment—unlike the suburbs, which voted it down. Right now the borough casts more votes than any other county in the state. Its mood demands some understanding and deserves to be taken seriously.

Queens clearly has a future. Even as the city draws in its economic belt, the borough will obviously survive. In many ways it is renewing itself. St. Albans boasts one of the country's most successful black communities. New arrivals in Astoria and East Elmhurst evidence energy and ambitions of a kind unseen in the city since the early years of this century. Not a few are so anxious to make it in America, they bypass immigration formalities altogether.

But if one wants a glimpse of the decades ahead, perhaps the best site to visit is the intersection of Kissena Boulevard and Melbourne Avenue in Flushing. The borough may not have an official or agreed-upon center. However Queens College comes closest to filling that function. Its students commute from every section of the borough, often leaving the Rockaways before dawn and returning to Bellerose after dusk. Graduates of Mater Christi and Monsignor McClancy and St. Agnes sit beside products of John Adams, Grover Cleveland and John Browne. Indeed, the ambience of the college is summed up in the person of its recent president: a remarkable man named Murphy, who just happened to be half Jewish.

A half-dozen years ago the majority of Queens students had their hearts set on moving to the suburbs. Going to college meant graduating to swimming pools and station-wagons. But that consensus no longer holds true. More than ever before, they say they want to stay in the city. If that turns out to be the case, Queens may well have a lesson for the nation: a way of combining several worlds in a single location and way of life.

ELIE WIESEL PROTESTS FRANCE'S RELEASE OF ABU DAOUD

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. DRINAN. Mr. Speaker, we are all familiar with the recent decision of a French court to release the individual known as Abu Daoud, the alleged leader of the terrorist attack at the Munich Olympic Games which resulted in the murder of 11 Israeli athletes. This deplorable action by the French authorities shocked men of conscience throughout the world.

One such man is Elie Wiesel, author of the internationally acclaimed "A Beggar in Jerusalem" and many other outstanding works. Mr. Wiesel survived the horrors of the concentration camp at Buchenwald and lived thereafter for many years in France.

Mr. Wiesel writes:

Although born in Eastern Europe, I owe France more than I owe my native land. I owe France my secular education, my language, and my career as a writer.

Despite his profound love for his adopted homeland, Mr. Wiesel was so shocked and disappointed by its actions in the Abu Daoud matter that he was moved to write an eloquent, open letter of protest to President Giscard D'Estaing. This letter, which appeared in the New York Times on January 20, 1977, expresses the outrage and dismay felt by all men of conscience upon learning of France's deplorable action.

I would like to share Mr. Wiesel's eloquent letter with my colleagues.

The letter follows:

AN OPEN LETTER TO PRESIDENT GISCARD D'ESTAING OF FRANCE

(By Elie Wiesel)

DEAR MR. PRESIDENT: It is because of my love for France, and my respect for its people, that I feel compelled to express to you my sadness and my indignation—shared by many other Americans—over your handling of the Abu Daoud affair.

Although born in Eastern Europe, I owe France more than I owe my own native land. I owe France my secular education, my language, and my career as a writer.

Liberated from Buchenwald, it was in France that I found compassion and humanity. It was in France that I found generosity and friendship. It was in France that I discovered the other side, the brighter side, of mankind.

I was proud of France.

France, to me, represented humanity's highest values in a sterile and cynical society. It evoked Rousseau and Bergson, Proust and Zola, Camus and Mauriac. It symbolized an inspiring quest for justice and brotherhood. In France, I thought, the word humanism does not make people laugh.

Yes, I was proud of France.

France, the birthplace of revolutions against tyranny. France, the ally to our American independence. France, the herald of human rights. France, haven for the persecuted. France and its freedom fighters. France and its Resistance. France, and its response to Dreyfus.

No nation had so much prestige. No culture was as readily accepted. No example as universally extolled.

And now, Mr. President?

Now, what has become of France?

Its moral leadership is gone, and its luster tarnished in the eyes of men of conscience. In fact, few countries have lost so much prestige so quickly. What has become of France?

It has betrayed its own traditions.

France has become as cynical as the rest of the world.

Why did your government free Abu Daoud? And why so hastily?

He lied under oath about his false identity.

Why wasn't he held until Germany or Israel could offer evidence of his crime?

Why was he allowed to leave Paris in the comfort of a first class airline seat, when 11 Israeli athletes left Munich in coffins?

Your prime minister claims that the courts were not politically motivated. Does anyone believe him in your country?

Not in mine.

In my country we believe that France quite simply, and quite shockingly, yielded to killers' blackmail, oil merchants' bribery, and the chance to sell some fighter planes. And in doing that, France deliberately humiliated the victims' widows and orphans, and insulted the memory of their dead.

Are you surprised the world responded with dismay and outrage?

Your own people rose to speak out against you.

Because while you have visited Auschwitz, you have forgotten its lesson.

But then, in truth, one should have expected nothing else from France today. In recent years the signs have multiplied.

Offensive statements. Sneering remarks. Sudden policy reversals. Strange alliances. Broken promises. One-sided embargoes. The Cherbourg affair. The Mirage sale. French governments have rarely missed an opportunity to demonstrate their hostility to Israel and the Jewish people.

France even abstained on the infamous resolution equating Zionism and racism.

For ideological reasons?

Much worse: purely for money.

Yes, Mr. President, I used to be proud of France and what it stood for.

I no longer am.

ELIE WIESEL.

TOWARD A NATIONAL ENERGY PLAN

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1977

Mr. WIRTH. Mr. Speaker, Saturday's Washington Post included a column by Mr. John C. Sawhill, the former Federal Energy Administrator, about the need for a strong, comprehensive national plan to deal with the energy crisis. While I do not necessarily endorse every point in Mr. Sawhill's column, I commend it to my colleagues as an excellent outline of the energy policies that we must vigorously pursue:

TOWARD A NATIONAL ENERGY PLAN

(By John C. Sawhill)

There is a growing national awareness that we face a serious energy problem in both the short and long term. And there is a general consensus that we need a national energy policy to deal with those problems. But turning that consensus into effective action has so far eluded us.

The new administration must move quickly beyond mere rearrangement of boxes on our federal organization chart—one of the few concrete proposals that has surfaced so far. For so little has been done since the 1973 Arab oil embargo that imports now account for a higher percentage of total U.S. consumption than they did then. And our energy conservation program is so ineffective (ranking near the bottom of the list of industrialized nations) that we are missing our best chance of defusing the Arab oil weapon.

The immediate problem is the growing U.S. dependence on oil imports increasingly concentrated in the Middle East. The longer-range problem is the need to find alternative sources of energy to sustain the world's economy in the next century when oil and gas supplies are depleted. Unless we solve the near-term problem, our domestic economy and our foreign policy will remain unduly vulnerable to manipulation by the Arab states, and the mounting debt burdens on the non-oil producing less-developed countries will continue to threaten international financial stability. Unless we solve the longer-range problem, we will have difficulty maintaining a rising standard of living once liquid hydrocarbon reserves are exhausted.

Several critical decisions are called for, the first of which is to establish short- and long-range goals for U.S. dependence on foreign sources for petroleum. A second is to set a target for reducing the growth of energy consumption and to enact a package of tough energy-conservation measures. Somewhat higher fuel prices, coupled with other eco-

nomic incentives (like tax credits for insulation) and regulatory measures (such as banning nonreturnable bottles), could reduce the rate of energy-demand growth well below 2 per cent a year.

One of the most pressing energy issues before Congress is whether the government should continue to regulate oil and gas prices. Opponents of regulation claim that controls encourage consumption, discourage investment in new production, and maintain an unnecessary government bureaucracy. Proponents argue that oil prices have always been regulated de facto—first through production limits set by the Texas Railroad Commission and later through the import-quota program.

If controls were completely eliminated today, the price for oil would not be determined by free market demand-and-supply conditions, but by the OPEC cartel. U.S. oil prices should be as consistent as possible with U.S. economic recovery and energy objectives; it is unlikely, to say the least, that the OPEC managers will act on this criterion. My own view is that complete deregulation is not the best course. The United States must continue to regulate crude oil prices with a view toward keeping our economic engine lubricated, but permit them to rise enough to encourage conservation, new exploration, and the development of new facilities. Petroleum product prices and the price of new natural gas at the wellhead should be deregulated, however, since they will tend to move with crude-oil prices.

The best way to moderate world energy prices is to reduce our import dependency. Beyond this, however, there are other actions that should be explored. One is the possibility of establishing a government agency to purchase some imports (such as those necessary to build an oil stockpile) under a system whereby OPEC suppliers would be required to submit sealed bids for access to the U.S. market as a means of fostering competition among them. The dissension at the recent Qatar meetings suggests that there may be opportunities for the new administration to widen cracks in the cartel, and thereby bring downward pressures on prices.

In addition to prices, a pressing question facing the new Carter energy team is the future role of nuclear power. Reducing our dependency on oil as a primary energy source in the longer term will require much expanded capacity for electrical generation besides an increased role for coal. This means some firm decisions on nuclear energy. The current debate on this issue has centered around questions of reaction safety and waste disposal and, as a result, has tended to obscure the more critical issue, which is the problem of weapons proliferation. The key to reducing the proliferation risks is to limit the spread of plutonium until appropriate safeguards are in place.

Fortunately, the U.S. has sufficient uranium reserves to last well into the next century. For this reason, we are in a position to defer the decision on plutonium recycling and on commercialization of the breeder reactor (which uses plutonium) in order to influence foreign suppliers to do the same. Simultaneously, we should work from the other end to persuade potential buyers of these facilities that their benefits are outweighed by the risk of weapons proliferation. Strengthening and broadening the mandate of the International Atomic Energy Agency would help to enforce measures to limit proliferation.

In sum, then, we need serious commitment to a national energy plan. We will be able to measure the seriousness of this commitment by the speed with which proposals are made and decisions are reached on these overall goals. The consequences of continued inaction are grave indeed.

GEORGIA LAND

HON. HERMAN E. TALMADGE

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Tuesday, January 25, 1977

Mr. TALMADGE. Mr. President, a good friend and constituent of mine, Mr. Carlos Hopkins, of Atlanta, has composed a poem on Georgia and dedicated it to President Jimmy Carter.

I bring this poem to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

GEORGIA LAND

I've roamed the States, from Coast to Coast,
Have slept in every Town;
From 'Frisco Bay, to Old Broadway,
Key West to Puget Sound.
I've travelled cross the Ocean Blue,
Have trod the Desert Sand,
But, Listen Mate! there's just one State,
And we call it Georgia Land!

CHORUS

I'm going back Home to Georgia,
To that dear old Southern Clime,
Where my friends all wait to greet me,
As in days of Auld Lang Syne.
There are Peanuts, and there's Honey
And we're never out of Money,
In my Dixie Home so grand,
So take me back, I'm going back To Dear Old Georgia Land!

Sincerely dedicated to Honorable Jimmy Carter, President-elect of the United States of America and a resident of Plains, Georgia.
January 11, 1977.

CARLOS HOPKINS.

SENATE—*Wednesday, January 26, 1977*

(Legislative day of Wednesday, January 19, 1977)

The Senate met in executive session at 10 a.m., on the expiration of the recess, and was called to order by Hon. WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

The Reverend James K. Mathews, Ph.D., D.D., bishop of the Washington area of the United Methodist Church, Washington, D.C., offered the following prayer:

Eternal God, we are bold to call Thee Father, for Thou hast called all people to be Thy children. We acknowledge that we are bound together in one human family of which this fair land is a part. Grant us, though unworthy, to be servants as well as sons, ever faithfully committed to the common good.

For our heritage as a people, we thank Thee. For the hope which Thou hast generated among us, we praise Thee. For the challenge and responsibility of our own day, we offer Thee our gratitude.

Help us to cast our cares upon Thee. Grant that in matters public and private we may discover the way that is pleasing to Thee and then walk in that way. Teach us that devotion and humility which will assure that the just powers of government may not only derive from the consent of the governed, but may also reflect Thy perfect will for society and so conform to the demands of Thy kingdom.

Give peace in our time, O Lord, and "let justice well up like fresh water and righteousness roll in full tide."

All this we ask in the name of the one whose name is above every name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 26, 1977.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. FORD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, January 25, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GUEST CHAPLAIN

Mr. ROBERT C. BYRD. Mr. President, I call attention to the fact that our guest chaplain today is the first guest chaplain in the new Congress.

It is also of interest that 20 of the 100 Senators, or one-fifth of the Senators, are members of the United Methodist Church.

We are grateful for the prayer and for the attendance today of Bishop James K. Mathews, of the Washington area United Methodist Church.

NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, the Senate is in executive session at this time, and I ask unanimous consent that the Senate proceed to the consideration of nominations on the Executive Calendar, which have been cleared on both sides of the aisle, beginning with "New Reports."

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

U.S. AIR FORCE

The second assistant legislative clerk read the nomination of Lt. Gen. William G. Moore, Jr., to be senior U.S. Air Force member of the Military Staff Committee of the United Nations.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. ARMY-U.S. NAVY—NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, AND MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations for the U.S. Army, U.S. Navy, and nominations placed on the Secretary's desk in the Air Force, the Army, and the Marine Corps be considered and confirmed en bloc.

Mr. BAKER. Mr. President, I note for the record that all these nominations have been cleared on this side, and we concur in the request.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(All nominations confirmed today are printed at the end of the Senate proceedings.)

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I should like to reserve my time momentarily. I have a statement I wish to make a little later.

Mr. BAKER. Mr. President, I also will reserve my time, under the standing order, until a later period in the day.

Mr. CHURCH addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I suppose I had better yield time to the distinguished Senator, because otherwise he has no order for recognition at this time.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. He does have an order for a later time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from South Carolina is to be recognized at this time.

Mr. CHURCH. May I be informed as to when I have an order to speak? I thought it was at 10 o'clock.

The ACTING PRESIDENT pro tempore. It should be approximately 10:20.

Mr. ROBERT C. BYRD. If the Senator would like to proceed now, I will be glad to yield him some of my time under the standing order.

Mr. CHURCH. It depends on the Senator from South Carolina.

Mr. THURMOND. When am I scheduled to speak?

Mr. ROBERT C. BYRD. Mr. President, the standing order is for the majority leader and the minority leader to have not to exceed 10 minutes each, and then the special orders go into effect. Generally, we try to accommodate other Senators, and I am willing to do that in this instance.

Mr. THURMOND. I will be glad to accommodate the Senator. How long will he take?

Mr. CHURCH. Only 2 minutes.

Mr. THURMOND. I am pleased to yield.

Mr. ROBERT C. BYRD. Mr. President, I yield the Senator 2 minutes.

Mr. CHURCH. I thank the Senator.

SENATE CONCURRENT RESOLUTION 7—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO FREEDOM OF EMIGRATION

Mr. CHURCH. Mr. President, it is with a strong sense of commitment to the spirit of the Helsinki Declaration that I am submitting this concurrent resolution. Representative TOBY MOFFETT, of Connecticut, will soon introduce a similar measure in the House of Representatives. Joining me in cosponsorship are the following Senators:

Anderson, Bayh, Biden, Brooke, Harry F. Byrd, Jr., Cannon, Case, Chiles, Danforth, DeConcini, Domenici, Durkin, Ford, Heinz, Jackson, Javits, Laxalt, Luga, Mathias, Melcher, Metcalf, Metzenbaum, Morgan, Moynihan, Nelson, Packwood, Pell, Percy, Proxmire, Riegle, Ribicoff, Roth, Schweiker, Sarbanes, Schmitt, Stevenson, Stone, Thurmond, and Williams.

The continued harassment of Soviet Jews and other minorities seeking to reunite with their families in foreign lands makes it imperative that the 95th Congress express the concern of the American people to the Soviet Government regarding the treatment of these individuals.

As cosigner of the Helsinki Declaration, the United States must continue to press the Soviet Government for compliance with the accords. We must impress upon the Soviet Government that the new Congress, as well as the new administration, have not forgotten that the Soviet Union is pledged to permit emigration and that its continued refusal to permit thousands of persons from leaving is a violation of its solemn international agreements, including the Final Act of the Conference on Security and Cooperation in Europe.

I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the recent beatings, imprisonment and harassment of Soviet Jews and other minorities trying to obtain emigration visas to reunite with their families profoundly offends the conscience of a free people; and

Whereas, these incidents of Soviet government-sanctioned ethnic and religious discrimination violate internationally agreed-upon principles of human rights; Now, therefore be it

Resolved by the Senate (the House of Representatives concurring) that the sustained interest of the American people be conveyed to the Soviet Government regarding adherence to the Helsinki Declaration, including their pledge to facilitate freer movement of people, expedite the reunification of families and uphold the general freedom to leave one's country.

Mr. PELL. Mr. President, I commend my distinguished colleague and friend, the senior Senator from Idaho, for the resolution he has just submitted. It is an important initiative for two reasons. It reflects the general revulsion Americans feel toward the continuing maltreatment of Jews in the Soviet Union who wish only to leave that country for new homes and new lives with their families abroad. And it targets that concern exactly where it should be expressed in our foreign policy, in our commitment to the principles and provisions of the 1975 Helsinki agreements.

As Cochairman of the Commission on Security and Cooperation in Europe, the agency Congress created last year to evaluate and encourage compliance with the Helsinki accords, I have been struck in recent months by a belated but helpful new perception of what those undertakings mean and can mean. People in the West who scorned them 18 months ago as a new betrayal—in the name of détente—of the hopes of ordinary men and women in the Communist nations now are coming to see that the agreements actually served to rekindle those hopes. The Helsinki process, through which 35 nations exchanged mutual pledges of improved international and internal conduct, has given every country that signed a stake in seeing the pledges fulfilled. The Senator's resolution is a very clear expression of America's interest in that process and a very forthright response to the hopes Helsinki has revived.

Mr. CHURCH. Will the Senator yield for a question? Am I not correct that the Helsinki agreements specifically provide that an application to emigrate to rejoin family members in another country "will not modify the rights and obligations of the applicant"? Does not the continual harassment of Soviet Jews who have been refused permission to emigrate run counter to that language?

Mr. PELL. The language is there and the practices that have been reported in the press and to the Helsinki Commission do represent a very direct conflict with that pledge. In fact, the harassment in some places seems to start even before Jews apply for their exit permission. To apply in the Soviet Union a person must have an invitation from a relative abroad, and I met a number of recent emigres in Vienna last November, when I was traveling on a Commission study mission, who told me that postal workers in Odessa frequently tore up those invitations right in front of the people to whom they had been sent from Israel.

Now if I may put a question about the resolution, I would like to ask the Senator why he mentioned "the general freedom to leave one's country." Some maintain that the Helsinki Declaration provisions only apply to facilitating emigration for family reunification purposes and to easing travel for family visits or professional reasons.

Mr. CHURCH. The narrower application is spelled out in the human contacts section of the Final Act, in what is known as Basket Three. But the basic Helsinki pledge on liberties is in the Basket One Declaration of Principles and especially the principle on "respect for human rights and fundamental freedoms." There all the signers said that they "will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights." That Universal Declaration very precisely defines the right "to leave one's country and to return to it." It is my belief that the Universal Declaration was given new force by its mention in the Helsinki accords. I wonder if the Senator concurs.

Mr. PELL. I do. Even if neither the Universal Declaration nor the Helsinki accords are treaties that can be enforced in international law, it seems to me that the Final Act of the Helsinki Conference has the effect of renewing the moral obligation of the Universal Declaration. It makes every signatory nation responsible to every other one for the manner in which it honors its commitments to human rights at home and abroad.

That is why I commend your resolution and would like to join in sponsoring it. Those hopes for a better break for human rights that we hear expressed now in the Soviet Union, in East Germany, in Poland, in Czechoslovakia, and even in Hungary are very intimately tied to the pledges those Governments gave at Helsinki and to the idea that the other governments that signed the Final Act will continue to work to help make those promises good. Conveying an official American interest in this one tragic area of human rights abuse—the maltreatment of Soviet Jews—is a sound way to honor our own commitments and to keep the process that was begun at Helsinki growing.

Mr. CHURCH. I thank the Senator for his support and for the work he has done with the Helsinki Commission. We are all looking forward to its findings and recommendations so that the Congress as a whole can contribute constructively to implementing the spirit and letter of the Helsinki accords and responding to the real hopes it embodies of a better, safer world.

Mr. RIBICOFF. Mr. President, as we begin a new year and a new administration, I would like to think that we have cleared the slate of old problems. Unhappily, many of the most difficult and disturbing problems that faced us last year are still with us. The continuing denial of basic human rights and freedoms in other parts of the world, particularly in the Soviet Union is pressing and complex. By refusing to allow free emigration, the Soviet Union has created a great obstacle to better relations with the United States and the free world.

To bridge the gap between different cultures and nations there has to be a willingness to understand and respect the values that each holds dear. In America, no value is more basic than the rights that every individual is born with and entitled to, throughout his life.

By preventing free emigration, the Soviet Union has failed to recognize or respect these rights. In callously disregarding human rights, the Soviet Union not only affronts the sensibilities and good will of its own people, but the values and character of our Nation. Until the Soviet Union is prepared to face these facts, tensions within its borders and with other nations will continue.

It is appropriate then, as we begin the new year, that we reaffirm our commitment to the protection and preservation of human rights with this resolution. We must not forget that commitment, and we must not allow the Soviet Union to forget it. I am pleased to join Senator CHURCH as a cosponsor of this timely and important effort.

Mr. BAYH. Mr. President, I rise today to join with my colleagues in cosponsoring the joint congressional resolution offered by the distinguished senior Senator from Idaho which condemns the recent deplorable action by Soviet authorities sparked by the planned symposium to study Jewish culture in the U.S.S.R. Our concern, of course, extends to the other minority groups in the Soviet Union who are presently and heroically enduring similar repression. I believe our action here today also affirms the President's inaugural message that the people of the United States cannot remain indifferent to the struggle for freedom. Where human rights and dignity are trampled by dictatorships of the political right or the political left we must never remain silent.

These recent human rights abuses by Soviet authorities in the beating, harassment, and persecution of their own citizens is a direct violation of the Helsinki Final Act's provisions concerning the freedom to practice religion and the pursuit of intellectual inquiry. When we consider that the symposium was intended to serve as a forum for the presentation of scholarly studies about Jewish culture in the U.S.S.R. rather than promote a political program, these actions become all the more disturbing. As was reported to the Helsinki Commission on the eve of this planned academic gathering in December, prominent scholars on Jewish culture in this country were denied entry into the Soviet Union. Visas which were granted were arbitrarily revoked; hotel space booked weeks in advance was suddenly not available and a powerful intellectual desire to study one of the world's great religions and heritages was systematically denied by a few men for a narrow purpose.

Quite frankly, I am puzzled by Soviet policy which continuously avoids opportunities to make meaningful gestures which could serve to broaden and deepen a relaxation of tensions between our two countries. While we cannot expect détente to be something it is not given the ideological gulf separating our countries, neither should we tire in our efforts to express plainly and forcefully our clear commitment to democratic ideals. Just as our Nation is undertaking the difficult task of adjusting in a creative way to a changing world, we must ask our principal adversary to do the same. From the vantage point of Moscow this may seem an impossible request. It is not an unreasonable one. Indeed, it may be the very precondition to global survival when we weigh the gravity of international problems which, sooner or later, vex both superpowers.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from South Carolina (Mr. THURMOND) is recognized for not to exceed 15 minutes.

SENATE JOINT RESOLUTION 18—INTRODUCTION OF A RESOLUTION RELATING TO THE ELECTORAL COLLEGE

(Referred to the Committee on the Judiciary.)

Mr. THURMOND. Mr. President, for several years there have been a great many people calling for the abolition of the electoral college. These cries get particularly loud immediately following Presidential elections. Opponents of the electoral college argue that there is no longer a need for such a method in electing our country's Chief Executive. They say that it is an insult to the intelligence of the American voter and emphasize the possibility of a President being elected who was not the choice of the majority of the people.

I believe it is very important to look at the electoral college and see if it is, indeed, antiquated as its opponents claim. In order to do this it is necessary to examine the reason the electoral college was established in the first place.

As originally conceived, the college would function in this manner: each State would provide for the selection of a number of outstanding citizens—equal in number to the number of the State's total delegation in Congress—who then would choose—along with the electors of the other States—the persons thought most suited to become President and Vice President.

The very essence of the electoral college is rooted in federalism—a concept in political science which strives for what Thomas Jefferson envisioned as a beautiful equilibrium between the States and the Central Government.

The electoral college lost its true

function with the evolution of the party system in American politics. Instead of Presidential electors exercising their own individual and collective judgment in selecting national leaders, they became almost rubber stamps in casting their electoral votes for the nominees of their respective political parties.

The electoral college system was further alienated from its original purpose by adoption of the winner-take-all procedure. That means the Presidential ticket that collects one more than 50 percent of the State's vote gets that State's entire electoral vote. The result is that the votes of millions of citizens do not count at all if they happen to vote for a candidate who does not win their State.

There are definite problems with the electoral college, but should we abolish it? I do not think so. Direct election of the President would encourage political parties to nominate popular, favorite-son candidates from large States. For instance, in the 1976 election, Carter's margin of victory in Georgia alone was more than the total margin of the winner in 22 other States combined. Imagine what could happen if a Presidential candidate was nominated from California or New York who was very popular in that State. Also, with direct election, federalism, one of the fundamental premises of the American system, would be endangered. This could be almost as harmful to the smaller States as making the number of Sentors from each State directly proportional to the population.

No; the answer to the deficiencies of the electoral college does not lie in abolishing it altogether, but in reforming it. This is what the resolution does that I am introducing today. It maintains the principles the Founders of our Constitution intended to embody in this system, and, at the same time, eliminates the inequities in the way the electoral college actually works.

The electoral college embodies the worthy proposition that the union is made up of States as well as people—and that the States are to be accorded some weight of their own as separate political entities. This is achieved by allotting electoral votes not only on the basis of one per Member of the U.S. House of Representatives, which properly reflects the population of the States, but one per U.S. Senator, thereby assuring every State of these electoral votes.

The flaw in the present system is not in the apportionment of votes but in the winner-take-all manner in which they are awarded. In the past Presidential election, for example, the votes of more than 3,700,000 Jimmy Carter supporters in California were completely ignored because Gerald Ford got a larger total. But instead of getting his proportional share of just over 50 percent of California's 45 electoral votes, Mr. Ford got them all. The situation was reversed in New York, where Mr. Carter got all 41 of that State's electoral votes but only 52 percent of the popular vote.

This sort of inequity, which nullifies great chunks of votes, can be corrected if the electoral votes are awarded candidates in proportion to their share of the popular vote within the several States. This would mean that the voting strength of all parties and factions would be reflected in the distribution of electoral votes.

This proportional method would tend to encourage greater voter turnout, especially in a "sure" State. This is true because it would make each voter feel that his vote is really counting. In a State that is certain to go for one candidate, many people may not bother to vote since that candidate will still get the same number of electoral votes whether he wins with 99 percent of the vote or 51 percent under the current system. Thus, the proportional method will give each voter a more direct voice in the election of the President than he now has.

Not only would proportional distribution be fairer to citizens and candidates alike, it would tend to insure nationwide campaigning. It would reduce the excessive importance of large doubtful States in Presidential campaigns. Because of the stakes involved, parties now concentrate their preelection activities in the so-called pivotal States. Under my bill, the electoral votes will not be "swung" one way or another by a small shift of popular votes. The parties will be encouraged to extend the scope of their campaigns in other parts of the country.

For these reasons, I would like to urge my colleagues to join with me in this much needed reform of the electoral college.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution only if ratified by three-fourths of the legislatures of the several States within seven years from the date of its submission by the Congress:

"SEC. 1. The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as provided in this Constitution.

"The office of elector of the President and Vice President, as established by section 1 of article II of this Constitution and the twelfth and twenty-third articles of amendment to this Constitution, is hereby abolished. The President and Vice President shall be elected by the people of the several States and the district constituting the seat of government of the United States. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that the legislature of any State may prescribe lesser qualifications with respect to residence therein. The electors in such district shall have such qualifications as the Congress may prescribe. The places and manner of holding such election in each State shall be prescribed by the legislature thereof; but the Congress may at any time by law make or alter such regulations. The place and manner of holding such election in such district shall be prescribed by the Congress. Congress shall determine the time of such election, which shall be the same throughout the United States. Until otherwise determined by the Congress, such election shall be held on the Tuesday next after the first Monday in November of the year preceding the year in which the regular term of the President is to begin. Each State shall be entitled to a number of electoral votes equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress. Such district shall be entitled to a number of electoral votes equal to the whole number of Senators and Representatives in Congress to which such district would be entitled if it were a State, but in no event more than the least populous State.

"Within forty-five days after such election, or at such time as Congress shall direct, the official custodian of the election returns of each State and such district shall make distinct lists of all persons for whom votes were cast for President and the number of votes for each, and the total vote of the electors of the State or the district for all persons for President, which lists he shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. On the 6th day of January following the election, unless the Congress by law appoints a different day not earlier than the 4th day of January and not later than the 10th day of January, the President of the Senate shall, in the presence of the Senate and House of Representatives, open all certificates and the votes shall then be counted. Each person for whom votes were cast for President in each State and such district shall be credited with such proportion of the electoral votes thereof as he received of the total vote of the electors therein for President. In making the computation, fractional numbers less than one one-thousandth shall be disregarded. The person having the greatest number of electoral votes for President shall be President, if such number be at least 40 per centum of the whole number of such electoral votes. If no person has received at least 40 per centum of the whole number of electoral votes, or if two persons have received an identical number of electoral votes which is at least 40 per centum of the whole number of electoral votes, then from the persons having the two greatest numbers of electoral votes for President, the Senate and the House of Representatives sitting in joint session shall choose immediately, by ballot, the President. A majority of the votes of the combined authorized membership of the Senate and the House of Representatives shall be necessary for a choice.

"The Vice President shall be likewise elected, at the same time and in the same manner and subject to the same provisions, as the President, but no person constitutionally ineligible for the Office of President shall be eligible to that of Vice President of the United States.

"The Congress may by law provide for the case of the death of any of the persons from whom the Senate and the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of death of any of the persons from whom the Senate and the House of Representatives may choose a Vice President whenever the right of choice shall have devolved upon them. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 2. This article shall take effect on the 10th day of February next after one year shall have elapsed following its ratification."

Mr. THURMOND. I wish to thank the distinguished majority leader.

Mr. President, will the Senator yield me 2 seconds?

Mr. ROBERT C. BYRD. Yes.

Mr. THURMOND. Mr. President, I ask unanimous consent that the distinguished Senator from Utah (Mr. HATCH) and the distinguished Senator from

Georgia (Mr. TALMADGE) be added as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Rhode Island (Mr. PELL) is recognized for not to exceed 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. PELL be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I believe the order for the recognition of Mr. CHURCH is still pending?

The ACTING PRESIDENT pro tempore. That is correct. The Senator from West Virginia yielded time to the Senator from Idaho, and his order is the next in line.

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that I may have control of the order for Mr. Church's time inasmuch as he does not need to use that time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STRENGTH IN FOREIGN POLICY DEPENDS ON ENERGY AND MINERALS RESOURCES

Mr. ROBERT C. BYRD. Mr. President, the United States has been the most successful Nation in the history of the world. Not only has our political system flourished effectively for over 200 years, but our economy has provided prosperity and wealth as well on a massive scale unparalleled in history. The world has come to identify America with the very concepts of wealth and plenty.

We must recognize, however, that much of the strength of this country is based on the fact that we have had an abundance of natural resources. These natural resources, coupled with a sophisticated technological tradition, made it possible for Americans to produce the complex and diverse civilization we now take for granted.

Presently, every American depends on a wide variety and large quantity of minerals to maintain the standard of living we enjoy. It is estimated that the average new citizen born today will require a lifetime supply of over 1,000 pounds of lead and zinc, 1,700 pounds of copper, 4,500 pounds of aluminum, over 45 tons of iron and steel, 180 tons of coal, and more than 668 tons of stone, sand, gravel, cement, and clay. These mineral substances will be used in such diverse items as bottles, houses, automobiles, television sets, food packaging, combs, shoes, and even safety pins.

There was a time when most of our mineral and energy needs could be met from resources found within the borders of this country. Increasing demands and a growing complexity of technology have made necessary the importation of greater quantities of minerals.

In 1973, prior to the oil embargo, the United States imported 17 percent of its total oil requirements; today, more than 40 percent of our petroleum supply is imported, and conservative estimates anticipate that rate to rise to 50 percent by 1980 and, perhaps, as early as 1978.

Increasingly, the American economy has become dependent on foreign sources for many of its mineral needs. The oil embargo and recent political and social upheavals in many areas have demonstrated how vulnerable such a system renders the United States. The control of the other end of our energy and raw materials lifeline by unstable and often erratic governments makes American foreign policy a potential hostage to the capricious winds of international politics. Such a situation poses a real threat to our ability to maneuver in the international arena and is a matter of genuine concern for our national security.

The oil embargo of 1973 momentarily startled the Nation and impressed us with the need to tackle our energy problems. However, to date, we have done little more than talk about energy conservation and possible alternatives to our present mineral and raw material resources. In fact, our energy conservation program has been so ineffective that its results rank us at the bottom of the list of industrialized nations in such efforts. This shortsightedness even prevents us from taking advantage of our best chance of defusing the oil weapon.

Statesmanship, economic vision, and national responsibility require that we make the necessary decisions now that will insure our energy security, dependable supplies of essential minerals, freedom to act in foreign relations, and the economic future of America without further undue delay. Some of these decisions may not be popular or easy to make. However, our only alternative to such decisions might be a slow and creeping suffocation of our economy at some point in the future from a want of adequate energy and minerals resources.

First, we must have a comprehensive national energy policy. Such a policy should include a short-range program to encourage conservation of our present energy resources and a long-range plan for developing synthetic fuels from coal and more abundant sources of energy. In both cases, the goal should be to provide this country with independence from unreliable foreign energy suppliers.

In the area of minerals, the United States has maintained a stockpile program for all materials deemed essential to our national security since the late 1940's. However, this program has been administered with considerable inconsistency over the years. We ought to have stockpiles of all strategic minerals and substances not readily available in the United States. These stockpiles should be maintained at realistic levels based on our actual needs for a determined period of time. Moreover, they should be used for the purpose of assuring our security in the event of international crises or conflicts and for no other secondary considerations. In this fashion, this country would have the freedom to act internationally in accordance with its own best interests without primary regard to the impact of boycotts, cartels, and retributive embargoes.

Mr. President, if we are to continue to maintain a strong and flexible foreign policy, we must establish a strong and comprehensive energy policy and an adequate stockpile of essential minerals. Fortunately, we are beginning to shape policies in this country that balance our domestic economic and energy needs against environmental concerns. Enlightened planning and long-range vision will insure that we have adequate supplies of the resources that will allow us to energize and supply America in any event. If we act and plan wisely now, we shall provide this country with the power it needs to face its international responsibilities, as well as insure that we lay a foundation for a richer and stronger America for our children and grandchildren in the decades to come.

Mr. President, I yield back the time that I reserved under the standing order for the majority leader.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 10 minutes, with statements therein limited to 5 minutes each.

PARDON OF VIETNAM-ERA DRAFT EVADERS

Mr. ALLEN. Mr. President, I wish to comment on the flagrant mismanagement of the news by the national media, both press and electronic media, on the issue that has been pending in the Senate since the very first day we convened on January 4.

That is the matter of the Senate expressing its sense with regard to the issuance of a proclamation of amnesty or pardon for draft dodgers and deserters.

On January 4, I spoke on this subject and served notice that at the first time that the leadership would allow I, along with some 10 cosponsors, would submit a resolution expressing the sense of the Senate that the President—and at that time President Ford was still the President—would be ill-advised to issue blanket pardon or amnesty for draft evaders and draft dodgers.

I had printed in the RECORD an exact copy of the resolution I planned to submit. Thereafter, the Senate was prevented by Senators from considering this matter. But we have had 11 rollcall votes in the Senate. Two of those votes had to do with the Sergeant at Arms bringing in absent Senators, and 6 votes out of the 11 had to do with this issue. On one occasion the sentiment in favor of the resolution rose to such a point that 53 votes were cast in favor of cloture so the Senate could express its will on this subject.

Practically no notice whatsoever has been given of the Senate proceedings on this subject.

I know the national media favored amnesty. It favored pardon. It does not in many cases even favor a strong national defense for our country. But I say that the national media—the press, radio, and television—has been derelict in its duty in acquainting the people of this country with this issue that was pending in the Senate.

I think that it is certainly a failure to

fulfill the responsibility that they have in not acquainting the public with this issue. We are hearing from people from all over the country who are learning now, for the first time, that this resolution has been pending and that it was tabled. I think it is an extraordinary state of affairs, at a time when this issue was still pending before the Senate and the Senate was seeking to express its will with regard to this issue and to take a stand on the issue, by advising the President, as it has a right to do, and after partial action was taken by the President, and the leadership in the Senate was doing everything it possibly could to prevent the issue from coming up, that on a motion to table which was made yesterday the Senate was able to table this resolution by a vote of 48 to 46.

Mr. President, I hold no brief with the Senators who voted to table the resolution without allowing the Senate to speak its will. What I strenuously object to is the management or mismanagement by the national news media of an important subject such as this because they did not want the Nation to know that this issue was pending in the Senate, when they knew that public opinion was strongly against the issuance of blanket amnesty or pardon. So they mismanaged the news. They did not send the news throughout the country. If they had I think we would have had a much heavier protest than we had on yesterday, when 46 Senators out of only 94 present were willing to stand up and take a stand on this issue. And they voted to continue with this resolution, even after the President had partially acted. The matter was not moot as I pointed out on yesterday, because it still had the advice that it was the sense of the Senate that the President would be ill-advised to grant blanket pardon or blanket amnesty to the deserters. He still has that matter under consideration.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. ALLEN. Mr. President, may I have 2 additional minutes?

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize me under the morning business order for 5 minutes?

The ACTING PRESIDENT pro tempore. Yes.

Mr. ROBERT C. BYRD. I yield to the Senator 2 minutes.

Mr. ALLEN. I thank the distinguished Senator. He has always been willing to give the Senator from Alabama an opportunity to express himself here in the Senate.

I do wish to call attention to the fact that the national news media fell flat on its face in reporting this issue that was pending in the Senate. They did so with full knowledge, I assume, that this matter was pending. I suppose if they do not cover the gallery, they at least read the RECORD, which has been replete with mention of the issue. But yet it chose to ignore it completely and completely black out any information on this subject.

The people of this country are irate at the action that has been taken, and when they find out that proceedings have been under way here in the Senate since January 4 to bring this issue to a head, that the news media has made no mention of it, has kept the Nation in the dark, I think it is a sad commentary on the performance of its public duty and its public trust by the national news media.

I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I believe I have 3 minutes remaining.

I read accounts in the national media about what was going on here in connection with the resolution offered by Mr. ALLEN. I read more than one account. So the news media were reporting it; at least the print media reported it, because I saw it upon more than one occasion.

Second, I think the people of this country, while they disagreed with the President in the majority—I assume a majority disagreed with him; I have no way of knowing. I certainly disagreed with him, and told him before he was inaugurated that I was opposed to the plan. But I think the people of this country generally know that Mr. Carter made a campaign promise. I think it was ill-advised, but I was not a candidate for the Presidency. He made a campaign promise, and he had the intention of keeping it.

He had the authority to exercise that power, the people of this country knew he had that constitutional authority, he exercised that power, and there is nothing the Senate could do about it and nothing the people could do about it, unless we want to change the Constitution. We could offer a resolution to provide for a constitutional amendment.

I did not like the idea at all, and I am on record going back a long period of time, in years, as being opposed to this amnesty proposal. The people of West Virginia know where I stand. But there was not a thing we could do. It was a matter of a fait accompli, and in my judgment, the Senate did the right thing in tabling the resolution. Otherwise we would have had it around here, it would have been hanging around with cloture motion after cloture motion, and there would have been continuing debate over something we could do nothing about.

I am opposed to the President's action as much as is the Senator from Alabama, just absolutely as much but I saw no point in having the resolution hanging around. I moved to lay it on the table; I felt it was my duty as the leader to do that. I realize how difficult it was for many Members to support that motion. It is a very appealing resolution, and I am sure the majority of the Senate felt as the Senator from Alabama feels. I congratulate him on his patriotism, his dedication to duty, and his dedication to his conscience. But, Mr. President, while it was an appealing resolution, and it was very difficult to vote for a tabling motion, and even more difficult to make the tabling motion, I felt that under the circumstances, as I attempted to explain them on yesterday, it was useless to proceed in any other way, and I hope the Senator will—I know I have his understanding of my reasons for moving to table.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. May I say our friendship has not suffered any impairment?

Mr. ALLEN. Of course; that is certainly true.

I appreciate the Senator's expressions, and the fact that he was opposed to this action by the President. He states he is just as strongly opposed as the Senator from Alabama and others who supported the resolution.

I might state that if that be true, he had a strange way of showing it, because on every one of the votes that took place here in the Senate on this issue, I believe he voted contrary to the vote of the Senator from Alabama, on all six votes.

Mr. ROBERT C. BYRD. May I ask the Senator from Alabama, did he tell Mr. Carter personally, prior to the inauguration, that he was opposed to it?

Mr. ALLEN. No, I did not communicate with him.

Mr. ROBERT C. BYRD. Well, I did.

Mr. ALLEN. I told my constituents back in Alabama how I felt.

Mr. ROBERT C. BYRD. Oh, I did that. I did that many times.

Mr. ALLEN. What the Senator from Alabama feels about it might have little weight with the President. What the Senator from Alabama was seeking to do was get the Senate to express its opinion on this issue.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. All time has expired under morning business.

Mr. ROBERT C. BYRD. Mr. President, I object to any extension of the time for morning business. I have been doing that for years.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following communications which were referred as indicated:

EC–517. A letter from the Deputy Secretary of Transportation transmitting a draft of proposed legislation to provide insurance and reinsurance to air carriers under title XIII of the Federal Aviation Act of 1958, as amended, and for other purposes (with accompanying papers); to the Committee on Commerce.

EC–518. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act adopted by the Council on July 20, 1976, vetoed by the Mayor on August 23, 1976, reenacted by the Council on September 15, 1976, and approved by the President on October 20, 1976 (with accompanying papers); to the Committee on the District of Columbia.

EC–519. A letter from the Comptroller General of the United States transmitting, pursuant to law, a list of reports of the General Accounting Office for the month of December 1976 (with an accompanying report); to the Committee on Government Operations.

EC–520. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The Food and Drug Administration's Financial Disclosure System for Special Government Employees: Progress and Problems" (with an

accompanying report); to the Committee on Government Operations.

EC–521. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Comparison of the NAVSTAR Program With the Acquisition Plan Recommended by the Commission on Government Procurement" (with an accompanying report); to the Committee on Government Operations.

EC–522. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Comparison of the Shipboard Intermediate Range Combat System With the Acquisition Plan Recommended by the Commission on Government Procurement" (with an accompanying report); to the Committee on Government Operations.

EC–523. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Comparison of the Pershing II Program With the Acquisition Plan Recommended by the Commission on Government Procurement (with an accompanying report); to the Committee on Government Operations.

EC–524. A letter from the Acting Administrator of the Federal Energy Administration transmitting notice of the withdrawal of energy actions Nos. 8 and 9, issued January 19, 1977, exempting motor gasoline from the mandatory petroleum allocation and price regulations; to the Committee on Interior and Insular Affairs.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Andrew J. Young, of Georgia, to be the Representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States of America in the Security Council of the United Nations.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Andrew J. Young.

Post: Rank of Ambassador; U.S. Representative to the United Nations.

Nominated January 20, 1977.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses, none.
4. Parents (mother): $100, January 1976 Carter campaign.
5. Grandparents: None.
6. Brothers and spouses: $100, October 1974, Walter Mondale; $100, October 1976, Carter campaign.
7. Sisters and spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated.

By Mr. HUMPHREY:

S. 447. A bill to provide for a comprehensive, long-range and coordinated national program in marine science, to establish a National Council on Marine Science, Engineering, and Resource Development, and an Advisory Panel on Marine Science, Engineering, and Resource Development; to the Committee on Commerce.

By Mr. DURKIN:

S. 448. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Finance.

S. 449. A bill to amend chapter 34 of title 38, United States Code, to authorize the acceleration of educational assistance allowance payments under such chapter in certain cases; to the Committee on Veterans' Affairs.

S. 450. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

By Mr. HUMPHREY:

S. 451. A bill for the relief of Mr. William Greerson; and

S. 452. A bill for the relief of Mrs. Jeff Yee; to the Committee on the Judiciary.

By Mr. DURKIN:

S. 453. A bill for the relief of Elias Smirnioudis; to the Committee on the Judiciary.

By Mr. LAXALT:

S. 454. A bill for the relief of Nick F. Flangas; and

S. 455. A bill for the relief of Ermelinda Rossi; to the Committee on the Judiciary.

S. 456. A bill to amend the Internal Revenue Code of 1954; to the Committee on Finance.

By Mr. DURKIN:

S. 457. A bill to amend section 1662(a) of title 38, United States Code to extend the delimiting period for completion for certain veterans and under certain conditions; to the Committee on Veterans' Affairs.

S. 458. A bill to amend chapter 34 of title 38, United States Code, to make comprehensive counseling services available to any eligible veteran; to the Committee on Veterans' Affairs.

By Mr. CHURCH:

S. 459. A bill to authorize reduced fares on the airlines on a space available basis for individuals 21 years of age or younger or 65 years of age or older; to the Committee on Commerce.

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 460. A bill to provide for additional district judges for the State of Kentucky; to the Committee on the Judiciary.

By Mr. METCALF:

S. 461. A bill for the relief of Paulito F. Nonog; to the Committee on the Judiciary.

By Mr. MELCHER:

S. 462. A bill for the relief of Aridio Arturo Sanchez, his wife, Teresa Sanchez, and their daughter, Gabriela Viviana Sanchez; to the Committee on the Judiciary.

S. 463. A bill to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research; to the Committee on Agriculture and Forestry.

By Mr. PROXMIRE:

S. 464. A bill for the relief of Sameek Keshary Ray;

S. 465. A bill for the relief of Angel Medico-Borisosky and Guillermina Herrera de Medico; and

S. 466. A bill for the relief of Carlos Juarez-Davila; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself and Mr. MATSUNAGA):

S. 467. A bill to amend the Railroad Retirement Act of 1974 with respect to benefits payable to certain individuals who on December 31, 1974, had at least 10 years of railroad service and also were fully insured under the Social Security Act; to the Committee on Labor and Public Welfare.

By Mr. DOMENICI (for himself, Mr. GOLDWATER, Mr. DECONCINI, and Mr. SCHMITT):

S. 468. A bill to amend the Navajo Community College Act; to the Committee on Interior and Insular Affairs.

By Mr. RANDOLPH (for himself and Mr. HATFIELD):

S. 469. A bill to establish a commission to study proposals for establishing the National Academy of Peace and Conflict Resolution; to the Committee on Labor and Public Welfare.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 470. A bill pertaining to land consolidation and development on the Umatilla Indian Reservation; to the Committee on Interior and Insular Affairs.

S. 471. A bill pertaining to the inheritance of trust or restricted lands on the Umatilla Indian Reservation; to the Committee on Interior and Insular Affairs.

By Mr. McINTYRE:

S. 472. A bill for the relief of Vera Lucia Carvalho and her son, Marcos Vinecius Carvalho; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 473. A bill for the relief of Robert E. Saries and Alice J. Saries of Merlin, Oreg.; to the Committee on Interior and Insular Affairs.

By Mr. ROBERT C. BYRD (by request) (for himself, Mr. STEVENSON, Mr. RANDOLPH, Mr. STEVENS, Mr. GLENN, Mr. HOLLINGS, Mr. SASSER, Mr. SPARKMAN, Mr. CANNON, Mr. HUMPHREY, Mr. HUDDLESTON, Mr. HATHAWAY, Mr. FORD, and Mr. MORGAN):

S. 474. A bill to authorize the President of the United States to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting requirements for high priority uses; to provide authority for short-term emergency purchases of natural gas; and for other purposes; placed on the calendar.

By Mr. HELMS:

S. 475. A bill for the relief of Lucila Ester Gonzales; to the Committee on the Judiciary.

By Mr. HATHAWAY:

S. 476. A bill to repeal certain statutes prohibiting suits against ministers and their domestics; to the Committee on Foreign Relations, and that if and when reported, then to the Committee on the Judiciary, by unanimous consent.

S. 477. A bill providing that the United States shall be deemed liable in the case of any judgment levied by any court against any diplomat against whom a recovery of damages is statutorily not allowed; to the Committee on Foreign Relations, and that if and when reported, then to the Committee on the Judiciary, by unanimous consent.

S. 478. A bill to establish within the Department of State an Assistant Secretary for Claims Against Foreign Ministers and Diplomats; to award just compensation for such claims; and for other purposes; to the Committee on Foreign Relations, and that if and when reported, then to the Committee on the Judiciary, by unanimous consent.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. TALMADGE, and Mr. SCOTT):

S.J. Res. 18. A joint resolution to amend the Constitution relating to the Electoral College; referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUMPHREY:

S. 447. A bill to provide for a comprehensive, long-range and coordinated national program in marine science, to establish a National Council on Marine Science, Engineering, and Resource Development, and an Advisory Panel on Marine Science, Engineering, and Resource Development; to the Committee on Commerce.

MARINE SCIENCE, ENGINEERING, AND RESOURCE DEVELOPMENT ACT OF 1977

Mr. HUMPHREY. Mr. President, efficiency in government and conservation of our natural resources are two of the deepest concerns of the American people. And nowhere can the need for those reforms be better understood than in our utilization of the oceans.

In recent years, we have begun to use the sea as never before. We have become increasingly dependent on marine sources of food, fuel and other material requirements. And, of course, the recreational demands on our coastal waters have risen dramatically.

Yet, despite the new importance of the sea to our national life, we are using our marine resources neither wisely nor well. Nor are we taking steps to ensure that the great material and recreational bounty of the sea will be available to future generations as it is to us.

That is why I am introducing today the Marine Science, Engineering and Resource Development Act of 1977.

The essential feature of this legislation is the creation of a National Council on Marine Science, Engineering, and Resource Development. This body would advise and assist the President in the development and coordination of a short-term program of private and public actions that impact on the Nation's oceans, and with regard to the long-term plans and policies that are essential to insure balanced development of these invaluable resources.

Under this legislation, the President, in consultation with the Council, must transmit to the Congress an annual report which defines the current, long-range, national oceans program and describes and evaluates the marine activities that make up the program.

Congress has realized the need for a coordinated and comprehensive marine program for many years, and it has attempted to improve our Federal effort in a variety of ways.

The most serious effort of this type culminated in the passage of the Marine Resources and Engineering Development Act of 1966. This law established a national policy to develop and maintain a coordinated, comprehensive, and long-range national program in marine science. The major result of this legislation was the issuance of a report in 1969 by the Commission on Marine Science, Engineering and Resources, created by this law. The central theme of this report was the need to create a single and independent agency of the Federal Government to handle all matters relating to the oceans.

In 1970, Congress passed legislation to establish the National Oceanic and Atmospheric Agency—NOAA—to implement the recommendations of the Commission. The new agency was located within the Department of Commerce and brought together nine existing programs in five departments and agencies of the Government.

While NOAA was a significant step forward in the development of a marine science program and a comprehensive policy, the existing agency has not realized all of the aspirations that the Commission had for it. A survey of Federal expenditures on marine science for the years 1972, 1973, and 1974, for example, shows that only an average of 25 percent of this spending was controlled by the Department of Commerce and NOAA. It is questionable, at best, whether NOAA is able to conduct its mission, as the Commission intended, while it controls merely one-quarter of the Federal Government's ocean program funding.

It has become apparent that today, 8 years after the Commission's report, there is still no Federal agency responsible for developing and coordinating all Federal marine policy.

Growing doubts about the nature and intensity of the Government's commitment to our oceanographic resources, its policymaking capability, and the efficacy of its coordinating efforts were repeatedly voiced during joint committee hearings on this topic held last year by the Subcommittee on Oceans and Atmosphere of the Committee on Commerce and the Subcommittee on Education of the Committee on Labor and Public Welfare.

During the hearings, a number of suggestions were addressed to details of my bill. I have incorporated several minor revisions, and believe the others may be explored in greater depth when this matter is again taken up in committee.

Although legislation subsequently passed to extend and improve the sea grant program included several provisions designed to "increase the understanding, assessment, development, utilization, and conservation of ocean and coastal resources," it did not provide the high-level focus nor broad reporting requirements of my proposal, which many of the expert witnesses had specifically endorsed.

In fact, the conference report of the Sea Grant Program Improvement Act of 1976 clearly enunciates the pressing need to better define national ocean policy for the United States as a task for the 95th Congress.

Today, I again propose the Marine Science, Engineering and Resource Development Act of 1977 to address this unfinished business. It will establish a system of formulating comprehensive national oceans policy within the Office of the President of the United States. And to provide the technical expertise and experienced personnel necessary to get the job done, it creates a National Council on Marine Science, Engineering and Resource Development.

Moreover, the annual report of the President, required by this proposal, will provide Congress with an opportunity to engage in a dialog with the administration regarding long-range ocean programs and their short- and long-term implementation. Such a dialog, which has been lacking in the past, will provide the basis for organizational and substantive decisions which can make the goal of balanced development and use of the ocean resources reachable.

Mr. President, Americans are going to rely on the seas increasingly in the years to come. And, with careful planning and thoughtful conservation, our ocean resources have the potential to meet many of our future needs. But as we have come to understand the world around us better, we have seen the dangers inherent in careless and unplanned use of our natural resources. The seas are no exception, and we must begin now to develop a comprehensive, balanced, and effective public policy if we are to be good stewards of our assets in the sea.

Mr. President, I ask unanimous consent that the text of the Marine Science, Engineering and Resource Development Act of 1977 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Marine Science, Engineering, and Resource Development Act of 1977".

SEC. 2. (a) It is hereby declared to be the policy of the United States to develop, encourage, and maintain a coordinated, comprehensive, and long-range national program in marine science, engineering, and resource development for the benefit of mankind, to assist in protection of health and property, enhancement of commerce, transportation, national security, and rehabilitation of our commercial fisheries, and to increase the responsible utilization of these and other resources.

(b) The marine science activities of the United States should be conducted so as to contribute to the following objectives:

(1) Coordinated development of the resources of the marine environment.

(2) The expansion of human knowledge and information of the marine environment.

(3) The encouragement of private investment enterprise in exploration, technological development, marine commerce, and economic utilization of the resources of the marine environment.

(4) The maintenance and expansion of the role of the United States as a leader in marine science and resource development.

(5) The advancement of education and training in marine science.

(6) The development and improvement of the capabilities, performance, use, and efficiency of vehicles, equipment, and instruments for use in exploration, research, surveys, the recovery of resources, and the transmission of energy in the marine environment.

(7) The effective utilization and development of the scientific and engineering resources of the Nation, with close cooperation among all interested agencies, public and

private, in order to avoid unnecessary duplication of effort, facilities, and equipment, or waste.

(8) The cooperation by the United States with other nations and groups of nations and international organizations in marine science activities when such cooperation is in the national interest.

(9) The cooperation among Federal and State governments on the rate and mode of development.

(10) The protection of life and property associated with the marine environment by adequate safety standards and/or inspection, and as to weather and sea prediction and dissemination.

(11) The protection of the marine environment by conscientious development to insure its use by future generations.

THE NATIONAL COUNCIL ON MARINE SCIENCE, ENGINEERING, AND RESOURCE DEVELOPMENT

SEC. 3. (a) There is hereby established, in the Executive Office of the President, the National Council on Marine Science, Engineering, and Resource Development (hereinafter called the "Council") which shall be composed of the following voting members—

(1) The Vice President, who shall be Chairman of the Council.

(2) The Secretary of State.

(3) The Secretary of the Navy.

(4) The Secretary of the Interior.

(5) The Secretary of Commerce.

(6) The Secretary of Transportation.

(7) The Administrator of the National Oceanic and Atmospheric Administration.

(8) The Director of the National Science Foundation.

(9) The Administrator of the Energy Research and Development Administration.

(10) The Administrator of the Environmental Protection Agency.

(11) The Secretary of Agriculture.

And the following nonvoting members:

(12) The Secretary of Health, Education, ad Welfare.

(13) The Secretary of the Treasury.

(14) The Attorney General of the United States.

(15) The Director of Office of Management and Budget.

(16) The Chairman of Council of Economic Advisers.

(b) The President may name to the Council such other officers and officials as he deems advisable.

(c) The President shall from time to time designate one of the members of the Council to preside over meetings of the Council during the absence, disability, or unavailability of the Chairman.

(d) Each member of the Council, except those designated pursuant to subsection (b), may designate any officer of his department or agency appointed with the advice and consent of the Senate to serve on the Council as his alternate in his unavoidable absence.

(e) The Council may employ a staff to be headed by a civilian executive secretary who shall be appointed by the President with confirmation by the Senate and shall receive compensation at a rate established by the President at not to exceed that of level II of the Federal Executive Salary Schedule. The executive secretary, subject to the direction of the Council, is authorized to appoint and fix the compensation of such personnel, including not more than ten professional staff members who may be appointed without regard to civil service laws or the Classification Act of 1949 and compensated at not to exceed the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended, as may be necessary to perform such duties as may be prescribed by the President.

RESPONSIBILITIES

SEC. 4. (a) In conformity with the provisions of section 2 of this Act, it shall be the duty of the President with the advice and assistance of the Council to—

(1) survey all significant marine science activities, including the policies, plans, programs, and accomplishments of all departments and agencies of the United States engaged in such activities;

(2) develop a comprehensive long-range program of marine activities, including but not limited to exploration, description and prediction of the marine environment, development and conservation of the resources of the marine environment, marine engineering, studies of air-sea interaction, transmission of energy and communications, to be conducted by departments and agencies of the United States, independently or in cooperation with such non-Federal organizations as States, institutions and industry;

(3) evaluate and fix responsibility for the conduct of foregoing marine science activities by departments and agencies of the United States;

(4) insure cooperation and resolve differences arising among departments and agencies of the United States with respect to marine science activities under this Act, including differences as to whether a particular project is a marine science activity;

(5) undertake a comprehensive study, by contract or otherwise, of new legal problems arising out of the management, use, development, recovery, and control of the resources of the marine environment;

(6) undertake studies of the impacts on United States economy, security, health, and welfare to be gained from marine resources, engineering, and science, and the costs involved in obtaining such benefits;

(7) review annually all marine science activities conducted by departments and agencies of the United States in light of the policies, plans, programs, and priorities developed pursuant to this Act; and

(8) encourage national participation in the comprehensive long-range program of marine activities, established by the President, by distributing research funds to organizations, individuals, or governmental agencies in promotion of the above program.

(b) In the planning and conduct of a coordinated Federal program the President and the Council shall utilize such staff, interagency, and non-Government advisory arrangements as they may find necessary and appropriate and shall consult with departments and agencies concerned with marine science activities and solicit the views of non-Federal organizations and individuals with capabilities in marine sciences.

THE ADVISORY PANEL ON MARINE SCIENCE, ENGINEERING, AND RESOURCE DEVELOPMENT

SEC. 5. (a) The Council shall establish an Advisory Panel on Marine Science, Engineering, and Resource Development (hereinafter referred to as the "Panel"). The Panel shall be composed as follows:

(1) Members of the National Advisory Committee on Oceans and the Atmosphere.

(2) Members from each House of Congress appointed by the Speaker of the House and the majority leader of the Senate.

(b) The Panel shall—

(1) Review and make recommendations to the Council on activities undertaken by the Council;

(2) Review and make recommendations to the Council on the findings of any study made by or for the Council;

(3) Undertake such additional related tasks as the Council may direct.

(c) The Panel, by majority vote, shall elect from its members appointed under subsection (a)(1)(2) of this section a Chairman and a Vice Chairman, who shall serve for such time and under such conditions as the Panel may prescribe. In the absence of the Chairman, or in the event of his incapacity, the Vice Chairman shall act as Chairman.

(d) The term of office of each member of the Panel appointed under subsection (a)(1)(2) shall be four years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. No person shall be appointed a member of the Panel under subsection (a)(1)(2) more than twice. Terms of the members appointed under subsection (a)(1)(2) shall be staggered so as to establish a rotating membership according to such method as the Council may devise.

(e)(1) The members of the Panel other than those appointed under subsection (a)(1) shall receive no pay for their services as members of the Council, but shall be allowed necessary travel expenses (or, in the alternative, mileage for use of privately owned vehicles and a per diem in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and 5704 of title 5, United States Code), and other necessary expenses incurred by them in the performance of duties vested in the Panel, without regard to the provisions of subchapter 1 of chapter 57 and section 5731 of title 5, United States Code, and regulations promulgated thereunder.

(2) The members of the Panel appointed under subsection (a)(1) shall receive compensation for each day engaged in the actual performance of duties vested in the Panel at rates of pay not in excess of the daily equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332 (a) of title 5, United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses in the manner provided for other members of the Panel under paragraph (1) of this subsection.

SEC. 6. (a) The President with consultation by the Council and Panel shall transmit to the Congress in March of each year a report, which shall include—

(1) a comprehensive description of the national long-range program of marine activities and delineating those changes occurring in this program during the previous year;

(2) a comprehensive description of the activities and the accomplishments of all agencies and departments of the United States in the field of marine science, engineering, and resource development during the preceding year; and

(3) an evaluation of such activities and accomplishments in terms of the objectives set forth pursuant to this Act.

(b) Reports made under this section shall contain such recommendations for legislation as the President may consider necessary or desirable for the attainment of the objectives of this Act, and shall contain an estimate of funding requirements of each agency and department of the United States for marine science activities during the succeeding fiscal year.

AUTHORIZATION

SEC. 7. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. DURKIN:

S. 448. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Finance.

Mr. DURKIN. Mr. President, today I am introducing legislation which would remove the earnings limitation on social security and allow senior citizens to work and still remain eligible for benefits.

Social security benefits under title II

are not a gratuity. They should be considered an entitlement. These people have faithfully contributed to the social security program through many years of hard work. They should not be penalized simply because they choose to continue working beyond the age of 65.

But this is exactly what the earnings limitation does—it creates an economic disincentive to further employment. Individuals aged 65 to 72 are subject to a $3,000 earnings limitation this year. For every $2 earned above this amount, $1 will be taken away from the benefits they receive. Yet this limitation has no effect on the wealthy. People whose income derives solely from investments remain eligible for social security regardless of their total income.

It is no secret that the elderly have been extremely hard hit by the forces of inflation. Their fixed incomes cannot begin to keep pace with escalating costs. And they are further burdened by their need for expensive specialized health, nutritional, and transportation services.

Many senior citizens want to continue working to supplement their incomes and because they enjoy their jobs. Their work experience is an important resource for our country. Those who are able to and want to contribute should not be penalized in their efforts to do so.

I, therefore, submit this bill to eliminate the earnings limitation and urge support for this proposal which would allow our senior citizens to participate fully in our society.

Mr. President, an article printed in the New York Times on Monday, January 3, 1977, by Richard L. Tobin graphically sets forth the harmful effect the earnings limitation has had on the author. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOCIAL (IN) SECURITY

(By Richard L. Tobin)

If President-elect Carter wishes to become immediately popular with almost anyone over 65, he will tackle at once, and with the greatest vigor, one of the most grossly unfair Federal laws—the one that says you cannot earn a decent living after your 65th birthday and get your well-deserved Social Security at the same time.

In 1977, the maximum a beneficiary can earn will increase to $3,000 a year if he or she wants to collect his or her Social Security income. It's been $2,760 a year up to now, but the magnificent $250 rise won't do much to help those of us who have little or no pension money coming in besides our overdue Social Security benefits.

If your income derives from stocks or bonds and not from a paycheck, you can collect the whole Social Security check each month. But for those of us who live from paycheck to paycheck, and whose income comes directly from the sweat of our aging brow, there is little or no chance of our beginning to collect on the Social Security benefits we've been entitled to ever since we hit 65.

Let me cite my own case, since it is typical of those—millions certainly—who are now being robbed of a chance to retire, at least in part.

I have been a dues-paying member of the Social Security system since Dec. 8, 1936, the day it began. So far as I know, my employers have never missed a payment and I know they have deducted many thousands of dollars from my paychecks over the last 40 years. Each year more has been taken out, and at present this figure runs in excess of $875 per annum.

Yet, after exactly 40 years of paying in, I cannot begin to collect. The reason is, essentially, that I worked for The New York Herald Tribune for 24 years and the Trib had no formal pension system, though it did take care of a few ancient out-pensioners while it was still operative. But the day The Tribune folded, any chance any of us staffers might have had for even a modest pension went down the drain in the welter of bankruptcy. Had the present Federal law guaranteeing pensions been in effect at that time, we staffers might have salvaged something. But the rude fact is that we did not and must, therefore, continue to work to survive.

Fortunately for me, I went to work for the Saturday Review in 1960 and was soon taken in under the pension wing of McCall's, which took over the magazine in 1967. It was a good retirement plan and would have worked beautifully had SR not been sold over Norman Cousins' head, at which point I no longer had a pension plan. Fortunately, the few years under McCall's-Norton Simon ownership meant that my pension money, small as it was, had been funded and would come to me no matter who owned me. But it was small, quite naturally, since I was under its wing for less than ten years, starting at the age of 50.

When we recently got SR back, we were faced with all sorts of financial problems, most of which are now beginning to work out. We are probably breaking even—just. But there is little or nothing left over to give us pension money. That is not anyone's fault. In a sense we're lucky to be afloat at all, and I am luckier still to be on someone's payroll at 66.

But the cruel fact is that I cannot stop working because I cannot live on Social Security and the small pension I earned those few years in the 1960's. For every $2 I earn above $3,000 (starting in January) $1 in Social Security benefit is to be taken away. "Therefore, if my Social Security income (counting my wife's) is about $6,000 per year, I can forget it if I make $12,000 in salary. Since we cannot live even modestly on the $6,000 plus the small McCall's pension, I am obliged to go on working. Of course, at age 72, the law says, I can keep everything I earn and get my Social Security, too. But I've told myself not to hold my breath.

The original intent of the Social Security law limiting earnings beyond 65 was to open up the employment market for Depression youngsters. That purpose has long since eroded. I like to work. I'm a writer-editor by trade and I shall always be working at something. But I'd very much like to work a bit less for someone else and live, at least in part, on some of the money I've paid in to Washington for just such a purpose over the last four decades. I think I have it coming.

If the lawmakers can't see their way to lifting the silly ceiling on earnings altogether, then maybe they'd raise it so people like me could get a bit of what's coming to them regardless of paycheck. My wife and I would like to travel a little. When I was managing editor of SR and later associate publisher, I had the money but never could scrape together the time to do Europe or Asia. I'd like to now. And it really isn't fair that, through no fault of mine, one splendid publication on which I worked for almost a quarter of a century went to the wall and any pension with it, or that someone bought out from under us at SR, even though the story has a happy ending.

So, Mr. President-elect, if you wish to become immediately popular with at least one Republican, you will recommend immediate changes in the Social Security eligibility laws and see that Congress does something about them.

By Mr. DURKIN:

S. 449. A bill to amend chapter 34 of title 38, United States Code, to authorize the acceleration of educational assistance allowance payments under such chapter in certain cases; to the Committee on Veterans' Affairs.

S. 457. A bill to amend section 1662 (a) of title 38, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions; to the Committee on Veterans' Affairs.

S. 458. A bill to amend chapter 34 of title 38, United States Code, to make comprehensive counseling services available to any eligible veteran; to the Committee on Veterans' Affairs.

Mr. DURKIN. Mr. President, we can no longer close our eyes to the fact that unemployment among Vietnam era veterans ages 20 to 24 is 16.4 percent, compared to 12.3 percent of all persons in that age bracket. For ages 25 to 30, the veterans unemployment rate is 9.2 percent—0.9 percent higher than the national average. It is time to stop making a half-hearted effort for the veteran. The three bills I am introducing will provide the post-Korean veteran with the full educational opportunity necessary to find worthwhile employment.

On May 31 of last year, 3.6 million post-Korean veterans lost their benefits under the GI bill. Of these 3.6 million veterans, 482,000 were caught by the 10 year deadline while in the middle of educational programs made possible by benefits provided by the Veterans' Administration. The effect is that 482,000 veterans who were in training for productive employment as of May 31, 1976, will not be able to continue their training because of the delimiting date. And of the 3.6 million veterans who have lost their benefits under the G.I. bill, many have used only a small portion of their entitlement.

The first bill I am introducing will extend for up to 3 years the 10-year deadline for use of benefits for the 482,000 veterans who lost their benefits on May 31, 1976, while in school. The extension is restricted to those veterans enrolled in an approved program full-time upon the expiration of the 10-year deadline last May 31, or to those students involved in training programs funded through the Law Enforcement Assistance Administration. The extension would last until the veteran completed his course of study or training, or until until his 45 months of benefits expired, or after 3 years, whichever comes first. The extension would allow that group of 482,000 veterans the opportunity to finish the program of training and education they have begun.

Unless the extension is provided and these veterans are allowed to complete their training and find worthwhile employment, we have squandered our initial investment of money and the veterans

have lost their initial investment of time and energy. For every dollar invested in the GI bill, the Government gets back $4 in higher taxes as a return on its investment.

My second bill will incorporate the concept of accelerated tuition assistance into the GI bill. Accelerated tuition is aimed at helping several groups of Vietnam era veterans:

First. Unemployed veterans, who cannot afford to attend college or vocational school with GI bill benefits at current levels;

Second. Veterans living in States without readily available low-cost community colleges;

Third. Veterans enrolled in graduate schools; and

Fourth. Veterans now underemployed who find they cannot afford to give up their present employment to attend school under the GI bill in order to qualify for better jobs.

Accelerated tuition is specifically designed to help veterans in States that do not have low-cost colleges. In those States, it is often too expensive for the veteran to attend school with only his GI benefits. South Dakota, Vermont, and Nevada do not have any schools which cost less than $750 for a year's tuition. North Dakota, New Mexico, Arizona, Hawaii, Colorado, Nebraska, Louisiana, Wyoming, Montana, Mississippi, Maine, Idaho, Utah, Rhode Island, Delaware, Alaska, New Hampshire, Indiana, Ohio, and Pennsylvania all have less than 10 schools in the entire State which cost less than $750.

The program would be limited to students with a bona fide need—that is, veterans with tuitions and fees greater than $750 annually. The amendment would also require that the veteran show that he can finish his program of education or training within the abbreviated period he will be receiving benefits.

These safeguards represent an attempt to target accelerated tuition assistance where it will do the most good—to the serious, full-time students who are not in reach of education and training under the present GI bill program Currently, 40 percent of the Vietnam era veterans have not taken advantage of their GI benefits.

This same problem was addressed, in part, by the Senate 2 years ago when it suggested a tuition assistance program of up to $720 a year, to be paid directly to the school in which veterans were enrolled. That concept had the enthusiastic support of the Veterans' Committee, the Democratic and Republican leadership, and the full Senate. The House, however, refused to discuss the idea, and the proposal had to be dropped in conference.

Accelerated tuition assistance represents the next best answer to low GI bill participation rates among the unemployed, and in States which do not have extensive community college systems. It has been supported in the past by the American Legion and the National Association of Concerned Veterans, among other organizations.

The third bill to be proposed would guarantee that effective comprehensive counseling service be provided to all veterans who desire such services. The bill would further direct the administrator to carry out an active outreach program to encourage veterans to use such counseling services. These provisions had been accepted by the Senate in the last session, but subsequently rejected by the House.

Since the G.I. bill was first passed through June 1974, only 4.65 percent of the veterans who have trained under the program have been counseled. And only 2.9 percent of educationally disadvantaged veterans in training had ever received counseling. Comprehensive counseling will enable the veteran to: First, arrive at sound decisions about educational and vocational goals, and second, plan a program of education or training that will enable the veteran to attain a chosen goal. The Vietnam veteran may have a particular need for comprehensive counseling to assist him in arriving at a decision in regard to his educational or vocational goals and to aid the veteran in overcoming his personal readjustment problems.

I ask unanimous consent that the text of these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 34 of title 38, United States Code, is amended by inserting after section 1682 a new section as follows:

"§ 1682A. Accelerated tuition assistance

"(a) Notwithstanding any other provision of this chapter, or chapter 36 of this title, a veteran pursuing a full-time program of education at an educational institution approved by the Administrator may apply to the Administrator to have such veteran's monthly educational assistance allowance accelerated and have such veteran's entitlement under this chapter changed proportionally.

"(b) The Administrator shall approve the application of any veteran for accelerated payment of educational assistance allowance if the Administrator determines, on the basis of such application, that such veteran's tuition and fees for the regular academic year or comparable period of enrollment are in excess of $750 and that the veteran will be able to attain the veteran's pre-determined and identified educational objective within the veteran's entitlement period if payment is accelerated.

"(c) In no event shall the total amount of educational assistance allowance payable to the veteran under section 1682 (a) (1) of this title be increased in any regular academic year or comparable period of enrollment—

"(1) by more than twice the amount the veteran would otherwise be entitled to recieve in such school year or comparable period of enrollment under this chapter, or

"(2) by more than the amount of the veteran's tuition and fees for a regular academic year or comparable period of enrollment, plus the amount the veteran would normally receive in educational assistance allowance under this chapter during a regular academic year or comparable period of enrollment, whichever is less.

"(d) The Administrator shall discontinue the accelerated educational assistance to any veteran under this section if the Administrator finds that the program of instruction which the veteran is enrolled at any time fails to meet the requirements of subsections (b) and (c) of this section.".

(b) The table of sections at the beginning of such chapter is amended by inserting

"1682A. Accelerated tuition assistance."

immediately below

"1682. Computation of educational assistance allowances.".

SEC. 2. The amendments made by the first section of this Act shall become effective on the first day of the first calendar month following the month in which this Act is enacted.

S. 457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, section 1662(a) of title 38, United States Code, is amended by inserting "(1)" after "(a)" and by adding at the end of such section a new paragraph as follows:

"(2) Notwithstanding the provisions of paragraph (1), any veteran shall be permitted to use any of such veteran's unused educational entitlement under this chapter after the delimiting date otherwise applicable to such veteran, as provided in paragraph (1), if such veteran was enrolled as a full-time student and pursuing an approved course of education at the time of the expiration of such veteran's eligibility, or if such veteran was a part-time student at the time of the expiration of such veteran's eligibility and was receiving educational benefits, a loan, or compensation under any program provided for in the Omnibus Crime Control and Safe Streets Act of 1968. Notwithstanding any other provision of this chapter or chapter 36 of this title, any veteran whose delimiting period is extended under this paragraph—"(i) may continue to use any unused entitlement under this chapter until such entitlement is exhausted, until the expiration of three years, or until the veteran has completed the approved course of education in which the veteran was enrolled at the end of the delimiting period referred to in paragraph (1), whichever occurs first; "(ii) must pursue a program of education on a full-time basis unless such veteran is receiving educational benefits, a loan or compensation under a program provided for in the Omnibus Crime Control and Safe Streets Act of 1968; and "(iii) shall be entitled to an educational assistance allowance equal to the educational assistance allowance authorized for eligible veterans by this paragraph.".

(b) The amendment made by subsection (a) of this section shall become effective upon the date of enactment of this Act, and apply to all veterans released from active duty after January 31, 1955, and prior to January 1, 1977.

S. 458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1663 of title 38, United States Code, is amended—

(1) by striking out the first sentence and inserting in lieu thereof: "The Administrator shall make available to any eligible veteran, upon such veteran's request, comprehensive counseling services, including but not limited to, vocational and educational counseling and testing."; and

(2) by adding at the end thereof the following: "The Administrator shall carry out an effective outreach program to acquaint all eligible veterans with the availability of said counseling, its benefits and advantages.".

By By Mr. DURKIN:

S. 450. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

Mr. DURKIN. Mr. President, over the last years Congress has passed legislation to aid our Vietnam veterans and our World War II veterans. Yet in our rush to provide benefits to those groups, we have neglected to express our concern for the World War I veterans. I introduce this bill to provide a guaranteed pension for all World War I veterans and their widows to illustrate that we have not forgotten.

The inflationary economy has made it difficult for all Americans to make ends meet. These financial troubles are even greater for those 22 million Americans over the age of 65 who must live on fixed incomes. It is the elderly who suffer most when the economy worsens. It is the elderly who are hurt the most during the cold winter months when fuel costs soar. And it is the elderly who suffer the most from the rising food costs. Yet it is the elderly veterans that we have neglected over the years.

Last session, I worked hard to see that educational health and pension benefits were increased for many of this Nation's veterans. But we must not forget our commitment and our debt to the veterans of World War I, who were not afforded the many benefits made available to veterans of later wars.

The bill I am introducing will authorize a separate pension system for all veterans of World War I and their widows. The bill will provide pension benefits, hospital, domiciliary, and medical care to all World War I veterans who have given so much to this country and received so very little in return. In the last years we have worked hard to repay our commitment to our World War II and Vietnam veterans. By providing an unrestricted pension to the World War I veterans and their widows we will begin to repay our debts to that group which has been forgotten for too long.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter II of chapter 15 of title 38, United States Code, is amended by adding immediately after section 512 the following new section: § 513. Certain World War I veterans.

"(a) For purposes of this section—

"(1) The pension and other benefits provided by this section shall be deemed, for all purposes, to be in payment of the debt owed by the Nation to the beneficiaries thereof for services rendered by them and shall not, for any reason, be considered to be a gratutity.

"(2) The term 'World War I' means the period beginning on April 5, 1917, and ending on July 2, 1921.

"(b) The Administrator shall pay to each veteran who served in the active military, naval, or air service at any time during World War I and who is not eligible for pension under section 521 of this title pension at the rate prescribed by this section.

"(c) (1) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, the monthly rate of pension shall be $150.

"(2) If the veteran is unmarried (or married but not living with or reasonably contributing to the support of his spouse) and has no child, the monthly rate of pension shall be $135.

"(d) If the veteran is in need of regular aid and attendance, the monthly rate of pension payable to him under subsection (c) shall be increased by $125.

"(e) If the veteran has a disability by reason of which he is permanently housebound but does not qualify for the aid and attendance rate payable under subsection (d), the monthly rate payable to him under subsection (c) shall be increased by $50.

"(f) (1) Any veteran entitled to pension under this section is entitled to hospital, domiciliary, and medical care under chapter 17 of this title for any non-service-connected disability.

"(2) Notwithstanding any other provision of law, the Administrator shall pay on behalf of any veteran receiving pension under this section the cost of any medical services provided outside of Veterans' Administration facilities to such veteran by any physician if the Administrator finds that travel to and from a Veterans' Administration medical facility for such services would impose a medical or financial hardship on the veteran.

"(g) The pension, medical and hospital benefits, and reimbursement for medical costs provided for by this section shall be paid, or provided, as the case may be, without regard to (1) any income of any kind or from any source payable to the veteran or his spouse, and (2) the corpus of the estate of the veteran or his spouse.

"(h) Any veteran who is eligible for pension under section 21 of this title shall, if he so elects, be paid pension, and provided the other benefits, prescribed by this section. If pension is paid pursuant to such an election, the election shall be irrevocable.".

(b) The analysis of such chapter 15 is amended by adding immediately after

"512. Spanish-American War veterans."

the following:

"513. Certain World War I veterans.".

SEC. 2. (a) Subchapter III of chapter 15 of title 38, United States Code, is amended by adding immediately after section 537 the following new section: § 538. Widows of certain World War I veterans.

"(a) The Administrator shall pay to the widow of each veteran of World War I who at the time of his death was receiving pension under section 513 of this title pension at the rate prescribed by this section, if the widow is not eligible for widow's pension under any other provision of this subchapter.

"(b) (1) If there is a widow and one or more children, the monthly rate of pension shall be $150.

"(2) If there is no child, the monthly rate of pension shall be $135.

"(c) No pension shall be paid to a widow of a veteran under this section unless she was married to him—

"(1) before December 14, 1944; or

"(2) for one year or more; or

"(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

"(d) The pension provided by this section shall be paid without regard to (1) any income of any kind or from any source payable to the widow, and (2) the corpus of the estate of the widow.

"(e) Any widow who is eligible for pension under section 541 of this title shall, if she so elects, be paid pension prescribed by this section. If pension is paid pursuant to such an election, the election shall be irrevocable.".

(b) The analysis of such subchapter III is amended by inserting immediately after

"537. Children of Spanish-American War veterans.".

the following:

"538. Widows of certain World War I veterans.".

By Mr. LAXALT:

S. 456. A bill to amend the Internal Revenue Code of 1954; to the Committee on Finance.

Mr. LAXALT. Mr. President, on December 4, 1975, the Internal Revenue Service issued Revenue Ruling No. 75–557. This ruling generally discussed the tax consequences of connection fees received by a public utility and concluded that such fees are includable in the utility's gross income for transactions entered into after February 1, 1976. The upshot of the ruling was that the public utility "contributions in aid of construction" distinction would no longer be recognized and that any time a payment is made to a utility whether to assist in establishing a new service or to reallocate an old one that payment may no longer be considered a contribution to capital and must be included in gross income.

For the past 50 years such payments have been considered contributions to capital and thus not taxable for good reason. They are not included in the rate base so utilities earn no return on them. Nor are they included in the depreciable base for income tax purposes so utilities get no depreciation on them.

Quite frankly, I see no reason for changing this longstanding policy now. For one thing, capital formation is hindered by imposing an additional tax on capital at precisely the time when incentives rather than disincentives should be provided if we are to avoid the very serious capital shortage which many economists have predicted for the 1980's.

Another objection is that if the new tax is paid by the utilities, then consumers, who already are faced by sharply increased rates, will find themselves paying still higher utilities bills. But, if the costs are passed along then additional charges will be imposed for new homes and other construction, which are precisely those sectors that Congress has been seeking to stimulate in order to promote economic recovery.

Mr. President, the Tax Reform Act of 1976 repealed Revenue Ruling No. 75–557 for water and sewerage which was fine as far as it went. But, in my view, that ruling should be also repealed for electric power and gas utilities and I am today proposing legislation to that effect. Whatever the arguments for eroding the longstanding distinction for public utility contributions in aid to construction, I find discriminatory treatment of some of our Nation's utilities unacceptable.

Mr. President, I urge my colleagues' support for this legislation and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) IN GENERAL—Part III of Subchapter B of Chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by striking section 118(b) and insert in lieu thereof the following:

"(b) CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) GENERAL RULE.—For purposes of this section, the term "contribution to the capital of the taxpayer" includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides electric energy, gas (through a local distribution system or transportation by pipeline), water, or sewerage disposal services if—

(A) such amount is a contribution in aid of construction,

(B) where the contribution is in property which is other than electric energy, gas, water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

(C) such amounts (or any property acquired or constructed with such amounts) are not included in the taxpayer's rate base for rate-making purposes.

(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

(i) which was the purpose motivating the contribution, and

(ii) which is used predominantly in the trade or business, of furnishing electric energy, gas, water, or sewerage disposal services,

(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

(C) accurate records are kept of the amounts contributed and expenditures made on the basis of the project for which the contribution was made and on the basis of the year of contribution or expenditure.

(3) DEFINITIONS.—For purposes of this section—

(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term "contribution in aid of construction" shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as customer connection fees (including amounts paid to connect the customer's property to a main electric energy, gas, water or sewer line and amounts paid as service charges for starting or stopping services).

(B) PREDOMINANTLY.—The term "predominantly" means 80 percent or more.

(C) REGULATED PUBLIC UTILITY.—The term "regulated public utility" has the meaning given such term by section 7701(a)(33); except that such term shall not include any such utility which is not required to provide electric energy, gas, water or sewerage disposal services to members of the general public in its service area.

(4) DISALLOWANCE OF DEDUCTIONS AND INVESTMENT CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, the expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

(A) such amount is a contribution in aid of construction,

(B) where the contribution is in property which is other than electric energy, gas, water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

By Mr. CHURCH:

S. 459. A bill to authorize reduced fares on the airlines on a space available basis for individuals 21 years of age or younger or 65 years of age or older; to the Committee on Commerce.

REDUCED AIRLINE FARES FOR YOUTHS AND SENIOR CITIZENS

Mr. CHURCH. Mr. President, I introduce for appropriate reference a bill to amend section 403 of the Federal Aviation Act of 1958 to authorize reduced fares on the airlines for individuals 21 years of age or younger or 65 years of age or older.

This proposal has passed the Senate at least three times. It cleared the House of Representatives last year shortly before adjournment, but failed to be enacted because differences between the House- and Senate-passed bills could not be reconciled. I am determined that this legislation be enacted this year.

This bill originated because of a controversy concerning youth fares promulgated by the airlines in the late 1960's. Several airlines had petitioned the CAB for permission to offer reduced fares for young people. The CAB granted this authority.

In 1968 several bus companies and a group of middle-aged citizens brought suit seeking to invalidate the youth fares, claiming the CAB exceeded its authority. These groups also charged that reduced fares for young people discriminated against the middle-aged and senior citizen population. The court did not overrule youth fares; instead, it asked the CAB to reexamine its position.

The Board's first action was to hold in abeyance all requests from airlines seeking to institute reduced fares for senior citizens on the airlines. The Board then began extensive hearings. Later, it ruled in a split decision that reduced fares could not be offered under present authority. Consequently, reduced-fare arrangements were phased out effective June 1974. In so doing, the Board also terminated the authority for Aloha and Hawaiian Airlines to offer reduced fares to senior citizens on a space available basis. This practice was initiated in 1965, and proved to be a successful experiment.

In their written opinions, members of the Board expressed concern about discounts which guaranteed the student a seat at 66 percent of the full fare, as contrasted with the 50-percent discount for those who were willing to fly standby and accept a seat on a space available basis. The Board members felt that a reservation with a guaranteed seat at a reduced fare raised a fundamental question of discrimination and distorted the original objectives of the standby fares.

My bill would provide the CAB with the authority it needs to offer reduced fares for both young and older Americans. It would limit, though, the fare reductions to those people who are willing to fly standby on a space available basis.

I believe the past success of the youth air fare reduction provides ample reason why my bill should be enacted. CAB testimony before the Senate Commerce Committee revealed that youth fares attracted people who could not otherwise afford to fly. In addition, the CAB revealed that youth fares were extremely profitable for the airlines.

I believe that the case for reduced air fares for senior citizens is just as compelling, for the following reasons:

First, the average load factor on the airlines is only about 55 percent. As our energy shortages become more acute it will be more and more important for the airlines to be more efficient. This means they must fly as close to full capacity as possible.

Second, senior citizens are precisely the group that could make use of the airlines during "offpeak" hours when travel is the lightest.

Third, senior citizens make up only about 5 percent of all domestic airline passengers but 10 percent of our population.

Fourth, many senior citizens do not fly because they cannot afford to do so.

Fifth, when fares are reduced the senior citizens will take advantage of the reductions. I offer two examples: the Chicago and New York experiments with mass transit have been most successful. In the first year after fare reductions, the mayor's office on aging in New York announced a 27-percent increase in ridership.

When Hawaiian Airlines provide reduced air fares, they had a 38-percent increase in the number of passengers, but a 400-percent increase in senior citizen passengers.

There are those who say that reduced fares on a standby or space available basis are not suitable to the elderly. But the success of the Hawaiian and Aloha Airlines experiment, it seems to me, proves otherwise. Second, the 1971 White House Conference on Aging considered this very question and the delegates overwhelmingly supported reduced air fares on a space available basis.

In short, I believe this proposal makes good sense from every vantage point. It is good for the airlines and it is good for the American people. It makes sense economically and socially. I am hopeful that the bill can be enacted promptly.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 403(b) of the Federal Aviation Act of 1958 is amended by inserting after "ministers of religion" the following: "or individuals who are twenty-one years of age or younger or sixty-five years of age or older".

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 460. A bill to provide for additional district judges for the State of Kentucky; to the Committee on the Judiciary.

Mr. HUDDLESTON. Mr. President, I am introducing for myself and my colleague from Kentucky (Mr. FORD) a bill to increase the number of authorized Federal district judgeships in the east-

ern district of Kentucky from three to six and in the western district of Kentucky from three to four. Existing statutes authorize one roving judge to serve in both the eastern and western districts. However, the 6th Circuit Judicial Council has assigned this judge to the eastern district full time because of the excessive caseload. The need for immediate action in the eastern district is well documented on the basis of existing caseload in the area. While the situation in the western district has not reached the emergency proportions of the eastern district, action is also needed there to avoid the judicial standstill which has occurred in the east.

The situation in the eastern district has been termed an emergency for several years. This emergency is the result of a static number of judgeships and the 114.7-percent increase in case filings between 1973 and the end of fiscal year 1976. The caseload for 1976, 2,555 new cases filed, exceeds the 2,500 filings projected by the Subcommittee on Judicial Statistics of the U.S. Judicial Conference in December of 1975.

The eastern district is experiencing continued population growth in the Lexington area and a renewed population growth in many of the mountain counties as a result of the coal industry located there. Kentucky is the Nation's leading coal producer, and this industry's growth has caused much of the disproportionate growth of the district's caseload. For example, the eastern district has the Nation's highest number of black lung appeals. These number approximately 1,600 cases, each of which require a minimum of 1 full day of a judge's time for termination.

The district court must sit in six different locations, and the required travel between Lexington, Covington, Frankfort, Cattlettsburg, Pikeville and London consumes substantial amounts of judge time. The court has already preterminated the terms for Jackson and Richmond, and further reduction would be a hardship upon those whom the court serves. The district has also suffered from a 20-month vacancy preceding the appointment of Judge David Hermansdorfer in 1972 and a 10-month vacancy in the roving judgeship following the death of Judge Mac Swinford in early 1975.

This situation has been exacerbated by the implementation of the Speedy Trial Act, which was passed to insure prompt action on criminal cases pending before the Federal courts. The first stage of the act became effective on July 1, 1976, and will be completely phased in by 1979. It has become apparent from planning groups organized within the various court districts that the objectives of speeding up the trial of criminal cases cannot be achieved without additional resources for the courts. It is the recommendation of the planning group in the eastern district of Kentucky that three additional judgeships be created to allow implementation of the act and to restore order to the docket.

All of these factors have contributed to the present backlog of approximately 2,900 cases. The civil docket is at a virtual standstill, and litigants have been avoiding recourse to the Federal courts for several years because of the long delays in the hearing of cases. In 1975, the court was forced to suspend temporarily the scheduling of civil cases for trial because of the tremendous backlog. This sort of delay has caused great hardship for the judges, litigants, and attorneys. The judges presently sitting in the district must continually fight to maintain any semblance of a current docket, and the high number of terminated cases indicate that they are making a valiant effort.

The creation of these three judgeships is directly in line with the statistical criteria developed by the subcommittee on improvements in judicial machinery of the Senate Committee on the Judiciary during hearings on the omnibus judgeship bill in 1974. While the subcommittee stressed that the statistics would not by themselves be conclusive, the factors mentioned above provide ample justification for the creation of these new judgeships. Let me stress that a complement of six judges is needed to meet the demands of the present caseload.

There are no excesses or attempts to provide for future needs. If justice is to be served, such an addition to the judicial ranks of the eastern district of Kentucky is vital.

The western district of the State has suffered from similar problems. The caseload has grown 54.4 percent since 1971, when there were 3½ judgeships. The district has been operating as a three judge court since the Sixth Circuit Judicial Council assigned the roving judge to the eastern district on a full time basis, beginning in fiscal year 1976. Also, Judge Gordon was almost totally involved with the Jefferson County school desegregation case from the date of its last return from the sixth circuit court of appeals on July 17, 1975. Judge Gordon later assumed active senior judge status on January 1, 1976. For purposes of usual judicial business, the court has been acting in effect as a two judge court since July of 1975. During this time, the backlog of cases in this court has increased to 1,099. Clearly, unless this court receives aid in the very near future, it will soon experience the critical situation presently existing in the eastern district.

I said in February of 1975,

> This right to prompt judicial action without unnecessary and unreasonable delay is a basic principal of our democratic system of government. To fail to provide adequate judgeships is surely such a delay and must be remedied as soon as possible.

No remedy has been forthcoming, and the emergency situation has worsened. It is a matter of utmost importance that we act promptly to fulfill our constitutional duty to provide adequate judicial resources for meeting the needs of the people who depend on the Federal district courts for interpretation of the laws and settlement of disputes.

The creation of three additional judgeships for the eastern district of Kentucky and one additional judgeship for the western district would provide immediate relief and assure adequate judicial review in the immediate future.

The situation in the Federal courts in Kentucky is by no means an exceptional one. Many other districts find themselves in the same untenable position because no additional judgeships have been created since 1970. The omnibus judgeship bill, which died in the House last year after being passed by the Senate, is now outdated and must be reconsidered in light of new facts and increasing workloads.

If the judiciary is to remain a viable, coequal branch of the Federal Government, the Congress must provide relief to the courts in the form of additional judgeships. I urge the Senate to act with the greatest speed and diligence on this crucial matter.

By Mr. DOMENICI (for himself and Mr. MATSUNAGA):

S. 467. A bill to amend the Railroad Retirement Act of 1974 with respect to benefits payable to certain individuals who on December 31, 1974, had at least 10 years of railroad service and also were fully insured under the Social Security Act; to the Committee on Labor and Public Welfare.

REMOVING AN INEQUITY IN THE RAILROAD RETIREMENT PROGRAM

Mr. DOMENICI. Mr. President, today I have introduced a bill, S. 467, which addresses a serious inequity created by Congress in the passage of the Railroad Retirement Act of 1974.

The principal purpose of the Railroad Retirement Act Amendments of 1974 was to restore the program to a sound financial posture. I believe Congress was successful in this effort, but in the process we have deprived many former railroad employees of the benefits they had come to expect under the prior law.

Under the provisions of the 1937 act, former railroad employees and their dependents were eligible for railroad retirement benefits as well as social security annuities if they worked the minimal 10 years for the railroad industry. Usually these employees, with at least 10 years of railroad experience, later worked many years accruing social security benefits. The 1974 amendments, however, require at least 25 years railroad service to be eligible for the dual benefit program.

This change certainly came as a shock to 130,000 former railroad employees in the country. Congress had changed the rules in midstream resulting in drastically lower retirement income than what they believed they had paid for and felt they could count on.

These thousands of former railroad employees have contributed millions of dollars into the railroad retirement fund during their years of service prior to 1974. Since these former employees were not working for the railroads at the time the legislation was drafted in 1974, their interests and concerns were simply not taken into account in our haste to pass the 1974 amendments. These former employees were never notified that such action was being taken. Their side of the question was never really considered or represented. In fact, many former railroad employees are just now retiring from their present jobs, expecting full benefits. They did not even know

there was a change in the law. They had been guaranteed a pension at age 65 by the 1937 act when they terminated their employment with the railroads. Furthermore, from existing records and accounts, the majority of these former employees had no choice of staying with the railroads and were to have a "current connection" with a railroad at retirement. I believe these facts to be important considerations today as we attempt to correct this injustice.

For the benefit of my colleagues, I would like to illustrate from actual case histories the results of the 1974 amendments. Several New Mexicans have offered data on their own retirement expectations, and I ask unanimous consent to have a table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

	Years of Service	1937 act annuity	1974 act annuity
JWG	15.6	$135.65	$27.00
JAL	16	142.10	30.72
CCT	11.1	108.50	13.09
CHF	18.3	185.25	39.40
FL	23	192.00	77.50
TS	14	148.45	30.79

Mr. DOMENICI. The computation of these benefits is very complex, but it is obvious these former railroad employees will suffer a significant loss in their expected retirement benefits.

The bill I am proposing today would allow those employees who worked less than 25 years, but more than 10 years, for the railroads prior to the 1974 amendments to be eligible for full benefits under the railroad retirement program and the Social Security Act. In addition, this change would be made retroactive to January 1, 1975, the effective date of the 1974 amendments.

Mr. President, the cost of implementing this legislation will be less than $30 million for the first year, taken from general revenues. Over the next 75 years, it will cost an average of $83 million each year. As I indicated earlier, the 1974 act substantially improved the financial status of the railroad retirement system so that it is no longer in immediate danger of financial collapse. We went too far, however, but the legislation I am proposing today would affect this fund relatively little as general revenues will primarily be tapped.

Mr. President, I am very concerned with responsible Federal spending. I do not support programs which I believe are excessive. Even in the spirit of fiscal conservation, however, I cannot, in good conscience, ignore the blight of hard-working men and women who have been adversely affected by the action taken by this body. We, in Congress, cannot change laws adversely affecting thousands of Americans, and expect their continued faith and support in Government. Surely changes in laws are necessary, but we should also be mindful of those overlooked in the process. The passage of S. 467 will correct a serious oversight, and I hope my colleagues will support this effort.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 467

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3 (b) (1) of the Railroad Retirement Act of 1974 is amended by striking out "clause (C)" and inserting in lieu thereof "clause (A)", and by striking out "or (h) (2)" each time it appears therein.

(b) Section 3(h) of such Act is amended—

(1) by striking out "(A)" and all that follows through "and (B)" from subdivision (1) and by redesignating clauses (C) and (D) of such subdivision (1) as clauses (A) and (B), respectively;

(2) by striking out subdivision (2) and all that appears therein;

(3) by striking out "(A)" and all that follows through "and (B)" from subdivision (3), by redesignating clauses (C) and (D) of such subdivision (3) as clauses (A) and (B), respectively, and by redesignating such subdivision (3) as subdivision (2);

(4) by striking out subdivision (4) and all that appears therein; and

(5) by striking out "subdivision (1), (2), (3), or (4)" from subdivision (5) and inserting in lieu thereof "subdivision (1) or (2)" and by redesignating such subdivision (5) as subdivision (3).

(c) Section 4(b) of such Act is amended by striking out "clause (C)" each time it appears in the first proviso and inserting in lieu thereof "clause (A)" and by striking out "or (e) (2)" each time it appears in the first proviso.

(d) Section 4(e) of such Act is amended—

(1) by striking out "(A)" and all that follows through "and (B)" from subdivision (1), by redesignating clauses (C) and (D) of such subdivision (1) as clauses (A) and (B), respectively, and by striking out "section 3(h) (5)" from the proviso to such subdivision (1) and inserting in lieu thereof "section 3(h) (3)";

(2) by striking out subdivision (2) and all that appears therein;

(3) by striking out "or 3(h) (2)" and "or (2)" each time they appear in subdivision (3), by striking out "section 3(h) (5)" from such subdivision (3) and inserting in lieu thereof "section 3(a) (3)", and by redesignating such subdivision (3) as subdivision (2); and

(4) by striking out "subdivision (1), (2), or (3)" from subdivision (4) and inserting in lieu thereof "subdivision (1) or (2)" and by redesignating such subdivision (4) as subdivision (3).

(e) Section 4(g) of such Act is amended by striking out "(e) (3)" each time it appears therein and inserting in lieu thereof "(e) (2)".

(f) Section 4(h) of such Act is amended by striking out "or (2)" from the proviso thereof.

(g) Section 6(d) (1) of such Act is amended by striking out "or 3(h) (2)".

(h) Section 204(a) of Public Law 93-445 is amended by striking out "section 3(a) (3)" from paragraph (4) and inserting in lieu thereof "section 3(h) (2)".

(i) Section 206 of such Public Law is amended by striking out "4(e)(2)" from paragraph (3) and inserting in lieu thereof "4(e) (2)".

(j) The amendments made by the preceding subsections of this section shall be effective as of January 1, 1975.

By Mr. DOMENICI (for himself, Mr. GOLDWATER, Mr. DECONCINI, and Mr. SCHMITT):

S. 468. A bill to amend the Navajo Community College Act; to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, today I am introducing legislation to amend the Navajo Community College Act. This legislation is designed to reauthorize Federal financial assistance to meet the college's continuing construction needs and rectify some serious problems in connection with the language which provides Federal funds for operational costs. My colleagues, Senator SCHMITT and the distinguished Senators from Arizona, Senators GOLDWATER and DECONCINI are joining me in sponsoring this legislation.

In response to a clearly perceived need for a permanent authorization for Federal financial assistance, the Navajo Community College Act was passed in December 1971.

With enactment of Public Law 92-189, the 2-year college was able to begin construction of its campus at Tsaile, Ariz., which is in the heart of the Navajo Reservation. In addition, Federal financial assistance assured the college of a predictable funding source to meet its operational costs.

Over the last 5 years the college has grown and matured. In a physical sense, the college has moved from its temporary quarters at the BIA Many-Farms High School to its permanent quarters at its 1,200-acre campus at Tsaile. With $14.5 million in construction funds, of which $6.5 million were provided for under the act by the Federal Government, the college has constructed a campus consisting of 10 student dormitories, a library containing 50,000 volumes, a student union, and cafeteria, one general classroom building, a vocational education facility, 50 faculty homes, and a cultural and education center. More than 350 additional acres have been acquired in Shiprock, N. Mex., to serve educational needs in the Four Corners area.

But, more importantly, the college is realizing its goals of providing significant educational opportunities for Indian people. When the college opened in 1969, its enrollment was 301 students. Seven years later its enrollment had grown to 1,200, of which 300 are residing on campus. In terms of graduates, the college has graduated 150 students since 1969, 80 of which chose to continue their education at 4-year institutions. As of May 1976, 51 had received bachelors degrees, 10 had obtained masters, and 2 are currently working on a doctorate's in the field of education.

The true test, however, of any college is whether it can meet the rigorous standards for accreditation. The college in July 1976, received full accreditation from the North Central Accreditation Association. The college has taken a major step in its growth, signifying its serious intention to provide a solid, sound educational program for its students. But more importantly, accreditation will give the college the impetus for progress and stability which is fundamental to any college which seeks to effectively serve not only its students, but the larger community as well. Nowhere is this fact more clearly recognized than at the Navajo Community College.

Yet, the Navajo Community College faces new challenges which this legislation addresses. First, the college is without sufficient construction funds to complete its campus at Tsaile and to develop

its satellite campus program. At Tsaile, funds are needed to construct additional housing to accommodate 900 resident students, an increase of approximately 600 over the present enrollment. A student population of 900, however, will require additional housing for faculty as well as ancillary staff and other personnel. It is anticipated that the funds appropriated under this legislation over the next 5 years will complete the Tsaile campus as well as enable the college to accommodate its rising enrollment. In addition, the college, because of this rising demand for its services throughout the reservation, has planned satellite campuses to serve students in other parts of the reservation who are unable to attend classes at Tsaile.

In addition to authorizing additional construction funds, this legislation proposes to change the existing formula for allocating funds to meet the operational costs of the college. Since enactment, the Federal Government has provided $10 million for operational costs under the language of Public Law 92–189. Existing law authorizes:

An annual sum for operation and maintenance of the college that does not exceed the average amount of the per capita contribution made by the Federal Government for the education of Indian students at federally operated institutions of the same type.

The proposed amendment would change the present language of the law to read:

An annual sum for operation and maintenance of the college equal to the average amount of per capita contribution made by the Federal Government.

The purpose for changing the language for operation and maintenance, that is, from "not to exceed" to "equal to" is necessary, because the Secretary of the Interior and specifically, the Bureau of Indian Affairs, has never provided adequate funds to operate and maintain the college. College officials had assumed from the discussions with the testimony presented to the Subcommittees on the Interior and Insular Affairs in both the House and the Senate, that the college would receive an amount which was to be the average of several postsecondary institutions operated by the Bureau of Indian Affairs, but not to exceed the average of these several schools. The unclear language contained in the present law has created confusion for both Federal and college officials. This has resulted in lower per capita allocations from the Bureau of Indian Affairs. To correct this less than adequate funding, the college has had to request an add-on directly from the Congress each year since 1972. Approximately $3 million has had to be provided by the Congress in an attempt to bring the college's operational funding to a par with other BIA supported schools. Nevertheless, these additional funds failed to meet the operational costs of the college. The proposed language should rectify this serious error while assuring the college of a more stable level of operational funding.

Another problem associated with the operational funding of the college has been the policy of the Bureau of Indian Affairs to treat Navajo Community College as being within the funds allocated to the Navajo Tribe. Under the Bureau's budget procedures known as band analysis, an amount for higher education is being made available to the Navajo Tribe, which the tribe then allocates to various programs, including the college. This arrangement results in unnecessary conflicts between the college and the tribe over the level of funding for the college. It puts the college in competition with other Navajo programs which the Congress, I am sure, never intended.

While I can appreciate the effort by the Bureau to give the tribe the maximum opportunity to influence the distribution of funds which directly affect its operations, the inclusion of the Navajo Community College within the framework is unreasonable and unacceptable. The proposed legislation is designed to remedy this problem by authorizing a direct appropriation to the college. Our intent is to eliminate the application of the band analysis system since its role is without foundation given the existence of a statutory formula which allocates funds for the college's operations. In view of the existing formula, there is no need for the band analysis system in determining the level of funds.

Mr. President, the Navajo Community College is the first college established on an Indian reservation, and its commitment to serving the challenging educational needs of Indian people is worthy of Federal support. The amendments we are proposing will strengthen the college and make it an even more viable instrument in the continuing effort to realize the educational ambitions of our Indian citizens.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Act entitled "An Act to authorize grants for the Navajo Community College, and for other purposes", approved December 15, 1971 (85 Stat. 646), is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 4. (a) For the purpose of making grants under this Act, there are hereby authorized to be appropriated, for each of the fiscal years 1978, 1979, 1980, 1981, and 1982, the sum of $10,500,000 for construction, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations from 1976 construction costs as indicated by engineering cost indexes applicable to the types of construction involved.

"(b) There is further authorized to be appropriated to the Navajo Community College an annual sum for operation and maintenance of the college equal to the average amount of the per capita contribution made by the Federal Government to the education of Indian students at federally operated institutions of the same type.

"(c) Sums appropriated pursuant to this section for construction shall remain available until expended.".

Mr. DECONCINI. Mr. President, it is with great pleasure that I join my distinguished colleague from New Mexico, Senator DOMINICI, in introducing legislation to amend the Navajo Community College Act. This legislation was originally introduced in June of 1976 by my distinguished predecessor from Arizona, Senator Paul Fannin. Due to other pressing matters, and the desire of Congress to adjourn, committee hearings were not conducted. This legislation is designed to reauthorize Federal financial assistance to meet the college's continuing construction needs and to correct some serious problems in connection with the language providing Federal funds for operational costs.

From its inception in unoccupied high school space at Many Farms, Ariz., in 1969, with an enrollment of 301 students, to its permanent location at Tsaile, Ariz., in the heart of the Navajo Reservation, Navajo Community College has experienced tremendous growth and accomplishments. In addition to the expansion of physical facilities which Public Law 92–189 helped to accomplish, the college's enrollment has grown to approximately 1,600 students. To date, it has graduated 150 students, and a majority of those students have continued their education at 4-year institutions.

As Senator Fannin said last year:

The true test, however, of any college is whether it can meet the rigorous standards for accreditation.

I am pleased to announce that Navajo Community College received full accreditation in July 1976 from the North Central Association of Colleges and Secondary Schools. This accreditation is one more example of the college's effort to provide the best education possible for its students and to serve the larger community as well.

Navajo Community College President Thomas Atcitty best described the purpose of the college when writing to the graduating class last spring:

This is your day—a day when you can justifiably rejoice along with your relatives and friends—a day on which all of us join you in rejoicing because you have traveled the bridge that the Navajo people have built for you between your Navajo homeland and the world which surrounds us.

This bridge was designed to give you the fundamental principles which guided the great Navajo leaders of the past. You are at home in your world and are conscious of your harmony with the earth and the forces of nature. Our bridge was designed to reinforce your pride in the Navajo world, and to show you the vastly different world in which you may choose to live and work. I hope you will use your experience at Navajo Community College to go out into that world, profit from your experience there, and then return home to help your people to triumph in the social, economic and spiritual struggle that the Indian faces today. Remember that you rode with Manuelito's warriors and walked with survivors of the Long Walk back to their homeland. For it is the Navajo who "come back" who are the hope of the future.

However, Navajo Community College continues to realize the need for further expansion of campus facilities. Housing for 400 students and living quarters for the additional staff and faculty must be provided. These proposed amendments to Public Law 92–189 provide for the completion of construction for additional dormitories and other

needed facilities. It is anticipated that the funds appropriated under this legislation over the next 5 years will complete the Tsaile campus as well as enable the college to accommodate its rising enrollment. In addition, because of this rising demand for its service throughout the reservation, the college has planned satellite campuses to serve students in other parts of the reservation who are unable to attend classes at Tsaile.

As well as authorizing additional construction funds, this legislation proposes to change the existing formula for allocating funds to meet the operational costs of the college. Since enactment, the Federal Government has provided $10 million for operational costs under the language of Public Law 92–189. Existing law authorizes:

> An annual sum for operation and maintenance of the college that does not exceed the average amount of the per capita contribution made by the Federal Government for the education of Indian students at federally operated institutions of the same type.

The proposed amendment would change the present language of the law to read:

> An annual sum for operation and maintenance of the college equal to the average amount of the per capita contribution made by the Federal Government.

The purpose for changing the language for operation and maintenance from "not to exceed" to "equal to" is necessary, because the Secretary of the Interior—specifically, the Bureau of Indian Affairs—has never provided adequate funds to operate and maintain the college. College officials had assumed from the testimony presented to the Subcommittees on Interior and Insular Affairs in both the House and the Senate, that the college would receive an amount which was to be the average of several postsecondary institutions operated by the Bureau of Indian Affairs, but not to exceed the average of these several schools.

The unclear language contained in the present law has created confusion for both Federal and college officials.

This has resulted in lower per capita allocations from the Bureau of Indian Affairs. To correct this less than adequate funding, the college has had to request an add-on directly from the Congress each year since 1972. Approximately $3 million has had to be provided by the Congress in an attempt to bring the college's operational funding to a par with other BIA-supported schools. Nevertheless, these additional funds failed to meet the operational costs of the college. The proposed language should change this serious error while assuring the college of a more stable level of operational funding.

Another problem associated with the operational funding of the college has been the policy of the Bureau of Indian Affairs to treat Navajo Community College funding as being within the funds allocated to the Navajo Tribe. Under the Bureau's budget procedures, known as band analysis, an amount for higher education is made available to the Navajo Tribe, which the tribe then allocates to various programs, including the college. This arrangement results in unnecessary conflicts between the college and the tribe over the level of funding for the college. It puts the college in competition with other Navajo programs which the Congress, I am sure, never intended.

While I can appreciate the effort by the Bureau to give the tribe the maximum opportunity to influence the distribution of funds which directly affect its operations, the inclusion of the Navajo Community College within that framework is unreasonable and unacceptable. The proposed legislation is designed to remedy this problem by authorizing a direct appropriation for the college. The intent is to eliminate the application of the band analysis system since its role is without foundation given the existence of a statutory formula which allocates funds for the college's operations.

Mr. President, the Navajo Community College is the first college established and administered by an Indian nation, and its commitment to serving the challenging educational needs of Indian people is worthy of Federal support. The proposed amendments will strengthen the college and make it an even more viable instrument in the continuing effort to realize the educational needs of Indian citizens.

By Mr. RANDOLPH (for himself and Mr. HATFIELD):

S. 469. A bill to establish a commission to study proposals for establishing the National Academy of Peace and Conflict Resolution; to the Committee on Labor and Public Welfare.

PEACE ACADEMY

Mr. RANDOLPH. Mr. President, today I am introducing legislation to create a commission to study proposals for establishing a National Academy of Peace and Conflict Resolution.

It is similar to the bill, S. 1976, which passed the Senate in the 94th Congress as an amendment to the Higher Education Act of 1976. An identical bill was introduced last week in the House by Representative Andrew Young of Georgia, the designated U.S. Ambassador to the United Nations.

I commend our former colleague, Senator Vance Hartke, who introduced this legislation on June 18, 1975, to create a George Washington Peace Academy. It was cosponsored by Senator MARK HATFIELD and myself. Hearings were held by the Senate Subcommittee on Education on May 13, 1976. Witnesses included academicians, philosophers, and writers.

The original bill was subsequently amended to provide for a commission to study the various proposals for an institution of peace. At a Senate-House conference on the higher education bill, conferees agreed to withdraw S. 1976 until the House could schedule its hearings.

Mr. President, behind the witnesses who testified at our hearings to endorse the Peace Academy concept, stand many millions of Americans who share mutual concerns.

Howard Flieger, editor of the U.S. News & World Report, wrote:

> The objectives of a peace academy are ennobling. A Nation schooled in the ways of peace is an ideal that, once attained, could be civilization's greatest achievement.

The idea of a Department of Peace or some affiliated agency of Government has been traced to the early days of our Republic. George Washington suggested that this should be done.

Legislative proposals to create an agency with primarily educational functions appeared before the Second World War. In the period between 1935 and 1939, the late Senator Matthew M. Neely, of West Virginia, proposed three separate pieces of legislation to create a Federal department "which would be authorized to conduct a broad educational program designed to create and encourage a desire for peace."

At a hearing on November 8, 1945, as a Representative, I gave the following testimony:

> It is my personal feeling that it is utter folly to believe that we can keep secret the atomic bomb and other devices of destructive warfare, because it would raise a suspicion among other countries and cause them to develop substitutes which will be just as deadly, perhaps more deadly, within a matter of months or in a very few years.
>
> We are actually living as one family, in one world, and that does not take away my responsibility to work for the defense of this Nation. I feel that there is a new and challenging world in which we are living, and if America does not take the leadership in keeping peoples of the earth together in peace, then utter chaos is certain to result.

These were my words in testifying before the House Committee on Foreign Affairs on behalf of a bill (H.R. 3628) that I had introduced on June 29, 1945, to create a Department of Peace.

I felt at that time, as I do today, it is an idea whose time has been too long delayed. But in the flush of victory at the end of World War II, it was an idea lavishly praised and seriously slighted. Dozens of sincere and interested citizens, editorialists and prominent leaders spoke favorably on the proposal. It can be fairly said that many who paid the idea lip service—without action—succeeded in loving it to death.

The concept of teaching peace and mutual respect and universal understanding is one which eludes many practical minds. We can easily comprehend war—the absence of peace. We can conceive the agony of a bayonet in the belly, but we have some difficulty defining love in the human heart.

The bill cosponsored by the Senator from Oregon (Mr. HATFIELD) constitutes a realization that, legislatively speaking, we must walk before we can run. It calls for a 1-year study by a committee composed of citizens, on how we can best achieve the goals of instructing our young people and future leaders in the ways of peace and conflict resolution. If such an academy was created as a result of the study, it would emphasize that there must be taught fundamental courses in international relations which would explain the interaction of political, social, and economic activities of

all nations. Such an educational program would, hopefully, develop an understanding attitude toward the different governmental systems in existence today. This does not mean that we, as individuals, or the governmental system of our own choice, need approve or support a contrary system elsewhere.

We must, however, recognize the right of the people of other countries to form the political organization of their own choice as long as that government is a peaceful government.

I recall a haunting editorial many years ago in the American Mercury magazine, which said:

The real reason we have wars is not because of the wickedness of a few rulers, or a few international bankers or armament makers, but because of the ease with which the common people of the world, without wanting war or expecting it, are nevertheless led to it. It is time some government began to take the positive steps to lead the common people into universal permanent peace.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 469

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Academy of Peace and Conflict Resolution Commission Act of 1977".

ESTABLISHMENT

SEC. 2. There is established a commission to be known as the Commission on Proposals for the National Academy of Peace and Conflict Resolution.

DUTIES OF COMMISSION

SEC. 3. (a) The Commission shall undertake a study to consider—

(1) establishing the National Academy of Peace and Conflict Resolution;

(2) the size, cost, and location of the Academy;

(3) the affects which the establishment of the Academy would have on existing institutions of higher education;

(4) the relationship which would exist between the Academy and the Federal Government;

(5) the feasibility of making grants and providing other forms of assistance to existing institutions of higher education in lieu of, or in addition to, establishing the Academy; and

(6) alternative proposals, which may or may not include the establishment of the Academy, which would assist the Federal Government in accomplishing the goal of promoting peace.

(b) In conducting the study required by subsection (a), the Commission shall—

(1) review the theory and techniques of peaceful resolution of conflict between nations; and

(2) study existing institutions which assist in resolving conflict in the areas of international relations, labor-management relations, relations between different races, community relations, and family relations.

MEMBERSHIP

SEC. 4. (a) The Commission shall be composed of nine members as follows—

(1) three appointed by the President pro tempore of the Senate;

(2) three appointed by the Speaker of the House of Representatives; and

(3) three appointed by the President.

(b) Members shall be appointed for the life of the Commission.

(c) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d)(1) Except as provided in paragraph (2), members of the Commission each shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule (5 U.S.C. 5332) for each day during which they are engaged in the actual performance of the duties of the Commission.

(2) Members of the Commission who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including a per diem in lieu of subsistance, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(e) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(f) Five members of the Commission shall constitute a quorum.

(g) The Commission shall meet at the call of the Chairman or a majority of its members.

DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS

SEC. 5. (a) Subject to such rules as may be be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, shall have the power to—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316);

(2) appoint and fix the compensation of such staff personnel as he considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this Act.

POWERS OF COMMISSION

SEC. 6. (a) The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) When so authorized by the Commission any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon request of the Chairman, the head of any such Federal agency shall furnish such information to the Commission.

REPORTS

SEC. 7. The Commission shall transmit to the President and to each House of the Congress such interim reports as it considers appropriate and shall transmit a final report to the President and to each House of the Congress not later than one year after the date on which appropriations first become available to carry out this Act. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation as it considers appropriate.

TERMINATION

SEC. 8. The Commission shall cease to exist 60 days after transmitting its final report under section 7.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There is authorized to be appropriated not to exceed $500,000 to carry out this Act.

DEFINITIONS

SEC. 10. For purposes of this Act—

(1) the term "Academy" means the National Academy of Peace and Conflict Resolution;

(2) the term "Chairman" means the Chairman of the Commission elected under section 4(e);

(3) the term "Commission" means the Commission on Proposals for the National Academy of Peace and Conflict Resolution; and

(4) the term "Federal agency" means any agency, department, or independent establishment in the executive branch of the Federal Government, including any Government corporation.

Mr. HATFIELD. Mr. President, today I am pleased to be able to join my colleague from West Virginia, Senator RANDOLPH, in sponsoring legislation which would establish a commission to study proposals for establishing some type of peace and conflict resolution academy. I commend Senator RANDOLPH for continuing the efforts of former Senator Vance Hartke in this project.

Because of my own commitment toward developing some means of training and research on conflict resolution I cosponsored Senator Hartke's bill last session. Then when his campaign commitments prevented his taking part in the work on the education bill on the Senate floor, I was happy to call up his amendment authorizing a study commission. During the hearings on the original Hartke bill, in which I participated, it became clear that there was not a consensus on the precise form of the peace academy. Rather than trying to work out the structural details in the Senate, it was the feeling among the sponsors that a study commission should be directed to consult fully with educators and interested groups and individuals to come up with a plan which could receive broad support.

The bill introduced by Senator RANDOLPH today takes this matter from where it was set aside in the closing days of the last session. When the House conferees on the education bill indicated that they were not ready to add this concept to the final bill without House hearings, the matter was carried over to this session. Congressman YOUNG and others have now introduced the measure in the House and intend to pursue the assurances given of prompt House hearings.

When the House hearings are held, it is my hope that the Congress can proceed promptly with final enactment. The funds authorized for the study commis-

sion are not large, particularly in the light of the amounts spent for the military. It is long past time for us to begin using some of our resources to explore alternate methods to our traditional ways of defending our country. As military technology has become more sophisticated its capacity to actually protect us from foreign attack has diminished. We must move out into the frontier of new philosophies and techniques of keeping the peace, symbolized not by the gun and the bomb, but by the human embrace and the extended hand of friendship and understanding.

Again, I commend Senator RANDOLPH for his efforts and I trust he will have the fullest support of the Senate in completing action on this bill.

By Mr. HATHAWAY:

S. 476. A bill to repeal certain statutes prohibiting suits against ministers and their domestics; to the Committee on Foreign Relations, and that if and when reported, then to the Committee on the Judiciary, by unanimous consent.

S. 477. A bill providing that the United States shall be deemed liable in the case of any judgment levied by any court against any diplomat against whom a recovery of damages is statutorily not allowed; to the Committee on Foreign Relations, and that if and when reported, then to the Committee on the Judiciary, by unanimous consent.

S. 478. A bill to establish within the Department of State an Assistant Secretary for Claims Against Foreign Ministers and Diplomats; to award just compensation for such claims; and for other purposes; to the Committee on Foreign Relations, and that if and when reported, then to the Committee on the Judiciary, by unanimous consent.

Mr. HATHAWAY. Mr. President, on September 16, 1976, I introduced three measures affecting the diplomatic immunity enjoyed by foreign ministers residing in the United States.

The first of these bills would abolish statutory diplomatic immunity through simple repeal.

The second bill would make the United States liable for damages in actions brought against an Ambassador. Such actions are void under present law. Instead of making the foreign ministers liable, this bill makes the U.S. Government liable on the theory that if immunity is vital to our Government's functioning, then its costs should not be borne entirely and personally by our citizens who become innocent victims of the harmful acts or omissions of foreign ministers.

The third bill, Mr. President, establishes within the Department of State an Assistant Secretary for Claims Against Foreign Ministers and Diplomats. Any person suffering injury or loss through some actions of a person enjoying diplomatic immunity may file a claim for compensation with such Assistant Secretary.

The United States will pay the compensation—which, of course, our Government at its convenience may seek to recover from the diplomat's government.

No action was taken on these bills owing, of course, to the fact that only a few days of the 94th Congress remained when I introduced them.

By introducing them again at this early stage, it is my hope that there will be adequate time to study this matter in committee and take action appropriate to the abuses which I described on September 16, 1976, at page 30648 of the CONGRESSIONAL RECORD.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that three bills introduced by the Senator from Maine (Mr. HATHAWAY), relative to diplomatic immunity, be referred to the Committee on Foreign Relations, and that if and when reported from that committee, they then be referred to the Committee on the Judiciary.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 76

At the request of Mr. STONE, the Senator from Nebraska (Mr. CURTIS) was added as a cosponsor of S. 76, to amend the Social Security Act.

S. 87

At the request of Mr. BUMPERS, the Senator from Nevada (Mr. LAXALT), the Senator from Utah (Mr. GARN), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 87, a bill to amend the Social Security Act.

S. 160

At the request of Mr. BUMPERS, the Senator from Vermont (Mr. LEAHY), the Senator from North Dakota (Mr. BURDICK), and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 160, a bill to amend the Arms Export Control Act.

S. 174

At the request of Mr. CLARK, the Senator from Indiana (Mr. BAYH) and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 174, to amend the United Nations Participation Act of 1945.

S. 311

At the request of Mr. ROTH, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 311, a bill entitled the College Tuition Tax Relief Act of 1977.

S.J. RES. 2

At the request of Mr. BUMPERS, the Senator from Nebraska (Mr. ZORINSKY), the Senator from Nevada (Mr. LAXALT), and the Senator from Utah (Mr. GARN) were added as cosponsors of Senate Joint Resolution 2, proposing an amendment to the Constitution regarding a balanced budget.

S.J. RES. 6

At the request of Mr. HELMS, the Senator from Mississippi (Mr. EASTLAND), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Utah (Mr. HATCH) were added as cosponsors of Senate Joint Resolution 6, an amendment to the Constitution guaranteeing the right to life.

S. RES. 25

At the request of Mr. BUMPERS, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of Senate Resolution 25, a resolution to amend rule III of the Standing Rules of the Senate.

S. RES. 48

At the request of Mr. CASE, the Senator from Indiana (Mr. BAYH) and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of Senate Resolution 48, with respect to the release of Abu Daoud.

AMENDMENT NO. 1

At the request of Mr. HASKELL, the Senator from New Hampshire (Mr. DURKIN), the Senator from Alabama (Mr. SPARKMAN, the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of Amendment No. 1, intended to be proposed to Senate Resolution 4, the Committee System Reorganization Amendments of 1977.

AMENDMENTS SUBMITTED FOR PRINTING

COMMITTEE SYSTEM REORGANIZATION AMENDMENTS OF 1977—SENATE RESOLUTION 4

AMENDMENT NO. 16

(Ordered to be printed and to lie on the table.)

Mr. TALMADGE submitted an amendment intended to be proposed by him to the resolution (S. Res. 4) reorganizing the committee system of the Senate, and for other purposes.

NOTICES OF HEARINGS

Mr. TALMADGE. Mr. President, the Committee on Agriculture and Forestry will begin hearings next month on legislation to extend and amend the Agriculture and Consumer Protection Act of 1973.

Most features of that act expire either late in this year or with the end of the 1977 crop year, which date will vary from crop to crop. But legislation to extend these provisions must be enacted early during this session of the 95th Congress.

To meet the deadline, I am today announcing the following schedule:

Tuesday, February 22, 9 a.m.–noon—Congressional witnesses.

Wednesday, February 23, 9 a.m.–noon—General farm organizations.

Thursday, February 24, 9 a.m.–noon—General public witnesses.

Friday, February 25, 9 a.m.–noon—Wheat and feed grains.

Monday, February 28, 9 a.m.–noon—Cotton and, if necessary, wheat and feed grains continued.

Tuesday, March 1, 9 a.m.–noon—Dairy.

Wednesday, March 2, 10 a.m.–noon—Regular committee business meeting to discuss the FY77 budget and other committee business.

Thursday, March 3, 9 a.m.–noon—Rice.

Friday, March 4, 9 a.m.–noon—Public Law 480, the Food for Peace Program.

Monday, March 7, 9 a.m.–noon—Agricultural research.

Tuesday, March 8, and Wednesday, March 9, 9 a.m.–noon—The Food Stamp Program.

Thursday, March 10, 9 a.m.–noon—Peanuts.

Friday, March 11, 9 a.m.–noon—Pesticides.

Monday, March 14, 9 a.m.–noon—Administration witnesses.

Tuesday, March 15, 9 a.m.–noon—Administration witnesses.

All hearings will be in 322 Russell Senate Office Building.

Mr. President witnesses will have an opportunity to comment on any or all parts of my bill, S. 275, or on any other pertinent bills which have been, or will have been, introduced prior to these hearings.

I wish to emphasize the subjects set forth in the schedule above represent a tentative estimate of the time which will be required to discuss each subject adequately. Necessarily, the committee will remain flexible as to scheduling to permit completion of each day's testimony within the 3 hours allotted.

Inasmuch as there is great interest in this year's farm bill, each witness will be limited strictly to a 10-minute oral statement. Longer statements and supporting documents will, of course, be accepted for printing in the hearing record.

Members and public witnesses who desire to testify should make arrangements before the close of business on Tuesday, February 15, by calling or writing to: Hearing Clerk, Senate Committee on Agriculture and Forestry, 522 Russell Senate Office Building, Washington, D.C.

PROGRAMS FOR THE HANDICAPPED

Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on the Handicapped, I announce that our subcommittee has scheduled hearings on a review of programs for the handicapped. The hearings will be held on Thursday, February 24, 1977, and Friday, February 25, 1977, in room 4232, Dirksen Senate Office Building starting at 9:30 a.m.

Persons wishing to testify should contact Mrs. Patria Forsythe, professional staff member, 10–B Russell Senate Office Building (202) 224–9075.

ADDITIONAL STATEMENTS

APPALACHIA'S STRUGGLE FOR SURVIVAL

Mr. HUDDLESTON. Mr. President, the Appalachian region of our country is rich in the traditions and talents which have made our country what it is today. Unfortunately, however, most Americans know little about this area and its people.

This Friday, January 28, we will have a unique opportunity to view a 90-minute film on WETA, channel 26, entitled "The Appalshop Show," produced by Appalshop, Inc., of Whitesburg, Ky., and WNET/13 New York. Viewers will see how these mountain people live, wonder at their stamina and determination, and be touched by their strength and compassion.

I know the Appalshop group to be industrious and genuine people who look at their films "as windows to see right into the hearts and feelings of people in the mountains."

As director Arthur Penn—"Bonnie and Clyde"—said:

Theirs is the most alive use of film and videotape I know.

I hope that the following news release from WNET/13 will be of interest to my colleagues and friends and that they will have an opportunity to see this program.

Mr. President, I ask unanimous consent that the news release be printed in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

APPALACHIA'S STRUGGLE FOR SURVIVAL DOCUMENTED ON 90-MINUTE SPECIAL, "THE APPALSHOP SHOW"

Until recently, some of the richest cultural treasures in the U.S. have been buried in the dark hills of Appalachia. The priceless heritage of mountain life was virtually untouched by the mainstream of American society. The story of this relatively unknown American culture and its struggle to survive will be told by a unique group of Appalachian filmmakers in THE APPALSHOP SHOW, a 90-minute special, to be broadcast January 28, at 9:00 p.m. ET. on the PBS network.

Co-produced by WNET/13, New York, and Appalshop, Inc., a seven year old media workshop in Whitesburg, Kentucky, THE APPALSHOP SHOW will feature excerpts from 12 Appalshop films and interviews with the individual filmmakers. The films depict a slice of Appalachian life that ranges from portraits of craftsmen and coalminers to examinations of complex institutions. Included are the making of natural herb medicines, a midwife's home delivery of twins and the handcrafting of a rocking chair from a tree.

Soulful songs and stories come from coalminers Frank Jackson and Nimrod Workman, who have each spent 40 years working underground. Other highlights include the rites of the disappearing Old Regular Baptist Church, the end of a seamstress co-op that made clothes for the poor and an account of the 1972 Buffalo Creek flood disaster.

The Appalshop began in 1969 as an experimental War on Poverty Project to encourage community-based expression in media and the arts. Operating out of a renovated used tire shop, the nonprofit filmmaking cooperative has mushroomed into a dynamic media center staffed by young Appalachian men and women. Appalshop rents and sells its library of 30 educational films, publishes a quarterly magazine, Mountain Review, operates an actor's company, Roadside Theater, and records music on the June Appal Label.

"We know the mountain people best", says Appalshop director Bill Richardson, "because we are them. We've got good kinship connections so we can give a real close-up view of the land and people around us."

THE APPALSHOP SHOW is a production of Appalshop, Inc. and WNET/13, New York, distributed nationally by the Public Broadcasting Service. Directed and edited by: William Richardson and Herb E. Smith. Executive producer for WNET: Perry Miller Adato.

WHEN IS A TAX CUT NOT A TAX CUT?

Mr. DOMENICI. Mr. President, Americans suffer a double dose of erosion of their paychecks—one, a loss due to inflation; and, second, increased taxes as inflation boosts them into a higher tax bracket.

The result has been a steady loss of take-home pay and a true diminution of earning power for American families.

For some time I have been struck by the idea of indexing the tax brackets. This would do two things, both beneficial in my judgment. First, it would make inflation less palatable to those of us who set taxing and spending policies. We could no longer count on increased tax revenues from the inflation that very often our own policies create. Second, it would increase the take-home pay of American workers.

In this regard, Nobel Prize Laureate Dr. Milton Friedman has written of tax cuts, the reality and the myth, in a recent issue of Newsweek magazine.

I commend this article to my colleagues and hope that progress toward indexing the income tax brackets can occur this year. I believe the American people deserve it and I believe that indexing will increase pressure for fiscal responsibility on the part of national policymakers.

Mr. President, I ask unanimous consent that Dr. Friedman's article, "When is a tax cut not a tax cut?" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHEN IS A TAX CUT NOT A TAX CUT?

(By Milton Friedman)

The answer to the question posed above is twofold:

(1) When the so-called tax cut only offsets a rise in tax rates produced by the automatic effects of inflation; or

(2) When the so-called tax cut is accompanied by a larger rise in government spending than in prices.

The second condition surely prevails today. The first very possibly may. So in spite of the flood of rhetoric about the need—or lack of need—for a tax cut, about what form the tax cut should take, and so on ad nauseam—the plain fact is that taxes are headed up, not down.

Suppose prices rise by 10 percent and your income also rises by 10 percent to match. It looks as if you are just keeping up with inflation. But you are not because your personal income taxes will go up by more than 10 percent. The fixed dollar personal exemption of $750, as well as other fixed dollar items, will amount to a smaller fraction of your income, and your income will be pushed into higher dollar brackets taxed at higher rates.

TAXES AND INFLATION

In addition, if you have a savings account or if you own government or other bonds that pay interest, you will have to pay taxes on the whole of the interest even though the interest may not offset the fall in the real purchasing power of your principal: in effect, you are being taxed on a return of capital, not a return on capital. Similarly, if you sell stocks or real property, any gain in dollar value will be subject to tax even though the dollar gain may only offset inflation. If you have assets subject to depreciation, the tax law makes no allowance for the higher cost of replacing them.

All in all, if your income goes up by 10 percent, your taxes will, on the average, go up by about 15 percent. That is why, despite several supposed cuts in personal income taxes in the past decade, taxes paid were the same percentage of total personal income in 1976 as in 1966. The legislated tax cuts have been wholly offset by the unlegislated increases.

The effect of inflation on taxes makes inflation very attractive to the political authorities: they can propose and vote tax cuts while the effective tax rate goes up. How to have your cake and eat it too!

The way to end this fraud is to index the tax system, as has been proposed repeatedly.

Congress has been quick to index its own salaries; it is time that it indexed our taxes.

SPENDING AND TAXES

But there is a deeper layer of deception in the talk of a tax cut at a time when government spending is scheduled to increase more rapidly than prices. Suppose government spends $400 billion and raises $350 billion in funds labeled taxes. Who do you suppose pays for the $50 billion difference? The tooth fairy? Hardly. You do.

The real cost of government is measured by what government spends, not by the receipts labeled taxes. The goods and services it buys are not available for other use. If government finances its deficit by creating money, that imposes a hidden tax of inflation, in addition to raising explicit taxes. If it finances the deficit by borrowing, the government gets funds that would otherwise be available for building houses or factories or machines. In the process, it assumes a heavier burden of future interest payments, so that you can confidently look forward to higher taxes—open or hidden—in the future.

This same analysis demonstrates the fallacy in the talk about the "stimulative" effect of increased government spending. True, additional government spending adds directly to employment. But the reduction in funds for private use because of government borrowing to finance the spending—or the hidden tax of inflation imposed by money created to finance the spending—reduce the public's ability to provide employment. Governmentally financed employment simply replaces privately financed employment. The major effect is not to stimulate the economy but simply to expand the government sector at the expense of the private.

A far better way to stimulate the economy is to reduce government spending, taxes and controls; leave more money in our pockets to spend or invest in accordance with our own values, and reduce distortions in the market that hinder us from doing so effectively.

UNDERSTANDING THE DEFINITION OF GENOCIDE

Mr. PROXMIRE. Mr. President, perhaps the delay in ratifying the Genocide Convention is due to a lack of understanding of the actual definition of "genocide" contained in the second article of the treaty.

According to article II, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such:

First. Killing members of the group;

Second. Causing serious bodily or mental harm to members of the group;

Third. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

Fourth. Imposing measures intended to prevent births within the group;

Fifth. Forcibly transferring children of the group to another group.

Much of the misunderstanding of this definition stems from certain vague terms, such as "in whole or in part," "intent to destroy," "mental harm," and "group." I would like to discuss these terms briefly.

Basic to any charge of genocide must be the "intent to destroy" a specific religious, racial, ethnical, or national group. The intent to destroy the whole group must be proven.

"Mental harm" is a term referring to "the permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs, surgical operations, introduction of drugs or other foreign substances into the bodies of such members, or subjection to psychological or psychiatric treatment calculated to permanently impair the mental processes, nervous system or motor functions of such members."

Among the types of groups included in describing the definition of genocide are national, ethnical, racial, religious, as well as children. These groups have been defined as the following:

First. National group: A set of persons who are distinctive in terms of nationality or national origins from other groups forming a population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

Second. Ethnical group: A set of persons whose identity is distinctive in terms of its common cultural traditions or heritage from the other groups forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

Third. Racial group: A set of persons whose identity is distinctive in terms of race, color of skin, or other physical characteristics from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

Fourth. Religious group: A set of persons whose identity is distinctive in terms of its common religious creed, beliefs, doctrines, or rituals from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

Fifth. Children: A set of persons who have not attained the age of 18 and who are legally subject to the care, custody, and control of their parents or of an adult of the group standing in loco parentis.

It is my hope that you will see that we must protect these "groups" which make up the American people.

Mr. President, with this clearer understanding, it should be obvious that ratification of this convention will help assure this protection. Without further delay, we must ratify this convention.

THE PRESIDENT'S PARDON

Mr. HEINZ. Mr. President, last week President Carter exercised his constitutional prerogatives and issued a pardon for Vietnam-era draft evaders. If the decision were left to me, I would not have done so. My own preference would have been for the sort of clemency program pursued by President Ford. A case-by-case review of draft evaders, with due process of law and provisions for alternative service, seems to me to be a far more equitable and judicious approach to this problem than simply issuing blanket pardons. Since the President's pardon did not apply to deserters and other military personnel who received less than honorable discharges, I would encourage the President to institute a case-by-case review program for these individuals rather than issuing a general amnesty order or a second blanket pardon.

My concern in this matter is twofold. First, I think we must all be vigilant in seeking to maintain public respect for the law. Now that President Carter has issued a pardon for draft evaders, I hope he will make clear that his actions were in no way meant to be an official excuse for breaking the law or shirking one's duty. Second, I think it is important to respect the memory of those who chose to obey the law and who sacrificed their lives at their Nation's calling. Again, I would ask President Carter to use the moral force of his office to help insure that his pardon does not degrade the service that Vietnam veterans performed or demean the real sacrifices they made.

In making these comments, I do not want to question President Carter's good faith in choosing to issue his pardon. President Carter made a commitment to the American people on this subject during his campaign, and he deserves credit for keeping his word. I believe his intention has been to heal the wounds that the Vietnam war has left on our Nation's spirit. Although I would have proceeded toward this goal by different means, now that the President has made his decision I hope to work with him in ending the divisions that have prevented the American people from working together for a more just and prosperous future.

Mr. President, the Christian Science Monitor recently published an editorial that closely reflects my own views on this important subject. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Jan. 24, 1977]

THE PRESIDENT'S PARDON

Controversy over President Carter's pardon of Vietnam draft evaders cannot be avoided. But it was a step he had to take if he was to keep a specific campaign promise of which those who supported him were well aware. And now all should rally to help achieve the healing intent of the President's action.

Our disagreement with it does not preclude respect for Mr. Carter's first big example of following through on those words he repeatedly said Americans could "depend on." But the pardon must not be taken as any kind of official justification of breaking the law or denigration of the duty and sacrifice of those who obeyed it.

A case-by-case review of the draft evaders, with due process and provision for alternative service, would be the fairest system. We supported President Ford's clemency program on this basis and still would prefer such an approach carried out with justice and dispatch. It could still be applied to deserters and those with other-than-honorable discharges as well. These were often persons from minorities or low economic status who did not have the knowledge and resources to make choices before going into uniform. (Only 0.1 percent are said to have deserted under the fire of battle.)

Only through such means could there be a sense of ultimate justice not only for the violators but for those who met their military commitments or refused them openly and took the consequences.

But President Carter, just possibly think-

ing of the presidential mercy granted the Civil War rebels from his native South, has risked individual cases of injustice for the sake of closing a chapter for the nation as a whole. He seems to have looked at all the thousands of varying circumstances, considered the various injustices in the carrying out of the draft laws, and decided the time has come to start afresh.

This decision has to be honored, as does his decision to have a study of the deserter, and discharge cases not covered by his order. Now that there is a pardon program, care must be taken to ensure the greatest justice for the greatest number within it.

Surely, if the healing is to continue, there should not be the community hostility to the returning pardoned men that has been predicted by some. It must be remembered that thousands of young men escaped the draft through legal means but unworthy motives and are not suffering for it.

But at the same time, America should not forget those who did serve. A nation's willingness to pardon those who avoided Vietnam should be combined with renewed efforts to honor and care for the veterans still in need.

RUSSELL TRAIN, AN ENVIRONMENTALIST FOR ALL SEASONS

Mr. PROXMIRE. Mr. President, on January 20, one of the most distinguished and effective members of the Ford team tendered his resignation to the incoming administration. On that date Russell Train concluded 3 years of exemplary service as head of the Environmental Protection Agency, one of the toughest jobs in the Federal Government.

Think of the obstacles faced by Administrator Train. If he issued regulations that favored industry, he would be sued by the environmentalists. If he acted to please environmental groups, he would be sued by industry. And, as was usually the case, if he acted in an even-handed way to clean up the environment while refusing to impose undue economic hardships on industry he would be sued by both industrial and environmental interests.

Furthermore, Russell Train's EPA was forced to accommodate a huge variety of new congressional initiatives while being given inadequate personnel by the executive branch. This meant that his Agency had to perform acts of prestidigitation and budget juggling that made the great Houdini look like a piker. Administrator Train's other problems ranged from directing a multiagency effort to explore the environmental problems attending existing and new energy technologies to making sure that an $18 billion waste treatment construction grant program was run efficiently and effectively.

Last week the New York Times carried an editorial praising Russell Train for his exemplary service. As the editorial points out, EPA, "under Mr. Train, has gone far to arrest a serious decline in the country's physical environment." Russell Train performed this remarkable task in the face of formidable obstacles. He can truly be called an environmentalist for all seasons. It will be a tough act to follow.

I ask unanimous consent that the Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MR. TRAIN AND OTHER DEPARTURES

One of the clear achievements of the Ford Administration is that it evoked independence and courage among some of its major officials. We think back admiringly to the way in which Attorney General Levi revived respect for the Department of Justice and the way William Coleman at Transportation thought his way through fiercely contested issues. William Simon at Treasury, Alan Greenspan at the Council of Economic Advisers, Frank Zarb, the energy chief, and William Scranton at the United Nations are some of the other forceful figures that come to mind, though we did not agree in policy with all of them. They and others were not just problem-solvers but vigorous advocates of the kind that any President needs.

Among these departing officials, we should like to speak a special word for Russell Train, who led the Environmental Protection Agency with devotion and imagination. His was surely among the most sensitive and politically dangerous positions. Yet he demonstrated that fairness and the general welfare could both be served by actions that a decade ago would have been deemed unthinkable impositions on our private economy. He stood up to industrial giants and won a degree of compliance, however modified by delaying tactics.

His agency made its share of mistakes, the more so because of its pioneering assignment. A subcommittee of the Senate recently described its handling of the pesticides problem in sharply critical terms. But given the task of reclassifying, for safety, some 50,000 chemical compounds—with practically no money for additional personnel—Mr. Train found no alternative to some degree of sacrifice of either certainty or timeliness. He has had to temporize also in the agency's efforts to impose transportation plans on cities and states for the purpose of reducing air pollution from cars. On this, as on other environmental issues, the courts and Congress have blown hot and cold. The Circuit Court of Appeals for this district, for example, has just ruled—we think wisely—that New York City will have to enforce the plan devised for it, including tolls on East River bridges, but Circuit Courts elsewhere in the country have ruled exactly to the contrary.

The fact remains that the agency, under Mr. Train, has gone far to arrest a serious decline in the country's physical environment. It has created a public awareness of the vital importance of achieving cleaner air, purer water, and a more balanced use of land. It has attempted to cope with the impact of certain pesticides and chemical compounds on the health of the community. It has advanced the cause of preserving wetlands for the vital role they play in the ecology of a region, struggled to find better ways to get rid of solid waste, and worked to reduce the noises of a technological society.

Looking ahead, we hope that whatever President Carter's plans may be for reorganizing the executive branch, he will preserve the independence of the agency—from Interior or any other department. Interior, at least as now constituted, is the focus of pressures from grazing, mining and other interests that are frequently the adversaries of environmental protection. If E.P.A. became Interior, most of Interior had best move somewhere else. And we hope the new President will assign leadership of the agency to someone who has demonstrated Mr. Train's commitment to an improved environment and talent at persuasion and diplomacy.

THE CONGRESSIONAL PRIMER

Mr. STEVENS. Mr. President, I found Mr. MORRIS K. UDALL's article appearing in the Sunday Post entitled, "The Congressional Primer" extremely interesting and humorous. I ask unanimous consent that Mr. UDALL's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Washington Post, Jan. 23, 1977]

THE CONGRESSIONAL PRIMER

(By Morris K. Udall)

Freshly sworn in, having politicked for choice committee assignments, and still unsure of what lies in store for them, my new colleagues in the House and Senate are now settling down in freshly painted and freshly staffed offices waiting for the action to begin. To ease the pain of this learning experience, I want to recall some tales of the Congress and offer a few humble suggestions.

You freshmen have alerady been baptized under fire by trying to find housing that wasn't twice what you were paying at home and to find schooling as good as Amy Carter's, and soon you'll have to explain your pay raise to your constituents.

I do believe there is a popular misconception about our pay. On the face of it, $44,500 would appear to be a comfortable sum to take home. But if you have to maintain a residence in your district as well as in the inflated Washington housing market, and you have to pay double taxes in some states, coupled with the horrendous expenses of campaigning—you only have to ask my American Express accountant about that—a well-paid plumber takes home more than the average member of Congress. And the plumber sees his family more often as well.

None of you was party to the pay-raise proposal, of course, but you'll feel the sting at home nonetheless. It reminds me of the old western story of the horse thief who was lynched by a howling mob seeking quick justice. The next day, however, it was discovered that a mistake had been made and the wrong man strung up. The mob's leader was delegated to lead a deputation to apologize to the unfortunate's widow. After coughing and shuffling his feet nervously, the man said, "Well, Widow Brown, it appears the joke is on us."

In the matter of the pay raise, dear colleagues, the joke's on you.

But you'll survive this little surprise and the others you'll find on the floor of the House.

I recall the sage advice of a House elder given to an earnest but confused novice legislator. Taking the young congressman under his wing, he told him he would be voting correctly if he just listened to the congressman who immediatly preceded him in the roll call and then voted the opposite way. The young congressman did this for some months and soon earned praise for his ability to cut through the complicated issues of the day to be on the right side with great regularity. One day the old mossback ahead of him voiced his displeasure in a piece of legislation by voting "present" and our hero thereupon stood and declared "absent."

The initiation of the electronic voting system has removed one of the barriers to efficiency in the House, though many remain. The system, complete with an electronic scoreboard that looks like it should have a People's Drug sign on it and with plastic voting cards which a member shoves in a polling station slot that records the vote, is not without flaw.

Though it was designed to help lessen confusion on the floor, several times the counter has tallied incorrectly, leading to chaos in the press gallery and on the floor. Such chaos troubles those in the Visitors' Gallery as well. The story is told of a visitor in the Senate gallery at the opening of a day's session who asked the gallery aide if

the chaplain always opened with prayer for the senators.

"No," was the reply, "he looks at the senators and then prays for the country."

Now that we have our plastic cards to punch in our votes, there are other opportunities for expression—not necessarily prayerful ones. One of our colleagues who has the gift of sarcasm attempted to vote against the public services jobs bill with his Carte Blanche. And in another instance, a bright subcommittee chairman was courageously leading the fight on a rather controversial and politically risky bill. As the time came to vote, he reached into his pocket and to his horror discovered that the card was missing. Frantic, he called his office and had a quick search taken of his desk. Time was running out, the vote tally was close. He dashed to his car to see if the card was in his overcoat. It was. Running at full tilt back to the floor, he arrived after the voting time allotted.

But the bill carried by three votes and the day was saved. To the congressman's chagrin, he then learned that he could have recorded his vote by simply telling the clerk that he didn't have his card. A side benefit, however, was that his district's largest newspaper lambasted the bill and noted that Congressman X had not sided with the proponents, according to the voting record.

In addition to such small but vital esoteric logistics, you will soon learn the jargon of debates on the floor. One "yields" and one finds that he can "revise and extend" his remarks to revise history in a most comfortable manner.

Years ago, Senator Bill Proxmire held the floor for some fourteen hours to firmly make a point. Finally, he summed up and routinely asked to have a unanimous consent to revise and extend his remarks.

A weary senator asked for recognition and said, "Mr. President, I can well understand why the distinguished senator might wish to revise his remarks, but I already see absolutely no justification for him to extend them."

Though you might find that many of the votes on the floor are routine and relatively unimportant, a key factor in the reelection of freshmen is their attendance records. Those of us who have survived the first reelection have the luxury of diminished attendance record scrutiny, coupled with an understanding of the system. We now know when to ignore those incessant bells that call for quorums, many times just because somebody wishes to slow the pace of legislation.

Even so, veterans will abuse attendance, some with impunity. A few years ago, a member from New York known for his rampant absenteeism and fondness for foreign travel rose to deliver a rare comment on legislation before the House. He was interrupted by a long-time antagonist from a Southern state who bellowed, "Mr. Speaker, a parliamentary inquiry: Is this gentleman a member of the House?

But enough of the more technical aspects of the congressperson's job. It is time to come to grips with what might be the most crucial of all matters affecting the execution of your duties . . . where you park.

If you have chosen to defy the convention of suburban living and the 14th Street Bridge, and live in either Georgetown or on Capitol Hill, you already know that parking in these residential areas is impossible. If you are lucky enough to find a place in the darkened hours, usually between 11 p.m. and 4 a.m., you risk all by moving the car during the day. It might be wise to leave the family car at rest in the District and use taxis, if for no other reason than that the fare system is designed to benefit those traveling to and from the Capitol.

For the commuters, the House Administration Committee does provide parking in the various House garages, though it is a congressional truism that freshmen members get those spaces assigned to them that are farthest from their offices.

When lovable Wayne Hays chaired the House Administration Committee, his renowned impatience with those who failed to quake in his presence extended to the assignment of parking spaces. When, two years ago, I joined in the aborted effort to oust him from his chairmanship, he told the press at his victory party, "I'll not forget what Mo Udall tried to do to me—he'll have a parking space in Rockville."

Most of the new members have been given office space. Now you know the pains of lack of seniority. Many newcomers are under the misimpression when they arrive that every office has a splendid view of the Capitol, the monuments, and the Japanese cherry trees in full bloom year round.

That impression has most likely been reinforced by the televised appearance of members seated before this vista while being interviewed. Of course it's all a sham arranged by a scenery artist in the House Recording Studio. In fact, most offices given new members are short on views, windows and the facilities of convenience. Most of them face the inner courtyard of the House office buildings, are located immediately beneath the air raid sirens that shriek every first Wednesday of the month at 11 a.m. sharp and are adjacent to public rest rooms which, when in use, issue forth crashes and roars similar to the Battle of Verdun.

Another helpful hint: If you can avoid using the elevators in the Longworth House Office Building, by all means do so. Despite a costly and lengthy renovation program, the elevators remain balky, slow, and cranky. The elevator operators, however, have shown remarkable improvement in demeanor since Mr. Hays' retirement, when permission for them to sit while on duty was restored. Now they can sit while the elevators break down.

The lamentable elevator situation was aptly described in a recent speech by Indiana's Andrew Jacobs.

His entire speech follows: "Mr. Speaker, after careful and scholarly study, I have concluded that the principal cause of congressional inefficiency is the elevator system in the Longworth Building."

There are other important matters that should be included in any Congressional Primer, including the thought-paralyzing system of bells that calls members to the floor to vote, the underground tunnel system, and the advisability of eating at any of the facilities in the Capitol.

First, the bells: There are thirteen different combinations of bells to inform members of the nature of the action taking place in the House. Be prepared for total confusion and some panic when the bells start to ring. (Actually, you'll hear a buzz—"ringing" is a quaint anachronism somewhat akin to the tradition of keeping bean soup on the Members' Dining Room menu—but more on that later.) Here's an example of the bells' complex messages—two bells followed by six rings means that there is a first vote on a measure being considered under suspension of the rules. Got that? Well, if you don't, you'll join good company. I think some old veterans still write the bell code on the backs of their hands.

As for the subway system, every once in a while the whitened bones of long-departed pages and tourists are found in the maze of tunnels that links the Capitol and the House and Senate office buildings. I too, have fallen victim of the tunnels. Shortly after my first election to the Congress I became helplessly lost. Thinking that I could use my relative anonymity to avoid the embarrassment of admitting I was lost, I approached a Capitol policeman.

"Excuse me, officer, could you direct me to Congressman Udall's office?"

"Sure, Congressman," the smiling defender of the Capitol replied. "Your office is down the subway, one turn to the right, and up to the seventh floor."

Humiliated, I slunk away to my office and studied a detailed map of the Capitol for six hours before venturing out again.

Eating on Capitol Hill is perilous business whether you are a member or a visitor. The finer luncheon spots are all downtown, and normal lunch hours coincide with the first call to order of the House, thus making nearly impossible any departure from the Capitol or your office.

The most convenient eating place is the Members' Dining Room, which is in the Capitol itself with easy access to the floor. Though convenient, the service is lamentably slow and the food is less inspired than the name of the place.

The specialty of the house is Congressional Bean Soup, a storied concoction reportedly the favorite of the legendary Speaker Joe Cannon, but actually short of its reputation and reportedly inferior to the Senate's Bean Soup. (I don't recommend comparing the two, as it is common knowledge that the Rolaid sales in both restaurants are quite high.)

House members are probably wiser to "brown bag" lunches and seek out a quiet place far removed from your offices, where the study of legislation and contemplation of your fate might be better achieved. This would provide a respite from the pressures of committee and subcommittee meetings, staff members badgering you on matters of little consequence, and the omnipresent lobbyists who want "just a little of your time"—constantly.

My last advice to my new colleagues is to learn how to get along with your fellow congresspersons and to recognize the valued advice from those of us who have learned how to get along without going along.

I think you all learned a great deal during the December election of a majority leader. I overheard one freshman member say to another, "I don't know how I'll vote—they're both damned rascals."

The other freshman replied, "Well, vote for Congressman X—at least he's our damned rascal."

Though I have been having some fun with the institution of the Congress here, I hope no one will be left with the impression that I take this place lightly—sometimes deservedly, sometimes not.

You've taken your solemn oath, and if you're like me, you felt the rush of emotion and the pride that goes with being a member of Congress.

However, don't let it go to your head. You might well think of the words of a recently retired member's farewell to his colleagues: "May the future bring all the best to you and your family and friends, and may your mother never find out where you work."

NEED FOR LONG-TERM NATURAL GAS POLICY

Mr. STONE. Mr. President, I have followed with considerable alarm recent developments with respect to natural gas shortages throughout our country. The closing of public schools, the loss of jobs, and the threat of cold homes is a sad and intolerable situation. What at first appeared to be a supply problem for isolated sections of our country has become a national crisis affecting almost every community in America.

To illustrate the seriousness and national scope of the present crisis, I want to share with the Senate some facts about the situation in Florida. Florida's gas distributors and customers are served for the most part by the Florida Gas Transmission Co. Like other interstate pipelines, Florida Gas Tranmission has curtailed many of its customers over the past several years.

In 1976, direct, large industrial customers received only 24 days of natural gas and have been totally curtailed since October 19, 1976. During the current heating season smaller industrial and large commercial customers will be curtailed 61 days and have been totally curtailed since January 14. In Florida—with minor exceptions—only residential, small commercial, and extraordinary relief customers have received gas since January 14. Although these curtailed natural gas customers have alternative fuel capability, the detrimental economic impact of using more expensive and limited alternative fuel supplies is serious in Florida.

Although the supply picture in Florida has become quite serious, Florida Gas has voluntarily entered into arrangements with Southern Natural Gas Co.—which serves most of the Southeast—to release some of its gas so as to avoid interrupting supplies to residential and small commercial customers of Southern Natural Gas Co. On January 19, 1977, the Federal Power Commission gave approval to an agreement under which Florida Gas and one of its customers, Florida Power & Light Co., are diverting 100,000 Mcf per day to Southern Natural for 30 days.

On that same day, Mr. President, only the immediate construction of a small, temporary pipeline from Florida Gas' mainline near Tallahassee to the Tallahassee gas distributor's system—supplied by another interstate pipeline—avoided curtailment of residential and small commercial customers in our State's capital city.

I am confident that President Carter and the Congress, working together, will agree upon an emergency natural gas proposal to assist us in avoiding the most serious personal hardships threatened by this winter's unexpectedly cold weather. I commend the President and others, especially Senator RANDOLPH of West Virginia, who have worked so hard to develop a reasonable and effective emergency plan.

Nevertheless, Mr. President, I am compelled to reiterate my concern that unless the President and Congress act soon to adopt legislation addressing the long-term, fundamental problem of natural gas supply, we are likely to face this same crisis year after year.

Present law and regulatory policy are in large part responsibile for the natural gas supply shortages we are now experiencing. For many years, the regulated price for interstate gas has been considerably below the unregulated intrastate price and certainly below what the free market price of natural gas would otherwise be. In addition, given its special qualities, natural gas has remained unjustifiably underpriced relative to other fuels. This circumstance continues today even though the Federal Power Commission in 1976 raised the ceiling price to $1.42 per thousand cubic feet. The results have been decreasing production of natural gas, decreasing supplies of natural gas available in the interstate pipeline system, and little incentive to conserve the available supply of natural gas.

Most economists agree that the present, regulated wellhead price of interstate natural gas is insufficient to encourage necessary exploration and production. Unfortunatley, the costs of exploring for and producing natural gas are rising constantly. Unless our natural gas pricing policy is redesigned to provide incentives for more exploration and production, production will continue to decline and available supply will be increasingly below demand levels.

The 94th Congress came very close to enacting reasonable natural gas legislation which provided for the deregulation of "new" natural gas. Having passed the Senate, the Pearson-Bentsen bill was sidetracked in the House of Representatives by a narrow margin. Essentially, the same bill has been introduced again this year by Senators PEARSON and BENTSEN. I have joined as a cosponsor. Although S. 256 may need some modifications and refinements, it incorporates a sensible approach toward natural gas pricing policy.

Whether Members of Congress agree completely with S. 256 as presently drafted or not, it is imperative that the Congress in the very near future adopt some form of long-term natural gas deregulation. If we do not, I am convinced that this country will face ever more serious shortages of natural gas in the years to come. The President and the Congress simply must put into place an effective, long-term natural gas policy.

PROLIFERATION

Mr. PEARSON. Mr. President, I would like to speak briefly about international proliferation of nuclear explosives. As a member of both the Foreign Relations and Joint Atomic Energy Committees, I have for some time been concerned with this most pressing world problem. Last November, I participated in a study of nuclear concerns in the Mideast. That experience illuminated and confirmed much of my thinking on this subject. I do not speak today for the Mideast Study Group whose cochairmen, Senators RIBICOFF and BAKER, will soon issue their reports. But I would like to take this opportunity to express my position on the spread of nuclear arms capabilities, and to suggest some immediate and long-term goals for our national policy in this regard.

To be sure, the United States has been most active in world control of atomic weaponry. We used our early nuclear domination as leverage to impose restraints, in sharing our energy generating technology, intended to assure only peaceful applications for atomic power. We promoted an international safeguard regime and sought to restrict the spread of nuclear arms through the Non-Proliferation Treaty.

Our policy has rested upon the premise that tightly monitored cooperation serves better the goals of nonproliferation than a program of complete embargo. Embargo in an increasingly energy dependent world would result in the independent development of national nuclear power capabilities and concomitant weapons proliferation. The U.S. policy has been designed to supply nuclear fuel and equipment for electrical generation, under rigidly safeguarded conditions, thereby reducing incentives for other nations to entertain nuclear development programs. In short, Mr. President, the nuclear genie is out of his bottle and since we cannot return him, we have tried to keep him on a leash.

But, Mr. President, the leverage of our nuclear monopoly has been greatly reduced over time. The U.S. share of the atomic market has been cut nearly in half in recent years. Our sales, conditioned upon recipient nations assurances of solely peaceful application, have been supplanted by other, often less cautious suppliers. As enriched fuel to run the world's reactors becomes more scarce, more and more nations express a desire to control a reliable source of supply by possessing fuel reprocessing facilities.

Mr. President, reprocessing spent fuel is the key to the nuclear weapons proliferation problem. Spent fuel from civilian reactors can be recycled for use in further power generation. Many nations, for the avowed purpose of obtaining such a fuel supply, are seeking reprocessing facilities. Because reprocessing separates plutonium, essential to nuclear explosives, the United States has deplored programs under which other nations would obtain such facilities. Any nation with a supply of separated plutonium becomes quickly a nation with a nuclear weapon capability within easy reach. The United States has acted with restraint; our nuclear export policy does not include sales of reprocessing technology or equipment. We have used our influence with our allies to adopt similar policies and to some extent we have been successful. Last year, France contracted for the sale of a $1 billion reprocessing plant to Pakistan, a facility that cannot be justified on electrical power needs alone. American diplomatic efforts eventually were rewarded with a French policy statement that now parallels the U.S. position on proliferation. I do not believe that the Pakistanis will now complete the transaction.

Similarly, the West German Foreign Ministry indicated last month that in the future West Germany would refrain from exporting any facility that could be used in the production of nuclear weapons. Unfortunately, the West German policy does not void an existing contract for the sale of reprocessing facilities to Brazil. Nevertheless, the German decision is to be applauded as a step toward greater control over the spread of

nuclear explosives. And Vice President MONDALE's talks in Bonn yesterday suggest that a final resolution of the problems associated with reprocessing exports may be forthcoming.

What these events made clear, Mr. President, is that the path to nonproliferation lies in the international collaboration, particularly in the control of reprocessing capabilities. The United States must lead, while we are still the dominant supplier of enriched fuel, in an international effort to contain the spread of national reprocessing and to develop alternatives to reprocessing that would recycle spent fuel without separating plutonium.

We can contain national reprocessing by developing internationally controlled facilities that would assure a source of reactor fuel while stringently guarding against proliferation of plutonium. Or efforts will be greatly aided if we expand our enriching capacities. Once assured of a reliable source of enriched uranium, incentives and justifications for national reprocessing are reduced or eliminated. If, for example, the United States could assure Brazil a constant supply of reactor fuel the necessity for purchase of German reprocessing facilities would disappear.

Since a reprocessing technology that produces plutonium presents an unacceptable risk of proliferation, we must launch on a high priority research and development program to demonstrate an economic means of recycling spent fuel without separating plutonium. International incentives to forego national reprocessing development could take the form of offers to share in this technological advancement.

I hope that the new administration adopts a policy that will contain the expansion of national reprocessing and commit American resources to development of safer recycling technologies. These efforts may not quickly result in reduction of the proliferation threat. Valuable as they are, they are not overnight solutions. Perhaps an additional policy component, that would help address the problem immediately, would be to initiate work now to improve the Non-Proliferation Treaty. If the United States were to seek now to expand that treaty to specifically address the reprocessing problem, we would establish clearly our position. Negotiations leading to such a treaty modification might prevent other nations from committing themselves to export contracts in the near future.

Mr. President, former President Ford recognized the dangers of reprocessing and concluded that "reprocessing should not proceed unless there is sound reason to conclude the world community can effectively overcome the associated risks of proliferation." I believe President Carter has reached the same conclusion.

Although energy demands have been heightened in recent years, there is no real urgency for nuclear fuel reprocessing. The economics of reprocessing are neither dramatic nor certain. Reprocessing might at best, reduce nuclear generated electrical costs by 2 percent. Fuel supplies from centrifuge and diffusion enrichment of mined uranium are sufficient to meet the world's needs for some years to come.

Mr. President, it is my hope that the United States will continue in this policy and persuade other supplier nations of its merit. Without any damage to nuclear power supplies we can afford to assess our alternatives, pursue international control and avoid precipitating proliferation.

USDA WINS JANUARY "GOLDEN FLEECE" AWARD

Mr. PROXMIRE. Mr. President, my "Golden Fleece of the Month" award winner for January is the U.S. Department of Agriculture—USDA—which spent nearly $46,000 to determine how long it takes to cook breakfast.

USDA did more than lay an egg on this one. It also spent the taxpayers' money to figure out how many minutes it takes to cook it.

Mr. President, as Senators know, I make monthly "Golden Fleece" awards for the biggest or most ironic example of wasting Federal tax funds. These monthly awards are followed by a "Fleece of the Year" winner in late December.

I should point out, too, that I am a member of the Senate Agriculture Appropriations Subcommittee, which oversees USDA's budget.

Why does USDA deserve the "Fleece" for January? A few examples of what its study produced answers that question.

For instance, USDA's researchers found that it takes 838 time measurement units—TMU's—to fry two eggs in a skillet. In case you are wondering, a time measurement unit or TMU is something that was also cooked up by the folks at USDA. And they decided that each TMU equals 0.036 seconds.

Frankly, I think it would take less time just to fry those two eggs and eat them than it would to translate all those TMU's into seconds on your handy calculator. And besides, it might be a lot more fun.

But let us see what else USDA discovered in its culinary Olympics. Did you realize that it takes 1,222 TMU's to come up with a 6-ounce order of hash? But you need not wait that long for a nice breakfast. If you can sit still for 960 TMU's, you will be enjoying some french toast.

This study gives us more than the big picture. Refinements abound. In the case of french toast, for example, USDA tells us that it takes 22 TMU's to get the egg. If that seems like a long time, it is reassuring to know that only 15 TMU's are consumed in breaking that same egg against the bowl. And so it goes.

Now just who is this study intended to benefit? According to USDA, it is the food service industry, which allegedly can use this study "to determine the direct labor costs to produce a specific menu order and as building blocks to develop productivity measures for scheduling employees and controlling labor costs."

Maybe this is so, maybe not. But why should the taxpayers foot the bill? If members of the food service industry can use this information, let them pay for it.

USDA plans to issue similar studies for lunch and dinner menu items. This would bring the total cost of the project to almost $160,000.

The breakfast tab is bad enough. I ask USDA not to saddle the American people with the check for lunch and dinner as well.

Let me be very clear on one point. The cost figures I have cited come from the National Taxpayers Union, a highly respected watchdog of the public purse. USDA itself claims that its expenditures for the breakfast, lunch, and dinner studies would total approximately $45,000. I shall gladly accept either set of figures. USDA gets the January "Fleece" because not a single penny of public funds should have been spent for this purpose.

A PERSUASIVE CASE FOR RAISES

Mr. STEVENS. Mr. President, on December 12, 1976, the Los Angeles Times made an important editorial comment regarding the need for a salary adjustment for members of the judiciary, legislative, and the upper echelons of the executive branch of the Federal Government. We will soon be deciding this matter as it relates to the President's recommendations. However, the Los Angeles Times' editorial deserves a wider circulation; consequently, Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A PERSUASIVE CASE FOR RAISES

Substantial pay increases for congressmen, federal judges and the most senior federal officials have been recommended by the Commission on Executive, Legislative and Judicial Salaries. We think the recommendations should be followed.

The proposals address a conspicuous inequity in the pay for these 2,496 persons, but more. They are part of a reform package designed to discourage the odious abuses of public trust in the recent past.

Those abuses, combined with the pinch of inflation and taxes, have created a public atmosphere hostile to any pay increases. This has been forthrightly acknowledged by the commission chairman, Peter G. Peterson, himself a former secretary of commerce and presently chairman of the board of Lehman Brothers, the New York investment bankers.

"To be blunt about it," Peterson said, "an individual earning $15,000 a year in my home town of Kearney, Neb., must be able to understand why he is paying taxes to give a raise to a government official who is already making $45,000."

We think the commission has succeeded in making a persuasive case.

The commission rejected the old "comparability" argument that government pay should equal pay in the private sector. That is impossible. And there are factors that make it unwise to try. Rather, the commission proposed what it regards as the minimum salary that could be paid to attract and retain people of high quality. To pay

less than that minimum is to create a situation in which only the incompetent or the independently wealthy can accept senior government positions.

Commission members are insisting that these salary adjustments be made "in the context of reform."

By way of reform, they are suggesting full financial disclosure, strict limitations on outside income, precise standards on conflict of interest, full accounting of all expense funds, vigorous auditing and policies to restrict the kind of jobs that these senior officers may take after leaving public office.

Time will be required to work out details for implementing some of these reforms. Immediate action is possible on some, including those dealing with disclosure, limits on outside income, accounting for expenses and auditing. Others raise complicated questions, notably the proposal to restrict postservice employment, which raises constitutional questions but deserves careful study.

In the meantime, the salary recommendations of the commission should be put into effect.

The increases for the 2,496 senior officials would cost $38 million a year, an increase of 36%. The adjustments would range from no increase for the board of governors of the Postal Service to a 43% increase for the district court judges. But these officials have had only a 5% salary increase since 1969, a period during which general-schedule federal employes have received increases of 66% and in which the cost of living index has risen 61%. These increases would, in turn, indirectly affect the super grades in the civil service, tied by law to the higher salaries, bringing an increase in that category of $81 million a year for 20,365 employes.

In implementing the new salaries, the reform must not be forgotten. Congress can set an immediate example by coupling the increases proposed for its members with new, strict controls over some of the present excesses—including outside lecture fees and a multiplicity of special expense funds, some of which can flow directly to the pockets of members.

Representative pay proposals

	Present	*Proposed*
President*	$200,000	$200,000
Vice President, Chief Justice, Speaker of the House	65,600	80,000
Supreme Court Associate Justices	63,000	77,500
Cabinet members	63,000	67,500
Judges	42,000 to 44,600	62,000 to 65,000
Members of Congress	44,600	57,500

*The Commission makes no recommendation on Presidential pay; it is listed for comparison only.

COLD WEATHER, HIGHER FUEL COSTS, UNDERCUT ECONOMIC RECOVERY

Mr. HUMPHREY. Mr. President, there is no need for me to point out how much colder this winter has become, compared to winters in the recent past. But a harsh winter, in addition to freezing one's fingers and ears, has many implications for the economy that have not been fully appreciated. For one, a very cold winter can play havoc with family budgets and undercut our return to healthy economic growth. As well as being a burden on every household, rising expenditures on home heating fuel could dilute the stimulus to the economy that the new administration has proposed.

Rebates on individual income taxes for 1976 and a permanent increase in the standard deduction could put approximately $170 into the pocket of the average household by mid-1977. The nimble though icy fingers of Jack Frost, however, will take much of it right out again. If the personal tax cuts enacted do provide $170 to the average household, the increase in home heating costs resulting from cold weather, as well as rising energy prices, may eat up more than 40 percent of the benefits. When the average taxpayer actually looks in that pocket, there may be little left there besides last year's mittens.

The Congressional Research Service of the Library of Congress informs me that if this winter continues to be so much colder than the last, the rise in energy prices together with the cost of extended operation of heating systems, in comparison with previous winters, will push up home heating bills by an estimated $5.1 billion over last year. On the average, that means an extra $71 in home heating costs for every household in the country—a jump of more than 50 percent. By way of contrast, the proposed tax rebates of 1976 taxes being considered by the administration totals about $11 billion. By mid-1977, the proposed increase in the standard deduction could add an additional $1.0 billion through withholding tax cuts.

Of course, rising energy prices are part of the problem. From November 1975 to November 1976, the price of natural gas used for home heating rose by 19 percent and fuel oil was up by 5 percent, according to the Bureau of Labor Statistics. The Library of Congress tells me that electricity has gone up in price by almost 13 percent. With the cost of electricity already so high, this poses a particular problem for households that heat with electricity.

But cold weather is the biggest culprit. Looking at heating degree days, a common measure of cold weather, Platt's Oilgram concludes that up to now, this winter is 34 percent colder than the last one on a nationwide basis.

Mr. President, the national figures do not tell the whole story. The impact of home heating costs will be much harder in some parts of the country than in others. When we have Minnesota weather in Washington, you can expect near arctic conditions in Minnesota. Last year in Minnesota our weather was 11 percent warmer than normal. This year it is 20 percent colder than normal. If the present trend of cold weather continues in Minnesota, winter home heating costs would grow by more than 50 percent. This would mean an additional -85 out of every household budget in the State.

Let us look at what will happen to this money. It is true that part of the increase in fuel payments will be quickly translated into overtime wages for the oil delivery man. But in general, the oil and electric companies are the least labor intensive enterprises in our economy. Providing more energy for home heating will be mainly a matter of running their existing, capital intensive facilities at a higher rate. Most of the increase in fuel payments, therefore, will wind up as higher operating costs and profits for oil, gas and electric companies. Eventually, higher revenues will emerge as dividends, new investments or additional corporate tax payments. But they will not be recycled as quickly as a worker's paycheck, nor as quickly as needed to support the economy.

I know President Carter and his workers have worked long and hard to devise the best program of fiscal stimulus for the economy. Their package includes personal and corporate tax cuts, an increase in countercyclical revenue sharing and more spending for public service employment and for public works. The total stimulus provided by the package under consideration would provide approximately $16 billion in fiscal 1977. Therefore, increased home heating costs could divert or negate more than 30 percent of the total package.

Mr. President, in light of these facts it may be that the proposed package simply will not be enough. Millions of Americans are still out of work. The unemployment rate stands at a destructively high 7.9 percent. For many categories of workers the unemployment rate is much higher. And there are so many things that need doing—now. Amtrak has just announced closing several important rail lines because they do not have the manpower to clear the tracks. The parks, the cities, the entire country have needs that could be fulfilled with currently unemployed hands.

Mr. President, the escalation of home heating costs suggests that we may have to re-examine the fiscal stimulus needed to get the economy moving in the right direction. I would like to see more direct spending on jobs. But, if we are going to rely on rebates of 1976 taxes, we must face up to the fact that much of the tax rebate contained in President Carter's fiscal stimulus package will be consumed by increased costs of fuel and therefore will have a limited impact in so far as economic stimulus is concerned.

Mr. President, I ask unanimous consent that some summary figures, showing the impact that cold weather will have on the proposed personal tax cuts, be printed in the RECORD.

There being no objection, the figures were ordered to be printed in the RECORD, as follows:

TAX CUTS AND HEATING COSTS

Minimum Tax Cut (mid 1977): $8 billion [1].

Maximum Tax Cut (mid-1977): $12 billion [2].

Average Minimum Tax Cut per Household: $111.83.[3]

Average Maximum Tax Cut per Household: $167.75.[3]

Average Increase in Heating Costs per Household: $71.29.[4]

[1] Assumes a rebate on 1976 taxes of $7 billion. Assumes that the increase in the standard deduction will cut taxes at an annual rate of $4 billion. Because of the delay in enacting the cut and introducing new withholding tables, it is assumed that only ¾ of $3 billion of the 1977 tax reduction will be reflected in take-home pay in calendar year 1977. By mid-1977, it is assumed that only a $1 billion reduction has taken place.

[2] Assumes a rebate on 1976 taxes of $11 billion. See footnote 1 for assumption about impact of an increased standard deduction.

[3] Divides the tax cut by the total number of households in the United States as of July 1, 1975—71,537,000. Source: Bureau of the Census.

[4] Divides Library of Congress estimate for increased heating costs by the total number of households in the United States.

MONDALE'S JOB ABROAD

Mr. GOLDWATER. Mr. President, President Carter is to be commended for having recognized so clearly the international threat to the solvency of the world. In this recognition he goes back to the basic cause of the great depression of the late 1920's which was the collapse of the Kreditanstadt Bank in Austria. Austria had been engaged in exactly the kind of practices that the United States is pursuing, in spite of the warnings by other countries to cease deficit spending. When this banking institution failed the Austrian mark, then an important figure in world currency, collapsed and the world depression started. There is no question that the nations of this world are again in serious, financial trouble. The estimate running between $190 billion and $250 billion, as debts of the underdeveloped nations could be on the low side, but even if it is exact, it is on the high side and far too high for safety. I wish for Vice President MONDALE nothing but success in getting talks started on ways to avert and avoid another world depression such as we suffered through the 1930's and which only a world war ended. I hope that President Carter will continue to pay scrupulous attention to this most serious condition that exists all around us. I ask unanimous consent that a good editorial on the question appearing in the Arizona Republic be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MONDALE'S JOB ABROAD

Jimmy Carter's decision to send Walter F. Mondale to Western Europe and Japan a week after his inauguration reflects the President-elect's deep-seated conviction that international economic problems will be his "biggest headache in the next four years."

It will be Mondale's job to reassure our allies that we recognize the seriousness of the world economic situation, and to set the stage for an economic summit meeting of the industralized nations some time in May or June.

The timing of the projected summit is significant. It will come before Carter's meeting with Soviet leader Leonid Brezhnev. He does not plan to see Brezhnev until this Fall. Clearly he believes that dealing with the world's economic problems is a more urgent problem than our relations wtih Soviet Russia.

He's right.

It's generally been forgotten, but the Great Depression started as the result of the collapse of a bank in Vienna, the Creditanstadt. The world economy was extremely fragile, so this led to a financial panic throughout Western Europe, which, in turn, caused a financial panic in the United States.

The world economy is even more interdependent now than it was then, and it's equally fragile.

Many nations have accumulated mountainous debts, and are on the verge of bankruptcy. In Western Europe, the most notable examples are Britain and Italy, but their situations are not as bad as that of many of the underdeveloped nations.

The underdeveloped nations are estimated to owe between $190 billion and $250 billion. Says Federal Reserve Governor Henry C. Wallich: "The rate at which these countries built debt cannot be sustained."

The threat is obvious. If several of the biggest debtors were to collapse financially, the world banking system would be severely strained.

One of the reasons for the huge debt is the 400 per cent rise in the price of crude oil, coupled with a drop in most commodity prices. The underdeveloped nations have nothing to export but commodities.

The economic summit will have to figure out a way to deal with the oil-price increase.

It will also have to figure out a way to avert a tariff-and-quota war. Sentiment for protectionism is mounting everywhere in the world, including the U.S.

What those who advocate measures to keep out foreign products forget is that everyone can play at that game. Higher tariffs and quotas inevitably bring retaliation, and this can only result in a deterioration of world trade.

An economic summit will have its work cut out for it. Mondale can't set the stage for it too soon.

NATIONAL NEIGHBORHOOD POLICY ACT—S. 417

Mr. HUDDLESTON. Mr. President, I am pleased to join the distinguished Senator from Wisconsin (Mr. PROXMIRE) in cosponsoring the National Neighborhood Policy Act. Similar legislation passed the Senate on September 7 of last year, but action was not completed prior to adjournment.

This legislation is designed to pave the way for identification of means to preserve and reinvigorate neighborhoods, which have slowly but accurately come to be recognized as the heart of healthy urban areas and the base of stable community social life. Without stable neighborhoods, all too often we find alienation, diminished pride in an area, a lack of social contacts among its people, an absence of a sense of community. Similarly, without stable neighborhoods, physical and structural problems tend to increase, resulting in too many instances in deterioration, decay and abandonment. In fact, the social and physical difficulties often feed upon each other, contributing even further to decline.

Unfortunately, there are growing indications that Federal programs, especially in the housing and urban renewal area, have contributed to the destruction of our neighborhoods and to the destablization of the lives of the residents therein. But the problem is not just housing programs, not just Federal programs. There is, instead, evidence that a wide variety of factors—other Federal categorical programs, local tax structures, public and private lending policies—determine the viability of neighborhoods. It is this interplay of factors, an interweave of cognizable policies and intangible implications resulting in unintended patterns and skewed lines, which threaten our neighborhoods. It is these mixed objectives and aims which cry for evaluation and coordination and the development of a more positive approach.

As the committee report on the legislation which was proposed last year notes, existing housing is not only our main housing resource, it is the largest single component of our country's national wealth. To ignore this base is not just foolish, but self-defeating.

As a member of the HUD-Independent Agencies Subcommittee of the Senate Appropriations Committee, I am only too aware of the multitude of programs which exist to benefit our localities and the billions of dollars which are spent for urban renewal, improved housing and community development. Some of these efforts have been successful; others not so. Some of these efforts have complimented other activities; others conflicted with them. Some of these efforts have proven to be a a good investment; others mostly dollars thrown away. It is, consequently, time for a reevaluation, time for an assessment of the interrelationships among programs, time to focus anew on the values of the neighborhood.

Mr. President, the proposed Commission, one of whose purposes is to determine what public policies would promote the conservation of neighborhoods is much needed at this time. Underlying our efforts in housing and community development, we should have a solid base of information and a firm commitment to the preservation of the neighborhood.

Already a number of communities have embarked upon such programs. Indeed, a significant portion of existing community development block grant funds have been channeled into rehabilitation and preservation efforts. Many have made exciting use of the section 312 rehabilitation loan program. Already we have local experience and suggestions upon which to build. A commission such as proposed is a logical extension of these efforts and a realistic means of developing a coordinated action plan involving our Federal, State, and local governments in the protection and enhancement of our neighborhoods.

NATIONAL NEIGHBORHOOD POLICY ACT—S. 417

Mr. GARN. Mr. President, I am pleased to join the distinguished Senator from Wisconsin (Mr. PROXMIRE), the chairman of the Banking, Housing and Urban Affairs Committee, in sponsoring the National Neighborhood Policy Act. The purpose of this bill is to establish a National Commission on Neighborhoods to make a thorough evaluation of the impact of public laws, policies, and programs on urban neighborhoods and to make recommendations for modifications necessary to promote neighborhood revitalization.

The neighborhoods of our cities are faced with many serious problems. The core population of the cities is decreasing at an alarming rate. In the decade of 1960 to 1970, approximately 345,000 persons migrated out of the central cities each year. Between 1970 and 1975, they lost over 1.4 million people per year.

Few cities have been able to contend with the numerous problems of population loss and property abandonment in the inner-city neighborhoods. Often overlooked are factors which are even more difficult for a city to cope with which are regional in nature. Far beyond the control of local governments are such things as inflation, energy shortages, pollution, and shifts in employment patterns, all of which serve to exacerbate an already difficult situation for cities trying

to provide and sustain the necessary level of services.

The tax base of many cities has declined sharply. The property tax is traditionally the principal source of local government revenue. Nationwide, it accounts for almost two-thirds of all locally collected general revenue. Declining economic activity has resulted in lower manufacturing and commercial assessments and lower demand for housing. The older industrial cities have had their revenue-raising capacity impaired by slow economic growth and by the misfortune of having their local tax collections tied to a property tax base that exaggerates local trends. Through 1973, some declining cities continued to ignore the constraints imposed by their limited local taxing capacity and allowed expenditures to rise at record rates. They relied largely on external funding transferred to them through intergovernmental assistance to make up the deficit.

When external assistance to the cities faltered, rather than balance their budgets through expenditure reduction or tax increases, some cities such as New York tried to borrow to meet operating costs, treating the debt that accumulated as if it were a transfer payment never to be repaid.

To circumvent legal restrictions, budgetary gimmicks were utilized. Finally, in the case of New York, the market would no longer accept the city's notes and financial collapse was imminent.

As a former mayor and one who was active in the National League of Cities and the U.S. Conference of Mayors, I had an opportunity to visit and study many cities of all sizes and descriptions in all parts of the country. Virtually all of the existing city neighborhoods have the infrastructure that at one time provided the necessary services and amenities. In some cases they have fallen into disuse and disrepair to varying degree, but it would be far more economical to repair a street, a sewer line, a water main, provide an open space, or whatever, than to move into a cornfield and build a new suburb. If you will permit a generalization, it is that the "existing city neighborhoods" represent a national resource which not only must be conserved and revitalized for the sake of the cities' economy and physical well being, but more importantly, for the sake of the people who choose to live in them. The older neighborhoods are beset by a long list of ills such as redlining, block busting, speculation and physical deterioration but they are only symptoms of afar more complex problem. There are no simple solutions.

Federal programs implemented in the last 20 years to aid the cities have been notable for their failure to achieve intended results. One of the earliest interventions involved the housing programs of the 1930's. Urban slums were seen as the biggest problem of the cities and it was felt that the best solution was to subsidize housing for the poor. This has resulted in generations of public housing tenants. Urban renewal was soon to follow with less than desired success. Later, the subsidized housing programs of the 1960's were suspended in the early 1970's because of gross mismanagement and fraud.

Although housing has improved for most Americans, it has largely been the result of higher levels of income rather than Federal housing programs. Unfortunately, however, this improvement has failed to reach inner-city areas and the problems of the neighborhoods have emerged as today's principal urban crisis.

The neighborhood Commission bill states that the tendency of public policy incentives to ignore the need to preserve has aided and abetted this lack of concern and support for existing city neighborhoods. As an indication that such is the case, I would like to share a few of my experiences as a mayor. I have previously stated that often I felt that I was not the mayor of Salt Lake City, but instead the local manager for the Federal Government. For example, when the Federal Government was moving into cities with community development block grants on the one hand, on the other hand Congress was curtailing sharply the necessary 701 planning funds. Or, to be even more specific, my experience with revenue sharing was that the Federal Government provided $4.1 million to my city with the one hand but on the other hand, with the Fair Labor Standards Act Amendments of 1972, increased the city's operating costs by $3.5 million. What else can a city do when faced with such a situation but cut services and capital improvements? That problem is further exaggerated within the older center cities. We found ourselves, as local officials, being visited by the Federal bureaucrats with their "bag of solutions" and it became our challenge to find problems to match their solutions. This is clearly not the most effective way to utilize this Nation's resources. We must permit cities to make their own analyses and set their own goals and spend the money to accomplish them. Hopefully in the long run the Nation's tax structure will be revised to permit cities to keep the funds and not have to look to the Federal Government to recycle the tax dollars. But until that happens, we must make it possible for the localities to be as efficient as our technology will permit.

Today, urbanologists and sociologists tell us that problems of inadequate income and race discrimination lie at the very heart of the problems in our urban neighborhoods. That may be; however, income maintenance programs and antidiscrimination statutes alone are not going to rescue the inner cities.

There is probably less consensus on the cause of and solution for urban decline now than there was 20 years ago. It is evident that most Americans have lost confidence in the ability of the Federal Government to find or provide answers for this problem. The emphasis is turning to programs such as revenue sharing and community development block grants which move public decisionmaking responsibilities out of Washington and back into the local communities.

The demographic changes in the cities and the decline of the northeastern and north-central regions coupled with past failures of many Federal programs raise a multitude of policy questions. Some of these are:

Should localities be barred from utilizing zoning and building codes to restrict entry on fiscal grounds? Should Federal policies of encouraging suburban housing construction through tax laws and subsidies be reversed? Should the Federal Government continue to encourage suburbanization through Federal highway and sewer construction programs?

What level and type of external assistance should be given to the cities? Should the formula(s) for Federal expenditures be tilted to favor the declining areas? Should new job programs and countercyclical aid to the cities be adopted? Should the Federal Government encourage neighborhood rehabilitation through beneficial tax programs? Should a Federal policy of benign neglect be adopted to force the cities to solve their own problems by spending less and taxing more? Should metropolitan governments be created coterminous with urban market areas? Should cities unilaterally recapture the metropolitan tax base by imposing commuter taxes? Should the Federal Government assist the cities by refraining from strengthening the hand of municipal employee unions through national legislation which would authorize public sector strikes or otherwise improve the union's bargaining power?

City governments have to be made more efficient. Cities must be made safe and habitable. Although I see local initiative as the key to the urban predicament, national policy plays an important role. The Federal Government must control inflation if the cities are to survive. Federal energy and environmental policies should be realistic to allow the economic viability of the cities. The Federal Government must refrain from imposing unrealistic social programs upon the local community.

As Nathan Glazer has observed, urban policies of the last 20 years grew out of shifting concensus among urban experts on what was needed to make a substantial contribution to easing the problems of cities. Literally scores of different programs were tried. A national commission on neighborhoods can make a contribution by evaluating those programs to prevent our repeating past mistakes and hopefully to give us positive directions. Because I am committed to the goals of this legislation, I again urge my colleagues to support it.

SELECT COMMITTEE ON SMALL BUSINESS

Mr. BAYH. Mr. President, the Senate will begin shortly to consider a major reorganization of the Senate committee system. I am looking forward to supporting a majority of the reforms recommended by the Temporary Select Committee on Committees. At the same time, I also support the modifications in the

select committee recommendations made by the Senate Rules Committee. I am particularly pleased to support the Rules Committee decision to retain the Select Committee on Small Business.

The Select Committee on Small Business has served its constituency well over the last 27 years. I was deeply concerned that the effectiveness of this select committee would have been deeply impaired if it had been merged with the Senate Agriculture Committee. It would have been impossible for a subcommittee of 5 members to carry on the workload that has been shared by the 15 to 25 Senators who have been members of the Select Committee during past Congresses. Additionally, it is clear that no one standing committee exclusively represents small business interests.

Historically, Congress has always been sympathetic to the needs of America's small businessmen. The antitrust statutes promulgated in the late 1800's served to protect the small businessman from predatory practices of giant corporations. During the Great Depression, the Reconstruction Finance Corporation served the small business community which needed business loans. In the early 1950's Congress created the Small Business Administration to address the needs of small businessmen.

Since the 1950's interests of the small business community were represented in the Congress by a Select Committee on Small Business. Only 8 months ago, this committee for the first time in its history, received legislative jurisdiction. The Rules Committee action retaining the Select Committee on Small Business confirms the Congress commitment to address the needs of the small businessman.

The importance of the American small businessman cannot be overstated. Of America's 12 million businesses, 96.7 percent are small businesses. Small businesses account for 43 percent of our gross national product and provide 55 percent of the total U.S. work force. Directly or indirectly, small business provides livelihoods for 100 million Americans.

It is for this reason that I applaud the Rules Committee action to retain the Select Committee on Small Business.

CRIME

Mr. LAXALT. Mr. President, as Senators are well aware, crime continues to be one of the major problems confronting our society. Crime on our streets has been especially pernicious, older Americans are afraid to leave the confines of their homes, storekeepers work in constant fear, and the casual shopper has become an easy mark. Yet, some efforts to deter street crime have been successful, and I would like to call the attention of my colleagues to a recent example in my own State of Nevada.

At the end of November, in Las Vegas, a highly skilled team of law enforcement officers climaxed a 5½-month undercover operation known as "Switch." This joint effort by the Office of the District Attorney, the Metropolitan Police Department, the FBI, and other State and Federal agencies resulted in the recovery of about $500,000 in stolen goods and the arrest of approximately 58 individuals. Ironically, many of the arrests were made at a mock party and car raffle given at the store front fencing operation used to lure street criminals involved in burglary, robbery, and associated offenses.

Of course, the truest measure of success was to be found in subsequent crime statistics. And, I am pleased to report that preliminary figures confirm the utility of the operation; street crimes in the month of December were down in comparison with previous time periods.

Mr. President, I believe that these dedicated law enforcement officers deserve our deepest gratitude. Owing to their diligence and expertise, Las Vegas area communities are that much more secure.

MANAGING OUR FORESTS FOR THE FUTURE

Mr. HUMPHREY. Mr. President, I wish to share with my colleagues in the Senate two articles in the December 1976 issue of the Journal of Forestry on the development of the National Forest Management Act of 1976.

The first article, "National Forest Policy and the 94th Congress," by John R. McGuire, Chief of the Forest Service, outlines the major changes represented by the National Forest Management Act and why this piece of legislation may result in labeling the 94th Congress the "natural resource policy Congress."

The second article, "Development of the National Forest Management Act," by Dennis C. LeMaster and Luke Popovich, outlines the reasons why this legislation was developed and some of the main issues which had to be resolved in terms of how to approach and reform the management of our national forests. This article also included a summary of the main provisions of the legislation.

Taken together, the two articles offer a better understanding as to the major significance of this legislation and the many complex issues involved in developing a satisfactory legislative solution.

Mr. President, I ask unanimous consent that these informative articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

NATIONAL FOREST POLICY AND THE 94TH CONGRESS

(By John R. McGuire)

The 88th Congress is sometimes referred to as the "Conservation Congress" for the Wilderness, Land and Water Conservation Fund and other conservation measures it legislated. The 94th Congress may similarly become noted as the "Natural Resource Policy Congress" because of the significant natural resource policy legislation it enacted in its closing days. With the National Forest Management Act of 1976, and also with the Federal Land Policy and Management Act, the Agricultural Resources Conservation Act (later vetoed by President Ford) and the Payments-in-Lieu-of-Taxes Act, the 94th Congress dealt quite substantially with a number of important resource policy issues.

The National Forest Management Act is a landmark in the history of the nation's natural resource legislation. What started out as a solution to timber sale problems caused by the famous—or infamous—Monongahela decision evolved through the legislative process into the strongest policy direction Congress has ever provided on national forest management. Senator Hubert Humphrey said of this legislation "It represents a milestone in federal policy toward management of our vast National Forest System, presenting a sound balance between protection of the environment on the one hand and assuring adequate supplies of wood and wood products on the other."

While providing policy direction, Congress with the new law has endorsed the concept that silvicultural prescriptions should be the province of the professional resource manager, not the legislators. But with this law, it also has made clear that it intends to keep an eye on what the resource manager is doing. Congress expects the resource manager to practice interdisciplinary planning and the public to be involved in land management decisions. For the time being, it has by-passed restrictive legislation in favor of policy direction. However, there's little doubt that if Congress doesn't like what it sees in the way its direction is being carried out, it will be back with more direction and also more restrictions. We have been given policy guidance; now it is up to us to work effectively within that direction.

Most of the key issues in forest policy dealt with by the 94th Congress are found in the National Forest Management Act.

Silvicultural systems.—Although the media still refer to the National Forest Management Act as "clear-cutting" legislation, clear cutting per se was really never the major issue. The debate over clear cutting throughout the past decade seems to have reached its peak back with the Church Subcommittee hearings and the guidelines on clear cutting issued in 1972. The Church guidelines, revised slightly, were written into the act. But in general the debate over clear cutting seems to have tapered off, probably because there is much better congressional understanding of the silvicultural rationale for clear cutting. Even though there was a lot of testimony on clear cutting early in the development of this legislation, the question of whether we should clear-cut or not was never really in doubt. More attention was centered on environmental controls of clear cutting and other even-aged practices.

One of the early focuses of debate on this legislation was on even-aged versus all-aged management, and whether the legislation should prescribe silvicultural practices for the resource manager. The Randolph-Brown bills, supported by some environmentalists, would have dictated a number of silvicultural practices, particularly the use of uneven-aged management in the eastern hardwood forests. However, there was really not much support for prescription by legislation, and it never became a major point of debate. Other environmental concerns expressed through the Randolph-Brown bills were addressed in the final legislation, but in other ways.

Regulation of cut.—This issue proved to be the most difficult of the forest policy issues for the Congress to try to resolve. It was upon this point that the legislation almost faltered and was saved only by compromise in the final moments. The rate of liquidation of the large inventory of old-growth timber in the national forests is indeed a policy question, although it has many technical aspects. The nondeclining even-flow policy of the Forest Service has been widely criticized by those who believe it has resulted in a liquidation rate that is either too fast or too slow. But alternative policies were not well analyzed and presented. By the time the House and Senate conferees met

on the act, the question had become whether to deal with the issue by statute or to leave the matter to agency discretion. The compromise finally worked out sets nondeclining even flow as policy but gives the resource manager some flexibility to address specific harvest scheduling problems on a case-by-case basis, provided that changes from the standard policy can be accomplished in harmony with multiple-use sustained yield objectives of the land management plans and that there is public participation in the planning process. This compromise saved the legislation at the last minute, but only time will tell whether the issue has been resolved fully or only temporarily.

Land-use decisions.—The act provides major direction on land management planning to augment present planning. Although the federal land-use planning bill had been rejected, this forest legislation strongly endorsed the idea of land management planning for the National Forest System. In fact, it was through the land management planning process that Congress chose to deal with the recognized diversity of the forest lands involved. Rather than try to legislate management direction, Congress has chosen to legislate a land management planning process with full public participation so that considerations unique to each land unit are dealt with before a final management decision is reached. Public participation is an important part of this process. A committee of scientists composed of non-Forest Service personnel is to be established to provide scientific and technical advice to help develop regulations for the land management planning process and to ensure that an effective interdisciplinary process is developed. In addition, advisory committees will be established at major operational levels of Forest Service activities. Congress has also indicated that not only does it want more opportunities for public participation in land-use decisions, but it also wants it made easier for the public to participate. Consequently, the legislation requires that land management and resource planning documents for each national forest unit be brought together at one place and that there be some uniformity of planning nationwide.

Program funding.—How to fund programs is an issue Congress must deal with continually. So far, the substantive committees have not found a solution to the problem of ensuring high enough budget requests and appropriations for the programs they support. Two years ago Congress attempted to deal with program funding in the Forest and Rangeland Renewable Resources Planning Act (RPA) by tying funding to long-range program planning. In similar legislation vetoed this year, the Agricultural Resources Conservation Act would have provided for the long-range planning of Soil Conservation Service programs. In the National Forest Management Act, Congress again took up the question of specific funding for certain programs. The act authorizes a $200 million annual appropriation and directs an accelerated schedule for reforestation and timber stand improvement. But it also provides funding for activities outside the regular appropriation procedures. For example, salvage sales can be financed through monetary deposits from the purchasers of those sales. And use of the Knutson-Vandenberg deposits (the K–V Fund) has been broadened to include sale area improvement operations, maintenance and construction, and wildlife habitat management. In the past, both the executive and legislative branches of government have frowned on such attempts to by-pass appropriations. But surprisingly no controversy surfaced over these funding provisions in the National Forest Management Act.

Timber sale policies.—Congress made a number of substantial changes in timber sale policies. One which has not received widespread attention is that Congress has determined that the government should be able to sell logs and wood products from the national forests, as well as standing trees. Although appropriated funds would be needed for this approach, the possibility of such a program has been provided. This could prove to be important in areas of particularly high esthetic, wildlife habitat, or watershed values, since the Forest Service might use contract loggers to harvest the timber. Another change is in length of term of sales. Congress has for some time been dissatisfied with lengthy sales, believing government resources should not be committed on a long-term basis without knowing what future needs or difficulties might arise. Thus, it has placed a 10-year limit on timber sales. Some exceptions are allowed, but I don't foresee frequent use of them. Also, in the timber sale policy area, Congress dealt with possible collusion by requiring, among other things, sealed bidding for most sales. It has allowed the small business purchasers when they are awarded timber sales to elect to have the Forest Service build roads if the estimated cost is more than $20,000. And, lest we forget, the National Forest Management Act did repeal that section of the Organic Act which, as interpreted by the courts, banned the sale of all timber from national forests which was not dead, physiologically mature, of large growth and individually marked.

Payments to states.—Obviously, Congress is concerned about the impact of federal lands on local government finances. The 94th Congress dealt with this issue in not only the National Forest Management Act, but also in the Payments-in-Lieu-of-Taxes Act. The two laws make some important changes and increase payments to local governments, but the problem of equity, recognized in the Public Land Law Review Commission report and other studies, has not been completely resolved. Those counties which already received high payments will receive higher ones; those which received low payments will receive payments somewhat higher, but still low in comparison to others. Also, no way has been found to equalize local taxes foregone with local benefits provided by federal lands. I am sure the issue of payments to states will resurface and will have to be dealt with again by future Congresses.

Kinds of trees on national forests.—The National Forest Management Act addresses the question of what kinds of trees we should be growing on the national forests in two distinct ways. One is related to the age of trees. On this question, Congress has decided that, in most cases, trees on the national forests should be grown to sawtimber size rather than to be harvested as soon as they reach pulpwood size. As with many provisions of the act, however, Congress has left room for some exceptions. Another decision relates to the species composition of the national forests. Through provisions in the National Forest Management Act, Congress has made clear that an adequate diversity of plant and animal species should be maintained. Thus, the act prohibits large-scale conversions of national forest lands to a single tree species.

Wood and wood fiber utilization.—Congress has also shown a continuing concern for more complete utilization of the nation's timber harvest. It has recognized that timber supplies can be increased not only through reforestation, but also through increased utilization of wood wastes, including recycling of wood fibers. But it is apparent that while Congress has acknowledged a need for a timber utilization policy, it does not yet have a clear understanding of what that policy should be. Congress has not, for example, decided if a subsidy approach is the proper way to address the issue, nor is it clear what incentives could be tolerated. For the moment it has decided to deal with the issue by studying it further. Congress has asked for reports on wood fiber potential, potential for increased utilization of forest and wood product wastes, and milling and other wood fiber product fabrication facilities. While the National Forest Management Act did not go very far in providing specific direction on utilization, it did require that utilizaton standards of timber sale contracts and planned harvesting methods and measurement systems make effective use of the wood resource.

International trade.—This issue, once hot, has received relatively little attention from Congress in recent years even though the volume of both timber exports and imports is increasing. Undoubtedly this issue will receive more attention when the economy is stronger and there is once again a continuing stiff competition for softwood sawtimber. For the present, Congress has only directed that an evaluation be made of the impacts of the export and import of raw logs upon domestic timber supplies and prices.

Land acquisition and exchange.—In this area the tendency has been to simplify procedures. The National Forest Management Act abolished the National Forest Reservation Commission, but provided for more congressional oversight on land acquisitions and exchanges. With the Federal Land Policy and Management Act (the BLM Organic Act) the 94th Congress established a new policy which authorizes the use of cash equalization in land exchanges. This means that where before national forest land exchanges had to involve lands of equal or near-equal value, differences in value can now be made up with cash. This will greatly simplify exchange procedures.

Statutory status.—I have left for last an issue that I believe to have great significance. With the passage of the National Forest Management Act, the national forests created from the public domain have been given statutory status, and can now only be returned to public domain by an act of Congress. The national parks were created by legislation, but national forests created from the public domain were established by presidential proclamation and could have been returned to public domain by another presidential proclamation. The chances of this ever happening on a large scale were slim, but the possibility was there. With this act, Congress has determined that the designation of national forests should be permanent unless it otherwise decrees.

There are, of course, other issues addressed in the National Forest Management Act, but these 11 are of primary importance. The direction provided by Congress on these issues will have tremendous impacts on Forest Service activities and operations.

One question that has frequently been raised is why didn't we seek a simpler solution to the forest management problems brought on by the Monongahela decision. When it first became obvious that a solution must be sought through legislation, we had hoped to have an administration bill to advance our position. But division within the administration denied us this advantage. Then too, it was apparent that Congress wished to take the opportunity presented by the Monongahela problems to address a number of other forest policy issues. There was some thought, also, that a simple revision of the Organic Act would only lead to further litigation.

Congress decided there was a need for comprehensive legislation. With the National Forest Management Act, and other natural resource legislation, Congress chose to consider a number of significant national forest policy issues. It has resolved some, found perhaps only temporary solutions for others, and indicated a need for further study on

yet still more. However, there is a particular significance in the fact that Congress chose to deal with these issues at all. Some general conclusions can be drawn from the action that Congress has taken.

First, it is obvious that Congress intends to provide more oversight for natural resource management activities. It intends to pay close attention to how its policy guidelines are carried out. Second, it has chosen to put more direction into statute, rather than leaving its intent to be carried out through administrative regulations and procedures. And, too, by encouraging Forest Service participation on the BLM Organic Act, I think that Congress has indicated it wants more uniformity of direction among government agencies with similar functions.

As for the future, there is every indication that the attention given to forest policy and forestry issues by the 94th Congress will continue in the 95th. As I mentioned, Congress will increase its oversight role; it has asked for a number of reports to help it decide action on future issues. We believe that, having provided this direction on national forest management policy, the primary areas of concern in the next Congress will be in forestry research and in state and private forestry. Incentives for private forest landowners, funding for rural community fire protection programs, and urban forestry grant programs are all issues which we can expect will come up before the 95th Congress. Research, energy, and related mining and mineral leasing programs will undoubtedly receive congressional attention in the near future. The issue of Alaskan national public lands systems cannot be ignored. And the study and designation of special areas, such as wilderness, and wild and scenic rivers, will continue to be important areas of congressional concern. For example, Congress must sometime soon decide how large the National Wilderness Preservation System eventually will be. It must decide, too, if areas are to be given wilderness designation because they meet the criteria for wilderness, or because they merely should not be developed. There is a need for Congress to determine if additions to the system are to be made on an orderly basis, following established procedures for wilderness study. This past year, we have seen a number of additions which did not derive from orderly planning and study procedures.

Furthermore, 1977 will be the first budget year in which the RPA documents will be considered in depth by the relevant congressional committees. We expect, and hope, that funding levels will emphasize and increase applied research projects as they relate to the RPA Assessment and Programs. In short, the 95th Congress will not lack for forestry issues to consider.

At the beginning, I said the National Forest Management Act of 1976 endorsed the concept that silvicultural prescriptions should be the province of the professional resources manager. But I think we can go further than that. With this act, Congress reaffirmed its faith in the natural resource professions. We have been given a great deal of latitude to manage the national forest and range lands in the best interests of the nation, using our technical skills, scientific knowledge, and professional judgment.

There is no doubt that Congress wants to be able to leave forest management to the professional forest land managers. Congressman after congressman made this point in discussions on the act.

But with this congressional endorsement of professional resource management comes great responsibility. Whether forestry issues remain out of the courts depends a great deal on how well on-the-ground management is responsive to both congressional direction and the needs and desires of the American public. We must ask ourselves if more sensitivity to public concerns in the early 1960's might have prevented a situation in which the Monongahela decision became a critical, national issue. By the time public wants—and demands—were understood, it was too late. The public had turned to the courts.

We, and the nation, are fortunate the courts recognized that decisions in forest policy properly belonged to Congress. And we are even more fortunate Congress was able to enact sound legislation, a law that, in the words of Chairman Foley, "reflects a good compromise which preserves access to an important reserve of timber but at the same time protects the national forests by establishing the strongest environmental and silvicultural controls ever imposed by any legislation dealing with the national forests."

National forest managers have now been given a chance to show that they can carry out congressional directives without prescriptive legislation. We can't depend on another chance. In effect, we have said to Congress: Tell us what you want from the nation's forests and give us the tools we need to practice scientific resource management. In return, we will manage those forest lands to produce the goods and services the nation needs, not just how, but in perpetuity.

Congress has generally given us what we have asked for and has shown a willingness to consider our needs for funding as long as we can manage effectively. The Renewable Resources Planning Act provided for long-term budgetary planning to carry out these resource plans; now the National Forest Management Act provides general, flexible policy guidelines for the use of all the scientific forestry tools at our disposal. If we fail now, we won't have any excuses.

Professional resource management stands on the verge of a new and challenging era in the United States. I am confident we can meet this challenge.

Development of the National Forest Management Act

(By Dennis C. Le Master and Luke Popovich)

"People who like laws and sausage ought not watch them being made."—James W. Giltmier, 1976 SAF National Convention.

When on October 22 President Ford signed into law the National Forest Management Act of 1976, new and extensive direction was given to the management of the national forests. The impetus for the act can be directly traced to the U.S. district court decision on November 6, 1973, in *Izaak Walton League* v. *Butz*—the Monongahela decision—which found that certain Forest Service timber sale practices violated the Organic Administration Act of 1897.

The court's findings were remarkable chiefly because they enjoined practices that were widely used by the Forest Service. These practices included writing timber sale contracts that permitted cutting of trees that were not dead, mature, of large growth, or individually marked. The contracts also allowed harvested trees to be left at the site.

But these practices were actually peripheral to the main concern of the plaintiffs. Fundamentally at issue was the legality of even-aged management, implemented by the silvicultural system of clear cutting, and first employed on the Monongahela National Forest in West Virginia in 1964. The Forest Service had contended that even-aged management and clear cutting were valid silvicultural practices, and that a literal adherence to the 1897 act would impair the agency's ability to meet the objectives of the Multiple Use Sustained-Yield Act of 1960. Nevertheless, Judge Robert E. Maxwell ruled in favor of the plaintiffs, and his decision was upheld by the Fourth Circuit Court of Appeals on August 21, 1975, after an appeal by the government.

In the weeks following the decision, the conservation community was disturbed and perplexed. Many meetings were held in Washington, and by November two impressions were clear. First, remedial legislation, rather than litigation, was the logical course to resolve the impasse created by the ruling. The appeals court decision suggested as much: "The Organic Act may well be an anachronism. However, the appropriate forum to change the Act is not the Courts but the Congress."

The second impression was the sharp division within the conservation community over the form remedial legislation should take. The division was especially disquieting because some prominent members of Congress had initially appealed to conservationists for guidance. Without a consensus, the conservation community feared it would abandon Congress to its own admittedly inadequate perceptions of appropriate legislation.

Remedial measures generally took three forms—the moratorium approach such as proposed by Rep. Roy A. Taylor (D-N.C.); "quick fix" legislation such as Rep. Robert Duncan's (D-Ore.), designed to do the minimum necessary to resolve the adverse effects of the ruling; and finally, the comprehensive attempt to resolve persistent problems and ambiguities in national forest management. For this more ambitious purpose, two bills were introduced, one by Sen. Jennings Randolph (D-W. Va.) and the other by Sen. Hubert H. Humphrey (D-Minn.). The first was a broad reform bill, based on Sen. Randolph's observation that "the Secretary of Agriculture has utilized on the national forests . . . management practices which were unduly harmful to the environment and to uses of the national forest other than timber production." The Humphrey bill, on the other hand, began with the recognition that forest management is "highly complex," and that the demand for and supply of forest resources are "subject to change over time."

These divergent outlooks gave rise to two very different bills. Nowhere was that difference more pronounced than in the relative specificity with which each proposed to write standards and guidelines. As might be expected, the Randolph bill was the more specific of the two. For example, section 7(c) directed the Secretary of Agriculture to promulgate standards for "clear-cuts and even-aged cuts," and stipulated, among other things, that the standards insure that "the area cut shall generally not exceed 25 acres in size and whenever feasible, no cut shall be closer than 1,000 feet of another clear-cut or even-aged cut made within the preceding 10 years." The Humphrey bill was never this specific. Instead, it favored a regulatory scheme in which the secretary would promulgate guidelines to embody loose standards set forth in the bill.

Another basic difference was the degree to which the two bills were integrated with existing legislation. Unlike the virtually independent Randolph bill, the Humphrey bill was closely tied to statutory precedents. In fact, it was largely a series of amendments to the Forest and Rangeland Renewable Resources Planning Act (RPA), and it adopted the RPA's planning process as the chief management instrument.

Both bills used a regulatory approach implemented by the Secretary of Agriculture, who would promulgate regulations from guidelines and standards set forth in the legislation. The difference was in the discretion accorded the secretary—the Humphrey bill allowed him more discretion by virtue of its relatively broader language.

To the Randolph bill belongs the credit for raising most of the principal issues ad-

dressed throughout the development of the National Forest Management Act. The appropriate use of even-aged management and clear cutting, the appropriate use of uneven-aged management and the selection system, the liquidation rate of old growth timber, timber harvesting on lands marginally suited for timber production, the conversion of forest types, and management objectives for the size and age of trees on national forests were all brought into focus by the Randolph bill. Naturally, as these issues became basic to proposed legislation, efforts to pass a moratorium or to devise a quick fix lost their appeal.

Ultimately the Randolph bill was less successful in resolving issues than it was in raising them, primarily because of its insistence upon standards and guidelines which tended to be too particular and too inflexible. At least that was the judgment of Sen. Randolph's colleagues on the Committees on Agriculture and Forestry, and Interior and Insular Affairs during mark up of the bill. They defeated by a three-to-one margin his amendment to prescribe uneven-aged management for the eastern national forests, and thus signalled their opposition to any attempt to make by statute management decisions that are better made by professionals on a case-by-case basis. When it became evident that this view was shared not only by forestry interests but by wildlife interests as well, the Randolph bill was doomed.

The Humphrey bill did not share this fatal liability. It provided both an approach and a process by which added direction for national forest management could be given easily and effectively, an asset that accounted more than any other for the broad-based support of the measure throughout the House and Senate hearings. Using a regulatory approach based upon general guidelines and a planning process already established by Sec. 5 of the RPA, the Humphrey bill eventually won the support of legislators as well.

Despite its general acceptance, alterations of the Humphrey bill were necessary in order to accommodate the conservation community, even if to do so meant losing industry support, as eventually happened. Accordingly, the Humphrey bill became a tree decorated with many ornaments from the Randolph bill and elsewhere. In an effort ably directed by Senate Agriculture Committee Chairman Herman E. Talmadge (D-Ga.) to narrow the differences among opposing forestry interests and between the two Senate committees with jurisdiction over the legislation, the Humphrey bill was amended again and again.

The number of sections expanded from five to twenty. Other issues were addressed in addition to those raised by Sen. Randolph. For example, provisions for payments to county governments in lieu of taxes, and national forest road standards were added to the bill. In May, the Humphrey bill was reported to the Senate, and was passed August 25 by a vote of 90 to 0.

As the Senate completed its work, the House had barely begun. Its Subcommittee on Forests began mark-up in late June. When it chose to consider simultaneously seven different bills, instead of one or two as is customary, it was plain that lengthy deliberations would be necessary. Efforts initiated by Rep. George E. Brown, Jr. (D-Calif.) to gain House acceptance of Randolph provisions fared no better than had similar efforts in the Senate.

Nevertheless the bill that finally passed the House also differed from the Humphrey bill in important respects. That bill was H.R. 15069, introduced by Rep. John Melcher (D-Mont.), which passed the House 305 to 24 on September 17. While both the Senate and House bills used the RPA planning process, the Melcher bill tended towards direct application of statutory standards, in contrast to the "implementation-by-regulation" approach of the Humphrey bill. Secondly, the Melcher bill contained a detailed and extensive reforestation provision; its Senate counterpart did not. Neither did the Senate bill include, as the House bill did, provisions to discourage collusive bidding on federal timber and provisions specifying minimum growth standards for harvesting national forest timber. On the other hand, the Senate bill included some features that the House bill neglected, as illustrated by Senate provisions for the liquidation rate of the old growth timber and for the marginal lands issue.

These considerable differences had to be somehow resolved in conference. The dozen or so conferees from the Senate and House met in the waning days of the 94th Congress, in sessions crowded with congressional aides, lobbyists, and interested onlookers. Three major issues before them made quick agreement unlikely: how to implement guidelines and standards; what restrictions, if any, should be placed on timber harvesting on marginal lands; and should accelerated harvesting of the old growth be permitted on the national forests.

The conferees overcame the first of these obstacles with surprising ease. By adopting most of the Humphrey bill's planning provision, they established that standards and guidelines were to be implemented by regulation rather than by direct statute. Thus the approach of the Humphrey bill prevailed over that of its House counterpart.

The marginal lands issue was resolved in the final hours of the last meeting. Rep. Thomas S. Foley (D-Wash.) established that the intent of the Senate provision was simply to stop timber harvesting on all national forest lands unsuited for timber production. Subsequently, the conferees agreed not to impose on these lands an economic test of timber production, an agreement which led to an acceptable modification of the Senate's economic criterion.

The last issue resolved was that of accelerated harvesting on the national forests. The Senate bill had foreclosed the possibility of a rapid liquidation of the old growth by mandating the harvest scheduling system of non-declining even flow. The House bill was silent on the matter, indicating that the more flexible Forest Service policy currently in use was acceptable. Sen. Mark O. Hatfield (R-Ore.) attempted to break the stalemate by suggesting an amendment that granted the Forest Service a modicum of flexibility for setting harvesting levels. But there was no change in either position until Rep. Foley persuaded the adherents of strict non-declining even flow that unless considerable flexibility was given the Forest Service, enormous political objections to wilderness would result. Allowable cut reductions could no longer be shifted to other forests, argued Rep. Foley, because of the low harvesting ceilings that would be imposed on them by the even-flow policy. This argument led to an ultimate compromise along the lines suggested by Sen. Hatfield.

After President Ford signed the act on October 22, reactions were favorable by and large. Speaking for the wood products industries, National Forest Products Association President Thomas M. Orth termed it "the most constructive forestry legislation in history." To Rep. James Weaver (D-Ore.), who was active in developing the legislation, the law "establishes a framework of public policy for national forest management and leaves on-the-ground forest management to the foresters." The endorsement of Brock Evans, Sierra Club Washington director, was more guarded, but significant for its positive tone. "Our view is that it is a good first step," he said. "It makes a beginning towards setting some firm congressional policy on the national forests, and has some good outer guidelines within which professional foresters can operate."

That the law enlisted such disparate endorsements is understandable given the concessions it made to various interests. Industry won its battle to oppose strict limits on timber yields from the national forests; environmentalists won their battle to place guidelines in the law. And the Forest Service achieved its objective of maintaining professional flexibility.

The ultimate success of the law, however, may rest less with the issues resolved than with those unresolved. Ambiguity is unavoidable in a loosely worded regulatory bill, especially one like the National Forest Management Act which is deliberately worded to preserve options for the forest manager. Of course, ambiguity is also a tempting target for litigation, which this act seems to invite in its attempts to preserve "flexibility." For example, the criteria for determining "optimum" and "appropriate" methods of timber harvesting, for judging lands "not suited for timber production," and for the "overall multiple-use objectives" that permit departure from non-declining even flow—these are all unsettled matters that will be closely watched by interested parties. "The question now," said NFPA Vice President John Hall, "is whether we're all reading the same law." Hence, the possibility exists that litigation will challenge, and perhaps thwart, the law's implementation.

More important is the still unresolved question that has been at the heart of many resource controversies: how to determine the ultimate trade-offs between competing uses of the national forests? Until a consensus on this issue emerges in legislation, no law can presume to be a panacea.

Notwithstanding these difficulties, Congress seems to have realized the best of possible worlds. The consensus is that Congress passed a fair and comprehensive forest management law, and under the most trying circumstances. Without administration support, and without the wholehearted backing of environmental activists or wood products industries, it could easily have done nothing, or worse.

SUMMARY

Congress passed the National Forest Management Act on September 30, two days before adjournment. Here is a summary of the major provisions.

1. Standards and guidelines for national forest management are to be implemented through regulations promulgated by the Secretary of Agriculture. The basic instrument is the planning process culminating in the land management plans set forth in the RPA.

2. Guidelines are to be established by the secretary to regulate the use of even-aged management and clear cutting.

3. Application of uneven-aged management and the selection system is encouraged in that no restrictions on their use are contained in the new law.

4. The rate of cutting national forest timber is generally restricted by the harvest scheduling system of nondeclining even flow.

5. Generally, there will be no timber harvesting on lands identified by the secretary as unsuited for timber production.

6. Management must be in accord with the multiple-use policy mandated for the National Forest System.

7. Stands of trees must generally reach the culmination of their mean annual increment of growth before being harvested.

8. There shall be no large-scale conversion of tree types on the national forests.

9. Utilization standards for national forest timber shall be developed and implemented by the secretary.

10. Timber sale contracts shall generally be limited to ten years.

11. Roads shall be (1) returned to vegetative cover where they are not permanent, and (2) designed to standards appropriate for intended uses in timber sales which include a provision for purchaser credit for construction of permanent roads, small timber purchasers shall have the option of building the roads themselves or letting the Forest Service build them.

12. Payments in lieu of taxes to county governments will generally be increased because the amounts allowed timber purchasers for road construction will be included in the base for calculating the payments to counties.

13. The backlog of national forest areas needing reforestation shall be eliminated within eight years, for which purpose an annual appropriation of $200 million is authorized.

14. To prevent collusive bidding, sealed bidding is mandatory for all advertised timber sales, except when other bidding methods would serve the public interest and are identified in regulations.

FOREIGN POLICY AS A PUBLIC SERVICE

Mr. GARN. Mr. President, as a new administration takes office, one of its major challenges is the fashioning of a foreign policy which can be supported by the American people. In my view, the greatest defect of the foreign policy conducted by Presidents Ford and Nixon, and by Secretary of State Kissinger, has been the failure to ground foreign policy on the common sense of the people.

A few months ago, Dr. G. Warren Nutter, former Assistant Secretary of Defense for International Security Affairs, delivered a speech before the Borah Symposium of the University of Idaho. In my view, Mr. President, Dr. Nutter shows a clear grasp of the need to keep in touch with the good sense of the average man. For instance, Dr. Nutter says that "foreign policy is in a state of confusion, in no small measure because it has lost touch with the people." Now that appears to me to reflect a clear insight, since it agrees with my own thinking. Dr. Nutter continues, "If we have learned nothing else from the recent past, we surely have learned that no foreign policy can be sustained by this country without firm and lasting public support." That is the reality of the day. I pray that the Carter administration will bear it in mind.

Mr. President, I ask unanimous consent that Dr. Nutter's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

FOREIGN POLICY AS PUBLIC POLICY

(By G. Warren Nutter)

Democracy, Lord Bryce once observed, is government by discussion. That is the substance of the matter, the essence that distinguishes democracy from other types of government. There are many forms of democracy but only one process: popular discussion leading to consent.

Like all valid generalizations, this one cannot be taken literally. Democracy hardly means open discussion of everything or consent by everybody. Even if we could resolve the initial paradox of who "everybody" is to be (not infants, surely, nor some others, depending on standards of maturity and competence), it goes without saying that we could not govern ourselves by means of a huge town meeting, sitting in continuous session and reaching decisions only by unanimous agreement. Government must be both less and more than this, for freedom also requires order and progress.

There will always be important areas of disagreement in our society, no matter how open it may be, which is to say that there will always be social problems. These must be resolved through a less-than-perfect political process, which will be legitimate to the degree that it rests on popular approval and democratic to the degree that it involves discussion and consent.

To avoid misunderstanding, I want to state clearly at the outset that I find no serious fault with our political system. On the contrary, it is in my opinion the best one yet devised by man for government by discussion. But an eminent historian once described history as "just one damn thing after another," and somewhere along the line in recent years our history has gone off the track.

Within the last two years alone, first a Vice President and then a President have been forced to resign in disgrace. Each was replaced in turn by someone selected by Congress, not elected by popular vote. The longest and most unpopular war in our history ended in defeat. Our economy has been rocked by an oil embargo and double-digit inflation. Two attempts were made within a matter of days to assassinate our new President. Terrorism has become commonplace here at home as well as elsewhere, and crime rates have continued to soar. We have created an international spectacle by tearing our intelligence establishment to pieces in public view. And so on and on.

These crises have erupted because complex social forces, sweeping across the globe, have brought powerful stresses and strains to bear on our established institutions and mores. Something had to give. However we might diagnose our basic social ills and whatever we might find as the ultimate cure, the first thing to do is to restore order and confidence. Nowhere is that task more urgent than in the realm of foreign affairs.

Foreign policy is in a state of confusion, in no small measure because it has lost touch with the people. The doctrine of containment, once widely understood and broadly supported, has been displaced by the slogan of détente, which has at best only a negative meaning. Now even that slogan has been tossed aside, and we are left with an incoherent jumble of day-to-day diplomacy to comprehend. In the absence of basic concepts to orient thinking and debate, the legislative and executive branches of government have fallen to squabbling over who is to do what, when, and how in the ad hoc-ery of foreign affairs. We are muddling through.

There was a time in earlier days of the republic and even not so long ago when we could afford to muddle through until a new order was established. We cannot afford to do so today. We were once a minor power in the affairs of a world divided into many relatively self-contained regions, each with its own problems and conflicts, unlikely to spill over automatically into other areas. Surrounded by an invulnerable moat of seas, we could attend to key relations, primarily in Europe and the Western Hemisphere, and ignore others. We could avoid entanglements and enjoy the blessing of isolation.

All that is gone. We are now a mighty nation, built by territorial expansion and the wonders of our political economy. Our territory extends far beyond the continental island into the vast reaches of the Pacific. Technology has made the world one, drawing together previously isolated regions and creating history in real time. Wars have long since become global, and in the nuclear age they have taken on the dimension of potential holocaust. Modern weapons combined with modern means of delivery have rendered obsolete the moat of seas surrounding the American island and made our heartland subject to attack without warning at any time. We are one of two superpowers in a bipolar world split by an epic and tragic ideological struggle. Unless we wish to undo our history, we have no choice but to be deeply and constantly involved in world affairs.

Why, then, are we muddling through? No doubt for many complex reasons woven into the fabric of history. Yet one must begin somewhere in unraveling them, and I will start with the tragedy of Vietnam.

Go back some twelve years ago when President Johnson, newly ascended to office under tragic circumstances, confronted the question of really getting into the Vietnam War or getting out. With great expectations, the Great Society had been launched with the goal of transforming our domestic structure virtually overnight. The doctrine of containment still reigned over foreign policy, but its thrust had been shifted somewhat earlier by President Kennedy in the direction of a more active and interventionist policy of nation-building and counterinsurgency.

The issue of Vietnam came to a head with the Tonkin Gulf incident, which occurred in the midst of a presidential campaign. The fundamental decision on our involvement was made when Congress, with only two dissenting votes, passed the Tonkin Gulf Resolution, abdicating its right to declare war by delegating to the President the power to make war or not, as he saw fit. Recall the sweeping words of that resolution:

The United States regards as vital to its national interest and to world peace, the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed forces, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Within less than a year, the President used that power to send American soldiers directly into battle, and Congress ratified the decision by appropriating funds and levying troops. The public was told not to worry: our mighty economy would furnish both guns and butter. We would move the Great Society forward with our right hand while fighting the war with our left. We would create whatever extra resources were needed simply by speeding up economic growth.

Let me pause at this point to emphasize that the issue I want to talk about is not whether the decision on Vietnam was right or wrong, but whether it was made and implemented legitimately, in accord with proper process for our republic. Nor do I mean to point the finger of blame in any particular direction. It must be pointed all around. The executive branch must be blamed for being too reckless and ambitious, the legislative branch for being too irresponsible, and the public for being too greedy—at least at the start—about having its cake and eating it, too.

War is the ultimate political act, and no nation such as ours, seeking as it does to live in peace and harmony, should take that fateful step except in defense or in protection of vital interests when all else has failed. Under the circumstances, we should not have gone to war without carefully deliberating the consequences and making sure through established constitutional procedures that there was a consensus in favor of doing so.

Instead we went to war too lightly and suffered all the dreadful consequences. The

presidency lost credibility and respect by stretching the truth and exercising unprecedented power. Congress came under a cloud as well by shirking its responsibility to wield countervailing power while screaming about the way the war was being prosecuted. The war effort never having received the full sanction of law, unrestrained dissent and dissidence tore our society apart.

And so our next President was elected by the tiniest of majorities as the American people, confused and disunited, groped for a way out of this mess. Lacking a mandate and operating from a position of weakness, President Nixon quickly turned our foreign policy around while disengaging us from Vietnam. But he did so in obsessive secrecy, distrustful of public and congressional opinion. These two coequal branches of government, Congress and the presidency, instead of converging in their outlooks toward foreign policy, moved onto a collision course. In the ensuing struggle, President Nixon went for broke by seeking an overriding mandate at the polls, letting the end justify the means. He won the mandate but lost power when he reaped the harvest of Watergate.

That is, of course, not the end of the story, for the Nixon foreign policy has lingered on in style and content under the tutelage of Henry Kissinger, whom President Nixon elevated to the position of secretary of state in the fall of 1973. As Secretary Kissinger conceives and practices statecraft, it must be personalistic, secretive, and mysterious.

In his days as a scholar, Henry Kissinger revealed this attitude quite clearly. "It can never be the task of leadership to solicit a consensus," he said, "but to create the conditions which will make a consensus possible. A leader, if he performs his true function, must resign himself to being alone part of the time, at least while he charts the road."[1]

He developed this theme with an extended metaphor:

The statesman is therefore like one of the heroes in classical drama who has had a vision of the future but who cannot transmit it directly to his fellow-men and who cannot validate its "truth." Nations learn only by experience; they "know" only when it is too late to act. But statesmen must act *as if* their intuition were already experience, as if their aspiration were truth. It is for this reason that statesmen often share the fate of prophets, that they always have a difficult task in legitimizing their programmes domestcally, and that their greatness is usually apparent only in retrospect when their intuition has become experience. The statesman must therefore be an educator; he must bridge the gap between a nation's tradition and its future. In this task his possibilities are limited. A statesman who too far outruns the experience of his people will fail in achieving a domestic consensus, however wise his policies; witness Castlereagh. A statesman who limits his policy to the experience of his people will doom himself to sterility; witness Metternich.[2]

To Kissinger, the successful statesman is a great man who creatively molds a new order, making use of history instead of being used by it. The creative statesman recognizes that reality is as much inside him, latent in his ability to create, as it is outside. He develops a supporting consensus by explaining what has already unfolded, not what the future holds. For the masses cannot possibly comprehend the merits of a novel order existing only in the mind's eye of the creative statesman.

If this conception of the role of the statesman meant merely that leaders should lead, there would be nothing to quarrel about. We govern ourselves through elected representatives, and we want them to exercise leadership. We choose them in large measure on the basis of trust in their judgment, and we do not expect them to seek advance approval for every action they take. But consent means more than ratifying the past. It means approving the design for the future as well.

If we have learned nothing else from the recent past, we surely have learned that no foreign policy can be sustained by this country without firm and lasting public support. It must rest on consensus. That consensus will come only if foreign policy becomes public policy—only if its grand design is subjected to open scrutiny, appraisal, and approval. There is no place for mystery, secrecy, and *faits accomplis* in formulating the grand design.

How do we get there from here? There is no easy way, no simple sequence of remedial actions that will put things right. There must be a change in mood and attitude as well as in ways of making policy, and trends must converge from several directions to bring that change about.

To start with, Congress and the President must—to use those hackneyed words—move from confrontation to negotiation and begin acting as partners in formulating foreign policy. The present display of "one-upmanship" is sheer madness. There is only one answer to the question of which branch of government should formulate foreign policy, and that is, Both. The powers of Congress and the President are indeed separate but equal, and neither can proceed far without the cooperation of the other. Each needs to respect the power of the other and search for a joint policy through compromise. In this reposturing, the first move is up to the administration: it must dispel the aura of mystery enshrouding its foreign policy, reveal the grand design fully, and discuss it candidly. It is therefore encouraging to see that President Ford, a veteran of many years in Congress, has been reaching into the ranks of former congressional colleagues to fill high executive offices concerned with foreign affairs. He obviously has his eye on improving working relations with the legislative branch.

Restraint is required along with cooperation. Our constitutional doctrine of balancing powers holds that one power is to be checked and balanced by a separate power, not by the same one wielded elsewhere. Congress countervails the President through exercise of legislative power, not by trying to play the executive. In the domain of foreign affairs, the authority of Congress derives from four legislative powers: creation by law of offices within the executive branch, appropriation of funds, confirmation of appointments, and ratification of treaties. They permit Congress to play a formidable role in formulating the objectives, rationale, and process that are to guide foreign relations. Congress should have the good sense to confine itself to this role in formulating policy and to avoid meddling in the day-to-day conduct of foreign affairs. And the President should do everything in his power to protect the nation against legislative diplomacy. One sure way to chaos is to put a board of directors of 535 members in charge of diplomacy. Another way is to get executive authority so mixed up between the two branches of government that neither can be held responsible for how it is exercised.

While sorting out their roles in formulating and conducting foreign policy, our executive and legislative leaders have an obligation to search for a doctrine to serve as the foundation for policy. Consensus on policy derives from agreement on an underlying concept of world order comprehended by the public at large. Doctrine comes first and then some simple label to identify it, such as isolationism or containment. As we witness from the short life of détente in our official lexicon, coining a word does not create a doctrine. Détente has been a posture in search of both a policy and a doctrine, and as such it could not survive.

In the present state of the world, it will not be easy to find a doctrine that will command broad support. The plain fact is that there is no achievable world order that is not fraught with dangers to our way of life and national survival, and anyone who promises a solution without risk is either a fool or a charlatan. But the choice before us is clear: either we try to shape the order as best we can, or we drift aimlessly wherever fate takes us. I believe the American public is in favor of trying.

The time has therefore come for straight talk that will candidly tell us where we stand, what courses are open to us, and what risks and promises they hold. At this juncture of history, nothing can endanger our future more than spoon-feeding the people and prescribing sugar-coated pills. The people must experience the bitter taste of truth. They have had enough of illusions, apologies, and self-fulfilling prophecies. The issue now testing our political system is whether the search for the right foreign policy can rise above the battlefield of partisan politics and, if it can, whether it will then command intelligent and dispassionate attention in the arena of public opinion.

And so my case is for an open foreign policy, openly arrived at. But, to avoid misunderstanding, let me say immediately that I am not arguing against secrecy and confidentiality in the conduct of diplomacy and affairs affecting our national security. If we are to defend ourselves and carry on any meaningful relations with foreign powers, there must be state secrets. The inescapable problem is to protect secrecy where it is legitimate and necessary, while preventing it where it is not. This problem resembles most social problems in that it has no easy or perfect solution. There are only better solutions and worse ones, and from recent behavior one might suppose that we have become addicted to the worse ones.

The need for state secrets is embarrassingly obvious. Start with our means and plans for defending the country. Should we publish everything we know about designing and producing nuclear weapons? The blueprints for our sophisticated missiles? The plans for defending NATO? The target list for our strategic nuclear forces? Our successes and failures in breaking secret codes of potential enemies? Our ultimate fallback position in SALT?

Protecting the country also depends on knowing the threat posed by hostile powers, and that task of intelligence requires us to penetrate their secrecy. Should we publicly reveal every means used to gain intelligence and every conclusion drawn?

The issue is not whether to have state secrets, as if secrecy must be either good or evil regardless of its nature. The issue is what purposes justify what kinds of secrets.

Since there are legitimate state secrets, there must be a legitimate authority to identify and keep them. Our Constitution clearly vests such authority first and foremost in the President as chief executive and commander-in-chief. He cannot escape the responsibility for keeping state secrets and should not seek to. We can imagine what fate would befall a President who, by negligence or dereliction of duty, let state secrets become known to an enemy.

The problem comes, of course, in safeguarding against abuse of the power to classify and keep secrets. The safeguard is the same as for all abuse of power: checks and

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[1] Henry A. Kissinger, "American Policy and Preventive War," *Yale Review*, vol. 44, no. 3 (April 1955).

[2] Henry A. Kissinger, *A World Restored: Castlereagh, Metternich and Restoration of Peace, 1812–1822* (Boston: Houghton-Mifflin, 1957), p. 329.

balances. But once again it is a separate power that must do the checking and balancing, not the same power shared elsewhere. It is fallacious doctrine, leading to serious trouble, that a congressman or a newsman enjoys the right to determine whether a particular item of information is a state secret regardless how the President or his designated authorities have classified it. If everybody has the right—the power—to classify or declassify state secrets, then nobody has the power or bears the responsibility to do so. Unfortunately, the law on this question is in disarray, and we would do well to give serious attention to the best way of improving it.

No freedom or right or power is absolute in our society. None is supreme over all others with which it may come in conflict. Conflicts are resolved through countervailing forces, including judicial processes and self-denying ordinances. Just as freedom of speech does not imply the right to shout "Fire!" in a crowded theater, so freedom of the press does not convey the right to publish the battle order of the day. Publishing state secrets is not the way to counter abusive secrecy.

All right, some will say, we need to keep secrets having to do with negotiations, intelligence, contingency plans, and the like. So how can we have an open foreign policy, openly arrived at? Well, we can in the relative sense in which any such concepts must be interpreted. The doctrine of foreign policy must be derived through public discussion even though some facts about the state of the world are not known by all discussants. Similarly, the framework of foreign policy must be constructed in public view even though the procedures contemplating for meeting contingencies are kept secret. Commitments made should be a matter of public record even though negotiations are conducted confidentially. These are critical distinctions of substance and degree.

Woodrow Wilson once called for "open covenants of peace, openly arrived at." He was talking about another world, not ours. He should have asked for the best to be hoped for: open covenants of peace, period.

To call for an open foreign policy, openly arrived at, is not to make the same mistake, for the one cannot exist without the other. The call is simply for government by discussion.

A BOOM IN THE SOUTH

Mr. ALLEN. Mr. President, those of us from the southern region of our country are proud of the progress which our States have made during the past few years. In the face of many heartbreaks and hard times the people of the South devoted their energies and their endless talents to the modernization of their industries, their agriculture and their communities.

All of us have been reading accounts recently of the Sunbelt States and of their growing influence in our Nation's economy and political life. The Christian Science Monitor has started a three part series entitled "The New South: What Kind of Boom?' which is an in-depth report on this region. The first article was written out of Huntsville, Ala., by Gary Thatcher, stag correspondent of the Monitor, and was printed in today's issue of the Monitor.

I wish to recommend this series as "must" reading and ask unanimous consent that the first article in the January 26, 1977, issue of the Monitor be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NEW SOUTH—WHAT KIND OF BOOM?

(First of three articles by Gary Thatcher)

(The 15 states fanning out from Virginia to Texas accounted for 54 percent of the nation's population growth from 1970 to 1975. Per capita income growth there outstripped that of the rest of the country, and employment grew at more than double the U.S. average. Today the first article in a series examines the New South's boom and what it means to Southerners and the rest of the country.)

HUNTSVILLE, ALA.—Floating in a balloon gondola high over north Alabama, you can see the Tennessee River ribboning its way below, the Southern towns lining its banks, and the farmland making a patchwork pattern of the red dirt.

Birmingham, with its steel mills, smolders to the south. If you listen hard, you may hear the strains of country music wafting down from Nashville up north.

In between would be Huntsville, Alabama. A better example of the evolution of a Southern city would be hard to find. Huntsville's history, paralleling that of the South, is etched on the land below.

Drifting in on an Alabama wind, you can see the cotton fields, with white wisps of fiber clinging to the bolls even in winter.

The 40,000-acre Redstone Arsenal comes into view next—the home of five separate U.S. Army installations. Next, you see the missiles—relics of the heyday of the space program here and evidence of the continuing presence of the National Aeronautics and Space Administration (NASA).

King Cotton and Uncle Sam were the early providers of Huntsville and much of the South.

But no more. To be sure, they are still vital. But even more important are the modern office buildings, research laboratories, and factories that line Huntsville's highways and cluster in the five industrial parks ringing the city.

NEW SHOPS DOWNTOWN

Downtown are monuments to the wealth these enterprises have brought with them, monuments which in turn help keep that wealth here. Among them are newly refurbished shops and boutiques along the old courthouse square; a $45 million civic center, a modern library.

On the second floor of such a new structure, Guy B. Nerren is busy answering phones, dictating letters, and poring over maps of the area.

A slim, soft-spoken, but intense man, Mr. Nerren—like his counterparts in hundreds of other Southern cities—is busy shaping the future.

He is a "development man"—hired in 1960 to bring a stable industrial base to a town wearied by roller-coaster ascents and plunges when federal spending rose and fell.

Even in that year, when federal spending was still relatively high, local business and political leaders knew that NASA spending could not go on forever. They had seen the effects when Uncle Sam tightened his purse strings. And they knew that the blue-chip contractors that had sprung up in their city like mushrooms could disappear just as quickly. They didn't want to be left picking up the pieces and wondering when the next boom would come.

"We just couldn't live from year to year wondering what the federal government was going to do," says Mr. Nerren, executive director of the Huntsville-Madison County Industrial Development Association.

DEVELOPMENT GOAL

His task, which he shared with a legion of Southern "development men" in the 1960s: hold on to what industry you have and try to get more.

At about this same time, theorizes futurist Herman Kahn, director of the Hudson Institute, a quite different attitude was pervading the Northeast. The opinion leaders and politicians, he told the Monitor in an interview, were preaching a new asceticism, a "no growth" philosophy. Low-paying, "dead-end" jobs were denigrated, and liberal welfare benefits made it possible to quit them without fear of the economic consequences, he claims.

Not everyone agrees with Mr. Kahn, but the theory does help to explain what happened during the last decade. The South's economy boomed while the Northeast's stagnated and started to decline.

It is tempting to charge that one region prospered at the expense of the other—that the South lured away the Northeast's economic base.

Not true, according to Profs. C. L. Jusenius and L. C. Ledebur in a report for the federal Economic Development Administration (FDA). "Migration of firms has played a minor role" in the economic decline of the Northeast and the rise of the South, they conclude. Closings or expansions of existing businesses have been much more important, they argue.

WHY THE SWITCH?

But what causes an industry to expand in one region and contract in another?

Undeniably, the radically different economic environment of the South played a major role. It included:

"Pro-business" state governments. Fantus Company, the Dun & Bradstreet subsidiary that advises industrial plants on relocation, ranks virtually every Southern state high on its list of "good places to do business." Alabama is second on the list, largely due to its regressive (taxpayers with lower incomes pay proportionately more than those with higher incomes) tax structures, minuscule welfare spending, and laws tilting toward management and against labor.

Abundant and relatively cheap land. Factories designed for horizontal, rather than vertical, movement of goods are more efficient. But Northeastern and Midwestern manufacturers trying to vacate outdated, multistory structures sometimes found themselves hemmed in by a city and its suburbs. What little open land there was had a high price tag.

Meanwhile, cities like Huntsville formed nonprofit, quasi-government agencies to buy land and were able to resell it at comparatively lower prices.

A large and willing labor force. The "work ethic" still exists in the South, according to many of the businesses that have settled here. And, although most industries don't stress the point, the Southern worker is also more docile, willing to work for lower wages than his Northern counterpart and loath to join unions.

In Huntsville, only about 10 percent of the work force is unionized. Alabama, like every other Southern state, has a right-to-work law.

The Southern climate, a blessing for workers and management alike. Huntsville, for example, averages 79.3 degrees in July, and 39.5 degrees in January.

Industrial development bonding. State and local governments throughout the South issue revenue bonds to finance new plant construction. Businesses, in turn, either lease or purchase the facility over a period of years. During this period, local taxes are often forgiven. Huntsville has floated over $75 million of these bonds.

Other incentives include cheap electricity from the Tennessee Valley Authority (TVA), free tie-ins to water mains, free roads to the plant site, and often free training of the work force.

Men like Mr. Nerren carefully orchestrated these benefits into a refrain that was music to industry's ears.

And the strategy worked.

Automatic Electric, a subsidiary of General Telephone (GT&E), caught the melody, shook Chicago soil off its feet in 1967, and brought 2,500 jobs to Huntsville.

Other companies followed from a major tiremaker to an alarm clock manufacturer. Since 1967 34 industries employing 7,820 workers have opened in Huntsville. Service jobs have sprung up around them. And now Huntsville is what a lot of cities would like to be—a small metropolis of 194,000 people whose average per capita income is slightly above the U.S. average and whose cost of living is slightly below it. A core of high-technology industries as well as the traditional manufacturing plants provide a diversified economic base.

OTHER SUCCESS STORIES

Similar "success stories" are repeated across the South. The 15 Southern states, stretching from Texas to Florida and from Oklahoma to Virginia, accounted for 54 percent of the nation's population growth from 1970 to 1975. Per capita income growth here outstripped that of the rest of the country, and employment grew at more than double the U.S. average.

But it is easy to get caught up in the dazzling growth statistics and ignore the formidable challenges they portend.

In the region around Huntsville, for example—northern Alabama and Mississippi and southern Tennessee—a study by Hammer, Siler, George Associates shows per capita income quadrupled over the past 25 years, while population climbed by less than 500,000.

But to sustain even a modest economic growth rate over the next 25 years, the population must increase by some 2 million people the study concludes.

Why such a larger increase than in the past? Because over the last quarter century, new industries moving into this area could attract workers away from small, marginally profitable farms. The spurt in manufacturing employment was fueled by a decline in agricultural work. According to the Tennessee Valley Authority, the number of farms in the valley was halved in the 25 years from 1949 to 1974, dropping from 300,200 to 125,400.

LABOR REQUIRED

With agricultural employment nearing a stable level, the South must look elsewhere for its labor. The Hammer, Siler, George study says half of the 2 million population increase must come from immigration.

"In the future, people will come seeking jobs, rather than jobs seeking people, as has been the case," explains Dr. Charles F. Haywood of the University of Kentucky.

And where will this new labor force come from?

Will it be from the rural areas of the South? If so, will the movement upset a delicate "urban-rural balance" that economists say exists now?

Will it come from the Northeast or the Midwest, further exacerbating those areas' economic woes (and causing louder cries for a redistribution of federal spending away from the South)?

And will the "right" workers come—those who will be suited for the available jobs and will generate more in taxes than they demand from public services?

Will the region's educational system be preparing Southerners to take advantage of the economic opportunities of the next quarter century?

And what about poor blacks, who have been largely left out of the region's economic upsurge? Will they have a larger share?

The questions are perhaps more perplexing than the growth itself.

DISPROPORTIONATE SHARES

Here are some of the problems Southern leaders are facing:

The lower 20 percent of the region's people share only 5 percent of its income, notes Dr. Madelyn Lockhart of the University of Florida, adding that the highest 20 percent get about 40 percent of the total. This ratio has changed very little during the economic boom of the past 25 years, she says, and has not changed at all since 1966.

While across the nation 12 percent of families live below the poverty level, 16 percent fall below that line in the South. Approximately one-tenth of white Southern families are poor, while over one-third of all nonwhites are poor.

Every Southern state still falls below the national average of per capita income, according to the EDA study by Professors Jusenius and Ledebur.

Even when the figures are adjusted for the lower cost of living below the Mason-Dixon line, nine Southern states are still below the national average.

The South "is dominated by low-wage manufacturing industries," according to a report by the Southern Growth Policies Board (SGPB). Nearly 42 percent of Southern workers are employed in low-wage industries, vs. only 20 percent in the U.S.

The South is also dominated by "energy-intensive" industries, and the future price and availability of energy will have major implications for the region. By subtracting the cost of a plant's fuel, electric energy, and supplies from the value of the finished product, economists calculate the "value added" during manufacturing.

Russell Howard, manager of corporate strategic planning for Phillips Petroleum, says Southern industries use 42 percent of the country's total manufacturing energy yet account for only 25 percent of the country's total "value added."

The South's growth has been of the "boom or bust" variety, and orderly planning by state governments has been severely hampered.

One notable example is Florida. The leader in Southern growth from 1970 to 1975, its population increased by 23 percent, and personal income grew by 80 percent. Yet during the recession of 1974, Florida was the hardest hit of any Southern state. Its unemployment rate is highest in the South (and higher than the U.S. average), personal income has dipped, and some reports indicate its population actually decreased during the last half of 1975.

The South's taxation schemes draw heavily from those least able to pay. Southern states rely more heavily on sales taxes, and less on personal and corporate income taxes, than the non-South.

And the image that most Southern politicians try to project—that of parsimonious "fiscal conservatives"—is not supported by facts. State and local governments in Dixie employ more than the U.S. average of workers compared with the number of taxpayers paying the bill, according to Dr. Donald Ratajozak, director of Georgia State University's Economic Forecasting Project.

The South's future challenges are amplified by attempts of Northeast and Midwest congressmen to divert federal funds away from Dixie and back to their own areas. Each time the economic figures make the South look good, their clamoring gets louder.

But what if the South avoids these roadblocks and pitfalls and successfully tackles many of the problems it faces. Will it change in the process? Will it destroy that ambience, that "Southern charm" has has stayed with it over the years?

Florida Gov. Reubin Askew warns, "We must not jeopardize our quality of life. That may jeopardize the very reasons that people come to the South in the first place."

(Tomorrow: The new Southern migrants—who they are, what they find.)

RECONCILIATION AFTER VIETNAM—NOTRE DAME REPORT ON AMNESTY

Mr. MATHIAS. Mr. President, for many years, our Nation has been struggling with the aftermath of the war in Vietnam. President Carter's announcement last week that he was pardoning individuals who had been convicted or charged with violations of the draft law has materially changed both the facts and the atmosphere. Whatever one's feelings about amnesty or about the war itself, I think we should all be seeking honorable ways to close the books on that tragic episode.

The President's action still leaves open the question of how we are to deal with the problems faced by those young Americans who served in the Armed Forces during the war years.

Millions of veterans are still suffering in personal terms of a war which has been over for the rest of us since 1973. Unemployment for Vietnam veterans is far above the national average and thousands of young men bear physical and psychological scars from their experiences. We owe an obligation to the men who served, and we have been remiss by forgetting their sacrifice in our efforts to forget the war.

A disproportionate number of young men from poor and disadvantaged backgrounds were called to fight in that war. Many of these men are doubly disadvantaged because their military experience proved unsatisfactory, and they received discharges which add to their burden of finding employment and of living a productive life. The President's pardon program has left to further study the problem of how best to deal with these people.

We have tended to regard these men as either heroes who opposed the war on moral or ideological grounds, or as cowards who refused to fight in defense of their country. The true picture is much more complicated than that. For the past year I have been privileged to serve with Father Hesburgh, president of the University of Notre Dame, on the advisory committee of a Ford Foundation sponsored examination of the amnesty problem. I have had an opportunity to learn how complex and how compelling the problem really is.

The Notre Dame study has just borne fruit with the publication of a report entitled "Reconciliation After Vietnam," authored by Lawrence M. Baskir and William A. Strauss. Mr. Baskir was previously general counsel and chief executive officer of the Presidential Clemency Board, and Mr. Strauss was the Board's director of management and planning. Their experience, reinforced by a year's study, has produced an excellent report which explodes many of the myths and confusions that have surrounded the amnesty question.

Whether one agrees with their recommendations or not, I think that every person who reads the report will come away with a more informed view of the issues surrounding amnesty. I commend

the report to my fellow Senators, and I hope that it will serve the cause of better understanding of this emotional and controversial problem.

I ask unanimous consent to have printed in the RECORD the summary and recommendation of the report. Because the question of how to deal with the military personnel who received less than honorable discharges is still open, I ask unanimous consent also to have printed in the RECORD those portions of the report dealing with that aspect of the problem.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY

For over twelve years, America has been torn by the conflict in Vietnam and its aftermath. Even now, two years after President Ford's effort to "bind the nation's wounds" through a clemency program, the amnesty debate remains divisive. Advocates see amnesty as a way to make Americans face the lessons of Vietnam. Critics believe that it would be an insult to the veterans who served honorably and an impediment to America's ability to fight future wars. The issue remains at an impasse.

This impasse will only be broken when the public gains a better understanding of the issue. Today, despite years of controversy, the American people know almost nothing about the young men they label as "draft evaders" and "deserters." The media and the public have always focused on those who were the most visible—the politically active exiles in Canada. As a result, Americans have developed a number of distorted views about the subject. Consider the following:

Who would "amnesty" be for?

Myth: The purpose of "amnesty" would be to bring home as many as 100,000 "draft resisters" and "deserters" from Canada and Sweden.

Fact: A half-million people could benefit from a new program, and many of them are not "draft evaders" or "deserters." Only 10,000 are exiles in Canada or elsewhere, most of whom have permanently settled in their new countries.

Myth: "Draft evaders" and "deserters" were white, well educated, and staunchly antiwar.

Fact: The overwhelming majority of Vietnam-era offenders came from underprivileged backgrounds. Almost half of all "draft evaders" were members of minority groups who never registered for the draft. Three-quarters of the "deserters" were high-school dropouts, and less than 1 percent ever graduated from college. Most offenses were motivated primarily by personal or family problems.

What did "draft evaders" do?

Myth: Young men who avoided military service were punished.

Fact: Draft avoidance was widespread among the 27,000,000 men of draft age during the Vietnam era. Sixteen million never served in the military, two-thirds of whom took positive steps to avoid the draft through legal means. Just 8,800 were convicted for "draft evasion."

Myth: People who were punished as "draft evaders" did something worse than those who avoided the draft through legal means.

Fact: "Draft evaders" were far less manipulative and shrewd than millions of others who avoided the draft without penalty. Usually, "draft evaders" were unable or unwilling to take advantage of the hundreds of loopholes in the draft laws. About one-third qualified for exemptions or deferments, but turned them down as a matter of principle. Many were Jehovah's Witnesses, Muslims, or Quakers, whose religion barred them from cooperating with the draft system.

What did "deserters" do?

Myth: Many "deserters" were cowards who fled from combat, endangering their fellow troops.

Facts: Very few "desertion" offenses were connected with service in Vietnam. Just twenty-four servicemen were convicted of desertion to avoid hazardous duty in Vietnam. About 2,000 others were punished for less serious absence offenses in the combat zone and another 7,000 for refusing to report there—a small fraction of the 100,000 servicemen who bear the label of "deserter."

Myth: For every man who "deserted," another one had to fight in his place.

Fact: For every one of the 7,000 servicemen who fled when ordered to Vietnam, there were three who left from American duty stations after completing full tours in Vietnam. Many fought with distinction, only to "desert" when they failed to receive adequate postcombat rehabilitation. Twenty percent of all "deserters" served full Vietnam tours—twice the rate of Vietnam service for the draft-age generation.

What has been the government's policy toward these people?

Myth: "Draft evaders" were sternly prosecuted.

Fact: Selected Service referred 210,000 "draft evader" cases to the Justice Department—but only 4 percent were convicted, and only 1.5 percent were sent to prison. Over 100,000 had their charges dropped because of procedural errors committed by their draft boards. An estimated 360,000 others violated the law but were never caught.

Myth: The government still considers it important to prosecute "draft resisters" and "deserters" with the full force of the law.

Fact: The government has come to acknowledge that these people should not be prosecuted severely. Fugitive "deserters" are no longer being court-martialed and sent to military prison. Likewise, the Justice Department drops hundreds of draft cases each year, and less than 10 percent of those who are convicted are sent to prison. Some "draft evaders" have been sentenced to as little as one-day probation or a $5 fine.

What did President Ford's clemency program accomplish?

Myth: The Ford clemency program required people to earn their relief by performing alternative service.

Fact: Twenty-thousand "draft evaders" and "deserters" received unconditional "amnestry" as a direct or indirect result of the Ford program. Most people who were known fugitives at the start of the Ford program had their charges permanently, unconditionally dropped. By contrast, just 2,500 people are earning clemency by doing alternative service.

Myth: The Ford Program settled the amnesty issue.

Fact: At present, there are about 500,000 Vietnam-era offenders who still face the risk of prosecution, suffer a loss of civil rights from their criminal records, or bear the disabilities of bad military discharges.

The amnesty issue is most appropriately viewed as a question of social justice, not antiwar ideology. The burdens of Vietnam were very unevenly imposed. The economically and socially disadvantaged did most of the fighting. They also paid most of the penalties for not fighting.

Whether the war was right or wrong, America should seek reconciliation with everyone who was its victim—the dead, the missing, the physically or psychologically wounded, the unemployed veteran, the fugitive or punished offenders, and all their families. No one should be asked to pay any further price.

THE PROGRAM IN BRIEF

This report offers recommendations for a program of relief for Vietnam-era draft and military offenders. In brief, the program consists of the following:

(1) A task force, reporting directly to the President, would plan and oversee the implementation of the entire program. Most of the program would be implemented by executive order, and a legislative package would be submitted to Congress to enable the program to offer the most appropriate measure of relief. There would be an active effort to enlist public support and understanding for the new program.

(2) Relief would be offered to people who committed draft offenses and other forms of nonviolent civil disobedience motivated by opposition to the war; 3,000 fugitive draft offenders would have their cases permanently dropped. Approximately 250,000 persons who never registered for the draft would never be prosecuted; 5,000 expatriates would be allowed to visit their families or restore their American citizenship; 8,800 convicted draft offenders would receive presidential pardons, and past records would be sealed.

(3) The program would encompass all offenses against military discipline, not just desertion. Three thousand fugitive military offenders would receive immediate discharges. Approximately 250,000 offenders with bad discharges would also be covered by the program. Relief would be offered to all qualifying offenders who were not convicted by court-martial, but some cases involving courts-martial would be reviewed individually. Individuals offered relief would receive a general discharge, with veterans' benefits accorded only to combat veterans and persons with service-connected injuries. Others with substantial military service would have their cases reviewed individually to determine whether they have earned veterans' benefits.

(4) No relief would be offered to anyone convicted of serious combat-related desertion offenses or serious felony crimes.

(5) No condition of alternative service would be required.

RECOMMENDATIONS

Eligibility

1. The program should encompass all qualifying civilian and military offenses occurring between August 4, 1964, and March 28, 1973. Offenses outside this designated period should be included if (1) they were committed by draftees or draft-induced enlistees subsequent to March 28, 1973; (2) they occurred in Southeast Asia; or (3) they were motivated by opposition to American policies in Southeast Aisa.

2. The program should encompass all civilian and military offenses which were nonviolent and reasonably related to the Vietnam War. For civilians, this includes such offenses as (1) failure to cooperate with the draft; (2) destruction of one's own draft card; (3) nonviolent civil disobedience; and (4) failure to pay taxes. For servicemen, this includes (1) absence offenses; (2) other offenses against military discipline; and (3) any offenses which resulted in administrative undesirable discharges.

3. No serviceman discharged by court-martial for a civilian-type crime or still facing general court-martial charges for a civilian-type crime should be eligible for relief.

4. No person convicted in any State, federal,, or military court of a serious felony crime should be eligible for relief.

Nature of relief

5. Pardons should be the form of relief issued to convicted civilian offenders and servicemen who were convicted by general or special courts-martial. The issuance of pardons should be accompanied by a clear presidential explanation of their intended legal and social effects.

6. Pardons are not the appropriate form of relief for those charged with, but not convicted of, a draft offense. Pending draft charges should simply be dismissed.

7. General discharges should be the form of relief issued to military offenders.

8. All former servicemen should retain the opportunity to apply for an honorable discharge through military discharge review boards.

9. Entitlement to full veterans' benefits should be extended only to former servicemen who served a Vietnam tour which did not end because of misconduct. Former servicemen with service-connected injuries should be granted medical benefits only.

10. The Veterans Administration should review applications for veterans' benefits from individuals with two years or more of military service, under standards specially established for this program.

11. All former servicemen should retain the opportunity to apply for veterans' benefits through the Veterans Administration.

12. General discharges should be issued to replace existing discharges and must include no indication that they were issued pursuant to this program. The Veterans Administration must have an independent means of determining whether a general discharge was issued pursuant to this program in order to establish entitlements to veterans' benefits.

13. Arrest records of unconvicted civilians should be destroyed. Records of civilian indictments and convictions and military court-martial convictions should be sealed, with use carefully restricted to designated purposes. Individuals should not be required to reveal the existence of these records. (This requires new legislation.)

14. Changes in official records should be made at the government's own initiative. Individuals should be personally notified about the changes in their status. These efforts should be supplemented by public information campaigns.

Conditions

15. Participation in the program should not require individual application except for (1) persons whose offenses occurred outside the designated 1964–73 period; (2) persons who were convicted of tax offenses motivated by opposition to the war; and (3) persons with two years or more of military service who seek veterans' benefits. All other eligible individuals would be identified through a search of appropriate government records.

16. No form of alternative service should be required.

17. No oath of acknowledgement of allegiance should be imposed except for those seeking to restore American citizenship.

18. No test of conscience should be employed except to establish the eligibility of (1) persons whose offenses occurred outside the designated 1964–73 period; (2) persons convicted of nonviolent acts of civil disobedience motivated by opposition to the war; and (3) persons convicted of tax offenses motivated by opposition to the war.

Methods of case review

19. All individuals should be granted or denied relief according to designated categories, except a case-by-case process should be used (1) to determine eligibility in borderline cases; (2) to screen categories which include a substantial number of people who committed very serious offenses; and (3) to make veterans' benefits determinations for persons with two years or more of military service.

20. Case-by-case procedures should ensure due process and fair treatment. The scope of review should be confined to facts relevant to the specific questions at hand.

Categories of affected individuals

21. All charges against fugitive draft offenders should be dismissed. No pardons are necessary.

22. American expatriates and other foreign citizens who left the United States to avoid military service should be permitted to visit the United States.

23. Individuals who lost American citizenship because of the Vietnam War should be able to restore their rights by taking the standard oath of citizenship. (This requires new legislation.)

24. Nonregistration cases should no longer be prosecuted.

25. Individuals convicted of draft offenses should be issued pardons.

26. Individuals convicted of destroying their draft cards should be issued pardons.

27. Individuals convicted of federal offenses for acts of civil disobedience related to the Vietnam War should be issued pardons if their offenses were (1) nonviolent, and (2) motivated by opposition to the Vietnam War.

28. Individuals convicted of federal tax offenses should be issued pardons if their offenses were motivated by opposition to the Vietnam War.

29. State and local governments should be encouraged to offer relief to individuals convicted of nonviolent offenses motivated by opposition to the Vietnam War.

30. Individuals applying for federal employment should not be required to list convictions for nonviolent state and local offenses motivated by opposition to the Vietnam War.

31. Fugitive military offenders should be issued general discharges *in absentia* except for those charged with civilian-type offenses which warrant trial by general court-martial.

32. Individuals discharged for absence offenses should be treated as follows: (1) individuals with undesirable discharges should be issued general discharges; (2) a case-by-case review should determine whether pardons and general discharges should be issued to individuals discharged by general court-martial; (3) a case-by-case review should determine whether pardons and general discharges should be issued to individuals discharged by special court-martial for (a) absence in Vietnam, (b) failure to report to Vietnam, or (c) failure to return to Vietnam from leave; (4) other individuals discharged by special court-martial should be issued pardons and general discharges.

33. Individuals discharged for nonabsence offenses against military discipline should be treated as follows: (1) individuals with undesirable discharges should be issued general discharges; (2) a case-by-case review should determine whether pardons and general discharges should be issued to individuals discharged by general court-martial; (3) a case-by-case review should determine whether pardons and general discharges should be issued to individuals discharged by special court-martial for offenses which (a) occurred in Vietnam, or (b) were occasioned by orders to report for Vietnam; (4) other individuals discharged by special court-martial should be issued pardons and general discharges.

34. Individuals now holding general discharges should not be extended relief under this program.

35. Applicants to the Ford clemency program who were granted immediate clemency or offered conditional clemency should automatically be given relief under the new program. Those denied relief by the Ford program should be given relief according to the standards of the new program.

Implementation

36. The program should be a presidential initiative.

37. A legislative proposal should be submitted to Congress, requesting (1) authorization and appropriations for the program; (2) authority to grant general discharges with special limitations respecting veterans' benefits; (3) provisions for the sealing of records held by the federal judiciary, state and local governments, and the private sector; and (4) special exceptions to the immigration law enabling expatriates to restore their American citizenship.

38. A task force reporting directly to the President should be established to plan and oversee the implementation of the program.

39. An advisory committee, consisting of representatives from the Defense Department, Justice Department, and Veterans Administration should be established to assist the presidential task force.

40. The presidential task force should issue a public report at the close of its operations, offering such recommendations with respect to the draft and military discipline as it deems advisable.

41. The President should take an active public role in the program.

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1. The Vietnam-Era Offender

As Americans have tried to cope with the experience of Vietnam, the amnesty issue has been used by many to reinforce their personal and ideological views of the war. To some, amnesty is a way of vindicating the antiwar movement; to others, its denial gives meaning to the sacrifices of those who fought. For those who simply wish to forget about the war, it is a means of reuniting the country after a divisive, tumultuous decade. Yet each of these views treats amnesty as a symbol, overlooking the fact that Vietnam-era offenders are real people with real problems. Along the way, traditional American principles of justice and compassion have often been submerged.

Most people hold a well-fixed image of who draft and military offenders are, what they did, and why they did it. To Congresswoman Bella Abzug, they were "the finest, most conscientious, most creative young people." Charles Colson once called them "cowards" who were "victims of their own character deficiencies." To President Ford, they were "young Americans [who] should have the chance to contribute a share to the rebuilding of peace among ourselves." Although Abzug, Colson, and Ford—and the millions of others for whom they spoke—drew different conclusions from the facts, they shared a basic misconception about these individuals. The image was one of well-educated radicals, keenly antiwar and disaffected with the government of their country, but eager to come home and participate in a post-Vietnam reformation of American society.

This image arose because public attention was riveted on the exiles in Canada and Sweden, objects of extensive press coverage throughout the Vietnam War. Most of the 40,000 or so who took exile during the war years tried to avoid the spotlight and become successful citizens in their new countries. But those who were more politically minded used this attention as a means of expressing their opposition to the war. Over time, most of the exiles came home—typically, without ever going to prison—but the roughly 10,000 who are still in Canada and Sweden remain in the public eye, dominating the public's thinking about amnesty. Having spent six or eight years in exile, most of them are no longer footloose immigrants. Instead, they are confirmed American-Canadians or American-Swedes with new families, new careers, and new homes. They are now becoming established in their adopted countries. Few see any point in returning to their old homes, where many of their neighbors might consider them traitors. Except for an occasional Christmas visit to see their families, these exiles have little interest in being amnestied or pardoned, yet it is around them that most people have formed their opinions about amnesty.

The hidden victims of the Vietnam era, and the biggest potential beneficiaries of any program of relief, are the half-million draft and military offenders who are in the United States.

DRAFT OFFENDERS

Since the nation needed only a small portion of its young men to fight the war, the draft was designed to "channel" millions to engage in approved draft-avoiding pursuits throughout most of the war. Deferments and exemptions favored the privileged who could afford lawyers, doctors, counselors, or the haven of a college campus. Vast numbers of draft-age men saw that the hazards of joining the army outweighed the hazards of doing everything imaginable to avoid it, and draft counselors helped them wage a war of attrition against the Selective Service System. Millions of young men accepted their obligation to serve, but for those who did not, avoiding the draft was a virtual certainty if they got the right advice at the right time. As a result, the burdens of Vietnam fell disproportionately on the undercounseled, the poor, and the less educated. They did the fighting and the dying and they suffered the punishment for not fighting.

Those who went to Canada were less fortunate than their peers who got sound legal advice. Had the exiles been more clever and manipulative, they could have joined the millions with deferments and exemptions. Instead, they often fled without looking for help. They believed that exile was the only alternative to the draft or jail.

They were wrong. For every draft offender who went to prison, almost 200 others went free. Over a half-million young men apparently committed draft violations and could have been sentenced to five years in prison. An estimated 250,000 people never registered for the draft, almost half of them members of minority groups. Another 110,000 burned their draft cards, refused induction, or committed other offenses, but they were never charged. Selective Service officials did refer 210,000 individuals to the Justice Department for possible draft prosecution. Yet only 25,000 were indicted, 10,000 tried, 8,800 convicted, and 3,275 imprisoned.

What happened to the others? Many were given one last chance to enter the service, and some did so. Others failed their physical exams and were usually not prosecuted. But over 100,000 had their cases dropped because of technical defenses which challenged the actions of their draft boards, or else they were acquitted by judges and juries increasingly tired of the war. Skilled attorneys could invariably beat draft charges or, at the very least, negotiate for probation or suspended sentences.

Of the few who were sent to prison,[1] many could have easily avoided any penalty but chose instead to bear witness against the war by submitting themselves to punishment. Some voluntarily relinquished deferments or exemptions to express their opposition to the draft and the war. Others insisted on challenging the legality of the Vietnam War rather than resorting to procedural arguments to escape conviction.

A great many were faced with the choice between abandoning their religious beliefs or going to jail. Jehovah's Witnesses were forbidden by their faith from accepting conscientious-objector status, but their draft boards denied them the ministerial exemptions they sought. Muslims were considered selective objectors and could not qualify for conscientious-objector status because they acknowledged that they would willingly fight in a holy war declared by Allah.

Not all of the Vietnam-related federal prosecutions involved failure to cooperate with draft boards. Many prosecutions were for nonviolent acts of civil disobedience arising out of the antiwar protests. Thirty-three individuals were convicted for destroying their draft cards, the targets of a deliberate Justice Department policy of selective law enforcement designed to end a dramatic form of public protest in which tens of thousands participated. Most of the thirty-three were sentenced to long prison terms. Another ten individuals were convicted for their war-motivated refusal to pay federal taxes.

MILITARY OFFENDERS

In the minds of many, the Vietnam-era "deserter" was a coward who let others risk their lives in battle—or a war resister who refuesd to fight as a matter of principle. Both of these popular images apply to just a few of the 100,000 servicemen given bad discharges for absence offenses or the 150,000 discharged for other kinds of offenses. In the main, they were poorly educated teenagers from disadvantaged backgrounds who could not adjust to the rigorous demands of military life. Relatively few fled to avoid service in Vietnam, and an insignificant number—just two dozen—were convicted for desertion under combat conditions.

Over half of all absence offenders left because of pressing family or personal problems that had little to do with their attitude about the war or their fear of combat. Many were teenagers who had dropped out of school, confused about their future plans. They joined the army with the hope that it would give them the self-discipline and maturity they did not have. Often, they had been in trouble in civilian life and continued that pattern of behavior in the service. When military life proved too difficult, they decided to leave. Others had difficulty coping with life away from home. Their marriages were breaking up, or their families had to go on welfare because of the extremely low Vietnam-era military pay scales. In about 85 percent of all cases, opposition to the war was not the primary reason for their offenses.[2]

Almost one-third of all military offenders were educationally disadvantaged,[3] many of whom were brought into the military through the "project 100,000" and "New Standards" manpower programs. Instead of calling up the reserves or drafting college students—either of which would have involved immense political consequences—the government met its manpower needs during the Vietnam buildup by accepting hundreds of thousands of recruits whose limited mental abilities would have disqualified them before and after the Vietnam War. These special manpower programs were politically justified on Great Society grounds. Ostensibly, military service would instill these underprivileged teenagers with self-discipline, give them the education they missed, train them for jobs in the civilian economy, and have them emerge as useful and productive citizens. Instead, they often ended up in combat, learned no useful skills, and returned home scarred by their military experiences. The attrition rate and court-martial-conviction rate for marginally qualified servicemen were both twice the rate for all other servicemen. For about 75,000, this meant bad discharges—one more handicap imposed upon people who were already disadvantaged when they entered the service.

A surprising number of bad discharges—about 50,000—went to veterans who served full tours in Vietnam.[4] Typically, they committed offenses after returning to American military bases because they could not readjust to the back-home army of spit-shines and routine garrison duties. These soldiers were given bad discharges despite their good or often heroic service in the war zone. Many were adjudged misfits and issued bad discharges for medical, psychological, or morale problems which could have been solved through better leadership and more compassion.

The 50,000 offenders who served in Vietnam greatly outnumber the 12,000 who were punished for direct attempts to avoid Vietnam service. About 7,000 servicemen were given bad discharges for refusing to go to Vietnam, another 2,000 for absence offenses in the combat zone, and 3,000 for other Vietnam-related absence offenses; just 35 were court-martialed for desertion to avoid hazardous duty, 24 of whom were convicted of that charge. Several received very long prison sentences commensurate with the seriousness of their offenses. But the bad discharges they received were indistinguishable from those given almost 250,000 others whose misconduct was much less grave.

The military's response to disciplinary problems reflected the unusual stress it endured throughout the war. Because of expanding manpower needs, the army increasingly had to rely on young and inexperienced leadership at company and platoon levels. The young soldiers they had to lead displayed the same antipathy toward authority common to their generation. Other problems from civilian life became part of the military environment. Racial tensions mounted when black and white youths found themselves in circumstances of intense personal pressure. The drug culture invaded the military, fueled by the availability of cheap heroin in Vietnam. Flagging public confidence in the war weighed heavily upon all soldiers regardless of their personal views and rank. With no victory parades for returning soldiers, with confusion about the military mission, the will to perform was often lost. Vietnam-era military offenders were the double-victims of a service-wide crisis of morale. That crisis often influenced their behavior—and their punishment reflected the military's effort to maintain a disciplined fighting force despite these problems.

Early in the war, unauthorized absence and other disciplinary offenses were very frequently punished by court-martial. A conviction usually meant several months in prison and a bad-conduct or dishonorable discharge. Soldiers who committed lesser offenses were given undesirable discharges by administrative boards without standing trial. By the early 1970s, court-martial calendars had substatnial backlogs of long-term AWOL cases. At the same time, Congress ordered the armed forces to reduce their active-duty personnel. Commanding officers responded by discharging servicemen who were disciplinary problems as quickly as they could. They offered these soldiers plea-bargains—fast undesirable discharges "for the good of the service" as alternatives to trial and possible prison.[5] These troops wanted out as much as the military wanted them out, but many of them were only faintly aware of the hardship which those bad discharges would cause them later.

Almost all former servicemen with undesirable, bad-conduct or dishonorable discharges are denied veterans benefits, including medical benefits for injuries suffered in Vietnam. They—like 300,000 others wtih general discharges—are handicapped in civilian life. The military claims the right, like any employer, to characterize the quality of a man's service—yet it has the power, unlike any other employer, to make its verdict stick for life. That verdict carries a stigma like that of a criminal conviction, making it hard for a person to find a job.[6]

Many Americans still fear that any relief for Vietnam-era offenders would detract from the sacrifices of those who served in Vietnam. But the public does not realize how many of the bad discharges went to veterans who fought in Vietnam. Likewise, many people forget that draft and military offenders were not the only ones who failed to carry out their share of the burden of the war. Over 90 percent of the 27 million men of draft-eligible age never went to Vietnam—and 60 percent never served in the military. Of the 16 million who never served, about half apparently escaped because of their deliberate, albeit legal, efforts to avoid the draft.[7] The public misconceptions about of-

Footnotes at end of article.

fenders have obscured the implications of the evasive action which the law encouraged and society condoned throughout the Vietnam War.

FOOTNOTES

[1] The available evidence suggests that the total convicted draft-offender population can be broken down as follows: Jehovah's Witnesses—20 percent; other religious objectors—5 percent; nonreligious objectors denied CO status—10 percent; others opposed to the war—45 percent; those whose offenses did not reflect opposition to the war—20 percent.

[2] Three government surveys have tried to measure the antiwar motivations of absence offenders. All found between 4 percent and 12 percent to have this characteristic. A fourth survey, conducted by a civilian counseling organization, found about 30 percent of all absence offenders to have been antiwar. The circumstances of these surveys suggests that the first three undermeasured, and the fourth overmeasured, the extent of antiwar motivation.

[3] These soldiers were tested as category IV and V of the Armed Forces Qualification Test (AFQT), placing them in the bottom 30 percentiles of intelligence.

[4] Three government surveys of absence offenders have indicated that between 18 and 27 percent served in Vietnam, almost all serving full tours. Data is unavailable for other kinds of offenders, so this 50,000 figure is an extrapolation of these survey findings.

[5] The number of undesirable discharges "for the good of the service" rose from 1,428 in 1969 to 29,618 in 1972.

[6] Government and private surveys have consistently shown that 40 percent of all employers discriminate against former servicemen with general discharges and 60 to 70 percent against those with worse discharges.

[7] The Vietnam Generation Survey discovered that about three-quarters of its draft-age male respondents consciously tried to avoid the Vietnam War, either by manipulating their draft status, or by negotiating safe military assignments. Of those who never served in the military, 55 percent believed that "something I did" may have made the difference. Of those who did serve but never went to Vietnam, 42 percent felt that "something I did" may have kept them out of the war. This survey was based on a spot sample of 1,586 individuals in three locations, so its findings are not necessarily representative of the entire generation.

Chapter 4. A Program of Relief for Vietnam-Era Draft and Military Offenders

(Excerpts pp. 88–97)

Fugitive military offenders (3,000)

Throughout the Vietnam War, soldiers went AWOL no more frequently than their counterparts in the Korean War. What was unique about the Vietnam-era was the number of long-term absences. After thirty days, an unauthorized absence was administratively considered a desertion offense, and the Vietnam-era incidence of desertion was three times that of the Korean War.

Only about 15 percent of the absence offenders were directly motivated by their opposition to the Vietnam War.[1] A much greater percentage faced personal and family problems or else could not adjust to military service. One-fourth were blacks or members of other minority groups. Over half came from broken homes, often with poverty-level incomes. They typically grew up in small towns or farms, and a disproportionate number came from the South. Often they were individuals who had trouble in civilian life. Most were high school dropouts who had volunteered for the service. In the military, their inability to cope resulted in absence offenses.

Few of them became true "fugitives." Nine out of ten either surrendered quickly or resumed a normal life under their own names, usually in their hometowns. Their absence offenses often lasted for years, despite the military's notification to local police. Several thousand moved around the United States under assumed names, often hiding in college communities or traveling through the antiwar underground which spanned the nation. Others took exile. In the early years of the Vietnam War, no foreign country accepted foreign deserters. Those who slipped across Canadian or Mexican borders were usually delivered to American military police when they were discovered. In early 1968, the first opportunity arose for military fugitives to settle in another country when Sweden announced that it would accept them as political refugees. Shortly afterwards, Canada adopted the same attitude, and soldiers increasingly chose Canada or Sweden over life in the American underground. Throughout the war years, about 15,000 fugitive soldiers took exile; 10,000 went to Canada, 1,000 went to Sweden, and the rest scattered around the world.

Life in exile was difficult, especially in foreign countries which threatened to deport fugitives upon discovery. Even in Canada or Sweden, jobs were hard to find for these young Americans, most of whom were poorly educated and had no job skills. By the early 1970s, many began coming home to face military punishment.

Starting in 1971, the military began to offer administrative undesirable discharges in unprecedented numbers to surrendering absence offenders who did not insist upon standing trial. Most were eager to end their military status as quickly as possible, especially if they could avoid the risk of months or years in military prison. But those who returned from Canada or Sweden with outspoken antiwar views were usually denied this opportunity; most were court-martialed and sentenced to long prison terms. Thereafter, military offenders who returned from exile paid their own passage back to the United States, concealed where they had been, and received immediate undesirable discharges.

In the last few years, the military has trimmed its backlog of fugitive cases significantly. In the early 1970s, the military believed that as many as 30,000 absence offenders were still at large. By the start of the Ford clemency program, that number had been reduced to 10,000. Today, there are only about 3,000 Vietnam-era military fugitives, most of whom are probably in Canada or Sweden.

As a result of the Ford program, all branches of service now consistently offer administrative undesirable discharges to returning absence offenders. The only cases now being referred to court-martial are those involving serious civilian-type offenses against person or property. About 10 percent of those who surrender are given general discharges because of extenuating circumstances surrounding their cases. Unlike earlier years, politically motivated exiles are not treated more harshly.

With the military having adopted a policy of leniency for fugitive absence offenders, a new program should not attempt to distinguish among them. They should be treated as a class. The only exception should be for those who also face charges for civilian-type offenses which warrant trial by general court-martial. Their cases should be identified by a clerical review of the files, and those who the military believes can be successfully prosecuted should be excluded from the program.

The most important relief which can be offered fugitive military offenders is their immediate separation from the service. Many are still unaware that under present policy they can be discharged without having to face court-martial. As a group, their offenses were no different from those of offenders who have already been discharged, so their relief should also be no different. It should include general discharges plus benefits if they qualify under the standards established by this program.

Recommendation 31: Fugitive military offenders should be issued general discharges *in absentia*, except those charged with civilian-type offenses which warrant trial by general court-martial.

Military Offenders with Undesirable, Bad-Conduct, or Dishonorable Discharges for Absence Offenses (100,000)

About 100,000 of the 250,000 Vietnam-era former servicemen with bad discharges[2] were discharged for one of three absence offenses: unauthorized absence, missing movement, or desertion.[3] About three-fourths were given undesirable discharges administratively and were separated without further military punishment. The other one-fourth were court-martialed, given bad-conduct or dishonorable discharges, and usually sentenced to a few months in military prison.[4]

Of the 100,000 former servicemen with bad discharges for absence offenses, a very small percentage committed acts that were demonstrably cowardly or which endangered the lives of fellow troops. Throughout the entire war, just twenty-four soldiers were convicted of desertion under combat conditions. Only about 12,000 committed absence offenses in Vietnam or upon receiving orders for Vietnam.[5] By contrast, 20,000 fled after completing one or more full Vietnam tours, and the remaining 68,000 were discharged for absence offenses which bore no relationship to service in Vietnam.

In the early years of the war, absence offenses were generally punished by court-martial, imprisonment, and bad-conduct or dishonorable discharges. Paradoxically, what many would regard as the most serious absence offenses—failure to report to the combat zone and AWOL in Vietnam—did not receive unusually severe treatment by the military. In fact, a soldier who committed an absence offense wholly unrelated to Vietnam service was more likely to be discharged by court-martial than a soldier whose offense occurred in Vietnam.

Beginning in the early 1970s, the use of courts-martial fell precipitously. Instead, most absence offenders were given the opportunity of accepting an administrative undesirable discharge in lieu of trial. In part, the widespread use of administrative discharges reflected an acknowledgment by commanding officers that most absence offenses did not warrant a criminal conviction and possible imprisonment.

In offering relief to military absence offenders, a new program should be generous with the overwhelming majority of cases, while excluding relief only to those who committed the most serious offenses without extenuating circumstances.

An exhaustive review of all 100,000 cases is not necessary to isolate the most serious absence offenses. Such an undertaking would require immense resources and could never be done fairly. It is impossible to make an *ex post facto* determination that a commanding officer was too lenient with an offender when he allowed him to avoid court-martial and accept an undesirable discharge. At the time, the commanding officer had the benefit of considerable evidence about motivation, contrition, the quality of military performance, and many other facts which were never put into official files. The military files of absence offenders with undesirable discharges describe little more than the time and place of the alleged offenses. Important

Footnotes at end of article.

facts are often omitted. Even the fact of the offense itself cannot be taken for granted; the administrative process was not a trial, and the soldier's acceptance of an undesirable discharge was not an admission of guilt. The military decision to proceed administratively offers reasonable grounds for categorizing the 70,000 absence offenders with undesirable discharges as having committed relatively less serious absence offenses. They should be given automatic relief without undergoing a case-by-case review.

Because of the large amount of discretion exercised by commanders, discharge policies were often applied inconsistently. Not every court-martial necessarily reflected a more serious offense. Further distinctions must therefore be made among the 30,000 discharges awarded by courts-martial. Under military law a special court-martial may not impose a dishonorable discharge or a sentence involving confinement for more than six months. Special courts-martial are thus akin to misdemeanor courts in civilian law. For this reason, a decision to refer a case to a special court-martial reflects the commanding officer's view that the offenses charged are not of the most serious nature. Nevertheless, any absence offense related to service in Vietnam should be considered serious if it was punished by special court-martial, and these cases should be reviewed individually.

A general court-martial is convened only when the commanding officer believes that a felony offense has occurred. It is the only military court which may sentence an offender to a dishonorable discharge and more than six months in military prison. All general court-martial cases should therefore be reviewed individually, whether or not related to Vietnam service. Applying these standards, about 15,000 court-martial cases would undergo a case-by-case review to determine whether relief is warranted.

Recommendation 32: Individuals discharged for absence offenses should be treated as follows:

(1) Individuals with undesirable discharges should be issued general discharges;

(2) a case-by-case review should determine whether pardons and general discharges should be issued to individuals discharged by general court-martial;

(3) a case-by-case review should determine whether pardons and general discharges should be issued to individuals discharged by special court-martial for (a) absence in Vietnam, (b) failure to report to Vietnam, or (c) failure to return to Vietnam from leave;

(4) other individuals discharged by special court-martial should be issued pardons and general discharges.

Military offenders with undesirable, bad-conduct, or dishonorable discharges for nonabsence offenses (150,000)

Throughout the amnesty debate, the focus of discussion has been on "deserters." Absence offenses have been wrongly associated with antiwar motivations, leading many people to ignore three basic facts. First, the great majority of absence offenders left their units because of personal or family problems, not because of their opposition to the war. Second, antiwar behavior was manifested in a great many kinds of offenses. Third, many absence offenders and nonabsence offenders exhibited common behavior patterns.

The Ford clemency program recognized the first point but not the other two. The program included all 100,000 discharged absence offenders reagrdless of the individual's motivation, but it excluded 150,000 servicemen with bad discharges for other offenses, even those with very similar characteristics. This produced the following anomalies: If a soldier fled when he received orders for Vietnam, he was eligible for the program; if he stood his ground and refused to obey those orders, he was ineligible. If an offender committed a series of absence and non-absence offenses, he was eligible for clemency only if his last offense involved unauthorized absence; if it did not, he was ineligible.[6]

Most former servicemen discharged for violations of military discipline were not explicitly antiwar, but like absence offenders they were strongly affected by the war. Recruits reflected the same antipathy toward authority as others in their generation. Even those who were not consciously antiwar were often confused and upset by the public controversy about the war. Racial conflict and drug problems were widespread. Commissioned and noncommissioned officers at the company and platoon levels were frequently young and inexperienced, making it difficult for them to maintain morale and cope with these matters. As a result, the armed forces experienced a wide range of disciplinary problems—disrespect, refusal to obey orders, drug abuse, unauthorized absence, and other misconduct.

A bad discharge was often the product of a complex pattern of substandard performance. It is not possible to make a precise distinction between persons discharged for absence and those discharged for other violations of military discipline. Some servicemen repeatedly went AWOL but were not discharged until they committed some other form of misconduct. Others were discharged after a long history of nonabsence infractions followed by an otherwise insignificant AWOL. A military record exhibiting a pattern of misconduct typically resulted in a bad discharge for the latest act even if that violation standing alone might have led to a lesser form of disciplinary action.

Commanding officers had broad discretion to decide how to separate servicemen who had demonstrated an incapacity or unwillingness to perform well. Frequently, they responded to nonabsence offenses by giving offenders undesirable discharges following administrative determinations that they were "unfit" for military service. Military guidelines for "unfitness" discharges were very broad, encompassing drug usage, shirking duty, frequent trouble with civilian or military authority, failure to pay debts, and homosexuality.

Undesirable discharges for unfitness were especially common during the first several years of the Vietnam War. As the war neared its end, morale problems eased, and the military began to rely more on rehabilitation, counseling, and more lenient discharge policies. Many who once would have received undesirable discharges for "unfitness" instead were often given general discharges for "unsuitability." They were thereby spared a discharge under other than honorable conditions, and they became eligible for veterans' benefits.

The program should not make an artificial distinction between absence offenses and other violations of military discipline. Former servicemen who received bad discharges for nonabsence offenses against military discipline should be treated exactly the same as absence offenders. Thus, all nonabsence offenders granted undesirable discharges should be granted relief as a class.[7] Individuals discharged by a special court-martial for military offenses connected with Vietnam service should be reviewed on a case-by-case basis, as should all whose offenses resulted in discharge after a general court-martial. Applying these standards, about 5,000 court-martial cases would undergo a case-by-case review to determine whether relief is warranted.

However, some nonabsence offenses were civilian-type crimes and were not simply violations of military discipline. Several thousand soldiers were convicted by courts-martial, sentenced to prison, and given bad-conduct or dishonorable discharges for murder, rape, armed robbery, assault, theft, and other serious criminal misconduct. Former servicemen convicted by special or general court-martial or civilian-type offenses against person or property should be excluded altogether.[8]

Recommendation 33: Individuals discharged for nonabsence offenses against military discipline should be treated as follows:

(1) individuals with undesirable discharges should be issued general discharges;

(2) a case-by-case review should determine whether pardons and general discharges should be issued to individuals discharged by general court-martial;

(3) a case-by-case review should determine whether pardons and general discharges should be issued to individuals discharged by special court-martial for offenses which (a) occurred in Vietnam, or (b) were occasioned by orders to report for Vietnam;

(4) other individuals discharged by special court-martial should be issued pardons and general discharges.

Former Servicemen with General Discharges (300,000)

General discharges defy easy description. They were given to 300,000 Vietnam-era servicemen whose records were considered neither good enough to justify fully honorable discharges, nor bad enough to warrant undesirable discharges or worse. Some soldiers who received general discharges either had a long history of minor infractions or else committed major offenses but were given light punishment because of strong extenuating circumstances. But general discharges were also given for reasons wholly unrelated to discipline; they were used to "fire" servicemen who were incapable of performing satisfactorily because of physical, mental, or psychological disabilities.

In practice, there was often no precise distinction between soldiers who received general discharges and those who received better or worse discharges. Given the variations in discharge policies among military bases and commanding officers, general discharges were given to many solders who might have deserved better and to others who might well have received worse.

Many general discharges were given after unsuitability/unfitness hearings which could have resulted in undesirable discharges. In military shorthand, a general discharge for unsuitability was given to those with aptitude problems—"who would if they could, but they can't." An undesirable discharge for unfitness went to soldiers with attitude problems—"who could if they would, but they won't." To make this decision properly, a commanding officer had to know when poor performance was the result of mental or psychological disabilities, a difficult judgment even for a skilled psychiatrist.

As the Vietnam War approached its end, administrative hearings became more and more lenient. Many of the same soldiers who once would have gotten undesirable discharges received general discharges instead. The Army increased its general discharge rate from 1.7 percent in 1969 to 8.2 percent in 1975, while curtailing sharply its practice of giving undesirable discharges for unfitness.[9]

Former servicemen with general discharges are disadvantaged by having a not-fully-honorable certificate, but they automatically qualify for veterans' benefits if they served the requisite period of active duty. Surveys indicate that only 5 percent of all employers refuse to hire them, whereas 35 to 50 percent refuse to hire anyone with undesirable, bad-conduct, or dishonorable discharges. Thus, individuals with general discharges do not present a pressing case for relief in a new program.

A case-by-case review of the 300,000 Vietnam-era general discharges would entail enormous resources for a comparatively marginal improvement in the status of these individuals. Nor would it be available to grant them honorable discharges as a class, for

many of them did not perform well enough to deserve such a commendation. Former servicemen with general discharges who believe they warrant honorable discharges can apply for upgrades through military discharge review boards, which can give each case the individual attention it requires.

A special program focusing on Vietnam-era offenders should not offer relief to veterans with general discharges. If they are to be helped as a class, it should be through a fundamental restructuring of the military discharge system.

Recommendation 34: Individuals now holding general discharges should not be extended relief under this program.

FOOTNOTES

[1] Various official and unofficial studies have produced figures ranging from 4 percent to 30 percent. See the footnote on page 7.

[2] From Fiscal Year 1965 through Fiscal Year 1974, approximately 235,000 servicemen were given bad discharges. (Fiscal Year 1974 must be included in this tally because most offenders would have been draftees or draft-induced enlistees.) A few thousand others would be covered by this program because of earlier or later offenses related to the Vietnam War.

[3] In military law, "desertion" is unauthorized absence with an intent to remain away permanently, an intent to avoid hazardous duty, or other aggravating circumstances. Only 9 percent of all punished offenders were convicted of desertion.

[4] Of the 250,000 bad discharges, about 210,000 were undesirable discharges, one-third for absence offenses; 40,000 were bad-conduct or dishonorable discharges imposed by courts-martial, three-fourths for absence offenses.

[5] Seven thousand fled when ordered to Vietnam; 2,000 went AWOL in the combat zone; 2,000 went AWOL in a Vietnam non-combat zone; 1,000 failed to return to Vietnam from leave.

[6] The Ford program limited eligibility to servicemen discharged "as a consequence" of unauthorized absence, but many of the cases reviewed by the Clemency Board involved persons with both absence and non-absence misconduct. Discharges were based on the entire military record, and attributing the separation to one cause was artificial.

[7] Many soldiers were given undesirable discharges because of civilian convictions for offenses committed off base. The general disqualification of persons convicted of serious felony crimes would bar some of these individuals from relief under this program, but those convicted for less serious civilian offenses would still be eligible.

[8] See pages 51–53.

[9] The total proportion of undesirable discharges has not reflected this change because of the increasingly common use of undesirable discharges "for the good of the service" in lieu of court-martial. These latter discharges are not given through unsuitability/unfitness hearings.

ALEXANDER BARKAN CALLS FOR UNIVERSAL VOTER REGISTRATION

Mr. KENNEDY. Mr. President, the January 24 issue of Newsweek contains an extremely refreshing and perceptive analysis of the issue of voter registration.

The analysis is by Mr. Alexander E. Barkan, director of the AFL–CIO Committee on Political Education and one of the leading advocates in the Nation of reform in our outdated and archaic voter registration laws.

As Mr. Barkan states, the time has come for a universal voter registration law:

Any eligible citizen should be entitled to enter the voting booth on Election Day, his or her registration having been duly handled, without aggravation or inconvenience, by the government.

The conventional wisdom often blames low voter turnout on voter apathy. But Mr. Barkan effectively refutes the myth of voter apathy by citing the reality of the obstacles to registration and their effect in denying citizens the right to vote.

I share Mr. Barkan's concern that it is time for a quantum jump to an effective universal voter registration system in America. I hope that this reform will be a top priority in the present Congress, so that the next time America goes to the polls, every citizen will be able to exercise his right to vote in fact as well as theory. It is time to end the registration mess.

Mr. President, I commend Mr. Barkan for his thoughtful Newsweek essay, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

THE MYTH OF VOTER APATHY

(By Alexander E. Barkan)

We've just come through a national election. Many concerned with it were preoccupied not so much with the question of who would win but whether anybody would show up. "What if we hold the election," they asked, "and nobody comes?" As many bets were placed on the come-out as on the outcome. Newspaper headlines and other media comments on "apathy" in the Presidential race were so common some thought it must be a third-party candidate.

That's a joke. Apathy, voter frustration and mistrust are quadrennial stories, dusted off in Presidential-election years. I'm convinced they're inflated. Almost always in an election year, voter interest is slow to generate. While the media and the candidates are all in a dither and immersed in political matters, voters—many of them—keep one eye on the pennant races, the World Series, other concerns. In the last few weeks, their interest picks up perceptibly, then peaks in the final days of a campaign.

One problem is that by then registration in all but a few states has closed out—and millions of citizens have not registered. Meanwhile, millions of others have been discouraged from registering by archaic laws that make registration at least inconvenient and often a challenge to one's ingenuity and perseverance. A postelection New York Times poll found large numbers failed to register because "it was too hard for them."

PERFORMANCE

It's been too hard for too many too long, and the labor movement believes it's high time to erase the pointless laws that limit voter participation. It is time to enact a universal voter-registration law. The Federal government should take on the responsibility of registering voters. Our people will vote if it's made easier for them.

This year, approximately 150 million Americans were of voting age and eligible. About 70 per cent, or 105 million of them, were registered. On Nov. 2, more than 80 million voted—which was a record number, if not percentage.

So, almost 80 per cent of those who were registered voted. No so bad, and good enough to suggest that millions more would have turned out had they been able simply to get in line Election Day and make their choice known.

Strong evidence undergirds this belief. In Wisconsin, a recently enacted state law permits voters to forget about registration entirely, just walk up on Election Day, provide a driver's license or other proof of age and residence and go into the booth and pull the levers. About 200,000 unregistered Wisconsinites voted Nov. 2, creating an actual increase in voting percentage over 1972. Voter participation was 10 points above the national average of 54.4.

In Minnesota, the case was made as compellingly. Under a similar state law, more than 22 per cent of the 1.9 million persons who voted had not registered beforehand. Minnesota's voting performance of 75 percent-plus was 7 points up from 1972 and more than 20 points over the national average. It was the highest in the nation. Walter Mondale's presence on the national ticket surely helped, but not that much.

REGISTRATION BY MAIL

In neither Wisconsin nor Minnesota was there fraudulent voting. Administrative headaches, if any, were minor. It cost nothing extra.

As an interim step to universal registration, the trade-union movement has supported enactment of registration-by-mail laws. In the past two years, sixteen states have adopted them. In most, experience with the law supports the belief that they're a step in the right direction. In Texas, Tennessee, Maryland, Oregon and Kentucky, new registrations in 1976 alone approached or exceeded the number of citizens who had become newly eligible to vote in the 1972–76 period.

It is conceded the experience was less impressive in other states. But the program is recent, and logistical problems, particularly in big industrial states, are enormous even for the simplified procedure of mail registration.

The labor movement was the only organization fully promoting use of this new tool, and we registered some 6 million of our members for an over-all AFL–CIO member-registration rate of 80 per cent, 10 points higher than the electorate at large. The political parties and other interest groups almost uniformly ignored the availability of mail registration, and election officials with few exceptions failed to stimulate its use adequately.

But the labor movement seeks a quantum leap beyond registration by mail. We look at Canada and other nations where the government says to the citizen, "Don't worry about registration, we'll handle that—all you have to do is show up at the polls and vote Election Day." We look at the fact that citizens in these nations *do* show up Election Day in percentages far higher than our own. We think this is exactly how it should, and would, work here.

Argument has raged unremittingly throughout our 200 years over voting rights and voting performance. At first, voting was restricted to property owners. For nearly a century and a half, it was a club for men only, and white men, at that. Women—white women—finally got the vote, but for nearly 50 years beyond that, minorities were effectively barred from voting by poll taxes, literacy tests and, often, violence. Now, with the Voting Rights Act—for which the labor movement fought—that has changed.

OPENING THE POLLS

Some argue we have come as far as we should in opening up the process. They lament that further efforts will only encourage more voting by the poor and the undereducated, who, they seem to think, are incapable of making wise political decisions. Personally, I find their political judgment as sound as that of lawyers, bankers, corporate leaders, professors and—yes—even media commentators.

However, I'm willing to leave the debate to those who pontificate regularly in this and similar journals. With or without their coun-

sel, I am convinced the more citizen participation we have the healthier and stronger our democracy will be, and that all reasonable steps should be taken to increase it.

We need a universal voter-registration law. Any eligible citizen should be entitled to enter the voting booth on Election Day, his or her registration having been duly handled, without aggravation or inconvenience, by the government. The trade-union movement looks forward to the day when the question will be not, "What if we hold an election and no one showes up?" but, "What if we hold an election and practically everyone does?"

FOREST MANAGEMENT IN TEXAS

Mr. TOWER. Mr. President, the January issue of Forest Farmer, published by the Forest Farmers Association in Atlanta, contained an especially interesting article entitled "Unique Forest Areas: Texas' Oldest State Forest."

I wish that my colleagues could see the three photographs accompanying the article which show the development of this area from a barren plain to a magnificent plantation forest. They are truly striking, and illustrate the incredible regenerative miracle which modern forest management brings about.

As a boy in east Texas, I remember vividly the vastness of our State's forest resources. I can still enjoy that resource today, because of the dedicated work of State foresters, the National Forest Service, and those in the forestry industry who are committed to renewing the resource which supports their industry.

Long before the weekend environmentalist became aware of the need for preserving our forests, these men and women in the industry and in Government service were protecting for us and our posterity the legacy of forests which astounded the first settlers in our country.

Instead of criticizing those who have done the most work in preserving America's forest resources, this country should recognize the significant contributions they have made.

The article about the E. O. Seicke State Forest is representative of the strides we have made in reforesting our State. I would recommend it to my colleagues, and for their benefit, ask unanimous consent that a copy be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNIQUE FOREST AREAS—TEXAS' OLDEST STATE FOREST

(By Dave Cleaves)

Since it was established in 1926, the 26-C slash pine plantation has been setting a good example for forest management efforts in Texas. This is the oldest slash pine plantation in Texas and is located at the entrance to the E. O. Seicke State Forest, Texas' oldest state forest. The forest is located five miles southeast of Kirbyville in Newton County and is operated by the Texas Forest Service.

Texas Forest Service purchased the 1,700 acre state forest in 1924. The land had been in longleaf pine but had been left bare in the wake of the early logging operations. The service planted the 26–C area with slash pine, a tree not native to Texas but considered able to grow there. Seed was purchased from the Louisiana Forestry Commission. Since its establishment, the 26–C plantation has been managed intensively as a demonstration area for landowners, school groups and media representatives. Now 50 years old, it has been commercially thinned seven times for a total harvest of 24.4 cords of pulpwood and 57 poles per acre. The plantation has been thinned twice for sawtimber-sized trees, yielding a total of 6,773 board feet. The last thinning was done in 1973 and yielded 4,322 board feet/acre. Plantation has been prescribed burned periodically to reduce competing vegetation and open up stand for a more park-like appearance.

Today the 26–C plantation contains 13,727 board feet of sawtimber per acre (3,655 cubic feet) in 57 trees at a basal area of 85. Average height of pines is 98.3 feet and average diameter is 16.4 inches.

FREE ENTERPRISE IN OUR THIRD CENTURY

Mr. BUMPERS. Mr. President, I would like to share with my colleagues and the public a thought-provoking address by Gerald H. Trautman, chairman and chief executive officer of the Greyhound Corp. Mr. Trautman makes a number of pungent observations that we could well take to heart: That during the 94th Congress our national debt increased at the rate of $1 billion a week; that our regulatory agencies have become a fourth branch of Government accountable to no one, with power both to interpret and to administer their own pronouncements; that businessmen have too long been intimidated into being ashamed of profit; and that Government, while it can enact programs to stimulate demand and help the disadvantaged, cannot create the resources that are essential for these purposes.

I was especially glad to see Mr. Trautman's description of our regulatory agencies as a runaway fourth branch of Government. For almost 2 years now I have advocated legislation to restore our governmental balance by bringing these agencies under control. This proposal, which is now pending before the 95th Congress as S. 86, would reverse the traditional rule of law that regulations of Federal agencies are presumed to be valid. Instead, when a citizen challenges a regulation in court as going beyond the intent of Congress, the burden would be on the agency to establish the validity of its own action.

To be sure, Government can accomplish much, and has done so in the past. It would be unwise to return to a strict laissez-faire system of economics. Modern conditions, including the complexity of economic relationships and the tremendous growth of population, necessarily require a Government of much larger size than formerly. This does not mean, however, that the growth of Government should be unchecked, or that our efforts to make it efficient should cease.

We should all be indebted to Mr. Trautman for his insights, and I ask unanimous consent that a copy of his address, "Free Enterprise in Our Third Century," be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

FREE ENTERPRISE IN OUR THIRD CENTURY

I welcome the opportunity to share with you my concern over the anti-business attitude of our federal regulators in Washington, and to tell you what we must do to preserve what's left of our free enterprise system as we head into our third century.

I would like to begin by pointing out that in just a few days we will be celebrating . . . if that is the word . . . the 47th anniversary of a calamitous day in financial history. It was on October 29, 1929, that the stock market collapsed on Wall Street, triggering the Great Depression of the 30s.

I realize that is not a very cheerful preamble to my remarks today. But it is, perhaps, fitting to acknowledge that 47 years later, we are teetering on the brink of another kind of financial collapse . . . the demise of our free enterprise system. It will require the most stringent kind of courage, determination, hard work and forthright drum-beating, as we begin this third century of our national existence, to preserve the economic system that so successfully bankrolled our country through its first 200 years.

It was once observed by an important statesman that, "War is much too serious a matter to be entrusted to the military." More and more Americans today feel the same way about the economy . . . that it is entirely too serious a matter to be left to the economists, the bureaucrats and the politicians.

One of the saddest discoveries that Americans are making is that economics is not like influenza. You can't catch it just by hanging around. You have to learn it. And for too many years our economic policies have been dictated by a procession of individuals who are little better than economic illiterates.

The result is that we are paying dearly today for the damage inflicted on our economic system by more than 40 years of increasing government intrusion into the affairs of business. And the most alarming part is that the intrusion is accelerating. When I first took this Greyhound job, I could spend virtually 100% of my time managing the business. Today, some ten years later, over a third of my time is devoted to dealing with intrusions, actual and proposed, of the federal government.

The price we are paying for having stood mute while more and more decision-making gravitated to Washington is that today we not only have economic mismanagement, but a federal government that is all pervasive . . . reaching into every corner of human endeavor and slowly, inexorably replacing the sovereignty of the individual with the sovereignty of the government.

Every time in those years when we allowed the federal government to intervene and put controls into effect, we gave up another bit of our freedom. And we are only now beginning to recognize that what we had perceived as the warm, embracing arms of government are more accurately suffocating tentacles . . . regulating and mandating, decreeing and ordering.

No less an authority than Caspar Weinberger, former Secretary of H.E.W., last year ruefully concluded that, "after 5½ years in Wash'ngton, my single over-riding observation is that an all-pervasive federal government, unless checked, may take away our most precious personal freedoms while shattering the very foundations of our economic system . . . we are creating an edifice of law and regulation that has intruded into the lives of all of us . . ."

By way of perspective, it was inflation that pulled the rug out from under us nearly three years ago and made us wake up to what was happening in this country.

Up until then, modest inflation had come to be regarded as a more or less inevitable consequence of "The American Way of Life"

with its built-in tendency to over-consume and under-invest.

What shook us out of our complacency, however, was when inflation suddenly escalated out of the 2% and 3% range and into double digits. Suddenly we all realized we were not as well off as we had felt. As wage earners, we were "making more now and enjoying it less." And that applied as well to business.

Today, inflation has happily dropped out of the double digits, but as a nation we have unhappily dropped back into our complacent, comfortable mentality with regard to inflation. Recently I read that economists and politicians are "pleased to report" that inflation will probably hold at around 5½% or 6% through 1976. When a 6% inflation rate is cause for jubilation, it becomes painfully obvious that too many Americans, notably our political corps, still do not comprehend the underlying causes of inflation and worse again, are not yet willing to apply the admittedly painful but necessary correctives.

The fact is that inflation is not an economic problem, but a political one. It is the offspring—the monster child—of government encroachment and government debt.

Encroachment, because we have a federal government that has phenomenally escalated its role, insinuating itself across the business and financial landscape and then going on to regulate every facet of private life as well.

Government at all levels has expanded in the past 50 years from constituting 10% of the economy to going on 50%. What we have is a government sector growing faster than the economy that supports it.

Secondly, we have a massive and chronic debt . . . government spending that won't quit, long after tax money has been exhausted. Today the national debt stands at over $500 billion and it is estimated that it will reach $713 billion in fiscal 1977.

Our legislators are so used to spending grandiose sums that they have lost sight of the concept of "a billion."

I recently read a thought-provoking paragraph that puts "a billion" into perspective. Many of you may have read it also, but it is worth repeating:

"One billion seconds ago, the first atomic bomb had not been exploded: one billion minutes ago, Christ was still on earth: one billion hours ago, men were still living in caves: yet one billion dollars ago . . . in terms of government spending . . . was yesterday!"

How? Because we added to our national debt in the 94th Congress at the mind-boggling rate of $1 billion a week by the device of spending at the rate of $1 billion a day.

What has projected . . . and will continue to project . . . this nation into inflationary spirals then is not, as its critics would have us believe, "a failure of the free enterprise system to cope," but the burdening of that system with an explosion of government entities and an explosion of social expectations which outrun its resources.

No one questions the worth and the value of certain social programs, or our responsibility to protect and assist the vulnerable in our society. But that is quite a different thing from dedicating our monetary policy to their solution regardless of the economic consequences. Sweet reason alone dictates that we cannot solve all problems at the same time. If government programs continue to escalate as they have in recent years, more than 50% of our gross national product will be required to support social programs by the year 2000.

A meeting of the nation's top economists held last year to investigate the causes of inflation concluded that "the failure of our political system (note . . . our political system, not our economic system) to contain the growth of social demands within limits tolerable to the free society, is the essential first cause of inflation in this society."

In short, we have transformed social aspirations into entitlement. We have created a "spoils system" . . . a nation of special-interest groups, all screaming we-want-what-we-want-when-we-want-it, heedless of the cost, the ability of taxpayers to shoulder the burden, or the fact that the price we pay for more and more public programs is less and less private freedom.

We are, in fact, fast becoming a welfare state, and it is a propensity of welfare states to live beyond their means, to substitute by edict and mandate their will for the will of the individual and to grow, legislate and regulate with a frenzy.

And this latter we are doing with a vengeance. Under the guise of "protective law" Congress has created a fourth branch of government . . . a maze of regulatory agencies which are variously estimated to cost the American consumer some $130 billion a year.

More seriously, these agencies are accountable to no one and since they both interpret and administer their own pronouncements, they wield the power to wound or kill whole industries. More often than not, their behavior is irresponsible and erratic, the result of over-regulation, mis-regulation, over-lapping regulation, contradictory regulation.

Federal bureaucracy, like some weird science-fiction monster, has taken on a life of its own and is out of control of Congress.

Let me give you a few examples of what these regulatory agencies have done to Greyhound recently:

Greyhound buses have an excellent safety record . . . in fact, the best in the transportation business. This didn't just happen. It is the result of well considered safety rules and strict training, but this made no difference. The U.S. Labor Department summoned us into federal court claiming that our age qualifications for drivers were discriminatory, that we should hire people to drive no matter how old. We had to go through a full trial with expert witnesses and an appeal before our qualifications were sustained. It took a great deal of our executives' time and cost us a considerable sum of money to repel this intrusion by the federal government. In fact, it sometimes costs so much to be right that it is hardly worth it.

Next we had an attack by the Federal Equal Employment Opportunity Commission on our height requirement for drivers. Obviously you have to be of some height to drive a bus, and our safety people, out of years of experience, had set the height at 5'7", but the EEOC claimed this was discrimination—that we should hire drivers regardless of their height. And while we thought we could successfully defend it in court we decided it was not worth the time and effort.

You might be interested in another facet of this case. Along with the demand from the EEOC that we give up our height requirement was a demand that we pay some $19 million in back pay to unspecified and unknown individuals who might have been employed in the past if we had not had the 5'7" rule. This in itself was ridiculous, but more so—the demand on behalf of the EEOC was signed simply, "Betsy." It seems to me when someone asks you for $19 million you are entitled to have her full name.

Let me give you another example of federal harassment. We are now embroiled in a costly investigation by the Interstate Commerce Commission in which the staff of that commission is advocating among other things that bus carriers be required to provide a terminal in every town of 15,000 population in the U.S., and keep those terminals open night and day whenever a bus schedule goes through town. All this is to be done with the carriers' private funds, since they have no subsidy such as the $1 million a day of our competitor Amtrak. We estimate that if the ICC were to be successful in its efforts, it would increase annual operating expenses by $187 million, and would require at least a 50% increase in intercity passenger fares.

Another federal agency that gives our people a considerable amount of "employment" is the Securities and Exchange Commission. Every year our annual report gets longer because, to satisfy the SEC, we have to put in more financial information for our shareholders, most of which is not understood or even read by them. Next year, we are faced with another SEC requirement which will be a real headache for a company such as Greyhound. I am talking about the necessity of including in our reports a section on the replacement cost of our extensive facilities—sometimes called current value accounting. We have a task force working on this now. This section of our reports is going to be a veritable "accounting-in-wonderland" bearing no resemblance to financial facts. In issuing this requirement the SEC said that business had to get used to "imprecision" in accounting. I have always had the old-fashioned idea that any imprecision in figures reported to the SEC or to our shareholders might land me in jail.

One of our subsidiaries, Armour and Company, has the Federal Meat Inspection Service in its packing plants. I don't find any fault with this, but we do have problems from time to time when the meat inspection service disagrees with another federal regulatory agency as to steps to be taken in the plants. Recently the meat inspection service insisted on an opening in a sausage conveyor line so that it could take out samples to test. Another federal agency, OSHA, wanted the opening closed because it claimed it was a safety hazard. Each agency threatened to shut down the plant if we did not comply with its request. Unfortunately this is not an isolated instance of regulatory conflict. In our food plants we have been told by various federal agencies to provide smooth and rough floors in the same area, salt and not salt in the same area, paint and not paint the same area, and so on.

One of the agencies in Washington that we can count on to take up a considerable amount of management's time is the Food and Drug Administration. It took Armour Pharmaceutical well over a year to get F.D.A. approval for Calcimar, a drug developed by Armour Pharmaceutical, which is effective in controlling Paget's disease and other bone afflictions. And it is effective. I picked out an unsolicited letter—we have had many—from a lady in Wyoming who was bed-ridden and to quote her, "so sick and in so much pain I didn't want to live." She had Paget's disease in both legs, hips, pelvis and up the spine. She says that "thanks to Calcimar I am able to walk again. I can travel and I have no pain. It's like being reborn." The letter itself is much more impressive than my hurried description, but the pathetic point is that this lady was deprived of Calcimar for months and months while the FDA pursued its weary regulatory process. In contrast, the drug was promptly approved in Europe, was written up most favorably in prestigious European medical journals, and was available there to sufferers of Paget's disease a very long time before it was available in the U.S. Unfortunately again, the delay or the denial of the availability of an effective drug is not an uncommon occurrence here.

You are probably thinking by now, "too bad about Greyhound" but what you should be thinking is "too bad about me" because every such intrusion into the free enterprise system is costing you money in taxes, and, sooner or later, in the price of goods or services.

In the bicentennial issue of Forbes Magazine, Malcolm Forbes made a simple but tell-

ing comparison. Under the heading "1776" he quoted from the Declaration of Independence that liberty is an inalienable right, and that to secure this right governments are instituted among men. He also quoted from the U.S. Constitution the purpose of that document to secure the blessings of liberty to ourselves and our posterity. And then under the heading "1976" he simply listed 136 U.S. regulatory agencies which have made inroads on our liberties.

I find it wryly amusing that 200 years ago, one of the principal complaints our American Colonists voiced against King George was that, "He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance." By present day standards King George was a piker.

What is ironic, of course, about government regulation is that the people who are telling the private sector how to run its business are the same fine folks who brought you deficit spending, rampant unemployment, runaway inflation and the recessionary doldrums.

I would perhaps be less critical of government's regulation of business if government could run its own house in an orderly, efficient manner.

We are all familiar with the federal government's inefficient and deficit-ridden operations of the postal service and the passenger rail service, but a federal fiasco which is not fully appreciated relates to pensions.

Two years ago, Congress voted overwhelmingly to impose costly government regulation on the private pension system (Employees' Retirement Income Security Act of 1974, ERISA). Its own pension system, however, has become a fiscal nightmare which no one wishes to delve into. Federal payments to government retirees (exclusive of social security payments) now exceed $20 billion a year and with one exception, not a single government pension plan is funded by ERISA standards. The unfunded liabilities of the federal government now total more than $350 billion.

The big difference, of course, between a corporation and a government entity is that while we in the private sector may, upon the short-term sufferance of our shareholders, ride out the storm of a bad profit year, we still operate on the basis of accountability. Government, on the other hand, operates willy-nilly . . . spending cash it doesn't have, promising a free lunch to the many to be paid for by the few, and deluding itself that taxes are the cure-all.

In the past, it has been like talking into a void to warn against government expansion and intervention. Legislators, those most in a position to know the acuteness of the problem, have gingerly tiptoed around the issue. It was not considered politically astute to stand up in front of one's constituents and ask them what they were willing to give up or delete from the free lunch menu. Few legislators have been fearless enough to step out and test the climate for rebellion.

Today, however, that climate appears to be improving. We are actually witnessing an encouraging surge of righteous indignation from all quarters as angry people from the political right to the political left are simultaneously concluding that enough is enough. We are witnessing a healthy disenchantment with excessive regulation, with the cost and size of government and . . . most pointedly . . . with elected officials who seem unable to grasp the casual relationship between profit and jobs, between jobs and taxes, between investment and growth.

It is refreshing to experience the groundswell of indignation. But we cannot stop now. We must continue to hammer home the point to Congress that it does not "have" anything apart from what we, as taxpayers, give it. And that we demand that their stewardship include fiscal accountability.

The only answer to both inflation and unemployment over the long haul is to recognize that the only real source of jobs and income for the individual, and tax dollars for government, is a healthy private sector.

Government can enact programs that stimulate demand. It can tax the employer and the employee. It can transfer funds to help the poor and allocate funds to assist the disadvantaged. But what it cannot do is "give" a subsidy to an un-profitable entity unless it is first taken from a profitable one. Profit has to precede allocation and it is useless to argue how profit will be spent in this country if there isn't any. And that is precisely the prospect we face today . . . the imminent threat of national insolvency brought on by chronic debt, burgeoning bureaucracy and crippling regulation of business and industry . . . the only sector, ironically, with the ability to bail us out.

Let me apply what I have been saying to Greyhound and, as I do this, consider who suffers when companies are regulated out of existence.

Greyhound provides jobs for some 53,000 employees. It is these employees who make the corporate system work and for this they were paid $775 million in 1975.

Greyhound also furnished the livelihood for many of its suppliers, including American farmers to whom it paid $1.4 billion in 1975. There is no way that the farmers could get this vast amount of produce to consumers except with the help of the corporate system . . . and entities like our Armour and Company.

A percentage of our profit goes to our 200,000 shareholders, none of whom owns as much one percent of our stock. Greyhound is a means by which these shareholders can have an ownership stake in the largest bus company in the world, the very substantial food operations of Armour and our other associated operations. Finally, and perhaps most important because it is essential to the maintenance of our democratic form of government, Greyhound pays a substantial amount annually to local, state and federal governments as taxes. In 1975, the Greyhound Corporation paid approximately $100 million in taxes in the U.S.

If we continue to sand-bag this wealth-generating, job-generating sector long enough and hard enough, it will eventually succumb. And if it does, we will all learn first-hand how democratic adversity can be. To those who think it will strike business . . . but pass over labor; smite the rich . . . but leave the poor unscathed; topple the tax payer . . . but spare the tax spender, be assured you err!

What can we do?

Our first task is to dismantle the huge and unwieldy apparatus of government that we have built over the years. We can do it by supporting legislation that requires every federal program to prove its necessity every three years and then either be re-authorized or terminated.

After that, we can stop slinking around wearing sackcloth and ashes and being intimidated into being ashamed of profit. We have written the most remarkable chapter in the history of mankind with a pen called profit, and the rest of the world stands in awe of that accomplishment.

And finally, we would be wise to turn our hand to the task of taking back the reins of our own personal destiny, for surely freedom is too serious a matter to be entrusted to the whim of government, no matter how benevolent that government may profess to be.

Our present predicament cannot be blamed on any political party. We—you and I—are to blame for our present predicament, and you and I must bring about the change. It won't be easy but it must be done.

NO LAUREL WREATHS YET

Mr. MOYNIHAN. Mr. President, one of the more remarkable analyses of the American condition to appear during inaugural week was the editorial of the inaugural issues of the New Republic. The new New Republic, as it has chosen to call itself, albeit with a certain redundancy. For in its long and unique career as the leading organ of political commentary in the United States, the New Republic has continuously renewed itself, and in doing so has renewed both our understanding of our Nation and our aspirations for it.

I ask unanimous consent that the text of the editorial appear in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NO LAUREL WREATHS YET

It is no longer bright morning for Jimmy Carter: the mantle of power is now upon him, and it cannot be as comfortable as he imagined it. Up to now the going has been easy, or relatively so. He has been choosing among supplicants, eyes popping with ambition, talents far less meaningful in the sweepstakes than the interests they would serve. And there has been something for just about everyone, particularly for the arbiters of what is reassuring in America. The entourage which Carter has gathered is not exactly drawn from Madame Tussaud's. But neither will it make the county feel young again or joyous. Perhaps nothing could, and the sooner we face that the better.

In any case, no comparison with Franklin Roosevelt will wash. It is, of course, precisely that comparison which Carter tried to evoke in launching the fall campaign from Warm Springs. But, as one Washington wag put it, that's where FDR died, not where he and the experiments he fostered came alive. Re-read Arthur Schlesinger's *The Coming of the New Deal* to grasp the contrast between the two beginnings. Roosevelt collected around him curmudgeons and idealists, pirates and gentle souls, irrepressible adventurers and brooding pessimists. And it worked. Maybe, as one observer noted, because they were "chain talkers." Who in the ascendancy today, so many of them in second appearances, will play the role of Harold Ickes? Or Frances Perkins? Of Felix Frankfurter?

Are we judging too early? The hundred days have barely begun. Ray Marshall, for example, designated as Secretary of Labor, is a humane and inventive man. The career of Dr. Sidney Harman, who is to be undersecretary at Commerce, shows that a sensitive intelligence can be applied equally to entrepreneurship and the problems of man and society. And there are others, decent, energetic, wise even, some of them. Moreover, it is surely unfair to assume that none of the younger folk now descending on Washington, as unknown as those who came here 44 years ago, will be remembered a generation hence with nostalgia for brilliance, courage, selflessness—or, for that matter, principled stiffneckedness. Maybe, after all, that will happen, and more. But if it does, Jimmy Carter will have had to demonstrate that he is prepared to offend the conventional and the entrenched, even to court enmity, at home and yes, when necessary, abroad. It is not advice ordinarily found in political chapbooks. But it might just help us off the debilitating course leading from hope to frustrated hope.

Lord Bryce said in wonder at the turn of the century that "Divine Providence has under its special protection children, idiots and the United States of America." That umbrella of peculiar fortune has been removed not to be restored, and it would be folly to think the nuclear umbrella adequate as a substitute. Though we have adversaries, and seriously determnied ones at that—which fact many liberals now are inclined to overlook—the American crisis is not foreign in origin. The malaise is everywhere around us: though OPEC or the Russians have here and there exacerbated our problems, what is taken to be a failure of American nerve is really a failure of American institutions and American imagination.

Of course, this is also a function of the failure of the American economy. If not quite accurately and certainly unevenly, the economy once had the appearance and some reality of being a particularly heady version of climbing Jacob's ladder. For generations, waves of immigrants succeeded in pushing the country westward and their children upward. Blacks constituted the most stunning but not the only exception. Now the great success story seems to have ground to a halt, perhaps even to have reversed itself. It may be the first time in our history, depressions aside, when middle-class Americans can reasonably anticipate for their children the long-range prospect of downward mobility. The middle class may not be a precise term; some sociologists think it evades more than it illumines. But many people who work at jobs, that is who do not operate businesses or practice professions, also think of themselves as middle class. In very substantial ways they are. This is, in fact, the distinctive achievement of the labor movement.

So it is a serious political crisis when the American middle class—an inchoate group straddling a broad range of incomes and lifestyles—feels itself strapped and is so. Unwanted like most revolutions, this revolution of declining expectations cannot be seen as just, and will not be seen as inevitable by those who experience it. They may not save or spend prudently; they may want automobiles too large both for their needs and the society's resources; the media they rely on for information may not be reliable, and what they prefer as entertainment sometimes seems violent or vulgar or both. Nonetheless, in the modern economy the middle class is not a privileged class, and it should not be treated as if it were.

It is a cliché and true, then, that ours is largely a middle-class society. To the extent that the society is to behave tolerantly and liberally, the vast middle class must not be inordinately squeezed between the poles of poverty, modified and institutionalized by a costly dole, and that of indulgent riches, modified by almost nothing. But it should also be a *sine qua non* of civilized life that the enormous gap between those who are sated at the banquet of life and those who are hungry cannot be tolerated. This means that the religion of greed, which is always at the expense of others, must not be enshrined, by indifference or deliberation, in law and social policy.

The creation of jobs much more numerous and at more varied skill levels than envisioned in Carter's first economic program is an imperative for several reasons, most of them obvious. Jobs give people incomes with dignity and lift them out of hopelessness. They also lift people off the shoulders of others and do so more quickly than tax cuts or any other indirect form of aid. It is unhealthy and threatening to the civility of a society when ever more of its members are unproductive and out of the tax system. It is, in fact, a near guarantee of a bitter politics of resentment if people who work hard and whose rewards seem to be declining know there are more and more individuals who do not work at all. The employed, unhappily, are not as a group likely to make the distinction between those who can't work and those who won't. Moreover, it is simply irrational for work to go undone when so much needs to be done. Economics, politics, ethics for once fit neatly: jobs must be found not only for those who need them but also because of those who already have them.

Tax reform is one of those complicated battles often fought in the name of the middle class. Charles Schultze, who has always been sensitive to the ethical component in public policy, has, as the prospective chairman of the Council of Economic Advisers, presented a tax package aimed at stimulating the languishing economy. The corporations will get their break, and that should not provoke too much squalling. Something has to be done to induce more investment. There is a one-time tax rebate, and then a proposal for an increased standard deduction which Schultze says is "tangible evidence to the American people that we mean business about tax reform." The problem with that one is that no material benefits would accrue to families with adjusted gross incomes of more than $17,500 annually. What is the justification for that cut-off line? Are families who have incomes of $20,000 or even $30,000 not to be thought of as meriting tax relief? Or needing it?

These are not simple matters. Using the income tax as a redistributive device wholly without reference to permanent wealth may, in any event, be an exercise in futility, and magnify inequities rather than reduce them. But the mixed reception Carter's well motivated but all-too-modest dose of economic revival has received just hints at how difficult the task is, at how much we may have to depart from the accepted formulae of progressive thinking in economics to get progressive results.

Carter has struck deep responsive chords in the population with his pledge to restore a moral perspective to foreign policy. There is some evidence that the Chilean junta, among our more unsavory allies, will at least try to appear responsive to the fact that the White House may care about political prisoners and torture. It's a beginning, but it will take more than words to make the change meaningful.

Carter's moral critique of foreign policy weighed heavily for him in the campaign, particularly among his more liberal supporters. In The New York Times, Anthony Lewis justifiably made it the bedrock of his enthusiasm. In a column last week Lewis quoted approvingly from an eloquent speech delivered by Sen. Dick Clark to a South African audience: "You are not responsible to us in any way but we are responsible for our own actions and that includes how we react to you. . . . We must not give strength and comfort to a government and society which is an anathema to our own . . ." It is a view that Americans will rightly share, particularly inasmuch as nearly everyone now shares the shame of Vietnam. But a people that is willing to relearn moral considerations in foreign policy will not want them applied selectively. They will begin to wonder and become cynical if ethical reservations and prohibitions in trade and aid are to be suspended in our dealings with third world and Communist tyrannies. There are among them regimes as systematically cruel as any in the world. Anyone who has read Hedrick Smith's memoir of his stay among The Russians will know why a society with all the benefits of advancement remains "an anathema to our own." And Soviet cruelty may be more discriminating than that of others. How are we to make our moral and intellectual ends meet on the Carter promise, repeated by Cyrus Vance at his confirmation hearing, of a bias for freedom in our foreign policy? In an editorial on January 11, the Times seems to argue that concern by government for "human needs" might in our eyes compensate for, or neutralize, their violations of "human rights." That would be a bizarre calculus, but a list of the regimes that trample on both is depressingly long.

Carter's tough problems have only just begun. We welcome his coming, with the usual cautionary note, one appropriate to independent journalism. We are not inclined to place laurel wreaths on anyone's head; in a way, we think it our obligation not to do so. And we expect no laurel wreaths ourselves. Skepticism is our vocation. We hope that skepticism serves Jimmy Carter well.

CITRUS GROWERS' PROBLEMS

Mr. TOWER. Mr. President, last week I had the opportunity to present testimony to the International Trade Commission concerning the predatory policies of the European Economic Community which directly affect the U.S. citrus industry.

We also learned last week of the terrible damage brought about in Florida due to freezing temperatures and precipitation which destroyed some 40 percent of that State's citrus corp.

Together, these circumstances pose a destabilizing and potentially paralyzing situation to our citrus growers. We cannot do anything about the weather, but we can do something about unfair trade practices of other countries which pose equal dangers.

I would hope the International Trade Commission will pursue vigorously a policy of attack on those practices of the European community which discriminate against American growers and shippers. It is a matter which can be dealt with by the executive branch, but as I said in my testimony, the Congress is equally aware of the problem and is watching to insure that a solution is achieved.

Mr. President, I ask unanimous consent that a copy of my testimony to the International Trade Commission be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF U.S. SENATOR JOHN G. TOWER BEFORE THE SECTION 301 COMMITTEE, OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS, U.S. INTERNATIONAL TRADE COMMISSION

I want to thank the chairman and members of this committee for the opportunity to make this brief statement on behalf of the Texas citrus industry, which, I understand, will also testify in regard to the unfair trade practices of the European economic community resulting from preferential duties established for citrus imports from certain Mediterranean countries.

The EEC has entered into agreements with Spain, Algeria, Morocco, Tunisia, Israel, and Cyprus which extend preferential treatment to citrus products exported from those countries to the EEC. The preferential agreements violate the most favored nation provision of the general agreement on tariffs and trade and discriminate against countries which do not enjoy those preferences, including the United States. Those preferences range from a 40% preference which is extended to Cyprus to an 80% preference which is enjoyed by Algeria, Morocco, and Tunisia.

The substantial detrimental impact of these preferences upon citrus exports from the United States to the EEC is a fully and completely documented fact. I would simply

like to underscore the fact that these illegal and discriminatory preferences have caused serious injury to the citrus producing areas of my State of Texas and will continue to do so if the United States Government is not successful in obtaining equal treatment from the EEC for our exports.

The citrus industry in my State of Texas has grown since 1951 and projects further growth. However, that growth is in significant part dependent upon the Texas citrus industry's obtaining equal access to valuable export markets, such as the EEC.

The EEC is the world's largest importer of fresh citrus and has for many years been a major market for United States producers and exporters of fresh citrus, particularly those located in my State of Texas as well as producers in California and Arizona. The shipping season for Texas producers begins in October and extends through April. As a result of that production and shipping season, Texas producers are particularly affected by the illegal discriminatory preferences extended by the EEC because the countries enjoying the benefits of these discriminatory preferences traditionally ship their volumes in the period from November through March. Thus they directly compete with fruit produced in Texas.

This problem is doubly acute for Texas producers in light of the fact that the return for citrus grown in Texas is customarily lower than those for citrus produced in California and Arizona and produced in Florida. Thus, citrus producers in my state of Texas can least afford the impact of these illegal and discriminatory preferences.

This matter has been before the Executive branch of our Government continuously since the first of the illegal preferences was granted in 1969. Citrus producers first requested a hearing under section 525 of the Trade Expansion Act of 1962 in 1970. After the presentation of evidence documenting the illegality of the EEC's action and documenting the damage which has been sustained by citrus producers in the United States, our Government acknowledged that the action of the EEC was indeed illegal and sought consultation with EEC representatives to discuss the preference. A subsequent hearing, in 1973, under the same provision was also held when satisfactory results were not forthcoming as a result of the first investigation.

Additionally, the legislative branch of our Government has been and continues to be deeply concerned about this problem. The United States Senate in Senate Resolution 89 on March 30, 1971, expressed the sense of the Senate that the EEC should promptly remove the discriminatory preferences on citrus fruits and further that in the absence of such removal the United States Government should take whatever action was necessary to see to it that such illegal and discriminatory preferences were removed. The views expressed in Senate Resolution 89 continue to be the views of the United States Senate which will continue to monitor with great interest the efforts of our administrative branch to see to it that these illegal preferences are removed.

Again, I appreciate the opportunity to make this statement, and I trust the Commission will fulfill its responsibility to insure that the domestic citrus industry of my State and other States is fully protected against the predatory policies of foreign nations.

HUMAN RIGHTS AND AMERICAN FOREIGN POLICY

Mr. CHURCH. Mr. President, I wish to bring to the attention of my colleagues three articles which discuss perceptively the question of morality and American foreign policy. The first article by Anthony Lewis appeared under the title "Morality in Foreign Policy" in the New York Times, October 21, 1976, and wisely concludes that:

Americans cannot stop all the brutalities in the world, cannot impose our ideals of free speech and respect for law on India or the Philippines or East Germany. . . . But we can be ourselves. That means making clear what our beliefs are, and at a minimum not actively betraying them when we do use our power abroad.

The other two articles, one by our distinguished new colleague, Senator DANIEL PATRICK MOYNIHAN, the other by John Marks, appeared together under the title, "On U.S. Support for the World-Bank Loan to Chile" in the New York Times, January 4, 1977. Both rightly criticize Ford administration support for a $60 million World Bank loan to Chile, and emphasize the importance of recognizing human rights factors in the determination of our foreign policy.

In the past 3 years, Congress has reduced or terminated assistance to Chile, South Korea, and Uruguay in response to repeated acts of internal repression. This ought to be the year when the United States applies these sanctions consistently to other regimes practicing torture against political prisoners and other violations of basic human rights. PAT MOYNIHAN is correct: the decision to give aid is a decision to support the government in power. Let our decisions in 1977 signal to the world that the United States does care about the kind of government to which it offers military and economic assistance.

Throughout the world people once viewed our country as the beacon of hope for those struggling for human rights. Fortunately, President Carter and Secretary of State Vance appear determined to bring American foreign policy once again into conformity with our historic ideals.

Mr. President, I ask unanimous consent that the three articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 21, 1976]

MORALITY IN FOREIGN POLICY

(By Anthony Lewis)

BOSTON, Oct. 20—In dealing with the world, Henry Kissinger said the other day, "We must distinguish morality from moralizing." Even those who do not regard the Secretary of State as a pre-eminent moral philosopher will accept the importance of the distinction.

Empty preachments do no good. To talk about the "liberation" of Eastern Europe with no intention of acting, as John Foster Dulles did, was hardly a fine example of morality. Sound policy "must relate ends to means," as Mr. Kissinger said.

But it does not follow—not remotely—that it is wrong to look for principle, moral and political, in American foreign policy. It does not follow that the United States has to choose between polar alternatives: a moral or a practical policy. Yet these peculiar propositions are now being heard in our peculiar election campaign.

One commentator, writing just before the Kissinger speech on morals in foreign policy, spoke of a choice between "Kissingerism" and "Wilsonianism." By the former he meant hard-nosed realism, by the latter Woodrow Wilson's attempt "to play liberal missionary for the rest of the world."

If that were the only choice, the prudent person would no doubt shy away from the Wilsonian model. After Vietnam, no one should have to be warned about the dangers of trying to remake the world in the American image. But that is not the choice. Either/or propositions are usually as misleading on public issues as in the common experience of private life, and the posing of such alternatives in foreign policy obscures the real problem.

Consider, for example, the visit that Mr. Kissinger made last February to Brazil, a country where innocent people are brutally victimized by secret police. Mr. Kissinger, going out of his way to give a public accolade to Brazil's totalitarian Government, said: "There are no two people whose concern for human dignities and for the basic values of man is more profound in day-to-day life than Brazil and the United States."

Of course it is necessary, in the world as it is, to deal all the time with governments whose policies we dislike. But is it necessary, or "practical," to identify ourselves with such regimes?

Chile is an even more acute example. The precise role played by Washington in undermining the Allende Government is still disputed, but there is no doubt that American money—public and private—has been the main prop of the junta since it seized power. Is it prudent, is it in the long-term interest of the United States, to keep in office a regime that sets the world new models of torture and murder as official policy?

In Argentina, too, and Bolivia and Uruguay, right-wing governments have come to power, and repression is the rule. Torture, kidnapping and murder have become commonplaces of life in much of Latin America. The Times of London, a newspaper that has taken a generous view of the Nixon and Ford Administrations, wrote recently:

"One thing that all these regimes have in common is their dependence on [American] economic aid. . . . The present situation is too ghastly for the United States to continue underwriting it with a clear conscience."

Was it effective when Henry Kissinger and Richard Nixon spurned moral considerations and bombed Cambodia until that country was devastated and a murderous regime of revolutionary zealots took over? Was it effective, in the complicated business of relations with the Soviet Union, for the President of the United States to snub Aleksandr Solzhenitsyn? Was it effective to go on for years defending white minority rule in southern Africa?

Americans cannot stop all the brutalities in the world, cannot impose our ideals of free speech and respect for law on India or the Philippines or East Germany. To pretend that we can would be immoral indeed.

But we can be ourselves. That means making clear what our beliefs are, and at a minimum not actively betraying them when we do use our power abroad. That may seem a modest standard, but it has been violated for a very long time. The hope of returning to it should be a motivation for many Americans in this election, and not because they are impractical idealists.

Moral and practical choices are not isolated from each other, and not simple. The lesson of these past years is that when American policy casts loose from American ideals, it is not only immoral but ineffectual. Our enemies take us less seriously then.

A great Soviet dissenter, Veniamin Levich, asked President Ford last June: "Why have those who have been waiting for long, agonizing years in this country for their legitimate rights never sensed any moral support . . . from you, Mr. President?" When Soviet leaders sense that an American Government really cares, they will be more likely to pay attention.

[From the New York Times, Jan. 4, 1977]

ON U.S. SUPPORT FOR THE WORLD-BANK LOAN TO CHILE

(By DANIEL PATRICK MOYNIHAN)

WASHINGTON.—The decision by the Ford Administration to support $60 million of World Bank loans to Chile may be seen as the beginning of a major foreign policy debate in the Carter Administration. This one last time our Treasury official voted in terms of the soundness of the loans in question, with no reference to the political nature of the regime that would receive them. Essentially, this is the position United States representatives have taken since the United States founded the World Bank.

It is a position now seriously under attack by those of us who feel that the decision to give aid is a decision to support the government in power, and that such decisions must not ignore the nature of such governments. In particular, we contend, the United States must not support governments, such as Chile's, that "systematically violate human rights."

Members of Congress have been pressing this view for some time, and have amended aid legislation accordingly. It was a theme of the 1976 Democratic Party platform. (To declare my interest, as a member of the drafting committee I wrote a number of these passages.) The President-elect, in the course of his campaign, frequently emphasized that his Administration would give more weight to human-right issues in shaping foreign policy.

This, then, is a moment of great opportunity for those who are alarmed by the waning of human rights in the world at large. It is also a moment of the greatest danger. If we don't do this well, we could end by losing everything. It is a moment, then, for plain language and for candor.

The case for making human-rights concerns fundamental to our foreign policy is twofold. First, these are the issues we care most about, or ought to care most about. (Candor now: Those of us pressing the matter in foreign politics assume a domestic impact as well.) But second, there is a profound strategic point. To press human rights is to press the natural advantage of the United States. For we, and a few like us, maintain free societies, while most of the nations of the world do not, despite their trumpeted domestic pronouncements and (in my view) their United Nations obligations.

It is little wonder that they want only to talk of economic issues, for here they have the rhetorical advantage of haves against have-nots. We want to talk about both. Or should. Not to do so is to forsake what matters most to us, and also to consign ourselves to a permanent disadvantage in multilateral forums.

Now here's the rub: Do enough of us espousing this approach understand that it places us in opposition on important matters to an extraordinary number of nations with which most of us would otherwise like to have close and supportive relations? This year's Freedom House survey (note that the virtue of human rights as an issue is that it is, within limits, quantifiable: "morality" can mean anything and hence usually means nothing) finds 41 free nations. One-fifth of the world's population. Two are in South American; two in Africa; two in Asia. Not every place else is a horror. And the advantage of quantification is that it permits distinctions of degree.

But the fundamental, crucial issue is that if we are to adopt the human-rights standard, it must be a single standard. No distinction between military aid and economic aid. No distinction between aid that helps the poor, as against other kinds. None of these distinctions bear scrutiny: Most, I fear, are witting, or unwitting, attempts to escape the implications of a single standard.

Yet not to have a single standard would debauch the very ideals we propose to defend. It was all said by Stephen Spender, looking back on the Spanish Civil War. He had been taken down to view the atrocities of one side, was outraged, and spoke out. But in time he came to see there were atrocities on all sides. It came to him, he later wrote, that unless he cared about all murdered children indiscriminately, he didn't really care about children being murdered at all.

(By John Marks)

WASHINGTON.—It is an accepted fact that a lame-duck Administration will do all it can to push its policies right up to the end. The Ford Administration has been no exception, at least in continuing the Nixon-Kissinger policy of financial, diplomatic and covert support for the generals who have ruled Chile since 1973.

The outgoing Administration showed it would make no concession to Jimmy Carter's stated intention of making United States aid to foreign nations, and specifically Chile, contingent on how governments treated their own citizens.

What happened was that Hal F. Reynolds, the acting United States representative at the World Bank, on Treasury instrutions and and with State Department approval, voted Dec. 21 for $60 million in loans to Chile. Even our major European allies, except the West Germans, deserted us on the issue.

Moreover, the Ford Administration also spurned the spirit of new laws passed by Congress in the last year. One cuts off bilateral military aid to Chile; another instructs the United States representative to the Inter-American Development Bank not to approve loans to countries that systematically violate human rights. To be sure, the World Bank was not included in this legislation.

The man who cast the vote, Mr. Reynolds, points out that the Chilean credits were proposed not by the United States but by the World Bank, on Treasury instructions Yet, he acknowledges that the United States did nothing to defer the issue: "We felt, as we always have felt and as the [World Bank's] articles of agreement require, that decisions are to be based on economic and financial grounds. Looking at the situation in Chile and looking into two particular projects proposed, we saw no grounds for objecting."

There is great irony in this position, since, as the report of the Senate Select Committee on Intelligence Activities graphically documents, official United States policy from 1970 to 1973 was to "dry up" credits for Chile in the international lending body as long as the leftist Government of Dr. Salvador Allende Gossens held power. During these years, the World Bank made not one new loan to Chile. Mr. Reynolds attributed the cutoff to Chile's poor "creditworthiness.'

When I asked him if it was not true that one of the reasons why the economy was in such bad shape and was such a poor risk at that time was that the United States Government had embarked on a secret policy of destroying it. Mr. Reynolds said, "I just can't comment." He stated that he had not read the Senate Committee's report, which quotes a note by the former Director of Central Intelligence, Richard Helms, made on the 1970 instructions of Richard M. Nixon and Henry A. Kissinger: "Make the economy scream."

In the Chilean case, United States votes in the World Bank seemed to depend on whose economy was being gored and what the politics were of the people in power. A high World Bank official commented that if you exploit the people to pay your debts, you're creditworthy. If you don't exploit the people and don't pay your debts, you've got problems. "That's all. That's the way it comes out."

What makes the Ford Administration's actions truly outrageous, not simply politics-as-usual, is that Gerald Ford's own Justice Department, though remaining officially silent, suspects that an official of the military Government may well have played a part in the September murders in Washington of ex-Ambassador Orlando Letelier and Ronni Karpen Moffitt.

Under the American system, people, and presumably countries, are innocent until proved guilty and Justice's case has not yet reached the air-tight stage. Nevertheless, as The Los Angeles Times's Norman Kempster wrote the day before the World Bank vote: "Federal investigators have developed information indicating that [Cuban exiles] were hired by an official of the military Government of Chile to travel to the United States under an assumed name to arrange for the murder."

You cannot put anyone in jail on this amount of "evidence." On the other hand, the Ford Administration might have wanted to see how the investigation came out before it loaned Chile $60 million. The Ford policy-makers could have asked the World Bank to wait. They could have opposed the Chilean credits entirely. Even they must be disturbed by the possibility that the junta may have killed people in our midst.

Even if the Justice Department's preliminary estimate is wrong, there is no question that the present Chilean regime has regularly unleased barbarism against its own people. At some point, the terrorism practiced by the junta must make a difference in the way the United States treats Chile.

Obviously, the Republican Administration, whose first President and chief foreign-policy adviser actively plotted to help put the Chilean generals in power, has come down to its final inning without reaching that point. One hopes there will really be change after Jan. 20.

RETIREMENT OF GEN. JOHN R. DEANE, JR., COMMANDER, U.S. ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Mr. THURMOND. Mr. President, a distinguished Army officer, Gen. John R. Deane, Jr., will retire January 27 as Commander of U.S. Army Materiel Development and Readiness.

It has been my pleasure to work with General Deane during his service in this important command and in several of his prior assignments, many of which involve close consultation with the Senate Armed Services Committee and other members of the Senate.

He has rendered the Army and Nation a great service by the exemplary manner in which he has fulfilled his duties. He is a man of alacrity, diligence, and professional expertise.

General Deane is particularly well-known for his work in the areas of research and development and the outstanding leadership he has given the recently reorganized Army Materiel Command.

Mr. President, I wish for General Deane an active and productive retirement and I ask unanimous consent that his biography be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GEN. JOHN R. DEANE, JR., USA

John Russell Deane, Jr., was born in San Francisco, California, on June 8, 1919.

In 1937, he enlisted in the 16th US Infantry. After one year, he entered the United

States Military Academy. Upon graduation from the Academy in 1942, he joined the 104th Infantry Division as a platoon leader. By the end of the war, he had advanced to the position of battalion commander.

General Deane held the position of Intelligence Officer in Europe from 1945–1947, when he returned to Washington to work in the Joint War Plans Division of the Department of the Army G–3. In 1951, he became Executive Assistant to the Secretary of the Army. From this post he went to the Command and General Staff College at Fort Leavenworth, Kansas, in 1952. Upon graduation, he was assigned to Korea where he remained until 1954 as Chief of Plans on the Military Armistice Commission and battalion commander in the 7th Infantry Division.

Returning to the United States in late 1954, General Deane attended the Armed Forces Staff College. Upon graduation, he became the Chief of Programs and Budget in the Office of the Chief of Research and Development at Headquarters, Department of the Army, until 1958.

In 1958–59 he attended the National War College. Following this, General Deane became Assistant to the Chief of Staff at Headquarters, US Army, Europe, Heidelberg, Germany.

From February 1961 to June 1962, he was Commanding Officer, 2d Battle Group, 6th Infantry, in Berlin.

In the summer of 1962, he returned to Washington, DC, and was assigned to the Office of the Director of Defense Research and Engineering where he served as the Executive Assistant to the Assistant Secretary of Defense (Deputy Director of Defense Research and Engineering). During his assignment in Washington, General Deane attended the Harvard School of Business Administration, participating in the Advanced Management Program, and earned his MBA at George Washington University.

On 16 August 1965, General Deane assumed the position of Assistant Division Commander, 82d Airborne Division, Fort Bragg, NC, and commanded the Division forces in the Dominican Republic.

He received assignment as Chief of Staff, Field Force I, in Vietnam in February 1966, and in July 1966 he became Assistant Division Commander, 1st Infantry Division, Vietnam.

In December 1966, he was assigned as Commanding General, 173d Airborne Brigade, U.S. Army, Vietnam, the position he held until August 1967 when he returned to the Pentagon to become Director of Doctrine and Systems, Office of the Assistant Chief of Staff for Force Development.

On 14 October 1968, General Deane assumed the position of Commanding General, 82d Airborne Division, Fort Bragg, N.C.

On 24 August 1970, General Deane was appointed as Director, Defense Communications Planning Group by the Secretary of Defense. He became the Director of the Defense Special Projects Group in Washington, D.C., in April 1971, and in July 1972, he was assigned as Deputy Assistant Chief of Staff for Force Development, Headquarters, Department of the Army.

General Deane was assigned as Deputy Director of the Defense Intelligence Agency in August 1972, and became the Chief of Research and Development in August 1973. With the reorganization of the Army on 20 May 1974, General Deane was assigned to the newly established position of Chief of Research, Development, and Acquisition. On 30 December 1974, he was sworn in as the first Deputy Chief of Staff for Research, Development, and Acquisition, Department of the Army.

General Deane was promoted to his present grade of General and assumed command of the Army Materiel Command on 12 February 1975. Name of command changed on 23 January 1976 to U.S. Army Materiel Development and Readiness Command.

PERSONAL DATA

Date and place of birth: 8 June 1919, San Francisco, California.

Parents: Father, John Russell Deane. Mother, Margaret Alicia Wood.

Marriage: Date, 4 June 1942. Wife, Elizabeth F. Heard (Betty).

Children: John R. Deane III (27 Dec. 43); Mrs. Nancy Deane Kreitler (29 Apr. 46); Margaret Alicia Deane (8 Mar. 51); Christopher R. Deane (16 Nov. 52); and Elizabeth Heard Deane (23 Nov. 57).

Legal Address: Old Fields, Silver Lake, N.H.

Home Address: Quarters 9, Fort Lesley J. McNair, Washington, D.C. 20024.

Education	*Graduated*
United States Military Academy	1942
Basic Infantry School	1942
Advanced Infantry School	1943
Intelligence School	1944
Command and General Staff College	1953
Armed Forces Staff College	1955
National War College	1959
Harvard University (Adv. Mgt. Prog.)	1963
George Washington University (MBA)	1964

Promotions	*Temporary*	*Permanent*
2LT		29 May 42
1LT	19 Nov 42	29 May 45
CPT	14 Jul 43	15 Jul 48
MAJ	22 May 44	18 Aug 54
LTC	12 Apr 45	29 May 62
COL	6 Dec 55	29 May 67
BG	1 Aug 65	20 Nov 68
MG	1 Nov 67	12 Jun 70
LTG	22 Sep 72	
GEN	12 Feb 75	

CITATIONS AND DECORATIONS

Distinguished Service Cross (with Oak Leaf Cluster)
Distinguished Service Medal (with Oak Leaf Cluster)
Silver Star (with 2 Oak Leaf Clusters)
Legion of Merit (with 3 Oak Leaf Clusters)
Distinguished Flying Cross
Bronze Star Medal (with Oak Leaf Cluster)
Air Medal (with 26 Oak Leaf Clusters)
Army Commendation Medal
Purple Heart
Combat Infantryman Badge
Master Parachutist Badge
Aviator

CHRONOLOGICAL LIST OF ASSIGNMENTS

CofS, Hqs Field Force I, US Army, Vietnam, from 5 Feb 66 to 25 Jul 66.

Asst Div Commander, 1st Inf. Div, USARV, from 26 Jul 66 to 26 Nov 66.

Commanding General, 173d Airborne Brigade US Army, Vietnam, from 27 Nov 66 to 2 Sep 67.

Director of Doctrine & Systems, Office of the Assistant Chief of Staff for Force Development, Washington, D.C., from 2 Oct 67 to 9 Oct 68.

Commanding General, 82d Airborne Division, US Army, Ft. Bragg, NC, from 14 Oct 68 to 15 Jul 70.

Director, Defense Communications Planning Group, Washington, D.C., from 24 Aug 70 to 31 Mar 71.

Director, Defense Special Projects Group Washington, D.C., 1 Apr 71 to 30 Jun 72.

Deputy Assistant Chief of Staff for Force Development, US Army, Washington, D.C., from 1 Jul 72 to 23 Aug 72.

Deputy Director, Defense Intelligence Agency, Washington, D.C., from 24 Aug 72 to 31 Jul 73.

Chief of Research and Development, Department of the Army, Washington, D.C., from 1 Aug 73 to 19 May 74.

Chief of Research, Development, and Acquisition, Department of the Army, Washington, D.C., from 20 May 74 to 29 Dec 74.

Deputy Chief of Staff for Research, Development, and Acquisition, Department of the Army, Washington, D.C., from 30 Dec 74 to 11 Feb 75.

Commanding General, US Army Materiel Command, Alexandria, VA, 12 Feb 75.

(Name of command changed on 23 January 1976 to U.S. Army Materiel Development and Readiness Command)

THE NOMINATION OF GRIFFIN BELL TO BE ATTORNEY GENERAL

Mr. STEVENSON. Mr. President, the Senate has confirmed Judge Griffin Bell to be Attorney General by a vote of 74 to 21. I voted with the majority in support of Judge Bell.

The question before the Senate was not whether a better qualified person could have been nominated. It was whether the newly elected President had nominated a person who is qualified by character, ability, and experience to be Attorney General.

Historically, and by practical necessity, Presidents have been accorded a strong presumption in favor of their nominees, especially for Cabinet positions. Unlike Federal judges, members of the Cabinet hold office only at the will of the President. If they prove to be unqualified, if they fail to carry out the President's program, it is the President's responsibility to remove them. If he fails to do so, he pays a high political price. Therefore, the Senate should not withhold its consent to the President's Cabinet nominees without strong evidence of unfitness for office. We do not have such evidence against Judge Bell.

He appeared before the Senate Judiciary Committee and answered all questions with candor. Even his opponents agree that he is a man of integrity and ability. The committee allowed ample time for opposing witnesses. He was then approved by a committee vote of 10 to 3 with 1 absention.

I have examined the issues raised by Judge Bell's opponents. They relate primarily to his record on civil rights issues beginning in the late 1950's in Georgia at a time of civil discord. Those who now object to his role as a legal advisor to the Governor of Georgia in 1959 and 1960 did not come forward in 1961 when Judge Bell was nominated by President Kennedy to the U.S. Court of Appeals for the Fifth Circuit. Apparently, his record in the context of that time was not so objectionable as they deem it in 1977.

Judge Bell was criticized for sitting on a fifth circuit panel in an Atlanta school desegregation case in 1963 on which he had allegedly advised the Governor in 1959. He was not an attorney of record in the case, but it would have been wiser for him to have removed himself. However, it is late for such a challenge, and surely the attorneys in the case were aware of his role as a legal advisor to the Governor.

He is charged with a violation of the Canons of Judicial Ethics and the Federal recusal statutes because he sat on a case in 1976 involving a club with exclusionary rules which are reported to be similar to those of clubs to which he himself belonged. It is argued that he should have divulged his own memberships. He argues that the legal issue was whether there was a nexus between the club and State government, not wheth-

er private clubs should be permitted to discriminate, and, therefore, that his own memberships were irrelevant to the case. In any event, his club memberships were not secret. The attorneys in the case either overlooked the possibility or chose not to challenge it. Again, it might have been wiser to recuse himself, but it is doubtful that he violated any statute or canon of ethics.

My concern is over Judge Bell's qualifications now, in 1977. The most critical examination of his record has turned up little more than the minor errors of judgment of which all mortals are capable. Viewed in the context of the times, it offers no evidence of an indifference to civil rights, and, on the contrary, forthright assurances of an active commitment as Attorney General to the equal rights of all Americans. His professional record is unimpeachable. In his 14 years upon the bench he was reversed by the U.S. Supreme Court only once. Even his opponents in the Senate have expressed admiration for his honesty and intelligence. He has not only assured the Senate of his determination to carry out President Carter's pledges that the Justice Department will vigorously defend the rights of all citizens, but also that it will press for reform of criminal justice systems, strengthen the fight against narcotics, and recommend only the best available nominees for the Federal judiciary. I accept these pledges.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of executive business.

There being no objection, the Senate resumed the consideration of executive business.

NOMINATION OF RAY MARSHALL TO BE SECRETARY OF LABOR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to consider the nomination of Ray Marshall to be Secretary of Labor.

Mr. BAKER. Mr. President, will the Senator yield 1 second so I may yield back my time under the standing order?

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. I yield back my time under the standing order.

The ACTING PRESIDENT pro tempore. The clerk will state the nomination.

The legislative clerk read the nomination of Ray Marshall, of Texas, to be Secretary of Labor.

The ACTING PRESIDENT pro tempore. The time for debate on this nomination is limited to 5 hours, to be divided as follows: 2 hours under the control of the Senator from New Jersey (Mr. WILLIAMS) and 3 hours under the control of the Senator from Virginia (Mr. SCOTT).

The Chair recognizes the Senator from New Jersey.

Mr. SCOTT. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. WILLIAMS. I yield.

Mr. SCOTT. Mr. President, I ask unanimous consent that James Roberts of my staff, Ron Lehman of the Armed Services Committee staff, and Richard Kait of the Judiciary Committee staff be accorded the privilege of the floor during the consideration of the Marshall nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Labor and Public Welfare have the privilege of the floor during the consideration of the nomination of Mr. Marshall: Mr. Elisburg, Mr. Lanoff, and Mr. Zimmerman.

Mr. HATCH. Mr. President, I ask unanimous consent that Mike Hunter of my staff and Robert Hunter of the staff of the Committee on Labor and Public Welfare be accorded the privilege of the floor during the consideration of this nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time for the quorum call not be charged to either side.

Mr. ROBERT C. BYRD. Mr. President, what was the request?

The ACTING PRESIDENT pro tempore. The Chair will restate it. The Senator from Virginia requested that the time for the quorum call not be charged to either side.

Mr. ROBERT C. BYRD. Mr. President, I would hope that the Senator would allow the quorum call to be charged to either or both sides. We have 5 hours under the resolution. I think that would be ample time.

Mr. SCOTT. Mr. President, I am doing this at the request of the leadership on this side, and I would appreciate the concurrence of the majority leader.

Mr. ROBERT C. BYRD. Well, I will do it in this instance, but as long as we have 5 hours on a matter like this, I reluctantly go along with the idea of not charging the time on the quorum call. But on the initial quorum call, I will go along with it.

The ACTING PRESIDENT pro tempore. Without objection, the time for the quorum call will not be charged to either side. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I commend to the Senate for confirmation as Secretary of Labor Dr. Ray Marshall of Texas, and I urge the Senate to act favorably and promptly upon this excellent nomination.

Dr. Marshall, in his professional career and in his testimony before the Committee on Labor and Public Welfare, has exhibited the depth of character, knowledge, and perception that has characterized the best of public servants in our country.

On January 13, Dr. Marshall appeared before the committee in public hearing and answered a wide range of questions put to him by committee members. This consumed a good bit of the day—a little more than 3 hours. Some 120 written questions on virtually every aspect of programs and policies under the Department of Labor were submitted for his responses, which were given to us promptly. The printed record of those proceedings is available to all Members today.

On January 18, the committee met in open session, and by a vote of 14 to 2, agreed to recommend that the Senate confirm Dr. Marshall for the vital position of Secretary of Labor. The dissenting votes were cast by the Senator from Nevada (Mr. LAXALT) and the Senator from Indiana (Mr. LUGAR).

Mr. President, in the hearings, in my personal conversations with the nominee, and in my study of his life's work, I have found Dr. Marshall to be a man of compassion and great dedication.

In his professional life, he has dedicated his energies to enhancing the job opportunities of all those who encounter special difficulties in building a full and satisfying life for themselves.

He has an exceptional sensitivity for the problems of working Americans, but particularly for the plight of the poor, of members of minority groups, of disadvantaged women.

While much of his work has been aimed toward solving the problems of migrant and seasonal workers and the rural poor, he fully understands the scandalous conditions of joblessness and despair in the great urban centers of the Nation.

On this point, Dr. Marshall's biography, including the voluminous bibliography of his publications, speak more eloquently than I can of his achievements and expertise. I ask unanimous consent that excerpts from his biography be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WILLIAMS. Mr. President, in other areas of his impending responsibility, Dr. Marshall was equally impressive, not only in terms of his general philosophy, but also in terms of the exceptional scope of his technical knowledge on so many facets of Labor Department activities.

The essential elements of the Nation's current economic condition are no stranger to him, as they may be to others. He is an economist by training and a teacher, as well as a scholar of economic policy.

President Carter called upon Dr. Marshall for detailed recommendations of measures that might be taken early in 1977 to bring an end to economic stagna-

tion and begin the long climb back to prosperity.

In his testimony before our committee, Dr. Marshall gave us the benefit of his views and quite frankly acknowledged that he would prefer more emphasis on direct job creation, and less upon adjustments in taxes, than the economic stimulus package finally outlined by the Carter economic team. At the same time, he made it clear that he had concluded that there are boundaries beyond which programs of the Department of Labor—programs for which he has a special interest and respect—probably cannot, in the short term, be effectively extended.

His frankness in this regard, and the tone of independent thinking that he conveyed, were refreshing and welcome.

Dr. Marshall was equally forthright in his comments on labor-mainagement relations and on the need for strengthening our system of collective bargaining to improve prospects for resolving labor-management disputes with a minimum of displacement.

In this, as in the other vital areas of his responsibility, Dr. Marshall demonstrated a sensitivity to the interests of employers as well as employees, and of the Nation as a whole.

He gave us full assurance that he will reach out to obtain every available point of view on issues with which he will deal, not the least of which will be equal employment opportunity, the safety and health of employees in their work places, and the protection of pension rights earned through years of work.

In sum, Mr. President, Dr. Marshall has an abundance of the attributes that can make him an effective and strong Secretary of Labor.

He has assured us of his willingness to consult with the Congress on matters of common concern and, in his testimony, gave us reason to be confident that his counsel will be of great assistance in these difficult times.

For these reasons, Mr. President, I believe that Dr. Ray Marshall is worthy of the trust that we place in him by approving his nomination as Secretary of Labor, and I urge the Senate to do so without delay.

Mr. President, I yield the floor.

(EXHIBIT 1)

NOMINATION OF DR. F. RAY MARSHALL, OF TEXAS, TO BE SECRETARY OF LABOR

(Hearing Before the Committee on Labor and Public Welfare, U.S. Senate on Jan. 13, 1977)

BIOGRAPHICAL

F. Ray Marshall.

4214 Tallowood Drive, Austin, Texas 78731.

Oak Grove, Louisiana; August 22, 1928.

Married, Patricia Williams Marshall.

Jill, September 23, 1958; Susan, August 20, 1960; John, September 13, 1961; Christopher, August 12, 1962; Sarah, November 5, 1963.

Hinds Junior College, 1946–1948.

Millsaps College, 1948–1949, B.A. 1949.

Louisiana State University, 1949–1951, M.A. 1950.

University of California at Berkeley, 1951–1953 Ph.D. 1954.

Professor of Economics; Director, Center for the Study of Human Resources, University of Texas, 1969-present; Chairman, Department of Economics, 1970–1972.

Alumni Professor of Economics; Chairman, Department of Economics, University of Kentucky, 1967–1969.

Professor, University of Texas, 1962–1967.

Associate Professor, Professor, Louisiana State University, 1957–1962; Instructor, 1950–1951; Teaching Assistant, 1949–1950.

Assistant Professor, Associate Professor, University of Mississippi, 1953–1957.

Instructor in Economics, San Francisco State College, 1952–1953.

Chairman, Federal Committee on Apprenticeship.

Advisory Council, Texas Employment Commission.

Chairman, Subcommittee on Research, Development and Evaluation, Employment and Training Administration U.S. Department of Labor, 1973-present.

Member, panels of labor arbitrators, American Arbitration Association and Federal Mediation and Conciliation Service.

Chairman, Institution Grants Panel, Manpower Administration, U.S. Department of Labor, 1974.

Member, Consortium on Rural Manpower Development, Rural Manpower Service, U.S. Department of Labor, 1971–1975.

Member, National Manpower Advisory Committee, 1970–1973.

Member, Southwestern Regional Manpower Advisory Committee, U.S. Department of Labor and U.S. Department of Health, Education, and Welfare, 1969–present; Chairman, 1969–1972.

Consultant, Bureau of Higher Education, U.S. Department of Health, Education and Welfare, 1968–1969.

Member, Committee on the Administration of Training Programs, U.S. Department of Labor and U.S. Department of Health, Education and Welfare, 1967–1968.

Member, North Central Manpower Advisory Committee, 1967–1969.

Consultant, Board of Education, City of Chicago, 1967.

President, National Rural Center.

Board of Directors, Mexican American Research Center, Inc.

Consultant, Review Committee of Graduate Program in Economics, Vanderbilt University.

Member, Grievance Review Committee—Comptroller of Public Accounts, State of Texas.

Chair, Committee on Political Discrimination, American Economic Association.

Consultant, Division of National Affairs, Ford Foundation.

Member, Greater South Texas Cultural Basin Commission.

Board of Trustees, Joint Council on Economic Education.

Member, Board of Directors, League for Industrial Democracy.

Member, National Committee for Full Employment Policy.

Member, National Manpower Policy Task Force.

Member, National Board, National Sharecroppers Fund, Inc.

Member, Board of Directors, Winthrop Rockefeller Foundation.

Member of the Advisory Council, Texas Employment Commission.

Chair, Nominating Committee, Southern Economic Association.

Member, National Advisory Committee, Rural Practices Project, Robert Wood Johnson Foundation.

Member, National Advisory Committee, Poverty Institute University of Wisconsin.

Member, Binational Committee to Study the Border Region Between the United States and Mexico.

Member, Editorial Board, Poverty and Human Resources.

Member, Committee for Economic Research—Universities, National Bureau of Economic Research.

Member, Executive Committee, Southern Economic Association, 1969–1971, 1975–present.

Chairman, Federal Committee on Apprenticeship.

Member, National Council on Employment Policy.

President, Industrial Relations Research Association.

Ruling Elder, United Presbyterian Church and Presbyterian Church of America—North and South.

Member, Manpower Study Committee, National Academy of Sciences, 1974–1976.

Chairman, Committee on Labor Market Studies, American Economic Association, 1973–1974.

President, Southern Economic Association, 1973–1974.

Chairman, Committee on Hiring Practices, American Economic Association, 1972–1974.

Member, National Manpower Policy Task Force, 1969–1976.

Member, Southern Regional Council, 1968–1975.

Member, Board of Editors, Southern Economic Journal, 1967–1970.

Member, American Arbitration Association.

Member, American Association of University Professors.

Member, Association for Evolutionary Economics.

Fellow, General Education Board, Rockefeller Foundation, 1951–1953.

Fulbright Research Scholar to Finland, 1955–1956.

Wertheim Fellow in Industrial Relations, Harvard University, 1960–1961.

Ford Foundation Faculty Fellowship, 1954–1965.

Beta Gamma Sigma (National Honor Society, Business).

Omicron Delta Kappa (National Leadership).

Phi Kappa Phi (National Honor Society, Scholastic).

Omicron Delta Epsilon (National Honor Society, Economics).

PUBLISHED WRITINGS

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The ACTING PRESIDENT pro tempore. Who yields time?

Mr. JAVITS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Virginia has control of the time.

Mr. WILLIAMS. Mr. President, I yield to the Senator from New York on our time.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized on the time of the Senator from New Jersey.

Mr. JAVITS. Mr. President, we had a very exhaustive hearing on the Marshall nomination and it was quite extraordinary. Though it was concentrated in 1 day, we have a record before us of almost 250 pages which has been supplemented by a number of letters which were written to us, either to the chairman of the committee, to me, or to other members, who posed written questions to Dr. Marshall.

Dr. Marshall struck me as an enlightened, thoughtful, American with essentially very sound doctrine and quite abreast of the primary advances in respect of labor law.

These advances in labor law, which are the essence of the objections made by a number of my colleagues, relate to the concept of grievance procedures and grievance opportunity.

Dr. Marshall, like so many other men, may not have used precisely the words he intended to use in order to describe his position. For example, a matter which was of great concern to me, as it is to my colleagues who will argue against the nomination, is the question of whether there should be a grievance procedure or collective action by troops in the Armed Forces.

Both my colleagues and I were disturbed by the answer which Dr. Marshall gave, since in his answer he did not precisely define his terms. However, I think his letter is a very accurate statement which speaks to the question of adequate opportunity for men and women in the Armed Forces, who are recruited out of the civilian component of our labor force, to express their grievances in some way which insures that they cannot be overlooked or overridden by their superiors. I should point out that this does represent a problem which has to be dealt with, probably not by the Labor Department, but by the Defense Department.

The problem of military unions emerged in the course of our committee hearing. Dr. Marshall was asked about this by Senator HATCH. I refer now to page 107 of the record.

Senator HATCH. There has been some consideration of a union in the Armed Forces. What are your views with regard to a unionized military?

Dr. MARSHALL. Well, I have not thought much about the unionized military.

Senator HATCH. I think you should.

What kind of view would you have?

Dr. MARSHALL. I think there is probably some merit to it. I think there is probably some merit to mechanisms to permit military personnel to participate in formulation of some of the rules governing their living conditions. I would not permit strikes in the military, obviously.

Senator HATCH. You might be amendable to having a military union?

Dr. MARSHALL. I might be amendable to having some kind of representation by the soldiers in making the rules that govern their working conditions. Now, I would not be in favor of strikes.

Senator HATCH. Would you mean except with those we have today?

Dr. MARSHALL. I am not sure what we have today. My point is—and I believe in the military and certainly in peacetime and not in combat situations, there are circumstances where a military commander would benefit from a grievance procedure to make it possible to find out what our military personnel are worried about and what the problems are and that kind of mechanism might be good business for the military. It frequently is difficult to get accurate information through the chain of command.

Later, Dr. Marshall refined what he really meant in giving the answer which he did. During the hearing, I, too, was concerned by the original first sentence of his answer to the question, "What are your views with regard to a unionized military?"

I think there is probably some merit to it.

He has subsequently explained himself. He presents a point of view which is credible and is understandable. In a letter submitted by Dr. Marshall subsequent to our hearings, he suggests a grievance procedure which does not depend exclusively upon the chain of command.

Mr. President, I ask unanimous consent to have the letter of Dr. Marshall which relates to this particular question printed in the RECORD so that we have no doubts about it. This is the letter of January 22 to Senator WILLIAMS.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

JANUARY 22, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter will serve to provide you and the Committee with a summary of my views on the issue of unionization of the military, a subject which was discussed during my confirmation hearing last week.

My basic position is that the union concept, with all of its elements of collective bargaining and rights of work stoppage or strikes, is incompatible in important respects with the basic concepts governing military units. Military organizations require strong discipline and adherence to a single line of authority. In order to function effectively in their missions, the military services cannot allow their members many of the options that are available to members of unions.

I realize, of course, from my own military experience, that membership in the armed services is not an ordinary employment situation. Upon voluntarily entering or re-enlisting in military service, a person waives certain rights that are open to private citizens and takes on an obligation of complete loyalty to his military unit. Members of the military are not without representation; for example, their right to petition their representatives in the Congress is firmly established both in law and in military tradition.

In my remarks at my confirmation hearing, I said that I would not be in favor of military strikes, or military unions *per se*. My remarks were directed more towards the institution of certain practices that might improve the military. I do believe that the peacetime military can benefit from improved communication procedures, somewhat analogous to grievance procedures whereby commanders are made aware of the problems affecting personnel. As I stated, it is often difficult to get accurate information through a chain of command and that improvement in communications mechanisms might be beneficial.

I hope that this information will clarify my views on the situation.

Sincerely,

RAY MARSHALL,
Secretary-Designate, U.S. Department of Labor.

Mr. JAVITS. I call attention of Members to the long list of questions and answers put to him in writing and to which he has now replied.

One thing I doubt very much, is that even those who are opposed to Dr. Marshall would say that there is any question about his being a man of his word. He demonstrated to the committee a very great sincerity as well as a true intellectual knowledge and understanding of the labor problems which face our country.

I should also mention that he has a very profound common touch. He has worked with laboring people, both in cities and in rural areas—the latter experience being, in my judgment, rather unique to a Secretary of labor and extremely valuable—and he has a very deep human sympathy and possesses real humility.

I think, Mr. President, we have a candidate for Secretary of Labor who is the right type of man for these times.

Now, Dr. Marshall has been much criticized for his views on section 14(b)—that is, the repeal of 14(b)—and on common situs picketing.

Regarding common situs picketing, the fact is, that a bill passed this Chamber and, therefore, his view is no different from that of a majority of the people in this Chamber.

It is also a fact that 14(b) continues to be, as it has been for years, anathema to the trade union movement of the United States. We have confirmed on occasion trade union leaders as Secretaries of Labor, knowing of their very profound identification with the labor movement in opposition to section 14(b). So I do not see Dr. Marshall's advocacy of a repeal of 14(b) as a particular disqualification for a Secretary of Labor in the administration of a President who obviously was elected as a prolabor President. I believe he brings to his job experience which is uniquely applicable.

As an example of Dr. Marshall's ability to cope with complex labor issues I will point to the need for a very thoroughgoing investigation of the situation respecting the Teamster's Central States Pension Fund. Such an investigation can proceed under the pension legislation which Senator WILLIAMS and I had the honor to author, together with others of our colleagues on the Finance Committee. Dr. Marshall has assured us that he is determined to conduct such an investigation and he has given us an excellent letter to that effect, which I ask unanimous consent be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 17, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: I want to assure you and every member of the Committee on Labor and Public Welfare that I share the concern that has been expressed about the Department of Labor's investigation of the Teamster's Central States Pension Fund. I am aware that serious allegations of abuse have been made against this Fund, and these charges must be resolved as quickly as possible.

I know the Committee has exercised its oversight jurisdiction of the Department's activities for a period of many months, and I will fully cooperate with this effort in the future.

The Central States Pension Fund investigation clearly constitutes a critical test of the Employee Retirement Income Security Act, and particularly the fiduciary requirements under that Act. This investigation will be one of the first and urgent matters of my administration. In this connection I intend personally to satisfy myself as to the thoroughness of the investigative activity to date. I believe that the investigation of this fund must be accomplished by a specially assigned unit that will be independent of other investigative activities, and will be conducted solely in the interests of the public and the participants and beneficiaries of the Fund.

Because this matter involves several Federal Agencies enforcing tax laws and criminal statutes as well as ERISA, I cannot stress too strongly the importance of effective interdepartmental coordination among the IRS, the Department of Justice and the Department of Labor. I will arrange without delay such coordination with Attorney General designate Bell and Secretary of the Treasury designate Blumenthal. If any criminal violations are found during the course of this investigation they will be referred promptly to the Department of Justice. I will personally oversee and take full responsibility for the conduct of this investigation with the expert advice and assistance of the Solicitor and Administrator of the P&WBP, who have responsibility for civil enforcement of this Act.

This investigation must not only in fact be fair and impartial, it must also so appear to the public. I commit myself to that end.

Sincerely,

RAY MARSHALL,
Secretary of Labor-Designate.

(At this point, Mr. BUMPERS assumed the chair.)

Mr. JAVITS. Mr. President, I think Dr. Marshall also understands the problems which allow many students to pass from school into a life of unemployment, either drop-outs or even as graduates. As a result of his background he knows the relationship between the preparation for holding a job and the ability to get one. This problem is critical, since fully one-half of all those unemployed are under 24 years of age; an extraordinarily shocking condition.

I also believe that Dr. Marshall will bring to his post an understanding of OSHA, the Occupational Health and Safety Act, and what needs to be done to truly implement the act without making it vexatious to the individual employer. During the hearings he showed a rare sensitivity when we discussed OSHA. He seems to know what is realistically and substantially a danger so far as the worker is concerned. And at the same time he shows a sense of proportion as to the speed with which necessary changes in the administration of the act should be made.

Finally, I very much like his emphasis upon the need for productivity in the American economy. In recent years there has been a very lamentable retrogression in the productivity of the work force of the United States. Our rate of productivity increase, among the 10 leading industrial producers in the world in terms of annual increases in productivity, has simply not kept pace.

Productivity is one of our strengths. Great productivity is what has made our Nation strong. It is productivity and technology which put us where we are and I believe that Dr. Marshall understands this and will work toward increasing American productivity.

American workers have a deep interest in the quality of life which is produced in their workplaces as well as in the compensation which brings that quality of life to their homes. I think we are pretty well content with the quality of life of America has achieved in its living places, but we cannot be content with the quality of life in our workplaces. On the issue of work environment, I found that Dr. Marshall has a profound understanding and sensitivity.

For all those reasons, Mr. President, I hope very much that the nomination will be confirmed.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. SCOTT. Mr. President, I yield such time as he may consume to the distinguished Senator from Nevada (Mr. LAXALT).

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. LAXALT. I thank the Senator

from Virginia for yielding me this time, Mr. President.

I stand in opposition to the nomination of Dr. Marshall for Secretary of Labor. I want the record to abundantly show that this opposition is based primarily upon his labor and policy positions. I found nothing during the course of testimony or otherwise to indicate a lack of competence, or certainly, a lack of integrity.

I must say that in the course of our hearings he was direct and I believe he attempted to state his positions rather clearly. I am particularly concerned because Dr. Marshall favors common situs picketing and repeal of section 14(b) of the Taft-Hartley Act. I find these positions completely contrary to my own feelings and thus I cannot in good conscience vote to confirm his nomination.

In a discussion of common situs, Dr. Marshall in his confirmation hearings is quite clear: He supports situs picketing unequivocally without qualifications, to his credit. He did not hedge in the least during the course of the hearings.

I do not have to remind my colleagues of the history of common situs picketing. Of all the issues that we debated during the course of the last session, I know of none which excited or created as much interest or as much controversy, for that matter, as common situs picketing. During the course of those debates, it was revealed, by the time it was all over, that this Chamber was almost completely divided in their feelings on this very controversial issue. As a result of the strong protest vote which was registered in this Chamber to that onerous piece of legislation, in my judgment, the President later vetoed this particular piece of legislation.

I do not think there is any doubt whatsoever that, before several days pass, once again the Congress is going to see common situs legislation introduced, probably on this side.

Although the economic condition of the construction industry has improved somewhat since our earlier consideration of this measure, Dr. Marshall's support for common situs is still harmful in that by worsening labor relations in the industry, situs picketing could well lead to an economic relapse in our Nation's largest industry. An increase both in the total number of strikes and in the extent of damage caused by each strike is to be fully anticipated as a result of the conferral of secondary boycott power on the unions.

Those who represent the union interests in this Chamber have consistently and constantly said, not only here but throughout the country, that there is no such thing as secondary boycott involved in common situs picketing. It is my opinion that the essence of common situs picketing is the fact that it results in the secondary boycott. The fact of the matter is that what you do is transfer the results of a labor dispute between those who are immediate parties to that dispute to those who may be innocent subcontractors, and they can have their entire job shut down as a result.

Of course, construction has long been characterized by a number of uncontrollable external variables which can throw even the best planned and executed job into considerable disarray. But the adoption of common situs would unnecessarily add serious new labor problems to this already risk-laden enterprise. Unions, armed with new power to close down entire projects, could cause substantial cost increases and delays in production. Contractors, subcontractors, and union members who have good labor relations could be harmed in a common situs strike even if they were not involved in the immediate dispute.

As bad as common situs would have been in increasing the number of construction strikes, it is perhaps worse that it will also increase the cost of each individual strike. Entire projects, whether factories, mines, or energy facilities which previously could have continued to operate during strikes which involved fewer than a half-dozen workers could now be shut down by the exercise of the secondary boycott power.

Another problem with Dr. Marshall's support of common situs is that it will cost jobs, many of them union. It is accepted as axiomatic by both proponents and opponents that common situs would virtually do away with the current prevalent phenomenon of mixed construction job sites. Rather than mixed, jobs would tend to be either all union or all nonunion. But a serious ramification of this development would have been the loss of large number of union jobs currently held by union subcontractor employees working for nonunion generals.

Were common situs to be enacted, a nonunion general could not afford to subcontract to union subcontractors because they would not cross picket lines and do work in the event of labor disputes between other union contractors and their employees. Millions of dollars would thus be lost annually to union craftsmen in construction. Proponents of the bill such as Dr. Marshall should consider the loss of these dollars and weigh that loss against the doubtful correction of alleged picketing inequities which union leaders claim exist between industrial and construction unions.

From these findings, one can only conclude that Dr. Marshall's support of common situs has been misguided.

I must say, in fairness to this gentleman, that my impression of him is that he is basically an academician. He has been in the ivied halls of various universities. I did not get, in the course of his testimony, that he has actually been in the construction pit and had to come to grips with the actual problems encountered in connection with construction disputes.

Dr. Marshall and those who continue to strive for the enactment of this legislation are acting contrary to the interests and in opposition to the wishes of the majority of their union constituency and the entire American people.

Now a brief discussion on right to work. From time to time, there have been discussions about repealing 14(b). This has gone on for years and years in both these Halls of Congress ever since its enactment. It is potentially the most explosive political economic issue in all of Congress.

I do not think that the unions in this country have ever been stronger than they are now in the Halls of Congress, and 14(b) for many years has been a sore point for them. All we have to do is look at the history of common situs legislation to demonstrate that point. I can recall vividly when that piece of legislation came over here, it passed the House with very little fanfare and publicity, without any public attention really being paid to the opposite side of the issue. I can recall, after having been the only one to vote against this bill in our committee, conducting a nose count in this very Chamber and finding that, in opposition to a piece of legislation which I feel legalizes secondary boycott and is onerous to the industry, we only had 23 votes in this Chamber. After we had citizen attention to this issue and citizen involvement, we were able to almost double that percentage by the time we finally took a vote.

So no one, I think, in this Chamber has been more impressed, and I say this not out of scorn but envy rather than anything else, political envy, there is no more potent political power in either of these Halls of Congress than organized labor.

I do not have to point out to the Members of the body, or certainly the Members of Congress generally, that there is no more sore point for the union organizer, particularly those here in Washington, than 14(b). To them it is the boil on the face of a beautiful woman.

So I shall discuss this issue for a moment in connection with Dr. Marshall. Dr. Marshall is not only on the wrong side of the common situs issue, he also advocates repeal of section 14(b) of the Taft-Hartley Act—cold steel, without equivocation, to his credit. He did not hedge with it one bit. In response to my questions on the point, he said he would support repeal of 14(b). In doing so, Dr. Marshall places himself directly at odds with a position which I and many of my colleagues know to be an essential underpinning of good labor-management relations.

The heart of 14(b) is the question of whether Federal and State law should sanction union security clauses in union management agreements. More specifically, we are discussing the worker's freedom of choice with respect to joining a union. Union security clauses are provisions in a collective bargaining agreement which are designed to insure the continued life of the union by protecting it against employers, nonunion employees, or raids by competing unions. They require, to various degrees, employees to become union members.

At present, some 20 States, including my own State of Nevada, have passed legislation under section 14(b) outlawing union shops and other union security agreements. But what the authors of this legislation and 20 State legislatures believe to be essential State prerogative, Dr. Marshall proposes to repeal—again directly, without equivocation. I asked him directly whether or not his position was that the Federal Government, we here in Congress, should substitute our judgment in connection with labor-management relations on 14(b) for those of the individual States, and he said, "yes."

I asked him why. Because he felt, using the umbrella we use too often

around here, that it is in the national interest, the great palliative we have around here, constantly to usurp the rights of the individual States.

The reasons for retaining section 14 (b) are many, but at the heart of the matter is one very simple concept: The right-to-work laws protect the worker from compulsory membership in unions as a condition of employment. Union membership should be a matter of individual choice and not a matter of a union's ability to close off job opportunities for nonunion individuals.

Compulsory union membership is nothing less, in my judgment, than a form of coercion; that is, forcing an individual to act against his will, to do something he would not otherwise do. And, nothing is more repugnant to our American tradition. State right-to-work laws authorized by section 14(b) guard against this form of coercion.

I can say, from having observed this in various States, including my own, that there is no more explosive, no more sensational, no more emotional issue than that of 14(b). In my own State, the people of my State have voted on this issue directly five times, and each time, we have had an increasing majority and plurality in favor of retaining 14(b).

Some opponents of right-to-work laws contend that nonunion employees are free riders and should be compelled to pay for whatever benefits union pressure thrusts upon them regardless of their worth to the individual. This assumption of universal benefits is unfounded. The individual worker must retain sole authority to decide if the alleged benefits warrant union membership or if union activity has resulted in his personal detriment. The individual may be convinced that collective bargaining for large groups has a depressing effect upon the wage he might otherwise obtain in individual bargaining, that the rule of seniority which the union insists upon greatly exposes him to unemployment, that the allocation for up to 10 percent of his pay for benefits that he does not want or need amounts to confiscation of a part of his wage, or that the contributions made by unions for political or other purposes are against his interest.

In fact, right-to-work laws encourage greater union responsibility toward society at large and greater responsiveness to the members because union membership is voluntary. The "captive constituency" inherent in compulsory union membership does not require the same degree of attention to the needs of the members by the union leadership as is present when freedom of choice is preserved. In a merit shop situation when the union is not serving its membership adequately, the members will simply leave.

My own State of Nevada has been a leader in providing work opportunities for its people, largely as a result of its right-to-work laws, and the presence of such laws has not resulted in economic deprivation for the worker. To the contrary, there is not a union leader in the State of Nevada who can honestly say that they have suffered, they have been damaged in the least, because of right to work. On the contrary, I think their economic position has been bettered and improved, and the figures demonstrate it. A recent study using Department of Labor data found that Nevada was among the top five States in actual weekly earnings by production workers.

I have been interested during the last several days to find in the New York papers, the New York Times, of all places, a full-page ad attempting to induce New York industry to come—where? To the State of Louisiana proudly proclaimed that they are now free of the compulsions inherent in compulsory unionism, that they are now a right-to-work State. That, in my judgment, is one of the prime reasons that we are finding the economic growth and benefit in the so-called sun belt, because the sun-belt States are going uniformly to right to work.

A fundamental premise of our labor laws has long been to protect the rights of workers to join unions or to refrain from doing so—not to guarantee the power of unions to coerce union membership. Section 14(b) of the National Labor Relations Act and statutory provisions of 20 States were enacted with this in mind.

For these various reasons, principally in the areas of common situs and in right to work, I find myself in opposition to the nomination of Dr. Marshall. I should so like to indicate for the purpose of the record. Others of my colleagues will comment on other objectionable features, philosophically, on his approach.

I thank the Senator from Virginia for yielding.

Mr. SCOTT. Mr. President, I agree with a number of the things that have been said by the proponents of confirmation. The nominee of President Carter to serve as Secretary of Labor does appear to have a strong educational and economics background. He apparently has written a number of books regarding the human factors in the labor field. Some of his writings apparently have championed the cause of the underprivileged.

Ray Marshall is said to have been raised in a Baptist orphanage. Even though he earned a number of degrees, including a doctorate of philosophy in economics from the University of California, and obtained the rank of full professor, he apparently has not forgotten some of the hardships of his youth. This, of course, is commendable. But we are called upon today to decide whether or not the Senate shall advise and consent to his nomination as Secretary of Labor.

In that connection, I feel that we should consider whether or not he will represent the broad public interest and the public welfare rather than that of organized labor or any special interest group..

In that connection, I ask unanimous consent to have printed at this point in the RECORD an editorial published in today's Richmond Times Dispatch.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SENATE SHOULD REJECT MARSHALL NOMINATION

This is expected to be a sad day for those Americans who oppose oppression by labor union bosses. This is the day the U.S. Senate is expected to confirm the nomination of F. Ray Marshall to be secretary of labor.

Dr. Marshall favors repeal of right-to-work laws.

Dr. Marshall favors giving any one of many unions on a construction project the right to shut down the entire project.

Dr. Marshall sees "some merit" in the unionization of the armed forces.

Dr. Marshall's hometown newspaper, *The Austin Citizen*, first applauded President Carter's selection of the University of Texas economics professor to head the Department of Labor. But the next day it said it was "sorely disappointed" with Dr. Marshall's position favoring repeal of Section 14 (b) of the Taft-Hartley Act. This is the section that permits states to outlaw labor contracts that require workers to join unions in order to hold their jobs.

"A man's right to join or not join a union is a matter of individual rights," declared the newspaper. "Because the powerful labor unions seek a blackjack over those rights is no reason to repeal 14(b). In fact, it is positive evidence to do just the opposite."

Referring to the fact that Texas is one of 20 states (including Virginia) with right-to-work laws, *The Citizen* said Texas has benefited in many ways by having that law, and it added that "we're sorely disappointed that Texan Ray Marshall has been here so long and missed the entire point."

Dr. Marshall favors common situs picketing, which means that he would permit even one small union with a grievance against one subcontractor on a large construction project to picket all the subcontractors and thus bring construction to a halt. Congress passed a common situs picketing bill in 1975, but, fortunately, President Ford vetoed it. No veto can be expected if Congress passes such a bill during the Carter administration.

Compulsory unionism and common situs picketing would be bad enough, but these would be minor evils compared to the unionization of the nation's military forces. Yet President Carter's nominee for secretary of labor indicates a sympathetic attitude toward such unionization.

During the Senate Labor Committee hearing on the Marshall appointment, this exchange took place between Republican Sen. Orrin Hatch of Utah and Dr. Marshall:

HATCH. What are your views with regard to a unionized military?

MARSHALL. Well, I have not thought much about the unionized military . . . I think there is probably some merit to it. I would not permit strikes in the military, obviously.

HATCH. You might be amendable to have a military union?

MARSHALL. I might be amenable to having a military union where you have got some some kind of representation by the soldiers in making the rules that govern their working conditions. Now, I would not be in favor of strikes . . . I believe in the military and certainly in peacetime and not in combat situations, there are circumstances where a military commander would benefit out of what the people are worried about and what the problems are and that kind of mechanism might be good businss for the military.

HATCH. You would not extend it as far as unionizing the military, though?

MARSHALL. Whatever you want to call it . . .

HATCH. Would you have an outside collective bargaining agent?

MARSHALL. I had not thought that out as yet . . . It is a possibility. If you want me to think it out, I will.

We don't believe the vast majority of the American people need to "think it out." They are opposed to unionization of the military and the use of outside labor officials to represent military personnel. It is deeply disturbing that Dr. Marshall takes such a dangerous view of this whole subject.

Both of Virginia's senators, Harry F. Byrd Jr. and William L. Scott, have spoken out strongly against the Marshall appointment and can be expected to vote against con-

firmation. (It was Scott's objection in the Senate Thursday that kept the Marshall nomination from being considered along with most of the other Cabinet nominations and resulted in the scheduling of today's debate) But Congressional Quarterly reports that "organized labor, which obviously considers the labor post a crucial one, responded to the selection with enthusiasm." And if organized labor leaders are enthusiastic about something, it is safe to bet that a large number of political friends in Congress will support it.

So Dr. Marshall's confirmation is anticipated. But if members of the Senate followed what we believe would be the wish of most Americans, they would turn down a man who would subject workers to the yoke of union dictatorship and who might well encourage the unionization of the military forces, with all the ominous threats that such unionization would bring.

Mr. SCOTT. Mr. President, over the past few years we have had the question of whether a Consumer Protection Agency, or Consumer Advocacy Agency, should be established and among the arguments made have been that Government regulatory agencies have become the tools of the interests they are charged with regulating. We should probably concern ourselves with whether this nominee will be the tool of any special interest group or whether he will serve the public interest and all citizens of the Nation as Secretary of Labor.

It seems reasonable in ordinary cases for the Senate not to interfere with the choice made by the President of those who will serve with him as part of his official family. This should especially be true of a President who has recently assumed office. In the past I have voted to confirm Presidential nominees for the Cabinet positions and in the future will be inclined to resolve doubts in favor of the selection made by the President. However, Senators have a responsibility to the people who elected us, as well as to the Nation at large. With this in mind, Mr. President, I intend to vote against the confirmation of the nomination of Ray Marshall to be Secretary of Labor and would suggest that all Senators look more carefully into his background and to the statements he has made at the hearings before the Committee on Labor and Public Welfare. My decision is based upon a number of factors; all important, and collectively sufficient, in my opinion, to reject the nominee.

Both prior to and after assuming office, President Carter indicated he intended to rely very heavily upon each of his Cabinet officers and did not intend to have White House staff dominate decisionmaking activities of the Cabinet. This makes it even more important for the Senate, in performing its constitutional function, to very carefully review not only the background, experience, and philosophy of each nominee, but to examine in some detail how a nominee feels regarding the various issues with which he will be called upon to cope during his tenure as a member of the President's Cabinet.

A primary concern for me is the suggestion that Dr. Marshall made in response to questions before the Senate Committee on Labor and Public Welfare that collective bargaining by officers and enlisted men had a proper place within the military establishment, although he did not favor the right of military personnel to strike. Later he softened his responses somewhat by revising the record of the hearing and even more on Sunday in response to questions by newsmen on the television program "Issues and Answers." I understand that the Sunday program had not been taped in advance but was a live presentation and wonder whether statements made by various Senators, both on and off the floor of the Senate subsequent to the inauguration, may have accounted for this softening of responses on this specific issue.

Dr. Marshall, in his original testimony, indicated he might be amenable to having a military union "where you have got some kind of representation by soldiers in making the rules that govern their working conditions." He qualified this in response to the next question by stating—

My point is, and I believe in the military and certainly in peacetime and not in combat situations, there are circumstances where a military commander would benefit out of what the people are worried about, and what the problems are and what kind of mechanism might be good business for the military.

This testimony was revised somewhat in the transcript. The revised responses appear on page 108 of the printed record of the hearings in which Mr. Marshall stated—

I might be amenable to some kind of representation by the soldiers in making the rules that govern their working conditions. Now I would not be in favor of strikes.

After which, Senator HATCH posed the question—

Would you mean except with those we have today?

Dr. Marshall responded:

I am not sure what we have today. My point is, and I believe in the military and certainly in peacetime and not in combat situations, there are circumstances where a military commander would benefit from a grievance procedure to make it possible to find out what our military personnel are worried about and what the problems are and what kind of mechanism might be good business for the military. It frequently is difficult to get accurate information through the chain of command.

It would appear that the nominee fails to understand that there necessarily must be a difference between the successful operation of a military establishment and a civilian democratic society. He refers on various occasions to a peacetime military establishment and, yet, it would appear that a major purpose of having a peacetime military establishment is to train the personnel for combat conditions.

Later, at page 226, Dr. Marshall submitted answers to questions for the record. One question being: "Some public sector labor unions have expressed an interest in unionizing the armed services; what are your views on a unionized military?" In his written response, having had time to reflect upon the matter, Dr. Marshall stated—

Please see my confirmation hearing testimony, pages 104 and 105. I want to make it clear that while I support the use of some aspects of collective bargaining in certain situations in the military, I do not support the unionization of the military per se. In other words, I think it might be useful to establish effective grievance procedures but would not support strikes.

Now, Mr. President, Dr. Marshall is a well educated man. An AFL–CIO spokesman refers to him as a "sound and sensible man." He has been a professor at a number of colleges and universities and when he says that he supports the use of some aspects of collective bargaining in certain situations in the military, this is tantamount to saying he supports unionization of the military in certain situations. Collective bargaining and unionization closely parallel one another. It is my understanding that military personnel do not necessarily have to go through a chain of command in order to express their grievances.

There is an inspector general, a three-star officer and his staff in the Army, who operate separate and apart from the military commanders. There are also judge advocates throughout the military who attempt to assist military personnel with their problems. An expression we hear, sometimes in jest, that if we are not satisfied with the way the military is being run, we can talk with the chaplain. The chaplain can be instrumental in smoothing life in the military, and I would not minimize his influence, but over and above whatever influence the chaplain may have, there is the judge advocate whose duties include attempting to help military personnel with their problems; and the Office of the Inspector General, with one or more members at each military base, who without prior notice may visit a given unit to observe operations and talk with military personnel. So, I would suggest, Mr. President, that the military already has some grievance procedures aside from talking with superior officers through the chain of command, without collective bargaining or unionization.

Frankly, I do not feel the Secretary of Labor should attempt to advise military departments on personnel matters. We have civilian control through the service secretaries, and certainly through a civilian commander in chief of the armed services without a Secretary of Labor becoming involved in personnel problems of the military.

It is my understanding that S. 274, sponsored by the Senator from South Carolina, Mr. THURMOND, and 34 other Senators, would prohibit unionization in the Armed Forces. If enacted this would nullify any steps taken by Dr. Marshall as Secretary of Labor to suggest collective bargaining procedures or unionization in the military. Unionization could be so devastating to the national security, however, that I would prefer not to have any member of the Cabinet, especially one charged with responsibilities in the field of labor, giving consideration to it.

It is my recollection, Mr. President, that President Carter during the recent campaign indicated that he would not push for the repeal of section 14(b) of the Taft-Hartley Act under which 20 of our States have established right-to-work laws, but that if the Congress presented a bill repealing section 14(b), he would sign such a measure. Dr. Marshall,

however, has indicated in testimony to the committee and in interviews with the press that he would advocate the repeal of section 14(b). He is quoted in a recent issue of Time magazine as saying he planned to present the strongest case to the President for the repeal of this statute.

As the Senate knows, the right-to-work laws in 11 of our Southern States make it illegal to require a worker to join a union in order to obtain or hold a job in private industry. Other right-to-work States include Arizona, Utah, Nevada, Wyoming, North and South Dakota, Nebraska, Kansas, and Iowa. Last month, in my own State of Virginia, I polled constituents on a number of issues that could well come before the Senate this year. One of them related to section 14 (b) of the Taft-Hartley Act. The question was presented in this way: "Should the Congress pass Federal legislation to abolish State right-to-work laws?" And 95 percent of those responding said "no," with only 5 percent favoring the repeal of section 14(b). I believe, Mr. President, that the people of Virginia feel stronger on this question than most of the people of the Nation. So, I doubt that the people of the country as a whole would oppose repeal by a 95 to 5 percent margin. Yet, I believe that the overwhelming majority of the people of the Nation would agree with the views of those of Virginia.

Many Senators feel that the President has a right to pick his own Cabinet, and I do not want anyone to assume that whatever action is taken by the Senate on the nomination of Dr. Marshall is a test as to the feeling of the Senate on the repeal of 14(b). Yet, Dr. Marshall's statement that he intends to present the strongest case for repeal to the President should be among the factors we consider in determining whether or not to vote for confirmation of this nominee. It is my understanding that even his hometown newspaper, the Austin Citizen, of Austin, Tex., expressed disappointment in his position on this matter, and I quote from an editorial of that newspaper:

> We must first remind him that he represents all of the laboring people in this country—and not just the unionized workers. A man's right to join or not join a union is a matter of individual rights. Because the powerful labor unions seek a blackjack over those rights is no reason to repeal 14(b). In fact, it is positive evidence to do just the opposite.

On page 90 of the record of testimony before the Committee on Labor and Public Welfare, Dr. Marshall stated—

> I favor the repeal of 14(b) and the reason I do is that it seems to me that without 14(b), the National Labor Relations Act affords adequate protection for workers not to join unions. It does not afford them the right to avoid paying dues but even there it seems to me that the safeguards are adequate.

Mr. President, I have never been a labor lawyer, and yet it is my understanding that under State right-to-work laws a worker cannot be compelled to join a union or to pay dues to a union. I know this is true in my own State of Virginia. I referred to the code yesterday evening on this.

If one has to pay dues to a union, he might as well become a member of that union and have a voice in its decisions. A little over 10 years ago when I first sought election to the Congress my opponent said he was in favor of right-to-work laws but he did not think anyone should get a free ride. This statement caused him to be ridiculed in editorials throughout our State and I believe anyone under consideration for Secretary of Labor should check out the provisions of a law as important to labor and management as this one is so that he will understand that agency shops, as well as closed shops, are incompatible with the State right-to-work laws.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an editorial from the Lynchburg, Va. Advance entitled "Payoff to Unions."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PAYOFF TO UNIONS

> We suppose one has to be realistic about politics, so the payoffs to certain groups are to be expected.
>
> And in that connection it would seem the appointment of Dr. F. Ray Marshall to be Secretary of Labor in the Jimmy Carter cabinet represents something of a "thank you" to George Meany and other labor bosses.
>
> We don't know it to be true, but it is reasonable to assume that Mr. Carter cleared his designation of Marshall with Meany and others high in labor circles.
>
> Dr. Marshall is an all-out labor man. He has stated publicly he favors repeal of the right-to-work law and that he would support "common situs" picketing legislation.
>
> With these statements there surely is little to suggest Dr. Marshall will take a nonpartisan position as he copes with labor problems on a national basis. Dr. Marshall seems to be saying clearly that his job is to swing Congress into line with the demands of union bosses. They are demanding repeal of states' (such as Virginia) right-to-work laws and the power to shut down any construction project where non-union workmen are employed.
>
> In other words, more and more control over the economic life of this nation through forced unionism and the control over stoppages even if workers prefer to work.
>
> Whatever labor wants, it probably will get if Dr. Marshall possibly can influence the decision.

Mr. SCOTT. It does illustrate the thinking of one of Virginia's leading newspapers but I would hope the concluding paragraph is untrue. It reads:

> Whatever labor wants, it probably can get if Dr. Marshall possibly can influence the decision.

I like to believe that all Cabinet officers are attempting to serve the public interest rather than to represent any particular segment of our society.

Mr. President, another reason I have objection to the nominee is his support of collective bargaining for public employees and, with slight exception, in the right of public employees to strike. In Virginia, our supreme court has only recently held that no such right exists in our State. In fact, collective-bargaining agreements with political subdivisions in Virginia were held to be invalid by our highest State court. Yet, Dr. Marshall stated unequivocally during the committee hearings that he believed in collective bargaining for public employees. This is at page 77 of the transcript of the hearings. And while adding that there should be an arsenal of weapons, he indicated he also believed that the only way collective bargaining could work would be if one side does not have complete control of the relationship.

He added that if there is no threat to the public employer and the public employer has the final word regardless, then I do not believe you can get bargaining. And those are his words. Also, Dr. Marshall stated that the preferable solution might be to prohibit strikes for people like policemen and firemen and substitute binding arbitration. In other cases, if you do not make it possible for workers to bargain through other means, then you are probably going to get strikes. He expressed the opinion that it would not do much good to prohibit strikes without binding arbitration and added that he would prefer the strike except with respect to those cases he had previously mentioned: policemen and firemen.

During the questioning by the senior Senator from West Virginia (Mr. RANDOLPH) Dr. Marshall continued his response on page 78. The Senator posed the question:

> You do not believe in a public strike, do you?

Dr. Marshall replied—

> I think I would not impose a blanket prohibition on public employee strikes. I would prohibit them with respect to what we might call the safety industries and then I would provide an arsenal of weapons to settle them otherwise; but I might then finally conclude in a particular situation that the right to strike might be the way to resolve an issue if you concluded that the strike would not do irreparable damage to the public. I have trouble accepting the idea that all public workers are more essential to the economy than all non-public workers; that is, if you can have a utility strike but you cannot have, say, a strike of school teachers or others.

It is my understanding that under present law no Federal employee has the right to strike and I believe, Mr. President, that there is good reason for this. Otherwise we might have organized labor shutting down the Government or a branch of the Government. To me this is not in the general public interest and I do not believe the present prohibition against strikes should be eliminated. There are some who favor a Federal law that would authorize collective bargaining by all public employees: Federal, State, and local. The responses just referred to indicate the nominee would favor such legislation. It is my understanding that the U.S. Supreme Court in the National League of Cities against Usery cast considerable doubt upon the legality of such a law and indicated that the power to regulate commerce does not give the Federal Government legislative jurisdiction over State and local governmental employees. In my opinion, no one under the Constitution has the right to be a public employee. He can believe what he chooses but he must accept the conditions of employment made by the Government operating under the laws as enacted by the Congress or other legislative bodies and interpreted by the courts.

You will recall Congress passed a

measure during the 94th Congress authorizing common situs picketing which would permit a given union that was on strike in the construction industry to shut down an entire project. This is a measure about which reasonable people can have a difference of opinion. However, the bill was vetoed by President Ford and the then Secretary of Labor resigned in protest. Now, Dr. Marshall has indicated he favors common situs picketing, stating at page 91 of the transcript his opinion that the measure passed by the 94th Congress was a good bill and it would be useful to keep the package together if we could. I understand that one of the reasons the President vetoed the common situs picketing bill was that he received more than 700,000 pieces of mail urging him to do so. Therefore, we could easily conclude that there is considerable opposition to the reenactment of a common situs picketing bill.

If this was my one difference with the nominee, Mr. President, I would probably vote for confirmation of Dr. Marshall, deferring to the principle that the President has the right to select his Cabinet. But it does not seem reasonable for one group of trade unionists who have a grievance with their employers to be able to shut down construction generally and to cause other persons to go on a strike who are perfectly satisfied with their terms of employment and working conditions. To me it is another in the accumulation of differences I have with the present nominee and one to be considered by the Senate in determining whether or not to confirm Dr. Marshall as Secretary of Labor.

Without dwelling on these matters, I believe it is proper to mention that the nominee has indicated he favors a strengthening of the prevailing wage requirements of the Davis-Bacon Act in Federal contracts, and the provisions of the Humphrey-Hawkins bill with the observation that the Government should spend even more on job programs than President Carter has indicated he would recommend. This, of course, would add to the Federal deficit and increase the public debt now approximating $650 billion.

In summary, Mr. President, it appears from the testimony of Dr. Marshall that he is very close to organized labor, but I do not consider that to be a cardinal sin. The American labor movement over the years has been responsible to a large extent for the improvement in working conditions, the pay, and the safety of workers generally. I believe very firmly in the right of labor to organize, to bargain collectively, and, when necessary, to strike. The right to strike, or to deny their services, is fundamental to the success of organized labor. Of course, my thoughts relate to the private sector only. However, Dr. Marshall would appear to apply some, if not all, of these factors to the public sector. He has stated his belief that school teachers and other public employees, except policemen and firemen, should have as much right to strike as do workers for utility companies. He has stated that he feels that collective bargaining has a proper place within the Nation's armed services.

We should consider, however, whether the right to strike, which traditionally has been the ultimate weapon used by organized labor to support its position in labor disputes, can be separated from collective bargaining for public employees. Dr. Marshall expresses reservations regarding this in responding to questions by the Senator from West Virginia (Mr. RANDOLPH). On page 77 of the committee record, he originally indicated a belief in collective bargaining by public employees. Further down on page 77, he stated:

> If there is no threat to the public employer and the public employer has the final word regardless, then I do not think you can get bargaining.

Then he added:

> If you do not have some way to break that down, some mediation, conciliation, binding arbitration, or whatever, then it seems you will get strikes; and, therefore, the preferable solution might be, for people like policemen, firemen, that you prohibit strikes, but you permit binding arbitration. In other cases, if you do not make it possible for workers to bargain through other means, then you are probably going to get strikes.

Mr. President, the nominee apparently believes that public employees, with certain exceptions, have the right to strike. He states that collective bargaining will not work without such measures as arbitration or the right to strike. Yet, he is in favor of collective bargaining for military personnel. There appears to be a discrepancy here. Such a position could, if pursued, easily form the foundation for future strikes in the military. Of course, I believe in fair treatment of members of our armed services, but I do not share Dr. Marshall's views that members of the military should have the right to collective bargaining. In my opinion, it could threaten our security.

I would hope that the Senate would reject this nomination because some of the responses given by the nominee to questions during the hearings indicate positions that could jeopardize the Nation's security. After reviewing the transcript rather thoroughly, I have no hesitancy in voting against confirmation. In fact, I feel a responsibility to do so.

Mr. President, I yield 20 minutes to the Senator from Utah (Mr. HATCH).

Mr. HATCH. I thank the Senator.

Mr. President, as I have indicated previously to the Senate, I now rise in opposition to the nomination of Dr. Ray Marshall to be Secretary of Labor.

I want to make it clear that I do so only because of Dr. Marshall's views on several critical issues which are likely to face the American people during this Congress and perhaps the next. His views, for the most part, appear to be totally in line with organized labor which in many ways may be prejudicial to the goals and objectives of the vast majority of American workers—in both the organized and the unorganized sectors. I now will take a few minutes to examine Dr. Marshall's positions on the issues which I believe to be crucial to his nomination and explain why his views are in my judgment so detrimental to the Nation as a whole.

The role of labor in the U.S. economy and particularly the need for changes in the law to improve organized labor's position has been the subject of many years discussion. It appears as though we now have a Secretary of Labor who is willing to push for those changes. The United States faces serious economic difficulties and challenges. It needs to improve industrial productivity in order to generate more jobs without risking a return to double-digit inflation. Not only the people of the United States but the whole western industrialized world are looking to Washington for economic as well as political leadership.

Closer to home, States like Utah and others represented here in the Senate are making their own plans for balanced industrial growth in a national context. States make such plans for balanced growth in the hope that the Federal bureaucracy will not deprive them of local decisionmaking on essentially local issues which are in the best interests of its citizens. Dr. Marshall views the Federal Government as being the benevolent dictator which can and will determine those local issues for the States and local governments. I submit that we do not need a Secretary of Labor who in principle advocates expanding federalism in the manner advocated by Dr. Marshall.

At a time when our economy is on the verge of an acceptable healthy resurgence, Dr. Marshall indicates that he would give additional power to big labor. He does so through two primary vehicles:

First. To repeal the States right-to-work laws and second, to enact common-situs picketing legislation. I think we here all recognize that unions have made valuable contributions to American society and the right of any American to join a union if he so wishes should be defended. It is my judgment that changes in the law favorable to organized labor should, therefore, only be made if it can be demonstrated that the economy and the unorganized section of the work force will benefit. I do not believe that there has been adequate evidence justifying Dr. Marshall's views on these issues.

The issue of 14(b) repeal is of particular concern to me because of President-elect Carter's campaign promise to sign repeal legislation if it were sent to him. We need to review the issues involved.

When Congress enacted the Taft-Hartley Act in 1947, it included this section to protect the free right of States to enact their own laws or to adopt constitutional provisions in order to make compulsory unionism illegal. The issues therefore, are: First, States rights; and second, compulsory unionism or right to work itself. To elaborate on the second issue, the question becomes: "Should an individual working man be permitted to decide for himself whether he wants to support a union or should he be forced by Federal law to follow the opinions of others and become a member of or financially support, an organization in which he does not have an interest?"

The spirit of Taft-Hartley was to protect employees in their right of association for the purposes of collective bargaining. Section 7 guarantees the right both to engage in or refrain from union activity. Section 8 prohibits employers from interfering with employee decisions in engaging in union activity and forbids employers from discriminating in em-

ployment to encourage or discourage union membership. Compulsory unionism would, therefore, violate the spirit of Taft-Hartley as well as that of the Norris-LaGuardia Act, which specifically states that an individual should be free to decline to associate with his fellow workers.

Further, implicit in the "union security" argument is the idea that some unions might disappear if membership in them were put on a voluntary basis. Whether or not this may be so, if workers do not want a union, no union should exist. The only justification for the existence of any institution in a free society is that it renders a service or gives benefits that attract and hold supporters. When an institution has to be shored up by force, it is detrimental and possibly useless to society.

In terms of States rights, which I am not sure Dr. Marshall truly understands, it is significant that 20 out of 50 States have right-to-work laws. How can States be assured that their economies will remain viable if they do not have a basic control of operating conditions? U.S. Government statistics show that right-to-work States have been able to increase manufacturing capacity more quickly than States which have compulsory union shops. Therefore, States should have the option to continue to grow and to adopt 14(b)-type legislation if in the best interests of its citizens. Dr. Marshall would deprive the States of their opportunities under section 14(b).

One of the justifications Dr. Marshall urges for 14(b) repeal is that it gives some States an unfair competitive advantage over others. He refers to those right-to-work States who have been able to attract businesses from other States, or expand businesses within their borders, because of the limitation on compulsory unionism. I submit that the competitive advantage is a healthy one and one that should be fostered as a matter of national public policy.

If some States are affected by a so-called unfair competitive advantage, they have a perfect, legal, and defensible right to enact 14(b) legislation to compete on the same footing. Furthermore, I wonder how any true intellect could advance such an argument?

In summary, compulsory unionism which Dr. Marshall appears to advocate goes against the long-standing American insistence on the priority of individual rights, and on the need to protect States rights. This is particularly important in a State like Utah with a tradition of individual initiative and self-reliance.

At the same time, with the new insistence that the economy must be stimulated to a greater production, it makes little sense to extend forced union shops to States that do not want them—since inevitable long-term results would be inflation and the defeat of efforts by States to improve their economic health through balanced growth.

Dr. Marshall also supports another oppresive piece of legislation—the so-called common situs picketing bill. I believe we have to analyze the background of this issue and to see exactly how detrimental such legislation would be to the construction industry and to the Nation. Dr. Marshall expressed his opinion that he did not believe any adverse economic consequences would flow to the already-troubled industry by passage of this legislation. I suggest that such an opinion is naive. It is irresponsible for a man scheduled for this high level position to make such statements without any factual basis and with considerable existing contrary data.

In the construction industry, the common mode of operation is for a general contractor to enter into a contractual agreement with an owner for the building of a project. The general contractor usually subcontracts a portion of the work to other contractors. Each contractor and subcontractor is a separate legal entity and is responsible for his own labor policy and labor relations. When expressing the relationship between employees and various employers, the primary employer is the contractor who hires, pays and directs his particular employees and all other contractors are known to these employees as secondary employers.

In the 94th Congress the Senate and House passed a bill which in essence would legalize secondary boycotts in the construction industry. This was an attempt by the Congress to overturn the Supreme Court's decision in the Denver Building Trades' case. There the Court held that it was an unfair labor practice for a union to strike and picket secondary employers, and thereby shut down an entire job-site, because of a dispute over a primary employer's labor relations. It further held that unoffending "secondary employers" should be shielded from "pressures and controversies not their own."

Since the Denver case, the National Labor Relations Board has further clarified the area of picketing disputes arising on construction job-sites and has supported the basic principles enunciated by the Denver case.

It is obvious that any legalization of secondary boycotts in the construction industry would artfully fashion the construction industry for the purpose of fostering unionism in that industry. There is reason for that objective. Most construction jobs and most construction workers are nonunion. So-called merit shop contractors seem to be getting a bigger piece of the pie every year. The unions, therefore, seek a change in the law, which Dr. Marshall advocates, so that the industry can be unionized in a more extensive manner. Indeed, despite the economic harms which would inevitably result from legalizing the secondary boycott, its primary value to the unions, and its particular harm to the industry, would be its impact on union organization attempts.

Despite Dr. Marshall's current view that secondary boycotts should be legalized, it is my hope that he will reevaluate his decision if he is confirmed by the Senate. Common situs picketing would result in the following adverse consequences, if enacted, as I see it:

First. It will result in a disequilibrium in labor-management relations by overwhelmingly increasing the leverage of the building trades unions in settling collective bargaining disputes;

Second. Even on all-union projects, varying contract expiration dates could result in periodic total stoppages at which contractors could be inordinately pressured into substantial wage benefit increases;

Third. If the secondary boycott is legalized, union employees working for one employer will be able to force nonunion employees working for another employer off the job-site simply because they are nonunion, in spite of their freely chosen preference not to be represented by a union. As a result of these circumstances, the nonunion employees will have no recourse to the Government for the curtailment of their individual rights or the loss of their job opportunities;

Fourth. The legislation would result in a nearly complete revision of the relationship and structure of the construction industry: the general contractor would become, in essence, responsible for the labor relations policies of the subcontractors, and I foresee a significant "polarization" in the construction industry—in other words, job-sites would become either all union or all nonunion. The current practice of mixed job-sites—union and nonunion contractors on the same site—would be eliminated, thus terminating the concept of awarding contracts to the lowest responsible bidder. This would result in a dramatic increase in construction costs—which are already inflated to an advanced degree and costing thousands of workers their jobs—and which in turn would increase unemployment in the construction industry and fuel inflation. All of these higher construction costs and inflation would be borne by all taxpayers and all consumers.

Fifth. I believe the rights of minorities would be adversely affected despite Dr. Marshall's feeling to the contrary. For example, minority tradesmen have traditionally been excluded from membership in the building trades unions and the legalization of the secondary boycott will exacerbate that situation. To support this belief one must refer to the U.S. Commission on Civil Rights, May 1976 report entitled "The Challenge Ahead: Equal Opportunity in Referral Unions."

Mr. President, I ask unanimous consent that the Commission's letter of transmittal to the President and the Congress be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, D.C., May 1976.

The PRESIDENT,
The PRESIDENT OF THE SENATE,
The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIRS: The U.S. Commission on Civil Rights presents this report to you pursuant to Public Law 85-315, as amended.

The report examines the policies and practices of referral unions, which constitute a large segment of organized labor in the United States. The report also assesses the Federal Government's efforts to secure compliance of referral unions and associated employers with laws and Executive orders designed to provide equal employment opportunity.

We have found that referral unions still maintain discriminatory practices that have an adverse effect on the employment opportunities of minorities and women. We have found further that Federal programs to provide equal employment opportunity in the

affected industries largely have been ineffective.

We urge that Executive Order No. 11246 be amended to cover labor unions with which Federal construction contractors have collective-bargaining agreements. We also recommend that Federal agencies charged with securing equal opportunity in union membership and training take specific new initiatives, in order to discharge effectively their responsibilities under existing laws and Executive orders. For example, the Office of Federal Contract Compliance Programs should require unions which have collective-bargaining agreements with Federal construction contractors to set goals and timetables for the admission of minorities and women to union membership. Further, the Interstate Commerce Commission should require affirmative action plans of companies it regulates, including trucking companies, so as to provide equal employment opportunity in the unionized sector of the trucking industry.

We ask for your leadership in ending the discriminatory employment practices documented in this report.

Respectfully,

Arthur S. Fleming, Chairman; Stephen Horn, Vice Chairman; Frankie M. Freeman; Robert S. Rankin; Manuel Ruiz, Jr.; Murray Saltzman; John A. Buggs, Staff Director.

Mr. HATCH. I would like to refer to the news release of the Associated Builders & Contractors, Inc., dated December 27, 1976:

Joe M. Rodgers, president of the Associated Builders and Contractors, today expressed concern of what he called a manpower training "blind spot" of Dr. F. Ray Marshall, Secretary of Labor designate for the Carter administration.

Rodgers said that while Dr. Marshall has been touted by the media as an expert in general manpower and minority training, it is more accurate to describe his expertise in terms of union manpower problems.

"Our experience with Dr. Marshall as chairman of the Federal Committee on Apprenticeship tells us he has developed a blind spot to the opportunities of minorities and women in the non unionized sector of the economy where they have traditionally found greater acceptance," Rodgers said. "Particularly in the construction industry where more than one-half of construction is built by independent employees working for open shop contractors."

Rodgers said that while former Secretary of Labor Dunlop and Secretary Usery have recognized the importance of the non unionized sector in manpower training and other areas, the Federal Committee on Apprenticeship has not given equal treatment to non unionized training programs.

"Dr. Marshall headed a committee which sets standards for the entire construction workforce but does not have one representative for the non unionized workforce or 50 percent of those affected by the committee's decisions," Rodgers said. "One recent example of the kind of abuse this produces is the apprenticeship committee's decision not to allow apprentices in construction training programs to be registered and to transfer training credits from a training program in one geographic area to a similar training program in another area. This decision was made to satisfy the building trades unions desire not to allow reciprocity between union locals, thereby restricting the number of apprentices and minorities in local unions."

Rodgers said in the construction industry this amounts to rewarding unions, with the poorest record of equal opportunity and minority training, with special privileges.

When I speak about this subject, I speak as one who came up the hard way, who went through a formal apprenticeship training program, who became a journeyman in the AFL–CIO, who believes in unionization, who believes without the union movement we would not have the freedom we have in society to collectively bargain, but who also believes that the big labor leaders have gone too far in their domination of our lives and of the equal employment opportunities of all people, both union and nonunion, in this country today.

For all of these reasons the common situs picketing legislation is bad legislation and I would hope that a responsible Secretary of Labor would look at these arguments before taking a position in favor of what has to be detrimental legislation to the construction industry and to the consumers and taxpayers of America.

I believe some of Dr. Marshall's other views should be examined. Specifically, when asked about the Davis-Bacon Act he responded that he thinks that the law does serve a purpose and he surmised that perhaps it is not being adequately enforced. The inference, of course, is that Dr. Marshall favors more rigorous enforcement of the act.

We are all aware that the Davis-Bacon Act is that Federal law that establishes wage rates and other conditions on construction projects with more than $2,000 of Federal funds involved. Wage developments in the construction industry have over the years contributed to inflation and Davis-Bacon has certainly compounded this problem. Because the law as is presently administered protects the industry's superhigh wage levels, the law itself has been called "an engine of inflation." It was this aspect of the law that lead to Presidential action in briefly suspending it by Executive order on February 23, 1971.

The record amply demonstrates that the law is heavily inflating the cost of individual projects. Estimates have run from 5 percent to 15 percent and the total may run as high as $1.5 billion a year. Exclusive of the residual, multiplying escalating effects, Davis-Bacon costs more to operate than the whole judiciary establishment, and perhaps more to run than the entire legislative branch of Government.

As a result, many are of the opinion that the law is totally counterproductive. It is pricing many projects out of the market and increasing the industry's already high unemployment rate.

Some of the law's criticism stems from the Labor Department's past slipshod and pro-union interpretation, application, and administration of the law, particularly the guidelines it has developed for making wage determination and for importing wage rates from one area or type of work to another. But there is also considerable evidence that the administration of the law goes well beyond this. Repeal may well be the wisest solution. This is an issue I have not yet decided, but I do know that enforcement is not the answer.

While repeal of the law is a politically sensitive issue, the national concern over inflation does demand its review. In this light, this Secretary of Labor-designate does not seem to be willing to undertake that crucial task. I submit that the retention of such costly, inflationary, and special interest legislation in its present form makes no sense at all.

I believe this is another example of Dr. Marshall's allegiance to the views of big labor to the disadvantage of both union and nonunionized employees and to the American taxpaying public.

One of the other interest areas to the Congress upon which Dr. Marshall has taken a position involves the continued preparation of "Economic Impact Analyses" in the development and promulgation of new or revised occupational safety and health standards and the consideration of economic feasibility in the standard settling process. Dr. Marshall's inclination is to say that we probably ought not to have it.

I say that this is a thoughtless approach to a subject which is of considerable importance in the promulgation and enforcement of OSHA's standards. The language in OSHA's section 6(b)5 requires that:

Development of standards under this section shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of safety and health protection for the employee, other consideration shall be the latest scientific data in the field, the feasibility of the standards, and the experience gained under this and other health and safety laws.

Thus, the statute itself refers to the requirement that the feasibility of standards be examined prior to their promulgation and enforcement.

Additionally, President Ford in his address to the Nation on October 8, 1974, announced his intention to require Federal agencies to carefully consider possible inflationary impacts of all major legislative proposals, regulations, and rules. Executive Order 11821 was issued on November 29, 1974, formalizing this requirement and empowering the Office of Management and Budget to set criteria for defining what actions would be considered major.

A Federal appellate court, ruling on a challenge to the asbestos standard which was promulgated in 1972, observed that economic factors, such as the capability of a company or industry to meet the standard, can properly be considered in determining the feasibility of the rule.

I submit that it appears as though Dr. Marshall would dispense with what I view as a requirement which can only benefit the industries which are trying to comply with the standards as well as the working men and women of this country who will benefit by standards which are realistically obtained.

One of the very disturbing things Dr. Marshall referred to in the nomination hearing was his thought that State and local public employees should have collective bargaining rights within the purview of the National Labor Relations Act. It is fair to say that Dr. Marshall advocates an expansionary role for the Federal Government to preempt and mandate the labor relations policies and practices of local and State governments. This is one of the areas in which the Federal Government may not have the constitutional authority to do so, and notwithstanding the constitutional issue, the wisest course of action may be to let those State and local governing bodies

determine their own labor relations based upon the unique needs of these local areas.

What is so troublesome about Dr. Marshall's responses in this area is the recurrent thread running through his testimony that somehow the Federal Government knows more about these kinds of situations than do the State and local governments. He obviously favors the concept that Federal intervention in State and local public employment labor relations matters is necessary and is a proper function of the Federal Government. I think his rationale is severely weakened by the Supreme Court's recent decision in National League of Cities against Usery, which holds that the Federal Government does not have the constitutional power under the commerce clause to dictate wage and overtime requirements for certain municipal employees.

Despite what may be certain constitutional problems, the Secretary of Labor-designee misses the point that labor is a significant part of the cost of running State and local governments. The authority for setting the levels of taxation needed to run a government rest with its elected officials. Given the right to collectively bargain and strike, public employee unions would bring sufficient pressure on elected officials to raise wages benefits, thereby raising costs. Such action would have the effect of allowing nonelected persons to have the government taxing and spending powers because its elected officials would have little choice but to raise taxes to cover increased spending for wages. Frequent past disclaimers by unions of intent to use the strike power lack credibility, considering the numerous illegal strikes that have already disrupted communities and raised taxes.

I find this same situation to be analogous to allowing some form of unionism in the military. In my view, even though strikes may be clearly unlawful and even treasonous, illegal strikes or work stoppages are bound to result. Equally important to this public sector is maintaining control of the labor relations at the State and local levels because of the taxpayers close relations with their local and State government employees.

Another area in which Dr. Marshall has made dramatic departure from what I sense to be the overwhelming feeling of Americans is in his view of allowing unionization of the armed services. At the nomination hearing, I specifically asked Dr. Marshall what were his views in regard to a unionized military. He responded that there is probably some merit to it. He further stated that there is probably merit to mechanisms to permit military personnel to participate in the formulation of some of the rules governing their living conditions. He did state that he would not permit strikes in the military, for obvious reasons.

I further asked him whether he would be amenable to having a military union. Incidentally, when the distinguished Senator from New York read this part of my examination of Dr. Marshall, I felt he left off some of the most important questions and answers in that particular exchange. I would like to read them at this time.

Senator HATCH. You would not extend it as far as unionizing the military, though?

Dr. MARSHALL. Whatever you want to call it. I would not extend it to a strike.

He did not say that he would not unionize the military, that he would not extend collective bargaining to the military.

Then I asked him even more pertinently:

Would you have an outside collective bargaining agent?

Dr. Marshall is not a man who does not understand the labor laws, or the problems and intricacies involved here. This is a man who is most understanding of the difficulties involved in this particular area of our labor laws. When I asked him, "Would you have an outside collective bargaining agent?" Dr. Marshall said:

I had not thought that out as yet.

Then I said:

Do you think it's a possibility?

Dr. Marshall said:

It's a possibility. If you want me to think it out, I will.

He did not come out and say he was against unionization of the military or having an outside, organized agent representing the military. If he wanted to be clear, and I think he was not led into saying what he said, he should have been clear at that point, but he was not.

Mr. JAVITS. Will the Senator yield at that point?

Mr. HATCH. Yes.

Mr. JAVITS. I thought, in fairness to Dr. Marshall, that we should include in the RECORD the letter which he wrote, which we must assume——

The PRESIDING OFFICER. The Senator from Utah was yielded 5 minutes and his 5 minutes are up. He has no time to yield to the Senator from New York.

Mr. JAVITS. Will the Senator yield me 3 minutes?

Mr. WILLIAMS. I am happy to yield.

Mr. JAVITS. That is fine, because I want to ask Senator HATCH a question.

Would the Senator say that he, therefore, reserved the opportunity to think it out and that he wrote us a letter, wrote Senator WILLIAMS a letter, on this very subject and, therefore, that it would be fair, in presenting the whole case, to present the letter as a part of his testimony? Because he said, "Give me a chance to think it out."

Mr. HATCH. I think that would be fair.

Mr. JAVITS. This is what he said.

Mr. HATCH. What was the date of that letter?

Mr. JAVITS. January 22. It is in the record.

Dr. Marshall said:

In my remarks at my confirmation hearing, I said that I would not be in favor of military strikes, or military unions per se. My remarks were directed more toward the institution of certain practices that might improve the military. I do believe that the peacetime military can benefit from improved communication procedures, somewhat analogous to grievance procedures, whereby commanders are made aware of the problems affecting personnel. As I stated, it is often difficult to get accurate information through a chain of command and that improvement in communications mechanisms might be beneficial.

The only reason I read that is that I just wanted to clear the situation. He did say, "I want to think it over." Then he did think it over, and this is what he said. So my only judgment is that, in fairness, the comment ought to be inclusive of what he said in the letter. That is the only thing I was calling to Senator Hatch's attention.

Mr. HATCH. I appreciate the comment of the distinguished Senator from New York. I would like to add, however, that in response to written questions from me, he responded after he had time to reflect and, I think, clarify the matter—this should also be part of the record. I asked this question: "Some public sector labor unions have expressed an interest in organizing the armed services. What are your views on a unionized military?"

With time to reflect, writing back to the committee and to me, his answer was: Please see my confirmation hearings testimony, pages 104–105.

Then he added: I wish to make it clear that while I support the use of some aspects of collective bargaining in certain situations in the military, I do not support the unionization of the military per se.

He did not say, "I just do not support it."

In fairness to Dr. Marshall last Sunday, and I think this should be made part of the record also, he appeared on the ABC program of "Issues and Answers," and indicated finally that he was totally against unionization of the military, but was in favor of some form of information transmittal to aid the enlisted men to reach their top brass with their complaints.

I hope that is true.

The only problem I have is that he went so far during the hearings and when he realized there was a problem, he backed so far off.

I submit that his changing views on this subject mean that either he has reneged on what was an error in judgment or he is so slavishly devoted to big labor and all of its desires that he will say anything or retract anything he has said to secure confirmation. It is clear that only some union organizers can favor unionization of the military and I believe even some of them would not go so far as Marshall has gone. The American people will not support a change in the way military organizations are run where the end result may well be a deterioration of military discipline and ultimate authority. Continual questioning of and resistance to military orders which unionism in any form potentially invites can only break down the command structure and threaten our national security.

However—I add this in fairness to Dr. Marshall—it is my understanding that he has given promises to Senator THURMOND that he will not advocate unionization of the military, repeal of 14(b) or enactment of common situs picketing. I sincerely hope that his promses are honored and that his assurances to Senator THURMOND are not statements solely designed to receive confirmation.

Dr. Marshall best think through these issues thoroughly and any attempt to advocate any form of military unionism, repeal of section 14(b) or enactment of situs picketing warrants a demand that his resignation, if he is confirmed, be tendered forthwith.

Mr. President, I ask unanimous consent that two articles dealing with unionization of military organizations by the Teamsters Union written by Clark Mollenhoff now be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Des Moines Register, Dec. 12, 1976]

FITZSIMMONS DENIES MILITARY ORGANIZATION

(By Clark Mollenhoff)

WASHINGTON, D.C.—Teamster President Frank Fitzsimmons says the International Brotherhood of Teamsters will not organize the military "as long as I have any breath in my body."

Expressing outrage at reports that the Teamsters was one of several unions with plans to organize the nation's armed forces, Fitzsimmons claimed he has no idea where officials of the American Federation of Government Employes (AFGE) and others got the idea his union was involved.

HEARD NOTHING

"I have never discussed such a plan with anybody, and have never heard such a plan discussed," Fitzsimmons said. "If it were brought up, I would oppose it as long as I am president of this union, and as long as I have any breath in my body."

In fact, Fitzsimmons said he might use the Teamsters' considerable clout to block the efforts of the AFGE or any other union that might make a serious effort to organize the military.

Fitzsimmons told The Register that he had not yet had time to fully check reports that Norman Goldstein, head of the International Teamsters organizing department, had told a U.S. War College audience several months ago that Teamsters organization of the military services is "inevitable."

But, as Fitzsimmons was declaring his opposition to organizing the active military, he expressed support for the National Association of Government Employes (NAGE) organization of reserve units.

LAW ENFORCEMENT EFFORTS

In conversations with David Einhorn, reporter for the Columbus, Ga., Ledger-Enquirer, Fitzsimmons admitted for the first time that as a matter of national policy his union is organizing city police, sheriff's offices, and other law enforcement agencies into Teamsters locals.

Only a few weeks ago, the Teamsters headquarters denied it was backing such an effort even as organizational efforts were taking place nationwide under a Michigan Teamsters official. That official is a close friend and associate of Fitzsimmons.

At the time of the denial, Teamsters locals had organized more than 200 local governmental units in a dozen states stretching from California to New Jersey.

AFL–CIO President George Meany has expressed opposition to organization of either the police or military because of "an inherent conflict of interest."

Meany has contended that the "no strike clauses" in police union contracts do not eliminate the potential conflict if law enforcement officers are dealing with labor-management violence.

Fitzsimmons says he agrees with Meany that organizing the active military is impractical as well as bad policy, but he makes a distinction that would permit organizing police and the members of military reserve units, particularly the military technicians.

THURMOND BILL

In a conversation Friday, Fitzsimmons said he would support legislation introduced by Senator Strom Thurmond (Rep., S.C.) and others that would make it unlawful for any individual or organization to "solicit or otherwise encourage" military personnel to join a union.

But in a formal statement Fitzsimmons has modified his position to "We are studying proposed legislation in this field to determine if it will receive our support, which in turn will depend principally on the scope of the legislation."

The Teamsters, while opposing organization of active units, are involved in merger talks with the independent NAGE, which already has organized about 10,000 members of the National Guard and the National Air Guard.

NAGE also has more than 37,000 law enforcement officials in 450 local units, including the Metropolitan Police Department for the District of Columbia and police departments in Salt Lake City, Utah, and Santa Barbara, Calif.

CONFIRMS REPORTS

NAGE President Kenneth Lyons has confirmed reports of negotiations with the Teamsters for a merger, but says it is unlikely that a merger would take place before next fall.

Lyons defends organization of police and reserve military units not on active duty because of "no strike" clauses in the contracts.

The AFGE at a recent convention changed its constitution to permit organization of the active military, and to abolish its "no strike" policy as a government employes' union. Officials have denied any link between the two actions.

However, since the convention in September, one activist group in AFGE has been strongly urging an all-out campaign to organize the military, and active organization has occurred at Fort Benjamin Harrison in Indiana, Fort Benning in Georgia and Fort Dix in New Jersey.

Sharp congressional reaction against any organization of the military and a comprehensive report detailing the unusual complications involved in unionizing the military have resulted in AFGE President Kenneth Blaylock putting the unionization of the military on the back burner until at least after the AFGE Council meeting in February.

[From the Des Moines Register, Nov. 21, 1976]

TEAMSTERS MOVE TOWARD ARMY UNION

(By Clark Mollenhoff)

WASHINGTON, D.C.—The International Brotherhood of Teamsters is moving forward slowly and quietly with plans to organize the nation's military services, The Register has learned.

According to well-informed Teamsters sources, the Executive Board of the scandal-plagued Teamsters has avoided any official action or specific appropriation of funds for organizing the military because of the uproar it might cause in Congress.

Norman Goldstein, head of the International Teamsters organizing department, refused to discuss a widely circulated report that he had called unionization of the military services by the Teamsters union "inevitable."

SPEECH CITED

It had been reported to Senator Strom Thurmond's (Rep., S.C.) office that Goldstein had made the statement in a speech before a U.S. War College office in the fall of 1975.

Goldstein is the same Teamsters official who only two months ago denied that there is any concerted drive to organize law enforcement officers, even though organization was known to have taken place coast to coast.

The organization of law enforcement official now encompasses more than 200 local governmental units in a dozen states stretching from California to New Jersey.

Even as Goldstein was refusing to answer questions on his War College speech or make any statement on Teamsters activities in the military, a well-placed Teamsters source explained that "it is the international policy to have no policy on organizing the military."

The precise policy ragarding the military will be made later, and will to some degree be contingent upon the outcome of merger talks that have been taking place between the Teamsters union and officials of the National Association of Government Employes (NAGE).

NATIONAL GUARD

NAGE already has organized National Guard technicians in 38 states, and thus is considered a logical union to organize the military.

NAGE President Kenneth Lyons confirmed that he and other officials of NAGE have had some discussions of merger with the Teamsters union, but says those talks have not included discussions of organizing active military personnel.

Lyons said NAGE has organized about 10,000 members of the National Guard and the National Air Guard, but noted that "we do not represent them when they go on active duty."

"We have no present intentions to organize the active military, and I see no possibility of us taking any role in organizing the military," Lyons said. "I am philosophically opposed to it, and feel it is impractical to even consider."

He said that the impracticality involved the mechanics of getting a check-off system set up to collect dues from the Army, Navy or Air Force. "It would mean that even if you had the tree, you couldn't get the fruit off of the tree," Lyons said.

Lyons said that although the talks on a NAGE-Teamsters merger are not broken off, he can see no possibility of a merger in the foreseeable future.

"We have our convention in Puerto Rico next October, and I am sure that we will go into that convention as the same free and independent union we are today," Lyons said.

Lyons said that he sees no possibility of the 2 million-member Teamsters union swallowing his smaller, 200,000-member union "as long as I am around."

NAGE, Lyons said, does actively seek to organize policemen and other law enforcement officials in a unit known as the International Brotherhood of Police (IBP).

Lyons said NAGE has more than 37,000 law enforcement officials in 450 local units. Police departments organized by NAGE include the Metropolitan Police Department for the District of Columbia as well as police departments in Salt Lake City, Utah, and Santa Barbara, Calif.

NAGE's organizers "have been head to head" with the Teamsters union in efforts to organize police in "about three or four cities," Lyons said.

Lyons said he sees no conflict of interest in any union organizing law enforcement officials who might be involved in policing labor organizing or other disputes.

However, AFL–CIO President George Meany has expressed opposition to organization of either the police or military services on grounds of "an inherent conflict of interest."

An AFL–CIO spokesman said that Meany's initial opposition to efforts to unionize the Army came in a press conference statement during the Vietnam War when some pacifist groups were seeking that approach to ending U.S. military involvement in that controversial war.

The spokesman said that Meany has reiterated his opposition to unionizing of the military in recent months in answering a question from a White House Fellows group.

The question was posed as a result of wide publicity given to the comments of Clyde M. Webber, then national president of the American Federation of Government Employes

(AFGE), who had initiated a study on the feasibility of unionizing the military.

While the AFGE is a member of the AFL–CIO, it would not necessarily be bound by Meany's views. Indeed, in recent months the AFGE has changed its constitution to permit it to organize military personnel in addition to the civilian defense department employes who presently hold membership in the AFGE.

The AFGE, with more than 285,000 members, was bound by its charter to a no-strike policy that made it more acceptable as a bargaining agent.

But at its convention in Las Vegas, Nev., in September, AFGE delegates approved a policy change that will permit it to use illegal slowdowns or picket lines around government offices and military bases.

NO LINK SEEN

AFGE officials from President Kenneth T. Blaylock on down insist there is no connection between the opening of the ranks to members of the armed forces and authorization of a right to strike.

And even as they are opening their ranks to Army, Navy and Air Force personnel, many of the top officials oppose including active military men and women.

"Until appropriate legislation is passed or an appropriate executive order issued, AFGE should not attempt to bargain collectively for its military members or to handle their grievances," a report of the AFGE research group states.

But researchers noted that they believed AFGE could "effectively represent its military members in a number of ways, as it did civil service employees before the executive order was issued by President Kennedy" permitting collective bargaining for civil service employes.

AFGE suggests that it restrain its representation of military personnel to legal representation, legislative representation and what is referred to as "professional representation."

But in its research paper the AFGE committee took note of the need to restrict its union representation if it is to avoid a negative effect on military discipline.

"Even if it had the legal right to strike, a union of military personnel should voluntarily undertake an obligation not to strike," the AFGE paper stated.

"On the other hand," it said, "military commanders must bargain or consult in good faith and not take unfair advantage of the union's voluntary restraint. There must be, also, an effective alternative means of resolving impasses and disputes."

AFGE concedes that "a union of military personnel must be politically neutral, and not allied with one of the partisan political parties."

Senator John McClellan (Dem., Ark.), former chairman of the Senate labor racket committee, said he is adamantly opposed to any union organization of the military services.

"It doesn't make any difference what restrictions the union would place upon itself," McClellan said. "It would destroy the military discipline, would be completely destructive of the essential operation of a chain of command, and the service men or women, or a substantial number, would feel they were more beholden to the union leader than to their commanders."

"The Teamsters have a bad image because of past abuses of power," McClellan said, "but the potential for other abuses of power is there in any instance where the union is organizing the armed forces."

"It shouldn't be necessary to even spell out the potential for disaster for this nation whether the Teamsters are involved or not," McClellan said. "I will fight any unionizing of the military with all my strength as long as I am in Congress."

McClellan is one of 25 senators sponsoring legislation that would make it unlawful for any individual or organization to enroll any member of the armed forces in any labor organization, or to even "solicit or otherwise encourage" military personnel to join.

Similar legislation has been introduced in the House by Representative Floyd Spence (Rep., S.C.).

Although most of the sponsors of the pending bill are ultraconservative Democrats and Republicans, a large number of middle-of-the-road Democrats and Republicans have joined in sponsorship, including Senator Robert Taft (Rep., Ohio) and Senator Lawton Chiles (Dem., Fla.).

Among the sponsors is Senator Sam Nunn (Dem., Ga.), who is currently heading a Senate permanent investigations subcommittee probe of racketeering and misuse of funds by the Teamsters union.

Liberals and some others question whether legislation barring military personnel from membership in unions is not an unconstitutional infringement upon the right of freedom of speech and association.

Leo Lyons, president of the AFGE local in Columbus, Ga., has stated his own reservations about organizing the military at nearby Fort Benning, and revealed that his eight-member delegation unanimously opposed the AFGE policy change that permits organizing the military.

However, Lyons said that it was his opinion that the national AFGE convention delegates approved the policy change because of fears that the Teamsters union was preparing a military membership drive.

Lyons was quoted by David Einborn, a reporter for the Ledger-Enquirer of Columbus, Ga., as saying that he had been told by some superior officials in the AFGE that they had information that the Teamsters had, in fact, appropriated some money for the unionization of military.

"If the Teamsters start organizing, we damned sure are going to get involved," Lyons was quoted as saying. "I'll use every legal way I know, every trick in the book, to out-organize them."

Mr. HATCH. Mr. President, I ask unanimous consent that the text of several newspaper editorials and articles including one from the Salt Lake City Deseret News opposing Dr. Marshall's nomination, now be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Salt Lake City Deseret News, Dec. 28, 1976]

MARSHALL: TOO UNION-ORIENTED

Should the federal government put itself in the position of coercing workers to join unions when the vast majority of American workers are against such moves?

AFTERTHOUGHTS * * *

All cold-hearted people are stupid, no matter how intelligent they may seem to be: for intellect that ignores the emotions is as ultimately self-defeating as emotions that reject intelligence.

The selfish man calls himself "self-sufficient," just as the busybody calls herself "neighborly"—for everyone has a virtuous name to describe his or her characteristic vice.

Every published author secretly echoes the sentiments of Clarence Darrow, who once remarked ruefully, "Some day I hope to write a book where the royalties will pay for the copies I give away."

The reason that legal language states that same thing in six different ways is the quite rational fear that some lawyer will come along and find a seventh way of stating it, to his advantage . . .

That question is important in view of recent statements from Dr. F. Ray Marshall, President-elect Jimmy Carter's choice as Secretary of Labor.

Marshall told a press briefing last week that he favors repealing Section 14(b) of the Taft-Hartley Act, which authorizes state right-to-work laws. Utah and 19 other states have adopted such laws. He also indicated he would support enactment of "common situs" picketing legislation, vetoed earlier this year by President Ford after it passed both houses of Congress. That bill would permit construction union officials to shut down any construction project where non-union workmen are employed.

Repeal of the Taft-Hartley provision has been a key aim of organized labor for years. Yet what is more basic to American freedom than the right to work without being forced to join a union?

Common situs picketing also would give organized labor an unfair advantage by allowing a construction union the right to close down a whole project even if its complaint was only with one sub-contractor hiring non-union labor. What chance would an independent contractor have of staying in business if such tactics were permitted?

A Secretary of Labor should represent all working people, not just the labor unions. Since 75 percent of the American work force have chosen not to join a union, Dr. Marshall would be well advised to consider their rights, too.

[From the Delaware County Daily Times, Dec. 30, 1976]

MARSHALL NOT GOOD CHOICE

The National Right to Work Committee announced that the organization would oppose confirmation of Dr. F. Ray Marshall as Secretary of Labor and although his rejection is unlikely, we feel the group definitely should oppose the appointment.

Marshall supports several very controversial special-interest proposals that would increase the power of union officials and further erode the rights of individual working people.

At a recent press briefing, Marshall said that he favors repeal of Section 14(b) of the Taft-Hartley Act, the provision authorizing state Right to Work laws. He also indicated that he would support the enactment of "common situs" picketing legislation which would give construction union officials the power to shut down any construction project where nonunion workmen are employed.

These are two of the top priority items on organized labor's legislative shopping list for the 95th Congress. (George Meany, interestingly, once tried to hire Marshall as the AFL–CIO's chief economist.)

The secretary-designate sees eye to eye with George Meany and other top union officials who feel everyone should have the right to work—only so long as they pay money to unions. Those who dare to be different, have to pay the price of losing their jobs.

Some 75 per cent of the American work force has chosen not to join a union and would also like some representation in President-elect Jimmy Carter's Cabinet.

Labor and organized labor are two distinct quantities.

What is good for George Meany and top union brass is not automatically good for the 80 million plus working people in America who like to run their own lives and not let unions do it for them.

[From the Austin, (Tex.) Citizen, Dec. 23, 1976]

NO THANKS, RAY

Thank you, Ray Marshall, but no thank you.

Yesterday, we applauded the appointment of Austinite Marshall to Jimmy Carter's cabinet. We were particularly impressed with the University of Texas professor's approach to helping the unemployed. We liked his thought that programs should be designed to teach the unemployed useful trades.

rather than the present emphasis on unemployment payments.

We said then, and still say now, that's a positive approach to unemployment.

That, however, was yesterday.

Since then Ray Marshall has offered still another comment on the American labor scene and we find it not only anti-labor but downright negative.

The stand we speak of is Marshall's position calling for repeal of right-to-work laws.

The secretary-designate says he would like to repeal section 14–B of the Taft-Hartley, the section which permits states to pass laws banning contracts that require workers to join a union. That includes Texas.

Ray Marshall's position benefits neither American business nor the American labor force he will represent as secretary of labor.

We must first remind him that he represents all of the laboring people in this country—and not just the unionized workers.

Marshall's stand, unfortunately, puts him at odds with those American citizens who want to work, yet prefer not to join the AFL–CIO or some other union. Would he deny a laboring man work if he declined to join a particular political party or religious organization? Would he prohibit a man from working unless he signed some special pledge to his employer?

Of course not. So why the union requirement?

A man's right to join or not to join a union is a matter of individual rights. Because the powerful labor unions seek a blackjack over those rights is no reason to repeal 14–B. In fact, it is positive evidence to do just the opposite.

The second factor, of course, is the business economy of such states as Texas, where right-to-work laws exist.

Texas has enjoyed an attractive position in the American business world because of that right-to-work law. It has attracted scores of new businesses from states not so fortunate.

New businesses mean new jobs. New jobs mean money and an improved Texas economy. The attraction of Texas has drawn criticism from other states—states without right-to-work laws—who charge Texans have an unfair advantage in attracting new industry.

We agree. But we don't believe it's unfair.

That's the way the system should work.

And we're sorely disappointed that Texan Ray Marshall has been here so long and missed the entire point.

[From the Knoxville (Tenn.) Journal, Dec. 30, 1976]

MEANY CAN SMILE

Believe it or not, Jimmy Carter came up with a worse choice for Secretary of Labor than the Republicans had!

Both parties have lived in the same fantasy land for years in regard to not only this Cabinet post, but the full scope of national labor policy. Both parties have allowed Big Labor to dictate the criteria for picking Labor secretaries and for shaping federal labor policy.

In selecting Dr. F. Ray Marshall as Secretary of Labor, Carter may have gone the Nixon-Ford administration one better. Marshall was not George Meany's indicated first choice, but Meany's expected displeasure was quickly averted when Marshall on Dec. 21 promptly announced that he favored repeal of Section 14(b), which enables states to enact Right to Work laws, and favored passing "common situs" picketing legislation. The Republicans' Labor secretaries at least have been quiet on 14(b).

But Marshall shares the myopia of his predecessors. He clearly conceives his new job as being the servant of Big Labor, rather than the American working man. Mind you, the two are not the same; 75 per cent of American workers are not union members. Yet, in an age where equal rights purportedly dominates all other considerations, the full thrust of federal labor policy is directed at and by those who at best speak for only one of every four American workers.

George Meany can smile. Carter found a Labor secretary more to Meany's liking than even Meany's announced choice. Thus the President-elect paid off one of his biggest election debts.

[From the Chattanooga (Tenn.) News-Free Press, Dec. 27, 1976]

A CLOSER LOOK

Among the people nominated for Cabinet posts by President-elect Jimmy Carter is one who is not widely known but whose ideas ought to send warning flags flying.

He is Dr. F. Ray Marshall, a University of Texas economist, who has been designated to become Secretary of Labor.

We need to begin consideration of his fitness by noting who the people are who really compose "labor."

They are not just the big union bosses. They are not just the approximately 25 per cent of the American workers who belong to labor unions. These are included in "labor"—but so are the about 75 per cent of American workers who have chosen not to join labor unions.

In Dr. Marshall's case, however, it seems he has chosen to be a partisan of the labor union minority at the expense of the great majority of workers in American labor who are not affiliated with unions.

In that position, Dr. Marshall really is a partisan of the big labor union bosses, who frequently victimize their own members. Some members are forced to join and bow down to dictation and pay their money—or be denied the right to work and earn a living for their families.

What should a Secretary of Labor believe about union membership, since he deals with those who belong and those who don't belong?

He should uphold and fight for the right of each American worker to make a free decision on this question for himself, without any compulsion or retaliation. He ought to stand for the right of workers to join unions if they desire. He should stand equally for the right of workers not to join unions if that is their preference.

But that's not the way Dr. Marshall stands.

Look at two of his very clear positions:

He is for repeal of Section 14(b) of the Taft-Hartley Act.

He is for enactment of "common situs" picketing law.

What do these two things mean?

Let's look at 14(b) first. That's the designation of the part of the Taft-Hartley Act that allows states to enact "right-to-work laws." These laws simply provide freedom of choice for workers on union membership, for or against, and that decision does not affect their employment or right to work.

Really, it is unjust for federal law to permit forced unionism except in states that have right-to-work laws.

Twenty states have adopted right-to-work laws. Dr. Marshall believes in repealing Section 14(b) of the Taft-Hartley Act so the injustice that prevails in denying individual workers freedom of choice in 30 states can be extended to deny workers freedom of choice in 50 states.

That's not representative of either freedom or of all Americans who comprise "labor."

Now let's look at the other point, involving "common situs" picketing.

We wish such a confusing term had not been generally used to describe this situation. It requires explanation. It will help if we understand that "common situs" simply refers to a single or common, work project, or site.

Under existing law, workers who have a labor dispute with their employer may go on strike and picket their employer to notify others of the dispute. That's all right.

But at a major work project like a shopping center, for example, where there may be 10 unions or 50 unions and even some non-union workers involved, it is not permitted for one group of workers with a dispute with their employer to picket other employers and other workers who are not involved in their dispute, thus closing down a whole project where others who have no labor dispute are working.

Dr. Marshall wants to change the law to allow "common situs" picketing. In other words, he wants to let one little group of workers picket workers and employers with whom they have no contract and no dispute, just so the pickets could increase their power to force their point of view to be accepted to keep from closing down a whole project.

This, of course, is clearly wrong. It would do injustice to those not involved in any dispute. It would promote and enlarge strikes and work stoppages. It would increase costs to the public as costs of construction rose because of this kind of attack.

Dr. Marshall has thus shown himself unfit to be Secretary of Labor because he speaks for only a small percentage of those who comprise "labor," and is against freedom and the general welfare of Americans.

Of course, his nomination will be approved, however, because that is the prevailing view of the liberals who now rule.

[From the Orangeburg (S.C.) Times-Democrat, Dec. 31, 1976]

A TURN FOR THE WORSE

When it affects the right-to-work laws or common situs picketing, the National Right to Work Committee in Washington is quick to join the fight.

Now, Reed Larson, president of the committee, says that his organiztaion will oppose the confirmation of Dr. F. Ray Marshall as secretary of labor.

Mr. Larson acknowledges that it is "highly unlikely" that the secretary-designate will be rejected, but says his committee has an obligation to its one million active supporters to focus public attention on Dr. Marshall's advocacy of several controversial special-interest proposals that would "increase the power of union officials and further erode the rights of individual working people."

At a press briefing last week. Dr. Marshall said he favors the repeal of Section 14(b) of the Taft-Hartley Act, the provision authorizing state right-to-work laws. He also indicated he would support the enactment of "common situs" picketing legislation, which would give construction union officials the power to shut down any construction project where non-union workmen are employed.

These are two of the top priority items on organized labor's legislative shopping list for the 95th Congress. (George Meany, interestingly, once tried to hire Dr. Marshall as the AFL–CIO's chief economist.)

Despite Dr. Marshall's highly touted reputation as a civil libertarian, Mr. Larson said, "he has revealed a blatant anti-civil libertarian blind spot by advocating discrimination when it is based solely on a person's non-membership in a labor organization.

"The secretary-designate sees eye-to-eye with George Meany and other top union officials who feel everyone has the right to work—only so long as they pay money to unions. Those who dare to be different, have to pay the price of losing their jobs."

Mr. Larson pointed out that some 75 per cent of the American workforce has chosen not to join a union and said that the secretary of labor "ought to represent their interests, too.

"Labor and organized labor are two distinct entities. What is good for George

Meany and top union brass is not automatically good for the 80-plus million working people of America. It's unfortunate that we are going to have another secretary of labor who feels he represents and has to answer to George Meany, rather than the working people of America."

Should Section 14(b) of the Taft-Hartley act be repealed and common situs picketing approved, the lot of the average working man in this country, particularly in the 20 right-to-work states of which South Carolina is one, would take a turn for the worse. Organized labor has too much power already—why give it more?

[From the Lynchburg (Va.) Advance
Jan. 4, 1977]

PAYOFF TO UNIONS

We suppose one has to be realistic about politics, so the payoffs to certain groups are to be expected.

And in that connection it would seem the appointment of Dr. F. Ray Marshall to be Secretary of Labor in the Jimmy Carter cabinet represents something of a "thank you" to George Meany and other labor bosses.

We don't know it to be true, but it is reasonable to assume that Mr. Carter cleared his designation of Marshall with Meany and others high in labor circles.

Dr. Marshall is an all-out labor man. He has stated publically he favors repeal of the right-to-work law and that he would support "common situs" picketing legislation.

With these statements there surely is little to suggest Dr. Marshall will take a nonpartisan position as he copes with labor problems on a national basis. Dr. Marshall seems to be saying clearly that his job is to swing Congress into line with the demands of union bosses. They are demanding repeal of states' (such as Virginia) right-to-work laws and the power to shut down any construction project where non-union workmen are employed.

In other words, more and more control over the economic life of this nation through forced unionism and the control over stoppages even if workers prefer to work.

Whatever labor wants, it probably will get if Dr. Marshall possibly can influence the decision.

[From the Phoenix (Ariz.) Gazette, Dec. 29, 1976]

OUT OF TUNE ON RIGHT TO WORK

At the news conference announcing that he was to be Secretary of Labor, F. Ray Marshall was asked how he felt about the labor law provision authorizing state right to work laws. He replied simply and forthrightly that he believes "in the repeal of Section 14(b) of the Taft-Hartley Act."

In an interview back home in Texas a couple of days later, Marshall softened his stand somewhat. Although he opposes state right-to-work laws, he said, "I don't intend to do a whole lot about them. Unemployment and productivity are so much more important."

Of course, it won't be the labor secretary who would initiate 14(b) repeal. That action, one of the top items on organized labor's legislative shopping list, is up to Congress.

As a result of the 1976 elections, the big union bosses have increased their clout in Congress. A total of 260 of the 364 House candidates endorsed by the AFL–CIO won election, while 19 of the 28 Senate candidates backed by it were winners.

Not all of George Meany's servants in the next Congress are committed to 14(b) repeal. For instance, Democrat Dennis DeConcini, the new Senator from Arizona, one of the 20 right-to-work states, is publicly on record as opposed to repeal, although he was supported by organized labor.

Should Congress vote to repeal the right-to-work section, President-Elect Carter is on record as saying he would not veto the measure. Actually, he has gone further than that, telling a union audience in Milwaukee last March that he thinks 14(b) should be repealed.

Mr. Carter and his labor secretary to be are out of step with majority opinion. An opinion poll taken for the National Right to Work Committee by Opinion Research Corp. last March showed that no less than three fourths of the respondents believed a worker in industry should be able to "hold a job whether or not he belongs to a union." Even the union members polled favored keeping 14(b) by a 63 per cent margin.

The South that was solid for Jimmy Carter is just as solid for the right-to-work law, which could put the new President in a tight political bind if and when a repeal bill reaches his desk.

The National Right to Work Committee has served notice that it will oppose the confirmation of Marshall, even though it is highly unlikely he will be rejected. By rights, Marshall should be. For, by his stand on repeal of 14(b), he has identified himself as the servant, not of the 80-plus million workers in America as a whole but only of the one out of four persons in the labor force who are members of unions.

Mr. HATCH. Mr. President, in summary, many of the proposals advocated by Dr. Marshall are abridgements of the rights of the individual and constitute threats to the economic recovery of the Nation. Particularly, the States of the Union like Utah—which have a great potential for development—should be permitted to pursue goals of balanced growth with freedom to conduct business as they know best—which will also be in the interest of the Nation as a whole. Until Dr. Marshall recognizes these views which I believe to be in the national best interests, I think that he will not be well-suited to be our Secretary of Labor. Accordingly, I will cast my vote against his confirmation.

Mr. SCOTT. Mr. President, I yield 10 minutes to the distinguished Senator from California (Mr. HAYAKAWA).

The PRESIDING OFFICER (Mr. CULVER). The Senator from California.

Mr. HAYAKAWA. Mr. President, I have read the text of the confirmation hearings of Dr. Marshall before the Committee on Labor and Public Welfare. As a former professor myself I must admit that I was greatly impressed by the nominee's record and the long list of his published writings.

While Dr. Marshall's academic credentials are indeed enviable, we all know that the responsibilities of a Secretary of Labor are not necessarily of the kind developed academically.

Dr. Marshall's views on common situs picketing, or on the repeal of section 14(b), or the strengthening of collective bargaining in public sector unions, and so on—these are views that are harmless enough in a professor, but we must be a little more cautious when such a professor is proposed for a position of public responsibility. These views have alarmed the Senator from Nevada, the Senator from Utah, and the Senator from Virginia. I share their alarm.

The point that bothers me most of all is his opposition to a modified minimum wage for youth. This opposition he shares with a large number of others who do not understand the role of work in the life of an adolescent. A lot of people oppose the special minimum wage for youth for basically economic reasons.

What I am trying to maintain is that we must break away from the orthodoxies of the labor establishment on an adult minimum wage for youth, because work for youth is not basically an economic matter. It is a matter of the development of young boys and girls into young men and women. It is a matter of the attainment of maturity. Whether we attain that maturity at $2.30 an hour, $1.50 an hour, 75 cents an hour, or 25 cents an hour does not matter.

The important matter is to achieve that kind of maturity through the acceptance of adult responsibilities, at least in some form, 11 to 12 of age on up. I say 11 to 12 on up, because 12 is the time when I got my first job, and those of us who did go to work at that early age, or in the early teen years, have never regretted that experience. It is not an economic matter. At that age, we are still dependent on our families, but necessarily as we begin to experience responsibilities of adulthood, we begin to become adult.

If there is one thing that can be said about American young men and women in our time, it is that they are a deprived class—because we give them everything. We give them education, we give them schooling, we give them luxurious buildings, high schools, gymnasiums and football fields. But we do not give them a chance to share adult responsibilities. This is a real frustration for them in our time.

I call attention to the fact that something like 65 percent, according to the last estimate, of black youths, adolescents, in the city of Detroit are unemployed. The minority youths all over the country are underemployed or unemployed.

The problems of crime in the streets, of drugs, of juvenile insolence, vandalism, and so on, are all related to the fact that young people have nothing better to do if they happen to be bored or unmotivated about formal education.

This matter of objecting to a modified minimum wage for youth just ties in with what I regard as Dr. Marshall's chief shortcoming, in my view, as Secretary of Labor. That is, he seems to accept wholeheartedly and uncritically all the orthodoxies of big labor. He seems to assume that what is good for the AFL–CIO is good for the working man and woman, that what is good for the AFL–CIO is good for minorities. But this is not necessarily the case. It is often the case that what the AFL–CIO wants is good for working men and women, but sometimes it is not.

It needs to be pointed out that only 27 percent of working men and women in the State of California belong to labor unions, and 73 percent do not. If one is really for the working man and woman, as a Secretary of Labor must be, he must not accept the orthodoxies of big labor.

Insofar as Dr. Marshall does so, it seems to me to be a real limitation in his vision and in his public dedication. Therefore, Mr. President, I too am com-

mitted to voting against the confirmation of Dr. Marshall as Secretary of Labor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 10 minutes to the Senator from New Mexico (Mr. SCHMITT).

Mr. SCHMITT. I thank the Senator from Utah for that.

Mr. President, it is my general view that President Carter is entitled to choose persons in whom he has trust and confidence as members of his Cabinet. That is why I have thus far voted in favor of the confirmation of all Carter appointees to date, with the exception of Mr. Griffin Bell as Attorney General yesterday.

However, concerning Dr. F. Ray Marshall's nomination as Secretary of Labor, I have some very serious reservations. His academic skill, his intelligence, and his dedication to the country are unquestioned. On the other hand, having read portions of his testimony and other information on his background, and having listened carefully this morning to the discussions in this Chamber, I believe that he may be so partisan in his views and in his belief in positions advanced by organized labor that he may not be able to balance with objectivity the many administrative, regulatory, and arbitrary functions of his office.

In particular, Mr. Marshall's stated positions in favor of collective bargaining for agricultural workers, unionization of public employees, minimum wage discrimination against youth, the common situs picketing legislation, repeal of section 14(b), and his contradictory statements concerning unionization of the military are strongly opposed by New Mexicans and are contrary, I believe, to the views and concerns of most Americans.

There is also a great concern about Dr. Marshall's beliefs in increasing Federal control in labor matters over State and local governments.

Mr. President, I am a supporter of men and women organizing to improve the conditions of their personal and working lives. I belong to many professional organizations with those kinds of purposes in mind. I also believe in fair competition with all portions of our free enterprise system—competition in business, in labor, between business and labor, and, perhaps most important, among business, labor, and the public.

Dr. Marshall certainly is entitled to his own opinions on these and other matters. However, this Nation needs as Secretary of Labor a person who has clearly demonstrated that he has the impartiality to be an effective neutral mediator between the competing interests of management, of labor, and of the public. This is especially important as a consideration at a time when many union contracts are about to be renegotiated throughout industry and when, as a nation, we are facing many other critical economic decisions.

Unfortunately, I do not believe that Dr. Marshall possesses the objectivity to meet the responsibilities and challenges as Secretary of the Department of Labor.

For these reasons, I will vote against the nomination of Dr. Marshall to be Secretary of Labor.

I yield back the remainder of my time.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HATCH. I am happy to yield to the Senator from Arizona (Mr. GOLDWATER) such time as he desires.

Mr. GOLDWATER. Mr. President, I hope we can vote by 1 o'clock, because I want to cast my vote against this nominee. I have to leave at 1 o'clock for business that I have in my home State. I want to be recorded against the nomination if I am not here to cast my vote. Many of my reasons, of course, have been recited on the floor this morning.

Mr. President, I believe in unionism. I am a union member. I do not think there are many people on this floor who can say that they belong to a union, as a dues-paying member. However, I do not believe that unionism should be forced in this country. I have one good reason for that, aside from the fact that I think free people should be allowed the rights of the third amendment, the right of association. They should be allowed to join a union or not join a union.

Let us see what happens in this world where we have voluntary unionism. In the countries that have voluntary unionism, as many as 96 percent of the working people belong to unions. I have not seen the recent figures for this country, but I think it is either 30 percent or a little below that. We have not been able to extend unionism across this country mainly because men are forced against their will to join a union. They cannot work unless they belong to the union. I think this is completely contrary to our concept of freedom.

I have pleaded with union leaders to try voluntarism once again in this country. Make it difficult to belong to a union. Make it a sort of social distinction to belong to a union, not have it jammed down your throat when you do not like your dues money being spent for political purposes against your own philosophies or when you do not like your dues money being used for things not in the best interest of you as a working man.

I am worried about Dr. Marshall, because he is opposed to section 14(b), which has given to the States the right to pass so-called right-to-work laws. I have to admit that this is a misnomer, because there is no such right to work in this country. We have the liberty to seek employment, but we do not have any right to work. The Government has no right to say that we will work or will not work. So I would oppose Dr. Marshall on the one position he has taken contrary to section 14(b).

I do not like his statements—or, perhaps, his lack of statements—in ducking the issue as to whether or not he would propose or go along with the idea that the man in uniform can be unionized. Thank the Lord we have legislation introduced, which I am certain will pass, that will prohibit this. All we have to do, again, is to look at other countries that have tried the kind of foolishness that our labor unions have tried in our time, and we can see that they do not work.

Common situs picketing is something that we have outlawed, and it is something that I think should remain outlawed.

I will give an example. Let us assume a building were being constructed in this town and 2,000 people were employed in the construction of the building. This being Washington, we occasionally have to use men who are skilled in the development of marble figures, and one or two of those people might be working on that job. Yet, if they struck, they could keep the rest of the force from crossing their picket lines, and the entire project would slow down and these men would be out of work. What would we do, as a Congress? We probably would say, "Go ahead and collect unemployment compensation. Even though you are not quitting your job, you are not at work, because one or two men are prohibiting you from working."

Mr. President, I have served on the Committee on Labor and Public Welfare for 12 of my years here. I was the ranking Republican member of that committee. I know how very difficult it is on that committee to get across the type of views that I have been expressing, but I think the union leaders of this country should recognize that they are not getting any place.

We have a work force of 90 million people, and they do not have any more membership than they had a few years ago. In fact, the membership is decreasing. I believe they should take another hard look and get away from the things they have been advocating in this body. I do not think for one moment that we are going to have the force here today to stop this nomination or the force in this body to pass anything that we want to have passed that will work contrary to the attacks on freedom that the union leaders of this country are making. But I think we have to keep speaking about it.

Nineteen or 20 States in the Union have so-called right-to-work laws. My State of Arizona has a higher per capita income than the average in the United States. It has a higher percentage of the work force belonging to the unions than belong nationally. We are a small State, the fastest growing industrial State in the Nation, where unions get along with nonunion people and where contractors can hire nonunion or union. We are building, and building fast, and with a minimum of trouble.

So, if I am here and the vote occurs before I have to leave, I will vote against Dr. Marshall. If I am not here, I ask that my name be recorded as in opposition.

Mr. HATCH. Mr. President, I yield 10 minutes to the Senator from Wyoming (Mr. WALLOP).

Mr. WALLOP. I thank the Senator from Utah.

Mr. President, I wish to add my remarks in opposition to the nomination of Dr. Marshall, for many of the same reasons that already have been stated on the floor of the Senate.

My State is one of those which is indeed a right-to-work State. I think the testimony of Dr. Marshall, in effect, betrays a total misunderstanding of what that actually means. It does not mean

that you may not belong to a union. Yet the implication in the testimony is that it denies an employee the right to organize and collectively bargain in his own behalf.

In my State there are a great many unions which are extremely effective. The thing that worries me about an attitude that is so basically inclined toward the concepts and positions of big labor is that big labor is probably the least democratic institution that exists in America today. When Frank Fitzsimmons can curse his opponents and have them thrown out of the hall in Las Vegas, and the National Labor Relations Board does nothing—nothing to right a wrong of which it was established to be the guardian, then big labor is in trouble and it is causing trouble to this country.

I do not think you would have a chance of prying Mr. Meany loose as head of the AFL–CIO with a bomb. I think, frankly the grim reaper will be the one who makes that decision for us and certainly not any of the working men and women of this country whose posture is supposed to be the role of advocacy of the Secretary of Labor.

What happens when you repeal the section called 14(b) is that you essentially relieve labor of any responsibility toward the working man and woman they profess to represent. They no longer have to be responsive and responsible. They are in a position of absolute power. They do not have to compete for the membership. It relieves them of the effort at organization, and all that money they collect to now try to organize the working men and women goes, I suppose, into the support of political campaigns.

We, in Wyoming, are in a State which is growing rapidly. We have some extremely strong unions, particularly in the southern part of our State, which represent the men and women there, and they have little trouble in attracting membership, because they do compete and they do make specific effort to attempt to serve the needs of those who are their members.

Dr. Marshall in his testimony gave indication that States should not be allowed to use labor laws in order to attract industry and business to their State. To an extent I agree with him. But to the extent that Dr. Marshall propounds it, big labor becomes the one which has the say as to whether or not a State grows and where it grows and with what kind of industry and what kind of business. That is not in the world of compromise, and it is not, in fact, the role that has been played by those States which are called right-to-work States.

There has been a compromise, there has been a meeting of the minds in those States and, contrary to reported statistics, unemployment, in fact, is lower in the right-to-work States than it is in those States which have compulsory unions.

You get the common situs picketing, you have the enormous projects that exist in our State at this time, gasification plans that are forecast, tremendous coal-fired generating plants for electricity and power needs of this country, and those things cost up in the neighborhood of $1.5 to $2 billion, even $3 billion.

After all the things that the State governments lay on them by way of environmental controls, that the Federal Government lays on them by way of gaining permits and everything else, you finally get a project of $1 billion plus underway and a couple of bread truck drivers with bellyaches come in and turn it off. Having turned it off then in whose interest? Because some small segment of that construction force or that labor force servicing it has a grievance, and so the remainder of the people who are at work are then out of work, not because of any choice of their own, but because of the thing that has been laid on them by Congress if that were to take place.

I think it is wrong in behalf of the working men and women, and I think it is wrong that we should be so presumptuous as to lay on States the ability or lack of ability to make laws dealing with the right to contract so long as those laws are within the Constitution of the United States. It is not our business here to lay that kind of thing on. Yet that is the philosophy that has been propounded by Dr. Marshall.

Military unions have been mentioned. I accept the letters that have been put in, but I would mention that any kind of organization, whether or not it forbids the right to strike, is utterly useless, and we know it. You have seen it here. The postal workers are forbidden to strike, and yet they do. In many States teachers are forbidden to strike and yet they do. Can you suspect that any kind of organization would be any different in the military and that we would not be faced with some kind of other complication which is not forecast in such a thing?

I defy Dr. Marshall now or at any other time to make any justification against the rights of State governments or local governments to make their own rules again as to the condition and terms of employment. Nobody makes anybody, mandates anybody, that he must be an employee of a State or a local government. Our State has a strong State employees organization. There are those who belong and those who do not, and those who like what it does and those who do not. But the fact remains that the State of Wyoming or any other State, Nevada, Utah, New York, or any other one, should not be told by the Members of this body it must indeed organize its State employees.

I just do not see where we are the ones to dictate the conditions of employment across this Nation, if indeed that is constitutional.

For these reasons—I do not doubt the sincerity and candor of the remarks Dr. Marshall made at his hearing, but I do feel he possesses a point of view that is not in the interest of the wage earner as is mandated by the authorizing legislation to the Secretary of Labor. It is the point of view of big labor, and is not the point of view of the wage earner. It is not the point of view of full employment. It is an area which is extremely difficult for many people, minorities and others, to break into all across this country, and for us to bestow blessings on an attitude that has been expressed there I think would be wrong.

So I, too, will cast my vote against the confirmation of Dr. Marshall, hoping only by doing so that the protest is registered somewhere in the minds of those who would offer the kind of legislation which I foresee coming under his tutelage.

I thank the Chair.

The PRESIDING OFFICER (Mr. CULVER). Who yields time?

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold his request for a quorum?

Mr. HATCH. Yes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I yield to the Senator from North Carolina for an observation and questions.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, I would like to take just 2 or 3 minutes to express my reservations about this nomination and yet, at the same time, recognize the prerogative of the President of the United States to name his own cabinet.

In the past I have tried to support the nominations of the President of the United States even when I had reservations unless there was some glaring reason why I should not.

I make it clear that in the State of North Carolina that overwhelmingly the people in the State of North Carolina believe in the so-called right-to-work law and they oppose common situs picketing.

I must be very candid and very frank. In the recent election I went to the business community who normally are Democrats in my State, sought their support for the candidate of our party on the grounds that the candidate, the now President, had promised to sign a bill repealing section 14(b) if it were presented to him, but I represented to them that it was his position that he would not come down to Capitol Hill or send his Secretary of Labor down to Capitol Hill to twist arms or coerce Members of Congress into voting for it. Quite frankly I contrasted that to what I believe to have been the position of President Ford with regard to common situs picketing when he said that he would sign it and his Secretary of Labor came down to Capitol Hill to exert pressure. I said we are not going to do this.

I have read the testimony in the congressional hearings with regard to Dr. Marshall's position on common situs picketing and repeal of section 14(b), and it is not quite clear to me whether he would consider it his position or his role to come down to Capitol Hill to exert the clout or influence of his office to secure passage of the legislation accomplishing these two goals.

I have been told that he would not. I read his testimony and I read the statement printed into the RECORD by Senator THURMOND yesterday in which he was assured by Dr. Marshall that he would not.

I say, Mr. President, and maybe without the necessity of asking the question, unless the leader could comment on it, that I will vote for Dr. Marshall because I do recognize the prerogative of the President to select his own Cabinet members, but I do so with some hesitation and reservation and I do so with the understanding that he does not consider this a role that he will play in his official duties as Secretary of Labor.

Mr. WILLIAMS. Mr. President, I comment in response to the Senator from North Carolina. I have gotten to know Mr. Marshall, what he has been, what he stands for, what is to be, and the promise of his performance as Secretary of Labor.

It has been an intense study over the last month, and I only say that I feel assured that the Senator from North Carolina will be most comfortable with Dr. Ray Marshall as Secretary of Labor. He will be not only comfortable but also grateful that he is there in bringing his really unique talent to the problems that face our country right now. The perspective of Dr. Marshall has not been fully developed here today. Most of the attention has been on specifics where he was asked questions and gave opinions of how he stood on particular issues, such as, 14(b), common situs picketing, and unionization of the Armed Forces. As he addressed himself to each one of those, he made it clear that as Secretary of Labor this would not be his focus of attention. He will be there, first, to administer the laws that he will have to administer and with those laws promote the opportunities that are before us in this great land to bring people out of unemployment and bring to this land new productivity and opportunity.

He did not dismiss and he did not slough off 14(b) or common situs, but it was clear that these were not his priorities and not for his initiation to do anything. If anything is to be done on common situs it will start here; the same with 14(b). This is congressional action if anything is to be done and not executive action. I think it has been indicated by President Carter that he would sign things that we initiate, but I am convinced that the Senator from North Carolina can be assured that when initiation comes on any of those issues it will be here if it comes and not from Dr. Ray Marshall, the Secretary of Labor.

Mr. MORGAN. Mr. President, I thank our distinguished colleague for the colloquy because I think it does help to clarify the position of Dr. Marshall.

I say for the record that, if legislation is initiated here for repeal of section 14(b) or common situs picketing and then I should find that Dr. Marshall is using the clout of his office to secure the passage of that legislation, I will be sorely disappointed, and I will feel that I have misrepresented the position of our President to the business community of North Carolina, without whom I do not think we would have carried the State democratically last November. I do not think he will. I am willing to rest on that. But I only wished to make that clear for the record.

Mr. WILLIAMS. Again let me reiterate I know he wants to be in this job to promote what we are lacking right now, and that is opportunities for employment for people who are underemployed or unemployed. That is primary, and that is his major focus.

Mr. MORGAN. I thank my colleague.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Will the Senator from Virginia yield me a few minutes?

Mr. SCOTT. Mr. President, I am glad to yield the distinguished Senator from Arkansas such time as he may require.

Mr. McCLELLAN. Mr. President, it is neither pleasant nor gratifying to vote against a nominee of the President for any Cabinet position. Since I have been a Member of this body, I have, on a number of occasions, deferred to the President's judgment and choice notwithstanding I may have had some misgivings about the nominee—his qualifications and suitability for the post for which he was nominated. I have already done that with respect to two of President Carter's nominees whom I voted to confirm.

I shall, most regrettably, however, vote against the confirmation of Dr. F. Ray Marshall to be Secretary of Labor.

I do not question Dr. Marshall's character or integrity qualifications. And I have no reason to doubt his ability to discharge the duties the office imposes. I am, however, deeply concerned about his philosophy and that he will become an activist in promoting repeal of section 14(b) of the National Labor Relations Act and also in promoting enactment of a common situs picketing measure, one similar to that vetoed by former President Ford last year. And further, Mr. President, I am not convinced that Dr. Marshall is seriously against and would vigorously oppose the unionizing of our Armed Forces.

Mr. President, I am particularly disturbed about efforts to repeal section 14(b) of the National Labor Relations Act which authorizes States to enact "right-to-work" laws to prevent the imposition of a labor union on workers who do not want it. This issue involves a basic principle of freedom. Compulsory unionism, in my judgment, constitutes a grave infringement on liberty and on human rights that are embodied in and guaranteed by our Constitution. It abrogates the concept of the right to life, liberty, and the pursuit of happiness. Mr. President, I wish the record to reflect also that in casting my vote against Dr. Marshall, because of his position on this issue, I am truly representing the views of a great majority of the people of Arkansas whom I have the honor to represent as expressed by them at the ballot in the general election last November.

In 1944, the people of Arkansas, by referendum, adopted an amendment to the State Constitution authorizing the enactment of State "right-to-work" laws. That constitutional amendment in 1944 was adopted by a vote of 105,300 for to 87,652 against—by 54.6 percent of the total vote.

Mr. President, in a referendum vote last November on an amendment to this provision of the constitution which was tantamount to repeal, the people of Arkansas rejected the proposed amendment by a vote of 465,343 to 257,111—or 64.4 percent of the total vote cast. Thus, they declared by overwhelming majority that it is their judgment and will that Arkansas' constitution's "right-to-work" provisions and laws enacted by the legislature implementing these constitutional provisions should be retained. I think it is significant to note, too, Mr. President, that the repeal forces did not carry a single county in the State. Every one of the 75 counties voted a majority against repeal.

Mr. President, the will of the people of Arkansas as established by their vote on that referendum coincides with my own personal convictions on this issue, and I am proud of this opportunity to support and represent their views with my vote against confirmation of Dr. Marshall.

But, Mr. President, also relevant and almost as important is Dr. Marshall's position in support of a measure to permit common situs picketing—a practice that permits the union of one small subcontractor to strike and force a shutdown of construction on the whole project: I strongly oppose such a measure. So, if I should support Dr. Marshall's confirmation, I feel that I would be voting to place him in a position of power and authority that he could use as a strong leverage to bring about enactment of these measures which I oppose.

And, finally, Mr. President, I am not fully convinced that Dr. Marshall is against and would vigorously oppose measures permitting the unionization of our Armed Forces. I am persuaded that the unionizing of the military would be dangerous to the national interest and that it cannot be granted or tolerated without impairment of national sovereignty.

For these reasons, Mr. President, I am compelled to withhold my consent to Dr. Marshall's confirmation.

Mr. SCOTT. Mr. President, I yield 10 minutes to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I thank my distinguished colleague.

Mr. President, I have stated on numerous occasions that in the absence of some very strong reason, I felt that the President of the United States should have a free hand in choosing his Cabinet. I have felt that on most issues of legislation, we should not attempt to substitute our judgment for that of the

President. The responsibilities on the President of the United States are very great, regardless of who he is, and because I have felt that he was entitled to a Cabinet of his own choosing as his advisers, I have in many instances gone along and supported the choice of the President for his Cabinet. I have always reserved, of course, the right to oppose where I felt the reasons were overriding.

Mr. President, that is my feeling in this case. I shall vote against Dr. F. Ray Marshall. I shall vote against consenting to his confirmation.

I do this because I am not satisfied with his position in reference to unionization of the Armed Forces. Mr. President, a number of Senators have referred to the hearings, but I read from page 107:

What are your views with regard to a unionized military?

Dr. MARSHALL. Well, I have not thought much about the unionized military.

Senator HATCH. I think you should.

What kind of view would you have?

Dr. MARSHALL. I think there is probably some merit to it.

Again, Dr. Marshall said:

I might be amenable to having some kind of representation by the soldiers making the rules that govern their working conditions.

What are working conditions? The same as civilian employees?

I would not be in favor of strikes.

Then Dr. Marshall continues:

I believe in the military and certainly in peacetime and not in combat situations, there are circumstances where a military commander would benefit from a grievance procedure to make it possible to find out what our military personnel are worried about and what the problems are and that kind of mechanism might be good business for the military. It frequently is difficult to get accurate information through the chain of command.

Senator HATCH. You would not extend it as far as unionizing the military, though?

Dr. MARSHALL. Whatever you want to call it. I would not extend to a strike.

Senator HATCH. Would you have an outside collective bargaining agent?

Dr. MARSHALL. I had not thought that out as yet.

Senator HATCH. You think it is a possibility?

Dr. MARSHALL. It is a possibility.

In an exchange of correspondence with the distinguished Senator from Utah (Mr. HATCH), Mr. HATCH asked this question:

Some public sector labor unions have expressed an interest in organizing the armed forces. What are your views on a unionized military?

Answer: Please see my confirmation hearings pages 104 and 105. I wish to make it clear that while I support the use of some aspects of collective bargaining in certain situations in the military, I do not support the unionization of the military, per se. In other words, I think it might be useful to establish respective grievance procedures but would not support strikes.

Mr. President, that is the position most people have taken with regard to the unionization of all Government personnel. They say, "Yes, you can have collective bargaining but not strikes." But we get the strikes anyway.

Any way he defends his position I am not satisfied with the strength of his position against the unionization of the Armed Forces. Why? Because we have to take it in the present surroundings. We are at a time when he speaks for an administration that wants to cut the military. We witnessed the amnesty. There are great forces that say, "Take the money away from defending our country and give it to us."

Also, we have to interpret his statement that he thinks there might be merit to unionizing the military along with his commitment to the position of union bosses in other fields; namely, the repeal of the right-to-work law and favoring common situs picketing.

So when we take all of those things into consideration, the hostile attitude in some quarters—I do not charge that to Dr. Marshall—toward the military, the drive to lessen our national defense, together with Dr. Marshall's wholesale commitment to union leaders, which, to my mind, shows a disregard for the public good and a lack of consideration for those who work who do not belong to a union, when you put all of that together, it makes you stop and wonder about someone elevated to a high position who says,

I see some merit in unionization.

Then he says, in effect,

Well, let us not talk about words. What ever you call it, I am against striking

Well, that is the path these things take.

In the first place, in all governmental matters the unions want to do a little representing. Then they want full-scale collective bargaining. And then the prohibition against striking becomes ineffective many times.

Mr. President, I want Cabinet officers who take a solid position against unionization of our military because I believe to do otherwise jeopardizes the strength and safety of the United States. It is because this moves up into that category that I am breaking my custom of giving a President those Cabinet officers he wants, because in this case I believe it borders and involves questions that are vital to the strength of the United States.

I hope and pray that our country never gets into another war. I hope and pray that no foreign nation will think that we are lulled to sleep and start a war. Keep in mind, dictators and aggressors never start a war they know they are going to lose. We want to be careful not to send them the wrong message.

If we are in an atmosphere of antimilitary, drastically cutting back on our defenses, and then make a start in collective bargaining that could lead to unionization, it will send the wrong signal to people who might be foolish enough to start a war.

For that reason, I believe that this is the type of issue that involves the safety and security of our country. For that reason, I cannot follow the procedure that I usually like to follow, to give a President the Cabinet of his own choosing. I yield to my distinguished colleague.

The PRESIDING OFFICER (Mr. LEAHY). Who yields time?

Mr. SCOTT. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. SCOTT. Mr. President, I commend my distinguished colleague from Nebraska for his comments and for his perception of this concept of unionizing the military.

If we look at page 226 of the transcript of the hearings before the committee, we find that the nominee submitted for the record a statement saying that he believes in collective bargaining under certain circumstances in the military. I think elsewhere he states that regardless of whether we prohibit the right to strike or not, strikes will occur unless there is binding arbitration.

It just seems to me that he does not grasp the military situation, the necessity of having a difference between a democratic society in private life and the necessity for having command procedure in the military.

I gather the distinguished Senator is concerned that if we have collective bargaining it will not be compatible with military discipline. It is just entirely contrary to our concept of the present operation of the military. Would the Senator care to comment on that further?

Mr. CURTIS. I believe the best answer to that would have to come from those who have experienced military life. That eliminates me. However, based on everything I have read and everything I understand about the operation of the military, I believe that is true.

We maintain the military for a specific purpose. That is keeping the peace. Part of that involves readiness, precision, discipline, and all the other things that make it effective. That is why I believe that if we have a military, if the duties to be performed by the military are over in the same category as some of our civilian activities, it will tend to weaken the Unted States and it would be a false signal to would-be aggressors in the world.

Mr. SCOTT. Mr. President, I again commend the distinguished Senator from Nebraska.

We have heard from a number of Members of the Senate. I am pleased that we had five or six of our new Members on this side of the aisle, all speaking in opposition to the confirmation of Dr. Marshall to be secretary of Labor, as well as did some of our more senior Members.

It seems to me that his ideas are incompatible with our confirming his nomination: Section 14(b) of the Taft-Hartley Act, common situs picketing, collective bargaining by public employees, including the right to strike, collective bargaining in the military and in peacetime or in specific situations, when we know that a peacetime army is to protect the country and is preparing for the time that there might be a necessity to be at war. I hope, and I am not going to speak further today on this, but I do hope that the Senators will very carefully consider whether it is in the national interest for us to confirm Dr. Marshall as Secretary of Labor.

I yield additional time to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I wish to add that this danger with respect to the

Armed Forces becomes much more real and great in the light of Dr. Marshall's apparent pro-union bias, as shown by his favoring so many pro-union measures. In that connection, I ask unanimous consent that an editorial appearing in the Grand Island, Nebr., Independent of December 29, 1976, be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A PUSH BY LABOR?

Will 1977 and a new administration in Washington bring a new push for labor-backed legislation? And more specifically, will Dr. F. Ray Marshall as secretary of labor try to influence the course of such legislation, and the views of Carter himself?

We're not saying it will or Marshall will; we're not privy to enough information to reach that conclusion.

However, the National Right to Work Committee is "running scared" on several fronts.

The committee has circulated an article by Karl Hubenthal of the Los Angeles Herald-Examiner which says union officials are seeking four things:

"1. Repeal of Section 14(b) of the 1947 Taft-Hartley Act, the provision which authorizes state Right to Work laws forbidding compulsory unionism. Twenty states now have such laws.

"2. The legalization of coercive 'common situs' picketing on construction jobs. Union officials readily concede that one of the primary objectives of such picketing is to force non-union workmen off their jobs—turning the construction industry into a nationwide closed shop.

"3. Legislation which would legalize compulsory unionism in the federal civil service. Currently, federal employes cannot be forced to support unwanted unions in order to enjoy their right to work. The current non-discrimination employment policy dates back to President John Kennedy. Postal employes have been granted the same protection under the law.

"4. Similar legislation which would impose compulsory unionism on the nearly 12 million persons who work for state, county and municipal governments. Under present law, each state sets its own policy. Union lobbyists are seeking federal legislation which would require elected government officials to give union agents special monopoly power; require public employes to accept the representation of an unwanted union, and would legalize the firing of public employes who refuse to pay money to a public sector union."

In a separate release, the Right to Work people said they will oppose Marshall's appointment, because he said at a press conference announcing his appointment that he favors repeal of Section 14–B and indicated he would support enactment of "common situs" picketing legislation.

Nebraska, of course, is one of the 20 states with right-to-work laws. Interestingly, half of them are in the South where Carter was carried to the presidency. One of those 10—Arkansas—voted for Carter by a 65–35 per cent margin at the same time voters were rejecting by an almost identical margin a proposition to repeal right-to-work in that state. Chances are Nebraskans would be just as adamant.

The other measures are no less significant, and with a heavily Democratic Congress and a Democratic president, it may get very interesting on this count.

Mr. CURTIS. Mr. President, I yield the floor.

Mr. SCOTT. Mr. President, I yield 20 minutes to the distinguished Senator from Wyoming (Mr. HANSEN).

Mr. HANSEN. Mr. President, I rise today to oppose the nomination of Dr. Ray Marshall as Secretary of Labor. At a time when the American people are struggling in their battles with inflation, President Carter has sent to us a nominee as Secretary of Labor whose policies stand as a bar to the eventual conquering of the real enemy—which is inflation. President Carter has sent to the Senate a nominee who professes that he will weigh the interests of business and labor, and yet whose policies coincide directly with the stated objectives of organized labor.

In his testimony before the Senate Labor and Public Welfare Committee, Dr. Marshall outlined views which give me serious reservations about his real willingness to weigh conflicting interests. There are four basic issues which particularly concern me: youth unemployment, especially as it is affected by the minimum wage; common situs picketing; unionization of the Armed Forces; and repeal of section 14(b) of the Taft-Hartley Act.

As I have sat through confirmation hearings during the past weeks, I have noted the stress that Cabinet designees have placed on teamwork in the Cabinet. President Carter has made similar policy statements. I find it noteworthy then, that already, at this early point, his Cabinet members are suggesting a lack of coordination of effort.

Mr. Charles Schultze, chairman of President Carter's Council of Economic Advisors, discussed the issue of inflation in an interview published in the Washington Post on January 23, 1977:

(Inflation has been caused by) . . . sheer inertia and momentum. That is, wages and fringe benefits are going up about 7½ to 8 percent per year because prices in the past have been going up so much and workers are trying to catch up. Conversely, with wages going up at that rate, prices then go up, which pushes wages up again and so on and so forth. It is sheer momentum. It's very difficult to crack that momentum, but that's what we have to work on.

How does Dr. Marshall propose to work on that problem of momentum? He proposes to work on that problem of momentum by accelerating its velocity. His proposals on minimum wage and common situs picketing have that very effect.

During the campaign, Mr. President, whenever the issue of unemployment was brought up, President Carter stressed that joblessness is a human issue, that it affects human lives, that there are tragedies which cut deeply into the personal lives of many Americans. I am certain this is true, and would go farther to say that one of the most devastating impacts of this kind of unemployment is on our young people.

The tragedy in human terms in reinforced with statistics which suggest that many of our young people have no real sense of worth. The suicide rate for young people 15 to 19 has more than tripled in less than 20 years, jumping from 2.3 per 100,000 in 1956 to 7.1 in 1974. Suicide is now the third leading cause of death among young American whites. The rate for young blacks is lower but is increasing fast. For young American black males, homicide is now the leading cause of death. Death from violence in some form, whether it be suicide, homicide, or accidents, now accounts for 2 out of 3 deaths of those between 5 and 18 years old. The self-destructiveness of our young people must surely be symptomatic of the alienation many of them feel toward our society. Urie Bronfenbrenner, in an article about the decline of the American family published in the January 2, 1977 issue of the Washington Post, points out that alienation, antisocial behavior and disorientation among the young have made many of them unemployable, without training or self-discipline. The statistic that 50 percent of the unemployment in our country today is among persons under 25 has become virtually a commonplace.

And what does Dr. Marshall propose as a cure to this ill? Some of his proposals seem relatively straightforward, and I cannot take issue with his statement that "Attention needs to be focused on improving the transition from school to work, on expanding apprenticeship programs, and on providing work experience to youngsters whose unemployment problems, if ignored, are likely to persist into adulthood." I cannot argue with any of those proposals.

What I can argue with, however, and something to which I strenuously object, is his insistence that we raise the minimum wage from $2.30 to at least $2.70. The inflationary implication of that increase is self-evident What might not be immediately evident, however, is the way in which an increase in the minimum wage will further isolate young people from the rest of society and make them even more unemployable. In Mr. Bronfenbrenner's article, he cites the report of the White House Conference on Children, which stated that children are isolated from the rest of society, and that minimum wage laws, the abolishment of the apprentice system, and child labor laws have had a substantial effect in that isolation.

I think that we are mature enough in America to see now that it is impossible for a young person to be exploited. The minimum wage law may well have served a good purpose when it was instituted during the 1930's. During that time there was substantial exploitation of laborers. But the situation is different today and we should be willing to speak to America of 1977, an America that has begun its third century. We should recognize that no one now is forced to work. The unemployment compensation system can now provide for an individual for up to 65 weeks. If he is disabled, he will receive benefits. If he chooses not to work late at night, child labor laws will protect him. But what if he wants to work? What if he really sincerely, honestly wants a job? If he has no skills, certainly an employer would be heavily burdened to hire him at $2.70 an hour.

I submit, Mr. President, that today in America there are a good many jobs filled by illegal aliens simply because they are willing to perform a job at less than the wages demanded by American citizens.

Mr. SCOTT. Mr. President, will the Senator yield at that point?

Mr. HANSEN. I am happy to yield.

Mr. SCOTT. Mr. President, we have been informed by the staff of the Judiciary Committee that there are 3.5 million illegal aliens that are employed in this country—I just mention this to support the argument that the distinguished Senator is making—3.5 million.

Mr. HANSEN. Mr. President, I appreciate the observation made by my good friend from Virginia. I think the significance of that figure must be very clear to all Americans.

I point out additionally, Mr. President, that there are many jobs that are not being performed at all today, that are going begging simply because employers cannot afford to pay the minimum wage.

I submit that if we were to exempt young people with no job training, with no work experience, with no merchantable skills from the application of the minimum wage, these jobs could be filled.

It would not result in adults losing jobs because these jobs are not being filled now. But rather, it would bring into the work force young people presently out of work.

I am told that about a fourth of the total labor force in the United States is between the ages of 16 and 24. Yet, about half of the people unemployed in the United States are in that same age group.

It would seem far better to me to get jobs done, to have services performed that people in this age group with no work experience could perform, to get them doing jobs, to give them the satisfaction that comes from working and earning and contributing to their own support and perhaps to the support of others. In doing so these young people would have reason to look forward, shortly, to the time when they would be drawing not less than the minimum wage, but would be drawing more as their skills improve, as their abilities increase.

Once they have the opportunity to get a job they could very shortly move up and become more employable, looking forward to a long period of steady employment at continually rising wages.

I think that is an extremely important point that needs to be considered, and as I understand what Dr. Marshall has been saying, he does not recognize the situation or has different feelings about how it works than I have.

Dr. Marshall appears intent on increasing the momentum behind inflation by his minimum wage proposal.

One narrow area of present labor law in which he will be accelerating inflation's momentum is common-situs picketing. On January 20, 1977, Senator LAXALT inserted into the RECORD an article from the Labor Law Journal of December 1976, entitled "The Future of Common-Situs Picketing," by Stephan J. Cabot and Robert J. Simmons. In this article Messrs. Cabot and Simmons contend that common-situs picketing would put substantial inflationary burdens on the economy. They cite the current wage rates in the construction industry. The average hourly construction wages increased from $3.70 an hour in 1965 to $7.17 an hour in 1975. During that same time span the average increase for manufacturing wages was from $2.61 an hour in 1965 to $4.76 per hour in 1975. The Wall Street Journal cites figures that show that the average weekly earnings in contract construction in October of 1976 had risen to $298.70 per week, as compared to $211.07 for manufacturing. Additional figures show that during the first half of 1976, 27 percent of manufacturing contracts provided gains of 50 cents an hour as compared with 51 percent of construction contracts which provided gains of more than 50 cents an hour.

These figures dispell the argument put forth by proponents of common-situs picketing who urge that construction workers need this mechanism to put them in bargaining parity with manufacturing workers.

Messrs. Cabot and Simmons state in their article:

> Construction is the largest industry in the Nation, and as such, must play an important role in promoting overall economic recovery. The enactment of common-situs picketing legislation would cause possible dispute in this industry, thus delaying general economic recovery.

Nonetheless, what is Dr. Marshall's position on common-situs picketing? He advocates the passage of legislation which would provide this strike mechanism to the construction industry. Certainly this is an untenable position in the face of any program to hold down the rate of inflation.

Mr. President, I am particularly distressed by the position which Dr. Marshall has apparently assumed with regard to the unionization of the U.S. Armed Forces. I say "apparently" because, despite the efforts of the junior Senator from Utah, Dr. Marshall refused to clearly enunciate his position on the matter. However, the conclusion which one must reach, after reading the oral testimony of Dr. Marshall and the answers which he submitted to the written questions proposed after the hearings, is that Dr. Marshall favors unionization of the military, although he would not extend to the military the right to strike.

Last Congress, I was privileged to cosponsor with Senator THURMOND and numerous other Senators a bill which would prohibit union organization of the Armed Forces. Once again this Congress I have joined with the good Senator from South Carolina in cosponsoring this legislation. To date, 34 Senators have placed their names upon this bill. To my way of thinking, an effective military force is built and maintained on a foundation of discipline, command authority, patriotism and quick responsiveness. There is no room in such a system for the middleman which a union would create between the Commander in Chief, his officers and the enlisted soldier. It is totally unrealistic to mix union membership and military service.

Yet Dr. Marshall comes forward and states that there is a need for such an organization within the military.

Dr. Marshall announced during the hearings that he favored the repeal of section 14(b) of the National Labor Relations Act. He stated his opposition to that section of the act in full recognition of the fact that 20 States are right-to-work States.

Mr. President, not one State with a right-to-work statute has ever repealed such a statute by a vote of the people. During the last election for example, the State of Arkansas voted to keep its right-to-work statute by a vote of 64.4 percent. In April 1974, a national survey of voting age Americans revealed that 74 percent favored retention of 14(b), with only 11 percent favoring repeal and 15 percent with no opinion. Despite the position of the American people in favor of right-to-work laws, Dr. Marshall has stated that he believes it is in the national interest to preempt the right-to-work States by a repeal of 14(b).

Mr. President, the position of Dr. Marshall on the right-to-work issue is illustrative of a general philosophy of his which I find very distressing. That is his apparent willingness to turn every problem, every difficulty, over to the Federal Government. In the areas of minimum wage, workmen's compensation, health and safety, unemployment and right-to-work, he seems too quick to say let the Federal Government handle it.

The junior Senator from Missouri, in an excellent line of questioning concerning the role of the Federal Government, asked:

> Doesn't the Constitution pretty well determine that? Is that not what the Federal system is all about?

Dr. Marshall responded:

> It sets down the broad general guidelines but does not ask the specific questions.

To me that is an inadequate answer. If there is anything which we have learned in the past years, it is that in reaching people, in dealing with people, it is the State and local governments which do the best job.

Mr. President, I am very distressed by the specter of a Secretary of Labor who feels that the best solution to every problem is somewhere here in Washington, who feels that only he and his Department have in mind the needs of the American people.

On several occasions during the confirmation hearings, Dr. Marshall enunciated his position as to the posture that he, as Secretary of the Department of Labor would assure. At one point he stated:

> I have an obligation to listen to union leaders and to employers and to other people and other groups.

This is a sentiment with which I agree and a position which I believe must be taken by any Cabinet official.

Yet I must, after a careful examination of the record of the hearing, express grave doubts with regard to the objectivity of Dr. Marshall. I must express my concern with his ability to carefully balance the competing interests which will come to his door.

On the 4th of December of last year, Congressional Quarterly magazine published an article entitled "Labor Raises Legislative Sights for 1977," an article which discussed in detail the agenda of organized labor for this Congress. As I

reexamined that article this week, I was struck by the fact that issue by issue, the Secretary of Labor-designate's view was in total and complete agreement with organized labor's position.

Dr. Marshall expressed his support for an expansion of the CETA programs, and an expansion of the Public Works Employment Act. At the same time, Dr. Marshall expressed general opposition to tax cuts as a means of solving our Nation's unemployment problems. Dr. Marshall expressed his support for common-situs picketing and, despite the thinking of Mr. Charles Schultze, he followed the lead of organized labor in advocating the increase of the minimum wage to $2.70 and possibly higher. Dr. Marshall expressed his support for the establishment of Federal guidelines for State workmen's compensation laws as well as his support for the repeal of section 14(b) of the Taft-Hartley Act.

Surely, Mr. President, there are other sides to these questions. Surely, these matters are difficult ones involving hard issues on both sides of the labor-management fence. Yet Dr. Marshall has already chosen the field in which he will roam; he has already chosen with whom he will cast his lot.

I am sorry to say that I believe that Dr. Marshall is not the disinterested, objective professor of economics which he proclaimed himself to be when he appeared before the Senate Committee on Labor and Public Welfare. Instead, Dr. Marshall is an advocate of organized labor and as such I believe he will be unduly swayed and unfairly represent the position of organized labor.

In these troubled times, this Nation cannot afford to have as Secretary of the Department of Labor a man who will not carefully examine both sides of every issue. Our problems are too great and the solutions too complex to allow the Department of Labor to start this administration with its collective mind already set on a course and a position.

Mr. President, I must therefore vote against the confirmation of Dr. Marshall to be Secretary of Labor.

Mr. SCOTT. Mr. President, I yield 10 minutes to the distinguished Senator from Texas (Mr. TOWER).

Mr. TOWER. I thank my distinguished friend from Virginia.

Mr. President, reluctantly, I must oppose the confirmation of the nomination of F. Ray Marshall as Secretary of Labor. I am somewhat disturbed that this man, who has so diligently affirmed his agreement with the goals of organized labor, should be responsible for the interests of all American workers, of whom organized labor represents an indisputable minority.

I had an opportunity to chat personally with Dr. Marshall, and I questioned him about his views and intentions relative to several labor issues. I have also followed his testimony before the Labor and Public Welfare Committee, and I am convinced that this nomination should be defeated.

Dr. Marshall is a candid and articulate speaker. He is a very persuasive man. I think he has a very good mind, one which is very closely reasoned. But his views are directly contrary to those of the majority of American workers. I know this is true in my own State of Texas, and my constituents have not hesitated to let me hear about their objections.

Perhaps highest among the list of objections to Dr. Marshall is his support for unionization of the Armed Forces. These comments brought a shower of objections from all sides, and I noticed that on a subsequent issues and answers soften his stand by claiming that what he really supports is some kind of "information system" whereby commanders could find out what is troubling their men. According to Dr. Marshall, this would operate much like the grievance system which is a part of collective bargaining.

As a member of the Armed Services Committee, I am appalled. Here we have a President who vowed during his recent campaign to cut defense spending, Government advisers who insist that we should not be concerned with the level of Soviet military strength, and now we are being asked to approve a Secretary of Labor who sees nothing wrong with unionizing the military.

Mr. President, I cannot think of a more devastating pattern in terms of our national security. Not only would this increase military vulnerability, but there also would be the inevitable economic impact of collective bargaining—that is, higher defense costs. Where would the pinch come first—higher taxes or more cuts in our weapons programs?

Dr. Marshall favors unionization of agricultural workers, as well as State and local government employees. This would virtually ruin some of the farm operations in my State. But it will not be just the rural areas and the smaller municipalities that will suffer. Tax increases and higher prices at the supermarket will affect everyone. And some of these economic pressures could well be the last straw for large metropolitan areas. I think one debacle like New York City is enough.

I strongly disagree with Dr. Marshall's support for repealing section 14(b) of the Taft-Hartley Act which permits States to enact right-to-work laws. There are presently 20 such States, including Texas, where laws are in effect to protect individuals from being forced to join a union in order to get a job. On many occasions I have addressed this issue at length here in the Senate. Suffice it to say that right-to-work is a freedom cherished highly by Texas, and its repeal would be opposed vigorously.

Another concern I have is Dr. Marshall's support for common situs picketing legislation. Under such a law, a single union would be able to shut down an entire construction project which involved many unions working at a common site. This would mean a slowdown in vitally needed construction projects such as low-income housing, and increased construction costs generally. In Texas, where we have a very active construction industry, I would expect higher unemployment and heavy economic losses if situs picketing should be enacted.

There is another issue affecting the construction industry which I would like to mention, and that is the Davis-Bacon Act. This law sets forth a system for prevailing wages to be paid on federally-funded construction projects. Davis-Bacon serves no useful purpose in today's economy and in fact acts only as a cost inflator. It should have been repealed years ago, and I for one shall continue my efforts to legislate this repeal. Dr. Marshall, however, not only favors retention of Davis-Bacon, but would also seek tighter enforcement.

At a time when we most need to boost our economy and reduce unemployment, it seems logical to me that we should place a high emphasis on the economic impact of Federal laws and particularly of Federal regulatory programs. In other words, we need to take a cost/benefit approach to some of these programs, and I think the American public should be aware of their true cost, direct and indirect.

From many of his comments, Dr. Marshall seems to have little regard for cost impact, and nowhere was this more evident than in regard to the Occupational Safety and Health Act.

This legislation is particularly burdensome on small business and farmers, and since its inception not a week has gone by that I have not received dozens of letters objecting to OSHA.

When asked his position on the preparation of economic impact analyses in the development of OSHA standards, Dr. Marshall replied that we probably ought not to have them because they are very technical and might delay enforcement. I should hope, Mr. President, that we have not reached a point where the desire for speedy government action exceeds the desire for fairness.

Dr. Marshall supports a minimum wage increase but opposes a youth differential wage. Clearly, such action will only serve to agitate unemployment among those who already suffer most—young people and minorities.

I remind my colleagues that organized labor represents roughly one-fifth of the total work force in this country. Yet, issue for issue, Dr. Marshall supports the interests of this group. I am concerned that this close association with the interests of a few will work to the detriment of many.

In a recent edition of the Austin American-Statesman, the headline reads "Marshall Views Bluntly Un-Texan." I guess that pretty well sums it up as far as the vast majority of Texans are concerned, Mr. President, and I happen to be one of that vast majority.

Mr. WILLIAMS. Mr. President, just a moment to reassure the Senator from Texas.

First, let me say that the confirmation consideration of the nomination of Dr. Marshall has produced here today an opportunity for Members to address themselves to many of the issues that have been before us, some of which will be before us again, issues that are for our initiation here: 14(b), common situs picketing, the question of unionization of military.

I just want to reassure my friend from Texas on a couple of these matters that

so disturb him. On the question of unionizing personnel in the military forces, nothing could be clearer on the record that has been fully made within the last two weeks on Marshall's attitude, that he is opposed to unions in the military.

These other issues that have been discussed are also issues that are not, in his mind, issues for his initiation, 14(b), common situs picketing.

It is as clear as it can be that if there is going to be any action in these areas it is going to have to start here, and when I say that, we are in control of what happens here, and everybody will have his opportunity to be heard.

Mr. SCOTT. Mr. President, will the Senator yield at that point? Is it not true that the committees always ask the views of the interested agencies, and would it not be just normal procedure to ask the views of the Secretary of Labor on such matters as 14(b) repeal or common situs picketing or any of these other measures that we are talking about? Would not his views be requested?

Mr. WILLIAMS. They certainly would be, and he has given his views, and part of his view is that these are subjects he is not going to bring to us, but when asked by us he will state that yes, he would support the repeal of 14(b); he would support common situs picketing.

My point is we are in control of the legislative program that gives him the programs to administer. That is what we are talking about, a man to administer what we do here.

So if there is any fear in these areas, the fears should be expressed of what this Congress might do and not what the Secretary of Labor will do.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. WILLIAMS. Yes.

Mr. TOWER. I do have fears about what this Congress will do.

Mr. WILLIAMS. Well, that can be addressed here.

Mr. TOWER. And I do have fears about what will happen to the legislation when it gets downtown.

Given the fact that you have a Labor Secretary who has this disposition, the major impact on the President, I would assume, in terms of the advice he is given on labor matters would come from the Secretary of Labor, and I hope to have a Labor Secretary who can view these issues more objectively and not from the official union point of view; who could advise the President in a more objective way.

Although matters are initiated down here, the fact of the matter is if any legislation is generated down at the White House on labor matters it will be introduced by request here whether there has been a legislative initiative here on this end of Pennsylvania Avenue or not, and I do not want to say that those kinds of initiatives issue from the White House because I expect the White House to have some influence over what goes on down here.

Mr. WILLIAMS. Mr. President, will the Senator pause right there? That is the whole point. These issues that have been talked about here this afternoon, it has been made clear by the President that he is not going to make the first move on repealing 14(b), and he is not going to make the first move on common situs picketing and, if anything is going to happen, it will start here.

Mr. TOWER. My friend, you and I have been around here long enough so that we know the agents of 1600 Pennsylvania Avenue, whether the initiative comes from them or not, will be out here in the reception room, the Vice President's office.

Mr. WILLIAMS. That was true under President Ford.

Mr. TOWER. Yes it was, but we can hope and expect that it will be altered.

Mr. WILLIAMS. Common situs picketing, the Secretary of Labor is not going to advance it.

I want to assure the Senator of one other thing: The fear that Dr. Marshall is somehow so tightly woven into big and organized labor, if you will look at the bibliography of his writings, which represent his life's work in terms of labor and human resources, it is directed to that four-fifths of the labor force the Senator says is not unionized.

Those who have had no organization have been part of no organization to promote their interests, and it is in the record of the hearings that all he has applied his life to are those who are most unemployed right now, minorities, those who are not fully treated equally in the work force, women. These are the areas that have been the concentration of Dr. Marshall's distinguished career in labor and working force affairs.

Mr. TOWER. Mr. President, if the Senator will yield at that point, yes, Dr. Marshall has shown a very great interest in that four-fifths of the labor force that is not organized because he seems to have the tilt toward the major organized unions in this country, and I am sure he would like to see all of these people swept under that organization.

The fact of the matter is, in the nonunion States you have the lowest rate of unemployment. Texas, for example, is a right-to-work State. I suppose it is the only major industrial State that is. Our per-man-productivity is higher than that of any other major industrial State.

Mr. HUMPHREY. Wait now——

Mr. TOWER. Wait a minute. Our absenteeism is lower, our return on the labor dollar is higher.

Mr. WILLIAMS. Where does Marshall work now? In Texas, yes.

Mr. TOWER. Ah, yes.

Mr. WILLIAMS. All of these areas the Senator is addressing himself to, that is where he has applied himself effectively.

Mr. TOWER. Dr. Marshall is at the University of Texas. Thank goodness he is not a union organizer down there or the story might be different because he is a very talented young man.

But the fact of the matter is we always do the bidding of the AFL–CIO around here. Can you name me one major piece of labor legislation that has passed this body that has not had the support of organized labor in the last 40 years?

Mr. WILLIAMS. Taft-Hartley.

Mr. HUMPHREY. Landrum-Griffin.

Mr. TOWER. Can you name me one major piece of legislation that is designed to restrain the virtually unbridled power of organized labor operating behind a statutory wall of protection that has been passed in this body? No.

The fact of the matter is the greatest pressure group in this country from the standpoint of its impact, its influence, its organization, its discipline, is organized labor.

We can talk about low-income housing here, and everybody weeps because we have socially and economically disadvantaged people who do not have homes; but then we get down into the business of taking Davis-Bacon away to reduce the cost of low-income housing, to get more people into low-income housing, and objection is heard. Organized labor says it shall not pass, and it will not.

Now, do not tell me—the Senator and I have been here a long time together—do not tell me that this nominee is not a partisan of the AFL–CIO.

We have been around here long enough so that we both call each other by our first names.

Mr. WILLIAMS. Dr. Marshall was not the first choice of organized labor, the Senator knows that. They respect him.

When the President, who found Dr. Marshall on his own without the help of organized labor—they looked at his record, they respected him. As a matter of fact, the first notice I had that the president of the AFL–CIO knew Ray Marshall was when I read in the newspaper when Solzhenitsyn was here he called Dr. Marshall in Texas and invited him to Washington to meet with Solzhenitsyn. But you know and I know that the first choice of organized labor was a former secretary.

Mr. TOWER. Dr. Dunlop.

Mr. WILLIAMS. Exactly.

Mr. TOWER. Of course, they felt they would have great difficulty in getting him confirmed

Mr. HUMPHREY. He was, first, an appointee of President Nixon and, second, of President Ford. He was an exemplary and fine person, one of the best public servants we ever had. But I think we ought to make it clear that Dr. Dunlop was first appointed by a Republican President.

Mr. TOWER. The Senator from Minnesota is absolutely correct.

Mr. HUMPHREY. Of course.

Mr. TOWER. And I voted for his confirmation, and it was a big mistake. Therefore, I voted against the confirmation of Bill Usery, whose views are much milder than those of Dr. Marshall, for the same reasons that I voted against Dr. Marshall.

Let us not kid ourselves about the power of organized labor and they are going to have their own man down at the Labor Department. Does the Senator think the American Farm Bureau Federation, the Farmers Union, or the National Farmers Organization are allowed to exercise the veto power over who is the Agriculture Secretary? Is the National Association of Business or the Chamber of Commerce allowed to determine who is going to be the Secretary of Commerce? No.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. TOWER. But I will tell the Senator when we get into labor, if anyone wants to pretend that the vast and enormous power of organized labor in this country does not exist, then he imagines I am far more naive than I am, and he assumes that the American public is stupid.

The fact of the matter is the tail wags the dog. Big labor in this country dominates our social and economic legislation, sometimes contrary to the best interests of unorganized labor in the country. And I say in my State of Texas, where we have a right-to-work law, we have a much lower rate of unemployment and our working people enjoy a high standard of living than they do in the Senator's section of the country.

Now the guys from the frost belt want to get together and see if they can achieve an equal distribution of miseries so the guys in the Sun belt will not be quite so attractive to industry as they are now. And that is what is going to be inherent in the kind of labor legislation we are going to get in this body, if the mentality of Dr. Marshall is dominant in framing legislative proposals that come down here from 1600 Pennsylvania Avenue. Do not try to tell me that everything will be solely by our own initiatives. That is bunk, and we all know it.

Mr. WILLIAMS. Just one second. I only wish to say again that Dr. Marshall's whole life has been expended to improving the opportunities of working people who are not in organized labor.

Mr. TOWER. Yes; but he wants to improve their lot by putting them into labor unions, so they will be under the dominance of these big labor bosses sitting back in their big posh air-conditioned offices making $75,000 or $80,000 a year. They do not even pay Senators what they pay those guys.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. HUMPHREY. I am very impressed by the rhetorical eloquence of the distinguished Senator from Texas. I would have thought the Senator from Texas, who is on the Banking Committee, might be talking about bankers and usurious interest rates. I have not heard him raise his voice about the power of the financial community which has much more power in this country than any group of organized workers. He has been quiet.

Mr. TOWER. If the Senator will yield, it is not necessary because there are 99 other Senators to do that.

Mr. HUMPHREY. He is absolutely mute and says nothing. Yet when we come to talking about setting wages, look who sets the interest rates.

Who are they? The Federal Reserve Board that is made up generally of bankers. For the first time we have a few people on these that are not. The banking system of this country—I am not out to run down the banking system—but I want the Senator to know, since he is talking about power, let us quit kidding ourselves. Organized labor in this country has stood for defense of this Nation, a strong defense. Organized labor has stood for the health care of the American people. It stood for workmen's compensation. It stood for unemployment compensation. It fought for social security when the political party of the Senator from Texas voted against it unanimously when it was first initiated under Franklin Roosevelt.

Mr. TOWER. Now it is going broke.

Mr. HUMPHREY. And it fought for rural electrification for our farmers. It has supported our farm legislation. Organized labor has fought for better working conditions and against child labor. And may I say that after we get all through talking about these labor bosses, who live in their plush offices, they look like candidates for the poverty program compared to some corporate executives in this country, and I do not think we need to run them down, either. All I am simply saying is that organized labor basically has been good for this country. This country has the best of labor management relations. This country has high productivity. The standard of living in this country for the unorganized worker is due in a large measure because of the efforts of organized labor. The minimum wage law and the Fair Labor Standards Act do not help organized labor. It helps the unorganized worker. And a good paycheck is what this country needs, and when workers get a good paycheck they spend it and they get it into the mainstream of American commerce.

I do not happen to know Dr. Ray Marshall personally as well as I would like. I know of his fine exemplary record. And I hope to goodness he is for organized labor. I hope he understands the importance that in a democracy, unions are vital as a part of the economic system of this country. I hope that he will try to see that more people get a better break in life and a better wage, and if that means organizing and collective bargaining I am for it just as I am for a farm cooperative. And what does a farm cooperative do? It gets better prices for farmers. What does a union do? It gets better wages for workers. And I do not think we need to go around here worrying that America is going to go to the bow-wows because there happens to be some organized labor. As a matter of fact, organized labor has stood in the forefront of this country's efforts in war and peace. And it has fought for things that mean a great deal to the children. From the earliest days organized labor fought for public education. That is from the days of the Knights of Labor to this very day. From the earliest days it has fought for public health, child care, school lunches, programs of nutrition, all the things that mean something to millions and millions of people who never got inside of a union hall. And I am amazed that the Senator from Texas feels that his distinguished fellow Texan, Dr. Ray Marshall, would not be a good Secretary of Labor, simply because he has some support from union labor.

As a matter of fact, I remember when the members of the Republican Party were proud to have the building trades on their side. Do they deny that? The former Vice President of the United States, my good friend, Nelson Rockefeller, had organized labor with him in New York from top to bottom. Oh, that was just jolly, great. But the minute that someone comes around here now as Dr. Ray Marshall, recommended by President Carter, to be Secretary of Labor, then what is wrong with him? Why, he is a friend of the working man. Well, I hope so. I hope Bob Bergland, the new Secretary of Agriculture, is a friend of the farmer. I hope Mrs. Kreps is a friend of business. She is the Secretary of Commerce. That is the way it ought to be.

I say to my friend from Texas, I would have thought that he would be waving the flag of the Lone Star State and saying, "Join in support of Dr. Ray Marshall, a Texan." I never thought I would see the day that the ranks of Texas would be broken asunder over such a little matter as the Senator from Texas is talking about. Oh, America is in trouble, Mr. President, when Texas falls apart.

I depended upon Texas, and I have always depended upon the Senator from Texas, one of the bright minds, one of the bright lights of the U.S. Senate, but apparently dimmers are on today.

[Laughter.]

Mr. TOWER. Mr. President, will the Senator yield?

Mr. WILLIAMS. Because I believe the Senator from Minnesota has persuaded the Senator from Texas, on my time I yield to him.

Mr. TOWER. I think we need to de-escalate the rhetoric and take the emotionalism out of this thing.

Mr. HUMPHREY. Do not.

Mr. TOWER. My good friend, HUBERT HUMPHREY, and he is my good friend, has really a very golden voice and very persuasive way of couching things. I think he missed the basic point. We are not talking about the historical achievements of organized labor, and they are many. If I were working in a factory, I would join a trade union myself, but I would do it voluntarily. I would not want to be compelled to do so. When he says Dr. Marshall is for the workers, let us examine that. Does being for the workers mean that you have to be subjected to the policy dictation of the AFL–CIO? And I answer that in a resounding negative.

Davis-Bacon has kept poor people out of houses, and yet organized labor insists on its enforcement. Organized labor, by some of its antiquated work rules and by the influence that it has had, has prevented people from working, and organized labor has in many instances in its apprentice programs used those programs to discriminate against minority ethnics, and that is true. They cannot get a job unless they belong to the union and cannot go into the apprentice program if they are not admitted to that program. No one doubts the achievements of organized labor, but it has gone too far.

Nobody is going to stand here and convince me, and I do not think they are going to convince anyone else, that the financial interests of this country have more political influence than organized

labor. They are not going to convince me that anybody in this country has more influence than organized labor; and there are certainly more contributions of the financial community and the business community to the operation of the marketplace and the law of supply and demand than there is of organized labor. Organized labor operates outside the laws of supply and demand.

Organized labor can demand and get, and hold the economy in hostage until they get, increases in wages and benefits that bear absolutely no relationship to increases in per man productivity, and organized labor can be a restraint on the economy, a restraint on the kind of economic growth and a restraint on the kind of capital investment that will create new jobs in the private sector of this country.

We can dress it up in all kinds of rhetoric and make very humorous and witty speeches, but let anyone stand here and try to maintain and prove that organized labor—and by that I mean essentially the AFL–CIO—is not the single most powerful economic and political force in this country, and that they do not operate behind a statutory wall of protection that was erected years ago, that is now obsolete, but which we cannot hope to dismantle in whole or in part because of the political influence they have right here under this dome.

Business is restrained by the antitrust laws, but labor combinations in restraint of trade are not. Their power is virtually unbridled; indeed, the law favors it.

Mr. HUMPHREY. Mr. President, one of these days my friend from Texas and I will have a little go at it again, on the merits and demerits of certain aspects of our economy, the financial structure of this Nation, and the role of organized labor.

I do not doubt for a moment that they have power.

Mr. TOWER. Mr. President, will the Senator yield at that point?

Mr. HUMPHREY. Yes, I am very happy to yield.

Mr. TOWER. I think there would be some fundamental differences as to how we use government as a means of marshalling the Nation's resources and redistributing them in the form of benefits to all. A certain amount of that perhaps is good, but perhaps too much of it is not, and perhaps we have arrived at that point now in our history.

Mr. HUMPHREY. Mr. President, my point is that Dr. Ray Marshall is an intelligent, able, educated man.

Mr. TOWER. I have already said that, I might say to the Senator from Minnesota.

Mr. HUMPHREY. On that basis, we already have the ground laid, then, for his unanimous confirmation, because this man is without doubt one of our fine public servants. He is an educator, and has also been in the public domain for some time.

I would just like to correct the record on one thing. I know people would like to buy homes, and I know why they are not buying them: For the simple reason that they cannot afford to pay 9 and 10 percent interest. There is not a witness who has testified before any of the committees of Congress who does not say that.

For years it was the tight money market, not the labor market, the tight money market with high interest rates, Mr. President, that kept this country in recession, almost on the verge of depression, and raised the specter and the fact of inflation and of increasing unemployment. If you put money at 6 or 7 percent, you will have houses built in America, and it will not be because labor costs are out of hand.

Bob Jordine of the building trades testified before the committees of this Congress what labor productivity increases had taken place in the building trades as related to housing. The apprenticeship program, yes, required renovation, and it has had it. What is needed is to make more jobs. Twenty percent of the greatest skilled labor force the world has ever known, the American building trades, are unemployed. The finest labor force in the world, second to none. And I am here to say there is not a community in America that is not proud of its building tradesmen.

Oh, yes, I know, I hear about a plumber who makes $20,000 a year. Well, who wants to go around cleaning out toilets and putting in pipes all the time? It is worth it. I might also say, if you think it is so good, be an apprentice. Learn the trade.

We need doctors, we need lawyers, and we need carpenters. Doctors are organized; lawyers are organized. You do not run a hospital without the approval of the AMA. You do not go to court, in most instances, I might say, without the approval of the American Bar Association. When judges are sent down here, the first question the Senate asks is, How does the ABA feel about him?

I think that is a fair question. The American Bar Association, made up of professionals, competent, trained people, should be asked. I am not opposed to the American Medical Association, with its high professional standards; I am not opposed to the American Bar Association with its high professional standards; and I am not opposed to the American Federation of Labor and the CIO, even though at times I have had reason to be, and Members of this body know it, as do the media, from a personal point of view.

But I have watched in my State—and I imagine the eyes of Texas are upon Minnesota as well as the rest of the Nation—I have watched what the labor movement has meant to my State. I will tell you what it has meant: The finest educational system in America, a high standard of living, reasonably good housing. Our cities are clean and modern, and as for our labor leaders, the president of the AFL–CIO in my State, David Roe, is one of the leading citizens of our State.

A labor movement that is without corruption? Oh, I know there have been some crooks in the labor movement, but may I say there have even been some people who have stolen from the church treasury; but we do not abandon our religion or our churches. There have been a few who have disgraced the legal profession, even some that have disgraced politics, and some who have disgraced the medical profession, but we do not condemn the whole system because of the transgressions of the few.

I think it is fair to say that with all of the limitations of organized labor—and like any group that is organized, it exercises power—in the main, it has not only looked out for itself, but it has looked out, as Scripture says for "the least of these." It has cared about the child of the unorganized as well as the organized worker. It has cared about infant and maternal health programs. I see in the Chamber my friend the Senator from Massachusetts. He has heard the testimony of leaders of organized labor, coming in and calling for better medical care, willing to pay the taxes for it.

Medicare does not go just to the elderly of organized labor. As a matter of fact, organized labor has its own benefit program and its own pension program. It has worked them out with its members. But who are some of the leaders in the fight for medicare for the fathers, grandfathers, and grandmothers of the unorganized? Our friends in organized labor.

Well, Dr. Marshall is not only going to be interested in organized labor, and I want the record clear, as far as this Senator's vote is concerned, that I hope he is interested in organized labor. I hope he is interested in the right of organized labor to organize the unorganized. I do not expect him to be the organizer, but I want him, above all, to be interested in the quality of life in this Nation. And the quality of life is not a phrase; it depends in a large measure upon what is in your pocketbook.

You do not have much quality if you are unemployed and broke. You have a chance to have some quality if you have a decent job at a fair wage.

The Senator from Minnesota has never been opposed to people having two months in the Caribbean on a yacht, or three months, as a matter of fact, if they can afford it. But I have fought all my life for the right of a workingman to have 2 weeks in a row boat in a lake in Maine or Minnesota, if the other guy is going to get 3 months on a yacht in the Caribbean.

That is what the struggle is all about in this country, whether or not we are going to have the average citizen in America have a decent standard of living. The day that organized labor stands in the way of that I will be its enemy and its opponent. But I have found organized labor to be on the side of the weak; on the side of the poor; on the side of the sick. and on the side of the handicapped.

Who has come in here and testified day after day and year after year for programs to aid the physically and mentally disabled in this country? Who has put their political muscle behind those programs? Organized labor, as one of the groups in America. thank God.

I am very proud to have had a long association as a friend of the labor people of America. I believe they have don

much for this country. Organized labor, as any group, have had those who have in some way violated their trust. But in the main, organized labor has been good for America, and Dr. Ray Marshall will be good for the Government and for America.

I know this man, not as well as I want, and I know of his concern about youth unemployment; I know of his concern about the migratory worker; I know of his concern about the minorities in this country; I know of his concern about a better apprenticeship training program; I know of his concern about people in America who never had a chance. I hope and pray that that concern will be manifest in every utterance and every policy of the Secretary of Labor.

Mr. TOWER. Will the Senator yield?

Mr. HUMPHREY. I yield the floor.

The PRESIDING OFFICER (Mr. SASSER). Who yields time?

Mr. SCOTT. Mr. President, I will be glad to yield 5 minutes to the distinguished Senator from Texas.

Mr. TOWER. The question is, in today's society what causes high interest rates? I would agree with the Senator from Minnesota that high interest rates have an adverse impact on housing. I will add something else: the growing land cost. These occur. Land costs are something that we cannot do much about. But on interest rates, why do we have high interest rates? Is it because the money changers have gotten together and decided to fleece the public with high interest rates?

Credit operates in a competitive market. It is because the Federal Government has intruded itself more and more into the debt market in this country, crowding out the private sector and driving up the cost of money. Sixty percent of the debt market in the United States is occupied by Government in the aggregate, leaving only 40 percent for the private sector. That is why interest rates have gone up.

Why add another cost, the artificial padding of wages not only on housing but urban development programs through Davis-Bacon, which pays way above the market rate?

The Senator from Minnesota has talked eloquently about the right to organize. Let us agree that labor should and must have the right to organize, the right to bargain collectively, the right to strike. All of these are rights they should have. But working people should also have the right to be unorganized if they choose to be. They should have the right to choose not to join a union and still be eligible for employment. That is the situation in the right-to-work States.

Again, I submit for the record, and this can be checked with the AFL–CIO's own figures, in the 20 right-to-work States the rate of unemployment is significantly far below the national average.

My State is a right-to-work State. The unions have some influence there. It is a balanced influence. The vast bulk of our labor force is unorganized. Yet, when the Senator from Minnesota talks about unemployment, about drawing a paycheck, let them enact a right-to-work law in Minnesota.

Mr. HUMPHREY. We do not need it.

Mr. TOWER. I will bet that there will be less unemployment and more paychecks, as in the case in the 20 right-to-work States. Where is industry moving in this country and creating new jobs? To the right-to-work States. That is where.

So we cannot say that organized labor is an unmixed blessing. It has accomplished a great deal, historically. It has reached what I hope is a zenith of its power and it is now trying to act with some restraints.

Mr. HUMPHREY. Will the Senator yield for a correction?

Mr. TOWER. All of this argument transcends, I think, Mr. Marshall. He simply was a vehicle for all of this. But it is a matter for continuing debate in this body, beyond the confirmation of Mr. Marshall.

Mr. HUMPHREY. I agree with the Senator.

Mr. TOWER. It is one which I hope will recur time and again.

Let me say I can submit for the record the testimony we have taken in the Committee on Banking, Housing and Urban Affairs on the impact of Davis-Bacon on the cost of urban development and on the cost of housing. It is unquestionable that Davis-Bacon has reduced the amount of housing available to low income families because all of the cost has gone into these inflated and padded wages that we are compelled to pay through Davis-Bacon. There are fewer poor people housed because of it.

There are other things, yes, but that is part of the aggregate impact on housing we could do something about but that we will not do something about because organized labor will not let us.

Mr. HUMPHREY. Will the Senator yield for a comment?

Mr. TOWER. I yield.

Mr. HUMPHREY. The average unemployment rate in the State of Minnesota is about 5 percent. We are not a right-to-work State. We have a strong union group in our State. We are very proud of the fact that we are always below the national averages. We do not have as much boom and bust. We do have cold winters, I regret to say, but we are even sharing that now.

Mr. TOWER. If the Senator will yield, if the people from Minnesota would be willing to pay a market regulated price for gas we will be glad to warm them.

Mr. HUMPHREY. We may have to do that.

Mr. TOWER. I hope you will. Really, our hearts bleed for you.

Mr. HUMPHREY. I know that. I was going to get some gauze pads out here. [Laughter.]

Mr. TOWER. Perhaps we can meet in another room and cry over this later. [Laughter.]

Mr. HUMPHREY. Mr. President, it is such a joy to visit with my friend from Texas. He is one of the most brilliant minds in this body. Misguided sometimes but a brilliant mind. He is one of the most enlightening friends I have. I say that with sincerity.

I say also with sincerity that the least organized of the industries in America is the housing industry. He talks about the impact of organized labor on the housing industry. About 80 percent is not organized at all. Here in Washington, D.C., practically all the housing contractors are nonunion contractors. It is so practically in every city in America.

By the way, even bacon itself is rather high without Mr. Davis.

The only time we get the Davis-Bacon Act is when we have what we call federally constructed public housing. It is not federally assisted but federally constructed.

Mr. TOWER. If the Senator will yield, it applies to all federally financed housing.

Mr. HUMPHREY. Federally financed, but not the kind that the average citizen gets who goes to the savings and loan or who goes to the commercial bank and gets mortgage paper. Most of that is nonunion constructed housing. I am not recommending it, but that is the way it is.

Finally, let me say we will continue this debate and it will be a good one. I did not quite know we were going to get into it. It was so cold when I arrived here, I had to get warmed up.

I think the Congress is a body of extremes. Yesterday we were sweating and today we are freezing. Is there any chance we can level it off at about 60 degrees? There is enough hot air up here to get it to 75, but we cannot do it every day.

Mr. SCOTT. Mr. President, I yield 2 minutes to the distinguished Senator from Utah (Mr. HATCH).

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I have enjoyed the debate between these two lions in the Senate. There is no question about it, they are both brilliant, they are both intelligent, and I think all of us care a great deal for them. But the fact remains that we are here today to consider the nomination of a man, it seems to me, who is so slavish to the goals and desires of big labor that I fail to see any compassion by Dr. Marshall toward the feelings of other people in our society.

I have acknowledged in my prior writing in the RECORD last week that I believe Dr. Marshall to be intelligent, a man of honor and integrity, a man of wisdom, justice, and other good qualities. But what the bottom line really is—he is a man who is for repeal of 14(b) of the Taft-Hartley Act, our right-to-work laws, applicable in 20 States, including my State of Utah. I do not hear any impassioned speeches from some of the Senators here about the right of people to choose whether they want to belong to a union or not. Where is the liberalism on this issue?

We have 20 States where people feel very strongly about right-to-work laws. I can tell you, we in Utah feel very strongly about them. So strongly, that we are going to fight right down the line to keep 14(b) in the Taft-Hartley Act.

Keep in mind that I am a former union man. I learned a trade. I came up the hard way. I saw what it was like. I saw the lack of opportunity for minority groups in the construction trades. I see wage and price levels that are so high right now that 20 percent of the

people in the building trades are out of work. I can tell you this: it was not the right-to-work aspect that caused this dire situation.

I am concerned. Here is a man who is for repeal of 14(b) of the Taft-Hartley Act, our right-to-work laws, for mandatory collective bargaining in the public sector; for compulsory arbitration in the public sector, and/or right to strike; for common situs picketing, which would cause additional hardship and unemployment in the construction field; for unionization of agriculture and, in conflicting statements, for some aspect of unionization or collective bargaining in the military; and for restrengthening of the Davis-Bacon Act, which has cost this country billions of dollars over the last 30 years. If we had that today, we would be worried about Russia exceeding us in the defense area. Nor would we have some of the deprivations and poverty that we are experiencing today.

So, I have to cast my vote against Dr. Marshall, even though, as a person, I find him to be sincere.

Mr. WILLIAMS. Mr. President, I yield 3 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I intend to cast a vote in favor of the nomination of Dr. Ray Marshall to be Secretary of Labor.

Dr. Marshall is a distinguished labor economist and, most recently, has been a professor at the University of Texas. His work has focused on rural manpower problems, rural poverty, and the special unemployment problems of blacks, three areas that deserve particular attention as we work for a strong economic recovery. I think he will be an invaluable member of the Carter Cabinet.

It has been my policy, whenever possible, to support Cabinet nominations, based on the belief that a President should be allowed to have as his closest advisers and policy managers those with whose expertise in a given field he is most comfortable and whose leadership of their Departments would most reflect the President's priorities. My departure from this policy in the case of Attorney General Bell was founded on my belief that a different standard applies to that post, in large part because so many of the Attorney General's actions are not subject to prior legislative review.

Dr. Marshall and I do not agree on everything. In fact we disagree on several important matters. But, Mr. President, this and other issues on which we may disagree are subject to the legislative process before they can be enacted. There are legitimate opportunities open to me and to every Member of this body to defeat or amend any such proposals and the fact that we would vote against these measures does not entitle us, in my judgment, to cloud the objective consideration of Dr. Marshall's abilities to hold one of the top jobs in Government.

Therefore, having considered Ray Marshall's qualifications for Secretary of Labor and having found to be of Cabinet caliber, I shall vote for his confirmation and look forward to his leadership in this very important area.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I yield time to the Senator from New York.

Mr. JAVITS. Mr. President, as we come to the conclusion of the debate, I wish to sum up respecting the case for the confirmation of the nominee. It is admitted that he is an intelligent man. It is admitted that he is well versed in labor problems, including rural labor problems. It is admitted that he is a follower of administration policy and that he believes in the things that much of organized labor believes in. Many of the issues President Carter ran on are labor issues, and that is what the American people elected him for. So whom shall he get for his Secretary of Labor? Some impartial judge of the situation?

Respecting the debate between my beloved and distinguished colleagues, Mr. TOWER and Mr. HUMPHREY, neither is all right, and neither is all wrong. Nor do we expect them to agree on all matters. We are, after all, here to pass judgment between the contending forces by such majority as can be marshaled as representing the best interests of the people.

Republicans have not always appointed antiunion men to the post of Secretary of Labor. Let us look at the record. Republican Presidents have appointed labor union men as Secretaries of Labor—to wit, John Durkin of the Plumbers Union, Pete Brennan of the Painters Union, and Bill Usery who had been with the Machinists. They have made excellent Secretaries of Labor.

Great Secretaries of Labor have become a tradition. Arthur Goldberg, one of our most distinguished Americans, labor counsel himself to the Steelworkers Union, was appointed Secretary of Labor and had an enviable incumbency. He was admired by both Republicans and Democrats alike, so much so that when he came up for confirmation, both to be a member of the Supreme Court and to be Ambassador to the United Nations, his confirmation was not only well-nigh unanimous, but many expressed the feeling that we were lucky to get him. This is the tradition of American life.

I think Dr. Marshall is an able, honest, well-informed, broad-gaged man, willing to be persuaded. I agree with my colleague, the Senator from Utah; Dr. Marshall's views have been somewhat changed and modified by the intense, acute and informed questioning that he underwent on the question of trade unionism in the military field.

The American people voted for Mr. Carter and that is why, in my judgment, it is our duty as the opposition to effectively cooperate with the President where we can in order to attain our national goals and national aspirations. I believe that Ray Marshall will serve us very effectively and he will therefore, have my vote for confirmation.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I have no further requests. I am about ready to yield back time.

Let me say we can judge what we can expect of Dr. Marshall as Secretary of Labor when he lists his priorities as he sees them in the Department of Labor. He said, in our hearings:

> In my judgment the most important problem facing the country, is the need to reduce unemployment.
>
> * * * * *
>
> A second priority is combating discrimination against people for any reason unrelated to their merits and productivity.
>
> Third, I think we have to be concerned about improving the productivity of our work force.

Here is a man who comes from a background that gives him the closest feeling of association with working people of our country, the greatest sensitivity to the needs of those who are finding it hardest to get a job and to be prepared to take a job with a skill and with training. His whole focus and effort is a positive focus, directed toward improving the opportunities in our Nation to see people working at jobs with meaning that are contributing to a better country.

There has been a lot of discussion here about issues that while perhaps germane to a general discussion, when we have a Secretary of Labor before us in confirmation, certainly are not the primary issues and the emphasis we should be considering.

Mr. President, as Secretary of Labor, Dr. Marshall would be in charge of a Department which is responsible for the administration and enforcement of over 130 laws, covering a wide range of matters essential to our Nation's workers.

In addition, Dr. Marshall, as Secretary of Labor, would be the principal administration spokesperson on all matters concerning labor. Accordingly the questioning and testimony of Dr. Marshall at the hearings before the Committee on Labor and Public Welfare covered a broad range of subjects, including many that would not be within his direct responsibility and authority. He addressed all these matters with thoughtfulness candor, and forthrightness.

One of these matters, which is not within his direct authority as Secretary but would be pertinent to Dr. Marshall as the administration's labor spokesperson, is the matter of section 14(b) of the Taft-Hartley Act.

There is perhaps no area of our national labor laws which has generated so much passionate concern on the part of our citizens and those of us in the Congress as section 14(b). And to Dr. Marshall's credit, he did not equivocate; he dived right in.

We have by this time all heard what it was that Dr. Marshall said about section 14(b), and before I discuss what it was that I heard him say, I think that we should understand the issue itself.

It is a subject that is so marked by hyperbole, that is so fraught with slogans, with jingoism, that is our responsibility, as legislators, to stand back for a minute and look at the question with dispassion.

This has been termed the so-called right to work issue, but in truth, it has absolutely nothing to do with the right of

any citizen to work. That right is absolute, and there is nothing in our labor laws, and I hope that there will never be anything in our labor laws, which limits the right of our citizens to work, to provide for themselves and their families.

This is instead the question of our very democratic way of doing things, the concept, basic to our society, that the majority rules and that the majority rules us all In so ruling, the majority owes to the minority the duty of ruling fairly, in the best interests of both the majority and the minority.

Just as the Government must govern for the benefit of the whole Nation, the identical concept of fundamental democracy requires that a labor union which was selected by a majority of the workers in a plant to represent them must fairly represent all the workers in that plant.

Our laws properly impose this duty on labor unions. Now just as all citizens are obligated to pay their fair share of the cost of our Government which serves them, our law should impose on the employees in a plant the obligation of paying their fair share of the cost of the representation which a union gives to them.

Mr. President, our national labor law does do this. It provides that where a union represents a majority of the workers in a plant and bargains for those workers, the union and the employer can together agree that all employees must bear their fair share of the cost of union representation.

But, Mr. President, in one of the strangest aberrations in our federalism, our law now permits the States to carve out a limited exception to this basic principle of our Federal labor policy and of our democratic institutions.

Section 14(b) of the Taft-Hartley Act permits the States to interfere with the contracts of unions and employers and to prohibit an agreement between contracting parties whch only parallels our democratic scheme and requires all participants who benefit from a system to pay their fair share of the cost of obtaining those benefits.

So, Mr. President, when we consider this issue, we must keep in mind that we are not discussing the right of anyone to work, to secure and retain a job. We are talking about a fundamental principle of our democracy, that all must pay their fair share of securing the benefits which all enjoy.

I believe in that democratic principle, and Dr. Marshall said that he believed in that principle also.

Dr. Marshall said that if a union truly represents a majority of the employees, and if it is able to secure an agreement that all employees who are to benefit from the collective-bargaining agreement are to pay their fair share of obtaining and administering that contract, then the employer and the union should be permitted to enter into such a contract.

Dr. Marshall said that he favors repeal of section 14(b) of the Taft-Hartley Act, the section which permits the States to except themselves from a portion of our national labor policy. He said that he does not think the States should be trafficking among themselves in the rights of workers. He said that our national policies should apply to all our States.

I fully agree. I do not think we in the Congress should establish national policies which are intended and constructed to afford the greatest benefit to the greatest number of people, and then permit the States to disagree and except themselves from our national policies.

Dr. Marshall was forthright and was also correct. Our national policies, once established by the Congress, should apply to all our citizens in all our States.

Dr. Marshall only said what he thinks on the issue. The question of whether or not section 14(b) should be repealed will ultimately be ours and the President's. We will have to make the hard decisions, not the Secretary of Labor.

The Senate should judge Dr. Marshall's fitness to be Secretary of Labor by his past performance and by his impressive experience and knowledge. I am convinced that Dr. Marshall's opinion on section 14(b) is responsible. I am also convinced that his opinion on this matter should not divert us from considering his most impressive credentials.

During his recent appearance at his confirmation hearing before the Committee on Labor and Public Welfare, Secretary-designate Marshall was also asked if he would support legislation which might be introduced in this session of the 95th Congress to permit common situs picketing of construction projects. Mr. Marshall stated that he would.

Today, some of my colleagues are raising objections to Dr. Marshall's confirmation, because of his testimony. But they are apparently not familiar with the history of this type of legislation. For Dr. Marshall's testimony is consistent with the position taken by every administration since 1949 when the National Labor Relations Board first decided in the Denver Building Trades case that construction workers could not picket their job site.

President Truman spoke out in 1950 in favor of legislation to correct the NLRB interpretation of the law. President Eisenhower asked Congress for this change in law in 1954 and again in 1956 and 1959.

Secretaries of Labor in the Kennedy, Johnson, Nixon, and Ford administrations have all testified before the Congress in support of this legislation. Even President Ford concurred in the passage of such legislation by the 94th Congress, until he changed his mind at the last moment and vetoed the legislation which was enacted by that Congress.

Anyone familiar with the objectives in this area of construction industry reform will surely understand this longstanding support of all of these administrations for this change in the law. Construction is a large and vital industry in our economy.

It is, therefore, important that its labor relations are conducted in a manner that promotes stability, economic growth, expanded employment opportunities, and the peaceful resolution of disputes.

The 94th Congress, therefore, enacted legislation which in its judgment made necessary changes in Federal labor policy to materially enhance the attainment of those goals. Because this legislation was vetoed by President Ford in January of 1976, the problems which Congress recognized were inherent in the present status of the law regulating construction industry labor-management relations have not been alleviated.

The legislation enacted by Congress conformed picketing rights at construction sites to those applicable to workers in other industries. This is the so-called common situs picketing provision.

The common situs picketing provision of this legislation would have given construction workers the same right as all other workers to conduct peaceful picketing of their job sites, the right denied construction workers due to the erroneous interpretation of the National Labor Relations Act in the Denver Building Trades case.

In this regard, the author of the Taft-Hartley Act, Senator Robert Taft, indicated in Senate hearings that the disparate treatment accorded construction unions was not intended by the 1947 amendments.

In summary, common situs provisions did nothing more and nothing less than to eliminate the different treatment accorded to picketing at a construction site. The bill was narrowly drawn and sharply focused upon the rights of workers in the construction industry.

There was a second part of the legislation enacted by the 94th Congress, but vetoed by President Ford. The idea for this provision of the legislation originated with President Ford's Secretary of Labor, John Dunlop. It attempted to establish a mechanism for reform of the national framework for labor-management relations in the construction industry.

Mr. Marshall testified to our committee that he generally supported the concept of such reform, but that he needed to study the specifics of that second part of the bill.

Based on his reputation as a defender of equal rights and an outstanding labor economist, it is not surprising to me that Secretary-designate Marshall frankly informed our committee that he generally supports both parts of the vetoed legislation, whether considered separately or as a package.

It would be surprising to me, however, if Mr. Marshall's testimony in this regard results in delay of his confirmation as our next Secretary of Labor and correspondingly, delay in his ability to confront the labor issues facing this country.

At one point in his testimony, Secretry-designate Marshall was asked by Senator LAXALT to respond to those who believed the common situs bill could be used as an attack upon minority contractors and workers in the construction industry.

Mr. Marshall responded by pointing out that he spent a large portion of his

career working to improve practices regarding the hiring and advancement of minority group member individuals in the construction industry. He indicated to our committee that there are other ways to break down such discrimination under existing legislation.

Mr. Marshall's background in this area as well as his general commitment to vigorous enforcement of antidiscrimination laws within the Labor Department's jurisdiction clearly demonstrate that he will never be party to any effort aimed at interfering with civil rights gains in the construction industry.

Significantly, Mr. Paul King, labor chairman of the National Association of Minority Contractors, offered enthusiastic support for the swift confirmation of Dr. Marshall.

Mr. King presented his statement in behalf of the Contractors Association in his own words:

As a black man deeply involved in America's construction industry.

He described Dr. Marshall as "a fair and even man" whose "tremendous research and concern with the blacks' problems in the construction industry cause me to applaud this Cabinet selection of President-elect Carter as the finest of his choices for leadership in the new administration."

For that reason, he concluded:

We shall be proud to call Mr. Marshall our new Secretary of Labor.

Mr. President, another issue of increasing national importance is the matter of the collective bargaining rights of the millions of working Americans who are the employees of governments. Currently, these bargaining rights are controlled by a myriad of State and local statutes and ordinances and overlapping and often inconsistent regulations.

This is clearly not satisfactory. The millions of our workers who are Government employees are entitled to similar rights as our laws give other workers—a right to participate in some meaningful sense in the determination of their own fates.

To a great extent, and in ever growing numbers, our Government workers are doing just this. They are increasingly organizing themselves and turning to unions to represent them in the relations with their employers. The law, however, has not kept pace with this development. Our public officials maintain a reluctance to recognize or to deal with public sector employees' unions.

The issue is frequently viewed in terms of whether public employees should be permitted to strike, but we have seen that there is really no way to compel a dissatisfied worker to continue to work, and we have seen in the recent past increasing numbers of strikes by public employees, including employees in States where such strikes are expressly unlawful.

What this demonstrates, Mr. President, is that there is a great need to make order out of this chaos and to develop a means by which public employees can have a hand in determining the terms and conditions of their employment, just as surely as our laws give other workers that right.

We cannot be blind to the basic fact of life. Public employee unions are among the fastest growing unions in our country, and there must be a reason for this. The reason must be that public employees see a real need for the unions that they are turning toward in ever increasing numbers. And they see a need for collective activity in order to secure the rights which they feel are legitimately theirs.

If we are to enjoy the same degree of stability in public employee bargaining as we currently enjoy in private sector bargaining, then we must have meaningful collective bargaining in the public sector.

When Dr. Marshall was questioned about this in the hearings on his nomination before the Labor and Public Welfare Committee, he voiced this very sentiment. He said that he believes in public employee collective bargaining. He said that if you have collective bargaining, then you must have some means of resolving bargaining impasses. He also said that such bargaining laws should provide an arsenal of means to resolve impasse. He mentioned mediation, conciliation, factfinding, and arbitration. He said what we all should recognize as being a basic truth— that bargaining can only work if one party does not have complete control.

He also said that he would not preclude strikes as a means of resolving impasse. He said that he hoped that it would not come to that, that he hoped our laws could provide enough other tools to resolve impasses that strikes would not be necessary. He said that the interest of the public could in fact limit the right of some public employees to strike.

But the basic tenor of his answers to these questions was that without some meaningful method of resolving bargaining impasses, collective bargaining could not be effective. And this basic truth holds, in my mind, whether you are talking about bargaining in the private sector or bargaining in the public sector.

Now, Mr. President, recognizing the possibility of limited strikes by public employees is not some wild-eyed unheard of idea. It is not even a new idea. In fact, Mr. President, six of our States have already by law sanctioned public employee strikes to some extent. And as far as I know, these States have not suffered any measurable adverse impact on their ability to function.

So I do not think we can accuse Dr. Marshall of talking irresponsibly; I do not think we can accuse Dr. Marshall of being unrealistic. I think we can consider Dr. Marshall's thoughts as a rational and reasonable assessment of the current state of public employee relations and the demonstrated needs of millions of American workers to have some regulation of their industrial relations.

Dr. Marshall recognized what we should all recognize about public employee collective bargaining—that it is a field where there is currently great uncertainty and great instability. There is great need for improvement in the laws dealing with public employee bargaining. He stated that the matter should be studied and that it was appropriate for the States to consider and enact improved laws dealing with the bargaining rights of public employees.

He recognizes, however, what we must all recognize—that the Federal Government has a legitimate interest in establishing standards if the States do not adequately provide for meaningful bargaining.

Dr. Marshall said that he would study such matters and that he would take under consideration the complex problems of federalism and constitutional doctrine, and I can think of no one who could be Secretary of Labor who is likely to give such matters more careful study and more reasoned consideration than Ray Marshall.

Mr. President, also among the questions put to Dr. Ray Marshall at the Labor and Public Welfare Committee hearings on his nomination to be Secretary of Labor was the matter of collective bargaining for military personnel. The defense of our Nation and the freedom of its people is, of course, a matter of serious, even grave importance. Because Dr. Marshall was concerned that his statements at the hearing on this issue should be most clear, he sent me the letter which explains with great clarity his position on this matter, and which the Senator from New York has already made a part of the record.

I would also ask unanimous consent that the transcript of Dr. Marshall's interview on the program "Issues and Answers," which has been referred to today, be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WILLIAMS. We must, in discussing this issue, keep well in mind what it was that Dr. Marshall said.

Dr. Marshall said in his testimony before the committee, and then again most clearly in his letter to me, that he does not think that union representation is necessarily compatible with the basic concepts governing military units and military service. He recognizes that military service requires complete loyalty to military superiors. Further, Dr. Marshall said that he did not support the idea that military personnel should be permitted to strike.

Dr. Marshall did, however, consider and discuss the importance of finding means of permitting military personnel to participate, to some extent, in the development of the policies which will affect their service and living conditions. He said that it is not always possible to get accurate information through the chain of command and that military commanders might benefit from other procedures which could facilitate their learning about the concerns of military personnel.

But I must stress, as Dr. Marshall

stressed, that he was not advocating unions as the means of doing this.

Now, this seems to me to be a responsible statement. We have converted military service for our citizens from an involuntary interruption in other career plans to a voluntary assumption of military service as a career. Service in the military is now a career choice for our young people.

And, Mr. President, if we are to continue to encourage young people to enter into this career, we must be mindful that like other workers, they have a legitimate interest in improving the terms of their employment and the condition of their lives.

Dr. Marshall has recognized this, and he has stated that he sees merit in finding some ways of giving military careerists such participation. He did not say that he advocated unions as the means of accomplishing this.

The opposition to Dr. Marshall on this point is merely because he thought that such an idea was worth studying, because he felt that it was worth considering as a means of making military service, and thus our military forces, more effective.

This is unreasonable opposition to Dr. Marshall. As the most advanced and civilized society in the world, we must never foreclose the studying of options; we must never turn our backs on possible improvements and innovations.

We will have the opportunity, if that time comes, to decide whether we will by law prohibit the organization by unions of our military personnel. We can discuss the merits of such a proposal when we have such a proposal. This is not the time to do so. This is the time to consider the qualifications of Ray Marshall to be Secretary of Labor. And the fact that he would study any means of making employment in this country more efficient and effective is to his credit, not to his detriment. So we should not let this issue, which is at most an abstract one at this time, stand in the way of our consideration of Dr. Marshall's very real qualifications for the position of Secretary of Labor.

I urge the Senate to not be distracted by any of these issues. No matter how each of us feels personally on the 14(b) question on collective bargaining for public employees; no matter what we may think of situs picketing or developing new approaches for developing information within our military organizations, we cannot be blinded to Dr. Marshall's obvious fitness to be Secretary of Labor.

Dr. Marshall measures up completely and adequately and in a most commendable way to all of the things that are of the greatest importance, and that is getting this country producing again.

With that production coming, comes the employment in a period of recession when so many are unemployed.

I have no further requests and will be yielding back my time when the Senator from Virginia will be yielding back his time.

EXHIBIT 1

ISSUES AND ANSWERS

GUEST

Ray Marshall, Secretary of Labor Designate.

Interviewed by Bob Clark, Issues and Answers chief correspondent.

Dan Cordtz, ABC News economic editor.

Mr. CLARK. Mr. Marshall, welcome to Issues and Answers.

The final details of President Carter's plan to stimulate the economy with tax cuts and job programs are still being hammered into shape this week. There are reports today that the tax cut will be something in the neighborhood of $11 billion. Is there any chance that the jobs program—and you have been advocating—were advocating, up to a certain point—advocating more job programs than appeared in the package—is there any chance that in its final form that jobs program will be increased?

Mr. MARSHALL. Well, I am not sure. All along we had in mind to monitor the whole package and see through time how it worked out, and if it didn't stimulate the economy enough, to add to the package.

Let me correct one impression about the jobs program and the component that we have in it. Many people think that President Carter did not give me all that I asked for in terms of public service employment and training programs in that recovery package. The contrary is the case. When I was reported as having said I was disappointed in that, what I meant was that when we studied carefully how much we could reasonably manage in terms of public service employment and training slots, it was a good bit less than I had hoped it would be when we started out, and my hope was based on the conviction—based on considerable study—that public service employment is one of the best ways to get the unemployment down. It is better, I think, than tax cuts, partly because you target the program and deal with the problems of particular groups, and partly also because it is a lot less expensive.

The net cost to the society or the net cost to the government in reducing unemployment through public service employment is considerably less, at least half as much as through a tax cut. So my original assumption was, as much as we could go towards public service employment was better, and minimizing the tax cut component in that package. But what we found was, when we made reasonable estimates about how much we could manage, how many people we could put to work doing useful things and how many training slots we could usefully fill, we came up with the assumption that about—going to about 725,000 public service jobs by the end of 1978 would be about as much as we could manage because what that amounts to is doubling the first year and when you consider that we will only have half a year to do it—going from roughly 300,000 slots to 600,000 slots—that means that you are increasing at quadruple the rate you started with and that poses some fairly significant management problems.

Our belief is that we should not put people to work doing things that are not useful and that the training should be meaningful and at the end of the training period people should have higher skills and be able to earn higher incomes.

The package I put together was the one that President Carter accepted completely. My disappointment was that we couldn't do more reasonably within the period of time that we have.

Mr. CLARK. We want to talk with you more later about specific job programs but what, as you understand it, are the dimensions of the economic package that is now taking final shape? Is the $11 billion tax figure correct and how much does that leave for the job programs?

Mr. MARSHALL. Well, the package is still being formulated so I don't think you could say it is entirely correct.

As I said, in the public service employment component we will increase from about 310,000 jobs now to 725,000 by the end of 1978 with most of that coming in fiscal year 1977.

In the training component we will increase from roughly 655,000 slots to over one million slots during that same period. So that means that the total increase in the public service employment and training and special programs—that is a better way to put it—which is the component of the package I was mainly responsible for—will increase over $5 billion during that two-year period. I am sorry. During the year and a half period. We really don't have two years. That is the thing we have to keep in mind.

Mr. CORDTZ. The performance of the economy in the fourth quarter last year was a serious disappointment and there is some question about how well it will perform this year. The Commissioner of your own Bureau of Labor Statistics, Julius Shushkin, recently suggested that the economy would have to grow at more than six percent in 1977 if you are to have any chance of reaching your goal of 6.5 percent unemployment rate by the end of the year.

What do you look for this year and will it enable you to meet your goal?

Mr. MARSHALL. Well, I hope so and I think that one of the advantages of having a flexible approach is that you can make readjustments as you go along. If it appears that we will not be able to reach that goal, and it becomes possible to do more later, we believe it is easier to start now things if you have them well planned in advance, if you have the mechanism to do it efficiently than to try to stop a stimulus package if you think you have gone too far.

I think it is going to be hard to reach the target with the program that we have got now and that we will have to readjust; but I am hopeful that we can do it.

But I also am well aware, as an economist, that forecasting is pretty hazardous. It is hard to know all the contingencies that are likely to develop in the economy between now and the end of the fiscal year. Some things could happen to stimulate economic development more. Some other packages will come in from other departments not involved in the stimulus package that might have some stimulating influence on the total system. We might have more increase, say, in exports than we expect, as economies in other countries improve. We might also have greater increases in business investment. And any of those things could cause the economy to recover.

What we are trying to do with the recovery package is to not over-stimulate the economy, but stimulate it enough to get consumer and business confidence that we are going to proceed in a sound and orderly fashion, and therefore, that this package will have more impact than just the aggregate amount that we are spending. It will indeed be a stimulative package.

Mr. CORDTZ. Over the long haul I think most economists will agree that the rise in productivity is what determines our own material living standard. Productivity gains have been slowing down in recent years, and there doesn't seem to be much to indicate that they will speed up very much again. Are we in for a long haul period of slower economic growth?

Mr. MARSHALL. Well, I think that is hard

to say. We need to do some things to try to improve productivity I think, and we should give heavy priority to that; particularly as we reduce the level of unemployment, it becomes extremely important to increase productivity in order to reduce inflationary measures in the system.

I think there are many things we can do to make the system more productive. There is a lot of slack in the system I think that could be taken up with appropriate kinds of incentives, and I hope we will do that.

I think we will be able—I am reasonably certain we will be able to improve productivity during the next year much more than certainly during these last couple of quarters, and that the outlook is not as bright as I would like for it to be, but we cannot predict the future over the next period from the slow growth during this immediate quarter we have just gone through.

Mr. CLARK. I was talking this weekend with Congressman John Conyers who is very concerned that the President's decision not to include military deserters among those pardoned for resistance to the Vietnam War will further aggravate the problem of black unemployment, and the point is that many blacks who are jobless have less than honorable military discharges, and many employers won't hire them. Have you given any special attention to this problem?

Mr. MARSHALL. I have given a fair amount of thought to the need to target programs on particular groups, and we have given a great deal of thought to the problems of veterans, because particularly young veterans have much higher rates of unemployment than non-veterans in similar circumstances.

I don't know all the reasons for that, but it seems to me that in all of our programs that we need to try to target them as much as we can. That is, to go out and find out what the special problems of particular groups are, and to try to develop programs to deal with those special problems.

It seems to me that we do this with people who have discharges that are less than honorable. It certainly seems to me to be in the national interest and equitable to try to get those people employed and into good jobs.

Mr. CLARK. You do plan to target special programs that would help veterans, and those would be primarily Vietnam veterans in recent years, whether they have honorable or less than honorable——

Mr. MARSHALL. We haven't really thought about the conditions of their discharge. If that makes a difference in their employment we ought to take a hard look at that and try to overcome it.

Mr. CLARK. We have heard a lot about the other specially targeted programs you have mentioned. Could you tell us a little more about what programs you have in mind for black teenagers, generally, who have the highest unemployment rate of any group in the country, approaching 35 to 40 percent in many major cities?

Mr. MARSHALL. Yes. Of course we are concerned about the problems of young people generally, and of course black teenagers have the highest unemployment rates, and we are putting together a youth employment package—youth training and employment, I should say. I think here again you need to target the particular groups.

The problems of teenagers who have dropped out of school are quite different from the problems of teenagers who are still in school. There is an age component that you have to be particularly concerned about. There, the labor market experience of different age groups vary. My view about it is that we put these young people to work doing useful things. I think they want to do that. I think it would be very unfortunate if we simply put them to work doing things that weren't useful and that the work was not meaningful. I don't believe we have to do that.

I have been talking with the Secretaries of Agriculture and Interior and identifying a lot of jobs in the National Forests and National Parks that young people can do; identifying the specific kinds of work they can do. I think we would have to be very unimaginative not to be able to find useful things for all these young people to do. In fact, I think the ultimate rejection of anybody is to put them to work doing useless things, because what you really communicate to them when you do that is, you don't believe they can do useful things. I believe they can do useful things. I know they can.

The same thing applies to the training. I think unfortunately a lot of the training we have had in the past has not been very meaningful. It has really been kind of income maintenance. I don't think that is necessary. I think we know what kinds of training programs are effective. We know, for example, that apprenticeship training is one of the most effective ways to get skills, and we have in mind greatly expanding the apprenticeship program.

[Announcements.]

Mr. CORDTZ. Mr. Marshall, you were talking a moment ago about your aims for apprenticeship programs. Aren't you going to run into resistance from organized labor in this area?

Mr. MARSHALL. On the contrary. Organized labor strongly supports apprenticeship programs. In fact they support it more than any other kind of training you can think of, partly because they know from their own experience that it is meaningful training; that you simultaneously train people on the job to acquire skills as well as in classroom settings to learn the theory of their crafts. It has been demonstrated repeatedly an apprentice training journeyman is less likely to be unemployed, is more likely to be upgraded to foreman and supervisory positions and to do that faster, to learn the trade faster and to be more productive than a craftsman who has learned it in any other way.

Mr. CORDTZ. But there have been accusations in the past that many of the unions have resisted bringing in blacks into their own apprenticeship programs.

Mr. MARSHALL. Well, I have worked a lot with those programs to bring in blacks and I think they did resist it when they felt that the programs to bring in blacks would be unrealistic in terms of the needs of the industry and in terms of the qualifications of the program.

In other words, they were worried that when you have an opening for ten slots that somebody might try to get you to take 100 or 150 new apprentices and that obviously would cause them some concern. Or they are concerned if you tried to lower the standards that they have set for apprenticeship programs.

The reason I don't think they are likely to be that concerned about apprenticeship is because we need to pay attention to all those things. That is, not expand it so fast that you undermine the conditions of people who are already trained.

A major problem, of course, a major reason that some apprenticeship programs will not now take in more apprentices is that they have so many people unemployed and I think that is a reasonable problem that the unions face. In other words, you are not likely to get them enthusiastic about taking in new apprentices when they have trained people unemployed. I think, though, that we need to pay particular attention to that problem because skill shortages are originating now. When we are not training people, when people are not being taken into apprenticeship programs because of high levels of unemployment and these shortages will show up when unemployment gets low, as bottlenecks in skilled workers that will put inflationary pressure on the labor market. I think that one of the things we are going to pay a good bit of attention to is how do you retain apprentices in the program as unemployment declines. Of course, what we hope is we will do it by reducing overall unemployment so that you won't get that kind of resistance.

One final thing I would say about that is that I think it would be a mistake to assume that you were going to get a lot more apprentices in, say, the building trades. What we need to do is to expand in areas where apprenticeship is not now commonly used to train skilled workers, like in the automotive industry, for example, where there are over a million jobs and very few people have any kind of formal training. At least meaningful formal training.

We are likely to face significant shortages in some areas like the health-manpower area, and apprenticeship is well suited for training non-physician-help professionals.

So I think with apprenticeship what we need to do is to try to expand apprenticeship into new areas and not concentrate on those that are relatively saturated now.

Mr. CLARK. You don't think, Mr. Marshall—and I say this more or less seriously—that Dan Cordtz might feel a little insecure if you assigned an apprentice to him as an apprentice economics editor, the point being there are a lot of labor union members who feel insecurity if they see too many apprentices around them. There still are a lot of labor unions that are trying to bar the doors or open the doors only a crack. Isn't this a serious problem?

Mr. MARSHALL. Well, I think it is a problem but it is a problem mainly because we have had so much unemployment in these industries, and in industries and occupations where you have fairly steady demand and low levels of unemployment you will get obviously a lot less resistance.

I think that one of the reasons I give so much priority to bringing unemployment down is because a lot of the problems in the society are associated with high levels of unemployment. And this includes resistance to take in people, more people into skilled trades, and I think it is an understandable concern that skilled workers have.

Mr. CLARK. To turn to a different subject, you have said there might be some merit in allowing unions to organize members of the Armed Forces. Would you expand a little on your views on this which I think startled some members of the military?

Mr. MARSHALL. Well, the way you put it startles me too because I don't think that is exactly what I said.

I know from my own military experience that the military is a different kind of organization from an ordinary company in that the discipline that is required in the military is not conducive to unionization, so I don't advocate unionization of the military.

What I do think the military can benefit from is an information system to make it possible for commanders to get information about the problems, grievances, complaints that their men have. I think it is good management if you have that kind of a system.

Now, this is similar to a grievance system that you would have in collective bargaining, but certainly it is not the same thing as unionization of the military and I don't even know what the final outline of such an information system would be like. It is frankly a question I haven't given a lot of thought to.

Mr. CLARK. To make it very clear, you are not advocating unions in the Armed Forces?

Mr. MARSHALL. Not at all and I do believe the Armed Forces could benefit from an in-

formation system to make it possible for commanders to get information outside the chain of command, and the reason I think they need that is because my experience was the chain of command was not a good way to get information from the bottom to the top, partly because you have to complain against your sergeant and if the sergeant then has to pass that word to the lieutenant, then you are not likely to get a very objective statement of your problem.

It is like in many other areas. It seems to me that it is just good management to have some mechanism to find out about the problems people you are responsible for face. I don't see how you can solve problems if you don't know about them.

Mr. CORDTZ. This is going to be a big year for labor negotiations. Contracts covering 5 million workers come up, and the first one signed in the oil industry is not too reassuring. It calls for 9 percent pay increases and other fringe benefits. If that kind of contract settlement spreads across industry, is that going to be a problem, and what will you do if anything to try to hold down the terms of settlements?

Mr. MARSHALL. I haven't examined the oil workers' settlement in depth, so that I don't know what the total impact of that settlement is likely to be. I think, though, that the percentage increase in wages is likely to be misleading in terms of its economic impact, because in the oil industry labor cost is only about ten percent of total cost, and therefore the impact on any particular industry depends heavily on the ratio of labor costs to total cost, and therefore how important the wage settlement is to the total cost of doing business in the industry.

Mr. CORDTZ. The refinery workers are among the highest paid now. Won't other workers want to have the same kind of benefits?

Mr. MARSHALL. There are patterns that get set in industry. Other industries won't necessarily pattern on the oil workers, others might. And I think this is a thing that you have to be concerned about: Whether or not you are likely to have inordinantly high settlements. This is not a thing that I worry a lot about this year, because I think we have a lot of slack in the system, and therefore, that inflation is not likely to be a very serious problem.

I think there is one aspect of it about which we need to be concerned, and that is that now is the time to start working out the arrangements to increase productivity as wages tend to rise. If you wait too long then you will be in trouble, because you won't get the same compulsion.

Mr. CLARK. I am afraid, Mr. Marshall, if we wait too long we will be in trouble.

Thank you, Mr. Marshall, for being with us on Issues and Answers.

Mr. SCOTT. Mr. President, I do want to say a few words in summation.

First, I thank the distinguished senior Senator from New York, who does favor the confirmation of Ray Marshall to be Secretary of Labor, for his courtesy in permitting me to have control of the time of those in opposition to the nomination.

I appreciate the distinguished chairman of the committee agreeing to the opposition having 3 hours compared with the 2 hours that those in support of the nomination had under the agreement.

I believe we have had a very good discussion of this nomination, of the gentleman's background and qualifications. We have had discussions of great variety of labor-related matters. Sometimes we seem to have gotten off the track a bit, but we have discussed the views of Dr. Marshall on OSHA regulations, his views with regard to Davis-Bacon, the changes in the minimum wage and his objection to a differential for youth. We have talked about the possible change in abolishment of section 14(b) of the Taft-Hartley Act. We have discussed his views on situs picketing, on the unionization of public employees, of the right to strike by public employees.

I think these are all matters that are worthy of consideration by the Senate in determining whether or not it will advise and consent to the nomination.

In all candor, however, my own opposition to Mr. Marshall is prefaced on his views with regard to collective bargaining in the military. This, to me, is just an untenable position. That is the basic reason that I am going to vote against confirmation. I believe it is the reason that many Senators on both sides of the aisle are going to vote against confirmation.

When he says that he believes in collective bargaining by the military, but not the right to strike, this is a learned man who knows when we have collective bargaining—and he says this, he admits it in his testimony—whether the law gives the right to strike or not, there may be a strike.

To me, there is a difference between the operation of the military and the democratic form of government that we all enjoy and appreciate outside of the military.

Mr. President, I will not take further time, but I do believe it is in the national interest that this nomination be rejected.

I am willing to yield back the remainder of my time if the chairman of the committee——

Mr. WILLIAMS. Just let me hold that.

Does the Senator from New Hampshire have a statement?

Mr. DURKIN. Just 1 minute.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, I state for the RECORD that I am thoroughly opposed to any form of unionization of the military. I think it is a serious mistake.

I think Dr. Marshall used some unfortunate language in first answering the question. I think the professor in him came out, he rambled on and talked far longer than the answer needed.

But I was satisfied since then, on one of the network quiz programs on Sunday, in statements now in the RECORD, that he has indicated that he is opposed to unionization of the military, and I accept his statement that he is opposed and would not support any movement to unionize the military.

I thank the Senator.

Mr. SCOTT. Mr. President, just taking 10 seconds further. I suggest that the distinguished Senator look at his responses on page 226 of the record, after the hearing was over, written responses indicating he does favor collective bargaining in the military.

Mr. President, I am ready to yield back my time.

Mr. DURKIN. Mr. President, I will be glad to read that if the Senator will read the transcript of Issues and Answers where he indicated that he was opposed to unionizing the military.

Mr. SCOTT. Mr. President, I saw the program Issues and Answers.

ADDITIONAL STATEMENTS SUBMITTED ON MARSHALL NOMINATION

Mr. RANDOLPH. Mr. President, the Secretary of Labor holds a pivotal position in the executive branch of our Federal Government. In these times of unemployment and inflation, the President and the Nation need a Secretary of Labor who can provide wise counsel and advice on which to base decisions leading to economic recovery.

More people employed and fewer out of work—these are the hoped for results of a balanced and reasoned jobs and economic policy that will break the deadly and stagnating cycle of recession, inflation, unemployment, budget deficits, and deflated tax revenues that have for too long characterized the American economy.

Mr. President, I believe President Carter has selected a man qualified to help lead our country back to growth and health. He has, in fact, begun to rely on this nominee in the development of his initial economic recovery package. But I do have some reservations.

F. Ray Marshall brings to the vital post for which he has been nominated an impressive academic background. Although he is a prolific writer, the author of several books and many articles, he is not a passive intellectual but an ardent activist in the best sense.

Dr. Marshall will bring to the Carter cabinet the knowledge and depth of understanding that are so urgently needed. I have disagreed with his stand on unionization of members of the Armed Forces. I questioned him on the right to strike in the public sector. I am against such a right.

In addition to the responsibilities inherent in advising the President of the United States on labor and the economy, the tasks which challenge him in his capacity as Secretary of Labor will put Dr. Marshall's vigor and intellect to a rigorous test. He will be required to administer a department with responsibility for the execution of some 130 laws. Some of those laws are controversial, and the pressure will be substantial.

Mr. President, Dr. Marshall seems to me a man who will conduct his office with equanimity and good humor, with perseverance and seriousness of purpose.

I shall vote to confirm F. Ray Marshall as Secretary of Labor, but I am not in agreement with his views on many subjects.

Mr. BAYH. Mr. President, I am going to cast my vote to affirm the nomination of F. Ray Marshall as Secretary of Labor. I do so with pleasure and with optimism that the new Secretary will bring with him a renewed determination to solve the multiple problems facing our Nation's workers.

It has been said that George Meany, president of the AFL–CIO, made a particularly revealing statement concerning Ray Marshall when introducing him to

Soviet dissident Alexandr I. Solzhenitsyn. In his introduction, President Meany describes Marshall as "one of the few American professors who understands the working people." Ray Marshall has demonstrated his concern and understanding for American workers by both his words and deeds.

The Labor Secretary-designate believes that urban problems can be partly solved by making rural life more attractive. He believes that the Nation's current 8.1 percent unemployment rate can be reduced by getting private industry to cooperate with the Federal Government in creating more jobs without running the risk of inflation. In addition, he believes that the only way to tackle job discrimination is to show guilty employers that they are losing as much as their victims by continuing such illegal practices. This is the consensus of those who have worked with the Secretary-designate in urban, rural, employment and civil rights projects. Those who have known him best through the years stress that his deep conviction to improve the lot of the disadvantaged—whether black or white, male or female, comes from his own background and personal experience with poverty.

F. Ray Marshall was born in Oak Grove, La., on August 22, 1928. He spent much of his life in a Baptist orphanage. There, he told friends, he would arise at 3 a.m. to perform farm chores. After running away from the orphanage at age 15, he overstated his age and enlisted in the Navy during World War II.

After completing his service. Marshall returned to complete his education, graduating in economics from Millsaps College in Jackson, Miss., in 1949. After graduating from Millsaps, he went to Louisiana State University and became a leader in the movement to integrate the school. He received his masters from Louisiana State more than a decade before the school admitted its first black student. Marshall went on to receive his Ph. D. in economics from the University of California at Berkeley in 1954.

After obtaining his doctorate. Marshall taught at the University of Mississippi and Louisiana University before going to the University of Texas in 1962 as a full professor at the age of 34. During the period of the 1950's and 1960's, he became an outspoken champion of desegregation. Except for a brief period in the late sixties, Marshall has remained an active member of the economics department at the University of Texas.

While Ray Marshall has never served directly in the Federal Government, he has gained considerable expertise by serving on advisory commissions in the manpower area. He is currently chairman of the Federal Committee on Apprenticeships and a member of the National Council on Employment Policy—an organization charged with identifying the Nation's manpower needs.

The Labor Secretary-designate has shown a particular sensitivity to rural employment problems. He is the president of the National Rural Center and has written with knowledge about the problems of the rural worker.

Perhaps most importantly, the Labor Secretary-designate has shown a special concern for the problems of black and women workers. He has been instrumental in encouraging blacks to enter apprenticeship programs for skilled trades and in persuading unions to take blacks into such programs. Recently he has developed programs to train women for greater access to professional positions.

The major problem facing American workers today, whether they are black or white, male or female, is unemployment. I was particularly pleased by Ray Marshall's strong statements before the Senate Labor and Public Welfare Committee on the clear need for more public service jobs. I look forward to working with the new Secretary in any way I can to achieve our common goals.

Mr. GARN. Mr. President, Dr. Marshall's testimony tells me that he is totally pro-labor. Instead of exhibiting the complete objectivity I think this position demands, Dr. Marshall is espousing organized labor's point of view on every controversial issue.

He favors the repeal of right-to-work laws, which guarantee one of the basic rights of a free society. He favors common situs picketing which the majority of American people, including the majority of rank and file union members, oppose. He is for extending compulsory collective bargaining to the public sector and does not support the Supreme Court decision which declared unconstitutional the extension of the Fair Labor Standards Act to local governments. In other words, he favors taking away the right of local and State government officials to deal with their own employees on their own terms. He is also on the record as favoring raising the minimum wage which, historically, has meant an increase in unemployment.

A Secretary of Labor should represent all working men and women, not just the minority who belong to labor unions or, more importantly, labor leaders. From all I have been able to learn of Dr. Marshall's positions on labor issues, the country would be just as well off if we had George Meany or another labor leader as Secretary.

A statement I have used before, which applies now, is the Secretary of Labor should be just that and not the Secretary of Labor Unions.

Mr. BELLMON. Mr. President, I plan to vote against the confirmation of F. Ray Marshall as Secretary of Labor because I believe the positions he has taken would add to inflation, raise construction costs, weaken national defense, and hamper the return to high employment.

Mr. Marshall told the Senate Labor and Public Welfare Committee he favors repeal of section 14(b) of the Taft- Hartley Act, unionization of the military forces, common situs picketing, and unions for public service employees.

Unionization of the military is unthinkable. Command decisions concerning the defense of our country cannot be subject to the whim and fancy of a strike committee.

President Carter's Labor Secretary nominee also supports complete public employee collective bargaining. We should have learned our lesson on this subject from New York City. If strikes and slowdowns don't paralyze government, the monetary and fringe benefit demands most likely will.

Mr. Marshall also has said he opposes altering minimum wage requirements for youth. Youths under 25 account for about 25 percent of the work force, yet they comprise 50 percent of the unemployed today. Incentives are needed to encourage employers to hire young people so they may start to be productive citizens rather than remaining on unemployed rolls.

While opposing a waiver for youth, Mr. Marshall favors increasing the minimum wage. Of course, everybody wants to make more money, but an increase in the minimum wage now would add to inflation and increase unemployment. Not only would the minimum wage rise, but other paychecks would have to go up to keep pace. Present law has built-in adjustments for minimum wages. These are adequate for the present.

Mr. President, Mr. Marshall's ideas, if they should become law or national policy, would seriously inhibit the Nation's economic recovery and hasten the return of inflation. The Secretary of Labor in these times needs to be aware of the broad impact of his decisions. His job is not to be a tool of union bosses. His job is to make decisions and set policies which are in the national interest. My vote against the Marshall confirmation is a vote against narrow policies which serve only one segment of the country.

Mr. HOLLINGS. Mr. President, after a thorough examination of the hearing record, I am compelled to rise in opposition to the nomination of F. Ray Marshall to be Secretary of Labor.

Dr. Marshall has stated unequivocally that he favors the repeal of section 14(b) of the Taft-Hartley Act and he favors the common situs picketing bill that passed the Congress last year. I cannot support such a position.

In South Carolina we have one of the best business climates of any State. We also have one of the best labor climates. My State enjoys a responsible labor movement, and yet the individual worker is protected from coercion by the South Carolina right to work law. While my business friends seem to have forgotten, my labor friends frequently remind me of my role in writing our State's right to work law when I was a member of the State house of representatives.

My determination against coercion remains. The repeal of section 14(b) would nullify the prohibitions against compulsory unionism adopted by 20 States. It would further deny the remaining 30 States the option of enacting such laws in the future.

Also, it is clear that the common situs picketing legislation should be defeated. This proposal provides that on a construction job where there are many subcontractors—for plumbing, masonry, carpentry, steelwork, et cetera—a dispute between the owner and one of the subcontractors should be considered a dispute between them all. The legal theory is that the owner and each subcontractor are engaged in a joint venture, when in

law and in fact everyone knows otherwise. Contractors and subcontractors on a construction project do not place their assets in the project for a proportional share of the profit and loss. On the contrary, there is a basic difference in interests, and many possibilities of claims normally arise over which the other subcontractors would have no control, no knowledge, and no interest.

Aside from the legal niceties, the practical thrust of this proposal is "to see every job in America a union job." This was the testimony of the union witnesses at the hearings last year. With this tool, a union subcontractor could shut down the entire job unless all the subcontractors were union. Delivery of materials to the job site could be prevented unless the truck in which they were delivered was a union driver, and it could be stretched to require union-manufactured materials. To me, requiring everyone to belong to unions—or requiring everyone to be nonunion—is wrong.

Dr. Marshall has further testified on his position as to whether or not public employees should have the right to strike. The record shows that he feels other methods of resolving conflicts are desirable, but that public employee strikes may also be appropriate. Of course I agree that other methods of resolving conflicts are desirable, but I cannot go along with giving the public employee the right to strike. I hate to even consider what might happen when the breakdown would come.

When asked, "What are your views with regard to a unionized military?" Dr. Marshall responded:

I think there is probably some merit to it.

I am opposed to this idea and I have joined with other Senators in sponsoring a bill to prohibit unionization of our uniformed military forces.

An effective military is based on discipline and command. Life in the military and life in the civilian sector are two very different things, and I do not see how unions could be applied to the military without seriously eroding the defense capabilities of the United States.

Mr. President, I cannot support the nomination of a man who is so totally counter to my positions on these major issues. I will therefore cast my vote against the nomination of Dr. F. Ray Marshall to be Secretary of Labor.

Mr. DECONCINI. Mr. President, Dr. Ray Marshall has been nominated to be Secretary of Labor by our newly elected President Jimmy Carter.

I respect the right of a President to appoint the members of his Cabinet. It is also, however, the constitutional prerogative of the Senate to advise and consent that nomination. I believe that when the framers of the Constitution gave that power to the Senate, they expected it to be exercised moderately and judiciously.

No man nominated for any position can possibly be acceptable to every Member of the Senate. In voting upon the nomination of Cabinet members, each Senator cannot cast his vote based upon a purely personal preference or dislike for some of the views of the nominee. Each Senator must give due weight to the fact that the nominee reflects the desires of the President.

Dr. Marshall has expressed views with which I do not agree. Specifically, he has stated his belief that section 14(b) of the Taft-Hartley Act should be repealed. That is the section which allows States the right to decide whether or not they will have "right to work" laws. I am deeply committed to the retention of section 14(b). The people of Arizona have expressed themselves on this issue as well.

With the exception of this one area of disagreement, I believe that Dr. Marshall will perform his duties as Secretary of Labor exceedingly well. This creates something of a personal dilemma.

I have decided, however, to vote for the nomination. The conclusion is based upon my belief that a Senator ought to respect the wishes of the President, and should exercise his constitutional right only when the nominee appears unsuitable for the position, not because he disagrees with one position the nominee has taken.

I want it clearly understood, however, that my vote in support of Dr. Marshall in no way diminishes my belief that section 14(b) should not be repealed. I will actively oppose any measure of that sort initiated by the Department of Labor or any other agency. The citizens of each State should retain the right to make this decision for themselves.

Mr. DOMENICI. Mr. President, the nomination of F. Ray Marshall to be Secretary of Labor has caused me deep concern.

Two specific issues disturb me most—his support of unionization of the armed services of the Nation and his support for unionization of public employees.

Unions have played an important role in this Nation in obtaining for workers a proper rate of pay and an unprecedented standard of living.

However, both the armed services of this country and local communities face problems much different than those confronted by private enterprise.

I absolutely oppose unionization of the armed services and I hope that Mr. Marshall will not do anything to further this ill-conceived and potentially damaging effort. The armed services' effectiveness is based upon immediate reaction to command, discipline of a high order, and a willingness to risk one's life, in some cases. It is an understatement to say that such attributes mitigate against unionization. Indeed, unionization could lead to a fatal breakdown in the discipline needed to maintain the national security.

The question of unionization of public employees poses different problems, but problems nevertheless. Counties and other local governments work on fixed budgets, determined by tax rates set years in advance and by returns on bond issues approved earlier by the citizens.

Local governments do not have the flexibility to suddenly increase pay in midyear to those who work for them. Ability to negotiate is hampered. Yet, services essential to the safety and health of the community must go on.

As a former chief elected official for an American city, let me also mention another aspect of Federal involvement in unionization of public employees. The relationship between municipalities and their employees should not be infringed upon by the Federal Government. We do not pay the salaries of local public employees. We do not set the tax rates, nor collect the taxes, that pay for those salaries. We should leave to the localities involved this delicate question of collective bargaining with public employees and I hope Mr. Marshall will recognize this.

I am impressed by Mr. Marshall's sensitivity to the needs of Americans of every background. And, I believe that he understands the need to represent all workers, not just those who belong to a union.

Right now the top priority for the Department of Labor is to help draft policies that will put every American to work who can work and is without a job. Many plans have been proposed and the answer may lie in a combination of private and public measures. I hope that Mr. Marshall will choose to emphasize, as much as possible, the role of the private sector in providing the jobs America needs and not come down entirely on the side of merely increased Federal funding to provide short-term, dead-end jobs.

I intend to vote for Mr. Marshall, but to watch closely as he pursues policies within the Department.

Mr. CANNON. Mr. President, the Senate today is to vote on the nomination of Dr. Ray Marshall to be Secretary of Labor. I will support that nomination.

Following Dr. Marshall's testimony, I had reservations about his appointment. Nevada is one of the 20 right-to-work States, and Dr. Marshall openly advocates repeal of section 14(b) of the Taft-Hartley Act. This deeply disturbed me since the voters of my State enacted the right-to-work law and three times reaffirmed their choice. In addition, Dr. Marshall favors the common situs picketing bill, which I opposed during the 94th Congress.

In a recent issue of the CONGRESSIONAL RECORD, Senator STROM THURMOND of South Carolina, who is from a right-to-work State and who said he would support the Secretary-designate, said Dr. Marshall indicated to him he will take no part in pushing for repeal of section 14(b). The Senator said that while Marshall personally favors repeal of section 14(b), Marshall assured him the matter was of a legislative nature and should be left to the discretion of Congress. Further, Marshall said section 14(b) was not important within the scope of the Labor Department. Marshall advised the Senator that public employee collective bargaining and military unionization matters also were not important within the scope of the Labor Department's mission. The Senator said Dr. Marshall is very aware of the differences between his personal views and official duties on

these matters. Because Mr. Marshall has given strong assurances to my Republican colleague from South Carolina that he feels section 14(b), common situs and these other important matters are prerogatives of the Congress and not areas to be initiated by the Labor Department, I will vote to confirm his nomination. My vote in no way minimizes the differences I have with Mr. Marshall on these issues, but I recognize that any nominee submitted by the administration would share Mr. Marshall's views, as did his predecessor while serving under President Ford.

In addition, Nevada and America still have unemployment rates that are unacceptable, and the unemployment and welfare rolls are severely taxing our system. Changes are needed, and they are needed now.

Dr. Marshall is considered a leading expert on manpower programs, and I have read where he plans, if confirmed, to utilize the resources of the Labor Department to combat not just the surface problem of unemployment, but the roots of the problem.

Further, Dr. Marshall gives high priority to helping solve the problems of unemployed veterans. America's veterans, especially the young Vietnam-era veterans, need help, and Dr. Marshall says he intends to see that they get it.

In addition, Dr. Marshall is a leading expert on rural manpower problems, and this is good for the Nation and for my State. Nevada's ranching and farming operations have long needed help from the Labor Department on their manpower shortages. I have hopes Dr. Marshall, who is very aware of these problems, will work to solve them once and for all.

America has gone too long without a comprehensive and workable program to combat our country's manpower ills. I feel Dr. Marshall is the man to get that program under way. Although we have differences, I believe Dr. Marshall will make a good Secretary of Labor, and I will support him.

Mr. DOLE. Mr. President, in the view of the Senator from Kansas, Mr. F. Ray Marshall should be confirmed as Secretary of Labor, but I want to express my reservations about his position on numerous issues.

This is an important post and I trust it will be filled responsibly. American workers—men and women—look to the Secretary of Labor for leadership. But every American, regardless of his relationship with the Department of Labor, is probably affected by policies of the Secretary of Labor, because of the general economic impact.

Mediation of labor disputes, job safety, employment services, and other functions of the Department of Labor are important to the Nation as a whole.

My support for this nomination should not be taken as agreeing with the views of Mr. Marshall. The Senator from Kansas disagrees strongly with a number of views that have been stated by Mr. Marshall.

A major area of concern is Marshall's position on military unions. While his views are somewhat unclear at this point, he has expressed some support for unionization of the military. I strongly believe that military unions would be a disaster for our national security and for the existence of democracy around the world. I intend to strongly oppose any effort to unionize our military forces.

Mr. Marshall's advocacy of repealing the right-to-work law is also highly objectionable to me. My State of Kansas is a "right to work" State. We have one of the lowest unemployment rates of any place in the country. Mr. Marshall has also indicated he would support enactment of a common situs picketing bill. I have strongly opposed the passage of this legislation.

My disagreements with the philosophical views of F. Ray Marshall should not be a basis to oppose his confirmation. Even if he somehow should not be confirmed, the President would simply nominate another individual of similar views, for the President has made this choice, and the positions Marshall holds surely reflect what President Carter is seeking. The Senator from Kansas will vote in favor of this nomination.

Mr. SCOTT. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Ray Marshall, of Texas, to be Secretary of Labor? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 74, nays 20, as follows:

[Rollcall Vote No. 12 Ex.]

YEAS—74

Anderson	Durkin	Long
Bayh	Eagleton	Magnuson
Bentsen	Eastland	Mathias
Biden	Ford	Matsunaga
Bumpers	Glenn	McIntyre
Burdick	Gravel	Melcher
Byrd, Robert C.	Griffin	Metcalf
Cannon	Hart	Metzenbaum
Case	Haskell	Morgan
Chafee	Hatfield	Moynihan
Chiles	Hathaway	Muskie
Church	Heinz	Nelson
Clark	Huddleston	Nunn
Cranston	Humphrey	Packwood
Culver	Jackson	Pearson
Danforth	Javits	Pell
DeConcini	Johnston	Percy
Dole	Kennedy	Proxmire
Domenici	Leahy	Randolph
Ribicoff	Sparkman	Talmadge
Riegle	Stafford	Thurmond
Roth	Stennis	Weicker
Sarbanes	Stevens	Williams
Sasser	Stevenson	Young
Schweiker	Stone	

NAYS—20

Allen	Hansen	McClellan
Baker	Hatch	McClure
Bellmon	Hayakawa	Schmitt
Byrd, Harry F., Jr.	Helms	Scott
Curtis	Hollings	Tower
Garn	Laxalt	Wallop
	Lugar	Zorinsky

NOT VOTING—6

Abourezk	Brooke	Inouye
Bartlett	Goldwater	McGovern

So the nomination was confirmed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. HUMPHREY. I move to lay that motion on the table.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

RELEASE OF ABU DAOUD

The PRESIDING OFFICER. Under the previous order the Senate will now immediately proceed to the consideration of Senate Resolution 48 which the clerk will state by title.

The second assistant legislative clerk read as follows:

A resolution with respect to the release of Abu Daoud.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Time for debate on this resolution is limited to 30 minutes to be equally divided and controlled by the Senator from New Jersey (Mr. CASE) and the Senator from Minnesota (Mr. HUMPHREY), with 20 minutes on any amendment, and 10 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. HUMPHREY. Mr. President, I am not at all sure just how much discussion there will be on this particular resolution.

Has the resolution been reported?

The PRESIDING OFFICER. It has been reported and is now before the Senate.

Mr. HUMPHREY. Mr. President, nearly 3 weeks ago, the international community was stunned by the precipitate decision on the part of the French Government to release Abu Daoud, a self-professed Palestinian terrorist who is accused of masterminding the 1972 Munich massacre of 11 Israeli Olympic athletes.

The U.S. Government rightly condemned this action, particularly in light of the fact that the Government of West

Germany was not given adequate time to officially present its case for extradition. The French justified their action on technical, legal grounds which precipitated the following observation from one of France's leading newspaper, Le Monde:

When you have a police service which doesn't obey orders and a legal system which does, and a government which opts for political expediency in the face of domestic and world opinion, it all adds up to an unfortunate mess.

Mr. President, it is indeed "an unfortunate mess," because the French action seriously affects international efforts to combat terrorism. This is an international problem which goes far beyond our interference with the internal affairs of another nation. France is a signatory to a tough, antiterrorist treaty drafted by the European Common Market. Yet, the very credibility of this treaty is called into question by this incident. If terrorists are led to believe that such instruments are nothing but hollow words; that provisions of such a document will not be strictly enforced; then they will continue to act with impunity and the innocent will continue to be the victims of these crimes against humanity.

The American people feel very strongly about the Abu Daoud affair, as evidenced by the sampling of editorial opinion in the United States which I am inserting in the RECORD today. The Senate feels very strongly about the handling of the Abu Daoud affair, as evidenced by the fact that 44 Senators immediately sent a letter of protest to the French Ambassador.

The Senate Committee on Foreign Relations feels very strongly about the implications of the Abu Daoud affair, as evidenced by the favorable reporting of the resolution we are considering this afternoon. We believe the implications of this incident are serious enough to stipulate that, and I quote from the resolution,

. . . the United States should consult promptly with France and other friendly nations to seek ways to prevent a recurrence of a situation in which a self-professed terrorist leader is released from detention without facing pending criminal charges in a court of law.

Mr. President, this is a deeply serious matter. International terrorism has claimed the lives of countless innocent victims. Are we to turn our backs on future potential victims of the terrorists by condoning the decision of the French Government by not expressing our concern publicly? I think not. I think it would be an abrogation of our moral responsibility.

Abu Daoud has had a long, documented history of involvement in terrorist activity. He was one of the participants in the so-called Black September movement—a Fatah commando leader—who was jailed by the Jordanians after being convicted of plotting to overthrow the government and assassinate King Hussein.

Daoud's imprisonment led to another "Black September" operation in Khartoum, the Sudan, in 1973. This operation led to the death of U.S. Ambassador Cleo A. Noel, Jr., and two other Western diplomats. The operation was conducted in an effort to free Daoud.

Additional information on Daoud is revealed in a book written by Christopher Dobson entitled, "Black September, Its Short, Violent History," excerpts of which I am providing for the RECORD.

Mr. President, I believe it is the responsibility of the Senate to approve the action taken by the Senate Foreign Relations Committee in expressing our views. Once again, I repeat that the French action goes far beyond the issue of meddling in the internal affairs of another nation, and one which we have been asked to bear in silence. It is an issue in which all humanity has a significant stake if we are to be successful in efforts to protect innocent people from the indiscriminate tactics of terrorism.

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts from "Black September" and various newspaper articles attached to my statement.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BLACK SEPTEMBER—ITS SHORT, VIOLENT HISTORY

(By Christopher Dobson)

One man who might have succeeded to that post is the only Black September leader so far known to have died a natural death—Fuad Shemali, a Lebanese Christian who died of cancer in Geneva in August 1972. Shemali was one of the organizers of the "Munich Massacre" of eleven members of Israel's Olympic team and he left a testament in which he called for the kidnapping and killing of people held in high esteem by the Israelis. In his lifetime he preached the sanctity of violence and when he died Black September issued a statement saying: "Black September hereby declares that the only way to compensate for his death is to implement his philosophy in its most extreme form."

Abu Youssef, who succeeded to Shemali's position, carried out his teachings to the full before he was killed by the Israelis in the raid on Beirut. He was responsible not only for the assassination of Wash Tell but also for the hijacking of a Sabena airliner at Lod airport in May 1972 and the capture of the Israeli Embassy in Bangkok in March 1973. His death led to the increasing involvement of Khalil al Wazir (Abu Jihad) in Black September affairs. Wazir was one of the founders of Fatah and is rated third in its leadership. He is something of a foreign affairs expert with close links with Algeria and China and is believed to have opened up Black September's liaison with the Irish Republican Army. He has been involved in two abortive operations, the attack on the Israeli Embassy in Bangkok and the Abu Daoud expedition to Amman. He is shy, lives in Damascus and is known as "the silent man."

Ghazi el Husseini, one of the relatives of the Mufti of Jerusalem who figure among the leaders of Black September, is an engineer who was educated in Germany and is the "dirty tricks" expert who supplies sophisticated equipment for specialized operations.

Another technical expert is Ahmed Afghani (Abu Motassin), who controls Fatah's finances and is deeply involved in the supply of arms and equipment to Black September.

Then there is the killer: Fakhri al Umari, head of the special services section. He was one of ten Fatah men—Abu Daoud and Ali Hassan Salameh were also among them—who were sent to Cairo on an intelligence training course in August 1969. The course lasted six weeks and covered all aspects of secret intelligence work. According to Abu Daoud's testimony, Fakhri al Umari was the "case officer" for the Munich operation and supplied the arms, eight Kalashnikovs and ten grenades, which he left in a box at the Munich railway station to be picked up by the terrorists who raided the Israeli quarters in the Olympic Village.

These men and a few others form the basis of Black September. It is an all-officer situation because the troops are readily available from the ranks of the fedayeen. When an operation is planned two or three likely candidates, men and women, are brought in from the main resistance movements, in particular Fatah and PFLP, who until recently, have worked closely together in matters of terror. Before they go into training the recruits must swear on oath their total obedience to Black September. Until they do this they will not know the nature of the operation. They are then trained for that particular operation and their squad may include foreigners and specialists. They are kept incommunicado and the utmost secrecy is involved. Often only their leader is told the full details of their assignment. This system has its disadvantages. For example, when the girl leader of the mixed Japanese-Palestinian group that hijacked a Japanese airlines Jumbo jet in July 1973 accidentally blew herself up with a grenade strapped around her waist, the surviving members of the group could not carry out the operation fully because they did not know what to do. Sometimes, likely recruits are co-opted even when there is no assignment ready for them. They are treated generously and live well, with Black September footing the bill on the assumption that when their turn comes they stand a good chance of being killed.

Abu Daoud was the first Black Septemberist to give details of the way they work and to positively link Fatah and Arafat to Black September. He was caught by the Jordanians in February 1973 as he was driving round Amman reconnoitering government buildings for an attack by sixteen fedayeen who were to cross the border in cars with specially welded compartments laden with arms and explosives. He was dressed as a Saudi Arabian shiek and had a fifteen-year-old girl with him, posing as his wife. His objective, he said, was to "occupy the Prime Minister's office, arrest the ministers and to bargain for the release of the detainees in Jordan . . ."

He was stopped by one of the patrols that keep a tight grip on Amman, and when an examination of his passport showed him to be the father of six children while his "wife" sitting alongside him was obviously a child, the policeman became curious. Moslems are of course allowed four wives, but the situation was sufficiently intriguing for the ever-suspicious Bedouin to invite him to accompany him to the police station. Whereupon his child-bride panicked, dropped the gun and ammunition she was carrying under her robe, and they were arrested.

The tall, lean Abu Daoud sang like a bird, and the Jordanians suggest that it was because he suspected Abu Iyad had sent him on a suicide mission to get him out of the way. The reasoning behind this suspicion of double-dealing is that Abu Iyad comes from Gaza and Abu Daoud comes from the West Bank of the Jordan and there is bitter rivalry between these two factions. When asked if it was possible that Abu Daoud was betrayed by his comrades, the Jordanians just shrug and smile. However, Abu Daoud was sufficiently convinced he had been betrayed to make it unnecessary for any of the more customary methods to be used to make him talk.

He was a big catch, one of Black September and Fatah's top leaders. He named himself as a member of the Revolutionary Council of Fatah since 1970 and he was recognized as one of Black September's chieftains in the field. The true measure of his importance is

that both Black September and PFLP staged special operations to obtain his release.

The Khartoum massacre in the Saudi Arabian Embassy of the United States Ambassador, Mr. Cleo Noel, his chargé d'affaires, Mr. George Moore, and the Belgian chargé, M. Guy Eid, and the seizing of the Saudi Arabian Embassy in Paris were both carried out by terrorists who demanded his release. It is not, however, certain that Abu Daoud would have welcomed being released in this manner, for the men who carried out the Paris operation called themselves the "Punishment Group" and the idea persists that they wanted not to free Abu Daoud but to execute him for revealing Black September's secrets. In the end he was released without the help of his terrorist friends. King Hussein set him free as a result of Jordan's reconciliation with Egypt and Syria, which led to Hussein granting an amnesty for all the fedayeen he had under detention.

When Abu Daoud's confession was broadcast over Amman radio his shocked comrades accused Hussein of faking it, but this argument was destroyed when Abu Daoud, in tears, repeated what he had said on a BBC television program. It is always possible that he was lying to save his skin—he had been sentenced to death but was pardoned by Hussein—but his testimony was checked against that of the men of his group who were picked up when they crossed the Jordanian border and it tallies.

In Western intelligence circles his story is regarded as being accurate except when he talked about his own involvement with the Munich Massacre. This is a story we shall come to later.

What he had to say about the organization of Black September was particularly damaging to Fatah's claim that it has not connection with Black September.

"There is no such thing as Black September," he said. "Fatah announces its own operations under this name so that Fatah will not appear as the direct executor of the operations. . . . Abu Iyad carries out special operations whose quality, not quantity, is accentuated. He plans for big operations like Munich. . . . In the Munich operation and the operation against the Premier's office [in Amman], it seemer to me that Abu Iyad was behind them both. Whether Abu Iyad planned with others or was working on his own I cannot say definitely. If Abu Iyad did not plan with others, the accusing finger would point to him alone." And he went on to give the first indication that Arafat might be involved with actual Black September operations by claiming that four of the men in his group were personally chosen by Arafat.

Curiously enough, Arafat began to talk almost as if he wished to be recognized as a leader of Black September soon after Abu Daoud's capture. In March 1973, when President Nimeiry of the Sudan accused the Fatah representatives in Khartoum of helping to organize the Khartoum massacre, Arafat said: "I see nothing strange in Fatah elements joining Black September. . . . Japanese, Turks, Iranians and other strugglers from foreign countries" had taken part in Black September operations, and he asked: "Is it strange therefore that Palestinians, even commandos from the various resistance groups, should join this organization?"

All this makes nonsense of Fatah's claim to know nothing about Black September. There was an Alice-in-Wonderland quality about the meeting I had with Fatah's spokesman, Abu Hatim, in his Beriut office—which at the time was under siege by the Lebanese army—and listening to him declaim passionately: "Actions undertaken by Black September have no relation with Fatah or the Palestinian Liberation Organization.

Arafat's role, however, despite his intimate knowledge of Black September and the possibility of his involvement on the fringe of operations, has been to provide the front under which the real terrorist can work. He can live in the Grand Hotels, he can talk to Presidents and generals, he can maintain the Palestinian cause as a political entity and he can plead for that cause in the world forum. He is sustained in this position by his own character, which earns him respect in the Arab world—despite his unprepossessing appearance and his soft handshake. He was born in Jerusalem in 1929, writes poetry, is religious, does not drink, does not smoke and has no interest in women. He once told his sister, "I already have a wife—the Revolution." He therefore enjoys something of the reverence accorded to a holy man. Even has colloquial name, Abu Ammar—The Father of Ammar—is a typically Arab play on the name of one of the Prophet Mohammed's followers who was called Ammar ben Yasir—Ammar, the son of Yasir.

The money that finances the expensive business of terrorism comes both willingly and unwillingly from the Arab world. The "revolutionary" states of Egypt, Libya, Syria and Iraq pay annual dues to the Palestine Liberation Organization in a perfectly open fashion to support the resistance movement. Much of this money, however, is then passed to Fatah—Arafat is chairman of both organizations—and then Fatah uses it to finance the terrorist operations it carries out under the name of Black September.

In addition, the "feudal" oil-rich states of Arabia and the Gulf pay their protection money to the resistance movement. Kuwait, Saudi Arabia, Abu Dhabi and Dubai are among the states which have become the unwilling financiers of Black September outrages—a piquant situation when set alongside the avowed intention of the terrorists to destroy the feudal regimes.

The Massacre at Munich

Munich is likely to prove to be Black September's own Karameh, its greatest success which at the same time sowed the seeds of its own destruction. The success, in the terrorist terms of forcing the world to take notice of the Palestinians, could not be bettered. Television, geared to show the games to every corner of the globe by satellite, gave the world a front-row seat to watch the day-long drama which left eleven members of the Israeli team, five Black Septembrists and one German policeman dead after the battle at Furstenfeldbruck airfield. Millions of people agonized over the harrowing pictures of terrorism at work in a setting designed to emphasize brotherhood of man and the joy of peaceful competition. But while so many saw the denouement of the plot, few knew the details of its organization and none could know what results it would have.

One of the few men who knew about the plot was Abu Daoud. The story he told his Jordanian interrogators was that he was in Sofia buying arms for Fatah at the beginning of August 1972 and traveling with a forged Iraqi passport under the name of Saad ad-Din Wali when Abu Iyad arrived from Geneva with Fakhri al Umari and told him about the plan to attack the Israeli team at the Olympic Games.

According to Abu Daoud, the Black September leader asked him to give his Iraqi passport to Fakhri al Umari because it contained a valid German visa. Abu Daoud maintains that he did this after he had returned from Libya and swears that he took no further part in the operation but was later told by Abu Iyad and Fakhri al Umari what had happened. However, Western intelligence services are convinced that Abu Daoud used the Iraqi p ssport himself, was present throughout the operation and was one of its principal organizers. German police investigators discovered that Fakhri al Umari and a man who called himself Saad ad-Din Wali were in Munich at the same time and they are certain that Saad ad-Din Wali, whose Iraqi passport gave his occupation as journalism, was Abu Daoud. The records show that he was registered at a small Munich hotel from late June until September 5, the day of the massacre. The Western authorities believe that he hid his connection with the Munich affair—and that the Jordanian authorities allowed him to do so—to avoid any international demand for his extradition and trial. It also explains why such strenuous efforts were made to secure his release. However, while Abu Daoud's claim that he was not involved is not believed, the rest of his story is, and it caused the most extreme embarrassment to Yasir Arafat and Abu Iyad. This is his account of Munich as it was broadcast over Amman radio:

"Three days after my return to Libya, Abu Iyad contacted Fakhri al Umari and asked him to go to Munich with Yusuf Nazzal, who was traveling on an Algerian passport. In Munich, Fakhri al Umari tried to enter and reconnoiter the Olympic Village but he was turned away. He was obliged to get another person to help him. He got Mohammed Masalhah from Libya because he knows several languages, including German, and had worked as an architect in the Olympic Village while it was being built.

"It was Masalhah who reconnoitered the Village, using his cleverness, his good German and his knowledge of the entrances. He was able to learn where the Israelis were staying, which was opposite the Saudi team. The Saudis did not know anything about this operation, but Masalhah got into their quarters in his capacity as an architect and he was able to find out that the Israeli building was similar to the Saudi building and so plan the attack.

"Masalhah had taken with him the instructions for the operation from Abu Iyad. He had a statement written in English and a list of the fedayeen detainees whose release was to be demanded. Two groups totaling six were to take part in the operation, making eight with Masalhah and Yusuf Nazzal. They were to detain the Israeli team and negotiate for the release of the fedayeen. The code name for the operation was Ikrit and Birim [the names of two Arab villages which the Israelis occupied in 1948 and have refused to give back]. If the Israelis released their prisoners and took them to any Arab country except Lebanon or Jordan, the members of the Israeli team were to be taken with the eight men by plane to Tunisia and there they would have been released. In the event of a refusal, they were to go in a plane to Tunis, provided they were able to safeguard their travel to the airport in a closed van. The instructions did not include opening fire on the Israeli team. . . .

"The youths had come from Libya. Some of them came via Rome to Munich and the others came via Belgrade. Each group was composed of three people. The first group arrived on September 2 and the second the following day. Fakhri al Umari supplied the arms in two installments, the first on September 1 and the second on the morning of September 4. The arms consisted of eight Kalashnikovs and ten grenades. Mohammed Masalhah took the arms from a box at the railway station, where they had been left by Fakhri al Umari. Mohammed Masalhah and Yusuf Nazzal booked the youths into hotels in Munich.

"Fakhri al Umari left on September 4 for Rome before the operation started and from there he went to Tripoli in Libya. After oné day he flew to Beirut and then went to Damascus, where he remained. . . .

"The man responsible for the Munich operation was the acting political officer Mohammed Masalhah. No German nationals or Arabs resident in Germany took part in the operation. . . . The plan was that the young

men would jump over the wall at 0400 on September 5."

This they did. Two guards saw them, but as they were dressed in track suits and carried large bags the guards assumed they were athletes who had been out late and were returning home in an unconventional fashion. They made directly for the Israeli quarters, burst in and killed two men who tried to tackle them, Joseph Romano, a weighlifter, and Moshe Weinberg, the wrestling coach. They seized nine other sportsmen and officials as hostages and then presented their demands. The negotiations went on most of the day, deadline succeeding deadline. Chancellor Willy Brandt got in touch with the Israeli government and was asked not to give in to the Arab blackmail. He also telephoned Prime Minister Sidki of Egypt and proposed that the terrorists should take their hostages to Cairo, from where the Israelis could be returned, but he was rebuffed, with Sidki arguing that this was not Egypt's affair and he could do nothing about it. The Egyptians were later to say that the West completely misunderstood Sidki's reply and that he was merely explaining that the Egyptian government was just as powerless as the Germans to obtain the release of the hostages before the Palestinians' demands had been met. To move them all to Cairo, they said, would simply have transferred the dilemma from Herr Brandt's lap to President Sadat's.

[From the Baltimore Sun, Jan. 13, 1977]

FRANCE'S "UNFORTUNATE MESS"

"In the affair of the arrest and departure of this Palestinian terrorist, there is nothing very mysterious," the French justice minister, Olivier Guichard, said yesterday. No, indeed. Almost simultaneously, other French officials were announcing a spectacular arms deal.

France will sell 200 Dassault Mirage F-1 fighter-bombers to Egypt. Deliveries will start this year. Production will switch later to Egyptian factories. In 1975 the Cario-Riyadh axis agreed to launch an Arab modern arms industry based on Egyptian labor and Saudi and Gulf emirate money. France, negotiating on arms with Egypt for a year, will sell the technology to make this a reality. The French defense minister, Yvon Bourges, returned from Cairo with the contract just when the French security police were making their embarrassing arrest.

The French government could hardly let little things like law and order and treaty obligations stand in the way of a deal that could exceed $1 billion. The police had acted without political direction. True, Abu Daoud is accused of organizing the slaughter of Israeli athletes at Olympic Village in Munich in 1972. True, under treaty, West Germany is entitled to 20 days in which to prepare a proper extradition request.

But Israeli intelligence supplied the information. How awkward, how unfortunate. The Egyptian and Saudi governments must have mixed feelings about Abu Daoud, whose activity is directed against their policy of a negotiated settlement with Israel. But they must be seen to disapprove bringing him to justice.

Within France, the release of Abu Daoud is being denounced on the grounds that it was done for expediency, and defended on the same grounds. As the newspaper *Le Monde* said, "When you have a police service which doesn't obey orders, and a legal system which does, and a government which opts for political expediency in the face of domestic and world opinion, it all adds up to an unfortunate mess." Tsk, tsk. President Valery Giscard d'Estaing is visiting Saudi Arabia later this month. That's what's important.

[From the Philadelphia Inquirer, Jan. 13, 1977]

FRANCE'S CRAVEN SURRENDER

The French government has gotten Abu Daoud off its hands. One wonders how the French government feels about the blood on his, and now its own, hands.

It is the blood of the 11 Israeli athletes and one German policeman, massacred at the 1972 Munich Olympics in an operation which this leader of the terrorist arm of the Palestine Liberation Organization is accused of—and has taken public credit for—planning.

It is the blood of U.S. Ambassador Cleo A. Noel Jr. and two other Western diplomats, slaughtered in Khartoum, the Sudan, in 1973, in a "Black September" operation designed to free the same Abu Daoud, then held under death sentence by Jordan for having plotted an attack on King Hussein's government.

It is the blood of who knows how many more innocent people who will be slaughtered by France's craven surrender to Arab terrorist threats and Arab governments' pressure.

The circumstances in which Abu Daoud, traveling under an assumed name in France, was apprehended are still not clear. It is reported that Israeli agents tipped off French agents who are still smarting with embarrassment over having let another terrorist, the pro-Palestinian Venezuelan "Carlos," slip through their fingers, killing two French agents—more blood.

This time, the French government decided to avoid such embarrassment by hastily flying Abu Daoud, first class, to Algeria, where he was given a hero's welcome.

Abu Daoud, who claimed to have entered France as a member of a PLO delegation attending the funeral of another slain terrorist, said during the farcical court proceedings in which West German and Israeli requests for extradition were rejected, "I had a right to think that I had the benefit of immunity during my mission, knowing that France respects liberty and international cooperation."

Quite so. France has shown its respect for liberty by liberating a terrorist; its respect for international cooperation by cooperating with international terrorism, to which it has given not only immunity but encouragement.

[From the Christian Science Monitor, Jan. 13, 1977]

FRANCE: STORM OVER ABU DAOUD

Bitter criticism both at home and abroad has greeted a French court's action in freeing Palestinian guerrilla leader Abu Daoud. This is the man suspected of organizing the attack on Israel's Olympic team at the Munich games in 1972, which resulted in the slaying of 11 Israelis.

The problem is that French explanations for the release of this alleged terrorist, once he had been arrested and was in their custody, strike many as being specious. Rightly or wrongly, the impression has been left that France, faced with a choice between alienating either the Israelis and West Germans or the Arabs, opted not to alienate the Arabs—and quickly allowed Mr. Daoud to fly away from his potential adversaries.

Under the circumstances, one can easily understand the dismay that has been expressed by Israel and the United States as well. Detaining or extraditing the Palestinian was a matter that obviously was surrounded by a confusing array of French regulations. But it does seem that the French Government should have waited a little longer before permitting the Daoud release and departure from its jurisdiction. To have gone ahead so precipitously only lends weight to the belief that the French were eager to rid themselves of this particular hot potato.

The indignation so rightly being voiced in Israel meanwhile is underscored by published accounts that it was Israeli intelligence agents who first alerted West German agents to Abu Daoud's presence in France and led to the West German request for his detention. Adding to the confusion are questions about the method of the Palestinian's arrest by the French counterintelligence service, reportedly without informing high officials first. The skein plainly is a very tangled one

The basic fact, however, is that Daoud is a man with admitted links to Munich terrorists by providing their passports—and whom Israelis believe planned the Munich attack. And now he has been allowed to avoid facing charges. That is why the French action can be regarded as a serious error of judgment that may cause President Giscard d'Estaing and his Interior Minister considerable difficulty in days to come. After all, the French too have suffered the effects of terrorism, and the government there is on record as favoring stricter measures to control terrorists.

It also seems scant justification that Abu Daoud entered France as a member of a Palestine Liberation Organization delegation to the funeral of a slain activist, although he said: "I had a right to think that I had the benefit of immunity during my mission, knowing that France respects liberty and international cooperation." He claimed his arrest could only have been due to "political motives." And these no doubt predominated, though the French prosecutor argued that Israel had no right to request Daoud's detention because the Munich crimes had not been committed on Isreali soil or by an Israeli citizen.

The rights of any accused person must be upheld and protected, of course, but in this instance the French solicitude for Abu Daoud seems close to making a travesty of efforts to contain international violence. Those who support Israel and condemn the French action in this instance are on firm ground.

[From the New York Post, Jan. 12, 1977]

SURRENDER TO TERRORISM . . .

By hastily releasing a Palestinian terrorist who allegedly planned and led the massacre of Israeli athletes at the 1972 Olympic Games in Munich, the French government has exhibited a craven irresponsibility that may have large-scale consequences.

It has encouraged the forces of fanaticism and underminded the moral strength of democracy.

France was under no obligation to try, Abu Daoud. The issue was the appropriate legal action in the face of extradition requests from both Israel and West Germany. An extraordinary chance to act in the name of the international community in bringing an international criminal to justice was at hand.

Instead, after a period of fretful irresolution and shabby legal circumlocution and evasion, France has contrived excuses to free Daoud. He was hurried out of the country yesterday—to the cheers of his compatriots and amid international outrage.

* * * * *

This was not simply a dishonorable retreat. It was a gesture of disdain for the rest of the world—as the release of any suspected murderer is a threat to the human community. It will not even win France any laurels from Daoud's partisans. It will invite their exultant contempt and dishearten millions who care about the rule of law.

[From the Miami Herald, Jan. 12, 1977]

FRANCE DISHONORED BY PLO AFFAIR

The worldwide fight against terrorism suffered a setback Tuesday when a French court ordered the release of a man suspected of plotting the 1972 massacre of Israeli Olympic athletes in Munich.

Both Israel and the West German state of Bavaria had sought custody of the man identified as Abu Daoud, who had been arrested Friday in Paris.

If he had been extradited, he would have been brought to trial in a court of law—and with the whole world watching to monitor the fairness of the proceedings.

Under pressure from Arab governments, however, the French let him go and he departed for Algeria. In releasing him, the court court cited only a dubious legal technicality having to do with his professed status as a representative of the Palestine Liberation Organization.

The decision is disturbing, for it could encourage further terrorist activity by raising doubts about the determination of the so-called civilized nations to bring the perpetrators to justice in those rare instances where they're apprehended.

That the Arab nations would come to the defense of the PLO is not surprising, even when an atrocity as shocking as the Munich massacre is involved. Despite their attempts to achieve a more moderate image, few Arab leaders care to defy the PLO except when their national interests are directly involved—as in Lebanon.

But for France to accede to the Palestinian demands is profoundly distressing to all those who had hoped to see international terrorism curbed through a united stand by the world's law-abiding nations.

Truly Israel, in its strongly worded protest of France's action, did not exaggerate when it termed the release "a shameful surrender."

More than 400 years ago, France's King Francis I, after the loss of the Battle of Pavia despite a gallant effort, observed that "All is lost save honor." In this latest French surrender, honor was lost.

[From the Kansas City Times, Jan. 13, 1977]

FRANCE'S TIMID LEADERS SHAME THEMSELVES

Release by the French of the Black September terrorist Abu Daoud, a man suspected of complicity in the 1972 Olympic massacre and in whose name at least three persons are known to have been murdered, has been denounced by Israel, deplored by West Germany and evoked dismay from the U.S. And in truth, not enough can be said of the cowardice and stupidity of the French decision.

It was cowardly because of the motive that so clearly prompted it. The Paris government has been studiously currying Arab favor out of terror that the oil producers might turn the tap on France's ration of petroleum. Faced with the choice between repudiating its commitments under international law or risking offense to the sheiks, the government of President Valery Giscard d'Estaing capitulated in haste. The terrorist was spirited quickly to an airplane and thence to sanctuary in Algiers.

The decision was stupid because of its inherent assumption that, somehow, surrender to terror and leniency for those who practice it will civilize international behavior. Bitter experience has shown just the opposite to be the case, and dozens of innocents have paid with their lives for the learning of that lesson. It is the contribution that the French action could make to future lawlessness that has prompted official American criticism.

Justice officials in Paris explain the release in a context of technicalities. Israel's request that Daoud be held for extradition had no standing, they say, because the outrage at the Munich Olympiad occurred in a third country. And the language of Germany's request was improperly formulated. Moreover, say the French, the crime in which the Palestinian was alleged to be involved was political, and thus not extraditable by standing agreements.

That is all disgraceful pretense. The unvarnished truth is that French courage fell short. Other nations depend heavily—some more heavily than France—on Arab oil. And some nations have been hurt for their determination to put the rule of reason ahead of the rule of the gun. This is a week in which Frenchmen may feel ashamed in their hearts at how easily their government can be conquered by fear and expediency.

[From The Pittsburgh Press, Jan. 13, 1977]

AID TO TERRORISM

The French government's release of Abu Daoud, who is suspected of organizing the massacre of Israeli athletes at the 1972 Olympics in Munich, is worse than abject surrender to outside pressure.

It is open encouragement to more international terrorism.

By letting Daoud go scot free to resume his terroristic career, the French violated legal and moral obligations to other nations.

For one thing, France has extradition agreements with West Germany and Israel, both of which sought to interrogate Daoud about the Munich assault which cost 17 lives.

For another thing, France had pledged to support a tough anti-terrorist treaty drafted by the European Common Market, to which it belongs. Its capitulation in the Daoud case makes a mockery of that document.

Daoud went to Paris last week as part of a Palestine Liberation Organization delegation to the funeral of a PLO agent who had been killed by unknowns.

He was found and arrested by French counterespionage agents, who apparently had not cleared the matter with higher authorities.

Arab countries immediately protested the arrest. After all, they pointed out, Daoud had merely murdered Israelis, and did not France wish to continue its assiduously pro-Arab policy?

It didn't take long for French President Valery Giscard d'Estaing to weigh France's desire to sell arms to the Arabs against its anti-terrorist obligations and to have a court free Daoud on a technicality.

Daoud was promptly flown to Algeria, a haven for Arab radicals, where no doubt he was issued another false passport and a new tommygun. In what murderous role he will next appear cannot be predicted, but he will find one.

France's craven handling of the Daoud affair concerns not only Israel and West Germany but also the United States.

State Department intelligence officers believe he was responsible for the murder last June in Beirut of the American ambassador to Lebanon and his top aide. The department thus has expressed "dismay" over France's action.

The unleashing of Daoud is a reminder that when France has to choose between its own narrow interests of the day and its duty of others, it usually selects the former.

This should cause Americans to wonder what conceivable use France would be as a NATO (North Atlantic Treaty Organization) ally should matters come to a crunch in Europe.

[From the Miami Herald, Jan. 14, 1977]

FRANCE ADDS INSULT TO ITS SHAME

Having insulted the civilized world with a trumped-up non-charge and a first-class escort out of the country for a leader in the Palestinian terrorist movement, the government of France now has the Gallic gall to protest the U.S. State Department's expression of dismay that France totally abandoned principle in the matter.

The United States would have had to similarly abandon principle to have not spoken out in protest. This country's ambassador to Sudan was murdered by other terrorists in 1973 as part of a protest that the same Palestinian leader, Abu Daoud, was being held in prison in Jordan.

Yet the French interior minister, surprised and stung by protests from around the world as well as in France itself, has the audacity to sniff, "France does not preach at others. In return it shouldn't be preached at." Off the record of the current situation it seems unlikely that France will ever have a basis for preaching at anyone else for any reason.

The official diplomatic statement complains that the U.S. criticism shows "an inadmissible appreciation of acts of French justice."

Certainly there is no appreciation here of the acts, and if what has occurred is French justice then a new dimension has been added to international language: hence there will be justice or there will be French justice, the latter recognized as the total negative of the former.

If the American people had their say, France might find that opinion not only inadmissible, but unprintable.

[From the Chicago Sun-Times, Jan. 13, 1977]

FRANCE PLAYS INTO TERRORIST HANDS

By releasing Abu Daoud, a roving terrorist with political pretensions, the French government showed Tuesday how low it is willing to bow to international barbarism.

In 1970, Daoud and his accomplices launched a bloody civil war in Jordan that almost destroyed the nation. Thousands of Jordanians and Palestinians died; Daoud escaped unscathed. When the Jordanians won, Daoud's gang had Jordan's prime minister, Wasfi Tal, killed.

In 1972, a horrified world witnessed the murder of 11 Israeli athletes at the Munich Olympics, a crime in which Daoud has admitted he played a role. Using the innocent as a shield, Daoud escaped.

Although not a Jordanian, Daoud plotted to kidnap Jordan's cabinet in 1973 and hold it hostage for impossible demands. He was arrested. To secure Daoud's release, fellow terrorists killed Cleo Noel, the U.S. ambassador to the Sudan, as well as two other diplomats. And in 1975, a comrade of Daoud's fleeing justice, killed two French police officers.

When Daoud arrived in Paris last Friday holding a fake passport, French police, acting on a tip, arrested him at the request of Israel and West Germany. Both said they wanted to try Daoud for his crimes.

After a brief hearing, during which the state's attorney made no objections, Daoud was whisked to a waiting airliner and flown first-class to Algiers. French law allows a prisoner awaiting extradition to be detained 18 days; Daoud was freed less than 4 days after his arrest.

Until now, France has led other nations in demanding firm, united action against international banditry. The shameless French reversal in Daoud's case was evidently dictated by a selfish obsession with Arab oil, a cowardly fear of terrorist reprisals and a deluded sense of what confers prestige on France among Third World countries.

Understandably, the French aspire to a grandeur worthy of their past. But they maintain foolish hopes as long as their government continues to favor groveling rather than greatness in international diplomacy.

[From the Chicago Tribune, Jan. 13, 1977]

FRANCE'S SHOCKING SURRENDER

The extraordinarily quick release of Abu Daoud after his arrest in France is shocking. Daoud is alleged without contradiction to have been involved in the terrorist murder of 17 persons at the Munich Olympics in 1972. Civilized people everywhere must share the indignation of John H. Trathner, a spokesman for the United States Department of State. "Our reaction," he said, "is one of dismay—dismay that, through legal technicalities, neither West German nor Israeli courts will be given the opportunity to interrogate this man about the brutal and revolting murder of the athletes in Munich."

Not only was Daoud transferred swiftly to the friendly jurisdiction of Algeria, but he traveled first class at the expense of the French government. In his brief courtroom appearance, Daoud took the offensive, saying that he had come to France assuming he "had the benefit of immunity" and that he may demand reparations for this arrest.

The government of the United States is dismayed by the incident, that of Israel is outraged, and that of West Germany deplores it. Everyone thoughout the world who condemns terrorism, wants murders brought to trial, and knows of the Daoud incident will share the feelings of those governments.

The French government clearly embarrassed by having Abu Daoud in custody, was clearly eager to unload the hot potato as swiftly as possible. Here was a man who entered France under a false name, using an Iraqi passport.

Under normal procedures, he could have been detained for weeks for that alone. Neither Daoud, his lawyers, nor the left-wing Arab governments that demanded his release profess his innocence in the Munich massacre. Yet the French government rushes him to Algeria, brushing aside extradition requests from both West Germany and Israel. The West German request was held technically faulty and the Israeli one was dismissed on the ground that Israel lacked jurisdiction.

In understated language, the West German Justice Ministry said, "The fight against international terrorism has not been made easier by the release of the accused." It has been made harder. And if Germany itself was less than conscientious in doing all it could to bring Daoud to trial—as France suggests—then it, too, must share the blame.

Israel's claim to the right to try murderers of Israelis wherever the crimes occur runs counter to conventional international law. But Israel [and every other civilized country] has a right to expect nations to honor serious extradition requests from countries in which murders have taken place, rather than to spirit accused persons to countries such as Algeria, where terrorism is glorified rather than condemned.

Abu Daoud's arrogance in France and France's capitulation offend civilization and impair prospects for a Middle East settlement. The episode is a sorry one, and is bound to have evil consequences.

[From the (Baltimore) Sun, Jan. 12, 1977]

FREEDOM FOR TERROR

The panicky speed with which France released and deported the Palestinian terrorist Abu Daoud mocks a solemn undertaking by France and its Common Market partners late last year to act firmly against terrorism. The legalisms with which a French court spurned the extradition request of a Bavarian state judge ridiculed the spirit of France's extradition treaties with West Germany and even with Israel, which should at least have been given a chance to demonstrate if its case could be made under French law.

Youssef Raji Ben Hama, alias Abu Daoud, is suspected of organizing the hideous massacre of Israeli athletes at the Munich Olympics in 1972. He should be brought to justice. If France believes that no one should be tried or convicted of gunning down ordinary people because of their nationality and the publicity value, when done for political motive, France should say so. If France believes that Abu Daoud is wrongly accused French should let its own system of justice weight the evidence for extradition.

French motives presumably are appeasement of Arab states because of French need for Algerian oil and French desires to sell arms and French ambitions for influence in the Arab world. But not all Arabs can honestly relish Abu Daoud's freedom. He has been under death sentence in Jordan for a kidnapping plot. Terrorism has been committed against Saudi Arabia to compel his release. Israel apparently considered his capture in France a chance to prove a close link between the high command of the Palestine Liberation Organization and Fatah with international terrorism, and the French security forces apparently relished it as retribution for the murder of two of their number by a terrorist linked to Fatah.

French is an eloquent inaguage, but the French government will never be able to explain this. The cause of physical safety of common ordinary decent people of all nationalities everywhere has been set back, because the French government saw some advantage known best to itself.

Mr. HUMPHREY. Mr. President, let me just take a moment to call to the Senate's attention that this resolution is the result of a considerable amount of deliberation and discussion by the Committee on Foreign Relations. We have had several versions of the resolution, and finally it was resolved as follows:

That it is the sense of the Senate that the release of Abu Daoud, a known terrorist who is accused of planning the murder of Olympic athletes in Munich in 1972, is harmful to the efforts of the community of nations to stamp out international terrorism.

SEC. 2. It is further the sense of the Senate that United States should consult promptly with France and other friendly nations to seek ways to prevent a recurrence of a situation in which a terrorist leader is released from detention without facing pending criminal charges in a court of law.

I think it is fair to say this was a very delicate situation we were handling. A friendly government, the Republic of France, was very much disturbed over some of the original language of some of the resolutions that had been presented and originally acted upon by the Foreign Relations Committee.

This resolution gets at the problem. It states our deep concern over what has happened, and the Senate calls upon the respective governments, as I have indicated here, to consult promptly to seek ways to prevent a recurrence of the situation in which a terrorist leader is released from detention without facing pending criminal charges.

Mr. President, I yield to the Senator from New Jersey.

Mr. CASE. Mr. President, I requested the Senator to yield only because it has been urgently requested that we have a rollcall vote.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUMPHREY. I yield to the Senator from Idaho.

Mr. CHURCH. Mr. President, I was simply going to suggest that a very succinct and well-worded explanation of the resolution from the committee is on the desk of each Senator. I think it would be well to have this short report included in the RECORD.

Mr. HUMPHREY. I was going to ask that the full report be included in the RECORD as part of the explanation, and I so ask unanimous consent.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

The purpose of the resolution is to express the sense of the Senate that the release of Abu Daoud, a known terrorist who is accused of planning the murder of Olympic athletes in Munich in 1972, is harmful to the efforts of the community of nations to stamp out international terriorism. Its further purpose is to express the sense of the Senate that the United States should consult promptly with France and other friendly nations to seek ways to prevent a recurrence of a situation in which a terrorist leader is released from detention without facing pending criminal charges in a court of law.

BACKGROUND

Abu Daoud, age 39, is a Palestinian terror leader who was traveling on an Iraqi passport issued under the name of Yussef Raji Hanna when he was arrested by French authorities on January 7, 1977. Daoud was released on January 11, 1977 and taken to Orly Airport outside of Paris, France, given a first class airline ticket and flown by Air Algiers to Algiers where he arrived on the same evening.

Abu Daoud, according to his own statements, has been involved in a number of terror operations in one capacity or another. Testifying before a Jordanian military prosecutor on February 15, 1973 Daoud explained some of his activities. One, in 1972, was to occupy the premiership building in Amman, Jordan, and bargain for the release of Fatah terrorists held in jail there. Daoud said to the court: "I was entrusted with the task of buying vehicles in Kuwait, sending them to Lebanon, and establishing caches of smuggled arms to be used in the occupation of the premiership building." If the occupation failed to result in the release of the prisoners, the terrorists were, in Daoud's words, to "go to the street and to the airport and let the authorities open fire on all of them."

Daoud also testified at that time that he was involved in the planning of the Munich Olympic games operation. He provided a forged passport to assist in the smuggling of terrorists into Germany. Daoud also listed many paramilitary terrorist operations about which he had detailed knowledge during the course of his testimony before the Jordanian court.

On January 14, 1977, Senators Case and Humphrey proposed an original resolution with respect to the release of Abu Daoud. The committee considered the resolution on that date and ordered it be reported. At the request of the chairman the resolution was reconsidered by the committee on January 21, 1977, and subsequently revised. It was ordered reported by voice vote without objection that same day.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from New York, of course.

Mr. JAVITS. Senator CASE originally sponsored this resolution with Senator

HUMPHREY in the committee, and subsequently I joined with him.

We had some objections from the French Government which resulted in a press interview by the Premier and a statement by the President of the French Republic.

I believe it is critically important to understand the way in which the resolution matured before its principal author, Senator CASE, speaks to the matter.

There was no desire, as I understood it, on the part of the committee to engage in confrontation with the Government of France, but we did feel very deeply that this had been a very wrongful action and a very harmful action to the cause of trying to deal with international terrorism and, hence, our protest was naturally very strong.

What was controverted was the fact that we had alleged in earlier drafts, and in one which actually came up here to the floor, which we subsequently withdrew, that the French Government had failed to wait until the German Government and the Israeli Government had an opportunity to request extradition of this man Abu Daoud by what was apparently required, which was diplomatic as well as criminal justice means.

I might say that, personally, I think the French were completely wrong on that. But be that as it may that was their contention.

In order not to have extraneous problems, and in order to avoid the feeling on the part of the President of France and the people of France that there was some confrontation involved, we eliminated from the resolution that question of law and fact which related to whether they should have given and did not give an opportunity for the necessary request for extradition to be completed, but rather dealt with the substantive point, which was that we felt this action was highly prejudicial, as we say, to the efforts of the community of nations to stamp out international terrorism.

Then to show that we desired no confrontation with France, we urged our Government to consult promptly with France and other friendly nations, which included France, of course, as one of our great friends that it is.

The point, while I am on my feet, and I shall not speak again, I should like to emphasize is that this is not a dispute which relates to our feeling of France being our enemy or hostile or anything like that. We think it was a very grave mistake, in the interest of the common cause of the whole world, to relieve itself of this incubus of international terrorism as it relates to the Arab-Israeli struggle. This was a grave disservice to that effort, and we want to call it very sharply to the attention of France, but in an atmosphere in which she will listen rather than be offended, and that was the reason why this resolution was drafted as it was.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

The PRESIDING OFFICER (Mr. ANDERSON). The Senator from Alabama.

Mr. SPARKMAN. Mr. President, I think it is only right to point out, as the Senator from New York has done, that we have had close consultation with the Government of France, through their Ambassador, and I think I am right when I say that it is a clear understanding. We changed the wording in order to comply as much as possible with the wishes of the Government of France as stated by the Ambassador.

Mr. JAVITS. Mr. President, will the chairman of the committee just note this point? I do not think now that they consider it unfriendly. I do not think they like it at all. I think they disapprove and wish we had not done it, but I do not think they now consider it unfriendly.

Mr. SPARKMAN. That may be true, but I think they are willing to go along with it, and they recognize our desire to remain a friendly nation with France, our great friend.

Mr. JAVITS. I thank our colleague.

Mr. CASE. Mr. President, in recent years there have been renewed efforts by various countries to combat international terrorism.

The outbreaks of aircraft hijackings, the killings of Ambassadors and ordinary civilians, and the horrible television spectacle of the kidnaping and killing of Israeli athletes at the 1972 Munich Olympic Games all touched off expressions of concern—and quiet efforts to tighten security measures.

Members of Congress have given their support, in legislation, resolutions and individual expressions of concern, to the campaign against terrorism.

Thus, many of us were outraged at the action of the French Government in acting so quickly to release and send to Algeria Abu Daoud, an admitted terrorist who is suspected of masterminding the 1972 Munich Olympic's massacre in which 11 athletes were kidnaped and killed.

At the initiative of the Senator from Colorado (Mr. HASKELL), a letter signed by many Members of the Senate was sent to the French Ambassador to express our concern.

It was also felt that the Senate had a duty to express its concern in a more formalized manner, and last Friday the Senate Foreign Relations Committee approved the pending resolution.

I am well aware that the French Government officially finds it unacceptable that the State Department and Members of Congress criticized the French in quickly releasing Abu Daoud.

The French Ambassador, in telephone calls and by letter, has asked us to withdraw and reconsider the resolution originally approved by the Senate Foreign Relations Committee the previous week. The Ambassador's letter describes the committee's stand on the court action as "tantamount to interference."

I do think, however, it is of utmost importance to emphasize that we have a duty to make our views known.

In considering the resolution, the Senate Foreign Relations Committee took into account the sensitivity of the French. The committee spent a considerable amount of time in public discussion of that point, and the resolution finally approved by the committee is measured in tone. In the resolution, the release of Abu Daoud is described as ". . . harmful to the efforts of the community of nations to stamp out international terrorism."

The Foreign Relations Committee, in considering and reporting the resolution, also had a duty to do more than only take into account the sensibilities of the French Government.

The committee and the Senate also should take into account the families of the numerous victims of international terrorism. These victims include the families of the U.S. Ambassador, another American diplomat, and a Belgian diplomat murdered in the Sudan in a 1973 attempt by the Black September group to obtain Abu Daoud's release from a Jordan prison.

The Senate also has a duty to take into account the need to bolster the campaign against international terrorism. The French Government's action is bound to be taken as another sign that France will not take a forthright stand against a terrorist who has the support of oil-producing nations.

We also sought to give voice to the outrage felt at the action in releasing the terrorist so hastily, in what appears to be a headlong rush to fly him to a safe haven in Algeria before the extradition requests could be handled in accordance with the usual practice.

The French Government utilizes a technicality in justifying the release of Abu Daoud on January 11, only 4 days following his arrest after entering France on a false Iraqi passport—itself an illegal act.

The West German Government said the French-German extradition treaty explicitly states that a person under arrest pending extradition may be released only if a formally completed motion has not been presented within 20 days. The spokesman also said it is customary to allow up to 20 days for presentation of the diplomatic confirmation of the extradition request.

The Israelis say their treaty with France allows 60 days for the extradition request.

The Baltimore Sun reported from Paris—

> France usually will hold a person wanted by another country for up to 18 days—Mr. Daoud had been held for four. The court that normally hears extradition cases hears them on Mondays. Mr. Daoud's case was suddenly taken up on a Tuesday, six days before it was reportedly scheduled.

It seems clear that the French decision was based on political grounds.

But this is not an international court of law in which to debate the legal technicalities of France's treaties with other nations.

We are, however, entitled to make our own assessment of the situation. And our assessment is that the release of Abu Daoud so quickly hurt the efforts to stamp out international terrorism.

We should not let our voices be stilled by those who put diplomatic niceties and possible material gains above human lives.

A number of explanations have been

given on why Abu Daoud went to Paris and why he was arrested by French authorities. Michael Parks of the Baltimore Sun, writing from Cairo, has speculated that Daoud's mission was to break up meetings going on in Paris between Israeli peace groups and Palestinians.

Because I think my colleagues will be interested in Mr. Parks' report, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

DAOUD AIM IN PARIS CALLED STOPPING PLO-ISRAEL TALKS

(By Michael Parks)

CAIRO.—Mohammed Daoud Audeh, the Palestinian known as Abu Daoud who is accused of planning the 1972 massacre of Israeli Olympic athletes, apparently was sent to Paris earlier this month to put an end to meetings there between Israeli and Palestinian doves.

If Mr. Daoud, now a member of a radical Palestinian group based in Baghdad, Iraq, could not dissuade the Palestinian moderates from further meetings with the Israeli peace group, he was under orders to kill them in such a way that Israeli intelligence would be blamed and the peace efforts discredited.

When several Arab intelligence services, including that of El Fatah, the major Palestinian commando group, learned of the operation, they informed French security officials, who arrested Mr. Daoud, 37.

Under agreement with the Arabs, Mr. Daoud was supposed to be expelled from France quietly—he remains a hero to many in the Palestinian resistance movement for his role in the Munich attack four years ago—but word of his real identity and importance was leaked to the press after his arrest, bringing demands that he be extradited to either West Germany or Israel.

This account, the subject of speculation for the last week, was confirmed by qualified Arab diplomats and Palestinian sources, several of whom said they wanted to set the record straight on a mysterious affair that stirred worldwide protests when Mr. Daoud was freed by a French court.

"As it was arranged, this was a simple, neat deal between intelligence and security services," a diplomat involved in the affair said after returning from Paris. "But somebody, for motives that are still not totally clear, attempted to upset not only this arrangement about Abu Daoud but other things as well."

Palestinian intelligence sources speculate that an Israeli agent, learning of Mr. Daoud's arrest, leaked word of his identity, perhaps with no other motive than bringing him to trial for the Munich massacre but perhaps also with the hope of undermining the Israeli-Palestinian meetings as well since these talks have been opposed by the Israeli government.

In Jerusalem, however, Israeli officials said that Mr. Daoud's true identity—he carried an Iraqi passport in another name—was discovered by French counterintelligence in a routine comparison of the picture on his visa application with those of known Palestinian leaders.

But Arab diplomats and Palestinian officials, including several who returned from Paris late last week, gave a much different account of the Abu Daoud affair.

Mr. Daoud's identity was discovered, they said, when he went with other Palestinian representatives to the French Foreign Ministry to receive condolences on the murder in Paris last month of a prominent Palestinian, once the acting representative there of the Palestine Liberation Organization.

"Abu Daoud quit Al Fatah more than a year ago, and so, when he appeared as an official PLO representative, questions were asked," says a Palestinian who was in Paris at the time. "The main question was why he had come, why he had left Baghdad and come to Paris.

"It was not for the funeral because not only is Abu Daoud not a member of Fatah, but now he belongs to the outlaw group of Abu Nidal. He would only leave the safety of Baghdad for a very important mission."

That mission, according to well-informed Arab diplomats and security officials, was to put an end to the series of continuing meetings between PLO representatives, including top personal aides of Yasser Arafat, the PLO leader, and members of the Council for Israel-Palestine Peace.

"The Abu Nidal cell had ordered Abu Daoud to try and persuade the PLO representatives in Paris not to hold further meetings," a Palestinian source reported. "If that failed, he was to threaten them, and, if that failed, to kill them. If he killed them, he was to do it in a way that the Israelis would be blamed and thus contacts broken for good. This was a top-priority Abu Nidal project."

The Abu Nidal cell, headquartered in Baghdad, has been held responsible by Arab officials for a series of terrorist attacks over the last six months on moderate Arab governments wanting to negotiate a settlement of the Arab-Israeli conflict.

Arab diplomats here said that several Arab intelligence and security services had reports that an attempt would be made to break up the Israeli-Palestinian contacts—six informat but lengthy meetings since September—but did not know who would be involved until Mr. Daoud arrived in Paris.

"When they saw Abu Daoud in Paris, all of the reports fell into place," an Arab intelligence officer said. "They double-checked, cross-checked with other security services, more facts were gathered and the whole package assessed. Then the French were approached, and an arrangement agreed upon. But someone tried to parlay it into something else."

In Jerusalem, Israelis who had met with the PLO representatives in Paris said the Palestinians had expressed concern several times that opponents of the dialogue, which both sides consider very promising, might try to halt the meetings.

"They were concerned primarily about our security services," one of the Israeli participants said, "but they also acknowledged a serious threat from radicals from the Palestinian rejection front."

The rejection front, made up of radical and Marxist Palestinians, opposes any negotiated settlement with Israel and seeks the Jewish state's destruction, while the mainline Palestinian groups within the PLO are coming to accept Israel's existence and want a negotiated settlement of the Arab-Israeli conflict that would give them a state of their own on the West Bank of the Jordan River and the Gaza Strip along the Mediterranean Sea.

The principal PLO participants at the Paris talks have been Issam el Sartawi, a Palestinian lawyer, and Sabry Jiryis, the PLO representative told to leave the United States after trying to establish an office in Washington. Both are close to Yasser Arafat, the PLO leader.

The main Israeli representatives, founders of the year-old Israel-Palestine Peace Council, were Mattiyahu Peled, a retired general; Arye Eliav and Meir Payel, two leftist members of the Israeli parliament; Uri Avneri, a former member of parliament and a magazine editor, and Yaakov Arnon, former director general of the Israeli finance ministry and board chairman of the country's electric utility now.

One of the meetings took place at the home of the former French Socialist premier, Pierre Mendes-France, but the rest have taken place in Paris with the knowledge and encouragement of the French government but arranged by the participants themselves without outside mediation.

Mr. CASE. Mr. President, in 1973 Abu Daoud was sentenced to death by a military tribunal in Amman, Jordan, for his role in attempting to seize the premiership building there and hold hostage members of the Jordanian cabinet. During his trial the military prosecutor questioned Daoud at some length. The transcript of that interview was carried in Arabic on Jordanian radio. It was translated by the Foreign Broadcast Information Service.

Because the transcript is very revealing of Mr. Daoud's role in a number of terrorist and paramilitary operations, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

ABU DAWUD TESTIMONY BEFORE JORDANIAN MILITARY TRIBUNAL

(Testimony of Muhammad Dawud Muhammad 'Awdah, alias Abu Dawud before the military prosecutor on 15 February 1973—read by announcer)

(Excerpts) QUESTION. Tell us about your identity in detail.

ANSWER. My name is Muhammad Dawud Muhammad 'Awdah. I am 36 years old. My nationality is Jordanian. My father's nationality is Jordanian. I currently reside in Damascus.

QUESTION. Do you belong to a political party or organization and what is your position in the organization?

ANSWER. I do not belong to any political party, but I belong to the Fatah movement which is a political organization. My position in it is that of a member of the Revolutionary Council since November 1970. I joined the movement through 'Ali Hasan Salamah in Kuwait in 1968.

I was sent by the movement to an intelligence course to Cairo on 10 August 1968. The course lasted 9 weeks. Ten persons were taking this course. They all belonged to Fatah. They included 'Ali Hasan Salamah, Fakhri al-'Umari, Murid ad-Dajani, Muhammad Mahdi Sutaytah—Abu 'Ali—Ghassan al-Agha 'Imran of Jenin, a man of the Al-Mubashir family of Gaza living in Cairo, and Yusuf—I do not remember his other name but his father was a Shaykh in Al-Karamah. The Fatah movement accused him of being a Jordanian agent because he was a religious man. Also in the course were Muhammad Dawud 'Awdah—that is myself—and Muhammad Subayh, a Cairo resident.

The course was held in a house. We used to leave the house once a week for 24 hours. The training course consisted of intelligence matters connected with security intelligence and intelligence recruiting, information evaluation, managing agents, writing reports, observation and investigation, a course in the use of light weapons, and recognizing the weapons of the Israeli enemy such as planes, artillery and other weapons. We used to watch films and see drawings. I was the first in this course. Afterward I returned to Amman where I worked in fedayeen bases as an ordinary element.

Then I took over intelligence duties in the north and trained elements for internal

reconnaissance work. I was transferred to Amman to set up central intelligence at the end of 1968. I remained there until May 1969. The center was divided into two parts: Counterintelligence, and recruiting and gathering information on the enemy.

In May 1969 I was relieved of intelligence duties by Abu Iyad who was put in charge of intelligence at that time. When Ali Hasan Salamah, Murid ad-Dajani, and Muhammad Mahdi Sutaytah took over the intelligence organ, this organ changed from enemy surveillance into a power center inside the movement. For example, when I was in charge, civilian cases used to come. I used to refer them to the Jabal al-Husayn police station. But in their [Salamah, Ad-Dajani, Sutaytah] time they used to imprison Jordanian citizens involved in civilian cases. Thus they violated the state authority. They ended their work by killing Salim ash-Sharif, the proprietor of the newspaper AL-JIHAD on a (misdemeanor?). Afterward I (rested) for 2 or 3 months.

Then I become assistant to the militia officer in Jordan, who was Hamad al-'Ayid at that time.

I remained in the militia until August 1970. A military committee was formed to command all militia elements in the Jordanian region under the command of Ahmad 'Atfanah—Abu al-Mu'tasim.

Then I was transferred to the relief and supply committee. We began to store water and food in houses belonging to inhabitants and fighters in readiness for our seizure of power in Jordan. At that time there were two rival groups in Fatah. There was Abu Jihad's group which included Abu Jabri, Hani' al-Hasan and Abu Iyad; and there was Abut al-Lutf's group. Abu 'Ammar favored postponement. He contended that we could not stand up to tanks. They told him: We will destroy them. He replied: They are national tanks. Afterward they used to ridicule him on this point. The argument of the two groups was: Power must be seized quickly to foil the Popular Front, which was collaborating with the Iraqis, from taking over power in Jordan.

Preparations were made for declaring rebellion. The fighters were given the warning signal as far back as August 1970. The result was the September incidents. The Jordanian regime was the victor. I remained as a member of the regional relief committee for 1 week after the September incidents. The committee was dissolved in October 1970.

Abu al-Mu'tasim was made officer fully responsible for the Amman and Az-Zarqa' organization and that included the forces, the militia, reorganization and supplies. I remained without duties until I left Jordan in May 1971. However I used to travel to Damascus and Beirut without any assignment. On 15 May 1971 I left Amman for Beirut and a month later I took over finance to pay assistance to those Fatah elements who had suffered harm and were coming from Jordan to Syria. A month later Abu al-Mu'asim took over this post once again. I remained without duties until the general conference of the movement in 1971. I was elected a member of the Revolutionary Council which was held in Damascus in September 1971, bearing in mind that I was made a member of the Revolutionary Council in November 1970 when I took over the western sector—the territory occupied in 1948. I kept this post until the beginning of 1972. That western sector was taken over by Kamal 'Udwan. In the beginning of 1972 I was appointed officer of the Labanese sector militia. I felt that I was assigned this task because of internal strife against Hamad 'Ashur, I left it.

In March 1972 I travelled as a member of an official delegation of the Fatah movement to the PRC and DPRK for 15 days with Abri al-Banna. I am still a member of the Fatah movement Revolutionary Council.

QUESTION. What is the status of the Revolutionary Council of Fatah in relation to the organizational structure, how are appointments made and elections held and what is the composition of the Revolutionary Council?

ANSWER. In theory the council comes immediately after the Central Committee. The Central Committee is supposed to put before the council for discussion all matters pertaining to the movement. However, from the practical aspect, only what the Central Committee desires is being presented to the Council. Normally, the Council's views are not taken into consideration. Normally the deputy chiefs of the various departments are from the council. The structure of Fatah leadership is as follows:

1. The Central Committee: The committee's responsibilities include all affairs of the movement. The last Central Committee of Fatah was elected in September 1971. Normally, the election of the Central Committee is made by the movement's congress. The congress is composed of members of the former Central Committee and of the former Revolutionary Council and several others chosen by the Central Committee. The members of the present Central Committee are of two categories: The first category are those elected and the second category those appointed. The elevated members are: Abu 'Ammar (Yaair 'Arafat), Abu Iyad (Salah Khalaf), Abu Jihad (Khalil al-Wazir), Abu al-Lutuf (Farug al-Qaddumi), Abu Yusuf (Muhammad Yusuf an-Najjar), Abu as-Sa'id (Khalid al-Hasan), Abu Mazin (Mahmud Rida 'Abbas), Kamal 'Adwan, and Abu Salin (Nimir-Salih). The appointed members are: Abu Mahir (Muhammad Ratib Ghunayn, and al-Hawl (Hayil 'Abd al-Hamid).

The Central Committee elects from among its members a general command to assume the responsibility of the armed forces of Fatah. The general command is composed of Abu 'Ammar, Abu Jihad, Abu Salih, and Abu Mahir. The Central Committee includes 11 to 15 members. However, the present Central Committee is composed only of 11 members, nine by election and two by appointment.

2. The Revolutionary Council: The Revolutionary Council was elected at the same time and at the same place as the Central Committee in September 1971 in Hammuriyah camp in Damascus. The Revolutionary Council is composed of members elected by the congress and includes the military council appointed by the general command, five members appointed by the Central Committee and delegates assigned to regional areas, who may be summoned to the Revolutionary Council. Normally, these delegates are assigned to neighboring Arab states. The elected members are: Majid Abu Sharar, engineer Yahya Habash alias Sakhir, Nabil Sha'b, Rafiq an-Nawsnah, Naji Avlush, Aby Akram, Abu Hisham (Sa'id al-Mazyin), Abu Dawud (Muhammad Dawud 'Awdah), Na'im Musa al-'Umlah. The military council members are: Sa'ad Sayil, Abu al-Mu'tasim (Ahmad 'Affanah), Abu al-Zayim ('Atallah 'Atallah), Mahmud Da' 'ash, Al-Haj Isma'il, and Hani al-Hasan. The military council is composed of an unlimited number of members. Membership of the council can be increased or decreased according to the general command's desire. From the theoretical aspect, the military council's duties include the discussion of the affairs of the forces with the general command. However, from the practical aspect, its duties amount to nothing.

The other departments are: The western sector whose commissioner [Mufawwad] is Kamal 'Adwan. Hid (?deputies) are Sakhir and Abu Shamikh. The information department is under Kamal 'Adwan, whose deputy is Majid Abu Sharara. The observation [Ar-Rasd] department is under Muhammad Yusuf an-Najjar and his deputy is Hamad al-'Ayid, assisted by Ghazi al-Husayni and 'Ali Hasan Salamah. The foreign relations department is under 'Abu Lutuf, who is assisted by Muhammad Abu Mayzar. The mobilization and organizational department is under Abu Lutuf, assisted by Abu Hisham (Sa'id al-Mizyan). The supply department is under the general command's supervision, assisted by Husni Yunis. The finance department is under Abu Mazin, assisted by Abu 'Usamah Muhammad.

The Jordanian affairs department is ordinarily attached to the mobilization and organizational department, nevertheless it is an independent department. Theoretically it is under the supervision of Abu Iyad, assisted by Samih Abu Kuwayt Qadri. Samih Abu Kuwayt is actually the one responsible for the department, while Abu Iyad is only nominally in charge. The martyrs department is under Mukhtar Na'im in Jordan, while another person is responsible in Lebanon.

Those assigned to various regions are: Sa'ad Ghandur, Syria; Ribhi Ka'wash, acting, in Egypt; Hayil 'Abd al-Hamid, Lebanon; Abu al-Fahid, Jidda, Saudi Arabia; Abu Nidal (Sabri al-Banna), Iraq; Salim az-Za'nun, Kuwait; Shaykh Yasin ash-Sharif, Qatar; Abu Sharaf (Ibrahim az-Zarad), Abu Dhabi. I do not know those assigned to Yemen or those in Europe or in Africa. Ahmad Wafi is assigned to Algeria, Hasan Bal'awi to Tunisia, Wadi Hasan to Morocco, Sulayman ash-Sharafah to Libya, and Muhammad al-A'raj to the PRC.

I do not know those assigned to Europe, Britain, France, Italy, Germany and other European countries. I also do not know those assigned to Asia. Sayf al-Wadi was assigned to America, but I do not know the present delegate and I believe there is none there. I also do not know who is the representative to the Soviet Union. However, I believe there is a delegate there. I do not know those assigned to East European countries.

QUESTION. What mission did you come to perform in Jordan and did you return to Jordan at any other time after your departure on 15 May 1971?

ANSWER. I did not return to Jordan from the time of my departure on 15 May 1971 until the date on which I was arrested. The objective of my arrival in Jordan was to inform the youth coming to Amman that their target was to occupy the premiership building, arrest the ministers, and to bargain for the release of those detained in Jordan, who number about 40. The details of the operation were as follows:

In July 1972 Abu Iyad, member of the Fatah Central Committee in charge of Jordan, told me that he was thinking of occupying the premiership building in Amman, arresting the ministers, and bargaining for the release of those detained in Jordan, numbering about 40. On the other hand, the operational objective was to prove our presence. In November 1972 Abu Iyad brought up the idea once again. Abu Jihad was present. Abu Jihad proposed that Al-Jafr be seized and the detainees released by sending armed men from Syria by trucks and jeeps. He proposed that the detainees then be transferred to Saudi Arabia on foot. I opposed the idea. I pointed out that the distance is more than 70 kilometers and this would expose the detainees to death from thirst and to the possibility of attack by planes. Abu Jihad estimated that the distance between Al-Jafr and Saudi Arabia was only 17 kilometers.

Abu Jihad submitted the idea to me and to Abu Iyad. When he left, Abu Iyad proposed the seizure of the premiership building. Abu Iyad said: The operation needs funds, civilian vehicles, youth, and false passports. I was entrusted with the task of buying vehicles in Kuwait, sending them to Lebanon, and establishing caches of smuggled arms to be used in the occupation of the premiership building. I received a cash order

from Abu Iyad to the Fatah movement delegate in Kuwait, Salim Za'nun, to pay me the necessary funds within the limit of 3,000 dinars. As a security measure Salim Za'nun was not told the purpose for which the vehicles were to be used. Abu Iyad was to send Abu Hammudah, the nickname of Ahmad Muhammad Hammad from the Janin area, who is a mechanic, to select the vehicles. Abu Iad said he would produce Bahraini and Saudi passports and would provide the youth to carry out the operation. He would also fix the date and the method of entry into Jordan and the roads to be followed.

I left for Kuwait, via Beirut, using an Iraqi passport under the name Sa'd ad-Din Wali in early December 1972. I bought the vehicles from a garage with the aid of mechanic Mammudah, who was sent from Beirut to select the vehicles. The vehicles we bought were a Chevrolet and a Buick. I received the money for them from Salim Za'nun in two payments: one of 1,200 dinars and a second of 1,000 dinars. I sent the two vehicles to Beirut and left for Baghdad by car. From there I went on by plane on or about 8 December 1972.

I found that Abu Iyad had already secured the Bahraini and Saudi passports. He informed me that after storing the necessary arms in the vehicles, he would send them to Kuwait and later to Saudi Arabia. He said that the number of youths would be between 20 and 30. Some of these youths would proceed to Saudi Arabia directly and others to Saudi Arabia via Kuwait, either by taxis or by vehicles to be provided by the movement or by air. As for the route of the vehicles carrying the arms, these were to be sent to Kuwait, then to Dhahran. From there one of the two vehicles was to proceed along the pipelines to H–4 while the other vehicle was to proceed to Riyadh, Medina, Al-Mudawwarah, and then to Jordan.

Abu Iyad asked me to accompany the group to Jordan, I agreed. Abu Iyad promised me a genuine Saudi passport. At the time, Abu Iyad sent the operation elements to Baghdad, and prepared the arms storage in the vehicles. He sent the operation elements to Baghdad via Damascus. The two vehicles were laden with arms. He sent them to Baghdad driven by members of the movement. The Chevrolet carried a Kuwaiti private car license plate, number 720002. I do not remember the plate number of the other car.

The implementation of the operation was scheduled to take place before the pilgrimage season. The Bangkok operation took place on 27 or 28 December 1972. As I remember, and this exposed the Saudi and Bahraini passports used in the Bangkok operation. This forced us to do away with the use of the Saudi and Bahraini passports. Abu Iyad secured Omani passports from Intelligence Chief Muhammad Yusuf an-Nakjar, alias Abu Yusuf, and from Khalil Wazir Abu Jihad. Abu Jihad obtained these passports from Muhammed 'Ali, a member of the Eritrean Liberation Front who lives in Beirut. I opposed the idea of using Omani passports in the operation. Abu Iyad gave me a false Jordanian passport issued under the name of Husayn Abadallah as-Sulaybi from As-Salt and another passport issued under the name Huda 'Abdallah as-Sulaybi as my wife.

A girl had to accompany me as my wife. This girl belongs to the movement and her true name is Salwa Abu Khadrah from Haifa. She was 15 years old. Her father died in an Israeli prison because he carried out anti-Israel operations. Her mother was also in an Israeli prison. Her brother was killed in a boat incident with an Israeli boat opposite Sidon. She was the only supporter of her five younger brothers. I objected to her being sent with me on this mission because her brothers would be left without support, in addition to her harm to her reputation in such a society. Abu Iyad insisted. I agreed to take her with me as my wife although she was no more than a daughter because she is of the same age as my children—the age of my son Dawud.

I met in a house in Baghdad with the operation elements, including Abu al-'Abd Bisaysu, and Fathi, whose last name I do not know but who is a member of the movement's intelligence in Beirut. I found 28 or 29 young men in the house. Abu Iyad addressed them enthusiastically.

He told them that they were about to carry out a huge operation. He did not define the place of the operation to them. He spoke to them about the homeland and the land. He later interviewed them individually and then he asked me to examine the passports he had. Abu Iyad then handed the passports to Fathi and Abu al-'Abd Bisaysu. The passports were of various nationalities, Saudi, Jordanian, Bahraini, and Omani. Abu Iyad had obtained these passports in cooperation with the Popular Front for the Liberation of Palestine (PFLP) under Habash through Tawfiq at-Tirawi, a coordination element between the PFLP and the Fatah movement. Coordination between the two organizations is secret and complete although signs prove the opposite to serve political, financial, and ideological objectives, particularly in the gulf area and Saudi Arabia.

I returned to the hotel from the house with Abu Iyad and Abu as-Sadiq. Abu al-'Abd Bisaysu accommodated the operation elements in hotels prior to their dispatch. Abu Iyad explained the operation to me at the hotel. He explained that the operation was to exploit the pilgrimage season and the fact that the elements entering Jordan would not exceed 20. He asked Ribhi Musa, the officer in charge of Jordan affairs in Damascus, to send them to Saudi Arabia in coordination with me.

I later went to Kuwait with my alleged wife using the false Jordanian passport. I left the girl at the house of 'Abdallah Khalaf, brother of Salah Khalaf. I arrived in Kuwait on 8 or 9 January 1973. I returned to Baghdad on 13 January 1973 leaving the girl in Kuwait. I also discovered that the operation elements were sent to a camp belonging to the movement and that Fathi, Abu al-'Abd Bisaysu, and Ribhi Musa had left for Beirut. I visited the elements in the camp and appointed a collective leadership of four officials for the elements. These are: Ben Bella, Jamal, Kamal, and Samir. I left for Damascus on 14 January and I stayed there for one week. Abu Iyad was then in Cairo. I was asked to meet Abu Iyad in Baghdad. I left for Baghdad on 28 or 29 January 1973 by air using my false Jordanian passport. I did not find Abu Iyad there. I visited the elements in the camp. I went to Kuwait by air the following day where I bought a Mercedes to my own use to enter Jordan. I had obtained a letter from Abu Iyad to Salim az-Za'nun authorizing the payment of any amount of money I needed. Two or three days later, I received a cable through the movement wireless to go the Baghdad to meet Abu Iyad. I went by air. I did not find Abu Iyad, but I found Abu 'Ammar with Abu Mazin on an official visit to Iraq. I did not discuss the matter with them because it is the practice in the movement not to discuss a matter other than with the person who is in charge of the operation. Secrecy demands this.

'Atif Bisaysu informed me that Abu Iyad would come to Baghdad in 2 days. Abu Iyad arrived from Cairo 2 days later and registered at the Al-Khayyam hotel. 'Atif Bisaysu, Abu al-'Abd Bisaysu, Fathi and Tawfiq at-Tirawi, and Nawat al-Hindawi were in Baghdad. On the second day after his arrival, Abu Iyad told me that the plan had been amended, adding that the youths would be sent in two groups and would be supplied with Lebanese passports. It was also decided to send only two cars. He charged me with buying a Mercedes in Kuwait to be used by the youths to enter Jordan. He said that the youths would enter after I made a move. Some of them would enter across the border at Ar-Ramtha and others would use camels and cross the border at H–4 on the basis that they are in transit to Syria and Lebanon.

On the same day, the head of the Palestine office and Ba'th party member in Iraq, Abu Jabbar, invited me to lunch with him to coordinate cooperation between the Iraqi government and the fedayeen through him.

On 5 February 1973, I flew to Kuwait and bought a second Mercedes car. On 6 February, I left with my alleged wife for Baghdad. I met Abu Iyad there and received a list of names from him. He gave me the name of the operation and the codeword. He told me that he would send persons to make sure that I entered Jordan.

At 1400 on 7 February, I left for Amman. The time of my departure was fixed so that I could reach the H–4 border at night when the frontier guards are tired and when those traveling at night can see for only a short distance. The object was to avoid being recognized by anybody on the frontier. I forgot to mention that I left Kuwait with my fake Jordanian passport. I entered Iraq with a Saudi passport on which a fake Kuwaiti exit permit was stamped in Baghdad.

I reached the H–4 border about midnight. There was a thorough but polite search. I was surprised when I found out that my Saudi passport required an entry visa. I obtained an entry visa at the Jordanian border post. When I left the H–4 border, a Lebanese Volkswagen followed me. I thought that the passengers in the car were those entrusted with seeing that I crossed the border safely. We continued our travel until we reached Umm al-Jimal between H–5 and Al-Mafraq. The Lebanese driver of the Volkswagen signalled me to stop. He was accompanied by his wife. The driver told me: Abu Iyad sent me to be assured about you. We continued our drive to Amman and we reached there at 0300 in the morning. We registered at the Phillip hotel in Jabal al-Luwabidah. At 1100 I went in search of the Lebanese and his wife but did not find him. I learned that he is called Ilyas but I do not know his surname.

I then left in my car and took my alleged wife with me. I toured Jabal Amman and reconnoitered the building housing the premier's office and the roads leading to it. I also made a note of the guards outside the building's wall. I then completed my tour of Jabal Amman in an attempt to form a complete picture of the nature of the guards and the patrols in the sensitive places near the premier's building. I then returned to the Phillip hotel. The Lebanese Ilyas and his wife were there. On inquiring I learned that they had left the hotel because Ilyas' wife had to visit the hairdresser and that she agreed with Ilyas to leave the hotel in the evening in order to complete their reconnaissance, and fix places outside Amman suitable for storing the weapons and bombs which were in the cars.

At approximately 1920, Ilyas and his wife returned. I, my wife, and Ilyas and his wife left in Ilyas' car. We toured Jabal Amman, Ash-Shumaytan and the west Amman area. This took us more than an hour. I reconnoitered empty places outside Amman in an area near Amman's hospital on the left side of As-Suwaylih road, which could be suitable for storing the weapons which were in the cars. I believe there are quarries in this area. On our return, we passed in front of the national union building outside Amman in the direction of the sports city. What drew my attention was that only one soldier was guarding the building.

A security patrol car stopped us near the circle of the interior ministry. It appeared that the patrol had suspected us because my wife and I were dressed in Saudi clothes, and were in possession of a Saudi passport whereas the car was Lebanese and driven by a

Lebanese national married to a Jordanian woman.

When first interviewed, my problem actually concerned my Saudi passport which included the name of the wife and six children. The fact is that my wife is a child and only 15 years old. I forgot to mention that when we entered the security center, my Czechoslovak made revolver, number 8-168-566-8, and its ammunition fell. The pistol was in my alleged wife's possession. The pistol fell to the floor when we alighted from the car. One of the soldiers saw it. This complicated matters.

None of the elements or group commanders knew the aim of the operation. The operation was arranged as follows: Twenty elements divided into four groups were scheduled to enter Jordan. Ben Bella, Kamal, Samir and Jamal were each assigned as leaders of a group. The groups were scheduled to reach the vicinity of the premier's office in civilian cars and hide their weapons under their overcoats, which were suitable for this purpose. They were ordered to attack and overpower the guards and take them inside the building. They would then detain the ministers attending an ordinary cabinet session on Saturday, 10 February 1973. Ben Bella would then have the responsibility of a political commissioner and negotiate with the authorities over the release of 40 detainees mentioned in seized papers. The others would then alternately assume responsibility for security and for guarding doors and approaches.

In the event the authorities agreed to release the detainees, a demand would then be made that the authorities secure their travel by plane to Tunisia. After arriving in Tunisia, the Tunisian ambassador in Jordan or in Beirut would be given the codeword, which he would in turn communicate to Ben Bella in the premier's office. The codeword was three no's—no peaceful solutions, no United Arab Kingdom and no liquidationist solution. Ben Bella would then demand that a plane be provided to transport them and the ministers to Libya.

In the event of the authorities refusal, the elements would go to the street and to the airport and let the authorities open fire on all of them. The operation's name was the Munich martyrs operation. After telling the elements of the object of the operation, I was scheduled to leave the country via Ar-Ramtha. I would thus have left Jordanian territory before the implementation of the operation. This is my testimony which I dictated of my own free volition and choice and to which I append my signature, the date being 15 February 1973.

QUESTION. What are the operations which you have carried out or participated in other than this one and where did they take place?

ANSWER. At the beginning of August 1972 I was in Sofia staying at Al-Balqan hotel. I was there to buy arms for the Fatah movement from Bulgaria. While I was at the hotel Abu Iyad came to me, accompanied by Fakhri al-'Umari. That was at the beginning of August 1972. Abu Iyad had been in Geneva, Switzerland. I do not know why he was in Switzerland. Fakhri al-'Umari had come from Libya via Belgrade. He arrived in Sofia and met with me at the hotel the day before Abu Iyad's arrival at the same hotel. At the hotel Abuy Iyad informed me in the presence of Abu Muhammad, Fakhri al-'Umari that they intended to attack the Israeli delegation to the olympic games in Munich, to detain the Israeli athletic delegation and to ask the German government to ask for the release of the Arab prisoners in Israel in return for the release of the Israeli athletic team. In order to complete this operation Abu Iyad asked me to give him my Iraqi passport which had been issued to me for that trip under the name of Sa'd ad-Din Wali. He wanted to give this passport to Fakhri al-'Umari to use during the operation.

There was a visa entry to Germany on my Iraqi passport. Fakhri al-'Umari had another Libyan passport which could be to mislead authorities. I handed over my Iraqi passport to Fakhri al-'Umari after my return to Libya. Abu Iyad left for Athens while I returned to Libya. I learned afterwards from Abu Iyad and Fakhri al-'Umari that the Munich operation took place as follows:

Three days after my return to Libya Abu Iyad contacted Fakhri al-'Umari and asked him to go to Munich. He went to Munich. He was accompanied by Yusuf Nazzal, who was carrying an Algerian passport. In Munich Fakhri al-'Umari tried to enter and case the sports town but he could not. He was obliged to get another person to help him. He got Muhammad Masalhah from Libya because he knows several languages including German and worked as an architect in the olympic town during its construction. I learned from Fakhri al-'Umari that Muhammad Masalhah had arrived in Munich from Libya and that it was he who cased the inside of the olympic sports town exploiting his cleverness, his good German language, and his knowledge of the entrances of the sports town. He was able to learn the position of the Israeli team which was staying in Bloc No. 36. He also learned about the security measures and the Bloc No. 36 was opposite the position of the Saudi team which he entered asking for a certain person. The Saudis did not know anything about this operation nor had they any connection with it. He entered in his capacity as a former architect in the town. He ascertained that the building of the Israeli team was similar to the building of the Saudi team. The Israeli team was about 26 men and two women.

Muhammad Masalhah had taken with him the instructions on the operation from Abu Iyad and a list of the names of the detainees who should be released. He had a statement in English. Two groups totaling six were to take part in the operation. With Muhammad Masalhah and Yusuf Nazzal the number of the group would be eight. These were to detain the Israeli team and negotiate for their release. The name of the operation was Iqrit and Kafr Bir'im. This was also the secret word to be used in this operation. If the Israelis agreed to release the 200 prisoners they would take them to any Arab country except for Lebanon or Jordan.

When the prisoners were released, the members of the Israeli team were to be taken with the eight men in a plane to Tunisia and there they would have been released. In case of a refusal, they were to go in the plane to Tunis provided they were able to safeguard their travel to the airport in a closed van. The instructions did not include opening fire on the Israeli team.

They had the maps of the sports town. They bought the maps in the market. The youths came from Libya. Some of them came via Rome to Munich and the others came via Belgrade. Each group was composed of three persons. The first group arrived on 2 September 1972 and the second on 3 September 1972. Fakhri al-'Umari supplied the arms through 'Ali Abu Ghubn in two installments, the first on 1 September 1972 and the second on the morning of 4 September 1972. The arms consisted of 8 (?Kalashnikovs) and 10 (?American) bombs. Muhammad Masalhah took the arms from a box at the railway station where they had been placed by Fakhri al-'Umari. Muhammad Masalhah and Yusuf Nazzal placed the youths in the Munich hotels. Their plan was that the youths would jump over the wall at 0400 on 5 September 1972.

Fakhri al-'Umari left on 4 September 1972 for Rome before the operation started and from there went to Tripoli in Libya. After one day he returned to Beirut and then went to Damascus where he remained.

The man responsible for the Munich operation was the acting political officer Muhammad Masalihah. He supplied the money and the weapons. No German nationals or Arabs resident in Germany took part in the operation.

QUESTION. Could these events have been a coincidence or a result of political shortsightedness?

ANSWER. To my knowledge and from my acquaintance with the people who supervised these operations these people are not shortsighted politically, nor do they act by chance. There must be secret planning behind these matters. I cannot precisely define the quarter behind them because these operations come under very strict secrecy, only the proposal emerges. In the Munich operation and the operation against the premier's office in Amman, it seemed to me that Abu Iyad was behind the two operations. Whether Abu Iyad planned with others or was working on his own I cannot say definitely. If Abu Iyad did not plan with others, the accusing finger would point at him.

QUESTION. In light of your answer to question No. 8 [as heard questions not numbered] how do you explain the Jordanian events from 1967 to September 1970?

ANSWER. Fedayeen action in Jordan led to the September events. It started with the fabrication of internal crises and ended with the attempt to seize power. The September incidents resulted in the withdrawal of the Iraqi and Syrian armies from Jordan, the physical destruction of the eastern front and casting doubts on the intentions of these two armies in a possible war especially when the Syrian Army attacked the Jordanian Army and entered Ar-Ramtha. The fedayeen effort was directed at the army. It raised several question marks.

QUESTION. From a practical and theoretical viewpoint do you think that the current fedayeen action represents the correct trend of the fedayeen?

ANSWER. Fedayeen action should be directed at the occupied soil. Because it lacks this ability at the moment its description as fedayeen action, for which it has been initiated, no longer applies. Fedayeen action had lost the major arena.

QUESTION. What are the operations which the Fatah movement has carried out and who are the persons who were in charge of these operations?

ANSWER. The special operations organ affiliated with intelligence carries out the operations. The intelligence branch is headed by Muhammed Yusuf an-Najjar and his deputy Hamad al-'Ayidi. Ghazi al-Husayni and 'Ali Hasan Salamah are Hamad al-'Ayidi's assistants. Because Hamad al-'Ayidi's personality is weak and Ghazi al-Husayni's personality also is weak and 'Ali Hasan Salamah's personality is stronger, the latter has managed to carry out operations alone and he used to act without reference to Hamad al-'Ayidi. Salamah gathered a group of young men around him. Most of them had a criminal record. The source of 'Ali Hasan Salamah's power comes from the fact that he is supported by Abu 'Ammar personally. When he obtains the resources he needs to mount the operations he does not go back to Muhammad Yusuf an-Najjar. But he usually goes back to him when he cannot find the resources so that An-Najjar can provide him with the money and the other needs.

There is no such thing called Black September. Fatah announces its operations under this name so that Fatah would not appear as the direct executor of the operations only the intelligence organ [which is run by] Abu Yusuf and Abu Hasan attributes the operations to the Black September. Abu Iyad does not link the operations to Black September. Abu Iyad carries out special operations whose quality and not number is accentuated. He plans for big operations like the Munich operation and the abortive operation to take over the premier's office. The

operations which Abu Yusuf carries out in collaboration with Khalil al-Wazir—Abu Jihad, are usually ad hoc operations. They do not need long-term planning.

QUESTION. Name the operations which have been carried out by Abu Iyad, 'Ali Hasan Salamah, and by Abu Yusuf and Khalil al-Wazir.

ANSWER. First, Abu Iyad operations. The successful operations are the Munich operation, and the killing of an Israeli intelligence officer in Madrid early January 1972. I do not know who implemented that operation. The unsuccessful operations are: The operation against the Council of Ministers in Amman. Second, 'Ali Hasan Salamah's operations. The successful ones are the Trieste operation—blowing up oil storage tanks in Trieste, Italy. These storage tanks supply Europe and Germany with fuel. He sought the help of Ash-Shamali in this operation. Ash-Shamali died of cancer and he was the husband of Antun Sa'adah's daughter. I do not know the persons who carried it out. The second operation was blowing up the gas storage tanks in the Netherlands and Germany. The third operation was killing five Jordanians in Hamburg on the pretext that they collaborate with the Israeli intelligence. The fourth operation was firing shots on the Jordanian Ambassador in London Zayd ar-Rifa'i. The fifth operation was the blowing up of an Israeli vessel in the United States. He also has one unsuccessful operation: The attempted attack in Austria on the Soviet Jews who were emigrating to Israel. Three, Abu Yusuf operations: Killing Wasfi at-Tall. He personally assigned the men through Yahya 'Ashur. He transported them to Cairo and subsequently, he himself transported the weapons to Cairo. He carries an Algerian diplomatic passport; the Sabena plane operation at LOD airport, the LOD operation was a failure; the Bangkok operation which was a failure also; another operation, which was supposed to take place together with the Bangkok operation, was attacking the Israeli embassy in Romania; that too failed. Another failure was the attempt on the life of 'Abdallah Salah in Tunis. It did not succeed because the Tunisian security measures were good. 'Abdallah Salah went to Tunis to put forward the United Kingdom project. Abu Jihad took part in the Bangkok operation. There were other operations against Mustafa Dudin, 'Adnan Abu 'Awdah, 'Abdallah Salah in May 1971. They were planned by Abu Yusuf and Abu Jihad. They failed.

This is my statement which was obtained from me of my own free will, choice and full freedom, and I endorse it with my signature.

FOREIGN MINISTRY DISSEMINATES ABU DAWUD STATEMENT

Amman Domestic Service in Arabic 1600 GMT 25 Mar. 73 M.

[Text] The Jordanian Foreign Ministry today handed a note to all the Arab and foreign embassies accredited to Amman which included the full text of the statement made by Muhammad Dawud 'Awdah, alias Abu Dawud, member of the so-called Revolutionary Council of the Fatah organization. This is the statement which Abu Dawud made to the military general prosecutor about the sabotage mission which he and his group were assigned in Jordan by Fatah.

The note points out that the statement of Abu Dawud clearly refutes all the lies being told by the leaders of the organizations, reiterated by their propaganda media, and quoted by specific Arab information media and quarters misled by such lies and alienated from the truth and what is correct.

The Foreign Ministry has also circulated the text of this note and Abu Dawud's statement among all the Jordanian political missions in the Arab and foreign capitals.

INFORMATION MINISTER COMMENTS ON ABU IYAD'S STATEMENT

Amman Domestic Service in Arabic 1600 GMT 23 Mar. 73 M.

[Excerpt] Information Minister Ma'n Abu Nuwwar has made some comment on Abu Iyad's statement. He said: This fellow Abu Iyad lived in Amman for a number of years. This was when we believed that the organizations had been set up in order to resist occupation and to engage their activity and operations in the occupied territory. It became clear later that the objective of Abu Iyad and his group was to carry out the conspiracy of [? acquiring] a substitute homeland at the expense of a devastated Jordan so that the Israeli enemy could finally take over all the territory of Arab Palestine.

When Abu Iyad made sure that he had completed his preparations for carrying out the conspiracy, he and his group in collaboration with the other organizations, tried to occupy Amman and proclaim rebellion against the state. At that time, the armed forces were compelled to intervene to restore law and order, security and stability.

Abu Iyad was arrested during the regrettable clashes which took place in September, 1970. Abu Iyad was found hiding in a house in Amman. He was raising his hands and begging that his life be spared. As soon as the news of his arrest reached His Majesty King Husayn, his majesty ordered that Abu-Iyad should be well treated. Then he asked Abu Iyad to remain under his protection following the receipt of the well known letter Abu Iyad had written. Abu Iyad broadcast that letter in his own voice from the radio of the Hashimite Kingdom of Jordan, on 23 September 1970.

Information Minister Abu Nuwwar went on: Abu Iyad stayed under the roof of His Majesty King Husayn until the delegation of the king's and president's representatives arrived. Abu Iyad met with the delegation and he addressed his majesty in their presence:

Your majesty, we have wronged you and this struggling and fighting country. You have endured a great deal from us. Your patience with us was more than Job's, therefore I appeal to you and indeed beg you to forgive us and pardon us this time and give us a last chance to repent and prove to you that I will not betray your trust in me.

His Majesty King Husayn who is renowned for his humanity, forgiveness and a deep national sense, responded to Abu Iyad's pleas. He pardoned him and gave him permission to leave Amman at his own request. Afterward he gave him permission to return to Amman after restoring law and order in the kingdom. Abu Iyad remained in Amman. He collaborated and worked for the Jordanian Government and the institutions concerned until he decided that living in Beirut was more useful and advantageous to his aims and the aims of the organizations.

Today he enjoys his position as the second in command at the Fatah organization; and now and again he reveals himself through statements and press conferences in which he displays an arrogant behavior toward our country and people. He conspires against us devoting himself to the service of the enemy's aims and plans.

The information minister added: On this occasion I find myself compelled to recall what Abu Dawud has said in his statement on 15 February 1973, and repeated in court on 21 February 1973. It was when the investigating magistrate asked Abu Dawud about the terrorist operations carried out by the organizations and if the timing of those operations and their political implications and adverse effect on the sacred issue was a mere coincidence or the result of political shortsightedness.

Abu Dawud replied: To my knowledge and from my acquaintance with the persons who are in charge of these operations, these people are not shortsighted politically and they do not act by chance. There must be a secret planning. One cannot define precisely the quarter behind this planning. These operations come under very strict secrecy. Only what is proposed emerges. In the Munich operation and the operation planned against the prime minister's office in Amman it seemed to me that Abu Iyad was behind them. But whether Abu Iyad was in league with others or he was on his own, I cannot say definitely. If he did not plan together with others, the accusing finger would point at him.

This is what Abu Dawud, the member of the Revolutionary Council at Fatah organizations has said. His Majesty King Husayn issued his royal wish and commuted the death sentence on Abu Dawud after he was convicted of attempting to occupy the prime minister's office. This may explain what had been said at Abu Iyad's press conference. As for Abu Iyad's claim that he has no knowledge about the Black September organization, once again I quote what Abu Dawud has said in his evidence, that is, that there is no such thing called Black September. Fatah announces its operations under this name so that it might not appear as the direct executor of the operations. The Fatah (observation) organ carries out these operations under this name.

Finally, we deplore such behavior, especially from Abu Iyad, and he knows why.

Mr. CASE. Mr. President, I will not take any additional time now except to say that this is not passing judgment in any sense of being a tribunal with the capacity to do that. This is an expression of the Senate of the outrage and abhorrence at the action that was taken rather than any kind of an assumption that we are in a position to pass legal judgment upon another government. The action that was done was so revolting to civilization that we felt we could not refrain from expressing our feeling about it, and I am sure Members of this body will feel unanimously that this resolution should be approved and quickly.

Mr. HUMPHREY. Mr. President, I yield 2 minutes to the Senator from Florida, and then I will yield to the Senator from Ohio.

Mr. STONE. I thank the Senator from Minnesota.

Mr. President, it has been well written and well said that for evil to triumph all that is required is for good men to do nothing. For this Senate to let a situation pass silently in which one who by his own testimony before an Arab tribunal in Jordan admitted complicity in the massacre of athletes at the Olympic games would have been for evil to triumph.

For the great Nation of France to report that because by their extradition treaty with West Germany the papers had not yet arrived, therefore, the action of a court is sacrosanct because it is court action not government action is to simply use technicalities. Calling a spade a spade, it was an Alphonse and Gaston situation in which France outfumbled West Germany for the check.

Needless to say Israel and West Germany, given a little more time, whether they wanted to or not—Israel definitely wanted to; I do not know whether West Germany really wanted to or not—they would have had their papers there, and then a French court would have been able to review the evidence and decide on the basis of the evidence rather than on a pro forma basis of whether some documents had yet arrived.

So, without wishing to be too offensive to a great nation which is an ally, I think that this Senate is acting properly when we refer not merely to the evil that was accomplished by the release of a self-admitted terrorist in the circumstances but also when the name of France is included in the resolution, and for this Senator the fact that the name of France is in the second paragraph rather than the first does not detract from this Senator's understanding of what took place.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. HUMPHREY. Mr. President, I yield to the distinguished Senator from Ohio 3 minutes.

Mr. METZENBAUM. Mr. President, I have great respect for the previous speakers, the distinguished Senators from Minnesota, Alabama, New York, New Jersey, and Florida. And I have great respect for France.

But in this instance I am less concerned about France's friendly relations with us, and the expressed concern as to this resolution of the Senate meeting with their approval than is my concern about that which happened to the 11 Israeli athletes who were shot down by reason of the activities of Abu Daoud.

And for France to have had this man in their possession subject to their laws, available to be extradited to Germany or to Israel, or to be tried in a routine manner by France in accordance with the laws of justice and due process, and for France then to have used a legal technicality to let him go, and to add insult to injury, to give him a first-class ticket so that he might escape to Algiers—that is shocking to me. It is particularly disturbing. One of those 11 Israeli athletes was an American-born boy who lived three doors from me. He grew up in this country. He was an American citizen and also had dual citizenship in Israel.

I am less concerned about France's sensitivity to the Senate's resolution than I am about him and his family. I am concerned about those who lost their lives and the sensitivities of all of their families, a little bit more concerned than I am about whether or not France likes the language or substance of our resolution. This is our resolution and I do not want France to be telling this great body what the words or phraseology should or should not be. It disturbs me much that we softened this resolution.

I will vote for the resolution in its present form. I would have preferred it much in its original form. I believe that France deserved to be censured. I am sorry that our resolution does not go that far.

Mr. President, I ask unanimous consent to have printed in the RECORD my remarks, entitled "Winking at Terrorism," which appear at page S541 of the RECORD of January 12.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

WINKING AT TERRORISM

Mr. METZENBAUM. Mr. President, 24 hours ago, the French authorities hustled an accused terrorist onto a plane before the charges against him could be properly assessed, and sent him off to Algeria beyond the reach of law and justice.

A lot more than one man left France on that plane. French traditions of honor and justice also had departed from those who made the decision to free Abu Daoud with such indecent haste. The world has witnessed over and over again what a savage price is always paid for winking at terrorism.

This is precisely what has happened in Paris. Terrorists who are freed without trial, who are rewarded with first-class passage and first-class treatment will remain terrorists. Those who support them will remain international disruptors of the peace, securing the terrorists' conviction that they are above the law, that sovereign and once proud nations will bend the knee to them.

Mr. President, I address myself to this outrage not only in the name of violated justice and cynical disregard of rational legal procedures, but from a perspective of deep personal experience as well.

Two of my closest friends from Cleveland, Dr. Benjamin and Dorothy Berger, are the father and mother of David Berger, one of the men brutally murdered at the Munich Olympics. I knew David as a child and watched him grow up to be a splendid young man, joining what he believed was a creative challenge—working in Israel. All this love and dedication ended when he was shackled and shot in cold blood for the crime of representing the "wrong" nation at an international festival of sports and good will.

But no such cruel and instant punishment is meted out to the man accused of planning these premeditated murders. For him there is no punishment at all, nor any serious examination of the charges. A great nation chooses to condone international banditry and in the process makes decency and order, and life itself, more dangerous for all of us.

I was chairman of the ceremonies in Cleveland when a memorial was dedicated to the memory of David Berger. The eloquent speaker at those ceremonies was the distinguished Senator from Minnesota, Senator Hubert Humphrey. All of us there that day pledged that we would not forget David Berger, nor would we forget the meaning of his death; that love and decency must be protected by courage and order; that there is no greater threat to all nations and to all peoples than the callous, selfish insistence, by terrorists who kill and assassinate in the name of justice on getting what they demand. I cannot put aside my pledge of remembrance today, and I therefore protest in the name of international law and justice against this high-handed and tragic action in setting free an international terrorist without trial—without punishment. It is a sad day for France—an even sadder day for mankind.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, I am waiting for the distinguished junior Senator from New York, who wanted to be heard on this resolution.

Mr. CASE. Mr. President, while we are waiting I might say a word.

Mr. HUMPHREY. Please.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CASE. Mr. President, I say I have complete sympathy for and agreement with the Senator from Ohio. I do not wish to boil waters unnecessarily in the international field, but I felt that an immediate reaction of the kind that the Senator had in mind was a thing we should have done. That was the reason I put the resolution in and asked for its immediate consideration by the Committee on Foreign Relations. That was done. And the resolution came to the floor, and then it was pulled back. When that happened it seemed that the matter was beginning to take on more of a kind of court or tribunal consideration and that it was desirable not to press the original language which might not have had the complete approval which the language in its present form will not get, I believe.

Mr. METZENBAUM. I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. CASE. I yield.

Mr. JAVITS. I simply identify myself completely with the views of the Senator from New Jersey. As he, I enthusiastically supported the first one and for the reasons he stated I have to support this one exactly as the old one.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, as a temporary member of the Committee on Foreign Relations, I did sit in meetings held with reference to the resolution pending, and I believe the resolution now before the Senate is one which is acceptable to all concerned. Of course, the Ambassador of France was not pleased with the initial resolution which was introduced by the Senator from Minnesota and the Senator from New Jersey.

But then while France is not altogether pleased with what the committee has brought to the floor of the Senate, it is something which is acceptable.

But the most important thing of all is that we by this resolution are serving notice upon the civilized nations of the world that we must eliminate terrorism as a means of settling international disputes. This resolution would serve notice that we, the United States, are willing to take the lead in this respect, to bring about an orderly settlement of disputes and to eliminate terrorism as a means.

I urge full support of the resolution.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, I yield 2 minutes to the distinguished Senator from New York. How much time do we have left? We have 3 minutes, and I yield 2 to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I would like to point out to the Senate that Mr. Abu Daoud has the blood on his hands, in a metaphoric but real

enough sense, not simply of Israeli citizens but of American citizens. On the 2d of March of 1973, Ambassador Cleo Noel and his deputy, George C. Moore, were murdered in cold blood in the city of Khartoum in the Sudan by members of the Black September group, which is the operating assassin corps of Al Fatah, of which Mr. Daoud is an acknowledged member.

Those murders shocked the civilized world, as they ought, and were a reminder to Americans, among others, of the price which the Foreign Service exacts of its members. Those men went bravely and without protest to their deaths, but in their memory not least, the American Foreign Service Association has sent a telegram of protest to the French Ambassador about what it describes—and these are American diplomats, who use their words carefully, Mr. President—they speak of the "cowardly act" by the French Government, and that "This act reflects poorly on the honor of one of our oldest and closest allies."

I ask unanimous consent that the text of the telegram be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

TELEGRAM

AMERICAN FOREIGN SERVICE ASSOCIATION,
Washington, D.C.

To: French Ambassador to the United States, French Embassy, Chancery, 2535 Belmont Road NW., Washington, D.C.

The American Foreign Service Association, representing more than 9,000 Foreign Service employees strongly protests the cowardly act by the French government in permitting the quick release of the plotter of the Munich massacre, Abu Daoud. The lives of a number of colleagues were lost through the wanton and destructive acts of Abu Daoud and his fellow terrorists. The act of your government can only encourage further terrorist attacks against innocent persons and weaken the collective efforts of civilized countries to stop such murders. This act is especially regrettable in the light of the slow progress made towards collective action against those who attack internationally protected persons. This abject capitulation to terrorism will be forgotten neither by this Association nor, in our judgment, by the American public. In AFSA's view, this act reflects poorly on the honor of one of our oldest and closest allies.

PATRICIA A. WOODRING,
President, The Governing Board.

Mr. MOYNIHAN. Finally, Mr. President, I would like to note that our Vice President will be in France on Friday and Saturday, and I am sure the Senate would wish to inform him of the action taken today, with the suggestion that he would want to draw this directly to the attention of the Government of France.

Mr. JAVITS. Mr. President, before this ends, can we assume that the chairman and the ranking Republican member of the committee will communicate to the Vice President of the United States the views of the Senate, both as adopted in the resolution and as expressed today, so that he may in fact take it up as a high matter of policy with the French Government, as Mr. MOYNIHAN has very properly suggested?

Mr. HUMPHREY. Mr. President, if the Senator will yield, speaking for the chairman of the committee, we will ask the State Department to communicate the text of the resolution to the Vice President, and suggest that the Vice President bring it promptly to the attention of the authorities in France, and we shall ask the staff of the Committee on Foreign Relations to take care of the procedures necessary to bring this matter to the attention of the State Department and the Government of France.

Mr. CASE. I yield 2 minutes to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I compliment the Committee on Foreign Relations for their efforts in this matter. I add my support for the resolution, and hope, speaking for the record, that we will also note that even more than international terrorism was hurt by the precipitate act of the French Government, and that in our total efforts in this world to build international cooperation and a respect for international law, they have done us a disservice.

I hope that future incidents of this kind will not recur, and that consultation with all interested parties will occur before any such action is taken hereafter.

Mr. President, I recommend that the Senate unanimously approve this resolution, and that the information be communicated as outlined by the Senator from New York.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. I yield such time as he may require to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I intend to support this resolution, as I expect we all will, but I want to make clear my feeling that its language is grossly inadequate either to deal with the problem on a worldwide basis or to have any significant impact on French policy, both of which ought to be our desired objectives.

So many words have been spoken in condemnation of international terrorism that there is no need at this point to continue with that kind of rhetoric. We all know the dangers of terrorist activity, and we all are equally committed to eliminating it and bringing terrorists to justice. The more relevant question is what we are going to do about it.

Last year the Tax Reform Act of 1976 included a provision denying preferential tariff treatment to nations aiding and abetting international terrorism—section 1802—a provision that has proved of little use thus far as most of the countries in question do not now receive preferential treatment.

What is needed, therefore, is a broader approach which will provide tools with which we can confront any nation willfully aiding terrorists. Today's resolution, of course, does not meet that standard, both because it has no legal force and because it has no real meaning.

There is no question in my mind that the French Government deserves our condemnation for its action. Its legalistic explanation for its precipitous release of Abu Daoud has not fooled anyone and has not effectively obscured the fact that France has bowed to Arab pressure—implicit or explicit—and has refused to uphold basic standards of international justice and humanity.

Instead of passing this harmless resolution—which I understand even the French Government has no objection to—we ought to be turning our attention to more effective approaches.

One such alternative is S. 206 introduced by Senator BENTSEN on January 12. That bill directs the President to deny economic assistance, military assistance, sales of defense articles and services, foreign military sales credits and guarantees, and Export-Import Bank loans to countries aiding and abetting international terrorism. This legislation moves in the proper direction, but even that list of forms of assistance is not inclusive enough to exert substantial pressure, particularly in the case in question today. As a result, I will introduce tomorrow substantially tougher and more formidable legislation which will add foreign air carrier landing rights and most favored nation status to the list of items the President must cut off to nations aiding terrorists. It is my conviction that these new and powerful sanctions will have a major impact on a number of nations who would not otherwise be affected by S. 206, including France.

Mr. President, the legislation I propose has serious international implications, and I do not propose it lightly. I do feel, however, that resolutions of concern are not sufficient, and that it is time that we took meaningful action to combat international terrorism. The consequences of not doing so are serious indeed. Either the community of nations stands together against aiding and abetting terrorism, or we will inevitably fall separate victims to increasing terrorist acts.

Mr. HUMPHREY. Mr. President, will the Senator from New Jersey yield?

Mr. CASE. First, Mr. President, I yield 1 minute to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to associate myself with the remarks that have been made, particularly those of the senior Senator from New York. I think it was an extremely unfortunate action that the Government of France took. I have never understood and still do not understand their rationale for the way they have acted. I think it is perfectly proper, in accord with the suggestions of the junior Senator from New York, that the views of the Senate be communicated to the Vice President to convey to the proper French officials.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, earlier I suggested that we would have the text of the resolution transmitted to the Vice President through the staff of the Committee on Foreign Relations. Mr. President, I am going to offer an amendment to the resolution, to be a separate section, that will direct the Secretary of the Senate—so that this will be an official act of the Senate itself—to transmit the resolution. I have the resolution at the desk now; the language is being

perfected. The language of the amendment, in substance, will be that the Secretary of the Senate is hereby authorized and ordered to transmit to the appropriate French authorities the text of this resolution, and also to the State Department the text of the resolution.

Mr. JAVITS. Mr. President, may I suggest that we could also transmit the debate?

Mr. HUMPHREY. I would suggest that we do that through the State Department. We can do that through our own suggestions to the State Department.

The language of the amendment will be:

The Secretary of the Senate is directed to provide a copy of this resolution to the Secretary of State for transmission to the government of France.

Mr. JAVITS. And we will request the Secretary of State——

Mr. HUMPHREY. And we will request the Secretary of State, through our own auspices of the Foreign Relations Committee, to transmit the full text of the debate in this respect.

Mr. CASE. Mr. President, if the Senator will yield, I would like to associate myself as a cosponsor of the amendment.

Mr. JAVITS. So would I.

Mr. HUMPHREY. Mr. President, I ask if there be a vote on the amendment to the resolution.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to, as follows:

At the end of the resolution add the following:

SEC. 3. The Secretary of the Senate is directed to provide a copy of this resolution to the Secretary of State for transmission to the Government of France.

Mr. RIBICOFF. Mr. President, it is entirely proper that the Senate of the United States should call the release of alleged terrorist Abu Daoud exactly what it is—an act which repulses civilized people everywhere. If we and the rest of the world are to enjoy freedom from terrorism it will be because of courage to face terrorists. Until all countries bring these international killers to account before justice and deny them safe havens, we are all threatened.

The list of alleged terrorist activities associated with Abu Daoud is appalling. It appears that France has been forced to choose between its sought for special relationship with the Arab world and its moral integrity in the West. If the French Government thought that choice could be made without condemnation by all those who are threatened again, France made a callous miscalculation. The Abu Daoud affair did not disappear with a quick exit. France now tells us that it is really Germany's fault. Where was French indignation that this man would not be tried? France did not wring its hands and bemoan that but for a telephone call from Germany justice would have been served. Nor has Germany stepped forward to accept this blame from the French.

Mr. President, the victim of this wrongful act is our hope for a united position on terrorism in the Western World. As long as countries try to make terrorism go away by speedy exits, legal technicalities, and blame pushing to the next nation, Abu Daoud and his colleagues will be with us. That is why our revulsion is justified.

I ask unanimous consent that two articles from the London Economist of January 15, 1977, be inserted in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THAT'S FRENCH JUSTICE, THAT WAS

The visit to Paris seemed to be going very pleasantly for Abu Daoud when he led a Palestine Liberation Organisation group to the French foreign ministry last week. He was traveling under an Iraqi name, and French officials told him they were sorry about the shooting in Paris on January 3rd of a PLO militant whose funeral he had come to attend. But before he reached the funeral his trip developed into a political nightmare for President Giscard d'Estaing. France had to choose between pursuing its "special relationship" with the Arab world and blackening its moral standing in the west, not to mention between lurching into a new crisis with Israel and risking a hijack—or worse—to force Abu Daoud's release. It opted for expedience and the Arabs.

Abu Daoud's quiet trip went wrong when agents of France's counterespionage service, the DST, tailed him from the foreign ministry meeting and arrested him in a Paris hotel. Acting on a mysterious tip, the French agents detained him as the suspected organiser of the 1972 Palestinian guerilla attack on the Israeli team at the Munich Olympics. But far from congratulating the DST on its sleuthing, the French government found itself torn between principle and political convenience.

Arab ambassadors in Paris, including the Algerian, Egyptian, Saudi Arabian and Syrian envoys, denounced the arrest as an act hostile to the Arab world: not primarily, it seems, on the ground that Abu Daoud was not the man he was thought to be, but because he was an Arab. A pall settled over President Giscard d'Estaing's hopes of striking advantageous oil agreements with Saudi Arabia during his visit there next week. Another threat loomed up for France's aspirations of helping to set up an Arab arms industry, a project which its defence minister Yvon Bourges, was pushing in Cairo at the very moment the DST pounced on Abu Daoud.

It seemed very probable that the DST had acted without consulting the president or the foreign ministry. On Tuesday, however, a former DST head said that the organisation would never make such an arrest without clearing it first with the interior ministry. The organisation has come to dislike terrorists: two of its agents were murdered when they tried to corner the elusive pro-Palestinian guerrilla chief called "Carlos" in Paris (and the Israelis claim that Abu Daoud had links with Carlos). In any event, the presidential palace did its best to minimise the political significance of Abu Daoud's arrest by labelling it as a police decision.

However, when Israel and West Germany both asked France to hold Abu Daoud with a view to possible extradition, the political implications became undodgeable. By Tuesday, four days after the arrest, France was in a fix from which it could escape unbruised only if its common market partner, West Germany, came through quickly with a formal extradition demand. The French government itself had no legal ground, or wish, to put Abu Daoud on trial in France for terrorist activities. Still less did it want to accept the extradition request the Israeli government was hastily formulating. And all the time Arab animosity was rising.

The alternative was to get rid of Abu Daoud as quickly as possible. Six days ahead of his scheduled hearing, he was summoned by the Paris appeals court on Tuesday morning for an inquiry into his detention. First, the court disposed of an international arrest warrant which had been sent by the West German authorities as an initial ground for holding the prisoner. Since this had not been validated by extradition papers sent through formal diplomatic channels, the court suggested, it had no standing. It then quashed the Israeli case. France, the court said, could not handle a request involving a non-Israeli citizen suspected of committing a crime in West Germany in 1972. It was only in 1975 that France acquired a law permitting it to pursue such crimes. Almost without argument, Abu Daoud was set free to board a plane for Algiers.

Warm words from the PLO and the Arab states suggested that Mr. Giscard d'Estaing had saved the profitable relations with the Arab world which France has been painstakingly developing since General de Gaulle's time. But it was at the expense of losing face with his western partners, and, if the first unhappy French press reaction is a guide, with many of his own people. It was less than three months ago that France joined its common market partners in an anti-terrorist pact which was hailed as proof of the European community's desire for common action on major issues.

The American comment was scathing. The state department expressed dismay at the Palestinian's release, and was promptly rebuked by the French for interfering. Mr. Henry Kissinger privately called the decision appalling. Such harsh criticism of France has not come from Washington for many years. But the major victim of the Abu Daoud affair is the hope of a united western stand on terrorism.

WHO WILL HEAR OUR EVIDENCE NOW?

The Munich massacre is not the only crime laid at Abu Daoud's door in the Israeli dossier on him. Israel reacted to his release by France on Tuesday with outrage and contempt. The foreign minister, Mr. Yigal Allon, called it a "shameful surrender to Arab pressure and terrorist threats". That night, Israel's ambassador to France was ordered home for "consultations". On Wednesday the Israeli government revealed that the ambassador was not even told that a French court was considering Abu Daoud's case, and learnt about it only when questioned by journalists.

Israel claims to have evidence linking Abu Daoud to most of the 14 acts of terrorism carried out by Black September from February, 1972, to January, 1973, its busiest year; he was either on the scene as operations officer on most of these occasions, the Israelis say, or helped to organise them. Israel intended to try him not only for these crimes but for operations inside Israel during 1971. The 14 operations included:

The sabotage of an electronics plant in Hamburg on February 6, 1972, and the murder of five Jordanians by two gunmen in West Germany on the same day.

An abortive attempt to hijack a Jordanian airliner in Cairo on February 19, 1972.

An attempt by a Black September gang to break into King Hussein's London house on March 11, 1972.

Attacks on several oil installations in Trieste on August 5, 1972.

The killing of 11 Israeli sportsmen, and a German policeman, at the Munich Olympics in September, 1972. The Israelis say Abu Daoud went to Munich the week before the operation to organise it, arriving on the same Iraqi passport, issued in the name of Yussuf

Radji Hanna, on which he travelled to Paris last week.

The shooting and wounding of an Israeli diplomat in Brussels on September 10, 1972.

The murder in Paris on November 13, 1972, of a Syrian journalist suspected of collaborating with Israel.

The appearance at London's Heathrow airport on December 24, 1972, of a terrorist (who was detained) with a suitcase full of explosives and guns. He said he was going to attack Israeli embassies in Scandinavia.

The seizure of the Israeli embassy in Bangkok on December 28, 1972.

A bomb attack on the Jewish Agency office in Paris on January 8, 1973.

Two attempts, on January 20 and January 28, 1973, to attack Jewish immigrant transit camps in Vienna.

Abu Daoud was captured in Jordan in February, 1973, while leading an attempt to kidnap the Jordanian price minister. Though sentenced to death after a detailed confession, he was released at the end of the year, as a result of pressure from Arab governments, and headed for Damascus. Since then, the Israelis say, he has formed close ties with the most radical leaders of the Palestinians' rejection front, the groups which reject the idea of a settlement with Israel. These include, say the Israelis, Wadi Haddad, chief of the revolutionary wing of the People's Front for Liberation of Palestine, which staged last year's hijacking of an Air France airliner to Entebbe.

According to the Israelis, it was Abu Daoud's former associates, looking for a chance to get rid of him, who tipped off French counter-intelligence about his presence in France.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. I yield back the remainder of my time.

Mr. CASE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the resolution. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senators from South Dakota (Mr. ABOUREZK and Mr. MCGOVERN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—93

Allen	Church	Griffin
Anderson	Clark	Hansen
Baker	Cranston	Hart
Bayh	Culver	Haskell
Bellmon	Curtis	Hatch
Bentsen	Danforth	Hatfield
Biden	DeConcini	Hathaway
Bumpers	Dole	Hayakawa
Burdick	Domenici	Heinz
Byrd, Harry F., Jr.	Durkin	Helms
	Eagleton	Hollings
Byrd, Robert C.	Eastland	Huddleston
Cannon	Ford	Humphrey
Case	Garn	Jackson
Chafee	Glenn	Javits
Chiles	Gravel	Johnston
Kennedy	Nelson	Sparkman
Laxalt	Nunn	Stafford
Leahy	Packwood	Stennis
Long	Pearson	Stevens
Lugar	Pell	Stevenson
Magnuson	Percy	Stone
Mathias	Proxmire	Talmadge
Matsunaga	Randolph	Thurmond
McClellan	Ribicoff	Tower
McClure	Riegle	Wallop
McIntyre	Roth	Weicker
Melcher	Sarbanes	Williams
Metzenbaum	Sasser	Young
Morgan	Schmitt	Zorinsky
Moynihan	Schweiker	
Muskie	Scott	

NAYS—0

NOT VOTING—7

Abourezk	Goldwater	Metcalf
Bartlett	Inouye	
Brooke	McGovern	

So the resolution (S. Res. 48) was agreed to, as follows:

S. RES. 48

Resolved, That it is the sense of the Senate that the release of Abu Daoud, a known terrorist who is accused of planning the murder of Olympic athletes in Munich in 1972, is harmful to the efforts of the community of nations to stamp out international terrorism.

SEC. 2. It is further the sense of the Senate that United States should consult promptly with France and other friendly nations to seek ways to prevent a recurrence of a situation in which a terrorist leader is released from detention without facing pending criminal charges in a court of law.

SEC. 3. The Secretary of the Senate is directed to provide a copy of this resolution to the Secretary of State for transmission to the Government of France.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HASKELL. Mr. President, I ask unanimous consent to be added as a cosponsor to the resolution just adopted by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of ANDREW YOUNG, of Georgia, to be the representative of the United States of America to the United Nations.

There being no objection, the Senate proceeded to the consideration of executive business.

U.S. REPRESENTATIVE TO THE UNITED NATIONS

The PRESIDING OFFICER. The nomination will be stated.

The second assistant legislative clerk read the nomination of ANDREW J. YOUNG, of Georgia, to be the Representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States of America in the Security Council of the United Nations.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on this nomination of not to exceed 20 minutes, to be equally divided between Mr. SPARKMAN and Mr. CASE.

Mr. BAKER. Reserving the right to object, and I shall not object, we do not have any requests on our side for time that I know of. We do have an indication from one Senator and possibly others that they would like a rollcall vote on the nomination.

Mr. ROBERT C. BYRD. Would the Senator like to ask for the yeas and nays now?

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Has the time agreement been entered into?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I shall take very little time. We had a hearing on ANDREW YOUNG yesterday on the matter of confirmation of him as our representative with the rank of Ambassador to the United Nations. Congressman YOUNG made a very fine presentation. I think everyone who heard him felt that he is very able, that he is well equipped for this position. The committee voted unanimously to recommend his confirmation. I do so at this time.

Mr. CASE. Mr. President, I fully support what our chairman has said. I rarely recall anyone coming before us for a similar position who was so well received and this was not done in a perfunctory manner. We were in business all morning and part of the afternoon. This was very thoroughly done.

I have no request for time, except one. The Senator from Maryland would like 1 minute, which I am glad to yield to him.

Mr. MATHIAS. Mr. President, I first met ANDREW YOUNG about a dozen years ago in Selma, Ala., when he was there with Dr. Martin Luther King, at a time when Dr. King was in jail at Selma.

I was enormously impressed with ANDREW YOUNG on that occasion.

He was at that time a young preacher caught up and very much dedicated to the great civil rights movement of those days.

Because of that early acquaintance with him, I followed his career with great interest and with great admiration.

I want to concur with the judgment of the Committee on Foreign Relations which has unanimously endorsed his nomination to be U.S. Ambassador to the United Nations.

Mr. SPARKMAN. Mr. President, I yield to the Senator from California for 1 minute.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I join in the expressions of great confidence in ANDY YOUNG.

I also express my admiration of President Carter for making this particular appointment. I think it is an outstanding appointment.

It not only will mean a great deal to the United States in terms of symbolism

to people in this land and people in all other lands, but the appointment is a symbol of great progress on civil rights and on equality in our land and its struggle for those great purposes abroad.

It also signifies the appointment of a man of great and rare ability. He is highly intelligent, he is dedicated, he is concerned, he is compassionate. He has one of the finest records in terms of the issues of our time of any man walking the face of this Earth.

It is a great pleasure to join at this moment in wholeheartedly supporting this nomination.

Mr. SPARKMAN. Mr. President, I have a biographical sketch taken from Who's Who in America of Congressman YOUNG, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BIOGRAPHY

Andrew Young, Democrat, of Atlanta, Ga.; born in New Orleans, La., March 12, 1932; received degrees from Howard University and Hartford Theological Seminary; ordained by the United Church of Christ; served as pastor of several Georgia and Alabama churches; youth activities director, National Council of Churches, 1957–61; appointed by Dr. Martin Luther King, Jr., as executive director, Southern Christian Leadership Conference, 1964; chairman, Atlanta Community Relations Commission, 1970–72; member: World Council of Churches, Robert F. Kennedy Foundation, National Urban Coalition, Common Cause, Southern Christian Leadership Conference, and Martin Luther King, Jr., Center for Social Change; married Jean M. Childs, 1954; three daughters: Andrea, Lisa, and Paula; one son, Andrew Young III; elected to the 93rd Congress, November 7, 1972; reelected to the 94th Congress; member, House Committee on Rules; regional vice president and member, Executive Committee, Democratic Study Group treasurer and member, Executive Committee, Congressional Black Caucus; member, Environmental Study Conference.

Mr. SPARKMAN. Mr. President, I said a few minutes ago that the vote was unanimous. I say that there were 15 members of the committee and all 15 cast their vote in favor of recommending his confirmation.

Mr. MATSUNAGA. Mr. President, I rise to urge the confirmation of my former colleague in the House of Representatives, the Honorable ANDREW YOUNG, as Ambassador to the United Nations.

On January 20, as I listened to President Carter's inaugural address, I was deeply impressed by his comments on the conduct of American foreign policy, as I am sure all of my colleagues were. President Carter spoke of this country's moral obligation to the developing nations, based on our heritage of liberty and justice for all people. He said:

The passion for freedom is on the rise. Tapping this new spirit, there can be no nobler nor more ambitious task for America to undertake on this day of a new beginning than to help shape a just and peaceful world that is truly humane.

ANDREW YOUNG is a man who knows better than any other just how noble and ambitious that task is.

Living in New Orleans as a child and serving as a pastor in Georgia and Alabama, ANDY knew intimately the degradation, indeed the inhumanity, of poverty and racism. Later, working closely with Rev. Martin Luther King, Jr., in the Southern Christian Leadership Conference, ANDY developed great skill as a negotiator. He learned to hold fast to what was important, but always to seek nonviolent, healing solution. Nevertheless, like many others in the civil rights movement, he was beaten and jailed more than once for his participation in freedom marches.

Despite these experiences, ANDY YOUNG remained a man of compassion toward all his fellow human beings. It is this rare and highly needed compassion that ANDY YOUNG can contribute to the field of international relations. Throughout his service in the House of Representatives ANDY consistently strove to focus public attention on the human crises in the underdeveloped countries of the world. He particularly sought to bring an awareness to the makers of American foreign policy of the needs and hopes of African nations.

Having served in the other body with ANDY YOUNG for 4 years and having been a member of the House Rules Committee with him, I was privileged to observe him as a fellow worker and as a friend. Here is a man, not only of deep compassion, but also of great intelligence, deep human understanding, and a keen sense of humor. I can think of no other person who could serve with greater distinction as Ambassador to an organization which comprises the single forum where rich and poor nations can work together toward the goal of global peace than ANDY YOUNG. ANDY YOUNG's lifelong trait of compassion for life's "little people" and his insistence that they, too, must know justice, make him an appropriate choice for this important post. I urge his confirmation.

Mr. CASE. Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is, Will the Senate advise and consent to the nomination of ANDREW J. YOUNG, of Georgia, to be the Representative of the United States of America to the United Nations? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Mississippi (Mr. EASTLAND), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Arizona (Mr. DECONCINI) is absent because of illness.

I further announce that, if present and voting, the Senator from Mississippi (Mr. EASTLAND) would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 89, nays 3, as follows:

[Rollcall Vote No. 14 Ex.]

YEAS—89

Allen	Hansen	Muskie
Anderson	Hart	Nelson
Baker	Haskell	Nunn
Bayh	Hatch	Packwood
Bellmon	Hatfield	Pearson
Bentsen	Hathaway	Pell
Biden	Hayakawa	Percy
Bumpers	Heinz	Proxmire
Burdick	Hollings	Randolph
Byrd, Harry F., Jr.	Huddleston	Ribicoff
Byrd, Robert C.	Humphrey	Riegle
Cannon	Jackson	Roth
Case	Javits	Sarbanes
Chafee	Johnston	Sasser
Chiles	Kennedy	Schmitt
Church	Laxalt	Schweiker
Clark	Leahy	Sparkman
Cranston	Long	Stafford
Culver	Lugar	Stennis
Danforth	Magnuson	Stevens
Dole	Mathias	Stevenson
Domenici	Matsunaga	Stone
Durkin	McClellan	Talmadge
Eagleton	McClure	Thurmond
Ford	McIntyre	Tower
Garn	Melcher	Wallop
Glenn	Metcalf	Weicker
Gravel	Metzenbaum	Williams
Griffin	Morgan	Young
	Moynihan	Zorinsky

NAYS—3

Curtis	Helms	Scott

NOT VOTING—8

Abourezk	DeConcini	Inouye
Bartlett	Eastland	McGovern
Brooke	Goldwater	

So the nomination was confirmed.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business for the purpose only of entering statements in the RECORD, bills, resolutions, petitions and memorials, said period to not extend beyond 30 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President are we now in morning business?

The PRESIDING OFFICER. We are in morning business.

ORDER FOR THE RECOGNITION OF SENATOR GARN ON MONDAY, JANUARY 31, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next Mr. GARN be recognized for 15 minutes after the two leaders or their designees under the standing order have been recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

LOWERING THE TEMPERATURE

Mr. LEAHY. Mr. President, I just wish to express the gratitude of the Senator from Vermont for the efforts of the distinguished Senator from West Virginia (Mr. RANDOLPH) in lowering the temerature of this august body. It is the first time in 2 years since I have been down here from Vermont that I feel a little bit more comfortable. We are now only a few degrees above our historical high for the 4th of July in the great State of Vermont.

While there are those who have expressed some concern about the water freezing solid in their glasses, I suspect this will have some effect on the quality and quantity of speeches in this body, and I commend Senator RANDOLPH very much.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR CURTIS

Mr. THURMOND. Mr. President, it is with a great deal of pleasure that I have the opportunity to rise today to commend to my colleagues the very distinguished senior Senator from Nebraska, CARL T. CURTIS. As you know, when Senator CURTIS' term expires on January 3, 1979, he will not seek reelection. I wish to take this time to comment upon Senator CURTIS and his highly noteworthy record as a Congresman and Senator.

Of the 10,739 individuals who will have served in the Congress from all the States since the convening of the First Congress in 1789, only 21 will have served longer than Senator CURTIS by the end of his term. He will have been on Capitol Hill for 40 years, longer than any other Nebraskan has served in the Congress or in any statewide elective office. This is a truly remarkable record made by a remarkable legislator.

CARL CURTIS is known as a man of his word. Campaigning as a conservative, he promised his constituency that he would work hard against deficit spending, against the expansion of government, against the welfare state. and against the excesses of union bosses. CARL CURTIS delivers on his promises, as his record clearly indicates.

The January 1976 issue of Human Events commented on Senator CURTIS' consistent opposition to excessive union measures. The AFL–CIO committee on political education reported him as a leading opponent of unions. His campaign promise to work against the excesses of union bosses resulted in an outstanding performance in that area.

During his term as Senator, CARL CURTIS has served as the ranking Republican member of four committees: The Committee on Rules and Administration, the Committee on Aeronautical and Space Sciences, the Committee on Agriculture and Forestry, and the Committee on Finance. His tenure on these committees is marked by dedicated work and a thorough understanding and expeditious handling of complex legislative matters.

Always a leader and highly respected, in the 94th Congress CARL CURTIS was elected by his Republican colleagues to the post of chairman of the Republican Conference. He was designated by the President of the United States to represent the President at the Presidential inaugurations in Nicaragua and Argentina. In 1976, he headed a Presidential mission to the People's Republic of China, having been appointed by President Ford. These are just a few of the many attestations to his ability and to the respect this accomplished Nebraskan has earned.

One of the measures Senator CURTIS has labored for is a pay-as-you-go constitutional amendment. I share his concern about the continued upward spiraling cost-of-living and the huge spending of the Federal Government. For more than 25 years, Senator CURTIS has sponsored a constitutional amendment which would compel pay-as-you-go operation of the Federal Government. This proposal now has more than 20 Democrats and Republicans as cosponsors. I am proud to be one of them, believing that a balanced Federal budget is a necessary step toward curbing inflation and Federal fiscal waste.

CARL CURTIS' expertise in tax matters and awareness of needed tax breaks is further exemplified by the worthy Curtis amendment to the Tax Reform Act of 1976. When this bill came from the House of Representatives, it carried no estate tax relief. Senator CURTIS, as the ranking minority member of the Senate Finance Committee, offered and had accepted by the Senate an amendment to the House-passed bill. Now enacted into law, this amendment carried such needed reform as a unified estate and gift tax exemption, which, when fully implemented, will provide the equivalent of a $175,000 deduction against Federal estate and gift taxes.

Other legislation of signal merit for which CARL CURTIS can claim the lion's share of responsibility are the Curtis Individual Retirement Account Act of 1974, a number of sound social security reform measures, amendments to the Packers and Stockyard Act, legislation promoting soil and water conservation, and food stamp and welfare reform legislation.

Much more could be said about CARL CURTIS' legislative record. His attention to matters of national concern, as well as a vigilant regard for the needs of Nebraskans, has placed him in the vanguard of conservative legislative activists.

It has been, and for the remainder of his term will be a distinct privilege to serve with this noble Nebraskan in the U.S. Senate. All who know him respect him. No one can fault his heed to duty. When we are no longer honored with his presence in the Senate, we still will have his example in the annals of legislation.

Mrs. Thurmond joins me in wishing the Senator from Nebraska and his lovely wife, Mildred, much happiness and prosperity during his retirement in his beloved Minden.

Mr. President, in closing, I wish to express the wish that this able Nebraskan and great American will yet change his mind and decide to run again and return to us in the U.S. Senate where he is so greatly admired and appreciated.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. THURMOND. I will be glad to yield.

Mr. CURTIS. I want to thank the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, Mr. CURTIS can be recognized in his own right under the morning business order.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. CURTIS. Mr. President, I want to thank my distinguished friend for his very fine words.

My announcement was prompted at this time so that the Nebraskans would have ample opportunity to select a successor of their own choosing, and that is the reason for this hurried-up announcement.

I do not expect to let up in my activity. I will finish strong in this body. Also while I am not running for reelection I do not expect to retire. I think that is a bad trend promoted by the funeral directors.

I thank my distinguished friend.

Mr. THURMOND. Mr. President, I did not know there was any time limit here. I thought I had the floor.

The PRESIDING OFFICER. There is a 5-minute time limit.

Mr. THURMOND. I did not realize there was any time limit. There are several Senators who want to say a word on this subject.

Mr. ROBERT C. BYRD. May I say to my friend we are operating under an order for additional morning business, with a limitation on morning business of 30 minutes with statements limited therein to 5 minutes each. The Senator's 5 minutes ran out and Mr. CURTIS was recognized.

Mr. THURMOND. Mr. President, will the distinguished majority leader yield to the distinguished Senator from North Carolina?

Mr. ROBERT C. BYRD. I do not have the floor. He will have the floor in his own right.

Mr. HELMS. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I am sure every Senator, past and present, who has had the privilege of serving with CARL CURTIS fully subscribes to the eloquent tribute paid him by the able Senator from South Carolina.

First and foremost, CARL is a gentleman. He is a man always guided by the Christian principles which are so much a part of his character and personality. He is a man of courage and dedication. He understands the miracle of America as much as anyone I have ever known, and he can always be relied upon to battle for the preservation of the free enterprise system.

The late Dick Russell, whom all of us who knew him loved and admired him, had a special way of describing people for whom he had special admiration. He would say:

He is one of Nature's Noblemen.

And that just about sums it up. CARL CURTIS—great Senator, great American, great friend—is one of Nature's noblemen. While I genuinely regret his decision not to seek reelection, I can think of no one who more deserves a chance to relax and do the things that no Senator has either the time or opportunity to do. So, while we will bid him farewll at the end of this Congress and while it will sadden us to do so, all members of the Senate will gratefully acknowledge the splendid service that CARL CURTIS has rendered to his country.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. CURTIS. I, in all humility, thank the Senator for his generous words. I do appreciate them and what prompted them.

Mr. HELMS. The Senator is quite welcome, I say to the Senator. I join Senator THURMOND in the fervent hope he may change his mind and seek reelection after all.

Mr. ALLEN. Mr. President, no one owes the distinguished Senator from Nebraska (Mr. CURTIS) higher regard than do I. However, I am not ready at this time to eulogize the distinguished Senator and to speak of his accomplishments because he has 2 years of distinguished service yet to render in this body, and I know that his accomplishments in the 2 years ahead will continue to be of the same high caliber of accomplishments and service that have been rendered during his distinguished service in this body.

So at the appropriate time I will make my remarks with regard to my good friend, the distinguished senior Senator from Nebraska (Mr. CURTIS) and his charming and lovely wife Mildred whom we all love and admire so much. So I feel, with all due respect to the speeches that were made thus far, it is much too premature to comment on the distinguished career of the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. ALLEN. I am glad to yield.

Mr. CURTIS. I would be most ungrateful if I did not rise and thank the Senator for his generous remarks. I do appreciate them. I am not going to run for reelection. I am not going to change my mind but I expect to be around here. But I thank the Senator very much.

Mr. ALLEN. I thank the distinguished Senator.

S. 474—EMERGENCY NATURAL GAS ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, the President of the United States has sent to the Senate today the Emergency Natural Gas Act of 1977.

This bill does not prejudge the long-range question of natural gas deregulation one way or the other. It is strictly an emergency measure. The necessity for its enactment only underscores the need for action on the question of long-range pricing for natural gas at the wellhead by Congress in the near future.

Senate action on this measure will not prejudice the case for or against deregulation—nor will it delay Senate action on that issue.

As the majority leader, I will introduce the bill for the President, along with several other Senators, including Senator STEVENSON, who will add the names of cosponsors to the measure and whom I will designate as the manager of the bill when it is under consideration on the floor.

I will seek assurances from the Carter administration and appropriate Members of the Senate and offer my own assurances, all to the effect that the Senate will have an opportunity to work its will on long-range pricing and deregulation for natural gas within a reasonable time.

This bill, I reiterate, is an emergency measure. It will not solve the natural gas supply-demand imbalance. All it seeks to do is to distribute available natural gas supplies in a way that prevents suffering this winter. That being the limited purpose of the bill and with the emergency obvious to all, I hope Senators will resist the temptation to make this bill a vehicle for controversial long-term measures. The result of such amendments could be no action on a long- or short-term basis.

Mr. President, I ask unanimous consent that the message from the President transmitting the proposed Emergency Natural Gas Act of 1977, together with the bill, be printed in the RECORD.

There being no objection, the message and bill were ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., January 26, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am hereby transmitting the Emergency Natural Gas Act of 1977. This legislation is a simple, temporary measure to enable the government to cope with an unprecedented shortage of natural gas supplies. I want to emphasize that this legislation is not submitted as a substitute for developing a natural gas policy as a part of an overall energy policy, which our country so obviously lacks. We must, however, respond to the present emergency and I strongly urge that the Congress give this legislation its immediate attention.

As a result of record cold east of the Rocky Mountains this winter our country and our people are in trouble. Many natural gas systems have already largely depleted the storage fields from which they must draw to meet essential human needs if the cold weather persists. These shortages have affected pipelines unevenly, but those in the worst situation may not be able to maintain essential services to households and public health and safety institutions unless they are able to obtain supplies from other pipelines.

The natural gas pipelines and the Federal Power Commission are attempting to cope with this emergency, but both agree that existing laws may be inadequate to prevent further human suffering in February. The Federal Government lacks clear and effective authority to allocate supplies needed to meet these needs. In addition, surplus gas may be available in the intrastate market that would not flow into interstate commerce under existing law.

This bill is designed to assure that American homes do not go cold while natural gas continues to be used for lower priority uses. However, the bill will not significantly alleviate the economic hardship from this year's natural gas shortage. Hopefully, the emergency sales provision will enlarge the supply of gas available for all interstate systems. But if cold weather persists, there may be little surplus gas that can flow from the producing states to the rest of the nation.

The severity of the present emergency will be significantly reduced if Americans respond to my request of January 21 to turn down their thermostats to 65° in the daytime and lower at night. Half of the shortage can be made up through such action, thereby decreasing unemployment and reducing the possibility that some American homes might be completely without heat this winter.

This conservation effort will not be enough, however, and temporary legislation must be put in place now. Because of the weather-sensitive nature of this supply situation, this emergency authority may not ultimately be used, or additional authority may be needed. However, this legislation is designed to meet present and foreseeable needs through this emergency period.

There are two basic provisions in this legislation.

First, it authorizes the President to reallocate natural gas among interstate pipeline systems to assure that essential supplies to households and public health and safety institutions are maintained. This authority would expire on April 30, 1977. Second, it authorizes emergency sales of intrastate natural gas to the interstate market through July 31, 1977 at prices that are fair and equitable, thereby ending legal uncertainties presently connected with such sales.

My Administration has developed this legislation after extensive consultation with the Congressional committees most directly involved. I believe there is no prudent alternative to this type of legislation to deal with the present shortage situation. I urge its immediate enactment by the Congress.

With best wishes,

JIMMY CARTER.

S. 474

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Natural Gas Act of 1977".

DEFINITIONS

SEC. 2. As used in this Act:

(1) The term "high priority use" means—

(A) use of natural gas in a residence;

(B) use of natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day; or

(C) any other use of natural gas the termination of which the President determines would endanger life, health, or maintenance of physical property.

(2) The term "interstate pipeline" means any person engaged in the transportation by pipeline of interstate natural gas.

(3) The term "intrastate pipeline" means any person (other than an interstate pipeline) engaged in the transportation by pipeline of natural gas.

(4) The term "interstate natural gas" means natural gas which, but for this Act, is subject to the Natural Gas Act.

(5) The term "local distribution company" means any person (including a governmental entity) which receives natural gas for local distribution and resale to natural gas users.

(6) The term "antitrust laws" means the Sherman Act, the Clayton Act, the Federal Trade Commission Act, the Wilson Tariff Act, and the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a) and similar State laws.

(7) The term "State" means any State of the United States and the District of Columbia.

PRESIDENTIAL DECLARATION

SEC. 3. The President may declare a natural gas emergency if he finds that a severe natural gas shortage endangering the supply of natural gas for high priority uses exists or is imminent in the United States or any region thereof and that the exercise of his authorities under section 4 is reasonably necessary to assist in meeting requirements for such uses. Such emergency shall be terminated when the President finds that such shortages no longer exist and are no longer imminent.

EMERGENCY DELIVERIES AND TRANSPORTATION OF NATURAL GAS

SEC. 4(a)(1) If the President finds it necessary to assist in meeting the requirements for high priority uses of natural gas (including storage replenishment or injection), on the basis of a notification by the Governor of any State pursuant to subsection (c) or on the basis of other information available to the President, the President may, during a natural gas emergency declared under section 3, by order, require—

(A) any interstate pipeline to make emergency deliveries of, or to transport, interstate natural gas to any other interstate pipeline or to any local distribution company served by an interstate pipeline for purposes of meeting such requirements;

(B) any intrastate pipeline to transport interstate natural gas from any interstate pipeline to another interstate pipeline or to any local distribution company served by an interstate pipeline for purposes of meeting such requirements; or

(C) the construction and operation by any pipeline of any facilities necessary to effect such deliveries or transportation.

No such delivery or transportation may continue after April 30, 1977 or after the President terminates the emergency declared under section 3, whichever is earlier.

(2) No order may be issued under this subsection unless the President determines that such order will not—

(A) create for the interstate pipeline delivering interstate natural gas a supply shortage which will cause such pipeline to be unable to meet the requirements for high priority uses served, directly or indirectly, by such pipeline;

(B) result in deliveries of natural gas from such pipeline which are excessive (as determined by the President) in relation to deliveries which are required under orders applicable to other interstate pipelines; and

(C) require transportation of natural gas by any pipeline in excess of its available transportation capacity.

(b) Compliance by any pipeline with an order issued under subsection (a) shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of State or Federal law. No action required to be taken under an order issued under subsection (a) shall be subject to any provision of the Natural Gas Act and any such order shall supersede any provision of a certification, or other requirement, under the Natural Gas Act which is inconsistent with such order.

(c)(1) The Governor of any State may notify the President of any finding by such Governor that a shortage of natural gas within such State, endangering the supply of natural gas for high priority uses, exists or is imminent and that the State, and agencies and instrumentalities thereof, have exercised their authority to the fullest extent practicable and reasonable under the circumstances to overcome such shortage.

(2) The Governor shall submit, together with any notification under paragraph (1), information upon which he has based his finding under such paragraph, including—

(A) volumes of natural gas required to meet the requirements for high priority uses in such State;

(B) information received from persons in the business of producing, selling, transporting, or delivering natural gas in such State as to the volumes of natural gas available in such State; and

(C) such other information as the Governor determines appropriate to apprise the President of emergency deliveries and transportation of interstate natural gas needed in such State.

(d) The President may request that representatives of interstate pipelines, intrastate pipelines, local distribution companies, and other persons meet and provide assistance to the President in carrying out his authority under this section.

(e)(1) In order to obtain information to carry out his authority under this section, the President may—

(A) sign and issue subpoenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories, requests for reports or for other information, and such answers shall be made within such reasonable period, and under oath or otherwise, as the President may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The appropriate United States district court may, upon petition of the Attorney General at the request of the President, in the case of refusal to obey a subpoena or order of the President issued under this subsection, issue an order requiring compliance therewith, and any failure to obey an order of the court may be punished by the court as a contempt thereof.

(f)(1) If the parties to any order issued under subsection (a) fail to agree upon the terms of compensation for deliveries (which may include compensation in kind) or transportation required pursuant to such order, the President, after a hearing held either before or after such order takes effect, shall, by supplemental order, prescribe the amount of compensation to be paid for such deliveries or transportation and for any other expenses incurred in delivering or transporting such gas.

(2) For purposes of paragraph (1), the President shall calculate the amount of compensation—

(A) for deliveries of natural gas, based upon the reasonable replacement cost of such gas, as determined by the President, plus not more than 5 percent of such cost; and

(B) for transportation and other expenses, based upon reasonable costs, as determined by the President.

ANTITRUST PROTECTIONS

SEC. 5. (a) There shall be available as a defense to any action brought under the antitrust laws (1) that the activity which is the subject of such action was pursuant to a request of the President under section 4(d) or was necessary to carry out an order under section 4(a), and (2) in the case of any meeting, that such meeting was pursuant to such a request or necessary to carry out such an order and was in compliance with the requirements of subsection (b).

(b) A meeting held pursuant to a request by the President under section 4(d) or pursuant to an order under section 4(a) complies with the requirements of this subsection if—

(1) there is present at such meeting a full-time Federal employee designated for such purposes by the Attorney General;

(2) a full and complete record of such meeting is taken and deposited, together with any agreement resulting therefrom, with the Attorney General, who shall make it available for public inspection; and

(3) such other procedures as may be specified in such request or order are complied with.

EMERGENCY PURCHASES

SEC. 6. (a) The President may authorize any interstate pipeline or local distribution company served by an interstate pipeline (or class or category of such pipelines or companies) to contract, upon such terms and conditions as the President determines to be appropriate (including provisions respecting fair and equitable prices), for emergency supplies of natural gas for delivery before August 1, 1977—

(1) from any producer of natural gas (other than a producer who is affiliated with an interstate pipeline as determined by the President) if (A) such natural gas is not produced from the Outer Continental Shelf

and (B) the sale or transportation of such gas was not, immediately before the date on which such contract was entered into, certificated under the Natural Gas Act, or

(2) from any intrastate pipeline, local distribution company, or other person (other than in interstate pipeline or a producer of natural gas).

(b)(1) The provisions of the Natural Gas Act shall not apply—

(A) to any sale of natural gas to an interstate pipeline or local distribution company under the authority of subsection (a) or to any transportation in connection with any such sale if such transportation would not otherwise be subject to such Act; or

(B) to any natural gas company (within the meaning of the Natural Gas Act) solely by reason of any such sale or transportation.

(2) In exercising its authority under the Natural Gas Act, the Federal Power Commission shall not disallow, in whole or in part, recovery by any interstate pipeline, through the rates and charges made, demanded, or received by such pipeline, the amounts actually paid by it for natural gas purchased pursuant to subsection (a).

(c)(1) The President may, by order, require any pipeline to transport such natural gas, and to construct and operate such facilities for transportation of natural gas, as may be necessary to carry out contracts authorized under subsection (a). No such order shall require any pipeline to transport any natural gas in excess of such pipeline's available capacity.

(2) Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of State law.

(d) As used in this section, the term "Outer Continental Shelf" has the same meaning as such term has under section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

PURCHASED GAS ADJUSTMENT CLAUSES

SEC. 7. In the case of any interstate pipeline receiving compensation under section 4 with respect to deliveries ordered pursuant to such section, such compensation shall be reflected as a reduction in the cost of purchased gas for purposes of any purchased gas adjustment clause applicable to such pipeline. In the case of any interstate pipeline paying compensation with respect to deliveries or contracts for supplies of natural gas under section 4 or section 6, such compensation shall be reflected as an increase in the cost of purchased gas for such purpose.

RELATIONSHIP TO NATURAL GAS ACT

SEC. 8. Except as expressly provided in this Act, nothing contained in this Act shall be interpreted to change, modify or otherwise affect rules, regulations, or other regulatory requirements or procedures of the Federal Power Commission pursuant to the provisions of the Natural Gas Act.

EFFECT ON CERTAIN CONTRACTUAL OBLIGATIONS

SEC. 9. (a) There shall be available as a defense to any action brought for breach of contract under Federal or State law arising out of any act or omission that such act was taken or that such omission occurred for purposes of complying with any order issued under section 4(a).

(b) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to such natural gas if an order under section 4(a) or an authorization under section 6(a) applies to the delivery, transportation, or contract for supplies of such natural gas.

(c) The amounts and prices of any natural gas purchases pursuant to an order under section 4(a) or an authorization under section 6(a) shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 10. (a) Subchapter II of chapter 5 of title 5 of the United States Code (other than sections 554, 556, and 557 thereof) shall apply to orders and other actions under this Act.

(b) Except with respect to enforcement of orders or subpoenas under section 4(e), the Temporary Emergency Court of Appeals shall have exclusive original jurisdiction to review any order issued, or other action taken, under this Act.

(c) Prior to a final judgment, no court shall have jurisdiction to grant any injunctive relief to stay or defer the implementation of any order issued, or action taken, by the President under this Act.

ENFORCEMENT

SEC. 11. (a) Any person who violates an order or supplemental order issued under section 4 or an order under section 6(c) shall be subject to a civil penalty of not more than $25,000 for each violation of such order. Each day of violation shall constitute a separate offense.

(b) Any person who willfully violates an order or supplemental order issued under section 4 or an order under section 6(c) shall be fined not more than $50,000 for each violation of such order. Each day of violation shall constitute a separate violation.

(c) Whenever it appears to the President that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any order issued under section 4(a), any supplemental order issued under section 4(f), or any order under section 6(c), the President may request the Attorney General to bring a civil action to enjoin such acts or practices and, upon showing, a temporary restraining order or preliminary or permanent injunction shall be granted without bond. In any such action, the court may also issue mandatory injunctions commanding any person to comply with any such order or supplemental order.

REPORTING

SEC. 12(a) In issuing any order under section 4(a) or granting any authorization under section 6, the President shall require that the prices and volumes of natural gas delivered, transported, or contracted for pursuant to such order or authorization shall be reported to him on a weekly basis and such reports shall be made available to the Congress.

(b) The President shall report to Congress not later than October 1, 1977, respecting his actions under this Act.

DELEGATION OF AUTHORITIES

SEC. 13. The President may delegate all or any portion of the authority granted to him under this Act to such executive agencies (within the meaning of 5 U.S.C. 105) or officers of the United States as he determines appropriate, and may authorize such redelegation as may be appropriate. Except with respect to section 552 of title 5 of the United States Code, any officer or executive agency of the United States to which authority is delegated or redelegated under this Act shall be subject only to such procedural requirements respecting the exercise of such authority as the President would be subject to if such authority were not so delegated.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 474 be made the pending business on Friday after the two leaders or their designees have been recognized under the standing order and following any orders for the recognition of Senators for 15-minute speeches that may have been entered prior to that time, provided further that it be before the Senate for debate only on Friday and that there be no votes in relation to that measure on Friday.

This is the request. But may I say that this would mean that any Senators who wish to offer amendments or make motions in connection with the legislation could do so on Monday and would certainly have none of their rights waived by virtue of this request.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I assure the majority leader that on behalf of this side of the aisle we do not intend to object to this procedure. I do not intend to and I know of no objection on our side. The arrangement has been worked out carefully with the Members on our side of the aisle most directly involved with jurisdictional committees and special concerns in this respect. I agree with the majority leader that no rights are being prejudiced, no times are being limited, and no options to offer permanent energy programs, decontrol or more control are contemplated by this agreement. I assure the majority leader that Republicans, as much as the majority, want to see as much help and assistance to the citizens of this country in this time of distress as possible and we will do our very best to move this measure and variations of this measure as promptly as possible.

I specifically point out, as the majority leader knows, that I do not represent that there may not be efforts to add other aspects and features to this bill, that there may not be opposition to this bill, that there may not be charges and allegations and that this is not the right solution or that it will do some good. But no Republican that I know of wants to impede the President's progress in this respect. Therefore, there will be no objection of which I know from our side of the aisle to this method of handling the bill.

Mr. THURMOND. Mr. President, this is a most urgent and important matter. In my State we have had industry after industry that has had to close down and lay off workers. In my home county, the Owens-Corning Co. has laid off 7,800 people. The Granville Co. has laid off 700, and may have to lay off 7,000 people, because of the shortage of natural gas. In Greenville, Union Carbide Co. has had to lay off people. I could go on and recite industry after industry.

I commend the President for taking prompt action on this measure. I commend the majority and minority leaders for their action here today in expediting it. I hope that action can be taken promptly, so that what gas is available can be distributed over the country, to give relief in this situation.

I hope further that we can pass a long-range bill that will give permanent relief. We cannot get away from the fact that Congress has this responsibility. In my opinion, if Congress last year had enacted legislation to deregulate natural gas, we would not be in the predicament we are in now. But aside from that, I commend all those who are interested in this matter, and hope it can be enacted promptly.

Mr. ALLEN. Mr. President, reserving the right to object, and I do not plan to object, I think it might be appropriate to reserve the right to object in order that I might make an inquiry of the distinguished majority leader.

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. As we are giving special order action to some emergency legislation, and I approve of that, yet we have matters brought over under the rule that are pending on the calendar, matters brought over under the rule that cannot be considered unless there is an adjournment of the Senate in order that we might have a morning hour at the next session of the Senate. I wonder what the plan of the majority leader is as to getting us an adjournment, so that we might have a morning hour when these important matters may be considered.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator that when and as I can, I will certainly adjourn the Senate so as to allow a morning hour. I am in no position at this moment to say when that will be.

The Senator knows that it was my intention earlier to proceed on Monday next to the consideration of the Stevenson resolution dealing with the reorganization of committees, but in view of this very emergent matter, it has precedence over that very important matter on which a great deal of work has been done. So what I am saying is that since this is an emergent matter, I think it is important that we proceed in the way we are doing. The Stevenson resolution will be backed up behind this, and as to when we can get the resolutions over under the rule, I am simply in no position at the moment to say.

Mr. ALLEN. As the Senator realizes, in addition to the POW resolutions we have Senate Resolution 39, by the junior Senator from Alabama and some 12 other cosponsors, disapproving the pay recommendations of the President. Unless we get the vote on that in 30 days, that resolution for executive, legislative, and judicial top-grade officers will go into effect.

I was just wondering if some opportunity would be given to consider that resolution.

Mr. ROBERT C. BYRD. May I say that that 30-day period is not up until February 20, so there is plenty of time for discusion of the matter. The Senator knows where I stand on it; I have indicated what my position is, and we have a pretty full platter. We are going to try to digest some, and if that can be digested, it would be included; but at this point I must say that——

Mr. ALLEN. I understand the Senator's feelings.

Mr. ROBERT C. BYRD. With all due respect to the Senator, I am in no position to say.

Mr. ALLEN. I would like to point out that about 10 days of that period between now and February 20 Congress will be in recess, so it really just leaves us about 10 days, and we are blocking out something like 4 or 5 days right now, when we talk about the emergency gas resolution and the committee resolution.

I know the distinguished Senator would like the Senate to express its will on this important subject, and that he will make arrangements for a vote.

Mr. ROBERT C. BYRD. May I say that as one Senator I have no hesitancy in expressing my feeling on it. We will have to just take each day as each day comes. I know the Senator's position, and that he wants very much to have a vote on the matter. I am not disposed at the moment to say when that will occur; I cannot say when it will occur. But I think we have to take first things first, and for that reason, I am trying to get the Senate in a position to take action on the emergency legislation that has been sent up to the Hill.

Mr. ALLEN. Would it be the Senator's advice that the Senator from Alabama get the resolution up the best way he can? Would that be the good advice of the Senator from West Virginia?

Mr. ROBERT C. BYRD. Well, no, I would not say that. I am well aware of the talents of the distinguished Senator from Alabama (Mr. ALLEN). He does not need my advice in that regard; I know he will try his best to get it up. I know of his resourcefulness, and the fact that he is a very ingenious individual. I respect and admire him for all of that. But I think we have an understanding, the Senator and I, that I am going to do the best I can, he is going to do the best he can, and I hope everyone will live happily ever after.

Mr. ALLEN. Well, I hope a word to the wise will be sufficient.

Mr. BAKER. Mr. President, will the Senator yield, under a reservation, for just a minute?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I note the majority leader indicated to us his intention to take up this matter, the gas resolution, on Friday.

Mr. ROBERT C. BYRD. And that it be placed on the calendar now.

Mr. BAKER. And that it be placed on the calendar now. Could the majority leader give us some indication of what we might expect on the Senate's schedule on Thursday, assuming this unanimous consent is granted?

Mr. ROBERT C. BYRD. Assuming this unanimous consent is granted, it would be the intention of the majority leader to go over until Friday.

Mr. BAKER. Which I think would be highly desirable, so that all of us could give careful attention to the terms of this matter.

Mr. ROBERT C. BYRD. Yes, and it would also give committees the opportunity to meet on various subjects.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. ON FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock a.m. on Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes each, for the purpose only of making statements, and the introduction of bills, resolutions, petitions, and memorials.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY NATURAL GAS ACT OF 1977

The Senate continued with the consideration of the bill (S. 474) to authorize the President of the United States to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting requirements for high priority uses; to provide authority for short-term emergency purchases of natural gas; and for other purposes.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. STEVENSON. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. Yes, I yield to the able Senator from Illinois, who incidentally has given us a substantial amount of his time and thinking and reaction on this emergency natural gas legislation.

Mr. STEVENSON. I thank the Senator.

Mr. President, I first commend the majority leader and the minority leader, together with the President, for recognizing the seriousness of the natural gas shortage and bringing this measure promptly to the attention of the Senate.

The legislation which has been proposed by the President and introduced by the distinguished majority leader, is cosponsored by myself, the distinguished Senator from West Virginia (Mr. RANDOLPH), Mr. GLENN, Mr. HOLLINGS, Mr. STEVENS, and others.

Mr. President, natural gas storage has depleted to a level that is not ordinarily reached until mid-March. Several major interstate pipelines have almost fully depleted their storage facilities. If the abnormally cold weather continues through the month of February, it is possible that homes, small businesses, and schools will be cut off from supplies of natural gas. About 250,000 people have already lost their jobs as a result of natural gas curtailments.

No action by the Government can significantly increase the amount of natural gas available this winter. In fact, Mr. President, and this ought to be underscored by all Members, only the public

can appreciably help itself. The public can only do so by conserving all forms of energy, especially natural gas. That means turning down thermostats; it means turning off heat in rooms which can be closed. The possibilities for energy conservation are limited only by the will and the ingenuity of people and industry. The public welfare requires conservation of all forms of energy, especially natural gas.

There are some actions which the Government can take to distribute natural gas shortages fairly throughout the Nation, reducing the chance that natural gas would be cut off for homes, small businesses, and other essential human needs. That is the objective of this legislation. It would grant the President the authority to order emergency deliveries of natural gas supplies between interstate pipelines and distribution companies served by such pipelines upon a finding that maintenance of natural gas supplies to residential and other high priority users is in danger and that all reasonable remedies to maintain such supplies have been exhausted.

In addition to residencies, high priority users include small businesses and other essential users such as schools, hospitals, and nursing homes, the loss of which would threaten life, health, or property.

Under this legislation, the President would also have the authority to order the transportation of natural gas between two interstate pipelines by an intrastate pipeline if such an intrastate line is not being used to full capacity. The bill provides that the compensation for such allocation shall be agreed upon by the parties. If they cannot agree, the President is authorized to determine an appropriate level of compensation based on his assessments of reasonable replacement cost plus reasonable transportation cost and, in addition, up to 5-percent bonus for the contributing line.

The other main provision of the bill allows the President to authorize emergency sales of natural gas to interstate pipelines at unregulated prices, subject to his authority to prescribe terms and conditions for such sales, as well as determine that such sales are made at fair and equitable prices.

Mr. President, I want to underscore what has already been said by the majority and the minority leaders. This legislation and action upon it by the Senate will in no way prejudice or prejudge the case either for or against the long-term deregulation of natural gas. Action on the measure will not delay action on the longer term controversy over the pricing of natural gas at the wellhead.

I would hope, that all being the case, and with the assurances that will be forthcoming of an opportunity for the Senate to work its will on the larger question of deregulation, that the Members will not be tempted to use this as a vehicle for more ambitious natural gas proposals. The danger in such measures is that we may end up acting on neither the long-term nor the short-term emergency proposals.

I would hope that all Members, as the minority leader mentioned a moment ago, would recognize that the welfare of human beings is at stake, and that any amendments which were unduly controversial or time consuming will cause delay and possibly cause human suffering.

I would hope it will not be the temptation of any Members to seize upon this opportunity to settle a most difficult, complex, and controversial subject; namely, the deregulation of natural gas, with the result that people will suffer this winter.

Finally, Mr. President, I commend my colleagues for their help and cooperation, along with the Federal Power Commission and the representatives of the President, in preparing this emergency legislation with great dispatch. I include among those colleagues not only the majority and minority leaders and Senator RANDOLPH, but also the Senator from Alaska (Mr. STEVENS), who, with me, recognized the danger of a serious energy natural gas shortage this winter, and last fall was prepared to introduce and to act upon legislation of this nature. His vision did not prevail and now the hour is late. I hope the Senate will now see fit to act with the seriousness of purpose and the alacrity with which the new President has acted, starting on his first full day in office.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. RANDOLPH. Mr. President, I wish to speak not for the purpose of pleasantry but factually to commend the leadership, the majority leader (Mr. ROBERT C. BYRD) and the minority leader (Mr. BAKER). Earlier today in conference they sought to be well reasoned in bringing to the Senate this administration proposal. There will be Members of both parties who will, perhaps, join in cosponsorship or at least support; we trust in substantial numbers.

There is an evidence here that the President's proposal on an emergency basis is absolutely necessary.

In what we might call the eastern, southeastern, and the northeastern portions of our country, there are at least 300,000 workers who are now out of work because of curtailments of natural gas. In the State of West Virginia there are approximately 35,000 employees who are now off the job due to natural gas shortages. If the announced further curtailments for West Virginia are implemented this figure could increase to 200,000 persons.

In the State of West Virginia several of our colleges have closed. Perhaps 5,000 or 6,000 students cannot carry on their collegiate studies.

I do not want to keep pressing these points, but it is very important; what has been done must serve a signal, a very strong signal to the country. The Senate thus means to give prompt attention to this proposed legislation.

It is very important that this legislation be laid down; even late this afternoon, so that on Friday there will be debate concerning various provisions in the measure.

I have some thoughts, I have some language, per se, in which I am interested. It may be beneficial to clarifying and even strengthening the measure which has been presented by the Senator from Illinois (Mr. STEVENSON).

The bill proposed by the Carter administration contains many features which can mitigate the adverse effects of the natural gas curtailments now affecting residential as well as priority users in West Virginia and in the eastern two-thirds of our country. By beginning debate on Friday we can begin perfecting legislation hopefully for Senate approval early next week.

Mr. President, on January 14 and January 24, I introduced S. 271 and S. 420, respectively. The critical provisions of these measures concern emergency purchase of intrastate natural gas by priority pipelines and high-priority users.

The bill introduced today, which I cosponsor, in section 6 authorizes emergency purchase by interstate pipelines on such terms and conditions as the President determines appropriate. The President is given total discretion; moreover, as I interpret the bill the President would be required to approve such emergency purchases in advance of any transportation of natural gas. There is an apparent inconsistency between the bill and the section-by-section analysis that may require clarification. The bill also authorizes the President to establish fair and equitable prices for emergency purchases; however, there is no statutory guidance on this point.

The emergency natural gas legislation approved by the Senate last year was more specific in this point by providing a price ceiling equal to the prevailing market price for intrastate natural gas within the region of the emergency purchase. This is the approach taken in S. 420. Consideration should be given to the inclusion of a similar provision in section 6 so as to remove the possibility for litigation on what constitutes a fair and equitable price.

These are two examples of areas where I feel perfecting amendments may be required or a clarification of congressional intent provided.

It needs to be understood by the American people, and I think it will be, that the Congress is not derelict in its assessment of this situation. It is our desire to cooperate with the administration, to heed the admonition of President Carter and those who are helping him such as Dr. Schlesinger, and to move forward on this energy situation—not with timid steps but with a broad approach, a frontal attack. This will serve as a commitment to the American people that we know the seriousness of this problem; we are ready to accommodate ourselves to it.

I remember, as other Members who were on the floor, might remember, that period in our lives when the German nation was faced with the need for conservation of energy. Their philosophy was to keep the homes cold, but keep the factories warm. The people were moving from their homes to the factories. They were at work.

I do not want to be misunderstood, but whether we call it a work ethic or not, I expect the lifestyle of America is going to have to change in matters of energy conservation.

We must not allow this measure to bog down or to be complicated by well-meaning amendments addressed at long-term natural gas problems. This is not the hour to attempt to do other than meet the issue at hand, that is, to pass legislation of an emergency nature.

I say to the distinguished Presiding Officer that, in the long run, we must formulate definitive policies not only for natural gas but we, and we oft-times do not like to admit that we do, have to take up in this Chamber definite policies for other facets of American life.

In energy, we have not written a comprehensive national policy. It should have been written long ago. The present natural gas condition presses down on us. At the moment, we do not have an embargo from the Mideast, now we have a natural gas shortage. This brings us up short once again to the realization that, sometimes, Americans are too prone to act after the fact.

I believe that all Americans can accommodate themselves to the solution to this emergency problem which faces the Senate and the Congress of the United States.

Mr. STEVENS. Mr. President, I have cosponsored this measure, as I did last year, with the Senator from Illinois, as he pointed out, because, having worked with the Senator from Illinois as a member of the Special Energy Subcommittee of the Committee on Commerce, we discovered the facts which indicated to us then that, should there be a cold winter, Americans would suffer and there would be a need for special allocation authority. It is unfortunate that we did not act on that legislation and make it become law in the last session of Congress, but there is no question that this very bad winter has given us an emergency that I think will reach almost the height of hysteria, before we are through, with regard to allocating what is a very short supply of natural gas.

The Senator from Illinois and I also worked together on a bill that will set a timetable for a decision as to how the new resources of natural gas from my State will be transported to what we call the South 48. I think that this crisis demonstrates even more the wisdom of that action if we are successful in framing a law which will bring about a decision with regard to that transportation system; perhaps we can hold out hope to the American public that within a short period of time, the great natural gas resources of my State and the Outer Continental Shelf of my State will alleviate, for at least a period of time, the problem that we now face.

I do not think we can overemphasize the fact that natural gas is limited, that we will face in the future even more difficult problems than we face now with regard to allocations. This attempt now is a precedent, a precedent which may have great impact on my State in the future, as we become the largest producer of natural gas in the United States.

I am cosponsoring the bill, although I do have a couple of questions about it and have discussed these with the Senator from Illinois and will attempt to see if I am correct, if what I perceive to be not defects but imperfections of the bill, can be corrected. I am cosponsoring the bill, because I think it is imperative that we try to demonstrate to the American public that we are doing everything we can to make certain that the shortfalls in natural gas are shared equitably throughout the United States, just as we have tried, as Alaskans—those of us who represent Alaska—to make certain that the American public knows our goals are to see that our natural gas and oil resources are shared equitably with the South 48 as those resources become available.

Mr. President, I hope no one misunderstands what we are doing. We will still be attempting to allocate less gas than is necessary to maintain industry, homes, and those facilities that are necessary for the health, safety, and welfare of Americans. This is going to be a very difficult task.

I commend the President for his thought and for his advice to reduce the thermostats down to 65 degrees. They have been at 60 in my office since I have been in the Senate and we still think that is too warm. It is a state of mind, really, on how much heat you need. Having just returned from a trip to China—the People's Republic of China—where they are conducting their industry with no heat at all and are conserving their fuel in fantastic ways, I think we have, as the Senator from West Virginia has just said, a lot to learn about the necessity to change our life style with regard to the utilization of our energy. But above all, I hope that there will be other Members of this body on my side of the aisle to join in this effort, if for no other reason than to demonstrate that we are united in the attempt to make available the gas supplies that we have, again, in the most equitable fashion that we can ascertain.

I have suggested that perhaps it might have been possible to call together, as President Roosevelt did at the beginning of World War II, a voluntary group in an attempt to bring about some allocations on an ad hoc basis immediately. We know that there are many laws that we have passed since that time that inhibit such voluntary arrangements, but I do think that a great deal more can be done than has been done in this short period of time.

Let me finally point out that last year, when we were speaking on this bill, I pointed out that the Senator from Illinois and I had been told by the Federal Power Commission and the Federal Energy Administration that we would have a 30-percent worse winter than last year and a 45-percent worse temperature for the whole year than we did last year. What we are experiencing was not unpredicted. We knew it, and it is unfortunate that the Senate would not listen to us, that Congress as a whole would not listen to us last year. I certainly hope that, even though I am one of those who supports the total deregulation of natural gas, that subject can be separated from this one and that the American gas industry will understand that, if we cannot handle this crisis now, the deregulation problem will be even more complicated for the future.

It is not a subject that should be tied to this bill. I personally shall oppose any attempt to make this bill into a total deregulation of natural gas at the wellhead, because the crisis is on us and we should act responsibly to meet that crisis. We should not make this crisis the vehicle for action that we know will lead to further delay in managing the short supply of natural gas available to the American people today.

Again, I compliment the Senator from Illinois and I hope we can work together in the future in this matter as we have in the past.

Mr. STEVENSON. Mr. President, first I thank the Senator from Alaska for his kind words and also for his statesmanship.

ORDER FOR TIME TO ADD COSPONSORS UNTIL 6 P.M. TONIGHT

Mr. STEVENSON. Mr. President, I ask unanimous consent that we may have until 6 p.m. this evening to add cosponsors to the emergency natural gas bill just introduced by the distinguished majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a description of the provisions of the emergency natural gas legislation, which is more extended than the one I offered earlier.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF EMERGENCY NATURAL GAS LEGISLATION

Section 1 states that the bill may be cited as the "Emergency Natural Gas Act of 1977."

SECTION 2. DEFINITIONS

"High priority use" means (1) use of natural gas in a residence; (2) use of natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day; or (3) any other use the termination of which the President determines would endanger life, health, or maintenance of physical property.

"Interstate pipeline" means any person engaged in the transportation by pipeline of natural gas in interstate commerce.

"Intrastate pipeline" means any person (other than an interstate pipeline) engaged in the transportation by pipeline of natural gas.

"Local distribution company" is defined as any person (including a governmental entity) which receives natural gas for local distribution and resale to natural gas users.

"Antitrust laws" means the Sherman Act, the Clayton Act, the Federal Trade Commission Act, the Wilson Tariff Act, and the Act of June 19, 1936, chapter 592 and similar State laws.

"State" means any State of the United States and the District of Columbia.

SECTION 3. PRESIDENTIAL AUTHORITY

Section 3 would authorize the President to declare a national or regional natural gas emergency. This would allow him to exercise the allocation authorities granted him under section 4. In order to declare such an emergency, the President would be required to find that (1) a severe natural gas shortage endangering the supply of natural gas for high priority uses exists or is imminent in the United States (or any region thereof), and (2) the exercise of his authorities under section 4 is reasonably necessary to assist in meeting requirements for such uses. An

emergency would be terminated when the President finds that such shortages no longer exist and are no longer imminent.

SECTION 4. EMERGENCY DELIVERIES AND TRANSPORTATION OF NATURAL GAS

Section 4(a) would authorize the President during a natural gas emergency to take certain actions to assist in meeting the requirements for high priority uses of natural gas. These uses would include storage injection limited to maintenance of line pressure, but not storage for the purpose of return deliveries. He would take upon the request of a State Governor or on the basis of other information available to him.

If these criteria were met, the President could, by order, require an interstate pipeline to make emergency deliveries of, or to transport, interstate natural gas to another interstate pipeline or to any local distribution company which is served by an interstate pipeline. In addition, the President could, by order, require an intrastate pipeline to transport interstate natural gas allocated from an interstate pipeline to another interstate pipeline or to a local distribution company which is served by an interstate pipeline. Finally, the President could, by order, require the construction and operation by any pipeline of any necessary facilities to effect deliveries or transportation of natural gas to be delivered or transported pursuant to this section. No delivery or transportation could continue after April 30, 1977 or after the President terminates the emergency, whichever is earlier.

No allocation order, however, could be issued if the President determined that the order would create a situation whereby an interstate pipeline would be unable to meet its requirements for high priority uses or would result in deliveries of natural gas from such pipeline which are excessive in relation to deliveries which are required under orders applicable to other interstate pipelines. No order could require transportation of natural gas by such pipeline in excess of its transportation capacity.

Subsection (b) makes it clear that compliance with this section will not subject a pipeline to regulation under the Natural Gas Act. Additionally, orders under this section would be outside the reach of the Natural Gas Act and would override existing inconsistent Natural Gas Act certifications.

Subsection (c) would allow any Governor to notify the President that a natural gas shortage exists or is imminent within the State which will endanger supply to high priority users, and that the State has exercised its authority to the fullest extent practicable and reasonable to overcome the shortage. With this notification, a Governor would submit the information upon which he reached his decision to notify the President.

Subsection (d) of section 4 would allow the President to request that pipeline companies, local distribution companies, and other persons meet with and assist him in carrying out the authority under section 4. Subsection (e) would provide the President subpoena and other information gathering authorities for the purpose of carrying out the substantive authorities of the bill.

Subsection (f) is designed to insure that disagreement as to terms of compensation relating to an order under section 4 will not result in an inability to deliver or transport the natural gas which is the subject of such order. This subsection provides, in the event the parties to an allocation order fail to agree upon terms of compensation, that the President shall prescribe after a hearing the compensation and any other expenses incurred in delivering or transporting the natural gas. Presidentially-set compensation for delivery of natural gas would be based upon reasonable replacement cost, plus not more than 5% of such replacement cost. Transportation and other expenses would be based upon reasonable costs.

SECTION 5. ANTITRUST PROTECTION

The bill would make available as a defense to any antitrust action the fact that the activity which is the subject of the action was necessary to carry out an allocation order or occurred during a meeting conducted pursuant to a request of the President to carry out this emergency program.

Subsection (b) would establish the conditions upon which the antitrust defense would apply to any meeting held to carry out the purposes of certain sections of the bill. This subsection would require the presence of a representative of the Federal Government designated by the Attorney General to attend the meeting. Also, a complete record of the meeting, together with any agreement resulting from the meeting, would be submitted to the Attorney General who would make it available for public inspection. In addition, no meeting could be held unless such other procedures specified in any request or order under the Act were complied with.

SECTION 6. EMERGENCY PURCHASES

This section is designed to help insure that any interstate pipeline or local distribution company served by an interstate pipeline will meet its needs for emergency supplies of natural gas through July 31, 1977. The President may authorize any such pipeline or local distribution company to contract (upon such terms and conditions as the President determines to be appropriate) for emergency supplies of natural gas for delivery before this date. These purchases could be delivered from any producer of natural gas not affiliated with an interstate pipeline unless such natural gas was produced from the Outer Continental Shelf, and the sale or transportation of the gas was not, immediately prior to the date of the contract for purchase of the gas, certificated under the Natural Gas Act. In addition, the supplier could be any intrastate pipeline, local distribution company or other person (other than a producer or an interstate pipeline). There is no restriction on the use to which this gas should be put and the price is left to the parties, free from Federal Power Commission jurisdiction, but subject to reviewal by the President for fairness and equity.

Subsection (b) would provide that the Natural Gas Act shall not apply to any emergency sale to an interstate pipeline or local distribution company made under the authority of the bill or to transportation in connection with the sale if such transportation would not otherwise be subject to the Natural Gas Act.

That Act also would not apply to any natural gas company solely by reason of a sale made under this section. This subsection is also designed to prohibit the Federal Power Commission from disallowing the recovery by an interstate pipeline of the amounts paid by it for natural gas pursuant to an emergency purchase under this section.

Subsection (c) would authorize the President to require, by order, any interstate or intrastate pipeline to transport gas and operate facilities necessary to carry out emergency purchase contracts. However, no order under this subsection could require any pipeline to transport natural gas in excess of its available capacity, nor would compliance by a pipeline with an order under this subsection subject the pipeline to regulation under the Natural Gas Act or as a common carrier.

SECTION 7. PURCHASED GAS ADJUSTMENT CLAUSES

This section would require an interstate pipeline receiving compensation in an allocation transaction to pass the benefits through to its customers pursuant to its Federal Power Commission purchased gas adjustment clause. The pipeline paying compensation in an allocation transaction or an emergency purchase would otherwise be able to use its PGA clause to pass through the costs of the gas it obtained.

SECTION 8. RELATIONSHIP TO NATURAL GAS ACT

This provision makes clear that, except as provided in this Act, nothing in the bill would affect any rules, regulations, or other regulatory requirements or procedures of the Federal Power Commission carried out pursuant to the Natural Gas Act.

SECTION 9. EFFECT ON CERTAIN CONTRACTUAL OBLIGATIONS

This section would allow a party to raise as a defense to any breach of contract action the fact that the conduct or action taken was taken to comply with this bill.

Section 9 also would render unenforceable as against public policy any contractual provisions, pronibiting the comingling of intrastate natural gas with interstate gas or terminating any contractual obligation as a result of the comingling. Additionally, the amounts and prices of natural gas purchases made pursuant to the bill could not be taken into account for purposes of any contractual arrangement which determines the price on the basis of sales of other natural gas.

SECTION 10. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

This section would provide that the Administrative Procedure Act (other than formal adjudication procedures) would apply to action taken under the bill. With the exception of enforcement of orders or subpoenas under section 4(e), the Temporary Emergency Court of Appeals would be granted exclusive original jurisdiction to review actions taken under the Act. In addition, prior to final TECA judgment, no injunctive relief to stay or defer the implementation of any order issued or action taken under the Act could be granted.

SECTION 11. ENFORCEMENT

Violation of an order issued under section 4 or section 6(c) would subject the violator to a civil penalty of up to $25,000. A willful violation would subject the violator to a fine of up to $50,000. Each day of violation would constitute a separate violation.

This section would also authorize the President to request the Attorney General to seek injunctive relief against any individual or organization which is engaged in, or is about to engage in, acts which constitute a violation of any order under section 4(a), section 4(f) or section 6(c).

SECTION 12. REPORTING

The President, in issuing any order under section 4(a) or granting any authorization under section 6, would require that the prices and volumes of gas which are delivered, transported, or contracted for pursuant to the order or authorization be reported to him on a weekly basis. These reports will be made available to the Congress. In addition, the President would be required to report to Congress by October 1, 1977, concerning actions taken under the Act.

SECTION 13. DELEGATION OF AUTHORITIES

This section would clarify the fact that the President may delegate any authorities granted him under this Act to appropriate Federal Agencies or officers of the United States. If the authority were delegated, the officer or executive agency carrying out the functions under the Act would be subject only to such procedural requirements as the President would, had the authority not been delegated. The Freedom of Information Act, however, would apply to the delegate.

Mr. ROBERT C. BYRD. Mr. President, I wish to express my appreciation to Mr. STEVENSON and to Mr. STEVENS, and to the Republican leader and to many other Senators on both sides of the aisle,

including Mr. PEARSON, Mr. HOLLINGS, Mr. LONG, Mr. JOHNSTON, Mr. RANDOLPH, Mr. BENTSEN, and others, who have joined together in these discussions today, and many of whom are cosponsoring the measure which has been submitted by the President.

I think we have a fine demonstration of cooperation among Senators on both sides of the aisle in working together in an effort to present the matter to the Senate and open the way for the Senate to begin debate on the bill on Friday.

ORDER FOR RECOGNITION OF SENATOR THURMOND ON MONDAY, JANUARY 31, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, immediately after the order for the recognition of Mr. GARN, Mr. THURMOND be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM FOR FRIDAY

Mr. ROBERT C. BYRD. Mr. President, on Friday I would anticipate no rollcall votes. There will be none on this measure under the order entered. I would hope there would be no rollcall votes on any procedural motions unrelated to this measure. Of course, one can never rule out the possibility of such procedural votes. It certainly is not the intention of the leadership to provoke any votes, however, on Friday.

The Senate will meet at 10 o'clock on Friday morning, and Mr. President, may I ask, are there any orders for the recognition of Senators on Friday?

The PRESIDING OFFICER. Not at this point.

Mr. ROBERT C. BYRD. I thank the Chair.

So on Friday, Mr. President, the Senate will come in at 10 o'clock. The two leaders will be recognized under the standing order.

Has there been an order for morning business on Friday?

The PRESIDING OFFICER. There is no order.

ORDER FOR INTRODUCTION OF MEASURES ON FRIDAY AND FOR CONSIDERATION OF THE EMERGENCY NATURAL GAS MEASURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the RECORD may provide for the introduction of bills and resolutions, petitions and memorials, and statements by Senators on Friday, but that immediately after the two leaders or their designees have been recognized, the Senate proceed to the consideration of the emergency natural gas measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS TO 10 A.M. ON FRIDAY, JANUARY 28, 1977

Mr. CRANSTON. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10 a.m. on Friday morning.

The motion was agreed to; and at 4:58 p.m., the Senate recessed until Friday, January 28, 1977, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 26, 1977:

DEPARTMENT OF LABOR

Ray Marshall, of Texas, to be Secretary of Labor.

U.S. REPRESENTATIVE TO THE UNITED NATIONS

Andrew J. Young, of Georgia, to be the Representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States of America in the Security Council of the United Nations.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

Lt. Gen. William G. Moore, Jr., [redacted] R, U.S. Air Force, for confirmation of recess appointment as senior U.S. Air Force member of the Military Staff Committee of the United Nations, under the provisions of title 10, United States Code, section 711.

IN THE ARMY

The following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

*Maj. Gen. Edward Charles Meyer, [redacted] Army of the United States (colonel, U.S. Army).

*Maj. Gen. Marvin Don Fuller, [redacted] Army of the United States (colonel, U.S. Army).

*Maj. Gen. Edward Charles Meyer, [redacted] Army of the United States (colonel, U.S. Army), for appointment as senior U.S. Army member of the Military Staff Committee of the United Nations, under the provisions of title 10, United States Code, section 711.

The following officers for appointment in the Adjutant General's Corps, Army National Guard of the United States under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. Thomas Craft Armstrong, [redacted].

Brig. Gen. James Compton Clem, [redacted].

Brig. Gen. James LeRoy Spence, [redacted].

Brig. Gen. William David Weller, [redacted].

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. John R. Deane, Jr., [redacted], Army of the United States (major general, U.S. Army).

IN THE NAVY

Vice Adm. Marmaduke G. Bayne, U.S. Navy, for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Bernard B. Forbes, Jr., U.S. Navy, for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

IN THE AIR FORCE

Air Force nominations beginning Philip Adler, Jr., to be colonel, and ending William W. Manders, to be colonel, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

Air Force nominations beginning Rallin J. Aars, to be lieutenant colonel, and ending Lawrence F. Winans, to be major, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

Air Force nominations beginning Jack C. Aarestad, to be lieutenant colonel, and ending William K. Wong, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

Air Force nominations beginning Walter A. Baker, to be lieutenant colonel, and ending Charles Filippini, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

Air Force nominations beginning Rallin J. Aars, to be major, and ending Ronald L. Mastin, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

Air Force nominations beginning John R. Anderson, to be captain, and ending Robert J. Schruefer, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

Air Force nominations beginning Elizabeth A. Alexander, to be captain, and ending Walter W. Valentine, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

IN THE ARMY

Army nominations beginning Milton T. Smith, to be colonel, and ending John R. Musson, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

Army nominations beginning Edward E. Bennett, to be colonel, and ending David Ziegler, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

Army nominations beginning Ronald R. Baskin, to be colonel, and ending Forrest H. Smith, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

IN THE MARINE CORPS

Marine Corps nominations beginning Nicholas J. Adamo, to be lieutenant colonel, and ending Bernard W. Ziobro, Jr., to be chief warrant officer, W–2, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

Marine Corps nominations beginning Andrew M. Allen, to be second lieutenant, and ending Billy F. Woods, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 1977.

HOUSE OF REPRESENTATIVES—*Wednesday, January 26, 1977*

The House met at 3 o'clock p.m.

Msgr. Michael Fedorowich, chancellor, Ukrainian Catholic Archeparchy of Philadelphia, offered the following prayer:

Bless, O Lord, those whom we have chosen to be our leaders.

Hear the prayers of a nation of people who are relatives to all that is.

Give us the eyes to see and the strength to understand that we may be like You.

With Your power only can we face the winds.

Look upon these faces of children, especially our brothers who are suffering, so that they may face the winds and walk the good road to the day of freedom and quiet.

For this Your will, God. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Vice President, pursuant to Public Law 70–770, appointed Mr. HASKELL to be a member, on the part of the Senate, of the Migratory Bird Conservation Commission, vice Mr. BURDICK, resigned.

And, pursuant to Public Law 79–585, appointed Mr. JACKSON as Vice Chairman (temporary) of the Joint Committee on Atomic Energy.

And, pursuant to the provisions of sections 42 and 43 of title 20, United States Code, appointed Mr. JACKSON and Mr. PELL to be members, on the part of the Senate, of the Board of Regents of the Smithsonian Institution.

And, pursuant to Public Law 93–556, appointed Mr. HATFIELD as a member, on the part of the Senate, of the Federal Paperwork Commission.

And, pursuant to Public Law 93–642, appointed Mr. EAGLETON as a member, on the part of the Senate, of the Board of Trustees of the Harry S. Truman Memorial Scholarship Foundation.

HOUSE RESOLUTION 154, APPOINTMENT AS MEMBER OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. RHODES. Mr. Speaker, I offer a privileged resolution (H. Res. 154) relating to the appointment of Mr. BRUCE F. CAPUTO, of New York, as a member of the Committee on Standards of Official Conduct, and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 154

Resolved, That BRUCE F. CAPUTO, of New York be, and is hereby, elected a member of the Committee on Standards of Official Conduct.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RESIGNATION AS A MEMBER OF DISTRICT OF COLUMBIA COMMITTEE

The SPEAKER laid before the House the following resignation as a member of the District of Columbia Committee:

WASHINGTON, D.C., *January 25, 1977.*

Hon. THOMAS P. O'NEILL,
Speaker, House of Representatives.

DEAR MR. SPEAKER: Due to the demands which will be made of my time as the second ranking Republican on the House Judiciary Committee and as a member of the Select Committee on Narcotics Abuse and Control, and because I could not give the proper attention to the D.C. Committee, being unfair to the other members of the Committee as well as the people of D.C., I hereby tender my resignation to the District of Columbia Committee.

Thank you.

Sincerely,

TOM RAILSBACK,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

THE LATE FORMER CONGRESSMAN ELLSWORTH BISHOP FOOTE

(Mr. GIAIMO asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. GIAIMO. Mr. Speaker, it is with deep regret that I report to the House the passing of former Congressman Ellsworth Bishop Foote who represented the Third District of Connecticut—the seat which I now hold—from 1947 to 1949.

Former Congressman Foote died on January 18, 1977, at Guilford, Conn., just 6 days after his 79th birthday. At this time, I would like to extend my condolences to his family on his passing.

Mr. Speaker, the New Haven Register published a concise and comprehensive summary of E. B. Foote's legal and political career. This article serves as a tribute to the outstanding and lengthy public career of a fine man. I am inserting the main text of that obituary article with these remarks:

E. B. FOOTE DIES AT 79

NORTH BRANFORD.—Former U.S. Rep. Ellsworth Bishop Foote, town counsel here for close to half a century, died Tuesday, Jan. 18, 1977, in a Guilford nursing home.

A member of the 80th Congress, 1947–48, the North Branford native, who spent most of his life here, served as a special assistant to the U.S. attorney general in the mid-1920s and was legal counsel to the New Haven County Commissioners from 1942-46 and again from 1949–60.

He was also judge of probate in Elm City in 1947 before running for Congress.

Mr. Foote devoted most of his public service, however, to the town in which he was born.

While he had retired as town attorney in 1973, he had remained active in local affairs and was attending a meeting of town officials and representatives of the New Haven Water Co. in a land negotiating session the day following Thanksgiving in 1975 when he suffered a stroke and collapsed. He had been in poor health since that time.

The son of the late Frank and Ellen Foote, he was born Jan. 12, 1898, and was orphaned at the age of 9. He was graduated from Guilford High School in 1915, Yale Business College the following year and Georgetown University Law School in 1923.

Appointed town attorney in 1927, three years after being admitted to the Connecticut Bar, he led the effort to bring electric service to rural North Branford, sponsored creation of a local Board of Finance, later serving as its chairman in two separate terms totaling 26 years, and also served on the Board of Fire Commissioners.

A lifelong resident of Twin Lakes Road, he was a practicing attorney with two New Haven firms over the years.

Mr. Foote was a retired captain in the Governor's Foot Guard and a former member of the Troop A Cavalry, Connecticut National Guard.

A relatively uncontroversial figure in public life, Foote did take issue with the American Bar Association for its attacks on former Gov. Thomas J. Meskill. The ABA, he charged, had become too political in its evaluation of Meskill for a federal judgeship, and he resigned from the organization.

INTRODUCING THREE JOB-PROVIDING BILLS

(Mr. CONABLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CONABLE. Mr. Speaker, I wish to call to the attention of my colleagues three bills which are being filed today relating to jobs. These bills have been developed by me and other members—on the minority side—of the Committee on Ways and Means. They do not constitute a Republican package or an alternative to the President's stimulus program, but they represent an approach to the unemployment problem which I think should be considered. Through the tax system, these measures would have special impact on the creation of jobs in addition to the existing labor force, on the creation of jobs for teenagers and on the creation of jobs for permanent part-time employees.

I have a special order later in the day, and these bills will be explained in some detail in connection with that special order. I urge my colleagues to check these bills over, and if they feel the approach is a justified one, I ask that they join me in cosponsorship.

DEFENSE SECRETARY HAROLD BROWN'S PROPOSED CUTS IN DEFENSE BUDGET A WRONG FIRST STEP

(Mr. MICHEL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MICHEL. Mr. Speaker, it is reported that Defense Secretary Harold Brown is considering cutting the Defense budget. Among the serious cuts proposed are elimination of $100 million for Minuteman III Intercontinental Ballistic Missiles, a reduction in the number proposed B–1 bombers and a reduction in the number of F–15 fighters.

Reading these reports I could not help but recall the words of Secretary Brown's predecessor, Donald Rumsfeld. Just before he left office, Rumsfeld wrote:

> If the United States were to make a decision which allowed the U.S. to slip to a position of military inferiority, we would soon be living in an unstable world—a world fundamentally different and more dangerous than the one we have known during our lifetimes.
>
> It could be a decision as dangerous as the decision by the democracies prior to World War II not to arm and prepare as Hitler was mobilizing. It would be worse, because we are the nation that turned the tide and prevented a victory by fascism, and today there is no nation to do that for us.
>
> It is for us to do—we must do it. I believe we shall.

Mr. Speaker, I hope and pray that Secretary Brown heeds those words. Let me say that there is no question today before the Congress and the American people more important than that of national defense. History will judge us by the intelligence, the courage and the energy we bring to decisions about our defense in the near future.

Secretary Brown's proposed cuts are, I believe, the wrong first step. And if that first step is wrong, the Carter administration may be going down a road from which there is no return. I hope Secretary Brown reconsiders his decisions and takes Mr. Rumsfeld's words as a guide.

CONSTITUTIONAL AMENDMENT INCREASING TERM OF HOUSE MEMBERS IS PROPOSED

(Mr. SCHULZE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SCHULZE. Mr. Speaker, I am today reintroducing a constitutional amendment increasing the term of a Member of the U.S. House of Representatives from the present 2 years to a 3-year term, and providing that Members may serve no more than 5 consecutive terms. Additionally, my proposal would set an age limit for Representatives.

As the writer Victor Hugo said:

> There is one thing stronger than all the Armies in the world, and that is an idea whose time has come.

Mr. Speaker, this is an idea whose time has come.

When our Founding Fathers met in Philadelphia to draft a Constitution which would serve the American people, they accomplished a work the majesty of which is as sharp and clear today—200 years later—as it was then. It provided and still provides a mechanism to work the will of the people in directing their society and provides a means to adjust and fine-tune that mechanism as events and circumstances change, bearing in mind that the primary goal—to serve the people—was not lost.

The delegates to the Constitutional Convention focused particular attention not only on what would be the powers of the peoples' Chamber—the House of Representatives—but also on how the people could keep a tight rein of their Representatives in that House. Travel then was difficult, if not hazardous; communications were sporadic and slow. The result was that the American people viewed the problem through the prism of their colonial experience. They had but recently fought a war for national independence, the cause of which was American opposition to rule from afar; and, they were unwilling to transfer themselves from one yoke to another. They were as cautiously concerned over what schemes might be concocted by this new government as they had resented past actions of the English monarchy.

One suggested solution to the problem was to set the term for a Member of the House at 1 year just as was customary in State legislatures at that time. Nevertheless, some Founding Fathers such as James Madison and Alexander Hamilton argued for a 3-year term. They were unsuccessful in swaying the delegates, and the compromise result was the 2-year term for Members of the House.

The Founding Fathers were probably wise in reaching that compromise solution. It has served us well for 200 years.

However, during those two centuries the problems which came before the House of Representatives changed—imperceptibly at first but with rapid acceleration in the last 50 years. Likewise, communications improved so that actions being taken by the Congress are covered extensively, analytically, and with split second transmission to our constituents.

I am certain that my colleagues will attest to both the increasing constituent mail and heightened sophisticated comprehension levels of those constituents demonstrated by the penetrating questions and comments made to their Congressmen. At Concord, a shot was fired that was heard 'round the world. Here in the House, a pin dropped could reverberate with equal effect.

Mr. Speaker, this 95th Congress faces awesome problems ranging from how to serve the American people's energy requirements to how we can best serve the medical, economic, and social needs of our senior citizens.

As we begin our third century of this democratic government, the tools and technology the Nation have quite wisely been brought to bear to aid House Members in our responsibility to serve the people. Computers speed information to us on what Federal programs are available to solve any specific needs of our constituents. When the House considers new legislative solutions, we have input available from not only the proponents and opponents, but from impartial study groups. Beyond that there are hundreds of publications each of us receive weekly from committees, subcommittees, departments, agencies, public service groups—you name it, we receive it.

Members of the House are frequently in the position of having a great deal of information without the sufficient time to devote all our energies to absorbing that informed input. While technology can be said to be continually expanding infinitely, the one parameter of our work that does not expand is the one thing we need most—time.

Many Members of this Chamber who have just been elected and have celebrated their swearing-in with appropriate solemnity now begin 24 months of service to the people. If they have not discovered it already, they will soon discover that 24 months is almost the week after next. They will find they must immediately devote considerable time and energy to the paperwork and the activities necessary to present themselves again to the people in less than 2 years to run on a voting record that they have yet to establish in this Chamber. The time and energy they devote to that necessary pursuit must be taken from the finite amount available in a 24-hour day.

Mr. Speaker, that, in summary, is the primary purpose of my proposed constitutional amendment—to give House Members the time to serve the people who sent them here and entrusted to them the stewardship of office and at the same time to limit service in this House so that it continually receives an infusion of new ideas and new attitudes. If we are to master the technical tasks of legislation and keep up with our workload, we simply need more time to learn and more time to stay abreast of changing developments. I urge my colleagues to join me in support of this constitutional amendment so that we may give our fullest measure of skill to the citizens we all serve.

The text of my constitutional amendment follows:

H.J. RES. 203

Joint resolution proposing an amendment to the Constitution of the United States to provide for three-year terms for Representatives to the Congress, to limit the number of consecutive terms Representatives may serve, and to provide an age limit for Representatives

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years of the date of final passage of this joint resolution:

"ARTICLE —

"SECTION 1. The House of Representatives shall be composed of Members chosen for a

term of three years by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

"SEC. 2. Any person who is a Representative for five consecutive terms of three years may not be a Representative during the three-year period beginning immeditaely after the end of the fifth such term unless a vacancy occurs during such a period and such person is elected to fill the vacancy.

"SEC. 3. No person may serve any portion of a term as a Representative if such person has attained the age of seventy-five years or would attain the age of seventy-five years before the end of such term.

"SEC. 4. The provisions of section 3 of this article shall not prevent any person who, immediately prior to the effective date of this article, is a Representative serving a term ending after such effective date from completing such term.

"SEC. 5. This article shall take effect on the first date which is January 3 of an odd-numbered year and which is more than one year after the date on which the ratification of this article is completed.".

REMARKS IN SUPPORT OF PROPOSAL TO END TAX DISCRIMINATION AGAINST SINGLE PERSONS AND MARRIED WORKING COUPLES

(Mr. WHALEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHALEN. Mr. Speaker, I rise in support of the proposal to end tax discrimination against single persons and married working couples which is being reintroduced today by Representative KOCH.

This bill is designed to give all unmarried individuals the full tax benefits of income splitting now enjoyed by married person filing joint returns on a single income, and would also assist working married couples filing jointly on two incomes. In many cases such a couple is more highly taxed than two single persons earning comparable incomes and living together.

This legislation has garnered widespread support since 1971. The Tax Reform Act of 1969 partially alleviated some of the past differences in taxation between single and married persons. Under that act, effective in taxable year 1971, taxes paid by single persons could be no more than 20 percent higher than those paid by married couples where only one partner is gainfully employed. While that change was helpful, in my view there is no justification for any difference at all.

Currently, the wife who goes to work to supplement the family's income is also penalized taxwise. By being married, and not filing two single returns, the working couple stands to pay approximately a 10-percent surtax on the amount they would pay were they single.

I hope that the 95th Congress will enact effective legislation to abolish arbitrary tax rates of the past and provide tne same graduated tax for all taxpayers, regardless of their marital status.

DEFENSE SECRETARY BROWN'S PROPOSED DEFENSE CUTS UNDERMINE LONG-TERM U.S. DEFENSE READINESS AND THE ADMINISTRATION'S DEFENSE POSTURE

(Mr. KEMP asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KEMP. Mr. Speaker, contrary to the statement made earlier this week by Vice President MONDALE, the Secretary of Defense has proposed $2.8 billion in reductions in our vital defense capability for fiscal years 1977 and 1978. The intent of the administration as expressed earlier by the Vice President to strengthen our defense posture was reassuring as it was necessary, and therefore I am stunned by the proposals of the new Secretary of Defense, for it undermines not only our current defense posture, but diminishes the likelihood that the United States would be able to survive a military confrontation with the Soviet Union in the early 1980's with its foreign policy objectives intact.

The Secretary proposes to cut the only strategic nuclear delivery system in production in the United States, the Minuteman III; he proposes gutting the MX ICBM program despite the fact that the Soviets have already deployed a mobile ICBM. These are important programs affecting the ability of U.S. forces in Europe on land, sea, and in the air to deal with the 25-percent growth in Soviet airpower, and 50-percent growth in Soviet artillery, and the 35-percent growth in Soviet tank deployments will weaken the defense posture of the United States for years to come.

The burden of my remarks should be clear. The Secretary's proposed budget cuts will inflict grave damage to our defense posture now and in the future. It is being done at a time when there is no longer any basis for clinging to the illusion of Soviet unilateral disarmament; to the contrary, the Soviet Union now poses the greatest direct threat to the survival of the United States we have faced in two centuries of our existence. This is a time to improve the capability of our Armed Forces, not to attack the military effectiveness of forces with a meat ax.

The list of programs gutted or killed in the Secretary's proposal is long and detailed so I will select a few representative programs to illustrate how gravely our defense capability will be damaged if these proposed reductions are not rescinded.

Despite the fact that the Soviet Union has five new intercontinental ballistic missiles in production, the Secretary proposes to close down the only remaining production line capable of producing ICBM's in the free world, the Minuteman III production line. Termination of the production line would require up to 3 years to resume full production. If the current "fair weather" of Soviet-American relations turns foul as it has so many times in the past, we would literally have no way of augmenting our ICBM force.

Despite the fact that the Soviet Union has already deployed a mobile ICBM, the Secretary has proposed cutting in half the research funds for the development of an American mobile ICBM, thereby delaying until the mid-1980's or later, the development of a missile which cannot be pretargeted.

Despite the fact that Soviet tactical air strength in Europe has been increased 25 percent in the past 3 years, the production of the F–15 fighter has been reduced to nine per month. This reduction will serve to weaken the ability of the United States to support American forces in a land war in Europe.

Despite the fact that the Soviet Union has deployed nearly 100 of its intercontinental Backfire bombers, and has recently stepped up the rate of production, the Secretary has proposed a 37-percent cut in the fiscal year 1978 production of the B–1 bomber. Not only will this reduction reduce the military effectiveness of our strategic forces, but it will also increase the cost of defense to the taxpayer because the economies of volume production cannot be realized.

Despite the fact that the Soviet Union has produced more than 5,000 cruise missiles in the past two decades—to zero for the United States—the most promising American cruise missile program, the Tomahawk has been gutted. Its R. & D. has been cut nearly in half and the program reduced from one in active development to a much more limited program that will eliminate the antiship role of the cruise missile entirely, and concentrate development on the land-based version only. Thus a field of technology where the United States has an important lead—in jet engine design, missile guidance, and warhead design—is being thrown away.

Promising technology in the field of air cushion vehicles—also known as surface effect ships—a technology which may permit 10,000-ton vessels to transit the oceans of the world at 150–200 knots with untold commercial and military value is being scuttled in effect by putting the program on the "back burner" as just another R. & D. porgram if the Secretary's proposed cuts are sustained.

As I said earlier, the Secretary's proposed budget cuts will inflict grave damage to our defense posture now and in the future and is being done at a poor time.

INTRODUCING LEGISLATION TO AMEND PROVISIONS OF THE LAWS GOVERNING PRIVATE CARRIAGE OF LETTER MAIL

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, I am today introducing legislation to amend the provisions of the laws governing the private carriage of letter mail, generally known as the Private Express Statutes, so as to establish congressional control and responsibility in this important area.

My legislation does not repeal the pri-

vate express laws. Nor does it open the door to "cream-skimming," or unduly affect the level of postal revenues.

On the contrary, my legislation will codify what generally are the current Postal Service regulations relating to the private carriage of mail, with some modifications. It would prevent any possible arbitrary or whimsical changes by the Postal Service and would place in the hands of the Congress the authority for determining the extent and bounds of the Government's mail monopoly.

Under existing law, the term "letter" is not defined. As a result the determination of items that may not be carried outside the mail is made by the Postal Service through regulations. There is justified concern that such authority should rest solely with the Postal Service.

Recent testimony given before the Commission on Postal Service, the blue-ribbon study group created in the last Congress, charges that Postal Service actions have expanded the scope of the law to the point where they cover items that should not be considered as "letters." One example is the transmission of data processing materials and correspondence between companies with a subsidiary or affiliate relationship. It is asserted that these regulations have had an adverse effect on U.S. business, both in terms of increased mailing cost and a reduction in the efficiency of business operations.

If it is true, as the business community claims, that the Postal Service cannot provide the rapid and dependable service that businesses require but purports to prohibit others from doing so unless penalty postage is paid, then the Congress should step in.

Mr. Speaker, because of the profound effect of private express regulations on the business community and the public, I believe this function should be taken over by the Congress and that any modification or alteration of the postal monopoly should be a matter of law.

NATURAL GAS EMERGENCY LEGISLATION

(Mr. STAGGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, I am introducing a bill today at the request of President Carter. This bill authorizes the President to order certain emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting the requirements of high priority users. It also provides authority to the President to allow certain short-term emergency purchases of natural gas to be delivered not later than the end of July.

We all know that we have gone through a very severe winter, to date one of the coldest on record. This has resulted in much greater usage of natural gas than would occur in a normal winter heating season, causing great curtailments in the use of natural gas to industrial users and withdrawals from storage of great supplies of natural gas to the extent that the ability of some interstate pipelines to continue to supply residential customers and other essential users with natural gas for the duration of this winter is threatened.

In view of this severe natural gas shortage, the President has asked the Congress to enact this emergency legislation to give him the necessary tools to provide that the requirements of high-priority users will be met. He has also indicated that he will propose long-term solutions to our ever growing natural gas shortage. We will offer our cooperation and expeditious consideration of both of these matters of great national concern that vitally affect the health, safety, and livelihood of our citizens.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I thank my good friend, the gentleman from West Virginia (Mr. STAGGERS), for his kindness in yielding to me.

I wish to say, as chairman of the subcommittee, that hearings will commence, I believe, Friday morning on this matter.

Mr. Speaker, I include at this point a section-by-section analysis of the emergency natural gas legislation, as follows:

Section 1 states that the bill may be cited as the "Emergency Natural Gas Act of 1977."

SECTION 2. DEFINITIONS

"High priority use" means (1) use of natural gas in a residence; (2) use of natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day; or (3) any other use the termination of which the President determines would endanger life, health, or maintenance of physical property.

"Interstate pipeline" means any person engaged in the transportation by pipeline of natural gas in interstate commerce.

"Intrastate pipeline" means any person (other than an interstate pipeline) engaged in the transportation by pipeline of natural gas.

"Local distribution company" is defined as any person (including a governmental entity) which receives natural gas for local distribution and resale to natural gas users.

"Antitrust laws" means the Sherman Act, the Clayton Act, the Federal Trade Commission Act, the Wilson Tariff Act, and the Act of June 19, 1936 chapter 592 and similar State laws.

"State" means any State of the United States and the District of Columbia.

SECTION 3. PRESIDENTIAL AUTHORITY

Section 3 would authorize the President to declare a national or regional natural gas emergency. This would allow him to exercise the allocation authorities granted him under section 4. In order to declare such an emergency, the President would be required to find that (1) a severe natural gas shortage endangering the supply of natural gas for high priority uses exists or is imminent in the United States (or any region thereof), and (2) the exercise of his authorities under section 4 is reasonably necessary to assist in meeting requirements for such uses. An emergency would be terminated when the President finds that such shortages no longer exist and are no longer imminent.

SECTION 4. EMERGENCY DELIVERIES AND TRANSPORTATION OF NATURAL GAS

Section 4(a) would authorize the President during a natural gas emergency to take certain actions to assist in meeting the requirements for high priority uses of natural gas. These uses would include storage injection limited to maintenance of line pressure, but not storage for the purpose of return deliveries. He would take upon the request of a State Governor or on the basis of other information available to him.

If these criteria were met, the President could, by order, require an interstate pipeline to make emergency deliveries of, or to transport, interstate natural gas to another interstate pipeline or to any local distribution company which is served by an interstate pipeline. In addition, the President could, by order, require an intrastate pipeline to transport interstate natural gas allocated from an interstate pipeline to another interstate pipeline or to a local distribution company which is served by an interstate pipeline. Finally, the President could, by order, require the construction and operation by any pipeline of any necessary facilities to effect deliveries or transportation of natural gas to be delivered or transported pursuant to this section. No delivery or transportation could continue after April 30, 1977 or after the President terminates the emergency, whichever is earlier.

No allocation order, however, could be issued if the President determined that the order would create a situation whereby an interstate pipeline would be unable to meet its requirements for high priority uses or would result in deliveries of natural gas from such pipeline which are excessive in relation to deliveries which are required under orders applicable to other interstate pipelines. No order could require transportation of natural gas by such pipeline in excess of its transportation capacity.

Subsection (b) makes it clear that compliance with this section will not subject a pipeline to regulation under the Natural Gas Act. Additionally, orders under this section would be outside the reach of the Natural Gas Act and would override existing inconsistent Natural Gas Act certifications.

Subsection (c) would allow any Governor to notify the President that a natural gas shortage exists or is imminent within the State which will endanger supply to high priority users, and that the State has exercised its authority to the fullest extent practicable and reasonable to overcome the shortage. With this notification, a Governor would submit the information upon which he reached his decision to notify the President.

Subsection (d) of section 4 would allow the President to request that pipeline companies, local distribution companies, and other persons meet with and assist him in carrying out the authority under section 4. Subsection (e) would provide the President subpoena and other information gathering authorities for the purpose of carrying out the substantive authorities of the bill.

Subsection (f) is designed to insure that disagreement as to terms of compensation relating to an order under section 4 will not result in an inability to deliver or transport the natural gas which is the subject of such order. This subsection provides, in the event the parties to an allocation order fail to agree upon terms of compensation, that the President shall prescribe after a hearing the compensation and any other expenses incurred in delivering or transporting the natural gas. Presidentially-set compensation for delivery of natural gas would be based upon reasonable replacement cost, plus not more than 5% of such replacement cost. Transportation and other expenses would be based upon reasonable costs.

SECTION 5. ANTITRUST PROTECTION

The bill would make available as a defense to any antitrust action the fact that the activity which is the subject of the action was necessary to carry out an allocation order

or occurred during a meeting conducted pursuant to a request of the President to carry out this emergency program.

Subsection (b) would establish the conditions upon which the antitrust defense would apply to any meeting held to carry out the purposes of certain sections of the bill. This subsection would require the presence of the meeting, together with any agreement designated by the Attorney General to attend the meeting. Also, a complete record of a representative of the Federal Government resulting from the meeting, would be submitted to the Attorney General who would make it available for public inspection. In addition, no meeting could be held unless such other procedures specified in any request or order under the Act were complied with.

SECTION 6. EMERGENCY PURCHASES

This section is designed to help insure that any interstate pipeline or local distribution company served by an interstate pipeline will meet its needs for emergency supplies of natural gas through July 31, 1977. The President may authorize any such pipeline or local distribution company to contract (upon such terms and conditions as the President determines to be appropriate) for emergency supplies of natural gas for delivery before this date. These purchases could be delivered from any producer of natural gas not affiliated with an interstate pipeline unless such natural gas was produced from the Outer Continental Shelf, and the sale or transportation of the gas was not, immediately prior to the date of the contract for purchase of the gas, certificated under the Natural Gas Act. In addition, the supplier could be any intrastate pipeline, local distribution company or other person (other than a producer or an interstate pipeline). There is no restriction on the use to which this gas should be put and the price is left to the parties, free from Federal Power Commission jurisdiction, but subject to reviewal by the President for fairness and equity.

Subsection (b) would provide that the Natural Gas Act shall not apply to any emergency sale to an interstate pipeline or local distribution company made under the authority of the bill or to transportation in connection with the sale if such transportation would not otherwise be subject to the Natural Gas Act.

That Act also would not apply to any natural gas company solely by reason of a sale made under this section. This subsection is also designed to prohibit the Federal Power Commission from disallowing the recovery by an interstate pipeline of the amounts paid by it for natural gas pursuant to an emergency purchase under this section.

Subsection (c) would authorize the President to require, by order, any interstate or intrastate pipeline to transport gas and operate facilities necessary to carry out emergency purchase contracts. However, no order under this subsection could require any pipeline to transport natural gas in excess of its available capacity, nor would compliance by a pipeline with an order under this subsection subject the pipeline to regulation under the Natural Gas Act or as a common carrier

SECTION 7. PURCHASED GAS ADJUSTMENT CLAUSES

This section would require an interstate pipeline receiving compensation in an allocation transaction to pass the benefits through to its customers pursuant to its Federal Power Commission purchased gas adjustment clause. The pipeline paying compensation in an allocation transaction or an emergency purchase would otherwise be able to use its PGA clause to pass through the costs of the gas it obtained.

SECTION 8. RELATIONSHIP TO NATURAL GAS ACT

This provision makes clear that, except as provided in this Act, nothing in the bill would affect any rules, regulations, or other regulatory requirements or procedures of the Fedeal Power Commission carried out pursuant to the Natural Gas Act.

SECTION 9. EFFECT ON CERTAIN CONTRACTUAL OBLIGATIONS

This section would allow a party to raise as a defense to any breach of contract action the fact that the conduct or action taken was taken to comply with this bill.

Section 9 also would render unenforceable as against public policy any contractual provisions, prohibiting the commingling of intrastate natural gas with interstate gas or terminating any contractual obligation as a result of the commingling. Additionally, the amounts and prices of natural gas purchases made pursuant to the bill could be taken into account for purposes of any contractual arrangement which determines the price on the basis of sales of other natural gas.

SECTION 10. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

This section would provide that the Administrative Procedure Act (other than formal adjudication procedures) would apply to action taken under the bill. With the exception of enforcement of orders or subpoenas under section 4(e), the Temporary Emergency Court of Appeals would be granted exclusive original jurisdiction to review actions taken under the Act. In addition, prior to final TECA judgment, no injunctive relief to stay or defer the implementation of any order issued or action taken under the Act could be granted.

SECTION 11. ENFORCEMENT

Violation of an order issued under section 4 or section 6(c) would subject the violator to a civil penalty of up to $25,000. A willful violation would subject the violator to a fine of up to $50,000. Each day of violation would constitute a separate violation.

This section would also authorize the President to request the Attorney General to seek injunctive relief against any individual or organization which is engaged in, or is about to engage in, acts which constitute a violation of any order under section 4(a), section 4(f) or section 6(c).

SECTION 12. REPORTING

The President, in issuing any order under section 4(a) or granting any authorization under section 6, would require that the prices and volumes of gas which are delivered, transported, or contracted for pursuant to the order or authorization be reported to him on a weekly basis. These reports will be made available to the Congress. In addition, the President would be required to report to Congress by October 1, 1977, concerning actions taken under the Act.

SECTION 13. DELEGATION OF AUTHORITIES

This section would clarify the fact that the President may delegate any authorities granted him under this Act to appropriate Federal Agencies or officers of the United States. If the authority were delegated, the officer or executive agency carrying out the functions under the Act would be subject only to such procedural requirements as the President would, had the authority not been delegated. The Freedom of Information Act, however, would apply to the delegate.

APPOINTMET OF MEMBERS OF COMMITTEE ON WAYS AND MEANS AS MEMBERS OF JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

The SPEAKER laid before the House the following communication from the chairman of the Committee on Ways and Means:

JANUARY 24, 1977.

The Hon. THOMAS P. O'NEILL, JR.,
Speaker, House of Representatives.

DEAR MR. SPEAKER: Pursuant to section 8002 of the Internal Revenue Code of 1954, the following Members of the Committee on Ways and Means have been designated as Members of the Joint Committee on Internal Revenue Taxation:

The Honorable Al Ullman;
The Honorable James A. Burke;
The Honorable Dan Rostenkowski;
The Honorable Barber B. Conable. Jr.; and
The Honorable John J. Duncan.

Sincerely,

AL ULLMAN,
Chairman.

The SPEAKER. The Clerk will notify the Senate of the appointments.

APPOINTMENT OF MEMBERS OF BOARD OF TRUSTEES OF JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

The SPEAKER. Pursuant to the provisions of section 2(a), Public Law 85–874, as amended, the Chair appoints as members of the board of trustees of the John F. Kennedy Center for the Performing Arts the following members on the part of the House: the gentleman from New Jersey, Mr. THOMPSON; the gentleman from Wyoming, Mr. RONCALIO; and the gentleman from Minnesota, Mr. QUIE.

APPOINTMENT AS MEMBERS OF NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

The SPEAKER. Pursuant to the provisions of 23 United States Code 101, the Chair appoints as members of the National Transportation Policy Study Commission the following members on the part of the House: The gentleman from New Jersey, Mr. HOWARD; the gentleman from California, Mr. ANDERSON; the gentleman from Pennsylvania, Mr. ROONEY; the gentleman from Texas, Mr. MILFORD; the gentleman from Kentucky, Mr. SNYDER; and the gentleman from Pennsylvania, Mr. SHUSTER.

APPOINTMENT AS MEMBERS OF SELECT COMMITTEE ON THE OUTER CONTINENTAL SHELF

The SPEAKER. Pursuant to the provisions of rule X, clause 5(c), the Chair appoints as members of the Select Committee on the Outer Continental Shelf the following Members of the House:

The gentleman from New York (Mr. MURPHY) chairman; the gentleman from Arizona (Mr. UDALL); the gentleman from Pennsylvania (Mr. EILBERG);

the gentleman from Texas (Mr. KAZEN); the gentleman from Louisiana (Mr. BREAUX); the gentleman from Massachusetts (Mr. STUDDS); the gentleman from Connecticut (Mr. DODD); the gentleman from New Jersey (Mr. HUGHES); the gentleman from Illinois (Mr. RUSSO); the gentleman from California (Mr. MILLER); the gentleman from Ohio (Mr. SEIBERLING); the gentleman from Georgia (Mr. GINN); the gentleman from New York (Mr. ZEFERETTI); the gentleman from New York (Mr. FISH); the gentleman from New Jersey (Mr. FORSYTHE); the gentleman from Alaska (Mr. YOUNG); the gentleman from Maryland (Mr. BAUMAN); the gentleman from California (Mr. WIGGINS); and the gentleman from Louisiana (Mr. TREEN).

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to rule XXXII, the Chair will insert at this point in the RECORD regulations on admittance of staff to the House floor. I wish to stress that we would certainly appreciate it if the Members who will be coming on the floor with staff members will read this rule XXXII concerning members of staff coming to the floor which the House is inserting in the RECORD at this particular time.

The regulations are as follows:

A. *Committee Staff:* While a proposition is pending on the floor of the House, four professional staff members and one clerical staff member from the committee which has reported the measure (or from the committee with subject-matter jurisdiction, as determined by the Speaker, in the case of a measure which has not been reported from committee) may be present on the floor—including aisle space behind the railings. In the case of a measure reported by more than one committee, or in the case of a measure made in order by a special rule which allocates general debate to another committee (or which entitles another committee to offer amendments) each such committee is entitled to the full complement of staff. As required by clause 4 of rule XXXII, no such staff persons shall engage in efforts on the floor or in rooms leading thereto to influence Members with regard to the legislation under consideration. Such committee staff shall remain in the proximity of the committee tables to advise committees responsible for their admission and other Members seeking their advice.

B. *Legislative Counsel:* As permitted by the legislative Reorganization Act of 1970, while a proposition is pending on the floor of the House, two members of the staff of the legislative counsel may be present on the floor to assist all Members.

C. *Members' Personal Staff:* While a Member, delegate, or resident commissioner has an amendment pending on the floor of the House, he may have one member of his personal staff (clerk-hire staff) with him on the floor in the proximity of the committee table solely to advise that Member on the amendment. For the purposes of clause 4, rule XXXII, a Member must personally obtain a floor pass for his or her staff assistant on the day that the amendment will be offered. These passes will be available at the Speaker's desk while the House is in session, and must be signed by the Member and filled out to indicate the staff assistant's name, the date(s) the amendment will be under consideration and the bill to which it will be offered. The Member may then give this pass to the designated staff assistant, and the pass will also serve as a gallery pass to gallery 1 and must be presented to the doorman at the east door of the Speaker's lobby when the amendment is actually under consideration to permit that staff assistant to be admitted to the floor. For the purposes of the rule, a Member has an amendment under consideration after he has been recognized to offer it and until (1) the Chair announces the vote thereon, or (2) the Chair rules that the amendment is not in order.

THE 59TH ANNIVERSARY OF UKRAINE'S INDEPENDENCE

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 60 minutes.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. FLOOD. Mr. Speaker, in his inaugural address President Carter emphasized—

The world itself is now dominated by a new spirit. Peoples more numerous and more politically aware are craving and now demanding their place in the sun—not just for the benefit of their own physical condition, but for basic human rights.

One of these peoples and nations is Ukraine, the largest captive non-Russian nation not only in the Soviet Union but also in Eastern Europe. In the deprivation of human rights few nations have suffered so long and so deeply than the roughly 50 million Ukrainians.

On this 59th anniversary of Ukraine's independence this fact alone deserves our attention and action. It is a human right for a people in national entity to exercise their independence and freedom from a foreign yoke. As we all know, the independent national republic established by the Ukrainian people on January 22, 1918, was one of the first to be destroyed by Soviet Russian imperio-colonialism. Despite all the consequent negations of human rights, involving man-made famine, purges, religious genocide, Russefication, and economic exploitation by Moscow, the Ukrainian nation over these six decades has demonstrated an invincible will to regain its rights, and notably, the right of national freedom and independence.

Mr. Speaker, this annual observance is a necessary reminder for our citizenry who have been called upon by our new President to undertake nobler tasks. As he eloquently put it—

The passion for freedom is on the rise. Tapping this new spirit, there can be no nobler nor more ambitious task for America to undertake on this day of a new beginning than to help shape a just and peaceful world that is truly humane.

In Ukraine the cry for justice is unremitting, as the dissident voices of Valentyn Moroz, Chornovil, and others continue to seek human rights. The activities of the Ukrainian Committee to Monitor Compliance With the Helsinki Accords in Ukraine has sparked further dissidence that is currently suppressed by Moscow.

In regard to these cries for justice it is obligatory for us to reemphasize our demand for direct signatories to the Helsinki accords by the East European Nations of Ukraine, Byelorussia and others. As a second step, I shall soon re-introduce a resolution seeking the resurrection of the Ukrainian Catholic and Orthodox Churches in Ukraine, and as in the last session of Congress seek the cosponsorship of my colleagues on this. Also, to reflect the full significance of this observance, I commend to the reading of my colleagues certain selected excerpts from the address given by Dr. Lev E. Dobriansky of Georgetown University and also president of the Ukrainian Congress Committee of America to the organization's 12th quadrennial Congress in New York last October:

JUST TELLING IT LIKE IT IS

(By D. Lev E. Dobriansky)

Ladies and Gentlemen, Distinguished Delegates and Guests to this 12th Quadrennial Congress of Americans of Ukrainian Descent, it is, as always, a profound pleasure for me to address you on the state of our organization, the UCCA, its drives and contributions on both national and international scales, its foremost problems and, above all, its promise for the challenging future.

This 12th Congress is indeed a Bicentennial Congress, one concerned with the principles and traditions of our American Revolution. In the course of this year's celebrations—here in New York, Washington, Philadelphia and elsewhere—we stressed these principles and traditions within the orientation and framework of our thinking that, without doubt, has global meaning and ramifications. We must enunciate them clearly and emphatically in this Bicentennial Congress if what we plan for the immediate future is to be solidly effective and also implementative to our basic convictions and honest posture. To merely rhetoricize principles and traditions is not enough—even the Devil can utter them. No, my friends, it is how you stand up for them in all situations and how, pragmatically, you seek to apply them. On this, between mere talk and positive action, between word and deed, a wide chasm exists. We have never brooked such chasms.

THE NON-INTERFERENCE COMPLEX

On this vital matter of living independence from empire, the only sensible observation that has come out of the present Administration in Washington was made by the Vice President last May. In an address in West Germany he said, "Whether we like it or not, a continuing attempt is under way to organize the world into a new empire in which the Soviet sun never sets." He stressed, "The era of old world imperialism has gone, and yet we find ourselves faced with a new and far more complex form of imperialism, a mixture of Czarism and Marxism with colonial appendages." When asked about this supposedly acid observation, the Vice President said, "It is just a frank description of the harsh realities in world affairs. I was just telling it like it is." And you and I will agree that indeed he was.

As expected, Moscow lambasted these re-

marks as running counter to "the detente spirit of the times." Well, we have been saying this and more with far more accuracy. Soviet Russian imperio-colonialism is neither new nor is it complex. The tragedy of our period is that it is being accommodated by the Kissinger brand of detente and its attendant myths of "non-interference," "organic relationship," and the Helsinki promise.

One of the worst blemishes in the diplomatic record of our nation was for a President to sign a document with Moscow sanctifying the Russian conception of "non-interference in the internal affairs" of the USSR. You and I know this old imperial Russian principle of what is mine is mine; what is yours will be mine. If Russian domination extended to the Atlantic, Moscow would still insist on non-interference. The principle is a valid one for a legitimate nation-state; it bears no validity for an empire-state, and the Soviet Union is a primary empire.

In the past, true to its hallowed principles, America has always interfered where basic human rights were violated, whether in the British Empire, the German, Ottoman and others. What is so sacred about the present Soviet Russian Empire? Even Moscow's possession of nuclear weapons is no reason for the violation of our own principles and precepts.

ORGANIC RELATIONSHIP

Another gem of the Kissinger brand of detente which we have had also to severely criticize is the "organic relationship" notion disseminated by his aide and so-called expert of the Soviet Union, Helmut Sonnenfeld. This notion we heard many times before from the Jessups and others who believe peace and order can best be sustained by tighter Russian hegemony over its captives. The end result of such organic relationship in the Soviet Union would be complete Russification of Ukraine and the other non-Russian nations. This would contribute to peace and order, according to the Sonnenfelds, the Jessups, and the Kissingers.

Here, too, we couldn't but react sharply to this sinister and obnoxious notion. Again, with our many Congressional friends, the uproar that resulted forced the President to disown the concept for his Administration. But this, too, was just words. The very fact that such a theory is entertained by an adviser to the Secretary of State and was advocated by him in an assembly of our diplomats shows the drifts in our foreign policy-making.

THE ILLUSIONS OF DETENTE

As you know, fellow delegates, the illusions of detente are many. For the past four years, by every medium at our command we have been informing our fellow Americans of these grave illusions, ranging from trade and strategic arms to human rights, including the pleas of the Sakharov's, Maroz's, Vins' and other heroic dissidents in the USSR. After the tragic and shameful debacle in Southeast Asia and the addition of three more nations to the now long list of captive nations, we intensified this campaign and were one of the first to call for Kissinger's resignation. A unique combination of factors during the '75 Captive Nations Week—the orbital detente, Solzhenitsyn and his snub at the White House, and the sudden Helsinki announcement—gave great impetus to the campaign. So much so that the Persident himself scotched the term detente for what it dubiously called "a policy of peace through strength."

But, my fellow citizens, what happened to freedom? As Congressman Flood so aptly put it: "'Peace through strength' is not America; 'Peace and freedom through strength' is America." This is the road for a genuine detente as against the Kissinger-Sonnenfeld brand followed by the present Administration.

THE HELSINKI MESS

Another fundamental issue of deep concern to us is the Helsinki Accords. I wish I could tell you the full story of what is now called the Helsinki mess. You know how for over 20 years Moscow has been pressing for a Conference on Security and Cooperation in Europe. Its aim was for us to confirm and legitimize its domination over Eastern Europe. The sudden announcement to the Helsinki Conference at the end of the '75 Captive Nations Week caught our legislators and most analysts unaware. Faced by a fait accompli, we were called to the White House to hear the President explain his reasons for going to Helsinki. From a practical view, all that could be done was to urge the President to immediately develop a course of action that would place Moscow on the defensive. This we did in unequivocal terms.

The glaring fact is that nothing of the sort was done. As you know, Moscow has to its own advantage propagandized the Accords to the hilt. As the mess grew, Congress had to take the matter into its own hands, and a commission headed by our friend, Congressman Dante Fascell, was established this year. We supported the idea from the start and will cooperate to the fullest with the commission. But, mark you this, the Administration opposed the idea and to this day has dragged its feet in cooperating with this vitally important commission. In all good conscience, we cannot agree with this Kissinger tactic and, according to our conscience, we'll keep telling it like it is.

THE CAPTIVE NATIONS

Turning to the captive nations and Captive Nations Week, your committee has firmly and steadfastly maintained the tradition begun with the Congressional Captive Nations Week Resolution in 1959. In the concisest form, that resolution, or Public Law 86-90, expresses crystal-clear what you and I hold dearest in our convictions, dedication and hopes. As in anything else in life, there have been good years and there have been lean years, and the euphoria induced by the NKF form of detente hasn't helped. Last year's Captive Nations Week was dramatic, and this year's Bicentennial Week was spectacular in many ways. With the assistance given by George Meany and the New York Labor Council, the event at the Statue of Liberty will be long remembered.

Some people think the annual Week is just some sort of ritual on the part of a few ethnic groups. They couldn't be farther from the truth. Over the years George Kennan, Senator Fulbright and former Secretary of State Dean Rusk would hardly have bothered to seek the resolution's rescission if this were so. The Week, which is still anathema to Moscow, has served as a barometer of our foreign policy. The proclamations by our Presidents make for test readings by analysts here and abroad.

Representatives passed another resolution calling for the official publication of a book to be titled "The Bicentennial Salute to the Captive Nations." And you can depend on me that the contents of this Bicentennial document will just be telling it like it is.

TRADE AND HUMAN RIGHTS

In this appraisal of issues, that of trade with the USSR has also been of prime priority for us. Four Congressional testimonies and indefinite representations had to be made to add our contribution to the success of the present Trade Reform Act and its restrictions on US-USSR trade. We were the first to call for a poltrade policy, linking trade to politico-cultural concessions by Moscow, and the American Federation for Soviet Jews honorably acknowledge this as it pushed for the emigration issue. Our position went beyond this, including among other matters the resurrection of the Ukrainian Orthodox and Catholic Churches in Ukraine.

The fight is far from over. The abuses are almost incredible. On the one hand, Kissinger distorts the poltrade policy, using it for bribes to Moscow to behave in Indo-China, Angola and elsewhere rather than a lever to exact human rights concessions from our totalitarian and imperialist enemy. On the other hand, American firms ship strategic industrial goods, such as computers, for the Russians to improve the accuracy of their missiles. The Administration has sternly opposed the Jackson-Vanik and other amendments. Again, in principle and conscience, we couldn't but side with Congress in just telling it like it is.

POLICY AND ACTION

The logic and rationale of our posture on these and related issues are solid and challenging. We operate with basic, interrelated concepts that have provided a firm structure of thought for successful policy and action. We can take pride in the fact that no organization in this country—I repeat, no organization—concerned with these fundamental issues has this structure that, because of its embodiment of truths concerning the non-Russian nations in the USSR, Moscow's empire/state, the captive nations, and the new dimension of ethnographic warfare to offset Moscow's systemic warfare and wars of national liberation, causes such concern in the Kremlin. Among our own officials and analysts, it is an educational effort, but it is worth it because our ideas are grounded in unshakable truth and in the turbulent period ahead, it will be generally accepted.

Believe me, I'm no alarmist when I say this country of ours is in deep trouble. The debacle in Southeast Asia, the protracted unsettlement in the Mid-East, Moscow's takeover of Angola, the widespread unrest in South Africa—these and many more events are just growing symptoms of the increasing pressure we shall be placed under by Moscow. Thinking Americans are becoming worried about our military power, which in many strategic and conventional areas is inferior to Moscow's. Recently, Radio Free Europe employees have protested against the steady evisceration of our propaganda power for freedom under a policy which produces no real peace, omits freedom, and breeds increasing concern about our state of strength.

If America continues to slip in these fundamental respects, the hopes of all captive nations, including our brethren in Ukraine, will slip, too. But with the utmost faith in the resilient powers of our country, I am—and I'm sure you are—certain that this slippage won't be for long. If anything, the dynamics of Soviet Russian expansionism will guarantee this. Our leaders will be compelled to address themselves to the core and causal problems of the unstable and dangerous world situation, which are within the Soviet Union itself. Its growing militarism, increasing repressions, Russification, colonialism and imperialism, within as well as without, will have to be faced squarely, honestly and competently. As the editors of the New York Times pointed out last February, "Millions of Ukrainians, Byelorussians, Latvians, Estonians, Lithuanians, Jews, Georgians, Armenians, Azerbaidzhanis, Kazakhs, Uzbeks, and other non-Russians wonder why they remain subjugated in an era when colonialism has been destroyed almost everywhere else." The reason is patently clear—for Moscow to exploit their resources in its driving ambition to become numero uno on this planet.

What does all this mean for us in the period ahead? Namely, the necessity for our Government to concentrate in policy, pro-

grams and action on the non-Russian nations in the USSR, and particularly the largest of them, Ukraine. If, for nuclearitis effect, you're told this might lead to a hot war, the reply is that a progressively insecure adversary won't start one without the hope of winning. Moreover, the continuation of present trends will insure such a tragic outbreak. If, with typical political rhetoric, you're told we've always been for the self-determination of the peoples of Eastern Europe—as though they haven't determined themselves as nations several times over—the reply is the question, "What specifically by way of tactful, programmatic action are you doing to further this objective?" Apart from a policy of drift, there are really no policy and programs for the captive nations; a policy and programs that could be executed intelligently, cautiously, methodically and progressively as the situation and Moscow's behavior demand. And this, too, is just telling it like it is.

Mr. PATTEN. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from New Jersey.

Mr. PATTEN. I thank the gentleman for yielding.

Mr. Speaker, I want to associate myself with the remarks of the gentleman in the well.

I am especially pleased today because an old friend said the opening prayer.

The Ukrainians in my district number over 5,000. They have a really beautiful cathedral. It is a beautiful church, all brand new.

I will just tell the Members one thing: I was chairman of the U.S. bond drive there in 1943. I never thought I would reach my quota. The Ukrainians had $800,000 set aside for a new church. They bought U.S. bonds with the entire sum, and I have been proud ever since. They are great citizens and a credit to our community.

Therefore, I am happy to hear the gentleman in the well say that he is interested in their freedom, because I hear it every day from wonderful people.

Mr. FLOOD. I appreciate the remarks of the gentleman from New Jersey. I could not have said it better myself.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. I thank the gentleman for yielding.

Mr. Speaker, I wish to associate myself with the remarks of the distinguished Member from the State of Pennsylvania and commend him for bringing this again to our attention—the bravery of the Ukrainian people and the wonderful people that they are.

Mr. Speaker, January 22 marks the 59th anniversary of Ukrainian independence. History records that Ukrainian independence lasted only 2 short years, 1918–20. Communist Russia would have us believe that independence threw the Ukraine into such confusion and turmoil that it gladly welcomed the protective shadow of Russia. Nothing could be further from the truth. The proud people of the Ukraine fought valiantly for their freedom. Indeed, their struggle continues to this day.

Communist Russia would have us think that they have ruled the Ukraine wisely and well—that the people of the Ukraine have prospered under Communist leadership. In truth, the Ukrainians have suffered a more severe and enduring oppression than any other nation has had to face in the last half century. When Russian troops invaded and conquered the Ukraine in 1920, they were confident that they could suppress the people into total obedience. They underestimated the spirit and courage of these noble people. When the Communists heard a voice of protest, a plea for freedom, they would answer with a firing squad. But this did not silence the cry for liberty. For every patriot that died, there were others behind him with equal courage, and with the same burning desire to regain the independence which the Communists had taken from a once proud and happy nation.

Communist Russia's oppression did not stop here. Churches and religions were abolished as the Communists tried to convince the people that only the Communist Party knew what was moral, wise, and just. If the only "god" to be worshipped was the head of the Communist Party, he proved a cruel and wicked "god," indeed. For this is also the 44th anniversary of Stalin's manmade famine which took the lives of the 15 million Ukrainians.

The Ukrainian struggle for independence has been a hard and long one. Today the Ukrainian people are under the domination of the Soviet Russians. As a result of the Russian Bolshevik Revolution, they cannot enjoy the blessings of freedom and independence that we often take for granted. It was an unmitigated fraud, contrary to high-sounding slogans and objectives and has failed to bring freedom to the Russian, Ukraine, and non-Russian nations that had declared their independence and adopted the principles of national self-determination.

I know that you share my concerns with regard to Ukraine's vigorous fight for freedom and independence; and that you join me in commending them for their valiant efforts.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Speaker, I, too, should like to associate myself with the remarks of the gentleman from Pennsylvania and of my colleague, the gentleman from New Jersey (Mr. PATTEN). Like him, I have wonderful Ukrainians in my district and a very beautiful church at the edge of it.

I think it is important for all of us who live in this country where we are free and protected to realize that the churches of the Ukraine are being destroyed almost daily and that everyone is suffering—Christian and Jew, Orthodox, Roman Catholic, and Protestant, Baptist and Anabaptist—every one of them. We ought to remember how brave these people are.

Only 2 weeks ago I brought to the attention of this House a committee that was formed in order to stand up for the freedoms that are guaranteed in the signing of the Final Act at Helsinki, in August of 1975. Like the one in Moscow, this committee in Kiev is trying to defend the rights that were set forth: The right to reunification of families, the right to information; the right to travel for personal and professional reasons, the right to worship in freedom.

The situation is tragic. I could read to the Members the transcript of a conversation between the president of the Kiev group and an American citizen. There is a committee here in the United States working with the committee in Kiev; the conversation between the two, between Mr. Rudenko, who is chairman of that committee in Kiev, and Mr. Yasen who is the chairman of the committee here, reveals that the members of the Kiev group were harassed and intimidated.

It is a long way from here to the Ukraine. We must not forget that they are our friends and fellow human beings.

I thank the gentleman from Pennsylvania (Mr. FLOOD).

Mr. STRATTON. Mr. Speaker, last Saturday, January 22, marked the 59th anniversary of the independence of the Republic of the Ukraine—declared in Kiev on January 22, 1918—and then demolished by Russian Bolshevik forces just a short while thereafter.

Today I join with the gentleman from Pennsylvania (Mr. FLOOD) and many other distinguished colleagues in commemorating this historic occasion, and in paying tribute to the brave people of the Ukraine as well as those equally brave Americans of Ukrainian extraction who still hold dear the vision of a free and independent Ukraine. A Ukrainia in which the people will once again have the right of free speech, assembly, and worship; that is our dream. An independent Ukrainia where the people will have the right to make and choose their own destiny—unencumbered by the dictates of a foreign, alien state, backed up by naked military power.

Let us not forget that freedom and independence are still out of reach in too many parts of the world today. That is why we in America have such a heavy responsibility to guard it carefully here at home and to work to preserve it abroad. We must never forget that there are those in today's world who would deny their people the basic and fundamental rights of representative government. For far too long these rights have been denied to the people of the Ukraine. But we must retain our resolve that this dark night of totalitarianism will not last forever, and that with our help and with God's grace Ukrainia will once again be free.

Mr. Speaker, that is also why it is so important that this Congress and this new administration insist that the basic provisions of Basket Three of the Helsinki agreements, relating to human rights and the free movement of peoples, must be adhered to strictly by the Soviet Union. This is manifestly not the case today. But we must keep the pressure on, and in so doing we will certainly speed the day when Ukrainia, as well as all the captive nations, will once again be free and independent.

Mr. CONABLE. Mr. Speaker, today we observe the 59th anniversary of Ukrain-

ian independence, achieved in 1918, but taken away by Russia in 1920. As Americans just having celebrated our 200th year of representative government founded upon liberty, equality, and justice, we are ever more aware of the unrealized aspirations for these principles that exist in countries throughout the world.

The Ukraine is one such area. Despite oppression, shifting population, and regional and wealth differences, the Ukrainian people remain remarkably cohesive. Their homeland, richly endowed with resources, has been an unfortunate victim of its location, suffering invasion from all sides throughout its long history.

In this time of optimism and hope that surrounds our new administration, the people of captive nations, especially those under Soviet domination, look to the United States for any sign that regimentation and oppression may be eased.

Thus, today I would like to join with my colleagues in expressing our concern and support for the aspirations of the people of the Ukraine and those of other captive nations. We remain dedicated to the inseparable connection between life and liberty, and we are linked with the Ukrainian people, not only by many family bonds, but also by the shared desire for fundamental human rights and the love of liberty and justice.

Mr. ANNUNZIO. Mr. Speaker, 59 years ago, on January 22, 1918, the independence of Ukraine was declared by the Ukrainian Central Rada, the spokesman and Parliament for the Ukrainian people consisting of representatives of Ukrainian political parties, and other societies and groups.

Freedom for the Ukrainian National Republic, however, was short-lived, because the Soviet Communists had by force taken control over Ukraine by 1922, thus reestablishing the imperialistic colonial policies begun by the Czar hundreds of years ago. A Communist puppet state was formed, based on brutality and outright genocide of Ukrainians, and the Soviets began a systematic attempt to destroy the cultural birthright of the Ukrainian people, as well as their religion and their national heritage.

Under the Stalin regime, some 4 million Ukrainians lost their lives in the famine resulting from the forced collectivization of agriculture, and millions more were deported from their homeland to remote parts of the Soviet Union. During the terrible years of occupation by the Nazis, millions more died or were made slaves. When looking at the years that have elapsed since the independence of Ukraine, one can only marvel at the tremendous spirit of the Ukrainian people, who have maintained their sense of ethnic identity and an undiminished yearning for independence and human dignity.

To this day, the brutal oppressive policies of the conquerors continue. According to the Ukrainian Congress Committee of America:

Under Khrushchev's "de-Stalinization" policies in the middle of the 1950's, the freedom forces in the USSR, long seething and suppressed, erupted with a violence unequalled since the demise of the Czarist tyranny.

Ukraine was first among the "union republics" to reassert herself in the new movement for freedom. Toward the end of the 1950's hundreds of young Ukrainian writers, poets, artists, literary critics and other intellectuals spurred Ukraine on to unprecedented cultural and literary creativity. This new Ukrainian literary generation, known as "those of the sixties" (shestydesiatnyky), turned to Ukrainian national themes, and the Ukrainian language became the main instrument in this cultural and literary revival. They protested the fact that in all nine universities of Ukraine most subjects are taught in Russian; the same holds true for high schools, technicums and various research and scientific institutions. They resented the fact that while the Ukrainian language, Ukrainian music, arts and literature were confined to the provincial level, the output of Russian writers and composers is widely and officially bruited by Moscow.

These views and criticism were contained in a great number of petitions, memoranda and appeals which were sent to the government and Party leaders of Ukraine and the USSR. In 1970, they were printed in the underground (Samvydav) publication, The Ukrainian Herald (Ukrainsky Visnyk) of which six issues have appeared thus far and have been reprinted outside Ukraine.

Significantly, this material cannot be considered, by any stretch of imagination, as subversive or seditious writing, as all these Ukrainian intellectuals, young men and women, are a product of Soviet education; many of them were members of the Communist Party and the Comsomol, and the Kremlin's accusation that they are 'foreign agents' and 'lackeys of capitalism' does not stick.

During the period between 1959–1966, the Soviet secret police, the KGB, ferreted out a number of clandestine Ukrainian anti-Soviet organizations, whose leading members were tried in camera; the sentences were severe prison terms, punctuated by some executions. In 1965–1966 twenty Ukrainian intellectuals were sentenced at secret trials; their cases were described by one of them, Vyacheslav Chornovil, in the Chornovil Papers (published by McGraw-Hill in 1968).

Another outstanding intellectual, Ivan Dzyuba, in his book, "Internationalism or Russification" (published in English in London in 1968), delivered a powerful indictment of the Soviet regime in Ukraine. Still another Ukrainian intellectual, historian Valentyn Moroz, wrote "A Report From the Beria Preserve" and "A Chronicle of Resistance in Ukraine," in which he assailed the inhumanity and barbarism of the Soviet rule in Ukraine.

Early in 1972, the Soviet government unleashed a new wave of arrests in Ukraine, incarcerating some 200 Ukrainian intellectuals.

Although these arrests in Ukraine were concurrent with the arrests of intellectuals and dissidents in Russia, the reprisals and punishment meted out to Ukrainians are much more severe and harsher. Prof. Sakharov stated in January, 1972, that the repression of Ukraine was veritably draconian" (of Le Soir, August 24, 1973, Brussels, Belgium).

While in Russia the KGB arrests intellectuals for their opposition to the Communist system and dictatorship, in Ukraine these arrests are directed at destroying the essence of the Ukrainian national identity and at eradicating the Ukrainian national consciousness as a driving force in the struggle for Ukrainian independence.

The scope of repression in Ukraine assumed a veritable pogrom of Ukrainian cultural life. Cornelia Gerstenmaier, a German author, in her book, "The Voices of the Silent" (1972), quoting official Soviet sources, stated that in 1968 alone 7,000 students were expelled from Ukrainian universities for the alleged reason of "ideological unreliability."

So, the Ukrainians are fighting for their very survival as a distinct historic, ethnic, cultural and political entity. They are fighting, as they did in 1667, 1709, 1775, 1846, 1917 and 1941—for their freedom and independence.

Mr. Speaker, it was for these reasons that I spoke out in the House against the torture and imprisonment of Valentyn Moroz, the eminent Ukrainian historian, and introduced a bill to urge his release. I also wrote to the President, the State Department, and the U.S. Ambassador to the United Nations to appeal for humane treatment for Ukrainian political prisoners as well as their release. I have also introduced a bill in the current 95th Congress regarding human rights violations in the Soviet-occupied Ukraine. I urge my colleagues to introduce a resolution similar to my own House Concurrent Resolution 4, which resolves:

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President, acting through the United States Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization.

It is with pride that I join my colleagues in the House of Representatives in tribute to the millions of Ukrainians who are continuing their struggle for the blessings of liberty in their own homeland and I am honored to join with Americans of Ukrainian descent in my own 11th District and all over this Nation who continue to cherish the hope of eventual independence and a free Ukraine. The spirit of the people of Ukraine is testimony to the fact that tyranny, in whatever brutal form it manifests itself, cannot conquer the soul of a nation and its people.

Mr. KOCH. Mr. Speaker, last Saturday was the 59th anniversary of the proclamation of the independence of the Ukraine, and I salute the ongoing struggle by these courageous people to preserve their unique culture, heritage, and beliefs in the face of overwhelming police-state oppression by the Soviet Government, which seeks to obliterate the cultural identity of the Ukrainian people. Because I believe in the nationhood of the Ukrainian people, I cosponsored with Representatives Dodd and Fenwick House Resolution 80 designating January 22 as Ukrainian Independence Day.

Originating in pre-Christian days, the Ukraine's history boasts two long periods of cultural outpouring and independent statehood, the first from the 9th century through the 14th century and the second from the 16th century through the 18th century. The creation of the Ukrainian National Republic on January 22, 1918, promised the dawn of a third era of Ukrainian independence and national renaissance; but almost immediately after the new Soviet Government recognized the sovereignty of the Ukrainian State, Soviet forces attacked it. After

3 years of war, the Ukraine succumbed to the numerically superior Soviet forces, the Soviet rulers established a puppet regime, and in 1922 it was incorporated into the Union of Soviet Socialist Republics. Thus begar. the pattern of expansion the Soviet Union was to follow subsequently in the Baltic States, Eastern Europe, and elsewhere.

Stalinist Russia, like Hitler's Germany, has not, however, been satisfied with mere political absorption; rather, it has sought to wipe out all traces of the Ukrainian identity by mass exportations and genocide. During the 1930's some 3 to 5 million Ukrainian peasants died under Stalin's program of forced collectivization of agriculture. By such tactics and an ongoing purge of the intelligentsia, the Soviet Government has sought to eliminate the national consciousness of the 50 million Ukrainians who constitute the second largest state, second only to the Russian Republic, in the Soviet Empire.

Despite the Soviet's continued use of mass arrests, illegal prosecutions, and subtle intimidation, they cannot extinguish the thirst for freedom that lives on against all odds. One man who personifies that spirit is the well-known Ukrainian historian Valentyn Moroz, on whose head the entire weight of Soviet repression is brought to bear as his incarceration on trumped-up charges continues, because he symbolizes the perpetuation of Ukrainian culture. On January 4, Representatives DODD, FENWICK, and I reintroduced a concurrent resolution requesting the President to express the desire of the U.S. Government that the Soviet Union provide Moroz with the opportunity to accept the invitation of Harvard University for the 1976–77 academic year.

There is one standard for human rights, whether in the Ukraine, in Chile, in Vietnam, or in Cuba, and that standard is clearly established in the Universal Declaration on Human Rights, which the Soviet Union signed, just as it more recently signed the Helsinki accords providing for the freer flow of people and ideas throughout the world. I look forward to the day when the Soviet Union fulfills its international agreements and when it obeys its own laws. Until that time, the Ukrainian struggle will serve as an inspiring example to all people who value freedom, whether they are fortunate to enjoy it or they are struggling to win it.

Mr. MOAKLEY. Mr. Speaker, January 22, 1977, marked the 59th anniversary of the proclamation of a free and independent Ukrainian National Republic as the sovereign state of the Ukrainian people. The spirit of freedom and independence continues to live in the hearts and minds of the Ukrainian people even though the Ukrainian State was absorbed by Communist Russia after 4 years of independent existence.

The Ukrainian American community thrives in every State of our Union, and contributes to each area of our vast variety of labor, business, and professional fields of endeavor. It has been 100 years since the Ukrainians first came to America to settle. It is admirable that these loyal Americans continue to cultivate their ethnic heritage, including their native language, national and cultural traditions, and their religion.

With respect to Ukrainian Independence Day I would like to share with my colleagues proclamations issued by Mayor Kevin H. White and the Boston City Council:

PROCLAMATION

Whereas, On January 22, 1918, the Ukrainian people proclaimed an independent Ukrainian National Republic in Kiev, capital of the Ukraine. Many states, including the United States of America, either recognized or were in the process of recognizing the Ukrainian National Republic as the sovereign state of the Ukrainian people; and

Whereas, As the young Republic started to organize its political, economic and cultural life it was engaged in costly and bloody war with Communist Russia, despite previous Soviet Russian pledges to respect and honor Ukrainian independence. In 1921, the Ukrainian National Republic succumbed to the numerically superior forces of Communist Russia and a puppet Communist regime was installed in the Ukraine without letting the Ukrainian people exercise their voting rights, and in 1922 the Ukraine was absorbed into the Union of Soviet Socialist Republics; and

Whereas, In the course of its rule over the captive Ukraine, Communist Russia destroyed millions of Ukrainians through manmade famines and forced deportations to Siberia; it abolished the Ukrainian Autocephalic Orthodox Church and the Ukrainian Catholic Church and it subordinated all aspects of Ukrainian life to the rigid control of Moscow to include the Ukrainian economy, education, press, arts, literature and trade unions; and

Whereas, The anniversary of the Ukraine's independence serves to dramatize the need for our government and the American people to show genuine concern for freedom of the Ukrainian and all enslaved peoples now under Russian Communist domination; Now, therefore, be it

Resolved, That Monday, January 24, 1977, be proclaimed Ukrainian Independence Day in the City of Boston with appropriate ceremony to include the raising of the Ukrainian Flag on City Hall Plaza to commemorate the 59th Anniversary of the founding of the Ukrainian National Republic.

DECLARATION

Whereas: The Ukrainian people will mark the fifty-ninth anniversary of the independence of the Ukrainian National Republic on January 22, 1977; and

Whereas: The fifty-ninth anniversary of Ukrainian independence is a fitting opportunity to direct public attention to the continuous violations of Ukrainian rights by the government in Moscow; and

Whereas: The fifty-ninth anniversary of Ukrainian independence dramatizes the legitimate right of all people and nations to pursue freedom and national independence:

Now, therefore, I, Kevin H. White, Mayor of the City of Boston, do hereby proclaim Saturday, January 22, 1977, Ukrainian Independence Day, and direct that the Ukrainian National Flag be raised at City Hall Plaza on January 24, 1977, to commemorate this special event.

Mr. WYDLER. Mr. Speaker, on this the 59th anniversary of Ukrainian independence, I want to salute the Ukrainian people for their strong cohesiveness. Despite terror, population exchange, and the gulf between the political elite and the common people, the Ukrainians show a bond that has kept national sentiment alive. After centuries of oppression, on March 25, 1918, the Council of the Byelorussian National Republic, which had taken off the chains of Russian domination in the political chaos which accompanied the collapse of the Russian Tsardom and the defeat of Germany, proclaimed the independence of Byelorussia—the event we are honoring today. During its brief period of independence a cultural flowering occurred which bears testimony to what an independent Byelorussia is capable of accomplishing under a national constitution guaranteeing freedom of speech and assembly, liberty of conscience, inviolability of person and home, and equality of all citizens under the law.

But the independence of Byelorussia was tragically short, lasting only a brief 3 years despite a Soviet promise to respect its independence. The country was again brutally divided between the Soviet Union and Poland in 1921. But even the brutal treatment that the Byelorussian people experienced has not lessened its determination to continue to strive for the eventual restoration of freedom.

Today, I join with my colleagues in commending the brave and valiant people of Byelorussia.

Mr. SARASIN. Mr. Speaker, we, as Americans, have a great deal to be proud of in this country, particularly as we have recently celebrated the 200 years of our freedom. It was a time of reflection for all of us to consider the blessings that have flowed from the freedoms we have to exercise our human rights, to decide on the men who will lead our Government, to freely choose our way of life and occupation. However, as we reflect upon our blessings, we are also sobered by the thought that many people around the globe have no opportunity to share in the many aspects of our lives that we so easily take for granted. Particularly, at this time, in commemoration of the 59th anniversary of Ukrainian independence, we must consider the fate of the people of the Ukraine who have lived unwillingly under Soviet domination since 1923.

The Ukrainian National Republic was established in 1917 following a revolution. Kiev became the capital, and a government established under a freely elected Parliament. At that time, Soviet Russia recognized the Ukraine as a sovereign state. However, the nature of the Russian revolution itself changed, and the new republic became a target of attack for complete Russian domination. The Ukrainians suffered greatly in trying to resist the Russian onslaught, but they failed. However, although it has been more than 50 years since independence, the Ukrainians still hold their faith in their eventual freedom.

There have been many documented reports that the political oppression still continues today. Ukrainian dissidents are harassed and persecuted, religious persecution is rampant. Political suppression is a matter of course as the Ukrainian citizen has no real rights to speak of, either to express his views or to dissent against the government. More-

over, the viability of the distinctive Ukrainian culture itself is at stake, as the Russian Government tries to eliminate the tensions caused by the distinctive characters of the ethnic minorities within its borders. For example, the Ukrainian language is secondary to Russian, as the purpose of the Soviet Government is to reduce a consciousness of nationality that fuels the fight for freedom.

We in America have been made aware of the plight of Ukrainian dissidents. The most outstanding figure in our consciousness today is the historian Valentyn Moroz. While he still remains imprisoned, he is nevertheless a symbol of courage to all those who believe in freedom and the rights of a people to determine their own fate.

While the Soviet Union was a signatory to the Helsinki agreement, they appear to take very lightly the provisions in the agreement that provide for more tolerant policies toward oppressed peoples in their borders. As an original cosponsor of legislation which established a congressional commission to oversee Soviet compliance with the Helsinki agreement, I am quite concerned that the work of this commission be unhampered and that they have the full authority to investigate any alleged violations of the agreement. We must make it known to the Soviets that we take quite seriously the issue of human rights, and in the case of the people of the Ukraine, that we strongly support their aspirations for freedom and self-determination.

Therefore, in this commemoration of the independence of the Ukraine, we should not only reach out to the Ukrainian people to express our support for them, but also renew our own efforts to resist Soviet attempts to ignore the humanitarian aspects of the Helsinki agreement.

Mr. DELANEY. Mr. Speaker—

To toiling people . . . who labor in their devastated land, send your enduring strength . . .

This St. Petersburg message from the poet-laureate and national hero of the Ukraine, Taras Shevchenko, comes through to us as clearly today as it did almost 117 years ago. Just last Thursday, President Carter declared that as free people we can never be indifferent to the fate of freedom and it is for this reason that I introduced House Resolution 151 authorizing and requesting him to officially designate January 22 as the annual observance of Ukrainian Independence Day in the United States.

This year marks the 59th anniversary of the Ukrainian National Republic declared in Kiev in 1918, but destroyed by imperialist Moscow in 1920. With some 47 million people, the Ukraine is the largest captive nation not only in the U.S.S.R., but in the whole of Eastern Europe. It is living proof that the Russians, who exploit nationalism in the far reaches of the world, are afraid of it in their own backyard. Persecution and liquidation of Ukrainian intellectuals continues to the present day, exemplified in recent years by the imprisonment or exile of Valentyn Moroz, Ivan Dzuiba, Vyacheslav Chornovil, and other Ukrainian writers, poets, artists, and scientists. The Ukrainian Orthodox and Catholic Churches have been viciously exterminated despite article 124 of the constitution of the U.S.S.R. Harassment against one of the leading national groups in Europe has not abated.

Mr. Speaker, in my own congressional district, the historic and courageous declaration of independence by the Ukrainian people will be celebrated by a concert of traditional songs and dances presented by over 200 performers in colorful folk costumes. It is only fitting that the event be commemorated with appropriate ceremonies throughout the United States.

On Massachusetts Avenue, in Washington, D.C., stands a statute in tribute to Poet-Laureate Shevchenko who proclaimed a "new and just law" similar to our own as the ideal for his country. It is my fervent hope that his dream—the dream of his countrymen through these many years—may soon become a reality.

Mr. DERWINSKI. Mr. Speaker, it is my privilege to once again join with my colleagues in commemorating the anniversary of the proclamation of Ukrainian independence, and I commend the gentleman from Pennsylvania (Mr. FLOOD) for leading the House in this annual observance.

It has now been 59 years since the people of the Ukraine sought to assert their rights for freedom and national independence by founding the Ukrainian National Republic. Unfortunately, this dissent from the Communist oppressive policies was soon acknowledged by the Soviet regime who extinguished this freedom, and incorporated the Ukraine into the Soviet Socialist Republic.

At a time when the free world is questioning the determination of the United States to effectively maintain leadership in the face of Communist pressure, I urge the Congress to rise in support of freedom-loving peoples throughout the world in a necessary effort to turn back the Communist menace, and reaffirm our support of the aspirations of those captive nations of Eastern Europe in restoring the rights of self-determination. We must reassure the people of the Ukraine and others under Communist rule of our deep commitment to champion the rights of national, individual, cultural, and religious freedom for all oppressed people.

Although we long for an easing of global tensions, we must not be so dazzled by treaties, negotiations, cultural exchanges, and other such activities that we forget the nations within the U.S.S.R. who are struggling to preserve their identity.

The Ukraine is the largest and one of the richest in resources of the captive nations within the U.S.S.R. and of those countries in the Eastern bloc. The Ukrainian territory covering 232,046 square miles, is a land possessing tremendous agricultural and industrial resources and boasts a cultural background that is centuries old.

No fewer than 76 nations have become independent since the close of World War II, and 58 of them are smaller in size than the Ukraine with only five having more inhabitants than Ukraine's 48,100,000.

During the five decades since the time of the Russian Communist takeover, the Ukrainian people have not given up hope of once more regaining the freedom which they knew only briefly. Their constant efforts are proof of the inability of the Kremlin rulers to break the noble Ukrainian nationalist spirit. The heroism of the Ukrainian people is clearly shown in the case of Valentyn Moroz, the Ukrainian historian, who is still serving a prison term for daring to speak out against the cruel Soviet tyranny.

The 2 million Americans of Ukrainian descent have made tremendous contributions to the cultural, economic, and social life in the United States. Wherever Ukrainians are residing in the free world, this independence day has been commemorated with appropriate festivities, with reaffirmation of devotion to the ultimate restoration of freedom for the peoples of their homeland.

Mr. Speaker, it is especially important that as we begin this new year, and end our year long celebration of our independence, we not forget that millions of people throughout the world and more than a million within the U.S.S.R. are deprived of the basic personal freedoms that we have so gloriously enjoyed for 200 years. We must continue the struggle to insure that someday freedom and justice are won for those who now endure the tyranny imposed upon the Ukraine. It is my sincere hope that they will soon attain their goal.

Mr. WOLFF. Mr. Speaker, in recent months concern for the human rights of citizens all over the world has heightened significantly in the Congress, the executive branch, and the country as a whole. President Carter has frequently declared his commitment to directing U.S. foreign policy in line with this concern, and the Committees on International Relations in the House and Foreign Relations in the other body, have held numerous hearings on this most important issue and have planned many more. This intensity of concern reflects on the fact that the protection of fundamental human rights and liberties forms the very basis for our national existence and heritage.

I am, therefore, pleased to take this opportunity offered by my colleague from Pennsylvania (Mr. FLOOD) to express my particular concern for the plight of the 47 million Ukrainians who on January 22 celebrated the 59th anniversary of their nation's tragically short lived independence.

The Ukrainian's intense national spirit, so evident since 1918, has never died, and on this occasion we all honor and salute it. Despite the extreme pressure tactics employed by the Soviet Union—so-called "Russification"—on this nation, the ranks of its articulate dissenters continue to swell, the determination of its people to retain their culture and intellectual freedom still grows.

Just as the objective of the American

Revolution was freedom and independence for the 13 Colonies, so Ukrainians seek the freedom and autonomy they experienced only briefly following the Russian revolution.

Their quest has been a long one. But as we commemorate another anniversary, marking the passage of 1 more year in the still unsuccessful struggle, we also celebrate and testify to the strength and will and resolve of a people who will struggle yet another year for those rights and freedoms we so dearly cherish above all else in this country.

I extend, therefore, my prayers, best wishes, and sincere respect to these people, as well as to people like them all over the world, and I once again hope that next year they may have a great deal more to celebrate.

Mr. LE FANTE. Mr. Speaker, on this, the 59th anniversary of the proclamation of Ukraine's independence, I would like to join with my distinguished colleagues in Congress and express my deep admiration of all people of Ukrainian descent, both here in the United States and those still held behind the Iron Curtain.

Those from the Ukraine are a proud and industrious people. They have worked hard to keep their ethnic and cultural heritage alive. Often, they have struggled to do so while undergoing extreme hardships designed to force them to abandon their traditions and deny their heritage. I admire and respect their strength and courage.

Mr. Speaker, I believe that the people in the Ukraine deserve the encouragement of all Americans in their ongoing struggle for freedom. We in the United States enjoy the cherished freedom of self-determination and free choice. While we in this country are all united under the banner of "the United States," we are still free to retain and observe our unique and diverse ethnic heritages. Those in the Ukraine also should be entitled to follow the honored traditions passed down to them by their ancestors. Their heritage is rich in beauty and ideal, and should be allowed to continue and flourish openly.

I would also like to take a moment to single out for recognition those of Ukrainian descent living in the United States. Ukrainian-Americans have contributed greatly to all aspects of American society. In the fields of business, politics, medicine, science, the arts, just to name a few, Ukrainian-Americans have added to the high quality of life in this country. And, at the same time, these fine people have retained their strong ethnic identity and have passed it along to future generations. By this, they have served to enrich the lives of all Americans.

Ukrainian-Americans have not forgotten their compatriots who live under Soviet domination. They have not and will not cease in their struggle to attain self-determination for all those left behind under Communist rule. The daily work by Ukrainian-Americans on behalf of the liberation of those in the Ukraine serves as a reminder that the fight for their freedom has not ended.

All of us who are descendants of immigrants know the importance of keeping alive the traditions that have been passed down through the generations. I respect the Ukrainian-Americans for their cultural integrity and hope with all my heart that those in the Ukraine continue to have the strength to strive for the freedom of choice which typifies a healthy and honorable society.

Mr. ROE. Mr. Speaker, I am pleased to join in today's congressional commemorative salute to the people of Soviet-occupied Ukraine and rise in support of the legislation which I sponsored with many of our colleagues during the 94th Congress and am reintroducing today seeking a greater national commitment and action in attempting to restore and insure the citizens of the U.S.S.R. their basic human rights and fundamental freedoms of conscience and religious worship.

We have just concluded the 200th anniversary celebration of the founding of our great country and can well appreciate the excitement and individual fervor of accomplishment that must have existed among the Ukrainian people in Kiev on January 22, 1918, upon the signing of the proclamation declaring the independence and unification of the Ukrainian people.

We can also perceive the despair and suffering that occurred when this declaration of independence was struck down by imperialistic armed force in 1920.

We sincerely trust that a strengthened national resolve by our Government in 1977 will bring a greater international understanding and communion that will penetrate and dissolve the cruel exercise of governmental authority that has prevailed in the Ukraine and other "captive nations of the world" for far too many years.

Mr. Speaker, I want to take this opportunity now to rise in support of the following resolutions that I am sponsoring in the House today and ask that those of our colleagues who have not already joined in the sponsorship of these resolutions will consider same and seek early congressional action to place these vitally important human rights issues on the agenda of the executive branch of our Government, the United Nations, and all nations throughout the world as the basic foundation of freedom-loving peoples and a lasting peace among all continents on our Earth's hemisphere.

The resolutions I am introducing today read as follows:

H. CON. RES. 85

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President, acting through the United States Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization.

H. CON. RES. 86

Whereas the Charter of the United Nations, as well as its Declaration of Human Rights, sets forth the objective of international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion . . ."; and

Whereas in the Constitution of the Union of Soviet Socialist Republics article 124 unequivocally provides that "In order to insure to citizens freedom of conscience, freedom of religious worship and freedom of antireligious propaganda is recognized for all citizens"; and

Whereas not just religious or civil repression but the genocide, the absolute physical extermination, of both the Ukrainian Orthodox and Catholic Churches in a nation of over forty-five million brutally violates the basic civilized rights enunciated above: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the President of the United States of America shall take immediate and determined steps to—

(1) call upon the Government of the Union of Soviet Socialist Republics to permit the concrete resurrection of both the Ukrainian Orthodox and Catholic Churches in the largest non-Russian nation both within the Union of Soviet Socialist Republics and in Eastern Europe; and

(2) utilize formal and informal contacts with Union of Soviet Socialist Republics officials in an effort to secure the freedom of religious worship in places of both churches that their own Constitution provides for; and

(3) raise in the General Assembly of the United Nations the issue of Stalin's liquidation of the two churches and its perpetuated effect on the posture of the Union of Soviet Socialist Republics in the light of the United Nations Charter and the Declaration of Human Rights.

H. CON. RES. 87

Whereas Valentyn Moroz, historian, writer, and spokesman for the cultural integrity of the Ukranian people, is currently imprisoned in the Soviet Union on the charges of anti-Soviet agitation and propaganda; and

Whereas such charges are without basis as in his valiant attempts to preserve and defend the rights of the Ukrainian people and the culture of the Ukraine and to defend the principle of basic human rights, Valentyn Moroz has done no more than exercise rights granted him by the Constitution of the Union of Soviet Socialist Republics: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring) That the Congress urges President Carter to,

(1) Express the concern of the United State Government for the safety and freedom of Valentyn Moroz, historian, writer, and spokesman for the cultural integrity of the Ukrainian people; and

(2) Utilize every appropriate means for the transmission of a request to the Government of the Soviet Union that it release Mr. Moroz from prison, and that it permit him and his immediate family to emigrate from the Soviet Union to the country of their choice.

SEC. 2. The Clerk of the House shall transmit copies of this resolution to the President and the Secretary of State.

H. CON. RES. —

Whereas Valentyn Moroz, historian, writer, and defender of human rights in the Ukrainian Soviet Socialist Republic, is currently imprisoned in the Soviet Union on charges of anti-Soviet agitation and propaganda; and

Whereas in his valiant attempts to preserve and defend the rights of the Ukrainian people and the culture of the Ukraine and to

defend the principle of basic human rights in the Soviet Union, Valentyn Moroz has done no more than exercise rights granted to him by the Constitution of the Union of Soviet Socialist Republics; and

Whereas Harvard University has extended to Valentyn Moroz an invitation to join the Harvard Ukrainian Research Institute; and

Whereas the Governments of the Union of Soviet Socialist Republics, the United States of America, and thirty-three other nations signed the Final Act of the Conference on Security and Co-operation in Europe at Helsinki, Finland, in August 1975; and

Whereas the Final Act pledges the signatories to facilitate "wider travel by their citizens for personal or professional reasons": Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the President express the request of the United States Government that the Government of the Union of Soviet Socialist Republics provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University, in accordance with the spirit of détente.

H. J. RES. 202

Joint resolution authorizing and directing the President to declare Valentyn Moroz an honorary citizen of the United States of America.

Whereas Valentyn Moroz is internationally recognized as an historian, writer and defender of human rights in the Ukrainian Soviet Social Republic; and

Whereas Valentyn Moroz is imprisoned in the Soviet Union, has renounced his Soviet citizenship and has asked the United States Congress to grant him political asylum; and

Whereas this renunciation of rights may jeopardize his safety: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and directed to declare by proclamation that Valentyn Moroz shall be an honorary citizen of the United States of America.

SEC. 2. That it is the sense of Congress that—

(1) Cooperation in observation of the principles of the Final Act of the Conference on Security and Cooperation in Europe is urged on the part of all signatory nations.

(2) The Soviet Union, as one of the signatory nations, should provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University in accordance with the spirit of the Final Act.

Mr. LUNDINE. Mr. Speaker, today's observance of the occasion of the 59th anniversary of Ukrainian independence is a stinging reminder of the sphere of influence and control exerted by the Soviet Union over the people of Eastern Europe.

The people of the Ukraine historically have been a self-reliant and autonomous nation which has demonstrated a strong desire for independence from Soviet domination. The Ukrainians have their own cultural heritage which is separate and distinct from the rest of the Soviet Union; they even speak a different language.

As with other Soviet-dominated areas in Eastern Europe, Moscow has denied the Ukraine meaningful autonomy in political and military affairs, because of the threat to what the Soviets consider to be an advantageous "status quo" situation. The United States signed the Helsinki Agreement recognizing Soviet domination of Eastern Europe, including the Ukraine, without first allowing the people in Eastern Europe to speak out on this important issue which so directly affects their lives. This is probably the most glaring example of how Soviet influence dominates Eastern Europe, and how we have allied ourselves against democratic ideals fundamental in our daily lives.

We celebrate the anniversary today to emphasize that there are people, like the Ukrainians, in Eastern Europe, who are being denied their personal liberty and freedom which we in the United States value so highly. It is indeed a fitting reminder that we must change our present course, and do everything possible to support the goal of self-determination for the Ukrainian nation and other nations of Eastern Europe.

Mr. McHUGH. Mr. Speaker, I am proud to join my colleagues today in honoring the brave people of the Ukraine on their Independence Day. I wish also to express my gratitude for arranging this time to Congressman FLOOD, who has a long and distinguished record of championing the cause of captive people.

Fifty-nine years ago, Mr. Speaker, the Ukrainian Rada declared the Ukraine to be an independent Republic. The freedom of the Ukrainians was tragically short-lived, since 1920 these freedom-loving people have lived under Soviet subjugation.

Not only has the Soviet Union dominated the Ukraine politically and economically. In addition to usurping its territorial sovereignty, it has attempted to suppress the nation's very soul through Russification efforts, religion, and cultural persecution and outright genocide.

The fact that the Ukrainian people both in their homeland and abroad continue to believe in their unique character as a people and continue to yearn for regained freedom and independence is a sign that Moscow's imperialistic campaign has failed. It also proves that the spirit of America's own revolution is still very much alive in the world, and that the winds of freedom continue to blow strongly throughout the Earth. The bravery and dedication of the Ukrainians to the preservation and vindication of their national identity is proof that freedom has a way of burying its own undertakers.

Today, Mr. Speaker, the Ukrainian nation of 47 million people is the largest captive non-Russian nation in Eastern Europe. Since 1920, her people have proved that they are more than worthy of the blessings of liberty which we tend to take so much for granted in America. On this day when we pay tribute to the Ukrainian people, we stand challenged to promote both in our foreign policy and in our commitment to the expansion of liberty at home, the self-evident right of the Ukraine and all other captive nations to freedom and independence.

Mr. BENJAMIN. Mr. Speaker, I commend my colleagues, and particularly Mr. FLOOD, for their eloquent statements made in tribute to the Ukrainian people in honor of the 59th anniversary of the Ukrainian Proclamation of Independence.

As all here know, the Ukraine is a country rich not only in natural resources, but also in those things which make a people truly remarkable. A strong culture, language, literature, traditions, and an indomitable human spirit.

Since 1918, the Ukrainian people have suffered through a long night of dark tyranny peopled by the destruction of national churches, horrible famine, mass murder and assasinations, purges and other infamous crimes committed by the Soviet Republic.

Through it all the Ukrainian people have exhibited an unshakable faith demonstrated by their unyielding opposition to the Russifying and centralizing tendencies of a totalitarian leadership in Moscow.

Their spirit has survived because of the faith they have carried within themselves, a light kindled by a traditional belief in the beauty of the human spirit. A spirit free to live a spiritually, culturally and politically independent life.

Today, we should turn our attention from a consideration of the supposed relaxation of tension between the Soviet Union and the United States, and consider whether there has been any movement by the Soviets to respect the national cultural and human rights of those citizens under their rule, particularily the Ukrainian people.

We must give this matter our attention for there can be no true peace as long as totalitarian masters make war on the human rights of over 40 million people.

I salute the Ukrainians. Those now struggling to remove the yoke of oppression, those throughout the world working ceaselessly to remind all of us of our obligation to work for true peace and for those countless Ukrainian people who have given their lives for a freedom we too often take for granted.

I also pay tribute to the great Americans in my district of Ukrainian heritage who have, through the years, added spiritually, culturally, intelletually and industriously to northwest Indiana. I am confident that they share with me today in paying tribute to their brothers and sisters abroad.

Mr. FLOOD. Mr. Speaker, I yield back the remainder of my time.

TRIBUTES TO G. HOMER SKARIN AND RUSSELL E. TRAIN

The SPEAKER pro tempore (Mr. DANIELSON). Under a previous order of the House, the gentleman from Massachusetts (Mr. BOLAND) is recognized for 10 minutes.

TRIBUTE TO G. HOMER SKARIN

Mr. BOLAND. Mr. Speaker, I rise to pay tribute to Homer Skarin, the chief clerk of the Appropriations Subcommittee which I chair, who is retiring after 29 years service with the committee.

Homer came to Washington in Febru-

ary of 1948 following completion of work on his master of public administration degree from the University of Michigan.

Homer served a 6-year apprenticeship before becoming clerk of the Independent Agencies Subcommittee in 1955, which was chaired at that time by one of the giants of the House, Albert Thomas of Texas. Homer became clerk the same year I went on the Appropriations Committee, and during the past 22 years, I have been consistently impressed with his expertise, knowledge, judgment, and advice on every appropriation bill we considered.

He was present at the creation of the National Science Foundation, the National Aeronautics and Space Administration, and the Department of Housing and Urban Development.

He not only clerked the independent agencies bill, but also handled the Deficiency Subcommittee which at the time approved the supplemental requests of every agency of the Government.

He is known and respected by hundreds of people both on the Hill and downtown.

Homer's career is unique in that his only job was spent in the same room at the same desk for 29 years. He is a master of his trade—is low-key but very effective, and I would be hard pressed to explain how we could have gotten our work done without him.

We are all going to miss Homer, and I want to wish both him and his wife, Lois, much health and happiness in the coming years.

A TRIBUTE TO RUSSELL E. TRAIN

Mr. Speaker, I rise today to pay tribute to a talented and dedicated public servant: Mr. Russell E. Train, the former Administrator of the Environmental Protection Agency. Under his leadership, the Agency has advanced the cause of a livable environment for now and the future. The Agency has made mistakes, but in the face of many and varied obstacles, improvements have been made. Russ Train has been responsible for most of this progress.

Since 1947, he has served in all three branches of the Federal Government. He began as an attorney for the Joint Committee on Internal Revenue Taxation. He was appointed to the Tax Court of the United States 10 years later. Russ Train became active in conservation while serving on the Tax Court. He founded the African Wildlife Leadership Foundation. He left the Tax Court in 1965 to become president of the Conservation Foundation, a nonprofit organization concerned with a wide range of environmental issues. In 1969, he became Under Secretary of the Interior. Prior to being appointed the Administrator of EPA, Mr. Train was the Chairman of the Council on Environmental Quality.

The Environmental Protection Agency was created in 1970 to coordinate governmental action on behalf of the environment. The Agency serves as the public's advocate for a livable environment. The Agency's task is a difficult one, and its Administrator must balance the Agency's objectives with the desires of a wide range of constituencies: the public, the Congress, the President, Federal agencies, and State and local governments. Since September 1973, Mr. Train has accomplished this task with great skill, tact, and persuasiveness. Through his dedication and objectivity, the Environmental Protection Agency has made remarkable strides.

I thank Mr. Train for his dedication and service, and I congratulate him for a job well-done.

I would also like to enter into the RECORD a copy of a recent New York Times editorial complimenting Mr. Train's efforts as Administrator of the Environmental Protection Agency:

MR. TRAIN AND OTHER DEPARTURES

One of the clear achievements of the Ford Administration is that it evoked independents and courage among some of its major officials. We think back admiringly to the way in which Attorney General Levi revived respect for the Department of Justice and the way William Coleman at Transportation thought his way through fiercely contested issues. William Simon at Treasury, Alan Greenspan at the Council of Economic Advisers, Frank Zarb, the energy chief, and William Scranton at the United Nations are some of the other forceful figures that come to mind, though we did not agree in policy with all of them. They and others were not just problem-solvers but vigorous advocates of the kind that any President needs.

Among these departing officials, we should like to speak a special word for Russell Train, who led the Environmental Protection Agency with devotion and imagination. His was surely among the most sensitive and politically dangerous positions. Yet he demonstrated that fairness and the general welfare could both be served by actions that a decade ago would have been deemed unthinkable impositions on our private economy. He stood up to industrial giants and won a degree of compliance, however modified by delaying tactics.

His agency made its share of mistakes, the more so because of its pioneering assignment. A subcommittee of the Senate recently described its handling of the pesticides problem in sharply critical terms. But given the task of reclassifying, for safety, some 50,000 chemical compounds—with practically no money for additional personnel—Mr. Train found no alternative to some degree of sacrifice of either certainty or timeliness. He has had to temporize also in the agency's efforts to impose transportation plans on cities and states for the purpose of reducing air pollution from cars. On this, as on other environmental issues, the courts and Congress have blown hot and cold. The Circuit Court of Appeals for this district, for example, has just ruled—we think wisely—that New York City will have to enforce the plan devised for it, including tolls on East River bridges, but Circuit Courts elsewhere in the country have ruled exactly to the contrary.

The fact remains that the agency, under Mr. Train, has gone far to arrest a serious decline in the country's physical environment. It has created a public awareness of the vital importance of achieving cleaner air, purer water, and a more balanced use of land. It has attempted to cope with the impact of certain pesticides and chemical compounds on the health of the community. It has advanced the cause of preserving wetlands for the vital role they play in the ecology of a region, struggled to find better ways to get rid of solid waste, and worked to reduce the noises of a technological society.

Looking ahead, we hope that whatever President Carter's plans may be for reorganizing the executive branch, he will preserve the independence of the agency—from Interior or any other department. Interior, at least as now constituted, is the focus of pressures from grazing, mining and other interests that are frequently the adversaries of environmental protection. If E.P.A. became Interior, most of Interior had best move somewhere else. And we hope the new President will assign leadership of the agency to someone who has demonstrated Mr. Train's commitment to an improved environment and talent at persuasion and diplomacy.

NATURAL GAS SHORTAGES PROVE NEED FOR IMMEDIATE DEREGULATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ARCHER) is recognized for 15 minutes.

Mr. ARCHER. Mr. Speaker, last Wednesday, January 19, I read an article in the Washington Post which disturbed me a great deal. It described how in recent days over 100,000 workers were laid off and over 250, students in eastern and midwestern States have been kept home from school—all because there was not enough natural gas available to fuel furnaces in their factories and schools. That is incredible. It is also inexcusable.

The first few paragraphs of that article by William Claibourne, which ironically appeared on page 1 just above an article entitled, "Inauguration Week Begins Jovially," should be enough to convince even the most skeptical in this House of the need for immediate deregulation of natural gas at the wellhead. This Congress has the power to prevent a reoccurrence of this kind of unnecessary unemployment and closing of schools.

The situation Mr. Claibourne described, which I ask to be printed at this point in the RECORD for my colleagues who have not yet read the article, does not have to exist anywhere in America today:

DEEP FREEZE CONTINUES TO PLAGUE EAST—POWER IS STRAINED

(By William Claiborne)

NEW YORK, January 18.—Natural gas supplies continued to dry up rapidly today in the face of the harshest winter temperatures in decades, draining power from hundreds of factories, schools and some power generating plants in the eastern half of the nation.

As the deep freeze tightened its stranglehold on the Eastern Seaboard, municipalities from Kansas to Vermont grappled with the problem of how to lessen energy demands without dislocating the economy through factory shutdowns or panicking the citizenry with institutional or residential gas use cutbacks.

Scores of gas-heated school buildings in upstate New York were shut down because of the crisis; some major universities closed their doors in Ohio and Illinois, and factories scattered across the northern industrial states curtailed their production by either shutting down outright or laying off some shifts in an effort to conserve energy.

The nation's four major auto makers reopened a dozen plants they closed on Monday in Michigan and New York, but they closed two more in Ohio, idling 9,500 workers. In Muncie, 56 plants were closed, and

in Nashville, gas supplies were withheld from 76 industrial customers.

In all, upwards of 100,000 workers have been put off the payrolls, and a quarter-million students in eastern and midwestern states have been sent home because of the scarcity of fuel needed to fire natural gas furnaces.

More currently, the Federal Power Commission has announced this week that one-half million Americans are now out of work because of the natural gas shortages. As I predicted last year, this figure could well increase to a figure of over a million unemployed because of gas shortages this winter.

I know all of us are concerned about unemployment in this country. I also know we are concerned about the health and well-being of our people.

It therefore stands to reason that this Congress would not willingly deny our people access to fuel with which to heat their homes and schools and power the factories in which they work.

But that is what this Congress has done. For nearly a quarter of a century, the Congress has stimulated wasteful consumption, and discouraged the development, of natural gas by refusing to allow that precious fuel to be sold on the interstate market at its true market price, competitive to other fuels such as coal and oil.

As long as supplies were readily available and the cost of finding and producing gas were not prohibitive, the artificially low price, compared to other fuels, stimulated demand far beyond what would have occurred if normal marketing forces had been allowed to operate.

Now supplies are not nearly as readily available, and the cost of developing new sources has soared. The Federal Power Commission still keeps the price at an artificially low level, with the blessing of those in Congress who continue to oppose deregulation. The result is no mystery. There is indeed a serious natural gas shortage in this country today.

Certainly the kind of weather we have had in recent weeks across much of the Nation is abnormal. But that does not mean it can not happen again, and it is not going to take as severe a spell the next time.

For years, the demand for natural gas has been increasing more rapidly than the supply of known reserves. That trend continues today, largely because of the refusal of previous Congresses to allow natural gas to seek its place in the market on the basis of its true value as a fuel.

At the risk of sounding provincial, there are those who question the justice of the discriminatory pricing system that now sees consumers in gas producing States having as much as 10 times as much for natural gas as those who live in nonproducing States many hundreds of miles of pipeline away.

There are those in this Congress who would propose "solving" this admitted injustice by simply placing intrastate sales under the regulatory thumb of the Federal Power Commission as well. That way everyone pays the same—but unfortunately there would be even less natural gas to go around. If it were not for the fact that consumers of natural gas sold on the intrastate market are in effect paying for virtually all of the new exploration and production costs, we would be seeing millions, not just hundreds of thousands, of people out of work today as a direct result of the fuel shortage.

What we need is not more Federal control over the price of natural gas. We really need deregulation of natural gas so that demand and supply forces can again work together in stimulating production or a change to other fuels.

We do not need the kind of simplistic, temporary "spread the shortage around rather than solve it" approach that is now being proposed by the administration.

The purpose of deregulation is not simply reallocation of a scarce commodity. It should be used as an effective tool to stimulate exploration and production of natural gas that will ease the scarcity itself.

Yes, this means that natural gas will surely be more expensive on the interstate market. But there will be gas on the interstate market. There will be additional exploration and development of natural gas sources that will likely never come about as long as Federal regulations make such risky development unprofitable.

We in the Congress have an opportunity—a responsibility—to do what should have been done years ago. We should move immediately to deregulate natural gas.

I sincerely regret that it has taken a severe winter and human suffering to make this grim reality known to many of my colleagues for the first time. But perhaps now we have additional voices to add to those of us who have repeatedly called for deregulation over the years. We must not let another winter come and go without taking action to head off the kind of shortages that have existed already this year.

SECRETARY OF LABOR W. J. USERY, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE) is recognized for 5 minutes.

Mr. QUIE. Mr. Speaker, W. J. Usery, Jr., became Secretary of Labor on February 10, 1976. Since that time I have had the privilege of working with him on certain programs of mutual interest and concern. During his tenure as Secretary of Labor, several major pieces of legislation were accomplished. I salute his leadership in the executive branch and his initiative and foresight in working with the legislative branch on these vital issues. I would like at this time to summarize some of the Labor Department's legislative success under Secretary Usery:

Late in the last session, the Congress enacted the Unemployment Compensation Amendments of 1976, a measure which was crucial to maintaining the financial soundness of the unemployment insurance program. The legislation strengthened the trust fund by providing for an increase of $2.3 billion in payments over the next 3 fiscal years. During 1975 and 1976 many States depleted their trust funds and borrowed some $10.4 billion from the U.S. Treasury. Without the legislation enacted last year the deficit would possibly have increased to about $14.5 billion by 1978. Passage turned the corner on financial stability for the system.

To address future program needs, the bill called for a commission study of long-term funding of the program. It also extended coverage to an additional 9.2 million people, including 327,000 workers on large farms, 300,000 persons in domestic service, 8.3 million individuals in State and local governments, and 300,000 in nonprofit schools.

On September 22, Congress gave final approval to an extension of title VI of the Comprehensive Employment and Training Act. That measure provided for continuation of the level of 260,000 public service jobs under that title, bringing the total number of CETA jobs to 310,000.

Included in the legislation was a provision for targetting available jobs for the long-term, low-income unemployed. Many of those benefitting from the jobs are members of minorities—racial, economic, and social—who suffer most from unemployment. The program is designed to hire individuals who have been on welfare and unemployment insurance rolls, and substitute work for income maintenance.

In September a resolution was passed to solve the problem of a growing backlog of cases for the payment of black lung benefits under the Federal Coal Mine Health and Safety Act of 1969. The measure provided authority for hearing officers appointed by the Secretary of Labor to clear up the more than 900 pending cases. This solution was a necessity in order for hundreds of coal miners and their survivors to have their "day in court."

The Service Contract Act was amended during 1976 to extend labor standards protection under its provisions. A court ruling had restricted those covered by the Service Contract Act to blue collar workers. This, in effect, limited the wages of other employees, since contractors were not required to pay prevailing wages and fringe benefits to any white collar workers.

Last session's legislation clarified coverage of an estimated 70,000–100,000 service contract employees, to insure these individuals full protection under the law.

In addition to these completed legislative efforts, Secretary Usery has offered invaluable assistance and advice on a number of pending measures within the labor sphere.

Secretary Usery's leadership and guidance have benefitted the disabled and the unemployed, as well as the employed. I am pleased to pay tribute to him today.

REBATES ARE NOT THE RIGHT KIND OF STIMULUS OUR ECONOMY NEEDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, yesterday President Carter announced that the key feature of his economic recovery plan will be a $50 rebate for every taxpayer in America on this year's taxes. I find it incredible that this is the kind of stimulus President Carter thinks our economy needs.

The fundamental problem with the economy is not a lack of demand, which conceivably might be effected by this kind of program, but the drag resulting from a level of taxation which is constantly rising as inflation pushes people into higher tax brackets without increasing their real income. The fact is that because of inflation and with so many wives working today, many family incomes are now in the marginal tax range that was considered wealthy 20 years ago. Thus the median income for a family of four in 1976 was $17,300. While this is not rich by any means, it seemed so in 1954 when the present Tax Code was written, and what it will buy in real terms is not commensurate with the amount of taxes it is required to pay.

Secretary of the Treasury Michael Blumenthal recently spoke eloquently about the need to permanently cut taxes in order to stimulate economic growth. I believe that permanent reduction of tax rates is the proper approach to take in the present economic situation, with high unemployment, decreasing productivity, and high prices. A large permanent tax cut would attack all these problems at once.

Dr. Alice Rivlin of the Congressional Budget Office, for example, recently estimated that a 5 percentage point reduction in each personal income tax bracket rate in the third quarter of fiscal year 1977 would raise the gross national product $42 billion above what it otherwise would have been in the fourth quarter of 1977, and by $75 billion in the fourth quarter of 1978. This GNP gain would correspond to a boost in employment of 790,000 jobs in the fourth quarter of 1977 and 1,590,000 jobs in the fourth quarter of 1978. At the same time, she has testified that public works spending programs will do nothing to affect unemployment this year. These facts fly in the face of Labor Secretary Marshall, that tax cuts do not work quickly enough to stimulate the economy, as opposed to tax cuts.

Of course, the most fundamental difference between a tax cut and an increase in public service jobs is that a tax cut creates jobs in the private sector. And because you are increasing total production you will not only be increasing the well-being of all Americans but increasing the Government's tax revenues as well. Thus the Government will actually gain revenue from a tax cut, in much the same way that an individual or businessman can increase profits by cutting prices and generating more volume. Historical experience shows that this happens, as it did when President Kennedy cut tax rates in the early 1960's. Rebates do nothing to stimulate new production thus helping fight inflation.

For these reasons I have always emphasized that permanent, substantial, across-the-board cuts in tax rates are the best way to fight both unemployment and inflation. This approach is embodied in my Jobs Creation Act, which I will reintroduce on January 27 with over 60 cosponsors.

At this point I would like to include with my remarks a brilliant statement about alternative plans for economic stimulation by Alan Reynolds, chief economist and vice president of the First National Bank of Chicago, from the January issue of the First Chicago World Report:

WHAT KIND OF STIMULUS?

After several months of somewhat disappointing economic news, attention has turned to various policies to stimulate the economy. Among the alternatives being considered are a tax cut, a tax rebate, a boost in federal spending, or a rapid increase in the money supply. While it is impossible to object to policies that would in fact stimulate production and employment, some of the suggested remedies would prove more effective than others.

The right policy will be prompt in its impact, and will also create a favorable climate for long-range decisions to increase productive capacity.

Certain tax cuts would indeed stimulate long-run real growth if they were explicitly designed for that purpose. But two different types of tax reductions which might seem to yield the same loss of revenues (at least on paper) could nonetheless cause radically different effects on long-run real growth. A tax cut should be targeted toward providing permanent incentives for workers to work, for employers to employ and for investors to invest.

In the case of individual income taxes, the most serious drag on additional labor effort is probably the steep tax rates on added income among average and high income families. The top five percent of all families—those earning over $32,000 a year in 1973—have, on the average, about two and a half family members working. With joint returns, income from secondary workers (housewives and older children) is taxed at very high rates—up to 50 percent.

Because inflation has pushed more and more families into higher tax brackets in recent years, the progressive marginal tax structure affects incomes well below the top 5%. In the early 1960s, only about 3% of all tax returns were subject to marginal tax rates of over 30%. Today, nearly a third of all tax returns are in these higher brackets.

DISINCENTIVE TO WORK

Evidence from the earlier period suggested that high marginal tax rates already reduced the supply of labor of housewives and teen-agers—now about 45% of the labor force. But effort is not easily measured. The disincentive to work can take many forms—a preference for shorter hours, early retirement, and less time devoted to improving skills.

Lower marginal tax rates would not only provide incentives that encourage additional work effort, but to the extent that these tax reductions also reduce the cost of labor to employers, they would encourage additional employment.

MORE INCOME, LESS DEFICIT

If lower marginal tax rates increase the long-run supply of jobs, they may generate more taxable income, more tax revenues, and lower deficits than would be implied by static arithmetic. The apparent reduction of tax revenues caused by a rate cut would also be limited by the diminished incentive to escape taxation.

Real savings are needed to channel resources from immediate consumption into augmenting our productive capacity. Yet earnings from savings are heavily taxed, thus shrinking the major non-inflationary source of investment capital. The capital gains tax and corporate income tax also depress capital investment. The combined effect of such taxes is to make it necessary for additional investments to earn a very high pre-tax return in order to provide sufficient after-tax income to induce the required investments. A permanent reduction in tax rates on capital would make expansion of the economy's productive capacity more attractive to investors, and would promote the increased supply of products to keep ahead of demand at stable prices.

The precise form of a tax cut matters much. A temporary stimulus cannot produce more than a temporary improvement, and even that would be trading a short-term benefit for a long-term headache. A tax rebate, for example, is simply a one-shot transfer payment, unrelated to future productive effort or an assurance of continued income. It is rightly viewed as a windfall, and therefore of little effect on long-term consumer expenditure.

More important, a temporary stimulus can have little, if any, effect on business investment decisions. Such decisions require confidence in future market demand to validate large scale commitments to expand and modernize plant capacity. Yet it is such plant and equipment spending that has become identified as both the weakest link in the global recovery and, at the same time the key to increasing productivity, employment and real income in the future.

BIG SPENDING MEANS TROUBLE

Increased federal spending could provide only a temporary stimulus at best, since the financing of that spending must eventually preempt private claims to real resources. Not only will expanded federal borrowing make more difficult the immediate task of assembling investment in the private sector, but it also ultimately will require higher taxes to service the added national debt. Moreover, new government spending programs are slow to start and virtually impossible to reduce or eliminate after they have outlived their countercyclical rationale.

While there may have been a case for a brief acceleration of the money supply to counteract the monetary stringency of late 1974, a sustained period of rapid money growth would fuel an accelerating inflation (partly by depressing the dollar on foreign exchange markets) that would soon push interest rates up—not down.

Since houses and factories are not bought with three-month loans, the nation needs a policy of lowering long-term interest rates. But long-term interest rates are dominated by expectations of inflation, and rapid expansion of the money supply would inspire fears of more inflation ahead. It is therefore important that any temporary increase in the deficit resulting from tax cuts should not be financed by printing money.

Finally, the specific problems of the older cities, with their pockets of high unemployment, require equally specific remedies. Policies that affect the overall economy are too broad to deal effectively with specific structural problems.

Any policy that is simply geared to promoting spending, without providing a tax and regulatory climate that encourages additions to real output and income, will sim-

ply end in inflation. Demand does not create its own supply.

Unfortunately, what makes sense in economics rarely makes sense in politics. So if the past is prologue, the sort of stimulus likely to emerge is apt to be weighted in favor of consumption rather than investment, and in favor of spending rather than producing.

OPEN HOUSE AMENDMENTS OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 10 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, today I am being joined by 65 House cosponsors in introducing a package of 10 "Open House Amendments" to the House rules aimed at making this body more open, accountable and effective. Earlier this month the House adopted its rules for the 95th Congress. These were essentially the rules of the previous Congress together with some 24 changes proposed by the Democratic Caucus. While a few of those changes were commendable and necessary, for the most part the caucus package was designed to permit us to continue to operate under our chaotic and inefficient way of doing things around here, but with less discomfort and inconvenience. Rather than face up to the fact that we are poorly organized and spread too thin in our responsibilities, the caucus rules changes simply make it easier for us to conduct business in the House and its committees without our having to be there. Thus, we have practically eliminated the need for a majority of Members to be present on the House floor to consider important amendments, we make it easier for committees to sit during floor debate, we make it possible for committees to mark-up bills with only one-third of their members present and allow for proxy voting in committees, and we delegate blanket subpena authority to committee chairmen. In short, we are trying to fool the American people into believing we are not, doing what we are not. Someday someone is going to discover that the legislative process is being carried out by the use of mirrors, and our image is going to make us look as silly as those images in the mirrors at amusement parks. The only difference is that not too many people will be amused. This is not a funny house, it is the people's House, constructed to do the people's business. Instead of installing these new mirrors, we should be restructuring the House and putting in some windows.

Mr. Speaker, you may recall that when the House rules were being considered on the opening day of the new Congress, there were those of us on this side of the aisle who made a reasonable request that those rules be opened to debate and amendment so that we could consider some genuine House reforms. The 10 rules amendments I am introducing today are among those which we had intended to offer had we succeeded in opening up the caucus rules package and the limited debate, no-amendment procedure under which they were brought to this floor. I am not suggesting that my reform package is perfect or any panacea for our shortcomings. But it is a start and we should at least be willing to periodically review and change our rules as circumstances dictate. Reform is a dynamic process and we should never become so complacent or euphoric that we believe we have somehow completed the process of reform of this body. We never will. As the times and conditions change, so too must we change with them if we are to remain an effective legislative body.

Mr. Speaker, the Open House Amendments which I am introducing today are based on the conviction that we can only begin to restore public trust in the Congress if we are open, candid and conscientious about our work here. According to the public opinion polls I have seen, the people have lost faith in Government because they think it's too distant and uncaring. They are suspicious of politicians perhaps in part because they only tend to hear about our failings and the few who are caught up in one kind of scandal or another. They have little real understanding or awareness of the legislative process and the work each of us does here in the Congress. It seems to me an important step in overcoming these obstacles to understanding is to truly make this a people's House once again by opening our doors, and windows and proceedings to public scrutiny. Obviously sunshine alone will not make us look good; it may only cast a new light on our old and inefficient ways of doing things here. Obviously, a second step in restoring public confidence in Congress is to improve upon the way in which we are organized and operate so that we are capable of handling our legislative tasks in a responsible and responsive manner. But I happen to believe that we are not likely to take that second step before we take the first step. There will be no incentive or reason to legislate in a more responsible and responsive manner if no one is really interested in or aware of what we were doing.

Mr. Speaker, having discussed the philosophical underpinning of my Open House Amendments, I would now like to briefly explain what each of these amendments would do.

ETHICS COMMITTEE ACCOUNTABILITY

My first amendment is designed to give new direction and impetus to our Committee on Standards of Official Conduct which is charged with investigating allegations of misconduct against House Members and employees. Under the present rule, this bipartisan committee of five Democrats and five Republicans may only undertake an investigation by majority vote of its members. This is a tremendous and difficult burden to place on just 10 Members, without any direction or guidance from the full House. Judging one's own peers is not a task lightly or easily undertaken. Under the amendment which I am introducing, the full House, by adoption of a resolution, could direct the ethics committee to undertake an investigation. Moreover, any Member who has filed a proper complaint alledging misconduct could call up a privileged resolution in the House directing the committee to undertake an investigation if it does not undertake that investigation on its own within 15 legislative days after the filing of the complaint. Finally, my amendment would require the ethics committee to file a written report with the House containing its findings and recommendations with respect to any investigation it undertakes. As the present rule stands, the filing of a report is discretionary with the committee, and we had the instance in the last Congress in which the committee dropped an investigation in midstream and filed no report because the Member under investigation resigned. I do not accept the argument that the committee lost all jurisdiction once that Member resigned. The committee is still under some obligation to the House, it seems to me, to report its findings and recommendations up to the point at which the resignation took place. Otherwise, we are being deprived of the opportunity to benefit from those findings and take whatever steps might be necessary to prevent such abuses by other Members in the future.

SUBCOMMITTEE LIMITATION

The second amendment which I am introducing would limit all House committees, except the Committee on Appropriations, to six subcommittees. At present each committee having more than 20 members must have a minimum of 4 subcommittees, but there is no ceiling. I was shocked to learn from the Commission on Administrative Review's Task Force on Scheduling that House subcommittees have proliferated from 148 to 181 in just the last 3 years. It is little wonder that we are all spread to thin, that jurisdictional lines are so tangled and duplicative, and that we are too often spinning our wheels and grinding our gears. I think the other body, for a change, is out ahead of us in its efforts to realine committee jurisdictions along more rational and functional lines and drastically reduce the number of committees and subcommittees. We should be making the same effort in this Congress. While I have not attempted in my Open House Amendments to suggest a more logical alinement of committee jurisdictions, I think a reduction in the number of subcommittees is a step in the right direction, and, if done in a coordinated fashion, may begin to straighten out some of the jurisdictional tangles we too often find ourselves in.

SPECIAL COMMITTEE RULES

The third amendment I am proposing would require that any special committee, commission, or other entity created by the House, to the extent applicable, be subject to the same House rules which now apply to our standing committees. While one would assume that most special committees would adopt similar or identical rules to those which now apply to standing committees, the sad fact is that this does not always happen. A select committee on which I now serve is in some difficulty because we did not pay sufficient attention at the outset to our rules of proceedings. My proposed rule would obviate the need to write committee rules into the original resolution creating such special bodies or to simply

trust such committees to do what is best, with full regard for the rights of minority members, witnesses, and others.

PUBLIC ACCESS TO COMMITTEE RECORDS

The fourth amendment I am introducing would, for the first time, require all committees to keep a verbatim transcript of all committee actions of a legislative or investigative nature, along with a written summary, and make these available to public inspection unless otherwise prohibited by any law or rule of the House. Under the existing House rule, a committee need only make available to the public a record and description of all rollcall votes taken in committee. This is hardly adequate for a full public understanding of the actions of a committee.

PROXY VOTING BAN

The fifth amendment I am offering would completely abolish all proxy voting in committees. Under the present rule, written proxies are permitted if provided for in the committee rules. This authorization was written into the rules of the last Congress by the caucus rules resolution, even though the House had voted the previous fall, in the Committee Reform Amendments of 1974, to abolish proxy voting. I think this form of absentee voting in committees is a most irresponsible way to legislate and can only result in low quality legislation and an uninformed committee membership. Committee members should be present to hear and participate in the debate on amendments on which they vote, and not simply take the word of a colleague as to what it is they are casting their vote on and why they should vote a certain way. Either we have been sent here by our constituents to exercise our own independent judgment and fully participate in the legislative process or we should not be here.

OPEN COMMITTEE MEETINGS

The sixth Open House Amendment would require that all committee meetings be open to the public unless matters to be discussed would jeopardize the national security or violate any law or House rule if disclosed, or if the meeting deals only with committee personnel or internal budget matters. Under the present House rule, a committee meeting may be voted closed to the public for any reason. I see no reason why these should not be kept open under the same conditions which now apply to committee hearings. My amendment thus attempts to place committee meetings on the same level of sunshine which now applies to hearings.

ROLLCALL VOTES IN COMMITTEES

My seventh amendment would permit any member of a committee to demand a rollcall vote on any proposition put to a vote in committee. Many committees now require in their rules that a demand for a rollcall must be made by at least one-fifth of a quorum or one-fifth of those present. It seems to me that this tends to reduce the number of rollcall votes and thus deprive our constituents of the knowledge of how we vote in committees. Our own Rules Committee now operates under the rule I am proposing here for all committees, and we have not found it dilatory or time-consuming; to the contrary, it has helped to increase public awareness of our existence, function, and how each of us votes on particular issues. This amendment would also require an automatic rollcall vote on reporting any matter from a committee along with a publication of the names of those voting for and against in the committee report.

ACCURACY OF THE CONGRESSIONAL RECORD

My eighth amendment would require that words actually spoken on the House floor be clearly differentiated in the CONGRESSIONAL RECORD from those remarks which are inserted. Under the present practice, it is often difficult if not impossible to determine what was actually said during a debate in the House and what was simply inserted in the RECORD. If for no other reason, this practice should be changed for the simple sake of greater honesty in Government. But beyond that, an accurate record of our actual proceedings is important to the regulation writers, the courts, and historians. I am not suggesting that we eliminate the possibility for Members to have remarks inserted; but they should be clearly distinguishable from what actually transpires on the House floor.

SUSPENSION OF THE RULES

At the beginning of this Congress, the House adopted the rule recommended by the Democratic Caucus to double from 4 days to 8 days a month the times when bills may be considered under what is called a suspension of the rules. This was originally designed to take care of routine, noncontroversial bills. The procedure eliminates the necessity of taking a bill through the Rules Committee. It also permits bringing up bills on which reports have not been issued and even bills which have not been reported. It limits debate time to 40 minutes and allows for no amendments. A bill must receive a two-thirds vote to pass under this procedure.

But, with the doubling of suspension days, the temptations and pressures for bringing more bills up in this manner have been doubled. As things now stand, a committee chairman may simply prevail upon the Speaker to schedule a particular bill under suspension, regardless of how the full committee may feel. My proposed amendment would require that for a bill to be scheduled under suspension, a written request must be filed with the Speaker by the chairman and ranking minority member of the committee, or the full committee must have authorized a request to bring the bill up under suspension by a majority vote. It seems to me this will insure against bringing up controversial bills under this procedure.

HOUSE BROADCASTING

My 10th Open House Amendment would provide for the continuous audio and video broadcast coverage of House floor proceedings. This rule is an abbreviated version of the one recommended by our Rules Committee's Ad Hoc Subcommittee on Broadcasting in the last Congress. That proposal was recommitted to subcommittee by the full committee on a 10 to 6 vote, despite evidence showing 69 percent of the House Members in support of broadcasting. A survey in this Congress reveals some 81 percent favoring House broadcasting. And a Roper poll 2 years ago revealed 68 percent public support for the concept. This is clearly an idea whose time has come. The idea has been kicking around this Congress for the past 30 years. It has been studied and restudied and the time has come to act.

Under the terms of my proposed rule, the Speaker would have the responsibility for implementing the broadcast system and thus would make the decision as to the best means for providing coverage, whether by a network pool arrangement, public broadcasting, or a House broadcast system. All broadcast outlets in the United States would have direct access to the live coverage of House floor proceedings and could take and use whatever portions of the debate they desired. The House could not arbitrarily shut down the system for a particular debate, unless the House had voted to go into secret session.

Mr. Speaker, we have heard the arguments for and against broadcasting over the last 4 years or so when this has been before two major committees. And yet our survey of the many State legislatures which now have broadcasting reveal that all these fears of grandstanding by Members or sensational or distorted use by the media are unfounded. Only a tiny, yet powerful, minority are resisting this idea, and apparently for the reason that they fear the cameras might catch Members napping or will show the people how things are really run around here. Neither of these is a logical or justifiable excuse for shutting out the broadcast media and the American people who rely so heavily upon the media for their information about Government. I would think we would want the people to learn first hand about our activities around here instead of second hand through the filter of network correspondents posing in front of the Capitol dome. I hope the Rules Committee will give priority attention to this broadcasting proposal so that we can begin coverage in this Congress.

Mr. Speaker, this concludes my explanation of my 10 Open House Amendments. It is my sincere hope that the strong show of support for these reforms from the bipartisan group of cosponsors will persuade the Rules Committee to hold hearings and take action on these at an early date. Taken together these reforms can bring us closer to the people and begin to restore public confidence in the Congress.

Mr. Speaker, at this point in the RECORD, I am listing the number of cosponsors for each of these reforms: First, ethics committee accountability, 53 cosponsors; second, subcommittee limitation, 47 cosponsors; third, Special Committee Rules, 49 cosponsors; fourth, access to committee records, 50 cosponsors; fifth, proxy voting ban, 57 cosponsors; sixth, open committee meetings, 58 cosponsors; seventh, rollcall votes in committees, 53 cosponsors; eighth, accuracy of CONGRESSIONAL RECORD, 57 cosponsors; ninth, suspension of rules, 52 cosponsors; and 10th, House broadcasting, 47 cosponsors.

REMARKS OF THE HONORABLE BARBER B. CONABLE, JR. RELATING TO THE INTRODUCTION OF BILLS TO ATTACK THE PROBLEMS OF STRUCTURAL UNEMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 15 minutes.

Mr. CONABLE. Mr. Speaker, before his inauguration, President Carter announced that his administration would submit a $30 billion, 2-year proposal designed to stimulate the economy and reduce unemployment. The proposal contains tax rebates, permanent individual and business tax reductions and $7 to $10 billion in spending for jobs programs. Its major thrust is to create additional demand in the economy thereby, allegedly, creating more jobs.

Unfortunately, as we have found in the past several years, attacking the problem of cyclical unemployment by use of these traditional devices deals with only a portion of the unemployment problem, and it does so at a very high cost. As the Washington Post editorial of December 29, 1976, pointed out, the 7.1 million unemployed are out of work "for a lot of different reasons." Charles Schultze, Mr. Carter's chief economic adviser, in a recent interview agreed with this analysis when he noted "that much unemployment is structural. That is, it is highly concentrated among particular groups—young people, minorities * * *" and getting unemployment down "requires various kinds of pinpointed programs for training, for matching the unemployed with specific jobs, all sorts of things pinpointed on the remaining groups of the unemployed."

The Carter stimulus package fails to address structural unemployment and is, thus, difficult. In order to deal with certain "structural unemployment" problems, I am today introducing with several of my colleagues three separate bills which should be considered regardless of the fate of any stimulus package.

Simply, they would provide tax incentives for employers who hire permanent part-time employees, new full-time permanent employees and youths who would be hired as apprentices. These are described in separate statements I will insert in the RECORD.

I urge Members to study them and to read the December 29, 1976, Washington Post editorial which I am inserting here. I want to make it clear that this package is not offered as an alternative to the President's package but rather as an additional proposal of benefits in the creation of jobs but representing a different approach from the stimulus panacea proposed by the President.

I plan to press for the serious consideration of these important measures when the Committee on Ways and Means begins its work on the President's economic package next week.

The editorial follows:

SEVEN MILLION UNEMPLOYED

Last month the Labor Department's survey counted 7.1 million unemployed Americans, an unacceptably high number. The next President, Mr. Carter, considers the creation of jobs to be his most urgent responsibility. But those 7.1 million people are unemployed for a lot of different reasons. To judge the policies now being pressed on Mr. Carter, it helps to know what goes into that huge total figure.

Why, for example, do we have high unemployment at a time when employers are running yards of help-wanted ads in most newspapers, including this one? A reader, Herman G. Hartman of Rockville, wrote us a letter the other day asking just that question. It's an important point and deserves careful consideration. The explanation begins with a closer look at those ads; they are listed by the skill wanted, beginning with accountants and ending with X-ray technicians. There isn't much offered for people in the category of highest unemployment—the young people with little training and less experience.

Out of that national total of 7.1 million unemployed, about 2 million are people who have been fired, or whose jobs have collapsed. They are out on the street, looking anxiously for new jobs. They represent the classic picture of unemployment that most of us, no doubt, carry around in our minds. But they comprise fewer than one-third of the people carried in the unemployment statistics. Who are the others?

Some 1.4 million have been laid off temporarily, and very few of them are actually looking for other jobs. Their review is that they have good jobs—but they are in cyclical industries like automobiles or steel where layoffs are a part of life. When consumer demands picks up again, they'll be called back to work that is, very often, highly skilled and highly paid. In the meantime they get unemployment compensation and perhaps supplemental benefits. Of all the unemployed, these people are likely to be reached first and most effectively by a federal tax cut that leaves more money in consumers' pockets.

Another 2 million of the unemployed are people who dropped out of the labor force altogether and are now coming back in. They dropped out for an infinite variety of reasons: to get more education, to rear children, or maybe just to go skiing. A good many lost jobs months or years ago, and found the market so bleak that they stopped looking altogether. Remember that the Labor Department doesn't count people as unemployed unless they are actively seeking work, or are registered for a call-back. When prospects improve, the drop-outs flood back, start looking and become, technically, unemployed again. That's why unemployment never comes down as fast as the jobs increase during an economic recovery.

Another 900,000 of last month's unemployed are people who voluntarily left their last jobs. They decided to risk an uncertain period of unemployment in the hope of finding something better.

The final 800,000 are the people, most of them teenagers, who are looking for their first jobs. Most of them have very little in the way of skills to offer an employer. Of all the major categories, they will be helped least by a tax cut. Many employers will put their experienced work crews on overtime before hiring these young workers. That is one of the reasons why inflation rates begin to rise long before the unemployment rate drops to 4 per cent, the traditional idea of full employment. If these youngsters are to get effective help, it will have to be in the form of training, guidance and, as a last resort, public service jobs.

Even in times of high unemployment like the present, half of the people who are unemployed manage to find work in no more than eight weeks. The long-term jobless—people who have been looking for more than six months—are about one-eighth of the unemployed. Longer searches for the right job—meaning higher unemployment rates—may be inevitable in a rich society like ours, with an increasing number of two-job families. People's toleration of unpleasant working conditions drops when the income is no longer absolutely essential. Unemployment compensation, for example, raises the unemployment rate by a small but significant amount. But it is justified as a contribution to economic productivity, if it helps job-hunters to find the work best suited to their tastes and abilities.

Steady economic growth will make these searches a great deal quicker and more successful. Job training will help in some of the hardest cases. But Americans are increasingly inclined, evidently, to be selective and take their time in choosing jobs. The prospect for the coming year is higher unemployment than the country is accustomed to seeing during economic recoveries, despite anything the federal government can do—and despite those floods of help wanted ads.

PROPOSED LEGISLATION TO GRANT A TAX CREDIT FOR INCREASED EMPLOYMENT

Mr. Speaker, today, along with several cosponsors, I have introduced a bill which would grant a tax credit to employers for the creation of new jobs. A similar bill has already been introduced in the Senate and I understand that additional legislative efforts will be forthcoming in that body shortly.

The traditional congressional response to unemployment has been the stimulation of aggregate demand. However, it has become increasingly clear that stimulation of aggregate demand does not effectively produce anticipated reductions in unemployment and places greater inflationary pressures on the economy.

As an adjunct to congressional consideration of the stimulation of aggregate demand through tax rebates, public service jobs and public works programs, we should also consider granting employment tax credits to encourage the creation of new jobs. The bill which I have introduced today would have the effect of reducing per unit labor costs. Consumers would be presented with goods produced at lower unit costs. This would have the effect of increasing consumption and producing significant numbers of new jobs.

Under the bill, a variable dollar credit would be granted to an employer for the lesser of the number of employee hours of employment by new employees or the increased number of hours of employment—for both old and new employees—during a quarter. The credit would phase out over a 4-year period, starting at $1 per hour during 1977, dropping 25 cents per hour in 1978, 1979 and 1980. An additional 50 percent of the basic credit would be allowed for each new employee who had been unemployed for more than 26 consecutive weeks immediately preceding his employment by the taxpayer.

Revenue foregone as a result of this bill would vary depending upon the date of enactment, but prompt congressional action would result in a revenue loss of $2.8 billion during calendar 1977, and $5.6 billion during calendar 1978. These are gross estimates and do not in any way reflect increased income tax revenues or reduced unemployment compensation costs.

I know that some will criticize this bill contending that it might provide tax

credits to employers who do not in fact hire additional new employees over and above those they would have hired in any event. That is not a valid criticism of the proposal; the credit would be computed on the lesser of the increase in total number of hours compensated by an employer or the number of new employees hired. Therefore no credit could be obtained by working existing employees overtime or by firing existing employees and hiring substitutes to work the same hours.

Additionally, in order to obtain credit for years 1978, 1979, and 1980 the number of total employees would have to exceed the number of total employees in the preceding calendar year increased by 10 percent. The 10-percent factor is intended to reduce the possibility of obtaining credit for increases in the number of employees attributable to normal growth in the economy.

I am hopeful that this proposal will not be viewed as a substitute for the President's economic stimulus package but will be considered in conjunction with his tax proposals. It is offered in that spirit.

There are numerous causes of unemployment and each leaves different people without jobs. Some unemployment results from inadequate training or experience, some from sex or racial discrimination, and some from general economic conditions or inadequate capital investment. Relatively recently, large numbers of people also have become unemployed because of changes in the composition of the labor force which now includes more young people and women than ever.

Hard statistics are not available for all of these causes of unemployment but the following figures give a broad picture of the problem:

Causes of unemployment for December, 1976

[In millions]

People who have been fired, or whose jobs have collapsed	2.6
All layoffs	1.1
People who dropped out of the labor force altogether and are now coming back	1.7
People who voluntarily left their last jobs	.8
New entrants (mostly teenagers)	.8
Total unemployed	7.0

(Note: Figures are unadjusted)

My judgment is that in order to be effective we must target our solutions; we must tailor them to deal with the important causes of unemployment separately. We must provide job training for those who need it: apprenticeship programs to those without worthwhile experience; part-time job opportunities for those whose circumstances require that they work, or who want to work, but who either do not want to or cannot work full time. We also need to establish some mechanism which will increase the total number of new full-time productive jobs without exerting additional inflationary pressures on the economy.

It is that last point which this bill addresses.

YOUTH APPRENTICE TAX CREDIT ACT OF 1977

Mr. Speaker, I and several of my colleagues are introducing today the Youth Apprentice Tax Credit Act, a measure designed to alleviate some of the structural causes of one segment of high youth unemployment rates.

The unemployment of teenagers and youth is a problem of serious proportions. In 1976, some 3.3 million jobless young men and women accounted for 46 percent of the 7.3 million unemployed.

Although some of this high unemployment rate can be attributed to the economic cycle and to the normal in-and-out work patterns of young people who are combining school and work or sampling a variety of work situations before settling down to pursue a career, much of this unemployment is of a much more pernicious nature. It affects youth who need to work to support themselves or their families. Some 13 percent of males and 16 percent of females aged 16–19 are heads of households. Many of these youth are seeking their first, formative experiences in the labor force even though they lack basic work skills, experience or access to information about job openings.

The result is seen in unemployment rates that reach nearly 40 percent for some groups of young people—dropouts, black graduates between ages 16 and 24, blacks in school between ages 16–17. For many, employment may be the only possible way of escaping some of the bleaker alternatives in which they may otherwise be trapped—dependence on a series of dead end jobs, crime, welfare or addiction, the "escapes" of pregnancy and/or early marriage, or continuation in frustratingly unsuccessful school experiences. For the youth who do not succeed in making the transition from school to employment, the chance to develop job competence, experience, attitudes and the beginnings of a lifelong attachment to the work force may be forfeited—a tragic loss for both the individuals involved and society at large.

A problem as complex as youth unemployment can be addressed only with a number of precisely targeted efforts involving the public and private sectors. Today, I am introducing a bill which provides one such approach specifically tailored to the needs of a portion of the unemployed young people.

The Youth Apprentice Tax Credit Act of 1977 offers an incentive for private sector employers to provide apprenticeships of from 9 months to 2 years for unskilled, inexperienced young people. The employer would be required to provide modest apprenticeship stipend, which would increase automatically each calendar quarter as the apprentice's skill and experience improved. The employer must also devise and provide for the apprentice a sequence of training experiences, related courses or studies designed to enable the youth to progress to higher levels of proficiency and responsibility. Flexibility is permitted in order that this training may be appropriate and realistic in terms of individual apprentices' needs, job requirements and the ability of employers to provide training. Training could range from continuation on a part-time basis at a local high school or vocational school, community college, or job training center, to on-the-job supervision and guidance or worksite class instruction.

One of the incentives for employers to become involved in the youth apprenticeship program is a 20-percent tax credit for apprenticeship expenses, which include the apprentice stipends plus additional supervisory and training costs. Employers can assume responsibility for apprentices at costs which are initially commensurate with the youth's productivity compared with the regular work force. Most important, the youth apprentice programs offers an employer a means of developing a workforce of young people with proven ability to work and up-to-date skills with direct job relevance. An examination of the kinds of skilled jobs that remain unfilled even during periods of high unemployment attests to the need for this kind of skills development.

For the youth, there are also incentives to become apprentices in business, service, clerical, retailing, production, and other types of work situations. Probably foremost is the employment possibility itself at a time when jobs are so hard to obtain. Although the apprenticeship stipend may begin at a less than princely sum, there is a steady upward progression, guaranteed through the first few steps by law, and dependent on the youth's performance thereafter. Apprenticeships would offer jobs with promise of continuing progress and development in contrast to the dead end jobs to which teenagers so often resort. For students whose experience in—and perhaps impact upon—the educational system has been negative, apprenticeships offer a possible alternative route to getting a good start on the career ladder even without academic credentials at the outset. It offers young men and women a chance to prove themselves and secure a job for the future. And, worth repeating, apprenticeship is an attractive option compared with life on the street, in the welfare system, or other forms of dependence.

Obviously, the youth apprentice scheme is not a total solution to the youth unemployment dilemma. In Europe, with its historically strong reliance on apprenticeship, there is growing recognition that this type of labor force entry mechanism should not be universal but just one of many possible routes. Likewise, the Youth Apprentice Tax Credit Act is intended to create just one element in the total range of efforts that must be targeted on structurally caused unemployment in the United States. The youth apprentice program would be open to any young woman or man between ages 14 and 22 on a full or part-time basis—probably depending on educational status and State school-leaving age, but in reality the appeal of this sort of job-training experience would be strongest with those youth who would best be served by it—those without academic prowess or ambition, who have no job skills or prior experience and who may have no other employment prospects.

Although not as widespread in the United States as in Europe, apprenticeship is not a new concept in our country's labor force. Thousands of young adults are currently involved in apprenticeship today. But the existing apprenticeship opportunities and the proposed

new youth apprentice program differ in the kinds of entry requirements, work experiences, length of training, and population they serve. Most of the existing apprenticeships are concentrated in the construction, printing, and a few other industries while clerical and retail employment is specifically excluded. There are stringent entrance requirements involving physical, academic, aptitude, and other tests. Beginning pay is high, and apprentices perform relatively skilled work even at first. Average beginning age tends to be in the early to mid-twenties, compared with the youth apprentice program which could begin as early as the high school years.

The period of apprenticeship under existing programs typically lasts between 3 and 4 years, although some are longer. The youth apprentice program would run between 9 months and 2 years. Existing apprenticeship programs involve very few women—less than 2 percent, approximately, while the proposed youth apprentice program recognizes that women comprise nearly half the work force and that 9 out of 10 teenage women will work outside the home at some time during their lives. High labor union involvement in every aspect of the existing apprenticeship program is characteristic while the youth apprenticeship program would not necessarily have to involve unions, particularly in the case of small business or service establishments.

The proposed youth apprentice program would not replace or compete with the existing apprenticeship opportunities; it is intended to fill a different need and serve a different population. It may also complement the existing apprenticeship program by providing a "pre-apprenticeship" preparation to enable youth to meet full apprenticeship qualifications.

The cost of the youth apprenticeship program is modest in comparison to many proposed and existing youth unemployment remedies. In contrast to the average $10,000 per year spent on creating jobs for youth and paying high administrative costs, under public employment programs, youth apprenticeship tax credits would run about $1,000 annually per apprentice. Thus for a Federal Government "cost" of $500,000,000, a youth apprenticeship program could reach some half million young people. The same amount spent through creating public jobs, work camps are terminated, those jobs usually cease to exist and the involved youths once again find themselves in the ranks of the unemployed. Under a youth appenticeship program, the end goal is completion of a gradual transition from apprentice status in a workplace to recognition as a regular, full-fledged employee with relevant skills and experience.

A number of safeguards are built into the youth apprentice proposal to prevent exploitation of apprentices or the displacement of regular workers. Employers cannot permit apprentices to comprise more than 5 percent of their total workforce. In order to qualify for the 20-percent tax credit, employers must provide assurances to their local CETA prime sponsor that a prospective apprentice is not his dependent and that the youth apprentice will not displace any person already working for the employer. To be sure that apprenticeships do indeed offer a planned program of training, development and supervision, prospective apprenticeship program employers will have to be first certified by CETA prime sponsors as offering a bona fide apprenticeship experience before they may provide an apprenticeship stipend in lieu of wages and to claim the tax credit. Individual youths may not receive stipends of less than $2.30 per hour for a period of more than 1 year.

To be sure that apprentices progress rapidly enough to prevent discouragement, their stipends for time spent in training or performing services may not be less than $1.50 per hour for the first 3 months, $1.75 per hour for the second 3 months, $2 per hour for the third 3 months, and $2.25 per hour for the fourth 3 months. Thereafter, their stipends must be at least $2.30 per hour and may be higher as merited by skill and performance. Apprenticeships are not summer or temporary jobs; they must last at least 9 months. Neither are they intended to become semi-permanent; they may not exceed 2 years. Apprentices will not be permitted to spend more than 40 hours in any week performing services for employers, and the combined time spent in training and performing services may not exceed 50 hours in any week.

The long-term prospects of the youth apprentice program will be affected by sections of the bill providing for evaluation and for development of a credentialling procedure. The evaluation, to be performed by the Secretary of Labor within 2 years of enactment, will examine the effectiveness of youth apprenticeships in preparing youth for work and enabling them to make a successful transition from school to work. It will also examine the characteristics of participating apprentices, employers, and occupational fields. The evaluation will provide the basis for future changes and refinements in the program.

Existing apprenticeship programs culminate in the awarding of journeyman status upon completion of certain experiences and passage of certain tests. Given the wide variety of possible apprenticeship settings and occupations, it will take several years to develop standards and procedures for evaluating and certifying job skills and performance of apprentices under this program. The Secretary is authorized to develop and test such procedures with the goal of having within 3 years a means of providing in as many occupational fields as possible a nationally-recognized certification that individual employers, organizations or associations can award upon successful completion of an apprenticeship program.

I believe the youth apprentice program fulfills the recommendations of the National Commission for Manpower Policy which called for the establishment of 400,000 year-round, skill training and work experience program which can pay training stipends to disadvantaged youths who otherwise would be unprepared to obtain and keep jobs when they leave school. The Commission noted that the flexibility exists—via the use of stipends, trainees wages, training allowances, tax subsidies and other devices—to assure employers that the differential costs of hiring disadvantaged young people can be covered.

The goal of the youth apprenticeship program is an ambitious one. If successful, the program will result in a well-publicized and widely accepted apprenticeship option readily considered by employers and teenagers in making future plans. For a certain portion of teenagers and youth, apprenticeships would offer an appealing alternative to other courses of action or inaction. It would be especially important to inner city and disadvantaged young people as a bridge between school and work. For employers, apprenticeships would offer a means of attracting and developing a stable, productive workforce. I believe the youth apprentice program is a cost-effective, needed addition to our efforts to alleviate youth unemployment.

PRIVATE SECTOR, PART-TIME EMPLOYMENT ACT

Mr. Speaker, today I, along with several cosponsors, am introducing the Private Sector, Part-Time Employment Act. This bill is designed to stimulate employment and to establish some public policy in developing the concept of permanent part-time work schedules. It is also intended to act as the basis for future legislative discussion of the subject. While I have no doubt there are improvements that can be made to the bill, I believe the concept of tax incentives to improve the flexibility of access to the labor markets for workers who cannot participate effectively under full-time work schedules is sound. Such workers would include mothers of young children, older workers, and workers with medical disabilities. I feel it appropriate to encourage private employers to take a good look at the flexible potentials of this new work schedule as they expand their productivity.

Specifically, this bill would allow employers a tax credit for a percentage of the expenses incurred with respect to certain part-time employees. The amount of the credit would vary depending upon the salary of the employee as well as the number of employees eligible for the credit. A 20 percent credit could be claimed for the employment expenses of employees with salaries of less than $14,000 a year and a 25 percent credit for salaries of more than $14,000 a year. Employers could receive the credit only on the increase in the number of part-time employees during the period in question, with the additional limitation that the credit could not be taken as to employees totaling more than 20 percent of the employer's average number of employees.

This bill would establish as a policy that permanent part-time workers, for whom the tax credit is to be claimed, be given regular employment with hourly wage rates the same as full-time workers

doing comparable work, with fringe benefits, such as paid sick leave, vacations, pension credit, and insurance offered to permanent part-timers in the same proportion to hours of work as they are offered to full-timers. A threshold of 1,000 hours of regularly scheduled work per year is required to be eligible for permanent part-time status.

Integration of permanent part-time work schedules into general labor market operations is encouraged in the bill in two ways: First, there is a differentiated tax credit, with a larger tax credit available to those who, in rethinking their work needs, are able to provide some permanent part-time job positions at higher skill levels.

This would encourage a wider skill level, as well as wider occupational availability of permanent part-time jobs, commensurate with the variety of training levels and occupational skills available among such workers. Second, there is a ceiling of 20 percent of permanent part-time employees on whom the tax credit may be claimed in any business establishment. The ceiling is intended not only to protect permanent full-time workers, but also to establish a ratio under which permanent part-time work schedules may become available in different occupational areas.

A number of groups in our society would benefit by the development of permanent part-time employment as defined in this bill. The most immediate and numerous of the beneficiaries would be married women, especially working mothers. In recent years more than half of all married women have been in the labor force at some point during the calendar year. About 30 percent of these were working part time. Part-time employment of women has increased far more rapidly than full-time employment over the past 10 years.

Because of the difficulty of combining the care of young children with rigid full-time working schedules, many mothers seek part-time employment in order to remain in the labor force. Without the availability of permanent part-time jobs, as described in this bill, they must often be underemployed in a narrow selection of marginal part-time jobs.

Our older citizens would also benefit from the development of permanent part-time jobs. Recent population changes indicate that by 1986 we will have a far greater percentage of citizens over 55 than ever before, and fewer teen agers than before. With these skilled older citizens comprising a larger proportion of the population, there is much interest in their being able to extend their working life, as opposed to their full retirement at a fixed age. This additional productivity may be particularly important if we approach a zero population growth society.

Finally, the development of permanent part-time employment is of benefit to those who would urge us to be more responsive to changing production and service needs in a competitive, technological economy. The development of an alternative work schedule such as permanent part-time allows time and opportunity for workers to engage in recurring training for midcareer developments and changes that such an economy produces. This work schedule offers an orderly and constructive response to such economic changes for workers.

It also offers businesses more flexibility in moving into new economic areas by being able to draw upon a wider talent pool than may be available for only full-time work, and by being able to meet some staffing requirements in smaller increments.

The bill is designed to be in effect for 3 years. At that time its usage and development of this new work schedule should be examined to see what modifications are needed. Mr. Speaker, at this point I would like to insert in the RECORD, a brief description of the bill:

PRIVATE SECTOR, PART-TIME EMPLOYMENT ACT

Amends the Internal Revenue Code (relating to credits allowable) by adding a new credit for part-time employment expenses.

Amount of the Credit: The aggregate of

(1) 20% of the part-time employment expenses incurred with respect to any part-time employee whose full-time annual salary is less than $14,000, plus

(2) 25% of the part-time employment expenses incurred with respect to any qualified part-time employee whose salary is $14,000 or more.

Limitation on Number of Employees for which Credit is Allowable; Credit shall not exceed the lesser of

(1) 20% of the average number of employees employed during the taxable year

(2) The number of part-time employees added to the payroll.

(If over 20% of regular employment is added part-time, the employer may designate which are eligible for the credit.)

Limitation on Credit: Credit shall not exceed the amount of the tax imposed by this chapter for the taxable year (reduced by other credits), with certain taxes listed in the bill (such as the minimum tax) not eligible to be reduced by the credit.

Unused Credits: Unused credits may be carried back 3 years (for taxable years after enactment) and forward 7 years with the above limitation on their use. This carryback or carryforward must be used in the earliest year in the 10 taxable year period first.

Early termination of Employment: If employment of a part-time employee as to whom the tax credit has been taken is terminated within the first twelve months following the beginning of employment (other than voluntary or as a result of disability or misconduct) or such employee is employed at all times during the first twelve months following the beginning of employment, but performs less than 1,000 hours of employment during that period, the tax credit shall be subject to disallowance and recapture.

Such disallowance may be avoided in whole or part by a change of designation by the employer specifying another qualified employee (if any are available) for the tax credit.

Qualified part-time employee: Any employee who

(1) is a part-time employee at all times during the taxable year,

(2) did not displace a full-time employee,

(3) is not in a job for which another credit is taken (work incentive),

(4) is first employed by taxpayer within 3 years of the date of enactment,

(5) performs substantially all services within the United States,

(6) works on a part-day, part-week or part-month basis in a job comparable to that performed by full-time employees, and

(7) spends less than 80% of the time on the job than do full-time employees.

Credit unavailable: For consultants or individuals employed on a temporary or intermittent basis.

Change in Business Form: The credit will not be lost as a result of mere changes in the form of conducting business.

Part-time employment expenses: The amount of the wages paid or incurred by the taxpayer to any qualified part-time employee for services rendered during the 12 month period after the date on which the employee is first employed on a regular basis.

Equivalent full-time annual salary: the amount of wages the taxpayer would have paid such employee if employee had been employed on a full-time basis.

Credit not allowed if the Secretary finds:

(1) part-time employees received less in basic rates than full-time employees who perform comparable services,

(2) fringe benefits (or cash equivalent) are not proportionately the same as those provided full-time employees,

(3) fringe benefits are not provided continuously,

(4) seniority rights are not given on a pro-rata basis,

(5) union membership is not offered consistent with existing labor contracts, and

(6) employees are not offered the same training, educational and promotional opportunities as full-time employees.

Special rules: for Subchapter S, estates and trusts and controlled groups.

ACTION ON NEEDS OF OUR ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 15 minutes.

Mr. FISH. Mr. Speaker, during this session of the 95th Congress, many areas of legislation will be given priority, among which must be the improvement of the quality of life of older Americans.

America owes a debt of gratitude to its elderly, and no governmental action can adequately repay them for their contributions. The very least they deserve is the opportunity to share equally in our contemporary society—one which they created. Yet today over 23 million older Americans do not.

It is hard to believe, but it took us 159 years after the creation of this Nation to officially recognize the rights of the elderly, and to take affirmative action by creating the social security system in 1935. Since that time we have been attempting to improve their quality of life, personal dignity, and economic independence with varying degrees of success.

While those of us fighting this battle have, at times, been frustrated by lack of action or detrimental economic conditions, progress providing for the needs of the elderly has occurred, albeit insufficiently.

In the 1960's, Congress enacted the Older Americans Act, medicare, and medicaid, which reaffirmed its dedication to improving the plight of our seniors. During my tenure in Congress, we have increased social security benefits; provided an automatic increase in social security benefits based on increases in the annual cost of living to assist the elderly in maintaining their purchasing power; established the House and Sen-

ate Committees on Aging; established the SSI program; and expanded the Older Americans Act.

During the 94th Congress, additional legislation was passed and signed into law which provided needed improvements for the elderly by exempting the value of a home for the purposes of determining SSI eligibility; funding a program that directs States to develop programs to reduce crimes against the elderly; eliminating discrimination in the field of credit because of age; and exempting from taxes the capital gains from the sale of a residence, to name a few.

Even with these improvements, the attempt to maintain an adequate quality of life and economic independence for our older Americans has been fragmented, lacking a comprehensive approach.

It seems that every time we correct one problem, another one presents itself. It is like the greyhound dog chasing the rabbit in a race—he gains but never catches up.

Currently over one-third of the elderly of our Nation have incomes below the poverty level, while in my own State of New York, over 40 percent of the nearly 2 million elderly have incomes below that level. Clearly this is an intolerable condition, and Congress should review all benefit programs in light of these startling facts. In addition, it is time for Congress to stop passing "stopgap" measures, and institute meaningful and long-term measures addressing real needs—income security, employment, health care, relief from property taxes, and housing.

In an attempt to meet these needs, I have introduced several pieces of legislation during the first three weeks of this Congress.

The fundamental problem facing our elderly is lack of sufficient income. In order that the elderly may keep abreast of inflation, I have introduced legislation (H.R. 876) that will provide for the computation of cost-of-living increases twice a year instead of annually.

Many of our elderly wish to continue active, productive lives upon reaching retirement. Sound policy should encourage the utilization of their experience and talents. Therefore, I propose the allowable earning limitation be raised to $5,200 before social security recipients are penalized, and have introduced H.R. 2321 to accomplish this. Furthermore, beneficiaries who continue working should receive a tax deduction for contributions they continue to pay into the system; my bill, H.R. 2320, will accomplish this. To facilitate employment of the elderly, I have cosponsored legislation that will end age discrimination in employment and terminate mandatory retirement (H.R. 115). In addition, employment opportunities under the Older Americans Act, such as Operation Mainstream and the retired senior volunteer program, should be expanded and encouraged.

Compounding the lack of adequate income is the higher costs the aging face for medical expenses.

In my own State of New York, the Office of the Aging reports that medicare covers only 38 percent of doctor care costs and that the elderly are actually paying more out-of-pocket medical expenses now than they did before the advent of medicare. I have, therefore, introduced several pieces of legislation in an attempt to deal meaningfully with this problem.

My bill, H.R. 877, will create an Older Americans Consumer Price Index by which benefit increases will be computed. This price index, weighted toward medical costs and necessities, would accurately reflect the costs incurred by the elderly. Prescription drugs—one of the costliest items in the budget for older Americans—should be under medicare, and legislation I have cosponsored would provide this. Likewise, medicare should cover payments to optometrists and chiropractors (H.R. 1644 and H.R. 880).

One of the major stumbling blocks in the delivery of health care for the aging, as pointed out by the New York Office on Aging, is the emphasis by the Federal Government on institutional care, which is short changing community-based services. Authorities agree that preventive medicine and home health care are preferable to institutionalization. Congress should review Federal efforts which, while well meaning, are misdirected. For this reason, I have cosponsored the Home Health Care Standards Act which will broaden the current program and improve the quality and delivery system of home health care services.

Catastrophic illnesses can wipe out a lifetime of savings and should be a priority consideration for this Congress. In addition to its financial impact is the devastating and, all too often, lasting physical effect catastrophic illnesses have on the elderly. In an attempt to provide an increased opportunity to practice preventive medicine through early diagnosis, I have introduced legislation that will allow two physical examinations annually through medicare (H.R. 2322). I am hopeful that Congress will give this measure the serious consideration and expeditious consideration it deserves.

Only 1 percent of the elderly in New York benefit from nutrition programs. I have, therefore, cosponsored a bill to expand the meals on wheels program enlarging the delivery of nutritional meals to home bound elderly.

Adequate housing and the burden of property-based taxes are twin issues that must be addressed simultaneously. Taxes are forcing elderly homeowners to sell their homes, swelling the institutional ranks. Rents also rise with increased property taxes to pay for a county's share of medicaid costs. Therefore, I have cosponsored Congressman GILMAN's legislation, H.R. 1485, calling for the creation of a special task force to study and evaluate taxation of real property by State and local governments. Consideration should also be given to subsidizing elderly renters by allowing a deduction from their taxes of that portion of rent attributable to real estate taxes. My legislation, H.R. 875, would accomplish this. Increasing the amount of housing available to the elderly should be included in any economic stimulus package, by placing a priority on such housing in economically depressed areas.

Mr. Speaker, the enactment of these legislative measures will not provide a cure-all for the difficulties faced by the elderly of this Nation, but they could go a long way toward providing a vigorous and equitable response to their needs.

I am hopeful that Congress will act positively and promptly on these measures in order that our elderly may maintain their ability to participate in our society not only on an equal standing with others, but with the dignity they deserve.

LEGISLATION TO AMEND CONSTITUTION CHANGING TERMS OF OFFICE FOR PRESIDENT, VICE PRESIDENT, MEMBERS OF CONGRESS AND FEDERAL JUDGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. QUAYLE) is recognized for 5 minutes.

Mr. QUAYLE. Mr. Speaker, today I am introducing a House joint resolution to amend the Constitution to provide for changes in the terms of office for President, Vice President, Members of Congress, and Federal judges.

While this issue has been debated since the birth of our Republic, I raise the question again with this proposal because I believe it is even more important at this time that we take the initiative, as a body, to make the representatives of the people more accessible to the people. It is time to exchange the professional politician for the original model of citizen-statesman.

To this end, I am proposing that the terms of office be changed accordingly. Representatives to the House would be elected for a term of 4 years and could serve for 8 consecutive years; Senators would be elected for 1 term of 8 years; and the President and Vice President would be elected for 1 term of 6 years. The President and Vice President would be unable to hold that respective office again. Federal judges to the lower courts would be appointed for a term of 10 years. They would be eligible for appointment to the Supreme Court for an additional term of 10 years, but could not serve at the lower level for longer than the original 10 years.

Terms of office under these conditions of reelection would allow officials a more efficient space of time in which to pursue legislation. At the same time, it reduces the influence of lobbyists and special interest groups, greatly decreases the power of incumbency, and opens the possibilities for far more citizens to run for office.

If I may be permitted, Mr. Speaker, I would like to outline the primary benefits to be derived from this proposed change, taking them one office at a time.

The office of the President, under this proposal, would be removed from the destructive pressures of an impending national campaign. We have all watched in past years as Presidents reacted more to the demands of special interest groups

than to their best judgment. Presidents who were pledged to devote their time to governing the country were seen jetting about the Nation, promising support for special projects of limited influence, and, in other ways, courting the votes of restricted special interest groups; in short, the Nation's Chief Executive was reduced to the lowest common denominator of political party operations. A full term of 6 years would allow a President more time to complete the programs for which the people elected him.

A very real consideration, in view of the millions of dollars now spent on election to the Presidency, is the amount of money which would be saved by less frequently held elections. One of the sentiments which I heard most during my campaign was a weariness with the media bombardment which candidates now engage in during elections. One Presidential election every 6 years would certainly serve to relieve this situation.

My colleagues may remember that James Madison, the Father of the Constitution, first proposed a term of 3 years for the Members of the House of Representatives. Most State legislatures at that time ran on 1-year terms, and it was Madison's feeling that 3 years would afford more time to deal with the legislative problems of a nation. A compromise of 2 years was reached after many delegates objected that 3 years would not provide enough contact with home districts; frequent elections were necessary to insure that the people's opinions were heard.

These days of rapid electronic communications and reliable polling methods, not to mention easy travel to and from districts, have made that reasoning inapplicable. It is easy for a Congressman to keep in touch with his electorate via mail, radio, television, and trips home. Far more of his constituents can and do visit him in his Washington office, or in offices in his home district.

Since becoming a Member of Congress, the most talked-about subject is reelection. Members are already running for office and Congress has not voted on any legislation as yet. Four years would give time to develop and implement legislative programs at a thoughtful, considered pace, instead of a fast rush for the record so the folks back home will have something to view your so-called accomplishments, come election time. There would be time to accomplish the best method of enacting laws, instead of merely the most expedient.

The problems of entrenchment in Washington would be eliminated by the two-term limit which would be imposed by the amendment. There would be time to pass legislation, but not enough time to become a professional politician whose main goal is reelection and maintaining a residence in Washington, D.C. This would provide for guaranteed turnover, thus bringing a constant influx of new opinions and new insights to this body, and insuring it remained responsive to the people. The combination of longer terms and limited reelection, as proposed in this resolution, would provide the best combination of stability, efficacy, and responsiveness in this legislative body.

The Senate, in changing to one 8-year term, would also share the benefits of an increased working period and a limited term of office.

With offices being vacated in an orderly, reliable fashion, many more people would have the opportunity the Founding Fathers envisioned: To trade private life for public service, and yet never be so far from private life that common woes and aspirations are forgotten. These elected offices would once more be on a level approachable by the average citizen, requiring only a desire to serve the Nation for a specific period of time.

The problem of judges' tenure was raised several times during my campaign. People feel that judges are appointed to the bench and then lose touch with the real needs of those over whom they have jurisdiction. A set term of office would allow for a change in outlook over such periods of time as would not be disruptive of adjudication, but often enough to restore the faith in the responsiveness of the judiciary.

Mr. Speaker, I realize that this amendment proposes a sweeping restructuring of our highest reaches of Government. Its implementation would involve some discomfiture on the part of many elected officials, and would in any event require much time to be assimilated by the public prior to its ultimate ratification.

However, I strongly believe that these changes are in the best interest of the Nation. In each case, they will make the offices in question more responsive to the needs and goals of the people. Our legislative bodies will be thrown open to service by people who might not otherwise have had a chance. There will be greater diversity of opinion heard in debate and in the formulation of the country's laws. In every case, there will be a relaxation of the time in office; there will be more time in which to consider the full implications of proposed legislation, and to make decisions which are of critical import to this Nation in a calm, rational way, removed from the pressures of frequent, expensive, time-consuming elections. Most important would be the return of our Government to the people instead of the country being controlled by lobbyists and bureaucrats. With a citizen-statesman legislature, the power of government would not be concentrated in Washington, but returned to the States and local units of government.

A more frequent change in the judiciary will be a start toward restoring faith in our courts—a faith which we have seen erode in recent years—by the constant influx of fresh insight, and be a definite limit to the length of any one judge's judicial reach.

Mr. Speaker, I urge my colleagues to support this resolution. I believe they will find, as I did so recently, a great deal of support for this type of measure. The American people want an active role in their Government, but too often they find it a closed system which requires too much time and effort to break into. If they could rely on key offices coming open at specific times, I believe we would find a much greater interest in all branches of Government, and would one day see a return to the citizen-statesman model of the Founding Fathers. This is a goal we should all be proud to work toward.

WHALEN NOTES SUPPORT FOR PRIVACY LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, on January 4, Senator MATHIAS and I reintroduced the Bill of Rights Procedures Act, H.R. 215. Today, I am pleased to note the addition of 10 additional cosponsors for this legislation, bringing the total to 32 in the House.

In the statement that I placed in the CONGRESSIONAL RECORD on January 11 (page 936), I included a list of endorsements that our legislation received in the 94th Congress. Now, only 3 weeks into this new Congress, some newspapers are already calling for prompt action on this much-needed legislation.

At this point in the RECORD, Mr. Speaker, I would like to insert two editorials on the Bill of Rights Procedures Act, H.R. 215.

[From the Dayton Journal-Herald, Jan. 12, 1977]

PROTECTING PRIVACY—REP. WHALEN SEEKS TO CLOSE GAPS IN LAW

Dayton Rep. Charles W. Whalen's bill to safeguard citizens against unwarranted invasions of their privacy by law enforcement agencies deserves quick attention by the Congress.

The bill would require police agencies to obtain a court order before gaining access to detailed financial records maintained by banks, phone companies or other institutions, although records could be subpoenaed, with opportunity for the individual to challenge the subpoena.

The bill would also tighten federal law regarding "mail covers" (the practice of recording information on the outside covers of first class mail), limit telephone service monitoring, and prohibit interception of various kinds of electronic communication without a warrant.

Essentially, the Whalen bill seeks to broaden the Fourth Amendment protection against unreasonable searches to include conditions never anticipated by the Founding Fathers in drawing up the Bill of Rights.

Rep. Whalen emphasizes that the bill would not prohibit any law enforcement procedure now considered legal and proper. It would, however, set uniform guidelines for some practices not now adequately addressed by existing laws. That's desirable.

Similar legislation was introduced in 1975, but it did not get out of the House Judiciary Committee. We hope the present bill meets a better fate.

[From the Christian Science Monitor, Jan. 14, 1977]

SAFEGUARDING PRIVATE FILES

The new Congress and administration should address themselves promptly to the freshly acknowledged need for safeguarding private medical and financial information.

As it is, institutions too often make information about an individual available to others without even informing the individual—who sometimes himself does not have access to the information. The problem is complicated by the proliferation of computerized information, making a whole file on a person instantly accessible.

This week a government report emphasized the urgency of establishing safeguards for the privacy of health records before the situation gets further out of hand. Prepared for the Commerce Department's National Bureau of Standards, it follows last month's warning by a nongovernmental organization, the National Commission on Confidentiality of Health Records. In its six months of existence, the commission had amassed an "atrocity file" of violations of confidentiality. Its head said that the indictment of a Denver firm for stealing medical information and selling it to insurance companies represented "only the tip of a nationwide iceberg."

Some of the problems involve the retention in files of mistaken or misleading information about patients. This occurs even in governmental files for which privacy safeguards have been legislated. A spokesman for the National Institutes of Health has pointed out that incorrect information is often kept in a medical file even after it has been corrected—because the patient "is not always the most reliable source of information and it is necessary to know on what grounds the initial diagnosis was made."

This week's government report deals less with specific violations than with the way information systems have sprung up without essential safeguards. It makes sensible recommendations that ought to be acted on soon—such as at least informing individuals how their files are being used and letting them know what is in them.

Such minimum standards ought to be the beginning of controls on financial institutions as well. It is to be hoped that the government's Privacy Protection Study Commission will come up with detailed recommendations when its two-year report is due in June.

Pertinent legislation, long stalled in Congress, ought to be speedily revived. Last year's proposed Bill of Rights Procedures Act, for example, would have placed controls on such matters as FBI scrutiny of bank accounts and credit card files. A number of right-to-private-records bills were on the promising track of establishing firm rules under which any such material would be available.

There are some legitimate professional and law-enforcement reasons for obtaining institutional information on individuals. But authorities must be accountable for establishing this legitimacy and safeguarding the individual's constitutional rights at every point.

MEDICARE COVERAGE OF RURAL HEALTH CLINIC SERVICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am today introducing a bill to increase the access to primary care services for medicare beneficiaries living in rural areas.

In response to a lack of physician services, many rural communities have come to rely on local clinics for their primary care needs. These clinics are staffed, not by physicians, but by specially trained health professionals, often called physician extenders, who are capable of diagnosing and treating primary and emergency care needs. These professionals may be nurses, former medical corpsmen, physician assistants, or others who have had specialized training to function in a relatively independent capacity with only indirect supervision by a physician.

The organization of these clinics follows no set pattern and is as diverse as the communities they serve. Some of the clinics are nonprofit while others have developed as profitmaking organizations. They may have been organized by the community they serve and be governed by a community board or they may have been organized by a physician practicing in a nearby urban area. A number of clinics have relied on State and local funding while many were developed with Federal funding under the Office of Economic Opportunity, the Public Health Service Act, or the Appalachian Regional Commission. Their common feature is that they serve rural areas and offer primary care services which would otherwise not be available.

The services provided by physician extenders in such a setting are not presently covered under the medicare program. Medicare law and regulations allow coverage of services provided by physician extenders only: First, when they are provided under the direct supervision of a physician, and second, when they are of the kind traditionally performed as incident to a physician's service. In contrast, the physician extender services provided in rural clinics are customarily provided with only limited physician supervision and are of the type traditionally performed by a physician himself—for example, diagnosis and treatment of a minor infection.

The key to the quality of services provided in these clinics is the physician extender, who must be capable of performing competently without the immediate supervision of a physician. In common usage, however, the term "physican extender" is generic and includes individuals with varying ranges of skills. Education and training programs range from 4 months to 4 years. Some programs take students from high school, others require military corps training, and many accept only registered nurses. Thus a person known as a physician extender could be someone who is capable only of performing a limited number of specific tasks when told to do so by a supervising physician or someone who is able to exercise judgment in diagnosing and treating primary care needs on the standing orders of a physician.

There is also a considerable variation in State law regarding regulation of physician extenders. Some States have, by law or regulatory authority, recognized the physician extender and defined the scope and nature of duties, the necessary qualifications for performing such duties, and the degree of physician supervision required. Some States have merely sanctioned the use of physician assistants without provision for any qualifications or requirements for such personnel. In some States, there is no legal recognition of any type of physician extender and only physicians are legally authorized to provide medical care services.

Because of the diversity of their education and training and the variation in State laws, not all those who may be considered physician extenders are suited for providing services in a rural health clinic setting. My bill, therefore, would allow the Secretary of Health, Education, and Welfare to determine what specific education, training, and experience requirements—or any combination thereof—physician extenders should meet. These requirements would take into account the qualifications necessary to provide primary and emergency care services with the degree of independence from a physician allowed for in the bill.

The bill also sets forth certain requirements for the degree of physician supervision required. A physician would not have to be physically present when the services are provided.

The bill I am introducing would provide medicare coverage for services provided by physician extenders in these rural clinics. Payment for the services would be made directly to the clinic and would be based on the costs incurred by the clinic in providing the services. This cost would include those direct and indirect costs of maintaining the clinic which are reasonable. All the services and supplies which are presently covered under medicare when they are provided by a physician or incident to a physician's service would be covered. Although rural clinics often provide a wider range of services—for example, drugs and dental care—medicare coverage would not be extended to these additional types of services. Just as when covered services are provided by a physician in his office or clinic, rural health clinic services would be subject to the medicare part B deductible and coinsurance.

In order to help assure the quality of the services for which medicare payment is made, the participating rural clinics would be required to meet certain criteria. In developing the relevant criteria, it was essential to allow for the diverse character of the clinics. Some clinics have been able to obtain relatively sophisticated facilities and equipment while others, although providing quality care, have only the most basic facilities and equipment. There are, however, a number of characteristics which the successful clinics have in common and which all clinics participating in medicare should have.

For example, clinics should be able to provide directly routine diagnostic services, including laboratory services. It would be expected that clinics would have at least those drugs and biologicals available that are necessary for treatment of emergencies and which are ordinarily available in a physician's office.

Because the clinics serve as an entry point to the medical care system, they should have arrangements for referral to more extensive medical care services when necessary. That is, the clinics should have arrangements for hospital

admission, and those diagnostic, laboratory, X-ray, and pharmacy services that are not available from the clinic.

The clinic would, however, be required to have an arrangement with a physician for the periodic review of all services provided by the extender, the supervision and guidance of the extender, and the preparation of standing orders for treatment of patients. The physician would also have to be available for referral when necessary and for assistance in medical emergencies.

In addition to these requirements regarding qualifications and degree of physician supervision, physician extenders would also be subject to any relevant State laws or regulations.

The problems of attracting and retaining primary care physicians in isolated rural areas are well-known. Federal support for manpower development has been increasingly oriented to improving geographic and specialty distribution rather than merely improving the aggregate supply of physicians. These efforts have met with relatively little success; physicians come and go, but rarely do they remain to become an integral part of the rural community.

Development of the role of the physician extender offers a new way of assuring the availability of primary care services in these rural areas. These professionals, unlike a physician functioning in a similar setting, are able to use the full range of their skills in the clinic setting. More often than physicians, they are content to remain and become a stable, contributing part of the community.

I believe that the time has come for the medicare program to recognize the potential of these clinics and assure that the elderly have financial access to their services. I introduced a bill in the last Congress to do just this, asking for comments and hoping to generate analysis of the best way to proceed in providing reimbursement for services in these clinics. I was pleased with the widespread support for such a proposal and the helpful suggestions I received. In introducing the bill again this session, I have incorporated many of these suggestions in an effort to make this new proposed benefit more responsive to the needs of beneficiaries and to the actual situations in the clinics.

I would hope that the bill I am introducing today will receive the same thoughtful consideration. I will continue to be most receptive to any suggestions as to how the bill might be improved.

CONGRESSMAN ANNUNZIO INTRODUCES BILL TO PROVIDE TAX DEDUCTION FOR COLLEGE EDUCATION EXPENSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on January 4, 1977, I introduced H.R. 141, which would amend the Internal Revenue Code to allow a deduction from gross income of one-half of the expenses incurred by taxpayers for the higher education of their children. Passage of this legislation is long overdue. The first bill providing tax relief for taxpayers financing their children's college education was introduced in the 88th Congress. Seven Congresses later, the American taxpayer is still without adequate relief. On five occasions, the Senate has approved legislation providing assistance to parents contributing toward the higher education of their children. It is now more urgent than ever before that this distinguished body join the other House to provide the overburdened middle-income family with meaningful tax relief.

H.R. 141 would provide an itemized deduction for one-half of the amounts expended for education, including tuition, fees, textbooks and materials, room and board, and transportation, at an accredited educational institution offering instruction on above the 12th-grade level. Mr. Speaker, it is the middle-income family which carries the burden of our income tax system. And it is the middle-income family which is being squeezed out of higher education today. Upper income individuals can afford to send their children to the college or university of their choice. Lower income individuals are able to take advantage of a wide range of programs offering financial assistance, through both low-cost loans and outright scholarship grants, at the State, Federal, and private level. The average-income family is caught in the middle, ineligible for financial aid and unable to finance 4 years of college for their children.

I wonder how many of my colleagues without children of their own in college are aware of the extraordinary cost of a college education today. For the 1975–76 school year, the charges for tuition and fees at a private university averaged over $3,000. The tuition bill at a State-supported public university still came to $731. The total cost of attending 1 year at one of our better-known private universities can exceed the astronomical figure of $7,000. There are not many among our middle-income taxpayers who can afford to put two or three children through college without assistance at those costs.

Predictions are that costs of higher education will continue to spiral. Historically, college costs have increased at a faster rate than the overall price level. From 1962 to 1972, while the Consumer Price Index increased 38 percent, charges for tuition, fees, room and board at public institutions rose 50 percent. In the same period of time, the costs of private higher education zoomed by a staggering 80 percent. Over the past several years, dozens of fine private schools have been forced to close their doors, finding it impossible to attract students who could afford to meet the costs of their education program. The private educational system in this country is an invaluable resource. This bill will enable moderate-income families to continue to send their children to the institution of their choice, public or private, church-affiliated or independent.

The benefits of a college education, Mr. Speaker, can no longer be classified as a luxury, either for the individual or for society. The benefits are enjoyed by all. Research has indicated that higher education breeds increased tolerance and cultural enrichment. At a time when the quality of leadership and public service is being doubted across the country, can we afford not to encourage and promote the finest and fullest education for our future leaders? Statistics reveal that the college-educated enjoy unemployment rates well below the national average. If college education makes our labor force more adaptable and improves the trade-offs between inflation and unemployment, at a time when we continue to face the highest unemployment in 30 years, can we afford not to support the cause of higher education?

Economic research has demonstrated that increasing education on the part of members of the labor force increases the return on physical capital and enhances productivity. At a time when fear spreads of a capital shortage and a decline in long-run national economic growth, can we afford not to assist those taxpayers struggling to provide their children with a higher education?

The most commonly raised argument against legislation providing for tax relief for expenses of higher education is one of revenue loss to the Treasury. This argument is shortsighted and narrow-minded. In the long run, this bill could quite possibly produce a revenue gain far in excess of the short-run revenue loss. Individuals who raise the revenue loss issue are ignoring three important factors. First, the differential in lifetime earnings between high school graduates and college graduates has been estimated at up to 70 percent. These higher incomes will be reflected in a lifetime of higher tax payments to the Treasury. Second, tax relief for higher education will lessen the demand for Federal and State programs providing financial aid for students enrolled in institutions of higher education. Thus, there will be savings on the expenditure side of the budget. Third, this legislation will enable individuals who would have been forced to send their children to publicly supported schools to utilize private institutions of their choice, thereby lessening the burden on hard-pressed State budgets.

Mr. Speaker, H.R. 141 provides a way to assist middle-income taxpayers meet the difficult task of providing a higher education for their children, without setting up a new agency or commission, without hiring more bureaucrats to administer the law, without appropriating a single dollar of Government expenditures. This bill recognizes that the primary responsibility for education rests with the parent, not the Government. It allows the Government to assist the middle-income family in meeting that responsibility without interfering with its execution. Mr. Speaker, the need for tax relief for expenses of higher education is great. The time is now. Let us join with the other legislative body in enacting this legislation.

SUMMARY OF H.R. 443—COMMUNITY BASED DAY TREATMENT AND IN-HOME SERVICES FOR CHILDREN AND FAMILIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, every year, hundreds of thousands of children who suffer from mental and emotional disabilities, who have run afoul of the law, or who are unmanagable in the home or in school, are wrenched from their families and communities and placed in institutional settings. This occurs without regard to their educational and psychological needs and at a tremendous expense to society. While some youngsters must be institutionalized in order to protect their own health and safety and the safety of the community, many of those now in institutions could have remainded with their own families and in their own communities if appropriate educational and psychological services were provided to them and if, as necessary, additional services were provided to keep the family intact.

Today, I am reintroducing H.R. 443, legislation which authorizes State and local child welfare agencies to furnish federally reimbursable day treatment and in-home services to children and families in trouble. My bill—entitled the Community Based Day Treatment and In-Home Services for Children and Families Act—amends title IV–B of the Social Security Act to provide 90 percent Federal matching and an annual transitional authorization of $50 million for a period of 2 years. These fiscal incentives are imperative, in my judgment, if we are to reduce the overwhelming emphasis on institutional foster care.

Because a premium is now placed on institutionalization of children, my legislation also mandates that no child be placed in a foster home, institution, or residential facility except where such placement is determined to be the "treatment of choice" by the State or local agency after exploring all feasible day treatment or in-home service alternatives. An exception is also granted when such placement is court ordered or when a child's continued presence in the home constitutes a threat to his or her welfare. In so stipulating, it is not my intention to foreclose to child welfare agencies the option of placing a child in an institution if this is the most appropriate resolution. Rather, it is to insure that the agency responsible for the final placement fully explore the feasibility of day treatment or in-home services before committing a child to such placement.

The legislation also contains the following provisions:

First, authorizing the provision of day treatment or in-home services to a child or family experiencing problems which such services might assist in resolving or to a child or family where parental difficulties jeopardize the welfare or safety of the child.

Second, defining "day treatment services" to specifically include psychiatric, psychological, social casework, educational, vocational, recreational, health, transportation, and child-care services, and any other services which are furnished a child or family with the intent of preventing the child's institutionalization or placement outside the home.

Third, defining "in-home services" to specifically include homemaking, housekeeping and counseling services, and any other services which are furnished in the home and are aimed primarily at the family unit with the intent of keeping the family structure intact or reuniting a separated family.

Fourth, lodging responsibility for day treatment and in-home services with the State and local agency charged with administering a State plan or with service providers licensed by the State authority that has responsibility for establishing and maintaining standards for such services.

Fifth, providing that eligibility for service in a community based day treatment facility shall be authorized by a duly licensed social service or mental health agency and further approved within 30 days of utilization by the local authority in the form of a three-person panel.

Sixth, requiring that in the event of placement of a child in a foster home, institution, or residential facility, the State or local agency shall evaluate the continued appropriateness of the placement no less than once each 6 months to determine if the conditions justifying placement still exist.

Seventh, revising the title IV–B allocation formula from one based on per capita income and population to one based exclusively on population.

Eighth, requiring maintenance of effort by States using title IV–B to fund nonfoster care programs and other administrative costs or title XX to provide similar programs of day treatment or in-home services.

Ninth, providing for the imposition of fees for services for families whose gross income exceeds 115 percent of a State's median income except where services are directed at the goal of preventing or remedying child abuse or neglect.

Tenth, providing that services may be furnished in the form of emergency cash grants when a State-licensed provider is not available or when other circumstances, as defined by the Secretary, require it.

While considerable strides have been taken in the provision of humane, rehabilitative, and fiscally sound programs for children and families in trouble, I firmly believe that day treatment and in-home services offer us a great opportunity to preserve the family, prevent serious delinquency and maladjustment, and remove children from inappropriate institutional settings, all at a greatly reduced cost to the taxpayer. I propose that the Nation make day treatment programs and in-home services a major component of its services for children and families in trouble—and I offer this bill as a primary step in that direction.

HIGHEST RED CROSS AWARD FOR ROBYN PRENTICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, it is one of my deepest convictions that those special Americans who exemplify the highest ideals and concern for other human beings around them should receive both appreciation and recognition for their efforts. One of my constituents, Miss Robyn Prentice of Niagara Falls, N.Y., is deserving of just this type of recognition.

On Saturday, January 29, she will receive the Red Cross Certificate of Merit and an accompanying pin, the highest award given by the American National Red Cross to a person who saves or sustains a life by using skills and knowledge learned in volunteer training programs offered by the Red Cross. These programs cover first aid, small craft and water safety, to name a few. The certificate bears the original signatures of the President of the United States, honorary chairman, and Frank Stanton, chairman of the American National Red Cross. The presentation ceremony will be made by the Niagara Falls Chapter of the American National Red Cross.

Miss Prentice, who trained in Red Cross advanced lifesaving and completed this course in April 1976, was on duty as a lifeguard at a swimming pool when she noticed that a young boy was lying motionless at the bottom of the pool. Miss Prentice dived into the pool and quickly pulled the victim out of the water. She immediately began mouth-to-mouth resuscitation and as a result, the victim soon regained consciousness. An ambulance crew arrived shortly thereafter and transported the victim to a hospital.

Miss Prentice had saved the life of a 6-year-old boy from drowning. His name is Ronald Barlow.

It is my privilege to salute Miss Prentice and to commend the fine programs of the American Red Cross and the many others like Miss Prentice who find it in themselves to take an active role in helping other fellow humans who are in distress.

TRAGEDY IN BAJA CALIFORNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MCFALL) is recognized for 5 minutes.

Mr. MCFALL. Mr. Speaker, on Thursday, January 20, a full page ad appeared in the Washington Post, with the following heading: "Friendly Faces and Nearby Places."

In glowing prose, our people were advised:

Mexico's cities and sea coasts, popular resorts and hideaway havens are close to your home. Our sunny smiles in a sunny land will make you clasp the land and people close to your heart.

Each major resort area—Mazatlan, Mexico City, Guadalajara, Puerto Vallarta, Cozumel, Acapulco, Cancun, Merida, Baja California—has its unique charms but they're alike in

offering friendship and hospitality in the Mexican tradition.

The invitation to enjoy "friendship and hospitality in the Mexican tradition" was sponsored by the Mexican National Tourist Council.

Recent news stories appearing in our press, unfortunately, have presented a different kind of picture. Several visitors from the United States have been robbed and murdered in sad contrast to the idyllic atmosphere which the Tourist Council was attempting to portray.

A short time ago I received a letter from a constituent in my hometown, Mr. S. K. Knickelbein of Manteca, Calif., relating a horror story involving his son and daughter-in-law, who ventured to one of the resort communities in Baja California, over the Christmas holidays.

I have verified portions of the tragic incident from residents of Calexico, Calif., on the California side of the international boundary, who were aware of some of the details.

There have been other occasions when our citizens have encountered extreme difficulty when they have been involved in automobile accidents or innocently have run afoul of Mexican laws in this particular portion of Baja California, but none more distressing in recent memory.

The is no consular assistance to Americans in the Mexicali area, even though it is heavily populated and is the capital of Baja California del Norte. Civil rights, as we enjoy them, are nonexistent and visitors are on their own.

While I have requested our State Department to investigate the situation and provide me with a full report, I feel it is important to warn others of possible perils which could lie in store for them—in sharp contrast to the contents of the Mexican National Tourist Council's alluring invitation to "come and see us soon."

Mr. Knickelbein's letter follows:

JANUARY 5, 1977.

DEAR CONGRESSMAN MCFALL: This is a letter informing you of the cruel and inhuman treatment of my son, Michael Charles Knickelbein.

On December 22, 1976, my son and his wife, Eloise, went to a resort cabin near San Felipe, Mexico, for the Christmas holiday and fishing. The cabin had a defective heater and my daughter-in-law was killed by carbon monoxide. My son, Michael, barely escaped with his life. He was revived and survived. In his effort to get out of the cabin, he kept falling and badly injured his shoulder. He also developed a strep throat.

He was taken to the Mexicali city police station. His wife's body was picked up by a group of men in Mexicali who call themselves a mortuary. The mortician in Calexico who finally received the body and the mortician in San Francisco stated (independently) that the body was in a horrible and shameful state due to neglect and improper handling.

On the morning of December 24, 1976, I was informed that my daughter-in-law was dead and my son sick and in a Mexican jail. I immediately took a plane to San Diego and got a ride to Calexico. The people in the Mexicali jail were not going to let me see my son, but the police department in Calexico were very helpful.

About 11 p.m., December 24, 1976, my son was ushered into a small room where I was waiting in the Mexicali jail. He had on a very thin, sheer pair of trousers; a thin, sheer sport shirt; no underwear; no sox; no handkerchief; no jacket. He was blue with cold. His shoulder was in great pain and his throat so raw that he could not swallow. He looked gaunt and his eyes reflected shock and fear.

He stated that he was in a concrete room and had to sit or lie on the cold concrete floor—and believe me, it gets very cold in Mexicali at night.

They gave him no blanket, nor a pad for the bed. He was given no food, no water, no medical attention. I gave him my sport jacket and my sox.

He was kept for five days and five nights with no food, no water, no pad for a bed, no blanket. He was moved from one jail to another on two different occasions. I was trying to take him food and liquid, but most of the time they would not let me see him.

I was able to get the services of a Mexican attorney. The Mexican police would not release my son and I started to fear for his life and sanity. The implication was that they might turn the case over to the Mexican district attorney and it would take weeks to get my son released. They also threatened to keep his car. The car was finally turned over to me. However, two watches were stolen out of the glove compartment, sixty-five dollars ($65.00) out of his wallet and his expensive camera.

Mind you, my son had broken no law, not even a traffic law. The attorney kept saying that they were having trouble completing the autopsy report and death certificate. I just received the attorney's bill. It is $800.00. I had to give the Mexican group who called themselves "morticians" $250.00 before they would release the body to the mortician in Calexico. (The American mortician in Calexico was very helpful and humane).

Mr. McFall, my son is 40 years old. His wife was 33. My son has never broken a law in his life—not even a traffic law. He is an environmental engineer and works for the State of California in San Francisco.

Prior to going to Mexico, my son and his wife acquired visas (turista permits).

My son was in a tragic state of physical and emotional shock. He was kept for five days and five nights under the most cruel and primitive conditions by the Mexicali police department and the Judicial Policia department in Mexicali.

I request your investigation and strong protest. I can only add that my words and descriptions are inadequate to describe the horror that the Mexican authorities put my son through.

Sincerely,

S. K. KNICKELBEIN.

MANTECA, CALIF.

THE NEXT MILESTONE FOR SOVIET JEWS: THE MEETING OF THE 35 HELSINKI NATIONS IN BELGRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 30 minutes.

Mr. DRINAN. Mr. Speaker, the next landmark event in the struggle to liberate Soviet Jews will begin on June 15, 1977, in Belgrade, at the scheduled meeting of the 35 nations that signed the Helsinki accord on August 1, 1975. In looking forward to that event, it is well for us to review: First, the astonishingly promising events which have occurred between the first Brussels Conference in 1972 and Brussels II in February 1976; second, the enormous implications of the Helsinki agreement; and third, the urgency of directing all of the moral forces in the world at this time toward the liberation of Soviet Jews.

1. MOMENTOUS DEVELOPMENTS BETWEEN BRUSSELS I AND BRUSSELS II

It almost seems as if vertually nothing happened in the long, hard struggle to emancipate Soviet Jews before Brussels I in 1972. Efforts had been made but to no avail. On September 25, 1959, for example, President Eisenhower told Khrushchev at Camp David that Jewish groups had expressed their deep concern over Soviet Jews. Khrushchev responded to President Eisenhower by cavalierly dismissing the matter, stating that Jews are treated like everyone else in the Soviet Union.

At a later time, then Secretary of State Christian Herter brought up the same question with Andrei Gromyko. Gromyko abruptly stated that the treatment of Jews in the U.S.S.R. was an internal matter.

In 1963, Prime Minister Harold Wilson was more successful—perhaps because he was more blunt. Wilson accused the Russians of being "barbarians" for perpetuating the separation of families that had been divided in World War II. After this vigorous denunciation, several exit visas were granted to persons in this category.

If other Western officials had followed the example of West German Chancellor Adenauer, the liberation of Soviet Jews might have commenced a great deal earlier than it did. When Adenauer visited Moscow in 1954, he refused to discuss the establishment of diplomatic relations until Soviet leaders agreed to repatriate Russians of German origin. On August 29, 1954, the Soviet Presidium ordered the full rehabilitation of nearly 2 million German nationals.

It appears now in retrospect that Christians and even Jews of the Western World were asleep and silent about Soviet Jews until Elie Wiesel, in 1967, published his unforgettable book "The Jews of Silence." It was Wiesel's "discovery" of Soviet Jews on his trip through Russia that awoke the West and, even more importantly, inspired the Jews of Russia to demand their freedom.

Elie Wiesel's book more than any other force seems to be the reason why plans for Brussels I were announced in early 1971. The Kremlin knew how spectacular such a conference would be and, as a consequence, complained bitterly to the Belgium Government about having such a conference in Brussels. Russian officials published furious denunciations of Brussels I in Pravda and Izvestia. The U.S.S.R. went so far as to send a delegation of Soviet Jews to hold public meetings in Brussels to attack the conference.

Brussels I, however, had an indescribable impact and a life of its own. By 1973, the Jews of Russia and the Jews of the world had demanded and demonstrated so much that nearly 100 visas a day were

being issued. If anyone at Brussels I had predicted that 115,000 visas would be issued to Soviet Jews in the 5 years after Brussels I, he would not have been taken seriously.

There were shadows and sadness in the months leading up to Brussels II in February 1976. The almost unbelievable figure of 33,000 Soviet Jews emigrating in 1973 had descended to 20,000 in 1974 and to 13,000 in 1975. Moscow, anticipating that Brussels II would electrify the world just as its predecessor had done, published 4,000 words in Pravda on February 19, 1976, defending the record of the U.S.S.R. on human rights. They sought to refute charges made by French Communists of repression in Russia, and they also began a series of statements—which still continue—alleging that Russia is living up to the commitments which it made in the Helsinki agreement on August 1, 1975.

There were two enormously important developments that occurred at Brussels II. The first was the presence of some 40 Christians out of the 1,400 participants in Brussels II. A Christian statement paralleling that of the conference predicted that "this generation of Christians will not be silent" in the "struggle to prevent the cultural and spiritual annihilation of the Jews in the Soviet Union."

The Christian statement made a delicate balance between the plight of the Jews in Russia and the suffering of Christians in that country. The Christians' statement noted:

> We Christians . . . keenly aware of the plight of all persons of conscience in the USSR and especially pained by the harassment and persecution of our Christian brothers and sisters, nonetheless are convinced that the oppressed condition of our Jewish brothers and sisters is unique and in all specifics more rigorous than that faced by the Christian communities.

Both the Jews and Christians at Brussels II in focusing on the right of all peoples to emigrate, simply echoed what Thomas Jefferson said about this topic in these words:

> Our ancestors possessed a right which nature has given to all men, of departing from a country which chance—not choice—has placed them, of going in quest of new habitations and of their establishing new societies.

The big development at Brussels II was the beginning of the exploitation by the delegates of the implications of the Helsinki agreement. It was noted at Brussels II that the Helsinki agreement was possibly even more significant than the Covenant on Civil and Political Rights which was to come into force on March 23, 1976, and which would be binding on Russia as a contracting party.

Conferees at Brussels II began to ponder on the implications of the concessions which Western nations had made in yielding to Russia on their long-sought demands to legalize the borders of Eastern Europe—nations which Russia had conquered immediately after World War II and had kept forever thereafter in bondage. The participants in Brussels II began a process of thought about the appropriateness and indeed the necessity of Western nations exploiting every concession wrought from Russia in the third part of the Helsinki agreement which is related to humanitarian concerns.

At Brussels II it was noted that the Europen Security Conference finally ratified in Helsinki was originally proposed by Molotov in 1954. The Western nations at that time were not prepared in any way to ratify and legalize the borders of the satellite nations whose liberty had been taken away by Russia.

In 1964, the same attempt to recognize the illegal boundaries created by Russia was put forth by Polish Prime Minister Adam Rapacki at the United Nations. Western Europe continued to be cautious, and indeed any idea of granting de jure recognition to Eastern Europe as Russia had formulated it was totally unacceptable to the Western world until the time that Willy Brandt embarked on a program for the relaxation of tensions between the East and the West.

Apparently the idea that the United States would finally accept the boundary lines of Eastern Europe as they had been fashioned by Russia by violence was born in September, 1973, on a visit by Henry Kissinger—then still Security Adviser to President Nixon—to Moscow.

2. THE IMPLICATIONS OF HELSINKI

Helsinki is, therefore, a child of détente. Indeed, the very word détente is used in the agreement.

It should still arouse our indignation that at Helsinki on August 1, 1975, the Kremlin obtained what it had wanted since 1946, and what it had lobbied for publicly since 1954. Russia obtained the de jure and irreversible recognition of those very borders of Eastern European nations which Russia had created without the advice or consent of any nation involved. Even more astonishing is the fact that Russia at Helsinki obtained what it desired without having to pay any price whatsoever. Indeed, Russia was still able to keep its troops in Czechoslovakia and Hungary after Helsinki.

In return for the enormous concessions made by the United States, Canada, and Western European nations, Russia agreed to certain humanitarian commitments—many of which it was already obliged to fulfill by reason of international law or binding treaties.

All of the signatory nations to Helsinki agreed that applications for emigration would be dealt with expeditiously, that fees for such applications would be moderate and that they must be paid only when the application was in fact granted. The Helsinki nations also agreed that persons leaving one nation could take their personal belongings and that provisions for the reunification of families would be worked out in a generous manner.

A careful reading of the Helsinki agreement, however, indicates that the U.S.S.R. gave concessions only when absolutely necessary and, in addition, prevented the inclusion in Helsinki of provisions which clearly would have helped Soviet Jews. There is no provision, for example, in the Helsinki language that would prevent the misuse by the U.S.S.R. of the ground of national security as a reason for withholding exit visas. Nor does Helsinki do away with the present Russian requirement for parental consent before a visa to emigrate is issued. Similarly, Helsinki has no relief for Soviet Jews who are now absolutely forbidden to emigrate if they have no family members abroad.

Helsinki, being a mere agreement and not a treaty, has no enforcement machinery. The nations have no remedy, for example, to censure Russia for violating Helsinki by sending millions of dollars to the Communists in Portugal or sending massive arms to one of the factions in Angola.

Despite the limitations of Helsinki, however, all of the signatory nations, as they look forward to their second coming together for several weeks in the summer and fall of 1977, should recognize the broad and sweeping provisions that are included in Helsinki. The language of the preamble, for example, speaks of the collective desire for the "spiritual enrichment of the human personality" and the "broader dissemination of knowledge." These objectives are to be carried out by the participating nations "irrespective of their politics, economic and social systems." The document specifically expresses the desire for the "continuation of détente" and embraces the view that the "development of contacts" is an "important element in the strengthening of friendly relations and trust among peoples."

A long section (f) in Helsinki relates to meetings among young people. Vigorous encouragement is given to tourism among youth, the exchange of students, international youth seminars and multinational competition in sports.

Similar sections on the exchange of information and intercultural contact among nations is almost unbelievably strong in urging international lecture tours of all kinds, cultural congresses, international book exhibitions and exchanges of works of art. Encouragement is given for international events in theater, ballet, music, folklore and the graphic arts.

A long section on cooperation and exchanges in the fields of education, science, and technology seems to be more enthusiastic and even more detailed than the literature of UNESCO!

Although the record of the U.S.S.R. to date in keeping the commitments which it made at Helsinki is poor, the covenants of Helsinki are, nonetheless, promising.

On December 11, 1975, Andrei Sakharov, in accepting the Nobel Peace Prize, stated that the Helsinki agreement contains "fresh possibilities." He asserted that Helsinki deserves "a special claim on our attention" because "here for the first time official expression is given to a nuanced approach which appears to be the only possible one for a solution of international security problems." Sakharov urged the democracies to "maintain a unified and consistent attitude toward the implementation of the promises made at Helsinki."

Although Helsinki is not a treaty nor even a binding covenant, it is, nonetheless, replete with phrases indicating the determination of nations involved to carry out its promises. The nations

agreed that they "will" or that they are "resolved to" or that they are "determined" to fulfill the solemn promises and pledges which they have made.

Another unusual feature of Helsinki is that it can be applied or implemented by unilateral, bilateral, or multilateral action. It is to be hoped that the Holy See as one of the 35 signatories could represent, for example, Polish Catholics in their desire to express unilaterally the denial of their religious freedom. A forum for such expression does not, of course, yet exist, but it could become a reality if sufficient world pressure were created prior to Belgrade so that the nations there would feel impelled to establish juridical machinery so that the millions of citizens whose rights were guaranteed in the document that emanated from the European Security Conference could be adjudicated.

Prior to Belgrade, however, it is important for the United States and other nations to eliminate from their laws or their practices anything inconsistent with Helsinki. The U.S. Congress, for example, should amend sections of the U.S. immigration law which permits functionaries at the State Department to forbid even a visit by foreign nationals if someone deems that they are subversive because they are, for example, Italian leftwing labor leaders. U.S. immigration law, in banning the entry of refugees from Chile on the contention that they have belonged to a subversive organization, can hardly be said to be consistent with the letter or spirit of Helsinki.

The congressionally created Committee on Security and Cooperation in Europe, designed to monitor, evaluate and report on compliance with the Helsinki accord, could advance the objectives of Helsinki by pointing out ways in which the United States itself is in violation of that agreement. Obviously the inclination of the members of this commission to be critical of American institutions was diminished by the exclusion of all members of the commission in November, 1976, from the U.S.S.R. and five satellite nations. Nonetheless, the members of this commission are hopeful—as all of us should be. The realization or the frustration of those hopes will depend on what happens in Belgrade.

3. THE URGENCY OF UNITED ACTION AT THIS TIME

On June 15, 1977, representatives of the 35 nations will convene in Belgrade for some 4 or 5 weeks of work on establishing the procedures by which the nations will conduct Helsinki II. It can be presumed that Russia will want a format that will permit the U.S.S.R. and possibly the satellites to make self-congratulatory addresses and avoid any discussion or cross-examination about the record on human rights of the Helsinki nations during the first 2 years of the existence of the compact. It will be very important for the negotiators for the United States and other Western democracies to insist on a wide open dialog at which the record of all of the nations with respect to the rights guaranteed at Helsinki is made available for the whole world to behold. Prior to that time, all of us must be Helsinki watchers. Russia must be confronted, for example, with a specific violation of the Helsinki agreement by its recently revealed new restriction on religious freedom. In legislation adopted by Russia on June 23, 1975, but apparently not published until recently, there is a requirement that special permission must be obtained for each occasion when a religious service is held in the apartments or houses of believers. Articles 57 and 59 of the new law in question appear to be designed to restrict the religious exercises of Soviet Jews. Since there are fewer than 70 synagogues in all of Russia and since Jewish ritual requires the presence of a minyan or a quorum, the restrictive legislation inhibits religious exercises conducted in the home of a mourner or at the dinner table of Jews praying on the anniversary of a Biblical event.

These new restrictions on religion, the first of their kind in the U.S.S.R. in 46 years, specificially violate the following provision of Helsinki:

> The participating states will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief in accordance with the dictates of his own conscience.

Helsinki-watchers must also be prepared before and at Belgrade to take a position as to what the U.S. Congress should do to condition any further economic assistance to Russia on the observance of Helsinki by that country. Russian trade with the United States rose from $638 million in 1972 to $2.09 billion in 1975. In the first eight months of 1976, the total trade was $1.87 billion; the projected total for 1976 is $2.4 billion. Commercial transactions with Russia are obviously desirable, but their benefits to the U.S.S.R.—especially in connection with the wheat deals—must be viewed in the light of the enormous concessions made by the United States at Helsinki to Russia and the clear commitments made by the Kremlin to observe the provisions of the Universal Declaration of Human Rights.

Helsinki-watchers should also seek to develop a rationale from the Helsinki accord that would permit and even require the 35 nations not to submit to the Arab boycott of Israel. No specific recommendation is contained in Helsinki on this point, but all of the signatory nations did commit themselves at Helsinki to "promote the development of good neighborly relations with the nonparticipating Mediterranean states in conformity with the purposes and principles of the Charter of the United Nations."

Every effort must also be made to make the people of Russia aware of the promises which their fatherland has made to the world. The Kremlin has not in any way concealed the Helsinki agreement from the Russian people; it was published in its entirety in Pravda and elsewhere immediately after its adoption. We should try to have more Russians invoke Helsinki like Boris Spassky, the Soviet chess player, when he successfully appealed to Helsinki in order to obtain permission to join his French fiance in Paris.

The entire world is watching the development of the principles agreed to at Helsinki. The pledges made by the 35 European states at Helsinki represent a unique movement in the modern world. The nations of Western Europe did not seek to have such a unique alliance among them. The common pledge to the observance of human rights which now links Western nations was almost forced on them because Russia kept insisting on its determination to validate the illegally established orders of Eastern European nations. The Helsinki agreement might never have materialized if the United States had maintained the posture which it had adopted over many years of refusing to accede to Russia's insistence on legitimizing the boundaries of its satellite nations. Consequently, the United States has a profound moral duty to utilize and exploit in every way possible the humanitarian provisions to which Russia has agreed in return for the very reluctant acceptance by the United States of the geographical boundaries of the captive nations.

At the Helsinki Conference on August 1, 1975, President Ford said:

> History will judge this conference not by what we say today, but what we do tomorrow; not by the promises we make, but by the promises we keep.

America at Helsinki made promises to the Jews of Russia. The extent of America's determination to keep those promises will become clear as the United States and all of us prepare for what hopefully can turn out to be magnificent developments at Helsinki II to be conducted in Belgrade.

The substance of this statement was contained in a paper delivered by me at the Second National Interreligious Consultation on Soviet Jewry, held at the University of Chicago, November 29–30, 1976, at which I was also keynote speaker.

CONGRESSMAN AuCOIN ASKS HELP FOR PACIFIC NORTHWEST FILBERT GROWERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 15 minutes.

Mr. AuCOIN. Mr. Speaker, on December 16, 1974, the House of Representatives voted without opposition in favor of legislation to eliminate the double standard facing American filbert growers by requiring that imported filberts be graded just as domestic filberts are. The Senate concurred in this action, only to have the measure pocket vetoed 16 days later.

The uncertain future of Pacific Northwest filbert growers has become even more bleak in the following 2 years. Therefore, I am today reintroducing legislation to include filberts among those commodities which enjoy benefits under section 8(e) of the Agricultural Marketing Agreement Act of 1937.

In the House report which accompanied the 1974 bill requiring the grading of filbert imports, the Committee on Agriculture found that—

> The age of the nut and other quality factors are such that the domestic graded varieties being required to be graded are

more costly than the imports, which are not graded at all.

The committee further found that if remedial legislation was not enacted "and competition is continued on an unequal basis, the domestic growers will soon be out of business."

In the earlier hearings before the committee, Mr. Don Jossy of Oregon, a filbert grower representing some 2,000 filbert growers in the States of Oregon and Washington, concluded that—

> We have survived economic crisis during the past few years by adopting new cultural practices that have increased production and have kept costs down . . . but we have now virtually reached the end of these cost-cutting methods. All we are asking in this legislation . . . is a regulation to give us equal treatment with imports and the assurance that as we improve our quality, our markets in the United States will not be diluted by poor quality (foreign commodities) at a cheaper price.

A representative of a well-established Midwest merchandising firm who is in a position to judge the market testified that he was "convinced if we don't adopt standards, it will be impossible to compete with foreign filberts." He went on to point out that growers in Washington and Oregon suffer losses from 6 to 10 cents per pound in an effort to compete with imported nuts. This stands in stark contrast, he said, to California walnuts which, because of adequate standards and an adequate tariff, have become a multimillion-dollar industry in that State. The witness concluded:

> If this favoritism or whatever it's called continues to exist, it is only a matter of time until these growers in the Northwestern United States will be forced to discontinue growing filberts.

Mr. Speaker, I think you would agree with me that there is no reason for filbert growers to remain second-class citizens as a result of this policy.

The Department of Agriculture argued that import standards for filberts were not needed because: First, imports compete only for the shelled or kernel market not for the in-the-shell market; and second, mandatory domestic grading standards are not in force for filbert kernels where there is competition, but only for the in-the-shell nuts where the domestic growers have the market largely to themselves.

First, let me point out that the Department of State itself submitted views to the committee which indicated that only one-third of the total domestic supply of filberts is marketed in the shell and therefore relatively free of competition. The majority—almost two-thirds—of the nuts are competing as kernels with the lower priced imported kernels, with the imports ringing up nearly 80 percent of the sales. While it may be true, as the Department contends, that the in-the-shell market is the "most remunerative outlet," it remains a fact that the major market for filberts is the kernel market and domestic kernels are being undercut by lower priced imports.

Second, while it is true that prior to October 6, 1976, domestic kernels were not bound by mandatory grading standards, the fact is that American kernels now are subject to mandatory standards and—if not assisted by legislation imposing similar standards on imports—will be placed at an even greater disadvantage than they were when the standards were voluntarily adhered to.

I also might point out that the objections of the State Department due to this country's unique relationship with Turkey—a country directly affected by this bill—are no longer valid. Turkey had cooperated at one time with our Government by banning the production of opium—a fact that was apparently behind the State Department's opposition to the bill and, consequently, the Presidential veto. This circumstance is no longer the case. In 1974, Turkey reinstituted the production of opium on a limited basis, thereby relieving us of any conceivable obligation to treat their filbert farmers better than our own.

Finally, Mr. Speaker, I do not believe this country's open invitation to low quality filberts is in the long-term best interest of anyone concerned—domestic growers, foreign growers, or most of all, the American consumer. By imposing no grading standards on imports, the United States literally invites low-quality nuts which have been refused by 11 nations of the world which wisely maintain grading standards. Mr. Speaker, when low-quality filberts start filling the shelves of local grocery stores, consumers lose interest. A classic case of demand and supply—this has the effect of depressing the market to the detriment of everyone.

Mr. Speaker, the 2,000 filbert growers in Oregon and Washington are not asking for preferential treatment under the law, only for equal treatment under the law. They are asking only for that minimal protection which has already been accorded the growers of 16 other American commodities. For my colleagues' information, those commodities are: Tomatoes, raisins, olives—other than Spanish-style green olives—prunes, avocados, mangoes, limes, gratefruit, green peppers, Irish potatoes, cucumbers, oranges, onions, walnuts, dates, and eggplant.

I hope the House will again recognize the legitimate and reasonable request of American filbert growers. On behalf of these growers, I ask my colleagues' assistance to enact this bill into law—finally and belatedly—in the 95th Congress.

I include the text of my bill in the RECORD at this point:

H.R. 2381

A bill to improve the quality of unshelled filberts and shelled filberts for marketing in the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8e of the Agricultural Adjustment Act, as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, is amended by inserting after "oranges, onions, walnuts, dates," the following: filberts,".

INTRODUCTORY REMARKS—SALT RIVER STUDY BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, the bill I am introducing today would authorize a study of a portion of the Salt River in Arizona under the provisions of the 1968 Wild and Scenic Rivers Act.

While not as well known as its mighty cousin to the north, the Salt River and its attendant canyons are known and loved by many Arizonans, not only for their esthetic and natural value but also as a source of recreation. Less than a morning's drive from the major population centers of Tucson and Phoenix, the river is visited and appreciated by fishermen, hikers, birdwatchers, and river runners, Arizonians and Arizona visitors alike.

As the habitat for the southern bald eagle and other endangered species, the river and its banks are also a valuable wilderness area, which should be protected for future generations and for the sake of preserving the balance and beauty of American nature. Without adequate protection, the quality of this natural riverine environment could be seriously damaged.

This bill would provide for the establishment of the means by which the preservation of the Salt River could be accomplished. Essentially, it would implement a 1974 recommendation of the Ford administration that the Salt River be studied for possible wild and scenic river designation. The area to be studied includes a stretch 82 miles long, between the river's source and its junction with U.S. Highway 60 deep within the canyon. This upper portion of the Salt River is its most spectacular and most remote segment.

Mr. Speaker, with the recognition by the American people of the value of leaving certain important vestiges of our country in their natural state, it is imperative that the Federal Government take a close look at preserving even a small segment of what is one of Arizona's rarest commodities: A wild and free-flowing river. The bill I am introducing today would provide for just such a study.

NATIONAL HEALTH INSURANCE LEGISLATION

The SPEAKER pro tempore. Under a provious order of the House, the gentleman from New Jersey (Mr. MINISH) is recognized for 5 minutes.

Mr. MINISH. Mr. Speaker, I rise to urge early consideration during the 95th Congress of national health insurance legislation.

As a longtime cosponsor of the Health Security Act, I believe this measure represents the most far-reaching and promising approach to the improvement of health care afforded to Americans.

The legislation, H.R. 22 in the present Congress, would cover all citizens with comprehensive health benefits, including physician services, optometry, inpatient and outpatient services, home health services, podiatry, medical devices and appliances, and children's dental work.

The plan would involve no deductibles or coinsurance. It would be financed half

by a 1-percent payroll tax and half by general revenues. Five percent of the accumulated funds would be set aside for health resource development, health manpower education and training.

Incentives would be provided in order to shift the present emphasis in our health care system from hospitalization and acute-care services to preventive medicine and early detection of disease.

Americans, Mr. Speaker, are currently spending $133 billion for health care—8.3 percent of our gross national product. On the average, a hospital room that cost $53 per day in 1967 has more than doubled to well over $110 today. Overall, we spend three times more for health care than we did a decade ago—$547 versus $145 per capita—and health care costs have risen by over 40 percent in the last 4 years alone.

A well drafted and administered national health insurance program clearly will result in savings by the removal of inefficiency in the current overlapping public and private insurance programs and by the improvement of the delivery system to eliminate duplication and waste.

Mr. Speaker, the health of our people is our most precious national resource. Every American should be able to live out his years without fear of the high cost of illness.

TAX EXPENDITURES COST $112 BILLION IN REVENUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BENJAMIN) is recognized for 5 minutes.

Mr. BENJAMIN. Mr. Speaker, in order for the Federal Government to fulfill its constitutional duties, large amounts of money must be spent from revenues raised by the voluntary payment of taxes. Regretably, we are asking our citizens to pay these taxes under a system which is unfair and ridiculously complex.

Ed Zuckerman, a highly respected and distinguished journalist, recently prepared a report on the estimated loss of $112 billion in revenue caused by provisions Congress has enacted for the benefit of various classes of taxpayers. In his article, Mr. Zuckerman pointedly illustrated why our tax system is held in disrespect by our citizens. I commend him for his detailed research and for bringing the facts contained in his study to the public's attention.

I now wish to bring Mr. Zuckerman's findings to the House's attention and for the benefit of my colleagues, I am inserting the article in the CONGRESSIONAL RECORD:

[From the New York Post-Tribune, Jan. 20, 1977]

1978 TAX "LOOPHOLES" COST $112 BILLION REVENUE

(By Ed Zuckerman)

WASHINGTON.—The hidden cost of government will exceed $112 billion in fiscal 1978.

That is the amount of federal tax revenue, which would otherwise be available to finance government activity, that corporate and individual taxpayers will not pay the U.S. Treasury due to hundreds of tax-reducing provisions Congress has inserted in the U.S. tax code for the benefit of certain classes of taxpayers.

The estimated loss of revenue caused by those provisions, called "tax expenditures" by the U.S. Treasury Department which compiled the data, was included in the fiscal 1978 budget materials President Ford Monday transmitted to Congress.

"Tax expenditures" are the often-ignored flip side of the federal spending coin.

Those taxpayers who do not benefit from the provisions call them "loopholes"; those who do call them "tax preferences."

President Ford's budget anticipates $440 billion in federal spending during the 1978 fiscal year which begins next Oct. 1. Because revenue collections are expected to be around $393 billion, the Ford budget anticipates a $47 billion deficit.

In recommending spending levels for thousands of federal agencies and programs, the $440 billion figure does not reflect the $112 billion tax expenditure loss which according to the treasury department, "can be viewed as alternatives to budget outlays, credit assistance for other instruments of public policy."

The tax expenditure estimate is drawn from provisions which can be used only by certain taxpayers who can meet special qualifications, while provisions considered part of the "normal tax structure" are not counted.

Not included in the estimate are the costs of universally available provisions—such as the $750 personal exemption claimed by all individual taxpayers for themselves and each of their dependents and normal deductions allowed all businesses for such expenses as employe salaries, rent, equipment and raw material purchases.

But, also left out of the estimate is the revenue that is lost by allowing multinational corporations to receive credit for taxes paid to foreign governments.

While treasury argues that foreign tax credits are part of "normal tax structure" because it prevents double taxation (theoretically, tax policy abhors double taxation just as nature abhors a vacuum), tax reformers argue that tax payments to foreign governments should be treated as a deductible business expense rather than a credit.

For corporations which are taxed at 48 per cent, each dollar of deduction reduces the tax liability by 48 cents; whereas, each dollar of credit reduces the tax by $1. For taxation purposes, therefore, a credit is more valuable than a deduction.

(The same type of argument applies to individual taxes because a deduction's true value depends on a taxpayer's bracket. For example, a $750 personal exemption is worth $150 to a taxpayer in the 20 per cent bracket, but $375 to a taxpayer in the 50 per cent bracket. But a credit, rather than a deduction, would have the same value for all taxpayers regardless of their bracket.)

According to the Treasury estimate, individuals who can qualify for the tax-saving provisions will retain $86 billion while corporations will retain $26 billion in the next fiscal year.

Tax treatment of pension and retirement fund contributions accounts for the single largest loss of federal revenue, approximately $11.4 billion in fiscal 1978 because those funds—along with the interest they earn—aren't taxed until a worker retires and begins withdrawing benefits.

It is advantageous for most because the provision assumes that tax rates will be lower during retirement years than they would be during earlier years of higher earning capacity.

(The concept of shielding retirement contributions from current taxation does not extend to social security, however. Unlike pensions, social security contributions are taxed when paid into the fund and is tax-exempt when paid out.)

Millions of Americans enrolled in company-paid pension plans are probably unaware of the tax benefit they are receiving because pension contributions made on their behalf are not enumerated on paycheck stubs, are thus an often-forgotten source of income.

As part of the 1976 pension reform law, Congress gave workers not enrolled in private pension plans an opportunty to establish their own retirement funds—called Individual Retirement Accounts, or IRAs—and set aside up to $1,500 annually and shield the money, plus subsequent interest, from current taxation. The growth of IRAs since the law's relatively recent enactment will account for over $1 billion in lost federal revenue next year.

Other big-ticket revenue losers available to individual taxpayers are:

Allowing homeowners to deduct mortgage interest and local property tax payments, $10.9 billion.

Allowing deductions for local and state sales and income taxes, $8.9 billion.

Allowing capital gains treatment on investment profits (a benefit to high bracket taxpayers since it limits the tax on such income to 25 per cent), $7.3 billion.

Not treating employer-paid medical insurance premiums as income, $5.8 billion.

Allowing deductions for charitbale contributions, $5.4 billion.

For corporations, the biggest loss of federal revenue is the 10 per cent investment tax credit. It will save business an estimated $9.6 billion in taxes next year.

Congress raised the investment tax credit from seven per cent to 10 per cent as a means of encouraging industrial expansion and foster creation of new jobs. In effect, the provision means the government is subsidizing 10 per cent of the cost industry is paying for the purchase and installation of job-creating plants and equipment.

Another anti-recession tactic adopted by Congress, aimed at improving the viability of small business, means a $4.2 billion loss of federal revenues. It exempts from taxation the first $50,000 of corporate income.

Another big item that loses federal revenue, $5.2 billion next year, is a provision that is claimed by both corporations (banks, mostly) and individuals—the tax-exempt municipal bond.

Because the government does not collect taxes on interest earned on these bonds, allowing municipalities to finance their debts at a lower interest rate than commercial bonds command, they are often an attractive investment for super-wealthy taxpayers.

Income from tax-exempt municipal bonds need not be reported on tax returns.

Tax reformers, who would rather have the federal government provide a direct subsidy to municipalities rather than allow the indirect benefit, frequently point to the story of the late Mrs. Horace Dodge, widow of the wealthy automobile manufacturer, as a classic case. Mrs. Dodge, they claim, converted her inheritance into tax-exempt municipal bonds which provided her with over $5 million in income each year. Under the law, she was not even required to file a tax return.

Congress has drafted all these—and more—tax-reducing features over the years to promote public policy or to limit liabilities for certain taxpayers—such as the elderly, the blind and students—who are unable to afford full taxation.

The time-honored deductions for mortgage interest, for example, were designed to accomplish two goals: provide home construction jobs and upgrade the condition of housing in America. Last year, giving a one-time economic shot to the sagging construction industry, Congress gave a tax credit up to $2,000 for buyers of new homes.

While some tax-reducing provisions have

become a fixture on the U.S. tax scene and few would suggest doing away with them, others are viewed as "loopholes" which allow special groups with an escape hatch to tax avoidance.

Interest in reforming the tax code was first generated in early 1969 when outgoing Johnson administration treasury secretary Joseph Barr told Congress that, in 1967, 155 Americans with incomes of $200,000 or more had paid not a single penny of federal income taxes and that 23 of them had incomes over $1 million.

And, interest in tax reform was heightened by congressional investigations in 1973 into allegations that former President Nixon paid little or no taxes.

Taken together, the provisions strike at the heart of the tax reform controversy. Reform advocates contend the federal tax structure should be aimed at the singular goal of raising revenues to support the government, not to induce certain types of economic behavior.

But, Congress has never been able to resist the temptation to effect public policy by tinkering with tax policy. To do so otherwise would require direct cash outlays to individuals and corporations—and a much larger federal budget.

REPORT ON OPERATION OF FOOD SERVICE FACILITY AT CONGRESSIONAL VISITORS RECEPTION AREA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for 5 minutes.

Mrs. BOGGS. Mr. Speaker, late in 1975 I accepted with great enthusiasm the assignment as chairman of the Congressional Joint Committee on Arrangements for Commemoration of the Bicentennial. I knew then, and I feel now, it was a once in a lifetime opportunity. With your great support as a member of this committee, and that of our other colleagues in the House and the Senate, the committee planned and carried out numerous programs for both information and ceremonial purposes.

Early in the joint committee's existence, it was decided that due to the expected number of Bicentennial visitors to the Capitol Hill area, an adequate food, rest, entertainment, and information distribution facility was needed. The committee relied on other Government offices for its projections as to the scope of this proposed new facility.

So that we could pursue this objective, the committee asked this body to empower it to enter into contracts with private organizations, and to give the committee authority to receive portions of any profits which might be derived from such contract agreements. The empowering resolution was approved by both Houses.

After entertaining competitive bids, the committee entered into an agreement with the Marriott Corp. to provide the food service component of the facility which was located near the Botanic Gardens, and became known as the Congressional Visitors Reception Area.

As a part of its agreement with the joint committee, the Marriott Corp. was to bear the costs of: Asphalt paving for nearly the entire area; five tents of various sizes to cover the food service area; as well as the necessary food supplies, staff and equipment needed for the service.

In addition, the committee was to share in any profits which may have resulted, after Marriott recovered its initial investment and made an agreed upon profit. All the details of the end result of the summer's activities are specified in the following report from the Comptroller General of the United States. I wish to submit this report for the RECORD, and for the review of the Congress.

As will be seen in the report, the facility produced no profit. In fact, the Marriott Corp. sustained a loss of $130,611. The reasons for the experienced loss at the Visitors Area are several. A few of them include: Tour buses which we hoped to have unload at the facility so that our staff could properly welcome and orientate visitors and constituents were unwilling to extend their timed stop at the Capitol and preferred leaving passengers at the East Front; private street vendors erroneously faulted the Marriott Corp. for their removal from Capitol Grounds and the nearby Mall—this criticism received widespread media attention and may have attributed to the small sales volume ultimately experienced; and, there was a general optimism about the expected numbers of visitors to Bicentennial attractions from Boston to Philadelphia to Washington which was never realized.

While the joint committee feels confident that a much needed service was provided at the Visitors Area, we did want to make public with the submission of this report the fact that the project resulted in a financial loss to its primary corporate participant.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., December 14, 1976.

Hon. LINDY BOGGS,
Chairman, Joint Committee on Arrangements for Commemoration of the Bicentennial, Congress of the United States.

DEAR MADAM CHAIRMAN: As requested in your July 16, 1976, letter, we audited the Mariott Corporation's records of the food service facility at the Congressional Visitors Reception Area. The facility was operated by the Marriott Corporation under a contract with the Joint Committee on Arrangements for Commemoration of the Bicentennial (Joint Committee).

On March 18, 1976, the Joint Committee entered into a contract with the Marriott Corporation to operate a food service facility at the corners of Maryland Avenue, Independence Avenue, and Third Street, SW., Washington, D.C., from April 1, 1976, to September 30, 1976. The facility failed to produce the anticipated income and the Joint Committee granted Marriott Corporation permission to make changes in operations effective August 1, 1976, to reduce the operating loss and to terminate operations on September 6, 1976.

SCOPE OF AUDIT AND OPINION ON FINANCIAL STATEMENTS

Our audit included an examination of the records maintained and tests of the transactions to the extent we deemed necessary to ascertain whether costs and income were properly recorded and reported to the Joint Committee in accordance with the terms of the contract. We also observed operating procedures, evaluated internal controls, and reviewed the work performed by the Marriott Corporation's internal auditors.

In our opinion, the following statement of income and expense prepared by the Marriott Corporation, as adjusted by us, presents fairly the results of the operation of the food service facility, in accordance with the terms of the contract between the Joint Committee and the Marriott Corporation.

Marriott Corp. statement of income and expense of the food service facility operated at the Congressional Visitors Reception Area during the period April 1, 1976, through September 6, 1976

Income:	
Food sales	$120,831
Other sales	551
Total	121,382
Cost of sales	[1] 42,689
Gross profit	78,693
Operating expenses:	
Salaries and wages	37,818
Employee benefits	5,953
Supplies	3,953
Other expenses	3,560
Maintenance and utilities	[1] 5,112
Subtotal	56,396
Total	22,297
Other costs:	
Site preparation	74,912
Tent rental	31,965
Depreciation of equipment	22,446
Equipment rental	7,550
Asphalt removal	6,325
Administrative expense (8 percent of sales)	9,710
Subtotal	152,908
Total net loss	[1] −130,611

[1] The income and expense statement the Marriott Corporation submitted to the Joint Committee was prepared from the Marriott Corporation's records as of September 24, 1976, and showed a net loss of $127,283. As of December 9, 1976, the Marriott Corporation had received additional bills for $3,328 and expected to receive other bills amounting to $940. We have adjusted the Marriott Corporation's statement for the additional bills received and audited by us but not for the bills which the Marriott Corporation expects to receive.

MAJOR CONTRACT PROVISIONS

In determining profit or loss from operations, the contract provided that in addition to normal operating costs the Marriott Corporation could deduct from income (1) the cost of equipment supplied plus installation and removal costs and interest on equipment purchased, (2) the cost of providing and installing asphalt for the space designated as the Bicentennial visitors area, including, but not limited to, the food service area, and (3) an amount equal to 8 percent of sales for administrative overhead. The contract provided that profits would be distributed in the following manner. Marriott Corporation would receive all profits up to an amount equal to 12 percent of sales. Profits in excess of 12 percent of sales were to be shared equally between the Joint Committee and the Marriott Corporation. This provision was inoperative because the facility produced a loss rather than a profit.

The contract also provided that, at the termination of the contract, the Joint Committee had the option of leaving the asphalt in place or requiring the Marriott Corporation to remove it. The Joint Committee told the Marriott Corporation to begin removing the asphalt by November 1, 1976; and on November 2, 1976, it had been removed.

The contract provided that the Architect of the Capitol, acting as the representative of the Joint Committee, would, at no cost to

the Marriott Corporation, furnish the space required for the food service operations and would arrange for refuse disposal by the National Park Service and for security surveillance by the Capitol Police Service. Utilities, such as gas, water, electricity, and telephone, were separately metered or recorded and paid for by the Marriott Corporation.

EXPLANATION OF OTHER COSTS

The principal items included in other costs were site preparation ($74,912), tent rentals ($31,965), and depreciation of equipment ($22,446). Site preparation consisted of preparing and asphalting the ground in the Bicentennial visitors area, making connections to the utilities, and installing equipment. Tent rental included installing, maintaining, and removing one 3,000 square-foot tent the Marriott Corporation used in the food preparation and dispensing area and four 40-foot-diameter tents used in the patron dining areas. Marriott Corporation purchased most of the equipment used in the food service facility. Depreciation expenses were allocated, during the period the food service facility was in operation, on the basis of a 4-year useful life.

ACCOUNTING PROCEDURES

The Marriott Corporation maintained a separate account in which the food service facility transactions for income and expense were recorded. A weekly summary of income and expense transactions, including totals-to-date, was prepared using automatic data processing equipment. Each day's sales were recorded on cash register tapes, and the cash receipts were picked up daily by armored car for deposit by the Marriott Corporation. Food items were purchased from vendors or were transferred from other Marriott Corporation food preparation facilities; a physical inventory was taken each week.

Please let us know if you, or members of the Committee staff, would like any additional information on our audit of the Marriott contract.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General of the United States.

ENERGY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

Mr. BINGHAM. Mr. Speaker, for several years now since the onset of the "energy crisis," generally considered to have begun with the October 1973 Arab oil embargo, the American people have been aware of the desperate need for our Government to formulate a firm and comprehensive energy policy. A cornerstone of any such policy must certainly be a stringent program for energy conservation

Conservation programs are only a first step though. We must push relentlessly for crash development of renewable energy sources, especially solar power. A Manhattan-project type approach to development of new energy sources must be a top priority for the Federal Government in the months ahead. Thus, I was extremely dismayed to find that the budget proposal submitted to the Congress last week by the outgoing administration offered the largest increase in energy research and development funding to nuclear energy development. Programs for energy conservation and development of alternative energy potential, particularly solar, once again got short shrift, receiving very small increases which barely keep pace with inflation.

While I realize President Carter has ample opportunity to restructure the last administration's funding priorities, I would only stress once again to my colleagues the urgency of the situation. It is not enough to pour more dollars into our deeply troubled nuclear industry, or to push for reallocation of gas and petroleum supplies, or to reform the methods used by the legislative and executive branches in the development of energy policy. It is not enough to be simply "pro-nuclear" or "pro-solar"; it is not enough to say simply "Deregulate natural gas." "Open up the public lands for mining." "Drill deeper."

The Congress and the new administration are faced with the extremely difficult task of demanding sacrifices from the American people. We must level with our constituents and stop pretending the energy problem is merely a passing crisis fomented by the OPEC nations. We must stop pushing any single technology such as nuclear or solar as the deus ex machina which will release us from our energy woes. We must level with ourselves that we are not going to "solve" the energy crisis by loosening all restraints on oil and gas consumption or by reorganizing bureaucratic functions.

What should the Congress and the Carter administration be talking about when we consider the implementation of a comprehensive energy policy? We should be talking about a new national commitment to the development of renewable forms of energy, a commitment similar in scope and magnitude to that with which we first built an atomic bomb and put men on the Moon. We should be discussing offering broad tax incentives to consumers who insulate homes, who reduce energy consumption and who install solar heating ond cooling systems. We should use similar tax reforms to encourage the construction of more energy efficient apartments and office buildings. We should push for the imposition of strong tax disincentives for wasting energy on gas-guzzling automobiles or inefficient lighting and heating. We should look to raise additional tax revenues for the construction of new mass transit systems and funding for energy research and development; particular consideration should be given to the possibility of removing unnaturally low price ceilings on oil and gas consumption—but only if the higher prices would yield new revenues for R. & D. and mass transit.

We should also be striving to coordinate the energy policymaking functions throughout all branches of Government and we should realize that energy policy is not the domain of one group of experts, or one committee of Congress, but rather it is a problem with which everyone must work.

Energy shortages affect all our Government policies, our foreign policy, the pace of our economic recovery here at home, our jobs programs, our tax bills, our environmental regulations and our research and development efforts. Implementing a comprehensive energy policy is a job big enough for the Congress and the new administration too. And the necessity of developing renewable energy sources while at the same time applying stringent conservation programs is now constantly present. As the president of the University of Miami remarked recently:

Industrial mankind can be likened to the behavior of irresponsible tenants in a rented house. In effect, we've been burning up the furniture, woodwork and food supplies to keep the place warm because we've been too irresponsible and lazy to figure out how to work the central heating.

Mr. Speaker, I wish to include in the RECORD at this point an extremely thoughtful article addressing the imperative of implementing a national energy plan, which was written by the former head of the Federal Energy Administration, John C. Sawhill:

TOWARD A NATIONAL ENERGY PLAN

(By John C. Sawhill)

There is a growing national awareness that we face a serious energy problem in both the short and long term. And there is a general consensus that we need a national energy policy to deal with those problems. But turning that consensus into effective action has so far eluded us.

The new administration must move quickly beyond mere rearrangement of boxes on our federal organization chart—one of the few concrete proposals that has surfaced so far. For so little has been done since the 1973 Arab oil embargo that imports now account for a higher percentage of total U.S. consumption than they did then. And our energy conservation program is so ineffective (ranking near the bottom of the list of industralized nations) that we are missing our best chance of defusing the Arab oil weapon.

The immediate problem is the growing U.S. dependence on oil imports increasingly concentrated in the Middle East. The longer-range problem is the need to find alternative sources of energy to sustain the world's economy in the next century when oil and gas supplies are depleted. Unless we solve the near-term problem, our domestic economy and our foreign policy will remain unduly vulnerable to manipulation by the Arab states, and the mounting debt burdens on the non-oil producing less-developed countries will continue to threaten international financial stability. Unless we solve the longer-range problem, we will have difficulty maintaining a rising standard of living once liquid hydrocarbon reserves are exhausted.

Several critical decisions are called for, the first of which is to establish short- and long-range goals for U.S. dependence on foreign sources for petroleum. A second is to set a target for reducing the growth of energy consumption and to enact a package of tough energy-conservation measures. Somewhat higher fuel prices, coupled with other economic incentives (like tax credits for insulation) and regulatory measures (such as banning nonreturnable bottles), could reduce the rate of energy-demand growth well below 2 per cent a year.

One of the most pressing energy issues before Congress is whether the government should continue to regulate oil and gas prices. Opponents of regulation claim that controls encourage consumption, discourage investment in new production, and maintain an unnecessary government bureaucracy. Proponents argue that oil prices have always been regulated de facto—first through production limits set by the Texas Railroad Commission and later through the import-quota program.

If controls were completely eliminated today, the price for oil would not be deter-

mined by free market demand-and-supply conditions, but by the OPEC cartel. U.S. oil prices should be as consistent as possible with U.S. economic recovery and energy objectives; it is unlikely, to say the least, that the OPEC managers will act on this criterion. My own view is that complete deregulation is not the best course. The United States must continue to regulate crude oil prices with a view toward keeping our economic engine lubricated, but permit them to rise enough to encourage conservation, new exploration, and the development of new facilities. Petroleum product prices and the price of new natural gas at the wellhead should be deregulated, however, since they will tend to move with crude-oil prices.

The best way to moderate world energy prices is to reduce our import dependency. Beyond this, however, there are other actions that should be explored. One is the possibility of establishing a government agency to purchase some imports (such as those necessary to build an oil stockpile) under a system whereby OPEC suppliers would be required to submit sealed bids for access to the U.S. market as a means of fostering competition among them. The dissension at the recent Qatar meetings suggests that there may be opportunities for the new administration to widen cracks in the cartel, and thereby bring downward pressures on prices.

In addition to prices, a pressing question facing the new Carter energy team is the future role of nuclear power. Reducing our dependency on oil as a primary energy source in the longer term will require much expanded capacity for electrical generation besides an increased role for coal. This means some firm decisions on nuclear energy. The current debate on this issue has centered around questions of reactor safety and waste disposal and, as a result, has tended to obscure the more critical issue, which is the problem of weapons proliferation. The key to reducing the proliferation risks is to limit the spread of plutonium until appropriate safeguards are in place.

Fortunately, the U.S. has sufficient uranium reserves to last well into the next century. For this reason, we are in a position to defer the decision on plutonium recycling and on commercialization of the breeder reactor (which uses plutonium) in order to influence foreign suppliers to do the same. Simultaneously, we should work from the other end to persuade potential buyers of these facilities that their benefits are outweighed by the risk of weapons proliferation. Strengthening and broadening the mandate of the International Atomic Energy Agency would help to enforce measures to limit proliferation.

In sum, then, we need serious commitment to a national energy plan. We will be able to measure the seriousness of this commitment by the speed with which proposals are made and decisions are reached on these overall goals. The consequences of continued inaction are grave indeed.

PRESERVING OUR HERITAGE: THE MANASSAS NATIONAL BATTLEFIELD PARK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, I am pleased to reintroduce today legislation to preserve approximately 1,300 acres which border the Manassas National Battlefield Park, located in my district in Prince William County, Va.

Joining me as cosponsors of the bill are Congressman PHILLIP BURTON and five members of the Virginia delegation to the House: Congressman M. CALDWELL BUTLER, Congressman DAN DANIEL, Congressman JOSEPH L. FISHER, Congressman PAUL S. TRIBLE, JR., Congressman G. WILLIAM WHITEHURST.

This bill is the result of over 2 years of work with the citizens of Prince William County and many local, State, and national organizations who have urged that the Nation preserve those lands on which the first and second battles of Manassas were fought. Just 30 minutes from the Nation's Capital, the park is a significant part of our Nation's heritage and this bill would enhance the ability of the National Park Service to protect and interpret the scene of these historic events for all time.

In the 94th Congress, the Manassas Park legislation had 30 cosponsors, underwent thorough hearings, and passed the House on September 29, 1976. It was deleted from an omnibus parks measure in the Senate by a single objection which could not be removed under the unanimous-consent procedure which the Senate was using the last evening of the session. My efforts to preserve these properties were supported by such organizations as the Prince William Federation of Civic Associations, the Prince William League for the Protection of Natural Resources, the Virginia Division of the United Daughters of the Confederacy, and the National Civil War Round Table Associates. Protecting the park was editorially endorsed by both local newspapers in Prince William, the Manassas Journal Messenger and the Potomac News.

PRESERVING HISTORY

The historical importance of these properties cannot be overemphasized. The old Stone Bridge, still standing intact, is where Union troops made a diversionary attack that began the first land battle of the Civil War. A wooded area, with trees still embedded with Civil War shrapnel, is where the Second Battle of Manassas began in 1862 and where Gen. Stonewall Jackson made his decision to fight. Another parcel contains the only surviving building of the village of Groveton, the scene of intense fighting during the second battle. One piece of land is the site of Portici, General Johnston's headquarters during the first battle. The historic Conrad House, used as a field hospital during both battles, is located on one piece of land in the bill.

PROVISIONS OF THE BILL

Under the bill, the Secretary of Interior could acquire the designated lands by direct purchase and through scenic easements. Both methods would allow the National Park Service to acquire the properties—it does not direct them—to preserve the present rural atmosphere or restore it to the historic scene which was significant to the strategy and tactics of the battles. Most of the acres are now in farming and open space residential usage. Some parcels contain areas of second growth timber and are not under active utilization. The rights of any residents now on the properties are protected.

A NATIONAL ATTRACTION

The park is a major attraction for tourists and historians coming to the Washington metropolitan area. In 1974, the park had 700,000 visitors; over 1 million are anticipated in 1977. It is a unique attraction and restful respite for tourists in the national capital area.

ENACTMENT URGENT

The need to preserve this historical acreage is urgent. We must act now before it is too late. Prince William County is one of the fastest growing counties in the Nation. From 1960 to 1970, its population doubled, jumping from 50,000 to 111,000. Today the county has 162,069 residents. The completion of two major interstate highways through the area have contributed significantly to the county's growth.

Because of the growth pressures, commercial development is encroaching on the park. Several pieces of the land are zoned commercial or lie adjacent to commercial land. A motel, gas station, and commercial cemetery are close by, as is Interstate 66 and the land acquired for Mariott Corp.'s Great American Theme Park. Many owners of these rural properties have expressed to me their wish to sell or give their land to the park and to protect the current park's boundaries from development.

BENEFITS FOR THE COMMUNITY

The addition of these properties will mean new recreational opportunities for county residents, where local services are having a hard time keeping up with growth. For Prince William's citizens, there are only 1,141 acres of local parks. Additionally, expanding the park to include additional historical sites will bring additional visitors—and thus additional revenues—to the county.

I will seek prompt action on the Manassas bill in the 95th Congress. The Manassas National Battlefield Park is truly a unique haven—acres of gently rolling and wooded farmland—in a rapidly growing, bustling area of the Nation's Capital.

As one resident who lives next to the park puts it:

> I can speak as one who has for seven years observed the solemnity and sacred dignity which attaches to the grounds and their preservation; the stately cedars and the rolling plains are there to be seen by present Americans and untold millions of citizens yet unborn who may come and silently ponder the significance of this soil

I urge my colleagues to join me in preserving for all time a precious page in our Nation's history before it is too late.

THE TARIS SAVELL SHOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 10 minutes.

Mr. SIKES. Mr. Speaker, one of the favorite TV programs emanating from Pensacola, the principal city in my district, is the Taris Savell Show. There is a very, very good reason for this, and that reason is Taris Savell. She specializes in interviews with famous people who are visitors in Pensacola, and she does this

with tact and dignity. She is equally adept in bringing out important features in the daily lives of the local citizens and the major happenings of the area. Attractive, intelligent, witty, she enjoys an A-plus rating throughout the area.

Taris Savell's accomplishments are widely acknowledged. She was named Bicentennial Woman of the Year, by the Business and Professional Women's Association, and named Media Woman of the Year, by Pensacola High School students. The St. Petersburg Times, published more than 300 miles away, carried an interesting story in their issue of October 17, 1976, on Taris Savell's work. It is by Don North. I submit it for reprinting in the CONGRESSIONAL RECORD:

THE GREAT GUEST QUEST

(By Don North)

Pensacola is not what you'd call a crossroads city; Interstate 10 goes as much through it as to it. Nor is it the gateway to anything, stuck out there among the pines on the westernmost tip of the Florida Panhandle. The city is plainly off the beaten path.

By all odds, the famed and celebrated few who find themselves in town do so deliberately. One does not generally arrive in Pensacola on the way to anywhere else. Aside from the sugar-sand beaches of the adjacent gulf, there's about as much to do in Pensacola as in Peoria.

It is a Southern-style community, studded with churches, imbedded in conservatism, steeped in local history and civic pride. The nation knows Pensacola best as the place where naval aviators get their wings, and thousands of Americans remember being there in military service. The air station and the carriers based in the city have been sets for a succession of epic war films, most recently "Midway," which, considering the real-life Navy pilots turned out, must be considered the municipal trademark.

Given the relative physical isolation of Pensacola, and its lack of a prominent draw on the outside world—no cool elevations, hot mineral sprins or gambling casinos—how can it be the home of the state's reigning champion in the highly competitive game of celebrity interviewing? They don't give Emmys for name-chasing, but it's a good bet that if they did, Taris Savell, by now, would have brought a bushel of them home to Pensacola.

Taris comes at you through the cameras of two local television stations—something of a celebrity herself among greater Pensacola's 150,000 citizens. In a career that spans more than 20 years (she fudges on the number), Taris has made a near science out of nailing down big-name interviews. She estimates, going back to radio where she got her start, that she has chatted with some 4,000 subjects, ranging from Snookie Lanson (C'mon, you DO remember!) to Gerald R. Ford. The list is convincing evidence of her single-minded tenacity, which is made more impressive by the fact she persuaded most of her subjects to pose with her for snapshots.

Pensacola has been a window on the world for Taris, an untraveled, never-married woman who is by best guess, hovering near 50. She says 41, but age is something else she prefers to fudge on.

Question: "What is your age, Taris?"

Answer: "April 19."

Beyond that, all she'll say is, "I'm young enough to tell, but old enough to want to be a little mysterious." Acually, she dislikes being probed on her personal life and she attributes the same resentment to her subjects. "I don't want to be the instrument by which their privacy is invaded," she says.

A typical day for fast-stepping Taris might begin with a news interview (Is there any danger of the Legionnaire disease reaching Pensacola?) for WEAR-TV, include taping two or three commercials and then a 30-minute interview with one of her celebrities or VIPs for a weekly show, "Taris Talks With . . .," that is broadcast by WSRE, the educational TV station. Every Sunday she emcees a half-hour country and western radio show, selling Meyer's Shoes and soft drinks between records. But she is obviously most fulfilled when she has a celebrity ensnared in the studio.

"When that red camera light goes on, it's like another world to me," she says. "The only thing I see is the person in front of me." Taris acknowledges that she is hopelessly star-struck. "There is a thrill in being able to communicate, ever so briefly, with people I've read about . . . the faces you see on TV and in the movies." It is also a romantic occupation for a person whose broadcasting career began as an adveristing copy writer for a small radio station.

Taris is an only child, named after a succession of aunts (T-Tillie, A-Anna, R-Rose, I-Iris, S-Savell). Her father worked for a refrigeration firm and her mother was a teacher. She was born in Selma, Ala., and lived there until the sixth grade, when the family moved to Pensacola. With the exception of her college years at Louisiana State University (LSU), that is where Taris has been since. She lives now with her mother in a comfortable yellow brick home in an older section of the city known as North Hill. The decor in the Savell home takes one back into the overstuffed '40s, and it doubtless looks much the same now as it did when Taris was a girl in school.

After receiving a bachelor of arts degree from LSU, Taris returned home to unemployment. "Everywhere I went they said I was over-qualified, so I finally lied, told them I was a high school graduate, and went to work as a receptionist." That is the only job she has ever held that was not associated with radio or TV. And it is the last she would really rate as work. She wrote ad copy for WBSR for a while, working over a typewriter 9 to 5, until she persuaded the station to give her a program that would shudder today's feminists, a show called "Helpful Hints for the Homemaker." It was the beginning of Taris' long association with a microphone.

She has been several kinds of disc jockey, playing what she calls "good music" (Ray Coniff, Montavani) and country and western, which had broad appeal to Panhandle audiences, but not to Taris. She switched stations from time to time, either for higher pay or more exposure. She became a "talent" and was paid for doing commercials. She even produced her own program, patterned after Milton Cross' old Metropolitan Opera broadcasts, in which she would act as if she were really there. It was called "Curtain Time." "I would play the album from a Broadway show, which I would introduce by saying, 'We're in the outer lobby now. The orchestra is in the pit and here comes the conductor.'"

These were her radio years. She didn't get next to TV until 1962, when she was hired as radio program director by WPFA, which also happened to own a television station, the only one in town. The medium fascinated her, and she jumped into it whenever she got a chance, operating cameras, doing voice-overs on station breaks and introducing live local shows. Taris also sold some advertising. Working, as she was, in a station without union organization, she was free to try her hand at any phase of the business. "I was a good salesman," she remembers, "but I hated it."

In 1965, Taris was hired by WNVY, a good-music station, to produce a half-hour program of music and talk. It was here she developed the verbal skills that enable her to spar with celebrities, spin off commercials with barely a look at the copy and actually compose them off the top of her head. She's sold Meyer's Shoes and Nehi beverages for a decade, winging it each week at commercial time: "Fall is coming. Are your shoes out of style? Are you broke? Well, you can charge and you can layaway at Meyer's." Taris says she visits the store each week for 15 or 20 minutes and shapes the ideas for the commercials. "If Mr. Meyer has any complaints, he calls," she says.

Taris says she does not remember when she conducted her first celebrity interview. That is, not the very day. But she is occasionally reminded, as when Charlton Heston was before her camera in 1975 and mentioned that she had interviewed him 23 years before, that she has been at it for quite a while. The first interviews were conducted to sweeten her radio programs, and she has hundreds of personalities on audio tape. Five years ago WSRE, the educational TV station, offered her 30 minutes of studio time weekly for "Taris Talks," which is broadcast twice, on Sunday and Thursday.

As the photographs accompanying this article show, Taris Savell has been a singular success in capturing subjects for her shows. She will write agents a blizzard of letters until they capitulate. She will wait in hotel and motel lobbies entire days to catch a star on the move. She will never, NEVER accept a refusal unless it comes from the celebrity personally. "I will never be harsh," she says, "but I am tenacious."

And over the years:

Adlai Stevenson, on a political trip to Pensacola, moved too fast during the day to be interviewed and she thought she had missed out, although she had dogged his steps. But at 2:30 a.m. an aide called, "Are you the woman who wants the interview? Well, get over here."

John Wayne's staff refused her an interview. So, applying her rule never to accept a "No" unless it comes from the horse's mouth, she telephoned his suite and he answered the phone. "I'm in the lobby," she said, "If you'll talk to me, I'll wait in this telephone booth." He agreed, and she was in the booth when he emerged from the elevator.

Pearl Buck, Ava Gabor, Pete Fountain and Rosalynn Carter, wife of the Democratic presidential nominee, came to Taris' home and were interviewed in her living room.

She waited patiently outside the men's room at the Pensacola airport and successfully confronted cowboy Roy Rogers with an interview request.

She went to Biloxi, Miss., in 1965 to try to interview Robert Redford on location for a film. Redford's aides steered her away from Redford to Robert Blake, who at the time was an obscure supporting actor. Blake is a TV star today (Baretta), and she has his first interview on tape.

Taris taped an interview with Jayne Mansfield the day before she was killed in an auto accident.

She interviewed Gerald R. Ford as a congressman and as vice president. He gave her the flowers the local welcoming committee sent to his hotel room.

She speaks about interviewing Ken Curtis, "who grew up to play Festus in Gunsmoke," and Dennis Weaver, "who grew up to play Marshal McCloud," indicating how early in their careers she met them.

During an interview with Joan Rivers, the comedian, Rivers admired Taris' Mickey Mouse wristwatch and asked to buy it. Taris sold.

Her interviews with Liberace are scattered down through the years, showing each of them, shall we say . . . maturing. Her snapshot of the Smothers Brothers is pure '50s short hair.

Actor Lief Erickson refused to remove his hat for an interview because he didn't have

his hairpiece on. So Taris moved him outdoors to a patio, although it was February and the day was frigid, causing her to shiver perceptibly.

Bette Davis turned her down, reconsidered and agreed, then was so impressed with Taris she asked her to go along as a publicist on an 8-week European trip. Taris, returning the admiration, preserved in wax some roses given her by Miss Davis. "I told her that I could not afford to go without being paid, and that I was afraid being her employe would ruin our friendship," said Taris. She did not take the job.

On a trip to California, Taris was lunching at her hotel when she glanced into an overhead mirror and saw Doris Day seated at a table. She sent a very polite note to the actress, explaining who she was and saying she would understand if Miss Day did not want to be interviewed, but . . . Taris waited five days for the reply, and to her surprise, she was granted an interview. It lasted 42 minutes. (It's worth noting here that Taris had her recorder along on vacation. She is never without it, and in fact recorded herself being interviewed for this article.)

So that she knows when celebrities are coming into the area and what to ask if she gets an interview, Taris reads the entertainment pages of the newspapers and a dozen or so magazines that stress people. Her attraction to names is strong enough to imprint even the most trivial facts on her memory. For example, she asked Ronald Reagan the source of his affection for jelly beans!

Taris also goes to the movies. How often? "Whenever they change." She does not see violent films such as "Jaws," however. And when she spots one coming: "I'm a past master at agent-talking. If you think I'm soft, you ought to hear me talking to an agent."

Taris compares her job with that of Barbara Walters, ABC-TV's new $1-million anchorwoman on the evening news. Walter's made it, of course, after years on the NBC "Today" show interviewing snake charmers, French diplomats and Harvard political scientists. Walters had to be tough, says Taris, but she had the advantage of her position in doing it. "Everyone thinks it's (interviewing) easy," she adds, "but it takes every fiber of your being. Every instinct has to be tuned to the highest degree. All antennae have to be out. After all it's over in 30 minutes."

The Bette Davis incident exemplifies Taris' self-described special relationship with her subjects. "I won't turn against the people I interview. It's dumb I guess but I can't." What she means is that she refrains from asking about divorces, lovers, children born out of wedlock, booze or drug problems, declining careers or matters that might be politically revealing but embarrassing. That, she says, is a job for investigative reporters, which she is not. WEAR once asked her to use her contacts in an investigation, but she says she refused. "I told the news director that he might be here five years, but I'm here forever. The person being investigated today might be mayor tomorrow."

Taris' detractors say she wins a lot of her interviews by promising to be bland and general with the questions, that this was her tactic in being the only journalist in town last spring to get an interview with Reagan. Taris acknowledges that she pulled strings to get the interview, but she denies making any deals on the questions. Yet she asks Reagan nothing political: "Were you really called Dutch on radio?" "Why do you pressure yourself so?" "What kind of boss are you?" These kinds of questions are the kinds the viewers want to ask, she says. "My purpose is to give the viewers a chance to visit with people they see all the time."

She realizes she could make extra money off her subjects by grilling them to the bones and selling the juicy tidbits to movie magazines and publications like the National Enquirer, Grit and the National Tattler, which she calls "grocery store papers" because they are sold at check-out counters. She has sold stories to each of them, but the copy was not based on pointed questions. "I didn't ask Desi Arnaz Jr. about rumors that he was the father of Patty Duke's baby. If I had, I could have made $500 selling the story to a movie magazine," she says. "I know I could make more money on hard interviews, but I have the feeling that they (the subjects) are in my living room."

Several years ago she primed herself for a blistering interview. The subject was Rex Reed, a Hollywood gossip peddler who had "nailed many people to the wall," including some who were favorites of Taris. "I didn't do it," she confesses. "I liked him. I'm chicken . . . soft-hearted. Maybe it's an innate desire to be liked." She will also acknowledge that by many standards she is not "a true reporter." But she believes her craft is every bit as professional and difficult as being "a true reporter." "I don't talk just to hear my own voice. I'm having a conversation with someone and at the same time I'm bringing out what the people are like and what they think. There has to be a market for the positive side of the news."

The truth is, it is the size of the Pensacola TV "market" (a term comparable to a newspaper's circulation) that allows Taris the latitude for her relaxed and folksy brand of journalism. In the smoothness and hype of Miami, where the stations fight for ratings with investigative one-upmanship, Taris' adulatory interviews might be put in the naive-who-cares category. "I'd probably be stunned in a larger market with what I don't know," she acknowledges, "although I've been told that I'm the best (interviewer) there is."

She also could turn out to be invaluable because of her years as a TV Jane-of-all-trades. "I was the first woman co-anchor of a news show on the Gulf Coast. I can read copy cold and make it seem that I know what I'm talking about." Because her eyes are two lines ahead of her mouth, she says, she can eliminate words that she doesn't understand or cannot pronounce—without interrupting the flow of language. All of this has been learned on the job, she adds. "I've never had a director."

Taris is not ashamed she still asks celebrities for their autographs (and she's tickled to death when someone local, recognizing her as "that lady on television," asks for hers). "I enjoy being well known, but I don't get dressed stunningly all the time or worry about my image going to the grocery store."

What she does worry about is who the devil to interview next. It isn't easy in Pensacola.

TOUGH DRUG LAW NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. McCLORY), is recognized for 20 minutes.

Mr. McCLORY. Mr. Speaker, today I am reintroducing the Narcotics Sentencing and Seizure Act of 1977, tough legislation aimed at a cruel and dangerous business. My bill proposes an aggressive attack on the increased trafficking, possession and use of narcotics.

Control of these addictive products, which are so destructive to large segments of our population and which account for a high percentage of the criminal activity in our country, requires strong legislative measures, and a determination to enforce the laws we enact. Indeed, recent reports of the heavy flow of so-called brown heroin from Mexico, and of increased narcotics traffic from Southeast Asia, suggest that a tough new drug law is a necessity.

In a message to Congress last year, President Ford reported that over 5,000 Americans die each year from the improper use of drugs. Law enforcement officials estimate that as much as one half of all street crime—robberies, muggings, burglaries—is committed by drug addicts in need of money for support of their costly and debilitating habit.

My bill takes aim on narcotics trafficking by imposing mandatory minimum sentences—without parole—on pushers of hard drugs, by allowing judges to deny defendants bail in certain clearly defined circumstances, by placing restrictions on the removal from the United States of large amounts of money, and by expanding the powers of the U.S. Customs Service to search incoming vessels. A more complete summary of the legislation appears below.

Mr. Speaker, in the last session of Congress, when I originally introduced this bill, its progress was hampered by a multiple referral. While recognizing that many House committees have jurisdictions touched by this legislation, I am hopeful that the new rule of the House regarding the imposition of deadlines on sequential referrals will hasten consideration of this vital measure.

The tragedy of narcotics abuse transcends political viewpoints, Mr. Speaker. I urge strong bipartisan support for this initiative.

NARCOTICS SENTENCING AND SEIZURE ACT OF 1977—SECTION-BY-SECTION ANALYSIS

Title I: Mandatory Minimum Sentences.

Title II: Conditions of Release.

Title III: Forfeiture of Proceeds of Illegal Drug Transactions.

Title IV: Illegal Export of Cash.

Title V: Prompt Reporting of Vessels.

Section 1 of the draft bill provides that the Act may be cited as the Narcotic Sentencing and Seizure Act of 1977.

TITLE I.—MANDATORY MINIMUM SENTENCES

Title I of the draft bill provides mandatory minimum prison sentences for most persons convicted of an offense involving manufacturing, importing, or trafficking in opiates. The defendant could not be paroled until he had served the minimum sentence. The judge could not sentence the defendant to probation, suspend his sentence, or sentence him under the Youth Corrections Act. If, however, the judge found that, at the time of the offense, the defendant was under 18 years of age, that his mental capacity was substantially impaired, that he was under unusual and substantial duress, or that he was a minor participant in the offense, the judge could sentence the defendant to a lower term of imprisonment with a lower term of parole ineligibility, to probation, or to a suspended sentence; a mandatory minimum term of imprisonment under these provisions would be consecutive to any other term of imprisonment and a mandatory minimum term of parole ineligibility would be consecutive to any other term of parole ineligibility.

The provisions would apply only to offenses involving an opiate, which is defined as "a mixture or substance containing a detectable amount of any narcotic drug that is a controlled substance under schedule I or II, other than a narcotic drug consisting of (A) coca leaves; (B) a compound, manufacture, salt, derivative, or preparation of coca leaves; or (C) a substance chemically identical thereto." The provisions are primarily aimed at heroin and morphine traffickers, importers, and manufacturers.

Section 101 of the draft bill contains the mandatory minimum sentence provisions for manufacturers and traffickers of opiates.

Section 101(a) would amend section 401 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 841), pertaining to illegal manufacture, distribution, and dispensing of controlled substances, to provide a mandatory minimum term of imprisonment of three years and a mandatory minimum term of parole ineligibility of three years for a first offense relating to an opiate. If the offense followed a previous conviction for a federal, state, or foreign offense relating to an opiate which was punishable by over one year in prison, the minimum mandatory term of imprisonment and the minimum mandatory term of parole ineligibility would each be six years.

Section 101(b) would amend section 405 of the Act (21 U.S.C. 845) pertaining to distribution of controlled substances by a person at least 18 years of age to a person under 21, to provide a six-year mandatory minimum term of imprisonment and a six-year mandatory minimum term of parole ineligibility for a first offense of selling an opiate to a person under 21 years of age. If the offense is committed after a previous conviction for a federal, state, or foreign felony involving an opiate, the mandatory minimum term of imprisonment and mandatory term of parole ineligibility would be nine years.

Section 101(c) would amend section 406 of the Act (21 U.S.C. 846), relating to attempts and conspiracies to violate the drug laws, to provide that, if the offense was an offense under section 40 involving an opiate, the mandatory minimum term of imprisonment and mandatory minimum term of parole ineligibility would be three years for a first offense. If the offense followed a previous conviction for a federal, state, or foreign felony involving an opiate, the mandatory minimum term of imprisonment and mandatory minimum term of parole ineligibility would be six years.

Section 102 contains the mandatory minimum sentence provisions for persons who illegally import or export, or who manufacture or distribute for illegal importation, opiates.

Section 102(a) would amend section 1010 of the Act (21 U.S.C. 960), pertaining to illegal importation and exportation and to manufacture and distribution for illegal importation, of a controlled substance, to provide a mandatory minimum term of imprisonment of three years and a mandatory minimum term of parole ineligibility of three years, for a first offense relating to an opiate.

Section 102(b) would amend section 1012 of the Act (21 U.S.C. 692) to provide that, if an offense involving an opiate is committed after a previous conviction for a federal, state, or foreign felony relating to an opiate, the mandatory minimum term of imprisonment and mandatory minimum term of parole ineligibility is six years.

Section 102(c) would amend section 1013 of the Act (21 U.S.C. 963), pertaining to attempts and conspiracies to violate the laws concerning importation and exportation of controlled substances, to provide a mandatory minimum term of imprisonment and a mandatory minimum term of parole ineligibility of three years for a first offense of attempting or conspiring to violate section 1010(a) if the offense involves an opiate. If the offense is committed after a previous conviction of a federal, state, or foreign felony involving an opiate, the mandatory minimum term of imprisonment and the mandatory minimum term of parole ineligibility would be six years.

Section 103 would add a new Rule 32.1 to the Federal Rules of Criminal Procedure to provide for a sentencing hearing to those cases where the provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970 require a minimum term of imprisonment and parole ineligibility. The hearing would be held without a jury. Parties would have a right to counsel, to compulsory process, and to cross-examination of witnesses who appear at the hearing. If the defendant is found by a preponderance of the information, including information submitted during the sentencing hearing, to be subject to a mandatory minimum term of imprisonment and parole ineligibility, the judge would sentence him in accordance with the appropriate provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended.

TITLE II.—CONDITIONS OF RELEASE

Release of defendants charged with or convicted of criminal offense is presently governed by the Bail Reform Act of 1966 (18 U.S.C. 3141–56). Title II would amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide standards of release and denial of release for defendants charged with trafficking in opiates or with illegally importing or exporting opiates, or with attempting or conspiring to commit one of these offenses.

Proposed section 412 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 would permit the judge, in setting pretrial release conditions under the Bail Reform Act for persons charged with opiate trafficking, exporting, and importing, and with attempts or conspiracies to commit those offenses, to consider the danger the person poses to the safety of any other person or to the community, or would revert to criminal activity of a nature similar to that constituting the basis on the pending charge.

Proposed section 413 of the Act permits the denial of release of certain persons charged with serious opiate offenses. Subsections (a)(1) through (a)(5) list the categories of opiate offenders who may be subject to denial of release. These include persons previously convicted of a federal, state or foreign opiate felony, persons on parole, probation, or other conditional release at the time of the offense, persons who are nonresident aliens or in possession of illegal passports at the time of arrest, and persons convicted of having been fugitives or escaping from prison or willfully failing to appear before a court or judicial officer under federal or state law.

Subsection (b) requires that a hearing be held before a person may be denied release under the section, and that a person may be denied release only if the judge finds that there is clear and convincing evidence that the person charged with a serious opiate offense belongs in one of the categories of persons subject to denial of release, that no condition or conditions of release—including the setting of a high bail—will reasonably assure the safety of any other person or the community, and that there is a substantial probability that the person committed the offense with which he is charged. The judge must also issue an order denying release accompanied by written findings of fact and a statement of reasons for the order's entry.

Subsection (c) outlines the procedures and rights in the hearing. The defendant is entitled to representation of counsel, has the right to testify and to produce information by proffer or otherwise, and to present witnesses in his own behalf.

Under subsection (d), if a person is denied release prior to trial under the provisions of the section, his case must be placed on an expedited calendar.

TITLE III.—FORFEITURE OF PROCEEDS OF ILLEGAL DRUG TRANSACTIONS

Section 301(a) would amend Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) to permit the forfeiture of all proceeds, monies, negotiable instruments and securities used or intended to be used in violation of this Act.

Since the purpose of this section is to reach only that which is used or intended to be used as consideration for receipt of controlled substances in violation of this Act, the descriptive terms of consideration are defined as follows: (1) "Monies" means officially issued coin and currency of the United States or any foreign country; (2) "Negotiable instruments" means that which can be legally transferred to another party by endorsement or delivery; and (3) "Securities" refers to any stocks, bonds, notes or other evidences of debt or property; and (4) "Proceeds" refers to any other property furnished in exchange for a controlled substance in violation of this Act.

Section 301(b) is simply a clarifying amendment.

Section 301(c) provides that property forfeited pursuant to Section 301(a) would be disposed of by the Attorney General in accordance with existing law and with due regard for the rights of any innocent persons involved. Subsection (h)(3) of Section 301 also provides that the Attorney General shall cause to be deposited in the general fund of the United States Treasury all monies forfeited pursuant to Section 301(a) and all currency derived from the sale of forfeited negotiable instruments and securities.

TITLE IV.—ILLEGAL EXPORT OF CASH

Title IV of the proposed bill would amend the Currency and Foreign Transactions Reporting Act. Section 401 would amend section 231(a) of the Currency and Foreign Transactions Reporting Act to provide that a violation of the currency reporting requirement occurs when a person who intends to transport monetary instruments out of the United States in an amount exceeding $5,000 on any one occasion does not file a report prior to departing from the United States.

Section 231(a) of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1101(a)) currently requires reports to be filed by persons transporting or causing to be transported monetary instruments in excess of $5,000 into or out of the United States. However, on March 25, 1976, the United States District Court (S.D. Fla.) dismissed a criminal proceeding against Juan Manuel Centeno who was discovered departing the United States with $250,000 of unreported currency. The district court reasoned that no violation had occurred because the law is violated only after a person has actually left the United States without filing the required report. As a consequence of this decision, effective enforcement of the reporting requirement was significantly impaired. To remedy this defect in the law, the proposed amendment would require a report to be filed prior to departure by any person who wishes to transport or have transported out of the United States any amount exceeding $5,000. A person departing by aircraft or vessel would have to file the report prior to boarding the outbound carrier. Failure to file the report would then be a detectable violation. The law pertaining to reports by persons entering the country would be unchanged.

The sale of narcotics and dangerous drugs in the United States produces vast sums of money much of which leaves the United States. By monitoring the flow of currency and monetary instruments, significant information is developed with respect to narcotics trafficking and the illegal exportation of arms and munitions. However, the gap in the enforcement authority of the Customs Service noted by the district court has reduced the effectiveness of this program. By closing a loop-hole in the reporting requirements and strengthening Customs search authority of departing persons, the programs to halt the flow out of the country of illicitly obtained currency and currency which will be used for

the purchase of narcotics destined for the United States would be aided substantially.

Currently, section 235 of the Currency and Foreign Transactions Reporting Act requires a search warrant in order to seize monetary instruments being taken from the United States in violation of the reporting requirements of section 231 of the Act. Section 402 of the proposed bill would allow warrantless searches under exigent circumstances where there is probable cause to believe that monetary instruments are in the process of transportation and with respect to which a report required under section 231 of this Act (31 U.S.C. 1101) has not been filed or contains material omissions or misstatements.

This proposal would have no effect on the current Customs authority which allows warrantless searches of persons entering the United States.

TITLE V.—PROMPT REPORTING OF VESSELS

Title V of the draft bill would require the master of any vessel arriving from a foreign port or place, or of a foreign vessel arriving from a domestic port, or a vessel of the United States carrying bonded merchandise or foreign merchandise for which entry has not been made, to immediately report arrival of the vessel at the nearest customhouse or such other place as the Commissioner of Customs may prescribe in regulations.

In recent years, the use of private yachts and pleasure vessels to smuggle narcotics and dangerous drugs has created a significant detection and interdiction problem for the Customs Service. The existing law contributes to this problem because, with the exception of vessels arriving from Canada or Mexico, the law permits twenty-four hours in which to report arrival of the vessel. Thus a narcotics smuggler using a small boat can land in the United States without facing the prospect of an immediate Customs inspection and discovery of contraband. This problem has become particularly acute in Florida where private yachts and pleasure yachts with easy access to nearby foreign islands and the U.S. inland waterways complicate detection. The proposed amendment, section 501, would authorize the Commissioner of Customs to require the master of a vessel to report immediately and would also afford greater flexibility in designating the places where arrival may be reported. Customs would, thus, be in a position to concentrate enforcement activities on those vessels failing to report immediately, on the assumption that they are liable to be involved in smuggling. Section 502 contains a conforming amendment to section 459 of the Tariff Act (19 U.S.C. 1459) relating to the arrival of vessels from Canada and Mexico.

EXEMPTION OF SALES BY SMALL PRODUCERS OF NATURAL GAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Oklahoma. Mr. Speaker, today I am cosponsoring a bill to exempt some sales by small producers of natural gas from regulation by the Federal Power Commission.

This is a small, but crucial, step toward the long-range solution of the energy crisis. For several years we have been warned that a natural gas shortage was imminent. That grim prediction has now become a reality.

Winter has hit us all with record-breaking ferocity. Cities all over the United States have experienced record low temperatures. Metropolitan Washington, D.C., recorded its coldest day ever on January 17. Governors of several States have related that the natural gas supplies in their States are approaching critical stage. Demand has far exceeded supply and there have been curtailments in delivery to gas customers. Intrastate surpluses have been absorbed. And industry's ability to convert to alternate fuel sources is rapidly being exhausted.

Future demand for this precious commodity is bound to increase in the years ahead. This Nation's economic recovery depends on the ability of natural gas producers to adequately supply the needs of industry. Continued control of the price of natural gas by the FPC can only discourage future exploration and production. This, in turn, will force our country to rely even more on the OPEC nations for our energy resources. It is, therefore, imperative that we take positive action now.

Energy supply is the most crucial issue facing this Congress. The decline in domestic production of natural gas must be reversed.

Although the legislation we introduce today will only affect small producers of natural gas, and even though I feel its scope should be expanded to include all natural gas producers, it is still a step in the right direction.

I urge that careful consideration be given this critical piece of legislation. The United States may never overcome its energy problems if we do not at least bring this small segment of natural gas producers within the framework of the free market.

THE FEDERAL-AID PRIMARY SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN of Oregon. Mr. Speaker, I am today introducing a bill to substantially increase the funding for the Federal-aid primary system. The bill amends the Federal-Aid Highway Act of 1976 to increase the authorization for this program from $1.35 billion to $3.35 billion per fiscal year for each of the years 1978 through 1990. Additionally, it increases the basic Federal share payable on account of any project financed with primary funds on the Federal-aid primary highway system from 70 to 80 percent. The increased authorization over a 12-year period is intended to bring into focus the States' need for additional funding for their primary systems and to mark a new direction for Federal highway spending as the interstate system approaches completion.

While the emphasis on completion of the Interstate System was and is necessary to our national transportation policy, at the same time, it reduces the State's ability to fulfill their obligations to their primary systems. The importance of these primary roads should not be ignored. In my own State, they make up 4,400 miles of our Federal-aid system, compared to only 750 miles of the interstate. Furthermore, it is estimated that while the interstate system will carry about 20 percent of the travel, the primary systems will handle nearly 35 percent. Obviously, the Interstate System cannot alone fulfill our highway needs.

This bill not only gives recognition to the importance of our primary-aid system, but may also be instrumental in curbing the growing reluctance of State legislatures to vote State matching funds for Federal-aid programs which do not directly serve their constituents.

THE PANAMA CANAL: TIME FOR A NEW TREATY

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. FASCELL. Mr. Speaker, of the many foreign policy problems facing the United States in Latin America, none is more pressing than the Panama Canal. Almost 13 years have now passed since the United States pledged to negotiate a new canal treaty with Panama. Our willingness to carry out this promise has become a test of U.S. good intentions throughout Latin America. Continued delay in bringing the negotiations to a successful conclusion increases the risk of confrontation with Panama. This could only be harmful to our interest in seeing the canal continue to serve as a channel for the maritime commerce of the world. A confrontation would be all the more tragic because it would be unnecessary, since there is every reason to expect that we can, if we pursue the negotiations vigorously, arrive at an agreement that will amply protect our national interests in the canal.

On January 12, along with other Members of Congress, I attended the meeting at the Smithsonian Institution with then President-elect Carter to discuss foreign policy. I was very pleased to hear President Carter and his Secretary of State-designate say that they attach top priority to the Panama Canal negotiations and intend to press forward toward a new treaty. If, as some press stories suggest, a treaty can be concluded this year, the new administration will have an important foreign policy accomplishment to its credit and will eliminate a major obstacle to good relations with our Latin American neighbors.

In 1903 the United States and Panama signed a treaty which permitted the United States to construct, operate, maintain, and defend the Panama Canal. We were given rights to Panamanian territory as "if it were sovereign" in perpetuity.

The treaty is now 74 years old. The terms of the 1903 treaty no longer reflect the many changes that have occurred in Panama, the United States, and the world. Today, no nation, including ours, would accept a treaty which permits the exercise of such extensive extraterritorial rights in "perpetuity." We must build a new relationship that will give us the rights we need and will create the cooperative environment most conducive to continued U.S. operation and defense of the waterway.

Our basic national interest is a canal that is open, efficient, secure, and neutral. Our ability to assure that interest under the existing treaty has become eroded because that treaty has, over the years, become increasingly unacceptable

to Panama, which considers that a perpetual grant of sovereign rights over a central portion of its territory is offensive to its national dignity. As Panama's acceptance declines, the risk of conflict grows.

Recognizing this problem, President Johnson in 1964 made a public commitment to negotiate a new treaty. In 1974 Secretary of State Kissinger and Panamanian Foreign Minister Tack signed a joint statement of principles to guide the negotiations. A good deal of progress has been made toward defining the basic terms of a new treaty. Now what is needed is a final push to resolve the few outstanding issues and fill in the detailed language of the treaty.

With a fresh administration taking office in the United States, we have a valuable opportunity to resolve what President Carter has characterized as the "festering" problem in Panama. We have every reason to believe, on the basis of the progress made so far in the negotiations, that Panama is prepared to conclude a treaty that will fully protect the mutual interests of both countries in the waterway and that will provide a workable basis for operating and defending the canal. We should not miss this opportunity to bring the negotiations to a successful conclusion.

INTRODUCING LEGISLATION TO EXTEND CERTAIN NONCOMPETITIVE OIL AND GAS LEASES FOR SUFFICIENT PERIOD TO ALLOW DRILLING IN SUBLETTE COUNTY, WYO.

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, today I am introducing legislation which will extend certain noncompetitive oil and gas leases for a period sufficient to allow the drilling of an ultradeep well in Sublette County, Wyo. by a group of six small independent producers, known as the Rainbow Resources Group. The leases are located in Wyoming, and this well, potentially measuring over 25,000 feet, would be the deepest ever attempted in the Rocky Mountain region. In all likelihood, it will require over 2 years to drill such an ultradeep well, and possibly over 3 years to complete and equip.

This legislation is necessary because critical leases on the Pacific Creek structure where the well is to be drilled are due to expire in July 1977 because of the unintended effect of the March 1975 administrative redefinition of lease terms under the Mineral Leasing Act of 1920, as amended, by the Department of Interior. The new regulations prohibit more than one 2-year extension of an oil and gas lease beyond its primary term.

Since 1968, the Rainbow Group and associates have spent considerable time and money in order to clear the necessary administrative hurdles, and to complete background test work. It would be regrettable if they were unable to proceed with exploration through an ultradeep well, and the possible production of the potential natural gas reserve, because of the untimely expiration of their leases.

INTRODUCING LEGISLATION TO SETTLE LONGSTANDING BOUNDARY DISPUTE BETWEEN U.S. FOREST SERVICE AND PRIVATE LANDOWNERS IN MEDICINE BOW NATIONAL FOREST

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, I am today introducing legislation which seeks to settle a longstanding boundary dispute between the U.S. Forest Service and private landowners in the Medicine Bow National Forest, in Wyoming.

In 1954, the "Wold Tract" was privately surveyed. This is an area of approximately 160 acres of privately owned land surrounded by the Medicine Bow National Forest, containing approximately 120 lots, based on the 1954 survey conducted by Maurice Zipfel.

In 1964, the Interior Department conducted a survey which resulted in twisting the entire tract. It shifted the outer boundaries of the tract, the boundaries of every parcel within the tract, and left those on the periphery, in innocent partial trespass.

Attempts have been made to settle the dispute administratively, but none have been successful. Although special land permits have been obtained by the trespassing landowners, the problem still exists; and the bill I am introducing would provide a permanent solution to the problem.

The bill would direct the Secretary of the Interior to survey the area known as the Wold Tract and the surrounding national forest lands. This survey would follow the Zipfel survey. Upon completion, it would be considered by the United States as representing the official boundary between the national forest lands, and the tract of privately owned lands, finally ending this long-lasting controversy.

AN INDEPENDENT CORPORATION TO SUCCEED FAA

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, today I am introducing legislation to create an independent Government corporation that would replace the present Federal Aviation Administration as the overseer of the Nation's airport and airways system.

In 1967, pursuant to the Department of Transportation Act, the functions of the then independent Federal Aviation Agency were transferred to the Department of Transportation and placed in the newly established Federal Aviation Administration. There is growing concern today within the aviation community, the Congress and the general public that this subordination of U.S. aviation authority has not been in the best public interest. There is strong feeling among much of the aviation community that with such a structure aviation matters have been relegated to a priority level no better than that of 30 years ago when the Air Commerce Act created the Bureau of Air Commerce within the Department of Commerce, and Government for the first time took an active interest in the structuring of civil aviation matters.

With the advent of the tax liability on airspace users resulting from the enactment of the 1970 Airport and Airway Development Act, and the increasing predominance of airport and airway system costs in the FAA budget, attention has now more than ever been focused on whether the present FAA/DOT structure is the best we can devise in the interest of meeting our national aviation requirements. The many changes in aviation technology over the years and the critical dependence of the country on aviation, both civil and military, makes it imperative that aviation matters be given the highest priority and attention.

Various other aspects of an FAA separation have been examined by the aviation community in recent years. One such study sponsored by the Professional Air Traffic Controllers Organization, PATCO, and prepared by Glen A. Gilbert, of Glen A. Gilbert & Associates, an independent aviation consulting firm, not only examines the question of FAA separation but proposes a new regulatory structure for U.S. aviation. The study proposes the creation of an independent Government corporation to operate the airport/airways system and perform other functions now within the FAA, under the direction of a board of directors that reflects industry, consumer, government—including military—and environmental interests. This new organization would receive its funding on an approximately equal basis from user taxes and general tax revenues. It would be called the U.S. Air Traffic Services Corporation, and would be responsible solely to the Congress.

Mr. Speaker, the USATSC concept is embodied in my legislation. It is a practical and workable restructuring of U.S. aviation authority that would return aviation to its proper place in the setting of national priorities. This creative proposal has the capability of fostering and encouraging, in the best matter available to the public, the development of our air service and transportation that is so necessary to the Nation's economy and social progress—and which under the present structure is so absent.

I truly hope that the aviation community, the responsible legislative committees here in the House, and the public at large, will closely examine this approach to restructure governmental responsibility for aviation matters, and work together for its fullest review, consideration and enactment.

U.S. AIR TRAFFIC SERVICES CORPORATION ACT

SECTION-BY-SECTION SUMMARY

Section 1. (Short Title) This Act may be cited as the "United States Air Traffic Services Corporation Act of 1977."

Section 2. (Finding) Declaration by the

Congress that since the subordination of the Federal Aviation Agency to the Department of Transportation, as provided by the Department of Transportation Act of 1966, the relationship between the FAA and the Office of the Secretary of Transportation has continually deteriorated resulting in a debilitating effect on the conduct of national aviation and safety matters intended to be performed by the FAA.

Such a deterioration demands the elimination of confusion as to the functional role of the FAA from the present institutional structure which places the FAA in a subservient position, and the creation of an independent aviation authority embodied in the United States Air Traffic Services Corporation.

Section 3. (Establishment of Corporation) Establishes the United States Air Traffic Services Corporation (USATSC) as a corporate body, to be an instrument of the United States, to be dissolved only by an Act of Congress.

Section 4. (Board of Directors) The management of the Corporation is vested in a ten member Board of Directors, nine voting members to be appointed by the President of the United States with the approval of the Senate and one non-voting member, the President of the Corporation.

Each voting member is to be selected from three nominees presented by duly recognized organizations representing the following categories: (1) Scheduled commercial air transportation, (2) Non-Scheduled commercial air transportation (includes business/corporate), (3) Personal (private) air transportation, (4) Military aviation, (5) State and local aviation (includes airports), (6) Organized aviation labor, (7) Aircraft manufacturing, (8) Users of air transportation (consumers), (9) Environmentalists directly associated with aviation matters.

The Board of the Corporation shall elect a Chairman by a majority vote for a regular term to be determined by the Board. A quorum of the Board is six, and decisions of the Board shall be by majority vote. The Board shall meet at least twice a year.

Section 5. (Appointment and Compensation of Officers and Employees). The Board of the Corporation shall appoint a President and Deputy President of the Corporation and other officers necessary to carry out the functions of the Corporation. The officers of the Corporation shall serve at the pleasure of the Board and shall exercise such powers and duties as the Board may prescribe.

Provides for the Board to determine the salaries of the President and Deputy President and other officers of the Corporation.

Provides that the Board may procure by contract the temporary or intermittent services of experts or consultants.

Section 6. (Power of Board of Directors) Vests in the Board of Directors of USATSC the responsibility for the exercise of all powers and duties of the Corporation.

The Board shall be governed by all applicable statutes, including the policy standards set forth in the Federal Aviation Act of 1958.

All decisions of the Board are administratively final and appeals as authorized by law, shall be taken directly to the National Transportation Safety Board, or to any court of competent jurisdiction as appropriate.

Section 7. (Corporate Powers) The Corporation is subject to all applicable laws of the United States and of any State in which the Corporation operates, and shall have the powers normally provided to Corporations: to sue and be sued, complain, and defend in any court of competent jurisdiction; to adopt, alter, and use a corporate seal for the sole and exclusive use of the Corporation; to adopt, alter, or amend bylaws consistent with the Act, to contract and be contracted with; to acquire, control, hold, lease and dispose of such real, personal, or mixed property as may be necessary to carry out the Corporate purposes.

The Corporation shall also have the power to change the rates of tax imposed under the Internal Revenue Code relating to special fuels, transportation by air of persons and property, and the use of civil aircraft.

Section 8. (Transfers to Corporation) All functions, powers, and duties exercised by the Secretary of Transportation and/or the Administrator of the FAA under (1) The Act of September 7, 1957, as amended, (2) The Federal Aviation Act of 1958, (3) Section 6 (c) of the Department of Transportation Act, (4) The Airport and Airway Development Act of 1970, (5) The Airport and Airway Revenue Act of 1970, (6) The Hazardous Materials Transportation Act, to the extent that such Act pertains to the transportation of hazardous materials by air, are transferred to the Corporation.

Section 9. (Corporate Independence) The Corporation is responsible solely to the Congress. No officer or agency of the United States, including the Office of Management and Budget, shall have the authority to require the Corporation to submit any budget estimate, request, or information, or any recommendation, testimony, or comment on legislation to any officer or agency of the United States for approval, comment, or review prior to the submission of such recommendation, testimony, or comment to the Congress.

Section 10. (Amendments to other laws) Amends the appropriate sections of the Department of Transportation Act, the Independent Safety Board Act, the Airport and Airway Revenue Act of 1970, and the relevant sections of the Internal Revenue Code as required to effectuate the transfer to the Corporation such authority now vested by those laws in other agencies, as is necessary for the Corporation to operate under the provisions of the Act.

The National Transportation Safety Board may utilize the USATSC in the case of aircraft accidents, to make investigations with regard to such accidents and to report to the NTSB the facts, conditions and circumstances of such accidents, rather than the Secretary of Transportation as is now the case.

Any revenues generated by the Airport and Airway Revenue Act of 1970, and the appropriate Internal Revenue Codes, will accrue to the Corporation. The authority to revise use taxes is vested in the Corporation.

Section 11. (Saving Provisions) Provides that all orders, determinations, rules, regulations, permits, contracts, licenses, and privileges which have been issued, made, granted, or allowed to become effective under any provision of law amended by this Act or in the exercise of functions, powers, or duties which are transferred under this Act, by any department or agency, any functions of which are transferred by this Act or by any court of competent jurisdiction and which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Board of the Corporation by any court of competent jurisdiction, or by operation of law.

Section 12. (Appropriations Authorized) Authorizes to be appropriated from the General Fund of the Treasury by the Congress to USATSC for each fiscal year, 50 percent of the amount determined as the total funding requirements of the Corporation for that fiscal year. The other 50 percent required for each fiscal year shall be provided from the Treasury of the Corporation, and may be derived from the Airport and Airway Trust Fund. However, the Corporation may not expend from the Trust Fund monies any amount in excess of that amount appropriated to the Corporation by the Congress from the General Fund.

THE 50TH ANNIVERSARY OF PARKS AIR COLLEGE IN CAHOKIA, ILL.

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, it is an honor today for me to tell my colleagues of the 50th anniversary of Parks Air College in Cahokia, Ill.

My good friend, Oliver Lafayette Parks, conceived the idea for Parks Air College more than 50 years ago, when manned flight was still in its infancy. When Parks Air College started, it could be found in a small hangar at Lambert Field in St. Louis, with "Lafe" Parks as its only faculty member.

Today, through the hard work and dedication of its founder, Parks Air College remains, now an integral part of St. Louis University. In our society today, when we take for granted the skill of pilots who fly our airplanes daily, Oliver Parks and his fellow aviation pioneers have a lot to be proud of.

At this time, I would like to insert into the RECORD an article from the St. Louis Globe-Democrat, which tells the story of Oliver Parks and the air college he started.

A TOP FLYING SCHOOL FOR 50 YEARS—OLIVER L. PARKS' BRAINCHILD WAS A GODSEND TO NATION IN WORLD WAR II

(By Edward J. Presberg)

A 1910 plane crash, the Great Depression and a Chevrolet executive who didn't recognize administrative talent when it was parked in front of him.

Three apparently unrelated events.

But they were crucial turning points in the life of Oliver Lafayette Parks and, therefore, crucial moments in the history of his greatest achievement: Parks Air College.

The school recently celebrated its 50th anniversary. It is now a bustling campus of more than 750 students; a well-known landmark in Cahokia, Ill.

Fifty years is a long time. Fifty years ago Oliver Parks was thought to be a fool. His idea to start a training college for airplane pilots was considered inspired lunacy.

Like most of the early aviation pioneers Parks was a man ahead of his time. But he was luckier and more determined than most. He fought to keep his school alive during the lean years and the times eventually caught up with him.

Parks Air College began in 1927, but the inspiration for it came soon after the Wright Brothers flew their primitive biplane 120 feet and 12 seconds, over a field in Kitty Hawk, N.C.

These days, Park College students can earn degrees in aerospace engineering.

Fifty years is a long time. In aviation it stretches from the Wright Brothers to NASA.

The story of "Lafe" Parks and the history of Parks Air College is a significant slice of 20th Century Americana.

It began on a placid day in 1910, near the small town of Minonk, Ill. An otherwise normal day except for the groaning mechanical bird overhead.

Townspeople gathered to watch an exhibition of the airplane—the newest craze poised to sweep a craze-loving nation. An 11-year-old boy moved among the crowd

Like the others, his eyes were turned upward when the plane's engine suddenly * * *. He saw the feeble craft plunge to earth. He saw the pilot escape, luckily, with only a broken leg.

The exhibition was a pointed lesson to those who saw it. Airplanes were merely toys, a fad, they would pass from the scene.

Oliver Parks, age 11, got a different message. The plane crashed but Parks' eyes remained on the sky, holding the image of man in flight.

To be inspired to fly by watching a plane crash requires a rare sense of independence. Some may call it obstinance. It is a character trait that has served Parks well during his 77 years.

The story picks up in St. Louis. It is 1927.

Parks had been selling cars for about five years and was making a hefty income—about $12,000 a year. But he wanted his own dealership so he met with some Chevrolet executives.

As Parks recalls the meeting, the executives asked his age.

"I'm 28."

His income.

"Around $12,000 a year."

And then they lowered the boom on a young man who would one day operate two national airline firms, a flying school and real estate developments in several states.

"Parks," they said. "You're a young man who earns a good living. Why not be satisfied? You're a good salesman but you don't have what it takes to be an executive."

Whereupon Parks issued a brief and often heard set of traveling instructions. He marched out of the meeting and out of the auto business.

A hobbyist-pilot, Parks had been considering an aviation idea for some time . . . an idea he was not at liberty to explore as a possible business.

Parks had witnessed numerous crashes and had come to the conclusion that most were caused by pilot error. In order to expand aviation in America, Parks surmised, a comprehensive training program for pilots and mechanics was essential.

It seemed that his timing could not have been better. He opened a training school in August, 1927, two months after Charles Lindbergh flew the Spirit of St. Louis across the Atlantic.

Parks opened his "school" in a rented hangar at Lambert Field, with two seizure-ridden planes and a one-man faculty—Oliver Parks.

It soon became evident that Parks was too far ahead of his time. Despite Lindbergh, private aviation was not catching on. There were few students and the school faced economic problems from the beginning.

Then about four months after the school opened, it ended with a large thud. Parks crash-landed in a St. Louis County cornfield. He sustained a broken back, lost his left eye, several teeth and a portion of his jawbone.

But by April of 1928 a fully-recovered Oliver Parks took a second try. He moved the school to a 113-acre tract in Cahokia, Ill. He established a 50-hour training program and was awarded Air Agency Certificate No. 1.

With the certificate, Parks College became the first federally licensed transport and commercial ground and flying school in the United States.

But even federal approval could not make the school an overnight financial success.

As Jack Alexander commented in the old Saturday Evening Post:

"Anyone who aspired . . . to make a profit out of teaching aviation to civilians during the 20s and 30s necessarily had to be tough operators subsisted largely on a thinning diet and impervious to corrosion. The school of exhaust gasses, hamburger, red ink and beautiful dreams."

Parks said it was not until 1936 that his "beautiful dream" showed a profit. During those first, lean years, Parks said the school hit a low point of 30 students and missed more than one payroll.

It was a period of soul searching for Parks. Raised in a family of devout Baptists, Parks said the Depression days "made me feel I had so many problems that I needed to pray every day.

"I began to go to daily Mass and it was only natural after a while that I convert to Catholicism. I found what I was looking for. I still attend Mass every day."

As the war in Europe creeps closer to American shores, Parks is called to Washington. Gen. Henry H. Arnold tells Parks to increase pilot training from 400 to 7,000 a year. He is given all of 90 days to accomplish the job.

Parks opened five new schools to fill the wartime demand, using Parks College faculty and graduates as a teaching nucleus. Between 1940 and 1945, the college trained 24,000 military and transport pilots—one out of every 10 in the Army Air Corps. The school also trained hundreds of mechanics.

With World War II, airplanes have arrived to stay. So has Parks Air College.

Despite the post-war slowdown, Parks College is firmly established. The school has 368 students from 44 states and territories and four other countries.

A $3 million property, the college was prosperous and ready for the aviation and aerospace boom about to begin.

But Oliver Parks was not satisfied. He wanted to expand the school's curriculum. He found a way to do it and, at the same time, make an enormous contribution to the community.

On Aug. 23, 1946, Parks gave the college to St. Louis University. University President Rev. Patrick Holloran said:

"The affiliation of Park Air College with the university marks the greatest single forward step the institution has ever been permitted to take.

"All the other various schools of the university had extremely humble beginnings, and have grown only with the passage of years. In the present instance, however, the finest school of its type in the world becomes part of the university by one definite act on the part of a great and generous man."

The school's name was changed to Parks College of Aeronautical Technology of St. Louis University. Parks remained as dean for two years.

The university affiliation beefed up several academic programs. The addition of more humanities and social science courses changed the campus environment from the military atmosphere of the 1940s to a more collegiate model.

But in many ways, it appeared the university took Parks College for granted. It was almost 15 years before any capital projects were begun on the Parks campus, despite the fact that the school was consistently profitable and often bathed in limelight during the Space Age boom of the late 50s and early 60s.

A new dormitory and dining hall were completed in 1962. A second residence hall was added in 1969. In 1967, an engineering sciences laboratory building was constructed and several remodeling projects were completed.

Just as the college was beginning to reach a new high in its up-and-down history, adversity struck once more.

It happened in 1970. Two factors dovetailed into a potential disaster for Parks College. The Space Boom ended in 1970. So did America's love affair with higher education.

Colleges and universities around the country felt the pinch. Parks College and St. Louis University were not exceptions.

The University closed two schools and tried twice to sell Parks College to Southern Illinois University-Edwardsville. The sale fell through and Parks College boosters held crisis meetings in search of ideas to keep the school alive.

Strict cost-effective controls were enacted. The curriculum was expanded to include non-aviation subjects. Associate degree programs were begun.

A degree program in Transportation Travel and Tourism was started and it attracted first women students at Parks. (There are now 45 female students.) Another program was created that combines flight training with business and management courses, for students who plan to expand their aviation skill into a business career.

The school's newest program, begun during the present year, offers a degree in Plant Engineering Technology. It is designed to fill a growing industry demand for professionally educated plant engineers.

The revamping begun in 1970 has been a life-saver for Parks College. The school is growing and it is once again an integral part of St. Louis University.

Fifty years is a long time.

Oliver Parks knows it. He has seen how much can happen to a person or to an institution in half a century. Parks now works fulltime in his job of director of development for the Archdiocese of St. Louis, but he still keeps a watchful eye on the college.

Reviewing it all, Parks said there is nothing he would change. In a summary comment typical of Oliver Lafayette Parks and suitable for a Parks College motto, the 77-year-old founder remarked:

"I plan ahead; I never waste my time reconstructing the past."

GEN. JOHN R. DEANE, JR.

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, I wish to pay tribute today to a great American, Gen. John R. Deane, who is retiring as commander, U.S. Army Materiel Development and Readiness Command, after more than 35 years active service.

General Deane enlisted in the 16th U.S. Infantry in 1937 and a year later entered the U.S. Military Academy at West Point. Since that time he has served in a number of important positions with great honor and distinction.

As a young officer, General Deane served in Europe during World War II, worked in the Joint War Plans Division of Department of the Army, and in 1951 became Executive Assistant to the Secretary of the Army. He was later assigned to Korea, attended the Command and General Staff College, the Armed Forces Staff College, and the National War College. He subsequently served in Berlin as commanding officer, 2d Battle Group, 6th Infantry.

General Deane was later assigned to the Department of Defense, attended the Harvard School of Business, commanded the elements of the 82d Airborne Division in the Dominican Republic, and was commanding general of the 173d Airborne Brigade in Vietnam.

After other assignments of distinction in the Departments of Defense and Army, he became Deputy Chief of Staff for Re-

search, Development, and Acquisition at the Pentagon. It was in that position while I was presiding as chairman, Subcommittee on Research and Development that I became more acutely aware of General Deane's thoroughness and professionalism, while chairing that subcommittee I was in a position to evaluate the results of his work in great detail. It is clear that the rapidly emerging achievements in our XM–I tank, AAH and UTTAS helicopters, SAM–D missile, and other significant programs are a direct result of the ground work he so capably prepared. I am certain that the result will be a fast moving and powerful Army with superior communications and weapons systems.

I have also had unique occasions both as chairman of the Committee on Armed Services, and as a Congressman with responsibility for the 23d District, Illnois, to observe his many outstanding accomplishments as commander of the U.S. Army Materiel Development and Readiness Command, DARCOM. In this regard, I wish to particularly commend him for his aggressive effort in reorganizations which will create greater effectiveness and economy in our military research, development and readiness. It is noteworthy that he commanded that important Army command at a time when enterprising dedication and leadership were required to provide military capability within the ever present problem of funding. Of significance in this regard is the steady progress the Army has made in maintaining current capabilities and introducing initiatives which will insure a future military posture compatible with our national security requirements.

General Deane is a credit to the Army and the Nation he has served so well. I wish him well in retirement.

THE ENERGY DEBATE

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, for the information of my colleagues I am inserting in the RECORD the following commentary from the January 5 edition of the Energy Daily:

THE ENERGY DEBATE AND ITS NEW DIMENSIONS

(By Llewellyn King)

Amitai Etzioni is professor of sociology at Columbia University and director of the Center for Policy Research. He also dispenses his opinions on a variety of issues in the press of New York City and last Sunday he chose to confide to the readers of the business section of the *New York Times* what is wrong with energy policy. His views are not supported by any body of fact but they are significant because they add to the growing fund of intellectual opinion that energy development is a threat to the nation's social aspirations. Like Amory Lovins, the American expatriate who represents Friends of the Earth in Britain, Etzioni is an articulate proponent of what might be called energy chic.

His principal contention is that a kind of conspiracy (how both the Right and the Left love the conspirational view of history) is in the making to pump most of the nation's wealth into developing costly new energy sources that will create social programs and benefit a minority of energy producers. He goes so far as to suggest that the energy posture of the new administration can be compared to the foreign policy posture that led to our involvement in Vietnam. Etzioni states: "Oddly, President-elect Carter's promise for a strong energy policy—which we surely need—may be our next Vietnam.

DRAIN ON NATIONAL WEALTH

Etzioni continues his thesis by suggesting that in the pursuit of new energy sources lies possible disaster because hardware, like war, always gets its way in the Washington division of money; and, therefore, it becomes a drain on the national wealth.

Etzioni says: "The costs of a 'strong' drive to develop new energy resources cannot be accurately anticipated. But the magnitude involved can be estimated by looking at the price tag for Nelson Rockefeller's suggestion to set up an energy development corporation: $100 billion. Estimates for a full blown 10-year drive—widely regarded as needed to proceed from research through development to putting in place major new technologies—range from $597 billion (National Academy of Engineering) to $628 billion (National Petroleum Council) to $700 billion (Robert Hollander, Federal Reserve Board), or an average annual cost of $60 to $70 billion."

Etzioni says that once such a drive is underway it will generate forces to propel it to an even higher rate of expenditure. Then the professor slips in his real concern in these words: "Unlike human services, such as education, health and welfare, energy development is a hardware business appealing to large corporations and the research and development community, the people who parlayed American visits to the moon into a cool $25 billion for Project Apollo alone, and who are always anxious to build more bombers, missiles and submarines—whether we need them or not."

SAYS A GOOD DEAL

In those few sentences the sociology professor says a good deal, not the least of which is that he would rather see the national effort concentrated in areas in which he has an interest. He uses some facile deductions to make his point. For example, he implies that the sums mentioned for energy development are all in the area of direct government expenditure. Even the Rockefeller proposal was only for loan guarantees. He also endeavors to link energy development with defense, thereby invoking the latent distaste in the nation for the military-industrial complex. He also leaves a suggestion that energy is made by and used by the rich and that the poor somehow have no stake in energy supply. (In fact, the rich will, as always, be able to buy energy when it is in short supply. It is the poor, the workers, the average American who will see their wellbeing curtailed in a time of energy shortage.)

Etzioni does not wrestle with the complexities of energy technology and options, nor does he address himself to matters such as declining domestic production. He says instead, as I read it, that the goal of his people-first philosophy can be met through one swift action: conservation.

STRESSES SOCIAL REFORMS

These are Etzioni's words: "The way to protect the badly needed social reforms is to lean much more on energy conservation measures and go slow on energy development. These measures might include retrofitting houses, factories and public institutions to make them less energy wasteful; a tax on autos by weight to encourage the use of smaller cars; allowing the price of gas and electricity to rise; improvement in mass transit by the introduction of a penny a gallon tax on gas, as John Sawhill suggested; making new appliances less wasteful; etc." (No mention, however, of such social programs as lifeline rates and energy stamps.)

The significant thing here is the point that Lovins made in a major article published in *Foreign Affairs:* that you cannot take both paths in energy, conservation and development. Lovins was more doctrinaire in his suggestion but the same concept is manifestly present in Etzioni's piece. He says: "Structurally, such a policy would be weakened by introducing an energy department and a czar gung-ho on development, while leaving energy conservation as the business of an environmental protection department would help balance a development agency."

Etzioni's claim that the job can be done by conservation is summed up in this paragraph: "Eric Hirst of the Oak Ridge National Laboratory calculated that vigorous conservation could reduce energy-use growth to almost zero through the year 2000. After all, West Germany and Sweden are doing quite nicely using about half the energy per person that we use. The Swiss use about one-third what we use." (He neglects to outline the basic differences in industry and geography of these various nations.)

What is of concern in all this is that it spreads a concept that the energy ice is much thicker than it really is. It is now becoming apparent to anyone closely following energy that massive conservation is going to become a national necessity, but it is extraordinary to argue that progressive development of new sources is either undesirable or socially damaging.

The threat to the national wellbeing and to the national security is the growing philosophical concept that conservation and supply are mutually exclusive when they are, demonstrably, mutually necessary.

Linking the shibboleths of the Defense Department with energy production, along with the suggestion that it is anti-social to favor energy production, services only the goal of that part of society that is deeply affronted by industrial society and which yearns for a change more profound than anything to which they have yet given voice. The undeniable validity of part of their argument serves to cloud the larger debate and to conceal their own motives. This is a nation anchored to compromise, not to exclusive (i.e. doctrinaire and irreversible) courses of conduct.

President Carter's energy counsellor, James Schlesinger, may find that his endeavor in 1977 is not concerned with the absolutes of energy production, measurable in finite numbers, but in debating the future shape of society with those who are skillfully presenting it in this extraordinary context: that energy development is bad for people and less energy is good for them. The concept of no more energy development may not be an idea whose time has come, but it is an idea that is here and that will dominate our times.

ILLINOIS STATE SOCCER CHAMPIONSHIP

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, at this time I would like to call to my colleagues' attention the accomplishments of an outstanding group of young athletes in my district. Last November, the Warriors of Granite City High School in Granite City, Ill., won the Illinois State high school soccer championship.

This is the second time the Warriors have taken the championship. They did it the first time back in 1972, in the very first State tournament.

It is indeed an honor to have such a talented group of high school athletes and coaches in my district. Coach Gene Baker, Assistant Coach Mel Bunting, and Athletic Coordinator Roger Smith are to be commended for the fine way in which these young men worked so hard together.

At this time I would like to ask for unanimous consent to insert into the RECORD an article from the November 15, 1976, edition of the Granite City Press-Record, which describes the accomplishments of the team:

GC—ILLINOIS SOCCER CHAMP AGAIN IN '76

(By Gary Schneider)

The soccer Warriors of Granite City High School South are the 1976 Illinois state champions after shutting out all three opponents at the state tournament in Park Ridge near Chicago Friday night and Saturday.

Granite City High School, now South, won the first Illinois high school soccer championship in 1972.

After a 1–0 overtime victory over Lake Forest High School Friday night, the Warriors got over initial state tournament jitters and clearly dominated Saturday's semi-final game and the championship contest Saturday night.

Highland Park was the second victim of the Warriors teamwork in a 2–0 contest, during which Granite City took 20 shots on the goal, allowing Highland Park only six unsuccessful attempts.

In the final match, the team surprised even Head Coach Gene Baker with its absolute control of the ball against Wheaton Central.

Short, accurate passes, well conceived set-up plays in front of the goal and a powerful defense kept the ball close to the Wheaton net much of the final game—and gave South 33 shots at the goal while the frustrated Wheaton team could manage only seven attempts at the South goal.

Coach Baker, who was selected by the Illinois High School Association as coach of the year, told the Press-Record, "We came here to prove something, and we did.

"Every school in the tournament was from the immediate Chicago area, except us, and in Chicago they play a more physical game and a faster type of soccer.

"We wanted to show them that the type of soccer we play in Southern Illinois—slower, more controlled and with short, accurate passes—is superior to the physical way they play in Chicago.

"We came to the Chicago area, playing all Chicago area teams and having Chicago area officials, and we still did it.

"I am very proud of the entire team," Baker concluded.

STATEMENT OF THE HONORABLE JOHN M. MURPHY ON THE INTRODUCTION OF A BILL, THE CONSUMER CONTROVERSIES RESOLUTION ACT

(Mr. MURPHY of New York asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, today I introduce the Consumer Controversies Resolution Act. This legislation establishes national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers. The bill provides for Federal grants to States to aid in the development and maintenance of mechanisms to provide fair and accessible means for settling disputes arising out of consumer transactions.

It is estimated that disputes arising out of consumer transactions involve more than $100 million annually. The consumers involved in such disputes generally find themselves at the mercy of the merchant with whom they have done business. Unless the merchant agrees voluntarily to compensate the consumer for any damages, the consumer who seeks to pursue his or her claim will discover that there is no simple, effective, and inexpensive forum for resolving the dispute. Court action is too expensive in light of the small amount of money damages involved. And Federal or State agencies established to assist or protect consumers must concentrate their limited resources on claims involving the greatest number of consumers or the greatest harm to consumers.

Although State small claims courts were established to provide speedy and inexpensive justice for litigants, in most cases such courts have failed to fulfill their intended purpose. Despite the failures, however, efficient small claims courts continue to offer one of the best hopes for a prompt, simple, and effective dispute-resolving forum for consumers. A recent report by the National Institute for Consumer Justice recommended that the Federal Government provide funds to stimulate States that do not have small claims courts, or that have only ineffective ones, to establish efficient small claims systems which are responsive to consumer needs. The bill which I am introducing today would do exactly that. In addition, the bill will encourage States to be innovative in seeking to develop new and better mechanisms for resolving consumer complaints.

When small claims courts were first established, they were hailed as the avenue by which civil justice could become accessible to all. They were designed to eliminate delay and expense and to be a forum for conciliation and compromise. Unfortunately, the reality of small claims courts bears little resemblance to the professed aims of these courts when they were established.

Most existing small claims courts suffer from a number of deficiencies. For instance, many small claims courts where they exist, have evolved into streamlined mass collection agencies for landlords and retail corporations. Thus the consumer is more often than not the defendant in small claims actions, not the plaintiff. For example, a survey reported in the New York Times in August 1972 indicates that in the Denver, Colo. small claims courts only 5 percent of the more than 15,000 cases filed in a year were suits by consumers. The remaining 95 percent were suits brought by collection agencies and landlords seeking eviction. The same survey reported that in Washington, D.C., 22,000 of 29,000 small claims cases filed in June of 1972 were brought by corporations. Other studies indicate that this lopsided ratio of suits brought by private parties and business interests is not unique or even rare.

Underutilization of small claims by consumer litigants is due to many factors. First, small claims courts are often located only in downtown sections of a city. Rural consumers or those unfamiliar with or fearful of the city are denied access to the courts as a practical matter. Second, in many States court sessions are held only in the daytime and then only infrequently. Thus, the expenses of traveling to the court and potential loss of a day's salary may exceed the amount of the claim and result in discouraging the individuals from seeking redress of a legitimate grievance.

Even in those States where small claims courts do exist, public awareness of the court's availability is oftentimes very low. The National Institute of Consumer Justice's study points out that small claims courts have not tried to sell themselves to the community, nor has any outside group done much to promote the court. As a result, many consumers are simply not aware of the existence of an avenue through which they can seek to redress a grievance.

Those consumers who seek out a small claims court may find that their problems are only beginning once they enter the courtroom. The consumer is often faced with a morass of needlessly complex procedures and rules. Forms may be difficult to understand as well as lengthy and time consuming to fill out. The courts compound the problem by providing little or no assistance to the consumers to simplify or explain procedures and the maze of paperwork required. The consumer may end up feeling incompetent to deal with the small claims systems.

In addition, many small claims courts permit defendants to be represented by attorneys. This puts the inexperienced consumer at a distinct disadvantage and may discourage consumers with meritorious claims from pursuing them.

A final frustration which confronts those individuals who do make use of the small claims court is the difficulty encountered in collecting judgments awarded to the consumer. Unfortunately, most small claims courts do not have adequate enforcement mechanisms to insure that losing defendants will pay. Since consumers cannot be assured that a favorable judgment will be collected, it is only natural that many consumers conclude that it is not worth it to spend the necessary time and resources to bring suit.

The bill I am introducing today recognizes both the strengths and weaknesses of our existing mechanisms. It also recognizes that the challenge of providing justice to consumers is predominantly a responsibility of State and local governments. Therefore, it provides a means to build on the progress of local government through a system that complements local responsibility and initiative. The bill provides for Federal grants to States to encourage the development of fair and inexpensive mechanisms for the resolution of consumer controversies. It would authorize financial assistance to States for the development and maintenance of systems for resolving consumer controversies that meet certain criteria. In addition, discretionary grants can be awarded for research and demonstration projects. Development and maintenance by the States of a system envisioned in this bill will go a long way in providing a viable mechanism for consumer redress.

STATEMENT OF THE HONORABLE JOHN M. MURPHY ON THE INTRODUCTION OF A BILL TO AMEND THE FEDERAL TRADE COMMISSION ACT

(Mr. MURPHY of New York asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, today I introduce a bill designed to streamline certain Federal Trade Commission processes, increase its independence from the executive branch, authorize appropriations for fiscal years 1978 and 1979, and in other respects help the Commission to carry out its important congressional mandate.

The Subcommittee on Consumer Protection and Finance, in both legislative and oversight hearings in the 94th Congress, carefully studied some of the Commission's major undertakings and found considerable delay in the process. The subcommittee—the Senate, which passed bills on these issues twice last Congress—found that the Commission's difficulties arose from language in the original Federal Trade Commission Act, from erroneous and ambiguous court decisions, and from certain executive department clearance requirements. After carefully considering the issues and redrafting the Senate bill referred to us, the subcommittee reported out a bill identical in most respects to the one I am introducing. Due to the press of other business last fall, the FTC bill was not considered by the full Commerce Committee.

The bill's major aim, in addition to authorizing funds, is to make possible the timely and effective enforcement of the Commission's subpenas and other information-gathering orders. The Congress has on several occasions indicated its support of the Commission's most important attempt to collect needed economic information, the line of business study of this country's major companies. In 1974, it took from the Office of Management and Budget and vested in the General Accounting Office the duty to review information-gathering orders of independent agencies, largely because of the fact that line of business had been so seriously delayed by OMB in the review process.

The Congress in that legislation also circumscribed the scope of GAO review, to make clear that the independent agency and not the reviewer is the final determinant of whether the information is to be collected. Congress has also passed appropriations for the Commission, including the line of business program. Nonetheless, the Commission has spent the last 2 years in court trying to get its questionnaires answered. And so far the time has been spent entirely in preliminary squabbling, not on substance. The Commission has not yet been able to obtain the necessary data for this important study of the state of competition.

The major cause of the delay is a recent district court ruling overturning almost 50 years of court precedent. It permitted companies to challenge FTC orders before the Commission has a chance to consolidate all the companies resisting an order in a single unit. Up to 1975, the courts had uniformly held that companies cannot challenge the Commission before the Commission itself has indicated its intention to sue to collect penalties. The courts reasoned that a company faces no threat until the possibility of mandatory harm is real. Since by statute the company has 30 days even after the Commission's notice before it is liable for any penalties, the company is protected. There is ample opportunity to challenge the order to stop the penalties during litigation.

The importance of this court reasoning cannot be emphasized enough because premature challenges can and do seriously hamper the Commission's enforcement of its compulsory process orders. This is because Commission orders generally seek the same information from a large number of companies. Negotiations between particular companies and the Commission often results in different return dates for compliance, in order to accommodate the needs of individual companies. It is only after the final return date has passed that the Commission can sue all resisting companies at the same time and in a single court where the largest number of them can be joined.

The predictable result of the district court decision is that the Commission has been forced into many courts on the same question. When reporting dates have passed for some but not all companies, those in default can sue and the Commission is not in a position either to bring suit or to consolidate the cases. It must then fight all of the preenforcement suits in different courts. Only when all reporting dates have passed can the Commission ask the courts to consolidate the preenforcement suits.

The district court ruling clearly makes no sense either practically or legally. It has wasted 2 years in the line of business program. Therefore, the bill directly overturns the decision, returning the Commission to its prior practice.

Other statutory amendments are also clearly needed to make compulsory process enforcement workable. The bill I am introducing brings the woefully inadequate penalties for unjustified noncompliance, only $100 per day, up to an effective level—a range from $0 to $5,000 per day, discretionary with the judge. The bill also clarifies existing ambiguities about when a company can challenge an order and when and how it can stop the running of penalties during litigation.

The subcommittee was also concerned about the need for increased independence of the Commission from the executive branch, particularly in two areas. First, the Commission is required to clear with the White House its appointments to certain top staff policymaking positions. These positions, all below the level of Commissioner, include the Executive Director, General Counsel, Assistant to the Chairman, Secretary, and Director of the Office of Policy Planning and Evaluation. Until 1976, the Bureau Directors were also included. A provision prohibiting such clearance was included in the 1976 amendments to the Consumer Product Safety Act.

In another area, the Office of Management and Budget has issued circulars requiring clearance through it of legislative and budget recommendations of agencies to Congress. The bill provides for simultaneous transmission of such recommendations to OMB and the Congress, so that there can be no prescreening—those things just should not be required of a statutorily independent agency.

In addition to these key provisions on compulsory process enforcement and agency independence, other important changes are proposed in this bill. First, citizens would be given the right to quick action on requests for Commission rulemaking; the Commission would be required to respond within 120 days and the citizens would have the right to quick court review of the Commission's action. Also, the bill would make immediately effective against respondents those litigated orders prohibiting violations of the act unless the Commission or the court of appeals stayed their effectiveness for good cause. Finally, the bill would direct the Commission to study and report to Congress on the relationship between alcohol advertising and alcohol abuse.

Mr. Speaker, I believe that this legislation is necessary to the effective functioning of the Federal Trade Commission.

REPORT ON UNITED STATES-LATIN AMERICAN RELATIONS

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, I would like our colleagues to take note of a report entitled, "The United States and Latin America: Next Steps." This report was published on December 20, 1976, under the sponsorship of the Center for Inter-American Relations of New York City. This is the second report of the center's Commission on United States-Latin American Relations, chaired by the Hon. Sol Linowitz.

In October of 1974 the commission issued its first report under the title of "The Americas in a Changing World." That report served as the basis for a concurrent resolution (H. Con. Res. 282) which I was pleased to cosponsor during the 94th Congress. The second report is an astute follow-up to the commission's first effort and was published at an appropriate time. I am sure that the recommendations made will be studied fully by the new administration in formulating and implementing its policy toward Latin America and the Caribbean. They merit serious attention. Many surely will be pursued and have bearing on our actions toward Latin America.

The center's administrators and its distinguished board of directors are to be commended for emanating this constructive effort which spotlights an important area of the world. The members of the commission, its staff, and the consultants to the commission comprise a blue-ribbon group of distinguished businessmen, communicators, and professionals. Sol N. Linowitz, chairman of the commission, deserves special recognition

for guiding both the first and second reports; he should be proud of his effort and that of his colleagues. The other members of the commission are:

MEMBERS OF THE COMMISSION ON UNITED STATES-LATIN AMERICAN RELATIONS

Chairman: Sol M. Linowitz, Attorney, Coudert Brothers.

W. Michael Blumenthal, Chairman, Bendix Corporation.

Harrison Brown, Professor of Science & Government, California Institute of Technology; President, International Council For Scientific Unions.

Albert Fishlow, Professor, Department of Economics, University of California, Berkeley.

Richard N. Gardner, Professor of Law and International Organization, Columbia University.

J. George Harrar, President Emeritus & Consultant, The Rockefeller Foundation.

Rita E. Hauser, Attorney, Stroock & Lavan.

Alexander Heard, Chancellor, Vanderbilt University.

Andrew Heiskell, Chairman, Time Inc.

Rev. Theodore Hesburgh, C.S.C., President, University of Notre Dame.

Lee Hills, Chairman & Chief Executive Officer, Knight Newspapers, Inc.

Samuel P. Huntington, Professor of Government, Center for International Affairs, Harvard University.

Nicholas deB. Katzenbach, Corporate Vice President & General Counsel, IBM Corporation.

George C. Lodge, Professor of Business Administration, Harvard School of Business Administration.

Thomas M. Messer, Director, The Solomon R. Guggenheim Museum.

Charles A. Meyer, Vice President, Sears, Roebuck & Company.

Arturo Morales-Carrion, President, University of Puerto Rico.

Peter G. Peterson, Chairman, Lehman Brothers.

Nathaniel Samuels, Special Partner, Kuhn, Loeb & Co.; Chairman, Louis Dreyfus Holding Company, Inc.

Clifton R. Wharton, Jr., President, Michigan State University.

I commend the entire report to all persons, public and private, who are interested in Latin America, but I would like to take this opportunity to list the 24 specific recommendations made by the commission:

1. The new Administration should promptly pledge its full respect for the sovereignty of each Latin American nation and should commit itself not to undertake unilateral military intervention or covert intervention in their internal affairs.

2. The new Administration should promptly negotiate a new Canal Treaty with Panama; it should involve members of both parties and both Houses of Congress in the negotiations; and should make clear to the American public why a new and equitable treaty with Panama is not only desirable but urgently required.

3. The new Administration should comply fully with legislative requirements for periodic reports on the protection of human rights, and it should strengthen its internal capacity to assess violations of human rights in the Americas and elsewhere. The responsibility for formulating and implementing U.S. policy on human rights violations should be a continuing one and should be assigned to a high level within the government.

4. The United States Government should sign and seek the ratification of the American Convention on Human Rights and the International Covenant on Civil and Political Rights.

5 The U.S. Government should support moves to strengthen the independence, access, and staff capacity of regional mechanisms for monitoring human rights, especially of the Inter-American Commission on Human Rights, and also of the United Nations and non-governmental organizations involved in monitoring human rights violations.

6. In making its own determination of whether a government has been engaged in gross and systematic human rights violations, the United States should take into consideration reports from the United Nations Human Rights Commission, the Inter-American Commission on Human Rights, and private institutions such as the International Red Cross, the International Commission of Jurists, and Amnesty International. It should also bear in mind the degree of cooperation that host governments extend to investigations by these recognized organizations.

7. The United States Government should make clear its determination not to grant military aid or sell military or police equipment to countries whose governments or security forces are found to be engaging in systematic and gross violations of fundamental human rights. Nor should the United States Government make available to any country equipment which it has reason to believe is likely to be used to suppress human rights.

8. In providing economic assistance, bilaterally or through multilateral organizations, the United States should try to avoid supporting regimes which systematically and grossly violate fundamental human rights. Automatic and absolute formulas should be avoided and people ought not to suffer for the abuses of their governments, but the United States should not, in the course of providing assistance for the needy, in any way abet repressive actions or allow itself to be associated with brutally repressive governments.

9. The United States should consider using its embassies as places of temporary refuge for persons fleeing persecution for the exercise of basic civil and political rights, and should systematically ease the procedures for immigration to the United States by victims of political repression, whatever their ideology.

10. The new Administration should seek ways to reopen a process of normalizing relations with Cuba which must be both gradual and reciprocal. The Commission cannot presume to offer detailed negotiating proposals to the Administration, but we do recommend that it take the initiative in launching a sequence of reciprocal actions, such as the following:

(a) The President should make clear the determination of the U.S. government to use its powers to the full extent permitted by law to prevent terrorist actions against Cuba or any other foreign country or against U.S. citizens, and to apprehend and prosecute perpetrators of such actions. Our expectation is that Cuba would then prevent the lapse of the anti-hijacking agreement.

(b) Thereafter, representatives of the Administration should indicate to Cuban representatives that the U.S. is prepared to lift its embargo on food and medicines and enter into subsequent negotiations with Cuba on the whole range of disputed issues, provided Cuba gives satisfactory assurances that:

(1) it would make a prompt and appropriate public response (such as the release of U.S. prisoners); (2) its troops are being withdrawn from Angola and will not engage in military interventions anywhere; and (3) it will respect the principles of self-determination and non-intervention everywhere, and explicitly with regard to Puerto Rico.

A satisfactory response could lead to further and broader negotiations on a phased and reciprocal basis.

11. The new Administration should explore and encourage efforts to develop conventional arms limitation agreements among supplier and consumer nations, on all levels—global, regional, subregional—that seem appropriate and feasible. It should seek to negotiate harmonization of the arms sales programs and credit policies of supplier nations as one way to prevent the escalation of arms races.

12. The U.S. should give the highest priority to assuring that any transfer of nuclear technology or material by the U.S. or other nations be made contingent upon the implementation of strict international safeguards and that this technology be provided preferentially to those States that are parties to the Nuclear Nonproliferation Treaty. The new Administration should seek a moratorium on the export of nuclear enrichment and reprocessing plants. The U.S. should also encourage all States which have not yet done so to become parties to the 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America and agree in turn to consider the removal of its own objections to Protocol One to this Treaty. The new Administration should make clear that nuclear non-proliferation considerations will be a major factor in determining American policy toward all nations.

13. The U.S. should take the initiative in early 1977 to call for an immediate consideration of a general increase in the capital of the World Bank sufficient to meet its capital needs into the mid-1980's. It should also support a continuing significant increase in the lending authority of the Inter-American Development Bank. The Congress should also act promptly to fulfill our present commitments to both institutions.

14. The U.S. should gradually phase out the bilateral assistance program to the middle-income countries and concentrate on the poorest countries.

15. Congress should fulfill its outstanding commitment to the fourth International Development Association (IDA) replenishment, and the President and Congress should immediately reach agreement on full U.S. participation in the fifth replenishment at a level which provides for a real increase in IDA's resources.

16. The President should charge an appropriate high-level coordinating body within the U.S. government to conduct periodic and structured reviews of the problems associated with all capital flows, both private and official, to developing countries.

17. The U.S. should initiate consultations with Latin America on cooperative strategies and positions in pursuit of the following goals at the Multilateral Trade Negotiations in Geneva:

(a) To harmonize the various national preference systems; to expand their coverage to more manufactured products and processed agricultural goods; and to eliminate or at least loosen the current limits on the amount of trade that can be permitted;

(b) To modify the tariff preference scheme in a way which encourages regional integration of developing countries;

(c) To reduce the adverse trade effect of tariff escalation on processed raw materials;

(d) To define accepted rules for export subsidies and preferential treatment for developing countries in imposing countervailing duties;

(e) To reduce and gradually eliminate all those non-tariff barriers, like product quotas and voluntary export restraint agreements, whose effect is to inhibit over an extended period the expansion or diversification of exports from developing countries;

(f) To develop measures to mitigate the adverse consequences of trading schemes in effect between the European Community and certain developing countries, or to phase out such trading schemes whenever possible; and

(g) To prescribe penalties for extra-legal market closure not consistent with GATT and encourage the harmonization of national adjustment policies.

18. Congress should repeal the discriminatory amendment to the Trade Act of 1974 which excludes those OPEC members which did not participate in the embargo against the U.S. from the generalized system of tariff preferences.

19. The United States government should prepare for early presentation its own plan for adequately dealing with the fluctuations of commodity prices and shortfalls in export earnings, taking care to consult with the countries of Latin America who are uniquely situated on both the buying and selling side of commodity markets.

20. The President should appoint a high-level Coordinator to accelerate preparations within the U.S. and to mobilize private support for the 1979 United Nations Conference on Science and Technology.

21. In cooperation with regional Latin American institutions, the United States should help to establish multinational scientific and research institutions in Latin America to develop intermediate technologies in agriculture and manufacturing and to promote technical assistance and horizontal scientific cooperation among the countries of the region.

22. The President should replace the January 1972 policy on expropriation with a clearly enunciated statement defining the U.S. attitude toward protection of legitimate U.S. business interests abroad, identifying alternative instruments for resolution of nationalization disputes without resort to economic sanctions.

23. The Commission endorses the recent U.S. effort to negotiate in the United Nations a new treaty which would require greater and more harmonized disclosure of information on multinational corporations and which would prescribe appropriate penalties for bribery and extortion by private corporations and by government officials. The new Administration should press vigorously to gain international approval for such a new Treaty.

24. The U.S. should take a leadership role in strengthening the Development Committee of the IMF-World Bank to serve as a working group to mobilize resources in pursuit of agreed development priorities, and to monitor and evaluate the implementation of resource transfers.

The text of the entire report is available from the Center for Inter-American Relations, 680 Park Avenue, New York, N.Y. 10021.

I would also like to call to the attention of the House two favorable editorials from the Miami Herald and the New York Times on the commission's report:

[From the Miami Herald, Dec. 27, 1976]

NEW LATIN AMERICAN REPORT POINTS THE WAY TO PROGRESS

The advent of a new administration makes appropriate a review of all policies, but nowhere is a symbolic fresh start more welcome than in the area of relations between the United States and the nations of Latin America and the Caribbean.

Perhaps that is why a great deal of attention can be expected to be paid to a timely report by the Commission on United States-Latin American Relations, a nonpartisan group chaired by attorney Sol M. Linowitz and consisting of distinguished Americans from the ranks of business and academia.

Adding to the impression that the report may have significant impact on policy is the fact that the Commission's membership includes persons who will be involved with the new Carter administration.

As a follow-up to a report made two years ago, the document released last week breaks little new ground. But by drawing upon the insights gained from recent developments, the new report is able to underscore several of the Commission's previous recommendations and to suggest new areas of concern for policymakers.

One theme consistent in both reports is the need for the United States to shed its past attitude of paternalism and condescension so that policies toward the nations of Latin America and the Caribbean may be formulated in the broader context of world affairs.

As the Commission put it, "The United States cannot, by and large, have one policy for Latin America and another policy for the rest of the world." Following from that premise, the Commission makes 28 specific recommendations, many of them dealing directly or indirectly with human rights, others relating to economics.

Inevitably the subjects of Cuba and the Panama Canal are dealt with. Because those subjects stir the emotions of many persons in the United States and elsewhere in the hemisphere, interest in the recommendations relating to those issues unfortunately tends to overshadow the broader thrust of the report.

For the record, the Commission did characterize the Panama Canal a "the most urgent issue the new Administration will face in the Western Hemisphere in 1977."

Although the report urged renewed efforts "to replace the Treaty of 1903 with a mutually acceptable new agreement," it realistically recognized that there is a job to be done in selling any such agreement to Congress and to the public.

As for Cuba, the report urges efforts toward gradual normalization of relations but makes it clear that the behavior of the Castro government rather than the attitude of the United States is the chief obstacle to progress toward a normalization.

On both Cuba and the Panama Canal, the Commission's views are essentially the same as those it expressed two years ago. When read in full and considered in context, they seem reasonable.

Also reasonable and well-documented are the Commission's recommendations urging freer trade and more rapid economic development, recommendations made all the more timely in view of the growing pressures for protectionism. Suggestions for a freer exchange in the cultural realm are also well taken.

Only in the field of human rights did some of the Commission's recommendations noticeably reflect the problems members must have had in coming up with workable solutions, in this instance to the serious problem of political repression.

But that one difficulty need not detract from the credibility of the report as a whole nor from the positive thrust implicit in its urging that "the new administration should focus early attention on improving U.S. relations with Latin America, not because of hidden dangers, but because of latent opportunities."

[From the New York Times, Dec. 21, 1976]

POLICY FOR THE AMERICAS

President-elect Carter could ask for no better set of recommendations for United States policies and priorities in Latin America than the one issued yesterday by the distinguished private commission headed by former Ambassador Sol N. Linowitz.

This is the second report in little over two years by the Commission on United States-Latin American Relations and its timing, a month before the new Administration is installed in Washington, is not accidental.

Even more than did the first report, this document does not merely shun the traditional rhetoric about this country's links to its sister republics to the south; it calls on Washington to reject "outmoded policies based on domination and paternalism," and urges the incoming Administration to resist casting its hemisphere policies in the dubious contexts of "special relationship" or "regional community." This is no call for a resuscitated Alliance for Progress but an identification of tough problems that demand priority attention.

The most urgent of these is a new Panama Canal treaty—not merely a hemisphere question but one of the most important of all the foreign policy issues confronting the United States in 1977. It is imperative to conclude a treaty that will insure uninterrupted access to the canal while restoring control of the Canal Zone to the Republic of Panama, eliminating what the report accurately calls "a colonial enclave," offensive to all Latin Americans and highly damaging to the United States.

The commission rightly emphasizes that to insure a successful negotiation and ratification of a new treaty, the Carter Administration must consult regularly with leaders of both parties in Congress and educate the public on the urgent need for this historic step.

On another emotive hemisphere issue, the Linowitz commission is equally blunt, if less specific. It believes the basic interests of both the United States and Cuba would be served by an end to their "long estrangement," despite complications raised by Havana's military involvement in Angola. It urges the new Administration to seek ways to normalize relations with Fidel Castro, beginning with the expressed determination to prevent terrorist actions against Cuba by Cuban exiles living in this country.

The commission sharply criticizes the Ford Administration for ignoring gross violations of human rights in Latin-American countries and for bypassing restrictions voted by Congress on aid to Chile.

An incoming President who has emphasized the necessity for morality in the conduct of foreign policy ought to be receptive to the commission's recommendations for intensive monitoring of human rights infringements and for barring military aid and the sales of arms of police equipment to countries guilty of repeated violations.

As the Linowitz commission recognizes, most of its recommendations concerning control of arms and nuclear technology as well as economic assistance to developing nations involve global problems requiring global solution; but these problems also directly affect the well-being of Latin-American countries and inevitably their relations with the United States. This is clearly a part of the world the new Administration will not be able to ignore, even if the "special relationship" has been bypassed by history.

ECONOMIC WAR POWERS ACT

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, by now it is generally acknowledged that the War Powers Act was a major development in congressional-executive relations in the foreign policy field. The War Powers Act provides a legislative foundation which should be built upon to further define congressional-executive relations in other areas of foreign policy.

Trade embargoes are major foreign policy actions second only to acts of war in their seriousness. Such embargoes have been rather freely imposed in the past by the executive branch, with little congressional involvement. It is time to spell out the responsibilities of the Congress in this important area of our for-

eign relations. I am today introducing the Economic War Powers Act, modeled on the War Powers Act, to accomplish this purpose.

The Economic War Powers Act would require the President to consult with Congress prior to the imposition of any future trade embargo. The bill also spells out the procedures by which Congress might approve any future trade embargo, and by which Congress could terminate any such embargo at any time.

It is my hope to give consideration to this bill in the context of a review of section 5(b) of the Trading With the Enemy Act which the Committee on International Relations will be conducting in the coming months under the provisions of the National Emergencies Act. The Trading With the Enemy Act is cited as the major statutory authority for the trade embargoes currently in existence against North Korea, Vietnam, Cambodia, and Cuba.

I commend the Economic War Powers Act to the attention of my colleagues and the public. The text of the bill follows:

H.R. 2382

A bill to limit the imposition of trade embargoes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Economic War Powers Act".

SEC. 2. The President shall consult with the Congress before imposing any trade embargo on any country.

SEC. 3. (a)(1) Unless terminated sooner by the President or by the Congress under paragraph (2), any trade embargo imposed after the date of enactment of this Act against any country shall cease to be effective at the end of the sixty-day period beginning on the date such trade embargo becomes effective unless prior to such time the Congress adopts a concurrent resolution approving the trade embargo and designating some later time when the trade embargo shall cease to be effective, in which case the trade embargo shall cease to be effective at the time so designated.

(2) The Congress may at any time terminate any trade embargo imposed after the date of enactment of this Act (including a trade embargo with respect to which a concurrent resolution has been adopted under paragraph (1)) by adopting a concurrent resolution stating that such embargo shall cease to be effective at a designated time.

(b) As used in this Act, the term "trade embargo" means any prohibition against all or substantially all trade between the United States and a specific country (other than any such prohibition imposed under section 5 of the United Nations Participation Act of 1945 or pursuant to a request of any international organization of which the United States is a member by treaty).

U.S. COMPANIES AND FOREIGN BOYCOTTS: WILL CHINA FOLLOW THE ARAB EXAMPLE?

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I was interested and a bit disturbed to read in a recent issue of the Wall Street Journal that some American businesses involved in trade with Taiwan and with the People's Republic of China are beginning to find themselves in a political cross-fire. It seems that American businesses that joined a council to promote increased United States-Taiwan trade are getting signals from officials of the People's Republic that they may not be welcome to do business on the Communist mainland.

So far, the People's Republic has mostly threatened. But if such threats are carried to the point of actually excluding from doing business in the People's Republic businesses that promote trade with Taiwan, the consequences and implications would be quite serious. U.S. companies do about $4.5 billion a year in business with Taiwan. Most of those companies are interested also in doing business with the People's Republic. If they were forced to choose to do business only with the one country or the other, considerable business would be lost.

Mr. Speaker, this situation illustrates need for the United States itself to adhere to a policy of refraining from trying to tell companies of other nations with whom they may or may not do business on the basis of U.S. foreign policy considerations, and likewise to protect and defend the freedom of American firms to do business wherever they wish, free of political pressures from other governments. It is this principle which is the basis of legislation currently before the Congress to prevent American firms from complying with foreign boycotts, such as the Arab boycott of Israel. While it has not yet gone as far as the Arab boycott in restricting American companies, the actions of Taiwan and the People's Republic point in the same direction.

Instead of opposing legislation prohibiting them from complying with the foreign boycotts, American firms should welcome it. Without such a policy backed by U.S. law, American firms could find themselves closed out of many foreign markets on the basis of foreign boycotts and political demands. If the Arabs can require American business to refrain from doing business with Israel, what then is to stop the People's Republic or Taiwan from trying to stop American trade with Taiwan? How many more countries have put American firms in this kind of political crossfire before American business seeks rather than opposes the protection of U.S. laws?

Even if, in the short run, such laws result in temporary loss of American business to both parties in foreign disputes, such losses could well be far less in the long run than those that will be incurred if more and more countries follow the lead of the Arabs, and now possibly the Chinese, in forcing Americans to choose between doing business with them and doing business with their political antagonists.

I should say, finally, Mr. Speaker, with respect to the specific situation regarding trade with China, that I very much support improved relations with the People's Republic of China. Increased trade with the People's Republic is a very important and mutually advantageous aspect of our improved relations, which I hope will continue. I recognize that the status of Taiwan remains something of an obstacle to closer ties between our Government and the Government of the People's Republic. I would hope and urge, however, that both the People's Republic and Taiwan refrain from placing any demands or sanctions on American businesses on the basis of the activities of those businesses in either country. Such a tactic would be, in my view, both offensive and counterproductive to further improvements in U.S.-Chinese and U.S.-Taiwanese relations.

Mr. Speaker, the article to which I referred, "Numerous Major U.S. Firms Are Caught in Middle of China-Taiwan Trade Row" by Barry Wain, from the January 25, 1977, issue of the Wall Street Journal, follows:

NUMEROUS MAJOR U.S. FIRMS ARE CAUGHT IN MIDDLE OF CHINA-TAIWAN TRADE ROW

(By Barry Wain)

American-based multinational companies are being snared in growing numbers in the dispute between China and Taiwan.

At the center of the latest confrontation is the U.S.-Republic of China Economic Council, a group formed last month to foster increased trade between the U.S. and Taiwan.

Employing what some business officials have termed high-pressure tactics, senior Taiwanese officials have been successful in lining up American companies as members of the new group. If they didn't join, some concerns had worried, their business interests in Taiwan would have been hurt.

But mainland China, for its part, hasn't stood idly by. It has already taken some reprisals against a number of the multinationals that have dared to join the new Taiwan-blessed group, contending such membership constitutes "an unfriendly act."

American Express Co., for one, has found that China is refusing to honor its ubiquitous travelers checks. Union Carbide Corp. and General Electric Co. haven't been able to get all the visas they might have normally counted on for China's important trade fairs.

SERIOUS TRADE CONFLICT

To analysis, this adds up to the most serious conflict in trade between the U.S. and China and Taiwan since commercial dealings between the U.S. and the mainland resumed some six years ago after 22 years. Some believe the flap is part of wider maneuverings by China and Taiwan as the U.S. State Department prepares to present to the new Jimmy Carter administration a fresh look at U.S.-China relations.

For business officals, "it's one of those situations in which we'll be damned if we do and we'll be damned if we don't," says one Hong Kong-based American banker who requested anonymity.

U.S. trade with Taiwan remains far bigger than that with China. Two-way trade between the U.S. and Taiwan reached an estimated record $4.5 billion last year, more than 10 times the estimated total with China.

In addition, U.S. investment in Taiwan in manufacturing such items as electronics, autos, chemicals and machinery has grown to $476 million, while China hasn't allowed any direct U.S. investment.

With such a business lure, the U.S.-Republic of China Economic Council has drawn about 100 members, including many of the biggest American concerns. Directors include officials of Westinghouse Electric Corp., Bechtel Corp., Cargill Inc., Gulf Oil Corp., Rockwell International Corp., TRW Inc., Irving Trust Co. and Arthur Andersen & Co.

COUNCIL'S ORIGINS TRACED

The Council had its origins in a U.S. investment mission to Taiwan organized two years ago by David Kennedy, the former Chairman of Continental Illinois Bank who

served as Treasury Secretary in the first Nixon administration.

Bob Pitner, a Continental Illinois aide who helped Mr. Kennedy set up the council, says it was formed "to strengthen an already impressive investment and trade" with Taiwan. He says almost every major trading partner of the U.S. except Taiwan, had a group based in the U.S. to help with trade and investment advice.

Originally, as a number of sources tell the story, the council was to have been inaugurated last March, but by then there were already signs of trouble. Acting at Peking's request, the president of the National Council for U.S.-China Trade, an older association to promote U.S. trade with the mainland, sent a circular to the group's 360 members urging them to shun the new body. Later, a National Council official, Christopher Phillips, denounced the Taiwan group as "primarily politically motivated" and called it a tactic by Taiwan to break up signs of long-term cooperation between China and American companies.

Taiwan's government responded, between last March and December, with a direct recruiting drive by Economics Minister Y. S. Sun.

One New York banker, who sides with Peking in this dispute, characterizes Taiwan's recruitment drive as "enormous heavy-handed pressure." While companies won't admit on the record to being contacted, many privately confirm that they have been.

The American Chamber of Commerce in Hong Kong says "about six" of its members reported being approached by the Taiwan government. A chamber official, Stanley Young, says he can only guess how many others "haven't passed the information on to us."

At an American Chamber of Commerce in Hong Kong function, one senior businessman in the region, Thomas Wacker of Citibank, indicated that he believed it might be necessary for companies with big investments in Taiwan to join the new council if they wanted to continue doing business there.

"It's very subtle," Mr. Wacker says in an interview. A 2½-year tour in Taiwan convinced him, Mr. Wacker declares, that "everything you want becomes a little bit easier if you are seen to cooperate with the government; everything becomes a little bit harder if you don't."

Mr. Kennedy, the former Treasury Secretary who heads the new pro-Taiwan group, contends that "if a call comes from a ministry saying it would be a good idea to join, is that a threat? Surely it isn't pressure unless there is a threat at the end of it." Mr. Sun himself denies pressuring American companies and insists that "we haven't and we certainly won't take any retaliatory action against those who decide not to join.

Peking doesn't object to U.S. companies trading with Taiwan or investing there. But the new pro-Taiwan group, in the eyes of Peking, violates the spirit of the Shanghai Communique of 1972, under which U.S.-China trade expansion has occurred and in which the U.S. recognizes the existence of only one China of which Taiwan is a part.

"The companies that have joined seem to believe there are two Chinas," says a well-placed Communist Chinese source. "It constitutes an unfriendly act." And China is making little effort to disguise the fact that it's retaliating against those companies that have taken the most active role.

Peking is particularly upset to see the Taiwan council's board include, "old friends," meaning some companies who have been trading with China during the past six years.

One company that has experienced Peking's wrath is American Express, the financial-services concern. Some months ago, banks in China began refusing to honor American Express travelers checks. Refusals are often accompanied by a lecture in which travelers are told that American Express has committed an "unfriendly act" that is "insulting" and "offensive" to "the Chinese people." In addition, some sources maintain, Peking has gone so far as to scrap a nontrade correspondent-banking relationship that apparently had been negotiated between the Bank of China and American Express early last year.

American Express won't comment, but Chinese officials say their actions against the company are directly related to American Express's charter membership in the new pro-Taiwan trade council.

Union Carbide, a chemical concern that has been pursuing business in China for some time while expanding operations in Taiwan, has also felt the mainland ire.

Normally, Union Carbide would expect a relatively easy time getting visas for its aides to visit China. But last year company officials were refused visas to take part in a technical mission to exchange information on agricultural chemicals in China. Seven other companies nominated by the National Council for U.S.-China Trade, the mainland group, were accepted. Chinese officials let the reason be known: Union Carbide had joined the board of the new pro-Taiwan trade group.

Union Carbide also was passed over for invations to the Canton Trade Fair last year. Eventually, its Hong Kong-based representative was able to wrangle himself a lone visa. But fellow China traders report that the executive had a miserable and profitless time at Canton as he was "chewed out" by Chinese officials for Union Carbide's "unfriendly act."

U.S.-based executives of GE were also refused visas for the Canton fair after GE became a founder-member of the pro-Taiwan group. Yet GE appeared to escape the sort of verbal criticism some U.S. companies have received, and a Hong Kong-based representative of the company was allowed into the fair.

Some say that the reason for the relatively mild rebuke was that GE stood firm on the trade-group issue. "They stood up to the Chinese by explaining they couldn't jeopardize the extensive business they have in Taiwan for what they might get from China in the future," one trader says. "And they seemed to get away with it."

THE CURRENT STATE OF THE ECONOMY

(Mr. ROUSSELOT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, over the last 2 days, the House Committee on the Budget, of which I am a member, has been hearing testimony from a wide range of individuals on the current state of the economy. Almost without exception, the economists and public officials from which we have heard have spoken of the "faltering economy," the stagnation that has taken place in recent months, and the various ways in which the Federal Government must act in order to stimulate more acceptable economic growth. However, I think it is necessary to point out that the fact is the economy has been progressing upward in a moderate way over the last quarter and a good case can be made that little, if any Government stimulus is needed.

In the following article from the January 17 issue of the Wall Street Journal, author John O'Riley effectively illustrates that employment has gone up steadily over the last several months and that more Americans are on the job now than ever before in our history. In fact, while the U.S. population has gone up only 10 percent in the last decade, the employment has gone up 21 percent.

Let me encourage my colleagues to review these facts:

REVIEW OF CURRENT TRENDS IN BUSINESS AND FINANCE

(By John O'Riley)

When inflation is resting, employment and unemployment get more talked about than any other economic matter. Unemployment gets 99% of the attention. But, as the White House changes hands, a look at the other side of the coin—the employment—is most interesting. To some, it may be startling. The past decade has seen total employment in the U.S. grow about twice as fast as the population. And the decade's rate of employment growth has been vastly sharper than that of either of the other two decades since World War II.

The last ten years have seen more new jobs of all kinds generated by the U.S. economy than there are men, women, and children in the cities of New York, Chicago, and Los Angeles combined. There has never been anything like it. The country has grown a lot, but nothing like as fast as the job supply.

The table below traces the population and total employment from 1966 through the year just ended. The 1976 employment figure is the final count, for December, issued last week by the Department of Labor.

People and jobs

[In thousands]

	Population	*Employment*
1966	196,560	72,895
1967	198,712	74,372
1968	200,706	75,920
1969	202,677	77,902
1970	204,878	78,627
1971	207,053	79,120
1972	208,846	81,702
1973	210,410	84,409
1974	211,901	85,936
1975	213,540	84,783
1976	215,355	83,352

The pattern of the figures over the ten-year period adds up to:

Population: Up 10%.

Employment: Up 21%.

Thus, the ratio of the number of workers to the number of mouths to be fed has gone up. A decade ago there were 37 people with jobs for every 100 infants, child, and adult mouths. And today there are 41 jobs for every hundred mouths.

Very rarely noticed at all is the way new job creation in the economy over the past ten years compares with that of the other two decades since World War II. The latest period, despite the deepest recession since the 1930s and a high and constantly publicized unemployment "rate," easily heads the parade in this respect. Its total employment growth rate is not quite double that of either of the other two—but it is very near it.

Following are the total employment growth rates of the three decades. The first decade is started with 1947 because through 1946 the labor force included 14-year-olds; since then the starting point has been 16 years of age.

Employment gains: 3 decades

[Percent increase]

Decade:	
1947–57	Up 12.3
1956–66	Up 14.3
1966–76	Up 21.2

But how does this jibe with the high unemployment "rate" of recent years?

The basic problem lies in the public fail-

ure to understand what causes "unemployment." In the popular mind, there is just one cause—people losing their jobs. A given number of unemployed is invariably referred to as so many people being "thrown out of work." But job loss has not been the big cause at all lately. The big cause of current unemployment has been the unprecedented number of new job seekers scrambling to get on the paycheck bandwagon. All the seekers are "unemployed" until they find jobs.

The great growth in new job hunters has been well documented. The maturing post-World War II "baby boom" swelled the growth of the working-age population sharply in 1966–76. Inflation and other forces spurred more women and teenagers to seek work—with much success. Employment of adult women spurted 37% in the past decade, and that of teenagers 28%.

Then there is surely another prop to today's high unemployment "rate" that can't be measured. Nobody can even prove statistically that it is a prop. Yet it must be—and it may be a big one indeed. This is the very large flow into public pockets of non-paycheck money—unemployment compensation, social security retirement money, welfare money, and so on—that just may cause many people to list themselves as unemployed when they aren't really trying very hard to get employed.

The government has a name for this money flow. It is called "transfer payments." It applies to money that is transferred to people who aren't actually working for it when they get it. Here is the record of its growth in the past decade, with the November annual rate representing 1976. Dollar figures are billions.

The nonworking payroll

[Transfer payments]

Year:	*Total*
1966	$44.7
1967	52.6
1968	59.9
1969	66.5
1970	79.9
1971	94.1
1972	104.1
1973	118.9
1974	140.3
1975	175.2
1976	196.7

The tale of the transfer payments runs thus:

In One Decade: Up 340%.

Nobody says all this "non-working payroll" is bad. But it surely puts some sort of brake on the job-hunting vigor of many counted as "unemployed." A person on extended unemployment payments or welfare may not look as hard. Neither may an out-of-work man whose elderly parents on social security do not depend on him for support—as in the past.

In any case, that $196 billion adds up to a very big part of the public's spending money. It's enough to cover all the retail sales in the nation for three and a half months—more than a fourth of annual sales. It equals five times all the dividends paid to the country's stockholders in a year. It is a fifth as much money as is paid in wages and salaries to all the working folks.

No, on both job creation and non-working pay, the U.S. economy has done pretty well in recent years. Still—it's said to be "sluggish." It's said to need "stimulation."

SPENDING SHORTFALL

(Mr. ROUSSELOT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, last November 23, Dr. Alice Rivlin, Director of the Congressional Budget Office, appeared before the House Committee on the Budget to testify regarding the spending "shortfall" of fiscal year 1976 and the transition quarter. In followup to her appearance before the committee, I submitted several questions regarding the effect of the shortfall on the economic recovery and related issues. I also asked her to estimate the effect that a reduction of each personal income bracket rate by 5 percent and the corporate income tax rate by 2 percent would have on GNP and employment. Our correspondence on these questions is hereby submitted for the RECORD.

In her letter dated January 18, Dr. Rivlin answered my question about the effect of a reduction in personal and corporate income tax rates and I believe it is of special significance to the Members of the body. Dr. Rivlin estimated that by reducing personal income tax brackets by 5 percent, 790,000 jobs would be created by the end of this fiscal year and 1,590,000 jobs in 1978. In addition, GNP would go up $42 billion in this calendar year and another $75 billion by the fourth quarter of 1978.

Inasmuch as we are all concerned about the best way to help the economy and put the unemployed back to work, I would urge all of my colleagues to consider the correspondence on this issue that follows, and carefully analyze the possibility of stimulating the American economy by letting the American taxpayer—instead of the Federal Government—spend more of what he earns.

The material follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., January 18, 1977.

Hon. JOHN H. ROUSSELOT,
Committee on the Budget, House of Representatives, Washington, D.C.

DEAR JOHN: Following my appearance before the House Committee on the Budget on November 23, you submitted several questions and requested a response. The answer to the last of the questions you raised is addressed in this letter.

You asked: "What would be the effect on GNP and employment of a tax cut, to be enacted in the third quarter of FY 1977, consisting of a reduction of each personal income bracket rate by 5 percent and the corporate income tax rate by 2 percent?"

We estimate that a 5 percentage point reduction in each personal income bracket rate would raise GNP $42 billion above what it would otherwise be in the fourth quarter of calendar year 1977 and by $75 billion in the fourth quarter of 1978. This GNP gain corresponds to a boost in employment of 790,000 jobs in the fourth quarter of 1977 and 1,590,000 jobs in the fourth quarter of 1978. The direct budget cost of this tax change would be $19 billion in fiscal year 1977 and $43 billion in fiscal year 1978.

Different models of the economy vary so enormously in what they say about corporate tax changes that we are not prepared at present to give an estimate in which we would have any confidence. Developing a capability in this area is high on our list of priorities, however.

If I can be of any further assistance, please let me know.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 8, 1976.

Hon. JOHN H. ROUSSELOT,
Congress of the United States, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN: This letter is in response to the questions you submitted on November 23, following my statement before the House Committee on the Budget. Each question is listed before our answer.

1. To what extent does the $11.4 billion shortfall (comparing actual FY 1976 and transition quarter figures with January, 1976 budget figures) affect current unemployment levels? If the reduced expenditures had not occurred and the money would have been spent on schedule, how many new jobs, if any, would have been created as a result of the additional federal "stimulus?"

We estimate that unemployment is currently about 100,000 to 150,000 higher than it would have been if there had been no shortfall in federal spending below the January 1976 budget figures. This unemployment range corresponds to about 125,000 to 185,000 jobs which would have been created if the reduced expenditures had not occurred. The jobs estimate is larger than the unemployment estimate because some of the jobs would have been filled by persons previously out of the labor force, and therefore would not reduce the number of unemployed.

2. Do your estimates as to the job-creation-effect of the shortfall change when given the $17.4 billion figure produced by comparing the actual FY 1976 and TQ figures with the Congressional concurrent resolutions?

Our estimate of unemployment and employment effects are about 50 percent larger when the shortfall is measured as it was in my testimony, relative to the Congressional resolutions rather than to the President's 1976 budget figures.

3. To what extent does the spending reduction—considered at both spending levels—affect the inflationary pressures of the economy? Would inflation have been higher had the shortfall in expenditures not taken place?

Eventually, we estimate that inflation rates would have been 0.1 to 0.2 higher had the shortfall and expenditures below Congressional resolutions not taken place. That is, inflation rates several years from now would have been 5.1 or 5.2 percent if the actual rates, given what happened in 1976, turn out to be 5.0 percent.

4. In your testimony you indicated that the "missing stimulus" brought about as a result of the shortfall has had a depressant effect on the expansion of the economy. Would this reduction in growth have taken place if Congress had included the President's entire tax reform proposal as a part of its fiscal stimulus package for fiscal year 1976?

Yes. The parts of the President's tax reform proposal which were not adopted by the Congress, in our judgment, would have failed to offset the effect of the shortfall.

5. Of the total shortfall in outlays, what dollar amount qualifies as "missing stimulus?"

"Missing stimulus" could be defined in several different ways. One possibility is to define "stimulus" as federal expenditures as recorded in the national income accounts, thereby excluding financial transactions and certain other kinds of spending which appear in the unified budget but not in the national income accounts. Under this definition, "missing stimulus" below Congressional resolutions in fiscal year 1976 amounted to a little over $7 billion, while "missing stimulus" in the transition quarter amounted to a little over $3 billion at an annual rate.

6. What would be the effect on GNP and employment of a tax cut, to be enacted in the third quarter of FY 1977, consisting of

a reduction of each personal income bracket rate by 5 percent and the corporate income tax rate by 2 percent?

We are working on developing an answer to this question and will submit our best estimate as soon as it is available, probably in about two weeks.

Sincerely yours,

ALICE M. RIVLIN,
Director.

NOVEMBER 23, 1976.

Dr. ALICE RIVLIN,
Director, Congressional Budget Office, Washington, D.C.

DEAR DR. RIVLIN: Your appearance and presentation before the House Committee on the Budget this morning to discuss the reasons for and the implications of the now famous spending "shortfall" of fiscal year 1976 and the transition quarter was very much appreciated.

In follow-up to our colloquy, I am submitting in written form the questions which we discussed during the hearing.

Much has been said in regard to the "twin evils" in the present economy, of unemployment and inflation. There has also been considerable discussion surrounding the most appropriate way to combat them. How does the spending shortfall which the Budget Committee has discussed today affect these "evils?" Specifically:

(1) To what extent does the $11.4 billion shortfall (comparing actual FY 1976 and transition quarter figures with January, 1976 budget figures) affect the current unemployment levels? If the reduced expenditures had not occurred and the money would have been spent on schedule, how many new jobs, if any, would have been created as a result of the additional Federal "stimulus?"

(2) Do your estimates as to the job-creation-affect of the shortfall change when given the $17.4 billion figure produced by comparing the actual FY 1976 and TQ figures with the Congressional Concurrent resolutions?

(3) To what extent does the spending reduction—considered at both spending levels—affect the inflationary pressures of the economy? Would inflation have been higher had the shortfall in expenditures not taken place?

(4) In your testimony you indicated that the "missing stimulus" brought about as a result of the shortfall has had a depressant effect on the expansion of the economy. Would this reduction in growth have taken place if Congress had included the President's entire tax reform proposal as a part of its fiscal stimulus package for fiscal year 1976?

(5) Of the total shortfall in outlays, what dollar amount qualifies as "missing stimulus?"

(6) What would be the effect on GNP and employment of a tax cut, to be enacted in the third quarter of FY 1977, consisting of a reduction of each personal income bracket rate by 5 percent and the corporate income tax rate by 2 percent?

Thank you again, Dr. Rivlin, for your testimony and for your consideration of these questions.

Kind regards,

JOHN H. ROUSSELOT.

PROPOSED AMENDMENT TO THE TRADE ACT OF 1974

(Mr. SHARP asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SHARP. Mr. Speaker, I am introducing today, with Mr. BRADEMAS, Mr. RHODES, Mr. BAUCUS, and Mr. BENJAMIN, an amendment to the Trade Act of 1974 which is designed to correct an inequity in the application of the trade adjustment assistance program.

The Trade Act of 1974 provides for payment of a trade readjustment allowance—TRA—to workers laid off from a firm as a result of increased imports. Although I was not in the Congress when the Trade Act was passed, I understand that the purpose of TRA was to provide temporary relief for those workers who were injured by a U.S. trade policy which, in total, was beneficial to the economy of this country. The payments are limited by the law, however, to workers whose layoffs occurred within 1 year before the date of their petition for certification by the Department of Labor and after October 3, 1974.

This proposed amendment to the Trade Act would not change the October 3, 1974, earliest eligibility date; section 223(b)(2) would remain unchanged. Thus, there is no danger of opening the door to cases of import-related layoffs which took place years ago.

What this amendment does change is the provision that eligibility is limited to those workers laid off within 1 year prior to the date of their petition for assistance. It is my understanding that this 1-year limitation was written into the law for two reasons: First, to place some limit on retroactivity; and second, to maintain a causal linkage between the imports and the layoffs; that is, to insure that imports actually caused the layoffs of the workers who received benefits.

The amendment would accomplish these goals without arbitrarily excluding some workers from the program. The amendment replaces the 1-year-prior-to-the-petition date with a 2-year eligibility limit.

Mr. Speaker, last year I introduced a similar amendment which would have eliminated the 1-year cutoff provision. In a hearing on that bill before the Trade Subcommittee on September 28, 1976, representatives of the Department of Labor testified that open-ended eligibility would cause major administrative difficulties. For that reason the bill I am introducing today would not totally eliminate the cutoff, but it would substitute a 2-year limit for the existing 1-year limit.

As I testified at the hearing, there were three cases in my own District where an inequity resulted from the 1-year cutoff: the Warner Gear plant in Muncie, Jay Garment in Portland, and Allegheny Ludlum in New Castle. In each of these cases, petitions for trade adjustment assistance were filed more than 1 year after the first import-related layoffs. It is clear from the number of such cases which occurred around the country during the first year of the program's operation that information about TRA was not sufficiently well known.

If this bill is enacted, thousands of workers will become eligible to receive the benefits which Congress intended them to receive and which, in many cases, their coworkers have already received. It is not too late to correct this injustice, and I urge my colleagues to support this measure.

REMARKS CONCERNING THE HOUSE SELECT COMMITTEE ON ASSASSINATIONS

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, in an effort to lay to rest once and for all the skepticism and growing doubts concerning the Kennedy and King assassinations, I have strongly supported the establishment of the House Select Committee on Assassinations. My work on the House Select Committee on Intelligence convinced me of the very serious examples of negligence by the investigating agencies concerned. If we expect a higher standard of performance in the future, we cannot take a "let-bygones-be-bygones" attitude toward the scandals of the past. The fear of ultimate exposure is one powerful motive for maintaining proper professional standards.

I believe the sum proposed by the committee is essential if the committee is to perform a professional, indepth investigation. The proposed budget might seem extravagant when compared to that of the Warren Commission. But I want to point out that the Warren Commission had the services of 150 full-time FBI agents, 60 full-time Secret Service agents and 12 full-time and part-time CIA agents, plus their backup staffs and facilities. In addition, the Justice Department and the State Department provided the Warren Commission with professional help.

Because questions have arisen as to the adequacies of prior investigations by the FBI and CIA and the possibility that one or both might become the subject of part of the committee's investigation, the services of these agencies cannot be utilized.

Since the deaths of President Kennedy and Dr. King, new evidence has come to light and with it new questions and new doubts concerning the adequacies of previous investigations. The House of Representatives in its mandate to the committee has shown its determination to lay to rest this growing sense of national concern and to resolve the questions and doubts once and for all. The mandate should be renewed.

I believe that the committee has a real opportunity to make a genuine contribution to national trust and unity. I urge that it be authorized and properly funded.

THE OAKLAND RAIDERS—WORLD CHAMPIONS OF PROFESSIONAL FOOTBALL

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, today I want to take the opportunity to commend a great football organization and the world champions of professional football, the Oakland Raiders. It is with great pride that I call to the attention of my colleagues the accomplishments of the Oakland Raiders who won a remarkable 15-game season highlighted by their recent 32 to 14 victory over the Minnesota Vikings in Super Bowl XI.

For all of us who suffered through the agonies of the past 9 years and who have waited for what seemed like a lifetime for a world football championship, Sunday's triumph was especially sweet and satisfying.

From the opening kickoff it was evident that the Raiders were not going to ask their fans to wait another year. This was to be the year a Super Bowl championship was not to be denied.

A team with "pride and poise" ended a decade of frustration and proved to the world that they indeed can win the big ones and in doing so win them in a big fashion by setting all kinds of Super Bowl records. Among the records set by the Raiders in Super Bowl XI were: Most net yards gained by a team, 429; most yards rushing gained by a team, 266; and the longest interception return, 75 yards.

My heartfelt congratulations go to General Manager Al Davis, his outstanding and competent coach, John Madden, and, of course, to the members of the best football team in the world, the Oakland Raiders.

I would also like to point out, Mr. Speaker, that in a span of 5 years the Bay Area has been blessed with a world championship in baseball, basketball, and now football. The Bay Area is definitely the place for champions.

JOSIE MOORE: A SOURCE OF STRENGTH

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, it cannot be said enough that the black woman in the life of the American black pilgrimage has been a source of strength, a pillar of stability and a prodigious symbol of love. Black women continue through lives of devotion and extraordinary sacrifice to make their presence a life-giving force in the hope and dreams of the black community and, indeed, the Nation and the world.

In the city of Berkeley, Calif., there is a living symbol of the beauty and dignity of the black woman in the person of Mrs. Josie Moore. She knows of the historical past and the emerging future, for on January 9, 1977, she was 90 years old.

Mrs. Moore is the mother of 6, grandmother of 13, great-grandmother of 29, and great-great-grandmother of 5. Through her efforts to instill in her children, family, and community the faith, hope, and will to live and produce in the community, she exemplifies the epitome of living, love, and deeds well done.

Mrs. Moore, a native of Georgetown, Miss., and a resident of the city of Berkeley for the last 40 years, means something special to her family, neighbors, and the city of Berkeley as well as to this country, for she embodies the American spirit of family stability.

Mrs. Moore's life is depicted in Proverbs 31:

> She is a virtuous woman . . . her price is far above rubies.

To paraphrase further, for over 65 years her husband safely put his trust in her, so he had no need unattended. She did him good and not evil all the days of his life. She always cared for her household. She stretched out her hand to the poor; she reached forth her hands to the needy. Strength and honor are her clothing; and she shall rejoice in time to come. She opens her mouth with wisdom; and in her tongue is the law of kindness. She looks well to the ways of her household, and eats not the bread of idleness. Her children and community rise up and call her blessed; her late husband praised her. Many daughters have done virtuously, but she, Josie Moore, excels.

It is completely fitting that the city of Berkeley, through its mayor, the Honorable Warren Widener, has proclaimed January 9, 1977, to be Josie Moore Day. I would like to join the people of Berkeley in applauding Mrs. Moore, and in commending this remarkable woman to the attention of my colleagues and the Nation.

A MAN CALLED KING

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, on Saturday, January 15, millions of Americans commemorated the 48th anniversary of the birth of the late Reverend Dr. Martin Luther King, Jr.

Dr. King's dream of American political and economic equality remains vivid despite his untimely assassination 9 years ago. His advocation of nonviolent action, pacifism, and brotherly love expressed the dreams and aspirations and calmed the fears of black people across the country while reassuring whites, and moving them to reconsider past atrocities and future changes.

Inspired by the Hindu freedom leader Mohandas K. Gandhi, Dr. King peacefully struggled for equal justice and individual rights, and earned the respect and admiration of peoples around the globe. His attainment of the Nobel Peace Prize in 1956 was evidence of the universal adoration he enjoyed and his vast achievements.

Although his assiduous call for peace, freedom, and equality was prematurely interrupted, we cannot afford to let that call for the realization of this Nation's philosophy go unheeded. Rather, we must rededicate ourselves to the principles Dr. King articulated and channel our efforts toward the incorporation of these principles into American life.

The commemoration of the anniversary of Dr. King's birthday should both remind and make clear to America the need to continue his struggle for the betterment of humanity.

A TRIBUTE TO J. WALTER CARROL

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, the bay area has lost a truly great human being, J. Walter Carrol. Mr. Carrol gave generously of his time, talents, and capabilities to stimulate a communication between the business and government communities both as a private citizen and in his professional role as general manager of radio station KDIA in Oakland.

He earned an enviable reputation not only as a highly respected broadcast executive, but also as a civic, church, industry, and philanthropic leader. Mr. Carrol's civic and professional activities have set an example not only for the broadcasting industry, which is so influential in shaping the thinking and attitudes of our people, but also for citizen involvement in the local community.

In my personal relationship with Mr. Carrol, I found him to have a warm, sympathetic, and compassionate concern for the participation of minority individuals in the affairs of government. He will long be remembered for his courageous efforts in behalf of people's causes. To his widow, Mae, and his children, I extend my heartfelt condolences and deepest sympathy.

THE BUREAUCRATIC ACCOUNTABILITY ACT OF 1977

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, Governernment lawlessness, the widespread bureaucratic practice of distorting, ignoring, and subverting the congressional mandates contained in legislation, is the greatest threat to meaningful self-government. I strongly feel the basic cause of this is the lack of mechanisms which would allow citizens some means of protection against officials in their day-to-day contact with the bureaucracy. For this reason, I am introducing today the Bureaucratic Accountability Act of 1977 which proposes concrete steps toward strengthening responsible and reliable government through amendments to the Administrative Procedures Act.

The aim of this legislation is to confine the bureaucracy to its legal purposes by the democratic method of increasing its responsibility, its answerability, both to citizens and to the intent of Congress.

Nothing can substitute a political will to reform, but this will remain ineffective or even unformed without the necessary institutional procedures. These mechanisms cannot guarantee that Congress will pass wise and substantive leg-

islation, but they do allow hope when such legislation is indeed passed and citizens may rely on seeing it carried out. This hope is the basis of active democratic reform and confidence in the capabilities of Government.

Therefore, the approach of this bill is twofold: First, it extends the rights contained in the APA to those situations that are of direct concern to our citizenry; and second, it strengthens the ability of Congress to actually control the actions of the Presidential branch. In both cases, the status of the objection is strengthened, democratically arrived-at legislation against the subjective political and bureaucratic desires of an uncontrolled administration.

The Bureaucratic Accountability Act is to insure that citizens may receive an accurate idea of their rights and of the procedures of the bureaucracy. I believe this is an important extension of responsible participation in the work of the Government. A summary of the act follows:

SUMMARY OF "BUREAUCRATIC ACCOUNTABILITY ACT OF 1977"

Section 101—Extension of rulemaking requirements: The Administrative Procedures Act sets forth some minimal due process requirements to be followed whenever the bureaucracy issues "rules" that affect the citizenry.

At present, the requirements apply mainly to the regulatory agencies. The time has come to extend these APA procedures to social programs and other aspects of "positive government". Allowing the citizens to present their case, and requiring the bureaucracy to hear all relevant views, are increasingly indispensable tools of effective government.

Therefore, this bill amends the existing law by adding "the establishment of practices or procedures with respect to public property, contracts, loans, grants, benefits," to the rulemaking requirements of notice and comment.

Section 102—New Criteria for rulemaking requirements exemptions: This section regulates those cases in which there is a legitimate public interest served by exemptions from the public notice opportunity to comment requirements. First, the present exemption for military and foreign affairs functions would not diminish the power of the agencies to omit APA rulemaking procedures when their observance is found to be inappropriate because of a need for secrecy in the interest of national defense or foreign policy. This exemption should be on the same basis now applied in the Freedom of Information provision. It contains an exemption for rulemaking involving matters specifically required by Executive order to be kept secret in the interest of national defense or foreign policy.

The present exemption of interpretive rules and general statements of policy is eliminated. These agency decisions are often just as important as rules proper. The division between "rules and interpretive statements" is inefficient for deciding what should or should not be exempted.

Section 201—Payment of expenses incurred before agencies: Our system of government relies on the spontaneous cooperation of the citizenry. This includes active participation in the administrative process, either by defending rights that Congress has sought to protect—the "privacy attorney general" concept already recognized by the courts—or by providing information and perspectives that the bureaucracy would not have the resources to discover. When this private participation aids in vindiction public policy, the citizen should not be penalized by excessive financial burdens. Costs of participation should be kept at a minimum, and the agency should have the option of subsidizing those who otherwise would not be able to make a contribution.

Section 301—Sovereign immunity—"Sovereign Immunity" is a common law doctrine that prohibits suits against the sovereign without his consent. It is used by the government arbitrarily and unpredictably, and frustrates the orderly legal planning of the citizen. The removal of this doctrine in the days of positive government is a long overdue reform endorsed by most of those concerned with administrative law.

Section 401—Enforcement of standards for grants: The aim of this section is to ensure the maintenance of Federal standards of performance and policy aims in those state and local programs that depend on Federal funds.

This bill defines grant-in-aid programs as "programs pursuant to which the Federal government transfers funds to state and local governments and public and non-profit organizations to provide general public services or finance programs for special groups."

Secondly, all grant decisions are made subject to the public notice-and-comment procedures of rule-making. This was done in Section 102 above. This will allow objections to be heard before a state or local program is approved and funded. Relevant materials are required to be made available to interested persons.

Thirdly, procedures for hearing complaints concerning grant plan applications and the administering agency and the state or local grantee.

The agency will hear complaints when they are made in the name of a substantial number of persons affected by a grant-in-aid program, or when the agency decides an important policy question is involved. The agency is also given less disruptive ways of enforcing Federal standards than the complete termination of the program.

Grantees are required to hear complaints from any person adversely affected by their administration of the program. Minimum standards for grantee complaint procedures are set up.

THE HELSINKI SPARK

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, in recent months a number of press reports from Eastern Europe and the Soviet Union have made us aware of the endurance there of a remarkably stubborn human trait: the thirst for liberty. The reports from the U.S.S.R., Czechoslovakia, East Germany, and Poland usually present the manifestations of this thirst under the heading of "dissent," but that term covers a multiude of interests.

In Poland the protest that has become audible centers on the rights of workers to express their dissatisfaction with their economic condition without police reprisal and arbitrary arrest. In East Germany a reported 100,000 citizens have applied to emigrate to rejoin family members in the West, separated from them by the infamous wall. In the U.S.S.R., the dissenters include thousands who seek to emigrate, thousands more who want only to practice their religious beliefs or express their ethnic identity in greater freedom, and hundreds who have dedicated themselves to protecting the civil rights of their friends and fellow citizens. In Czechoslovakia, the cry for liberty is raised by youngsters who want to play their own kind of music and by respected public figures who want the freedom to say what they think.

One common thread unites these various expressions of dissent. It is the reference the protesters themselves make to the undertaking to "respect human rights and fundamental freedoms" freely given by the heads of their governments in signing the Helsinki accords on August 1, 1975. That solemn pledge gave a spark of hope to ordinary people in societies where freedom and human rights have long been curtailed.

In the Soviet Union it gave rise to the creation of a remarkably courageous organization, headed by Prof. Yuri Orlov in Moscow, the Public Group to Promote Implementation of the Helsinki Accords in the U.S.S.R. In East Germany the spark ignited a push by ordinary men and women to seek compliance with the family reunification provisions of the Helsinki document. In Poland the concern for human rights provided a common ground on which workers and intellectuals could meet to seek redress of grievances from their government. And in Czechoslovakia the promise of Helsinki formed the premise for the formation this month of Charter 77, a new "free, informal and open association of people" dedicated to "respecting civil and human rights."

As one who believes that the Helsinki principles can provide a workable code of conduct to guide relations among the 35 signatory states, I am encouraged that the citizens of these Communist nations also find hope in the agreements. I cannot help, however, being deeply disturbed by the efforts of their governments to extinguish that spark of hope. The pattern varies from one country to another, and the ugliest manifestations have appeared in the Soviet Union and Czechoslovakia. Professor Orlov and his colleagues in Moscow, Kiev and Vilnius have been brutally harassed. Three of the reported 257 signers of the Charter 77 manifesto—Vaclav Havel, Frantisek Pavlicek, and Jiri Lederer—as well as a fourth human rights activist, Ota Ornest, have been arrested on charges of subversion in Prague. Others in the Charter 77 group, like playwright Pavel Kohout, have been beaten, or, like Zdenek Mlynar, dismissed from their jobs.

Such repression of civil dissent is repugnant in itself. In the context of the Helsinki agreements—whose implementation the Congress formed the Commission on Security and Cooperation in Europe to evaluate—the campaign against freedom and human rights amounts to a breach of a crucial promise. If this aspect of the pledges given at Helsinki is to be so flagrantly ignored, the other signatories, and especially the United States, must ask themselves how valid are any of the commitments on

international security and cooperation. All the signatories agreed that all the principles governing their behavior, including that of "respect for human rights and fundamental freedoms" are to be "equally and unreservedly applied." Fulfillment of that promise can promote a safer world and the progress of détente. Dishonoring that pledge only worsens international tensions.

So that our colleagues can judge for themselves how basic are the issues raised by the human rights advocates in Czechoslovakia, I include a full translation of the Charter 77 manifesto as it was printed January 7 in the Frankfurter Allgemeine:

On 13 October 1976 the "International Agreements on Civil and Political Rights" were published in the collection of the laws of Czechoslovakia (Issue No. 120), both having been signed on behalf of our republic in 1968, confirmed in Helsinki in 1975, and put into force in our country on 23 March 1976. Since then our citizens too, have had the right, and our state the duty, to abide by them. The liberties and rights of man guaranteed by these two agreements are important values of civilization which have been the aim of the endeavors of many progressive forces in history and whose codification can significantly promote the human development of our society. This is why we welcome the accession of the CSSR to these agreements.

Yet their publication makes us recall with new urgency at the same time how many basic rights of the citizen for the time being are valid only on paper, unfortunately. Completely illusory, for example, is the right to freely voice one's opinion which is guaranteed by Article 19 of the first agreement.

Just for that reason tens of thousands of citizens are deprived of the opportunity to work in their profession because they advocate views which differ from official opinions. Besides, they are often made the object of the most manifold discrimination and chicanery on the part of the authorities and social organizations; being deprived of any possibility of defense they practically become the victims of an apartheid. Hundreds of thousands of other citizens are refused the "freedom from fear" (preamble of the first agreement) because they are forced to live under the constant danger of losing their job opportunities and other opportunities if they voice their opinion.

At odds with Article 13 of the second agreement, which guarantees the right of education to all, countless young people are not admitted to higher learning establishments just because of their views or because of the views advocated by their parents. Countless citizens are forced to live in fear that they themselves or their children might be deprived of the right to education if they speak out in line with their conviction.

The insistence on the right "to ascertain, adopt and disseminate information and ideas of all kinds without regard for borders, be it by word of mouth, in writing, or in printed form" or "by means of art" (Item 2, Article 13 of the first agreement) is being persecuted not only out of court but also in court, often under the cloak of criminal charges (to which testify, among other things, the trials against young musicians now in progress).

The central administration of all means of communication and of publications and cultural institutions suppresses the freedom of voicing one's opinion in public. No political, philosophical or scientific opinion which only slightly deviates from the narrow framework of the official ideology or esthetics can be published; public criticism against phenomena of social crises is made impossible; the possibility of public defense against false and offending contentions by official propaganda is out of the question (there is no legal protection in practice against "attacks against honor and reputation" which is unequivocally guaranteed by Article 17 of the first agreement); mendacious accusations cannot be refuted, and any attempt at obtaining rectification or correction by legal action is to no avail; an open discussion in the sphere of intellectual and cultural work is out of the question. Many people working in science and culture and other citizens are discriminated against only because years ago they had published or publicly uttered views which are condemned by the current political powers.

The freedom of religion, expressly guaranteed in Article 18 of the first agreement, is being systematically curtailed by dictatorial arbitrariness; by the curtailment of the activities of clergymen over whom constantly looms the threat of withdrawal or loss of state approval for the execution of their function; by substantial reprisals or other reprisals against people who manifest their religious creed by word or deed; by the suppression of religious instruction and similar measures.

The instrument for the curtailment and often also the complete suppression of a number of civil rights is a system of de facto subordination of all institutions and organizations in the state to the political directives of the apparatus of the ruling party and to the decisions of dictatorially influential individuals. The Constitution of Czechoslovakia, other laws and legal norms regulate neither content and form nor preparation and application of such decisions; they are primarily adopted behind the scenes, often only orally; on the whole are unknown to the citizens and beyond their control; their authors are responsible to nobody but themselves and their own hierarchy, though they are thus decisively influencing the activities of legislative and executive organs of the state administration, the judiciary, trade union organizations, interest groups, and all other social organizations, other political parties, enterprises, plants, institutes, authorities, schools, and other facilities, their orders have priority over laws. If organizations or citizens are plunged into a position at odds with the directive in their interpretation of their rights and duties, they have no opportunity to call upon a neutral institution because there is none. All this seriously tends to curtail those rights which emerge from Articles 21 and 22 of the first agreement (freedom of assembly and the prohibition of any limitation in its exercising) as well as from Article 25 (equality before the law). This state of affairs also prohibits workers and other people engaged in their vocations from establishing trade union and other organizations for the protection of their economic and social interests without any restriction whatsoever and to freely apply the right to strike (Item 1, Article 8 of the second agreement).

Other civil rights, including the explicit prohibition of "arbitrary interference in private life, family, home, or correspondence," (Article 17 of the first agreement) have been considerably violated by the fact that the Ministry of the Interior has been controlling the life of citizens in various ways, such as tapping telephones and apartments, checking the mail, through surveillance, searches of houses, the establishment of a network of informers recruited from the people, (often with the help of threats or promises) and so forth. The Ministry of the Interior often interferes in decisions of employers, inspiring discriminating actions of authorities and organizations, influencing organs of justice, and guiding propaganda campaigns of communication means. This activity does not take place according to law. It is secret and the citizen can in no way defend himself against it.

In cases of politically motivated prosecution, investigation and justice organs are violating the rights of the accused granted by Article 14 of the first agreement and by Czechoslovak law. People sentenced for such things are being treated in prisons in a way that violates the human dignity of the arrested, jeopardizes their health, and aims at breaking them morally.

Point 2 of Article 12 of the first agreement also has been being violated, granting citizens the right to leave the country freely. Under the pretext of "protection of national security" (Point 3), this right has been linked to various illegal conditions. Arbitrary action has been taking place in granting visas to members of foreign states. Many of them are not permitted to visit Czechoslovakia because they had professional or friendly relations with persons who have been discriminated against in our country.

Some citizens point out—be it privately, at the place of employment or publicly, which is possible only in foreign communication means—the systematic violation of human rights and democratic freedom, demanding to stop it in concrete cases. But usually there is no reaction or they become the subject of investigation.

Responsibility for maintaining civil rights in the country certainly is mainly held by the political and state powers; but not by them alone. Everybody bears partial responsibility for general conditions and thus for adhering to codified agreements, which is not up to governments alone but to all citizens. The feeling of joint responsibility, the conviction that the engagement of citizens makes sense and the determination to engage, as well as the joint desire to find a new effective expression for it, created the idea among us to set up Charter 77, the creation of which we are announcing publicly today.

Charter 77 is a free, informal and open community of people of different convictions, different religions and different professions, united by the will of acting individually or jointly for the respect of civil and human rights in our country and in the world—those rights which have been granted to the people by both codified international pacts, the final document of the Helsinki conference and numerous other documents against war, and which have been summarized in the UN General Declaration of Human Rights.

Charter 77 is no organization, it has no friendship of people motivated by the joint concern for the fate of ideals with which they have linked their life and work.

Carter 77 is no organization, it has no statutes, no permanent organs and no organized membership. Everybody belongs to it who agrees with its ideas, partakes in its work, and supports it.

Charter 77 is no basis for opposition political activity. It wants to serve joint interests as do many similar initiatives of citizens in various countries of the West and the East. It does not want to establish its own programs aimed at political or social reforms or changes. Within its sphere of activity it wants to lead a constructive dialog with political and state powers, particularly by pointing out various concrete cases where human and civil rights have been violated. It wants to prepare the documentation of this, suggest solutions, make various general suggestions aimed at intensifying these rights and their guarantees, and it wants to act as mediator in conflict situations which might be created by illegal action.

With its symbolic name, Charter 77 is stressing that it was created on the eve of a year which has been declared the year of the rights of political prisoners, and in the course of which the Belgrade conference is supposed to examine the fulfillment of Helsinki commitments.

As the signatories of this manifesto we are authorizing Prof. Dr. Jiri Hajek, Dr. Vaclav Havel and Prof. Dr. Jan Patocka to act as spokesmen of Charter 77. These spokesmen are authorized to represent Charter 77 to state and other organizations and to our public and the world. With their signatures they are guaranteeing the authenticity of the Charter 77 documents. They will find in us, and other citizens who will join us, fellow workers who will support the necessary actions together with them, who will take over individual tasks, and who will share the responsibility with them.

We believe that Charter 77 will contribute to all citizens being able to work as free people in Czechoslovakia.

PRAGUE, *1 January 1977.*

TRIBUTE TO THE LATE MAYOR RICHARD DALEY OF CHICAGO

(Mr. WRIGHT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, our country lost a great and effective leader last month with the passing of Mayor Richard Daley of Chicago. His death brought to an end one of the longest and most successful city administrations in our Nation's history.

On the day before Mayor Daley died he and his family had a Christmas party attended by the Reverend Gilbert J. Graham, O.P., administrator of St. Jude Chapel in Dallas, Tex. Father Graham had been a friend of Mr. Daley since the two men met at St. Pius Parish in Chicago 25 years ago.

When Father Graham was sent to Rome several years ago to serve as assistant to the general of the Dominican order, he and Mayor Daley remained in frequent contact, as they did when he moved to Dallas last March.

By coincidence Father Graham was among the last people to talk with Mr. Daley before he passed away. Still in Chicago when he learned of the mayor's passing, Father Graham remained to serve funeral mass for his friend.

In a moving tribute to Mr. Daley, Father Graham said:

He was our first and our best. He was a very special man.

I include the text of Father Graham's homily in the RECORD at this point:

HOMILY AT THE FUNERAL MASS FOR RICHARD J. DALEY, NATIVITY CHURCH, DECEMBER 1976

(By Rev. Gilbert J. Graham, O.P.)

May it Please Your Eminence; Mr. Vice-President, representing the President of the United States; President-elect Carter; Distinguished Members of the Hierarchy; Distinguished Civil Servants; My fellow Priests and Religious; Members of the bereaved Daley Family; Distinguished Guests, all.

"He who would write an epitaph for you, must first begin to be as you were, for none can know your worth, your life, but he who has lived so."

If you were to apply the criteria of the poet to one who must speak over Richard J. Daley, in my opinion, no one in Chicago could quite qualify. He was our first and our best. He was a very special man.

Mrs. Daley and her family have asked that there be no formal eulogy this morning. It just wasn't his style. The quality of his life and his actions are enough eulogy.

And certainly, the magnificant tribute paid to him yesterday by more than one hundred thousand of his friends and neighbors, who stood in freezing temperatures, some of them for more than two hours, to pay their respects to him and his family, is far more eloquent testimony to the measure of this man than any feeble words of mine could ever be.

The presence this morning of our nation's highest leaders who have come here, during Christmas week, is a tribute that is deeply appreciated by the Daley Family and equally by the people of Chicago who cherish him so dearly.

Mayor Daley was known everywhere as a man of power. And many people interpreted that to mean political power, which I know he would have placed far down on his list of priorities.

But he was indeed a man of great power and it was the secret to the tremendous success of his life and to the blessed, noble, manner in which he died. He was a man who had the great power to love and a great capacity for love. It began with God and his Family and extended to everyone around him and especially to the City of Chicago and all The People in it. How he loved them and how they knew he loved them. This love was the key to that tremendous activity and enthusiasm that always characterized him.

No man every wanted to die less than Mayor Daley because he had so much to live for and so much love in his home and family life and so much fulfillment in the privilege of serving his fellow man which he knew was his special vocation from God.

Yet, he truly had no fear of death nor its consequences. He was very much at home talking about the deep truths of his Faith, or, talking to his God, which he did every day in a life of prayer that could well be the envy of any priest or religious.

When the contents of his wallet were looked at—at the time of his death—there were his family pictures, a small Sacred Heart badge, and at least a dozen well-worn prayer cards which he used each day in fulfilling his responsibilities and carrying his crosses.

And once he told me, that at night he never had need of any sleeping medication because he always had his rosary which calmed him and prepared him for rest, no matter what the problems of the day might have been.

God was so good to him in life—and no man appreciated it more. His last days were days of loving preparation for the Christmas he will celebrate this year with Christ Himself.

The Second Reading and the Responsorial Psalm, which we prayed together this morning, are the prayers he offered in his home, in the presence of his entire family on Sunday—the day before God called him. It was on this Sunday that he celebrated his family Christmas so as not to inconvenience the young families of his children on Christmas Day.

And, as always, that family celebration began with the Holy Sacrifice of the Mass which he loved and in which he always took an active part—even to the preparation of the altar. What a beautiful day it was for all who participated. What a treasured memory—because, as always, he expressed his love and devotion as only he could—openly, loyally, and so gratefully.

How prophetic the words of the Responsorial Psalm which he prayed in that Mass and which we prayed this morning. "Lord, make us turn to you, let us see your face and we shall be saved."

And on Monday—the day God took him—with his loving partner in all things, he began the day again with Mass and Holy Communion, as he did almost every day of his life—to prepare himself to do God's will in all things—which was his first priority.

It is fitting that we conclude this homily with the personal prayer which Richard Daley offered each day and which gave him such strength and such depth. It was his creed and his code—and he lived it with great distinction. It is the praver of Saint Francis of Assisi, which is printed on his memorial card. And I would ask you to join me and, I thank, to join him, as we offer this prayer.

Lord, make me an instrument of your Peace! Where there is hatred—Let me sow love; Where there is injury—pardon; Where there is doubt—faith; Where there is despair—hope; Where there is darkness—light; Where there is sadness—joy.

O Divine Master, grant that I may not so much: Seek to be consoled—as to console; To be understood—as to understand; To be loved—as to love; For it is in giving—that we receive; It is in pardoning—that we are pardoned; It is in dying—that we are born to Eternal Life.

And may God rest this man's beautiful soul. In the name of the Father, and of the Son, and of the Holy Spirit. Amen.

CONGRESSMEN DINGELL AND BROYHILL INTRODUCE MOBILE SOURCE EMISSION CONTROL AMENDMENTS OF 1977

(Mr. DINGELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DINGELL. Mr. Speaker, today Congressman JAMES T. BROYHILL of North Caroina and I are jointly reintroducing the Dingell-Broyhill auto emission control standards previously approved by the House and now contained in H.R. 2380, the Mobile Source Emission Control Amendments of 1977.

We are seeking cosponsors to this legislation and are urging prompt action by Congress on our bill to amend the Clean Air Act of 1970 and to establish new, technologically achievable, and balanced auto emission standards for 1978 and the years beyond.

The statutory standards for automobile model year 1978 cannot be met. This is confirmed and agreed to by several Government, industry, congressional, and other sources. The law must be changed and new standards established for 1978 and future years. Autos for model year 1978 cannot be certified by the Environmental Protection Agency until the law is amended. As is normal each model year, production begins during the preceding summer.

Congress must act swiftly. The scheduled manufacturing cycle for autos and the automotive related industry timetables cannot be interrupted. Interruptions and dislocations would cause unnecessary economic and job disruptions in the overall industry which has major impact on the Nation's total economic well-being.

The Dingell-Broyhill schedule of auto

emission standards was overwhelmingly adopted by the House, 224 to 168, last September 15, but regrettably was not contained on the conference report. The Dingell-Broyhill schedule is proven to be the most balanced in terms of continued clean air improvements, auto fuel efficiency, lower consumer costs, job production and protection, auto model availability, and would not lock out other potential engine and emission control technology in research and development for today's cars or future models.

Autos already have achieved major emission reductions since the 1970 law was enacted. The Dingell-Broyhill standards continue that phased reduction intended by law. As older cars are replaced by newer, clean burning autos, the objectives of the act are being met. Our schedule also tightens the standards and achieves lower emissions. It meets the purpose of the act to improve air quality and has the advantage of conserving fuel while other proposals wasted fuel and increased consumer costs.

The Dingell-Broyhill schedule is the most responsible long-term solution for further reductions. The standards in our bill have been recommended to Congress and supported by Administrator Russell Train of the EPA. These standards provide the best mix of clean air, health benefits, environmental safeguards, improved energy conservation, fuel efficient cars, and reduced consumer costs. New, clean burning and fuel conserving cars also encourage sales. Jobs in the overall industry and its numerous supporting industries would be protected. Therefore, our bill also is oriented toward economic improvement for the country.

In addition to the Dingell-Broyhill auto emission standards, outlined in the attached summary of our Mobile Source Emission Control Amendments of 1977, the bill includes other emission control sections affected by the Clean Air Act. These sections, as outlined, are essentially identical to the House-passed bill and the conference report of 1976. Errors in the conference report have been corrected and language refined. Our bill meets the intent of the law and resolves other emission issues as Congress intended in the amendments last year before the conference report died in the Senate filibuster.

Only the automobile high altitude emission control section has undergone any major revision from the conference report by the additional requirement that EPA hold new hearings and initiate new rulemaking proceedings regarding standards to be met by autos operating in high altitude areas.

None of the controversial stationary source emission control provisions of the conference report of 1976 are included. Those issues can be handled in separate legislation so the urgent congressional response to auto-related mobile source controls will not be delayed.

The mobile source emission control amendments we have introduced properly and expeditiously respond to need for certain changes in the law.

Mr. Speaker, we enclose at this point in the RECORD the summary of the Mobile Source Emission Control Amendments of 1977, H.R. 2380.

SECTION BY SECTION SUMMARY: DINGELL-BROYHILL MOBILE SOURCE EMISSION CONTROL AMENDMENTS OF 1977

SECTION 1—SHORT TITLE

SECTION 2—LIGHT-DUTY MOTOR VEHICLE EMISSIONS

This is the same Dingell-Broyhill provision which was overwhelmingly adopted by the House on September 15, 1976, by a vote of 224–169. It provides that automobiles manufactured during model years 1978 and 1979 meet the same emissions standards applicable for model year 1977, that is—1.5 gpm hydrocarbons, 15.0 gpm carbonmonoxide, and 2.0 gpm oxides of nitrogen. For model years 1980 and 1981 the standards are .9 gpm HC, 9 gpm CO, and 2.0 gpm NOx. For 1982, and subsequent model years the standards require a full 90 percent reduction in emissions of carbon monoxide and hydrocarbons from the levels emitted in model year 1970. However, in regard to oxides of nitrogen, the EPA Administrator is required to set a standard for the 1982 and 1983 model years (and, at his discretion, later model years) at a level which he determines to be technologically practicable taking into account the cost of compliance, the need for such standards to protect public health and the impact of such standards on fuel consumption.

Thus, applicable Federal standards under this provision would be as follows:

	HC (gpm)	CO (gpm)	NO_x (gpm)
1978–79	1.5	15	2.0
1980–81	.9	9	2.0
1982 and thereafter	.41	3.4	[1]

[1] Adm. set by EPA.

SECTION 3—TAMPERING

This section broadens the existing prohibition of the Clean Air Act against knowing removal or tampering with emission controls to cover any person engaged in the business of repairing, servicing, selling, leasing, or trading motor vehicles or engines or who operates a fleet of motor vehicles, and specifies the penalties for violations. This section also provides that the prohibition does not require use of manufacturer parts for maintenance or repair.

SECTION 4—TESTING BY SMALL MANUFACTURERS

This section which originated in the House and was accepted by the House and Senate Clean Air Conference during the 94th Congress, limits certification testing for vehicle manufacturers with projected annual sales of 300 or less to 5,000 miles or 160 hours.

SECTION 5—HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

This section, which includes the same provision approved by the House and adopted by the Conference, exempts the adjustments of emission control systems of high altitude vehicles from the anti-tampering provision of existing law, if the adjustment does not adversely effect emission performance. The manufacturer is required to submit to the Administrator adjustment instructions.

In addition, this section adds a new provision which authorizes EPA to conduct a new rulemaking proceeding to determine the most appropriate method of implementing the Act's mobile source emission requirements for model year 1978 and thereafter with respect to light duty vehicles intended for principal use in high altitude areas. EPA is directed to consider the economic impact of any such regulation upon consumers, franchised dealers and the manufacturers, the state of the art of emission control technology, and the probable impact of such regulation on air quality in the affected areas.

SECTION 6—WARRANTIES AND MOTOR VEHICLE PARTS CERTIFICATION

This section provides that the performance warranty under the existing Clean Air Act shall not be invalidated on the basis of the use of parts that have been certified in accordance with regulations which EPA shall promulgate within two years.

This section further provides that the performance warranty mandated by law shall be for a period of 18 months or 18,000 miles, which ever first occurs. It also requires notification in the manufacturer's maintenance instructions that maintenance or repair may be performed using certified parts.

SECTION 7—PARTS STANDARDS: PREEMPTION OF STATE LAW

When the parts certification program provided for in Section 6 is finally implemented, the States, except California, are preempted from adopting or enforcing any requirement applicable to the same aspect of the part.

SECTION 8—SULPHUR EMISSIONS STUDY

This section originated in Senate and was adopted by the Conference. The Administrator is required to conduct a study of emissions of sulfur compounds from motor vehicles and aircraft. Health and welfare effects of such emissions are to be reviewed and alternative control strategies are to be analyzed. This study will be reported to Congress by January 1, 1978.

SECTION 9—DEFINITION OF EMISSION CONTROL DEVICE OR SYSTEM

This section defines, for the purposes of Section 207, the term "emission control device or system" to mean catalytic converters, thermal reactors, or other components installed on or in a vehicle for the purpose of reducing auto emissions.

SECTION 10—RAILROAD LOCOMOTIVE EMISSION STANDARDS

Both the Senate and House passed a similar locomotive emission provision during the 94th Congress. This section is essentially the same as proposed by the Senate and agreed to by the Clean Air conferees. It amends existing law by adding a new provision which provides that the Administrator must promptly begin study and investigation of the air quality impacts of emissions from railroad locomotives, and of the technological feasibility of controlling such emissions. The Administrator must publish this study and propose emission standards reflecting the degree of emission reduction achievable through the application of the best available technology taking into account the cost of compliance.

Within 90 days of proposal and after public hearings, the regulations must be promulgated, to become effective when the Administrator determines in consultation with the Secretary of the Department of Transportation that the requisite technology is available for application, taking into account the cost of compliance within such period.

After such regulations become effective, the Federal emission standards are preemptive.

SECTION 11—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

This section establishes comprehensive procedures for informal rulemaking under the Clean Air Act, which would apply in lieu of the Administrative Procedure Act. The section (a) specifies the rules and actions to which such procedures will apply; (b) provides for establishment of a rulemaking

docket for each of these rules or actions; (c) describes the material and data that are required for inclusion in the record and mandates that the Administrator must base any rule or other action solely on the information and data contained in the record; (d) establishes the procedures for participation in the rulemaking process, including cross-examination on material issues of disputed fact; (e) provides the standards of judicial review, including the "substantial evidence" test; (f) modifies certain deadlines for promulgation of rules; and (g) extends to 60 days the period of petitioning for judicial review of any such rule.

SECTION 12—AUTHORIZATIONS

This bill authorizes annual appropriations of $200,000,000 for fiscal year 1978, 1979, and 1980.

BAKE AND TAKE DAY

(Mr. SEBELIUS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEBELIUS. Mr. Speaker, over the centuries, wheat bread has become known to mankind as the "staff of life" because of man's dependence upon it. The reverence in which men held wheat and bread over the ages still lives in the Lord's Prayer: "Give us this day, our daily bread"; and in the wafers of the Eucharist. In the Hebrew faith, the eating of unleavened matzoth during Passover also marks the significance of bread in religion.

So many foods today are made from or contain wheat that we take it for granted, an accepted and often unnoticed part of our daily meals. One bushel of wheat will provide about 70 loaves of whole wheat bread, and more than 40 million loaves of bread are sold in the United States each day. Macaroni, spaghetti, noodles, cookies, crackers, cakes, and pastries are a few of the myriad of wheat foods products.

Of the 40-odd essential nutrients, all but 6—vitamins A, D, B-12 and C, plus sodium and chlorine—can be found in a whole kernel of wheat. Wheat also contains good levels of all the essential amino acids, although it is comparatively low in lysine. Calorie for calorie, it contains a high concentration of 18 nutrients, including important trace minerals. Recent studies have led scientists to believe that the intake of wheat fiber in the human diet, specifically wheat bran, plays an important role in preventing colonic cancer, the second most frequent cause of cancer mortality in this country.

The United States is by far the world's leading exporter of wheat and flour, thereby supplying nutritious food to multitudes around the globe. Kansas is easily the leading producer of wheat, and plays a major role in this humanitarian endeavor.

As a reminder of the importance of wheat foods in our lives, and to personally deliver fresh bakery products to the elderly, ill and shut-in, the Kansas Wheathearts, auxiliary of the Kansas Association of Wheat Growers, have initiated a "Bake and Take Day," that has grown to national proportions. Since its inception in 1971, National Bake and Take Day is now observed on the fourth Saturday in March by an average of 18 States. In fact, President Jimmy Carter signed Bake and Take Day proclamations twice while he was Governor of Georgia.

Mr. Speaker, it is the earnest wish of the Kansas Wheathearts that this event be observed in every State. As the representative of the largest wheat-producing district in the Nation it is an honor for me to again introduce a concurrent resolution that would make this possible.

MANDATORY RABBIT MEAT INSPECTION

(Mr. SEBELIUS asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. SEBELIUS. Mr. Speaker, today, the junior Senator from my State, BOB DOLE, and I are introducing a bill which would make rabbit meat inspection mandatory, at Federal cost, by extending the provisions of the Poultry Products Inspection Act to rabbits and rabbit products.

The American consumer is rightfully entitled to healthful, high quality meat. To achieve that purpose, the Federal Government has seen fit to establish mandatory meat and poultry inspection programs within the U.S. Department of Agriculture. In the case of rabbit meat, however, Federal inspection is strictly voluntary—under the Agricultural Marketing Act of 1946—and paid for only by processors who request it. Under this voluntary program, Federal inspectors conduct antemortem inspection of live rabbits and postmortem inspection of the dressed meat.

Nearly half the rabbit meat sold in the United States is imported from such countries as the People's Republic of China and Poland. Little or nothing is known about the quality of rabbit inspection in these two countries. Under the legislation that I am introducing today, imported rabbit meat would be required to be prepared under standards at least equal to those in the United States.

Although imported domesticated rabbit meat is subject to inspection by the Food and Drug Administration to determine compliance with the requirements of the U.S. pure food laws, it does not appear that all shipments are inspected, and it is not clear whether laboratory bacterial testing is conducted on all inspection performed by officials of that Agency.

An additional benefit of this bill would be to encourage rabbit production as a hobby and supplemental income among our youth, elderly and minority populations. Rabbit is tasty, highly nutritious, and low in fat and cholesterol.

I firmly believe that mandatory inspection of the major rabbit processing plants and imported shipments of rabbit meat would insure the American consumer of healthy, sanitary, high quality rabbit meat. Such a move would be in the best interests of both the U.S. rabbit producers and American consumers.

CONGRESSIONAL PAY RAISE ACT

(Mr. MURPHY of Pennsylvania asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MURPHY of Pennsylvania. Mr. Speaker, recently I joined Congressman EMERY and a number of my colleagues in introducing a resolution of disapproval of all the pay increase recommendations made by the Quadrennial Commission. The concept of automatic pay raises was embodied in the Pay Comparability Act and provides that Members of Congress and others named in the act should receive the same annual raise as is provided to civil service employees. I am strongly opposed to the automatic pay increase concept as it applies to the Congress because I believe current congressional salaries for Members are already adequate, and because such increases can contribute to an inflationary trend.

The deadline for a resolution of disapproval for the congressional pay raise proposal is fast approaching, and quick action is needed before February 16, when the Quadrennial Commission's recommendations would take effect.

Taking into account the time limitation that is upon us, and the political realities involved, I am today introducing a resolution of my own which will nullify the Commission's recommendations as they apply only to the Vice President and Members of Congress. My resolution should be more readily acceptable to the Members of the House, and I am seeking the strong support of the Democratic majority in the House to secure its passage.

I trust that my resolution will immediately be referred to the House Post Office and Civil Service Committee, which has jurisdiction over such matters, and that Congressman NIX and my colleagues on the committee will act on this measure soon to provide the House time to vote on the resolution before the February 16 deadline.

SEPARATING MEMBERS OF CONGRESS FROM OTHER MEMBERS OF FEDERAL GOVERNMENT IN DETERMINING SALARY INCREASES

(Mr. PICKLE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PICKLE. Mr. Speaker, today I am introducing legislation which would separate Members of Congress from other members of the Federal Government in determining salary increases.

I have sponsored this bill in previous sessions and still believe that the basic principles behind it are worthy.

When former President Ford submitted his budget for the next fiscal year last week, he included a 28-percent increase in compensation for Members of Congres, the Federal judiciary, and certain civil service personnel. During the 94th session, Congress approved an increase for these three groups which was their first such boost since 1969. Since there was no way at that time to separate

these groups, I voted for the additional pay. But I do believe that it is more equitable to vote on the question of upping our own pay by itself. This is certainly a very controversial question and I do not feel that we should tie ourselves to the judges, the physicians at the National Institutes of Health, and others.

There are many who believe that Members need an increase in basic pay. Convincing and compelling arguments can be made for that proposal and personally I would favor a modest increase, though not the amount recommended by the Peterson Commission. But it is my feeling that we owe it to ourselves and to our constituents to disapprove the automatic increase inherent in the budget submitted by Mr. Ford and pass my bill allowing us to consider Member's salaries separately:

H.R. —

A bill to remove Members of Congress from the purview of section 225 of the Federal Salary Act of 1967, relating to the Commission on Executive, Legislative, and Judicial Salaries, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356) relating to the Commission on Executive, Legislative, and Judiciary Salaries, is amended—

(1) by striking out paragraph (A), relating to Senators, Members of the House of Representatives, and the Resident Commissioner from Puerto Rico (and including all Delegates to the House); and

(2) by redesignating paragraphs (B), (C), (D), and (E) thereof as paragraphs (A), (B), (C), and (D), respectively.

EXEMPTION FROM FEDERAL INCOME TAX NONPROFIT COMPANIES THAT INSURE CREDIT UNIONS

(Mr. PICKLE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PICKLE. Mr. Speaker, on the first day the 95th Congress was in session, I introduced H.R. 1153 that would exempt from the Federal income tax nonprofit companies that insure shares in credit unions. Present law already exempts from Federal income taxation mutual nonprofit corporations or associations organized before September 1, 1957, which provide reserve funds for, and insurance of, shares or deposits in domestic building and loan associations, certain cooperative banks, or mutual savings banks. However, no similar exemption is provided for State-chartered organizations which provide reserve funds for, and insurance of, shares or deposits in credit unions even though these credit unions do qualify for tax exemption.

According to a staff report by the Ways and Means Committee, August 24, 1976, there are currently in existence 14 State-chartered corporations, or associations, which provide reserve funds for, and insurance of shares or deposits in, State-chartered credit unions. This does not result in a large revenue loss, it is estimated at less than $5 million per year. This bill would benefit State-chartered nonprofit credit unions in that they would receive the same tax exemption that is already allowed entities which perform comparable functions, the Federal agency insuring credit unions and State-chartered agencies serving mutual savings banks and State-chartered building and loan associations. This is only fair treatment.

AMENDING AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

(Mr. PICKLE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PICKLE. Mr. Speaker, I am today introducing a bill to amend the Age Discrimination in Employment Act of 1967 to provide for the nondiscrimination on account of age in Government employment, and in Federal Government employment. It seems to me that the Federal Government should serve as a model for the private sector and, therefore, I urge that we adopt this law so that we can encourage the private sector to follow.

One of the benefits of modern medicine and nutrition is that we are constantly lengthening the average span of life. Today it is increasingly common for our citizens to have not just one career, but several careers in a life time. Yet often a person attempting to change jobs in mid life is not hired, because they want a younger person. This is not fair and is depriving us of the best utilization of our manpower.

My bill allows the Civil Service Commission to establish maximum age requirement only if age is a bona fide occupational qualification necessary to the performance of the duties of the position. The bill does not affect present retirement programs.

Discrimination on account of age is one of the cruelest forms of discrimination. We know that we all age, yet we fail to acknowledge the skills and wisdom that come with age. My bill would put every applicant on an equal basis, regardless of age:

H.R. —

A bill to amend the Age Discrimination in Employment Act of 1967 to provide for the nondiscrimination on account of age in government employment, and in Federal Government employment

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a)(1) That the second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, but such term does not include the United States, or a corporation wholly owned by the Government of the United States."

(2) Section 11(c) of such Act is amended by striking out "or any agency of a State or political subdivision of a State, except that such terms shall include the United States Employment Service and the systems of State and local employment services receiving Federal assistance."

(b)(1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as section 16 and section 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 2. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military department as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, of the government of the District of Columbia having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age. The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken or any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any persons aggrieved may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective

defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law.".

EFFECTIVE DATE

SEC. 3. This Act shall become effective upon the expiration of sixty days after the date of its enactment.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. BOLAND, for 10 minutes, today.

(The following Members (at the request of Mr. CAPUTO) to revise and extend their remarks and include extraneous material:)

Mr. EMERY, for 60 minutes, today.
Mr. ARCHER, for 15 minutes, today.
Mr. QUIE, for 5 minutes, today.
Mr. KEMP, for 10 minutes, today.
Mr. ANDERSON, for 10 minutes, today.
Mr. CONABLE, for 15 minutes, today.
Mr. STEERS, for 5 minutes, today.
Mr. FISH, for 15 minutes, today.
Mr. QUAYLE, for 5 minutes, today.
Mr. WHALEN, for 5 minutes, today.
Mr. MCCLORY, for 20 minutes, today.
Mr. EDWARDS of Oklahoma, for 5 minutes, today.

(The following Members (at the request of Mr. MURPHY of Pennsylvania) and to revise and extend their remarks and include extraneous matter:)

Mr. ROSTENKOWSKI, for 10 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. KOCH, for 10 minutes, today.
Mr. LAFALCE, for 5 minutes, today.
Mr. MCFALL, for 5 minutes, today.
Mr. SHARP, for 5 minutes, today.
Mr. DRINAN, for 30 minutes, today.
Mr. AUCOIN, for 15 minutes, today.
Mr. UDALL, for 5 minutes, today.
Mr. MINISH, for 5 minutes, today.
Mr. BENJAMIN, for 5 minutes, today.
Mrs. BOGGS, for 5 minutes, today.
Mr. BINGHAM, for 10 minutes, today.
Mr. HARRIS, for 5 minutes, today.
Mr. SIKES, for 10 minutes, today.
Mr. VOLKMER, for 10 minutes, on January 27.
Mr. LUNDINE, for 10 minutes, on January 27.
Mrs. BOGGS, for 60 minutes, on February 3.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CAPUTO) and to include extraneous material:)

Mr. GILMAN.
Mr. COUGHLIN.
Mr. GOLDWATER.
Mr. RINALDO in two instances.
Mr. FINDLEY in two instances.
Mr. CRANE in two instances.
Mr. MCKINNEY.
Mr. KEMP in five instances.
Mr. SARASIN in four instances.
Mr. WINN.
Mr. MCCLORY.
Mr. WHITEHURST.
Mr. LENT.
Mr. DEL CLAWSON in two instances.
Mr. WYDLER in two instances.
Mr. SYMMS in two instances.
Mr. COHEN.
Mr. RHODES.
Mr. DERWINSKI in two instances.
Mr. GRADISON in two instances.
Mr. ASHBROOK in six instances.
Mr. EVANS of Delaware.
Mr. CORCORAN of Illinois.
Mr. MARTIN in two instances.
Mr. LAGOMARSINO in three instances.
Mr. KASTEN.
Mr. MICHEL.
Mr. STEIGER in three instances.
Mr. COLEMAN in two instances.

(The following Members (at the request of Mr. MURPHY of Pennsylvania) and to include extraneous matter:)

Mrs. LLOYD of Tennessee.
Mr. FISHER.
Mr. MCDONALD in three instances.
Mr. RICHMOND.
Mr. ECKHARDT.
Mr. BYRON.
Mr. CLAY in two instances.
Mr. EVANS of Georgia in five instances.
Mr. MAZZOLI.
Mr. BAUCUS.
Mr. DINGELL in three instances.
Mr. LAFALCE.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. SISK.
Mr. HAMILTON.
Mr. ROSENTHAL.
Mr. LE FANTE.
Mr. ROE.
Mr. MINISH.
Mr. WAXMAN.
Mr. DRINAN in two instances.
Mr. KOCH in six instances.
Mr. KREBS.
Mr. WIRTH.
Mr. HARRIS.
Mr. PANETTA.
Mr. WEISS in two instances.
Mr. MOAKLEY in three instances.
Mr. RANGEL.
Mr. HARKIN.
Mr. BOLAND.
Mr. RAHALL in three instances.
Mr. BLANCHARD.
Mr. VENTO.

ADJOURNMENT

Mr. BARNARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 39 minutes p.m.), the House adjourned until tomorow, Thursday, January 27, 1977, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

559. A letter from the President of the United States, transmitting a draft of proposed legislation to authorize the President of the United States to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting requirements for high priority uses; to provide authority for short-term emergency purchases of natural gas; and for other purposes (H. Doc. No. 95–64); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

560. A letter from the Secretary of Agriculture, transmitting the fourth annual report on rural development progress, pursuant to section 603(b) of the Rural Development Act of 1972; to the Committee on Agriculture.

561. A letter from the Director, Office of Legislative Affairs, Department of the Navy, transmitting notice of the intention of the Department of the Navy to sell certain naval vessels to the Republic of China, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

562. A letter from the Director, Defense Civil Preparedness Agency, transmitting a report on property acquisitions of emergency supplies and equipment covering the quarter ended December 31, 1976, pursuant to section 201(h) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

563. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–152, "To amend the Healing Arts Practice Act, District of Columbia, 1928, to revise the composition and authority of the Commission on Licensure to Practice the Healing Art, and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

564. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–193, "To amend the laws of the District of Columbia relating to marriage, divorce, and child custody; abolition of certain common law causes of action; and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

565. A letter from the Deputy Director Office of Management and Budget, Executive Office of the President, transmitting a report on actions taken on recommendations contained in the report of the National Commission for Manpower Policy entitled "Toward a National Manpower Policy," dated October 31, 1975, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

566. A letter from the Attorney General, transmitting notice of four proposed changes in recordkeeping practices within the Department of Justice, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

567. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during December 1976, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

568. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to repeal section 317(c) of the Federal Land Policy and Management Act of 1976; to the Committee on Interior and Insular Affairs.

569. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of proposed changes in the Dallas Creek Project, Colorado, under the Colorado River Storage Project Act; to the Committee on Interior and Insular Affairs.

570. A letter from the Chairman, Advisory Council on Historic Preservation, transmit-

ting a draft of proposed legislation to amend the National Historic Preservation Act of 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes; to the Committee on Interior and Insular Affairs.

571. A letter from the Chairman, Indian Claims Commission, transmitting a report of the final determination of the Commission in docket No. 100–B–1 (*Klamath and Modoc tribes and Yahooskin band of Snake Indians, Plaintiff, v. The United States of America, Defendant,* pursuant to section 21 of the Indian Claims Commission Act; to the Committee on Interior and Insular Affairs.

572. A letter from the Secretary of Commerce, transmitting notice of Federal recognition of "Expo '81", an International General Category I (Universal) Exposition proposed to be held in 1981 in Ontario, Calif., pursuant to section 2(c) of Public Law 91–269; to the Committee on International Relations.

573. A letter from the Acting Administrator, Federal Energy Administration, withdrawing energy actions Nos. 8 and 9 which amended the mandatory petroleum allocation and price regulations by exempting motor gasoline, transmitted January 19, 1977 (H. Doc. Nos. 95–55 and 95–56) pursuant to section 12 of the Emergency Petroleum Allocation Act, as amended (H. Doc. No. 95–65); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

574. A letter from the Acting Administrator, Federal Energy Administration, transmitting a report on private grievances and redress covering the quarter ended June 30, 1976, pursuant to section 21(c) of the Federal Energy Administration Act of 1974; to the Committee on Interstate and Foreign Commerce.

575. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended (79 Stat. 915); to the Committee on the Judiciary.

576. A letter from the Commissioners, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act (66 Stat. 182); to the Committee on the Judiciary.

577. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Migratory Bird Hunting and Conservation Stamp Act; to the Committee on Merchant Marine and Fisheries.

578. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers on Middle Island Creek Basin, W. Va., requested by resolutions of the Senate and House Committees on Public Works adopted December 3, 1963, and May 8, 1964, respectively; to the Committee on Public Works and Transportation.

579. A letter from the Secretary of Transportation, transmitting a report on those intercity portions of the Interstate System the construction of which would be needed to close essential gaps in the System, pursuant to section 102(b)(2) of the Federal-Aid Highway Act of 1976; to the Committee on Public Works and Transportation.

580. A letter from the Secretary of Transportation, transmitting chapter IX of the national highway safety needs report, concerning Indian highway safety needs, pursuant to section 225 of the Highway Safety Act of 1973; to the Commitee on Public Works and Transportation.

581. A letter from the Deputy Secretary of Transportation, transmitting a draft of proposed legislation to extend and expand the authority of the Secretary of Transportation to provide insurance and reinsurance to air carriers under title XIII of the Federal Aviation Act of 1958, as amended, and for other purposes; to the Committee on Public Works and Transportation.

582. A letter from the Acting Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to terminate the authority for the pursuit of flight training programs by veterans and for the pursuit of correspondence training program by veteans, spouses, and surviving spouses, and for other purposes; to the Committee on Veterans' Affairs.

583. A letter from the Acting Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to set a termination date for eligibility for veterans' home, condominium and mobile home loan benefits under chapter 37, and for other purposes; to the Committee on Veterans' Affairs.

584. A letter from the Acting Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to provide for an 8-year delimiting period for the pursuit of educational programs by veterans, wives, and widows, and for other purposes; to the Committee on Veterans' Affairs.

585. A letter from the President, Legal Services Corporation, transmitting the Corporation's budget request for fiscal year 1978; jointly, to the Committees on Appropriations, and the Judiciary.

586. A letter from the Comptroller General of the United States, transmitting a report comparing the Defense Department's acquisition of the NAVSTAR Global Positioning System with the major system acquisition plan recommended by the Commission on Government Procurement; jointly, to the Committees on Government Operations, and Armed Services.

587. A letter from the Comptroller General of the United States, transmitting a report comparing the Defense Department's acquisition of the Pershing II missile system with the major system acquisition plan recommended by the Commission on Government Procurement; jointly, to the Committees on Government Operations, and Armed Services.

588. A letter from the Comptroller General of the United States, transmitting a report comparing the Defense Department's acquisition of the shipboard intermediate range combat system with the major system acquisition plan recommended by the Commission on Government Procurement; jointly, to the Committees on Government Operations, and Armed Services.

589. A letter from the Under Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to establish in the Department of Health, Education, and Welfare nine officers to be compensated at the Executive Level V or IV; jointly, to the Committees on Post Office and Civil Service, and Interstate and Foreign Commerce.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 2375. A bill to amend the act commonly known as the Miller Act to raise the dollar amount of contracts to which such act applies from $2,000 to $25,000; to the Committee on the Judiciary.

H.R. 2376. A bill to establish a grant program for the acquisition of medical equipment and supplies for the treatment of aircraft accident burn victims; to the Committee on Public Works and Transportation.

H.R. 2377. A bill to amend the Small Business Act to authorize the Administrator of the Small Business Administration to reduce the amount of performance and payment bonds in connection with contracts let to the Administration under section 8(a) of such act; to the Committee on Small Business.

H.R. 2378. A bill to amend the Small Business Act to restrict the authority of the Small Business Administration to deny financial assistance to small business concerns solely because the primary business operations of such concerns relate to the communication of ideas; to the Committee on Small Business.

By Mr. ADDABBO (for himself and Mr. CORMAN):

H.R. 2379. A bill to amend the Small Business Act to require the utilization of small business as a condition of receiving certain amounts of Federal financial assistance for the procurement of articles, equipment, supplies, services, materials, or construction work; to the Committee on Small Business.

By Mr. DINGELL (for himself and Mr. BROYHILL):

H.R. 2380. A bill to amend the Clean Air Act to establish certain motor vehicle emission standards and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. AuCOIN:

H.R. 2381. A bill to improve the quality of unshelled filberts and shelled filberts for marketing in the United States; to the Committee on Agriculture.

By Mr. BINGHAM:

H.R. 2382. A bill to limit the imposition of trade embargoes; jointly to the Committees on International Relations and Ways and Means.

Mr. BLOUIN (for himself, Mr. BALDUS, Mr. BLANCHARD, Mr. CAVANAUGH, Mr. DRINAN, Mr. DUNCAN of Tennessee, Mr. DUNCAN of Oregon, Mr. FOUNTAIN, Mr. GINN, Mr. HARRIS, Mr. HAWKINS, Ms. HECKLER, Mr. HUGHES, Mr. JEFFORDS, Mr. MAZZOLI, Mr. PEASE, Mr. SHARP, Mr. STARK, Mr. STUMP, and Mr. WON PAT):

H.R. 2383. A bill to provide for the regular review of certain Federal agencies and for the abolition of such agencies after such review unless Congress specifically provides for their continued existence; to the Committee on Government Operations.

By Mr. BOWEN:

H.R. 2384. A bill to amend the Internal Revenue Code of 1954 to exempt certain agricultural aircraft from the aircraft use tax, to provide for the refund of the gasoline tax to the agricultural aircraft operator and other purposes; to the Committee on Ways and Means.

By Mr. BRINKLEY:

H.R. 2385. A bill to amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes; to the Committee on Armed Services.

By Mr. BRODHEAD:

H.R. 2386. A bill to amend the Securities Exchange Act of 1934 to require notification by foreign investors of proposed acquisitions of equity securities of U.S. companies, to authorize the President to prohibit any such acquisition as appropriate for the national security, to further the foreign policy, or to protect the domestic economy of the United States, to require issuers of registered secu-

rities to maintain and file with the Securities and Exchange Commission a list of the names and nationalities of the beneficial owners of their equity securities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BROOKS:

H.R. 2387. A bill to amend chapter 53 of title 5, United States Code, to increase the salaries of the chairman and members of the Federal Reserve Board and of the Director and Deputy Director of the Office of Management and Budget; to the Committee on Post Office and Civil Service.

By Mr. BROOMFIELD:

H.R. 2388. A bill to amend the Immigration and Nationality Act to provide for the deportation of any alien who receives welfare benefits as a result of causes not affirmatively shown to have arisen after entry; to the Committee on the Judiciary.

By Mr. BROYHILL:

H.R. 2389. A bill to provide authority to institute emergency measures to minimize the adverse effects of natural gas shortages, to provide for the exemptions of emergency purchases of natural gas for interstate commerce, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BROYHILL (for himself, Mr. MCCLORY, Mr. MITCHELL of New York, Mr. PRESSLER, Mr. KINDNESS, Mr. WHITLEY, Mr. DERWINSKI, Mr. DAN DANIEL, Mr. GRADISON, Mr. PEASE, Mr. RAHALL, Mr. GOLDWATER, Mr. ROE, Mr. DEVINE, and Mr. CHARLES WILSON of Texas):

H.R. 2390. A bill to amend the Natural Gas Act to permit curtailed pipelines to fulfill the needs of high-priority consumers of natural gas; to the Committee on Interstate and Foreign Commerce.

By Mr. JOHN L. BURTON:

H.R. 2391. A bill to provide that the Secretary of State, at the request of an individual issued a passport, not include in the passport the place of birth of such individual; to the Committee on International Relations.

H.R. 2392. A bill to reduce the hazards of earthquakes, and for other purposes; to the Committee on Science and Technology.

By Mr. DON H. CLAUSEN:

H.R. 2393. A bill to amend the Federal Power Act to provide for the reform of electric utility regulation by the Federal Power Commission; to the Committee on Interstate and Foreign Commerce.

H.R. 2394. A bill to amend title II of the Social Security Act to require that procedures be established for the expedited replacement of undelivered benefit checks, to require that decisions on benefit claims be made within specified periods and to require that payment of benefits on approved claims begin promptly; to the Committee on Ways and Means.

By Mr. CLAY (for himself, Mr. BONIOR, Mr. BONKER, Mr. BROWN of California, Mrs. BURKE of California, Mr. CARNEY, Mr. CARR, Mrs. CHISHOLM, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CONYERS, Mr. CORMAN, Mr. CORNELL, Mr. DELLUMS, Mr. DENT, Mr. DICKS, Mr. DIGGS, Mr. DOWNEY, Mr. DRINAN, Mr. EDGAR, Mr. EILBERG, Mr. FAUNTROY, Mr. FLOOD, Mr. FORD of Tennessee, and Mr. FORD of Michigan):

H.R. 2395. A bill to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. CLAY (for himself, Mr. HANLEY, Mr. HARRINGTON, Mr. HARRIS, Mr. HAWKINS, Mr. HOWARD Ms. JORDAN, Mr. KOCH, Mr. LEGGETT, Mr. METCALFE, Ms. MIKULSKI, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. MURPHY of New York, Mr. NIX, Mr. OBERSTAR, Mr. OTTINGER, Mr. PEPPER, Mr. RANGEL, Mr. RICHMOND, Mr. ROONEY, Mr. ROSENTHAL, and Mr. ROYBAL):

H.R. 2396. A bill to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protest such employees from improper political solicitations, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. CLAY (for himself, Mr. SCHEUER, Mrs. SCHROEDER, Mr. SOLARZ, Mrs. SPELLMAN, Mr. STARK, Mr. ST GERMAIN, Mr. STOKES, Mr. UDALL, Mr. WAXMAN Mr. WEAVER, Mr. CHARLES H. WILSON of California, Mr. WIRTH, Mr. WOLFF, and Mr. ZEFERETTI):

H.R. 2397. A bill to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political process of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. COHEN:

H.R. 2398. A bill to require recipients of Federal aid to higher education to provide senior citizens with access, on a space available basis, to already scheduled courses and programs; to the Committe on Education and Labor.

By Mr. COHEN (for himself and Mr. LEACH):

H.R. 2399. A bill to amend title II of the Social Security Act to increase to $5,000 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted any individual each year without deductions from benefits thereunder, and to revise the method for determining the amount of outside earnings so permitted in any specific case; to the Committee on Ways and Means.

By Mr. SISK:

H.R. 2400. A bill to amend the Public Health Service Act to provide financial assistance to medical facilities for treatment of certain aliens; to the Committee on Interstate and Foreign Commerce.

By Mr. COHEN:

H.R. 2401. A bill to authorize reduced fare transportation on airlines, railroads, vessels, and buses for persons who have attained the age of 65; jointly to the Committees on Public Works and Transportation, and Interstate and Foreign Commerce.

By Mr. CONABLE (for himself, Mr. VANDER JAGT, Mr. STEIGER, Mr. FRENZEL, and Mr. MARTIN):

H.R. 2402. A bill to amend the Internal Revenue Code of 1954 to encourage the employment of permanent part-time employees by providing a tax credit for a portion of the wages paid to certain part-time employees; to the Committee on Ways and Means.

By Mr. CONABLE (for himself, Mr. VANDER JAGT, Mr. STEIGER, Mr. FRENZEL, Mr. MARTIN, and Mr. BAFALIS):

H.R. 2403. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit based upon the creation of new jobs and increased employment in private industry; to the Committee on Ways and Means.

By Mr. CONABLE (for himself, Mr. QUIE, Mr. VANDER JAGT, Mr. STEIGER, Mr. FRENZEL, Mr. MARTIN, Mr. ERLENBORN, and Mr. SARASIN):

H.R. 2404. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for the expenses of certain apprenticeship programs, and for other purposes; jointly to the Committees on Ways and Means, and Education and Labor.

By Mr. CORNELL (for himself, Mr. BLOUIN, Mr. MIKVA, Mr. MANN, Mr. ROYBAL, and Mr. SIMON):

H.R. 2405. A bill to amend the Internal Revenue Code of 1954 to allow persons covered by certain other retirement plans to establish personal savings for retirement; to the Committee on Ways and Means.

By Mr. COUGHLIN (for himself, Mr. CRANE, Mr. FLOWERS, Mr. ABDNOR, Mr. BADHAM, Mr. BAUCUS, Mr. BURGENER, Mr. CARTER, Mr. COCHRAN, Mr. COLLINS of Texas, Mr. CORCORAN, Mr. DAN DANIEL, Mr. DICKINSON, Mr. DORNAN, Mr. DUNCAN of Tennessee, Mr. FISH, Mr. GRASSLEY, Mr. KEMP, Mr. KETCHUM, and Mr. LAGOMARSINO):

H.R. 2406. A bill to amend the Internal Revenue Code of 1954 and certain other provisions of law to provide for automatic cost-of-living adjustments in the income tax rates, the amount of the standard, personal exemption, and depreciation deductions, and the rate of interest payable on certain obligations of the United States; to the Committee on Ways and Means.

By Mr. COUGHLIN (for himself, Mr. CRANE, Mr. FLOWERS, Mr. LOTT, Mr. MARTIN, Mr. MATHIS, Mr. MILLER of Ohio, Mr. MOAKLEY, Mr. NEAL, Mr. QUIE, Mr. RINALDO, Mr. ROBINSON, Mr. ROE, Mr. RUDD, Mr. SARASIN, Mr. SCHEUER, Mr. SCHULZE, Mr. TREEN, Mr. TRIBLE, Mr. WALKER, Mr. CHARLES WILSON of Texas, and Mr. WINN):

H.R. 2407. A bill to amend the Internal Revenue Code of 1954 and certain other provisions of law to provide for automatic cost-of-living adjustments in the income tax rates, the amount of the standard, personal exemption, and depreciation deductions, and the rate of interest payable on certain obligations of the United States; to the Committee on Ways and Means.

By Mr. CRANE (for himself, Mr. ARCHER, Mr. ARMSTRONG, Mr. JOHN T. MYERS, Mr. MOORHEAD of California, Mr. REGULA, Mr. TREEN, Mr. EDWARDS of Oklahoma, Mr. BAFALIS, Mr. COLLINS of Texas, Mr. KINDNESS, Mr. MCDONALD, Mr. LAGOMARSINO, Mr. PRITCHARD, Mr. ROBERT W. DANIEL, JR., Mr. BROWN of Ohio, Mr. ROUSSELOT, Mr. QUIE, Mr. EMERY, Mr. GRADISON, Mr. ICHORD, Mr. YOUNG of Florida, Mr. LOTT, Mr. RUNNELS, and Mr. LEACH):

H.R. 2408. A bill to require that the U.S. Government prepare and make public annual consolidated financial statements utilizing the accrual method of accounting, and for other purposes; to the Committee on Government Operations.

By Mr. CRANE (for himself, Mr. WINN, Mr. DAN DANIEL, Mr. BUTLER, Mr. JACOBS, Mr. DERWINSKI, Mr. GIBBONS, Mr. ENGLISH, Mr. ROE, Mr. RINALDO, Mr. FRENZEL, Mr. ERLENBORN, Mr. FREY, Mr. DICKINSON, Mr. WHITEHURST, Mr. KEMP, Mr. MILFORD, Mr. O'BRIEN, Mr. HYDE, Mr. ABDNOR, Mr. LENT, Mr. BURGENER, Mr. ROBINSON, Mr. WALKER, and Mr. LEVITAS):

H.R. 2409. A bill to require that the U.S. Government prepare and make public annual consolidated financial statements utilizing the accrual method of accounting, and for other purposes; to the Committee on Government Operations.

By Mr. CRANE (for himself, Mr. DUNCAN of Tennessee, Mr. WAGGONNER, Mr. SEBELIUS, Mr. DUNCAN of Oregon, Mr. IRELAND, Mr. BADHAM, Mr. CHARLES WILSON of Texas, Mr. CORCORAN, Mr. MILLER of California, Mrs. LLOYD of Tennessee, Mr. BAUCUS, Mr. SPENCE, Mr. NEAL, Mr. GILMAN, Mr. DORNAN, Mr. WALSH, Mr. KETCHUM, Mr. STEIGER, Mr. SYMMS, Mr. MARTIN, Mr. BURLESON of Texas, Mr. FLOWERS, Mrs. SPELLMAN, and Mr. CHAPPELL):

H.R. 2410. A bill to require that the U.S. Government prepare and make public annual consolidated financial statements utilizing the accrual method of accounting, and for other purposes; to the Committee on Government Operations.

By Mr. DANIELSON:

H.R. 2411. A bill to amend title 38 of the United States Code in order to require the Administrator of Veterans' Affairs to pay a $150 allowance to any State or any agency or political subdivision of a State in reimbursement for expenses incurred in the burial of each veteran in any cemetery owned by such State or agency or political subdivision of a State, if the cemetery or section thereof is used solely for the interment of veterans; to the Committee on Veterans' Affairs.

By Mr. DANIELSON (by request):

H.R. 2412. A bill to insure that a national cemetery is established in each State, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 2413. A bill to amend title 38, United States Code, so as to authorize furnishing of memorial markers for graves in private cemeteries wherein the remains of an honorably discharged serviceman are not recoverable; to the Committee on Veterans' Affairs.

H.R. 2414. A bill to place Arlington National Cemetery within the National Cemetery System; to the Committee on Veterans' Affairs.

By Mr. DELANEY:

H.R. 2415. A bill for the relief of certain residents of Northern Ireland; to the Committee on the Judiciary.

By Mr. DELLUMS:

H.R. 2416. A bill to amend chapters 5 and 7 of title 5, United States Code, to require formal rulemaking procedures in the establishment of grant, loan, benefit, and contract practices, to authorize payment of expenses to certain participants in administrative proceedings, to waive sovereign immunity where judicial relief other than money damages is sought, and to require establishment of enforcement procedures for grant-in-aid programs; to the Committee on the Judiciary.

By Mr. DRINAN:

H.R. 2417. A bill to provide for a comprehensive 5-year study of the nuclear fuel cycle, with particular reference to its safety and environmental hazards, to be conducted by the Office of Technological Assessment; to the Committee on Interior and Insular Affairs.

H.R. 2418. A bill to amend the Export Administration Act of 1969 to stabilize domestic prices, and for other purposes; to the Committee on International Relations.

H.R. 2419. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize the regulation of tobacco products under that act in the same manner as food is regulated under that act; to the Committee on Interstate and Foreign Commerce.

H.R. 2420. A bill to amend title II of the Social Security Act to eliminate the special dependency requirements for entitlement to husband's and widower's insurance benefits, to provide benefits for widowed fathers with minor children, to make certain other changes so that benefits for husbands, widowers, and fathers will be payable on the same basis as benefits for wives, widows, and mothers, and to permit the payment of benefits to a married couple on their combined earnings record where that method of computation provides a higher combined benefit; to the Committee on Ways and Means.

By Mr. DUNCAN of Oregon (for himself, Mr. ULLMAN, and Mr. WEAVER):

H.R. 2421. A bill to increase and extend the authorization for the Federal-aid primary system, to increase the Federal share for Federal-aid primary system projects, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ECKHARDT (for himself, Mr. BROOKS, Mr. MOSS, Mr. CONYERS, Mr. DRINAN, Ms. JORDAN, Mr. DINGELL, Mr. DENT, Mr. BRADEMAS, Mr. BROYHILL, Mr. GIBBONS, Mr. HAWKINS, Mr. ROYBAL, Mr. CHARLES H. WILSON, Mr. DE LA GARZA, Mr. JACOBS, Mr. SCHEUER, Ms. CHISHOLM, Mr. KOCH, Mr. OTTINGER, Mr. MITCHELL of Maryland, Mr. SEIBERLING, Ms. HOLTZMAN, Mr. LEHMAN, and Mr. MOAKLEY):

H.R. 2422. A bill to amend the Budget and Accounting Act, 1921, to provide the Comptroller General additional authority to audit certain expenditures; to the Committee on Government Operations.

By Mr. ECKHARDT (for himself, Mr. ROSE, Mr. STARK, Mr. WON PAT, Mr. BAUCUS, Mr. BLOUIN, Mr. BONKER, Mr. BRODHEAD, Mr. DOWNEY, Mr. FORD of Tennessee, Mr. HANNAFORD, Mr. HUGHES, Mr. LA FALCE, Mr. NEAL, Mr. HALL, Mr. AMMERMAN, Mr. BONIOR, Mr. HEFTEL, Mr. PANETTA, Mr. PURSELL, Mr. RAHALL, Mr. RUDD, Ms. SPELLMAN, and Mr. CORRADA):

H.R. 2423. A bill to amend the Budget and Accounting Act, 1921, to provide the Comptroller General additional authority to audit certain expenditures; to the Committee on Government Operations.

By Mr. ECKHARDT (for himself and Mr. GAMMAGE):

H.R. 2424. A bill to amend the definition of the term "lawful bridge" in "An Act to provide for the alteration of certain bridges over navigable waters of the United States," approved June 21, 1940 (54 Stat. 497), as amended, for the purpose of clarifying such definition; to the Committee on Public Works and Transportation.

H.R. 2425. A bill to modify the project for navigation at Houston Ship Channel (Greens Bayou), Texas, to maintain a 40-foot project depth in Greens Bayou; to the Committee on Public Works and Transportation.

By Mr. EILBERG:

H.R. 2426. A bill to establish in the State of Pennsylvania the Edgar Allan Poe National Historical Park; to the Committee on Interior and Insular Affairs.

By Mr. EMERY (for himself and Mr. LENT):

H.R. 2427. A bill to apply to all vessels entering the U.S. Fishery Conservation Zone the same design, construction, cargo, and other related standards which apply, under the Ports and Waterways Safety Act of 1972, to vessels documented under the laws of the United States or which enter the navigable waters of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. EVANS of Colorado:

H.R. 2428. A bill to assure American consumers of a stable and adequate supply of sugar by assuring the continued existence of a viable domestic sugar industry; jointly to the Committees on Agriculture and Ways and Means.

By Mr. GRASSLEY (for himself, Mr. BAUMAN, Mr. MARTIN, Mr. SEBELIUS, Mr. LAGOMARSINO, Mr. JACOBS, Mr. ERTEL, Mr. QUIE, Mr. SNYDER, Mr. DUNCAN of Tennessee, Mr. MARLENEE, Mr. CHARLES WILSON of Texas, Mr. BEDELL and Mr. DORNAN):

H.R. 2429. A bill to abolish the Commission on Executive, Legislative, and Judicial Salaries established by section 225 of the Federal Salary Act of 1967, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GRASSLEY (for himself, Mr. BAUMAN, Mr. RUDD, Mr. MILLER of Ohio, Mr. WALKER, Mr. LAGOMARSINO, Mr. KINDNESS, Mr. MOTTL, Mr. CLEVELAND, Mr. PURSELL, Mr. BLOUIN, Mr. TRIBLE, Mr. SEBELIUS, Mr. JACOBS, Mr. ARCHER, Mr. GRADISON, and Mr. EDGAR):

H.R. 2430. A bill to repeal the recently enacted provisions authorizing increases in the salaries of Senators and Representatives; to the Committee on Post Office and Civil Service.

By Mr. GRASSLEY (for himself, Mr. ERTEL, Mr. EDWARDS of Oklahoma, Mr. LEACH, Mr. HAGEDORN, Mr. TREEN, Mr. SNYDER, Mr. DUNCAN of Tennessee, Mr. MARLENEE, Mr. CHARLES WILSON of Texas, Mr. BEDELL, Mr. DORNAN, and Mr. QUAYLE):

H.R. 2431. A bill to repeal the recently enacted provisions authorizing increases in the salaries of Senators and Representatives; to the Committee on Post Office and Civil Service.

By Mr. GRASSLEY (for himself, Mr. ANDREWS of North Dakota, Mr. ARCHER, Mr. BADHAM, Mr. BARNARD, Mr. BEARD of Tennessee, Mr. BROWN of California, Mr. BUCHANAN, Mr. CARTER, Mr. COUGHLIN, Mr. DAN DANIEL, Mr. DUNCAN of Tennessee, Mr. EDWARDS of Oklahoma, Mr. FORD of Tennessee, Mr. HALL, Mr. HIGHTOWER, Mr. HOWARD, Mr. HYDE, Mr. KEMP, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. MCCLOSKEY, Mr. MAZZOLI, Mr. MINETA, and Mr. MITCHELL of New York):

H.R. 2432. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. GRASSLEY (for himself, Mr. MOORHEAD of California, Mr. MURPHY of New York, Mr. PANETTA, Mr. QUAYLE, Mr. QUIE, Mr. RAHALL, Mr. RAILSBACK, Mr. RANGEL, Mr. RUDD, Mr. RUNNELS, Mr. RYAN, Mr. SCHEUER, Mr. SIMON, Mr. STOKES, Mr. THONE, Mr. TREEN, Mr. TRIBLE, Mr. WHITEHURST, Mr. CHARLES H. WILSON of California, Mr. YATRON, and Mr. BROYHILL):

H.R. 2433. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT:

H.R. 2434. A bill to amend the Internal Revenue Code of 1954 to encourage the employment of handicapped individuals by providing a tax credit for a certain portion of the wages paid to such individuals; to the Committee on Ways and Means.

By Mr. HARKIN:

H.R. 2435. A bill to establish a program for repairing and replacing unsafe highway bridges; jointly to the Committees on Public Works and Transportation and Ways and Means.

By Mr. HARRINGTON (for himself, Mr. AMMERMAN, Mr. BADILLO, Mr. EILBERG, Mr. MCKINNEY, and Mr. ROE):

H.R. 2436. A bill to establish a Solar Energy Loan Administration to assist homeowners, owners of multifamily housing projects, builders, and small business concerns in purchasing and installing solar heating or combined solar heating and cooling equipment, including solar hot water systems, by providing low-interest long-term loans; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HARRIS (for himself, Mr. PHILLIP BURTON, Mr. BUTLER, Mr. DAN DANIEL, Mr. FISHER, Mr. TRIBLE, and Mr. WHITEHURST):

H.R. 2437. A bill to amend the act of April 17, 1954, which preserved within Manassas National Battlefield Park, Va., important historic properties relating to the battles of Manassas, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KASTENMEIER:

H.R. 2438. A bill to prohibit the denial or abridgement of the right of former criminal offenders to vote in elections for Federal office; to the Committee on House Administration.

H.R. 2439. A bill to authorize actions for redress in cases involving the violation of the constitutional rights of institutionalized persons; to the Committee on the Judiciary.

H.R. 2440. A bill to limit use of prison inmates in medical research; to the Committee on the Judiciary.

H.R. 2441. A bill to amend title 18 of the United States Code to establish a revolving fund for making loans to individuals released from prison; to the Committee on the Judiciary.

By Mr. KEMP:

H.R. 2442. A bill to make a supplemental appropriation to conduct the survey to determine the feasibility of, and to carry out the program to demonstrate the practicability of, extending the navigation season on the Great Lakes and St. Lawrence Seaway; to the Committee on Appropriations.

H.R. 2443. A bill to amend the Interstate Commerce Act by including independent owner-operator truckers as an exempted class under section 203(b) of that act, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 2444. A bill to amend section 4945(g) of the Internal Revenue Code of 1954 to make it clear that nothing in that provision authorizes the limitation of the grants awarded by a private foundation to a fixed percentage of the number of applicants for such grants; to the Committee on Ways and Means.

H.R. 2445. A bill to amend the Internal Revenue Code of 1954 to allow individuals to designate $1 of their income tax liability to be used for purposes of providing financial assistance to the United States Olympic Committee; to the Committee on Ways and Means.

H.R. 2446. A bill to amend the tariff schedules of the United States with respect to the entry of horses; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. EDWARDS of Oklahoma, and Mr. MOORHEAD of California):

H.R. 2447. A bill to exempt sales by small producers of certain natural gas from regulation of the Federal Power Commission and from the requirement of certificates of public convenience and necessity of section 7(c) of the Natural Gas Act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. KOCH:

H.R. 2448. A bill to promote the development of methods of research, experimentation, and testing that minimize the use of, and pain and suffering to, live animals; to the Committee on Science and Technology.

H.R. 2449. A bill to establish a commission to study the results of racial integration of public schools, the use of busing to achieve racial integration of the public schools, and other questions relating to the quality of public schools; jointly to the Committees on Education and Labor and the Judiciary.

By Mr. KOCH (for himself, and Mr. CARTER):

H.R. 2450. A bill to amend the Public Health Service Act to establish a program of Federal financial assistance for research programs respecting human fertility and sterility and the human reproductive process, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. KOCH (for himself, Mr. ADDABBO, Mr. ANDERSON of Illinois, Mr. ANNUNZIO, Mr. BAFALIS, Mr. BAUCUS, Mr. BINGHAM, Mr. BLANCHARD, Mr. BROWN of Michigan, Mr. BUCHANAN, Mr. BURKE of Florida, Ms. BURKE of California, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Ms. CHISHOLM, Mr. CLEVELAND, Mr. COCHRAN, Mr. COHEN, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CONYERS, Mr. DANIELSON, Mr. DELLUMS, Mr. DIGGS, and Mr. DOWNEY):

H.R. 2451. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. KOCH (for himself, Mr. DRINAN, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. ERTEL, Mr. EVANS of Georgia, Mr. FASCELL, Mr. FINDLEY, Mr. FLORIO, Mr. FORD of Tennessee, Mr. FRASER, Ms. HOLTZMAN, Mr. HORTON, Mr. HUGHES, Mr. HYDE, Mr. KASTENMEIER, Mr. KEMP, Mr. KREBS, Mr. LAFALCE, Mr. LEHMAN, Mrs. LLOYD of Tennessee, Mr. MCCLOSKEY, Mr. MCCORMACK, Mr. MCDONALD, and Mr. MCKINNEY):

H.R. 2452. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. KOCH (for himself, Mr. MARLENEE, Mr. MAZZOLI, Mr. MILLER of Ohio, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOFFETT, Mr. MOLLOHAN, Mr. MOSS, Mr. MURPHY of Pennsylvania, Mr. MURPHY of New York, Mr. MURPHY of Illinois, Mr. NEAL, Mr. NIX, Mr. PATTEN, Mr. PEPPER, Mr. RANGEL, Mr. RICHMOND, Mr. RINALDO, Mr. RODINO, Mr. ROE, Mr. ROSE, and Mr. ROSENTHAL):

H.R. 2453. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. KOCH (for himself, Mr. ROYBAL, Mr. RUNNELS, Mr. RYAN, Mr. SARASIN, Mr. SCHEUER, Ms. SCHROEDER, Mr. ST GERMAIN, Ms. SPELLMAN, Mr. STEERS, Mr. STUDDS, Mr. THONE, Mr. WAMPLER, Mr. WAXMAN, Mr. Mr. TONRY, Mr. WAMPLER, Mr. WAXMAN, Mr. WHALEN, Mr. WHITEHURST, Mr. BOB WILSON, Mr. CHARLES H. WILSON of California, Mr. WINN, Mr. WOLFF, Mr. YATRON, and Mr. YOUNG of Florida)

H.R. 2454. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. KOCH (for himself, Mrs. BURKE of California, Mr. CARNEY, Mrs. COLLINS of Illinois, Mr. DE LUGO, Mr. DIGGS, Mr. DOWNEY, Mr. DRINAN, Mr. EDGAR, Mr. EILBERG, Mr. FRASER, Mr. GILMAN, Ms. HOLTZMAN, Mr. MCHUGH, Mr. MURPHY of New York, Mr. NIX, Mr. OTTINGER, Mr. RICHMOND, Mr. RODINO, Mr. ROSENTHAL, Mr. ROYBAL, Mrs. SPELLMAN, and Mr. WAXMAN):

H.R. 2455. A bill to amend part B of title IV of the Social Security Act to provide, as the primary form in which services are to be furnished under the child-welfare services program, for supportive day treatment and in-home services to children and families; to the Committee on Ways and Means.

By Mr. LAGOMARSINO:

H.R. 2456. A bill to prohibit vessels transporting Alaskan oil from using routes through the territorial and international waters northward of the Santa Barbara Channel Islands; to the Committee on Merchant Marine and Fisheries.

H.R. 2457. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. LENT (for himself, Mr. BAUCUS, Mr. BEARD of Rhode Island, Mr. BLOUIN, Mr. BUCHANAN, Mr. COUGHLIN, Mr. DOWNEY, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. FREY, Mr. GEPHARDT, Mr. HAWKINS, Mr. HOWARD, Mr. KETCHUM, Mrs. LLOYD of Tennessee, Mrs. MEYNER, Mr. MOAKLEY, Mr. MURPHY of New York, Mr. OTTINGER, Mr. PURSELL, Mr. RODINO, Mrs. SPELLMAN, Mr. WOLFF and Mr. YATRON):

H.R. 2458. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings to efficient, alternate uses, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEVITAS:

H.R. 2459. A bill to amend section 122 of title 23, United States Code, to authorize payment of interest on bonds the proceeds of which were used for projects on the Interstate System; to the Committee on Public Works and Transportation.

By Mr. LOTT:

H.R. 2460. A bill to define letter mail under the Private Express Statutes; to the Committee on Post Office and Civil Service.

By Mr. LUJAN:

H.R. 2461. A bill to amend the Internal Revenue Code of 1954 to treat Federal retirement system income the same as social security income to the extent that such retirement income does not exceed the sum of old-age benefits which may be received under title II of the Social Security Act and amounts which may be earned without reducing such benefits; to the Committee on Ways and Means.

By Mr. MCCLORY (for himself, Mr. FREY, Mr. CARTER, Mr. GRADISON, Mr. TREEN, Mr. CHARLES WILSON of Texas, Mr. WINN, Mr. CLEVELAND, Mr. LOTT, Mr. MITCHELL of New York, Mr. MOTTL, Mr. SEBELIUS, Mr. TRAXLER, Mr. SIMON, Mr. BROWN of Ohio, Mr. KELLY, Mr. RINALDO, Mr. COCHRAN, and Mr. CEDERBERG):

H.R. 2462. A bill to protect the public from traffickers in heroin and other opiates,

and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, the Judiciary, Banking, Finance and Urban Affairs, and Ways and Means.

By Mr. McFALL:

H.R. 2463. A bill to amend title II of the Social Security Act to provide that the remarriage of a widow, widower, or parent shall not terminate his or her entitlement to widow's, widower's or parent's insurance benefits or reduce the amount thereof; to the Committee on Ways and Means.

By Mr. MARLENEE:

H.R. 2464. A bill to provide for consideration of the comparative productive potential of irrigable lands in determining nonexcess acreage under Federal reclamation laws; to the Committee on Interior and Insular Affairs.

By Mr. MAZZOLI (for himself, Mr. DELLUMS, Mr. FAUNTROY, Mr. MCKINNEY, Mr. WHALEN, and Mrs. MEYNER):

H.R. 2465. A bill to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits; to the Committee on the District of Columbia.

By Mr. MICHEL:

H.R. 2466. A bill to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 2467. A bill to amend title 5 of the United States Code with respect to the observance of Memorial Day and Veterans Day; to the Committee on Post Office and Civil Service.

H.R. 2468. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer; to the Committee on Ways and Means.

By Mr. MICHEL (for himself, Mr. EDWARDS of Oklahoma, Mr. ERLENBORN, Mr. GOLDWATER, Mr. MARTIN, Mr. RAILSBACK, and Mr. WALKER):

H.R. 2469. A bill to prohibit travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired; to the Committee on House Administration.

By Mr. MOLLOHAN:

H.R. 2470. A bill to amend title 10 of the United States Code in order to provide that no veteran may be denied care or treatment under the CHAMPUS program for any service-connected disability solely because care or treatment for such disability is available at Veterans' Administration medical facilities; to the Committee on Armed Services.

H.R. 2471. A bill to amend the Federal Trade Commission Act to provide that exclusive territorial arrangements used in the distribution or sale of a trademarked soft drink product or a trademarked private label food product shall not be deemed unlawful per se; jointly, to the Committees on Interstate and Foreign Commerce, and the Judiciary.

By Mr. MONTGOMERY (by request):

H.R. 2472. A bill to amend title 38, United States Code, so as to provide mustering-out payments for certain members discharged from active duty in the Armed Forces during the Vietnam era; to the Committee on Veterans' Affairs.

H.R. 2473. A bill to amend title 38, United States Code, to modify and improve the pension program for veterans of the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and their widows and children; to the Committee on Veterans' Affairs.

H.R. 2474. A bill to amend title 38, United States Code, to provide for annual adjustments in monthly rates of disability compensation and dependency and indemnity compensation according to changes in the Consumer Price Index; to the Committee on Veterans' Affairs.

H.R. 2475. A bill to amend title 38, United States Code, to provide that payments made to a hospitalized incompetent veteran will not be terminated unless his estate exceeds $3,000, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 2476. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

By Mr. MONTGOMERY (for himself, Mr. BEARD of Tennessee, Mr. MOORHEAD of California, Mr. MATHIS, Mr. RUNNELS, Mr. DERWINSKI, Mr. LOTT, Mr. COLLINS of Texas, Mr. BUTLER, Mr. BEVILL, Mr. HALL, Mr. MCDONALD, Mr. KETCHUM, Mr. EDGAR, Mr. LAGOMARSINO, Mr. BRECKINRIDGE, Mr. CHARLES WILSON of Texas, Mr. BURGENER, Mr. TREEN, Mr. GRADISON, Mr. ARCHER, Mr. FINDLEY, Mr. JONES of North Carolina, and Mr. BAUMAN):

H.R. 2477. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization in the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. MONTGOMERY (for himself, Mr. BEARD of Tennessee, Mr. MILLER of Ohio, Mr. WHITTEN, Mr. BROYHILL, Mr. BURLESON of Texas, Mr. ANDERSON of Illinois, Mr. BROWN of Michigan, Mr. CLEVELAND, Mr. FISHER, Mr. MCKINNEY, Mrs. SMITH of Nebraska, Mrs. HOLT, Mr. SEBELIUS, Mr. ROBINSON, Mr. COHEN, Mr. NICHOLS, Mr. FLYNT, Mr. HAGEDORN, Mr. WHITEHURST, Mr. JOHN T. MYERS, Mr. COCHRAN, Mr. DOWNEY, Mr. TAYLOR and Mr. LUJAN):

H.R. 2478. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization in the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. MONTGOMERY (for himself, Mr. BEARD of Tennessee, Mr. ERLENBORN, Mr. KEMP, Mr. KELLY, Mr. RYAN, Mr. DAVIS, Mr. CORNWELL, Mr. STUMP, Mr. MANN, Mr. BURKE of Florida, Mr. VANDER JAGT, Mr. STOCKMAN, Mr. NEAL, Mr. DUNCAN of Tennessee, Mr. DORNAN, Mr. HIGHTOWER, Mr. CRANE, and Mr. LEVITAS):

H.R. 2479. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization in the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. MONTGOMERY (for himself, Mr. BOWEN, Mr. COCHRAN, Mr. LOTT, and Mr. WHITTEN):

H.R. 2480. A bill to amend section 218 of the Social Security Act to include Mississippi among the States which may provide coverage for policemen and firemen under their agreements entered into pursuant to that section; to the Committee on Ways and Means.

By Mr. MURPHY of Pennsylvania:

H.R. 2481. A bill to assure the availability of adequate supplies of natural gas during the period ending March 15, 1977; to the Committee on Interstate and Foreign Commerce.

By Mr. MURPHY of New York:

H.R. 2482. A bill to regulate commerce by establishing national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2483. A bill to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GARY A. MYERS:

H.R. 2484. A bill to amend the Trade Reform Act of 1974 in order to make eligible under the adjustment assistance program certain workers who did not receive timely notification of requirements relating to such program; to the Committee on Ways and Means.

By Mr. OBEY:

H.R. 2485. A bill to protect the public health and welfare by providing for the inspection of imported dairy products and by requiring that such products comply with certain minimum standards for sanitation and that the dairy farms on which milk is produced and the plants in which such products are produced meet certain minimum standards of sanitation, and for other purposes; to the Committee on Agriculture.

By Mr. QUILLEN:

H.R. 2486. A bill to amend the Federal Water Pollution Control Act relating to the date for compliance by certain point sources with effluent limitation; to the Committee on Public Works and Transportation.

By Mr. RANGEL:

H.R. 2487. A bill to amend title I of the Housing Act of 1949 to provide more adequate relocation payments for individuals, families, and business concerns displaced from urban renewal areas; to the Committee on Banking, Finance, and Urban Affairs.

H.R. 2488. A bill to establish a program of reduced tuition rates to encourage older Americans to attend institutions of higher education, and to establish a program to gather data relating to employment opportunities for older Americans; to the Committee on Education and Labor.

H.R. 2489. A bill to provide for judicial reform in criminal cases; to the Committee on the Judiciary.

H.R. 2490. A bill to amend title 13, United States Code, to require the Secretary of Commerce to conduct surveys to determine the number of individuals not counted by each census, to require Federal agencies using census data for Federal assistance formulas to take into account data from such surveys, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 2491. A bill to change the name of the J. Edgar Hoover F.B.I. Building; to the Committee on Public Works and Transportation.

H.R. 2492. A bill to amend the Internal Revenue Code of 1954 to permit the full deduction of medical expenses incurred for the care of individuals of 65 years of age and over, without regard to the 3-percent and 1-percent floors; to the Committee on Ways and Means.

H.R. 2493. A bill to allow a credit against Federal income taxes or payments from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

H.R. 2494. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation pro-

grams or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

H.R. 2495. A bill to provide for greater independence for Federal independent regulatory agencies by prohibiting an individual paid under the Executive Schedule from serving within the same year with both a Federal independent regulatory agency and an executive agency other than an independent regulatory agency, and for other purposes; jointly to the Committees on the Judiciary and Post Office and Civil Service.

By Mr. RHODES (for himself Mr. LAGOMARSINO, Mr. DICKINSON, Mr. QUILLEN, Mr. BOB WILSON, Mr. DAN DANIEL, Mr. MATHIS, Mr. GILMAN, Mr. ROE, Mr. MOLLOHAN, Mr. KELLY, Mr. SYMMS, Mr. BEARD of Rhode Island, Mr. FLORIO, Mr. BAFALIS, Mrs. HOLT, Mr. JACOBS, Mr. KINDNESS, Mr. COCHRAN, Mr. ROSE, Mr. STANTON, Mr. JOHN T. MYERS, Mr. LEDERER, Mr. ERLENBORN, and Mr. CORNWELL):

H.R. 2496. A bill to incorporate the United States Submarine Veterans of World War II; to the Committee on the Judiciary.

By Mr. RISENHOOVER:

H.R. 2497. A bill to reinstate the Modoc, Wyandotte, Peoria, and Ottawa Indian Tribes of Oklahoma as federally supervised and recognized Indian tribes; to the Committee on Interior and Insular Affairs.

H.R. 2498. A bill to establish a utility stamp program which will provide utility stamps to certain low-income elderly households to help meet utility costs incurred by such households; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE (for himself and Mr. IRELAND):

H.R. 2499. A bill to increase the authorization for the Local Public Works Capital Development and Investment Act of 1976; to the Committee on Public Works and Transportation.

By Mr. STAGGERS (by request) (for himself, Mr. DEVINE, Mr. DINGELL, Mr. SHARP, Mr. OTTINGER, Mr. MOFFETT, Mr. MAGUIRE, and Mr. MOORHEAD of Calif.):

H.R. 2500. A bill to authorize the President of the United States to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting requirements for high priority uses; to provide authority for short-term emergency purchases of natural gas, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RONCALIO:

H.R. 2501. A bill to provide for the amendment of the public survey records to eliminate a conflict between the official cadastral survey and a private survey of the so-called Wold Tract within the Medicine Bow National Forest, Wyo.; to the Committee on Interior and Insular Affairs.

By Mr. RONCALIO (for himself and Mr. JOHNSON of Colorado):

H.R. 2502. A bill to extend certain oil and gas leases by a period sufficient to allow the drilling of an ultra-deep well; to the Committee on Interior and Insular Affairs.

By Mr. RONCALIO (for himself and Mr. GOLDWATER):

H.R. 2503. A bill to establish an independent U.S. Air Traffic Services Corporation, and for other purposes; jointly to the Committees on Public Works and Transportation, and Ways and Means.

By Mr. ROSTENKOWSKI:

H.R. 2504. A bill to amend title XVIII of the Social Security Act to provide payment for rural health clinic services; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. ROYBAL:

H.R. 2505. A bill to provide a comprehensive child development program in the Department of Health, Education, and Welfare; to the Committee on Education and Labor.

H.R. 2506. A bill to amend the Higher Education Act of 1965 to provide that institutions of higher education and vocational schools shall not be eligible for purposes of federally assisted student loans unless they carry out a policy of tuition refunds for students who withdraw from courses of study at such institutions or schools, and for other purposes; to the Committee on Education and Labor.

H.R. 2507. A bill to regulate commerce by assuring adequate supplies of energy resource products will be available at the lowest possible cost to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2508. A bill to regulate interstate commerce by requiring certain insurance as a condition precedent to using the public streets, roads, and highways, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2509. A bill to amend title XIX of the Social Security Act to require the States to regulate nursing homes more effectively under their medicaid programs and to improve the enforcement of such regulation; to the Committee on Interstate and Foreign Commerce.

H.R. 2510. A bill to prohibit the sale of "Saturday Night Special" handguns in the United States; to the Committee on the Judiciary.

H.R. 2511. A bill to amend the Internal Revenue Code of 1954 to provide a permanent negative income tax; to the Committee on Ways and Means.

H.R. 2512. A bill to amend the Internal Revenue Code of 1954 to require the establishment of formal procedures and criteria for the selection of individual income tax returns for audit, to inform individuals of the reasons why their returns were selected for audit, and for other purposes; to the Committee on Ways and Means.

H.R. 2513. A bill to amend the Social Security Act to establish a program of food allowance for older Americans; jointly to the Committees on Agriculture and Ways and Means.

H.R. 2514. A bill to provide a comprehensive program of employment services and opportunities for middle-aged and older Americans; jointly to the Committees on Education and Labor and Post Office and Civil Services.

H.R. 2515. A bill to amend the Social Security Act to provide for inclusion of the services of licensed (registered) nurses under medicare and medicaid; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. SARASIN (for himself, Mr. ABDNOR, Mr. ANDREWS of North Dakota, Mr. BARNARD, Mr. BAUCUS, Mr. BEARD of Rhode Island, Mr. COHEN, Mr. COUGHLIN, Mr. DERWINSKI, Mr. DOWNEY, Mr. ERLENBORN, Mrs. FENWICK, Mr. GIBBONS, Mr. HYDE, Mr. IRELAND, Mr. JEFFORDS, Mr. KINDNESS, and Mr. LEHMAN):

H.R. 2516. A bill to amend the Occupational Safety and Health Act of 1970 to provide additional consultation and education to employers, and for other purposes; to the Committee on Education and Labor.

By Mr. SARASIN (for himself, Mr. LENT, Mr. MCKINNEY, Mr. MATHIS, Mr. MAZZOLI, Mr. MITCHELL of New York, Mr. MONTGOMERY, Mr. NEAL, Mr. QUIE, Mr. ROE, Mr. SCHEUER, Mr. SEBELIUS, Mr. STEERS, Mr. TRAXLER, Mr. WALKER, Mr. WHITEHURST, Mr. WHITLEY, and Mr. WINN):

H.R. 2517. A bill to amend the Occupational Safety and Health Act of 1970 to provide additional consultation and education to employers, and for other purposes; to the Committee on Education and Labor.

By Mr. SARASIN (for himself, Mr. AKAKA, Mr. BADILLO, Mr. BEARD of Rhode Island, Mr. BUCHANAN, Mr. CORRADA, Mr. DELLUMS, Mr. FRASER, Mr. GIAIMO, Mr. HUGHES, Mr. LENT, Mr. MCKINNEY, Mr. MAZZOLI, Mr. MOAKLEY, Mr. NEAL, Mr. RAHALL, Mr. RODINO, Mr. ROSENTHAL, Mr. ROYBAL, Mr. SANTINI, Mr. SCHEUER, Mrs. SPELLMAN, Mr. THOMPSON, Mr. WAXMAN, and Mr. YATRON):

H.R. 2518. A bill to provide for the development and implementation of programs for youth camp safety; to the Committee on Education and Labor.

By Mr. SARASIN (for himself, Mr. COUGHLIN, Mr. DERWINSKI, Mr. DUNCAN of Tennessee, Mr. EMERY, Mr. QUIE, and Mr. SCHEUER):

H.R. 2519. A bill to provide for economic growth and job creation through a reordering of Government priorities and reorganization of Government programs; tax reform for individuals, small businesses, and corporations; and amendment of existing employment and training programs; and for other purposes; jointly to the Committees on Rules, Government Operations, Ways and Means, and Education and Labor.

By Mr. SCHULZE:

H.R. 2520. A bill to provide for the striking of medals commemorating the two hundredth anniversary of the encampment of the American Army during the bitter winter at Valley Forge; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SEBELIUS:

H.R. 2521. A bill to provide for the mandatory inspection of domesticated rabbits slaughtered for human food, and for other purposes; to the Committee on Agriculture.

H.R. 2522. A bill to provide a 2-cents-a-gallon tax reduction on gasoline sold for use in highway vehicles where the gasoline contains cereal grain alcohol as a substitute for lead; to the Committee on Ways and Means.

By Mr. SHARP (for himself, Mr. BAUCUS, Mr. BENJAMIN, Mr. BRADEMAS, and Mr. RHODES):

H.R. 2523. A bill to amend the worker adjustment assistance provisions of the Trade Act of 1974 in order to provide that workers may be covered under certification of eligibility to apply for such assistance if they are totally or partially separated from adversely affected employment within 2 years before the date of the petition for such certification; to the Committee on Ways and Means.

By Mr. SISK:

H.R. 2524. A bill to amend the eligibility requirements for an emergency loan from the Farmers Home Administration; to the Committee on Agriculture.

H.R. 2525. A bill to amend the act of May 27, 1930, to expand the emergency authority of the Secretary of Agriculture regarding persons who are lost, seriously ill, injured, or who die within the National Forest System, and for other purposes; to the Committee on Agriculture.

H.R. 2526. A bill to require compliance with the Buy American Act in the school lunch program; to the Committee on Education and Labor.

H.R. 2527. A bill to authorize the Secretary of Agriculture to convey certain lands in the Sierra National Forest, California, to the Madera Cemetery District; to the Committee on Interior and Insular Affairs.

By Mrs. SPELLMAN:

H.R. 2528. A bill to amend section 552 of title 5, United States Code, known as the

Freedom of Information Act, to secure to employees of the Federal Government the right to disclose information which is required by law to be disclosed by agencies; to the Committee on Government Operations.

H.R. 2529. A bill to require major corporatioss to file cost justifications of price increases made in connection with compliance with Federal regulatory requirements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2530. A bill to amend title 5, United States Code, to assure that members of the police force of the National Zoological Park are subject to the retirement and other provisions of such title applicable to law enforcement officers; to the Committee on Post Office and Civil Service.

H.R. 2531. A bill to authorize advance disapproval by Congress of any increase in rates charged under health benefits plans authorized under sections 8902 of title 5, United States Code; jointly to the Committees on Post Office and Civil Service, and Rules.

By Mrs. SPELLMAN (for herself, Mr. PRICE, Mr. MOAKLEY, Mr. DIGGS, Mr. MITCHELL of Maryland, Mr. FRASER, Mr. CORRADA, Mrs. FENWICK, Mr. PHILLIP BURTON, Mr. MOFFETT, Mr. MOSS, Mr. CHARLES WILSON of Texas, Mr. HOWARD, Mr. DELLUMS, Mr. STARK, Mr. CLAY, Mrs. BURKE of California, Mr. ROYBAL, Mr. SIMON, Mr. BOLAND, Mr. FORD of Tennessee, Mr. BROWN of California, Mr. JEFFORDS, Mr. HARRIS, and Mr. PANETTA):

H.R. 2532. A bill to amend title VIII of the act commonly called the Civil Rights Act of 1968 with respect to the awarding of attorney's fees and the authority of the Department of Housing and Urban Development to initiate a civil action to enforce the provisions of such title; to the Committee on the Judiciary.

By Mr. STAGGERS:

H.R. 2533. A bill to amend the Energy Policy and Conservation Act to provide a basis for the development of a new national energy policy; to the Committee on Interstate and Foreign Commerce.

By Mr. STEERS:

H.R. 2534. A bill to establish in the Department of Housing and Urban Development a direct low-interest loan program to assist homeowners and builders in purchasing and installing solar heating (or combined solar heating and cooling) equipment; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2535. A bill to provide a 2-year extension of time for the payment of so much of any income tax as is attributable to the application to 1976 of the change made by the Tax Reform Act of 1976 in the exclusion of sick pay; to the Committee on Ways and Means.

By Mr. STEIGER (for himself and Mr. QUIE):

H.R. 2536. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to employers for the expenses of providing training programs for employees and prospective employees; to the Committee on Ways and Means.

By Mr. STUDDS:

H.R. 2537. A bill to amend the Cape Cod National Seashore Act, as amended, to provide additional authority to the Secretary of the Interior to carry out the purposes of the act, to provide a reserve fund, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. TRAXLER:

H.R. 2538. A bill to authorize the Secretary of Agriculture to make financial assistance available to agricultural producers who suffer losses as the result of having their agricultural commodities or livestock quarantined or condemned because such commodities or livestock have been found to contain toxic chemicals dangerous to the public health; to the Committee on Agriculture.

By Mr. ULLMAN:

H.R. 2539. A bill pertaining to land consolidation and development on the Umatilla Indian Reservation; to the Committee on Interior and Insular Affairs.

H.R. 2540. A bill pertaining to the inheritance of trust or restricted lands on the Umatilla Indian Reservation; to the Committee on Interior and Insular Affairs.

By Mr. WHALEN (for himself, Mr. CLEVELAND, Mrs. COLLINS of Illinois, Mr. DORNAN, Mr. FISH, Mr. FISHER, Mr. MCCLORY, Mr. MILLER of California, and Mr. REUSS):

H.R. 2541. A bill to provide that any increase in the rate of pay for Members of Congress proposed during any Congress shall not take effect earlier than the beginning of the next Congress; to the Committee on Post Office and Civil Service.

By Mr. WHALEN (for himself, Mr. BADILLO, Mr. DUNCAN of Tennessee, Mrs. FENWICK, Mr. HAWKINS, Mr. MCCLOSKEY, Mr. PATTISON of New York, Mr. QUIE, Mr. ROE, Mr. STARK, and Mr. WON PAT):

H.R. 2542. A bill to protect citizens' privacy rights, establishing guidelines for access to third party records, regulating the use of mail covers, limiting telephone service monitoring, and protecting nonaural wire communications; jointly, to the Committees on Banking, Finance and Urban Affairs, and the Judiciary.

By Mr. CHARLES WILSON, of Texas (for himself, Mr. BROOKS, Mr. ECKHARDT, Mr. GAMMAGE, Mr. HALL, Mr. HIGHTOWER, Ms. JORDAN, Mr. MATTOX, Mr. PICKLE, Mr. POAGE, Mr. WHITE, and Mr. WRIGHT):

H.R. 2543. A bill to designate a unit of the Big Thicket National Preserve as the Ralph Yarborough Unit; to the Committee on Interior and Insular Affairs.

By Mr. CHARLES WILSON, of Texas (for himself, Mr. ECKHARDT, Mr. GAMMAGE, Mr. HALL, Mr. HIGHTOWER, Ms. JORDAN, Mr. KAZEN, Mr. PICKLE, Mr. ROBERTS and Mr. WRIGHT):

H.R. 2544. A bill to amend the act establishing the Big Thicket National Preserve to provide for the acquisition of property; to the Committee on Interior and Insular Affairs.

By Mr. WOLFF (for himself and Mr. LENT):

H.R. 2545. A bill to amend the Federal Water Pollution Control Act relating to the period of time for which certain funds allotted to States for the construction of treatment works shall remain available; to the Committee on Public Works and Transportation.

By Mr. UDALL:

H.R. 2546. A bill to amend the Wild and Scenic Rivers Act by designating a portion of the Salt River, Ariz., for study as a potential addition to the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. WRIGHT:

H.R. 2547. A bill to direct the Administrator of General Services to acquire by exchange certain property in the possession of the Texas National Guard; to the Committee on Government Operations.

H.R. 2548. A bill to amend title 5, United States Code, to provide survivor annuities to subsequent spouses of certain additional classes of deceased annuitants who died after making available survivor annuities for previous spouses at time of retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Georgia:

H.R. 2549. A bill to amend the Social Security Act to establish a national health care program for all residents of the United States under which all existing health care programs for the aged and poor are consolidated, to provide for the administration of the national health care program and the existing social security programs by a newly established independent Social Security Administration, and for other purposes; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. BRODHEAD (for himself and Mr. FORD of Michigan):

H.J. Res. 193. Joint resolution providing for the designation of the week beginning October 9, 1977, and ending October 15, 1977, as National Gifted Children Week; to the Committee on Post Office and Civil Service.

By Mr. DERWINSKI:

H.J. Res. 194. Joint resolution designating the composition known as The Stars and Stripes Forever as the national march of the United States; to the Committee on Post Office and Civil Service.

By Mr. DERWINSKI (for himself, Mr. DAN DANIEL, Mr. ERLENBORN, Mr. MARTIN, Mr. MICHEL, Mr. JOHN T. MYERS, Mr. PRESSLER, and Mr. SEBELIUS):

H.J. Res. 195. Joint resolution proposing an amendment to the Constitution of the United States providing for the election of the President and Vice President; to the Committee on the Judiciary.

By Mr. KEMP:

H.J. Res. 196. Joint resolution to clarify and reaffirm Government purchasing policies; to the Committee on Government Operations.

By Mr. MCCLORY (for himself, Mr. MCKINNEY, Mr. MOLLOHAN, and Mr. BAUCUS):

H.J. Res. 197. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committe on the Judiciary.

By Mr. OBERSTAR (for himself, Mr. MAZZOLI, Mr. MADIGAN, Mr. LAGOMARSINO, Mr. HYDE, Mr. MOAKLEY, Mr. MITCHELL of New York, Mr. ZABLOCKI, Mr. ERLENBORN, Mr. ANDREWS of North Dakota, Mrs. SMITH of Nebraska, Mr. HAGEDORN, Mr. THONE, Mr. VENTO, Mr. LUJAN, Mr. O'BRIEN, Mr. MOLLOHAN, Mr. MCDONALD, Mr. NOLAN, and Mr. DORNAN):

H.J. Res. 198. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. PEPPER:

H.J. Res. 199. Joint resolution commending the Cuban "Declaration of Freedom"; to the Committee on International Relations.

By Mr. QUAYLE:

H.J. Res. 200. Joint resolution proposing an amendment to the Constitution of the United States to change the terms of office for the President, the Vice President, and Members of Congress and to establish a 10-year term of office for Federal judges; to the Committee on the Judiciary.

By Mr. RANGEL:

H.J. Res. 201. Joint resolution designating the second Sunday in June of each year as Children's Day; to the Committee on Post Office and Civil Service.

By Mr. ROE:

H.J. Res. 202. Joint resolution authorizing and directing the President to declare Valentyn Moroz an honorary citizen of the United States of America; jointly, to the Committees on the Judiciary and International Relations.

By Mr. SCHULZE:

H.J. Res. 203. Joint resolution proposing an amendment to the Constitution of the United States to provide for 3-year terms for Representatives to the Congress, to limit the number of consecutive terms Representatives may serve, and to provide an age limit for Representatives; to the Committee on the Judiciary.

By Mr. DEVINE:

H. Con. Res. 81. Concurrent resolution requesting the President to develop and submit to the Congress an alternate program, to any federally funded program for the reduction in the level of unemployment, which would reduce the level of unemployment through incentives to private employers to employ unemployed individuals; to the Committee on Ways and Means.

By Mr. GILMAN:

H. Con. Res. 82. Concurrent resolution expressing the sense of the Congress that the President should establish a Presidential task force to achieve the fullest possible accounting of prisoners of war and other individuals missing in Southeast Asia as a result of the Vietnam conflict; to the Committee on Armed Services.

By Mr. HAGEDORN:

H. Con. Res. 83. Concurrent resolution to establish a Commission on Legislative-Judicial Relations; to the Committee on the Judiciary.

By Mr. RAHALL:

H. Con. Res. 84. Concurrent resolution declaring the commitment of the House to comply with the Congressional Budget and Impoundment Control Act of 1974 and to reduce spending levels; to the Committee on Rules.

By Mr. ROE:

H. Con. Res. 85. Concurrent resolution expressing the sense of the Congress that the President, acting through the U.S. Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization; to the Committee on International Relations.

H. Con. Res. 86. Concurrent Resolution to seek the resurrection of the Ukrainian Orthodox and Catholic Churches in Ukraine; to the Committee on International Relations.

H. Con. Res. 87. Concurrent resolution concerning the safety and freedom of Valentyn Moroz, historian, writer, and spokesman for the cultural integrity of the Ukrainian people; to the Committee on International Relations.

H. Con. Res. 88. Concurrent resolution expressing the request of the U.S. Government that the Government of the United Soviet Socialist Republics provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University; to the Committee on International Relations.

By Mr. SEBELIUS:

H. Con. Res. 89. Concurrent resolution requesting the President to proclaim the fourth Saturday in March of each year as National Bake and Take Day; to the Committee on Post Office and Civil Service.

By Mr. WOLFF (for himself, Mr. DODD, Mr. MAGUIRE, Mr. ANNUNZIO, Ms. MEYNER, Mr. PIKE, Mr. LEACH, Mr. LEGGETT, Mr. ROSENTHAL, Mr. DUNCAN of Tennessee, Mr. WHITEHURST, Mr. SARASIN, Mr. SIMON, Mr. AUCOIN, Mr. COTTER, Mr. TREEN, Mr. FRASER, Mr. ROBERTS, Ms. MIKULSKI, Mr. DOWNEY, Mr. WAXMAN, Mr. EDGAR, Mr. NEAL, Mr. BADILLO, and Mr. ROONEY):

H. Con Res. 90. Concurrent resolution relative to denying sanctuary to international terrorists; to the Committee on International Relations.

By Mr. ANDERSON of Illinois (for himself, Mr. BAUMAN, Mr. BEDELL, Mr. BROOMFIELD, Mr. BROWN of Ohio, Mr. BURGENER, Mr. CARTER, Mr. CLEVELAND, Mr. COHEN, Mr. CONABLE, Mr. CORCORAN, Mr. COUGHLIN, Mr. DEVINE, Mr. DOWNEY, Mr. DRINAN, Mr. EDGAR, Mr. EMERY, Mr. ERLENBORN, Mr. EVANS of Delaware, Mr. FINDLEY, Mr. FREY, Mr. GRADISON, Mr. GRASSLEY, Mr. HAGEDORN, and Mrs. HOLT):

H. Res. 155. Resolution to permit the House, by appropriate resolution, to direct the Committee on Standards of Official Conduct to undertake an investigation of alleged misconduct on the part of any Member, officer or employee of the House, and to require the committee to file a written report on its findings and recommendations whenever it has undertaken an investigation; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. HYDE, Mr. JOHNSON of Colorado, Mr. KREBS, Mr. LAGOMARSINO, Mr. LENT, Mr. LOTT, Mr. MCCLORY, Mr. MCKINNEY, Mr. MADIGAN, Mr. MAZZOLI, Mr. MARTIN, Mr. MOORHEAD of California, Mr. PANETTA, Mr. PRITCHARD, Mr. RINALDO, Mr. SARASIN, Mr. SEBELIUS, Mr. SIMON, Mr. THONE, Mr. TREEN, Mr. VANDER JAGT, Mr. WINN, Mr. YOUNG of Florida, and Mr. BAFALIS):

H. Res. 156. Resolution to permit the House, by appropriate resolution, to direct the Committee on Standards of Official Conduct to undertake an investigation of alleged misconduct on the part of any Member, officer, or employee of the House, and to require the committee to file a written report on its findings and recommendations whenever it has undertaken an investigation; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mrs. FENWICK, Mr. FRENZEL, Mr. HORTON, Mr. KOCH, and Mr. PURSELL):

H. Res. 157. Resolution to permit the House, by appropriate resolution, to direct the Committee on Standards of Official Conduct to undertake an investigation of alleged misconduct on the part of any Member, officer or employee of the House, and to require the committee to file a written report on its findings and recommendations whenever it has undertaken an investigation; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. BAFALIS, Mr. BAUMAN, Mr. BEDELL, Mr. BROOMFIELD, Mr. BROWN of Ohio, Mr. BROWN of Michigan, Mr. BURGENER, Mr. CARTER, Mr. DEL CLAWSON, Mr. COHEN, Mr. COLLINS of Texas, Mr. CONABLE, Mr. CORCORAN, Mr. COUGHLIN, Mr. DEVINE, Mr. EDWARDS of Oklahoma, Mr. EMERY, Mr. ERLENBORN, Mr. FINDLEY, Mr. FREY, Mr. GRADISON, Mr. GRASSLEY, Mr. HAGEDORN, and Mr. HORTON):

H. Res. 158. Resolution to limit all standing committees of the House, except the Committee on Appropriations, to no more than six subcommittees; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. HYDE, Mr. LAGOMARSINO, Mr. LENT, Mr. MCCLORY, Mr. MCKINNEY, Mr. MADIGAN, Mr. MARTIN, Mr. MOORHEAD of California, Mr. PANETTA, Mr. PRITCHARD, Mr. QUIE, Mr. REGULA, Mr. RINALDO, Mr. SARASIN, Mr. SIMON, Mr. THONE, Mr. TREEN, Mr. VANDER JAGT, Mr. YOUNG of Florida, Mrs. FENWICK, Mr. FRENZEL, Mr. PURSELL, and Mr. MCEWEN):

H. Res. 159. Resolution to limit all standing committees of the House, except the Committee on Appropriations, to no more than six subcommittees; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. BAFALIS, Mr. BAUMAN, Mr. BROOMFIELD, Mr. BROWN of Ohio, Mr. BROWN of Michigan, Mr. BURGENER, Mr. CARTER, Mr. CLEVELAND, Mr. COHEN, Mr. COLLINS of Texas, Mr. CONABLE, Mr. CORCORAN, Mr. COUGHLIN, Mr. DEVINE, Mr. DOWNEY, Mr. DRINAN, Mr. EMERY, Mr. ERLENBORN, Mr. FINDLEY, Mr. FREY, Mr. GRADISON, Mr. GRASSLEY, Mr. HAGEDORN, and Mrs. HOLT):

H. Res. 160. Resolution to require that, insofar as applicable, the House rules which apply to standing committees shall also apply to any select, special or ad hoc committee, commission or other entity established by the House; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. HORTON, Mr. HYDE, Mr. LAGOMARSINO, Mr. LENT, Mr. LOTT, Mr. MCCLORY, Mr. MCKINNEY, Mr. MAZZOLI, Mr. MARTIN, Mr. MOORHEAD of California, Mr. PANETTA, Mr. PRITCHARD, Mr. QUIE, Mr. RINALDO, Mr. SARASIN, Mr. SEBELIUS, Mr. SIMON, Mr. THONE, Mr. VANDER JAGT, Mr. WINN, Mr. YOUNG of Florida, Mrs. FENWICK, Mr. FRENZEL, and Mr. KOCH):

H. Res. 161. Resolution to require that, insofar as applicable, the House rules which apply to standing committees shall also apply to any select, special or ad hoc committee, commission or other entity established by the House; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. PURSELL, and Mr. MCEWEN):

H. Res. 162. Resolution to require that, insofar as applicable, the House rules which apply to standing committees shall also apply to any select, special or ad hoc committee, commission or other entity established by the House; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. BAFALIS, Mr. BAUMAN, Mr. BEDELL, Mr. BROOMFIELD, Mr. BROWN of Ohio, Mr. BURGENER, Mr. CARTER, Mr. CLEVELAND, Mr. COHEN, Mr. COLLINS of Texas, Mr. CORCORAN, Mr. COUGHLIN, Mr. DRINAN, Mr. EDGAR, Mr. EDWARDS of Oklahoma, Mr. EMERY, Mr. ERLENBORN, Mr. FINDLEY, Mr. FREY, Mr. GRADISON, Mr. GRASSLEY, Mr. HAGEDORN, Mr. HOLLENBECK, and Mrs. HOLT):

H. Res. 163. Resolution to require each House committee to keep a verbatim transcript and written summary of all committee legislative and investigative action and to make them available for public inspection subject to certain conditions; to the Committee on Rules.

By Mr. ANDERSON of Illinois (Mr. HORTON, Mr. HYDE, Mr. KETCHUM, Mr. KREBS, Mr. LAGOMARSINO, Mr. LENT, Mr. LEVITAS, Mr. MCCLORY, Mr. MAZZOLI, Mr. MOORHEAD of California, Mr. PANETTA, Mr. PRITCHARD, Mr. QUIE, Mr. RINALDO, Mr. SARASIN, Mr. SIMON, Mr. THONE, Mr. VANDER JAGT, Mr. WINN, Mr. YOUNG of Florida, Mrs. FENWICK, Mr. FRENZEL, Mr. KOCH, and Mr. PURSELL):

H. Res. 164. Resolution to require each House committee to keep a verbatim transcript and written summary of all committee legislative and investigative action and to make them available for public inspection subject to certain conditions; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself and Mr. REGULA):

H. Res. 165. Resolution to require each House committee to keep a verbatim transcript and written summary of all committee legislative and investigative action and to make them available for public inspection subject to certain conditions; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. BAFALIS, Mr. BAUMAN, Mr. BROOMFIELD, Mr. BROWN of Ohio, Mr. BROWN of Michigan, Mr. BURGENER, Mr. CARTER, Mr. DEL CLAWSON, Mr. COHEN, Mr. CLEVELAND, Mr. COLLINS of Texas, Mr. CONABLE, Mr. CORCORAN, Mr. COUGHLIN, Mr. DEVINE, Mr. EDGAR, Mr. EDWARDS of

Oklahoma, Mr. EMERY, Mr. ERLENBORN, Mr. EVANS of Delaware, Mr. FINDLEY, Mr. FREY, Mr. GRADISON, and Mr. GRASSLEY):

H. Res. 166. Resolution to prohibit proxy voting in House committees and subcommittees; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. HAGEDORN, Mr. HOLLENBECK, Mrs. HOLT, Mr. HORTON, Mr. HYDE, Mr. JOHNSON of Colorado, Mr. KETCHUM, Mr. LAGOMARSINO, Mr. LENT, Mr. LOTT, Mr. MCCLORY, Mr. MCKINNEY, Mr. MADIGAN, Mr. MARTIN, Mr. MOORHEAD of California, Mr. PRITCHARD, Mr. QUIE, Mr. REGULA, Mr. RINALDO, Mr. SARASIN, Mr. SEBELIUS, Mr. THONE, Mr. TREEN, and Mr. SIMON):

H. Res. 167. Resolution to prohibit proxy voting in House committees and subcommittees; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. VANDER JAGT, Mr. WINN, Mr. YOUNG of Florida, Mrs. FENWICK, Mr. FRENZEL, Mr. PURSELL, and Mr. MCEWEN):

H. Res. 168. Resolution to prohibit proxy voting in House committees and subcommittees; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. BAFALIS, Mr. BAUMAN, Mr. BEDELL, Mr. BROOMFIELD, Mr. BROWN of Ohio, Mr. BURGENER, Mr. CARTER, Mr. CLEVELAND, Mr. COHEN, Mr. CONABLE, Mr. CORCORAN, Mr. COUGHLIN, Mr. DOWNEY, Mr. DRINAN, Mr. EDGAR, Mr. EDWARDS of Oklahoma, Mr. EMERY, Mr. ERLENBORN, Mr. EVANS of Delaware, Mr. FINDLEY, Mr. FREY, Mr. GEPHARDT, Mr. GRADISON, and Mr. GRASSLEY):

H. Res. 169. Resolution to require that all committee and subcommittee meetings be open to the public with only limited exceptions; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. HAGEDORN, Mr. HOLLENBECK, Mrs. HOLT, Mr. HORTON, Mr. HYDE, Mr. JOHNSON of Colorado, Mr. KETCHUM, Mr. KREBS, Mr. LAGOMARSINO, Mr. LENT, Mr. LEVITAS, Mr. MCCLORY, Mr. MCKINNEY, Mr. MADIGAN, Mr. MAZZOLI, Mr. MARTIN, Mr. MOORHEAD of California, Mr. PANETTA, Mr. PRITCHARD, Mr. QUIE, Mr. RANGEL, Mr. RINALDO, and Mr. SARASIN):

H. Res. 170. Resolution to require that all committee and subcommittee meetings be open to the public with only limited exceptions; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. SEBELIUS, Mr. SIMON, Mr. THONE, Mr. VANDER JAGT, Mr. WINN, Mr. YOUNG of Florida, Mrs. FENWICK, Mr. FRENZEL, Mr. KOCH, and Mr. PURSELL):

H. Res. 171. Resolution to require that all committee and subcommittee meetings be open to the public with only limited exceptions; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. BAFALIS, Mr. BAUMAN, Mr. BROOMFIELD, Mr. BROWN of Ohio, Mr. BURGENER, Mr. CARTER, Mr. DEL CLAWSON, Mr. BROWN of Michigan, Mr. CLEVELAND, Mr. COHEN, Mr. COLLINS of Texas, Mr. CONABLE, Mr. CORCORAN, Mr. COUGHLIN, Mr. DEVINE, Mr. EMERY, Mr. ERLENBORN, Mr. EVANS of Delaware, Mr. FINDLEY, Mr. FREY, Mr. GRADISON, Mr. GRASSLEY, Mr. HAGEDORN, and Mr. HOLLENBECK):

H. Res. 172. Resolution to permit any member of a committee to demand a rollcall vote on any question in that committee, to require a rollcall vote on reporting any measure or recommendation, and to require publication in the report of the names of those voting for and against reporting the measure or recommendation; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mrs. HOLT, Mr. HORTON, Mr. HYDE, Mr. JOHNSON of Colorado, Mr. KETCHUM, Mr. KREBS, Mr. LAGOMARSINO, Mr. LENT, Mr. MCCLORY, Mr. MCKINNEY, Mr. MADIGAN, Mr. MARTIN, Mr. MOORHEAD of California, Mr. PRITCHARD, Mr. QUIE, Mr. REGULA, Mr. RINALDO, Mr. SARASIN, Mr. SEBELIUS, Mr. SIMON, Mr. THONE, Mr. TREEN, Mr. VANDER JAGT, and Mr. WINN):

H. Res. 173. Resolution to permit any member of a committee to demand a rollcall vote on any question in that committee, to require a rollcall vote on reporting any measure or recommendation, and to require publication in the report of the names of those voting for and against reporting the measure or recommendation; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. YOUNG of Florida, Mrs. FENWICK, Mr. FRENZEL, Mr. KOCH, and Mr. PURSELL):

H. Res. 174. Resolution to permit any member of a committee to demand a rollcall vote on any question in that committee, to require a rollcall vote on reporting any measure or recommendation, and to require publication in the report of the names of those voting for and against reporting the measure or recommendation; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. BAFALIS, Mr. BAUMAN, Mr. BEDELL, Mr. BROOMFIELD, Mr. BROWN of Ohio, Mr. BROWN of Michigan, Mr. BURGENER, Mr. CARTER, Mr. DEL CLAWSON, Mr. CLEVELAND, Mr. COHEN, Mr. CONABLE, Mr. CORCORAN, Mr. COUGHLIN, Mr. DEVINE, Mr. DRINAN, Mr. DUNCAN of Oregon, Mr. EDGAR, Mr. EMERY, Mr. ERLENBORN, Mr. EVANS of Delaware, Mr. FINDLEY, Mr. FREY, and Mr. GRADISON):

H. Res. 175. Resolution to require that the Congressional Record carry an accurate account of words actually spoken on the floor of the House and that any insertions of remarks be clearly distinguishable from words actually spoken; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. GRASSLEY, Mr. HAGEDORN, Mr. HOLLENBECK, Mrs. HOLT, Mr. HORTON, Mr. JOHNSON of Colorado, Mr. KREBS, Mr. LAGOMARSINO, Mr. LENT, Mr. LEVITAS, Mr. MCCLORY, Mr. MCKINNEY, Mr. MAZZOLI, Mr. MARTIN, Mr. MOORHEAD of California, Mr. PANETTA, Mr. PRITCHARD, Mr. QUIE, Mr. SIMON, Mr. THONE, Mr. TREEN, Mr. VANDER JAGT, Mr. WINN, and Mr. YOUNG of Florida):

H. Res. 176. Resolution to require that the Congressional Record carry an accurate account of words actually spoken on the floor of the House and that any insertions of remarks be clearly distinguishable from words actually spoken; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mrs. FENWICK, Mr. FRENZEL, Mr. Pursell, Mr. REGULA, Mr. RINALDO, Mr. SARASIN, and Mr. MCEWEN):

H. Res. 177. Resolution to require that the Congressional Record carry an accurate account of words actually spoken on the floor of the House and that any insertions of remarks be clearly distinguishable from words actually spoken; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. BAFALIS, Mr. BAUMAN, Mr. BROOMFIELD, Mr. BROWN of Ohio, Mr. BROWN of Michigan, Mr. BURGENER, Mr. CARTER, Mr. DEL CLAWSON, Mr. CLEVELAND, Mr. COHEN, Mr. COLLINS of Texas, Mr. CONABLE, Mr. CORCORAN, Mr. COUGHLIN, Mr. DEVINE, Mr. DOWNEY, Mr. EDWARDS of Oklahoma, Mr. EMERY, Mr. ERLENBORN, Mr. EVANS of Delaware, Mr. FINDLEY, Mr. FREY, Mr. GRADISON, and Mr. GRASSLEY):

H. Res. 178. Resolution to prohibit bringing any measure or matter up under a suspension of the rules unless authorized by the committee having jurisdiction or its chairman and ranking miority member; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. HAGEDORN, Mrs. HOLT, Mr. HORTON, Mr. HYDE, Mr. KREBS, Mr. LAGOMARSINO, Mr. LENT, Mr. LOTT, Mr. MCCLORY, Mr. MCKINNEY, Mr. MADIGAN, Mr. MARTIN, Mr. MOORHEAD of California, Mr. PRITCHARD, Mr. QUIE, Mr. REGULA, Mr. RINALDO, Mr. SARASIN, Mr. SEBELIUS, Mr. THONE, Mr. TREEN, Mr. VANDER JAGT, Mr. WINN, and Mr. YOUNG of Florida):

H. Res. 179. Resolution to prohibit bringing any measure or matter up under a suspension of the rules unless authorized by the committee having jurisdiction or its chairman and ranking minority member; to the Commitee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mrs. FENWICK, Mr. FRENZEL, Mr. KOCH, Mr. PURSELL, and Mr. MCEWEN):

H. Res. 180. Resolution to prohibit bringing any measure or matter up under a suspension of the rules unless authorized by the committee having jurisdiction or its chairman and ranking minority member; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. BAFALIS, Mr. BAUMAN, Mr. BEDELL, Mr. BROOMFIELD, Mr. BROWN of Ohio, Mr. BURGENER, Mr. CARTER, Mr. CLEVELAND, Mr. COHEN, CONABLE, Mr. CORCORAN, Mr. COUGHLIN, Mr. DOWNEY, Mr. DRINAN, Mr. EDGAR, Mr. EDWARDS of Oklahoma, Mr. EMERY, Mr. ERLENBORN, Mr. EVANS of Delaware, Mr. FINDLEY, Mr. FREY, Mr. GRADISON, Mr. HOLLENBECK, and Mr. HORTON):

H. Res. 181. Resolution to provide for the continuous radio and television broadcast coverage of House floor proceedings; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. JOHNSON of Colorado, Mr. KREBS, Mr. LAGOMARSINO, Mr. LENT, Mr. LEVITAS, Mr. MCKINNEY, Mr. MADIGAN, Mr. MAZZOLI, Mr. MOORHEAD of California, Mr. PANETTA, Mr. PRITCHARD, Mr. QUIE, Mr. RINALDO, Mr. SARASIN, Mr. SIMON, Mr. THONE, Mr. VANDER JAGT, Mr. WINN, Mr. YOUNG of Florida, Mrs. FENWICK, Mr. FRENZEL, Mr. KOCH, Mr. PURSELL, and Mr. MCEWEN):

H. Res. 182. Resolution to provide for the continuous radio and television broadcast coverage of House floor proceedings; to the Committee on Rules.

By Mr. JOHN L. BURTON (for himself, Mr. LUJAN, Mr. DODD, Mr. STEERS, Mr. DAVIS, Mr. BEDELL, Mr. LAFALCE, Mr. YATES, Mr. CARNEY, Mr. WIRTH, Mr. FISH, Mr. MOFFETT, Mr. OTTINGER, Mr. NEAL, Mr. RYAN, Mr. BROWN of Ohio, Mr. GLICKMAN, Mr. BENJAMIN, Mr. STEED, Mr. LUNDINE, Mr. WON PAT, Mr. CARR, Mr. MAZZOLI, Mr. STUDDS, and Mr. HARRINGTON):

H. Res. 183. Resolution amending rule XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution, and to provide for the addition and deletion of names of

Members as sponsors after the introduction of a bill, memorial, or resolution; to the Committee on Rules.

By Mr. COHEN:

H. Res. 184. Resolution for the creation of congressional senior citizen internships; to the Committee on House Administration.

By Mr. CRANE (for himself, Mr. FLOOD, Mr. JOHN T. MYERS, Mr. MOORHEAD of California, Mrs. LLOYD of Tennessee, Mr. MCDONALD, Mr. RUDD, Mr. MONTGOMERY, Mr. MATHIS, Mr. ROBINSON, Mr. ICHORD, Mr. DAN DANIEL, Mr. DEL CLAWSON, Mr. RUNNELS, Mr. HANSEN, Mr. WHITEHURST, Mr. YATRON, Mr. BAFALIS, Mr. KETCHUM, Mr. COLLINS of Texas, Mr. EDWARDS of Oklahoma, Mr. GRASSLEY, Mr. BEVILL, Mr. LUJAN, and Mr. LOTT):

H. Res. 185. Resolution insisting upon retention of undiluted U.S. sovereignty over the Canal Zone and the Panama Canal; to the Committee on International Relations.

By Mr. CRANE (for himself, Mr. HALL, Mr. KEMP, Mrs. HOLT, Mr. DEVINE, Mr. CARTER, Mr. YOUNG of Florida, Mr. BURGENER, Mr. WAGGONNER, Mr. SYMMS, Mr. ROE, Mr. DORNAN, Mr. KEMP, Mr. MARTIN, and Mr. ROBERT W. DANIEL, Jr.):

H. Res. 186. Resolution insisting upon retention of undiluted U.S. sovereignty over the Canal Zone and the Panama Canal; to the Committee on International Relations.

By Mr. DELANEY:

H. Res. 187. Resolution concerning committee hearings on the future telecommunications policy of the Nation; to the Committee on Interstate and Foreign Commerce.

By Mr. DELANEY (for himself and Mr. LE FANTE):

H. Res. 188. Resolution to designate January 22 as Ukrainian Independence Day; to the Committee on Post Office and Civil Service.

By Mr. DELANEY (for himself and Mr. QUILLEN):

H. Res. 189. Resolution providing funds for the Committee on Rules; to the Committee on House Administration.

By Mr. DEVINE:

H. Res. 190. Resolution to make the FBI Director nonpolitical; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mrs. SCHROEDER, Mr. LEACH, Mr. HAGEDORN, Mr. CONABLE, Mr. YOUNG of Florida, Mr. SNYDER, Mr. DUNCAN of Tennessee, Mr. MARLENEE, Mr. BEDELL, Mr. DORNAN, Mr. THONE, Mr. BROYHILL, Mr. BROWN of Michigan, and Mr. PRESSLER):

H. Res. 191. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress for the fiscal year ending September 30, 1978; to the Commitee on Post Office and Civil Service.

By Mr. KASTENMEIER:

H. Res. 192. Resolution expressing the sense of the House of Representatives that the U.S. Government should formally record its endorsement of the United Nations Standard Minimum Rules for the Treatment of Prisoners; to the Committee on the Judiciary.

By Mr. KEMP:

H. Res. 193. Resolution to express the disapproval of the House of Representatives of the release of Abu Daoud by the Government of France; to the Committee on International Relations.

H. Res. 194. Resolution expressing the sense of the House of Representatives that the President should appoint a special prosecutor to investigate, and prepare prosecutions with respect to acts by agents of foreign governments designed to buy influence from officials of the United States; to the Committee on the Judiciary.

By Mr. LUJAN:

H. Res. 195. Resolution disapproving the proposed deferral of budget authority for operating expenses for Program Support-Community Operations for certain communities associated with facilities of the Energy Research and Development Administration; to the Committee on Appropriations.

By Mr. MOTTL (for himself, Mr. HYDE, Mr. BEDELL, Mr. KINDNESS, Mr. MILFORD, and Mr. NEAL):

H. Res. 196. Resolution to create a select committee to conduct a study of the circumstances surrounding both product liability and professional liability insurance rate increases, and of any other product and professional liability insurance coverage issues the committee shall determine; to the Committee on Rules.

By Mr. MURPHY of Pennsylvania (for himself, Mr. WALGREN, and Mr. EDGAR):

H. Res. 197. Resolution to disapprove the salary increases proposed by the President for Members of Congress and certain other legislative officers; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

7. The SPEAKER presented a memorial of the Legislature of the State of Colorado, relative to the reenactment of a sugar act; to the Committee on Agriculture.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN:

H.R. 2550. A bill for the relief of Edward N. Luttwak; to the Committee on the Judiciary.

By Mr. BUCHANAN:

H.R. 2551. A bill for the relief of Alice Chancey Wingo; to the Committee on the Judiciary.

By Mr. BURGENER:

H.R. 2552. A bill for the relief of Alma Aguilar Bareno de Salcido; to the Committee on the Judiciary.

H.R. 2553. A bill for the relief of Young Gun Kim; to the Committee on the Judiciary.

By Mr. DAN DANIEL:

H.R. 2554. A bill for the relief of Dr. Vajapeyam S. Achar; to the Committee on the Judiciary.

By Mr. DANIELSON:

H.R. 2555. A bill for the relief of Michelle Lagrosa Sese; to the Committee on the Judiciary.

H.R. 2556. A bill for the relief of Grace Maria Salazar Santos; to the Committee on the Judiciary.

By Mr. HAGEDORN:

H.R. 2557. A bill for the relief of Robert H. Carleton; to the Committee on the Judiciary.

By Mr. HARRIS:

H.R. 2558. A bill for the relief of Dr. John Alexis L. S. Tam and Yeut Shum Tam; to the Committee on the Judiciary.

By Mr. SISK:

H.R. 2559. A bill for the relief of Benjamin Baxter; to the Committee on the Judiciary.

By Mr. SOLARZ:

H.R. 2560. A bill for the relief of Beryane Garman; to the Committee on the Judiciary.

By Mrs. SPELLMAN:

H.R. 2561. A bill for the relief of Mahjubah al-Kutub and her two children, Huriyah al-Azhari and Hisham al-Zuhri; to the Committee on the Judiciary.

By Mr. WAMPLER:

H.R. 2562. A bill for the relief of Granwel Aquino Esteban; to the Committee on the Judiciary.

By Mr. WRIGHT:

H.R. 2563. A bill for the relief of Velzora Carr; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

35. By the SPEAKER: Petition of Karen Nisonger, Brigham City, Utah, and others, relative to the proposed congressional pay raise; to the Committee on Post Office and Civil Service.

36. Also, petition of the Governor and cabinet of the State of Florida, relative to deauthorization of the Cross Florida Barge Canal project; to the Committee on Public Works and Transportation.

EXTENSIONS OF REMARKS

THE HIDDEN COSTS OF REGULATION

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. DEL CLAWSON. Mr. Speaker, Americans in general seem to be paying more for Government and enjoying it less. Worse, still, too often the costs are treated as items apart from the so-called benefits and more often they are inseparably linked by the inflationary spiral to which they contribute. It is a Gordian knot to challenge a modern Alexander and a recent article in the Wall Street Journal summed it up so well I would like to include the article at this point in the RECORD for the information of my colleagues. The article entitled "The Hidden Costs of Regulation" appeared in the Wall Street Journal of January 12 and it follows:

THE HIDDEN COSTS OF REGULATION

(By Irving Kristol)

In all of the recent discussion of our economic condition, there has been controversy over whether a tax cut is really necessary and, if so, what kind of tax cut would be most beneficial. To the best of my knowledge, no one—not even John Kenneth Galbraith—has dreamed of proposing a *tax increase*. Yet that is what we shall get this year—specifically an increased tax on corporate income. Indeed, we got such an increase last year too, only no one noticed.

It is not really as surprising as one might think that our economists, our accountants, even our business executives should be oblivious to the steady increase in corporate taxation that has been taking place. Habitual modes of reckoning are likely to impose themselves on a changing reality rather than go through a painful process of adaptation.

And the learned economist or alert executive can fail to observe an important feature of a situation, simply because he wasn't looking for it.

Here is an example of what I mean. Corporation "X" in order to meet water pollution standards set by the Environmental Protection Agency, has to install new filtering equipment that costs $2 million. How is this expenditure to be accounted for? Well, at present, it is counted as a "capital investment" and is carried on the books as an "asset" of the corporation. But does this make any sense?

After all, a "capital investment" is supposed to promise an increase in production or productivity, or both. An "asset," similarly, is supposed to represent earning power, actual or potential. But that new filtering equipment may do none of these things: Indeed, it may actually decrease productive capacity and productivity. In short, the $2 million ought properly to be counted as a government-imposed cost—in effect a surtax; an effluent tax, if you wish—and the company's stated after-tax income should be reduced accordingly.

The government, instead of imposing an actual tax and using the proceeds to purchase and install the equipment, mandates that the firm do so. The end result, however, is the same.

A SOCIAL GOOD

Mind you, I am not saying that the new filtering equipment is just money down the drain. It does buy cleaner water, after all. But that cleaner water is a free "social good" and a "social asset" to the population in the neighborhood (and for the fish, too); it represents no economic gain to the corporation, which has only economic assets and knows nothing of "social assets." It also buys governmental "good will"—but so do bribes to foreign officials, and I am not aware that anyone has yet thought to capitalize them. On the other hand, the new equipment is unquestionably an *economic cost* to the corporation—and, of course, to the company as a whole.

As things now stand, we render those economic costs invisible. That is both silly and undesirable. Silly, because they are real costs. Undesirable, because we shall never persuade the American people to take the problem of regulation seriously until they appreciate, in the clearest possible way, what it is costing them—as stockholders, consumers, employes.

The costs we are talking about are by no means small, and their impact by no means marginal. In fact, they are far, far larger and more serious than most people realize. Unfortunately, there are no comprehensive, precise estimates available. But one can get a sense of the magnitude of such costs from the following bits and pieces of information:

U.S. Steel has just signed a seven-year agreement with federal, state, and local environmental agencies that will require it to spend $600 million over that period to eliminate air pollution from its Clairton Coke Works in Pittsburgh.

The steel industry as a whole will be spending well over $1 billion annually on pollution controls—and that is a conservative estimate. This expenditure amounts to over one-quarter of the industry's total annual capital investment.

Meeting EPA's 1983 water pollution standards will cost all of American industry, over the next seven years, about $60 billion for capital equipment and another $12 billion annually in operating and maintenance costs.

Meeting noise pollution standards, as mandated by Congress and enforced by the Occupational Safety and Health Administration (OSHA), will involve expenditures of over $15 billion in capital costs and $2 billion to $3 billion in operating costs in the years immediately ahead. If these noise standards are raised to the level recommended by the U.S. National Institute for Occupational Safety and Health—a recommendation endorsed by EPA—the capital costs will climb over $30 billion.

The Wall Street Journal recently reported that new health regulations in the cotton industry will cost some $3 billion over the next seven years. It has been estimated by Professor Murray Weidenbaum that American industry's costs to meet OSHA safety standards *this year* will be over $4 billion.

EPA is on record—for what this is worth—as calculating that industry's total capital investment requirements for all kinds of pollution control equipment will, in the decade 1972–81, add up to $112 billion.

None of the above figures is particularly reliable, and they may even not be entirely consistent with one another. But they do suffice to give a pretty fair indication of what is going on. Even so, important costs are omitted—those costs, for example, which involve product redesign or the design of the work place. Thus, the increased cost of housing over these past years results, to a significant degree, from various environmental regulations. And Ewan Clague, former U.S. Commissioner of Labor Statistics, points out that productivity in bituminous mining has decreased 30% since 1970, largely as a result of the passage in that year of the Coal Mine Health and Safety Act. These indirect costs are not capitalized, of course, and technically are not "hidden." On the other hand, who would claim that the public appreciates their dimensions?

As one contemplates those numbers, various inferences suggest themselves. One is that a clear distinction ought to be made between "capital spending" and "capital investment." We are told that capital investment last year amounted to $121 billion, and economists were somewhat disappointed that this represented only a 7.5 percent increase over 1975. But if, as seems likely, as much as 10 percent of that figure should not be counted as "capital investment" at all, since it consisted of economically unproductive *expenditures* of capital to meet governmental regulations—where does that leave us? It leaves us, I would suggest, with a net reduction in true capital investment in 1976, the economic effects of which will be with us for years ahead. One such probable effect, a decline in the rate of growth of the American worker's productivity, has already been noticed—though never accounted for.

It may be argued that these economically unproductive expenditures do, after all, create jobs (temporarily) and do contribute to the Gross National Product. But so would the corporate construction of beautiful pyramids, at governmental behest. That would create jobs (temporarily), inflate the GNP, and provide us with a "social good" (a great spectacle). But it would be a cost to the economy, and if our conventional statistics are incapable of showing it as such, then it is those statistics that need revision.

COSTS PASSED ALONG

It is also true that, in many cases, corporations are able to maintain their profit margins by passing on their increased costs—directly to the consumer, indirectly to their stockholders (by holding down dividends) or to their employees (by granting lower wages than they otherwise might). But that is what usually happens to corporate taxes—they get passed on to *someone* since the corporation itself is only an economic mechanism, not an economic person (except, fictitiously, in law). In the world market of today, however, not all corporations can pass on those costs. In those instances, we get declining industries, a sagging economy. In any case, those costs—passed on or not—should be visible, instead of hidden as they now are. The Federal Reserve's index of plant capacity, for example, apparently makes no effort to distinguish between capital expenditures and capital investments, and is to that degree misleading.

It is true, too, that firms can depreciate their uneconomic, mandated capital expenditures. But that equipment will have to be replaced as it depreciates with age—we are not talking about a one-time expense.

The situation we have gotten ourselves into would be ridiculous if it were not so serious. We are much exercised—and quite rightly—by the fact that the OPEC monopoly has cost this country some $30 billion in increased oil prices since 1972. But in that time we have inflicted upon ourselves much larger economic costs through environmental and other regulations—and will continue to do so, perhaps at an increasing rate.

Yes, these economic costs do buy real "social goods." But may the price not be too high? Is the resulting inflation of prices, constriction of productive capacity and increase in unemployment worth it? Would it not be appropriate for us to ask ourselves this question openly, instead of going along with the environmentalists' pretense—so pleasing to our politicians—that our "social goods" cost us nothing at all? Isn't it time that business stopped bleating in a general way about those costs and showed us what they really mean, all the way down to the bottom line?

L. VINTON HERSHEY—A DEVOTED COMMUNITY SERVANT

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. BYRON. Mr. Speaker, I am deeply saddened to report that a dedicated and devoted community servant, Mr. L. Vinton Hershey, has passed away. It has been my privilege to know him for many years and I join with his many friends in extending our sympathy to his family.

He tirelessly contributed his efforts and talents to many worthwhile community activities, such as the Boy Scouts. He also formerly served on the board of directors of the W. D. Byron Tannery, for which my family and I are very grateful.

It would be impossible to even briefly mention the many ways Vint Hershey touched and improved the lives of countless others. I would like to include in the RECORD an editorial from the January 18, 1977, edition of the Hagerstown Morning Herald, which appropriately described him as "Hagerstown's No. 1 citizen."

He will long be remembered by many grateful citizens who had the opportunity to know him and benefit from his dedication and achievements.

The article follows:

L. VINTON HERSHEY

It's doubtful that anyone would challenge the designation of L. Vinton Hershey as Hagerstown's No. 1 citizen.

The veteran industrialist and civic leader was held in high esteem by all those who knew him or were intimately associated with him in business and community matters.

Mr. Hershey was kind, generous, compassionate. He was a religious man, dedicated to his church. His far-ranging interests went beyond his own county and state. His counsel was welcomed on the national level.

Vint Hershey held high office in the Boy Scouts of America, and national shoe associations with which he was connected for many years. He was a director of several banking institutions and served as a member of the board of regents of Mercersburg Academy.

A full accounting of Mr. Hershey's wide range of interests would fill this editorial column. Let it be said in tribute that he was devoted to his family, his community, his state and nation. He served them well over a long span of years. He will be missed.

TRIBUTE TO NATALIE "TONI" KIMMEL

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. WAXMAN. Mr. Speaker, an extraordinary person, Natalie "Toni" Kimmel, will be honored on the occasion of her installation for a sixth term as President of the Studio City Democratic Club. The occasion coincides with the 25th anniversary of this club, which is and has been since its inception, a strong link in the Democratic Party structure in California. Toni's arrival in California 25 years ago was fortunate for the newly formed Democratic Club, her energetic activities through the years have involved her in many club offices.

Toni and her husband, Jess Kimmel, were involved with the theater. Before the arrival of her three children, Tina, Peter and Kathy, Toni was a singer and actress. Jess, a producer and director on Broadway, became a pioneer in TV. With the death of her husband, Toni became an agent and casting director—but, even with the necessity of working and raising her family, she found time and energy to support the causes she believes in. Her contributions to her community, her State, and to the Democratic Party, have never been sufficiently acknowledged. Toni is a mover and a shaker who becomes totally involved in the organizations and people she helps with her strength, her creative and imaginative approaches to problems.

She has been a member of the California State Democratic Central Committee a number of times, and is now a member of the Los Angeles County Democratic Central Committee. She has served as southern vice president of the California Democratic Council and twice has served as convention manager of the annual CDC Convention. Toni was a candidate for Congress in 1970, winning the Democratic primary in the 27th District. She was a founding member of the National Women's Political Caucus and has worked indefatigably for other women candidates for political office in the Los Angeles area and throughout the State. Toni Kimmel adorns her community and the Democratic Party in California, and it is an honor to have a woman of her caliber in our midst. Always involved, totally committed, Toni Kimmel richly deserves the recognition which I ask the Members to join me in offering her, and to note the occasion of Toni's accession to the presidency of the Studio City Democratic Club for the sixth time, at a banquet held on January 15, 1977 celebrating the club's silver jubilee.

WORLD WILDLIFE FUND

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. FISHER. Mr. Speaker, during the World Wildlife Fund Fourth International Congress, held in San Francisco November 29–December 1, 1976, a number of resolutions dealing with wildlife resources throughout the world were adopted.

Today I am inserting into the CONGRESSIONAL RECORD the preamble and first nine resolutions adopted at the meeting. I will introduce the remaining resolutions into the RECORD during the coming week.

While I do not necessarily endorse every position taken by the World Wildlife Fund, I did want to bring the resolutions to the attention of my colleagues:

FOURTH INTERNATIONAL CONGRESS OF THE WORLD WILDLIFE FUND: DRAFT CONGRESS RESOLUTIONS

PREAMBLE

The Fourth International Congress of the World Wildlife Fund meeting in San Francisco, U.S.A. from 29 November to 1 December, 1976 has been devoted to the theme "The Fragile Earth: Toward Strategies for Survival."

It is recognized that the fundamental cause of the problems of the Earth can be traced to the growing pressure of human population on natural resources and that any satisfactory and durable solution can only be achieved by bringing human numbers into balance with the potential of the biosphere to support them. The present imbalance is leading to the dissipation of the capital of natural resources and often to its complete destruction in irreversible soil loss, the extinction of the genetic resources of plants and animals, the destruction of the potential for production of the land and the oceans and of the self-cleansing capacity of air and water. The problem is accentuated by the over-prodigal use of resources by the more affluent parts of world society. It often finds its expression in social and political tensions. The Congress recognizes that there is no prospect for long-lasting conservation unless these processes are brought under control.

The Congress affirms its belief in the following:

Natural resources must be wisely used, so that their potential to contribute to the sustained well-being of mankind may be maintained and enhanced.

This requires a development of natural resources which makes full use of the potential of these resources but at the same time recognizes the restraints that must be applied if their natural capital is not to be dissipated. Such development must strive to improve the quality of life for all peoples.

An essential element in any such development must be to maintain, as far as possible, the genetic resources of all wild organisms and adequate areas of communities of wild animals and plants, and of natural landscapes, and to minister to the material and spiritul needs of present and future generations.

Such an image of the future requires that all men and women be made aware of their absolute dependence on the health of the natural world and especially that those responsible for decisions develop a sense of ecological statesmanship and that the coming generations learn to be sensitive to these fundamental issues.

1. THE DANUBE DELTA, RUMANIA

Recognizing the unique and manifold values of the Danube Delta and its renewable natural resources from economic, scientific, social, educational, recreational, aesthetic and ethical points of view;

Realizing that the living landscape of the Danube Delta with its innumerable interacting productive components of water, soil, vegetation and animal resources is a dynamic and fragile ecosystem;

Being aware of the ongoing and planned exploitation of the Danube Delta;

Regretting that long-term ecological considerations do not seem to have been taken into account in planning and executing the exploitation of the Danube Delta;

Fearing that the degradation of the extraordinary landscape of the Danube Delta through continued over-exploitation of its natural resources leads to irreversible destruction of biotic communities and invaluable assets;

Pointing out that an ecological and bioeconomic approach to the management of the Danube Delta is necessary;

The Fourth International Congress of the World Wildlife Fund, meeting in San Francisco, U.S.A., from 29 November to 1 December 1976;

Urges the Government of Rumania to establish a long-term plan for the conservation, management and utilization of all natural resources of the Danube Delta;

Proposes that these resources should be preserved and utilized in such a way as to provide an optimal sustained yield while maintaining natural productivity and equilibrium;

Suggests as a measure in that direction that a zoning of the Danube Delta be established for various kinds of activities as a part of the long-term plan;

Compliments the Government of Rumania for having set aside several nature reserves in the Danube Delta;

Appeals to the Government of Rumania to increase these reserves in size and number to form the Danube Delta National Park within the system of zoning;

Convinced that such a national park would in many ways benefit Rumania and the world;

Offers the Government of Rumania international support for the implementation of those proposals.

2. MANAGEMENT OF THE DONANA NATIONAL PARK AND BIOLOGICAL STATION IN SPAIN

Considering that the Coto Donana represents one of the most important areas for the survival of rare species of European wildlife and for the migratory birds of many countries;

Aware that the Donana National Park is seriously endangered by various threats including pollution and disturbance from the expanding tourist urbanization on its boundary, irrigation and land development projects in the immediate neighborhood producing an influx of poisonous agricultural pesticides and from roadbuilding projects;

Understanding the anxiety which the present situation and the need for improved coordination in management have aroused among the general public in Spain and many other countries who have provided substantial funds for the preservation of the Coto Donana;

The Fourth International Congress of the World Wildlife Fund, meeting in San Francisco, U.S.A., from 29 November to 1 December 1976:

Notes with satisfaction that the Instituto para la Conservacion de la Naturaleza (ICONA), the Consejo Superior de Investigaciones Cientificas (CSIC) and the Spanish National Appeal of the World Wildlife Fund (ADENA), who together share responsibility for the Donana National Park, have agreed to work out a common master plan for the management of the Park and for its protection against outside threats;

Urges that this master plan be completed as soon as possible with technical advice of the highest quality and that it should be fully implemented as soon as it has been agreed by the parties concerned.

3. CONSERVATION OF EXISTING NATIONAL PARKS AND PROTECTION OF ENDANGERED SPECIES IN ANGOLA

Recognizing the great diversity of natural ecosystems and wide range of rare and endangered species native to Angola;

Recalling that insufficient effort had been made in the past to inform and enlighten the Angolan people of the international importance of their natural heritage;

Alarmed at the impact of the recent hostilities on the country's unique range of endangered species;

The Fourth International Congress of the World Wildlife Fund, meeting in San Francisco, U.S.A., from 29 November to 1 December 1976:

Congratulates the Government of Angola on its efforts to develop a conservation consciousness amongst its people and on convening a National Conservation Week in January 1977;

Expresses the hope that such a National Conservation Week will become an annual event throughout Angola;

Urges the Government of Angola to continue and expand its conservation program, to consolidate existing national parks and reserves, and to protect rare and endangered species and in particular the giant sable, black rhinoceros, cheetah, chimpanzee, manatee, crocodile and marine turtles,

Enourages the Government of Angola to proclaim new conservation areas in yet unprotected ecosystems such as the tropical rain forests and the Afro-montane forest of Mount Moco.

4. PROTECTION OF THE ENDANGERED FAUNA OF CHAD

Realizing that in comparison with other countries in Central and Western Africa, the Republic of Chad still has large natural areas and a varied indigenous fauna;

Recalling that as a result of increasing destruction of habitats and uncontrolled exploitation and hunting, some elements of this endangered fauna are now almost confined to the Republic of Chad;

The Fourth International Congress of the World Wildlife Fund, meeting in San Francisco, U.S.A., from 29 November to 1 December 1976:

Congratulates the Government of the Republic of Chad for having established the Ouadi-Rime—Ouadi-Achim Nature Reserve for Addax and Simitar-horned Oryx and for its efforts in maintaining it;

Urges the Government to ensure the future of the reserve by providing sufficient staff and funds for its management and to extend it to enclose the range of a viable Addax population;

Appeals to the Government to ensure the survival of other endangered species of the Sahelian fauna and Black Rhinoceros, Leopard, Crocodile, Monitor Lizard and Python, by improving law inforcement.

5. POLLUTION OF LAKE NAKURU NATIONAL PARK, KENYA

Recalling the terms of agreement drawn up between the Kenya Government and the World Wildlife Fund for the Lake Nakuru National Park in which it was agreed that no man-made environmental hazard, which, in the opinion of the World Wildlife Fund would endanger the Lake, would be permitted in the area;

Pointing out that a clause was inserted into the agreement stating "The Government wishes to ensure the preservation in perpetuity of the wildlife and ecology of Lake Nakuru and to this end proposes . . . to control the sewage, pollution and other manmade hazards so that the said wildlife and ecology of the Park suffers no damage or detriment therefrom";

Being concerned at the licensing of a factory to produce copper oxychloride within the area;

Alarmed at the lack of adequate measures provided to control environmental pollution by the factory;

Fearing that the absence of such protective measures will lead to the ultimate destruction of the Lake Nakuru biosystem;

Considering that the licensing of the factory by the Kenya Government constitutes a breach of agreement between the Kenya Government and the World Wildlife Fund;

The Fourth International Congress of the World Wildlife Fund, meeting in San Francisco, U.S.A., from 29 November to 1 December 1976:

Requests the Kenya Government to honour the agreement made with the World Wildlife Fund by rescinding the license issued to Copal Ltd. to manufacture in the Lake Nakuru watershed copper oxychloride and other potentially dangerous chemicals.

6. FOREST DESTRUCTION IN AFRICA

Aware of the important ecological role of forests as climatic, hydrological and pedological stabilizers in ecosystems and as a basis for environmental health;

Recognizing that African forests and woodlands contain a diverse flora and fauna and constitute an invaluable reservoir of genetic resources;

Considering that the African forests and woodlands provide habitats for a most varied fauna of which many species provide protein for human populations;

Appreciating that timber and fuel will continue to be needed by local human populations on a sustained yield basis;

Regretting that the accelerating destruction of indigenous forests and woodlands in Africa by uncontrolled settlement and by excessive exploitation for fuel and timber, is leading to the irretrievable depletion of these unique resources and to collapse of water regimes, increased erosion and disappearing wildlife;

The Fourth International Congress of the World Wildlife Fund, meeting in San Francisco, U.S.A., from 29 November to 1 December 1976:

Calls on the Governments of African countries to re-inforce their protection on the indigenous forests and woodlands through the implementation of active conservation and management policies supported by vigorous public education and, where necessary, adequate enforcement;

Urges the Governments of African countries to be guided in their management and development policies on forests and other habitats by due consideration for the long term values, benefits and productivity of indigenous forests and woodlands;

Recommends that viable examples of unique forest and woodland ecosystems should be set aside as specially protected nature reserves; and

Urges the concerned organisations of the United Nations system and other intergovernmental bodies such as the Orginazation of African Unity to take appropriate action to support the Governments of African countries in their efforts to this end; and

Further urges that no concessions be given for timber exploitation in existing national parks and equivalent reserves in forests and woodlands areas so they are maintained intact.

7. DESTRUCTION OF WILDLIFE IN EASTERN AFRICA

Being Concerned at the wholesale destruction of wildlife, in particular, elephant, rhinoceros and zebra, within East Africa;

Convinced that this destruction results from both overexploitation for the trophy trade resulting in large-scale poaching and inadequate conservation management planning.

Aware that National Governments have responsibilities to their peoples to provide social amenities and the fundamentals of survival, have conservation planning as a low priority with inadequate funds to implement it;

Reinforcing that if wildlife is to survive, its conservation must be an international responsibility supplementing to a greater degree the efforts of National Governments;

The Fourth International Congress of the World Wildlife Fund, meeting in San Francisco, U.S.A., from 29 November to 1 December 1976:

Urges National Governments to take immediate action fully to implement declared policies for the control of the trophy trade, to implement existing laws for the conservation of wildlife, and, where inadequate legislation exists, to introduce such;

Recommends that National Governments should give higher priority to wildlife conservation in their applications for assistance to UN organizations and bilateral aid organizations.

8. CONSERVATION OF THE BALD IBIS

Concerned that the Bald Ibis is one of the most endangered bird species in the world;

Realizing that the factor threatening the survival of the Bald Ibis is human disturbance;

Aware of the role the Bald Ibis play in the cultural tradition;

The Fourth International Congress of the World Wildlife Fund, meeting in San Francisco, U.S.A. from 29 November to 1 December 1976:

Urges the Government of Turkey to take stringent enforcement action to save the Bald Ibis from extinction.

9. WORLDWIDE ACTION TO SAVE THE TIGER

Concerned that the tiger is one of the most endangered species in Asia as a result of loss of habitat and excessive hunting;

Noting that the survival of the tiger requires coordinated action by all nations within the range of the species to protect it from poaching and the destruction of its habitat;

The Fourth International Congress of the World Wildlife Fund, meeting in San Francisco, U.S.A., from 29 November to 1 December 1976:

Congratulates the Governments of India, Nepal and Bhutan for having established a number of special reserves for the tiger and on their comprehensive plans to ensure the future of the species;

Encourages the Governments of Bangladesh, Malaysia, Indonesia and Thailand to accelerate their plans for establishing or improving reserves for the tiger and the control of poaching;

Renews the call on the Governments of all other countries with tigers in the wild to

take similar action to guarantee the survival of the species.

THE BLACK LUNG REFORM ACT OF 1977

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. RAHALL. Mr. Speaker, as one of the first cosponsors of the Black Lung Reform Act of 1977, I would like to urge the Members to adopt this legislation, H.R. 1532, when it is introduced in the House on February 7.

This measure, which would offer just compensation to those and their families who have suffered economic, mental, and physical anguish from this curse which can only be contacted from a lifetime of labor in the dark, dusty catacombs of the Nation's collieries, includes the following proposals:

First. Reduction of Federal liability for payments of benefits by establishing an operator-financed trust fund, to be derived from a royalty of approximately 11 cents per ton of coal. This taxation would not have a marked impact on the price paid by consumers and would finance all claims handled by the Department of Labor—those filed after December 31, 1973.

Second. Automatic entitlement of benefits to miners with a service record of 20 years. There is no absolute method, short of autopsy, to measure the damage of coal miner's pneumoconiosis. Virtually all miners with 20 year's service are afflicted.

Third. Just compensation for widows. Employment at time of death will no longer serve as evidence that a miner was not totally disabled. A widow's claim will be placed on an equal basis with a regular claim.

Fourth. Make the black lung benefits program a permanent program. Current timetable calls for an end to the program by 1981, when Federal dust standards must be at a level that would eradicate this industrial illness. Unfortunately, a recent GAO study indicates that these standards are not being met.

In addition to the above guidelines, I would like to see the provisions of House Joint Resolution 151, which I introduced on January 17, included in the black lung legislation. This "provides temporary authority for additional qualified individuals to hear and determine claims under title IV of the Coal Mine Health and Safety Act of 1969, as amended."

Mr. Speaker, I urge my honorable colleagues to join me in a unified effort to overcome the unjust differences that exist in the present laws. For I know, I have seen the suffering. I have been in the hollows of my Fourth Congressional District of West Virginia—where there are 35,000 active miners alone—and I have seen the broken men at places like Affinity, Barnubus, Holden, Red Jacket, and War. Their plight rests solely in my fellow Member's hands.

THE OIL-DARK SEA

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. WHITEHURST. Mr. Speaker, I am sure that all of my colleagues are familiar with the Reasoner Report, the series of radio commentaries done by Harry Reasoner on ABC. The Friday, January 14, 1977, Report was, I think, a particularly relevant one, and for the benefit of those who might have missed it, I am introducing it into the RECORD today.

Underneath its wry humor is a very solid message: Unless we do something to preserve our oceans very soon, it will be too late. Let me take this means to urge my colleagues again to take prompt, positive action along the lines I have previously suggested. My thanks go to Harry Reasoner for making a vital point so well.

The Reasoner Report follows:

THE OIL-DARK SEA

P. T. Barnum is reputed to have said that there's a sucker born every minute. Which means, for my purposes, that before I'm finished with today's exposition, five more people will believe that all the recent oil-tanker mishaps have been accidents . . . all the groundings, I mean, and the broachings, and the breakings-up resulting in huge spills.

Don't get me wrong: I don't have any inside information or anything. But I do have a pretty good ear for malarkey, and a fair nose for the high-octane plot.

Which is precisely what I think this string of oil-spills amounts to. Well, maybe not a plot exactly. Let's just say that I suspect the oil people are secretly testing a new plan.

It's a pretty good plan, too, if you're not overly romantic about oceans. Look at it this way: Right now, the oil companies are pumping super-tankers full of oil, simply to float them across a body of water, at the other side of which they will unburden themselves of their cargo. This is an expensive, time-consuming and risky process. And it doesn't make very much sense, when you consider the fact that you could easily eliminate this costly intermediate step.

Yes sir, all you've got to do is pump the oil directly into the ocean. The stuff floats tolerably well, it doesn't mix with water, and it stays together very nicely.

Of course, the new plan has not yet shown its practical advantages. As of now, we've got a measly few million gallons of oil out there floating in a few billion gallons of water. Naturally, the oil will be difficult to get at, and it will probably take longer to float to its destination than it would have taken to be shipped. But, see, if you get it to the point where the oceans are ninety- or ninety-five percent oil, the transportation problem will be entirely solved. The Atlantic and Pacific will then be endless conveyor belts of oil.

Okay, so there are a couple of little problems. We've gotten pretty attached to the oceans . . . the bounding main, the lure of the sea, all that poetic stuff. But this is another age. If you're absolutely realistic about it, you'll have to admit that we could do without the oceans. We've got pools to frolic in, and the traffic down to the shore is impossible anyway. Besides, the oceans would still be there; they'd just look a tad different that's all. The beaches would be a nice midnight color, and the majestic swells breaking off-shore would be known not as whitecaps but as gas-caps.

Not that you'd want to hang out there anymore, what with all the oil trucks backed down to land's end for easy fuelling-up, and the little gaily-colored refineries dotting the sands, and the railroad tracks meandering through the rolling dunes, and the huge storage tanks painted to look like giant beachballs, and the life-guards wearing hard-hats and khaki jumpsuits and chest-high waders.

I'll be back with a closing note after this: [Commercial.]

I know, I know: It's not the sea of grandma and grandpa. But then they didn't have to ship billions of cubic feet of oats in giant container ships, did they? And then there's another advantage of using our oceans as immense reservoirs of oil: We wouldn't have to have any more super-tankers.

I'm Harry Reasoner, ABC News, New York, and this has been The Reasoner Report on American Information Radio.

SOFT DRINKS AND HARD FACTS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. PICKLE. Mr. Speaker, in order to protect the independent businessmen and women who are this Nation's bottlers and small grocers, I have reintroduced the Exclusive Territorial Franchise Act, H.R. 1155. This bill will allow for exclusive territorial arrangements used in the distribution or sale of a trademarked soft drink product or a trademarked private label food product. This is the same bill that was reported by the Judiciary Committee last July. The bill passed the House Commerce Committee. Regretfully no action was taken on the floor.

This bill provides that nothing contained in the Federal Trade Commission Act renders unlawful the provision of exclusive rights to manufacture, distribute, and sell soft drinks in a defined geographical area—so long as certain competitive standards are met. Briefly, those standards are: First, that the soft drink product in question must be in free and open competition with other soft drink products, second, that the holder of the exclusive right must be in free and open competition with sellers of other soft drinks, and third, that the licensor—the syrup company—must retain control over the nature and quality of the trademarked soft drink.

The Federal Trade Commission sometimes seems to think that bigness is good—that big operations mean economy in price. But let us look at what kind of a deal we will be getting if the FTC decides that the small independent bottlers are violating the antitrust laws.

Big distributors would not service the corner filling station, the "mom and pop" grocery stores, the side-of-the-road cafes, and all of those wonderful small

places where we have enjoyed a soda. It would just not be profitable for these places to be served by a large distributor.

The returnable bottle would be endangered since warehouse delivery cannot easily accommodate the collection and return of two-way containers.

Without exclusive territorial rights, these independent businesses cannot survive.

THE BUDGET FOR 1978

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for January 26, 1977 into the CONGRESSIONAL RECORD:

THE BUDGET FOR 1978

To discuss President Ford's valedictory budget for fiscal year 1978 as irrelevant would be a mistake. Despite all the power of the Presidency, Jimmy Carter will not find it easy to make changes in Mr. Ford's budget. Changes, can and will be made, but the basic structure of the Ford budget cannot be ignored.

There are several reasons for the constraints on Mr. Carter. The new Congressional budget process requires him to submit any changes to the Congress several weeks after taking office. Besides that, three-quarters of the budget is beyond the President's control because of existing legislation or binding contracts. Even so, the Carter team, which has been working since last summer to prepare budget options for the new President, believes that they can put a strong Carter imprint on the Ford budget.

The higlights of the Ford budget for fiscal year 1978 are these: government spending up 7 percent to $440 billion; government receipts up 11 percent to $393 billion and a reduction in the federal deficit from $57.2 billion to $47 billion. These budget estimates assume a 7.3 percent unemployment rate and a 5.3 percent increase in the Consumer Price Index for 1977.

Overall President Ford's budget contains no surprises or initiatives. It proposes to slow the rate of growth of federal spending by limiting the growth of federal social programs while allocating increased resources for defense, energy, and research and development. It makes the dubious assumption, however, that Congress will be able to cut over $12 billion from existing levels of spending.

The most unusual feature of Mr. Ford's budget is its long-term proposal for tax reduction. Mr. Ford would freeze the percentage of income that a family pays in federal income tax. He maintains that the government should not be entitled to tax revenues which result from inflation or increases in real income.

There are a number of significant differences between Mr. Ford's budget and the commitments President Carter made during his campaign. These differences illuminate the budget choices emerging this year. Mr. Ford recommends the discontinuation of government programs designed to create jobs for the unemployed while Mr. Carter has asked for an expansion of them. Mr. Ford recommends reductions in spending for higher education, while Mr. Carter has generally said there should be more spending for higher education. Mr. Ford advocates increased social security taxes, but Mr. Carter has rejected a higher tax, favoring instead an increase in the maximum income on which social security taxes are paid. Mr. Ford has proposed a $110 billion defense budget that provides for continued growth in defense spending. Mr. Carter has pledged a reduction in defense spending although the consensus in Washington is that he will have extreme difficulty reducing the defense budget. All of these are major differences, of course, but they still represent relatively modest revisions in the overall budget design.

Both Mr. Ford and Mr. Carter apparently accept the slow, steady increase of the federal budget, and the massive shift within the budget toward pensions, medical care, unemployment compensation, and all the government programs that protect Americans. Both also seek a balanced budget. The fiscal course, which Mr. Ford has charted would produce a balanced budget in two years. By contrast President Carter has predicted that it will take at least four years to balance the budget.

The Ford budget makes the future look pretty good, with the economy on the upswing toward lower levels of unemployment, relatively stable prices and a balanced budget. It looks too good, according to President Carter's advisors. They feel more stimulus from government is needed to get more growth in the economy and reduce unemployment. But the difference in perspective is only natural. New governments tend to accentuate the negative in order to make their records appear better, and outgoing governments tend to emphasize the positive in order to make themselves look better. Irrespective of its merits or shortcomings, Mr. Ford's budget becomes a benchmark against which the performance of the Carter Administration will be measured.

One of the things that always impresses me about budgets and whether or not their targets are met is that the trends in the economy—inflation, unemployment, economic growth—are much more important in determining their composition and realization than political rhetoric, the political makeup of the Congress or the political party of the President. For example, Mr. Ford has projected a budget deficit of $47 billion. Whether that target is achieved depends far more upon the rate of growth in the economy than the political charges and countercharges about big spending or the heated debates over relatively insignificant amounts when compared to the total budget figures. There is an element of wishful thinking in any budget, and Mr. Ford's is no exception.

PROFITS FOR THE PEOPLE

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mrs. LLOYD of Tennessee. Mr. Speaker, I would like to bring to the attention of the Members of the House the enclosed editorial which appeared in the January 9, 1977 edition of the Chattanooga News-Free Press.

The editorial tells of a success story—not only for Southern Railway but also for our country and I feel it should be shared:

PROFIT FOR THE PEOPLE

Most of the railroad news you get these days is bad. Everybody knows about the Penn Central disaster, and that of other railroads that have gone broke. And when the federal government has gotten into the railroad business, Amtrak, the news isn't necessarily good, either.

We need railroads. They are vital to our way of life and our country. We need for them to be standing on their own, meeting their operational costs and making a profit that keeps them from being a burden on the taxpayers.

The Southern Railway, that serves Chattanooga and a large part of the country from Florida to Missouri to Washington, D.C., has a success story.

It reports it has just completed its first billion-dollar year. What does that mean? Does it mean the railroad made a billion dollars? Not at all. It means it provided the American people a billion dollars' worth of service.

It didn't take your tax money. It paid taxes. It earned a profit, as all companies must do if they are to be healthy, pay their employes, provide their service and keep up to date.

The profit for the railroad figured out to about 6.1 per cent return on capital investment or 10.7 per cent return on equity. That's not high at all.

But the profit to the people of having a billion dollars' worth of service by free enterprise is tremendous.

HINDSIGHT ON VIETNAM

HON. THEODORE S. WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. WEISS. Mr. Speaker, for those who did not have the opportunity of seeing the New York Times of January 22, the following letter to the editor commends then Secretary-designate Vance on his admission that intervention in Vietnam was a mistake. It also makes a thought-provoking analogy regarding conscientious objectors:

To the Editor:

Thank you for today's editorial which drew attention to the statement of the next Secretary of State: "Let me say, in light of hindsight, it was a mistake to intervene in Vietnam."

Don't you think it might be appropriate now to mention the fact that there were thousands of people who knew it was a mistake to intervene in Vietnam at the time it happened? Many of these people did their best to tell their Government that a tragic mistake was being made. Some were branded as unpatriotic, some were thrown into jail and some were beaten up on the streets. Some were driven from the country they were trying to enlighten.

I think that we should all be grateful to Mr. Vance for acknowledging the tragic blunders of the past. The next step should be to honor those voices who cried out the truth at a time when it could have done some good. The patriotism of those people who opposed a bad war despite the great personal risk involved will be celebrated in history and should be celebrated in our own time.

SLOAN WILSON.

TICONDEROGA, N.Y., *January 13, 1977.*

OSHA INSPECTIONS IN IDAHO REJECTED BY U.S. SUPREME COURT

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. HANSEN. Mr. Speaker, I call to the attention of my colleagues a Supreme Court order handed down yesterday, January 25, by Justice William H. Rehnquist concerning inspections of the Occupational Safety and Health Administration. I make available for the RECORD a copy of my news release of this date regarding this significant action:

U.S. SUPREME COURT BARS OSHA INSPECTIONS IN IDAHO

WASHINGTON.—"OSHA lost the first round at the Supreme Court level Tuesday (1-25-77) in its battle to continue conducting sneak inspections against American citizens without a warrant," U.S. Rep. George Hansen announced.

"Justice William H. Rehnquist, acting on a request to stay a lower court declaration of unconstitutionality and injunction against the Labor Department's warrantless OSHA inspections until the ruling can be appealed, upheld that court's refusal to grant such a stay in Idaho and opened the door to possible expansion of such a bar to OSHA inspections nationwide," Hansen explained.

Judge Rehnquist's order stated: "Upon consideration of the application of the acting Solicitor General for a stay of the judgment of the U.S. District Court for the District of Idaho in this case, it is ordered that the judgment of that Court entered Dec. 30, 1976, be, and the same is hereby stayed insofar as it purports to restrain the conduct of the applicant outside the District of Idaho, pending receipt of a response from respondent and further order of the Circuit Justice or of the Court."

The request to the Supreme Court by the U.S. Department of Labor and the Occupational Safety and Health Administration appeared to be at least partly prompted by concern arising from a warning to the Secretary of Labor by Idaho Congressmen Hansen and Steve Symms that he could possibly be cited for contempt of court if he were to persist with OSHA inspections in the face of an injunction against such by U.S. District Court action in Idaho.

"The Labor Department's actions contrary to their recent statements confirm my contention and that of the attorneys for Barlow's, Inc., that the declaration of OSHA's unconstitutionality and the injunction against the Secretary by the Idaho court action has nationwide impact," Hansen said.

Hansen pointed out that the Rehnquist order retained the citizens' Fourth Amendment rights against OSHA before the Three Judge Constitutional Panel in Idaho and provided for possible re-affirmation of these rights in other states as well upon receipt of a presentation from the Barlow position.

"In the meantime," Hansen stressed, "citizens across the land in all states can individually reject an OSHA inspection as unconstitutional on the basis of court precedent. No one with proper legal advice should be hesitant and it is only the meek who shall inherit the OSHA inspection."

Hansen explained that OSHA has now lost three federal three-judge court cases—in Texas, New Mexico and Idaho. It also has lost two federal district court rulings in Ohio and Georgia and five state courts have ruled their own state-administered inspection laws in violation of the Fourth Amendment of the Constitution.

REDUCING ARMS SALES

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. DRINAN. Mr. Speaker, the inauguration of Jimmy Carter was an encouraging event for those of us who had worked to diminish the massive American sale of arms to foreign countries. Despite increased congressional oversight and disapproval power over large sales, the weapons trade has increased dramatically in recent years to the staggering level of more than $9 billion in fiscal 1976. These sales to more than 50 nations throughout the world include the most modern and sophisticated nonnuclear weapons in the U.S. arsenal.

Even more significantly, an increasing percentage of American foreign military sales are going to unstable governments in volatile regions of the world and to developing nations which use their limited resources to purchase weapons rather than food to feed their hungry and malnourished people. Our two largest customers, Iran and Saudi Arabia, are engaged in a furious arms race with one another, encouraged by the arms salesmen employed at taxpayer expense by the Department of Defense. Unless we develop a rational policy with respect to these sales, stopping those sales which have a destabilizing influence and diminishing the overall magnitude of the arms trade, the United States will find itself an unwilling and unavoidable participant in dangerous local conflicts and regional wars.

An excellent article by Emma Rothschild in the New York Review of Books of January 20, 1977 reviews the recent history of the American trade in arms and outlines several alternatives available to the new administration. President-elect Carter has already demonstrated his commitment to vigorous action in the area of arms sales reduction by appointing Ms. Lucy Benson, former national president of the League of Women Voters, as his Under Secretary of State for Security Assistance. Ms. Benson's office will be the focal point for a major review of arms sales policy, and she will chair the advisory committee that recommends specific sales to the President. I am hopeful that she will work closely with the Congress and do an effective job in bringing the spiraling weapons trade under control.

The first part of Emma Rothschild's incisive analysis of the arms sales issue is reproduced below for the benefit of my colleagues:

THE ARMS BOOM AND HOW TO STOP IT

(By Emma Rothschild)

I

There are very many things to be said against Jimmy Carter's defense advisers. The most important has to do with Vietnam. The people Carter has chosen were involved closely and resolutely in the prosecution of the Vietnam war. These men march through the pages of the Pentagon Papers. They form a group portrait of the forces in America which prolonged the war. They played their parts: Harold Brown, as Secretary of the Air Force, describing bombing targets in 1968; James Schlesinger at RAND, inventing war games; Brzezinski, the academic, debating on television to defend the war; Cyrus Vance, the troubled moderate in the Department of Defense, surviving the 1960s. Not one of the people who influence Carter's defense policy stood in any public way for opposition to Kennedy's and Johnson's war.

But in one specific respect, the new men are different. They come into office committed to ending at least part of America's involvement in the worldwide arms race, and in the worldwide boom in military spending. They are committed, in particular, to limiting the export of US arms. Carter himself said during the election campaign that he favored international agreements to limit arms sales, and that "I would not hesitate as President to assess unilateral reduction of arms sales overseas."

An agreement to reduce international arms sales is possibly the most important objective that Mr. Carter could achieve. In 1976, as the newest Defense Department figures show, all the increase in US arms sales came from sales to developing countries, *oil-exporting countries excluded*. The most destitute countries—Kenya, Ethiopia, Yemen, Pakistan—are important US customers, and the list of clients grows each year. If an agreement to reduce such commerce were the prelude to a lasting international commitment to disarmament—including nuclear disarmament by the US and the Soviet Union—Carter's government would be honored for many years to come.

Yet even the first steps will be enormously difficult. For the problem of arms sales is not a technical question, nor does it have to do only with foreign policies. It is not, as Carter suggested during the campaign, a matter of "making decisions on individual countries [so as to] effectuate our adopted foreign policy." The origins of the US arms boom are to be found, rather, in the deepest changes in US economic relations with other countries, in the Nixon/Ford years and before; and in deep changes, too, in the US domestic defense industry.

The arms trade problem goes to the issue of disarmament itself. Throughout the postwar period, and in every civilized country, governments have come into power promising peace and a civil society: an end to the madness of militarism. Yet again and again, their protestations have been forgotten, thrown off as beyond hope. The Carter government, if it is serious about limiting arms trade, will have to find out why these earlier promises failed. It will have to look beyond the sorrows of disarmament to the military and economic power which outlives so many people's hopes.

The boom in the arms business exploded in the *annus mirabilis* of 1974. The events of the year derived from choices made long before. But they also marked several sudden changes in the US arms trade.

The value of US exports. US arms sales more than tripled in two years, with foreign countries ordering $10.6 billion worth of US military equipment in 1974, as compared to $3.3 billion in 1972, and less than $1 billion in 1970. The figures for military orders in fiscal 1976, recently made public by the Defense Department, show that the arms boom persists. Foreign military sales orders are still worth more than $7 billion a year, although the figure is lower for 1976 than for 1975.

US deliveries of arms to foreign countries—actual exports—are also increasing, as the backlog of orders is filled. Since 1975, the US has in fact made a profit on its worldwide military involvement. Twelve years after US combat troops arrived in Vietnam, the US government receives more money for its foreign military sales than it spends abroad on defense. The government's "cash receipts associated with military sales contracts" were worth $4.1 billion in the first half of 1976, compared to $1.1 billion in the first half of 1974. Meanwhile "direct defense expenditures" overseas fell from $2.4 billion in 1974 to $2.2 billion in 1976.

The direction of exports. The destination of US arms sales has moved from developed countries to oil-exporting countries and, most recently, to other, poorer developing countries. In the 1960s, European countries were the US arms companies' leading foreign customers. After the 1973 oil price increases, OPEC countries accounted for 60 percent of US military orders, spending their new riches on missiles and air forces. But since 1975, sales to developed and oil-exporting countries have fallen, while sales to the poorest countries have increased.

According to Defense Department figures, the developing countries that do not export oil accounted for 24 percent of US military orders in 1976, compared to 10 percent in 1975 and only 5 percent in 1974. US orders from these countries increased from $240 million in 1972 to $2.3 billion in 1976. All continents were represented, with Africa the boldest new buyer. US sales to black African countries—almost all to Ethiopia, Kenya, and Zaire—increased over 800 percent in one year. These three countries' orders were worth more than three times the value of all US arms sales to black African countries in their entire previous history. Kenya, in 1976, ordered more US arms than did Britain; Ethiopia, more than twice as many.

Aid and trade. The United States has supplied arms to its allies for generations. Since 1945, it has spent well over $60 billion on foreign military aid. But beginning in the late 1960s, most US arms exports have been sent as trade, not aid.

Most US military sales are still arranged between the US government and foreign governments. The Defense Department and the US armed services promote these sales; they supervise the corporations as they produce arms for export. Thus the factory of a US defense corporation, must like a General Motors plant producing parts for blue sedans and pink station wagons, might make parts for a Jordanian "Main Battle Tank," a tank for the US Army, an Israeli tank, a tank for Saudi Arabia.

But the importance of the arms corporations has increased enormously in the new commercial epoch. When most arms transfers were paid for by US taxpayers, Congress exercised much greater control over the export process. Now US companies and government arms salesmen collaborate in selling arms for dollars. It is the pantomime described in such vivid detail in the Senate multinationals subcommittee's investigations of Lockheed, Northrop, Grumman.

The goods on offer. The US now exports some of its most elaborate military equipment, occasionally to countries which are neither allies nor friends. The Stockholm International Peace Research Institute's yearbook for 1976, deploring the "spread of sophisticated weaponry," counts forty developing countries with supersonic aircraft as compared to twelve in 1965, and twenty-four with long-range missiles, up from seven in 1965.

Iran, the US arms companies' most lavish customer, is buying planes (the F-14 Navy fighter) and destroyers as advanced as or more so than those procured by the US services. The costs of another fairly advanced US weapon, the US Army's "Lance" missile, are supported in part by sales to Israel, Belgium, and other countries: according to an army expert, the salaries of almost half of all the civilians who work for the army's "Project Lance" office are paid by foreign buyers. . . .

The importance of exports. Export sales have in the 1970s become a serious part of the US arms companies' business. Henry Kissinger described the process in the course of a 1975 encomium to the value of arms sales in the pursuit of "prosperity, justice and positive aspirations," "Security assistance programs," he explained, contribute needed jobs to several sectors of our labor force. They help us maintain a more favorable balance of payments. And they permit our defense industries to achieve significant economies through scale of production—economies that are passed along through lower prices to our armed forces."

Since their colonial empires fell apart, France and Britain have each relied upon arms exports to support a domestic defense industry. The United States now is beginning to feel some of the same pressures. At the height of the Vietnam war, US arms exports were worth $1 billion per year, compared to US defense procurement of over $42 billion a year. Now, with US companies no longer sending planes to U.S. forces in Vietnam (or even to Vietnamese forces), exports are worth some $4 billion a year in actual deliveries and twice that in orders, while procurement for US purposes is still $42 billion.

The arms boom is the fulfillment of a long process. The US arms trade began in earnest when President Kennedy came to power. Lieutenant Colonel David Morse, a former chief of international logistics for the Army Missile Command, suggests in *Army* magazine that the events of 1961 were decisive, when a former naval officer called Henry Kuss was appointed to head a new office of International Logistics Negotiations in the Defense Department. ("He divided his office into geographical teams, sent salesmen around the world. . . . He was accused of bullying allies into arms purchases with his gruff and direct manner.")

Kuss's exertions were soon successful. From 1950 until 1963, foreign military sales accounted for only 9 percent of US deliveries of arms abroad, with the rest sent under the Military Assistance Program. By 1968 foreign sales were worth more than aid shipments, and the proportion of exports going as aid continued to dwindle. By the time President Johnson left office, the sales program was worth over $1 billion a year.

President Nixon inherited the arms boom. But he perfected it in his own idiosyncratic way. His policies, Lieutenant Colonel Morse writes, were "interpreted by many in government as giving full approval to an open-ended arms sales effort." Two decisions were critical. In May 1972, on a visit to Iran with Henry Kissinger, Nixon told the Shah that he could buy either the F-14 advanced fighter, to be produced by Grumman for the US Navy, or the F-15 fighter designed for the Air Force by McDonnell Douglas; he also told the Shah that he could in the future buy any US weapons he wanted, nuclear arms aside. One year later, in June 1973, Nixon boosted the arms trade in another direction. He allowed the sale to Brazil of a smaller but nonetheless supersonic fighter, Northrop's F-5E, reversing a long ban on sales of advanced US weapons to Latin America.

Corporate salesmen, in the Nixon years, took on more and more of Henry Kuss's functions. When the sales program was restricted to a few countries—when the military leaders to be enticed were old pals from NATO exercises—the US military could handle much of the sales effort on its own. But once the US started to sell expensive armaments in thirty or forty countries, from Kuwait to Peru, the US government came to rely more and more upon the energies and expense accounts of salesmen working directly for the arms companies.

The arms export boom also provided Nixon with part of the solution to one of his early economic problems. Military exports, in the 1970s, became a substitute for Vietnam procurement. As US troops left Vietnam, employment in the US aircraft industry fell from around 850,000 late in 1968 to 500,000 late in 1972. Nixon in his first term in office seems to have thought that the way out of the defense recession was to convert defense factories to civilian production. He set up "adjustment" committees, commissioned studies of different kinds of government spending, and convoked aerospace executives to the White House to celebrate the coming of a "Social Industrial Complex."

But the effort at conversion was more or less abandoned after 1972. Several aerospace companies made efforts to diversify production, converting some of their plants to providing, for example, mass transit cars. Most have now given up such "social-industrial" undertakings. This reversal was made possible, at least for some companies, by the export boom.

It is difficult to estimate how many jobs the US arms boom has created. Lieutenant Colonel Morse suggests—apparently on the basis of remarks by James Schlesinger, who attributed 100 jobs to each $1 million in sales—that more than a million Americans are employed in industry to fill foreign military sales contracts. This seems exaggerated. Many of the jobs are still to come, because the orders signed since 1973 call for deliveries to be made over several years. Yet the defense industries certainly suffered less in the recession of 1974–1975 than most other US manufacturing industries. The aircraft industry, in particular, has kept its employment at more or less the level of 1972, ending the earlier decline.

Even the numbers of jobs fail to reflect the real significance of arms exports. For export profits and export jobs are concentrated in a few corporations and a few states: in Northrop, for example, or Lockheed or Bell Helicopter. And the momentum of defense procurement—its political force—rests on specific sets of local relationships: between for example, a defense corporation, its lobbyists and Defense Department sponsors, its unions and its congressmen.

For Nixon, finally, the increase in US arms exports fitted a much grander vision of US foreign policy. The Nixon Doctrine sets out the theory behind the arms export boom. According to the doctrine, the United States will no longer send troops to fight for its allies in Asia. Instead, US allies are intended to buy American armaments and to defend themselves with, for example, Northrop F-5E fighters. This year's increase in US arms sales to poor developing countries is the fulfillment, as the Nixon epoch ends, of Nixon's vision.

The change in arms sales is part of a more general alteration in US economic relations with other countries, and above all with developing countries. As early as the mid-1960s, the US began to move in its foreign economic business from aid to trade. It sent less food aid and sold more food for dollars. US banks made more foreign loans, as the US government reduced its foreign aid.

Nixon officiated over the completion of the change. The Nixon Doctrine applied by extension to economic as well as to military

relationships. America's Asian allies were meant to buy planes, made in the US. They were supposed to eat Iowa corn and Oregon wheat, buying their food with money borrowed from US banks. The three parts of the doctrine fitted together; for to buy US exports, developing countries went further into debt to US lenders.

The Nixon Doctrine in its strategic version rested on a sort of paradoxical bet; that the US, while cutting the costs of its foreign military involvement, could sustain the various alliances and commitments which this involvement had made possible. There is a similar recklessness in the economic versions of the theory. The Nixon Doctrine did not work in Vietnam or Cambodia. Will it work in the world food economy? Will the world financial order hold, as countries go deeper into debt, buying fighters and bushels of wheat?

The commercialization of US international economic relations is not something that can be turned back. The US is not the economic superpower that it was when the process began. It can no longer sustain the commitments and policies of the 1960s. It needs, instead to face directly the problem of how to act in a world over which it has less control.

This was what Nixon failed to do. He did not conceive of a different policy for the US government. It was as though, instead, he threw up his hands and delivered US international economic policy to arms corporations and food corporations and banks.

II

There should be no need to argue against the expansion of the arms race to more continents and deserts. In the last twenty years, military spending by Third World countries has increased more than 10 percent a year, or twenty times as fast as in the US. Arms imports have increased even faster. But it is worth looking at how the modern arms business works in practice. The low farce of military sales is evident in the story of US exports to Iran.

The Iranian story shows, in particular, the political costs of the export business, and the folly of the view—Henry Kissinger's, for example—that arms transfers are a "foundation stone" of US "foreign policy design." Kissinger: "The United States cannot expect to retain influence with nations whose perceived defense needs we disregard. Defense supply links to these countries can significantly strengthen efforts to achieve cooperation on other issues—whether political, economic or cultural."

Nixon came to Iran in 1972 as the Santa Claus of the Persian Gulf. And since May 1972, Iran has ordered more than $10 billion worth of US armaments. A recent report to the Senate Foreign Relations Committee explores the intrigues and deceptions that made this spree possible, as the US Army and Navy, the Departments of State and Defense, competed for the Iranians' dollars.

"Each of the US services," according to the study, "sought to persuade Iran to buy its weapons, in part because a large Iranian 'buy' of an item in a US service inventory could (1) reduce the per-unit costs to that service and (2) enable the service to recoup some of its prior investment for research and development." The "sales competition" was "fierce."

Civilians in the US government were almost as combative. The study describes State Department officials, together with the staff of the US Embassy in Tehran, as particularly relentless salesmen. They were not prepared "to tolerate open debate on possible adverse implications of unrestricted arms sales to Iran." The Defense Department, by contrast, was divided over the wisdom of the program, with critics fretting that the military's obsession with Iranian procurement was denying spare parts to the US services themselves. Kissinger's salesmanship, some of the Defense Department critics felt, might eventually hurt "the regional security posture" in East Asia.

James Schlesinger plays a curious part in the comings and goings of Americans in Iran. As secretary of defense, he emerges as an opponent of the wilder excesses of the sales program. For example, he seems to have "expressed his view that the [Defense Department] should act as an 'honest broker' between the [government of Iran] and US industry, fending off the inherent pressures from the US services and industry to sell sophisticated arms, regardless of whether Iran needed or could handle them."

The consequence of the Nixon-Ford arms boom is that the Iranians own an arsenal of advanced American weapons which they cannot possibly use without American help. They will be dependent on the United States not only for spare parts but also for soldiers and "technicians" to service their planes, fly their helicopters, and shine the gas turbines on their new destroyers. There are already at least 1,400 military and civilian Defense Department employees in Iran, and almost 3,000 people working for US military contractors; the Senate study suggests that by 1980 US contractors will have 36,000 employees and their dependents in Iran.

If the Shah ever decides to go to war—to enjoy more fully his planes and missiles—these people would be part of his military effort. US experts in Iran believe, according to the Senate report, that Iran could not use its more sophisticated weapons during the next five to ten years "without US support on a day-to-day basis." In a war, therefore, the United States would become either Iran's military ally, or the enemy responsible for subverting the Iranian war effort.

In most wars that Iran might fight, US technicians would find themselves directing missiles against other foreign technicians, either from the Soviet Union or from the US itself. Both sides would usually require spare parts from US factories. Indeed, there are few wars anywhere in the world in which one US company, Northrop, would not be involved through its F-5E fighter. Iran, Saudi Arabia, and Jordan—and most South American countries—have ordered this plane. In Africa, Tunisia, Morocco, and Ethiopia also have it on order. In East Asia, South Korea, Malaysia, Singapore, and Thailand have it as well, while Vietnam presumably maintains the F-5Es it inherited in 1975 along with billions of dollars worth of other American armaments.

The possibility of a war between Iran and its Arab neighbors has attracted some attention in the U.S. Saudi Arabia and Kuwait together have ordered almost as much from the US military as has Iran (although more of the Saudis' spending goes for such projects as the construction of barracks and ports, engineering works by the US Army Corps of Engineers, and soon, apparently, a plant for desalting sea water). But there may be a more likely war to the east.

Much of Iran's recent military expansion is intended for the extreme southeastern corner of the country, near the Pakistan border. A large air base and an army base as well are being constructed there; and the destroyers Iran is buying from the US will be based nearby in the Arabian Sea. The enemy to the east would be India. "Iran is especially concerned," the Senate report says, "about the centrifugal tendencies within the Baluchistan regions of southeast Iran and Pakistan. . . . The Shah has stated that Iran would regard any attempt by India or another power to further dismember Pakistan as a threat to its own security."

Iran, with its US helpers, could thus become part of the next war over the divided inheritance of British India. It would face Indians armed by the Soviet Union, Britain, France, Poland, and possibly even the US. Much of India's recent orders are for sophisticated Soviet naval equipment, anticipating, perhaps, the Iranian naval buildup in the Indian Ocean. And India also, unlike Iran, has a domestic defense industry, now turning out frigates and rockets. India may soon start buying fighters from the US, for one of the Ford government's last gestures in military salesmanship was to permit McDonnell-Douglas to promote its A-4 fighter in India.

PROPOSALS OF THE BECKLEY BLACK LUNG ASSOCIATION

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. RAHALL. Mr. Speaker, I would like to place several proposals of the Beckley Black Lung Association before the members to consider for incorporation into the Black Lung Reform of 1977.

The Beckley Black Lung Association is an organization of southern West Virginians that is dedicated to the cause of proper and just compensation for the thousands of coal miners who have sacrificed their health in order to satisfy the energy requirements of an expanding America. The Beckley group is just one of many black lung organizations throughout West Virginia, Appalachia, and the rest of the coal-producing States. Its active membership numbers more than 500, and there are more than a few among its ranks who answer the rollcall in the raspy tones that are the trademark of coal miners' pneumoconiosis.

The proposals of the Beckley group are as follows:

First. That 15 years as a miner should qualify an individual for benefits;

Second. There should be no discrimination as to anthracite or bituminus employment, whether above or under ground;

Third. No 1971 termination date;

Fourth. Fairer medical criteria for those with less than 15 years service;

Fifth. No X-ray rereading for the purpose of denial;

Sixth. A retroactive and permanent program that provides benefits when they are needed;

Seventh. No offsets of any nature; and

Eighth. No discrimination of any kind against widows whose husbands were working at their time of death or who cannot document medical evidence as their deceased spouse's black lung infliction.

I sincerely urge the Members to consider the proposals of these West Virginians. At this very moment, there are scores of wheezing, coughing men throughout the hollows who are lying upon their deathbeds, their only cling to life of hope of a just compensation for what they have surrendered to a ruthless King Coal.

WHAT MAINLAND CHINA IS REALLY ABOUT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. KEMP. Mr. Speaker, Mr. Edward Luttwak of the Johns Hopkins University's School of Advanced International Studies recently had an unparalleled opportunity to visit Communist China.

He traveled with former Secretary of Defense Schlesinger's party that visited China in September of 1976. His visit coincided with the death of Mao Tse-tung; they had an opportunity to tour areas of China not seen by Westerners since the present regime shot its way to power in 1949, including the Sino-Soviet frontier, and Tibet. Moreover, because of the perceived anti-Soviet orientation of the group, they were accorded access to the Chinese Government, party, and military leadership that the usual groups of junketeering concerned Asian scholars never see.

Mr. Luttwak has reported on the impressions of his visit to Communist China in the December 1976 issue of Commentary, the publication of the American Jewish Congress. Mr. Luttwak observes how the Chinese have been able to pull the wool over the eyes of visiting Congressmen and Senators, Government officials, intellectuals, and journalists with an elaborate collection of "Potemkin Villages" that unknowing visitors take to be the real China.

The essay Mr. Luttwak has produced should be essential reading for anyone who seeks to know what Communist China is really like. Perhaps for the first time in a generation we are able to see China through the eyes of an observer who is not intimidated by the desire of some journalists and scholars, who out of concern of not being "invited back" have produced the distorted picture of that vast country we have contended with for so many years.

The first part of that article follows:

SEEING CHINA PLAIN

(By Edward N. Luttwak)*

It was not until we reached the "Sinkiang-Uighur autonomous region" in the far northwest corner of China that the elegant stage-management of our journey, which had begun in mid-September, finally broke down.

In China proper, and even in Tibet, our hosts sustained a passable verisimilitude as we went from place to place, visiting communes, army units, factories, and the sights. Each visit was obviously prepared carefully in every detail, but that seemed natural enough, given the decidedly formal character of our whole tour, which was official in all but name (since it was led by former Secretary of Defense James R. Schlesinger). Riding each in our own car, numbered in convoy in strict order of precedence, with an interpreter and a personal escort assigned in strict order of seniority, we would arrive at village, workshop, army base, or hospital to be met by the local dignitaries, themselves lined up in strict order of precedence. First came the briefing, given in a reception room decorated with the standard set of portraits—Marx, Engels, Stalin, and Mao. While tea was served in the official-pattern cups in use all over China, we would hear the story of the institution from the bad old days of the Kuomintang to the sunny present, with identical phraseology used to describe each phase—Great Leap Forward, the Cultural Revolution, and the rest.

At the particular time of our visit the campaign of the hour was still aimed at the fallen premier, Teng Hsiao-p'ing. Hence everywhere we went, from the New China University in Peking to a Tibetan commune, the briefing would conclude with the slogan: "We must deepen the criticism of the right-deviationist attempt of Teng Hsiao-p'ing to reverse the correct verdicts of the Cultural Revolution." (The amateur Sinologists in our group attached significance to the fact that in some places the phrase would be given in full, while elsewhere the "correct verdicts" would be left hanging, with "of the Cultural Revolution" left unspoken.) After the briefing, we would walk around commune, workshop, barrack, or laboratory to observe "the work in progress."

As simulations of real life, these controlled glimpses were comparable to inspection parades by top army brass; except that in our case it was not only the shine on the boots and the gleam of rifle barrels that was suspect, but the boots and barrels themselves—as normal issue items, that is. When shown a computer in the New China University, were we seeing the only computer, or one of many, as our guides insisted? But the single item could be revealing also. Processions of uncritical, untaught Americans had spoiled our hosts, and they had become careless. In the very hospital that James Reston praised with such abandon a few years ago, we were all x-rayed by a machine which was recognized as dangerously unshielded by one of our group; another could recognize a primitive analog calculator when shown the university's "computer."

But with a population fully controlled, with very experienced briefing dignitaries who had already performed for dozens of Western delegations, and with the constant influence of our hosts' exquisite courtesy upon us, there was a tendency to accept the stage-management as part of the stately formalities of our tour. Mr. Ting Yuanhung, head of the American desk at the Chinese Foreign Office and my assigned escort, employed the car rides to and from in order to flatter and to question. Well-briefed on my background and experience, he would ask his questions in casual fashion, and it was only after two or three days that a clear pattern emerged, and the Intelligence motive came to the surface. In the meantime such steady interest in one's views was undeniably gratifying.

In Sinkiang, however, neither stage-management nor in the end courtesy could survive the intrusion of reality. Always in theory part of the Chinese empire, but rarely under effective imperial rule, Sinkiang is inhabited in equal measure by newly settled Chinese ish in India or Africa, or even the French, the Chinese obviously can see no virtue in the survival of the local cultures, and still less in the survival of local religions. Chinese and by Turkic peoples, manly Uighurs, a ers, as well as by Uzbeks and Khirgiz, all living alongside smaller minorities of diverse origin. As in Tibet, Chinese rule in the region is in every respect a colonial phenomenon, with an astonishing conformity to type except in one critical respect. Unlike the Brit-sedentary group of some culture, and by Khazaks, more primitive herders and farm-colonialism is therefore oppressive not merely politically but also culturally.

Thus in Tibet it was quite clear that the literacy promoted by the regime was in Chinese and not in Tibetan; in the surprisingly large bookshop we found in Lhasa, all the books were in Chinese, except for the "Little Red Book" of Mao's select quotations. No Tibetan records or posters were to be had, and the use of that ancient written language is now confined to the slogans on the walls and to some script on locally-produced matchboxes. Nor can a Tibetan read any Buddhist texts, for none are available, old or new. The only manifestation of the native culture tolerated by the regime is Tibetan "revolutionary opera," whose texts are literally translated from Chinese originals, but whose music is native.

In Tibet we had seen the gentle and always exceedingly polite Chinese undergo a transformation into classic district-commissioner types. Their gestures became visibly more expansive, and their language with our local hosts quite clearly abrupt. Our escorts did not bother to hide their sniggers as we were served Tibetan yak-butter tea, and they acted out for us little wordless playlets of ridicule as we toured the altars of the one restored Tantric temple in Lhasa. I asked a Chinese official resident in Tibet since 1960 how to say "please" and thank you" in Tibetan. He did not know. I asked him to translate "move," "go," and "faster." He knew.

The same pattern of cultural suppression and overbearing personal conduct by Chinese officialdom was in evidence in Sinkiang, but there the locals are not submissive Tibetan Buddhists. They are Turks—proud, tough, and by no means cowed. The intense friction between Turks and Chinese was clearly manifest even in the very restricted circle of party cadres with which we came into contact. Fresh from the airport we went to see the Sinkiang Exhibition in the capital of the region, Uruinchi, where I talked to an Uighur official of the reception committee in a mixture of Turkish and Arabic—he speaking the last two languages far better than I. This turned out to be my only genuine conversation with a Chinese citizen during the whole journey in China. The Uighur did not hesitate to speak, and vounteered illuminating comments on the inevitable official briefing which was being given as we toured the Exhibition. Several of our escorts repeatedly instructed the Uighur to stop this unauthorized conversation, which they could not monitor. They spoke to him as they would have spoken to a Tibetan, the tones of sharp command coming through even in Chinese. He simply refused to obey.

Over the next two days in Sinkiang every member of our group was to witness similar gestures of independence by native officials, minor perhaps but of great moment in an environment otherwise so totally controlled. In Urumchi we were lodged in the official guest house, in a walled and guarded compound many miles outside town. Hence we had no opportunity to see street life in the time left free to us, as we had done in Peking, Kweilin, and even in Lhasa. Here we would leave the compound to travel at high speed in convoy, never stopping as we crossed and recrossed Urumchi on our appointed round of visits. But it was only during the day when we flew to the Ili Valley, the remotest corner of Sinkiang, quite near Alma Ata and the Soviet Union and very far from Peking and China proper, that all pretense was finally abandoned as our hosts resorted to a nakedly physical insulation to keep up from local contact.

The Ili Valley had been the scene of grave border incidents in 1969 between the Chinese and the Russians. Just as the Chinese had clearly initiated the incidents on the Ussuri in Manchuria, a zone of operation conveniently near to their own centers of military power and a good four thousand miles

*Edward N. Luttwak is associate director of the Washington Center of Foreign Policy Research at Johns Hopkins and the author of *Coup d'Etat, A Dictionary of Modern War, The Israeli Army* (with Dan Horowitz), and the forthcoming *The Grand Strategy of the Roman Empire* (Johns Hopkins).

from Moscow, in the Ili Valley it was the Russians who had taken the initiative, the area being within easy reach for them and impossibly remote for the Chinese. For this reason we had been especially keen to visit the area, and had insisted that it be included in our itinerary. In Washington the Chinese had agreed that we should visit the only town of any size in the Ili Valley, a city of 100,000 or so known as Kuldja to the natives and named I-ning by the Chinese.

In Kuldja newly-settled Chinese amount to half the population, but it was not Chinese who lined the streets as we drove around. The locals, mostly Khazaks who look much like Italians, left their workshops, homes, and farms to see the unique sight of Europeans like themselves riding in cars, in which only Chinese officials would normally be seen. The locals cheered and waved in a way that no Chinese crowd would do. Again and again we saw them gesture to each other by raising their hands to their faces. The sign-language was easy to interpret: we looked like *them*, we were not Chinese. The crowds were obviously unauthorized, and our Chinese escorts were soon in a state of panic, as more and more of the locals appeared in the narrow streets during hours in which all were supposed to be at work.

We never did see Kuldja except through the windows of our cars. We went from the airport compound to carpet factory, shoe workshop, and local government compounds. When we made it clear that we wanted to go beyond the walls to stand in the streets and photograph the colorful old houses and the even more picturesque crowds, our efforts became hysterical, and soon announced that "because of weather conditions," we would have to leave Kuldja at once for the return flight to Urumchi.

On the way to the airport Mr. Ting, normally the most controlled of men, became quite rude, launching into a tirade which began with the accusations that I was not interested in the new China, only the old China. He, like the others, had clearly believed in official claims of the success of the party's nationality policy, as symbolized by the standard poster which shows Tibetans, Mongols, Turks, and others in minority costumes looking up adoringly at the towering figure of Chairman Mao. Confronted by the obvious unrest of the Khazaks or Kuldja, Mr. Ting had finally lost control. I seized the occasion to announce that I considered myself insulted and would no longer speak to him, unless he made a proper apology. And so my long non-dialogue with this man who could ask a hundred questions while answering none in any substance finally came to an end.

Our one open-air visit in the Urumchi area, to a Khazak horse-raising commune, was farcical in the crudity of the simulation. After driving for many miles across the steppe, after passing several genuine nomad camps, we stopped near a meadow in which there stood three multicolored tents. That, we were told, was the commune. Inside pretty Khazak girls served us with mare's milk, hard cheese, excellent Khazak bread, and whole boiled sheep while we were given a briefing on the commune, of which no evidence was in sight, neither tents nor houses nor barns. As usual the briefing featured a mass of figures about the commune's *mous* of land and high income; and as usual we went through the bit about Lin Piao and Confucianism (struggle against) and of course about Teng Hsiao-p'ing and the right-deviationist attempt to reverse the correct verdicts. Someone lifted one edge of the carpet in the polychrome tent (all the many tents we had passed on the road were dirty brown) and found the grass quite green. The show had been rigged for us.

That night I read in our travel file the account by Audrey Topping in the New York *Times*, who had visited the Khazak "East Wind Commune" near Urumchi. We too had visited what was described as the "East Wind Commune," near Urumchi, except that the figures they gave us for the men, women, and cattle were quite different, and of course the Topping article was written as if the whole thing were real, pretty tents and all. Unlike us, the distinguished journalist of the *Times* had obviously not thought it strange that a visit to a commune should not include even a glimpse of housing, animals, or peasants. But then the same distinguished journalist had taken on faith much more, principally about the status of women—a subject which has obviously because a bit of a joke among the Chinese barbarian escort crowd. (During our lunch in the tents the Khazak serving girls ate too: our hosts would throw scraps of lamb over their shoulders, and the girls would catch them with practiced grace.) Everywhere we went in China women were part of the reception committees and revolutionary councils of town, province, commune, and factory. Hardly ever did we hear one say a word; they smiled and nodded but did not speak. When asked whether all announcers on Chinese radio were women, one of our senior escorts said that most were, but "important announcements are made by men, of course."

We were keen to visit the old Uighur town in the center of Urumchi and insisted long and hard. Finally our hosts agreed to let us "shop." We did not do our shopping in the ancient silk-route market reportedly still frequented by Mongols and Turks, nomads and farmers. Instead, at 9 p.m., after our dinner, we were driven to the standard provincial-capital department store. It had been kept open two hours past the normal closing, and all the members of the staff, three hundred at least, were standing at the ready behind the counters. Embarrassed at keeping so many from their families after a full ten-hour day, to serve nine casual shoppers, we quickly went through the three floors (stocked with the same goods we had seen in Peking and were to see in Shanghai), and found the local-products counter where we bought some embroidered hats and a decorated knife or two. On the way back I told my back-up escort that we were sad so many had been so greatly inconvenienced. He insisted that they were happy to be of service. I asked whether overtime would be paid. He said that China is free of such capitalistic practices.

Actually, for all the disappointment of our Sinkiang visit, by then we had already seen a great deal of the real China, much more than is normally accessible. In Peking and Shanghai the visitor is housed in the center of town, and there is none of the physical insulation so visible in Urumchi. Instead it is a very crowded program which normally keeps the visitor from seeing those cities for himself, as they really are: the usual China tour provides for a ceaseless sequence of action visits from 8 A.M. to 8 P.M. In theory this still leaves the late evening hours open for individual exploration, but even in Peking this free time is of no consequence, since at night there is absolutely nothing to see or do. There are no open tea houses or shops to be found, and no restaurants or bars; there is not even street lighting, except for a few major boulevards. Soon after 8 P.M. the streets are deserted.

In our case, however things were different: when Mao died our hosts were forced to cancel all tour programs and all our meetings with government leaders. We were therefore left free to explore Peking at our leisure, for three whole days.

Immediately we discovered that the broad boulevards through which we had driven back and forth and the shopping street near our hotel were utterly different from the rest of the city. Instead of asphalt and concrete, the real Peking was made of beaten earth, mud, and sun-dried brick, its people living and working in narrow unpaved alleys lined with low buildings grouped around small courtyards. Inside were homes and workshops. Instead of the neat factories of the tour circuit, we saw how much of urban China really works, in miserably ill-equipped shanties. In one, dozens of women crowded the narrow doorway as they sorted out the single twigs of medicinal herbs by hand; another was a classic sweatshop out of New York in the 1890's, with a roomful of women working elbow to elbow on sewing machines of ancient design; in still another we saw men making wooden cotton looms with small hand tools—no electricity seemed to be connected at all.

Once we walked a mile or more down an alley filled with such shops before we came to a modern one. It was a printing shop, small like the rest but equipped with ultra-modern automatic machines imported from Japan: it was producing black-fringed funeral portraits of Chairman Mao. Until then it had not occurred to me that the millions of red flags, the posters, and the continually repainted wall slogans could themselves be a significant charge on the Chinese economy.

In the alleys and the courtyards one could also see how the Chinese lived: in small rooms, each the dwelling of an entire family and mostly taken up with a pair of broad platform beds. The weather was warm, doors and windows were open; in the early evening I passed a typical room, illuminated by a naked 30-watt bulb dangling from the ceiling. About six people were preparing to go to bed; there were two beds in the room and not much space in between. The only other furniture was a decorated trunk-box, and a large 1930's-style radio. This was the housing of old Peking subdivided for an expanded population.

The new housing one saw, newly built apartment blocks, seemed to be no less crowded. There too the usual 30-watt bulb would reveal several people in each room: the standard three-room apartment accommodates three separate families. In Shanghai we were later to be escorted around a typical apartment: a young couple with a baby, a pair of older people in retirement, and two unmarried men shared the kitchen and bathroom, but each pair had a fair-sized room of its own; the furniture was new, and there was a table, a chair, and a dresser. We were assured that this was a typical apartment—and it probably was, for the very few lucky enough to be given modern housing.

With its unpaved streets, its crowded alleys, and its one-story buildings, much of Peking is in fact village rather than city, and most of its population lives a miserably poor village life. If the Chinese maintain a prison-camp system for their politicals as the Russians do, they hardly need it: to be removed from one's post, to lose one's apartment and be forced to live among the ordinary folk, should be punishment enough for any deviationist in the party. We were, of course, never invited home by any of the officials we dealt with. But from the apartment of a diplomat friend one could look directly into an apartment house reserved for middle-ranking cadres: they too lived in standard three-room apartments, but each housed only a single family, and instead of the naked 30-watt bulb of ordinary folk, these apartments were well-lit. More senior cadres have their own small houses with a bit of garden around, but nobody has ever seen how the top echelon lives, for their housing is hidden behind the high walls of the elite residential compounds.

Perhaps the most transparent of all the simulations of social equality one sees in China is the mock-equality of dress. Almost everybody wears the standard boiler-suit, the Mao uniform. But some are made of rough cotton and others of delicate gabardine, and

still others of good-quality wool. Senior party men would wear their equality in carefully tailored worsted wool, and their Mao suits had much more in common with Pierre Cardin than with the blue cotton outfits of ordinary people. And yet in the post-1972 reports of China it is the theme of visible equality that is most insistently advanced.

DANTE SOCIETY OF AMERICA'S BICENTENNIAL PROGRAM

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. WOLFF. Mr. Speaker, on December 28, 1976, I had the honor and privilege of participating in the special bicentennial program of the Dante Society of America, founded 95 years ago in honor of the Italian Renaissance poet, Dante Alighieri.

Dr. Anne Paolucci, university research professor at St. John's University and vice president of the Dante Society, organized and chaired the meeting, which hosted as its honored guests several distinguished diplomats and academicians from both Italy and the United States.

Dr. Paolucci called the meeting "a tribute to the bicentenary of American freedom and to the greatest poet of freedom—both political freedom and freedom of the soul." This was indeed evident in the enlightening presentations given at the meeting, which sample the range of the Dantesque influence on American writers. With my colleague from New York (Mr. BIAGGI) who also attended the proceedings of the Dante Society, I would like to bring to the attention of my colleagues the fine literary works offered at this conference.

Prof. Glauco Cambon, of the University of Connecticut at Storrs, offered a dissertation which gives us the sense of Dante's direct influence on the writing and politics of a contemporary poet—Galway Kinnell—where the parallels are very close:

DANTE ON GALWAY KINNELL'S "LAST RIVER"

(By Glauco Cambon)

With *Body of Rags* of 1968, Galway Kinnell—one of the best American poets in the post-World War II generation—resumed the epic bent of his first book, *What a Kingdom It Was*. There, his lyrical vocation had clearly broadened its scope to epic amplitude in sustained pieces like the "Avenue Bearing the Initial of Christ Into the New World," a colorful pageant of New York street life, or like "Easter," a commentary on present-day listlessness and violence in the guise of a striking descant on Catholic liturgy, or several lyrics that I once happened to call "notes toward an American epic" because they captured in their crisp idiom the vistas of a vanished frontier. In the 1969 collection, Kinnell's critical attitude toward industrial America went hand in hand with an undampened alertness for the sensory richness of a nature threatened by the man-made blight we all have come to dread, and his lucid, supple and vivid style, equally immune to academic complacency and anti-intellectual formulessness, stood him in good stead for the task of mirroring his own political and existential concerns in Dante's prophetic vision. If "The Last River," the longest poem in *Body Rags*, freely structures itself on *Inferno*, it is more than a matter of quotations and framing references; it amounts, on the part of the modern American poet, to a recognition of affinity between his own mode of perception and the medieval Florentine's mode. This can hardly surprise any reader of Eliot, Yeats and Pound, of Lowell and Tate and Snodgrass, namely of the 20th century British and American poets who have variously come to terms with the Dantean example of poetry as criticism of life. Even such a radical objector of Western "white" culture as LeRoi Jones, lately rebaptized Imamu Baraka, had to pattern his own searing autobiography—the story of a youth tossed between two incompatible worlds in the infernal urban scene of today's America—on "the systems of Dante's Hell."

In Galway Kinnell's case, too, the Dantean cue serves to focus an autobiographical stance into a critical act which encompasses contemporary America and its involved observer in its very midst. Like Dante, Galway is both actor and spectator, both character and literary witness in his visionary narrative, and like Dante again, he names himself only once, at a crucial point, in a poem that keeps saying "I." . . . In both symbolic autographies, the cruel act of naming—a baptism of fire—does not come from the speaking "I" but from an imperious entity with parental implications that forces the autobiographical persona to the wall. Self-judgment is thus objectively extracted from the judging self who had passed judgment on the sinners of this world in an epic review, respectively, of 13th century Europe and 20th century America.

But if for Dante this last humiliation, this baptism of fire, signals the final purging and so ushers in the new baptism by immersion in the waters of Lethe, river of blessed oblivion, for Galway the sequel is uncertain and in fact ominous. Dante's last rivers are the one that cleanses him of any memory of sins committed (Lethe) and the one that restores memory of good deeds (Eunce), while Kinnell's last river . . . is a combination of Lethe and Styx . . . [Kinnell] sums up . . . a personal revelation to the self who is undergoing purgation (Galway) and to the whole nation that includes him (aptly polarized into black and white to spotlight its ethnic and inner dissociation). Despite obvious differences, this sequence of messages parallels the much vaster one to be heard in . . . Dante's *Purgatorio* . . .

In both the Italian and the American poem we thus have a transition from an excruciating personal message to a no less excruciating public one of prophetic import, which in Dante's case amounts to an explicit investiture of vatic functions while in Kinnell's case it remains on the level of a shattering experience followed by no ritual sanctioning. The modern poet has no transcendent source to validate his revelation, and indeed his apocalyptic message comes first in total darkness, from an unidentified if strangely intimate personal source . . . and then from a nightmarish father figure that pointedly recalls the composite statue of Daniel's vision and of *Inferno* XIV . . . but is subsequently reduced to a fast disintegrating corpse . . . Instead of preparing the poet persona for a vatic mission and a successful ascent to Heaven, the kaleidoscopic disclosure of trouble seems to leave Galway in a still quasi-infernal predicament, as witness the fact that blindness and closure are the ambience, and murkiness and decay the vision. The final outcome is in doubt, and the possibility of hope is not ruled out, but the emphasis is on present horror and precariousness. Far from receiving from his guide the assurance of a paradisal liberation, the pilgrim persona here is left with the frightening prospect of a plunge back into deepest hell; in fact there is no guide once the shock of revelation has come, and whether contemporary America, the pilgrim's home, will turn out to be a no-exit trap or a community capable of choosing its better future through the ordeal of a purgatorial soul-searching, remains appropriately undecided.

Kinnell's Catholic upbringing has undoubtedly concurred with his literary expertise in orienting him on Dante's *Inferno* and *Purgatorio* as the aptest model for his own poetical act of individual and communal purgation, but the chosen model has elicited from the American poet what was most uniquely his. Kinnell has used Dante instead of being used by him, and what Virgil as a literary source was to the medieval poet, the medieval poet in turn has been to Kinnell—self-recognition in the formidable literary ancestor being for Kinnell a necessary part of his own self-differentiation. There is of course a Virgil in Kinnell's poem; he appears in Stanza 15, "out of the mist," and he takes Galway's hand to "lead [him] over the plain of crushed asphodel," giving his own name as "Henry David": who but Thoreau the lover of unspoiled nature and anti-war protestor could have guided his modern fellow writer through the circles of the unbeautiful and the damned which, in Kinnell's nightmarish vision, seem to make up the contemporary American scene? And as our bewildered wayfarer, under his newfangled Virgil's guidance, reviews the several stations of his nightmare, meeting the filth and despair of political corruption, chicanery, violence, social neglect and philistinism, precise *Inferno* references pinpoint the moral judgment along with the literary ancestry which supports that judgment. . . . The Dantesque nightmare reaches an unforseen climax when the victims of violence themselves appear to the pilgrims . . . and when . . . the national conscience (Galway's avowed "hero") materializes as a compound figure with Thoreauvian, Altegeldian, and even Schweitzerian traits, to denounce in his own symbolic person the ethical limitations of some of the best in America's heritage of conduct: love of purity for one's own selfish sake, a painful recognition for the child of a country where Puritanism remains an unignorable mainspring of behavior . . .

Like Dante himself, Kinnell draws on a personal experience with traumatic as well as uplifting implications that make for an apocalyptic rather than just deftly literary outcome in the encounter with the venerable source. Just as Dante finds freedom and salvation by confronting Hell's claustrophobia to re-emerge into the open starlit spaces from a narrow tunnel crawling through earth's bowels, Galway finds freedom in a dark jail . . .; and then it is an exhilaratingly free voice that surges forward to recapitulate the persona's American childhood . . . The ravages inflicted by short-sighted greed, Dante's she-wolf, cannot be fully realized by the American poet unless he brings into his picture the contrapuntal luxuriance and vastness of what was, and could still be, unraped America, the America Thoreau, Whitman and Twain knew. That vastness dawns on the persona within the walls of Southern prison where he has been thrown—along with thieves, pimps and their likes—for trying to help the local black citizens to register as voters. Dante's example has acted as a liberating, not as a constraining force, for the *engagé* poet trying to comprehend his experience in its social context.

And it is not inappropriate to add that the same catalytic energy makes itself felt in Galway Kinnell's style. Though he writes free verse and stanzas in the manner of Whitman and Pound, not *terza rima*, his sharp eye for detail, his sense of the specific weight of things in the world, and his mimetic use of rhythm through expressive continuities and discontinuities, do amount to a marked affinity for Dante's severe eloquence—that eloquence which helped him

to decipher the world of fact in light of apocalypse, and now well serves Kinnell in the effort to penetrate the opacity of contemporary history with the X-rays of ethical values. Of such feeling for tangible, individualized reality, and of the concomitant ability to make it transparent to the mind's eye, already the first stanza of "The Last River" provides an adequate sample so that it will aptly close our voyage, as readers, all the way upstream . . . Going all the way upstream, in this case, means for us readers temporarily to invert the normal course: and if by this inversion of route on "The Last River" we happen to find ourselves, not at the source, but at the mouth of the Mississippi, crowded with the accruals and debris of modern industrial civilization, we shall be better placed to start again, with the poem's speaker, on the never ending quest for that source which is both at the beginning and at the end of life's troublesome river.

Mr. Speaker, also presented at the Dante Society meeting, was a paper by James J. Wilhelm, of Rutgers University, which discusses the all-pervasive influence of Dante on Ezra Pound and T. S. Eliot, who are ours, even though they have sought the laurel elsewhere:

"Two Visions of the Journey of Life: Dante As a Guide for Eliot and Pound"

(By James J. Wilhelm)

In September of 1914, two young Americans who would change the entire course of 20th century poetry met in London for the first time. They were T. S. Eliot and Ezra Pound. Despite some very basic differences in temperament, these expatriates-to-be had some strong common bonds: they were passionately devoted to the study of literature, and they were determined in their own ways to purify the English language of its post-romantic excesses and thus forge a viable new poetic idiom. The writer who probably exerted the greatest influence shared by both was Dante Alighieri.

This paper will deal with Dante's rhetorical influences and then concentrate on the larger problem of life goals or intellectual aims. With respect to rhetoric, both poets had studied the Italian in college. . . . Both had been aware of Dante's greatness from the start. Pound wrote . . . "Find me . . . a phenomenon of any importance in the lives of men and nations that you cannot measure with the rod of Dante's allegory." Eliot acknowledged his debt in his criticism, especially when he made the much-quoted statement: "Dante and Shakespeare divide the modern world between them; there is no third."

Although the Dantesque influence is apparent in the work of both, it has not been stressed in the formation of imagism through Pound. It is clear from his first book of criticism, *The Spirit of Romance,* that Pound saw the author of the *Comedy* in the same light that he viewed the Greco-Roman classics and the Chinese written character as inspirations for verbal precision. When Pound said of that first meeting with Eliot: "He is the only American I know of who has made what I can call adequate preparation for writing," Eliot's acquaintance with Italian literature—though not necessarily the language—was a major factor in their friendship. Many years later, Pound paid Eliot the supreme compliment by saying, "His was the true Dantescan voice."

From the start, then, Dante was on their minds and in their poems. It would be pointless to indicate direct citations, since this has already been done numerous times. Instead, the paper will concentrate on the more difficult question of how one writer can influence others in the planning and execution of their careers. Here I shall take recourse to the underlying rhythm of the *Comedy*—that of hellish immersion, purgatorial learning, and paradisal tranquillity—in an attempt to find parallels in the two writers' works.

The infernal factor is perhaps the easiest to define. In their youths in London, where both men were struggling to survive . . . Dante's Hell was all too real to both. Indeed, *The Waste Land* may be viewed in one way as a modern version of an Inferno . . . Eliot shows a true genius in his ability to take a Dantesque line and shape it into his own.

Pound also uses Dante in his *Hell Cantos,* but his uses there seem bookish. He scatters Italian phrases through his Early Cantos . . . but . . . This is imitation without adaptation . . . The Pound of World War I days was an angry young man, outraged over social injustices. He was too preoccupied with things like usury to catch the quiet yet frustrated, detached yet morally assertive quality that Eliot captured so well.

After 1922, when *The Waste Land* had appeared and Pound had abandoned London for Paris and Rapallo, the two men entered a second stage of development. I shall call this a purgatorial phase, following Dante. In Eliot's case, his next writings—"The Hollow Men," "Ash Wednesday," and "The Rock"—clearly show the struggle of a soul to believe, and that is one fully valid definition of Purgatory. Since Eliot, in fact, converted to Anglicanism in 1927, his career can be traced along standard lines of spiritual development much more clearly than Pound's can. In fact, Eliot's fulfillment in writing *Four Quartets* shows the power of Christian meditation in act.

At this point, we shall leave Eliot to concentrate upon his friend, who had gone a different way into Mussolini's Italy. In the late twenties and the thirties Pound was as unorthodox a Christian as one could imagine. He was far more interested in a Confucian Earthly Paradise than a celestial one; he was deeply involved in economics and politics; and he frankly shows a greater fascination for the eccentric Guido Cavalcanti, whom he translated and adapted, than for Alighieri. So while Eliot was moving ever closer to Dante—no longer having to employ any suspension of disbelief in order to appreciate him—Pound was drifting away from standard values, especially those of his native land. Yet curiously it was *he,* rather than Eliot, who wanted to write the great new epic of judgment for the modern world, as his title, *The Cantos,* indicates.

How could Pound follow Dante's general scheme without espousing the man's theology? The modern poet was all too well aware of the problem. He wrote in a letter: "Stage set à la Dante is *not* modern truth," and again and again he deplored the influence of Aquinas. The fact that Dante haunted him shows in his later statement that he had to keep searching for an epic form that would work, that was "elastic enough to take the necessary material"; and what was this material?—that which "wasn't in the *Divina Commedia.*" Furthermore, the triadic rhythm of Dante would not leave him, even though Pound thought of Hell, Purgatory, and Heaven as states of mind, not actual places. Ultimately he settled on a musical form resembling a Bach fugue, in which statements could be made in three ways: some themes would be stated and abandoned, some would recur in different forms, and some would be permanent.

The first kind of movement, which is wild and disordered, can be viewed as hellish; this is, to use the language of Richard of St. Victor, cogitation or the mind flitting aimlessly around an object. The second movement is the mind studying an object; this is meditation. The last, and highest form of thought is contemplation, where the mind and the object are one. And so Dante's great divisions of the Kingdom Beyond became in Pound's modern poem three states of mind that are constantly flowing. By definition, then, Purgatory to Pound has nothing to do with Christianity; it is a condition of learning, study, observation. Thus, his Middle Cantos, which were written largely in the Italy of the thirties, ignore Christian purgation totally and concentrate on doers: the Founding Fathers of America, the great Chinese despots, and the intelligent planners of the Bank of Siena. Instead of climbing a mountain with Dante and Eliot, Pound wanted to build a Monte dei Paschi bank. But as fate would have it, neither he nor Mussolini could effect their Earthly Paradise, and the poet wound up in an animal cage in a detention camp at Pisa.

At this point in 1945, with the writing of *The Pisan Cantos,* Pound became emotionally involved in his life's work . . . Stripped of most of his books, he becomes himself; moving out of past voices, he finds his own . . .

Having carried the two poets through World War II, we can now mention the last phases of their careers, when both found peace in old age. Most critics, especially poets like Stephen Spender, believe that Eliot wrote his most accomplished work in the midst of the London blitzkrieg. Spender would point to such passages as the description of an encounter with a ghostly figure after an air-raid in *Little Gidding*—a passage, as Eliot tells us himself, that is modeled after Dante's *terza rima,* and, even though it lacks end rhymes, shows a marvelous ability to capture sustained thought in a continuously flowing language . . .

After the war, Eliot's years were filled with blessings. He gained a compatible wife, fame as a poet, success as a publisher, and the respect of even those who found it hard at times to overlook his propriety and rigidity. Pound, once again, had a tougher time: after Pisa came the long incarceration in the insane asylum in Washington. Vilified by many as a traitor, he had to settle for broken moments of joy. . . . Tragically true to his own preconceived design, Pound could not enjoy lasting peace of mind. When he was at last allowed to return to Italy, he fell into a deep profound silence. When he bothered to speak to others at all, he was incredibly humble, saying that he was only a minor satirist whose work had come to nothing. However, many critics feel that his last poetry, which was fashioned out of his suffering, is comparable with the later passionate, dissonant but still comprehensible work of Stravinsky.

Unlike Eliot, who writes sustained poetry conveying logically developed thought in a form consciously reminiscent of Beethoven's quartets, excels in making sharp, staccato statements that rise out of the whirl of miasmic thought: "The temple is holy because it is not for sale." If Eliot captures the flow of Dante's vision, Pound rearranges images and ideas in striking new patterns. . . .

It is difficult to speak of two poets like these without making comparisons. They were friends and, despite a certain rivalry, they were friends when Eliot died in 1965. In fact, the aged Pound even flew to London, and he wrote a tribute that, with Eliot gone, "Who is there now for me to share a joke with?" That ability to be aware of comedy in the broadest sense in the midst of tragedy is but another way in which all three of these poets are united. On the occasion of this bicentennial celebration, we should not ask ourselves which poet Dante himself would prefer. Dante would undoubtedly thank them both for keeping significant expression alive, each according to his nature. Surely Dante would approve of Eliot's saying that the two words that one finds in his Divine Comedy that one cannot find substantively in the Aeneid are: lume and amore. It is precisely that feeling of illumination and love that unites these two modern poets in their later work and that makes them both part of a great tradition that can be traced directly back to that earlier expert in sin, suffering, and salvation, Dante Alighieri.

DANTE REMEMBERED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. BIAGGI. Mr. Speaker, on December 28 I had the pleasure along with my distinguished colleague from New York (Mr. WOLFF) to attend a most worthwhile academic and cultural event in New York City. The occasion was the bicentennial meeting of the Dante Society which is comprised of top scholars who study the life of the legendary Italian poet.

Numerous papers and articles were presented at the meeting all of which focused on certain aspects of Dante's life. I would like to insert two presentations from the meeting into the RECORD. The first is the opening remarks of the Consul General of Italy, Dr. Alessandro C. DeBoris. The second is a most interesting article entitled "A Historical Overview of American Writers' Interest in Dante to About 1900." The author is J. Chesley Mathews, professor emeritus at the University of California at Santa Barbara.

I would like to pay a special tribute to a good friend, Anne Paolucci, vice president of the Dante Society who organized and chaired the meeting. Anne who is a distinguished professor at St. John's University has been instrumental in the development and growth of the Dante Society and deserves much credit for her achievements:

OPENING REMARK, DR. ALESSANDRO CORKSE DEBORIS: CONSUL GENERAL OF ITALY

Ladies and Gentlemen, let me say how grateful I am to the Dante Society and in particular to Anne Paolucci, who incidentally bears a proud Dantesque name, for their kind invitation. It is very fitting and not without elegance that the year of the Bicentennial should come to an end with a celebration in New York of a poet who wrote about life, liberty and the eternal pursuit of happiness, 400 years before the great Virginian. New York, the Universal City, thus honors, thanks to your society, Alighieri, the Universal Man, one of those very few to whom so much is owed by so many everywhere.

From Paradise where Dante has probably been assigned his lodgings, our poet will certainly follow with interest your proceedings. The very name of your town would be familiar to him: one of the characters he refers to so often in the Divine Comedy, the first Christian Emperor Constantine, was proclaimed Emperor in a city which is the namesake of New York.

But I know that your learned society, while cultivating the image of a poet who has inspired so many of your major writers from Longfellow to Lowell, to Norton to Pound, has no intention to confine itself to the cult of Dante. The Divine Comedy is certainly one of the summits reached by human creativity, but on its wake other great contributions, modern and contemporary, made by Italian writers should be explored by American scholars and readers. Mrs. Paolucci (also Vice President of the Pirandello Society), who has done so much to diffuse the work of American authors in Italy should boldly put the question, "Who is Afraid of Dante Alighieri?" and encourage more and more the critical reading of other writers in Dante's language like Buzzati, Pratolini, Montale, Pavese to name just a few, who I'm afraid are not so well known as they deserve in this country. Needless to say that in this work of furthering the appreciation and knowledge of our literature, the Dante Society can count on the enthusiastic contribution of our Embassy in Washington and the Consulate General and the Institute of Culture in New York, represented here by its new dynamic Director, Professor Marco Miele, who incidentally comes from Florence and therefore digs Dante's Tuscan like a native.

On this note of confidence and on this promise of a stronger and stronger cultural solidarity between our Institutions, let me conclude by wishing the Dante Society of America, its officers and their families, a very happy new year, full of further successes for their worthy enterprise.

AN HISTORICAL OVERVIEW OF AMERICAN WRITERS' INTEREST IN DANTE TO ABOUT 1900

(By J. Chesley Mathews, Professor Emeritus, UC, Santa Barbara)

We should like on this occasion to review the beginning of the interest in Dante's writings shown by people in the United States, particularly by the major men of letters, and to trace the growth of this interest through most of the nineteenth century, to a time when a Dante tradition had become firmly established here.

The awakening in the United States of interest in Dante followed close upon a revival of interest in Dante in Europe. During the seventeenth century, when our country was being colonized, Dante's fame in Europe seems to have been at its lowest point. It was in the latter part of the eighteenth century that his reputation began to rise again—in Italy, France, Germany, and England; and in the nineteenth century, in all of these countries, the interest in Dante grew rapidly and greatly. Considering these facts, we should not expect any attention to be paid to Dante in the United States before the end of the eighteenth century. And the fact is that it *was* very late in the eighteenth century that the United States began to discover Dante.

One indication of the awakening of American interest in Dante was the acquisition of printed copies of some of his works. So far I have located only three items in the United States before 1800: the Library Company of Philadelphia had Boyd's translation of the *Inferno* in 1789 and a copy of the *Divina Commedia* in Italian in 1795, and Governor Edward Rutledge of South Carolina had a set of Dante's *Opere* before 1800. After 1800 we in America acquired more and more Dante books—and to see how our interest in Dante grew, one needs only to look at the catalogues of the Harvard Dante Collection and the Fiske Collection at Cornell—not to mention the collections in other Universities throughout the nation, in the Library of Congress, and in certain public libraries—for instance, the one in Boston.

Another indication of the beginning and growth of American interest in Dante was the publication of magazine articles about him, quotations and bits of translation from him, original verse inspired by him, and so forth. In all the seventeenth century, one item is known to have appeared: just a verse and a half from the *Paradiso*, quoted in Italian and in English in the *New York Almanac* for 1697. In all the eighteenth century, one item appeared: a verse translation of 34 lines of the Ugolino story, published in the *New York Magazine* in 1791. And as early as 1797, or a little earlier, the Ugolino story was translated into prose, although this translation was not published. (For the discovery of these three facts we are indebted to Professor Joseph Fucilla.) In the first decade of the nineteenth century, according to Koch's bibliography *two* items were published; and in the following decades of the century, in order, *three* items, *seven*, *fourteen*, *twenty-seven*, *thirty-two*, *fifty-four*, *one hundred thirty-five*, and in just the first half of the tenth decade, *one hundred eight*.

It is of interest also to observe who were the early readers, students, and teachers of Dante in the United States. We do not know whether John Clapp and William Dunlap read more of Dante than the single passages they published in 1697 and 1791; but Richard Alsop presumably read more than the Ugolino passage, which he translated, for he translated other Italian works. As early as 1807 Benjamin Welles, of Boston, seems to have read Boyd's translation of the *Inferno*—possibly of the whole *Commedia*—and had read at least some of the *Inferno* in Italian. And Thomas Jefferson is said to have admired the *Divina Commedia* and read at least parts of it at some time before 1815.

The first person who is known to have taught Dante in our country was Lorenzo Da Ponte. During his approximately twenty-five years of teaching, beginning in 1807, he sought to inspire his pupils with enthusiasm for the *Divina Commedia* especially; and according to his testimony, they loved, admired, and studied it very much, and more than any other work of Italian literature.

George Ticknor was the second person who is believed to have taught Dante here, and was our first Dante scholar. He had tried in vain to get help in reading that poet's work before he left Boston in 1815; but after reaching Europe he studied Italian, and Dante. Entering upon his duties as Professor of Modern Languages at Harvard, he is said to have "first introduced Dante to his students in 1819 in a general course on the great European poets"; and at least as early as the autumn term in 1831 to have delivered a whole course of lectures on the Italian master for a college class, and continued to do so in his three remaining years there. He remained an eager student of Dante for the rest of his life—for example, with a knowledge of all the principal commentaries on Dante, he prepared notes for the *Inferno* and *Purgatorio*; and he read Prince John of Saxony's translation of, and notes on, the *Commedia*. But when he resigned his professorship, he put a limit to his influence as a teacher, and he never published any results of his Dante studies.

After he left Harvard, the course in Dante was carried on by Henry Wadsworth Longfellow, beginning in 1838. Meanwhile, Pietro Bachi, instructor under Ticknor and Longfellow, from 1826 to 1846, was having the students in his course in Italian read the Inferno.

Another early student of Dante was W. H. Prescott, the historian, who read the *Divina Commedia* during the winter of 1823–24. The impression the poem made upon him at that time was never lost, wrote George Ticknor: "He never ceased to talk of Dante in the same tone of admiration in which he . . . broke forth on the first study of him." Then a few months later he regularly attended the readings of Italian poetry which were held three or four times a week in Ticknor's home, and at which large portions of the "Divina Commedia" were gone over. He was greatly impressed by the simple style of the poem, by the beauty of its "unrivalled similes," and its allusions to familiar objects; and he perceived that "to have read the *Inferno* is not to have read Dante"; that while the *Inferno* is more entertaining, and superior to the other two parts in narrative and action, the *Purgatorio* excels in giving "delicious descriptions of natural scenery" and "sober meditation," and the *Paradiso* in doing the impossible—picturing "purely intellectual delight." He also made some use of his knowledge of the *Commedia* in his writings, principally in his articles on "Italian Narrative Poetry" and "Poetry and Romance of the Italians." In the latter

article, moreover, he once referred to the "Convito," giving page references for a particular edition, and once to the *De Vulgari Eloquentia*, thus suggesting that he might have read those works.

Margaret Fuller was both a student and teacher of Dante. She first read the *Divina Commedia* probably in 1825 or soon afterward, and in 1836 she was, according to Emerson, "a dear student of Dante." One winter, while employed in Mr. Alcott's school in Boston, she formed a class in Italian, with which she read, among other things, "the whole hundred cantos" of the *Commedia;* and in her famous "conversations," held in Boston, she gave some attention to Dante. She also read the *Vita Nuova*, at least as early as 1842,—and later wrote that it had been "one of the most cherished companions of [her] life." In 1845, moreover, she got copies of Cary's translation of the *Commedia* and Lyell's translation of Dante's "Lyrical poems," and write a short review of them for the New York *Tribune*.

Richard Henry Wilde, too, of Georgia, deserves to be remembered as a student of Dante and also as a minor poet whose work shows a little Dantean influence. He seems to have read at least some of the *Divina Commedia* before 1835, for the first stanza of his "Lines for the Music of Weber's Last Waltz" was modelled, he wrote, on the passage in canto VIII of the Purgatorio "commencing 'Era già l'ora.'" About the beginning of 1836 he began a five-year residence in Italy; and after spending some time upon a study of Tasso, he began "translating specimens of the Italian lyric poets, and composing short biographical notices of each author; and being much puzzled with the obscurities and contradictions abounding in the ordinary lives of Dante, it occurred to [him] to seek in the archives . . . whatever explanations they might afford." In carrying out this purpose, he came to desire to write a life of Dante, and then decided to include in the work a history of Dante's times.

The biographical sketch which he originally set out to write for the *Italian Lyric Poets* was never done—or else has been lost; but he did translate for the anthology two little poems by Dante, and a third poem then thought to be Dante's *The Life and Times of Dante* was never finished either, but only about half done—unless the manuscript of some of it has been lost. But if Wilde never realized his ambition to complete and publish this work, just his laboring at the task led him to read Dante's writings, and many things written about them, their author, and his age. And Wilde's studies also led him to make an unexpected contribution of another kind. Through his reading he learned of the former existence of a portrait of Dante in the Bargello, and so he was led to initiate the undertaking which culminated in the discovery of the portrait by Giotto.

One should notice, moreover, that in Wilde's long original poem *Hesperia* there are five passages which contain echoes from the *Purgatory* and *Inferno*, and two other Dante references; that two quotations, from the *Purgatory* and *Paradise*, are quoted in his book on Tasso; that there are several references to, or quotations from, the *Divine Comedy*, the *De Vulgari Eloquentia*, and the *Convivio* in his biographical sketches in the *Italian Lyric Poets;* and that in the manuscript of his *Life and Times of Dante* there are nearly one hundred references to or quotations from six of Dante's works.

Still another important student of Dante was Thomas W. Parsons, of Boston, who was also a minor poet whose poems were considerably influenced by Dante. At the age of seventeen he went with his father on a year's visit to Europe, and spent the early months of 1837 in Italy. While there he became devoted to Dante, and started to memorize the *Commedia* and to translate it into English; and he continued to work at the translation after returning home. In 1843 he brought out *The First Ten Cantos of the Inferno*, which was the earliest published American translation of any considerable portion of Dante. Later he finished the first canticle, did nearly all of the *Purgatorio*, and a little of the *Paradiso*. He also turned into English verse at least two short passages from the *Vita Nuova*. And forty-one of his original poems show Dantean influence. One of them, "On a Bust of Dante," is well known. Its closing stanza, which refers to Dante's fame throughout the world, is a beautiful tribute:

O Time! whose verdicts mock our own,
The only righteous judge art thou;
That poor old exile, sad and lone,
Is Latium's other Virgil now:
Before his name the nations bow;
His words are parcel of mankind,
Deep in whose hearts, as on his brow,
The marks have sunk of Dante's mind.

Let us now consider the interest in Dante shown by our major men of letters of the period.

James Fenimore Cooper was the only one of the major figures who did not show an interest in the Italian poet.

Washington Irving read at least the *Inferno* in Italian in 1823 and 1825, owned a copy of the *Commedia*, and both revealed an interest in Dante and made some use of his knowledge of Dante—in one story, in one letter, in one magazine article, and in his book on Oliver Goldsmith And he was impressed by the "horrible verity . . . of some of the tragic fictions of Dante," the severe grandeur, austere majesty, and touching beauties of Dante's poem.

William Cullen Bryant began studying Italian and reading Dante in 1825, and in 1826 he published a translation of six lines of *Purgatorio* VIII. Later he spoke of reading "the greater part of Dante" (that is, presumably, the *Commedia*); he knew at least one long passage from Dante by heart; in his anthology of poetry he included two quotations from *Inferno* III and V in Cary's translation; he read at least parts of Parsons' and Longfellow's translations; and in 1865 he wrote a little poem "Dante," in which he praised the Italian poet as an apostle of liberty.

Ralph Waldo Emerson began reading Dante in 1818, and continued to be interested in Dante's work for the rest of his life. He acquired two Italian editions of the *Commedia*, an Italian edition of the *Vita Nuova*, and several volumes of translations (by Cary, Parsons, Carlyle, and Norton). There are in Emerson's writings about 175 references to Dante, and nine quotations from the *Divine Comedy*. Emerson admired Dante's courage, force, symmetry, vivid perception, graphic description, recognition of the symbolic character of things, and his universality. He regarded "the new importance of the genius of Dante . . . to Americans" as one of the events of culture in the nineteenth century. There are a few passages in Emerson's writings which seem to echo specific lines of Dante. And most exciting of all, in 1843 Emerson translated the *Vita Nuova*, before any complete translation of the work into English had been published either in America or in Europe.

Nathaniel Hawthorne, in his writings, referred to Dante about a dozen times, beginning in 1835. He certainly knew the *Inferno*, and probably knew all of the *Commedia*. He appreciated the ironic appropriateness of the punishments of hell, and at least some of Dante's symbolism—for example, the symbolic use of darkness, light, and colors. And at least three or four passages in Hawthorne's writings seem to reflect or echo passages from Dante.

John Greenleaf Whittier read, in translation, the *Inferno*, probably the *Paradise*, and at least part of the *New Life*. He was strongly impressed by the beauty and charm of the *New Life*. In his prose writings Whittier referred to Dante or his work several times, and quoted from the *Inferno* once and the *New Life* once. And he mentioned Dante in five of his poems.

Oliver Wendell Holmes studied Italian in college, and read at least the *Inferno* by 1828. At some time he read at least part of the *Paradiso*. He acquired two Italian editions of the *Commedia* and four translations. In his prose writings there are about fifteen Dante references and a few quotations and echoes; in several letters he spoke of the translations by his friends Parsons and Longfellow; and in 1881 he sent to Florence, for a Dante meeting, a poem entitled "Boston to Florence." The poem closes with these lines addressed to Dante:

Now to all lands thy deep-toned voice is dear,
And every language knows the Song Divine!

In Edgar Allan Poe's writings between 1835 and 1850 there are sixteen Dante references and three quotations. And there are five instances of resemblance between passages in Poe's writings and passages in Dante—in one poem, one book review, and three stories. These passages seem to indicate that Poe knew the Ugolino story, cantos I and V of the *Inferno*, and Dante's description of the forest of suicides, of the circle of burning sand, of the valley of serpents, and of the entrance to the City of Dis. He probably read the *Inferno* in Cary's translation, but his appreciation of Dante was apparently less profound than that of most other major American authors of the time.

Henry Thoreau, like Holmes, studied Italian at Harvard, read the *Inferno* there, at least by 1837, and acquired a copy of the *Commedia*. In his writings one finds sixteen references to Dante: some are general, a few refer to matters in the *Inferno*, and one mentions the *Paradise*.

Herman Melville bought a copy of Cary's Dante in 1848 and read the *Inferno* by the next year. And in his writings dating from 1849 on, there are more than a dozen Dante references. He refers, for example, to the inscription over the gate of Hell, to the story of Francesca, to the City of Dis, the story of Agnello, and the Phlegethon. He makes considerable use of Dante in the story *Pierre* Although Melville was too much inclined to see in the *Inferno* the spirit of pessimism and revenge, he was also strongly impressed by the poem's truth to human experience, by its vividness and power, by some of its allegory, and by Dante's tenderness and spirit of aspiration. And Melville's interest was great enough for him to reflect it in ten of his works.

Walt Whitman read John Carlyle's translation of the *Inferno* in 1859 and wrote down his impressions of it. He especially remarked the work's intense brevity, great vigor, simple convincing realism, and fascination as a well told tragedy. Whitman kept this Carlyle translation to the end of his life, and read in it often. In three of his poems and in other pieces of his writing, one finds about twenty Dante references. He also looked over Dore's illustrations, and owned a copy of the Arundel Society's print of the Giotto portrait. And he admired Dante as a man who stood for the supreme ideals.

Our review reaches its climax with Henry Wadsworth Longfellow and James Russell Lowell.

Longfellow began reading the *Inferno* in Italian in 1828, and continued to read Dante works for the rest of his life, a period of over fifty years. He wrote an essay on Dante in 1838, he taught a course in Dante at Harvard for sixteen years, he translated the *Commedia* (the first volume, *Inferno*, was sent to Italy in 1865 for the anniversary celebration), and he wrote and compiled notes for his translation. In his letters, journals, and other works there are dozens of quotations from

and references to Dante. In *Hyperion* and *Kavanagh* there are at least six passages influenced by parts of the *Commedia*. And twenty of his poems show Dantean influence.

The outstanding examples, of course, of Dantean influence on his poems are to be seen in his sonnet on "Dante" (published in 1845) and his six "Divina Commedia" sonnets (written in the 1860's). These poems not only are among the best of Longfellow's poems, but also are among the finest literary tributes which America at any time has paid to the Italian poet.

May we read just one of these, which is addressed directly to Dante?

O star of morning and of liberty!
O bringer of the light, whose splendor shines
Above the darkness of the Apennines,
Forerunner of the day that is to be!
The voices of the city and the sea,
The voices of the mountains and the pines,
Repeat thy song, till the familiar lines
Are footpaths for the thought of Italy!
Thy fame is blown abroad from all the heights,
Through all the nations, and a sound is heard,
As of a mighty wind, and men devout,
Strangers of Rome, and the new proselytes,
In their own language hear thy wondrous word,
And many are amazed, and many doubt.

Lowell, like Thoreau and Holmes, began reading the *Inferno* while a student at Harvard, and for Lowell it was in the year 1836–37. About the same time, too, he began making references to Dante in his writing. After Longfellow's retirement from teaching, Lowell taught the Dante course at Harvard for twenty years. He also followed with great interest the translating being done by his friends Parsons, Longfellow, and Norton. And for the last nine years of his life he was President of the [American] Dante Society. Most important, for our purposes, he wrote a famous essay on Dante, which shows that his knowledge and appreciation of Dante's work was extensive, profound, and rich; and among his poems there are ten which show Dantean influence. But his greatest literary contribution to the Dante tradition in the United States was his essay.

This brings us to a convenient stopping place. Lowell died in 1891, approximately a century after the birth of America's interest in Dante. And by that time the interest was so firmly and permanently established that it has continued to grow ever since.

TRIBUTE TO WILLIAM J. USERY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. STEIGER. Mr. Speaker, a year ago President Ford nominated W. J. Usery to serve as Secretary of Labor. Prior to his nomination, Mr. Usery had served with unsurpassed success as Director of the Federal Mediation and Conciliation Service.

During his tenure as Secretary, I had frequent contact with Bill Usery on issues relating to unemployment compensation, manpower policy, occupational health and safety and numerous other matters. He was an effective leader and administrator; he can be proud of his efforts in Government. We will all miss him and his abilities.

Bill Usery did an outstanding job of furthering labor-management harmony. He had great success in avoiding and terminating labor-management disputes in the rubber, rail and truck industries.

His career is a tribute to both himself and our Nation. He began his career as a welder, served with distinction during the Second World War and made his way through the ranks before entering Government service in 1969. His skills and warmth will be greatly missed. Both Janie and Billy join with me in wishing Bill Usery well; and thank you, Mr. Secretary.

ARMENIAN CONCERN GROWS FOR RELIGIOUS ARTIFACTS

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. SISK. Mr. Speaker, a particularly noteworthy article appeared in the Washington Star last Saturday entitled "Armenian Concern Grows for Religious Artifacts." As many of my colleagues know, this House passed legislation in the previous Congress designating April 24, 1975, as a National Day of Remembrance of Man's Inhumanity to Man, in recognition of the atrocities committed by the Turks against the Armenian people earlier in this century. Unfortunately, that legislation became stalled in the Senate yet, I suspect, not before it had alerted many Americans to the occurrence of this atrocity—a fact which the Turkish Government to this day still seeks to deny. It was hoped that, by setting aside such a day, we in this Nation at least would be reminded of this past genocide in an attempt to help us prevent future ones. With this in mind, I cannot emphasize too strongly my own disgust both with the architectural destruction that the Turks are encouraging and the obvious motives underlying their actions. The article follows:

ARMENIAN CONCERN GROWS FOR RELIGIOUS ARTIFACTS

(By William F. Willoughby)

Numerous Armenian Christians in the Washington area and around the United States and Canada are incensed over the destruction of religious and cultural traces of their ancient civilization in Turkey and in the Soviet Azerbaijan republic.

Strongly-worded protests have been sent to the central government in Moscow and the United Nations.

Some Armenian spokesmen see, beyond the sacrilege of the destruction, a further attempt to eradicate the notion that Armenia ever was a nation and that Armenians had a viable civilization of their own. There still is intense bitterness over the Turkish slaughter of hundreds of thousands of Armenians early this century, sending hundreds of thousands of others into dispersion to the United States and numerous other countries.

In Turkey, they charge, walls of their temples are being torn down, and "when the crosses are brought down, the domes of our temples are destroyed and the face of our historical land becomes indistinguishable."

The Armenians contend that the destruction is making it increasingly difficult, "especially as the world has a great tendency to turn a deaf ear," that they not only had kingdoms on lands captured by the Turks, but a civilization that reached its golden age in the 5th Century, "and during the time of our kingdoms in Ani and Cilicia, we heralded to the world the future progress of the Renaissance."

But as bad and systematic as the destruction is described to be in Turkish Armenia, what has happened in Russian Armenia is possibly even more alarming, because the government is supposed to be guaranteeing that historical landmarks and cultural evidences will not be destroyed.

In the Armenian republic itself that policy of preservation appears to be honored, with the temples and ancient palaces being preserved. Under Stalin, by contrast, the temples were stripped of their rich ornamentation and turned into stables and warehouses. Under the current Armenian Soviet government things have changed markedly for the better.

But neighboring Azerbaijan, which has a large Turkish population, has presented a problem. Regions of Armenia not even bordering on the Azerbaijan republic have been turned over to Azerbaijan and designated as autonomous regions within that republic. Thus, Azerbaijan's territory leapfrogs over parts of Armenia, separating parts of it from the motherland to which it is bound by religion, culture and history.

These two regions, Nakhichevan and Gharapagh, once overwhelmingly Armenian, are having their populations supplanted by alien populations and cultures which have, apparently, strong contempt for the Armenians. Nakhichevan's Armenian population has been reduced to a minority status, when once it was almost totally Armenian. Gharapagh fast is being reduced to a non-Armenian area.

In the process, the new alien population is running roughshod over the religious and cultural sites, chopping highly revered khachkars and other religious properties into building blocks. Khachkars are intricate monuments which embellish churches or stand in "forests" of religious monuments. There is an unmistakable sacred value attached to them by the Armenian Christians.

A group of Italian architectural experts who recently traveled in the Azerbaijani areas, said the government has imposed strict prohibitions against the Armenians even visiting the 16th and 18th Century monuments near the ancient city of Hin Dchouga in Nakhichevan.

"The Azerbaijani villagers there carefully pull the khachkars out of their places, cut them equally carefully into slices like cheese, and take the pieces home to use for construction purposes. . . . The Azerbaijani villagers are subjecting to their vandalism more of the finely woven 18th Century ones, not because they respect the older ones more, but because they consider them worn out and therefore unsuitable to be used for construction purposes," church officials said.

The Italian architects, dedicated professionally to preserving the artifacts of the Armenian culture, protested to the government of Armenia to make a "brotherly" intervention to Azerbaijan, but as one church spokesman put it, "unfortunately the government of Armenia, having put a heavy khachkar on its conscience, has remained silent, permitting the barbarism to go on."

That report was in November. Since then, the word has spread through hundreds of Armenian churches in the United States and Canada and a loud protest is being sounded.

THE MARKETING OF U.S. RAISINS

HON. JOHN KREBS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. KREBS. Mr. Speaker, my colleague, the Honorable B. F. SISK, and I

are pleased to introduce today a proposal to streamline the marketing of U.S. raisins, almost all of which are produced in our two districts in the San Joaquin Valley of California. There are two aspects to this legislation. First, it will allow for the establishment of a Federal order for the advertisement and marketing of raisins. Second, it will allow for the distribution of the pro rata costs of that promotion among the handlers of the fruit.

Significantly, the bill will allow for economies in the administration of programs conducted by the raisin industry. At the present time, the marketing and advertising functions are conducted under the auspices of a State marketing order, while volume and grade regulations have been under Federal control. This two-tier system has resulted in an unfortunate waste of time, as well as a lack of coordination in the marketing of raisins, both of which trade disadvantages will be eliminated by placing all functions relating to the marketing of raisins under the Federal umbrella.

The bill also provides for the crediting of funds expended for advertisement by a raisin handler against the assessment he would otherwise have to pay, thus making brand promotion possible.

In view of the tough competition our raisin industry faces in world markets from highly subsidized exporters like Greece and Turkey, improved advertising is a must.

It should be clearly understood that, through this legislation, we are not seeking the subsidization of our domestic raisin industry, but are simply asking to allow our growers the opportunity to compete more effectively.

TAX EQUITY FOR SINGLES AND MARRIED WORKING COUPLES

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. KOCH. Mr. Speaker, along with 94 of our colleagues in the House, I am today introducing legislation to end Federal tax discrimination against single persons and married couples where both persons work. The legislation, H.R. 850, would extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married persons filing joint returns on a single income. The bill would also assist married couples where both persons work, who in some cases are more highly taxed than two single individuals earning the same income.

At present approximately 54 million taxpayers are discriminated against, solely on the basis of their marital status. Whether widowed, divorced, or unmarried, a single person who works pays up to 20 percent more in taxes than a taxpayer with a nonworking spouse filing a joint return. By filing a joint return, those married couples where only one spouse earns an income can split that income and thus are able to pay taxes at a lower rate. A man earning $30,000 a year can file a joint return with his wife and pay two taxes on $15,000 which is cheaper than one tax on $30,000.

Requiring as we do today that single persons pay at a higher rate is simply arbitrary. Penalized in the same way as singles is the working married couple filing separately or jointly on two incomes who in some cases are more highly taxed than two single persons earning the same income and living together. This is because the tax schedule used by married couples filing separately has higher rates than the single schedule, even though the single schedule is more costly than the joint return schedule.

The actual cost to the single taxpayer and working married couple can best be illustrated by a few examples. A single taxpayer whose taxable income is $12,000 pays $2,630 in taxes before credits; if he were married and the sole wage earner in the family and filed a joint return, he would pay $2,260—a difference of $370. The tax penalty for being single at $8,000 is $210; at $14,000, $450; at $16,000, $570; at $20,000, $850; and at $50,000, an incredible $3,130.

Even those singles who file as head of household are discriminated against. A widowed, divorced, or single parent with children to support pays up to 10 percent more than the married couple with one income. At an $8,000 income, the single parent pays $1,480—$100 more in taxes than the married couple with one income. At $16,000 income, the penalty is $280; and at $44,000, the penalty is $1,280.

A woman who goes to work to supplement the family income is now penalized by the tax system for such initiative. For example, if a woman goes to work to supplement her husband's $5,000 income, and her income is $5,000, the couple will pay $200 in taxes more than if they were two single persons filing their individual returns. This is a 10-percent surtax on the amount they would be paying if single. Take another example: Should the husband make $20,000 a year and the wife $10,000, the couple will pay $780 more in tax than if they were two single people filing separately.

I believe these higher rates for married working couples are a result of the mistaken belief that salaried work by a wife is a luxury. While it may be true that some family incomes are substantially increased because of a wife's work, the great majority of working women come from lower and middle-income families.

In fact, 89 percent of wives who work are in families with a total income per year of $25,000 or less. These women are working often at personal sacrifices to their family to meet today's high cost of living. Women are already victimized by a labor market that underpays them; those who are married should not be further penalized by a tax structure that extracts higher taxes from them.

These various forms of discrimination against taxpayers on the basis of their marital status simply make no sense. Certainly I believe that taxes should reflect differences in a taxpayer's responsibilities for dependent support. But the way to do this is through exemptions for dependents, not through different tax schedules. The joint tax return rate for married taxpayers does not reflect the different financial responsibilities in supporting six dependents as opposed to, say, one dependent. Furthermore, under the present rate structure, a divorcee or widow with three dependents, using the head of household schedule, pays taxes at a higher rate than a married couple with no children. Family responsibilities can be most accurately reflected through an adequate dependent exemption.

Last year the Ways and Means Committee set up a task force to study the problem of the tax treatment of single persons and working married couples. Unfortunately, that task force has not yet formulated any suggestions for recommendations. I hope that the Ways and Means Committee will take up this issue this year. What is needed is a universal progressive tax rate for all taxpayers, whatever their marital status, as embodied in H.R. 850.

The advent of the new administration and President Carter's pledge for comprehensive tax reform provides an opportunity to restore tax equity for singles and married working couples. I have today written to President Carter asking that he give serious consideration to the plight of these two groups as he develops his proposals to stimulate the economy with a tax cut. I hope that in this Congress we will be able to remove a major inequity in our tax system.

For the information of my colleagues, I am appending a copy of my letter to President Carter and a copy of H.R. 850. I would also like to point out that the Committee of Single Taxpayers, the single major organization fighting for tax equity for single persons, has endorsed this legislation.

The letter to President Carter and the text of H.R. 850 follow. Also appended is a list of cosponsors of H.R. 850:

JANUARY 26, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing in behalf of 95 Members of the House who are today introducing H.R. 850, legislation to end tax discrimination against single persons and working married couples. This year more than 54 million American taxpayers will be discriminated against solely on the basis of their marital status. Single persons, whether widowed, divorced, or unmarried, pay up to 20% more in taxes than does a married individual earning the same income. Similarly penalized are married couples where both persons work, who in some cases are more heavily taxed than two single individuals filing separately and living together. Those of us supporting this legislation believe that marital status should not determine the tax rate that a person must pay on his or her income.

In the consideration of tax reduction proposals, I believe that we must seek to end tax discrimination against singles and working married couples. By tilting the tax cut toward these groups, we can both provide the fiscal stimulus that the economy needs and also remove a major inequity in our tax system.

All the best.

Sincerely,

EDWARD I. KOCH.

H.R. 850

A bill to extend to all unmarried individuals the full tax benefits of income split

ting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1 of the Internal Revenue Code of 1954 (relating to rates of tax on individuals) is amended—

(1) by striking out so much of subsection (a) as precedes the tables therein and inserting in lieu thereof the following:

"(a) GENERAL RULE.—There is hereby imposed on the taxable income of every individual, other than an estate and trust, a tax determined in accordance with the following table:";

(2) by striking out subsections (b) and (c); and

(3) by striking out so much of subsection (d) as precedes the table and inserting in lieu thereof the following:

"(b) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:".

(b) Section 2 of such Code (relating to definitions and special rules) is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsection:

"(a) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—For purposes of section 1, in the case of any married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013, amounts received for services performed by either spouse shall be taken into account by the spouse who performed the services and shall not be taken into account by the other spouse."; and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively, (c) Sections 511(b)(1) and 641 of such Code are each amended by striking out "section 1(d)" and inserting in lieu thereof "section 1(b)".

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1977.

SEC. 2. The Secretary of the Treasury or his delegate shall prescribe and publish tables reflecting the amendments made by this Act which shall apply, in lieu of the tables set forth in section 3402(a) of the Internal Revenue Code of 1954 (relating to percentage methods of withholding), with respect to wages paid on or after the first day of the first month which begins more than 20 days after the date of the enactment of this Act.

Hon. Joseph Addabbo (D-N.Y.)
Hon. John B. Anderson (R-Ill.)
Hon. Frank Annunzio (D-Ill.)
Hon. L. A. Bafalis (R-Fla.)
Hon. Max Baucus (D-Mont.)
Hon. Jonathan Bingham (D-N.Y.)
Hon. James Blanchard (D-Mich.)
Hon. Garry Brown (R-Mich.)
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Hon. John Moss (D-Calif.)
Hon. Austin Murphy (D-Penna.)
Hon. John Murphy (D-N.Y.)
Hon. Morgan Murphy (D-Ill.)
Hon. Stephen Neal (D-N.C.)
Hon. Robert N. C. Nix (D-Penna.)
Hon. Edward Patten (D-N.J.)
Hon. Claude Pepper (D-Fla.)
Hon. Charles Rangel (D-N.Y.)
Hon. Fred Richmond (D-N.Y.)
Hon. Matthew Rinaldo (R-N.J.)
Hon. Peter Rodino (D-N.J.)
Hon. Robert Roe (D-N.J.)
Hon. Charles Rose (D-N.C.)
Hon. Benjamin Rosenthal (D-N.Y.)
Hon. Edward Roybal (D-Calif.)
Hon. Harold Runnels (D-N. Mex.)
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Hon. Charles Whalen (R-Ohio)
Hon. G. W. Whitehurst (R-Va.)
Hon. Bob Wilson (R-Calif.)
Hon. Charles Wilson (D-Calif.)
Hon. Larry Winn (R-Kansas)
Hon. Lester Wolff (D-N.Y.)
Hon. Gus Yatron (D-Penna.)
Hon C. W. Bill Young (R-Fla.)

TERRORISTS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. EDWARDS of California. Mr. Speaker, I share the outrage of my colleagues at the French Government's decision to release Abu Daoud, the accused mastermind of the massacre of Israeli athletes at the 1972 Olympics in Munich.

Ignoring the requests for an extradition hearing made by officials of both the Israeli and German Governments, France chose instead to escort Abu Daoud to asylum in Algeria. Not only is the French action an insult to the Israeli and German Governments, but it undermines the fight for international justice.

Terrorist acts are increasing at an appalling rate. No longer confined to the so-called trouble spots of the world, these senseless acts of violence can—and do—occur in any place and at any time.

If we have any hope at all of halting this growing menace, we must take a firm and united stand against terrorism. We must bring terrorist groups and individuals to justice.

The release of Abu Daoud eliminates the possibility of justice being done in this case. The intemperate action of the French Government can only give encouragement to terrorists and spawn further violent acts. I strongly protest the decision of the French Government.

DEMANDS FOR FREEDOM IN CZECHOSLOVAKIA

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. BLANCHARD. Mr. Speaker, the Washington Post, on Friday, January 21, carried an article detailing renewed demands for human rights and political freedoms in the nation of Czechoslovakia.

As many of my colleagues are aware, Ms. FENWICK and I joined with 37 others last week in a letter to the Czechoslovak Ambassador, concerning the protests which are now going on in that country. I wish to bring Friday's article, which further elaborates on the situation in Czechoslovakia, to the attention of Members of the House, because I believe it is a situation which concerns us all.

Just 8 years ago, when we were in the midst of the 1968 Presidential campaign, the Soviet Union invaded Czechoslovakia and reasserted its domination over that country's political life. From that time until the Helsinki Declaration in July 1975, dissent in Czechoslovakia was virtually silenced.

But now the struggle for civil liberties appears to be gathering strength once more.

I urge my colleagues to be attentive to this struggle and its outcome. I believe its success or failure, in Czechoslovakia and other nations in Eastern Europe, will be the truest indication as to the sincerity of the protestations of friendship and détente which we have heard from the Soviet bloc in recent years.

The Post article follows:

[From the Washington Post, Jan. 21, 1977]

DISSIDENTS CHALLENGE PRAGUE—TENSION BUILDS FOLLOWING DEMAND FOR FREEDOM AND DEMOCRACY

(By Michael Getler)

PRAGUE, January 20.—"The fundamental question now is indeed whether this action will bring about more freedom or more repression."

The speaker is gray-haired 69-year-old Jan Patocka, a former philosophy professor who has emerged as the leading spokesman for a group of some 300 Czechoslovak human-

rights activists openly challenging this tightly controlled, hard-line Communist regime for more freedom and democracy.

The action Patocka refers to is the publication in some Western newspapers two weeks ago of the so-called Charter 77, an unprecedented civil-rights manifesto written and signed here and then slipped across the border to the West.

In brief, it asks that Czechoslovak citizens be guaranteed the human rights contained in U.N. resolutions and the declaration of the 35-nation Helsinki Conference on European Security and Cooperation, both ratified by the government, and those rights contained in the Czechoslovak constitution.

Slowly but steadily, the publication of the charter and reports of its contents, reaching back to Prague, have stirred tension and unease in government, among the signers and within a small but curious segment of the population.

[A group of Hungarian scholars has sent a letter of support to the Czechoslovak signers of Charter 77, the first such expression of solidarity from another Soviet bloc country, the Associated Press reported from Vienna. Philosopher Ferenc Feher, one of the Hungarian signers, said in an interview on Austrian radio, "The question of the charter is an all-European issue."]

Although the drama unfolding here is thus far limited mostly to the fate of a handful of intellectuals and former party functionaries, the uneasiness and open dissent is greater now than at any time since the liberal but short-lived Communist rule of Alexander Dubcek was toppled by a Soviet-led Warsaw Pact invasion in 1968.

Thus far, signers have been subjected to harsh denunciations as traitors and sell-outs to the West in the government-controlled press. Four men, including well-known playwright Vaclav Havel, have been arrested and taken to the huge yellow-walled Ruzyne prison outside the city. A score of others, including Patocka and playwright Pavel Kohout, have been interrogated there more than once. Telephones are no longer working in many homes; some dissidents have lost their jobs. No one knows what will happen next.

"It was difficult to look ahead and see which way it would go," Patocka said in an interview here on the question of the charter's probable effects.

"But we felt this was a unique opportunity to present a certain civic attitude and to give back to the people a certain moral dignity. That dignity is still here," Patocka adds, despite the general image of the Czechoslovaks as the most docile and least given to resistance among the Eastern bloc.

The unique opportunity that gave birth to the charter was the July 1975 Helsinki declaration, specifically its portions on wider freedom of travel and contacts between East and West, he said.

"Certainly Helsinki was at the beginning of all this. We were waiting to see if the Helsinki principles would be implemented here, if they would have the force of law. One had to do something as a citizen, as a human being, to insure that these rights that were given to us would not remain a dead letter.

"As a matter of fact," Patocka continued, "the rights we have are only another phase of the obligation one has to exercise and defend them."

The charter signers deviet themselves as Czechoslovak loyalists seeking more flexibility from the present government and not trying to overthrow it. Some feel, despite the current crackdown, that over the long run the government of Gustav Husak is capable of such flexibility; others disagree.

"In the first days after the signing," Patocka said, "We were very joyful, with people saying that at least people can do something that is not illegal."

But in the aftermath of the crackdown, the leaders increasingly have called openly for support from Western Communist parties in Italy, France and Spain. These "Eurocommunism" parties are anathema to the Kremlin. Thus, there are now probably more pessimists than optimists among the dissenters about finding some leeway in the Husak government.

Still, Patocka said, "I would believe this action should bring our leaders to ask themselves whether they are not victims of delusion when they believe they can manipulate the public.

"They don't make a distinction between a purely formal consent, which the public gives almost mechanically, and a sincere consent. If they could make this distinction, they would become very skeptical."

Patocka is not a Communist Party member. But a colleague who is a former party member, and who asked not to be identified, said in another interview that "if we thought the charter would lead to repression we would not have done it."

"Being a Communist myself, I know well the situation inside the party, and its leaders are the victims of their own bureaucratic apparatus. We must reckon with that. But I am sure that the charter must bring an improvement in the fields of democracy and public life.

"The demands are loyally formulated . . . to the true socialist ideals that have nothing to do with the current practices here.

"It is true," he added, "that our way of acting was a little unusual. But modern forms of socialism" in his view, "which we are not yet used to will become the form of communism."

"This change in the process—the charter—is aimed at accustoming the public and also the leaders to deal with public opinion, which wants greater publicity about the process of government.

"And if we could accustom our leaders to think with regard to critics that one will never be able to suppress completely, that a critic will sooner or later come out, if we could do that, it would already be a great result," he said.

Although there are certain similarities to the recent stirring of dissidents here and in Poland, East Germany and even the Soviet Union, there are also important differences.

Poland is viewed by experienced observers as the most volatile, an assessment based on the Polish temperament as well as on the general spectrum of reported unhappiness, which includes not only some intellectuals, but also some worker groups and a powerful church.

In East Germany, the dissidence is a combination of some intellectual protest plus the uncertain impact of some 100,000 people who, since Helsinki, have applied to emigrate to the West.

Here, it is mostly an intellectual undertaking, and there is no sign of critical support from the workers or elsewhere, except possibly the church—whose leaders stated they did not sign the charter, but they have refrained from attacking it.

But many diplomats here believe the government has fallen into a trap on the charter. Aside from the signers, few people here knew about it when it was first published.

By eventually attacking it publicly, the government has made more and more people aware of it—and curious about what it says, since they are being asked to denounce it. The charter has never been published here nor have all the signatures been identified.

But some 60 per cent of this country about the size of North Carolina with a population of 14 million can receive West German or Austrian radio and television. Details about the charter are becoming more widely known than many Czechoslovaks thought was possible had the government not made a fuss over it.

WALL STREET JOURNAL ENDORSES TAX INDEXING

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. COUGHLIN. Mr. Speaker, today I reintroduced, along with 38 of my colleagues, legislation to ease the burden of the soaring cost of living on the American taxpayer.

This proposal, termed "Tax Indexing," has gained broad bipartisan support not only in Congress, but from such national sources as Leonard Woodcock, president of the United Automobile Workers, Nobel Laureate Milton Friedman of the University of Chicago, the Advisory Committee on Intergovernmental Responsibility, the National Taxpayers Union, and a staff study conducted by the Joint Economic Committee.

The Wall Street Journal, which for 3 years has advocated the adoption of tax indexing, reaffirmed its support in Monday's editorial. I urge my colleagues to read this editorial and insert it in the RECORD at this point along with a list of cosponsors of the tax indexing bill:

REMEMBER THE FORD TAX PLAN

The long-range tax proposals President Ford made in his fiscal 1978 budget message have already been kissed off by the Democratic Congress as the last gasps of a lame duck. But his idea of correcting tax rates for inflation, which we began advocating three years ago, is one that should not be forgotten as long as we have inflation, and the nation would benefit if President Carter picks up where Jerry Ford has left off.

"For too long," said Mr. Ford, "government has presumed that it is 'entitled' to the additional tax revenues generated as inflation and increases in real income push taxpayers into higher brackets. We need to reverse this presumption. We need to put the burden of proof on the government to demonstrate the reasons why individuals should not keep the income and wealth they produce. Accordingly, my long-term budget projections assume further tax relief will be provided."

Accordingly, the Ford people projected higher levels of receipts in 1980 sufficient to produce a budget surplus. And instead of the surplus going into new government programs, much of it would be used to "ease the burden on middle-income taxpayers and businesses."

This represents a dramatic change in Mr. Ford's thinking. In his budget message a year ago, the President implicitly put himself among those who believe the government is "entitled" to revenues produced by inflation. At the time, he promised that the budget would balance by 1980 "as rising real incomes and inflation move people into higher tax brackets."

In his new approach, Mr. Ford directly challenges the concept of the "fiscal dividend" in a way that eluded Republicans since Democrats first conceived it in the early 1960s. Democrats saw the expansion of government revenues via the inflation route as a way of increasing government spending on bold new social programs. The government would automatically have an increasing proportion of the nation's real resources to spend, and the liberals would be spared the trouble of making any explicit case for higher taxes. Meanwhile, the Republicans argued not that the "fiscal dividend" should be returned to taxpayers through rate cuts, but

that it should be used to pay off the national debt. They even voted against the Kennedy-Johnson tax cuts of 1962–64. But the surpluses the GOP hoped for never emerged because the Democrats spent them in advance.

Liberal Democrats are already pooh-poohing the Ford proposals because they too see surpluses emerging later in the decade and once again want to spend them in advance, if only Jimmy Carter will go along. To the degree he does, the GOP now has a chance to rebuild by offering itself as a party of lower tax rates as opposed to higher spending. Republicans who have been basing their campaigns on this theme—Kemp of New York, Burgener of California, Lugar of Indiana—have been winning with 70% to 80% of the vote.

While Mr. Ford has at last pointed the GOP in the right direction, his proposals can still stand a little work. It is appropriate to ask, for example, that if the government is not "entitled" to revenue gains produced by inflation why should the taxpayers have to wait until 1980 for a correction of the rates? Nor does the budget message make it at all clear that Mr. Ford wants to correct for inflation for all income classes. Indeed, the thrust of his tax package leaves open the possibility that only lower and middle-income rates need be adjusted.

The Ford people still think of their correction in terms of providing "relief" to taxpayers; we would go further in suggesting that such corrections will also be a spur to the economy by removing the increasing disincentives to production that come into play as taxpayers are pushed into higher and higher tax brackets. Thus we would not think in terms of "effective" tax rates, as the Ford people so far do, but in terms of the "marginal" rates. The much higher marginal rates bear more on incentives for additional work. Marginal rates are properly adjusted in the other nations that have adjusted their tax systems to correct for inflation—Denmark, Canada, the Netherlands, Switzerland and Australia.

But these points are relatively minor compared to the breakthrough in thinking at the White House. For the very first time, an American President is on record opposing the idea of using inflation to expand tax revenues. Mr. Ford can't take posthumous credit for this step at the polls, but he should reap a reward in history.

COSPONSORS OF TAX INDEXING BILL

Mr. Phil Crane, Mr. Walter Flowers, Mr. James Abdnor, Mr. Robert Badham, Mr. Max Baucus, Mr. Clair Burgener, Mr. Tim Lee Carter, Mr. Thad Cochran, Mr. Jim Collins, Mr. Tom Corcoran, and Mr. Dan Daniel.

Mr. Bill Dickinson, Mr. Robert Dornan, Mr. John Duncan, Mr. Hamilton Fish, Mr. Charles Grassley, Mr. Jack Kemp, Mr. Bill Ketchum, Mr. Robert Lagomarsino, Mr. Trent Lott, Mr. James Martin, Mr. Dawson Mathis, and Mr. Clarence Miller.

Mr. Joe Moakley, Mr. Steve Neal, Mr. Albert Quie, Mr. Matt Rinaldo, Mr. Kenneth Robinson, Mr. Robert Roe, Mr. Eldon Rudd, Mr. Ron Sarasin, Mr. Richard Schulze, Mr. James Scheuer, Mr. David Treen, Mr. Paul Trible, Mr. Robert Walker, Mr. Charles Wilson, and Mr. Larry Winn.

NATURAL GAS EMERGENCY SUPPLY ACT OF 1977

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. MURPHY of Pennsylvania. Mr. Speaker, today I am introducing the Natural Gas Emergency Supply Act of 1977, a short-term emergency measure to allow for the allocation of natural gas during this critical period of our national energy history.

This year's unusually severe weather has created shortages of natural gas in many regions of the country and has reached the crisis stage.

In my congressional district, which includes Greene, Fayette, Washington, and part of Allegheny Counties, in heavily industrialized southwest Pennsylvania, a major natural gas supplier in the district announced this week that effective February 1, a 100 percent curtailment of natural gas will occur, forcing many thousands of employees into the unemployment lines.

My bill is a one-time short-term measure designed to put a stop to this impending tragedy. It provides for a 45-day period—through the end of the cold winter season—in which interstate pipeline transporters which are presently forced to curtail their supply of natural gas to consumers will be allowed to buy natural gas from the unregulated intrastate market and transport it to areas facing critical shortages. Any exemptions to the Natural Gas Act under my bill would only apply to the case of deliveries of natural gas before March 16, 1977. Consequently, my bill would provide for increased natural gas supplies during the most critical period of the year.

This bill is not intended to fully address the complex issue of natural gas deregulation, since emergency gas measures which did so in the 94th Congress were effectively killed. This bill is and should only be considered short-term emergency help requiring immediate action. Longer term legislation setting rate and regulatory policy must and will be addressed by the Congress once the current crisis eases.

Quick passage of emergency natural gas legislation to relieve the current crisis is imperative. I urge my colleagues to immediately consider the Natural Gas Emergency Supply Act of 1977, the text of which follows:

H.R. 2481

A bill to assure the availability of adequate supplies of natural gas during the period ending March 15, 1977.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Natural Gas Emergency Supply Act of 1977".

FINDING AND PURPOSE

SEC. 2. (a) The Congress hereby finds that—

(1) domestic supplies of natural gas available in interstate commerce are not sufficient to meet present and anticipated national and regional needs;

(2) shortages of natural gas in interstate commerce constitute a threat to the public health, safety, and welfare and to national defense;

(3) such shortages have created in the past, and continue to create in the current winter, severe economic dislocations and hardships, including the loss of jobs, reduction of agricultural production, closing of factories and businesses, and the curtailment of vital public services.

(4) such shortages have created in the past, and continue to create in the current winter, an unreasonable burden on certain areas of the country and on certain sectors of the economy; and

(5) such shortages can, in part, be alleviated by providing emergency authority to supplement existing efforts of Federal, State, and local governments to deal with such shortages.

(b) The purpose of this Act is to authorize the Federal Power Commission to deal with existing and imminent shortages and dislocations of natural gas in the national distribution system which jeopardizes the public health, safety, and welfare and the national defense; and to provide protection from interruption in natural gas service to customers who use natural gas for high priority end uses during periods of curtailed deliveries by natural gas companies.

TEMPORARY EMERGENCY EXEMPTION

SEC. 3. (a) Within fifteen days after the date of the enactment of this Act, the Federal Power Commission shall, by rule, exempt from the provisions of the Natural Gas Act the transportation or sale of any natural gas by any person to a natural-gas company—

(1) which does not have a sufficient supply of natural gas to fulfill the requirements of any person which is a high priority consumer of natural gas, as defined, by rule, by the Federal Power Commission, and

(2) which is curtailing deliveries of natural gas pursuant to a curtailment plan on file with the Commission.

(b) No person shall be subject to the Natural Gas Act by reason of any transportation or sale of natural gas (or any activity relating thereto).

(c) Any exemption granted under this section may only apply in the case of deliveries of natural gas before March 16, 1977.

(d) As used in this section, the terms "natural gas" and "natural-gas company" have the same meanings given to such terms in section 2 of the Natural Gas Act.

FEDERAL LABOR-MANAGEMENT RELATIONS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. CLAY. Mr. Speaker, on January 4, 1977, I introduced H.R. 13, the Federal Service Labor-Management Act of 1977. This bill would establish by law a system whereby Federal employees may join a labor union, participate in its management, and bargain collectively on matters affecting the conditions of their employment.

Since 1962, Federal labor-management relations have been governed primarily by a series of Executive Orders. During the past 15 years the Federal labor-management program has developed rapidly and there is an important need for compresensive legislation which would govern this important area.

A well-balanced labor relations program will increase the efficiency of the Government by providing for meaningful participation of employees in the conduct of business in general and the conditions of their employment.

Mr. Speaker, I would not suggest that H.R. 13 represents the embodiment of all that is perfect in the area of Federal labor-management relations. It does however, in my judgment, address many of

the key areas of labor-management relations. The bill is strongly endorsed by Federal employees through their elected leaders.

I am hopeful that public hearings will soon be convened in order to carefully consider how, if at all, this bill may be improved. I look for my colleagues to actively participate in this process. I am hopeful that many will join me when I reintroduce this bill within the next few weeks.

A summary of the bill's major provisions and a sectional summary follow:

SUMMARY

Establishes the rights of employees to join or not to join an employee organization, to participate in its management, and to bargain collectively over conditions of employment.

Establishes the Federal Labor Relations Authority consisting of three members who are appointed by the President and confirmed by the Senate with responsibility for taking leadership in the establishment of Federal labor-management relations policy and administering the provisions of the law.

Establishes within the Authority the Federal Service Impasses Panel, whose members, subject to the review of the Authority, are empowered to investigate and make findings and recommendations for the resolution of collective bargaining impasses. Authorizes the Federal Mediation and Conciliation Service to assist in negotiation impasses.

Provides the means whereby a labor organization shall be granted exclusive recognition of a bargaining unit by securing a majority vote of those employees participating in the election; dues check-off; and payment of representation fee by non-member employees of the bargaining unit.

Establishes a Federal Personnel Policy Board whose members are appointed by the Authority and are responsible for acting upon Federal personnel policies and regulations which affect the conditions of employment of more than one agency's employees.

States the rights and duties of both labor and management, ensuring that each is free to conduct certain business without interference from the other; requires negotiation in good faith by both parties; establishes standards of conduct for labor organizations; and grants national consultation rights to unions which represent a substantial number of agency employees.

Provides for establishment of negotiated grievance procedures, including binding arbitration of grievances, subpoena powers to Authority, and conditions under which judicial review is available to either party.

Provides for resolution of unfair labor practices.

Provides that an employee against whom an adverse action is proposed is entitled to 30 days written notice, relevant evidence, pre-termination hearing, transcript, and written decision.

Authorizes such sums as may be necessary for the implementation of this Act.

SECTIONAL SUMMARY

Section 1. Names the Act the "Federal Service Labor Management Act of 1977".

Section 2. Amends Subpart F of Part III of title 5, U.S.C. as follows:

SUBCHAPTER I—GENERAL PROVISIONS

Section 7101. Findings.

Declares that employee participation through their own labor organizations, in the matters affecting conditions of employment is in the public interest.

Section 7102. Employees' Rights.

Establishes the rights of employees to join or not to join an employee organization, to participate in its management, and to bargain collectively over the terms and conditions of employment.

Section 7103. Definitions: Application.

Defines for purposes of this chapter, the terms "person", "employee", "labor organization", "Authority", "Panel", "Board", "agreement", "grievance", "supervisor", "management official", "collective bargaining", "confidential employee", "conditions of employment", "professional employee", "agency", "exclusive representative", "firefighter", and "educational employee"; excludes managers and supervisors from participation in management of labor organization and an employee when such activity would result in an apparent conflict of interest.

Section 7104. Federal Labor Relations Authority.

Establishes the Federal Labor Relations Authority whose three members are Presidentially appointed with the advice and consent of the Senate and serve 5-year rotating terms; requires an annual report to the President for transmittal to the Congress; and provides for the appointment of a General Counsel by the President with the advice and consent of the Senate.

Section 7105. Powers and Duties of the Authority.

Provides that the Authority shall provide leadership in establishing Federal labor-management relations policy, adopt an official seal, establish its principal office in the District of Columbia, and appoint staff; authorizes the Authority to delegate certain powers to its Regional Directors and an administrative law judge, subject to the review of Authority; provides for travel expenses; and empowers and directs Authority to prevent any violations of this Act.

SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

Section 7111. Exclusive Recognition of Labor Organizations.

Grants exclusive recognition to a labor organization which secures majority vote in lawful elections within an appropriate unit, subject to certain prohibitions; establishes petitioning authority for elections; states requirements and procedure for petitioning the Authority; authorizes certification of a labor organization as an exclusive representative; authorizes Authority to determine community of interest in establishing the bargaining unit; provides for membership in the bargaining unit; excludes certain managers, supervisors, confidential employees, personnel employees engaged in other than clerical duties, employees involved in the administration of this Act, security and intelligence duties, and in a bargaining unit in which a majority of the professional employees oppose membership within the labor organization; provides for the consolidation of two or more units into a single larger unit; the submission of names of officers, by-laws, statement of objectives, etc. to Authority; and waiving the right of hearing for consent election.

Section 7112. National Consultation Rights.

Grants national consultation rights to a labor organization which has been granted exclusive recognition below the agency level and provides that such organization shall be advised of proposed changes in conditions of employment and afforded an opportunity to present its own views and for consideration by the agency prior to its taking final action.

Section 7113. Representation Rights and Duties.

Establishes for labor organizations the right of exclusive representation of all employees within the bargaining unit, provides that the organization and agency shall negotiate in good faith, and describes the obligations of both agency and organization; Civil Service Commission policies which relate to more than one agency shall be subject to the consideration of the Board; if it relates to employees in the collective bargaining unit, it shall be subject to negotiation if policies affect the conditions of employment. If the agency is without exclusive recognition, the issue shall be decided by the Authority. Establishes a Federal Personnel Policy Board to consider personnel policies and regulations whose members are designated by the Authority representing equally labor and management.

Section 7114. Allotments to Representatives.

Provides for dues check-off; requires payment of "representation fee" by non-member employees within bargaining unit; describes unfair labor practices of agency and labor organization; authorizes and fixes the procedure whereby the Authority may prevent an agency or labor organization from engaging in an unfair labor practice—complaints, hearing procedures, etc.

Section 7117. Negotiation Impasses: Federal Service Impasses Panel.

Authorizes the Federal Mediation and Conciliation Service to assist in negotiation impasses; establishes Federal Service Impasses Panel within Authority whose members are appointed by the Authority for rotating terms; staff; right of Panel to investigate impasses, make findings and recommendations, conduct hearings and take binding action.

Section 7118. Standards of Conduct for Labor Management.

Requires that labor organization seeking to represent or representing employees maintain democratic procedures, prohibit conflict of interest among its members, and maintain fiscal integrity.

SUBCHAPTER III—GRIEVANCES, APPEALS AND REVIEWS

Section 7119. Appeals from Adverse Decisions.

Entitles employees to appeal adverse decisions to Civil Service Commission which, after investigation, is required to submit its findings and recommendations to employee and administrative authority which shall take the action recommended by the Commission.

Section 7120. Grievance procedures.

Requires that negotiated agreements provide for grievance procedures which are fair, simple, expeditious and include the right of labor organization to present and process grievances; to be present when any grievances are adjusted; and for court action should either party refuse to proceed to arbitration.

Section 7121. Exceptions to Arbitral Awards.

Either party may file an exception to arbitrator's award; Authority may modify award if it is contrary to laws or regulations, procured by fraud or partiality of arbitrator, or should arbitrator exceed his authority.

Section 7122. Judicial Review.

Aggrieved party may seek judicial review of final order of the Authority on basis of record within 60 days; Authority or either party may petition the Circuit Court of Appeals for enforcement of final order; and empowers the court to grant relief for unfair labor practices.

SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

Section 7131. Reporting Requirements for Standards of Conduct.

Requires that labor organization adhere to reporting requirements for standards of conduct under the National Labor Relations Act and provides that the Secretary of Labor may revoke these provisions if he finds that the purposes of this Act would be served.

Section 7132. Official Time.

Authorizes official time to be granted to employee representatives of labor organizations for conduct of negotiations; provides that internal business shall be conducted by representatives during non-duty hours; and requires Authority to determine whether official time shall be granted.

Section 7133. Subpoenas.

Empowers Authority to issue subpoenas to secure testimony or evidence; provides for court enforcement of subpoenas; witness fees; grants immunity to subpoenaed witnesses; fixes penalties for persons interfering with the duties of the Authority.

Section 7134. Compilation and Publication of Data.

Requires that the Authority maintain a record of its proceedings and that its files be available to the public.

Section 7135. Funding.

Authorizes appropriation of such sums as may be necessary.

Section 7136. Issuance of Regulations.

Requires the Authority, the Federal Mediation and Conciliation Service, and Panel to issue rules and regulations to implement this Act.

Section 7137. Continuation of Existing Laws and Recognitions, Agreements and Procedures.

Provides for the continuance of existing agreements and renewal of recognitions of organizations which represent managers and supervisors in private sector; prior policies established by previous Executive Orders which deal with Federal labor-management relations; and modifies and repeals inconsistencies in existing law and provides that this Act shall take precedence.

Section 3. Amends section 5596(a) of title 5 U.S.C. to provide back pay, leave, seniority and attorney's fees to current employees affected by unwarranted personnel policies and lump sum payments to former employees affected by such practices.

Section 4. Strikes out Chapter 75 of title 5 U.S.C.; makes technical changes in Subchapters III and IV, and strikes out Subchapters I and II and inserts the following:

SUBCHAPTER I—CAUSE AND PROCEDURE

Section 7501. Definitions.

Defines "employee" and "adverse action" for purposes of this Subchapter.

Section 7502. Cause.

Provides that agency may take adverse action against an employee to promote the efficiency of this service.

Section 7503. Procedure.

Provides that employees against whom an adverse action is proposed is entitled to 30 days written notice, relevant evidence, pretermination hearing, transcript, and written decision; empowers hearing examiner to issue subpoenas; provides for judicial enforcement of subpoenas; makes finding subject to judicial review; provides that parties may modify this procedure as part of a collective bargaining agreement; and makes conforming changes in the analysis of Chapter 75 and Chapter 72 of title 5 U.S.C.

Section 5. Makes conforming changes in Chapter 77 of title 5 U.S.C.

Section 6. Makes conforming changes in Subchapter II of Chapter 71 of title 5 U.S.C.

Section 7. Makes technical and conforming changes to Sec. 5315 title 5 U.S.C.

Section 8. Provides that if any provision of this Act is declared invalid, the remainder shall not be affected.

Section 9. Provides that the effective date of this Act shall be 120 days after its enactment or on October 1, 1977, whichever comes later, except that sections 7104, 7105, and 7136 shall take effect on the date of enactment or on October 1, 1977, whichever comes later.

AMNESTY VIEWED BY RON KOVIC, VIETNAM VETERAN

HON. THEODORE S. WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. WEISS. Mr. Speaker, I would like to bring to the attention of my colleagues and our constituents a very moving article called, "Another Dream Shattered for a Crippled Vet," which recently appeared in Mr. Jimmy Breslin's column in the New York Daily News.

Mr. Breslin interviews a very special man named Ron Kovic who in July addressed the Democratic National Convention. Mr. Kovic explains the importance of President Carter's pardon and the need for expanding its application. Most importantly, Mr. Kovic gives us insight into the nature of the tremendous personal loss that he has experienced as a veteran of the tragic Vietnam involvement by the United States:

ANOTHER DREAM SHATTERED FOR A CRIPPLED VET

(By Jimmy Breslin)

Ron Kovic rolled up his sleeve and displayed his license to speak: a small scar on his right shoulder, a scar only as big as a dime.

The scar, he explained, was where the 30-caliber bullet entered his body when he was in Vietnam. Once inside, the bullet went down. It tore through a lung and slammed into his backbone. When they carried Kovic off, he remembered, his legs dangled off the side of the stretcher and he kept looking at them and saying, "I can't move them."

IN VIETNAM TWICE

He has been in a wheel chair for nine years now. "They took my body, but they didn't get my spirit," he was saying yesterday. He was in his family's house in Massapequa, on Long Island. "I'm the sexless man, the man who can't make children. But I keep trying with women. Trying and talking to them, and drinkin' with them, thinkin' about them. I'll never stop. The last girl I actually had? In a whorehouse in Okinawa. Isn't that the way the whole war went? Nothin' was right, not even the romance."

His mother brought him a cup of tea while he read the newspaper story about pardons to draft evaders issued by Jimmy Carter.

"I was in Washington with Jane Hart a week ago and we had hoped there'd be a broader pardon," Kovic was saying. "We wanted it to include deserters and people with less than honorable discharges because this includes a lot of the poor. The draft evaders all were middle class. Seventy-four per cent of the people eligible for the Vietnam draft went to college.

"College students were draft evaders, too. These people we call deserters, many of them had been in Vietnam. They saw the war for the sham that it was. Then they deserted. I went to Vietnam twice. If I had to do it again, I'd run.

THEY DO A LOT OF GOOD

"Besides, you'll find most of the less than honorable or bad conduct discharges were given out by commanding officers who gave them out for phony reasons. They never put down the real reason: the war. There were large-scale riots and resisting in Vietnam. My opinion on this might be different from those of other guys in wheelchairs from the war. But I have to say, if they were given just a little instead of all this rhetoric, they'd feel different.

"I'm not mad at the American Legion or the VFW. They do a lot of good for veterans and people in veterans' hospitals. But I think they still think of everything as World War II. Vietnam is different. Every day, more people realize that Vietnam was different.

WOMAN TOUGHER

"When I first got home I used to sit out on the lawn in my wheelchair here and people used to drive past and never look at me. I'd wave to them and the heads would turn away. Afraid to look at me. I made them feel guilty. And this place here, everybody was for the war."

One of his brothers, walking in and out of the room, said that Peter Brennan lived around the corner. Brennan is the building trades union man who ran a huge prowar demonstration in New York in 1970, a parade whose highlight was construction workers beating up college students. For this, Brennan wound up in Washington as secretary of labor.

"The woman right behind us, Mrs. Castiglia, was even tougher," Ron Kovic said. "She remembered me when I played stickball out in the street. When I came home, and I started telling people what I thought, Mrs. Castiglia would say that I was hanging out with the wrong people. I mean, she was a fine woman with a husband who got up at 3 every morning to go to work on the Long Island Rail Road. She was a good American and she believed her government.

"Now, it's different, I stand outside and people come by and ask me to sign books for them. Mrs. Castiglia, she just gives a wave and then she says to me, 'All of you were right. They lied to you. They lied to everybody. If there's one thing I hear about Vietnam from people wherever I go, it's that. They lied to us.'

DOESN'T LIKE DISSENT

"A few weeks ago there were nine of us in Charles Kirbo's office in Atlanta. We were for total amnesty for everybody. By everybody I mean Calley, too. Calley is a product of his environment, product of the same lies I was. I enlisted to fight in Vietnam. I feel for Calley.

"Kirbo said to me, 'didn't you address the Democratic National Convention?' I said 'yeah, were you there?' Then Kirbo said there were going to be more wars and we have to protect this country. We can't go handing out blanket pardons, he said, or the next time nobody's going to want to fight.

CAN'T FORGET JAN. 20

"I just told Kirbo that I wanted to believe in this country again. I said that if you don't grant total amnesty there'll still be bitterness. Kirbo said, and I remember this, 'Jimmy doesn't like dissent. He likes everything smooth.'

"What did I tell him? I had trouble talking after the way he just said there'd be more wars. Just like that, he said it. The man doesn't understand the difference between World War II and Vietnam. They were two different things. One was for the country and the other was for lies.

"Inauguration Day, I sat right in the living room and watched Carter get sworn in, Jan. 20, I got hit on Jan. 20, 1968. It was 3:30 in the afternoon at the DMZ. Hot as hell, I remember that. So it was my ninth anniversary of being in a wheelchair. While I'm watching Carter get inaugurated, I remember the only other one I ever watched.

"That was in 1960, I was 14 and I sat in the same place in the living room here and watched Kennedy. I'm 30 now. So that's 16 years. I began crying. I was 14 and then Kennedy took us into the war and now here I was looking at Carter. I was thinking of all the dreams I had when I was 14. And I had a lot of dreams. Now they're all gone. I didn't cry for myself. What the hell. I was crying for all those dreams I had."

AUTHORITY TO AUDIT CONFIDENTIAL FUNDS

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. ECKHARDT. Mr. Speaker, confidential funds or slush funds, not sub-

ject to audit by the General Accounting Office, have become a regular feature of many of the appropriation accounts of Federal departments. According to a study entitled "Confidential Funds" prepared by Mr. Louis Fisher of the Congressional Research Service, various accounts of executive agencies contained over $70 million of confidential funds in fiscal year 1975.

Examples of accounts containing confidential funds include the following: White House Office, salaries and expenses; Federal Bureau of Investigation, salaries and expenses; Treasury Department, Office of the Secretary, salaries and expenses; District of Columbia, general operating expenses; and President's special authority, foreign assistance.

The use of confidential funds not subject to GAO audit is a most unhealthy practice. First of all, this practice severely weakens congressional control and oversight over Governent spending. Second, the use of confidential funds conceals the expenditure of millions of dollars from public view, and makes it extremely difficult for the American people to judge and hold accountable the actions of Government officials. Moreover, confidential funds present a grave potential for abuse. They may conceivably be used by executive officials for illegal surveillance purposes or for entertainment not specifically authorized without fear of an audit by the General Accounting Office.

Therefore, I have introduced legislation which would amend the Budget and Accounting Act of 1921 to provide the Comptroller General with the power to audit confidential funds. I believe that this legislation would play an important role in reasserting congressional control over Federal spending, in providing greater openness in Goverment, and in limiting the potential for abuse of power and misuse of public funds.

A copy of this legislation follows:

H.R. —

A bill to amend the Budget and Accounting Act, 1921, to provide the Comptroller General additional authority to audit certain expenditures

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 313 of the Budget and Accounting Act, 1921 (31 U.S.C. 54), is amended by designating the existing paragraph of that section as paragraph "(a)" and adding thereto the following new paragraph:

"(b) Notwithstanding any provision of law heretofore enacted permitting an expenditure to be accounted for solely on the approval, authorization, or certificate of the President of the United States or the head of a department or establishment, the Comptroller General shall be furnished such information relating to such expenditure as he may request and access to all necessary books, documents, papers, and records, relating to such expenditure in order that he may determine whether the expenditure was, in fact, actually made and whether such expenditure was authorized by law. The provisions of this paragraph shall not be superseded except by a provision of law enacted after the date of enactment of this paragraph and specifically repealing or modifying the provisions of this paragraph."

THE ANTIDEFENSE LOBBY—III: CENTER FOR INTERNATIONAL POLICY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. McDONALD. Mr. Speaker, in the aftermath of its "détente" victories in Vietnam and Angola, the Soviet Union is again pressing a phony "peace" program of disarmament for the West. Internationally, the Soviet drive to bring "world public opinion" into alignment with Soviet foreign policy goals is coordinated to a large extent through the World Peace Council—WPC—an international Soviet-direct front.

The World Peace Council, headed by Indian Communist Party Central Committee member Romesh Chandra, has awarded its gold medal "Peace Prize" to such "peace champions" as Yasir Arafat, head of the terrorist Palestine Liberation Organization; Soviet Communist Party chief Leonid Brezhnev; and has representatives from most of the Soviet-backed Marxist-Leninist terrorist "national liberation movements" on its presidential committee.

Created at the beginning of the Soviet Union's cold war of aggression and subversion to sow confusion and discord with demands for "peace" and nuclear disarmament even as the Iron Curtain fell over Eastern Europe, as the Communists waged a civil war in Greece, and as North Korea invaded the South, the WPC in the United States has an official "continuations committee" branch operated by the Communist Party, U.S.A., and several other cooperating organizations. The cooperating organizations include overtly leftist groups documented as having been penetrated by the Communist Party such as Women Strike for Peace and the Women's International League for Peace and Freedom, socialist/pacifist groups such as the American Friends Service Committee, and the Fund for Peace, which runs and partially funds the Center for Defense Information—see CONGRESSIONAL RECORD, January 17, 1977, E198, the Center for National Security Studies which works to discover the operations of the American intelligence agencies and restrict their activities; and the Center for International Policy—CIP—which with the CDI works to sharply reduce U.S. defense preparedness and for an American foreign policy of noninterference with aggression by the Soviet-bloc countries.

In a report on the proceedings of the WPC's "World Forum of Peace Forces" in Moscow, TASS reported:

The chairman of the United States Fund for Peace, Nicholas Nyary, noted that further spiralling of the strategic arms race can lead to a world catastrophe. The participants in the forum must work our new ideas, make new initiatives in the struggle for peace that would promote further relaxation of international tensions, would make it irreversible. Nicholas Nyary noted that a dangerous trend for the build up of armaments and armed forces is now being revived in the United States. But the policy of the reactionary circles of the United States is not supported by the American people, he said.

The president of the Fund for Peace, Nichols Nyary, also was a "delegate" to the World Peace Council's "World Conference To End the Arms Race, for Disarmament and Détente" held September 23–26, 1976, in Helsinki. Also attending from the United States was Terry Provance, who directs the American Friends Service Committee's "Stop the B–1 Bomber" project and is active in the Coalition for a New Foreign and Military Policy—CNFMP—whose program is identical to that of the U.S.S.R.'s WPC. See CONGRESSIONAL RECORD, January 12, 1977, page 1063.

It is significant that the U.S. citizens present for the WPC's Helsinki meeting were John Pittman, the Communist Party, U.S.A.—CPUSA—representative on the editorial of the official Soviet-bloc Communist theoretical journal, "World Marxist Review—Problems of Peace and Socialism;" Lucy Webster, World Association of World Federalists; Rev. Christoph Schumauch, Christian Peace Conference; Manuel Coss, Puerto Rico, secretary of the Cuban Communist Continental Organization of Latin American Students—OCLAE and representative of the Puerto Rican Socialist Party youth group, the Federation of Puerto Rican University Students for Independence—FUPI; Abraham Feinglass, Communist Party, U.S.A. and vice president of the Amalgamated Meatcutters and Butcherworkmen's Union; Karen Talbot, CPUSA and secretary of the U.S. section of the World Peace Council: Joseph North, recently deceased CPUSA leader; Loretta Pauker; Prof. Archie Singham; Dr. Herbert Schiller, University of California, La Jolla; Detroit City Councilwoman Erma Henderson; Prof. John Fried, CUNY; Prof. E. W. Pfeiffer, University of Minnesota, U.S. WPC; Luther Evans, noted peace activist; Howard L. Parsons, a U.S. member of the WPC Presidential Committee and sponsor of many Communist Party, U.S.A. fronts including the American Institute for Marxist Studies, the America-Korea Friendship and Information Center and the National Coalition to Fight Inflation and Unemployment; and Donald Ray Hopkins, described as "representative of Congressman RONALD DELLUMS."

The Fund for Peace established the Center for International Policy, originally called the Institute for International Policy, but the name was changed to avoid confusion with the closely-connected Institute for Policy Studies—IPS and its Transnational Institute—TNI, late in 1974. Its offices are in the elegant $375,000 townhouse at 122 Maryland Avenue NE., Washington, D.C. 20002 (202/543–0400) owned by CIP adviser and "philanthropist" Stewart Mott who rents the premises to FFP related projects.

The Center for International Policy publishes the Foreign Affairs Newsletter which is distributed free of charge to editors and broadcasters on a bi-

weekly basis; and the International policy Report, a monthly.

The CIP states its purposes in these terms:

For too long, world affairs have been treated as subjects beyond the abilities and experience of the average citizen. In this sense American foreign policy has been out of control—specifically, out of the public's control.

Intervention in the domestic affairs of Chile, military and economic support of dictatorships in Greece, Korea, Brazil and elsewhere, and an effort to involve the U.S. in Angola—these are but a few of the actions undertaken or proposed by the American government in the name of U.S. national interests. • • •

The American citizen has little opportunity to play a role in such policy determinations. Yet it is the ordinary citizen who pays the price of foreign policy failures—in blood, in economic hardship, and in higher taxes. And, therefore, the Institute for International Policy is working to develop public participation in the formulation of foreign policies.

It is of interest that in each of the cases of U.S. "intervention" cited by CIP as "foreign policy failures," the United States supported indigenous non-Communist groups in resisting Soviet-planned and financed aggression by Communists.

The Fund for Peace's CIP project states it works toward its goals through "a network of journalists, former diplomats, and international officials in the United States and abroad" who report to the CIP—a peculiar apparatus.

CIP lists its staff as including:

Donald L. Ranard, Director—foreign affairs specialist, 30 years with Department of State, most recently director of Office of Korean Affairs; previously assigned to Burma and Australia as deputy chief of mission and consul general; also Japan, Malaysia, and Korea. Graduate, National War College.

Lindsay Mattison, Co-Director—foreign and military affairs writer; staff, Washington University, Center for the Study of Democratic Institutions, Center for Defense Information, and Business Executives for Vietnam Peace [Business Executives Move for Peace in Vietnam (BEM) now called Business Executives Move for New National Priorities, headed by Henry Niles, is a member of the Coalition for a New Foreign and Military Policy (CNFMP) which previously worked on behalf of the Vietnamese Communists but now it has been redirected to the disarmament and detente campaign].

Carl M. Marcy, Editor-in-Chief [formerly Chairman]—served 20 years as chief of staff, Committee on Foreign Relations, U.S. Senate; Rockefeller Public Service Award (1963); fellow of the Institute for Current World Affairs; legislative counsel, U.S. Department of State.

William Goodfellow, Associate—specialist in Southeast Asian affairs; director of research, Indochina Resource Center; board, Campaign for a Democratic Foreign Policy; Washington correspondent, Bangkok economic weekly (and CNFMP activist).

James Morrell, Associate—a founder of Committee of Concerned Asian Scholars; Indochina Resource Center; research work, East Asian Research Center; Ph.D., Harvard University (and CNFMP activist).

Mary K. Lynch, Associate.

Warren Unna, Associate—for 18 years foreign affairs reporter in the U.S. and overseas, Washington Post; commentator, educational television news; Washington reporter, The Statesman of India.

Susan Weber, Associate—for five years associate editor, Americans for Democratic Action; copy editor, Soviet Life Magazine [an official propaganda publication of the USSR whose American staff are registered individually as Soviet foreign agents and whose offices are within the Embassy of the USSR]; manager, The Elements [a newsletter of the Institute for Policy Studies].

Mr. Speaker, others who have served in the past as CIP associates are listed as including:

Guy Gran—taught international affairs at North Carolina State University; congressional aide; specialist in foreign aid, food and development issues, Indochina Resource Center; Ph.D., University of Wisconsin;

Surjit Mansingh—served six years in Indian Foreign Service; and

Vincent P. Wilbur—served 20 years with U.S. Department of State, Denmark, Nicaragua, Brazil and Guyana; legislative assistant for foreign affairs to Senator George D. Aiken; foreign affairs staff, United Press; Associated Press, Paris.

Mr. Speaker, In September, 1976, the Center for International Policy's board of advisers—formerly the board of overseers—were listed as including:

Tom Asher—director, Center for the Study of Political Influence. (Associated with the Institute for Policy Studies).

William Attwood—president and publisher, Newsday; former U.S. ambassador.

Joel I. Brooke—retired partner, Elmo Roper & Associates.

Harlan Cleveland—former assistant secretary of state for international affairs; former U.S. ambassador to NATO.

Benjamin V. Cohen—former advisor to President Franklin D. Roosevelt.

Adrian W. DeWind—former legislative counsel, U.S. Treasury.

Arthur J. Goldberg—former Supreme Court justice and ambassador to the U.N.

Philip C. Jessup—former U.S. member of the International Court of Justice; former U.S. ambassador.

Leon H. Keyserling—former chairman, Economic Advisory Council. (He has been associated with the Institute for Policy Studies and its subsidiaries as well as the Democratic Socialist Organizing Committee).

Wassily Leontief—economist, Nobel laureate, and professor, New York University.

Orlando Letelier—former Chilean foreign minister and ambassador to the U.S. (Letelier was director of the Institute for Policy Studies' Transnational Institute at the time he was murdered by a car bomb last September. Documents that were in Letelier's attache case at the time of his death revealed that Letelier had been receiving large sums of money from the wife of the second-in-command of the Cuban DGI espionage agency which is totally controlled by the Soviet KGB. Letelier and William Goodfellow were responsible for the International Policy Report newsletter attack on the return of the Chilean economy to free market principles after Allende's overthrow).

Carl M. Marcy—former chief of staff, Senate Foreign Relations Committee.

Edwin M. Martin—former U.S. ambassador; U.S. representative to the World Food Conference.

Malcolm C. Moos—president emeritus, University of Minnesota.

Stewart R. Mott—president, Sectemur Agendo, Inc.

Joseph Palmer II—former U.S. ambassador; former director general, Foreign Service.

Stephen R. Paschke—treasurer, The Fund for Peace.

Chester Ronning—former Canadian ambassador.

Terry Sanford—president, Duke University; former governor, North Carolina.

Edward Snyder—executive secretary, Friends Committee on National Legislation. (Snyder and the FCNL are among the leaders of the Coalition for a New Foreign and Military Policy).

Harrison M. Symmes—president, Windham College; former U.S. ambassador.

Barbara Watson—former administrator, Bureau of Security and Consular Affairs, U.S. Department of State.

William Watts—president, Potomac Associates; former staff secretary, National Security Council.

Susan Weyerhaeuser—trustee, The Fund for Peace.

Abraham Wilson—partner, Kadel, Wilson & Potts.

Charles W. Yost, senior fellow, Brookings Institute; former U.S. deputy representative to the U.N.

Mr. Speaker, the CIP Board of Overseers previously included Nicholas Nyary, president of the Fund for Peace.

CIP lists its consultants as including:

David Aaron—legislative assistant to Senator Walter F. Mondale (Since the Senator became Vice President-elect, Aaron served as transition liaison with the National Security Council and reportedly is now the principal assistant to National Security Adviser Zbigniew Brzezinski).

Richard Barnet—Co-director, Institute for Policy Studies (In the early 1960s the deputy director for political research of the U.S. Arms Control and Disarmament Agency; an activist with the Lawyers Committee on American Policy toward Vietnam formed by several "Old Left" members of the National Emergency Civil Liberties Committee, a Communist Party, U.S.A. front, Barnet traveled to Hanoi for the Lawyers Committee in 1969 where Hanoi Radio quoted him as saying, "the message we would bring back with us is the message that the Vietnamese will continue to fight against the aggressors, the same aggressors that we will continue to fight in our own country. . ." Barnet has been working closely with Admiral LaRocque of the FFP's Center for Defense Information in studies of U.S. atomic capability).

Tom Dine—senior analyst for defense and international affairs, Senate Budget Committee.

Richard A. Falk—professor of international law and practice, Princeton University (Falk has been closely associated with Richard Barnet in anti-Vietnam organizations such as the Committee of Liaison, Lawyers Committee on American Policy toward Vietnam and similar groups; in 1969 he attended the World Peace Council's Stockholm Conference on Vietnam).

Anthony Lake—(former director of the International Voluntary Services; On September 1, 1976, Lake became a senior foreign affairs adviser to candidate Jimmy Carter and after the elections headed transition liaison with the Department of State).

Warren G. Miller—staff director, Senate Select Intelligence Committee.

Joseph Nye—professor, Harvard Center for International Affairs.

Murray Woldman—staff consultant, Members of Congress for Peace Through Law.

THE RELEASE OF ABU DAOUD

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. MINISH. Mr. Speaker, as a cosponsor of House Resolution 125, con-

demning terrorist activities, I rise today to express my outrage and shock at the deplorable action taken by France in releasing the terrorist, Abu Daoud. This man is a self-admitted planner of the 1972 Munich massacre which resulted in the murder of 11 innocent Israeli Olympic athletes.

International terrorism is one of the most disturbing and frustrating aspects of our modern day world. It knows no boundaries and affects all nations. It can only be controlled and eliminated through the strong will and cooperation of civilized people everywhere. To give in to such terrorism—especially where no lives are immediately threatened—is to seriously compromise this effort.

This action by the Government of France, a signee of the 1976 Anti-Terrorism Treaty, violates the spirit of international law and morality and encourages terrorism and a disregard of laws protecting citizens of all countries.

To give in to international terrorism is to encourage and condone it. Such an attitude is unconscionable.

OSHA TRACK RECORD POOR

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. HANSEN. Mr. Speaker, I recently received a letter from a Federal safety engineer of 25 years experience which I would like to share with my colleagues and all who are concerned about the effectiveness of the Occupational Safety and Health Administration:

DEAR SIR: I would like to commend you for your "STOP OSHA" campaign. As a federal safety officer for over 25 years I agree that this needless waste "disguised as accident prevention" must be drastically curtailed. To me, a federal budget of approximately 5% of OSHA's present budget could "monitor" those areas needing attention and serve the same purpose, thus eliminating this needless spending, i.e. government grants for duplicating existing regulations, re-writing of policies, plus elaborate staffing of federal agencies.

You are no doubt aware, according to Accident Facts (National Safety Council's yearly publication) industrial accidents kill approximately 13,400 persons yearly. Of this number 4,100 are motor vehicle related, thus leaving 9,300 strictly industrial accidents. OSHA's efforts are solely directed to industrial accidents. Also, according to such national authorities as Dr. Gremaldi and Dr. Cutter of New York University, plus Hinrick's text on Industrial Accident Prevention 88% of all industrial accidents are caused by unsafe acts of individuals and only 12% by unsafe conditions and acts of God. OSHA's efforts are directed to unsafe physical conditions, i.e. electrical hazards, unguarded machinery, open pits, etc. Thus the present 130 million yearly budget of OSHA's is basically directed at 12% of the problem. Twelve percent of the 9,300 industrial deaths or 1,116 persons killed is about the same number that is killed by "falling objects" or collision with trains yearly. To spend 130 million on such areas is ridiculous.

Sir, any indepth study of the Bureau of National Affairs document, Occupational Safety and Health Reporter, would conclude that few lives have been saved by OSHA inspectors identifying basically electrical, housekeeping, and violations not in compliance with standards. The real iceberg of OSHA is perhaps the price increases of personal protective clothing and equipment by industry in "complying" with OSHA, plus all the "technical" training that is being sold by universities and "specialists." All this again is hid behind the scare tactics of OSHA's "paper tiger." These standards and codes being rewritten and revised at a tremendous cost to the taxpayers are not benefitting the safety professional in the field in making his work place safer

Also, it should be pointed out that *home* accidents are killing 25,000+ yearly which is nearly three times that of industrial (less motor vehicle) work accidents. Home *injuries* exceed work injuries by 3–1. Also, suicides (25,118), pneumonia (30,933), falls (16,300), drownings (8,100) are major killers going unfunded that numberwise could "demand" OSHA type federal funding and attention.

Also, during the period 1945–1974 *on the job* deaths have decreased 19% while off-the-job deaths have increased 31%. As OSHA doesn't cover off-the-job accidents perhaps the emphasis is in the wrong place!

Sir, you will find that the major nature of working injuries is sprains, strains, overexertion, back injuries, hernias, etc. (approximately 41%) while OSHA is inspecting *physical equipment* and *unsafe areas. Unsafe acts* of individuls are causing the accidents, not these areas where an amputation (less than ½ of 1%) takes place.

It is amusing to read the Safety and Health Report weekly of all the "technical" studies being conducted by Universities and the elaborate training that is available, then read what the OSHA inspectors discovered in their surveys, i.e. poor housekeeping, basic electrical hazards, open ditches, lack of machine guarding, failure to post regulations, failure to provide personal protective equipment, etc.

Sir, in conclusion I would like to state that the number of workers killed on the job in 1974 about equals the number of over 75 year old drivers killed from traffic in 1972–1974. Would we spend 130 million a year to look into this problem?

As stated in my opening paragraph, I am a professional Safety Engineer of over 25 years. I sincerely believe that the nearest thing to creating a life is to save one; however, OSHA in its present form is not the answer.

Sir, you may or many not be aware that OSHA's Form 100F now covers military as well as civilian *occupational* injuries. Injuries to military are recorded on a 24 hour, seven day a week basis. *All* military injuries will be shown as *occupational;* however, 90% will be private vehicle accidents, sports related, altercations both on and off post, training incidents, domestic incidents, recreational accidents over weekends and holidays, etc. Military machine shop type accidents, as covered under OSHA, are extremely rare. These military statistics, disguised as occupational injuries, will beef up OSHA's reporting indicating additional manpower and monies to monitor the program when in reality it does not touch the problem.

I see your name repeatedly in trade journals as being the leader in the "Stop OSHA" movement. I hope that you will continue your efforts, and be assured that you are not alone in your battle.

Mr. Speaker, OSHA's track record is under fire from all areas of the Nation—where even OSHA and their strongest supporters have difficulty justifying their effectiveness. As proof of this I offer for the RECORD an article from the January 1977, issue of Allied Industrial Worker:

OSHA IMPACT FELT; FEWER DIE ON JOB

WASHINGTON.—There were 5,300 American workers killed during 1975 in work-related accidents and 1.77 million workers were injured on the job, according to a survey by the Bureau of Labor Statistics.

Both deaths and injuries were less in 1975 than in 1974, partly due to the drop in contract construction and manufacturing employment from 1974 to 1975.

Deaths in 1974 totalled 5,900 and lost worktime injury cases totalled 1.94 million, according to the report.

Following release of the BLS statistics, the Occupational Safety and Health Administration (OSHA) conducted a news conference and issued a statement saying the decline in job deaths and injuries is "a positive indication of the success of national efforts to reduce such tragedies."

OSHA's Deputy Assistant Secretary of Labor Bert Concklin was careful to state that OSHA was not "boasting" nor taking credit for the reduction in deaths and injuries on the job. But, he said, it is safe to say that the reduction can be attributed in part to efforts by OSHA, organized labor, management and safety and health professionals.

"I am confident," he said, "that the climate of awareness of job safety and health hazards prompted by OSHA's activities, coupled with energetic efforts by labor and management, have combined to produce these reductions."

BLS and OSHA both admit that the recording and reporting of occupational illnesses continue to present "measurement problems."

Mr. Speaker, it is amazing that even the administrators of OSHA have not been able to categorically state that OSHA has by itself had a noticeable impact on reducing industrial accidents. To fortify this contention I call to the attention of my colleagues a Department of Labor news release of December 8, 1976:

OSHA OFFICIAL CITES REDUCTIONS IN JOB DEATHS, INJURIES AND ILLNESSES

A decline in job-related deaths, injuries and illnesses in 1975, according to data released today by the Bureau of Labor Statistics (BLS), is a "positive indication of the success of national efforts to reduce such tragedies," a top Labor Department official said today.

Deputy Assistant Secretary of Labor Bert Concklin, of the Department's Occupational Safety and Health Administration (OSHA), said the reductions clearly show that declines in earlier years are part of a national trend downward in such data.

"While we make no claims that OSHA alone has been responsible for the dramatic reductions we experienced in 1975," Concklin said, "I am confident that the climate of awareness of job safety and health hazards prompted by OSHA's activities, coupled with energetic efforts by labor and management, have combined to produce these reductions."

Comparing data in industries surveyed in 1974 and 1975 shows a 10 percent drop in job-related fatalities—from 5,900 to 5,300. In the area of occupational injuries, Concklin noted the BLS data show a 16 percent decline, from 5.7 million in 1974 to 4.8 million in 1975. Also, recognized occupational illnesses were estimated to total 163,300 for 1975 compared with 200,400 for 1974.

Other highlights of the BLS data include:

A decline in the number of lost worktime injury cases from 1.94 million to 1.77 million. Also, cases which did not result in lost worktime dropped about 725,000.

A decline in the injury incidence rates, as well as the number of injuries, for all major industry divisions, except mining.

A decline from 30.2 million to 29.8 million workdays lost due to work related injuries.

A decline in incidence rates (the number of recordable deaths, injuries and illnesses per 100 full time workers) from 10.4 in 1974 to 9.1 in 1975.

A decline in injury rates from 10.0 in 1974 to 8.8 injuries per 100 full time workers in 1975.

Concklin also noted that although, compared with national averages, there were generally lower incidence rates in very small and very large establishments, the great majority of the nation's workforce are employed in such establishments and thus the total numbers of cases is a cause of continuing concern despite the lower rates.

Although strictly comparable data for the years 1972 and 1973 were not yet available (data for 1971, OSHA's first year, covered only six months and are not comparable), Concklin gave these examples of data showing the downward trend of workplace tragedies:

A 17 percent decrease in the incidence rate from 10.9 in 1972 to 9.1 recordable cases per 100 full time workers in 1975. Within these national rates, the rate for contract construction declined from 19.0 in 1972 to 16.0 in 1975—a 16 percent decline. Similarly, manufacturing declined from 15.6 in 1972 to 13.0 in 1975—a 17 percent reduction.

A reduction in the rate of injuries alone (excluding illness). 1972 rates were 10.5 compared with 8.8 for 1975—a reduction of 16 percent. Again within this total, contract construction rates declined from 18.4 in 1972 to 15.7 in 1975—a 15 percent decrease; manufacturing from 14.9 in 1972 to 12.5 in 1975—16 percent reduction.

Concklin added that since these early comparisons show such promise, OSHA is undertaking a study to make detailed comparisons among the data for all industries for the period from 1972 through 1975. He explained this will mean converting the data for some major industry groups from earlier years.

CRITICISM OF THE SORENSEN NOMINATION BY HOWARD PHILLIPS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. McDONALD. Mr. Speaker, Theodore C. Sorensen withdrew from consideration as Director of the Central Intelligence Agency before any testimony could be offered either on his behalf or in opposition. However, since that time Mr. Sorensen has repeatedly charged he was the victim of anonymous attacks.

I have already submitted for your attention my own detailed reasons for opposing Mr. Sorensen's nomination to this particularly sensitive position; and I believe you should also consider the prepared remarks Mr. Howard Phillips had intended to offer as testimony in opposition to Mr. Sorensen's nomination:

TESTIMONY OF HOWARD PHILLIPS

Mr. Chairman. Members of the Committee. My name is Howard Phillips. By profession, I am National Director of the Conservative Caucus, a 200,000-member citizens lobby. My office is at 7777 Leesburg Pike, Falls Church, Virginia.

My testimony today, however, is offered personally.

The nomination of Theodore C. Sorensen, to be Director of the United States Central Intelligence Agency is an outrage and should be withdrawn or rejected.

Mr. Sorensen's confirmation would signal America's enemies throughout the world that the President and the Senate have embarked on a unilateral dismemberment of our nation's espionage capability and that the march of Soviet totalitarianism may proceed, unrestrained by effective United States opposition.

Mr. Sorensen's confirmation by the U.S. Senate would signal the American people that the judgment of those Senators who have determined to condone the Sorensen selection is no longer worthy to be entrusted with the defense of American interests.

Mr. Sorensen has given testimony in support of the theft of the Pentagon Papers offering evidence of personal abuse of access to classified information in the process.

By what policy shall the CIA be guided during the years just ahead? Shall it have for its Director a man who praises or assists breaches of security, disregard of confidentiality, and violation of personal oath?

Shall it have a Director unwilling to perceive and act upon the fundamental struggle between the Soviet strategy for worldwide Communist victory and the American principle of individual and national sovereignty, with its potential for self-determination?

Mr. Sorensen is a self-proclaimed pacifist. If the CIA has a Director who does not believe that American liberty is worth dying for, how can we recruit to service in the CIA men and women who would be prepared to risk their lives for their country?

In the same vein, how can we expect CIA agents to honor their vows of secrecy if their Director has publicly proclaimed his approval for their disregard, as in the case of Daniel Ellsberg and the so-called Pentagon Papers?

The case against confirmation of Mr. Sorenson is clear:

He has no evident qualification for the position to which he has been nominated;

He has argued for wide dissemination of classified information and justified the theft and unauthorized disclosure of same, in the instance of the so-called Pentagon Papers;

He has placed himself on record as opposed to the use of force in the resolution of disputes related to national security;

He is on record as favoring reduction in CIA covert activities and would block covert and clandestine CIA activities not specifically receiving Presidential authorization.

In short, the confirmation of Theodore Sorenson would be akin to placing a Trojan Horse within the gates of the CIA. The American people could rightly demand, who shall watch the Watchmen in the Night?

At a time when many respected analysts perceive a growing imbalance of military capability in behalf of America's enemies, we have a right to expect an intelligence agency second to none in its commitment to the defense of national interests and in its readiness to anticipate and counter the initiatives of our adversaries.

Should we not covertly discover whether SALT agreements are being violated? Should we not clandestinely seek out facts about new Soviet weapons developments? Ought we not secretly penetrate the inner councils of our enemies so that we may be warned of their plans?

Is it not to be supposed that the Soviets have our activities under constant surveillance Or are we to presume it moral to lay our liberties and our population open to unchecked totalitarian hostility, rather than violate Mr. Sorenson's pacifist objections to American self-defense?

We deserve better than a CIA with its hands tied, by leadership uncommitted to the fulfillment of that agency's historic mission.

If Mr. Sorenson lacks qualification, if his pacifist views deny him inclination, if he lacks commitment to the need for security and the inherent obligation incident to sworn oaths, if he is opposed to many of the strategies and tactics traditionally available to intelligence agencies, what purpose can be served by his appointment except to further the hopes of those who would weaken and destroy America's intelligence forces?

This nomination should at best be promptly withdrawn; at least it must be resoundingly defeated.

MA BELL'S CONSUMER REFORM BILL

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. WIRTH. Mr. Speaker, from time to time during the 94th Congress I inserted articles in the RECORD concerning the "Consumer Communications Reform Act," better known as the "Bell bill."

Since that time Chairman VAN DEERLIN has sent every member a summary of testimony offered during exploratory hearings on the "Bell bill" that were held by the Communications Subcommittee last September. I would like to supplement that material today with a very good summary of the "Bell bill" which appears in the current issue of Consumer Reports.

MA BELL'S CONSUMER REFORM BILL

In recent years, the American Telephone & Telegraph Co. has, for the first time, experienced the rigors of competition in a tiny corner of its vast empire. As a result of a series of rulings by the Federal Communications Commission, a number of smaller companies have been permitted to provide private business lines between cities and to sell the equipment attached at either end of telephone lines—telephones, answering machines, switchboards, and other such "terminal equipment." In the limited areas where they are allowed to compete with established phone companies, these new telecommunications firms have captured about 5 per cent of the market.

Having tasted competition, AT&T judges it bad—bad for AT&T, and, in the company's view, bad for consumers. To protect itself and everyone else from the consequences of free enterprise, the company's lawyers and other interested parties in the industry have composed a piece of legislation that was introduced in the last session of Congress and will be introduced again in the new Congress. Consumers should know what the bill says—and what it means.

Here are the main provisions of the "Bell bill," as it has come to be called:

1. The Bell bill declares that Congress finds it "contrary to the public interest" for regulators to authorize "lines, facilities, or services of specialized carriers which duplicate the lines, facilities, or services or other telecommunications common carriers" (meaning the established telephone companies).

2. The bill shifts from the Federal Communications Commission to the 50 states the power to decide what may and what may not be hooked up to telephone lines.

3. The bill requires those who would provide private phone service to businesses to prove that their services do not duplicate services that existing phone companies already provide or could provide in the future; that the competition would not force existing phone companies to increase rates; and

that private lines would not impair the technical effectiveness of the telephone network.

4. The bill would permit existing phone companies immunity from antitrust suits so that they could buy up those competitors that the bill would force out of business. (The stated reason for this provision: to protect the customers of the former competitors.)

5. The bill would permit the phone company to charge as little as it wishes for its services, provided its charges equal or exceed the "incremental" costs of providing the services.

In effect, the bill guarantees existing phone companies the monopoly they already enjoy and insures them a monopoly in future telecommunications technology. At the same time, the bill weakens or eliminates the very government regulation made necessary by a lack of competition.

AT&T calls its bill the "Consumer Communications Reform Act"—a title that's either ironic or imaginative, depending on your point of view. If the Bell bill becomes law, consumers in some states will probably lose their right, only recently acquired, to buy and attach extension telephones and answering machines of their choice, not the company's.

But the bill's long-run consequences for consumers are far more serious than that. A telecommunications monopoly would eliminate choice in telecommunications systems to come. The most important of these for consumers are information terminals attached to home phone lines. The terminals could make possible electronic mail, checkless financial transactions, remote shopping, electronic fire and burglary alarms, electronic informational and entertainment programs, electronic newspapers, and much more.

AT&T's mammoth size and reach insure the respectful attention of legislators. The company had assets of $89-billion in 1975, two-and-one-half times those of the Exxon Corp., the largest industrial corporation in the United States. AT&T controls the Bell System, which includes 25 telephone companies providing 82 per cent of the nation's phone service; Western Electric Co. (manufacturing arm of the system); and Bell Telephone Laboratories (research and development). The Bell System employs one million persons, had operating revenues of $29.6-billion in 1975, and operates in all states except Alaska and Hawaii. Thus, AT&T is an economic and political force to be reckoned with in virtually every congressional district. Small wonder, then, that soon after the Bell bill was introduced in 1976, more than one-third of the House and Senate, liberals and conservatives alike, had enlisted as sponsors.

AT&T can also claim the support of the 1618 "independent" telephone companies, most of them small, some cooperatively or municipally owned. Five holding companies dominate the independent sector: General Telephone and Electronics Corp.; United Telecommunications, Inc.; Continental Telephone Corp.; Central Telephone and Utilities Corp.; and Mid-Continent Telephone Corp. Although the independents provide 18 per cent of the nation's telephone service, they are not really competitors of AT&T. In fact, the independents rely on AT&T for long-distance service, and the revenue from that service acts as a subsidy from AT&T to some of the smaller independents.

WHAT MA BELL IS REALLY AFTER

The competition that the Bell bill is really aimed at is from a small group of electronic firms that, in the future, could challenge AT&T in the growing field of private business communications and terminal equipment. It was there that competition was first forced on AT&T.

In 1968, the Federal Communications Commission ended phone companies' exclusive right to provide all extension telephones, answering machines, automatic dialers, switchboards, computer terminals, and anything else attached to the end of a telephone line. In a decision concerning the *Carterfone*—a device that links mobile telephones to the regular phone system—the FCC stated that phone companies could not arbitrarily prevent customers from buying and connecting the telephone equipment of their choice. The effect of the decision was to stimulate the growth of a competitive telephone-equipment business. Consumers for the first time could buy extension telephones and answering machines, often at a fraction of what it would cost to lease similar equipment from the phone companies.

Phone companies responded by convincing state regulators to require installation of a connecting device (an "Authorized Protective Connecting Module," or APCM) between customer-owned equipment and telephone lines. The APCM supposedly protects the telephone network from electrical damage that, the phone companies contend, can be inflicted by terminal equipment. (The FCC says there never has been a documented case of system harm from customer-owner equipment.)

The APCM requirement raises the price of owning terminal equipment. In states where the device can be purchased, it adds $30 to the price of an answering machine, for example. In states where the APCM can only be leased from phone companies, monthly charges range from about $4 to $13, according to the FCC. Either way, it is an unnecessary expense imposed on consumers by phone companies.

The FCC dealt with the APCM problem in what are known as its Registration Decisions of 1975 and 1976. The FCC adopted a program whereby manufacturers of users could have the FCC review and certify their equipment to assure it would not harm the telephone network. APCM's would not be required for properly certified equipment. (The FCC's certification program has been challenged in court and therefore has not yet gone into effect.)

Although competition for terminal equipment and private business lines is minuscule now, AT&T is worried about the future. AT&T claims it earns high profits in those markets and uses the profits to subsidize residential telephone service, keeping rates to consumers low. AT&T asserts that the competitors will skim those profits, thus forcing telephone companies to raise phone rates by as much as 75 per cent.

The FCC challenges those assertions. After examining the phone companies' supporting data and studies, the FCC concluded that established telephone companies will not only hold their own against the new competitors but will gain a greater share of dollar volume in the future.

The FCC found no evidence that profits from the lease of terminal equipment subsidize residential service, as Bell asserts. Rather, the commission said, there was evidence that the reverse was true—that profits from residential service actually subsidize losses in terminal equipment, permitting Bell to offer such equipment below cost in hopes of driving out the competition. (The New York Public Service Commission determined that one carrier in that state was losing $225-million a year on terminal equipment. Regulators in Massachusetts and Vermont made similar findings.) The second area of competition, interstate private-line service for businesses, is another money-loser for the phone companies, the FCC contends.

Ironically, the logic of the FCC's findings suggests that AT&T and the other phone companies could provide residential service at *lower* rates if only they'd pull out of the equipment and private-line business.

DESTROYING COMPETITION AND REGULATION

In light of the FCC's expert findings, one might well wonder what benefit there is for AT&T *or* for consumers in the "Consumer Communications Reform Act." One need look no further than the preamble. The preamble says the Bell bill would "reaffirm the intent of Congress with respect to the structure of the common carrier telecommunication industry. . . ." Or, as the FCC translates it, the bill would give the blessings of Congress to a "vertically integrated" (meaning monopolized) telephone industry structure. Yet the legality of the existing AT&T monopoly is the subject of a pending Justice Department antitrust suit that seeks to separate Western Electric, AT&T's equipment manufacturer, from the Bell System, AT&T's operating companies. The Bell bill would, in effect, end the suit.

Another section of the Bell bill, as already noted, would strip the FCC of power to regulate terminal equipment; regulation would be turned over to the states. In some states, that shift would wipe away any chance for consumers and businesses to buy and attach equipment without need for the unnecessary and expensive "protective module" previously required by state regulators at the insistence of phone companies. Moreover, if states began to set their own individual technical standards for terminal equipment, it's likely that only AT&T would have the resources to qualify as a national marketer. States could even turn back the clock to the time when you couldn't use any auxiliary telephone equipment unless it was leased from the phone companies. North Carolina and Nebraska have already indicated their desire to do just that. (North Carolina regulators recently attempted to prohibit consumers from placing plastic covers on the phone books, since the covers were "foreign attachments" to the phone system.)

Companies that provide private-line services for businesses would fare no better under the Bell bill, since to enter the market they would have to prove to the FCC that their service was one that phone companies neither already provided nor could provide in the future. That's an impossible burden of proof. They'd be forced out. As we've seen, however, the Bell bill provides a decent burial for fallen competitors; AT&T would be allowed to buy them up with immunity from antitrust prosecution.

The section of the legislation that prohibits the FCC from rejecting phone company rates that are "too low" sounds like AT&T wants to offer bargains the government doesn't permit. Actually, the bill would merely legalize the illegal monopolistic practice of "predatory pricing"—*temporarily* pricing a product or service below actual cost so as to drive out competition. The Bell bill also requires the FCC, and, by extension, state regulators, to retain a rate-making accounting method favored by Bell. The method makes it impossible to ascertain phone companies' costs for individual services, thus preventing regulators from judging charges.

THERE MAY BE A BRIGHT SIDE

The Bell bill can serve a useful purpose if it focuses public attention on important but neglected telecommunications issues. One of these is subsidization.

AT&T controls long-distance telephone circuits and pools the revenue from their use. Long-distance revenues are then apportioned among individual phone companies by formulas negotiated between the phone companies and Bell. Many independent phone companies receive revenues from the pool out of all proportion to their costs in handling long-distance calls. The long-distance revenues account for 35 to 70 per cent of the independents total income. Bell thus subsidizes the independents.

The subsidies help stabilize and integrate the nation's telephone network. They allow the survival of such small rural phone companies as Arizona Telephone, with 850 customers, and Absaraka Cooperative Telephone Co. in North Dakota, with only 35 subscribers. And that's all to the good. But CU believes the problem of providing reasonably priced vital services where private industry can't do it profitably is one to be solved by a politically accountable body, not by a monopoly taxing one class of customer to support another.

If, as the FCC and several state regulatory bodies suggest, phone companies use high profits from monopoly services, such as residential phones, to offset losses in competitive services, such as switchboards and intercity private lines for businesses, that represents another form of subsidy—one in which consumers are subsidizing business users.

A bigger issue in Bell's bid for monopoly is the future of telecommunications itself. More than 50 per cent of the labor force and more than 50 per cent of the gross national product are devoted to the production, processing, or distribution of information. Explosive growth is expected as computers are increasingly tied to telecommunications circuits.

A tidy distinction could once be made between data processing (computers) and communications. But with their growing interdependence, the distinction is blurring. One of the subsidiaries of IBM, the computer giant, is part of a consortium that plans to offer private-line circuits by satellite. RCA and Western Union also plan to go heavily into the satellite communications business. It should be noted that the FCC specifically prohibited AT&T from competing in satellite private-line service for a period of three years, to give the new competition a chance to get off the ground. AT&T considers this unfair. AT&T further argues that, as a regulated company required to provide certain services to all comers regardless of profitability, it is at a disadvantage against companies that could provide private-line communications to, say, only the 100 biggest corporations in the country but not to nonprofit organizations and small businesses serving consumers.

AT&T arguments' are not without merit; the shape and organization of new communications technology is no more likely to work out in the public interest if determined by competition between IBM, RCA, and Western Union than if determined by AT&T alone.

But if the Bell bill wins in Congress, AT&T need not worry about IBM, RCA, Western Union, or anyone else. It will have a perpetual monopoly over telecommunications. Then AT&T alone will decide what most of the information systems of the future will be. Industrial monopoly in the past has meant high prices, delayed innovation, inefficiency, and few options for buyers. Competition has meant the opposite, and, appropriately regulated, it's the preferred choice here.

Ma Bell's Contribution to Confidence in Big Business

T. O. Gravitt, a vice president of the Southwestern Bell Te'ephone Co., killed himself in October 1974. He left a suicide note, which said in part: "Watergate is a gnat compared to the Bell System." Gravitt's dying words triggered a number of investigations of the Bell empire by newspapers and state and Federal officials. The picture that has emerged is of a telephone giant that spares no expense in getting its way.

One disclosure was that executives of Southwestern Bell spent $48,000 of their customers' money in 1969 and 1970 to lease and equip an 11,000 acre-hunting preserve in Texas. The amenities included carpeted shooting blinds with padded swivel chairs. Among the guests were members of the Kansas and Missouri regulatory commissions, who set Southwestern Bell's rates.

According to an investigation by the Charlotte (N.C.) Observer, Bell System funds were used to take Maryland Governor Marvin Mandel on annual deep-sea fishing trips; whisk Georgia politicians off on a four-day, $2500 hunting trip to Mexico; pay former South Dakota Lieutenant Governor Bill Doughtery $55,000 in what were called public relations consulting fees while he was still in office; fly Kansas regulators to Las Vegas for a side trip en route to a Bell facility in Arizona; treat key North Carolina legislators to deep-sea fishing and golf trips; and pay the expenses for at least two weekend trips by the five members of the South Carolina Public Service Commission, plus spouses, to the posh Hilton Head beach resort, ostensibly for telephone seminars. The Bell System also provided free home, office, and car telephone service to the South Carolina phone regulators.

The Charlotte newspaper also disclosed that Bell companies in at least 15 states maintained secret political funds from the early 1960's until the early 1970's. The campaign contributions from executives were described by Bell as personal and voluntary. But in five of the 15 states, corporate funds helped fill the kitty.

Eleven current or former executives of Southern Bell Telephone's North Carolina operations were indicted last year on charges of falsifying $142,000 in corporate expense vouchers—in effect, stealing from their company. Bell at first denied knowledge of the scheme. But the indictments were dismissed when the company admitted it had authorized the arrangement to finance political contributions.

Bell can be harsh with companies that choose to buy services from AT&T's new competitors, rather than from Bell. According to testimony before the U.S. Senate Antitrust and Monopoly Subcommittee, AT&T refused to allow its employes to fly on Continental Airlines because it was using competitive telephone services. Similarly, motel owners testified about sudden losses of telephone-company business after installation of competitive phone equipment. One truck repair-shop owner testified that on the same day competitive equipment replaced outmoded telephone company equipment in his business, all the telephone company trucks in his shop, including one in the middle of modification, were suddenly removed.

The attention of the Bell System and its independent allies these days is focused on the U.S. Congress, where the telephone companies "Consumer Communications Reform Act" is pending business. In the second quarter of 1976 alone, AT&T reported spending $1,040,009 to lobby for the bill. According to the trade association for independent telephone companies, "legislative committees have been formed in each of the 50 states to coordinate efforts to secure sponsorship of the legislation, launch educational and media programs, and develop grass roots support." Included in that effort are canned editorials, "moderate in tone," distributed to local newspapers, stock speeches for telephone executives to give in their hometowns, billstuffer brochures titled, "Contrived Competition Means Higher Telephone Rates," and AT&T-financed debates before local "opinion leaders."

Without question, the telephone establishment has the money and the political sophistication needed to compromise the workings of democratic government. A subcommittee of the Texas Senate investigated charges of widespread political dealing by Southwestern Bell. Its conclusion: "The company has maintained and continues to maintain a system of practices designed to exert influence throughout local and state politics. It is simply not true that telephone rates in Texas have been set on the basis of objective, scientific inquiry."

NORMAN H. CALDWELL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues 30 years of Government service just completed by the only Public Works Director Santa Barbara County has ever known, Norman H. Caldwell.

On Christmas Eve, 1976, a man said goodby to his office staff for the last time, leaving with them and the county of Santa Barbara, a sizable and permanent legacy of his service. Walking out of his office and down the marble corridor of the new engineering building that evening, Norman H. Caldwell was ending 30 years service to the county, 27 years as head of the Public Works Department.

The monuments of his work extend from the Santa Barbara Engineering Building, containing his office, to the Santa Maria Juvenile Hall. All were planned and constructed in the distinctive style that has made Santa Barbara County one of the Nation's most beautiful areas.

Norman took over the department in 1949 and remembers the post World War II period as a time "when there was little capital for any projects." One of the first undertakings was painting the world-famous Santa Barbara County Courthouse, which had not received a new coat of paint since the original in 1929.

In setting up his office, the University of California Berkeley graduate focused on the county's general hospital as one of his first priorities. His small department restored the water lines and sewer system which Caldwell recalls as being "pretty primitive." The hospital, along with the old courthouse and the Santa Maria Hospital, are the only buildings which were not constructed during Caldwell's tenure. Under his direction, the county has spent a total of $19 million on facilities.

One of Caldwell's greatest contributions has been the instrumental role he has played in development of the county's water program. Appointed by Gov. Ronald Reagan to the central coast regional water quality control board in 1969, Caldwell has long played a vital role in studies of alternatives to the county's Cachuma Lake water supply.

During his three decades in Santa Barbara county government, Caldwell has seen the area more than quadruple in population and recalls Goleta's transition "from lemon orchards to suburbs." Yet he feels Santa Barbara has handled its growth well. He says:

We've done a better job here than in most areas of the state, especially in providing such needs as open space requirements.

Looking back, Caldwell says it is difficult to compare his department today with what it was 30 years ago. Although he states firmly,

Things are much harder to accomplish today. The red tape snarl is much greater than

necessary. Legislators pass laws which we then live with forever, creating laws on top of laws.

Caldwell's department has mushroomed from a staff of 11 in the late 1940's to its present 178 employees. Most of them drifted in and out of his office on Christmas Eve to bid farewell to the first and the last! The first and only public works director the county of Santa Barbara has ever known and the last of his breed, their beloved benevolent tyrant. Individual tributes have been reported with statements like, "his office was always open to anyone in the department," "he was easy to talk to and had a genuine concern for each employee and his or her working conditions." One coworker offered,

I never met anyone at any level in the department that didn't agree that Norm was an excellent boss, which is a lot to say after 30 years.

Surrounded by a loving family, his wife, Ruth, two grown daughters, and his parents, Mr. and Mrs. Clarence Caldwell, who still reside in Santa Barbara, for Norm Caldwell, I know the best is yet to come. Now he will have more time to climb his beloved Sierras and capture rare photographs of changing glaciers or a patch of wild flowers on familiar trails.

Thank you, Norm, for your exemplary public service and your personal example to us all.

SPACE TECHNOLOGY ASSISTS IN SEABED EXPLORATION

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. TEAGUE. Mr. Speaker, I wish to bring to the attention of my colleagues another example of the terrestrial application of a technology developed by NASA for use in unmanned planetary exploration.

A photographic technique developed by NASA for use in unmanned planetary exploration and satellite Earth resources monitoring now makes it easier for marine scientists to explore the ocean bottom for mineral wealth and to study its environment and detailed topography.

The technique, called computer image processing, was developed by planetary scientists at NASA's Jet Propulsion Laboratory at Pasadena, Calif. With the aid of a computer, space scientists remove blemishes, apply radiometric and geometric corrections and improve detail in undersea photographs and side-looking sonar imagery.

Unenhanced deep-sea photographs taken with either normal or wide-angle 35 mm lenses suffer from uneven illumination, or are marked by strobe-shield shadows that require additional time consuming processing.

Computer image processing brings out the latent features and details not distinguishable by conventional photo processing methods, by filtering and removing shadows. The process also improves the sharpness of the peripheral areas of photographs so sea-bottom mosaics can be constructed. Similar processing techniques have been successful.

The use of digital data processing and storage techniques greatly extends the quantity of information than can be handled, stored, and processed.

Computer image processing has been used by NASA scientists in remote sensing experiments with the Earth orbiting Skylab and Landsat satellites and various weather satellites, as well as low and high-flying aircraft. Its application to nonspace technology is another in a growing list of examples of how space technology is working for the benefit of all mankind.

CONGRESSMAN DRINAN INTRODUCES EQUITY IN SCHOOL SECURITY ACT OF 1977

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. DRINAN. Mr. Speaker, I am today introducing legislation to remove sex discrimination practices which are inherent in the social security law. Last year the Supreme Court issued a landmark decision in *Weinberger* v. *Wisenfeld* (420 U.S. 636 (1975)). In that ruling the Court stated:

The Constitution of the United States forbids the gender-based differentiation that results in the efforts of women workers required to pay social security taxes producing less protection for their families than is produced by the efforts of men.

The Wisenfeld decision was a direct signal to the Congress to examine all aspects of the social security system which might prove discriminatory to women.

The legislation I am introducing today calls for equal standing between men and women for entitlement to benefits for minor children, elimination of the special dependency requirements for entitlement to husband's and widower's insurance benefits, payment of retirement benefits to a married couple based upon their combined earnings record and certain other changes to insure that benefits for husbands, widowers, and fathers will be payable on the same basis as benefits for wives, widows, and mothers.

The Wisenfeld decision held specifically that the gender-based distinction mandated under current social security law, authorizing survivor's benefits for the widow of a deceased worker with children but denying them to a widower in the same position, violated the right to equal protection under the fifth amendment. The Court observed that the distinction was based upon an "archaic" and "overboard" generalization that "male workers' earnings are vital to their families' support, while female workers earnings do not significantly contribute to their families' support." HEW has issued regulations for compliance with the Wisenfeld decision but the law remains unchanged.

The application of an economic dependency requirement on the spouse of a female wage earner but not on the spouse of a male wage earner is another form of discrimination within the social security law which is based on the assumption that the earnings of a woman are less important to the economic security of her family than a man's. Thus under the current system, when a husband dies, retires or becomes disabled his wife may draw on his social security regardless of her actual dependency on him but when a wife dies, retires or becomes disabled her husband may draw her benefits only if he can prove that he was dependent on her for at least half of his support.

This legislation will assure the working woman who has been contributing to the social security system on an equal basis with working men that her family will receive the same protections afforded a working man and his family.

In addition to being discriminatory toward working women in the extension of benefits to their spouses and dependents, the social security system is also discriminatory in the way in which benefits are calculated. Under present law a woman may qualify for retirement benefits as a worker or dependent but not as both. Thus unless a wife's earnings entitle her to a larger benefit than half her husband's she will receive a dependent's or wife's benefit. A married woman who has worked all her life and paid into the social security fund may receive a benefit no larger than she would have received if she never worked a day in her life. Even when her earnings do entitle her to a retirement benefit somewhat larger than she would have received as a dependent, for that extra amount she would have paid a disproportionately higher tax.

The end result of current practice is that a working couple may be paid less in total retirement benefits than a couple with the same total earnings where only the husband worked. In testimony before the Joint Economic Committee, former Commissioner Robert Ball gave the following example:

Where only the husband works and has average yearly earnings of $9,000 the benefit according to the table in current law would be $354.50 for the husband and $177.30 for the wife, a total of $531.80 a month; if the husband has an average earning of $6,000 and the wife had earnings of $3,000—combined earnings of $9,000—his benefit would be $269.70 and her's would be $174.80—a total of $444.50; $87.30 less than a couple with the same total average earnings when only the husband worked. These results do not apply when the combined earnings of the couple are significantly above the maximum credited for benefit purposes, currently $10,800.

All of the changes called for in this legislation were recommended by a special subcommittee of the Advisory Council on Social Security. The calculation formula for combined income was considered by the Ways and Means Committee and approved by the House as a part of H.R. 1 in the 93d Congress but later dropped in conference.

Historically social security laws have been based on the assumption of the male as the family breadwinner. The growing participation of women in the

work force must be reflected in the law so that the program provides equity in protection and benefits. This legislation is long overdue.

VOLUNTARY CITIZEN FINANCING FOR THE ARTS AND EDUCATION

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. RICHMOND. Mr. Speaker, on January 4, 1977, I reintroduced legislation which would provide an opportunity to individuals to make voluntary financial contributions, in connection with their income taxes, for the advancement of the arts and education. The arts and education in the United States are on the brink of disaster and unless drastic action is taken thousands of museums, symphonies, and community theatrical groups will be forced to shut down; while institutions of higher education curtail necessary and important programs.

The bill, H.R. 1042, seeks to utilize the Federal income tax returns as a conduit to substantially increase public support to both the National Endowment for the Arts and the National Endowment for the Humanities. The bill would provide for space on the first page of the Federal income tax returns for contributions to the National Endowments which would be made in addition to income tax payments or in lieu of refunds. The funds raised by the checkoff would be used for direct subsidies of institutions, organizations, community groups, and artists, and not for administrative costs of the National Endowments.

According to a recent Harris poll called Americans and the Arts, conducted by the National Research Center for the Arts, a checkoff provision such as this could generate more than $1 billion annually for the cultural community. The poll showed that 64 percent of the adult public would be willing to pay an additional $5 a year while 36 percent would pay an additional $50. Utilizing these statistics and projecting them over 80.7 million taxpayers, one could reasonably asume that $1,743.120,000 annually would be contributed to the National Endowments should this legislation be enacted.

It is a sad fact of life for the arts and education that revenues from tuition, gifts, tickets, royalties or related services result in only half of the necessary expenditures. Other nations such as England, Germany, Sweden, and even the Soviet Union strongly support their arts and education through government subsidies, while our Nation's artists and educators continue to scrounge for every penny. The Federal Government has allocated close to $140 million for the National Endowments of the Arts and Humanities, but that is not enough, not at a time when over $1 billion is necessary.

It is indeed ironic that the United States which boastfully considers itself the center of Western culture has permitted the arts and education to deteriorate to the point where each day more and more time and energy is devoted not to the development of the creative potential but in a fight for financial survival.

This legislation would substantially increase taxpayer participation in the financing of the arts and education insuring their continued growth, vitality, and strength while increasing participation and enjoyment. The effects of this bill would be felt not only by the large institutions such as Yale University and the Metropolitan Museum of Art but also by small community institutions and groups such as Hamilton College, the Phoenix Theater, Brooklyn's Project Grow and artists and educators throughout the Nation.

Since I originally introduced the bill, I have received endorsements from Arts and Education leaders on H.R. 1042. Since these persons more than adequately describe the benefits of this legislation, and the present troubles experienced by the cultural community, I would like to insert their comments into the RECORD:

COMMENTS BY ARTS AND CULTURAL REPRESENTATIVES ON H.R. 1042

Congressman Richmond's Bill to enable taxpayers to use their tax forms for making voluntary contributions to the National Endowment for the Arts and Humanities represents a major new approach that not only benefits the nation's cultural life but heralds the unique method for forging a closer partnership between the national government and the individual citizen.

If the Richmond Bill is enacted the tax payer will for the first time be able to indicate his support for cultural development in our country in a most direct way. The theatre in America and indeed all of our arts will survive, grow and benefits most people only if they receive the support of individuals and government at all levels.

All recent surveys indicate that many millions of Americans are quite willing to contribute more and strengthen America's role in the arts. The Richmond Bill gives them a simple, effective vehicle for which they can express their support. It is truly an ingenious measure encouraging as it does a unique American spirit to voluntarism for the mechanics of government.

I sincerely hope that this Congress will grant its speedy approval—Theodore Bikel, President, Actors Equity Association.

I am in favor of the Richmond Bill which portends to make available more money for the arts. However, it is my feeling that the National and State Agencies set up for giving money to the arts on a matching fund basis are basically discriminating against Jazz and Black cultural organizations that have no tradition or facilities for raising money other than to receive the funds that are made available through Federal and State Agencies. This legislation hopefully will be a major step toward alleviating that injustice—George Wein, President, New York Jazz Repertory Company.

I join other members of New York's cultural community in lauding Congressman Richmond's Arts and Humanities Bill as a means of relieving the intense financial difficulties of the nation's cultural institutions.—Thomas Hoving, Director, Metropolitan Museum of Art.

The Associated Actors and Artistes of America and all of its affiliated bodies wish to express their full support for Congressman Richmond's Bill. Among its values is the opportunity it gives to citizens to express in terms of genuine interest and support their concern for the arts and humanities. It will also give the individual patron a sense of closeness and participation in those cultural elements that make the greatest contribution to a civilized society.—Frederick O'Neal, International President, Associated Actors and Artistes of America.

As President of the New York Shakespeare Festival, one of the oldest non-profit theaters in the United States, I foresee a sorely needed increase in revenues resulting from the enactment of Congressman Richmond's proposal.

It should prove to be a most important contribution toward encouraging gifts in support of the Arts and establish an ever broadening popular base for the National Endowment.

I strongly urge the widest support for this measure.—Joseph Papp, President, New York Shakespeare Festival.

Anything that will get more money into the hands of the arts institutions is terrific. I don't see how this could fail to do so since it creates increased visibility for the arts while assuring their stability.—Harvey Lichtenstein, Executive Director, Brooklyn Academy of Music.

It will channel more money into the art world. And of all the disadvantaged people the least spoken about is the artist. The fact is that all great ages of art history have been ages where the artists were quite heavily subsidized. This particular legislation will help in the process and all of us will be assured of a better life.—Alton Tobey, President, Artists Equity of New York.

Congressman Richmond has just presented a Bill which could be of enormous benefit to the arts. Not only does it dramatize the simple and curiously overlooked fact that the arts are eligible for tax deductible contributions but it would do so on one of the most carefully read documents in America—the income tax return.

These are hard times for everyone. They are particularly hard for the labor-intensive arts which are paradoxically in greater demand by larger audiences and yet cannot produce more events in less time with fewer people to escape the killing effects of inflation.

The Richmond Bill could go a long way to help the arts through one of the Federal Government's most highly regarded agencies, the National Endowment for the Arts. It would do so through tax deductions which have traditionally been this nation's most significant form of patronage for the arts.—John Hightower President, Associated Council of the Arts.

I strongly favor this Bill since it will give an opportunity to all Americans to contribute toward the enrichment of their lives and especially in a time of economic crisis. The arts are indeed a part of everyday life which affect every person in every community be it through community theater, workshop, dance, murals, beautification of neighborhood. They are a common denominator which improves the quality of life of all Americans.—Charlene Victor, Executive Director, Brooklyn Arts and Culture Association.

The Associated Actors and Artists of America and all of its affiliated bodies wish to express their full support for Congressman Richmond's Bill. Among its values is the opportunity it gives to citizens to express in terms of genuine interest and support their concern for the arts and humanities. It will also give the individual patron a sense of closeness and participation in those cultural elements that make the greatest contribution to a civilized society.—Frederick O'Neal, International President, Associated Actors and Artists of America.

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For too many years, performing artists in the United States have subsidized the arts by working for substandard salaries and under the most insecure conditions. Meaningful public financial support for the arts is long overdue in the United States. Congressman Richmond's bill would provide the means for making secure the financial assistance of our prized musical arts institutions, making it possible to bring to millions of American people, in all parts of the U.S., the best performances of symphony, opera and ballet.—Irving Segal, Chairman, International Conference of Symphony and Opera Musicians.

Congressman Richmond's bill is an innovative provision and a significant first step in the importance of the arts in this country. It would undoubtedly strengthen the National Endowment of the Arts enormously.—Martin Oppenheimer, Chairman of the Board, City Center.

Finally, Mr. Speaker, I would like to include some of the names of the organizations and individuals who have expressed to me their interest and support: (Institutional affiliation listed for purposes of identification only).

ORGANIZATIONS, COMPANIES AND UNIONS

Actors Equity.
American Composers Alliance.
American Council of Learned Societies.
American Federation of Television and Radio Artists (AFTRA).
American Guild of Authors and Composers (AGAC).
American Guild of Musical Artists (AGMA).
American Guild of Organists, N.Y. City Chapter, Officers & Executive Board.
American Guild of Variety Artists.
American Music Center.
American Society of University Composers.
Art Academy of Cincinnati.
Artists Equity of New York.
Artist's Rights Today (A.R.T., Inc.).
Association of American Dance Companies.
Association of Musicians of Greater New York.
Atlanta College of Art.
Atlantic Richfield Company.
California Dance Management.
Center for the Study of Alternative Futures.
Childrens Theatre Association.
Chicago Screen Educators' Society, Board of Directors.
College Art Association of America.
Contemporary Art/Southeast.
Craft Center.
Cummins Engine Co., Inc. (Columbus, Indiana).
Delta Omicron International Music Fraternity.
Department of Studio Arts, University of Minnesota.
Detroit Area Film Teachers.
Directors Guild of America, Inc.
East Bay Review of the Performing Arts.
Educational Film Library Association.
Hebrew Actors Union.
Idaho Alliance for Arts in Education.
International Conference of Symphony and Opera Musicians.
International Native American Council for Arts.
Italian Actors Union.
League of Resident Theatres.
Local 802—American Federation of Musicians (AF of M).
Reuben Mack Associates.
Madonna College, Administrators, Faculty and Staff.
The CF Martin Organisation.
Memphis Arts Council.
Michiana Arts and Sciences Council.
Mid-America Arts Alliance.
Mid-Iowa Arts Association.
National Assembly of Community Art Agencies.
National Association of Composers, USA.
National Association of State Directors of Art Educators.
National Association of Teachers of Singing.
National Society of Literature and the Arts.
Nebraska Art Council.
Northwest Film Study Center, Board of Directors and Staff.
Oregon Music Educators Association.
Organic Theatre Company of Chicago.
Paramount Pict"res.
Philadelphia College of Art, Board of Trustees, faculty and students.
Puppet Playhouse.
Puppetry Guild of Greater New York, Inc.
Screen Actors Guild.
Screen Extras Guild.
Theatre Memphis.
Theatre Vanguard.
The Arts Exchange.
The Associated Actors and Artistes of America (AAAA).
The College Music Society.
The Community Film Workshop of Chicago.
The Cultural Education Collaborative.
The Great-American Children's Theatre Company.
The Hymn Society of America.
The Memphis Academy of Arts.
The Puppeteers of America.
University of Idaho, School of Music Faculty.
University Resident Theatre Association.
Wayside Foundation for the Arts.
Writers Guild of America, West, Inc.
Young Audiences.
Young Filmakers, Inc.

PROMINENT INDIVIDUALS

Alvin Ailey.
Paul B. Arnold (Pres. National Association of Schools of Art; Chmn. Dept. of Art, Oberlin College).
Lewis M. Bachman (Exec. Dir., American Guild of Authors/Composers).
George Bayliss (Dean, School of Art, University of Michigan).
Elmer Bernstein (Pres. Composers & Lyricists Guild of America, Inc. Hollywood, Calif.).
Leonard Bernstein.
Theodore Bikel.
Anthony A. Bliss (Executive Dir., Metropolitan Opera Association, New York, New York).
Martin Bookspan.
Michael Botwinick (Director, Brooklyn Museum, Brooklyn, New York).
Robert Brustein (Director, Yale Repertory Threatre, New Haven, Conn.).
Bert Burda (Chairman, Idaho Alliance for Arts in Education).
Earl L. Collins (Co-Chairman, Wisconsin Alliance for Arts Education).
Ellsworth Davis (Managing Director, The Hartford Ballet, Hartford, Conn.).
Agnes DeMille.
Barry Diller (Vice President, Paramount Pictures).
Alfred Drake.
David Emmes (Artistic Director, South Coast Repertory, Costa Mesa, Calif.).
Avery Fisher (Board Member, Lincoln Center for the Performing Arts).
Henry Fonda.
Jane Fonda.
Kenneth L. Graham (Chairman, Theatre Arts Dept., University of Minnesota).
Jack Gravelee (Chairman, Speech and Theatre Arts Dept., Colorado State U.).
Louis Bush Hager (President, American Academy of Dramatic Arts).
Wynn Handman (President, The American Place Theatre).
John Hightower (Advocate for the Arts).
Thomas P. Hoving (Director, Metropolitan Museum of Art, New York).
Dale E. Huffington (President, American Theatre Assn.).
Kathleen Kililea (Director, The Arts Exchange, Hanover, N.H..).
Lincoln Kirstein (New York City Ballet, New York, N.Y.).
Robert H. Klotman (Chairman, Music Education Dept., Indiana U., Pres., MENC).
Leo Kraft (President of American Music Center; Prof. Music, Queens College, CUNY).
Roger Larson (Exec. Dir., Young Filmakers, Inc., New York, N.Y.).
Nat Lefkowitz (Chairman of the Board, William Morris Agency).
Harvey Lichtenstein (Executive Director, Brooklyn Academy of Music, Brooklyn, N.Y.).
Delbert Mann (Vice President, Directors Guild of America, Inc.).
Stanley Marcus (Chairman, Exec. Committee, Neiman-Marcus).
Robert Martin (Arts Writer, The Tampa Times).
Anthony Mazzocchi (Legislative Dir., Oil, Chemical & Atomic Workers International Union).
Keith McPheeters (Dean, School of Fine Arts and Architecture, Auburn U., Alabama).
Dina Merrill.
Robert Merrill.
Bea Miller (Pres., Theatre Memphis, Memphis, Tenn.).
I. Irwin Miller (Chairman of the Board, Cummins Engine Company, Columbus, Indiana).
James Moester (Dean, University of Kansas).
Henry Moran (Exec. Dir., Mid-America Arts Alliance, Kansas City, Mo.).
Robert Motherwell.
Louise Nevelson.
Frederick O'Neal (International Pres., Associated Actors & Artistes of America).
David Oppenheim (Dean, School of the Arts, New York University, New York, N.Y.).
Martin Oppenheimer (Chairman, Exec. Committee, City Center, New York, N.Y.).
Joseph Papp.
Roberta Peters.
William W. Pisenti (Pres., Irate Taxpayers Committee, Santa Rosa, Calif.).
Carl Pistilli (Artistic Director, Children's Theatre Association, Baltimore, Md.).
Jeno Platthy (Pres., Third International Congress of Poets, Washington, D.C.).
Dennis M. Power (Director, Santa Barbara Museum of Natural History).
Jacinto Quirarte (Dean, College of Fine & Applied Arts, The U. of Texas at San Antonio).
William Reynolds (Pres., The College Music Society, Riverside, Calif.).
Cliff Robertson.
Charles Robinson (Director, Hudson County Cultural & Heritage Affairs, Jersey City, N.J.).
Richard Rodgers.
Dorothy Rodgers

Mary Rodgers.
George Sadek (President, College Art Association of America).
Robert Sarnoff.
Gunther Schuller (President, New England Conservatory, Boston, Mass.).
Thomas F. Schutte (President, Philadelphia College of Art, Philadelphia, Pa.).
Jon Schwartz (Arts Editor, White Mountain Mirror, Bend, Oregon).
Pete Seeger.
Robert Shaw (Music Dir., & Conductor, Atlanta Symphony Orchestra).
Catherine Filene Shouse (Chairman, Exec. Committee, Wolf Trap Farm for the Performing Arts).
Beverly Sills.
James A. Sjolund (Director, Comprehensive Arts in Education Planning, Olympia, Washington).
Joseph Sloane (Chairman, North Carolina Art Commission; Director Ackland Memorial Art Center, Chapel Hill, N.C.).
Thomas H. Smith (Director, The Ohio Historical Society, Columbus, Ohio).
W. Thomas Smith (Exec. Dir., The Hymn Society of America, Springfield, Ohio).
Teri Solomon (Exec. Producer, The Great-American Children's Theatre Co., Milwaukee, Wisconsin).
Stephen Sondheim (President Dramatists Guild, Inc.).
George Sorenson (Chairman, Dept. of Theatre Arts, Texas Christian University).
David Spatola (Exec., Dir., Siouxland Arts Council, Sioux City, Iowa).
Janos Starker.
Henry Z. Steinway (President, Steinway & Sons).
Isaac Stern.
George Stevens, Jr. (Director, American Film Institute, Kennedy Center for the Performing Arts, Wash., D.C.).
Roger Stevens (Chairman of the Board, Kennedy Center for the Performing Arts).
Melvin Van Peebles.
John Vincent (President, National Association of Composers, USA).
Kaye Calfee Wideman (President, Delta Omicron International Music Fraternity).
Charlotte Wilcox (General Manager, National Theatre Co., New York, N.Y.).
Harold M. Williams (Dean, Graduate School of Management, U. of Cal, Los Angeles).
Charles Woolfolk (Asst. Dean, Douglass College, Rutgers University).
M. J. Zakrzewski (Exec. Dir., Alabama State Council of the Arts and Humanities).

WEST VIRGINIA NATURAL GAS SHORTAGE

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. RAHALL. Mr. Speaker, because of the natural gas shortage of West Virginia and the Nation, I am cosponsoring an emergency short-term bill to deal with the natural gas shortage which is occurring throughout the Nation and West Virginia.

In the past week I have received numerous complaints and concerns from my constitutents on the problems of delivery of natural gas and amounts available in the Fourth Congressional District and West Virginia.

The bill that I am cosponsoring would provide a mechanism by which interstate pipelines will be able to tap surplus gas supplies on the presently unregulated intrastate market. For a renewable period of 180 days, interstate pipelines which presently are curtailing high priority consumers of natural gas—residential, small commercial, and small industrial users—will be permitted to purchase natural gas from the intrastate market and deliver it to areas of the country where gas is in short supply.

The necessity of the 180-day bill becomes apparent when one compares its provisions with those of the 60-day purchases. Instead of forcing the smaller local gas distribution companies to send personnel to negotiate complex sales contracts in unfamiliar territory, interstate pipelines, long experienced in such transactions, would be doing the purchasing. The pipelines would provide their own transportation, thus further facilitating the flow of gas by making the process more efficient. While the FPC would still be able to monitor the transaction between the pipeline and the distributor to insure that pricing was equitable, pipelines would no longer have to operate under the threat of review and possible revision of their original purchase from the intrastate source.

Mr. Speaker, I strongly urge the Congress to act on this legislation so that West Virginia can heat their homes and operate their businesses for the benefit of their families and Nation.

SOLUTION TO THE NATURAL GAS CRISIS: CONGRESS LEGISLATES THE WEATHER

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. GRADISON. Mr. Speaker, for years a well-meaning Congress in the name of helping consumers has held down the price of natural gas. This worked so long as winters were mild, but now a severe winter has shown that the congressional cure is worse than the disease. Natural gas is available in gas-producing States like Texas and Louisiana, but scarce in Ohio and many other States. The cause of our Ohio gas shortage is not hard to find—it is not caused by a great conspiracy or corporate rip-off—it is caused by the no-action policies of Congress itself which in the name of helping people has actually caused severe economic hardships and distress. For example, factories are closing in Cleveland because they do not have enough natural gas to keep them open and in Dayton, the schools have been closed. The fact is that if the schools in Dayton are closed for a month, a working family will spend more money taking care of the kids at home than they would have spent on the extra cost of getting enough gas to keep the schools open.

Sensing a problem, I can guarantee you the Congress is looking for a new scapegoat. I am also sure that their solution will be consistent with their previous policy. When some controls do not work, Congress answer is to add more. Thus the cure to legislated shortages is allocation of scarce resources.

There is natural gas in the ground. We have the technology to find it and get it out. But the Congress must have the common sense, the political guts, and the economic understanding to pursue legislative initiatives which will promote rather than discourage energy production.

The solutions are not difficult to understand nor are they conspiratorial in nature. Here is what we must do:

First. Emergency purchases of available natural gas on the intrastate market must be permitted immediately. This will allow areas hardest hit by natural gas shortages to supplement their supply and avoid cutbacks.

Second. New gas must be deregulated in order to encourage natural gas producers to develop new supplies.

These solutions are needed because the cold weather has finally hit with a vengeance, and our existing natural gas supplies are rapidly being used up. Natural gas companies are being forced to cut back supplies to their customers, including businesses, schools, and churches. It seems to me that when jobs are lost because of this myopic energy policy, the consumers, who are really the working men and women of this country, have been ripped off by their own elected officials.

EXTENSION OF FARM PROGRAMS

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. CORCORAN of Illinois. Mr. Speaker, the critical problems which face the American farmer today are very important to every American. This year the Agriculture and Consumer Protection Act of 1973 with its target price support programs, food for peace program, and other provisions will expire if there is no legislation enacted to continue the act. This creates a dilemma for the farmers since they need to know soon—before the crops go in this spring—what the farm program will be in 1977, especially at harvest time. Given the time constraints facing the new administration, the Congress, and the American farmers, I am, therefore, recommending that the Congress simply extend the act for a minimum of 1 year. I am inserting in the RECORD a letter which I wrote to President Jimmy Carter expressing my concern about this problem and asking for his immediate attention to the issue raised:

WASHINGTON, D.C.
January 20, 1977.

Hon. JIMMY CARTER,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Congratulations and best wishes to you on your inauguration as the 39th President of the United States. It is my hope that our country will prosper during your term of office, and you will have my fullest cooperation in doing what is best for America.

As our new Chief Executive, one of the first matters with which you will have to deal is the expiration of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-135). Although I do not favor major modification of the current farm program, there are many members of Congress who believe differently. Therefore, we can expect lengthy hearings and vigorous debate on the current farm program when the subject of its renewal comes before Congress. This process could take several months.

I am sure you as a farmer realize that farmers must begin their planting early—long before any new farm legislation can be enacted. At the same time, farmers have a need to know what programs will exist when they harvest their crops in the fall. Without this information they cannot make sound decisions regarding what crops should be planted in what amounts.

I have been in contact with farm leaders in all ten counties of my District. They are of the unanimous opinion that the best course of action would be a minimum one-year extension of the present Agriculture and Consumer Protection Act through 1978. Such an extension would allow farmers to plant their crops on time this spring with adequate knowledge of the programs which will be in effect at harvest time. During this interim extension period hearings could be held and new legislation, if needed, could be formulated and enacted for the following year—well before farmers have to make planting decisions for 1978.

I hope you will give this proposal your personal attention and most serious consideration.

Sincerely,

TOM CORCORAN,
Member of Congress.

NCLC/U.S. LABOR PARTY: LEFTIST CHARLATANS AND PROVOCATEURS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. McDONALD. Mr. Speaker, a violent extremist left-wing splinter group called the National Caucus of Labor Committees—NCLC—also known as the U.S. Labor Party—USLP— has been able by some shrewd maneuvering recently to gain new forums for dissemination of its bizarre revolutionary views.

Members of the NCLC/U.S. Labor Party revolutionary sect have been prowling Capitol Hill corridors for some 4 years haranguing legislative staff members, collecting information and handing out their propaganda. Meanwhile the organization's leaders, with backgrounds of membership in the Moscow-dominated Communist Party and other Marxist-Leninist groups, have been directing political and economic intelligence-gathering programs in the United States and among the NCLC/USLP's foreign groups which are useless to the purposes of the group, but which could be of use to foreign Communist governments, such as the East Germans, with whom the NCLC/USLP leadership has developed contacts.

Recently the NCLC/USLP has developed a new forum for airing its bizarre revolutionary beliefs by having its cadre testify before congressional committees both openly as NCLC or USLP representatives, or deviously as the spokesmen for NCLC's various fronts. It has also been documented that the NCLC's courting of certain conservatives has in part been successful either through ignorance of the nature of the NCLC/USLP, or other motives.

So that those of us in Congress, our staff members and the public may be correctly informed as to the nature of this vicious and violent group, I have prepared these background materials on the National Caucus of Labor Committees.

The National Caucus of Labor Committees is a self-admitted Socialist revolutionary organization. It is headquartered at 231 W. 29th Street, New York, N.Y. 10001 (212/563-8600); and claims some 50 chapters and contacts scattered throughout the United States, although more than half the organization's membership is in the greater New York area. NCLC also has small chapters in several Latin American and European countries.

NCLC organizers have repeatedly and publicly stated that the organization believes an armed revolution is necessary to overthrow completely America's political, economic, and social systems. The time for the onset of the revolution has been variously stated as 2 to 20 years.

Although NCLC states it is a "Communist" and "Socialist revolutionary" organization, ideologically it varies from the bizarre to the ludicrous and in practice reflects the violent and unstable eccentricities of its founder and leader Lyndon Hermyle LaRouche, alias Lyn Marcus, who wrote in one pamphlet, "Centrism as a Social Phenomenon:"

> * * * the true determining factors in the life of a political organization are not program, principles and the material conditions of the class struggle which they reflect, but rather organizational routinism, bureaucratism and ultimately, the personal qualities of the leader.

Since LaRouche, the U.S. Labor Party's 1976 Presidential candidate, feels the "personal qualities of the leader" are most important when analyzing a political group, it is appropriate to consider his own background.

Lyndon Hermyle LaRouche, 54, was born in Rochester, N.H., in 1922. He attended but did not graduate from Northeastern University, and World War II was a conscientious objector to the draft. He has said in interviews that while interned in a CO work camp during this period, he was converted from the philosophy of Immanuel Kant to that of Karl Marx by members of the Communist Party who were also interned as CO's. A second conversion, probably shortly after Hitler's armies invaded Soviet Russia, resulted in LaRouche's joining the U.S. Army in which he served as a medical corpsman in India and Burma.

In 1948, perhaps once again converted politically, LaRouche joined the Trotskyist Communist Socialist Workers Party—SWP—the U.S. section of the Fourth International, and adopted the "party name" Lyn Marcus. LaRouche/Marcus left the Socialist Workers Party in 1957. He remained in Trotskyist Communist circles, however, and in 1963 became a close associate of Tim Wohlforth's Workers League when it split away from the SWP. It is noted that the Workers League is the U.S. section of another international Trotskyist Communist movement headed by Gerry Healy of Great Britain; and that Healy expelled Wohlforth from the leadership of the Workers League in 1974, and that Wohlforth has since abjectly rejoined the SWP.

According to an analysis by another Trotskyist faction, the Spartacist League, LaRouche/Marcus "existed for a time in a symbiotic relationship with Tim Wohlforth as the latter's accepted theorist on Marxist economics."

In a long article on the NCLC in January 1974, the New York Times described LaRouche's activities in the early 1960's in these terms:

> [He] worked as a management consultant, systems designer and computer programmer, first with his father, and then on his own. Mr. Marcus was married to a psychiatrist and has since been divorced; they have a 17 year old son. He left the Socialist Workers Party with Carol Schnitzer, and later lived with her until she left him in 1972. He now lives with a young woman in her 20's who is in the Labor Committee.

LaRouche has said that in the early 1960's with the assistance of Miss Schnitzer he tried to start a number of left movements "from scratch," but had no success until the summer of 1966 when he began giving courses at the Free University of New York—FUNY. The 1966 FUNY summer catalog described Marcus as a "professional economist and Marxist," and in 1967 as "cofounder of Village CIPA—Committee for Independent Political Action—and author of "The Third Stage of Imperialism."

It should be recalled that the Free University of New York—FUNY—subsequently called the Free School of New York and Alternate U, was opened in July 1965 "in response to the intellectual bankruptcy and spiritual emptiness of the American educational establishment." The impetus for organizing FUNY came from Dr. Allen Krebs who had been fired from Adelphi University after he traveled to Cuba in 1964 contrary to State Department regulations, and from others involved with the Progressive Labor Party, in those days a Maoist faction which split away from the Communist Party, U.S.A.

Associated with FUNY at the time Lyn Marcus was involved as an instructor—1966-68—were a variety of "New Left" intellectuals including Monthly Review writers M. S. Arnoni, Stanley Aronowitz, Tana DeGamez, and John Gerassi; Sharon Krebs who later became a supporter of the Weather Underground, was convicted and served a prison term for conspiracy to bomb banks, and who now works with the National Lawyers Guild in New York City; Tuli Kupferberg and Ed Sanders, founders of the Youth International Party; Staughton Lynd; Irvin Silber of the Guardian, an "independent" Marxist-Leninist newspaper; and the ubiquitous supporter of the Viet Cong, Walter D. Teague III.

In June of 1968, Marcus took advantage of the SDS-led student disturbances at Columbia University by teaching a

course at the SDS Summer Liberation School—SLS—on "Elementary Marxist Economics." This course was described in the SLS catalog as "the development of Marx's method from the German ideology to the 'tendency for the rate of profit to fall.' Pre-Marxian, Marxian, and recent theories of value; elementary models of economic growth."

Another course at the Summer Liberation School was "U.S. Economic Growth and Political History" which had among its instructors a C. LaRouche, identified by radicals as Carol Schnitzer.

His associations with the Free University and Summer Liberation School enabled Marcus to develop a leadership role in the SDS Labor Committee, a short-lived faction which originated from a split in the Maoist Progressive Labor Party cadre within Students for a Democratic Society. The SDS Labor Committee faction worked to develop "class-wide support for student strike committees particularly in the New York and Philadelphia areas."

In January 1969, the SDS National Council placed an embargo on the Labor Committee to stop it from using the SDS name. The quarrel developed because the Labor Committee had violated the New Left's revolutionary orthodoxy by supporting striking New York City teachers, members of the United Federation of Teachers—UFT—led by Albert Shanker, who struck in opposition to the Balkanization of the New York City schools in a "community control" scheme which seated an assortment of radicals and racist agitators on local school boards.

Despite their expulsion, Marcus' followers continued to use the SDS name. As members of the SDS Labor Committee, two early and close associates of Marcus, Lief Johnson and Ed Spannaus, taught classes at FUNY's successor, Alternate U. Other veterans of the Columbia University student strike who became National Caucus of Labor Committees leaders include Tony Papert and Tony Chaitkin. In April 1969, as SDS moved toward total disintegration, the SDS National Council gave some limited support to four SDS Labor Committee members, Steven Fraser, Richard Borgmann, Jan Friedman and Paul Milkman, who were arrested in Philadelphia and charged with possession of explosives.

Fraser and Borgmann were defended by David Rudovsky of the National Lawyers Guild and National Emergency Civil Liberties Committee, both fronts for the Communist Party, U.S.A. In June 1971, the NECLC defended the two arguing they—

and their political organization [NCLC] * * * were the most consistent opponents of the developing anarchists, terrorist tendencies in SDS and elsewhere.

NECLC also publicized the NCLC's call for a defense committee and inquiry which had been signed by Dr. Benjamin Spock, Paul O'Dwyer, Dick Gregory, Seymour Melman, Paul Sweezy, Douglas Dowd, Thomas I. Emerson, ACLU executive director Aryeh Neier, and in which the late anarchist fellow of the Institute for Policy Studies, Paul Goodman, had agreed to serve.

From 1969 to mid-1972, the organization was in a period of dormancy. Lyn Marcus/Lyndon LaRouche, however, was not. He continued to develop and expound his peculiar interpretations of Marxist theories with the New School for Social Research in New York providing the forum.

Following some internal factional disputes and expulsions over "miniscule political differences," NCLC emerged in its present form with its policies reflecting the fantasies, misunderstandings and bizarre psychology of Lyndon LaRouche who increasingly insisted on one man rule while depending on a curious cabal of Greek and German NCLC members several of whom are not U.S. citizens and who had backgrounds as Communist Party activists.

Of this time, the New York Times reported:

Miss Schnitzer and Mr. Marcus parted. Early [NCLC] members say that she had served as a target of his wrath at meetings providing at least a semblance of debate about theories. The summer of the parting, Mr. Marcus advocated self-defense training for members citing harassment by the Communist Party in labor organizing.

It is also noted that LaRouche/Marcus developed some pseudopsychological theories to add to his economic analysis. Among those ideas are that most women are homosexuals and that women marry men in order to hurt them.

As his personal life disintegrated, LaRouche developed paranoid theories that an English NCLC member, Christopher White, to whom Miss Schnitzler had become attached and whom she married, had been "brainwashed" by the CIA, "British intelligence" and others and ordered to kill LaRouche. LaRouche then began to subject White and other suspect NCLC members to high pressure psychological "deprograming" techniques to induce confessions. This was apparently successful in Mr. White's case, for he has "recanted" and with his wife serves on the U.S. Labor Party National Committee.

Since that period, several dissident NCLC members have charged they had been kidnapped and "deprogramed" by LaRouche's goon squads. Such internal turmoil and paranoia have kept the NCLC at a membership of from 650 to 700 persons, who for the most part also double as U.S. Labor Party members in addition to activity in the front groups. The result has been the creation of a tightly disciplined organization blindly obedient to the whims of Lyndon H. LaRouche and his emmissaries.

The National Caucus of Labor Committees first gained notoriety in far left circles in 1972 when it commenced a series of vitriolic and obscene attacks on LeRoi Jones, a militant racist in his own right, and on the late George Wiley, head of the National Welfare Rights Organization. From scurrilous vehement verbal attacks on its political rivals, NCLC moved into direct assaults on members and offices of rival revolutionary organizations. The Communist Party, U.S.A.—CPUSA—and the Trotskyist Communist Socialist Workers Party—SWP—were singled out for attacks by mobile NCLC goon squads who beat Trotskyites and Stalinists on the streets and in their offices.

In 1974, the National Caucus of Labor Committees ended its street violence phase—announcing that its "Operation Mopup" had wiped out" the Communist Party—and returned to vehement verbal attacks.

An initial and continuing campaign against the United Auto Workers was followed by attacks on the Council on Foreign Relations—CFR—the Rockefeller financial empire, the Trilateral Commission, and their "intelligence and terrorist apparat". Named by LaRouche's group as members of that "apparat" are the Institute for Policy Studies, the National Lawyers Guild, the National Emergency Civil Liberties Committee, the Weather Underground, and other organizations.

All of those organizations deserve responsible criticism: in the case of the Institute for Policy Studies and the groups mentioned with it, it has been documented by responsible researchers and reporters for national publications that they are involved with Cuban and/or Soviet Communist activities including support for terrorism. The function NCLC has performed is to obscure real criticisms of those organizations with its vicious, unprincipled attacks which defy the laws of logic, commonsense and even syntax.

NCLC FRONTS AND OPERATIONS

The NCLC/USLP has developed several front groups in recent years. They include the now defunct Revolutionary Youth Movement, RYM—a name previously used by two SDS factions in 1969—the National Unemployed and Welfare Rights Organization—NUWRO—the Fusion Energy Foundation—FEF—and most recently, the Committee for a Fair Election—CFE.

In confidential reports to members, the NCLC/USLP has boasted of having close associations with the East German Communist leadership, Colonel Quaddafi, the Libyan dictator and sponsor of international terrorist operations, and the Iraqi Government which is the sponsor of the Palestine Liberation Organization's "rejection front" terrorists.

NCLC/USLP has been conducting industrial intelligence information particularly in West Germany of a variety which would be useful to the East Germans, but which has no conceivable use to NCLC.

The NCLC/USLP leaders responsible for information collection include Uwe Parpart, a German; and Gus Syvriotis—now Criton Zoakos.

In December, the USLP leadership in the National Committee was reported as including Lyndon LaRouche, Criton Zoakos, Costas Axios, Chris White, Carol White, Warren Hammerman, Uwe Fernandro Quijano, Nancy Spannaus, Vivian Freyre, David Goldman, Bob Dreyfuss, Daniel Sneider, Morris Levitt, Robyn Quijano, Dennis Small, Steve Pepper, Marcia Pepper, Alan Salisbury, Tony Papert, Janice Tzavellas, Nora Hammerman, Paul Goldstein, Valerie Banks, Felice Gelman, Paul Gallagher, Graham Lowry, Larry Sherman, Dennis Speed, Richard Cohen, Larry Freeman, Harley Schlanger, Henry Moss, Steve Douglas,

Khrushro Ghandi, Phil Rubenstein, Ken Dalto, Ken Kronberg, Gerry Rose, Mel Klenetsky, Pat Dolbeare, and Will Wertz.

To promote its own plans, NCLC has approached various conservative groups and individuals in attempts to forge "left/right" coalitions against mutual opponents. Responsible conservatives have rejected the overtures of this violent, vicious totalitarian party. However, NCLC has apparently made inroads among irresponsible conservatives and pseudoconservatives of the type who have been supporting Colonel Qaddafi of Libya, who now finds his best friends and arms suppliers are the Soviet Communists who give him all he needs for his terrorists.

On the eve of the November 1976 Presidential election, the USLP purchased a half hour of prime television time for its candidate, Lyndon LaRouche. Shortly afterward, NCLC/USLP boasted that it had received "massive" financial support from unnamed "Republican businessmen." The New Solidarity, East Coast Daily, edition of November 26, 1976, stated:

* * * We are still repaying between 6000 and 7000 dollars per week on loans taken out for the TV program, so that with the additional expenses now attached to reversing the vote fraud situation our expenses are extremely high. * * * our sales and income have remained at the 8-9000 and $4,000 level * * *.

On or about November 4, 1976, charging widespread election fraud, NCLC/USLP set up the Committee for a Fair Election which operates from P.O. Box 1901, New York, N.Y. 10001. NCLC describes the CFE as "composed of individuals from the U.S. Labor Party, the American Party, the Republican Party, the Democratic Party and many independents committed to overturning the November 2 fraud."

The NCLC/USLP newspaper stated editorially that the USLP is working with alleged "sane forces in the Republican Party, the Conservative Party and the American Party." The accuracy of the NCLC/USLP claims has been confirmed in the newsletter, the Right Report, November 19, 1976, edited by Morton Blackwell; and in the Washington Star of November 25, 1976. According to the Right Report:

Prior to the November 2 election, the USLP contacted the Citizens for Reagan Committee in an attempt to persuade Ronald Reagan to make charges of impending Carter vote fraud. No way.

With other Republicans, they have had better luck. Republican National Committee Executive Director Eddie Mahe told TRR November 18 that he is in contact with the USLP and that the RNC is considering financial backing for a USLP legal case seeking to prove vote fraud in Wisconsin based on same-day voter registration November 2. Mahe confirmed the USLP claim that on November 15 the Milwaukee County Republican Party joined the USLP initiated legal action for a recount.

In Ohio, Mahe said, the state GOP demand for a recount in the presidential vote is based in part on information supplied by the USLP.

The USLP claims, further, to have the cooperation of Rep. Guy van der Jagt (R-Mich), chairman of the National Republican Congressional Committee. A spokesman in van der Jagt's office told TRR they have had communication with USLP but that Eddie Mahe of the RNC is now handling such matters. Mahe confirmed to TRR that van der Jagt has made a number of calls stirring interest in the USLP vote fraud charges.

Mahe says RNC's interest is in gathering of proof of fraud, primarily to discredit further schemes for postcard voter registration * * *. Until we spoke with him November 18, Mahe said, no one at the RNC had taken time to do any research on the USLP.

Major contributors to conservative national organizations such as Committee for the Survival of a Free Congress and The Conservative Caucus are phoning in to their national offices, reporting solicitations by USLP for the effort to overturn Carter's victory.

On November 26, 1976, NCLC/USLP issued a pamphlet, "The Evidence to Overturn the Fraudulent Election of James Earl Carter," subtitled "A White Paper from the U.S. Labor Party, Labor Organizers Defense Fund." It solicits support for the CFE and National Fund For a Fair Election which has its account—No. 0314-1343—at Citibank, Seventh Avenue and 34th Street, New York City. According to NCLC, the Committee for a Fair Election is headed by a Jim Lloyd, a 27-year-old stockbroker associated with Reynolds Securities in Denver. The NCLC promoters of the CFE assert that Lloyd has been able to use his father's political connections in advancing their cause.

Others taking a leadership role in the CFE are Stephen Pepper, treasurer, USLP National Committee; Jean Laudon; Christina Nelson; Matthew Moriarty; Lonnie Wolfe; Paul Arnest, and Ellen Berg.

A number of the NCLC/USLP's lawsuits have been dismissed; according to the Washington Star, a Pittsburgh lawyer named John F. Bradley, last year an unsuccessful congressional candidate, filed the USLP lawsuit in Pittsburgh.

NCLC's far left rivals have denounced the group as agents provocateur as soon as the physical confrontation began. Since then they have claimed NCLC is some secret Government-financed "COINTELPRO" plot against revolutionaries. The actions of conservatives in associating with this violent and bizarre radical group can only lend pseudocredence to those allegations.

NCLC has operated for nearly four years on a monthly budget of from $30,000 to $40,000. This sum has been raised by loans to NCLC's Campaigner Publications; by heavy dues exacted from members; by wealthy NCLC members contributing their trust funds and savings; and from sales of the NCLC/USLP publications which include New Solidarity; The Campaigner—theoretical journal—New Solidarity International Press Service—NSIPS—and pamphlets such as "Papa Doc Baraka: Fascism in Newark;" and the strange combination of fact and impure fantasy called "Carter and the Party of International Terrorism" sold by NCLC for $2 and by Liberty Lobby for $5.50.

NCLC/USLP has demonstrated by its own record that it is extreme, violent, and controlled only by the whims and fantasies of its leader, Lyndon LaRouche. Its covert operations are tied to several foreign Communist or totalitarian governments; and it is noted that it has never denounced either the Soviet Union, Cuba, or any other Communist nation. NCLC members have been charged with offenses ranging from assault through firearms violations to kidnapping.

The NCLC has been the subject of needed and necessary FBI investigation; yet the FBI is being forced to turn over its files to this dangerous gang. I ask my colleagues to join with me in reconstitution of a House Internal Security Committee to commence open and public investigations into this organization's operations which clearly pose a threat to public order.

REPRESENTATIVES LENT AND EMERY INTRODUCE TANKER SPILL LEGISLATION

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. LENT. Mr. Speaker, my colleague from Maine, DAVID EMERY, and I today introduced legislation to amend the Ports and Waterways Safety Act to extend American jurisdiction over navigation and vessel safety out to the U.S. 200-mile fishing limit.

Many of us here in the Congress have voiced our distress over the rash of oil tanker mishaps that have occurred in the past 2 months, and the time is now ripe for us to act to prevent such mishaps in the future.

Our bill would do precisely this. It would allow the Coast Guard to extend its vessel traffic control systems into waters deep enough that vessels approaching the mainland could be guided through shallow waters without incident. You may recall that the *Argo Merchant* ran aground and broke up in international waters.

Furthermore, our bill would require that vessels carrying oil in the U.S. fisheries conservation zone be certified as seaworthy, with operational navigation equipment and a trained crew.

Finally, as a matter of policy management, our bill would give the National Transportation Safety Board the right to conduct independent investigations of any marine accidents involving major policy dimensions. The Board already has this authority under current law for accidents involving aircraft, railroads and highways, but the board can only investigate marine accidents at the request of the Coast Guard.

We believe this puts the Coast Guard in the tenuous position of "policing" its own regulatory activity. The Congress recognized the problem with this type of situation in making the NTSB independent of the FAA and other regulatory agencies in the Department of Transportation. We believe this logic should be extended to the Coast Guard as well.

The current direction of U.S. policy with respect to our oceans is one of recognizing the need to preserve and pro-

tect our seas. The future will see our Nation relying more and more heavily on the seas—for food, minerals, and transportation—and it is imperative that we act now to insure rational and orderly development. The Congress took such action last year in passing the Marine Fisheries Conservation Act. We feel our bill is a logical follow up to this action, and I want to extend again an invitation to my colleagues to cosponsor this legislation with us.

FEDERAL AGENCY CONTROL AND REVIEW ACT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. MOAKLEY. Mr. Speaker, I would like to pledge my support for The Federal Agency Control and Review Act (H.R. 15529, 14660, 14842, and 12785), first introduced last year. This piece of legislation requires the mandatory expiration of constituting authority for one-tenth of all Federal agencies, departments, and commissions each year, pending investigation of their performance and role in our overall system for the past 10 years. The Office of Management and the Budget would conduct this intensive study and so determine whether the agency, department, or commission is still needed in its present form in our Government, or whether it should be altered or discontinued. The Office would then submit its recommendations to Congress who would ultimately decide the fate of the body in question.

Such mandatory, periodic reviews and evaluations of our administrative structures are essential to help check the proliferation of ineffective or repetitive bureaucracies. This belief has been widely held for a good deal of time, but we have lacked the legislative mechanisms necessary to encourage intense, periodic reviews. In this act, however, an agency will lapse into nonexistence if a comprehensive evaluation of its workings and accomplishments is not completed before a specific date. Thus, we see built-in incentives both for agency cooperation with the Office reviewers and for swift completion of agency-reviews in order to meet the expiration deadlines. That the Office of Management and Budget will be conducting these reviews further insures comprehensive work and a sharp eye for bureaucratic ineffectiveness and repetition, leading to costly waste.

We know that thorough review of Government bodies, on a systematic basis, is the first step toward control of a bureaucracy that is quickly getting out of hand. We need periodic initiation of these evaluations by a responsible agency, at least minimal cooperation with the reviewers on the part of those being evaluated, and subsequent forceful incentives toward meeting review-completion deadlines in order for this administration to be in control of its components. The Federal Agency Control and Review Act incorporates measures to insure all these factors. A vote for this important bill is thus a vote against uncontrolled bureaucracy.

CONSTITUENT SERVICE FUND

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. SARASIN. Mr. Speaker, for several years now, a group of dedicated, public-spirited citizens from my district in Connecticut have contributed limited sums of money to a constituent service fund devoted to helping meet the many legitimate, unreimbursed expenses involved in providing the kind of congressional representation I believe our constituents deserve.

This special fundraising activity was undertaken only after securing a detailed opinion and guidelines from the Internal Revenue Service on all aspects of such a fund and how it may properly be used. This information, along with a statement of my intention to undertake such a program, was published in the CONGRESSIONAL RECORD on January 28, 1974. From that time on, I have published an accounting of contributions and expenditures in the CONGRESSIONAL RECORD approximately every 6 months.

From the beginning, contributions have been strictly limited and are accepted only from individuals. No contributions from businesses, labor unions, associations or other interest groups are taken, and a $150 annual maximum contribution limit has been set.

This fund has allowed me to provide additional services and communication to my constituents which would not otherwise be possible, including the reimbursement of expenses to volunteers, setting up seminars on subjects such as environmental protection, jobs creation and services for the elderly, and the cost of unreimbursed travel to allow me to be back in the district as often as possible.

The following is an accounting of the fund from January 1, 1976, to December 31, 1976:

46 maximum contributions of $150	$6,900
Miscellaneous contributions	85
Reimbursement for plane ticket	95
Total receipts	7,080
EXPENDITURES	
Mobile office and automotive expenses	2,071.91
Volunteer expenses, subscriptions, miscellaneous office supplies, postage	1,776.18
Printing equipment, labor & supplies	1,594.86
Meetings and refreshments	800.57
Congressional travel reimbursement	628.68
Additional staff expenses	161.00
Fifth District Forum costs	18.80
Post Office Box rental	28.00
Total expenditures	7,080.00

Respectfully submitted,

RONALD A. SARASIN,

Member of Congress.

STOP EMOTIONALIZING OSHA

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. HANSEN. Mr. Speaker, I would like to offer for the RECORD and for the benefit of my colleagues a recent editorial in the South Idaho Press of January 14 which puts this argument regarding OSHA's effectiveness in proper perspective. It is important to stop emotionalizing and stick to the facts on a matter so vital to the rights and welfare of the citizens of this Nation: The article follows:

OSHA CATERWAULING IS GETTING TIRESOME

It is beginning to be a little tiresome listening to the crying and caterwauling over a recent Idaho court decision which clipped the wings of the Occupational Safety and Health Administration

It may be assumed that the majority of Idahoans fully support the judges' decision, which effectively only said that it is not constitutional for an OSHA minion to walk into a private place of business on a whim and cite the owner for violating agency regulations. After all, the voters did elect that archfoe of OSHA, George Hansen.

Some other people have been noisily unhappy about the decision, though.

Robert Macfarlane, head of the AFL–CIO in Idaho, blasted the judges' decision saying "nobody has the constitutional right to kill workers . . . You cannot right the economy of this country in the blood of working people."

When OSHA asked for a stay order on the inspection ban so that the agency could continue its operations in Idaho while it appealed its case to the U.S. Supreme Court, an official said the original decision will have "devastating effects" on the workers for whose benefit the Occupational Safety and Health Act was passed.

The second comment is easier to understand than that of the union official. After all, the OSHA man is only doing his best to protect his job, the foremost responsibility of any bureaucrat.

The "devastating effects" bit is somewhat tough to swallow. In spite of the millions spent on OSHA programs to date, not even the agency is claiming there has been any appreciable improvement in worker safety since Congress passed the act creating it.

Why Macfarlane and the rest of organized labor are so much in favor of OSHA is harder to explain. Union spokesmen will, of course, say that anything good for the worker has to be good for unions. It sounds nice but holding the argument up to light, it proves a little thin.

Unions were formed to protect the welfare of the working man. When they were being organized, there were strong, clear justifications for their existence. Working conditions and wages in some industries were abysmal.

One of the main benefits unions fought for was worker safety. One would think union leadership would at least be upset that government is bumbling around their bailwick.

One may come to the conclusion that unions these days are interested only in working to stuff their coffers and let someone else, in this case OSHA, take care of all other considerations.

Neither OSHA nor union spokesmen have addressed their comments to the constitutional issues. They seem to be saying that ends justify means whether the means are constitutional or not.

We do not let our traditional law enforcement agencies get away with acting on that

kind of thinking, nor should we. Are we to allow one agency to work under one set of legal principles and another to abide by some different set. Our system is not supposed to work this way.

Are workers going to die like flies in Idaho because OSHA has its hands tied for the moment? Not likely.

If for not other reason, the fact that there are plenty of attorneys who will take a personal injury case on contingency, betting their time against the possibility of winning a large jury award, employers will not willingly expose themselves to liability. The legal climate has changed enough in the past dozen or so years that the likelihood of a worker taking an employer to the cleaners where negligence is involved is great. We have had local cases to prove that.

Where there have been recent incidents of injury on the job, such as the well-known Kepone pesticide poisoning case, the federal agencies responsible for monitoring the situation failed to prevent them.

Our judges have not been fooled by specious self-serving arguments. Neither have the people of Idaho.

TO AMEND THE TRADE ACT OF 1974

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. RHODES. Mr. Speaker, I would like to bring to the attention of my colleagues legislation I am cosponsoring today with Mr. SHARP, Mr. BRADEMAS, and Mr. BAUCUS. We are seeking to amend the Trade Act of 1974. Its present wording has arbitrarily denied numerous workers around our Nation, Department of Labor benefits to which they should be entitled.

The Trade Act of 1974 provides for a trade readjustment allowance to be paid workers separated from their employment as a result of increased imports. Allowance payments are limited, under current wording of the law, to workers who lost their jobs within 1 year prior to the date of their petition to the Department of Labor for certification of eligibility to individuals separated from their employment up to 2 years before the date of the petition.

October 3, 1974, is the earliest eligibility date under the Trade Act. The amendment we propose would not change this date.

Four thousand of my constituents in Arizona are not entitled to receive benefits under the existing law simply because the 1-year cutoff date prevents them from being eligible. We are dealing with a time difference of approximately 1 month.

In December 1975, employees who lost their jobs at the Mesa, Ariz., Motorola facility petitioned the Secretary of Labor and were awarded a certificate of eligibility for financial assistance. The original Department of Labor ruling affected approximately 3,100 employees of Motorola's semiconductor divisions in Arizona who were separated from their employment between December 8, 1974, and April 1, 1975. A subsequent ruling made eligible an additional 1,500 workers who lost their jobs after April 1, 1975, under the same conditions as those already eligible.

However, 4,000 more Motorola employees in my district had lost their jobs in November 1974 as a result of increased import competition. Because more than 1 year elapsed between the dates of their separation and the petition date, these employees are not eligible for assistance under the law as it is now written. These 4,000 people performed the same work and lost their jobs for the same reason as those already receiving assistance. But they lost their jobs 1 month earlier than the 1-year cutoff date.

Many similar cases have occurred around the country. Mr. SHARP cited three similar cases in his testimony at the hearings on similar legislation he introduced last year. Clearly, this is an inequity the Congress must correct.

KANSAS CITY PHILHARMONIC MAKES WASHINGTON DEBUT

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. COLEMAN. Mr. Speaker, those of us who were in attendance at the Kennedy Center Concert Hall last Saturday evening enjoyed the Washington debut of the Kansas City Philharmonic. The program, "Tristan und Isolde," was well-received by the capacity audience, who expressed their appreciation with a standing ovation. Those of us from Kansas City and the State of Missouri are proud of the orchestra's outstanding contribution to the fine arts of the Nation. A reprint of Joseph McLellan's review of the performance as it appeared in this Monday morning's edition of the Washington Post follows:

One can assume that the Kansas City Philharmonic, which made its first Washington appearance Saturday night in the Kennedy Center Concert Hall, does not yet have a big enough fan club here to crowd that auditorium almost to capacity. So the size of the attendance probably owes something to a few other fan clubs: those of soprano Eileen Farrell and tenor Jess Thomas, one would guess, and perhaps a contingent for "Tristan und Isolde", which, condensed and presented in oratorio style, supplied the evening's musical fare.

All these fans should have gone away content, except, perhaps for those who like opera only with scenery and costumes. But "Tristan" works well enough as an oratorio (a rather profane oratorio, to be sure); close your eyes, and the music provides all the scenery you need.

The music was well served, most particularly by Farrell, who left nothing to be desired in power, accuracy and expressiveness; one or two sopranos may have a slightly richer tone than she now commands, but I know of no voice that can cut through or float atop the rich texture of this score with more thrilling effect.

Jess Thomas began with slight insecurities of pitch and rhythm, but rapidly improved, and his third-act monologue was splendidly effective. The Kansas City Philharmonic, under the direction of Maurice Peress, is not a spectacular orchestra by contemporary big-league standards, but it is a very capable one, rich in sound (I especially liked the low strings), beautifully balanced and subtle in its nuances. I look forward to its next visit.

THE PRICE DISCLOSURE ACT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. ROSENTHAL. Mr. Speaker, the Price Disclosure Act, H.R. 71, which I introduced on the opening day, will affect nearly everyone who shops at a supermarket. It enjoys widespread support throughout the consumer movement.

We are facing a revolutionary change in the retail food industry that has much potential for good but contains a threat of much harm to consumers and, I believe, to the industry itself.

This change directly results from the implementation of the universal product codes, the now familiar line markings that appear on the majority of packages in the supermarket.

The new system is intended to speed up checkouts, make them more accurate, improve inventory efficiency, and generally reduce costs to retailers. Unfortunately, in the words of one veteran observer of the grocery industry:

The drive toward front-end automation is motivated more by the "almost endless" dividends it will reap than by consideration for the consumer.

Ironically, the industry in its preoccupation with increasing profits has been remarkably silent about passing any of these dividends on to consumers in the form of lower prices.

Along with the promises this system holds is the threat of needless confrontation with consumers. This is because of the industry's apparent insistence on removing price markings from individual packages as part of its computerized conversion.

In these times of continuing inflation and unemployment, we must do everything possible to give the consumer the tools needed to maximize the value of each dollar. The elimination of item pricing is inconsistent with that goal.

It would make virtually impossible the consumer's tallying of purchases while shopping. It also prevents shoppers from comparing prices in the store and previous purchases at home. In addition—and this is probably what appeals to retailers most—it reduces the all-important consumer consciousness of food prices and price increases.

Industry figures estimate that the difference between price marking and removal is about $225 a week per store. A major confrontation with consumers hardly seems worth such a small sum for a store with over $60,000 a week in receipts.

One of the greatest potential abuses in the new system comes when the latest price is entered on the computer before it gets marked on the shelf. A typical 10,000-item supermarket may have 300 price changes a week. A store manager

whose sales are lagging might be reluctant to post promptly newer and higher prices that already are registered in the computer. Or he might just be too busy to get to it right away.

Retailers speciously contend shelf labels will be able to take the place of item pricing. Shelf pricing has been notoriously sloppy and would require platoons of stock clerks to keep packages and prices together. Repeated studies have shown also that shelf markings are not a good substitute for item pricing because they are such an inaccurate source of information. An investigation by the General Accounting Office found that between 17 and 50 percent of the shelf labels in 100 stores surveyed may not have been usable by the customer.

The second portion of my bill establishes nationwide standards for unit pricing. As the person who introduced one of the first unit pricing bills ever before the House of Representatives, I consider this a fundamental anti-inflationary measure that is essential to the consumer's effort to combat the tide of rising prices.

Unit pricing permits shoppers to make precise price comparisons among the multitude of sizes and varieties of the same product, and select the one that most economically fits his or her needs. One manufacturer's output of a single product like soda pop or breakfast cereal or teabags often comes in 3 dozen or more sizes. It is hard enough choosing which among them is the best buy, let alone comparing all of them to the packages of another brand. And then there is the difficulty of selecting among various forms in which foods may be available—fresh, frozen, canned, and so on. Even a math whiz with a pocket calculator would be challenged to determine the best buy.

All too often, Mr. Speaker, opposition to unit pricing is a shield behind which many rip-offs are concealed. No honest businessman should be unwilling to tell customers just how much he is really charging for any given product.

Industry spokespersons have consistently opposed increased disclosure. They claim it will cost the supermarket more; hence, increased prices for consumers. Besides, they argue, the consumer who does not like a store's policy can shop elsewhere.

This kind of reasoning is the product of an oligopolistic industry. As the current FTC antitrust case against several large supermarket chains indicates, a select handful of big grocery chains dominate many metropolitan areas. In the Washington, D.C., metropolitan area alone two chains are said to control over 76 percent of the market. The choice simply is not there. And neither is the competition.

Many enlightened supermarkets have adopted unit pricing on their own and have pledged their continued support for individual item pricing. A number of State and local governments, including New York City, have mandated unit and item pricing. The latter situation confronts many retailers with a maze of potentially conflicting regulations they must observe. Enactment of this legislation will aid both industry and consumers by establishing a clear, consistent and uniform pricing system.

Mr. Speaker, I urge prompt passage of the Price Disclosure Act in the interest of protecting and preserving the consumer's basic right to know the price he or she is being charged for the product. This is especially important in these days of high inflation and constant food price fluctuation.

Without mandatory price marking, it is altogether conceivable that prices could go up between the time the customer picks an item off the shelf and the time he gets to the checkout counter.

We must not permit this to happen.

TRUTH IN GOVERNMENT ACCOUNTING

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. KASTEN. Mr. Speaker, today I am introducing the Truth in Government Accounting Act. As my colleagues in the previous Congress will recall, this particular bill would require the Federal Government to publish annual consolidated financial reports using accrual accounting procedures.

Accrual accounting is by far a more accurate gage of the Nation's financial picture. It would force the Federal Government to conduct its financial affairs similar to a business operation. Accrual accounting considers a transaction to have occurred at the time when the revenue is earned or the liability incurred, regardless of when the actual transfer of cash or assets occurs.

Until recently, the Federal Government utilized a system of cash accounting whereby a transaction was considered to have occurred when the checks were written for outlays and cash was received for revenues. Cash accounting does not measure either the actual assets or liabilities of the Federal Government, but simply the transfer of assets between the Government and the private sector over a period of time. Neither does it establish a valuation for the capital assets of the Federal Government or depreciate them over time.

As a result, cash accounting produces what is basically a picture of the flow of resources through the Federal Government and even from this viewpoint, it is not complete. Certainly, it in no way represents the financial position and condition of the Federal Government in the way that accrual accounting permits.

Conversion of our accounting procedures to the accrual basis would provide new insight and perspective into Federal financial management, along with the opportunity for the citizen to understand, perhaps for the first time, a true picture of the financial dealings of his Government.

Because of my longstanding commitment to this legislation, I was very pleased to see a copy of a recent report of the Department of Treasury, "United States Government Consolidated Financial Statements." In this report, the Department has taken the first steps without legislative mandate toward implementing the principles of accrual accounting. This is a good beginning, and I sincerely hope the new administration carries forward the objectives set forth in this prototype report.

Today I have written to Secretary Blumenthal to call his immediate attention to this report and request that he continue the Treasury Department's efforts in this direction. I insert in the RECORD a copy of my letter to the Secretary.

I am reintroducing my bill today to insure that these annual consolidated financial reports are required by law. I urge the Congress to promptly consider my bill so that this innovation in Government accounting will be a requirement of the Federal Government.

The material follows:

WASHINGTON, D.C., *January 26, 1977.*

Hon. W. MICHAEL BLUMENTHAL,
Department of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: As you begin your new responsibilities as Secretary of the Department of Treasury, I would like to recommend for your earliest review a copy of the recently published "United States Government Consolidated Financial Statements."

This document represents an innovation in government accounting, prepared at the direction of Secretary Simon. The prototype report seeks to apply the principles of business accounting to the federal government by instituting a system of accrual accounting.

My interest in this document results from the fact that I sponsored a bill which would have required the federal government to prepare annual consolidated financial statements using the accrual accounting method.

In this particular report, the Department of Treasury took the first steps without legislative mandate toward implementing the concepts contained in my bill. After reviewing the product of this initial effort, I am even more firmly convinced that the federal government should proceed to full implementation of the accrual accounting method in the preparation of its financial reports.

While I will be re-introducing the "Truth in Government Accounting Act" today, I urge you to continue the effort begun by your predecessor so that we will have available for public distribution a fully developed report at the earliest possible date.

I know that from your business experience you will readily appreciate the vital necessity of reforming the federal government's financial accounting procedures. The introduction of accrual acounting is by no means a new idea. Indeed, previous Administrations were directed to implement the system, but very little progress was made until Secretary Simon's report was compiled

The American people, who pay the taxes to operate the federal government, have a right to know—just as every stockholder of a corporation in the private sector knows—how their money is being spent and the amount of debt in real terms. They have not previously had access to such information because of the imprecise, confusing and duplicative manner in which government financial reports were previously compiled.

Accrual accounting procedures provide a much more accurate description of the nation's financial picture. While the results may indeed be frightening, it is exactly this kind of information responsible public pol-

icymakers need as they weigh future spending decisions.

More important, however, I believe that accrual accounting will, for the first time, allow the American people to gain new insight and perspective into the spending decisions made by their government.

Too often the decisions and processes of government go beyond the comprehension of the average citizen. A better informed public will demand more responsible, business-like decisions from its elected officials.

Accrual accounting is an absolutely essential first step toward government reform. I hope you agree, Mr. Secretary, and will continue the Treasury Department's efforts in this direction.

Sincerely,

ROBERT W. KASTEN, Jr.,
Member of Congress.

H.R. —

A bill to require that the United States Government prepare and make public annual consolidated financial statements utilizing the accrual method of accounting, and for other purposes

Be it enacted by the Senate and House of Revresentatives of the United States of America in Congress assembled, That this Act may be known as the Truth in Government Accounting Act of 1977.

SEC. 2. (a) Notwithstanding any other provision of law, the Secretary of the Treasury shall prepare, and make public, for each fiscal year, a consolidated financial statement for the United States based on accrual accounting procedures.

(b) The programs of all departments, agencies, and commissions of the United States, including those which may require future taxes for present liabilities, shall be included in this consolidated financial statement, as shall all other expenditures.

SEC. 3. The provisions of sections 1 and 2 of this Act shall become effective on October 1, 1977.

CONGRESS DAWDLES DURING NATURAL GAS CRISIS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. ASHBROOK. Mr. Speaker, I am deeply disturbed by the failure of the Democratic congressional leadership to deal with the natural gas shortage. This failure poses a serious threat to the well-being of our Nation.

My home State of Ohio as well as other parts of the country are suffering a natural gas shortage of crisis proportions. Factories are being shut down; schools are being closed; residential consumers are being threatened with cutbacks.

And what is Congress doing about the problem? Nothing. This week, as has been the case for the entire month of January, the House leadership has scheduled virtually no legislative business.

Congress can afford to delay no longer. Immediate action is needed to help reduce the worst effects of the natural gas shortage.

That is why I support legislation such as that sponsored by Congressman BROYHILL of North Carolina. It would establish a temporary mechanism whereby interstate pipelines would be able to tap surplus gas supplies on the unregulated intrastate market. Interstate pipelines which have been forced to curtail high priority consumers of natural gas would be allowed to buy natural gas from the intrastate market and ship it to those areas where gas is in short supply.

Although helpful, even this measure is admittedly only a band-aid approach. If we are really to solve the natural gas shortage on a long-term basis we must permanently deregulate the price of natural gas. We must free prices from governmental controls and restore a profit incentive. This would allow exploration and development of new gas supplies.

Again, I urge the congressional leadership to delay no longer in taking up the natural gas crisis. Millions of Americans are counting on us for speedy remedial action.

ASSISTANCE FOR THE ELDERLY

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. COHEN. Mr. Speaker, today I am introducing a package of bills designed to improve the quality of life of our senior citizens. In America, those 65 and older comprise 11 percent of the population, and this proportion is likely to increase in the years ahead. Yet, while we offer long life, we do not offer the support necessary to make those additional years meaningful.

More than 13 percent of older Americans have incomes below the poverty threshold, and thousands more subsist only slightly above that level. About 80 percent of the average elderly person's income goes for day-to-day necessities. The improvements we have made through automatic increases in social security benefits, enactment of the supplemental security income program, and reform of private pension plans have been offset by inflation. As a consequence, many of our aged citizens lack amenities we consider basic today.

Our first responsibility is to lift the burden of inflation from those living on fixed incomes. For my first bill, I am pleased to join with Congressman TRAXLER in cosponsoring legislation which would provide that the automatic cost-of-living adjustments in social security benefits be made on a semiannual basis, rather than on the present annual basis. At current rates of inflation, a year is far too long to wait for a necessary increase in social security benefits. The adjustment mechanism for cost-of-living increases must be responsive to actual need, not a mechanism adopted for the sake of convenience. If adjustments for cost of living were made twice a year, the effects of inflation would be far less damaging to those citizens living on fixed incomes.

My second bill in the area of income security would allow senior citizens greater flexibility to supplement their retirement incomes before they begin to forfeit social security benefits. Under the present law, individuals between age 65 and 71 receive a reduced social security benefit of $1 for every $2 earned above $3,000 a year. Some authorities claim that at least 2.5 million retired workers are directly affected by the earnings ceiling. My bill would raise the base earnings limitation to $5,000—a figure suggested by the National Retired Teachers Association/American Association of Retired Persons. In the long run, I believe we should give consideration to abolishing the earnings limitation, but for the present my bill, which allows the individual to work 40 hours a week at the minimum wage, provides a reasonable method of assisting our older and disabled citizens while holding the Federal budget in check. Our senior citizens should be encouraged to remain active after the age of 65. To penalize them for the desire to work runs counter to the whole American tradition.

Directly tied to income maintenance is the ability and opportunity to work. In this vein, I have joined Congressman ROSENTHAL in sponsoring legislation that would eliminate the age ceiling in the Age Discrimination in Employment Act. At present, the act prohibits age discrimination only up to age 65. Each day more than 4,000 Americans reach the age 65 and enter the period of their lives referred to by one writer as "statutory senility." Mandatory retirement is now being examined in terms of its economic, social, and psychological harm on the forcibly retired individual. Mandatory retirement forces productive workers to accept a sharp drop in income while removing the factor which had defined their roles in society for most of their lives—their jobs. According to a Harris survey, 86 percent of the American people support the elimination of this injustice. By ending mandatory retirement, social security and private pension systems would be strengthened by letting workers pay in, rather than draw out, benefits. Furthermore, it is estimated that $10 billion would be added to the gross national product from skilled workers who will stay in the labor force. Interest and ability, not age, should be the only criteria for measuring the ability of an individual to contribute to society.

Senior citizens must be granted the opportunity to acquire new skills to cope with our rapidly changing society, to be qualified for reemployment, and to offer service to their communities as volunteers. Since education is critical to fulfilling these needs, I am introducing legislation to open institutions of higher education to elderly Americans. The bill would require each institution of higher education receiving certain forms of Federal aid to permit older Americans to enroll in classes without cost on a space-available basis. This program, already begun successfully in a number of States, would insure that empty seats in our college classrooms do not go to waste. It would enrich the lives of both the older Americans and the younger students they come in contact with, and it would put our academic institutions to full use to benefit a deserving segment of our community at no extra cost.

Another aspect of job opportunity with which all my colleagues are familar are

internship programs. I am introducing legislation to establish a senior citizen internship program in the Congress. This idea is not new. Twelve such pieces of legislation were introduced in the House last session. And, as a matter of fact, many Members of the House have invited elderly constituents to serve as interns in their offices as volunteers for the past several years. Traditionally, these senior internship programs have operated for a 2-week period during the month of May—National Senior Citizen's Month.

As with other internship programs, the goal is to familiarize the elderly participants with the legislative process. More importantly, it serves as a link between one of the fastest growing population segments in our society, the elderly, and their elected Representatives in Congress. In my opinion, any senior citizens' internship program should be on a par with the other congressionally established program. My bill would authorize a senior citizens' internship program enabling each office to hire one senior citizen for 2 months or two senior citizens for 1 month. The additional time advocated by my bill will give the elderly plenty of exposure to the legislative process.

Finally, I am today introducing legislation which recognizes the limited resources of those on fixed incomes and also the need of senior citizens to pursue interests outside their homes. My bill would provide for reduced fares on a space-available basis on all modes of transportation. Transportation is the third highest expenditure for the elderly, taking an average of 9 cents out of every dollar. Older persons take about half as many trips as the total population. The success of reduced fare programs under the Urban Mass Transit Act demonstrate the advisability of extending this service to all public transportation. Reducing these fares would cost the carriers nothing and would increase ridership significantly by attracting customers who would previously have stayed at home.

These six bills will do much to free the elderly from their present dependence and increase their opportunities to lead richer lives.

NEWSLETTER FUND REPORT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. FINDLEY. Mr. Speaker, Public Law 93–625 provided for the establishment by Members of Congress of newsletter funds and authorized an income tax deduction or tax credit for contributions to such funds meeting the criteria established by law. Pursuant to that act, I received contributions totaling $9,665 and established the Findley Newsletter Fund, checking account number 68–0279–6 at the Peoples National Bank of Maryland. Expenditures from that fund totaled $3,290.96 as of December 31, 1976. The balance as of that date was $6,374.04.

While no provision of law provides for the filing of reports of receipts and expenditures from such newsletter funds, in the interest of public disclosure I have filed a comprehensive list of all those who contributed to the fund and all expenditures from it with the Clerk of the House. I have instructed the clerk to make this information available for public inspection by any interested party.

AMERICAN FOREIGN POLICY IN THE MIDDLE EAST

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. GRADISON. Mr. Speaker, in a recent address delivered before the Cincinnati Hebrew Day School, the former Senator from Ohio, Robert Taft, Jr., made some thoughtful remarks on the course of American foreign policy in the Middle East. Senator Taft examines the various components of the Middle Eastern controversy and urges the new administration to forge a positive policy of leadership in bringing peace to the region's peoples. Failure to take concerted action will surrender the initiative for change to strident factional interests, he warns. Senator Taft offers the hope that our policy in the Middle East may serve as a "touchstone for U.S. policy toward small nations, minorities, and oppressed people throughout the world."

As I believe the public will find these remarks of value, I am including them in the RECORD at this point:

REMARKS BY ROBERT TAFT, JR.

It is a great honor to be here today to help celebrate the School's 30th birthday. Only a generation old, I congratulate all of you and this community on it, and I thank Dr. Kleinman and your committee for allowing me to share the day with you.

I also thank my long-time good friend, Judge Gil Bettman, for his kind remarks. His family and my own have long worked together in this and other causes. It is, indeed, a source of great pride to view my grandfather's and my father's roles in the founding of Israel and helping the cause of the Jewish people. I have been privileged to do what I can. I must do even more. As we all know, the battle is far from over. I will continue to be in it with you.

As a Congressman and Senator one could not help becoming more deeply aware of the intensity of many of our citizens' feelings for Israel and her people and how inextricably the threads of this problem are entwined in the search for world peace and the framework of U.S. foreign policy in almost all its aspects. It is a very special feeling and not unrelated to self-identification for American Jews. It is a feeling that cries out for continual reassertion and reaffirmation in U.S. policy in the Middle East. It is a touchstone for U.S. policy toward small nations, minorities, and oppressed people throughout the world.

There have been times when the outlook for effective U.S. support looked grim and her enemies powerful. While now the chances of peace seem better, the threat remains a serious one; one that must continue to witness the abiding moral obligation and practical commitment of the United States to Israel and to lasting peace in the area.

It seems to me to be particularly appropriate to be celebrating the continuing important role of a private educational institution in the context of a discussion of Israel and U.S. foreign policy. The educational system of our country has always had and hopefully always will have an important role for private schools. That system has been strengthened immeasurably by the varied and innovative experiences that have often served to pioneer and to serve as measures of public educational progress. I remember Judge Bettman and I battling for that principle in the House in Columbus, more years ago than I will say, when we passed the State School Board legislation. The commitment of special private schools like this one to high standards and special understanding is illustrative of the inspiration that can grow in diversity.

Similarly, Israel has served as a model of the type of economic progress that can be brought about in developing countries, even where there are few natural resources. Equally, it has shown itself a model in achieving statehood and democracy for an oppressed minority.

Moreover, the attitude and actions that the United States pursues toward Israel in in the next few months promises to provide an assay of our worldwide policies into the future. We now face a time of decision in U.S. policies in which our moral commitments to peace and human rights are tested throughout the world. Our resolve to meet those commitments will be tested against the policies we choose and the course we sail in the Middle East.

In just four days, Mr. Carter will be sworn in as president of the United States, and Mr. Vance will become secretary shortly thereafter. Just what that will mean to our country and the world, no-one can really predict; but among the areas of greatest uncertainty is the impact the new administration will have on U.S. policy toward the Middle East and the future of Israel. Viewing the recent developments in the Arab world, as well as in Israel, the first stance taken by the Carter administration on the Middle East will sound the keynote for world assessment of likely U.S. foreign policy not merely limited to that area.

As yet, neither President-elect Carter nor Secretary-designate Vance have taken definitive positions on the numerous thorny issues relating to the Middle East and especially to Israel. Mr. Carter has talked about morality being injected more strongly into our foreign policy. With the pressure the O.P.E.C. Arab countries have available to apply against the U.S. and her N.A.T.O. allies and Japan, this moral issue may be put to an early test.

Perhaps a Middle East Helsinki-type conference as suggested by Prime Minister Rabin may delay the confrontation and take off some of the heat? Perhaps the "permanent solution" sought by Mr. Sadat at Geneva will develop? But more likely, difficult questions will be brought into focus such as:

The Return of Certain Arab Lands;

The Status of the P.L.O. and the U.S. Attitude Toward Its Participation In Settlement Talks;

World Terrorism and What International Responsibilities Are With Regard To It;

Egypt's Economic Plight and Need For Assistance;

Russia's Trade Status and Her Emigration Policies For Jews;

Weapons Proliferation and Limitations;

Defensible Borders for Israel;

The Role If Any That We Should Expect the U.S.S.R. To Take In Working Out a Peace Settlement; and

The U.N. Problem.

Certain of these questions I have listed stand out to me as requiring early positive

stands by the new president as a matter of principle. I would like to comment on them briefly.

First, as to the return of Arab lands and defensible borders for Israel, one of the most hopeful notes is the outline by Minister of Foreign Affairs, Yigal Allon, in his article in the October 1976 issue of *Foreign Affairs*. A United States backing of the proposed West Bank and Gaza Strip return with its demilitarization and Israel retaining arid Samarian and Judean desert strips along the Jordan and the Dead Sea with free access to the East Bank and a land route to Gaza would open the door to progress on the issue. His Golan and Sharm el Sheikh proposals also deserve study, perhaps extending the Sinai Peace Force concept or providing demilitarized areas or both.

As to our position on increased trade with Russia and its relationship to her policies on immigration for Jewish citizens and the rights of individuals, the issue we must face is whether or not the Jackson Amendment has been counterproductive. While I supported it, I must agree that in numbers alone, this appears to be true. Whatever the conclusion, however, it would seem clear that effective pressure of an economic and moral nature must continue to be asserted in these causes and Secretary Vance and President Carter should commit themselves to this position with the Congress.

With regard to the Russian role in any future Middle East settlement, we must not forget that any meaningful settlement must basically have the nations involved to work out the viability of such a settlement. However, it would be far more promising if a degree of endorsement by the Soviets could be secured and in order to obtain that we should not close the door on conferring with the U.S.S.R. in advance on possible agreement.

On the status of the P.L.O. and the United States attitude toward its participation in settlement talks, the issue of the P.L.O. has become so interrelated to the United Nations Third World Bloc and to international terrorism that they must be discussed together. The shocking and unprincipled release of Abu Daoud without opportunity to examine the evidence against him shows the high degree of breakdown of any international approach even in a "friendly" democratic western power. Mr. Carter is "deeply disturbed" but has deferred further comment pending Vice President Mondale's trip, but the incident would seem to provide a base for United States initiative in the United Nations or out of it for a common stand and procedures on terrorism of any kind.

Surely it isn't too much to demand that the Palestine Liberation Organization renounce terrorism both as to individual acts and also as to the right of existence of a Jewish state. If it is to be treated as a negotiating party, it should so act. Pressures on responsible Arabs nations to that goal could, if successful, set a pattern for other positive steps in breaking down the U.N. confrontation. If it fails to do so, the usefulness of the organization deteriorates further. The Association of Professors for Peace in the Middle East (APPME) January, 1977 *Bulletin* reviews that situation in detail as to U.N.E.S.C.O. and other issues, contrasting the misuse of the United Nations as a forum against Israel with its total failure to even take up the Civil War in Lebanon.

The progress made in the Middle East has come in great part because of President Sadat's gamble. Part of that is promise of economic progress. This won't come without major free world help. U.S. public attitude will be crucial. Progress will take a lot of leadership from President Carter. Thus, I urge the Carter Administration to take an affirmative lead in attacking the Middle East issues with a moral objective of preventing a further war and effecting lasting solutions that are fair and equitable even at the risk of early adverse economic results and additional cost to the United States.

I believe the American people will back such an effort, and it will have a good chance for success. But if we allow events to control us and react to each question and crisis on an ad hoc basis because of no overall commitment, we risk losing not only the support of our allies, but that of many of our citizens as well. Such a course would surely encourage adventurism by the more radical temptation to disruptive tactics by the the Soviets.

I hope as president Mr. Carter and, as secretary of State, Mr. Vance will decide to play a strong hand and will do so promptly. For President Carter and his administration to succeed in initiatives suggested, they will need broad citizen support and backing. We must all continue to provide it and that's where centers of thought and learning like the Day School, its students, parents and faculty and its community have a special responsibility. I know you share my confidence that they and we will measure up for another generation of growth and service.

THIS YEAR

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. DEL CLAWSON. Mr. Speaker, most of us who served in the previous Congress are aware of the "unfinished business" pending at the time of final adjournment. A constituent has provided my office with one specific piece of unfinished business, a poem of dedication which, unfortunately, was received too late to be included in the CONGRESSIONAL RECORD of 1976. It is a fitting opening to the work of the new Congress, however, and I would like to insert this patriotic statement in the RECORD at this point. The poem entitled "This Year" by Ms. Alberta Dredla of Whittier, Calif., follows. It should be noted that this composition was included in the Bicentennial edition of "California Pioneer Teacher":

THIS YEAR

We count our blessings—
Two hundred years of freedom
And more than nineteen hundred years
Of love.

We celebrate
The time when men stood side by side.
With faith and hope and courage,
And changed the course of history,
Our abundant life, our freedoms.
Come from their hardships
And sacrifices long ago.

We pray—
That we may be guided
As our nation's founders were,
By that timeless star for good,
That shines in everyman's heart;
That we may work,
As our nation's leaders have,
For a world of understanding;
That we may grow,
As all people of the world must,
Close to one another,
In our search
For lasting peace.

ALBERTA DREDLA.

ESTABLISHING A MIA/POW PRESIDENTIAL TASK FORCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. GILMAN. Mr. Speaker, today I am introducing a concurrent resolution expressing the sense of the Congress that the President should establish a Presidential task force for the purpose of: First, advising the President with regard to achieving the fullest possible accounting of all Americans who are prisoners of war or missing in action as a result of the Vietnam conflict, including the remains of deceased Americans; and second, recommending to the President that adoption of national policies with regard to prisoners of war and individuals who are missing in action.

Under the leadership of the gentleman from Mississippi, Chairman G. V. MONTGOMERY, the House Select Committee on Missing Persons in Southeast Asia, of which I am a member, issued its final report in December of 1976. Unfortunately, the report prematurely terminates the work of the select committee, thereby deemphasizing the importance of the MIA/POW issue and creating an impression that this Nation has abandoned its 753 mission servicemen and civilians and the 33 servicemen listed as prisoners of war.

As the gentleman from Ohio (Mr. GUYER) and I stated in our separate views to the select committee's final report:

> The committee focused world attention on America's missing men and helped to raise the public consciousness on this humanitarian endeavor.

However, without any congressional committee or executive agency or other public forum to focus attention on the MIA/POW issue, the fate of our missing men would depend solely on the diplomatic efforts of the State Department—efforts that can be helpful, but such reliance is not enough to assure the Nation that these men would not be forgotten or buried by the Department's inertia and perception of priority.

This concurrent resolution, if adopted by the Congress and implemented by the President, would maintain the momentum developed by the select committee and would help keep the issue alive and before the public until the fullest possible accounting has been obtained from the governments in Indochina. And the families of these brave men would be comforted in knowing that this Nation has not given up locating its men without first achieving this objective.

Mr. Speaker, an exhaustive accounting of the MIA's/POW's have not been obtained from the governments of Indochina. The select committee in its final report unwarrantedly speculated that "the governments of Indochina may be capable of returning the remains of more than 150 Americans." If this statement is correct, then this Nation has an obligation to obtain the remains of these

men who made the ultimate sacrifice for their country. To my knowledge, no action has been undertaken to obtain their remains.

The diligent work of the select committee and its staff lasted only 18 months. Surely, our servicemen, who fought in the longest armed conflict in the Nation's history, are entitled to a more extensive effort than this. They are entitled to expect that some congressional committee or Presidential task force, commission, or agency would devote its wholehearted effort in looking out for their interests.

Mr. Speaker, I urge my colleagues not to close this sorrowful chapter in our Nation's history without first encouraging and providing the President an opportunity to establish a task force to advise him on action that may be taken to obtain a complete accounting of our missing men. Furthermore, it is essential that some Federal agency devote its full-time effort to obtain information emanating from the governments of Indochina regarding these men. My proposal would accomplish this objective.

Accordingly, Mr. Speaker, at this point in the RECORD I am inserting the full text of my concurrent resolution and I urge my colleagues to join me in securing speedy adoption of this measure:

H. CON. RES. —

Concurrent resolution expressing the sense of the Congress that the President should establish a Presidential task force to achieve the fullest possible accounting of prisoners of war and other individuals missing in Southeast Asia as a result of the Vietnam conflict

Whereas approximately 786 American servicemen and civilians are unaccounted for in Southeast Asia as a result of the Vietnam conflict;

Whereas the governments of Vietnam, Laos, and Cambodia have failed to abide by fundamental humanitarian principles which require the fullest possible accounting of all Americans who are prisoners of war or missing in such countries as a result of the Vietnam conflict; and

Whereas such an accounting by each government involved should precede the establishment of diplomatic relations with such government: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President should, as soon as practicable, establish a Presidential task force (1) to advise the President with respect to action that may be taken to achieve the fullest possible accounting of all Americans who are prisoners of war or missing in Southeast Asia as a result of the Vietnam conflict, including obtaining the remains of any such Americans who are deceased, and (2) to recommend to the President the adoption of such national policies with respect to prisoners of war and individuals who are missing in action as such task force considers appropriate.

MORE VETERINARY SCHOOLS ARE NEEDED

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. MOAKLEY. Mr. Speaker, each year, nearly 10,000 qualified graduates are turned away from veterinary schools, solely because these schools lack the space for greater attendance. Only 21 graduate programs offering degrees in veterinary medicine exist within our Nation, and of those, just two are in the Northeast and none at all in the New England region. The existing schools become so jammed with applicants that often, out-of-State students are denied even the chance to compete for a spot. Yet at the same time, we find the demand for veterinary services increasing at a rapid pace throughout the country.

Surely, if the students of our Nation desire to become veterinarians, and our society needs these services, it is highly appropriate for the Government to aid in the expansion of graduate schools in veterinary medicine. Both students and consumers suffer from this lack, and the Honorable Congressman SILVIO CONTE is fulfiling a clear constituent demand with his thoughtful legislation, H.R. 13299. I urge support for this measure.

SEX WON'T REPLACE HUMOR

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. WINN. Mr. Speaker, I know a lot of my colleagues have constituents who are deeply troubled by the quality of entertainment offered on American television. In fact, it seems that many programs have gone far beyond the bounds of entertainment, and that these tend to overshadow the truly fine achievements of the medium.

In early December, the publisher of the Sun Newspapers of Johnson County, Kans., Stan Rose, ran a column on this subject urging his readers to contact the sponsors of these programs to express their disapproval. When I spoke to the Overland Park Rotary Club later in December, this column was brought to my attention, and I believe that Stan has made some very good points.

Since television is a primary source of information in this country, we may be well advised to heed the warnings of those calling for high quality. Therefore, I would like to bring this column to the attention of my colleagues in the House.

SEX WON'T REPLACE HUMOR

(By Stan Rose)

If jokes about sex were half as funny as some television writers and producers think they are, this would be a banner year for the medium. It isn't.

Situation comedies are the big thing on TV now, and apparently because many of the people grinding them out don't have the genius to create true comedy they are relying on off-color material to get laughs.

The trouble is most of these gross attempts at humor often get laughs from studio audiences, but they more often bomb in the living rooms.

Judging from the short life span of so many situation comedies, you'd think their creators would get the message. You'd think somebody up there would at least remind them that long-lasting situation comedies such as "I Love Lucy", "The Dick Van Dyke Show", "All In The Family", and many others always respected their viewers. They might skirt the boundary lines of good taste but never cross them.

But apparently, nobody is getting the message, not even the sponsors. Things are getting worse instead of better. Each cancellation brings a replacement that is usually even dumber and dirtier.

A new situation comedy showed up the other night. It was not only an insult to the viewing public, but also to the star, McLean Stevenson, a talented comedian who probably could have ad libbed funnier material.

The situation itself came out of the sausage grinder. Father is a well-meaning dope who trades insults with his mother-in-law. Mother never opens her mouth while this is going on, but saves her comments for coy references to her sex life. The kids are all third-rate Bob Hopes with never a straight line. A typical American TV family, that believes anything goes in their make-believe living room, so anything goes in the real living rooms of America. Or so the show's creators seem to think.

When it comes to this kind of entertainment, I feel television is crowding me. I resent it and almost tend to forget the fine things about the medium: the truly good sitcoms, the good variety and drama shows, sports events, news, documentaries, and Sunday panel shows.

I refuse to suffer in silence or pay attention to people who say "If you don't like the show, don't watch it."

That isn't good enough. I'm not asking for censorship. Just a little respect.

The network TV people know what I'm talking about. They know the difference between good taste and grossness, between real comedy and the blue material that substitutes for it because it's the easy way out.

They used to toe the mark because they knew they had to. Now that nobody seems to give a darn, they stay right in there pitching curves.

If enough of us give a darn, we won't have to wait for a bad show to die after 13 or 26 weeks. We can see that it doesn't get on the air at all.

How? By getting the word to the networks and the sponsors that we demand the respect we used to get.

ABU DAOUD

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 19, 1977

Mr. MAZZOLI. Mr. Speaker, I am pleased to join with many of my House colleagues in expressing disappointment in and disapproval of the release by French authorities of the alleged Palestinian terrorist, Abu Daoud.

Abu Daoud has been accused of masterminding the kidnapping and murder of 11 Israeli athletes at the Munich Olympics. Furthermore, he has been implicated in numerous other terrorist activities around the globe.

In light of these serious charges and the requests by the West German and Israeli Governments that Abu Daoud be extradited and made to stand trial, his release by the Government of France smacks of appeasement to the Arab nations upon whose oil France is dependent.

Abu Daoud's return to circulation could encourage terrorism by demonstrating how relatively easy it is to browbeat and coerce major nations into releasing suspected terrorists.

America should not stand idly by in this instance—despite our long and warm ties to France—because to stand by is to acquiesce and ratify the unconscionable release of Abu Daoud.

It is incumbent upon this Nation, this House, and this Congress to make it clear our deep distress and displeasure with the actions of the Government of France.

JAMES J. SHEA, SR., 1889–1977

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. BOLAND. Mr. Speaker, the late James J. Shea, Sr., chairman of the board emeritus of the Milton Bradley Co., and a preeminent force in the business community of Springfield, Mass., was a well-beloved figure in that community's life from his arrival there in 1922. His employees and friends at Milton Bradley, which he built into the largest manufacturer of games, puzzles and educational materials in the country, recently eulogized him thusly:

In sorrow, we mourn his death. His life was a dedication to his God, his family, his friends, his employees, his community, his state, his country. His life had an impact upon each of us. We have lost a devoted friend.

I could not better capsulize the impact made upon my hometown by this outstanding citizen. I knew him quite well and always liked and admired him as much for himself, for the gentle spirit of the man, his devout application of his Christian faith as I did for all the successes of his public life. For he was an immensely successful businessman.

Born in Cambridge, August 18, 1889, eldest of six children of Mr. and Mrs. John E. Shea, he was graduated from Washington Grammar School, Rindge Technical School, and Worcester Polytechnic Institute class of 1912, where he later was named a trustee, and president of the WPI Alumni Association.

Prior to joining the Milton Bradley Co., he was with the U.S. Envelope Co. of Worcester, Mass., which he joined in 1912 and was promoted 2 years later to assistant superintendent. In 1922, he was transferred to the then Kellogg Division, Springfield, Mass., as plant superintendent and raised to assistant to the president.

Mr. Shea accepted the presidency of Milton Bradley in 1941. His personal efforts, unlimited energy and direction brought it from the verge of bankruptcy in that year to the spot it holds today, that of the Nation's largest manufacturer in its field. Sales of that company are now approaching $190 million a year. After 30 years at the helm, he retired as chairman of the board in 1971.

In his years at Milton Bradley and after his retirement, he was extremely active in community affairs. Among the many organizations he served as president are the Springfield Industrial Association of which he was a founding member, the Community Chest—forerunner of the United Way—trustee of Mercy Hospital, and chairman of that hospital's site selection and planning committee for a new hospital, incorporator of the Springfield Area Development Committee, Future Springfield, Inc., corporator of Wesson Hospital, Springfield Council Against Discrimination, Connecticut River Watershed Council, Waste Disposal Methods Committee, president of Springfield Symphony Association, trustee of Old Sturbridge Village, and the Massachusetts Foundation.

As an outstanding business leader, he was a director of Crayon, Water Color and Craft Institute of New York, Employers' Association of Western Massachusetts, and on the boards of Buxton, Inc., Valley Bank & Trust Co., and Hampden Savings Bank.

In the field of education, he was an associate trustee of Holy Cross College, Worcester, Mass., trustee of American International College, Springfield, Mass., and Worcester Polytechnic Institute.

Honors and awards that were conferred upon Mr. Shea reflect the high regard in which he was held by his associates in all of his endeavors. In 1958, he was named a Knight of Sovereign Military Order of Malta by Pope Pius XII, one of the highest honors the Vatican can confer on Catholic laymen. He was the recipient of honorary degrees from Holy Cross College, American International College, Western New England, Boston College, St. Anselm's College, and Worcester Polytechnic College.

Social and civic honors came to him from the Holyoke St. Patrick's Day Parade Committee in 1965 when he received the John F. Kennedy National Award. The coveted William Pynchon Award for distinguished service to the city of Springfield came from the Springfield Advertising Club. Springfield Post No. 26, Jewish War Veterans decorated him with the Harry Brown Outstanding Citizen Award. In 1966, Mr. Shea was honored by the Joint Civic Agencies of Springfield in a special ceremony marking his 25th anniversary as president of Milton Bradley and presented with an engraved Paul Revere bowl by Gov. John A. Volpe and the keys to the city of Springfield by Mayor Charles V. Ryan, Jr.

The National Association of Manufacturers honored him for his many contributions to the development of educational toys and games made by the company. Those contributions have made it a little easier, more exciting, and much pleasanter to improve the learning abilities of innumerable people of all ages, in this country and throughout the world.

Under the leadership of his son, James J. Shea, Jr., his driving spirit continues to hover over the business he brought to preeminence in its field—the Milton Bradley Co.

James J. Shea, Sr., will be remembered for his dedication to his church, his community, and his country. He will be revered for his magnificent and total devotion to his gracious and lovely wife Henrietta and his children James J., Jr., Barbara, and Nancy.

Mr. Speaker, I ask unanimous consent to include with my remarks two fine posthumous tributes. The first is an editorial from the Springfield, Mass., Union and the second a resolution adopted by the trustees and corporators of Mercy Hospital.

[From the Springfield (Mass.) Union, Jan. 5, 1976]

JAMES J. SHEA

Long before he retired in 1971, James J. Shea Sr., had become a symbol of industrial leadership—the kind of individual whose talent and dedication are an asset to his community as well as his business.

Milton Bradley Co., which he joined as president in 1941 when the firm was in precarious fiscal shape, stands today as the nation's largest manufacturer in its field. His contribution was that of a vigorous and imaginative overseer, one who could set a goal and follow through without compromise or defection.

As a member or official of numerous civic organizatioins, as a bank corporator, hospital trustee, supporter of higher education and cultural programs, and as an honored Catholic layman, he gave of his time and abilities to the community. In turn he was the recipient of awards that signified the utmost in individual achievement.

James J. Shea Sr., leaves behind an example of the responsible citizenship that builds not only communities, but nations. If the example is remembered, and heeded, it will be of lasting benefit to Springfield.

RESOLUTION ADOPTED BY THE CORPORATION OF THE MERCY HOSPITAL, SPRINGFIELD, MASS., JANUARY 12, 1977

Whereas Mr. James Joseph Shea, Sr., died on January 3, 1977, in his eighty-eight year, and

Whereas Mr. Shea had been a Trustee of Mercy Hospital for more than 35 years, and

Whereas Mr. Shea had been the only Honorary Trustee of Mercy Hospital, and

Whereas Mr. Shea was the Chairman of the Planning and Site Committee which chose the location and planned the construction of the new Mercy Hospital, and

Whereas Mr. Shea showed the depth of his commitment to the new Mercy Hospital by giving the largest personal contribution to the Mercy Hospital Building Fund, and

Whereas Mr. Shea delighted us with his sense of humor, pleased us with the warmth of his personality, and edified us with his devotion to this hospital,

We, the Trustees and Corporations of Mercy Hospital, do pass this resolution of honor and respect to the memory of Mr. James Joseph Shea, Sr., and order that this resolution be spread upon the minutes of the Mercy Hospital Corporation, and that a copy of this resolution be given to Mrs. James Joseph Shea, Sr., with our condolences and sympathy.

"SHORT" TAX FORM NOT SHORT, NOT SIMPLE, NOT DECIPHERABLE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. VENTO. Mr. Speaker, between now and April 15 we will all have to endure the annual anguish of preparing our Federal tax returns.

Some of us may be able to afford professional help with this task, but most Americans must seek assistance they cannot afford, or else must do battle with impossibly complex forms and baffling instructions.

I am now exploring the possibility of

a truly "short" tax form which would be simple and easy to complete by most taxpayers.

In the meantime we are all stuck with the present "short" form—a misnomer, if ever there was one—which is almost as long as the front page of the "long" form and with instructions which are often misunderstood even by highly educated taxpayers. And we also confront longer waiting lines at Internal Revenue Service assistance offices or commercial tax preparation firms.

A January 25 feature article on this subject published in the Philadelphia Inquirer describes my great concern that the average taxpayer will be unable to complete his or her filing responsibilities for yet another year without outside assistance in order just to understand the forms and instructions.

I insert this article in the RECORD:

THE 1040 NIGHTMARE GETS WORSE

(By Joan Beck)

To Donald C. Alexander, Commissioner of Internal Revenue, Washington, D.C.

Dear Commissioner:

Last January when you mailed out the income tax forms, you had the grace to add a little note of apology on the "Instructions to Form 1040" saying you were sorry the 1975 IRS schedules were more complex than previous versions. This time around, though, we get the bad news straight out, with no sympathy at all: "Completing your return this year could be more difficult," you warn us.

Are you aware, Commissioner, just how difficult Form 1040 now is? To demonstrate, we have applied a well-known readability scale to the instruction booklet that comes packaged with Form 1040.

We selected several samplings at random from "Instructions for Form 1040" and measured them by the Rudolf Flesch Reading Ease scoring formula.

Paragraphs averaged a highly complex 36 words per sentence over the samples. Combined with a syllable count, this yielded a readability index of 14 on a scale that goes from 0 ("practically unreadable") to 100 ("easy for any literate person").

By Flesch's formula, Commissioner, your Form 1040 instruction material rates as being more difficult than typical academic and scholarly publications and ranks in the category of scientific and professional journals.

According to Flesch's calculations, you'd have to be a college graduate or better to cope with it.

You know yourself, Commissioner, that even college graduates have trouble with 1040—including many of your IRS agents who are supposed to be helping us.

But you finesse that problem neatly, Commissioner, with your coy little note tucked away on page 30: "We are happy to assist you by answering questions to help you prepare your return. If we do make an error, you are still responsible for the payment of the correct tax and we are generally required by law to charge interest."

What you are saying is that mistakes are our fault, even when IRS makes them.

Were you really thinking about IRS goofs when you added another note in still smaller print: "To help us provide courteous responses and accurate information, IRS occasionally monitors telephone calls." Does "monitor" mean "wiretap," Commissioner? Even though you say no record is kept of the taxpayer's identity, that's scary.

Your caution on Page 5 is scary, too, even though you headline it "Privacy Act Notification." You say tax return information can be given to the Justice Department for criminal prosecution, to other federal agencies, to the states, to "other persons," and to foreign governments.

How can you call that privacy?

And what an exquisite touch on page 20, when you put the section about pensions and annuities in smaller type than the rest of the booklet. How appropriate for older people who have difficulty seeing well.

You point out that "former multiple tax tables have been replaced by a single table and have been reduced from more than ten to three pages." But that just gives us the bad news faster.

It becomes even more obvious that the so-called 1976 Tax Reform Act left untouched the blatant discrimination against working married couples, even when they file separate returns.

Most of what's wrong with Form 1040 isn't your fault, Commissioner. But you're the only one who had the courage to sign a name to the atrocity. Help!

CURBING VIOLENCE ON TV

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. STEIGER. Mr. Speaker, in the 94th Congress I joined my distinguished colleague, Representative TOM RAILSBACK of Illinois, in introducing a resolution calling on those responsible for television programing to reassess what they are doing and to try to cut back on violence portrayed on TV.

TOM RAILSBACK deserves credit for putting the resolution together and for taking this step to reverse the increasing trend of violence being brought into the American home via the television screen. I hope when the resolution is reintroduced in this Congress it will receive the fullest attention of all of us.

Many constituents have written asking me what can be done to get the message to those in the television industry that violent shows are not considered acceptable. This active concern on the part of so many, as exemplified by the PTA's strong role in raising this issue, is what is needed if significant programing changes are to be made.

Perhaps the most effective way to influence the television industry is through action on the part of television sponsors. I am pleased that a firm in my district, the Kimberly-Clark Corp., has instructed its advertising agencies not to buy commercial time for K-C products on programs characterized by "excessive violence or antisocial behavior."

The Appleton, Wis., Post-Crescent, in a January 12 editorial, praised the "healthy example" set by Kimberly-Clark. My hope is that more companies will follow the example set by Kimberly-Clark.

Because of the importance of this effort, I would like to draw the attention of all Members to an article from the January 7 Post-Crescent in which the Kimberly-Clark decision is discussed, as well as the January 12 editorial. They follow:

NO K-C ADS ON VIOLENT SHOWS

NEENAH—Kimberly-Clark Corp. announced today that it has instructed its advertising agencies not to buy commercial time for K-C products on television programs characterized by "excessive violence or antisocial behavior."

Wayne L. Bildahl, vice president, Consumer Business Division-U.S., said the company has adopted a policy not to be associated with such programs.

"Many segments of the public are concerned these days about the presentation of unwarranted violence and antisocial behavior. While we have no wish to exercise censorship in any way, we do not think it is in the public interest for us to support such programs, nor is it in the interest of the company's reputation or products," he said.

The policy also applies to print media, he added.

Guidelines issued to K-C's advertising agencies say ad schedules should not be placed with media whose programming or editorial content is "judged generically to be violent or antisocial," or media whose programming is on occasion excessively violent or antisocial or indicates a potential for such characteristics.

In the latter instance, prescreening should be arranged to determine acceptability, the guidelines state. The instructions also say that "to the degree possible, contractural agreements with the media should be established and enforced on this subject."

K-C SPEAKS OUT ON VIOLENCE

The decision at Kimberly-Clark not to sponsor television programs containing "excessive violence or antisocial behavior" reflects the growing concern in the United States over such programs.

The attempt by the networks to avoid the issue by setting aside a family hour when such programs could not be shown was defeated in a court case last month. It did seem reasonable that subject matter suitable for adults is not necessarily so for children and that once the kiddies were in bed, different programs could be aired. But this approach does not confront the basic issue of violence in American society.

Mystery, suspense and murder stories are often cited as escape literature that may even be a safeguard to the community in that hostilities and frustrations are expended through such fictions. Some sort of the same argument might be used for television. But there is a vast difference between elaborate mystery schemes, for whatever purpose, and viewing brutality. The latter, according to many psychologists, is like to enure the viewer to violence itself. He not only does not object to its reality; he could come to enact it.

Kimberly-Clark's statement said that such programs did not help sell its products nor were they "in the public interest." We agree. This does not mean, we hope, that programs cannot reflect reality or go back to the namby-pamby pap of the musical comedies. Excessive violence is not today's reality, but there is a danger that it could be tomorrow's.

Censorship, especially prior censorship, is dangerous. But if a major corporation determines that the American public needs no more encouragement of violence and says so with its pocketbook—well, that's free enterprise and a healthy example.

POSTAL SERVICE GETS SOME HIGH MARKS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. McCLORY. Mr. Speaker, the various news accounts and individual expressions regarding the Postal Service

generally reflect gripes or recite delays and confusion regarding the delivery of the mails.

Recently a reporter from the Daily Courier-News, published in Elgin, Ill., in my congressional district, made some individual inquiries in the village of West Dundee regarding postal service.

The responses were uniformly favorable—indicating prompt delivery of mail and friendly attitudes on the part of those in the Postal Service.

This article by Mercedes Meyers explains better than my comments that the Postal Service is not all bad. A small but perhaps representative segment of our society had some very nice things to say about the U.S. Postal Service. Miss Meyers' article follows:

RATING POSTAL SERVICE: FEW IN DUNDEE REGISTER COMPLAINTS ABOUT LOCAL DELIVERIES

(By Mercedes Meyers)

WEST DUNDEE.—The postal service says its statistics show that mail delivery is getting faster and service improved in 1976.

Village employes and residents of West Dundee are asked if they agree with the postal service statistics. Answers of the people at the West Dundee Village Hall were as follows:

Policewoman Ruby Bohn, said, "My mail is delivered at home while I'm at work, so I can't pinpoint regularity of daily delivery. I know that most of the time local mail is received the next day and out-of-town mail takes about two to three days.

"I'd say I get good service and get the mail in a reasonable time.

"I haven't any complaints about window service and none of misdirected mail.

"I'd say the postal service is excellent in regard to personal mail and department mail."

Police Chief Alan DeMien said, "I haven't paid that much attention to it. There hasn't been anything that important mailed to pay attention to how fast or efficient the service is.

"I have no complaints except that I think it is outrageous to pay 13 cents to mail a card or letter.

"Despite my feeling about the cost of postage, my wife and I sent out more and received more Christmas cards this year than ever before.

"But, my wife had our five kids walk around the neighborhood and personally deliver some of the cards. The exercise was good for them and there seems a little more Christmas spirit in handing a card to a friend and giving a personal message to them.

"My kids are used to walking or riding their bikes rather than being driven here and there. Three of them deliver newspapers. One of them gets up at five in the morning to deliver a morning newspaper. It keeps them slim and healthy."

Village Clerk Nancy Ervin, of 711 Oregon St., West Dundee, said, "Delivery is fast and postal service is very good. In fact, window service at Christmas time this year was faster than the year before. The lines were much shorter.

"Delivery of village mail as well as my personal mail is prompt. I have no complaints and have received no complaints of mail delays from recipients of our mail.

"I think, with today's increase in prices of just about everything, 13 cents postage to send mail clear across the country is a bargain."

Mrs. Walter (Ruth) Riedel, of 425 S. First St., West Dundee, said, "Service is very good, especially in West Dundee. I don't use the downtown service that much so I can't comment on window service; but I haven't heard anyone complain about it.

"My son works for the post office, but that isn't the reason that I say I'm pleased with the fast, good service. I really have no complaints and agree with the postal service statistics.

"The postage must not be too high because I constantly receive junk mail that the sender paid 13 cents to send out. I receive unsolicited mailing of a weekly newspaper that I have told the people at the paper I don't want and yet the newspaper is still sent to me. They mustn't think the postage is too high or I don't think they would continue to mail the paper to me."

Assistant Clerk Dolores Rodges, of 120 Deerpath Lane, Lake Marian, said, "Delivery of packages and cards is faster than it was a year before. I have no complaints. I think 13 cents postage is reasonable for the service you get—especially with everything else going up and up.

"Window service in town is very good. The people at the post office are fast, efficient and friendly."

BRIDGE SAFETY ACT OF 1977

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. HARKIN. Mr. Speaker, I have today reintroduced the Bridge Safety Act of 1977.

This bill seeks to establish a program for repairing and replacing unsafe bridges on the Federal-aid highway system. A number of my colleagues cosponsored this measure in the 94th Congress when it was first introduced.

For most Members of the House who understand the importance of safe bridges to our highway system, and especially for my colleagues who represent small towns and rural areas, the following statistics should prove to be terribly disturbing: Of the 563,500 bridges in the United States, nearly 89,000, or 16 percent were judged to be critically deficient in a report released by the U.S. Department of Transportation in 1971. More recent data indicates that as of September 1974, nearly 32,400, or 14 percent, of the 230,000 bridges reported on the Federal-aid systems alone were judged to be unsafe. The total estimated cost to replace and repair these bridges in 1974 was estimated to be $10.4 billion.

These alarming figures, however, do not tell the full story.

In 1971 Congress, principally in response to the collapse of a major bridge over the Ohio River in 1967, established what was known as the special bridge replacement program. This program purported to make Federal funds available for States to initiate badly needed repair or replacement of important bridges. Evidently, however, Congress at the time simply either did not realize, or chose not to acknowledge the magnitude of the problem it pretended to solve by enactment of this legislation.

Congress originally authorized an annual average of $95 million for the program between fiscal years 1972 and 1976. At this rate of financing, replacement of just the 32,400 unsafe bridges on the Federal-aid system would take about 80 years. For fiscal year 1977 we did increase the annual rate of funding to $180 million. Presumably, this will only mean that repair or replacement of these bridges will be completed in roughly 40 years. In my judgment, this is still far too long to wait for another catastrophe.

Mr. Speaker, the problem of adequate bridge replacement financing has been one of personal interest to me since I came to Congress in January of 1975. In the spring of that year I directed a member of my staff in Washington to survey the county engineers in my congressional district in an attempt to determine whether the Federal bridge program was having any meaningful impact on our State. We had learned earlier that year in a report by the Iowa County Engineers Association that 46 percent of the 35,000 bridges on Iowa's secondary roads had to be posted for less than the Federal load limits.

Our survey revealed a widespread reluctance on the part of county engineers to properly inspect and inventory their bridges and apply for Federal funds under the program. Of the 20 county engineers interviewed by my staff, 16 generally characterized the program as a "waste of time," and two of the county engineers had not even heard of the program until we contacted them. Of those engineers critical of the program, the most frequent comment was that the extremely remote possibility of receiving Federal funds did not justify the time and expense required to conduct the bridge inspection and prepare the individual inventory forms called for under the program. None of the county engineers interviewed who had held their position since the establishment of the program could recall ever receiving Federal assistance in connection with it.

During the time we were talking to our county engineers, we also spoke with an official of the Bridge Division of the Federal Highway Administration about the special bridge replacement program. The reservations expressed to us by the county engineers were clearly reflected in the fact that only a handful of applications for Federal funds were submitted from Iowa. In fact, only 15 applications were submitted for program funds as of October 1974, when the most recent inventory had disclosed that over 900 bridges in Iowa were eligible. Moreover, the Bridge Division official added that Iowa was fairly representative of the degree of participation in the program by State and local officials in the Nation as a whole.

Mr. Chairman, this program is simply not working. I would direct my colleagues' attention to a GAO report released in July of 1975 which reaches the same conclusion. In addition, a recent report by the Congressional Research Service entitled "Report on Rural America: Transportation," prepared at the request of the Congressional Rural Caucas, indicates that—

The number of deficient bridges on rural roads may create a serious restriction to the continuing flow to traffic along such routes.

The costs of bridge repair and replacement in the past few years have skyrocketed. In Iowa, for example, the cost per bridge has increased by 42 percent since 1973. It is estimated that in order to do the job that needs to be done in my State with respect to bridge replacement it will cost upward of $800 million in the next 10-year period. If the county engineers we interviewed in southwest Iowa are representative of the Nation as a whole, and I suspect they are, there is little to indicate that the special bridge replacement program is doing the job it was intended to do.

The bill I have introduced today merely seeks to establish a realistic level of funding under this program to provide meaningful Federal assistance to States in financing bridge repair and replacement. I think the evidence is substantial that the States would participate enthusiastically if the chances of funding for eligible projects is not as remote as it is now under the existing rate of Federal financing.

Specifically, my bill would amend the Federal-Aid to Highways Act of 1976 by increasing the annual appropriations for the special bridge reconstruction and replacement program from $180 to $720 million.

It would encourage the repair of existing bridges rather than replacement, where practical, so that the problems of unsafe bridges can be pursued quickly and efficiently with a minimum effect of inflation.

It sets a target date of 1990 for replacement and repair of all bridges and extends the Highway Trust Fund through that date so that it can be met.

Finally, it directs the greatest aid to those States where the need is greatest, and sets aside 15 percent of each annual appropriation to be used solely for emergency bridge replacement in counties with the greatest identified needs.

BREAKING THE STALEMATE ON AUTO EMISSIONS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. BROWN of California. Mr. Speaker, at the end of the last Congress a filibuster was conducted in the other body against the conference report on the amendments to the Clean Air Act. A key section of that bill was a proposal to extend the final attainment date for meeting Federal auto emission standards. The auto industry was not satisfied with the short extension allowed for in the bill, and lobbied hard against adoption of the conference report.

As a consequence, the cars that Detroit will be producing for the next model year will violate Federal law. Detroit is daring the Federal Government to shut them down, in a blatant attempt to bluff the Congress into amending the law as the only other option. Fortunately for the Congress and the country, there are other options.

Two such options have been suggested by Californians who have long been associated with efforts to clean up automobile emissions. Since California has the legal right to enforce stricter standards than the Federal Government, and it has successfully exercised this right, these two options should be carefully considered by all who genuinely want to reduce air pollution.

The first proposal, which follows these remarks, was made by the chairman of the California Air Resources Board, Tom Quinn. The second proposal, which concludes this statement, was made by Congressman HENRY WAXMAN, who has distinguished himself in the Committee on Interstate and Foreign Commerce on this and other issues.

The proposals follow:

STATE OF CALIFORNIA,
AIR RESOURCES BOARD,
Sacramento, January 3, 1977.

Hon. GEORGE E. BROWN, Jr.,
House of Representatives,
552 North LaCadena,
Colton, Calif.

DEAR MR. BROWN: One of the most pressing issues facing the new Congress will be the need to consider changes in automobile emissions standards for 1978 model year automobiles. As you know, the current law requires those autos to meet the so-called "statutory" standards, a goal which the automobile manufacturers claim is not possible. Although California has been a strong voice in favor of the strongest possible standards, we are forced to agree with the automakers that imposition of the "statutory" standards for 1978 is just not practical.

We have reached this conclusion reluctantly. We obviously see a clear need to move forward without delay in reducing automobile emissions. Yet we are realistic. It is now obvious that insistence on the "statutory" standards for 1978 will make it impossible for most manufacturers to sell cars that year. If the standards are not relaxed, we are likely to create economic chaos in the automobile industry and cause significant adverse spin-off effects in other segments of the economy, such as the steel industry. We clearly cannot allow this to happen.

California, of course, had had substantial experience in the automotive emissions field. Our current (1977) standards of .41 grams per mile hydrocarbons (HC), 9 grams carbon monoxide (CO), and 1.5 grams oxides of nitrogen (NOx) are substantially more stringent than the federal requirements of 1.5 grams HC, 15 grams CO and 2 grams NOx. In fact, our 1975–76 standards of .9 grams HC, 9 grams CO and 2 grams NOx were also more stringent than the present federal requirements. Imposition of our 1977 standards led to development by Volvo and Honda of cars which can meet the 1978 "statutory" standards, and we have heard it argued that Volvo's achievement proves that the Clean Air Act should not be amended to ease the 1978 requirements.

That argument has some superficial appeal, but unfortunately lack of commitment on the part of most manufacturers will make it impossible for them to duplicate Volvo's success by 1978. The automakers can argue, with some justification, that their failure to pursue the achievement of the "statutory" standards does not indicate lack of good faith, but rather was caused by EPA actions which delayed imposition of interim standards and led them to believe that the law would be changed.

Volvo's achievement proves what many of us have been saying for some time—that it is possible to build cars which meet the "statutory" requirements. But Volvo's success does not prove that other manufacturers can do so by 1978. It clearly will take more time, perhaps another three or four years, before the industry as a whole will be in a position to match Volvo's performance.

As I see the issue, it is not whether the 1978 standards should be relaxed, but rather by how much. Some industry representatives have argued that the 1977 federal standards should be continued through 1978, or even through 1980 or 1981. We do not believe that is necessary or wise. The California experience proves that more stringent standards are possible right now. I believe Congress should consider adopting the 1977 California standards as a federal requirement for 1978 model vehicles. If, however, the manufacturers should be able to demonstrate technical difficulties with that approach, I would then suggest that the 1975–76 California standards be adopted for federal cars in 1978.

Our position concerning the eventual necessity and economic practicality of the "statutory" standards remains unchanged: we believe those standards are needed and feasible. We are anxious to work with Congress as a new timetable is developed, but I am writing now about only the 1978 model year problem. The question of 1978 standards must be resolved immediately if we are to avoid economic catastrophe in the auto industry and still move forward toward the goal of producing cleaner cars.

Adoption of the 1977 California standards or all 1978 autcs appears to be the best means of achieving continuing progress in air pollution control with minimum impact on the industry. I hope you will give this suggestion serious consideration.

Sincerely,

TOM QUINN,
Chairman.

[From the Los Angeles Times, Jan. 23, 1977]

DIRTY AUTO COST SHOULD SHIFT TO DETROIT

(By Henry A. Waxman)

Determined to block further federal action on air pollution, America's auto manufacturers have willingly placed themselves in an eye-to-eye confrontation with Washington. Indeed, Detroit is apparently ready to wager everything on the assumption that Congress will be the first to blink.

This high-stakes gamble began last year during the 94th Congress, when it became clear that the 1978 tailpipe emission standards set by the Clean Air Act of 1970 were simply beyond the auto makers' technical reach. Congress, therefore, attempted to amend the act, giving the industry a one-year extension of the current, more lenient standards. At the same time, the amendments would have forced Detroit to reduce emissions in subsequent model years.

These, and other moderate proposals, were rejected out of hand by the industry, which continues to insist that the current standards be frozen into law for not less than five years. Thus, the manufacturers and the United Auto Workers, who back the industry on this issue, supported a Senate filibuster that killed all amendments to the Clean Air Act.

As a result, the new Congress has two choices: It can ignore public health needs and the best scientific opinion on the subject, and simply acquiesce to Detroit's demands, or it can shut the auto industry down when the "technically unfeasible" standards for 1978-model-year cars become law this spring. Obviously, the manufacturers are betting that Congress will find the latter step politically and economically unpalatable—and they are probably right.

If this potentially dangerous impasse is to be broken, Congress must take a number of hard lessons to heart. Clearly, timetables alone will not induce Detroit to produce clean cars. Each time a new emission standard has been established, the auto makers have sought an extension. Each

time the federal government has forced Detroit to reduce pollution another notch, the industry has demanded that standards be frozen at that level. And so, time and again, Congress and the Environmental Protection Agency, which must enforce the Clean Air Act, have succumbed to industry blackmail rather than make the manufacture of excessively dirty cars illegal.

Nevertheless, important breakthroughs in pollution control have been achieved—particularly by foreign manufacturers such as Volvo. There are currently cars on the road that meet the very standards U.S. manufacturers claim are unattainable. Moreover, the new, cleaner Volvos get 10% better fuel economy than previous models—at an additional cost per car of only $50. In fact, while the level of emissions on American-made cars has been reduced some 70% since 1970, fuel economy has increased more than 40%.

Industry spokesmen claim that the cost of additional pollution-control equipment will depress auto sales and the economy generally. But the American people are already paying $2.5 billion to $10 billion per year in extra health-care costs and reductions in productivity from pollution-induced illness. The real choice, then, is whether the costs of air pollution should continue to be paid by the nation as a whole or be shifted to those who choose to drive gas-guzzling, dirty automobiles.

In considering these alternatives, the following facts must be weighed:

More than 4,000 deaths and 4 million days of illness are directly attributable to automobile pollution each year.

New evidence indicates that one tailpipe pollutant—oxides of nitrogen, or NOx—is linked to the atmosphere formation of nitrosamines, among the most potent carcinogenic substances known.

A continued freeze on auto-emission standards only delays achievement of safe air quality health standards in major urban areas—and even in some rural areas—across the country.

Volvo has shown that the technology to reduce emissions to levels well below those required by law, while at the same time improving fuel economy, is available, practical and relatively inexpensive.

It is unfair to insist on pollution controls for other industries to compensate for the lack of progress in reducing tailpipe emissions because of extensions already granted the auto industry.

Taking into account the need to further reduce emissions, the fact that clean-air technology is available and the frustrating series deadlines that have never been met, some members of Congress are advocating that a penalty be imposed on new but dirty cars and a rebate given to buyers of clean autos.

The program might work like this: Detroit would be allowed to produce cars with tailpipe emissions at any level it wishes. However, a federally imposed penalty would be added to the sticker price equal to the cost of compliance with the statutory, clean-air standards. The more the car exceeded the standards, the greater the penalty. The money collected under this system would go into a fund that would pay cash rebates to consumers who purchase cars cleaner than the standard. The greater the emission reduction achieved, the more money paid to purchasers of those cars.

Thus, manufacturers of clean cars could secure a competitive advantage over their more recalcitrant competitors, while consumers could decide whether or not to invest in clean cars.

There is another step I intend to propose in the House. Under the Clean Air Act, California is the only state that can establish stricter auto pollution standards than those required by federal law. But there are many other states that have enormous air pollution problems and could benefit from the flexibility afforded California. Why not apply the "California waiver" to other states?

There is little doubt that many large industrial and environmentally concerned states—New York, New Jersey, Massachusetts, Connecticut, Colorado, Oregon—would probably opt for California's standards. Along with California, these states account for a significant share of the automobile market If all acted in concert, it could certainly be in Detroit's interest to adjust *all* cars to California's standards.

Mass production would not only decrease the unit cost of pollution control, but also provide the strongest incentive for improvements in fuel economy and further technological innovation. This may well be the quickest and easiest way to achieve reasonabel auto-emission levels. Once that is accomplished, all Americans will be able to breathe a little easier.

WHAT IS AMERICA?—AN ESSAY

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. MARTIN. Mr. Speaker, on December 17, 1976, I was privileged to be a luncheon guest of the Charlotte Civitan Club honoring the newly naturalized citizens in my district. The speaker for this occasion was Mrs. Elizabeth Williams, chairman of the Mecklenburg Central Council of the Daughters of the American Revolution. Her message traces the development of our Nation in a most inspiring manner and was warmly received by the members and guests of the Civitans. I would like to share the remarks of this great American with my colleagues.

WHAT IS AMERICA?

(By Elizabeth Williams, Chairman Mecklenburg Central Council, Daughters of the American Revolution, at the Charlotte Civitan Club Luncheon for Newly Naturalized Citizens, December 17, 1976)

WHAT IS AMERICA?

"I'd rather be in jail in America—than free anywhere else." Bicentennial slogan? No! Words from a man who is in jail in America, the fiery Black Panther revolutionary of the 1960's, Eldridge Cleaver. He has been in and out of detention centers since he was 12 years old, he spent 9 years in California jails, before fleeing this country in 1968. Almost 7 years to the day. he came back, voluntarily. After consorting with Communists in various parts of the world. Knowing the minute he stepped off the plane he would be arrested—he was!

WHAT IS AMERICA?

This America to which he returned. America is like the freedom train.

Endless cars already filled, more always being added, stretching back through the years, and rushing into the tomorrows. So much one could never see it all.

A seeming haphazard jumble of people, places, things.

* * * * *

A Bell with its ancient words. "Proclaim liberty throughout all the land—To all the inhabitants thereof."

* * * * *

SOME THINGS WE WISH DID NOT HAVE TO BE ON THE FREEDOM TRAIN BUT THEY ARE A PART OF AMERICA, TOO

Flip Wilson playing the part of Christopher Columbus. And the Indians telling him "We don't want to be scovered!"

We laugh. Then we remember the trail of tears, and another trail of tears in Alex Haley's "Roots" and another in Vietnam.

* * * * *

There is a lifted "lamp beside the golden door." Werner Michael Blumenthal, 1943, 21 years old. Fleeing Nazi Germany.

Arriving in America with little education or money. 5 years later, a Ph.D. from Princeton. Currently chairman of the Board of the Bendix Corporation and nominee for the post of Secretary of the Treasury of the United States of America!

* * * * *

We are not all Blumenthals. But we share one thing in common—America! From Jamestown and Plymouth to December 17, 1976. "America has offered more opportunity to more people than any other nation on earth!"

* * * * *

PEOPLE

Like those in Kays Gary's stories. That wring and warm the heart in today's Charlotte Observer. Hamida and Dr. Bones. And one some time ago the story of 17 year old Buck paralyzed from his waist down planting his first garden pulling himself along with his powerful arms planting seeds of vegetables in the good earth and seeds of self-respect and hope in his soul.

And saying at the end of his first harvest "I'll do better next time!"

PEOPLE

Caring and sharing. And searching and teaching and working and building. And saying "We'll do better next time!"

PEOPLE

Some forgetting that Freedom Brings Responsibilities. A Creed that says: "I believe in the United States of America, I therefore believe it is my *duty*. . ."

DUTY—AN ALMOST FORGOTTEN WORD SOMETIMES!

A young man reminded us when he said "Ask not what your country can do for you—Ask what you can do for your country."

* * * * *

FREEDOM

A small backwoods village in America—2:00 a.m., May 20, 1775—27 men putting their names on the Mecklenburg Declaration of Independence.

Later that morning the Declaration being read from the steps of the little courthouse at the muddy crossroads to half the county gathered here that day.

* * * * *

They didn't know it hadn't happened. Until some years later those still living were told it hadn't by people who hadn't been here.

They were told that they just made it up—some still say that today. But the date IS on our State Flag!

* * * * *

FREEDOM

Independence Hall, Philadelphia, 1776, Our Founding Fathers—That generation of geniuses.

July 2. A date we sometimes forget. But that is our real birthday. On that day those men dared to declare the 13 colonies free & independent from British rule.

July 4. A date we all remember. The Declaration of Independence. And a tall, brilliant, young redhead, Thomas Jefferson who set down on paper.

Not one original idea of freedom & democracy but ideas gleaned from all the centuries past!

The familiar words. "We hold these Truths to be self-evident that all Men are created equal that they are endowed by their Creator with certain unalienable rights that among these are life, liberty, and the pursuit of happiness that to secure these rights governments are instituted among men."

* * * * *

Independence Hall, September 17, 1787. Men signing a most remarkable document, The Constitution of the United States.

Later the addition of the first 10 amendments that we call the Bill of Rights which sets out specific rights implied in the Constitution.

The slogan on our car tags, First in Freedom, one of those "Firsts." Reminds us of that Bill of Rights. North Carolina refused to ratify the Constitution until there was that addition!

One of those rights is that to worship as we choose. The Right of a Jewish boy to say the sacred words of the Torah. "Hear, O Israel, The Lord our God, the Lord is One. Thou shalt love the Lord thy God With all thy heart, with all thy soul, and with all thy might.

Of a Catholic girl to pray "Hail Mary, full of grace, the Lord is with thee."

Of a Protestant boy to sing "A mighty fortress is our God, a bulwark never failing."

Or the right to be a "Moonie" if one so chooses!

* * * * *

FREEDOM OF THE PRESS

Our right to know—The Good & the Bad even if what we know sickens us at times. Violence, crime, immorality, corruption from the top down!

In this Our Bicentennial Year. An unelected President & Vice President and the circumstances.

All the other freedoms we have.

Our Founding Fathers. One towering over all the rest that great man.

George Washington. "The Father of Our Country." "First in War, First in Peace, First in the Hearts of his Countrymen."

* * * * *

FREEDOM DEARLY BOUGHT

There is an eagle his head turned toward the olive branch in one talon. But in the other arrows.

Lexington & Concord. And the Battle of the Bees at McIntyre's Farm. Blood on the snow at Valley Forge. Blood from the bare feet of half-starved men who couldn't see Yorktown. They could only hope!

Cries of the wounded and dying at Gettysburg. Flanders Fields where poppies blow between the crosses row on row and Pearl Harbor.

And February 1943 in the waters of the North Atlantic. A torpedoed troop transport sinking. 4 chaplains, a priest, a rabbi, 2 ministers when last seen their arms locked each uttering his own prayer. They had given their lifejackets to soldiers who had left theirs below.

* * * * *

Even in the midst of horrors of war. A glimpse of glory! And Hiroshima and Nagasaki. And D-Day, V-E Day, and V-J Day.

PEOPLE

From "sea to shining sea" and 2 states beyond. Singing the Star-Spangled Banner for it yet waves "o'er the land of the free and the home of the brave." And on the Moon!

WHAT IS AMERICA?

A Nation with a great task set in a world where freedom and democracy are threatened from all sides within and without.

Solzhenitsyn and others are warning us. Are we listening?????

Eldridge Cleaver. That once bitter young man now says to America. From his jail-cell in America. "Together we must build on the good in America. Positively and carefully and change the bad to save our souls and all humanity."

There was a man with his heart aching for his country who spoke words as relevant for today as that day over a hundred years ago at Gettysburg.

Abraham Lincoln said "Fourscore and seven years ago, our forefathers brought forth on this continent a new nation conceived in liberty and dedicated to the proposition that all men are created equal. Now we are engaged in a great civil war testing whether that nation or any other nation so conceived and so dedicated can long endure. It is for us the living to be dedicated to the great task before us. That we here highly resolve that this nation under God shall have a new birth of freedom and that Government of the people, by the people, for the people shall not perish from the earth.

GOVERNMENT'S NEED FOR BUSINESSLIKE BOOKKEEPING

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. CRANE. Mr. Speaker, one reason for many of the financial difficulties faced by government at all levels is that those who are empowered by law to make important decisions are often forced to do so on the basis of limited information. If Members of Congress, for example, do no understand the Nation's real financial situation—its assets and its liabilities—it is impossible to develop a financial policy which is responsible.

In New York City, we have seen the result of the political account keeping which serves the purposes of politicians in power, rather than of the public. Instead of publishing a consolidated financial statement showing liabilities accumulated as well as cash spent, New York City's financial statements for many years accrued most revenues, but not expenditures. Thus, while reimbursement from the State and Federal Government were recognized as receivables and the entire tax levy was shown on the books as an asset, the liabilities incurred were not accounted for. As a result, the 7.16-percent tax delinquency rate for 1975 which meant $207 million less in taxes than was levied, was not accounted for.

Similarly, the Federal Government does not operate with what every business uses: A consolidated balance sheet spanning the whole Government and using accrual accounting, rather than "cash accounting." What Government statement of assets and liabilities, for example, ever mentions the billions of dollars owed to social security enrollees—for which there is no cash on hand to pay?

Recently, Secretary of the Treasury William Simon has proceeded administratively with implementation of consolidated financial statements utilizing accrual accounting. But, as things stand now, this is only temporary. To make it permanent, I introduced in the 94th Congress, with the support of 120 cosponsors, legislation which would make such a system of accounting required by law. Today, I am reintroducing the bill and I certainly hope that it will be passed by the new Congress.

The kind of annual balance sheet called for by such an accounting system would give policymakers as well as the general public, an aggregate picture of future liabilities so that these liabilities may be compared with the physical and financial assets available. Only in this way can reasonable decisions about tax policy be made. Yet, as things now stand, what one Secretary of the Treasury can implement, another can reject. Thus, it is essential that statements of the type I have recommended be published each year.

Consider these simple figures: According to a prototype consolidated financial statement recently released by the Treasury Department, the budget deficit for fiscal year 1977 was really $152.1 billion not the $45.1 billion indicated by the "official" budget figures. Likewise, this prototype statement indicates that the total debt of the United States was $965.7 billion as opposed to the $544.1 billion so frequently quoted. And that was 2 years ago; with the "official" national debt figure up to $653.5 billion as of January 1, 1977, the real figure is undoubtedly over $1 trillion.

Many arguments have been presented by opponents of accrual accounting for the Federal Government as a whole. The real reason for such opposition, however, appears to lie in the fact that those in favor of huge Government spending programs do not want the taxpayers to understand the real financial state of the Nation. If they did, they would be unlikely to support expansion of those programs so readily; in fact they might even want to cut them back.

If the American people wish to have a national debt more than a trillion dollars, let them do so with prior knowledge. To provide them with such a debt while telling them that the figure is really far lower is dishonest and defeats the entire notion of representative government.

Some opponents of accrual accounting, in order to justify their own juggling of figures, now wish to tell us that the obligations of the Federal Government which constitute our real debt are not obligations at all. John Jordan of the Office of Management and Budget, for example, says that social security is "only a moral obligation and in GAAP you record the legal and don't record the moral."

How many of our senior citizens believe that the social security obligation to them is only "moral," and that the dollars which have been taken from their paychecks each month, without their consent, is not something to which they have a vested right? It shows the weakness of the argument put forth by opponents of accrual accounting that the only way in which they can deny the real figures about the national debt is to have the Government reject its own obligations. Such a posture is hardly fitting for a responsible and free society.

It is my belief that if the American people carefully consider the dishonesty inherent in the present Government accounting system they will agree that an annual consolidated financial statement done on an accrual accounting basis is a national requirement for responsible financial policy.

In this connection, I wish to share

with my colleagues an article, "Simon's Plan for Businesslike Bookkeeping" as it appeared in Business Week of November 22, 1976, and insert it into the RECORD at this time:

SIMON'S PLAN FOR BUSINESSLIKE BOOKKEEPING

Treasury Secretary William E. Simon may be a lame duck, but he still is all set to propose a sweeping change in the way that the U.S. government keeps its books. Next week he will unveil prototypes of new financial statements that employ the more familiar, conservative accounting of the business world. The key, and controversial, element: a consolidated balance sheet spanning the whole U.S. government that uses accrual accounting rather than the government's traditional cash accounting.

The proposal already has become something of a hot potato with Democrats, and Democrats will be running Washington after Jan. 20. That is in no small part because such an overall balance sheet will reveal billions in additional government liabilities unrecorded in present reports.

"You can't deal with this without making somebody mad," says Phillip S. Hughes, budget specialist at the General Accounting Office (GAO). "It's political."

To businessmen and accountants, what Simon wants seems eminently sound and apolitical. Indeed, the Secretary is following up on a similar effort that Arthur Andersen & Co., one of the nation's largest CPA firms, published a year ago (BW—Sept. 29, 1975). Such a yearend balance sheet would give the federal government an aggregate picture of future liabilities and it must meet and compare those liabilities with the physical and financial assets that it had in hand.

A HIGHER DEFICIT

Under the present system, the extent of huge liabilities such as Social Security and government pensions is never seen. Only actual payments are reflected. Under the new scheme, the fiscal 1975 financial statements are expected to show an annual federal deficit about $100 billion higher than the $43.6 billion of the present standard unified budget.

On the asset side, the new balance sheet will present the government's cash balances, its stock of gold at the official rate of $42.22 an oz., and receivables such as taxes and loans. Inventories consist of military supplies and stockpiled materials and commodities. By far the largest asset is property and equipment—government land, buildings, military hardware, and the like. These items will be shown in the initial prototype at their historical cost, accompanied by a depreciation calculation. But one of the Treasury task forces is eying other asset measures, such as current value and replacement cost.

In addition to the present value of the government's obligation for federal retirement programs, the liability side also includes federal debt that is outstanding (Treasury securities and savings bonds), as well as Federal Reserve notes and the deposits of member banks. As in corporate balance sheets, there is a factor akin to stockholders' equity that makes the two sides balance. In the government's case, that item is the accumulated deficit—calculated to be somewhat more than $800 billion.

Simon insists that his plan "does not have anything to do with politics." Rather, he says, it simply provides a warning that the federal taxing power of the future might be burdened by too many future commitments.

CONSERVATIVE ADVOCATES

All the same, an outcry has gone up against the accrual consolidated balance sheet. It has not helped the Treasury's cause that the advisory committee it set up to delve into reporting procedures is heavily weighted on the side of conservative accounting professionals (11 accountants out of 16 members), or that the chief advocate of the consolidated statement on Capitol Hill is arch-conservative Representative Philip M. Crane (R-Ill.). Crane insists that opposition to the notion is due to "fear on the part of some politicos that if the people really know how much their government owed, some of their pet programs would get cut."

Although it is too early to tell how the new Administration itself will react, the odds are that Carter budgeteers will find it hard to dismiss Simon's plan lightly. But the most telling measure of how much opposition the accrual balance sheet faces is the negative attitude of Charles L. Schultze, a recent Democratic Budget Bureau director, who now is mentioned as a possible Carter Cabinet member. Schultze was named to the Treasury's advisory committee but has virtually dropped out of the task force. He bitterly complains that "the whole thing is really absolute nonsense."

What is more, the Democrat-controlled Congressional Budget Office sees little merit in it. If the new notion is to survive in Washington, some feel that the accounting assumptions will have to be made somewhat less conservative.

NO 'DEATH WISH'

Assistant Treasury Secretary David Mosso, the man picked by Simon to shepherd the consolidated statement plan, has few illusions. Says he: "Schultze doesn't agree on including Social Security liabilities. I'm going to listen to what everybody has to say. We don't have any death wish." The most important thing, Mosso thinks, is to preserve the basic concept.

In fact, in Jimmy Carter's Washington, the need for a close watch over government accounts is perhaps greater than at any time in the past. The next four years may see some federalizing of both welfare and national health insurance in addition to urgent work next year to revamp Social Security financing. On all these fronts, it would be hard to argue against any accounting measures that promise better monitoring of future federal obligations.

Says a Democratic congressional aide: "I think this is an issue that will stick around. It might not if we didn't have a big deficit in Social Security." Mosso's timetable calls for developing a final version of the accrual consolidated statement in time to lay out the fiscal 1977 figures early in 1978.

THE THORNIEST PROBLEM

By far the thorniest problem is what to do with federally backed retirement programs. When Andersen's calculations last year showed the annual federal deficit to be $95 billion higher than the government's published figure, $20 billion of that came from government pension plans and $75 billion from the Social Security program.

Some Democratic economists regard this as rank distortion of the true fiscal picture, since it does not reflect the impact of any actual government deficit stimulus upon the economy. And some accountants say that the plan, technically, is not in conformity with generally accepted accounting principles (GAAP). They ask how Social Security, legally a fund separate from direct U.S. obligations, can be counted as a federal liability.

Mosso and other Treasury officials insist it is unrealistic to account otherwise for such outlays. One accountant who disagrees is John Lordan, of the Office of Management & Budget. He thinks that Social Security is "only a moral obligation and in GAAP you record the legal and don't record the moral."

ACCOUNTING FOR TAXES

One of the reasons some economists oppose the whole consolidated balance sheet exercise is that there is no recognition of the asset side of the future taxing power of the government—Washington's most lucrative asset by far. But some accountants argue that projecting future tax revenues to match future liabilities would be as wrong as a corporation putting an estimate of future sales on the asset side of the balance sheet.

Government taxing power is, of course, a lot more certain than corporate sales. And hostile critics argue that this is only one of the ways in which the analogy between government and business breaks down to the point where the idea of transferring business accounting practice to government is not helpful.

OMB's Lordan wants to see the balance sheet concept implemented, but he also believes that the general public, which Simon wants to see exposed extensively to the new information, should be told that the government is different.

Unlike a business, he reasons, the government does not exist to make a profit but to render services. Nor would it be useful, he argues, to fund the huge future obligations of the retirement funds, which would immobilize far more money than the gross national product could handle.

Mosso acknowledges that "there's a lot of debate about the right way to do it." But, he adds, "It bothers me that some critics don't think you should do it because it's hard."

IN SUPPORT OF RESEARCH FOR THE PROBLEMS OF INFERTILITY

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. KOCH. Mr. Speaker, while we do so much for contraception in this country, we do relatively nothing for the problems of infertility. It is estimated that one out of every seven couples—7 million people—are unable to have children. In addition, there are over 2½ million couples whose female partner has difficulty conceiving or carrying a child to term. Many of these married couples would like to have children but cannot.

At the present time, it is our understanding that existing family planning services structure their research programs to deal with the improvement of contraception. Very little is aimed at the problems of infertility. Today, Dr. TIM LEE CARTER, ranking Republican of the House Interstate and Foreign Commerce Subcommittee on Health and the Environment, and I are introducing important legislation which would establish programs to promote research in fertility, sterility, and the reproductive process.

In 1975, the birth rate in the United States fell for the fourth consecutive year, from 2.03 children per family in 1972 to 1.13 children per family in 1975. This 1975 figure is considerably lowei than the population "replacement level" of 2.1. Today, couples are marrying later and having fewer children than they did 10 or even 5 years ago, and the fertility rate for women of childbearing age has decreased simultaneously with the declining birth rate since the beginning of the decade. This evidence indicates that we are obviously doing well in curbing an earlier trend toward overpopulation. We can do just as well in helping infertile couples have the child they want so badly, yet the National Institutes of

Health reports that investigator interest in infertility research "has been at a low ebb for several years." Only 50 percent of the women who receive fertility treatment achieve successful results. Positive incentives are needed to encourage research in this area.

Mr. Speaker, we are putting millions of dollars into limiting the size of families and I support that. But for the 12 million people who would like to have a child and are unable to, little aid is available. We want to help them and such research programs as are called for in this legislation would provide the needed assistance.

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. McKINNEY. Mr. Speaker, no better beginning toward addressing the pressing financial problems of our Nation's cities could be made than the action taken today by our distinguished colleague from Kentucky, Rep. ROMANO L. MAZZOLI, in reintroducing a bill to place the pension systems of the District of Columbia's police, firemen, teachers, and judges on an actuarially sound basis. The District of Columbia Retirement Reform Act, which I am pleased to cosponsor, was reported by the House District Committee last year too late for House action. Hopefully, this early introduction will facilitate more prompt action by the House and Senate this year.

Congress has a special responsibility to act on this matter. Congress established the District's pension systems and granted retirement benefits prior to home rule. Unfortunately, it failed at that time to take responsibility for funding these benefits. As a result the District has a total unfunded liability for these pensions totaling $1.8 billion. This translates into payouts from the District's general revenues equaling 43 percent of payroll costs this year and estimated to reach 110 percent of payroll costs in the year 2020.

The seriousness of this situation prompted the Arthur Andersen firm in its report to the Senate District Committee on District finances to state—

> Failure to resolve this problem . . . could possibly result in a recorded (pension) liability . . . so large that the District's financial stability would be questioned.

Further, the Advisory Commission on Intergovernmental Relations has indicated one of the warning signals of municipal financial instability is the continued existence of large underfunded liabilities for municipal employee pensions. There appears a clear Federal interest in assuring the District heeds these warnings.

The D.C. Retirement Reform Act establishes a level percentage funding for the unfunded liabilities. The District's share will be its pay-as-you-go amount and the Federal Government will make up the difference between this amount and the total necessary to fund the system. Under this plan the Federal Government would pay approximately 20 percent of the unfunded liability and the District government 80 percent.

The bill also includes benefit changes whose purpose is to reduce the costs of the system to the District and Federal Government. It is particularly important for those benefiting from the funding of the system, the former and current employees, to realize that compromises will be necessary in order to assure the Federal Government's participation in protecting the soundness of their pensions. Continued underfunding of these systems will be most disastrous to present and future retirees.

I think it is important to note that the efforts to get these systems fully funded were pioneered by our former colleague, Representative Thomas Rees of California. In the past these efforts were stymied by the failure of the Office of Management and Budget to accept the Federal responsibility in assuring the soundness of these pension systems. Both the new administration and congressional leadership have pledged their efforts to aid the cities. This bill provides a good vehicle for fulfilling that pledge.

TANKER INSPECTIONS IN PORT AREAS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. ANDERSON of California. Mr. Speaker, I would like to take this opportunity to commend the U.S. Coast Guard on a decision reached yesterday to tighten inspection of all tankers entering American ports. Apparently, this new regulation is at least partly due to the December 17 explosion of the *Sansinena*, a Liberian registered tanker, in San Pedro.

Under the new regulations, the integrity of cargo venting and handling systems and related safety equipment must be insured before cargo transfer. Deterioration of a cargo vent pipe apparently was a contributing factor in the *Sansinena* explosion.

I feel that this decision will go a long way toward preventing future tanker explosions in U.S. ports, especially since it covers foreign-flag vessels which are often suspected of lax safety standards. Equally important is the fact that the public will be reassured of the safety of vessels carrying petroleum products into populated areas.

As important as the new Coast Guard rules are, however, they do not end the need for further action in the field of tanker safety. Many other aspects of tanker operation remain to be investigated—phasing out older ships, requiring additional safety features such as segregated ballast, gas inerting systems, double hulls and screws on foreign as well as U.S. vessels—before we can say that every precaution against environmental and safety hazards has been met.

In the future, tanker traffic will increase—especially with the opening of the Alaskan pipeline trade. The major carrier for southern California's end of the route has pledged itself to using the most modern, safe tankers possible. I feel it is only fair to the American public that the same standards be used on all oil carriers entering U.S. ports.

SISTER ANN DOMINIC TO RECEIVE HUMANITARIAN AWARD

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. RINALDO. Mr. Speaker, I wish to bring to the attention of my colleagues the remarkable achievements of an individual who has labored for many years in the service of God and man without seeking any personal glory or financial rewards.

Her life has been dedicated to the Christian virtues of faith, hope, and charity; the work ethic; and her love of America and all its people—young and old; rich and poor; healthy and sick.

She is Sister Ann Dominic Vano of St. Michael's Parish in Union, N.J.

Many of us have heard a great deal in the last few years about moral order and spiritual leadership. Sister Ann Dominic has been too busy exhibiting both these qualities to pay attention to the cynics who think they are gone.

We also have been informed by educators that the involvement of teachers with their students and parents can improve the education of those students.

Sister Ann Dominic has known that all along. Ever since she graduated from Caldwell College in New Jersey, she has been personally linked in spirit, intellect, and enthusiasm with her students. She has reached out to the homes of students and brought parents, teachers, students, and the school together in a partnership of learning.

But Sister Ann Dominic's approach to education is not new, and she would be the first to admit it. It is the same kind of education that gave America leaders like Thomas Jefferson, Benjamin Franklin, John Adams, and the other great men and women of the early Republic. They all had a strong attachment to spiritual and moral values in their education and upbringing. The mind and the spirit could not be separated from one another.

Many parents whose children attended St. Michael's value her gifts. They deeply appreciate her love for their children and the devotion to higher moral principles which she has passed on to new generations of Americans. Her teaching career, by itself, would have been enough to fulfill the potential of any individual.

But she has done much more. Sister Ann Dominic reached out beyond the walls of the classroom and the church. She cooked the meals in the motherhouse where she served as dietician for 25 years. It was humble and pious work that would physically exhaust anyone

engaged in the full-time job of teaching children during the day. But she did it without complaining. She did it with joy.

Some of my colleagues, Mr. Speaker, may have seen some years ago a widely published photograph of a nun swinging a bat at a softball. That picture conveyed the new spirit among Catholic nuns of participating in the everyday world of sports, recreation, and education.

That picture could be duplicated at many parochial school playgrounds in America. And certainly at St. Michael's. I really do not know how well she can pitch a softball or what her batting average is, but Sister Ann Dominic has been an excellent coach of the girl's softball team and has been outstanding as a director of the Girl's Club of Union.

But her efforts have not only been devoted to helping young, healthy people grow up into strong, mature adults. Sister Ann Dominic has led marches against hunger; she worked to raise funds for the March of Dimes, and for the heart and cancer crusades; Sister Ann Dominic feeds, comforts, and consoles the retired who are forgotten by society, and she has often taken retired people from Union on pleasure trips and to places of interest. She has worked with handicapped children. and has been a leader in organizing the youth of St. Michael's parish in productive enterprises. In short, her religious mission has taken her wherever people are in need of help.

This remarkable teacher and disciple of Christ will be honored by the Phil Portnoy Association and presented with its Humanitarian Award. I know of no person more deserving of this honor.

Sister Ann Dominic is a great American. She embodies all the virtues—charity, hard work, trust, and love of one's fellow man—that are rooted in the American experience. She encourages us all to strive for a better life; a life of love, harmony, and the pursuit of happiness.

Mr. Speaker, I express my personal pride and respect for this great person. Her life of service to God and man should inspire us all to do better and to live in harmony with one another.

ARABS MAKE EVEN-HANDEDNESS DIFFICULT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. ASHBROOK. Mr. Speaker, the recent handling of the suspected Arab terrorist Abu Daoud has raised many issues. One of those deals with the whole problem of peace in the Middle East. The view of a balanced approach to the problems in that part of the world—an even-handedness to both sides—has an appeal but the recent events surrounding Abu Daoud show its weaknesses.

Some of the Arab countries say that they want to be friends with our Nation and desire a fair peace in the Middle East. But then these countries protest the arrest of the man who is charged with masterminding the terrorist attack at the 1972 Munich Olympic games that left 11 Israeli athletes dead.

No more excusable is the French release of the suspected terrorist Abu Daoud. French officials have attempted to put up a smokescreen of technicalities to excuse his release while condemning in words international terrorism. Their actions in releasing Daoud do little to fight such terrorism. Terrorism will never be halted if leaders of such countries as France are unwilling to stand their ground against its practice and practitioners.

A CONSERVATIVE'S ASSESSMENT OF THE STATE OF THE UNION

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. SYMMS. Mr. Speaker, on Friday, December 10, 1976, I had the pleasure of attending a national meeting of the Conservative Caucus in Chicago. The featured speaker of the evening was the Honorable Meldrim Thomson, Jr., Governor of New Hampshire. The speech is reprinted in the January 28, 1977, issue of Human Events. I commend Governor Thomson's address to my colleagues in the Congress:

A CONSERVATIVE'S ASSESSMENT OF THE STATE OF THE UNION

(By Meldrim Thomson, Jr.)

Anyone who dares to assess the state of the Union in America in these waning days of our bicentennial year must look to several basic signs to achieve a reasonable evaluation.

How fares America 200 years after Lexington, Concord and the issuance of the Declaration of Independence?

What is the state of our economy, our energy problem, the posture of our national security, and, perhaps most of all, the condition of our God-given freedom?

There is but one answer. We are perilously close to national disaster.

Our sunshine rhetoricians march busily up and down the hills and vales of our countryside proclaiming the greatness of America to a hundred thousand service clubs, associations and corporate gatherings.

But only a fool can be optimistic about the future of this great land of the free.

Consider the economy of America.

George Washington in his Farewell Address urged his fellow countrymen and their posterity to cherish public credit.

He said:

"As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering also that timely disbursements to prepare for danger frequently prevent much greater disbursements to repel it, avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by rigorous execution in time of peace to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear.

"The execution of these maxims belongs to your representatives, but it is necessary that public opinion should cooperate."

How well have we followed Washington's great admonition on fiscal responsibility?

For 1789, the first year of our Republic's existence, we appropriated for a tiny debt-ridden nation of four million people $639,000.

This meant that our founding fathers paid 16 cents per capita in federal taxes the first year of our nation's history.

If we total all of our national appropriations from 1789 to 1929—a span of 140 years—we spent a total of $100 billion.

By 1962, just 33 years later, we appropriated our first annual budget of $100 billion. Nine years later, under a Republican President, the annual budget rose to $200 billion. And four years later, still under a Republican President, the budget crashed the $300-billion mark.

Now two years later, the national budget for the current fiscal year will exceed $400 billion.

If President Carter keeps his platform and campaign promises, we will surely face a $600-billion budget two years from now.

And, if the budget continues to accelerate at anything like its present rate, we could face a national budget in 1980 of $1 trillion. If this be our prospect, only God and Milton Friedman might guess what our national debt would then be!

Remember, we began with an annual federal expenditure of 16 cents per capita. That has now reached almost $2,000 per capital. In four more years, if our rate of federal spending continues at its present pace of increase, Uncle Sam would be taking more than $4,000 a year for each man, woman and child in America.

Look how we have cherished the public credit!

Our national debt stands at $600 billion—and growing.

The annual interest on the federal debt is $47 billion—a sum equal to the entire national budget the first year of the Korean War.

It has been almost a half-century since we last tried by vigorous execution to discharge our debts.

Instead of trying to discharge our public debt or even balancing the national budget, and thus opening the door of fiscal responsibility on the vistas of opportunity for our youth and preserving the integrity of the life savings of our elderly, we hear our new leaders talking about tax cuts to stimulate the national economy.

Such cuts can only feed anew the fire of inflation and postpone again that inevitable day of reckoning that must be met if we are to preserve our solvency.

A federal tax cut would only set up the old political shell game.

While you gratefully watch the return of a few tax dollars to you, Uncle Sam will continue to pick your pockets for increased Social Security taxes, and a myriad of other taxes.

Consider the Social Security system that now takes from the wage earner a maximum annual tax of $875 which is scheduled to go to $1,306 by 1980.

And remember that the wage earner's tax must be matched by an equal contribution from the employer that is eventually passed back to the consumer.

Nothing America has ever done has so jeopardized her future as the adoption of the Social Security program of 1937.

Conceived in good faith, developed in high hopes as a financially sound insurance program, it has now deteriorated to the greatest fiscal scandal of our entire history.

The program is now more than $2 trillion in debt on an actuarial basis, has reserves enough to make payments for less than a week, and will exact an increasingly heavy toll of taxes from today's young people for the rest of their lives.

We are now told that in the current budget we will have to draw an extra 7 billion from general revenues because the Social Security tax is inadequate to support the system.

Just to put the system back on a sound basis would require holding benefits to their present level for the next 40 years while increasing the tax by 20 per cent.

What a terrible heritage to pass on to our children. How wide of that mark of prudent spending suggested by Washington have we fallen!

Never forget the din of the political tin cup pounders who are now descending on Washington for relief for their cities and states.

Isn't it strange that it has never occurred to them to tighten the belts on their wide spending girths? If their refractious cries are answered by the Congress and President, we will see a new and more vicious spiral of double-digit inflation.

What is the state of our energy problem?

Precarious, and rapidly growing worse.

Next week the OPEC countries meet to decide on an increase in the cost of crude petroleum.

The increase could be anywhere from 10 to 25 per cent. This will mean much higher costs for heating oil, industrial oils, gasoline and electricity.

Today we are far more dependent upon the importations of foreign petroleum than we were when the Arabs shut off their values in the fall of 1973. Now we buy 40 per cent of our crude petroleum on the foreign market at a cost of $30 billion a year.

The grim tragedy of our growing energy crisis is that neither our Congress nor our people have heeded the warnings of Nixon and Ford that we needed to become energy independent by 1985.

One important suggestion made by President Ford in January 1975 was that we build 200 nuclear plants by the year 1985. To date, we have 61 such plants. At our present rate of production, with all of the bureaucratic delays and environmental harassments it takes 10 years to build a 2,000 megawatt nuclear plant—if one can be built at all.

Yet in countries like France and the Republic of China, similar plants are being built in half that time.

On our outer continental shelves it is estimated that there is enough gas and oil to guarantee our energy independence to the year 2000, perhaps even longer.

If we could only tap these great reservoirs of fossil fuels in the near future, they could provide us with the vital time needed to build our nuclear plants, develop the liquification and gasification of coal, and unlock the energy stored in our vast deposits of shale.

But, instead of working like beavers to restore the pond of prosperity that was once ours by creating a crash program just like the Moon project, we have fallen back on something worse than a ho-hum attitude. Many of our political leaders are actually throwing every conceivable obstacle in the path of energy sufficiency.

We must somehow arouse our fellow citizens to the great dangers that threaten their freedom because of our energy shortages.

I believe in the free enterprise system that made America great. In or out of public office, I will fight to maintain that system. I believe deeply with Thomas Jefferson that that government is best which governs least.

I would urge all participants in the free enterprise system to arouse themselves to the importance of educating their fellow citizens to the dangers skulking in the corridors of the Nation's Capitol. Business must fight as vigorously and successfully for its cause as has organized labor.

More is at stake than just our pocketbooks. Before the energy crisis has been resolved, we could lose our very freedoms.

Today I hear the voices of conservatives mildly conceding that we will have to wait until 1980 before we can begin to have any political impact on the nation in the only way that counts—by the exercise of power through elective office.

What makes us believe that we have that much time?

On Navy Day, a few weeks ago, I heard the secretary of the Navy, Bill Middendorf, tell an audience that the United States Navy would be able to carry out her missions in the oceans of the world for only three more years!

Great Britain, in our time known as the mistress of the seas, has become a weak second-rate power. She would be no match at all against the might of the Soviet fleet.

Today the British Navy has about half the ships and personnel that it had 25 years ago.

The effects of socialism against which Winston Churchill inveighed in 1945 have taken their toll on a nation that not long ago boasted that the sun never set on the British flag.

Our American Navy is presently headed for the same second-rate position that Britain fell heir to several decades ago.

The secretary of the Navy said not long ago that since 1968, we have cut our fleet size in half. We now have 475 ships. This is the smallest fleet that we have had since two years before Pearl Harbor.

Mr Norman Polmar, the editor of the U.S. section of *Jane's Fighting Ships*, writes that "the U.S. Navy is in a period of decline, while the Soviet Navy is increasing in several categories. The Soviet Navy today is a 'super navy' in every sense of the term: quantity, quality of forces, and operations."

We are told that the Soviet Union now leads the world in seaborne missile armament, both strategic and tactical, both ship and submarine launch. Their shore-based air force is second to none. They have large mine-warfare forces and a considerable amphibious capability.

The Soviet submarine force, already the world's largest—and probably the most powerful as well—continues to grow in quality and numbers.

Today the Soviet Union outspends, outbuilds and outmans America in vast complex of military preparations.

What kind of political nonsense is it that we constantly hear from Washington about our military strength being second to none when our own military experts, in and out of office, cry out urgently against our many and growing deficiencies?

Will the campaign rhetoric of candidate Jimmy Carter, who once urged that our military budget be cut by $15 billion, prevail on President Carter?

If it does, we may be sure that the onward sweep of world communism will move even closer to its goal of world domination.

Republicans wrote bravely in their Kansas City platform about preserving the national integrity of the Republic of China and retaining "in perpetuity" the Panama Canal.

But what becomes of these deep concerns if our future international negotiations must be carried out from a position of national weakness?

International agreements and treaties are valid only to the extent that a signatory has the ability to enforce them.

What false sense of security lulls us while, before our very eyes, the evil tentacles of communism tighten their hold on the nations around us?

And whatever happened to the Monroe Doctrine that allowed Fidel Castro to build a Communist fortress 90 miles off the shores of Florida—a fortress in all probability armed with nuclear might and so strong that it can now send expeditionary forces throughout the world to snuff out, one by one, the lights of small democratice nations?

We talk here today as conservatives, as Republicans and Democrats.

We should be talking as Americans, moving relentlessly forward with the same sense of urgency that motivated John Adams, George Washington and Thomas Jefferson.

In this December hour the shadows of our Bicentennial celebration fall round us.

As we view the precarious condition of our nation domestically and externally, we might well wonder shall we soon be heirs to that portion of destiny that teaches that, since the beginning of recorded history, civilizations have had an average life of 200 years?

If we are going to continue to talk about strengthening the conservative opportunities in both major parties, primarily because we are too lazy to strike a bold course, then surely we shall have nothing better to choose between than the tweedle-dee and tweedledum politicos of both parties.

In the meantime, the drift toward socialism that liberals have set us upon will quicken, fiscal irresponsibility will become our accepted way of life, as the lights of freedom twinkle out one by one across the land.

Surely, the warning that Churchill gave to Clement Attlee in 1945 holds a lesson for us at this vital hour of our his tory.

Speaking of the free enterprise system, Churchill said:

"Personal initiative, competitive selection, the profit motive, corrected by failure in the infinite processes of good housekeeping and personal ingenuity—these constitute the life of a free society.

"Set the people free, get out of the way and let them make the most of themselves. I'm sure that this policy of equalizing misery and organizing scarcity and still allowing diligence, self-interest and ingenuity to produce abundance has only to be prolonged to kill this British island stone dead."

I am not prepared to let the liberals of both parties kill America stone dead—not without bearing the same burden of sacrifice and making the same bitter fight that those great founding fathers of ours made that we might be free.

And how shall we do it?

In New Hampshire, we are waging just that kind of fight each day of our administration.

I know all the pangs and heartaches of political battle. Three times I raised the gubernatorial battle in my state—twice as a Republican and once as an American party candidate and three times I was dropped the election canvas.

Three times since, I have run as a Republican and won—each time with greater margins of victory. Last November I won by 58 per cent of the vote, drawing heavy support from Democrats, young people, businessmen and working people, ethnic groups and the elderly.

I ran on a platform of fighting taxes, developing jobs in the free enterprise sector, fighting the federal intrusions upon our state sovereignty, practicing economy in state expenditures, and aggressively working for offshore drilling and the construction of a nuclear plant.

Today in New Hampshire we have the lowest per capita state tax in the nation, and we completed the fiscal year with a surplus!

We are the only state in the Union with neither a sales nor income tax.

We now have the lowest unemployment in the nation with a 2.8 rating while the average for the nation stands at 8.1.

Because of our favorable tax climate, new business are moving in a steady stream to our state.

We are now the fastest-growing state east of the Mississippi except for Florida. We are the only state in New England with a Triple A bond rating and with a surplus in our employment security fund.

Today, conservatives control the Republican party in New Hampshire.

What we have done in New Hampshire you can do in your own states. The study and

training you receive in the Conservative Caucus meetings can help you become a founding father activist, fighting effectively for the preservation of your liberties.

But more than study and discussion groups are needed. We cannot wait until 1980. Americans must rethink, rebuild and rearm to preserve the peace. Those most apt to make the sacrifice and the effort are conservatives.

If they cannot do it with the present party structures, then they must be willing to form the essential machinery of victory outside of that structure.

The activist role must be assumed now!

In 1977, conservatives in New Jersey, Virginia and Kentucky, where statewide elections will be held, must be ready to offer a conservative alternative to the old pattern of me-tooism.

At stake is all that we hold dear—our precious freedom.

Finally, let me bid you be mindful of those chilling words of warning of Churchill.

"Still, if you will not fight for the right when you can easily win without bloodshed, if you will not fight when your victory will be sure and not too costly, you may come to the moment when you will have to fight with all the odds against you and only a precarious chance for survival. There may be a worse case. You may have to fight when there is no chance of victory, because it is better to perish than to live as slaves."

Friends, let us live to make men free!

UNIONIZATION OF THE ARMED FORCES

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. MARTIN. Mr. Speaker, one of the issues which the 95th Congress will face is whether proposals to allow union organization of the Armed Forces should continue unchecked. Legislation to prohibit unionization of the military has been introduced by the gentleman from California, Mr. ROUSSELOT; the gentleman from South Carolina, Mr. SPENCE; and the gentleman from Virginia, Mr. ROBINSON.

As we begin our third century as a nation, the decisions by Congress on this issue will be crucial to the next generation, who will have to live with any mistakes we make.

Today, many of our young people are already devoting their best thinking to the critical choices facing the United States. A case-in-point is a letter I received from a young constituent, 16-year-old John M. Shaw, of Charlotte, N.C. The following are his observations on attempts to unionize the military:

NOVEMBER 27, 1976.

REPRESENTATIVE MARTIN: I am 16 years old, and do not have access to the information you do, but I still can see the outcome: if America's armed forces are unionized, it will be the beginning of the end.

All military forces throughout history have been based on a system of command and obedience; ours is no different. If unionization occurs, our servicemen will serve two masters, not one. Think of what this implies. The American Federation of Government Employees says, in this morning's Knight News report, that there will be restrictions on the union's power. How many national organizations, on getting power, do not seek more? This union will be no different. It will lead to more government spending, greater military inefficiency, and increased union power, however, the ultimate result will be that the armed services will become a force unto themselves (look at imperial Rome, A.D. 60–476, for the result).

In short, we can expect the collapse of America within a hundred years if unionization occurs. This decline cannot be permitted. I therefore urge you to support all bills before you prohibiting the unionization of the armed forces.

Thank you.

JOHN M. SHAW.

CHARLOTTE, N.C.

THE QUESTION OF AMNESTY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. STEIGER. Mr. Speaker, President Carter's amnesty proclamation late last week has been the subject of a good deal of discussion, both pro and con, in recent days.

Regardless of one's feelings about the specific aspects of his amnesty program, all of us should be concerned about the military discharge system. As the Milwaukee Journal said in a January 15 editorial:

Overall, the problem of the discharge system, with its sometimes autocratic and capricious methods and apparent lack of justice, still remains. No pardon or unconditional amnesty would solve that problem. Only a good review and reform of the system would provide a cure.

My distinguished colleague, CHARLIE BENNETT, and I have introduced legislation calling for sweeping reforms of the military discharge system. Our measure, H.R. 91, is similar to legislation we proposed in the 94th Congress. My strong hope is that needed discharge reform will be approved in this session.

The Journal editorial raises a number of good points which I feel merit the attention of all Members. The editorial follows:

[From the Milwaukee Journal, Jan. 15, 1977]

THE QUESTION OF AMNESTY

The question of a pardon or amnesty for those who opposed serving in the military or deserted the services during the Vietnam War is not a simple one. This was shown by President Ford's experience with conditional amnesty and by the response to President-elect Carter's promise to pardon draft law violators as a means of healing the wounds of Vietnam.

That something more should be done seems evident in the numbers who participated in Ford's limited amnesty program, which called for compensatory national service as the price of return to normal society. Only 20 percent of those draft violators and deserters considered eligible took the opportunity to use Ford's "earned re-entry" plan. For whatever their reasons, 80 percent of those eligible chose to shun the programs. A new effort should be made to overcome this wariness and suspicion. It seems obvious that the country would not be damaged by a blanket pardon of draft evaders and a pardon on a case-by-case basis of deserters in uniform.

Carter's talk of pardon has also brought demands—such as those by an unconditional amnesty advocate, the Rev. Barry Lynn, in The Wall Street Journal—that something should be done "to erase the stigmas induced by a capricious military justice system which issued over 750,000 other-than-fully-honorable discharges during the Vietnam years." Possibly, something should be done, because the stain of a less-than-honorable discharge is carried throughout life, affecting all kinds of opportunities a person might have. But such steps should be taken with care. A sweeping amnesty, as advocated by Lynn, might be too broad.

The technical problems are large because there are five categories of discharges, four that would fall under Lynn's "other-than-fully-honorable" category. The highest is the honorable discharge or "separation with honor." Next is the general discharge, still "under honorable conditions." Under "other than honorable conditions" are three classes of discharges—undesirable, bad conduct and dishonorable, in ascending order of gravity.

Given this breakdown, the case is not as stark as Lynn and others make it. For one, Lynn exaggerates the size and twists the meaning of the figures. There may be considerably fewer people involved. The Pentagon lists only 463,000 who received less than an honorable discharge during the war era. More than half of those—259,524—were general discharges. As a 1974 Ford Foundation study on the amnesty problem stated: "A veteran with a general discharge is eligible for all veteran assistance programs and there is little compelling evidence that he suffers from severe discrimination in employment."

During the war, discharges under other-than-honorable conditions totaled 203,668, according to the Defense Department. They amounted to only 2.59% of all the discharges granted. Many of these discharges probably were the result of administrative actions—a case of the military shucking what it considered its misfits. Others—fewer in number—resulted from courts-martial and criminal acts. How many of all these discharges stemmed from opposition to the war is not known.

What seems probable is that most of these discharges were not war related. Anyone who has experienced military life knows that the average serviceman who gets into trouble usually is one who has problems adjusting to military life or has a pile of outside, personal troubles to cope with. Army experience with deserters during the Vietnam War would tend to confirm this. Only 14% gave the war as a reason for leaving. Fifty percent fled for personal, family or financial reasons.

Ex-servicemen who believe that they have been wronged do have recourse. Review boards exist for both military records and discharges, though it is acknowledged that records of discharge proceedings may be difficult to find for review purposes. Appeals for changes in discharges can be made up to 15 years after leaving the service. Carter, in any pardon program he initiates, ought to make this option highly visible, making it clear that onerous discharges stemming from opposition to the war would be upgraded.

Overall, the problem of the discharge system, with its sometimes autocratic and capricious methods and apparent lack of justice, still remains. No pardon or unconditional amnesty would solve that problem. Only a good review and reform of the system would provide a cure.

UKRAINIAN INDEPENDENCE

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. RINALDO. Mr. Speaker, last Saturday, January 22, marked the 59th anniversary of the Proclamation of Ukrain-

ian Independence. The day passed, as it has for so many years, with worldwide tribute to the endurance, strength, and vision of the Ukrainian people.

The Ukrainian Republic was officially established in 1918, but the nation was overrun almost immediately by Russian troops, which eventually subdued the much smaller country and brought it under the control of the Communist regime in Moscow. From that day to this, the Ukrainian people have been under political control, but they have never surrendered their heritage or their vitality. And I believe they never will.

Today, the Ukraines are still subjected to the domination of the Kremlin. Yet they continue to fight back: their culture is alive and virbrant, their language still the voice of a strong people, and their faith in the future, when the shackles of Moscow will be thrown off, is undimmed.

I share that faith. And I believe that the United States must make the Soviet Union live up to the Helsinki agreement, which it signed. There can be no compromise on the guarantee of civil liberties around the globe and, most importantly, we must never forget the world's captive peoples. Two hundred years ago, the United States won its fight for independence; but we should not be misled into thinking that the battle is over.

Mr. Speaker, the Ukrainian people have not faltered in their fight for freedom: we should not waver in our support of their struggle. Let us rededicate ourselves—as the Ukraines have every year for the last two-thirds of a century—to securing their freedom.

THE PEOPLE WIN TWO MORE—OSHA LOSES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. HANSEN. Mr. Speaker, OSHA has lost two more cases. Again two more members of the American judicial system have seen fit to strike down the unconstitutional practices of the Occupational Safety and Health Administration.

The first victory came on January 10, when a modern-day patriot named Lofton Smith of Duluth, Ga., represented himself in the U.S. District Court for the Northern District of Georgia.

A copy of my news release of January 18 describes the situation:

NEWS RELEASE, JANUARY 18, 1977

WASHINGTON.—U.S. Rep. George Hansen said today "OSHA has lost another battle in the courts in its attempt to invade the basic rights of the businessman and farmer."

"Already having lost major federal court decisions in Idaho, Texas, Ohio and New Mexico," Hansen said, "the Secretary of Labor has again been bound by the U.S. Constitution against inspections without a warrant by a U.S. District Court in Georgia."

Hansen said this was the case of Centrif-Air Machine Co., of Duluth, Georgia, decided Jan. 10 in the U.S. District Court for Northern Georgia.

Hansen, whose office has served as a clearing house for legal and legislative efforts to stop OSHA, said, "This is another important milestone in our bicentennial era struggle to assure all citizens of the basic rights provided by our founding fathers."

"It's been a long and frustrating fight," Hansen said, "but thankfully the courts are now holding that employers under OSHA are not second class citizens. Even the common criminal has rights against warrantless searches, and," Hansen asked, "should the nation's businessmen and farmers have less?"

Hansen contends that workers can be more effectively protected at less cost without OSHA by other ongoing programs and positive improvements.

Mr. Speaker, the second victory was especially significant and came on January 19, when a Utah contractor triumphed in his efforts to stop the "Gestapo tactics" of OSHA. Utah has set up a State OSHA plan which caused the case to be heard before Utah's third district judge, Bryant H. Croft. Judge Croft issued a shattering decision which ruled that the Utah law, patterned after the Federal law, involves procedures which are a "violation of constitutional rights and a clear denial of due process of law." This action is described in the following article from the Idaho State Journal of January 20:

UTAH CONTRACTOR GETS ANTI-OSHA COURT DECISION

SALT LAKE CITY.—A Bountiful contractor who objected to government agents closing down his shop for a safety inspection has won a ruling from 3rd District Court declaring Utah's Occupational Safety and Health Act unconstitutional.

Judge Bryant H. Croft ruled Wednesday that the Utah law involves procedures which are a "violation of constitutional rights and a clear denial of due process of law."

Harry McCoy, assistant Utah attorney general who defended the state agency, said there would be an appeal to the Utah Supreme Court. McCoy said the law's overthrow would merely mean federal takeover of OSHA functions in Utah.

R. LaMar Baird, owner of South Davis Mill and Cabinet Co., filed the suit in December against the State Industrial Commission, its safety and health division and the state OSHA review commission.

"I'm pleased that the court had what it took to make an honest decision," said Baird in an interview Wednesday. "It shows that the courts maybe are still thinking of the people. But I'm disappointed in the people that they won't stand up and be counted."

Baird, who employs from five to six people, said his plant had to close down during an April 3, 1975 OSHA inspection and later had to pay $500 to make required changes and $50 as a fine for a violation.

He said the lawsuit would likely cost him several thousand dollars but it was filed as a matter of principle.

Baird said he knew of businesses in Utah which had gone out of business or were assessed $1,600 for barring their doors to OSHA inspectors.

He said he did not disagree with OSHA's safety standards but filed the suit to challenge the agency's methods of implementing them. "A lot of things they ask us to do have nothing to do with safety," he said.

Croft said, in his decision, that while one "cannot find fault with state policy assuring every man and woman a safe and healthful place to work," it should not be achieved in a manner which results in the sacrifice of fundamental constitutional rights.

The judge said the law allows OSHA to "enact its own laws, to investigate any suspected violation by search without warrant, to institute its own prosecution for any 'believed' violation, to conduct its own hearings thereon and mete out punishments in the guise of civil assessments . . . with or without hearings."

Baird's complaint contends the OSHA act is unconstitutional because it combines legislative, executive and judicial authority into one agency.

It also violates the equal protection clause of the state constitution and denies due process in the penalties it imposes.

Baird's lawyer in the case is Loren D. Martin, former deputy Davis county attorney who ran unsuccessfully for the Republican attorney general nomination.

YOUTH CAMP SAFETY ACT

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. GIAIMO. Mr. Speaker, as a local newspaper columnist in Connecticut noted recently, should parents and their children in this country be forced to wait "one more year without safe camps?" I think not and therefore, as a remedy to this situation I would like to join in sponsoring the Youth Camp Safety Act. It is my hope that this legislation, which has been receiving more widespread support every session since it first was introduced 10 years ago, will finally become law in this 95th Congress.

This bill seeks to provide Federal standards for safe operation of youth camps, particularly with regard to protecting and safeguarding the health and well-being of youths attending various types of residential and day camps. It gives financial and technical assistance to States to aid their implementing youth camp safety standards, such as providing safe and healthful conditions, facilities, and equipment which are free from recognized hazards which cause, or are likely to cause death, serious illness, or serious physical harm. It would seek to insure adequate and qualified instruction and supervision of youth camp activities at all times, wherever or however such youth camp activities are conducted and with due consideration of conditions existing in nature.

Federal youth camp safety standards would be provided in States which do not implement their own standards and in federally sponsored camps. To accomplish these ends, the bill establishes in the office of the Secretary of Health, Education, and Welfare an office and staff of Youth Camp Safety to be headed by a Director who would be required to make an annual report to the President and the Congress.

The aim and tenets of this legislative proposal are very similar to those of the bill which the House passed during the 94th Congress. In that instance, we finally mustered enough bipartisan support for approval by the House, a major stumbling block in the past, but found that the other body, in which previous bills had always received overwhelming support, now faltered in its efforts to join our majority. This kind of frustration has plagued this noteworthy legis-

lation since its first sponsorship under the firm stimulus of my friend and former colleague in this Chamber, Dominick V. Daniels.

This country cannot afford to deny any longer to American children in youth camps the minimum protection they deserve. Nor should we rob parents of the peace of mind which comes with such assurance. The study which HEW undertook at our direction pointed up the need for Federal enforcement. Many States have no regulations applicable to camp personnel, nor regulations pertaining to program safety, personal health, medical aid, and services. Even in the best camps surveyed, 80 percent of which were accredited by the American Camping Association, camps were found lax in areas crucial to the safety of children in camping, such as lack of firefighting equipment, water safety materials, and proper age of counselors.

This new bill does not depart significantly from the bill which we approved in the last Congress. It is not rigorously proscriptive, but rather encourages the individual States to implement their own standards of youth camp safety. A very few States have passed their own laws in this regard since 1967. The vast majority still neglect this matter, and this is not only a shame, it shows pure negligence.

Given the reluctance of many States to pass and rigorously pursue a program of youth camp safety legislation—though here I must salute my home State of Connecticut for its enactment of just such a measure as I am herein advocating—we have no alternative other than to provide through this legislation the impetus for States to finally be compelled to come to terms with this important matter. Federal camp safety legislation is warranted because camps are attended on an interstate basis. I want to assure that citizens of Connecticut receive adequate protection if they choose to attend a camp outside of the State. We do not need more injuries, illnesses, accidents, and deaths before addressing ourselves to this need which a majority in this House has already recognized.

Despite the cursory and inconclusive HEW study mandated a few years ago as an excuse for our reluctance to act on this legislation, the HEW report did find haphazard and careless safety standards were the rule, rather than the exception, in youth camps around our Nation. Years have passed since the first hearings on this matter were conducted, but there are still less than 10 States with their own camp safety laws. There is still little a parent may depend upon to insure that his child will be attending a camp free from most hazards and staffed by personnel skilled in their tasks and mature in judgment.

We cannot mandate good judgment and hazard-free conditions. We can, however, insure that minimum standards are established and that the agency enforcing them has enough enforcement power to be effective. This proposal is procamping. It assures that people can have confidence in camps and their personnel. It will make people conscious of the necessity of strict safety standards. I think the public is behind us in this effort, and I would hope that this legislation to give campers and their parents some reasonable security will be approved by the Congress.

FAT CITY

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. HANSEN. Mr. Speaker, there has been much argument lately concerning the reorganization of the Federal bureaucracy. Many Members of Congress are concerned over this problem. Recently I was made aware of an article by Donald Lambro from the January issue of the Washingtonian magazine which in my opinion describes this situation in great detail and which I wish to share with my colleagues:

THIS MEANS WAR

(By Donald Lambro)

Like a dark Goliath, it is there, aged, obese, inflexible, an impenetrable Byzantine machine in need of an overhaul.

Many have tried to bring order to the Great Bureaucarcy and failed. Now comes James Earl Carter, who has promised to make government "efficient, manageable, purposeful, effective, responsive, and competent." It could be the battle of the decade.

Throughout his campaign, Jimmy Carter capitalized on this singular issue: He pledged to reduce the multitude of bureaucracies to 200 basic, tightly knit, efficient units of Government.

Exactly how he will do this Carter has never said. For the voters, the promise was enough. A poll earlier this year showed that seventy-four percent of the American people believed the government was too complicated for them to understand what was going on.

It was Carter's ultimate campaign promise and perhaps the most difficult one to keep. He has been given tacit approval from Congressional leaders to begin the task, subject to veto by Congress. But major structural changes will have to be accomplished legislatively and this is where Jimmy Carter's first struggle with Congress is likely to occur. Says one veteran House member, "Carter will send up sweeping proposals to reorganize the executive branch after a special task force has studied the problem and then everything will hit the fan. The old boys up here created the mess and they are very reluctant to change it."

Powerful lobbying blocs also will oppose any reorganization that might diminish programs they have stakes in. Lobbyists will ally themselves with committee chairmen to fight Carter. "Men who became old here while they accumulated enough seniority to rule over some committee will be jealously protective of their domains," observes one retiring Senate Democrat. "The practice is to extend your estate over as many programs as possible, not to voluntarily diminish it."

Deepening the struggle will be the problem of congressional committees and subcommittees—which accurately reflect the government's tangled, duplicating, and wasteful structure: The committee system is as chaotic and inefficient as the federal bureaucracy. Last year the House found itself incapable of putting its affairs in order. The Senate plans to wrestle with the problem this month but reformers are not optimistic it can significantly reduce the thirty-one committees and 174 subcommittees.

The point is that a Congress saddled with machinery as anachronistic as the bureaucracy it oversees will be hardpressed to produce reorganization proposals any better structured than the committee system created to monitor and fund them. How is it possible to consolidate and refocus the government's energy programs when thirty-five congressional committees and subcommittees are grasping for part of the energy action in an orgy of conflicting activities?

With the bureaucracy relentlessly spending its way toward a $450 billion budget in the coming fiscal year to pay for new programs and agencies, it is increasingly difficult for either the Congress or the President to exert any control over federal activities. In 1974 alone Congress enacted 404 new laws while the bureaucracy issued 7,496 new regulations to provide work for 63,000 bureaucrats. It takes a 799-page manual for the government to explain its more than 2,000 departments, agencies, divisions, boards, commissions, offices, corporations, services, councils, administrations, and bureaus. Nearly three million civilian employees balloon the bureaucracy, and their numbers continue to rise.

When President Ford took office in August 1974, federal civilian workers numbered 2,866,904. By July 1975, there were 2,930,849—an infusion of 63,945 new employees in a little more than 11 months. New federal employees appeared in almost every major agency, with ten of eleven Cabinet-level departments growing fatter. Treasury was up 7,423 employees to 124,898. Health, Education, and Welfare had an increase of 7,340 workers, for a total of 149,364. The Defense Department had 1,051,679 civilian employees, up 4,455. The Federal Communications Commission was up from 1,992 to 2,121. The Interstate Commerce Commission was up from 1,970 to 2,091, the Securities and Exchange Commission from 1,910 to 2,001.

Three new agencies created under the Ford administration were among the biggest employers in the government. The Federal Energy Administration bulged with 3,245 employees, the Nuclear Regulatory Commission with 2,300, and the Energy Research and Development Administration quickly filled its payroll with 8,262 workers.

Parkinson's law says that any given number of people can be counted on to produce enough work to fill their time. In the federal bureaucracy that means paperwork—millions upon millions of documents and forms that cost taxpayers, businesses, and consumers billions of dollars a year. The National Archives once tried to count every type of federal form and stopped after they had reached the one million mark. "We just gave up," an Archives official said. "We thought we had proven our point."

Since Theodore Roosevelt, every president has tried to reorganize the bureaucracy—all with little success. Warnings that have been handled down through the decades have usually fallen on deaf ears. And the rhetoric of reorganization changes very little. It could have been a little known former Georgia governor running for President who declared the "government . . . is breaking down, is top heavy, unbusinesslike, and unresponsive." But those words were shouted in 1925 by a congressman urging support for a reorganization measure.

Through the years those warnings have been constant. In a 1937 fireside chat to explain his own reorganization proposals, FDR declared, "For many years we have all known that the executive and administrative departments of the government in Washington are a higgledy-piggledy patchwork of duplicate responsibilities and overlapping powers."

It remained for Richard Nixon to propose the most sweeping reorganization plan of

all—but a plan that fell in Congress with a thud. One bureaucrat was reputed to have compared Nixon's scheme to Nero's burning of Rome. Still, much of Nixon's proposal had merit and it wouldn't be surprising to see Carter borrowing from it.

In his 1971 State of the Union message, Nixon proposed abolishing seven existing departments: Agriculture, Interior, Commerce, Transportation, Labor, Health, Education and Welfare, and Housing and Urban Development. In their place he would have created four new "super departments": Human Resources, Community Development, Natural Resources, and Economic Affairs. Four other departments—State, Treasury, Defense and Justice—would have remained untouched.

Under his plan, Nixon sought to consolidate common government functions and end what he saw as a fragmented scattering of services and responsibilities. To dramatize what was going on—and is still going on—Nixon cited horror stories. Six different agencies in three separate departments were administering recreation programs. Education activities were being handled by nine federal departments and twenty different agencies. Four agencies were involved in public land management and three departments helped develop water resources. Seven departments and eight independent agencies were involved with health services. A wide variety of federal offices was operating between twenty and thirty separate manpower programs. At least seven agencies provided assistance for water and sewer systems.

What happened, Nixon said, was that "the organization of government . . . grew up in a haphazard, piecemeal fashion over the years. Whenever government took on an important new assignment or identified an important new constituency, the chances were pretty good that a new organizational entity would be established to deal with it. Unfortunately, as each new office was set up, little or no attention was given to the question of how it would fit in with the old ones. Thus, office was piled upon office in response to developing needs and when new needs arose and still newer units were created, the older structures simply remained in place."

Nixon had focused on the nub of the problem: The scattered activities of the government were wasting the nation's tax resources by failing to coordinate specific programs drawn up to achieve common goals. Moreover, this fragmentation, Nixon said, had resulted in "the hobbling of elected leadership. If the president or the Congress wants to launch a program or change a program or even find out how a program is working, it often becomes necessary to consult with a half dozen or more authorities, each of whom can blame the others when something goes wrong."

Here's what Nixon's plan encompassed:

The Department of Human Resources would envelop all programs providing assistance to people, i.e., welfare, health, income, nutrition, education.

Community Development would administer programs related to rural and urban development: housing, highway construction, mass transit, etc.

Natural Resources would handle everything having to do with the environment—including the conservation and land management programs of Interior, oil and gas pipeline safety, plus public works and energy development programs.

Economic Affairs would deal with every sector of the economy, spanning regulatory and data-gathering activities related to labor problems, jobs, business, plus national and international economic and trade policies.

Much of what Nixon proposed was in many respects the product of numerous reorganization proposals from previous administrations. Since the Reorganization Act of 1949—which authorized the President to develop and submit reorganization plans subject to Congress' veto—ninety-one plans have been proposed by five presidents. Congress has allowed seventy-one of them to be implemented. The Reorganization Act remained in effect until Congress, in a confrontation with Nixon, allowed it to expire in 1973.

Parts of the Nixon plan could be seen, for instance, in proposals mounted by both Presidents Kennedy and Johnson. Kennedy's task force recommended the creation of five new departments: Transportation, Education, Natural Resources, Economic Development, and Housing and Community Development. Building on the work of the Kennedy study, Johnson's task force proposed creation of departments of Natural Resources, Social Services, and Economic Development. The Department of Transportation had already been established by this time.

Johnson also urged Congress in 1967 to merge Commerce into a new Department of Business and Labor but the bitter opposition of organized labor doomed the proposal.

Despite all of these efforts to bring about reorganization, no major overhaul of the federal government's departmental structure has yet been accomplished. The reason—which should serve as a warning to Carter—was expressed in a 1972 House Government Operations Committee study which noted: "Either their plans never came to fruition, or, if formulated, were smothered in political conflicts and defeated by time and circumstances, including the opposition of organized interest groups and of powerful individuals or factions in the Congress."

Clearly, there is much that can be done to make the operation of government more effective and efficient. Departments such as Commerce, Labor, and Agriculture have too often become repositories for Congress, which has no trouble dreaming up programs but sometimes acts as if it doesn't really care where it sticks them. Commerce has become a catch-all for everything from census-taking to hurricane warnings.

It should also be noted that many departments were established in another era and as constituted are no longer relevant to today's advanced management techniques. Commerce was created back in 1903. Labor was established in 1913.

So we come down to the question: Do we need both the departments of Commerce and Labor? The answer is no. Both departments are concerned with economic questions and as such they should be merged.

"They have their economic analysts and we have ours," says one Labor economist. "We should be working under the same tent."

Commerce economists work in the Bureau of Economic Affairs and the various bureaus of the Domestic International Business Administration, while Labor's economists toil in the Bureau of Labor Statistics, often compiling similar data from identical sources.

There are health programs scattered across the length and breadth of the government, including HEW, the Bureau of Indian Affairs, the Veterans Administration, and Social Security. All of them deal with people. But how much more effectively and efficiently could these multiple health services be provided if they were coordinated and run through one agency?

There are compelling arguments for simply abolishing the VA, which in reality is handling programs for a select interest group that are simultaneously being operated by other agencies of government. GI educational assistance programs—among the most wasteful in government—could easily be shifted to the Office of Education. The VA's pension program should probably be run by Social Security and GI housing programs no doubt belong in the Department of Housing and Urban Development.

The Department of Agriculture is similarly filled with programs that could either be abolished, trimmed, or transferred to other departments. The bulk of its 1,000-man Economic Research Service could be eliminated and much of USDA's marketing, consumer, and research programs trimmed and merged into a new, tightly managed Economic Affairs Department (into which only the most necessary functions of Commerce and Labor would also be placed). Meanwhile, the food stamp program, which comprises the lion's share of Agriculture's $15 billion annual budget, is a welfare activity that more properly belongs in HEW.

Other transfers or mergers should include the Forest Service, which doesn't belong in Agriculture but should be run by Interior or a more comprehensive Department of Natural Resources. At the same time, special interest group programs such as the Labor Department's Women's Bureau, which by no stretch of the imagination performs any original service for the female labor force, should be dropped completely.

Not to be overlooked in any reorganization blueprint are the regulatory agencies that cling tenaciously to the bureaucratic landscape, despite growing sentiment that they should be pruned or eliminated. Keeping in mind that the General Accounting Office estimates the cost of federal regulation at $30 billion a year, there are many regulatory functions that could be sharply reduced, to the benefit of every business and consumer in America.

Liberals such as Senators Edward M. Kennedy and James Abourezk have become increasingly critical of Civil Aeronautics Board policies, which have stifled competition in the airline industry and cost the traveling public $1 billion a year in higher fares. Meantime, Transportation Secretary William Coleman late last year joined the rising chorus calling for abolition of the Interstate Commerce Commission. The ICC, you may recall, brought us those wonderful rules that force trucking firms to make empty backhauls and thus increase consumer prices. At the same time, the Federal Power Commission becomes less and less revelant as finite supplies force the gradual deregulation of oil and natural gas. Considerable reexaminations is also being directed at the regulatory functions of the Federal Trade Commission, Securities and Exchange Commission, the Occupational Safety and Health Administration, and the Consumer Product Safety Commission, among other agencies. How much their activities overlap one another—particularly to the degree they demand data from businesses—should be a major priority of any reorganizational inquiry.

It cost taxpayers two years ago some $2 billion a year to pay the salaries of federal agency regulators. Today they're costing us $3 billion annually.

What can government reorganization save us? If implemented in a thorough, even-handed manner, billions of dollars. Roy L. Ash, who chaired Nixon's reorganization task force, once estimated a potential savings of up to $5 billion. Under today's inflated budget, the savings could be greater.

Can it be done?

That is the question no one can answer for now. Congress was impressed by the sweep and thoroughness of Nixon's proposals but did nothing except hold hearings. It was, after all, a Republican initiative before a jury of Democrats.

Carter may receive a better reception from his Democratic friends in Congress, many of whom are becoming increasingly convinced that comprehensive cleansing of the federal bureaucracy is essential before public confidence in government can be restored. Even so, the question persists whether Carter will make the tough reorganizational choices that will be bitterly opposed by powerful political groups such as labor, business, veterans, farmers.

Asked how Carter could hope to steer his

way safely through a thorny political and administrative obstacle course, Senate Democratic leader Mike Mansfield puffed thoughtfully on his pipe, then said, "If he's going to do anything on reorganizing the government, he'll have to act quickly." Mansfield's advice was unmistakably clear. Allow Congress too much time to chew on the difficult bureaucratic shifts and efficiencies that need to be made, and the best of plans will die a slow and ignoble death.

Joe Biden of Delaware, Carter's earliest Senate supporter, believes, "It will be Jimmy's toughest issue. Hell, these guys around here go to pieces when you suggest they get rid of some committees that haven't done a damn thing in years. You try to take away a federal agency from a committee or subcommittee chairman and it's like questioning his patriotism. All hell can break loose."

Yet whether Carter will actually seek to reduce the size of the bureaucracy through reorganization remains another question. His reorganization of Georgia's state government, despite opposition in the legislature, ended up increasing the number of state employees.

In the last analysis, the outcome of the Great Bureaucracy struggle may be found in the remark of a top-level bureaucrat who said, pointing to a copy of the federal budget, "You better remember, before you talk about waste, that everything in this big book was put there because somebody wanted it, usually somebody powerful. And it's very hard to get anything cut out. Every program gathers supporters the way a ship picks up barnacles."

IS BRITAIN AN ALLY OF THE UNITED STATES OR THE U.S.S.R.?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. ASHBROOK. Mr. Speaker, a recent UPI story has stated that the British Government might be planning to sell the Soviet Union a control system for jet engines that could be used in the Soviet Backfire bomber. This Soviet bomber has strategic importance and is a vital part of the Soviet military posture.

It is no secret that Great Britain has been having financial difficulties. They expect the United States to help in bailing them out but they still are considering selling a system that has military capabilities to the Soviets. Why should we help Britain if they are considering helping the Soviets in this way. Whose ally is Great Britain?

The text of the UPI story follows:

BACKFIRE BOMBERS

(By Robert Kaylor)

WASHINGTON.—The British Government plans to sell the Soviet Union a control system for jet engines that has apparent applications to the Russian Backfire Bomber, according to Air Force sources.

The proposal involves a $17-million contract between Lucas Aerospace, a British company, and the Soviet Government, to design and develop an electronic control system for the Kuznetsov NK144 turbofan jet engine, an upgraded version of that used on the twin-engine backfire.

The Soviet bomber has been a major obstacle to conclusion of a SALT II agreement with Russia, according to U.S. Government sources.

Pentagon spokesmen said they would have no immediate comment on the British proposal until they receive official notification of it.

The Lucas contract is ready to be placed before the International Coordinating Committee, otherwise known as Cocom, by Britain's delegate, according to Embassy officials here. When the contract was announced Dec. 23, Lucas said only the control system was for use in the Russian supersonic transport, the TU144, which is believed to have been taken out of service because of mechanical problems.

Air Force sources said electronic systems to control fuel and air flow and to monitor performance for the TU144 could also have applications to backfire engines.

STAMPING OUT COMPETITION

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. SYMMS. Mr. Speaker, the Chicago Tribune recently included in its editorial section an article entitled "Stamping Out Competition." In light of hearings being held this week in Washington by the Commission on Postal Service, I feel that this editorial clearly reflects the real economic need for a competitive postal system. I commend it to the attention of my colleagues, and I would also like to take this opportunity, Mr. Speaker, to say that I am pleased to be consponsoring legislation, with our colleague PHIL CRANE, to end the Government monopoly on carriage of first-class mail:

[From the Chicago Tribune, Dec. 27, 1976]

STAMPING OUT COMPETITION

The United States Postal Service has enlisted the aid of its brothers in the Customs Service to sniff out sh'pments of business mail entering the country via private carriers. More and more businesses, unwilling to trust the Postal Service with important communications, are using air freight companies and courier services instead.

The postal service is concerned about the revenue it loses as a result of this and by stopping incoming shipments in Boston and San Francisco, it hopes to discourage outgoing business as well. It has the legal power to do so, and that is what leads to this editorial. The merits of the postal service's legal monopoly in the delivery of letters have never impressed us.

Though the recent flap over private mail shipments centers narrowly on the definition of a letter, the implications of the postal service's monopoly on first class mail are much broader and deserve more from Congress than the perennial back of the hand.

Two years ago a House subcommittee recommended that the monopoly be ended and the Council on Wage and Price Stability made a similar recommendation earlier this year. Although legislation to that end has never drawn much support, Rep. Philip Crane [R., Ill.] intends to try again in the new Congress.

The purpose is not to allow competition to the postal service for the mere sake of competition itself—though that could do no harm. The real problem is that the postal service is simply unable to do the job expected of it.

The fact that businesses are circumventing the mail regulations with little attempt to camouflage their actions indicates a real economic need for an alternative to the postal service. The only justification for the perpetuation of such a monopoly is that it provides service better than anyone else can. The proliferation of peripheral mail service suggests strongly that it cannot. The Bell System's monopoly on long distance telephonic communication has been eroded, and there is no reason why the postal service's monopoly on written communication should be exempt from the same fate.

The postal service's monopoly dates to the Private Express Statutes of 1792, but its historical foundation lies in fuedal England, where monarchs operated their own post for fear that private carriers would be used to carry out treasonable acts.

There were so many loopholes in the 1792 act that by the early 1840s private express companies brought the post office to its knees, drawing off a third to one half of the mail and causing an eight-fold decline in postal rates until Congress tightened the restrictions on private carriers.

In the 1970s the goal should not be to bring the postal service to its knees, but to provide first rate mail service at a reasonable price.

If the postal service cannot do that, other companies should be allowed to try. If private companies skim off the cream of the mail, as opponents argue they will, leaving the postal service with the unprofitable rural service, Congress can subsidize that service as it has had to do in the past and will have to do in the future, competition or no competition. And taxpayers may be better off subsidizing half a losing operation than a whole one.

Nor is it certain that the postal service would suffer from competition. If indeed it is the most efficient way to distribute the mail, it should not only survive competition but thrive on it. The possibility that it might suffer from competition is the weakest of the arguments for its monopoly.

Events demonstrate there is an economic need for competition. That alone is adequate justification for giving it a chance. The final judgment, though, should be based on quality of service—and competition nearly always leads to improvements along that line.

ROOTS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. CLAY. Mr. Speaker, on Sunday, January 23, 1977, the American Broadcasting Co. began its 8-day presentation of "Roots," a dramatization of Alex Haley's landmark book of the same title.

Thousands of Americans have already read and experienced the historical and emotional impact of Haley's extraordinary work. "Roots," the story of his own family's heritage, begins in 1750 with the birth of the boy called Kunta Kinte in the village of Juffure in the Gambia, West Africa, the boy's abduction to America as a slave, and the lives of the generations that followed.

In his monumental drama of Kunta Kinte and the six generations who came after him, Haley has done more than recapture the history of his own family. He has told the story of 25 million Americans of African descent and rediscovered for an entire people a rich cultural heritage.

Significantly, however, "Roots" speaks not to just blacks, but to all people and all races everywhere. The story it tells is one of the most eloquent testimonials ever written and the ABC presentation will earn an important place in television history.

As a television event, "Roots" is unprecedented. "Roots" is a stirring example of character as the essence of drama. It is television at its best. The distinguished cast ABC has assembled to bring Haley's reincarnation to life is magnificent.

Two weeks ago I had the opportunity to attend a special screening of "Roots." I believe the following critique by Mr. Sander Vanocur of the Washington Post adequately states the importance of this television event and is deserving of my colleagues attention.

I wish to commend ABC for bringing this exciting and dramatic story to the American people. I hope my colleagues will join me in recognition of this project and the contributions of Alex Haley, the American Broadcasting Co., and David L. Wolper Productions:

[From the Washington Post, Jan. 19, 1977]

"ROOTS": A NEW REALITY

(By Sander Vanocur)

ABC is asking for trouble by showing "Roots" on television.

From Jan. 23 through 30, ABC will present a 12-hour adaptation of Alex Haley's best-selling book, which traces the history of his family back to Africa.

The trouble for ABC will arise from a great many of us asking why we cannot see more television like this, not just on ABC but on CBS and NBC as well.

Ordinarily, I flee in panic from the kind of statement I am about to make, namely, that television will never be the same after this nation has seen "Roots." The problem with television is that it usually remains the same, which is the worst indictment that can be made against it.

But as I sat the other night with others at a special screening where ABC presented the first two-hour episode plus scenes from the remaining 10 hours, it occured to me that something quite revolutionary was about to happen to television with great implications for its future.

On one level, there is the bold programing decision by ABC's Fred Silverman to run it consecutively, night after night. The first episode will run two hours on Sunday, Jan. 23, to be followed by another two hours on Monday. Single-hour episodes will be run on Tuesday, Wednesday, and Thursday. These will be followed by a two-hour episode Friday, one hour on Saturday and a two-hour conclusion on Sunday, Jan. 30.

But more revolutionary than the manner in which it is being presented to us, David Wolper's production extends far beyond the boundaries of what has previously been deemed permissible on our television screens.

It is not the sight of women's bare breasts, nor the sight of the ceremonial circumcision knife as the young Haley ancestor, Kunta Kinte, and other young men are about to end their tribal initiation into manhood, or the scene where Thomas Davies, a conscience stricken slave-ship captain, is torn by his Old Testament Christianity and his lust for a young slave girl.

No, there is something more. It is the manner in which this production, on which Haley acted as consultant, has decided to confront a central experience of this nation's development—slavery—and what it has done to blacks and whites alike.

The scenes on the ship, with the slaves chained together, stacked alongside one another, lying in their vomit and excrement, being taken on deck to be doused with salt water which burns into the wounds that have been inflicted by the lashes of a whip, are something we have never seen before. We have read about slavery. But we have never seen it, never in such painstaking detail and never being experienced with such excruciating pain.

Television, when it sets out to portray reality, usually distorts it or just nibbles at it. I am at a loss for the proper word to use to describe what television has done with Alex Haley's imagined reality. "Enhance" will not do, nor is "heightened" sufficient. There is no word that is adequate. All you know is that what you have seen leaves you with a terrible and transcending anguish.

It is very odd. Television, which washes over us each day with the fantasy world of game shows, soap operas, talk shows, the nightly news, sitcoms, and cops and robbers, rarely unites us in a sense of silent awe.

Only rarely has that happened in the short history of television—after the assassinations of the '60s and on that Saturday evening in the summer of 1974 when we sat in silent awe, individually and collectively, as the clerk of the House Judiciary Committee polled its members on the first article of impeachment against Richard M. Nixon. "Roots" will be another of those rare occasions when television will leave us with that sense of wonder.

SUMMARIES OF COMPREHENSIVE LEGISLATION INTRODUCED BY CONGRESSMEN KOCH AND PEPPER TO IMPROVE HEALTH CARE FOR THE ELDERLY

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. KOCH. Mr. Speaker, Congressman CLAUDE PEPPER—the distinguished chairman of the House Select Committee on Aging—and I have introduced a package of five comprehensive bills designed to improve and expand health care services for our Nation's elderly. The first two bills, H.R. 453 and H.R. 452 are reintroductions of legislation from the 94th Congress. The other three bills are consolidations of many individual bills which we sponsored in the last Congress. There was considerable support among both our House and Senate colleagues in the 94th Congress, and it is our hope that such strong support will be forthcoming in the 95th Congress as well.

The five bills we have introduced are:

First. H.R. 453—the National Home Health Care Act of 1977, to improve and expand the provision of home health services under medicare and medicaid.

Second. H.R. 452—the Improvement of Nursing Home Regulatory Procedures Act of 1977, to strengthen quality of care control and fiscal control of reimbursements for nursing homes.

Third. H.R. 92—the Nursing Home Reform Act of 1977, to reform the operation of nursing homes.

Fourth. H.R. 1136—the Long Term Care Services Act of 1977, to increase the variety of home health related services available to the elderly.

Fifth. H.R. 1114—the Geriatric Health Personnel Training Act of 1977, to improve and expand medical training of geriatric health personnel.

Because of the great interest in these bills, I am placing below outlines of the provisions of each. These summaries follow:

H.R. 453—THE NATIONAL HOME HEALTH CARE ACT OF 1977

Improves and expands the provision of home health services under Medicare and Medicaid by:

Removing the limitation of 100 home health visits currently permitted under Medicare's Part B supplementary insurance.

Expanding home health services covered under Medicare to include a full range of medical, homemaker and other correlative services.

Removing the requirement that an individual need skilled nursing care in order to qualify for home health services.

Increasing from 100 to 200 the number of post-hospital home health services permitted under Medicare's Part A hospital insurance.

Requiring states to include the full range of medical and correlative home health services as defined in sections 1-3 above in order to qualify for federal Medicaid funds.

Permitting State Medicaid programs to cover payment of rent or mortgage and repairs for elderly or disabled persons who would otherwise require nursing home care.

Establishing within HEW the office of Home Health Ombudsman to assist home health patients receiving federal benefits.

Providing expanded federal funding for congregate housing for the elderly, handicaoped and other groups.

Requiring the same annual audit of medicaid home health agencies and nursing homes now mandated for medicare facilities.

Requiring medicaid home health agencies and nursing homes to utilize cost-related, prudent buyer methods of purchase, so as to reflect reasonable cost.

Requiring disclosure, for all medicare and medicaid nursing homes and home health agencies, of any persons with ownership interest in the home or agency or in the land or building housing the home or agency.

H.R. 452—IMPROVEMENT OF NURSING HOME REGULATORY PROCEDURES ACT OF 1977

Strengthens quality of care control and fiscal control of reimbursements for nursing homes by:

Requiring nursing homes wishing to receive medicaid funds to enroll under medicare and thereby be subject to federal regulatory and certification supervision.

Increasing the state's regulatory power by allowing the state medicaid agency to cut off reimbursements to a nursing home that is not providing safe and decent care, pending court review.

Giving the state medicaid offices greater flexibility in responding to inadequacies of care.

Allowing state administrators to collect back payments for care not provided on the basis of a statistically valid sample of persons examined in a nursing home.

Allowing Medicaid to establish "standards of care" for each level of illness.

Establishing a uniform system of medicaid reimbursement based on local prototype costs, delineated by what the state administrators and the Secretary of HEW decide a "prudent buyer" should spend for a service.

Requiring nursing home operators to post a bond so that the state can recoup incorrect reimbursements after the state's audit.

Increasing the requisite "arms length" relationship between service provider and facility operator to include reimbursements for transactions between any persons engaged in a third business.

H.R. 92—NURSING HOME REFORM ACT OF 1977

Reforms the operation of nursing homes by:

Requiring nursing home operators to disclose to the state each and any ownership interest in a nursing home.

Providing individual income tax deductions for certain nursing home expenditures.

Allowing states to use SSI payments plus a state supplement of less than $100 per resident per month to provide care for residents in nonmedical shelter care facilities.

Requiring physician visits to patients in skilled nursing facilities at least once every 30 days.

Requiring skilled nursing facilities to employ at least one registered professional nurse full time—24 hours/day, 7 days/week.

Requiring that only licensed personnel may set up or distribute medications in skilled nursing facilities.

Establishing minimum ratios for nursing home personnel to patients and for supervisory nurses to total nurses.

Requiring skilled nursing facilities to provide medically related social services.

Requiring admissions contracts between nursing homes participating in Federal programs and the patients they serve.

Requiring nursing homes to post their current license, medicare/medicaid certification, a list of owners of the facility, the names of staff, a patient's bill of rights as well as a description of services offered by the facility.

Requiring the immediate reporting of epidemic diseases or accidents in nursing homes participating in Federal programs.

Requiring that State medicaid plans be ratified by both the State's legislative and executive branch before being presented to the Secretary for his approval; that such plans be posted and available to the public; that the Secretary annually review a State's compliance with such plan, publish performance ratings for the States, and create a course of action allowing Medicaid recipients—individually or as a class—to bring suit against a State for specific performance when a State fails to comply with the provisions of its plan.

Requiring HEW to establish a rating system for nursing homes participating in Federal programs as a guide to consumers.

Amending Medicare and Medicaid to make unlawful the offer of receipt of consideration for the referral of patients, clients or customers.

Requiring strict controls for the handling of patients' accounts, personal expense monies and valuables.

Making unlawful both the solicitation or acceptance of any gift, money or consideration over and above the rates established the States and the solicitation or acceptance of any gift, money or donation as a precondition of admitting a patient to a long-term facility.

Making certain requirements under Medicaid with respect to long-term care facility personnel compensated with Federal funds who are responsible for determining whether such institutions comply with health and safety standards required under such act.

Requiring that payment forms submitted from nursing homes contain warnings with regard to penalties imposed under sections 1877 and 1909 of the Social Security Act.

Continuing 100% Federal financing of State costs in inspecting nursing homes and assisting States in the establishment of new enforcement tools, such as citation systems and protective custodianships and other alternatives to license revocation.

Providing 100% Federal funding of financial audits conducted by State personnel of facilities participating in medicare and medicaid.

Providing a system of inspections of State inspection and enforcement mechanisms for facilities receiving Medicare and Medicaid funds.

Authorizing medicare or medicaid patients—individually or as a class—to bring suit in Federal District Court against a long-term facility which is in violation of its provider agreement.

Providing for the making of direct loans for the construction and rehabilitation of nursing homes owned and operated by churches and other non-profit organizations.

Providing grants for the planning, development, construction and rehabilitation of nursing homes in black and minority communities.

Authorizing interest subsidy payments to assist nursing homes in repair and renovation in order to comply with Federal standards.

Expressing the sense of the House of Representatives that the President should submit a multi-agency plan to correct abuses in nursing homes.

Expressing the sense of Congress that a White House Conference on Long-Term Care be called by the President of the United States in 1978.

H.R. 1136—LONG-TERM CARE SERVICES ACT OF 1977

Increases the variety of home health related services available to the elderly by:

Authorizing an experimental program to provide care for elderly individuals in their own homes.

Authorizing elderly day care services for individuals enrolled under Medicare's Part B supplementary insurance.

Authorizing the Secretary of HUD to assist in the development of "campuses for the elderly" by providing apartments with central dining, rest homes with nursing supervision and skilled nursing facilities at one site.

Authorizing the provision of intermediate care services under Medicare to parallel this requirement in the Medicaid program.

Providing for the modification of the medicare reimbursement formula to allow small rural hopsitals with low occupancy rates to provide long-term care if there are no appropriate nursing home beds available.

H.R. 1114—GERIATRIC HEALTH PERSONNEL TRAINING ACT OF 1977

Improves and expands medical training of geriatric health personnel by:

Providing funds to schools of medicine to assist them in the establishment of Departments of Geriatrics.

Providing funds to schools of medicine to assist them in establishing and operating continuing education programs in geriatrics and gerontology for physicians.

Providing funds for the training of certain veterans, with appropriate experience as paramedical personnel, to serve as medical assistants in long-term care facilities.

Providing funds to colleges and universities for the establishment of graduate programs for nurses in Geriatrics and Gerontology.

THE HUMAN FACTOR IN THE STRIP-MINING DEBATE

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. HARRIS. Mr. Speaker, in the coming months one of the critical issues facing this Congress will be surface mining regulation.

I for one believe that with tough and enforced regulations we can increase our production of coal without further desecrating our environment. Coal is our most abundant energy resource; it accounts for 90 percent of our energy reserves. In order to reduce our dependence upon petroleum we will have to increasingly rely upon coal to meet our energy needs. Unfortunately, because we have lacked tough and enforced strip-mining regulations, the extraction of coal by strip mining has resulted in wasted and unreclaimed land; reclamation of strip-mined land has been the exception rather than the rule.

However, I would like to remind my colleagues that the issue in the strip-mining debate is not limited to the protection of the environment. There is also the human factor which must be considered. Without enforced regulations, not only has the environment been damaged, but unnecessary human suffering has resulted.

Rev. R. B. Lloyd's recent article entitled "Our Land Is Dying," which appeared in the September 1976 edition of Youth magazine, discusses the impact of strip mining upon the lives of the people in Dickenson County, Va. Reverend Lloyd's article begins with: "Strip-mining is about people." It most certainly is.

In addition to serving as an Episcopalian priest, Reverend Lloyd is executive director of the Appalachian People's Organization, Inc., Blacksburg, Va. His article follows:

OUR LAND IS DYING

(By R. B. Lloyd)

Strip-mining is about people.

Brushy Ridge in Dickenson County, Virginia, has for generations been home to countless numbers of people. They lived on her ridges. They lived on her less-steep mountain slopes. They lived in the hollows nestled up under her.

Open Fork Creek was one of these hollows—home to the McCowan family for more than five generations. Life for them was always economically marginal. But to most of the McCowans, life along Open Fork Creek was a joy—they felt rich and blessed, with all their basic needs. "We had a full and whole life together here," said Jim McCowan, the oldest and the leader of today's living McCowans. "God had blessed us well." Jim was a miner and a Free Will Baptist preacher.

"You see that creek out there?" he pointed. "There was a time it was so clean and pure you could drink from it. My wife could do her washing in it. But now, since strip-mining has come to our mountains, it isn't fit for a hog to drink from. Why not even a crawdad can live in it. There was a time you could find water anywhere in these hills that was clean and fresh to drink. Now the water is about all gone, and what is left is polluted."

Strip-mining came to Open Fork Creek in 1972. Byran McCowan, Jim's son, had fought hard, every legal way he knew, to try to stop it. For a while he succeeded in keeping it some distance from his hollow.

"They haven't gotten to us yet. They're over in the hollow along Coon's Creek. But even so, it's a terrible thing. Every time they set off a blast, it shakes your house—even cracks your windows and the plaster on the walls, and sends dishes crashing to the floor from off their shelves. I'll be sitting quietly—then the house will jump and the door will come flying open. It makes you nervous and it scares the children near to death."

"Yes, and that is not all that blasting does," added Rufus McCoy, a miner, schoolteacher and one-term delegate to the Virginia State Legislature. (He lost when running for a second term because he spoke out against strip-mining.) "I live up on the top of Brushy Ridge about two miles from here. They're blasting on both sides of the mountain from me. When I'm rocking on the porch and a

blast goes off, I can always tell—before I hear the blast. My chair moves across the floor, so powerful is the jolt to my home. Up on the mountain, water's hard to come by. I've gone to a lot of expense to have a well drilled. But strippers blasting 200 feet away have sunk my water system. I'll have to drill again—at my own expense. You can never prove anything. I go to those who did it. They say, 'It ain't us; it must be them on the other side of the mountain.' "

Tom Austin cut in, "That ain't nothing. Why my wife was cooking supper one evening—standing there by the kitchen stove. A blast went off up there on the mountain. A boulder came down crashing through the roof of our home taking her and the kitchen stove right through the floor down under the house.

"The coal company heard about it and bought us a new stove and two pieces of plywood—one piece to patch the ceiling, the other to cover up the hole in the floor."

"Is that all they did?"

"That's all."

"Were you satisfied with that?"

'Certainly not!"

"Didn't you try to get legal help?"

" 'Tain't no use; they ain't going to help you none."

"That's right," said Rufus McCoy. 'You can go to a lawyer. He'll listen and be courteous to you. But when you're finished telling him your problem, he'll say, 'I'm awfully sorry, but I'm retained by that coal company.' There aren't any lawyers who'll help you against a coal company."

In November, 1972, strip-mining came to Open Fork Creek. All Bryan McCowan's efforts failed. He was so distraught, so depressed that he pulled out of all activities, withdrew completely into himself.

On March 27, 1973, I returned to Open Fork Creek. I was passing through Dickenson County and learned that Open Fork Creek had flooded. Bridges had washed out leaving the people in the hollow marooned for three days.

Ironically, those heavy rains fell the same day that I had testified at Senate hearings in Washington. The McCowans were among 15 families who were affected by heavy mudslides and flooding on Open Fork Creek and Coon's Creek from strip-mining operations high above on the steep slopes of Brushy Ridge. The road going up Brushy Ridge along Coon's Creek had been blocked by a large landslide. Several homes were flooded and filled two feet with mud.

I was told that folks up Open Fork were badly shaken up. So I went up to see them; this was now ten days after the flooding.

What I witnessed right there in the hollow of Open Fork Creek was an enactment of the whole tragic drama of the warfare against the people and their land. The first person I talked to was Loretta, wife of Bryan McCowan.

"It was raining all day and all night," she told me. "We were awful nervous; stayed up all night. One of my girls was looking out of the window. It was pouring down rain. Suddenly she let out with a yell. We all went a'running to the window. A huge river of mud was coming gushing down the mountain straight toward us. We were sure lucky—most of it went around back of the house—covered our yard, our garden, everything. We won't have no garden this year!" And to this day—three years later—they still have no garden.

"Another river of mud and rocks would have buried the trailer home of my son, Wayne. His wife was home all alone when it happened. A small knoll above the road made the river of mud split, so it slid around on either side of their trailer."

I asked Loretta where Bryan was.

"He's up on the ridge checking things over."

I looked up the steep mountainside to where the strip-mining operation was—about 700 feet high above the homes of three McCowan households. It is inconceivable that strip-mining is allowed under any such conditions on a slope that must be over 50 or 60 degrees in grade. I know, because I climbed up to that strip-mine operation. Even conservative studies indicate that strip-mining should not occur on slopes above 20 degrees. One study by the government's Appalachian Regional Commission recommends no stripping above a 14-degree slope. The reasons for such regulations are obvious. The spoil off the side of that operation hangs menacingly over Open Fork Creek. If that spoil should break loose there is absolutely nothing that could save those who live below.

Wayne McCowan, the son of Bryan and grandson of Jim McCowan, says that he is moving his trailer out. He will not risk another mudslide. But where is he going to move his home? And what guarantee is there that his move will allow him to escape? Or will he suffer the same fate as his parents when they moved back to Open Fork?

Wayne McCowan is young, married, and hopeful of working out a living that will enable him to continue to live in the mountains—the homeland of his ancestors. He wants to raise his family there. But the price of staying is cruel and devastating. As though a final insult, since completing high school, the only employment he has been able to find is to operate a bulldozer on a strip-mining job! "I know what it is doing to these mountains and to us," he explains. "I don't like it a bit! But what am I going to do? I've got to make a living, and I'm not going on welfare!" Men are told that strip-mining is the only job there is. What they are not told is that a return to deep-mining would give three or four times as many jobs.

Welfare recipients make up the largest part of roughly 60 percent of the population of Dickenson County who are on some kind of public assistance. No able-bodied man wants to go on welfare. To be a man means to provide for one's family.

The fact that Wayne is engaged in strip-mining tears the McCowans apart. They know if he is to work and remain in the mountain country, chances are that he could find no other work. Yet, the fact that Wayne's livelihood depends on strip-mining and because kinship loyalty is of primary concern still to most mountain people, the McCowans and other mountain people like them have been unable to organize effective resistance against this frightening enemy.

Finally, I went down to see Jim McCowan, who lives just down the creek from his son and grandson. Jim is truly a mountain gentleman, clearly the strong head of his family clan. He speaks openly and defiantly about the terrible destruction that has come to his hollow. In his 69 years he has known no other home. Like his father, Jim has raised his family on Open Fork Creek. Jim's eyes sparkle as he tells of the good life this once-beautiful hollow offered, ". . . a place where a man could grow up and provide for himself and his family—to know and enjoy a complete life. But now—well, it's destruction everywhere you look. They've made our home a land of waste and terror!"

What Jim and Bryan and Loretta and Wayne McCowan and thousands like them are saying is—what's happening to people because of strip-mining is wrong. It is wicked. That is the real issue.

The media is full of the economic pros and cons of strip-mining, the "energy crisis" and the role of fossil fuels (coal being the most abundant of these resources), and the need to produce more and more energy for more and more technological advancement that benefits fewer and fewer people. Of course, in the scale of values, do the benefits really contribute to a more humane society?

Lost in the debate is what is happening to the people and to the environment in which they live.

Also in this debate there is no consideration of this earth as God's creation and the fulfillment of our human lives having somehow to do with God's intention for all of creation.

There are those today in high places of decision who live as if this earth and its resources belong to the few—the powerful—who control the world and its natural resources. It is as if mankind can develop and use these resources without any concern for the consequences for present or future generations. All that matters to these people is technological-industrial expansion and the profits that ensure the inflationed affluent status of those who have it. The fact that we may destroy the very planet we live on does not seem to matter.

Is all of life to be understood only in economic terms? Is everything to be measured by its commercial value? Has our economic system of profit and progress become our Golden Calf of the 20th century? And is a person's value as a human being to be determined by how much or little he or she contributes to the economic system?

If human beings are created in the image of God, then we would understand that they derive their value, individually and corporately, from God. Our very identity comes from God. Then as we grow and mature as individuals, or as a group, our values become more and more in line with God's will and purpose for creation and our part in relationship to that creation.

Thus, we understand what a great Hopi Indian leader stated so well: "If our lives are in harmony with Mother Earth, we will be blessed. If, however, we abuse or exploit nature and her resources, we will be cursed and we will surely destroy ourselves."

Today there is no more dramatic evidence of man's self-destruction than is witnesed in strip-mining of coal in Appalachia. The underlying drive is for economic gain and power and there is a blindness to the terrible costs we are paying in the lives of people living there and in the destruction of a once self-sustaining nature.

It is clear that there is no intention on the part of the coal, oil, steel, utility, railroad industries or federal government officials to support enactment of regulations that would ensure the protection of people and property and the restoration of the land. Quite the contrary, these forces have consistently joined to weaken legislation and block every attempt of Congress to pass even these eroded bills.

People living in Appalachia have long ago lost control of their land and their resources to force outside of the region. Thus, they have lost control over virtually all decisions that affect their lives. They find themselves voiceless, powerless to stop, much less change, what is happening to them and their land.

In the meantime, it is fairly much "business as usual" for the coal operators, with a minimum of governmental interference at ether state or federal levels. And lost in the shuffle of power politics are the Jim McCowans of Appalachia—buffeted by the brutal effects of strip-mining on Appalachia's people, their land, and their future.

"I just wish I could get around," a sickly Jim McCowan concluded. "I would go up there on the strip job and put it to them about what they're doing to us down here. I wish I could go to Washington and tell our leaders in Congress what's going on. If they knew—I don't believe they would stand for this to go on happening to people like it is. I would like to tell them so they would understand and put a stop to it. Yes, I would. Now, if you get to go back and to testify again, you be sure to tell them!"

I promised I would.

THE SPLIT-LEVEL DETERRENT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. LAGOMARSINO. Mr. Speaker, the 95th Congress will be faced with some very difficult, and controversial, decisions concerning American military strength, especially involving conventional weapons. As you know, there are those who say that because we have enough nuclear bombs to kill every person in the world several times over, it is senseless to waste money on the development of additional conventional weapons systems. It is this argument that has been used against the B–1 bomber, the Trident submarine, and other conventional or tactical weapons.

An editorial appearing in the January issue of Sea Power speaks to this matter. I feel that this editorial, "The Split-Level Deterrent," offers some sound words of advice to the Members of this body:

THE SPLIT-LEVEL DETERRENT

What happens when each side is strong enough to completely obliterate the other?

That's the question we used to ask ourselves when the United States had a near nuclear monopoly but it was already obvious the Soviet Union would someday catch up.

We soon shifted from a position of overwhelming superiority to one of parity—both sides about equal, in a nuclear sense, and either side capable of blowing up the world.

Then came a gradual shift to "sufficiency"—meaning it doesn't matter which side has the biggest bombs and missiles, or the most bombs and missiles, so long as the other side still has enough left to completely wipe out whichever country is the first to use nuclear weapons in a war.

By that time the efficiency and power of nuclear weapons had increased to such awesome proportions that a nuclear war had already become "unthinkable"—but unthinkable only so long as no one country possessed a nuclear monopoly. The aptly named MAD (Mutual Assured Destruction) concept of nuclear deterrence had come into its own. No country will attack and destroy another country if by that attack it brings about its own destruction as well. So goes the theory, anyway.

The theory is probably valid, partially, insofar as nuclear war is concerned. More and more defense experts—if anyone can be called that in today's uncertain world—agree that the United States would not, at the beginning of a war with the Soviet Union, launch a nuclear strike. They also agree, with somewhat less unanimity, that the Soviet Union probably would be similarly deterred from starting an all-out nuclear war—again, and the point is worth emphasizing, at the *beginning* of a war with the United States.

But what happens after the beginning?

Suppose a war started, and both sides tacitly agreed to fight it out with conventional forces? If the United States seemed on the verge of "winning," however that meaningless term is defined these days, would the Soviet Union quietly acquiesce? Or might it decide that it had nothing more to lose by going nuclear? That thought is no longer unthinkable, apparently. The USSR has been building up its civil defense forces for years and is now convinced, according to some reports, it could protect not only most of its people, but most of its factories and cities as well, if the supposedly fail-safe MAD theory failed and a nuclear war did start. So it seems the Soviets might indeed be willing to go nuclear as a last resort.

It's certainly a possibility, anyway. But there's no need to dwell on it. Considering the size and disposition of the Soviet and American conventional force structures it seems highly unlikely such an eventuality would ever come to pass.

But there's another possibility: What happens if, in a war which started with conventional forces, the USSR seemed about to win? Would the United States be willing to pull the nuclear trigger—particularly if the war were being fought in what is called "a European scenario" and, except for the combat forces, U.S. citizens and U.S. territory had so far been untouched by the fighting? Maybe no absolute answer could be given either way, but there is certainly room for doubt, and a convincing case could be made that the United States would not, in such a situation, escalate from conventional to nuclear.

In our opinion, what it comes down to is this: Nuclear sufficiency means that neither side would go nuclear at the beginning of a war; in the later stages the Soviet Union might very well use nuclear weapons if it were losing, but the United States probably would not.

That's one thing to think about.

But there's something else also to consider. Suppose the mutual deterrence concept does hold up, and that neither side would shift to nuclear weapons, no matter what the outcome of a war fought with conventional forces?

It's been said many times that the United States has enough nuclear weapons to kill every Soviet citizen 16 or 17 times. The amount of overkills is irrelevant. Our nuclear power is immense, and so is the USSR's.

It does not necessarily follow, however, that, because we have enough nuclear weapons to completely destroy the Soviet Union and all of its people, we also have whatever is needed to fight and win—or, at least, not to lose—a conventional war.

That's the other thing to think about.

Our nuclear weapons are big enough and varied enough, let's agree, to protect us from nuclear war. In a conventional war, however, those nuclear weapons might sit on the shelf gathering dust and never be used.

So the next question is this: Do we have enough conventional weapons, and of the right types, and in the right places, to fight and win a conventional war?

We personally doubt it. It's ironic. We could probably destroy the Soviets, but we couldn't beat them, mainly because we were so mesmerized through the years by the power of nuclear weapons that we forgot our everyday naval and military forces.

None of us realized that what we really need is a split-level deterrent—strong enough nuclear forces to prevent a nuclear war, and strong enough conventional forces to prevent a conventional war.

Right now we don't have enough of the latter, and there might not be time enough to make up the difference.

EQUAL TIME FOR THE AMBASSADOR

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. RANGEL. Mr. Speaker, a short while ago, the Washington Post published an article reporting on the tenure of Ambassador Theodore Britton, who is the U.S. Ambassador to Barbados. As that article has raised many serious questions about the Ambassador and the manner in which he carried out his duties, I feel that it is crucially important for my colleagues to study the reply that the Ambassador has issued. In the interest of equal time, I would hope that my colleagues would take the time to review the comments which the Ambassador has made on this important subject. His letter follows:

EMBASSY OF THE
UNITED STATES OF AMERICA,
Bridgetown, Barbados, January 10, 1976.

Mrs. KATHERINE GRAHAM,
Publisher, the Washington Post,
Washington, D.C.

DEAR MRS. GRAHAM: I am one of that host of Washington Post admirers, who take pride in reading its pages, feeling confident that what I read is accurate and unbiased. In the Bernstein-Woodward Watergate investigations, Executive Editor, Mr. (Ben) Bradlee's constant admonition to the reporters to check, verify stories, and above all, never to malign a public official with biased reports, elevated the Washington Post to the highest standards of journalism and professionalism. I know, for I served in Washington, D.C. at the Department of Housing and Urban Development, during the period January 1971 to February 1975.

Your January 5, 1977 front page story headed "U.S. Ambassador Brings Own Style to Barbados," therefore, showed a surprising drop in those standards exhorted by Mr. Bradlee, and I hasten to point out the untruths, errors, and bias in it.

The net effect of this biased article leads me to suggest that someone or someones in your News Department should be disciplined for (1) dereliction of duty in supervising staff; (2) professional misconduct for failing to check the most obvious facts available in public records; and (3) racist reporting designed to purposely undermine confidence in a public official because of his color. I invite you to review your story.

I quote from a December 22, 1975 memorandum to me from Thomas R. Stuman, AID Affairs Officer: "Mr. (Courtland) Milloy stated that he was interested in learning about AID operations in the Caribbean." "During the conversation, Mr. Milloy stated that his interest was in doing an article on U.S. policy in the Caribbean." "At some point in the conversation, Mr. Milloy stated that he was in the area on vacation and was trying to develop a story that could be sold to finance his trip."

As great as my tolerance is for a young Black reporter, it seems unprofessional to represent oneself as being on one reporting mission, while pursuing another. It does not help to professionalize his story, at all, since he misses opportunities to be correct. Worse, it is a waste of public officials' time to pose useless inquiries, by being basically dishonest, in my opinion.

Mrs. Graham, many of us grew up believing that "Equal Opportunity meant Equal Responsibility." Many Black Americans died for it, and still believe it. I sincerely hope that you always demand that sense of responsibility from all your staff reporters, be they Black or White. Obviously, Mr. Milloy lied to us, in the name of the Washington Post.

Let me further analyze your story and some of its seemingly purposeful inaccuracies in reporting details that are available in the public record. (Such attention to detail obviously would have reduced the sensationalism of the article.)

A. I was nominated in November 1974, and took up post February 1, 1975, not "Named in late 1975."

B. Having never met President Ford, with HUD since January 1971, not active in any

Republican campaign, could hardly earn me appointment as a political plum. My predecessor, Career Foreign Service Officer Eileen R. Donovan, served 5½ years at this post before I arrived. Naturally, she was White.

C. Former Prime Minister Errol W. Barrow has never described *me* as "the ugly American", although he did not agree with my defense of American and Eastern airlines, against an air regulation.

D. Pinning down the so-called "charges of incompetence" should have been easy in Washington if they exist. Having never been presented with such, and I think, in all fairness, the Washington Post should help me to secure same, from my State Department colleagues, they have now become innuendoes, a sort of whispering campaign elevated by unnamed "sources" who invoke the name of President-elect Jimmy Carter. This is a form of character assassination to me, personally, but as a former missionary of the American Baptist Convention, it can only promote a genocide of racial confidence in those youngsters and adults who know me and whose respect I have tried to earn and maintain.

E. "AID established its office in Bridgetown." Mr. Milloy, in his conference, was given extensive background information by AID officials on the $58 million (not $20 million) being administered here.

F. The Chairman, Joint Chiefs of Staff, and the Chief of Naval Operations, designated the Commanding Officer U.S. Navy Facility, Barbados, as U.S. Defense Representative (see CINCLANT Instruction 5410.1, dated September 15, 1975), to insure closer coordination with the Ambassador. There are two U.S. Navy Facilities and one U.S. Air Force installation within the Embassy's district. It was purposely inaccurate to state that such was to benefit the "Barbados Navy." Ambassadors (including Black ambassadors) are charged with overall responsibility for U.S. relations in their areas.

G. As a one-man (Barbadian) staff of the U.S. Information Agency existed when I arrived here, it has not increased. USIA could have given the Washington Post the facts.

H. Barbados, with 250,000 people (not 148,000, as Milloy reports) is headquarters for this Mission serving two independent countries (including Grenada), five associated states, and three colonies, covering 700 miles, with over 800,000 people. Current staff is 15 Americans, and 23 Barbadians, not 25 Americans.

I. The "full-time contractor" statement regarding "$200,000" is a serious one, suggesting some kind of criminal action, but eagerly accepted and printed by the Washington Post. The Embassy residence was purchased by the United States for approximately $250,000 during my predecessor's tenure, and no major repairs have been made to it since my arrival. The Foreign Buildings Operation office at the Department of State could easily have been checked for this. (Why did the Washington Post so glibly accept the word of William S. Diedrich, "the political officer Britton locked out"—according to the story? Again, Mrs. Graham, Mr. Diedrich happens to be White, and his accusation against a Black Presidential appointee went completely unchallenged. Mr. Milloy never mentioned any such charge to me or my staff, when here, thereby abrogating any opportunity to learn the facts. I would have had no objection whatsoever to his inspecting the Embassy residence or building records, if he so wished.)

J. United States Marines serve in embassies as security guards world-wide, and have done so since 1942. They were requested in Barbados by the Department of State before my arrival, and, having been approved, began arriving in July 1976. There was no dispute with Prime Minister Barrow, whom I regard as a friend. The Embassy has had three bomb scares during the past month, including one evacuation, but degrees of "stability" and "peaceful" are simply not the criteria used to determine the assignment of such guards.

K. Again Mr. Diedrich comes through as the principal source and authority for all the allegations—carried as facts by the Post. Shouldn't it have occurred to someone to do a thorough check on Diedrich? Would the Post have front-paged his accusations if it had known the reasons for Diedrich's departure from the Embassy? Did the Post ask, or learn, that Diedrich's immediate superior, himself a Foreign Service Officer for 28 years, had recommended Diedrich's dismissal from the Foreign Service?

L. The Washington Post makes a mockery of any increase in staff or facilities, supporting a lower ranking subordinate's description of such change as "empire building." Fair and objective reporting simply would not tolerate this kind of bias. A quick example will illustrate the unfairness of this. The Embassy's Consul General, with 32 years experience, has just secured Department of State approval of an additional 2 American officers, and 5 local staff, all desperately needed to implement the recent (January 1, 1977) amendments to the Immigration and Nationality Law. He needs and is requesting additional office space to accommodate them, and to proceed with the work. If Diedrich labels this expansion as "empire building", does it follow that the Washington Post accept it? I suggest that, properly constituted questions to the Department of State could have secured answers which justify such increases, hopefully, without bias to the Ambassador's color.

I realize that I have been making, or trying to make my case, without making myself known, and will include my own background as an enclosure.

My interest in foreign affairs and the diplomatic service began when I was a young Marine serving with a segregated Depot Company in Guadalcanal and read of the work of then young Dr. Ralph J. Bunche of the Anglo-American Caribbean Commission. My studies, travels, work with HUD, OECD, and USIA, throughout Europe, Asia, Africa and North America, all led in this direction, culminating in my nomination as Ambassador in 1974. Far from a "plum" post, I was first interested in Upper Volta, with no disrespect to that Nation, and would have accepted. In coming to Barbados, therefore, I saw it as an opportunity, both to represent my own country, and to help improve the economic and social well-being of the people here in the eastern Caribbean. This was no easy task.

My problem with the Barrow government developed because I objected to what I considered, rightfully or wrongfully, discriminatory treatment towards U.S. air carriers. My problems with some of my staff perhaps developed because of my concern for these underdeveloped islands, and my unwillingness to tolerate what I considered discriminatory or biased reporting by some officers, or a cavalier approach to service at this post. Enclosed are editorials from the local daily newspaper, The Advocate-News, which suggest that I have been on the right track.

And, despite what your article stated, I have never sought, or received, the support of the Honorable Charles C. Diggs, Jr., although I have long admired him, his work, and his opposition to the same kind of discriminatory forces everywhere. Again your carelessly inaccurate reporter included Mr. Diggs name in his article, for sensationalism, if for no other reason, and the Post duly printed it. The quote, attributed to me, with his name, is entirely erroneous, and Mr. Diggs, who interrupted his busy schedule to chastise me, is rightfully deserving of a retraction from the Post, and an apology, and I do request it from you.

Perhaps, like the so-called "sources at the Department of State" said, President-elect Jimmy Carter has read your article, and has been poisoned by me, or against my efforts as U.S. Ambassador. My family and I are proud of our work here, and of the opportunity to have served our country. If my service is terminated before I choose to do so, it will be not due to any failing on my part, but solely to the insensitivity of your great American newspaper. I expect to continue to be one of your many readers, but would truly hope that the fair and objective professional reporting I once admired is again present in the Washington Post.

I do think the article showed a clear racial bias, among other things, and I urge that you give some attention to the three charges I have previously set forth. Any response from you would be gratefully appreciated.

Respectfully yours,

THEODORE R. BRITTON, Jr.,
American Ambassador.

AN END TO THE "SLUSH FUND" ACCOUNTS

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. PANETTA. Mr. Speaker, a recurring scandal that has marred the reputation of this House centers around the practice of some Members of maintaining so-called office accounts or slush funds.

The good name of this House has suffered a great deal in recent times, but it appears another trial is in store. Reports in the press indicate that some Members may have used office accounts as channels for illegal contributions from foreign nationals.

As long ago as 1968, the Senate passed a rule requiring its Members to disclose all gifts of $50 or more. Despite several proposals put forth by the Federal Election Commission to regulate "slush funds," neither the Congress as a whole nor the House individually has taken substantive action on this vital issue.

In the next few weeks, we will have an opportunity to correct that oversight. At that time, the House will be asked to consider recommendations drawn up by the Commission on Administrative Review of the House of Representatives on the maintenance of "slush fund" accounts.

On January 24, 1977, I submitted testimony to the Commission urging my colleagues to join me in calling for an outright ban on these accounts. We cannot afford any more questions about the integrity of this House or its Members to be raised. A ban on "slush fund" accounts would help restore that integrity and the accountability of Congress to the people.

So that Members may give the matter their fullest consideration, I submit the text of my testimony before the Commission:

TESTIMONY OF THE HONORABLE LEON E. PANETTA BEFORE THE COMMISSION ON ADMINISTRATIVE REVIEW OF THE HOUSE OF REPRESENTATIVES, JANUARY 24, 1977

Mr. Chairman, thank you for giving me the opportunity to present testimony on what I believe are badly needed reforms in the area of so-called "office accounts" or "slush funds." It is my strong belief that the House should prohibit Members from using any monies other than those appropriated by the

Congress for the performance of their official duties.

As commonly understood, "office accounts" or "slush funds" are established and maintained through donations, excess campaign funds, honoraria, or personal funds, and are used to pay for newsletters, trips to the district, dinners, phone bills and other "official expenses."

Congress ostensibly recognized the need to regulate these funds when it passed and later amended the Federal Election Campaign Act. The Act (2 U.S.C. § 439(a)) authorized the Federal Election Commission to set forth guidelines for the proper handling of office accounts. Yet despite numerous proposals offered by the Commission to regulate these funds, Congress has still failed to enact regulatory provisions.

The reasons offered for this failure and for the continued opposition by many Members to any regulation are numerous. Some of the more prevalent rationalizations are as follows:

(1) It takes more money than is appropriated to run a Congressional office adequately;

(2) More money will help keep the electorate better informed about what its Representatives are doing;

(3) Members will go into debt to finance their offices and office-related expenses if there is no other income source; and

(4) What a Member does with money given to him for the running of his office is no one else's business.

These may be rationalizations, but they are not justifications for failure to regulate these accounts. If more money is needed to run an office, the House should appropriate more. If the electorate is not well enough informed, that too can be addressed through adequate appropriations and use of the free media. If Members' salaries are not sufficient to cover legitimate expenses, then appropriate salary increases should be considered. The fourth argument should need no response—the business of Congress is the business of the public. In no instance is the slush fund a justified solution to the legitimate problems we face in running our offices.

A variety of compromise solutions have been offered to deal with the question of slush funds, including disclosure, limits on the amounts that may be donated to office accounts, and special limits on slush funds during periods preceding Election Day.

I believe that none of these approaches adequately addresses the primary danger inherent in slush funds: that a Member's votes or official actions may be influenced by money he has received from individuals or special interest groups. Who can say whether $1,000 or $100 will influence a Member? Who can determine exactly at what point a Member begins running for reelection? Disclosure is an attractive proposal, but it still does not insure that a Member will not succumb to heavy pressure from a donor or donors.

We need that insurance. We are already subject to intense pressure from a myriad of sophisticated lobbying groups. Congress and our other national institutions have suffered a severe loss of public confidence. We cannot afford to pass up an opportunity both to ease the undue pressure exerted by special interest groups and to regain the public trust.

That is why I propose an outright ban on the use of office accounts to assist Members in the performance of their official duties. For purposes of such a ban, "office account" may be defined as follows: " 'Office account' means an account established for the purpose of supporting the activities of a Federal or state office-holder which contains funds donated, excess campaign funds, honoraria, and/or personal funds, but does not include an account used exclusively for funds appropriated by Congress, a state legislature, or another similar appropriating body." (See addenda).

Should Congress adopt a ban on office accounts, the only funds which a Member could raise and spend outside legislatively-appropriated funds would be for campaign purposes and they would be subject to the contribution limits and disclosure requirements of the Federal Election Campaign Act.

This restriction would address what I believe is the second problem posed by office accounts, even after accountability—the inequity between an incumbent and his or her challenger(s) that results from the incumbent's access to large sums of unregulated money. The substantial edge that incumbents enjoy by virtue of $1 million per term in appropriated funds and subsidized services should be enough. Certainly, public support for the Federal Election Campaign Act has never meant support for any more gross and unnecessary disparities between incumbents and challengers.

Members may well ask whether such stringent regulations, which might involve the appropriation of more funds for Congressional offices, would be supported by the public. I believe the answer is yes. The American people have clearly shown their willingness to underwrite the costs of the Presidential campaign to insure the integrity and accountabilitiy of their President. In the same way, I believe they will support the financing of Congressional offices by strictly public means.

As a freshman Member, perhaps I can offer some insight into how the electorate will react if we do not enact tough legislation barring office accounts. In my recent campaign for the House, one of the issues was the incumbent's maintenance of a private office account. Public interest in the issue rose as district papers ran articles estimating the value both of these funds and of the legislatively-appropriated funds to which my opponent had access. I attribute my victory in part to my constituents' dislike for the whole concept of office accounts. When we remember that the average salaried worker in the United States earns about $9,620 a year, it is not hard to understand the public outrage over the spectacle of a $44,625-a-year Congressman with another million dollars in taxpayer support, begging for more money under the table.

America faced one of its first slush fund crises almost twenty-five years ago when Senator Richard Nixon defended his acceptance of $18,000 in what were essentially slush fund gifts. The scandal died down after Nixon's "Checkers speech," only to rise up time and time again. Recently, such accounts were reportedly used as the channels for contributions from Korean foreign nationals. It is clear that unless we take action now, this troublesome issue will be with us for a long time.

The reputation of the House and of its Members cannot withstand even one more scandal or impropriety. We have taken some very constructive steps to guarantee the integrity of this body in the eyes of the public. I urge you to take another giant step in that direction by recommending a ban on the use of office accounts and returning the accountability of Congress to the people.

Thank you again for giving me the opportunity to share my views with you, Mr. Chairman, and with the esteemed Members of the Commission.

ADDENDA TO REPRESENTATIVE LEON PANETTA'S TESTIMONY BEFORE THE COMMISSION ON ADMINISTRATIVE REVIEW OF THE HOUSE OF REPRESENTATIVES

1. Definitions

(a) *Funds donated.* "Funds donated" means all funds, including but not limited to gifts, loans, advances, credits, or deposits of money or anything of value, which are donated for the purpose of supporting the activities of a Federal officeholder.

(b) *Excess campaign funds.* "Excess campaign funds" means all funds and things of value received by a candidate for Federal, state, or other office, which the candidate determines are in excess of any amount necessary to defray his or her campaign expenditures.

(c) *Honoraria.* "Honoraria" means all funds and things of value received for a speech, interview, writing for publication, or other similar activity from a person, organization, or corporation.

(d) *Personal funds.* "Personal funds" means funds maintained and controlled by a Member or his or her immediate family, or anything of value owned or controlled by a Member of his or her immediate family.

(e) *Office accounts.* "Office accounts" means an account established for the purposes of supporting the activities of a Federal or state officeholder which contains funds donated, excess campaign funds, honoraria, and/or personal funds, but does not include an account used exclusively for funds appropriated by Congress, a state legislature, or another similar public appropriating body.

DICK AND JANE AND FRED AND OSHA

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. HANSEN. Mr. Speaker, since its inception, the Occupational Safety and Health Administration has been highly controversial and it will continue to be even more so in the future because of recent court decisions and pending appeals.

In order to assist those interested I submit for the RECORD basic information which may be enjoyable, if not useful, as found in a recent edition of the Manchester, N.H., Union Leader:

Fred Beane, our farm editor, who has honored us by being with us for more than 55 years and is one of the best farm editors in the whole nation, gives us his comments below on a spendid editorial entitled "Dick and Jane Visit the Farm" from the Omaha (Neb.) World Telegram. Even those readers of this newspaper who are not farmers will enjoy this and laugh over the absurd and outrageous meddling in the lives of American citizens. This time it's the farmers, but the next time it could be you.—William Loeb.

OMAHA VIEW OF OSHA HAS FARMERS GIGGLING

KEENE, N.H.—Cheshire County farmers are having a good laugh at the expense of OSHA, since they received their Extension Service "Around the County" newsletter, containing a foreword insisting that "most farmers and businessmen have had it up to here with government regulatory agencies," especially EPA and OSHA.

And then the newsletter continued:

"To add insult to injury, OSHA has come out with so-called safety booklets, explaining safety rules in and around the farm.

"These booklets are written in such simplistic language that OSHA is finding it difficult to convince literate people it isn't trying to insult their intelligence."

Then the newsletter lets the county soil tillers in on what the Omaha (Neb.), World Telegram had to say in its editorial entitled "Dick and Jane Visit the Farm." It follows—

"See the book.
See the little book.
See the little OSHA book.
What is OSHA?
OSHA is your government.
OSHA is the Occupational Safety and Health Administration.
OSHA helps people.
OSHA helps people be safe.
OSHA wants farmers to be safe.
OSHA made the little book for farmers.
What does the little book say?
This is what it says—
Be careful around the farm . . . Hazards are one of the main causes of accidents. A hazard is anything that is dangerous.
Be careful when you are handling animals. Tired or hungry or frightened cattle can bolt and trample you. Be patient, talk softly around the cows. Don't move fast or be loud around them. If they are upset, don't go into the pen with them.
Cows are more dangerous when they have new calves. Be careful if you have to reach into their pen. Try not to go into the pen with them. Keep pets and children away, too.
A bawling calf can cause all the cows to be upset. If that happens, stay out of the feedlot. They could bolt and knock you down.
Always try to keep a fence between you and your cattle. Never try to handle a bull alone. Always have a helper.
Don't fall!
Be careful that you do not fall into the manure pits. Put up signs and fences to keep people away. These pits are very dangerous.
Put away tools, equipment and feed when not using them . . . When floors are wet and slippery with manure, you could have a bad fall . . . If your ladder is broken, do not climb it.
Wear clothes that fit right."
Then comes more advice from the Omaha World Telegram:
"See the farmer.
See the farmer go to the mailbox.
See the farmer get the little book.
The farmer can read.
The farmer can read big words.
The farmer can read long sentences.
The farmer knows about cows.
The farmer knows about fences.
The farmer knows about manure pits.
See the farmer read the little book.
Now the farmer knows about OSHA.
See the farmer kick the mail box.
Hear the farmer say bad words.
See the farmer throw the little book.
See the farmer throw the little book into the manure pit.
See OSHA.
See OSHA write.
See OSHA print.
See OSHA throw money into the manure pit.
Say bad words about OSHA."

ON TECHNOCRATS AND MORALISTS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following article by my constituent General Henry Huglin.

I feel that General Huglin offers some sound words of advice for both the incoming President and the Congress:

ON TECHNOCRATS AND MORALISTS

(By Henry Huglin)

There is reason for concern that Jimmy Carter and Walter Mondale and his other advisers on national security and international affairs may be more oriented to technocratic analyses or moralistic posturings than to common-sense, really humanistic and hard-headed judgments as to our nation's best interests in these matters.

What we may be getting in the Carter presidency, as in Kennedy's, is too much emphasis on such "whiz kids" analyses and do-good sloganeering. What we need are middle ground processes, that is, taking these aspects into account, but deciding policies and courses of action by common-sense judgments, which include the outlooks of peoples and regimes we have to deal with, adversaries and friends—with proper consideration of their perspectives and different culture, history, and values.

Harold Brown, incoming Secretary of Defense, is known as an outstanding technocrat. Whether he also possesses common-sense humanism only time will disclose.

Brown's former patron, Robert McNamara, Secretary of Defense under Presidents Kennedy and Johnson, was a technocrat par excellence. Brown was one of his "whiz kids." But, like the Edsel auto, which was put out when McNamara was with the Ford Motor Company, some of his technocratic decisions as Secretary of Defense were notable failures.

An example is the TFX (F-111) weapon system, which was going to be a "cost-effective" amalgamation of Air Force and Navy requirements; it turned out to be a highly costly and not very effective airplane—because of the narrow technocratic approach.

And in international affairs, for example, the analyses of McNamara and his "whiz kids" came up with revisions to NATO strategy and deployments which looked good in their cold rationalizations. But these ideas were scorned by our NATO allies because their interests and perspectives were not considered or were brushed aside.

Further, the way the Kennedy and Johnson Administrations wallowed around in Vietnam with timid and vacillating strategies and tactics was a gross example of too-much technocratic approach and not enough common-sense empathy for the human factors—psychological, political, and cultural—involved in the southeast Asian situation.

One of Carter's campaign themes was about morality in our dealings with other countries. This theme is especially popular in so-called liberal circles.

Now no one can sensibly quarrel with our being for high standards of morality, civil rights, and justice as goals for all countries. But where the bind comes is in trying to apply our standards abroad rigidly or narrowly.

There are often extenuating circumstances in other countries to be taken into account. Or there are overriding considerations for us, as a superpower necessarily involved in power politics around the world and in a vital, protracted struggle with Soviet Russia for preservation of our nation's security and freedom—and preservation and expansion of the security and freedom of many others in the world as well.

Oh, it could be sanctimoniously gratifying to cut off economic, technical, or military aid or sales to such nations as South Korea, the Philippines, Iran, Chile, or India, because the present regimes suppress civil liberties and due process of law. But it also could be stupid, a "cutting off our nose to spite our face." The realities of geopolitics sometimes require that we keep on dealing with repressive regimes in these and other countries—while using what leverage and diplomatic influence we have for moderation of those regimes.

The sound approach to world affairs includes taking into account human factors that are not quantifiable and often not narrowly moralistic. These factors include human ambitions and foibles which motivate leaders and their peoples, the impact of different cultures, and geopolitics that cause other peoples to view issues differently than do we. Realism requires tolerances for diversity of systems of government, degrees of personal freedom, and life styles at variance from ours.

What we need are leaders who are sensible about applying technocratic analyses and our nation's moral standards abroad, who recognize that we sometimes need to temper our concern for the actions of regimes in other nations with realistic common sense—for overriding interests of diplomacy, or security, or access to critical raw materials such as oil.

And people trained in scientific and technological analyses, though invaluable, are usually not oriented to deal soundly with factors which they cannot quantify and analyze precisely. Yet, it is these factors, and common-sense judgments based on them, which are often crucial in dealing wisely with international situations.

Hopefully, Jimmy Carter as President will include among his key advisers those with common-sense humanism—and express this quality himself—so that our national security and foreign policies and actions will be as soundly based as possible.

HOUSE OF REPRESENTATIVES—*Thursday, January 27, 1977*

The House met at 11 o'clock a.m.

Rev. George F. Lobien, Lutheran Church of St. Andrew, Silver Spring, Md., offered the following prayer:

Lord God, all the power of our universe belongs to You.

You use Your power so graciously, creating life and sustaining it.

You make our world a better place in which to live.

You have entrusted to us a vast amount of Your power.

The whole world looks to our great land to discover how we will use our blessings.

It makes us heady, Lord.

How tempting to take Your power and use it only for ourselves.

It is hard to remember for what purpose You gave us power, Lord God.

Give us wisdom.

Increase our understanding.

Temper our strength with compassion, that our Nation, through its leaders, might follow the example of the one who laid aside divine prerogatives and gave of Himself completely that all people might have life abundantly—even Jesus Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

THE REVEREND GEORGE F. LOBIEN, TH. D.

(Mr. PATTEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PATTEN. Mr. Speaker, I would like the Members to know that the Reverend George F. Lobien, who gave the opening prayer, came to Maryland from Wisconsin, as the Members could tell by his southern accent. We will all learn that southern accent before too long.

Dr. Lobien is a scholar, a student of evangelism, and has spent 6 years at the Lutheran Church of St. Andrew in Silver Spring, Md. One of my devoted staff assistants, Susan Mannina, asked me to invite him to give the opening prayer today. The more I hear about Dr. Lobien, the more I am intrigued by him, and I know the Members enjoyed and benefited by his prayer.

THE REVEREND GEORGE F. LOBIEN

(Mr. STEERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEERS. Mr. Speaker, I would like to welcome Dr. George F. Lobien, pastor of St. Andrew's Lutheran Church, Silver Spring, Md., who offered our opening prayer today.

Dr. Lobien has been with the Lutheran Church of St. Andrew for about 6 years. He is known as a scholar, a teacher, and an evangelist. Again I repeat that I am delighted to welcome Dr. Lobien and thank him for being with us today.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS AND ITS SUBCOMMITTEES TO SIT WHILE HOUSE IS IN SESSION DURING 95TH CONGRESS

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means and its subcommittees be authorized to sit while the House is in session during the 95th Congress.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

THURSDAY MORNING PRAYER BREAKFAST

(Mr. RHODES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. RHODES. Mr. Speaker, I take this time to congratulate the Members of the House of Representatives who participated in the prayer breakfast this morning. The gentlewoman from Maryland (Mrs. HOLT) was the mistress of ceremonies, and our colleague from Utah, GUNN MCKAY, gave very fine readings.

In particular, I want to congratulate the distinguished majority leader, who gave the message. I want to say to my friend that I have never been more moved by words than I was by the fine message which he gave today. I was proud to be associated with him, and I thank him for mentioning my name so kindly, and assure him that I do forgive him for the contentious nature which he not very often displays.

DESIGNATING MEMBERSHIP ON CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FOLEY. Mr. Speaker, as chairman of the Democratic Caucus and by direction of the caucus, I offer a privileged resolution (H. Res. 198) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 198

Resolution designating membership on certain standing committees of the House

Resolved, That the following-named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Agriculture: Harold L. Volkmer, Missouri.

Committee on the District of Columbia: Fortney H. (Pete) Stark, California; Charles Rose, North Carolina; Norman E. D'Amours, New Hampshire; Ted Risenhoover, Oklahoma; Douglas Applegate, Ohio.

Committee on International Relations: E de la Garza, Texas; George E. Danielson, California; Berkley Bedell, Iowa; John J. Cavanaugh, Nebraska.

Committee on the Judiciary: Herbert E. Harris, Virginia; Jim Santini, Nevada; Allen E. Ertel, Pennsylvania; Bill Lee Evans, Georgia; Anthony C. Beilenson, California.

Committee on Post Office and Civil Service: James J. Howard, New Jersey; Ralph H. Metcalfe, Illinois.

Committee on Small Business: Ike Skelton, Missouri.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBER OF THE DISTRICT OF COLUMBIA LAW REVISION COMMISSION

The SPEAKER. Pursuant to the provisions of section 2(a), Public Law 93–379, the Chair appoints as a member of the District of Columbia Law Revision Commission Mrs. Sharon Dixon, of Washington, D.C.

APPOINTMENT AS MEMBER OF THE DISTRICT OF COLUMBIA LAW REVISION COMMISSION

Mr. RHODES. Mr. Speaker, pursuant to the provisions of section 2(a), Public Law 93–379, I have today appointed as a member of the District of Columbia Law Revision Commission the Honorable Stanford E. Parris, of Virginia.

TEAMSTER INVESTIGATION—AN ILLUSION OF PROGRESS

(Mr. PICKLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, a few days ago the Labor Department filed suit under the Federal pension law against a small Teamster local in New York City. The case is described in the Wall Street Journal of January 24, 1977, as "significant because it seeks to win from a Federal court some particularly broad legal remedies that are possible under the law but haven't yet been fully tested in court." Apparently reporting the views of the Labor Department, the news article notes "the case could become an important precedent" in the ongoing investigation of the Teamster Central States fund.

Mr. Speaker, this case, important as it may be in its own right, may not be a precedent for an adequate and aggressive Central States investigation and is not a signal that the Labor Department is taking an aggressive stance in the Teamster fund matter.

It will take years for this small case to work its way through the courts. Meanwhile, the Labor Department and the Internal Revenue Service have already announced they are engaged in important negotiations with the Central States Fund that will conclude at the end of February and which are expected to have a direct bearing on the future tax status and operation of the fund.

The Internal Revenue Service and the joint Labor-Justice investigations of the Central States Fund have been going on for over a year. We should not be waiting for the disposition of this small case to see what to do about Central States. We should be moving ahead, and I hope that the Congress will not be lulled in by any early illusion of progress.

The American public is watching. They will know whether we have done an adequate job or not. And the future of pension reform very much rests on their judgment of whether the Federal Government is determined to make the law apply in the tough cases as well as in the small ones.

BIENNIAL MEETING OF U.S. CONGRESSIONAL GROUP OF INTERPARLIAMENTARY UNION TO BE HELD MONDAY, JANUARY 31, 1977

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DERWINSKI. Mr. Speaker, as past president of the U.S. Congressional Group of the Interparliamentary Union and member of its executive committee, I hereby announce that the biennial meeting of the U.S. Congressional Group of the Interparliamentary Union will be held next Monday, January 31, in room EF–100 of the Capitol, at 4 p.m. Election of officers of the group for the 95th Congress will be held.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for the balance of this week and for next week.

Mr. WRIGHT. Mr. Speaker, will the

distinguished gentleman from Arizona yield?

Mr. RHODES. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, in response to the question, on Monday of next week the House will meet at noon. There will be bills eligible under suspension of the rules, but there are no bills scheduled.

Tuesday will be Private Calendar Day. There are no bills scheduled for the Private Calendar. Suspensions also will be eligible on Tuesday, and it is the hope of the leadership that we can take up on Tuesday under suspension of the rules the emergency natural gas bill. That depends, of course, on the ability of the committee to complete its deliberations on that legislation.

On Wednesday the House will meet at 3 o'clock. We are hoping to consider House Resolution 9, Reestablishing the Committee on Assassinations. That would be subject to a rule being granted.

Thursday and the balance of the week, the House will meet at 11 o'clock.

Mr. RHODES. Is it my understanding that the emergency natural gas bill will be brought up under suspension of the rules?

Mr. WRIGHT. It is the plan of the leadership that the emergency natural gas bill would come on Tuesday under a suspension of the rules.

This depends, of course, upon the ability of the legislative committee to complete its deliberations and finish the markup of the bill. It is possible that there might be some slippage that would delay that consideration until Wednesday or conceivably even Thursday, but it is the present plan that it will come up on Tuesday.

Mr. RHODES. Mr. Speaker, I certainly understand the desire for haste in this matter, and I concur in that desire. The fact is that there are homes that are cold in certain areas of the country and situations are developing which nobody likes. Unemployment is increasing, and we do need to move.

I suggest that the majority leadership consider, however, whether it really is expediting matters to bring this bill up under suspension. I cannot help but feel individually—and I do not speak for my party but only for myself in this instance—that we would make haste faster if we were to bring a bill up in the ordinary way so that an amendment could be offered or a motion to recommit could be offered to completely deregulate natural gas.

If, after deregulation, abuses appear, then, of course, legislation should and probably would be adopted to correct those abuses or at least to make them less attractive. But it strikes me that really the only fast way of getting more natural gas to the country, not only for the next 180 days but for the next year, is to completely deregulate, and I would hope there will be some consideration by the majority leadership of making such a consideration possible.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield further?

Mr. RHODES. I yield to the majority leader.

Mr. WRIGHT. Mr. Speaker, at this juncture I cannot speak for other Members but only for myself, but I do state what I believe to be the feeling of a majority of the Members of the House. My feeling is that the present emergency is so stark and so immediate that about all we should attempt to do would be to address that immediate emergency with the consideration of this emergency legislation next week.

People are cold. There are sick people and old people who do not have enough gas to keep themselves warm.

Rather than getting ourselves entangled in the longer range, philosophical consideration which will come later and on which the House will have an ample opportunity to work its will, it is my thought and, I believe, the thought of most of the Members that we ought to come out very quickly with a bill addressed solely and exclusively to alleviating this present shortage and not run the risk of delaying its enactment and getting ourselves involved in some of these more controversial questions.

Mr. RHODES. Mr. Speaker, I am sure the majority leader would agree with me that our only difference of opinion is as to the best means of facilitating the delivery of natural gas to the people who need it. I merely make this suggestion so that the record will be abundantly clear that that is my position.

Mr. Speaker, if I may proceed just briefly on another subject, on February 1, I intend to take a special order for 1 hour for the purpose of allowing the Members who desire to do so the opportunity to extend their remarks or actually to utter words on the floor concerning the administration of Gerald R. Ford as President and Vice President.

ADJOURNMENT TO MONDAY, JANUARY 31, 1977

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only to ask the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT), whether his remarks in response to the minority leader indicate that he and the leadership on his side might consider bringing up the natural gas bill under the regular procedure with an open rule allowing amendments. May I read in the gentleman's statement a desire to perhaps avoid the suspension procedure?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the majority leader.

Mr. WRIGHT. Mr. Speaker, no decision is final, but I would have to say in all candor in answer to the gentleman from Maryland that the present plan or the present hope of the leadership would be to act very quickly in this emergency.

The fear exists that if we were to get entangled in longer range and controversial philosophical questions, we might inadvertently delay the enactment of those limited measures by which we can and should address this very present crisis.

Therefore, Mr. Speaker, I should think that the gentleman from Maryland (Mr. BAUMAN) would want to work with us and assist all of us in doing those things immediately necessary to stop suffering; and in order to achieve and to facilitate that goal, we had thought that it would be well simply to bring up a very limited bill, one that makes no long-range or profound changes and which has applicability limited to only a very few months in order that we do not delay this matter and so that the public can see that its Congress is acting responsibly and responsively to this very pressing emergency.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I assume from the answer that the gentleman is saying that the bill will not be brought up under any procedure except under suspension.

I can only observe, Mr. Speaker, that if people are suffering in this country, it is because the majority in this Congress has for 3 years refused to deregulate natural gas and refused to enact a national energy policy. It seems to me that temporary deregulation for 6 months will accomplish absolutely nothing. It will not produce more natural gas because the incentive to producers for long-range expansion will still not be there. Moreover, the bill will do nothing to increase the immediate supply. It simply will reallocate the shortage that exists.

Mr. Speaker, if we consider this kind of legislation under suspension, with every Member denied the right to offer amendments, then the majority is again going to have to accept the responsibility for the suffering of old and the sick, the people without heat, and for the thousands of people who are being put out of jobs, and for the industries that are being closed.

I think the very least you might offer, Mr. Speaker, is the chance, under normal procedure, to formulate immediately an energy policy that is not just good until the warmth of the summertime removes the pressure for action 6 months from now but that will solve the problems for next winter and many years afterward. Furthermore, Mr. Speaker, the gentleman from Texas (Mr. WRIGHT) has been one of the most eloquent advocates of this long-range approach, as I recall, in the past.

Mr. WRIGHT. If the gentleman will yield further, Mr. Speaker, certainly I would concede the first thing which the gentleman says, to the effect that the bill contemplated under suspension next week will not cure the problem.

It is not intended as a long-range solution. It will not do anything to make for more natural gas being produced. All it would do would be to make it possible for us to use those limited supplies that we now have to distribute them more efficiently and more equitably so as to see to it that no real suffering occurs. That is all it would do.

I certainly will agree with the gentleman that this is not the solution to the energy shortage and that this Congress does have the solemn responsibility to

face up to the long-range energy problems. In that connection, the Speaker has announced his firm intention to appoint a special committee to make long-range plans and to draw from the best minds available the very best ideas for addressing this problem which inevitably will confront the Nation 10 or 15 or 20 years from now when we run out of oil and gas. However, this is not the time to do that, I submit to the gentleman. Our present crisis gives us time only to respond to the suffering that is occurring now.

We make no claims that this bill to be brought up next week will be a long-range solution.

Furthermore, Mr. Speaker, I promise the gentleman that if this Member is still a Member of this body and still alive and healthy, I will be doing everything within my human power to try to bring forth some meaningful solution, in the long run, if the gentleman will assist us in meeting this immediate crisis as a result of which so many of our people are suffering.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I appreciate the assurances of the gentleman from Texas (Mr. WRIGHT) and I do wish to assist him.

I am very hopeful that this Congress will take the course of action he describes. However, Mr. Speaker, I also notice that there is absolutely nothing else on the calendar next week except the dubious proposal to reestablish this Committee on Assassinations. Consequently, the House could come in on Monday and debate this problem for 4 or 5 straight days and work out a rational energy policy.

We have had this matter before us for years, time and time again, on this floor. To bring it up now, though, as the first major action of this Congress under a gag procedure, allowing no amendments and only 40 minutes of debate, is a travesty of the legislative process and a sure guarantee that millions of Americans will continue to suffer because of the energy shortage this Congress is causing and has caused.

Mr. Speaker, I wonder why we bother to have elections if this is the way the Congress of the United States is going to face major issues.

I do not fault the distinguished gentleman from Texas, but I thought we were committed to a fresh course pointing this country in a new direction. Apparently we are not.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

A PROPOSED CONSTITUTIONAL AMENDMENT ON THE RIGHT TO LIFE

The SPEAKER. Under a previous order of the House, the gentleman from Missouri (Mr. VOLKMER) is recognized for 10 minutes.

Mr. VOLKMER. Mr. Speaker, I am introducing, for myself and Mr. GEPHARDT, a joint resolution proposing a constitutional amendment with respect to the right to life.

As a public servant, I have been sworn to uphold the laws of my State and this Nation. I reaffirm those oaths now.

But I cannot defend all laws against reason, nor advocate the purpose of each one. Conscience compels me to speak out when a law must be changed.

For nearly half the history of this democracy, human bondage was recognized by our legal institutions. Who now rises to defend slavery?

The Dred Scott decision of 1856 found slaves to be "humans," but not "persons" under the law. The logic of that finding seems barbaric by today's standards. Yet it was echoed by the Supreme Court in Roe against Wade in 1973.

Without the enactment of the 14th amendment to the Constitution, that barbaric Dred Scott decision would still be law.

Today, we must face a similar decision: Are we to stand by and observe this travesty of human dignity which the 1973 Supreme Court decision in Roe against Wade represents, or are we to arise and take up a cause as did others before us?

We are now taught that legal personality is not conferred by virtue of color, age, or class. Many might think this is a fundamental lesson of our revolution.

In fact, it is of more recent vintage.

After 4 years the open floodgates for abortion on demand may provide us with another lesson. Legal personality should not be denied on account of a human being's stage of development.

We need an amendment which will reverse our society's backward march to barbarism.

I choose my words carefully. If advocates of unrestricted abortion are allowed to refer to "termination of pregnancy," then I should be permitted my own description. It should be left to our people to decide who is more correct.

After all, our people are at the very center of this argument. Perhaps no greater moral issue since slavery has divided our people more than unrestricted abortion. Many people still doubt the existence of human life from the moment of conception. I ask them one question: If any doubt remains when human life is at stake, can any civilized society deny the benefit of that doubt to the unborn?

The sheer magnitude of legal abortions since January 22, 1973, has even disturbed some of those who once argued for unrestricted abortion.

These are unsettled by the notion some convenient legalese may have consigned more than 4 million human beings to ashes. Their lingering doubts about when human life begins is beginning to weigh heavily on their consciences.

Others may continue to be troubled and do nothing. I will cast in my lot with others who are committed to action. I have no more important mission as a Member of this body than to join those working to restore respect for life.

I raise my voice in this effort, fueled by my conscience and directed by my determination to contribute to the quality of our way of life. I pray my energy will never be abated, for this purpose is too great and the cause too important.

Mr. Speaker, I am now delighted to yield to my colleague, the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. I thank the gentleman for yielding. Mr. Speaker, I welcome this opportunity to join with my colleague from Missouri in an effort to restore the right to life to a significant group of Americans—the unborn.

Life is the division of human cells, a process which begins with conception. It is, therefore, a fact, not a concept. It cannot be a partial fact. As Father Robert A. Brungs, Jr., of St. Louis, put it:

> Life is a fact; a person either has it or not. Life eludes definition precisely because it is prior to any possibility of definition.

While "life" may elude definition, the word "person" should not. The Declaration of Independence asserts "all men are created equal." It follows that a person becomes such when he is created and that, in my opinion, is the factual point when life begins.

The Declaration of Independence also clearly establishes the right to life, along with liberty and the pursuit of happiness, as unalienable. The 14th amendment prohibits the State from depriving any person of life or other rights without due process of law.

By ruling, however, that a woman may legally have an abortion during the first 3 months of pregnancy, the Supreme Court has sanctioned the denial of the unborn's rights without due process.

The ruling was unjust, and it is incumbent on the Congress to correct the injustice. The amendment my colleague and I introduce today will do that.

It establishes the right to life of any person regardless of age, health, function, or condition of dependency, including the unborn at every stage of biological development. It also implies due process in the one instance the taking of an unborn life is permitted—when the mother's life is threatened—since the State licenses doctors. More importantly, the unborn child is afforded due process in that the amendment will permit anti-abortion laws to be tested in the courts where justifiable homicides have taken place.

But why must this corrective action take the form of a constitutional amendment? The Supreme Court decision raised the abortion issue to the Federal level. It ruled the Constitution does not operate to protect the unborn until "meaningful

life" begins. The only feasible way to reverse this decision and reestablish constitutional protection of the rights of the unborn is by an amendment to the Constitution.

The elected representatives of the people have been given the responsibility to act on this issue. Citing the Declaration of Independence once again, it states:

To secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed.

We in the Congress who derive our power from the consent of the governed must act to secure the rights of the unborn. I urge my colleagues to join in supporting the amendment we sponsor today and to work for passage early in the 95th Congress.

Mr. VOLKMER. I thank the gentleman for his fine statement and his participation in this special order.

HUMAN RESOURCES DEVELOPMENT ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LUNDINE) is recognized for 10 minutes.

Mr. LUNDINE. Mr. Speaker, today I am introducing with 50 of my colleagues H.R. 2596, the Human Resources Development Act of 1977—HRDA—legislation designed to expand employment opportunities and promote job security through increased productivity and improved quality of working life. Our bill would encourage fresh approaches to improving economic performance, preventing cyclical layoffs, and enhancing job satisfaction. The distinguished Senator from New York (Mr. JAVITS), is introducing a companion bill in the Senate.

Improved productivity is the key to putting people back to work while keeping prices stable. Improved productivity means greater profitability, expanded operations, and increased hiring. With 5 percent annual inflation and 7¾ million Americans out of work, the most pressing concern of the new administration and the 95th Congress must be to create jobs in ways that will not raise the rate of inflation. One promising way of doing this is to focus on the human side of productivity by encouraging cooperative efforts of labor and management to increase economic efficiency through better utilization of the skills and ability of American workers.

The Human Resources Development Act—HRDA—would provide Federal assistance, through contracts with the Department of Labor, for innovative projects primarily in the private sector, initiated by communities, States, educational institutions, individual plants, or other private organizations, involving employees and employers in cooperative efforts in problem-solving: upgrading job skills; redesign of the tasks, responsibilities, and time patterns of jobs; and redesign of the workplace itself. The principal objectives of such projects would be to increase productivity and thereby create new jobs, to give employees a share in the gains from expanded output, and to improve job security.

Another key aim of the Human Resources Development Act would be to avoid the human and financial waste of cyclical layoffs by providing incentives for employers to keep workers on the job during periods of economic downturn. Demonstration projects for this purpose would be authorized under the bill, with the stipulation that financial assistance to maintain jobs would be directed toward advances in productivity and the quality of working life, rather than toward production, The long-term goal would be secure employment.

The State of New Jersey is contemplating one kind of constructive alternative to the classical pattern of cyclical layoffs and unemployment compensation which, for example, might well qualify for a demonstration project under HRDA. According to this proposal, when a plant anticipates layoffs, State grants would be used to keep workers at their jobs, provided that a specified amount of the total plant worktime would be devoted to problem-solving, training, and the quality of working life in that plant.

The Human Resources Development Act would also provide that small businesses participating in productivity-improvement and quality-of-working-life projects would be eligible for guaranteed loans.

THE JAMESTOWN EXPERIENCE

Projects of the kinds to be assisted under HRDA have been tried and have worked. They have resulted in significant gains in productivity without any notable new capital investment. One particularly successful effort took place in Jamestown, N.Y., where a communitywide labor-management committee was able to revitalize the economy of a depressed Northeast manufacturing center.

As mayor of Jamestown, I was actively involved in the creation and development of that labor-management committee. By making work in the manufacturing sector more efficient and more rewarding—by enhancing job satisfaction and thereby increasing output—the people in Jamestown were able to make the most of their human resources and turn their economy around.

The results were dramatic. Unemployment dropped from 10.2 percent in March 1972, to 4.2 percent 3 years later—a period in which the national trend was in the other direction.

Worker productivity improved significantly under the Jamestown program. For example, when employees of the Falconer Plate Glass Co. were encouraged to redesign the work system of their plant, breakage was cut almost in half.

For the first time in 50 years a major new industry, Cummins Engine, moved into the area. Cummins Engine is now about to try a new plant design in Jamestown—a synthesis of the team approach of Volvo and the assembly-line efficiency of Detroit.

The strength of the labor-management program was even more clearly demonstrated during the economic adversity of the past 2 years than during the earlier period of economic expansion. Although Jamestown's industries have been unable to escape the impact of the prolonged national recession, the labor-management cooperative program has continued to make headway. New industry continues to be attracted to the area, and old industry continues to expand. The unemployment rate in the county remains below the national level and considerably below the State level.

The Jamestown Labor-Management Committee has been the catalyst in this effort, functioning as coordinator and third-party advisor. The essential ingredient in the success of the program has been the mutual trust that has been built up between labor and management. This was not easily come by, since Jamestown was a city which had earned the reputation of having a "bad labor climate." Before the program could get going, labor had to be certain that increased output per unit of labor would not result in loss of jobs or in downgrading of any existing workers. Management, on the other hand, had to be assured that while employees would be encouraged to get involved in problem-solving and decisionmaking, the program would not impinge upon the prerogatives of management.

The ground rules also included a firm understanding that collective bargaining agreements remained sacrosanct and that labor-management committees would not affect normal grievance procedures. Beyond that, the Jamestown success rested on involvement of employees at the workshop level in problem-solving, on the guarantee of job security and on assurance of shared gains in increased profits.

HRDA'S EMPHASIS ON INNOVATION

The purpose of the Human Resources Demonstration Act is not to try to replicate the Jamestown experience everywhere, but to permit those local communities and industries, which have the interest and the potential, to adapt the principles of increased worker participation and improved quality of working life to their own unique circumstances. This combination of common principle, innovation and respect for local differences is the key to successful national programs. I believe strongly that many communities and firms have the motivation and the capability to participate in similar programs with substantial economic benefits to the country at large.

Programs similar to the Jamestown effort are now in operation in other areas, including the Upper Peninsula of Michigan and Cumberland, Md. Many large companies and unions are presently involved in human resource development. One example is the United Auto Workers, who passed a resolution in support of quality-of-working-life projects at their convention last summer. That resolution reads in part:

Joint union-management committees in companies, to find ways to improve the quality of working life, represent a good beginning in the search for enhancing the role of the worker in the decisionmaking process and in finding new ways to organize jobs and the workplace. . . . Improving the quality of worklife . . . means fulfilling the fundamental democratic concept that no employee is less human than any other and that second class citizenship is incompatible with democratic values and human dignity.

The emphasis of HRDA would be on innovation. Eligible projects could include programs for upgrading skills, for keeping people on company payrolls during cyclical downturns rather than putting them on unemployment rolls, for redesigning the ways jobs are done, for flexible worktime, for involvement of employees in problem solving with all levels of management, and for restructuring the organization and the design of plants.

TESTIMONY ON HRDA

Forty Members of the House joined me in introducing similar legislation in the last Congress. Hearings on the bill, which were held before the House Manpower Subcommittee last September, were encouraging. Among those expressing support for our proposal were former Secretary of Labor Willard Wirtz, who gave the bill his "unqualified support," and Federal Reserve Board Chairman Arthur Burns, who commented in a letter that the bill "contains useful ideas for an experimental program." Remarking that HRDA is patterned along the lines of the successful Jamestown effort, Chairman Burns noted that the "significant merit" of the program "is its flexibility to adapt community effort to solving particular regional problems."

Secretary Wirtz pointed out at last September's hearings that in focusing on private-sector efforts at the local level, the bill epitomizes the best in participatory government. Mr. Wirtz went on to say that enactment of HRDA would enable us to utilize the potential of "those few people in every local community who want to get something done themselves, instead of relying on Washington or somebody else."

Wellesley College Prof. Carolyn Shaw Bell, a member of President Carter's economic task force during his campaign, testified that a "disaggregated approach" like that in the Human Resources Development Act, is needed to "reduce unemployment without increased inflationary pressures, declining productivity and job market dislocation." Professor Bell noted that projects under HRDA "could be focused on a target group of unemployed or a target area of unduly high unemployment."

WHY HRDA IS NEEDED

In the course of the September hearings the question was raised as to whether any new authority was needed to carry out the objectives of our program, or whether in fact there was not sufficient authority under existing law, particularly under the Comprehensive Employment and Training Act—CETA. Senator JAVITS' reply on that occasion went to the heart of the matter. He stated that authority could probably be found in existing law to do what we had in mind. But without new authority which would establish a clear congressional mandate, a concerted national effort toward improved productivity and quality of working life through labor-management cooperation was not likely to occur.

Not every community with a labor-management committee has had the dramatic success that Jamestown has had. One of the principal problems has been a lack of adequate, assured funding, even in very small amounts. Initial support for the Jamestown Labor-Management Committee, for example, came from the Federal Mediation and Conciliation Service. A national demonstration grant was awarded later by the Economic Development Administration—EDA—in the Department of Commerce, which allowed for professional intervention in the community's industrial economy. The distinguished Senator from New York (Mr. JAVITS), almost alone of those in authority in Washington, immediately grasped the significance of the proposed Jamestown labor-management program, gave invaluable encouragement and support at every stage, and was instrumental in helping the committee get the essential funding it needed. Not every worthwhile program can attract such concentrated support.

In the Jamestown effort, CETA did play a role—by providing a source of funding for upgrading skills. The city contracted with the Jamestown Community College to run the private-sector CETA program. The college in turn provided intermediaries who went out to private employers and to manufacturers in conjunction with the labor-management committee, who had determined what the training needs were. In this way a special course on the metric system was set up to meet the needs of four or five firms in the area facing problems with European customers. A broad range of employees ultimately took the course—from engineers to shopworkers.

But for the other kinds of projects which we would like to see tried, CETA is not sufficiently comprehensive. The demonstration title of CETA does not make clear that it is the intent of Congress to promote quality-of-work projects. Nor is it explicit in the CETA authorization that increased productivity leads to increases in jobs. The whole thrust of the CETA program is toward entry-level jobs—getting people to work. This is certainly necessary and worthwhile, but it is not as effective in expanding long-term job opportunity.

For these reasons, then, we believe that additional legislation of the kind we are proposing is needed to provide the impetus for innovative projects which focus on the human side of productivity.

IMPROVED PRODUCTIVITY MEANS MORE JOBS

The fundamental concept of the Human Resources Development Act is that improved productivity creates more jobs. This is a concept that sometimes meets with disbelief. The most obvious reaction is: Would not increased output per worker mean that an employer could get along with fewer workers and, therefore, would not the end result be fewer jobs instead of more?

Our experience definitely proves that this is not the case—that we can expand jobs and business opportunities and get greater economic growth by making work more efficient and more rewarding. As has been pointed out, one of the prerequisites of a successful joint labor-management effort is a guarantee to employees that there will be no loss or downgrading of jobs because of increased output. Beyond this assurance lies the reality that improvements in productivity almost inevitably lead to growth of job opportunities. Better performance for an individual company makes it possible for that company to expand and hire additional workers. To cite just one example, a firm in Jamestown—the Crawford Furniture Co., which employed 300 workers or so, was able to start a night shift with 44 new workers, because the area labor-management committee enabled the company to train one of its employees to serve as foreman.

Currently American productivity is lagging, and our plant capacity is underutilized. Department of Labor figures on comparative productivity gains from 1960–73 show that the average United States increase in output per man-hour in manufacturing was only 3.4 percent a year as contrasted to 10.5 percent a year in Japan, 7.1 percent in Sweden, 5.8 percent in West Germany, and 4.3 percent in Canada.

American industry and workers, in Jamestown and throughout the country, are competing for markets with formidable rivals in the other industrial democracies, where greater attention is being paid to productivity gains and humanization of work. We cannot erect barriers and insulate ourselves artificially in our interdependent world if we are to have lasting peace and prosperity. Technology is transportable to other countries and other continents. We must develop the full potential of our own human resources as the other industrial nations are doing. I am convinced that, given the opportunity to use their talents creatively, American workers can compete successfully with workers anywhere on this globe.

We must learn, as the saying goes, to work "smarter" rather than merely working harder. We can get really dramatic increases in output by making work more efficient and more rewarding without any significant new capital investment. Improved job satisfaction can have a remarkable impact on company performance, which can mean expanded markets and more jobs. Productivity is the key to the stable, full-employment economy we all want. Lawrence Klein, distinguished econometrics specialist at the University of Pennsylvania's Wharton School, testified last summer before the House Banking Committee that—

> Productivity growth . . . provides the key to continuing noninflationary expansion of the economy.

Professor Klein went on to explain that—

> Productivity growth will stem from investment in human capital . . . (from) dealing with problems of structural unemployment and job training (and) . . . trying to do much more than was ever done in the past to promote the improvement of productivity on the human side.

GRASSROOTS INITIATIVES ENCOURAGED UNDER HRDA

An important advantage of our proposal is that it does not emanate from Washington where a record of unfulfilled promises has left a healthy skepticism of all federally imposed programs. Projects under HRDA would focus on private sector efforts at the local level. By encouraging local spontaneity—allowing ideas to bubble up instead of trickle down—it would utilize the potential of those individuals in every community who want to help themselves.

Efforts to improve the "quality of working life," by definition, must draw upon

the creative energies of the worker. Similarly in our national economic policy we should reach out for innovative ideas from communities and individuals throughout the country, rather than sit here in Washington and prescribe uniform solutions which all too often prove unrealistic and ineffective.

The key to expanding job opportunities and restraining price increases is the development of our human resources. We must begin to pay as much attention to human talents and the work environment that nourishes them as we have to our technical facilities. We must invest in our human skills for long-lasting economic prosperity and stability.

More satisfying work situations in which employees participate in decisionmaking at the workbench level can lead to remarkable increases in productivity without the stimulus of additional capital investment. Creating cooperation between labor and management in the workplace—developing to the fullest the potential of the American working force—is a private sector initiative which can begin to create some of the 9 million new jobs we will need to reach full employment by 1980.

For a relatively small outlay of Federal funds, a program of the kind authorized under HRDA could enable us to test new mechanisms for economic development without creating a new bureaucracy. As part of our national commitment to full employment and a stable economy I urge my colleagues to consider this vital step toward reducing unemployment and promoting economic stability through the better utilization of our human resources. I urge you to join me in supporting the Human Resources Development Act.

A list of the cosponsors, the text of the bill, and a summary of its major provisions follow:

LIST OF COSPONSORS OF THE HUMAN RESOURCES DEVELOPMENT ACT OF 1977

Mr. AuCoin, Mr. Baucus, Mr. Bedell, Mr. Bingham, Mr. Bonior, Mrs. Chisholm, Mr. Conte, Mr. Cornell, Mr. Downey, Mr. Drinan, Mr. Edgar, Mr. Eilberg, Mr. Fauntroy, Mrs. Fenwick, Mr. Fraser, Mr. Gephardt, Mr. Gilman, Mr. Harrington, Mr. Hughes, Mr. Jeffords, Mrs. Keys, Mr. LaFalce, Mr. Lehman, Mr. Lundine, Mr. McHugh, Mr. McKinney, and Mr. Maguire.

Mr. Markey, Ms. Mikulski, Mr. Miller of California, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Moorhead of Pennsylvania, Mr. Nowak, Mr. Ottinger, Mr. Patterson, Mr. Pattison, Mr. Pease, Mr. Rahall, Mr. Reuss, Mr. Rosenthal, Mr. Sarasin, Mr. Scheuer, Mr. Solarz, Mrs. Spellman, Mr. Stark, Mr. Steers, Mr. Traxler, Mr. Weiss, and Mr. Wolff.

H.R. 2597

To provide for a program, to be carried out through the Secretary of Labor, of projects and an advisory council to promote economic stability by increasing productivity, improving job security, encouraging retention of jobs in lieu of cyclical layoffs, and promoting the better use of human resources in employment

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Human Resources Development Act of 1977".

SEC. 2. It is the purpose of this Act to promote economic stability through the better use of human resources, to increase productivity, to improve job security, to encourage the retention of employees by employers as a policy with respect to countercyclical unemployment, to enhance the quality of working life, and to increase employment opportunities.

SEC. 3. (a)(1) In order to carry out the purposes specified in section 2, the President, through the Secretary of Labor (hereinafter in this Act referred to as the "Secretary"), shall carry out from funds appropriated under section 4, a program of projects which meet the requirement of paragraph (2), through contracts with States, units of general local government or combinations of such units, institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965, and other employers including labor organizations as defined in section 2(5) of the National Labor Relations Act. In entering into contracts under this section, the Secretary of Labor shall give priority to projects which involve labor-management cooperation. Such cooperation may include the advice, technical assistance, and moderation of an organization or agency independent of both labor and management, such as the Federal Mediation and Conciliation Service, or a labor-management cooperative committee, established or designated for that purpose by the party contracting with the Secretary of Labor.

(2) Each project assisted under a contract under this section shall be—

(A) a project, involving (i) increased participation of employees in problem solving and the decision-making process, (ii) increased participation of employees, through compensation, or other benefits, in the gains associated with increased productivity by employees, (iii) redesign of the tasks, responsibilities, and time patterns connected with particular units of employment, or

(B) a demonstration project designed to clearly demonstrate specific programs, or guidelines under which employment can be maintained at prescribed levels for a specific period of time and advances can be made in quality of working life, including a grant, to an employer in any area where the average rate of unemployment exceeds the national average rate of unemployment for a period of three consecutive months, as determined by the Secretary, for employees retained as employees who would, but for such grants, be laid off during period of cyclical unemployment. Funds received under any such grant shall be used only for improving the design of the plant or workplace or of the tasks, responsibilities, and time patterns connected with particular jobs, for improving the level or type of skills of employees, or for solving job-related problems.

(3) The Secretary shall promulgate regulations, consistent with the purposes and requirements of this Act and with the requirements of the National Labor Relations Act, under which applications may be made for assistance under this section.

(4) A contract under this section may be made for any fiscal year, and payments thereunder may be made in advance or by way of reimbursement.

(5) The Human Resources Advisory Council established under section 4 shall make recommendations with respect to the administration of the projects assisted under this section and with respect to whether or not such projects achieve the purposes specified in section 2. Such Advisory Council shall conduct a specific evaluation of each project assisted under a contract under this section.

(6) When requested by the Secretary, the Federal Mediation and Conciliation Service shall—

(A) advise the Secretary of Labor with respect to the priorities to be established for purposes of determining the projects to be assisted under contract under this section, and

(B) provide technical assistance to labor and management during the period of operation of any project so assisted, and

(C) provide follow-up technical assistance, where such assistance is merited, after the completion of any such project.

(7) When requested by the Secretary, the National Center for Productivity and Quality of Working Life shall provide technical assistance to any project assisted under a contract under this section.

(8) The President shall submit to the Congress a semiannual report which shall contain a description of the projects assisted under this section and the specific contracts entered into thereunder and the results of the evaluations conducted under paragraph (5).

SEC. 4. (a) To furnish advice and assistance in the administration of the projects assisted under section 3, there is established a Human Resources Advisory Council (hereinafter in this section referred to as the "Council") which shall consist of—

(1) the Secretary;

(2) the Secretary of Commerce;

(3) the Secretary of the Treasury;

(4) two Senators appointed by the President pro tempore of the Senate;

(5) two Representatives appointed by the Speaker of the House of Representatives; and

(6) six public members, appointed by the President.

(b) The Council shall elect a Chairman, and shall meet at the call of the Chairman, but not less than twice a year. The members of the Council shall be appointed for terms of two years, except that the term of the first Council appointed under this Act shall end on December 31, 1978. The public members of the Council shall be appointed from among representatives of labor, industry, agriculture, consumers, and the public at large, who are especially competent by virtue of background and experience to furnish advice on the views and opinions of broad segments of the public on matters related to the purposes specified in section 2.

(c) Each public member of the Council shall be entitled to be compensated at a rate equal to the per diem equivalent of the rate for an individual occupying a position at level III of the Executive Schedule under section 5314 of title 5, United States Code, when engaged in the actual performance of his or her duties as such a member, and each member shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his or her duties.

(d) The Secretary of Labor shall furnish the Council with such personnel, facilities, and services as he or she deems necessary to enable the Council to perform its functions under this Act.

(e) The provisions of section 14(a) of the Federal Advisory Committee Act shall not apply to the Council.

SEC. 5. Nothing in this Act shall affect the rights guaranteed under the National Labor Relations Act.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

LOAN GUARANTEE PROGRAM

SEC. 7. (a) Except as provided in subsection (b), on application by any eligible lender, the Secretary may guarantee, or make commitments to guarantee, such lender, against loss of principal and interest on any loan made by such lender to any eligible employer.

(b) The Secretary may not under subsection (a) guarantee or make any commitment to guarantee any loan made by any eligible lender unless—

(1) the rate of interest on such loan is lower than the maximum rate of interest which the Secretary determines is appropriate;

(2) such lender agrees—

(A) to pay a periodic fee, determined by the Secretary, for such guarantee; and

(B) to provide the Secretary with such information as the Secretary determines is

necessary to carry out this section with respect to such loan; and

(3) the written agreement providing for repayment of such loan contains such terms and conditions as the Secretary determines to be appropriate to protect the interests of the United States.

(c)(1) In the event of any default on any loan made by any eligible lender and guaranteed under this section, the Secretary shall pay to such lender, on request of such lender, the unpaid balance of principal and interest on such loan. On payment of such balance, the Secretary shall be subrogated to all rights of such lender with respect to such loan.

(A) any forbearance by any eligible lender for the benefit of any eligible borrower which may be agreed upon by such lender and borrower and approved by the Secretary, or

(B) any forbearance by the Secretary, after payment under the guarantee of such loan, in the enforcement of any right under such guarantee.

(3) With respect to any payment under any guarantee pursuant to this section as a result of any default on any loan to any eligible employer, the Secretary shall notify the Attorney General who shall take such steps as may be appropriate to recover the amount of such payment from such employer.

(d) Any guarantee made under this section with respect to any loan shall be an obligation supported by the full faith and credit of the United States with respect to both the principal of and interest on such loan. Any such guarantee shall be conclusive evidence of the eligibility of such loan for such guarantee, and the validity of such guarantee shall be incontestable, subject to any condition stated in such guarantee, in the hands of any holder of such guaranteed loan.

(e)(1) There is hereby established in the Treasury a loan guarantee fund to be administered by the Secretary. Such fund shall be used to pay all the expenses and obligations of the Secretary in carrying out this section, including any payment required under any guarantee made under this section.

(2) The Secretary shall deposit in the fund—

(A) fees for guarantees made under this section, and

(B) amounts recovered from any employer after—

(i) default on any loan made to such employer and guaranteed under this section, and

(ii) payment under such guarantee to the lender of such loan.

(3) Moneys in the fund not needed for current operations under this section may be invested in direct obligations of, or obligations which are fully guaranteed as to principal and interest by, the United States.

(f) For purposes of this section—

(1) the term "eligible employer" means any employer who—

(A) is participating in a project approved by the Secrtary and meeting the criteria set forth under section 3;

(B) as determined by the Secretary, independently owns and operates a business which is not dominant in its field of operation, and, based on its dollar volume and number of employees relative to other business in its field of operation and on other factors deemed relevant by the Secretary, is a small business; and

(C) requires funds from a source other than the financial resources of such business in order to continue participating in such project; and

(2) the term "eligible lender" means any bank, savings bank, or building and loan, savings and loan, or homestead association (including cooperative banks), credit union, or othr financial or credit institution (including any insurance company) which is subject to examination and supervision by any agency of the United States or of any State, or any pension fund approved by the Secretary for this purpose.

SUMMARY OF MAJOR PROVISIONS OF THE HUMAN DEVELOPMENT ACT OF 1977—HRDA

PURPOSES

The Act is designed to promote economic stability and expand employment opportunities through the better utilization of human resources with the objective of improving productivity and the quality of working life.

PRODUCTIVITY-IMPROVEMENT AND QUALITY-OF-WORKING LIFE PROJECTS

Private employers (including labor unions), States, local governments, and higher educational institutions may receive assistance, through contracts with the Department of Labor, in carrying out productivity-improvement and quality-of-working life projects primarily in the private sector. Priority shall be given to those projects which involve labor-management cooperation in the form of advice furnished by a third-party moderator such as a labor-management committee established for that purpose or an agency like the Federal Mediation and Conciliation Service. These projects shall include efforts at increased participation of workers in problem solving and decisionmaking, sharing by employees in gains resulting from increased output, and redesign of job structures, including flexitime.

DEMONSTRATION PROJECTS IN JOB MAINTENANCE

Demonstration projects are authorized which test ways of keeping workers at their jobs during periods of economic downturn and which utilize the federal assistance granted for this purpose solely for quality-of-working life and productivity-improvement projects of the kinds outlined in the preceding paragraph. Private employers, educational institutions, States and local governments may be eligible for assistance in demonstration projects of this kind. Priority shall be given to those projects involving labor-management cooperation in the form of advice furnished by a third-party moderator such as a labor-management committee established for that purpose or an agency like the Federal Mediation and Conciliation Service.

HUMAN RESOURCES ADVISORY COUNCIL

A thirteen-member advisory council shall be established to furnish advice and assistance in the administration of projects under the Act and to evaluate the results of those projects. The Council, which will have a two-year life, shall consist of the Secretaries of Labor, Commerce, and Treasury, two Senators, two Representatives and six public members.

ROLE OF THE NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

The National Center for Productivity and Quality of Working Life shall provide technical assistance and advice to the projects being assisted under this Act.

ROLE OF THE FEDERAL MEDIATION AND CONCILIATION SERVICE

The Federal Mediation and Conciliation Service (FMCS) shall be available to assist as a third-party moderator, when those engaging in a project under this Act so request. FMCS shall provide technical assistance and advice to projects under way, as well as advice to the Secretary of Labor on the priorities to be set in awarding contracts.

EVALUATION OF PROJECTS

The Human Resources Advisory Council shall make a specific evaluation of each project assisted under this Act. The President shall report to the Congress, semiannually, on the progress of projects and on the results of the evaluations of those projects by the Advisory Council.

LOAN GUARANTEE PROGRAM

Small businesses shall be eligible for loans guaranteed by the federal government for productivity-improvement and quality-of-working life projects as outlined above.

PRESIDENT McKINLEY'S BIRTHDAY

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. REGULA) is recognized for 5 minutes.

Mr. REGULA. Mr. Speaker, Saturday, the 29th of January, is the birthday of President William McKinley, the 25th President of the United States. To honor this event, I have arranged for distribution of scarlet carnations to the Members. President McKinley served 14 years in this body as a Representative from the 16th District of Ohio. He also served two terms as the Governor of Ohio before becoming President.

The story behind the scarlet carnation is that when President McKinley campaigned for his first term in Congress, he ran against a florist by the name of Levi Lamborn who had developed the scarlet carnation, and each day as they would debate the florist would give him one of his carnations to wear. William McKinley developed a great love for the scarlet carnation, partly, I suppose, because he won that election and went on to win six more terms. As a result of his love for the scarlet carnation, the Ohio Legislature in 1904 named the scarlet carnation as the official Ohio State flower, and in 1959 designated Alliance, Ohio, in the 16th District, as Carnation City, the home of the scarlet carnation.

Present in the Capitol today from Alliance are Mayor James Puckett and Mary Ann Grove, the Carnation Queen, together with William Brophy, Jim Giordano, and Sandy Durm.

William McKinley was a very progressive man for his times.

Prior to his 5 historic years as President, years of war and of peace, President McKinley served the people of Ohio and the Nation in this distinguished body for 14 years from 1877 to 1891, representing the 16th District, which I am proud to call my own. In 1892, he was elected Governor of Ohio and in 1893 he was reelected.

William McKinley was one of our greatest statesmen and his place in history will be enhanced by a fresh look backward.

It has been said—and truly—that more than any President since Lincoln, McKinley was a man of the common people, close to their aspirations and able to articulate their deepest yearnings. The widespread national grief which accompanied his passing bore witness to the affection and regard in which he was held. People saw in him not only a great public leader in war and in peace, but a private man whose inherent goodness shone through his duties as husband and father.

As one of the few Presidents who served only in this body of Congress he gained an intuitive knowledge of the psychology of its Members. He often met angrily insistent congressional leaders with a smile at his office door and sent

them away beaming, often wearing a red carnation from his Presidential desk. He did not pretend to know more than Congress or the people who elected them both.

It is well known that his administration marked the advent of this country on the international scene as a great world power. But his leadership in war was matched by his vigorous pursuit of peace and prosperity. His "Open Door" policy toward China alone would prove him a prophetic figure in a century which would later witness the rise of that nation to world power status.

In Buffalo in the year of his death—1907—speaking before the Pan American Exposition, he recognized the economic interdependence of the nations when he declared "The day of exclusiveness is past." He saw clearly that prosperity was indivisible and that international cooperation had become a necessity of life. These are lessons etched vividly in all our minds by the history of more than seven decades since he spoke.

His words then speak to us now with ever greater emphasis:

> Our interest is in concord, not conflict . . . our real eminence rests in the victories of peace, not those of war.

In urging "greater commerce and trade for us all," he saw that such economic linkages would insure peace and stimulate prosperity.

Always a man of inner prayer and unshakable faith in God, on his lips at the last were the words:

> It is God's way. His will, not ours, be done.

Later, one who was present wrote in his diary:

> The great life was ended. He died as he lived, in fear of his God and in his faith in His mercy and goodness.

He left behind him a legacy of trust, affection, and honor such as few statemen has inspired, and it is this legacy to which we continue to pay tribute today.

CREATING JOBS THROUGH TAX REFORM

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, in the last session of Congress, two issues dominated our attention: tax reform and unemployment. The amount of time and effort expended by the Congress on these two issues is almost incalculable. The Tax Reform Act alone occupied several months of our time and produced many thousands of pages of testimony, commentary, and a bill hundreds of pages long. Likewise, the problem of unemployment produced a considerable amount of debate and generated hundreds of bills designed to deal with it, either in whole or in part.

Despite all this effort, these same two issues remain with us and will undoubtedly be the major topics of discussion in this Congress as well. Since it is obvious that we achieved neither full employment nor true tax reform, it is clear that there must be something wrong in the way we approach the problems. I believe that what we must do is attack them simultaneously.

There is nothing wrong with our system of free enterprise if it is only given a chance to operate as it is capable. The problem is that we have built tremendous inefficiencies into the system. One of the most important of these is the high rate of taxation on individuals and businesses. This has corresponded with the immense growth in Government spending at all levels, especially in the last quarter century. For example, Government expenditures as a percentage of gross national product increased from 26.5 percent in 1954 to 34.2 percent in 1976. As a result of this, the direct tax burden of the average family increased by 92.4 percent—nearly double—from 1953 to 1975.

Needless to say, every time taxes increase it decreases the willingness and ability of individuals and businesses to work harder, produce more and increase the wealth of our Nation. This is especially true when the tax rates are as progressive as they are; with those earning more money paying a higher percentage of tax than those earning less. In the United States the tax rates range from zero to 70 percent of adjusted gross income.

The key here is the word adjusted, because this is what differentiates the incidence and burden of taxation. Simply put, the more one taxes higher incomes, the less tax revenue one will actually receive from them. This is because the higher marginal tax rates go—the rate one pays on each additional dollar one earns—the more incentive there is to either stop earning additional income or to hide that income behind tax shelters. Thus the effects of high marginal tax rates will be precisely the opposite of what is intended. Instead of making the rich pay more taxes, they will actually pay less. This fact is borne out by historical experience.

The burden of taxation, therefore, has actually been declining on those people in higher income groups while the incidence of taxation has been rising. Conversely, although the incidence of taxation on those in lower income groups has been declining, the actual burden of taxation has been rising.

Of course, it is no secret that many people of great wealth in the United States do not pay much tax. Unfortunately, this has resulted in too much attention being focused on so-called tax loopholes. It is generally thought that if you could simply eliminate all tax loopholes this would solve the problem. It becomes obvious that this will not happen once you realize that the most common tax loopholes are such things as the deduction to homeowners for property taxes and interest on mortgages, the investment tax credit, and the exemption for income from municipal bonds. All these things are considered socially desirable by the vast majority of Americans.

Even if you could eliminate all tax loopholes, you would only succeed in driving rich people out of the country. This is already happening in other countries where the tax rates on high incomes have become confiscatory. Ingmar Bergman, the famous Swedish movie director and Douglas Fairbanks, the British actor, are perhaps the most prominent tax exiles in recent years. The same thing also happens on the State level, as population and industry are clearly moving away from the States with high taxes in the Northeast United States to the Southwest, where the cost of government is considerably lower. By way of illustration, the average New Yorker paid over $1,000 in State and local taxes in 1975, while the average for the rest of the United States is just over $600. The result is a declining New York tax base as people migrate to other States.

Although the progressive tax rates have not been raised for some time, their effect has been exacerbated by inflation. This is because inflation interacts with the progressive tax rates to generate increases in tax revenue more than proportionate to the rate of inflation. In fact, the Congressional Budget Office estimated that when the progressivity of income, profits, and estate taxes is taken into consideration, an extra 1-percent increase in the price level will bring about an automatic 1.2-percent increase in tax revenues. This hidden tax increase would raise Federal income taxes for the median family of four from 11.4 percent of income in 1976 to 15.8 percent in 1982, assuming no changes in present tax law, according to the Office of Management and Budget.

What has not been realized entirely up until now is the detrimental effect these tax rates are having on economic growth. The incentive to invest, to produce, to work harder, and to increase wealth is being destroyed; and the entire country is the net loser. It is therefore becoming clear that the best way to reestablish a high level of economic growth is through a substantial permanent tax cut. Treasury Secretary Michael Blumenthal, for example, has recently endorsed this concept.

To get an idea of the kind of substantial growth which would accompany a tax cut, Dr. Alice Rivlin, head of the Congressional Budget Office, was recently asked what the effects on employment and gross national product would be of a 5 percent reduction in each personal income tax rate in the third quarter of fiscal year 1977. Her answer was that this would result in an increase in GNP of $42 billion in the fourth quarter of calendar 1977 above what it otherwise would have been, and $75 billion in the fourth quarter of 1978. This GNP gain corresponds to a boost in employment of 790,000 jobs in the fourth quarter of 1977 and 1,590,000 jobs in the fourth quarter of 1978.

The beauty of this approach is that you will automatically increase tax revenues at the same time you are cutting tax rates. As Secretary Blumenthal has noted:

> The simple minded notion underlying all of this is that, if it works, I would hope that there would be a bigger pie, and higher levels of activity producing more revenue. You know, it's like the old joke in business—"we're losing money, but we'll make it up on volume."

Actually, there is a good deal more than speculation involved. In the early 1960's, for example, President Kennedy made substantial income tax cuts which

resulted in increased revenues for the Government. The same thing happened in 1924 when Secretary of the Treasury Mellon rescinded the wartime surtax on personal and business incomes.

This basic approach is the essence of the Jobs Creation Act, which I first introduced last session. It makes an across-the-board permanent tax cut the fundamental method for dealing with unemployment. As Blumenthal put it, we will be producing a bigger pie by stimulating production, investment and business opportunities. It will work because, unlike a one-shot rebate, you are stimulating real economic growth. Since the decisions affecting the expansion of plant and productive capacity for next year and the years beyond are being made today, it is vitally important that any program for economic stimulation be of a permanent rather than a temporary nature. This is why a permanent tax cut is so important. Individuals and businesses will know that their net income will be greater not just today, but next year as well.

Thus we have the following effects all resulting from the single action of reducing tax rates: An increase in disposable income, leading to an increase in investment, which will greatly increase employment, thereby reducing the number of people on unemployment compensation and welfare which increases tax revenues at the same time. A side benefit will be that those people in high income groups who now must invest a disproportionate amount of their time trying to avoid paying taxes will have less incentive to do so. The result will be that although they are paying taxes at a lower rate, they will be paying more net tax. This growth in real terms of our productivity is, of course, central to the strategy of fighting inflation and helping our workers enjoy real increases in their standard of living.

The popularity of this approach is now becoming clear to many of my colleagues. As of today, the following Members have joined me as cosponsors of the Jobs Creation Act:

LIST OF COSPONSORS

Mr. Abdnor of South Dakota.
Mr. Andrews of North Dakota.
Mr. Archer of Texas.
Mr. Armstrong of Colorado.
Mr. Ashbrook of Ohio.
Mr. Badham of California.
Mr. Bafalis of Florida.
Mr. Bauman of Maryland.
Mr. Broomfield of Michigan.
Mr. Brown of Michigan.
Mr. Brown of Ohio.
Mr. Broyhill of North Carolina.
Mr. Burgener of California.
Mr. Cederberg of Michigan.
Mr. Chappell of Florida.
Mr. Clawson of California.
Mr. Cohen of Maine.
Mr. Collins of Texas.
Mr. Corcoran of Illinois.
Mr. Coughlin of Pennsylvania.
Mr. Crane of Illinois.
Mr. Dan Daniel of Virginia.
Mr. Derwinski of Illinois.
Mr. Devine of Ohio.
Mr. Dickinson of Alabama.
Mr. Dornan of California.
Mr. Edwards of Oklahoma.
Mr. Emery of Maine.
Mr. Evans of Delaware.
Mr. Goldwater of California.
Mr. Goodling of Pennsylvania.
Mr. Grassley of Iowa.
Mr. Guyer of Ohio.
Mr. Hagedorn of Minnesota.
Mr. Hansen of Idaho.
Mr. Hillis of Indiana.
Mrs. Holt of Maryland.
Mr. Hyde of Illinois.
Mr. Kasten of Wisconsin.
Mr. Kelly of Florida.
Mr. Ketchum of California.
Mr. Kindness of Ohio.
Mr. Lagomarsino of California.
Mr. Latta of Ohio.
Mr. Lent of New York.
Mr. Levitas of Georgia.
Mr. Lott of Mississippi.
Mr. Lujan of New Mexico.
Mr. McClory of Illinois.
Mr. Martin of North Carolina.
Mr. Michel of Illinois.
Mr. Miller of Ohio.
Mr. Moore of Louisiana.
Mr. Moorhead of California.
Mr. Montgomery of Mississippi.
Mr. Myers of Indiana.
Mr. O'Brien of Illinois.
Mrs. Pettis of California.
Mr. Pritchard of Washington.
Mr. Quayle of Indiana.
Mr. Quie of Minnesota.
Mr. Quillen of Tennessee.
Mr. Rousselot of California.
Mr. Rudd of Arizona.
Mr. Runnels of New Mexico.
Mr. Sarasin of Connecticut.
Mr. Sebelius of Kansas.
Mrs. Smith of Nebraska.
Mr. Spence of South Carolina.
Mr. Stanton of Ohio.
Mr. Symms of Idaho.
Mr. Thone of Nebraska.
Mr. Treen of Louisiana.
Mr. Trible of Virginia.
Mr. Walker of Pennsylvania.
Mr. Whitehurst of Virginia.
Mr. Wilson of California.
Mr. Winn of Kansas.
Mr. Won Pat of Guam.
Mr. Yatron of Pennsylvania.
Mr. Young of Florida.
Mr. Young of Alaska.

I believe that we are involved in an exciting concept. With a single stroke we can help alleviate unemployment, increase tax revenues, increase capital investment, achieve significant tax reform, and increase the Nation's wealth. And all this will happen as soon as the people are convinced that we in the Congress are serious about adopting an approach to the Nation's economy which emphasizes production, through the reduction of tax rates and elimination of disincentives to creation of national wealth.

Long ago, Lord Macaulay noted the incredible productive power of society even under the worst of circumstances. As he wrote in "The History of England":

> In every experimental science there is a tendency towards perfection. In every human being there is a wish to ameliorate his own condition. These two principles have often sufficed, even when counteracted by great public calamities and by bad institutions, to carry civilisation rapidly forward. No ordinary misfortune, no ordinary misgovernment, will do so much to make a nation wretched, as the constant effort of every man to better himself will do to make a nation prosperous. It has often been found that profuse expenditure, heavy taxation, absurd commercial restrictions, corrupt tribunals, disastrous wars, seditions, persecutions, conflagrations, inundations have not been able to destroy capital so fast as the exertions of private citizens have been able to create it.

This productive capacity lies waiting to be set free. I believe that the Jobs Creation Act would be an important first step in that direction.

LEGISLATION TO CHANGE TAX REFORM ACT OF 1976 DEALING WITH SICK PAY EXCLUSION

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, the Tax Reform Act of 1976 has placed an unexpected burden on those who were eligible under the old tax laws for the sick pay exclusion. Under the old law this allowed them an exclusion of up to $5,200, but with the new tax bill passed last October, this exclusion was eliminated.

At this time I am not arguing against the tax reform itself but against the fact that this section of the reform package was made retroactive to January 1, 1976, even though the bill was only signed into law in October of 1976. Thus many people, a number of them elderly, who had planned to have this exclusion for the 1976 tax year now find that they must play the game by a new set of rules. All during 1976 they had planned their taxes based on the laws in existence at that time, but now many of them are finding that they will owe up to as much as $2,000 more than they originally had planned. I feel that this is not fair, and the bill I am proposing today states that the changes made by the Tax Reform Act of 1976 dealing with the sick pay exclusion shall only apply to taxable years beginning after December 31, 1976.

Many of these people have been severely affected by rampant inflation in the past few years and their financial situations are precarious to say the least, and to now require them to increase their tax liability at the end of a tax year is unconscionable. I hope other Members will agree with me and support this bill.

IMPROVED PUBLIC WORKS PROCEDURES

The SPEAKER. Under a previous order of the House, the gentleman from Montana (Mr. BAUCUS) is recognized for 10 minutes.

Mr. BAUCUS. Mr. Speaker, like most of my colleagues, I have received a barrage of complaints from constituents concerning the awarding of grants under the Local Public Works Capital Development and Investment Act of 1976. In response to this, I have joined more than 40 colleagues in asking for a General Accounting Office inquiry into the Economic Development Agency's implementation of the legislation. Today I received the Comptroller General's preliminary response, which I am submitting at the conclusion of my remarks.

I have also written to the Committee on Public Works and Transportation, asking that it review the system for awarding grants and volunteering to offer my own suggestions to the committee on improving the criteria for selection. Today I would like to share some of my thoughts with my colleagues, in the hope that they will also be moved to propose improvements.

I share the satisfaction of those Montana communities which were successful in obtaining grants. These local public works projects across the State of Montana will make an important contribution to stimulating our economy and reducing the high rate of unemployment. But it is only a beginning, and I have joined a number of my colleagues in sponsoring legislation (H.R. 56) to provide additional funds. The needs are critical, and we cannot afford to delay action on this crucial legislation.

In devising a new program, however, Congress must heed the voices of constituents who are calling for reexamination of the selection criteria.

Obviously there is widespread disappointment at having local projects turned down by the EDA. In explanation we can, of course, point to the fact that requests far exceeded the funds available. In the State of Montana, for instance, there were applications for nearly nine times the $10 million allocated to our State—and that did not include the applications which were turned down for technical reasons and not even considered in the final competition.

But the reaction of my constituents goes far beyond mere disappointment. They find the selection process exceedingly difficult to comprehend, and they are not at all convinced that the complicated criteria and formulas result in selection of the best projects. We owe them answers.

We in the Congress cannot heap all the blame on the Economic Development Agency. Congress wrote the legislation, and the EDA deserves credit for implementing as well as it did, in such a short period of time, a program which was quite complex and politically sensitive.

This does not mean that EDA handled the program in a flawless manner. I have received numerous complaints from constituents about the difficulty of getting helpful advice from State and regional EDA representatives or in some cases the difficulty of reaching them at all. The EDA advisory committee in Flathead County, Mont., for instance, was so discouraged that it decided to disband.

I must acknowledge, however, that large, short-term efforts like the local public works program stretch EDA's personnel resources beyond their limits. Not only is it difficult for EDA to advise communities on making grant applications, but their regular, ongoing programs suffer. Congress should insure that EDA has adequate staffing, either by requiring the Commerce Department to shift personnel temporarily or by providing special appropriations.

My goal, however, is not to heap either praise or opprobrium on the head of EDA. Rather, I seek to enable Congress to write improved legislation the second time around.

Needed improvements fall into two areas. First we must deal with the problem of distribution—ways must be found to distribute funds more widely. Second we must tackle the problem of worthiness—we must insure that EDA has criteria and formulas which result in the selection of projects both with the most inherent worth and with the potential for maximal impact on unemployment.

To deal with these problems, I have developed the following proposals:

Proposal No. 1. Here, then, is my first proposal: Retain the area benchmark concept but lower the limit on project size to $1 million or to 10 percent of the State's allocation, whichever is higher.

I have no quarrel with the criteria for allocating funds among the States. The problem comes rather in distributing funds among various projects within an individual State. Some of my colleagues from States with many congressional districts found that no projects in their districts were approved. Fortunately, Montana has only two congressional districts, and a number of projects were approved in each. Still the rules under which EDA operated left the doors open for distribution results that deviated substantially from the intent of those of us who voted for this legislation.

A limitation was quite reasonably placed on the amount of funds to any single project. However, placing this limit at $5 million could have resulted in Montana's allocation being divided among only two projects—hardly a desirable solution to widespread high unemployment problems in the fourth largest State in the Union.

One commendable device was aimed at avoiding undue concentration of funds in a single area. But again the door was left open for glaringly inequitable distribution of funds. In Montana each county constituted an "area." Under this system an area benchmark allocation was established—the ratio of area unemployment to State unemployment was calculated, and this percentage was applied against the State's planning allocation of local public works funds. Once an approved project pushed the area total beyond that benchmark, no more projects could be approved. The only limit on the size of the project which pushed the area total over the top was the general $5 million maximum. Thus a single project could exceed by many times the area benchmark and seriously deplete the funds available to other areas.

The best way to eliminate these potential inequities and insure that funds are funneled into many more communities is to lower the maximum project size. The following statistics show the range of Montana projects submitted and approved.

Dollar amount:	Number of Applications	Number Approved
1–249,999	11	2
250,000–499,999	20	4
500,000–749,999	17	4
750,000–999,999	13	1
1,000,000–1,499,999	14	1
1,500,000–1,999,999	7	2
2,000,000–2,999,999	1	
3,000,000–3,999,999	4	
4,000,000–4,999,999	2	
	89	14

As it was three large Montana projects used up almost half of Montana's $10 million allocation. I would certainly not depreciate the worthiness of these successful projects, but it is clear that the $4.7 million involved could have funded many smaller projects in many more communities. Equally important, lowering the limit would discourage some of the more grandiose public works proposals and hopefully encourage communities to fund one part of a larger scheme now and work for another later.

Mr. Speaker, let me state the problem in a nutshell. Montana is a spread out State and, not surprisingly, unemployment is spread throughout my State. Hence, the best solution is to spread out the funds to counteract unemployment.

Proposal No. 2. Eliminate per capita income as a selection criterion.

Another important factor in the formulas used for selecting projects was that of per capita income. Per capita income is and should continue to be a major consideration in allocating the considerable funds which the Congress annually allocates to antipoverty programs. I would argue, however, that the main purpose of the local public works program is not to attack poverty per se but to stimulate employment, particularly in the construction industry. Factoring in per capita income obviously favors areas of low income at the expense of areas with higher per capita income. Frankly it is difficult to understand that unemployment in one type of area is any more onerous than in another. If you are unemployed, you are unemployed. To my way of thinking, the critical criteria should be the number of unemployed and the severity and duration of the unemployment rate.

I doubt that eliminating low per capita income as a criterion would have a major impact on the ratings. The eight highest scoring projects in Montana, for instance, were indeed all from low per capita income areas—$955 to $1,513 per year—but their unemployment rates were also far higher than in other project areas. Arguably, we would be eliminating a largely extraneous factor which tends to distort the selection formulas.

Proposal No. 3. Add points if a project upon completion will provide added employment or upgrade employment skills in an area.

It is extremely difficult to formulate criteria on the worthiness of projects into competition for limited funds. Such judgments inevitably border on the subjective and expose decisionmakers to howling choruses of criticism. But as much as we like to avoid criticism, our goal as legislators should be to insure that the taxpayers' money is spent in the most cost-effective manner.

Last year's legislation did provide bonus points for projects which seemed particularly worthy. A project could get up to 10 percent added if it provided "long-term benefits"; 3 percent if sponsored by a special purpose unit of local government; 5 percent if sponsored by a general purpose unit of local government; and 5 percent if related to or advancing local or regional development plans.

Most of these benefits make sense. I particularly favor the emphasis on local and regional development plans. When only limited funds are available, it is essential that the members of a community get together and decide which projects contribute most to local development. These "bonus points" make broad-based community planning worthwhile. Otherwise, these decisions on local priorities are left to some bureaucrat in a far-off city.

I do feel, however, that the long-term

benefit concept could be expanded and given greater weight. Currently it refers essentially to providing new community facilities and to renovating or replacing them to insure that related public services are not discontinued due to inadequate facilities.

We should, for instance, be interested in long-term stimulation of employment as well as short-term. A project which when completed will employ more people or which will upgrade employment skills seems more worthy of funding than one which merely preserves the status quo in employment.

Proposal No. 4. Add points if a project's construction phase stimulates employment in local construction-related industry.

This factor would take into consideration the extent to which a project stimulates local construction-related industry through the use of locally produced bricks, concrete, sewer pipe, and so forth.

Proposal No. 5. Explore the possibilities of quantifying long-term benefits of projects.

An attempt should also be made to quantify other long-term benefits of a project—the number of citizens who will use a recreational facility, the number of patients who will use a hospital, and so forth. It may be difficult to establish quantitative standards which are applicable across the board, but we must find additional means for insuring that the taxpayers' money is spent only on the most worthwhile projects.

Proposal No. 6. Encourage applicants to detail their plans for financing the operation and maintenance of proposed facilities after construction is completed. Discourage projects which are not capable of sustaining themselves.

While we obviously wish to encourage long-term employment, we must make sure that applicants will not need additional Federal funds to run facilities which they build with local public works funds.

I would also like to submit a few innovations which might best be called exclusions. Admittedly they would take us into difficult terrain, and thus they need careful examination. But they should be considered as a response to constituents who feel, often quite justifiably, that certain communities tend to get the lion's share of Federal funding.

For instance, projects might be excluded or given less consideration if they are from areas already receiving heavy doses of Federal funding. It would also seem reasonable to eliminate projects for which funds are available from other Federal grant programs.

Another thoughtful suggestion from a constituent in Missoula was that projects should be excluded which lend themselves to traditional types of funding, such as revenue bonds. The record of the applicant in making good use of earlier Federal grants might also be examined.

In conclusion, let me reiterate that we cannot afford substantial delay in passage of local public works legislation. But we also cannot let our haste result in a program which produces inequitable or incomprehensible results. I am hopeful that the great majority of my colleagues share my concerns.

For the benefit of my constituents I would like to append two additional documents—a computer printout from EDA with a rank ordering of Montana projects as well as a brief paper explaining the printout:

A BRIEF EXPLANATION OF EDA PUBLIC WORKS FUNDING IN MONTANA

Funds under the Local Public Works Capital Development and Investment Program (LPW) were allocated to states based on their rates of unemployment—Montana got about $10 million. Thus Montana applicants competed with each other for this allocation as the EDA made its final decisions.

In the enclosed computer printout, projects are listed by locator number. Funds requested indicates the amount of funds requested for the project. "A" in the following column indicates which projects were approved. Total score is final score based on factors explained below. Rejection reason indicates why a project was rejected—"0" means a project was approved; "61" indicates a project was rejected because when combined with a higher ranking project it would have resulted in too many funds going to a small geographic area; and "62" indicates a project was turned down because the state's allocation in that category had run out.

A discussion of the various rating factors follows. Unemployment score is a composite figure determined by the number of unemployed workers in the project area and the severity and duration of unemployment in that area. These factors combined account for 55% of the project's final rating. Per caps is the per capita income in the project area, and labor intensity indicates the relationship of labor costs to total project costs. These factors account respectively for 15% and 30% of the final score. Essentially, the lower the per capita income and the more jobs created, the higher score a project received in these categories.

Projects could receive additional points if they had long-term benefits (5%); if they were sponsored by a general purpose unit of local government (5%); if they were sponsored by a special purpose unit of local government (3%); or if they related to existing local or regional development programs (5%).

Finally, projects competed with each other within three categories. Seventy percent of the funds were allocated to projects in Group 1, where the unemployment rate exceeded the national average. In Montana all of the remaining thirty percent of the funds were allocated to projects in Group 2 from areas with unemployment under the national average but exceeding 6.5 percent. If all of the Group 2 funds had not been expended, projects in Group 3 from areas with unemployment under 6.5 percent would have been eligible.

DISPLAY OF GEOGRAPHICAL AND RANKING DATA FOR ALL PROJECTS SCORED BUT NOT INITIALLY DENIED IN MONTANA (DEC. 28, 1976)

[Sorted by rank]

Locator No.	Applicant city	Applicant county	Funds requested	Rank	Total score	Rejection reason	Unemployment score	Per capita income	Labor intensity (percent)
Group 1:									
L-MT-0004-0	Box Elder	Hill	1 $405,666	1	108.98825741	0	56.80	$955	54.36
L-MT-0101-0	Lame Deer	Rosebud	1 991,950	2	103.16819859	0	41.00	1,154	39.79
L-MT-0083-1	Poplar	Roosevelt	1 204,000	3	99.40693092	0	38.00	1,161	44.90
L-MT-0089-2	Lame Deer	Rosebud	1,288,472	4	98.07539558	61	46.00	1,154	30.31
L-MT-0013-0	Dixon	Sanders	1 1,970,278	5	96.84686852	0	54.50	1,513	27.36
L-MT-0055-1	Harlem	Blaine	1 600,000	6	96.38582325	0	47.43	1,226	36.67
L-MT-0038-C	Poplar	Roosevelt	293,600	7	95.2649555	61	38.00	1,161	38.66
L-MT-0033-1	Browning	Glacier	1 693,000	8	87.50115776	0	30.00	1,087	36.08
L-MT-0007-0	Columbia Falls	Flathead	3,960,000	9	79.39199924	61	12.10	2,679	43.89
L-MT-0018-0	Kalispell	Flathead	1 698,900	10	77.35188580	0	12.10	3,035	38.73
L-MT-0105-1	Whitehall	Jefferson	1 350,000	11	77.00116444	0	11.30	3,049	49.71
L-MT-0079-1	Wolf Point	Roosevelt	530,000	12	76.84868526	61	20.30	3,373	37.17
L-MT-0045-2	Troy	Lincoln	1 150,347	13	76.52054405	0	17.20	3,260	36.62
L-MT-0081-2	Libby	Lincoln	1,401,915	14	76.14232063	61	17.20	3,326	46.47
L-MT-0048-0	Whitefish	Flathead	1 1,252,896	15	75.53795052	0	12.10	3,228	34.31
L-MT-0035-1	Kalispell	Flathead	595,126	16	75.20288849	62	12.10	3,410	61.92
L-MT-0008-0	Boulder	Jefferson	265,000	17	75.08139420	62	11.30	3,384	49.99
L-MT-0009-1	Belt	Cascade	500,000	18	74.96689987	62	8.40	3,007	33.40
L-MT-0102-0	Polson	Lake	1,297,049	19	74.52446842	62	9.20	2,664	38.90
L-MT-0063-0	Butte	Silver Bow	3,011,000	20	74.42263699	62	11.90	3,485	48.38
L-MT-0087-1	Butte	Silver Bow	94,828	21	74.42263699	62	11.90	3,485	51.38
L-MT-0047-2	Libby	Lincoln	1,170,490	22	73.45322418	62	17.20	3,578	43.17
L-MT-0029-1	Helena	Lewis and Clark	1,186,600	23	72.42523719	62	10.40	3,385	39.85
L-MT-0040-2	Kali Spell	Flathead	756,000	24	72.06943512	62	12.10	3,410	43.31
L-MT-0084-0	Great Falls	Cascade	278,145	25	72.06418991	62	8.40	3,801	45.90
L-MT-0098-1	Butte	Silver Bow	648,313	26	71.95326042	62	11.90	3,370	36.04
L-MT-0002-2	Libby	Lincoln	1,720,679	27	71.58576965	62	17.20	3,578	36.59
L-MT-0054-0	Missoula	Missoula	524,362	28	71.57561016	62	7.44	3,594	44.26
L-MT-0036-1	Missoula	Missoula	3,861,000	29	71.57561016	62	7.44	3,594	47.90
L-MT-0073-1	Ramsay	Silver Bow	103,764	30	71.32169342	62	11.90	3,845	35.27
L-MT-0058-2	Corvallis	Ravalli	804,100	31	71.31362247	62	11.70	2,747	43.53
L-MT-0005-0	Havre	Hill	929,449	32	71.29651260	62	9.60	3,390	39.51
L-MT-0046-1	Hamilton	Ravalli	640,000	33	71.15582848	62	8.50	2,747	27.99
L-MT-0025-0	Kalispell	Flathead	1,340,000	34	71.05630684	62	12.10	3,410	30.97
L-MT-0011-0	Great Falls	Cascade	4,995,110	35	70.49489689	62	8.40	3,540	39.96
L-MT-0030-0	Butte	Silver Bow	1,339,037	36	70.33167648	62	10.20	3,370	29.79
L-MT-0037-1	Great Falls	Cascade	663,600	37	70.18408298	62	7.50	3,801	34.40

Locator No.	Applicant city	Applicant county	Funds requested	Rank	Total score	Rejection reason	Unemployment score	Per capita income	Labor intensity (percent)
L-MT-0078-1	Mutli City	Silver Bow	281,051	38	69.98111534	62	11.90	3,485	34.90
L-MT-0072-1	Missoula	Missoula	1,885,000	39	69.92139912	62	7.44	3,898	50.71
L-MT-0092-0	Missoula	Missoula	1,075,000	40	69.82771778	62	7.44	3,594	33.30
L-MT-0022-0	Deer Lodge	Powell	2,843,610	41	69.81690693	62	10.40	3,251	36.13
L-MT-0028-0	Great Falls	Cascade	3,997,000	42	69.78464127	62	7.40	3,801	50.08
L-MT-0024-0	White Sulphur Springs	Meagher	1,250,000	43	69.72736454	62	7.50	2,902	50.40
L-MT-0039-1	Helena	Lewis and Clark	1,700,000	44	69.66779327	62	8.50	3,385	40.44
L-MT-0042-1	Missoula	Missoula	1,251,250	45	69.47136688	62	8.60	3,594	30.37
L-MT-0019-1	Hamilton	Ravalli	1,500,000	46	69.01201153	62	11.70	2,747	32.67
L-MT-0016-1	Boulder	Jefferson	198,413	47	68.82461166	62	11.30	3,384	38.73
L-MT-0074-1	Butte	Silver Bow	540,500	48	68.74606133	62	11.90	3,385	40.20
L-MT-0062-0	East Glacier Park	Glacier	367,513	49	68.68203499	62	9.20	2,857	44.65
L-MT-0107-0	Ennis	Madison	725,000	50	68.19474220	62	10.80	4,064	45.52
L-MT-0032-3	Ronan	Lake	500,000	51	68.08914185	62	7.80	2,640	40.03
L-MT-0041-1	Helena	Lewis and Clark	150,000	52	67.96615410	62	11.90	4,096	49.33
L-MT-0066-0	Thompson Falls	Sanders	100,000	53	67.46599770	62	8.80	3,035	44.59
L-MT-0041-1	Helena	Lewis and Clark	150,000	52	67.96615410	62	11.90	4,096	49.33
L-MT-0066-0	Thompson Falls	Sanders	100,000	53	67.46599770	62	8.80	3,035	44.59
L-MT-0069-1	Missoula	Missoula	783,500	54	67.34308052	62	7.44	3,898	32.58
L-MT-0021-0	Anaconda	Deer Lodge	774,500	55	67.10730362	62	7.40	3,204	36.42
L-MT-0015-2	Silver Bow Park	Silver Bow	925,596	56	67.06478596	62	11.90	3,485	30.68
L-MT-0097-0	Butte	Silver Bow	1,780,853	57	66.36833763	62	11.90	3,370	26.53
L-MT-0075-0	Butte	Silver Bow	483,962	58	65.69645500	62	11.90	3,370	40.42
L-MT-0070-1	Missoula	Missoula	151,450	59	65.61097622	62	7.44	3,594	52.82
L-MT-0082-1	Eureka	Lincoln	211,345	60	65.26131344	62	17.20	3,029	22.77
L-MT-0020-0	Cut Bank	Glacier	241,000	61	63.11010218	62	9.20	2,857	31.12
L-MT-0106-1	Butte	Silver Bow	4,600,000	62	62.95361376	62	11.90	3,370	25.87
L-MT-0057-0	Cut Bank	Glacier	350,000	63	61.40555620	62	9.20	3,864	45.14
L-MT-0071-1	Missoula	Missoula	365,500	64	61.10430431	62	7.44	3,898	54.72
L-MT-0044-1	Philipsburg	Granite	989,961	65	61.07770348	62	10.40	3,326	20.58
L-MT-0023-2	Deer Lodge	Powell	499,852	66	60.03385210	62	8.40	3,668	52.82
L-MT-0068-1	Glasgow	Valley	875,000	67	59.19715261	62	7.40	3,529	30.29
L-MT-0059-0	Anaconda	Deer Lodge	723,040	68	58.83623600	62	7.40	3,204	29.45
Group 2:									
L-MT-0100-0	Anaconda	Deer Lodge	[1] 510,940	1	100.13489914	0	7.40	3,204	47.84
L-MT-0099-0	Anaconda	Deer Lodge	1,225,500	2	100.13489914	61	7.40	3,204	47.99
L-MT-0006-2	Billings	Yellowstone	[1] 1,500,000	3	98.72327614	0	7.20	3,731	45.33
L-MT-0043-2	Conrad	Pondera	[1] 376,000	4	98.20149136	0	7.15	3,393	45.56
L-MT-0010-1	Conrad	Pondera	473,200	5	97.55557632	61	7.15	3,476	38.30
L-MT-0017-1	Shelby	Toole	1,158,703	6	95.89798927	61	7.15	3,689	52.97
L-MT-0012-1	Choteau	Teton	519,325	7	94.38826180	61	7.15	3,883	35.74
L-MT-0080-1	Lodge Grass	Big Horn	[1] 293,101	8	92.29667187	0	7.10	1,904	29.81
L-MT-0056-0	Choteau	Teton	355,430	9	91.78904057	61	7.15	4,217	45.02
L-MT-0065-1	Conrad	Pondera	968,940	10	91.48959160	61	7.15	3,476	29.10
L-MT-0034-1	Musselshell	Musselshell	326,800	11	88.33255196	61	7.10	2,627	37.27
L-MT-0085-1	Melstone	Musselshell	899,000	12	87.84227943	61	7.10	2,690	50.06
L-MT-0003-0	Helena	Yellowstone	924,000	13	72.51179981	62	6.55	3,639	49.95
L-MT-0001-0	Helena	Yellowstone	487,000	14	69.49047470	62	6.55	3,639	61.54
Group 3:									
L-MT-0088-1	Bridger	Carbon	229,790	1	108.63282490	61	6.50	3,357	40.43
L-MT-0076-1	Red Lodge	Carbon	461,700	2	102.46273994	61	6.50	3,448	43.17
L-MT-0031-1	East Helena	Lewis and Clark	363,000	3	92.64389420	61	5.70	3,266	42.60
L-MT-0060-0	Billings	Yellowstone	500,000	4	89.28511238	61	5.40	3,540	49.41
L-MT-0026-0	Sheridan	Madison	78,170	5	88.99748135	61	6.50	4,116	43.75
L-MT-0061-0	Billings	Yellowstone	550,000	6	82.11489964	61	5.40	3,731	39.27
L-MT-0027-1	Poplar	Roosevelt	1,099,758	7	79.32677174	61	5.10	3,161	38.76

[1] Approved.

Source: Economic Development Administration, U.S. Department of Commerce.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., January 25, 1977.

Hon. MAX BAUCUS,
House of Representatives.

DEAR MR. BAUCUS: We have initiated a review of certain aspects of the local public works program authorized by Title I of the Public Works Employment Act of 1976 and administered by the Department of Commerce's Economic Development Administration. In addition to your request, we have received requests from many other Members of the Congress for a review of the program. The principal areas of concern cited in these requests related to the policies and procedures followed by the Department in allocating program resources and selecting projects for funding.

So far, we have developed background information and data on the status of the program. The information obtained to date is summarized in the enclosure to this letter.

During our review, which will be carried out by a task force, we plan to review (1) the legislative history of the program, (2) the adequacy of the regulations and criteria governing allocations and project selection, including the allocation formula, (3) the methodology of the computer processing of applications, and (4) the agency's approval process.

Following completion of these tasks we plan to make a comprehensive review of the program to determine its overall effectiveness.

We expect to keep you apprised as we progress with our review.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

Enclosure.

PUBLIC WORKS EMPLOYMENT ACT OF 1976—BACKGROUND INFORMATION AND PROGRAM STATUS AND EVALUATION

BACKGROUND INFORMATION

The Public Works Employment Act of 1976 (P.L. 94-369) was enacted on July 22, 1976. Title I of the Act authorized a local public works program under which the Secretary of Commerce would make grants to States and local governments to provide employment opportunities in areas of high unemployment through construction or renovation of useful public facilities and to provide a stimulus to the national economy. On October 1, 1976, the Congress appropriated $2 billion to carry out the provisions of title I.

Under the local public works program, direct grants are authorized for 100 percent of the costs of construction, renovation, repair, or other improvements of local public works projects, including those for which Federal financial assistance is authorized under provisions of law other than the title I of the Act. Supplemental grants are authorized to provide 100 percent Federal funding of federally approved public works projects when the lack of the non-Federal share has prevented the start of construction, or to provide either the required State or local share of public works projects authorized under State or local law.

Title I of the Act contains a number of specific requirements which must be met in implementing the local public works program. A few of the key requirements are:

The Secretary of Commerce was required to prescribe the rules, regulations and procedures necessary to carry out the program within 30 days after enactment of the Act. Proposed regulations were published in the Federal Register on August 23, 1976, and 30 days were allowed for comments by interested parties. The regulations were inserted in the Congressional Record on August 27, 1976, and were discussed during the hearings on the Public Works Employment Appropriations Act. Several changes were made and on October 20, 1976, the revised regulations were published in the Federal Register.

The Secretary make a final determination with respect to each application for a grant within 60 days after he receives such application. If the Secretary fails to make a final determination within the 60 days, the application is considered approved. The Department established October 26, 1976, as the first date that applications would be accepted.

Each applicant give adequate assurances that, if funds are available, on-site labor can begin within 90 days of project approval.

Not less than ½ of 1 percent or more than 12½ percent of all amounts appropriated to carry out title I could be granted for projects within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than ½ of 1 percent in the aggregate could be granted for projects in all 3 jurisdictions.

If the national unemployment rate equaled or exceeded 6½ percent for the 3 most recent months, the Secretary was required to expedite and give priority to applications from State or local governments having unemployment rates for the 3 most recent months in excess of the national unemployment rate. *Seventy percent of all amounts appropriated to carry out the program was required to be granted to projects given this priority.*

After giving projects the priority stated above, the Secretary was required to give priority to applications from State or local governments having unemployment rates for the 3 most recent months in excess of 6½ percent, but less than the national unemployment rate. *Thirty percent of all amounts appropriated to carry out the program was to be granted to projects having unemployment rates lower than the national rate.*

In selecting the projects, a scoring system was used that took into consideration the number of unemployed workers in the project area, the severity and duration of unemployment, the relationship of labor cost to total project cost, and the level of income prevailing in the project area.

Additional points were given if the project (1) exhibited potential for providing long-term benefits, (2) was sponsored by a general purpose unit of local government as defined in the regulations, (3) was sponsored by a special purpose unit of local government, or (4) related to existing approved plans and programs of a local community development or regional development nature or promoted or advanced longer range plans and programs.

The Administration's headquarters office is responsible for, among other matters, developing the policies, procedures and regulations for the program, selecting projects for final approval, and providing technical assistance to its regional offices. The six regional offices are responsible for receiving, evaluating, and processing applications and submitting applications to the headquarters office for approval.

PROGRAM STATUS

On December 23, 1976, the Secretary published in the Federal Register a list of about 2,000 applications that had been scored and would be considered for final selection by the Department. Records at the Department showed that as of December 27, 1976:

The Department had received about 25,000 applications for about $24 billion;

The Department had scored (i.e. reviewed and assigned a numerical grading value) about 22,000 applications for about $20 billion;

The Department had selected for final processing about 2,000 applications for about $2 billion;

Of the 22,000 applications scored by the Department, about 17,000, having a value of about $16 billion, were in the 70 percent priority category and about 5,000, having a value of about $4 billion, were in the 30 percent priority category;

Of the 2,000 applications selected for final processing, about 1,300, having a value of about $1.4 billion were in the 70 percent priority category and about 700, having a value of about $600 million, were in the 30 percent priority category;

Of the approximately 20,000 applications scored by the Department but not selected for final processing, about 16,000 having a value of about $14.8 billion were in the 70 percent category and about 4,000 having a value of about $3.2 billion were in the 30 percent category.

PROGRAM EVALUATION

Officials of the Department's Office of Program Evaluation informed us that they were planning three examinations of the program.

One examination will involve the administration of the program, including the propriety of the formula for selecting eligible projects. The Office of Program Evaluation has prepared guidelines for this review and is awaiting their approval by appropriate departmental officials.

Another examination will be of the direct impact of the program on alleviating unemployment, and a third examination will be of the indirect impact of the program in stimulating the economy through the "rippling" effect of the program. The last two examinations will be initiated after some of the public works projects under the program have been completed.

The Department's Office of Audits also plans to review selected program activities after some projects have been completed. This review work would be in addition to financial audits to be performed of the applicants' compliance with the grant requirements.

INTRODUCTION OF LEGISLATION TO REDUCE HEALTH HAZARDS OF CIGARETTE SMOKING

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 30 minutes.

Mr. DRINAN. Mr. Speaker, while the American tobacco industry is now producing more than 600 billion cigarettes annually for domestic consumption alone, smoking continues to be a fatal habit for more than 250,000 Americans each year who contract lung cancer, bronchitis, emphysema, or heart disease as a direct result of cigarette smoking. According to the Assistant Secretary of Health, Education, and Welfare, the treatment of diseases caused by smoking adds over $11.5 billion annually to the national cost of health care. Over 150 million Americans do not smoke, but many of them are forced to breathe smoke-contaminated air in confined areas such as elevators, conference rooms, and waiting lines.

The Federal Government has a clear responsibility to meet the smoking problem by enacting legislation to encourage people to stop smoking, provide incentives for the use of less deleterious cigarettes by those who insist on continuing their habit, and protect the rights of the majority of Americans who do not smoke. No one suggests that the tobacco industry should be eliminated overnight or that the Government should prohibit smoking altogether. But, at the same time, we can no longer quietly turn our backs on the mountain of scientific evidence proving that cigarette smoking is dangerous to health.

PUBLIC HEALTH CIGARETTE SMOKING ACT OF 1977

In order to reduce the smoking hazard to smokers and nonsmokers alike, I have introduced a package of three bills to accomplish the objectives summarized above. H.R. 839, The Public Health Cigarette Smoking Act of 1977, would improve and strengthen the Cigarette Labeling and Advertising Act of 1965 in several key respects.

First, it would strengthen the cigarette package warning label in accordance with a recent recommendation of the Federal Trade Commission and in keeping with the latest medical evidence. The new warning would read: "Warning: Cigarette Smoking Is Dangerous to Health, and May Cause Death from Cancer, Coronary Heart Disease, Chronic Bronchitis, Pulmonary Emphysema, and Other Diseases."

Second, the bill would require that cigarette tar and nicotine content be printed on every package in both absolute and relative terms. This would enable smokers to shop comparatively for the least noxious product.

Third, the bill would require that all cigarette advertisers carry both the strengthened warning label and information on tar and nicotine content. This provision also follows a recommendation made by the FTC.

Fourth, the present preemption of State action to control cigarette advertising and labeling would be repealed. There is no reason why States, desiring to enact stringent antismoking laws, should not be permitted to do so.

Fifth, the bill would require that cigarettes manufactured in the United States and subsequently exported, carry a warning label in the predominant language of the recipient country. At the present time, exported cigarettes need not carry any warning at all. The cigarette industry has a responsibility to warn every smoker, whether American or foreign, of the proven health hazards of smoking.

The provisions of H.R. 839 were included in an omnibus measure, H.R. 10743, which I introduced along with 19 cosponsors in the 94th Congress. This bill is, in effect, a consumer protection measure since it provides the cigarette purchaser with more complete information concerning the product.

FEDERAL NONSMOKERS PROTECTION ACT OF 1977

The issue of nonsmokers rights has gained increasing prominence during the past few years as numerous localities and more than 30 States have enacted laws to protect the nonsmoking majority against air contaminated by tobacco smoke in confined public places.

There are 150 million nonsmoking Americans who find themselves breathing the smoke emitted by others in elevators, offices, conference rooms, restaurants, and nearly everywhere else that people congregate. Most Americans who do not smoke consider such involuntary smoking an unpleasant nuisance. It may cause their eyes to water, their noses to itch, and their heads to ache.

To 34 million Americans with heart conditions, lung disease, allergies, or other particular susceptibility to tobacco smoke, involuntary smoking is not merely annoying; it is dangerous to their health. According to the U.S. Public Health Service:

> People with certain heart and lung diseases may suffer exacerbations of their symptoms as a result of exposure to tobacco smoke-filled environments.

Scientific research indicates that sidestream smoke, which is released into the air by a burning cigarette, contains 2½ times the carbon monoxide, 2½ times the nicotine, and more than 200 times the ammonia of mainstream smoke which goes into the smoker's own lungs. Scientists have measured carbon monoxide in the air of a smoke-filled room which exceeds the maximum permissible standards set by OSHA for the safety of employees. To quote the latest report by the U.S. Public Health Service once again:

Carbon monoxide generated in a confined area by the smoking of tobacco products reaches excessive, irritating, and potentially hazardous levels.

There is nothing funny about nonsmokers' rights, at least not to that majority of Americans who want their health to be protected from smoke contamination forced upon them by a few.

Since I filed H.R. 10748, the first Federal legislation to protect the rights of nonsmokers, on November 13, 1975, I have heard from more than 100,000 citizens from throughout the Nation in support of my proposal. Some of these individuals have had to give up their jobs or avoid certain social activities because of tobacco allergies or other susceptibility to cigarette smoke. I was particularly surprised to receive dozens of letters from residents of North Carolina, the heart of America's tobacco industry, who supported legislation to protect nonsmokers' rights. Nineteen of my colleagues cosponsored H.R. 10748, and a companion measure was filed in the Senate by Senator MARK HATFIELD of Oregon.

Predictably, the tobacco industry lashed out at the measure in an unfair and emotional fashion. The Tobacco Institute, Inc. circulated a fact sheet on H.R. 10748 which suggested that the bill "could take the Nation a giant step backward to the days of Carrie Nation and Jim Crow." Several Congressmen from tobacco-producing districts circulated a Dear Colleague letter urging members not to sponsor the legislation and describing it as "designed solely to harass cigarette smokers."

Frankly, I was not surprised at this response by an industry which still refuses to acknowledge the link between smoking and lung cancer 13 years after the first report on the Health Consequences of Smoking was issued by Surgeon General Luther Terry in 1964. It is actually in the best interests of the tobacco industry to reduce friction and ill-will toward smokers through a practical measure such as H.R. 10748. It is simply a matter of time before the 160 million Americans who do not smoke obtain a Federal law to protect their right to breathe air uncontaminated by this noxious substance.

H.R. 862, the Federal Nonsmokers Protection Act of 1977, embodies virtually all of the nonsmoker's rights provisions of H.R. 10748.

The bill would require all Federal agencies to promulgate regulations to prohibit smoking in their elevators, hallways, conference rooms, reception areas, and areas serving the general public in which the effective separation of smokers from nonsmokers would not be practical. Separate smoking sections would be established in cafeterias, recreation areas, and lounges of Federal buildings. Federal office buildings, courthouses, post offices, military bases, VA hospitals, and Congress itself would be among the thousands of facilities covered by the bill.

The most serious difficulty in protecting the rights of nonsmokers is how to deal with smoking on the job. A nonsmoker whose desk assignment is next to that of a smoker is virtually a captive to involuntary smoking. If the nonsmoker is one of those 40 million Americans with particular susceptibility to tobacco smoke, he or she may find the predicament intolerable. This situation exists in thousands of Federal facilities throughout the Nation. Disgruntled employees can ask to be transferred to a different office, but there is no assurance that they will be listened to. I have received numerous complaints from Federal employees who have been forced to resign to protect their health due to involuntary smoking.

H.R. 862 would require Federal agencies to permit nonsmokers to have separate work areas or offices whenever such separation would be practical. A worker submitting medical documentation of particular susceptibility to tobacco smoke would be assigned a separate work area in any event. Moreover, in planning, purchasing, or leasing future workplaces, Federal agencies would have to take into account the need for effective separation of smoking from nonsmoking employees. This carefully drafted provision would serve to protect the health of Federal employees who do not smoke without infringing upon the rights of smokers or placing a large financial burden upon all Federal agencies.

In addition to protecting nonsmokers in Federal facilities, the bill would prohibit smoking in waiting lines, lobbies, and boarding areas of airports, train stations, airport buildings, and bus terminals involved in interstate commerce. Separate smoking sections would be established in the cafeterias and lounges of such facilities. At the present time, Federal regulations limit smoking on trains, buses, and airplanes, but the regulations do not apply to the corresponding stationary facilities covered by this bill.

HEALTH PROTECTION CIGARETTE TAX ACT OF 1977

Medical evidence has made it increasingly clear that the risk of disease from cigarette smoking increases with the amount of tar and nicotine a smoker inhales. It is, in fact, the presence of tars and nicotine in cigarette smoke which is responsible for most of the harmful effects of smoking. Clearly, then, it would be desirable to reduce tar and nicotine inhalation among these Americans who choose to smoke.

In the past few years, the cigarette manufacturers have made great strides in producing cigarettes whose smoke contains diminished amounts of tar and nicotine. A number of these "low tar-nicotine" brands have been quite successfully marketed. The tobacco industry has demonstrated that the technology exists to produce less harmful cigarettes and to sell them at a profit. It remains for the Federal Government to provide an economic incentive for consumers to switch to these less toxic brands. The most appropriate mechanism for such an incentive is the Federal excise tax on cigarettes, which has remained unchanged at 8 cents per pack since 1954.

I have introduced H.R. 2040. The Health Protection Cigarette Tax Act of 1977, to encourage the consumption of low tar and nicotine cigarettes by establishing a graduated scale of Federal excise tax rates on cigarettes depending on tar and nicotine content.

The bill establishes five tax brackets for cigarettes, based on tar and nicotine. Each brand of cigarettes will be taxed according to the bracket into which it falls. The lowest tar and nicotine cigarettes will be exempt from the health protection tax, the highest tar and nicotine brands will be taxed at the highest rates. During 1977, the health protection tax will range from zero to 20 cents per pack. By 1980, when the tax is completely phased in, the health protection tax will range from zero to 50 cents per pack. Thus, in 4 years, the price for a pack of cigarettes will be anywhere from 8 cents less than today's price to 42 cents more as a result of this bill.

H.R. 2040 is not intended to serve as a revenue-raising measure. Rather, its purpose is to encourage a shift in consumption patterns toward less harmful cigarettes with no net change in total Federal revenues. The gain in revenues from the increased tax on high tar-nicotine cigarettes would be offset by the elimination of the excise tax on low tar-nicotine brands.

The Health Protection Cigarette Tax Act is identical to amendment No. 328 to the Tax Reform Act of 1976 which was offered on the Senate floor by Senators GARY HART, KENNEDY, MOSS, BROOKE, and HATFIELD on August 6, 1976. The amendment was endorsed by numerous national organizations in the health field including the National Cancer Advisory Board, American Cancer Society, American Heart Association, American Lung Association, American Nurses' Association, National Health Federation and the American Association of Neurological Surgeons. All of these groups understand the importance of reducing the concentration of toxic substances in a product consumed regularly by 60 million Americans. While the Hart-Kennedy amendment was defeated on the floor after a massive lobbying effort by the tobacco industry, its serious consideration signified the determination of the Senate to deal with this problem in a decisive fashion.

PROMPT ACTION CALLED FOR

All three of these bills are important to the health of the American people. It is imperative that the appropriate House committees schedule hearings on these measures as soon as their busy agendas permit. More than 20,000 Americans will die this month from diseases caused by smoking. Over 6 million workdays will be lost while 50 billion more cigarettes go up in smoke. The tobacco industry would like us to continue to ignore this problem, but the time to act is long overdue. I will shortly circulate a Dear Colleague letter inviting other Members of the House to cosponsor these measures. If we are serious about saving lives and protecting the health of smokers and nonsmokers alike, Congress must be willing to stand up to the powerful tobacco lobby and enact these three bills into law.

SENTENCING GUIDELINES BILL

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I recently

reintroduced in this Congress legislation that would establish guidelines to reduce the disparity in criminal sentences handed down by the Federal courts.

The Senator from Massachusetts, EDWARD KENNEDY, is sponsoring similar legislation in the Senate.

This bill, H.R. 1182, would create a U.S. Sentencing Commission that would, within 3 years, draw specific guidelines for Federal judges to follow in sentencing persons convicted of criminal acts.

In the interim, the bill would create general sentencing guidelines as well as provide a mechanism for appellate review of sentences on the motion of either the defendant or the prosecution.

We must, in our efforts to improve justice in the United States, come to grips with the question of why two defendants of similar backgrounds, accused of similar crimes, often receive widely disparate sentences. Once we thought such broad judicial discretion resulted in individual justice; unhappily we have learned that often it produces, at the very least, the appearance of arbitrary injustice.

Mr. Speaker, the problem of sentencing in our courts is but one of the serious defects in the criminal justice system. It is time, I believe, to examine seriously and carefully the entire system.

This bill may well serve as a vehicle for that examination. As drafted the legislation is not complete. It does not address the question of fixed sentences versus the current policy of indeterminate ones. It does not speak to the question of whether sentences aimed at providing rehabilitation of some criminal offenders are workable or desirable. But these are issues that we shall be examining in the future with an eye toward making our system of justice function properly both for those accused of crimes and those victimized by them.

Our aim with this legislation is not to create rigid controls on sentencing that would turn judges into little more than automatons. Instead it is to aid our Federal district judges in applying more justly the sentencing discretion they necessarily and properly hold.

NORTHROP—A SOUND DEFENSE CONTRACTOR

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. CHARLES H. WILSON) is recognized for 15 minutes.

Mr. CHARLES H. WILSON of California. Mr. Speaker, last month, I had the opportunity to attend a ceremony in southern California which was very special. The ceremony marked delivery, by the Northrop Corp., of the 3,000th aircraft in the T–38/F–5 series of jet fighters and trainers.

While the quantity is impressive in itself, there are several very significant aspects of the 15-year production cycle of the T–38/F–5.

Every aircraft has been delivered on schedule.

Every aircraft has been delivered without exceeding the contract price.

Every aircraft has met or exceeded all performance guarantees and specifications.

I am sure my colleagues recognize what an important accomplishment this is.

The recent history of many major weapon systems procurement programs is alarming. Cost overruns, schedule delays, and compromises in technological capabilities, present as serious a threat to our national security as any adversary's marching army.

Private industry must come to grips with this problem if the vitality of our military institutions is to be preserved. Other defense contractors could do well by examining Northrop's highly successful record.

Recently, Mr. Thomas Jones, chairman of the board and chief executive officer of the Northrop Corp., addressed this crucial problem in the article, "For a Sound Defense Industry," published in the New York Times. Incidently, I would like to applaud the New York Times for providing a forum to present this much needed perspective.

Mr. Jones makes it quite clear, as the record of his company verifies, that American defense industries are capable of producing quality hardware, on time, and within budgetary estimates.

At the beginning of this Republic, the security of our people was largely dependent upon the personal bravery of the militia. Unfortunately, that simple period is long passed and our security rests upon the successful operation of complex and diverse technological systems.

Putting the procurement "house" in order will increase the American taxpayer's confidence in our Government, and insure our continued security.

For the benefit of my colleagues, the text of Mr. Jones's article follows.

Also, I am including the comments of several independent news sources on the 3,000th delivery of the T–38/F–5 aircraft.

I am sure my colleagues will join with me in saluting Northrop, its management and its employees.

The material follows:

[From the New York Times, Nov. 23, 1976]

FOR A SOUND DEFENSE INDUSTRY

(By Thomas V. Jones)

LOS ANGELES.—The General Accounting Office's recent report on the status of the country's major weapons-systems procurement programs revealed that nearly 80 percent are suffering cost overruns. Some program costs have increased more than 200 percent. Some are delayed a year or more. This sad record has become so repetitive there seems to be a tendency to consider cost overruns, schedule delays and technical disappointments part of the price we must pay for national security.

This is simply not the case. There is no reason why the defense industry cannot be as efficient as any other sector of the economy. The Government, the Congress, the public, the investment community and the defense industry must get rid of the notion that defense companies are somehow different, that they cannot be confined within the same standards of competitive performance by which we measure the rest of our market economy. It is wrong to believe that, regardless of performance, a defense company has a right to exist simply because it serves national security; a defense company must earn its way by the manner in which it serves that national security.

Defense has been dealt with as if it were apart from the rest of our national objectives, when, in fact, defense, social progress and economic stability are essential and constant elements of our national well-being.

When there was a clear and present danger to the country, before 1950, nothing was spared to provide defense, regardless of cost. When the crisis passed, our defense forces and the defense industry were cut back rapidly. The greatest example of this "crisis management" was the massive effort of World War II, followed by the near-total dismantling of our defense establishment, including the industry that served it.

The Berlin blockade, the invasion of Korea, and the advent of the intercontinental ballistic missiles changed all that. We could no longer afford the luxury of waiting for a crisis before building up our defense capability at the expense of other national objectives, and then eliminating it in periods of calm to free funds again for other programs.

The Government and the Congress decided then that strong defense forces must be maintained on a permanent basis, and that national security should be accommodated with the Federal budget together with social and economic programs as interrelated elements of our long-term national policy. The new concept called upon us to meet all our national objectives together while maintaining the integrity of the national budget as a whole.

Unfortunately, the significance of this change and the accompanying opportunity to improve effectiveness have been overlooked. The bad procurement habits and the tradition of crisis management persisted. They need not, and should not be allowed to continue.

In the past, a defense company was not judged by the same standards of sound planning, performance, financial strength and efficiency that were applied to other businesses. In today's environment of defense stability, defense companies must be held accountable for their commitments. The advantage of stability should bring with it the responsibility of management performance The free competitive environment that has worked so well to achieve the social and economic standards that we enjoy today can now contribute to meeting our defense requirements efficiently.

Considerations of politics, geographical self-interest, and the availability of Government-owned plant and equipment—frequently poorly suited to the particular job—do not produce efficiencies. There must be competition based on the quality of a company's products, its demonstrated ability to commit itself to cost and schedule guarantees, and its capacity to provide sufficient financial strength to back those commitments.

Creative, well-managed defense companies should represent some of the most attractive investments available and should compete in the financial community on that basis for capital needed for new plants and equipment. They should not expect the taxpayer to carry this burden or the Government to provide subsidies to protect them from the rigors of competition. Those companies that respond to the challenge and meet their commitments will be profitable. Those that do not will deservedly fail.

The responsibility is squarely before the industry: Use the creativity and the management techniques of our free economy to provide the highest level of national security within the allocated budget, and be judged on the way these goals are met. If the procurement process does not insist on the responsibility of individual companies, it will weaken the defense industry as a whole and ultimately the security of the nation it serves.

Our defense is important; it deserves the best our competitive system has to offer. It is time to bring the defense industry into that system.

[From the Los Angeles Herald-Examiner, Dec. 14, 1976]

NORTHROP RECORD

A notable event in the U.S. defense program occurred last week when the Northrop Corporation delivered its 3,000th aircraft in its series of F-5 and T-38 fighters.

What made this delivery more special than others is not because the F-5 is the most advanced aircraft of its kind, or that it has met all of the Air Force's requirements. What makes the F-5 program different was Northrop's ability to deliver the plane on time and below cost, with no cost overruns.

Air Force personnel assigned to the F-5 fighter say this aircraft requires less maintenance per flying hour than any other supersonic fighter in the world. It recently won the USAF Organizational Excellence Award for the "outstanding record established in the development and acquisition of the F-5."

The F-5 also has the best safety record of any supersonic aircraft. It is a vital part of our defense system.

We congratulate Northrop Corporation for its outstanding record.

[From the Daily Breeze, Dec. 9, 1976]

NORTHROP RECORD UNIQUE

Today was a significant one for more than 6,000 employes of Northrop Corp. as the 3,000th aircraft in the F-5, T-38 series was delivered to the U.S. Air Force.

All planes have been delivered on schedule—and on cost.

This is a tribute to the skill and labor of employes at Northrop's Hawthorne facility, its workers in Palmdale and another 10,000 employees of subcontractors and suppliers.

The first F-5, T-38 was delivered in 1961. Northrop has been producing an average of 15 a month since that date.

The F-5s are tactical fighter planes and T-38s are supersonic trainer versions of the aircraft.

Use by our Air Force and Navy—along with more than 20 foreign countries—makes the F-5 the most widely deployed U.S.-built tactical fighter in the world.

Northrop's record of achievement is attributed to technical creativity and management control.

Ultimately, the accomplishment reflects well on the men and women who have designed and manufactured this series of supersonic jets.

In an era when cost overruns for government projects are almost taken for granted, this 15-year record deserves special recognition.

[From the San Francisco Chronicle, Dec. 9, 1976]

NORTHROP'S 3,000TH

Down in Hawthorne, near Los Angeles, the Northrop Corporation today will turn out the 3000th military aircraft of a series which went into production for the U.S. Air Force and Navy in 1961 and which, whatever else may be said about it, is unique in one aspect: it has never cost the government a nickel above the contract price.

Anyone who pays attention to cost analysis reports from the Pentagon would have good reason to be astonished at this. U.S. aircraft manufacturers other than Northrop, with its F-5 fighter and T-38 trainer series, have not in the past had much luck keeping away from overruns. The General Accounting Office says that in major weapons-systems procurement, nearly 80 percent of the programs are suffering cost overruns.

Every one of the 3000 aircraft built by Northrop in the F-5/T-38 series has been delivered on schedule, within the contract price, and has met or exceeded all performance guarantees, the company boasts. It is the kind of boast that the taxpayers of this and 20 other countries using these airplanes can afford to excuse.

NORTHROP EDITORIAL, KABC RADIO, DECEMBER 21, 1976

NEWSCASTER: A strategy for prosperity. A KABC Editorial delivered by Ben Hoberman, Vice President and General Manager of KABC Radio.

BEN HOBERMAN: Throughout the year, we have heard doomsdayers predicting that certain captains of industry would be leaving California to locate their businesses in more favorable locales. The talk usually includes mention of environmental restrictions and high taxes. They might have a point or two, but their vision would have to be remarkably restrictive in order to overlook the enormous advantages of the skilled workers and benign climate which come with this territory.

KABC is glad to record the views of the Northrop Corporation, which founded its aircraft production facilities in Hawthorne back in 1939. They have no plans to relocate anywhere. They and their 10,000 worker payroll are in Southern California to stay. KABC looked into the Northrop operation recently, and we think we have discovered the strategy which has allowed them to prosper.

This month they commemorated the delivery of the 3,000th airplane in a series they have been producing for the last 16 years. Each of the aircraft has been delivered on time with no cost overrun, and each has performed as guaranteed. That's quite a strategy.

KABC salutes Northrop Corporation.

ANNOUNCER: You have just heard a KABC Editorial, delivered by Ben Hoberman, Vice President and General Manager of KABC Radio.

[From the St. Louis Globe-Democrat, Dec. 6, 1976]

NORTHROP'S ANSWER TO COST OVERRUNS

Cost overruns in defense contracts are an increasing problem as they continue to mount despite attempts to hold them down.

The latest Pentagon reports show that since 1970 cost overruns on 46 major weapons systems amount to at least $61 billion, according to the Center for Defense Information.

The increases over original estimates are found in each of the military services. The Army's experimental Advanced Attack Helicopter program, which is only three years old, is said to have gone up more than 90 per cent in cost, adding $1.66 billion to original estimates.

Its XM-1 tank cost estimate has spiraled 63 per cent in 4 years. This has added $1.9 billion to a program that hasn't reached the production stage.

The Air Force A-10 attack fighter has leaped 69 per cent to add $1.7 billion to its projected cost, and the B-1 bomber is up 93 per cent in six years, an overrun that could add $10 billion to the program.

Cost of the Navy's Trident submarine missile system are reported up 51.6 per cent, which could increase the projected price of the still-to-be-built missiles by $6 billion.

Are these overruns necessary?

Thomas V. Jones, chairman of the board of Northrop Corporation, emphatically says they are not.

"There is no reason why the defense industry cannot be as efficient as any other sector of the economy. The Government, the Congress, the public, the investment community and the defense industry must get rid of the notion that defense companies are somehow different, that they cannot be confined within the same standards of competitive performance by which we measure the rest of our market economy," Jones recently wrote.

Jones and the Northrop Corporation have demonstrated by example that contract deadlines and cost estimates can be met. It has a record of consistently staying within its original cost and deadline estimates.

How does Northrop do it? Principally by following two well-defined policies:

(1) It uses creative technology to simplify its construction designs rather than to complicate them;

(2) Management at Northrop simply does not tolerate late schedules or cost overruns.

This firm policy apparently is good business, too. Northrop, which soon will deliver its 3,000th tactical air defense fighter in its F-5 series, is having one of its best financial years in its history. It also has joined with McDonnell Douglas in the program to build the new F-18 carrier-based naval strike plane. The Navy and the Marine Corps already have made plans to buy 800 of these aircraft.

Cost overruns need not be tolerated, Northrop's chairman is to be commended for speaking up and calling for a halt to these huge added costs. Good management probably could eliminate most of them.

[From the Houston Post, Jan. 5, 1977]

EARLY BIRDS

At a time when cost overruns and late deliveries are almost considered standard operating procedure in defense contracting, it is refreshing to note that one contractor has consistently avoided deviation from original price and time agreements. Earlier this month in ceremonies at its Hawthorne, Calif., plant, Northrop Corp. delivered its 3,000th aircraft in a series of supersonic fighters and trainers to the U.S. Air Force. The sheer size of the production run for this plane, which costs about $2.5 million a copy and has been rolling off the assembly lines since 1961, suggests that it is a well-engineered aircraft that satisfies the needs of its buyers, both in the U.S. and abroad. And this is the plane used by the Air Force's aerobatic Thunderbirds team.

But even more interesting from the standpoint of taxpayers is that through the years the production program of the F-5, the fighter model, and the T-38 Talon, the trainer version, has never experienced a cost overrun or failed to meet a delivery schedule. In fact, the last 325 aircraft in the series were delivered 18 months ahead of schedule and at a cost of $18 million less than originally estimated.

Perhaps such contractual adherence will become a contagion within the defense industry. Indeed, Northrop's president, Thomas Paine, said in Houston recently that the era of cost overruns in defense contracting is ending and that the industry must become more competitive to become more efficient. And Northrop's chairman and chief executive officer, Thomas V. Jones, said the F-5 program has demonstrated to the entire industry that defense contracting can be held to the line. "The Air Force, the air forces of more than 20 countries and Northrop's industrial team have worked together and proven in this program that defense procurement, even on such a worldwide scale, can be managed efficiently," Jones said at the Hawthorne ceremonies. The U.S. public has good reason to hope he is right.

But the Northrop achievement in the F-5 program should be noted for other reasons. The company's name has been associated more with notoriety than accomplishment for more than two years since it came under investigation on charges of making illegal campaign contributions, bribing foreign officials and entertaining high-ranking Pentagon people. These charges have been resolved and put in the past. As Jones and the company were chastised when chastisement was due, they should also receive credit when credit is due.

[From the San Antonio (Tex.) News, Dec. 10, 1976]

NORTHROP COULD TEACH LOCKHEED

This is a salute to a success story that has paid off for the Air Force, a defense contractor and taxpayers.

Thursday, the 3,000th aircraft in Northrop Corp.'s series of F5/T38 fighters and trainers was rolled off the asembly line in Hawthorne, Calif.

The dart-shaped T38 is well-known to San Antonians. It is the advanced jet trainer for Air Training Command. More than 42,000 pilots have earned their wings in the T38.

The F5 is the tactical fighter version of the same plane. It is used by the Air Force, Navy and by air forces in 23 nations.

Northrop has done an exceptional job from the start. The first 325 F5s were delivered 18 months ahead of schedule and $17.7 million below the cost estimate. Every plane in the series has been delivered on schedule, within the contract price and met or exceeded all performance guarantees.

There have been no subsidies and no bailouts. Companies like Lockheed Aircraft should go to Northrop to learn how to do things right.

[From the Fort Smith (Ark.) Southwest Times-Record, Dec. 10, 1976]

HEAR, HEAR, THE SYSTEM WORKS

Something happened Thursday that every taxpayer should know about, but you probably didn't head much about it.

That was when Northrop Aviation delivered the 3,000th aircraft in its F-5-T-38 fighter and trainer aircraft series. So what's so unusual about that?

Every one of these planes has been produced on schedule, within the contract price approved by the government and has met or exceeded all performance guarantees.

That's in sharp contrast to widely published reports of cost overruns, schedule delays and product deficiency that have plagued the defense industry in recent years.

By applying technical creativity and management control, Northrop has demonstrated that it is possible to achieve cost, schedule and performance on a major defense system. That firm and its 4,000 contractors and suppliers deserve a vote of thanks from the American people.

We suspect other defense firms also have done exceptional jobs. Unfortunately, you seldom hear about the successes in behalf of the taxpayers. . . just the ones that go sour on the taxpayers.

It's high time we hear more of the success of American businesses. Certainly, the failures cannot be ignored. But if the free enterprise system stopped hiding its light under a bushel, we believe its public image would be considerably improved.

[From the Wheeling (W. Va.) Intelligencer, Dec. 8, 1976]

IT CAN BE DONE

When defense contractors are mentioned, the things which usually first come to mind are cost overruns, late deliveries and shoddy workmanship. And there is justification for those things coming to mind first.

So it is most refreshing to be able to recognize a defense contractor for doing exactly the opposite. This week Northrop Corporation will deliver to the U.S. Air Force the 3,000th aircraft in its series of F-5/T-38 fighters and trainers in what the firm calls "one of the most successful military aircraft programs ever conducted."

Why does Northrop consider it so successful? Because every aircraft in the series has been delivered on schedule, within the contract price and has met or exceeded all performance guarantees. In boasting about its achievement, Northrop says it has to share the credit with more than 4,000 subcontractors and suppliers.

Northrop certainly is to be congratulated on its record of production with the twin-engine, supersonic jet which is now used by more than 20 nations. The firm has demonstrated that a defense contractor can produce a quality product on time and at the agreed price.

The company says "technical creativity and management control" are the reasons for its success. But look behind those fancy words for efficiency and you find what possibly is the real key. Northrop owns its facilities rather than depending on government-owned property and equipment provided by dollars from taxpayers. The company owns 94 per cent of its facilities and equipment, compared to an average of 56 per cent for the rest of the industry.

AN ENERGY PHILOSOPHY FOR THE 1980'S

The SPEAKER. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 10 minutes.

Mr. MONTGOMERY. Mr. Speaker, President Carter has submitted a proposal to deal with the current fuel shortage in the Nation, especially natural gas. Unfortunately, the legislation we will be considering next Tuesday is only a stopgap measure and will not solve our energy problems over the long run.

We in the Congress must be willing to act decisively and make the hard decisions necessary to provide the energy we will need in the years ahead and without being overly dependent on other nations. I was recently presented a proposal to achieve this objective by Mr. Robert Herring, president of the Houston Natural Gas Co. Mr. Herring's white paper notes the need to have a mix of several different energy resources in order to provide all of our future needs at the most reasonable cost possible. Because of the timeliness of Mr. Herring's proposal and his vast experience in the energy field, I wish to share his thoughts with my colleagues in the Congress and urge their thoughtful consideration of his proposals. The proposals of Mr. Herring, which coincide with my own views on the energy problem, are as follows:

AN ENERGY PHILOSOPHY FOR THE 1980'S

Most Americans today would agree that the Federal government bears the ultimate responsibility for creating and maintaining a sound economic climate in this country.

The U.S. economy is energy intensive. The nation's productive power, its ability to compete internationally, and possibly even the survival of its political system, clearly depend on a relatively abundant supply of energy from domestic sources at an affordable cost. It also should be obvious that minimizing our future dependence on imported energy not only would benefit our balance of payments in peacetime, but also would represent the critical difference in our ability to respond in time of war.

Energy conservation eventually could be very constructive, but conservation alone, even if carried to the practical extreme, will not be enough. The *only* near-term solution involves a rapid expansion of production, transportation and utilization of *all* domestic energy resources. We do have these resources and we must use them. With the intelligent application of no more technology than we now have at hand, this can be accomplished with minimum impact on the consumer's pocketbook and the environment.

A national energy policy cannot be responsive to the critical situation the country now faces unless, at the very least, it acknowledges these imperatives:

1. Increase coal production 350 million tons per year by 1985.
2. Reduce crude oil imports four million barrels per day by 1985.
3. Legislate a gradual or phased decontrol of Federal price controls on new natural gas discoveries.
4. Phase out price controls on domestic oil production over the next three years.
5. Encourage nuclear power development to provide 13% of our energy requirements by 1985.
6. Assist research efforts in new forms of energy, but resist major production facility investments, or guarantees of loans, or minimum prices if exotic sources cannot compete with already existing alternatives.
7. Modify environmental legislation to establish more realistic, more consistent and less costly standards, and to provide a Federal licensing procedure that would prevent nuisance lawsuits after thorough and open hearings.
8. Make Federal coal lands leasing, strip mining, and reclamation policies specific, and establish an authorization procedure to avoid protracted legal actions after full and open hearings have been held.
9. Enact legislation supporting the development of the transportation facilities required for the distribution of energy by encouraging competition among the railroads, trucks, barges and pipelines to achieve the lowest cost to the American consumer.
10. Re-establish incentives to encourage domestic drilling for oil and natural gas.
11. Closely monitor all companies involved in energy supply, but cease threats to "break up" the industry unless *existing* antitrust laws are violated.
12. Recognize that the public interest is best served by the investment of private capital.

The comments which follow discuss current energy issues and the attainability of the proposed national objectives.

COAL

An increase in coal production of 350 million tons per year would:

a. Offset four million barrels per day of oil imports.

b. Improve the U.S. balance of payments by more than $18 billion annually.

c. Save U.S. electric consumers $10 billion each year in direct energy costs.

d. Create more than 250,000 jobs for coal miners alone, as well as thousands of new jobs in coal equipment manufacturing and coal transportation.

Coal can be delivered to electricity generating plants today at less than $1 per million Btu's. This compares with imported oil still in crude form at $2.25 per million Btu's.

The economically recoverable coal reserves of the United States exceed one trillion tons, enough to supply the nation's needs for perhaps a thousand years. Major obstacles to increased coal production are Federal regulations (and the threat of even more stringent legislation) governing coal land leasing, strip mining and land reclamation. These laws and regulations must be modified to encourage increased coal production while protecting the environment and citizen rights. Recent rules issued by the Department of the Interior are a step in the right direction, but a procedure should be adopted which would grant leases and strip mining permits promptly after ample open hearings had been held, and which would eliminate delays in production resulting from arbitrary injunctive actions. These "last-ditch" court proceedings now frequently occur long after Federal and State agencies have been satisfied on all of the pertinent issues.

Full and beneficial reclamation is feasible and should be required, but the "original contour" theory should be eliminated.

A substitute requirement for a "restoration plan" to be filed and approved before mining begins might very well result in a better environment (perhaps new lakes and parks) than the original contour, but at less cost.

The coal industry must be permitted to realize its potential through improved employee relations and innovative work incentives. The elimination of wildcat strikes and capricious absenteeism, coupled with improved technology, easily could raise productivity from the present ten tons per man shift to 15 tons.

Capital requirements for the mining facilities necessary to produce an additional 350 million tons of coal per year are estimated at between six and seven billion dollars. This huge sum can be provided by the energy industry, but only with the support and encouragement of the Federal government, which must adopt rules and regulations which are constructive and not punitive, which must provide tax incentives, and which must understand that private capital will be attracted only if there is a reasonable opportunity for a fair return.

NATURAL GAS

About 55% of the natural gas sold in the U.S. currently is delivered for industrial use. Most of the balance goes to homes, hospitals, schools and other "human needs" applications. The market for natural gas has been distorted by the artificially low prices paid to producers under Federal Power Commission controls. The recent increase in price to $1.42 for "new" gas is a positive step and should be followed by a continuing phaseout of wellhead price regulation.

Higher prices will provide an incentive for exploring and drilling and will encourage the development of marginal or currently uneconomic new sources of gas. Gradual decontrol of prices also will shift inferior uses of gas to coal, thus reducing demand and further increasing supplies.

The lack of a free market and the restrictions imposed by Federal regulatory policy have resulted in the uneconomic investment of scarce capital in synthetic gas (SNG) plants. Freeing new natural gas from price regulation will attract this capital to exploration. Production of gas from SNG plants at a cost in excess $5 per million Btu's is economic only when averaged incrementally with cheap gas from old F.P.C. regulated contracts, but the moderating effect eventually will disappear as low-price gas is depleted.

The importation of liquefied natural gas (LNG) at a cost above $3 per million Btu's also is uneconomic, but may have some justification as a supplementary supply. The current policy of limiting LNG imports is wise because of the possible threat of foreign nations withholding deliveries. For example, a winter supply disruption in New York City resulting from the delay or cancellation of a tanker delivery not only would mean cold houses and human discomfort, but also an astronomical emergency expenditure for restoring service and relighting pilots, house by house.

PETROLEUM

The U.S. now is importing approximately eight million barrels per day of crude oil and refined products, almost half of our total daily requirements. Unless positive action is taken, this dependence on foreign sources can only increase.

A reduction in oil imports of the magnitude of four million barrels per day is an attainable goal by 1985. The balance of the total energy requirement in the mid-1980's (projected to be about one-third greater than it is now) must be made up by the increase in coal production noted above, delivery into the lower 48 states of two million barrels per day of Alaskan oil, increased tertiary production from old oil fields, some commercial production of oil from shale, and an overall increase in the production of oil to 14 million barrels per day.

Current U.S. production of oil is averaging about nine million barrels per day, supported by proven recoverable reserves of 34 billion barrels. A 10% improvement in recovery rates from known deposits of oil through "tertiary" techniques such as the injection of steam or carbon dioxide could double recoverable reserves from domestic sources. In addition, the Rocky Mountains area has deposits of shale oil which exceed the world supply of conventional crude oil by five times.

The 1985 goals can be achieved only through a free and unfettered U.S. oil industry, amply financed, operating in a climate of citizen and governmental confidence, and stimulated by reasonable incentives. Congress must cease its efforts to dismantle the industry and, instead, must encourage oilmen to go to work to increase the domestic energy supply.

Price controls on domestic oil production should be phased out over the next three years. That period of time will reduce the immediate impact of higher consumer prices. Domestic exploration will be revived to the necessary extent, however, only through the concurrent restoration of the depletion allowance to at least the level still permitted for minerals and coal, and through elimination of the preference tax on intangible drilling costs. If the industry is expected to achieve a turnaround in the currently bleak energy outlook, it should have some assurance that it will not be "punished" merely because it is successful.

There is oil and gas on Federal lands, onshore and offshore, but the terms and procedures for leasing must be standardized, simplified and made attractive for investors.

As we reduce imports of oil and increase the volume of coal used for electrical power generation, the problem of producing sufficient gasoline and diesel oil to meet market demand could become crucial. Most refineries convert 40% to 50% of their crude oil input into gasoline and jet fuel, about 20% into diesel fuel, and about 25% into heavy or residual oil. Few of our refineries are designed to handle high-sulphur crude such as that which will be produced in Alaska.

With refineries or plants requiring four or five years to plan and construct, it is essential that Federal guidelines be adopted which will permit an orderly transition to the new energy balance and possibly different feedstocks.

NUCLEAR POWER

There are 53 nuclear power plants now operating in the U.S. and eight more will be completed by the end of 1976. 122 additional plants now being designed or constructed will be in operation before 1985. More will be needed.

It is a matter of record that U.S. nuclear power plants have been operated to date more safely than any other form of electric generating system. There is no commonsense reason, environmental or otherwise, for allowing well-intentioned but misinformed intervenors to hold up construction of these vitally needed power plants, delaying jobs and endangering the nation's energy future.

Resolution of the problems attendant to nuclear power plant licensing and siting and the disposal of radioactive wastes will require clear and consistent Federal guidelines which, combined with open public hearings and adequate review, will prevent long and costly delays occasioned by lawsuits.

ENERGY TRANSPORTATION

Legislation should support the competitive development of the transportation facilities required for the distribution of energy. Competition among railroads, trucks, barges and pipelines should be encouraged to insure the lowest cost to the consumer.

For example, the right of eminent domain should be approved for coal slurry pipelines nationwide. Removal of the right-of-way obstacle will permit the marketplace and its competitive forces to determine whether or not slurry pipelines have a place in the transportation of energy. The consumer ultimately will benefit.

It is unlikely that railroads will be harmed by slurry pipelines. The movement of 50 million tons of Wyoming coal to a market a thousand miles away will require 52 100-car unit trains, or 26 unit trains arriving and leaving each terminus each day. Obviously, the future volume of coal the nation must transport will require not only slurry lines, but also an expanded rail system and more railroad jobs.

RESEARCH

Research and development work by and under the supervision of various Federal agencies generally has been productive. The Bureau of Mines has helped improve technology and safety in the coal industry, and government agencies working with the gas industry have advanced coal gasification. The government should confine itself to research funding, however, and should not use tax dollars to support full development of exotic forms of energy when costs are excessive and have no promise of being competitive with already existing alternatives.

For example, it is evident from the work to date that the cost of producing high-Btu gas from coal, utilizing present technology, will exceed $4 per million Btu's. This is four times the cost of coal delivered to electric plants. If delivered to the home for domestic use, synthetic gas from coal cannot compete with natural gas which will continue to be available for the domestic market for some time to come.

Until the marketplace will support the construction of synthetic gas plants, or pipelines from arctic islands, the economic burden of such facilities should not be forced on the American people.

Research into other forms of energy should continue. The National Aeronautics and Space Administration has gained a wealth of knowledge about solar energy as a result of its development of energy systems for manned spacecraft. NASA should be encouraged to continue its research in this field.

Two other promising research areas are geothermal energy and the production and distribution of hydrogen. Electricity already is being produced in limited amounts from underground steam sources, and investigations are being carried out on injecting water into deep underground structures of high heat to produce steam.

While the cost of hydrogen is too high at the present time to use it as a fuel, considerable work is being done on converting sea water into a lower cost product and these studies should be accelerated.

THE ENVIRONMENT

There is no way that our environment can be maintained in its purely natural state and, at the same time, accommodate humanity. There must be positive action to assure clean water and air, but at a cost which our economic system can afford. This can be beneficial and an improvement over the past, but the perfection that well-meaning environmentalists envision is impractical and never can be achieved.

A Brookings Institution study by Kneese and Schultze estimates the cost of meeting 1970 air purity and 1972 water quality legislation easily can exceed $500 billion by the early 1980's. The consumer inevitably will pay these costs in higher prices for necessities and luxuries and, particularly, in higher utility costs.

The steadily increasing cost of electricity to homes, schools, hospitals and factories is placing a severe burden on wage earners and is contributing to inflation. Aside from the higher cost of boiler fuels, the increase has been caused in large part by (1) enormous investments in scrubbers and other pollution abatement equipment for existing power

plants, (2) higher capital costs for new power plants which include anti-pollution equipment, and (3) higher interest rates for construction funds.

The Environmental Protection Agency should adopt a "grandfather clause" relieving existing power plants of the requirement for scrubbers and requiring instead the construction of tall smoke stacks. Then, with the adoption of reasonable clean air standards, monitoring equipment at ground level could signal violations, in which case the plant would be switched to a low-sulphur fuel or its operation temporarily discontinued. In some cases, a blending of low-sulphur and high-sulphur coals could prevent any air standard violation. The additional advantage of monitoring would be reliance on mechanical equipment and not the excessive demands of a Federal inspector.

Many of the regulations issued by the EPA and their interpretation by field inspectors go far beyond the intent of Congress. Standards must be reviewed and modified to achieve desirable results at a cost which the economy can support.

Once realistic standards are adopted, a Federal licensing procedure should be established. Issuance of a license would be preceded by open hearings which would review the economic need for the project, the environmental impact, the economic impact on the consumer, and all alternatives. In particular, the EPA should be required to make a full showing of the actual costs of its actions to the consumer.

Such a licensing procedure would reduce the delays and expense occasioned by costly lawsuits instituted by environmentalists.

CAPITAL FORMATION

It is time to realize that the American standard of living, the highest the world has ever known, is the result of individual initiative employed with freedom from governmental restriction or interference. The best chance to ease the present energy plight is to allow initiative and industriousness the opportunity once again to earn a fair return on the investment of private capital.

Private capital will support the energy industry if it has a reasonable expectation that:

1. Congress and the administration will support and encourage expansion rather than threaten divestiture.

2. Risk will be rewarded with the opportunity for profit free from punitive taxes.

3. Regulation by federal agencies will be fair and realistic and will be administered by a few rather than a multitude of bureaus and departments. At present, 14 permits from Federal and State agencies are required to drill one offshore oil well.

During the past few years, the oil and gas industry has been maligned and misrepresented by the press and an uninformed government, while the nation's energy condition has worsened and its dependence on foreign sources has increased. This path leads to disaster. It is time to return to a proven system.

JOINT RESOLUTION TO PROVIDE FOR DIRECT ELECTION OF PRESIDENT AND VICE PRESIDENT

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 15 minutes.

Mr. HAMILTON. Mr. Speaker, the time has come to take the final step to guarantee for each and every American the right directly to elect the two most important officials in the land—the President and the Vice President of the United States. In a nation that has always striven to expand the franchise and remove the impediments to greater voter participation in elections, the electoral college is an anachronism that should no longer be endured.

Of course, the electoral college has long been the subject of controversy. The first proposed constitutional amendment to reform the electoral college was introduced in the House of Representatives in 1797. A proposed constitutional amendment providing for the direct popular election of the President and the Vice President was introduced in Congress in 1826. Scarcely a session of Congress has passed without the appearance of similar proposals. Members of Congress and State legislators must now be convinced that such proposals are justified. The time has come to recognize the electoral college for what it is: an unfair, inaccurate, uncertain, and undemocratic institution.

Some Members of Congress may believe that something less than this major reform would be sufficient to correct the flaws of the electoral college. Other Members of Congress may be reluctant to undertake a substantive revision of the Constitution. I respect such feelings, but I am persuaded that the electoral college should be abolished for several reasons.

The primary problem with the college is the possibility that a person who loses the popular vote may nonetheless become President. The college has permitted the election of three Presidents who trailed their opponents in the popular vote—John Q. Adams in 1824, Rutherford Hayes in 1876, and Benjamin Harrison in 1888. These results may have been acceptable in a century that was less politically aware than our own, but today a similar miscarriage of the popular will would not be tolerated. We should not risk the likelihood that the mandate of a President elected in this way would be so impaired that he or she would find the Nation ungovernable.

Beyond the primary problem of the system there are other difficulties. For example, there is the matter of the "faithless elector." At the present time there is no legal way to compel an elector to vote for the candidate to whom the elector is pledged. The "faithless elector" can disregard the pledge and cast his or her ballot for whomever he or she pleases. Defections of this sort have been all too common. The latest occurred in the last election. Unknown intermediaries are dangerous to and unnecessary for a democratic election.

Other difficulties are occasioned by the so-called unit rule, an integral provision of the electoral college under which all of a State's electoral votes are awarded to the winner of the popular contest in that State. This rule effectively disenfranchises millions of voters and discourages voter participation in elections in various ways. To begin, the voters supporting a national candidate who loses in their State are not represented in the electoral college. When it comes to the actual election of the President and the Vice President, these voters have no voice at all even if they turned out in large numbers. Moreover, the unimportance of the margin of popular victory in a State has several undesirable consequences. Two of these consequences should be mentioned. First, a premium is placed on electoral fraud. When a few votes are enough to swing an entire State, zealous partisans may be tempted to tamper with ballot boxes in a close election. Second, there is no incentive for the minority party in a traditionally one-party State to participate in the election of national officials. Democrats in Nebraska or Republicans in Massachusetts have little reason to campaign actively for their national tickets: their efforts are useless.

Mr. Speaker, any electoral process which permits the selection of the less popular candidate, favors some States over others and some citizens over others, promotes electoral fraud and undermines minority party efforts is patently inconsistent with democratic ideals. Only one measure of reform can bring about all the needed changes.

Therefore, I am introducing this joint resolution to abolish the electoral college and provide for the direct election of the President and the Vice President of the United States. I urgently request its full consideration.

A BILL TO PROTECT THE AMERICAN 200-MILE FISHING LIMIT

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 10 minutes.

Mr. AuCOIN. Mr. Speaker, today along with my friend and distinguished colleague from Massachusetts, Mr. STUDDS, I am introducing legislation to help protect the new American 200-mile coastal fishing limit.

The 200-mile law was one of the landmark bills passed by Congress in America's Bicentennial Year. By establishing a 200-mile fisheries conservation and development zone, and by accepting American responsibility for managing it, this law reaffirmed our commitment to a proud industry whose roots are as old as the Republic itself: the U.S. fishing industry.

We all know why the law had to be written. In recent years, the men and women of this industry were facing economic ruin because huge foreign fleets devastated fish stocks off our coast through overfishing and a lack of respect for sustained yield conservation practices.

When it goes into effect on March 1 of this year, the 200-mile act will bar foreign nations from their old practices.

Fees will be required for the privilege of fishing in U.S. fishing waters.

American rules of sound conservation will hold sway.

Foreign harvests will be limited to surplus fish not harvested by American fishermen.

This, and more, is the promise and the purpose of the 200-mile act, giving us the potential to turn to the sea as a major source of food and protein in future generations.

Yet I must warn my colleagues today that these great hopes may vanish; that

we may awaken one day to find that we are right back where we started. We may find that loopholes will be discovered and used to circumvent the intent of this historic legislation.

I say this because there is nothing to prevent foreign countries from buying U.S. fishing enterprises and, through them, roaming at will throughout our 200-mile zone, despite the new law.

What is more, evidence is mounting that this practice is already underway.

If this practice takes hold, it would be a crippling blow to the new 200-mile act. It could adversely affect this act in at least two ways: First, by severely reducing the fishing fees to be collected from foreign fleets, and second, by curbing the ability of the United States to allocate to foreign countries only those fish that are surplus to U.S. needs. Mr. Speaker, I say to my colleagues that allowing foreign countries to again gain unrestricted access to U.S. fisheries would, in effect, be a repudiation of the 200-mile law.

The losers would not only be the U.S. fishing but also the American consumer.

For example, the silence of the new law leaves nothing to prevent a foreign controlled U.S. vessel from simply transferring its catch to a foreign ship stationed 201 miles off the U.S. coastline. Once filled to capacity, that ship could head home without the slightest regard to the protein needs of the American public.

I want my colleagues to know that foreign investment in the U.S. fishing industry is already reaching significant proportions. In its study, Foreign Direct Investment in the U.S. Commercial Fisheries Industry, the Commerce Department noted that at the end of 1974, 47 U.S. fisheries firms reported foreign ownership of at least 10 percent of their voting stock. That was only 2 years ago. Today the number has increased to approximately 56 firms—the 10-percent figure is actually misleading because foreign firms in fact own controlling interest in many of these companies.

Mr. Speaker, foreign investment doubled between the years 1970 and 1974—and increased 30 percent during 1974 alone. Indeed, in surveying these statistics, the Commerce Department study reached this pointed conclusion:

> The imminent extension of U.S. jurisdiction to 200 miles probably was a factor in the surge of direct investment in U.S. commercial fisheries in 1974.

Because of these questions and concerns, I sought oversight hearings in the Merchant Marine and Fisheries Committee in the closing weeks of the last Congress. Those hearings were held on September 8. I would like to share some of our findings with my colleagues.

At present, the law (46 U.S.C. 802(a) requires only that to be considered a U.S. firm, corporations be incorporated under the laws of the United States or of any state; that the president or chief executive officer and the chairman of the board of directors be citizens of the United States, and that no more than a minority of the number of directors necessary to constitute a quorum be noncitizens.

I would like to quote an exchange I had with a representative of the U.S. Coast Guard concerning this point during the oversight hearings.

> Mr. AuCoin. Having satisfied all of those requirements, a joint venture that is dominated on the basis of stock by a foreign state could own vessels which would then be treated as U.S. flag vessels.
>
> Mr. Yglesias. Yes, Sir.
>
> Mr. AuCoin. Therefore, the joint venture would be just as able as any wholly owned U.S. venture to fish at will within the 200 mile zone.
>
> Mr. Yglesias. Yes, Sir.

Later in the same hearing, I asked the representative from the Commerce Department about the effect these arrangements might have on the 200-mile law:

> Mr. AuCoin. Doesn't it really boil down to this: A foreign company that feels squeezed as a result of the foreign fishing quota—or for that matter, a foreign government which feels itself in need of additional fish protein—could easily establish a U.S. businesses venture, build or acquire fishing vessels, take as many of the species as it can until the American catch hits the ceiling established by the management plan for that species, and market that species to whomever it wants to. In short, don't those foreign business operations have an opportunity to entirely circumvent the fee requirements, and the surplus American catch requirements of the 200-mile law?
>
> Mr. Wallace. I think it is clear that they can do all of the things that you outlined under the present situation.

Mr. Speaker, I believe the facts speak for themselves.

The potential for violating the spirit if not the actual letter of the new law is clearly there. For this reason, today, along with my able colleague, the gentleman from Massachusetts (Mr. Studds), who authored the 200-mile limit, I am introducing legislation which I believe will insure that foreign fishing fleets remain under the umbrella of the 200-mile act as Congress intended.

I want to make very clear that this bill is not intended to discourage foreign investment in our domestic fishing industry. Such investment will still be profitable. But this bill will not allow such investment to be a ruse to sidestep the landmark 200-mile law, the intent of Congress, and the will of the American people.

Part one of the bill says that for purposes of the 200-mile law any foreign country must treat as one of its own any U.S.-flag vessel which is 25 percent or more owned by a citizen or entity of that nation.

This means that U.S.-flag vessels controlled by foreign countries shall be subject to the same fees, quotas and other restrictions which that nation's own vessels would be subject to under the 200-mile law. In effect, what we would be telling foreign countries is that they are welcome in our fisheries but only so long as they play by the rules Congress laid down when it passed the 200-mile bill last year.

Part two of the bill goes beyond the issue of vessel ownership.

It would require the Secretary of Commerce to undertake a broad study of foreign investment in all aspects of the American fisheries industry. This is aimed at giving Congress indepth baseline information regarding the scope of investment, the impact of such investment on the employment of U.S. citizens, the impact of such investment on the future of the U.S. industry, and other information it needs in order to develop sound future policy.

Mr. Speaker, I anticipate broad support for this legislation. During hearings on similar legislation introduced in the 93d Congress, State fisheries personnel and fisheries associations from across the country supported the concept of bringing the harvest of our fisheries resource under the control of U.S. citizens.

At that time, the deputy director of the Federal agency most directly responsible for the well-being of U.S. fisheries resources—National Marine Fisheries Service—stated:

> From the viewpoint of the existing fishing industry of the United States it would appear that the bill may be beneficial.

At the very least, it is time for the Congress to come to grips with the problem. In the words of the Pacific Marine Fisheries Commission in a resolution adopted November 15, 1973, time and events are pushing Congress to clearly define a "national policy with respect to any permitted majority alien ownership of U.S.-flag vessels."

To this end—and to the proposition that American fishermen deserve the help and support of Congress promised them in the new 200-mile act—I introduce this legislation and commend it to my colleagues.

EXEMPTION FOR SHEEP MOBILE HOUSING FROM REGULATIONS FOR PERMANENT HOUSING FOR AGRICULTURE WORKERS

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, today I am introducing legislation which would exempt the range sheep industry mobile housing from regulations affecting permanent housing for agricultural workers. Section 120.17(b) of the Department of Labor Housing Regulations requires a second means of egress of at least 24 inches by 24 inches in housing units for less than 10 persons. This regulation is simply not practical for sheepherders on the range throughout the entire year, experiencing changing weather conditions continually.

Sheepherders need mobility in rough terrain, and the sheepwagons must be practical in order to accommodate their needs as well as those inherent in their occupation.

Camps are customarily parked facing away from the prevailing wind, and for this reason have traditionally been constructed with small rear windows to make them warmer. The winter winds are penetrating, and another exit would create major problems in maximizing the warmth of the camps. The requirement of a 24 inch by 24 inch second exit

is impractical in the sheepwagons used in Wyoming—wagons that are approximately 6 feet wide by 11 feet long, containing only those things that are vital to the herder. A bed occupies much of the area, and a coal or woodburning stove is used. A fire extinguisher or chemical is provided, and the stove is located in an area protected by metal or asbestos. In such a small area as a sheepwagon, these provisions are sufficient in the event of a fire.

The well-being of sheepherders in Wyoming has always been a major concern of ranchers, and the employee safety record in the Wyoming sheep industry has been an enviable one. This further requirement is more cumbersome than necessary, and I am hopeful that it can be removed.

DUTY-FREE ENTRY OF BINDER AND BALER TWINE

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, I am today introducing legislation which would provide for the duty-free entry of binder twine and baler twine made of manmade fibers.

Binder and baler twine are essential to the harvesting of hay crops in many areas of the country. These twines have been in short supply for several years, and a method of increasing supplies is urgently needed in order to keep the prices of these farm supplies from spiraling still higher.

A duty-free entry of synthetic twines appears to be the best solution to this problem. No natural fiber is grown in the United States, and while higher prices of natural fiber may encourage foreign production of sisal, it takes 3 to 6 years from planting to harvest. Therefore, significant increases in production cannot be expected in the near future.

In addition to the problem of increasing foreign production of natural twine, domestic manufacturers of both natural and synthetic twine are confronted by high costs for raw materials, energy, and labor. Therefore, it appears that little relief can be expected in terms of lower price and/or greater supply.

THE LATE SENATOR PHILIP HART

(Mr. CARR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CARR. Mr. Speaker, 1 month ago today I lost a friend. There will be many eulogies to Philip Hart. Some will recollect the man many referred to as the "conscience of the Senate"—his mildness, his gentleness, the retiring dignity, and the sense of justice that singled him out among aggressive and frenetic men.

Some will recall his service to Michigan—the U.S. attorneyship, the years as lieutenant governor, the three terms as a U.S. Senator, the establishment of the Sleeping Bear Dunes Nation Park, and the frequent trips through Michigan in search of a deeper understanding of the State's people and their needs.

And some will note his service to the Senate and to the Nation—the floor leadership of the Civil Rights Act, the thoughtful and patient study of antitrust legislation, the consumer advocacy years before it was fashionable, the opposition to the war in Vietnam. Philip Hart was the voice of the disenfranchised.

All these tributes, and more, are fitting for we will never be able to express fully the spirit of this great man. But I would like to remember Phil Hart from a more personal point of view, not just for his contributions to Michigan or even to the Congress but for what he meant to a troubled generation of young people during the 1960's.

Without Phil Hart and the few influential men like him during the Vietnam war, this country might well have lost part of its heritage of civil service and its future. The new, young leaders emerging in the 1970's might never have sought public office without the assurance people like Senator Hart provided that men could govern one another without forfeiting their compassion and humility, that a government of stupendous size, power, and presumption could still be influenced by a few gentle men.

We remember Philip Hart in such personal and specific ways. He was the soft-spoken man who talked to a young person for an hour at an out-of-the-way candidate's forum in the Upper Peninsula about the openness of the Democratic Party to people and to change. He was the gentle man at a political news conference in my district in 1974, surrounded by lights and vigorous questioning, who managed not to give a quick or rote response to questions he had heard many times, who avoided rhetoric in an intensely political year before an audience eager for sensationalism. Phil Hart made it worth running for political office.

But more, America in the 1960's was full of anger. Many of us saw a government that had entered a war instigated by unknown men for unspecified reasons at an untold cost, a government incapable of understanding even itself and its own processes. It was a decade of untruth, a decade when the American Government lied not only to its people but to itself about itself. It was a decade of noble language and ignoble motives.

To come of age in those years was often to be a stranger to the times. The new realization of the American dream seemed only conquest without purpose, prosperity without spirit, and waste without limit. For many of us, our first political expression was in opposition to the administration, the military, and the Congress. We wanted a government that would listen not just to us but to reason and to right. The hope and cynicism of an aware and sensitive generation hung in the balance.

Without the kind of humane leadership that Philip Hart symbolized, many of us might have been alienated from government forever. He taught us what we were almost afraid to believe, that the possibilities for good and compassionate leadership were as great as the possibilities for bad. Philip Hart's final opposition to the war in Vietnam taught us that the very best of another generation of Americans were not estranged from the best of a new generation. He made us believe that there was an American conscience somehow greater than our brutality and our carelessness. He made us understand that in the finest government strength and compassion spoke with the same voice. He made us believe that government and politics could work.

I conclude by inserting in the RECORD two items: Phil Hart's last public words to us in a farewell he delivered to his friends in the Cannon Caucus room on September 29, 1976, and a piece by his good friend Senator Gene McCarthy printed in the January 15, 1977, issue of the New Republic:

REMARKS OF SENATOR PHILIP A. HART AT RECEPTION GIVEN BY MICHIGAN DELEGATION TO HONOR HIM AND CONGRESSMAN JAMES G. O'HARA IN CAUCUS ROOM OF CANNON HOUSE OFFICE BUILDING

It will be noticed very quickly, I did not have the opportunity—that Jim O'Hara made for himself—to take the time to work on some remarks. Also, I'm at the very dangerous brink—with so much that I want to say and facing the hazard that in trying to say it all, I will do it very poorly. Or, recognizing the likelihood of that disaster, I may not say enough to make clear my appreciation. I will try to zero in on the latter.

Those of us seated here and those who though not seated here who have been Members of Congress do not need to be told that anyone who's been given the opportunity to sit in the Legislature of his country has been lucky and I, along with everyone who has been given the opportunity, am grateful to the people who, as Jim O'Hara described them, demonstrate great patience with us on occasion and provide us with the means to come here and to say this. Those who are not among the Members of Congress present and past in this audience, I think represent those who more than anyone else put us here.

As I look around, I see the press who know you're not as smart as your claims would suggest and know that they can make anybody look to be an idiot if they undertake it—but nonetheless restrain themselves. And there are those who, because of a specific interest in an issue, affiliate themselves with an organization which finds political action paramount and that organization determines if Jim O'Hara or Phil Hart or Phil Ruppe will be their candidate, and take the streets in developing a story. You know our limitations and knew them before we came here. You tolerate them while attempting to improve them while we are here. I find it unlikely that I need try to explain how appreciative I am to you.

For the two or three who may have wandered in looking for something more exciting than a retirement party, I have nothing to say. Again, when Jim and I met and began campaigning together in '58, the only thing we could be sure of was that we wouldn't be sure of what life would be like in '76. We've been given the opportunity to see it and for the two of us it's been exciting and, for me, very fulfilling. I regret as has been voiced the loss to Congress of a craftsman as skilled as Jim O'Hara. If he weren't sitting at my shoulder and Andy Biemiller wasn't out

there, I would say that one of the things that the press criticizes and which has some apparent validity is a loss of skill and craftsmanship across the country. This isn't related solely to how we handle words. I have a hunch lawyers in my great grandfather's day read cases with clearer understanding.

They had a damn sight fewer to read than we do. But there have been few men and women through these halls who have had that quality which constitutes my definition of "craftsman" in the field of honing legislation Jim O'Hara has. I hope he has wonderful, exciting fulfilling second 50 years.

To all of you, to Janey and my family, for their patience, to those in my party who have done so much for me and asked so little. There are people who fill books describing or vaguely suggesting the evils that occur in these halls. If they could listen to the conversations I've listened to since '58, if it was evil they were curious about they would have long since left. In my book, politicians maintain a higher level of integrity than most other categories. The temptations are great but helpfully the discipline of the press and others is equally great and even if you would like to pick up an extra $500 million you wouldn't like to read about it. Most people say thank you, but "no". I hope that younger people understand that politics is a very dangerous business but what effective weapon isn't? And it's a weapon that will mean somebody is interested and if they will just understand that it does not demean them and that it does not expose them to more than they would be exposed to if they were a teller in a bank or an associate in a law office. Those two I'm free to speak of. Then we might be assured of a more constant, steady stream of the best of them—and we need them. And we've had in the brief time we've been here, Jim and I, we've seen some little growth, some improvement but it's still an awfully white audience out there and it's a pretty affluent audience. It's lucky that there are included in those two broad categories people who seek more clearly to understand the needs of the many who are not represented physically here tonight. But 50 years from now I hope the complexion and the Dun and Bradstreet ratings and the ages of a group like this would be dramatically changed to reflect more in keeping with what we are as a county.

This is the last time for me and I close as I began, by thanking all of you for trusting me.

PHILIP HART

Certainly the death of Senator Philip Hart was a tragedy. Not his physical death, but the political death which he accepted when, long before he became physically ill, he decided not to run again for the Senate of the United States. Then on the edge of despair, still professing faith in American democracy, he spoke of the need that he be replaced by someone of more faith; for his own faith, sustained largely by act of will, had grown too weak.

Philip Hart was a politician. He recognized politics as an honorable, necessary and difficult vocation. He practiced it not as the "art of the possible," which is a wholly inadequate definition, but as a discipline of mind and of will, as a profession which should carry the common good beyond what is considered prudent and possible. He knew that politics is not a game to be scored, to be marked by winning and losing, but rather a continuing challenge. He understood Plutarch's definition and description of politics:

"They are wrong who think that politics is like an ocean voyage or a military campaign, something to be done with some particular end in view, something which leaves off as soon as that end is reached. It is not a public chore, to be got over with. It is a way of life. It is the life of a domesticated political and social creature who is born with a love for public life, with a desire for honor, with a feeling for his fellows; and it lasts as long as need be. . . .

"Politics and philosophy are alike. Socrates neither set out benches for his students, nor sat on a platform, nor set hours for his lectures. He was philosophizing all the time—while he was joking, while he was drinking, while he was soldiering, whenever he met you on the street, and at the end when he was in prison and drinking the poison. He was the first to show that all your life, all the time, in everything you do, whatever you are doing, is the time for philosophy. And so also it is of politics."

Philip Hart did not labor within the easy range of the obvious and the popular during his years in the Senate. His name is not associated with the easily-drafted, often oversimplified, fashionable bills: not with food stamps, nor the Peace Corps, nor scholarship programs, although he supported all of these.

He was called the "principal sponsor" of some other legislation, an identification which may mean much or little. In his case, it was deserved. He was properly credited with being the principal author, or certainly a major author and defender, of the Voting Rights Act of 1965, Truth in Lending, Truth in Packaging, and major revisions of the anti-trust laws. Each of these was complicated and controversial, calling for patience and masterly legal craftsmanship. Phil Hart believed that law could provide structure and order in society. His law was not absolutist; rather it was designed to set limits and guides.

He did not seek to be "the conscience of the Senate," as some have described him. His method was not to express moral judgment or indignation, but to make the reasoned and the pragmatic argument. Even when he attempted to remove Sen. Eastland, of Mississippi, the president *pro tempore* of the Senate, from the line of succession to the presidency, he made no case on moral grounds. He simply said that not to change the order of succession was "outrageous" and beyond any reasonable comprehension.

I do not think he would have accepted statements, made by some of his colleagues from the Senate, that he "cut through every issue to find the truth and then laid that truth out for all to see." He was too modest and too honest to accept any such credit. Rather his effort was to come close to truth, to work around it, and there on the edge to ask his colleagues—sometimes to urge them, but with modest hesitation and some expression of doubt on his part—to take the next step. He asked them to take the risk as an act of civil faith that the commitments of the Declaration of Independence could be realized, but only if they were willing to take chances on the side of liberty and of trust.

Phil Hart was not indecisive, as some of his critics have said he was. Like Adlai Stevenson, against whom the same charge was made, he refused to give a simple and immediate response to demands for decision when decision was not called for. He studied and reflected, and when ready he drew the line and marked the threshold. Then only he would say to his Senate colleagues, "This is as far as I can or will take you. You may cross over with me, if you will, or stand back; but as for me, I have made the choice of crossing."

In the judgment of some, he was late in opposing the war in Vietnam; but when he declared against it, he left those others who were still supporting it with no defense. In the judgment of some, and by his own statement, he was late in coming to any critical conclusion about the activities of the CIA and the FBI. When the facts were made clear to him, in the hearings of the Senate committee investigation of those two agencies, his judgment was harsh and final.

He may have been late in asking for amnesty for Vietnam draft evaders and resisters, and for deserters from that war. But when his mind was made up, his dedication to securing amnesty was total, both as a person, and as a member of the Senate. Shortly before his death, he spoke of an amnesty bill that he had introduced in the Senate as one unfinished piece of work that he regretted leaving behind. His wife Jane spoke for him when, following his death, she received a call from President Ford, asking whether there was anything he could do for her. Her answer was that he could "declare amnesty for all Vietnam protesters, draft evaders and deserters."

Philip Hart was a man out of his proper time. He was meant for the Age of Faith, or at least for the declining years of that age, when men like Thomas More could make their final defense, beyond the civil law, in religious belief. Philip Hart spoke seriously of God, of Heaven, of the religious obligations as they bore upon private life and upon political action. "Would there be segregation in Heaven?" he asked in a Senate hearing. "What of our obligation to practice, as a society, the corporal works of mercy?" He could have said without hyprocrisy or apology, as Thomas More said just before his death, that he had been in all things the King's good servant, but God's good servant first. Philip Hart was the good servant of his own time, of his family, of his country, of its laws, and of its political institutions, especially of the Senate. But in all of these, because of his own compelling religious beliefs, he was God's good servant first. He was not only pleasing to God; he also met the sometimes more difficult test of being pleasing to man.

While he was ill, I read to him from the Gaelic poet Raftery these lines about the Plains of Mayo:

"After Christmas, I will go to the sharp edged little hill; for it is a fine place without fog falling; a blessed place that the sun shines on, and the wind doesn't rise there or anything of the sort. . . . The lamb and the sheep are there; the cow and the calf are there, fine lands are there without heath and without bog. There are oats and flax and large-eared barley. There are valleys with good growth in them and hay. Rods grow there and bushes and tufts; white fields are there and respect for trees; shade and shelter from wind and rain; priests and friars reading their books; spending and getting is there, and nothing scarce. And if I were standing in the middle of my people, age would go from me, and I would be young again."

He asked to hold the book and touched the inscription in it, written by the daughter of William Butler Yeats.

EUGENE J. MCCARTHY,
Former Senator from Minnesota.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CAPUTO) to revise and extend their remarks and include extraneous material:)

Mr. RHODES, for 60 minutes, on February 1, 1977.

Mr. MICHEL, for 60 minutes, on February 1, 1977.

Mr. REGULA, for 5 minutes, today.
Mr. KEMP, for 10 minutes, today.
(The following Members (at the request of Mr. TUCKER), to revise and extend their remarks, and to include extraneous matter:)
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. BAUCUS, for 10 minutes, today.
Mr. DRINAN, for 30 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. CHARLES H. WILSON of California, for 15 minutes, today.
Mr. MONTGOMERY, for 10 minutes, today.
Mr. HAMILTON, for 15 minutes, today.
Mr. AUCOIN, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:
(The following Members (at the request of Mr. CAPUTO) and to include extraneous material:)
Mr. WALSH in three instances.
Mr. FINDLEY.
Mr. DERWINSKI in three instances.
Mr. REGULA.
Mr. BOB WILSON in two instances.
Mr. SAWYER.
Mr. MCCLORY.
Mr. GILMAN in two instances.
Mr. ABDNOR in two instances.
Mr. KASTEN.
(The following Members (at the request of Mr. TUCKER) and to include extraneous matter:)
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. DIGGS.
Mr. WIRTH.
Mr. JACOBS.
Mr. RODINO.
Mr. NOWAK.
Mr. LEHMAN.
Mr. PATTEN.
Mr. WOLFF.
Mr. MILFORD.
Mr. PHILLIP BURTON in six instances.
Mr. HARRIS in two instances.
Mr. MCDONALD in three instances.
Mr. DRINAN.
Mr. WRIGHT.
Mr. YOUNG of Georgia.
Mr. TEAGUE.

ADJOURNMENT

Mr. TUCKER. Mr. Speaker, I move that the House do now adjourn.
The motion was agreed to; accordingly (at 11 o'clock and 30 minutes a.m.), under its previous order, the House adjourned until Monday, January 31, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

590. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–190, "To define certain terms relating to incapability and disability for purposes of the financial and medical assistance programs," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

591. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–194, "To require that no highway, circle, bridge, building, park, other public place or property in the District of Columbia under the jurisdiction of the District of Columbia shall be named in honor of any living person," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

592. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–195, "To provide for the registration, licensing of operators, and inspection of motorized bicycles; to provide for rules for the operation and parking of bicycles, motorized bicycles, and motorcycles; and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

593. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–198, "To establish Fire Department Companies and require Council approval of any major change in such companies or the provision or location of station houses," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

594. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–201, "To allow the Mayor to distribute motor vehicle registration dates throughout the year," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

595. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–203, "To amend the Act entitled 'An Act to establish a District of Columbia Armory Board, and for other purposes,' and the District of Columbia Stadium Act of 1957," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

596. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–204, "To amend the District of Columbia Prescription Drug Price Information Act (D.C. Law 1–81)," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

597. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–207, "To amend the District of Columbia Codification Act of 1975 to authorize the continued effectiveness of any rule, act, or resolution not published in the District of Columbia Municipal Code until 18 months after the original publication of such code," pursuant to section 602 (c) of Public Law 93–198; to the Committee on the District of Columbia.

598. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–208, "To increase the payment levels for public assistance applicants and recipients," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District Columbia.

599. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–209, "Regarding the authorization and endorsement of arbitration as a disputes-settling mechanism; and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

600. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–211, "To regulate the use of official mail by public officials, officers and employees of the District of Columbia government," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

601. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–216, "To amend the Air Quality Control Regulations of the District of Columbia relating to particulate emissions," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

602. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of October 1976, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

603. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended (79 Stat. 915); to the Committee on the Judiciary.

604. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the Seattle, Wash., Federal Center South, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

605. A letter from the Assistant Secretary of the Interior, transmitting a report of the National Petroleum Council assessing the state of the art of enhanced recovery for oil and gas from known reserves and estimating the probable ranges of additional oil that could be obtained by such techniques; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

606. A letter from the Under Secretary of Health, Education, and Welfare, transmitting the fourth annual report of the National Professional Standards Review Council, pursuant to section 1163(f) of the Social Security Act (86 Stat. 1441); jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

607. A letter from the Comptroller General of the United States, transmitting a report on progress and problems in the development of the Food and Drug Administration's financial disclosure system for special Government employees; jointly, to the Committees on Government Operations, the Judiciary, Interstate and Foreign Commerce, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Iowa: Committee on Small Business. H.R. 692. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to increase loan authorization and surety bond guarantee authority; and to improve the disaster assistance, certificate of competency and Small Business set-aside programs; without amendment (Rept. No. 95–1). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AUCOIN (for himself and Mr. STUDDS):

H.R. 2564. A bill to amend the Fishery Conservation and Management Act of 1976

in order to clarify the definition therein of vessels of the United States and to require the Secretary of Commerce to prepare an annual report regarding foreign investment in the U.S. fishing industry; to the Committee on Merchant Marine and Fisheries.

By Mr. BOWEN:

H.R. 2565. A bill to modify the river navigation project for Yazoo River, Miss.; to the Committee on Public Works and Transportation.

By Mr. PHILLIP BURTON:

H.R. 2566. A bill for the relief of certain natives of the Philippines who served in the U.S. Armed Forces during World War II; to the Committee on the Judiciary.

H.R. 2567. A bill to amend the Immigration and Nationality Act to permit more persons to immigrate from colonies of foreign states; to the Committee on the Judiciary.

H.R. 2568. A bill to amend title 5, United States Code, to provide that Japanese-Americans who were placed in internment camps during World War II shall be credited for civil service retirement purposes with the time they spent in such camps; to the Committee on Post Office and Civil Service.

By Mr. COLLINS of Texas:

H.R. 2569. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. COCHRAN of Mississippi:

H.R. 2570. A bill to amend the Food Stamp Act of 1964 to prohibit any individual from receiving food stamps who receives at least one-half of his income from any other individual who is a member of another household which is ineligible for food stamps; to the Committee on Agriculture.

H.R. 2571. A bill to amend the Occupational Safety and Health Act of 1970 to provide that no civil penalty may be assessed with respect to the initial issuance of a citation for any violation of such act; to the Committee on Education and Labor.

H.R. 2572. A bill to amend title II of the Social Security Act to increase to $6,000 the amount of outside earnings which, subject to further increases under the automatic adjustment provisions, is permitted an individual each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

H.R. 2573. A bill to amend the Internal Revenue Code to allow an additional exemption for a taxpayer who is deaf, and for other purposes; to the Committee on Ways and Means.

By Mr. DERWINSKI:

H.R. 2574. A bill to amend title 5, United States Code, to provide that the Director of the Office of Management and Budget be paid the annual rate of basic pay prescribed for level I of the executive pay schedule; to the Committee on Post Office and Civil Service.

By Mr. DRINAN:

H.R. 2575. A bill to amend the Federal Reserve Act to shorten the term of members of the Board of Governors of the Federal Reserve System from 14 to 8 years, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. FENWICK (for herself, Mr. ADDABBO, Mr. GUYER, Mr. MOAKLEY, Mr. CHARLES H. WILSON of California, Mr. ROE, Mr. CONYERS, Mr. SCHEUER, Mr. HOWARD, Mr. PRICE, Mr. NIX, Mr. STARK, Mr. BLANCHARD, Mr. KOSTMAYER, Mr. ROYBAL, Mr. HYDE, Mr. TRAXLER, Ms. MIKULSKI, Mr. SIMON, Mr. FORD of Tennessee, Mr. FORSYTHE, Mrs. CHISHOLM, Mr. MAGUIRE, Mr. ST GERMAIN, Mr. DUNCAN of Tennessee, and Mrs. MEYNER):

H.R. 2576. A bill to amend the Bankruptcy Act to provide a priority for certain debts to consumers; to the Committee on the Judiciary.

By Mr. GAYDOS:

H.R. 2577. A bill to amend title I of the Housing and Community Development Act of 1974 for the purpose of providing that units of general local government receiving grants under the hold-harmless provisions of such title shall be entitled, after fiscal year 1977, to continue to receive at least the amount to which they are presently entitled under such provisions; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2578. A bill to amend the Federal Aviation Act of 1958 in order to authorize free or reduced-rate transportation to handicapped persons and persons who are 65 years of age or older, to amend the Interstate Commerce Act to authorize free or reduced-rate transportation for persons who are 65 years of age or older, and to provide new and improved transportation programs for the handicapped and the elderly; to the Committee on Public Works and Transportation.

H.R. 2579. A bill to amend the Internal Revenue Code of 1954 to provide a basic $5,000 exemption from income tax for amounts received as annuities, pensions, or other retirement benefits; to the Committee on Ways and Means.

H.R. 2580. A bill to amend title II of the Social Security Act to increase to $5,000 the amount of outside earnings which, subject to further increases under the automatic adjustment provisions, is permitted an individual each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

H.R. 2581. A bill to repeal the changes made by the Tax Reform Act of 1976 in the exclusion for sick pay; to the Committee on Ways and Means.

H.R. 2582. A bill to establish a program for repairing and replacing unsafe highway bridges; jointly, to the Committees on Public Works and Transportation, and Ways and Means.

By Mr. GILMAN (for himself, Mr. ABDNOR, Mr. ANDERSON of California, Mr. ARCHER, Mr. BLANCHARD, Mr. BRECKINRIDGE, Mr. BUCHANAN, Mr. BURGENER, Mr. CHAPPELL, Mrs. COLLINS of Illinois, Mr. COLLINS of Texas, Mr. CONTE, Mr. EDGAR, Mr. GRADISON, Mr. GRASSLEY, Mr. GUYER, Mr. HUGHES, Mr. ICHORD, Mr. KEMP, Mr. KELLY, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LENT, Mrs. LLOYD of Tennessee, and Mr. MCCORMACK):

H.R. 2583. A bill to provide mandatory minimum prison sentences for persons illegally manufacturing, distributing, or dispensing certain narcotic drugs, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and the Judiciary.

By Mr. GILMAN (for himself, Mr. MATHIS, Mr. MITCHELL of New York, Mr. MONTGOMERY, Mr. MOORHEAD of California, Mr. MURPHY of Illinois, Mr. PATTEN, Mr. RINALDO, Mr. ROBERTS, Mr. RUSSO, Mr. SARASIN, Mr. SCHEUER, Mr. SIMON, Mrs. SPELLMAN, Mr. TRAXLER, Mr. TREEN, Mr. WALKER, Mr. WALSH, Mr. WHITEHURST, Mr. CHARLES WILSON of Texas, and Mr. ZEFERETTI):

H.R. 2584. A bill to provide mandatory minimum prison sentences for persons illegally manufacturing, distributing, or dispensing certain narcotic drugs, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and the Judiciary.

By Mr. GONZALEZ:

H.R. 2585. A bill to provide that the changes made by the Tax Reform Act of 1976 to the exclusion for sick pay shall only apply to taxable years beginning after December 31, 1976; to the Committee on Ways and Means.

By Mr. HAGEDORN:

H.R. 2586. A bill to establish a comprehensive program of regulatory reforms; jointly, to the Committees on Interstate and Foreign Commerce, Government Operations, Rules, and the Judiciary.

By Mr. HOWARD:

H.R. 2587. A bill to amend the Clean Air Act to authorize assistance to States for purposes of reducing asbestos levels in the interior of school buildings; to the Committee on Interstate and Foreign Commerce.

By Mr. JEFFORDS:

H.R. 2588. A bill to amend the Trade Act of 1974 in order to authorize the President to designate any of certain countries as eligible for the tariff preferences extended to developing countries under title V of such act if the President determines that such designation is in the national economic interest; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. BURGENER, Mr. CRANE, Mr. GRASSLEY, Mr. HILLIS, Mr. KELLY, Mr. MONTGOMERY, Mr. O'BRIEN, Mr. PRITCHARD, Mr. QUAYLE, Mr. QUIE, Mr. ROUSSELOT, Mr. RUDD, Mr. RUNNELS, Mr. SARASIN, Mrs. SMITH of Nebraska, Mr. SPENCE, Mr. THONE, Mr. TREEN, Mr. TRIBLE, Mr. WALKER, Mr. WHITEHURST, Mr. YATRON, Mr. YOUNG of Florida, and Mr. YOUNG of Alaska):

H.R. 2589. A bill to provide for permanent tax reductions for individuals and businesses in order to expand both job opportunities and productivity in the private sector of the economy; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. ARCHER, Mr. BADHAM, Mr. BAFALIS, Mr. BROOMFIELD, Mr. BROWN of Ohio, Mr. CEDERBERG, Mr. COLLINS of Texas, Mr. CORCORAN of Illinois, Mr. COUGHLIN, Mr. DERWINSKI, Mr. DICKINSON, Mr. DORNAN, Mr. EDWARDS of Oklahoma, Mr. GOLDWATER, Mr. GOODLING, Mr. GUYER, Mr. HAGEDORN, Mrs. HOLT, Mr. HYDE, Mr. KASTEN, Mr. KETCHUM Mr. KINDNESS, Mr. LENT, and Mr. MCCLORY):

H.R. 2590. A bill to provide for permanent tax reductions for individuals and businesses in order to expand both job opportunities and productivity in the private sector of the economy; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. ASHBROOK, Mr. BROWN of Michigan, Mr. CHAPPELL, Mr. DEL CLAWSON, Mr. COHEN, Mr. DEVINE, Mr. EMERY, Mr. EVANS of Delaware, Mr. HANSEN, Mr. LAGOMARSINO, Mr. LATTA, Mr. LUJAN, Mr. MICHEL, Mr. MILLER of Ohio, Mr. QUILLEN, Mr. STANTON, Mr. WINN, Mr. DAN DANIEL, Mr. SEBELIUS, Mr. WON PAT, Mr. MOORE, Mrs. PETTIS, Mr. LEVITAS, and Mr. BOB WILSON):

H.R. 2591. A bill to provide for permanent tax reductions for individuals and businesses in order to expand both job opportunities and productivity in the private sector of the economy; to the Committee on Ways and Means.

By Mr. KEMP (for himself and Mr. ANDREWS of North Dakota):

H.R. 2592. A bill to provide for permanent tax reductions for individuals and businesses in order to expand both job opportunities and productivity in the private sector of the economy; to the Committee on Ways and Means.

By Mr. KILDEE (for himself, Mr. NEAL, Mr. BONIOR, Mr. DERWINSKI, Mr. SCHEUER, Mr. ROE, Mr. SOLARZ, and Mr. TONRY):

H.R. 2593. A bill to protect the privacy of medical records maintained by the United States, programs assisted by the United States, or insurance companies engaged in business in interstate commerce; to the

Committee on Interstate and Foreign Commerce.

By Mr. KOCH:

H.R. 2594. A bill making appropriations to carry out the grant program established in the Museum Services Act during fiscal year 1977; to the Committee on Appropriations.

By Mr. LUNDINE (for himself, Mr. SARASIN, Mr. GILMAN, Mr. MOAKLEY, Ms. MIKULSKI, Mr. MITCHELL of Maryland, Mrs. FENWICK, Mr. GEPHARDT, Mr. WOLFF, Mr. PATTERSON of California, Mr. DRINAN, Mr. CONTE, Mr. SOLARZ, Mr. BONIOR, Mr. BAUCUS, Mr. WEISS, Mr. STARK, Mrs. CHISHOLM, Mr. TRAXLER, Mr. JEFFORDS, Mr. BINGHAM, Mr. AUCOIN, Mr. MILLER of California, Mr. SCHEUER, and Mr. PEASE):

H.R. 2595. A bill to provide for a program, to be carried out through the Secretary of Labor, of projects and an advisory council to promote economic stability by increasing productivity, improving job security, encouraging retention of jobs in lieu of cyclical layoffs, and promoting the better use of human resources in employment; jointly to the Committees on Banking, Finance and Urban Affairs, and Education and Labor.

By Mr. LUNDINE (for himself, Mr. REUSS, Mr. MOORHEAD of Pennsylvania, Mr. MCKINNEY, Mr. OTTINGER, Mr. HUGHES, Mr. MCHUGH, Mr. BEDELL, Mr. EILBERG, Mr. NOWAK, Mr. HARRINGTON, Mr. ROSENTHAL, Mr. CORNELL, Mr. LEHMAN, Mr. MARKEY, Mr. FAUNTROY, Mr. STEERS, Mr. RAHALL, Mr. FRASER, Mr. DOWNEY, Mr. MINETA, Mrs. SPELLMAN, Mr. MAGUIRE, Mr. PATTISON of New York, and Mr. LAFALCE):

H.R. 2596. A bill to provide for a program, to be carried out through the Secretary of Labor, of projects and an advisory council to promote economic stability by increasing productivity, improving job security, encouraging retention of jobs in lieu of cyclical layoffs, and promoting the better use of human resources in employment; jointly to the Committees on Banking, Finance and Urban Affairs, and Education and Labor.

By Mr. LUNDINE (for himself, Mrs. KEYS, and Mr. EDGAR):

H.R. 2597. A bill to provide for a program, to be carried out through the Secretary of Labor, of projects and an advisory council to promote economic stability by increasing productivity, improving job security, encouraging retention of jobs in lieu of cyclical layoffs, and promoting the better use of human resources in employment; jointly, to the Committees on Banking, Finance and Urban Affairs, and Education and Labor.

By Mr. MITCHELL of New York:

H.R. 2598. A bill to grant a Federal charter to the Italian American War Veterans of the United States; to the Committee on the Judiciary.

H.R. 2599. A bill to award one preference point to National Guard and Armed Forces Reserve veterans applying for employment in the competitive service; to the Committee on Post Office and Civil Service.

H.R. 2600. A bill to amend title 38 of the United States Code to remove the time limitations within which programs of education for veterans must be completed; to the Committee on Veterans' Affairs.

H.R. 2601. A bill to amend the Internal Revenue Code of 1954 to encourage greater conservation of energy in home heating and cooling by allowing individuals a credit for 25 percent of amounts paid or incurred for the installation of more effective insulation and heating equipment in existing residential structures; to the Committee on Ways and Means.

By Mr. PATTERSON of California:

H.R. 2602. A bill to amend the Food Stamp Act of 1964 to prohibit any individual enrolled in an institution of higher education from receiving food stamps if such individual receives at least one-half of his income from any other individual who is a member of another household which is ineligible for food stamps; to the Committee on Agriculture.

H.R. 2603. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States, and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2604. A bill to establish within the Energy Research and Development Administration a program of Federal grants to assist States in carrying out solar energy community utility programs; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2605. A bill to provide for the establishment of multipurpose service programs for displaced homemakers, and for other purposes; to the Committee on Education and Labor.

H.R. 2606. A bill to provide a special program for financial assistance to opportunities industrialization centers in order to provide 1 million new jobs and job training opportunities, and for other purposes; to the Committee on Education and Labor.

H.R. 2607. A bill to amend the Civil Rights Act of 1964 to provide that, except in certain limited circumstances, it shall be an unlawful employment practice for an employer to request that an employee or an applicant for employment provide military discharge papers or other service-connected records; to the Committee on Education and Labor.

H.R. 2608. A bill to amend the Higher Education Act of 1965 to encourage the establishment of lifetime learning programs, and for other purposes; to the Committee on Education and Labor.

H.R. 2609. A bill to improve education by increasing the freedom of the Nation's teachers to change employment across State lines without substantial loss of retirement benefits through establishment of a Federal-State program; to the Committee on Education and Labor.

H.R. 2610. A bill to provide for limited public financing of congressional general election campaigns through the matching of private contributions, and for other purposes; to the Committee on House Administration.

H.R. 2611. A bill to prevent the proliferation of nuclear weapons by limiting the transfer of certain nuclear technology and materials; to the Committee on International Relations.

H.R. 2612. A bill to establish judicial practices and procedures to protect constitutional rights and liberties involved in the disclosure of records of private communications, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2613. A bill to establish the National Diabetes Advisory Board and to take other actions to insure the implementation of the long-range plan to combat diabetes; to the Committee on Interstate and Foreign Commerce.

H.R. 2614. A bill to amend the Federal Power Act to provide that public hearings shall be held prior to the Federal Power Commission granting rate increases for the interstate sale of electricity; to the Committee on Interstate and Foreign Commerce.

H.R. 2615. A bill to reform electric utility rate regulation, to strengthen State electric utility regulatory agencies, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2616. A bill to establish a National Commission on Regulatory Reform; to the Committee on Interstate and Foreign Commerce.

H.R. 2617. A bill to amend the Community Mental Health Centers Act to authorize a program for rape prevention and control; to the Committee on Interstate and Foreign Commerce.

H.R. 2618. A bill to establish a National Commission on Victimless Crimes; to the Committee on the Judiciary.

H.R. 2619. A bill to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions; to the Committee on the Judiciary.

H.R. 2620. A bill to establish certain rules with respect to the appearance of witnesses before grand juries in order better to protect the constitutional rights and liberties of such witnesses under the fourth, fifth, and sixth amendments to the Constitution; to provide for independent inquiries by grand juries, and for other purposes; to the Committee on the Judiciary.

H.R. 2621. A bill to revise chapter 99 of title 18 of the United States Code to provide for the punishment of sexual assaults in the special jurisdiction of the United States; to the Committee on the Judiciary.

H.R. 2622. A bill to revise chapter 99 of title 18 of the United States Code to provide for the punishment of sexual assaults in the special jurisdiction of the United States; to the Committee on the Judiciary.

H.R. 2623. A bill to provide that meetings of Government agencies shall be open to the public, and for other purposes; to the Committee on Government Operations.

H.R. 2624. A bill to provide increased employment opportunity by executive agencies of the U.S. Government for persons unable to work standard working hours, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 2625. A bill to require committee reports on proposed legislation to contain statements of the reporting and recordkeeping requirements which will be imposed on private business as a result of the enactment of such proposed legislation; to the Committee on Rules.

H.R. 2626. A bill to amend title 38 of the United States Code in order to extend specially adapted housing benefits to certain disabled veterans; to the Committee on Veterans' Affairs.

H.R. 2627. A bill to amend title II of the Social Security Act to require that procedures be established for the expedited replacement of undelivered benefit checks, to require that decisions on benefit claims be made within specified periods and to require that payment of benefits on approved claims begin promptly; to the Committee on Ways and Means.

H.R. 2628. A bill to amend the Internal Revenue Code of 1954 to provide for payment by the Government of all reasonable litigation expenses to prevailing taxpayers in legal action; to the Committee on Ways and Means.

H.R. 2629. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes; to the Committee on Ways and Means.

H.R. 2630. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlords; to the Committee on Ways and Means.

H.R. 2631. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit with respect to housing senior citizens in the principal residence of the taxpayer; to the Committee on Ways and Means.

H.R. 2632. A bill to abolish certain Federal regulatory agencies and to bring about the abolition of certain Federal regulatory agencies or their successor agencies after a speci-

fied period of time, and for other purposes; jointly, to the Committees on Government Operations, and Rules.

H.R. 2633. A bill to establish a method whereby the Congress (acting in accordance with specified procedures) may prevent the adoption by the executive branch of rules or regulations which are contrary to law or inconsistent with congressional intent or which go beyond the mandate of the legislation which they are designed to implement; jointly, to the Committees on the Judiciary, and Rules.

H.R. 2634. A bill to amend the Small Business Act to establish within the Small Business Administration a new direct low-interest loan program to assist homeowners and builders in purchasing and installing solar heating (or combined solar heating and cooling) equipment; jointly, to the Committees on Small Business, and Banking, Finance and Urban Affairs.

H.R. 2635. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for certain diagnostic tests and examinations given for the detection of breast cancer; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. PATTERSON of California (for himself, and Mr. HANNAFORD):

H.R. 2636. A bill to amend the Uniform Time Act of 1966 to provide for permanent year-round daylight savings time; to the Committee on Interstate and Foreign Commerce.

By Mr. PRICE:

H.R. 2637. A bill to amend title 10, United States Code, to authorize the Secretary of the Air Force to contract with air carriers to acquire civil aircraft to provide greater cargo capacity for national defense purposes in the event of war or national emergency, and to modify existing passenger aircraft for this purpose; to the Committee on Armed Services.

By Mr. REUSS (for himself, Mr. HARRINGTON, Mr. RODINO, Mr. MOAKLEY, Mr. MCKINNEY, Mr. FRASER, Mr. NOWAK, Mr. ST GERMAIN, Mr. WOLFF, Mr. METCALFE, Mr. FISH, Mr. CONYERS, Mr. BLANCHARD, Mr. LAFALCE, Mr. STUDDS, Mr. VENTO, Mr. DRINAN, Mr. BADILLO, Mr. EILBERG, Mr. JEFFORDS, Mr. WALKER, and Mr. STOKES):

H.R. 2638. A bill to amend title I of the Housing and Community Development Act of 1974 for the purpose of providing that units of general local government receiving grants under the hold-harmless provision of such title shall be entitled, after fiscal year 1977, to continue to receive at least the amount to which they are presently entitled under such provisions; to the Committee on Banking, Finance and Urban Affairs.

By Mr. REUSS (for himself, Mr. HARRINGTON, Mr. RODINO, Mr. DELANEY, Mr. MOAKLEY, Mr. MCKINNEY, Mr. FRASER, Mr. NOWAK, Mr. ST GERMAIN, Mr. WOLFF, Mr. METCALFE, Mr. FISH, Mr. DOWNEY, Mr. CONYERS, Mr. BLANCHARD, Mr. STUDDS, Mr. VENTO, Mr. DRINAN, Mr. BADILLO, Mr. EILBERG, Mr. JEFFORDS, and Mr. PEASE):

H.R. 2639. A bill to extend title II of the Public Works Employment Act of 1976 for five additional quarters; to the Committee on Government Operations.

By Mr. REUSS (for himself, Mr. HARRINGTON, Mr. RODINO, Mr. DELANEY, Mr. MOAKLEY, Mr. MCKINNEY, Mr NOWAK, Mr. WOLFF, Mr. METCALFE, Mr. FISH, Mr. DOWNEY, Mr. CONYERS, Mr. BLANCHARD, Mr. LAFALCE, Mr. STUDDS, Mr. DRINAN, Mr. BADILLO, Mr. EILBERG, Mr. JEFFORDS, and Mr. STOKES):

H.R. 2640. A bill to amend the Internal Revenue Code of 1954 to provide that tax-exempt treatment allowed to certain industrial development bonds be restricted to bonds the proceeds of which are to be used within economic development areas, and to allow national banks to underwrite these bonds; to the Committee on Ways and Means.

By Mr. REUSS (for himself, Mr. HARRINGTON, Mr. RODINO, Mr. MOAKLEY, Mr. NOWAK, Mr. WOLFF, Mr. METCALFE, Mr. FISH, Mr. CONYERS, Mr. BLANCHARD, Mr. STUDDS, Mr. VENTO, Mr. DRINAN, Mr. BADILLO, Mr. EILBERG, and Mr. STOKES):

H.R. 2641. A bill to amend title II of the Social Security Act to provide special cost-of-living increases in benefits thereunder based on local differentials in the cost of food and other necessities (over and above the regular annual cost-of-living increases in such benefits which are provided under present law on a national basis) for individuals residing in high costs cities and other high cost areas; to the Committee on Ways and Means.

By Mr. HARRIS (for himself, Mr. CARNEY, Mrs. COLLINS of Illinois, Mr. DUNCAN of Tennessee, Mr. HAWKINS, Mr. HEFTEL, Mr. KOSTMAYER, Mr. MARKS, Mr. WEISS, and Mr. YOUNG of Missouri):

H.R. 2642. A bill to amend the Internal Revenue Code of 1954 to allow a tax credit on houses or apartments for a portion of the real estate taxes paid or incurred by their landlords; to the Committee on Ways and Means.

By Mr. ROGERS (by request):

H.R. 2643. A bill to provide minimum national standards for disclosure and consumer protection in condominium sales and condominium conversions, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROGERS (for himself and Mr. LOTT):

H.R. 2644. A bill to amend title 18 of the United States Code to provide criteria for the imposition of the death penalty for certain explosives related offenses; to the Committee on the Judiciary.

By Mr. RONCALIO:

H.R. 2645. A bill to exempt range sheep industry mobile housing and temporary range cattle camps from regulations affecting permanent housing for agricultural workers; to the Committee on Education and Labor.

H.R. 2646. A bill to provide for the duty-free entry of binder twine and baler twine made of manmade fibers; to the Committee on Ways and Means.

By Mr. SMITH of Iowa (for himself, and Mr. CONTE):

H.R. 2647. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to increase loan limitations and to increase surety bond authorizations; to the Committee on Small Business.

By Mr. STUDDS:

H.R. 2648. A bill to amend the Uniform Time Act of 1966, as amended, to extend the length of time during which daylight saving time is observed; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of Georgia:

H.R. 2649. A bill to assure low-income households the opportunity to attain adequate levels of nutrition by increasing their purchasing power, to strengthen the food sector of the economy, and for other purposes; to the Committee on Agriculture.

By Mr. RHODES (for himself, Mr. PRITCHARD, Mr. WINN, Mr. ARCHER, Mr. THONE, Mr. DEVINE, Mr. JEFFORDS, Mr. LOTT, Mr. STUMP, Mr. WALSH, Mr. STOCKMAN, Mr. FINDLEY, Mr. COLLINS of Texas, Mr. KETCHUM, Mr. CONTE, Mr. WHITEHURST, Mr. BURGENER, Mr. SEBELIUS, Mr. FRENZEL, Mr. DAN DANIEL, Mrs. PETTIS, and Mr. MCCLORY):

H.R. 2650. A bill to establish a Commission on the Reorganization of the Executive Branch of the Government to extend the authority of the Reorganization Act of 1949, to authorize the reorganization of executive departments under such act under certain circumstances, and for other purposes; to the Committee on Government Operations.

By Mr. YOUNG of Georgia (for himself, Mr. PERKINS, Mr. SIMON, Mr. SOLARZ, Mr. SEIBERLING, Mr. CLAY, Mr. BINGHAM, Mr. ROSENTHAL, Mr. CONTE, and Mr. STUDDS):

H.R. 2651. A bill to establish a Commission To Study Proposals for Establishing the National Academy for Peace and Conflict Resolution; jointly, to the Committee on International Relations and Education and Labor.

By Mr. GAYDOS:

H.R. 2652. A bill to amend section 901(a) (relating to prohibition of sex discrimination) of the Education Amendments of 1972 to exempt sex segregated gymnastics classes from the prohibition of such section; to the Committee on Education and Labor.

H.R. 2653. To amend section 901(a) (relating to prohibition of sex discrimination) of the Education Amendments of 1972 to exempt from the prohibition of such section musical programs or activities, and social programs or activities designed for parents and students; to the Committee on Education and Labor.

By Mr. ABDNOR:

H.J. Res. 204. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. ANDERSON of California (for himself, Mr. QUIE, Mr. CARTER, Mr. BROWN of Michigan, Mr. HEFTEL, Mr. BADILLO, Mr. ROBERTS, Mr. HANSEN, Mr. MARLENEE, Mr. ABDNOR, Mr. DOWNEY, Mr. MOAKLEY, Mr. HYDE, Mr. SCHEUER, Mr. CHARLES WILSON of Texas, Mr. BONIOR, Mr. GLICKMAN, Ms. FENWICK, Mr. JENKINS, Mr. KEMP, Mr. WALSH, Mr. LENT, Mr. NIX, Mr. RUSSO, and Mr. CORNWELL):

H.J. Res. 205. Joint resolution to provide for the designation of a week as National Lupus Week; to the Committee on Post Office and Civil Service.

By Mr. DINGELL:

H.J. Res. 206. Joint resolution relating to the regulation by the States of certain Indian hunting and fishing rights; to the Committee on Interior and Insular Affairs.

By Mr. HAMILTON:

H.J. Res. 207. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. VOLKMER (for himself and Mr. GEPHARDT):

H.J. Res. 208. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. HAGEDORN (for himself, Mr. BARNARD, Mr. COLLINS of Texas, Mr. CRANE, Mr. DUNCAN of Oregon, Mr. EDWARDS of Oklahoma, Mr. HYDE, Mr. ICHORD, Mr. LOTT, Mr. MILFORD, Mr. O'BRIEN, Mr. PURSELL, Mr. ROE, Mr. TONRY, Mr. TREEN, and Mr. WALKER):

H. Con. Res. 91. A resolution establishing a Commission on Legislative-Judicial Relations; to the Committee on the Judiciary.

By Mr. PRICE (for himself, Mr. BOB WILSON, Mr. DICKINSON, Mr. MONTGOMERY, Mr. ROBINSON, Mr. DAN DANIEL, Mr. BRINKLEY, Mr. NICHOLS, and Mr. SPENCE):

H. Con. Res. 92. A resolution commending Ralph J. Maglione, major general, U.S. Air Force; to the Committee on Post Office and Civil Service.

By Mr. COCHRAN of Mississippi:

H. Res. 199. A resolution to create a select committee on energy in the House of Representatives; to the Committee on Rules.

By Mr. PATTERSON of California:
H. Res. 200. A resolution expressing the sense of the House of Representatives that the effect on our society of the level of violence depicted on television requires more consideration and study; to the Committee on Interstate and Foreign Commerce.

By Mr. ROUSSELOT:
H. Res. 201. A resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress for the fiscal year ending September 30, 1978; to the Committee on Post Office and Civil Service.

By Mr. WALKER (for himself, Mr. MADIGAN, Mr. ERTEL, Mr. KINDNESS, Mr. STOCKMAN, Mr. RAHALL, Mr. COLEMAN, Mr. HANNAFORD, Mr. BRODHEAD, Mr. GLICKMAN, Mr. MITCHELL of Maryland, Mr. PANETTA, Mr. EDGAR, and Mr. MCCLOSKEY):
H. Res. 202. A resolution establishing a select committee to investigate all acts of the Government of the Republic of Korea, or of persons representing Korean business interests, to influence Members of the House of Representatives; to the Committee on Rules.

By Mr. BOB WILSON:
H. Res. 203. A resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:
H.R. 2654. A bill for the relief of Trinidad Ayalde; to the Committee on the Judiciary.
H.R. 2655. A bill for the relief of Rolando R. Gaza and Teresita C. Gaza; to the Committee on the Judiciary.
H.R. 2656. A bill for the relief of Caroline M. Babcock; to the Committee on the Judiciary.

By Mr. CORRADA:
H.R. 2657. A bill for the relief of Guillermo Rivera Rivera; to the Committee on the Judiciary.

By Mr. FREY:
H.R. 2658. A bill for the relief of Nora L. Kennedy; to the Committee on the Judiciary.

By Mr. HAMILTON:
H.R. 2659. A bill that for the purposes of the Immigration and Nationality Act, Thomas R. Liebermann shall be held and considered to have been lawfully admitted to the United States for permanent residency as of January 1, 1967; to the Committee on the Judiciary.

By Mr. PRITCHARD:
H.R. 2660. A bill for the relief of Ernesto J. Garcia, Jr.; to the Committee on the Judiciary.
H.R. 2661. A bill for the relief of Patricia R. Tully; to the Committee on the Judiciary.

By Mr. WINN:
H.R. 2662. A bill for the relief of Christopher Robert West; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

THE LAST OF THREE BRAVE MEN

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. TEAGUE. Mr. Speaker, 10 years ago today, we lost the lives of three brave men. Astronauts Virgil Grissom, Edward White, and Roger Chaffee.

The people of America stood in spirit at the gravesites of these three gallant, courageous men, mourning their loss.

All of us who believe in and have faith in the importance and purpose of our space program have dreaded the day and the hour when lives of our astronauts would be in dire jeopardy and perhaps lost. And it happened.

The shock of the dreadful tragedy of that Friday will be long remembered, and the men who died then will be known to many generations to come.

I think it is most consoling to us all that they did not throw away their lives foolishly, or for no purpose. They were totally dedicated to their careers and to the ideals that motivated them.

Before ever coming to the space program, they had been deeply involved as test pilots in aeronautical research and the advancement of aviation. Theirs was then a hazardous profession at best, which they unreservedly accepted and adjusted to.

As astronauts, they were pursuing an extension of their professional careers.

Virgil Grissom, Edward White, and Roger Chaffee were not superficial, vainglorious men. They were highly trained, intelligent, thoughtful, and involved in what was to them the highest calling men can choose—service to their fellow man and to their country.

The fulfillment of their lives and of their deaths is the achievement of the goal for which they worked so hard and for which they made the ultimate sacrifice.

Mr. Speaker, their deaths caused a complete restudy of the whole program and I firmly believe led to the successful trip to the Moon that followed.

These men died with the focus of world attention upon them. But what they gave was no less and no more than what other Americans, unsung and unknown, have given and are giving freely and without reservation.

We can do no more here than to acknowledge a deep, personal, and eternal debt to Virgil Grissom, Edward White, and Roger Chaffee.

Their lives now are unforgettable testimonials to the adventurous soaring of the human spirit. The spirit of man moves higher and farther than flesh can follow, and the miracle of space flight is today's great challenge to that spirit.

John Gillespie Magee, Jr., a poet who understood the exhilaration of flight, has expressed in these lines what these three men must have felt:

Oh, I have slipped the surly bonds of Earth
And danced the skies on laughter-silvered wings;
Sunward I've climbed, and joined the tumbling mirth
Of sun-split clouds . . . and done a hundred things
You have not dreamed of . . . wheeled and soared and swung
High in sunlit silence. Hov'ring there,
I've chased the shouting wind along, and flung
My eager craft through footless halls of air . . .
Up, up the long, delirious, burning blue
I've topped the wind-swept heights with easy grace,
Where never lark, or even eagle flew . . .
And, while with silent, lifting mind I've trod
The high untrespassed sancitity of space,
Put out my hand and touched the face of God.

Virgil Grissom, veteran of two space flights, and Edward White, the first American astronaut to walk in space, had indeed "slipped the surly bonds of earth," and "trod the high, untrespassed sanctity of space." Roger Chaffee would have soon done so. The loss to their families is irreplaceable but their example shines before us all; courageous and capable men who represent the spirit and determination to achieve. We share with their families the grief of their great loss knowing that these men sacrificed their lives for their country on a battlefield to gain knowledge for the betterment of mankind. It is fitting to reaffirm and rededicate our efforts to those goals which Astronauts Grissom, White, and Chaffee sought, so that the work which they started may be a living memorial to these great Americans.

DON PAARLBERG'S SERVICE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. FINDLEY. Mr. Speaker, the Department of Agriculture has lost one of its finest servants and friends. Dr. Don Paarlberg left the Department on December 31, 1976, as Assistant Secretary for Agricultural Economics to return to Purdue University and the teaching profession. The Department's loss is the students' gain.

Dr. Paarlberg has spent his life in dedicated service to American agriculture as adviser, administrator, and policymaker. His career has been marked by dedication to human understanding. As an outstanding teacher, lecturer, and sympathetic friend of American agriculture, his counsel is sought by many because they know that he combines experience as farmer, teacher, researcher, and Government servant with an inquisitive and analytical mind.

Don Paarlberg was born June 20, 1911, in Oak Glen, Ill. He moved to Indiana with his family at an early age. After he was graduated from high school, he farmed for 8 years. He then completed his B.S. degree at Purdue University and received his M.S. and, in 1946, his Ph. D. from Cornell University. He returned to Purdue to join the agricultural economics staff where he distinguished himself as teacher and researcher. In 1953, he was called upon to serve as economic adviser to Secretary of Agriculture Ezra Taft Benson. He was appointed Assistant Secretary of Agriculture in 1957, and in 1958 he was named

Special Assistant to President Dwight D. Eisenhower. He was instrumental in formulating the food for peace program and was named its coordinator. Other assignments included 4 years as Secretary of the National Agricultural Advisory Commission, 2 years as a member of the President's Committee on Foreign Economic Policy, and 3 years as a member of the President's Advisory Committee on Economic Growth and Stability.

Upon his return to Purdue in 1961, Dr. Paarlberg was named distinguished professor and quickly developed a reputation as a truly great teacher. His contributions were recognized through awards he received such as the Sigma Delta Chi Award for the Best of Purdue's Good Teachers—1961; the D. Howard Doane Award—1966; the Federal Land Bank Commemorative Medal for Outstanding Service to Agriculture—1967; and the Award for Outstanding Teaching Performance, Purdue University—1969.

Among Dr. Paarlberg's more than 100 publications are three books: "Food," "American Farm Policy," and "Great Myths of Economics." He has served as adviser to foundations, governments, community leaders, universities, and professional organizations.

Don Paarlberg enjoyed an unusual amount of bipartisan respect. He understood and listened to both farmers and consumers. He cared. No one has ever questioned his professionalism or his integrity. His shoes will be hard to fill.

IN MEMORY OF ALESKA DUJOVIC

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. NOWAK. Mr. Speaker, today Mr. and Mrs. Vladislav Dujovic of Buffalo, N.Y., are having a tree planted in Arlington National Cemetery in memory of Mr. Dujovic's late father Aleska J. Dujovic.

Aleska Dujovic, 1898–1944, was a patriot of Montenegro, Yugoslavia, who joined 45,000 Chetniks in fighting valiantly on the side of the Allies against fascism and communism during World War II. After his untimely death, his young son Vladislav gradually made his way through Greece to the displaced persons camps of Italy, where he met and married his wife Anna. Vladislav was the only male Dujovic over 17 years of age to survive the war-torn years, and following the collapse of the Montenegro partisan resistance, he and his wife with their two small children finally immigrated to the United States. The family settled in Buffalo in 1956, becoming American citizens in 1962.

When their son Borislav graduated from high school in 1969, the proud parents presented him with a brochure detailing the Dujovic history of gallant struggle for freedom in their homeland, and admonished him to remember his heritage as he fulfilled his responsibilities as an American.

This family exemplifies the melding of the best of the old world and the new—of preserving the legacies of ancestral defiance of tyranny and deep sense of duty to protect the liberties of the new nation. I am pleased to salute the Vladislav Dujovics today, as they dedicate a tree to Aleska Dujovic in the military cemetery where so many of his comrades-in-arms rest.

FEDERAL PLANNING AND FAMILY LIFE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. DERWINSKI. Mr. Speaker, as the new session develops, the Congress may well be addressing a subject that has been a matter of considerable discussion; the development of a so-called national family policy. The New World, the Chicago Archidiocese Catholic newspaper, very properly analyzes this proposed national family program in their editorial of January 7, 1977:

FEDERAL PLANNING AND FAMILY LIFE

There's a lot of enthusiastic talk these days, in Washington and elsewhere, about developing a national family policy.

The enthusiasm is understandable. After all, many of the problems of society and many individual problems are related to the state of the family.

But there's a but:

A national family policy sounds good—but it would be less than smart to think that the federal government can solve family problems.

The Federal government does many things well. It operates what may be the world's finest tax collection apparatus, for example. It is deeply involved in the problems of housing, unemployment, care for the elderly, delivering the mail, conserving energy and many, many other difficult areas. Experience shows that the creation of a policy and adoption of a budget do not necessarily lead to quick solutions of major problems.

So it would be too bad if there were expectations that a federal policy on families would lead directly to improved family life, better education, improved health and the like.

It also is reasonable to wonder what kind of family policy the federal government could come up with.

It could not be Christian, or religious in any sense, if present court rulings concerning Church and state are continued and extended.

It is a fantasy to suggest that a family policy can be neutral on the subject of religious values. It either includes religious values, in which case the family policy is religiously and ethically positive, or it excludes religious values. In that case, the policy is religiously and ethically negative.

Should a broad national policy on family life and development be religiously and ethically negative? That's equivalent to asking whether the federal government should get into this area at all.

"Neutral" policies often begin in a small way in Washington. Not so long ago the federal government was "neutral" in the area of abortions and the advancement of contraception. Now it is an advocate in those areas, and helps pay for advancing them.

The movement of government into family policy planning could be expected to start in a "neutral" way, as it was originally presented by the government of India. India now officially advances sterilization and seeks to prevent the enlargement of any family beyond a statistical ideal established by the government.

Perhaps much can be accomplished by religious and other groups in working together toward improving family life in the United States. It seems possible to support such programs with federal funds, under certain conditions.

It is not unreasonable to be uneasy about federal family programs, which must lead to federal controls, standards, guidelines and all the rest. One thing is certain Those controls, standards and guidelines will not include a religious dimension. And there's no such thing as a successful family life without a religious dimension.

WHAT MAINLAND CHINA IS REALLY ABOUT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. KEMP. Mr. Speaker, earlier this week I entered into the RECORD the first part of an article, "Seeing China Plain," by Mr. Edward Luttwak of the Johns Hopkins University's School of Advanced International Studies.

To provide the full article for the attention of my colleagues, I now enter this second and concluding part:

WHAT MAINLAND CHINA IS REALLY ABOUT

It is an intellectual mystery which deserves careful research. After the great warning of the Russian Potemkin tours of the 1930's, how could our intellectuals and our journalists—often explicitly mindful of the precedent—fall into the very same trap? What is the powerful urge to believe against all reason? I asked myself the question after just having read John Kenneth Galbraith's scholarly explanation of why there are no queues in China and then looking at the very long lines of hopeful Peking shoppers waiting to buy vegetables. I asked myself the question remembering James Reston's enthusiastic articles while I was being given a medical exam in the same hospital where he was operated upon—an exam in which ill-calibrated instruments yielded fantastic, impossible readings. I asked myself the question in beautiful Kweilin, visited by congressional ladies and sundry Senators, none of whom appears to have seen the grinding poverty evident in the thousands of women and old men harnessed like animals to carts loaded down with concrete blocks or heavy tanks of night soil.

Why have Galbraith *et. al* failed to convey to us the most fundamental of Chinese realities? After all, the miserable poverty of the country is everywhere in evidence, and the People's Republic of China is the only regime in the temperate zones of the world which actually makes a boast of its ability to feed and clothe its population. Perhaps Mr. Galbraith was simply comparing China with his familiar India, ignoring the fact that no tropical-zone country of any size is rich, while no temperate-zone country is anywhere near as poor as China. But could he really have ignored the great differences in the fertility of the land and the output of workers in different climatic zones? Could he be that ignorant? Or is it perhaps that visitors discount all because of the tragic vicissitudes of Chinese history up to 1949, as if only China had experienced great travails in this century? Or perhaps it is the great population, and the population density? But the Japanese have no more usable land per capita than China, and their food problem is to dispose of huge rice surpluses (in Tokyo my English-language newspaper carried an article about bright new ideas for dealing with

the rice surplus, from the free school meals to outright gifts abroad).

Why, moreover, have previous visitors not been revolted by the schoolrooms where small children are taught from booklets replete with the brutal images of harsh class-war propaganda? Why have our "Concerned Asia Scholars" failed to denounce the militarism of a system where the cheapest suit of clothing for little boys is a mini-uniform complete with toy rifle?

And, above all, how could they have missed the central phenomenon of Chinese life: its unique, almost pure totalitarianism? After all, it is scarcely concealed. The managers of a paint and canvas shop did not hesitate in the least to explain through an interpreter that they would not sell to anyone who would paint "reactionary pictures." Would trees and birds be thought reactionary? "Oh yes," they answered, "reactionary and personalistic." Would red flags and revolutionary workers be acceptable? "Not really. The capitalist-roaders are skilled in using the red flag against the red flag." Sound painting, it was explained to me, was painting that served the people by furthering the campaign against "the right-deviationist attempt of Teng Hsiao-p'ing to reverse the correct verdicts"—or, in other words, sound painting would serve the *current* campaign of the party. But how could you know what people would paint with the oils they bought here? The responsible member for the street, alley, or block would make sure that the people's paint and canvas would be used for the cause of the people. And if not? Then we would be told not to sell them any more paint, and they would in any case be forbidden to buy.

In a country where the crowding is extreme where only the higher party officials have rooms of their own, the transparency of personal life to the party apparatus in every house and street is total and inescapable. If the regime has a Gestapo or KGB, it is unnecessary. In our walks through Peking, in which we were followed only at a distance, we brought our own American interpreter along, but we did not manage to have even one street conversation, however casual. It became evident that in the capital even old ladies and young boys knew that it was forbidden to speak with any foreigner. (In Kweilin the linguist in our group went for long pre-breakfast walks trying to find locals who would talk with him. He did once receive a reply. Gesturing toward the famous landscape of eroded karst, he said, "How beautiful," and to his great satisfaction a local answered, "Not necessarily." That was the only unofficial conversation this perfect speaker of Chinese had in China.)

With all the petty martinets and sundry authoritarian characters no doubt enrolled in the capillary control apparatus of the party, a degree of control can be maintained which the Soviet Union probably achieved only briefly in 1937–39 and again in 1950–53, and which Nazi Germany never achieved at all, except perhaps in the winter of 1944 and even then very imperfectly. In essence it is a new departure in the totalitarian experience, a system of positive instead of negative control. In the Soviet Union one can do anything, except for the very long list of forbidden things. In China there is no forbidden list at all. Instead, all activity is forbidden except for that which is specifically permitted and promoted by the party, certain bodily functions aside. (Reproduction definitely is within the province of party authority, the current policy being strongly against.)

The difference between totalitarian control in the Chinese pattern and Soviet-style negative control is not merely static: the Chinese system offers much less freedom, indeed virtually no freedom at all. But the major difference is that the very potential for freedom is absent. In the Soviet Union we have seen the lesser freedoms which survived even in Stalin's day grow into real limitations on the oppression of the regime. In the case of China there are no such seeds of future liberty, however constrained. "Radicals" and "pragmatists" both insist on continuing the system of positive control.

One would have thought that the total harnessing of popular energies the system seems to offer would at least result in a high degree of economic effectiveness. Indeed, the attraction of the Chinese model to those who have lost faith in the prospects of the private-enterprise model of development derives precisely from its supposed ability to create capital out of human energy which would otherwise go to waste. The image is that of peasants in their thousands building dams and dikes with labor that would otherwise be socially unproductive. And of course the Chinese model also supposedly harnesses all the resources that would be wasted on luxuries by the commercial middle classes that are the driving force of private-enterprise development.

The arguments have a certain plausibility and many find the imagery compelling. But the statistics tell a different story, and even casual travel observation provides ample confirmation of the statistics. It is true that the Chinese economy does not waste resources on the automobiles and television sets with which millions of dynamic entrepreneurs of Taiwan, Singapore, Hong Kong, or South Korea are rewarded; and it is also true that the Chinese system can use mass labor which in India might find no use at all. But the Chinese system has its own built-in forms of waste.

In farm communes, or even in the smaller factories, the Chinese tradition of perfectionism and hard work result in high efficiency. The landscape of China is as finely carved as jade, with every inch of usable land being fully cultivated. But as soon as the resources are extracted from commune or local industry for investment under the provincial authorities, gross inefficiency and massive waste are commonplace.

In South China we visited a power-station in which hydropower from a small dam was working in combination with oil-fueled thermal units. We immediately noticed that only a couple of some eight generators were turning, in the middle of what appeared to be a normal working day. This could, of course, have been a low-demand hour in a low-demand season. It was not. We were assured that it was the normal level of output. Inadvertently, the whole sorry tale came out in the usual briefing. It seems that the dam had been built during the Great Leap Forward, in response to the slogans manufactured in Peking. It was then discovered that the water flow would not allow for electricity generation for several months of the year. During the Cultural Revolution the thermal units had been added. This meant that electricity could be produced all year 'round. But since much of the year either the hydro or the thermal units were working, the output from the whole complex required twice the capital equipment that would have been needed if only the thermal units had been installed. The water being high when we happened to be there, only the hydro units were turning, and the thermal units were idle. This, it was explained to us, meant that oil fuel was being saved.

Thus, in a country where capital is the critical limiting constraint on economic growth, the provincial authorities had priced the capital they used at zero, while taking full account of the cost of oil. Though the communes in the area could not afford the capital cost of trucks (as shown by the thousands of men and women we saw harnessed like beasts of burden to carts), the provincial authorities had wasted the capital they extracted from the communes with reckless abandon.

A more subtle manifestation of the pervasive irrationality of the Chinese system was in evidence at the very modern and very impressive machine-tool factory we visited in Shanghai. The factory did not merely make machine tools but precision machine-tools gear grinders and such like. Walking around the plant it became apparent that much of its equipment consisted of machines made in the plant itself. One does, of course, need high precision to make precision machine tools, but it was puzzling to note that sometimes very elaborate precision machines were being used even for rough work. It turned out that the factory in question could retain its own output at no cost for it own use, while it was a difficult business to obtain a machine tool made in another plant. Hence a machine worth, say, $100,000 was being used in place of a machine worth, say, $20,000, because the factory could not sell its own machines, to buy cheaper and simpler ones elsewhere, and also keep the difference in cost for some worthwhile purpose of its own. The corrosive effect of a system without incentives evidently applies not only to personal productivity but also to industrial efficiency.

The total cost of such irrationality in the few hundred factories and power plants that make up the island of modern industry in the sea of China's primitive economy is obviously very great. And this waste of capital is obviously the root cause of the slow growth of the Chinese economy, where the heavy sacrifices of the masses are in large part squandered by the gross mismanagement of the provincial and central planners. To be sure, Chinese industrial growth has been of the order of 7 per cent a year since the chaotic disruptions of the Cultural Revolution came to an end. And this does compare very well with Western rates of growth. But on the very small base-level of Chinese industry it does not amount to much. More significant, it is a much *lower* rate of growth than in Hong Kong, Singapore, or Taiwan. If present trends continue, China will become the backward country cousin of these other Chinese economies. As of now the Chinese economy is downright medieval compared to that of South Korea, let alone Japan.

The Chinese consumer pays for economic irrationality by being miserably poor, but China also pays by being militarily weak. Over the last ten years, while the Soviet Union has been modernizing its forces on land, at sea, and in the air at a rapid rate, the Chinese have fallen behind. By the early 1960's T–59 battle tanks were being produced in China, and they still are, with neither the output having increased nor the quality improved in fifteen years. Much of the equipment of the Chinese army is now totally obsolete, especially in the critical area of anti-armor weapons. The Chinese acquired 57mm and 75mm recoilless rifles in the 1950's—when they were passable weapons against the tanks of those days—and they still rely on them today, even though these weapons would now be of little use against modern armored forces. In the air, the Chinese would have to fight against up-to-date Soviet aircraft with Chinese-made copies of Soviet fighters of the 1950's. At sea, the Chinese navy would face a similar generation gap and could not operate in the high seas at all. And in the presence of modern weapons, sheer numbers of troops can no longer make up for an extreme qualitative inferiority.

It is not surprising, therefore, that the Russians have of late stopped adding forces on their long border with China. Having grown from very little to 42 divisions by 1972 the Russian ground deployment against China has not increased further over the last four years. On paper these 42 divisions amount to one-fourth of the Soviet army. In reality, the Chinese are absorbing a smaller share of the burden of containing Soviet military power since many of these 42 divisions are only partly mobilized, and some

have only one-third of their nominal establishment.

Even the most casual exposure to China is sufficient to disprove the notion that one is dealing with an emergent superpower. China is of course a nuclear power in a small way (with much less real capability than Britain or even France), but otherwise it has none of the attributes of a superpower: far from being able to project its military power on the global scene, it could not even defend its own borders. Nor is there anything to suggest that China will become a superpower in ten, twenty, or even thirty years. Hence the right-wing Sinophilia of those who abhor the Chinese system but who see virtue in Chinese power as a counterweight to the Russian, is as flawed as the left-wing Sinophilia of those who see virtue in a society which combines a maximum of unfreedom with a minimum of efficiency.

How could all this too pass unobserved when all the signs are in evidence? It is perhaps that our scholars and our journalists can only recognize repression when it is crude and unsuccessful and therefore requires the visible presence of armed men in the streets? It is that they can only recognize inefficiency and weakness in liberal democracies? How could the procession of China scholars who have written tour books fail to highlight for us the fact that they were denied any contact whatsoever with any Chinese not specifically instructed to speak to them? Was it because their overriding professional need is to be reinvited?

Perhaps so. After all, that is how the Chinese press department controls the journalists who have fed us much of what we think we know about China. Resident Peking correspondents do not file stories offensive to the Chinese because they are all specialized China experts whose jobs depend on their visas. Visiting correspondents are often equally dependent on periodic access. And so it is only the rare newspaperman who makes his own prior decision that he will seek no second visa who can be counted upon to serve us, not the Chinese. The matter has long since acquired the full dimensions of a scandal. In the press that investigated Watergate is there no one ready to investigate?

CAMILLUS—HOME OF THE GOP?

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. WALSH. Mr. Speaker, on this date, 125 years ago, a group of 342 citizens in Camillus, N.Y., met to express their opposition to the fugitive slave law.

That meeting, many agree, was the beginning of the Republican Party.

According to newspaper accounts from a January 1852, Journal in Syracuse, the newly founded political group was "opposed to the extension of slavery over free soil."

An announcement prior to the first meeting urged citizens who "are disposed to waive former political preferences and party predilections and unite your strength, that your influence may be felt in the cause of freedom and humanity."

Under the new party a ticket for town officers was nominated and it was elected with very little opposition.

A similar story appeared in the Syracuse Daily Journal on June 8, 1894, regarding a loan exhibition with a "framed placard, containing the call for a new political movement in the town of Camillus, Onondaga County, which took definite form on free soil lines, and presaged the organization of the Republican Party."

The story noted:

This was the first Republican political meeting in the United States and preceded the national organization by three years.

In 1952 at the Republican National Convention, party leaders established Ripon, Wis. as the cradle of the Grand Old Party. However, Onondaga County and Camillus stalwarts still claim Camillus beat Ripon to the history books.

There was no room on the agenda of last year's convention to discuss the GOP birthplace. But at the request of some Camillus area Republican Party leaders, including myself, the Republican National Committee said it would put together a research group to decide which city was the birthplace of the GOP.

That decision may be made at the 1980 Republican Convention by the committee. No matter which city is chosen to be "the" official home of the Grand Old Party, we tip our hats today to the small village of Camillus for the part it played in the history of the Republican Party.

The birth of the Republican Party and the continuance of our two-party system is what has made America the greatest Nation in the world.

PROTECTING LIFE

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. ABDNOR. Mr. Speaker, 4 years ago the Supreme Court denied the right of an unborn child to live a full and productive life. To restore this right, I am again introducing a proposed constitutional amendment to confer "personhood" on unborn children, granting them the protections of the 5th and 14th amendments to the Constitution of due process of law. Thus, a child could no longer be aborted solely by the decision of a woman and her doctor. Procedural due process mechanisms would be established to determine whether the mother's life was endangered, providing for situations where reasonable medical certainty exists that continuing the pregnancy would result in the death of the mother. Each State would have the authority to formulate their own administrative procedures to determine the necessity of an abortion, as both State and Federal Governments would have the power to enact legislation subsequent to the amendment's adoption. The text of my proposed amendment is as follows:

H.J. RES. —

Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. With respect to the right to life, the word 'person', as used in this article and in the fifth and fourteenth articles of amendment to the Constitution of the United States, applies to all human beings, including their unborn offspring at every stage of their biological development, irrespective of age, health, function, or condition of dependency.

"SEC. 2. This article shall not apply in an emergency when a reasonable medical certainty exists that continuation of the pregnancy will cause the death of the mother.

"SEC. 3. Congress and the several States shall have power to enforce this article by appropriate legislation within their respective jurisdictions.".

NO DOUBLE DEDUCTION IN TENANTS' TAX JUSTICE BILL

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. HARRIS. Mr. Speaker, I am today reintroducing the tenants' tax justice bill, H.R. 84, with additional cosponsors. To date, 70 Members of the House have cosponsored H.R. 84 which extends property tax relief to tenants. Under current law, tenants, unlike other taxpayers, are not allowed to claim their property tax payment for Federal income tax purposes. Because of this discrimination, the Federal income tax is greater for those Americans who rent their home. My bill corrects this inequity by allowing a tenant to claim a credit of 25 percent of his property tax payment; for the average taxpayer, a credit of 25 percent is approximately equal to a full deduction.

Sometimes raised as an objection against the tenants' tax justice bill or similar legislation is the charge that the change in the tax law allows for double deduction of property taxes. The opponents of the bill mistakenly charge that under the bill a single property tax payment is deducted twice—first by the landlord and then by the tenant. There is no "double deduction"; or, more appropriately no credit and deduction in the sense in which that argument is traditionally raised. Despite the fact that the actual issue is a credit and a deduction rather than a double deduction, my comments today discuss the issue in terms of a double deduction because the double deduction charge is most frequently raised and because for the average taxpayer a credit of 25 percent is approximately equal to a full deduction.

WHY THERE IS NO DOUBLE DEDUCTION

Under H.R. 84, the income tax liability of landlords is unchanged; and landlords can exclude from gross income the property tax collections which they receive from tenants and pass on to State and/or local governments. At the same time, my bill allows tenants to claim the property

tax payment which they pay to the State and/or local governments through the landlord. Why is there no double deduction? Simply, the landlord would deduct a property tax collection which is not real income, and the tenant would deduct property taxes which he actually pays. Currently, the landlord's deduction is considered as a business expense deduction used to determine his net or taxable income. His deduction should not be considered as such.

There can be no question that what the landlord is actually deducting is a property tax collection, funds which he collects for and passes on to State and/or local governments. Therefore, under current law landlords are deducting a tax collection which is not real income—and should not be taxed; and the tenants, who are paying the tax, are not currently allowed to claim the property tax payment for Federal income tax purposes. Of course, this is the source of the inequity: Both tenants and homeowners pay property taxes, but tenants cannot claim their property tax payment.

SIMILARITY TO TREATMENT OF SALES TAXES

The landlord's collection of the property tax is analogous to the sales tax which is collected by retailers in many States. The sales tax is not and should not be considered as real income for the retailers. These businessmen exclude from gross income the tax which they collect from consumers. At the same time, however, consumers are allowed to claim a deduction for sales tax contributions. Few would argue that a double deduction exists in this instance, or that retailers should pay Federal income taxes upon the sales tax collection which they receive and pass on to State and/or local governments. Nor would any Member of Congress argue that only certain consumers should be denied the opportunity to claim the sales tax, while other consumers purchasing similar goods are allowed to claim the same sales tax payment. Why, then, should tenants be denied the right to claim the property tax payment which is claimed by other taxpayers on similar housing units? Clearly, the tenants should have the right.

A reasonable argument can be made that Federal income taxes for landlords and other high income taxpayers are too low. However, this is no justification for denying the tenant the opportunity to claim his property tax payment. Further, this is no justification for allowing tenants to claim the property tax payment while denying the right of landlords to deduct the property tax collection—Federal income taxes should only be levied upon real income, and a tax collection cannot be justifiably considered as such. The tax collected by the landlord for the local government is not real income for the individual collecting the tax; Federal taxes should only be levied upon income, not tax collections. At the same time, Federal tax law should not discriminate against tenants who pay the property tax through a third party rather than directly to the State and/or local governments.

NO "DOUBLE DEDUCTION" REALIZED IF HOMEOWNERS SWITCH HOMES

The double deduction argument is often dramatized by claiming that it would be advantageous for an individual currently owning and living in his home to switch dwelling units with another individual who also owned and lived in his home. Opponents of H.R. 84 claim that by "switching" homes, a taxpayer could claim two property tax deductions, thereby, reducing his taxable income and his income tax liability. No such advantage is created by allowing tenants to claim the property tax payment—the bill in no way reduces the benefits of homeownership. The table and discussion which follow demonstrate that no gain is realized if homeowners switch homes. Further, the comparison of taxable income under current law with taxable income after the tax law change—that is, allowing tenants to claim the property tax payment—clearly demonstrates that tenants are discriminated against under current tax laws.

In the table below, assume that an individual lives in a dwelling unit with a rental value of $4,000. This rental value includes a property tax liability of $1,000. If the individual switches homes, assume that the new home is of identical rental value and has an identical property tax liability. Further, assume that the individual has gross income of $20,000. These assumptions can be altered without changing the conclusions.

COMPARISON OF TAXABLE INCOME UNDER CURRENT LAW WITH TAXABLE INCOME AFTER ALLOWING TENANT TO CLAIM PROPERTY TAX PAYMENT

[The following symbols are used in the table below: Y=income which the taxpayer previously would have claimed; RY=rental income received from renting one's home; PT(H)=the property tax payment which can be deducted for a home that is owned; PT(R)=the property tax payment which can be deducted for a home that is rented; TY=taxable income (before other nonproperty tax deductions or other adjustments to income)]

Taxpayer and calculation of taxable income	Taxable income under current law	Taxable income after allowing tenants to claim the property tax payment
1. Taxpayer lives in the home he owns:		
Y	$20,000	$20,000
RY	0	0
PT(H)	−1,000	−1,000
PT(R)	0	0
TY	19,000	19,000
2. Taxpayer lives in the home he rents:		
Y	20,000	20,000
RY	0	0
PT(H)	0	0
PT(R)	0	−1,000
TY	20,000	19,000
3. Taxpayer switches homes, i.e., rents out (at rental value) the home he owns and rents an identical home in which he would then live:		
Y	20,000	20,000
RY	+4,000	+4,000
PT(H)	−1,000	−1,000
PT(R)	0	−1,000
TY	23,000	22,000
4. Taxpayer switches homes, i.e., rents out (at property tax liability) the home he owns and rents an identical home in which he would then live:		
Y	20,000	20,000
RY	+1,000	+1,000
PT(H)	−1,000	−1,000
PT(R)	0	−1,000
TY	20,000	19,000
5. Taxpayer switches homes, without charging rent:		
Y	20,000	20,000
RY	0	0
PT(H)	−1,000	−1,000
PT(R)	0	0
TY	19,000	19,000

ANALYSIS OF THE COMPARISON

The inequity of the current law is demonstrated by the taxpayers described as first and second in the above table. Specifically, all other things being equal and before other deductions or adjustments to income are considered, currently the taxpayer who rents has a higher taxable income—in this case of $1,000—than the taxpayer who lives in an identical dwelling unit and owns his home. By allowing the tenant to claim his property tax payment, the inequity is eliminated. Of course, an individual who owns his home will have additional deductions—mortgage interest and homeownership will be more advantageous so far as Federal taxes are concerned.

As demonstrated by the taxpayer described in third, with or without the change in the tax law, it would not be advantageous to switch homes if the taxpayers charged each other the full rental value of the homes. Notice that this would be the same situation if a taxpayer lived in his own home and charged himself rent. As demonstrated, the taxable income of the taxpayer would be greater merely because taxable income would include rental income which had not previously been claimed. Even though taxable income would increase, the taxpayer's pretax available income would remain constant—the $4,000 rental income would be offset by the $4,000 rental expense. For our purposes, available income is defined as total income minus the "wash" which results when rental income is completely offset by an identical rental expense. With additional taxable income, the taxpayer's income tax liability would be greater—again, even though pretax available income would be constant. Because of increased taxable income and, therefore an increased income tax liability regardless of the change in the tax laws, after-tax available income would be reduced if taxpayers switched homes and charged each other the full rental value for their homes.

The taxpayers described in fourth would be in a situation that would enable them to take advantage of the full

additional property tax payment without increasing rental income unnecessarily. As indicated, because income would increase by $1,000—income from the home rented out at property tax liability—after allowing the renter to claim the property tax payment on his rented unit, the taxable income of the taxpayer would be identical with the same individual's taxable income had he not switched homes—that is, taxpayer described in first. Without changing the tax laws, switching homes and charging each other rent would result in increased taxable income, but decreased after tax available income—similar to the situation of the taxpayer described in third. A taxpayer does not gain a tax reduction if he switches homes at the property tax liability, even if tenants are allowed to claim the property tax payment on rental units.

The taxpayers described in fifth have switched homes without charging each other any rent. Since the taxpayer pays no property tax on the home he has switched to—he is not paying any rent at all, he cannot claim a property tax deduction for his rental unit. Therefore, even with the change in the tax law, no benefit is gained merely because taxpayers switch homes.

By the change in the tax law, only the tenant, who was previously denied the right to claim his property tax payment, would gain. No double deduction can be gained by switching homes.

CONCLUSION—NO DOUBLE DEDUCTION

Mr. Speaker, I hope this discussion will put to rest once and for all the claim that the Tenants' Tax Justice bill allows for a double deduction. The individual who pays the property tax should be allowed to claim his property tax payment, irrespective of the fact that he rents his home. At the same time, since the property tax collection of a landlord is not real income, but is merely a transfer collected by the landlord and passed on to the State and/or local government, the landlord should have the right in determining taxable income to deduct the property tax collection.

I urge my colleagues who desire additional information regarding H.R. 84 to contact me.

THE COMMUNITY CHURCH OF DOUGLASTON CANDLELIGHT FESTIVAL OF LESSONS AND CAROLS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. WOLFF. Mr. Speaker, in keeping with the strong traditions and faith of Christmas, it was with great pleasure that I attended the Candlelight Festival of Lessons and Carols on December 19, 1976, at the Community Church of Douglaston. This occasion served not only as a celebration of Christmas, but as a reminder of our everlasting need for brotherhood, friendship, and peace among all nations and peoples.

At this spiritual gathering, I had the honor of reading a passage from Isaiah 11 of the New English Bible from which the church chose as its theme the universal message "And a little child shall lead them."

Patterned after the service of King's College Chapel, Cambridge, England, the choir presented a melodious selection of Christmas music for the organ and handbells. Presiding over them at this yuletide service was the Reverend John H. Meyer. He was ably assisted by Mr. Gordon W. Paulsen, organist and choir director, Miss Kristi Droppers, youth director, Miss Marguerite Espada, director of Youth and Handbell Choirs, and Misses Margaret Block and Janet Paulsen, the pageant codirectors.

SYRACUSE'S WOMEN OF ACHIEVEMENT

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. WALSH. Mr. Speaker, since 1949, the Syracuse, N.Y., Post-Standard has honored its community's outstanding women. These Women of Achievement are honored for their service and dedication in various fields, ranging from communication to politics and religion to education.

This year, an independent group of persons outstanding in their fields have selected 11 women who are representative of the fine work they have done to make our country a better place to live. Each woman deserves the honor in her own right, yet she represents what other women are doing in small towns and big cities from coast to coast to make ours a country to be proud of.

I am pleased and delighted to share the names of Syracuse area Women of Achievement with you.

The All-Time Woman of Achievement is Rhea Eckel Clark, a delightful woman who is entering her fifth career—in her 70's. She has been a musician and school music director, an expert for the U.S. Army of occupation following World War II. She then became executive secretary for the New York State Citizens Council and assistant to the dean, consultant for community development at New York University's School of Education. She was named president of Cazenovia College and later was named a consultant for the Academy of Education Development and in 1972 the director of the New York State Council of the Aging. She was the first chairperson of ALPHA, an 11-county health service agency. Mrs. Clark has received numerous awards, ranging from honorary degrees to the Sigmund Livingston Fellowship Award at NYU. She still finds time to practice the piano daily and check on her 11 grandchildren.

Mrs. De Ette Ballantyne has been an excellent example of positive effort in the field of social work for the past 40 years. She began her long career at the Department of Social Services in Syracuse. Since then she has been affiliated with Memorial Hospital as director of social service in the department of obstetrics and pediatrics and today she continues to work diligently for the Syracuse school system. Despite her many professional commitments, she has also generously volunteered her talents at the Westminster Presbyterian Church, the Girls Club, the Rescue Mission, the Red Cross, and committees for the National Association of Social Workers.

As a part-time librarian and full-time volunteer, Mrs. Betty Levinstein has shared her skills in the area of community service. She focuses her work on the Planned Parenthood Center in Syracuse as a member of the board of directors and chairman of the education committee while continuing her work as adjunct librarian at Onondaga Community College. In the past she has volunteered as a director of the Syracuse Women's Club, as a member of the board of the consortium, a member of the Jewish Welfare Federation Commission and the Temple Society of the Concord Adult Education Committee.

Active in the Syracuse community religious field is Freda Darrow. She shares her religion with people of many churches. Her interest was kindled when she became a member of the choir at University Methodist Church and later as a soloist for St. Paul's Lutheran Church. Her advancement in religious music enriched the lives of many Syracuse people. Today she serves as treasurer of the board of trustees of the Methodist Foundation, an alternate delegate to the annual United Methodist Church Conference, and as a representative to the Church Women United of Greater Syracuse. Frequently she is chosen to preach at various churches.

Polly Rezak, grandmother of two, is this years Woman of Achievement in Volunteer Leadership. The thrust of her work has been as a professional social worker at Memorial and University Hospitals from 1963–73. During this time she volunteered for the Cub Scouts, Meals on Wheels, May Memorial Unitarian Society, YMCA, United Way, and Christmas Bureau. Before this she worked as a volunteer board member of the Child and Family Service of the Pioneer Homes Day Care Center. Presently she works as vice chairman for program and education for the Consortium for Childrens' Services and is a member of the Magic Bus Council.

As the Onondaga County legislator from the 19th district, Mrs. Doris Chertow has truly been a woman of action in the field of politics in Syracuse. She serves as chairman of the Subcommittee on Children's Services in her role as legislator while continuing to be active as a writer and editor of many articles. She has also worked on the Health; Planning, Research and Development; Social Services, and Legislative Committees. As a concerned citizen, she has generously donated her time to the League of Women Voters, Boards of Association for Retarded Children and Literacy Volunteers, and the Temple Society of Concord.

Majorie Clere has contributed much to

the field of communication in Syracuse. She was brought up in a home where both her parents were deaf and their language was "sign." With her special gifts she continued to help the deaf by interpreting a live television show for the deaf. She is now interpreting for the deaf who take the stand in the courtroom while spending her spare time teaching courses in Ameslan at Onondaga Community College. In addition, she works on the task force of BOCES' Stonehedge School Program for Deaf Children and was instrumental in organizing the Central New York Association for the Hearing Impaired.

Because of her great achievement as a teacher of chemistry at Nottingham High School, Mrs. Beulah Durr was given this year's Woman of Achievement Award in education. In the past she has been honored for distinguished service in science education by the Thomas Alva Edison Foundation. In 1975 she received the Excellence in Chemistry Teaching Award from the American Chemical Society, in 1976 the award from the Westinghouse Science Scholarship and Awards Committee and she was a finalist for the New York State Teacher of the Year Award in 1977.

Human welfare has been the major concern of Prof. Anje Lemke, woman of the year in the humanitarian field. She presently works as a teacher at Syracuse University in the College of Information Studies. By Profession she is a librarian. After World War II she worked in reorganizing libraries. Later she became director of the Hessian Women's Service Bureau in Weisbaden, Germany. In her present service at S.U. she works as a member of the S.U. senate, a member of the board of trustees of library associates and chairman of publications for its "Courier." She is also integrally involved in community service as a member of the board of the Onondaga Library system, as a developer of the Everson Museum Library and on the World Affairs Council. Recently, she was elected executive director of the Schweitzer Friendship House. She also finds the time for music as leader of the Chamber Music Association and in the past playing for the Syracuse Symphony Orchestra.

Kay Russell has received the award for career this year. Her television show "Lady's Day" is one of the longest continuing women's shows in the country. Her talents include the writing of her own script. The program keeps the women of Syracuse informed on critical issues in the central New York area. She was honored in receiving her designation as honorary doctor of medicine for the institution of "Meet Your Doctor"—a show which has been on the the air for 25 years.

Mrs. Marie Felice, Woman of Achievement in Musical Theater, is the coordinator and keystone of the Pompeian Players productions. She has worked as production coordinator since the mid-fifties and prides herself in becoming involved in every facet of each show. In the past she has joyously joined in the acting parts of some shows. She has also volunteered her services in coordinating the Italian part festival of nations in Syracuse. Presently she has extended her talents to assist productions by local high school students while running a costume rental service and a high school book store.

The Nation's thanks are in order for these hard working and dedicated women. They are good examples for the Syracuse community as well as the Nation. Congratulations ladies for work well done as America enters its third century.

GIUSEPPE PREZZOLINI CELEBRATES 95TH BIRTHDAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. RODINO. Mr. Speaker, it is a privilege for me today to join Sister Margherita Marchione, Ph.D., of the Religious Teachers Filippine in Morristown, N.J., in commemorating the 95th birthday of an outstanding contributor in the field of Italian-American Studies, Prof. Giuseppe Prezzolini, professor emeritus of Italian at Columbia University. Sister Margherita's tribute follows:

An inscripiton carved on the facade of Casa Italiana of Columbia University reads:

Italy Mother of Arts Thy Hand Was Once Our Guardian and Is Still Our Guide (Lord Byron's Childe Harold, 4.47).

During this 50th anniversary of Casa Italiana of Columbia University, I would like to take this opportunity to honor its most resourceful and tireless director from 1930 to 1940, Giuseppe Prezzolini, who will be 95 years old on January 27, 1977.

Professor emeritus of Italian, Prezzolini is an internationally known author, journalist, scholar, critic, teacher who, while directing the Literary and Information Department of the Bureau for Intellectual Cooperation founded by the League of Nations in Paris, was invited to become director of Casa Italiana. Already in 1923, at the suggestion and on the recommendation of Arthur Livingston, Prezzolini was asked to lecture at Columbia University. His appointment was announced in the New York Times:

Prezzolini's chief distinction, it was said at Columbia, is to have "discovered" and forced upon public attention the works of Benedetto Croce and Giovanni Gentile, the latter at present Minister of Education.

Professor Prezzolini now lives in Lugano, Switzerland, a highly productive scholar and journalist at the age of 95. What he has been and is, as a scholar and a man, lives in countless books and articles which he wrote in several languages and which have been since translated into many more languages.

Prezzolini's defense of Columbia University of former days, documented in the Case of the Casa Italiana—American Institute of Italian Studies, care of Villa Walsh, Morristown, N.J. 07960, 1976—adds a distinctive coloration to the record of part of what he has been. All who have known Prezzolini will at once appreciate its importance.

In conclusion I should like to quote Dr. Peter Sammartino, founder-president and chancellor of Fairleigh Dickinson University:

I remember Professor Prezzolini in the dark days of the thirties when American economic conditions were at their lowest ebb. But at Columbia University, it was the period of the greatest ebullience and of the most important thrust forward, intellectually, of Italian Studies. Never in the history of American universities had so much been accomplished in a relatively short time. The Casa Italiana, one of the most beautiful buildings on any campus, shone as a beacon light of Italian culture in America. Every so often in the difficult evolution of a new immigrant wave a definite step forward is made and the glories of the past become synthesized in an actual academic project. Such was the Casa Italiana hand in hand with the Italian department at Columbia. It was a glorious epoch and how Thomas Jefferson would have loved it. The Casa was teeming with activity. It was the most exquisitely furnished building on the campus and never again did the Italian language flourish as it did during that pre-war period under the progressive direction of Professor Prezzolini.

NATIONAL SURVEY SHOWS PUBLIC WANTS STRONGER DEFENSE, FAVORS B–1

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. McDONALD. Mr. Speaker, if President Carter reverses the decision of the Ford administration to proceed with the production of the B–1 bomber, he will be going against American public opinion. The American public, it seems, has a clearer perception of our defense needs than do some of the so-called "opinion moulders" in the United States. What follows are results of a national survey by Opinion Research Corp. of Princeton, N.J., released on December 15, 1976, on this matter. This survey should be kept in mind when defense issues are debated during this Congress by we who are the people's Representatives:

NATIONAL SURVEY SHOWS PUBLIC WANTS STRONGER DEFENSE, FAVORS B–1

PRINCETON, N.J., December 15.—The American public wants a stronger defense and supports the recent decision to produce the B–1 bomber, according to results of a national survey released today by Opinion Research Corporation.

The survey indicates that 65% of the public believe that the U.S. should be militarily stronger than Russia, but only 29% feel that we are. Twenty-six percent of those polled think we should be equally strong and 30% believe we actually are.

One percent of the Opinion Research Corporation poll says the U.S. should be weaker than Russia, but 27% say we are.

Questioned on the December 2 Department of Defense decision approving initial production of the B–1 strategic bomber, 64% said they agreed with the decision; 18% disagreed and 18% were undecided.

Forty-two percent of those polled said the present U.S. defense budget should be increased, 29% favored leaving it where it is now, 16% favored decreasing the budget, and 13% had no opinion. Or, of those polled, about two and a half times as many said the U.S. defense budget should be increased as said it should be decreased.

On the subject of the effect of inflation on defense projects, those polled were asked how much of the total B–1 program cost through the 1980's would be due to inflation. Thirty-four percent responded "a great deal," 31 percent felt "about half," 14 percent believed "a small amount," 3 percent felt none, and 18 percent had no opinion. The Air Force projects that approximately one-half of the $23 billion B–1 program costs will be due to inflation.

The nationwide December 10–12 telephone survey of a scientific random sample of 1,004 persons was designed by Opinion Research Corporation to measure public attitudes toward U.S. defense strength and awareness of and attitudes toward the B–1 bomber program. It was commissioned by Rockwell International, prime contractor for the Air Force's B–1 program.

Forty-four percent of those polled said they considered themselves Democrats, 20 percent said they were Republicans, and 28 percent responded as Independents, while 8 percent said they were undecided or "something else." Eighty-seven percent of the respondents were white, 9 percent black, while 4 percent said they were other or declined response.

Age groups of those polled broke down as follows: 8 percent 18 to 20 years; 8 percent 21 to 24; 12 percent 25 to 29; 33 percent 30 to 49; 39 percent 50 or over.

Specific data on any aspect of the survey are available from ORC.

Following are the survey questions in the order asked and the results:

"To begin with—how do you think the military strength of the United States should compare to that of Russia—should the U.S. be much stronger than Russia, should the U.S. be somewhat stronger than Russia, should both be about equally strong, should the U.S. be somewhat weaker than Russia, or should the U.S. be much weaker than Russia?"*

	Percent
United States should be much stronger	41
United States should be somewhat stronger	24
Both should be equal	26
United States should be somewhat weaker	1
United States should be much weaker	0
No opinion	8

"To begin with—how do you think the military strength of the United States actually compares to that of Russia—is the U.S. much stronger than Russia, is the U.S. somewhat stronger than Russia, are both about equally strong, is the U.S. somewhat weaker than Russia, or is the U.S. much weaker than Russia?"*

	Percent
United States much stronger	15
United States somewhat stronger	14
Both equally strong	30
United States somewhat weaker	22
United States much weaker	5
No opinion	14

"In your opinion, should the present defense and military budget of the United States be increased a great deal, increased somewhat, left about where it is now, reduced somewhat, or reduced a great deal?"

	Percent
Increased a great deal	12
Increased somewhat	30
Left where it is now	29
Reduced somewhat	11
Reduced a great deal	5
No opinion	13

"How much have you heard or read recently about the B-1 bomber—a great deal, a fair amount, very little, or nothing at all?"

	Percent
A great deal	6
A fair amount	22
Very little	45
Nothing at all	26
No opinion	1

"Inflation affects everybody and all budgets. The total B-1 bomber program will cost about 23 billion dollars through the 1980's. How much of that cost do you think is due to inflation—a great deal, about half of it, a small amount, or none at all?"

	Percent
A great deal	34
About half	31
A small amount	14
None at all	3
No opinion	18

"Now please listen carefully to some information about the B-1 bomber. The B-1 bomber is a manned aircraft to be added to the land-based missiles and submarine-launched missiles in our strategic national defense forces. After approval of Congress, the Department of Defense, on December 2, approved initial production of the B-1 bomber, saying that it was in the national interest to produce the bomber if the United States is to keep up with the strategic military build-up of Russia.

"Do you agree or disagree with the Department of Defense that we need the B-1 bomber to keep our strategic defenses equal to those of Russia?"

	Percent
Agree with defense department	64
Disagree	18
Undecided	18

* Each of these questions was asked of only half the sample so as to avoid the possible biasing effect of one question upon the other.

KEEP PANAMA CANAL IN U.S. HANDS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. BOB WILSON. Mr. Speaker, I have deep reservations and view with disfavor the trend of recent negotations between the United States and the Republic of Panama over the Panama Canal.

During the 1st session of the 94th Congress, I introduced a resolution expressing the sense of the House that we cannot relinquish control of the Panama Canal. I still feel that way and believe that most of my colleagues are similarly inclined.

The canal is a waterway vital to the economy and national defense of this country. Almost 70 percent of canal traffic originates or terminates in U.S. ports. Its loss would shake our economy. The military implications are staggering. For these reasons, I view with apprehension any negotiations or treaties that could lead to the loss of U.S. jurisdiction over the canal.

The title and ownership of the canal territory were issued to the United States over 60 years ago. Concurrently, the United States also received all rights and responsibilities for its maintenance and operation.

Mr. Speaker, I believe the consequences of the loss of our control over the Panama Canal would be grave, indeed, and therefore I am introducing legislation to keep the canal in U.S. hands.

A TRIBUTE TO THE PRESIDENT: THE GERALD R. FORD MURAL

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. SAWYER. Mr. Speaker, when Gerald Rudolph Ford ascended to the Presidency on August 9, 1974, bringing peace and stability to a Nation long troubled, citizen groups and even entire communities throughout the United States sought ways to honor the new Chief Executive. Trees were planted in his name. Parks were dedicated, schools and libraries renamed. As our President now leaves office, there will be even more and more such indications of tribute.

In the President's and my hometown of Grand Rapids, Mich., such feelings and sentiments ran higher than perhaps anywhere else in the country. There is now a Gerald R. Ford Freeway running through the heart of the city. In the downtown area is a Gerald R. Ford Physical Education Building, which he personally dedicated last November. There will soon be a Presidential library to house books, papers, and other memorabilia from the President's long and distinguished political career, most of which was spent right here in the House of Representatives.

But one man, internationally known artist Paul Collins, felt that a more personal tribute to Gerald R. Ford would also be appropriate—a tribute to a man as well as to a President to complement the many tributes of brick, steel, and stone. In 1975, with the help of enthusiastic community leaders and Congressman GUY VANDER JAGT, Collins set to work on a large-scale mural depicting the life of Gerald Ford from his boyhood in Grand Rapids to the Presidency of the United States.

The monumental Gerald R. Ford mural, which Collins completed after more than a year of continuous work, is now on permanent display at the Kent County Airport in Grand Rapids, Mich. Measuring 18 feet by 8 feet, the mural presents a composite of 32 separate images, including the Declaration of Independence, the Presidential Seal, the President's boyhood home, the various scenes from his youth, portraits of the Ford children, and 2 superb representations of his loyal and beautiful wife, Betty: one as the young and hopeful bride of a freshman Congressman, the other as the vivacious and self-confident wife of a President. Collins skillfully recreated several scenes from the President's early years in the form of old and yellowed photographs. All of the images

surround a large and remarkably lifelike portrait of the President in a moment of quiet reflection, the customary pipe in mouth.

Collins credits my friend, and now colleague, GUY VANDER JAGT, with planting the idea of a Presidential mural in his mind. GUY expressed to Artist Collins a sincere desire for him to create an artistic tribute to the President—something that would reflect the man in a warm, human light, and not as just a political figure. Collins considered VANDER JAGT's comments, but did nothing for several months. But VANDER JAGT continued to bring the matter up whenever he and Collins met. Paul says GUY was very persistent. That persistence has resulted in the mural which now hangs in our local airport where it is viewed daily by thousands of travelers in and out of the Grand Rapids area.

When the artist had definitely decided to tackle the mural project, a group of concerned individuals from the Grand Rapids area organized the Gerald R. Ford Mural Committee to commission the artist and to raise funds for the project. The committee was chaired by Mrs. Bobbie Butler. David Mehney served as finance chairman of the mural committee. Funds were derived from donations from the community at large including individuals, corporations, and foundations. The people rallied to support the project with complete enthusiasm, from inner-city schoolchildren who sold popsicles to the Bethel Penecostal Church choir which held a benefit concert to raise money. The wonderful effort to honor the President reflects the spirit of Grand Rapids and its feeling for their hometown boy.

Artist Paul Collins views his mural on the life of Gerald R. Ford in simplistic terms. He believes that its potential historical value will reside in its forthright portrayal of Gerald R. Ford, a presentation that allows the viewer to see the President in human terms without the pomp and formality that Presidential portraitists have traditionally relied upon. Paul captured significant moments in a man's life, the life of a President—moments in time that are timeless.

The mural was formally unveiled in the Kent County Airport in Grand Rapids, Mich., on November 2, 1976, in the presence of the President and the First Lady. The events of the day were highly emotional, with the President brought to the brink of tears as he thought back to his wonderful parents, which brought tears to the eyes of almost every person in attendance at the unveiling. The transcript of the proceedings of the dedication reveals the tense emotion involved in the event, and is presented in edited form as a tribute to the community, the artist, and the man and his wife:

TRANSCRIPT OF PROCEEDINGS

Moderator DAVID MEHNEY. Good morning, ladies and gentlemen. Welcome to the unveiling of the Gerald R. Ford mural. Would you please stand as the Bethel Pentecostal Choir sings our national anthem. (National anthem.) (Introductions.) Today is going to be a very memorable day. First, the Gerald R. Ford mural will be unveiled. This mural is a gift to Kent County from the people in honor of our great President and favorite son, Gerald Ford. This eight foot by eighteen foot mural depicting the life of President Ford marks the first time any President has received such an honor from his home town friends. What's even more interesting, both the President, Gerald R. Ford, and the artist, Paul Collins, grew up in the same town.

At this time I'd like to have you welcome Mrs. Bobbie Butler, chairwoman of the Gerald R. Ford Mural Committee.

Mrs. BUTLER. Mr. President, friends of the President. Today reaches the flight of a dream that has finally come true. Some of us have worked on this endeavor for more than a year and today we're glad to see that it is finally a realization. On behalf of the Gerald R. Ford Mural Committee, I'd like to welcome you to this special occasion for the unveiling of this mural for the President of the United States. I'd like to thank the committee for their talent, their expertise, and their countless hours in terms of helping us make this dream become a reality. Thank you.

Moderator MEHNEY. At this time I'd also like to recognize a few other people who were very instrumental in completing this project. Sam Tamminga, chairman of the Kent County Board of Aeronautics; Bob Ross, Director of the Kent County Aeronautics Board; Andy DeKracker; Mildred Leonard, who has been Personal Assistant to Jerry Ford for the past twenty-five years; Richard DeVoss; Tom Lee; Art Brown, who is one of the old-time friends of Jerry Ford and supplied us with a lot of the pictures; Marge Purdy; Fred Keller, Jr.; and Candace Brown. Thank you all.

And last but not least, I'd like to thank all you people; it was your wonderful donations that made all this possible. Thank you.

There is another gentleman who was very instrumental in the creation and completion of this mural. Not only is Congressman Guy Vander Jagt a long-time personal friend of President Ford's but also of Paul Collins. Guy, on behalf of the Committee and our community, thanks for all your help and welcome back to Grand Rapids.

Congressman VANDER JAGT: Thank you Dave, President and Mrs. Ford, Chairmen Dave and Bobbie and artist Paul Collins and my future colleague Hal Sawyer, and friends of Paul Collins and Jerry Ford.

It is a very great privilege for me to be able to present to you, one of my best and certainly one of my most loyal friends, the artist whose dream, whose talent, whose genius, whose irrepressible good cheer, whose indomitable optimism and hard work made possible the mural that is about to be unveiled.

I am exceedingly pleased that this mural is placed here in the Kent County Airport because it is through this airport that President Gerald Ford traveled hundreds and hundreds of times as he came and went from the district that he served so well and the people that he represented and loved so much. In fact, many a Monday morning I'd come through here at nine a.m. for my United flight to Washington and the United personnel would chide me because my boss, the Minority Leader, had left two hours before on the seven a.m. United flight. Mr. President, my bed in Luther was two hours further away from the airport than your bed at the Pantlind Hotel, and that's the only reason.

I'm also delighted that it will be located here where thousands of visitors to and from Grand Rapids will be able to see what the people of Grand Rapids think of their native son and where they will be able to see how much of Grand Rapids Jerry Ford took with him into the Oval Office of the United States.

Paul Collins is the genius who captured how much of Grand Rapids is in the heart and in the character of Gerald R. Ford. I remember when Paul Collins, almost two decades ago, was selling his paintings to members of my Grand Rapids law firm for basically the cost of the materials so that he could get the money to buy new materials so that he might paint again. He believed in himself and he kept working—really an American success story, if ever there was one.

I remember when Paul Collins and his journalist friend Tom Lee spent two years in Africa capturing the beauty and dignity of the people in Senegal and produced the book, "The Black Portrait of an African Journey" that made Paul Collins an internationally renowned artist.

And I remember when Paul Collins turned his attention to the native American Indian and circumstances placed him at Wounded Knee and there, because of the unusual empathy and rapport that Paul establishes with people of all kinds, he was able to play a crucial role in averting the bloodshed that was so imminent and might otherwise have occurred at Wounded Knee. And out of that came the work, "Other Voices."

And I remember when Paul had his dream, a dream about a man he admired and the qualities of manhood that he admired: Jerry Ford, the President of the United States.

And I knew that it was Paul's genius that could capture the qualities of this great man. Ladies and gentlemen, when this mural is unveiled you will recognize what the world has already seen: that Paul Collins is a genius and we have a genius in our midst. I present to you a truly great artist and even more important, a truly great and wonderful human being, Paul Collins.

PAUL COLLINS. Thank you. My mother promised me she wouldn't cry, so I hope she doesn't start.

I really don't want to take complete credit for the genius. There's a little story I want to tell you. It has to do with when I was first trying to decide what my approach would be to the mural. And I had thought in terms of the White House being a lot of pomp and pageantry. And there was a phone call I got from a lady who's in a nursing home. She's 86 years old. And she said, "Paul, I'd like to talk to you. I have some pictures I'd like to show you." So I went to see her and I was very impressed because she was very articulate and she showed me a lot of clippings of the President and she told me some of the things about him that I didn't realize. And I just happened to have taken my sketch out and she looked at the sketch and she said, "Young man, you draw well but that doesn't reflect the President." So immediately I said to myself, "What does she know?" But when you looked around her room, all of a sudden you realized it was a human quality that had to be portrayed in the mural.

I think that this is something that we are all able to relate to. I think it's one of the reasons why I think the First Family is making America proud because I think it's a family we can all touch. I think it's a family we all can relate to. And I think that's really important, especially today.

The other story I want to kind of relate to you has to do with the time I spent in Africa. I was in Africa for two years in a little city called Senegal. The main product of this community was peanuts. And ironically enough, I had baked peanuts, stewed peanuts, broiled peanuts, and raw peanuts. And believe me, a steady diet of peanuts will make you sick.

Congressman VANDER JAGT. I can't think of a better time to introduce the moment we've all been waiting for. I would at this time like to ask the usherettes to unveil the masterpiece.

It is now my privilege to introduce to you the subject and central figure in that mural—a mural that took one solid year of Paul Collins' life to reproduce and, I guess, a lifetime of understanding. I know that all of you over this weekend have realized as per-

haps never before that this man has come a long, long way since you first sent him down to Washington 28 years ago. But what he and Betty have demonstrated this weekend is he never forgot from where he came

And there are so many things that well up in my heart that I'd like to tell you about this man, and yet the advance men and the schedule of Air Force One indicate that I have two minutes. That's probably not only a blessing for you but for me as well in that I have to then distill it down to just one thing about this man. It is something that I have been privileged over the last two years to watch while I saw him wrestling with decisions that affect the destiny of the nation and saw him receive the high and lowly into the White House as the President of the United States. Watching that, I got to thinking of the greatness that is America and I heard the President last night at Grand Rapids Junior College talk about America's greatness.

People have always wondered about what it is that makes us great. Way back in the early 1800's the French were wondering how this little nation was becoming so great so rapidly. And they sent a French journalist over here by the name of Alexis de Tocqueville to answer one question: "What is it that makes America great?" For six months he lived and traveled among us and then he went back home and wrote a book, still a classic today, Alexis de Tocqueville's "Democracy in America." You can get it on that bookstand over there; it is still being sold there.

But it is not until the last paragraph of the last page that de Tocqueville answers the question, "What is it that makes America great?" He wrote:

"I searched for America's greatness in her matchless Constitution and it was not there.

"I searched for America's greatness in her halls of Congress and it was not there.

"I searched for America's greatness in her rich and fertile fields and it was not there.

"I searched for America's greatness in her teeming industrial potential and it was not there.

"It was not until I went into the heartlands of America and into her churches that I discovered what it is that makes America great.

"America is great because America is good and if America ever ceases to be good, America will cease to be great."

Jerry Ford is a good man and because he is a good man, he has been a great President of the United States.

I think that God was looking after America two years ago to have a man like Jerry Ford waiting in the wings in our hour of most desperate need. We were rent asunder with growing chasms between young and old, black and white, rich and poor, hawk and dove. Demonstrations and riots in our streets. And the American flag was pulled down, spit upon, burned and trampled upon and Americans hung their heads in shame and disgrace. What we were yearning for then, whether we knew it or not, was a man with the qualities of goodness, decency, integrity, openness, forthrightness, and devotion; a man who was secure, unpretentious, simple but strong, and solid as a rock; a man who loved and was devoted to his family and to his country; a man of the people. And that is what was waiting for us when Jerry Ford became the 38th President of the United States.

Those qualities did not descend on him like a mantle when he was sworn in. Those were the qualities he acquired here in Grand Rapids, Michigan, growing up as a boy and those are the qualities that are depicted by the genius that is Paul Collins as you see in the mural, a kaleidoscopic panorama of his life from the infant in the Mother's arms to that two-story white frame house and his old jalopy there parked in front. And the young boy with the dog, all dressed up getting ready for a Grand Rapid parade. Or the hard work of a news carrier or the grace and the ability of an athlete. And that portrait of a young and lovely and hopeful bride as Betty and Jerry went off to Congress for the very first time. We began to better understand why Jerry Ford has cherished her so much and so consistently for so long. And the family of which he is so proud—all of it captured there on the canvas for those who pass through this airport.

When you look at that, you look at the making of a man and, therefore, the making of a President 1974, the making of a President that we so desperately needed.

When I look at that mural, words like this come to my mind: loyalty, fidelity, competition, hard work, love, faith, patriotism: qualities that I think America needs for another term.

But whether America receives those qualities for another term or not, win or lose, Jerry Ford has performed his historic mission for America. And throughout the third century, people will look back on the 38th President with affection, with love, and with gratitude for what he did for America in America's hour of desperate need.

Because of what he is as a man, he inspired in us a patriotism which burst forth on that glorious Fourth of July 1976. Because of him, this nation will stride into the third century with a spring in our step, with a lilt in our office, and with a sparkle in our eye.

When I look at Jerry Ford or at that mural, I look at an unusual life. He said on national television last night that "I came from the ranks of the people," and in a way that's true because he's one of us.

But in a way, Mr. President, it isn't true because you're more than that. When I look at the President and that mural, I see a special mirror—a mirror that is held up to each of us of the best that is within us. A mirror that is held up to America of what ought to be and what can be.

Yes, Jerry Ford is a good man and because he is a good man, he has been a great President. That goodness, acquired here in Grand Rapids, Michigan, has been captured in this mural for all of us to wonder at and marvel at and be inspired with in the years ahead.

Ladies and gentlemen, one of the great privileges of my life as I present to you now the the good and great President of the United States, Gerald R. Ford.

President Ford: Thank you, very, very much Guy, Bobbie Butler, Dave Mehney, and, of course, Paul Collins, and I understand Bob Griffin is somewhere in the midst, and Bob, of course. Reverend, Clergy and Ladies and Gentlemen.

After the comments made by Bobbie Butler, the comments by Paul Collins, and those by Guy Vander Jagt, I'm just overwhelmed and if I had any good sense, I'd sit down.

But I do feel an obligation to thank many, many people here and I'll try to condense it.

First, I want to thank the Bethel Pentecostal Church choir for this concert they put on and the singing they did here this morning. I thank you very, very much.

And then I understand that the students at the Jefferson Elementary School went out and sold popsicles to try to raise money to make this mural a reality. I want to thank all of them and express to them my deep appreciation for their special efforts.

As I was sitting and looking at what Paul Collins has done, obviously it brought back many, many, many memories. I want to convey my appreciation to you for bringing my life to this wonderful airport for so many people to see. But the main thing is, and I think I express it for Betty, it expresses our lives. Not only our lives and that of Mike, Jack, Steve, and Susan but our personal relationship with so many of you here and so many thousands who aren't here whom we grew up with who we consider our friends regardless of respective circumstances in life or regardless of political ideology.

I could take hours to relate some wonderful experiences that I've had in my lifetime here in Grand Rapids, Kent County, Ottawa County, Ionia County, State of Michigan. But there are two people that I would like to mention. I guess the name will be the Gerald R. Ford Mural and in the years to come I expect to come by and come in and out of this airport and I will see that mural. But it will mean much to me because (excuse me) of the name Gerald R. Ford and Dorothy Ford, my Mother and Father. I owe everything to them and to the training, the love, the leadership, and what's ever been done by me in any way, whatsoever, it's because of Jerry Ford, Sr., and Dorothy Ford, and that's what the mural will always mean to me in the years ahead.

So, I thank you all and express to you as deeply as I can, to Dave; to Paul; to Bobbie; and to Guy, of course, who really had the inspiration to start it all; but mainly to all of you who mean so much to Betty and myself.

Thank you.

* * * * *

The mural is on permanent display as a tribute to President Ford and incidentally as a lasting honor to the artist who kept his private dream in sight.

CAR TAGS RECIPROCITY

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 13, 1977

Mr. DIGGS. Mr. Speaker, for the information of Members and that of their staffs, please be advised that certain employees of congressional offices are eligible for auto reciprocity stickers to be attached to the windshield in order to validate, in the District of Columbia and in Virginia, the use of home-State automobile license tags, if such employees are residents of the District of Columbia or of Virginia.

These stickers, when received, are to be placed on the car windshield, and enable the owner to continue to use his State tags. This obviates having to secure D.C. or Virginia tags while here. Maryland does not accord such reciprocity.

Members are not required to secure reciprocity stickers since Members' congressional plates provide sufficient identity for their cars.

As to requirements and procedure relating to securing the staff reciprocity offered:

ELIGIBILITY

The employee must be on the Member's Congressional staff and be a legal resident of the same state as the Member. Committee employees are not eligible for such stickers.

District of Columbia: Unlimited reciprocities are issued to each Congressional office.

Virginia: Only one staff person per office is eligible for a reciprocity sticker. In the event a reciprocity holder gives up his privilege before its expiration. Virginia law requires that the Virginia Division of Motor Vehicles be notified in writing; and that the reciprocity sticker be scraped off the windshield and returned before another sticker can be issued.

Maryland: No provisions for reciprocity are offered by Maryland.

PROCEDURE TO FOLLOW

The following information should be supplied in a letter from the Member directly to:

District of Columbia: Director, Department of Motor Vehicles, 300 Indiana Avenue, N.W., Washington, D.C. 20001.

1. (employee's name) is an employee on the staff of (Member).

2. Said employee is a permanent resident of the State of ------, temporarily residing in Washington in connection with Congressional duties.

3. Request is hereby made for reciprocity or a (year, make, model), serial no. ------, bearing State of -------- tags no. --------, good until (expiration date of tags).

4. Enclosed is a stamped self-addressed envelope.

If the employee is now residing in Virginia, for Virginia tag reciprocity, a similar letter should be addressed to: Director, Division of Motor Vehicles, 501 So. Glebe Road, Arlington, Va. 22204. Attention: Mrs. E. C. Smith, tel. 379-0600.

1. Same as for the District of Columbia.

2. Said employee is a permanent resident of (city), (state, (must be from the same city as the Member) temporarily residing in Virginia.

3. Same as for the District of Columbia.

For Arlington County reciprocity the staff person residing there must present (or have someone present for him) in person a letter similar to the State letter, and show registration card, including the auto information listed above.

The office at which the letter must be presented is: Arlington County Treasurer's Office, Court Room 126, 1400 No. Courthouse Road, Arlington, Va. Tel. 558-2701.

JOBS CREATION: USING THE PRIVATE SECTOR TO STIMULATE ECONOMIC GROWTH

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. KASTEN. Mr. Speaker, today I am pleased to join once again in the sponsorship of the Jobs Creation Act. By the end of the last Congress, there were 132 cosponsors to this very significant bill. With the new administration expected to send its economic proposals to Congress in the very near future, I think it most appropriate for us to have ready our proposal to stimulate the economy. Indeed, if Congress had heeded our calls for enactment of this legislation in 1975, we would not find ourselves with the serious economic problems we face today.

Since the beginning days of our Nation, our leaders have grappled with issues involving the proper role and functions of our Federal Government. Never has it been more important than today for us to understand the dynamics of Government growth and its implications on society.

The introduction of the President's record $440 billion budget and the confusion and concern of our professional economists about how to deal with our present economic difficulties makes the basic question of what Government should be doing even more critical.

The most obvious barometer of the growth in the Federal Government is Government spending. It took 173 years for the Government to reach the $100 billion budget level. Only 9 years later it passed the $200 billion level. In another 5 years we topped the $300 billion level. And, 2 short years later, we jumped the $400 billion mark. The rate of expansion in the Government sector has been phenomenal. But, such phenomenal growth prompts a very basic question: Has the rapid rate of Government spending brought our society the kind of benefits that make such sacrifices worthwhile? If one believes talk of a taxpayers' revolt, I think not. If one believes statistics which show a continued unemployment rate of around 8 percent, I think not. If one believes those calling for fundamental Government reform because Government programs are wasteful, duplicative, and inefficient, I think not. Government is a tax user, not a taxpayer. And, the taxpayers of this country do not believe their Government is using their tax dollars in their best interests.

It is time for today's leadership to recall what it was that gave the American economy its strength and vitality. We should recall the wisdom of Thomas Jefferson:

> Agriculture, manufacture, commerce and navigation—the four pillars of our prosperity—are the most thriving when left most free to individual enterprise.

There we have the answer and the source of our present economic difficulties. A vibrant private sector unencumbered with government intervention, willing to invest, produce, and grow has been the cornerstone of the American economy. It is through the forces of the marketplace, where supply meets demand, that we find the most efficient and productive way to manage an economy. The marketplace is composed of countless millions of decisions made each day by consumers, and it is their decisions which determine what to buy, what to sell, and at what price. The basic precept of our free enterprise system is that people decide what to spend, not a government acting in their behalf.

Yet, we see today that the private sector of our economy is suffocating at the hands of the government sector. More government, higher taxes, greater deficits, and the ever present threat of inflation—those are the characteristics of today's economy. And, the results have been dismal: High unemployment and very little growth in the country's real productive capacity to create more jobs. Simply stated, the labor force is growing faster than the plant and equipment necessary to employ it.

At such a time, there can be nothing worse than to tax work heavily, to tax employment, to tax creative energy and to tax risk-taking. But, that is what we are doing. Today all levels of government take 44 percent of the Nation's income. If the present trend continues, we can expect that within a few years government will be taking away over half of what the American people produce. Should we wonder why we have fallen short of our employment and production goals?

We have reached a turning point in the future of the free enterprise system. We cannot continue to consume the fruits of our economy without reinvesting the capital necessary to increase our productivity. If we fail to change our present course, we will cripple, and eventually destroy, the economic system which has provided us with such a high standard of living.

The time for bold action is now. The Jobs Creation Act proposes such action, and I urge the Congress to pay close attention to the economic package we believe will put the American economy back on the right track.

The Jobs Creation Act is based on an analysis—both economic and historical—of the relationship between economic growth and tax policy. It seeks to define how we can use tax policy to stimulate long-term economic growth and create solid jobs in the private sector.

If enacted, the Jobs Creation Act would remove the prevailing tax bias which discourages savings, investment, and capital formation. It would return to the people, through reduced tax rates, the decision of what spending priorities the private sector should pursue. By stimulating real and sustained growth in the private sector, we can achieve our most pressing goal today—jobs creation.

The bill being introduced today is a streamlined version of that offered in the 94th Congress. It contains three basic provisions.

First, it proposes a permanent, across-the-board cut of 10 percent in personal income taxes. A Federal tax cut to stimulate the economy is a near certainty. But whether the economy rebounds upward on a steady path of economic growth, or shoots up and comes inching or crashing down again depends on the type of tax cut Congress approves.

The across-the-board cut proposed in the Jobs Creation Act would treat all Americans equally and bring tax brackets in line with the diminished purchasing power of everyone's income. Such a permanent cut would give business and industry the incentive to plan for long-range capital investment which is absolutely essential to create new jobs.

Second, the legislation would end a serious inequity in tax law that has created a bias against corporate equity investment—the double taxation of dividends. Under present law, dividends are taxed twice—once at the corporate level as a part of corporate earnings and again at the individual level as part of the individual stockholder's income. The bill would eliminate this feature of tax law.

Third, the bill would increase the corporate surtax exemption to $100,000 to help small businesses compete more successfully with big business.

The Jobs Creation Act also contains a capital recovery allowance to hasten plant expansion, a tax credit for increased savings and investment by individuals and a permanent cut in the corporate normal tax from 48 to 46 percent.

Mr. Speaker, the Jobs Creation Act was drafted after careful study of the

current economic situation as well as a close reading of what had been done in the past to meet similar situations. The ideas espoused in the Jobs Creation Act are not new. They have worked before.

In the 1960's President John Kennedy, acting against the advice of his own Treasury Department, opted for a tax cut approach "to get the country moving again." The Treasury Department projected 6-year revenue losses of $89 billion as a result of the tax cuts of 1962–64 and 1965. Instead, revenues jumped upward by $54 billion over that period—a $143 billion total difference from what Treasury had projected

I believe it is time for Congress to try the same approach again. We can cut taxes and at the same time, increase revenues. Most important, we will stimulate investment and increase jobs.

A previous study of the effects of the Jobs Creation Act by Norman B. Ture Consultants of Washington, D.C., concluded that in the first year after enactment it would generate a $151.4 billion jump in the gross national product, $74.6 billion in capital outlays over what would have otherwise been anticipated, create 7.18 million jobs and $5.2 billion in additional revenues to the Treasury.

While tax law is often complex, the principles behind the Jobs Creation Act are simple. By lifting the burden of Government on the private sector, we can induce real growth in the economy. By cutting taxes, we encourage savings and investment, thus allowing business to expand and prosper. Such expansion means more jobs, higher wages and a higher standard of living for all Americans.

We must reject the politically expedient approach of increasing Government spending and allowing Government bureaucrats to reallocate the taxpayers' money. Rather, we must return income to those who produced it in the first place. That is the purpose of the Jobs Creation Act, and I urge its prompt enactment.

THE RIGHTS STANDARD

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. DERWINSKI. Mr. Speaker, there has recently been much discussion, inside this House and outside, of the thorny problem of human rights in foreign nations. All too often the enthusiastic proponents of human rights employ a double standard to condemn some of our allies for their internal imperfections while ignoring tyrannies on a large scale in other parts of the world. Others, however, are obviously sincere and honestly oppose oppression wherever it is found.

Although Americans would obviously like to see liberty flourish throughout the globe, the hard realities of international life teach us that there are limitations to what we can hope to achieve in other countries. I have recently read a thoughtful and perceptive article on this continuing problem. The article, by Prof. Ernest W. Lefever of Georgetown University, appeared in the New York Times of January 24, 1977. I should like to insert it in the RECORD at this time:

THE RIGHTS STANDARD

(By Ernest W. Lefever)

WASHINGTON.—A consistent and single-minded invocation of the "human rights standard" in making United States foreign policy decisions would serve neither our interests nor the cause of freedom. We believe our Government should uphold the full range of human rights and that peoples everywhere should enjoy them. With freedom under siege throughout the world, we should by precept and example, continue to hold high the torch of human dignity, but ironically the "human rights standard" is a singularly confusing guideline for responsible statecraft. It has become chic to talk of morality and foreign policy, but there is little awareness of the pitfalls in these noble words. Making human rights the chief, or even major, foreign policy determinant carries dangers.

1. Giving human rights a central place subordinates, blurs or distorts all other relevant considerations. After all, the central objectives of our foreign policy are security and peace. In strategic terms, we seek to deter nuclear war and blackmail. In the third world we seek interstate stability, which is conductive to peaceful development and normal diplomatic and economic intercourse among states.

2. Advocates of the "human rights standard" fail to appreciate the legal and practical limits of foreign policy. International law forbids any state from interfering in the internal political, judicial and economic affairs of another. Fundamentally, the quality of life in a political community should be determined by its own people, but outsiders should urge governments that adhere to international rights covenants to honor their obligations.

3. The advocacy of human rights in other states, supported by policies of denial or punishment, leads to a kind of reform intervention that we rightly detest when others do it. We have no moral mandate to remake the world in our own image. It is arrogant to attempt to reform the domestic behavior of our allies or our adversaries.

But we have a right and obligation to attempt to alter their external policies that threaten the peace. Economic and military aid should be given or withheld to encourage sound external policies, but not to reform domestic institutions or practices, however obnoxious. When domestic practices have a significant and adverse impact on external affairs, the United States has a right to respond.

4. The "human rights standard" is often unequally applied and sometimes used as a cloak for attacking anti-Communist allies, such as South Korea, Taiwan, Iran, Greece (under the colonels), Brazil and post-Allende Chile. Some critics have urged the end of normal economic or military relations with these countries, each of which has been a target of Communist invasion, subversion or sustained pressure. True, their citizens do not enjoy the rights we enjoy. Equally true, they have far more freedom than their Communist adversaries.

Chile provides a good example. Under Salvador Allende Gossens, Chile was subjected to a massive effort by Havana and Moscow to transform it into a totalitarian state. This was prevented by a military coup that installed an authoritarian regime that restricts human rights and now holds perhaps several dozen political prisoners. The World Bank has found Chile creditworthy for a loan. The "human rights" advocates have opposed this loan, but some of them strongly support normalization of relations with Cuba, which has thousands of political prisoners and denies many basic rights.

If these advocates prevailed, we would be punishing an authoritarian ally that is pursuing a responsible foreign policy and rewarding a totalitarian adversary that has an expeditionary force of 20,000 men in Angola to maintain a minority regime in power.

My aim is not to praise Chile or condemn Cuba but to underline the futility and irresponsibility of the "human rights standard." If we gave billions in lend-lease to Stalin in the war against Hitler, perhaps it is not entirely wrong to sell military equipment to Iran to help it withstand Soviet pressure.

This points to the centrality of the national interest as the enduring guide to foreign policy decisions. Defined broadly enough to embrace our security needs and the legitimate interests of other states, the national interest takes into account all other factors that bear upon the complex calculus of statesmanship.

Pursing the national interest so defined, there will be occasional opportunities for our Government to nudge history in a more humane and less brutal direction. But every day we Americans can make our own contribution to human freedom by insisting that our own rights be fully respected by our own leaders.

HARRIS CITES BRIGHT FUTURE FOR METRO

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. HARRIS. Mr. Speaker, the Washington metropolitan area is one step closer to the realization of a modern, clean, safe, and fast rapid rail transit system with the recent trip I took from Metro Center Station at 12th and G Streets, Northwest, to Rosslyn Station in Arlington County, Va. This was the first trip of a Metro rail car carrying passengers into Virginia, adding a 3½-mile segment to the regional system. This is truly a noteworthy trip for it demonstrates Metro's potential for convenient commuting and environmental benefits to our region.

I would like to include in the RECORD at this time, the Washington Post story written by an exceptionally knowledgeable reporter, Jack Eisen, on this historic Metro trip under the Potomac River into Virginia, which appeared in the January 7, 1977, edition:

METRO TRIP HITS A LOW POINT—NEW LINE UNDER POTOMAC DIPS 97 FEET AT ROSSLYN

(By Jack Eisen)

In a huge cavern blasted from solid rock, at the foot of a deep shaft that resembles a playground slide where a giant's children might cavort, the first Metro trainload of passengers arrived in Arlington yesterday.

The cavern is Rosslyn station, 97 feet below ground, a spectacular example of subway construction, linked to the surface by the longest escalators in the world outside the Soviet Union—194 feet from end to end which, if placed in an office building, would reach without a gap from the lobby to the 10th floor.

The escalators occupy a huge oval shaft, burrowed at a 30-degree angle downward from the street surface.

For about 50 people who took a preview ride from the Metro Center station at 12th and G Streets NW past Rosslyn to Arlington Cemetery station yesterday, Rosslyn was the high—or, in a more literal sense, the low—point of a trip that made local transit history.

Although test trains have been running on the tracks 101 feet beneath the Potomac River surface since Dec. 17, yesterday's journey was the first on which passengers, other than Metro technicians, were aboard. The riders were Metro board members, media representatives and transit authority officials.

The 3½-mile segment they rode is part of Metro's second line, 12 miles long, that is scheduled to go into public service July 1.

When that happens, the subway system will total 17.6 miles of an ultimately planned 100 miles, and will have two routes intersecting at Metro Center.

The original line, now in its 10th month of public operation, will continue to run from Rhode Island Avenue station through downtown, but its terminal will be moved from Farragut North to Dupont Circle. The second line will run from Stadium-Armory to National Airport.

Up to now, test trains have run on the second line for the entire distance from L'Enfant Plaza in Southwest Washington to the portal of a tunnel near the Pentagon in Arlington County. The first such trip under the river was made Dec. 17. Yesterday's trip covered the central portion of the previously tested alignment.

When the public gets aboard the new line, a journey from Metro Center to the Rosslyn station in Arlington will take 7 minutes, compared with up to 30 minutes it now takes a rush-hour bus to go through Georgetown and over Key Bridge. Trains will exceed 70 miles an hour for the underwater part of the trip.

But yesterday's journey was slow, never exceeding 15 miles an hour, a caution that proved its worth when the train clipped the corner of a temporary safety-barrier gate near Rosslyn, putting a minor crease in the car's aluminum siding.

The train also made a stop yesterday that never will appear on a published timetable. It was under the river, midway between Key Bridge and the northern tip of Theodore Roosevelt Bridge, where the subway crosses the D.C.-Virginia boundary.

Since there were politicians and television cameras aboard, it was the logical place for impromptu speeches.

Rep. Herbert E. Harris II (D-Va.), a former member of the Metro board who would have been its chairman in 1975 if he had not been elected to Congress, recalled a walking tour Oct. 7, 1973, that stopped at the same place in the then-trackless tunnel.

Calling yesterday's trip symbolic, Harris said he was "probably as excited as I've ever been before" at Metro's potential for providing convenient commuting and environmental benefits.

Harris promised full support for completion of the system, thus providing the only oblique reference during the trip to the fact that Metro is in financial and political trouble, and may never be completed.

Moments later, when the train arrived at Rosslyn, somebody pointed to the junction where a future line will branch off westward beneath Arlington and—perhaps—will occupy the median of a new Interstate Rte. 66 extending all the way to Vienna.

U.S. Secretary of Transportation William T. Coleman Jr. cleared the way for I–66 and the Metro extension on Wednesday by authorizing construction of the controversial highway and insisting upon state financial support for the Metro line.

For Virginia, the arrival of the first passenger-carrying Metro train has a little-realized historic significance. It restored electrified transit service to the state that is regarded as its birthplace.

For it was 90 years ago that inventor Frank J. Sprague installed, in Richmond, the world's first successful electric street railway system, using basic technology that—much refined—still propels today's sleek Metro cars. The Richmond trolleys disappeared in the 1940s.

And, by coincidence, the last trolley ever to run in Virginia ran on a surface route from downtown Washington that passed above the location of the new Metro Center subway station and terminated at a loop just two blocks from Metro's Rosslyn station. It made its last trip Aug. 26, 1956.

By anybody's standards, the new Rosslyn station is an impressive, even a spectacular example of subway construction.

Blasted from solid rock it is a split-level station with Virginia-bound trains occupying the lower-level and Washington-bound trains using the upper.

This design is necessary, according to Roy T. Dodge, Metro's chief of design and construction, because Rosslyn will be a junction of two subway routes. Metro engineers decided from the outset that there would be no point on the system where passenger-carrying trains moving in one direction would cross the tracks of trains moving in the other.

The result is the railway equivalent of a freeway interchange, moved deep underground.

A visitor can see the depth, looking either up or down the escalator shaft that burrows downward from North Moore Street near Wilson Boulevard.

These escalators, Dodge said, are the longest in the world outside the Soviet Union, where marshy conditions forced Leningrad to build one 350 feet long.

Washington's Metro will have two stations deeper than Rosslyn but neither of them, Zoological Park of Glenmont, will be equipped with such long escalators.

Future passengers who ride the line traversed yesterday will find that, in general, the new route is a functional and visual carbon copy of the first one.

At the Metro Center station, the line occupies the bed of 12th Street one level below the existing G Street subway Trains bound for Virginia go north, swing westward under I Street NW and pass through three stations—McPherson Square at 15th Street; Farragut West at 17th Street, and Foggy Bottom at 23d Street—before plunging beneath the Potomac for the 1.4-mile underwater run to Rosslyn. Trains exit from the tunnel before arriving at Arlington Cemetery.

At the deepest point under the Potomac, the trains are beneath 18 feet of water, 10 feet of mud and 73 feet of rock.

CONCERN FOR DEFENSE

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. ABDNOR. Mr. Speaker, a thoughtful editorial in this morning's Wall Street Journal expresses the concern many of us share over initial spending cuts for the U.S. defense budget, proposed by Defense Secretary Harold Brown. As the editorial succinctly states, the cuts are at "the muscle of the Pentagon, not the fat." I would like to share it with my colleagues.

MILITARY "WASTE"

In floating $2.8 billion in Pentagon budget cuts, Defense Secretary Harold Brown has singled out some of the less compelling Pentagon programs. We would be happy, for example, to see the Minuteman missile production lines closed down and the money spent instead on the cruise missile. Others of the cuts are not so good; we are not happy to see any reduction in Army manpower, even a mere 10,000. But in general we are disturbed that all of the $2.8 billion seems to fall on force levels and procurement. This is the muscle of the Pentagon, not the fat.

There is of course "waste" in the military budget: maybe even as much as the $5 billion to $7 billion President Carter and Secretary Brown have pledged to squeeze out over the long run. And waste should be pared for two compelling reasons: The U.S. economy will continue to suffer, and perhaps dangerously so, from inflationary pressures until the government gets control over its total spending; the inability of the U.S. to get the very most out of its defense spending has put it at a serious disadvantage to the Soviet Union. The risks inherent in that over the long run can hardly be overrated.

In other words, Mr. Carter has an urgent need to find ways to get "more bang for a buck." Past frustrations of Presidents and Defense Secretaries over that task give the expression itself a cliche sound, but it may be even more meaningful today than when it was first coined. Mr. Carter should understand clearly that the reason the task has proved so difficult is that it involves much more than moving generals and admirals around on an organization chart. The essential problem is political—the arduous job of persuading Congressmen, bureaucrats, businessmen and others with a stake in some piece of the defense budget that they should surrender certain narrow interests.

To understand the irrationality of U.S. defense clearly, it is only necessary to look at one statistic. While the total Soviet defense outlay last year was some one-third higher than the U.S.—troublesome in itself—the Soviet "investment" in weapons, equipment and facilities was *double* the U.S. level. There are few more tangible realities in comparing relative strength than spending for missiles, fighter planes, bombers, tanks, ships and the like.

What this means is that the U.S. spends a disproportionate amount for manpower and for maintenance of its defense establishment costs that do not all translate into real power. Mr. Carter could reduce that disproportion if he could but deal with the politics—but that is asking a lot.

To do so, he would have to tell military retirees and those soon to retire that military pension costs are rising too rapidly and are too generous in terms of permissible retirement age and other factors relative to the private sector. Our own mail tells us something about the uproar that ensues when that issue is raised.

We would have to tell Congress that 4,000 military bases in the U.S. alone are far too many and represent an enormous waste of the defense budget in this age of highly mobile forces; but we all know what happens when the Pentagon tries to close a base in any state or district, particularly if that state or district has a powerful Senator or Representative. He would have to tell the maritime lobby, and his old boss Admiral Rickover, that costly decisions such as the 1974 law requiring combat vessels to be nuclear powered needed to be rethought.

Mr. Ford has left Mr. Carter with a pretty good starting agenda, including proposals in his 1978 budget that further bases be closed, that military retirement pay be reformed, that dual compensation of government employes who spend part of their time as active duty reservists be modified, that military travel and transfers be reduced, etc. None of those will be popular; with government employe unions threatening to attempt the organization of military personnel, Mr. Carter faces another risk to reform.

Yet in the absence of such reforms, the only way any President can insure the security of the United States and its allies abroad is through constantly escalating the defense budget so as to have enough money there for weapons procurement and research after all the ballooning manpower and base costs are covered. Mr. Ford proposed a 12% increase in fiscal 1978 to $112 billion. That will almost certainly come under attack from liberals who want more money for social welfare.

When that happens, we hope President Carter and Secretary Brown will focus the debate properly. In a relative sense, U.S. preparedness has been falling, and trimming waste could help both the budget and the national defense. The danger to guard against, though, is that it is so difficult politically to cut the fat; it's easy to end up taking muscle instead.

CHAIRMAN FLOOD DEMANDS RESULTS FROM APPROPRIATIONS

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. PATTEN. Chairman DAN FLOOD of the Labor/HEW Appropriations Subcommittee laid down the law in pretty clear terms a few weeks ago at a cancer meeting in Hershey, Pa., and I think his colleagues would be interested to know his thoughts on dispensing taxpayers' money.

At a meeting of cancer experts he said Congress did not mind being generous in appropriating about $2 billion to the National Institutes of Health. However, he did warn the cancer community that failure to move the results down the pipeline to the patient would draw the ire of the Congress.

He made special reference to the authorizing committees' recent expressions of concern over the continued production of good research results with questionable mechanisms for getting the results to the people.

He warned that the taxpayer is not interested in supporting a community of scientists unless that support leads directly to improvement of patient care. This was in no way a warning that Federal money should not go into basic research. The chairman definitely supports basic research.

I think the words Chairman FLOOD said should be read by all in Congress and by those with a concern about NIH. I insert the full text of Congressman FLOOD's speech in the RECORD:

DANIEL J. FLOOD'S SYMPOSIUM SPEECH AT THE SPECIALIZED CANCER RESEARCH CENTER

During an election year we hear a great deal about "big government." Of course, much of that is emotional. We want the conveniences of a highly organized society, all 215 million of us, but we want the freedoms, the independence that was possible when we were a frontier society.

Much of the talk about big government is complaint about regulation, and maybe this is technical as well as emotional. None of us, not the political scientists, not the practitioners in the Congress, have all the answers on fair and adequate, nonstifling controls, though we know controls are needed if our complex society is to work.

Government made a quantum leap in bigness in response to the Great Depression. The shamble of mass unemployment in the midst of a fabulous supply of resources begged for more action at the national level.

We needed a government of a size to attack our massive problems.

We might not have found all the answers, those of us who have served during the Roosevelt-Truman years and helped to shape this nation's response to twentieth century bigness.

We enacted welfare, unemployment insurance, social security, medicare, and a raft of other programs that, by now, might need complete overhauling.

But at least they represented a responsible attempt to create a government for today's population, today's complexities.

We needed generosity in government. We needed recognition that the smallest statute or regulation can make or break an industry, a profession, a family.

Perhaps medicine has been insulated more than most.

Perhaps not.

Would we be here this afternoon if big government had not adopted the National Cancer Act?

Would we be here if big government did not truly express the will of the people of the United States to invest $3.79 per person in cancer research and disease control?

No, we wouldn't!

And that generosity of spirit in my opinion, will characterize the new administration whatever its label.

The only issue the new administration will have before it is the renewal of the National Cancer Act.

Many of us in the Congress have put our political substance on the line for the Cancer Program. When the 1970 Panel of Consultants said that a couple of decades of basic science work had opened up several explicit new opportunities for rapid research exploitation, I believed them.

When the Panel of Consultants in 1970 said that cancer is the most dreaded disease, I believed them. When the Panel said that enough basic work had been accomplished so that a step-by-step work program could be designed, I believed them. And when the Panel said that the way to get the word out to the medical profession was to establish a chain of specialized and comprehensive cancer centers, I believed them.

Now it's your turn to believe me. I've been accused of joining the Disease of the Month Club. I've been challenged by professors from one end of this country to the other for my commitment to the National Cancer Program. I've been told that the 1970 Panel was all wrong; that NIH is perfect; that all we need to do is turn the investigators loose in the labs and all will be well. We sit back and wait. Along comes penicillin. Along comes antibiotics. Along comes polio vaccines.

I don't think this contention is necessarily stated in the right terms. I don't believe we are in the "either/or" situation that many scientists perceive.

I think that the Congress has been through the mill on this one—so much so, in fact, that the Congress is now going to have its say.

Next year the House and Senate, I predict, will each have lengthy, intensive hearings on our National Health Research Policy.

I am not a member of the Health Legislation Authorizing Committees. But I am convinced that they are planning an all-out investigation of research policy beyond anything we've seen. The original National Institute of Health which, as you know, was the National Cancer Institute, did not inspire the amount of debate that will take place over research policy in the coming year. I was there. It was a blip on the health policy radar. What's coming is an electrical storm.

I am convinced that out of this intensive review will come some sort of rational system, maybe crude, but certainly more effective than we have now, of determining research priorities.

We will end up with epidemiological guidelines on what diseases are doing the most damage, which ones hit the most people, which ones cost the most. And I don't think that cancer research will suffer by any of those crude measures.

As a matter of fact, as I look at the epidemiological data that is available to us now, as sparse as they are, I don't think that the Congress has done a bad job at all in making the Heart and Cancer Institutes the biggest ones at NIH.

I don't even think the politicians did badly in assigning those two institutes disease control duties.

After all, what has been bringing the death rate down in the last couple of years? I'll tell you what. It is quite likely our investment in stroke programs that began with Regional Medical Programs. And it is quite likely the attention given to anti-hypertension programs, case findings, screening and chemotherapy for hypertension.

Now Nobel Prizes (work, alone) didn't achieve these life-saving programs. The Nobel Prizes' work was there. But the mounting of these programs resulted from the advocacy of medical sophisticates who saw life-saving opportunities in research products already available. The research, basic and applied, has been done. It took advocacy, though, to impact the death rates.

After the 1977 NIH hearings are over, application of research results will no longer be tolerated as a by-product. There will need to be explicit administrative mechanisms to achieve results. Serendipity is a sine qua non of basic research. But we can no longer leave to serendipity the wending of a research product from the laboratory to the patient.

That is why I am confident that the National Cancer Program, if properly defended and properly administered between now and then, can stay ahead of the game—with your commitment to targeted research—where targeted research is scientifically appropriate.

I want to congratulate you. You are a different type of center. You are specialized. You are designated, recognized because you've done a job. You've brought together resources that needed the designation of "cancer center."

I am sure that patients for miles around will benefit.

I am sure that the designation, however NIH shapes up in coming years, will say something important to Bethesda, on the one hand, and to the people of Pennsylvania on the other hand.

Now, I'm the guy that puts your money where his heart is. Remember that. Don't forget that. When all the authorizing is done, when all the shouting and statistics-flinging is finished at Congressional authorizing hearings, you still don't have a dime. Not a farthing. Not a sou.

I've backed the Cancer Program to the hilt. I'll do it again.

But I have a right to expect, and I think I'm in a position to demand, that you keep the patient foremost; not the lab; not the department; not the academic journal; (all those are necessary); but the patient foremost in mind.

Where the clinical research statistics show higher survival rates, I want the physicians across Pennsylvania to know quickly how to achieve those rates among their own patients.

I don't want a two or three-year delay between the discovery that post-operative chemotherapy is a must at Hershey Medical Center and the discovery by the family physician that it is a must. You basic researchers must help. You must advocate with the patient in mind. He's paying for your research grant.

You'll be under more intense scrutiny next year than ever before. Make sure that you do your homework—that your outreach programs don't by-pass Wilkes-Barre, Scranton, Luzerne County. Get out of your ivory towers. Get the best possible treatment to the patient.

Congress will renew the National Cancer Act in 1977. It will not be the shoe-in that it was the last time. There will be serious questions. But the Act will be renewed.

After that, though, support will wither unless you come on stronger than ever before. Cancer will have been allowed its testing time.

We'd better see some improvement in official morbidity and mortality figures by the next renewal.

You in the basic laboratories must keep that in mind and do what you can within the cancer community to see that the right things are done.

I know Hershey will be a leader.

And you know I'll help.

THE ARMS BOOM AND HOW TO STOP IT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. DRINAN. Mr. Speaker, yesterday I inserted into the RECORD the first part of Emma Rothschild's excellent analysis of the arms sales issue which appeared in the New York Review of Books of January 20, 1977. The concluding part of that article is reproduced below for the benefit of my colleagues:

THE ARMS BOOM AND HOW TO STOP IT

III

What should the U.S. government do with the forest of terror that the arms trade has become, its roots so deep in recent American history? Two new books give answers to this question. One is Alva Myrdal's magnificent *The Game of Disarmament*, her first major book on the arms race and disarmament, subjects to which she has devoted the past fifteen years. The other, published by the United Nations Association, offers many specific proposals for U.S. policy on conventional arms. It is of particular interest now, having been prepared by a group whose vice chairman was Cyrus Vance, and whose members include such Carter advisers as Robert Roosa, Richard Gardner, and Paul Warnke.

Three kinds of solutions to the problem of arms trade are discussed in these books. There are ways in which the U.S. acting alone can limit the arms trade; ways involving different countries, both sellers and buyers of arms; and ways in which countries can move beyond arms control to disarmament, to the destruction of the international arms trade.

U.S. officials, at least until now, have considered U.S. arms trade policy as one branch of U.S. foreign policy. "Policy level officials," the Senate study of Iran reported, "believe that a general arms trade sales policy is not feasible and is unwise. They view arms transfers as an instrument of U.S. foreign policy toward specific regions and countries. . . ." This was Kissinger's view. But it is fairly widely held. Thus Leslie Gelb, in an interesting article about arms sales, writes that the U.S. "should approach arms sales as a foreign policy problem, not as an arms control problem. Sales are so intertwined with other matters that they have to be treated on a country-by-country basis with decisions based on pragmatic tradeoffs. . . ."

This view is in itself a serious impediment to solving the arms problem. Any arms sale "treated on a country-by-country basis" will appear to offer foreign policy benefits to the U.S. The benefits may be difficult to predict or control, as in the case of Iran. But the people who make U.S. foreign policy, so long as they wish to influence other countries, will find it difficult to deny themselves particular arms transactions. It is quite understandable, therefore, that Kissinger and other State Department officials should have become the most fervent arms sellers in the U.S. government.

The opponents of arms sales will always, in a case-by-case approach, find themselves arguing against the claims of particular countries. By the time a case becomes a "case," the U.S. is in the position of opposing, in Kissinger's words, "the felt needs of countries." (It is another question, of course, whether the needs are felt or stimulated.) Kissinger himself sets out the problem. As he puts it, the U.S. should in each "arms transfer case" ask itself: "What are the consequences for us if we fail to respond? What are the disadvantages of refusing to sell?"

Congress is in a situation where its veto is almost impossible to use. It has the right to stop all major U.S. arms sales, but this right has seldom been exercised. When it has been—in the case of missile sales to Jordan—it has set off a minor political melodrama. Congress had trouble enough in stopping U.S. military assistance to Turkey after the Cyprus war. To forbid military sales to countries buying U.S. arms with their own money will be even more difficult.

Sweden, by contrast, as Alva Myrdal writes, already adopts "as a general principle the rule of no arms sales abroad, permitting exceptions to be made only in special cases, thus greatly facilitating strict restraint." "Such a rule," she comments, "is easier to administer and have accepted, both at home and abroad. . . ."

The new U.S. government should announce that it will sign no new foreign military sales agreements until it has decided and explained its arms trade policy. In the tenebrous world of arms orders, every contract is a precedent—as the Carter government's first sale would be—and every concession a commitment. The government's early objective should be to set limits on arms sales which apply to the whole world, or to entire regions.

As a minimum first step, Carter should promise not to sell more arms than the Ford government sold in its last year in office. This would set a ceiling of around $8 billion on foreign military sales orders each year. (Cyrus Vance in 1976 endorsed a bill, vetoed by President Ford, which proposed a $9 billion sales ceiling.) The U.S. should also stop all sales of specified advanced weapons to developing countries; certainly to Africa and to the Near East. The UNA study, for example, concludes that the U.S. should no longer send developing countries "fighter bombers," "missiles with city-busting capabilities," or weapons designed to deliver nuclear warheads.

Such exercises in self control have worked in the past. Thus the US Congress in the 1960s limited sales of advanced weapons, and set ceilings on arms exports to certain continents. In the 1950s, the US with other exporting countries restricted arms sales to the Middle East. The Soviet Union, for most of the 1960s, exported considerably more arms to developing countries (excluding Vietnam) than did the US. It derived little political benefit in the process. There is no reason to suppose that restraint would be more perilous for the US in the 1970s than it was in the 1960s.

These limits should be supported by reforms of the way sales are made. Congress should exercise much greater control over the Defense Department's arms salesmen. It should know more about how much money the US government spends to promote armaments, and where. The Senate Foreign Relations Committee in 1967 undertook impressive investigations of foreign arms sales, and of the activities of Henry Kuss and his Defense Department allies. Another such enterprise is needed in 1977.

The second category of solutions involves international cooperation. Carter said during the campaign that "my hope would be that we could get a multinational agreement to limit arms sales to reduce the threat of war . . . my next preference would be a series of bilateral agreements." In their interminable conferences with Soviet officials, the Nixon and Ford governments apparently neglected to discuss conventional arms sales. US-Soviet relations should in the future involve the arms trade. The two superpowers should in particular, as the UNA study recommends, cooperate in limiting sales to the Middle East.

The US accounts for almost half of all arms exports, and should take the lead in ending the boom. It should see agreements on arms exports as an important part of its relations with France and Britain. If the US bought more of its own weapons in Europe, the UNA study observes, the European countries would find it easier to stop selling arms to developing countries. As far as the Soviet Union is concerned, the US could at least set an example of moderation. As Paul Warnke, another Carter adviser, has said, speaking not of the arms trade but of efforts to end "the solemn job on the [nuclear] treadmill," the Soviet Union "has only one superpower model to follow."

It is essential, too, that the US should see arms trade agreements as a matter to be decided by all countries, buyers as well as sellers. Many developing countries have opposed proposals at the UN, for example, to limit the arms trade. There are exceptions, such as Mexico, which is a leader in disarmament efforts, and spends less of its national wealth for arms than any other large country. Latin American countries have led the world in regional efforts to limit the arms race. But other countries argue that limiting arms exports would discriminate against developing countries and particularly those countries which do not produce any of their own armaments, that it would perpetuate the dominance of the great powers, and divert attention from the much more dangerous problem of the nuclear arms race.

The U.S. should be prepared to consider these issues in a conference of countries that buy and sell arms. Its arms policy should cover the transfer of war technology as well as arms transfers, in order to avoid favoring those countries (Argentina, Brazil, India, Taiwan) which already manufacture armaments. It should, as the UNA study suggests, "place greater restrictions on the export of arms manufacturing equipment and technology to developing countries and should encourage other suppliers to adopt similar restraints."

Alva Myrdal describes her study of disarmament as "UN-centered," and she makes several proposals for involving the UN in "reversing the conventional arms race." She stresses the need for more information about the arms business, and suggests that the UN revive the League of Nations' practice (which ended in 1938) of publishing an annual yearbook of armaments and the arms trade, with "continual registration" of "all arms transfers in any category." She comments that developing countries might not object to a register which covered arms production as well as trade, and which involved all countries.

For most of the 1970s, countries concerned about disarmament have been trying to set up a world disarmament conference to be

held by the UN. The scheme is now moribund, the victim of long opposition by the United States and China. But in 1978 there will be a special session of the UN General Assembly to consider disarmament. This meeting should at the least be the occasion for the UN to start publishing information about the arms business. It should also—and the role of the US is critical here—be the deadline by which countries will have agreed to end the arms bonanza of the 1970s.

IV

The only way to make arms agreements work is to break the link between military production and prosperity, knowledge, political influence. This means converting the military economy to the uses of civil society, which is the third, and most important, solution to the arms problem. National and international agreements change only the surface of the arms business. Conversion would alter the interior political economy of armaments. In the early 1970s, arms exports were, for some US defense corporations, a substitute for conversion. Restricting exports should be the opportunity to try again.

The benefits could be impressive. A billion dollars spent by the Defense Department, according to U.S. government projections, creates 76,000 jobs, compared to 80,000 jobs for every billion dollars of state and local spending for health, and 104,000 for education. Another government study shows that the federal government's social programs also create many jobs: 89,000 jobs per billion dollars spent on the Veterans Administration's health care program, and 136,000 jobs for the same money spent on manpower training programs.

If they are to work, however, conversion plans must be concerned with particular communities, and with the physical conversion of particular plants. The statistics do not show how difficult it is to beat swords into social programs. Defense dollars buy metal-workers and mechanics, laborers and electrical engineers. They do not buy large numbers of service workers or teachers. They buy people living, for example, in Stratford, Connecticut, who cannot easily become hospital workers in Arizona.

"He drove through the factory in a golf cart equipped with loudspeakers and broke the news. . . . [He] was cheered loudly by many of the plant's 6,000 employees. . . . The State Commerce Commissioner . . . called it 'the perfect Christmas present.'" This was the scene last month as the head of Sikorsky Aircraft in Connecticut announced one of the Ford government's last big defense contracts, to buy 1,107 helicopters that Sikorsky will build in Connecticut. It is a tragedy that such jubilation should require the procurement of instruments of war. The new helicopters will replace the "Hueys" used by the U.S. Army in Vietnam, and they will probably be exported by the hundreds to the twenty countries which already buy U.S. helicopters. A few years from now, Sikorsky's Stratford factory should instead be producing machines for people, and for the social good.

But what machines? Converting the nation's science and technology is almost as important as converting people's jobs. It is essential to begin to free for other purposes the half share of all federal money for research and development still spent on national security, and the American scientists still working on defense projects. (As late as 1970, one in five of all U.S. engineers, physicists, and mathematicians was working in a defense-related position.) A new conversion scheme should ask what happened to the "social industrial complex" of 1971, and how U.S. technology might more successfully be freed from the embrace of the military.

Harold Brown will have memories that will help him to answer these questions. His first Washington job was as head of research and engineering at the Pentagon. In this position he presided over the greatest boom ever in military technology. The Defense Department spent over $30 billion on R & D during his tenure (he was known as a "hardware man") and invented much of the technology later used in Vietnam. His views of that experience, and his commitment to civilian technology, should be of interest to US senators as they consider his nomination to be secretary of defense.

There are a number of models for the US in setting out to convert the defense industries. Sweden, as Alva Myrdal writes, requires that most defense contractors rely on military work for less than 20 percent of their production. It disperses defense production around the country, and spends considerable sums on devising conversion plans.

Some recent British projects are even more interesting. The unions representing workers at two British aerospace companies—Vickers Shipbuilding and Lucas Aerospace, both large military exporters—support plans for converting existing factories to produce goods used in new energy projects and in public services. One scheme, prepared largely by Mary Kaldor of the University of Sussex, proposes that Vickers shipyards produce wave power generators, oceangoing barges, sea-skimmers for dealing with oil pollution; the Lucas plan, which is part of the union's collective bargaining, would have Lucas factories produce components for low-energy housing and braking systems as well as devices to help the disabled.

The US itself has considerable recent experience in converting military installations. The Defense Department Office of Economic Adjustment has found jobs for unemployed defense workers throughout the country, and new industries for communities affected by defense cuts. It is concerned with government workers, not people working for defense industries, but its record has been impressive. The US government even succeeded, after Nixon renounced the use of biological weapons, in turning the army's Pine Bluff Division of Biological Operations into a "national center for food and drug safety evaluation," and the Fort Detrick Biological Defense Research Center into a "national cancer institute." (As one investigator reported, "Fort Detrick has an animal farm which can produce large quantities of mice, guinea pigs and rabbits.")

Moreover, interesting US legislation, the Defense Economic Adjustment Act, will be introduced again in Congress this year by Senator George McGovern. The act requires that all defense contractors file conversion plans, with the cost of planning included in the contract, and that the federal government provide low-interest long-term loans for defense contractors to undertake such enterprises as developing equipment for recycling scarce materials, or building low-income housing.

The other leading supporter in Congress of conversion legislation is Representative Andrew Young, the new U.S. ambasador to the UN. His proposals emphasized decentralized planning, with local conversion boards and regional offices responsible for deciding how to convert defense factories and military bases. Representative Young may expect frustrating times in his new job. But his work would be worthwhile if he were to achieve a major US contribution to the UN's special session on disarmament and other disarment business, and if he were to use his position to work for defense conversion at home.

The question of conversion runs throughout US policy, in domestic and economic concerns as well as in defense. It is only by economic conversion that the US can solve its most urgent domestic problems: of persistent unemployment, particularly in the old industrial regions of the North and East; of an old industrial structure based on the intensive use of energy and on oilusing industries such as the automobile business. The US government needs to find jobs for people in old regions, and new uses for old factories.

One of Carter's election themes—supported by many of the people whom he has appointed to make domestic policy, such as Juanita Kreps at Commerce and Ray Marshall at Labor—was to use federal money for precise goals in regions of high unemployment and to train many more workers to find new jobs. This endeavor will depend on economic conversion.

The new government should set out a policy of conversion, tied specifically to restrictions on arms exports, which will be a model for reconstruction in the rest of the economy. No workers and communities should suffer lasting hardship as foreigners stop buying, for example, "city-busting" missiles. The conversion plans may eventually be needed on an even larger scale in the defense industries, if Carter manages to cut from the defense budget his promised "$5 to $7 billion," and if he persists in believing that while research and development for the proposed B–1 bomber should continue, "I don't favor construction at this time." A serious conversion policy would be, in any case, a first step toward breaking the politics of military procurement.

The way of reason, in armaments, is deceptively easy. It is a matter, as Alva Myrdal writes, of "common sense and moral values." But it also opposes the most powerful political and ideological forces of modern times. "There is something fundamentally amiss," she writes, "when even in democratic countries, disarmament can be such a dead issue." "How can the irrational policies prevail?" she asks, astonished that there is little public attention to disarmament, even in "the United States, where views are expressed without too much inhibition or fear of reprisal." Her conclusion is that "the difficulties involved in stopping this world folly are immense, and up till now we have achieved almost nothing."

Alva Myrdal admits to "a gradually increasing feeling of near despair." But her values belie this sense. Her words—and her experience as Sweden's minister of disarmament, acting with moral courage in the real world of disarmament negotiations—break the set of preconceptions that surround US arms policy. I expect that most of Carter's defense advisers will read her book. I hope they will see how different her way would be.

It is because of the politics of military power that Vietnam is now so important to US policy. The Vietnam war was not a twelve year dream, a story to be forgotten with the pictures of US soldiers leaving Saigon in April 1975. It had to do, instead with the political influence of the military, with US preconceptions about arms and about world power. It is at the center of US history in the 1970s: the history, for example, of the US arms trade.

Harold Brown, speaking in Plains, Georgia, after he was designated secretary at "a catastrophic time in American history," when the US "misjudged the political base for our activities there." He had learned, he said, that "we must become more cautious about such interventions." But this is not enough. Nor is it enough to say, with The New York Times editorial writers, that "it would serve no useful purpose to try to determine whether Dr. Brown was a 'hawk' then and is a 'dove' now. President-elect Carter has made it abundantly clear that the United States ought not to go plunging militarily into under-developed countries. . . ."

The importance of the Vietnam war goes beyond the niceties of intervention. To object only to interventions is to fight the last war, over and over again. The time has come instead, to remember not the memoranda

that government officials wrote in 1968, but the ideology and technologies and the economic forces of those years.

This is the inheritance that makes the effort to change US arms policy so difficult. But it is for this reason, too, that a new arms policy would offer the opportunity to go beyond arms agreements to disarmament, and to the conversion of the politics of war.

THE U.S.S.R.'S INVISIBLE ALLY: WESTERN TECHNOLOGY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. McDONALD. Mr. Speaker, the Soviet Union is not only spending more money on her armed forces than we are, but they have also succeeded in getting their main capitalist enemy—the United States—to indirectly subsidize the effort. Col. Robert D. Heinl, the defense corespondent for the Detroit News, recently discussed an important aspect of this problem—the transfer of computer technology. It seems incredible that we continue to supply our greatest adversary with the technology he needs to surge ahead of us militarily, but that is exactly what we are doing. The column by Colonel Heinl, as printed in Sea Power for January 1977, follows:

THE U.S.S.R.'s INVISIBLE ALLY: WESTERN TECHNOLOGY

(By Robert D. Heinl, Jr.)

WASHINGTON.—George Ball, who was one of the early favorites to be the Carter administration's Secretary of State, recently said a mouthful on the subject of détente, to which, now that the election year is over, we may presumably again refer.

"Instead of talking about détente," Ball urged, "we should put it to the test."

Then he went on:

"We should not continue to bail out Soviet food deficits, or help improve their industrial competence, or supply capital to develop their natural resources unless they stop exploiting situations of local conflict—or, in their jargon, supporting wars of national liberation.

"In addition, if we are to continue to act out of the charade of détente, we must insist they cooperate with us in solving common world problems."

Ball's comments stopped there, but it is known that his concerns go somewhat further. These concerns—and those of knowledgeable officials in the Defense Department, Commerce Department, and Energy Research and Development Administration (formerly the AEC)—can be summed up in a general question which runs somewhat as follows:

Why should the United States and other Western nations—notably West Germany but also including Britain, France, and Japan—export advanced technology and capital which, though ostensibly supplied for peaceful purposes, effectively underwrite Russia's massive military overinvestment and enable her to sustain an ineffective domestic economy whose deficiencies would otherwise brake Russian arms expenditures?

In November 1976 the highly professional, and often understated, Air Force Chief of Staff, General David C. Jones, gave it as his professional conviction ". . . that the Soviet Union is presently carrying out an explicit design to seize superiority in strategic weaponry [read it, first-strike capability against the United States], as well as local conventional superiority in the strategic areas of the world."

By the end of last year the Soviet bloc debt to the West reached an estimated $38 billion. In 1975, more than 36 percent of the imports of the Soviet bloc came from the West. In 1970, the figure was only 25 percent.

One of the crucial, and most controversial, areas of advanced technological exports by the United States to Russia is in computers. Superior computer technology, such as we have, spells superior military capabilities in such areas as intercontinental ballistic missiles, MIRV, ballistic-missile defense, satellite-based surveillance systems, and high-performance aircraft.

Russia, say the experts, now lags five to 10 years behind the United States in such computer fundamentals as random-access and mass memories, input-output devices, high-speed micro- and minicomputers, and numerous other components.

American computer technology today is well into so-called fourth-generation systems; the USSR has just begun to graduate from the second generation. For example, typical advanced U.S. systems, such as STAR–100 or ILLIAC–IV, can handle 100 million instructions per second, which is roughly a hundred times the capacity of the hottest known existing Soviet computer, the BESM-6.

Against the foregoing, the decision last October by the State Department to approve export to Russia of Control Data Corporation's "Cyber-73" advanced computer is raising serious questions. While official spokesmen say the Cyber-73 has only civilian or peaceful applications, this is not precisely the case. Oil exploration and earthquake forecasting were supposedly typical roles being bruited for the Cyber in its peaceful uses, but similar models are used here for nuclear-weapons testing and military radar development.

The Cyber-73 is a very high-speed, large-volume advanced third-generation scientific computer that processes about 95 million bits of information a second. Besides being used by the Defense Department—including the supersecret National Security Agency—it is also working for the ERDA. Cyber, in fact, is roughly equal to an IBM 360-145 or 360-165 with extended core memory—which in layman's language means one hell of a machine.

Moving away from computers, why have we aproved export to the USSR of some 170 precision-grinding machines capable of smoothing miniature bearings to tolerances of 25 millionths of an inch? Defense sources say the United States has never owned more than 80 such grinders, which have highly important ordnance applications. According to one expert, such bearings are the key to our miniaturized ICBM guidance systems and MIRV warheads.

The above, computers and miniature ball bearings, are only examples of technology that Russia crucially needs to overwhelm the West.

Why should Western technology build Soviet weapons?

Why should Western capital prop up Russia's economy and, thus, free domestic capital for arms?

And why should American foodstuffs make good the perennial failings of Communist agriculture?

Lenin once said that, when the time came, the West would give communism the rope with which to hang capitalism. Not for the first time is Lenin turning out to be a shrewd prophet.

TIGER-WATCHERS IN PEKING

The Chinese have an ancient proverb: "Sit on the mountainside and watch two tigers contend."

Their more succinct, less allegorical version of that saying, which has previously dominated China's policy toward the world, is:

"Use barbarians to fight barbarians."

In these metaphors, the Chinese leadership has depicted a strategy of allowing the two superpowers, Russia and the United States, to tear each other to pieces while China remains aloof, and conceivably picks up some of the pieces.

Now, however, that a seemingly pragmatic moderate, Hua Kuo-feng, has succeeded the late Chairman Mao Tse-tung, it is likely that the simplistic policy of "let's you and him fight" will be superseded by one in which China plays a role, rather than as an onlooker.

Such a policy, linked to industrialization, expanded foreign trade, and export of oil by the 1980s, can already be discerned under the political slogan, dear to Chinese diplomacy, of "anti-hegemonism."

"Anti-hegemonism" comes from a word meaning resistance to tyranny and oppression. Peking, by this, means stopping Russia.

Under the banner of anti-hegemonism and notwithstanding its current domestic problems, China has developed ties with the United States, Western Europe, Japan, and assorted Third World nations where openings seem to appear.

The central theme with which China seeks to integrate these diverse relationships is that the naked power and aspirations of Moscow are a threat to the planet and must be resisted by the rest of the world.

Only in such terms can one explain why Japan, which exploited and brutalized China within living memory, is now being courted by Peking. Japan is a historic enemy of Russia, whether under czars or commissars. Japan has high technology and capital that can speed Chinese modernization, yet may well be the least imperialistic major power.

Amid negotiations, stalled for decades, over a Sino-Japanese peace treaty to end the war that began at the Marco Polo Bridge in 1937, there is talk of China replacing the Persian Gulf as Japan's principal oil supplier by the 1980s.

(Japan's greatest single vulnerability, until it decides to build a serious navy, is the 5,500-mile lifetime of fragile supertankers stretching across the Indian Ocean now dominated by a Russian fleet backed by Russia's surrogate, totalitarian India.)

An Asian alliance, backed by the United States, must certainly be one of Peking's dreams.

Half a world away, on the Atlantic side of Eurasia, China is beating the NATO drum as if it had invented the Atlantic alliance. Just as NATO bears in mind the 45-50 Russian divisions facing China, so Peking rightly regards NATO as a tradeoff which holds down the main bulk of Russian armed forces which might otherwise be marching on Manchuria, Singkiang, and, of course, Peking.

During his visit to China last year, former Defense Secretary James R. Schlesinger, recently named by President-elect Carter to be his chief energy adviser, is supposed to have asked when China was going to apply for observer status at NATO headquarters in Brussels.

China has labored industriously to establish ties within the Third World. Its obvious assets in this process have been that, while perceived as a vanguard revolutionary nation, China is obviously not an expansionist power (having indeed been one of old-fashioned imperialism's greatest victims).

Among the less developed regions, China's main arenas have been in Africa and Southeast Asia, where Peking is striving mightily to offset the recent triumph of Moscow's proxy, Hanoi.

The Chinese anti-hegemony campaign is further advanced and more formalized in Southeast Asia than anywhere else. Unbelievably rallying former members of the defunct SEATO organization, Peking has secured anti-hegemonistic pledges from Britain, the United States, France, Australia, New Zealand, Thailand, the Philippines, and Pakistan, and added both Burma and Malaysia.

In reading that list, one can see that China appears to be laying the foundations of an alliance system of countries which have pursued strong anti-Communist external policies, and, in several cases, have fought (or are still fighting) internal Communist insurgencies.

The future relationship between China and the United States will, to a great extent, shape the world structure Peking hopes to see rise.

The eventual disposition of the Taiwan issue is seen by many as a near-immovable obstruction to truly harmonious cooperation between the two countries, but this need not necessarily be so. It is of far greater importance and benefit to China that the United States regain its national will to resist Russia than the Taiwan controversy be composed.

Chinese diplomats, including the late Chou En-lai, have made it clear they appreciate the intractability of our Taiwan dilemma and are prepared to wait a long time for an ultimate solution.

Meanwhile, the United States has technology and capital which can help build China. American anti-aircraft and mass anti-tank weapons would give China's still primitive peasant armies the stopping power they desperately need if they are to withstand some future Soviet blitzkrieg.

The United States, becoming an oil-deficit country, has the grain which could join that of Canada in feeding teeming China.

Above all, the United States has the nuclear power to guarantee Peking against a Russian preemptive strike. It also has the U.S. Navy to counterbalance the USSR's growing Pacific fleet. In this strategic calculus, China now actually encourages the U.S. military presence on the Asian rimland, even in South Korea.

Meanwhile, as China watches the two tigers contend, it hopes to stave off open war with Russia. In time, Peking foreses, its mortal enemy may well crumble, eroded by enormous internal tensions among Russians and non-Russian minorities and by the masses' discontent over failure to realize aspirations for a better life.

China can afford a long view of affairs. That is one of the advantages of 4,000 years as a great nation.

MANDATORY PENALTIES FOR DRUG TRAFFICKERS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. GILMAN. Mr. Speaker, today I am introducing legislation providing for mandatory minimum prison sentences and restricted parole eligibility and pretrial release conditions for persons illegally manufacturing or distributing narcotic drugs.

As a member of the Select Committee on Narcotics Abuse and Control and Ad Hoc International Narcotics Control Committee that have studied heroin trafficking in Southeast Asia, Mexico, Colombia, the Middle East, in the Harlem "drug pits" of New York City, and throughout other metropolitan areas here and abroad, I have come to learn first-hand the sources, the extensiveness, and the effects of this deadly business—a business that amounts to over $10 billion in sales and costs the public an estimated $17 billion in drug crimes—a vicious business that has spread its tentacles into some 800,000 Americans.

The drug problem in this country is reaching epidemic proportions. But this is not just a U.S. problem. It is a global problem requiring the international community to join forces in a concerted effort to eradicate this scourge of all mankind. Last year, the Golden Triangle—Burma, Laos, and Thailand—flooded the international markets with about 700 tons of opium and the Silver Triangle—Afghanistan, Pakistan, and India—produced over 400 tons of this deadly product.

In 1976, more than $1 billion worth of heroin crossed our borders from Mexico, the current prime supplier of drugs entering the blood stream of hundreds of thousands of our Nation's citizens and over $500 million worth of cocaine came onto our shores from Colombia. Last year, drug peddlers invaded public schools throughout the country, resulting in the overdosed deaths of 5,000 young Americans.

Although the United States has achieved some success in arresting the flow of opium from the poppy fields of Turkey and in smashing the "French connection" at Marseilles, our Nation must maintain constant vigilance, lest these sources once again dump their deadly drugs onto our shores. Since the enforcement of Dutch drug trafficking laws has been lax, Amsterdam has become the narcotics trafficking center of Europe.

Mr. Speaker, my proposal is intended to be a hard-hitting, no-nonsense measure. It is directed against organized crime, the merchants of death whose drug pushers profit from the misery of the young and the old, the rich and the poor.

This legislation would preserve the community's safety and protect the rights of the accused through judicial hearings to determine whether the defendant, upon conviction, is subject to a mandatory term of imprisonment and parole ineligibility. A judicial hearing is also required before the court denies the accused's request for pretrial release from detention.

However, once these determinations have been made and the proposed statute is applied to the convicted felon, then my measure would provide stiff penalties ranging from a 5-year mandatory minimum prison sentence with no parole eligibility for the first conviction—10 years minimum imprisonment and parole eligibility after serving 8 years for the second conviction—to a mandatory minimum sentence of 8 years and no parole eligibility for those convicted of the heinous crime of distributing drugs to persons under 21 years of age—11 years minimum imprisonment and 9 years parole eligibility for a second conviction.

A conviction for attempting to manufacture or distribute narcotics or conspiring to manufacture or distribute illegal drugs would result in a mandatory minimum imprisonment of 4 years with no parole eligibility—8 years imprisonment for the second conviction with parole eligibility after serving a prison sentence of 6 years. A similar range of prison sentences would be directed against those convicted of importing or exporting narcotics, including an attempt or conspiracy to export or import illicit drugs. All proceeds of illegal drug transactions would be forfeited. Probation, suspended sentences and pretrial releases would be denied.

An important aspect of my legislation is to regard a convicted felon, regardless of whether the first conviction was drug related, who subsequently is convicted of violating this measure, as a two-time offender, subject to the penalties of that classification.

The revolving door of "justice" with its suspended sentences, easy bail, and light sentences must be stopped if society is to effectively wage war on drugs, if this slogan is to become a reality, and if this war is to be won. No useful purpose is served if a convicted drug trafficker is permitted to return to his manufacturing laboratory or to the streets as a pusher after completing only a light sentence or is released after serving only a small portion of his original sentence.

Peter Bensinger, Administrator of the Drug Enforcement Administration stated at the hearings of the Senate Subcommittee on Juvenile Delinquency:

> Light prison sentences and the "lack of realistic bail" were allowing drug pushers to go free or get early probation.

He further stated that while "narcotic traffic may be recognized by the public as a serious offense, we are not willing to make sure that convicted offenders go to prison for it."

For additional background material, I refer my colleagues to my remarks in the CONGRESSIONAL RECORD of July 21, 1976, on pages 23228–23231.

Mr. Speaker, the following 43 distinguished colleagues have joined me in this effort to stamp out narcotics trafficking:

Mr. ABDNOR of South Dakota, Mr. ANDERSON of California, Mr. ARCHER of Texas, Mr. BLANCHARD of Michigan, Mr. BRECKINRIDGE of Kentucky, Mr. BUCHANAN of Alabama, Mr. BURGENER of California, Mr. CHAPPELL of Florida, Mrs. COLLINS of Illinois, Mr. COLLINS of Texas, Mr. CONTE of Massachusetts, Mr. EDGAR of Pennsylvania, Mr. GRADISON of Ohio, Mr. GRASSLEY of Iowa, Mr. GUYER of Ohio, Mr. HUGHES of New Jersey, Mr. ICHORD of Missouri, Mr. KEMP of New York, Mr. KELLY of Florida, Mr. KINDNESS of Ohio, Mr. LAGOMARSINO of California, Mr. LENT of New York, Mrs. LLOYD of Tennessee, Mr. MCCORMACK of Washington, Mr. MATHIS of Georgia, Mr. MITCHELL of New York, Mr. MONTGOMERY of Mississippi, Mr. MOORHEAD of California, Mr. MURPHY of Illinois, Mr. PATTEN of New Jersey, Mr. RINALDO of New Jersey, Mr. ROBERTS of

Texas, Mr. RUSSO of Illinois, Mr. SARASIN of Connecticut, Mr. SCHEUER of New York, Mr. SIMON of Illinois, Mrs. SPELLMAN of Maryland, Mr. TRAXLER of Michigan, Mr. TREEN of Louisiana, Mr. WALKER of Pennsylvania, Mr. WALSH of New York, Mr. WHITEHURST of Virginia, Mr. WILSON of Texas, and Mr. ZEFERETTI of New York.

I urge my colleagues to join with us in this effort to put drug peddlers where they belong, in prison, and at this point in the RECORD I am inserting the complete text of this bill:

H.R. 2583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Narcotic Sentencing Act of 1976".

TITLE I—MANDATORY MINIMUM SENTENCES

SEC. 101. (a) Section 401 of part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 841) is amended by adding the following new subparagraph at the end of subsection (b)(1):

"(C)(i) Except as provided in clause (ii), the court, in setting the sentence under subparagraph (A) of any person convicted of a violation of subsection (a) involving any narcotic drug in schedule I or II, may not sentence such person to probation, or suspend imposition or execution of the sentence, or sentence such person pursuant to chapter 402 of title 18, United States Code, but shall sentence such person to a term of imprisonment of not less than five years and shall designate a term of parole ineligibility of not less than five years. If such person committed such violation after such person had been convicted of a felony, the mandatory minimum term or imprisonment under this subparagraph shall be not less than ten years and the mandatory minimum term of parole ineligibility shall be not less than eight years. A term of imprisonment under this subparagraph shall run consecutively to any other term of imprisonment imposed on such person, and a term of parole ineligibility under this subparagraph shall run consecutively to any other term of parole ineligibility imposed on such person.

"(ii) Notwithstanding the provisions of clause (i), the court may sentence any person convicted of a violation of subsection (a) involving any narcotic drug in schedule I or II to a shorter term of parole ineligibility or imprisonment than required under clause (i), to a term of imprisonment with no term of parole ineligibility, or to probation, or may suspend imposition or execution of the sentence, if the court finds that, at the time of the violation—

"(I) such person's mental capacity was significantly impaired, although not so impaired as to constitute a defense to prosecution;

"(II) such person was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; or

"(III) such person was an accomplice, the conduct constituting the offense was principally the conduct of another person, and such person's participation was relatively minor,

or if the court finds that after the arrest of such person, such person supplied law enforcement officials with information useful in the apprehension of any other person who violated this Act.".

(b) Section 405 of such part (21 U.S.C. 845) is amended—

(1) in subsections (a) and (b) by striking out "at least eighteen years old" wherever it appears in such subsections; and

(2) by adding at the end of such section the following new subsection:

"(c)(1) Except as provided in paragraph (2), the court, in setting the sentence under section 401(b)(1)(A) of any person who violated section 401(a)(1) by distributing any narcotic drug in schedule I or II to a person under twenty-one years of age, shall not sentence such person to probation or suspend imposition or execution of the sentence, or sentence the person pursuant to chapter 402 of title 18, United States Code, but shall—

"(A) except as provided in subparagraph (B), sentence such person to a term of imprisonment of not less than eight years and shall designate a term of parole ineligibility of not less than eight years; or

"(B) sentence such person to a term of imprisonment of not less than eleven years and shall designate a term of parole ineligibility of not less than nine years, if such person committed such violation after such person had been convicted of a felony.

A term of imprisonment under this subsection shall run consecutively to any other term of imprisonment imposed on the such person, and a term of parole ineligibility under this subsection shall run consecutively to any other term of parole ineligibility imposed on such person.

"(2) Notwithstanding the provisions of paragraph (1), the court may sentence any person who violated section 401(a)(1) by distributing any narcotic drug in schedule I or II to a person under twenty-one years of age to a shorter term of parole ineligibility or imprisonment than required under paragraph (1), to a term of imprisonment with no term of parole ineligibility, or to probation, or may suspend imposition or execution of the sentence, if the court finds that, at the time of the violation—

"(A) such person's mental capacity was significantly impaired, although not so impaired as to constitute a defense to prosecution;

"(B) such person was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; or

"(C) such person was an accomplice, the conduct constituting the offense was principally the conduct of another person, and such person's participation was relatively minor,

or if the court finds that after the arrest of such person, such person supplied law enforcement officials with information useful in the apprehension of any other person who violated this Act.".

(c) Section 406 of such part (21 U.S.C. 846) is amended by inserting "(a)" after "406" and by adding at the end thereof the following:

"(b)(1) Except as provided in paragraph (2), the court, in setting the sentence of any person convicted of a violation of subsection (a) involving any narcotic drug in schedule I or II, may not sentence such person to probation, or suspend imposition or execution of the sentence, or sentence such person pursuant to chapter 402 of title 18, but shall sentence such person to a term of imprisonment of not less than four years and shall designate a term of parole ineligibility of not less than four years. If such person committed such violation after such person had been convicted of a felony, the mandatory minimum term of imprisonment under this paragraph shall be not less than eight years and the mandatory minimum term of parole ineligibility shall be not less than six years. A term of imprisonment under this paragraph shall run consecutively to any other term of imprisonment imposed on such person, and a term of parole ineligibility under this paragraph shall run consecutively to any other term of parole ineligibility imposed on such person.

"(2) Nothwithstanding the provisions of paragraph (1), the court may sentence any person convicted of a violation of subsection (a) involving any narcotic drug in schedule I or II to a shorter term of parole ineligibility or imprisonment than required under paragraph (1), to a term of imprisonment with no term of parole ineligibility, or to probation, or may suspend imposition or execution of the sentence, if the court finds that, at the time of the violation—

"(A) such person's mental capacity was significantly impaired although not so impaired as to constitute a defense to prosecution;

"(B) such person was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; or

"(C) such person was an accomplice, the conduct constituting the offense was principally the conduct of another person, and such person's participation was relatively minor;

or if the court finds that, after the arrest of such person, such person supplied information to law enforcement officials useful in the apprehension of any other person who violated this Act.".

SEC. 102. (a) Section 1010 of part A of title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960) is amended by adding the following new paragraph at the end of subsection (b):

"(3)(A) Except as provided in subparagraph (B), the court, in setting any sentence under paragraph (1) of any person convicted of violating subsection (a), may not sentence such person to probation, or suspend imposition or execution of the sentence, or sentence such person pursuant to chapter 402 of title 18, United States Code, but shall sentence such person to a term of imprisonment of not less than five years and shall designate a term of parole ineligibility of not less than five years. A term of imprisonment under this subparagraph shall run consecutively to any other term of imprisonment imposed on such person, and a term of parole ineligibility under this subparagraph shall run consecutively to any other term of parole ineligibility.

"(B) Notwithstanding the provisions of subparagraph (A), the court may sentence any person convicted of violating subsection (a) to a shorter term of parole ineligibility than required under subparagraph (A), to a term of imprisonment with no term of parole ineligibility, or to probation, or may suspend imposition or execution of the sentence, if the court finds that, at the time of the offense—

"(i) such person's mental capacity was significantly impaired, although not so impaired as to constitute a defense to prosecution;

"(ii) such person was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; or

"(iii) such person was an accomplice, the conduct constituting the offense was principally the conduct of another person, and such person's participation was relatively minor;

or if the court finds that after the arrest of such person, such person supplied law enforcement officials with information useful in the apprehension of any other person who violated this Act.".

(b) Section 1012 of such part (21 U.S.C. 962) is amended—

(1) in subsection (b) by striking out "under" and all that follows through "stimulant drugs,"; and

(2) by adding at the end thereof the following:

"(d)(1) Except as provided in paragraph (2), the court, in setting the sentence under section 1010(b) of any person convicted of violating section 1010(a), may not, if such person committed such violation after such person had been convicted of a felony, sentence such person to probation or suspend imposition or execution of the sentence, or sentence the person pursuant to chapter 402

of title 18, United States Code, but shall sentence such person to a term of imprisonment of not less than ten years and shall designate a term of parole ineligibility of not less than eight years. A term of imprisonment under this paragraph shall run consecutively to any other term of imprisonment imposed on such person, and a term of parole ineligibility under this paragraph shall run consecutively to any other term of parole ineligibility imposed on such person.

"(2) Notwithstanding the provisions of paragraph (1), the court may sentence any person convicted of violating section 1010(a) to a shorter term of parole ineligibility or imprisonment than required under paragraph (1), to a term of imprisonment with no term of parole ineligibility, or to probation, or may suspend imposition or execution of the sentence, if the court finds that, at the time of the offense—

"(A) such person's mental capacity was significantly impaired, although not so impaired as to constitute a defense to prosecution;

"(B) such person was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; or

"(C) such person was an accomplice, the conduct constituting the offense was principally the conduct of another person, and such person's participation was relatively minor;

or if the court finds that after the arrest of such person, such person supplied law enforcement officials with information useful in the apprehension of any other person who violated this Act.".

(c) Section 1013 of such part (21 U.S.C. 963) is amended by inserting "(a)" after "1013" and adding at the end thereof the following:

"(b)(1) Except as provided in paragraph (2), the court, in setting the sentence of any person convicted of a violation of subsection (a) involving any narcotic drug in schedule I or II, may not sentence such person to probation or suspend imposition or execution of the sentence, or sentence such person pursuant to chapter 402 of title 18, United States Code, but shall sentence such person to a term of imprisonment of not less than four years and shall designate a term of parole ineligibility of not less than four years. If such person committed such violation after such person had been convicted of a felony, the mandatory minimum term of imprisonment under this subsection shall be not less than eight years and the mandatory minimum term of parole ineligibility shall be not less than six years. A term of imprisonment under this paragraph shall run consecutively to any other term of imprisonment imposed on such person, and a term of parole ineligibility under this paragraph shall run consecutively to any other term of parole ineligibility imposed on such person pursuant to section 4205(b)(1) of title 18, United States Code.

"(2) Notwithstanding the provisions of paragraph (1), the court may sentence any person convicted of violating subsection (a) to a shorter term of parole ineligibility or imprisonment than required under paragraph (1), to a term of imprisonment with no term of parole ineligibility, or to probation, or may suspend imposition or execution of the sentence, if the court finds that, at the time of the offense—

"(A) such person's mental capacity was significantly impaired, although not so impaired as to constitute a defense to prosecution;

"(B) such person was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; or

"(C) such person was an accomplice, the conduct constituting the offense was principally the conduct of another person, and such person's participation was relatively minor;

or if the court finds that, after the arrest of such person, such person supplied law enforcement officials with information useful in the apprehension of any other person who violated this Act.".

SEC. 103. The Federal Rules of Criminal Procedure are amended by adding the following new rule after rule 32:

"RULE 32.1—SENTENCE TO A MANDATORY SENTENCE OF IMPRISONMENT

"If any defendant is convicted of an offense for which the defendant may be sentenced to a mandatory term of imprisonment and a mandatory term of parole ineligibility under section 401(b)(1)(C), 405(c), 406(b), 1010(b)(3), 1012(d), or 1013(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, the court, prior to imposition of sentence shall hold a hearing to determine whether a term of imprisonment and parole ineligibility is mandatory. The hearing shall be held before the court sitting without a jury, and the defendant and the Government shall be entitled to assistance of counsel, compulsory process, and cross-examination of such witnesses as appear at the hearing. If it appears by a preponderance of the information, including information submitted during the trial, during the sentencing hearing, and in so much of the presentence report as the court relies on, that the defendant is subject to a mandatory term of imprisonment and parole ineligibility, the court shall sentence the defendant in accordance with the appropriate provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970. The court shall place in the record its findings, including an identification of the information relied upon in making its findings.".

TITLE II—CONDITIONS OF RELEASE

SEC. 201. Part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new sections:

"RELEASE CONDITIONS

"SEC. 412. In setting conditions of release under section 3146(a) of title 18, United States Code, for any person charged with an offense (1) under section 401(a) of this title or section 1010(a) of title III with respect to any narcotic drug in schedule I or II, (2) under section 406 of this title with attempting or conspiring to commit an offense under section 401(a) of this title relating to any narcotic drug in schedule I or II, or (3) under section 1013 of title III with attempting or conspiring to commit an offense under section 1010(a) of title III relating to any narcotic drug in schedule I or II, the judicial officer shall, in addition to determining which conditions will reasonably assure the appearance of the person for trial, consider which conditions will reasonably assure the safety of the community, the personal safety of persons in the community including witnesses to the offense, and the avoidance of future similar offenses by the person charged.

"DENIAL OF RELEASE PRIOR TO TRIAL

"SEC. 413. (a) Subject to the provisions of this section and notwithstanding the provisions of section 3146 of title 18, United States Code, a judicial officer may deny release of a person (1) who is charged (A) with an offense under section 401(a) of this title or section 1010(a) of title III with respect to any narcotic drug in schedule I or II, (B) under section 406 of this title with attempting or conspiring to commit an offense under section 401(a) of this title relating to any narcotic drug in schedule I or II, or (C) under section 1013 of title III with attempting or conspiring to commit an offense under section 1010(a) of title III relating to any narcotic drug in schedule I or II, and (2) who—

"(A) has previously been convicted of an offense under any provision of Federal, State, or foreign law, which is punishable by more than one year's imprisonment;

"(B) at the time of the offense, was on parole, probation, or other conditional release in connection with a conviction for or a pending charge of an offense under Federal or State law that is punishable by more than one year's imprisonment;

"(C) is a nonresident alien;

"(D) was arrested while in possession of a passport or other documentation necessary for international travel incorrectly identifying him or belonging to some other person; or

"(E) has been convicted of having been a fugitive from justice, an escapee, or for willfully failing to appear before any court or judicial officer under Federal or State law.

"(b) No person described in subsection (a) of this section shall be denied release unless the judicial officer—

"(1) holds a hearing in accordance with the provisions of subsection (c) of this section and finds—

"(A) that there is clear and convincing evidence that the person is a person described in paragraph (A), (B), (C), (D), or (E) of subsection (a)(2) of this section;

"(B) that there are no conditions of release which will reasonably assure the appearance of the person charged, the safety of the community, the personal safety of persons in the community including witnesses to the offense, or the avoidance of future similar offenses by the person charged; and

"(C) that on the basis of information presented by proffer or otherwise to the judicial officer there is a substantial probability that the person committed the offense for which he is present before the officer, and

"(2) issues an order denying release accompanied by written findings of fact and the reasons for its entry.

"(c) The following procedures shall apply to hearings held pursuant to this section:

"(1) Whenever the person is before a judicial officer, the hearing may be initiated on oral motion of the United States attorney.

"(2) Whenever the person has been released pursuant to section 3146 of title 18, United States Code, and it subsequently appears that such person may be subject to an order denying release under this section, the United States Attorney may initiate a hearing by ex parte written motion. Upon such motion the judicial officer may issue a warrant for the arrest of the person.

"(3) The hearing shall be held immediately upon the person's being brought before the judicial officer for such hearing unless the person or the United States attorney moves for a continuance. A continuance granted on motion of the person shall not exceed five calendar days, unless there are extenuating circumstances. A continuance or motion of the United States attorney shall be granted upon good cause shown and not exceed three calendar days. The person may be held pending the hearing.

"(4) The person shall be entitled to representation by counsel and shall be entitled to present information by proffer or otherwise, to testify, and to present witnesses in his own behalf.

"(5) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

"(6) Testimony of the person given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, but such testimony shall be admissible in proceedings under sections 3150 and 3151 of title 18, United States Code, in perjury proceedings, and for the purposes of impeachment in any subsequent proceedings.

"(7) Appeals from orders denying release may be taken pursuant to section 3147 of title 18, United States Code. The United States may appeal from orders granting release under this section.

"(d) The case of a person denied release pursuant to this section shall be placed on an expedited calendar and, consistent with the sound administration of justice, his trial shall be given priority.

"DEFINITIONS

"SEC. 414. As used in sections 412 and 413 of this title, the term 'judicial officer' means any person or court authorized pursuant to section 3041 of title 18, United States Code, or the Federal Rules of Criminal Procedure, to admit to bail or otherwise to release a person before trial or sentencing or pending appeal, in a court of the United States and any judge of the Superior Court of the District of Columbia.".

SEC. 202. The table of contents at the beginning of the Drug Abuse Prevention and Control Act of 1970 is amended by adding the following new items after the item relating to section 411:

"Sec. 412. Release conditions.
"Sec. 413. Denial of release prior to trial.
"Sec. 414. Definitions.".

TITLE III—FORFEITURE OF PROCEEDS OF ILLEGAL DRUG TRANSACTIONS

SEC. 301. Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) is amended by—

(1) adding at the end of subsection (a) the following new paragraph:

"(6) All proceeds of an offense described in this title or title III and all moneys, negotiable instruments, and securities used or intended to be used by any person, directly or indirectly, in connection with a violation of this title or title III."; and

(2) adding after "Whenever property" in subsection (e) the following: "described in paragraphs (1), (2), (3), (4), or (5) of subsection (a)"; and

(3) adding at the end thereof the following:

"(h) Whenever property described in subsection (a)(6) is forfeited for violation of this title or title III, the Attorney General, making due provision for the rights of any innocent person—

"(1) may dispose of such property, other than moneys, negotiable instruments, and securities, in the manner set forth in paragraph (1), (3), or (4) of subsection (e);

"(2) may dispose of negotiable instruments and securities in the manner set forth in subsection (e)(2); and

"(3) shall forward proceeds of sales of negotiable instruments and securities held pursuant to subsection (e)(2) and moneys forfeited under subsection (a)(6) to the Treasurer of the United States for deposit in the general fund of the United States Treasury.".

UKRAINIAN INDEPENDENCE DAY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1977

Mr. BIAGGI. Mr. Speaker, I am pleased to participate in this afternoon's special order called to discuss the significance of the 59th anniversary of Ukrainian Independence Day.

As it has been for the past 57 years, the observance of Ukrainian Independence Day is a hollow event at best for a short 2 years after the establishment of independence in the Ukraine, the Russian nation assumed full control which they have yet to yield.

Our support of the freedom-loving spirit of the 47 million people of the Ukraine continues strong. This year's commemoration comes at a time when this Nation is prepared to again take the leadership in the world fight for human rights. The oppressive rule of the Soviet Union in the Ukraine has resulted in a complete emasculation of the people to the state. Religious and political persecution continue the order of the day in the Ukraine as in the rest of Soviet controlled Eastern Europe.

It is imperative that this Nation express its solidarity with the oppressed people of the Ukraine. Their spirit and desire for freedom is a source of inspiration, but thus far it has remained only a dream. Let us use this forum today to express the sense of Congress in favor of the right of self determination being given to all peoples, as well as imploring all governments around the world to accord their citizens basic protections and guarantees of human rights. As we work to establish a sense of morality in our foreign policy, let us begin by exerting our leadership on behalf of freedom and justice for all.

VOICE OF AMERICA AND BRITISH BROADCASTING CORP.

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. WRIGHT. Mr. Speaker, in the next several weeks the Congress and President Carter will have an opportunity to demonstrate anew the validity of the American political idea. Once again the American people will make themselves heard through their elected representatives.

To insure that the voice of the American people is heard throughout the world some of our most distinguished citizens are calling for changes in the way the Voice of America is administered.

In this connection I would like to call to the attention of my colleagues an article that appeared in the Washington Post on January 16, 1977—an article which compares the Voice of America with the British Broadcasting Corporation.

I insert the said article in the RECORD, at this point:

THE BBC'S MAGIC: HONESTY

(By Bernard D. Nossiter)

LONDON.—At the height of the Yom Kippur War, Premier Golda Meir's personal spokesman broke off whatever he was doing at 1 p.m. each day. He tuned in to the BBC for quick, accurate information on the moves and responses of Arab nations and the rest of the world.

In Stockholm, a key press aide to ex-Premier Olaf Palme begins his day with an unvarying routine. He does not listen to Sweden's state radio with its leftist twist but to the World Service bulletins of the British Broadcasting Corp.

An experienced foreign correspondent away from his base always carries a transistor radio to keep in touch with the world at large. He is not likely to listen to the Voice of America or Radio Moscow or Radio Peking. The chances are that he depends on the BBC for a professional, unslanted account of events of consequence.

In fact, the BBC's enviable stature is a major argument used by Voice of America staff members in their current campaign for an independent VOA divorced from the U.S. Information Agency and free of government restrictions on news coverage. More than 500 VOA employees, echoing a 1975 report of a panel headed by former CBS President Frank Stanton, recently signed a petition asking Congress and the Carter administration to create an independent Voice.

While the VOA struggles for a new identity, there is a quiet confidence throughout Bush House, the massive stone pile near Fleet Street where the BBC broadcasts in English and 38 other languages around the globe, that the BBC's 1,000 broadcasters are transmitting the world's best overseas news service.

"The phrase 'I heard it on the BBC' is taken," the BBC's handbook smugly claims, "as the modern equivalent of the medieval *quod erat demonstrandum*."

TRADITION

Nobody, of course, is as good as that, but the claim reflects both an extraordinary belief in the service's independence and the fact that those with a professional need to know are among the BBC's 69 million regular listeners beyond the English Channel.

How this came about cannot be explained by organization charts, by drawing lines and boxes between the BBC's External Services and government departments. It is largely a question of tradition, habit and prestige built up over 45 years and through endless battles with government officials.

On the surface, the BBC's foreign broadcasts enjoy no independence at all. They are financed entirely by the government's Foreign Office, a sum equivalent to $45.4 million dollars last year.

The Foreign Office, moreover, completely controls what languages the BBC will broadcast and how many hours shall be allotted to each. When Portugal became a center of Western concern after the April, 1974, coup, the Foreign Office ordered the BBC to step up its broadcasts. When budget slashes forced cutbacks, the Foreign Office decided to end Sinhala broadcasts to Sri Lanka and to reduce the Arabic and other services.

In theory, then, the Foreign Office paymaster should determine all the tunes that the BBC pipes. In practice, the service is probably the world's most independent.

Every student of the BBC begins his explanation of this uniquely British paradox by pointing to tradition. Asa Briggs, whose three-volume history of the organization is the standard reference work, attributes the BBC's objectivity to "a very well etablished tradition, buttressed by three or four individuals."

The most important of these, Lord Briggs believes, was Charles Reith, the BBC's first general manager, who ran the empire for 15 crucial years.

Reith was a 34-year-old Scots engineer, ambitious, tenacious and deeply religious, when he took over the fledging BBC. A man who believed implicitly in his own unquestioned integrity, he saw broadcasting, as Briggs put it, "in terms of high moral responsibility."

FORCED TO COMPROMISE

Nevertheless, Reith was forced to compromise in the bitter 1926 General Strike and he never forgot it. He did succeed in foiling the plans of some cabinet ministers to take over the BBC as a crude instrument of government. But he ran so cautious a show that he kept off the air all the strike leaders, their supporters among Labor and even the Archbishop of Canterbury who wanted to propose a negotiated settlement when the

Tory government was pressing for unconditional surrender.

Reith and the BBC were scarred by that experience. Never again, he vowed, would broadcasting in Britain lend itself so shamelessly to the political ends of the rulers of the day.

The organization's independence, in the view of veteran producer and interviewer John Tusa, who has worked on both the domestic and foreign broadcast services, should be credited to "the Reithian tradition of enlightenment."

There is, Tusa added, "a much more puritanical approach to broadcasting" in the foreign than in the domestic transmissions. While entertainment is an essential part of programming for a British audience, he explains, the overriding concern in the overseas broadcasts is information.

Oddly enough, it was the BBC and not the government that took the initiative to broadcast overseas, a key element in the tradition. When the first Empire Service Broadcasts were out in English in 1932, the government was so uninterested it ordered the BBC's domestic side to pay the expenses from its only source of revenue—license fees on radios—rather than provide a subsidy.

By 1938, however, the Foreign Office had awakened to the power of German and Italian propaganda broadcasts, particularly to the Arab world. So the government asked the BBC to create a service in Arabic.

On the very first broadcasting day, the British military in Palestine executed an Arab terrorist. The Foreign Office man assigned to edit the service characteristically suggested this item be dropped from the bulletin. But his BBC superiors overruled him without hesitation. Another strand of the tradition was woven.

Even during World War II, British propaganda was quiet and restrained, confirmed to commentaries or documentaries. The news bulletins were not tampered with; disasters like the fall of Singapore were reported promptly. In occupied Europe, people risked their lives to listen to BBC news reports they regarded as truthful.

BUILT-IN AUDIENCE

Decades later the risk is less but the need still exists. The media are subject to government control, pressures or censorship in a wide variety of countries. And in some areas the press, while free, tends to be provincial, home-oriented. So the BBC continues to have a built-in audience.

It serves that audience with broadcasts in English 24 hours a day, seven days a week. Its foreign language broadcasts vary from a weekly half-hour of news and commentary in Maltese through seven hours a week in Swahili, 15 hours in Hindi, 16 in Serbo-Croat and 32 in Russian. The BBC's most extensive foreign language service—63 hours weekly—is in Arabic.

Although the Foreign Office frequently complains to the BBC—a matter of pride in the institution—the diplomats recognize, at least in principle, the utility of independent broadcasting.

"It is in the best long-term interests of the British people," one key diplomat said, "that the BBC have a reputation for truth and reliability, even though they put over a point of view we don't like. It is an asset. It gives us moral stature."

In practice, of course, this self-denying attitude is frequently upset. While directing the BBC's language service to one Mediterranean dictatorship, one BBC man frequently visited the capital of the country to which he broadcast. There, he would invariably call on the British ambassador and just as invariably he would be dressed down. The broadcaster was making the mission's life uncomfortable by reporting news of opposition to the dictatorship and its abuse of human rights. The exdirector said:

"I never knew whether the ambassador was rebuking me for the record, so he could tell the regime he had protested, or whether he really meant it. But if he had made any real trouble, I would have gone to my mates in Fleet Street and straightened him out."

The External Services has on rare occasion bowed to government requests. Just before the start of the Six-Day War in 1967, the BBC planned to broadcast Svetlana Stalin's "Letter to a Friend." High government officials said this could jeopardize the delicate negotiations, involving *inter alia* the Soviet Union, on which Middle East peace depended. So the broadcast was held up for two days.

Similarly, the BBC normally interviews the author of an important book about a country to which it broadcasts. But when journalist David Martin wrote a critical book on Uganda, the British High Commissioner there warned that Martin was so hated by President Idi Amin that such a broadcast might endanger British lives. Once again, the interview was postponed—until it appeared that Amin's rage had temporarily cooled.

"KILLING THE GOOSE"

In recent months, pained Foreign Office officials have told the BBC that its broadcasts of torture and dissidence in Brazil, Iran and the Soviet Union have been "unhelpful" to British trade efforts in all three countries. But Gerard Mansell, director of External Services, insists, "Rule one is to get it right." As long as the terms were accurate, the pained complaints could be dismissed.

The BBC can count on a bipartisan lobby in Parliament, genuinely devoted to a free and uninhibited press, to embarrass any bureaucrats who try to bend the BBC's news.

Roderick MacFarquhar, an Asian expert, a Labor member of Parliament and a former BBC journalists, said: "If a real crunch came, the Gerry Mansells would contact people like me, on both sides of the House; an enormous stink would be raised publicly." Mansell, who came up through the BBC ranks, described the pressure as eminently containable. "The Foreign Office starts with the assumption that to require the BBC to bend its editorial position would amount to killing the goose that lays the golden egg."

"They make attempts from time to time. It's done in the usual, deprecatory, low-key British Way. It's all very civilized. Over a lunch or over the phone, one of us will be asked, 'Don't you think . . .'

"They realize there's a certain chemistry, that if you force the issue, it is counterproductive."

This does not mean that the BBC is completely untethered. Since 1971, no interview with a member of the IRA or other terrorist group in Ulster can be broadcast at home or abroad, without the express permission of Mansell's boss, the BBC's director general.

NEWS VS. DIPLOMACY

Broadcasters for External Services do not regard themselves as government servants but as employees of the BBC. Their pay and conditions are bargained collectively by unions.

A shrewd observer has noted that newsmen abroad regard the BBC reporters as colleagues; those from the Voice, no matter how highly respected, are still seen as civil servants.

Mansell suggested that the difference between the Voice and the BBC is "buried deep in the nature of the relationship between broadcasting and diplomacy."

"If you expect your [VOA] broadcasts to pay due regard to the needs of diplomacy, you can't get journalism. The great difference is the view taken by Washington of external broadcasting. If it is a projection of the views of the administration, geared to the ultimate interests of the administration, you have a price to pay."

For the most part, the BBC is not compelled to pay that price. At a time when British exports generally have earned a poor name for quality and reliability, the BBC's broadcasts to the world are a shining exception.

CONGRESS MIGHT HAVE AVERTED NATURAL GAS CRISIS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. McCLORY. Mr. Speaker, the Chicago Tribune and probably other newspapers carried full-page advertisements yesterday, Wednesday, January 26, calling attention to the long-time warnings of a critical shortage of natural gas in our country.

Mr. Speaker, our former President Gerald R. Ford outlined a program almost a year and a half ago which would have made possible substantial increases in supplies of natural gas so that the present crisis might have been averted. Several of our colleagues whose statements are quoted in the Chicago Tribune advertisement debunked the earlier warnings of an impending natural gas shortage. By inciting public hostility toward the large companies which produce and supply natural gas and oil, the opportunities for exploring and developing additional sources of these vital commodities have been blocked and postponed.

Mr. Speaker, it is unfortunate that these poorly advised and outspoken opponents of expanding natural gas and other energy sources have been able to prevail in the Congress. Surely, as the advertisement suggests if they had listened instead of misspoken, we would not today have the great natural gas crisis which is resulting in the closing of schools, the suspension of industrial operations and the loss of jobs and income to tens of thousands of Americans.

Mr. Speaker, the best move which the Congress of the United States might make at this time would be to liberate the natural forces of our private enterprise system to release the incentives and energies of our scientists, engineers, and entrepreneurs and to discontinue attempts to artificially control prices and activities which result in the stifling of initiative and the curtailment of human effort.

Without reproducing the timely warnings provided by Mobil, I am attaching only the introductory lines which accompany these messages which lead to only one conclusion and that is that the natural gas shortage is the result of actions—and a failure to act—within the Congress of the United States.

Mr. Speaker, there will be other natural gas shortages and other critical energy shortages unless the Congress acts promptly to provide those inducements

for production and transmission of energy to heat and light Americans' homes, schools, and factories—and to permit our private citizens and corporations to prepare for our future energy needs. I am hopeful that the warnings which we are receiving today will not go unheeded as did the warnings which Mobil and others provided as long ago as September 1972, and which former President Ford proclaimed in 1974.

YESTERDAY, NOBODY LISTENED—TODAY, THERE'S A NATURAL GAS CRISIS

The headlines are frightening these days. As the nation struggles through its first harsh winter in six years, the natural gas shortage worsens. Tens of thousands of workers are laid off in plant closings; the Federal Power Commission holds hearings, and readies what emergency measures it can to avert a full-scale crisis. Already, gas deliveries have been curtailed in Ohio, New York, Virginia, Alabama, and elsewhere. States of emergency have been declared in Pennsylvania, New Jersey, and Minnesota. Hundreds of schools have closed.

Things should never have gotten this bad. As early as September 21, 1972, Mobil warned of the oncoming crisis, and proposed ways to avert it. Others said we were crying wolf. There's no natural gas shortage, they proclaimed. Congress listened to them, and failed to act.

PAPERWORK BURDEN ON SCHOOL ADMINISTRATORS

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. BAUCUS. Mr. Speaker, all of us have heard our own "horror stories" about paperwork requirements placed by the Federal Government on State and local governments.

Today, I wish to bring to your attention a problem with this regard which is creating great difficulties for educators in Montana. I would guess it may be causing similar difficulties for constituents of other Members as well.

The problem concerns the elementary and secondary school civil rights survey which is being conducted by the Office of Civil Rights, Department of Health, Education, and Welfare.

I recently received a 5-inch thick packet of forms sent to a school administrator in Helena, Mont. He was sent these forms in December with a return deadline of February 1. His was not an isolated problem; the same thing happened throughout my district.

I suspect that OCR staff knew of the increased problems their request would cause. They know that school administrators are used to meeting the voluminous Federal reporting requirements in the early fall. Also they knew that their new reporting requirement was a big one; yet they allowed less than 2 months to meet it.

Interestingly, the forms were received about the same time as each school administrator received a letter from the Montana superintendent of public instruction recommending that the administrators not submit the forms as required—that there was, in effect, a nationwide boycott of these forms to protest the data burden, the excess paperwork, and the bad timing. A copy of this letter follows:

DECEMBER 17, 1976.

To: School Officials.
From: Dolores Colburg.
Re: Office for Civil Rights Forms OS/CR-101 and 102.

As you know, I believe in equal educational opportunity and consistently have supported programs designed to realize this constitutional promise. My staff has collaborated often with federal agencies in endeavors to minimize the reporting responsibilities for districts so that equal opportunity efforts might receive more local attention than related paperwork.

A recent decision by the U.S. Office for Civil Rights undermines this cooperative approach and overrides the specific request of the Chief State School Officers Committee on Evaluation and Information Systems that the OCR reporting timetable coincide with the already established annual fall report schedule. For whatever reasons, OCR ignored this request and proceeded with its plans to have school districts complete forms OS/CR-101 and 102. (All Montana school districts were scheduled to receive Form OS/CR-101. In addition, 50 districts were scheduled to receive Form OS/CR-102.) I am recommending that you delay completing these forms until you receive further word from this office.

For your information, a recent meeting of the Council of Chief State School Officers concluded that the data collection initiated by the Office for Civil Rights is ". . . unreasonable for the following three reasons:

"1. The data burden is excessive, requiring hundreds of thousands of person hours to provide information we believe goes far beyond what is reasonably necessary to comply with the law.

"2. The amount of advance notice and the time schedule make it virtually impossible to meet OCR requirements as schools conduct normal essential educational activities.

"3. In many states the information requested by OCR is redundant, since similar information has already been collected for 1976-77."

The Council has requested President Ford to ". . . direct the Secretary of Health, Education and Welfare to postpone the 1976-77 reporting requirements of the Office for Civil Rights report forms . . ." and indicated the intent of Council members present at the meeting ". . . to advise local boards and superintendents to delay complying with the February 1, 1977 Office for Civil Rights deadline until we have received a response to this plea for your personal intervention."

I recommend that you do not submit your reports until President Ford responds to the Council's request. My successor, Superintendent-elect Georgia Rice, has been consulted concerning this posture and concurs.

If you have questions regarding this matter, please direct them to Steve Colberg in this office by letter or use the Education Hotline: 1-800-332-3402. You will receive notice of further developments as soon as we are informed. I trust that this approach will relieve you of one red-tape requirement and will make your holiday season even brighter.

I would also like to insert at this point one sample letter from the several I have received from school administrators about this problem:

DECEMBER 28, 1976.

Hon. MAX BAUCUS,
House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR REPRESENTATIVE BAUCUS: About ten days ago this school district received a stack of OCR Forms (OS/CR-101 and 102) that measure about three and one-half inches thick. There is a three page memo from Martin H. Gerry, Director of the Office of Civil Rights, telling us that "your district is required to fill out and submit the report forms pursuant to Section 80.6(b) of the Department's Regulations (45 CFR 80)".

We also received a memo from Dolores Colburg, Superintendent of Public Instruction in Montana, dated December 17, 1976, which recommends that Montana school districts *not* comply with Mr. Gerry's instructions. State Superintendent-elect, Georgia Rice, has concurred with Mrs. Colburg's recommendation to us. I am attaching a copy of Mrs. Colburg's memo herewith.

On December 16 and 17, 1976, school administrators from the ten largest school districts in Montana, that serve approximately 75 per cent of the enrolled students in this state, discussed the ever increasing burden of federal paperwork and regulations at a meeting held in Great Falls. This group of school administrators went on record expressing their concern about this problem and how it detracts from our primary responsibility of providing the best possible educational programs to students. To say that we are disturbed would be putting it mildly! We support Superintendent Colburg's position wholeheartedly and will not file these reports until the action suggested in her memo has been taken.

Less than a month ago we filed a lengthy report with EEO that asks for much of the information OCR is asking for in their recent memo. However, it is asked for in a different manner, so we have to rework all of the data and supply it in correct form for OCR.

Another exception school administrators in our group have to these reports is the use that is made of them. As stated in Mr. Gerry's memo, the data will be used for "targeting for compliance reviews . . ., targeting districts to receive Individual School Campus Report forms in the next biennial survey providing basic information for investigating complaints against specific districts, and outlining the nature of civil rights problems in the Nation's schools". It appears that we are asked to submit information "in the dark" that may be used against us at some later time. Further, it appears as if the data will merely perpetuate the life of an agency that most of us view as not helpful to our primary function of educating the pupils in our schools.

Frankly, we view recent federal activities in many areas as an interference with the principle of local control of education. We do not object to OCR investigating a charge of discrimination against any of our member school districts, but we question their right and authority to demand lengthy, involved reports as a means of "targeting for compliance reviews." We believe this office to be overstaffed if they do not have enough work to keep busy without these lengthy, involved reports.

Further, we see no purpose to be served by sending our letters of complaint to Mr. Gerry, as we do not believe he has recognized or will recognize the problem in view of his actions after the statements from the National Association of Secondary School Principals and the Chief State School Officers Committee on Evaluation and Information Systems. We question whether OCR has a staff member at the policymaking level who has any understanding or empathy with problems faced by the public schools in America today.

Simply put, we are asking that some of these federal agencies quit detracting from our primary responsibility to students by demanding a bunch of reports that are totally unnecessary.

Thank you for any assistance you may be able to render on this problem.

Sincerely,

RAY L. PECK, ED. D.

Let me add that I am confident that both the Montana Superintendent of Public Instruction's office and the many school administrators within Montana are deeply concerned and desire to see that the goals of the Office of Civil Rights are speedily implemented. The question here is not a civil rights question; it is a paperwork question. To evidence this, I would like to insert here a letter to former President Ford from the Council of State Schools Officers which explains the problem from their prospective:

NOVEMBER 17, 1976.

Hon. GERALD R. FORD,
The White House,
Washington, D.C.

DEAR PRESIDENT FORD: You and your administration pledged to make every effort to reduce the burden of federal paperwork and to eliminate unnecessary reporting. You supported the creation of the Commission on Federal Paperwork and appointed distinguished government leaders and public members to this Commission. We applaud these efforts on your part to deal with this growing problem in American Government.

The Council of Chief State School Officers through its Committee on Coordinating Educational Information also has been working diligently and aggressively, to reduce the paperwork burden, to scale down new demands for information, and to improve the orderliness and timeliness of Federal and State reporting in elementary and secondary education. We have had excellent cooperation from your Office of Management and Budget, from Secretary Mathews and Assistant Secretary Trotter, and from the various divisions and bureaus of the Education Division including the National Center for Education Statistics. We commend them and thank them for their cooperation.

Our purpose in writing to you now is to bring to your personal attention a decision made recently in the Executive Office of the President which we believe contradicts what you have said concerning the need to limit the growth of Federal paperwork. That decision was to override the recommendation of the Office of Management and Budget and the advice of the Council of Chief State School Officers concerning the recently announced reporting requirements of the HEW Office for Civil Rights.

The Council supports the purpose and intent of Federal civil rights statutes. For more than a year, the Council has been working intensively and carefully with Secretary Mathews, the Office for Civil Rights, the National Center for Education Statistics, and the Office of Management and Budget with the following objectives in mind:

(1) To promote equality of educational opportunity for each person in our schools regardless of age, race, sex, or handicap.

(2) To assist in developing the forms and questionnaires needed to assure the ability of the Office for Civil Rights to respond properly to complaints and to conduct compliance reviews.

(3) To minimize the burden of time and expense to State Education Agency and Local Education Agency personnel.

(4) To provide adequate lead time for the collection of valid and reliable information with the least possible disruption to state and local agencies, including schools and classrooms across the nation.

At its meeting in Salt Lake City, Utah on November 14–17, 1976, the Council reviewed the Office of Civil Rights' plans for the 1976–77 collection of data for elementary and secondary schools. The Council has concluded that the request is unreasonable for the following three reasons:

(1) The data burden is excessive, requiring hundreds of thousands of person hours to provide information we believe goes far beyond what is reasonably necesssary to comply with the law.

(2) The amount of advance notice and the time schedule make it virtually impossible to meet OCR requirements as schools conduct normal essential educational activities.

(3) In many states the information requested by OCR is redundant, since similar information has already been collected for 1976–77.

The Council of Chief State School Officers respectfully and urgently requests that you immediately direct the Secretary of Health, Education, and Welfare to postpone the 1976–77 reporting requirements of the Office for Civil Rights Report Forms OS/CR 101 and 102.

We stand ready to assist further in preparing for a 1977–78 data collection effort. In the meantime, Council representatives present at this meeting intend to advise local boards and superintendents to delay complying with the February 1, 1977 Office for Civil Rights deadline until we have received a response to this plea for your personal intervention. Furthermore, several Chief State School Officers are seeking clarification from their respective states' attorneys general as to whether the forms require information that exceeds the minimum requirements of the law and whether the Office for Civil Rights' requests for information violate provisions of their State constitutions or of Federal law.

Thank you for your thoughtful attention to this matter.

Respectfully,

JOHN PORTER,
President, Council of Chief State School Officers.

Finally, I would like to insert here the latest reply received by the Council from the President's Office of Management and budget:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

Hon. JOHN PORTER,
President, Council of Chief State School Officers and Superintendent of Public Instruction, State Department of Education, Lansing, Mich.

DEAR SUPERINTENDENT PORTER: The President has asked me to reply to your telegram and letter concerning the 1976–1977 elementary and secondary school civil rights survey, which is conducted by the Office for Civil Rights, Department of Health, Education, and Welfare.

As a result of the Department's increased responsibilities, the survey does, of necessity, request new information. Furthermore, these extended responsibilities have made it necessary for the Office for Civil Rights to require data from many additional school districts not included in previous surveys. The Department does not expect that data will need to be collected on such an extensive basis for each ensuing year.

After considering the timing of the survey in light of your concerns and those expressed by other interested parties, it has been determined that the survey should still be conducted this year. However, the Office for Civil Rights recognizes the problems caused by the lateness of the survey, and will accept certain alternatives to the reporting requirement recently distributed to the State and where the school districts have already collected some of the survey data earlier this year, the Office for Civil Rights will accept this information as long as OCR is properly notified and the information can be integrated into the Federal data base. Second, in cases where no records have been maintained regarding certain issues covered in the survey, e.g., discipline, OCR will consider alternate data reporting approaches. Finally, the Office for Civil Rights is prepared to consider, on a case-by-case basis, requests from school districts for an extension of time to complete and return the survey forms. Such extensions could be made until March 31, 1977. HEW has informed OMB, however, that the Office for Civil Rights will not be able to review applications for Emergency School Aid Act funds unless the school districts applying for such funds have provided racial and ethnic data by February 1, 1977. We understand that OCR will be communicating directly with all States and school districts concerning these changes, and will answer any questions concerning the specific data requirements.

Despite the problems which have occurred, the Office for Civil Rights believes that its interaction with CEIS and the local education agencies has been most beneficial, and will be more than willing to cooperate in providing assistance to the State and school districts.

Sincerely yours,

JAMES T. LYNN,
Director.

I hope this information is helpful to my colleagues. Today, I have written to President Carter, the Office of Management and Budget, and OCR to ask if the new administration will continue to insist on February 1 as a final deadline. Further, I am writing to the General Accounting Office to ask that the Comptroller General audit the performance of the Office of Civil Rights—especially with regard to their reporting requirements.

Finally, I am sending back the 5-inch pile of forms which the school administrator in my district sent to me. I sent them to him with the advice that he try to complete these forms as quickly as possible so as not to jeopardize Federal moneys which may be due his schools. Frankly, I do not feel that I have been able to help him much. The Federal paper machine grinds on.

I would like to finish by quoting from a letter just sent to me by Montana's new superintendent of public instruction, Georgia Rice. I think her words well point out how poorly managed paperwork requirements can jeopardize the goals set by Congress for a program and an agency:

These time consuming tasks foster antagonism and resistance to equal educational opportunity. Many school staff who believe in, and work hard to provide, equal opportunity begin to question or even resist it when it entails such red tape.

A TREE PLANTED IN MEMORY OF ALEKSA J. DUJOVIC

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. LAFALCE. Mr. Speaker, on this day a tree is being planted in Arlington National Cemetery in memory of the noble and brave efforts of Mr. Aleksa J. Dujovic. The tree is being planted by Mr. Dujovic's son and daughter-in-law, Vladislav and Anna Dujovic, in commemoration of Mr. Dujovic's fight for the freedom of the people of his homeland, Montenegro, Yugoslavia, when that country was invaded by Nazis and Fascist forces during World War II.

Aleksa Dujovic, in his capacity as chief of the Nationalistic Propaganda Department and political advisor for Montenegro, thoroughly believed in the right of all people to a life of freedom, and he fought for this belief against the enemies of freedom. Dujovic was also cognizant of the longer term threat of communism, and often expressed his gratitude for the power of the Allies in their support of his country's position and the principles of individual freedom.

Mr. and Mrs. Vladislav Dujovic are honoring the memory of Aleksa Dujovic for his bravery and honor in the face of his enemies. We of this country can be grateful for the existence of such people who fight on behalf of the world's freedom. The tree being planted in Dujovic's memory is a tribute to his efforts and a reminder to the Nation of his sacrifices for the good of mankind.

Mr. and Mrs. Dujovic, on the occasion of this event to pay tribute to the memory of Aleksa Dujovic, have written the following:

Today, January 27, 1977, a tree is being dedicated in Arlington National Cemetery as a memorial to the late Aleksa J. Dujovic (1898–1944), a friend and ally from Montenegro, Yugoslavia, and to all the soldiers and citizens around the world who have died in battle, were missing in action and suffered under the oppression of tyrants, as citizens and allies of the United States of America.

The Honorable Carl Albert, Speaker of the House of the Congress of the United States of America, on behalf of the Dujovic family of Buffalo, New York, requested from the Secretary of the Army that this great man be honored in Arlington National Cemetery. The Secretary of the Army, Mr. Martin R. Hoffmann, replied as follows:

"Dear Mr. Speaker, the historical account of the Heroism of the soldiers and citizens of Yugoslavia, who suffered untold sacrifices through many years of oppression, is very moving. I can readily understand the desire of the Dujovic family to perpetuate the memory of these gallant men, particularly Aleksa J. Dujovic, in Arlington National Cemetery . . ."

In proclaiming the struggle for freedom in Montenegro, Yugoslavia, during the World War II, when Yugoslavia was invaded by Nazis and Fascists, Aleksa J. Dujovic stated:

"We have to continue the tradition of combativeness and glorious history of our ancestry against all common enemies. Regardless of the fact that this is the most difficult and darkest time for our country and people, we have faith in God, justice, and hope of an ultimate victory. Through these struggles we have full support of our everlasting allies, the United States of America and Great Britain . . ."

A NEW BEGINNING

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. LEHMAN. Mr. Speaker, last Thursday, the American people heard the inaugural address of our new President. Jimmy Carter spoke of that day as a new beginning, but, at the same time, reaffirmed the enduring strength of our most basic principles and beliefs. I share his faith in our country and his dedication to the American dream.

One thread that runs through the American dream is a belief in progress, in the continuing improvement of the quality of life for all citizens. It was disturbing, even contradictory, then, that a Louis Harris survey, published in a copyrighted article on November 8, 1976, less than a week after the election, indicated that over 60 percent of the American people do not believe the quality of life has improved in the last decade; indeed, 44 percent believe it has worsened; 72 percent of those surveyed felt that "people want better quality of almost everything they have rather than more quantity of most things." President Carter spoke to this concern when he said:

We have learned that "more" is not necessarily "better."

The main priorities of those in the Harris survey were better quality education, energy conservation, individual privacy, environmental protection, and improved safety of workplaces and products. President Carter addressed or alluded to each of these:

Our commitment to human rights must be absolute, our laws fair, our natural beauty preserved; the powerful must not persecute the weak, and human dignity must be enhanced . . . we will fight our wars against poverty, ignorance, and injustice . . . we reject the prospect of . . . an inferior quality of life for any person.

I heartily support these goals, but would add further priorities for early action by the Congress and the new Administration: meaningful jobs for those willing and able to work, health security for all Americans, improved services to the needy and to older Americans, more effective crime prevention and a more efficient criminal justice system, and more rational defense spending.

"More" is not "better." Indeed, efforts to produce ever greater quantities of goods and ever greater volumes of sales may cause quality to be sacrificed. Our gross national product and such economic indicators as the Consumer Price Index do not take quality of goods and services into account. Our gross national product has become our grossest national product.

There is much we in Congress can—and must—do to restore the faith of our citizens in the American way, in the opportunity for anyone to work and advance according to his or her efforts and abilities.

We must find ways of creating better jobs at less cost than we have done in the past. Solutions might include tax incentives to businesses which hire young people or the long-term unemployed and provide them with the training and experience they need to survive in the working world; or retraining and referral services for older workers and heads of households who are laid off after years of working; or tax incentives for home improvements—including those which carry out wider goals such as insulation for energy conservation—to help reduce unemployment in the hard-hit construction industry. There are many possibilities which must be examined soon if we are to reduce unemployment and get our economy moving.

We must work out the difficulties which have held up a national health security system for so long, while health care costs have continued to skyrocket and whole families have been ruined by unexpected illness. Every American has a right to enjoy good health and to receive decent treatment at a reasonable cost when it is needed.

We must work closely with the new administration to formulate an energy policy for the Nation. Conservation of our limited energy resources must be the keystone of any such policy. Again, "more" is not "better"; in the case of energy, more consumption is often simply waste. Most Americans can and will help in this effort, turning their thermostats down, improving the insulation of older homes and the design of new ones, shifting to more energy efficient appliances, and moving to more efficient cars, including diesel. But Congress must encourage such efforts and provide the necessary incentives. Conservation is, in the short run, at least as important as the development of alternate sources; in the long run, we must place emphasis on technologies which take advantage of renewable energy sources such as the Sun.

We must continue to balance the needs of our environment against our other needs. No amount of economic growth will compensate for—or even be possible after—the exhaustion of our precious natural heritage. And the quality of all our lives will be tragically diminished.

We must more effectively deliver necessary assistance to the needy. A new, more rational system of consolidated benefits, with built in incentives to keep families together and to encourage working, would restore a measure of dignity to those who are unable to work and assist those who now attempt in vain to rise above poverty. Moreover, such a system could operate at less cost to the different levels of government and to the taxpayer.

We must improve government services to older Americans. Two relatively simple courses would immediately ease the difficulties of living on fixed incomes: Removal of the earnings limitation on social security recipients, and laws to assure that cost-of-living increases in social security do not result in reductions in other benefit programs. Consolidation and restructuring of other forms of assistance would also help those unable to provide entirely for themselves.

We must move forward in improving our system of criminal justice. We must balance the rights of law-abiding citizens against those of suspected offenders, without unduly threatening the safety of the former or the liberties of the latter. A carefully crafted system of pretrial detention for certain violent offenders with safeguards against abuse, would slow the "revolving door" so many citizens fear. Sentencing guidelines and mandatory sentences for certain crimes would provide a deterrent against crime by increasing the surety of punishment. And a system of compensation of the victims of crime would be simply a matter of justice. One of government's functions is the protection of its citizens, and, when that protection fails, government should help the victim obtain some compensation from the criminal or provide compensation itself.

We must press on toward the control and the eventual elimination of the nuclear arms race. This will require not only continued diplomatic efforts but also careful scrutiny by Congress of all weapons programs and a refusal to permit those which would destabilize what nuclear balances exist. We must not continue to move ever closer to the holocaust. Only with the threat of nuclear war—indeed, of all war—removed can we hope to have any real effect on the poverty of much of the world.

Mr. Speaker, I know that none of this will be easy, but I trust that all of us in Congress will work together and with the new administration to bring these goals closer to reality. In the spirit of the inaugural, and of the new beginning we in Congress share with our new President, let us all rededicate ourselves to improving the quality of life, in the best American tradition, for our own citizens and for people the world over.

NATIONAL ACADEMY FOR PEACE AND CONFLICT RESOLUTION COMMISSION ACT OF 1977

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. YOUNG of Georgia. Mr. Speaker, in conjunction with several other Members of the House, I am reintroducing the National Academy for Peace and Conflict Resolution Commission Act of 1977. Similar legislation was recently introduced in the Senate by Senators JENNINGS RANDOLPH and MARK HATFIELD.

The duties of the Commission would include a year-long study which would consider the following:

(1) establishing the National Academy of Peace and Conflict Resolution;

(2) the size, cost, and location of the Academy;

(3) the affects which the establishment of the Academy would have on existing institutions of higher education;

(4) the relationship which would exist between the Academy and the Federal Government;

(5) the feasibility of making grants and providing other forms of assistance to existing institutions of higher education in lieu of, or in addition to, establishing the Academy; and

(6) alternative proposals, which may or may not include the establishment of the Academy, which would assist the Federal Government in accomplishing the goal of promoting peace.

After holding hearings on the concept of a National Peace Academy last spring, the Senate unanimously passed an amendment to the higher education bill of 1976 which would have created a commission to study proposals for establishing the National Academy for Peace and Conflict resolution. However, when this amendment was considered in conference, the House approve it due to the lack of previous consideration by this body. It is my sincere wish that the House will proceed rapidly on this most important matter and that hearings will be held in the near future.

It is my feeling, Mr. Speaker, that the time for recognizing the importance of pursuing nonviolent resolutions to the issues and problems that face the domestic and international communities today is long overdue. This legislation provides the vehicle for further exploring the feasibility of establishing an educational institution which would focus resources and methods—political, ethical, economic, and intellectual—on the problems of peace and justice. Emphasis would be placed on training individuals in the arts of negotiation, arbitration, conciliation, and mediation—skills which are indispensable in this day and age.

In summary, we as a nation must recognize the importance of peacemaking as a viable means for preserving national security and fostering freedom and justice here and in an interdependent international community.

WHAT DOES THE CONSTITUTION SAY?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. McDONALD. Mr. Speaker, my recent book "We Hold These Truths" deals with the Constitution and its importance in protecting our liberty. It shows how the Constitution was designed to limit Government power and serve as a barrier to governmental actions that would infringe on the people's rights and freedom.

Throughout history it has been a common practice to view some goal or action as socially desirable and then get the Government to force people to accept it—whether they like it or not.

The Constitution was designed to change this. The basic philosophy behind it, in essence, is that people have a right to their own life, liberty, property and pursuit of happiness. If they desire to change things, fine—but only if such changes are voluntary and not imposed on others by force. The means of implementing this was to delegate only specific and limited authority to the Government, leaving the rest to the States and the people.

Consequently, whenever someone comes up with a proposal for Government action, the first and primary question is this: Does the Constitution authorize the Government to take this action? If the answer is yes, then and only then, is it appropriate to ask the secondary questions such as: Do we need it? and Can we afford it?

This issue is analyzed in some detail in an article by Clarence B. Carson, a noted constitutional scholar. Entitled "What Does the Constitution Say?", the article appeared in the January 1977 issue of Private Practice and is reprinted below because of its relevance to current issues such as the nationalization of health care.

The article follows:

WHAT DOES THE CONSTITUTION SAY . . .?

(By Clarence B. Carson)

Two orders of questions should be asked about any proposed act of the government of the United States. The lower or secondary order consists of all those questions about workability, desirability or necessity for government action. Then there are the primary ones. The most basic question about any proposed government action is this: Is the government authorized by the Constitution to take this action? If the action is not authorized by the Constitution, there is no proper point in raising the secondary questions. They are out of order.

What, for example, does the Constitution say about Medicare? About Medicaid? Where in the Constitution is the authority for the FDA? On what basis does the Federal government subsidize and regulate hospitals? Whence comes the authority for HEW to issue its multitudinous regulations? Does the Federal government have the authority to embark on a national health "insurance" program? In short, what is the constitutional relationship of the Federal government to the practice of medicine?

Let's examine the Constitution itself. That is not a formidable undertaking, for the Constitution is relatively brief. The original document contained only a Preamble and seven articles, some of which are quite short. To it there have been added 25 Amendments. The whole can readily be printed in a small pamphlet. For the most part, it is clearly and concisely worded, though the Fourteenth Amendment is a not very honorable exception to that rule.

The Preamble need not concern us here. It is simply a statement of the purpose of the Constitution and does not contain any grants of power nor prohibitions on the use of power. Article I is far and away the most important portion of the Constitution, for it deals with the legislative power to be exercised by the Federal government. All legislative power is vested in Congress. The matters to which this power extends are described in Section 8. For example, the Congress is authorized "To borrow Money on the credit of the United States. . . ." Section 9 contains a list of prohibitions on the use of Congressional power. For example, "No Tax or Duty shall be laid on Articles exported from any State." Section 10 deals with prohibitions on states, such as, "No State shall enter into any Treaty, Alliance, or Confederation. . ." And so forth. The remainder of the Constitution proper deals with such matters as judicial authority, the Presidency, relations among the state, and methods of amending the Constitution.

The words "medicine," "physician," "surgeon," or the like are not to be found there. *There is no specific authorization for the government to act in any way upon medical services.*

The nearest thing to a mention is found in the paragraph of Article I, section 8, authorizing patents and copyrights. It reads:

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries. . . .

The Constitution also authorizes Congress "To raise and support Armies," and "To provide and maintain a Navy." It has generally been assumed that the power to call into being armies and a navy implied the power to provide medical services. It was already the practice, when the Constitution was written and approved, for military forces to have a complement of physicians and surgeons as well as hospitals. Let it be granted, then, that the tacit power was and is there for the government to provide medical services for the armed forces. But aside from patents, copyrights, and medical services for the armed forces, there are no clear-cut grants of power for government to act upon the practice of medicine, as distinct from such powers as it may have to act upon everyone.

Even so, the government has become increasingly involved in medicine, and we need to examine the alleged constitutional basis for this. One such is supposed to be the reference to the "general welfare" in the Constitution. Actually, there are two such references. One, however, is in the Preamble,

and it can be dismissed because the Preamble does not grant powers. The other is in Article I, Section 8, and it reads this way:

The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the Common Defense and general Welfare of the United States. . . .

But is this a grant of power for what today are called welfare measures, such as Medicare, Medicaid, and the like? Hardly! The clause does grant the government power to provide for the general welfare. On the contrary, it grants a limited power to tax. In this context, the requirement that taxes be for the general welfare is a restriction on the taxing power. It restricts rather than grants power. The "general welfare" should be understood as the welfare of all, as opposed to the "special welfare" of some group, class, or individuals. Correctly interpreted, the general welfare clause does not authorize such class legislation as Medicaid; it prohibits taxation to support it. Even if it were a grant of power to provide for the general welfare, it would not authorize what are today known as "welfare" programs, for they are invariably class programs.

As if the above were not enough, there is yet another objection to the justification of contemporary welfare programs under this clause. Attend to the terminology again: ". . . provide for the Common Defense and general Welfare of the *United States*." (Emphasis added.) The reference is to the *states*, not to the people. The concern at the Convention was that the government should not spend money which would benefit some states at the expense of others (such as the building of canals). Hence, the requirement was made that taxes should be levied only for the *general* welfare.

Finally, it is clear that those who constructed the Constitution did not consider that by referring to the "common Defense" in the taxing clause they had thereby authorized measures for the common defense. On the contrary, they later spelled out authority for armies, a navy, the militia, and other matters necessary to creating defensive forces. By contrast, there is not one mention of what are today known as welfare measures in the further grants of power.

The last refuge of constitutional waffiers is the so-called elastic clause. This is found also in Article I, Section 8 and reads:

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

This clause should be understood as granting the power to the Congress to pass appropriate legislation to accomplish the authorized ends of the government. The only elasticity concerns the means to be employed, not the ends which may be pursued. If the power to do it cannot be found elsewhere, it is surely not lodged in this clause.

Those who would use the Federal government to regulate appeal to the clause having to do with interstate commerce. It is found in Article I, Section 8:

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes. . . .

It is this clause from which authority is claimed for the activities of the FDA. What does it mean "To regulate Commerce . . . among the several States?" That is not a thorny question if we look to the main purpose for its inclusion in the Constitution. The Founders wanted to assure that the United States would be a common market, that goods from every state could flow into any state and be on equal terms with those of that state. To that end, they vested the power of regulation in Congress and by so doing removed it from the individual states. Most of what they wanted to accomplish could have been achieved by prohibiting the states to restrict the entry of goods from other states or the shipping of them to other states. Most, but not all, however. There would still remain the problem of what we may call traffic control. At the time the Constitution was written, this involved mainly control over boats and ships on waters joining two or more states. Today, it would include more recent innovations, such as air traffic. The Founders no more conceived of regulating the quality and kind of commerce than they had in mind having government prescribe our drugs or decide what foods could appear on our tables.

But if the Constitution does not authorize medical intervention, neither does it prohibit such activity. And, many advocates of intervention act as if there were implied powers to do whatever is not prohibited. But the Constitution contains the opposite prescription. This very matter is covered in the 9th and 10th Amendments. The 9th Amendment says:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

The 10th Amendment deals even more directly with it:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The weight of the Constitution, then, is against government intervention in medicine. There is no authority in the Constitution for Social Security or its offspring, Medicare. There is no authority for Medicaid and its strange rules over medicines. The FDA finds its authority only by the most strained interpretation of the commerce clause. The Department of Health, Education, and Welfare is a vast edifice erected in contravention of the Constitution and despite its provisions to the contrary. There is no authority in the Constitution for the Federal government to embark on a health "insurance" program for everyone. The government is no more charged with the task of looking after our health than it is with our eternal salvation. It has no more business interfering in the relationship between doctor and patient than it does between priest and penitent. Its authority does not extend to these relationships, and where its authority does not extend, it is forbidden to enter.

Those who favor more and more government intervention have accustomed us to focus on the second order of questions rather than the first. They have even acclimated us to focusing on benefits rather than upon costs. If their arguments have any validity, they are arguments for Constitutional amendments, not for the enactment of programs by Congress. They have drawn us into ignoring what the Constitution says and riveting our attention on secondary questions.

To every proposal for government action the first question to be posed is this: What does the Constitution say? If the Constitution does not authorize it, it is prohibited. This question has been shunted aside. If it occurs at all, it is usually: What does, or will, the Supreme Court say? Indeed, many today suppose that this is the only relevant question to be asked. It is not. In our system of government, what the Supreme Court, or any court, will say is a tertiary question, and even then it only becomes a question when some issue is litigated. The first question is: What does the Constitution say? The second order of questions has to do with workability or desirability. Only after these questions have been answered affirmatively and action has been taken, can the question come before the courts.

The understanding of this order is so important because there are those who will suppose that these issues of constitutionality are not live questions. After all, the courts have already placed their stamp of approval on some of these actions. To suppose, however, that the courts have settled the issues is a gross misunderstanding of our system of government. The courts have not settled the issues (though they have settled some cases), because it does not lie within their power to do so. The most that the courts can do on a constitutional question is this: Establish by a series of consistent rulings a *certain degree of predictability* as to how they will be likely to rule in the future. But even of this there is no certainty. Each case that goes before the court is different. Moreover, courts have been known to change the direction of their rulings, and imaginative lawyers can do much to help them make the changes.

A bill can only become law by being passed by the House of Representatives, by the Senate, and signed by the President, or permitted to become a law without his signature. Every member of the House, every member of the Senate, and each president is oath-bound to observe and defend the Constitution. A majority of either house can declare a proposed act unconstitutional, refuse to pass it, and the issue cannot reach the courts. A president can declare a proposed act unconstitutional, veto it, and it can only eventually come before the courts if passed over his veto by preponderant majorities in both houses. Each of those persons is duty bound to uphold the Constitution, not the Constitution as interpreted by the courts, but as he interprets it.

Each branch of the government needs to be conceived as a line of defense of the Constitution. The Congress is the front line. The president is the second line. The courts are the third line. Each member of any branch should have the question posed to him on every issue: What does the Constitution say? Every candidate for office needs to be pinned down on it. When the politicians have been taught to answer the question, not evade it, there is not much doubt how they will answer it.

There is not much doubt about what the Constitution says.

LEGISLATION INTRODUCED BY CONGRESSMAN ROBERT F. DRINAN

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. DRINAN. Mr. Speaker, today I am inserting in the RECORD a list of 44 bills which I have introduced since the 95th Congress convened 3 weeks ago. Some of these represent reintroductions of measures filed in previous Congresses. Others are new proposals which my staff and I have formulated during the past few months.

In the forthcoming weeks, I will be soliciting the support of my colleagues and working to obtain prompt hearings on these proposals. Only a few hundred of the approximately 20,000 bills introduced in the House every Congress ever become law. I am hopeful that several of the measures described below will find themselves among that select few:

ECONOMIC RECOVERY

H.R. 833. A bill to improve the effectiveness and performance of public employment offices, to help unemployed workers obtain jobs.

H.R. 832. A bill to establish a pilot program to provide guaranteed employment opportunities in selected countries in the United States.

ENERGY COSTS AND CONSERVATION

H.R. 853. A bill to provide for a system of research, development, and demonstration in

industrial energy conserving technologies, and to provide for low-interest loans and loan guarantees for the installation of these technologies.

H.R. 841. A bill to require state regulatory authorities to distribute electricity costs to consumers according to the actual cost incurred by the utilities, and to prohibit the use of the automatic fuel adjustment charge.

H.R. 840. A bill to require the President to take all necessary actions to strictly enforce the pricing regulations under the Emergency Petroleum Allocation Act, and to eliminate overcharges by energy suppliers and middlemen.

H.R. 2417. A bill to provide for a comprehensive 5-year study of the nuclear fuel cycle, with particular reference to its safety and environmental hazards, to be performed by the Congressional Office of Technology Assessment.

H.R. 851. A bill to provide for the research, development and demonstration of technologies in the disposal and recovery of energy and materials from sludge, and to provide assistance for programs dealing with the removal and treatment of sludge.

H.R. 863. A bill to establish a new direct low-interest loan program to assist homeowners and builders in purchasing and installing solar heating and cooling equipment.

H.R. 830. A bill to bring about special educational programs and activities designed to achieve conservation and nonuse of energy and materials.

H.R. 854. A bill to provide for loans to small business concerns affected by the energy shortage.

TAX REFORM

H.R. 861. A bill to deny the deduction of any expenditure by any oil company for advertising not directly related to the sale of products or services.

FOREIGN AND MILITARY POLICY

H.R. 824. A bill to abolish the Selective Service System.

H.R. 836. A bill to suspend the sale of arms to nations in the Persian Gulf.

H. Con. Res. 16. A resolution expressing the policy of the United States to work to build a world without war.

H. Con. Res. 15. A resolution calling for the reduction of American Forces in Europe.

H. Con. Res. 17. A resolution calling for the strengthening of the United Nations Charter.

GOVERNMENT REFORM

H.R. 852. A bill to prevent the impoundment of appropriated funds without congressional approval.

H.R. 860. A bill to establish the Internal Revenue Service as an independent agency.

H.R. 835. A bill to provide for periodic auditing of the office accounts of Members of Congress and House Committees by the General Accounting Office.

H.R. 849. A bill to prohibit franked mass mailings by Members of Congress running for re-election during the 90-day period which precedes an election.

CONSUMER PROTECTION

H.R. 829. A bill to require banks to disclose how they compute and pay interest on savings accounts.

H.R. 862. A bill to protect the rights of nonsmokers

H.R. 839. A bill to require that tar and nicotine content be disclosed on all cigarette packages.

H.R. 831. A bill to establish a consumer education program within the Office of Education.

H.R. 2418. A bill to prohibit major agricultural exports which would result in increased retail food prices or unemployment within the United States.

H.R. 2419. A bill to authorize the Food and Drug Administration to regulate tobacco products.

OLDER AMERICANS

H.R. 858. A bill to provide Social Security cost-of-living increases twice a year.

H.R. 834. A bill to create a special consumer price index for older Americans upon which Social Security cost-of-living increases will be based.

H.R. 859. A bill to remove the restriction on outside earnings under the Social Security Act.

H.R. 856. A bill to allow a remarried widow to continue to collect full widows' benefits.

H.R. 857. A bill to remove the "recently covered work" provision of the Social Security disability law to enable a person to apply for disability benefits even if he or she has not worked in the period preceding the onset of disability.

H.R. 2420. A bill to remove sex discrimination from the Social Security Act by allowing widowed fathers' benefits for minor children in their care, removing the dependency requirement for entitlement to widowers' benefits, and allowing married couples to combine their earnings so that they might receive increased Social Security benefits.

HOUSING

H.R. 827. A bill to protect purchasers of condominium housing units and residents of multifamily structures being converted to condominium units by establishing national standards for condominiums.

H.R. 828. A bill to establish an emergency mortgage credit program to aid middle-income home buyers.

H.R. 826. A bill to improve the service which is provided to consumers in connection with escrow accounts on real estate mortgages, to prevent abuses of the escrow system, and to require that interest be paid on escrow deposits.

CIVIL LIBERTIES

H.R. 843. A bill to forbid wiretapping and other forms of electronic surveillance by public officials against private citizens.

H.R. 844. A bill to require the consent of a witness before granting immunity from prosecution in a criminal case.

H.R. 845. A bill to prohibit the Department of Justice from using paid informers unless Congress expressly authorized the practice.

H.R. 846. A bill to place all employees of the FBI into the competitive civil service.

H.R. 848. A bill to abolish the death penalty under all state and Federal laws.

OTHER PROPOSALS

H.R. 837. A bill to modify the Communications Act of 1934 to strengthen and further the objectives of the First Amendment as applied to radio and television broadcasting.

H.J. Res. 58. A resolution to propose an amendment to the Constitution lowering the age requirements for membership in the Houses of Congress.

H.R. 842. A bill to establish a Federal system of registration and licensing of all firearms.

H.R. 847. A bill to ban the manufacture, importation, sale or possession of handguns, except for law enforcement, military purposes, and recreational use.

BRITAIN GUILTY OF TORTURE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. BIAGGI. Mr. Speaker, once again I would like to expound upon the gross atrocities being committed by the British Government on the good people of Northern Ireland. Of these, the most serious is the torture of Irish citizens who are suspected of illegal operations.

A good friend of mine, Dr. Fred O'Brien of the Irish National Caucus, has forwarded to me a comprehensive fact sheet outlining the violations of human rights in Ireland and Britain's justification of the use of torture as a means of obtaining information from their prisoners.

At this point in the RECORD, I would like to insert the article written by Dr. O'Brien entitled "Britain Guilty of Torture." I urge my colleagues to read this article so that they will have an updated report on the plight of the citizens of Northern Ireland.

This Congress and this country must make known to the Government of Great Britain that we will not tolerate the continued violation of basic human rights in Northern Ireland.

The article follows:

BRITAIN GUILTY OF TORTURE

The European Commission on Human Rights has found the British guilty of systematically torturing suspected members of illegal organizations, and prior denials of torture selective assassinations and other atrocities on the part of Britain are and should be disbelieved until the British can substantiate such denials.[1] Britain is convicted by her peer-nations of torture and inhuman and degrading treatment against interness. Since gross violations of human rights are a basis for a denial of aid, the United States should cease all aid to Britain until she can assure the Americans that she no longer practices such systematic atrocity. It is still going on perhaps to a lesser degree, but it is proceeding nevertheless.

The conviction before the world should be an embarrassment to the British who hold themselves high in reputation for liberalism and who are quick to condemn other nations of torture . . . Britain alone stands convicted of barbarities.[2]

The report of the Commission states that men were beaten on the abdomen and lower chest to force them to talk to interrogators of the Army and police.[3] In-depth interrogation techniques used by the British amounted to systematic torture and violated the European Convention of Human Rights 1950.[4] The British have tried to justify torture by stating to my amazement that the same techniques worked in Palestine against Jews and Arabs, in Malaya, in Kenya, in the British Cameroons, British Guina, Brunei, Aden, Borneo and the Persian Gulf; all once held by Britain. Can you imagine the gall to justify and admitting they have tortured almost every nation they have ever set foot?[5] They are the utmost disgrace and should be condemned by every freedom-loving individual in the world. The British still have not satisfied impartial observers that their practice of torture has ceased and it has not.[6]

According to the "NEW SCIENTIST" magazine, the British Army is still turning out fully trained torturers, although officially the government has declared torture illegal. Writing at length, Dr. Tim Shallice, a research neuropsychologist, says that the British government had never attempted to challenge public disclosures of techniques (defined by Convention as torture).[7] Lip service stating torture is curtailed does not in fact prevent its continued occurrence. Punishment of the perpetrators of torture would be a step toward rectification of the atrocities.

Britain will not repent for crimes against humanity. Interment without trial was stopped in December 1975, but the law was not overturned and remains on the statute books. Britain only reacted to public opinion and international embarrassment not motivation on humanitarian grounds. Similarly, torture is now admitted, but remains in practice. Britain argues that "although all al-

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Footnotes at end of article.

leged activities (torture techniques) may have taken place and caused long-term effects, they were not a matter of 'administrative practice' approved by government officials.[9] [10]

Skepticism of British excuses is cemented by her constantly shifting self-absolution as more atrocities are revealed and proven. Britain attempts to isolate torture practices by denying official responsibility and placing blame on subordinates in the chain of command. This a tactic of high-ranking Nazis during the Nuremburg trials subsequent to World War II. The fact remains, Britain a western democracy, stands convicted before the world of the crime of torture for which there is no excuse.[11]

CRITICISM IN CONGRESS

Senator George McGovern (D-S.D.) expressed his outrage at the use of torture on the Senate floor on August 22, 1976.[12] He stated: "Mr President, one of the most revolting facts of life in today's world is the prevalence of torture as official policy in many parts of the globe. The systematic, brutal torture practiced by many countries has shocked my sensibilities more than any other human perversion."[13] Senator McGovern speaks for the majority of Americans on this most foul matter of torture. Britain held responsible by the European Commission on Human Rights and admitting the facts acknowledges tacitly her guilt of condoning torture as official policy, and indeed within the scope of the Senator's cry of perversion.

A British government spokesman said: "We are not questioning the Commission's report. We do not deny that unpleasant things happened . . . but at the time it was a question of (official) policy."[14] Where nations use torture, the Senator from South Dakota firmly states "I think we should make clear in the most forcible terms that no American aid will be granted to any government that is known to practice torture as an official policy."[15]

Senator McGovern cites an article from Time magazine called Torture as Policy: The Network of Evil.[16] A prime example of torture as policy is the British in Ireland now found guilty. The British fit into the pattern of the article, the Senator highly recommends to his colleagues.

"Governments that routinely use torture as an instrument of state policy generally deny that such practices exist. (Britain denied what has now been proven since torture was first exposed.) At the same time, the difficulty of making unhindered investigations of conditions in closed societies and police states virtually guarantees that many abuses remain uncovered."[17] (Selective assassination by the British Army—the cases of Majella O'Hare (12), and Patrick Cleary (26)—all eye-witnesses accuse the British Army).

The article continued: "In some places the evidence of torture is overwhelming and irrefutable. Next to murder, torture is the most egregious violation of personal rights one human being can inflict on another. . . . In this century Hitler's concentration camps and Stalin's Gulag Archipelago institutionalized torture and brutality on a scale hitherto unknown. . . . The French used it systematically during the eight-year Algerian War. The British relied on torture to gain information about I.R.A. terrorists in Northern Ireland."[18] The British further admit using systematic torture in nine other nations.[19]

The Congress of the United States must condemn Britain for the use of torture as policy regardless of the fact that Britain is a "friendly" nation. They would be remiss in democratic morality should less be done. Congress has not spoken out in many instances due to lack of information or false information supplied by the State Department. The man in charge of Congressional relations was Mr. Robert McClosky. The State Department took a favorable line with regard to Britain, offering no adverse comment in the face of clear-cut evidence of torture. In the CONGRESSIONAL RECORD of 8/26/76, Mr. McClosky is accused of supplying false information on another matter in regard to Uruguay.[20] He also misinterpreted or offered no information to Congress on Britain's gross violation of human rights.

MS. HAUSER HITS STATE DEPARTMENT

It is unfortunate the human rights violations committed by Communist and fascist regimes are condemned. but those perpetrated by alleged democracies are ignored. Testifying before Congress, Rita Hauser, former U.S. Representative to the United Nations Commission on Human Rights, expressed regret that the U.S. evinced a partisan attitude on human rights violations, using Ireland and British indiscretions as an example.[21]

"During the long conflict which rages in Ireland, as the representative to the U.N. Commission on Human Rights, I was besieged by letters and visits and phone calls by many Irish-Americans who were very concerned about what was happening and wanted to know why our government never expressed any comment whatsoever on at least the human rights elements in this situation."[22]

"I pressed our State Department, I pressed very hard, and of course the answer I was given was the classic one which I assume other governments must give their representatives, and that is that this involved a friendly country and we do not wish to get entangled in any way, shape or form on what is happening there. Basically, we just want to stay away from it because it would offend a very longstanding ally, the British."[23]

"I myself never supported that view. . . . We speak out against violations of countries we are not particularly close to or where we feel we can do so with some measure of safety politically, and we are largely silent as are other countries, when human rights violations occur on the part of our allies or friendly countries we do not wish to offend."[24] Ms. Hauser sets out a challenge—Is the U.S. to be moral or decadent in support of violators of human rights?

To date the U.S. has abidcated moral responsibility in regard to human rights violations by the British in Ireland. There is a chance now to rectify that unfortunate act. Identical laws of repression used by the British in the North are in effect in the South of Ireland where human rights violations are rampant. The U.S. must speak out and condemn Ireland for laws which make it a police state. These laws which are not specific but vague can and will be used by the Irish Free State against not only the Irish but against Irish Americans they deem sympathetic to Irish Freedom-fighters. This directly affects constituents of members of Congress.

Presently the call for a state of emergency in Ireland is the realization that Ireland is a police state. On the word of a policeman an alleged member of a subversive group (any dissident) receives 7 years sentence. The policeman under cross-examination has the right to claim "privilege" to defense questions and remain mute.

The Special criminal court operating against political dissidents is conducted by three government appointees who are also jury. An allegation that one is an IRA planner or encourages IRA activities i.e. the unification of Ireland, is 15 years. Accusation of intimidating the government is good for 20 and selling subversive literature 15. Censorship is policy, free speech is qualified, protest denied and dissent is a nullity.

To declare a state of emergency, a government is not absolved from all human rights guarantees. The "derogation clause" in human right conventions permits a state partial curtailment of some liberties, but only when a clear-cut threat exists. The IRA's stated policy is not to engage in acts against Ireland, only Britain. They have held firm to that commited policy. Fianna Fail (Ireland's largest political party), The Irish Council of Civil Liberties (ACLU), and the Incorporated Law Society of Ireland (ABA) are opposed to it.

Merlyn Rees, the British Secretary for Northern Ireland, has called the Irish legal process "internment without trial," and indeed it is. The draconian measures of Ireland are based on arbitrary application of law against selected individuals for political purposes to end dissent. What is defined as torture under international law is used liberally by the Irish political police, who intimidate and physically abuse suspects to coerce confessions to be introduced at a later "trial."

Disregarding minimal accepted standards, prisoners are degraded and tortured. The extraordinary legal process of Ireland is akin to that of Eastern Europe and that of India, where pretense to democracy has been abolished by identical laws as in Ireland. Ireland stands condemned by all nations believing in democracy and freedom.—FRED BURNS-O'BRIEN, *Washington Director, Irish National Caucus.*

FOOTNOTES

[1] Washington Post, August 28, 1976, Rights Group Finds Britain Used Torture in Northern Ireland.
[2] Ibid.
[3] Ibid.
[4] Ibid.
[5] Ibid.
[6] Ibid.
[7] Reproduced from "The News Line" in the Irish People, August 28, 1976.
[8] Taken from Article in "New Scientist" in Irish Republican Information Service Bulletin, August 24, 1976.
[9] Ibid.
[10] Report by Dr. Robert Daly, London Times, P. 1, July 9, 1973, confirming the long-term effects of torture on detainees by the British.
[11] Washington Post August 28, 1976.
[12] Speech by Senator George McGovern, Congressional Record, August 23, 1976.
[13] Ibid.
[14] New York Daily News, September 2, 1976, Britain Admits Ulster Torture in 1971.
[15] McGovern, Congressional Record, August 23, 1976.
[16] Time, August 16, 1976.
[17] Ibid.
[18] Ibid.
[19] Washington Post, August 28, 1976.
[20] Congressional Record, August 26, 1976, . . . officials of the U.S. Government—among them Robert McClosky, assistant secretary for Congressional relations at the State Department—have more than once misrepresented the International Commission of Jurists—Amnesty International report to members of Congress. An Amnesty International report was written in 1971 expounding on British mistreatment of Irish suspects, now confirmed by Britain being convicted of the same.
[21] Testimony of Ms. Rita Hauser, before the Subcommittee on International Organizations and Movements of the Committee on Foreign Affairs, House of Representatives, Ninety-third Congress, First Session.
[22] Ibid.
[23] Ibid.
[24] Ibid.

TAX DEDUCTIONS FOR SENIOR CITIZENS

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. EVANS of Delaware. Mr. Speaker, no segment of our population is harder hit by higher taxes than our older Americans. Living on fixed incomes, these

senior citizens are powerless to cope with rising inflation, and increasing local, State, and Federal taxes. In fact, one could say that the rampant inflation which our country has experienced is the cruelest tax of all.

Recent studies by the Senate Aging Committee have made it clear that many older Americans pay more income taxes than are legally due. Some are overwhelmed by our complex and far-too-complicated tax laws. Others are not aware of the legitimate deductions which are available to them, and which could save them precious dollars.

To assist senior taxpayers, I ask unanimous consent that a checklist of itemized deductions, prepared by the Senate Aging Committee be included in the RECORD. Although not intended to be an all-inclusive listing, this list will hopefully allow senior citizens to take advantage of deductions which they may have overlooked:

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3 percent of a taxpayer's adjusted gross income (line 15c, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3 percent limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3 percent rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3 percent rule) but only to extent exceeding 1 percent of adjusted gross income (line 15c, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expenses (subject to 3 percent limitation):

Abdominal supports (prescribed by a doctor.
Acupuncture services.
Ambulance hire.
Anesthetist.
Arch supports (prescribed by a doctor).
Artificial limbs and teeth.
Back supports (prescribed by a doctor).
Braces.
Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.
Cardiographs.
Chiropodist.
Chiropractor.
Christian Science practitioner, authorized.
Convalescent home (for medical treatment only).
Crutches.
Dental services (e.g., cleaning, X-ray, filling teeth).
Dentures.
Dermatologist.
Eyeglasses.
Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed).
Gynecologist.
Hearing aids and batteries.
Home health services.
Hospital expenses.
Insulin treatment.
Invalid chair.
Lab tests.
Lipreading lessons (designed to overcome a handicap).
Neurologist.
Nursing services (for medical care, including nurse's board paid by you).
Occupational therapist.
Ophthalmologist.
Optician.
Optometrist.
Oral surgery.
Osteopath, licensed.
Pediatrician.
Physical examinations.
Physical therapist.
Physician.
Podiatrist.
Psychiatrist.
Psychoanalyst.
Psychologist.
Psychotherapy.
Radium therapy.
Sacroiliac belt (prescribed by a doctor).
Seeing-eye dog and maintenance.
Speech therapist.
Splints.
Supplementary medical insurance (Part B) under Medicare.
Surgeon.
Telephone/teletype special communications equipment for the deaf.
Transportation expenses for medical purposes (7¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.).
Vaccines.
Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).
Wheelchairs.
Whirlpool baths for medical purposes.
X-rays.

TAXES

Real estate.
State and local gasoline.
General sales.
State and local income.
Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of five classes of items: automobiles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pensions or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, recovery of pension costs, dividends untaxed under the dividend exclusion, interest on municipal bonds, unemployment compensation and public assistance payments).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15c, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20% of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 7¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.
Auto loan.
Installment purchases (television, washer, dryer, etc.).
Bank credit card—can deduct the finance charge as interest if no part is for service charges, loan fees, credit investigation fees, or similar charges.
Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).
Penalty for prepayment of a mortgage—deductible as interest.
Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.
Other charge accounts for installment purchases—may deduct the lesser of (1) 6 percent of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) or (2) the portion of the total fee or service charge allocable to the year.

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

CREDIT FOR CHILD AND DEPENDENT CARE EXPENSES

Certain payments made for child and dependent care may now be claimed as a credit against tax instead of as an itemized deduction.

If a taxpayer maintained a household that included a child under age 15 or a dependent or spouse incapable of self-care, a taxpayer may be allowed a 20% credit for employment related expenses. These expenses must have been paid during the taxable year in order to enable the taxpayer to work either full or part time.

For detailed information, see the instructions for Form 2441 on page 17.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).
Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.
Union dues.
Cost of preparation of income tax return.
Cost of tools for employee (depreciated over the useful life of the tools).
Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Education expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—Taxpayers may now claim either a deduction (line 32, Schedule A, Form 1040) or a credit (line 52, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $100 ($200 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $25 ceiling ($50 for couples filing jointly).

Presidential Election Campaign Fund.—Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) for the Presidential Election Campaign Fund.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES

Filing status:	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2,450
Single (age 65 or older)	3,200
Qualifying widow(er) under 65 with dependent child	2,850
Qualifying widow(er) 65 or older with dependent child	3,600
Married couple (both spouses under 65) filing jointly	3,600
Married couple (1 spouse 65 or older) filing jointly	4,350
Married couple (both spouses 65 or older) filing jointly	5,100
Married filing separately	750

Additional Personal Exemption for Age.—Besides the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1977, you will be entitled to the additional $750 personal exemption because of age for your 1976 Federal income tax return.

General Tax Credit.—A new general tax credit is available. For this credit, the taxpayer may claim the greater of (1) $35 per exemption shown on line 6d, Form 1040A or Form 1040, or (2) 2 percent of taxable income (line 15, Form 1040A or line 47, Form 1040) but not more than $180 ($90, if married, filing separately).

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10% of the mutual dependent's support, *but only one of them*, may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers.—A taxpayer may elect to exclude from gross income part or, under certain circumstances, all of the gain from the sale of his personal residence, providing:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least 5 years within the 8-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 (this amount will increase to $35,000 for taxable years beginning after December 31, 1976) or less. (This election can only be made once during a taxpayer's lifetime). If the adjusted sales price exceeds $20,000 (this amount will increase to $35,000 for taxable years beginning after December 31, 1976), an election may be made to exclude part of the gain based on a ratio of $20,000 (this amount will increase to $35,000 for taxable years beginning after December 31, 1976) over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within 18 months before or 18 months after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 423 (Tax Information on Selling Your Home) may also be helpful.

Credit for the Elderly.—A new, expanded, and simplified credit for the elderly has replaced the former more complex retirement income credit.

A taxpayer may be able to claim this credit and reduce taxes by as much as $375 (if single), or $562.50 (if married filing jointly), if the taxpayer is:

(1) Age 65 or older, or

(2) Under age 65 and retired under a public retirement system.

To be eligible for this credit, taxpayers no longer have to meet the income requirement of having received over $600 of earned income during each of any 10 years before this year.

For more information, see instructions for Schedules R and RP.

Earned Income Credit.—A taxpayer who maintains a household for a child who is under age 19, or is a student, or is a disabled dependent, may be entitled to a special payment or credit of up to $400. This is called the earned income credit. It may come as a refund check or be applied against any taxes owed. Generally, if a taxpayer reported earned income and had adjusted gross income (line 15c, Form 1040) of less than $8,000, the taxpayer may be able to claim the credit.

Earned income means wages, salaries, tips, other employee compensation, and net earnings from self-employment (generally amount shown on Schedule SE (Form 1040) line 13). A married couple must file a joint return to be eligible for the credit. Certain married persons living apart with a dependent child may also be eligible to claim the credit.

For more information, see instructions for Form 1040 or 1040A.

JUSTICE DEPARTMENT REPORT ON COMPETITION IN TELECOMMUNICATIONS

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. WIRTH. Mr. Speaker, during hearings on competition in the telephone industry held by the Communications Subcommittee last September, I asked the Department of Justice to review the legislative history of the 1934 Communications Act and provide me with a report regarding the policies toward competition reflected in that history.

Last week, I received that report from Donald I. Baker, Assistant Attorney General, Antitrust Division. The Justice Department found that nothing in the legislative history of the Communications Act supports the view being advanced by A.T. & T. and the independent telephone companies that decisions by the Federal Communications Commission and the courts permitting limited competition in telecommunications industry conflict with congressional intent.

In light of the telephone companies' lobbying effort to get Congress to reverse these procompetitive decisions, I think this report is most significant. I would urge my colleagues to read it:

DEPARTMENT OF JUSTICE,
Washington, D.C., January 18, 1977.

Hon. TIMOTHY E. WIRTH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN WIRTH: During my recent testimony on competition in communications you requested that the legislative history of the 1934 Communications Act be reviewed again, and that we furnish you a report regarding the policies toward competition reflected in that history.

Established common carriers urging enactment of the "Consumer Communications Reform Act of 1976" (e.g., H.R. 12323, S. 3192, 94th Congress) repeatedly advanced the opinion that the Federal Communications Commission's various decisions sanctioning competition represent "a basic change in the direction given by the Congress in 1934." See, e.g., Statement of Theodore F. Brophy, Chairman, GTE, Before the House Communica-

tions Subcommittee at 11 (September 28, 1976). These firms argued that despite decisions of the courts upholding the FCC's procompetitive rulings,[1] Congress intended in 1934 to foreclose regulatory reliance on marketplace incentives to improve carrier performance in the public interest. See, e.g., Statement of John D. deButts, Chairman, AT&T, at 5 (September 28, 1976); Address by A. W. Van Sinderen, President, Southern New England Telephone Company, New Haven (June 22, 1976).

In reviewing the historical environment of much of the economic and regulatory measures enacted during the Thirties, many commentators have concluded that the impact of the Great Depression fostered a widespread view that the competitive free enterprise system had failed. The feeling that "excessive competition" was a major factor underlying the eonomic collapse explains much of the protectionist legislation of that period according to these commentators. See generally W. Jones, *Case and Materials on Regulated Industries* at 81 *et seq.* (1967).

The legislative history of title II of the 1934 Communications Act, dealing with common carriers, sharply contrasts with this established wisdom that the Congress was concerned with the alleged "dangers" of excessive competition and took steps accordingly. The record is almost completely devoid, for example, of any indications that in considering this particular regulatory statute, Congress felt there had been too much competition. Neither does the record indicate any particular Congressional concern with the financial health of the telephone business of the time.

A reason why the Congress evidently did not concern itself with such matters, in all likelihood, is that in 1934, and indeed throughout the Depression, AT&T, which overwhelmingly dominated the field, was perhaps the most prosperous major firm in the country. AT&T throughout this period, for instance, maintained its then-extraordinary dividend payment rate, relying upon very substantial cash surpluses accumulated during the Twenties, and taking advantage of cost savings due to an almost 40 percent reduction in the Bell System's workforce.[2] At a time of general economic collapse, the Bell System initiated a substantial capital investment program—the dial conversion program that triggered strong objections from employee representatives that the deployment of new, labor saving technology during a depression would be severely disruptive.[3]

What Congress was concerned with, and the record overwhelmingly demonstrates this, was that some means be developed to regulate the rates and charges, and to some extent, the profits of the telephone industry. The record of the hearings and floor debates, rather than being concerned with the putative benefits of "regulated monopoly" as is now suggested, is in fact replete with sharp attacks on the telephone industry—particularly AT&T—for earning "unreasonably high" profits and charging exorbitant rates.[4] Indeed, the manager of the bill in the Senate, Senator Dill, indicated at the close of hearings that he was so concerned with AT&T's opposition to many of the substantive provisions of title II that he had begun drafting a resolution of investigation, declaring, "I am inclined to think that it will be a good thing for the country to have the full facts before it about this organiaztion."[5]

In theory, of course, the telephone industry, and the telegraph industry which was then competitive,[6] had been subject to ICC regulation since June 18, 1910. Congressman Mapes, subsequently a conferee on the bill, noted that the ICC "had a great deal of power by statute over telegraph and telephone companies, which, for the most part, it has never exercised. . . ."[7] As Senator Dill explained, the "Interstate Commerce Commisson have (sic) been so busy regulating railroads that they have not had the time to give real consideration to the problems in connection with rate regulation of telephones and telegraph. . ."[8] As the Senate Report on the 1934 Act summarized the situation—

"Under existing provisions of the Interstate Commerce Act the regulation of the telephone monopoly has been practically nil. This vast monopoly which so immediately serves the needs of the people in their daily and social life must be effectively regulated."[9]

Throughout the Twenties and early Thirties, numerous bills were introduced calling for the regulation, occasionally even the nationalization, of electronic communcations of all kinds.[10] Final impetus for the 1934 Communications Act, however, was provided by an interdepartmental task force, commissioned by President Roosevelt, and comprising representatives of the Departments of Commerce, State, and Treasury, the Department of the Navy, the Bureau of Standards, the Federal Radio Commission, and staff of the House Committee on Interstate and Foreign Commerce.

The legislation that was finally introduced (H.R. 8301, S. 2910, 73d Congress) was drafted by this task force. Rather than being ignorant of the benefits of competition, the task force took a fairly procompetitive stance, remarkably so, given the climate of the times. As introduced, for example, both bills included a provision (Sec. 215(c)) that would have required competitive procurement on the part of carriers—a proposal characterized by President Gifford as "revolutionary." 1934 House Hearings at 184; 1934 Senate Hearings at 81. What ultimately became Section 218 of the Act (47 U.S.C. Sec. 218 (1970)), requiring the FCC to keep informed of industry developments, was specifically proposed "to keep a company from hold(ing) an invention off the market and not giv(ing) the benefit of it to the public." House Hearings at 17, 25.[11]

In their report and testimony, members of the interdepartmental group attributed the advanced stage of the U.S. communications system to competition, focusing principally on the need to assure full competition between telephone and telegraph industries to be sure, yet at the same time implying that the FCC needed to have the discretion to sanction competition as needed in the public interest.[12]

"I will say that I believe it is important that our communications policy should be one which insures competition between telephone and telegraph and, in addition, provides for enforced, but limited—not cutthroat competition—in the telegraph field.[13]

"All this (i.e., the world's finest communications system) has come about through the initiative developed under the competitive system. Regulation of any company which has little competition is necessary; also unfair practices should be curbed.[14]

"We must realize (, however,) that if a monopoly is permitted, our only salvation will be to set up and operate extensive government machinery to regulate it. This would be cumbersome, expensive, and, to a large extent, ineffective."[15]

In testimony before both the Senate and House Committees, however, the benefits of competition in the telephone business were discussed in some detail. Questioned on whether telephone is "a sort of natural monopoly," for example, Mr. F. B. MacKinnon of the United States Independent Telephone Association (USITA) responded, "A natural monopoly in the locality. Although we still think that there is a potential competition desirable for a basis of comparison. There is a chance for different ownership and operation." 1934 Senate Hearings at 138. Testifying before the House Committee, the same witness volunteered to rebut arguments that the independent telephone companies "should be merged with Bell and radio given to a monopoly." 1934 House Hearings at 245.[16] Such a course, he argued, would eliminate beneficial competition between manufacturers of telephone equipment, explaining—

"The competition between the manufacturers for the independent business has been a great incentive to development and the competition between these factories and independent engineers with the engineers and factories of the Bell group has been one of the reasons for the great growth and development of the telephone industry."[17]

Even more procompetitive testimony was provided the House Committee by another spokesman for the independent telephone industry. Although the quotation is lengthy, we are repeating it here because it so closely resembles testimony before the Subcommittee only this year:

"First and foremost, it should be recognized that our communications system in the United States has been built up primarily through a process of competition.[18] * * * We here in this country have never subscribed to monopoly in the communications industry, and the industry has provided our people under competition with the most highly developed and best system in the world.

"(Competition) is the principle which governs the selection of new methods. People talk much about the wastefulness of competition, and this committee has heard that complaint presented here. That complaint is very old in discussions of sound communications policy. It always seems wasteful (, for example,) that there should be two telegraph boys standing at the station, both soliciting telegrams. If we could get rid of those duplicate services, we are told, we could save 10 or 15 million dollars. From that people have jumped to the conclusion that competition is wasteful. This is a very short sighted view. Competition is only wasteful if you assume that every improvement that has been made in the past would have been made without competition. You ignore entirely the years during which someone thought he had a new and better method and was willing to risk his capital in the development of it. It is true that 2 times out of the 3 the experiment was a failure—but the third time it did work out and the result is that we have developed the telegraph service as we have the telephone service, much more rapidly and of a much better quality that (sic) we would have done if it had not been for competition.

"By this process of competition, we select that which is good; and what is not good, what does not prove practicable, passes away. * * *

"The point that I want to make is this: That if you have just one large monopoly in the field, then we simply have only one group of technical experts, engineers, and managers; and if that large company turns down any new device, that is the end of it. * * *"—1934 House Hearings at 259, 263 (testimony of David Friday, Independent Telephone Association).

Congress did not clearly reconcile the conflict between witnesses of the "telephone monopoly" and witnesses from both Government and other sectors as to the historical benefits of competition in the common carrier field. Only about a month after conclusion of the Senate Hearings, debate began in that House on a clean bill, S. 3285. Little, if any, substantive discussion of the common carrier provisions of the bill occurred, however, and much of the floor debate concerned proposals to require broadcasters to set aside a percentage of time for varying public service purposes. See 78 Cong. Rec. 8824 *et seq.* (May 15, 1934). House de-

Footnotes at end of article.

bates took place about one week later, Congressman (later Speaker) Rayburn observing "That the bill as a whole does not change existing law." 78 Cong. Rec. 10312 (May 21, 1934). The only language found that would in any regard support the current contention that the "Communications Consumer Reform Act" seeks to "reaffirm the mandate of the 1934 Act," occurs as Speaker Rayburn reads a section-by-section analysis of the bill, and describes Section 214 as "designed to prevent useless duplication of facilities, with consequent higher charges upon the users of the service." 78 Cong. Rec. 10314 (June 2, 1934). Following brief debate, which, like the Senate's, focused on the broadcasting provisions of the bill, the Act was approved, the minor conference modifications approved, the measure transmitted to the President, and signed, precisely 24 years after the ICC had assumed jurisdiction, on June 18, 1934.

Whether Congress intended in passing the 1934 Act to eliminate all of the kinds of competition described during hearings and to substitute instead a regime of "pervasive regulation" is a contention which in our view cannot be substantiated on the basis of the legislative history alone. Whether Congress intended, in essentially transferring moribund authorities from one agency to another, to confer a "mandate" on any industry, or industry practice, certainly is not clear. Indeed, given the abundant evidence of Congressional skepticism and hostility toward industry practices as they then existed, one could as well argue the contrary position. Certainly the language of the Communications Act as passed does not compel the assumption that Congress opted for "regulated monopoly" to the exclusion of all competition, and indeed, the FCC has subsequently so held.

In subsequent interpretations of the Act and its history, the FCC has not taken the position that it was precluded from sanctioning competition under any circumstances. See, e.g., *Mackay Radio & Teleg. Co.*, 2 F.C.C. 592 (1936); *Mackay Radio & Teleg. Co.*, 6 F.C.C. 552, 576 (1938); *Mackay Radio & Teleg. Co., Inc.*, 8 F.C.C. 11, 21 (1940).

CONCLUSION

As I indicated in my testimony before the Subcommittee, the legislative history of broad, general statutes enacted nearly half a century before is unlikely to be dispositive of many present day questions. See *Rainwater* v. *United States*, 356 U.S. 590, 593 (1958). The courts have repeatedly been reluctant to accord decisional significance to the fact that Congress did not mention or evidently consider particular matters. See, e.g., *Saxbe* v. *Bustos*, 419 U.S. 65, 74 (1974); *Zuber* v. *Allen*, 396 U.S. 168, 185–86 (1969). Since the enactment of the 1934 Communications Act, the number of telephones has increased about sixfold, the volume of calls about tenfold, and the gross national product grown by a factor about 25. Market conditions today clearly are very much different from those of 1934. What is striking, however, is that much of the testimony before the cognizant Congressional subcommittees then is directly relevant to the issues which are being raised again today.

In a number of important decisions that the Department supports, the FCC has determined that competition should be permitted. These decisions have, moreover, been affirmed by the courts as within the broad statutory mandate conferred upon the Commission in 1934. While established carriers have opposed these procompetitive decisions, our review of the legislative history of the statute, as indicated above, does not support the view now being advanced that those rulings are in plain conflict with the intentions of the Congress at that time.

I hope that this report is satisfactory to your purposes. If, however, we can be of further assistance to you or to the Subcommittee, we shall be glad to do so.

Sincerely,

DONALD I. BAKER,
Assistant Attorney General,
Antitrust Division.

FOOTNOTES

[1] See, e.g., North Carolina Util. Comm'n v. FCC, 537 F.2d 787 (4th Cir. 1976) (terminal interconnection); Washington Util. & Trans. Comm'n v. FCC, 509 F.2d 1141 (9th Cir. 1975) (specialized carriers).

[2] See Hearings on H.R. 8301, the Communications Act of 1934, Before the House Committee on Interstate and Foreign Commerce, 73d Cong., 2d Sess. 174 (1934) (testimony of AT&T President W. S. Gifford) (hereinafter referred to as "1934 House Hearings.") See generally J. Brooks, *Telephone—The First Hundred Years*, 189–93 (1976); N. R. Danielian, *AT&T—The Story of Industrial Conquest*, 200 (1939).

[3] In 1934 House Hearings at 173. See also Hearings Before the Temporary National Economic Committee, Part 30 (Technology and Concentration of Economic Power), 76th Cong., 2d Sess. 16674–77 (1939) (testimony of Rose Sullivan, AFL).

[4] During the House Hearings, for instance, Congressman Wolverton complained directly to President Gifford that due to the 25¢ monthly surcharge levied on cradle or "French" phones, "I have bought the machine several times over;" his offer to purchase the telephone outright was declined. 1934 House Hearings at 194. During the House debates on the bill Congressman McFarlane alone prompted applause by attacking AT&T's profits and charges, especially the charge then made for moving an already installed telephone, asserting, "I feel it is our duty to stop such a racket as this." 78 Cong. Rec. 10331 (June 2, 1934).

[5] Hearings on S. 2910, the Communications Act of 1934, Before the Senate Committee on Interstate and Foreign Commerce, 73d Cong., 2d Sess. 199 (1934).

[6] In 1931, for example, AT&T had begun TWX services, in direct competition with telegraph industry offerings. Report of the President's Communications Policy Board 61 (1951). A spokesman for Postal Telegraph attacked this Bell competition as threatening the financial integrity of the industry. 1934 House Hearings at 208 (testimony of ITT President Sosthenes Behn). Bell was subsequently accused of competing "only for the cream business." Hearings on S. Res. 95, To Authorize a Study of the Telegraph Industry, 76th Cong., 1st Sess. 39 (1939) (testimony of J. P. Selly, American Communications Assoc.).

[7] 78 Cong. Rec. 10323 (June 2, 1934). See also 1934 House Hearings at 83 (testimony of ICC Commissioner Frank McManamy).

[8] 78 Cong. Rec. 4139 (March 10, 1934).

[9] S. Rep. No. 781, 73d Cong. at 3 (1934). See also C. Dill, *Radio Law* at 13, 103 (1938); 78 Cong. Rec. 8824 (May 15, 1934) (remarks of Senator Dill).

[10] Legislation introduced from the 58th through the 74th Congress, 1st Session (1903–35) is tabulated and synopsized in Berry, Communications by Wire and Radio (1937) at pp. 337 *et seq.*

[11] It is also noteworthy that AT&T objected to language which ultimately became Section 303(g) of the Act, obligating the FCC to promote the wider use of radio. Senator Dill suggested that a basis for this opposition was concern that a competitive medium might be encouraged. 1934 Senate Hearings at 86–87 (colloquy between Mr. Gifford and Senator Dill). Some of the history of AT&T's involvement in the so-called "Radio Pool" of the 1920's is recounted in Danielian, *supra* n. 2, at 132–49.

[12] 1934 House Hearings at 30. In 1938, legislation was proposed which would have required the FCC to find competition in the public interest in virtually all instances. See Hearings on H.R. 10348 Before the House Committee on Interstate and Foreign Commerce, 75th Cong., 3d Sess. (1938). The FPC opposed the bill as an unwarranted infringement on its discretionary powers. *Id.* at 3. *Cf.* Hawaiian Teleph Co. v. FCC, 498 F. 2d 771, 777 (D.C. Cir. 1974).

[13] 1934 House Hearings at 30.

[14] 1934 House Hearings at 30; Id. at 33, 45.

[15] *Id.* at 56.

[16] The record of the Hearings in both Houses does not indicate where the argument in favor of such a comprehensive monopoly might have been raised. Spokesmen for the Bell System clearly did not advance any such proposal during these proceedings.

[17] 1934 House Hearings at 238.

[18] The history of very rapid growth and development of the U.S. telephone industry under competition is canvassed in P. Latzke, *A Fight With an Octopus* 38–40 (1906); Hearings Before the Temporary National Economic Committee, Part 23 (Investment Banking), 76 Cong., 2d Sess. 11833 (1939) (testimony of N. R. Danielian); R. Gabel, *The Early Competitive Era in Telephone Communications*, 1893–1920, reprinted in Hearings Before the Senate Antitrust & Monopoly Subcommittee, 93d Cong., 2d Sess., Part 6 (Communications) at 3890.

A VISIT WITH "MR. HELICOPTER"

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. MILFORD. Mr. Speaker, one is always privileged to be personally acquainted with a genuine leader and pioneer. I am blessed by having two good friends that qualify as both leaders today and pioneers of yesterday, both in the field of aviation.

Mr. George E. Haddaway has spent his life growing with the aviation industry. His lifetime has almost covered the entire span of existence of the airplane. While his accomplishments in aviation would fill a book, he is probably best known in the industry as a leading aviation writer and publisher of Flight magazine.

Recently, Mr. Haddaway published an interview in Flight with the second aviation pioneer and leader, Mr. Joe Mashman.

Mr. Speaker, I think many of our colleagues in Congress would be interested in the contents of that interview:

A VISIT WITH "MR. HELICOPTER"

(By George E. Haddaway)

Joe Mashman has been in on the ground floor of Bell Helicopter Textron developments from their beginning, flight-testing Bell's earliest rotocraft and the first civilian helicopter certificated by FAA. A fixed-wing pilot prior to World War II, he joined Bell in 1943 and the Bell P–59—first U.S. jet—was among prototypes he flight-tested. Of his 17,000 flight hours, over 11,000 have been in rotocraft—mostly demonstrating helicopters here and abroad during their early development and marketing. In the process, Mashman has had opportunity to evaluate all competitive helicopters, including those developed in the Soviet Union, and to pilot kings, heads of state and high-ranking military leaders, thus acquiring the sobriquet "Mr. Helicopter." At one time he was personal pilot and special adviser to President Lyndon B. Johnson. Foreign governments have decorated Mashman

for his helicopter exploits, including life-saving rescue flights and military demonstrations. Among the latter, Mashman originated and demonstrated the now-widely utilized "nap of the earth" (NOE) technique of flying helicopters just off the ground in military operations to utilize trees and even bushes as cover from enemy radar and missiles. An ex officio board member of the Helicopter Association of America and its technical consultant, he is chairman of HAA's helicopter IFR committee. Vice president of Bell Helicopter Textron, his responsibilities include product development and planning for future developments. Like many helicopter pioneers, Joe Mashman remains active (born April 17, 1916).

FLIGHT OPS. It was apparent during the 1976 National Business Aircraft Association annual meeting in Denver that the U.S. business community has become a major market for helicopters. To what do you ascribe this recent development?

JOE MASHMAN. There's no reason for this expanding market but I feel the advent of turbine power provided a degree of performance that market needed. True, there are and will continue to be many excellent performing piston-engine helicopters. But corporate/business users of airplanes saw great advancements in turbine power—speed, increased reliability and maintainability—just as the same user group experienced with fixed-wing aircraft.

FLIGHT OPS. Why the lag in time between acceptance of the turbine-powered airplane and the turbine-powered helicopter?

JOE MASHMAN. I believe the airplane has always paced the helicopter since rotary wing first came on the scene. The airplane paced the helicopter in handling qualities, in smoothness, in reliability, in maintainability and, of course, the turbine was applied to helicopters quite some time after the airplane people adopted it. Now the helicopter has followed along in the same pattern, with the same degree of performance, reliability and dependability. I think it was more a symbol of accepting the state of the art than acceptance from the initial benefits derived. You must remember that the first turbine-powered helicopter didn't enjoy any significantly higher TBO's (time between overhauls) than the piston machines. True, the first turbine helicopters were smoother from the standpoint of engine vibration. But in the helicopter the primary vibration problems are from the rotor systems and not the power plant, whereas with the airplane, the first time you and I flew in a pure jet it was absolutely breathtaking—spectacular in the difference in vibration. But the first time we flew in a turbine helicopter, we felt improvement but nowhere near the same magnitude as with the fixed-wing airplane.

PERFORMANCE AND RELIABILITY IMPROVEMENTS

FLIGHT OPS. What has been the magnitude in Improvement of performance, i.e. speed, and in reliability, TBOs, comfort and safety?

JOE MASHMAN. Over the past 15 years we've seen a magnitude of speed improvement in the same size helicopter of some 50 percent. For the past 25 years the magnitude of improvement has been 100 percent. The other major improvements have been in areas where the helicopter has been accused of being lacking, namely in vibration, and in reliability—such as incidents of major components not being able to go their full TBO or inspection periods.

FLIGHT OPS. Hasn't there also been a corresponding rapid and visible improvement in safety?

JOE MASHMAN. Absolutely. I've had the privilege of sitting on the Helicopter Association of America's board and various committees. There have been tremendous changes in the operators' awareness and concentration on all matters pertaining to safe operations. To them safety is far more than just a matter of emotional impact. It's their number 1 priority. The manufacturers also have a tremendous awareness of safety—not only as a moral responsibility but also from an economic standpoint. They are incorporating changes and improvements in their machines far above the FAA requirements—structural changes, crash resistant fuel systems, etc.

FLIGHT OPS. How do helicopter safety statistics compare with fixed-wing records? In other words, do they similarly show improvement with greater utilization?

JOE MASHMAN. Yes. In preparing for a recent briefing of oil company officials at our Bell plant, we dug into these statistics using all the sources—FAA, NTSB, HAA and our own records. We plotted the curve of accidents per 100,000 hours of helicopter operations versus general aviation fixed-wing for the period 1970–1975 with projections for 1976. The trend is excellent. Many commercial operators are flying out in the boondocks and remote areas where the incident of accidents is always higher due to terrain, flying into wires, hazardous fire fighting and emergency missions, sort of comparable to some types of ag aviation. Even with these, we found our statistics quite comparable to general aviation's. With complete familiarity with our own accidents we plotted the accident curve for Bell products, including those old machines—some with 30 years of flying, some surplus, many underpowered, some being flown by the least experienced people. Even including these, our accident rate per 100,000 hours is slightly better than that of U.S. general aviation.

FLIGHT OPS. Are we correct in assuming from what you have said that helicopters operating from established heliports have a much better safety record than those in the boonies?

JOE MASHMAN. Definitely. Remember that the National Business Aircraft Association gave safety awards in Denver to Mack Truck and North American for their helicopter operations. Both companies can attribute their fine records to the fact that they operate from known landing areas designated as heliports and, of course, to their serious professional attitude toward their aviation activities. When you establish a heliport you determine what the obstacles are, what the clear approach ratio is, what the dimensions are—all this is defined and documented. So to me a heliport is synonymous with all corporate-type operations in which there's no compromise with safety.

MORE HELIPORTS NEEDED

FLIGHT OPS. Has the industry gone all-out on getting heliports established where they should be? Through the years it looks as though the industry has blown hot and cold and not too effectively.

JOE MASHMAN. Well, we haven't really had an all-industry, concerted, hard effort in this regard. We haven't been effective in acquainting the public with the very practical benefits of heliports to the community or in achieving a receptive community attitude. Heliports are in the permissive-use category. You have to get permission to fly in and out. Most people in the decision-making end have little or no knowledge or interest and simply have to be convinced the project will benefit the community. There's the noise problem but, given a little more time, the industry will solve this problem. In fact, they are solving it now. Our new Model 222, the 8-10-place twin, is as quiet as our smaller 5-place turbine machine because we knew in design stage noise was becoming a problem and accelerated work on it. Our new knowledge in rotor blade aerodynamics is getting the noise down. Jumping out and trying to establish a lot of public heliports is tough because they involve lots more real estate and zoning than a private one which is company owned and can be a rooftop or a parking lot already in existence. But the industry should pool its information, set some goals, establish a pattern and formula with which the entire industry can go forward in a realistic national campaign for heliports. We're not talking about spending a lot of dough, either.

FLIGHT OPS. In what other areas of mutual concern should the helicopter family seek or practice mutual involvement?

JOE MASHMAN. Well, about a year ago we gathered up all of our senior engineers and spent a day with Braniff Airways' top maintenance people to learn what they are doing on their own to establish a condition monitoring concept used on their entire fleet of aircraft. Here is an area where both the helicopter manufacturers and the operators can work together. The precedent dates back to the 60's, when the airlines through their Air Transport Association got tired of waiting for the manufacturers to take certain initiatives for monitoring equipment.

They said: "We find most of our problems, damage to equipment, potential accidents and failures during inspections. When you tell us to take something apart and inspect it, the possibility of it being damaged or being put together incorrectly is a very significant factor in impairing the reliability of our equipment. So what can we do, insofar as establishing a trend of logic or diagnostics, so that, without tearing things apart, we can check trends and determine when something is trying to go sick, or long before it is sick enough to fail or to require replacement? At least we know it is deteriorating and can send it to the hospital for corrective action."

The airlines figured this out, established their monitoring procedures and the FAA came along with an advisory circular that made that type of approach legal. The manufacturers were quick to catch on. A good example was when Lockheed's L1011 came out with the brand-new Rolls Royce engines and a brand-new airframe. A program of diagnostic maintenance based upon the aircraft's operational environment was set up by the manufacturer and whenever the operator would assume the responsibility of monitoring the systems in accordance with these recommendations, he was permitted to have flexible and cleared-out inspections that resulted in very rapid extension of TBOs.

We learned on the Braniff visit that their monitoring did not involve any exotic diagnostic systems. Very simple—just take regular pressure or temperature instrument readings and the pilot log of every flight records the info, thence on the teletype back to the maintenance base where it is plotted. So, whenever there's a trend of pressure or temperature deterioration, it shows up like a sore thumb. The helicopter industry has not caught up yet with this simple, fundamental approach established by the airlines. We must, if only from safety and economy standpoints—economy because unscheduled maintenance costs in helicopters are not going to come down and it's damned expensive for every hour a helicopter is sitting on the ground waiting for a parts replacement.

Operators will have to assume a greater responsibility in monitoring changes and variations like the airlines, and in keeping records. Both operators and manufacturers will get a lot of return for such responsible action. Until now, when a manufacturer delivered a helicopter, the maintenance and operations manual said that after so many hours you have to take this or that equipment apart and look at it. This was sort of a tire-kicking operation. Likewise the manufacturer said that if a certain part had a fatigue-life limitation it must be thrown away after X number of hours, period—a system based upon a flight profile that takes care of the whole universe of operations. This was like building a toy for the average

kid. You first determine what an average kid is. Some are going to be average, some more careful with their toys than others and some will damn sure bust them up no matter how you build them.

FLIGHT OPS. Do you see any signs that the helicopter industry can adopt these maintenance monitoring responsibilities and that such technical info can be data banked for the benefit of all?

JOE MASHMAN. Emphatically yes. What's so encouraging is the high caliber of people getting into this business—the young ones coming along, perhaps from being pilots in Korea and Southeast Asia, who have become members of management. They are far smarter than our older generation, the so-called "pioneers." They are engineering oriented and technically qualified. Just as the aircraft manufacturers have become smarter, so have the operators in business today, and their personnel. Most of our recent progress is due to this top-quality personnel teamed up with better-engineered products they fly and work on. But sometimes we do not give them enough credit or degrees of responsibility according to their talents and abilities so that they maintain real incentive. We have done well recognizing our heroes. There is no greater achievement than risking your life for your fellow man, as happens so often in this business. Next in line is recognition for our helicopter mechanics, which has finally arrived by awards from the HAA and AHS, and this is all for the good.

CLOSE RELATIONS WITH OIL INDUSTRY

FLIGHT OPS. Getting back to the subject of expanding helicopter applications in the business/corporate sector, doesn't the petroleum industry represent one of your largest user groups, especially in offshore exploration and drilling operations?

JOE MASHMAN. Just as in utility aircraft, the oil companies were among the first to discover the unique and diversified capabilities of the helicopter. The energy crisis has certainly been a big factor in the market. My own company has done much in trying to improve communication between us and the corporate people. We recently briefed a group of oil company executives including Charlie Morris of Mobil, Don Baldwin of Texaco, Bob Grant of Exxon, Les Walker of California Standard and Tony Zuma of Tenneco. We got them together with our top management. It was Zuma's idea to have the briefing, to start from scratch and bring them right up to date as to where we have been and where we're going. This was top management talking to top management, telling how we go about designing helicopters, how we differ from fixed-wing and all the diverse environments we fly in. Also lots of technical talk with the chief engineer of our rotor blade group, our rotor hub group, the design group for transmissions and drive systems our service department, our quality control people and even production. We put everything on the table, discussed the accidents some of them had been involved in, explained how we corrected recurring failures, even showed them our long-range stuff. As a result of this briefing, the group planned similar sessions with Aerospatiale, Boeing Vertol, Sikorsky, Bolkow, etc. People talking to people is what we need more of in the helicopter business. There's been tremendous progress communicating with the corporate people, especially in the past 12 to 18 months.

FLIGHT OPS. As chairman of the HAA IFR committee, you no doubt have some observations on helicopter IFR operations, which are particularly evident in the offshore oil operations.

JOE MASHMAN. In our HAA IFR committee we had a typical mix of opinion wherein one segment wanted to talk mainly about IFR strictly from a weather flying standpoint. They certainly had a point, what with enough documented accidents that occurred in adverse weather like poor visibility, flying into obstacles like wires and sides of mountains. Then we had another group who wanted IFR primarily as a discipline regardless of weather. Their line of thought is this: We're definitely going from A to B with X many stops in between and it's going to take us so long to get there, require so much fuel, we'll fly at such and such altitudes and we're going to know where we are at all times. Flight planning and programming is the major thrust of this segment which, of course, is a far cry from that wonderful, carefree world of 30 years ago when we kicked the tire, fired up and flew off with little or no planning.

So we in HAA accept both of these approaches to helicopter IFR. Now the offshore operations in the Gulf of Mexico will be different from those along the Atlantic seacoast. Weather is a known quantity in the Gulf because of long years of operations where VFR has been so common and it is IFR mainly for night and emergency operations. They do not want any encroachment with such regulations as mandatory IFR regardless of weather. But in the Atlantic, weather there is considered even worse than in the North Sea, where it's completely IFR, no exceptions. It is my understanding that the North Sea operations are not as severe as the requirements will be on the Atlantic seacoast. There will be positive control off the U.S. East Coast, with VLF, weather radar, RNAV and VOR, while Arinc will be tied into the system with an HF grid providing a total communications network. We'll initially use higher minimums than they use in the North Sea. Some of the oil companies are planning the installation of MLS terminal approach systems aboard individual rigs. This, of course, reflects the urgent necessity of finding more oil and gas here at home no matter the cost.

Incidentally, the National Business Aircraft Association with its high professional standards can be a major factor in endorsement of IFR disciplines for helicopters. Also in 1977, we plan to get the engineers (American Helicopter Society) and the operators (Helicopter Association of America) to start meeting and talking together. This promises many valuable fallouts for both the operators and the manufacturers in future helicopter progress.

SENATE—*Friday, January 28, 1977*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, the strength of our lives from generation to generation, we thank Thee that according to Thy Word "The effectual fervent prayer of a righteous man availeth much." Kindle a new life of prayer in all of us, not only on a national day of prayer but every day of our lives. Lord, teach us to pray.

Grant to the President strength to lead, to the Congress wisdom to legislate, and to the people a sense of civic responsibility.

Rule over this body. Lead us from strength to strength in the power of Thy Spirit. Give us a part in the creation of an order of life akin to Thy kingdom on Earth; for thine is the kingdom, and the power, and the glory forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 28, 1977.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, January 26, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Commerce have the privilege of the floor during the debate on S. 474: Malcolm Sterrett, John Kirtland, Steve McGregor, and Geoff Baker.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I yield back the remainder of my time.

ORDER FOR RECESS UNTIL 10 A.M., MONDAY, JANUARY 31, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., on Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

NOMINATION PLACED ON THE CALENDAR

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Charles William Duncan, Jr., of Texas, to be a Deputy Secretary of Defense.

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I wish to state that the distinguished Senator from Mississippi (Mr. STENNIS), who is Chairman of the Committee on Armed Services, has indicated that his committee took under consideration the expected nomination of Mr. Charles M. Duncan, Jr., of Texas, to be Deputy Secretary of Defense. The committee reported favorably thereon and recommended that the nomination, when received, be confirmed. The nomination has been received. I have discussed this with the distinguished Republican leader.

I ask unanimous consent that the nomination not be sent to the committee, under the circumstances aforementioned; that the nomination be placed on the Executive Calendar, and hopefully the Senate can proceed to its consideration on Monday next.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—I simply want to note for the RECORD that the majority leader has correctly stated our conversation.

I must only add that I have not yet been able to reach the ranking Republican member on the committee. I have no objection to the matter going to the calendar, but I will confer with Senator THURMOND before we plan to dispose of the matter.

The PRESIDING OFFICER. Without objection, as in executive session, it is so ordered.

EMERGENCY NATURAL GAS ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 474, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 474) to authorize the President of the United States to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting requirements for high priority uses; to provide authority for short-term emergency purchases of natural gas; and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, this morning I address myself to the matter before this body, S. 474, the Emergency Natural Gas Act of 1977.

It is my intention to support this legislation, and certainly to support any efforts which are directed toward alleviating the suffering that exists in this country today. But I cannot let this occasion go by without reviewing the background, in addition to reviewing the substance, of the legislation before us.

I have heard in the news media the comments made that President Carter has sent legislation to the Hill which is intended to alleviate the natural gas crisis. Let us make it very clear that this legislation does not alleviate the natural gas crisis. It redistributes the natural gas crisis. This legislation does not produce 1 more cubic foot of natural gas for this Nation. The legislation does not conserve 1 cubic foot of natural gas. And until the United States of America conserves and discovers more natural gas and oil, we will be in the grips of a continuing energy crisis.

The crisis is not due to any particular Arctic air mass or cold weather. The crisis is due to the failure of the American people and their elected officials to discipline themselves. That is the basis for the predicament in which we find ourselves today.

It has been known for years that we were producing less natural gas and we were not going out there and discovering new sources. It has been known for years that the type of situation in which we find ourselves today was bound to happen. Indeed, officials of the Federal Energy Administration, with whom I met yesterday, flatly predict that, in the absence of any conservation and any new supply, the crisis will be worse next year.

I think the time has come for Congress to square with the American people, and I mean square, because yesterday's political hot air is the reason there is no heat in America's homes today.

There is no way we can talk our way out of this crisis. We will get out of it when we use less and discover more and not until.

The bill before us today, S. 474, is another painkiller. It is not a cure; it is a painkiller.

For the last several years that I have been in Congress, I have seen philosophical principles upheld but no realistic programs accomplished in the area of energy.

The Republicans do not want mandatory conservation. They want either voluntarism or a rationing-by-price system that drops the burden on all the poor people of this country.

It seems to me that each one of us was brought up in the belief that the better off you are, the more of a burden for any solution you take on your shoulders. But that is not the way it works in the area of gasoline or natural gas costs. This country is allowing the impact of the energy pricing system to fall hardest on the weakest, the smallest Americans, who bear the greatest burdens.

Voluntarism clearly does not work and a rationing-by-price system is clearly unfair.

Yes, I believe in mandatory conservation, both as far as natural gas is concerned and as far as gasoline is concerned. If that is going to inconvenience or change the lifestyle of all Americans, so be it, because right now their lifestyle is being changed in a rather painful, unwilling way. Far better that we anticipate the continuing crisis, and plan and implement a strong energy program, in a disciplined and realistic way, than be subject to the sudden misfortune we now suffer.

The Democrats do not want to decontrol. That is opposed to their philosophy.

So we do not have decontrol and so the capital is not there to discover more natural gas or oil.

So the Democrats can be philosophically true to themselves by opposing decontrol and so the Republicans can be philosophically true to themselves by opposing mandatory conservation. And so, we conserve nothing, we use everything, and what little is left is at high prices.

Let us state it simply and directly to the people of this country: the unpleasant truth is that they are going to have to change their lifestyle. The unpleasant truth is that they are going to have to pay more than they did 10 years ago for energy. Had those truths been explained to the American people 5 years ago, there would be no crisis today—none.

I understand the politics of the situation, and that is why I think it is a good time for this administration to get that hard truth on the table.

Mr. Carter is not up for reelection for 4 years. We in this Chamber are not naive. We all understand that, if you have some unpleasant duty to perform, you are better off doing it at the beginning of your term than at the end.

So believe me, if this administration does not act now, it is a lot less likely they are going to act realistically 2 years from now, a lot less likely they will act 3 years from now, and we know they will not act 4 years from now with the voting booth staring them in the face. So this is the time to act if they are going to act at all.

But the interesting thing is I do not feel there is a political penalty to be paid by telling the American people the truth, because my own campaign in Connecticut was waged on exactly what I have told

Senators here. I turned to the people of my State and said:

I am for mandatory conservation; I am for decontrol.

And I ended up as the highest vote-getter in the history of the State of Connecticut.

What I am saying to Senators is that I think the American people are far ahead of their "leaders." They understand the very simple formula of the law of supply and demand. But apparently some of our colleagues do not, and they would prefer to give the American people the impression that we can control this price and have more supply than ever before and at the same price or at a lower price. Bananas!

It is not going to happen. Indeed, we are now swept along in a tide of low supplies and the most exhorbitant of prices. The American people do not need any babying on energy. What they need are solutions that will enhance, rather than devastate the future.

I picked up my newspaper this morning, and I saw where Sheikh Yamani declares he is going to get together with the dissidents in the OPEC group and possibly end the two-tier pricing system. You know what that means. They have got their old monopoly together again.

What has happened to put us in such a position that, when the Arabs met in the Qatar on September 15, we had to rely on Sheikh Yamani to pull this Nation through that particular crisis, the crisis of a potential 15 to 20 percent increase in oil prices? Why have we not done what is necessary so that nobody could impose such a price increase on us? Why do we have to rely on the good offices of some individual or some foreign nation?

We have to rely on them because we are not willing to go ahead and do what is necessary ourselves. It is as simple as that.

The statement which I gave earlier as to the crisis next year, let it be proclaimed on the record so that no one ducks the responsibility. That prediction comes directly from the Federal Energy Administration; that in the absence of some conservation or some discovery, next year will be worse than what we are experiencing today.

Now to my Democratic friends let me say this: You do not have a Republican President to use as an excuse for the lack of an energy policy. I think my colleagues are well aware that last year, the year before that, and the year before that, I took to task both Congress and the President. I did not think either one had addressed the problem in a hard-nosed fashion, and each of them was blaming the other for our failure to arrive at an energy policy. That is no more; the Democrats are in the White House and control the Congress. So the principle of accountability can now come to the fore. If there is no energy policy, if there are shortages next year, and if the prices go up next year, the American people know exactly where to focus the blame.

There will be no attempt on the part of this Senator to delay this legislation. Yes, I am going to fight against the lollipop you are trying to stick in the American people's mouth. I am going to try to get the truth on the table. I just pray that on both sides of the aisle there are those who are going to come to their senses, and understand that yesterday's political demagoguery is now exacting a fearful toll in lives, in unemployment, and in the economy. This is no longer some academic measure which we can debate ad infinitum, as we have for the last 4 or 5 years. The crisis is real, it is now, and it hurts.

There is no way the United States of America can make an economic recovery unless we address the energy crisis. I know in my State of Connecticut after the last Arab embargo everyone was so relieved when there were no longer any lines at the gas pumps. They said, "It's over; now maybe we can get back to normal."

I made the observation then, "The gas lines have gone, but the unemployment lines have just begun to form." And they have been forming ever since, to the tune. now, of about 9 percent unemployment, and they are still forming in this Nation. Our weakened economic condition is largely due to that artificial rise in prices and our inability to counter it by producing more of our own or using less. We are unable to turn to the OPEC nations and say, "We don't need your product and are not going to pay your artificial price."

We are hooked.

Gentlemen, the time has come to an end when we can just continue moving these pieces around the board. The board has got to get bigger. Shifting them around, as I say, is a redistribution of the crisis, a redistribution of the suffering.

When is it there is going to be conservation? When is it there are going to be new discoveries? Until that occurs, nothing has been accomplished.

So to the sponsors of this legislation, to the administration, I say, "Yes, I will vote for this measure, but I want the American people to understand what it adds up to. It adds up to a great big zero. It adds up to next year being worse than this year, because every time we act, there is that little remnant of credibility in the American people that, 'Well, Congress have acted; they do not just pass nothing down there, and now we can all go back and do our thing; I guess it was not so bad after all.' "

I will let you in on a secret: Congress and the President can do nothing. We are doing that here, right now. So let the legislation pass, and let no one have the stigma of delay slapped on them. However, let us understand clearly how we have misled the American people to their own disaster. To use the other words of John Donne, when it comes to energy, because it certainly applies to the United States of America: "I am mine own executioner."

Mr. President, I yield the floor.

Mr. SCHMITT. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Connecticut. He laid it on the line, and that is where it is going to have to be laid. The fact that we are standing here, and for the next several days of this Congress are going to be considering an Emergency Natural Gas Act of 1977, is the most severe indictment this Congress could receive.

Congress has been wrong. We know we have been wrong. We have exerted no leadership whatsoever for the country to develop a national energy policy, or even a natural gas policy. We started making our mistakes 25 years ago, when the price of natural gas was regulated at artificially low levels: An international commodity at artificially low levels, so then what happened? The people of this country started to use natural gas, because it was cheaper than anything else. The power companies started to use natural gas because it was cheaper than anything else. Business started to use natural gas because it was cheaper than anything else.

But what happened? We quit looking for it. The record is perfectly clear. There has been less and less exploration for that precious natural chemical called natural gas, and that will continue until this country realizes that if we are going to operate a free enterprise system—and I certainly hope to God we are going to operate a free enterprise system—there has to be a price incentive to look for this very precious thing called natural gas.

What happened? The rate of consumption went up; the rate of exploration and discovery went down; eventually production started to drop; and then, when we had an artificial crisis 3 years ago that suddenly made our problem obvious, we did nothing.

We stood in line for a while. There was a lot of rhetoric, and there has been even more since, but we did nothing except tell the people, through hearings here in these halls and in these buildings, that it was the fault of business. It was the fault of this group or that group. It was the Arabs' fault. It was the fault of people in this great city of Washington who did not exert leadership when it was necessary to do so.

What I am very much concerned about in this bill, and I am sure that I, along with the distinguished Senator from Connecticut, will vote for the Emergency Natural Gas Act of 1977, is that by doing nothing we have put ourselves into a position of giving extraordinary authority to the President of the United States, establishing precedence for that authority and the exercise of the same with some very fundamental, unanswered questions about the contracts that exist in this country and whether they can be voided. I do not have an answer to that. I do not know that anybody does right now.

But that is the danger of doing nothing until a crisis is upon you. Then suddenly you have to take extraordinary action. The precedents of those actions are ex-

tremely dangerous to the future of this country.

We must have an energy policy. If we do nothing but pass this bill and do not use it as a catalyst for doing other things in the development of a national energy policy that is specific enough to provide some general direction into the next century but general enough to allow the imagination and the initiative of the American people to hold sway, then I hope in 1978 every one of us who is up for reelection is not reelected.

We must realize that it is not only a specific supply problem that we face; it is a supply problem that changes with time. In the short term we must have more natural gas and more oil because that is what powers our technological society in this part of the 20th century. The paradox is that even though we must have more and more domestically available supply of these two major commodities, as rapidly as possible we have to get away from using them. They are much too precious to burn as energy. Future generations will need them for much more fundamental needs of their society than just producing heat, electricity, or gasoline.

We must learn as rapidly as possible to burn in environmentally acceptable ways that basic fundamental resource that this country has which will last it for many, many decades—in fact, probably hundreds of years—the resource of coal.

I do not want to use coal any longer than we actually have to. As a matter of fact, I think if we did everything right, which is unlikely, we would not have to use coal in great quantities for more than about 50 years. It is also a unique natural chemical that will have tremendous unimagined value to future generations. But we must learn to use it.

That was another consequence of the natural gas decision to regulate the price of natural gas at artificially low levels. We destroyed the coal industry. Coal could not compete in price and so it ceased to be used. The railroads did not have to move it any more so the railroads cannot transport it now when we need it.

The underground mining technology for coal is 25 years behind where it should be. What are we doing to accelerate it? Almost nothing.

It is going to be tough. We are going to have to understand where, how, and in what environmentally safe ways we can use nuclear fission power. I believe it is fairly broad sentiment in this country that if we can possibly find ways to get back on a national scale without the use of that fission power for a long period in this Nation's history and the history of the world we will be better off doing it. But we do not know the answer yet. We do not know the mix between coal and nuclear power, but we have to learn that. It has to be part of our national policy.

Finally, we have to look to future generations in the next century when they will want to use our natural gas, our oil, and our coal for chemical purposes, and find a time in that century when there is clearly a balance between the use of energy, and its creation.

We can see the light at the end of that tunnel. That light is the use of that great fusion reactor in the sky called the Sun which provides the solar energy to the Earth. We will use it not only for general sustenance of our energy needs and our foods needs, but also for the production of those peak power pulses that we need.

We have to look to theoretical physics for some more light at the end of that tunnel. Nuclear fusion power may be the answer, but we do not know that yet. We have to go out and find out about it. Partly it looks good because it is way out there in the future. But there are problems with nuclear fusion power that we do not yet understand. We should understand them very fast. As we approach the middle of the next century we should have those answers. We should not only have the answers but have started to work to implement them.

If there is one fundamental problem that we have as a Republic, and which we must learn to deal with, it is that we are prone to crisis management. That is one of the luxuries of a Republic, of a representative democracy, that we can put things off. Sometimes that is good. Sometimes it is better to put things off and not act. But it certainly is not good in the case of energy.

I do not know how much time we have. I do not think we have very much, but I do think we have a few years. But we only have a few years to survive this crisis—and it is a crisis—of national security as much as anything else. We do have the time, if we will just go to work in these Halls and do something other than consider an Emergency Natural Gas Act of 1977.

The questions of national security, and the implications of the natural gas shortage and other energy shortages on our national security, have to be made clear to the people of this country. If there is an embargo for any reason—another war in the Middle East or any other reason we want to imagine—within a few weeks this country is going to be in extremely serious economic trouble.

We think we have economic problems now. What is going to happen if there is another embargo will make the present look like child's play.

We are under a threat of economic attack as serious to the future of this country as anything we imagined might happen after World War II, relative to nuclear attack.

We established an education system that we call civil defense. We took some actions. For the most part, for about a decade, most of us knew what to do if there happened to be a nuclear attack. But we do not know what to do if there happens to be an economic attack based on an interruption of supply of petroleum to this country from abroad. We better learn very fast. If we do not, as the distinguished Senator from Connecticut said, we will have to pay the price.

Mr. President, I believe there are some serious deficiencies in this bill. I am sure that over the next 2 or 3 days of debate and through amendment we will do the best we can to give the President the authority he needs because of the inaction of the Congress over the last many years.

I again hope that in the improvement of this bill and its eventual passage we do not say, "That is enough." It is not. It is not even a start.

I am sure all of us on this side of the aisle, and I hope my colleagues on the other side of the aisle, will work in as nonpartisan a way as possible, putting politics behind us, to lead this country towards a national energy policy so that we can go to work on other problems on which we must work.

But if we turn our backs on this opportunity to have a discourse with the American people about energy and convince them that there is a crisis, then in 1978, 1980, and 1982 I hope they will elect a whole new group of people to the Congress.

Thank you very much, Mr. President.

The ACTING PRESIDENT pro tempore. The senior Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I associate myself with the remarks of the junior Senator from New Mexico and with those of my good friend from Connecticut. Before I speak, I noticed that the Senator from Illinois was seeking recognition. Would the Senator from Illinois like a few moments? I want to speak for about 10 minutes, but if the Senator needs some time——

Mr. STEVENSON. No, Mr. President.

Mr. DOMENICI. I ask unanimous consent that Steve Bell and Darla West, of my staff, be granted the privilege of the floor for the remainder of the debate on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President. I have an editorial commentary from Barron's magazine which recaps, I think, in a most dramatic manner the history over the last few years of our failures in this regard. I ask unanimous consent, before I begin my remarks, that it be printed in the RECORD at this point.

There being no objection, the commentary was ordered to be printed in the RECORD, as follows:

NATURAL GAS DISASTER: YOU COULD HAVE SEEN IT COMING TWENTY YEARS AGO

Some disasters strike suddenly and murderously: the flood which roared down the Conemaugh Valley to engulf Johnstown, Pa., or the millions of tons of rain-soaked coal waste which once collapsed upon the small Welsh mining town of Aberfan. Others take longer—sometimes as long as a decade or two—to sink in. By last week, however, thanks to the coldest winter on record, the disaster otherwise known as U.S. energy policy had hit home to nearly all. Throughout the East, Midwest and South, the worsening shortage of natural gas compelled plants in one industry after another—building materials, cars and trucks, glass, steel, textiles—to curtain operations or shut down, throwing tens of thousands, temporarily at least, out of work. In an effort to cope with the scarcity of natural gas, through allocation and a kind of rough rationing, several

states, including Minnesota, New Jersey, New York and Pennsylvania, declared a state of emergency. Amid threats of further cutbacks in supplies of the precious fuel, there was reveille in Washington; specifically, James R. Schlesinger, newly designated energy chief, hurriedly scheduled meetings in the nation's capital with a clutch of pipeline bigwigs.

In one of the first official moves of the new Administration, late on Friday the White House announced that it had directed Schlesinger to work out ways and means of sharing the scarcity; it also urged its fellow Americans to turn down their thermostats. All of which strikes us as more of the same old political hot air. In any case, nobody—least of all the Democrats, who have been in control of Congress since the mid-Fifties—should have been surprised by the outbreak of crisis. After all, for years (in our own case, for decades) observers perennially warned that federal regulation of natural gas at the wellhead, notably via EPC ceiling prices, which discouraged production and spurred consumption, sooner or later would lead to disaster.

In early 1955, Barron's ran an editorial headlined "Burning Issue—Gas Producers Should Be Freed from U.S. Control." Since then, in one piece after another ("Natural Gas Fiasco—Federal Price-Fixing Is Finally Producing a Shortage," Oct. 13, 1969; "Man-Made Shortage—Natural Gas Has Fallen Victim to Price Controls," Oct. 18, 1971; "Frozen Assets—The FPC Is Perpetuating the Shortage of Natural Gas," July 17, 1972; "Over a Barrel—The U.S. Is Increasingly Vulnerable to Crude Blackmail," May 3, 1976) we sought to sound the alarm. In the light of last week's events, not to mention the ominous shape of things to come, what we said before strikes us as timelier than ever. Herewith some excerpts from previous editorials.

Barron's, May 3, 1976: So the feckless drift to the next emergency persists; unchecked, things relentlessly go from bad to worse. Last year (1975), domestic production of crude oil and natural gas declined by over 4% and nearly 7%, respectively, a drop which since Jan. 1 has continued. After flattening out in 1974–75, contrariwise, energy consumption has resumed its long-term advance: during the first 15 weeks of 1976, output of electricity rose by more than 5% over the comparable year-ago span, and, with business recovery gaining strength, there's nowhere to go but up. Small wonder that U.S. dependence on OPEC has spurted from 25% to 40% of total foreign shipments, or that in a recent week, imports of crude oil and refined products, for the first time in U.S. history, exceeded domestic production. "The lights are going out," a statesman once said, "all over the world." If they ever go out here, we'll know who helped flip the switch.

Barron's July 17, 1972: Lack of urgency in official circles should occasion scant surprise. For one thing, it tends to be standard operating procedure among bureaucrats ("when in doubt," runs a reliable guideline, "mumble"). Moreover, during the past two winters, either of which, if severe, could have precipitated a disaster, the weatherman by a great stroke of luck has been on their side. Hence the powers-that-be have moved to meet the growing emergency with what can best be called deliberate speed. . . .

Back in 1969, the FPC's own staff issued a report warning that on a nationwide basis, the ratio of natural gas reserves to production, which then stood at 14.6 (less than a 15-year supply, or roughly two-thirds what it was in the mid-Fifties, when the Supreme Court ordered the agency to regulate natural gas prices), would decline to 10.2 by the end of 1973. If anything, the R/P ratio has fallen faster, to an estimated 10.9 by the end of 1971. Numbers aside, tangible effects of the scarcity have grown by leaps and bounds. In the spring of 1970, Peoples Gas Co. of Chicago began to turn down new large volume industrial and commercial customers; shortly afterward it placed restrictions on new attachments of all kinds (Peoples' waiting list now totals the equivalent of 315,000 average-size six-room dwellings). In 1971, in a move which both pipelines and distributors unsuccessfully fought right up to the highest court in the land, the FPC took upon itself the power to allocate the available supply. During the 1971–72 heating season, according to Chairman Nassikas, 27 interstate pipelines filed curtailment plans with the commission and seven actually cut service. This winter the latter's ranks will grow to 10 or 12.

Barron's, Oct. 13, 1969: El Paso Natural Gas Co. last week made quite a splash on the financial page. The company announced that it has signed with Sonatrach, Algeria's state-owned petroleum monopoly, "definitive agreements for the laregst liquefied natural gas (LNG) project in history," one which involves capital outlays of nearly $1 billion and is designed, starting in the fall of 1973 and extending nearly to the end of the century, to deliver one billion cubic feet of fuel per day to East Coast ports. . . .

Profitable or otherwise, the huge transaction, which last week's announcement said was "designed to ease U.S. gas supply problems," has disturbing significance for the whole country. For it plainly indicates that domestic reserves of the useful and versatile fuel, once deemed inexhaustible, are not keeping pace with future needs, an alarming state of affairs which the Federal Power Commission belatedly has come to recognize. Just a fortnight ago, the FPC, which regulates interstate distribution of natural gas from wellhead to burner tip, released a staff report on supply and demand, warning that within the next five years—sooner in some areas—a critical nationwide shortage will flare. What the agency failed to point out is that its own regulatory policies, by deliberately (if not with malice aforethought) imposing an artificial lid on prices, have been largely to blame. Price control will always have its blind worshipers (hi there, Professor Galbraith). Only the free market, however, can keep the home fires burning.

For the past 15 years, to be sure, the regulatory bodies have been singing a different tune. In 1954, the U.S. Supreme Court, in a singularly ill-advised decision, thrust on the Federal Power Commission authority to regulate not only transmission and distribution companies but also producers of natural gas. Since then, despite protracted litigation, the FPC has gradually extended its sway. The agency has decreed, beyond further legal appeal, area prices of approximately 15.5 cents per thousand cubic feet of gas for the Permian Basin. (Ceiling prices for all other major areas are still in dispute.) The ceiling for Southern Louisiana was finally set by the FPC at nearly five cents per mcf., or 20% below the provisional guideline posted eight years earlier.

Such policies have naturally warmed the hearts of users. However, producers, discouraged by lack of incentive, have sharply curtailed their efforts. Completion of U.S. exploratory gas and condensate wells declined from 909 in 1959 to 429 in 1968. In the latter year, for the first time in history, net production exceeded additions to reserves. The reserves-to-production (or R/P) ratio today stands at only 14.6, or considerably less than a 15-year supply, barely two thirds of what it was when the FPC acquired jurisdiction. Some pipelines are unable to contract for future needs; hence, expansion programs are in jeopardy. . . .

"Economists," so Dr. Milton Friedman has said, "may not know much. But we do know one thing very well; how to produce shortages and surpluses. Do you want to produce a shortage of any product? Simply have government fix and enforce a legal maximum price on the product which is less than the price that otherwise would prevail . . . ." He should be teaching at Harvard.

Barron's, Feb. 21, 1955: Since last summer, owing to an unfortunate Supreme Court decision, gas producers which sell to interstate pipelines have been subject to the rule of the Federal Power Commission. This sweeping extension of FPC authority has, among other things, tended to hinder the industry's plans for expansion, disrupt long-standing contractual arrangements, and raise the threat of ultimate government control over other hydrocarbons, notably oil. In the end it undoubtedly will do more harm than good to gas consumers as well.

The flare-up in natural gas was touched off last June by the so-called Phillips Decision. In that ruling (which, by the way, revealed a sharp cleavage of opinion on the bench) the high tribunal held that the Natural Gas Act of 1938, drawn up primarily to govern the operations of interstate pipelines, applied with equal force to "independent" producers of gas. i.e., those who neither own a pipeline nor are affiliated with one. As a consequence, several thousand independents, including many of the leading oil companies which produce both gas and oil in large quantities, overnight have found themselves in the position of regulated public utilities. Like the latter, they have had to register with the Federal Power Commission in Washington, and file copies of their rate schedules, as embodied in innumerable gas sales contracts, for the agency to pass on.

The Phillips case, then, has unleashed an avalanche of paper work on government and industry alike. But it has also had other, more far-reaching consequences, stemming in large measure from the peculiar nature of the natural gas busines. As has been observed before, this is an odd mixture of regulation and the most untrammeled private enterprise. At the burner tip the fuel is a tame commodity, sold like electricity at fixed rates. In the sun-baked plains of Texas, however, and elsewhere in the great Southwest, natural gas is an elusive prize that men cannot easily come by. To view these wholly diverse activities as one and the same may have a narrow legal justification, but it clearly makes little sense from an economic point of view.

Such a combination can be explosive, and it has proved so in the case of natural gas. It has, in fact, touched off a chain reaction from one end of the industry to the other Several major producers have brought suit against the U.S. Government, claiming that they are being deprived of their property without due process of law. Others, still more direct, have withdrawn, temporarily at least, from the interstate market. Their growing reluctance to sell to pipelines already has curtailed the expansion plans of some. Several other projected gas transmission systems, including one huge loop that would have snaked its way as far as New York, have been abandoned altogether, and the gas that would have been pumped into them has been sold to local users or left in the ground.

Anxiety of producers, to avoid Federal regulation, moreover, has been allayed not a whit by the few tentative moves made thus far by the Federal Power Commission. FPC has been acting in a curiously ambivalent fashion of late. On the one hand, its officials in their public utterances invariably have been sweetly reasonable and almost apologetic about its new powers. Nonetheless, the agency has moved to implement them with

what one oil man decribed as "almost obscene alacrity"; it has interpreted its authority in a sweeping rather than a limited fashion; and most recently, it has launched an attack on the industry's traditional pricing policies.

Only Capitol Hill can undo the damage wrought by the Supreme Court, and its intent in the matter is still uncertain. True, Southern lawmakers have introduced various bills to exempt the independents from the Natural Gas Act. But they did so reluctantly, and only after waiting in vain for a clue from the Administration. Neither party, it seems, recalling perhaps how similar legislation a few years ago was condemned as a grab, if not a giveaway, is notably eager to push for passage. Both seem to dread making a move that might be used against them in some future campaign. And yet it is perfectly plain that the true interests of everybody can best be served by freeing the industry from its Federal shackles. The price of natural gas, like that of any other commodity, should be set not by government decree, but by a meeting of minds between producer and consumer. This may be novel doctrine in certain circles, but it is something the average American citizen, rumor to the contrary notwithstanding, is likely to understand and to applaud.—ROBERT M. BLEIBERG.

Mr. DOMENICI. Mr. President, I am sure we are going to pass this emergency bill and I am sure that there will be a few changes. But, basically, the emotions of our time and a real need are going to cause both sides of the aisle to cooperate. I have been here in this body for 4 years. I do not have nearly the wealth of knowledge on geology and minerals that my distinguished colleague (Mr. SCHMITT) has. I hope this institution avails itself of his expertise. Some of us know already that his expertise is in the field of geology.

One thing amazes me about this institution and our entire response to the energy crisis. We have rocked along for years with all kinds of warnings about America's vulnerability to foreign energy, the vulnerability that we created by the fictitious regulation and absolutely incredible misuse of natural gas within the United States. No one did a thing until the embargo. Then the embargo, coming from the outside, just shook Americans right to their very core. As has already been said here, as soon as it was lifted, everyone had this big thrill. Euphoria set in, and the crisis is over.

But, then, what did we do about it? Mr. President, I plead with Members of the Senate to change one particular aspect of our reaction since the embargo. We have spent literally months and untold hearings trying to find a scapegoat for the energy crisis. We parade in the oil companies and have them swear and let the American people feel they are the problem. Well, let me say, right here and right now, if we had a way of getting rid of the American big oil companies over this weekend and somebody wanted to get rid of them, we would have the energy crisis on Monday, I will tell you for sure.

Then we build a new regulatory agency and we put somebody in there to run it and, instead of cooperating with them, the crisis gets worse and it is their fault. One after another, we have bothered ourselves with fooling both the American people and ourselves by trying to find scapegoats from within and without to blame this crisis on.

I am not going to spend any time trying to go back into the skeletons of history to find scapegoats, not even the last 4 years. Suffice it to say that there is enough blame to go around for everyone. There is enough blame to go around in Presidents past, in Congressmen and Senators past, in oil companies and natural gas companies past; and, yes, in those who promote gas-guzzling automobiles in the past and continue today, and on, ad finitum.

But it is over with. We do not need to blame anyone. Those of us from producing States are not terribly pleased with this bill. The State of New Mexico, the fourth largest producing State in the Nation, is concerned, because everyone assumes that they have no problems. We want to go there and tap this infinite source of natural gas and ship it around this country to solve problems. Well, Mr. President, we have been shipping it around at fictitiously low prices and caused all kinds of economic abberrations in this country, and we have them in our own State, where we produce it. We are on allocation, like others. We are suffering enormous price increases, as others. So no one needs to think that this is a battle between producers and nonproducers. We have our particular problems and they have theirs. We ought to forget about them and get on with an energy program.

I concur wholeheartedly that the time is past to dig up the skeletons. The time is ahead of us to make some decisions. I have spoken of scapegoatism, which I call it, and I will talk about one other quality that is rampant in this institution and in government. That is to equate the delays with decisions.

We somehow have grown here to think that if we do not say yes or no, we have made a decision.

This country has to make some decisions, yes or no, on coal; yes or no on synthetic fuels; yes or no on which way we are going in the field of nuclear energy; yes or no, as Senator SCHMITT has said, on research and development, goal-oriented, where we know what we are looking for and what we are going to do.

Two things, I hope, come out of this—perhaps three, Mr. President: That we either do our best with this bill to create as much equity in a deplorable situation as possible; that we keep the acrimony down; and that we convince the American people that this is the beginning of a solution and that, unless we move ahead, there will be crisis after crisis and no emergency gas bill is going to solve them, just as this one will not solve it.

Once we have done that, I hope we will move ahead together to begin to be realistic, stop blaming and scapegoating it, and make some decisions for America and for its people.

I want to say one particular thing about the last remarks of my colleague from New Mexico. It seems to me that we have totally failed to explain to the American people the significance of America being dependent upon foreign sources of crude oil other than that we are worried about our economy. And we all are. Mr. President, the world's greatest democracy, the only bastion of freedom left in the world, the United States of America, is literally at the mercy of foreign powers in an enormously dangerous way. We could not survive a year without foreign oil to grease America's military might, its economic needs, its people needs. We can think about that all we want, but we could not do it. And that is danger. That is danger from without, and American Senators are remiss in the most basic of their commitments as Senators if we do not move ahead in an effort to solve that.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. STEVENSON. I yield to the Senator from Wyoming.

Mr. HANSEN. I thank my distinguished colleague from Illinois.

Mr. President, I ask unanimous consent that Ted Orf of the Interior staff be granted privilege of the floor during the debate and any votes on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is to ordered.

Mr. HANSEN. I thank my friend from Illinois.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Illinois.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the following members of my staff and the Commerce Committee staff be granted privilege of the floor during consideration of this bill: Les Goldman, Ed Merlis, Hank Lippek, Rip Forbes, and Richard Grundy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, it might be in order to say a few words now about the situation that brings the Senate to consideration of this legislation and about the legislation itself.

Natural gas storage is depleted to a level that is not ordinarily reached until mid-March. Several major interstate pipelines have almost completely depleted their storage facilities. Already about 400,000 people have lost their jobs as a result of natural gas curtailments. If the cold weather continues, hundreds of thousands more will be laid off. It is possible that the figure will reach 750,000 next week.

Thousands of schools are being closed. Homes may begin to go cold this weekend. They are in danger of being cut off from natural gas in Pittsburgh and Indianapolis.

There is little, as others have already indicated, that the Government can do at this late hour. Long ago it should have acted to strike a balance between the requirements of producers and consumers, establishing well-head gas prices at levels that encouraged both the production of natural gas and its conservation.

That was not to be because each side insisted on its own way. The impasse in the debate over natural gas pricing has gone on for some 20 years. The debate has generated more heat than light and already, Mr. President, the Chamber this morning has been warmed.

I hope that this time the debate will not center on who was right and who was wrong, who is to be blamed, or I told you so, but on what needs to be done.

In the past, it has been difficult to strike that balance between the legitimate requirements of the producers and the necessities, on the other hand, of our economy, you fell between the two.

Perhaps now in a spirit of cooperation and with a larger attention to the realities which we face, it will be possible for each side to give a little and to strike that balance.

If any good comes of this tragedy, it will be an awakening to the reality of the energy crisis. It will be action on a comprehensive long-term energy policy, including one of the most difficult parts, long-term pricing for natural gas.

For the moment, there is little that can be done except by the public, and I urge my colleagues to emphasize in this debate and in their constituencies that only the public can really help itself. They can do that by conserving all forms of energy.

Only lowered thermostats, sweaters, the conservation measures that are within the reach of every one of us in the country, can significantly increase energy supplies in time to provide relief for people this winter.

I emphasize, Mr. President, all forms of energy must be saved, but especially natural gas.

The Government can act to spread the natural gas shortages fairly across the country and marginally to increase gas supplies. It is to that end that the President has called upon the Congress to act, and to that end that the majoriy leader has introduced S. 474.

This bill will grant the President the authority to order emergency deliveries of natural gas supplies between interstate pipelines and distribution companies served by such pipelines upon a finding that maintenance of natural gas supplies to residential and other high priority users is in danger and that all reasonable remedies to maintain such supplies have been exhausted.

In addition to residences, high-priority users include small businesses and other essential users, such as schools, nursing homes, hospitals, the loss of which would threaten life, health, or property.

The reference to property in the bill is intended to make efforts possible to maintain plants so that major industrial facilities do not suffer irreparable damage as a result of the freezing weather.

It is not intended to authorize allocations for the purpose of maintaining employment. The main purpose is to authorize allocations for the preservation of life.

The President also has the authority to order the transportation of gas between two interstate pipelines by an intrastate pipeline, if such an intrastate line is not being used to full capacity.

It is anticipated that as early as next Wednesday a major portion of New York State, the northern third, roughly, of that large State, will be dependent upon such an intrastate transportation arrangement.

The President, under this authority, may order such deliveries of natural gas based on either a Governor's request that his State's high-priority users are in imminent danger of being curtailed, or based on data provided directly to him under the information-gathering authorities provided in the bill.

The President cannot order such allocations if it leaves the contributing pipeline in worse shape than the receiving pipeline and he must decide from which pipeline to allocate on an equitable basis.

The bill provides that the compensation for such natural gas allocations shall be agreed upon by the parties and it includes compensation in kind, but if the parties do not agree, then the President is authorized to determine an appropriate level of compensation which can also be payment in kind.

It is anticipated the President would require payment in kind unless it is impossible for the purchasing pipeline to do so.

In any event, one would not expect the President to determine a specific monetary level of compensation if a receiving pipeline begins to aid interruptible industrial customers next summer before having paid the contributing pipeline back with an equal amount of natural gas.

If the President determines that payment in kind is not possible, he is authorized to determine an appropriate level of compensation based on his assessment of reasonable replacement cost plus reasonable transportation cost and plus up to 5 percent bonus for the contributing pipeline.

In determining reasonable replacement cost, it is intended that the President look to the actual replacement cost to the pipline at the time such gas is replaced.

It is expected that in this shortage situation, the most likely reasonable replacement cost would be the emergency sales intrastate price or, if such gas should prove unobtainable, the cost of additional increments of synthetic natural gas, should that gas be available to augment the supply of the contributing pipeline or distribution company.

The President, it is intended, would also review the circumstances of a given pipeline's repurchase, so that it is accomplished within a reasonable period of time and in an economically prudent manner.

The bill provides, further, that a selling pipeline under an allocation order is entitled to keep only the amount it would have charged its own distribution company for that gas. The balance—that is to say, any profit—of these sales or allocations would be required to be passed on to the rate payers of the distribution company which actually lost the supplies of gas.

Mr. President, the bill further provides for limited antitrust immunity for pipelines which act pursuant to a Presidential order, as well protection for contributing pipelines from contractual claims by their customers.

The bill also authorizes the President to approve emergency sales of natural gas to interstate pipelines at unregulated prices, subject to his authority to prescribe terms and conditions for such sales, as well as to determine that such sales are made at a fair and equitable price. Such purchases can be made from producers not affiliated with the purchasing pipeline who produce gas from areas other than the Outer Continental Shelf and which prior to the contract were not committed to sell in interstate commerce. Such emergency purchases also could be made directly from intrastate pipelines or end users in the intrastate market who have alternative fuel available.

Assuming the compensation for such gas purchases from end users is enough to cover the cost of alternative fuels, it is hoped that end users will come forward to volunteer supplies in order to augment the supplies for home heating and other essential purposes in the intrastate market.

The Federal Energy Administration is prepared to help divert alternative fuels, especially oils, to such intrastate sellers.

Mr. President, the bill exempts actions taken under it from the formal adjudication process of the Administrative Procedure Act and establishes the temporary emergency court of appeals as the court of exclusive jurisdiction to review actions taken under the act. It also provides for penalties of $25,000 for violations of orders under the act and $50,000 for willful violations. Each day counts as a separate violation.

Finally, Mr. President, the bill authorizes the President to delegate his authority under this act to an appropriate Federal agency or officer of the United States.

With assurances from leaders of the Senate and the administration that the Senate will be afforded an opportunity in the near future to consider long-range natural gas legislation this year, including an administration proposal for the reform of natural gas regulation, I hope that the Members will focus on the immediate problem of human suffering to which the President's proposal is addressed.

This legislation might have been enacted last fall, but it received then no support from the oil and gas industry or the administration. Now the emergency is upon us, and now enactment is late but possible. Administrations have changed; attitudes within the industry have changed. It is an unhappy fact of American political life that we rarely act except in crisis and when it is too late But legislation along these lines is possible. It would provide some relief, and it need not prejudice, one way or the other, the debate over long-term natural

gas pricing, nor delay that debate. This legislation, or legislation along the general lines of S. 54, is now supported by most of the interstate pipeline companies.

Mr. President, each hour of delay could cause more suffering. The President has done everything in his power to move quickly on this immediate problem. I urge Congress to do the same.

I reiterate, as I intend to do throughout the discussion of this legislation, my plea to all Americans to save energy. If this skirmish with the energy crisis awakens the Nation to the fact that the crisis exists, then the suffering in the country could prove to be a blessing in disguise. We may at last be capable of acting and saving ourselves from perils of which this is only a mild portent.

Mr. PEARSON. Mr. President, I commend the distinguished Senator from Illinois for his scholarship—I think that is the proper word—and great concern about the natural gas emergency which exists in the country today. I know that with a new leadership, with new people approaching this problem, they have all relied most heavily upon the leadership of Senator STEVENSON. I think he is perhaps one of the chief architects of what is now called the administration bill.

It does not diminish my respect for Senator STEVENSON'S efforts for me to indicate, as I think he did, that this bill comes so late that I think it will do little good. The point is that this bill will do all that can be done for the immediate future, and the effort must be made.

So I am pleased, once again, to see him so prominent in the effort to forge a solution. I recall the years that we worked together on this problem, and the fact that we differed may have added to pushing this matter along, even at this late date, to some management, if not solution, of the problem.

Mr. President, it was my intention, as the distinguished Senator from Illinois and others have done, to recite the dimensions of this emergency. However, the facts and figures and statistics of hardship that I have were those of yesterday. Each new edition of the press or newscast brings forth new figures as to schools closing and more people out of work. So each day we have to revise the real dimensions of this problem. The truth of the matter is—and I think it is central to our hurried consideration—that our energy policy in this country has been based upon emergency: an energy policy based on the weather, an energy policy based on either accusing or defending the big oil companies in this country.

It is a policy based on prices because, as many have said, it was not until 1973, I think, that anyone really cared or knew what the circumstances were concerning oil consumption and production in this country. It was not until the lines formed and the price quadrupled, and we had forces set upon this country that led to the twin devils of recession and double-digit inflation at the very same time, that we had a recognition on the part of the people and many in the Congress that our sources of supply of petroleum rested upon a very flimsy base in the Middle East where those in control sit upon very volatile and very explosive forces of nationalism, political pressures, and religious diversity.

Today the situation grows worse. The recognition does not seem to educate us. At the time of the embargo, if my memory serves me right, the reliance of this country on foreign oil sources was about a third. Today it is over 40 percent.

So we have a policy, Mr. President, based upon the weather. Now we have an emergency. Last year during the long debate on this issue the record is heavy with all the recitations of what would happen in this country if we had a tough winter, and we did not, and the fact that we did not, I think, added to the feeling that was generally abroad that there really was no shortage, that it was all a conspiracy. There was a feeling that the great oil companies were waiting to drive the prices up for more profits, so that somehow or other through the shortages we would get deregulation someday.

Now the cold winter is upon us, and so certain things, technical in nature, become common knowledge. A third of our energy supply in this country rests upon natural gas. Fifty percent of all the industrial processes in this country rely upon natural gas. Forty million homes rely upon natural gas. We discover it is clean, it is efficient, it does not require the refineries, it does not require the vast transportation system such as the oil barges that are stuck in the frozen lakes and waterways of this country today.

It is a premium fuel, and it is an unrealistically good buy when it sells at 50 percent of the Btu equivalent of oil and coal of this country. So is it any wonder, is it not the natural result, that demand goes up in spite of the fact that since 1970 and 1971 production has gone down and natural gas that was discoverable easily, cheaply is now a thing of the past?

A third element, I think, in our energy policy is the blame of the big oil companies. They are not blameless, but to base a policy upon that particular aspect or that particular argument seems to me to ignore reason and to come forward with all sorts of proposals, many of them almost punitive in nature. It is fashionable today—it was an issue, I understand, in many campaigns in the last year—to talk about the divestiture, the vertical or horizontal divestiture of oil companies.

Well, that is an issue. Some of those who have studied it are persuaded that while this is a satisfactory thing to do, and maybe a popular thing to do, it would increase prices and do nothing really to further the energy policies of this country.

Mr. President, we have been falling behind for several years, and now is no time to get into an argument about proven reserves and potential reserves. It does little good at this point.

Indeed, although we are here in an emergency, time may very well be running out for one possible answer to the natural gas shortage, and that is deregulation. As one talks to our colleagues in this Chamber and reads some of the literature, the great force for deregulation for many years came from the producing States. That is cooling. Mr. President, it is cold in Texas, in Louisiana, in Oklahoma today. Schools are closing in Texas; there are curtailments in Oklahoma; there is concern in Louisiana about whether or not they will have enough natural gas to go forward with that State's desire for industrial development.

So with those things in mind, perhaps now, and our experience should teach us from a year and a half ago, now is the time to prose some long-range solution. Then the real issue of whether or not we should have more regulation or deregulation came on an emergency bill.

The fact situation is similar. Why not do it again today? The truth of the matter is, Mr. President, I do not think it will prevail. While the Senate passed S. 2310 in October 1975, if we come forward with the so-called Pearson-Bentsen again, I do not think it will prevail today with a new administration seeking an emergency bill.

It will not be my intention to offer my amendment on this bill. I think the politics are bad. I do not think anybody here, with all the complexity surrounding this issue, wants to come forward with something new to tag on it to drag the debate out when factories are closing and schools are shut down. Furthermore, I have been given assurance by the leadership of early consideration of long-term legislation to address the natural gas situation.

Mr. President, a lot of people are interested in this. I received a letter addressed to the Honorable JOHN DINGELL and to my friend and colleague, ADLAI STEVENSON, from some 19 farm organizations—very essential organizations in the processing of food and as feedstock particularly in the fertilizer industry—asking at this time to forget the emergency bill and go forward with a long-range solution.

I do not think the time is right. I think we ought to go ahead with only the administration bill at this time. I believe, Mr. President, you can always find a combination of factors to weigh. They are present here.

During the early discussions on this bill, as the Senator from Illinois has said, we pressed very hard for a commitment as to when we could get at this business. I do not think the leadership, with all of its resolution and with all of its good faith, can give us that answer. We are waiting for the administration which says it needs 90 days before they can come forward with such a proposal. I think some of us ought to really be thinking about raising this issue in Congress prior to that time.

Many issues touch upon this bill today. Is there any gas available for these emergency purchases? Mr. President, there is not an agency nor is there an industrial association that can give us that answer. But we know because of

the cold that it is less than in years before. We know because of the cold climate in the producing States it is much less than the year before and that emergencies exist there as well as throughout the country.

We know that just about all the powerplants in the producing States that burn natural gas, if my information is correct, that have the ability to convert have done so. We know that many refineries, petrochemical, and ammonia plants in the producing States cannot displace their natural gas supplies.

We can look at the FPC experience, under their 60-day orders permitting emergency purchases of gas, and get some measurements. Between September 1974 and June 30, 1976, a little over a 1½ year time frame there were 176 billion cubic feet purchased, at a time when the climate was much warmer in this country.

I agree with our distinguished colleague from Illinois. This is not a bill to provide a great deal of gas now. It is a bill primarily designed for allocation purposes, to free the pipeline companies from the burden of antitrust provisions, to give the Government the ability to spread the shortage thinner throughout the country, and to do it only in relation to a given classification of people: those in the homes, those who need gas for the life, health and protection of the public.

This bill will not put anyone back to work. Only the weather, a new policy, and a new direction in this particular field can do it.

Mr. President, the administration bill does contain several features which are not available under the FPC 60-day emergency provisions. There is a provision in this bill that may provide more gas. The Lavoca clause, which says that those pipelines selling in intrastate commerce cannot sell their gas supplies to interstate pipelines, is now no longer enforceable in the courts under this bill. We have a longer period for the purchase of gas under this bill, although the FPC has now since last week been piggybacking the 60-day period, one behind the other, so they have a longer period. There is a guarantee of transportation of gas from intrastate to interstate under this bill which was a power the FPC never had and which would facilitate the transportation of some gas. I am pleased to see my distinguished colleague is on his feet at this time, because there is an aspect of this legislation that gives me some concern, and it gives me some concern in the light of what I hope to be the long-term solution. In a period where we have a rush time frame and in a period when we have a very limited supply of gas, I have a real concern that frantic bidding for a small supply is going to drive the price up to some figure which will in days ahead be used as a measurement as to what the price of gas will be if we have deregulation of gas.

But in this particular bill there is a provision that says the President shall have some authority to determine the price of gas at a fair, reasonable, and equitable level. I am concerned about that even though I have a fear as to what the price of gas will jump to on spot sales, because this runs parallel and concurrently with the FPC jurisdiction on emergency sales which has no price ceiling upon it. I really have not determined how I now feel about a price ceiling under the emergency bill here.

I know the Senator is aware of this, and I shall appreciate his comments on that particular problem as I see it to be a problem.

Mr. STEVENSON. Mr. President, first, I commend the Senator for his remarks and correct an impression that may have been left in the RECORD by some of the earlier remarks.

It is not fair to all of the Members of Congress to suggest that Congress has not recognized the natural gas shortage in the past and acted upon it.

The Senator from Kansas is the ranking member of the Committee on Commerce. That committee held at least 24 days of hearings on this subject in the last Congress. It reported legislation which, as he indicated, satisfied no one. It was reported in order to give the Senate, as a whole, an opportunity to work its will on natural gas pricing. And the Senate did so.

He had his proposal and I had mine, and I believe our objectives were not far apart.

My objective has been to strike a reasonable balance between what I perceive to be the requirements of the producers for incentives and necessary financial resources and, on the other hand, the requirements of the economy and its ability to absorb, without severe dislocation, increases in the cost of a basic commodity. As he mentioned, natural gas supplies the economy with about almost one-third of its energy. And within such a framework the objective is to increase the prices of natural gas, promoting both production and conservation of this premium fuel, and bringing it, over time, to an equivalent level with oil.

The Senate approved his measure, but it never became law. I do not know now what the proposal of the new administration will be, let alone the action of Congress, but there will be action, and I hope action that recognizes that there is no such thing as decontrol. The price of natural gas rises to the OPEC level for oil. Because of the failure of public policy in the past to promote both the production and conservation of this premium fuel, there now is a large pent-up unmet demand for natural gas in all consuming States. Because of that failure, if there were immediate deregulation of new natural gas prices, in other words, the price of newly discovered natural gas, it would rise and the demand in the interstate market would be added to the demand in the intrastate market and cause very large increases, as the Senator from Kansas recognizes.

In the past, we have taken the intrastate prices and those prices as a result of emergency sales to the interstate market as some indication of what the price would rise to. In the last Congress, it was predicted that it might rise to $1.35. The bill that I introduced proposed a price of $1.35 as a starting price for new natural gas, but it was not acceptable to the industry.

I do not know the answer to the Senator's question. I do know that no one has worked as hard, or more conscientiously or longer, than he has to craft a sound public policy on the question of natural gas pricing, and no one has worked more successfully. His measure did pass the Senate in the last Congress.

But the question he raises is the question that has compelled me all along to support some cap on new natural gas prices. What has happened now, and it is significant, it seems to me, is that this question is being raised by the representatives of producing States. The representatives of the States that produce gas are as concerned as the representatives of the States which do not about the effect of a decontrolled natural gas price on the consumers and the economies of those States.

There have been moments in the last 20 years of debate when it seemed as if certain States had nothing but producers and no consumers. Now all of a sudden it is apparent that they have consumers, too, and representatives in Congress who are deeply concerned about the effect of total deregulation for new gas on the people whom they represent; and many of them now are prepared to accept the basic proposition, that you cannot take the lid off abruptly and permit the price of this most essential fuel to skyrocket because of a finite supply and an enormous demand.

I do not know where it would go. I would not be surprised to see $4 natural gas on a spot basis in the near future.

The Senator has raised another point about the available supply. It is difficult to answer his question without knowing more about the supplies of natural gas available in the country. He says this measure may bring on no new supplies, and, as I indicated earlier, he may be right. We simply do not know. But this measure is intended to enable us to find out. One of its provisions will authorize for the first time, by adequate means, the gathering of information about supply, and also about demand requirements in all parts of the country.

Mr. President, the hour is late, people are suffering, and Congress is going to act. But there are some blessings in all of this. One is that this crisis is awakening the country, it is awakening Congress, and it may be causing some Members to be more concerned about the economic consequences of unregulated new gas today than they have been in the past.

If so, there will be an entirely new basis within Congress for formulating a policy which, for the long term, strikes that balance between the legitimate requirements, the real needs of the producers on the one hand and the requirements of the economy on the other.

Mr. PEARSON and Mr. CRANSTON addressed the Chair.

Mr. STEVENSON. Mr. President, I yield first to the Senator from Kansas.

Mr. PEARSON. Mr. President, I will only be a moment. I wish to put some things in the RECORD to supplement the remarks of the distinguished Senator from Illinois.

I am very much concerned that the public will be misled by this emergency bill. I do not assert that the administration itself would mislead the public, or the Senator from Illinois or anyone else concerned, but I ask unanimous consent to have printed in the RECORD a statement of what the bill will and will not do, and a statement concerning technical considerations prepared, not by me, but by the minority staff of the Commerce Committee, and certain allegations as to natural gas being withheld and the answer thereto, which pertains not so much to this particular argument and colloquy today, but generally speaking to the whole of the dialog and rhetoric on the natural gas issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ADMINISTRATION'S EMERGENCY BILL

I. WHAT THE BILL WILL DO

(a) The bill will authorize the President, until April 30, 1977, to order an allocation of supplies to any interstate pipeline which cannot serve—

(1) Residential consumers;

(2) Small commercial consumers (using less than 50Mcf on a peak day); or

(3) End-users who are vital to life, health, and the protection of property.

(b) The bill will authorize the President to order interconnection of pipeline systems, including intrastate systems, to transport those gas supplies that are diverted subject to an emergency allocation order.

(c) The bill will authorize the President to establish compensation rates for natural gas supplies subject to an allocation order (if the parties cannot agree on such compensation).

(d) The bill will authorize emergency purchases of natural gas by distressed pipelines and local distribution companies (without subjecting such sales to regulation under the Natural Gas Act) subject to—

(1) Such terms and conditions that the President deems appropriate; including—

(A) Provisions respecting fair and equitable prices (ceiling prices).

(2) The emergency purchases, from intrastate producers and intrastate pipelines, would expire on July 31, 1977. Natural gas already dedicated to the interstate system would not be eligible for emergency sale, nor would gas owned by an affiliate of an interstate pipeline, nor would gas produced from the Outer Continental Shelf.

(e) Under the emergency purchase authority, the "Lovaca" clauses in intrastate contracts, which prohibit sales by intrastate pipelines to interstate pipelines, will not be enforceable in court to bar emergency sales.

(f) The bill would authorize the President to require, by order, any interstate or intrastate pipeline to transport gas and operate facilities necessary to carry out emergency contracts.

II. WHAT THE BILL WILL NOT DO

(a) The bill will *not* authorize the President to allocate natural gas for the purpose of restoring jobs or resuming industrial production;

(b) The bill will *not* authorize the President to allocate natural gas for the purpose of re-opening schools (unless "commercial establishments" are defined by the President to include schools);

(c) The bill will *not* authorize the President to order the shut down of industrial plants on gas-rich pipelines in order to increase supply availability for higher priority end-users on other pipelines;

(d) The emergency purchases from intrastate pipelines will *not* "trigger" the "most favored nation" clauses in some intrastate contracts which require that the old intrastate contracts be renegotiated to reflect the most recent, highest price paid for gas. Thus, the bill will *not* cause higher prices for intrastate consumers.

(e) The bill will *not* authorize the President to require sales by intrastate producers or pipelines to interstate systems. All emergency sales under the bill would be voluntary with the seller and purchaser.

(f) The bill includes *no* provision for emergency conservation of natural gas supplies, either in the intrastate or interstate systems.

III. CONCLUSION: THE OVERALL EFFECT OF THE EMERGENCY BILL

(a) This bill cannot be considered in isolation. It must be considered in the context of the on-going FPC emergency 60-day sales program.

(b) The bill establishes clear statutory authority for allocation to protect residential service, small commercial service, and service vital to health and safety of persons and property.

(c) The bill nullifies the "Lovaca" clauses in intrastate sales contracts. Thus, supplies of gas that might be barred from interstate sale by "Lovaca" clauses would be made available, in a legal sense, by enactment of the bill.

(d) The bill authorizes *mandatory* interconnection and transportation by intrastate pipelines of gas purchased under the emergency purchase provision. FPC does *not* now have this authority.

STATEMENT ON TECHNICAL CONSIDERATIONS

The Administration's emergency natural gas legislation, S. 474, is very narrow in scope. The bill authorizes the President to order emergency allocations of natural gas not to extend beyond April 30, 1977, that will avoid curtailment of natural gas deliveries to highest priority end-users. The President may also authorize emergency purchases of natural gas by interstate pipelines and local distribution companies from the intrastate market place for periods not to extend beyond July 31, 1977.

The Administration bill will not increase over-all domestic supplies of natural gas. The Administration bill will not assure the return to work of the half million individuals laid off due to plant shutdowns caused by gas curtailments. The Administration bill will not avoid future school closings. The Administration bill is not a solution to the natural gas crisis which has been accelerating for five years and has now resulted in massive economic dislocation and social disruptions.

The narrow, although important, goal of this legislation is to keep homes warm, small businesses open, and hospitals and other vital functions in operation. Perhaps S. 474, if enacted, will protect these essential uses until warmer weather arrives. It is a matter of highest national priority that gas service be continued to these end-users.

The Administration bill, while narrow in scope and direct in approach, addresses a complex situation. The legislation and its impacts, intentional or otherwise, must be discussed.

Section 2 of S. 474 provides the definitions for the Administration's emergency natural gas bill. The term "high priority use" is limited to residences, small commercial establishments and those uses the termination of which would endanger life, health, or maintenance of physical property.

The definition does not include natural gas essential to avoid plant shutdowns. Furthermore, the definition will not prevent school closings unless schools are implicitly included in the term "commercial establishment". It is not clear as to why small commercial establishments are protected from shutdowns under S. 474 but schools and industrial plants are not.

Broad definitions are provided for the terms "interstate pipeline" and "intrastate pipeline". The definitions would cover any natural gas transported by pipeline. This broad coverage would appear to include producer "gathering facilities" and may make natural gas transported in some of these facilities subject to the Presidential allocation authority contained in section 4. The term "interstate pipeline" obviously includes those large distribution companies exempted by section 1(c) of the Natural Gas Act.

Under section 3 of the Administration bill the President may declare a natural gas emergency if he finds that a severe natural gas shortage endangering the supply of natural gas for high priority uses exists or is imminent. Upon such declaration the President may, pursuant to section 4, order (1) interstate pipelines to allocate or transport natural gas to other interstate pipelines or local distribution companies in order to serve high priority users; (2) order intrastate pipelines to transport natural gas to interstate pipelines or local distribution companies; or (3) construction of interconnection facilities by interstate and intrastate pipelines in order to effectuate allocations or transportation of natural gas. Allocation and transportation orders may not be effective after April 30, 1977.

There is no established scheme for the priority of gas to be allocated from a pipeline with a sufficient supply of natural gas to a pipeline or local distribution company which may be curtailing high priority uses. A pipeline that has curtailed up to priority 3 should not be ordered to allocate its natural gas if another pipeline has only curtailed up to priority 4. Natural gas should be allocated away from all pipelines on an equitable basis.

Section 4(e) allows the President to gather any information needed to carry out his allocation, transportation and interconnection authority. However, no protection is provided that will prevent the dissemination of any proprietary information which might be gathered pursuant to section 4(e). It is necessary to preserve the confidentiality of any trade secrets and similar information collected under this provision.

Section 4(f) provides for compensation to pipelines ordered to transport or allocate natural gas by pipelines benefiting from such compensation. If the pipelines fail to agree upon the terms of compensation, the President is directed to resolve disputed compensation issues. It is not clear from the text of this provision if Presidentially prescribed compensation orders may include compensation in kind. Such compensation should be allowed.

Section 6 authorized emergency purchases of natural gas not to exceed a ceiling price set by the President at a rate which is "fair and equitable." Such a ceiling price must be high enough to provide sufficient incentives to sell natural gas from the intrastate market. Judicial review of this "fair and equitable" price is allowed under section 10. Although ceiling price authority is appropriate in this bill, the uncertainty of a possible subsequent rollback of the rate initially allowed due to a court finding may serve as

a disincentive for emergency sales under this section.

A producer who is affiliated with an interstate pipeline is not allowed to make emergency sales under section 6. This would mean that a producer which is a pipeline affiliate is not only preempted from selling to its parent pipeline company but is also not allowed to make emergency sales to other non-affiliated pipelines. Furthermore, most independent major producers transport gas to their own refining and petrochemical facilities in interstate pipelines owned and operated solely for that purpose. Apparently these independent major producers are also preempted from making emergency sales because of their affiliated status with their privately operated interstate pipelines.

Section 6 also authorizes the President to order any pipeline to transport natural gas purchased under the provisions of the section and to provide physical interconnections when necessary. However, no compensation is provided for such transportation or interconnection services.

Section 7 stipulates how pipeline purchased gas adjustment clauses operate with respect to compensation orders issued pursuant to section 4. There is some ambiguity as to how compensation received by a pipeline for its allocated gas is to be "flowed-through" the purchased gas adjustment clause. This section should make clear that only windfall or excessive compensation received by an allocating pipeline must be passed on to its customers.

Mr. PEARSON. These are the major problems which I have identified in S. 474. They are all technical in nature and may, if necessary, be corrected by simple amendments.

The administration's emergency bill should accomplish what it sets out to do—protect and continue natural gas service to only highest priority users. As described by the President, the bill is "a simple, temporary measure—to cope with an unprecedented shortage of natural gas supplies."

In view of the emergency in Ohio, Pennsylvania, North Carolina, South Carolina, and other States, I do not now favor extensive debate on major amendments to the President's emergency bill.

I favor prompt passage of the emergency bill, without major, substantive amendment, at the earliest practicable time, provided that long-term legislation dealing with the natural gas supply crisis be subject to debate and decision by the Senate early in this session of the Congress.

IS NATURAL GAS BEING WITHHELD?

Mr. President, over the past several years there have been numerous allegations that large volumes of natural gas, otherwise available for sale and delivery in the interstate marketplace, are being withheld. The individuals who have made these accusations claim that the natural gas industry is consciously withholding these available supplies of natural gas in order to accentuate shortages being experienced in consuming States. The goal of this so-called conspiracy is the deregulation of Federal price controls over wellhead sales of natural gas in interstate commerce.

Withholding, according to those who have identified this practice, is accomplished in various ways. The natural gas industry is accused of underreporting proved reserves of natural gas in order to create momentum for incentives that will improve the domestic reserve situation. Producers are accused of intentionally refusing to deliver natural gas to their pipeline customers. This producer action, it is alleged, is in direct violation of contractual agreements and FPC certificates of public convenience and necessity which authorizes producer sales. Government agencies charged with responsibility for policing the withholding situation are accused of incompetence and, in certain instances, conspiring with the natural gas industry by promoting withholding.

Mr. President, I refute these accusations and allegations. These charges are void of any substantial proof. They are made by those who claim to be protectors of the public interest. They are made by individuals who refuse to accept the economic logic of and national need for deregulation of natural gas sold in interstate commerce. They are made by those who must now explain why a million employees are out of work, thousands of schools are closed, and millions of residences are threatened with loss of heat.

The withholding theory is nothing more than bad fiction. The General Accounting Office and the National Research Council have concluded that industry reserve estimates are very close in comparison to Government estimates made by the U.S. Geological Survey, Federal Energy Administration, and Federal Power Commission. The dispute with respect to reserve estimates is caused by difference in terminology and variance in frames of reference rather than willful underreporting.

Investigations have found only isolated incidents of failure by producers to meet certificated delivery requirements. These exceptions to the rule are being corrected in the agencies and in the courts.

The FPC has exercised its information gathering authority to the maximum extent practicable under existing law with respect to natural gas reserves. That agency has consistently asked Congress for expansion of its information gathering authority for the past 20 years.

Mr. President, the natural gas shortage is real. It cannot be hidden by the rhetoric of those who claim it is a conspiracy to achieve price deregulation. The enormous economic disruption and human suffering now being experienced are not due to withholding or to the record cold weather gripping much of the Nation. Natural gas shortages which have been with us for 5 years have precipitated the immediate crisis. These shortages will not go away until we face up to our responsibility to the American public and provide a meaningful, long-term solution.

Mr. ABOUREZK. Mr. President, will the Senator from Illinois yield?

Mr. STEVENSON. Mr. President, I yield next to the Senator from California.

Mr. CRANSTON. Mr. President, I surely want to compliment the Senator from Illinois for the very hard and effective work he has done so quickly on this legislation. I do not wish to raise any questions at this particular moment, but I do have some concerns about three aspects of the bill: First, the definition of high-priority uses; second, what can be done in terms of insuring that California, which is going to be giving up some natural gas now, can have its own concerns taken into account in the future in some way of replenishing supplies; and, third, I think there ought to be some language concerning protecting the ratepayers of the supplier pipelines.

I ask that my staff be given an opportunity to work with the Senator's staff over the weekend concerning these matters.

Mr. STEVENSON. By all means, Mr. President. I do not believe there are any problems of the kind which the Senator mentions that we are unaware of. There certainly is no intention to penalize the ratepayers of the supplier pipelines and their distribution companies, nor to allocate gas away from States that are well supplied for any purposes other than the high-priority users, and those high-priority users are small businesses, homes, and essential services such as hospitals and nursing homes; and, to the extent that allocation is necessary for those purposes, the intent is to require a replacement in kind, if that is possible, and, if not, a payment that will compensate for the cost of replacing in kind with a bonus of 5 percent.

Our intentions are to take care of all the problems raised by the Senator, but he has raised some questions which may require technical amendments.

Mr. CRANSTON. Yes.

Mr. STEVENSON. As the Senator knows, this is emergency legislation, we are bypassing the committee, and I have no doubt that there are places in which the intent of the Senate can be made clearer in this bill. I certainly would welcome an opportunity to work with him on those matters.

Mr. CRANSTON. I appreciate that very much. I am sure we can cover the points that have given me concern. My staff will be in touch with the Senator's staff.

Mr. STEVENSON. I yield to the Senator from Wyoming for a unanimous-consent request.

Mr. HANSEN. Mr. President, I ask unanimous consent that Nolan McKean of my staff have the privilege of the floor during the debate and any votes which may occur on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. I thank the Senator.

Mr. ABOUREZK. Mr. President, will the Senator yield for some questions?

Mr. STEVENSON. Mr. President, I yield to the Senator from South Dakota for a question.

Mr. ABOUREZK. I take it the committee has not had any hearings on this legislation. That's what I understand, at least.

Mr. STEVENSON. If the Senator will

pause for a moment, I would like to modify the statement I made to the Senator from California a moment ago. It is correct that there have not been hearings on this bill. It is an emergency measure. It was our hope to act on it more expeditiously by taking it directly to the floor.

I should say to the Senator there have been hearings on this subject. It was considered last fall in the course of the hearings held by the Commerce Committee on natural gas pricing. As a matter of fact, as a result of those hearings, and a request in particular by the Federal Power Commission, I prepared similar legislation. It was introduced then, but, because of opposition from the oil and gas industry no action was taken on the measure.

So there have been hearings. Those hearings, as well as evidence which has been pulled in since, have led to this bill.

Mr. ABOUREZK. I wonder if the bill is similar enough to say that hearings have been held on this specific legislation.

Mr. STEVENSON. No. As I say, there have not been hearings on this particular bill.

Mr. ABOUREZK. If I may, I want to ask a few questions to try to get clear in my own mind exactly what problem it is the Senator is seeking to correct with this legislation. I am like a lot of people, I believe, I have only the vaguest notion what it is the Senator is trying to correct. I have been watching the news about all the factory closings, school closings, and so on, but I am not exactly sure what the Senator is after with this legislation.

Mr. STEVENSON. The purpose of the legislation is to protect so-called high priority users.

Mr. ABOUREZK. They would be what? Residential?

Mr. STEVENSON. Yes. They are defined starting on page 1 of the bill. They are homeowners, small businesses, and agencies that render essential services, such as hospitals and nursing homes. In addition, gas would be allocated, not to maintain employment, but to preserve property. In other words, if it is necessary to obtain natural gas in order to prevent the spoilage of wheat or corn, or the breakdown of a factory as a result of freezing, allocations would be permissible for that purpose.

Mr. ABOUREZK. In other words, it does not get at what we have been watching on the news. That is, the massive factory shutdowns and people being put out of work?

Mr. STEVENSON. No. It is not intended to take natural gas from industries in one place in order to supply industries in another place. That is not an objective. The purpose of this bill is to protect human life and property from irreparable damage.

Mr. ABOUREZK. I might ask further, where does this particular problem exist that residential users are running out of gas?

Mr. STEVENSON. It could be that the residences this weekend in many cities, including Pittsburgh, will be without gas. Indianapolis is another example. Some six major interstate pipelines are very close to so-called priority 1 curtailment. How close, of course, depends on the weather, which I cannot predict with certainty. Those who do predict the weather are predicting more severe cold weather for the eastern part of the country.

Mr. ABOUREZK. I am given to understand, that for the most part, pipelines which are supplying the residential users are not able to fulfill their supply commitments, not because they are short on reserves, necessarily, but because the pipelines are full and that the weather is so cold that they just cannot get more gas into the pipelines. Consumers are using more gas than the pipelines are designed to provide. Is my understanding correct or incorrect in that regard?

Mr. STEVENSON. The Senator alludes to a real problem that only affects two or three of the interstate pipelines.

Mr. ABOUREZK. I am sorry, I am unable to hear the Senator.

Mr. STEVENSON. The capacity problem that the Senator alluded to is a problem for two or three pipelines. All of the pipelines I mentioned are impacted by supply problems, by withdrawals from storage. In some cases their storage is almost completely depleted. Nationally, it is depleted by 50 percent. We ordinarily do not reach that level until mid-March, after the winter heating season is over. The pipelines are delivering gas, though in a couple of cases there is a capacity problem, and the deliveries of that gas without sufficient additions to supply have caused a supply crisis. That is the basic problem we face.

Mr. ABOUREZK. What the Senator is saying is that there will be a supply crisis, though it has not hit just yet.

Mr. STEVENSON. No, I am saying it has already hit, so far as putting people out of work.

Mr. ABOUREZK. I am not talking about jobs. I am talking about residential users. The Senator has indicated this legislation does not get to the problem of people being put out of work, because of factory shutdowns. Is that correct?

Mr. STEVENSON. Yes. It is not our intention to take from one factory to give to another factory. It is to protect lives.

Mr. ABOUREZK. So we have to talk about residential users and small businesses.

Mr. STEVENSON. And nursing homes and the preservation of property.

Mr. ABOUREZK. The question I am trying to get an answer to is this: Exactly what States or what cities are directly affected and require the solution the Senator is offering here? If it is a supply problem, that is one thing. If it is a capacity problem, that is another thing.

Mr. STEVENSON. I can answer the Senator's question very specifically. Of course, it is too late to supply gas to people after they have frozen in their homes. We are trying to act in advance of priority 1 curtailments, though there have already been some priority 1 curtailments. The Southern Natural Gas Co., serving Alabama, Mississippi, Georgia, South Carolina, Louisiana, and Texas, is already in priority 1 curtailments.

Mr. ABOUREZK. Why are they curtailing there? Is it a supply problem? What kind of a problem is it?

Mr. STEVENSON. They do not have any gas.

Mr. ABOUREZK. It is a supply problem?

Mr. STEVENSON. Yes.

The interstate pipelines most severely affected include the Alabama-Tennessee Natural Gas Pipeline, the Columbia Gas Transmission Corp., Consolidated Gas Corp., East Tennessee Natural Gas Co., Southern Natural Gas Co., and the Transcontinental Gas Pipeline Corp. In addition, and in another category that is not as critically affected but could be in the near future, are the following pipeline companies: Eastern Shore Natural Pipeline Co., Natural Fuel Gas Corp., Panhandle Eastern, Tennessee Natural, and Texas Eastern Transmission Corp.

To answer the Senator's question further, the States most severely affected by the shortage of natural gas are: Mississippi, Alabama, Georgia, South Carolina, North Carolina, northern Florida, Virginia, Kentucky, Tennessee, Pennsylvania, Ohio, West Virginia, Maryland, Delaware, and New Jersey.

I might add that there are many other States in much danger. My own State, the Senator will observe, is not listed and, last fall, was regarded as one of the better supplied States. In fact, its pipeline companies opposed such legislation as we are now considering. Now they support it.

Mr. ABOUREZK. I guess what really bothers me, at present, is that the Senator used the words, "These are severely affected States," or pipeline companies. I still do not know which of those are severely affected by a problem of not having enough gas supply or those who cannot put any more gas in the tube. That is what I do not know yet.

Mr. STEVENSON. That is the point, all of those States——

Mr. ABOUREZK. Every single one of them has a supply problem in that they cannot get enough gas?

Mr. STEVENSON. That is right. That is what the problem is.

Mr. ABOUREZK. In other words, the pipelines are not full. The pipelines are empty, because there is not enough gas? That is what I am asking.

Mr. STEVENSON. The pipelines are not empty. When the pipelines are out, we have an even more critical problem, because they cannot put the pressure back in and refill them without serious threats to the public safety; there are explosions.

Mr. ABOUREZK. The Senator is saying the storage is running down. The pipelines are full at this moment; what he is trying to do is fill up the storage.

Mr. STEVENSON. Pressures are declining, but still within a safety margin,

and storage is almost fully depleted or is fully depleted.

Mr. ABOUREZK. So, without exception, in each of these cases that the Senator has mentioned, storage capacity is running low and they are trying to refill the storage tanks?

Mr. STEVENSON. That is correct. There may be some local distribution companies that have capacity problems, but the problem for all of these States is supply and it is the supply that is available to the interstate pipelines which supply the distribution companies.

Mr. ABOUREZK. So, to cure that supply problem, if I read the analysis of the bill correctly, what the Senator is doing is giving the President authority to allocate from one interstate pipeline that may have enough supplies to one that does not have enough supply.

Mr. STEVENSON. That is right. That is all it does except, of course, also to authorize the emergency deregulated sales.

Mr. ABOUREZK. At a deregulated price?

Mr. STEVENSON. That is correct.

Mr. ABOUREZK. As to the pipelines that have provided for themselves and contracted for enough reserves, is there a problem of their running low once that allocation is made?

Mr. STEVENSON. The bill is designed to prevent any allocation that causes the delivering pipeline to suffer because of allocation and it prohibits any such allocation that would cause greater suffering in the delivering State than it relieves in the receiving State. As I have pointed out, or tried to point out before, no gas will be taken from any interstate pipeline except if it is necessary to protect life, essential services and property. So, for that purpose, it is possible, yes, that the end consumers of interstate pipelines will lose gas. It is possible that, in order to save life, people will lose jobs.

Mr. ABOUREZK. Let me try to look a little bit ahead and see if the Senator will agree with the way this might work.

If a pipeline in Georgia, for example, were to be allocated gas from a pipeline in Wisconsin under this authority, and eventually, the cold weather kept up in Wisconsin and they started running short up there, even though they had previously taken care of themselves so far as reserves are concerned, to the extent that they would not have had to cut back had they not been forced to allocate—let us say that they started running out of gas up in Wisconsin. Would not the total effect of that be that we have allocated gas from Wisconsin to Georgia at an uncontrolled price, at a very high price; then, when it comes time for the Wisconsin pipeline to try to find some more gas, or more gas is reallocated, we have sold gas to the Wisconsin pipeline, once again, at a higher price. Is that going to make sense?

Mr. STEVENSON. I think the Senator raises two problems. There is no satisfactory answer to one. It is certainly possible that gas could be allocated from a State which has adequate supplies for its own purposes, and then, because of unpredictable and severe weather it suffers a demand for natural gas that could not have been foreseen and it might suffer a shortage. But that is one of the risks, it seems to me, we have to take in order to try to take care of the known, immediate threat to human life. That is the first part, the more difficult part.

Mr. ABOUREZK. I understand that, but——

Mr. STEVENSON. The Senator also asks about the costs to the users in his hypothetical case. This bill provides for replacement in kind of the gas. If it cannot be replaced in kind and alternative fuels are required—oil for natural gas, let us say—then the Wisconsin companies, as an example, would be compensated at that cost of replacement plus 5 percent. We will, through a technical amendment, make it a requirement that that payment for the low-cost gas which has gone out of the State benefit the users who, in effect, gave it up and would otherwise have to pay the replacement price. So there will not be any financial loss to the companies or the end users in the States that supply the gas. As the Senator indicated, because of unforeseen weather, there could be shortages in order to protect life in the receiving States.

Mr. ABOUREZK. Another question I have: Is there a restriction, say, in this allocation from the Wisconsin pipeline to a Georgia pipeline—is there a restriction on how Georgia can use that gas which is allocated to it?

Mr. STEVENSON. The only purpose for which the allocation can be made is to supply gas to high-priority users who, otherwise, would be without gas.

Mr. ABOUREZK. So there is a restriction that it be supplied just to high-priority users?

Mr. STEVENSON. That is correct.

Mr. ABOUREZK. If, for example, Georgia should say, "Some of our nursing homes are running out of gas and we need an allocation," they could not use it to start a factory there under this legislation?

Mr. STEVENSON. That is correct.

Mr. ABOUREZK. Does this legislation do anything to the intrastate pipelines or the intrastate supply of gas, which I understand is more plentiful in some of the States which produce gas and sell it on the intrastate market. Does it have any impact on those at all?

Mr. STEVENSON. No. First of all, the intrastate markets are, many of them, severely impacted, too. The bill does contain a provision which would authorize the President to require the use of intrastate pipelines to make connections between the interstate pipelines——

Mr. ABOUREZK. But not gas.

Mr. STEVENSON. But the only direct effect, at least, on the intrastate markets, would come through the emergency pricing provisions. They permit, in effect, unregulated sales by producers to end users, distributors, anybody in intrastate markets, to the interstate pipelines for a short period of time.

Mr. ABOUREZK. But there is no requirement——

Mr. STEVENSON. That is an effort to get gas out of the intrastate markets into interstate markets by letting the market work.

Mr. ABOUREZK. But that is only an effort to encourage it by the price mechanism.

Mr. STEVENSON. That is correct.

Mr. ABOUREZK. There is no requirement under this, or authority under this, to allow the President to allocate intrastate gas to any pipeline that is running short.

Mr. STEVENSON. The Senator is correct.

Mr. MATHIAS. Will the Senator yield?

Mr. ABOUREZK. May I just finish this?

Mr. MATHIAS. I have a procedural question which I want to ask. I do not want to interrupt the colloquy, but at some convenient point, if I could ask a procedural question.

Mr. ABOUREZK. Yes. I will just wind up in a minute here.

Mr. SCHMITT. If the Senator will yield, I think there is a necessary point of clarification on that last statement.

Mr. CHILES. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. STEVENSON. I have yielded for questions to the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I would like to finish this line of questioning. If there is something that bears on this question, I do not mind, but I would like to keep it going.

Mr. SCHMITT. It is just that there will be an effect on intrastate markets, if I read it correctly, in that if the intrastate pipelines are at capacity, the President determines that they must be used to transfer gas between interstate pipelines.

There may be an effect, and I am not sure if the bill allows for that particular problem, or not.

Plus, in some States where there is this so-called favored-nations clause, the price of intrastate gas is geared to the highest price of interstate gas.

There are some unanswered questions of what that will do in terms of the price or supply of gas in the markets.

So there is some interaction there, but not exactly what the Senator was asking.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, first of all, the Senator from New Mexico mentioned, as I had earlier, the President's authority to require the use of intrastate pipelines to make connections between interstate pipelines.

That provision, however, prohibits use of any such pipeline that is at capacity. So I do not think there is going to be any impact in that respect, and certainly none intended.

There are also provisions in the bill to prevent any triggering of most-favored-nation clauses, or other such provisions, and there is not intended to be any impact of that kind on intrastate markets.

I refer the Senator from New Mexico to the provisions of section 9, starting on 11, and particularly sections 9b and c.

Does the Senator from South Dakota have further questions?

Mr. ABOUREZK. Yes, I have more questions if the Senator is willing to answer them.

Mr. STEVENSON. I yield to the Senator for that purpose.

Mr. ABOUREZK. Mr. President, the question I have is that I think it is fairly indisputable that there is natural gas available in the intrastate market. I do not think anybody who has information can argue with that, really.

My question now is, Why does not this legislation require an allocation from the intrastate market where there is some excess gas, instead of the interstate market where there may be just an adequacy of gas, or in some cases maybe not even enough?

In other words, it does not seem to make sense to do it the way we are doing it.

Mr. STEVENSON. First of all, it is not clear that there is plenty of gas in the intrastate market. I do not know what the Senator means by that. There may be plenty at 20,000 feet, but this weather has in many parts of the producing States caused severe natural gas shortages.

But I know what the Senator is getting at, and the reason that there is no authority to allocate out of the intrastate markets is a tactical one.

This is emergency legislation. It has to be passed quickly or it will do no one any good.

As the Senator well knows, any authority to allocate gas out of the intrastate markets for the benefit of consumers in the interstate market would be strenuously resisted and, to say the very least, cause a long delay.

Mr. ABOUREZK. I thought this was an emergency.

I thought this was an emergency, and if we really needed gas to keep people alive, as the Senator said, would it matter how much resistance we get from those people who sell gas on the intrastate market?

It would seem to me we ought to try to apply some kind of logic to this if we do it, rather than say, "Well, let us take it, let us see who makes the least noise and take the gas away from them," instead of taking it from where there is an abundance of gas or where substitutes are immediately available.

It does not make sense.

Mr. STEVENSON. I disagree with the Senator when he uses that expression, "abundance of gas." I do not see it.

Mr. ABOUREZK. The Federal Power Commission says there is an abundance.

Mr. STEVENSON. The Federal Power Commission does not say that.

The Federal Power Commission says that they do not know, and that is one of the reasons we have provision in this bill that will enable the Federal Power Commission to find out.

It is the first time we may be able to find out about the adequacies and the availability of natural gas supplies in all parts of the country, as well as the demand requirements in all parts of the country.

I would prefer to see a provision here that did permit allocations out of intrastate markets to protect human life, if it is necessary.

That is not realistic now. The Senator knows why.

If it becomes necessary to seek such authority in order to protect life, it will be sought, but at the moment it cannot be done, and all we would do by attempting to enact such a provision would be to enact nothing, and then people will suffer.

If this is not enough, the administration will come back, and so will I and other Members, to try to get from the Senate, authority to allocate such supplies as may exist out of intrastate markets for the benefit—

Mr. ABOUREZK. But when we talk about this emergency provision, it raises another question as well.

Now, the Federal Power Commission has the authority, in fact, has been using the authority that Congress has given, to allow emergency sales of up to 60 days.

In fact, if there is a problem today on allocation of gas from one interstate pipeline to another one, the Federal Power Commission has been doing that, and I am sure the Senator agrees with that.

Mr. STEVENSON. No; that is not the question. The Senator is again raising two questions.

First, on the emergency pricing authority, as the Senator knows, that authority is subject to some doubt.

The 180-day emergency orders are being challenged in court, and successfully challenged I should add. The question is now raised as to whether it can enter successive 60-day orders without the encountering the 180-day emergency order illegality.

So, at the very least, any effort to rely on those existing procedures for emergency pricing will result in litigation, and that could result in more litigation which holds that the FPC does not have that authority.

On the allocation authority which the Senator mentioned, there is none.

The FPC has not sought to exercise such allocation authority between interstate pipelines.

If there was an emergency and a real threat to human life, it would go in and say, "Allocate," and it would be immediately challenged in courts, probably successfully. Customers of the allocating pipeline would get an injunction.

If the FPC had the authority, we would not have to be here today. But the FPC does not have the authority, and the pipelines that have to allocate would be enjoined from doing so. As a result, both the FPC and those pipelines seek this legislation to make it possible to allocate.

Mr. ABOUREZK. I think that is one of the very serious problems that have arisen, because the Senator has not held hearings and he has not heard from the Federal Power Commission on this.

Mr. STEVENSON. The Senator could not be farther from the mark. I have held hearings; I have heard from the Federal Power Commission. As a result of a request for such authority from the Federal Power Commission, last fall I introduced a measure to do exactly what we are doing today, and because it was possible, as we predicted then, that the country would suffer a natural gas shortage as the result of an unusually cold winter. But then the need was not foreseen by many others.

Mr. ABOUREZK. The Federal Power Commission has told me something different. They are saying that they have that 60-day authority and that they can allocate between interstate pipelines.

Another concern I have is that under traditional regulatory law, a party who is paying a rate has a right under the Constitution to a hearing. My question, under section 4 of the proposed legislation is this: What rights are preserved to those who are paying higher rates to have a hearing? Is anything contemplated by this legislation to authorize a hearing?

Mr. STEVENSON. I am sorry—will the Senator repeat the question?

Mr. ABOUREZK. What procedural safeguards are there in the proposed legislation, if any, that allow a party who is required to pay a higher rate to have a hearing on that higher rate?

Mr. STEVENSON. I still do not understand the question. Is the question about the procedural rights of a receiving pipeline? A receiving pipeline will have a price determined if it cannot agree with the granting pipeline.

Mr. ABOUREZK. With respect to a receiving pipeline which has to pay a higher rate or a receiving consumer who has to pay a higher rate, is there a right for that person or that entity to have a hearing?

Mr. STEVENSON. The pipeline does not have to pay anything. It can go without gas.

Mr. ABOUREZK. Well, that helps.

Mr. STEVENSON. But if it decides to obtain gas by this process, then, first, of course, it can negotiate; and, finally, the President can determine, after a hearing, an appropriate fair price, and the price is the cost to the pipeline that gives the gas.

In the hypothetical case that the Senator put, the receiving pipeline, if it chose to take gas—it does not have to—first, of course, can negotiate the price. If it fails to negotiate the price, then it is compelled by the President to pay the replacement cost—the cost in effect to the granting pipeline—plus transportation costs. The decision as to what the cost is to the granting pipeline is subject, first, to a hearing procedure and, finally, to judicial review in the temporary emergency court of appeals.

Mr. ABOUREZK. Is that in the proposed legislation—that procedure?

Mr. STEVENSON. Yes.

Mr. ABOUREZK. Where?

Mr. STEVENSON. It appears in section 10, page 12, starting at line 21.

Mr. ABOUREZK. In other words, whatever the section of the United States Code that refers to, it provides for a hearing on any excessive rate which is being charged to the taking pipeline?

Mr. STEVENSON. Yes. Those references to the code establish a hearing procedure which results in a determination as to a reasonable price, and that administrative decision is subject to judicial review in accordance with paragraphs (b) and (c) of section 10.

Mr. ABOUREZK. I would be willing to withhold for a moment, if that is all right with the Senator from Illinois, because Senator CHILES wishes to ask a question and has to leave shortly.

Mr. STEVENSON. I yield to the Senator for a question.

Mr. CHILES. I thank the Senator.

I have a particular concern with the compensation section of the bill as presently drafted.

Under the bill, some pipelines or distribution companies and their customers will be asked to give up natural gas to areas that are severely curtailed. My concern is whether all these parties—the pipelines, the distribution companies, and the customers—will be kept financially whole as a consequence of the transactions.

It is hard for me to understand whether it is all expressly provided that we are not, in effect, redistributing the economic burden to those areas of the country that now have access to natural gas. I wonder whether the Senator will be amenable to a clarifying amendment of this particular concern. I understand that the Senator from Washington (Mr. MAGNUSON) and others have the same concern as both Senators from Florida have.

Mr. STEVENSON. The Senator has raised a good question. It is one of concern to me, as well, because I represent a State which in some parts has gas available for allocation to others, and many other Senators have raised the question.

Our intention is to hold all the allocating pipelines, their distribution companies, and their users harmless; and, in fact, to compensate them at whatever replacement cost is incurred as a result of allocations, plus transportation and a 5 percent bonus.

The language of the bill on page 11 needs some perfecting, and we are working on amendments that will make it very clear that no area that is called upon to share its gas with other areas will in any way suffer financially. I think the Senator raises a very good question and one that does require some further clarification.

Mr. CHILES. I thank the Senator from Illinois. I am glad to hear there is going to be a clarifying amendment because I think while that is clearly the intent of all parties, I am afraid this, you know, just trying to do that with the legislative history or colloquy in the face of what the language now says might not show up well in a lawsuit at some later date, and I think a clarifying amendment is needed.

Mr. STEVENSON. Mr. President, I thank the Senator for raising that point. He is right. Colloquy is not adequate, and I assure him appropriate language will be prepared and offered in the form of an amendment to make it clear that no pipeline or distribution company and their customers will financially suffer as a result of allocation.

Mr. MATHIAS. Mr. President, will the Senator from Illinois, the manager of the bill, yield for a procedural question?

Mr. STEVENSON. Mr. President, I happily yield to the Senator from Maryland for a question.

Mr. MATHIAS. Mr. President, there may be some question in the minds of Senators whether or not this is an emergency, but I do not think there is much question in the minds of very many Americans as to whether it is an emergency.

Yesterday I visited the Eastern Shore of Maryland where factories are in danger of closing, people are in danger of being shut out from their jobs.

We know the story in Pennsylvania where schools are closed; we know the story in Ohio where the distress is acute, and we know the story in other parts of the country.

I am wondering if the manager of the bill has discussed with the majority leadership the necessity of having a session tomorrow and even Sunday, if necessary, to get rapid action on this bill?

It is going to take a long time even if the bill is passed today, because regulations have to be written, and there would be a considerable period of time before we get the benefits of it.

I want to respectfully urge on the manager of the bill that we consider a Saturday session or Sunday session or both because our perception of this thing may be different from that of those people who are out of work. I am wondering if the manager of the bill has given consideration to that possibility?

Mr. STEVENSON. The manager of the bill tried to get action last fall on this measure.

Mr. MATHIAS. I am well aware of that.

Mr. STEVENSON. And would have welcomed an opportunity to get some action earlier in this session.

But I think—and I have discussed this with the distinguished majority leader—we had hoped to begin action yesterday on it, but many Senators wanted some time to study the bill.

As the distinguished Senator from Maryland knows, we have, in an attempt to act as expeditiously as possible, even bypassed the committee, as has been pointed out by other Senators. There have been no hearings on this particular measure, so they wanted, not unreasonably, some time to debate it, to study it, and I think we can still act on this before there is any chance of the House having acted.

From what I have heard from the other body, it is not likely that it will act before Tuesday. With debate today, continuing Monday morning, it would not be unreasonable to expect final action no later than Tuesday by the Senate.

I hope the Senators and the public are under no illusions, and while I can certainly appreciate the Senator's concern about people in his State who are losing their jobs, this legislation is not going to save jobs. Its purpose is not to take gas from factories in one State, putting people out of work, to make it available for factories and workers in another State. Its limited purpose, really all that is possible, is to make gas available to protect life and property.

Mr. MATHIAS. Precisely. What we are faced with is a situation where people may be shut out of the factories because the factories are cold, and told to stay home in houses that are cold.

Mr. STEVENSON. That brings me to the final point I was going to make. While there are some possibilities for priority 1 curtailments in the near future, in other words, curtailments of gas for homes, it is probable that within this framework, and with such measures as can be worked out voluntarily between the pipelines and the Federal Power Commission and the representatives of the President, those curtailments will not take place, and that Congress can and will act in time to prevent any such curtailments on a larger scale in the future.

There are some cases that are imminent, but it is the hope and my expectation they can be taken care of on a very short-term basis. If Congress acts early next week the mechanics will be in place to prevent curtailment of gas for home and essential public services and also for the preservation of property, food, factories, and the like.

Mr. MATHIAS. In urging that Congress stay in session over this weekend, I am glad the distinguished majority leader is here, and I make this suggestion very respectfully. I am well aware that the Senator from Illinois has been in the forefront of this for a long time with a sense of urgency which I feel he has felt for a long time, and with which he has tried to infect the rest of us.

But I will say this: This is not a novel proposal. It was suggested by the Executive, as I recall, in September of 1975; it was suggested again in the summer of 1976. The basic outlines of it have been before us so it is not a case of first impression, and I think people who are feeling the brunt of this problem and which, as the Senator from Illinois just said, is a problem which has been predicted State by State, and we were merely saved from it because we had mild winters for the last few winters, but this is something which has been predicted with almost mathematical accuracy, that some show of congressional response is in order.

Mr. ROBERT C. BYRD. Mr. President, did I understand the distinguished Senator from Maryland to suggest that the Senate come in tomorrow on this matter?

Mr. MATHIAS. I would suggest to the distinguished majority leader that I believe the state of distress in the country is such that that small sacrifice on our part may well be in order.

Mr. ROBERT C. BYRD. May I say to the Senator it is no sacrifice at all on my part to come in tomorrow, none. My State, I suppose, is about as hard hit as most any other State.

As the distinguished Senator from Illinois pointed out, however, we have circumvented the usual approach of sending the measure to committee. We obtained consent to put it on the Calendar and to bring it up today for debate only and let Senators have through the weekend to study the measure, contact their people back in their respective States, and hopefully, begin voting on Monday and, even more hopefully, complete action on the measure on Monday.

If the Senator feels the Senate can make any progress by coming in tomorrow, I am perfectly willing to ask unanimous consent to change the order I have already entered for the Senate to come in on Monday, and the Senate can come in tomorrow. If, however, the Senate is just going to come in and not take any action, and merely talk about the measure, I do not see any purpose to be served.

Most Members on both sides of the aisle—on the Senator's side of the aisle as well as on this side of the aisle—were informed of the plan to debate the measure today, told there would be no votes taken today, told that on Monday, hopefully, action could be taken on amendments to the measure and, possibly, final action.

But if I can be shown an indication by the Senator or by any Senator that by coming in tomorrow we can make progress on this measure that will hasten the conclusion of action on it, I am ready to ask for the order to come in at any time tomorrow, as early as any Senators want to come in, and to stay late tonight if progress can be made. But if we are just going to come in tomorrow and talk back and forth, without any action being taken, that can be done today. But the distinguished Senator knows that the leader on his side of the aisle and I indicated to Senators that we felt that, having talked with Senators privately, the best that could be done today would be to discuss the matter without any votes and that Senators have over the weekend to make their contacts with their constituencies and prepare any amendments that they felt ought to be offered, if any modifications of the measure appear to be necessary, and then action could be taken on Monday. So that is about all I have to say. If I could be convinced that action would be taken by coming in tomorrow, I certainly would support the Senator's proposal.

Mr. MATHIAS. Mr. President, if I could respond to the distinguished majority leader, I can only speak for the senior Senator from Maryland. I, for one, will be in my office at 9 o'clock tomorrow morning whether the Senate is in session or not.

Mr. ROBERT C. BYRD. I will be in mine. Perhaps the Senator and I could both meet in my office in the morning.

Mr. MATHIAS. I will be delighted to have him come to mine, and I agree.

Mr. ABOUREZK. Mr. President, if the Senator will yield briefly, why not both Senators meet in the same office and turn off the heat in one so we do not have to waste fuel? [Laughter.]

Mr. ROBERT C. BYRD. May I say to my friend that the heat and the lights are already off in my office, except for the front office.

Mr. MATHIAS. If I could respond to the majority leader, I think he is absolutely right, if we are just going to come in tomorrow and do some more talking. What the country wants is gas, not hot air.

[Disturbance in the galleries.]

Mr. ROBERT C. BYRD. May we have order in the galleries?

The PRESIDING OFFICER. The galleries will be in order.

Mr. MATHIAS. So I think the majority leader is right about that.

As an individual Senator I have no access to the head counts as to where Senators are and in what part of the country they may be located, and I know the leadership has to predicate its plans on those logistical factors. But I urge greater activity on the part of Senators. Again I am not speaking as to the manager of the bill because he has been in the forefront of this for a long time. I am not urging any greater activity on his part. I am really speaking to the other 99 of us. We have to show some sense of urgency about this because it is going to impact very severely, as the Senator from Illinois said, on lives. It has gone beyond the point of impacting on jobs. We have already seen and experienced that.

I appreciate the Senator yielding this time to me to make this plea. I simply say that I think we have to get on with this, and I am ready to meet Saturday, Sunday, Monday, Tuesday, Wednesday, Thursday, and Friday.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, if the Senator will discuss with the leadership on his side of the aisle and come back to me with an indication that Senators on his side of the aisle are prepared to take action to conclude action on this bill tomorrow with votes to be taken tomorrow, then I will be very glad to try to cooperate from this side of the aisle. No one wants to see action taken on this matter any faster than I want to see it taken. But as the distinguished Senator from Illinois has said, the Senate is ahead of the House of Representatives at the moment, and we want to do all we can to press for final action promptly on the measure. I would like to see it passed today. But it was the general understanding that we were not going to have any votes today, that Senators on both sides of the aisle needed some time to look the measure over, possibly talk with people back in their States, and be ready to offer amendments, if need be, on Monday. So, as of now, that was the decision that was made by Senators on both sides of the aisle and concurred in by the joint leadership. I have seen no indication that we ought to change that at the moment, except what I have heard from my friend from Maryland.

Mr. MATHIAS. I will say to the majority leader that I will follow his suggestion and we will take some look as to where people are and if it is physically possible to hold a session tomorrow and get anything done tomorrow.

Mr. ROBERT C. BYRD. That is OK with me.

Mr. MATHIAS. In the meantime, I say to the majority leader, regardless of whether we have a session or not, I will invite him to my office for a lukewarm cup of coffee in the morning.

Mr. ROBERT C. BYRD. I thank my friend.

Mr. ABOUREZK. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. STEVENSON. Mr. President, if anyone wishes to meet in my office tomorrow morning, he should bring his sweater. I will be there at 9 o'clock. I think it would be unfortunate if anyone were left with the impression that just because the Senate is not in session tomorrow we are not going to be working. As has been mentioned, the Senate is ahead of the House of Representatives. The House is holding hearings this afternoon. It cannot act as a body before Tuesday. We can act on this schedule, which has been agreed to on both sides, on Monday. The purpose of putting it over until Monday was to afford Members an opportunity to study it because it has not been through committee and to bring in their amendments and perfect it on Monday. So I expect that other Senators, as myself, will be working over this weekend to perfect this emergency measure so that it can be acted on on Monday. If we succeed, we will have acted before the other body.

Mr. ABOUREZK. Mr. President, is the Senator prepared to yield?

Mr. STEVENSON. I yield to the Senator from South Dakota for a question.

Mr. ABOUREZK. I have only one additional question at this point. Is there anything in this bill that would provide for the allocation of gas for specific users to other users? For example, a refinery which is capable of using fuel oil rather than natural gas to operate certain parts of the refinery. Is there anything that would provide for that, or for boilers that can use oil instead of gas? Can they do that with this so-called emergency authority?

Mr. STEVENSON. No; there is nothing in the bill to authorize such curtailments. But I should point out to the Senator that if allocations resulted in shortages in a given area Federal Power Commission procedures would kick in, and under those procedures curtailments could follow in an ascending order of priority.

Mr. ABOUREZK. Those procedures would not kick in if indeed the President began allocating under this system; is that right?

Mr. STEVENSON. No. This has no such connection. It would not do that.

Mr. ABOUREZK. I simply wish to

make a comment now because I want to offer an amendment to this legislation.

The Senator has brought to the floor a measure, without hearings, without any figures and without any information for those of us who have to vote on it one way or the other. We do not know exactly where the gas is short and exactly why it is short. We do not have any figures as to where the gas is either in the intrastate market or in the interstate market. The Senator has made some general comments about it, but they have not been very informative to me, at least, and I am sure not to other Members. As the Senator has seen, Senator MATHIAS came on the floor and said we have to get people back to work. I thank the Senator for correcting him on that. But we may have 98 other Senators coming in and saying the same thing because they have been watching television as has Senator MATHIAS. They will come in to support this bill on the basis that we have to save those jobs. But this bill has nothing to do with the problem at its heart. What it really does is deregulate interstate natural gas prices, even if it is for a 4-month period.

This is a deregulation bill. You can call it anything you want to, but that is exactly what it is.

If we want to get surer supplies to homeowners, top priority commercial users, and so on, it seems to me we should pass and send to the House of Representatives, a simple resolution giving the Federal Power Commission the authority the Senator says they do not have, which is the authority to allocate between interstate pipelines, it can be for a 60- or 90-day period, whatever we think is right. It seems to me that that is all we need to do to attack the problem the Senator has described.

The Senator is just as much against deregulation as I am, but I say he is walking right into it. That is exactly what we are doing, despite the fact that this price deregulation does nothing to solve the present emergency situation, and it certainly prejudices the long-term situation. I think we are making a tremendous mistake.

In 1964 we had what we called the Tonkin Gulf resolution. Everyone regretted it after it was all over. We might call this the Exxon-Gulf resolution, and we are going to regret it after it is all done. The whole Congress will regret it. Everyone will say, "Maybe we should have looked at it more closely, but we had to do something on the spot and we looked the other way."

I think we will regret it tremendously. I think Congress will regret it because we have people in the Midwest and other parts of the country, people who read the Farmer's Almanac, as the Senator from New Hampshire said, who knew it was going to be a hard winter. These pipelines laid in sufficient supplies of gas, and they are going to lose it. At the same time, the intrastate market is going to be wasting as much gas as it ever did. No one welcomes this measure except perhaps those people who were for deregulation, and they know who they are.

I shall offer an amendment on Monday, if I may be permitted to do so.

Mr. DURKIN. Mr. President, will the Senator from Illinois yield?

Mr. STEVENSON. First of all, Mr. President, I want to respond to some of the observations of the Senator from South Dakota and ask him a question. Does he oppose emergency allocation or not?

Mr. ABOUREZK. By whom?

Mr. STEVENSON. Well, by a designee of the President, the Federal Power Commission or someone else.

Mr. ABOUREZK. I am a little distressed. I do not oppose it under these circumstances, but I am a little distressed that the Federal Power Commission has allowed it to come to these circumstances. There should have been something done about gas allocation to eliminate inferior uses long prior to now, not the kind of allocation the Senator is talking about. I am for the Federal Power Commission having the power to do it on a temporary basis at this time. I believe the Federal Power Commission has this power already, but has not exercised it.

I think we ought to try to regulate the intrastate market, which we have never done. We should make sure the producers do not overcharge intrastate users, and allocate gas now being used in wasteful circumstances.

Mr. STEVENSON. The Senator does want the Federal Power Commission to make allocations. As the Senator from South Dakota has mentioned, already there is authority—it is of questionable legality, but it has been exercised—to deregulate the price of natural gas on a short-term basis. The FPC has been doing it by 60- and 180-day orders.

All this bill does, beyond allocation which he supports, is legitimize the present practice. That is not much of a change, and it may produce additional gas.

The Senator says I have been unable to answer all these questions about where the resources are. I thought I had done that by listing the States in critical supply situations, and more States that could be soon, together with the pipelines. There is a little more information available, if the Senator wants it, but one of the problems we have faced from the beginning, years ago in this debate, has been a paucity of information.

This bill provides that. If Senators want information about the adequacy of supplies of natural gas throughout the country and demand conditions throughout the counry, then they should support the bill, because it will make this possible for the first time, and that in itself is a good reason for supporting this measure. Maybe we can find out who is holding back, who is demanding a high price, an extortionate price, before they let go of supplies of natual gas. That is one of the objects of the measure.

I agree with the Senator completely that we need more information. That is, of course, one of the purposes of this bill.

Mr. ABOUREZK. I do not argue with that at all. But to pass this bill because it has those information provisions makes no sense, because it has provisions which are much worse than the status quo.

I think we ought to allow allocation by the FPC out of the intrastate market if necessary, rather than the interstate market, which is in a pretty tenuous situation, as the Senator knows.

Mr. STEVENSON. I agree with the Senator. He is realistic. If it becomes necessary down the road, I am told the administration will then request such authority. I would be the first to support it, and perhaps in those circumstances, even worse circumstances, we could move in that direction. But I am afraid the price of any attempt to do so now would be no action of any kind to end suffering. That is the reason why I disagee with the Senator; I am afraid it is not practical at the moment.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. STEVENSON. I yield to the Senator from New Hampshire.

Mr. DURKIN. I have looked at the bill. I have an amendment at the desk which I will not call up today, but will call up as soon as possible Monday.

One of the distressing things to me is that I have looked at the bill and I cannot find it—if it is there the Senator can clarify it—when I first came to the Senate, we were talking about deregulation of natual gas. The people of New England realize when it is cold; they have made plans, and they have contracts, the gas industry has contacts, and now we hear there are shortages.

I cannot go back to the people in New Hampshire and tell them that I know whether there is a real shortage, or whether this is a collusive shortage produced by a conspiracy of the oil and gas industry. There is no way, and there are no figures outside of the gas association figures, to my knowledge, that would indicate the extent of our gas reserves.

Here we are, supposed to be the greatest deliberative body in the world, and we are like the blind men feeling the elephant, not knowing what we are up against because we do not know the extent of the gas reserves in this country.

If we do not know the extent of the gas reserves, how can we know the extent of the shortages? How can we plan? How can we make any comprehensive national energy policy?

I understand the administration plans to have a comprehensive policy up here by the 1st of April. I would like to ask, unless Mr. Schlesinger is going to bring in information he acquired when he was the head of the CIA, how is the administration going to make a comprehensive energy proposal, when we do not know the extent of the oil and gas reserves in this country?

I think the people of this country are a little skeptical. We hear there is an oil shortage in 1973; there is an embargo, they quadruple the price, and, with respect to gasoline and home-heating oil, for the most part once the price is quad-

rupled there is plenty of the product available to be purchased.

I would like to be able to go back and tell the people of New Hampshire, "Yes, we are taking steps to be able to find out what the extent of the reserves in this country is, rather than leaving that up to the very industry concerned." That is like asking the fox not only to guard the chicken house, but to tell us how many chickens are left, and what is his schedule for liquidating those chickens.

I think, Mr. President, this is an appropriate time to offer and adopt such an amendment, so that when the Carter administration presents its package, if it is operating in the dark at least Congress does not have to be operating in the dark when we address this very near problem come spring.

Or have I missed the point? Is there anything in the bill that would require adequate information, and authorize and direct the President to ascertain the extent of the reserves in this country?

We hear rumbles. We read Jack Anderson's column and other columns. We learn that Federal Power Commission studies are thrown into the shredder, rather than being provided to the Congress. Is there any requirement in that bill for the oil and gas industry to provide the Congress with credible information? Is there any way of checking that information to see if it is credible?

Mr. STEVENSON. The act gives the President authority to compel the production of the kind of information the Senator seeks. It is my understanding that the President intends to use that authority for that very purpose.

However, I should point out to the Senator that it is not possible to obtain adequate information about the extent of oil and natural gas resources in the country because the exploratory work has not been done. It is probable that, to whatever extent there are onshore natural gas resources, they are at very deep levels, maybe 20,000 feet. Most of the production at the shallow levels has been exhausted. A well at 20,000 feet costs perhaps $3 million or $4 million. Until the production of natural gas becomes profitable, with the production of oil and other sources of fuel, the exploratory wells will not be drilled. Until they are drilled offshore and onshore, there just will not be adequate resource data.

Another problem is related to the figures of the Government, and especially in the public domain. As the Senator from Illinois has proposed, the Government could conduct exploratory operations. Also, the FPC ratemaking procedures have provided the producers a great incentive to understate their reserves. As the Senator mentioned, such reserve data as is available is unreliable. That is partly because producers can get a higher rate from the FPC if they understate their reserves. I believe many have done this.

Mr. DURKIN. Will the Senator yield?

Mr. STEVENSON. I yield.

Mr. DURKIN. Can the Senator state for a certainty that there is a shortage, or is it just a contrived shortage? We are being asked to enact emergency legislation. We do not know whether the shortage is a creation of the gas industry or whether, in fact, there is a shortage.

There is a good reason that garbage collectors rank up with Senators and Congressmen if we are operating on the basis of a total lack of information. The American public should begin to realize that if we are going to continue without adequate information, I think it is an indictment of the entire Congress.

In looking at the bill, there is no directing language for a complete study. We should find out if there is gas at 20,000 feet. If the gas is at 20,000 feet and the price goes up, we should find out if they then will bring it on the line.

The American public is a little skeptical. I think a prerequisite to restoring confidence is restoring a groundswell of support behind any energy policy which must make tough decisions and impact on all segments of society. We will have to show we are taking these steps. We are going to have to show the American public that we are operating on the basis of facts and not on emotion and not on speculation of the oil and gas industry.

Mr. STEVENSON. Mr. President, it should be obvious to every Senator, including the Senator from New Hampshire, that there is a serious natural gas shortage. I do not think we need any additional data to prove that. People are out of work and pretty soon they will be in cold homes. There is a natural gas shortage. It is severe.

It has been predicted by some of us for a long time. Some of us have proposed the necessary measures to acquire the data to act upon that crisis in the past. What the Senator is raising is the old question about whether it is a part of a conspiracy or is this shortage contrived?

Yes, we have looked into that, too. There is some evidence to indicate that, because of the uncertainties about price which have been created by the failure of the Congress to act upon price, there have been some curtailments. They are always covered over with excuses: technical problems, seepage back from sand, they have not been able to find the tubing, the connecting lines have not been constructed, or what have you. But, and this is almost as obvious, no conspiracy, no contrived curtailed production, at the moment is causing the natural gas shortage in the United States. It is going to be a more serious shortage next year even with a milder winter.

Gas cannot be produced that does not exist. It is a finite quantity. We have already produced the easy and the cheap natural gas in this country. We produced it from shallow wells on shore. It is now all but gone. From here out it is in Alaska, it is deep, on shore if it exists, and off-shore.

At the present time, because of the failure of the Congress and past administrations to act, the incentives do not exist to drill those wells, even the exploratory wells, to determine the extent of the resource. In the meantime, because of the artificial pricing structure, the incentive has existed to consume natural gas. Instead of burning coal or oil in many parts of the country, the incentive is to burn the premium fuel, natural gas.

Mr. DURKIN. Will the Senator yield at that point?

Mr. STEVENSON. Mr. President, what has happened in the past is that the efforts to strike a balance between the requirements of producers to produce and the requirements of people on the other side to live, and the economy to prosper, have never been balanced off. This issue hs been deadlocked for some 20 years. Each side has wanted to have it all its own way.

Those who came along and tried to strike that balance in proposed pricing formulas that would provide the resources on the one hand and protect the people on the other, assuring production and assuring conservation, with rate levels that gave the lowest price gas to residential users and the highest to industrial users, fell between the stools. We tried in the last Congress and we failed. Until we succeed we will not have natural gas. We will not even have the information about the extent of the resources of natural gas which remain off-shore, onshore, in Alaska, and throughout the United States.

Mr. DURKIN. Will the Senator yield?

Mr. STEVENSON. I just want to add one further point. The Senator is questioning this emergency language. This is emergency language in an emergency bill. It will be in existence for only a short period of time.

The Senator wants all the information he is seeking, he will need to support a lot of other measures. He could help enact into law a Federal gas and oil corporation that would go out and do some of the exploratory work, especially in the public domain.

We could, as I said, reform the pricing of natural gas and stimulate the exploration of that gas, which will produce more information. We could, as we should, and as he is suggesting, and I agree completely—I do not know how many times this Senator has proposed it in the past—not only authorize but mandate the gathering of adequate information to the extent available. I am afraid it is not available to a very great extent. Data should be gathered from whatever sources there are, industry, Government, State and local, or go out and get it ourselves. That is what we should be doing. That is what led to the discoveries in Prudhoe Bay.

That was the Navy Department up there doing the exploratory work, getting the data. Unfortunately, it has been used principally for the benefit of private industry. That is one reason for a Federal oil and gas corporation.

This is an emergency measure. The purpose of this sentence that I have referred the Senator to is to compel the production of all the information that is necessary to carry out this limited emergency measure. It will lead, as it is bound to, to the production of such data as is necessary about reserves and about de-

mand requirements to enable the President to exercise these authorities.

Mr. DURKIN. Will the Senator yield?

Mr. STEVENSON. Yes.

Mr. DURKIN. My concern is that it does not go far enough. I do not think anyone in this Chamber is going to argue that there is not a shortage at the ultimate end of the pipeline when the switch is turned on in some areas of this country.

There are many people in both Chambers who are trying to achieve a balance. I do not know how we can achieve a balance when we do not know either end of the equation. We do not have the information on—at least I do not think we have thorough information on the uses of natural gas in this country. We have no information, no adequate information, with respect to the sources, with respect to the supply, with respect to the availability of natural gas. I do not think we can any longer rely on the administration, on any administration, or the gas industry to provide that information.

I think Congress has a legal responsibility if not, as well, a moral responsibility to mandate that that information be gathered in the fastest, most efficient way possible.

Maybe there is a serious, long-term problem. Maybe there is no more natural gas. Maybe we are on the verge of a national economic catastrophe. Maybe we are on the verge of a national military defense catastrophe. Maybe there is much oil, much gas easily available. But I do not think anyone really has those answers.

I hope that the floor manager will, after he has had a chance to look at the amendment, accept the amendment and fight for the amendment which not only authorizes but directs the administration to go get that information, once and for all. If we come in with credible information indicating a shortage, the extent of the shortage, then I think we will all pitch in—consumers and producers—to solve the problem. If we find that the wells have been shut in, live wells, good wells, are shut in, then I hope the man who was just confirmed here this week, Attorney General Bell, will prosecute the people who have been responsible for shutting in and misleading this country on one of the grandest scales in recent times.

But I really have trouble—granted, there are people cold today and, granted, there are people unemployed today. Granted, there are children who should be in school today. No one is arguing against helping them. But, for God's sake, we ought to get the information so we can make a rational decision, based on the credible evidence supplied by an independent authority, not supplied by the oil and gas octopus, which may rank even below garbage collectors on the scale of believability.

Mr. STEVENSON. I agree with the Senator completely. I hope he understands that my remarks are in no way intended to signify disagreement. But I do think it is impossible now to obtain adequate information about the extent of oil and gas resources. The Senator is simply suggesting that we sought to obtain it.

Mr. DURKIN. I think the Senator misunderstands me. I do not say we have to have the information for this crisis, and we are not going to have it for this crisis. But everyone says this is just one of the initial qualifying rounds for a greater crisis which is coming. I want to know, and I want to be able to tell my people at home, whose gas is going to be interrupted and whose gas is going to be diverted. They are willing to pitch in and help on a national effort, but they want to know so we can avert the next crisis and take the necessary steps.

Maybe we are going to have a Manhattan Project or a project five times the size of the Manhattan Project to bring fusion on the line, to bring solar energy on the line, to bring alternative sources on the line. Maybe, instead of a tax decrease, we are going to have to have a tax increase. Maybe we are going to have to substantially tighten our belt and substantially increase taxes in this country to solve and avert a national economic disaster, which will put us in a militarily vulnerable position in a tough world.

These are some of the things I am concerned with. It keeps me awake, wondering whether we are on the verge of these things or this is just another con game, another pea-in-the-shell game: the oil companies are playing with the shells and, you know, guess which shell has the pea under it and you get your gas.

It is time to take clear-cut action, get the information, and if it is as severe and drastic as some people indicate, then we had better work Saturdays and we had better work Sundays, because there are some tough times ahead of not only us but the entire country.

I think we have all been in the dark too long, I think the Senator will agree. I do not think there is any way, unless the CIA can get it through the intelligence community or some other system, get it through leaks, unless the information is existing in some intelligence community today, ours or theirs, and we are lucky enough to stumble across them. We will not get it for this crisis, but for God's sake, we have to get it, as rational human beings. I think that is a minimum.

Mr. STEVENSON. Mr. President, I agree with the Senator. Such information on reserve data as is available ought to be obtained. If he has an amendment that will help to achieve that purpose in this context, I shall be happy to consider it. I just wanted to make the point earlier that much of the information is unobtainable at the moment because it just does not exist and will not exist until exploratory efforts are undertaken on a much larger scale.

I thank the Senator for his comments and I shall be happy to work with him to that end, obtaining more information. I agree with him completely.

Mr. SCHMITT. Will the Senator yield?

Mr. STEVENSON. Yes; I yield to the Senator from New Mexico.

Mr. SCHMITT. Relative to the comments of the Senator from New Hampshire, I am no apologist for many errors of judgment by the oil and gas industry in the past several years, but there are some basic facts which have been alluded to by the Senator from Illinois that, basically, mean holes have not been drilled that either found or produced gas required to meet the needs of this present emergency or any future emergency. That started 25 years ago, as we discussed earlier this morning, when the price of natural gas, by a variety of legislative, administrative, and then, eventually, judicial decisions, was regulated at a price well below the market price of energy. When that happened, it became impossible for the free enterprise system whether under any kind of conspiracy or not, to attract capital to drill those holes.

We can go back and one of the things that might be useful to do before this debate is over, is to bring those records, that information into the Chamber. You can look at the number of rigs available for drilling, you can look at the number of holes drilled in the last 25 years, and you can see what has happened to us. We have literally run out of gas. This bill is only an aspirin, and maybe not a very good one, for an immediate pain. But it is not a solution to the broad problem, which is that we have to find more gas over the next 5 to 10 years and then, as soon as possible, quit having to use gas, because there is gas to be found to be used for about that period of time—10 or 20 years—but beyond that, we better have something else to heat and cool our homes.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. RIEGLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BUMPERS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, has any order been entered for the recognition of Senators on Monday, Tuesday, or Wednesday next?

The PRESIDING OFFICER. There are orders for Senator GARN and Senator THURMOND to be recognized for 15 minutes each on Monday.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that after the recognition of Senators GARN and THURMOND on Monday, the Senator from Arkansas (Mr. BUMPERS) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BUMPERS ON TUESDAY AND WEDNESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, have any orders for the recognition of Senators been entered heretofore with respect to Tuesday or Wednesday of next week?

The PRESIDING OFFICER. None have been entered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday and Wednesday, after the two leaders have been recognized under the standing order, Mr. BUMPERS be recognized for 15 minutes on each of those days.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY NATURAL GAS ACT OF 1977

The Senate continued with the consideration of the bill (S. 474) to authorize the President of the United States to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting requirement for high-priority uses; to provide authority for short-term emergency purchases of natural gas; and for other purposes.

Mr. GLENN. Mr. President, today's editions of the Washington Post and New York Times detail specifically the growing and tragic scope of natural gas shortages as they afflict several States. I rise today to urge that my colleagues—particularly those from relatively unaffected States—give these stories more than cursory readings. The articles outline in very stark terms a crisis that threatens physical, social, and economic chaos unmatched since the days of the Great Depression.

This is a matter that must touch the soul of the entire Nation. It is no longer a purely local or even a regional concern.

What is happening in affected States, with over 30 million population, seriously threatens the basic underpinnings of this Nation's economy. The great industrial heartland of America has been brought to its knees. Tens of thousands of workers are being laid off daily. Entire cities are being brought to a virtual halt, with schools closed, businesses sharply curtailed, food supplies in some instances threatened, waterways frozen solid, and troops called out to move basic materials.

Mr. President, the conditions we are discussing today reflect a virtual state of siege.

On January 18, 1977, just 10 days ago, I introduced legislation that would permit the President to declare an emergency when natural gas shortages endanger public health and safety and empower the Federal Power Commission to allocate gas from less impacted interstate pipelines to those serving distressed areas. That bill was S. 325.

On introducing S. 325, I stressed that what was then a crisis threatened to become a tragedy unless this Congress acted, and acted promptly.

I am, therefore, greatly pleased that the Carter administration, working with the appropriate leaders of the Senate and House of Representatives, moved almost immediately after the inauguration of Mr. Carter to forge a legislative package on this issue. In the forefront of these efforts was the President's outstanding special assistant for energy matters, Dr. James Schlesinger.

The bill which has resulted, S. 474, the Emergency Natural Gas Act of 1977, is a worthy approach to this very critical problem and I am pleased, Mr. President, to be a cosponsor of the bill.

It guards against the ultimate tragedy that could occur, namely that citizens will be unable to receive natural gas to heat their homes or essential public facilities, such as hospitals.

The importance of the administration legislation is underscored by the news I received from a local official in Canton, Ohio, last week that the pressure in natural gas lines was so low that pilot lights were going out in home furnaces. When we have things like that, clearly, S. 474 addresses a very present danger and, as noted a moment ago, I support it.

However, even in the few days since I last addressed my colleagues the situation economically has deteriorated so markedly that I am compelled to offer an amendment that would, I feel, give the President authority he should have to preserve jobs when the amount of natural gas required to do so is relatively modest.

I hasten to add while the health and safety of our citizens must be Congress' paramount concern, we certainly should be and would be justly criticized if we did not take steps to stem the economic dislocation caused by the natural gas crisis.

As Mr. Thomas O'Toole's article in the Post today indicates, this is no minor matter. Yesterday alone, more than 25,000 Ohio citizens were laid off, raising the Ohio total to more than 100,000 with prospects of an additional 100,000 to 150,000 layoffs within another week.

In one city alone, Dayton, 8,000 men and women yesterday were thrown out of work because of fuel shortages, 5,600 of them from one plant alone.

Several smaller cities, including Marietta, Portsmouth, Ironton, and Lancaster, announced that virtually all of their industrial capacity has closed.

Mr. President, this is not a 1- or 2-day crisis. Before coming to the floor I checked with the U.S. Weather Service Office in Cleveland, which issues extended forecasts for the entire State of Ohio. Personnel at the Weather Service say that temperatures statewide will range between 10° below zero to 10° above zero all weekend and through at least Tuesday. The forecast beyond that is not more optimistic.

There may be a temporary break about midweek, but the extended forecast calls for Ohio temperatures to remain well below normal for an extended period. We should not expect a change in the weather to obviate the need for action by this body.

This morning, for instance, temperatures at cities chosen at random were: Cleveland plus 15°, near blizzard; Dayton minus 4°; Cincinnati, plus 4°; Toledo, minus 7° with 30-mile-per-hour winds; and Columbus, plus 11°.

Statewide authorities asked all businesses to close at noon, with the exception of food and drug stores.

The need for action was never clearer than it is right now.

Mr. President, my amendment extends emergency allocation authority to those priority II customers who—because of unique aspects of the manufacturing process—have no alternative to natural gas.

Let me cite an example. Ohio ranks as America's leading glass manufacturing State. Part of the glassmaking process involves sophisticated but highly energy-efficient techniques whose only possible fuel is natural gas. In some cases, if facilities used in certain parts of the glassmaking process cool, they must be dismantled and reconstructed at a cost of millions of dollars.

I might elaborate on that just for a few seconds. Some of the furnaces that have to be controlled at very specific temperatures, if shut down they have to be chiseled out once that glass has congealed or solidified inside or the whole furnace has to be replaced. They estimate that even the smaller of those furnaces requires about $2 million to replace and 3 months of downtime, whether it is replaced or chiseled out, either one. So we are talking about a comparatively small amount of natural gas preventing that type of expenditure and that type of delay in the glassmaking process.

Such facts lend special meaning to the news that Owens-Illinois laid off 900 workers at 2 Ohio glass plants last night, and Libby-Owens-Ford laid off another 800 in East Toledo because of gas shortages. We can multiply this industrial impact manyfold over when we get into the food processing industries where we have people shutting down for

lack of natural gas now with all of the foodstocks in place going to spoil.

The ball-bearing industry is another one of our major industries in Ohio where certain of their heat processes can only use natural gas. We could see a situation developing, perhaps, where for lack of ball bearings it begins to affect the whole output of automobiles in this country.

So these are not small matters I am talking about, where comparatively small amounts of gas can have a large and very dramatic effect on the industrial impact on the country and on our particular midwest area.

There are those, I realize, who say that such an extension of the allocation provisions of S. 474 will result in administrative difficulties as Government energy officials try to weigh the respective merits of allocation requests.

I will grant this point, but it should not be a detriment to passage of the amendment. This is an emergency that prompted President Carter to propose his natural gas legislation. Emergencies require extraordinary actions on the part of Government.

My amendment essentially gives the President authority to act—authority he lacks now—to keep men and women on production lines when, by shifting relatively small amounts of natural gas into certain pipelines, many jobs can be spared.

I would like to take a moment to discuss again the regional flavor of this natural gas crisis. I think one of the very real dangers that we face is that citizens and lawmakers from relatively unaffected States will sit back in their warm homes and offices and shake their heads at the emerging tragedy without feeling any personal involvement in it.

Such an attitude might have been understandable a few weeks ago, but it is not now. What is taking place in Ohio, New York, Pennsylvania, Indiana, the Carolinas, and several other States has become a national tragedy. The economic ripple from their distress soon will touch the entire land. We are so interdependent as a nation, and these States help form the country's industrial backbone. When they suffer, so will the economy everywhere eventually.

We have developed in this Nation economic patterns where one part of the Nation supplies the energy for other parts of the Nation to make the industrial products that in turn are shipped back to the origin States for energy, and we are so interdependent that a disruption of this type flow impacts on our whole economy for the Nation.

Beyond economic terms, however, I think there is the matter of personal sacrifice. No one can deny that Ohioans, for instance, have suffered in enormously disproportionate ways. Latest figures from the Federal Power Commission, for instance show that 7 of the Nation's 29 pipeline systems are not curtailing at all in category 2.

In category 2 would be some of the industrial uses which I have specified a little while ago. Meanwhile, upwards of 250,000 Ohioans will probably be out of work by the end of next week. That is the kind of basic disparity that cannot be chalked off as tough luck. I feel that Congress has an obligation to even out the load, to help Ohio and these other States to get back on their feet, to prevent a very near catastrophe.

We can pass legislation to insure that there will be natural gas in homes, and we should. But I feel the President should also have immediate power to move on the jobs front as well. There must be a means to even out the sacrifice. For one State to suffer hardly at all while another freezes on the vine makes no sense and violates basic American beliefs. We are a Nation that reaches out to its own in times of crisis.

It is ironic, perhaps, that I seek to give the President more authority than he requested originally. But I think the situation demands such a course of action.

The natural gas crisis clearly has gone beyond the scope of the States to handle. Only the President, who has the overall condition of the Nation in mind and who has enormous information resources at his command, can weigh the situation properly. My amendment does not compel him to move in the area of industrial allocations, but it does enable him to do so if he chooses to—under certain clearly specified circumstances. In no way does the amendment force him into a certain course of action. Neither is it permanent. Like the rest of the bill, it would expire at the end of July 1977.

As for the argument that my amendment would involve complicated end-use allocations, I frankly do not see how this differs sharply from the present system of specified natural gas categories, which, during the present emergency, have determined curtailment levels based on end use.

If end-use criteria were adequate to set curtailments, I see no reason why they should not be utilized to consider allocations, particularly if such allocations could save many thousands of jobs with relatively little in the way of mandated natural gas shifts from other States.

Mr. President, that is the key to the whole thing I am proposing, that we make this as job producing as we possibly can, once we have protected the residential users who are the prime target of the President's bill.

Mr. President, I ask unanimous consent to print the amendment in the RECORD, along with several articles from today's newspapers that relate the press accounting of the real impact of this crisis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 21

On page 2, line 3, strike "or".

On page 2, line 6, strike the period and insert in lieu thereof ", or".

On page 2, after line 6, add a new subparagraph to read as follows:

"(D) use of natural gas to satisfy firm industrial requirements for plant protection, feed stock, and process needs for which substitute fuels are not readily available where the President determines that such use results in a substantial increase in employment as compared to the amounts of gas used."

On page 5, after line 2, add the following new paragraphs:

"(3) In addition to the restrictions imposed by the preceding paragraph no order may be issued under this subsection for the purpose of meeting requirements for uses specified in paragraph 1(D) of section 2 unless the President determines that such order will not create for the interstate pipeline delivering interstate natural gas a supply shortage which will cause such pipeline to be unable to meet commercial requirements of 50 Mcf or more on a peak day or pipeline storage injection requirement served, directly or indirectly, by such pipeline.

"(4) In issuing orders under this subsection the President shall give priority to meeting requirements for uses specified in paragraph 1(A) through (C) of section 2 over meeting requirements for uses specified in paragraph 1(D) of such section."

[From the New York Times, Jan. 28, 1977]

OHIO "ENERGY CRISIS"—HUNDREDS OF THOUSANDS OF WORKERS LAID OFF AND SCHOOLS ARE CLOSED

(By Steven Rattner)

The two-week-old natural gas crisis bit more deeply for millions of Americans yesterday as the effects of the bitter, persistent cold forced the declaration of an "energy crisis" in Ohio, statewide school closings there and in Pennsylvania, new layoffs for hundreds of thousands of people in a dozen states, and warnings of even more severe hardships to come.

The declaration by Gov. James A. Rhodes of Ohio closed all schools served by the state's four gas utilities and forced an estimated 250,000 workers off their jobs.

In Pennsylvania, 2.6 million children and their teachers are out of school for at least three days as part of a desperate effort to avoid more dramatic disruptions if temperatures plunge this weekend, as predicted. State officials predict a continuation of the closings when the decision is re-evaluated on Monday.

INDUSTRIAL CURTAILMENTS

The Pennsylvania situation may have been the most dramatic one but it was hardly alone. In the New York metropolitan area, the first massive industrial curtailments were being instituted to try to preserve gas service to homes. In Ohio, the Public Utilities Commission warned that some communities could lose all gas service if forecast below-zero temperatures occurred.

The first freezing of the Ohio River in 30 years continued to stall dozens of barges loaded with fuel oil, road salt and other products in short supply. Some communities in Pennsylvania have reported running out of heating oil and officials fear the shortages could sweep across the upper Middle West.

The prospect of a more widespread fuel oil shortage also remained as the American Petroleum Institute reported yesterday that inventories continued to drop last week and the Petroleum Industry Research Foundation warned of serious problems from continuing cold weather and gas shortages.

In Pennsylvania, state officials are diverting the gas, enough to heat 50,000 homes, partly to industry, which has already lost virtually all of its gas service, so that cracking of molds and deactivation of furnaces can be avoided. With 50,000 people out of work in Pennsylvania and another 50,000 layoffs predicted for this weekend, the loss of this supply would mean weeks rather than days of joblessness.

Part of the saved gas would also be diverted to residential users who, for the first time in this crisis, face a serious possibility of losing service, according to state officials. Gas experts fear a loss of dstribution pressure this weekend because of the great demand, and restoring service to homes might require individual house calls, a process that could take days.

"We hope it's enough to keep the home fires burning," said Thomas Clift, a gas supply technician at the State Public Utilities Commission.

WON'T AVERT HEAVY LOSSES

However drastic the Pennsylvania measures, officials there and across the country concede that the measures will probably not be enough to reverse the loss of millions of dollars in income and will certainly not alleviate the financial and personal burdens of the cold winter.

The school closings are "a signal that we are in serious trouble," said Richard Bunn, president of the Pennsylvania Gas Association. "We are now past the point where we can talk conservation. We are now in a period of energy reduction and we must face it."

Governor Rhodes' decision came just a day after he asked residents to pray on Sunday for an end to the energy problems and just hours after the state's four largest natural gas companies urged or ordered all their industrial and large commercial users to stop burning gas, beyond maintenance levels, to protect residential service this weekend.

The Governor has also lifted restrictions on burning high-sulfur coal, but even though the Environmental Protection Agency has voiced no objections, few businesses or institutions appear able to take advantage of the relaxation.

With reserves low and prospects of added supplies at best uncertain, no one was offering predictions of when the crisis would ease.

"The weather is making our decisions for us," said Dudley J. Taw, president of East Ohio Gas in Cleveland.

The State Public Utilities Commission has ordered utilities to begin a mass media campaign to tell homeowners and apartment dwellers what to do if the flow of natural gas stops.

"It's more a possibility than it has been in my experience," said John Borrows, director of utilities at the commission. "The situation is very tight."

In Virginia, as many as 30,000 workers may be laid off and hundreds of schools closed as the State Corporation Commission ordered gas withheld from schools, factories and other nonessential customers in an eastern area including Richmond and Norfolk. The two-week curtailment, originally slated to begin Monday but moved up because of the weather forecast, will affect two million people.

During the bitter cold last week, loss of heat to homes, except in a few isolated instances, was avoided as thousands of factories closed to reduce natural gas usage. It had been hoped that service would be gradually restored to companies without alternative fuel, to reduce the economic burden.

But now, as stockpiles of gas grow lower daily, gas officials believe that goal has become unrealistic.

Economists have not yet estimated what the combined impact of cold weather, high energy bills and shortages is likely to be on the economy, but early indications, ranging from steel production to reports from retail companies, indicate that the effect will be deep and lingering.

[From the Washington Post, Jan. 28, 1977]

HARD TIMES IN OHIO

(By Thomas O'Toole)

The return of bitter cold and a worsening of the natural gas shortage combined yesterday to make Ohio the hardest-hit state in the Union in the current energy crisis.

Ohio Gov. James A. Rhodes declared an energy crisis, and all schools served by Ohio's four utilities will be closed today and as many as 250,000 workers may be off their jobs as Ohio attempts to shift a limited supply of natural gas from factory to home use, state officials said.

Schools and factories in the Ohio River Valley, including portions of Kentucky, Indiana, West Virginia and Pennsylvania as well as Ohio, were also being closed as zero temperatures hardened the ice on the river and blocked heating oil and kerosene deliveries to communities from Pittsburgh on the east end of the river to Louisville in the west.

Factory layoffs in Ohio went up from 75,000 to more than 100,000 last night as the state's largest natural gas pipeline cut back deliveries at midnight to its largest customers. Glass plants closed in Toledo and Lancaster, and automotive factories shut down in Dayton and Brookpark, outside Cleveland.

Snow fell yesterday in Cleveland, and temperatures fell all over Ohio, with forecasts of sub-zero temperatures for the Ohio River Valley, where temperatures have run 20 degrees below normal all winter. Schools in Marietta, Lancaster and Zanesville closed yesterday with instructions that water be drained from their pipes to prevent them from freezing and breaking.

Just when schools will re-open was unclear last night, since there was little chance the natural gas shortage would end soon, or that the weather would warm up or that the ice in the Ohio River would thaw to let barges move heating oil and kerosene into communities needing them.

Factories still open last night said they did not know how long they could stay open since they did not know if they could resupply themselves with the bottled gas and heating oil they were burning instead of natural gas.

Owens-Illinois laid off 900 workers last night at two glass plants in Toledo and Columbus, where natural gas is used as a clean source of regulated heat near the end of the glass-making process. It said it had no more than a 10-day supply of bottled gas to run a third plant employing 1,800 workers. Libby-Owens-Ford laid off 800 workers at its East Toledo plant because of the natural gas shortage.

General Motors laid off 6,000 workers at four of its plants in Dayton, where GM makes brake linings, steering wheels, shock absorbers and refrigerators.

Ford Motor Co. said it was laying off workers at its Brookpark plant, but did not say how many. Ford indicated that layoffs could run as high as 25,000 by Monday.

Elsewhere in Ohio, greenhouse operators were being forced to reduce their use of natural gas to warm the vegetables and flowers growing in an estimated 5,000 greenhouses across the state. Greenhouses produce 80 per cent of the tomatoes grown for the Cleveland market.

"This is the hardest year I've ever seen for the greenhouse industry," said John van Wingerden, a greenhouse operator outside Cleveland. "Ford can shut down for three weeks and start right up again, but if we close for three hours, we're done."

Ohio River Valley communities were among the hardest hit, despite being in the southern part of the state. Factories in Marietta, Zanesville, Portsmouth, Lancaster and Ironton were all closed last night.

Many Ohio River Valley communities are allocated natural gas on the basis of historical weather patterns, but this winter temperatures along the Ohio River have averaged 10 degrees colder than cities and towns in northern Ohio.

There was little shortage of natural gas in the river city of Cincinnati, where Cincinnati Gas & Electric Co. began to curtail gas customers as long ago as Nov. 1 and where factories laid in big supplies of bottled gas and heating oil to stay open.

Therefore, when schools were closed for one week in Cincinnati it was due more to heavy snows than gas shortages. The frozen Ohio River was more of a problem for Cincinnati. The city's supply of salt to melt the ice on city streets was still sitting last night on barges stuck in the river ice.

Downstream, in Louisville, residents were told yesterday to run at least one water faucet in their homes to keep pipes from freezing. The ground around Louisville was frozen to a depth of 30 inches and the Louisville Water Co. said it had taken more than 10,000 reports of frozen pipes from its 200,000 customers.

Louisville had largely escaped the natural gas shortage until last night, when seven factories laid off an estimated 3,000 workers. The largest layoffs took place at the Naval Ordnance plant, Tube Turns and the American Standard Co., which makes sinks and bathroom fixtures.

The Army Corps of Engineers began a "very hazardous, extraordinary maneuver" aimed at moving barges loaded with millions of gallons of fuel oil over three dams on the frozen Ohio River at Louisville.

Corps spokesman Chuck Schumann said the decision was made "because of the fuel crisis in Pennsylvania and Ohio." He said the process of increasing the water level near the three dams by raising their wickets—or gates—could take two to three days, depending on how much difficulty workers encounter.

In both Ohio and neighboring Indiana, the governors lifted all restrictions on burning coal and high sulfur oil. Ohio Gov. Rhodes called for a day of prayer to end the fuel shortage, but state school superintendent Martin Essex predicted that most schools in Ohio would be forced to close next week because of the worsening gas shortage.

"The situation is very critical," Essex said, "and I guess that's the understatement of the winter."

Mr. HEINZ. Mr. President, the bill we are now considering is designed to help us overcome a severe natural gas shortage which is already crippling large sections of the country, including much of Pennsylvania.

I support the goal of this legislation, and I certainly hope that it will result in increased supplies of natural gas becoming available to all classes of users. Its primary purpose, however, is to secure adequate supplies for residential, emergency, and small business use. Unquestionably such users deserve the highest priority, but I do not believe that in setting such priorities we should forget the devastating effects of this crisis on industrial and commercial users; nor should we be sanguine about the effects of this legislation on such users. In much of Pennsylvania industrial users have already been curtailed down to the level

of plant maintenance, and are concerned now about having even that small amount cut off.

Unless this legislation is able to bring forth large amounts of hitherto unnoticed gas, it is unlikely industrial users will have much relief until the weather improves.

Thus it appears that we are facing an economic disaster of the worst sort—thousands unemployed, production shut down, and, in some cases, structural plant damage from frozen and burst pipes. As of yesterday we estimate that more than 50,000 people, primarily in the western part of the State, have been laid off as some 43 major plants have shut down.

To cite a few examples from the western part of the State: Jones & Loughlin Steel will lay off 7,000 when gas is curtailed. Latrobe Steel has already laid off 50 percent of its employees. In the Erie area, more than 13,000 employees were laid off for 2 days last week. That will increase and last for a longer period with the new cold wave that has already hit up there. Last week in four western Pennsylvania counties there were nearly 8,000 new claims filed for unemployment compensation due to the weather and energy crisis.

Beyond the level of economic disaster, the weather has begun to take its toll on human services as well. I learned only yesterday that there are several counties in the southwestern part of the State where both heat and water supplies to residences have been interrupted due to frozen pipes, dwindling gas supplies, and the frozen river which has prevented off-loading of heating oil supplies.

The situation in the other areas of the State is in many instances equally severe and possibly in a few cases worse. As such, the consequences of the present shortage is severe throughout our State, with substantial statewide job losses and threats to public safety.

Mr. President, I ask unanimous consent to include reports on the severity of the crisis in Pennsylvania at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Jan. 28, 1977]

GAS CRISIS HERE GETS WORSE: PGW ASKS FOR HALT TO MOST INDUSTRY, COMMERCIAL USE

The Philadelphia area's natural-gas crisis took a dramatic turn for the worse yesterday as the Philadelphia Gas Works (PGW) announced that it had requested 2,500 of its largest industrial and commercial customers—employing about 131,500 people—to immediately curtail virtually all use of natural gas for an indefinite period.

Coupled with Philadelphia Electric Co.'s request yesterday that 110 of its largest customers curtail all but minimal gas use for the next four days, the PGW gas curtailments seemed to guarantee that many workers will be laid off at least temporarily because of production stoppages.

U.S. Steel Corp.'s Fairless Works, a Philadelphia Electric gas customer, said yesterday that it might have to lay off 150 workers and put 450 others on short weeks because of supply curtailments announced last week.

It was not possible to immediately determine how serious citywide and area layoffs will be.

PGW's announcement came at a City Hall news conference at which Mayor Frank L. Rizzo proclaimed that a state of emergency exists in the city because of the gas shortage.

The news conference was held shortly after a U.S. district judge here denied the city's request for an order to restore natural gas service that had been cut last week by Transcontinental Gas Pipe Line Co., the city's major pipeline supplier.

It came one day after Gov. Milton J. Shapp ordered the closing of all private, parochial and public elementary and secondary schools in the state in an attempt to conserve critically low supplies of gas.

In denying Philadelphia's request for a temporary injunction against Transcontinental (Transco) yesterday, U.S. District Judge Charles R. Weiner said that the "primary jurisdiction" in the case lay with the Federal Power Commission (FPC).

Saying "this court is deeply concerned about the heating gas situation which is reaching crisis proportion," Judge Weiner said he had ordered the FPC to hold an immediate hearing on the city's request for restoration of a 44 percent cut in gas supplies.

Rizzo said yesterday that City Solicitor Sheldon Albert would be leaving immediately for Washington hoping for a quick hearing. An FPC spokesman said that the matter was on the agency's agenda, but he said he did not know when the hearing would be.

The FPC has many cases to consider. President Carter has said that the nationwide gas crisis has forced the closing of about 4,000 plants and the layoffs of about 400,000 workers.

The situation in Philadelphia is extremely bleak.

From what city and PGW officials said yesterday, it was clear that even if the city received all that gas it is seeking, and even with industrial gas use curtailed and homeowners turning down their thermostats, the drain on PGW's natural gas reserves caused by the coldest winter of the century raises a possibility that there will not be enough gas to last the winter unless the cold weather abates.

Rizzo said yesterday, "I don't believe we will ever reach the point where we will have to shut off heat and coking heat to residents of the city." But City Finance Director Lennox Moak raised the possibility that such cuts might become necessary in some sections of the city late this winter.

The uncertainty was indicated by the PGW general manager, Edward Hubbard, who said, "This is the first time in Philadelphia history anything like this (large-scale gas cutbacks) has ever been done . . . It's a completely new area for us.

"We don't know what is going to happen."

Other major developments related to the gas crisis yesterday were:

Gov. Shapp said Pennsylvania would request additional natural gas supplies as soon as Congress passes emergency energy legislation requested by President Carter that would deregulate the price of natural gas and free some new supplies.

The Elizabethtown Gas Co. in New Jersey announced that it would stop serving its 100 largest industrial customers Friday afternoon, raising the possibility of many layoffs in the northern New Jersey area. The South Jersey Gas Co. said it was asking industrial customers to cut gas use to a minimum.

The Arctic cold snap, expected to bring sub-zero temperatures to the Philadelphia area over the weekend and complicate the gas problem, began moving in.

Six small Ohio school districts were closed because of a natural-gas shortage, and a large natural-gas supplier in the state said it would inform many other Ohio schools and other large commercial gas users that they have used up all their winter allotments and will not get any more until April.

In Philadelphia, PGW officials said that although they were asking the 2,500 commercial and industrial customers to cut down on their gas use voluntarily, they would monitor the response and if companies do not honor the request, the company would consider cutting off the supplies.

PGW, like Philadelphia Electric, is asking that companies only use enough gas to keep pipes from freezing and equipment from being damaged.

Throughout the region the gas crisis was beginning to touch the lives of thousands.

A Philadelphia Electric spokesman said ruefully yesterday, "You ain't seen nothing yet."

In Delaware, where Delmarva Power and Light, the major utility company, announced Wednesday that it was cutting all its gas supplies to its 20 largest industrial customers and partly cutting supplies to several hundred others, an aide to Gov. Pierre S. du Pont said that 750 to 1,000 persons were likely to be laid off between today and Monday.

As word of PGW's action spread, some PGW customers said that they would have to let workers go.

A spokesman for Blue Bird Inc., a Philadelphia food processor, said the cutbacks would result in the layoffs of more than 250 persons.

The Phoenix Steel Corp. in Phoenixville, a Philadelphia Electric customer, said it will put workers on short weeks.

Others affected are about 2.5 million public and private school students who have suddenly found themselves with extra time off.

Many took advantage of the time off to go to the movies, bowling alleys, hang out in suburban shopping malls, laundromats, and generally have a good time.

Philadelphia school officials were to meet today to decide what to do if the statewide school closing goes bevond Monday.

Forecasts for the Philadelphia area this weekend call for nighttime temperatures dropping to zero to 15 degrees below zero, with daytime highs only reaching five to 15 degrees above.

In hard-hit western Pennsylvania, which has caught the worst of the brutal weather, forecasts predict low temperatures could reach 10 to 20 below zero tomorrow.

(This story was written by Inquirer Staff Writer Marc Schogol, based on reporting by Inquirer Staff Writers Thomas Ferrick Jr., Andrea Knox, Charles Layton, Linda Loyd, Dominic Sama, Jan Schaffer, Martin J. Sikoro, Paul Taylor and Steve Twomey.)

[From the Pittsburgh Post-Gazette, Jan. 25, 1977]

INDUSTRIES FACE TOTAL CUT OF COLUMBIA GAS SUPPLIES

(By Thomas H. Hritz)

Anticipating another cold wave that it fears may last throughout the winter, the Columbia Gas Co. yesterday announced it will impose extreme natural gas conservation measures effective Feb. 1 that will leave some industrial customers without any gas and reduce supplies to large commercial customers by 40 per cent.

The utility, which lifted less stringent restrictions on its industrial customers last week, said it is waiting until Feb. 1 to give its customers "sufficient time to react."

Columbia's fears were not unfounded.

Although the area enjoyed moderating temperatures in the 20s yesterday that may climb

into the 30s today and even move above freezing in the Downtown area, another cold wave is predicted for the metropolitan area toward the end of the week.

The National Weather Service predicted 2 to 3 inches of snow for last night followed by warmer temperatures tomorrow that will begin dropping Thursday and possibly hit zero or lower Friday.

"Today and tomorrow is the January thaw," said a spokesman. "Enjoy it. It's going to get very cold."

Columbia's action led Gov. Shapp to call an emergency meeting of his cabinet where he declared "there is a very real shortage of natural gas in Pennsylvania complicated by a fuel oil shortage due to transportation difficulties."

The governor then declared that effective immediately all public buildings controlled by the state will have thermostats lowered to 62 degrees whenever occupied. He also said landlords of properties rented or leased to state agencies would be urged to do the same.

Columbia's action came only a few hours after Peoples and Equitable gas companies announced they would continue restrictions imposed on industrial customers early last week until at least this Friday.

Those restrictions include a stoppage of all natural gas used by industry for production but leaves the companies with enough fuel for what the utilities call "plant protection."

Under Columbia's restrictions, there will be no gas for plant protection.

A Columbia official was asked what would be done to prevent damage to equipment in case of extreme cold weather.

"Unless they have an alternate heating system, I can't say," he said.

The company said the new restrictions would remain in effect until March 31, adding that changes in available gas supply, colder than normal tempartures or changes in the amount of gas used by customers could result in additional changes in curtailment prior to that time.

The company called the situation "critical" and appealed to all residential customers to set home thermostats no higher than 65 degrees and for all businesses to reduce gas consumption to a minimum by turning back thermostats and reducing hours of operation.

"In Pennsylvania, curtailment will be increased from 65 to 100 per cent on industrial loads of a million or more cubic feet of gas a month and curtailment of 100 per cent will be imposed on all other industrial customers," said a company statement.

"Large industrial boiler loads with installed alternate fuel capacity will continue to be curtailed 100 per cent. Large commercial customers will continue to be curtailed 40 per cent and schools will continue to be curtailed 10 per cent.

The company did not ask schools on its lines to shut down as it did last week.

Ironically, Columbia's action came at a time when the area was enjoying warmer temperatures.

Nearly all schools resumed classes yesterday and most of the 8,000 steelworkers furloughed because of the cold last week were either back on the job or in the process of being called back.

The majority of the 3,475 laid off last week by Jones & Laughlin had been recalled as well as 1,800 furloughed by Wheeling-Pittsburgh Steel because of a restoration of natural gas supplies by Columbia later in the week.

U.S. Steel had laid off some 1,000 workers. * * * Columbia said record-setting cold temperatures this month have caused their customers to use abnormally large quantities of natural gas for home heating.

The utility said in its statement that temperatures throughout Pennsylvania have averaged 30 per cent colder than normal this winter and 44 per cent colder than normal for the month of January. The firm added that it is also increasing curtailments to customers in Ohio, West Virginia, Maryland and Kentucky.

The American Iron and Steel Institute reported national steel production was off 6.3 per cent and that Pittsburgh production was off 12.9 per cent (about 48,000 tons) in the week ended Jan. 22 compared to the week before. During that week, the mercury plunged to a modern record of minus 17 degrees.

Pittsburgh department store sales dropped 6.9 per cent during last week's cold wave. Downtown stores were off 8.3 per cent and suburban stores were down to 5.7 per cent.

The production of soft coal was also hindered by the cold wave.

Production dropped from 11.25 million tons in the week ended Jan. 8 to 9.8 million tons the following week, the National Coal Association reported.

As a result, this year's cumulative output at 21.1 million tons was sharply below the 27.3 million produced in the comparable period for last year.

[From the Pittsburgh Press, Jan. 23, 1977]

COLD CREATES VARIETY OF DISTRICT TROUBLES

From the frostbite to frozen pipes, from icy roads to industrial layoffs, the Pittsburgh district was not alone in facing the miseries of the frigid "week that was."

They were shared by sister cities throughout Western Pennsylvania to varying degrees.

To be sure, 11 cities surveyed all faced problems from the sub-zero temperatures, but there was no common denominator of distress.

In Washington, Pa., gas pressure in homes stayed at normal levels and schools never closed, a distinct rarity in the western half of the state.

The big headache was, and still is, snow removal.

In Johnstown, the economy may soon feel the effects if 600 employees laid off at Bethlehem Steel Corp.'s plant aren't soon recalled.

Kittanning and Ford City, both on the Allegheny River, are bracing for a possible flood.

Several sections of Altoona had no gas at all early in the week and residents had to move in with friends and relatives.

Here are the headaches these cities had to deal with during the cold snap and its aftermath.

JOHNSTOWN

Mayor Herbert Pfuhl cited the "monumental effect" the layoffs at Bethlehem Steel could have on the city's economy if they continued much longer.

"When you have all those people out of work and with no money to spend, a lot of businesses begin to feel the pinch," he said.

He cited a rash of water main breaks and frozen water lines in homes, reduced gas pressure, and "for two days, we weren't getting the normal electricity input."

BUTLER

Snow removal was the biggest problem. Extra equipment was rented under "state of emergency" rules declared last Wednesday.

The city, served by T. J. Phillips Gas & Oil Co., had no gas fuel problems. Veterans and Butler Memorial hospitals switched to coal and oil. Armco Steel laid no one off.

GREENSBURG

There were four water main breaks during the week, one laying four-inch ice on busy Sidney Street.

The courthouse cut back gas consumption Wednesday through Friday, stores normally open until 9 p.m. Thursday through Saturday closed at 5 p.m.

Factories were asked to cut back and no layoffs were necessary.

WASHINGTON

With no industry pulling off gas supplies—Jessop Steel converted most of its operations to oil—homes were adequately heated. Washington city schools remained open all week.

A "few water line breaks here and there," according to a city engineer.

UNIONTOWN

Reduced gas pressure caused pilot lights in some homes to go off; others went without hot water for several days.

Crews were busy clearing snow and ice from town's 41 miles of streets. Jackhammers used in breaking up ice caused by a rash of water main ruptures.

KITTANNING-FORD CITY

Crews worked 10 to 16 hours a day to conquer snow removal problem. Elger Plumbing Wares laid off 600 workers.

Frozen pipes plagued "quite a few homes."

Meeting flood threat on Allegheny by setting up relay stations from which citizens band personnel would relay river information to police and the county control center.

BEAVER

Snow removal continues to be big headache for town's seven-man crew. "Our priorities were first, to keep roads open, then to dig out churches and then funeral homes," Borough Manager Bob Robinson said.

There were no complaints of lack of heat in homes, he said.

NEW CASTLE

Low gas pressure forced voluntary cutbacks in middle of week with public buildings and downtown stores turning thermostats down to 55 degrees and private homes to 65 degrees.

Schools closed for week on Tuesday. Only a few industrial shutdowns and water breaks.

Downtown streets cleared of snow in $12,000 crash removal program during overnight hours Wednesday through Friday.

ALTOONA

Early in week, several sections of town had no gas at all and people were forced to move in with friends or relatives.

An "unbelievable" number of water breaks reported. Schools closed all week. Mayor William Stouffer's water lines frozen for a time.

INDIANA

Season All, which manufactures doors, shut down, putting at least 100 out of work.

Water breaks numerous and accident rate on roads on rise. Street crews out of salt, using cinders.

Mr. HEINZ. Mr. President, it should be obvious to all that the case of Pennsylvania is not unique—other areas are equally hard hit. It is likewise clear that in addition to this bill we should turn our attention to the disaster that has already occured due to the weather, and that we should be clear in our own minds that the Federal Government is prepared to deal with it effectively within the terms of the Disaster Relief Act of 1974.

To that end, I would like to pose a question to the Senator from Illinois, who is managing this bill. There is no question in my mind that the current disaster has been caused by the weather, that were we not having the most severe winter in recent history natural gas supplies would be sufficient to meet demands. It is my view that a disaster of this magnitude

clearly falls within the definition of "major disaster" in section 102 of the Disaster Relief Act of 1974 and that the President should so declare when requested to do so by the Governors of the affected States. My question to the Senator from Illinois is whether he concurs with my view and feels that we are in fact facing a disaster of major proportions and one which is within the definition in the Disaster Relief Act of 1974.

Mr. STEVENSON. That analysis is correct. The Disaster Relief Act of 1974 defines major disasters as, among other things, snowstorms, and any "other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this act * * *"

There is really no question that what is happening in many parts of the country, including Pennsylvania and Ohio, is a disaster of the highest magnitude involving major economic losses as well as losses of property—some permanent—to industry, small business, and private citizens. Since the cold weather is continuing, there is a very real possibility that major curtailments in residential heating will have to be made, leading to widespread human suffering. Storms, severe cold, and frozen rivers have already blocked delivery and unloading of basic commodities including food and heating oil.

There is ample precedent for the declaration of a disaster under these circumstances. In March 1971, a major disaster was declared in Florida due to freezing which resulted in major economic destruction. Likewise, in March 1976, a major storm and cold wave that swept through the northern United States resulted in disaster declarations in Wisconsin, Michigan, and New York, not to mention the declaration earlier this week in the Chesapeake Bay area because of ice.

Hopefully the bill we are debating today will relieve some of the pressure on hard-pressed communities that use natural gas, but severe economic and property damage has already occurred. It is difficult to generalize; our areas severely impacted by gas shortages certainly can be appropriate cases for disaster declarations.

Mr. BELLMON. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by my distinguished colleague from Oklahoma (Mr. BARTLETT).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BARTLETT ON NATURAL GAS EMERGENCY

By now we all recognize that the Nation is in the firm grip of a serious shortage of interstate natural gas supplies. Much colder-than-normal weather this winter has increased gas consumption dramatically and taxed supplies to the limit, causing schools and factories to close as a result of the shortage. This brings not only inconvenience, but genuine hardship to some parts of our country.

The tragedy of the situation is not simply that we have not enough gas to meet all our needs this winter, but rather that the shortage was entirely preventable.

Listen to what I say. Yes, I come from a so-called producing State. Let me remind you, however, that mine is above all a consuming State. In Oklahoma the gas consumers outnumber the producers over 3,000 to 1. We in Oklahoma are deeply concerned over the energy problems facing the entire Nation today. Some very painful decisions and commitments must be made—and very soon.

I want to go on the record here and now predicting another severe shortage of natural gas next winter no matter what emergency natural gas legislation is passed in the next few days or weeks. Allocation of the shortage among the various interstate pipelines adds not a single cubic foot of natural gas to the supply, and short-term emergency sales will fall far short of meeting requirements for storage and peak demand. We are all paying dearly for over two decades of federally suppressed gas prices. Emergency legislation addresses only a symptom, while the pervading disease goes unchecked.

The shortage is real, deadly real. It is not contrived. It is not a result of any conspiracy on the part of producers, pipelines, or utilities. If there has been a conspiracy, it has been on the part of the Congress of the United States in deceiving the consuming public that artifically and unrealistically cheap natural gas will last forever. This irresponsibility has resulted in gluttonous waste of this premium, pollution-free fuel, while at the same time discouraging producers—individual small businessmen, small companies, as well as large corporations—from expending the time, effort, and capital to find and produce new natural gas reserves to meet the ever-increasing demand of the interstate market.

Turning back our thermostats will help a good deal. In a larger sense, energy conservation must become a way of life in America. But conservation alone will not fill the gap; we must take steps to increase gas supplies now.

In view of the present, real emergency situation, I am in favor of providing the legal means for interstate natural gas pipelines to voluntarily share available gas supplies and assure that no homes go without heat this winter. However, we must not violate the sanctity of the intrastate gas transmission systems by mandating interconnections with the interstate pipelines. That is unnecessary and unwarranted.

I am in favor of allowing emergency sales of intrastate natural gas to the interstate systems. Such sales must be free, however, of any arbitrary Presidential intervention in contractual determinations. I foresee a mountain of litigation over the determination of "fair and equitable prices."

While short-term emergency sales may be desirable, they do not represent a solution. Do not delude yourselves or your constituents into thinking that these sales will erase the problem. The winter weather has been cold back home, too. In Oklahoma, Texas, New Mexico, Louisiana, and other producing States—the weather has been unmercifully cold. Available intrastate natural gas supplies and delivery systems are being taxed accordingly.

There is presently not enough natural gas available in any market to meet our needs with short-term, stop-gap, wand-waving machinations. We must commit ourselves—right now—to the total and immediate deregulation of new natural gas sales. That is the one and the only way we can hope to avert catastrophic natural gas shortfalls in the years ahead.

I have introduced a bill, S. 110, which will effect the long-term deregulation we all desperately need. I urge its prompt consideration by my colleagues.

History will indict us if we fail to address the long-term natural gas supply problem now.

ROUTINE MORNING BUSINESS

The following routine morning business was transacted by the Senate today:

MESSAGES FROM THE HOUSE

At 10:02 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker, pursuant to section 8002 of the Internal Revenue Code of 1954, has appointed Mr. ULLMAN, Mr. BURKE of Massachusetts, Mr. ROSTENKOWSKI, Mr. CONABLE, and Mr. DUNCAN of Tennessee as members of the Joint Committee on Internal Revenue Taxation on the part of the House.

The message also announced that the Speaker, pursuant to the provisions of section 101, title 23 of the United States Code, has appointed Mr. HOWARD, Mr. ANDERSON of California, Mr. ROONEY, Mr. MILFORD, Mr. SNYDER, and Mr. SHUSTER as members of the National Transportation Policy Study Commission on the part of the House.

The message further announced that the Speaker, pursuant to the provisions of section 2(a), Public Law 93–379, has appointed Mrs. Sharon Dixon, of Washington, D.C., as a member of the District of Columbia Law Revision Commission.

The message also announced that the Speaker, pursuant to the provisions of section 2(a), Public Law 93–379, has appointed Mr. Stanford E. Parris, of Virginia, as a member of the District of Columbia Law Revision Commission.

The message further announced that the Speaker, pursuant to the provisions of section 2(a), Public Law 85–874, as amended, has appointed Mr. THOMPSON, Mr. RONCALIO, and Mr. QUIE as members of the Board of Trustees of the John F. Kennedy Center for the Performing Arts on the part of the House.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–525. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act concerning air quality control that was adopted by the Council on December 7, 1976, and returned without the signature of the Mayor on January 12, 1977 (with accompanying papers); to the Committee on the District of Columbia.

EC–526. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act concerning public assistance that was adopted by the Council on December 7, 1976, and returned without signature of the Mayor on January 11, 1977 (with accompanying papers); to the Committee on the District of Columbia.

EC–527. A letter from the Chairman of the Council of the District of Columbia trans-

mitting, pursuant to law, a copy of an act concerning official mail by public officials that was adopted by the Council on December 7, 1976, and returned without the signature of the Mayor on January 12, 1977 (with accompanying papers); to the Committee on the District of Columbia.

EC–528. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act concerning the establishment of a D.C. Armory Board that was adopted by the Council on December 7, 1976, and signed by the Mayor on January 11, 1977 (with accompanying papers); to the Committee on the District of Columbia.

EC–529. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act concerning the D.C. municipal code that was adopted by the Council on December 7, 1976, and returned without the signature of the Mayor on January 11, 1977 (with accompanying papers); to the Committee on the District of Columbia.

EC–530. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act concerning motor vehicle registration dates that was adopted by the Council on December 7, 1976, and signed by the Mayor on January 11, 1977 (with accompanying papers); to the Committee on the District of Columbia.

EC–531. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act concerning arbitration as a disputes-settling mechanism that was adopted by the Council on December 7, 1976, and returned without signature of the Mayor on January 17, 1977 (with accompanying papers); to the Committee on the District of Columbia.

EC–532. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act concerning drug price information that was adopted by the Council on December 7, 1976, and signed by the Mayor on January 11, 1977 (with accompanying papers); to the Committee on the District of Columbia.

EC–533. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act concerning motorized bicycles that was adopted by the Council on December 7, 1976, and signed by the Mayor on January 5, 1977 (with accompanying papers); to the Committee on the District of Columbia.

EC–534. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act concerning fire-station houses that was adopted by the Council on December 7, 1976, and returned without the signature of the Mayor on January 17, 1977 (with accompanying papers); to the Committee on the District of Columbia.

EC–535. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act concerning naming of public places that was adopted by the Council on December 7, 1976, and signed by the Mayor on January 4, 1977 (with accompanying papers); to the Committee on the District of Columbia.

EC–536. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act concerning financial and medical assistance programs that was adopted by the Council on December 7, 1976, and signed by the Mayor on January 3, 1977 (with accompanying papers); to the Committee on the District of Columbia.

EC–537. A letter from the Senior Vice President for Finance of the Potomac Electric Power Company transmitting, pursuant to law, a copy of a balance sheet of Potomac Electric Power Company, as of December 31, 1976 (with an accompanying report); to the Committee on the District of Columbia.

EC–538. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act concerning marriage and divorce that was adopted by the Council on December 7, 1976, and signed by the Mayor on January 4, 1977 (with accompanying papers); to the Committee on the District of Columbia.

EC–539. A letter from the Administrator of the General Services Administration transmitting, pursuant to law, a prospectus for alterations at the Seattle, Washington, Federal Center South, in the amount of $2,887 million (with an accompanying report); to the Committee on Public Works.

EC–540. A letter from the Secretary of Transportation transmitting, pursuant to law, Chapter IX of "The National Highway Safety Needs Report" concerning Indian Highway Safety Needs (with accompanying papers); to the Committee on Public Works.

EC–541. A letter from the Administrator of the General Services Administration transmitting, pursuant to law, a prospectus for alterations at the Washington, D.C., Old Post Office, in the amount of $18,011 million (with an accompanying report); to the Committee on Public Works.

EC–542. A letter from the Administrator of the General Services Administration transmitting, pursuant to law, a prospectus for alterations at the Washington, D.C., Mary E. Switzer Memorial Building, in the amount of $7,574 million (with an accompanying report); to the Committee on Public Works.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

POM–59. Senate Joint Resolution No. 4 adopted by the General Assembly of Maryland calling for a balanced federal budget; to the Committee on the Judiciary:

SENATE JOINT RESOLUTION NO. 4

Whereas, With each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues so that the public debt now exceeds hundreds of billions of dollars.

Attempts to limit spending, including impoundment of funds by the President of the United States, have resulted in strenuous objections that the responsibility for appropriations is the constitutional duty of the Congress.

The annual Federal budget repeatedly demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal government to curtail spending to conform to available revenues.

The unified budget of 304.4 billion dollars for the current fiscal year does not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit.

As reported by US News and World Report on February 25, 1974, of these nonbudgetary outlays in the amount of 15.6 billion dollars, the sum of 12.9 billion dollars represents funding of essentially private agencies which provide special service to the federal government.

Knowledgeable planning and fiscal prudence require that the budget reflect all Federal spending and that the budget be in balance.

Believing that fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal disciplines needed to reverse this trend.

Under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments; now, therefore, be it

Resolved by the General Assembly of Maryland, That this Body proposes to the Congress of the United States that procedures be instituted in the Congress to add a new Article XXVII to the Constitution of the United States, and that the General Assembly of Maryland requests the Congress to prepare and suomit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues, excluding any revenues derived from borrowing, for that fiscal year; and be it further

Resolved, That this Body further and alternatively requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing such an amendment to the Federal Constitution, to be a new Article XXVII; and be it further

Resolved, That this Body also proposes that the 115 legislatures of each of the several States comprising the United States apply to the Congress requiring it to call a constitutional convention for proposing such an Article XXVII; and be it further

Resolved, That the proposed new Article XXVII (or whatever numeral may then be appropriate) read substantially as follows:

PROPOSED ARTICLE XXVII

"The total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues for that fiscal year, excluding any revenues derived from borrowing; and this prohibition extends to all Federal appropriations and all estimated Federal revenues, excluding any revenues derived from borrowing. The President in submitting budgetary requests and the Congress in enacting appropriation bills shall comply with this Article. If the President proclaims a national emergency, suspending the requirement that the total of all Federal appropriations not exceed the total estimated Federal revenues for a fiscal year, excluding any revenues derived from borrowing, and two-thirds of all Members elected to each House of the Congress so determined by Joint Resolution, the total of all Federal appropriations may exceed the total estimated Federal revenues for that fiscal year."

and, be it further

Resolved, That copies of this Resolution under the Great Seal of the State of Maryland, be sent by the Secretary of State to: Honorable Gerald Ford, President of the United States, Washington, D.C.; Honorable Charles McC. Mathias, Old Senate Office Building, Washington, D.C.; Honorable J. Glenn Beall, Jr., Old Senate Office Building, Washington, D.C.; Honorable Carl Albert, Speaker of the House of Representatives, Washington, D.C.; Honorable Robert E. Bauman, Longworth Building, Washington, D.C.; Honorable Clarence D. Long, Rayburn Building, Washington, D.C.; Honorable Paul S. Sarbanes, Cannon Office Building, Washington, D.C.; Honorable Marjorie S. Holt, Longworth Building, Washington, D.C.; Honorable

Gladys Spellman, House Office Building, Washington, D.C.; Honorable Goodloe E. Byron, Longworth Building, Washington, D.C.; Honorable Parren J. Mitchell, Cannon Building, Washington, D.C.; and Honorable Gilbert Gude, Cannon House Office Building, Washington, D.C.; and be it further

Resolved, That under the Great Seal of the State of Maryland, the Secretary of State is directed to send copies of this Joint Resolution to the Secretary of State and the presiding officers of both Houses of the Legislature of each of the other States in the Union, with the request that it be circulated among leaders in the Executive and Legislative branches of the several State governments; and with the further request that each of the other States in the Union join in requiring the Congress of the United States to call a constitutional convention for the purpose of initiating a proposal to amend the Constitution of the United States in substantially the form proposed in this Joint Resolution of the General Assembly of Maryland.

JOINT REFERRAL OF BILL

Mr. HUMPHREY. Mr. President. I ask unanimous consent that S. 50. the Full Employment and Balanced Growth Act of 1977. be jointly referred to the Committee on Labor and Public Welfare and the Committee on Banking, Housing and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced. read the first time and, by unanimous consent. the second time, and referred as indicated.

By Mr. ZORINSKY:

S. 479. A bill for the relief of T. Sgt. Herman F. Baca, U.S. Air Force; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 480. A bill directing the Secretary of the Interior to issue a certain oil and gas lease to the Ballard E. Spencer Trust, Inc., New Mexico; to the Committee on Interior and Insular Affairs.

By Mr. DOMENICI (for himself, Mr. CHURCH, and Mr. HANSEN):

S. 481. A bill to amend the Age Discrimination in Employment Act of 1967 to remove the 65-year age limitation; to the Committee on Labor and Public Welfare.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 482. A bill to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico; to confer jurisdiction on the Court of Claims with respect to land claims of such tribe; and to authorize such tribe to purchase and exchange lands in the States of New Mexico and Arizona; to the Committee on Interior and Insular Affairs.

By Mr. HEINZ:

S. 483. A bill requiring the President to suspend economic assistance, military assistance, Government and commercial sales of arms, Export-Import Bank loans, foreign air carrier landing rights, and most-favored-nation treatment to any country that willfully aids or abets terrorism; to the Committee on Foreign Relations.

By Mr. PEARSON (for himself and Mr. RANDOLPH):

S. 484. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for services furnished by physician extenders; to the Committee on Finance.

By Mr. PEARSON:

S. 485. A bill for the relief of Yuk Lam Tsui and his wife, Chung Lau Cheung, and his son, Sing Wah Tsui; to the Committee on the Judiciary.

By Mr. RIEGLE:

S. 486. A bill for the relief of Erlinda Tomado Zaragosa;

S. 487. A bill for the relief of Samson Kossivi Kpadenou; and

S. 488. A bill for the relief of Patricia Aries Garcia; to the Committee on the Judiciary.

By Mr. BROOKE:

S. 489. A bill to amend the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

By Mr. RIEGLE:

S. 490. A bill to amend title XVI of the Social Security Act to establish a more adequate and realistic guaranteed annual income for all aged, blind, and disabled individuals by increasing benefit amounts, and to establish outreach procedures to assure that all potential recipients of benefits under such program will be fully informed concerning such benefits; to the Committee on Finance.

By Mr. BURDICK (for himself and Mr. METCALF):

S. 491. A bill to amend the Act entitled "An Act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes, approved June 20, 1966 (80 Stat. 211) and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STAFFORD (for himself and Mr. MORGAN):

S. 492. A bill to amend the National Visitor Center Facilities Act of 1968, as amended, to facilitate the implementation of section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976, and for other purposes; to the Committee on Public Works.

By Mr. STAFFORD:

S. 493. A bill to amend section 311(k) of the Federal Water Pollution Control Act to increase the authorization of appropriations for the revolving fund established to finance the removal of oil and hazardous substances discharged into navigable waters, adjoining shorelines and the contiguous zone; to the Committee on Public Works.

By Mr. JACKSON (for himself, Mr. MAGNUSON, and Mr. RANDOLPH):

S. 494. A bill to amend the Youth Conservation Corps Act of 1970 (84 Stat. 794); to the Committee on Interior and Insular Affairs.

By Mr. JACKSON (for himself and Mr. BAKER) (by request):

S. 495. A bill to authorize appropriations for fiscal year 1978 in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the amended, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. DOLE (for himself and Mr. MCCLELLAN):

S. 496. A bill to provide for the mandatory inspection of domesticated rabbits slaughtered for human food, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. DOLE:

S. 497. A bill to amend the Federal Crop Insurance Act and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. STEVENSON:

S. 498. A bill to amend the Federal Aviation Act of 1958 to provide improved notice to the public of changes in air carrier fares; to the Committee on Commerce.

By Mr. JACKSON (for himself and Mr. HANSEN) (by request):

S. 499. A bill to provide for the addition of certain lands in the State of Alaska to the National Park, National Wildlife Refuge, National Forest, and National Wild and Scenic Rivers Systems, and for other purposes; and

S. 500. A bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BELLMON (for Mr. BARTLETT):

S. 501. A bill for the relief of Grace McDougall Anderson; to the Committee on the Judiciary.

By Mr. PELL:

S. 502. A bill for the relief of Manuel Martins de Faria; to the Committee on the Judiciary.

By Mr. MCCLURE (for himself, Mr. DOMENICI, Mr. BELLMON, Mr. JAVITS, Mr. SCHMITT, Mr. DANFORTH, Mr. HANSEN, Mr. LUGAR, Mr. HAYAKAWA, Mr. BAKER, Mr. LAXALT, Mr. STEVENS, Mr. WALLOP, Mr. GARN, and Mr. HATCH):

S. 503. A bill to expand manpower services reductions for individuals and businesses; to the Committee on Labor and Public Welfare.

By Mr. MCCLURE:

S. 504. A bill to provide for permanent tax in order to expand both job opportunities and productivity in the private sector of the economy; to the Committee on Finance.

By Mr. BELLMON (for himself, Mr. DOMENICI, and Mr. YOUNG):

S. 505. A bill to authorize the Secretary of Agriculture to guarantee loans made to producers for the purpose of constructing grain storage facilities on the farms of such producers; to the Committee on Agriculture and Forestry.

By Mr. HUMPHREY:

S. 506. A bill to amend the Rehabilitation Act of 1973 to provide for a program of wage supplements for handicapped individuals; to the Committee on Labor and Public Welfare.

By Mr. PROXMIRE:

S. 507. A bill entitled "The Limousine Limitation Act of 1977"; to the Committee on Government Operations.

By Mr. CHURCH:

S. 508. A bill to prohibit trading in potato futures on commodity exchanges; to the Committee on Agriculture and Forestry.

By Mr. CHURCH (for himself, Mr. BAYH, Mr. HOLLINGS. Mr. HUMPHREY, Mr. RANDOLPH, and Mr. HANSEN):

S. 509. A bill to amend the Controlled Substances Act so as to make unlawful the robbery of a controlled substance from a registered pharmacy; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. CHURCH, and Mr. HANSEN):

S. 481. A bill to amend the Age Discrimination in Employment Act of 1967 to remove the 65-year age limitation; to the Committee on Labor and Public Welfare.

PREVENTION OF JOB DISCRIMINATION AGAINST PERSONS AGE 65 AND OVER

Mr. DOMENICI. Mr. President. today I am introducing legislation which. if enacted, will strengthen the Age Discrimi-

nation in Employment Act of 1967 by extending its application to all workers 40 years of age and older.

As you know, Mr. President, it is presently against the law to discriminate, in terms of employment, against workers who are between the ages of 40 and 65. My amendment would, very simply, remove the upper limitation and make it illegal to discriminate in employment on a basis of age against anyone over 65 as well.

I am pleased to be joined in this effort by my distinguished colleagues on the Special Committee on Aging, Chairman FRANK CHURCH and Senator CLIFFORD HANSEN, ranking minority member. Together we cosponsored this legislation last year when introduced by Senator Fong, who has since retired in his native State of Hawaii. The closeness of the Special Committee on Aging to the elderly and their unique problems over the past several years has provided us with ample evidence that an amendment to the present law is sorely overdue.

As presently worded, section 12 of the act reads:

> The prohiibtions in this Act shall be limited to individuals who are at least forty years of age but less than sixty-five years of age.

By specifically exempting from the protection of the act those workers who are over 65, Congress appears to sanction discrimination against the older worker. The act appears to be saying that, while one may not discriminate against workers who are between 40 and 65, one may quite properly, with the full permission of the Congress, discriminate against those workers who have passed their 65th birthday.

I would like to point out that the present law also implies quite clearly another discouraging message:

> Society neither needs you nor does it want you! Your skills are superfluous. You no longer have a function within the world of work.

And, to many workers, that simply means:

> You have no longer any purpose, no further reason for being.

The present law is capricious, arbitrary, and often misused. We should not be willing to sacrifice the older worker on the alter of high unemployment. If we are to expand job opportunities for our growing labor force, let us use more humane and rational economic means rather than allowing some employers the legal right to terminate an older worker solely on the basis of age.

Mr. President, I submit that chronological age alone is a poor indicator of ability to perform a job. Compulsory retirement at a certain age does not take into consideration actual, differing abilities and capabilities. Many Members of the Congress certainly demonstrate that fact. Obviously many workers can continue to work effectively beyond age 65. Furthermore, compulsory retirement does not take into account increased life expectancy and higher health levels for older persons. In fact, there is ample clinical evidence that forced retirement actually accelerates the aging process for many individuals.

I would also like to point out that compulsory retirement hits especially hard on some women who do not start work until after the children are grown or after being widowed or divorced. Forced retirement limits the work life of these women and reduces their ability to build up significant pension benefits. Additionally, forced retirement causes an increased expense to Government income maintenance programs such as social security, as well as to social service programs.

Mr. President, I am committed to efforts providing financial security to those who wish to retire at a reasonable time, but surely, we must not forget those who choose another course—either by choice or by necessity.

We have made great strides in providing equal opportunity for minorities and women in recent years. Now it is time for the same equality of opportunity to be afforded to the aged. We, the bill's cosponsors and I, invite and urge the support of our colleagues to quickly correct this inequity in the law.

REMOVE THE AGE-65 YEAR LIMITATION FOR APPLICATION OF THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Mr. CHURCH. Mr. President, I am pleased to join Senator DOMENICI in sponsoring a bill to remove the age-65 year ceiling for application of the Age Discrimination in Employment Act.

In 1967, the Congress enacted this law to protect persons aged 40 to 64 from discrimination on the basis of age in hiring, firing, and other conditions of employment. Throughout the years are Age Discrimination in Employment Act has helped to open the doors to new employment opportunities for middle-aged and older workers.

Unfortunately, however, the act provides no protection at all for persons 65 or older. And very few State statutes fill in this gap. Only six States have laws with no upper age limits and without qualifications for application.

Moreover, hearings conducted by the Committee on Aging have provided clear and convincing evidence that the upper age limit for application of the Federal law may ironically have the effect of reinforcing discrimination against persons 65 or older.

Each day about 5,000 Americans reach their 65th birthday. Many of these individuals are forced into retirement—and quite often unwillingly—because of mandatory retirement rules.

Yet, numerous outstanding figures in history have made some of their greatest accomplishments as "senior citizens." Benjamin Franklin, for example, helped to draft the Declaration of Independence at the age of 70. Later, he was selected as a delegate to the Constitutional Convention as an octogenarian. At age 68 Dr. Albert Schweitzer won the Nobel Peace Prive. And there are many more similar examples.

Older Americans have told the Committee on Aging time and time again that inactivity is their greatest enemy. Many want to continue working to remain active. Others need to work because inflation robs their pocketbooks daily.

But our society continues to erect barriers—some subtle and others overt—for older persons seeking jobs.

This bill, however, would serve to remove one of the major formidable obstacles.

As chairman of the Senate Committee on Aging, I have long maintained that aged and aging Americans should have considerable freedom of choice, depending upon their needs and desires. At a bare minimum, these options should be available for the elderly:

To retire in dignity or to work.

To work for pay or as a volunteer.

To work full time or part time.

Functional capacity, not chronological age, should determine whether a person is hired, fired, promoted, or demoted.

A job should not be off limits simply because a person is 65 years of age. And it is high time that we take down those arbitrary barriers which unmistakably suggest that 65 is the end of the road for employment opportunities.

Dr. Robert Butler—the Pulitzer Prize winning author of "Why Survive: Being Old in America," and now the Director of the National Institute on Aging—describes this attitude as a form of "ageism." It is just as destructive as other types of discrimination, whether based on race, religion, or color.

In the long run our Nation is the loser by frittering away the skills, experience, and wisdom of those who can continue to make a valuable contribution.

Several studies have revealed that older workers perform as well on the job as their younger counterparts, and in many cases noticeably better.

Older Americans do not want a handout or preferential treatment. They simply want to compete on equal terms with others. Above all else, they want to be judged on their merits and ability to perform well on the job.

This bill—to remove the age-65 year limitation for application of the Age Discrimination in Employment Act—can help us toward that goal.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be called the Age Discrimination in Employment Amendments.

SEC. 2. Section 12 of the Age Discrimination in Employment Act of 1967 is amended to read as follows:

"APPLICABILITY

"SEC. 12. The prohibition in this Act shall be limited to individuals who are forty years of age or older."

Mr. HANSEN. Mr. President, I am pleased to join with my distinguished

colleague from New Mexico (Mr. DOMENICI) in introducing legislation that would extend the Age Discrimination in Employment Act to cover persons over 65 as well as those between the ages of 40 and 65.

The longstanding practice of denying jobs to persons over 65 solely on the basis of chronological age effectively reduces older workers to second-class status. Such practices are, in most cases, totally unrelated to productive abilities, experience, or willingness to work as shown by job performance studies.

That we have a law which prohibits age discrimination in employment only below age 65, is in itself discriminatory, because it could be interpreted as a legal and moral sanction for such discrimination after 65. This alone, it seems to me is a most valid reason for removal of the age ceiling in the Age Discrimination in Employment Act. I think it would be most unfortunate if this well-intended statute, because of its age 65 ceiling, should be used as an excuse by employers to deny opportunities to older persons.

Employment studies are extensive showing the capabilities and dependability of workers past 65. Many are extremely desirable employees. Equally clear is the fact that older Americans—both employed and retired—deeply resent rejection of any citizen's right to employment just because he or she happens to have reached a certain age.

To the extent that age discrimination prevents employment among persons over 65—who are able and willing to work—our Nation suffers a loss in wealth which their voluntary use of skills and experience can produce. At a time when America is faced with shortages of many goods and services, this is especially shortsighted.

Even more important to the individual is the way in which age discrimination in employment after 65 can interfere with abilities of older persons to supplement other income through work, either part time or full time. How we, as a Nation, can continue such arbitrary interference with the rights of older Americans to help themselves to acquire the necessities and comforts of life is a matter which, in my judgment, is incapable of defense.

Beyond economic factors in employment discrimination based on age is the relationship it can have on the older person's health. For many individuals past 65, the psychological, emotional, and physical benefits to be derived from continued involvement in our Nation's productive activities can be even more important than the money they earn. We should not deny them their rights to such fulfillment.

Support is lent to this view by the American Medical Association's Committee on Aging. The AMA committee said:

> The increase in life expectancy and higher health levels will prove of little benefit to man if he is denied the opportunity to continue contributing his skills at a certain chronological age, whether this be 45, 65, or 85 years.

Employment discrimination based on age is somewhat more complicated than discrimination based on race or sex—especially in enforcement of laws against it. It is also true that the problems such discrimination creates are less dramatic than some other problems related to aging. Neither of these considerations, however, excuses delay or inattentiveness to the principle of equal employment opportunities for both the middle-aged and the old.

Mr. President, I believe that it is imperative that America reexamine its employment and retirement policies—both overt and subtle—to the end that all persons, regardless of age, have the clear right to participate in the productive activities on which our total wealth ultimately depends.

An enlightened policy of work opportunity for older Americans who want gainful employment will benefit us all, young and old.

There should be ample opportunity for retirement by older Americans, but such retirement should be with dignity, honor, and an adequate income. We should make every effort to assure that such honorable retirement policies are not used as an excuse to deny work opportunities to persons who are willing and able to continue in gainful employment.

I believe that there is a growing realization among the members of the Special Committee on Aging, and throughout the Nation, that we need to develop fair employment practices relating to older persons and far more enlightened retirement policies. The need for action, however, goes beyond legislative initiatives. We need to develop an entirely new attitude toward older people and their right to work in all parts of our society—employers, Government, labor unions, educators, and public opinion makers.

I believe that the Federal Government has a major responsibility to provide leadership toward developing more sensible, more humane employment, and retirement practices. Such initiatives are essential in creating the new attitude toward aging and employment which needs to permeate the whole fabric of our society. The enactment of S. 481 will go along way toward achieving this goal.

Mr. President, I hope that the Labor and Public Welfare Committee will give this bill its prompt and favorable consideration.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 482. A bill to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico; to confer jurisdiction on the Court of Claims with respect to land claims of such tribe; and to authorize such tribe to purchase and exchange lands in the States of New Mexico and Arizona; to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, I am introducing a bill for myself and Mr. SCHMITT which I introduced last year. This bill passed the Senate but was not passed by the House of Representatives. The measure contains three parts to deal with three major objectives.

First, it would direct the Secretary of the Interior to acquire through purchase, trade or otherwise land upon which the Zuni Salt Lake is located.

Second, it confers jurisdiction upon the Court of Claims to hear and determine an aboriginal land claim that the Zuni Tribe failed to file in the Indian Claims Commission under the act of August 13, 1946.

Third, it authorizes the Zuni Tribe to purchase and exchange lands in the States of New Mexico and Arizona. This authority is needed to overcome the restrictions in the act of May 25, 1918, which expressly prohibits further expansion of Indian reservations in New Mexico and Arizona.

Mr. President, the Senate Interior Committee held hearings on this bill during the 94th Congress and the Senate considered the measure and passed it on June 25, 1976. It was referred to the House Interior Committee and the Indian Affairs Subcommittee held hearings on the bill. Unfortunately, no further action was taken by the House of Representatives and the bill died during the 94th Congress.

By Mr. HEINZ:

S. 483. A bill requiring the President to suspend economic assistance, military assistance, Government and commercial sales of arms, Export-Import Bank loans, foreign air carrier landing rights, and most-favored-nation treatment to any country that willfully aids or abets terrorism; to the Committee on Foreign Relations.

Mr. HEINZ. Mr. President, yesterday I expressed my disappointment that the Senate resolution concerning Abu Daoud was little more than a gentle admonition.

Today I am introducing a bill that will place on notice nations that aid, abet, or condone terrorists or their acts that strong economic sanctions will be taken against them.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President shall, with respect to any country which willfully aids or abets international terrorism, suspend, for such period as he deems appropriate—

(1) economic assistance;

(2) military assistance;

(3) Government and commercial sales of defense articles and services;

(4) extensions of credits and guarantees under the Foreign Military Sales Act;

(5) loans and loan guarantees made by the Export-Import Bank;

(6) landing rights in the United States for foreign air carriers from any such countries; and

(7) most favored nation treatment.

(b) If the President finds that national security justifies the continuation of any category of assistance described in section (a) to any government which willfully aids or abets international terrorism, he shall re-

port such finding to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate. Assistance may be furnished to such government unless the Congress, within thirty calendar days of receiving such report, adopts a concurrent resolution stating that it does not find that the national security justifies assistance to such government.

By Mr. PEARSON (for himself and Mr. RANDOLPH):

S. 484. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for services furnished by physician extenders; to the Committee on Finance.

Mr. PEARSON. Mr. President, I introduce today legislation to amend title XVIII of the Social Security Act, to permit reimbursement under medicare for primary health care services provided by physician extenders, such as nurse practitioners, physician assistants, and other trained health professionals.

Although there have been significant increases in the total supply of U.S. health professionals in the past 10 years, the shortage of medical manpower in our rural areas and inner cities has become critical. Adequate, essential medical care is unavailable to millions of Americans in these areas.

However, we do have trained practitioners capable of providing basic medical care. Hundreds of physician extenders—nurse practitioners, physician assistants, nurse clinicians, community health associates, and other trained practitioners—are available today to provide physician-directed primary and emergency medical care in communities without their own resident doctors. For Americans in rural areas, these physician extenders are not only a matter of convenience, but in emergencies can mean the difference between life and death.

Despite the tremendous potential advantage of physician extenders, use of their services has been hindered because their services are not reimbursable under medicare. Many people who could most benefit from the services of physician extenders cannot now pay for them. For example, 95 percent of medicare beneficiaries subscribe to part B voluntary medicare coverage of physician and outpatient services. HEW has adopted regulations to the effect that if the beneficiary receives care from a physician extender in a physician's office or a setting in which the physician is in the building, medicare will reimburse the physician for the services. But if similar care is provided in a setting in which the physician extender is physically removed from the physician even though the physician provides supervision through tightly controlled written standing orders, the claim will be denied.

More extensive and effective use of physician extenders is one of the more promising approaches for improving health care in sparsely populated rural areas. Denying medicare coverage to physician extenders simply because they are not in the same building serves to discourage rather than to encourage the use of these allied health personnel.

Mr. President, we are all concerned about the growing public cost of medicare. However, I believe this legislation could result in a net savings to the medicare program. Where physician extender services are available, hospital days have decreased 10 to 15 percent. The savings in reduced costs of hospitalization greatly exceed the potential payments for use of physician extenders.

Mr. President, I believe this legislation will help make quality health care available to millions of Americans in rural areas and inner cities. It will have a most positive and immediate impact in Appalachia, where the Appalachian Regional Commission has assisted more than 200 communities throughout the 13-State region in establishing rural satellite health clinics. One hundred of the clinics rely heavily upon physician extender services to meet primary health care needs, and the record of health care has been very good as I understand the situation. But continuing to deny medicare reimbursement to these clinics threatens their future survival.

My legislation was endorsed by the southern Governors' conference at its meeting last year. I firmly believe that the adoption of this legislation would have the effect of encouraging the use of physician extenders in other parts of rural America, and this would be beneficial for the people in our rural communities.

By Mr. BROOKE:

S. 489. A bill to amend the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

Mr. BROOKE. Mr. President, I am today introducing a bill to authorize a military assistance program for Portugal of $34.5 million for fiscal year 1977. This will require an additional authorization of $19.5 million for fiscal year 1977 and a supplemental appropriation.

Portugal is struggling to consolidate new democratic institutions. With the inauguration of an elected government, Portugal's armed forces have voluntarily relinquished a direct role in politics and government. The present moderate military leadership has turned its attention to creating a new, postcolonial mission emphasizing a political professionalism, discipline, and a significantly enhanced role in the NATO alliance. The military assistance this funding will permit is aimed at support and encouragement for this new sense of direction. In strengthening the military forces of a NATO ally, our program also contributes directly to the defense of Western Europe and the United States.

A high priority aspect of the Portuguese armed forces modernization program, which has been approved by the NATO allies, and to which they are coordinating their contributions, is the establishment of a Portuguese, NATO-committed partially air transportable Army infantry brigade. This brigade will be integrated in the NATO command structure, and NATO's Supreme Allied Commander, Europe, has designated this brigade for reenforcement of Central and Southern Europe.

Portugal has already completed the initial stages of this brigade formation, with the guidance and active encouragement of NATO military authorities and Secretary General Luns. The present leaders of Portugal's Armed Forces have committed themselves and their careers to this modernization effort. New equipment, which Portugal cannot buy without undermining its economic stabilization program, is essential to its success. A sustained U.S. commitment of support is necessary to insure that Portugal's NATO-oriented force modernization does not flounder at this critical stage. Delay would raise questions, not only by Portugal, but also by our other allies engaged in this cooperative endeavor, as to the strength of our commitment. In a very real sense, this support for Portugal will be tangible evidence of the renewed U.S. emphasis on NATO.

After considerable cooperation with the United States and our NATO allies, the Portuguese have committed themselves to streamlining and reorganizing their armed forces. A joint United States-West German survey was made of Portuguese Army deficiencies and requirements to upgrade its capabilities to NATO standards. In addition, the U.S. Air Force and U.S. Navy conducted surveys of the Portuguese Air Force and Navy and made extensive recommendations which the Portuguese have accepted.

The Portuguese have now submitted their reorganization plans for the next 5 years to NATO, and have indicated that these force commitments can only be met through considerable allied assistance.

The U.S. contribution to the Portuguese modernization plan would include, among other things, transport aircraft to support the mobility aspect of the brigade.

The Federal Republic of Germany has already contributed 20 G–91 aircraft and is actively considering contributing additional equipment for the brigade. A NATO Ad Hoc Group on Assistance to Portugal has been established and the allies will be using that forum to coordinate the assistance program for Portugal.

The funds I am requesting in this legislation are a modest U.S. investment in a program which is of critical importance to the United States and Europe. Our interests require that we support the efforts to reorient the focus of the Portuguese forces, to democratize their forces and the rest of the country, and to maintain the level of stability which has been so painfully gained. If we do not, there will likely be a reduction in internal political and military confidence in the effectiveness of the current government, and we might see its downfall and a return to the chaotic revolutionary climate which reigned in Portugal during 1974

and 1975, threatening radical takeover and a weakening of Western Europe and the Atlantic Alliance.

The U.S. effort is strongly supported by our NATO allies, by our Supreme Commander in Europe, by our Ambassador to Portugal, and by our State and Defense Departments. I had the good fortune of recently visiting Portugal and seeing with my own eyes the great democratic progress that has been made there under the current government. I met with the Portuguese leadership and am thoroughly convinced of their sincere efforts to bring democracy to the country, and to dedicate their armed forces to NATO missions in close cooperation with the United States.

The Congress should take the initiative in providing additional MAP funds for Portugal. The attitude of the Portuguese military toward the democratic experiment is still a key factor in Portugal. Assistance from the United States that solidifies support in the military for democracy would be a wise investment.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis of it be included in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 504(a)(1) of the Foreign Assistance Act of 1961 is amended:

(a) by striking out in the first sentence "$177,300,000" and inserting in lieu thereof "$196,800,000"; and

(b) by inserting in the second sentence—

(1) "Portugal" at the end of the table of designated countries; and

(2) "$34,500,000" as the Fiscal Year 1977 Amount for Portugal in that table.

SECTION-BY-SECTION ANALYSIS

The purposes of the Bill are to authorize an increase in the amount of military assistance which may be programmed for Portugal for the Fiscal Year 1977 and to authorize supplemental appropriations for that purpose.

Section 504(a) of the Foreign Assistance Act currently specifies individual ceilings for 8 designated countries for the fiscal year 1977, limits the number of countries that may receive military assistance in Fiscal Year 1977 to 12, and fixes a ceiling on the aggregate amount of military assistance which may be provided to countries not specifically designated. Portugal is not one of the designated 8 countries in section 504(a)(1), and, accordingly, may be provided military assistance only within the aggregate amount fixed for the 4 non-designated countries. Section 1(b) of the Bill would amend section 504(a)(1) by adding Portugal to the list of designated countries and would place a ceiling of $34,500,000 on the Fiscal Year 1977 military assistance program for Portugal. The total number of countries which may receive military assistance would continue to be 12; hence, a balance of 3 undesignated countries could also receive assistance.

Section 1(a) of the Bill would increase the amount authorized to be appropriated for military assistance for the Fiscal Year 1977 by $19,500,000 in order to fund a program for Portugal in the total amount of $34,500,000. The increase required in the authorization is $19,500,000 rather than $34,500,000 for the following reasons: Section 504(a)(1) authorizes $177,300,000 for military assistance for Fiscal Year 1977, and section 504(a)(5) authorizes an appropriation for MAP administrative and other related expenses for the Fiscal Year 1977 of $70,000,000, i.e., a total of $247,300,000. In addition, section 507(a) of the International Security Assistance and Arms Export Control Act of 1976 (P.L. 94-329) authorizes to be appropriated such sums as may be necessary for the Fiscal Year 1977 to carry out international agreements for the use by the Armed Forces of the United States of military facilities in Spain. The appropriation for military assistance for the Fiscal Year 1977 (P.L. 94-441), including administrative expenses and $15,000,000 designated for Spain, is $247,300,000. Hence, the total authorization for military assistance for the Fiscal Year 1977, including Spain, is $15,000,000 greater than the amount appropriated.

By Mr. RIEGLE:

S. 490. A bill to amend title XVI of the Social Security Act to establish a more adequate and realistic guaranteed annual income for all aged, blind, and disabled individuals by increasing benefit amounts, and to establish outreach procedures to assure that all potential recipients of benefits under such program will be fully informed concerning such benefits; to the Committee on Finance.

THE NEED OF THE ELDERLY: A MORAL IMPERATIVE

Mr. RIEGLE. Mr. President, one of the most urgent problems in this country today is finding a way to meet the needs of our elderly people and retirees. We have yet to achieve the goal of an adequate retirement income for all of our senior citizens despite previous legislation passed by Congress.

It is true that social security benefits have been increased and a supplemental security income program established to provide an "income floor" for our elderly, blind, or disabled citizens. And, the Congress did act in 1974 to make many private pension plans more secure by the pension reform law.

But these changes have been modest and the essential problem of providing an adequate income for our elderly has not yet been solved. The elderly are still the most economically disadvantaged group in the Nation; in fact, poverty and old age go hand in hand. One out of every six people over 65 lives in poverty, and many more do not have incomes sufficient to meet a survival standard of living. People who are poor all their lives usually remain poor as they grow old. And these poor are joined by many others who become poor through economic hardships. Quite often, these are people who have worked hard all their lives, sacrificed for the needs and future happiness of their children, and saved in anticipation of their old age and retirement. Then, through no fault of their own, inflation, illness, or other unforseen emergencies wipe out their limited savings and they are left to live on limited pensions, social security, or supplemental security income payments which are far too meager.

While traveling around my district and the State of Michigan, I have met many of these people and I have seen firsthand the economic hardship and despair of these forgotten Americans. I am convinced that we must act now and with urgency to solve this problem. I consider this a moral imperative of the highest order. I have drafted a bill which I am introducing in Congress which will guarantee all of our elderly, blind, and disabled a minimum income payment that will lift them out of poverty and preserve their very lives and self-esteem and dignity.

INCREASED INCOME LEVEL

The provision of a basic SSI income at least at the poverty level was the original intent of Congress. The committee reports describe the new program as assuring that aged, blind, and disabled people would no longer have to exist on below poverty incomes. However, the amounts allotted for benefits were out of date even before implementation of the program began on January 1, 1974. The current SSI payments of $157.70 per month for an individual and $236.60 for a couple are inadequate to meet the basic needs of aging and disabled persons and equal only 75 percent of the poverty level. Furthermore, since SSI payments and the poverty level are both adjusted according to changes in the Consumer Price Index. SSI payments will not increase relative to the poverty level without an increase in the basic Federal payment.

My bill would increase the Federal SSI payment to $333 per month for an individual—$4,000 per year; and $460 for a couple—$5,500 per year and place the responsibility for insuring the aged, blind, and disabled Americans an adequate income standard of living on the Federal Government. The White House Conference on Aging, in 1971, recommended the intermediate retirement budget of the Bureau of Labor Statistics as the minimum income level for the elderly. This was $6,041 for a couple in autumn 1974. My bill would raise the benefit levels to an amount between the poverty level—$2,352 for an individual, $2,958 for a couple acording to the latest Government figures—and the amount recommended by the 1971 White House Conference. Raising the benefit level by this amount will permit aging, blind and disabled persons to have adequate income to manage their financial affairs with dignity and at the same time provide fiscal relief to the States by eliminating the need for most State supplementation and dual administration making this a truly Federal income maintenance program.

The total cost to the Federal Government would be approximately $10 billion; about one quarter of this amount would be returned to the Government as this money is spent and new jobs and tax revenue are created. In addition, this increase would provide fiscal relief to the States which now spend almost $1.5 billion to supplement the Federal payment. Thus, the net cost is approximately $6 billion—approximately 1½ percent of the Federal budget and about the same cost as four Trident submarines.

SIMPLER ELIGIBILITY TESTS

Experience has shown that the existing stringent SSI income and resource tests have compromised the dignity of SSI recipients and created an atmosphere of humiliation among the aged, blind and disabled for whom the program was established. We now have policies and regulations that are too complex for equitable administration and too time-consuming and expensive when weighed against their benefits. I would prefer to have simplified, objective tests of eligibility that improve the effectiveness of the program and can be understood by everyone.

Currently, excluded are: a home valued to $25,000, and a car up to $1,200 and household goods up to $1,500. My bill amends the current provisions to exclude from consideration as resources: the home, as long as it is occupied by the recipient, a car and household goods. Excluding the value of a home should not lead to abuses for a disproportionately expensive home would require a correspondingly high income for its maintenance. The values of household goods and autos are next to impossible to establish accurately as well as time consuming to determine. Moreover, because so many areas lack alternate means of transportation a car is a necessity for many.

My bill would also exclude the consideration of "in kind" income which is difficult to define and value. This provision is consistent with the elimination of the one-third reduction in benefits for persons living in another person's household.

While the current provisions I have mentioned may be less of a barrier to eligibility than might be expected, these determinations are expensive in terms of time and manpower, often result in inequities and I would like to see them eliminated.

VARIATIONS IN PAYMENT

The concept of a uniform payment level, with amounts varying only according to income, is a basic feature of the SSI program. A uniform payment allows administrative efficiency while providing a reliable source of income and permitting greater freedom of choice for recipients. Former public assistance programs provided assistance to meet individual circumstances and needs. SSI payment levels—countable income plus SSI—were intended to be uniform and vary only by income, not by individual expenditures or needs.

My bill is based on the concept of entitlement to a basic income regardless of place of residence. Current variations in payment levels have required complicated regulations to define various living arrangements, which are subject to variation in application and are not consistent with a uniform income security program. Eliminating benefit reductions based on a person's living arrangements would simplify and strengthen SSI as a uniform security program that provides equitable treatment of individuals.

Presently SSI payments vary with living arrangements in accordance with specific provisions in the legislation or as a result of treatment of in-kind support and maintenance as income. For example, a one-third reduction in the payment level is made when a recipient lives in another person's household. This provision can result in a decrease in payments when a recipient shares household expenses with others in order to economize. My bill eliminates these reductions.

In addition, my bill would eliminate the current reduction to $25 per month when an SSI recipient is in a medical institution. The change to a uniform payment level would not result in any additional real financial benefits to most SSI recipients since a recipient's SSI income would be substituted for State medicaid funds, however, this would provide fiscal relief to States and be consistent with the concept of a uniform payment level for all.

SPEED UP BENEFITS

Since the SSI program is based on need, any delay in processing applications and issuing checks creates an immediate financial crisis. Currently, eligible persons are waiting weeks and months for applications to be processed and checks to begin. This is indefensible. The SSI program cannot fulfill the purposes for which it was established unless it pays each eligible person promptly and adequately.

My bill would establish processing goals for initial decisions on an application—30 days for the aged and 45 days for the blind and disabled. In addition, my bill broadens the concept of "presumptive eligibility" and increases the emergency payment made on the basis of presumptive eligibility from $100 to the full SSI payment. This provision would allow decisions to be made immediately by the interviewer based on the evidence submitted, and if necessary observations of an applicant's physical condition, at the time of application.

Under present law, the Social Security Administration can start full benefit payments on this basis to an applicant who alleges he is disabled even before the process of determining eligibility is completed. I believe all SSI recipients deserve this same respect and treatment.

OUTREACH

Finally, because many aged, blind, and disabled persons are not receiving benefits to which they are entitled, my bill would include an outreach program. SSI is an entitlement. People have a right to receive benefits if they are eligible.

The original and revised estimates of the people eligible for SSI benefits and the current number of SSI recipients are still far apart. My bill would require the Social Security Administration to undertake a comprehensive outreach program and report to the Congress every 6 months on the progress of the program. Clearly, the program goal of an adequate income for all needy aged, blind, and disabled persons cannot be achieved if millions do not even know the program exists.

1977—THE YEAR TO ACT

I believe we have an opportunity in the Congress this year to modify the SSI program in such a way to assure an adequate income payment for all aged, blind, and disabled Americans. The cost would be reasonable and in the best interests of our Nation. The current tragedy facing our senior citizens is even more painful because in this country we have the resources to adequately provide for their needs. It is appropriate that we direct our resources toward this end to demonstrate to the world that a hallmark of our society is respect for old age.

We can end a vast amount of suffering being inflicted on our retirees and elderly people—and the time to do it is now.

By Mr. BURDICK (for himself and Mr. METCALF):

S. 491. A bill to amend the Act entitled "An Act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes, approved June 20, 1966 (80 Stat. 211), and for other purposes; to the Committee on Interior and Insular Affairs.

FORT UNION RESTORATION

Mr. BURDICK. Mr. President, today I am introducing legislation which was passed by the Senate last year to develop the Fort Union National Historic Site near Williston, N. Dak.

Fort Union, as many history students know, was a fur trading post established at the confluence of the Yellowstone and Missouri Rivers. Some historians have called it "the most important fur trading post west of the Mississippi during the first half of the 19th century."

In 1966, Congress designated Fort Union as a national historic site. Since that time the National Park Service has been slowly acquiring land for future development. Unfortunately, inflation and administrative delays have made site development impossible under the current funding levels. The legislation proposed today provides enough money for the Park Service to complete land acquisition and begin the historic restoration.

The bill introduced today is in identical form to that passed by the Senate last fall. This is the same bill which the Senate Committee on Interior and Insular Affairs unanimously recommended to the Senate on September 23 of last year. I urge speedy action on this bill so that today's travelers, like the explorers, traders, European dignitaries, and artists of the early 19th century, can visit this "most important fur trading depot on the Missouri."

By Mr. STAFFORD (for himself and Mr. MORGAN):

S. 492. A bill to amend the National Visitor Center Facilities Act of 1968, as amended, to facilitate the implementation of section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976, and for other purposes; to the Committee on Public Works.

UNION STATION IMPROVEMENT ACT OF 1977

Mr. STAFFORD. Mr. President, just prior to the change in administrations,

Secretary of Transportation William T. Coleman, Jr., sent a letter to the Congress that transmitted legislation proposing a number of changes to the National Visitor Center Facilities Act. These changes would provide for completion of the National Visitor Center at Union Station, just at the foot of Capitol Hill. The bill would facilitate greater use of the structure by the railroad passengers and transfer the basic responsibility for the building to the Department of Transportation from the Department of the Interior. According to Mr. Coleman's transmittal letter, "the Secretary of the Interior supports this proposal."

The history of the National Visitor Center is a sad and costly one. Initiated as one of those proposals that supposed to cost the Federal taxpayer nothing, except some annual lease payments, it has swollen to a price of several tens of millions of dollars, plus those annual lease payments. And even at the inflated cost, many of the attractive features of the original design have been abandoned, including large theaters for visitors and the majority of the parking spaces.

While I have real doubts about the best way to resolve these many difficulties, this proposal certainly merits the careful consideration of the Senate. I am, therefore, pleased to introduce this bill on behalf of myself and the chairman of the Subcommittee on Buildings and Grounds (Mr. MORGAN), and I ask unanimous consent that the bill, together with a copy of Mr. Coleman's transmittal letter, be printed at this point in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Union Station Improvement Act of 1977."

SEC. 102. Section 101 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 801) is amended—

(a) by inserting "(a)" before the first sentence; and

(b) by inserting at the end thereof the following new subsections—

"(b) The Secretary shall assign to the Secretary of Transportation the lease of Union Station which the Secretary entered into pursuant to subsection (a) of this section, together with all rights in, to, or concerning Union Station including, without limitation, the purchase option required by section 102(a)(5) of this Act.

"(c) The Secretary shall sublease from the Secretary of Transportation, his sublessee or assigns that portion of Union Station required for the continued operation of the National Visitor Center and may renew sublease upon its expiration.

"(d) The Secretary of Transportation is authorized to renegotiate the lease of Union Station which is to be assigned to him pursuant to subsection (b) of this section 101, provided such renegotiation shall not alter the term or rental of the sublease for the National Visitor Center to be entered into pursuant to subsection (c) of this section.

"(e) The Secretary of Transportation is authorized to exercise the purchase option required by section 102(a)(5) of this Act at the earliest practicable date. Exercise of the purchase option shall not alter the term or rental of the sublease for the National Visitor Center to be entered into pursuant to subsection (c) of this section.

"(f) The Secretary of Transportation is authorized to acquire by lease, purchase, or otherwise any property interest not held by the United States after exercise of the purchase option pursuant to subsection (e) of this section which the Secretary of Transportation deems necessary to carry out this title or section 4(h) of the Department of Transportation Act (49 U.S.C. 1653(h))."

SEC. 103. Section 102(a) of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 802(a)) is amended—

(a) by inserting the following at the end of paragraph (7): "the aggregate annual cost to the United States of the leases assigned to the Secretary of Transportation under section 101(b) of this Act or renegotiated by the Secretary of Transportation under section 101(d) of this Act shall not exceed $3,500,000;"

(b) by adding at the end thereof new paragraphs—

"(9) the sublease entered into by the Secretary pursuant to section 101(c) of this Act shall be for the remaining term of the lease which the Secretary is to assign to the Secretary of Transportation pursuant to section 101(b) of this Act less one day;

"(10) the Secretary shall cause to be completed promptly all improvements undertaken pursuant to paragraph (1), except the parking facility referred to in paragraph (3) and the mass transit facility known as the Southeast Ramp;

"(11) the Secretary shall cause the Company to complete promptly the new railroad station to be constructed pursuant to paragraph (4);

"(12) the Secretary may not operate any concessions unrelated to the National Visitor Center in the space sublet from the Secretary of Transportation pursuant to section 101(c) of this Act."

SEC. 104. Section 103 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 803) is amended by deleting "leased under this subchapter" and by substituting therefor "sublet under section 101(c) of this Act".

SEC. 105. Section 109 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 807) is amended—

(a) by inserting "(a)" at the beginning therefor; and

(b) by inserting at the end thereof the following new subsection—

"(b) The Secretary of Transportation is authorized to use funds received in payment of subleases of part or all of Union Station to pay the cost of leasing Union Station pursuant to section 101 of this Act including, without limitation, the cost of subleasing all or any portion of Union Station."

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., January 14, 1977.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill "To amend the National Visitor Center Facilities Act of 1968, as amended, to facilitate the implementation of section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976, and for other purposes."

A brief history of the problems surrounding Washington Union Station and the National Visitor Center since 1968 will make clear the need for this legislation.

Pursuant to the National Visitor Center Facilities Act of 1968, as amended, (P.L. 90-264, 82 Stat. 43, 40 U.S.C. 801 et seq.), the Department of the Interior leased the Union Station building from Terminal Realty Baltimore Company for a term of 25 years with an option to purchase for the purpose of remodeling the station into the National Visitor Center. Under a separate agreement, Terminal Realty Baltimore Company is building a replacement railroad station behind the present station. The program also called for construction above the replacement station of a transit bus facility and a parking garage, with access ramps. The Department of the Interior authorized a contract with George Hyman Construction Company to manage construction of the National Visitor Center facilities and a contract to construct the replacement station, bus facility, garage and ramps. Both contracts were cost plus fixed-fee contracts.

Although the National Visitor Center itself has now been completed, as a result of delays in construction and attendant cost overruns the available funds have been exhausted before the other facilities could be completed. The latest estimate for completion of all facilities except the parking garage and part of the access ramp is $49.6 million, according to the Hyman Company on October 22, 1976. That amount is more than $2 million in excess of the amount of funds authorized and available for the project. The Department of the Interior terminated its contracts with George Hyman Construction Company as of November 15, 1976. There is now a partially complete 1200-car parking garage, an incomplete public transit facility, and an unfinished replacement railroad station.

This is an unfortunate situation for the transportation users of the facility. Demand for station facilities for transportation purposes is burgeoning. Pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976 (P.L. 94-210, 90 Stat. 31, 45 U.S.C. 801 *et seq.*) (the "RRRR Act"), the Secretary of Transportation is investing $1.75 billion in the next five years to implement the Northeast Corridor Improvement Project, a major program to improve intercity rail passenger service between Boston, Massachusetts and Washington, D.C. The Northeast Corridor Improvement Project is expected to increase intercity rail passenger ridership substantially. The replacement rail station is not adequate to meet this need; it was planned at a time when intercity rail passenger ridership was declining sharply and major improvements were not contemplated. A substatnial amount of space in the old Union Station building is needed to attract and adequately serve the intercity rail passengers upon which the Federal investment in the Northeast Corridor Improvement Project is predicated.

Moreover, the Amtrak Improvement Act of 1974 (P.L. 93-496, 88 Stat. 1533, amending 49 U.C.C. 1653(h)) requires the Secretary of Transportation to create a model intermodal terminal at Union Station.

Because the predominant, long-term use of the facility should be transportation, the Department of Transportation should have the responsibility for further remodeling of the facility to accommodate intercity and intracity passengers. In order to insure completion of the needed facilities at Union Station and to facilitate the long-term use of Union Station as both a transportation terminal and a National Visitor Center, the National Visitor Center Facilities Act of 1968 should be amended to:

(1) require the Department of the Interior to assign to the Department of Transportation the lease of the Union Station properties from Terminal Realty Baltimore Company (the "Union Station Lease") together with all other rights in, to, or concerning Union Station, including the purchase option, which the Department of the Interior has;

(2) require the Department of the Interior to continue to operate the National Visitor Center in Union Station for the remainder of the initial term of the Union Station Lease, under a sublease to the Department

of Transportation or its sublessee, which the lease would be subject to change if a portion of the premises so sublet is later used for transportation facilities (The Department of the Interior would also have the option to renew its lease for the National Visitor Center at a reasonable fee to be negotiated with the Department of Transportation.);

(3) require the Department of the Interior to complete all of the construction projects now underway with the exception of the Southeast Ramp and the parking garage;

(4) restrict operation by the Department of the Interior of concessions in Union Station,

(5) require the Department of the Interior to cause Terminal Realty Baltimore Company to complete the replacement railroad station;

(6) permit the Department of Transportation to renegotiate the Union Station Lease; and

(7) authorize the Department of Transportation to acquire any property interest in or around Union Station necessary to carry out 49 U.S.C. 1653(h).

The Secretary of the Interior supports this proposal and it is the intention of this Department to work closely with the Department of the Interior and its National Park Service to accommodate the needs of the National Visitor Center, which of course will itself benefit from increased transportation use of the total facility.

The proposed legislation will not adversely affect the environment or have any inflationary impact on the economy.

On January 14, 1977, the Office of Management and Budget advised that enactment of the proposed amendments is in accord with the program of the President.

Sincerely,

WILLIAM T. COLEMAN, Jr.

By Mr. STAFFORD:

S. 493. A bill to amend section 311(k) of the Federal Water Pollution Control Act to increase the authorization of appropriations for the revolving fund established to finance the removal of oil and hazardous substances discharged into navigable waters, adjoining shorelines and the contiguous zone; to the Committee on Public Works.

Mr. STAFFORD. Mr. President, shortly before President Carter was sworn into office, the outgoing administration forwarded to the Congress proposed legislation that would increase to $60 million, from $35 million, the authorized level of the revolving fund that is used to clean up oil spills under the terms of the Federal Water Pollution Control Act.

My colleagues are well aware of the extensive environmental damage that occurs when oil and other hazardous materials are spilled into our rivers and lakes and not cleaned up immediately. Recent spills, particularly ones off Nantucket and in the Delaware River, have renewed public interest in a program that will assure fast and effective cleanup by the Coast Guard.

This problem, of course, is not limited to the catastrophic spills. Much of the danger also comes from the great number of minor spills. The cumulative impact of these chronic spills poses a significant threat to our environment.

These problems need to be reconsidered in this Congress. To assist in that consideration, I am pleased to introduce this legislation. I ask unanimous consent that the bill and the transmittal letter, as well as an article on this subject from the Washington Post, be printed at this point in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the text of section 311(k) of Public Law 92-500, (86 Stat. 862, 869; 33 U.S.C. 1321(k)) is amended by striking the figure "$35,000,000" and inserting in lieu thereof the figure "$60,000,000".

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., January 18, 1977.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill—

"To amend section 311(k) of the Federal Water Pollution Control Act to increase the authorization of appropriations for the revolving fund established to finance the removal of oil or hazardous substances discharged into navigable waters, adjoining shorelines, and the contiguous zone."

The proposed legislation will increase the authorization for appropriations contained in section 311(k) of the Federal Water Pollution Control Act (FWPCA) from $35,000,000 to $60,000,000.

Congress created a revolving fund in the Water and Environmental Quality Improvement Act of 1970 and transferred it, intact, to the Federal Water Pollution Control Act of 1972. The original authorization of appropriations made in the 1970 Act has not been changed.

Under the FWPCA, primary cleanup responsibility for the cleanup of oil and other hazardous substances rests with the Federal Government, and those persons actually responsible for the discharge are liable for reimbursement of the cleanup costs, up to specified limits. The monies reimbursed for cleanup costs are returned to the fund, but the fund is not self sustaining. From time to time additional resources have been added by Congress.

From fiscal year 1971 to fiscal year 1976 and through the transitional quarter, Congress appropriated $30,000,000 for the fund, and $8,836,000 in reimbursement and penalty payments have been collected for a total of $38,836,000. During this same period $38,123,000 has been obligated for cleanup operations.

On June 23, 1976, a large oil spill occurred in the vicinity of Comfort Island, St. Lawrence River. The cost of the resulting cleanup operations, approximately $8,000,000, so depleted the revolving fund that in early FY-1977 the Coast Guard felt compelled to replenish it by transferring $5,000,000 from its capital acquisition and construction appropriations as it was authorized to do by P.L. 94-387, the FY-1977 Appropriations Act.

As we so vividly demonstrated in December 1976 and early this year, large, expensive spills like the St. Lawrence River spill could occur at any time. The spill resulting from the grounding of a tanker off Nantucket on December 15, 1976, cost the Coast Guard over $1,000,000. Furthermore the collective cleanup costs of smaller spills, which occur almost daily, is substantial. If the Federal government is to possess the capacity to respond to all such incidents, further rebuilding of the revolving fund will be necessary. A supplemental FY-1977 appropriations request will be submitted for this purpose. Since this supplemental request would increase the total amount appropriated to the fund established by section 311(k) beyond the amount authorized by law, enactment of this proposed bill to increase the limits of authorized appropriations is necessary.

Although Congress is presently considering comprehensive oil pollution legislation which will have a revolving fund, the section 311(k) revolving fund will still be necessary since the legislation under consideration deals only with pollution caused by petroleum based oils. The present fund will still be necessary for cleanup of non-petroleum oils and other hazardous substances which may be discharged.

It would be appreciated if you would lay this proposal before the Senate. A similar proposal has been submitted to the Speaker of the House of Representatives. I earnestly request prompt action on this proposal so that additional funds can be appropriated.

On January 18, 1977, the Office of Management and Budget advised that enactment of this legislation would be consistent with the Administration's objectives.

Sincerely,

WILLIAM T. COLEMAN, Jr.

[From the Washington Post, Oct. 25, 1976]

CHRONIC OIL SPILLS BRINGING A BLACK MARK TO WORLD

(By William Chapman and Thomas O'Toole)

A year ago last summer, the Liberian-flag tanker Garbis unloaded her crude oil cargo in Rotterdam and steamed for New Orleans to pick up a cargo of grain bound for the Soviet Union.

Passing Miami, the Garbis took on 30 drums of solvent and engaged in what then was and still is a routine tank-cleansing operation. Pumping sea water in with the solvent, the Garbis washed her tanks clean of leftover crude oil and flushed at least 43,000 gallons of black oil and sea-green solvent into the Straits of Florida.

The Garbis had made the turn around the tip of Florida when her spillage began washing up on a 40-mile stretch of the Florida Keys. In no time, the beaches of Sugarloaf Key, Little Pine Key, Boca Chica Key and No Name Key were covered with black tar that took two months and $367,000 to clean up.

The Garbis incident was ugly and costly, but by no means an isolated episode in a growing controversy over what are called "chronic" oil spills. The direct result of the rising oil traffic the world over, these spills can follow the breaking of a pipeline under the Ohio River or the collision of a tanker in Chesapeake Bay. Hardly a day passes without one, but when they happen they leave a coastal beach ringed with black scum or an inland river shiny with the yellow and blue rainbows of an oil sheen.

Nowhere near the size of the spill caused by the 1967 breakup of the Torrey Canyon on the coast of Cornwall, England—30 million gallons—the chronic spills are still big enough to leave their mark. The average size of a chronic spill runs 5,000 gallons. Many are smaller, but more than a few have been 500 times that size.

The chronic spills have begun to mount. In 1975, according to a consultant's analysis of the files of the U.S. Coast Guard and the Environmental Protection Agency, there were 12,000 reported spills dumping 22 million gallons of oil into U.S. waters. Twenty of these spills accounted for 16 million gallons of spillage.

The spills aren't geographically concentrated, but the most traveled waterways and coastlines seem to bear the brunt of them. The Ohio River. The St. Lawrence River. San Francisco Bay. Chesapeake Bay. Hardest hit are the Caribbean—islands such as Antigua, Barbados, and Puerto Rico—and Bermuda, where the Gulf Stream and prevailing winds wash up the tar and oil spilled by the hundreds of tankers plying the Atlantic daily.

The new concern over oil spills is fueled by other controversies, such as who pays the

clean-up costs and environmentalists' claims that the buildup of oil in coastal waters damages marine life for years to come.

Just as controversial is the growing practice of flushing tanks at sea, as the voyage of the Garbis illustrated. A minority of the world's tankers follow the practice, but enough do so to save time and money that the flushed-out oil is bathing some of the world's most celebrated beaches in tar.

By the count of the Bermuda Biological Station, a pound of tar can be found along every 20 feet of Bermuda's beaches at any time of year. The Bermuda government now spends $100,000 a year sifting the sands of its two miles of public beach for tar balls. Bermuda's biggest hotels leave a bottle of Lestoil in their rooms so guests can clean the tar from their feet when they come in from the beach.

Bermuda privately complained to the world's tanker owners about their flushing practices and the tanker owners replied that the tar was seeping from fuel tanks of the ships sunk in the South Atlantic during World War II. An exhaustive analysis by the Bermuda Biological Station proved the tar came from crude oil, not the diesel and light oils that might leak from shipwrecks.

"We have no control over this, there's nothing we can do about it," said Dr. Walwyn Hughes, director of fisheries and agriculture for the island government. "All we can do is go down to the beach each time the tide comes in and clean up the tar balls."

It's almost impossible to identify the tankers flushing the oil into the seas, but a growing vigilance by the U.S. Coast Guard has identified most of the chronic spillers close to shore. The trouble is, it's costing the Coast Guard money to do so, and even more to clean up the spills.

What's more, the spills usually end up noticed only in Coast Guard files, which contain daily reports like these:

A barge breaks up near the mouth of San Juan harbor in Puerto Rico, spilling 231,000 gallons of diesel oil that blackens two beaches and rolls tar balls onto two others. The barge's owners abandon it while it's still leaking 8,400 gallons an hour, then refuse to pay clean up costs in excess of $25,000. Cleanup costs rise to more than $60,000.

A tanker pumping its cargo into a barge spills crude oil into San Francisco Bay. Standard Oil of California reports the spillage as 45 gallons. The Coast Guard discovers it's 8,400 gallons.

A pipeline breaks, spilling 66,000 gallons of gasoline into Ohio's Ramp Creek, which runs by towns. The Coast Guard estimates clean up time at two years and costs at $200,000.

A pipeline break spills 2,500 gallons into Ohio's Cuyahoga River, costing the Coast Guard $9,000. The same day, a railroad storage terminal overflows 40,000 gallons of diesel oil into the Ohio River. Cleanup costs run a staggering $125,000.

Some chronic spills have been going on for so long they seem to defy modern cleanup methods. South of Philadelphia, where new and old refineries line the Delaware River, the ground is so saturated with oil that there is daily seepage into the nearby streams and river. Two tankers spilled oil into the Delaware last year, and cleanup operations are still going on.

One age-old habit of sea captains—pumping out their ships' bilges as they head for shallow harbors—continues to plague the Chesapeake Bay. It's now against federal and State law to do so, but it happens once a week, and few culprits are run down and arrested. Says William Yanovitch, an enforcement officer in Maryland's Department of Natural Resources: "We catch one in 50 if we're lucky."

In the last two years, the Coast Guard has stepped up efforts to identify tankers flushing oil into U.S. waters. No fewer than 125 spills of this type have been tracked and identified in that time by the Coast Guard, including one spill last summer that closed a stretch of Long Island beaches for a week. That case is now headed for a New York court.

The Garbis was tracked down in the Florida Keys spill through a painstaking search that involved boarding 247 ships passing through the Straits of Florida the day of the spill, analyzing oil samples from 62 of them, and finally identifying the Garbis from the solvent used to flush the oil.

Yet, more than a year after the spill, the Coast Guard has not collected a cent from the Garbis to pay for the $367,000 cleanup. The ship's master was arrested but never prosecuted because the discharge occurred outside the 12-mile limit of legal jurisdiction. A hearing is scheduled this winter on the U.S. claim for civil penalties, and the Coast Guard may seek to recover cleanup costs.

In the process of finding and suing oil spillers, the Coast Guard is running out of money. Congress set up a $35 million revolving fund in 1972 for the Coast Guard to finance cleanups. In theory, the fund would be replenished with money obtained from guilty ship owners.

The fund has dwindled and was almost exhausted by a single spill, the discharge earlier this year of more than 500,000 gallons of heavy fuel oil from a barge that scraped the bottom of the St. Lawrence Seaway. Cleanup cost: an incredible $8 million.

So far, the fund has paid out $38 million and collected $9 million. At least $15 million is tied up in pending litigation. As many as 100 cases are involved, many of which are only contesting the size of the spill and its cost.

A fresh controversy is whether spilled oil is seriously damaging marine life. The oil industry concedes that spills of gasoline kill off marine life, but questions the effect of oil.

A two-year study commissioned by the American Petroleum Institute looked for abnormalities in sea bottom creatures inhabiting parts of the Santa Barbara Channel where an oil well blew out in 1969 and where there is chronic oil seepage. The study showed that the life cycle of several generations of these sea creatures was unchanged by the seepage.

The most serious challenge to that study has come from the Woods Hole Oceanographic Institution, which has examined the effects of an oil spill seven years ago at the west end of Buzzards Bay, near the mouth of the Cape Cod Canal. The day after the spill dead lobsters turned up on the beaches and in the traps just off the beaches. A week after the spill, the marine population of West Falmouth harbor had fallen from 200,000 animals per square meter to two animals per square meter.

Seven years later, the spill is still felt in Buzzards Bay. Most fish managed to escape it by swimming away and they haven't returned. The less mobile portion of the marine populace wasn't so lucky.

Woods Hole biologists concentrated their studies on two types of sea worms that live in the sea bottom and thrive under almost any conditions. One species died off in a year, another in two years. The biologists also studied the killy fish, which is too small to move out of the intertidal marshes where much of the spilled oil has settled.

The killy fish surviving the spill have greatly increased their supplies of body lipids (parts of living cells) reducing their growth rate and increasing their respiration rate. This has also cut down sharply their reproductivity. The same things are happening to clams.

By most available measurements enough pressures are being brought to bear to reduce the number of small oil spills. A report recently commissioned by the Council on Environmental Quality concludes that enforcement and prevention regulations are diminishing the kinds of spills that pump a few hundred gallons into waterways.

The more serious spills seem much harder to prevent Fifteen years ago, Maryland's legislators considered a measure to end the pumping of bilges on Chesapeake Bay. A bill was introduced requiring that a ship's pumps be locked on entering the bay. It has never passed, partly because of shipowners' fears that any vessel with locked pumps would quickly sink in trouble.

The other hard case is the oil tanker washing out its tanks on the high seas. Sometimes it's done to clear the tanks, sometimes to get rid of sea water taken on for ballast and sometimes to dump part of a cargo to ride out rough seas.

One obvious solution is to require tank-cleansing in port, where the wash can be pumped into holding tanks. Many ships do this, but there are no laws requiring it and none in sight.

Another is to require separate tanks, one for ballast and one for cargo. That was negotiated into an international convention in 1973 that has never been signed by any major seafaring nation, including the United States. If the convention is signed it would only apply to new tankers and then would not become enforceable until years after the signing.

By Mr. JACKSON (for himself, Mr. MAGNUSON, and Mr. RANDOLPH):

S. 494. A bill to amend the Youth Conservation Corps Act of 1970 (84 Stat. 794); to the Committee on Interior and Insular Affairs.

PILOT YOUNG ADULT CONSERVATION CORPS ACT

Mr. JACKSON. Mr. President, I am introducing legislation today which, if enacted, will put 20,000 young Americans to work within 90 days and double that number within 6 months. These young men and women, primarily between the ages of 19 to 24, would be engaged not in make-work but in critically important and long-deferred conservation-related projects on the Nation's public lands and waters. The bill would build upon the authority and proven concepts embodied in the Youth Conservation Corps of today and the Civilian Conservation Corps of the 1930's. It represents a scaled-down version of the Young Adult Conservation Corps legislation which passed the House last Congress and which has been reintroduced by Congressman LLOYD MEEDS and myself this year.

The fact is, Mr. President, unemployment rates among our Nation's young people remain unacceptably high. For young adults, age 16 to 24, the unemployment rate is almost 15 percent. The rate is almost double—nearly 30 percent—for the minority young people. While these young adults are out of work, there are many conservation-related projects on our public lands and waters that desperately need attention.

The Departments of Interior and Agriculture have informed me that, given the authority and the funding levels contained in this legislation, they would employ 20,000 young adults within 3 months and 40,000 young adults within 6 months. They are able to do this, Mr. President, because of the large backlog of conservation projects on lands within their juris-

diction and because of the excellent administrative experience that the agencies have gained through the successful joint implementation of the Youth Conservation Corps program.

Mr. President, I regard this proposal as a pilot program. If enacted quickly, it would provide us with the benefits of experience as we work for the enactment of the Young Adult Conservation Corps Act—S. 249—which I introduced on January 14, 1977. In the meantime, a program such as this will provide meaningful and timely employment opportunities for some 40,000 young people.

I ask unanimous consent that letters from the Department of the Interior and Agriculture regarding their employment capabilities under this type of program together with the bill be printed in the RECORD.

There being no objection, the bill and letters were ordered to be printed in the RECORD, as follows:

S. 494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pilot Young Adult Conservation Corps Act".

SEC. 2. The Act entitled "An Act to establish a pilot program in the Departments of the Interior and Agriculture designated as the Youth Conservation Corps, and for other purposes", enacted August 13, 1970 (84 Stat. 794; as amended, 16 U.S.C. 1701–1706) is amended by—

(1) adding at the end thereof the following new title:

"TITLE II—YOUNG ADULT CONSERVATION CORPS

"PURPOSE

"SEC. 201. It is the purpose of this title to—

"(1) make timely and useful employment opportunities available to a segment of the American population which bears an excessive burden of unemployment, especially in areas where such unemployment is most severe, by employing young adults who would not otherwise be currently productively employed to reduce the inventory of conservation work and complete many other projects of a public nature on the lands and waters of the United States; and

"(2) provide for the prompt implementation of this title by complementing, and building on the existing structure of, the highly successful Youth Conservation Corps program to employ twenty thousand young adults within ninety days, and an additional twenty thousand young adults within one hundred and eighty days, after the enactment of this title.

"EXTENSION OF YOUTH CONSERVATION CORPS

"SEC. 202. The Secretary of the Interior and the Secretary of Agriculture (hereafter in this title referred to as the 'Secretaries') shall jointly extend the Youth Conservation Corps so as to make possible the year-round employment of young adults. Section 102 of this Act applies to the extended Corps under this title, except that individuals employed as Corps members under this title—

"(1)(A) shall have attained age nineteen but not attained age twenty-four or (B) shall have attained age sixteen (or completed high school) but not attained age nineteen, in the case of individuals who have left school and who give adequate assurances, under criteria established by the Secretaries, that they did not leave school for the purpose of obtaining employment under this title;

"(2) shall be physically capable, as determined under regulations established by the Secretaries, to carry out the work of the Corps;

"(3) shall be given preference for employment if they reside in counties having a rate of unemployment equal to or in excss of 6 per centum for three consecutive months, or, if such data is not kept by counties, such other statistical area basis as is used within the State involved, as determined by the Secretary of Labor; and

"(4) May be employed for a total period of not more than twelve months, with such maximum employment period consisting of one continuous twelve-month period or of two or more periods which together total twelve months.

"SECRETARIAL DUTIES AND FUNCTIONS

"SEC. 202. (a) Section 103 of this Act, relating to the duties and functions of the Secretaries, applies to this title, except that in administering this title the Secretaries shall—

"(1) place individuals employed as Corps members into jobs which will diminish the backlog of relatively labor intensive projects which would otherwise be carried out if adequate funding were made available;

"(2) to the maximum extent practicable employ Corps members in areas where existing residential facilities are available; and

"(3) determine rates of pay for Corps members by giving consideration to housing, transportation, food, medical, and other direct benefits of employment (except that supplies and equipment shall not be benefits of employment), but in no event shall rates be set at less than the current Federal minimum wage, set forth in section 6(e)(1) of the Fair Labor Standards Act of 1938, as amended.

"(b) Existing but unoccupied Federal facilities and surplus or unused equipment, or both, of all types including military facilities and equipment may be used by Corps members, where appropriate and with the approval of the Federal agency involved.

"SEC. 203. To carry out the provisions of this title, there are authorized to be appropriated $40,000,000 for the period beginning on the date of enactment of this title and ending September 31, 1978. The Secretaries shall report to the Congress on or before the one hundred and ninetieth day after the enactment of this title concerning the program implementation goals set forth in section 201(2) of this title. Notwithstanding any other provision of law, funds appropriated to carry out this title shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which appropriated.".

(2) inserting immediately after the enacting clause the following:

"TITLE I—YOUTH CONSERVATION CORPS";

(3) redesignating sections 1 through 6 as sections 101 through 106, respectively;

(4) striking out "section 6" in section 104 (d) (as redesignated by clause 3 of this section) and inserting in lieu thereof "section 106"; and

(5) striking out "Act" each place it appears in sections 101 through 106 (as redesignated by clause 3 of this section) and inserting in lieu thereof "title".

UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE,
Washington, D.C., January 21, 1977.

HON. HENRY M. JACKSON,
U.S. Senate.

DEAR SENATOR JACKSON: This is in response for an estimate of the capability of the Forest Service to provide jobs for people who are unemployed.

The Forest Service has an inventory of projects which would meet the dual objectives of providing immediate employment and improving the Nation's natural resource base. This inventory identifies high-labor intensive work which could be promptly initiated and completed within a short period of time. The inventory contains 48,000 man-years of labor intensive work.

Approximately 10,000 people could be employed within 30 days of funding with the remainder working 120 days later. About half of this employment could be provided within the Forest Service and half by State Foresters through Federal, State cooperative programs administered by the Forest Service.

These efforts are in addition to what could be done with some expansion of Job Corps, YCC and Older Americans. We also have many other projects that could be contracted.

Sincerely,

JOHN R. MCGUIRE,
Chief.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., January 21, 1977.

HON. HENRY M. JACKSON,
Chairman, Interior and Insular Affairs Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your inquiry concerning the individual agency capability of this Department to employ youth in the 19–24 age group under the proposed Young Adult Conservation Corps.

The Department of the Interior has the capability to employ 10,000 young adults on lands under its jurisdiction within a period of 90 days. This number could be increased to 20,000 within a period of 5 to 8 months. Our estimate indicates that of the initial 10,000 the National Park Service could immediately employ 2,500, the Fish and Wildlife Service 2,000, the Bureau of Reclamation 1,500, the Bureau of Indian Affairs 1,000 and the Bureau of Land Management 1,500, and other Departmental agencies 500.

We have a payroll and fiscal system in operation that could place the unemployed on these jobs immediately. The only anticipated delay would be to identify those individuals according to priority of greatest need.

If additional information is needed, please call.

Sincerely,

GOVERNOR H. AKER,
Director, Office of Manpower Training and Youth Activities.

By Mr. DOLE (for himself and Mr. MCCLELLAN):

S. 496. A bill to provide for the mandatory inspection of domesticated rabbits slaughtered for human food, and for other purposes; to the Committee on Agriculture and Forestry.

RABBIT MEAT INSPECTION

Mr. DOLE. Mr. President, today the Senator from Kansas is introducing a bill which would make rabbit meat inspection mandatory, at Federal cost, by extending the provisions of the Poultry Products Inspection Act to rabbits and rabbit products. This bill, if enacted, will be a substantial benefit to consumers.

Under the Agricultural Marketing Act of 1946, the U.S. Department of Agriculture currently makes Federal inspection available to the rabbit industry through a voluntary program paid for by the processors who have elected to request inspection. However, there is no Federal law requiring the inspection of rabbit meat by the U.S. Government. When the voluntary inspection program is in effect, Federal inspectors conduct antemortem inspection of live rabbits and postmortem inspection of the dressed meat.

Additionally large amounts of domesticated rabbit meat are imported annually

into this country principally from the People's Republic of China and Poland. Little or nothing is known about the quality of rabbit inspection in these two countries. Under the legislation I am introducing today, imported rabbit meat would be required to be prepared under standards at least equal to those in the United States.

Imported domesticated rabbit meat is subject to inspection by the Food and Drug Administration to determine compliance with the requirements of the United States pure food laws. However, it does not appear that all shipments are inspected, and it is not clear whether laboratory bacterial testing is conducted on all inspections performed by officials of that agency.

This bill has been drafted in particular to insure that operators dressing less than 20,000 rabbits per year will be exempted from full-time Federal inspection. This step will have the effect of reducing the cost to the Federal Government, and at the same time will not reduce the quality of inspections for consumers. As I understand, only the very smallest operations dress fewer than 20,000 rabbits per year. This volume would not justify a Federal inspector being assigned full-time to the plant. At the same time, inspectors would periodically inspect the operation to insure that inspection standards are met. Last year, the Department of Agriculture used an exemption level of 5,000 rabbits which is too low to be practical. In terms of the Poultry Products Inspection Act, which this bill amends, an exemption of 5,000 rabbits considers a rabbit to equal a turkey for inspection purposes. An exemption of 20,000 considers a rabbit equal to a chicken, duck, goose or guinea for inspection purposes, which is more realistic.

This bill is similar to H.R. 10073 which passed both Houses of the Congress last year and which was vetoed by the President. Similar legislation also passed the Senate during the 93d Congress.

It is my belief that the American consumer should have the protection of adequate inspection insofar as rabbit meat is concerned, just the same as in the case of meat and poultry.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That, except as provided in section 2 of this Act, all the penalties, terms, and other provisions in the Poultry Products Inspection Act (71 Stat. 441; 21 U.S.C. 451–470) are hereby made applicable (1) to domesticated rabbits, the carcasses of such rabbits, and parts and products thereof, and to the establishments in which domesticated rabbits are slaughtered or in which the carcasses, or parts or products thereof, are processed, (2) to all persons who slaughter domesticated rabbits or prepare or handle the carcasses of such rabbits or parts or products thereof, and (3) to all other persons who perform any act relating to domesticated rabbits or other carcasses of such rabbits or parts or products thereof, and who would be subject to such provisions if such acts related to poultry or the carcasses of poultry, or parts or products thereof; and such provisions shall apply in the same manner and to the same extent as such provisions apply with respect to poultry and the carcasses of poultry, and parts and products thereof, and to persons who perform acts relating to poultry, the carcasses of poultry, or parts or products thereof.

SEC. 2. (a) The provisions in paragraph (a)(2) of section 15, section 24(a), and section 29 of the Poultry Products Inspection Act shall not apply with respect to domesticated rabbits or the carcasses of such rabbits, or parts or products thereof. The two-year period specified in paragraph (c)(1) of section 5 of such Act and the periods contemplated by paragraph (c)(4) of such section shall commence upon the date of enactment hereof, with respect to domesticated rabbits and the carcasses of such rabbits, and parts and products thereof; and in applying the volume provisions in paragraphs (c)(3) and (c)(4) of section 15 of such Act, the volume restrictions applicable to poultry shall apply to domesticated rabbits.

(b) For purposes of this Act—

(1) wherever the term "poultry" is used in the Poultry Products Inspection Act, such term shall be deemed to refer to domesticated rabbits;

(2) wherever the term "poultry product" is used in the Poultry Products Inspection Act, such term shall be deemed to refer to domesticated rabbit products; and

(3) the reference to "domesticated bird" in section 4(e) of the Poultry Products Inspection Act shall be deemed to refer to domesticated rabbit.

(4) the reference to "feathers" in section 9(a)(4) shall be deemed to be "pelt".

SEC. 3. This Act shall become effective upon enactment, except that no person shall be subject to the provisions of this Act prior to January 1, 1977, unless such person after enactment of this Act applies for and receives inspection for the processing for commerce (as defined in the Poultry Products Inspection Act) of domesticated rabbits or the carcasses of such rabbits, or parts or products thereof, in accordance with the provisions of this Act and pursuant to regulations promulgated by the Secretary of Agriculture under this Act. Any person who voluntarily applies for and receives such inspection after enactment hereof shall be subject, on and after the date he commences to receive such inspection, to all of the provisions (including penalties) of the Poultry Products Inspection Act as applied hereby in relation to domesticated rabbits, the carcasses of such rabbits, and parts and products thereof.

SEC. 4. The provisions hereof shall not in any way affect the application of the Poultry Products Inspection Act in relation to poultry, poultry carcasses, and parts and products thereof.

By Mr. DOLE:

S. 497. A bill to amend the Federal Crop Insurance Act and for other purposes; to the Committee on Agriculture and Forestry.

FEDERAL CROP INSURANCE EXPANSION ACT OF 1977

Mr. DOLE. Mr. President, today I am pleased to introduce the Federal Crop Insurance Expansion Act of 1977. This proposed legislation is especially pertinent and timely. The expiration of the crop disaster payments program at the end of this year affords Congress with an excellent opportunity to fashion a new and comprehensive strategy in helping agricultural producers meet the risk of disastrous crop losses resulting from causes beyond their control.

DISASTER PAYMENTS

Almost everyone agrees that our current efforts to alleviate the impact of natural crop disasters are cumbersome, duplicative, inequitable, and ineffective. The disaster payments program, which is administered by the Agricultural Stabilization and Conservation Service, is limited to producers with acreage allotments for upland cotton, wheat, and three feedgrains—corn, grain sorghum, and barley.

The program is meant to alleviate losses when natural disasters or other uncontrollable conditions prevent the specified crops from being planted or result in abnormally low yields.

In addition to the program's limitation to certain crops planted on allotted acres, there are numerous inconsistencies in payment computations, eligibility requirements, and program coverage. One loophole, for instance, permits cotton producers to receive prevented planting payments even if they subsequently plant another cash crop.

The program is also difficult to administer because the provisions are so complicated farmers do not fully understand them.

CROP INSURANCE IS LIMITED

Additional protection from crop losses is provided by the Federal Crop Insurance Corporation—FCIC. Unfortunately, Federal crop insurance is not available in all agricultural counties; nor does it cover all basic commodities in the counties where insurance is available. During crop year 1975, FCIC insured crops in 1,467 counties—out of 3,066—and had 3,657 individual county crop programs involving 23 commodities.

In many instances, insurance is not available where it is needed most. Moreover, high premiums and competition from the disaster payments program have kept participation low—at about 17 percent of eligible producers.

COMPREHENSIVE COVERAGE

The purpose of the Federal Crop Insurance Expansion Act is to replace these current efforts with a new, equitable, and comprehensive system of crop coverage.

Specifically, my legislation requires FCIC to expand into all agricultural counties and provide coverage for six basic commodities wherever they are grown commercially. These include wheat, cotton, corn, rice, grain sorghum, and barley.

Numerous additional crops will be covered, as now, on a county-by-county basis. Coverage will continue to include up to 75 percent of a farm's average yield.

THE COST OF PROTECTION

My legislation also provides for a 25 percent Federal subsidy of the premiums producers pay into FCIC. A premium subsidy of this size, together with the existing Federal payment of the corporation's operating and administrative expenses, will reduce the cost of insurance to producers and make it a viable and attractive alternative to the disaster payments program.

The Department of Agriculture estimates that the proposed expansion of FCIC will triple the level of participation

in 3 years. The Federal premium subsidy will substantially increase the level of Government support, but the expiration of the disaster payments program—which cost $328.4 million in 1976—will more than offset the Federal subsidy of a nationwide FCIC.

The Department projects an impressive savings if an expanded FCIC were to replace the present crop insurance/disaster payments system. Crop insurance and disaster payments cost the taxpayer a total of $340.3 million in 1976. If the existing programs are continued, this figure will rise to an estimated $424.7 million in 1978. In contrast, a nationwide FCIC, operating with a 25 percent premium subsidy and assuming a participation level of at least 28 percent, will cost the taxpayer only about $114 million.

In short, taxpayers will save money and producers will enjoy more comprehensive coverage.

OTHER PROVISIONS

The proposed act also revises the way in which FCIC's activities are funded to permit greater fiscal flexibility and capital stability. These changes, which are essential for the corporation's expanded activities, include increasing the capital stock from $100 million to $300 million, deleting the $12 million authorization ceiling on operating expenses, and providing FCIC with discretionary borrowing authority.

My legislation would also delete some authorities which have never been used or are no longer needed, and would update certain other aspects of existing law.

CONCLUSION

Mr. President, in conclusion I call your attention to the highly unfavorable growing conditions that threaten our crop prospects across this Nation. Months of dryness, combined with very cold weather this winter, is likely to damage the winter wheat crop in Kansas and throughout the Great Plains. Severe drought in the upper Midwest seems to be expanding, and lack of snow in the Rocky Mountains endangers irrigation supplies from the Corn Belt to California's Imperial Valley.

This situation lends urgency to my legislation and makes the improvement of Federal crop protection a matter of high priority in this Chamber.

Mr. President, I ask unanimous consent that my bill and a section-by-section summary be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 504(a) of the Federal Crop Insurance Act as amended, is amended to read as follows:

"SEC. 504(a). The Corporation shall have a capital stock of $300,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary of Agriculture, be subject to call in whole or in part by the Board of Directors of the Corporation."

SEC. 2. The second sentence of subsection (c) of section 505 of the Federal Crop Insurance Act, as amended, is amended to read as follows: "The members of the Board who are not employed by the Government shall be paid such compensation for their services as directors as the Secretary of Agriculture shall determine, but such compensation shall not exceed the daily equivalent of the rate prescribed for grade GS–18 in section 5332 of title 5, United States Code, when actually employed, and be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently."

SEC. 3. Section 507 of the Federal Crop Insurance Act, as amended, is amended:

(1) by striking out ", and county crop insurance committeemen" in subsection (a);

(2) by striking out the comma after the word "title" in subsection (b) and all that follows down through the end of the sentence and inserting in lieu thereof a period;

(3) by striking out subsection (c) in its entirety;

(4) by redesignating subsection (d) as subsection (c) and amending such subsection (as redesignated) to read as follows:

"(c) The Corporation may contract with, and transfer funds to, other agencies and offices of the Department of Agriculture or with the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for assistance in carrying out this title; but any employees of such other agencies and offices responsible for performing functions under this title shall be responsible directly to the Corporation without the intervention of any intermediate office or agency."; and

(5) by redesignating subsection (e) as subsection (d).

SEC. 4. Section 508 of the Federal Crop Insurance Act, as amended, is amended to read as follows:

"SEC. 508. To carry out the purposes of this title the Corporation—

"(a)(1) Shall for the 1978 and subsequent crop years insure producers of wheat, cotton, grain sorghum, corn, rice, and barley, wherever grown commercially, but subject to the limitations herein, and may insure producers of other agricultural commodities wherever grown commercially, subject to the limitations herein, at such time as the Board determines that insurance on any other agricultural commodity has been developed to the point that it can be offered to the producers thereof. The insurance for any commodity shall be offered under any plan or plans determined by the Board to be adapted to the commodity. Such insurance shall be against loss of the insured commodity due to one or more unavoidable causes, including drought, flood, hail, wind, frost, winterkill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes as may be determined by the Board: *Provided,* That, except in the case of tobacco, such insurance shall not extend beyond the period the insured commodity is in the field. Any insurance offered against loss in yield shall not cover more than 75 percent of the average yield for a representative period of years for a farm, or area in which the farm is located, as determined by the Corporation on the basis of recorded or appraised yields, subject to such adjustments as may be necessary to the end that the average yield fixed for farms in the same area, which are subject to the same conditions, may be fair and just. Insurance provided under this subsection shall not cover losses due to the neglect or malfeasance of the producer, or to the failure of the producer to reseed to the same crop in areas and under circumstances where the Corporation determines it was practical to so reseed, or to the failure of the producer to follow established good farming practices. Beginning with the 1981 crop year, the Board may limit or refuse insurance in any county or area, or on any farm, on the basis of the insurance risk involved. For each crop insured, the Corporation shall not offer insurance on any acreage not suited to the production of such crop or in any county where the planted acreage of such crop is below a minimum county acreage as established by the Corporation, except that it may, if it is deemed practical to do so, offer insurance on acreage in such county through the office serving another county which meets the minimum requirement. The Corporation shall report annually to the Congress the results of its operations on each commodity insured.

"(2) May insure producers against losses that they may incur when they are unable to plant an agricultural crop because of a flood. Insurance issued under authority of this paragraph shall be subject to the applicable provisions of paragraph (1) of this subsection.

"(b) May fix adequate premiums of insurance at such rates as the Board deems sufficient to cover claims for crop losses on such insurance and to establish as expeditiously as possible a reasonable reserve against unforeseen losses. For the purpose of encouraging the broadest possible participation in the crop insurance program, twenty-five percent of each participants calculated premium shall be paid by the Federal Government. The remaining seventy-five percent of the premium shall be paid by each participant and such premiums shall be collected at such time or times or shall be secured in such manner as the Board may determine.

"(c) May adjust any pay claims for losses under rules prescribed by the Board. In the event that any claim for indemnity under the provisions of this title is denied by the Corporation, an action on such claim may be brought against the Corporation in the United States District Court, or in any court of record of the State having general jurisdiction, sitting in the district or county in which the insured farm is located, and jurisdiction is hereby conferred upon such district courts to determine such controversies without regard to the amount in controversy: *Provided,* That no suit on such claim shall be allowed under this section unless the same shall have been brought within one year after the date when notice of denial of the claim by registered mail is sent to the claimant.

"(d) May reinsure multiple peril crop insurance risks subject to the limitations of this Act in not to exceed 20 counties.

"(e) Notwithstanding any other provision of this title, is hereby authorized, under such terms and conditions as it deems consistent with sound reinsurance principles, to provide reinsurance on any crop or plantation insurance provided in Puerto Rico by a duly authorized agency of the Commonwealth of Puerto Rico: *Provided,* That, no application for reinsurance authorized herein shall be approved, unless the Corporation shall have determined that the reinsurance deemed necessary is not available from recognized private sources at reasonable costs."

SEC. 5. The second sentence of section 515 of the Federal Crop Insurance Act, as amended, is amended to read as follows: "The compensation of the members of such committee shall be determined by the Board, but shall not exceed the daily equivalent of the rate prescribed for grade GS–18 in section 5332 of title 5, United States Code, when actually employed, and be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (section 5703 of title 5, United States Code) for persons in the Government service employed intermittently.".

SEC. 6. Section 516 of the Federal Crop Insurance Act, as amended, is amended to read as follows:

"SEC. 516(a). There is hereby created within the Treasury a separate fund (hereafter in

this section called "the fund") which shall be available to the Corporation without fiscal year limitation as a revolving fund for carrying out the purposes of this title. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847–849) for wholly-owned Government corporations.

"(b)(1) There are authorized to be appropriated to the fund such amounts as may be necessary to restore the expense of the Corporation, including administrative and operating expenses, Federal premium payments, interest, the direct cost of loss adjustment and agents' commissions, but excluding indemnities. All amounts received by the Corporation as premiums, fees, and other moneys, property, or assets derived by it from its operations in connection with this title shall be deposited in the fund.

"(2) The Corporation is hereby authorized to use any funds available to it for administrative and operating expenses subject to limitations that shall be prescribed in applicable Acts: *Provided*, That, the direct cost of loss adjustment for crop inspections and loss adjustments, Federal premium payments, interest expense, and agents' commissions may be considered by the Corporation as being nonadministrative or nonoperating expenses.

"(3) All expenses, including reimbursements to other government accounts, and payments pursuant to operations of the Corporation under this title shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Corporation shall pay from the fund into Treasury as miscellaneous receipts interest on its outstanding capital stock and outstanding borrowings from the Treasury, less the average undisbursed cash balance in the fund during the year and Federal premium payments due the Corporation. The rate of such interest shall be determined by the Secretary of the Treasury and shall be not less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturities. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Corporation determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transformed to the general fund of the Treasury.

"(c) If at any time the moneys available in the fund are insufficient to enable the Corporation to discharge its responsibilities under this title, it shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Corporation from appropriations or other moneys available under subsection (b) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(d) The Secretary of Agriculture and the Corporation, respectively, are authorized to issue such regulations as may be necessary to carry out the provisions of this title."

SEC. 7. There are hereby authorized to be restored by appropriation those amounts of premium income used for administrative and operating expenses and the direct cost of loss adjusters for crop inspections and loss adjustments through the end of the 1977 fiscal year.

SECTION-BY-SECTION SUMMARY

Section 1: Raises the amount of capital stock authorized from $100 million to $300 million. By industry standards, capital available for loss should approximate 15% of total viability. The Corporation, therefore, requires a capital stock authorization of $300 million, the entire additional amount to be issued in fiscal year 1978 to provide necessary working capital.

Section 2: Raises the maximum compensation of members of the Board of Directors who are not otherwise employed by the Government to no greater than the daily rate for G.S.–18. Their present salary equates to about a G.S.–7. The estimated additional cost is less than $1,000.

Section 3: Deletes references to county crop insurance committeemen and associations of producers. The Corporation has never established or utilized committees of associations of producers, and foresees no such occasion in the future.

Section 4: Make insurance available to producers of wheat, cotton, grain sorghum, rice, corn, and barley wherever they are grown commercially.

Deletes limitation on the number of additional counties where the Corporation may offer insurance.

Provides for a three-year period during which the Corporation must accept all eligible producers who want insurance. Thereafter, the Corporation may limit or refuse insurance under adverse circumstances to producers who have not availed themselves of the opportunity to enter the program.

Authorizes insurance against prevented planting losses caused by floods.

Provides for a 25% Federal subsidy of each participant's premium.

Section 5: Does for FCIC Advisory Committee members what Section 2 does for Board members.

Section 6: Specifies financial arrangements for an expanded, nationwide program, including the removal of $12 million limitation on funds that may be made available by direct appropriation. Would also grant the Corporation discretionary borrowing authority. This may be needed on occasion to pay for unexpectedly high indemnity claims pending later premium collections.

Section 7: Authorizes the Government to reimburse Corporation for the cumulative amount of premium income used for administrative and operating expenses. Although utilization of these funds has been authorized in annual appropriations acts, the Federal Crop Insurance Act does not permit providing for their recovery in premium rates charged to farmers. As a result, the Corporation's Capital has been depleted to the extent of about $88 million. Therefore, this provision is intended to authorize the restoration of the premium reserves paid in by farmers.

By Mr. STEVENSON:

S. 498. A bill to amend the Federal Aviation Act of 1958 to provide improved notice to the public of changes in air carrier fares; to the Committee on Commerce.

Mr. STEVENSON. Mr. President, I introduced a bill to amend the Federal Aviation Act of 1958 by extending the minimum filing period for tariffs and requiring the Civil Aeronautics Board to give adequate notice of tariff suspensions.

Under current law a proposed tariff must be on file with the Board for 30 days. It goes into effect automatically if the Board has not rejected or suspended it within that time. Since the Board's decision may not come until the last moment, a tariff change may become effective with very little notice to shippers and to the traveling public. Longer lead-time is required in order to permit the printing and distribution of new tariff schedules before the effective date.

This bill extends the filing period from 30 to 60 days for scheduled carriers and from 30 to 45 days for indirect carriers. The Board will continue to have 30 days in which to reach its decision, and the remaining days will constitute the notice period. The bill also provides that tariffs wil be made effective only on the 1st and 15th day of the month.

By Mr. JACKSON (for himself and Mr. HANSEN) (by request):

S. 499. A bill to provide for the addition of certain lands in the State of Alaska to the National Park, National Wildlife Refuge, National Forest, and National Wild and Scenic Rivers Systems, and for other purposes; and

S. 500. A bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes; to the Committee on Interior and Insular Affairs.

ALASKA NATIONAL INTEREST LANDS LEGISLATION

Mr. JACKSON. Mr. President, I am introducing for appropriate reference two measures concerning one of the most significant land use issues ever to confront the Congress—the use of millions of acres of much of this country's finest public lands. Both these measures would establish vast areas of Alaska as components of the four national conservation systems—the National Park, National Wildlife Refuge, and National Wild and Scenic Rivers Systems—and designate other areas either for immediate inclusion in, or for study as potential additions to, the National Wilderness Preservation System.

These proposals arise from certain provisions in the Alaska Native Claims Settlement Act. My colleagues will recall that this act, signed into law on December 18, 1971, extinguished all aboriginal claims and provides the Alaska Natives, through 13 regional corporations and numerous village corporations, with land—40 million acres—and funds—$426.5 million from the general fund of the Treasury and $500 million from mineral revenues from lands conveyed to Alaska under the Statehood Act and

Federal lands other than the National Petroleum Reserve.

However, the act—the result of extensive deliberations by the Senate Interior Committee during the 1960's and early 1970's—also contains wider purposes which were of particular concern to the committee and the Senate. It embodies the recognition that the settlement of Native claims must be accompanied by careful planning and management of the remaining public lands in Alaska if the haphazard and ill-advised development which occurred in the land rushes associated with earlier disposals of public lands is to be avoided. In particular, the act reflects a strong feeling that a process must be established to preserve the so-called national interest lands—lands which possess unique wildlife wilderness, scenic, scientific, cultural and historical values of national—even international—significance.

To meet these wider purposes, the act contains three provisions establishing a procedure for the identification and protection of national interest lands and the establishment of an entity to assist all landowners—the Federal Government, the State, and the Natives and other private landowners—to plan for the use of their lands:

Section 17(d)(1) of the act authorizes the Secretary of the Interior to withdraw such public domain lands as he deems advisable to insure that the public interest in them is properly protected.

Section 17(d)(2) of the act authorizes the Secretary to withdraw up to 80 million acres of land to be studied for possible addition to the four national conservation systems. The same paragraph also requires all legislative proposals arising from such studies to be submitted to the Congress within 2 years, by December 18, 1973, and provides a 5-year period for Congress to act following receipt of the legislation. During this period, land in those proposals withdrawn under 17(d)(2) wou'd not be subject to appropriations under the public land laws.

Subsections 17(a), (b), and (c) establish and assign responsibilities to a Joint Federal-State Planning Commission for Alaska. Among the Commission's tasks is the undertaking of "process of land-use planning, including the identification of and the making of recommendations concerning areas planned and best suited for permanent reservation in Federal ownership as parks, game refuges, and other public uses, areas of Federal and State lands to be made available for disposal, and uses to be made of lands remaining in Federal and State ownership."

These provisions were uniquely the product of the Senate's labors on the Settlement Act. During consideration of the Senate bill which was ultimately enacted during the 92d Congress (S. 35), Senators GRAVEL and I sponsored the provisions establishing the Planning Commission; the House bill had no comparable provisions. The origin of sections 17(d)(1) and (2) was a provision in S. 1830, the Senate-passed bill in the 91st Congress. Section 24(a)(3) of that bill required the Secretary of the Interior to study all unreserved public lands in Alaska "which are suitable for inclusion as recreation, wilderness, or wildlife management areas within the National Park System and National Wildlife Refuge System," advise the Congress of the studies' results, and make the appropriate withdrawals. During debate in the Senate on S. 35, Senators Bible, Metcalf and I offered and the Senate accepted an amendment to strengthen section 24(a)(3)—by then relettered as section 24(c)). No comparable provision was contained in the House bill and an effort to amend the bill to include such a provision on the floor of the House was defeated. In conference, the Senate provision was adopted as section 17(d) with only minor alterations—principally in the addition of the 80-million-acre ceiling on the withdrawals.

In September 1972, responding to the requirements of subsection 17(d), the Secretary of the Interior withdrew 79 million acres under the authority of clause (2) and 47 million acres under clause (1). Also withdrawn were 112 million acres to serve as a "pool" from which the Natives were to select their 40 million acres. Finally, the Secretary withdrew a 4.5-million-acre utility corridor for a possible gas pipeline adjoining the Arctic National Wildlife Range.

A year later, then Secretary of the Interior, Rogers C. B. Morton, submitted his national interest lands legislative proposal which my then colleague from Arizona, the distinguished ranking minority member of the Interior Committee (Mr. FANNIN), and I introduced, by request, as S. 2917 on January 30, 1974. I reintroduced the measure S. 1687 in the 94th Congress.

The first bill I introduce today, again by request, is virtually identical to those two earlier proposals. The only changes made in the bill were of a technical nature to reflect changes in dates or take account of laws enacted since 1973.

If enacted, the Morton bill would more than double the National Park and Wildlife Refuge Systems. In particular, the measure proposes to enlarge two existing national parks and to create nine new parks for a total addition of 32.26 million acres to the National Park System, which now embraces approximately 30 million acres. It would also create nine new wildlife refuges, adding 31.59 million acres to the National Wildlife Refuge System, which now contains 30.4 million acres. Three new National Forest System areas totaling 18.8 million acres would be established. The following new components of the Wild and Scenic Rivers System would be designated: Six rivers entirely within national wildlife refuge areas, one within both a park and a refuge, four entirely within national forest areas, and four—totalling 0.82 million acres—on public domain lands. The total area encompassed by the Morton proposal is 83.47 million acres.

Also in 1974 and 1975, I introduced, by request, a proposal sponsored by several environmental organizations—S. 2918 and S. 1688, respectively. Today I am introducing, again by request, a revised bill submitted by the Alaska Coalition—as these organizations refer to themselves. I am told the revisions reflect the coalition's additional fieldwork and analysis, and consultation with various natural resource experts affiliated with Federal and State agencies both here and in Alaska. A total of 64.3 million acres would be added to the National Park System, an increase of approximately 4.6 million acres over the acreage included in S. 2918 and 32.04 million acres over that proposed in the Morton bill. The bill would also place 46.4 million acres in new units of the National Wildlife Refuge System, an increase of 3.2 million acres over the acreage in S. 2918 and 14.81 million acres over that in the Morton bill. Approximately 4 million acres would become part of the Wild and Scenic Rivers System under this proposal. Finally, the bill would authorize the addition of 1.6 million acres to the Tongass and Chugach National Forests, a decrease of 17.2 million acres from the acreage in the Morton bill. In all, a total of approximately 116.3 million acres would be added to the four national conservation systems, an increase of 32.83 million acres over the acreage in the Morton bill. In addition the coalition bill would designate immediately additions to the National Wilderness Preservation System, whereas the Morton bill establishes a process for study of de facto wilderness to determine its suitability for addition to the system.

This second bill is similar to H.R. 39, introduced by Congressman UDALL on January 4, 1977. As was done with the Morton bill, staff counsel made numerous alterations of a technical nature, removing ambiguities and correcting inadvertent errors. In addition, the coalition changed several acreage figures in, and removed several clauses from, the bill.

The distinguished ranking minority member of the Senate Interior Committee, Senator CLIFFORD HANSEN, joins me today in introducing the Morton and coalition bills by request.

Mr. President, the purpose of my introducing these two bills and of my plans to introduce other significant d-2 land proposals should they come forward is to insure that the Congress is fully apprised of all the alternatives proposed by the various parties most concerned about, familiar with, and potentially affected by the national interest lands designation process. Consideration of all proposals is the best method I know to insure that we make the best possible decisions in the legislation we finally enact.

Second, I believe it is imperative that all potential national interest lands be identified by placing the various proposals in the public realm so that no party—the Congress, the Interior Department and its agencies, the Forest Service, the State of Alaska, or the Native community—can, by pleading ignorance, take actions concerning those lands which would alter their ownership, their status, or their values so as to effectively eliminate them from congressional consideration without prior notification of the Congress. The whole question of the interim management of the

national interest lands has been of particular concern to me. Management decisions which would adversely affect congressional prerogatives in selecting the national interest lands for addition to the four national conservation systems should not be made in the absence of advance consultation with the Congress. On numerous occasions I have sought unsuccessfully to obtain assurances from recent Secretaries of the Interior that such consultation would be undertaken. I will continue to press for such a commitment from the new Secretary of the Interior lest a whole range of potential interim decisions be made which would clearly foreclose legislative opportunities presently available to the Congress.

Mr. President, if we are to meet the December 18, 1978, deadline to designate the Alaska national interest lands which was imposed upon us by the Alaska Native Claims Settlement Act, swift and early action on these measures must be taken this Congress. While I am confident that we can work within this time frame, the task before us is indeed enormous. Decisions on what land is selected, to whom it is to belong, and what uses are to be permitted upon it will virtually dictate the shape of Alaska's future and the economic pursuits and life styles of its citizens and will certainly profoundly affect American environmental, energy, mining, Native American, and public land policies. The committee will be forced to undertake a unique roll—not the traditional role of simply considering individual measures, each of which would designate the boundaries of only a single new park or wild and scenic river of modest acreage, but rather one of addressing legislation which requires us to conduct a full-fledged planning exercise for some 40 proposed areas many of which are much larger than most States and much richer in scenic, mineral, and other natural resource values than most other areas of similar size anywhere else in the United States. Unlike most State planning exercises, this planning must be done without a planning staff and with the unsettling knowledge that it will, in fact, be implemented.

Mr. President, with the enactment of the Alaska Statehood Act and the Alaska Native Claims Settlement Act the Congress took the first steps in a process of extreme importance to the history of this Nation—the process of completing 3 centuries of westward expansion. As one who served as floor leader in the Senate for both laws, I am happy to say that these statutes have amply demonstrated their merit and have, thus, bestowed honor on the Senate. One further step must be taken, however, in the closing of America's last frontier—the enactment of the Alaska national interest lands legislation. I can assure my colleagues that we will afford this legislation the care and diligence which is merited by its historical importance.

Mr. President, I ask unanimous consent that the bills I introduce today be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, having reviewed the recommendations of the Secretary of the Interior made pursuant to sections 17(d)(1) and 17(d)(2) of the Alaska Native Claims Settlement Act (85 Stat. 688, as amended; 43 U.S.C. 1601) for addition of certain lands in Alaska to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems, the Congress designates and establishes new units and additions to existing units of those systems, subject to the provisions of the following titles.

SEC. 2. This Act may be cited as the "Alaska Conservation Act of 1977".

TITLE I—NATIONAL PARK SYSTEM

SEC. 101. MOUNT MCKINLEY NATIONAL PARK.—(a) In order to include within Mount McKinley National Park (hereinafter referred to in this section as the "park") certain areas needed to provide a diversity of habitat, insure the preservation of animal ecosystems, and protect and interpret associated scenic resources and glacial features, the boundary of the park is hereby revised to include, subject to valid existing rights, the lands, waters, and interests therein depicted as within the proposed boundary of the park on the map entitled "Mount McKinley National Park", numbered 126-90-001, and dated December 1973, which additional area comprises approximately 3,180,000 acres.

(b) Section 6 of the Act of February 26, 1917 (39 Stat. 939, as amended; 16 U.S.C. 352) is further amended by changing the period at the end thereof to a comma, and adding the following: "or for subsistence uses in areas added to the park by the Alaska Conservation Act of 1977 pursuant to section 108 of that Act.".

(c) In furtherance of the purposes set forth in subsection (a) of this section, the area adjacent to the south and east boundary of the park generally depicted on the map referred to in subsection (a) as "Cooperative Planning and Management Zone" is hereby designated as a zone within which resource use and development are critical to the proper protection, management, and interpretation of the park. Not later than three years from the date of enactment of this title, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall submit a report to the Congress as to whether land-use controls needed for the proper protection, management, and interpretation of the park have been instituted effectively with respect to the designated zone by the State of Alaska or an appropriate political subdivision thereof. The Secretary shall solicit the views of the Governor of the State of Alaska and of the Joint Federal-State Land Use Planning Commission for Alaska on his report, and he shall submit any such views to the Congress at the time the report is submitted.

SEC. 102. KATMAI NATIONAL PARK.—(a) In order to include therein certain areas needed for the protection of critical animal habitat, including a watershed necessary for the perpetuation of red salmon and a habitat to protect a population of brown bear, and for the interpretation and preservation of outstanding scenic and scientific values associated with such habitats, the boundary of Katmai National Monument, as established by Proclamation Numbered 1487 of September 24, 1918 (40 Stat. 1855), and revised by Proclamation Numbered 1949 of April 24, 1931 (47 Stat. 2453), numbered 2564 of August 4, 1942 (56 Stat. 1972), and numbered 3890 of January 20, 1969 (83 Stat. 926) is hereby revised to include, subject to valid existing rights, the lands, waters, and interests therein depicted as within the proposed boundary of the park on the map entitled "Katmai National Park", numbered 127-90-001, and dated December 1973, which additional area comprises approximately 1,870,000 acres.

(b) The Katmai National Monument is hereby redesignated as Katmai National Park.

PART B—ESTABLISHMENT OF NEW AREAS

SEC. 103. (a) In order to protect and interpret for the benefit, inspiration, and education of present and future generations the scenic, scientific, biological, archeological, and historical values associated therewith, there are hereby established, subject to valid existing rights:

(1) Aniakchak Caldera National Monument, the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national monument on the map entitled "Aniakchak Caldera National Monument", numbered NM-AC-90,001, and dated December 1973, which area comprises approximately 440,000 acres;

(2) Harding Ice Field-Kenai Fjords National Monument, the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national monument on the map entitled "Harding Ice Field-Kenai Fjords National Monument', numbered NM-HI/KF-90,001 and dated December 1973, which area comprises approximately 300,000 acres: *Provided*, That the Secretary may revise the monument boundary to include any lands, waters, and interests therein depicted on such map as within the area marked "potential additions" if such lands, waters, and interests therein are not selected by Native corporations pursuant to the Alaska Native Claims Settlement Act;

(3) Cape Krusentern National Monument, the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national monument on the map entitled "Cape Krusentern National Monument", numbered NM-CK-90,001, and dated December 1973, which area comprises approximately 350,000 acres;

(4) Kobuk Valley National Monument, the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national monument on the map entitled "Kobuk Valley National Monument", numbered NM-KV-90,001, and dated December 1973, which area comprises approximately 1,850,000 acres: *Provided*, That any lands within the Onion Portage Archeological District, as depicted on such map, not selected by a Native corporation pursuant to the Alaska Native Claims Settlement Act shall become part of the national monument;

(5) Lake Clark National Park, the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national park on the map entitled "Lake Clark National Park", numbered NP-LC-90,001, and dated December 1973, which area comprises 2,610,000 acres;

(6) Wrangell-St. Elias National Park, the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national park on the map entitled "Wrangell-Saint Elias National Park", numbered NP-WSE-90,001, and dated December 1973, which area comprises approximately 8,640,000 acres;

(7) Gates of the Arctic National Park, the boundaries of which shall include the lands, waters, and interests therein depicted as

within the proposed boundaries of the park on the map entitled "Gates of the Arctic National Park", numbered NP–GA–90,001 and dated December 1973, which park comprises approximately 8,360,000 acres;

(8) Yukon-Charley National Rivers, the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national rivers on the map entitled "Yukon-Charley National Rivers", numbered NR–YC–90,001, and dated December 1973, which area comprises approximately 1,970,000 acres;

(9) Chukchi-Imuruk National Reserve, the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national reserve on the map entitled "Chukchi-Imuruk National Reserve", numbered NR–CI–90,001, and dated December 1973, which area comprises approximately 2,690,000 acres.

(b) The boundary maps referred to in part A of this title and this part shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior; the maps entitled "Chukchi-Imuruk National Reserve" and "Harding Ice Field-Kenai Fjords National Monument" shall also be on file at the United States Fish and Wildlife Service, Department of the Interior. In no event shall the boundary of any area added to existing areas or established by part A of this title or this part extend beyond the territorial sea.

PART C—GENERAL ADMINISTRATIVE PROVISIONS

SEC. 104. ADMINISTRATION.—(a) The Secretary shall administer the lands, waters, and interests therein added to existing areas or established by the foregoing sections of this title as areas of the National Park System, subject to the applicable provisions of this title and the Act of August 25, 1916 (39 Stat. 535 et seq., as amended and supplemented; 16 U.S.C. 1 et seq.).

(b) The Secretary of Agriculture and the Secretary of the Interior shall consult in the development of management plans for the Wrangell Mountains National Forest and the adjoining Wrangell-Saint Elias National Park to achieve the fullest possible coordination and cooperation. In addition, the Secretary of Agriculture shall, in cooperation with the Secretary of the Interior, select and develop one or more areas along the Alaska Highway between the Canadian border and the village of Northway, Alaska, together with other interested public agencies, for public use, administration, interpretation, and other provision of facilities. Funds appropriated for purposes of this title shall be available for the development and operation of such facilities.

SEC. 105. BOUNDARIES, ACQUISITION OF PROPERTY.—Following reasonable notice in writing to the Committees on Interior and Insular Affairs of the Senate and House of Representatives, and after publication of notice in the Federal Register, the Secretary may make minor revisions in the boundaries of the areas added to existing areas or established by parts A and B of this title, including revisions to include within the boundaries such additional lands as are necessary for administrative sites but such administrative sites shall not exceed 80 acres for any one area added to existing units or established by parts A and B. Within the boundaries of the areas added to existing units or established by parts A and B of this title, or as such boundaries may be revised pursuant to this section, the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase, or exchange, except that property owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and property owned by any Native village or corporation may be acquired only with the concurrence of such owner.

SEC. 106. APPLICABILITY OF MINING AND MINERAL LEASING LAWS.—(a) Except as provided in subsection (b) of this section, Federal lands within the boundaries of the areas added to existing units or established by parts A and B of this title, or as such boundaries may be revised pursuant to section 105 of this part are, subject to valid eixsting rights, hereby withdrawn from location, entry, and patent under the public land laws of the United States, including from all forms of appropriation under the United States mining laws, and from operation of the mineral leasing laws including, in both cases, amendments thereto.

Any mining claims located under the mining laws of the United States within the boundaries of those areas withdrawn pursuant to this subsection, must be recorded with the Secretary under regulations established by the Secretary within one year after the effective date of such regulations. Any mining claim not so recorded shall be conclusively presumed to be abandoned and shall be void. Such recordation will not render valid any claim which was not valid on the effective date of this title, or which becomes invalid thereafter. Any claim recorded pursuant to the regulations promulgated under this subsection, for which the claimant has not made application for a patent within three years from the date of recordation, shall be presumed to be invalid unless the claimant presents to the Secretary clear evidence of its validity.

(b) Lands outside the Charley River watershed which are within the Yukon-Charley National River, are not withdrawn from operation of the mineral leasing laws, including amendments thereto, and the Mineral Leasing Act of February 25, 1920 (41 Stat. 437, as amended and supplemented; 30 U.S.C. 181), shall apply to them: *Provided*, That the Secretary may administratively cancel any lease or prospecting permit for violations of the terms of the lease or permit or of regulations issued pursuant to the Mineral Leasing Act of February 25, 1920, without regard to the requirements of section 31 of such Act (41 Stat. 450, as amended; 30 U.S.C. 188), after thirty days notice to the lessee for permittee and failure of the lessee or permittee to correct the condition giving rise to the breach. With respect to mineral deposits located within such lands normally subject to location, entry, and patent under the mining laws and withdrawn pursuant to subsection (a) of this section, the Secretary may issue permits for the exploration and development of said deposits pursuant to regulations establishing procedures, terms, and conditions under which such activity may be conducted, but with right of occupation and use of only so much of the surface of the land as is immediately and directly necessary to the exploration and development of said deposits.

SEC. 107. SPORT HUNTING.—(a) Subject to subsection (b) of this section, and except as may otherwise be prohibited by Federal or State law, the Secretary shall permit sport hunting on lands and waters under his jurisdiction within the areas established by paragraphs (a)(1) and (a)(5) through (9) of section 103 of this title in accordance with such regulations as he shall prescribe. Such regulations may include the establishment of limits on the numbers and types of species that may be taken and the manner of taking, or prohibit takings. The Secretary may, however, designate zones where, and establish periods when, no sport hunting shall be permitted in any such area for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment, and, except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate fish and game agency of the State of Alaska.

(b) With regard to the area referred to in section 103(a)(1) of this title, the Secretary shall permit sport hunting only in the townships described as follows:

SEWARD MERIDIAN (PROTRACTION DESCRIPTION)

(All fractional)

Township 38 south, range 51 west.
Township 39 south, range 51 west.
Township 39 south, range 52 west.
Township 40 south, range 54 west.
Township 40 south, range 53 west.
Township 40 south, range 54 west.
Township 41 south, range 51 west.
Township 41 south, range 52 west.
Township 41 south, range 53 west.
Township 41 south, range 54 west.

(c) Not later than ten years from the date of enactment of this title, and continuing at intervals of not more than five years after the submission of the first such report, the Secretary shall report to the Congress on the effect of all hunting, fishing, and trapping, including subsistence uses, on the flora and fauna within each area added to existing units or established by parts A and B of this title, and shall recommend whether any or all of such uses shall be continued.

SEC. 108. SUBSISTENCE USES.—Except as may otherwise be prohibited by Federal or State law, the Secretary shall permit the continuation of such subsistence uses of the fish wildlife, and plant resources within the areas added to existing units or established by parts A and B of this title to the extent that such uses were in effect on the date of enactment of the Alaska Native Claims Settlement Act. Such uses shall continue unless the Secretary determines that particular uses are materially and negatively affecting the fish, wildlife, or plant resources of such areas: *Provided*, That, for such reasons as public safety, administration, fish and wildlife management, or public use and enjoyment, the Secretary may, by regulation, prescribe conditions under which such subsistence uses shall be conducted including, but not limited to, prohibitions on takings, and the establishment of limits on the number and type of resources taken, and the season when, and area within such areas where, subsistence activities can be undertaken. Regulations promulgated pursuant to this section shall be put into effect only after consultation with the appropriate fish and game agency of the State of Alaska.

SEC. 109. COOPERATIVE AGREEMENTS.—(a) The Secretary is authorized to cooperate and seek agreements with the heads of other Federal agencies and the owners of lands and waters within, adjacent to, or related to each area added to existing units or established by parts A and B of this title, including, without limitation, the State of Alaska or any political subdivision thereof, any Native corporation, village, or group having traditional cultural or resource-based affinities for such areas, and, with the concurrence of the Secretary of State, the governments of foreign nations. Such agreements shall have as their purpose the assurance that resources will be used, managed, and developed in such a manner as to be consistent with the preservation of the environmental quality of such areas. The agreements may also provide for access by visitors to the park system units to and across the lands which are the subject of the agreements.

(b) The head of any Federal agency, other than agencies that are parties to cooperative agreements pursuant to subsection (a) of

this section, having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the lands and waters within, adjacent to, or related to areas added to existing units or established by parts A and B of this title, and the head of any Federal Department or interdepartmental agency, other than parties to such agreements, having authority to license any undertaking in such lands and waters shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking.

SEC. 110. WILDERNESS REVIEW.—Within three years from the date of enactment of this title, the Secretary shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 892; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area added to existing units or established by parts A and B of this title for preservation as wilderness. Any designation of any such area as wilderness shall be accomplished in accordance with said subsection of the Wilderness Act. Notwithstanding anything to the contrary in the Wilderness Act, the Secretary shall, with respect to Mount McKinley National Park, report to the President his recommendations as to the suitability of any area within the entire park within three years from the date of enactment of this title.

PART D—WILD AND SCENIC RIVERS

SEC. 111. DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907, as amended; 16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs:

"(16) ALATNA, ALASKA.—The seventy-five-mile portion of the mainstem within the gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(17) ANIAKCHAK, ALASKA.—The entire river, including its major tributaries, Hidden Creek, Mystery Creek, Albert Johnson Creek, and North Fork Aniakchak River, within the Aniakchak Caldera National Monument; to be administered by the Secretary of the Interior.

"(18) CHARLEY, ALASKA.—The entire river, including its major tributaries, Copper Creek, Bonanza Creek, Hosford Creek, Derwent Creek, Flat-Orthmer Creek, Crescent Creek, and Moraine Creek, within the Yukon-Charley National Rivers; to be administered by the Secretary of the Interior.

"(19) KILLIK, ALASKA.—The entire river, including its major tributary, Easter Creek, within the gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(20) NOATAK, ALASKA.—The sixty-five-mile segment within the gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(21) SALMON, ALASKA.—The entire river within the Kobuk Valley National Monument; to be administered by the Secretary of the Interior.

"(22) TINAYGUK, ALASKA.—The entire river, and the North Fork of the Koyukuk, within the gates of the Arctic National Park; to be administered by the Secretary of the Interior.".

SEC. 112. ADMINISTRATIVE PROVISIONS.—(a) The river segments designated in section 111 of this title are hereby classified and designated, and shall be administered, as wild river areas pursuant to the Wild and Scenic Rivers Act.

(b) The provisions of subsection 3(b) and section 6 of the Wild and Scenic Rivers Act shall not apply to the river segments listed in section 111 of this title. The provisions of sections 107 and 108 of this title shall supersede those of section 13(a) of the Wild and Scenic Rivers Act, concerning fish and wildlife.

PART E—APPROPRIATION AUTHORIZATION

SEC. 113. There is hereby authorized to be appropriated such sums as may be necessary for the purposes of this title.

TITLE II—NATIONAL WILDLIFE REFUGE SYSTEM

PART A—ESTABLISHMENT OF REFUGES AND RANGES

SEC. 201. There are hereby established, subject to valid existing rights, twelve national wildlife refuges (hereinafter referred to as the "refuges"), one national arctic range and one national resource range (hereinafter referred to as the "ranges").

SEC. 202. (a) The boundary of each refuge and each range shall include the area generally depicted on the applicable map as herein described: *Provided, however,* That in no case shall the boundary of a refuge or range extend beyond the territorial sea. Such maps shall be on file and available for public inspection in the office of the United States Fish and Wildlife Service, Department of the Interior, and, with respect to the ranges, the maps shall also be available for public inspection in the office of the Bureau of Land Management:

(1) As herein established, the (A) Barren Islands National Wildlife Refuge, (B) Chukchi Sea National Wildlife Refuge, (C) Shumagin Islands National Wildlife Refuge, (D) additions to the Kodiak National Wildlife Refuge, and (E) additions to the Bering Sea National Wildlife Refuge, shall be comprised of approximately .05 million acres of lands, waters and interests therein within the area generally depicted as the "Proposed Boundary" on the maps entitled "Alaska Coastal National Wildlife Refuges", and dated December 1973. The Kodiak National Wildlife Refuge as designated in Executive Order Numbered 8857 of August 19, 1941, and modified by Public Land Order Numbered 1634 of May 9, 1958, and the additions designated in this subsection are hereby established as the "Kodiak National Wildlife Refuge"; and the Bering Sea National Wildlife Refuge as designated in Proclamation Numbered 2416 of July 15, 1940, amending Executive Order Numbered 1037 of February 27, 1909, and the additions designated in this subsection are hereby established as the "Bering Sea National Wildlife Refuge".

(2) The Arctic National Wildlife Refuge as herein established shall be comprised of approximately 3.76 million acres of lands, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Arctic National Wildlife Refuge", and dated December 1973, and the Arctic National Wildlife Range, established by Public Land Order Numbered 2214 of December 6, 1960, issued pursuant to Executive Order Numbered 10355 of May 26, 1952, is hereby redesignated as part of the Arctic National Wildlife Refuge and added to said refuge.

(3) The Iliamna National Resource Range as herein established shall be comprised of approximately 2.85 million acres of lands, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Iliamna National Resource Range", and dated December 1973.

(4) The Koyukuk National Wildlife Refuge as herein established shall be comprised of approximately 4.43 million acres of land, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Koyukuk National Wildlife Refuge", and dated December 1973.

(5) The Noatak National Arctic Range as herein established shall be comprised of approximately 7.59 million acres of lands, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Noatak National Arctic Range", and dated December 1973.

(6) The Selawik National Wildlife Refuge as herein established shall be comprised of approximately 1.4 million acres of lands, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Selawik National Wildlife Refuge", and dated December 1973, and the Chamisso National Wildlife Refuge, established by Proclamation Numbered 2416 of July 15, 1940, amending Executive Order Numbered 1658 of December 7, 1912, is hereby redesignated as part of the Selawik National Wildlife Refuge and added to said refuge.

(7) The Togiak National Wildlife Refuge as herein established shall be comprised of approximately 2.74 million acres of lands, waters, and interests therein within the area generallly depicted as the "Proposed Boundary" on the map entitled "Togiak National Wildlife Refuge", and dated December 1973, and the Cape Newenham National Wildlife Refuge, established by Public Land Order Numbered 4583 of January 20, 1969, is hereby redesignated as part of the Togiak National Wildlife Refuge and added to said refuge.

(8) The Yukon Delta National Wildlife Refuge as herein established shall be comprised of approximately 5.16 million acres of lands, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Yukon Delta National Wildlife Refuge", and dated December 1973, and the Clarence Rhode National Wildlife Refuge, established by Public Land Order Numbered 4581 of January 20, 1969, amending Public Land Order Numbered 2253 of January 23, 1961, amending Public Land Order Numbered 2213 of December 8, 1960, issued pursuant to Executive Order Numbered 10355, is hereby redesignated as a unit of the Yukon Delta National Wildlife Refuge to be administered as part of said refuge, and the Hazen Bay National Wildlife Refuge, as established by Proclamation Numbered 2416 of July 15, 1940, amending Executive Order Numbered 7770 of December 14, 1937, is hereby redesignated as part of the Yukon Delta National Wildlife Refuge and added to said refuge.

(9) The Yukon Flats National Wildlife Refuge as herein established shall be comprised of approximately 3.59 million acres of lands, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Yukon Flats National Wildlife Refuge", and dated December 1973.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions in the boundary of each refuge and each range by publication of a revised map or other boundary description in the Federal Register.

PART B—GENERAL ADMINISTRATIVE PROVISIONS

SEC. 203. ACQUISITION OF PROPERTY.—Within the boundary of each refuge and each range the Secretary is authorized to acquire by purchase, donation, or exchange, lands, waters, and interests therein, except that lands waters, and interests therein owned by the State of Alaska or any political subdivision thereof may be acquired only with agreement of the said State or political subdivision and property owned by any Native village or corporation may be acquired only with the concurrence of such owner.

SEC. 204. COOPERATIVE AGREEMENTS.—(a) The Secretary is authorized to cooperate and seek agreements with the heads of other Federal agencies and the owners of lands and waters within, adjacent to, or related to each area added to existing units or established by section 202 of this title, including, without limitation, the State of Alaska or any political subdivision thereof, any Native corporation, village, or group having traditional cultural or resource-based affinities for such

areas. Such agreements shall have as their purpose the assurance that resources will be used, managed, and developed in such a manner as to be consistent with the preservation of the environmental quality of such areas.

(b) The head of any Federal agency, other than agencies that are parties to cooperative agreements pursuant to subsection (a) of this section, having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the lands and waters within, adjacent to, or related to areas added to existing units or established by section 202 of this title, and the head of any Federal department or interdepartmental agency, other than parties to such agreements, having authority to license any undertaking in such lands and waters shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking. Nothing in subsection (c) of this section shall be construed as superseding or limiting the authorities and responsibilities of the Secretary under the Fish and Wildlife Coordination Act (60 Stat. 1080, as amended; 16 U.S.C. 661–667e).

(c) The Secretary may seek, with the concurrence of the Secretary of State, and enter into bilateral or multilateral agreements with foreign countries in order to provide for the protection, preservation, and enhancement of the fish and wildlife of international significance.

SEC. 205. ADMINISTRATION.—(a)(1) The Secretary shall administer the refuges and the ranges pursuant to the provisions of the National Wildlife Refuge Administration Act of 1966 (80 Stat. 927, as amended; 16 U.S.C. 668dd–668ee), and the provisions of this title, as part of the National Wildlife Refuge System. The Secretary may also utilize such additional authorities as may be available to him for the management and protection of the resources within, adjacent to, or related to the refuges and the ranges, including but not limited to the preservation and enhancement of nationally and internationally significant fish and wildlife species, the development of fish and wildlife-oriented outdoor recreation opportunities, interpretive education programs and scientific research, the conservation, protection, restoration, and propagation of endangered and threatened species, and the preservation of cultural, historical, and archeological resources.

(2) The Iliamna National Resource Range shall be administered as a unit of the National Wildlife Refuge System pursuant to paragraph (1) of this subsection and in accordance with plans, to be developed by the Secretary, which will permit activities, in accordance with the principles of multiple use and sustained yield, which the Secretary determines will not significantly impair the nationally and internationally significant fish and wildlife resources of the range and Bistol Bay.

(3) The Noatak National Arctic Range shall be administered as a unit of the National Wildlife Refuge System pursuant to paragraph (1) of this subsection and in accordance with plans, to be developed by the Secretary, which will provide for the protection of the natural features of the range and permit appropriate scientific research and other activities which will not significantly impair the environment. For a period of twenty years following the enactment of this title, any developmental activities or uses are, subject to valid existing rights, prohibited on the range. The Secretary shall conduct a review and report to the Congress within twenty years of the date of enactment of this title his findings and recommendations for the future administration and management of the range.

(b)(1) The lands within the refuges and the Iliamna National Resource Range are, subject to valid existing rights, hereby withdrawn from location, entry, and patent under the public land laws of the United States, including all forms of appropriation under the United States mining laws, but not including the Mineral Leasing Act of February 25, 1920 (41 Stat. 437, as amended and supplemented; 30 U.S.C. 181), except that, with respect to mineral deposits normally subject to location, entry, and patent pursuant to the mining laws, the Secretary may issue permits for the exploration and development of said deposits pursuant to regulations establishing procedures, terms, and conditions under which such activity may be conducted, but with right of occupation and use of only so much of the surface of the land as is immediately and directly necessary to the exploration and development of said deposits. Any mining claims located under the mining laws of the United States with the boundaries of those areas withdrawn pursuant to this subsection must be recorded with the Secretary under regulations established by the Secretary within one year after the effective date of such regulations. Any mining claim not so recorded shall be conclusively presumed to be abandoned and shall be void. Such recordation will not render valid any claim which was not valid on the effective date of this title, or which becomes invalid thereafter. Any claim recorded pursuant to the regulations promulgated under this subsection, for which the claimant has not made application for a patent within three years from the date of recordation, shall be presumed to be invalid unless the claimant presents to the Secretary clear evidence of its validity.

(2) The Secretary may administratively cancel any lease or prospecting permit for violations of the terms of the lease or permit or of regulations issued pursuant to the Mineral Leasing Act of February 25, 1920, without regard to the requirements of section 31 of such Act (41 Stat. 450, as amended; 30 U.S.C. 188), after thirty days notice to the lessee or permittee and failure of the lessee or permittee to correct the condition giving rise to the breach.

(c) The lands within the Noatak National Arctic Range are, subject to valid existing rights, withdrawn from location, entry, and patent under the public lands laws of the United States, including all forms of appropriation under the mining laws of the United States and from the operation of the Mineral Leasing Act of February 25, 1920, as amended and supplemented.

(d) Except as may otherwise be prohibited by Federal or State law, the Secretary shall permit the continuation of such subsistence uses of the fish, wildlife, and plant resources within the refuges and the ranges to the extent that such uses were in effect on the date of enactment of the Alaska Native Claims Settlement Act. Such uses shall continue unless the Secretary determines that particular uses are materially and negatively affecting the fish, wildlife, or plant resources of the refuges and the ranges: *Provided*, That, for such reasons as public safety, administration, fish and wildlife management, or public use and enjoyment, the Secretary may, by regulation prescribe conditions under which such subsistence uses shall be conducted including, but not limited to, prohibitions on taking, the establishment of limits on the number and type of resources taken, and the season when, and area within the refuges and the ranges where, subsistence activities can be undertaken. Regulations promulgated pursuant to this section shall be put into effect only after consultation with the appropriate fish and game agency of the State of Alaska.

SEC. 206. WILDERNESS REVIEW.—(a) Within three years from the date of enactment of this title, the Secretary shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the refuges and the Iliamna National Resource Range for preservation as wilderness, and any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act, except that this section shall not apply to that portion of the Bering Sea National Wildlife Refuge designated as wilderness pursuant to the Act of October 23, 1970 (84 Stat. 1104; 16 U.S.C. 1132 note). Notwithstanding anything to the contrary in the Wilderness Act, the Secretary shall, with respect to any existing refuge added to the refuges herein established by paragraphs (1)(D), (2), and (8) of section 202(a) of this title, report to the President his recommendations as to the suitability of any area within the entire refuge within three years from the date of enactment of this title.

(b) With regard to the Noatak National Arctic Range such a wilderness report as is required in subsection (a) of this section shall be included in the Secretary's report to the Congress pursuant to section 205(a)(3) of this title.

PART C—WILD AND SCENIC RIVERS

SEC. 207. (a) Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907, as amended; 16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs:

"(23) ALAGNAK, ALASKA.—The entire river within the boundary of the Iliamna National Resource Range from a point approximately eight miles below its source, to a point twenty miles above the mouth, including the Nonvianuk River, to be administered by the Secretary of the Interior.

"(24) ANDREAFSKY, ALASKA.—From its source, including all headwaters, downstream for two hundred and forty miles, including the East Fork, all within the boundary of the Yukon Delta National Wildlife Refuge, to be administered by the Secretary of the Interior.

"(25) IVISHAK, ALASKA.—From its source, including all headwaters and an unnamed tributary to Porcupine Lake, downstream to a point near Flood Creek, all within the boundary of the Arctic National Wildlife Refuge, to be administered by the Secretary of the Interior.

"(26) KANEKTOK, ALASKA.—The entire river within the boundary of Togiak National Wildlife Refuge, Kagati Lake to a point sixteen miles above the mouth, to be administered by the Secretary of the Interior.

"(27) NOATAK, ALASKA.—From the east boundary of the Naotak National Arctic Range to its confluence with the Kelly River, to be administered by the Secretary of the Interior.

"(28) WIND, ALASKA.—From its source, including all headwaters and one unnamed tributary in township T13S, downstream for sixty-five miles, within the boundaries of the Arctic National Wildlife Refuge, to be administered by the Secretary of the Interior.".

(b) The river segments designated in subsection (a) of this section are hereby classified and designated and shall be administered as wild river areas.

(c) Notwithstanding any provisions to the contrary of the Wild and Scenic Rivers Act (82 Stat. 907, as amended; 16 U.S.C. 1271), the boundaries of the river segments referred to in subsection (a) of this section may include an area extending up to two miles from the mean high water level on either side of the river segments. Notwithstanding the provisions of section 3(b) of such Act,

the Secretary shall establish boundaries for the river segments referred to in subsection (a) of this section within three years after the date of enactment of this title.

(d) The provisions of section 6 of the Wild and Scenic Rivers Act shall not apply to the river segments referred to in subsection (a) of this section.

PART D—REGULATIONS

SEC. 208. (a) The Secretary may issue such rules and regulations as may be necessary to carry out the provisions of this title.

(b) Any regulations heretofore prescribed by the Secretary for any existing refuge added to the refugees herein established as referred to in paragraphs (1), (2), (6), (7), and (8) of section 202(a) of this title shall remain in effect until republished in total or in part by the Secretary.

PART E—APPROPRIATION AUTHORIZATION

SEC. 209. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE III—NATIONAL FOREST SYSTEM

SEC. 301. NEW ALASKA NATIONAL FORESTS.—For the purpose of providing for the protection, conservation, and management of the multiple resource values of certain public lands in the State of Alaska as part of the National Forest System, the areas described in subsections (a) through (c) of this section, as generally depicted on maps appropriately referenced, dated December 1973, and on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, are hereby established as the Wrangell Mountains, Porcupine, and Yukon-Kuskokwim National Forests, respectively. The Wrangell Mountains, Porcupine, and Yukon-Kuskokwim National Forests shall, subject to valid existing rights, be administered by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to the national forests.

(a) The Porcupine National Forest shall include the area generally depicted on a map entitled, "Proposed Porcupine National Forest", comprising approximately 5,500,000 acres.

(b) The Wrangell Mountains National Forest shall include the area generally depicted on a map entitled, "Proposed Wrangell Mountains National Forest", comprising approximately 5,500,000 acres.

(c) The Yukon-Kuskokwim National Forest shall include the area generally depicted on a map entitled, "Proposed Yukon-Kuskokwim National Forest", comprising approximately 7,300,000 acres.

SEC. 302. ADDITION TO CHUGACH NATIONAL FOREST.—Within sixty days following enactment of this title, the Secretary of the Interior shall, by public land order, provide for addition to the Chugach National Forest of the area comprising approximately 500,000 acres generally depicted on a map entitled, "Proposed Chugach National Forest Addition," which is on file and available for public inspection in the Office of the Chief, Forest Service Department of Agriculture. Subject to valid existing rights, the Chugach National Forest Addition shall be administered as a part of the Chugach National Forest in accordance with the laws, rules, and regulations applicable to national forests.

SEC. 303. (a) WILD AND SCENIC RIVERS WITHIN ALASKA NATIONAL FORESTS.—Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907, as amended; 16 U.S.C 1274(a)), is further amended by adding the following new paragraphs:

"(29) BREMNER, ALASKA.—The entire river, from its origin to its confluence with the Copper River to be administered by the Secretary of Agriculture.

"(30) NOWITNA, ALASKA.—The segment from the point where the river crosses the west boundary of section 6, township 17 south, range 22 east, Fairbanks principal meridian, downstream to its confluence with the Yukon River, to be administered by the Secretary of Agriculture.

"(31) PORCUPINE, ALASKA.—The segment from the Canadian border downstream to the point where the river crosses the north boundary of section 2, township 23 north, range 18 east, Fairbanks principal meridian, to be administered by the Secretary of Agriculture.

"(32) SHEENJEK, ALASKA.—The segment from the point where the river crosses the north boundary of section 1, township 32 north, range 16 east, Fairbanks principal meridian, downstream to its confluence with the Porcupine River, to be administered by the Secretary of Agriculture.".

(b) The Bremmer and Sheenjek River segments designated in subsection (a) of this section are hereby classified and designated and shall be administered as wild river areas. The Porcupine and Nowitna River segments designated in subsection (a) of this section are hereby classified and designated and shall be administered as scenic river areas.

(c) Notwithstanding the provisions of subsection 3(b) of the Wild and Scenic Rivers Act 82 Stat. 907, as amended, 16 U.S.C. 1274(b)), the Secretary of Agriculture shall establish boundaries for the river segments referred to in section 303 of this title within three years after the date of enactment of this title.

SEC. 304. The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this title, publish in the Federal Register a detailed description and map showing the boundaries of the Wrangell Mountains, Porcupine, and Yukon-Kuskokwim National Forests, and the addition to the Chugach National Forest.

SEC. 305. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE IV—ADDITIONS TO NATIONAL WILD AND SCENIC RIVERS SYSTEM LOCATED OUTSIDE NATIONAL PARKS, NATIONAL WILDLIFE REFUGES, AND NATIONAL FORESTS

SEC. 401. DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907, as amended; 16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs:

"(33) BEAVER CREEK, ALASKA.—The segment of the main stem fom the vicinity of the confluence of Bear and Champion Creeks downstream one hundred and thirty-five miles to a point approximately fifteen miles downstream from the mouth of Victoria Creek, the segment not to exceed 200,000 acres; to be administered by the Secretary of the Interior.

"(34) BIRCH CREEK, ALASKA.—The segment of the main stem from the vicinity of the confluence of North Fork downstream one hundred and thirty-five miles to the vicinity of Jumpoff Creek, the segment not to exceed 200,000 acres; to be administered by the Secretary of the Interior.

"(35) FORTYMILE, ALASKA.—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchinson Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek, the segments not to exceed 320,000 acres; to be administered by the Secretary of the Interior.

"(36) UNALAKLEET, ALASKA.—The segment of the main stem beginning at 159 degrees 21 minutes 06.156 seconds west longitude approximately six miles from the headwaters extending downstream sixty miles to 160 degrees 19 minutes 15.031 seconds west longgitude in the vicinity of confluence of the Chiroskey River, the segment not to exceed 104,000 acres; to be administered by the Secretary of the Interior.".

SEC. 402. ADMINISTRATIVE PROVISIONS.—(a) The Beaver Creek, Birch Creek, and Unalakleet components, as well as Mosquito Fork downstream from the vicinity of Kechumstuk to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek units of the Fortymile component, designated in section 401 of this title, are hereby classified and designated and shall be administered as wild river areas pursuant to the Wild and Scenic Rivers Act. The Wade Creek unit of the Fortymile component is classified and designated and shall be administered as a recreational river area pursuant to such Act. The remaining units of the Fortymile component are classified and designated and shall be administered as scenic river areas pursuant to such Act. The classification as wild river areas of certain segments of the Fortymile by this subsection shall not preclude such access across those river segments as the Secretary of the Interior determines to be necessary to permit commercial development of asbestos deposits in the North Fork drainage.

(b) The Secretary of the Interior shall take such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act to establish detailed boundaries and formulate detailed development and management plans within three years after the date of enactment of this title with respect to the Beaver Creek component, within two years with respect to the Birch Creek component, within one year with respect to the Fortymile component, and within four years with respect to the Unalakleet component.

(c) The provisions of section 401 of this title specifying maximum permissible acreages for individual components shall supersede any provisions to the contrary of the Wild and Scenic Rivers Act.

(d) Notwithstanding the provisions of section 9(a)(iii) of the Wild and Scenic Rivers Act, the minerals in all Federal lands included in any component or part of a component designated by this section as a wild river area are hereby withdrawn, subject to valid existing rights, from all forms of appropriations under the mining laws and from operation of the mineral leasing laws, including, in both cases, amendments thereto.

SEC. 403. APPROPRIATION AUTHORIZATION.—There is hereby authorized to be appropriated such sums as may be necessary for the purposes of this title.

S. 500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska National Interest Lands Conservation Act".

SEC. 2. PURPOSE: MAPS AND DESCRIPTIONS.—(a) In order to preserve for the benefit, use, education, and inspiration of present and future generations certain Federal wildlands and rivers in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the areas described in title I are, subject to valid existing rights, hereby declared to be units of the National Park System; the areas described in title II are, subject to valid existing rights, hereby declared to be units of the National Wildlife Refuge System; the areas described in title III are, subject to valid existing rights, hereby declared to be units of the National Wild and Scenic Rivers System; lands described in title

IV may, subject to valid existing rights, be added to units of the National Forest System; and lands described in title VI are, subject to valid existing rights, hereby declared to be units of the National Wilderness Preservation System.

(b) It is the intent of the Congress in this Act to preserve unrivaled scenic and geologic values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, resident and nonresident wildlife species of intestimable value to the citizens of Alaska and the Nation, including those species dependent on vast underdeveloped areas; to preserve in their natural state extensive unaltered tundra, boreal forest, and coastal rainforest ecosystems; to protect and preserve cultural values of indigenous peoples; to conserve resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities within large arctic and subarctic wildlands and on free flowing rivers; and to maintain opportunities for scientific research on undisturbed ecosystems.

(c)(1) Areas described in titles I, II, and III of this Act shall be comprised of the lands generally depicted on the maps bearing the following designations:

(A) for each of the areas described in title I, "NPS Alaska, dated ——, Alaska National Interest Lands Conservation Act, section ——".

(B) for each of the areas described in title II, "NWR Alaska, dated ——, Alaska National Interest Lands Conservation Act, section ——".

(C) for each of the areas described in title III, "NWSR Alaska, dated ——— Alaska National Interest Lands Conservation Act, section ——".

(2) The maps referred to in paragraph 1 of this subsection and sections 602 and 603 shall be on file and available for public inspection in the office of the Secretary of the Interior (hereinafter referred to as the Secretary").

(3) The maps referred to in sections 401 and 604 shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

(4) As soon as practicable after enactment of this Act, a map and legal description of each area established as a unit, or added to an existing unit, of the National Park, Wildlife Refuge, Wild and Scenic Rivers, and Forest Systems (hereinafter referred to as the "four conservation systems"), and the National Wilderness Preservation System, pursuant to this Act shall be published in the Federal Register and filed with the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in each such legal description and map may be made. There shall be on file and available for public inspection in the office of the Secretary each such map and legal description for lands described in titles I through III and sections 602 and 603 and in the office of the Chief, Forest Service, Department of Agriculture each such map and legal description for lands described in sections 401 and 604. Whenever possible, cadastral surveys and boundaries shall follow hydrographic divides or embrace other topographic features in all cases where straight line map boundaries approximate such features.

TITLE I—NATIONAL PARK SYSTEM

SEC. 101. ESTABLISHMENT OF NEW UNITS.—The following areas are hereby established as units of the National Park System and shall be administered by the Secretary under the laws governing the administration of such lands and under the provisions of this Act:

(1) Gates of the Arctic National Park of approximately thirteen million six hundred thousand acres;

(2) Yukon-Charley National Preserve of approximately three million two hundred thousand acres;

(3) Kobuk Valley National Monument of approximately one million nine hundred thousand acres;

(4) Cape Krusenstern National Monument of approximately nine hundred thousand acres;

(5) Wrangells-Kluane International Park of approximately fourteen million acres and an associate Chisana National Preserve of one million eight hundred thousand acres: *Provided, however,* That the Secretary, with the concurrence of the Secretary of State, shall endeavor to enter into cooperative agreements with Canada to coordinate the management of these units with any comparable adjoining units which may be established;

(6) Lake Clark National Park of approximately seven million five hundred thousand acres;

(7) Kenai Fjords National Monument of approximately six hundred thousand acres;

(8) Aniakchak Caldera National Monument of approximately four hundred thousand acres;

(9) Chukchi-Imuruk National Monument of approximately four million five hundred thousand acres; and

(10) Noatak National Preserve of approximately seven million nine hundred thousand acres: *Provided, however,* That the United States Fish and Wildlife Service shall be consulted and, upon request, shall render assistance in the administration of the wildlife resources of this preserve.

SEC. 102. ADDITIONS TO EXISTING UNITS.—(a) Mount McKinley National Park is hereby expanded by the addition of approximately four million seven hundred thousand acres.

(b) Katmai National Monument is hereby expanded by the addition of approximately two million six hundred thousand acres and, together with the addition, is hereby redesignated as "Katmai National Park".

(c) Glacier Bay National Monument is hereby expanded by the addition of approximately seven hundred thousand acres and, together with the addition, is hereby redesignated as "Glacier Bay National Park".

SEC. 103. ADMINISTRATIVE PROVISIONS.—The lands, waters, and interests therein added to existing units, or established as new units of, the National Park System pursuant to this title shall be administered by the Secretary pursuant to the provisions of the Act of August 25, 1916 (30 Stat. 535 et seq., as amended and supplemented; 16 U.S.C. 1 et seq.), and under the provisions of this Act: *Provided, however,* That hunting may be permitted pursuant to section 702 of this Act.

TITLE II—NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 201. ESTABLISHMENT OF NEW UNITS.—The following areas are hereby established as units of the National Wildlife Refuge System and shall be administered by the Secretary pursuant to the provisions of law governing the administration of such lands and under the provisions of this Act:

(1) Alaska Peninsula National Wildlife Range of approximately one million two hundred thousand acres;

(2) Copper River Delta National Wildlife Refuge of approximately nine hundred thousand acres;

(3) Selawik National Wildlife Range of approximately two million five hundred thousand acres;

(4) Yukon Flats National Wildlife Range of approximately twelve million three hundred thousand acres;

(5) Koyukuk National Wildlife Range of approximately three million seven hundred thousand acres;

(6) Innoko National Wildlife Range of approximately two million three hundred thousand acres;

(7) Togiak National Wildlife Range of approximately three million five hundred thousand acres;

(8) Iliamna National Wildlife Range of approximately two million nine hundred thousand acres;

(9) Alaska Coastal National Wildlife Refuges of approximately three hundred thousand acres;

(10) Kanuti National Wildlife Refuge of approximately one million acres;

(11) Kaiyuh National Wildlife Refuge of approximately two hundred thousand acres; and

(12) Nowitna National Wildlife Refuge of approximately one million acres.

SEC. 202. ADDITIONS TO EXISTING UNITS.—(a) The Clarence Rhode National Wildlife Refuge is hereby expanded by the addition of approximately six million three hundred thousand acres and, together with the addition, is hereby redesignated as Yukon Delta National Wildlife Range.

(b) The Arctic National Wildlife Range is hereby expanded by the addition of approximately eight million four hundred thousand acres: *Provided, however,* That the Secretary, with the concurrence of the Secretary of State, shall endeavor to enter into cooperative agreements with Canada to coordinate the management of this unit with any comparable adjoining units which may be established in Canada.

(c) The Cape Newenham National Wildlife Refuge is hereby added to, and redesignated a part of, the Togiak National Wildlife Range.

TITLE III—NATIONAL WILD AND SCENIC RIVERS SYSTEM

SEC. 301. ESTABLISHMENT OF NEW UNITS.—(a) The following rivers are hereby designated as units of the National Wild and Scenic Rivers System and shall be administered by the National Park Service as wild rivers pursuant to the Wild and Scenic Rivers Act (92 Stat. 907, as amended; 16 U.S.C. 1271):

(1) Anaktuvuk River of approximately four hundred thousand acres;

(2) Birch Creek of approximately two hundred thousand acres;

(3) Nowitna of approximately eighty thousand acres;

(4) Unalakleet of approximately fifty thousand acres;

(5) Melozitna of approximately two hundred thousand acres;

(6) Holitna-Hoholitna system of approximately two hundred and thirty thousand acres;

(7) Susitna of approximately two hundred thousand acres;

(8) Nelchina-Tazlina system of approximately eighty thousand acres, comprised of those lands not selected by Native village corporations;

(9) Nuyakuk of approximately sixty thousand acres;

(10) Utukok of approximately three hundred thousand acres;

(11) Situk of approximately twenty thousand acres;

(12) Koyuk of approximately two hundred thousand acres;

(13) Ikpikpuk of approximately three hundred thousand acres;

(14) Kisaralik of approximately two hundred thousand acres;

(15) Colville of approximately five hundred thousand acres;

(16) Kuk-Ketik of approximately one hundred thousand acres;

(17) Yukon (Ramparts section) of approximately three hundred thousand acres;

(18) Kuskokwim (middle) of approximately one hundred thousand acres;

(19) Stikine of approximately fifty thousand acres; and

(20) Copper (Iliamna) of approximately twenty thousand acres.

(b) The following rivers are hereby established as units of the National Wild and Scenic Rivers System and shall be administered by the National Park Service as scenic rivers pursuant to the Wild and Scenic Rivers Act:

(1) Fortymile of approximately three hundred and twenty thousand acres;

(2) Delta of approximately thirty thousand acres; and

(3) Gulkana of approximately one hundred and thirty thousand acres.

SEC. 302. ADMINISTRATIVE PROVISIONS.—(a) Notwithstanding any provisions to the contrary of the Wild and Scenic Rivers Act, the boundary of each unit established in section 301 shall include the river and an area which averages not less than two miles on either side from the median line of the river: *Provided, however,* That lands selected by any Native village corporation within the boundary of any unit established in section 301 shall not be included in said unit: *And provided further,* That the Secretary may seek cooperative agreements with the owners of non-Federal land adjoining any unit established in section 301 to assure that the purposes of such units are served to the greatest extent feasible.

(b) Notwithstanding the provisions of section 3(b) of the Wild and Scenic Rivers Act, the Secertary shall establish boundaries for the units established in section 301 within three years of the date of enactment of this Act.

SEC. 401. ADDITIONS TO EXISTING UNITS.—After consultation with the Secretaries of Agriculture and the Interior, the President is authorized within one year of the date of enactment of this Act to add to the Tongass and Chugach National Forests in Alaska lands not to exceed one million six hundred thousand acres, generally depicted on a map entitled "Potential NFS Additions in Alaska, dated , Alaska National Interest Lands Conservation Act, section 401".

TITLE V—NATIONAL PETROLEUM RESERVE IN ALASKA

SEC. 501. MANAGEMENT OF NATIONAL PETROLEUM RESERVE.—Notwithstanding any provision of the Naval Petroleum Reserves Production Act of 1976 (90 Stat. 303; 42 U.S.C. 6501) to the contrary, during the review of land dedications pursuant to subsection 105 (c) of such Act and until the Congress has determined otherwise, the Secretary shall manage the National Petroleum Reserve in Alaska through the United States Fish and Wildlife Service in such a manner as to preserve subsistence resources, and scenic, historical, archaeological, recreational, fish and wildlife, wilderness, and other surface values.

TITLE VI—DESIGNATION OF WILDERNESS AREAS

SEC. 601. DESIGNATION OF UNITS ESTABLISHED PURSUANT TO THIS ACT AS WILDERNESS AREAS.—In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892; 16 U.S.C. 1132(c)), the lands established as units, and the lands added to existing units, of the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic Rivers System by this Act are, subject to valid existing rights, hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System.

SEC. 602. DESIGNATION OF WILDERNESS AREAS WITHIN EXISTING UNITS OF THE NATIONAL PARK SYSTEM.—In accordance with subsection 3(c) of the Wilderness Act, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Glacier Bay National Park which comprise approximately two million eight hundred thousand acres, which are depicted on a map entitled "Glacier Bay Wilderness—Proposed", dated March 1975, and which shall be known as the Glacier Bay Wilderness;

(2) certain lands in Katmai National Park, which comprise approximately two million six hundred and fifteen thousand eight hundred and twenty-six acres, which are depicted on a map entitled "Katmai Wilderness—Proposed", dated March 1975, and which shall be known as the Katmai Wilderness; and

(3) certain lands in Mount McKinley National Park, which comprise approximately one million nine hundred thousand acres, which are depicted on a map entitled "Mount McKinley Wilderness—Proposed", dated March 1975, and which shall be known as the Denali Wilderness.

SEC. 603. DESIGNATION OF WILDERNESS AREAS WITHIN EXISTING UNITS OF THE NATIONAL WILDLIFE REFUGE SYSTEM.—In accordance with subsection 3(c) of the Wilderness Act, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Aleutian Islands National Wildlife Refuge, which comprise approximately one million three hundred and ninety-five thousand three hundred and fifty-seven acres, which are depicted on a map entitled "Aleutian Islands Wilderness Proposal", dated March 1974, and which shall be known as the Aleutian Islands Wilderness;

(2) certain lands in the Aleutian Islands National Wildlife Refuge, which comprise approximately nine hundred and seventy-three thousand acres, which are depicted on a map entitled "Unimak Wilderness Proposal", dated February 1972, and which shall be known as the Unimak Wilderness;

(3) certain lands in the Arctic National Wildlife Range, which comprise approximately eight million nine hundred and fifty thousand acres, which are depicted on a map entitled "Arctic National Wildlife Range and Proposed Additions—Wilderness", dated September 1976, and shall be known as the Arctic Wilderness;

(4) certain lands in the Cape Newenham National Wildlife Refuge, which comprise approximately two hundred forty-seven thousand seven hundred acres, which are depicted on a map entitled "Togiak Wilderness—Proposed", dated September 1976, and shall be known as the Togiak Wilderness;

(5) certain lands in the Clarence Rhode National Wildlife Range, which comprise approximately two million eight hundred thousand acres, which are depicted on a map entitled "Clarence Rhode National Wildlife Range and Proposed Additions—Wilderness", dated September 1976, and shall be known as the Yukon Delta Wilderness;

(6) certain lands in the Hazen Bay National Wildlife Refuge, which comprise approximately six thousand eight hundred acres, which are depicted on a map entitled "Hazen Bay Wilderness Proposal", dated September 1976, and shall be known as the Hazen Bay Wilderness;

(7) certain lands in the Izembek National Wildlife Range, which comprise approximately three hundred thousand acres, and certain lands in the Aleutian Islands National Wildlife Refuge, which comprise approximately one thousand four hundred and fifty-one acres, which are depicted on a map entitled "Izembek Wilderness Proposal", dated May 1970, and which shall be known as the Izembek Wilderness;

(8) certain lands in the Kenai National Moose Range, which comprise approximately one million two hundred and sixty-seven thousand two hundred and forty acres, which are depicted on a map entitled "Kenai Wilderness Proposal", dated March 1975, and which shall be known as the Kenai Wilderness;

(9) certain lands in the Nunivak National Wildlife Refuge, which comprise approximately three million five hundred thousand acres, which are depicted on a map entitled "Nunivak Wilderness Proposal", dated March 1975, and which shall be known as the Nunivak Wilderness; and

(10) certin lands in the Semidi National Wildlife Refuge, which comprise approximately two hundred and fifty-six thousand acres, which are depicted on a map entitled "Semidi Wilderness Proposal", dated October 1972, and which shall be known as the Semidi Wilderness.

SEC. 604. DESIGNATION OF WILDERNESS AREAS WITHIN EXISTING UNITS OF THE NATIONAL FOREST SYSTEM.—In accordance with subsection 3(c) of the Wilderness Act, the following lands are hereby designated as wilderness and, therefore, as components of the Nasas the Misty Fjords Wilderness;

(1) certain lands in the Tongass National Forest, which comprise about one million thirty thousand acres (excluding the lands of the Kootznoowoo Native Village Corporation and the Village of Angoon), are generally depicted on a map entitled "Admiralty Island Wilderness Area—Proposed", and shall be known as the Admiralty Island Wilderness;

(2) certain lands in the Tongass National Forest, which comprise about three hundred thousand acres, are generally depicted on a map entitled "Yakutat Forelands Wilderness Area—Proposed", and shall be known as the Yakutat Forelands Wilderness;

(3) certain lands in the Tongass National Forest, which comprise about two million four hundred thousand acres, are generally depicted on a map entitled "Misty Fjords Wilderness Area—Proposed", and shall be known as the Misty Fjords Wilderness;

(4) certain lands in the Tongass National Forest, which comprise about three hundred and five thousand acres, are generally depicted on a map entitled "Stikine-Le Conte Wilderness Area—Proposed", and shall be known as the Stikine-Le Conte Wilderness;

(5) certain lands in the Tongass National Forest, which comprise four hundred and five thousand acres, are generally depicted on a map entitled "West Chichagof-Yakobi Wilderness Area—Proposed", and shall be known as the West Chichagof-Yakobi Wilderness; and

(6) certain lands in the Chugach National Forest, which comprise one million acres, are generally depicted on a map entitled "Nellie Juan Wilderness Area—Proposed", and shall be known as the Nellie Juan Wilderness.

SEC. 605. ADMINISTRATIVE PROVISIONS.—Wilderness areas designated by this Act shall be administered in accordance with the applicable provisions of the Wilderness Act (78 Stat. 890, 16 U.S.C. 1131) governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act and any reference to the Secretary of Agriculture for areas designated in sections 601, 602, and 603 shall be deemed to be a reference to the Secretary of the Interior.

TITLE VII—GENERAL ADMINISTRATIVE PROVISIONS

SEC. 701. SUBSISTENCE USES.—Except as otherwise prohibited by Federal or State law, the Secretaries of the Interior and Agriculture shall permit the continuation of subsistence uses of the fish, wildlife, and plant resources within the areas under their respective jurisdictions established as units, or

added to existing units, of the four conservation systems pursuant to this Act (hereinafter referred to as the "national interest lands"). Each Secretary may publish regulations prescribing conditions under which subsistence uses may be conducted, including, but not limited to, the establishment of limits on the number and type of wildlife species to be utilized and the length of the season during which subsistence activities may be engaged in within any such unit of the national interest lands under his jurisdiction. After consultation with local residents and State agencies exercising jurisdiction affecting subsistence resources, each Secretary may designate "subsistence management zones" to include various geographical areas where subsistence activities have customarily occurred in and adjacent to national interest lands, without regard to boundaries established for such lands by this Act. The appropriate Secretary shall establish a "regulatory subsistence board" for each subsistence management zone or combination of zones. Each board shall consist of ten persons who are subsistence users of the zone or zones and shall be required to review and approve each subsistence permit application within the zone or zones in accordance with criteria and management procedure as promulgated by the appropriate Secretary after public hearings. Each board shall also advise the appropriate Secretary or his designee on matters of concern to subsistence permittees and other residents within the subsistence management zone or zones and shall cooperate with the appropriate Secretary in the development of studies on subsistence resources. The appropriate Secretary or his designee shall retain the responsibility to enforce, review, and, where necessary under subsection (b) of this section, overrule decisions and recommendations of the regulatory subsistence boards.

(b) Subsistence uses of national interest lands shall in all cases be given preference over any competing consumptive use in a subsistence management zone. When a specific resource cannot support all demands upon it, the appropriate Secretary shall curtail subsistence uses of that resource to the extent necessary to protect the viability and well-being of fish, wildlife, and plant species affected or otherwise restore and preserve wilderness values in the subsistence management zone: *Provided, however,* That in the absence of an emergency, the appropriate Secretary shall first consult with the regulatory subsistence board or boards involved, publish his proposals, and seek public comment.

(c) People who exercised as of December 18, 1971, and who continue to exercise customary consistent, and traditional use of subsistence resources in the national interest lands, and their direct descendants, shall be permitted to continue subsistence activities on these national interest lands if they are primarily and directly dependent for the mainstay of their livelihood upon local natural resources for either food, shelter, materials, firewood, clothing, tools, transportation, or handicrafts and so long as such use is consistent with the sound management of these resources.

(d) The Secretaries of the Interior and Agriculture shall undertake research on the use of subsistence resources on the national interest lands, shall seek data from subsistence users and consult such users frequently in conducting such research, and shall make the findings of such research available to such users, the regulatory subsistence boards, and the public.

(e) The Secretary of the Interior and the Secretary of Agriculture shall jointly report to the Congress not later than ten years from the date of enactment of this Act, and continuing at intervals of not more than five years after the submission of the first such report, on the effect of all hunting and fishing, including subsistence uses, on the flora and fauna within the national interest lands. In each such report, the Secretaries shall recommend, after consultation with the fish and game agency of the State of Alaska and the regulatory subsistence boards, whether changes in any or all of such uses are necessary.

SEC. 702. HUNTING.—The Secretary may permit hunting within the national preserves established in title I, in accordance with such regulations as he shall prescribe. Such regulations may include the designation of zones where, and the establishment of periods when, no hunting shall be permitted in any such area for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate fish and game agency of the State of Alaska.

SEC. 703. MINING AND MINERAL LEASING.—(a) All lands established as units, or added to existing units, of the National Park System, the National Wildlife Refuge System, and, notwithstanding the provisions of section (9)(a)(iii) of the Wild and Scenic Rivers Act (82 Stat. 907, as amended; 16 U.S.C. 1274 (2)), the National Wild and Scenic Rivers System by this Act are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including, in both cases, amendments thereto.

(b) Where existing mineral leases, patents, or claims which are legally allocated and maintained within such lands predate this Act, the Secretary is authorized to validate existing rights within the framework of existing authority and policy: *Provided,* That, in all cases where such properties or rights are placed for sale, the Secretary shall have first right of refusal for purchase. Any claim within such lands which remains in force by reason of being duly recorded under the terms of section 314 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2769; 43 U.S.C. 1744), shall nonetheless lapse unless application for patent is made within three years of the date of being recorded under that Act and such application is diligently pursued thereafter.

SEC. 704. NATIVE AND STATE SELECTIONS.—(a) All lands withdrawn pursuant to section 11(a)(1) and (3) of the Alaska Native Claims Settlement Act (85 Stat. 696, as amended; 43 U.S.C. 1610) which are within the boundaries of national interest lands but not selected by Native village or regional corporations are hereby added to and incorporated within the appropriate unit of the four conservation systems to be administered under the terms of this Act, at such time as the relinquishment of Native rights becomes final.

(b) Land selections subsequent to December 18, 1971, by the State of Alaska which are within the national interest lands are hereby revoked: *Provided,* That the Secretary shall make available to the State other Federal lands in Alaska not in the four conservation systems of approximately equal acreage for those land selections: *Provided further,* That such other Federal lands shall not be taken from lands within the boundaries of any existing or newly established unit, or any addition to an existing unit, of the four conservation systems referred to in titles I, II, III, and IV.

SEC. 705. LAND ACQUISITION.—Within the boundaries of the national interest lands the Secretary, or the Secretary of Agriculture with respect to national forests, may acquire lands and interest in lands by donation, purchase, exchange, or otherwise.

SEC. 706. ADMINISTRATIVE OR VISITOR FACILITIES.—The Secretary may establish administrative sites or visitor facilities outside of the boundaries of the national interest lands, or protect any significant archeological sites outside the boundaries of the units of the National Park System described in clauses 101(a) (2), (3), and (9). The Secretary may establish on Federal lands other than the national interest lands or acquire other lands not to exceed one thousand acres for administrative and visitor facilities for each unit, and no more than seven thousand five hundred acres for archeological sites outside the boundaries of each of the units.

SEC. 707. NATIVE CORPORATIONS.—(a) The Secretaries of the Interior and Agriculture shall, wherever possible and desirable and with the concurrence of the Native corporations involved, attempt to locate administrative sites and visitor facilities for national interest lands under their respective jurisdictions on adjacent Native-owned lands.

(b) Notwithstanding any other provision of law, before entering into any contract for the provision of revenue-producing visitor services on any unit of the national interest lands, the appropriate Secretary shall grant the Native corporations involved the first right of refusal to provide such services under such terms and conditions as he may by agreement prescribe.

SEC. 708. AREAS OF ECOLOGICAL CONCERN; COOPERATIVE AGREEMENTS.—(a) The Secretaries of the Interior and Agriculture are authorized to identify areas of ecological concern adjacent to units of the national interest lands under their respective jurisdictions. An area of ecological concern is an area of land and waters which contains resources that are a part of the same total ecosystem or geological formation of, or which reflects a cultural heritage directly related to, a unit of the four conservation systems. Within each area of ecological concern so designated, the appropriate Secretary is authorized to cooperate and seek agreements with the heads of other Federal agencies and the owners of lands and waters including, without limitation, the State of Alaska or any political subdivision thereof, any Native corporation, village, or group having traditional cultural or resource-based affinities for such areas, and, with the concurrence of the Secretary of State, the governments of foreign nations. Such agreements shall have as their purpose the assurance that resources will be used, managed, and developed in such a manner as to be consistent with the preservation of the environmental quality of such areas and management of such units. The agreements may also provide for access by visitors to and across the lands which are the subject of the agreements.

(b) The head of any Federal agency, other than agencies that are parties to cooperative agreements pursuant to subsection (a) of this section, having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the lands and waters adjacent or related to areas established as units, or added to existing units, of the four conservation systems and the National Wilderness Preservation System by this Act and the head of any Federal department or interdepartmental agency, other than parties to such agreements, having authority to license any undertaking in such lands and waters shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, afford the Secretary of the Interior, or the Secretary of Agriculture for lands referred to in sections 401 and 604, a reasonable opportunity to comment with regard to such undertaking.

(c) The Secretary of the Interior and the Secretary of Agriculture are authorized to enter into agreements with the State of Alaska and its political subdivisions for the establishment and maintenance of cooperative planning and management zones on

lands adjacent to the national interest lands within their respective jurisdictions. Such zones are defined as areas within which resource use and development are integrally related to management of the adjacent units of the four conservation systems. Within three years of enactment of this Act, each Secretary shall submit a report to the Congress indicating whether such agreements have been consummated and whether land use controls needed for the proper protection, management, and interpretation of the national interest lands under his jurisdiction have been instituted effectively in the zones by the State of Alaska or its appropriate subdivision thereof. Each Secretary shall solicit and include in his report the views of the Governor of the State of Alaska.

SEC. 709. AGENCY PARTICIPATION.—The Secretary shall direct the United States Fish and Wildlife Service to participate, where appropriate, in fish and wildlife studies and resource planning on lands which, pursuant to this Act, are established as units, or added to existing units, of the National Park System, or are established as units of the National Wild and Scenic Rivers System. The Secretary shall also direct the National Park Service, where appropriate, to participate in recreation planning, interpretation, historic resources protection, and ecological research on lands which, pursuant to this Act, are established as units, or added to existing units, of the National Wildlife Refuge System, or are established as units of the National Wild and Scenic Rivers System.

SEC. 710. REGIONAL OFFICES.—Alaska regional offices of the United States Fish and Wildlife Service, National Park Service, and the Bureau of Outdoor Recreation are hereby authorized.

SEC. 711. APPROPRIATIONS AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. McCLURE (for himself, Mr. DOMENICI, Mr. BELLMON, Mr. JAVITS, Mr. SCHMITT, Mr. DANFORTH, Mr. HANSEN, Mr. LUGAR, Mr. HAYAKAWA, Mr. BAKER, Mr. LAXALT, Mr. STEVENS, Mr. WALLOP, Mr. GARN, and Mr. HATCH):

S. 503. A bill to expand manpower services available to youths, and for other purposes; to the Committee on Labor and Public Welfare.

YOUTH EMPLOYMENT ACT

Mr. McCLURE. Mr. President, the task of achieving "full employment" has never been an easy one for policymakers at the Federal level. Current rates of unemployment and radical changes in the size and composition of our labor force now call for quick and effective responses. Until the level of unemployment is reduced, Federal revenues will continue to lag, expenditures will remain inordinately high, and the deficit will progressively increase. For confirmation of these facts, one has only to realize that for each percentage point increase in unemployment, Federal receipts are reduced by $14.5 billion and Federal outlays are increased by $3.5 billion.

In the past, it was generally believed that noninflationary full employment could be achieved by manipulating aggregate demand through expansive fiscal and monetary policy. However, we now know that many of those without jobs are victims of structural rather than cyclical unemployment. That is to say certain groups within the labor force will suffer high unemployment rates regardless of the level of economic activity generally. Thus, in the best of times, teenage unemployment rates are three to four times as high as the rate for those workers 20 years old and over. Other groups such as women and minorities experience differentially high rates of joblessness. Young workers age 16–24 make up 25 percent of our labor force but account for 50 percent of total unemployment. Teenagers in the 16–19 age group constitute 10 percent of the labor force but account for 25 percent of total unemployment.

Structural unemployment or joblessness which yields slowly or not at all to increased rates of economic growth is not a new problem. It is, however, a problem which has become more extensive and costly as the composition of the labor force has changed. Thus, the national impact of those who enter the labor market at the wrong time, with the wrong skills at the wrong place, with the wrong information and attitudes, or at the wrong price, has increased rapidly. We have now reached the point at which our failure to solve the employment problems of younger workers prevents the Federal budget from responding to other pressing national needs.

It is important to reemphasize the inability of stimulative monetary and fiscal policies to solve the underlying structural employment problem as it now exists. The conventional relationship between economic growth and reduced unemployment is frequently illustrated within the context of "Okun's law." In effect, Okun's law holds that for every 3 percent by which the gap between actual and potential GNP is reduced, overall unemployment falls by 1 percent. Unfortunately, this relationship does not hold for those groups of workers who are faced with structural unemployment and who contribute disproportionately to total unemployment. As an illustration of the inapplicability of Okun's law, one has only to look at the responsiveness of labor market subgroup unemployment rates to increased levels of economic growth.

For examole:

One. For female members of the labor force, a 2.94-percent reduction in the gap is required to reduce female unemployment 1 percent This holds until their rate reaches 5 percent.

Two. For teenage members of the labor force, a 5.26-percent reduction in the gap is required to reduce teenage unemployment 1 percent. This holds until their rate reaches 12.6 percent.

Three. For nonwhite members, a 4.8-percent reduction in the gap is required. The relationship holds until their unemployment rate reaches 7.2 percent.

Four. For teenage female members, a 4.5-percent reduction in the gap is required. The relationship holds until their unemployment rate reaches 14.1 percent.

Five. For teenage male members, a 6.02-percent reduction in the gap is required. The relationship holds until their unemployment rate reaches 12 percent.

Six. For teenage nonwhite members, a 10.1-percent reduction in the gap is required. The relationship holds down to a 25.3-percent unemployment rate.

Seven. For married males, only a 2.2-percent reduction is required, and this holds true until their rate reaches 1.7 percent.

An effective programmatic response to the employment problems of younger workers should be a key component of national economic policy. Such policy formulation, however, demands that the scope of the problem be known, that current programs be related to those problems, and that additional options be explored.

At the low point of the 1974–75 recession, nearly 7.8 million people were unemployed. Of that total, over 3.7 million, or nearly half, were between the ages of 16 and 24. A further breakdown of the 3.7 million shows that 1.8 million were aged 16–19, while 1.9 million were 20–24 years of age. The respective unemployment rates for these two groups were 20.5 percent and 14.1 percent, versus a rate of 8.7 percent for the work force as a whole or 6.1 percent for heads of households.

Structural factors have contributed to higher rates of joblessness among young people. A list of the more important structural aspects of the problem would include—

a. Difficulties associated with the first job search;

b. High rates of job changing and termination;

c. Seasonal patterns of entry;

d. Market regulations such as minimum wage and child labor legislation;

e. Inadequate skill and educational levels;

f. Lack of mobility; and

g. Poor labor market information.

While some of these same problems have been present in the past, young people made the transition from school to work and with the passage of time, evidenced much the same labor market history as did those workers who preceded them. That is to say as they aged, left home, and established households, job search intensified and career patterns were established and pursued. Many observers, however, feel that this current group of young people will not make the transition as painlessly or successfully as those who have preceded them. Consequently, the high rates of unemployment which exist for youth today will be carried forward into the higher age strata of the civilian labor force. Thus if job creation fails to keep pace with the expanding labor force many young people will go through their teens and emerge as young adults with no employment history and few marketable job skills.

Job creation since the second quarter of 1975 provides an illustration of just such a phenomenon. In the recovery period, from the second quarter of 1975 through the present time—fourth quarter 1976—jobs have been created at a record pace. Unfortunately, the labor force expanded at a startling rate with the result that unemployment declined only slightly. A specific example should

illustrate this point. During the first 7 months of 1976, the labor force grew by 2.2 million persons or at an annual rate of 4.1 percent. Normal labor force growth is around 1.8 percent. Thus, the current rate of growth is 128 percent greater than normal. In terms of employment, 2.6 million people found jobs in this same time period. Thus, jobs were created at a 5.1 percent annual rate versus a previous high rate of 3.3 percent recorded in 1973.

Further projections of job creation by the U.S. Labor Department indicate that between 1974 and 1985, a total of 17 million jobs are likely to be created. If these projections are correct, available jobs would be growing at somewhat less than 2 percent per year.

The competition for these scarce jobs depends in part upon the demand for labor and the elasticity of the labor force. That is to say job competition is intensified when the labor force can and does expand at a faster rate than available job openings. The recent surge in the size of the civilian labor force can be attributed to a combination of rising expectations and inflation. Family units which seek to establish or preserve higher levels of disposable income respond to inflation in a number of ways. One of which is to supplement existing income levels by encouraging additional members to join the labor force. Consequently, we have seen the single-salary family unit decline and the multiple-salary family unit increase. Women have entered the labor force in unprecedented numbers. Specifically the employment of women has increased to the extent that women accounted for 52 percent of all new positions filled since the recovery began.

The expanding number of job opportunities for which women are available has provided younger workers of both sexes with formidable new competition. Employers who at one time hired teenagers can now fill those positions with mature women, many of whom present elaborate educational credentials and impressive work histories. Consequently, the young person seeking a first job finds the market overpopulated with young people like himself and depressed by the influx of more acceptable female applicants entering to reestablish careers or to provide secondary incomes for existing family units.

Let me be quick to assert that this discussion is not designed to create the impression that new, mature female entrants into the labor force are the villians while teenagers and other younger workers are the victims. It is simply delains while teenagers and other younger workers face an intense and new form of competition for job opportunities which in prior years were theirs by default. Clearly the labor market tide is running against the younger worker and some strategy or manpower policy which responds to this fact is desirable.

Economic growth for the foreseeable future will be determined by any number of factors. Investment and productivity growth are among the more important of these factors. Given some sanguine assumptions about their interactions, noninflationary economic growth will probably be confined to the 3 to 5 percent range. Even these rates presuppose some progress in the slow and arduous task of upgrading skills among the employed, new entrants and the unemployed. In short, the employment problem will not go away. Its solution is not a foregone component of any fiscal dividend large or small.

In the past, Federal programs have not had a great deal of success in training or retraining the unemployed, creating jobs in decaying areas or even in encouraging labor mobility from areas of high unemployment to areas where jobs were available. This lack of success has been related in part to the fact that we have embraced inappropriate strategies and programs. However, such failures have also reflected the fact that we really have not tried very hard. Both our investment and our effort have been minimal.

Assuming for the moment that significant reductions in the rates of joblessness among young workers will not be realized through overly expansive fiscal and monetary policies, what strategies are likely to work? How should these strategies be formulated and executed?

The initial and most basic decision which must be faced relates to defining the role of existing institutions. Current Federal manpower efforts reflect a lack of role coordination with basic educational institutions. The Federal programs are, in effect, "repair shops" wherein efforts are made to salvage young people who have not received the basic skills or guidance in the education system in order to prepare them to make the transition from school to work. To the extent that the basic educational system remains unchanged, we are committed to building even larger and more expensive repair shops. This is not to say that a high school diploma should become an elaborate set of working papers. It is, however, important to recognize that, second only to the family, our educational institutions are vehicles for socialization and instruction. They cannot fulfill their complete and historic missions by counseling the college-bound and ignoring other basic but less "exciting" challenges. For example, there is no reason why, in larger high schools, a member of the U.S. Employment Service should not be headquartered to initiate and coordinate career education. Likewise, there is no reason to assume that cooperative education and work-study programs, if established, would inhibit rather than enrich current educational efforts. In short, it would be nice to find out that over half the high school students in America were aware of the fact that manual labor is not the President of Mexico.

As the evolution of manpower programs proceeds, it is fundamental that the organizational components and their interaction be explicitly determined. In this sense, our efforts are analogous to planning a trip. Decisions must be made with respect to—

a. Where are we going?
b. Who is going?
c. What will it cost?
d. Who is driving?

It is not difficult to establish an objective or goal for a national manpower policy. We could, for example, labor to create an environment wherein all those who sought productive employment could be assured that such employment would be available. Unfortunately, such an objective does not delimit, define, or prioritize the programs and activities which should be funded and undertaken. Nor does it describe the responsibilities of the various actors, such as the Federal Government, State and local units, the private sector, and so forth. It merely commits us, in an open-ended fashion, to a policy which cruelly raises levels of expectations and inevitably results in incredible frustration, both personal and political.

In lieu of this objective, we might commit ourselves to the maintenance of an economic environment in which private employment opportunities were likely to be maximized. In this case the direct efforts of the Federal Government would be those which are designed to promote capital formation, reduce inflation and encourage real and sustainable rates of economic growth.

To be sure, the achievement of such an objective will not solve the problems faced by those who are structurally rather than cyclically unemployed. They will, however, relieve much of the strain on the Federal budget and permit reallocation of funds from income maintenance activities of the cyclically unemployed to developmental activities for those structurally unemployed. In short, solutions to our macroeconomic difficulties are a necessary prerequisite to, and will provide the capital for, investment in our human resources.

Manpower programs, if they are to be successful, must delimit their scope and even within target groups must define some individuals in and others out. Father Flanagan, the founder of Boys Town, might have been able to insist that there is no such thing as a bad boy, but Federal training programs cannot proceed under the assumption that there is no such thing as an untrainable youth. It is cruel and ineffective to spend manpower dollars where income maintenance payments are more appropriate. In addition, funding levels for manpower programs must face a cost/benefit hurdle which recognizes the fact that financial resources are scarce and their commitment should presume that these dollars will generate both social and financial returns. The expenditures which were, and are being made under the GI bill provide an illustration of such investment.

We must also recognize that in any programmatic approach to training and employment, responsibility must be assumed. In this regard, it is easy to say, but probably incorrect to conclude, that a national manpower policy requires Federal control of its programmatic aspects. Prior to the establishment of CETA, we did have Federal control. CETA, however, forced these programs directly into the local political process and required that an elected State or

local official become responsible for generating an effective and responsive manpower effort. Within CETA's broad titles, the local political process functions with flexibility to establish goals, create programs, and fund sponsors. A policy which implies or mandates a return to the categorical grant mechanism, while it may appear more tidy, would certainly reduce local involvement, flexibility, and responsibility. CETA encourages and permits a diversity of effort which, in the long run, may well distill successful approaches which, once proven, can be widely applied.

The question of cost is clearly the most difficult question of all. Its answer depends upon the scope of the problem, the magnitude of effort, and the appropriateness of the response. In addition to our current expenditures, the new President has received a special youth program which in itself would cost $8.5 billion per year. I contend, however, that a potentially successful effort can be made for far less. An effort which attempts to be all encompassing or all things to all people is, by definition, without an upper dollar limit. On the other hand, an effort which is zero-based and is compiled on firm cost-benefit analysis will permit an informed judgment which relates goals to what we are willing and/or able to spend.

The program which we offer today recognizes the scope of the employment problems faced by the young and responds to them.

For example, it is a widely held belief that youth unemployment is primarily a metropolitan problem. However, our statistics show that the teenage population is distributed in such a manner that the fewest teenagers reside in metropolitan areas. Table I, which I incorporate by reference, shows the population breakdown and the young worker unemployment rate as related to the rate for all workers in three geographical areas.

Table I

	Teenage population (millions)	Teenage unemployment rate—All worker rate
Central City	4.5	2.6 x
Suburban	6.5	2.3 x
Rural	5.2	2.2 x

It can be seen from this table that youth unemployment is not confined to the inner city but extends into the suburbs and rural areas as well. Future programs must recognize and reflect these demographic facts of life and the diverse characteristics of these three basic groups.

Programs must also recognize the need for different objectives. In the age group 16–19, direct and immediate job placement is probably not a legitimate measure of success or guide to resource allocation. In the event that such an objective is imposed, program administrators invariably "skim" the client population so as to admit those who need the least help prior to placement while ignoring the most desperate cases which require more remedial attention. In the age group 20–24, on the other hand, placement should be the primary goal and program administrators should be held responsible for low placement rates. Program planning must also recognize that any number of institutions, both private and public, can and should be involved in program execution. For example, in those situations where residential programs are required, such efforts should be integrated with existing institutional capacities. Such programs in the past have been high in cost, since they have required the establishment of new facilities, staff, software, and supportive maintenance. Their cost could be reduced and their scope increased if military facilities and personnel were used. The military possess training facilities, equipment, and trained instructors and is situated in communities which are prepared to accommodate an influx of young people. For example, if a residential program to teach construction skills were to be hadquartered at Fort Belvoir, Va., its cost would be minimal. Training facilities are in place, as are heavy equipment and a trained instructional staff. These are fixed costs to the Federal Government which must be borne in any event. Consequently, the cost of the actual program is reduced to its own variable but controllable elements. Our existing educational institutions provide another such example where cost sharing is possible.

A potentially successful program must also recognize that while our employment problems are national, our labor markets are local. Policy will be executed at the local level and, whenever possible, should be formulated at that same level. Thus, our employment initiatives should not be categorical grants but should rather be patterned along the lines of block grants or CETA-type funding. In this way, flexibility and responsibility are developed and preserved at the State and local levels.

Another critical ingredient for any effective programmatic approach is screening. To whom should the program be open? This is a difficult decision but a failure to recognize its importance will greatly reduce our ability to target on those who may profit most from the final program mix. For example, many unemployed youth attend college on a full- or part-time basis. This group is already involved in the process of generating skills and increasing their potential employability. They should be screened out of any planned manpower programs. That is not to say that they should be penalized or neglected, but rather that they can be impacted more directly with work-study programs or enlarged student loan opportunities. Likewise, at the other end of the spectrum, high school dropouts who can profit by reentry into the existing educational mainstream should be directed there and supported, when necessary, with cooperative education programs and special vocational training options. In short ,the "repair shop" aspect of manpower programs should be retained, but the scope of that activity should be reduced and focused upon those who cannot be reintroduced to our mainstream institutions. If this is not achieved, we risk creating an expensive duplicate system of institutions which renders costly and inefficient service.

An effective response to the employment problems of younger workers requires coordination and cooperation with the private sector. It is within the private sector that the majority of permanent and productive job opportunities are ultimately created. It is the private sector which has the longest positive history in the areas of effective training and placement. In fact, it is conceivable that Federal programs could serve, in the main, as financial conduits providing financial incentives to the private sector. In this sense, temporary wage subsidies, differential minimum wages and vouchers for approved training could well replace the bulk of direct governmental efforts. A voucher system, for example, has great potential. In such a program, any qualified organization, public or private, could undertake the training and placement function. Reimbursement, however, should be on a break-even basis for training with profits being earned only for effective sustained placement. Thus, a $2,500 training voucher could be redeemed in two payments, $500 for completed training and $2,000 for placement in a related field payable when, and if, the employee has remained on the job 6 months or more. The willingness of the private sector to respond to such incentives need not be questioned.

Future manpower efforts must recognize the need for some détente with the education establishment. It must be made clear that limited funds are available and if bigger "repair shops" to handle the rejects of the educational system are required, then less funding will be available to public education generally. Smaller repair shops should be our goal and that goal can be realized if our in-place education systems become more responsive. It may be that this could be achieved, in part, by opening the current vocational education system to those over 18 years of age as our bill permits. Under current law, the age limit results in many vocational classes involving fewer students than possible while CETA prime sponsors are forced to provide duplicate training sessions for participants over the age of 18.

Other modifications of educational activities supported by the Federal Government could also reduce the numbers of young people who must be serviced outside of the normal school environment.

Finally, manpower planners must recognize the importance of matching jobs and applicants. Some observers have indicated that fully 65 percent of all youth unemployment can be accounted for by initial labor market entry problems and frequent job switching. Much of this "frictional unemployment" could be eliminated if young people received adequate job market information and counseling during their training and job search periods. The U.S. Employment Service has the capacity to provide such data but appears to have little incentive to build, maintain, and utilize that potential.

Federal manpower programs and their impact on youth are becoming increasingly more important. At the same time, funds available for such programs are becoming increasingly difficult to obtain. Thus, while throwing money at the problem was never effective, the current budgetary situation makes it impossible as well. During 1977, the bulk of Federal manpower and education programs will be reauthorized. It is, therefore, critically important that the relationships between these two program areas be appreciated and that they be funded in such a way that flexible, delimited, coordinated, and cost-effective manpower initiatives will emerge.

Today, this Senator from Idaho and others join together to introduce a youth employment bill. The bill responds to the needs of youth and provides flexibility for effective local initiatives which are likely to reduce current and prospective levels of structural unemployment. We encourage our colleagues to join us by supporting this most important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Youth Employment Act".

SEC. 2. The Comprehensive Employment and Training Act of 1973 is amended by redesignating title VII, and all references thereto, as title VIII, by redesignating sections 701 through 714, and all references thereto, as sections 801 through 814, respectively; and by inserting after title VI the following new title:

"TITLE VII—COMPREHENSIVE EMPLOYMENT SERVICES FOR YOUTHS"

"YOUTH MANPOWER SERVICES PROGRAM

"SEC. 701. (a) The Secretary is authorized to provide financial assistance to eligible applicants for comprehensive manpower services for economically disadvantaged, unemployed and underemployed youths who have attained fourteen years of age but not twenty-five years of age.

"(b) Such program of financial assistance shall emphasize training and the development and creation of job opportunities, and shall also include education and other services needed to enable youths to secure and maintain employment at their maximum capacity. Comprehensive manpower services may include, but shall not be limited to, programs and activities designed to carry out the purpose of this title, such as—

"(1) outreach to make youths aware of the availability of manpower services and persuade them to use such services;

"(2) assessment of the youth's needs, interests, and potential in the labor market and referral to appropriate employment, training, or other opportunities;

"(3) orientation, counseling, education, and institutional skill training to prepare the youth to enter the labor market or to qualify for more productive job opportunities;

"(4) vocational exploration in the private profit and nonprofit sectors;

"(5) placing and providing supportive services for youth in part-time or full-time employment and useful work experience in private profit and nonprofit organizations;

"(6) training reimbursements for training costs for out-of-school youth for public and private profit and nonprofit organizations for training and placement in a training-related field;

"(7) training on the job in public and private profit and nonprofit organizations for out-of-school youth;

"(8) payments or other inducements to public or private employers to expand job opportunities, but payments to employers organized for profit shall not exceed the difference between the costs of recruiting, training, and providing supportive services for low-income persons and those regularly employed;

"(9) programs to provide incentives to private employers to train or employ unemployed or low-income youths, including arrangements by direct contract, reimbursements to employers for a limited period when an employee might not be fully productive, payment for on-the-job counseling and other supportive services, payment of all or part of employer costs of sending recruiters into urban and rural areas of high concentrations or proportions of unemployed or low-income persons, and payments to permit employers to provide employees resident in such areas with transportation to and from work or to reimburse such employees for such transportation: *Provided,* That in making such reimbursements to employers the prime sponsor shall assure that wages paid any employee shall not be less than the minimum wage which would be applicable to employment under the Fair Labor Standards Act of 1938 if section 6 of such Act applied to the employee and he was not exempt under section 13 thereof;

"(10) services to youths to enable them to retain employment;

"(11) payment of allowances to youths in classroom training, work experience or on-the-job training for which they receive no remuneration and payment of such allowances for transportation, subsistence, or other expenses incurred in participating in manpower services or employment as are necessary to enable the individual to participate therein;

"(12) supportive services to enable youths to take advantage of employment opportunities, including necessary health care and medical services, child care, residential support, assistance in securing bonus, or any other necessary assistance incident to employment, and any other service needed to participate in employment or manpower services;

"(13) development of information concerning the labor market and activities, such as job restructing, to make it more responsive to objectives of the manpower services program;

"(14) manpower training, employment opportunities, and related services conducted by community-based organizations;

"(15) transitional public service employment programs;

"(16) programs to provide part-time employment, on-the-job training, and useful work experience for youths from low-income families who are in the ninth through twelfth grades of school (or who are of an age equivalent to that of students in such grades) and who are in need of the earnings to permit them to resume or maintain attendance in school;

"(17) programs to provide unemployed, underemployed, or low-income youth with useful work and training (which must include sufficient basic education and institutional or on-the-job training) designed to assist those youth to develop their maximum occupational potential and to obtain regular competitive employment;

"(18) summer youth jobs programs, including jobs in recreation and related programs, for economically disadvantaged youths during the summer months; and

"(19) any programs authorized by part A of title III and by title IV of this Act.

"(c) Notwithstanding any other provisions of law, unless enacted in specific limitation of the provisions of this subsection, any services, stipends, allowances, or wages paid to a youth under this Act shall not be counted as family income of the parents or guardians of such youth in determination of eligibility or rate for any income assistance or income transfer program to which the family is entitled.

"AUTHORIZATION OF APPROPRIATION

"SEC. 702. (a) There are authorized to be appropriated to carry out the provisions of this Act $1,000,000,000 for fiscal year 1977, $2,800,000,000 for fiscal year 1978 and for each of the two succeeding fiscal years thereafter.

"(b) The provisions of section 4 (b) and (c) of this Act shall apply to the authorization of appropriation in this section.

"ALLOCATION OF FUNDS

"SEC. 703. (a) Ninety per centum of the amount available for this title in any fiscal year shall be allotted in accordance with the provisions of this subsection—

"(1) Fifty per centum of the amount under this subsection shall be allotted on the basis of the relative number of unemployed youths in the State as compared to such numbers in all States, and

"(2) Fifty per centum of the amount allotted under this subsection shall be allotted on the basis of the relative number of youths from families with an annual income below the low-income level within the State as compared to such total numbers in all States.

"(b) Ten per centum of the amount available for this title in any fiscal year shall be available to the Secretary for payments for the cooperative programs bonus and for dissemination as provided in sections 707 and 709 of this Act.

"(c) The Secretary is authorized to make reallocations under this title consistent with section 103(1) of this Act.

"ELIGIBLE APPLICANTS

"SEC. 704. (a) Financial assistance under this title shall be available to—

"(1) prime sponsors as defined in section 102 of this Act;

"(2) a county, or an association of counties, not designated as a prime sponsor and not already served by a prime sponsor described in paragraphs (2), (3), (4) or (5) of section 102(a) of this Act may be considered a program agent for the purposes of carrying out a youth program authorized under this title if that county, or association of counties, submits a youth plan to the Balance of State prime sponsor for approval;

"(3) Indian tribes on Federal or State reservations, or other federally recognized Indian tribal groups.

Each plan required by clause (2) of this subsection shall meet the objectives of this title and include (i) a description of the geographical areas to be served under the plan; (ii) a description of the services to be provided, and performance goals; and (iii) a description of the youths to be served by the program.

"(b) To the maximum extent feasible, programs or components of programs conducted under this title shall be linked to comprehensive work and training programs conducted by prime sponsors under title I of this Act.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"SEC. 705. (a) The Secretary shall not provide financial assistance under this title for

any fiscal year to a prime sponsor unless such sponsor—

"(1) includes in its comprehensive manpower plan submitted pursuant to section 105 of this Act a description of the program to be provided to youth containing provisions consistent with provisions of this title and consistent with the requirements of sections 105 and 106 of this Act, and

"(2) provides assurances that to the maximum extent feasible manpower services, including the development of job opportunities, will be provided to those most in need of them, including low-income youths and youths of limited English-speaking ability, and that the need for continued funding of programs of demonstrated effectiveness is taken into account in serving such groups and youths.

"(b) The Secretary is authorized to encourage prime sponsors under title I of this Act to continue to serve youth under that title to the extent practicable based on local needs and conditions.

"(c) In order to avoid costly duplication of effort and facilities, the comprehensive manpower plan submitted pursuant to this section shall also include a description of the relationship and coordination of services provided to youth under this title to all similar services offered by local education agencies within the prime sponsor's jurisdiction and by community-based organizations which provide manpower services, such as Opportunities Industrialization Centers, Urban League, and Community Action Agencies.

"MANPOWER COUNCILS

"SEC. 706. (a) Prime sponsor's planning councils established pursuant to section 104 of this Act shall serve in the same capacity for programs for youth established under this title, except that a minimum of 10% of the membership of such council shall be youths.

"(b) State manpower services councils established pursuant to section 107 of this Act shall serve in the same capacity for programs for youth established under this title. Such council shall be required to include youth representatives.

"COOPERATIVE PROGRAM BONUS

"SEC. 707. (a)(1) Any prime sponsor under this Act which engaged, in the year preceding the year for which the sponsor is applying under this section, in a cooperative education or training project with a local or State education agency shall be eligible to receive a bonus equal to ten per centum of the prime sponsor expenditures in the project. Such bonus shall be used for the purposes of this title.

"(2) Each prime sponsor eligible to receive a bonus under this section may make an application therefor at such time and in such manner as the Secretary may prescribe.

"(3) If the sums appropriated for any fiscal year for making payments to States under this section are not sufficient to pay in full the amount to which each State is entitled under this section for such fiscal year, the amounts which all States may receive under this section for such fiscal year shall be rateably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"EVALUATION

"SEC. 708. (a) Programs provided under this title for youth are subject to annual performance evaluation pursuant to the provisions of section 313 of this Act.

"(b) The Comptroller General is authorized to review the effectiveness of the services provided to youth under this Act and is directed to report findings and make recommendations to the Congress prior to March 1, 1980.

"DISSEMINATION

"SEC. 709. The Secretary is authorized to identify and disseminate information concerning exemplary practices and projects developed by prime sponsors under programs assisted under this title, to provide support for prime sponsors to identify and disseminate such information, and to make grants to prime sponsors for such purposes. A maximum of two-and-a-half per centum of the funds available under section 703(b) may be used for such purposes.

"FEDERAL ADMINISTRATION

"SEC. 710. (a) The provisions of sections 108, 109, 110 and 111 of this Act relating to review of plans, judicial review, secretarial authority to provide services, and training allowances shall apply to the program authorized by this title.

"(b) All provisions of title VIII of this Act, relating to general provisions, which apply to title I shall also apply to this title."

ADMINISTRATION

SEC. 3. (a) Not more than twenty per centum of the funds allocated pursuant to section 703(a) shall be expended for administrative services.

(b) All funds available for prime sponsors for administrative costs under title I, II, III, VI and VII of the Comprehensive Employment and Training Act of 1973 may be obligated for the payment of administrative costs for any such title.

(c) Each prime sponsor is encouraged to negotiate for use of any local federal resources and facilities, including military, and federal personnel are directed to make such available to the maximum extent possible in light of the mission of the federal installation and consistent where appropriate with provisions of the Federal Property and Administrative Services Act of 1949.

REPEALERS

SEC. 4. Section 304(a)(1), (2), and (3) of the Comprehensive Employment and Training Act of 1973 pertaining to Summer Youth Employment is hereby repealed as of September 30, 1977.

Mr. DOMENICI. Mr. President, we have all been deeply concerned with what has been described as a pause in this Nation's economic recovery and in the continued unacceptably high rate of unemployment. All of us have considered how we should react here in the Congress to return this country to economic health and stability while significantly reducing unemployment.

As I have carefully studied these problems and searched for solutions, I have become convinced that while we may have unemployment problems directly attributable to the state of the economy, there are certain kinds of unemployment problems that cannot be resolved by general improvement of the economy. In other words, there are, unfortunately, large numbers of unemployed Americans who will not be "put back to work" simply by institution of general stimulative policies, regardless of the success of those policies. To the best of my knowledge, while experts may disagree on the extent of this structural unemployment problem, none will disagree that it exists and is relatively unaffected by stimulative government policies and actions.

Regarding structural unemployment, several critical facts are painfully obvious. First, the largest category of structurally unemployed is in the youth area, that is Americans 24 years of age and under who are seeking work in increasingly greater numbers. Second, this category is also the most enduring, resisting significant changes in good times or bad.

These characteristics of youth unemployment led my colleagues, the distinguished Senators for Oklahoma (Mr. BELLMON) and Idaho (Mr. MCCLURE) to try to discover the causes for the magnitude and durability of this problem, to determine the characteristics of an effective governmental response, and to develop legislation as a vehicle for such a response. That legislative measure is what we introduce today along with a number of other concerned Senators who join us in pursuit of a comprehensive program designed to deal meaningfully with the very serious problem of youth unemployment.

By this legislative initiative, we have chosen to build on the existing delivery system established by the Comprehensive Employment and Training Act of 1973, thereby utilizing programs, agencies and successful relationships already in place. CETA provides for comprehensive manpower services including classroom and on-the-job training, work experience, counseling and placement activities, and public service employment. This program currently serves approximately 1.6 million participants, 60 percent of whom are youth.

Our intention in the development and introduction of this bill, the Youth Employment Act, is to expand substantially the number of young people to be served by manpower programs by creation of a new title in CETA, title VII, which will focus entirely on youth. This new program, created by the Youth Employment Act—YEA—would be in addition to title I and is modeled after title I so that the well-established CETA administrative structure and system for delivery of services can be utilized. We feel this is a key element for a quick start-up which is essential in an unemployment picture where young people 24 and younger make up only 25 per cent of the population, but constitute 50 per cent of the unemployed statistic.

The existing CETA title I mechanisms, including the comprehensive planning process, the conditions for receipt of assistance, manpower councils at the State and local levels, and other administrative procedures, are incorporated by reference, eliminating the need for a new bureaucratic agency.

Under the legislation we are introducing, certain new and innovative approaches will be available for CETA prime sponsors to utilize to provide greater focus on unemployed youth with a higher degree of flexibility to meet local needs than heretofore was possible. We feel our bill will fill a gap in current CETA manpower programs by encouraging a much greater utilization of the private sector for summer jobs, vocational exploration, and training and employment of youth. It is our feeling in this regard, that permanent, meaningful and rewarding employment for our young people who want to work must ultimately be found primarily in the private sector. By increased interaction between the manpower services programs and the private sector with a higher degree of flexibility to tailor the relationships that will result, we are con-

fident that young people will have greater freedom of selection, more relevant training to match available job opportunities and, finally, true job experience from gainful employment.

Due to the expanded services available and the increased flexibility provided in this bill, the number of participants will vary depending on the proportion of the total grant prime sponsors apply to each of these wide variety of services. Accordingly, costs per activity will vary widely, ranging from about $600 for a summer job to an approximate average of $4,000 for a year of work experience, on-the-job training or classroom training, to an average of $8,200 for a full-time job.

In addition, the average length of participation in title I of CETA will vary from an average of 4 months in full-time classroom training to an approximate average of 6 months for full-time employment. These averages for length of participation reflect part-time employment as a proportion of full-time employment—thus, 12 months of half-time employment would be averaged as 6 months of full-time employment for the purpose of estimating costs.

Based on these projections and experience from CETA titles I and III, we expect the following participation and expenditures under YEA for fiscal year 1978:

Summer jobs—28 percent of the total—1,300,000 participants for 3 months at a cost of $800 million.

Full-time employment—20 percent of the total—136,000 participants for an average of 6 months at a cost of $560 million.

Average of all other activities—52 percent of the total—576,000 participants for an average of 6 months at a cost of $1.44 billion.

The total, then, expected for fiscal year 1978 is 2,012,000 participants at a total cost in that year of $2.8 billion.

Mr. President, we are convinced that with over 4 million young people seeking part-time or full-time work and with another 137,000 so discouraged by futile efforts to find employment, we must move aggressively in new directions to help overcome this disastrous condition. Failure to do so will not only allow the youth unemployment problem to continue for future generations but may result in the current generation being relegated to a lifetime of unemployment.

As we pursue these new directions we must build on the strengths of the existing systems and provide the flexibility for the full potential of those strengths to be realized. We feel that in the Youth Employment Act we have coupled the existing manpower services and delivery system of CETA with the training and employment advantages of the private sector in such a way as to reduce, significantly and permanently, unemployment of young Americans. We encourage our colleagues to join in this effort and urge swift enactment of this measure.

Mr. BELLMON. Mr. President, as my colleagues have indicated, the 3.6 million unemployed youth make up a disproportionate share of the unemployed. Youths make up nearly 50 percent of all unemployed persons. A specific program which focuses on youth is essential to addressing the structural unemployment problem. This proposal, the Youth Employment Act—YEA—provides for comprehensive manpower services for youth and for private sector involvement as well as public sector employment. Authorization is $1.0 billion in fiscal year 1977 and $2.8 billion in fiscal year 1978.

This act, YEA, focuses on the needs of youth; it makes efficient use of the available CETA structure, and it provides flexibility to allow prime sponsors to structure the program to meet the needs of youth in individual localities. Other attractive features of the bill include:

First. A bonus for prime sponsors which engage in cooperative education projects with local or State education agencies;

Second. A program to identify and disseminate exemplary prime sponsor practices and projects;

Third. Provision for counties which do not qualify as prime sponsors to act as program agents for the youth program;

Fourth. Provision for Indian tribes as eligible applicants; and

Fifth. A provision adding youth to the manpower councils at the State and local levels.

Mr. President, the needs of youth have been identified. This bill addresses those needs in a logical, efficient manner.

Mr. JAVITS. Mr. President, I am pleased to join with Senator BELLMON, Senator DOMENICI, Senator MCCLURE and others in introducing the Youth Employment Act of 1977.

Since the Joint Economic Committee held its hearings on the problem of youth unemployment in September 1976, I have been convinced of the need to act swiftly in the 95th Congress to add a new youth title to the Comprehensive Employment and Training Act. Indeed, my close friend and long-time colleague, Senator HUMPHREY, and I coauthored the Comprehensive Youth Employment Act of 1977, which we introduced 2 weeks ago.

The bill we introduce today is similar in many respects to the Humphrey-Javits bill, S. 170, except that it gives somewhat wider latitude to CETA prime sponsors to provide a range of comprehensive manpower services to youths aged 14 through 24. As in S. 170, reliance is placed upon the decentralized CETA delivery mechanism, which encourages local participation and accentuates local accountability.

Notwithstanding the serious recession of 1974–76, which caused the national unemployment rate to exceed 8 per cent as recently as November 1976, the CETA system has proved to be a most effective manpower program. We must bear in mind that when CETA was enacted in December 1973, the national unemployment rate stood at 4.6 per cent of the labor force. Who could foretell that unemployment would soon reach such immense proportions and, indeed, threaten to overwhelm the delivery mechanism we had put in place so recently and in such relatively affluent times?

The young people of our country particularly have suffered in recent years. Although they represent only 25 percent of our labor force, they constitute half the total unemployed in the United States. As I pointed out two weeks ago, it is time we began to relieve some of the disproportionate burden of joblessness borne by young Americans. While prime sponsors have tried to address the problem of severe youth unemployment, current appropriations levels and an unprecedented number of adult jobseekers have diluted somewhat these ameliorative efforts.

Consequently, the overall youth unemployment rate remains near 19 percent, three times greater than the rate of those over 20 years of age. Even this egregious figure fails to reflect the problem of unemployment among nonwhite youths. The officially recorded figure for black teenagers is 35 percent, but reliable estimates place the figure near 60 percent in metropolitan poverty areas. Even the latter estimate fails to include discouraged workers and the underemployed. The problem of youth unemployment has, indeed, reached epidemic proportions in our country.

The bill we introduce today continues the purposes of CETA in serving "the economically disadvantaged, the unemployed and the underemployed." Prime sponsors are required, as in title I, to provide assurances that manpower services will be provided to those "most in need" of them.

In addition, greater targetability is assured by our allocation formula, similar to that in part A of the Humphrey-Javits bill, which allocates half of the formula-determined amount on the basis of the number of unemployed youths in a State, and half on the basis of the number of youths living in low-income families in the State. Of the $2.8 billion authorization included in the bill, over $2.5 billion would be allocated according to the criteria outlined above. I am convinced this represents a vast improvement over the allocation formula now incorporated in title I of CETA, and greatly increases our ability to target manpower service to where the need is greatest: the disadvantaged youth of our country.

The bill we introduce today removes the summer youth program from title III and places its authorization within the approved range of manpower services. The appropriation level is adjusted upward by $700 million to preserve the funding level for 800,000 youths. I might emphasize that the title III language is replicated in this bill, so that where prime sponsors operate summer jobs programs for youths, all participants must be disadvantaged. Prime sponsors tell us that inclusion of the summer program in a new youth title would enable them to plan their summer programs far in advance, and thus avoid the hazards of last minute appropriations, when no one can plan safely on having sufficient funds.

In other important respects, this bill incorporates existing CETA language. For example, the Fair Labor Standards Act would continue to apply to youths compensated by employers in on-the-job training programs. Likewise, payments to for-profit employers to expand job

opportunities for youths would continue to be limited so as not to exceed the difference between the costs of recruiting, training, and providing supportive services for youths and those regularly employed.

I am aware that many youth employment bills have been introduced so far in this session. I have directed the minority staff of the Manpower Subcommittee of the Committee on Labor and Public Welfare, on which I serve as ranking Republican, to study all these bills and report to me the elements of each. I believe we shall add a new youth title to CETA this year, and I urge my colleagues to search for and introduce as many alternative approaches as possible, so we will have the benefit of the maximum cross-fertilization on new ideas.

The bill I join in cosponsoring today incorporates several new ideas, especially the greater targeting on the disadvantaged youths of our country.

I hope our colleagues will examine this bill and lend their strong support to it.

By Mr. McCLURE:

S. 504. A bill to provide for permanent tax reductions for individuals and businesses in order to expand both job opportunities and productivity in the private sector of the economy; to the Committee on Finance.

JOBS CREATION ACT OF 1977

Mr. McCLURE. Mr. President, today I am introducing the "Jobs Creation Act of 1977," a companion bill to one being introduced by my colleague, Congressman JACK KEMP. The objective of this bill is to accelerate the formation of the investment capital required to expand both job opportunities and productivity in the private sector of our economy.

Creating jobs presents all of us with a serious challenge. There is no question we have an unemployment rate that is too high. This is a problem now—and it requires a solution now—because we will not be able to pretend we are out of the economic woods until it is solved.

There are those who would address the problem through costly programs to provide a Government-financed job to every person who is employable but who cannot find work in private business. These proposals would eat up taxes while offering, at best, only a temporary solution to the unemployment problem. There is little that can soften their devastating, inevitable inflationary effects.

It seems to me this approach is both outdated and wrong-headed. It is outdated because it is the same approach taken in the 1930's, nearly 45 years ago, when this country—along with the rest of the world—was plunged into a depression so deep extraordinary measures were called for. In 1933, for example, nearly 13 million Americans were unemployed—or more than 25 percent of the total civilian work force.

Certainly the times we live in now are very different. In the economy of 1977 there must be—and there are—better ways of tackling our unemployment problem than turning back to the solutions devised in a different era now far behind us. It is ironic those advocating the big government approach think of themselves as innovative and forward-looking, when in fact they are looking backward for their answers.

Of course there are lessons to be learned from history; and a look at history gives adequate evidence of the extent to which our prosperity depends on the availability and use of private capital. For example, just 100 years ago, it took a week to produce the same amount of wheat that today can be produced with just a single hour of human labor. What did it? The steel plow, tractor, harvester, better seed, and cheap transportation. All of these in turn were made possible by the use of investment capital.

Capital is the key word. Capitalism—the use of funds to build plants and to replace equipment—has been the most important factor in raising our standard of living and it can be the answer to a steady economic recovery and continued stable growth.

The proposed act consists of the following provisions:

First, it provides a permanent reduction in individual income taxes.

Second, it allows an exclusion from gross income of qualified additional savings investments made during a tax year—an exclusion of up to $1,000 or $2,000 for a married couple filing a joint return.

Third, it eliminates the present system of double taxation of common dividends by allowing a deduction for dividends paid by domestic corporations.

Fourth, it amends the corporate normal tax rate and increases the corporate surtax exemption, including provisions for reduced taxes for small business.

Fifth, it allows taxable year price adjustments in property through capital recovery allowances.

The Jobs Creation Act will do just that—create jobs in the private sector of our economy. It would eliminate the need for expanded Federal grants and loan programs by reducing unemployment and returning persons to self-sufficiency and a tax-generating rather than a tax-consuming status. It would encourage additional savings and investments by the indivdual, stimulate home construction, and assure an increase in real purchasing power by the work force.

The many pressing economic issues facing Congress today—inflation, unemployment, capital and energy needs—are interdependent with respect to their comprehension and solution. How do we deal with these problems? Should Congress increase Federal spending providing public service employment and public works programs or should it return decisionmaking to the people by way of the marketplace? I opt for the second solution. Reliance on Government assistance is not the answer. For example, for every full $1 billion spent on public employment, no more than 50,000 jobs are created, and they are not usually permanent. This is not a substantial increase in light of the further effects on the economy due to increased Federal spending. Increased spending means either an even larger Federal budget deficit—which is already predicted to reach $70 billion—or increased tax demands.

The unavoidable truth is that deficits must be financed. The Government has two choices—to borrow from the Federal Reserve or to finance by borrowing from the private sector. When the Government borrows from the Federal Reserve, the supply of money increases relative to the supply of goods, thus sooner or later forcing prices to rise and the value of dollars to fall. Government agencies with their newly created dollars are able to bid away goods and services from the private sector where the majority of capital formation takes place.

When the Government borrows from the private sector, no new money is created. The Government sells bonds to the private sector which in turn must reduce either private current consumption or investment. Because Government expenditures consist heavily of transfer payments which go for current consumption, the net effect in time is increased demand for currently produced goods rather than a demand for goods produced in the future. In short, more now can only be achieved at the price of less in the future.

The supply of goods relative to the demand is therefore decreased and average prices rise. The Federal Reserve could step in to purchase the bonds in order to keep private investment dollars available, but this action would only cause an increase in the total money supply and further inflation. In either case, inflation or crowding out is the ultimate result. Formation of capital drops due to the lack of available investment capital.

Because we have been so caught up in our ever-increasing rate of consumption, America has fallen behind in its investment rate. Investment in new plant and equipment, per person added to the labor force, in the 1970's was 22 percent less than that invested in 1956 and 1965. Our rate of capital formation was one of the lowest in the major industrialized nations. On the other hand, France and Germany have doubled their industrial capacity and Japan has tripled its capacity. America has gradually lost a competitive edge in the world market and consequently fewer jobs are available. The United States will have to provide jobs for 7 million more people in the labor force by 1980 and in addition upgrade productivity and earning power of the present labor force. An average investment of $35,000 to support each worker with plant and equipment will be needed.

Every dollar invested in capital does not necessarily go into expansion alone. Some must also be used for replacement of aging capital—at inflated prices, conversion of existing assets into similar but more technically advanced ones, or to purchase pollution abatement equipment and OSHA-mandated compulsory but nonproductive items. Those dollars which are ultimately invested in new plant and equipment are the keys to an expanding and fully employed economy. This bill recognizes that fact and further recognizes that this investment activity can be most efficiently undertaken within

the private sector and in response to free market forces.

Up to now I have been concentrating on the point that Congress must curtail expenditures and reduce deficits thus putting the financial wherewithal back in the hands of the private sector. Government must also reduce its tax demands on individuals and businesses.

The Jobs Creation Act will help to accomplish these objectives. This bill alone cannot accomplish all that is necessary to assure an adequate investment in job-creating capital for the next 10 years, but it is an initial step in the right direction.

One thing we must always remember is that people pay taxes and ultimately people bear the tax burdens of corporations. They pay direct taxes: Individual income tax, sales tax, gasoline and fuel taxes, gifts and estate taxes. They pay indirectly through high prices paid for purchased goods and services. Corporation income tax, real estate and sales taxes paid by businesses are passed on to the consumer.

Last year, the Secretary of Commerce announced that each household pays $14.06 in taxes for every $1 billion spent by the Federal Government. This amount is found by dividing the number of U.S. households—71,120,000—into $1 billion and is known as the T-dollar used to show the impact of Federal spending on the average taxpayers. The average consumer cannot relate to $1 billion, $10 billion or $100 billion spent by the Government. But when Congress spends $10 billion on a Federal project the consumer, by use of the T-dollar, will realize it is $140 of his own money. In 1929 Federal, State and local tax collections constituted only 13 percent of total national income. By 1950, it had risen to 26 percent. By 1974, it had risen to 40 percent. By 1985, total Government's share of national personal income could be 54 percent—more than half the people's earnings—if present trends are allowed to continue. These figures do not reflect the effects of inflation—the great unlegislated tax. When the Government spends money, it is spending tax dollars—hard earned dollars of the consumer.

My proposed bill addresses not only the need for a permanent reduction in individual income taxes and the need for additional savings by private citizens by allowing a tax credit of up to $1,000 on savings and investments, but it also confronts the need to reduce the heavy tax burden of corporations, a burden which is ultimately passed onto the consumer. We must reduce corporate taxes for a number of reasons: First, high taxes are passed along to the consumer as higher charges for goods and services. Lower corporate taxes would mean lower prices for you and me;

Second, high corporate taxes mean that corporations have fewer net dollars to spend for inventory and equipment replacement, expansion and purchase of new equipment. This means a loss of jobs. There is no new construction, so construction trade unemployment remains high or continues to escalate. Jobs are also lost within the company itself for a lack of replacement of older equipment. Plans to expand are postponed and no new jobs are created;

Third, with more money going to taxes, less is available for salaries and increased fringe benefits for employees; and

Fourth, fewer funds are available to pay dividends to the company's stockholders. The stockholders come from all walks of life with one thing in common—they depend upon dividends to maintain their standards of living.

The ability of business to create jobs and thereby reduce unemployment depends on its ability to equip present workers with the proper tools and equip new workers with more plant and equipment. All this requires further investment.

Now you may ask—what kind of loss to the Treasury will result from enactment of the bill? This could mean less revenues, thereby increasing the deficit. Crowding out of investment capital and inflation could follow the financing of that deficit. Let me make some points in this regard which I think will interest you.

Time and time again through legislation, areas where spending should be cut have been cut. And there can be more reductions. It is my hope the ever-increasing growth of Government can be reduced in order to avoid more deficit spending.

We now have an effective budget process in place to reduce expenditures in an orderly manner.

There is much evidence that the losses in revenue will be substantially offset by additional revenues generated through increased productivity and jobs created. Federal expenditures will decrease with people moving from a nonproductive, Government-supported status to a tax-generating status.

It is my contention that any decline in revenues would soon be renewed and overcome. Several years ago the Canadian Government cut corporate taxes drastically. The effective rate of taxation was reduced from 49 to 40 percent, amid cries that it would bring a substantial decline in revenue. But because of the large increase in productivity and jobs generated by that tax cut, there were no losses in revenue. Instead, a surplus was generated. The Jobs Creation Act is just one attempt at tax reform but all tax reform should share the same objectives:

First, assuring more jobs within the private sector, so as to reduce unemployment and to return persons to a tax-generating, instead of a tax-consuming, status;

Second, increasing our standard of living in real, not inflated terms;

Third, improving production efficiency, so as to produce more goods at less cost, goods which are improved in their quality; and

Fourth, attaining a durable, stable economic recovery without added reliance on the instrument of Government and Federal policies, which too often have unforeseen and counterproductive effects.

To achieve goals such as sound growth, fuller employment, and adequate capital formation, we should look to the enterprise of free men, not to big Government.

These reforms can help us move toward real, sustained growth built on productivity and real wages. The rejection of them can hurt us by sending us into self-defeating artificial inflationary growth. Congress must make a choice and make it soon and there is little room for error.

By Mr. BELLMON (for himself, Mr. DOMENICI, and Mr. YOUNG):

S. 505. A bill to authorize the Secretary of Agriculture to guarantee loans made to producers for the purpose of constructing grain storage facilities on the farms of such producers; to the Committee on Agriculture and Forestry.

EMERGENCY FARM GRAIN STORAGE FACILITIES CONSTRUCTION ACT OF 1977

Mr. BELLMON. Mr. President, I am today introducing legislation to provide needed credit for on-farm grain storage construction.

The worldwide wheat and feed grain supply is currently very large. New record production levels are being set by most every grain producing country. This period of oversupply has presented many problems to American farmers who depend on exports for much of their market. Producers generally have only needed short term storage for their crops before they were moved into foreign or domestic markets. However, this situation has drastically changed and producers are facing the likelihood of holding grain for several years until strong world demand again develops.

Mr. President, Congress is faced with the situation of either providing a vehicle for farmers to get cash to construct storage facilities, or doing nothing to inhibit the ultimate loss of food due to storage on the ground or in decrepit and inadequate storage facilities. If more on-farm storage is not constructed, much of the food produced in 1977 will be piled in streets and on the ground and will result in rotting and waste food which our country or the world will soon need.

Mr. President, figures furnished by the Economic Research Service that demonstate the drastic problem we are facing. Wheat, for example, is a crop which presents a large portion of the problem. The carryover of wheat for the 1976 crop year ending June 1 was 664 million bushels. American producers harvested another 2.1 billion bushels of wheat for 1977. ERS estimates of January 27, 1977, indicate that we will have a 1.1 billion bushel carryover for next year. Further, a crop of at least 2 billion bushels is estimated for next year. If we use the amount of wheat we consumed and exported last year as an indication of use for next year, which should remain nearly the same or less, we can estimate a carryover for June 1, 1978 of nearly 1.5 billion bushels. Storage facilities are not available for even the 1.1 billion bushel carryover.

Commercial storage facilities are currently full and are facing problems of dealing with next year's crops. The only possible method to provide these badly needed facilities is to encourage on-farm storage.

Mr. President, the costs associated with this program should be negligible as the existing framework is already established in the Department of Agriculture. The

benefits, on the other hand, will far outweigh any costs. We must realize that we may not always have these huge supplies of food. However, if we do not construct facilities to store these stocks, we could at a future time regret our mistake.

Mr. President, I ask that this bill receive prompt attention by my colleagues in order for these benefits to be applicable to the current crop year. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Farm Grain Storage Facilities Construction Act of 1977".

SEC. 2. In order to assist producers of wheat and feed grains to construct grain storage facilities on their farms, the Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized to guarantee loans made to producers for such purposes.

SEC. 3. (a) Loans guaranteed under this Act shall be guaranteed with respect to 90 per centum of the total construction cost of the storage facility, including cost of foundations, electrical systems, grain handling systems, and site preparation; except that in no event may any such loan be guaranteed for any amount in excess of $50,000.

(b) The size of the storage facility for which any loan may be guaranteed by the Secretary under this Act shall be based upon the amount of space required to store the average quantity of the commodity concerned produced by the borrower during the two preceding crop years.

(c) The term of any such loan shall be any period, not in excess of 10 years, specified by the borrower.

SEC. 4. The loan guaranty program provided for in this Act shall be administered by the Secretary through the facilities of the Commodity Credit Corporation.

SEC. 6. As used in this Act, the term "feed grains" means corn, grain sorghum, barley, and oats.

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. HUMPHREY:

S. 506. A bill to amend the Rehabilitation Act of 1973 to provide for a program of wage supplements for handicapped individuals; to the Committee on Labor and Public Welfare.

HANDICAPPED PERSONS IN SHELTERED EMPLOYMENT

Mr. HUMPHREY. Mr. President, today I am again introducing an amendment to the Rehabilitation Act of 1973 for the purpose of providing wage supplements to handicapped individuals working in sheltered workshops or work activity centers. This bill asserts the right of the handicapped worker to achieve through his labor a substantial degree of independence and an income that sustains a life of hope and dignity.

The concept of wage subsidies for severely disabled people in workshops has been recommended in study after study, and supported by the testimony of nationally recognized leaders in the rehabilitation field. Some form of wage subsidies for the handicapped is employed by most industrialized nations. If it has not become a visible national issue in the United States, it is because more vigorous advocacy has been impeded by a lack of specific data on the results of such programs within the context of our economic and social structure. Experimental research on the effects of different income maintenance strategies on the disabled and severely disabled is lacking.

Yet, as early as 1967, the Secretary of Labor recommended that wage supplements be considered to achieve the goal of a minimum wage for clients in sheltered workshops. The concept has been endorsed by the President's Committee on Employment of the Handicapped and the Council of State Administrators of Vocational Rehabilitation. Most significantly, the Greenleigh study, a comprehensive study of the role of sheltered workshops in the rehabilitation of the severely handicapped undertaken for the Department of Health, Education, and Welfare under the Vocational Rehabilitation Act Amendments of 1974, endorsed the need for demonstration projects to evaluate this approach. A further study on this subject by the Department of Labor will be issued shortly.

Every study has underlined our failure to find a satisfactory solution to the problem of poverty among the working handicapped. I submit that enough facts have been compiled, and enough proposals submitted, to make action imperative. Further studies or delays are a retreat from responsibility. It is time to move wage supplements from the area of speculation to a carefully controlled test.

I emphasize the factfinding nature of the demonstration projects proposed in this bill. Rather than close off options, they yield results that can be measured in human and budgetary terms.

Our failure to take this simple, exploratory step reflects some persistent misconceptions about the capabilities and rights of the handicapped.

The evolution of our attitudes toward the handicapped has been unpardonably slow, particularly with regard to the mentally retarded who make up the majority of the long-term clientele of sheltered workshops and work activity centers.

For too many years, the retarded and severely handicapped were defined negatively as a burden to their families and society rather than as individual citizens with differing degrees of learning potential and with rights and aspirations as well as limitations. One of those rights is the sense of self-worth and fulfillment that comes through engaging in meaningful work rewarded with a living wage. There is a therapeutic value in the ability to function as fully or partially self-sustaining members of the community.

Instead of consigning these individuals to wasteful and dehumanizing custodial care in tax-supported institutions; instead of frustrating their potential and increasing their dependency, our goal should be to integrate them into society. Sheltered employment for many handicapped individuals, unable to compete in the labor market, offers an alternative to institutional care which costs from $40 to $60 per day. Objections to this program based on its cost ignore the savings implicit in enlisting the handicapped in their own support.

It is certainly far preferable to adopt a program of stipends which enable the handicapped individual to become self-reliant, or a permanent stipend which permits such a worker to become partially independent and self-productive, than to warehouse these people in high cost institutions.

If the handicapped cannot compete in the marketplace through productivity alone, surely we are not obliged to accept their financial distress as divine law. We are capable of judging where the market forces fail and where human purpose, compassion and ingenuity must intervene.

Such forces have traditionally been tempered through subsidies to groups with a political voice. If the handicapped lack the level of organization and the particular skills to aggressively protect their own interests, I am proud to speak on their behalf.

It is my personal conviction, and a principle of my public career, that people deserve the opportunities to develop to their full potential as integral and contributing members of society.

Unfortunately, the handicapped are often denied this opportunity. There are currently 174,000 severely handicapped workers in about 2,766 sheltered workshops and work activity programs. Workshops are often the major source of skill training and frequently the only source of work on a transitional basis for those who can develop competitive skills or permanently for those who are severely handicapped. Besides its evident value as a source of income and independence, work is a form of self-expression and fosters a sense of belonging. But workshop income alone cannot guarantee a minimum level of well-being.

The Greenleigh study reports that wages in workshops are well below minimum, with general workshops paying an average of $2,010 in wages per client per year, and workshops for the mentally ill and mentally retarded paying $1,030. The median wage ranges from 36 cents an hour to $1.78. These earnings must obviously be supplemented by families or various forms of public pension or welfare.

Another means to raise the income of workshop clients is to lessen the degree to which benefits are reduced as a result of earnings.

Although well below the level of self-support, workshop wages may still trigger the disincentives built into current income transfer programs. Spokesmen for the handicapped have stressed the need to amend disability insurance and supplemental security income programs so that the disabled worker who works harder or longer hours is not penalized by a loss under income maintenance programs and especially eligibility for health coverage which can be crucial to persons with multiple disabilities.

The demonstration projects created under this legislation among a well-defined and patently needy population can

provide guidelines for ridding the current system of disincentives, with valuable implications for overall welfare policy.

The legislation I present today was briefly considered during hearings last year on amendments to the Vocational Rehabilitation Act. Unfortunately, for reasons apart from their respective merit, the Congress decided to pass this legislation without major revisions.

Now, a new administration, and new thinking on public issue, provides a favorable climate in which to take this matter up seriously and with determination. I want to see this legislation scheduled for sufficient hearings to permit all the major agencies and organizations concerned to address its provisions in detail. Working together, I believe we can devise an effective instrument to create a responsive, practical, and enlightened program for the handicapped.

My bill provides the vehicle needed to move from theory into the realm of practical experience and planning through a series of pilot programs which retain the worker's incentive to produce, to become economically self-sufficient when possible, and in all cases, to live a more satisfying and normal life.

Specifically, this measure would provide the following mechanisms for wage supplements:

Every handicapped worker in a sheltered workshop would be provided with a wage supplement of 50 percent of the minimum wage in addition to his wage, up to and including the point where his wage reaches 50 percent of the minimum wage. For wages above that point, the wage supplement will be reduced 7 cents for each additional 10-cent increment in wages, with the entire wage supplement to be eliminated for any wage in excess of 100 percent of the minimum wage.

The wage supplement is to be provided separately from payment for work produced, so that it will be clear that the supplement is not part of the wage. And wages are to be paid for producing the same volume of work per hour.

The payment of a wage supplement is not to affect the payment of social security or retirement benefits.

The cost estimate envisions two sheltered workshop and Work Activity Center demonstration projects in each region, and an additional five at-large projects with combined populations. The initial appropriation would include approximately $1.8 million for wage payments, $150,000 in grants to participating agencies, and the balance to cover administrative costs to design, monitor and evaluate the program and to reimburse the costs of noncovered workshops which cooperate as control groups.

The great advantage of this formula is that there is no sudden cutoff point for the wage supplement, so that there is continuous incentive for the handicapped worker to increase his productivity, and this incentive may well encourage him to achieve a level of productivity where he no longer requires the support of a sheltered workshop.

One further provision of this legislation is that the activities of the workshops themselves are monitored, and the workshops are encouraged to make a positive contribution to the self-improvement of the handicapped workers.

Because our culture is oriented to the nonhandicapped, the handicapped worker needs supportive services to earn a living wage and lead a satisfying life. The Greenleigh study pointed out that some workshops currently subsidize client wages beyond productivity levels to bring earnings up to hourly earning levels required under applicable wage and hour certificates. Recognizing such hidden rehabilitation costs, and the added planning and administrative expenses imposed by demonstration programs, my bill provides for grants to participating public and private nonprofit organizations.

This proposal is not intended nor expected to contribute to unfair competitive practices. Indeed, workshops do not generally perform the same kind of work as industry even when the end product is similar, since the level of automation, and division of labor are not comparable. In many cases, workshops perform jobs rejected by nonhandicapped labor as too low-skilled, repetitious or uneconomical.

I have tried to tailor this bill to answer any valid doubts of the sectors affected. I know that it can be further refined and improved. But I sincerely hope that it will not be ignored, because the handicapped who are doing their best to lead useful and productive lives deserve our support and encouragement.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wage Supplements for Handicapped Individuals Act".

SEC. 2. Title IV of the Rehabilitation Act of 1973 is amended by adding at the end thereof the following new section:

"WAGE SUPPLEMENTS FOR HANDICAPPED INDIVIDUALS

"SEC. 408. (a) In order to demonstrate the feasibility of the payment of wage supplements to handicapped individuals and severely handicapped individuals who are employed on a long-term basis in rehabilitation facilities which are sheltered workshops or work activity centers, there are authorized to be appropriated $2,200,000 for the fiscal year ending September 1977; $4,800,000 for the fiscal year ending September 1978; and $9,600,000 for the fiscal year ending September 1979.

"(b)(1) The Secretary is authorized to conduct demonstration projects either directly or by way of grant, contract, or other arrangement with public or private nonprofit agencies or organizations under which wage supplements are paid to handicapped individuals or severely handicapped individuals who are employed in rehabilitation facilites whch are sheltered workshops or work activity centers in accordance with the provisions of this section.

"(2) The Secretary shall carry out the program authorized by this section so as to determine the feasibility of the payment of wage supplements for such individuals on a nationwide basis and so as to assure that such payments are made in each region throughout the United States.

"(c) No wage supplement payment may be made under this section unless an application is made by the appropriate public or private nonprofit agency or organization. Each such application shall contain provisions to assure—

"(1) that the rehabilitation facility in which the handicapped or severely handicapped individual is employed is a sheltered workshop or work activity center or other similar facility which is eligible for obtaining certification for handicapped individuals under section 14(d) of the Fair Labor Standards Act of 1938;

"(2) that the wage supplement payable to any qualified handicapped worker be set aside and not included as a part of the income of the handicapped worker earned under provisions of section 14 of the Fair Labor Standards Act;

"(3) that when the earned income of the handicapped worker is 50 per centum or less of the federal hourly minimum wage, he shall receive a wage supplement equal to 50 per centum of the federal minimum wage in addition to his wage, up to and including the point where his wage reaches 50 percent of the minimum wage. For wages above that point, the wage supplement will be reduced 7 cents for each additional 10-cent increment in wages, with the entire wage supplement to be eliminated for any wage in excess of 100 percentum of the minimum wage.

"(4) that wage supplement payments will be determined over a six-month period of sustained work effort in a rehabilitation facility meeting the requirements of paragraph (1) under which the handicapped individual or severely handicapped individual has engaged in a program having the primary purpose of developing and exercising earning capacity through productive and substantial work activity, except that the payment of any wage supplement may be made on an estimated basis, on a weekly or monthly basis pursuant to an agreement between the applicant and the Secretary;

"(5) that each wage supplement payment to a handicapped individual or severely handicapped individual will be made separately from payment of the earned wages to that individual; and

"(6) that each applicant shall maintain such fiscal control and fund accounting procedures as the Secretary determines necessary to insure the proper disbursement of wage supplements payable under this section, and shall make such reasonable reports as the Secretary may require to carry out his functions under this section and shall keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(d) No handicapped individual or severely handicapped individual shall be eligible for a wage supplement payment under this section unless such individual—

"(1) is employed in a rehabilitation facility which is a sheltered workshop or a work activity center which meets the requirements of paragraph (1) of the preceding subsection;

"(2) has attained sixteen years of age; and

"(3) has an earning capacity which is sufficiently impaired that such an individual is unable to obtain and hold employment compensated at a rate at the minimum wage applicable under section 6 of the Fair Labor Standards Act of 1938 without regard to any exclusion in that Act; and is not otherwise engaged in a training or evaluation program under this Act, pursuant to regulations promulgated by the Secretary, which involves either activities or such a significant portion of the time of the individual as to be inconsistent with the provisions of this section.

"(e) In order to assist public agencies and private nonprofit organizations which are employing handicapped individuals and which meet the requirements of paragraph (1) of subsection (b) of this section, to participate in the program authorized by this

section, the Secretary is authorized to make a grant to each such participating agency or organization in an amount not to exceed 10 per centum of all wage supplement payments in that fiscal year made to individuals of that agency or organization. For the fiscal years ending September 1978, and September 1979, the Secretary is authorized to enter into an agreement with any such agency or organization to make an increased payment under this section based upon the success which such agency or organization has in reducing reliance by handicapped individuals and severely handicapped individuals upon wage supplements by an increased reliance upon earned wages by such individuals.

"(f) The Secretary is authorized to make a grant to each agency or organization not directly participating in the wage supplement program authorized by this section but having a contract with the Secretary to keep and furnish relevant records for evaluation purposes. No grant under this subsection may exceed the reasonable cost of keeping and furnishing such records.

"(g) In carrying out the provisions of this section, the Secretary is authorized, jointly by regulation with the Secretary of Labor, to provide further requirements for the certification of a rehabilitation facility pursuant to paragraph (1) of subsection (b) of this section. Any such regulations may contain provisions requiring—

"(1) that each such facility shall pay to individuals eligible for assistance under this section wages at a rate equal to wages paid to nonhandicapped workers in industry in the vicinity for esentially the same type, quality, and quantity of work performed, except as prescribed under paragraph (2) and (3) of section 14(d) of the Fair Labor Standards Act of 1938;

"(2) that each such facility will not compete unfairly in obtaining work or in the sale of products or the furnishing of services; and

"(3) such other reasonable requirements for the maximum efficient operation of any such facility as the Secretary and the Secretary of Labor may require.

"(h) Notwithstanding any other provision of law, the payment of a wage supplement to a handicapped individual or a severely handicapped individual under this section shall not result in a loss of eligibility or benefits to an individual in any other program such as the Social Security Act or any other similar retirement or public assistance payments.

"(i) Not later than April 1, 1979, the Secretary is authorized to prepare and submit to the Congress a report on programs authorized by this section together with such recommendations for additional legislation as he determines desirable".

SEC. 3. The table of contents of title IV of the Rehabilitation Act of 1973 is amended by adding at the end thereof the following new item:

"Sec. 408. Wage supplements for handicapped individuals.".

By Mr. PROXMIRE:

S. 507. A bill entitled "The Limousine Limitation Act of 1977; to the Committee on Government Operations.

Mr. PROXMIRE. Mr. President, today I am introducing my limousine limitation bill. The fundamental effect of the bill would be to reduce the number of cars which can be used either to drive a Government official to and from home or which are assigned to an official personally, from the present level of about 780 to about 27.

Title 31, section 638(a) of the Government Code states that cars shall be used for official purposes and that "official purposes" shall not include being driven to and from home.

I ask unanimous consent that the pertinent provisions of the law be printed in the RECORD at this point.

Th PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROXMIRE. But this law is broken every day. The best calculation or estimate I have, based on a 1974 study by the General Accounting Office of the number of luxury cars then in use in the Government, is that there are about 800 persons who are assigned a car essentially for their own use or who are driven to and from home.

With President Carter's action cutting out 20 White House staff from the privilege, there are now about 780 persons who enjoy such a privilege.

HISTORY OF THE FIGHT

The fight to limit the use of big cars or cars for personal use has a long history. It started in 1958 when our former colleague, Senator Paul Douglas of Illinois, inquired from the then Budget Bureau as to their number. Then there were about 100 and the Budget Bureau provided a list.

About 1970 I made an inquiry, again, of the Office of Management and Budget concerning the number of big cars and who had them. The OMB said it did not know and that the jurisdiction over them had been transferred to the General Services Administration. And inquiry to the GSA met with no response. The GSA said the information had not been transferred to them from the OMB and, in any case, they had no intention of counting the cars or finding out where they were.

But my staff went to work and, with the help of some very knowledgeable people at the General Accounting Office, determined that about 800 of them existed in the Washington area. Since neither the OMB nor the GSA would count the number, that figure is as good if not better than any.

The fact was that from 1958 to 1970 the limousines had proliferated and had grown by almost geometric proportions.

BILL PASSED CONGRESS

When the energy crisis of 1973 occurred, I pushed this bill to a vote in the Senate. It passed overwhelmingly. But it was killed in conference. It passed again, later, and was in fact a part of an energy bill which President Nixon vetoed.

This limousine bill has, in fact, passed the Senate twice, the House once, and been vetoed once as a part of a larger bill.

Meantime, an ad hoc Subcommittee on Vehicle Use in the Government was set up by the Senate Appropriations Committee and a report was made by the General Accounting Office to the Senate on April 1, 1974. It found that there were some 822 limousines, heavy and medium sedans in the Government—the big Cadillacs, Buicks, Chryslers, and similar cars.

This number turned out to be almost exactly the same as the estimate of 800 made by my staff as a result of our own investigation.

With the energy crisis, most of these large cars were replaced with more modest cars. But the practice of using them, illegally in my view, to transport officials to and from home was continued.

During this period, I routinely inquired of the agency heads appearing before the Subcommittee on HUD-Independent Offices of the Senate Appropriations Committee, which I chair, as to the number of large cars they had, whether they were used to drive officials to and from home, and the cost of the car and the chauffeurs.

We found, routinely, that the cost of depreciation, maintenance, gas and oil, and so forth, was something over $1,000 a year and that the chauffeurs cost about $14,000 to $16,000 a year. There was either one chauffeur with vast amounts of overtime, or two each earning about $8,000 a year. The total cost, therefore, of the cars and chauffeurs was about $15 to $16 million a year.

EXCUSES, EXCUSES, EXCUSES

Some interesting reasons or excuses have been given justifying the use of cars to drive officials, who were not Cabinet officials, to and from home.

One exception in the law is that a person on "field service" can use a Government car to be driven to and from home. That really means that a forest ranger who lives 200 miles from his home office can take the car home at night.

One official testified to my committee that his counsel provided an opinion to him that the drive from his home in McLean, Va., to his office on Independence Avenue in Washington, D.C., was justified as "field service."

Another agency head claimed he needed a chauffeur because he had a telephone in his car. He said the President might want to talk to him. It turned out on questioning that the President had never called him. I suggested that, if he would give up the official car, we could provide him with a telephone and, like the detective Cannon, he could talk on the phone while driving himself.

That did not appeal to him.

In yet another case the head of a regulatory agency testified that he had given up his car. While running to work the very next morning I watched as a very large Government car pulled up in front of the regulatory agency at the foot of Capitol Hill. The gentleman who had testified the day before that he no longer used his limousine was in the back seat reading his morning paper. He was somewhat embarrassed when I said hello and addressed him by name.

WHAT THE BILL DOES

Now I am reintroducing the bill. Here is what it would do.

First, it would cut back from an estimated 780 to about 27 the number of Government officials in the Washington area who would be allowed chauffeur-driven cars.

Second, with the exception of the 27 it would stop the practice, now almost

universal, of driving high and not so high Government officials to and from home.

Except for the President, his Cabinet, and a few persons designated by law, that practice is now illegal. Unfortunately that law is broken a thousand times a day in Washington, D.C., itself. I am unhappy to say that neither the Justice Department nor the General Accounting Office have been willing to enforce or call for the enforcement of that law in recent times. Yet the language is clear, straight forward, unambiguous and direct. It is unbelievable that lawyers can twist the clear meaning of the law and argue that hundreds of minor officials are eligible for personal chauffeured service.

Third, it would provide that when cars were needed for official purposes, such as coming to Congress to testify on a bill, the official could use an agency pool car. But the car could not be exclusively assigned to the official or to any other official except for those listed.

In my view even this practice of using pool cars is undesirable and costly. On most occasions it would be equally as fast and a great deal less costly if officials merely took a cab for their trip to the Hill or elsewhere in Washington.

Those eligible for chauffeur-driven cars under my bill would be limited to the President, the Vice President, members of the Cabinet, the U.N. Delegate, the Chief Justice, and the "elected" leaders of Congress—the Speaker, the President, and Deputy President pro tem of the Senate, the majority and minority leaders, and the majority and minority whips.

REASONS FOR THE BILL

There are a number of additional reasons why I am proposing this bill. One of the major problems in modern government is that power too often goes to the heads of those who exercise authority. Public officials should not live in a style which removes them too far from the problems of ordinary citizens. And the one thing almost every citizen of the country has to do is to get himself or herself to and from work.

Placing officials in the back of a chauffeur-driven car with their little reading lamps while other people plow through traffic promotes an "elitist" group or class. And for the most part, most of the Washington "elite" are nameless and faceless bureaucrats who could not or would not pay to be driven to and from home if the service were not provided to them and were not provided such service in private life.

The almost limitless limousine policy now followed also wastes energy at a time of an energy crisis. When officials are driven to and from home the cars make four trips a day instead of two trips a day.

While Congress itself has many faults, with respect to limousines we are relatively pure. If Congress followed the policy of much of the executive branch all 535 Members, their administrative assistants, and the staff directors and chief clerks of the committees would be provided a chauffeur-driven car.

There has never been a better time than now to tighten up on this extravagance. With almost 8-percent unemployment and a $57 billion estimated deficit this is an expenditure which is entirely unnecessary.

The United States is a political democracy. There is no reason why 780 or so high- and not-so-high Government officials should continue to be chauffeured around like potentates.

Mr. President, I ask unanimous consent that the text of the bill be printed in full in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Limousine Limitation Act of 1977."

DEFINITIONS

SEC. 2. As used in this Act—

(1) "motor vehicle" means any vehicle, self-propelled or drawn by mechanical power, designed and operated principally for highway transportation of passengers, except (A) a vehicle primarily designed for military field training, combat or tactical purposes; (B) a vehicle regularly used by a Government agency in the performance of investigative, law enforcement or intelligence duties, if the head of such agency determines that exclusive control of such vehicle is essential to the effective performance of such duties; or (C) a vehicle used for the transportation of Ambassadors stationed or conducting business abroad; and

(2) "Government agency" means any department, agency, instrumentality, or authority of the executive, legislative, or judicial branch of the Federal Government.

LIMITATION ON ACQUISITION AND USE OF MOTOR VEHICLES

SEC. 3. (a) Except as provided in subsection (b), a Government agency may not—

(1) purchase, hire, or lease, operate, or maintain motor vehicles, other than motor vehicles of the type generally available, on the date of the enactment of this Act, in motorpools of the Federal Government;

(2) employ or procure the services of chauffeurs; or

(3) purchase, hire, or lease, operate, or maintain motor vehicles for the transportation of any elected or appointed officer or employee of a Government agency between his dwelling and his place of employment, except in the case of (A) a medical officer on outpatient medical service, or (B) an officer or employee engaged in fieldwork in remote areas, the character of whose duties make such transportation necessary, and in either such case, only when such exception is approved by the head of the Government agency concerned.

(b) The provisions of subsection (a) do not apply to the purchase, hire, lease, operation, or maintenance of motor vehicles for the personal use by the President, and one each for use by the Vice President of the United States, the head of each Executive Department, the Chief Justice of the United States, the President pro tempore of the Senate, the Deputy President pro tempore of the Senate, the Speaker of the House of Representatives, the Majority and Minority Leaders of the Senate and of the House of Representatives, the Majority and Minority Whips of the Senate and the House of Representatives, and the United States Representative to the United Nations.

(c) No elected or appointed officer or employee of a Government agency, other than those referred to in subsection (b), may be furnished a motor vehicle for his exclusive use.

EXHIBIT 1

§ 638a. Restrictions on purchase, operation, use and maintenance of passenger motor vehicles and aircraft

PURCHASE OR HIRE OF VEHICLES

Maximum purchase price of vehicles; determination of completely equipped vehicle; purchase of additional systems and equipment; use for official purposes; penalties

(c) Unless otherwise specifically provided, no appropriation available for any department shall be expended—

* * * * *

(2) for the maintenance, operation, and repair of any Government-owned passenger motor vehicle or aircraft not used exclusively for official purposes; and "official purposes" shall not include the transportation of officers and employees between their domiciles and places of employment, except in cases of medical officers on out-patient medical service and except in cases of officers and employees engaged in field work the character of whose duties makes such transportation necessary and then only as to such latter cases when the same is approved by the head of the department concerned. Any officer or employee of the Government who willfully uses or authorizes the use of any Government-owned passenger motor vehicle or aircraft, or of any passenger motor vehicle or aircraft leased by the Government, for other than official purposes or otherwise violates the provisions of this paragraph shall be suspended from duty by the head of the department concerned, without compensation, for not less than one month, and shall be suspended for a longer period or summarily removed from office if circumstances warrant. The limitations of this paragraph shall not apply to any motor vehicles or aircraft for official use of the President, the heads of the executive departments enumerated in section 101 of Title 5, ambassadors, ministers, chargés d'affaires, and other principal diplomatic and consular officials.

By Mr. CHURCH:

S. 508. A bill to prohibit trading in potato futures or commodity exchanges; to the Committee on Agriculture and Forestry.

THE POTATO FUTURES TRADE: A STACKED DECK

Mr. CHURCH. Mr. President, I introduce for appropriate reference a bill to eliminate the trading of potato futures.

For the benefit of those who are unfamiliar with the practice of futures trading, I would like to preface my remarks with a brief explanation of what "futures" are all about. To aid me in this task, I shall quote liberally from a recent article in the Potato Grower of Idaho written by Mr. Loel H. Schoonover, editor:

To begin, let us understand the futures market is merely one man selling a contract (he does not at that point sell any product or service). He offers to a buyer a contract that promises to deliver, on a certain day in the future, a ton, or a boxcar of . . . moon dust, lava rock, hair clippings, whatever. And it can be anything because in theory nothing will be delivered—ever—because in this game called futures there is set up a rule that the seller can buy back the contract any-

time before delivery. And 98% of the time, he does. Of course, he must buy it back at the price the new owner demands—and this is where the game demands a real marketable item. . . .

If the seller goes back to the buyer and offers to buy back his contract for a ton of hair clippings, the buyer has to sell, but the buyer gets to set a new price. Suppose there was a holiday and people didn't go in for their usual haircut, therefore the supply of hair is less and that makes the price higher. However, the seller knows he can obtain a ton of hair clippings at less cost than asked by the buyer so he purposely does not buy back the contract, and must go about the process of shipping, packaging (if that is part of the contract) and delivery of the ton of hair clippings. . . .

However, it is easy to see for there to be a futures market there must be an item that, when delivered, must have a few of the following essentials. It must be useful, negotiable, available, marketable, and there must be a large enough market in it to cause liquidity, that is, enough of the product must exist for enough people to trade in it to make the game interesting, profitable, and workable. . . .

So, to continue with an understanding of a futures market, let's choose a very marketable item. Right now the CME [Chicago Mercantile Exchange] buys and sells contracts for future delivery in live cattle, live hogs, frozen pork bellies (uncured bacon), feeder cattle, lumber, shell eggs, and yellow sorghum (milo). And, of course, potatoes, though the present market on the present contract trades less than fifty cars a day—small potatoes in a potential market worth billions of dollars.

So, instead of hair clippings or lava rock, I enter the market and sell a contract calling for delivery of the Russet Burbank potato six months in the future. I need never see a potato for I can buy back the contract and close out the deal before delivery. However, as pointed out, I may not be able to come to terms with the new owner on the price, or I may not be able to find the potatoes to deliver, or the transportation. And then comes default—and that puts ripples throughout the industry.

. . . [A] futures contract [is] never ever supposed to be delivered. The purpose of futures contracts is not as a market place, but rather a marketing tool, to establish what the price will be in the future. . . .

Why would anybody want to buy, or sell, a contract on a product where they never intended to take or make delivery? The answer is in two words, hedging and speculation. And on the bottom line that reads $$$$.

In brief a hedger, a true hedger, is a person who owns or will own potatoes (either a grower, processor, etc.). And everyone else is a speculator and the name of that game is to take advantage of small fluctuations in the day to day (hour to hour) changes in the market.

As CME says, hedgers and speculators are essential to each other. The speculator assumes the hedger's risk. So what is a hedger that the speculator would take his risk?

Merriam Webster says: hedge, 3: to protect oneself financially by a counter-balancing transaction.

Suppose you bet on one rider in a two horse race. Then find out you haven't the money to pay if you lose, so you hedge that bet by betting on the other horse also. If the odds were even, you wind up even, no winner, no loser, which is better than getting your neck broken cause you can't pay a lost bet.

Hedgers who use the market on the CME are growers, processors, warehousers, and marketers of agricultural products. The futures market is used principally to guarantee or protect the prices at which they will buy or sell listed commodities for cash some weeks or months in the future. Hedging is sometimes called insurance. . . .

Used wisely and well, hedging can be insurance against adverse prices. This means the hedger pays someone to take the risk; that someone is the speculator. It is easy to become a speculator, and we will not go into that at this time, except to say the speculators, as a group, develop by contract delivery date the true value of a commodity because it is their business to know all the different things that can affect the price.

You cannot tell if a person is a hedger or speculator by knowing he sells a contract or buys a contract. A hedge to sell would be placed by a grower to insure against a price drop on the cash market. And a processor would place a hedge to buy to insure against higher prices on the cash market. . . .

. . . And why does the speculator want to get into this man-made game between the buy hedger and the sell hedger, and you could lose your shirt. The answer is in a word called leverage.

Leverage in simple terms is the ability of a very small amount of risk capital (compared to the other financial games men and women play—stocks, bonds, etc.) to control huge quantities of a product, and thereby, if the daily fluctuations are right, the profit is huge.

I think Mr. Schoonover's analysis soundly presents the basics of futures trading in comprehensible language. On the surface, it appears that futures trading makes a lot of sense. But let us dig a little deeper.

Some years ago, the National Potato Council, a voluntary nonprofit trade organization of potato farmers from throughout the United States, conducted a detailed study of futures trading on potatoes. The Council concluded that such trading was not in the best interest of the potato industry or for those whose livelihoods depend upon that industry.

In testimony before the Senate Agriculture and Forestry Committee in 1974, Doyle Burns, Executive Director of the National Potato Council, stated:

Throughout the years there have been many charges that futures trading controls or influences the current cash market, or a case of the tail wagging the dog. This charge has probably been levelled at potatoes more so than any other commodity since potatoes are a lesser commodity and more subject to manipulation plus the fact that potato demand is relatively static, and this results in more fluctuation. Add to these ingredients the perishability factor, and we find potato trading represents a wild, erratic, unpredictable trading pattern that seldom has any relationship to reality but, at the same time, appeals to the gambling speculator. This was demonstrated once again, recently, when futures contracts reached almost $20.00 per hundredweight on Maines at a time when actual sales were in the $13.00 range.

The charge that futures trading on potatoes controls the cash market for this perishable product would be hard to substantiate, but we do believe the wild, uninhibited, speculative trading that all too often develops can cause a cash market that is "going down" to go lower than it would otherwise. By the same token, a rising market will tend to go higher than it would without the influence of futures. This situation is counterproductive and does not contribute to market stability.

In addition, producers just do not use the potato futures market to hedge; there just is not the faith in the market. And can you blame them? Recent history points to the continued manipulation of potato futures and a disproportionate effect on market price for the actual product.

Clarence A. Parr, an Idaho farmer and former National Potato Council president, pointed out during hearings held in Boise, Idaho, on modifications to futures contracts on potatoes:

The history of misuse of potato futures trading extends far beyond the recent debacle in Maine Potato Futures trading, and even further than the misuse of the Idaho contract recorded in 1971 that resulted in a hand-spanking of some large traders, and a loss of millions of dollars to Idaho producers.

Although nearly all entrepreneurs of futures trading feel strongly that you never deliver on a futures contract, we have in the past seen many instances where delivery of May potato futures (both New York and Chicago) became essential. In this situation you have a number of problems that emerge. First, of course, is the departure from orderly marketing because producers have held stocks in anticipation of delivery; second is the overloaded market as a result of delivery. It was this type of situation that knocked the Idaho Russet carlot price from $6.00 per hundred on May 18, 1971, to $4.25 per hundred on May 28, 1971.

Little known is the old shell game that occurred in 1970 when a large trader, hedged short, discovered that a few rollers (unsold carlots) could work wonders in demoralizing markets. The result, carlot price of Idaho's on April 29th $6.28 per hundred, the settling price of May futures, same date $6.58 the carlot price May 8th, 1970 $5.50, the settling price, same date $5.58. So what's the loss on a few rollers when you're hedged to sell 3 or 4 hundred cars, and you liquidate your contracts for one dollar per hundred less than you might have had to if the market had run its normal course.

At the same time on the New York Mercantile, the administrator of the Commodity Exchange Authority releases information that a number of noncompetitive transactions on the May, 1970 potato futures had been sanctioned by the Exchange on May 8, 1970, whereupon the Board Chairman of the New York Mercantile declares, "There were no rule infractions." Then on July 15, 1971, through a stipulation of compliance certified by the same chairman of the Board we have an admission of illicit trading, and the record books are full of similar examples, each followed by a solemn promise from the mercantiles that it will never happen again, hogwash, look at May, 1976. If the door was slammed shut to manipulation and misuse, there would not be enough speculative interest to keep a market alive.

The history of potato futures is one rocked by problems primarily in my estimation because in actuality there are few true hedges. The market is not being hedged long by but few users of our product, and not being hedged short to offset price risk by but few of our growers, and those that do immediately become bearish.

Farmers have been continually chided during recent times by the Department of Agriculture and untold numbers of economists that futures are a sophisticated marketing tool and a means of offsetting price risks. I describe the potato futures market as an exercise in stamina; the farmer dashing madly back and forth from his tractor seat to his bank to cover his margin calls, while the Wall Street cowboys laugh at his attempts to beat them at their own game.

It is ironic that in the most recent

fiasco in the trading of potato futures, which has been described by many as blatant manipulation, the losers at the bargaining table turned to the "marketplace" and came up winners. The real losers? The potato farmers, of course. And this is after Congress passed the Commodity Futures Trading Commission Act to bring futures trading under greater scrutiny.

The extent to which a contract market is properly justified should be related to the use that is made of it by the producers and ultimate users.

Time and time again, potato producers from across the Nation have indicated that they have no desire to have trading in futures. They are tired of being the innocent victims of economic powerplays by "long" and "short" speculators.

In December of last year the Potato Growers of Idaho submitted a resolution on potato futures to the National Potato Council to support elimination of potato futures. I ask unanimous consent that the resolution be printed in the RECORD following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. The Potato Growers of Idaho have consistently supported efforts to abolish trading in potato futures for over a decade.

The National Potato Council has also gone on record in support of the abolition of potato futures trading, and I ask unanimous consent that their most recent pronouncement on this subject be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. CHURCH. The elimination of trading in potato futures is not a new idea. In 1955, a committee from the House Agriculture Committee was appointed to conduct hearings on the trading of futures in onions and potatoes. In September of 1956, the committee issued its report saying in substance that gyrations of the futures market had at times affected the cash price of onions and potatoes, and that unless the futures market could be operated in such a way as to prevent injury to the producers of such commodities, futures trading should be prohibited.

Following the issuance of the report, some steps were taken by the CME to tighten up the regulations relating to the trading of these futures so as to prevent some of the price fluctuations and other conditions of which producers complained. Then, in the first part of 1957, a series of dramatic gyrations in onions futures began. The resulting clamor for legislative action resulted in the elimination of trading in onion futures.

There is no rational basis to distinguish between onions and potatoes as far as the trading of future contracts is concerned. They are both comparatively small crops and highly perishable. Growers of the products did not hedge and manipulation has been easy, even with stringent controls. The short season of the two crops and their high price variability are additional shared characteristics which indicate that these commodities should not be subjected to futures trading.

Mr. President, the trading of potato futures should be abolished, it serving no discernable public interest. The producer is being hurt by continuing market manipulations despite the best efforts to regulate trading. We must not forget the lesson we learned almost 20 years ago with onion futures: futures trading does not work well in all commodities. It's time we freed the potato farmer from the burden of speculators who can unfairly influence the price of his product. It is time to end this legalized gambling where the farmer always loses.

EXHIBIT 1

RESOLUTION ON POTATO FUTURES SUBMITTED TO THE RESOLUTIONS COMMITTEE OF THE NATIONAL POTATO COUNCIL

Whereas the net effect of Potato Futures Trading has been to impose a hardship to United States potato producers in the form of depressed prices paid growers and shippers and losses to producers who have used these markets for hedging purposes, and

Whereas the 1976 revisions of the New York and Chicago contracts have failed to minimize these adverse consequences to growers

Be it resolved that the National Potato Council and its members conduct an information campaign with the object of eliminating potato futures trading, that this campaign be one of the highest priority missions of the Council in 1977 and that the Council petition the United States Congress, the USDA Agricultural Marketing Service, the Commodity Futures Trading Commission, the Chicago and New York Merchantile Exchanges, the potato industry, the speculating public and the general public for support of this objective.

EXHIBIT 2

1977 RESOLUTION OF THE NATIONAL POTATO COUNCIL REGARDING ELIMINATION OF FUTURES TRADING IN POTATOES PASSED DECEMBER 9, 1976, IN SAN DIEGO, CALIF.

Whereas, Futures trading of Irish potatoes has imposed a hardship upon the potato growers of the United States in the form of depressed prices; and

Whereas, Serious losses have been incurred by many potato producers who attempted to use future contracts for hedging purposes; and

Whereas, Recent revisions in the New York and Chicago Mercantile potato futures contracts have failed to eliminate or minimize these adverse consequences to potato growers;

Now, therefore, be it resolved, That the National Potato Council is in opposition to all futures trading in Irish potatoes; and

Be it further resolved, That the Council will conduct a campaign to eliminate futures trading contracts in Irish potatoes; that such campaign shall be of the highest priority and that the Council will petition the United States Congress, United States Department of Agriculture, the Commodities Futures Trading Commission, the New York and Chicago Mercantile Exchanges, the potato industry, and the general public for their support of this objective.

By Mr. CHURCH (for himself, Mr. BAYH, Mr. HOLLINGS, Mr. HUMPHREY, Mr. RANDOLPH, and Mr. HANSEN):

S. 509. A bill to amend the Controlled Substances Act so as to make unlawful the robbery of a controlled substance from a registered pharmacy; to the Committee on the Judiciary.

PHARMACY ROBBERIES

Mr. CHURCH. Mr. President, today I am reintroducing my legislation to provide Federal criminal penalties for pharmacy robberies involving substances under the Controlled Substances Act.

It is a well-accepted fact that drugs are at the root of much of the violent crime that so tragically permeates our society. Although it is certainly true that crimes of violence must ultimately be dealt with at the State and local level, the Federal Government is already deeply involved in efforts to curb many accesses to drugs, as well as other methods to eliminate drug abuse. Pharmacy robberies, however, are an area in which Federal assistance has been quite limited.

In 1973, when I first introduced my bill to make robberies of controlled substances from pharmacies a Federal crime, no Federal resources were being applied to stop this violent access to illicit drugs. After introduction, the Drug Enforcement Administration conducted a pilot program in St. Louis to reduce such robberies. In 6 months, with an expenditure of less than $35,000, including the salaries of the DEA personnel involved, pharmacy robberies were reduced by over 50 percent.

Emphasizing the success of DEA's St. Louis program, the 1975 White Paper on Drug Abuse by the President's Domestic Council on Drug Abuse Task Force concluded its sections on enforcement and control of drug supplies:

Finally, development of a program to *curb pharmacy thefts* (italics theirs) should be given high priority since pharmacies account for over 80 percent of all durgs stolen through the licit distribution system. A pilot program in St. Louis, in which pharmacies took anti-burglary precautions and police gave high priority to pharmacy thefts had promising results, and may form the basis for development of an LEAA experimentation program in other selected cities.

Although following the issuance of this white paper the Drug Enforcement Administration indicated that the St. Louis program would be extended to other cities, this was not accomplished. DEA did, however, publish a monograph entitled "Pharmacy Theft Prevention—A Community Action Approach." This excellent publication contains the following paragraph in its foreword:

DEA has completed two major studies of the pharmacy theft problem. We have devised a program based on these studies, and have tested the program in a major metropolitan area. We have shown that it works. Armed robberies of pharmacies were reduced 46%, and burglaries were reduced 55% during the first six months of 1975 (compared with the same period in 1974). These results are highly encouraging, and suggest that pharmacists in other cities can benefit from such a program.

This year, Mr. President, DEA has informed me that it does intend to extend the St. Louis program to 13 other cities. These developments are most gratifying, but despite DEA's outstanding success, it continues to oppose the legislation I reintroduce today.

One fact which must be taken into better account concerning pharmacy

robberies is that their consequences go far beyond drug abuse and drug-related crimes. Pharmacies performing the service of dispensing drugs does, of course, make them prime targets for drug crimes; but that service is also of vital importance to their communities. As more and more pharmacies are struck by violence and death, the number of pharmacies may well decrease. In any given area, the loss of a pharmacy is hard felt.

As chairman of the Senate Aging Committee, I can attest to the special impact this situation has on the elderly; but clearly, it affects all of us, whether we live in large cities or rural areas. In Idaho, Mr. President, we are fortunate not to have suffered the virus of drug violence in the same strain as in other parts of the country. Yet, counting only those incidents reported to the Idaho Board of Pharmacy, there were 10 such reports in just the last 4 months.

Idaho pharmacists join the vast majority of pharmacists across the Nation in supporting the bill I reintroduce today. This legislation would permit prosecution under Federal law for pharmacy robberies involving controlled substances with a maximum penalty of a $5,000 fine and/or 10 years' imprisonment. Because of the availability of this option, local and State officials would be able to receive help from Federal drug and criminal investigatory authorities in their efforts to curb these crimes in their communities.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. DOLE, the Senator from North Carolina (Mr. MORGAN), the Senator from North Dakota (Mr. BURDICK), and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 4, a bill to amend the Internal Revenue Code.

S. 69

At the request of Mr. STEVENSON, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 69, to extend and amend the Export Administration Act.

S. 107

At the request of Mr. PEARSON, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 107 relating to reform of veterans' pensions.

S. 196

At the request of Mr. BURDICK, the Senator from Nebraska (Mr. CURTIS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arizona (Mr. GOLDWATER), the Senator from Montana (Mr. MELCHER), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 196, to amend the Internal Revenue Code of 1954.

S. 243

At the request of Mr. NELSON, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 243, to amend the Small Business Act and the Small Business Investment Act.

S. 427

At the request of Mr. CRANSTON, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 427, to establish a public works employment program.

S. 467

At the request of Mr. DOMENICI, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 467, to amend the Railroad Retirement Act of 1974.

SENATE RESOLUTION 4

At the request of Mr. STEVENSON, the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Utah (Mr. GARN) were added as cosponsors of Senate Resolution 4, the Committee Reorganization Amendments of 1977.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. DOLE, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of Senate Concurrent Resolution 3, to establish a presidential task force on MIA/POW's.

SENATE CONCURRENT RESOLUTION 7

Mr. CHURCH. Mr. President, I ask unanimous consent that the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), and the Senator from Colorado (Mr. HASKELL) be added as original cosponsors to my resolution Senate Concurrent Resolution 7, concerning the freedom of emigration of Soviet Jews.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 52—SUBMISSION OF A RESOLUTION DISAPPROVING CONGRESSIONAL SALARY INCREASES

(Referred to the Committee on Post Office and Civil Service.)

DE CONCINI ON CONGRESSIONAL PAY INCREASES

Mr. DECONCINI. Mr. President, in his final budget message as President of the United States, Gerald R. Ford proposed salary increases for certain members of the executive, the judicial, and legislative branches of the Government.

The proposal was the result of a study conducted by the Commission on Executive, Legislative, and Judicial Salaries. Its intent is to bring about a rough equivalence between private and public sector employment. The need for men and women of superior ability as managers and judges is self-evident. We may, indeed, be a nation governed by laws, but those laws must be applied and adjudicated. In a society as diverse and as complex as ours, this is no easy task. To do the job adequately, we must recruit the best our society has to offer.

Disparities between private and public sector employment at the upper levels has become too great. The recruitment of personnel with adequate training and experience is becoming increasingly difficult. Remedies are in order. I support, therefore, that portion of the President's proposal which addresses this problem.

I do not support the increase in salaries for members of the legislative branch. We are not career officials; nor should we make a career of the legislature. We are directly elected by the people to act on their behalf in the creation and modification of legislation. Our service is at the people's pleasure, to do the people's business. The very idea of professional or career legislators is antithetical to the concept of representative government.

Each and every Member of Congress can point to a long list of reasons why he or she should receive an increase in salary. Certainly, Members of Congress have no special immunity from inflation. But our position is a special one that creates unique responsibilities.

As the Nation's legislators, it is within our power to grant or deny ourselves an increase in salary—an enviable position, to be sure, but one that puts us squarely in the national limelight. In my view, Mr. President, this just underscores the responsibility we have to set an example for the rest of the Nation.

Members of Congress are presently compensated for their service at the rate of $44,600 per annum. By any standard, this is not a small amount. It is almost three times what the average American family of four earns. The proposed increase is almost $13,000—a figure which approaches the average family's income itself.

This comes at a time, Mr. President, when the Nation still finds itself in the midst of a severe economic crisis. More than 7 million of our fellow citizens are out of work, and unknown thousands are so discouraged they have simply stopped looking. Inflation has abated somewhat from its double-digit highs of a few years ago, but it remains unacceptably high, eroding the purchasing power of individuals whose incomes are relatively fixed. Real economic growth is only about 4 percent, not sufficient to insure recovery. Without further stimulus, every indication is that the budget deficit will be in the range of $60 to $65 billion. With whatever version of President Carter's stimulus package the Congress agrees to, that figure will rise substantially.

My question, Mr. President, is how can I justify a salary increase of $13,000 under these circumstances? How can I face thousands of senior citizens who must make do on a few hundred dollars a month they receive on social security? How can I explain to the working men and women of my State why they should be moderate in their wage demands when my own salary is about to be increased by almost 30 percent? In fact, Mr. President, I cannot justify or explain this.

I fully recognize that congressional pay levels have remained relatively static for a number of years; I also recognize that the contemplated increase will not materially affect the deficit nor will it have any discernible impact on inflation. But the importance of the congressional pay raise is symbolic, and symbols are the lifeblood of any political system.

If we symbolically deny ourselves what would be easy to obtain, we will have set an example for the rest of the Nation. We will have contributed to the process of restoring public confidence in governmental institutions by dissipating some of the distrust of elected officials. In the wake of the Nixon tragedy, too many voters have come to see public servants as self-serving, subjugating the commonweal to selfish interests. If we deny ourselves this increase, we will be able to ask others to defer immediate gratifica-

tion for the common good, and we will be able to do it with a clear conscience.

Toward this end, Mr. President, I am submitting a resolution disallowing that portion of the President's recommendation that pertains to Members of Congress. My resolution would not affect increases for either the executive or judiciary. It is a reasonable compromise that balances the needs of the executive and the judiciary in recruiting top level personnel, while it recognizes the special responsibilities and the special relationship between Congress and the public.

I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 52

Resolved, That the Senate disapproves the recommendations of the President with respect to rates of pay, for the offices (other than the office of the Vice President of the United States) referred to in section 225 (f)(A) of the Federal Salary Act of 1967 (relating to Members of Congress), transmitted to the Congress on January 17, 1977, pursuant to section 255(h) of that Act.

AMENDMENTS SUBMITTED FOR PRINTING

EMERGENCY NATURAL GAS ACT OF 1977—S. 474

AMENDMENT NO. 17

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for himself and Mr. HATHAWAY) submitted an amendment intended to be proposed by them jointly to the bill (S. 474) the Emergency Natural Gas Act of 1977.

Mr. DURKIN. Mr. President, it is unfortunate that the first bill before the Senate on its calendar this year is an emergency measure. The newspapers each day confirm the sad fact that energy users, particularly those recipients of natural gas, cannot get enough gas to make it through this excessively cold and hard winter. So President Carter has had to send to this Congress drastic and unsettling emergency measures to try to help the neediest amongst us.

However, there are facts which do not appear in the newspapers. The large gas producers of this country argue that there is a gas shortage in this country, and that the only way to combat it is to allow deregulation of all natural gas prices in order to encourage private industry exploration. On the other hand, many industry critics and consumer groups allege just as strongly that there is no energy shortage except insofar as greedy, giant and collusive producers intentionally hold back gas development and gas production until they force deregulation of their products' price. The only sad true knowledge we do have, is that we do not know how much gas is out there—in our reservoirs, offshore, and in privately or federally owned and managed onshore U.S. gas fields.

The issue of natural gas price deregulation has been an issue for nearly 30 years. We are going to face that issue again this Congress for the third consecutive session. President Carter has made campaign pledges to at the very least address the question of the national gas pricing policy. I am introducing an amendment today intended to provide the information necessary to make the right choices.

I for one, do not know what to believe about the cause of any gas shortages in this country, if shortages is the right word. John F. O'Leary, President Carter's nominee for Federal Energy Administrator, stated in his confirmation hearings this week that one of the highest priorities in his mind is the development of "credible data" on the Nation's energy reserves. Mr. O'Leary acknowledged a widespread public skepticism about the Government's industry-supplied data on oil and natural gas reserves.

I wholeheartedly endorse Mr. O'Leary's sentiments, and I go beyond them, asking my fellow colleagues to take the lead in the demand for true and accurate information. Only by obtaining this information can this Congress and this administration ever hope to make informed judgments and choices.

Over the past 6 years, numerous studies of offshore gas fields, shut-in wells, and other Federal gas reserves have been made. In more than a couple of instances, there have been glaring discrepancies to the tune of trillions of cubic feet of natural gas, between the figures supplied to the American Gas Association by the gas producers, and the results of the Government studies conducted by the FPC staff or the U.S. Geological Service. Acrimonious charges have gone back and forth between proponents of the two studies. In truth, the discrepancy alone is enough to demand a current study, requiring certain objective statistical information, both from the Federal domain and from all other natural gas suppliers operating in this country.

The amendment I am proposing today directs that the President, in the face of this emergency and our absence of accurate data on national gas supplies, conduct a comprehensive study relative to the exploration, development, production, gathering, storage, transportation, distribution, consumption, and sale of all natural gas located in the United States or in any State, including the Outer Continental Shelf and onshore and offshore lands. The amendment also delineates certain specific data to be included in the President's study, including independent, nonindustry determinations of certain objective comparative measurements.

It has been alleged strongly by consumerists and industry critics that the oil producers and suppliers of this country are sitting on gas fields and reservoirs without making full efforts to produce the maximum efficient rate of gas from the wells and from the reservoirs. This amendment would call for a determination of that maximum efficient rate of production for wells and for fields, and for comparison of this figure with actual production. In this way, we can know the truth about the production pattern of gas in this country. If the oil producers are right, they have nothing to fear from this study. If they are wrong, we have a vital interest in knowing the extent to which they are consciously manipulating natural gas supply and causing shortages.

In addition, the amendment also requires findings on the utilization of natural gas in this country. It is important to know who is using natural gas in their boilers, how much gas is being used where another heavier substitute fuel could effectively be used, and how much gas is going to its maximum efficient use.

My amendment also calls for independent estimates of total proved and potential natural gas reserves by fields and reservoirs. These estimates must be made by people independent of the natural gas industry, such as the U.S. Geological Service, or some other agency of the Federal Government. Ultimately, it will be up to the President to make these estimates and conduct this study in a way that will assure the integrity and accuracy of the results.

On a national network radio interview this past Monday, the president of the Columbia Gas Transmission Co., an interstate pipeline with some of the most serious curtailments, stated that his company had been unable to buy emergeny 60-day allotments of natural gas from the intrastate market at any price. In contrast, 2 days later, the Carter Administration sent to us S. 474, allowing purchases of intrastate gas by interstate pipelines and distributors. Is there gas to be purchased or not? And more importantly, are producers and suppliers manipulating the answer to that question until they get the right price? I, for one, would like to have answers to these questions before I vote on so important an issue as national natural gas pricing policy.

My amendment does not attempt to dictate the manner in which the President and this Congress will decide precisely how to deal with the emergeny. Rather, it is merely an effort to inject into the next round of debates the moderating and enlightening factor of current knowledge. I ask your support for this amendment, and I urge its passage.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 17

On page 6, line 15, insert after the word "section" the words "and under section 12 (c)."

On page 14, line 17, insert after "Act" the words ", including the results of the study required by Section 12(c)."

On page 14, insert after line 17 a new Section 12(c) to read as follows:

(c)(1) In order to enable the President and Congress to gain a full and complete knowledge of the status of natural gas supplies, reserves and production available to meet this and future emergencies, and as an aid in determining the potential quantities of this resource available, the President shall conduct a comprehensive study relative to the exploration, development, production, gathering, storage, transportation, distribution, consumption and sale of all natural gas.

produced or located in the United States or in any State, including, but not limited to fields, reservoirs and reserves in the Outer Continental Shelf, and onshore and offshore lands, whether or not subject to the jurisdiction of the Federal Power Commission, such study to be completed on or before October 1, 1977.

(2) Such study shall include, among other items: (A) an independent determination of the MER (Maximum Efficient Rate) and MPR (Maximum Production Rate) in relation to the actual production from the fields, reservoirs, and wells in this study over the past twelve months prior to the date of enactment of this Act. The President shall direct that an independent estimate shall be made in this study indicating whether production from these fields, reservoirs and wells was less than the MER and MPR, and, if so, the reason for this difference;

(B) an independent estimate of total proved and probable natural gas reserves by fields and reservoirs;

(C) a determination of the utilization of gas in terms of end use markets so as to ascertain the consumption by different classes and types of end users;

(D) the relationship of any and all such information to the requirements of conservation, industry, commerce and the national defense.

AMENDMENT NO. 18

(Ordered to be printed and to lie on the table.)

Mr. STONE (for himself and Mr. CHILES) submitted an amendment intended to be proposed by them jointly to the bill (S. 474), the Emergency Natural Gas Act of 1977.

TO ASSURE EQUITY IN DEALING WITH EMERGENCY GAS SHORTAGES

Mr. STONE. Mr. President, Florida like other States is suffering from natural gas shortages. Although the immediate crisis in Florida is not as severe as some other places, it is certainly serious. I understand that Owens-Illinois' glass container plant in Lakeland, Fla., curtailed from normal natural gas supplies, is now unable to get propane for operation. The plant is now completely shutdown on three shifts daily. Chemrock Industries, in Jacksonville, Fla., a "Pearlite" insulation industry, has shut down completely. Florida Wire & Cable, also of Jacksonville, Fla., is partially shut down. Several of Florida's citrus processors are facing potential shutdowns if propane is not received immediately. The position of citrus processors has become particularly important inasmuch as the citrus freeze has forced citrus processors to operate as fully and quickly as possible to salvage the undamaged part of Florida's citrus crop.

Despite the truly severe economic effects of the weather on my State, it is my considered judgment that the emergency gas bill being considered today will probably assist my State very little, and, unless adequate protections are provided, will probably be detrimental to it. My judgment is based on two facts. First, by curtailing its industrial and commercial customers sooner and deeper than any other pipelines, including some pipelines who are now in the most desperate shape, Florida Gas Transmission Co., the major natural gas supplier to Florida, advises me that it should be able to serve the essential human needs requirements of the State through the remainder of the winter. Second, inasmuch as it is highly likely that our climate will substantially reduce the essential human needs of Florida's citizens before these needs are reduced elsewhere, Florida stands the risk of having some of its gas diverted to other regions of the country at the very time when it could otherwise be providing this gas to commerce and industry in our State, and thus begin putting people back to work.

Notwithstanding these concerns, I am fully aware of the hardships being experienced in other areas of the country and we in Florida are willing to do our share to help out. I certainly hope to be able to support the President's emergeny natural gas legislation. But at the same time, Mr. President, I believe that if this bill is truly intended to protect essential human needs and protect these needs in an equitable fashion, there are two standards which must be insisted upon. First, those companies being asked to give up their gas and their customers should be kept as nearly financially whole as is practicable. While we surely do not want one region of the country to profit from the severe shortages of another region of the country, at the same time we should not ask those companies and regions who are giving up their gas to also suffer financial loss because of the diversion. Second, inasmuch as all areas of the Eastern United States have suffered serious economic effects from the gas shortage, provisions of this bill should not be used to provide some pipelines and regions a preferential position over the pipelines and regions in obtaining new gas supplies for their commerce and industry.

The current bill provides for this possibility inasmuch as it may permit some interstate pipelines to make emergency purchases for other than essential, human needs purposes while not permitting other pipelines to make these purchases. I am encouraged to learn that spokesmen on behalf of the President's bill have assured us that such emergency purchase authority would apply to all interstate pipelines.

Mr. President, because of my concern that this emergency bill not be used to unnecessarily shift economic hardship from one region to another particularly with the possibility that the region to which it is being shifted may already be severely affected by the winter weather than the region from which it is being shifted, I am introducing a perfecting amendment which should largely neutralize any economic distribution which might otherwise occur as a result of this bill. I hope my colleagues will act favorably on this measure.

The bill as introduced provides for compensation for the pipelines or distribution companies required to give up their gas or for any transportation required in moving gas from where it is to where it needs to be. In the event that the companies required to give up gas and those receiving gas cannot agree voluntarily as to the terms of compensation, including repayment of the gas in kind, the President is authorized to order compensation—

(A) based upon the reasonable replacement cost of such gas, as determined by the President, plus not more than 5 percent of such cost; and (B) for transportation and other expenses, based upon reasonable costs as determined by the President.

In a later section it is stated that—

Any interstate pipeline receiving compensation under section 4 with respect to deliveries ordered pursuant to such section, such compensation shall be reflected as a reduction in the cost of purchase gas for purposes of any purchased gas adjustment clause applicable to such pipeline.

The net result of the above treatment of compensation is that all the benefits are flowed through to the ultimate consumer, while the pipelines and/or distribution companies receive no compensation for the revenues they were forced to forego as a result of giving up their gas. Inasmuch as the operating costs—including salaries, interest costs, rents, depreciation, et cetera—will remain largely the same whether gas is given up or not, it would appear inequitable that those companies being asked to give up their gas in order to assist companies elsewhere are being penalized for producing this assistance.

The inequities are perhaps brought into sharper focus by addressing what happens to the pipeline and/or distribution company which receive the gas being diverted. These companies are permitted to include in their purchase gas adjustment clauses the full cost of obtaining the diverted gas and thus increase their tariffs or rates commensurately. The receiving companies will then sell the diverted gas at their full tariff or rate, recovering not only their purchase gas cost but also an additional amount representing recovery of operating cost and profit. The net result is that while the pipeline and/or distribution company being required to give up its gas is also being required to forego recovery of its operating cost and profit on the diverted gas, which it would otherwise have had available to sell in its market, the pipeline and/or distribution company receiving the diverted gas is able to recover not only the purchase gas cost but also operating cost and profit on gas it otherwise would not even have had available for sale, but for the mandatory allocation bill.

Therefore, Mr. President, I am submitting a perfecting amendment dealing with the compensation provisions of the emergency natural gas bill. I ask unanimous consent that this be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 18

On page 7, beginning with line 19, strike out all through page 8, line 2, and insert in lieu thereof the following:

(2) For purposes of paragraph (1), the President shall—

(A) where possible, and without inflicting severe hardships, order compensation in kind (commencing within 90 days of the transfer

pursuant to an allocation order) under such terms and conditions as are fair and equitable to all parties to such order, the purpose being, that such pipelines and distribution companies from which gas is taken not profit by the transaction but be kept financially whole.

(B) If the President determines that compensation in kind is not possible without inflicting severe hardships, then, for the purposes of paragraph (1), the President shall calculate the amount of compensation:

(i) for deliveries of natural gas, based upon the reasonable replacement cost of such gas, as determined by the President, plus not more than 5 percent of such cost; and

(ii) for transportation, other reasonable expenses, and any revenue or other pecuniary loss suffered by the pipeline, distribution companies, and the customer from which gas is taken, as determined by the President.

On page 11, line 6, strike out "such compensation" and insert in lieu thereof the following: "that portion of the compensation required by section 4(f)(2)(B)(i)".

AMENDMENT NO. 21

(Ordered to be printed and to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to the bill (S. 474), the Emergency Natural Gas Act of 1977.

(The remarks of Mr. GLENN when he submitted the amendment appear earlier in today's RECORD.)

AMENDMENT NO. 22

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to the bill (S. 474), the Emergency Natural Gas Act of 1977.

Mr. GRAVEL. Mr. President, the shortage of natural gas supplies the country faces today is not new. Each of us has discussed or debated this issue on a number of occasions in the last 4 years.

The problem is obvious: We do not have sufficient domestic oil and gas to meet the needs of our industrial society. This problem is aggravated when we come under additional stress, such as that caused by the present severe winter.

The solution, I believe, is equally obvious: We need to move large amounts of investment capital as rapidly as possible into the search for domestic oil and gas. This means deregulation of oil and gas so that the market can work its will in achieving greater domestic production.

Deregulation poses two major problems. The first is that OPEC will set the price of oil. Gas will then be priced by the market at its Btu equivalency to oil. This would mean in many cases that excessive profits could accrue to oil and gas companies as they sell their existing inventories. To some degree this is offset by the new escalated costs these same companies must pay to replenish their inventories.

The second problem is that a major sector of the American public has no confidence in the integrity of the management of our fossil fuel industry. The fear is that we will be "ripped off" by the oil companies.

The problems occasioned by deregulation can, I believe, be solved by instituting for a limited time—say 5 years—an excess profits tax on all the companies that deal in deregulated gas and oil.

I have a proposal for deregulation of oil and gas within 1 year from enactment, coupled with an excess profits tax that would guarantee to the American people that they will not get ripped off. The administration would be free during that year to set up any phrasing or protective devices through regulations that it felt was necessary.

The average return for manufacturing enterprises in the United States is 12 to 13 percent. Under my tax proposal, if a company exceeds 15 percent return, or more than the average return that it experienced during the first 4 years of this decade, that "excess profit" would be taxed at an 80 percent confiscatory rate. The confiscatory rate can only be avoided if the excess profits are plowed back into energy development.

The administration's proposal uses deregulation as a tool to meet the present supplies emergency. This emergency legislation is vitally needed. However, I think we should take this occasion to solve the long-term problem as well. The present crisis has the attention of all Americans, and we would be remiss if we passed up the opportunity to remedy the true source of our difficulties.

SENATE RESOLUTION 4—COMMITTEE SYSTEM REORGANIZATION AMENDMENTS OF 1977

AMENDMENT NO. 19

(Ordered to be printed and to lie on the table.)

Mr. BURDICK (for himself, Mr. STEVENS, Mr. HOLLINGS, Mr. EASTLAND, Mr. DURKIN, and Mr. SARBANES) submitted an amendment intended to be proposed by them jointly to the resolution (S. Res. 4) to reorganize the committee system of the Senate.

Mr. BURDICK. Mr. President, when the Senate takes up Senate Resolution 4 next week, I will offer an amendment to provide that the Post Office and Civil Service Committee shall be retained as a standing committee of the Senate, that it shall not be relegated to subcommittee status as a part of a greatly enlarged Governmental Affairs Committee. The effect of the amendment would be to keep the Post Office and Civil Service Committee as a "third committee." Its status would be the same as the Committee on Veterans' Affairs under the provisions of Senate Resolution 4 as reported.

I send a copy of my proposed amendment to the desk and ask that it be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURDICK. Yesterday, in a letter to every Member of the Senate, I outlined the rationale behind the amendment and asked for support and cosponsorship. I repeat that request today. The major legislative tasks facing the committee, of which I am the temporary chairman, are of great magnitude, fully justifying the retention of the committee's status. The Postal Service is beset by a sea of troubles, and the Federal Civil Service, just now emerging from serious threats to the merit system, requires constant knowledgeable Senate surveillance. As prospective chairman of the Post Office and Civil Service Committee, I pledge vigorous action in the areas of the committee's jurisdiction.

Mr. President, the Wall Street Journal for January 27, 1977, carries a thoughtful article on the dire straits, economic and otherwise, in which the Postal Service currently finds itself. The article states that news of the Postal Service is closer than ever to extinction as an independent agency, and the article dwells upon the likelihood that—

> Congress and the new President will assert some direct control over [the Postal Service] this year.

The article cites major changes which are in store for the Postal Service. Among them are:

> The work of a study commission that is due to tell Congress by March 15 how the Postal Service should be reshaped. The commission is expected to raise fundamental questions about the rate-setting methods of the agency.

Mr. President, I ask unanimous consent that the full text of the Wall Street Journal article appear in the RECORD at the conclusion of my remarks, for it outlines the pressing need in the Senate for close attention to the legislative needs of the Postal Service, and it supports my own strong conviction that the Committee on Post Office and Civil Service should be retained as a standing committee of the Senate to provide the experienced knowledge and oversight required.

There being no objection, the article was ordered to be printed in the RECORD as follows:

MAIL AND MONEY: POSTAL SERVICE FACES LOSS OF INDEPENDENCE; MOVE LIKELY THIS YEAR—COURT RULING, CARTER PLEDGE AND COMMISSION'S WORK POINT TO MAJOR CHANGES—ANOTHER PROFITABLE QUARTER

(By Walter Mossberg)

WASHINGTON.—That steady money-loser, the U.S. Postal Service, will report soon that for the second consecutive quarter its operations show a surplus.

It is the best financial news for the Postal Service in its six-year history. But all the other news for the agency is bad—so bad that the service is closer than ever to extinction as an independent agency. It appears likely, in fact, that Congress and the new President will reassert some direct control over it this year.

Lawmakers increasingly dissatisfied with the Postal Service seem ready, at the least, to restore the presidential power of appointing the Postmaster General and to reclaim some congressional authority over postal budgets and rates.

For mail users, a congressional takeover of rate-setting procedures probably would mean a slowing of the escalation of postal rates, which have approximately doubled since the Postal Service began in 1971. (It cost six cents to mail a letter back then, compared with 13 cents now.) But those same mail users would still feel the burden of mounting postal costs—in the form of higher postal subsidies that Congress presumably would appropriate.

PRESERVING THE POPULAR

A congressional takeover would probably also result in preservation of some politically popular services, such as small rural post offices, which the $14-billion-dollar Postal Service wants to eliminate because they are uneconomic.

Postal officials, as well as major mail users, agree that the political environment is changing drastically, and that a legislative overhaul appears on the way.

"It's going to be a grim year for the Postal Service," says Timothy May, a postal lawyer for Reader's Digest and some other major mailers. A postal official adds: "Some of the major constituencies—the mailers, the unions and others—may be ready to throw in the towel on postal reorganization."

Events pointing toward major changes include the following:

A surprising ruling by a three-judge federal appeals court last month. The court not only ruled that the service had been using illegal methods to set postal rates; it also suggested that it soon may order a rollback of first class rates and an increase in the rates for business mail. Responding to this ruling, worried business mailers are seeking major congressional revisions in the law under which postal rates are established.

The work of a study commission that is due to tell Congress by March 15 how the Postal Service should be reshaped. The commission is expected to raise fundamental questions about the rate-setting methods of the agency.

The campaign pledge by Jimmy Carter to try to make the Postmaster General a presidential appointee once more. During the campaign, Mr. Carter derided the Postal Service as "a Republican experiment," and since the election some of his aides have been preparing postal-policy options for his consideration.

POWERS OF THE BOARD

Under legislation passed in 1970, the service is run by a presidentially named nine-member board of governors, which has the power to hire and fire the Postmaster General. The governors may also change postal rates, subject only to review by a five-member Postal Rate Commission.

The governors and Postmaster General Benjamin Franklin Bailar want to preserve this system; they think it would have performed better if it hadn't been for the inflation of the 1970s. All they want Congress to change is the law's subsidy arrangement which provides the service with annual federal grants until 1984, when the agency is required to break even.

Currently, the Postal Service gets a lump-sum appropriation of $1.6 billion. The agency argues that it needs much more than that each year if it is to provide several money-losing services that Congress insists on; such services include twice-a-day business deliveries and the maintenance of those rural post offices. Postal officials want Congress to list such uneconomic services in a "public service" category and simply give the agency sufficient funds to finance them.

But defenders of the current postal system aren't in good shape. For one thing, the congressional postal committees, which have been friendly to the service, are in disarray. Both committees have new chairmen this year, and the Senate panel may even be abolished as part of a Senate reorganization plan. Furthermore, Mr. Bailar is risking the enmity of the new President by passing the word that he won't resign with the changing of administrations—partly, he explains, because it is important to demonstrate the agency's independence.

SURPLUSES WON'T HELP

The new budget surpluses won't help, either. It appears that the service rolled up a profit in the last quarter of at least $50 million to add to the $15 million surplus it produced in the summer quarter. "They're going to have a hard time explaining to people that they had a surplus but still need billions in new subsidies," says John Burzio, a lawyer for the Magazine Publishers Association.

Mr. Bailar says the surpluses result from unexpected increases in mail volume and the elimination of 50,000 postal jobs in recent years. But he insists the surpluses don't alter the long-term, pessimistic view, which assumes future pay increases, an expected long-term decline in mail volume, and continuing inflation.

The service is likely to ask the rate panel for another increase before the year is out. If granted, it would push first-class postage to 16 cents or 17 cents an ounce in 1978—provided that the court's threat of a rate rollback is forestalled. If rates are rolled back, postal finances could become total chaos, thus forcing Congress to act.

A few months ago, postal officials hoped this would be the year when Congress finally agreed to provide enough of a subsidy to make the Postal Service function effectively. That hope was bolstered last year when Congress gave the agency an extra $1 billion and set up the special study commission to recommend further steps.

But now it appears that instead of returning from Capitol Hill this year with lots more money, the service will be lucky to come back in one piece. A top postal official, talking more glumly than ever, says, "We can save the system, but we've only got six months to do it."

Postal officials see some reasons for hope. It is possible that Congress, facing other pressing problems, may not want to plunge into the complexities of postal organization this year. Further, the Carter transition team recently has passed the word that Mr. Carter's campaign statements may not represent his final policies on the Postal Service.

But postal officials acknowledge that the service is in a newly precarious position, especially because of the recent federal appeals court ruling.

The court noted that the 1970 law called for charging users of each class of mail for all costs incurred by that class, plus a proportional amount of the fixed overhead costs that couldn't reasonably be attributed to any one class. But the service, the court found, had deliberately allocated too much of the cost to those mailers—largely senders of first-class mail— who had no real alternative but to use the Postal Service.

The specific case had been brought by greeting-card makers as a challenge to the method the service had used in raising first-class rates to 10 cents from 8 cents. The court ruled that the method used had been illegal, but granted no legal remedy because the 10-cent rate being challenged isn't in effect any longer. But the decision noted that a nearly identical challenge to the current 13-cent rate is pending before the same court. The court hinted that when that case is decided it may order revisions in the rates. Such revision almost certainly would cut rates for letter mail, while providing sharp increases in rates for advertising matter, magazines, newspapers, books and many other items.

To head off that possibility, the publishers' lobbyists have begun moving to get Congress to reverse the court by revising the 1970 law's section on how rates are set. "We'd have backed a simple subsidy bill, but this court decision is catastrophic," says Mr. May, the Reader's Digest lawyer. "Now, nothing the Congress will do on subsidies means a thing unless they reverse that ruling."

One big publisher has decided to greatly expand its use of private carriers, circumventing the post offices. "The mailers have usually gone along with Bailar," says a postal expert in Congress, "but now they're going to be focusing much more on saving themselves."

The court ruling also poses a problem for postal unions—the most potent lobbying force among the postal interest groups. "The unions have always tried to keep things under control, to avoid reopening the law too much, because they're dreadfully fearful something might happen to their collective-bargaining rights," says James LaPenta, vice president of the mail handlers' union.

But now, he adds, "we may have to do something this year, or we'll wind up with collective bargaining but no employer to bargain with." He favors bringing the service back under political control by eliminating the rate commission and making the Postmaster General a presidential appointee. The AFL–CIO, worried about postal increases on union publications, agrees.

The court ruling has affected the deliberations of the congressional study commission, too. David Minton, the commission's executive director, says, "We'll direct much more of our attention toward the problem of rate-making, now that the court has ruled. The ruling will virtually assure that Congress will reexamine the rate-making issue." He sees the possibility of "a complete re-examination of the whole 1970 law."

It long has been assumed that Congress would be unwilling to resume the old practice of setting rates by law. But since 1970 many new members have been elected to Congress who can't recall the intense and nettlesome lobbying over postal-rate bills. "There's a lot of new sentiment to get Congress back involved in running the service in some way—maybe not on a day-to-day basis, but in some way," says Mr. Burzio of the Magazine Publishers Association.

Robert Malsom, a Carter aide studying postal policy, says, "The important question is whether the service is going to continue to be locked into the schizophrenic legal language that requires it to break even and also requires it to provide a public service."

AMENDMENT NO. 20

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY (for himself and Mr. RIEGLE) submitted an amendment intended to be proposed by them jointly to the resolution (S. Res. 4) reorganizing the committee system of the Senate.

ROTATING MEMBERSHIP FOR ALL SENATE COMMITTEES

Mr. HATHAWAY. Mr. President, I am pleased to submit today an amendment to Senate Resolution 4 which would further the goals of our reorganization and would greatly improve the responsiveness and responsibility of the committees of this body to the Nation as a whole.

This amendment would require that no Senator serve on any one committee for more than 8 years continuously.

In addition to cutting back on day-to-day conflicts and burdens which the resolution accomplishes, at the same time we should try to maintain a broad exposure to a great many subject areas, perhaps the only benefit of the current scheduling chaos.

These seemingly contradictory goals could be accomplished if membership on a given committee were for a maximum of 8 years, with one-fourth of the existing membership rotating off the committee every 2 years, at which time they would be assigned to a new committee.

All of our committees would benefit from this infusion of new ideas and new approaches. Each of us would benefit from being exposed to the problems faced by the different committees and to the viewpoints of more of our colleagues on how these problems might be solved. Committee chairmen should in no way be immune from this proposal, and might well benefit from it to even a greater extent than their junior colleagues.

After having been a member of a particular committee for some time, each of us tends to view national problems from the perspective of that committee's legislative authority and the programs over which it has oversight.

We would greatly benefit from a procedure which would force us to step outside this potentially stultifying perspective, and at the same time we might be less critical of the work of some of the committees with which we might not always agree if we were forced to undertake directly their work from time to time.

There is precedent for such a rotational process in one of our existing committees—the Select Committee on Intelligence as created by Senate Resolution 400 adopted during the last session, and on which I am privileged to serve.

Members were initially appointed to this committee on staggered 2, 4, 6, and 8 year terms with succeeding members to serve a maximum of 8 years. The legislative history makes clear that this was done in order to insure that members of the committee in overseeing the intelligence community did not themselves become a part of the intelligence establishment, and thereby be less vigilant or critical of abuses.

This principle is no less valid with respect to any of our committees. None of our agencies or departments should be able to become comfortable or cozy in dealing with just a few Senators and should be subject to a constantly changing group of Senators which better represent the needs of all parts of our Nation.

In addition to the Intelligence example, contained in Senate Resoltuion 4 as reported in language requiring that the Committee on Ethics consist of members who shall serve no more than 6 years continuously. Again, this is to bear on the critically important area of ethics and conflicts of interest.

My amendment is drafted to operate prospectively only, and would require that by the beginning of the 99th Congress all Senators move from each of the committees of which they are presently members to new committees. The amendment envisages that this process would be a gradual one with approximately one-fourth of the membership of each committee shifting in each of the next few Congresses and beyond.

But the amendment does not mandate that this occur and does not establish immediately any staggered terms for current members. This would, however, occur over time, as new members were elected and appointed, and current members shifted, so that ultimately the procedure would be efficient and predictable.

I think that, given this structure, members will willingly move from committee to committee, in order to broaden their perspective, and over time to broaden the areas in which they can assist their constituents.

With such a system in place we would totally avoid many of the jurisdictional squabbles and battles for turf which have been apparent in the deliberations over the pending plan.

If Senators knew that they ultimately would have to leave the committees on which they presently were members, and that it was no longer possible to become, like a tenured college professor, immune from new assignments, new ideas, and new approaches, we would, I predict, finally see a rationalized jurisdictional setup with a minimum of wrangling over power bases.

But an equally important effect of such a new structure would be the response of of departments of the executive branch and the many independent agencies. These bureaucracies would no longer be able to respond exclusively or primarily to a very selective group of Senators who are chairmen or senior members of the committees which have authorizing and appropriating jurisdiction of the depart- or agency in question.

Mr. President, in order that my colleagues might know the precise language I have in mind, I ask unanimous consent that the text of this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 20

On page 83, line 19, strike out the closing quotation marks and the second period, and after line 19 insert the following:

"(i) Notwithstanding any other provision of this rule, no Senator may serve on any committee listed in paragraph 2, 3(a), or 3 (b) for more than eight years of continuous service, exclusive of service prior to the effective date of title I of the Committee Reorganization Amendments of 1977 on any such committee or any committee which is a predecessor of an such committee. To the greatest extent practicable, one-fourth of the Senators appointed to each committee listed in paragraph 2, 3(a), or 3(b) at the beginning of the Ninety-sixth Congress and each Congress thereafter shall be Senators who did not serve on such committee during the preceding Congress. This subparagraph shall not apply, and section 2(b) of Senate Resolution 400, 94th Congress shall apply with respect to membership on the Select Committee on Intelligence.".

AMENDMENT NO. 23

(Ordered to be printed and to lie on the table.)

Mr. CHURCH (for himself, Mr. ABOUREZK, Mr. ALLEN, Mr. ANDERSON, Mr. BAYH, Mr. BIDEN, Mr. BROOKE, Mr. BUMPERS, Mr. BURDICK, Mr. CASE, Mr. CHILES, Mr. CLARK, Mr. CULVER, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. DURKIN, Mr. EASTLAND, Mr. FORD, Mr. GARN, Mr. HANSEN, Mr. HATCH, Mr. HEINZ, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. KENNEDY, Mr. LAXALT, Mr. LEAHY, Mr. MATSUNAGA, Mr. MCCLELLAN, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MELCHER, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. MUSKIE, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIEGLE, Mr. ROTH, Mr. SARBANES, Mr. SASSER, Mr. SPARKMAN, Mr. STONE, Mr. THURMOND, Mr. TOWER, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the resolution (S. Res. 4), supra.

RETENTION OF THE SPECIAL COMMITTEE ON AGING

Mr. CHURCH. Mr. President, I submit for appropriate reference an amendment to Senate Resolution 4, the Committee System Reorganization Amendment of 1977.

This amendment is intended to amend Senate Resolution 4 in order to continue the work of the Senate Committee on Aging as a special unit with fact-finding and oversight functions.

Fifty Senators join me as cosponsors of this amendment. Such support reflects, I think, a widespread concern about the threatened termination of the Committee on Aging.

As evidence of that concern, I submit for printing in the RECORD an "Open Letter to the U.S. Senate" prepared by the National Council of Senior Citizens, an editorial issued by the National Retired Teachers Association—American Association of Retired Persons Director Harriett Miller, a letter and press release from the U.S. Conference of Mayors a joint statement by 17 national organizations, and mailgrams sent by former Health, Education, and Welfare Secretary Wilbur Cohen and by Pennsylvania Gov. Milton Shapp.

These items provide a brief sampling of the outpouring of communications from organizations and persons serving in Government agencies at the State and local levels. In addition, I have received impressive and often heartwarming letters from individual older persons who staunchly request that the Senate continue its Committee on Aging.

I also submit for the RECORD my letter to Senate colleagues setting forth the reasons for the amendment I now offer.

I ask unanimous consent that the material mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the Senior Citizen News, January 1977]

OPEN LETTER TO U.S. SENATE

The National Council of Senior Citizens firmly believes that every older American has a vital stake in the continued existence and effectiveness of the Senate Special Committee on Aging.

Almost without notice, a serious threat has been made to this important Committee's

existence as presently constituted. These early days of the new Congress are the days of action by the Senate and House in deciding what changes may be made to committee structure.

NCSC has addressed the following letter to each Senator to let him know how NCSC members feel about this threat and to demand open public hearings before any action is taken.

Read the letter carefully, then write your own views on the subject. It might be helpful if your organization could write to U.S. Senator Howard W. Cannon, Chairman, Senate Committee on Rules and Administration, U.S. Senate, Washington, D.C. 20510.

"DEAR SENATOR: We are registering with you our deep concern with a recommendation of the Senate Temporary Select Committee to study the Senate Committee System which would eliminate the Senate Special Committee on Aging and subsume most of its study, oversight, and advocacy functions within a proposed Human Resources Committee (a substitution for the present Labor and Public Welfare Committee with a substantially enlarged jurisdiction).

"Because this proposed elimination of the Senate Special Committee on Aging has very serious implications for the welfare of our older Americans, we urge and recommend that the Senate Committee on Rules and Administration hold public hearings before presenting to the Senate its recommendations on the proposal of the Temporary Select Committee. While the organization of the Senate is the Senate's business, how this organization affects the welfare of the elderly is a matter of serious concern not only to the general public, but to the 22 million Americans over 65 years and the further 20 million over 55 approaching retirement.

Historically, the Senate Special Committee on Aging was created by the Senate 16 years ago to provide a study and research group in the field of aging in the Senate, involving Senators and free from legislative duties and obligations. The initiative was taken by the Senate Labor and Public Welfare Committee and its Chairman, the late Senator Pat McNamara, because of the Committee's and Senator McNamara's concern for discovering "what social and economic conditions will enable our older citizens to contribute to our productivity and to lead meaningful, satisfying and independent lives."

The record of the Senate Special Committee on Aging in achieving recognition of the needs of the elderly and the enactment of legislation directed towards those needs demonstrate the vital importance of this Special Committee. Among these achievements we note particularly the rallying of Congressional support for the 20 percent increase in 1972 in social security cash benefits against the determined Administration's attempt to hold these in a five to ten percent range, the successful Congressional enactment in 1973 of the 11 percent cost-of-living increase in social security, the enactment of Section 202 housing for the elderly when the Administration sought a phase-out, and increased funding of the 1976 appropriation for the Older Americans Act. This Committee has conducted a series of investigations such as the recent Medicaid exposé and issued numerous significant reports dealing with important issues in the field of aging.

The Temporary Select Committee's argument to us is unconvincing that the proposed Human Resources Committee, with a broadened jurisdiction, together with its legislative and oversight responsibilities, would deal with the problems of the elderly in a more systematic and comprehensive fashion. The facts are that the jurisdiction and oversight of major programs would be split among several committees. Thus, the program aspects of social security cash benefits would be divided among the proposed Committee on Human Resources and the Finance Committee as would also the jurisdiction for health services. The strength of the Senate Special Commitee on Aging is its ability to take the overview without precipitating jurisdictional conflicts.

We find it incomprehensible that the United States Senate would consider eliminating the Special Committee on Aging at a time when the Executive Branch of the government, under incoming President Carter, would be moving toward providing a focal point for study, analysis, action, and programs for the elderly, including appointment of a White House Counselor on Aging.

Whatever public administration theory may maintain, it is not always possible to develop a generic structure for all seasons and all needs—quite apart from the possibility that a proposed restructuring of government may produce developments that cannot now be anticipated.

The U.S. House of Representatives, impressed by the growing need to study the problems of the elderly, decided only two years ago to catch up with the Senate and establish its own Select Committee. It would be a retrogressive step for the Senate now to dissolve its Committee and to abandon its capacity to conduct an overview of the field of aging, vis-a-vis the Executive Branch.

The Senate Special Committee on Aging has helped all members of the U.S. Senate to be more fully informed about issues affecting the elderly. Over the years, its hearings have provided a forum for older Americans, and the organizations which represent them, to express their feelings directly to the Senate.

We therefore urge that the Senate Committee on Rules and Administration examine carefully, through public hearings, the proposal of the Temporary Select Committee to eliminate the Senate Special Committee on Aging.

We will request the opportunity to testify at such hearings and will oppose the dissolution of the Special Committee on Aging.

PRIME TIME: SENATE AGING COMMITTEE'S FATE UNCERTAIN

(By Harriet Miller)

As Washington prepares for a change of administration in January, there is more anxiety than normally accompanies a shift of power from one party to another.

The reason is reorganization. And it involves more than President-elect Jimmy Carter's pledge to reorganize the executive branch of government. The Senate is embarked on its own reorganization effort, and America's older citizens have a particular stake in that effort because the Special Committee on Aging may be reorganized out of existence.

Over the past 15 years, that committee has developed into one of the Senate's most effective units for monitoring legislative activity and investigating situations affecting the nation's older persons. As a special committee, it has no legislative authority of its own. Its unique contribution comes from its success in expediting the work of some seven committees that do have authority over legislation affecting the elderly in such areas as housing, employment, retirement income, health care, nursing homes and consumer interests.

In all of these areas, the Special Committee has developed expertise upon which the entire Senate, along with other divisions of government, have come to rely.

"I think it is fair to say that it would have been impossible to accomplish what has been accomplished without the many hearings, competent staff work and the well-informed activity of committee members," says former U.S. Commissioner on Aging John B. Martin.

Under the proposed Senate reorganization, the functions of the Special Committee on Aging would be absorbed in a new Human Resources Committee, which would also concern itself with issues now in the domain of such committees as Labor and Public Welfare, Veterans' Affairs and the Select Committee on Nutrition and Human Needs.

Surely, the Senate committee structure needs streamlining. There are currently 31 major committees, supplemented by 176 subcommittees. With only 100 senators, it is obvious that the profusion of committees can place excessive—even counterproductive can place excessive—even counterproductive—demands on their time. The reorganization would reduce the major committees to 15 and limit subcommittees to 100.

Such a plan sounds eminently sensible. Yet, there is the distinct danger that, if valuable committees are indiscriminantly eliminated without careful consideration of their special contributions to the legislative process, the reorganization could amount to little more than a triumph of form over content.

As a watchdog for the nation's elderly and a catalyst for action on their behalf, the Senate Special Committee on Aging is without peer. So effective have been its efforts that the House of Representatives two years ago established its own Select Committee on Aging to perform for it the services the Senate's committee has performed so well during the last 15 years.

While the Senate ponders its proposed reformation, special interest voices will be pleading for the retention of their favorite committees. As a numerical minority, the nation's elderly do have special concerns and needs. However, what affects them affects us all for, if we survive long enough, we will all eventually become members of that universal minority. That is why the Senate Special Committee on Aging is so special, and why it deserves to be saved from extinction.

(Miss Miller is the executive director of the non-profit, nonpartisan National Retired Teachers Association and American Association of Retired Persons).

THE UNITED STATES CONFERENCE OF MAYORS

JANUARY 25, 1977.

HON. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: The U.S. Conference of Mayors is strongly opposed to the proposed abolishment of the Special Committee on Aging.

The problems of the elderly are acute and getting worse due to the impact of inflation and other social changes. The void that would result from the abolishment of the Special Committee on Aging would hamper our efforts as Mayors to meet the critical needs of our elderly citizens.

Attached is a copy of a recent press release which states our position.

May we urge you to give serious consideration to the needs of the nearly 23 million senior citizens across the country and to the importance of retaining the valuable services of the Special Committee on Aging.

Sincerely,

KENNETH A. GIBSON,
President, Mayor of Newark.

MAYORS GROUP OPPOSES ABOLISHING SPECIAL SENATE AGING COMMITTEE

WASHINGTON, January 25.—The President of the United States Conference of Mayors today said the proposed abolishment of the Special Committee on Aging is a step backward in Senate reorganization.

Mayor Kenneth A. Gibson, President of the U.S. Conference of Mayors said, "if there is any special interest that ought to be taken care of then it is older Americans who now face new problems because of inflation and dramatic social changes taking place in American society."

Other special committees such as small business and veterans have been saved.

"Given this precedent, it is a must that older Americans be given a chance," Gibson said.

He said Mayors across the country, including members of a Conference of Mayors Task Force on Aging, are contacting members of the Senate to support an amendment to retain the Senate Special Committee on Aging. In addition, the Conference of Mayors has joined with an ad-hoc group of 15 other organizations which are working together to save the Special Committee on Aging.

Other members of the ad-hoc group are:

American Association of Homes for the Aging.

Association for Gerontology for Higher Education.

Gerontological Society.

International Center for Social Gerontology.

National Association of Area Agencies on Aging.

National Association of Counties.

National Association of Retired Federal Employees.

National Association of State Units on Aging.

National Center on the Black Aged.

National Council on Aging.

National Council of Senior Citizens.

National Retired Teachers Association/ American Association of Retired Persons.

National Senior Citizens Law Center.

Urban Elderly Coalition.

Western Gerontological Society.

The Chairman of the U.S. Conference of Mayors Task Force on Aging, Mayor Wes Uhlman of Seattle, stressed the need of the urban elderly to preserve this important committee. "The salvation of the Special Committee on Aging is one of the highest priorities of the Conference of Mayors Task Force on Aging," Uhlman stated.

"We believe it is vital for Congress to maintain a separate and distinct committee which serves as a focal point to coordinate the programs affecting the elderly in both the House and the Senate," Uhlman continued. "Because so many Congressional committees have jurisdiction over programs which affect the elderly, the need for the Senate Special Committee on Aging becomes critical to those of us who administer services to the elderly on the local level."

Sen. Frank Church, Chairman of the Special Committee on Aging, met with a group of Mayors last week to discuss the need for retention of the Special Committee.

"No single subcommittee within another committee, no matter what its jurisdiction, could have the same freedom to examine individual issues affecting the elderly and then put it all together in reports and recommendations for needed action," Church said. Church announced he would be introducing an amendment this week to preserve the Special Committee.

Abolition of the Special Committee is part of a proposed reorganization of the Senate committee structure.

On Januray 17, 1977, the Rules Committee voted 5 to 4 to abolish it. At the same time four other committees slated for abolishment under the Senate reorganization were reinstated. In place of the Special Committee on Aging, it is proposed that a subcommittee of the Human Resources Committee with limited jurisdiction deal with selected matters pertaining to the elderly.

JANUARY 17, 1977.

On behalf of organizations representing older Americans, groups providing services to older persons and major public interest groups, we hereby affirm our support for retention of the U.S. Senate Special Committee on Aging.

This Committee is an invaluable resource to the nation's 22 million older citizens serving as a focal point and catalyst within the Senate on activities affecting the aging. The Committee has collected and disseminated timely and pertinent information which has served to develop responsive social policy for the elderly. The Committee is a technical advisor on the unique problems of the older population. Perhaps most importantly, the continuing presence of the Committee has provided the leadership required to help insure that the needs of this population are duly recognized and adequately addressed.

It is clear that the absence of this Committee would create a serious gap in the aging policy network. It would represent a significant loss of focus on the needs and continuing contributions of older persons and create another barrier for all those concerned with improving the quality of life for the aging.

We are hopeful that the Senate will insure that older Americans receive the very best representation possible. Retention of the Senate Special Committee on Aging would demonstrate a continued commitment to the needs and capabilities of the older population.

Thank you for consideration of our views on this vital matter.

American Association of Homes for the Aging.

Association for Gerontology for Higher Education.

Gerontological Society.

International Center for Social Gerontology.

National Association of Area Agencies on Aging.

National Association of Counties.

National Association of Retired Federal Employees.

National Association of State Units on Aging.

National Center on the Black Aged.

National Council on the Aging.

National Council of Senior Citizens.

National Retired Teachers Association of American Association of Retired Persons.

National Senior Citizens Law Center.

United States Conference of Mayors.

Urban Elderly Coalition.

Western Gerontological Society.

ANN ARBOR, MICH.,
January 24, 1977.

Senator FRANK CHURCH,
U.S. Senate,
Washington, D.C.:

As a former Secretary of HEW I found that the contribution of the Special Senate Committee on Aging was outstanding. It would be a great loss if the Committee were abolished. I strongly support retention of the Special Committee.

WILBUR J. COHEN,
Professor of Public Welfare Administration, University of Michigan.

HARRISBURG, PA.,
January 24, 1977.

Hon. FRANK CHURCH,
Russell Senate Office Building,
Washington, D.C.:

Strongly urge support for Church amendment to Senate reorganization plan to continue Special Committee on Aging. Our senior citizens deserve same status as veterans and American Indians. For 16 years Aging Committee has provided comprehensive leadership on aging activities in Senate. Abolition of Aging Committee will fragment legislative approaches to senior citizens' needs.

MILTON J. SCHAPP,
Governor of Pennsylvania.

U.S. SENATE,
Washington, D.C., January 24, 1977.

DEAR COLLEAGUE: When the Senate takes up S. Res. 4, as modified by the Rules Committee, I would offer an amendment to preserve the Committee on Aging. I would welcome your support.

As you know, the Rules Committee has voted to preserve the Small Business Committee, the Veterans Committee, and the Joint Economic Committee, among others. It has also created a new Committee on Indian Affairs for the 95th Congress. I take no exception to these decisions. But I strongly believe that our senior citizens—23 million strong—deserve at least as much consideration as veterans, Indians, and small businesses.

For 16 years now, the Committee on Aging has served as the home in the Senate for the elderly. This is because it is the only Committee that can look into every subject affecting older people.

Under the Stevenson proposals, legislative power over the elderly remains fragmented among more than a half dozen standing committees. This fragmentation caused the creation of the Aging Committee in the first place. It has not been corrected. As a result, no legislative committee is in a position to exercise comprehensive oversight as regards the whole elderly field.

As a general rule, Congress has been rightly criticized for having failed to exercise adequate oversight. The Committee on Aging, however, has been the conspicuous exception. Lacking legislative duties, the Committee has been able to devote all of its time and attention to the investigative work and definitive reports which have laid the basis for nearly all the improvements in our programs for the elderly since I first came to the Senate—Medicare, Medicaid, the Older Americans Act, SSI and the automatic cost-of-living adjustment in Social Security, to name a few.

It is said that a subcommittee on aging within the new Human Resources Committee can perform oversight functions as effectively as the present Committee on Aging, itself. But Senator Williams, in line for the Chairmanship of the new Human Resources Committee, disagrees. He points out that (1) the new committee will have far too great a legislative load, and (2) that it is impractical to try to give a subcommittee a larger scope for oversight than that possessed by the parent committee.

I agree with Senator Williams' assessment. Right now, for example, the Committee on Aging is in the midst of a major investigation of fraud, false billings, and white collar theft in Medicare and Medicaid, amounting to hundreds of millions of dollars annually. Yet neither Medicare nor Medicaid fall within the purview of the proposed Human Resources Committee, even assuming that such a busy committee could find the time for so extensive a national investigation.

For these reasons, and because the Committee on Aging has performed its comprehensive oversight function so well, every major national senior citizens organization has endorsed my amendment.

Many Senators have also joined as co-sponsors. I hope you will add your name . . .

Your support will be appreciated.

Sincerely,

FRANK CHURCH,
Chairman, Special Committee on Aging.

NOTICE OF MEETING OF INTERPARLIAMENTARY UNION

Mr. STAFFORD. Mr. President, the biennial meeting of the U.S. Congressional Group of the Interparliamentary Union will be held next Monday, January 31, in room EF-100, the Capitol, at 4 p.m. There will be an election of officers for the 95th Congress.

Mr. President, I hope all Senators who are interested in IPU and our delegation to IPU will attend that meeting.

NOTICES OF HEARINGS

SENATE SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Senate Select Committee on Small Business has scheduled a hearing on the views of Mr. Mitchell Kobelinski, retiring SBA Administrator, regarding SBA's programs.

The hearing will be held on Thursday, February 3, at 9 a.m. in room 224, Russell Senate Office Building.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. JACKSON. Mr. President, in accordance with the rules of the Senate Interior and Insular Affairs Committee, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next several weeks:

January 31, full committee, 10 a.m., room 3110, business meeting, to consider nomination of John F. O'Leary to be Administrator of Federal Energy Administration.

February 1, full committee, 10 a.m., room 3110, hearing, information hearing re geopolitics of energy.

February 4, full committee, 10 a.m., room 3110, hearing, oversight hearing on strategic reserves plan.

February 7, Minerals, Materials and Fuels Subcommittee, 10 a.m., room 3110, hearing, S. 7, strip mining legislation.

February 21, Energy Research and Water Resources Subcommittee, field hearing, Idaho Falls, Idaho, oversight hearing on Teton Dam disaster.

March 1 & 2, Minerals, Materials and Fuels Subcommittee, 10 a.m., room 3110, hearing, S. 7, strip mining legislation.

HEARINGS BY THE JUDICIARY SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

Mr. KENNEDY. Mr. President, I wish to announce that the Judiciary Subcommittee on Administrative Practice and Procedure, which I chair, will be holding a hearing on S. 270—the Public Participation in Federal Agency Proceedings Act of 1977—on next Tuesday, February 1, 1977. The hearing will begin at 9:30 a.m. in room 2228 of the Dirksen Building.

S. 270 was reintroduced on January 14 of this year by Senator MATHIAS and myself. It authorizes Federal agencies to provide financial compensation to citizens and citizen groups who are capable of making significant contributions to agency proceedings. It also authorizes Federal courts to award fees in successful actions for review of agency decisions, where a court deems the action to have served an important public purpose. In both situations, however, awards of compensation would not be appropriate unless the persons seeking the awards have little or no economic interest in the outcome of the agency proceedings in which they seek to become involved, or which they want to challenge in court.

The bill (S. 2715 in the 94th Congress) had been reported by the Judiciary Committee in May of last year, but the Senate was unable to take action on it by the time we adjourned in October. The new bill is cosponsored by 16 other Senators, and Congressmen RODINO and KOCH are introducing companion legislation in the House of Representatives today.

The witnesses to appear on February 1 include:

Calvin J. Collier, Chairman, Federal Trade Commission.

William J. Scott, Attorney General of Illinois.

Satenig St. Marie, Vice President; David Schoenfeld, Consumer Advocate, J. C. Penney Co.

John B. Rhinelander, former Undersecretary of HUD.

Stanley Van Ness, Public Advocate; Arthur Penn, Deputy Public Advocate, State of New Jersey.

I also wish to announce, Mr. President, that the subcommittee hopes to hold an additional day of hearings later in the month of February, at which former Secretary of Transportation William T. Coleman, Jr. will appear.

ADDITIONAL STATEMENTS

INCREASED FEDERAL PAY

Mr. STEVENS. Mr. President, Members of this body are very familiar with the writings of William F. Buckley, Jr. He not only authors a column and publishes a magazine, but has also written a great number of books dealing with the political scene. Recently a novel "Saving a Queen" and a journal of sea travel entitled "Airborne; A Sentimental Journey," have been published, once again confirming the wit and wisdom of Bill Buckley.

In a recent column, Mr. Buckley expressed his views on the question of increased pay for members of the legislative, judicial, and executive branches. Mr. Buckley ended his remarks by stressing:

The important thing is to do something, and to do it now; or else the people in Washington who, unhappily, run our lives, will consist of repentant millionaires, young ideologues, powermongers, and incompetents.

Many of us share this same concern.

Mr. President, I request unanimous consent to have the full text of Mr. Buckley's recent column printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

MORE PAY, HIGHER ETHICS

(By William F. Buckley, Jr.)

Mr. Peter Peterson, the super-bright chairman of Lehman Brothers in New York and before that adviser in international economic affairs to President Nixon, headed up the quadrennial commission mandated by law to recommend salary levels for high government officials.

Mr. Peterson was not satisfied merely to submit his report to the President, but now seeks to advertise its findings, to which end he has formed a "Citizens Committee for Restoring Public Trust in Government," with a steering committee carefully selected by Lehman Brothers' chief ideological taxonomist to include representatives of the left, center, and right, the latter post being, in this instance, my responsibility. Accordingly, a few observations:

The commission is right: The pay of top officials in government is inadequate by the sole governing criterion, namely the Brozen Rule. Professor Yale Brozen gave us this formula some years ago, as applicable to public employes and officials. If the turnover rate exceeds the turnover rate in related businesses, then the pay scale is too low; if the turnover rate is lower, then the pay scale is too high. For instance, if city bus drivers in New York quit at a greater velocity than private bus drivers, they are being underpaid.

The commission gives us a vivid taste of this. In the last three years, four of the eleven institute directorships at the National Institutes of Health have become vacant and remain vacant—with 85 out of 87 candidates refusing the job because of low pay. The Social Security Administration lost nine out of 19 of its most senior civil service employes at one time last year, and was unable to fill the position of chief actuary for more than a year, during which time 30 candidates refused the job because of the pay.

The commission is right that the reason these top executives are underpaid is that congressmen and senators, to whose pay scale their own is fixed, are underpaid. In eight years they have had a 5 per cent pay raise, while the cost of living has increased by more than 60 per cent.

There is, to be sure, a sublime satisfaction in this: The malefactors of inflation are inflicting the ravages of inflation upon themselves. But human ingenuity is such that the average congressman ekes out his living by doing other things.

The commission is right in worrying about what those other things are. Because many of them, simply put, are unethical. Others are borderline. Let us take a brazen example: The congressman who sits on a committee that regulates the oil and gas industry and (the example is hypothetical) receives contributions of one sort of another from the oil and gas industry.

Take a slightly more difficult case: A senator is invited by his friendly labor union to address a state convention, fee $5,000. For that, the labor union could have got Demosthenes. Or take the lawyer whose name continues to reside in his home firm, attracting business to it in virtue of said lawyer's notoriety as a senator, with the result that at year end there are profits to distribute to the inactive partner-legislator.

The commission, which now recommends higher pay and a tighter code, cannot speak with a single voice on just how to write that code. It is terribly easy to get carried away, particularly if you listen too hard to the Common Cause people, who are the triumphalists of the doctrine of Original Sin. Every now and then, Congress goes into an orgy of prospective self-deprivation. In one debate a few years ago, amendment after amendment was offered toward the purification of that body, and it was even proposed (and the motion carried) that no congressman should receive any cash dividends from any stock or bond. When one senator asked sheepishly did this mean he would have to sell his Treasury bonds, the answer was Yes!

But then, at the end of the afternoon, one old veteran rose and suggested tabling the entire bill: which was hastily done. But individual congressmen could now go home and advise their constituents that they had voted for austerity.

The thrust of the commission's report is, then, correct—though the problem of definition needs to be prayed over. The important thing is to do something, and to do it now; or else the people in Washington who, unhappily, run our lives, will consist of repentant millionaires, young ideologues, powermongers, and incompetents.

JOHN P. CODER

Mr. CANNON. Mr. President as a mark of respect and recognition for his 2 dozen years of loyal and superior service, I believe it appropriate that the record of our proceedings should reflect the death, subsequent to the adjournment of the last Congress, of Mr. John P. Coder, professional staff member of the Committee on Rules and Administration.

John Coder first came to the committee on detail from the Government Printing Office, in 1952, as an editorial assistant, and shortly thereafter was appointed as a regular staff member. His outstanding devotion to duty and consistently excellent record of performance led to his assumption of ever-expanding responsibilities. He remained under seven committee chairmen, including myself as the most recent. At the time of his passing he was the senior member of the Rules Committee staff in point of service.

A man of noble character, John was a meticulous worker who took the utmost pride in insuring the detailed accuracy of the Committee's proceedings, hearings, reports and documents. More than that, he made himself constantly available to assist and train other less-experienced employees of the Senate in the many areas of his competency. It might be said that John's contributions to our country's legislative process were not of the flamboyant variety, but it could never be denied that they were any less positive, essential or notable.

I feel certain that I speak for John Coder's many friends in the Senate and on its staff, when I say that he will be missed. His widow and his family have our deepest sympathy in the loss we share.

In conclusion, Mr. President, I ask unanimous consent that there be printed in the RECORD, as an extension of my remarks and sentiments, a clipping from the Washington Post, dated December 20, 1976, being a brief biography and tribute to Mr. Coder, prepared by a former longtime Senate associate and mutual friend.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRIBUTE TO A FRIEND

(By Gordon F. Harrison)

The editorial eulogies of your newspaper are understandably limited to the ranks of the renowned. In no way does that diminish the heroic contributions to society made by other less recognized individuals in our ordinary world. Among such, and in whose name we salute them, was John P. Coder, a professional staff member of the Senate Committee on Rules and Administration, who recently left us, at age 64.

Left fatherless as a youngster, financially unable to obtain higher formal education, John Coder sought no charity. He won every award the Boy Scouts had to offer, worked zealously at such jobs as Depression's child could find and never stopped studying in his spare time. Art, science and philosophy were the subjects of his fertile mind.

He taught himself to play a variety of musical instruments well enough to become a respected performer and member of the musician's union. He followed the printer's trade and was a senior member of the typographical union. By lonely discipline, he achieved fluency in several foreign languages, built his own telescope to master astronomy and delved deeply into electronics. A dedicated government employee for nearly 30 years, he served as an elected President of the Senate Staff Club and co-edited the Senate Manual.

This partial record of accomplishments speaks for itself. The true measure of a man, however, is best reflected not in how he finished but from whence he had to start and how he conducted himself along the way.

John Coder constantly gave of himself, in a quiet manner, to share with others whatever benefits he had known. Meaningful assistance in the activities of visiting foreign students, Boy Scout programs, high school science fairs, integrated neighborhoods and community improvement organizations was his hallmark. Temperate and tolerant, absent sycophancy or degradation toward any fellow human, he left a rich legacy of example. When God plucks such flowers from our midst, their guiding fragrance endures.

HOME HEATING OIL PRICES

Mr. BROOKE. Mr. President, although in the next few days the Congress will be considering the natural gas emergency which is gripping our country the supply and price of other fuels has become a problem of crisis proportions as well. In New England, the price of home heating oil is rapidly approaching 50 cents a gallon. The homeowner will probably pay at least $250 more this year for heating oil than in any previous year in recent memory. I have proposed a number of short term solutions to deal with this crisis and I expect to continue to work on energy conservation measures and the development of alternative energy sources to solve our continuing energy dilemma. I hope that, although nothing else good seems to be coming from this disastrous winter of 1977, the reminder that we are living in a very precarious energy situation which must be immediately addressed will help us when the weather gets warmer to enact promptly judicious and farsighted long term energy policies.

Mr. President, I ask unanimous consent that the testimony I gave before hearings held by the Governor of Massachuttes on the home heating oil situation be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY TO GOVERNOR'S ENERGY OFFICE HEARING ON HOME HEATING OIL PRICES, JANUARY 25, 1977

I am very pleased and impressed that the Governor's Energy Office has organized this fact finding hearing on the home heating oil price crisis. It seems to me that this indicates a proper concern with the two most basic policy questions involved. First, what really *is* happening in the oil market. What are the prices across the state? Is anyone, and if so who, making outrageous profits from the misfortune of this fierce winter weather? Is the federal monitoring effort reflecting the true economic situation?

And second, what can we provide, if anything, in the way of immediate relief? Regardless of the details of what various economic indicators show or how federal measurements and indices work, most of our New England families have suffered a severe financial setback because of their heating costs. And, some few are confronted with a crisis of life and death proportions.

I would like to speak briefly to each of these points. I have been following the price and supply situation in minute detail in the last few weeks in order to determine whether or not we can pull the federal price "trigger" and reimpose price controls.

At the outset I should say it seems clear to me that the increases the homeowner sees in each bill generally do not reflect price gouging by individual dealers. What we have is a market wide phenomenon in which the wholesalers are increasing prices and, in which two to three weeks later these increases are passed on to the customer. Indeed, in a significant number of cases there is evidence of the dealers either not passing along, or delaying in passing along, the entire increase. And numerous conscientious independent sellers of oil have been in touch with me personally to demonstrate their attempts to get the best possible deal for long time customers. I think it is fair to say that we are all, customers and retailers, victims of the fierce winter and of the national system of oil pricing by the producers. These producers are certainly managing to stay just under the limits of the price re-control laws. And they are keeping us well-supplied. But they are doing very well indeed for themselves at the same time. We all know prices per gallon go up each year, but we all have real doubts as to whether they had to go up this much.

During the past few weeks it has become abundantly clear to me that the implementation of the federal regulatory mechanism FEA has set up is unworkable and unjust. The FEA depends on an elaborate formula to decide when to re-impose price controls. I am proposing changes in this mechanism in the hearing to be held in Boston on Friday. The formula is insufficiently sensitive to rapid price escalation, to state-by-state variations, and to the special needs of residential customers. Furthermore, FEA's data collection raises serious questions. I believe the Governor's Energy Office has done the most thorough analysis of the economic realities we face. The federal figures are nowhere near so reliable.

But this kind of tampering with the law takes time and we need relief as soon as possible. I cannot hold out any hope that the burden of bills brought by this terrible cold can be generally alleviated. We cannot take prices down to last year's level and we cannot generally change consumption patterns. But we can try to do something about the heating oil we import, and we can try and get direct help to those low income people who are, quite literally, in danger of freezing to death.

Therefore, I am proposing to the FEA that it immediately establish a program of full "product entitlements" for #2 heating oil. This would work like the similar program we got them to establish last year for utility and industrial fuels which is even today keeping these fuel adjustment charges tens of millions of dollars lower than they would otherwise be. Under my proposed solution, domestic refiners would pay $2.30 per barrel to importers. This would mean we could buy European oil, which even delivered to Boston, would cost a penny or two per gallon less than current wholesale prices. And we could, by the monitoring of these prices which happens automatically in the entitlements program, see to it that the savings were passed through. I hope that the new Administration is going to realize the gravity of the Northeast situation and respond without further delay to our urgent need for this relief.

However, some citizens need far more

drastic help at once. One indicator of the hardship on Massachusetts families is the fact that oil dealers currently have unpaid accounts running 36 percent to 56 percent higher than last year. And we are beginning to get reports of utility cutoffs in the homes of low income and especially elderly citizens. Many slum landlords have failed to provide adequate heat, or in some cases, any heat, in the apartments of low income people. While social service agencies and some law enforcement offices are working hard to negotiate solutions on a case-by-case basis the resources to assure a reasonably warm shelter for these families are not there.

Over two years ago, in my capacity as a member of the Senate Appropriations Committee, I was successful in establishing an Emergency Utility Cutoff Assistance program in the Community Services Agency. Many Community Action Agencies across the country have set up systems to deal with emergency needs of elderly and handicapped lower income people who face possible cutoffs. Over $2 million has been spent just this past year. But the program does not have the resources to meet all the existing need. And it does not serve recipients of public assistance.

Quite honestly, I doubt we can ever come near meeting the whole need. But we can certainly do a great deal better. I am therefore working on a proposal for expanded emergency funding to be used just this 1977 heating system that can be passed quickly and efficiently through to low income families in immediate danger of losing their heat. While I am still negotiating the details of legislation with a number of my Senate colleagues, I hope we will be able to file a proposal this week.

In the long run, I hope the sad rigors of this winter will inspire us to redouble the effort to save fossil fuel energy. Those homeowners who added to their insulation or who installed residential solar heat devices are benefitting from truly significant savings. Their investment is paying off even faster than they thought possible. I have reintroduced my bills setting up energy conservation tax credits in this new Congress. If nothing else good comes out of this season's cold, I am hopeful that my colleagues and the Administration may understand the dangers of having no serious energy conservation policy and finally pass this and other measures. The Commonwealth under Governor Dukakis' leadership has provided the nation with an excellent example of planning for and implementing effective energy conservation programs. I am going to keep working to bring federal efforts up to this high standard.

B–1 BOMBER POLL RAISES QUESTIONS ABOUT BIAS AND CONFLICT OF INTEREST

Mr. PROXMIRE. Mr. President, a poll taken by the Opinion Research Corp. dealing with the B–1 bomber appears to have a built-in bias and represents a potential conflict of interest.

On December 15 the Opinion Research Corp. released the results of a national survey on U.S. defense and the B–1 bomber program. The corporation asked 6 questions of 1,004 individuals by telephone interview.

Five of those questions appear scientifically formed and without bias. The questions do not prejudice the answer, and they contain accurate information.

But the sixth question, which showed that 64 percent of the interviewees agreed with the Defense Department that "we need the B–1 bomber to keep our strategic defenses equal to those of Russia" is loaded with misleading information and predetermining biases.

The question has the following flaws: First, it gives the impression that Congress and the Defense Department are in agreement on the B–1 program. This, of course, is false. Congress stopped the B–1 from going into full-scale production this fiscal year. And on two occasions the Senate has voted against full-scale production of the B–1 until a later time period.

Second, the question misrepresents the role of Congress. Congress allowed some production funds to be spent on the B–1 while the new President makes up his mind about the program. But the Congress never gave the Defense Department initial production approval except in the very narrowest and most technical of definitions. This subtlety would be lost on any interviewee. In fact, Congress put a hold on the B–1 program, but nowhere in the poll is that fact mentioned.

Third, the question sets forth the proposition that the B–1 is necessary to keep up with the strategic military buildup of Russia and to keep our strategic defenses equal to those of Russia. Faced with a question proposing that we need the B–1 just to stay equal with the Russians puts a substantial bias into the issue. Where is the opposite viewpoint—that we could be stronger with a standoff bomber force and still save billions for the taxpayer?

Fourth, the question states that the B–1 is to be added to the land-based and sea-based missile forces. This is correct, but it fails to mention that we already have bombers. Thus, the B–1 is not an entirely new dimension in our retaliatory capability.

The Opinion Research Corp. notes that it performed this poll under payment from Rockwell International, the prime contractor for the B–1 bomber. It is to their credit that they stated this fact. But it also raises the most obvious questions about conflict of interest. If the poll had resulted in statistics against the B–1, if the B-1 question had been phrased in a more neutral manner, I doubt that it would have ever been made public. Rockwell helped draft and review the questions asked in the poll.

One final point requires comment. The Opinion Research Corp. concluded in their press release that about two and a half times as many interviewees "said the U.S. defense budget should be increased as said it should be decreased."

Using exactly the same figures, it can also be concluded that 45 percent of those interviewed want the defense budget to be cut or held even compared to 42 percent who want an increase of some size. Thus, analysis of the same data leads to dramatically different conclusions.

These examples prove that polls must be accepted with great caution.

Mr. President, I ask unanimous consent that the text of the two questions referred to in my speech be printed in the RECORD at this point.

There being no objection, the questions were ordered to be printed in the RECORD, as follows:

THE B–1 QUESTION

Now please listen carefully to some information about the B–1 bomber. The B–1 bomber is a manned aircraft to be added to the land-based missiles and submarine-launched missiles in our strategic national defense forces. After approval of Congress, the Department of Defense, on December 2, approved initial production of the B–1 bomber, saying that it was in the national interest to produce the bomber if the United States is to keep up with the strategic miliary build-up of Russia.

Do you agree or disagree with the Department of Defense that we need the B–1 bomber to keep our strategic defenses equal to those of Russia?

	Percent
Agree with Defense Department	64
Disagree	18
Undecided	18

THE DEFENSE BUDGET QUESTION

In your opinion, should the present defense and military budget of the United States be increased a great deal, increased somewhat, left about where it is now, reduced somewhat, or reduced a great deal?

	Percent
Increased a great deal	12
Increased somewhat	30
Left where it is now	29
Reduced somewhat	11
Reduced a great deal	5
No opinion	13

Now, Mr. President, what might have been an impartial question about the B–1 bomber program? Well, first it should have given the interviewer a little information about both sides of the question. It should have distinguished the congressional action from that of the Department of Defense. It should have remained neutral about the merits or efficiencies of that aircraft.

Perhaps the question could have been phrased this way:

Now please listen carefully to some information about the B–1 bomber. The B–1 is a manned, high performance strategic bomber designed to penetrate the airspace of potential adversaries and destroy critical targets. The total program of 244 aircraft will cost $23 billion including a substantial provision for inflation.

The Defense Department argues that this aircraft is necessary to keep our strategic defenses equal to those of Russia. Critics of the B–1 program argue that it's too expensive at $93 million per aircraft and that other alternatives would do a better job.

The Congress has postponed a final decision on the B–1 until it receives a recommendation from the new President.

Now, do you think the United States should go ahead with production of the B–1 bomber force or do you think the United States should not go ahead with production of the B–1 bomber force?

	Percent
Should go ahead	——
Should not go ahead	——
Undecided	——

Now, Mr. President, there may be hidden flaws in my suggested question but I believe the central issue is that all such questions by reputable polling organizations should be drawn as precisely neutral as possible regardless of the corporate client's position.

TRIBUTE TO CARL CURTIS

Mr. DOLE. Mr. President, my colleague from Nebraska, Senator CARL CURTIS, re-

cently announced that he would not seek another term in the U.S. Senate. While it is not yet time to say our goodbyes, I would like to pay tribute to my colleague from Nebraska. No doubt, his career will be the subject of a lengthy round of tributes toward the end of this Congress. However, in light of his outstanding service, I would like to get an early start.

CARL CURTIS was elected to the House of Representatives in 1938 and, later, elected to the Senate in 1954. That makes his the longest term of combined House and Senate service among the Senate Republicans. His long tenure both in this Chamber and over on the House side has been marked by consistent hard work and solid legislative achievement.

I have had the honor of working with my colleague from Nebraska in many causes and on many issues. Besides sharing certain opinions about the proper role of our Government in society, we represent States which have many similar basic traits and interests.

As a fellow member of the Senate Agriculture Committee, I have had the opportunity to watch his perseverance and his dedication to the health of the American farm. For instance, when American Beef Packers, Inc., filed for bankruptcy, Senator CURTIS worked hard and long, through much difficult negotiations to protect the interests of farmers who were the creditors of that company. Likewise, he has worked hard on irrigation and flood control projects to harness the flood-prone rivers and creeks of Nebraska which have caused so much grief to Nebraska farmers and city dwellers alike. His record of hard work on countless farm bills and farm proposals affecting the health and position of American farmers is much too long to recount here, but Nebraska farmers know how much Senator CURTIS has done on their behalf.

Likewise, I serve with him on the Senate Finance Committee, where I have also seen his hard work. His interest in a sound social security system predates his Senate career. In 1953, he was the chairman of the House Social Security Subcommittee. He worked hard then and has continued to work hard for a responsible program. Another distinction of CARL'S is that he is one of the few Republicans who have been around long enough to have been chairman of anything. His concern for the health of the social security system is well known in this Chamber.

He has always been a champion of the free enterprise system and a strong opponent of centralized government and Federal waste. For instance, he has long advocated a constitutional amendment which would make the Federal Government finance itself on a pay-as-you-go basis. Fighting the wasteful extravagance of our Federal Government has been the centerpiece of CARL'S 38 years of congressional service. Looking at the current state of our Federal Government, it is obvious that he lost many of those battles, but he always put up a good fight for what he believed and frequently did win concessions or come out on top, cutting a great deal of waste out of the Federal budget.

In 1938 when CARL CURTIS first ran for Congress, he woke up the next morning to find that a local radio station, which had transposed some election results, was broadcasting the news of his defeat. CARL'S response was: "Well I am glad I got it out of my system."

Well, the radio station was mistaken and 38 years later, CARL CURTIS is still working hard for his constituents and supporting those ideals which have always been his hallmark. I do not know whether he has gotten politics out of his system yet, but when he retires in 2 more years, his voice will be sorely missed.

LABOR SECRETARY RAY MARSHALL AN ENTHUSIASTIC ENDORSER OF FULL EMPLOYMENT LEGISLATION

Mr. HUMPHREY. Mr. President, the new Secretary of Labor, Ray Marshall, is a strong supporter of full employment legislation, and endorsed the Full Employment and Balanced Growth Act (S. 50) in an August 1976 article in the American Federationist entitled "Full Employment: The Inflation Myth."

In the article, the new Labor Secretary shows that achieving full employment and reducing inflation are not incompatible, but can better be achieved together. As Secretary Marshall points out, there are a number of reasons why our failure to achieve full employment has actually contributed to inflation and there are a number of reasons why approaching full employment can reduce inflationary pressures:

First, full employment would reduce the costs of many transfer payment programs such as unemployment compensation and welfare, which are inflationary because they involve income payments that are not backed up by any production of goods and services.

Second, full employment would reduce the inflationary impact of large Federal deficits, such as those of 1975 and 1976, which are caused by high unemployment.

Third, full employment will improve the efficiency and productivity of the economy, as employers make fuller use of capital equipment and as full growth allows employers to provide more regular and better jobs without increasing labor costs.

To get the economy moving again toward full employment, Secretary Marshall urges a combination of expansionary monetary and fiscal policies plus special programs designed to reduce structural unemployment, including programs to stimulate business and employment in depressed rural and urban areas, and public service employment and job training programs aimed at helping the most disadvantaged, such as teenagers and minorities. The increased concentration on reducing structural unemployment would eliminate imbalances between workers and jobs and would help attain full employment without inflation.

Although Secretary Marshall's article discusses problems which have been eliminated in the most recent verson of the Full Employment and Balanced Growth Act, it is still an excellent analysis of S. 50 and dispels many of the inflation myths around this bill.

Mr. President, I ask unanimous consent that Secretary Marshall's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FULL EMPLOYMENT: THE INFLATION MYTH

(By Ray Marshall)

It is clear from the experiences since Congress first passed the employment act of 1946 that traditional monetary-fiscal policies and market forces alone cannot produce the full employment and balanced growth envisioned in the Humphrey-Hawkins bill.

Traditional monetary-fiscal policies are important but they alone clearly will not produce full employment without intolerable levels of inflation because labor market segmentation is such that some markets will be very tight while there is substantial unemployment in others. For example, increasing the money supply in order to reduce unemployment might generate inflation in tight medical or professional labor markets while having very little effect on unemployment in rural areas and central cities or among teenagers. Such problem areas require concentrated selective efforts to combat unemployment directly.

Selective programs have to complement general economic policies in order to achieve reasonable price stability and full employment. Critics of Humphrey-Hawkins tend to minimize the importance of these selective policies for two reasons: (1) They think tight labor markets alone will dissolve most structural problems and, (2) The manpower or specific labor market programs of the 1960s are presumed to have been ineffective.

Tight labor markets during World War II and in the South during the 1950s did not by themselves erode discrimination against women and minorities—selective programs, including antidiscrimination laws, also were required.

Similarly, public employment is the cheapest—and therefore the least inflationary—way to reduce unemployment. For example, the Congressional Budget Office estimates the annual net cost of creating a job through a public employment to be much less than the cost per job of a tax cut. The CBO concludes: ". . . a 3 percent adult unemployment target does not seem unrealistic if employment programs are effective in dealing with the special factors contributing to high employment for certain groups and are not limited to across-the-board measures or programs that simply create jobs without increasing employment stability or job attachment."

Although it is fashionable to criticize the manpower programs of the 1960s, the overwhelming weight of evidence supports the conclusion that these programs made significant improvements in labor markets and were, on balance, cost effective for the government and the participants.

The manpower programs of the 1960s were not as effective as they might have been because they were experimental, many of them were really income maintenance programs, and the budgetary support for these programs, was small relative to the need and relative to the size of monetary-fiscal policies.

The experiences of the 1960s, while generally favorable, therefore provide little guidance to what could happen if an effective array of selective public and private programs could be developed. Clearly, however, these specific policies, including public employment, must be a necessary part of any program to achieve full employment without high levels of inflation.

There is a mistaken belief that full employment would necessarily lead to intolerable levels of inflation. Most such estimates are based on the relations of gross national product, prices and employment of the 1960s and 1970s, which would not necessarily be the relationship if the Humphrey-Hawkins bill were passed and if the bill assumed a necessary inverse relationship between inflation and unemployment. In particular:

There seems to be general agreement that "public employment (which includes public service employment, public works by private profit and non-profit contractors and supported work) is by far the cheapest way to reduce unemployment. Therefore the GNP would not have to grow as much as would be required to produce full employment by market forces or monetary-fiscal policies alone.

Full employment would reduce many transfer payments in programs like unemployment compensation, which are inflationary because they constitute income payments with no corresponding output of goods and services. Full employment also would reduce the inflationary impact of federal deficits created because of unemployment.

A full employment economy could erode many of the causes of inefficiency the present system yields. Many industries have adopted to very inefficient and wasteful employment systems because they are able to shift the costs of inefficiency to workers in the form of low wages and unemployment. These inefficient systems will persist so long as there is mass unemployment in low-wage labor markets.

Critics of Humphrey-Hawkins often display a strange theory of inflation. They believe that all expenditures of public money necessarily cause inflation. Inflation reflects the relationship between money and goods. It may be moderated in a negative way by restricting the supply of money and goods in the hope that growth in the output of goods and services will fall by less than the growth in the money supply, causing the rate of inflation to decline.

This is a negative approach and it is very costly in terms of lost output to the nation, rising unemployment and higher welfare costs, and human misery for those who are unemployed.

A more positive approach is to attack unemployment and inflation simultaneously. The best attack on inflation is to increase output and improve productivity and efficiency, through fully utilizing the nation's productive potential. If we increase the output of goods and services as fast as we increase the money supply, the result will not be inflationary.

Critics of this positive approach think spending money is always inflationary, and that high levels of unemployment are necessary in order to check inflation. They forget that the effect on prices depends on what you get for your money, and all of the evidence suggests that the cost of achieving full employment by the combination of the general and selective procedures outlined in the Humphrey-Hawkins bill would be a very good deal.

Because of unemployment in casual occupations, many employers have been able to perpetuate labor surpluses and wage payment systems which provide little incentive for managerial efficiency. There is no need to introduce efficient technology or to otherwise develop efficient labor utilization systems where there is a surplus of low-wage labor augmented by a steady flow of legal and illegal immigrants and millions of people displaced by technological changes in agriculture. Humphrey-Hawkins could provide alternatives for these workers and offer incentives for private employers to rationalize their labor markets in order to provide more regular and better jobs without increasing labor costs.

If workers had some assurance of continued full employment, many impediments to improved efficiency and productivity would be overcome. Full employment would facilitate the continued reduction in the waste caused by discrimination. Experience shows tight labor markets to be effective forces in overcoming resistance to the employment of women and minorities as well as in providing employers with incentives to hire them.

Full employment also would reduce some of the resistance to increased productivity and efficiency caused by a prevailing "depression mentality." If workers had greater assurance of job security, they could do a great deal to increase efficiency and productivity. Moreover, greater continuity of employment in many casual occupations, like agriculture and construction, is a substitute for higher wage rates. In other words, inflationary wage pressures would be moderated by greater income from more work at existing wage rates.

Surprisingly, much of the criticism of the Humphrey-Hawkins bill has been the argument that the payment of prevailing wages on public employment programs would be inflationary because public programs would bid unskilled and semi-skilled workers away from private employers, causing the wages of the private sector employees to be raised. This outcome is neither predetermined nor very likely for the following reasons:

Raising the wages of marginal workers is not a necessary outcome of the Humphrey-Hawkins bill, but even if it were, there is no assurance that the results would be either undesirable or inflationary. In addition to the effect noted earlier of encouraging employers to do more to rationalize secondary labor markets, improve jobs, increase efficiency, and generate productivity gains without increasing labor costs, the Humphrey-Hawkins bill would provide the stimulus to create better as well as more jobs. There can be no more effective way of overcoming some of the nation's most important social and economic problems than improving the quality and quantity of jobs available to the poor and near poor.

The assumption that low-income workers would necessarily be paid more than they were "worth" if they worked on public jobs is invalid. If prevailing wages are paid, wages and productivity would increase at the same time, causing no increase in inflationary pressure.

Undoubtedly, the achievement of full employment would not be easy and no one knows how hard it would be to achieve the target established in Humphrey-Hawkins.

Curiously, however, some critics emphasize the "fuzzy" definitions in the bill, but then calculate precise number of jobs needed to achieve that fuzzy goal. As pointed out earlier, we cannot use past parameters to estimate the costs of this bill or its impact because that bill would create many new relationships and much would depend on the mix of policies used to promote full employment.

This mix could include:

Stimulating the private sector, which could be done by monetary or fiscal policies, which must remain the basic tools of economic policy. However, monetary-fiscal policies alone are not likely to produce full employment without intolerable levels of inflation.

Measures to promote the development of lagging regions and areas. The bill should give more specific attention to rural development, but a balanced growth policy including a rural-urban balance policy is compatible with the provisions of Humphrey-Hawkins. Since many productive jobs could be created in rural areas with relatively low cost by private profit and non-profit organizations, a rural development strategy could do much to solve the employment problems of rural and urban places. One of the most important requirements for development in depressed areas is a system to make credit available to people who are unable to obtain credit from existing sources.

Public employment could take a variety of forms, making it difficult to calculate costs unless the specific forms are explicitly mentioned.

Costs in a public service employment program (to put workers on government payrolls at prevailing government rates) would cost more than some programs, less than others. For instance, a public service employment program would cost more than Operation Mainstream, where older workers, mainly in rural areas, were employed on useful projects for public and non-profit organizations. That program, in turn, has a different cost than a supported work program for youths. The public employment provisions of Humphrey-Hawkins are sufficiently flexible to permit a wide range of alternatives.

The critics of the legislation often seize upon a particular alternative which may or may not be the one adopted. It is often assumed, for example, that public employment means only public service or government employment. Experience shows this kind of program to have the advantage of supporting local governments, but it does very little to put the disadvantaged to work or to guarantee that governments hire people who could not have been hired in the absence of the programs. Privately operated public works or supported work programs can do more to put the disadvantaged or the unemployed to work faster.

As we noted, attention should be given to manpower and other specific policies to improve the operation of labor markets. These specific policies will make it possible for more general economic policies to reduce unemployment with less inflationary impact.

Careful attention should be given to wage and price policies. It is unrealistic to assume that wage and price controls can be effective for very long in an economy characterized by relative free market forces and collective bargaining. It is easy to specify general criteria for wage and price controls but impossible to either implement them or to devise a formula to set wages and prices that will not cause serious labor or product market maladjustments.

General wage and price controls are difficult to apply because they must operate against powerful market forces. There are, however, conditions under which wage and price controls might be successful for short periods of time. A wage-price freeze can temporarily halt price increases and perhaps break inflationary psychologies. But, because of inherent inequities and the dynamic nature of the economy, the longer a freeze stays in force the more untenable it becomes.

If there were an effective controls mechanism on the price side—which there was not in the nation's recent experience with controls—then an effort on wages might succeed if geared to the realities of each industry and set up as an adjunct of collective bargaining. Because they are designed to provide jobs, overcome bottlenecks and improve the operation of labor markets, manpower and other specific labor market policies have the advantage of working with basic labor market forces rather than against them as is the case with wage and price controls.

The wage policies for the jobs guaranteed by Humphrey-Hawkins also are very important and will be difficult to administer.

But some of the critics, in addition to revealing misunderstanding of labor market procedures and presuming a knowledge of the program mix that they don't have, also ignore the safeguards built into the Humphrey-Hawkins bill.

There is no evidence that workers would leave many good private sector jobs where they have seniority and other benefits in order to acquire public employment jobs. A worker cannot ordinarily voluntarily quit a

private job and draw unemployment insurance—he must lose his job for reasons beyond his control. That same condition could be imposed for public jobs under Humphrey-Hawkins.

The prevailing rates mentioned in the full employment bill need not be union wage rates, but might be jobs at or near the minimum wage. They also need not be regular government jobs, because, as noted earlier, the bill allows for several other possibilities. Moreover, there is no convincing evidence that public jobs have higher wage rates than similar private jobs—as mentioned, the contrary is more likely to be the case. And regardless, making wage comparisons between public and private jobs is a hazardous undertaking, because job content is so rarely the same.

Nor is there any reason, given the flexibility provided in the Humphrey-Hawkins bill, why the total benefit package on the public jobs should not be sufficiently lower than comparable private jobs to encourage workers to leave public for private jobs when jobs in the private sector became available. One way to encourage this would be the trigger mechanism contemplated in the bill. Another way would be to discourage public service employment in favor of various forms of more temporary public works projects—ranging all the way from regular construction to maintenance, light construction and environmental controls. These programs are easily phased out as unemployment declines.

Humphrey-Hawkins also contains major safeguards against the kinds of abuses contemplated by some critics. The Secretary of Labor is required to establish a program to ascertain qualifications of workers and would therefore be able to match workers and jobs. In public works programs, private employers—profit or non-profit—would do this automatically. This procedure could prevent workers from upgrading themselves very much unless they had the qualifications for the public employment jobs.

An example sometimes cited, that janitors, porters and cleaners could work as construction laborers, is not valid because construction laborers are fairly skilled and their jobs cannot be filled by people without training or experience. However, if the workers can do the work and the jobs are available, there's nothing wrong with allowing the best qualified unemployed workers to fill those jobs—there's nothing in the bill that requires jobs to be provided regardless of qualifications.

The assumption that workers would leave private sector jobs to get public jobs, and that the size of the government's jobs program would thus grow rapidly, is a strange theory of labor market behavior. Besides, the bill contains safeguards to prevent this from happening.

Moreover, the argument assumes that employers of low-wage workers would not adjust their wages and employment conditions in order to retain their workers. But research and demonstration work in agricultural and other low-wage labor markets indicates that if they are forced to do so, employers can do much to rationalize labor markets. In the absence of an outside stimulus (like upward pressure on wages by governments or unions) where there are surplus labor supplies, these employers have little incentive to use labor efficiently. Humphrey-Hawkins, by giving workers options, could force employers to improve employment systems without significantly increasing labor costs. It is in the national interest to provide better jobs for low-income people who are willing and able to work. We also must not use public programs to force people into menial low-wage jobs much below their qualifications.

In short, the critics have devised an unlikely scenario for the impact of Humphrey-Hawkins. Others can be developed which are more compatible with the intent of the bill and which would not be as inflationary. Again, however, we cannot use past parameters to estimate the impact of the Humphrey-Hawkins bill.

Finally, we must consider the alternatives to paying decent wages for useful work. Would it be better to have these workers continue to be unemployed and drawing extended unemployment insurance, or on welfare, or continuing to work in lousy, dead-end, low-wage jobs?

It would seem much better public policy and much less inflationary to put these workers to work doing useful things in keeping with their abilities and motivations. In calculating the costs of a full employment program we must take a systems approach which looks at the net impacts and not just at the wage costs.

Some critics argue that the Humphrey-Hawkins target of 3 percent unemployment for adults within four years is unrealistic because it would require sustained growth rates greater than we have ever been able to achieve. This criticism also seems to me to be unwarranted for the following reasons:

We do not know what growth rate in the GNP would be required to achieve this target because estimates based on the GNP assume most of the job creation to be in the private sector, as was the case in the past. These GNP estimates would not apply to a public employment strategy. Moreover, the cost of creating the necessary jobs would depend on the program mix.

It would undoubtedly be very difficult to achieve the 3 percent target, but this does not mean we should not try. It is true, as some argue, that public policy currently suffers from the exaggerated promises of past rhetoric. The solution is not to avoid promise, but to mobilize to make those promises a reality.

Achieving the goal will, in addition to monetary-fiscal and specific labor market policies, require many other policies, including the following, all of which seem practical objectives:

Stopping the flow of illegal aliens into the country and relating the flow of legal aliens more to labor market needs. Although there is no way to knowing for sure, illegal aliens probably accounted for at least 10 percent of the growth in the labor market during the 1960s. The labor certification process should be coordinated with realistic efforts to attract native workers.

Strengthened approaches to the reduction of discrimination.

Rationalize labor markets to reduce waste and inefficiency.

A development strategy for rural areas and central cities.

The perfection of a public employment program including public service employment, public works and supported work.

The goal of reducing unemployment to what is now called "frictional" unemployment is likely to be difficult to achieve, but desirable. Any calculation of the costs of achieving this objective must deduct the material and human costs of not doing anything.

In the final analysis, it will be better public policy to pay people to do constructive work than to support them through income maintenance programs to do nothing. We must not only strive for more jobs, but better ones as well.

NELSON ROCKEFELLER

Mr. WALLOP. Mr. President, few men in American public life have served their State and Nation in any capacity with less apparent need for power and its trappings than has Nelson Rockefeller. Few men have served in their elected and appointed positions with less display of the trappings of power. Dignity of effort and service have been the hallmark of Nelson Rockefeller's time in public life, and not the pursuit of power.

A man born to wealth and power, instead of indulging his inheritance he has gone forth into the public arena where public comment, public disagreement, and public judgment were the risks of service and the order of the day. This has been a service to America for which the country can well be grateful.

Mr. Rockefeller could have lived a life outside of public service and bought the adulation of the country in charity and visible, though less volatile, circumstances. Instead, he chose to serve and in that service offered his country his best efforts with all that he possessed. Would that all citizens of this country offer to serve to the extent of their capacity and, right or wrong, believe in service as the birthright and obligation of freedom. I add my salute to those of my colleagues. Godspeed.

MAYORS OF 23 U.S. CITIES OPPOSE PRODUCTION OF B–1 BOMBER

Mr. PROXMIRE. Mr. President, I wish to call attention to the recently signed statement by 23 mayors of major U.S. cities in opposition to the production of the B–1 bomber. These mayors represent a total population of over 6 million people, including two cities in Wisconsin, Madison and Milwaukee.

They have signed a letter to President Carter spelling out their rationale for stopping B–1 production.

Mr. President, I ask unanimous consent that the letter signed by the mayors and their names be printed in the RECORD.

There being no objection, the letter and names were ordered to be printed in the RECORD, as follows:

JANUARY 29, 1977.

DEAR PRESIDENT CARTER: Congress has delayed full funding for the B–1 bomber until February 1, 1977, so your Administration will have the opportunity to make the final decision on this program. We urge you to stop production of the B–1 bomber.

The U.S. Conference of Mayors has asked you to support a new national urban investment policy aimed at accelerating economic recovery and revitalizing the cities. A major budgetary commitment will be necessary to finance the full agenda of major initiatives—welfare reform, an urban development bank, expanded housing, jobs, community development, energy and mass transit programs, comprehensive national health insurance. Yet we mayors are not unmindful of the fiscal constraints you face in implementing these programs to save the cities. That is why the U.S. Conference of Mayors has gone on record calling upon the Administration and Congress "to redress the imbalance between domestic expenditures and expenditures for the Pentagon and foreign aid."

The past two years we have seen the military budget increase in real terms about $12 billion. Meanwhile, city budgets have been battered by inflation and recession simultaneously, forcing layoffs, service cutbacks and tax increases. Federal support for the cities has barely kept pace with inflation and has been inadequate to recoup the losses imposed by economic decline.

We will support any effort you make to cut unnecessary military spending, and the B–1

bomber appears to be a prime condidate for the axe. It is expensive. Congressional sources estimate that as much as $15 billion could be spent between FY 1977 and FY 1981 on the B–1 and its attendant hardware and supporting system. It is opposed by competent authorities. Last May nineteen experts, including former Defense Secretary Clark Clifford, said, "The tens of billions of dollars required to build and operate the B–1 bomber are not warranted by any contribution to our security which it might make." Furthermore, you stated your opposition to this system during the campaign.

The money saved will create more jobs where they are needed and will make a significant contribution toward satisfying our overwhelming urban needs. By revitalizing America's cities, the people's faith in their government will be restored, the strength of the nation will be renewed and many of the basic security needs of our people will be met.

Atlanta, GA, Maynard Jackson.
Austin, TX, Jeffrey Friedman.
Berkeley, CA, Warren Widener.*
Buffalo, NY, Stanley M. Makowski.
Clearwater, FL, Gabriel Cazares.
Detroit, MI, Coleman A. Young.
East Orange, NJ, William S. Hart, Sr.
Gary, IN, Richard G. Hatcher.
Hartford, CT, George A. Athanson.
Highland Park, MI, Jesse Miller.
Iowa City, IA, Mary Neuhauser.
Madison, WI, Paul R. Soglin.
Mankato, MN, Herbert Mocol.
Milwaukee, WI, Henry W. Maier.
New Haven, CT, Frank Logue.
Newark, NJ, Kenneth A. Gibson.
Northampton, MA, David W. Cramer.
Pontiac, MI, Wallace E. Holland.
Portland, OR, Neil Goldschmidt.
San Francisco, CA, George R. Moscone.
St. Paul, MN, George Latimer.
Urbana, IL, Hiram Paley.
Wilmington, DE, William McLaughlin.

*Endorsed first paragraph only.

INCREASE WHEAT AND FEED GRAIN LOAN SUPPORT NOW

Mr. ZORINSKY. Mr. President, 2 years ago the previous administration vetoed the Emergency Price Support Act of 1975. As many in both houses of Congress tried to tell the previous administration, the small family farm could not suffer the wide fluctuations in a market regulated commodities market.

Nebraska farmers are today suffering the results of that policy. During the past week I have been contacted by several of my constituents who are unable to secure operating loans to cover the cost of production. Furthermore several are having previous loans foreclosed, threatening to end forever their family owned and operated farms.

Mr. President, our farmers simply cannot wait for the promise of the national debate on the Agricultural Act of 1977 to save them.

Accordingly, I have sent a telegram to Secretary Bergland urging him to increase the loan price support for wheat and feed grains.

I ask unanimous consent that my telegram to Agriculture Secretary Bergland be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

The Hon. ROBERT BERGLAND,
Secretary of Agriculture, U.S. Department of Agriculture, 14th and Independence, Washington, D.C.

DEAR MR. SECRETARY: During the past week I have been contacted by many Nebraska farmers in serious financial difficulties pleading for immediate relief from rising production costs and low commodity prices. Many are being forced into foreclosure. By the time we enact a new farm bill, the promised assistance will be an academic issue.

I am requesting that you exercise the authority provided to you in PL 93–86 and immediately raise the loan support price of wheat and feed grains to prevent financial disaster from falling on a large number of our farmers. This effort will provide the necessary time for our family farm operations to see the birth of a new Carter farm policy.

Your immediate and favorable action on this matter will be looked on as a positive indication of the new Administration's attitude toward the American farmer.

Sincerely,

EDWARD ZORINSKY,
U.S. Senator.

A FIRST STEP FOR MORE EFFECTIVE GOVERNMENT

Mr. STEVENSON. Mr. President, the Senate has before it an unusual opportunity to respond to the American people's desire for more efficient and effective Government. A new administration has taken office under a promise to reorganize and consolidate the executive branch. The Senate need not wait to made this body more responsive and effective.

An important first step, Mr. President, is for the Senate to reorganize and modernize its committee system by adopting Senate Resolution 4, the Committee System Reorganization Amendments of 1977, reported by the Committee on Rules and Administration on January 25.

Increasingly, the public has come to doubt the ability of the Congress to function. It regards with near contempt the slowness of the legislative process and the inability of Members to work quickly and intelligently on pressing matters affecting the welfare of millions of people.

Senators need no examples of the constant explication of this theme in the press. But Senators may find of interest a number of editorials which have been published recently, urging adoption of the committee reorganization proposals advanced in Senate Resolution 4 by the Temporary Select Committee to Study the Senate Committee System.

The Washington Star's editorial of January 23, entitled "Needed: A Quorum for Reform," notes the problems that a breakdown in one part of the legislative process can cause elsewhere. The editorial began:

The Senate probably could do nothing better to help the incoming administration than to reorganize its committees effectively. "The Carter administration is full of optimism about reorganizing the government to make it more efficient about enacting legislation to solve the nation's problems. But what if it all gets sliced up and bogged down in the turgid, unresponsive Senate committee system?

The Washington Post, in an editorial January 24, praised the work of the Temporary Select Committee to Study the Senate Committee System for curbing the sprawl of Senate subcommittees which sap the time and energies of Senators.

Now a single Senator may serve on 18 or 20 subcommittees and, if he is a Democrat, chair five or six of these. Under the pending plan, he would be limited, in general, to serving on eight and heading three. In theory, this will enable him to manage his time more sensibly, become more expert in selected policy fields and serve his constituents more effectively. Meanwhile, the public will have a much better idea of who is really responsible for action on non-action in each field. * * * Our overall conclusion is this: The Rules Committee has advanced a useful modernization plan. We urge the full Senate to adopt it this week.

An editorial that appeared December 6 in Business Week, entitled "Overhauling the Senate," noted that:

The Senate's current structure basically follows lines laid down in 1946, when the Federal government was smaller and the problems of society were far different from those of today. Since then, the Senate has adapted to changing challenges by whim, accident, and the ambition and drive of its committee chairmen. At least 12 Senate committees have a hand in environmental legislation. At least 15 have grabbed a piece of energy action. The Energy Research and Development Administration figured last year that it was answerable to 14 standing committees, 2 select committees, and 31 subcommittees on the Senate side alone.

It praised the proposals of the Senate's Temporary Select Committee to Study the Senate Committee System as "on the right track" in bringing these problems to the attention of the Senate and the nation.

The Nashville Banner of December 21 ran an editorial noting that the current committee system is handicapping the work of the Senate by allowing a proliferation of committees beholden to special interest groups. The editorial concluded:

But the Senate as a whole shouldn't overlook the biggest special interest group of all, the millions of Americans who are paying for all this.

The Washington Star voiced similar concern in an editorial October 17, entitled "Removing Senate Bloat." It said:

Among the benefits of the changes recommended (by the Temporary Select Committee) would be a reduction in the Senate's operating costs, or at least a slowdown in the rate of increase. Annual costs of running Congress and its ancillary agencies have nearly tripled in seven years, from $351 million in 1970 to $959 million in fiscal 1977. Removing the bloat not only will improve efficiency, but it ought to make the Senate and the taxpayers feel better.

The Star also pointed out the dangers Senators face if they allow themselves to become bogged down with so many responsibilities that they lose control of their activities.

There are two main dangers in spreading Senators so thin: One, they can give only a lick and a promise to legislative matters that deserve serious consideration; two, they pass so much of the real work to committee

staff personnel that the hired help, rather than the people's elected representatives, are writing the laws.

Besides making it difficult for Senators to exercise their responsibilities, Mr. President, our present committee system has created a wear and tear on Senators and Members of the other body and driven many valued Members of Congress into an early retirement. A record number of Representatives and Senators left Washington—of their own accord in 1976. The Bergen Record, a New Jersey newspaper, said, in an editorial on October 11, 1976, that:

Frustration with the way Congress works was a theme common to the farewell interviews on Capitol Hill. In several cases, that frustration was directly related to an overlapping, confusing committee system that places too many demands on a Member's time and, furthermore, is often counterproductive.

There is growing pressure on the Senate to take action now, before we are overwhelmed with a pressing legislative workload, to remedy some of these problems and respond to the rising public demands on government to do a better job. Marianne Means, writing in the Baltimore News American of October 21, 1976, said that:

Any Senator who has come within a mile of a constituent knows that voters are fed up with an institution in which Members can't get a quorum for votes, won't attend committee sessions, and don't seem very informed on their committee subjects. It is apparent that Congress has no rational, coordinated system for coping with major modern issues.

Mr. President, committee reorganization is a complicated business. It took the Temporary Select Committee many months of intense work to develop viable proposals for the Rules Committee to consider. The public may not understand some of the specifics involved, but our predicament has become so serious that it is obvious to any informed person. As the Washington Post pointed out in an editorial January 14, entitled "Why Care About Senate Reform":

It takes no expertise to understand what's wrong when 33 subcommittees and 16 committees compete in the single area of energy research.

The Post encouraged the Senate to continue its examination of its problems and remedy our "organizational slackness." It also said that:

The institution will have been shaken up somewhat and forced to arrange itself in some better relationship to current—rather than past—politics, priorities and personalities. Moreover, just as reorganization may enable some Senators to look better, it should also identify more clearly who should be held accountable for future failures. From the public's perspective, this is the most important benefit—just as, from the Senate's viewpoint, it is the largest risk.

Mr. President, the press has given the Senate important encouragement in its current reexamination of its internal structure. I ask unanimous consent that the editorials I just cited, plus another from the St. Louis, Mo., Post-Dispatch and an article from the Wall Street Journal, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Jan. 23, 1977]

NEEDED: A QUORUM FOR REFORM

A recent meeting—or rather non-meeting—of the Rules Committee illustrated perfectly the problem of the Senate's committee system. A hearing on a proposal to reorganize the Senate's committee structure had to be called off because so many members of the Rules Committee were tied up in other committee meetings.

That should have helped convince members of the Rules Committee that the Senate's Select Committee on Committees is on the right track in recommending that the number of Senate committees be reduced by half, that the number of subcommittees be chopped by nearly that much, and that senators be prohibited from serving on more than three committees and five subcommittees.

Actually, members of the Senate should need no convincing that the committee system is archaic, unwieldy, overlapping, inefficient and overly expensive, and spreads senators too thin. They knew that was the case when they agreed last spring to create the Select Committee on Committees to study the system and recommend reforms.

But now that the Committee on Committees, headed by Sen. Adlai Stevenson of Illinois, has made its recommendations, the cry, "Whoa, wait a minute!" is sounding through the Senate including the offices of the Rules Committee.

What happened? Baronial senators see their baronies slipping away. Each of the 31 existing committees represents a powerful domain, especially for the senators who chair them. Many senators, even if they aren't chairmen, have slices of several committee turfs. The 176 subcommittees, though smaller, represent even more personal power centers.

Sen. George McGovern, for example, doesn't want to see his Select Committee on Nutrition and Human Needs disappear. After all, it has served him well; its on-the-spot investigations of hunger in America a few years back bounced him into the national spotlight and toward the 1972 Democratic presidential nomination.

Sen. John Stennis of Mississippi doesn't want his Ethics Committee abolished. It might be supposed that his chairmanship of the Armed Services Committee and his membership on the Aeronautical and Space Sciences and the Appropriations Committees, plus chairmanships of various subcommittees of these, would be enough to keep him busy. Nor is there any reason to believe that the Ethics Committee would be sorely missed; its last claim to fame was to pass off the Hugh Scott-Gulf Oil affair as unworthy of investigation.

Several ranking members of the Foreign Relations Committee are upset about a recommendation to take away the committee's jurisdiction over the World Bank and International Monetary Fund and give it to the Banking Committee. Sen. Frank Church complained this would cut "effectively in half" the power of the Foreign Relations Committee. That seems to be stretching it a bit but even if it's so, would it be off base to suggest that maybe the committee would do a better job on the half it would have left?

Senator Church also protests the proposed elimination of the Committee on Aging which he chairs; he contends that the committee gives 22 million Americans over 65 "a home in the Senate they can look to." Sen. James Abourezk protests the elimination of his Interior Subcommittee on Indian Affairs. Various senators and veterans organizations protest abolition of the Committee on Veterans' Affairs.

The list goes on. Senators want to preserve their domains; the lobbies want someone or some unit they can single out to complain to and put pressure on.

The point seems to get lost that reorganization would not mean that the Senate would quit handling legislation dealing with old people, Indians, veterans, the hungry and the rest. The Stevenson committee merely wants to make the system and the individual senators more efficient.

Jurisdiction over energy matters, for example, is scattered among 14 standing committees, 1 select committee, 2 joint committees and more than 40 subcommittees. No wonder Congress can't cope with energy problems.

The Stevenson committees found that senators have an average number of 18 committee and subcommittee assignments, some having 30 or more. How can a senator handle 18 assignments, much less 30?

The Rules Committee, pressured from all sides, has considerably watered down the Stevenson proposals. Among its actions, it has increased the number of subcommittees on which a senator could serve from the five recommended by the Stevenson unit to eight. It has increased the number of committees from the 15 recommended by Senator Stevenson to 20, preserving the Ethics, Veterans' Affairs, Small Business, Joint Economic and Joint Internal Revenue Committees.

The full Senate will want to take a close look at what the Rules Committee has done to the Stevenson proposals. The Stevenson committee is not omniscient; no doubt some changes could be made to improve its recommendations. But it's questionable whether the system would be significantly improved if the Senate goes along with the Rules Committee's alterations.

The Senate probably could do nothing better to help the incoming administration than to reorganize its committee system effectively. The Carter administration is full of optimism about reorganizing the government to make it more efficient and about enacting legislation to solve the nation's problems. But what if it all gets sliced up and bogged down in the turgid, unresponsive Senate committee system?

[From the Washington Post, Jan. 24, 1977]

WHAT'S LEFT OF SENATE REFORM

When we last looked in on the effort to remodel the Senate, the ambitious blueprint drawn up by Sen. Adlai Stevenson's special panel was about to be reviewed by the Rules Committee. The result has been what you might expect when architects' work is gone over by political engineers: A considerable amount of good design has been sacrificed to practical concerns. For instance, under pressure from affected groups, the Rules panel voted not to abolish the separate committees on small business and veterans. There was heavy resistance to consolidating the authority over transportation policy, so that idea was shelved—leaving railroads in the hands of one committee, highways in the custody of another, and mass transit to be managed by a third.

Some key parts of the original proposal have survived. Authority over energy policy is to be pulled together in one place. That is a notable advance. There is agreement on abolishing several panels whose day has passed, including the Joint Committee on Atomic Energy and the District of Columbia Committee, which became a superfluity with the advent of home rule. (D.C. matters will henceforth be handled by a committee on government affairs.) The rules group also resisted appeals to perpetuate the separate

committees on nutrition and on the aging. Those topics would be addressed, as they should be, in connection with related social welfare policies.

In what may be the most significant step of all, the reorganization plan would curb the sprawl of subcommittees—the vehicles most senators use to gain prestige, publicity and extra staff. Now a single senator may serve on 18 or 20 subcommittees and, if he is a Democrat, chair five or six of those. Under the pending plan he would be limited, in general, to serving on eight and heading three. In theory, this will enable him to manage his time more sensibly, become more expert in selected policy fields and serve his constituents more effectively. Meanwhile, the public will have a much better idea of who is really responsible for action or non-action in each field. The theory is impeccable. We'll see how long the self-discipline lasts.

Our overall conclusion is this: The Rules Committee has advanced a useful modernization plan. We urge the full Senate to adopt it this week.

[From Business Week, Dec. 6, 1976]

OVERHAULING THE SENATE

The House of Representatives two years ago made a start toward modernizing itself to cope with the problems of the 1970s. It reorganized its committee structure—although not drastically as it should have—and it broke the hold of the seniority system on committee chairmanships.

Now it is the Senate's turn. The new Senate will meet in January with 18 new members who have no stake in the old ways of doing things. It will have the best chance in decades to update its own committee structure and work habits. It should not let the opportunity slip away.

The Senate's current structure basically follows lines laid down in 1946, when the federal government was smaller and the problems of society were far different from those of today. Since then the Senate has adapted to changing challenges by whim, accident, and the ambition and drive of its committee chairmen. At least 12 Senate committees have a hand in environmental legislation. At least 15 have grabbed a piece of the energy action. The Energy Research & Development Administration figured last year that it was answerable to 14 standing committees, 2 select committees, and 31 subcommittees on the Senate side alone.

In January, the Senate will consider a blueprint for revision of this apparatus. A study panel co-chaired by Senators Adlai E. Stevenson (D-Ill.) and Bill Brock (R-Tenn.)—who ironically lost his reelection bid—would reduce the number of committees to 15. (The total is now 31, including joint committees.) It would also limit the number of subcommittee and committee chairmanships a senator can hold. And it would bring jurisdictions into line with today's issues.

In some respects, the plan goes too far. It would, for example, do away with the Joint Economic Committee, a forum that has been useful in sharpening economic debate, highlighting emerging problems, and providing a skeptical review of the economic forecasts of a succession of Presidents.

But in its fundamentals, the Stevenson-Brock proposal is on the right track. The Senate should adopt all its major elements.

[From the Nashville Banner, Dec. 21, 1976]

THE SENATE BADLY NEEDS TO RESHAPE ITS SYSTEM

Governmental reorganization was one of the key points of Mr. Carter's campaign, dealing with a reshaping of the bureaucratic structure to bring about greater efficiency.

The United States Senate, as well, has a reorganization plan—one that will straighten up its own backyard.

The legislation for reforming the Senate Committee system hopefully will be one of the first items of business taken up when Congress convenes in January. It will reduce the number of Senate committees and at the same time cut back the committee and subcommittee assignments for each senator. It would also realign committee jurisdictions for the first time in 30 years.

The bill is co-sponsored by Sen. William Brock, defeated for reelection, and Sen. Adlai Stevenson, an incumbent. It is the work of a bipartisan committee.

Overlapping committees, vague powers and just too many committees to serve on have handicapped the business of the Senate. The reorganization would reduce the present number of panels from 31 to 15 and reduce individual senator committee seats to no more than eight (the average now is 18). Included in the package are new committees on environment and energy; jurisdiction for the latter issues, as an example, is currently scattered among 14 committees, one select committee, two joint committees and more than 40 subcommittees.

What these recommended limits also would accomplish is a reduction in funds for staffing, housing and other expenses. Such a reduction would be welcomed by the taxpayer, who has seen the costs of the legislative branch—as noted by Sens. Brock and Stevenson—increase from $351 million in 1970 to $959 million for fiscal 1977.

Special-interest groups and, no doubt, some senators may look upon this reshaping of the committee system as a reduction of their own brand of personal clout. But the Senate as a whole shouldn't overlook the biggest special-interest group of all: the millions of Americans who are paying for all this.

[From The Washington Star, Oct. 17, 1976]

REMOVING SENATE BLOAT

A report of the Senate Select Committee on Committees was all but lost in the rush to congressional adjournment a couple of weeks ago. But when the Congress, sometimes called the "bloated branch," returns in January, the report ought to be priority business.

The committee, after five months of study, has recommended a reorganization of the Senate committee system—"the most sweeping change ever seriously contemplated for the operation of the Senate," the committee said.

The bipartisan committee, chaired by Adlai Stevenson, D-Ill., and co-chaired by Bill Brock, R-Tenn., proposed to cut the number of committees from 31 to 15; reduce the number of committee and subcommittee assignments from an average of 18 to no more than 8 per senator, and realign committee responsibilities for the first time in 30 years.

It should have been apparent long ago that few, if any, senators can keep up with 18 committee and subcommittee assignments. And that figure is only the average; some senators hold 30 or more assignments, according to the report.

There are two main dangers in spreading the senators so thin: One, they can give only a lick and a promise to legislative matters that deserve serious consideration; two, they pass so much of the real work to committee staff personnel that the hired help, rather than the people's elected representatives, are writing the laws.

The tendency in Congress has been to appoint a new committee or subcommittee every time a new problem arises. The Stevenson-Brock committee would go in the opposite direction. It not only would reduce the number of standing committees by half but would eliminate nearly half of the existing 176 subcommittees.

Much of the committee growth of recent years has been nothing more than empire building and ego stroking anyway. Committees and subcommittees come complete with chairmen and staffs, and heading one of them carries a certain amount of prestige. Some of those senators with 30 assignments and a committee or subcommittee chairmanship, or two or three, may not have much time to call their own but they ought to have prestige to spare.

That some of the subcommittees are little more than a show was evident in a study last spring by the Library of Congress which said that 28 Senate subcommittees didn't hold a single meeting in 1975 and that almost half the subcommittees held no more than four meetings in 1975.

Realigning committee responsibilities also is long overdue. Senators Brock and Stevenson said that the Senate needs a committee structure that focuses on today's problems and can anticipate tomorrow's, a system that eliminates overlapping jurisdictions and enhances the effectiveness of each senator.

The report found, for example, that jurisdiction over energy matters now is scattered among 14 standing committees, 1 select committee, 2 joint committees and more than 40 subcommittees. The report proposed to centralize responsibility for energy policy in a new Energy and Natural Resources Committee.

A new Environment and Public Works Committee would handle legislation now distributed among a dozen committees. Similarly, related functions would be consolidated in other committees in the pared-down structure.

Among the benefits of the changes recommended would be a reduction in the Senate's operating costs, or at least a slowdown in the rate of increase. Annual costs of running Congress and its ancillary agencies have nearly tripled in seven years, from $351 million in 1970 to $959 million in fiscal 1977.

Removing the bloat not only will improve efficiency, but it ought to make the Senate and the taxpayers feel better.

[From The Baltimore News American, Oct. 21, 1976]

DOES GOVERNMENT WORK?

(By Marianne Means)

The public cry that government doesn't work any more has been heard not only by the two presidential candidates, each of whom is trying to turn it to his own advantage, but—believe it or not—also by Congress itself.

Quietly, without fanfare, the Senate set the stage before it adjourned earlier this month to consider in January its first major institutional reforms in modern history. Similarly, the House Democratic Majority Caucus, which meets in December before the opening of the new term, is also prepared to consider proposals that would continue the reorganization it began two years ago.

Streamlining the congressional system won't solve all the problems of an inefficient government. But it may make it a lot easier to tackle the problem.

A special Senate committee, led by Adlai Stevenson, D-Ill., recommended total reorganization of the sacred committee system, to reduce the present number of such bodies from 31 to 15, and limit the number of committee and subcommittee assignments from an average of 18 per member to no more than 8. It would also eliminate nearly half of the existing 176 subcommittees.

The proposal is expected to be the first order of business when the Senate returns. And it will provoke a big fight.

In the past, two major roadblocks have prevented substantial change in existing committees, no matter how overlapping their jurisdictions nor outmoded their assignments and approaches. The first is the natural politician's instinct to preserve his own turf, which includes not only senators but committee staffers. The second is pressure from special interest lobbyists, who don't want to be forced to make new contacts after years of buttering up and figuring out the old ones.

But the climate is more favorable to change this year. Any senator who has come within a mile of a constituent knows that voters are fed up with an institution in which members can't get a quorum for votes, won't attend committee sessions, and don't seem very informed on their committee subjects. It is apparent to all that Congress has no rational, coordinated system for coping with major modern issues. Three obvious areas are energy, environment and transportation. Jurisdiction over energy, for instance, is scattered over 57 committees and sub-committees.

Furthermore, things are so chaotic that the special interest lobbyists are confused, too. Unions and other major lobbyists are increasingly frustrated by being forced to deal with hundreds of committee members and staffers on one subject.

The major unions, which have been successful in stopping reorganization reforms in the past, have not indicated they will embrace the changes this time, but supporters are hopeful. However, narrowly-based special interest groups, such as veterans' organizations and lobbyists for the aging, have expressed opposition. The veterans and aging committees would lose their independent status under the plan and be merged with others.

There have already been some skimishes. The Stevenson committee failed to merge foreign affairs and armed services—one of which is generally manned by liberals and the other by conservatives. Armed services chairman John Stennis, D-Miss., and foreign relations chairman-apparent Frank Church, D-Idaho, vowed to destroy the whole plan if that happend.

Russell Long, D-La., was similarly persuasive when the committee tried to take health services away from his Finance Committee.

The support of Robert Byrd, D-W. Va., who is expected to become the next majority leader, could be crucial. So far he has not indicated an opinion, and probably will not do so until he is safely elected. However, Alan Cranston, D-Calif., is a co-sponsor of the reorganization; he is currently the favorite to succeed Byrd as majority whip.

[From The Washington Post, Jan. 14, 1977]

WHY CARE ABOUT SENATE REFORM?

Gerald Ford had a point: Congress may be the most bureaucratic branch of government, the one most swollen with staff and perquisites—and scandals—and the one least open to discipline. The President alluded to this in his State of the Union Message, noting that the congressional budget has "passed the billion dollar mark." To many citizens, it adds up to self-indulgence by legislators interested chiefly in re-election, publicity and plums. For anyone holding that cynical view, it hardly matters how the Senate or House is organized. But if you believe, as we do, that members of Congress are there to serve the public interest, then it is worth heeding the scrap over committee reorganization rending the Senate now.

At the heart of the fuss is a plan, drawn by a panel led by Sen. Adlai Stevenson (D-Ill.), to consolidate the present 31 committees and 174 subcommittees into 15 committees and about 100 subcommittees. The purpose, in management terms, is to allocate work more sensibly, pin down responsibility, and enable the Senate to deal more coherently with large sprawling problems like energy, transportation and executive branch oversight. It takes no expertise to understand what's wrong when 33 subcommittees and 16 committees compete in the single area of energy research.

But good government principles do not play a large role in either the Senate's operations or the reorganization fight itself. What matters is power. It wasn't abstract logic, for instance, that kept the Stevenson panel from trying to reduce the Finance Committee's vast domains. The fierce quarrel over whether international banks should be handled in Banking or Foreign Relations has nothing to do with organizational neatness. No theory has led senators to shy away from a comprehensive environment committee. Instead, it's the fact that environmental protection has become a tough and politically unrewarding battleground.

Nonetheless, the reorganization plan has gotten as far as it has—and it has at least a chance of avoiding total dismemberment—because senators feel a growing pressure to legislate seriously and because they see the Senate's organizational slackness as a major barrier. Skeptics may feel that remodeling a structure cannot overcome the effects of endemically sloppy housekeeping and that what consolidation may be achieved will be undermined by the acquisitive instincts and lazy habits of the Senate's 100 individualistic members. New special committees will no doubt be created to replace some of those eliminated. New spheres of influence and new lines of collaboration with agencies and interest groups will be crafted.

Yet the institution will have been shaken up somewhat and forced to arrange itself in some better relationship to current—rather than past—politics, priorities and personalities. Moreover, just as reorganization may enable some senators to look better, it should also identify more clearly who should be held accountable for future failures. From the public's perspective, this is the most important benefit—just as, from the Senate's viewpoint, it is the largest risk.

[From the St. Louis Post-Dispatch, Nov. 12 1976]

REFORM IN THE SENATE

The first order of business when the new United States Senate convenes in January ought to be consideration of a comprehensive plan for reforming that body's committee system, a change that is long overdue; and it will be if Senator Stevenson of Illinois can get the Senate's attention. He is chairman of a temporary select committee that has examined the committee system—the basic mechanism through which the Senate functions—and drafted the proposal to improve it.

Under the Stevenson committee's plan, the number of Senate committees would be cut about in half—to 14 standing and one select committee, a consolidation from the existing 31. Each senator would serve on no more than two standing committees; each would be limited to one additional assignment on a joint, special, select or ad hoc committee, and the subcommittee work would be sharply reduced.

The impetus for the proposal grows out of a realization by many in the Senate that the members are spread too thinly. Some serve on as many as four major committees and 14 subcommittees, and it is humanly impossible to attend effectively to these myriad assignments. But perhaps more important is the problem of fragmentation of committee jurisdiction. For example, various aspects of the nation's energy problem fall among some 40 different subcommittees, making it difficult at times for the left hand to know what the right is doing.

Committee assignments under the proposal would continue to be made under rules set by each of the parties, with Democratic assignments coming from the Democratic Steering Committee and Republican ones via its Committee on Committees. If there were to be changes modifying the principle of seniority, say, they would be by direction of party.

But making the case for reform, as in our judgment the Stevenson Committee has done, is not the same as achieving it. Reducing the number of committees will of course reduce he number of chairmanships, seats of power and perquisites; and in the long run it may well produce a shrinkage in the size of staffs. That will create two constituencies against change within the Senate structure.

The reform may not be acceptable to all outside the Senate, particularly among those with vested interests that tend to be protected, or are simpler to protect, under the present system; it is easier for lobbyists to be effective with a small committee of limited jurisdiction than with a larger one with wider concerns. And it can be expected that those fears will be reflected in the approach some senators take toward the proposals for change.

What is needed now is action by the Committee on Rules and Administration, chaired by Senator Howard W. Cannon of Nevada. Under the procedure that established the Stevenson committee, its recommendations were to pass to the full Senate by way of the Cannon committee. The reform plan was referred to Mr. Cannon's group last Oct. 15, and has not been heard from since.

Mr. Stevenson is still hopeful of favorable action from the Rules Committee, but he has the right to offer the plan from the floor on his own if necessary. That would not be necessary; but if it is, then it is in the public interest, as well as the Senate's, that he go ahead. There will be 18 new senators on hand in January—almost a fifth of that body—and they will have no vested interest in a status quo that surely cries out for modification.

[From the Wall Street Journal, Dec. 23, 1976]

THE BATTLE TO REFORM THE SENATE

(By James P. Gannon)

WASHINGTON.—When Jimmy Carter arrives in Washington to start reshaping the government, he may find that a bunch of old Washington insiders has beaten him to the punch—by reorganizing themselves.

The staid old U.S. Senate, that clubby super-symbol of the Washington establishment, is finally thinking seriously about shaking itself up. A sweeping blueprint for reorganizing the Senate's committee system and consolidating legislative duties has been drafted already, and its supporters aim to make it the first item on the Senate agenda when Congress convenes on Jan. 4.

It ought to be a fascinating spectacle. When the Senate takes up the controversial plan, which has received scant public attention so far, an intense clash involving vested interests and political ambitions will come to a head. The "reform" blueprint would diminish some Senators' power and build up that of others, while threatening the legislative levels of such special-interest groups as veterans, small businessmen, postal workers and the organized elderly. "All hell is going to break loose" when the struggle begins, predicts one top Senate aide.

Besides being good spectator sport, the Senate fight also should provide the first test of the climate for government reorganization in Carter-era Washington. It will

give an early indication of whether the pervasive campaign rhetoric of 1976 about streamlining the government can be translated into political reality in 1977 over the protests of those with a stake in the status quo.

Almost nobody in the Senate disputes the need for some reorganization. In the 30 years since the last major overhaul of the committee structure, the Senate's legislative machinery has been tinkered with and added to on a piecemeal basis, gradually building up a Rube Goldberg contraption of concocted parts, overlapping functions of unworkable complexity.

The 15 standing committees and 44 subcommittees set up in 1946 have proliferated, amoeba-like, into 31 standing, special and joint committees with 174 subcommittees. This means the average Senator has 18 committee and subcommittee assignments, and some have 30 or more. Senators frequently find they are supposed to be at four and five meetings simultaneously, and the Senate finds that numerous rival panels gang up on popular legislative topics, such as energy—where 15 committees and 38 subcommittees share jurisdiction.

"We sometimes end up reinventing the wheel simultaneously in different subcommittees," says Sen. Adlai Stevenson, the Illinois Democrat who headed a bipartisan select committee which has drawn up the reform blueprint. Adds Sen. Robert Griffin of Michigan, the leading contender for Senate Republican leader: "The present situation is just chaos. It's impossible for any Senator to cover all the bases with so many subcommittees."

A CUTBACK OF COMMITTEES

The overhaul plan drafted by the 12-member Stevenson committee would cut the number of Senate committees to 15 from 31, limit to eight the number of committees and subcommittees on which a Senator may sit, and substantially rearrange and consolidate the legislative authority of the committees. The plan doesn't dictate a maximum number of subcommittees, but the limit on each Senator's committee assignments would, in effect, force a cutback to around 100 subcommittees from the present 174.

Abolished, under the plan, would be standing committees on aeronautical and space sciences, Post Office and civil service, veterans' affairs, and the District of Columbia. Several select or special committees, dealing with small business, the aging, nutrition and Senate ethics would vanish, as would joint committees including the atomic energy panel and the joint economic committee. Their authority would be divided up among the remaining committees, whose powers would be enlarged. In the process, dozens of subcommittees would disappear, and more than 300 staff jobs would be jeopardized.

In the tradition-bound Senate, such an assault on the status quo might normally be considered quixotic. But backers of the reform plan think they have a good chance to succeed, due to an unusual coming together of favorable factors. The results of the 1976 elections, the coming turnover in the Senate's top leaders, the growing frustration with the present system and the careful, power-conscious draftsmanship of the Stevenson committee at least bring some significant changes within reach.

The chances of winning a major part of the reorganization package are "excellent," declares Sen. Stevenson, thanks in part to the outcome of November's voting. Eighteen new Senators, the largest freshman class since 1958, are coming to Washington with no stake in the present system, he notes. Furthermore, the election eliminated some potential opponents of the plan by defeating three of the four committee chairmen whose standing committees would be abolished—Indiana's Vance Hartke (veterans' affairs), Wyoming's Gale McGee (Post Office) and Utah's Frank Moss (science).

"This is the best time to do it, perhaps the only time to do it," says Sen. William Proxmire, who thinks the influx of reform-minded newcomers and departure of senior members creates a unique opportunity for reorganizing the system. "I'm for it," adds the chairman of the banking committee, whose jurisdiction would be enlarged by spinoffs from other committees.

The candidates for the vacant Democratic and Republican Senate leadership posts generally have backed the reorganization drive, though none are wedded to all the details of the Stevenson committee blueprint. Since opposing any reform probably would alienate more Senators than it would please, the would-be leaders bidding for the votes of their colleagues are likely to aid the cause, the reform forces believe.

Perhaps the main reason why this reform has a chance, however, is that it doesn't attack the Senate's main power centers and leading power-wielders. Taking a lesson from past failures in congressional reform, particularly a 1974 effort to drastically shuffle committee jurisdiction in the House, the Senate reform forces have shrunk from trying to kill sacred cows.

The Stevenson committee rejected such radical notions as merging the powerful armed services and foreign relations committees into one national security panel, or abolishing the appropriations committee by returning purse-string power to the legislative committees. The logical argument that the finance committee, long a legislative bottleneck, should spin off some of its broad jurisdiction wasn't nearly as convincing as the outright opposition of Chairman Russell Long to any lessening of his committee's powers.

Thus, the Stevenson blueprint leaves untouched the basic legislative authority of many major committees and their powerful chairmen: appropriations, budget, judiciary, armed services, finance and foreign relations. Alienating the likes of Senators McClellan, Muskie, Eastland, Stennis, Long and Sparkman would have been fatal for their effort, the reformers realized.

The support of other Senate chairmen was nearly assured by promising them more power in the reorganization. Under the plan Sen. Herman Talmadge's agriculture committee would gain jurisdiction over small business and economic development legislation; Sen. Proxmire's banking panel would absorb international economic matters: Sen. Henry Jackson's interior committee would get a new name, Energy and Natural Resources, and a broad new mandate over nearly all energy legislation.

NOT MANY LOSERS

Some current committees would cede some jurisdiction to others, but one veteran Senator, looking over the power shuffle, remarks: "There aren't very many losers among the old-timers here."

This reform, then, isn't a power dispersal but a power consolidation. Reform efforts in the House have been aimed at dispersing authority and reducing the powers of committee chairmen, but the thrust of the proposed Senate plan is just the opposite. Sen. Stevenson denies that the plan would create even more powerful Senate "czars," but argues that "a smaller number of more influential chairmen" could manage the Senate better. "I think this place needs a little more management," he adds.

But the losers under the reform plan undoubtedly won't agree, and certainly will fight to preserve their positions. Sen. Stevenson says the opposition so far is less than he expected, but it's possible that it will intensify once Senators return to Washington and really focus on the plan, which was unveiled on the final day of the 1976 session, and was largely ignored in the rush to adjournment.

Some reorganization losers include Sen. Thomas Eagleton, whose District of Columbia committee would be absorbed: Sen. Jennings Randolph, whose public works committee would give up legislative authority over federal highways and economic development, and Sen. Frank Church, whose special committee on the aging would expire. Sen. Quentin Burdick would see his chance to become a chairman vanish with the Post Office committee, where he is in line to succeed Sen. McGee.

Such Senators and various interest-group lobbies are likely to force a series of fights over the reform package. Organizations representing veterans and the elderly already are lobbying to preserve their special committees, and postal workers, small businessmen and space buffs are likely to do the same.

"It could get nit-picked to death," concedes Sen. Gaylord Nelson, who helped draft the reform report. If individual Senators and lobbying groups succeed in pulling out a brick here and a brick there, the entire structure of reorganization might collapse, the reformers fear.

Numerous procedural perils still threaten the reorganization effort. First, the plan must go to the Senate Rules Committee, where opponents are sure to fight it. "The rules committee will knock off the rough edges," but probably will approve a modified major overhaul, predicts one senior Senator. Then the plan might be subject to a filibuster on the floor. But the reformers are encouraged by an informal, bipartisan agreement among Senate leaders that new Senators won't be appointed to the old committees until the Senate considers the reshuffle, no later than Jan. 19.

By Inauguration Day, then, Jimmy Carter should have the first solid evidence that Washington is ready for reform—or more comfortable with the status quo.

GENOCIDE VERSUS HUMANITY

Mr. PROXMIRE. Mr. President, the United Nations defined genocide as "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such."

Six million Jews, among other groups, were brutally exterminated during the 1930's and 1940's. The sheer terror of mass murder, concentration camps, SS guards, and forced labor showed the world that Nazis did not know the meaning of the word "humanity."

Worldwide revulsion toward genocide was obvious during World War II. This revulsion grew and came to a head in 1948, when the Convention on the Punishment and Prevention of the Crime of Genocide was unanimously approved by the United Nations. America played an important role in fashioning this treaty. Almost 30 years have passed since then. Over 80 nations have ratified the Genocide Treaty. But my colleagues here have failed to ratify the treaty.

We must ratify the Genocide Convention. If we do not, the nightmares and memories of 6 million Jews and countless soldiers will weigh on our minds. There are not many survivors of the German concentration camps, but I am sure they would be uplifted by the Senate's decision to ratify the Genocide Convention.

Concentration camps were not a fluke of history. Genocide is a part of almost every civilization. What happened during the Crusades and the Inquisition are two examples that come quickly to mind, but what about the 15 million killed in the colonization of South America, the 1.5 million Armenians murdered by Turkey in 1915, and the massacre of American Indians by pioneers and the U.S. army? It is foolish to think genocide will not appear again, especially if the Genocide treaty is not ratified. The United States is the greatest country in the world. The pressures of the greatest country in the world could make a potential wrongdoer think before committing genocide. Only if the Genocide Treaty is ratified would these pressures exist.

Men still use weapons, not words, to settle differences. Mr. President, I urge my colleagues to use words. I strongly urge that the Genocide Treaty be ratified in this session of Congress.

LAME-DUCK ADMINISTRATION SLASHES AVIATION FUNDING LEVEL FOR THE LAST TIME

Mr. CANNON. Mr. President, the Ford administration's fiscal year 1978 budget makes a final, last-minute attempt to thwart the Airport and Airway Development Act Amendments of 1976 (Public Law 94-353), so recently approved by Congress. In short, it reneges on promises made on behalf of that administration that the minimum funding requirements of the new statute would be observed. Unfortunately, the severe funding cutbacks proposed for the airport development aid program (ADAP), and airport planning grant programs (PGP), in the outgoing President's budget can be added to a long list of actions and inactions of that administration showing its lack of understanding of, interest in and commitment to, our civil aviation system's needs.

Although Congress and the White House last summer agreed on a $555 million level of airport aid for fiscal year 1978, entirely from the Aviation Trust Fund, the budget sent to Congress last week blithely sidesteps the administration's moral commitments for full funding made to the Congress and, specifically, to the Senate Subcommittee on Aviation.

Only $475 million is proposed for airport aid, a cutback of a critical $80 million funding ($75 million for development and $5 million for planning). This deceitful maneuver clearly is designed to force President Carter into increasing the Ford budget "deficit" by $80 million just to honor the commitment to observe current services budget levels as specified in the 1976 aviation funding statute.

Beyond the gimmickry of the outgoing administration's budgetary maneuvers, which hopefully will be reversed by congressional action, the proposed ADAP program cutback is well-nigh unconscionable in two specific respects:

First, the Ford budget proposes to take the shortfall entirely from one-third of the ADAP funding formula which is distributed to communities at the discretion of the DOT Secretary. Tragically, this will impact most severely on the Nation's smaller air carrier airports whose need for discretionary funds is greatest. It is my understanding that the Nation's major jetports, whose ADAP requirements can be met largely through their enplanement formula shares specified in the act, are as concerned over the administration's starvation of ADAP discretionary funds as are the more numerous smaller airports whose ADAP funding formula shares are small because their passenger levels are low. In fact, affected parts of the aviation community appear to be unanimous in their opposition to this executive branch distortion of the new statute, and in support of full obligation of the ADAP discretionary funds, to help smaller communities.

Second, and even more disruptive, is the adverse cumulative effect of the Ford administration's attempts over the last year to increase rather than to minimize instability of the airport capital development program authorized in the Airport and Airways Development Act.

A review of the Ford administration record will document its total disregard of the 1976 authorization statute.

The ink from the Presidential signature on the ADAP Amendments of 1976 was not yet dry this summer before the Ford administration urged a $62.5 million cutback from the airport program authorization for fiscal year 1976 and the transition quarter.

That reduction of fiscal year 1976 ADAP obligational authority from the $500 million authorization to $437.5 million has totally frustrated the new airport grant program funding distribution formula so carefully worked out by the Congress in an effort to treat all airport communities fairly, in proportion to their airport safety, capacity, and facility needs.

While $416 million was obligated to air carrier and general aviation airport sponsors in fiscal year 1976 and the transition period, fiscal year 1976 sponsor and State apportionments totaling $82.6 million were carried forward into fiscal year 1977. Thus, in the current fiscal year, the $510 million ceiling successfully urged by the Ford administration on the fiscal year 1977 program will require sponsors with carry-forward fiscal year 1976 apportionments to compete for limited obligational authority with all sponsors with fiscal year 1977 apportionments and with all airports requesting discretionary funds.

Congress did not intend there to be competition for the obligational authority specifically apportioned by the statute to identified airport communities. Neither did Congress intend the discretionary funds—central to the shaping of a national airport system—to be slashed. In the view of the Senate Aviation Subcommittee, the new statutory formula will not work equitably if either of its components is reduced below the authorization level.

And finally, as explained earlier, the Ford administration has made the situation even worse by its recommendation for slashing the ADAP program in the fiscal year 1978 budget.

It is my hope that the Appropriations Committees, at the earliest opportunity in the supplemental appropriations process, will increase the $510 million fiscal year 1977 administrative ceiling on ADAP obligations so that the 1976 act's distribution formula will no longer be frustrated by the Office of Management and Budget, and so sponsors will not have to compete for funds which were apportioned to them alone or to petition for evaporating discretionary moneys.

Mr. President, the fiscal machinations played by the Ford administration on this issue, and others important to all of civil aviation, have been most distressing. I hope that, with President Carter's inauguration, the predictability and availability of critical airport grant funds will become assured, particularly since they are user generated.

VIETNAM-ERA VETERANS UNEMPLOYMENT

Mr. HART. Mr. President, the new administration has demonstrated an excellent sense of priorities in announcing yesterday plans for an all-out campaign to end high unemployment among Vietnam-era veterans. Veterans today, particularly the young Americans who served in the war, deserve to be honored, yet they have been largely neglected and ignored by our Government.

Over a half million men and women who served during the period of one of our greatest national tragedies are unemployed today. The unemployment rate among these individuals remains well above the national unemployment rate of 7.9 percent, and in some categories of veterans, it reaches up to 2½ times that figure. That we have not made the effort to find jobs for those who have sacrificed, especially the disabled veterans, is disgraceful, and I am pleased that remedial action is now finally going to be taken.

In recognizing the importance of this announcement, I should stress the need to make a special effort in reducing unemployment among disabled and minority veterans. The disproportionately large contribution served by minorities in the war effort, which is reflected in the extraordinarily high unemployment rate among minority veterans, requires an exceptional effort on the part of the Government to address their postservice employment needs. Our immense debt to those who suffered bodily harm in the course of serving their country, is self-evident.

Finally, I want to emphasize that the action which the new administration is contemplating should be broad enough to serve veterans of all ages who served in Indochina. While it is evident that the need is greatest among veterans between the ages of 20–24, our obligation to help older Vietnam veterans is no less important.

RECORD COLD, FUEL SHORTAGE MAY CLOSE SCHOOLS

Mr. PELL. Mr. President, in the past few weeks, we have suffered through one of the coldest winters on record. Record low temperatures have been set in the North and East, and the ill effects have been felt in the Southern States as well. The damage done by this harsh weather will cost us millions to repair, and the cost of simply carrying on day-to-day business will cost us extra millions.

Everywhere we look, now, the picture is the same. It is grim. The cost of energy has spiraled, the need for energy has doubled and redoubled, and this shock threatens many industries, public services, and, indeed, the national economic recovery.

I am concerned with another effect of this problem. That is the threat this crisis poses to our schools and universities and to the students in them. This threat is not hard to measure. It is painfully easy to see. Simply, schools and colleges across the Nation are facing a strain on their budgets that, for many, is too hard to bear.

We have all heard about how education administrators across the Nation are instituting desperation programs to cut fuel costs—shorter hours, longer winter vacations, and the like. That is just a start. What we are confronted with now is the prospect of a massive shutdown in schools throughout the Nation, and that is a prospect which we cannot allow to happen.

It is easy to refire a boiler which has been shut down. It is a simple matter to reheat a building, or to turn on a light that has been turned off. Education, however, is not such an easy thing to control. It is not a lamp that can be turned on and off at will. I fear that in making these economies, we will snuff out services and dim every student's education. That would be a terrible loss. It would be an irredeemable loss.

So, I intend to propose a bill early next month to help schools and colleges deal with this energy problem.

Finally, I ask unanimous consent that an article from Education Daily, a respected newsletter in the field, be printed in the RECORD to point out how severe this problem is.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RECORD COLD, FUEL SHORTAGE MAY CLOSE SCHOOLS

Ohio Gov. James Rhodes has ordered schools in 24 southern Ohio counties to close down for 30 days starting Feb. 1 as the result of acute fuel shortages brought on by the record cold wave. Rhodes' "energy emergency" order issued last week could close schools for about 150,000 public school students unless state officials and local school administrators can come up with a compromise solution.

"As much chaos as I've seen in 40 years," says Dayton school superintendent John Maxwell of the situation that could lock out 40,000 Dayton students next week. Maxwell says schools are now being heated with about 1.2 million gallons of propane after gas supplies run short in areas serviced by the Dayton Power and Light Company. Rhodes also requested that other school districts around the state voluntarily close doors this month to conserve dwindling supplies of natural gas but made compliance voluntary elsewhere.

CHAOS

Maxwell said Friday he was still waiting for a written order from the governor's office but said he would "do everything to cooperate" with state officials in carrying out the mandate. Maxwell adds, however, that the governor may have not considered the question of teachers' salaries during the period or the status of parochial schools who are not directly affected by Rhodes' order but whose students depend on public school transportation services.

Spokesmen for the Dayton Power and Electric Company said they were "very much in agreement" with the governor's order and suggested that closings could even be extended until March 19, when their winter allocation of natural gas runs out and a new allocation begins. With domestic customers and health and human welfare services now getting priority, officials say they must protect the reserves they have left until fresh allocations become available. "There are no other supplies anywhere else," said one official.

PENNSYLVANIA SCHOOLS ALSO FREEZING

School districts in northern and western Pennsylvania have also faced sporadic closings, following requests by the state Department of Education to cut back on fuel consumption. Two fuel companies servicing school districts in Allegheny, Erie, Mercer, Warren, McKean and Crawford counties have run seriously short of natural gas, and schools there have been asked to consolidate classrooms and keep temperatures down to a chilly 55 degrees—the "maintenance level" needed to keep pipes from freezing. Governor Milton Shapp has issued an "acute energy shortage" proclamation but has left schools closings up to individual districts.

LEGISLATIVE RELIEF

Energy officials have long complained that part of the problem facing local gas utilities is Federal restrictions on transfer of natural gas supplies between states. Some state pipelines have been forced to run dry rather than replace their supplies with gas from cost-prohibitive "intrastate" lines Under a proposal introduced this week by Rep. James Broyhill, R–N.C., price restrictions on gas crossing state lines would be lifted for a period of 180 days.

The new White House is looking also at the energy crunch brought on by the unusually cold winter. On Friday, officials of the Federal Power Commission and Sen. Adlai Stevenson D–Ill., chairman of the Senate's natural gas subcommittee, met with Carter energy coordinator James Schlesinger and representatives of the Interstate Natural Gas Pipeline Association to discuss energy proposals, including one for voluntary exchange of natural gas supplies between states.—DF

THE INTELLIGENCE COMMUNITY AND THE NEED TO ENACT LEGISLATION

Mr. CHURCH. Mr. President, on last November 16, Mr. F. A. O. Schwarz, Jr., who served as chief counsel for the Select Committee to Study Governmental Operations With Respect to Intelligence Activities, delivered an important address to the Bar Association in New York City.

The powerful statement he made underscores the urgent need for Congress to act on the recommendations of the select committee which resulted from its 16-month investigation of the most serious abuses in the CIA, the FBI, the IRS, and other intelligence and law enforcement agencies of the Federal Government.

The findings of the select committee filled seven volumes of published reports. The multiple remedies proposed were 96 in number. Only one of them has yet been acted upon; namely, the establishment of a permanent Senate Intelligence Committee, to which we must now look for further action in bringing about the comprehensive reform that was demonstrated to be so necessary.

As Mr. Schwarz correctly observes in his lucid and succinct remarks:

Unless we now enact remedial legislation in light of our experience history will repeat itself. The abuses will return. And as the technology necessary to Big Brother Government is getting better and better it will be worse next time.

Executive orders are not enough. They have been tried before; and they have failed before.

Because of the importance I attach to this remarkable address, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY MR. F. A. O. SCHWARZ

PROLOGUE

Lawyers in this country have the privilege of being on the front lines of a great continuing battle between powerful conflicting ideas.

Throughout our history there has been a constant tension between national security and individual liberty, between the right of the majority to rule and the right of the minority to dissent, between the need for knowledge and the need for privacy. Our intelligence agencies, which are charged with protecting our national security and securing needed information for the government, have been found to violate our liberties, our right to dissent and our privacy.

In considering what our intelligence agencies should be allowed to do, it is again necessary to focus upon conflicting values. Charges of excess in the name of national security are, of course, not a new problem in this nation. Shortly after the bill of rights was adopted the Congress passed the alien and sedition laws, making it a crime to criticize the government. Hundreds of citizens were prosecuted for anti-government statements during World War I, and thousands of radicals seized for deportation during the Palmer raids after the war. During World War II over 100,000 Japanese Americans were incarcerated in detention camps.

All these causes and cases raised the inevitable tension between national security and individual liberty. So does the intelligence issue today. But there is a fundamental and vitally important difference between the historic examples I gave and questionable intelligence activity.

Intelligence activity is generally covert. It is usually concealed from its victims. The victim may never suspect that his misfortunes are the intended result of actions taken by his government. Accordingly, victims have rarely been able to challenge governmental intelligence power in the courts. Moreover, the government's intelligence program has never been described in statutes, and has seldom been disclosed in explicit executive orders. Thus, in the past, the American people as a whole never knew enough of the facts to have an opportunity to judge whether their government was exercising its intelligence powers in a legal, moral, or sensible way.

But now we do know. At least our committee believed that—

"What some suspected and others feared has turned out to be largely true—vigorous expression of unpopular views, association with dissenting groups, participation in peaceful protest activities, have provoked both governmental surveillance and retaliation."

We now know enough to realize that the Watergate scandal was only the tip of the iceberg. The Ellsberg burglary, the Plumbers, the bugging and attempted intimidation of journalists culminated three decades of flouting the law and ignoring the constitution by major Federal law enforcement and intelligence agencies.

What happened was, I believe, the inevitable result of ignoring the wise restraints devised by our Founding Fathers in their effort to keep the people free. They knew that the natural tendency of government is to abuse its powers. They knew that excessive secrecy increases that risk. They knew, as Madison put it in the 51st Federalist, that men are not angels and that since they are not, both external and internal controls upon government are necessary.

FACTS

What has our secret Government been doing?

Let me give you some of the facts. I will use the words of the intelligence officials themselves, written down when they were sure they would never be seen by outsiders—certainly not by a senatorial committee. For example, in the late 1960's the FBI sought to increase tension among rival black groups, going so far as to try, under the Cointelpro program, to provoke killings. Listen to the San Diego FBI office boast about how our most respected law-enforcement agency was fomenting violence:

"Shootings, beatings, and a high degree of unrest continues to prevail in the ghetto area of southeast San Diego. Although no specific counterintelligence action can be credited with contributing to this overall situation, it is felt that a substantial amount of the unrest is directly attributable to this program."

In the 1950's and early 1960's the CIA experimented with drugs such as LSD. That's not so surprising. But they experimented with unsuspecting victims—or, in the sterile jargon of the intelligence community, unwitting subjects. This policy led to at least one death. Listen to Richard Helms justify the decision to go forward:

"While I share your uneasiness and distaste for any program which tends to intrude on an individual's private and legal prerogatives, I believe it is necessary that the Agency maintain a central role in this activity . . . I therefore recommend your approval for continuation of the program."

Note those sanitized words: "Uneasiness," "distaste," "intrude"—bleached, lifeless words about stark realities of death and lawlessness.

Such words, which conceal crime, and hide violence, ran through every agency that we examined. Thus:

The CIA labeled the risk of getting caught at the criminal business of opening the mail as its "flap potential."

The FBI called its burglaries "black bag jobs" and the fruits of a burglary were called information from a "sensitive and highly reliable" source.

Words like "national security" and "foreign intelligence" became the justification for reports on telephone calls made by people like Eleanor Roosevelt, journalists, the chairman of the House Agriculture Committee, White House aides and Supreme Court Justices William Douglas and Potter Stewart. Those broad words were similarly used to justify opening the mail of organizations like the American friends service committee and of many professors at Harvard University. Hundreds of such examples led our committee to conclude, without dissent, that—

"The imprecission and manipulation of . . . labels (such as national security), coupled with the absence of any outside scrutiny, has led to . . . improper use (of techniques like taps, bugs and mail opening) against American citizens who posed no criminal or national security threat to the country."

Words were simply turned upside down. Thus, the Bureau officially classified the nonviolent Southern Christian leadership conference of Dr. Martin Luther King as a black nationalist hate group. And Dr. King was described as the "most dangerous Negro leader in the country" who should be destroyed because he "might abandon" his allegiance to nonviolence.

When the intelligence agents themselves planned violence, many had a hard time using simple, honest Anglo-Saxon words to describe what they had done. They preferred euphemisms. Thus we examined many witnesses who had been involved in the efforts to assassinate foreign leaders such as Fidel Castro of Cuba and Patrice Lumumba of the Congo. Very few—indeed I can't remember any—could bring themselves to use words like "assassinate", "murder" or "kill". Instead today, just as in the contemporaneous documents, they would say "dispose of" or "get rid of" or "eliminate" or some such euphemistic circumlocution. (One cannot be sure, of course, but my belief is that failure to call dirty business by its rightful name increases the chance of dirty business being done.)

A good index to what our committee found most troublesome is the fact that our first major finding and our first recommendation deal with the same subject—contempt for the law and the constitution.

As an illustration of the wide range of lawlessness that we saw let me describe FBI activities in the city of Chicago around the time of the Democratic Convention in 1968.

A general instruction had earlier been given to Bureau field agents to use "misinformation" to disrupt demonstrations. (Misinformation is another one of those euphemisms.) In Chicago the bureau got forms which antiwar demonstrators were to use to find housing, and filled them out with false addresses. The Bureau boasted that this caused "long and useless journeys."

The Bureau illegally obtained the tax returns of one of its "targets" and then tried to provoke an IRS investigation for the express purpose of deterring the targeted protest leader from attending the convention.

These tactics, violative of the first amendment, were mild indeed compared to what the Bureau tried to do to the Black Panthers in Chicago at around the same time. Here, the committee believed the only fair conclusion from the evidence was that the Bureau, the FBI, sought to provoke mayhem and murder.

Besides the Panthers, there was another gang in Chicago called the Blackstone Rangers. That group and its leader were believed, in the words of the FBI, to be "violence prone—To whom violent type activity—shooting and the like—is second nature." Given that assessment, the Bureau decided to send a fake letter to the Blackstone Ranger leader Jeff Forte warning him that the Panthers had "a hit out for you." The reason put forward to justify sending such a letter was:

"It is believed the above may intensify the degree of animosity between the two groups and occasion Forte to take retaliatory action."

William Sullivan, the man who for many years ran the FBI's intelligence division, testified in almost the same terms:

". . . never once did I hear anybody, including myself, raise the question: 'Is this course of action which we have agreed upon lawful, is it legal, is it ethical or moral.' We never gave any thought to this line of reasoning, because we were just naturally pragmatic."

"Pragmatic" needs were believed not only to override statutory law but also to override plain decency and morality. Once again the intelligence community's own words provided the best proof. Listen to the cable of the CIA official in charge of Africa praising an agent as well qualified to participate in the CIA's program directed against Patrice Lumumba:

"He is indeed aware of the precepts of right and wrong, but if he is given an assignment which may be morally wrong in the eyes of the world, but necessary because his case officer ordered him to carry it out, then it is right, and he will dutifully undertake appropriate action for its execution without pangs of conscience. In a word, he can rationalize all actions."

Thus far I have concentrated upon improper tactics. Those tactics are foreign to our best traditions. That is so whatever one thinks of the targets. Of course the government had the right and duty to be concerned with, for example, any lawless acts done by the black panthers or the Ku Klux Klan. But it had, I submit, *no right* to try to foment deadly gang warfare against the panthers. And it had *no right* to send dirty anonymous letters to the wife of a Klan leader seeking to break up their marriage.

It would be a grevious error, however, to believe that the government's intelligence net reached out only to get extremists of the left or right. In fact, it touched hundreds of thousands or ordinary, law-abiding Americans.

An excellent example is the FBI's broad scale investigation of what it called the "Womens Liberation Movement." Meetings of women all over the country were infiltrated and voluminous reports filed on their beliefs. And once this spying started, it just kept on going in blind disregard of its total irrelevance to any lawful governmental interest. Thus one lengthy report concluded that the purpose of the infiltrated women's gathering had been to "free women from the humdrum existence of being only a wife and mother." Based upon that was the investigation stopped? No. The recommendation was to keep on investigating.

In the topsy-turvy world of intelligence it often seemed that suspects were guilty until proven innocent. Thus, a prominent New York City civil rights leader and advisor to Martin Luther King, Jr. was investigated on suspicion that he might be a communist "sympathiser." The N.Y. field office concluded that he was not. But bureau headquarters ordered that the investigation continue. Under the theory of guilty until proven innocent, Director Hoover stated:

"While there may not be any evidence that—is a communist, neither is there any substantial evidence that he is anti-communist."

Similiarly, the NAACP was infiltrated by government informers for 26 years. The socialist workers party has been infiltrated by government informers for 40 years—even though the bureau officials concede that it has not committed any crimes and that its rhetoric falls short of incitement to violence. And when I asked the man in charge of that investigation what sorts of information was passed back to the FBI about the socialist workers, he replied that it included their political positions on the "Vietnam War", on "Food Prices", on "Racial Matters", on "U.S. Involvement in Angola" and on any SWP ef-

forts to support a non-SWP candidate for office.

That's a pretty wide net. The numbers of people effected are further proof of how pervasive the government's surveillance network became.

The FBI opened over 500,000 domestic intelligence files, each of which typically contains names of several individuals.

The National Security Agency (NSA) obtained copies of millions of international cables. Indeed from 1947 until 1975 it obtained every single cable sent by businesses or individuals from this country to overseas locations.

The Army investigated some 100,000 Americans for political reasons between the mid-1960's and 1971. (These included such vitally important matters as a catholic priests' conference on birth control in Colorado, and a Halloween party of Washington, D.C. school children which was investigated because the army suspected a local "dissident" would be present.)

The CIA's illegal mail opening program produced a computerized index of nearly 1.5 million names. Among the persons who had their letters opened were John Steinbeck and Senator Frank Church. Perhaps the most ironic discovery we made was that during the 1968 campaign the CIA opened a letter passing between a speech writer and Richard Nixon.

Against these huge numbers the FBI's list of 26,000 citizens to be rounded up in the event of a national emergency pales by comparison. But how broad the bureau's version of the threat was perceived to be is illustrated by two of the names on the list—Dr. King and Norman Mailer. Mailer made it on a lock-up list which should be of particular interest to persons in this room. It was the special detention list of persons who would have to be locked up because of their "subversive associations and ideology". This list included:

"Professors, teachers, and educators; labor union organizers and leaders: writers, lecturers, newsmen and others in the mass media field." And finally it included scientists, doctors and lawyers.

The litany of lawlessness is long indeed. But let me pause to provide some understanding for the difficult problems of the men and women who work for our intelligence agencies. The Government gave them assignments which were in many ways impossible to fulfill. They were expected to predict or prevent every possible crisis, to respond immediately with information on any question, to act to meet all threats, and to anticipate the special needs of Presidents. Under that kind of pressure is it any wonder that they cut corners. And it's perhaps not surprising that they resent being chastised for their zeal.

But, understandable or not, it is time to get the FBI out of politics and back to law enforcement. We need a strong and trusted FBI doing that work: we don't need them checking upon our politics. It is time to get the CIA, back to its lawful missions and out of foolish dirty tricks. It is time above all to see that all the intelligence agencies stop violating the rights and privacy of American citizens. It is time that they stop breaking the law. And it is time for them to start, in the words of the oath of office, to "preserve, protect and defend" the Constitution.

But none of those changes will be made effectively or with any degree of permanence unless we heed the lessons of recent revelations.

First, it would be a mistake to assume that the errors were the work of a few bad men. Richard Nixon and J. Edgar Hoover make convenient villians. But the truth is that no single man, no single party, no single administration was the cause. The problems have developed over the course of all administrations since Frank Roosevelt's. And many very decent men instigated or knew about intelligence abuses. And so the problem is much deeper than a few bad men.

Second, we cannot draw a neat line between our behavior overseas and our behavior at home. The cynical attitudes underlying CIA dirty tricks abroad necessarily seep back home. [Inevitably, in MacBeth's words, the invention returned home to "plague the inventor."] As a former assistant FBI director put it, Americans "brought home" the tactics of wartime and applied them against domestic dissidents. [Since the 1940's America has thought of itself as facing enemies. I suspect that the prolongation of crisis is particularly hard for constitutional democracies.]

Third, a general lesson should be drawn from the fact that every intelligence program we looked at started with investigating or harassing targets who were at the fringes of lawabiding society, and then moved progressively further toward main stream dissidents, and finally began to cover ordinary citizens. Thus, the cointelpro program started with harassing the U.S. communist party and ended by harassing hippies. Similarly, the CIA mail opening program was initially advocated as a way to catch foreign spies and ended by checking up on organizations like the American Field Service.

Tom Charles Huston, coordinator of the infamous Huston plan whereby CIA and other intelligence agencies sought official sanction for lawlessness, put it well when he criticized his own earlier efforts. There is, he testified to us, the risk that governmental surveillance would

"Move from the kid with a bomb to the kid with a picket sign, and from the kid with the picket sign to the kid with the bumper sticker of the opposing candidate. And you just keep going down the line."

Fourth, perhaps the most important lesson of all is that government is going—inevitably and necessarily I submit—to keep on going down that line once it departs from suspected violation of the law as the only legitimate ground to investigate Americans. We should return now to the wisdom of Attorney General Stone who in 1924 told the Bureau it should not be

"Concerned with political or other opinions of individuals. It [should be] concerned only with their conduct and then only with such conduct as is forbidden by the laws of the United States."

[For,

"When a police system passes beyond those limits, it is dangerous to the proper administration of justice and to human liberty, which it should be our first concern to cherish."]

Fifth, abuse thrives on secrecy. Public disclosure of matters such as the names of intelligence agents or the technological details of collection methods is, I believe, inappropriate. But in the field of intelligence, secrecy was extended much further. It served to inhibit review of the basic programs and practices themselves. I believe that if the excesses had been known the good sense of the American people would have stopped them. I am sure all those fine officials would not have sanctioned the programs had they known they would be exposed.

Sixth, the inherent dangers of excessive secrecy were compounded in the field of intelligence by consistently muddled responsibilities. Our witnesses constantly confronted us with a bureaucratic shell game. High level officials repeatedly disclaimed knowledge of improper or illegal activities—and suggested that agency personnel were concealing their own nefarious acts. Lower officials consistently said they had the tacit approval of their superiors—and suggested the superiors were dissembling about their responsibilities. We found both accusations to be true at times. But we found in all cases that the authorization and responsibility facts were confused. It seems likely that both bosses and operatives found that useful: it is certain that ambiguity as to authorization increases the risk of abuse.

Seventh, while interference with constitutional and legal rights is the paramount concern, intelligence agency abuses are also wasteful, inefficient and silly. They make it harder to get far more important jobs done. Consider just one fact:

(1) For fiscal 1976 the FBI budget includes twice as much money for informers in its domestic security intelligence program as it budgeted for informants against organized crimes. That doesn't make sense.

And consider further how dangerous it is when an intelligence agency lets its political bias affect its public pronouncements or private advice. The FBI did that. Thus, for example, we discovered that the FBI's internal documents discounted as an "obvious failure" the attempts by Communists to influence the civil rights movement. Yet Director Hoover's public congressional testimony characterized Communist influence on the civil rights movements as "vitally important." The same sort of distortion occurred in the FBI's private advice to President Johnson about the anti-Vietnam war movement.

Eighth, lawlessness by the government breeds corrosive cynicism among the people and erodes the trust upon which government depends. As Mr. Justice Brandeis put it "Crime is contagious."

It is time now to reaffirm that in this country we have no sovereign who stands above the law. It is time to decide that all the rationalizations which have been fashioned to immunize intelligence activities from the restraints of the Bill of Rights and from the specific prohibitions of the criminal code are dangerous delusions. It is time to get back to the rule of law.

Ninth, in doing so, and in fashioning remedies, it is useful to remember that none of the branches of government acquitted themselves with particular glory in the field of intelligence. It is true that the growth of intelligence activities mirrored the growth of presidential and executive powers generally. For decades Congress, the press, the courts and the public accepted the notion that intelligence was the exclusive prerogative of the Chief Executive and his surrogates. It was exempted from the normal system of checks and balances.

Congress has now awoken to its responsibilities. That is welcome. But in considering whether the current vigilance of Congress is a sufficient remedy we must not forget the lessons of history. As one intelligence official testified about a particular Congressman pushing for more investigations in the late 1960's, Congress has often said, in effect, "to hell with the first amendment". And it is well to remember that when the Founding Fathers wrote the restraints of the first amendment, they began by saying "Congress shall make no law."

And so I suggest that in enacting laws to prevent future abuses we would do well to heed the wisdom of those who set "ambition against ambition", and who, fearing abuse of governmental power, not only created a system of checks and balances but added a bill of rights as a further precaution.

The fact is that multiple remedies are necessary. Our committee proposed 96.

Tenth, and finally, it is clear to me that unless we now enact remedial legislation in light of our experience history will repeat itself. The abuses will return. And as the technology necessary to big brother govern-

ment is getting better and better it will be worst next time.

Executive orders are not enough. They have been tried before; and they have failed before. Attorney General Stone curbed the bureau after the Palmer raids. He limited it to enforcement of the criminal law. But when crisis next was felt at the advent of World War II the Government secretly got back in to the realm of ideas. And it was all down hill from then until Watergate.

* * * * *

We can learn from this experience. I believe we will, if people like you don't forget the facts and push for reform now.

I do not believe that the lawless, arrogant conduct upon which I have touched tonight represents the real American character. That conduct does not reflect the ideals which have given the people of this country, and of all the world, hope for a better, fuller, fairer life.

The United States must not adopt the expedient tactics of the totalitarians. Means, lawful means, are as important as ends. Crises make it tempting to ignore the wise restraints which keep men free. But each time we do so; each time the means we use are wrong, our inner strength, the strength which makes us free, is lessened.

The story is sad, but the people of this country have the strength to hear the story and to learn from it. We must remain a people who confront our mistakes and resolve not to repeat them. If we do not, we will decline; but if we do, our future can be worthy of the best of our past.

SELECT COMMITTEE SUMMARIES OF COMMITTEE SYSTEM REORGANIZATION AMENDMENTS OF 1977

Mr. KENNEDY. Mr. President, during the course of the Rules Committee's consideration of Senate Resolution 4, the committee reorganization proposal, the staff of the Temporary Select Committee To Study the Senate Committee System has published a daily newsletter summarizing the developments on the proposal and keeping each Senate office informed of the actions taken on this far-reaching reform.

This newsletter, called the Committee Reorganization Telegraph, has become an efficient and invaluable aid to all of us interested in reform of the committee system. The detailed summaries of the debates and actions in the Rules Committee provide a helpful analysis of the many complex issues and considerations involved in the debate. I commend Senators STEVENSON and PACKWOOD and the staff of the Select Committee, not only for this imiginative innovation in keeping the Senate informed, but also for their skillful and professional preparation of the newsletters. I hope that other committees will consider similar innovations in helping to keep the Senate informed on other major issues as they unfold.

Mr. President, the newsletters are an extremely useful record of the debate so far. I ask unanimous consent that the Committee Reorganization Telegraphs, numbered 1 to 18, may be printed in the RECORD.

There being no objection, the Telegraphs were ordered to be printed in the RECORD, as follows:

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 1

December 29, 1976.

IMMEDIATE HEARINGS AND FLOOR DEBATE IN JANUARY

The Committee on Rules and Administration will hold hearings Jan. 5 and Jan. 7 on committee reorganization proposals of the Temporary Select Committee to Study the Senate Committee System. Chairman Cannon announced the hearings in a letter to Senators Dec. 15.

It is understood that Senator Stevenson, chairman of the bipartisan Select Committee, and Senator Packwood, with co-sponsors, will submit a resolution stating the recommendations, with several modifications, when the Senate convenes Jan. 4, in the expectation that the Senate will refer it to the Committee on Rules and Administration with instructions to report not later than Jan. 19. It is further understood that immediate consideration of the Rules Committee report will be sought and that, in the meantime, existing committee vacancies will not be filled.

A letter soliciting cosponsorship of the resolution, a description of the modifications, and the text of the resolution were delivered to the offices of Senators' staff on Dec. 28. Staff of Senators who wish to cosponsor the resolution may telephone Gayle Fitzpatrick at the Temporary Select Committee, 4–1848.

DOCUMENTS AVAILABLE

The Temporary Select Committee reported its recommendations on the structural questions of committee reorganization Sept. 29. (See Congressional Record of Sept. 30, pp. 34016, 34027, 34038.)

Under a unanimous consent order, Senators Stevenson and Brock, with others, submitted S. Res. 586 on Oct. 15, stating the Committee's propcsals as amendments to Senate Rules, and the Committee issued its full report Nov. 15.

The Committee published two volumes of hearings transcripts and related materials, two staff reports and a Committee report on structural questions. Its hearings were held July 20, 21, 22 and Sept. 14 and 15. The Report of the Committee, Structure of the Senate Committee System: Jurisdictions, Numbers and Sizes, and Limitations on Memberships and Chairmanships, Referral Procedures, and Scheduling, together with Additional Views, is identified as Senate Report No. 94–1395. Its first staff report, The Senate Committee System, which was released on July 15, describes the history of the committee system and its current operation. The second staff report, Three Starting Points for Organization of the Senate Committee System, was widely distributed in offset in early September (prior to hearings) and then printed as an Appendix to the Sept. 14 and 15 hearings record.

The Select Committee held nine "markup" sessions between Sept. 15 and 29. Transcripts of those sessions and various additional research materials used by the staff (with the exception of staff interview transcripts) are available for use in the Committee's offices, 400 Senate Courts.

REORGANIZATION CAN BEST OCCUR BEFORE COMMITTEE VACANCIES ARE FILLED

The Temporary Select Committee first made recommendations on structural reorganization—and did so before the 94th Congress adjourned—so the Senate could consider reorganization as a first order of business in the 95th Congress. Senators Stevenson, Packwood and others have noted that committee reorganization, which is always extremely difficult, probably can never be accomplished except at the beginning of a Congress while committee vacancies remain unfilled and the Senate has the maximum degree of flexibility in deciding how to proceed.

Senate business at the beginning of a new Congress is relatively light until late February or March, so consideration of committee reorganization immediately—in January and early February—would mean that disruptions of the legislative schedule would be held to a minimum. If the reorganization debate is postponed until March or April, it will surely affect most or all committees in their work on urgent early proposals of the Administration and the First Budget Resolution.

The unusually large turnover in Senate seats in the 95th Congress—the highest turnover in 28 years—also facilitates committee reorganization, since committees have lost enough members to fit within proposed smaller size limits and accommodate Senators who wish to follow jurisdictions which are transferred to new committees or wish to seek new assignments in place of assignments lost on consolidated committees. This advantage would be lost for two more years at least if vacancies on the present committees were filled before reorganization is voted on.

Additionally, Select Committee members have noted that prompt Senate action on committee reorganization by early February would facilitate the work of new or consolidated committees, since they would have time to organize subcommittees, set priorities and determine staffing requirements before a large backlog of legislative business can accumulate. Delay would mean a disruption of committee and subcommittee investigations in midstream, and would make it more difficult for committee staff members who might be displaced by reorganization to find new employment.

COMMITTEE POWERS UNCHANGED WHILE VACANCIES NOT FILLED

Select Committee members also have emphasized that, even though committee vacancies are not filled during early debate on reorganization proposals, the existing committees would have full power to act. Rule XXV, paragraph 4 of the Standing Rules of the Senate states committees have the power to conduct business "until their successors are appointed." Moreover, the size of a committee quorum is determined by the number of Senators appointed to the committee, not by its designated size.

For three standing committees whose chairmen are not returning—Aeronautical and Space Sciences, Post Office and Civil Service, and Veterans—their senior Democratic Senators are likely to be designated temporarily as acting chairmen.

CHANGES IN S. RES. 586

After consultation with Senators and a review of Senators' initial responses to the Stevenson-Brock resolution introduced in the 94th Congress, Senators Stevenson and Packwood plan to make several changes in S. Res. 586 before submitting it Jan. 4. All of these changes are believed to be noncontroversial or clarifications of the intent of the Temporary Select Committee.

The Committee on Rules, Administration and Standards would be made a "third committee" (see Leadership, Temporary and Non-Legislative Committees, p. 3). That is, Senators could serve on it in addition to two other standing committees. (S. Res. 586 had designated the Rules Committee as one of a Senator's two primary assignments.)

Members of the Budget Committee (even though it is considered a "third committee" for the 95th Congress) and the Rules Committee would be allowed to serve on two subcommittees of the committee rather than one. Members of other "third committees"

are limited to one subcommittee assignment on that committee.

A chairman and ranking minority member of a committee explicitly would not be prohibited from serving an as ex officio member of subcommittees on that committee, the two subcommittee membership restriction notwithstanding.

Section 403(d) of S. Res. 586 is changed. It would have prohibited votes before 2 o'clock unless the Senate, by unanimous consent or majority vote, had decided otherwise on the previous calendar day. Substituted in its place is sense of the Senate language suggesting that insofar as possible, the Senate should schedule roll call votes after 2 o'clock, and the leadership should give 24 hours advance notice if any are planned for an earlier hour.

The Committee on Rules, Administration and Standards, with the Secretaries for the Majority and the Minority, would advise the leadership on the operation of the Senate committee system. (Sec. 501(c))

Section 601 is changed to provide that points of order against committee amendments not within a committee's jurisdiction would apply only to the amendment, not to the entire bill, as previously.

COMMITTEE SIZES

The Stevenson-Packwood resolution differs from S. Res. 586 in making the Committee on Rules and Administration a "third committee." With this change implemented, nine additional seats are available for the 12 standing committees during the 95th Congress. (Budget would be counted as a "third committee" for the 95th Congress.)

After consultation with the Secretaries for the Majority and the Minority about committee sizes and ratios which might be applied if the revised Select Committee plan is implemented for the 95th Congress the Select Committee staff recommended the sizes contained in the second column of the following table for inclusion in the revised resolution. In the 96th Congress, if this plan were adopted, 16 seats would be subtracted for the total allotted to the standing committees when the Budget Committee reverted to standing committee status. This would keep the number of standing committee seats stabilized at or near a level of 200. The Rules Committee would recommend permanent sizes for the 96th and subsequent Congresses, in 1978.

Standing committees	Present size	Stevenson-Packwood resolution size	Likely vacancies [1]
Agriculture/Small Business	14	16	1D, 1R
Appropriations	26	25	4D, 1R
Armed Services	16	16	1D, 1R
Banking, Housing, Urban Affairs	13	15	1D, 1R
Budget	16	16	2D, 2R
Commerce, Science, Transportation	20	18	3D, 2R
Energy and Natural Resources	14	17	2D, 2R
Environment, Public Works	14	15	1D, 2R
Finance	18	16	1D, 1R
Foreign Relations	16	15	2D, 1R
Governmental Affairs	14	16	1D, 2R
Human Resources	16	16	1D, 2R
Judiciary	15	15	2D, 3R
Leadership, Temporary and Non-Legislative Committees ("Third Committees") [2]			
Rules, Administration, Standards	9	9	0D, 1R
Select Intelligence	17	15	None
Joint Atomic Energy	9	9	4D, 1R
Joint Congressional Operations	5	5	None
Joint Economic	11	11	0D, 2R
Joint Defense Production	5	5	None
Joint Internal Revenue Taxation	5	5	1D, 1R

[1] The total number of openings would be increased by three as a result of the two standing committee assignment limitation. Further, the one "third committee" assignment limitation would result in two additional openings.

[2] The Temporary Select Committee has proposed the consolidation of joint committees, but further Senate action and House agreement are required. Joint Library and Joint Printing are omitted from this list because by law their members must be members of the Rules Committee.

COMMITTEE STAFF TRANSITION

The Stevenson-Packwood resolution submitted Jan. 4 will contain a new section which provides for the protection of Senators' staff rights and employment rights of committee staff who are displaced by reorganization, during a transition period. That period would begin with adoption of committee reorganization and end following Senate adoption of a Rules Committee—recommended permanent staff plan, probably by July 1, 1977. During the transition, displaced staff temporarily would be transferred at their present 94th Congress salaries to the committee that absorbed a transferred or consolidated committee's jurisdiction. Subcommittee staff displaced by subcommittee reorganization within a committee would remain on the committee staff. Jo'nt committee staff would receive similar protection.

"Displaced staff" would not include those employees serving solely under the patronage of a Senator who retired at the end of the 94th Congress or was defeated in the November election.

At the end of the transition period, displaced staff whom the Rules Committee finds have exerted reasonable but unsuccessful efforts to gain new employment would be granted severance pay from the contingent fund of the Senate, consisting of one week's salary for each of the first 10 years of Federal service, and two weeks salary for each additional year. Benefits would be paid monthly and reduced by the amount of salary received from new employment.

Senators would not lose their S. Res. 60 funds under the Stevenson-Packwood resolu'on. Each would receive S. Res. 60 funds equivalent to three committee assignments even if he did not have a "third committee" assignment.

The Committee Reorganization Telegraph (CRT) is written by the staff of the Temporary Select Committee to Study the Senate Committee System in order to inform Senate staff of developments and to explain the Select Committee's recommendations during consideration of committee reorganization. The initials "CRT" also make the point that in a modern, reorganized Senate staff will receive this sort of information, frequently updated, from every committee and the leadership, but transmitted electronically and read in each office on a Cathode Ray Tube.

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 2,
January 5, 1977.

COMMITTEE REORGANIZATION REFERRED TO RULES WITH INSTRUCTIONS TO REPORT BY JANUARY 19

S. Res. 4, the resolution submitted by Senators Stevenson and Packwood and 14 cosponsors to reorganize the Senate committee system was referred to the Committee on Rules and Administration Jan. 4. Under the terms of a unanimous consent agreement worked out by the joint leadership and Chairman Cannon, the committee will report a resolution on committee reorganization to the full Senate no later than Jan. 19.

The Committee on Rules and Administration scheduled at least two days of hearings on S. Res. 4. They will be on Jan. 5 and 7 in 301 Russell. Senators will testify on the first day, and other interested persons or groups on the second.

Submitting the resolution to the Senate, Chairman Stevenson described it as "the culmination of many months of serious work by the Temporary Select Committee to Study the Senate Committee System. The Resolution I have introduced proposes the most far-reaching reorganization of the Senate in its history, the first reorganization in thirty years. . . . If acted on expeditiously, it will cause no interference with the orderly conduct of the Senate's business. On the contrary, it would make this a more effective, responsible and democratic institution."

Senator Packwood, the Select Committee cochairman, noted that "the time is obviously right for an updating and streamlining of our Senate committee structure and operation."

Majority Leader Robert C. Byrd, who propounded the unanimous consent request that set the stage for Rules Committee hearings, told the Democratic Conference earlier in the day that the Select Committee's ". . . recommendations are entitled to prompt and careful consideration by the Senate. There may be Senators who have reservations about certain provisions in the proposal, and perhaps constructive suggestions will be forthcoming. On balance, however, I believe the Stevenson Committee's proposal has much merit, and the Senate ought to work its will thereon."

At a breakfast meeting Jan. 3, a majority of the freshman Senators in the 95th Congress indicated they supported immediate consideration of reorganization, but favored temporary committee assignments for themselves during Rules Committee and Senate consideration of committee reorganization. This proposal, and others, were discussed in the conference of both parties at meetings on Jan. 4. Both conferences were scheduled to discuss committee reorganization additionally on Jan. 5.

PACKWOOD NEW COCHAIRMAN OF SELECT COMMITTEE

The Republican members of the bi-partisan Temporary Select Committee to Study the Senate Committee System unanimously chose Senator Bob Packwood of Oregon as its new cochairman Jan. 4. Senator Packwood, a long-time advocate of committee reorganization and Senate reform generally, replaces Senator Bill Brock of Tennessee, who was defeated in the November election.

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 3

January 6, 1977.

RULES HEARINGS OPEN

The Committee on Rules and Administration opened hearings Jan. 5 on S. Res. 4, the resolution submitted by Senators Stevenson, Packwood and others that would order the first major reorganization of the Senate committee system since passage of the Legislative Reorganization Act of 1946.

Chairman Cannon, in his opening statement, praised the Select Committee for "a job exceedingly well done" and noted the time constraints on the Rules Committee in its consideration of the reorganization proposal, which, as reported in CRT Issue 2, the Senate referred to Rules on January 4 with instructions to report no later than Jan. 19.

Senator Hatfield, ranking minority member of Rules, said the issue before the committee was not whether to reorganize, but how. On the Temporary Select Committee's proposals embodied in S. Res. 4, Hatfield urged the committee to "refine it, improve it, yes; emasculate it, no."

During the morning hearings, Senators Stevenson, Packwood, Sparkman, and Case testified.

STEVENSON

Senator Stevenson began his testimony by sketching the principal findings of the Temporary Select Committee regarding the unique role of the Senate, overlapping and fragmented jurisdictions of committees, the proliferation of committee and subcommittee assignments and the unequal distribution of workload among Senators and committees. He said in Part:

The Select Committee, and indeed, most Senators, believe we can delay no longer in correcting the deficiencies in the structure of our committee system. The committee system is the foundation of the Senate's work. If it is in disorder, much of the rest of what we do will suffer from consequent disorders. The Select Committee concluded . . . that much of the system is healthy and should be preserved. It found, however, that many elements are not healthy. Because the structure is a system, in which all the parts are interrelated and one unhealthy part lowers the efficiency of the others. the Select Committee's basic conclusion is that all the deficiencies should be recognized and corrected at once, and that an attempt to solve these problems by addressing only one or two at a time is likely to fail. With each brick pulled from the edifice we have proposed, the likelihood grows that it will all fail.

PACKWOOD

Senator Packwood, Select Committee Co-chairman, presented a statement and joined Senator Stevenson in colloquies with committee members. He noted that ". . . that time is obviously ripe for an updating and streamlining of our Senate committee structure and operation . . ." and observed that the Temporary Select Committee's proposals did a good job in systematizing a complex group of jurisdictions. "Obviously," he said, "when you are dealing with over 3,000 government programs and nearly 1,400 appropriation accounts and uncounted bureaus, commissions, boards and committees, the task of defining committee jurisdiction is extremely difficult. However, I believe that on the whole we have met the measure of a viable committee system in our recommendations."

INTERNATIONAL ECONOMICS; JEC

Senator Allen asked of Stevenson and Packwood a number of questions dealing with the reduction of jurisdiction in the Foreign Relations Committee, the consolidation of international economic policy in the proposed Committee on Banking, Housing and Urban Affairs, and the proposed consolidation of the Joint Economic Committee.

Senator Stevenson responded that the mandate of the Temporary Select Committee was to redefine and balance jurisdictions of Senate committees, and to rationalize policy areas. He said the recommended strengthening in the Banking Committee of International economic policy jurisdiction by transfer to it from Foreign Relations of international monetary institutions is consistent with the former committee jurisdiction over other aspects of international finance.

Regarding the Joint Economic Committee, he explained the Select Committee does not recommend unilateral termination of joint committees, but that the appropriate standing committees report legislation, by July 1, terminating the joint committee. Only if the Senate passed such legislation and the House agreed would the joint committee's responsibilities be transferred to the standing committee. He emphasized that consolidating the responsibilities of the Joint Economic Committee in standing committees of the Senate in no way implied that the committee had failed to do other than an excellent job. He also explained the functions of each joint committee would be performed by appropriate standing committees. Responsibility for the Economic Report of the President, for example, would be transferred to the Budget Committee under S. Res. 4. If the House agreed to termination of a joint committee, presumably it would make similar transfers of joint committee functions to other committees.

VETERANS; AGING

Questioned by Senator Hatfield on the future of veterans, the elderly and other groups which would be affected by committee consolidation provisions in S. Res. 4, Senator Stevenson emphasized that the responsibility for veterans and older Americans would be focused more sharply in a committee with broad legislative jurisdiction, Human Resources, rather than in minor committees or special committees without legislative authority.

Senator Williams, a Rules Committee member and chairman of the Labor and Public Welfare Committee which would become the new panel on Human Resources, questioned the ability of the proposed new committee to handle the expanded workload. He supported the activities of the Special Committee on Aging for "laying foundations that have been helpful" for the Labor Committee's legislative work on the problems of older Americans. Senator Stevenson responded that additional staff resources and the additional time available to members of the Committee on Human Resources would help surmount the expanded workload problems.

STANDARDS AND CONDUCT

Senator Griffin, noting current public concern over congressional ethics, questioned the wisdom of abolishing the Select Committee on Standards and Conduct, a bi-partisan panel with equal Democratic and Republican membership. He asked whether this could be interpreted to mean the Senate was downgrading ethics by making it a subsidiary of a new Committee on Rules, Administration, and Standards rather than a separate committee. Senator Stevenson replied he felt the public's confidence in Congress would be substantially improved by reorganization and improved effectiveness, and, in any case, the Senate's sensitivity to ethics and related questions would be enhanced by their place in a major standing committee. Noting the possible desirability of maintaining the Senate's traditional bi-partisan approach to ethics investigations, he suggested that the Rules Committee might consider creating a special subcommittee with equal bi-partisan membership.

FOREIGN RELATIONS COMMITTEE JURISDICTION

Chairman Sparkman proposed that the Rules Committee make three changes in S. Res. 4 regarding the Foreign Relations Committee's jurisdiction. He objected to the transfer of international financial and monetary organizations to the Banking Committee, suggested that the Committee be given control over international aspects of atomic energy, and questioned a proposed split in military arms sales between the Foreign Relations and Armed Services Committees.

Senator Case supported Senator Sparkman's reservations about certain proposed jurisdictional transfers. He praised the Temporary Select Committee for other recommendations allowing joint referral of legislation to more than one committee and providing for the creation of ad hoc temporary subcommittees to consider legislation that overlaps committee jurisdictions.

AFTERNOON HEARINGS

When the Rules Committee convened for an afternoon session, it heard testimony from Senators Thurmond, Jackson, Hansen, and Hathaway. In addition, Senator Burdick submitted a statement.

Senator Thurmond expressed concern about several procedural and jurisdictional questions, while noting that he generally favored the reorganization plan. He said there should be an assurance of at least one-third representation for the minority on each committee's professional staff. He also objected to a provision in S. Res. 4 that would allow the joint leadership to propose the creation of ad hoc committees. Senator Thurmond recommended that "provision be made that no ad hoc committee can be established except by routine resolution thoroughly debatable and considered in due course on the Senate floor."

ARMED SERVICES JURISDICTIONS

On jurisdictional matters, Senator Thurmond opposed the transfer of maintenance and operations jurisdiction over the Panama Canal from Armed Services to the Commerce, Science, and Transportation Committee, the assignment to Foreign Relations of comprehensive policy oversight responsibility for national security policy, the designation of joint jurisdiction with Foreign Relations for foreign military sales, the transfer of conservation, development, and use of naval petroleum and oil shale reserves to Human Resources.

Senator Thurmond strongly opposed the consolidation of the Veterans' Affairs Committee in Human Resources.

INTERIOR JURISDICTIONS

Senator Jackson expressed his general support for S. Res. 4 and said that "the work of the Senate can be more effectively carried out if the committee structure is simplified, if administrative reforms are adopted, and especially if the number of independent committees is reduced."

Chairman Jackson expressed concern over the proposed split in Indian Affairs jurisdiction between the Energy and Natural Resources Committee, which replaces the Interior Committee, and Human Resources. He recommended Indian Affairs be placed in a single committee. He recommended retaining jurisdiction over irrigation and reclamation in the Energy Committee. He also favored the assignment of all programs of the Bureau of Reclamation to Energy.

Senator Jackson also recommended that jurisdiction over wild and scenic rivers system be retained in Energy and Natural Resources. S. Res. 4 currently places it in the Environment and Public Works Committee. Senator Stevenson, in his opening statement, agreed with the suggestion. He also expressed support for Senator Jackson's recommenda-

tion that mine safety and miners' health be placed in the Human Resources Committee.

HANSEN

Senator Hansen, senior Republican member of the Select Committee, said he supported most of the recommendations of the Select Committee. He noted, however, that he favored retention of Veterans' Affairs as a separate committee because of its heavy legislative and oversight responsibilities for the very large Veterans agency and program. In a colloquy with Senator Clark, he said that the Committee's oversight burden alone would justify its continuation.

Senator Hansen also advocated clarification of the language in S. Res. 4 relating to the oversight responsibilities of standing committees for tax expenditures within their jurisdiction. He said it should be made clear that this would not mean a conflict with the Finance Committee's powers. Senator Hansen also said that national health insurance should be mentioned specifically in the resolution as under the mandate of Finance. Under questioning by Chairman Cannon, he said that it would be better to move Small Business jurisdiction to Finance rather than to a new Committee on Agriculture and Small Business.

HATHAWAY

Senator Hathaway also praised many of the principles advocated by the Select Committee. He suggested that assignment limitations should bar chairmen and ranking minority members from ex officio memberships on subcommittees; advocated provisions which, especially in the case of any consolidated committee, would require standing committees to establish meaningful subcommittees, and favored mandatory rotation of committee chairmanships. Senator Hathaway also indicated if mergers occur he would favor placing Veterans' Affairs with the Armed Services Committee, and Small Business with Finance. He advocated consolidation of the Appropriations Committee within the other standing committees, and the consolidation of the Rules and Judiciary Committees.

TEMPORARY COMMITTEE ASSIGNMENTS FOR FRESHMAN SENATORS

The Senate Democratic Conference, responding to the desire of freshman members to receive temporary committee assignments while reorganization is pending, adopted on January 5 a proposal that would allow the 18 new Senators to receive temporary assignments.

The committee assignment plan permits each freshman Senator two "unalterably temporary" assignments from the 13 present standing committees which would serve as parent committees for the new standing committees proposed in S. Res. 4. The number of vacancies for each party will be calculated from the sizes proposed in S. Res. 4 and party rations worked out by the Democratic Steering Committee. The likely number of vacancies for each party are:

	Total	Democrat	Republican
Agriculture and Forestry	2	1	1
Appropriations	5	4	1
Armed Services	2	1	1
Banking, Housing and Urban Affairs	2	1	1
Budget	4	2	2
Commerce	5	3	2
Finance	2	1	1
Foreign Relations	3	2	1
Government Operations	3	1	2
Interior and Insular Affairs	4	2	2
Labor and Public Welfare	3	1	2
Judiciary	5	2	3
Public Works	3	1	2

All temporary committee assignments will expire on the day the Senate completes action on committee reorganization (up or down), and convey no rights whatsoever to future assignment to those committees or to seniority of service on them. Under the procedure which temporarily delays committee assignments under the present committee system while committee reorganization is under consideration, transfers to new committee assignments of Senators who served in the 94th Congress would be delayed.

COMMITTEE REORGANIZATION TELEGRAPH ISSUE 4

January 6, 1977.

SECOND DAY OF RULES COMMITTEE HEARINGS ON SENATE RESOLUTION 4

The Committee on Rules and Administration continued its consideration of S. Res. 4, the Stevenson-Packwood resolution to reorganize the Senate committee system, in morning hearings Jan. 6. Senators Talmadge, Goldwater, Bentsen, and Ford testified.

TALMADGE

Senator Talmadge, Chairman of the Agriculture Committee, praised the work of the Temporary Select Committee to Study the Senate Committee System as "sound and reasonable" and urged the Rules Committee to adopt S. Res. 4.

He cited the proliferation of committees and subcommittees, scheduling problems that make it difficult for Senators to participate in committee hearings and the growth of a Senate bureaucracy as factors which prevent the Senate from functioning at maximum effectiveness.

". . . rather than change our committee system to handle new priorities, it has been easier just to create another committee. Pretty soon we have a proliferation of committees and, of course, supporting staff—to a point where it must look as if we are competing with the Executive Branch to see which of us can create a bigger and more bloated bureaucracy. . . . Committee proliferation is directly contradictory to what we have been trying to achieve under the Budget Control and Impoundment Act—namely, to establish overall priorities and to reduce the tendency for the budget to become the sum of special interests rather than the balance of priorities."

He noted that if the Senators spread themselves too thinly, "we must end up with a shoddy job."

Noting that some groups such as veterans and older Americans feel they would lose committees that supported their interests if the reorganization were adopted by the Senate, Senator Talmadge said that he did not think it was a good idea to allow all these interests to have their own separate committees. "We must build a committee system that is able to act positively and effectively in balancing all interests." He also argued that these groups would enjoy greater protection in consolidated committees, which would be "more effective forums for real action."

(The full text of Senator Talmadge's statement to the Rules Committee is enclosed as part of this issue of CRT.)

GOLDWATER

Senator Goldwater, a member of the Temporary Select Committee, told the Rules Committee that though he did not sign the Select Committee's recommendations, he was "more in agreement than disagreement with its recommendations." He argued that the Senate would benefit if it kept its committee structure aligned roughly with that of the House, and argued specifically for the creation of a permanent Senate standing committee on Science and Technology with jurisdiction similar to the existing House committee.

He said such a committee should have jurisdiction over NASA and space programs (currently held by the Aeronautical and Space Sciences Committee), and that it should spend a considerable amount of time in oversight of science programs and federal civilian R&D programs. If such a committee had existed, he said, it might have been able to offer useful solutions to America's energy problems.

Senator Goldwater said additionally that he approved of a significant reduction in the number of committees and subcommittees, but he cautioned the Rules Committee that transferring jurisdiction in some cases, such as the Veterans, Small Business and District of Columbia Committees, would increase the workload of new consolidated Senate committees and necessitate the creation of additional subcommittes.

BENTSEN

Senator Bentsen said he "very strongly supported the reorganization effort." He emphasized the time constraints resulting from the large number of committee assignments which spread Senators' energies and attention too thin and cause dependency on staff.

He also said there was "an overriding desire and need for a substantial reduction in the number of committees" even if this meant disappointing outside groups which had a stake in the present committee system.

Senator Bentsen also recommended several changes in S. Res. 4. On jurisdiction questions, he favored the consolidation of the Veterans' Affairs Committee in Armed Services, rather than Human Resources, and of Small Business in Finance rather than in Agriculture. Senator Bentsen said he supported the assignment to the new Environment and Public Works Committee of the construction aspects of surface transportation, which includes highways. But he also recommended that regulation of transportation activities remain with the Committee on Commerce.

FORD

Senator Wendell Ford expressed his strong support for the Select Committee's recommendations. He said that it had "made important and useful recommendations with respect to the operation of the Senate which can enable the body to function in a more orderly and responsive manner, including demands on the time of Senators."

Senator Ford is scheduled to become chairman of the Committee on Aeronautical and Space Sciences in the 95th Congress, succeeding former Senator Moss, if the Committee remains in existence. He noted that he was in "a most unusual position" in supporting the Select Committee's proposals that would consolidate that Committee's work elsewhere. He said that he would be "gratified and fortunate to have the opportunity to chair a major committee after serving in the Senate for only two years. Yet, on the other hand, it is incumbent on me to consider the possibility of this new position as not what is in my best interest individually, but what is in the best interest of my constituents . . ."

Senator Ford said the Space Committee performs a valuable function, but he could

favor the consolidation of it and creating an important new focal point for science and technology questions in the new Committee on Commerce, Science, and Transportation.

On another subject, during a colloquy with Rules Committee members, Senator Ford recommended that if the Committee were to decide to increase the number of committees from those recommended in S. Res. 4, or retain certain of the committees the Stevenson-Packwood resolution had recommended be consolidated, a distinction between major and minor (or "B") committees be created for the purpose of committee assignments. He also suggested as a subject the Committee might wish to consider, proposals that would prevent any such minor committees from creating subcommittees.

(The text of Senator Ford's statement is enclosed as part of this issue of the CRT.)

STATEMENT OF U.S. SENATOR HERMAN E. TALMADGE

Mr. Chairman, I am pleased to have this opportunity to share my views on S. Res. 4, introduced by the Chairman of the Temporary Select Committee to study the Senate committee system.

First, I would like to commend the Chairman and members of the Select committee for their conscientious work. Their job was not easy. Any recommendation to reorganize or change the existing order is bound to affect a lot of individual interests.

Committee jurisdictions, whether defined by historical considerations or logical organization, may represent rather sacred ground. But the Select Committee in its report has been able to make sound recommendations while minimizing potential conflicts.

We have heard increasing concern from the public about government bureaucracy and waste, and rightly so. The taxpayer surely must feel frustrated when he sees an ever-growing portion of his paycheck going to support huge and duplicating bureaucracies. And I think we all must admit that such waste is not unique to the Executive Branch of government.

Since 1947, the cost of operating the Senate has grown from $6,708,322 to $137,300,000 last year, an increase of over 2000%.

The number of our employees has increased 335% from 1,710 to 6,733 in the same time.

The number of committees, subcommittees, select committees, special committees and joint committees has almost quadrupled since 1947.

Given our own record, can we, in good conscience, criticize the proliferation of the Executive Branch bureaucracy but turn the other way when it comes to the bureaucracy we have created for ourselves?

Can we tell our constituents that we are in favor of saving money if we let our own budget go out of control?

As I understand it, the Stevenson-Packwood Resolution seeks to increase the effectiveness of the Senate in two ways: First, by reducing the committee workload on individual Senators, and second, by reducing the wasteful duplication in the overall work of committees.

Over the years, as new tasks have come along, it has been easy to create a new committee to take over each new responsibility. Yet priorities change, and rather than change our committee organization to handle new priorities, it has been easier just to create another committee.

Pretty soon we have a proliferation of committees and, of course, supporting staff—to a point where it must look as if we are competing with the Executive Branch to see which of us can create a bigger and more bloated bureaucracy.

Now these little bureaucracies we have created not only represent an inefficient use of the taxpayers' money but also impair the effectiveness of the government.

Treasury Secretary William Simon was quoted recently as saying that he usually spent three days a week testifying before numerous congressional committees. And every time a member of the Executive Branch testifies before a committee or subcommittee, exhaustive preparations must be made at the staff level—both in Congress and in the Administration.

Now, I fully believe that the Administration's officials should be responsive to the Congress but we should consider how much time we will permit them to perform the administrative functions of government in between visits to the Hill.

Another and more direct problem associated with committee proliferation is the workload these committees place on individual members of Congress.

I currently serve on no fewer than a dozen committees and subcommittees. Now all of these are fine committees in their own right. Each was created to respond to very real needs.

But I find that committee meetings absorb a growing and disproportionate amount of my time. Between meetings of my committees, select committees, joint committees, special committees, and subcommittees, I wonder where there is time for anything but going to meetings. Frankly, the only way I can resolve most of these conflicts is, simply, not to attend most of these meetings.

At present, subcommittee hearings and meetings are scheduled without any thought as to the impact on these meetings on the Senate's total legislative workload. Often, we cannot find even one Senator to preside over a hearing, and it sometimes has been necessary to have a committee staff member hear the testimony. I have come to the conclusion that there just has to be a better way to organize the workload of the Senate.

Another problem created by the proliferation of the committee structure has been the difficulty for any one committee in getting its work done. I don't know how many hours of Senators and highly-paid staff have been wasted waiting to get a quorum at committee meetings because members must split so much time between committees. Sometimes when a Senator has two or three committee meetings at the same time, I wonder how much effective attention he can give to any one subject.

Gentlemen, we cannot escape the conclusion: If we try to spread ourselves too thinly, we must end up with a shoddy job.

One solution is to continue to abdicate more and more responsibility to the staff. When I look at the numbers of staff crowding the Senate chamber, and committee meetings and, yes, even chairing public hearings, I can't help but feel that we have created our own monster—a bureaucracy by which we are controlled rather than over which we have control.

If we continue the present trend, we will reduce ourselves to no more than a debating society where the real business is run by staff.

We owe the people who elected us much more than that.

I don't need to remind you of the very low standing the Congress has come to hold in the public's eye. In a recent survey of farmers across the nation, less than 20% rated the Congress as excellent or good, while over 50% gave the Congress a fair to poor rating. The public's belief in the credibility of their leaders is falling to all-time lows.

With a bureaucracy which is proliferating out of control, it is no wonder why.

Two years ago we passed S. Res. 60, a resolution which added over 200 new staff members and almost 4 million dollars to our budget. However, the resolution that was originally introduced would have cost the taxpayer about $30,000,000 annually.

I opposed this resolution because I felt we are treating the symptom rather than the problem, but I was delighted to play a role in reducing its cost.

Each committee, in good faith, must come up with its own solution to certain problems, but because we have so many committees and their responsibilities so frequently overlap, we end up with a lot of duplicating solutions and executive machinery.

It seems, then, that committee proliferation is directly contradictory to what we have been trying to achieve under the Budget Control and Impoundment Act—namely, to establish overall priorities and to reduce the tendency for the budget to become the sum of special interests rather than the balance of priorities.

We just can't afford a large number of committees, each independently establishing priorities and programs. Therefore, we must bring the committee structure under control by rationalizing lines of jurisdiction and providing greater balance of responsibility. Only then can we gain control over the budget and the machinery of government.

This resolution will not be without controversy.

Some groups will feel they are losing "their committees." I would suggest that the recommendations of the select committee will do just the opposite.

The proposed reorganization would restore greater emphasis to the legislative committees—and, thereby, provide more effective forums for real action. Perhaps we would see fewer hearings and less verbiage, but greater potential for getting things done.

Now it might be nice if every special interest group could have a committee it could view as its advocate. But we must be sensible about this. We just can't create a special committee for athletics, fishermen, dentists, midgets, bookkeepers, small children, and watchmakers. It is obvious that such an approach would be impossible. Rather, we must make sure that we have a committee system which represents everyone equally, objectively, fairly and without prejudice.

We must insure that we have a committee system that is not so cumbersome that it directs energies away from effective action. We must build a committee system that is able to act positively and effectively in balancing all interests.

I am convinced that is a better way to handle our business and that the report of the Select Committee provides us with a good opportunity to move forward with constructive changes. We know that we simply must cut down the number of committee meetings and hearings. This means fewer committees and greater balance in the responsibilities of each committee.

The Select Committee has tried to establish a set of committees which represent balance in terms of workload, attractiveness and jurisdiction. There are some people who will not be completely pleased with the recommendations of the Select Committee. However, I firmly believe that the Congress should have committees where specific groups can be heard and understood but I do not think that it is a good idea to let each interest group have its own committee.

Perhaps an attack on government waste should begin by putting our own House in order.

Gentlemen, we stand before an opportunity to make constructive changes in the way we do business.

We now have an opportunity to reduce the waste and duplication which has emerged since the Senate last embarked on organizational reform over thirty years ago.

We have an opportunity to better organize the work of the Senate to permit better use of each member's time.

We have an opportunity to streamline the committee process to permit more reasonable demands on the high officials of the Executive Branch who must periodically appear before us.

But this opportunity is a fragile one.

Should parochial interests be placed above the need for reform, the work of the Select Committee, which I feel is both sound and reasonable, will come apart.

And should the package come apart the opportunity for reform will likely be passed to another Congress.

As the committee and Senators begin to think of ways they would like to change the report of the Select Committee, I would like them to ask themselves what such changes mean in terms of the overall objectives of committee reorganization. I think we must ask whether such changes will improve the efficiency of the operation of the committee system. We must ask whether such changes will impair the balance of jurisdiction and workload between committees. We must ask whether the changes will result in a more effective organization of work.

Gentlemen, we have increasing concern from the public about government bureaucracy, and rightly so.

It is in the interest of reform, of making better use of the taxpayer's dollar then, that I support the recommendations of the Select Committee to study the Senate Committee system and accept these recommendations as a package.

Mr. Chairman, and members of the committee, I, therefore, urge your favorable consideration of the resolution before you.

STATEMENT BY SENATOR WENDELL H. FORD

Mr. Chairman and members of this Committee, I appreciate this opportunity to share with you my thoughts on the reorganization of the Senate committee system. I am pleased at the expeditious consideration of the recommendations submitted by the Select Committee to Study the Senate Committee System. The committee system is the very heart of this legislative body and it is in the standing committees that major legislative recommendations are formulated. Consequently, to be the most effective in the affairs of this nation, the Senate must have an efficient committee system.

I feel that the Select Committee has made important and useful recommendations with respect to the operation of the Senate which can enable the body to function in a more orderly and responsive manner, including demands on the time of Senators.

As one who has been an active supporter of reorganizing the Senate committee system, I find myself in a most unusual position today as I might have a chance to become chairman of the Aeronautical and Space Sciences Committee.

Naturally, I would be gratified and fortunate to have the opportunity to chair a major committee after serving in the Senate for only two years. Yet on the other hand, it is incumbent on me to consider the possibility of this new position as not what is in my best interest individually, but what is in the best interest of my constituents, the state I represent and the Senate as a whole.

In the relatively short period I have been in the Senate, it has become increasingly apparent that certain changes are in order, in fact overdue, to make our committee system more effective and productive.

There is an unequal distribution of committee and subcommittee assignments. Overlapping jurisdictions in committees exist and that causes confusion, delay and waste.

Nowhere is this more evident than in the area of energy, where the situation has become, in many ways, intolerable.

In the 93rd and 94th Congresses, energy issues were addressed by 14 standing committees, one select committee and one joint committee. More than 40 subcommittees had a piece of the energy action, and it goes without saying that considerable jurisdictional overlap is prevalent.

Is it any wonder that Congress has failed in its efforts to present a positive and long-range national energy policy to the people of this country? Until we bring order out of disarray, the Congressional mandate that we have been promising—and people are still awaiting—will never come about.

In reorganization, we now have the vehicle to correct many of the deficiencies which have been with us for far too long. I feel very strongly that if the Senate is to become a more effective and productive body, reorganization of the committee system must become a reality.

In considering the overall blueprint for reorganization, careful attention should be given to the future of science and technology in the United States. It is true, I believe, that our country leads the world in science and technology. It is also true that the general welfare of the nation, its economic health and stability, and the conservation and efficient use of our natural and human resources require the vigorous and perceptive employment of science and technology.

Having served on a committee concerned primarily with science and technology, I have had the opportunity to examine closely some of the contributions of science and technology to the general welfare, and these contributions in just the last 20 years are amazing.

As you study the committee reorganization, Mr. Chairman, it is my sincere hope that the Rules Committee support the establishment in the Senate of a focal point for civilian research and development. I believe that the Senate needs such a focal point and that its efforts should be directed to the applications of science and technology for the benefit of people.

In my opinion such a focal point could best be achieved by accepting the Select Committee's recommendation to merge the functions and responsibilities of the Aeronautical and Space Sciences Committee within the proposed committee structure.

There is no question in my mind that the Aeronautical and Space Sciences Committee performs a valuable and important function. At the same time, this committee is a good example of how the Senate's efficiency could be improved by consolidating its functions within other committees that presently hold jurisdiction over other agencies in the field of science and technology.

The present realm of the committee's jurisdiction is too limited to justify its status as a full committee. There is no recurrent requirement for legislation, as we have in other committees, even those that deal exclusively with one agency.

While it would be impractical to have all scientific research and development under one standing committee, the logical answer seems to be for a subcommittee with policy oversight over all and with legislative jurisdiction limited to those agencies with pure scientific functions—a focal point for civilian research and development.

I, for one, am confident that reorganization of the Senate committee system can be accomplished. The notion that the Senate cannot change its practices and procedures is being dispelled, and in fact, some highly significant improvement have occurred.

We are moving in the right direction, and the Senate will be the better for it. The deliberate step-by-step changes that have occurred in the last two years are proving to be the best course of action for improving the Senate.

Reorganization of our committee system can only have a positive impact on improving responsiveness, efficiency, and most importantly, accountability to the people we represent.

Reorganization will afford us the opportunity to carry out our duties in a more responsible fashion. Presently our effectiveness is diluted because we are spread too thinly. We cover much ground, but we touch very little.

Finally, reorganization will allow committees more time and opportunity to exercise oversight—a necessary review of Executive action to see that laws are being implemented as Congress intended, to determine if the laws are working, and most importantly, to insure that tax dollars are being spent wisely.

I remain committed to doing everything I can to expedite reorganization. I urge the committee to continue to move full-speed ahead in considering this important and necessary step of putting our house in order through reorganization.

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 5

January 7, 1977.

The Senate Rules and Administration Committee continued its consideration of S. Res. 4 in hearings Jan. 7. Senators Javits, Proxmire, Stennis, Randolph and Stafford testified during the morning session. A description of the afternoon session will appear in the CRT of Jan. 10.

JAVITS

Senator Javits expressed his general support for the recommendations of the Select Committee. He said they "will improve the efficiency of the Senate and enable us to serve the people better." He supported the Select Committee's efforts to reduce the number of committees and subcommittees and improve scheduling procedures in the Senate.

Regarding specific shifts in jurisdiction and consolidation of committees, Senator Javits said the transfer of jurisdiction for international financial and monetary organizations from Foreign Relations to Banking would be "ill advised," because it would be "detrimental to the Foreign Relations Committee's proper discharge of its historic responsibilities" and "would not result in greater consolidation of responsibility for international economic policy," a stated goal of the Select Committee.

Senator Javits also opposed consolidation of the Joint Economic Committee and transfer of its responsibilities to the Banking, Budget, and Finance Committees. He said that this proposal also would seem to contradict the goals of the Select Committee. Joint Economic, he said, is the "one congressional committee whose comprehensive policy oversight ensures that economic policy will be considered as a whole—will not be fragmented—will be effective and will indeed enable the Senate to develop foresight as well as hindsight."

Senator Javits said he "want(ed) very much to vote for" S. Res. 4 with amendments along the lines he suggested to preserve JEC and the responsibilities of the Foreign Relations Committee.

STENNIS

Senator Stennis, Chairman of the Armed Services Committee, gave limited praise to the efforts of the Temporary Select Committee but offered counsel as follows:

First, Senator Stennis said he failed "to see the rush" for committee reorganization. As an important and sensitive matter to Senators, more time should be devoted to considering the issue.

Second, it was important, Senator Stennis said, to coordinate major parts of the Senate's committee system with that of the House's. In that respect, Senator Stennis underscored the value of joint committees. He argued against abandoning them arbitrarily or unilaterally.

Senator Stennis also recommended that the Rules Committee defer action on the Select Committee's proposal to merge joint committees with appropriate standing com-

mittees until the House's judgment can be ascertained and evaluated.

Third, he said it is important for the Senate to control such "time-killers" as the dramatic increase in the number of roll call votes. Such interruptions affect the Senate's ability to conduct its business in an efficient manner.

Fourth, Senator Stennis observed that S. Res. 4 would restrict the number of subcommittees on the Armed Services Committee. This would impair the Armed Services Committee's ability to adequately consider the numerous complex matters under its jurisdiction such as military manpower and weapons.

Senator Stennis further noted that no problems have occurred on issues that overlap both the Armed Services and Foreign Relations Committees. Those kinds of issues have been worked out satisfactorily between the two panels. Senator Stennis agreed to a request of Senator Hatfield's to submit a separate statement to Rules on the matter of consolidating the Veterans' Affairs Committee with the Armed Services Committee.

Finally, Senator Stennis emphatically recommended the retention of an independent, bi-partisan Ethics Committee. Its current special status under Senate rules could not be maintained if it became a subcommittee of another standing committee, he said. Several Rules members agreed with Senator Stennis and expressed concern about public reaction to the Standards and Conduct Committee's consolidation into another panel.

RANDOLPH

Senator Randolph, Chairman of the Public Works Committee and a Member of Congress for 32 years, commended the members of the Select Committee "for their concern and their desire to bring us a proposal for reorganizing the Senate committee system so that it is better able to meet vital legislative demands."

He emphasized the need for reorganization, stating:

"The Senate must periodically examine its own procedures and organization. In focusing our attention on these areas, the Select Committee has performed admirably. My observations are intended to bring attention to what I consider are deficiencies in the resolution and to offer alternative approaches to achieving the goals established by the Select Committee—goals which are shared by all of us."

He added, "I have long believed and have advocated on many occasions that the greatest potential for improving Senate operations lies in the reform of our procedures."

Senator Randolph recommended several procedural reforms, including:

1. establishment of specific times for committe meetings and for activities of the full Senate;

2. reserving full days for committee activities and full days for work on the floor,

3. providing that committee days should predominate at the beginning of a session and floor days at the end of the session,

4. insuring better use of time by scheduling routine speeches and business for the end of the Senate day instead of at the beginning of the day (i.e., the traditional morning hour should become the evening hour), and

5. insisting all amendments should be printed 24 hours in advance.

Senator Randolph also expressed concern that the Environment and Public Works Committee's proposed jurisdiction under S. Res. 4 was too oriented toward environmental regulation and conservation rather than development and construction. Senator Randolph recommended that the Public Works Committee retain jurisdiction over highways and the Highway Trust Fund (not including forest development roads and trails and public lands roads and trails) and economic development, including EDA. He argued that retention of such jurisdiction would give more balance in the Environment and Public Works Committee between environmental regulation and construction.

Senator Randolph also recommended several other transfers to the Environment and Public Works Committee, including all surface transportation, which would encompass mass transit. He added that

"the control of surface mining and restoration is essentially a regulatory effort to protect the environment and perhaps should be in the same committee with responsibility for other environmental programs. I seriously question whether land use planning should be designated as a specific area of jurisdiction for any committee."

Senator Randolph also recommended that several other jurisdictional subjects not be transferred into the Committee: fisheries and wildlife, outer continental shelf lands, oceans, weather and atmospheric activities, and pesticides).

He recommended the continuation of the Veterans' Affairs Committee with Senators serving thereon considered a "third" committee assignment.

STAFFORD

Senator Stafford, ranking minority member of the Committee on Public Works, concurred with the views expressed by Senator Randolph. He said that responsibilities for environmental regulation and development (construction) should be combined. He urged that the Public Works Committee continue to have jurisdiction over economic development and the construction aspects of surface transportation, and that the Committee's jurisdiction include construction activities of the Bureau of Reclamation and the Soil Conservation Service.

Senator Stafford also recommended that Public Works have jurisdiction over the ocean dumping and pollution aspects of oceans policies, with other responsibilities regarding oceans assigned to other committees. He recommended assigning land use planning to the Committee on Agriculture and Small Business, weather and other aspects of the National Oceanic and Atmospheric Administration to the Committee on Commerce, Science, and Transportation, and jurisdiction over toxic substances and pesticides additionally to Commerce.

FRESHMEN ASSIGNED TO COMMITTEES

Freshman Senators from both parties were given temporary committee assignments by lot Jan. 6. The assignments carry no rights regarding future appointment to or seniority on the committees.

A list of the assignments apepars below:

Democrats, committee assignments

Anderson (Minn.) Agriculture; Commerce.

DeConcini (Ariz.) Appropriations; Commerce.

Matsunaga (Hawaii) Commerce; Foreign Relations.

Melcher (Mont.) Appropriations; Labor.

Metzenbaum (Ohio) Armed Services; Banking.

Moynihan (N.Y.) Commerce; Interior.

Riegle (Mich.) Appropriations; Judiciary.

Sarbanes (Md.) Appropriations; Interior.

Sasser (Tenn.) Government Operations; Judiciary.

Zorinsky (Neb.) Finance; Foreign Relations.

Republicans, committee assignments

Chafee (R.I.) Budget; Judiciary.

Danforth (Mo.) Foreign Relations; Labor.

Hayakawa (Calif.) Agriculture; Interior.

Hatch (Utah) Government Operations; Interior.

Heinz (Pa.) Judiciary; Public Works.

Lugar (Ind.) Budget; Government Operations.

Schmitt (N.M.) Commerce; Finance.

Wallop (Wyo.) Armed Services; Banking.

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 6

January 10, 1977.

A report on the testimony of Senator Proxmire was inadvertently omitted from CRT 5. He appeared before the Rules Committee Friday morning, January 7.

PROXMIRE

Senator Proxmire expressed strong support for S. Res. 4. He stated:

"I am in substantial agreement with the general thrust of reorganization proposals made by the Select Committee as contained in S. Res. 4. We need to cut back on the growing number of committees and subcommittees; we need to up-date committee jurisdiction; we need a more even distribution of committee and subcommittee chairmanships; we need a better scheduling system for committee meetings; and we need to strengthen the ability of the Majority Leader to resolve jurisdictional conflicts. All of these needs would be met by S. Res. 4.

Senator Proxmire strongly recommended several changes in the resolution, including:

1. the Joint Economic Committee should be retained and the Joint Committee on Defense Production should be made part of the JEC;

2. the Banking Committee should retain jurisdiction over the Council of Economic Advisors;

3. the Banking Committee should keep jurisdiction over Urban Mass Transit;

4. jurisdiction over pension funds should also be housed in the Banking Committee; and

5. jurisdiction over the Renegotiation Board should be transferred from the Finance Committee to Banking.

Senator Proxmire also said the transfer of the Banking Committee's energy responsibility to the Energy Committee should be made only if other committees' energy jurisdictions are likewise transferred.

Senator Proxmire also included in his statement several recommendations for clarifying the Commerce Committees jurisdiction over consumer protection, the Banking Committee's jurisdiction over federal credit programs, for additional language in Rule XXV, for the Banking Committee (e.g., consumer credit regulation, Employment Act of 1946, Export-Import Bank, insurance, and securities).

Rules Committee hearings continued on S. Res. 4. Friday afternoon, January 7.

BROOKE

Senator Brooke testified concerning the proposed consolidation of the Select Committee on Standards and Conduct within a Rules, Administration and Standards Committee. He advocated its retention on the grounds it is a unique Senate committee, having but enforcement work, virtually no legislative responsibilities, and it is nonpartisan, independent, and reports directly to the full Senate. He further argued the Senate must not denigrate the functions of the Ethics Committee. He announced he will introduce his own proposals next week which will call for: retention of the Select Committee, a limit on membership to one term, a mix of junior and senior Senators, a disqualification of members when a conflict of interest occurs or is apparent, a strict financial disclosure requirement for Senators and Senate employees who earn

over $20,000 per year, and a mandated Code of Conduct to be assembled within 90 days of the acceptance by the Senate of these proposals.

ABOUREZK

Senator Abourezk began his testimony indicating that there is much in the reorganization proposal with which he can agree. Nevertheless, he said he saw a number of deficiencies in the concept of consolidation and reorganization as presented in S. Res. 4. He suggested that consolidating select and special committees and reducing the number of subcommittee assignments might severely restrict the access of citizens with particularized interests, such as small business, hunger and nutrition groups, and veterans groups, to the legislative branch, and might dampen the ability of each Senator to speak as an individual and to raise issues that move him to act. He argued that overlap and diversity in committees are, on the whole, essential elements in providing as much access as possible to as many people as possible.

Senator Abourezk also addressed the Rules Committee concerning Indian Affairs jurisdiction. He noted that he had changed his viewpoint recently and had come to believe that Senate should consolidate all Indian Affairs questions in a single committee, and that it should be a separate Indian Affairs Committee. He requested, at the least, an ad hoc committee to enable him to continue his work on the American Indian Policy Review Commission for the next two years, and said that he hoped this ad hoc committee would be made permanent. In any case, he said, Indian Affairs matters should be drawn together in one committee. He noted that his written statement suggested putting the jurisdiction in the Human Resources Committee, but that the various Indian groups had asked that the committee of jurisdiction be left open during the life of the ad hoc committee.

MAGNUSON, STEVENS, AND WEICKER

Senator Magnuson, Chairman of the Commerce Committee, and his Committee colleagues, Senators Stevens and Weicker, expressed support for the basic principles of committee reorganization but stated reservations about specific details. All expressed strong support for the consolidation of oceans jurisdiction in a standing committee. Senator Magnuson asked that "comprehensive jurisdiction over oceans programs, and oceans policy in general, remain with the Senate Commerce Committee." More specifically, Senator Magnuson's statement identified the components of a consolidated oceans jurisdiction. It should include: "the Coast Guard, marine transportation, marine science and technology, oceans and atmosphere, deepwater ports, ocean dumping, coastal zone management, fisheries management, law of the sea, deep sea mining, oversight over the National Oceanic and Atmospheric Administration, and ocean policy generally."

Senator Magnuson endorsed the Temporary Select Committee's proposal "to consolidate jurisdiction over science and technology matters, within the Commerce Committee," and stressed the importance of that jurisdiction including the Office of Science and Technology Policy. The National Science Foundation, because of its science education responsibilities he said, might appropriately be retained by the Human Resources Committee.

Senator Magnuson's statement underscored the importance of consolidating transportation matters in the Commerce Committee. "This would mark the first time," he said, "that the vital transportation issues in such areas as construction and maintenance of inland waterways and highways and urban mass transit could be considered in a total transportation context rather than in an isolated way." However, during a colloquy with Senator Williams, Senator Magnuson stated that it might be reasonable to have mass transit matters remain with the committee responsible for urban policy. Senator Stevens agreed with that proposal.

On two procedural issues Senator Magnuson expressed some concern. First was the limitation on subcommittee chairmanships as it would apply to the Committee on Appropriations. "I feel that this change," he stated, "should be recommended by the Rules Committee only after close consultation with the chairman of that Committee." The second issue involved the multiple referral of legislation by the party leaders. This should be clarified "to make sure that the [Majority Leader] can do this on his own initiative. There is no reason why he should consult with the Minority Leader with respect to such referrals."

Senator Stevens pointed out that certain groups in our society have identifiable needs and require special consideration. These include the elderly, veterans, and civil servants. Senator Stevens suggested that the Rules Committee consider establishing a Committee on Veterans, Civil Service, and Aging. Such a committee with expert staff could best serve the needs of these citizens. Senator Stevens stated his approval of merging post office matters with another panel.

JOHNSTON

Senator Johnston primarily discussed four aspects of S. Res. 4. First, he strongly recommended that the reorganization resolution be more precise and clear in stating the transfer and seniority rights of Senators who transfer from one committee to another along with the jurisdiction of a committee or subcommittee that they chair. And, similarly, he pointed out the seniority rights of Senators who remain on "parent" committees are not precisely stated in S. Res. 4. Committee members replied with the question whether such assurances properly can be a part of S. Res. 4 or are more appropriately left to the party conferences.

Second, Senator Johnston favored retaining responsibility for territorial affairs in what will become the Committee on Energy and Natural Resources, instead of transferring that jurisdiction to the Committee on Governmental Affairs. Third, he said, jurisdiction over the land and water conservation fund should be in the Energy Committee rather than in the Committee on Environment and Public Works as proposed in S. Res. 4. Finally, Senator Johnston recommended the Committee on Appropriations be exempted from the two-subcommittee assignment limitation because it needs 13 subcommittees to parallel the organizational structure of its House counterpart.

HASKELL

Senator Haskell applauded the members of the Select Committee ". . . for their tireless work on a very difficult and thankless task. I know that the members of the Committee on Committees have had to make many difficult political decisions, bear the wrath of many threatened constituencies and in some cases make personal sacrifices in the interest of reform. I firmly believe we need to reorganize the Senate committee system."

Senator Haskell made one recommendation for change in S. Res. 4. He suggested that the Select Committee on Small Business be made a permanent standing committee in the "third" committee assignment category like that of the Rules, Administration, and Standards Committee. On this point he stated, "The only sensible and fair way to handle the small business issue is to leave small business as a separate committee. I am offering an amendment to S. Res. 4 to that effect. I am joined by Senators Laxalt and McIntyre."

In the question period, Senator Haskell said he could agree with the Select Committee that the Joint Economic Committee, the Select Committee on Nutrition and Human Needs, and the Special Committee on Aging not be retained in their present form as separate committees.

M'GOVERN

Senator McGovern strongly opposed the provision of S. Res. 4 that would consolidate into the Agriculture Committee the Select Committee on Nutrition and Human Needs, of which he is chairman. He said that the Agriculture Committee would be incapable of doing the work of the Nutrition Committee which is composed of a membership 40 percent of whom come from the Agriculture Committee, 40 percent from the Labor and Public Welfare Committee, and the remainder from the Senate at large.

Senator McGovern also opposed the recommendations of S. Res. 4 regarding the Committee on Foreign Relations. "If this reorganization goes through," Senator McGovern said, "I would resign from the Foreign Relations Committee," because its jurisdiction would be reduced. About the only responsibility left for the Foreign Relations Committee, Senator McGovern said, would be the Office of Protocol in the Department of State. (S. Res. 4 would transfer authorizing jurisdiction for international financial and monetary organizations to the Committee on Banking and establish a new comprehensive policy oversight responsibility for international economic policy in Banking.)

Overall, Senator McGovern argued that S. Res. 4 was based on a theory of "administrative" efficiency that is inappropriate to a political institution like the Senate.

DOLE

Senator Dole requested "a temporary extension of the Nutrition Committee," of which he is ranking minority member. Terming the committee "a unique and valuable forum," Senator Dole cited its national leadership in promoting preventive health care and its investigations in such areas of human needs as the problems of handicapped consumers. The Nutrition Committee's "investigations must continue in the 95th Congress and no other committee is as capable of bringing to bear the expertise, dedication and perspective which is needed," Senator Dole said. He did not comment on other aspects of S. Res. 4.

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 7

January 10, 1977.

Rules Committee hearings continued January 10, with Senator Frank Church as the first witness.

CHURCH

After expressing approval for "the general effort to consolidate and streamline the Senate," Senator Frank Church vigorously opposed three aspects of S. Res. 4: transferring jurisdiction from the Foreign Relations Committee, shifting irrigation and reclamation from the Interior Committee, and consolidating the activities of the Special Committee on Aging.

Senator Church began by saying that if the provisions of S. Res. 4 concerning Foreign Relations were adopted, he would "seriously recommend" that the Senate "just abolish the Foreign Relations Committee completely." Listing 14 "amputations" in that committee proposed by S. Res. 4, the second-ranking Democrat on Foreign Relations said they would "compromise the ability of the Foreign Relation Committee to do its work." Specifically, Senator Church objected to transfer of jurisdiction over international financial and monetary institutions and foreign trade promotion to the Banking Committee. This jurisdiction "has nothing to do with commercial banks," he

said, adding that the institutions concerned stem from international agreements and treaties. The "multilateral assistance" provided by the World Bank, the International Monetary Fund, and related organizations is an "integral part of the foreign economic policy of the United States," Senator Church said.

The Senator from Idaho also took issue with fixing study responsibility for comprehensive policy oversight over foreign economic policy in the Banking Committee. This move, he said, would "cut its (Foreign Relations') power effectively in half." He pointed out the central importance of economic policies in contemporary international relations, noting the serious impact of the rise in oil prices throughout the world. To remove jurisdiction over international economic matters from Foreign Relations, Senator Church said, is to "cut off one leg and leave us balancing on the other."

Senator Church also cited several other changes in jurisdiction that the Foreign Relations Committee staff had identified as affecting their committee: placing responsibility for oceans in the Committee on Commerce, Science, and Transportation; placing food, nutrition, and hunger in the United States and abroad in the Committee on Agriculture and Small Business; placing relations with international organizations in the Committee on Governmental Affairs; placing reciprocal trade agreements in the Finance Committee; placing all government information in the Committee on Governmental Affairs; and stating joint jurisdiction over foreign military sales to the Committees on Armed Services and Foreign Relations. These changes would "compromise the ability of the Foreign Relations Committee to do its work," Senator Church said.

In addition, Senator Church contended that S. Res. 4 would further fragment jurisdiction over foreign policy rather than consolidating it. He also said that the Foreign Relations Committee had not been overworked and that hence there was no need to reduce its jurisdiction.

On the issues of irrigation and reclamation, Senator Church pointed to the "impracticality" of shifting that jurisdiction from the present Interior Committee to the new Committee on Agriculture and Small Business. He added that trying to separate hydroelectric power, which is in the jurisdiction of the new Energy Committee, from irrigation and reclamation, is "like separating Siamese twins."

Senator Schmitt also commented on his support of the Select Committee's proposal for sequential or joint referrals and for the creation of temporary ad hoc committees. "I believe that the problem (or jurisdictional conflicts) will be resolved if proposed legislation is referred sequentially to the two committees in question, with instructions for the first to report to the second by a time certain." On ad hoc committees Senator Schmitt said, "I support the Select Committee's proposal for establishing ad hoc committees to consider proposed legislation falling within the jurisdiction of two or more committees provided this device is used sparingly."

BOLLING

Representative Richard Bolling testified in his capacity as Chairman of the Joint Economic Committee. He stated that it would be inappropriate for him, as a member of the House, to comment on other Select Committee recommendations affecting internal Senate reorganization. The JEC Representative Bolling noted, is in a different category from other joint committees and is a valuable and important panel. In one respect, he said, it can be viewed as a countervailing intellectual power to the Administration's view on the economy, permitting the development of an independent congressional view on the economy.

Representative Bolling pointed out that: the JEC has no legislative jurisdiction; it provides useful information to House leaders and committees; it is the opposite number of the Council on Economic Advisers; and it brings together the views of outside groups such as labor, business, and agriculture. As the nation faces the serious problem of providing full employment with minimum inflation, he said, Congress needs a panel that can provide the legislative branch with a broad view of the U.S. and world economies and the interactions between the two.

Representative Bolling said he believes it unwise to merge certain JEC functions with the Budget Committee as the Stevenson Committee recommends. In his judgment, that represents a "nearly total misunderstanding" of the two committee's functions. The Budget Committee deals with the federal budget and government spending. It considers specific programs, the priorities among them, and oversight of essentially microeconomic matters. The JEC considers essentially macroeconomic matters. If the two came together, Bolling said, then neither function would be done well. Bolling observed that he initially served on the House Budget Committee as well as the JEC. He voluntarily left the Budget Committee because the functions between the two panels were so utterly different.

On the matter of disbanding the Joint Committee on Atomic Energy, Bolling expressed concern about military versus civilian control of atomic energy. What happened in the House on the JCAE, he said, was a result of an almost extreme effort by some to limit nuclear power development. The Senate could take a contrary position, Bolling noted, and compromises on atomic energy could still be worked out in conference committees.

NELSON H. CRUIKSHANK, PRESIDENT, NATIONAL COUNCIL OF SENIOR CITIZENS

Mr. Nelson K. Cruikshank, President of the National Council of Senior Citizens, expressed deep concern with the reorganization's proposal to consolidate the Senate Special Committee on Aging within the Human Resources Committee. He strongly recommended that the Special Committee on Aging be continued. He concluded his remarks by stating:

"We cannot believe that the proposed elimination or the absorption of the Senate Committee on Aging into a generic welfare style committee means that the United States no longer considers the needs of the elderly a priority concern. I must say in all candor, however, that it would be difficult to convince many senior citizens that this was not the case."

DOMENICI

A member of the Temporary Select Committee, Senator Domenici praised the work of that panel and strongly urged action on committe reorganization. No time is a good time to reorganize, he said. Excuses can be made every year to delay action on change. He recommended that the Rules Committee put together the "loose ends" and let the Senate work its will on committee reorganization. A perfect plan that pleases everyone simply cannot be developed by the Rules Committee. He underscored that the House and Senate are dissimilar institutions and that adoption of S. Res. 4 would increase the effectiveness of the Senate.

Senator Domenici pointed to several areas that require additional emphasis or further attention. He strongly endorsed the provision of S. Res. 4.

With regard to the Aging Committee, of which he is chairman, Senator Church said that if none of the committees scheduled for consolidation under S. Res. 4 is exempted, he will not oppose consolidation. However, if some are exempted, he continued, a good case can be made for retaining the Aging Committee. He noted that the Committee carries on "comprehensive oversight of all the problems that affect older people." He said that that responsibility would be fragmented under S. Res. 4, adding that the Aging Committee's constituency "ought to have a home."

Senator Church also praised the work of the Commission on the Operation of the Senate. He noted their conclusion that inadequate information and an oversight, rather than assignments or the number of committees, are the major problems of the Senate.

In response to questions from members of the Rules Committee, Senator Church expressed his view that an investigative committee on problems of aging is necessary because the authorizing committees are too busy to carry on oversight. He said he favored consolidating the Select Committee on Small Business and the Select Committee on Nutrition and Human Needs in the new Committee on Agriculture and Small Business provided that committee could do their work adequately. Asked about the Joint Economic Committee, he said he was "not competent" to judge the desirability of keeping it as he has not served as a member. Of the Select Committee on Intelligence, whose predecessor investigative committee he chaired, Senator Church said it should be continued beyond the two years of life provided it in S. Res. 4 because of the continuing problem of abuses in the intelligence community.

In concluding his testimony, Senator Church declared that "there is reform and deform," and said that approval of S. Res. 4 recommendations affecting the Foreign Relations Committee would mean "handicapping if not mortally wounding the Foreign Relations Committee in the exercise of its responsibilities." He said: "The life and future of the Foreign Relations depends on the even-handedness of Senators."

In a prepared statement about the Special Committee on Aging prepared for the Rules Committee, Senator Church urged keeping the Aging Committee for the following reasons:

"the Special Committee on Aging has established a record of excellence which has complemented the work of the standing committees;

"it has provided the factual underpinnings for vital legislation;

"it has inspired the House of Representatives to copy its example;

"the non-legislative nature of the Special Committee is necessary to provide comprehensive oversight and to combat the fractionalized view of elderly concerns which existed in the Senate prior to its establishment and would occur again under the reorganization proposal;

"the Special Committee on Aging is unique among the threatened Senate units by virtue of its non-legislative character combined with a readily identifiable constituency suffering from severely unmet needs."

Congressman Claude Pepper of Florida, Chairman of the House Select Committee on Aging, appeared jointly with Senator Church before the Rules Committee on the question of the consolidation of the Senate Special Committee on Aging in the Human Resources Committee. Congressman Pepper strongly urged the Senate to continue the Aging Committee in its present form.

SCHMITT

Senator Harrison H. Schmitt, the newly elected Senator from New Mexico, testified in strong support of S. Res. 4. In his opening remarks he stated, "I wish to compliment Senator Stevenson, former Senator Brock and the members of the Select Committee for their outstanding efforts in the face of many

difficulties and pressures. I fully support their general recommendations as set forth in the Select Committee's report."

Senator Schmitt's principal recommendation to strengthen the reorganization plan is for further consolidation of science and technology jurisdiction in the Commerce, Science, and Transportation Committee. In particular he recommended, ". . . that legislative responsibility for biomedical, earth resources, oceanic and meteorological research and very basic research in general, be included under the Committee on Commerce, Science, and Transportation."

In supporting the recommendations of the Select Committee, Senator Schmitt urged the Senate to pursue more efficient management procedures and he felt that the S. Res. 4 would help to achieve that objective. On this point he said, "During my astronaut days, we actually did much of what, in terms of management, has been proposed by the Select Committee. We were dependent on clearly defined jurisdictions between missions and within mission planning and engineering responsibilities. We were also required to maintain an efficient and visible scheduling operation so that everyone could be where he needed to be at a given time, and all the essential work of the group would be accomplished according to the master schedule, exempting the "Rules Committee from the limitation to two standing committee assignments." He further noted that assigning the ethics responsibility to the Rules Committee would enhance that duty and give it visibility within a prestigious committee. "I suggest that you consider a special subcommittee on ethics, with a nonpartisan membership," he said.

Senator Domenici highlighted the important role of the Aging Committee and recommended that an ad hoc oversight panel on aging be retained in the Senate. "I would suggest the creation of an ad hoc committee, with a relatively small membership, with a direct and exolicit oversight function in the area of policies affecting the elderly citizens of this nation."

On the matter of Indian affairs, Senator Domenici submitted two communications to the Rules Committee. He urged that the Rules Committee "seriously and earnestly consider the legitimate arguments for consolidation of Indian affairs jurisdiction in a standing committee as outlined in the communications I have submitted."

While S. Res. 4 recommends the merger of the duties of the Joint Committee on Atomic Energy, Senator Domenici urged "that due consideration be given to the assignment of some lesser known, but nevertheless vital responsibilities of the Joint Committee." Senator Domenici pointed to approval of international agreements for cooperation covering mutual defense or peaceful uses of nuclear energy and maintenance of security facilities of the JCAE as examples. He further underscored the perplexing problem of separating military and domestic aspects of atomic energy between the Armed Services and Energy and Natural Resources Committees.

Senator Domenici also expressed concern that "too much of the current jurisdiction may be taken from the Public Works Committee when it becomes the Committee on Environment and Public Works." He specifically cited economic development programs, and urged their retention in the Public Works panel. Senator Domenici further stated his belief that the Temporary Select Committee was correct "in its initial determination that a four-year exemption [from present assignment limitations—for the 94th and 95th Congress] was justified and, indeed, required" for Budget Committee members. Without such an exemption, the result "would be the forced departure of a substantial number of the present members of the Budget Committee."

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 8

January 11, 1977.

Rules Committee hearings continued on the afternoon of Jan. 10, with Senator Hollings as the first witness.

HOLLINGS

Stressing the need for continuation of the National Ocean Policy Study which he chairs, Senator Hollings outlined some of the important contributions of the Study toward the development of a rational ocean policy for the United States. Examples cited included the Coastal Zone Management Act Amendments of 1976 and the two volume Coastal Effects report which was prepared by the Office of Technology Assessment at the request of the National Oceans Policy Study.

Senator Hollings expressed a chief concern that the proposals of the Select Committee would distribute jurisdiction in the field of ocean policy among 4 committees. He urged the Rules Committee to consolidate jurisdiction in ocean matters in the National Ocean Policy Study group of the Commerce Committee, and submitted a prepared statement on this recommendation.

Senator Hollings also said the Committee on Post Office and Civil Service should be retained, in light of the widespread concern about problems of inefficiency and waste in the postal service.

LAXALT

Senator Laxalt indicated that he was generally in favor of the proposal offered by the Select Committee to Study the Senate Committee. At the same time, he favored retention of the Select Committee on Small Business as a separate committee. Pointing to the scope of small business in the American economy, and the many problems presently faced by people in small business, Senator Laxalt said now was a time to strengthen and increase the importance of the Small Business Committee, and not to deemphasize it by "submerging" it in the Agriculture Committee. In response to a question by Senator Cannon, Laxalt stated that, if the Small Business Committee jurisdiction must be transferred, it should be transferred to the Finance Committee rather than Agriculture.

In addition, Senator Laxalt favored the retention of the Veterans' Affairs Committee as a separate committee. At the same time, he did not favor retention of any other committee whose jurisdiction would be transferred under the committee reorganization plan, mentioning in particular the Committee on Aeronautical and Space Sciences, on which he served, and the Joint Economic Committee.

RIEGLE

Senator Riegle expressed general disfavor toward the committee reorganization plan, stating that the consolidation of power as proposed by S. Res. 4, in light of the seniority system, was not in the public interest. Moreover, many of the Select Committees, in his view, had performed valuable functions and their consolidation with major standing committees might prove to be harmful to the interests they were serving.

In place of the reorganization plan, Senator Riegle favored the establishment of a consolidated Energy Committee as a test case, postponing further changes in the present committee structure for about six months.

Genuine reform, he suggested, did not lie in concentrating more power in fewer hands, but in the elimination of the seniority system, more Senate * * * and rotation in committee assignments.

In a colloquy with Senator Cannon, Riegle added that he specifically opposed the merger between Small Business and Agriculture and thought that a more logical consolidation would be Small Business with the Finance Committee.

STONE

Suggesting that the Senate might be "putting the cart before the horse" Senator Stone thought that the Senate should not attempt any committee reorganization until the new Carter administration had reorganized the executive branch. By proceeding now to reorganize, the Senate would simply be reorganizing a second time. Reorganization of the Senate, he said, should parallel that of the administration. At the same time, he would make an exception in the case of energy and urged the Rules Committee to proceed with jurisdictional consolidation in this area.

Senator Stone also opposed consolidation of the Veterans' Affairs Committee with Human Resources. If its jurisdiction is to be transferred, he stated, it would be more rational to transfer it to Armed Services rather than Human Resources.

MATSUNAGA

Summarizing his prepared statement, Senator Matsunaga expressed the view that, although he generally favored the reorganization plan, both the Veterans' Affairs and Aging committees should be retained as separate committees. In response to a question by Senator Cannon, he indicated that Small Business should probably also be kept as a separate committee.

Pointing to his past service as Chairman of the Subcommittee on Federal, State and Community Services of the House Select Committee on Aging, Senator Matsunaga told the members of the Rules Committee that an exclusive and separate aging committee is essential in order to focus on the many problems of the aged. Likewise, he said, the Senate must continue to play a leading role in protecting the benefit programs of the veterans. To reach this end, it must keep the Veterans' Affairs Committee as a separate entity.

MARIO KRAJA, AMERICAN LEGION

Speaking for the members of the American Legion, Mr. Kraja stated that he opposed the consolidation of the Veterans' Affairs Committee, especially with the Committee on Human Resources. Only by centralizing the jurisdiction affecting veterans, he said, can their many and varied problems be adequately met. In addition, veterans have traditionally opposed being consolidated with the umbrella of Federal welfare programs. Indicating that the Executive Committee did not consider the alternative of merging Veterans' Affairs with the Committee on Armed Services, Mr. Kraja stated that the American Legion would probably prefer a merger with Armed Services rather than Human Resources.

In his prepared statement, Mr. Kraja also favored retention of the Senate Judiciary Subcommittee on Internal Security, retention by Armed Services of complete jurisdiction over the Panama Canal, and retention of the Committee on Post Office and Civil Service.

DONALD SCHWAB, VFW

Mr. Schwab, Director of the National Legislative Service of the Veterans of Foreign Wars, urged the Rules Committee to retain the Veterans' Affairs Committee as a central focal point for the consideration of the many problems associated with veterans. Mr. Schwab also indicated that the interests of veterans would be neglected in a social welfare-oriented committee and a housing committee. The sheer magnitude of the Veterans Administration and the great number of American veterans, required a separate committee in the Senate to handle veterans' affairs.

BRUCE TOWNSEND, NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Speaking for the chairmen, presidents, governors and chiefs the federally recognized Indian tribes of the United States and the

Alaskan native regional corporations, Mr. Townsend urged the Rules Committee to establish a separate Committee for Indian Affairs. At the very least, the National Tribal Chairmen's Association favors the consolidation of jurisdiction of Indian affairs in a single Senate Committee. Furthermore, the Association feels that Senators assigned to positions of authority in Indian Affairs should be "ones who are sensitive to the needs of Indian People."

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 9

January 12, 1977.

Rules Committee hearings continued throughout January 11. Four Senators and a number of public witnesses appeared.

MUSKIE

The committee system, said Senator Muskie, is in need of overhaul. By way of general observation, he suggested that the Rules Committee should build reform on the following foundations: (1) the workload of committees that are already overburdened should not be increased; (2) careful attention should be paid to the need for balance in newly created committees; (3) the committees with legislative responsibility should also have oversight responsibility. (He said S. Res. 4 does not conform to those principles in certain cases); (4) the arbitrary limitation on the number of subcommittees allowed should be closely examined; (5) other factors besides the proliferation of committees and subcommittees should be examined with regard to the strain placed on Senators' schedules (The increase in roll call votes, for example, has resulted in an inefficient use of committee meeting time); (6) the recommendations of the Hughes Commission on the Operation of the Senate as they related to the committee system.

Senator Muskie also offered a number of specific recommendations concerning the three committees on which he serves. Since the Budget Committee and the Joint Economic Committee already share a substantial amount of jurisdiction, it would be appropriate to transfer most of the JEC's jurisdiction to the Budget Committee if the Joint Economic Committee is not retained. Senator Muskie also said the Rules Committee should give to the Budget Committee jurisdiction to consider laws under which the President's budget is formulated. This jurisdiction presently resides in the Committee on Government Operations. If jurisdiction over budget and accounting measures other than appropriations and accounting measures were consolidated in the Budget Committee, he said, the work of the committee would be less "seasonal." Speaking as a member of both the Budget and Government Operations Committee, Senator Muskie stated that it was an oversight that jurisdiction over budget and accounting matters was not transferred when the Budget Act was drafted. This oversight, he concluded, should be corrected. Such a change would equalize workloads and further enhance congressional control of the budget.

With regard to the Committee on Environment and Public Works, Senator Muskie said that S. Res. 4 did not take account of the need for balance concerning the issues of development, on the one hand, and the issues of environment on the other. As established under the reorganization plan, this committee would be dominated by issues dealing with environmental protection. To achieve a greater balance, Muskie suggested that the new committee should be assigned issues dealing with development, and environmental issues that are basically conservation programs should be returned to the committees traditionally assigned those issues. Specifically, land and water conservation fund, wild and scenic rivers, and the Bureau of Outdoor Recreation should be assigned to the new Energy Committee, and oceans, weather, atmosphere, outer continental shelf lands, and fisheries and wildlife should be assigned to the new Commerce Committee. But Economic Development, Regional Economic Development, land use, other environmental regulatory authority, and all aspects of the pesticides program should be assigned to the new Environment Committee.

Concerning the new Governmental Affairs Committee, Senator Muskie suggested that jurisdiction over general revenue sharing should be transferred to this committee from the Finance Committee. Furthermore, the Governmental Affairs Committee should be given responsibility for overseeing Senate oversight activities.

In a colloquy with members of the Rules Committee, Muskie said that S. Res. 4 did not, in his view, substantially reduce jurisdictional fragmentation as it presently exists, and felt that the issue of jurisdiction could be rationalized further. At the same time, he expressed general support for the reorganization plan, even if his recommendations were rejected. He also added that oversight authority with respect to pension plans should be in the appropriate legislative committees dealing with such, and not in the Budget Committee. Muskie also assured Senator Griffin that he would "promote" the principle of adequate minority staffing on the committees whenever possible.

STONE

Clarification of CRT's Report: The CRT report of January 10 on Senator Stone's testimony is inaccurate. CRT reported that Senator Stone called for a separate Veterans' Affairs Committee, but agreed that Armed Services Committee would be a more logical location for jurisdiction over Veterans' Affairs than the Committee on Human Resources.

Senator Stone, however, actually suggested that the Armed Services Committee, even though a more logical place for the consideration of veterans' matters, would prove to be unsatisfactory because Armed Services might ignore the vital human resource areas of veterans' policy. Therefore, he said, the only viable solution is to keep veterans' matters in a separate committee. The Staff of the Select Committee regrets this error.

HUMPHREY

Senator Humphrey expressed concern that every member understand the implications of the committee reorganization recommendations. He praised the Temporary Select Committee, and stated his support for a number of its recommendations. These include a limitation on committee and subcommittee assignments, improvements in scheduling and bill referral, and the general thrust of rationalizing jurisdictions. However, Senator Humphrey questioned particular jurisdictional changes.

Stressing that the Senate is a representative institution, Senator Humphrey noted that committees come into being to fill an apparent public need. And before a committee is abolished, its opponents must demonstrate why the panel is no longer necessary. In this context, he expressed strong support for the Veterans' Affairs, Small Business, and Aging Committees. While noting that the Nutrition and Human Needs Committee might be merged with another panel, he underscored the large achievements of that panel, e.g., bringing nutritional matters to the attention of the medical community.

Senator Humphrey particularly emphasized the contributions of the Joint Economic Committee. He voiced vigorous opposition "to abolish, phase out, or diminish" the Joint Economic Committee. He said: JEC functions should not be assigned to the Budget Committee. That Committee is overburdened. While economic and budget policy are related, they are not identical. The JEC does too much work to shift its duties to another panel. The JEC provides the long-range, comprehensive overview of economic matters that cut across committee jurisdictions. The JEC's unique contribution would be diluted if its functions were placed in a legislative committee.

Senator Humphrey cited large public support for the JEC. Numerous organizations support its continuation, and several groups have recommended that its responsibilities be expanded, such as the National Advisory Committee on National Growth. The JEC provides the Senate with a foresight capability on economic matters unmatched by any House or Senate committee.

With respect to the Senate Foreign Relations Committee, Senator Humphrey endorsed the remarks of Senators Case, Sparkman, and Church on foreign economic legislation. Foreign economic matters should remain with the Foreign Relations Committee and not be transferred to the Banking Committee. Moreover, there is no reason why there should be joint jurisdiction between Armed Services and Foreign Relations on foreign military sales. Armed Services does not currently have jurisdiction over this field, he said, but does exercise oversight of military sales as they affect the military readiness of the U.S. The two Committees have harmonious relations, he said, and have worked out amicably any problems that may have arisen.

Senator Humphrey stated that it wasn't necessary to "reform the world," but only to make Senate procedures a little better. Reform should take care of a need, not some theory. As an example, he cited the need for some consolidation of jurisdiction in the energy field. He also favored a reduction in the number of subcommittees, and adequate staffing for the minority party. He expressed the need to move prudently and carefully on committee reorganization.

LONG

Senator Long noted that reform means change for the better, and S. Res. 4 ought to be examined according to that standard. In that context, Senator Long expressed opposition to the Select Committee's recommendation "that each standing committee exercise comprehensive policy oversight (i.e., study and review) for tax expenditures related to subject matters within its jurisdiction, and submit to the Senate appropriate reports and recommendations." Senator Long stated that every committee can do this now, but S. Res. 4 would formalize it in the rules. The result would be large overlap as committees held hearings on tax proposals and reported their suggestions to the Finance Committee. The Finance Committee already hears the tax suggestions of the Budget Committee and the Joint Economic Committee. With additional committees involved in this field, issuing reports with majority, minority, or additional views, the work of the Senate on revenue measures would be impeded. Moreover, it would likely lead to requests by committees for additional staff who would be expert in the tax field. If the Rules Committee chooses to recommend this course of action nonetheless, then Senator Long suggested that each committee be assigned responsibility to review appropriations as well.

Senator Long also expressed concern about the limitation of two subcommittees per member on each standing committee. This would create problems for the Finance Committee. He suggested instead that there be a limitation on the number of meetings subcommittees could hold. This would resolve the problem of committee meeting conflicts.

Senator Long further noted that if increasing attendance on the floor was an objective, then perhaps a public record of how many hours Senators spend on the floor should be kept. The Finance Committee maintains a record for each Senator as respects the number of hours each spends in committee. Attendance would not be improved on the floor, he said, simply by preventing committees from meeting when the Senate was in session.

Senator Long objected to the proposed merger of the Joint Taxation Committee. To terminate a panel that serves both houses well is ridiculous, he said. The Committee does not meet often, and then usually to survey the recommendations of its highly competent staff. To abolish it would run contrary to refrom.

Senator Long also suggested that the Rules Committee make clear that national health insurance is subject to the jurisdiction of the Finance Committee. He further noted that S. Res. 4 assigns comprehensive policy oversight over income maintenance programs to the Human Resources Committee. Those programs are now in Finance and comprehensive policy oversight for that area should similarly remain with the Finance Committee.

Senator Long stated that the Budget Committee should not be a "third" committee. Its responsibility is as broad as Congress itself, he said. Accordingly, it should not be viewed as an "extra" committee. That status should be reserved for committees that have problems attracting members. On the matter of small business, Senator Long indicated he was not asking for it, but if it was assigned to the Finance Committee he would have no objection. He also suggested transferring the Renegotiation Act from Finance to the Banking Committee.

Finally, on the matter of the leadership authority to move the creation of ad hoc committees, this should be done, Senator Long said, only after consultation with the chairman and ranking member of the concerned committees. Otherwise, there might be a proliferation of ad hoc panels.

INOUYE

Senator Inouye, Chairman of the Select Committee on Intelligence, commended the Temporary Select Committee and stated "that reform of the committee system is long overdue." However, he expressed "strong reservations" with respect to certain provisions of S. Res. 4. The members of his committee, he said, unanimously agreed to authorize Senator Inouye to voice the panel's strong objections to dissolving the Select Committee on Intelligence in two years. S. Res. 400, which established the Select Intelligence Committee, Senator Inouye noted, was adopted in May, 1976. "Less than eight months later, S. Res. 4 proposes to reverse this important innovation in Senate organization."

The Select Committee on Intelligence, he noted, is currently engaged in drafting legislative charters for the intelligence agencies. "It is my opinion," he said, "that our ability to acquire the information and cooperation necessary to prepare charters in the time specified will be severely hampered if it is known that the Select Committee's life is limited." He further stated that the "complexity and need for security, together with a continuing potential for abuse," makes "ongoing oversight, carried out by a committee specially constituted for that purpose, so essential."

He further noted that S. Res. 400 requires the Select Intelligence Committee to report by July 1, 1977, on the desirability of establishing "either a joint or a standing committee on intelligence. It would not appear appropriate to make a judgment against any form of unified intelligence oversight before that report has been made." For the Select Intelligence Committee he therefore recommended an amendment to S. Res. 4 to maintain the Intelligence panel on a permanent basis.

Senator Inouye also expressed concern "about that portion of S. Res. 4 which limits to one the number of subcommittees of the Intelligence Committee on which a single Senator may serve. At present, most members of the Select Committee serve on two of its four subcommittees." He further stated that it would be "appropriate to provide the same limit on subcommittee membership to the Intelligence Committee as is provided to the Rules and Budget Committees."

Senator Inouye also stated his opposition to the consolidation of the Veterans' Affairs and Small Business Committees.

SUSAN KOKINDA, U.S. LABOR PARTY

Ms. Kokinda recommended that the Rules Committee should be mindful of new modes of energy production and increased energy output, the need for a workable monetary system based on a hard currency, and the strategic interests of the country. Moreover, Senate committee staff should not include individuals who are committed to the existing monetary system, such as those associated with Ralph Nader, the Brookings Institution, Common Cause, and the Ford and Rockefeller Foundations.

LAWRENCE ROFFEE, PARALYZED VETERANS OF AMERICA AND WILLIAM GARDINER, DISABLED AMERICAN VETERANS

Pointing to the enormous scope and breadth of services provided by the Veterans Administration, the number of veterans and veterans' families in the United States, Roffee and Gardiner urged the Rules Committee to retain the Veterans Affairs Committee as a separate committee of the Senate, where matters relating to the needs and interests of veterans would serve as a focal point. They objected to the dispersal of this committee's jurisdiction among the Banking and Human Resources committees, and stated that these committees would probably not have sufficient opportunity to devote ample time to veterans as would a separate committee.

WILLIAM MOSS, ASSOCIATED GENERAL CONTRACTORS

The committee reform proposal, in the view of Moss, has unnecessarily fragmented construction jurisdiction. What is needed, he said, is a single focal point for the consideration of legislation dealing with the construction industry. For this reason, Moss stated that he opposed the reorganization plan with regard to the jurisdiction of the Committee on Environment and Public Works. Rather than draw jurisdiction away from the Public Works Committee, the Select Committee, in his view, should have expanded its jurisdiction to include all transportation construction.

ANDREW FEINSTEIN AND JANES CUBIE, PUBLIC CITIZENS CONGRESS WATCH

Feinstein criticized the committee reform proposal on the following grounds: (1) that it fails to provide for effective, diligent, and continuous oversight in that it consolidates all of the special and select committees, many of which have performed valuable oversight work in the past; (2) that it unwisely proposes the consolidation of the Select Committee on Nutrition and Human Needs, Small Business, Aging, and the Joint Economic Committee. These committees, said Feinstein, have demonstrated a dedication to oversight and they should remain intact; (3) although the Select Committee properly separated energy and environment matters, and wisely placed jurisdiction over the Nuclear Regulatory Commission in the Committee on Environment and Public Works, it failed to offer any solution to the present imbalance regarding membership on the Agriculture and Small Business and Energy and Natural Resources committees. Nearly every member of the Agriculture Committee is from an agriculture state, and all but two of the fourteen members of the Interior Committee are from states west of the Mississippi; (4) the reform proposal makes no provision for ending Senate filibusters; (5) supporting the recommendation of Senator Brooke, Feinstein urged the Rules Committee to adopt new rules for Senators regarding Senate ethics and a mechanism for hearing complaints about improper activity, in order to assure prompt investigation.

Cubie supported the Select Committee's proposal to distribute the jurisdiction of the Joint Committee on Atomic Energy among standing committees, and stated that this joint committee was an anachronism that has outlived its usefulness. He pointed out that by transferring the joint committee's jurisdiction to standing committees, more Senators would have an opportunity to participate in the development of policies relating to atomic energy.

In response to questions by Senator Griffin, both Feinstein and Cubie agreed to the general principle that the minority party should have adequate staffing in the various committees. They acknowledged that they have not investigated this matter.

JAMES M'CART OF THE PUBLIC EMPLOYEES DEPARTMENT (AFL-CIO), PAT RILAN OF THE POSTAL WORKERS UNION AND LEO PELLERZI OF THE AMERICAN FEDERATION OF PUBLIC EMPLOYEES

All three witnesses testified as to the importance of the Committee on Post Office and Civil Service as a central focal point for the consideration of legislation affecting Federal employees, and urged the Rules Committee to reject the Select Committee's recommendation that this committee be merged with the Committee on Governmental Affairs. In their view, the workload of the committee and the expertise of its staff also justified the retention of the Post Office and Civil Service Committee as a separate committee of the Senate with legislative authority.

MR. ROGER JIM, NATIONAL CONGRESS OF AMERICAN INDIANS

On behalf of the Indian tribes and individuals of the National Congress of American Indians, Mr. Jim stated that the division of "jurisdiction between or among committees will serve only to dilute the interest, indeed, the responsibility of the Senate in matters relating to native American people." His studies pointed out a number of committees that handle Indian matters.

To protect and develop the considerable energy resources of our tribes, both the Energy and Natural Resources Committee and the Environment and Public Works Committee are important to us. For the protection of our unique treaty rights, the Committee on the Judiciary is essential. In the development of our agricultural, timber, and aquaculture resources, the Agriculture and Small Business Committee is very important. Indian housing is a problem of crisis proportion on our reservations and a massive challenge to the Committee on Banking, Housing and Urban Affairs. And, of course, many of our problems—but certainly not all of them, are the concern of the Human Resources Committee in the area of health, education, and social welfare.

Agreeing with Senator Jackson's recommendation that jurisdiction over Indian affairs be consolidated in a single committee, Mr. Jim proposed the "establishment of an ad hoc committee on Indian affairs." Such an ad hoc committee would have legislative authority and an adequate staff. "It occurs to us," Mr. Jim said, "that membership on such an ad hoc committee be enlisted from all committees in which Indian tribes have major issues of concern."

MR. JAMES M. PEIRCE (NATIONAL FEDERATION OF FEDERAL EMPLOYEES), MR. WALTER B. STULTS (NATIONAL ASSOCIATION OF SMALL BUSINESS INVESTMENT COMPANIES), MR. MILTON D. STEWART (NATIONAL SMALL BUSINESS ASSOCIATION), MR. JAMES D. "MIKE" M'KEVITT (NATIONAL FEDERATION OF INDEPENDENT BUSINESS)

James M. Peirce, President of the National Federation of Federal Employees, expressed support for "some committee reorganization in the Senate to reduce duplication and to permit lawmakers to more effectively carry out their responsibilities." However, he opposed consolidation of the Post Office and Civil Service Committee into a Committee on Governmental Affairs. He said that more rather than less oversight of the Postal Service and the Civil Service is needed, and that these efforts "require the attention of a specialized Senate committee." On behalf of NFEE, many of whose members are veterans, he also voiced opposition to consolidating the Committee on Veterans' Affairs, saying that this organization "wishes to ensure that the men and women who sacrificed years of their lives for their country now get a fair deal."

Walter B. Stults, Executive Vice President of the National Association of Small Business Investment Companies, urged retention of the Select Committee on Small Business. He said that "the survival of a free enterprise system demands a stronger Senate Small Business Committee not an inferior one." Senators who ask to serve on the Agriculture Committee, he continued, have special interest in agricultural matters, not in small business issues. He praised the Small Business Committee's past effectiveness. Calling S. Res. 4 "a truly 'penny-wise and pound-foolish' approach," he added that elimination of the Small Business Committee would save neither Senators' time nor taxpayers' money.

On behalf of the National Small Business Association, Milton D. Stewart testified in support of an independent Select Committee on Small Business with authorizing jurisdiction over the Small Business Administration. At minimum, he proposed, the Senate should continue the Committee for two years, like the Senate Committee on Intelligence, in order to see how its new responsibility works out. He said experience showed that assigning jurisdiction over small business to a standing committee means burying it in a plethora of other issues. While small business people are sympathic to the demands on Senators' time, he added, "small business is under-organized, under-represented and badly outweighed in national decision-making," and hence needs its own committee in the Senate.

Testifying for the National Federation of Independent Business, James D. "Mike" McKevitt began by cataloguing the innovations that small business has contributed to American society. He noted that only last April the Senate voted to give authorizing jurisdiction to the Select Committee on Small Business, adding that taking it away would mean "a cruel hoax played on the 13 million small businessmen and women." He contested the notion that S. Res. 4 is a reform, saying: "The entire thrust of the proposal seems to suggest serving the convenience of the Senators, and not that of the people they represent."

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 10

January 14, 1977.

Senator Stevenson, appearing before the Rules Committee January 13 for its final day of hearings on S. Res. 4, summarized the recommendations of the Temporary Select Committee to Study the Senate Committee System and responded specifically to questions or reservations raised by Senators during seven previous days of hearings.

Where objections had been raised, he said, they primarily concerned proposed shifts or alterations of committee jurisdiction as part of the consolidation recommended by the Temporary Select Committee. One area not dealt with in S. Res. 4 was minority staffing and oversight, which, Senator Stevenson noted, the Select Committee did not think should be dealt with until the Senate had disposed of the overriding structural questions contained in S. Res. 4.

DOES S. RES. 4 FRAGMENT JURISDICTIONS?

Responding to a question by Senator Allen on whether the Select Committee's recommendations tended to fragment, rather than consolidate jurisdictions in an effort to balance the workloads of committees, Senator Stevenson noted that the Select Committee recommendations did place heavy emphasis on consolidation. He added that the Select Committee was less concerned with equalizing workload, though that was one of its objectives, than in limiting Senators' committee and subcommittee assignments.

While it does not establish total functional consolidation, which would be impractical and unworkable, S. Res. 4 provides for major consolidations of responsibilities in at least a dozen functional areas. In the field of Energy, the proposed Committee on Energy and Natural Resources pulls together jurisdiction from seven existing committees, and also has comprehensive policy oversight for all aspects of energy and resources development. Its authorizing jurisdiction includes energy policy; energy regulation and conservation; energy research and development (all three subjects to be stated in Rule XXV for the first time); solar energy systems; nonmilitary development of nuclear energy; oil and gas production and distribution; extraction of minerals from the Outer Continental Shelf; energy-related aspects of deep-water ports; hydro-electric power; coal production, distribution and utilization; public lands and forests, including mineral extraction therefrom; mining, mineral lands and mining claims and mineral conservation; and mining education and research.

Senator Cannon noted that S. Res. 4 placed jurisdiction over naval petroleum reserves in the Environment and Natural Resources Committee, and asked Senator Stevenson for his opinion of the current agreement between Interior and Armed Services which splits jurisdiction. Senator Stevenson said that the current arrangement appeared to be working satisfactorily and suggested that the Rules Committee might amend the resolution to allow it to continue.

The Select Committee rejected the idea of combining Energy with *Environment* because it would have given one committee too much responsibility. The Committee on Environment and Public Works combines jurisdiction presently scattered among four committees, in addition to gaining comprehensive policy oversight for environmental protection and resource utilization and conservation.

Newly recognized jurisdictional subjects include environmental policy; environmental research and development; solid waste disposal and recycling; environmental effects of pesticides; air pollution; and noise pollution. In addition, its jurisdiction includes oceans, weather and atmospheric activities; fisheries and wildlife; coastal zone management; Outer Continental Shelf Lands (except mineral extraction); ocean dumping; toxic substances; water resources; water pollution; and nonmilitary environmental regulation of atomic energy.

The oceans jurisdiction of the Environment Committee consolidates most jurisdiction in this area, including programs of the National Oceanic and Atmospheric Administration, in order to provide a more unified approach to policymaking. Certain questions relating to oceans will stay in other committees. Foreign Relations will deal with law of the sea and international agreements regarding oceans. Navigation on oceans and other waters will remain with the Committee on Commerce, Science and Transportation. The Agriculture and Small Business Committee will handle food from fresh waters and the sea.

The responsibility for a national policy on Transportation is fixed in a single committee—Commerce, Science and Transportation. Its jurisdiction includes areas brought together from eight different committees. Among its responsibilities will be airplanes, railroads, buses, trucks, vessels, pipelines, highways, bikeways, mass transit and space vehicles and oversight responsibility for transportation.

Some Senators would like to see highway jurisdiction retained within Environment and Public Works. Others would prefer to keep the urban mass transit jurisdiction in Banking, and still others feel that the Commerce Committee is not the appropriate site for consolidation of transportation jurisdiction.

Senator Stevenson said the Select Committee felt its recommendations made the best sense. Consolidation of transportation would not mesh as well in the Banking or Environment Committees. The Federal highway program is a transportation program, not an environmental protection program or public works construction program, both primary responsibilities of the Environment Committee. The natural repository for more transportation jurisdiction is the committee—Commerce—which already has most of it.

Senator Tower, a temporary Member of the Rules Committee during consideration of S. Res. 4, noted that mass transit was a matter closely related to urban development, which is currently under the jurisdiction of the Banking Committee. He suggested that it might best remain there.

Senator Stevenson agreed with Senator Tower's observation about the closeness of the two areas, but said that the Select Committee's goal of consolidating jurisdictions would be best served by keeping urban mass transit with other forms of transportation. He also said that UMTA is currently part of the Department of Transportation, and falls within the jurisdiction of the Commerce Committee.

Senator Stevenson concluded that he had no objection to the Banking Committee's making recommendations in mass transit as part of its comprehensive oversight responsibility for urban planning, but insisted that transportation jurisdiction not be dispersed.

Science, Engineering and Technology will have a more centralized focus, with comprehensive policy oversight focus in the Commerce, Science and Transportation Committee, but other committees will continue to have responsibility for research in their jurisdictional areas. Senator Stevenson proposed, in a change from S. Res. 4, that the Rules Committee consider placing jurisdiction over the National Science Foundation in the Committee on Human Resources, rather than in Commerce, because of NSF's relation to education and academic institutions.

Education jurisdiction from five current Committees—Labor, Agriculture, Interior, Armed Services and Veterans—should be placed in the new Committee on Human Resources.

Housing responsibility is specifically recognized within the Banking Committee, which has comprehensive oversight for urban affairs and picks up veterans housing from the Veterans' Committee.

Senators Cannon and Tower asked Senator Stevenson his opinion on what should happen to the area of veterans' housing if the Veterans Committee were retained in its present form. Senator Stevenson replied that veterans' housing should still be placed with other housing programs in the Banking Committee, which has comprehensive policy oversight responsibility for housing programs.

The Committee on Agriculture and Small Business picks up additional authority over Food and Nutrition Programs from the following Committees: food from the sea from Commerce; irrigation and reclamation from Interior; partial jurisdiction over school lunch programs from Labor; and the comprehensive oversight mandate of the Select Committee on Nutrition and Human Needs, which was consolidated into Agriculture.

S. Res. 4 consolidates responsibility for Natural Resources in the proposed Energy and Natural Resources Committees. Within its mandate will be energy, minerals, mining, public lands, national parks, recreation sites, historic sites, wilderness areas, energy aspects of outer continental shelf lands, and Native American land management and trust responsibilities.

Jurisdiction over a variety of areas would be usefully combined in the new Committee on Governmental Affairs. These would include budget and accounting measures; organization and reorganization of the executive branch; intergovernmental relations; government information, including freedom of information; municipal affairs of the District of Columbia (except appropriations); acquisition of lands and buildings for embassies abroad; insular possessions of the United States; the Federal Civil Service; status of officers and employees of the United States; the Postal Service; the Census and the collection of statistics; and the Archives of the United States.

SHOULD THE SENATE RETAIN THE COMMITTEES S. RES. 4 PROPOSES BE CONSOLIDATED AND SIMPLY IMPOSE ADDITIONAL LIMITS ON SENATORS' COMMITTEE ASSIGNMENTS?

Since the principal means of making sense out of the current fragmented network of committee jurisdictions is to consolidate committees of limited jurisdiction, retaining them would defeat this important goal. It would also make it difficult to conserve Senators' time and energy by reducing the number of subcommittees.

There are additional problems with some alternative proposals. A reorganization that reinstituted all special, select, joint and standing committees, even by making them "third" committees for assignment purposes and cutting down on their sizes, would inevitably exceed the proposed limit of one such assignment per Senator. If such committees were placed in the same class as the major standing committees, their memberships would consist almost entirely of new Senators forced onto them because senior Members would not want such assignments in place of those on more important committees.

DOES S. RES. 4 PLACE TOO RIGID LIMITS ON A COMMITTEE'S USE OF SUBCOMMITTEES?

S. Res. 4 preserves the freedom of each committee to organize its subcommittees according to its own needs, within certain limitations on the number of assignments per Senator.

Chairman Cannon questioned Senator Stevenson specifically about the problems the two-subcommittee-assignment limit in S. Res. 4 might cause for the Appropriations Committee, since objections had been raised that the limitation would unduly restrict the work of its subcommittees.

Senator Stevenson said that he was willing to expand the assignment limit from two to three subcommittees per Senator on standing committees as a way of solving any problems the prior limit might have caused. He said that it might still be necessary for Appropriations to make some consolidation of its subcommittee jurisdictions in order to fit within the three-subcommittee limit.

IS THE COMMITTEE REORGANIZATION PLAN PROPOSED IN S. RES. 4 BASED ON "ADMINISTRATIVE EFFICIENCY" WHICH DOES NOT TAKE INTO ACCOUNT THE POLITICAL NATURE OF THE SENATE?

The Select Committee specifically rejected proposals for a functionally-organized system of five management committees because they overemphasized administrative efficiency. S. Res. 4 would implement the Committee's principle that reorganization must provide a balance between consolidating jurisdictions along functional lines, balancing committee workloads and retaining the "creative overlap" which is an important factor in policy innovation in the Senate. It tried to eliminate unnecessary overlaps, while not overconsolidating jurisdictions.

ARE JOINT COMMITTEES UNILATERALLY DISCONTINUED OR ABOLISHED?

Since joint committes exist through statute or joint resolution, the Senate alone lacks the power to disband them and S. Res. 4 does not do so. What it does is direct the appropriate Senate standing committee to report legislation to abolish joint committees, but it would need Senate and House approval to take effect.

The provision of S. Res. 4 which prohibits the Senate from referring proposed legislation to a joint committee refers only to the Joint Committee on Atomic Energy, from which the House has already taken legislative authority. S. Res. 4 also provides for the filling of Senate vacancies on joint committees until those committees are terminated. The staff of the Joint Committee on Internal Revenue Taxation would be preserved in a new Congressional Revenue Office.

Senator Stevenson, responding to a question by Senator Allen about the Joint Economic Committee, said that he felt it was a unique and important institution in the Congress, and that "I would personally like to see it continued."

SHOULD "SPECIAL INTEREST" COMMITTEES BE PRESERVED?

The Select Committee recommended the consolidation of four standing committees—Aeronautical and Space Sciences, District of Columbia, Post Office and Veterans—whose jurisdictions are narrow and whose workloads have actually declined in recent years. The legislative authority of these committees, and the narrow authority exercised by the Select Committee on Small Business and the Joint Atomic Energy Committee, which would also be consolidated, is narrow and few have contended that their jurisdictions are incompatible with any of the standing committees proposed in S. Res. 4. Disagreements have occurred in some instances with jurisdictional transfer proposals made by the Select Committee.

The Select Committee's recommendations call for placing the Small Business Committee within the Agriculture Committee to create a new expanded panel on Agriculture and Small Business, but various Senators have suggested different arrangements. Senator Tower asked Senator Stevenson about the possibility of shifting Small Business to the Committee on Banking, Housing and Urban Affairs. Senator Stevenson said he "detected more interest from Senators in placing it within the Finance Committee."

Responding to the argument to preserve these narrow-jurisdiction committees to service specific clinentele groups, the Select Committee felt that considering similar problems of different special interests and population groups together would produce more integrated public policy beneficial to each. Moreover, the ability of the Senate to deal effectively and comprehensively with all of these issues would be strengthened.

WOULD S. RES. 4 TAKE RULE XXV JURISDICTION FROM THE FOREIGN RELATIONS COMMITTEE IN 14 SPECIFIC AREAS OF POLICY?

Senator Stevenson told the Rules Committee that objections to the resolution from the Foreign Relations Committee were based on misunderstandings. Foreign Relations would lose only three areas of jurisdiction under the resolution, and only one had caused major disagreement. International financial and monetary organizations, along with foreign trade promotion, would go to the Committee on Banking, Housing and Urban Affairs. Acquisition of buildings and lands for embassies and legations would go to Governmental Affairs.

"It was not our intent to take away any current jurisdiction over international economic policy exercised by the Foreign Relations Committee," Senator Stevenson said.

Jurisdiction over international economic policy had been exercised by the Banking Committee from the end of World War II up to 1959, when Senator Fulbright took it with him to Foreign Relations when he switched from the Banking to the Foreign Relations chairmansihp.

Senator Stevenson noted that it was the intent of the Select Committee to clarify responsibility over international economic policy, and he argued that the International Monetary Fund, Regional Development Banks and the World Bank were all closely related to the type of oversight over domestic banking programs exercised by the Banking Committee, and that jurisdiction over international economic policy should be consolidated there. The Banking Committee, he added, had had a subcommittee in this field for many years, while Foreign Relations had one in existence only a very short time.

In other areas, the Foreign Relations Committee under S. Res. 4 would retain its jurisdiction basically as at present. In the area of foreign military sales it would share authority, as it does presently, with Armed Services. It retains authority over international agreements affecting atomic energy.

Senator Stevenson has suggested that a category of jurisdiction for "international aspects of atomic energy" be created and specifically placed in Foreign Relations.

Senator Stevenson pointed out additionally that under S. Res. 4 Foreign Relations would gain a major new responsibility for national security policy. For the first time, comprehensive oversight responsibility in this field would be placed in it.

WHERE SHOULD JURISDICTION OVER REGIONAL ECONOMIC DEVELOPMENT BE PLACED?

The Select Committee has recommended placing jurisdiction over regional economic policy in the new Agriculture and Small Business Committee. Senator Stevenson told the Rules Committee that he had no objection if it were given instead to the Committee on Environment and Public Works.

WHY IS RESPONSIBILITY FOR COMPREHENSIVE OVERSIGHT FOR PENSIONS IDENTIFIED, AND WHY IS IT PLACED IN THE BUDGET COMMITTEE?

At least 11 standing committees have some jurisdiction over federal employees' pension plans, and two share jurisdiction over public and private pensions questions. S. Res. 4 would not change any legislative jurisdiction over public and private pensions, nor eliminate the right of each standing committee to conduct oversight in the pension areas they now consider. It would place responsibility for comprehensive oversight of pension subjects within the Budget Committee, which is the only Senate committee to act from an overall view of the Budget. Senator Stevenson said that he would not object if the Rules Committee decided on a different approach to this jurisdiction.

SHOULD THE IRRIGATION AND RECLAMATION JURISDICTION NOT BE TRANSFERRED FROM ENERGY TO AGRICULTURE AND SMALL BUSINESS?

Irrigation and reclamation projects are primarily carried out in western farm lands and are closely linked to increased agricultural production. By consolidating concerns for irrigation policy in the Agriculture Committee, the Select Committee believes there would be a better integration of irrigation policy and agricultural production policy. This consolidation would also broaden the jurisdiction of the Agriculture Committee, which would help to equalize the workload of the Senate committees.

Irrigation and reclamation is a water policy, but is primarily related to agricultural productivity rather than water resources planning. The Select Committee recommends that the primary jurisdiction over water resource planning policy generally be placed in the Environment and Public Works Committee.

SHOULD TOXIC SUBSTANCES BE PART OF THE ENVIRONMENTAL POLICY JURISDICTION?

Some Senators have recommended that toxic substances jurisdiction remain in the Commerce, Science, and Transportation Committee, where most of it now is. S. Res. 4 provides that it be placed in the Committee on Environment and Public Works, since questions related to toxic substances are primarily questions of pollution abatement and environmental impact.

Senator Stevenson, in a colloquy with Chairman Cannon, said that it would be suitable to have the question of jurisdiction over toxic substances worked out between the Chairmen of the Environment and Commerce Committees, since both Committees had some legitimate claims to it. Senator Stevenson also said that there should not be any change in the jurisdiction over pesticides, currently exercised by the Agriculture Committee and which would remain in Agriculture and Small Business, according to S. Res. 4.

SHOULD THE INTELLIGENCE COMMITTEE BE CONTINUED

In response to a question from Senator Tower concerning the proposed status of the Select Intelligence Committee, Senator Stevenson replied that the Select Committee was closely divided on the question of whether or not the Committee should be abolished, along with other special and select committees, be made permanent, or be extended temporarily.

The Select Committee approved a compromise relating the Intelligence Committee during the 95th Congress and requiring the Governmental Affairs Committee to report a resolution concerning its disposition thereafter.

"Personally," Senator Stevenson said, "I favored a permanent Committee, and believe that the possibility it would not continue will hamper its effectiveness."

OTHER QUESTIONS

In response to several questions by Chairman Cannon about several other specific jurisdictional recommendations in S. Res. 4, Senator Stevenson said he supported the idea of transferring the Renegotiation Board from Finance to Banking. He also reminded the Rules Committee that no changes were recommended in the existing jurisdictional arrangement between the Armed Services Committee and the Foreign Relations Committee over foreign military sales, and said he had no objection to leaving jurisdiction over the operation and maintenance of the Panama Canal in Armed Services.

Senator Allen observed that S. Res. 4 could produce further committee proliferation because of its provision permitting the creation of *ad hoc* committees by privileged resolution offered by the joint leadership. Senator Packwood, the Select Committee's Co-Chairman, responded that while that is a possibility, the Select Committee's intent was to limit formation of such panels to special situations. The restriction to the joint leadership of the ability to offer privileged motions in this area would tend to reduce the likelihood that ad hoc committees would be created too frequently.

BYRD

Majority Leader Robert C. Byrd praised the courage and dedication of Senator Stevenson and other Select Committee members for drafting a committee reorganization plan that, while not perfect, represented a thoughtful and significant approach.

"I would like to compliment Senator Stevenson and the members of the Select Committee on an excellent defense and explanation of S. Res. 4. Senator Stevenson has my admiration for his dedication and courage displayed for coming forth with these recommendations. There is a need for reorganizing the committee system. I don't know when there is a better time for reorganization."

Senator Byrd stated that Senator Stevenson had persuasively argued the merits of S. Res. 4 and clarified misunderstandings that had surfaced. All this, he said, would be of great value to the Rules Committee as it began its mark-up sessions.

Senator Byrd further stated that while reform is an on-going process, he hoped the Senate would take advantage of this rare opportunity and work its will on committee reorganization in a reasonable amount of time.

Senator Byrd made a number of specific suggestions. He proposed that Section 403 of S. Res. 4 be deleted in its entirety. He said he disagreed with Section 403 (a) and (d), which deal with advance scheduling of Senate sessions and call for restricting roll call votes before 2 p.m., on the grounds that each was impractical and raised expectations that could not be met. He agreed with the intent of subparagraphs (b) and (c), which revise the wording of parts of Senate Rules VII and VIII, although not the specific wording itself, and noted the need to accommodate individual and institutional concerns on scheduling votes and sessions. These matters, he said, could more appropriately be considered when the Senate reviews its pending revision and codification of rules.

The Rules Committee concluded its hearings on S. Res. 4 at about 5:45 p.m., Thursday, January 13, and scheduled a meeting to discuss mark-up procedure for Friday afternoon, Jan. 14. CRT 11 will report the additional testimony of Senators Stevenson and Packwood on Jan. 13 and should be delivered by late afternoon, Jan. 14.

CRT editors emphasize to readers that we report only public meetings, announcements or statements, and confine those reports to major details only. Those closely following reorganization debate should review the Rules Committee hearings transcripts and seek reports of discussions held privately, for example: in the party caucuses, recent meetings of committee chairmen, and a recent meeting of committee staff directors. Also at least one standing committee has met in executive session to discuss S. Res. 4.

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 11

January 17, 1977.

The Rules Committee continued its hearings on S. Res. 4 on Thursday, January 13. This issue of CRT reports primarily the afternoon and concluding session.

Rules Committee members questioned Senator Stevenson on a number of possible changes in S. Res. 4 relating to committee consolidation. Senator Stevenson indicated he reluctantly could agree to the retention of three committees that had been proposed for consolidation: the Joint Economic Committee, the Joint Committee on Internal Revenue Taxation and the Select Committee on Standards and Conduct. Membership on these would be subject to the "third committee" assignment limitation. Provisions for a Congressional Revenue Office, in place of the staff of the Joint Committee on Internal Revenue Taxation, would be eliminated from the resolution.

Senator Stevenson also agreed with arguments that the Select Committee on Intelligence should be a permanent select committee because it has enormous amounts of work, is terribly important and its work is very delicate. If it were turned into a lame duck committee, it would not be able to assert its authority effectively with respect to the Executive Branch and exercise adequately its present jurisdiction.

He said he found persuasive the desirability for retaining the Select Committee on Standards and Conduct, noting arguments that it should be retained because of the importance the Senate and the American public attached to the subject, and the need for a bi-partisan committee on ethics, with equal Democratic and Republican membership, which reports directly to the Senate.

Under questioning, Senator Stevenson responded with his personal view of clarifications or acccommodations which would not destroy the basic thrusts of S. Res. 4. He emphasized that he could speak only for himself, personally, not for the Select Committee. (Senator Packwood was present for only a portion of this discussion.)

The Cannon-Stevenson discussion is summarized in the following table beginning on page two. Entries do not necessarily appear in chronological order. Moreover, a few entries are inserted even though the subject was not discussed, to clarify the apparent current status of discussion.

CLARIFICATIONS AND MODIFICATIONS OF SENATE RESOLUTION 4 DISCUSSED IN RULES COMMITTEE HEARINGS OF JANUARY 13

A. Committee-by-Committee Review of Jurisdictions Discussed:

S. Res. 4 Provision, and Recommendation/Clarification:

Agriculture and Small Business:

Small Business, transfer to Finance.

Irrigation and reclamation, transfer to Energy and Natural Resources.

Regional economic development, transfer to Environment and Public Works. Change name of Committee to Agriculture and Nutrition.

Food from fresh waters and the sea (in Agriculture), see Commerce. Commercial fishing transferred back to Commerce.

Land-use planning (in Agriculture), delete term from S. Res. 4 and create several categories as noted in Appendix II of Stevenson testimony of January 5.

International aspects of food and nutrition (in Agriculture), shared comprehensive policy oversight for international aspects of food and nutrition—Foreign Relations.

Appropriations: No discussion.

Armed Services and Veterans' Affairs:

Transfer Veterans' Affairs jurisdiction from Human Resources.

Change name of Committee to Armed Services and Veterans' Affairs.

Foreign military sales, clarify to indicate no change in current jurisdictional arrangement (Foreign Relations has legislative jurisdiction; Armed Services has oversight).

Naval petroleum reserves (in Energy and Natural Resources language), clarification indicates continuation of current jurisdictional arrangement between Armed Services and Energy and Natural Resources (i.e., Pet. 4 under the jurisdiction of Energy and all other reserves under the jurisdiction of Armed Services).

Overseas education of civilian and military dependents, no change in S. Res. 4 with respect to military dependents. More clarifica-

tion needed for civilian dependents with Foreign Relations Committee.

Panama Canal: maintenance and operation (not explicitly in language of S. Res. 4, but report accompanying resolution transfers this jurisdiction from Armed Services to Commerce, Science and Transportation), transfer from Commerce, Science and Transportation back to Armed Services (to reflect current Rule XXV).

Banking, Housing, and Urban Affairs:

Renegotiation Board (in Finance—not changed by S. Res. 4), transfer from Finance to Banking as recommended by Long and Proxmire.

Comprehensive policy oversight for international economic policy, to be discussed with the Foreign Relations Committee. Continuation of the Joint Economic Committee; thus, no transfers into Banking from JEC.

Public and private housing (including veterans' housing), even if Veterans' Affairs is transferred to Armed Services, rather than to Human Resources; veterans' housing legislation is sent to Banking.

Budget:

With the continuation of the Joint Economic Committee, there would be no transfers into Budget from JEC.

Comprehensive policy oversight for public and private pensions, drop the language from S. Res. 4 altogether.

Budget and accounting measures would remain in Governmental Affairs as recommended in S. Res. 4 (Continuation of current rule).

Oversight for fiscal policy would remain with the Joint Economic Committee.

Commerce:

Food from fresh waters and the sea (in Agriculture), commercial fishing transferred back to Commerce. No reference to food from fresh waters to remain in Agriculture rule.

Toxic substances (in Environment and Public Works), environmental aspects should go to Environment Committee—needs clarification vis a vis Commerce.

Oceans, weather and atmospheric activities (in Environmental and Public Works), energy aspects in Energy: Navigation-Science-Environment split, needs clarification.

Deepwater ports (language not explicitly in Rule XXV, but currently in Energy and Environment), jurisdiction between Commerce and Environment needs clarification.

Coastal zone management (in Environment), Commerce-Environment split, needs clarification.

Outer Continental Shelf lands, a 3-way split (Commerce, Energy, Environment) needs clarification.

National Science Foundation, transfer to Human Resources.

Transportation, urban mass transit, construction and maintenance of highways, and highway safety, still under debate. No accommodations.

Panama Canal: maintenance and operation (language not explicitly in S. Res. 4, but currently in Commerce under interoceanic canals). No change in present Rule XXV (thus, maintenance and operation left in Armed Services).

Energy and Natural Resources:

Wild and scenic rivers (language not explicitly in Rule XXV, but currently in Environment and Public Works), transfer from Environment and Public Works to Energy and Natural Resources.

Land and water conservation fund (not explicitly in Rule XXV, but currently in Environment and Public Works), transfer from Environment and Public Works to Energy and Natural Resources.

Irrigation and reclamation (in Agriculture), transfer from Agriculture to Energy and Natural Resources.

Insular possessions of the United States (in Governmental Affairs), transfer from Governmental Affairs to Energy and Natural Resources.

Naval petroleum reserves, clarification indicates continuation of current jurisdictional arrangement between Armed Services and Energy and Natural Resources (i.e., Pet. 4 under the jurisdiction of Energy and all other reserves under the jurisdiction of Armed Services.

Deep water ports, see Commerce.

Extraction of minerals from Outer Continental Shelf lands, see Commerce.

Native American land management and trust responsibilities (in Energy), see Human Resources.

Miner's health and safety (not in S. Res. 4, but part of Human Resources), no change in S. Res. 4.

Land-use planning (in Agriculture), see environment.

Environment and Public Works:

Construction and maintenance of highways (in Commerce), still under debate. No accommodations.

Regional economic development (in Agriculture), transfer from Agriculture to Environment and Public Works.

Land use planning (in Agriculture), drop term from S. Res. 4 and create several categories as noted in Appendix II of Stevenson testimony of January 5.

Public buildings and grounds (in Governmental Affairs), transfer from Governmental Affairs to Environment and Public Works.

Finance:

Tax expenditures (each standing committee may study and review tax expenditures related to subject matters within its jurisdiction, and submit reports and its recommendations with respect thereto), leave as in existing law.

National health insurance (no language in S. Res. 4), no change from current practice and no change in S. Res. 4. Possible clarification in language under discussion by Finance and Human Resources.

General revenue sharing, no change from S. Res. 4.

Joint Committee on Taxation will continue.

Foreign Relations:

International financial and monetary organizations (in Banking), no change from S. Res. 4 (still under debate).

Foreign military sales, see Armed Services.

International aspects of atomic energy (language not explicitly in S. Res. 4, but in Foreign Relations), add "International Aspects of Atomic Energy" to Foreign Relations rule.

Law of the sea (not explicitly in S. Res. 4, but in Foreign Relations), no change in S. Res. 4.

Export and foreign trade promotion (in Banking), no change in S. Res. 4, in Banking.

Acquisition of land and buildings for embassies and legations in foreign countries (in Governmental Affairs), transfer back to Foreign Relations.

Oversees education of civilian and military dependents, see Armed Services. Clarification needed for civilian dependents from Foreign Relations Committee.

Foreign Loans, return language to Rule XXV (deleted from Rule in S. Res. 4, for modernization).

Neutrality, clarify; Foreign Relations retained jurisdiction, though term is deleted from Rule XXV for modernization.

American Red Cross (not in S. Res. 4, but part of Human Resources), no change in S. Res. 4 (clarification of report language).

Reciprocal trade agreements (in Finance), clarification needed on commodity agreements.

Government information (in Government Affairs), jurisdiction over USIA and USIS would be in Foreign Relations.

International aspects of food and nutrition (specifically listed under Agriculture in S. Res. 4), shared comprehensive policy oversight with Agriculture.

Studying the relationships between the United States and international organizations of which the United States is a member (in Governmental Affairs, in S. Res. 4.), reflects current rule XXV language (since 1946), but in practice is shared jurisdiction with Foreign Relations. No change in current practice.

Comprehensive policy oversight of international economic policy (in Banking, in S. Res. 4), to be discussed with Banking.

Multinational corporations (not in S. Res. 4, but part of Foreign Relations), no change in S. Res. 4.

Governmental Affairs:

Government information, including freedom of information (in Governmental Affairs, in S. Res. 4), delete reference to freedom of information. This is an area for shared jurisdiction with Judiciary. Jurisdiction over USIA and USIS would be in Foreign Relations Committee.

Acquisition of land and buildings for embassies and legations in foreign countries (in Governmental Affairs in S. Res. 4), transfer to Foreign Relations.

Insular possessions of the United States (in Governmental Affairs in S. Res. 4), transfer to Energy and Natural Resources.

Studying the relationships between the United States and international organizations of which the United States is a member (in Governmental Affairs, in S. Res. 4), see Foreign Relations.

Bureau of Labor Statistics (not language of S. Res. 4, but part of Governmental Affairs), transfer to Human Resources.

Public buildings and grounds (in Governmental Affairs in S. Res. 4), transfer to Environment and Public Works.

Human Resources:

Native American education, health, social services, and loan programs (in Human Resources in S. Res. 4), two possibilities discussed: Stevenson discussed 2-year ad hoc committee on Indians and transfer thereafter all of Indian jurisdiction to Human Resources. Hatfield recommended transfer of all Indian legislative jurisdiction to Human Resources now in Indian subcommittee and participation of Interior subcommittee Members through Indian Review Commission—which Stevenson said was compatible.

National Science Foundation (in Commerce), transfer to Human Resources.

Bureau of Labor Statistics (not exolicitly in S. Res. 4 language, but part of Governmental Affairs), transfer to Human Resources.

Miners' health and safety (not in S. Res. 4, but part of Human Resources), no change in S. Res. 4.

National Health Insurance (not in S. Res. 4 language), see finance.

Overseas education of civilian and military dependents (in Human Resources), no change in S. Res. 4, with respect to military dependents. More clarification needed for civilian dependents with Foreign Relations Committee.

Judiciary:

Freedom of information (part of Governmental Affairs in S. Res. 4), see Governmental Affairs.

B. Committee Consolidations Discussed

S. Res. 4 Provision and Recommendation/Clarification.

Aeronautical and Space Sciences:

To Commerce, Science, and Transportation; scientific, engineering and technology research and development; nonmilitary aeronautical and space sciences; science, engineering, and technology policy, apparently no objection to S. Res. 4.

District of Columbia:

To Governmental Affairs; Municipal Affairs of the District of Columbia, except appropriations therefor, apparently no objection to S. Res. 4, provided temporary chairmen and ranking Members permitted to transfer with exemption from two major standing committee assignment limitation (Sec. 201(a)), and subject to party rules, but with such assignment to count as the Senator's "third" committee (so he can serve on

no other "third" committee) and limiting his number of Government Affairs subcommittees.

Post Office and Civil Service:

To Governmental Affairs; Federal Civil Service; status of officers and employees of the United States, including their classification, compensation, and benefits; postal service; census and collection of statistics, including economic, social, and labor statistics; Archives of the United States, apparently no objection to S. Res. 4, provided temporary chairmen and ranking Members permitted to transfer with exemption from two major standing committee assignment limitation (Sec. 201(a)), and subject to party rules, but with such assignment to count as the Senator's "third" committee (so he can serve on no other "third" committee and limiting his number of Government Affairs subcommittees.

Veterans' Affairs:

To Human Resources; veterans' measures, except for housing, consolidation in Armed Services; name changed to Committee on Armed Services and Veterans' Affairs.

To Banking; veterans' housing jurisdiction going to Banking, no change regarding veterans.

Select Nutrition and Human Needs:

To Agriculture: human nutrition, change name to Committee on Agriculture and Nutrition; statutory subcommittee.

Select Intelligence:

Retain as select committee for two years, retain as permanent select committee in the third-committee category.

Select Small Business:

To Agriculture: small business, consolidation in Finance preferred.

Select Standards and Conduct:

To Rules, Administration, and Standards, retain as separate committee.

Select Committee To Study the Senate Committee System:

To Rules, Administration, and Standards, not discussed; no apparent objection to terminating. No staff transition rights.

Select Committee on Aging:

To Human Resources: aging, consolidate in Human Resources with a statutory subcommittee on aging.

Joint Atomic Energy*:

To Armed Services; national security aspects of atomic energy, clarification that international aspects to remain in Foreign Relations, but require resolution from Energy and Natural Resources and Armed Services Committees to consolidate jurisdictions therein, subject to House approval.

To Energy and Natural Resources: Nonmilitary development of nuclear energy.

To Environment and Public Works: nonmilitary environmental regulation and control of atomic energy.

Joint Congressional Operations*:

To Rules, Administration, and Standards, not discussed; no apparent objection to consolidation; resolution required from Rules Committee; subject to House approval.

Joint Defense Production:

To Banking, immediately consolidate, but in Joint Economic Committee.

Joint Economic Committee: Study and review activities split among Banking, Budget, Commerce, Energy, Finance, and Human Resources, retain as separate committee.

Joint Internal Revenue Taxation:

Consolidate in Finance; establish staff as Congressional Revenue Office, retain as separate committee.

Joint Library:

To Rules, not discussed; no apparent objection to S. Res. 4 (requires resolution from Rules, subject to House approval).

Joint Printing:

To Rules, not discussed; no apparent objection to S. Res. 4 (requires resolution from Rules, subject to House approval)

Title II: Committee Assignments; Chairmanships:

Each Senator may serve on not more than three subcommittees of each major standing committee of which he is a Member. Each Senator may serve on not more than two subcommittees of each "third" (select, special, ad hoc, or joint) committee of which he is a Member. (Sec. 201(a) pp. 21–22)

The Committee on Rules and Administration met in open (but crowded) session on the afternoon of Jan. 14 in the Majority Leader's office to begin its markup of S. Res. 4. A motion to markup in executive session, as permitted by a unanimous consent request granted by the Senate, failed 4 to 4. The subsequent discussion of S. Res. 4, centered principally on sections of the resolution that would provide additional duties for the leadership in studying the committee system, establishing a computerized scheduling system creating ad hoc committees, and floor procedure relating to roll call votes. No action was taken on sections dealing with committee structure or jurisdictions.

CRT 12 will report the Rules Committee actions of January 14 in detail.

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 12

January 17, 1977.

On the afternoon of Jan. 14, because the Senate was scheduled to meet with votes expected, the Committee on Rules and Administration met in public session in Majority Leader Robert C. Byrd's office to begin its markup of S. Res. 4. A motion to mark up in executive session failed, 4 to 4.

A Committee member raised the question of whether recent meetings of Senate committee chairmen had dictated compromises in the resolution. Senator Byrd responded that the chairmen's meeting provided a discussion forum for Senator Stevenson to clarify misunderstandings which had arisen, and nothing was finalized and no decisions were made regarding changes in S. Res. 4.

The Committee discussed Title III (Multiple Referral of Proposal Legislation; Establishment of Ad Hoc Committees), but put it over for further action at its next meeting.

In Title IV, the Committee adopted section 401, providing for a computerized schedule of Senate committee meetings. Section 402, placing restrictions on times of committee meetings, was put over for further discussion.

Deleted from the resolution was section 403, which provided for advance notice of Senate meetings and stated the sense of the Senate that rollcall votes should not occur before 2 P.M. during any Senate session.

The Committee agreed in principle to an amended Title V (Continuing Review of the Committee System), subject to deferred consideration Monday. Primary responsibility for such review is to be assigned to the Committee on Rules and Administration, rather than the Majority and Minority Leaders, but the Committee would work with the joint leadership, and the Secretaries for the Majority and the Minority.

The Committee also adopted Title VI (Amendments Not Within a Committee's Jurisdiction), which provides that a point of order may be made on the floor against committee amendments (other than Appropriations') which contain matter not within the jurisdiction of that committee.

AD HOC COMMITTEES

Eight members of the Rules Committee were present for the mark-up on S. Res. 4 during the morning of January 17. Several votes were taken on S. Res. 4 provisions and amendments to the reorganization plan.

Senator Allen opened the meeting with a recommendation that section 302, a provision to permit the creation of ad hoc committees to consider subjects which cut across the jurisdiction of two or more committees, be deleted. This provision would permit the Majority Leader, with concurrence of the Minority Leader, to submit a privileged resolution to create an ad hoc committee with legislative authority. The leaders would appoint the members and the ad hoc committees would exist only during the Congress in which they were created. All proposed legislation within an ad hoc committee's jurisdiction would be referred to it, rather than to any standing committee.

Senator Allen expressed concern that this procedure would allow for the uncontrolled growth of new committees. Senator Stevenson emphasized the fact that the new procedure would make it very difficult to create such new committees. Further consideration was put over.

AERONAUTICS, D.C., POST OFFICE COMMITTEES CONSOLIDATED

The Rules Committee agreed to consolidation of the District of Columbia Committee and the Post Office and Civil Service Committee in the Governmental Affairs Committee, provided that the chairmen and ranking minority members of the District of Columbia Committee and the Post Office and Civil Service Committee be permitted to transfer to the Governmental Affairs Committee with an exemption from the two major standing committee assignment limitation, but subject to party rules and with such assignment to count as the Senator's "third" committee (so he can serve on no "third" committee and limiting his number of additional Governmental Affairs subcommittees).

Senator Williams' proposal of a general amendment to allow the transfer to new committees of the chairmen and ranking minority members of all committees that are being consolidated was received and discussed, but the Rules Committee chairman indicated this would be discussed committee by committee.

Senator Griffin recommended that the Rules Committee consider the transfer of jurisdiction over the confirmation of D.C. judges to the Judiciary Committee. This recommendation was deferred for possible later action.

The Rules Committee also agreed to continue, for two more years, grandfathering rights to seats on the Governmental Affairs Committee for Senators McClellan, Javits, and Jackson.

The Rules Committee also agreed to the consolidation of the Aeronautical and Space Sciences Committee in the proposed new Commerce, Science, and Transportation Committee.

STANDARDS AND CONDUCT COMMITTEE

Senator Stevenson repeated his statement of January 13 that retaining the Standards and Conduct Committee as a separate bipartisan panel in the third committee category would be compatible with S. Res. 4. Senator Clark offered a detailed amendment, portions of which were adopted and others deferred. The Rules Committee agreed to the following:

"Establish a new 6-member Select Ethics Committee to replace the current Committee on Standards and Conduct. The membership would be balanced by both party and seniority. The jurisdiction of the committee would be broadened to include new financial disclosure and Code of Conduct provisions. There would be new provisions requiring investigations and reports."

The Rules Committee deferred action on

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*Committee/subcommittee assignment limitations—two major standing committees and one "third" committees; two subcommittees on each major standing committee, one on a third committee.

whether the proposed committee should be a third or fourth panel for membership purposes and on recommendations regarding financial disclosure and Code of Conduct proposals.

Senator Clark agreed to Senator Griffin's suggestion that the Ethics Committee be directed to issue and keep on file formal written advisory opinions on pertinent questions that arise. No formal action was taken by the Rules panel on Senator Griffin's recommendation. Senator Cannon stated that Senators Ribicoff and Percy asked to attend and participate during the Rules Committee's final consideration of Ethics Committee questions.

SMALL BUSINESS COMMITTEE

Senator Stevenson again noted, as he had in his Jan. 13 statement, that consolidation of jurisdiction for small business matters in the Finance Committee was compatible with S. Res. 4. Senator Pell moved that the Small Business panel be kept as a third committee with limited legislative authority, because of the special nature of its constituency. Senator Clark said he was sympathetic to the exception argument but objected to merging small business jurisdiction with the Finance Committee. That Committee is already overworked, he said.

Senator Stevenson stated to Rules members, "If you want reform, begin here." This is a critical decision, he said, because of the strong political pressures being brought to bear on Senators by outside interests. If a separate Small Business panel were reestablished, then it would open the gates to the restoring of all the other committees consolidated by S. Res. 4. A large part of committee reform would then be a nullity.

Senator Stevenson stressed that consolidating small business in a legislative committee would mean that those interests will not be ignored but would have greater status and consideration because of their placement in a stronger legislative committee. Senator Stevenson declared that it would be a "triumph of muscle over good sense" to keep the minor committees as separate panels.

Senator Griffin moved to amend the Pell proposal by consolidating Small Business in Finance and retitling the Finance Committee, "Finance and Small Business." That lost on a 4 to 4 tie vote. Similarly, the Pell amendment to retain the Small Business Committee lost on a 4 to 4 tie vote. The Rules Committee then agreed to consider the matter further when the absent panel member was present.

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 13

January 18, 1977.

In the afternoon session of its markup January 17, the Rules Committee took the following actions:

CONTINUING REVIEW OF COMMITTEE SYSTEM

Accepted the Hatfield substitute language for Section 501, which as amended, assigns to the Rules Committee, with the consultation of the Majority and Minority Leaders, and assistance from the Secretary for the Majority and for the Minority responsibility for continuing review of the committee system and rules of the Senate related to the committee system. Section 501 also requires the Rules Committee to submit a report of the results of their review of the Senate Committee system during the second session of each Congress.

COMMITTEE CONSOLIDATIONS

(1) Terminated the Select Committee to study the Senate Committee System by February 28, 1977.

SPECIAL COMMITTEE ON AGING

(2) Agreed, 6–3, to the Select Committee's recommendation for the consolidation of the Special Committee on Aging in the proposed Human Resources Committee.

The Rules Committee first voted 5 to 4 to reject Senator Williams' amendment to retain the Special Aging Committee. It then voted 6 to 3 to consolidate the Special Aging Committee with the Human Resources Committee.

A motion by Senator Hatfield to specifically create an Aging Subcommittee in S. Res. 4 was withdrawn after discussion.

Senator Stevenson made clear that the comprehensive policy oversight for aging and the problems of the elderly assigned to the Human Resources Committee by S. Res. 4 represented an expansion of that panel's oversight jurisdiction and would enable it to study and review all issues that were within the jurisdiction of the Special Aging Committee.

SELECT COMMITTEE ON SMALL BUSINESS

(3) Agreed on a voice vote to retain the Small Business Committee. During the morning markup, the committee had defeated, 4 to 4, an amendment by Senator Pell to reconstitute Small Business as a separate committee. Senator Tower, in the afternoon session, moved reconsideration, which carried unanimously.

A motion to place the jurisdiction of Small Business in the Banking, Housing and Urban Affairs Committee was defeated and the Pell amendment to continue Small Business as a separate committee subsequently carried.

JOINT COMMITTEE ON ATOMIC ENERGY

(4) Agreed unanimously to consolidate the jurisdiction of the Joint Committee on Atomic Energy in four Senate committees, subject to House approval that the JCAE be terminated. The provision in S. Res. 4 to immediately terminate the legislative authority of the JCAE, an action already taken by the House, is part of Title II, which will be considered January 18.

If the JCAE's legislative authority is terminated immediately, or if the JCAE ultimately is terminated, its jurisdiction would be distributed as follows: national security aspects of atomic energy to Armed Services; nonmilitary development of nuclear energy to Energy and Natural Resources; nonmilitary environmental regulation and control of atomic energy to Environment and Public Works; and international aspects of atomic energy to Foreign Relations.

JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS

(5) Agreed to consolidation of the Joint Committee on Congressional Operations in the Committee on Rules and Administration, if the House approves. Rules thus would assume responsibility for continuing study and review of the organization and operation of the Senate and of the Congress and make recommendations as needed.

JOINT COMMITTEE ON DEFENSE PRODUCTION

(6) Agreed to consolidation of the Joint Committee on Defense Production in the Joint Economic Committee, subject to House approval that the joint committee be terminated. Senator Proxmire had so recommended, instead of consolidation in Banking.

JOINT COMMITTEE ON TAXATION

(7) Agreed, 4 to 3, the Joint Committee on Internal Revenue Taxation be retained as a separate committee, instead of consolidating it in the Finance Committee with the staff of the Joint Committee converted into a Congressional Revenue Office.

JOINT COMMITTEE ON THE LIBRARY AND JOINT COMMITTEE ON PRINTING

(8) Postponed making a recommendation on the proposed consolidation of the Joint Committee on the Library and the Joint Committee on Printing within the Rules Committee.

JOINT ECONOMIC COMMITTEE

(9) Agreed, unanimously, to retain the Joint Economic Committee. Many witnesses had urged no further review of the need for a JEC and cited its unique and important contributions.

VETERANS' AFFAIRS COMMITTEE

(10) Agreed to retain the Veterans' Committee, rather than transfer its principal jurisdiction to either the Armed Services Committee (a proposed compromise) or the Human Resources Committee as proposed in S. Res. 4.

Senator Cannon informed the Committee that Senator Stennis, Chairman of Armed Services, had expressed opposition to the consolidation of Veterans' Affairs legislative authority in his Committee.

Senator Allen offered the substitute amendment to continue the Veterans' Affairs Committee as a separate legislative panel. It carried on a voice vote.

NUTRITION

(11) Agreed on a voice vote to consolidate the Select Committee on Nutrition and Human Needs in a newly titled Committee on Agriculture and Nutrition.

Senator Allen questioned the proposed size of the new Committee, in view of the Rules Committee's earlier decision to retain the Small Business Committee. Senator Stevenson replied that it would be difficult to determine committee sizes until all the jurisdictional changes had been decided, the consolidation of the Nutrition Committee would add significant jurisdiction to the Agriculture Committee. Senator Allen also questioned the S. Res. 4 recommendation to transfer agricultural colleges from the Agriculture Committee to Human Resources. Senator Stevenson explained the Select Committee so recommended because they are no longer primarily agricultural institutions, but general educational institutions. He also observed that agricultural experiment stations and extension services would remain in the Agriculture Committee under S. Res. 4.

Senator Allen said he would propose an amendment returning agricultural colleges to the Agriculture Committee, when the Rules Committee reached consideration of the Agriculture Committee's jurisdiction.

CODE OF ETHICS

The Rules Committee, again in the afternoon session, discussed Senator Clark's amendment regarding a Code of Ethics. Senator Byrd indicated that he and Senator Baker were desirous of creating a bi-partisan ad hoc committee to deal with this problem. The committee, said Senator Byrd, would be expected to study the issue and make recommendations to the Senate, possibly within 90 days. For this reason, Byrd suggested that Senator Clark may wish to reconsider acting in S. Res. 4 on this subject.

Senator Hatfield asked whether a separate ad hoc committee might not be an unnecessary second Ethics Committee. He observed it would be premature to propose creation in S. Res. 4 of an ad hoc committee at this time, since the issue of ad hoc committees, as proposed by S. Res. 4, had not yet been resolved.

Senator Stevenson suggested it would possibly be best for the new Ethics Committee to propose a code. But Senator Griffin tended to agree wtih Senator Byrd and pointed to the advantages of having an ad hoc committee prepare the code. Such a committee might be a larger and more broadly based group than the Ethics Committee, and the chances for success in getting the code approved might be increased.

On the other hand, said Senator Clark, it was true that the new Ethics Committee, with its bi-partisan membership, would probably be as broadly based and as democratic as an ad hoc committee. Accordingly, he saw no objection to having the new Ethics Committee prepare a Code of Ethics for the Senate.

Senator Byrd noted that the Peterson Commission has recommended that a Code

of Ethics be included with the current proposal for salary increases for legislators, and that floor action on the question of salary increases was expected soon. Discussion stressed the importance of having the Senate leadership take the lead in proposing a new Code of Ethics. A bi-partisan effort, initiated by the leaders of the House and Senate clearly would be interpreted as a commitment to enact a new Code of Conduct. The House has already set up the machinery for the preparation of a Code of Ethics for House Members.

Senator Clark agreed that it was important that the Senate leadership stand in support of a new Code of Ethics. But he felt that such a code would carry more weight if the Senate Rules Committee and the full Senate were formally committed to such reform. A great deal of time would be consumed, and unnecessary delay, by having an ad hoc committee take the initiative. This process would require action by the ad hoc committee, the Rules Committee, and the Senate.

But Senator Griffin did not agree that the procedure would be any faster by an ad hoc committee or by the Ethics Committee. Furthermore, if S. Res. 4 were to be used as the vehicle for the adoption of a Code of Ethics, as suggested by Senator Clark, then there might be a great deal of delay before a code could be agreed upon, simply because the committee reorganization plan would have to be debated at some length by the Senate. A more prompt method, he said, was that suggested by Senator Byrd.

Senator Byrd added that the issue of establishing a new Code of Conduct should be kept separate from the committee reorganization plan.

Senator Cannon then stated that these questions concerning a new Code of Ethics for the Senate would be discussed again by the Committee when it reconvened. The Committee then recessed until 11 a.m., January 18.

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 14

January 19, 1977.

The Committee on Rules and Administration continued its markup of S. Res. 4 in both morning and afternoon sessions on January 18.

During the morning session, the committee dealt with provisions of the resolution dealing with ethics, multiple referrals of legislation, ad hoc committees and committee assignment limitations. The afternoon session dealt with subcommittee assignment limitations and committee jurisdictions.

In the morning session, the Rules Committee took the following action:

CODE OF CONDUCT

(1) Resolved the code of ethics issue which arose during earlier sessions. Senator Byrd informed the members of the Committee that he and Senator Baker planned to introduce a resolution in the Senate providing for the establishment of a temporary select committee to prepare a new code of ethics for Senate employees and members of the Senate. This committee, he said, would consist of 15 Senators (8 Democrats, 7 Republicans). It would be required to report legislation by March 1, 1977, which would become the pending order of business, with a built-in time agreement on debate.

Senator Clark offered his support of the action to be taken by Senators Byrd and Baker, and withdrew the resolution he had offered earlier providing that a code of ethics be drafted by the new permanent Ethics Committee.

Commending Senator Byrd for this action, and offering his support for a code of ethics, Senator Allen indicated, however, that he would oppose a new pay increase for members of Congress, the Federal judiciary, and the Executive Departments. He did not favor the effort to link the code of ethics with the pay increase. Such an association would give the appearance that the code was being offered as a quid pro quo for pay increases.

Senator Byrd indicated that the code should not be regarded in this manner, and pointed out that the code would be promulgated irrespective of action taken by the Congress on the proposed pay increases.

MULTIPLE REFERRALS

(2) Agreed to Sec. 301, providing procedures for multiple referral by motion, with instructions. Senator Stevenson explained that the Select Committee recommended multiple referral by motion rather than by unanimous consent, as current practice stipulates, to enable the Senate to deal more effectively with measures affecting jurisdictions of several committees. Now, a single objection can forestall the joint reference of measures. Senator Griffin asked it be made clear that the consent of the Minority Leader would be required on all motions to refer measures jointly. As a result, the Rules Committee agreed to the following clarifying amendment: "Upon motion by both the Majority Leader or his designee and the Minority Leader or his designee, proposed legislation may be referred to two or more committees jointly or sequentially."

AD HOC COMMITTEES

(3) Dropped from S. Res. 4 Section 302 providing for creation by motion of the joint leadership of ad hoc panels with legislative authority. Senator Stevenson stated that this provision was designed to accommodate inevitable jurisdictional overlaps, to meet unforeseen circumstances, and to be used rarely.

Senator Allen expressed reservations about the ad hoc proposal because he believed it would lead to further committee proliferation and increase the authority of the leadership unnecessarily. Similarly, Senator Griffin expressed opposition.

Senator Byrd stated that he had not requested the provision to be incorporated in S. Res. 4. He did not object to the provision, he said, and would exercise that authority with restraint.

Given the reservations about the ad hoc provision, Senator Stevenson suggested that it might be best to defer action on it until the matter was reviewed again by the Select Committee or the Rules Committee. The Rules Committee agreed to strike the ad hoc proposal from S. Res. 4 without prejudice.

COMMITTEE ASSIGNMENT

(4) Agreed to limitations on assignments of Senators to two principal standing committees and one "third" committee. S. Res. 4 as introduced entitled each Senator to serve on two (and no more) principal standing committees (Group 1 category) and on only one "third" committee (Groups 2, 3, and 4 categories). Group 1 committees are:

Agriculture and Nutrition.
Appropriations
Armed Services.
Banking, Housing and Urban Affairs.
Budget—(Considered a Group 2 panel for the 95th Congress).
Commerce, Science, and Transportation.
Energy and Natural Resources.
Environment and Public Works.
Finance.
Foreign Relations.
Governmental Affairs.
Human Resources.
Judiciary.

Group 2 committees are:

Budget—(95th Congress only).
Rules and Administration.
Veterans' Affairs.

Group 3 committees are:

Intelligence.
Small Business.
Joint Economic.
Joint Taxation.

Other joint committees pending further legislative action.

Group 4 committees are:

Ethics (permanent).

The Rules Committee agreed to Senator Stevenson's proposal to exempt from the three committee rule members of the Temporary Select Committee to Study the Senate Committee System (through February 28, 1977) and of the proposed Temporary Select Ethics Committee. S. Res. 4's similar exception for Rules and Finance Committee members who are statutorily obligated to serve on joint committees was agreed to.

Senator Clark proposed an amendment providing that service on the permanent Senate Ethics Committee not count as a third committee. This would exclude many Senators from serving on the Ethics Committee, he said. Senator Clark's proposal was agreed to. Hence, the Ethics panel became a "fourth" committee assignment.

After debate, the Committee agreed to delete the present provision in Senate rules which designates four exclusive committees for assignment purposes. Senators indicated party caucuses could continue such restrictions.

SUBCOMMITTEE ASSIGNMENT LIMITATIONS

(5) Agreed to limit each Senator to three subcommittee assignments on each Group 1 committee and two on the "third" committee. Senator Stevenson recommended that members be permitted three subcommittees on Group 1 committees and two subcommittees for Group 2 committees. He emphasized the need to control proliferation of subcommittees and reduce the number of Senators' assignments, which now average 14 subcommittees for each Senator. S. Res. 4 originally provided for a limitation of two subcommittees for Group 1 panels and one subcommittee for "third" committees.

Senator Clark offered an amendment to permit membership on four subcommittees for Group 1 committees. Because of a meeting of the Republican Conference and Senate floor business, the Committee recessed.

When the Rules Committee resumed at 2:45 p.m., the Clark amendment was defeated, 3 to 5. The Rules Committee then agreed to Senator Stevenson's recommendation.

On motion of Senator Hatfield, the Committee agreed to exempt the Appropriations Committee from the three-subcommittee assignment limitation.

EX OFFICIO MEMBERSHIP ON STANDING COMMITTEES

(6) Approved a provision in Sec. 201 (6.(b)(3)) permitting committee chairmen and ranking minority members to serve ex officio on subcommittees of that committee, but—on the motion of Senator Clark—provided such service would be without voting rights.

TITLE II—COMMITTEE ASSIGNMENTS AND CHAIRMANSHIPS

(7) Approved the restriction that no committee or joint committee may establish any subunit other than a subcommittee except by Senate resolution.

(8) Approved the provision permitting temporary adjustments in the sizes of committees (by no more than two members) to accommodate changes in party ratios.

(9) Approved the section which permits a standing committee chairman who is required by law to serve on more than one joint committee to serve on each such committee but not on any other "third" committees.

(10) Agreed to provision that no Senator serve as chairman of more than one committee, but, on motion of Senator Cannon made an exception for any committee chairman required by law to serve as chairman of a joint committee.

(11) Agreed to limit Senators to service as chairmen of no more than one subcommittee of a committee.

(12) Agreed specifically to a provision that

membership on any Committee in Groups 2 and 3 would count as the third committee assignment of a Senator.

(13) Agreed that membership on the Budget Committee will count as a third committee assignment during the 95th Congress only.

(14) Agreed to repeal of paragraph 6 of Rules XVI of the Standing Rules, which permits some members of certain standing committees to serve ex-officio on the Appropriations Committee during consideration of certain subjects in appropriations bills.

(15) Agreed to recommend consolidation of the Joint Committees on Atomic Energy, Congressional Operations, and Defense Production, subject to House approval.

In previous action, Rules voted to retain the Joint Economic Committee and the Joint Committee on Taxation.

Consideration of the Joint Committee on the Library and the Joint Committee on Printing was deferred. Discussion seemed to indicate the Rules Committee agreed to the immediate withdrawal of legislative authority from the Joint Committee on Atomic Energy. Subsequent discusisons of standing committee jurisdiction also appeared to confirm this. Rules Committee staff were directed to present language to the Committee on January 19 clarifying action on joint committees.

JURISDICTIONS

The Committee then turned to the jurisdiction of the major standing committees previously approved and made the following changes from S. Res. 4:

(1) Agriculture and Nutrition:

Name changed (from Agriculture and Small Business).

Irrigation and reclamation transferred (back) to the Energy and Natural Resources Committee.

Regional economic development transferred (back) to the Environmental and Public Works Committee.

Commercial fishing transferred (back) to Commerce, Science, and Transportation.

Land use planning entirely deleted as a category from the resolution. Each of several committees would exercise such jurisdiction under other subjects.

Oversight over international aspects of food and nutrition to be shared with Foreign Relations.

(2) Appropriations: Jurisdiction approved as in S. Res. 4.

(3) Armed Services:

Language on foreign military sales will reflect primary jurisdiction in Foreign Relations with Armed Services having oversight over the effect of arms sales on U.S. inventories and military preparedness.

Continuation of present jurisdictional division between Armed Services (over Petroleum Reserves 1, 2, and 3) and Energy and Natural Resources (Petroleum Reserve No. 4 in Alaska).

Armed Services to retain jurisdiction over operation and maintenance of the Panama Canal (transferred back from Commerce).

NOTE.—The question of overseas education of civilian and military dependents was deferred. Senator Cannon observed that Senator Stennis had expressed objection to the transfer of that jurisdiction out of the Armed Services Committee, as proposed in S. Res. 4.

(4) Banking, Housing, and Urban Affairs:

Renegotiation Board is transferred from Finance to Banking.

Retains veterans' housing in spite of the creation of a Veterans' Affairs Committee.

No addition of jurisdiction from the Joint Economic Committee in view of the latter's continuation.

Discussion of jurisdiction over international economic policy and international financial and monetary institutions was postponed until the Wednesday morning session, and the issue of urban mass transit was taken up during consideration of the Commerce Committee's jurisdiction.

(5) Budget:

No addition of jurisdiction from the Joint Economic Committee in view of the latter's continuation.

Comprehensive policy oversight over public and private pensions deleted from the committee's jurisdiction and from Rule XXV altogether.

(6) Commerce, Science, and Transportation:

The Commerce panel retains jurisdiction over commercial fishing.

Consumer product testing related to toxic substances is assigned to the Commerce Committee.

Marine transportation, weather, ocean and water commerce, atmospheric science and technology is assigned to the Commerce panel.

Navigational aspects of deepwater ports is placed in the Commerce Committee.

Transportation and commerce questions related to Outer Continental Shelf lands is assigned to Commerce.

The National Science Foundation is transferred to the Human Resources panel.

Panama Canal operations and maintenance is shifted from Commerce back to the Armed Services Committee.

MASS TRANSIT

In connection with the Commerce Committee's jurisdiction, there was lengthy consideration of the Select Committee's proposal to transfer mass transit from the Banking Committee and highways from the Public Works Committee and consolidate these matters in the Commerce, Science, and Transportation Committee. Senator Stevenson led off the debate by stating that one of the Select Committee's primary objectives was to consolidate jurisdictions in certain areas in order to enable single committees to deal comprehensively with major national issues; he cited in particular energy, environment, and transportation. Without such consolidation, he noted, "you may end up with an Environment Committee without environment or a transportation committee without transportation." Senator Stevenson said that he felt very strongly as did others that the Senate can't help to create a balanced transportation system if various transportation modes are split among several committees.

Senator Tower drew a distinction between transportation regulation and construction and suggested that jurisdiction could be divided accordingly. He noted, for example, that the Public Works Committee would retain construction of inland waterways.

Senator Williams listed several arguments for preserving the Banking Committee's jurisdiction over urban mass transit. Prior to 1961, he said, there was no federal mass transit program; the Banking Committee created it, and progressively improved it. Further, transportation is an essential element of urban design and development. He said that neither Senator Magnuson or Senator Baker on the Commerce Committee wanted the jurisdiction nor had any other witness testified that mass transit should be separated from urban affairs.

Senator Tower observed that "Senator Williams gave birth to this program, and I was present as the midwife. It is part of the whole urban planning picture."

Senator Stevenson replied that Senators' desires were not at issue but rather all transportation modes are related, to some extent conflicting, and have to be balanced. Mass transit is closely related to rail transportation. The Banking Committee would retain oversight jurisdiction over urban affairs generally, and that would include transportation.

The Committee approved by voice vote Senator Williams' motion to return jurisdiction over urban mass transit to the Banking Committee.

HIGHWAYS

The Committee then considered the question of highways. Senator Tower agreed that it was appropriate for Commerce to have jurisdiction over "highway policy" and highway safety but that construction and maintenance of highways should be returned to Public Works. His amendment to that effect was also approved by voice vote.

CONSUMER AFFAIRS

At the request of Senator Tower, speaking for Senator Proximate, the staff was instructed to prepare language for either the report or resolution clarifying that the Commerce Committee's jurisdiction over consumer products and services does not extend to credit and financial services.

(7) Energy and Natural Resources:

Wild and scenic rivers is transferred from Environment and Public works to Energy and Natural Resources.

The Land and Water Conservation Fund is shifted from Environment and Public Works to Energy and Natural Resources.

Irrigation and reclamation is moved from Agriculture and Nutrition to Energy and Natural Resources.

Insular possessions of the United States is moved from Governmental Affairs to Energy and Natural Resources.

The Naval Petroleum Reserve in Alaska is assigned to the Energy and Natural Resources Committee and all others are assigned to Armed Services. This reflects the current division between those two panels.

The Energy Committee is assigned the energy aspects of deepwater ports.

The Energy Committee is assigned responsibility for the extraction of minerals from Outer Continental Shelf lands.

Deep sea mining is assigned to the Energy Committee.

(8) Environment and Public Works:

The Rules Committee voted to shift highway construction jurisdiction from the Commerce, Science, and Transportation Committee to the Environment and Public Works Committee.

Regional economic planning is transferred from Agriculture to the Environment Committee.

Public buildings and grounds jurisdiction is shifted from Governmental Affairs to the Environment and Public Works Committee.

Complete responsibility for coastal zone management is assigned to Environment and Public Works Committee.

Environmental questions related to Outer Continental Shelf lands is assigned to the Environment Committee.

Environmental aspects of oceans and atmospheric activities is assigned to the Environment Committee.

The environmental effects of toxic substances is assigned to the Environment panel.

(9) Finance:

Paragraph 3 of Title I (responsibility of standing committees to study and review tax expenditures) was deleted from S. Res. 4 as redundant to existing authority.

National health insurance proposals will continue to be divided between the Finance and Human Resources Committee, with primary jurisdictions depending on whether their method of financing involves the tax code or direct authorizations.

General revenue sharing remains within the Finance Committee's purview.

The Joint Taxation Committee will continue.

CRT 15 will report on further Rules Committee action on jurisdictions, staffing, and other matters during its Jan. 19 markup.

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 15

January 20, 1977.

Rules Committee markup of S. Res. 4 continued January 19, at 10 a.m.

COMMERCE AND ENVIRONMENT JURISDICTIONS

On a motion by Senator Pell, requested by Senators Magnuson, Long, Stevens, Hollings and Durkin, who appeared before the Rules Committee, the Committee voted to reconsider the actions taken yesterday with respect to the jurisdictions of the Commerce and Environment Committees, particularly in the area of ocean policy. The Committee proceeded to consider amendments proposed by the Commerce Committee members to section (f) [Committees on Commerce, Science, and Transportation] in Title I of S. Res. 4 and approved changes so that the list of subjects now reads:

1. Interstate commerce. (no change from S. Res. 4).
2. Transportation. (no change from S. Res. 4).
3. Regulation of interstate common carriers, including railroads, buses, trucks, vessels, pipelines, and civil aviation. (no change from S. Res. 4).
4. Merchant marine. (no change from 1/18).
5. Marine and ocean navigation and transportation, including navigational aspects of deepwater ports (no change from 1/18).
6. Coast Guard. (no change from S. Res. 4).
7. Inland waterways, except construction. (no change from 1/18).
8. Communications. (no change from S. Res. 4).
9. Regulation of consumer products, services, including testing related to toxic substances other than pesticides, and except for credit, financial services, and housing. (Item 8 under Environment and Public Works Committee now reads "Environmental effects of toxic substances, other than pesticide.")
10. Except as provided in paragraph (c), the Panama Canal and interoceanic canals generally. (no change from 1/18).
11. Standards and measurements. (no change from S. Res. 4).
12. Highway safety. (no change from 1/18).
13. Science, engineering, and technology research and development and policy. (The phrase "including that related to oceans and atmosphere" was deleted.)
14. Nonmilitary aeronautical and space sciences. (no change from S. Res. 4).
15. Transportation and commerce aspects of outer continental shelf lands. (no change from 1/18).
16. Marine fisheries. (changed from "commercial fishing").
17. Coastal zone management. (new subject added).
18. Oceans, weather, and atmospheric activities. (new subject added).

It was understood that item 18. conveyed jurisdiction over the National Oceanic and Atmospheric Administration. The category "ocean policy" was also added to the committee's oversight jurisdiction. Although the members of the Commerce Committee proposed to add "ocean dumping" as the 20th item of jurisdiction, Senator Clark moved to leave that subject in the Environment and Public Works Committee and the Rules Committee agreed.

Senator Clark also proposed an amendment to leave the Environment Committee with jurisdiction over the environmental effects of toxic substances, including pesticides. Senator Allen questioned the division of jurisdiction over pesticides between the Agriculture and Environment Committees, but agreed to support the amendment provided that the latter committee would have oversight but not legislative authority in that area. The amendment was then approved with that understanding.

By implication, the Committee's actions deleted the following subjects from the jurisdiction of the Committee on Environment and Public Works—environmental aspects of oceans and atmospheric activities and coastal zone management.

These actions followed a lengthy debate among members of the Commerce Committee, members of the Rules Committee, and Senator Stevenson. Chairman Magnuson stated that he had assumed, prior to Tuesday's markup, that there was general agreement to leave oceans jurisdiction in the Commerce Committee. He reminded the Rules Committee of his earlier testimony expressing willingness to relinquish jurisdiction over highways and urban mass transit on condition that the Commerce Committee retain its traditional oceans jurisdiction; and he observed that Senator Randolph had generally agreed with that arrangement. Instead, he said, the Rules Committee had fractionated ocean policy jurisdiction by transferring the environmental aspects of deepwater ports, toxic substances, ocean dumping, and coastal zone management to the Environment Committee.

Senator Magnuson further argued that the only valid test of reorganization is "What is the end result? Who will do a better job for the country?" He said that it is clear that the Commerce Committee would do a better job in ocean policy than Public Works or any other committee, just as the Banking Committee was better equipped to deal with urban mass transit.

Senators Stevens, Long, Hollings, and Durkin supported Senator Magnuson's arguments with specific examples of the Commerce Committee's experience in commercial fishing, coastal zone management, and toxic substances. Senator Hollings said that no one had testified, nor was there any evidence on the record, in support of the transfers of jurisdiction to the Environment Committee; he suggested that it was done simply to balance off the Public Works Committee's loss of highways.

Senator Long maintained that it was impossible to consolidate all environmental questions in one place; certainly energy legislation and even revenues and appropriations have environmental consequences, he said. In Senator Long's view, the division of ocean jurisdiction appeared to be a "reshuffling for its own sake." It would make more sense, he suggested, to create a single Energy and Environment Committee.

Senator Stevenson replied that members of the Commerce Committee had misunderstood many of the Rules Committee's decisions; there was no intention to remove from the Commerce Committee such matters as commercial fishing, navigation, oil tankers, and the National Oceanic and Atmospheric Administration. He nonetheless urged the Rules Committee to make some basic decisions about the consolidation of jurisdiction over important national issues. While there was no disagreement that there should be an energy committee, he observed, members of the Commerce Committee were willing to trade off transportation for oceans, and thus defeat the consolidation of environmental and transportation policy. The result would be a transportation committee without key modes of transportation, and an environment committee without vital aspects of the environment.

Senator Clark agreed that the issue was not whether to remove certain jurisdiction of the Commerce Committee and transfer it to the Public Works Committee but whether to constitute a new environment panel. "It is silly," he said, "to create an environment committee without any jurisdiction over toxic substances." Similarly, he regretted the Committee's decisions during his absence on Tuesday with respect to highways and urban mass transit and said that he would vote to consolidate transportation if the issue were to arise again.

Senator Clark also challenged the suggestion that the views of and agreements among present committee chairmen should "determine for the entire Senate what the committee reorganization ought to be for years and years." Certainly, committee chairmen ought to be consulted closely; but "it has been up to the Select Committee to recommend and now the Rules Committee to decide." Furthermore, Senator Clark argued, the distribution of jurisdiction in the past "does not mean that it should remain the same. Otherwise this Committee would need only a historian to advise it."

The Committee then took the following additional actions in the morning session:

AGRICULTURE

(1) Changed the Committee's name to "Agriculture, Nutrition, and Forestry." On behalf of Senator Talmadge, Chairman of the Agriculture and Forestry Committee, Senator Allen moved that the committee's title be changed to "Agriculture, Food, and Forestry." After some discussion, Senator Hatfield amended the motion to "Agriculture, Nutrition, and Forestry," to which the Rules Committee agreed.

(2) On Senator Clark's motion, added "rural affairs" to the comprehensive policy oversight authority of the Agriculture, Nutrition, and Forestry Committee.

(3) Added a provision to establish a temporary committee on Indian affairs, with legislative authority, to exist for the 95th Congress only, with its jurisdiction transferred to Human Resources in the 96th Congress.

Senator Hatfield, on behalf of the Indian Affairs Commission and Senator Abourezk, offered a motion to create a Temporary Special Committee on Indian Affairs with full legislative authority over all Native American subjects to consider the report and recommendations of the Indian Policy Review Commission. The Committee agreed, making clear that the Temporary Special Committee would terminate at the end of the 95th Congress and that is jurisdiction would then be transferred to the Human Resources Committee.

FOREIGN RELATIONS COMMITTEE AMENDMENTS (AMENDMENTS BY SENATOR CLARK)

(4) Agreed to add the following underlined language to the comprehensive policy oversight authority of the Banking Committee: ". . . international economic policy as it affects United States monetary affairs, credit, and financial institutions . . ."

(5) Agreed to change comprehensive policy oversight authority of the Foreign Relations Committee to read: ". . . national security policy, foreign policy and international economic policy as it relates to foreign policy of the United States . . ."

(6) Voted to strike the entry "foreign military sales (joint)" both from Armed Services and Foreign Relations, to continue the present arrangement between those two panels. Senator Cannon read a letter from Armed Services Chairman Stennis, who recommended that current Rule XXV language has worked satisfactorily in this area. It was agreed report language would emphasize current practice continues.

(7) Agreed to add "international aspects of atomic energy" to the jurisdictional duties of the Foreign Relations Committee, a recommendation made earlier by Senator Stevenson.

AFTERNOON SESSION, JANUARY 19, 1977

The Rules Committee continued its markup of S. Res. 4, and took the following actions:

GOVERNMENTAL AFFAIRS

(1) Discussed Governmental Affairs authority to conduct oversight of matters affecting nuclear export policy. Senator Cannon informed the Committee that he had received a letter from Senator Ribicoff and other members of the Government Operations Committee concerning that committee's jurisdiction over international atomic energy agencies. The members of the Government Operations Committee asked assurance that the committee would continue to exercise oversight over matters affecting the administration of nuclear export policy. Senator Cannon expressed the view that S. Res. 4 as amended would not deny this to the new Governmental Affairs Committee, and Senator Clark said that such jurisdiction did not encroach upon that of the Senate Foreign Relations Committee.

AGRICULTURE COMMITTEE

(2) Discussed and affirmed the continued jurisdiction of the Agriculture Committee over P.L. 480.

Senator Allen read a letter from Senator Talmadge, Chairman of the Agriculture Committee, stating that the committee sought clarification that under S. Res. 4 it would continue to exercise primary jurisdiction over the P.L. 480 food assistance program. Senator Allen pointed out that the Agriculture Committee had on a previous occasion agreed to joint referral of this legislation to the Foreign Relations Committee as a gesture of cooperation, but not in recognition of any claim that the Foreign Relations Committee had jurisdiction over the P.L. 480 program.

Senator Cannon stated that basic jurisdiction over P.L. 480 remains in Agriculture, and Senator Clark added that the Foreign Relations Committee had in the past been interested principally in the administration of the P.L. 480 program. By unanimous consent, Senator Talmadge's letter was made a part of the record.

(3) Disagreed, 3–3, to Senator Allen's amendment to those provisions of S. Res. 4 concerning the transfer of seniority to include the chairmen and ranking minority members of consolidated joint committees.

MINORITY STAFFING

(4) Agreed to add to S. Res. 4, 5 to 4, Senator Griffin's amendment, as amended, to achieve one-third minority staffing for committees.

Senator Griffin offered an amendment providing that a majority of the minority members of any committee may, by resolution, request that at least one-third of the statutory, investigative and clerical funds of the committee shall be allocated to the minority of such committee for compensation of minority staff, and that upon request proportionate space, equipment, and facilities shall be accorded for such minority staff.

After extended debate, the Committee agreed to modify this amendment by providing that the one-third minority staff shall be phased in over a period of four years, 50% of the one-third goal to be obtained in two years and the remaining in the second two year period.

The Committee also agreed to a modification offered by Senator Cannon that such adjustments shall take into consideration those employees appointed under S. Res. 60, and a further modification offered by Senator Allen that such adjustments shall not begin to take effect until July 1, the end of the transition period for the transfer of committee staff.

Senator Griffin also agreed to strike the following words from his amendment: "No additional hiring of staff members or consultants (either new or replacement) by the majority shall occur until such resolution is complied with," and to substitute in lieu thereof the provision that "Such adjustments to be equitably made over a four year period of time."

By a vote of 4 to 4, Senator Griffin's modified amendment was defeated. Upon Senator Tower's motion to reconsider, however, the amendment was passed by a vote of 5 to 4.

FOREIGN RELATIONS COMMITTEE

(5) Agreed to a series of amendments offered by Senator Clark to clarify Foreign Relations Committee jurisdiction:

(a) on page 12 of the resolution, line 20, after the word States, inserted "and matters relating to food, nutrition, and hunger in foreign countries";

(b) on line 17 of page 12, inserted "(11) Foreign loans";

(c) on page 12 at the end of line 17, inserted "American business interests abroad as they affect American foreign policy"; and

(d) reinserted item 11 of the present Rule XXV, to wit, "Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad."

(6) Agreed to the following suggestions by Senator Clark with regard to the Rules Committee's report:

(a) include language assuring the Foreign Relations Committee that it shall continue to exercise oversight over the Overseas Private Investment Corporations; and

(b) include language stating that the Committee on Foreign Relations shall continue to have responsibilities in government information, including freedom of information and oversight responsibilities for intergovernmental relationships between the United States and international organizations.

OTHER FOREIGN RELATIONS ADDITIONS

On an earlier day, Senator Pell offered two additions to the Foreign Relations Committee jurisdictional language, which the Rules Committee agreed to, namely:

"11. International law; oceans and international environmental and scientific affairs."

"12. International Aspects of Red Cross."

INTERNATIONAL ECONOMIC POLICY

In its final action on January 19, the Rules Committee debated at length and then adopted Senator Clark's amendment to strike from S. Res. 4 the Banking Committee jurisdiction for international financial and monetary organizations and to assign that responsibility explicitly to the Foreign Relations Committee.

Senator Clark said that jurisdiction for those institutions is currently in the Foreign Relations panel and his amendment would maintain the status quo. These institutions (World Bank, IMF and regional development banks), are not conventional banks but are organized through international agreements and directly affect U.S. foreign policy, he said. Recognizing Banking's role in this area, Senator Clark pointed out that that panel could hold hearings on foreign economic issues, conduct oversight, and have appropriate legislation referred to them on a sequential basis.

Senator Stevenson stated that jurisdiction over the IMF has been shared recently between the Banking and Foreign Relations Committees, as witness the Banking Committee's principal involvement in recent modifications of IMF's charter. The Banking Committee has long considered legislation affecting the IMF, Senator Stevenson pointed out, while Foreign Relations only established a subcommittee on foreign economic policy in the last few weeks. He said given the Banking panel's responsibility for the Economic Stabilization Fund, the domestic equivalent of the IMF, jurisdictional consolidation of that organization in Banking would rationalize international economic policymaking. Moreover, Senator Stevenson added when representatives of both panels had met during the last few days to resolve this issue, the compromise reached was to assign the World Bank and regional development banks to Foreign Relations with Banking having responsibility for the IMF, over which it has de facto jurisdiction.

In addition to rationalizing jurisdictions, another objective of the Select Committee, Senator Stevenson said, was to equalize workloads. Foreign Relations has a broad jurisdiction that extends to matters of U.S. foreign policy, and for example, could spend all of its time improving relations with OECD nations notwithstanding its other large concerns.

Senator Tower concurred on the need to retain the International Monetary Fund in the Banking Committee, but not the World Bank or other regional development banks. He proposed the following amendments relating to committee jurisdictions.

"A. Banking Committee—insert the following: The International Monetary Fund and other international organizations established primarily for preserving the stability of the international monetary system.

"B. Foreign Relations Committee—insert the following: The World Bank group, regional development banks, and other international lending institutions established primarily for extending development assistance to less developed nations."

Senator Stevenson pointed out that this amendment would, for the first time, state responsibility for international economic policy explicitly in Rule XXV. Current Senate rules make no formal reference to this subject field. Foreign Relations, moreover, would still have oversight of international economic policy per the earlier recommendation approved by the Rules Committee. Senator Clark observed that the effect of the Tower amendment is that Foreign Relations would lose primary jurisdiction over the IMF. The Tower amendment was rejected, 3 to 5. The Rules Committee then approved, by voice vote, the amendment offered by Senator Clark.

DEADLINE EXTENDED

The Senate, on January 19, granted unanimous consent to extend the Rules Committee's deadline for a report on S. Res. 4 to Tuesday midnight, January 25. Senator Cannon had explained during the Committee's meeting that, while the Committee was close to a final vote, Inauguration activities and delay in getting printed copies of the amended resolution necessitated a short delay.

The Rules Committee markup will resume, 10 a.m., Friday, January 21.

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 16

January 24, 1977.

The Committee on Rules and Administration resumed its markup of S. Res. 4 on Friday, January 21. Most, but not all, of the morning session was spent on individual items of committee jurisdiction.

The Committee took the following actions:

BUDGET ASSIGNMENTS

1. Agreed, at Senator Muskie's request endorsed by Senator Stevenson, to allow only those Senators who served on the Budget Committee during the 94th Congress to maintain it as a third-committee assignment during the 95th Congress. For any Senators appointed in the 95th Congress, service would count as one of the two major committee assignments.

FOREST PRESERVES AND EASTERN WILDERNESS

2. Clarified the jurisdiction of the Committee on Agriculture, Nutrition and Forestry over forestry matters by amending item 6 to read "Forestry *and forest preserves and*

wilderness areas other than those created from the public domain (the Committee added the words in italic on the motion of Senator Allen, on behalf of Chairman Talmadge.) The Committee on Energy and Natural Resources retains jurisdiction over forests in the public domain.

TOXIC SUBSTANCES

3. Clarified jurisdiction over "testing related to toxic substances" to place it within the jurisdiction of the Commerce Committee.

GOVERNMENTAL AFFAIRS

4. Agreed to shift several areas of proposed jurisdiction in the Committee on Governmental Affairs to other committees.

Jurisdiction over "acquisition of land and buildings for embassies and legations in foreign countries" was placed in Foreign Relations.

The Governmental Affairs jurisdiction over Federal parks within the District of Columbia was deleted from S. Res. 4, to acknowledge that National Park Service jurisdiction over such parks is in the Committee on Energy and Natural Resources. "Federal buildings in the District of Columbia," was then shifted to the Committee on Environment and Public Works.

Jurisdiction over the "United States Capitol and congressional office buildings" was moved to the Rules and Administration Committee.

Jurisdiction over "Public buildings and grounds" was transferred to the Environment and Public Works Committee.

Jurisdiction over "Construction and maintenance of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution" was transferred to Rules and Administration.

Jurisdiction over "Labor statistics" was placed in the Committee on Human Resources.

The Rules Committee modified an earlier decision that placed "Insular possession of the United States" in the Energy and Natural Resources Committee, rather than in Governmental Affairs. Jurisdiction over trusteeships, whose residents are foreign nationals, was moved to Foreign Relations. Territories, whose residents are U.S. citizens remained in Energy.

MEETINGS OF CONGRESS

5. Agreed to transfer jurisdiction over "meetings of Congress, attendance of members" from Judiciary to Rules.

ETHICS

6. Agreed to strike out section 6.(3) of the Rules Committee jurisdiction over standards and conduct, since S. Res. 4 had previously been amended to provide for a separate Ethics Committee.

INTERNATIONAL MONETARY AFFAIRS

7. Agreed to an amendment by Senator Clark modifying the Rules Committee's previous actions regarding international financial organizations to give the Banking Committee jurisdiction over "the International Monetary Fund and other international organizations established primarily for international monetary purposes.", provided that Rule XXV also stated that, by request of the Chairman of the Foreign Relations Committee, such legislation would be referred sequentially to Foreign Relations.

WORLD BANK

8. Agreed to a Clark amendment giving the Foreign Relations Committee jurisdiction over "the World Bank group, the regional development banks, and other international organizations established primarily for international development assistance purposes."

INDIAN AFFAIRS

9. Established a temporary Special Committee on Indian Affairs, with legislative authority over all Indian-related matters, except Alaskan Native claims, during the 95th Congress only. The Special Committee took from the Committee on Human Resources jurisdiction over "Native American Education, health, social services, and loan programs".

The Rules Committee decided in the morning session that the Chairman and ranking minority Member of the Indian Affairs panel would not have service on it counted for assignment purposes, but any other Senator wishing to serve on it counted as a third-committee assignment. In the afternoon session, on the motion of Senator Hatfield, the Committee agreed to give all five Members this exemption.

In the 96th Congress, the Special Committee would cease to exist and all of its jurisdiction will be transferred to Human Resources.

VETERANS

10. Dropped from the Human Resources Committee jurisdiction over "Veterans measures, except for housing," since the Veterans Committee was to remain in existence. Veterans' housing legislative jurisdiction would be placed in the Committee on Banking, Housing and Urban Affairs, while the Veterans Committee could exercise oversight jurisdiction.

HUMAN RESOURCES

11. Adopted a suggestion from Senator Williams to elaborate on the Human Resources jurisdiction to specifically mention in Rule XXV the subjects of labor standards, wages and hours of labor, child labor, and foreign laborers under contract. It also agreed to have language in the Committee report affirming Human Resources Committee authority over migratory and seasonal labor; foods, drugs and cosmetics; alcohol and drug abuse; employment training; and unemployment.

12. Transferred jurisdiction over "Overseas education of civilian and military dependents" from Human Resources to Armed Services.

13. Transferred jurisdiction over the National Science Foundation from Commerce, Science and Transportation to Human Resources.

14. Placed jurisdiction over the domestic activities of the Red Cross in Human Resources.

ETHICS

15. Agreed to an amendment by Senator Clark to have Senators serve on the permanent bipartisan Ethics Committee for staggered six-year terms, and gave it the jurisdiction over ethics matters originally proposed to be placed in the Rules Committee by S. Res. 4.

INTERNATIONAL LAW; OCEANS

16. Agreed to an amendment offered by Senator Pell, which changes the wording of item 10 on page 12, line 17, to read: "International law as it relates to foreign policy", and adds a new item 11, providing as follows: "(11) oceans and international environmental and scientific affairs as they relate to foreign policy."

COMMITTEE STAFFING

17. The Rules Committee agreed to changes in Title VII, dealing with committee staffing during the transition and minority staffing.

William Ridgely, Financial Clerk of the Senate Disbursing Office, appeared before the Committee and suggested amendments to more satisfactorily codify current practices in the administration of S. Res. 60 funds. The Committee agreed to language which states Senators' S. Res. 60 allowance shall be reduced by certain amounts "in the case of a Senator who is the chairman or ranking minority member of any committee or of any subcommittee thereof that receives funding to employ staff assistance separately from the funding authority for staff of the committee," or "in the case of a Senator who is authorized by the committee, a subcommittee thereof, or the chairman of the committee or subcommittee, as appropriate, to recommend or approve the appointment to the staff of such committee or subcommittee of one or more individuals for the purpose of assisting such Senator in his duties as a member of such committee or subcommittee."

18. Agreed in general to provide some sort of severance pay for staff members displaced under the reorganization plan who found no other employment, as provided for in Section 705 of S. Res. 4, but put off decisions on details of severance pay pending additional reports from the Select Committee, including estimates of cost and definitions of excluded income. The Committee noted that this was a complicated issue, since the identity of those displaced was uncertain, and agreed to a motion by Senator Hatfield to delete Section 705.

Senator Cannon said this matter should be handled by separate legislation, after implementation of the reorganization plan, but before the end of the transition period. Mr. Ridgely agreed to provide the Committee with a report regarding the actual number and salaries of individuals displaced under the resolution.

19. Agreed to those portions of Title VII which establish a transition period, ending approximately July 1, define displaced staff, and provide for the temporary assignment of such staff to the "new" committees (without reduction in salary if law permits) during the transition period. Discussion indicated the possibility some displaced staff now receiving highest salaries could not be transferred at that rate if the new committee had no vacancies in its limited number of senior positions. Senator Hatfield asked Mr. Ridgely to provide a report on this problem. Discussion also indicated it might be possible to relieve this problem in an appropriations act.

MINORITY STAFFING

20. Agreed to an amendment by Senator Clark to the minority staffing provision of Senator Griffin (agreed to on January 19), affirming that the minority party would be entitled to one-third of the funds for professional and clerical committee staff "other than those funds determined by the chairman and ranking minority member to be allocated for the administrative and clerical functions of the committee as a whole."

SCHEDULING OF COMMITTEE MEETINGS

21. Adopted, with amendments, Section 402 (a), which would permit committees to meet without special leave during the first two hours after the Senate has convened but in no case (except for Appropriations and Budget) after 2 p.m., unless consent therefor has been granted by the joint leadership.

It rejected Senator Allen's amendment to withdraw from the Majority Leader and Minority Leader (or their designees) their authority under the Legislative Reorganization Act, as restated in S. Res. 4, to grant permission for committees to meet while the Senate is in session. He argued, in part, that this feature would put undue pressure on the leadership to grant such permission and encourage laxity among committees in completing their business. Senator Byrd stated it was important for the leadership to have such authority in order to meet unforeseen contingencies.

The Committee also deleted a section from section 402, which applied to Joint Committees, but, after discussion, agreed the restriction should apply to all Senate committees, not just standing committees.

The Committee also approved S. Res. 4's provision, complementary to the computerized scheduling system and the expanded time in which committees may meet, providing that meetings of committees and subcommittees shall be scheduled for one or

both of two periods: the first period to end at eleven o'clock and the second period to begin at eleven o'clock and end at two o'clock.

GOVERNMENT INFORMATION

22. Agreed to clarify committee jurisdiction over *government information* by stating that specific subject in Rule XXV for both the Judiciary and Governmental Affairs Committees. In addition, both panels concurred in the following report language, which the Rules Committee agreed to:

"The reference to government information does not necessarily imply the joint referral of all government information legislation but recognizes both the unique and shared responsibilities of the Governmental Affairs and Judiciary Committees in the area of information policy. Thus, the Judiciary Committee jurisdiction would continue to include responsibility for the Freedom of Information Act, electronic surveillance, and shared jurisdiction with the Governmental Affairs Committee over executive privilege.

"The Governmental Affairs Committee jurisdiction would include responsibility for the Privacy Act; Government in the Sunshine Act; Federal Advisory Committee Act; information policies relating to the National Archives; Census and the collection of statistics; Federal Records Management Programs; Federal Reports Act; and shared jurisdiction with the Judiciary Committee over executive privilege."

CHAIRMANSHIP LIMITATIONS

23. Rejected, 4 to 5, a Clark amendment to prohibit the chairman of a Group I standing committee from serving as chairman of more than one subcommittee in Group I; and to bar the chairman of a Group II committee from chairing any subcommittee of that committee.

NUCLEAR EXPORT POLICY

24. Approved, 4 to 3, following testimony of Senator Percy, an addition to the jurisdiction of the Governmental Affairs Committee—"organization and management of United States nuclear export policies." Discussion occurred to the effect this would in no way diminish the authority of the Foreign Relations Committee with respect to nuclear export agreements and policy.

INTERNATIONAL FINANCIAL ORGANIZATIONS

25. Declined a request by Senator Percy, that it reconsider its adoption earlier in the day of the Clark amendment concerning jurisdiction over the International Monetary Fund.

EQUITABLE ASSIGNMENTS TO SUBCOMMITTEES

26. Adopted a Clark amendment stating: "It is the sense of the Senate that, in adopting rules, each committee of the Senate will include a provision to insure that assignment of Senators to subcommittees will occur in an equitable fashion; namely, that no member of a committee will receive assignment to a second subcommittee until, in order of seniority, all members of the committee have chosen assignments to one subcommittee. No member shall be assigned to a third subcommittee until all members of the committee have chosen assignments to two subcommittees.

INDIAN AFFAIRS COMMITTEE MEMBERSHIPS

27. Approved a Hatfield motion to exempt service on the five-member Temporary Indian Affairs Committee from committee assignment limitations.

BUDGET COMMITTEE MEMBERSHIP

28. Discussed further whether membership on the Budget Committee should count as a third-committee assignment for all Members during the 95th Congress, or as a second Group I assignment for new committee Members (as agreed to previously). The second alternative was intended to promote continuity of membership after the current Congress, but it was noted that new Members might object to being treated differently than Senators currently serving on the committee. The matter may be considered again on Monday.

SENIORITY TRANSFERS

29. Rejected, 2 to 5, on reconsideration, an Allen amendment including chairmen and ranking minority Members of consolidated joint committees in the provision of S. Res. 4 relating to seniority transfers.

STATUS OF INTELLIGENCE AND SMALL BUSINESS

30. Approved a series of Hatfield motions to delete "Select" from the titles of the Intelligence and Small Business Committees, to list both as Group II (standing) committees, and to reduce the size of the Small Business Committee from 17 to 14 (the current number of returning Members). Under the amendment, the Committee's size would be reviewed again and possibly revised at the beginning of the 96th Congress.

COMMITTEE SIZES

31. Discussed with the Secretaries for the Majority and the Minority suggested sizes for Group I committees. These reflect the current party ratio and previous Rules Committee actions with respect to the temporary continuation of grandfather rights of three Members of the Governmental Affairs Committee and the transfer to that Committee of the Chairmen and ranking minority Members of the District of Columbia and Post Office and Civil Service Committees. At the suggestion of Chairman Cannon, these sizes were incorporated into S. Res. 4, subject to review and final action on Monday.

NEXT MEETING

Chairman Cannon called the next meeting of the Committee for 2 p.m., Monday, January 24.

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 17

January 25, 1977.

The Committee on Rules and Administration today unanimously, 9-0, reported S. Res. 4, the Committee System Reorganization Amendments of 1977.

During its final day of markup, the Committee took the following other actions:

1. Once again reconsidered the question of international financial organizations, and transferred primary jurisdiction over the International Monetary Fund from the Committee on Banking, Housing, and Urban Affairs to the Committee on Foreign Relations. That change provided, however, that the Banking Committee could request referral of any proposed legislation on such subjects reported by the Foreign Relations Committee.

Previously, the Rules Committee had voted primary jurisdiction to Banking, with a similar provision for later referral to Foreign Relations, if requested. The Rules Committee voted 6 to 2 to reconsider its earlier decision and 5 to 4 to give the primary jurisdiction to Foreign Relations.

2. Reaffirmed its earlier action on assignments to the Budget Committee, which allows continuing members of the Budget Committee to consider it as a "third" committee assignment for the 95th Congress, and a major standing committee subject to the limit of two assignments, thereafter, with new members of the Budget Committee having it as one of their 2 major assignments in the 95th Congress.

Senator Hatfield urged reconsideration of this provision, while Senators Muskie and Bellmon, Chairman and Ranking Minority Member, respectively, of the Budget Committee, urged the Rules Committee to reaffirm the provision.

3. Agreed to a plan of committee sizes and ratio outlined by the Secretary to the Majority, J. Stanley Kimmitt, and the Secretary to the Minority, William Hildenbrand.

After rejecting a motion by Senator Clark to decrease the size of the Governmental Affairs Committee by one Member and increase the size of the Foreign Relations Committee by one Member, and agreeing to report language decreasing the Small Business Committee to nine Members in the Ninety-Sixth Congress—and to less than 14 in the present Congress should any present Members resign, the Rules Committee adopted the following sizes and party ratios:

Committees	Size	Party ratios	Democratic and Republican vacancies
GROUP 1			
Agriculture, Nutrition and Forestry	16	10:6	1:1
Appropriations	24	15:9	3:1
Armed Services	16	10:6	1:1
Banking, Housing, and Urban Affairs	15	9:6	1:1
Commerce, Science, and Transportation	18	11:7	3:2
Energy and Natural Resources	17	11:6	2:2
Environment and Public Works	15	9:6	1:2
Finance	17	11:6	2:1
Foreign Relations	15	9:6	2:1
Governmental Affairs	19	12:7	[1] 3:3
Human Relations	16	10:6	1:2
Judiciary	15	9:6	2:3
Budget [2]	16	10:6	2:2
GROUP 2			
Budget [2]	16	10:6	2:2
Ethics	6	3:3	None
Intelligence	15	8:7	None
Small Business	[3] 14	9:5	None
Veterans	9	6:3	1:0
Joint Economic	10	6:4	0:1
Joint Library	5	3:2	0:1
Joint Printing	3	2:1	None
Joint Taxation	5	3:2	1:1
Rules and Administration	9	6:3	0:1
GROUP 3			
Indian Affairs	5	3:2	3:2
Official Conduct	15	8:7	None

[1] Of the 6 vacancies, 2 in each party will be filled by the chairmen and ranking minority members of the old District of Columbia and Post Office and Civil Service Committees.

[2] The Budget Committee counts as a group 2 committee for continuing members for the 95th Cong. only. For Senators chosen to fill vacancies, it will be a group 1 committee immediately. Beginning in the 96th Cong., budget will become a group 1 committee for all members.

[3] But smaller if present members resign.

4. Discussed with Senate Financial Clerk, William Ridgely, by what means funds for paying staff transferred because of reorganization can be handled.

5. Agreed to a motion by Senator Cannon deleting references to the temporary Special Committee on Indian Affairs, with the understanding that a separate resolution establishing that Committee will be reported.

6. Agreed to a motion by Senator Griffin, concurred in by Senator Williams, to add "safety" to the jurisdiction of the Commerce Committee over marine and ocean navigation.

7. Agreed, on a motion by Senator Pell, to add "including nuclear transfer policy" to the jurisdiction of the Foreign Relations Committee over international atomic energy matters.

8. Authorized the staff to make clerical and technical corrections in the draft resolution.

9. Agreed to recommend that, following Senate approval of the resolution, the list be listed in jurisdictional subjects for each committee in alphabetical order. In the case of Human Resources, at the request of Senator Williams, the first item of jurisdiction, "measures relating to education, labor, health, and public welfare," will remain first.

10. Agreed, at Senator Stevenson's suggestion, to add language to the resolution making clear its intent to stagger the terms of Members of the Ethics Committee (i.e., two each of the initial appointments will be for 2, 4, and 6 years).

11. Agreed to make the resolution effective five, rather than 30 days, after it is agreed to by the Senate.

12. Agreed to a specific provision clarifying the intent that committees created in the future will be subject to assignment limitations.

13. Rejected an amendment to immediately consolidate the Joint Committee on Printing and the Joint Committee on the Library in the Rules Committee. The Committee had earlier agreed to report, by July 1, 1977, its recommendations on the future status of those Committees.

RECENT EDITORIALS

This issue of CRT reprints two recent editorials on committee reorganization.

[From the Washington Star, Jan. 23, 1977]

NEEDED: A QUORUM FOR REFORM

A recent meeting—or rather non-meeting—of the Rules Committee illustrated perfectly the problem of the Senate's committee system. A hearing on a proposal to reorganize the Senate's committee structure had to be called off because so many members of the Rules Committee were tied up in other committee meetings.

That should have helped convince members of the Rules Committee that the Senate Select Committee on Committees is on the right track in recommending that the number of Senate commitees be reduced by half, that the number of subcommittees be chopped by nearly that much, and that senators be prohibited from serving on more than three committees and five subcommittees.

Actually, members of the Senate should need no convincing that the committee system is archaic, unwieldy, overlapping, inefficient and overly expensive, and spreads senators too thin. They knew that was the case when they agreed last spring to create the Select Committee on Committees to study the system and recommend reforms.

But now that the Committee on Committees, headed by Sen. Adlai Stevenson of Illinois, has made its recommendations, the cry, "Whoa, wait a minute!" is sounding through the Senate, including the offices of the Rules Committee.

What happened? Baronial senators see their baronies slipping away. Each of the 31 existing committees represents a powerful domain, especially for the senators who chair them. Many senators, even if they aren't chairmen, have slices of several committee turfs. The 176 subcommittees, though smaller, represent even more personal power centers.

Sen. George McGovern, for example, doesn't want to see his Select Committee on Nutrition and Human Needs disappear. After all, it has served him well; its on-the-spot investigations of hunger in America a few years back bounced him into the national spotlight and toward the 1972 Democratic presidential nomination.

Sen. John Stennis of Mississippi doesn't want his Ethics Committee abolished. It might be supposed that his chairmanship of the Armed Services Committee and his membership on the Aeronautical and Space Sciences and Appropriations Committees, plus chairmanships of various subcommittees of these, would be enough to keep him busy. Nor is there any reason to believe that the Ethics Committee would be sorely missed; its last claim to fame was to pass off the Hugh Scott-Gulf Oil affair as unworthy of investigation.

Several ranking members of the Foreign Relations Committee are upset about a recommendation to take away the committee's jurisdiction over the World Bank and International Monetary Fund and give it to the Banking Committee. Sen. Frank Church complained this would cut "effectively in half" the power of the Foreign Relations Committee. That seems to be stretching it a bit but even if it's so, would it be off base to suggest that maybe the committee would do a better job on the half it would have left?

Senator Church also protests the proposed elimination of the Committee on Aging which he chairs; he contends that the committee gives 22 million Americans over 65 "a home in the Senate they can look to." Sen. James Abourezk protests the elimination of his Interior Subcommittee on Indian Affairs. Various senators and veterans organizations protest abolition of the Committee on Veterans' Affairs.

The list goes on. Senators want to preserve their domains; the lobbies want someone or some unit they can single out to complain to and put pressure on.

The point seems to get lost that reorganization would not mean that the Senate would quit handling legislation dealing with old people, Indians, veterans, the hungry and the rest. The Stevenson committee merely wants to make the system and the individual senators more efficient.

Jurisdiction over energy matters, for example, is scattered among 14 standing committees, 1 select committee, 2 joint committees and more than 40 subcommittees. No wonder Congress can't cope with energy problems.

The Stevenson committee found that senators have an average number of 18 committee and subcommittee assignments, some having 30 or more. How can a senator handle 18 assignments, much less 30?

The Rules Committee, pressured from all sides, has considerably watered down the Stevenson proposals. Among its actions, it has increased the number of subcommittees on which a senator could serve from the five recommended by the Stevenson unit to eight. It has increased the number of committees from the 15 recommended by Senator Stevenson to 20, preserving the Ethics, Veterans' Affairs, Small Business, Joint Economic and Joint Internal Revenue Committees.

The full Senate will want to take a close look at what the Rules Committee has done to the Stevenson proposals. The Stevenson committee is not omniscient; no doubt some changes could be made to improve its recommendations. But it's questionable whether the system would be significantly improved if the Senate goes along with the Rules Committee's alterations.

The Senate probably could do nothing better to help the incoming administration than to reorganize its committee system effectively. The Carter administration is full of optimism about reorganizing the government to make it more efficient and about enacting legislation to solve the nation's problems. But what if it all gets sliced up and bogged down in the turgid, unresponsive Senate committee system?

[From the Washington Post, Jan. 24, 1977]

WHAT'S LEFT OF SENATE REFORM

When we last looked in on the effort to remodel the Senate, the ambitious blueprint drawn up by Sen. Adlai Stevenson's special panel was about to be reviewed by the Rules Committee. The result has been what you might expect when architects' work is gone over by political engineers: A considerable amount of good design has been sacrificed to practical concerns. For instance, under pressure from affected groups, the Rules panel voted not to abolish the separate committees on small business and veterans. There was heavy resistance to consolidating the authority over transportation policy, so that idea was shelved—leaving railroads in the hands of one committee, highways in the custody of another, and mass transit to be managed by a third.

Some key parts of the original proposal have survived. Authority over energy policy is to be pulled together in one place. That is a notable advance. There is agreement on abolishing several panels whose day has passed, including the Joint Committee on Atomic Energy and the District of Columbia Committee, which became a superfluity with the advent of home rule. (D.C. matters will henceforth be handled by a committee on government affairs.) The rules group also resisted appeals to perpetuate the separate committees on nutrition and on the aging. Those topics would be addressed, as they should be, in connection with related social welfare policies.

In what may be the most significant step of all, the reorganization plan would curb the sprawl of subcommittees—the vehicles most senators use to gain prestige, publicity and extra staff. Now a single senator may serve on 18 or 20 subcommittees and, if he is a Democrat, chair five or six of those. Under the pending plan he would be limited, in general, to serving on eight and heading three. In theory, this will enable him to manage his time more sensibly, become more expert in selected policy fields and serve his constituents more effectively. Meanwhile, the public will have a much better idea of who is really responsible for action or non-action in each field. The theory is impeccable. We'll see how long the self-discipline lasts.

Our overall conclusion is this. The Rules Committee has advanced a useful modernization plan. We urge the full Senate to adopt it this week.

COMMITTEE REORGANIZATION TELEGRAPH, ISSUE 18

January 27, 1977.

REPORT FILED

Chairman Cannon filed the report of the Rules Committee on S. Res. 4 on Tuesday, January 25 (Sen. Rep. 95–2). The Rules Committee reported the resolution with an amendment, in the nature of a substitute, which includes all changes made in S. Res. 4 during markup. By unanimous consent, the substitute amendment for the resolution is considered as having been agreed to and, as thus amended, will be treated as original text for the purpose of further amendment.

Initial consideration of S. Res. 4 is scheduled after the vote on the Emergency Natural Gas Bill—possibly as soon as late Monday, Jan. 31.

BUDGET COMMITTEE—CORRECTION OF CRT 17

CRT 17, in item No. 2, incorrectly summarizes a discussion which occurred on January 25 concerning appointments to the Budget Committee. That item should read:

2. Reaffirmed its earlier action on assignments to the Budget Committee, which allows continuing members of the Budget Committee to consider it as a "third" committee assignment for the 95th Congress, and a major standing committee subject to the limit of two assignments, thereafter, with new members of the Budget Committee having it as one of their 2 major assignments in the 95th Congress.

Senator Hatfield urged reconsideration of this provision, while Senator Muskie and Bellmon, Chairman and Ranking Minority Member, respectively, of the Budget Committee, urged the Rules Committee to reaffirm the provision.

FACTUAL DESCRIPTION OF SENATE RESOLUTION 4 AS UNANIMOUSLY REPORTED BY THE COMMITTEE ON RULES AND ADMINISTRATION

Senate Report 95–2 is the authoritative explanatory statement of the recommendations of the Committee on Rules and Administration in its amended version of S. Res. 4. The Select Committee staff has received many requests for a brief summary of these recommendations and therefore attempts to state such a summary in the material which follows. To place those recommendations in context, the summary begins with a brief restatement of the Temporary Select Committee's assignment and basic conclusions.

A. The Assignment. S. Res. 109, cosponsored by 57 Senators, directed the Temporary Select Committee to, with respect to structure:

". . . conduct a thorough study of the Senate committee system, the structure, jurisdiction, number, and optimum size of Senate committees, the number of subcommittees . . . staffing . . . and *to make recommendations which promote optimum utilization of Senators' time, optimum effectiveness of committees in the creation and oversight of federal programs*, clear and consistent procedures for the referral of legislation falling within the jurisdictions of two or more committees, and workable methods for the regular review and revision of committee jurisdictions." (Emphasis supplied.)

B. Select Committee Findings. The Select Committee found that:

. . . the Senate's Committee system handicaps Senators in their work and the Senate in meeting its unique responsibilities; the uncontrolled proliferation of committees, subcommittees, and assignments wastes Senators' time and impedes decisionmaking; and excessive fragmentation in the subject jurisdictions of committees also wastes Senators' time and produces piecemeal policy. The Committee finds further that unequal distribution of workload among committees, inequitable distribution of work and leadership responsibilities among Senators, obstacles to anticipation of emerging problems, outmoded scheduling procedures, and inadequate bill referral rules also retard the efficient and effective operation of the Senate."

C. Select Committee Goals. The Select Committee, in general, recommended that the Senate:

". . . consolidate the jurisdictions of its 31 committees into 14 standing committees and one select committee; limit Senators to two standing committee assignments, one additional committee assignment, five subcommittee assignments, one committee chairmanship, and one subcommittee chairmanship on each committee; authorize the multiple referral of a bill by motion and the creation of an ad hoc committee with legislative authority by resolution; tighten scheduling procedures, and specify committee responsibilities for comprehensive policy oversight."

D. Rules Committee Recommendations in Amended S. Res. 4. The following unofficial summary of the Rules Committee's recommendations is factual, but somewhat argumentative as to the support those recommendations give to reaching the goals stated by the Select Committee.

1. Reduces the number of Senate committees from 31 to 21. Consolidates the 31 committees of the 94th Congress (not counting Bicentennial and Inaugural) into 21 permanent committees. Twelve of these—all major standing committees—are best described as Rule XXV "paragraph 2 committees." Another eight standing, select and joint committees are definitely retained and are listed in paragraphs 3a. b, and c. The paragraph 3c committee is Ethics, listed separately because its rotating membership may serve with exemption from the assignment limitations. Not counted in the 21 are: three joint committees definitely recommended for immediate consolidation as soon as House approval can be secured; two joint committees on which the Rules Committee will submit its recommendations later; and two temporary committees, Indians and Conduct, scheduled for termination in this Congress.

2. Limits committee assignments. Authorizes Senators to serve on two and only two "paragraph 2" committees and only one other "third" or "paragraph 3" committees, except for the Ethics Committee and the Temporary Select Committee on Indian Affairs.

3. Limits subcommittee assignments. Restricts Senators to serving on three subcommittees of each of their standing ("paragraph 2") committees and two subcommittees of their "third" or ("paragraph 3") committee. The Appropriations Committee is exempted from the subcommittee limitation rule. (The average Senator's subcommittee assignments drop from fourteen to eight.)

4. Limits committee chairmanships. Restricts Senators to one committee chairmanship, except for the three joint Committees on Library, Printing, and Taxation, and the temporary Conduct Committee.

5. Limits subcommittee chairmanships. Restricts Senators to no more than one subcommittee chairmanship for each committee on which he serves.

6. Reduces the number of subcommittees. It is likely the limits on subcommittee assignments and chairmanships will reduce the number of subcommittees from 174 to 110–120 on standing committees, plus 10–15 more on the other committees.

7. Merges committee jurisdictions. Merges jurisdiction of the Committees on Aeronautical and Space Sciences, the District of Columbia, Post Office and Civil Service; the Special Committee on Aging; the Select Committee on Nutrition and Human Needs; and the Joint Committees on Atomic Energy, Defense Production, and Congressional Operations into other committees.

8. Rationalizes jurisdictions in the interest of comprehensive policymaking. Consolidates authority in several major functional policy areas: energy; environment; science and technology; governmental affairs; human resources; food, nutrition, and hunger; transportation; consumer affairs; ocean policy; and communications. In some subjects the consolidation is major and legisative, in others it is minor or oversight.

9. Strengthens policy oversight and foresight. Establishes a comprehensive policy oversight responsibility for most of the standing committees. Committees and members can pursue more effective oversight, policy analysis, and foresight on most of today's major issues.

10. Strengthens multiple referral of bills which straddle committee jurisdictions. Assigns to the joint leadership the authority to propose multiple referral of bills by privileged motion, rather than by unanimous consent. Such motion may provide for referral jointly or sequentially, in whole or in part, to two or more committees, and include instructions to report by a time certain.

11. Reduces meeting conflicts and increases time available for committee meetings. Directs the establishment of a computerized Senate Scheduling Service to receive and make available to Senate offices the times of all scheduled committee and subcommittee hearings and other meetings.

Establishes time periods for the meetings of Senate committees which now may extend to 2 p.m., thus minimizing conflicts in committee meetings and between business in committees and on the Senate floor.

Adds 1–2 hours to time reserved for committee meetings.

12. Allocates minority staff and facilitates on committees. In a Committee amendment on a subject not addressed in S. Res. 4 as introduced, provide that a majority of the minority members of a committee may request that committee's funds (other than those allocated for administrative and clerical functions of the whole committee), and space, equipment and facilities be allocated proportionate to the number of majority and minority members.

13. Pinpoints responsibility for continuing review of the committee system. Provides that the Committee on Rules and Administration, in consultation with the Majority Leader and the Minority Leader, shall review, on a continuing basis, the committee system of the Senate and the Standing Rules and other rules of the Senate.

14. Two major committee assignments guaranteed. Assures Senators that their major assignments are to committees with significant legislative and oversight authority over major aspects of government policy. The two assignment limitation ensures Senators the time they require to handle the increased workload and responsibilities of their committees, and guarantees important assignments for all Senators regardless of seniority.

15. Major subcommittee assignments guaranteed. Ensures, through the reduction of the number of subcommittees, that each has a substantial workload and the time constraints of Senators are reduced through fewer conflicts in subcommittee meeting times.

16. Democratization of subcommitte selection process. Provides, through the Clark amendment to redistribute subcommittee assignments, a more equitable method of subcommittee selection that gives junior Senators assignments to important subcommittees. (Clark amendment states sense of the Senate that all Senators must have one subcommittee assignment before any Senator is permitted a second.)

17. Removes ex officio members of Appropriations. Removes present authorization for members of 6 standing committees to vote ex officio on the Appropriations Committee and its subcommittees during consideration of certain items.

S. RES. 4 COMMITTEES (AS REPORTED BY RULES, JAN. 25, 1977)

Committee	Size	Party ratios	Democratic and Republican vacancies
RULE XXV "PARAGRAPH 2" COMMITTEES			
Agriculture, Nutrition and Forestry	16	10:6	1:1
Appropriations	24	15:9	3:1
Armed Services	16	10:6	1:1
Banking, Housing and Urban Affairs	15	9:6	1:1
Commerce, Science, and Transportation	18	11:7	3:2
Energy and Natural Resources	17	11:6	3:2
Environment and Public Works	15	9:6	1:2
Finance	17	11:6	2:1
Foreign Relations	15	9:6	2:1
Governmental Affairs	19	12:7	[1] 3:3
Human Resources	16	10:6	1:2
Judiciary	15	9:6	2:3
RULE XXV "PARAGRAPH 3" COMMITTEES [2]			
Budget [3]	16	10:6	2:2
Ethics	6	3:3	3:3
Intelligence	15	8:7	None
Small Business	[4] 14	9:5	None
Veterans	9	6:3	1:0
Joint Economic	10	6:4	0:1
Joint Taxation	5	3:2	1:1
Rules and Administration	9	6:3	0:1

[1] Of the 6 vacancies, 2 in each party will be filled by the chairmen and ranking minority members of the old District of Columbia and Post Office and Civil Service Committees.
[2] Not listed are 5 joint committees recommended for termination with House agreement or further review (Atomic Energy, Defense Production, Congressional Operations, Library, and Printing) and 2 tempora y committees (Indians and Conduct).
[3] The Budget Committee counts as a "third" committee for continuing members for the 95th Cong. only. For Senators chosen to fill vacancies, it will be a "paragraph 2" committee immediately. Beginning in the 96th Cong., Budget will become "paragraph 2" committee for all members. (All members of Budget may serve on 3 subcommittees.)
[4] But smaller if present members resign.

The Committee Reorganization Telegraph (CRT) is written by the staff of the Temporary Select Committee to Study the Senate Committee System in order to inform Senate staff of developments during consideration of committee reorganization. The initials "CRT" also make the point that in a modern, reorganized Senate, staff will receive this sort of information, frequently updated, from every committee and the leadership, bu transmitted electronically and read in each office on a Cathode Ray Tube.

ORDER FOR RECESS UNTIL 9:30 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Monday next, rather th .n 10 o'clock.

The PRESIDING OFFI ER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at 9:30 a.m. following the recess.

After the two leaders or their designees have been recognized under the standing order, Mr. GARN, Mr. THURMOND, and Mr. BUMPERS will each be recognized for not to exceed 15 minutes, and in that order.

AUTHORIZATION FOR THE PRESENTATION OF BILLS, PETITIONS, MEMORIALS, RESOLUTIONS, AND STATEMENTS ON MONDAY

Mr. President, I ask unanimous consent, if I have not already done so, that the record be open for the presentation of bills, petitions, memorials, resolutions, and statements on Monday; that there be no period for routine morning business as such, but that the Senate, immediately upon the disposition of the orders previously entered into for the recognition of speakers, resume consideration of the pending measure, the Emergency Natural Gas Allocation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. ON MONDAY, JANUARY 31, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9:30 a.m. on Monday next.

The motion was agreed to; and at 2:05 p.m. the Senate recessed until Monday, January 31, 1977, at 9:30 a.m.

NOMINATION

Executive nomination received by the Senate January 28, 1977:

DEPARTMENT OF DEFENSE

Charles William Duncan, Jr., of Texas, to be a Deputy Secretary of Defense.

EXTENSIONS OF REMARKS

AGREEMENT IN BECHTEL CASE REAFFIRMS NEED FOR ANTIBOYCOTT LAW

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1977

Mr. DRINAN. Mr. Speaker, when the Justice Department filed suit against Bechtel Corp. on January 16, 1976, the stage was set for a clear test case on the applicability of existing antitrust law to participation by American firms in the Arab boycott of Israel.

Bechtel, one of the largest contractors in the world, does business worth hundreds of millions of dollars with Arab League clients each year. In conducting that business, according to the Government's complaint, Bechtel had refused to award subcontracts to American firms blacklisted by the Arab League Boycott Office and required its own subcontractors to agree to boycott such blacklisted firms. The Government sought to enjoin such conduct as a conspiracy in unreasonable restraint of trade in violation of section 1 of the Sherman Act.

The Bechtel case took on particular importance in light of the Ford administration's assertion that existing legislation, including the Sherman Act, was sufficient to combat the boycott. President Ford and his Departments of Commerce, Justice, Treasury, and State relied upon that argument repeatedly in opposing antiboycott legislation passed by overwhelming margins in both the House and Senate.

While a new President committed to halting American participation in the Arab boycott was elected in November, the adequacy of existing law to accomplish that objective remained in question until January 10, 1977, when Bechtel and the Department of Justice reached agreement in the antitrust suit filed 1 year earlier. Their consent agreement, submitted to the U.S. District Court of Northern California for final approval, prohibits certain forms of boycott compliance alleged in the Government's complaint. Specifically, it prohibits Bechtel from refusing to deal with a blacklisted American firm pursuant to a boycott contract provision or agreement. In addition, it prohibits Bechtel from requiring any other company to boycott blacklisted American firms or enforcing any such requirement imposed by a client. Several other forms of boycott compliance, including the maintenance of a blacklist or signing of a contract which contains a boycott provision within the United States are also forbidden under the agreement.

SHORTCOMINGS OF THE CONSENT AGREEMENT

While the agreement does address those narrow forms of boycott compliance alleged in the original complaint, it fails to prevent Bechtel from continuing to participate fully in the Arab boycott of Israel. Its chief deficiences are described below.

First, the agreement prohibits Bechtel from refusing to deal with blacklisted Americans firms. But written blacklists are not necessary for the perpetuation and implementation of the boycott. Bechtel could, for example, refuse to deal with firms owned by Jews without violating the agreement. Bechtel could even require its subcontractors to certify that they do no business with Israel. The agreement protects American firms from discrimination only insofar as they are included on a formal blacklist. Bechtel is free to discriminate, as a participant in the Arab boycott, on any other basis it chooses.

Second, the agreement permits Bechtel to enter into a contract containing boycott compliance provisions outside the United States, even if the implementation of such provisions would require Bechtel to discriminate against other firms or individuals within our Nation.

Third, the agreement forbids Bechtel to maintain a blacklist within the United States, but permits the company to maintain the same blacklist outside the United States. Since the Government's entire case rests on the assumption that the blacklist "is the means by which this conspiracy has been implemented," it seems inadvisable to place that tool in the hands of the defendants anywhere on Earth. But, as it interpreted section 1 of the Sherman Act, the Justice Department refrained from limiting the conduct of Bechtel in any way outside the United States.

Fourth, similarly, the agreement explicitly permits the defendants to purchase goods or services from nonblacklisted subcontractors as long as such goods or services are produced and utilized outside the United States.

Indeed, the subcontractors involved in such a transaction with Bechtel need not be foreign companies. American firms with overseas plants or subsidiaries could also qualify under paragraph 5(B) of the agreement. This provision is an open invitation to the defendants to participate in the boycott and a disincentive to their doing business with American firms.

Fifth, the agreement permits Bechtel to deal with a subcontractor selected by a client, even if such selection is based upon blacklisting criteria.

Sixth, the agreement authorizes Bechtel to enter into a contract in which they agree to abide by the requirements of the laws of the country in which they are doing business, even if those laws re-

quire compliance with all regulations issued by the Arab League Boycott Office.

Seventh, nothing in the agreement precludes Bechtel from certifying to a client that they do no business with Israel or with any blacklisted firm.

Eighth, nothing in the agreement precludes Bechtel from refusing to do business with any firm which does business with Israel.

In summary, this agreement would enable Bechtel to continue participating in the Arab boycott with a minimum of inconvenience or variance from their current practices. If this agreement constitutes an indication of how the Sherman Act can be used to combat the boycott, then surely we had better find a more effective weapon.

WHY NOT A TOUGHER AGREEMENT?

Upon reading the consent agreement for the first time, my assumption was that President Ford's Justice Department had simply let Bechtel off the hook. Surely the Department could have pressed for a decision in court which would not have left the gaping loopholes described above. But after reviewing the original complaint filed by the Government a year ago, I am no longer certain that significantly additional relief could have been obtained through litigation. The fact is that the complaint, like the agreement, was drawn upon narrow grounds which the Government felt secure in placing within the confines of the Sherman Act.

The Government never really intended through this suit to stop Bechtel's participation in the Arab boycott. It simply sought to enjoin Bechtel from continuing those particular forms of compliance which clearly violated the Sherman Act. It appears that such a hollow victory was gained through the consent agreement.

NEW ANTIBOYCOTT LEGISLATION NEEDED

But the importance of this test lies not in what it achieved, but what it failed to achieve. Clearly, the Ford administration was wrong in asserting that existing law is adequate to stop American firms from participating in the Arab boycott. Existing law, such as the Sherman Act, is wholly inadequate to meet that objective. For that reason, it is imperative that Congress swiftly reenact the legislation it passed overwhelmingly last September to prohibit virtually all forms of boycott compliance. That bill, introduced in the House as H.R. 1561 and in the Senate as S. 2372, would supercede the consent agreement in the Bechtel case. Its enactment would insure that Bechtel, along with all other American corporations, adhere in their business dealings to those principles of justice and free trade which we espouse as a nation.